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Vol. 47 No. 181
Pages 41095-41328

federal register

Friday
September 17, 1982

Selected Subjects

Administrative Practice and Procedure
Patent and Trademark Office

Aid to Families with Dependent Children
Social Security Administration

Air Carriers
Labor-Management Services Administration

Air Pollution Control
Environmental Protection Agency

Animal Drugs
Food and Drug Administration

Authority Delegations (Government Agencies)
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Credit Unions
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Food Additives
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Food Ingredients
Food and Drug Administration

Food Stamps
Food and Nutrition Service

Government Employees
Personnel Management Office

Hunting
Fish and Wildlife Service

Marketing Agreements
Agricultural Marketing Service

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Drug Enforcement Administration

Quarantine
Animal and Plant Health Inspection Service

Railroads
Interstate Commerce Commission

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Rules and Regulations

Federal Register
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Friday, September 17, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 277

[Amdt. No. 210]

Food Stamp Program; Payment of Certain Administrative Costs of State Agencies

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final action limits the period that a State Agency may retroactively claim 75 percent funding of administrative costs for Food Stamp Program investigations, prosecutions, and fraud hearings. The need for the current retroactive provision has diminished while at the same time budgetary constraints are forcing the agency to limit expenditures. Thus, the intended effect of this proposed rule is to direct limited FNS resources toward the present and future expansion of State and local fraud control activities in the Food Stamp Program rather than to reimburse past activities.

DATE: This final action is effective October 18, 1982.

FOR FURTHER INFORMATION CONTACT: Herbert A. Scurlock, Director, Federal Operations Division, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Alexandria, Virginia 22302, (703) 756–3485.

SUPPLEMENTARY INFORMATION:

Classification

This final action has been reviewed under USDA procedures contained in Secretary's Memorandum 1512–1 and under Executive Order 12291 and has been classified as not major. The final action is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, industries, Federal, State, or local government agencies, or geographical regions; and (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. There will be no adverse economic impact because the final action affects only State agencies to the extent that they must administer the Program.

Regulatory Flexibility Act

This final action has also been reviewed with regard to the requirements of the Regulatory Flexibility Act, (Pub. L. 96–354, 94 Stat. 1164, September 19, 1980). The Administrator, Food and Nutrition Service, has certified that the action does not have a significant economic impact on a substantial number of small entities. Those State agencies affected are only those that have not made application for the 75 percent funding rate for the food stamp fraud investigations, prosecutions, and fraud hearings as provided in the old regulations.

Introduction

On March 26, 1982, the Department issued a proposed rule (47 FR 12995) to amend the regulations to limit the period that a State agency may retroactively claim 75 percent funding of administrative costs for Food Stamp Program investigations, prosecutions, and fraud hearings. Under the old rule, a State agency could apply for the 75 percent funding retroactively to October 1, 1978. The purpose of the retroactive provision was to allow state agencies to claim costs for food stamp fraud control activities which were started or expanded based on anticipation of the higher funding rate provided for in the Food Stamp Act of 1977. The need for the retroactive provision has diminished while at the same time budgetary constraints are forcing the agency to limit expenditures.

All comment letters received by close of business July 2, 1982, were reviewed and considered during the development of the final provision contained in this action. The Department received 7 comment letters from 3 FNS Regional Offices, 3 State welfare agencies, and 1 Local welfare agency. The majority of comments supported the proposed change. This preamble discusses changes made from the proposed regulations as a result of those comments. The preamble also addresses other concerns of commenters where changes were not made.

One FNS Regional Office suggested that clarification was needed to show that the retroactive funding may apply only to the beginning of the fiscal year in which the application was submitted, regardless of when the information establishing eligibility for 75 percent funding is approved. The Department accepted this suggestion.

One State welfare agency opposed the proposal and stated the proposed rule would reduce the State's incentive to submit a plan for enhanced funding. They also believed the Department's "renewed effort" to have all states submit the information required for approval could be hampered by the proposed change. The Department rejected this comment because it believes that most States which intended to apply for approval and claim funding for prior fiscal years have already done so since the 75 percent funding has been available for several years. Therefore, the Department feels it should continue its "renewed effort" and direct FNS's limited resources toward the present and future expansion of State and Local fraud control activities in the Food Stamp Program rather than to reimburse past activities.

The Local welfare agency is opposed to any regulation which would limit the time for which retroactive claims must be submitted because of the complexity of its claims settlement process which results in delays of up to several years. It felt that if reimbursement is limited to cost incurred during the Federal fiscal year in which the State applies for funding, many expenditures will not be claimed at the 75 percent rate. As a result, the State and City share of these costs will increase. This comment was rejected because it is not the intent of this amendment to limit the time period for which retroactive claims must be submitted for those State agencies with applications on file with FNS. This amendment only limits the time for which a State may claim retroactive reimbursement if the Department has not received a State's initial application by the date this regulation takes effect. As stated earlier in this preamble, the Department believes that most States which intended to apply for approval

and claim funding for prior fiscal years have already done so and that this final action will affect only the few State agencies that have not already made application for the 75 percent funding rate under the old regulations.

Therefore, in light of the favorable comments received, this final action amends 7 CFR 277.15(b) by stating that the 75 percent funding rate may apply retroactively only to costs incurred beginning in the Federal fiscal year during which a State agency submits the information required to claim the higher rate, regardless of when the information establishing eligibility for 75 percent funding is approved.

Note.—This final action does not contain reporting and recordkeeping requirements subject to approval by OMB under the Paperwork Reduction Act.

List of Subjects in 7 CFR Part 277

Food stamps, Government procurement, Grant programs-social programs, Investigations, Recordkeeping and reporting requirements.

Accordingly, 7 CFR Part 277 is amended as follows:

PART 277—PAYMENT OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

1. In s277.15, paragraph (b) is revised to read as follows:

s277.15 Food stamp investigation and prosecution.

* * * * *

(b) *Funding.* Upon submission to and approval by FNS of a budget revision and the information required by paragraph (c) of this section, State agencies will be funded at 75 percent of all allowable direct and indirect costs in accordance with the requirement contained in this section. This higher rate may apply retroactively only to costs incurred in the Federal fiscal year during which a State agency applies for 75 percent funding, regardless of when the determination of eligibility for 75 percent funding is made. In cases where 75 percent funding of the operation of an agency other than the State welfare agency is or will be involved, an information statement shall be submitted by each State agency to include a description of such operations.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2029).

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps)

Dated: September 13, 1982.

Robert E. Leard,

Associate Administrator.

[FR Doc. 82-25644 Filed 9-16-82; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 377]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period September 19–25, 1982. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: September 19, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on September 14, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is moderate.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Section 910.677 is added as follows:

§ 910.677 Lemon regulation 377.

The quantity of lemons grown in California and Arizona which may be handled during the period September 19, 1982, through September 25, 1982, is established at 230,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 16, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-25683 Filed 9-16-82; 11:50 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 82-331]

Imported Fire Ant Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the list of regulated areas under the imported fire ant quarantine and regulations by (1) designating previously nonregulated areas in Alabama and Georgia as generally infested areas; (2) expanding previously designated generally infested areas in Alabama, Mississippi, and South Carolina; and (3) deleting a previously designated suppressive area in Alabama. The quarantine and regulations, among other things, impose restrictions on the interstate movement of regulated articles from generally infested areas. This action is necessary as an emergency measure to prevent the artificial spread of the imported fire ant and to delete unnecessary restrictions on the interstate movement of regulated articles.

DATES: Effective date of amendment: September 17 1982. Written comments concerning this rule must be received on or before November 16, 1982.

ADDRESSES: Written comments should be submitted to Thomas J. Lanier, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 643 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 643 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lanier, Chief Staff Officer, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 643 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8247.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This interim rule is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." Based on information compiled by the Department it has been determined that this interim rule will have an estimated annual effect on the economy of less than $2,500; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512–1.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action affects the interstate movement of regulated articles from specified areas in the States of Alabama, Georgia, Mississippi, and South Carolina. There are thousands of small entities that move such articles interstate from those States and many more thousands of small entities that move such articles interstate from other States. However, based on information compiled by the Department, it has been determined that approximately 130 small entities move such articles interstate from the specified areas in those States. Further, the overall economic impact from this action is estimated to be less than $2,500.

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this document without opportunity for a public comment period. Because of the possibility that the imported fire ant could be spread artifically to noninfested areas of the United States, a situation exists requiring immediate action to better control the spread of this pest. Also, where the imported fire ant no longer occurs, immediate action is needed to delete unnecessary restrictions on the interstate movement of regulated articles.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this interim rule are impracticable and contrary to the public interest and good cause is found for making this action effective less than 30 days after publication of this document in the **Federal Register.** Comments have been solicited for 60 days after publication of this document, and a final document discussing comments received and any changes required will be published in the **Federal Register** as soon as possible.

Background

The imported fire ant (*Solenopsis* spp.) is an insect that interferes with farming operations, can cause damage to certain crops, and is a pest of livestock and pets, as well as of people, in rural and urban areas.

The imported fire ant quarantine and regulations (7 CFR 301.81 through 301.81–10) quarantine the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas because of the imported fire ant; and restricts the interstate movement of regulated articles from regulated areas in these States in order to prevent the artificial spread of the imported fire ant.

Under the quarantine and regulations an area may be designated as a regulated area if it is an area in which the imported fire ant has been found, or in which there is reason to believe that the imported fire ant is present, or which it is deemed necessary to regulate because of its proximity to infestation or its inseparability for quarantine enforcement purposes from infested localities. Regulated areas are divided into suppressive areas and generally infested areas. Suppressive areas are regulated areas in which eradication of the imported fire ant is undertaken as an objective. Generally infested areas are regulated areas not designated as suppressive areas. Restrictions are imposed on the interstate movement of regulated articles from both generally infested areas and suppressive areas in order to prevent the artificial movement of the imported fire ant into noninfested areas.

Designation of Areas as Generally Infested Areas

As an emergency measure, a portion of Lauderdale County in Alabama and all of Taliaferro County in Georgia, which were peviously nonregulated areas, are designated as imported fire ant generally infested areas.

Also, as an emergency measure, the following areas in Alabama, Mississippi, and South Carolina previously designated as imported fire ant generally infested areas are retained as imported fire ant generally infested areas but are expanded as set forth below.

The area in Colbert County in Alabama (previously described as "That portion of the county lying south of the north line of T. 4 S.") is retained as an imported fire ant generally infested area but is expanded and redescribed as "That portion of the county lying south

of the north line of T. 4 S.; and T. 3 S., R. 13, 14, and 15 W."

The area in Lafayette County in Mississippi (previously described as "That portion of the county lying south of the north line of T. 10 S.; T. 9 S., R. 1, 2, and E. ½ R. 3 W.; T. 8 S., R. 1 W.; T. 7 S., R. 1 W.; and S.E. ¼, T. 6 S., R. 3 W.") is retained as an imported fire ant generally infested area but is expanded and redescribed as "That portion of the county lying south of the north line of T. 10 S.; T. 9 S., R. 1, 2, and 3 W.; T. 8 S., R. 1 W.; T. 7 S., R. 1 W.; and S.E. ¼ T. 6 S., R. 3 W.

The area in Tippah County in Mississippi (previously described as "That portion of the county lying south of the north line of T. 4 S., and that portion of T. 3 S., R. 5 E., lying in the county.") is retained as an imported fire ant generally infested area but is expanded and redescribed as "That portion of the county lying south of the north line of T. 3 S."

The area in Aiken County in South Carolina (previously described as "That portion of the county bounded by a line beginning at the junction of the Savannah River and the Aiken-Edgefield County line, thence northeast along said county line to its intersection with the South Fork Edisto River, thence southeast along said river to its junction with the Aiken-Barnwell County line, thence southwest along said county line to its intersection with U.S. Highway 278, thence west along said highway to its junction with State Primary Highway 28, thence west along said highway to its junction with the Savannah River, thence northwest along said river to the point of beginning.") is retained as an imported fire ant generally infested area but is expanded and redescribed as "The entire county excluding the area of the U.S. Department of Energy's Savannah River Plant.

The area in Darlington County in South Carolina (previously described as "That portion of the county bounded by a line beginning at a point where U.S. Highway 401 intersects the Darlington-Lee County line at Lynches River, thence northwest and northeast along said county line to its intersection with State Secondary Highway 131, thence east along said highway to its intersection with State Secondary Highway 290, thence easterly along said highway to its junction with U.S. Highway 401, thence northeast and north along said highway to its intersection with the Great Pee Dee River, thence southerly along said river to its junction with the Darlington-Florence County line, thence southwesterly along the Darlington County line to its junction with the Lynches River, thence northwest along said river to the point of beginning.") is retained as an imported fire ant generally infested area but is expanded and redescribed as "The entire county."

The area in Kershaw County in South Carolina (previously described as "That portion of the county lying west and south of a line beginning at the junction of the Kershaw-Lancaster County line and State Secondary Highway 58, thence southerly along said highway to its junction with U.S. Highway 521, thence southerly along said highway to its intersection with State Primary Highway 34, thence easterly along said highway to its intersection with the Kershaw-Lee County line, where the line ends.") is retained as an imported fire ant generally infested area but is expanded and redescribed as "The entire county."

The area in Lee County in South Carolina (previously described as "That portion of the county bounded by a line beginning at a point where State Primary Highway 34 intersects the Lee-Kershaw County line, thence easterly along said highway to its intersection with the Lee-Darlington County line, thence southerly, westerly and northerly along the Lee County line to the point of beginning.") is retained as an imported fire ant generally infested area but is expanded and redescribed as "The entire county."

The area in Lexington County in South Carolina (previously described as "That portion of the county bounded by a line beginning at a point where U.S. Highway 378 intersects the Lexington-Saluda County line, thence northerly, southeasterly, southerly, and westerly along the Lexington County line to its intersection with State Primary Highway 302, thence north along said highway to its junction with State Primary Highway 6, thence north along said highway to its intersection with U.S. Highway 1, thence west along said highway to its intersection with State Secondary Highway 204, thence north along said highway to its intersection with U.S. Highway 378, thence west along said highway to the point of beginning.") is retained as an imported fire ant generally infested area but is expanded and redescribed as "The entire county."

Based on recent surveys, inspectors have determined with respect to all of the areas added to the list of imported fire ant generally infested areas, that the imported fire ant has spread, or is likely to spread, to such areas. Therefore, as an emergency measure, it is necessary to designate such areas as imported fire ant generally infested areas and impose restrictions on the interstate movement of regulated articles from these areas in order to prevent the artificial spread of the imported fire ant.

Deletion of an Area from List of Regulated Areas

An area in Lauderdale County, Alabama, described as "Sec. 8, T. 1 S., R. 7 W." was designated as an imported fire ant suppressive area. Based on treatments with insecticides and subsequent negative surveys, it has been determined that the imported fire ant no longer occurs in this area. Accordingly, there is no basis to continue listing such area as a regulated area for the purpose of preventing the artificial spread of imported fire ant. Therefore, as an emergency measure, it is necessary to delete this area from the list of regulated areas in order to delete unnecessary restrictions on the movement of imported fire ant regulated articles.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Imported fire ant, Plant diseases Plant pests, Plants (Agriculture), Quarantines, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, § 301.81–2a of the imported fire ant quarantine and regulations (7 CFR 301.81–2a) is amended by revising the list of regulated areas in the States of Alabama, Georgia, Mississippi, and South Carolina as set forth below:

1. In § 301.81–2a, relating to the States of Alabama, Georgia, Mississippi, and South Carolina, the following descriptions for generally infested areas are amended by redescribing the area in Colbert County and adding an area in Lauderdale County in Alabama, adding an area in Taliaferro County in Georgia, redescribing areas in Lafayette and Tippah Counties in Mississippi and redescribing the areas in Aiken, Darlington, Kershaw, Lee, and Lexington Counties in South Carolina, in alphabetical order to read as follows:

§ 301.81–2a Regulated areas; suppressive and generally infested areas.

* * * * *

Alabama

(1) *Generally infested areas.*

* * * * *

Colbert County. That portion of the county lying south of the north line of T. 4 S.; and T. 3 S., R. 13, 14, and 15 W.

* * * * *

Lauderdale County. T. 3 S., R. 12.

* * * * *

Georgia

(1) *Generally infested areas.*

* * * * *

Taliaferro County. The entire county.

* * * * *

Mississippi

(1) *Generally infested areas.*

* * * * *

Lafayette County. That portion of the county lying south of the north line of T. 10 S.; T. 9 S., R. 1, 2, and 3 W.; T. 8 S., R. 1 W.; T. 7 S., R. 1 W.; and S.E. ¼ T. 6 S., R. 3 W.

* * * * *

Tippah County. That portion of the county lying south of the north line of T. 3 S.

* * * * *

South Carolina

(1) *Generally infested areas.*

* * * * *

Aiken County. The entire county excluding the area of the U.S. Department of Energy's Savannah River Plant.

* * * * *

Darlington County. The entire county.

* * * * *

Kershaw County. The entire county.

* * * * *

Lee County. The entire county.

* * * * *

Lexington County. The entire county.

* * * * *

2. In § 301.81–2a relating to the State of Alabama, the description for suppressive area in Lauderdale County is removed and the list of suppressive areas in the State of Alabama is revised to read as follows:

Alabama

* * * * *

(2) *Suppressive areas.* None.

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33 (7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477 as amended; 38 FR 19141)

Done at Washington, D.C., this 14th day of September 1982.

Richard R. Backus,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82–25852 Filed 9–16–82; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 564

[No. 82–614]

FSLIC Insurance Coverage of Loan Payments Held by Loan Servicers

Dated: September 9, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; solicitation of comments.

SUMMARY: The Federal Home Loan Bank Board is amending its settlement of insurance regulations with respect to insurance coverage for loan payments placed by a servicer in an institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation to provide that loan payments will be insured as if the servicer placing the funds in the institution is acting as agent for each borrower. The amendments clarify the insurance coverage of loan-servicing accounts and facilitate participation of insured institutions in secondary markets as servicers and depositories.

DATES: Effective September 9, 1982. Comments by October 11, 1982.

ADDRESS: Send comments to Director, Public Information Services Section, Office of Communications, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Comments will be available at this address for public inspection.

FOR FURTHER INFORMATION CONTACT: Ilsa K. Bush or Lee Lassiter, Office of General Counsel, (202) 377–6436 or 377–7050, at the above address.

SUPPLEMENTARY INFORMATION: Section 405(a) of the National Housing Act provides, in relevant part, that each institution insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") "shall be entitled to insurance up to the full withdrawal or repurchase value of the accounts of each of its members * * *" and that the FSLIC "is authorized to define, with such classifications and exceptions as it may prescribe, terms used * * * and the extent of the insurance coverage resulting therefrom." 12 U.S.C. 1728(a) (1976). Pursuant to authority derived from Section 405(a), the Board promulgated a regulation reading, in pertinent part, "[f]unds owned by a principal and invested in one or more accounts in the name or names of agents or nominees shall be added to any individual accounts of the principal and insured up to $100,000 in the aggregate." 12 CFR 564.3(b) (1981). In accordance with statutory authority and the existing regulatory provision, the Board now amends § 564.3(b) to provide that, for insurance-of-accounts purposes, a loan servicer who collects loan payments shall be viewed as an agent of each borrower making such payments to the servicer. The Board is also deleting Example 9 of Part G (Trust Accounts) of the published Appendix following Part 564 and adding Example 7 to Part A (Single Ownership Accounts) to the Appendix.

Servicers may include insured institutions acting in that capacity and others, such as mortgage bankers. The amendments apply not only to mortgage loans, but to any other type of loan, including home improvement, consumer, and educational loans that involve servicers who place loan payments in insured institutions prior to remittance to the parties entitled to the funds. The amendments cover all components of the loan payments, including principal, interest, tax and insurance escrow payments, penalties, and late charges, while held by an insured institution. Unapplied mortgage credits also are covered provided that the regulatory requirements are met.

Under current insurance-of-accounts regulations, a degree of uncertainty exists with respect to the insurance coverage of principal and interest payments held by a servicer prior to remittance of the funds to the lender, secondary market participants, or other parties entitled to the funds. Example 9 of Part G (Trust Accounts) in the Appendix indicates that an individual determination of the relationship between the borrower, servicer, and lender or secondary market participants must be made to determine insurance coverage of principal and interest payments. Current economic trends, and their resulting effect on the savings and loan industry, make uniform insurance treatment of all components of loan payments collected by servicers necessary to achieve a secure, stable, and efficient secondary market in which the savings and loan industry may participate to the fullest extent possible. In treating the servicer as an agent of the borrower, the Board finds, for purposes of insurance of accounts, that the rights, responsibilities, and actions flowing between the parties are substantially similar to those of an agency relationship.

The action taken today accomplishes several beneficial objectives. It clarifies the position of the Board and the FSLIC with respect to insurance coverage of loan payments collected by servicers and offers sufficient insurance coverage for most accounts created by servicers. The Board believes that the amendments will contribute to the development of a stable secondary market with active involvement from the savings and loan industry as servicers and depositories. Such participation, in turn, increase deposits and income. The changes being made also strengthen the thrift industry by permitting it to preserve its current position and further develop its participation in secondary market programs.

The Board has determined that the notice and public comment procedures

of 5 U.S.C. 553(b) and 12 CFR 508.11 are unnecessary and not in the public interest. The public interest is served by immediate implementation of these amendments because they clarify and expand insurance coverage. The Board also finds that the requirement for a 30-day delayed effective date under 5 U.S.C. 553(d) and 12 CFR 508.14 is not applicable in this case. The Board finds that it is in the public interest to amend the regulation and make the needed clarifications without delay. The amendment also relieves restrictions that savings and loans may have experienced in fully participating in the secondary mortgage market as both servicers and depositories for all components of loan payments by removing any ambiguities concerning insurance coverage of such payments. The Board does, however, request comments on all issues raised by the regulation and example. Comments will be received until October 11, 1982.

List of Subjects in 12 CFR Part 564

Savings and loan associations, Insurance.

Accordingly, the Board hereby amends Part 564 and the Appendix following Part 564 of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, to read as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 564—SETTLEMENT OF INSURANCE

1. Amend paragraph (b) of § 564.3 as follows:

§ 564.3 Single ownership accounts.

* * * * *

(b) *Accounts held by agents or nominees.*

(1) Funds owned by a principal and invested in one or more accounts in the name or names of agents or nominees shall be added to any individual accounts of the principal and insured up to $100,000 in the aggregate.

(2) A loan servicer who receives loan payments and places or maintains such payments in an insured institution prior to remittance to the lender or other parties entitled to the funds shall, for insurance-of-accounts purposes, be considered an agent of each borrower, provided that:

(i) The servicer identifies each borrower, the amount of each borrower's payment, and the account into which each payment is deposited; and

(ii) The account or accounts holding the payments are denominated in the name of the servicer acting as agent for borrower payments.

2. Amend the Appendix to Part 564 by deleting Example 9 of Part G (Trust Accounts), and adding Example 7 to Part A (Single Ownership Accounts), as follows:

Appendix—Examples of Insurance Coverage Afforded Accounts in Institutions Insured by the Federal Savings and Loan Insurance Corporation

* * * * *

Example 7

Question: X Corporation acts as a servicer of FHA, VA, and conventional mortgage loans. Each month X Corporation receives and keeps records of principal, interest, late charge, and other payments from approximately 2,000 mortgagors. The servicer commingles these funds, places the funds in an insured institution, identifies the borrower, the amount of each borrower's payment and the account into which each payment is deposited and denominates the account with the name "X Corporation as Agent for Mortgagor Payments." The monies received and deposited total $1,000,000. What is the insurance coverage?

Answer: X Corporation, the servicer, acts as agent for the 2,000 individual mortgagors. The interest of each mortgagor-principal is separately insured as his individual account (but added to any other individual accounts which the principal holds in the same institution) (§ 564.3(b)).

* * * * *

(Sec. 308, Pub. L. No. 96-221; Secs. 401, 402, 403, 405, 48 Stat. 1225, 1256, 1257, 1259, as amended; 12 U.S.C. 1724, 1725, 1726, 1728. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-25648 Filed 9-16-82; 8:45 am]

BILLING CODE 6720-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 742

Deregulation of Liquidity Reserve Requirements

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board is removing in its entirety Part 742 of NCUA Rules and Regulations entitled "Liquidity Reserves." This action is deemed appropriate by the NCUA Board because efficient liquidity management varies among credit unions and liquidity decisions should be the responsibility of individual credit union boards of directors. The proposed deletion of this rule was published for public comment in the **Federal Register** for a period of sixty days concluding on June 25, 1982.

EFFECTIVE DATE: August 30, 1982.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Todd A. Okun, Assistant General Counsel, (202) 357-1030.

SUPPLEMENTARY INFORMATION:

Summary of Comments

Twenty-seven comments were received on this proposal and twenty-five of them indicated wholehearted support of this continuation of the NCUA Board's policy of fostering deregulation and the return of responsibility for decision-making to credit union board of directors. One commenter, however, opposed the proposal and, in fact, urged that the level of liquidity reserves, as a requirement, be raised above the 5 percent level. The commenter reasoned that such a requirement was especially appropriate as a measure to ensure the slowdown of possible liquidations that could result in higher insurance premiums for all credit unions.

Decision

It is the belief of the NCUA Board, consistent with the vast majority of commenters, that it should be the responsibility of individual credit union boards of directors to set their own liquidity standards in order to safeguard against adverse economic conditions. Prudent liquidity levels will differ among credit unions depending upon their cash flow, their liability structure and the location and constitution of their fields of membership. To the extent that the 5 percent requirement in Part 742 has the effect of setting a standard for all affected credit unions, it is misleading and removes or detracts from the element of judgment and responsibility that should be exercised by each credit union's management in ensuring proper levels of liquidity and effective asset/liability management. Expertise and guidance from NCUA staff, from trade associations and from credit union leagues will be available to aid credit unions and these valuable resources should be taken advantage of. The NCUA Board is confident that the lack of binding regulation in this area will not result in a higher liquidation rate and that boards of directors will accept their responsibilities to ensure proper liquidity. In that vein, the Asset-Liability Management section of the

Accounting Manual for Federal Credit Unions will be particularly helpful.

Therefore, the NCUA Board has adopted the complete deletion of Part 742 as proposed. Also, as proposed, the Board repeals Interpretive Ruling 79–7 concerning the liquidity rule. It should be noted that the statutory reserve transfer requirements of Section 116 of the Federal Credit Union Act (12 U.S.C. section 1762) are unaffected by this action and remain in full force and effect.

List of Subjects in 12 CFR Part 742

Credit unions.

EFFECTIVE DATE: This deletion is being made effective in less than 30 days because it relieves a regulatory restriction, 5 U.S.C. section 553(d)(1).

Regulatory Flexibility Act

The NCUA Board hereby certifies that this action will not have a significant economic impact on a substantial number of small credit unions because the restrictions contained in the previous rule do not apply to credit unions with less than $1 million in assets. Therefore, its deletion will have no effect on small credit unions.

(12 U.S.C. sections 1762(b), 1781(b)(6), 1766(a) and 1789(a)(11))

Dated: August 25, 1982.

Rosemary Brady,

Secretary of the National Credit Union Administration Board.

PART 742—[REMOVED]

Accordingly, 12 CFR Chapter VII is amended by removing Part 742.

[FR Doc. 82–25650 Filed 9–16–82; 8:45 am]

BILLING CODE 7535–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Revision 2—Amt. 23]

Delegation of Authority To Conduct Program Activities in Field Offices

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is amending its delegations of authority to field positions with respect to contracting authority for the Minority Small Business and Capital Ownership Development Program. The Changes were recommended by the Regional Administrators for Regions I, VI, and VIII, and affect the 8(a)(1)(A) Contracting Authority in their respective regions. The changes adopted in this rule will accurately reflect 8(a) contracting authority in Region I and will improve services in Regions VI and VIII.

EFFECTIVE DATE: September 17, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, Paperwork Management Branch, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, Telephone No. (202) 653–8538.

SUPPLEMENTAL INFORMATION: Part 101 consists of rules relating to the Agency's organization and procedures; therefore, notice of proposed rulemaking and public participation thereon as prescribed in 5 U.S.C. 553 is not required and this amendment to Part 101 is adopted without resort to those procedures. For the reasons set forth in the preamble and pursuant to authority in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, Part 101, 13 CFR 101.3–2 is amended, following the index terms, as set forth below:

List of Subjects in 13 CFR Part 101

Authority delegations (government agencies), Administrative practice and procedure, Organization and functions (government agencies).

PART 101—ADMINISTRATION

§ 101.3–2 [Amended]

Section 101.3–2 is amended as follows:

1. In Part VII, Section B, paragraph 1., subparagraph e. is removed and subparagraphs a. through o. are redesignated and reserved as subparagraphs a. through n. to read as follows:

a. Regional Administrator	Unlimited
b. Deputy Regional Administrator	Unlimited
c. Assistant Regional Administrator for MSB/COD	Unlimited
d. Deputy Assistant Regional Administrator for MSB/COD, Region II only	Unlimited
e. Chief, Business Development, Region III, R/O only	$250,000
f. District Directors and Deputy District Directors, Washington, Denver, Richmond, Philadelphia, Baltimore, and all Region VI and Region VII D/O's only	Unlimited
g. District Directors and Deputy District Directors, Detroit, Cleveland, Indianapolis, Fargo, Salt Lake City and Sioux Falls D/O's only	350,000
h. District Directors and Deputy District Directors, all Region IX, all Region X, Columbia, Chicago and Columbus D/O's only	500,000
i. Assistant District Director for MSB/COD, Columbia D/O only	500,000
j. Assistant District Director for MSB/COD, San Francisco, Los Angeles, Washington, Richmond, Philadelphia and Baltimore D/O's only	100,000
k. All District Contract Specialists in Region X only	250,000
l. Branch Manager, Corpus Christi and El Paso B/O's only	Unlimited
m. Chief of Contract Negotiation and Administration, Regional Office, Region VII only	1,000,000
n. Senior Contract Specialist, Region X only	1,000,000

2. In Part VII, Section B, paragraph 2., subparagraph e. is removed and subparagraphs a. through o. are revised and redesignated as subparagraphs a. through n. to read as follows:

a. Regional Administrator	Unlimited
b. Deputy Regional Administrator	Unlimited
c. Assistant Regional Administrator for MSB/COD	Unlimited
d. Deputy Assistant Regional Administrator for MSB/COD, Region II	Unlimited
e. Chief, Business Development, Region III R/O only	$250,000
f. District Directors and Deputy District Directors, Washington, Denver, Richmond, Philadelphia, Baltimore and all Region VI and Region VII D/O's only	Unlimited
g. District Directors and Deputy District Directors, Detroit, Cleveland, Indianapolis, Fargo, Salt Lake City and Sioux Falls D/O's only	350,000
h. District Directors and Deputy District Directors, all Region IX, all Region X, Columbia, Chicago and Columbus D/O's only	500,000
i. Assistant District Director for MSB/COD, Columbia D/O only	500,000
j. Assistant District Director for MSB/COD, San Francisco, Los Angeles, Washington, Richmond, Philadelphia & Baltimore D/O's only	100,000
k. All District Contract Specialists in Region X only	250,000
l. Chief of Contract Negotiation and Administration, Regional Office, Region VII only	1,000,000
m. Branch Managers, Corpus Christi and El Paso B/O's only	Unlimited
n. Senior Contract Specialists, Region X only	1,000,000

3. In Part VII, Section B, paragraph 3., subparagraph e. is removed and subparagraphs a. through p. are revised and redesignated as subparagraphs a. through o. to read as follows:

a. Regional Administrator	Unlimited
b. Deputy Regional Administrator	Unlimited
c. Assistant Regional Administrator for MSB/COD	Unlimited
d. Deputy Assistant Regional Administrator for MSB/COD, Region II only	Unlimited
e. Chief, Business Development, Region III, R/O only	Unlimited
f. District Directors and Deputy District Directors, Washington, Denver, Philadelphia, Richmond, Baltimore, and all Region VI and Region VII D/O's only	Unlimited
g. District Directors and Deputy District Directors, New York, Newark, Syracuse, Puerto Rico, Detroit, Cleveland, Indianapolis, Fargo, Salt Lake City, and Sioux Falls D/O's only	$250,000
h. District Directors and Deputy District Directors, all Region IX, all Region X, Columbia, Chicago and Columbus D/O's only	500,000
i. Assistant District Director for MSB/COD, Columbia D/O only	500,000
j. Assistant District Director for PA, Region IX	500,000
k. Assistant District Directors for MSB/COD, Washington, Richmond, Philadelphia, and Baltimore D/O's only	100,000
l. All District Contract Specialists in Region X only	250,000
m. Branch Managers, Corpus Christi and El Paso B/O's only	Unlimited
n. Chief of Contract Negotiation and Administration Regional Office, Region VII only	1,000,000
o. Senior Contract Specialists, Region X only	1,000,000

Dated: September 13, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82–25651 Filed 9–16–82; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 81F-0224]

Indirect Food Additives: Adhesive Coatings and Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of butadiene-styrene-divinylbenzene copolymer in can end cements. This action responds to a food additive petition filed by W. R. Grace & Co.

DATES: Effective September 17, 1982; objections by October 18, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of August 7, 1981 (46 FR 40330), FDA announced that a food additive petition (FAP 1B3569) had been filed by W. R. Grace & Co., 55 Hayden Ave., Lexington, MA 02173, proposing to amend § 175.300(b)(3)(xxxi) (21 CFR 175.300(b)(3)(xxxi)) to provide for the safe use of butadiene-styrene-divinylbenzene copolymer in can end cements.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe, and that § 175.300(b)(3)(xxxi) should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 175

Adhesives; Food additives; Food packaging.

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVE COATINGS AND COMPONENTS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 175 is amended in § 175.300(b)(3)(xxxi) by alphabetically adding a new item in the list of substances to read as follows:

§ 175.300 Resinous and polymeric coatings.

* * * * *

(b) * * *

(3) * * *

(xxxi) * * *

Butadiene-styrene-divinylbenzene copolymer (CAS Reg. No. 26471-45-4) for use only at levels not to exceed 23.8 percent by weight of the cement solids in can end cements.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 18, 1982 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective September 17, 1982.

(Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348))

Dated: September 8, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25343 Filed 9-16-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 175 and 176

[Docket No. 81F-0247]

Indirect Food Additives: Adhesive Coatings and Components; Paper and Paperboard Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of (2-alkenyl) succinic anhydrides in which the alkenyl groups are derived from olefins which contain not less than 78 percent C_{30} and higher groups as a component of adhesives and paper and paperboard coating systems. This action is in response to a petition filed by the Gulf Science and Technology Co.

DATES: Effective September 17, 1982; objections by October 18, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Geraldine E. Harris, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of October 18, 1981 (46 FR 51036), FDA announced that a petition (FAP 1B3578) had been filed by the Gulf Science and Technology Co., Pittsburgh, PA 15230, proposing that §§ 175.105 and 176.180 (21 CFR 175.105 and 176.180) be amended to provide for the safe use of a 2-alkenyl succinic anhydride mixture as a component of adhesives and paper and paperboard coating systems intended for food-contact use.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food

additive use is safe and that §§ 175.105 and 176.180 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 175

Adhesives; Food additives; Food packaging.

21 CFR Part 176

Food additives; Food packaging; Paper and paperboard.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 175 and 176 are amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVE COATINGS AND COMPONENTS

1. Part 175 is amended in § 175.105(c)(5) by alphabetically inserting a new item in the list of substances to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances	Limitations
* * * * *	
(2-Alkenyl) succinic anhydrides in which the alkenyl groups are derived from olefins which contain not less than 78 percent C_{30} and higher groups (CAS Reg. No. 70983-55-0).	
* * * * *	

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

2. Part 176 is amended in § 176.180(b)(2) by alphabetically inserting a new item in the list of substances to read as follows:

§ 176.180 Components of paper and paperboard in contact with dry food.

* * * * *

(b) * * *

(2) * * *

List of substances	Limitations
(2-Alkenyl) succinic anhydrides in which the alkenyl groups are derived from olefins which contain not less than 78 percent C_{30} and higher groups (CAS Reg. No. 70983-55-0).	
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 18, 1982 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective September 17, 1982.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: September 8, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25306 Filed 9-16-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 176

[Docket No. 80F-0130]

Indirect Food Additives: Paper and Paperboard Components; Terpolymer of Diallyldimethyl Ammonium Chloride, Acrylamide and Potassium Acrylate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of a terpolymer of diallyldimethyl ammonium chloride, acrylamide and potassium acrylate as a drainage and retention aid in the manufacture of paper and paperboard in contact with aqueous and fatty foods. This action is in response to a petition filed by the Calgon Corp.

DATES: Effective September 17, 1982; objections by October 18, 1982.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Garnett R. Higginbotham, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 6, 1980 (45 FR 29892), FDA announced that a petition (FAP 8B3400) had been filed by the Calgon Corp., Pittsburgh, PA 15230, proposing that § 176.170 (21 CFR 176.170) be amended to provide for the use of a terpolymer of diallyldimethyl ammonium chloride, acrylamide and potassium acrylate as a retention and drainage aid in the manufacture of paper and paperboard for food-contact use.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by

appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will remove from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency previously considered the potential environmental effects of this rule as announced in the notice of filing published in the **Federal Register**. No new information or comment has been received that would alter the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging, Paper and paperboard.

PART 176—INDIRECT FOOD ADDITIVES; PAPER AND PAPERBOARD COMPONENTS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 176 is amended in § 176.170(a)(5) by alphabetically inserting a new item in the list of substances to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	Limitations
* * *	* * *
Diallyldimethyl ammonium chloride polymer with acrylamide and potassium acrylate, produced by copolymerizing either (1) diallyldimethyl ammonium chloride and acrylamide in a weight ratio of 50/50, with 4.4 percent of the acrylamide subsequently hydrolyzed to potassium acrylate or (2) polymerized diallyldimethyl ammonium chloride, acrylamide and potassium acrylate (as acrylic acid) in a weight ratio of 50/47.8/2.2, respectively, so that the finished resin in a 1 percent by weight aqueous solution (active polymer) has a viscosity of more than 22 centipoises at 22° C (72° F) as determined by LVF series, Brookfield Viscometer using No. 1 spindle at 60 RPM (or by other equivalent method) (CAS Reg. No. 25136-75-8).	For use only as a retention and/or drainage aid employed prior to the sheet-forming operations in the manufacture of paper and paperboard and limited to use at a level not to exceed 0.05 percent by weight of the finished paper and paperboard.
* * *	* * *

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 18, 1982 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective September 17, 1982.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: September 9, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25344 Filed 9-16-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 178

[Docket No. 82F-0171]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Lubricants With Incidental Food Contact

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of phosphoric acid, mono- and dihexyl esters, compounds with tetramethylnonylamines and C_{11-14} alkylamines as an adjuvant in lubricants with incidental food contact. This action responds to a petition filed by the Ciba-Geigy Corp.

DATES: Effective September 17, 1982; objections by October 18, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 25, 1982 (47 FR 27614), FDA announced that a petition (FAP 2B3631) had been filed by the Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10352, proposing that the food additive regulations be amended to provide for the safe use of phosphoric acid, mono- and dihexyl esters, compounds with tetramethylnonylamines and C_{11-14} alkylamines as an adjuvant in lubricants with incidental food contact.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will remove from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the potential environmental effects of this regulation as announced in the notice of filing published in the **Federal Register**. No new information or comments have been received that would alter the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

Therefore, under the Federal Food, Drug, and Cosmetic Act (Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 178 is amended in § 178.3570(a)(3) by inserting alphabetically a new item in the list of substances, to read as follows:

§ 178.3570 Lubricants with incidental food contact.

* * * * * *

(a) * * *

(3) * * *

Substances	Limitations
* * * * *	
Phosphoric acid, mono- and dihexyl esters, compounds with tetramethylnonylamines and C_{11-14} alkylamines.	For use only as an adjuvant at levels not to exceed 0.5 percent by weight of the lubricant.
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 18, 1982 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective September 17, 1982.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: September 8, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25341 Filed 9-16-82; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Cefadroxil

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Bristol Laboratories providing for safe and effective use of cefadroxil tablets for dogs as an antibacterial.

EFFECTIVE DATE: September 17, 1982.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Bristol Laboratories, Division of Bristol-Meyers Co., P.O. Box 657, Syracuse, NY 13201, filed NADA 119–688 providing for safe and effective oral use of 50-, 100-, and 200-milligram cefadroxil tablets as an antibacterial in dogs for the treatment of certain conditions caused by *Staphylococcus aureus*. This approval is supported by controlled effectiveness studies and safety studies, which establish that the drug is safe and effective for the intended use. This NADA is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Director's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1)(ii)(*e*)(*1*) and (*2*)), may be seen in the Dockets Management Branch (address above).

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 520

Animal drugs, Oral use.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by adding new § 520.314 to read as follows:

§ 520.314 Cefadroxil tablets.

(a) *Specifications.* Each tablet contains 50, 100, or 200 milligrams of cefadroxil.

(b) *Sponsor.* See No. 000015 in § 510.600(c) of this chapter.

(c) *Conditions of use.* For use in dogs as follows:

(1) *Indications for use.* For the treatment of skin and soft tissue infections including cellulitis, pyoderma, dermatitis, wound infections, and abcesses when such conditions are caused by *Staphylococcus aureus*.

(2) *Amount.* Ten milligrams per pound of body weight twice daily.

(3) *Limitations.* The drug is administered orally. Treatment should be continued for a minimum of 3 days and for at least 48 hours after the dog has become afebrile or asymptomatic. If no response is seen after 3 days of treatment, therapy should be discontinued and the case reevaluated. Do not treat for more than 30 days. Safety for use in pregnant bitches or stud dogs has not been determined. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date: September 17, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: September 9, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-25641 Filed 9-16-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds: Amprolium and Bambermycins

Correction

In FR Doc. 82-21974 beginning on page 35187 in the issue of Friday, August 13, 1982, make the following correction:

On page 35188, in the table for § 558.55(e)(2)(iii), under *Limitations*, "as provided by No. 102799" should have read "as provided by No. 012799".

BILLING CODE 1505-01-M

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21 CFR Part 573

[Docket No. 80F-0454]

Food Additives Permitted in Feed and Drinking Water of Animals; Mineral Oil

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of mineral oil for the removal of water from substances intended for use in animal feed. This action is being taken in response to a petition filed by Dehydro-Tech Corp.

DATES: Effective September 17, 1982; objections by October 18, 1982.

ADDRESSES: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William D. Price, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of December 9, 1980 (45 FR 81125), FDA announced that a food additive petition (FAP-2183) had been filed by Dehydro-Tech Corp., 6 Great Meadow Lane, East Hanover, NJ 07936, proposing that § 573.680 *Mineral oil* be amended to provide for the safe use of the additive for the removal of water from substances intended for use as components of animal feed.

FDA has evaluated the data in the petition and other relevant material and concluded that mineral oil is safe under the proposed conditions of use and that the food additive regulations should be amended accordingly.

In accordance with § 571.1(h) (21 CFR 571.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Veterinary Medicine (address above) by appointment with the information contact person listed above. As provided in 21 CFR 571.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in 21 CFR 25.1(f)(1)(iv) may be seen in the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 573

Animal feeds, Food additives.

PART 573—FOOD ADDITIVES PERMITTED IN FEED AND DRINKING WATER OF ANIMALS

Therefore, under the Federal Food, Drug, and Comestic Act (sec. 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 573 is amended in § 573.680 by adding new paragraph (b)(5) to read as follows:

§ 573.680 Mineral oil.

* * * * *

(b) * * *

(5) For the removal of water from substances intended as ingredients of animal feed.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 18, 1982 submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective September 17, 1982.

(Sec. 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 348))

Dated: September 9, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25642 Filed 9-16-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 610 and 660

[Docket No. 80N-0049]

Leukocyte Typing Serum; Revocation of Additional Standards

Correction

In FR Doc. 82-21634, published at page 34532, on Tuesday, August 10, 1982, on page 34533, in the first column, in the "Effective dates" paragraph, in the last line "September 12, 1982." should be corrected to read "September 12, 1983."

BILLING CODE 1505-01-M

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21 CFR Part 809

Labeling for In Vitro Diagnostic Products for Human Use; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: This document corrects a cross reference in 21 CFR 809.10(a)(5).

FOR FURTHER INFORMATION CONTACT: Agnes Black, Federal Register Writer (HFC-11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In the Federal Register of September 29, 1978

(43 FR 45077), FDA revised 21 CFR Part 211—Current Good Manufacturing Practice for Finished Pharmaceuticals (21 CFR Part 211). Section 211.60 *Stability* was redesignated as § 211.166 *Stability testing.* The cross reference in § 809.10(a)(5) to § 211.60 was not revised to reflect this change. Therefore, § 809.10 *Labeling for in vitro diagnostic products* is corrected in paragraph (a)(5) by changing the reference "§ 211.60" to read "§ 211.166."

Dated: September 13, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25662 Filed 9-16-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 868

[Docket No. 78N-1648]

Anesthesiology Devices; General Provisions and Classification of 134 Devices; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) issued in the **Federal Register** a final rule classifying anesthesiology devices. The document inadvertently omitted four sections: 21 CFR 868.5530, 868.5540, 868.5550, and 868.5560. This document adds those sections.

EFFECTIVE DATE: August 16, 1982.

FOR FURTHER INFORMATION CONTACT: Agnes Black, Federal Register Writer (HFC-11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUMMARY: In FR Doc. 82-18941 at page 31130 in the **Federal Register** of Friday, July 16, 1982, FDA issued a rule classifying anesthesiology devices. Four sections were inadvertently omitted. Therefore, the following additions are made.

PART 868—ANESTHESIOLOGY DEVICES

At page 31148 in the first column, after § 868.5470 *Hyperbaric chamber,* the following four sections are added:

§ 868.5530 Flexible laryngoscope.

(a) *Identification.* A flexible laryngoscope is a fiberoptic device used to examine and visualize a patient's upper airway and aid placement of a tracheal tube.

(b) *Classification.* Class II (performance standards).

§ 868.5540 Rigid laryngoscope.

(a) *Identification.* A rigid laryngoscope is a device used to examine and visualize a patient's upper airway and aid placement of a tracheal tube.

(b) *Classification.* Class II (performance standards).

§ 868.5550 Anesthetic gas mask.

(a) *Identification.* An anesthetic gas mask is a device, usually made of conductive rubber, that is positioned over a patient's nose or mouth to direct anesthetic gases to the upper airway.

(b) *Classification.* Class II (performance standards).

§ 868.5560 Gas mask head strap.

(a) *Identification.* A gas mask head strap is a device used to hold an anesthetic gas mask in position on a patient's face.

(b) *Classification.* Class I (general controls).

Dated: September 8, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25342 Filed 9-16-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 851

Protection of USAF Resources

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its security regulations by removing Part 851 of Chapter VII, Title 32. The source document, Air Force Regulation (AFR) 125-37 has been revised. It is intended for internal guidance and has limited applicability to the general public. This action is a result of departmental review in an effort to insure that only regulations which substantially affect the public are maintained in the Air Force portion of the Code of Federal Regulations.

EFFECTIVE DATE: September 17, 1982.

FOR FURTHER INFORMATION CONTACT: Lt Col Ross, HQ AFOSP, SPOL, Kirtland AFB, NM, telephone (505) 844-6627.

SUPPLEMENTARY INFORMATION: Accordingly, 32 CFR is amended by removing Part 851.

List of Subjects in 32 CFR Part 851

Federal buildings and facilities, Law enforcement, Security measures.

(10 U.S.C. 8012.)

Winnibel F. Holmes,

Air Force Federal Register, Liaison Officer.

[FR Doc. 82-25618 Filed 9-16-82; 8:45 am]

BILLING CODE 3910-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-5-FRL 2188-1]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Amendment.

SUMMARY: On January 12, 1982, the State of Ohio submitted a request to revise the attainment status designations for fifteen counties relative to the total suspended particulate (TSP) National Ambient Air Quality Standards (NAAQS). On June 9, 1982 (47 FR 25016) EPA approved the changes to the attainment status designations for the fifteen counties. The approval included Lucas County in which the TSP primary nonattainment area was reduced in size to include only the City of Toledo, east of the Maumee River and the remainder of the County designated attainment. During the thirty day notification period EPA received a request for an opportunity to submit an adverse or critical comment on the approval of the Lucas County designation. The purpose of this notice is to withdraw the June 9, 1982 approval of the Lucas County designation. The June 9, 1982, approval of the other fourteen counties remains effective. Elsewhere in today's **Federal Register** EPA is proposing to approve the Lucas County designation request and is providing an opportunity to comment on its proposed action.

DATE: This action is effective on September 17, 1982.

ADDRESSES: Copies of the redesignation request and supporting air quality data are available at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Delores Sieja, (312) 886-6038.

SUPPLEMENTARY INFORMATION: On January 12, 1982, the State of Ohio submitted a request to revise the attainment status designation for fifteen counties relative to the TSP NAAQS. On June 9, 1982 (47 FR 25016), in a notice of final rulemaking, EPA: discussed its criteria for redesignation; discussed the monitoring data submitted by the state to support its fifteen county redesignation request; and approved the redesignation request for the fifteen counties. The approval included Lucas County in which the TSP primary nonattainment area was reduced in size to include only the City of Toledo, east of the Maumee River and the remainder of the County designated attainment.

In the approval notice EPA advised the public that it was deferring the effective date of its approval until August 9, 1982. EPA announced that, if by July 9, 1982, it received notice that someone wanted to submit an adverse or critical comment, it would withdraw its approval and begin a new rulemaking by proposing the action and establishing a thirty-day comment period. EPA published a general notice explaining this special procedure on September 4, 1981 (46 FR 44477).

On July 8, 1982, EPA received notice that a member of the public wished to submit an adverse or critical comment on the approval of the Lucas County designation. Therefore, in accordance with the procedure described above, EPA is withdrawing its June 9, 1982, approval of the Lucas County designation. The June 9, 1982, approval of the other fourteen counties remains effective. Elsewhere in today's **Federal Register**, EPA is proposing to approve the Lucas County designation and soliciting comments on its proposed approval.

EPA is withdrawing this action without providing prior notice and opportunity to comment. EPA finds that it has good cause within the meaning of 5 U.S.C. 553(b) to proceed without notice and comment. Notice and comment would be impracticable because EPA needs to withdraw its approval as quickly as possible in order to consider the comments which members of the public want to submit. Moreover, further notice is not necessary because EPA has already informed the public that it would follow this procedure if it received a request for an opportunity to comment. (See 46 FR 41061 and 46 FR 44477). For the same reasons EPA finds it has good cause under 5 U.S.C. 553(d) to make this withdrawal immediately effective.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 16, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See Sec. 307(b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Clean Air Act, as amended (42 U.S.C. 7407))

Dated: September 2, 1982.

Anne M. Gorsuch,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C—Section 107 Attainment Status Designations

Section 81.336 of Part 81 of Chapter 1, Title 40, Code of Federal Regulations is amended. In the table for "Ohio—TSP" the entry for Lucas County should be revised to read as follows:

§ 81.336 Ohio.

	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Ohio—TSP				
Lucas:				
The Cities of Toledo and Maumee		X		
Townships of Waterville, Monclova and Washington			X	
The remainder of Lucas County				X

[FR Doc. 82-25634 Filed 9-16-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

45 CFR Parts 206, 232, 233, 234, 238, and 240

Aid to Families With Dependent Children

AGENCY: Social Security Administration, HHS.

ACTION: Interim rule.

SUMMARY: These interim regulations implement changes made in the Aid to Families with Dependent Children (AFDC) program by the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248). The major statutory changes reflected in these regulations:

(1) Strengthen work requirements by permitting employment search activities for applicants and recipients;

(2) Target assistance to the most needy by:

Permitting proration of amounts for shelter, utilities and similar needs when AFDC families live with other individuals in the same household; and

Prohibiting payments when absence of a parent is due solely to active duty in a uniformed service of the United States of America;

(3) Improve program administration by:

Providing that assistance payments are not made for any period prior to the date of application; and

Rounding both the standard of need and the benefit amount, when not a whole dollar, to the next lower whole dollar.

Changes made by these regulations are limited to the AFDC program.

DATES: These interim regulations are effective October 1, 1982 except where the Secretary determines that State legislation is required in order to conform the State plan to these requirements. In such an event, the State plan shall not be regarded as failing to comply with these requirements solely by reason of its failure to meet the requirements prior to the end of the first session (whether regular, special, budget or other session) of the State legislature which begins after October 1, 1982 or which began prior to October 1, 1982, and remained in session until at least October 26, 1982. This is in accordance with section 161 of Pub. L. 97-248. Requests for extension of the effective

date must be sent to the Regional Commissioner, SSA, and a copy of the request to the Secretary, Department of Health and Human Services.

All comments received by November 16, 1982 will be considered in developing final regulations.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Md. 21235, or delivered to the Office of Family Assistance, Social Security Administration, Room B-442, Transpoint Building, 2100 Second Street, S.W., Washington, D.C. 20201, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Mr. David Siegel, Transpoint Building, 2100 Second Street, S.W., Washington, D.C. 20201, (202) 245-2736.

SUPPLEMENTARY INFORMATION:

Regulatory Procedures

Justification for Dispensing With Notice of Proposed Rulemaking

These interim regulations are effective October 1, 1982, the effective date generally required by Pub. L. 97-248 for the changes in the AFDC program. Since the legislation was not signed into law until September 3, 1982, it was not feasible to issue these regulations under a Notice of Proposed Rulemaking, as this would have delayed the issuance of final regulations until well past October 1, 1982. Since the amendments made by Pub. L. 97-248 will require many changes in States' ADFC plans and agency procedures, States must have some reasonable assurance that new Federal regulations under which these changes are to be implemented will not change in "mid-stream." Furthermore, costs of sequential changes in the program to States and resulting confusion to applicants and recipients because of abrupt changes in Federal regulations would be significantly higher than if the changes are made by States in a planned and orderly manner. The only way to assure States that significant changes in Federal policy will not be made after they have begun to implement the provisions of the new statute is to issue interim regulations.

In addition, Congress clearly intended that the statutory provisions affecting savings under the AFDC program go into effect on October 1, 1982, unless the Secretary determines that State legislation is required for implementation.

Finally, publishing interim regulations will permit State and Federal governments to capture the greatest amount of cost savings from these provisions and this will be to the benefit of the public. We anticipate that the savings to Federal and State governments from prompt implementation of these amendments will be about $181 million during fiscal year 1983 and represent a substantial factor in the effort to curb inflation and revitalize the economy.

Accordingly, we believe that under 5 U.S.C. 553(b)(B) good cause exists for waiver of Notice of Proposed Rulemaking since issuance of proposed regulations would be impracticable and contrary to the public interest.

While Notice of Proposed Rulemaking is being waived, we are interested in comments and advice regarding changes which should be made to these interim regulations. We will review any comments on these regulations which we receive on or before November 16, 1982 and will publish the final regulations with any necessary changes.

Consultation

Prior to publication of these interim regulations, we solicited comments on the legislation and suggestions for the regulations from interested parties. These parties included associations representing Governors, State legislatures, and State and county welfare administrators and legal service groups, professional and labor organizations, welfare rights groups and public assistance-related organizations. The views of these parties were considered in the development of the regulations and are sought during the comment period as well.

Regulatory Burden

Regulatory Impact Analysis

The legislation and regulations, viewed together, may have an annual effect on the economy of more than $100 million. However, the discretionary latitude exercised by the Secretary under these regulations does not exceed $100 million, and therefore these regulations do not constitute a "major rule" as defined in Executive Order 12291. Thus, a regulatory impact analysis, describing potential benefits of the regulations and alternative approaches and their costs and benefits, is not required. Nevertheless, where appropriate to a particular provision, we have voluntarily prepared such an analysis and included it in the discussion of the provision.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (Pub. I 96-354) requires the Federal government to anticipate and reduce the impact of regulations and paperwork requirements on small businesses. For each particular regulation with a "significant impact on a substantial number of small entities" (e.g., small businesses) we must publish an initial analysis describing the regulation's impact on small business. This analysis is to indicate the purpose and reason for the regulation and the number of small businesses to which it would apply, to anticipate reporting and recordkeeping requirements, to identify possible overlap and conflict with other Federal regulations, and to describe possible alternative means of accomplishing the stated objectives which would minimize the impact on small businesses.

The primary impact of these regulations are on State governments and individuals. We do not believe that any provision will have direct impact on small businesses or other small entities within the intent of the Regulatory Flexibility Act and therefore do not believe a regulatory flexibility analysis is required.

Recordkeeping/Reporting Burden

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in this interim regulation have been approved by the Office of Management and Budget (OMB). These provisions are the State Plan requirements discussed throughout the regulation and the Employment Search provision (Section 240.64).

Discussion of Major Provisions

A discussion follows of the AFDC provisions of Pub. L. 97-248 and the options we considered in developing the implementing regulations.

Proration of Initial Assistance Payment (Section 206.10 of the Interim Regulations)

Prior to enactment of the new provision, States could make an initial AFDC payment effective as of the first day of the month in which an application was received. States could receive Federal financial participation (FFP) for these payments provided the State plan specified this as the method of determining the initial payment.

The new statutory provision does not allow payment to be made for any period prior to the date of application. Therefore, States may not claim FFP for any assistance provided prior to the

date of application. However, the new provision does not preclude FFP for any of the other effective date options (under § 206.10(c)(6)) available to States which are later than the date of application. For example, States may continue the practice of making assistance payments beginning with the first day of the month in which payment is authorized (provided it is not the month of application) or the date of authorization.

For States which choose to pay for the month in which the application was filed, the payment for that month is (1) the amount that would be payable if payment were made for the entire month including special needs in accordance with prospective accounting under § 233.34, multiplied by (2) the ratio of the number of days in the month including and following the date of application (or, at State option, the date of authorization of payment) to the total number of days in the month. For administrative efficiency, States may use a standard 30-day month in determining prorated payments.

If an individual is added to an existing assistance unit during a month and the State considers the individual's claim for assistance to constitute a new application, the State may not make a payment for that individual to the assistance unit which includes the needs of that individual for any period prior to the date of application. If the State's administrative procedures do not require a new application under such circumstances, the State may make a payment which considers that individual's needs in accordance with its established procedures.

The interim regulations include a definition of "date of application." We have defined "date of application" in the regulations at this time to assist in understanding the new provision.

Retention by State of Support Payment That Causes Ineligibility (Section 232.20(a)(1) of the Interim Regulations)

Prior to the new statute, when the amount collected on the monthy support obligation caused ineligibility for an AFDC assistance payment, that amount was to be paid to the assistance unit in the month for which the unit was determined to be ineligible. Under this requirement, the assistance unit would receive two support collections in the first month in which it was ineligible. The assistance unit would receive the support collection that caused ineligibility and also the support collection for the first month of ineligibility. As a result, the State and Federal governments could not be reimbursed for the assistance paid in the month that the support collection that caused ineligibility was made.

The amendment to § 232.20 deletes the requirement that the IV–D agency pay the support collection that caused ineligibility to the assistance unit. However, the IV–A agency must still inform the IV–D agency when an assistance unit loses eligibility regardless of the reason.

Rounding of Need Standard and Payment Amounts (Section 233.20 (a)(2)(iv) and (a)(3)(viii) of the Interim Regulations)

The new statutory provision requires States to round the need standard and payment amount, when not a whole dollar amount, to the next lower whole dollar amount. For the need standard, rounding is required after completing all steps necessary to determine the applicable standard of need (including special needs); then the payment amount is computed, prorated for the first month under §206.10(c)(6)(i)(D) if necessary, and rounded, if not already a whole dollar.

In developing these regulations, we considered whether members of an assistance unit whose payment amount was computed as 99 cents or less (but greater than zero) and was then rounded down to zero would still be considered AFDC recipients for purposes of categorical eligibility for other assistance programs. We decided that these individuals, as in the case of individuals who receive no payment because their payment amount is less than $10, would be considered recipients for all other purposes. This means that the family would still be eligible for Medicaid, Social Services, and where appropriate, be required to register for work activities other than CWEP and submit monthly reports.

Some additional savings are foregone by allowing categorical eligibility where no payment is made. However, these savings are insignificant because very few cases would have been affected. Furthermore, the decision is consistent with the earlier provisions regarding payment amounts under $10, and the small cost involved will be somewhat offset by lower administrative costs for case closings and processing reapplications and requests for fair hearings.

Exclusion From Income of Certain Payments From State-Only Funds (Section 233.20(a)(3)(iv) of the Interim Regulations)

The new statute provides that payments made to meet certain needs of children receiving AFDC will be excluded from income for all purposes in the AFDC program (including determining whether the assistance unit has income in excess of the need standard under § 233.20(a)(3)(ii)(D)), if all the following conditions are met: (1) The payments are made from State-only funds; (2) the payments are made under a statutorily established State program which has been continuously in effect since before January 1, 1979; and (3) the payments are made by the State agency that administers the AFDC program.

Exclusion From Income of Certain State Payments (Section 233.20(a)(4)(iv) of the Interim Regulations)

In addition to the provisions under § 233.20(a)(3)(iv) of the interim regulations, the new statute provides that a State can also exclude from income supplementary State-only payments made to an assistance unit in recognition that a decrease in the assistance unit's income is not reflected in the AFDC benefit amount for up to two months under a retrospective budgeting system. For example, in a 2-month retrospective State, if an assistance unit whose monthly payment standard is $300 has monthly income in January (after disregards) of $280, the regular monthly payment for March would be $20. If the unit loses the income after January, the monthly payment for March would still be $20. Under this provision, the State may pay up to the difference between the computed payment ($20) and the anticipated or current need (i.e., the payment standard for that month). Any such State-only payment does not count as income in determining the matchable payment for May, to the extent that the total of the State-only payment made in March, the AFDC payment for March and other countable income received in March did not exceed what the State pays to a comparable family with no income. Federal matching for the State payment is expressly prohibited in accordance with § 233.20(b)(4).

Proration of Standard Amount for Shelter, Utilities and Similar Needs (Section 233.20(a)(5) of the Interim Regulations)

The new statute allows States to prorate the shelter, utilities, and similar needs portions of the need standard and payment amount whenever the AFDC assistance unit lives with other individuals as a household. Proration must be accomplished on a reasonable basis and in a manner and under circumstances prescribed by the State. States cannot prorate, however, for a recipient of Supplemental Security Income benefits to whom the one-third

reduction is applied because he or she lives in the household of another and receives support and maintenance in-kind (as required under section 1612(a)(2)(A)(i) of the Social Security Act).

In enacting this provision, Congress intended each State to establish a reasonable basis for proration depending on its own policy and administrative considerations. For example, a State may wish to prorate under narrow circumstances and not prorate where non-AFDC household members have little or no income or are unrelated. On the other hand, a State may wish to prorate in all circumstances where the assistance unit shares shelter, utilities and similar needs with other individuals. States may also choose to prorate only the payment standard, or to prorate only for shelter or utilities.

Under these interim regulations, States must define "household" for purposes of applying the proration provision and must specify in their plans the chosen method for prorating. The new legislation allows the Secretary of HHS to define "household." However, in keeping with the President's commitment to assure States adequate flexibility in developing their own programs, we have decided to leave this to each State. This approach is consistent with the position we took in developing the regulations implementing the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) where the statute authorized the Secretary to prescribe definitions. However, while we have provided States with great flexibility, we believe that it would be unreasonable for a State to include landlords and bona fide tenants in the definition of "household", as the statute refers to individuals living with the AFDC unit as a household. As landlords and bona fide tenants are in a commercial relationship rather than a household relationship, their inclusion would be contrary to the intent of the statute. Accordingly, we will not approve any State plan which permits proration in these situations.

In developing these regulations, we considered whether including persons in the proration computation who are not included in the assistance unit but whose income is counted as available to the assistance unit (i.e., stepparents and sponsors) is double counting of the same income. We determined that it is not. In determining the amount of income available to the assistance unit, an amount is disregarded which is equal to the State need standard for a family of the same composition as the person's whose income is counted. Therefore, it would be reasonable for a State to recognize that the need for these items is reduced as a result of sharing.

We have amended § 233.20(a)(2)(viii) which prohibited proration in all assistance programs in accordance with the statutory change allowing proration in AFDC.

Absence Due to Uniformed Service (Section 233.90(c)(1)(iii) of the Interim Regulations)

In June 1972, the Supreme Court ruled in *Carleson* v. *Remillard* that a State, in determining entitlement for AFDC benefits, could not determine that a child was not deprived because the parent's absence was due to military service. The Court held that, under the existing Social Security Act and regulations, the eligibility criterion of "continued absence" of a parent from the home meant that the parent may be absent for any reason. This law amends the Act to provide that a parent whose absence is occasioned *solely* by reason of the performance of active duty in a uniformed service of the United States is *not* considered absent from the home.

One issue considered in developing the regulations was whether we should provide Federal criteria for determining when absence is not solely due to active duty in a uniformed service. We decided that each State should develop criteria and specify what evidence an individual must provide to establish that continued absence would exist irrespective of the parent's performance of active duty in the uniformed service of the United States.

The interim regulation provides that the definition of "uniformed services" at section 101(3) of title 37, United States Code, applies. "Uniformed services" is defined in that section to mean the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanographic and Atmospheric Administration and Public Health Service of the United States.

Employment Search Programs (Part 240 of the Interim Regulations)

The new statute permits States to require, as a condition of eligibility for AFDC, that certain applicants and recipients participate in a program of employment search, beginning at the time they file an application. Only those individuals who are required to participate in WIN and those who are exempt from WIN because of remoteness from a WIN site can be required to participate. The statute, however, allows States to further limit the employment search requirement to certain groups, types or classes of these individuals. A State may also permit volunteers to participate.

The initial employment search period begins at the time of application and continues for a period, prescribed by the State, of not more than 8 weeks. The State can also require a recipient to participate in employment search for up to 8 weeks after the close of the initial 8-week period, but not to exceed a total of 8 weeks in any period of 12 consecutive months. The first such period of 12 consecutive months begins at any time the State designates following the close of the initial employment search period.

If a State chooses to have an employment search program under this part, the State must include in its plan the requirements that must be met by individuals participating in this program. For example, a State may require a certain number of job-seeking contacts each week, attendance at a job-seeking club, and require that an individual must accept a bona fide job offer.

An applicant is not eligible for assistance as long as he fails without good cause to satisfy the State's requirements for participation in employment search. The application for the rest of the assistance unit must still be processed. However, if it is either the only dependent child or the principal earner who does not satisfy the State's requirements, then the entire assistance unit is ineligible for assistance.

Recipients who, without good cause, do not satisfy the State's requirements for participation are subject to the sanctions at § 240.22(a). Under § 240.22(a), when a sanction is applied, the individual's needs cannot be included in determining the assistance unit's need for a period of 3 payment months for the first failure and 6 payment months for each subsequent failure, effective no later than the first day of the corresponding payment month. In an AFDC–UP case, when the principal earner is sanctioned, the entire family is denied aid for the duration of the sanction period. The new statute permits States to shorten the sanction period for any failure to participate in employment search.

Section 240.22(c) of the regulations requires States to define good cause for failure of applicants and recipients to participate. The AFDC hearings and appeal procedures (§ 205.10) apply to individuals whom the State requires to participate in employment search under these provisions. Current rules on protective and vendor payments for sanctioned individuals (§ 234.60) apply to individuals sanctioned under these provisions as well.

Under the interim regulations, States may make preliminary assessments of eligibility and may exempt from employment search applicants who appear ineligible for AFDC based on the information they supplied. However, such a preliminary screening process cannot substitute for a formal denial of eligibility for assistance nor can it result in a delay in processing the individual's application. The only effect of such a decision under a preliminary screening process is that the individual is temporarily exempt from participating in employment search until the State determines otherwise.

We estimate some savings from allowing States to screen applicants before requiring them to participate in employment search. These savings derive primarily from ensuring that employment search participation expenses are incurred only on behalf of individuals who the State considers likely to be eligible for AFDC.

In addition, the new statutory provision specifically provides that the employment search program may not be used as a reason for delay in making a determination of eligibility or in issuing a payment to or on behalf of an individual who is otherwise eligible for aid. A State may, of course, require reasonable verification that employment search requirements are being met, in circumstances where the applicant or recipient is not participating in a supervised job club setting. For example, a State may require that a participant have potential employers sign a form indicating that an interview was conducted. If no verification has been received at the time the State is prepared to make an eligibility decision, the State may provide additional time for verification of employment search requirements, rather than finding the individual ineligible for failure to meet those requirements. The State may not, however, impose any additional work requirememts or have a fixed-length pre-eligibility employment search requirement at the point that all other eligibility requirements are met.

For efficient administration of the program, the new statute requires that the employment search program be coordianted with CWEP and WIN in order to ensure that job placement is the highest priority. This provision is implemented in parts 238 and 240 of the regulations.

Allowable Administrative Costs

Previously, employment search activities—to the extent they existed—were funded primarily under the WIN program. The new provision requires that any individual participating in an employment search program must be furnished transportation and other services or paid (in advance or by way of reimbursement) any amounts to cover transportation costs and other expenses reasonably incurred in order to enable the individual to participate in the employment search program. Under these interim regulations, Federal matching at the 50 percent administrative rate is available for costs necessary for the proper and efficient administration of the employment search program. These costs include the development and operation of job-finding clubs, resume development, interview training, determining skill levels and experience and providing transportation, child care and other services to employment search participants whether as direct advance payments or reimbursement of out-of-pocket employment search participation costs or as services provided in kind.

Costs are matchable only when identified as a covered expense in the State plan, reasonable in relation to their expected benefits and cost-effectiveness and necessary to enable individuals to participate effectively in the program. Services and payments are matchable when provided to individuals who are either applicants for or recipients of assistance at the time the costs are incurred. Such costs are matchable only under this provision and not as special needs in the State payment. Federal matching funds are not available for longer range remedial services and expenditures not essential to job seeking. Such unmatchable costs include psychological counseling, education or training (except short-term training as identified above), health care or medical care. We view this provision as focusing on immediate employment search and rapid job placement.

The State may operate job search activities directly or may contract with outside agencies to provide them.

The asterisks used throughout the regulatory text represent material within a codified paragraph or section that is not being amended by these interim regulations.

These regulations are issued under the authority of section 1102 of the Social Security Act, as amended, 42 U.S.C. 1302 and Pub. L. 97-248, 96 Stat. 324.

(Catalog of Federal Domestic Assistance Programs No. 13.808 Public Assistance Maintenance Assistance (State Aid))

List of Subjects

45 CFR Part 206

Aid to families with dependent children, Family assistance, Grant programs—social programs, Public assistance programs.

45 CFR Part 232

Aid to families with dependent children, Child support, Child welfare, Family assistance, Grant programs—social programs.

45 CFR Part 233

Aid to families with dependent children, Aliens, Family assistance, Grant programs—social programs, Public assistance programs, Reporting requirements.

45 CFR Part 234

Aid to families with dependent children, Family assistance, Grant programs—social programs, Health facilities, Public assistance programs, Public housing.

45 CFR Part 238

Aid to families with dependent children, Family assistance, Grant programs—social programs, Manpower training programs.

45 CFR Part 240

Employment search program.

Dated: August 19, 1982.

Paul B. Simmons,

Acting Commissioner of Social Security.

Approved: September 7, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 206—APPLICATION, DETERMINATION OF ELIGIBILITY AND FURNISHING OF ASSISTANCE—PUBLIC ASSISTANCE PROGRAMS

Part 206 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

1. Section 206.10 is amended by revising paragraph (c)(6)(i)(B), adding new paragraphs (c)(6)(i) (C) and (D), by redesignating paragraph (b) headed "Definitions" to be paragraph (d), and by adding a new definition as paragraph (d)(3) to read as follows:

§ 206.10 Application, determination of eligibility, and furnishing assistance.

(a) *State plan requirements.* * * *

(b) * * *

(c) * * *

(6) Assistance shall begin as specified in the State plan, which:

(i) For financial assistance,

(A) Must be no later than:

(*1*) The date of authorization of payment, or

(*2*) Thirty days in OAA, AFDC, AB, and AABD (as to the aged and blind), and 60 days in APTD and AABD (as to

the disabled), from the date of receipt of a signed and completed application form, whichever is earlier: *Provided,* That the individuals then met all the eligibility conditions, and

(B) For purposes of Federal financial participation in OAA, AB, APTD, and AABD, may be as early as the first of the month in which an application has been received and the individual meets all the eligibility conditions; and

(C) In AFDC, for purposes of Federal financial participation, may be as early as the date of application provided that the assistance unit meets all the eligibility conditions; and

(D) In AFDC, States that pay for the month of application must prorate the payment for that month by multiplying the amount payable if payment were made for the entire month including special needs in accordance with § 233.34 by the ratio of the days in the month including and following the date of application (or, at State option, the date of authorization of payment) to the total number of days in such month. The State plan may provide for using a standard 30-day month to determine the prorated amount.

* * * * *

(d) *Definitions.* For purposes of this section:

(1) "Applicant" is a person who has, directly, or through his authorized representative, or where incompetent or incapacitated, through someone acting responsibly for him, made application for public assistance from the agency administering the program, and whose application has not been terminated.

(2) "Application" is the action by which an individual indicates in writing to the agency administering public assistance his desire to receive assistance. The relative with whom a child is living or will live ordinarily makes application for the child for AFDC. An application is distinguished from an inquiry, which is simply a request for information about eligibility requirements for public assistance.

Such inquiry may be followed by an application.

(3) "Date of Application" is the date on which the action described in (d)(2) occurs.

PART 232—SPECIAL PROVISIONS APPLICABLE TO TITLE IV–A OF THE SOCIAL SECURITY ACT

Part 232 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

2. Section 232.20 is amended by revising paragraph (a)(1) to read as follows:

§ 232.20 Treatment of child support collections made in the Child Support Enforcement Program as income and resources in the Title IV–A Program.

(a) * * *

(1) Upon notification to the IV–A agency by the IV–D agency of the amount of a support collection, such amount will be used to redetermine eligibility for an assistance payment under § 206.10(a)(9). This use of these amounts so collected shall not be later than the second month after the month in which the IV–A agency received a report of the monthly collections from the IV–D agency. In determining whether a support collection made by the State's IV–D agency, which represents support amounts for a month as determined pursuant to § 302.51(a) of this title, is sufficient to make the family ineligible for an assistance payment for the month to which the redetermination applies, the State will determine if such collection, when treated as if it were income, makes the family ineligible for an assistance payment. If such treatment makes the family ineligible, the IV–A agency will notify the family and the IV–D agency. If such treatment does not make the family ineligible for an assistance payment, the assistance payment will be calculated without regard to such collection.

* * * * *

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

Part 233 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

3. Section 233.20 is amended by revising paragraphs (a)(2) (iv) and (v) to read as follows:

§ 233.20 Need and amount of assistance.

(a) *Requirements for State plans.*

* * *

(2) *Standards of assistance.* * * *

(iv) Include the method used in determining need and the amount of the assistance payment. For AFDC, the method must provide for rounding down to the next lower whole dollar when the result of determining the standard of need or the payment amount is not a whole dollar. Proration under § 206.10(c)(6)(i)(D) to determine the amount of payment for the month of application must occur before rounding to determine the payment amount for that month.

(v) If the State agency includes special need items in its standard, (A) describe those that will be recognized and the circumstances under which they will be included, and (B) provide that they will be considered for all applicants and recipients requiring them; except that under AFDC, work expenses and child care (or care of incapacitated adults living in the same home and receiving AFDC) resulting from employment or participation in either a CWEP or an employment search program cannot be special needs.

* * * * *

4. Section 233.20 is amended by revising paragraph (a)(2)(viii) to read as follows:

§ 233.20 Need and amount of assistance.

(a) *Requirements for State plans.*

* * *

(2) *Standards of assistance.* * * *

(viii) In OAA, AB, APTD, and AABD only, provide that the money amount of any need item included in the standard will not be prorated or otherwise reduced solely because of the presence in the household of a non-legally responsible individual; and the agency will not assume any contribution from such individual for the support of the assistance unit.

* * * * *

5. Section 233.20 is amended by revising paragraph (a)(3)(iv) and adding a new subparagraph (D) to read as follows:

(a) *Requirements for State plans.*

* * *

(3) *Income and resources.* * * *

(iv) Provide that in determining the availability of income and resources, the following will not be included as income (A) Except for AFDC, income equal to expenses reasonably attributable to the earning of income (including earnings from public service employment); (B) loans and grants, such as scholarships, obtained and used under conditions that preclude their use for current living costs; (C) home produce of an applicant or recipient, utilized by him and his household for their own consumption; and (D) for AFDC, any amounts paid by a State IV–A agency from State-only funds to meet needs of children receiving AFDC, if the payments are made under a statutorily-established State program which has been continuously in effect since before January 1, 1979.

* * * * *

6. Section 233.20 is amended by revising paragraph (a)(3)(viii) to read as follows:

(a) *Requirements for State plans.*

* * *

(3) *Income and resources.* * * *

(viii) Provide that: (A) payment will be based on the determination of the amount of assistance needed; (B) if full

individual payments are precluded by maximums or insufficient funds, adjustments will be made by methods applied uniformly statewide; (C) in the case of AFDC no payment of aid shall be made to an assistance unit in any month in which the amount of aid prior to any adjustments is determined to be less than $10; and (D) an individual who is denied aid because of the limitation specified in (C) of this paragraph, or because the payment amount is determined to be zero as a result of rounding the payment amount as required by § 233.20(a)(2)(iv), shall be deemed a recipient of aid for all other purposes except participation in the Community Work Experience Program.

* * * * *

7. Section 233.20 is amended by adding a new paragraph (a)(4)(iv) to read as follows:

(a) *Requirements for State Plans.*

* * *

(4) *Disregard of income in OAA, AFDC, AB, APTD, or AABD.* * * *

(iv) For AFDC, any amounts determined to have been paid by a State from State-only funds to supplement or otherwise increase the amount of aid paid to an assistance unit as computed under § 233.35 for a month in recognition of current or anticipated needs of the assistance unit for that same month shall not be counted as income—to the extent that the total of the State supplemental payment, the AFDC payment and actual income received in that month are not in excess of what the State would have paid for that month to an assistance unit of the same size and composition with no income—in computing the assistance payment under § 233.35 for the corresponding payment month.

* * * * *

8. Section 233.20 is amended by adding a new paragraph (a)(5) to read as follows:

(a) *Requirements for State plans.*

* * *

(5) *Proration of shelter, utilities, and similar needs in AFDC.* (i) Provide that the State agency may prorate allowances in the need and payment standards for shelter, utilities, and similar needs when the AFDC assistance unit lives together with other individuals as a household; except that, the State shall not prorate with respect to any person receiving SSI to whom the statutory one-third reduction (section 1612(a)(2)(A)(i) of the Act) is applied.

(ii) If the State agency elects to prorate allowances for shelter, utilities, and similar needs, the State plan must:

(A) Define shelter, utilities, and similar needs and describe the procedure which will be used to prorate the allowances;

(B) Provide that the allowances will be prorated on a reasonable basis; and

(C) Specify the circumstances under which proration will occur, including a description of which individuals are considered to be living with an AFDC assistance unit as a household.

* * * * *

9. Section 233.90 is amended by revising paragraph (c)(1)(iii) to read as follows:

§ 233.90 Factors specific to AFDC.

* * * * *

(c) *Federal financial participation.* (1) Federal financial participation under title IV–A of the Social Security Act in payments with respect to a "dependent child," as defined in section 406(a) of the Act, is available within the following interpretations: * * *

(iii) *Continued absence of the parent from the home.* Continued absence of the parent from the home constitutes the reason for deprivation of parental support or care when the parent is out of the home, the nature of the absence is such as either to interrupt or to terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and the known or indefinite duration of the absence precludes counting on the parent's performance of the function of planning for the present support or care of the child. If these conditions exist, the parent may be absent for any reason, and may have left only recently or some time previously; except that a parent whose absence is occasioned solely by reason of the performance of active duty in the uniformed services of the United States (as defined in section 101(3) of title 37, United States Code) is not considered absent from the home. A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.

* * * * *

10. Section 233.100 is amended by revising paragraphs (a)(3), (a)(5)(ii), (c)(2)(ii), and (c)(2)(iii), and adding paragraphs (a)(3)(vii), (a)(5)(iii), and (c)(2)(iv) to read as follows:

§ 233.100 Dependent children of unemployed parents.

(a) *Requirements for State Plans.*

* * *

(3) Provide for payment of aid with respect to any dependent child (as defined by the State pursuant to paragraph (a)(2) of this section) when the conditions set forth in paragraphs (a)(3) (i), (ii), (iii), and (vii) of this section are met: * * *

(vii) The parent who is the principal earner (unless exempt under § 240.14) has met the requirements for participation in an employment search program under Part 240 of this chapter.

* * * * *

(5) * * *

(ii) With respect to any week for which such child's parent qualifies for unemployment compensation under an unemployment compensation law of the State or of the United States but refuses to apply for or accept such unemployment compensation, and

(iii) If the parent who is the principal earner (unless exempt under § 240.14) fails to meet the requirements for participation in a program of employment search established under Part 240 of this chapter.

* * * * *

(b) *Exception.* * * *

(c) *Federal financial participation.*

* * *

(2) * * *

(ii) For such 30-day period if during that period the parent refused without good cause a bona fide offer of employment or training for employment;

(iii) For any period beginning with the 31st day after the receipt of aid, if and for as long as no action is taken during the period to certify the parent for participation in the Work Incentive Program as provided in section 402(a)(19) of the Act and the regulations relating thereto; and

(iv) For any part of the sanction period imposed under § 240.22 (for failure to meet the requirements for participation in the employment search program).

PART 234—FINANCIAL ASSISTANCE TO INDIVIDUALS

Part 234 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

11. Section 234.60 is amended by revising paragraphs (a)(1) and (a)(12) to read as follows:

§ 234.60 Protective, vendor and two-party payments for dependent children.

(a) *State plan requirements.* (1) If a State plan for AFDC under title IV–A of the Social Security Act provides for protective, vendor and two-party payments for cases other than failure to participate in WIN, employment search, or Community Work Experience Programs (CWEP), or failure by the caretaker relative to meet the eligibility requirements of §§ 232.11 or 232.12 of

this chapter, it must meet the requirements in paragraphs (a) (2) through (11) of this section. In addition, the plan may provide for protective, vendor, and two-party payments at the request of the recipient as provided in paragraph (a)(14) of this section.

* * * * *

(12) In cases where an individual is sanctioned for failure to participate in WIN, employment search, or CWEP, the State plan must provide that when protective or vendor payments are made pursuant to § 224.51(a)(1), § 238.22, § 240.22(a)(1), and §240.22(b)(1) of this chapter, only paragraphs (a)(7), (9)(ii), and (11) (i) and (ii) of this section will be applicable. Under these circumstances, when protective payments are made, the entire payment will be made to the protective payee; and when vendor payments are made, at least the greater part of the payment will be through this method. Provision will be made for termination of protective payments, or payments to a person furnishing goods or services, with return to money payment status when adults who refused training, employment, or participation in employment search without good cause either accept training, employment, or employment search or agree to do so. In the case of continuing refusal of the relative to participate, payments will be continued for the children in the home in accordance with this paragraph.

* * * * *

PART 238—COMMUNITY WORK EXPERIENCE PROGRAM

Part 238 of Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

12. Section 238.20 is amended by revising paragraph (c) to read as follows:

§ 238.20 Participation requirements.

* * * * *

(c) The State must have procedures under which there is coordination among CWEP, the employment search program, and WIN to ensure that job placement will have priority.

* * * * *

13. Section 238.26 is amended by revising paragraphs (a) and (b) to read as follows:

§ 238.26 Chief Executive Officer.

The Chief Executive Officer of the State:

(a) Shall provide for coordination among CWEP, the program of employment search and WIN to ensure that:

(1) Job placement will have priority; and

(2) An individual who is required to participate in more than one of the programs identified in this section may not be denied aid under the State plan on the grounds of "failure to participate" in one such program if he is actively and satisfactorily participating in another.

(b) May require that a participant who satisfactorily meets the requirements of CWEP may be required to participate in a program of employment search or WIN during such time as he is not participating in CWEP.

14. A new Part 240 is added to Chapter II, Title 45, Code of Federal Regulations to read as follows:

PART 240—EMPLOYMENT SEARCH PROGRAM

Subpart A—Introduction

Sec.
240.01 Scope of this part.

Subpart B—Administration and Program Requirements

240.10 Agency administering the program.
240.12 Statewideness.
240.14 Establishment of mandatory participant groups.
240.20 Program requirements.
240.22 Conditions of eligibility and sanctions.
240.24 Hearings and notices.

Subpart C—Federal Financial Participation

240.60 Allowable administrative expenses.
240.62 Expenses not matchable.
240.64 Fiscal recordkeeping requirements.

Subpart A—Introduction

§ 240.01 Scope of this part.

Each State may operate a program of employment search and require certain AFDC applicants and recipients to participate in it as a condition of AFDC eligibility. The purpose of this employment search program is to reduce welfare dependency by assisting individuals in obtaining regular unsubsidized employment. Allowable costs to operate a program of employment search are matched by the Federal government at the AFDC administrative match level.

Subpart B—Administration and Program Requirements

§ 240.10 Agency administering the program.

Each State with a plan approved under title IV–A of the Social Security Act may establish a program of employment search in accordance with the requirements in this part. The single State agency designated in the State plan to administer or supervise the AFDC program must administer the employment search program.

§ 240.12 Statewideness.

The employment search program must be statewide. It may provide different employment search activities or impose different participation requirements in different areas depending on the specific conditions in each such area affecting employment.

§ 240.14 Establishment of mandatory participant groups.

(a) The State plan shall specify the groups, types, and classes of applicants and recipients who will be mandatory participants in the employment search program. These categories may only include individuals who would be required to register for WIN under § 224.20, and those excluded from registration requirements because of remoteness from a WIN site under § 224.20(b)(6).

(b) A State plan may also provide for voluntary participation in an employment search program by those not required to participate under (a). If the plan provides for voluntary participation, it shall identify any conditions which attach to voluntary participation including what sanctions, if any, are imposed. States must inform voluntary participants of these conditions, if any.

(c) The State agency may exempt from employment search any appplicant who does not appear to meet eligibility criteria for AFDC based upon a preliminary assessment it makes at the time the individual files his application. This process must not constitute informal denial of eligibility for assistance nor delay the processing of the application.

§ 240.20 Program Requirements.

(a) The State plan must specify the requirements for participation (such as a minimal number of employer contacts a week or that a bona fide job offer cannot be refused without good cause). However, these requirements may vary for different categories of individuals depending on factors such as the economic conditions in an area and an individual's work history, etc. States must not impose requirements which would delay processing of an application. States may require that an individual participate in the employment search program from the time he files an application for aid for an initial period, prescribed in the State plan, of up to 8 weeks. Following this initial period, the States may require additional participation in employment search, not

in excess of 8 weeks (or its equivalent) in any period of 12 consecutive months. The first such period of 12 consecutive months shall begin at any time following the close of the initial period.

(b) The State plan must specify procedures for coordination among CWEP, WIN, and the employment search program to ensure that job placement will have priority.

(c) The State plan must also provide for methods to ensure that requirements for participation in employment search are met. The State must establish procedures enabling it to verify participation in the program.

§ 240.22 Conditions of eligibility and sanctions.

(a) The State plan shall provide for sanctions when a recipient, who is required to participate in the program of employment search, fails to meet the requirements for participation in that program. If a recipient fails to meet State requirements for participation in employment search, the sanctions specified below shall remain in effect for a period (effective no later than the first day of the corresponding payment month) up to 3 payment months for the first such failure and up to 6 payment months for any subsequent such failure.

(1) If the individual is a caretaker relative receiving benefits (other than a principal earner), the State shall not take into account his needs in determining the assistance unit's need for assistance. The State shall provide assistance in the form of protective or vendor payments;

(2) If the individual is one of several dependent children in the assistance unit, the State shall not take into account the child's needs in determining the assistance unit's need for assistance; if the individual is the only dependent child in the assistance unit, the State shall deny assistance to the entire unit; and

(3) If the individual is a principal earner, the State shall deny assistance to the entire assistance unit.

(b) The State plan shall provide that an applicant will remain ineligible for assistance for so long as he fails to meet the State requirements for participation in the employment search program:

(1) If the individual is a caretaker relative, the State shall not take into account his needs in determining the assistance unit's need for assistance. The State shall provide assistance in the form of protective or vendor payments;

(2) If the individual is one of several dependent children in the assistance unit, the State shall not take into account the child's needs in determining the assistance unit's need for assistance; if the individual is the only dependent child in the assistance unit, the State shall deny assistance to the entire unit; and

(3) If the individual is a principal earner, the State shall deny assistance to the entire assistance unit.

(c) The State plan shall specify the criteria to be used in determining whether applicants and recipients have "good cause" for failing to meet State requirements for participation in employment search.

§ 240.24 Hearings and notices.

The State plan shall specify that the hearings and notice procedures at § 205.10 apply to applicants and recipients who are required to participate in employment search under this part.

Subpart C—Federal Financial Participation

§ 240.60 Allowable administrative expenses.

(a) Federal financial participation (FFP) is available at 50 percent for reasonable expenditures which a State makes in implementing an employment search program. The State plan must specify the services and activities for which FFP will be claimed. Under this requirement, the plan must include those services and activities:

(i) For which direct payment will be made to participants, whether in advance or by way of reimbursement;

(ii) For which payment will be made to third-party providers; and

(iii) Which the agency will provide directly to participants.

(b) FFP is available for direct payments to employment search participants for expenditures for transportation, child care, and other costs reasonably incurred by participants in meeting the requirements of the program.

(c) FFP is available for reasonable expenses incurred by the single State agency in providing services or in contracting with third-parties to provide services for its employment search program if the expenses are consistent with the approved employment search program. FFP is available for expenditures in employment search activities for applicants and recipients such as group jobseeking, job development, exposure the labor market information, work orientation, and referral which are necessary to assist individuals in locating unsubsidized employment.

§ 240.62 Expenses not matchable.

FFP is not available for expenditures for services or activities which are not essential to immediate job seeking, such as longer range remedial care and services, training or psychological counseling.

§ 240.64 Fiscal recordkeeping requirements.

To support claims for FFP, States shall identify all participants in their employment search program, the activities in which each individual participates, and any services or direct payments for expenses provided to individual participants.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 80-634; FCC 82-372]

Changes in the Corporate Structure and Operations of the Communications Satellite Corporation

AGENCY: Federal Communications Commission.

ACTION: Policy statement (Memorandum Opinion and Order).

SUMMARY: This Memorandum Opinion and Order resolves certain legal and policy issues concerning the corporate structure and operations of the Communications Satellite Corporation (Comsat). It also requires Comsat to report to the Commission and adhere to the directives on accounting, information flow, research and development and financial support of affiliates as set forth in the Order. This action is necessary to clearly set forth certain determinations.

EFFECTIVE DATE: 3:00 p.m., E.T., September 20, 1982.

FOR FURTHER INFORMATION CONTACT: James L. Ball, Chief, International Facilities Licensing and Authorization Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554 (202) 632-7265.

SUPPLEMENTARY INFORMATION:

In the matter of changes in the corporate structure and operations of the Communications Satellite Corp.; CC Docket No. 80-634; (October 29, 1980; 45 FR 71628).

Memorandum Opinion and Order

Adopted: August 5, 1982.

Released: August 13, 1982.

By the Commission: Commissioner Jones concurring in part and dissenting in part.

I. Introduction

1. This rulemaking proceeding was initiated to provide an opportunity for public comment on the tentative porposal set forth in the Comsat Study [1] for changes in the corporate structure and operations of the Communications Satellite Corporation (Comsat). *Communications Satellite Corporation* (hereafter *Comsat Structure Rulemaking*), 81 FCC 2d 287 (1980). It has also provided an opportunity to consider alternative approaches to deal more effectively with the problems we identified in the Comsat Study regarding Comsat's structure and operations. In this regard, we indicated that we would carefully consider the voluntary organizational changes undertaken by Comsat in response to the Comsat Study. Appendix A contains a list of the parties filing comments and reply comments in response to our Notice.

2. In the Comsat Study we proposed the restructuring of Comsat in order to separate its monopoly and competitive activities. In this proceeding, we affirm our prior determination that no legal bar exists to Comsat's participation in non-INTELSAT/INMARSAT businesses so long as they are not inconsistent with Comsat's statutory responsibilities. We also affirm our prior determination that as a matter of regulatory policy Comsat should not be limited to its INTELSAT/INMARSAT role. Finally, we assess the adequacy of the voluntary organizational changes undertaken by Comsat in light of the regulatory concerns raised in the Comsat Study. We find in essence that Comsat's voluntary changes do not go far enough and fail to address adequately our stated concerns.

3. As we will discuss, the voluntary organizational changes undertaken by Comsat are consistent with the basic thrust of our Comsat Study proposal; i.e., to structurally separate Comsat's monopoly and competitive activities. Within the framework of its modified structure, however, we find several substantial deficiencies in the manner in which Comsat seeks to satisfy the regulatory concerns which we identified as arising from its greater diversification into competitive activities. Comsat fails to address adequately our stated concerns with respect to Comsat Labs, the potential for misallocation of costs, and greater public dissemination of INTELSAT/INMARSAT information. We conclude that if it is to retain Comsat Labs in the parent organization as it desires, Comsat must modify the way it currently accounts for research and development costs. We also conclude that Comsat must correct deficiencies in how it accounts for administrative and support services shared between the parent organization and affiliated entities. Finally, we conclude that Comsat must take steps to provide for greater public dissemination of INTELSAT/INMARSAT information, and set forth a mechanism to provide the public greater acces to this information.

4. We conclude that before we prescribe structural separation beyond what Comsat has voluntarily undertaken, Comsat should have the opportunity to establish and implement appropriate control mechanisms which will satisfy the regulatory concerns we have raised. We delegate to the Chief, Common Carrier Bureau, authority to assess proposals made by Comsat in response to this decision. We direct the Bureau to report back to the Commission within nine months on the extent to which Comsat has satisfactorily addressed the problems we raise, including a recommendation as to what, if any, further structural separation is warranted.

II. Background

A. Comsat Study

5. The Comsat Study was undertaken pursuant to Section 505 of the International Maritime Satellite Telecommunications Act, 47 U.S.C. 751 (1979). Section 505 directed the Commission to determine whether any changes are required in Comsat's structure or operations to ensure that the corporation is able to fulfill effectively its obligations and carry out its funcitions under the Communications Satellite Act of 1962 and the Communications Act of 1934. The Comsat Study was transmitted to Congress on May 1, 1980.

6. The issues raised in the Comsat Study and in this proceeding result from Comsat's pursuit of non-INTELSAT/INMARSAT activities through business acquisitions and exploitation of its satellite-related technology and expertise. In the Comsat Study, we identified a number of problems as adversely impacting Comsat's continued ability to carry out its statutory functions effectively. We concluded that changes are required in Comsat's corporate structure and operations in view of these problems and we set forth a proposal to effect such changes. We indicated that we viewed the stated proposal as tentative and that it warranted further consideration in the context of a rulemaking proceeding.

7. We stated that the paramount reason for Comsat's existence is the fulfillment of its statutory missions as the U.S. representative to INTELSAT and INMARSAT. See *Implementation of INMARSAT*, 74 FCC 2d 59 at 64 (1979). As a matter of policy, however, we found that Comsat should not be foreclosed from applying its corporate technology and expertise to the development of new lines of business which will result in public benefit. *Comsat Study* at 607.

8. We premised this policy determination on the fact that Comsat's involvement in diversified satellite-related activities would contribute to the overall development of satellite communications technology and therefore be in the public interest. We indicated, however, that Comsat's involvement in diversified businesses may also detrimentally affect its ability to carry out its statutory functions. The various regulatory issues that we identified fall within four general areas: (a) Comsat's legal authority to enter into non-INTELSAT/INMARSAT businesses; (b) the potential for conflicts of interest to arise from its involvement in such activities; (c) Comsat's competitive advantage in non-INTELSAT/INMARSAT markets flowing from its unique status as U.S. Signatory to INTELSAT and INMARSAT; and (d) cross-subsidization of monopoly and competitive services to the detriment of the international ratepayer.

9. First, as to any statutory bar that may limit the Scope of its activities, we concluded that Comsat is permitted under the 1962 Satellite Act to engage in any activities which are not inconsistent with its statutory mission. *Id.* at 615. However, we recognized that Comsat's legal authority to engage in a broad range of activities will probably remain controversial. Therefore, we recommended to Congress that the 1962 Act be amended to clearly define the extent to which Comsat may engage in non-INTELSAT/INMARSAT businesses.

10. Second, we found that Comsat's involvement in diversified businesses presents opportunities for conflicts of interest. *Id.* at 619–620. Conflicts may occur whenever the outcome of a matter before INTELSAT or INMARSAT will have direct or indirect financial effect on a non-INTELSAT/INMARSAT business in which Comsat or one of its subsidiaries is involved. Under such circumstances, Comsat is in a position to weigh its other corporate interests in light of overall corporate profitability in voting as the U.S. representative to INTELSAT or INMARSAT. The potential for such conflicts was

[1] Communications Satellite Corporation (hereafter Comsat Study), 77 FCC 2d 564 (1980).

considered in not unduly restricting Comsat's involvement in non-INTELSAT/INMARSAT activities.

11. Third, we found that Comsat's unique INTELSAT/INMARSAT role provides it with opportunities to gain advantages over U.S. competitors in the markets in which it seeks to participate. *Id.* at 648. As the U.S. Signatory in INTELSAT, Comsat both learns from and contributes to INTELSAT/INMARSAT technology development and can exploit this relationship to its benefit in competitive markets. The competitive advantages it can enjoy flow from two practices: (a) Comsat's use of INTELSAT-funded technology to support other lines of business; and (b) its ability to integrate INTELSAT/INMARSAT market and system planning information with its other businesses.

12. Fourth, we found that Comsat's involvement in diversified businesses will increasingly provide it with opportunities to engage in cross-subsidization through misallocation of costs to the detriment of INTELSAT ratepayers. We noted that allocation of research and development costs posed a particular problem in this regard. *Id.* at 667–73.

13. In light of these concerns, we proposed that Comsat be separated into two distinct corporate elements (called COMSAT Global and COMSAT National for purposes of discussion, the former being the parent corporation and the latter the subsidiary). COMSAT Global would be limited to INTELSAT/INMARSAT functions. COMSAT National would handle all present and future non-INTELSAT/INMARSAT businesses. The two entities would have separate officers, facilities, advertising and marketing, records and books of accounts, procurement and operating personnel. In addition, Comsat Labs would be located in COMSAT National. COMSAT National would utilize the facilities of Comsat Labs to support its various non-INTELSAT/INMARSAT lines of business and assist COMSAT Global in carrying out its role as the U.S. Signatory in INTELSAT and INMARSAT.

14. We also proposed controls on how COMSAT Global and COMSAT National would transact business with one another, including the circumstances under which technology transfer and information flow would be permitted between them. First, we proposed that COMSAT Global be required to procure any research and development and other technology support services from COMSAT National pursuant to competitive bidding procedures. Second, COMSAT Global would not be allowed to treat as proprietory or confidential any technology and information to which it has access by virtue of its unique INTELSAT/INMARSAT roles and which it makes available to COMSAT National. Third, mandatory licensing would be required of technology and information generated through ratepayer-funded research and development which is not done pursuant to competitive bidding.

B. Organizational Changes Undertaken by Comsat in Response to the Comsat Study

15. As a result of changes undertaken in response to the Comsat Study, Comsat's corporate structure now consists of the parent company and three wholly-owned subsidiaries which engage in non-INTELSAT/INMARSAT lines of business. According to Comsat, the parent company is responsible for three tasks. First, its newly-created World Systems Division (WSD) performs international common carrier functions and related duties with respect to the INTELSAT and INMARSAT systems. WSD also undertakes corporate research and development, engineering, and systems integration. Second, the parent company provides administrative and support services to both WSD and elements of the corporation's subsidiaries. Third, the parent company has ultimate policy control over various subsidiaries of and divisions within the corporation. Comsat states that such control involves overseeing major program decisions and formulating broad corporate plans and positions (rather than control of day-to-day operations).

16. The parent company has organized WSD into three operating units: (a) International Communications Services; (b) INTELSAT Technical Services; and (c) Comsat Laboratories. International Communications Services provides INTELSAT and INMARSAT communications services to U.S. customers, and it carries out related functions with respect to Comsat's participation in those organizations (space and ground segment technological and operational planning, project management, facilities design, and earth station operation and management.) INTELSAT Technical Services performs the technology application and system development services that INTELSAT requests of Comsat. Comsat Labs is responsible for the research and development of new technologies for satellite communications, experimental earth station and spacecraft equipment, various engineering services, and special projects. Comsat states that the Labs will also provide these services to affiliates that engage in non-INTELSAT/INMARSAT businesses. Comsat states that administrative groups (legal, contracts and procurement, finance, and personnel) within WSD provide "most" of the services necessary to carry out Comsat's day-to-day INTELSAT and INMARSAT responsibilities.

17. Comsat's three subsidiaries are COMSAT General Corporation, Environmental and Technology, Inc. (ERT), and Satellite Television Corporation (STC). Comsat states that each subsidiary has specific areas of responsibility, individual management, supporting staff and personnel. COMSAT General is involved in a variety of activities including the provision of domestic and maritime satellite service. COMSAT General is involved in Satellite Business Systems (SBS), a joint venture created to provide all-digital domestic satellite services. COMSAT General also leases the entire capacity of its COMSTAR domestic satellite system to AT&T for use in the domestic nationwide switched telephone system. It also provides maritime satellite service to the U.S. Navy through MARISAT and leases MARISAT space segment to INMARSAT for the provision of commercial maritime services. In addition to these activities, COMSAT General is engaged in a worldwide technical services program encompassing a broad range of management and engineering activities in various phases of telecommunications planning, construction, and operation. These technical assistance services have involved satellite communications earth stations, microwave links, intracity connecting systems, switching centers, and construction of telex and telephone exchanges.

18. COMSAT General has several subsidiaries. COMSAT General Telesystems, Inc. develops and manufactures specialized communications equipment. Telesystems manufactures equipment for use in connection with domestic and regional satellite systems. It also manufactures and markets shipboard terminal equipment for use in connection with the INMARSAT system. As it moves into new markets, Comsat foresees a need for the manufacture of special equipment to be used in the provision of new services. It therefore recently expanded its manufacturing operation by purchase through COMSAT General of Amplica, Inc., a manufacturer of microwave amplifiers. Comsat has stated that the goal of its

manufacturing operations ". . . is to exploit [its] technical expertise more widely to ensure that the desired equipment will be available for new services." [2]

19. COMSAT General Integrated Systems (CGIS) develops, supports and markets integrated computer-aided design, manufacturing and test products used for the production of complex electronics equipment. Since release of the Comsat Study, COMSAT General has acquired Compac Engineering, Inc., Comprehensive Computing Systems Services, Inc., Applied Silicon Technology, Inc. and Graphic Software Corporation. Compac Engineering, Inc. supplies computer-aided design software used primarily for the design and optimization of high frequency and microwave circuits. Comprehensive Computing Systems Services, Inc. supplies computer-aided design software used for analysis of digital circuits. Applied Silicon Technology, Inc. designs integrated circuits for microprocessor and other advanced electronic devices. And Graphic Software Corporation specializes in development of computer-aided software products.

20. ERT offers consulting services in the environmental area, including environmental monitoring, analysis, and prediction services, and environmental and ecological consulting services. ERT is planned to be a cornerstone for the establishment of a more diversified information services program which will provide expanded environmental monitoring and data collection services by means of a network using satellites for the transmission of information. This expanded service is to be achieved through both internal development and external acquisitions. Comsat has recently indicated that ERT will be expanding its operations into the environmental resource and management market, an effort which is expected to be complemented by the development of satellite-based information networks.[3]

21. Finally, Comsat created STC to provide a direct satellite-to-home subscription television service. STC has filed an application with the Commission requesting authority to construct the first phase of such a system. The satellite TV service would offer programming over several channels simultaneously. The programs would be broadcast via satellite directly to small antennas on the roof-tops of subscribers' homes. Comsat's proposed investment in the system is significant.

C. Notice of Proposed Rulemaking

22. This proceeding was initiated because of the regulatory concerns raised as a result of Comsat's increasing diversification into non-INTELSAT/INMARSAT lines of business. While Comsat's initial diversification ventures involved the provision of satellite communications services which required our regulatory approval, this is certainly no longer the case. Comsat's diversification into new lines of business has become substantial and increasingly involves ventures into unregulated areas.

23. Essentially, Comsat is diversifying into unregulated areas through acquistions and exploitation of its corporate technology and expertise. It is focusing on ventures in unregulated areas because of the limitations it perceives as placed on its regulated businesses. *Comsat Study* at 599–607. Its stated goal is to increase the value of the corporation and opportunities for profit by expanding its business horizons. This is to be achieved by applying its technology to new activities which either relate to the corporation's basic business, or have satellite comunications as an integral part. Comsat stated recently that its basic satellite service business "is now mature enough to enable us to branch out and apply our technological experience in new areas." [4] Comsat's policy of increased diversification warrants a comprehensive assessment of the need for changes in Comsat's corporate structure and operations in light of this Commission's statutory mandate and Comsat's statutory role in INTELSAT/INMARSAT activities. As a follow-on to the Comsat Study this proceeding provides us with a timely opportunity to do so.

24. In instituting this proceeding, we indicated that the structural changes undertaken by Comsat in response to the Comsat Study appear consistent with the general intent of our proposals for structural changes. We noted, however, several shortcomings with Comsat's voluntary changes and sought comment on them. We specifically pointed out that Comsat seeks to maintain Comsat Labs within the parent company. We therefore invited comment on how to treat the problem of allocation of common research and development costs between Comsat's monopoly activities and its other lines of business. In addition, should the Labs remain in the parent company, we requested comment on how to remedy the technology and information flow problems arising from COMSAT Labs' use of INTELSAT-provided technical and system planning information to support the corporation's other lines of business. We also requested Comsat to identify those administrative and central suport services to be shared among its monopoly and competitive ventures and how such costs are to be allocated among the respective activities.

25. Parties in this proceeding express a broad range of concerns about Comsat's increasing diversification into non-INTELSAT/INMARSAT activities. Some challenge Comsat's legal authority to engage on such activities. ABC asks the Commission to (a) conclude, as a matter of law, that Comsat may engage only in the provision of common carriage via satellite and in reasonably related activities, and (b) issue an order directing Comsat to so limit its activities. RCA believes that Comsat should not be allowed to involve itself in ventures, whether regulated or unregulated, not necessary to or in furtherance of its statutory mandate. WUI similarly maintains that all of Comsat's activities must be in direct furtherance of its limited statutorily-mandated INTELSAT/INMARSAT activities.

26. Most parties agree with our assessment in the Comsat Study that Comsat's diversification will be accompanied by opportunity for conflicts of interest, misallocation of costs and other anticompetitive behavior. Some of these parties believe the problems presented by Comsat's potential to engage in anticompetitive conduct are so insurmountable as to warrant preclusion of Comsat's participation in non-INTELSAT/INMARSAT activities as a matter of policy. Others would not have us prohibit Comsat's participation altogether, but they question the effectiveness both of Comsat's voluntary structural changes and of the proposals we set forth in the Comsat Study.

27. Among the principal concerns raised is the ability of Comsat to engage in non-INTELSAT/INMARSAT activities without compromising or abusing its role as U.S. Signatory to INTELSAT and INMARSAT to gain advantages for its subsidiaries in competitive markets. RCA and Teleconsult view Comsat's voluntary changes as cosmetic. RCA argues that Comsat's non-INTELSAT ventures should not be permitted to reach such levels that they obscure or endanger the conduct of statutory obligations.

[2] 1981 Comsat Annual Report to Stockholders at page 4.

[3] 1981 Comsat Annual Report to Stockholders at page 12.

[4] 1981 Comsat Annual Report to Stockholders, page 4.

Teleconsult alleges that Comsat's involvement in satellite equipment manufacturing compromises its independence and ability to exercise professional judgment in the procurement of hardware for the international systems. Hawaiian Telephone Company suggests that Comsat will not fully represent the interests of U.S. international carriers in INTELSAT if those interests are inconsistent with the interests of Comsat's affiliated entities. Hawaiian states that our proposed structural changes, combined with effective Commission oversight and responsiveness, could mitigate many conflicts, but it believes that Comsat's role as a U.S. representative in INTELSAT at least requires greater attention and control. The Electronic Industries Association (EIA) is concerned about potential conflicts resulting from Comsat's decision to engage in manufacturing activities. EIA submits that the close working relationship between INTELSAT and Comsat Labs puts Comsat in a position to influence technical specifications for future INTELSAT systems and equipment and provides its manufacturing affiliates with the opportunity to initiate production and field testing of new INTELSAT equipment before its competitors know of INTELSAT's plans. EIA further submits that, in a short procurement cycle, Comsat's affiliates may be the only U.S. supplies able to meet specified time constraints. American Satellite Company (ASC) is concerned that its business plans will be frustrated by Comsat's conflicts of interest. ASC asserts that this problem is evidenced by Comsat's past opposition to ASC's application to provide cross-border data services to Canada using domestic satellites. Parties express a general view that even under its new corporate structure, Comsat retains the capacity to use its unique status to the advantage of both the parent company and its corporate subsidiaries.

28. Several parties are particularly concerned that our Comsat Study proposals will not prevent anticompetitive conduct by Comsat if we modify our Authorized Users policy [5] as proposed in Docket No. 80–170. *Aeronautical Radio, Inc.*, 77 FCC 2d 535 (1980). These parties assert that if Comsat is permitted to provide INTELSAT services directly to the public, Comsat will have significant incentives to use its monopoly INTELSAT role to engage in anticompetitive conduct in a number of areas. They argue that Comsat will be able to (a) grant preferential treatment to its subsidiary in the form of faster responses to orders for new circuits or requests for maintenance, (b) use a bundled tariff structure to manipulate competitive bids for satellite service contract awards, (c) treat as proprietary INTELSAT-derived information and data having competitive significance, and (d) avoid advancing the interests of competing U.S. carriers in INTELSAT meetings if such interests are not entirely consistent with those of Comsat's subsidiary. They assert that our proposed structural remedies will not provide a guarantee against such predatory conduct. They therefore argue for additional measures if we permit Comsat to enter the end-user market for INTELSAT services.[6]

29. Our proposal to relocate Comsat Labs on the competitive side of the corporation and to require competitive bidding generated a variety of comments. NTIA, ITT, Hawaiian, ASC and EIA support locating the Labs in the competitive side of the corporation and oppose Comsat's placement of the Labs in the World System Division. They believe that location of the Labs in WSD will perpetuate opportunities for misallocation of costs and other anticompetitive behavior (such as the exclusive use of INTELSAT-derived technical information and data). WUI believes that Comsat Labs presents an insolvable dilemma. WUI maintains that locating the Labs in the competitive side of the corporation will provide Comsat's competitive activities with a substantial technological advantage over its competitors because of the quality of the management, research and development, and engineering personnel available from the Labs. On the other hand, WUI asserts that permitting the Labs to remain in the parent company will lead to serious cost allocation difficulties. The Department of State does not take a position as to where the Labs should be placed in the corporation. However, it emphasizes that the growth and success of INTELSAT remain dependent upon the availability of new technology and maintains that Comsat's continued ability to respond imaginatively and decisively to INTELSAT's research and development requirements will have a significant bearing on our ability to maintain an important and purposeful U.S. presence in the INTELSAT organization. AT&T does not specifically address the issue of relocation of the Labs, but it does express concern about our proposed measures regarding intracorporate dealing with respect to research and development.

30. Parties generally agree that there is need for greater access to INTELSAT/INMARSAT-related documents and information. NTIA suggests that all ratepayer-supported research and development performed for INTELSAT be made available to U.S. manufacturers both as completed projects and as periodic status reports. NTIA also points out that while it has been the general practice of INTELSAT Board of Governors' members to pass along to manufacturers in their respective countries technical, financial and operating data and INTELSAT plans for new technology, systems design and operation, Comsat has refused to supply such information to U.S. equipment manufacturers. As a result, U.S. manufacturers find themselves at a disadvantage with respect to foreign manufacturers. NTIA, RCA AT&T and Hawaiian also support wider dissemination of non-technical information. According to AT&T, INTELSAT/INMARSAT facilities planning and design information is necessary to the development of long-term plans for international telecommunications services. Without such information, U.S. carriers are at a disadvantage vis-a-vis carriers in other countries, with whom the U.S. carriers must coordinate and to whom such information is currently made available through their respective Signatories. In sum, these parties believe that we should require the broadest possible dissemination of the entire range of INTELSAT/INMARSAT-related documents and information.

31. In its pleadings, Comsat maintains that its new corporate organization and other measures that it is taking satisfy our concerns about the potential for it to misallocate costs and engage in anticompetitive conduct. Comsat states

[5] *See* Authorized Entities and Authorized Users, 4 FCC 2d 421 (1966); *reconsideration*, 6 FCC 2d 593 (1967).

[6] These measures include: (a) limiting Comsat's participation in the end-user market to an arms' length separate subsidiary; (b) granting U.S. international carriers some form of "direct economic", "equitable" or "cost-based" access to INTELSAT space segment; (c) permitting optional decompositing of international rates; (d) unbundling Comsat's rate structure to provide separate charges for space segment access and ground segment access; (e) revising our earth station ownership policy to end Comsat's dominance of ESOC, to permit carrier ownership of earth stations independent of ESOC, and to allow the carriers operational presence at ESOC stations; (f) granting U.S. international carriers observer status at INTELSAT meetings; (g) terminating Commission involvement in the facilities planning and consultative processes; and (h) removing all existing activation restrictions on cable facilities. Many of these issues are being addressed in companion orders adopted today.

the establishment of WSD provides a discrete cost center for its INTELSAT/INMARSAT activities. It asserts that this arrangement also increases its ability to assign directly a greater portion of staff and support costs associated with those activities—in addition to capital costs (investments in satellites, earth station facilities, and other jurisdictional property and equipment). Comsat states such capital costs have always been directly assigned.

32. Comsat also maintains that relocation of the Labs in an affiliate would have "substantial adverse consequences." First, Comsat claims that it would be managerially inefficient. According to Comsat, most of the Labs' current resources are devoted to problems related to the global systems and a significant portion of Labs research will continue to be related to the global systems. Second, Comsat argues that relocation of the Labs would engender unnecessary difficulties with its foreign colleagues in INTELSAT since they would be reluctant to use the Labs as often or as intensively as they have in the past. Comsat states that these representatives fear that a subsidiary will not respond to the needs of the global systems as readily or efficiently as the parent company. In addition, Comsat believes that the proposed relocation would neither ensure better cost allocation nor improve the Commission's ability to review the general terms and conditions of research performed on behalf of the ratepayer. Comsat argues that the Commission now has the regulatory authority to investigate any allegations of abuse and remedy any wrongdoing that might occur. It states that such an investigation would rely primarily upon an audit—the performance of which would be based upon the corporation's accounting system. Any improprieties that were discovered would be remedied through the ratemaking process.

33. Comsat acknowledges the "theoretical possiblity" of misallocation of costs arising as a result of its ratepayer-funded research and development programs. Comsat asserts that it has adopted a system of task classification and cost assignment that will minimize the possibility of such problems. It states that it has divided its corporate research and development account into two sub-accounts—a sub-account which encompasses all research and development undertaken by the corporation to benefit its INTELSAT/INMARSAT activities, and a separate sub-account which encompasses corporate research and development related to Comsat's other endeavors.

34. Finally, Comsat asserts that it has taken steps to accommodate the Commission's concerns regarding access to INTELSAT/INMARSAT-related documents and information. Comsat maintains that it has responded to the concerns about fairness in dissemination of INTELSAT/INMARSAT technology and information. It states that it has adopted policies designed to assure that such documents will be publicly available at the same time they are made available to Comsat affiliates. It also states that its current licensing policy satisfies our mandatory licensing proposal.

III. Discussion

35. The issues raised in this proceeding fall into several general categories. First we are asked to find, as a matter of law, that Comsat is restricted in its business ventures to satellite-related activities. In essence we are asked to alter the findings of the Comsat Study on this point. Second, assuming no legal impediment exists to Comsat's participation in competitive enterprises, we are asked to restrict the scope of its activities because of the potential detrimental effect on its INTELSAT/INMARSAT obligations and the potential for anticompetitive conduct. Third, we must assess whether further changes in Comsat's corporate structure or operations are warranted to separate INTELSAT/INMARSAT operations from competitive ventures.

36. Before addressing these issues, however, it is necessary to state those issues which we are not deciding in this proceeding. As we have noted, many comments address various regulatory and competitive concerns that relate to modification of our Authorized Users policy. We are today addressing these matters as part of a separate proceeding in CC Docket No. 80–170. Requests by parties for measures such as "direct economic" access to the INTELSAT system and modification of our earth station ownership policy are being handled in other proceedings before us today. We have already addressed the question of observer status for U.S. carriers in INTELSAT meetings. *Comsat Study* at 732. In addition, we have previously severed and disposed of those issues relating to Comsat's participation in the ship earth station market.[7] Finally, we do not believe that this is an appropriate proceeding to consider whether the Commission's involvement in facilities planning and the consultative processes should be terminated.

A. Comsat's Scope of Authority

37. None of the parties challenging Comsat's legal authority to engage in non-INTELSAT/INMARSAT activities offers any new information or presents any arguments that we did not consider in the Comsat Study. We therefore need not repeat our Comsat Study analysis of this issue. We incorporate this analysis by reference and reaffirm our conclusion that Comsat is permitted under the 1962 Satellite Act to engage in activities which are not inconsistent with its statutory mission. *Comsat Study* at 618. The 1962 Satellite Act and Comsat's Articles of Incorporation make it clear that Comsat must engage in activities that are necessary to the establishment of the global system contemplated by Section 102 of the Act. By the same token, Comsat may not engage in activities that are inconsistent with the Act's purposes and objectives. With respect to other activities, the 1962 Act and the Articles of Incorporation are neutral. We therefore conclude that there is no legal bar, either in the 1962 Act or in the Articles, to Comsat's involvement in non-INTELSAT/INMARSAT activities so long as such activities are not inconsistent with and do not hinder or interfere with the Act's purposes and objectives. This view reflects the broad interpretation that properly should be given to the 1962 Act. It is consistent with past Commission actions in authorizing COMSAT to engage in non-INTELSAT/INMARSAT activities.[8]

B. Policy Considerations

38. Even if there are no legal restrictions to Comsat's participation in non-INTELSAT/INMARSAT activities, various parties argue that as a matter of sound regulatory policy, Comsat should be foreclosed from participating in them. In the Comsat Study we concluded that the public would benefit from Comsat's applying its expertise in diversified businesses and that Comsat should not be foreclosed from entry into

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[7] On May 13, 1982, we severed this particular issue from the other issues raised in this proceeding and determined that Comsat could engage in such activities through a separate subsidiary under certain conditions. See In the Matter of Changes in the Corporate Structure and Operations of the Communications Satellite Corporation (Ship Earth Stations), FCC 82–219, released May 18, 1982.

[8] *See* Domestic Communications-Satellite Facilities, 22 FCC 2d 86 (1970); Domestic Communications-Satellite Facilities, 35 FCC 2d 844 (1972); Satellite Business Systems, 62 FCC 2d 997 (1977), *aff'd. en banc sub nom.* United States v. FCC, No. 77–1249 (D.C. Cir. March 7, 1980); *see also* In the Matter of Magnavox Government and Electronics Company, FCC 79–463 (July 31, 1979).

competitive areas.[9] This determination was not made in a vacuum. We considered at length the regulatory implications of Comsat's participation in competitive ventures. In so doing we proposed a structure under which Comsat should participate in these activities so as to ameliorate potential regulatory problems. Simply stated, we concluded that, as a matter of policy, Comsat should be allowed to participate in competitive ventures. In so doing, however, its conduct and operations must take into account and satisfy the regulatory concerns raised in the Comsat Study.

39. We incorporate our Comsat Study analysis and reaffirm our conclusion that Comsat should not be foreclosed from applying its corporate technology and expertise to the development of competitive businesses which will result in public benefit. Nothing presented by the parties in this proceeding persuades us that Comsat's involvement in diversified satellite-related ventures would not contribute to the overall development of satellite technology and its original applications. We are unable to conclude, as matter of sound regulatory policy, that Comsat should be limited to its INTELSAT and INMARSAT roles if it can satisfy the concerns we have raised with respect to potential for misallocation of costs and anticompetitive behavoir.

40. In this respect, various mechanisms are available to serve as regulatory safeguards as Comsat moves into competitive ventures. Rather than foreclose entry through divestiture, we concluded in the Comsat Study that requiring structural separation between Comsat's INTELSAT/INMARSAT services and its competitive business ventures would meet our objective of finding an "optimal solution to our concerns, while preserving beneficial aspects of Comsat's present integrated structure." *Comsat Study* at 698.

41. Our Comsat Study proposal to impose structural and related measures on Comsat was premised on two factors. First, Comsat is granted by statute monopoly control in the U.S. over international satellite transmission via the INTELSAT and INMARSAT systems. Comsat therefore has monopoly ratepayers to whom it can pass on the costs of competitive services. The potential for misallocation of costs to the detriment of the ratepayer exists not only in the conduct of day-to-day operations associated with monopoly and competitive activities, but also in Comsat's use of its research and development capability in support of diversified business objectives. Second, Comsat is the recipient of information derived through its role in INTELSAT and INMARSAT. This information relates to satellite communications technology development, market opportunities for products or services resulting from such development, and market capabilities of potential foreign and domestic competitors. Comsat can gain competitive advantages through the use of this information in support of its competitive ventures.

42. Structural remedies provide a tool with which to pursue our regulatory responsibilities. Generally, structural separation reduces the ability of a firm to engage in anticompetitive behavior and enhances the ability of regulatory bodies to detect such abuses should they occur. It does this in part by reducing joint and common costs between affiliated firms. In *Computer II*, for example, structural separation was utilized to separate certain unregulated activities engaged in by AT&T from its provision of common carrier communications services.[10] The use of structural separation in conjunction with accounting provided a sufficient safeguard to permit AT&T to provide certain services and equipment on an unregulated basis.

43. With respect to Comsat, structural separation serves to separate the day-to-day operation of competitive ventures from INTELSAT/INMARSAT activities. At the same time, we recognize that structural separation will not eliminate Comsat's incentive or opportunity to engage in anticompetitive behavior. We recognize the legitimate concern expressed by various parties that, even under structural separation, Comsat may seek to weigh the interests of its competitive ventures in considering INTELSAT/INMARSAT matters and to use its special INTELSAT/INMARSAT roles to gain advantages over competitors. However, the current instructional process serves as a means for the U.S. Government to monitor Comsat's behavior within INTELSAT and INMARSAT in areas where potential self-dealing may arise because of conflicts of interest with its competitive ventures.

44. The comments in this proceeding affirm the need for structural safeguards to address our stated concerns. Upon consideration of these comments, we conclude that such safeguards should be established. If appropriate regulatory safeguards, structural and otherwise, cannot be established, consideration must be given to restricting Comsat's participation in competitive markets. It is within this context that we affirm our policy determination that Comsat should be allowed to participate in competitive ventures which are not inconsistent with its INTELSAT/INMARSAT obligations.

C. Assessment of Comsat's Response to the Comsat Study Proposal

45. We find that Comsat's voluntary structural changes constitute a starting point from which to separate Comsat's INTELSAT/INMARSAT activities from its competitive ventures. The changes undertaken by Comsat are consistent with the basic intent of our proposal that Comsat be separated into two distinct corporate elements for the handling of its INTELSAT/INMARSAT functions and its competitive activities. Under Comsat's reorganization, the parent company will provide INTELSAT and INMARSAT services through the World Systems Division. Non-INTELSAT/INMARSAT business ventures will be conducted through separate subsidiaries. These changes result in the separation of day-to-day operations of INTELSAT/INMARSAT activities from competitive activities except where administrative and support services are shared between affiliated entities. In addition, as we will discuss, Comsat has made some efforts in increasing the availability of INTELSAT and INMARSAT information and technology and data generated by ratepayer-funded research and development.

46. The steps taken by Comsat to date, however, fall short of satisfactorily resolving several fundamental issues raised in the Comsat Study. These issues involve research and development performed by Comsat Labs, allocation of costs for shared administrative and support services, and third-party access to INTELSAT/INMARSAT information. We shall focus on these specific areas and in so doing indicate what further action is required of Comsat to adequately address our concerns.

(1) Comsat Labs

47. Research and development undertaken by Comsat Labs can be divided into three categories. The first category involves work done specifically for INTELSAT on a contractual basis. The second category consists of basic research that Comsat does on its own behalf and which is

[9] We use the term "competitive" in this document to refer to existing and future non-INTELSAT/INMARSAT activities engaged in by Comsat.

[10] Second Computer Inquiry, 77 FCC 2d 384 (1980); *reconsideration* 84 FCC 2d 50 (1980); *further reconsideration*, 88 FCC 2d 512 (1981), *appeal pending sub nom.* Computer Inquiry Associations v. FCC (D.C. Cir. No. 80-1471, filed May 5, 1980).

generally expensed to the ratepayer. We shall refer to this second category as "corporate R&D." The purpose of Comsat's corporate R&D program is to do research and development in areas which Comsat sees as necessary or promising, but which are not funded by INTELSAT or other external sources. We described the scope of its corporate R&D program in the Comsat Study. The third category consists of work done specifically for a corporate affiliate in support of a non-INTELSAT/INMARSAT activity. *Comsat Study* at 656–658. Both INTELSAT-funded and ratepayer-funded Comsat research provide a technological base for Comsat's activities in competitive markets.[11]

48. In the Comsat Study, we set forth how Comsat is able to use technology developed through corporate R&D to benefit its competitive activities. Comsat's ratepayer-funded corporate R&D has multiple benefits and applications. The technology developed either is general purpose and inherently applicable to most satellite communications needs, or can be intentionally designed for adaptability to diverse satellite communications needs. It is often built upon INTELSAT-funded research performed by Comsat Labs and/or data and information received in connection therewith. We described how Comsat allocates corporate R&D costs solely to its monopoly ratepayers even though such R&D also benefits its competitive activities.

49. In view of the increasing application of Comsat Labs-developed technology to competitive activities, we proposed a change in Comsat's corporate structure whereby Comsat Labs would be located on the competitive side of the corporation. Comsat's corporate affiliates would use the Labs to support various competitive ventures. The Labs would assist the parent company in carrying out its INTELSAT/INMARSAT roles by handling all present and future INTELSAT/INMARSAT-awarded technical services contracts for design and development of succeeding generations of the global systems and laboratory services contracts for research and development support services. It would also carry out ratepayer-funded basic research and development as the parent company deemed necessary. Under this structure Comsat would be permitted to procure research and development from the Labs on a sole-source basis only pursuant to criteria similar to that used by INTELSAT in awarding sole-source contracts. This would require that Comsat procure all ratepayer-funded research under competitive bidding procedures in order to keep costs at market value and isolate them for purposes of regulatory scrutiny. We also proposed to require that any transaction between the parent company and an affiliate which involves a sole-source research arrangement be reduced to writing and filed with the Commission for public inspection.

50. Our proposal to relocate the Labs was premised on the need to ensure that the ratepayer does not improperly bear costs associated with research and development. However, as we have indicated, Comsat's voluntary restructuring does not include relocating the Labs on the competitive side of its corporate structure. Comsat maintains that relocation of the Labs within an affiliate would have "substantial adverse consequences." It contends that improper cross-subsidization may be prevented by "proper management and auditable accounting" through the task classification and cost assignment scheme that it has developed. Comsat would have us investigate potential abuses through an audit of the corporation's accounting system and remedy any problems through the ratemaking process.

51. While stringent accounting and cost allocation mechanisms may ultimately prove satisfactory if properly implemented, the accounting measures Comsat has taken to date in the research and development area do not adequately address our concerns. We do not agree with Comsat that its task classification and cost assignment approach provides sufficient assurance that ratepayers will not bear a disproportionate share of Comsat's research and development costs.

52. Comsat's current approach to allocating research and development expenses has two deficiences. First, this scheme is intended only to allocate "corporate R&D" expenses and does not affect Comsat's capital investment in Comsat Labs plant and equipment. Comsat would leave in place the arrangement in existence since the termination of the 1976 Comsat Rate Case under which Comsat includes in its rate base 75 percent of its net investment in the Labs for rate setting purposes. *Communications Satellite Corporation*, 68 FCC 2d 941, 948 (1978). Our Comsat Study proposal to place the Labs in a corporate affiliate would have required Comsat to change its accounting practices insofar as it directly attributes a fixed percentage of the net investment in the Labs to the ratepayer. Under our proposal, Comsat Labs' investment costs and operating expenses would be recovered through charges to INTELSAT, COMSAT Global, or other corporate affiliates on whose behalf specific research and development work was performed. The extent of ratepayer support of the Labs would be reflected in contractual arrangements between Comsat Labs and the parent company.

53. Regardless of where Comsat Labs is located within Comsat's corporate structure, we question whether 75 percent of the investment in Comsat Labs should be borne by the ratepayer. We found in the Comsat Study that Comsat is commercially exploiting ratepayer-funded technology through specific product lines and services and is focusing its main marketing efforts on developing non-INTELSAT uses for these product lines and services. *Comsat Study* at 669–673. Moreover, information supplied by Comsat in a letter to the Commission shows a budget for Comsat Labs for 1981 of $38.5 million (see Appendix B). In our review of this budget, we calculated that at a minimum, 54 percent of the Labs' efforts in 1981 were to be devoted to non-INTELSAT/INMARSAT work. We realize, however, that budget information is an estimate of future activity and may not track exactly to the actual costs of non-INTELSAT/INMARSAT activities that were incurred in 1981, but it serves as an indicator of the corporation's plans for research and development expenses for 1981.

54. The second deficiency with Comsat's task classification and cost assignment scheme is that it does not accomplish even the limited purpose for which it is designed; i.e., to allocate corporate R&D expenses on a reasonable cost-causative basis. Comsat allocates corporate R&D expenses on the basis of "an initial determination as to the primary benefitting entity of a project." Under this approach, Comsat makes an initial determination as to whether a research project will primarily benefit its INTELSAT/INMARSAT activities or its competitive ventures.[12] According to Comsat, the

[11] In the Comsat Study, we identified a number of specific, ratepayer-funded Comsat Labs research and development projects which provide a technological base or support for various product lines which Comsat is marketing or is considering developing, such as the echo canceller, low cost TDMA, torus antenna, small earth stations and earth station components, and circuit multiplication equipment. Comsat Study at 669–671.

[12] Comsat indicated that this classification scheme does not involve research and development

costs incurred in the latter are not charged to INTELSAT/INMARSAT activities. Rather, these projects are funded by other elements of the corporation, and Comsat's shareholders assume the risk that the results of this research will be applied successfully in competitive ventures.

55. Comsat contends that the "primary benefitting entity" test adequately ensures that ratepayers will bear only those costs that are legitimately incurred on their behalf. However, Comsat recognizes that research charged to the ratepayer may "ultimately prove useful in unregulated competitive endeavors." It further recognizes the "interrelated nature of satellite technology" and that "some research charged to INTELSAT/INMARSAT activities may ultimately prove useful in an unregulated competitive endeavor * * *"[13] Comsat states that a task classification and cost assignment scheme which relies on an initial determination as to the primary benefitting entity of a project "presents the only practicable means of allocating research and development costs." Comsat submits that retroactive revisitation of research projects to determine ultimate beneficiaries would be difficult, if not impossible, to administer.

56. We view the "primary benefitting entity" test as overly broad for regulatory purposes. It allows Comsat to allocate to its international ratepayers the total cost of a particular research project even though substantial benefits and applications to competitive ventures are reasonably foreseeable. The cost of a project which theoretically may be 51 percent beneficial to Comsat's INTELSAT functions but 49 percent beneficial to one of its competitive businesses would be totally assigned to the international ratepayer. Thus, from a conceptual standpoint alone, the "primary benefitting entity" test cannot ensure that the ratepayers will bear only those costs that are legitimately incurred on their behalf. The potential for abuse of the test cannot be easily overcome by regulatory oversight since the initial determination of primary beneficiary is made without respect to other benefitting corporate segments.

57. The allocation of the cost of a research project to only one corporate segment is unnecessary. It is clear that the benefits and applications of Comsat Labs research to competitive ventures can be reasonably foreseen. In the Comsat Study, we disagreed with Comsat that any non-INTELSAT benefits or applications of that research are merely "incidental." *Comsat Study* at 704. We stated that such a characterization ". . . is simply inconsistent with the pattern that has evolved in connection with Comsat's commercial exploitation of technology developed pursuant to this program." *Id.* We described the general applicability of Comsat's ratepayer-funded research and noted that Comsat publicly indicated as early as 1973 its intention to explore the potential for commercial exploitation of ratepayer-funded technology.[14] We showed that Comsat is indeed commercially exploiting this technology through a number of specific product lines and services and that it focuses its main marketing efforts on developing non-INTELSAT uses for these product lines and services. *Id.* at 669–673. We concluded that:

> The non-INTELSAT benefits that can be derived from Comsat's ratepayer research therefore cannot be termed merely as "incidental." They are impressive. And, it is clear that the future application of research and development, however basic, can reasonably be foreseen. For these reasons, we cannot agree with Comsat that its INTELSAT ratepayers should bear the full costs of corporate research and development. *Id.* at 705.

58. It is not at all evident that the "primary benefitting entity" test will achieve results significantly different from the manner in which Comsat allocated research costs prior to the Comsat Study. We found in the Comsat Study that Comsat's policy for allocating research costs—expensing all general "corporate R & D" costs to the international ratepayer notwithstanding the benefits of "corporate R & D" to competitive ventures—places an unfair burden on the ratepayer. *Id.* at 668. In our Notice in this proceeding, we suggested that Comsat's current assignment scheme continues this old policy. *Comsat Structure Rulemaking* at 300–301. This in fact appears to be the case. Comsat's current task classification and cost assignment scheme continues to allocate totally to the international ratepayer the expenses for the same "corporate R & D" projects that we identified in the Comsat Study as being commercially exploitable by Comsat. This result is the product of Comsat's ability to allocate to the ratepayer, under the "primary benefitting entity" test, the entire costs of a research project to the ratepayer despite identifiable or reasonably foreseeable benefits to competitive ventures. We therefore reject the "primary benefitting entity" test because it continues to place an unfair burden on the ratepayer.

59. We recognize the difficulties involved in allocating research and development costs which can benefit both monopoly and competitive services. However, these difficulties do not relieve us of our statutory responsibility to ensure that Comsat's participation in competitive ventures is not at the expense of the ratepayer. Effective regulatory review requires accountability for Comsat's decisions to allocate investment in the Labs and research and development expenses to the ratepayer. Any task classification and cost assignment plan employed by Comsat must result in a more reasonable allocation of research costs between Comsat's monopoly and competitive lines of business.

60. Comsat's position that this Commission should rely on accounting rather than applying structural remedies to Comsat Labs can only have merit if Comsat has in place an accounting and cost allocation system that adequately meets our stated concerns. We are unable to find that Comsat presently has such a system. First, unlike our practice for telephone companies, the Commission has not prescribed a system of accounts for Comsat. Comsat designed and implemented its own accounting system.[15] Second, the manner in which the information for Comsat Labs is currently reported to this Commission does not provide adequate data for regulatory purposes. Comsat currently files Annual Report Form M and the monthly report Form 901.[16] Based on these reports, we cannot distinguish between work performed by the Labs that is legitimately charged to the ratepayer, that which should be charged only to competitive ventures, or that which may be charged to both in some appropriate proportion. The current reporting system is so inadequate that we cannot determine the total volume of work done by the Labs from Comsat's reports. Most important, we cannot determine how

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requested and funded by INTELSAT and INMARSAT.

[13] Comsat asserts that the flow of benefits is not unilateral. It argues that given the interrelated nature of satellite technology, the benefits to the INTELSAT and INMARSAT systems that derive from Comsat's competitive research and development activities will reasonably balance those that accrue to Comsat's other endeavors.

[14] *See* Comsat's 1973 Annual Report to the Shareholders.

[15] Comsat has generally attempted to comply with the general accounting principles set forth in Part 31 of the Commission's Rules and Regulations.

[16] Form M contains financial statements and supporting details about company investment, revenues, and expenses as well as supporting details about plant accounts, depreciation and taxes. Form 901 is a monthly reporting of revenues, expenses and selected items of investment.

much of the total was actually for the ratepayer, INTELSAT/INMARSAT contracts, COMSAT General, or other Comsat subsidiaries. In both reports the investment, revenues, and expenses of the Labs are reported in categories that are recognized as regulated activities.

61. In view of these deficiencies, it would be irresponsible and premature for us to accept Comsat's proposal and to rely on its accounting system as sufficient to address the concerns raised in the Comsat Study. If Comsat is to engage in competitive ventures under a corporate structure that does not separate out Comsat Labs, then it must establish appropriate cost allocation standards and an appropriate accounting and reporting system. Whether or not Comsat is willing to make the necessary changes to satisfactorily address our concerns remains to be seen. However, before we require relocation of the Labs, we believe that Comsat should have an opportunity to develop an accounting and reporting system that properly identifies and allocates costs associated with research and development within Comsat Labs.

62. In developing such a system, Comsat must adhere to certain guidelines. Comsat should account for Comsat Labs as if it were a separate corporate entity and in so doing identify and maintain separate accounts for all investment, revenues and expenses directly applicable to the Labs. Comsat Labs' investment, revenues and expenses should be excluded from regulated operating account classifications in reports filed with the Commission and accounted for in below-the-line accounts which are not considered for ratemaking purposes.

63. This approach constitutes a departure from the existing practice whereby Comsat attributes a fixed percentage of its investment in Comsat Labs to regulated accounts to be borne by ratepayers. In the future, Comsat must justify the inclusion of any Comsat Labs investment and expenses in above-the-line regulated accounts.[17] We do not regard costs associated with work that Comsat Labs does for the specific benefit of corporate affiliates (category three research) as eligible to be reported in regulated accounts. Neither do we regard costs associated with work that Comsat Labs does for INTELSAT or INMARSAT (category one research) as eligible to be reported in regulated accounts. Costs associated with the Labs activities conducted for affiliates are to be recovered from those affiliates. Similarly, costs associated with the Lab work to fulfill contracts with INTELSAT or INMARSAT are to be recovered from those organizations.[18] We see no reason for U.S. ratepayers to bear costs associated with either of these categories. Comsat may only report in regulated accounts costs associated with basic corporate R&D (category two research) which was incurred in doing work for the ratepayer. In doing so it may not attribute all costs to the ratepayer for work that will also have reasonably foreseen benefits to its competitive ventures as it now does under the "primary benefitting entity" concept. Comsat should maintain work orders for each research and development project done by Comsat Labs which is charged in whole or in part to the ratepayer. This requirement will provide the Commission with an ongoing record of ratepayer-funded projects for review during the ratemaking process. We do not preclude a return component for that portion of investment in Comsat Labs reflective of work that is justifiably charged to the ratepayer. Such a return component is to be included in operating expenses when developing costs for ratemaking purposes. However, it is not to exceed Comsat's authorized rate of return.

64. We direct Comsat to file within 90 days of the release of this Order a detailed plan as to (a) how it intends to allocate research and development costs; (b) the system to be employed to account for Comsat Labs investment and expenses; and (c) a detailed justification for including any current research and development costs in regulated accounts. Comsat shall also obtain from its independent auditors an assessment of the extent to which Comsat's allocation methodology and accounting system comport with the guidelines we have set forth.

(2) Shared Administrative and Support Services

65. In response to our Notice, Comsat described those services which the parent organization would share with WSD and competitive subsidiaries. It also indicated how it would account for any shared activities. While sharing of administrative and support services raises the potential for misallocation of costs, Comsat asserts that the potential for misallocation is minimized by the accounting safeguards it has undertaken. Needless to say, any cost allocation process requires close scrutiny. In implementing *Computer II*, for example, we specifically reviewed AT&T's accounting proposals for shared administrative services and how it proposed to allocate common costs.[19] Various deficiencies were discovered and AT&T was required to make certain modifications. Upon review of the cost allocation process employed by Comsat to allocate shared costs between INTELSAT/INMARSAT activities and its competitive ventures, we find substantial deficiencies in Comsat's cost allocation methodology.

66. Comsat allocates between its monopoly and competitive activities common general and administrative costs incurred by the corporate "home office" and also certain common costs incurred by the World Systems Division in performance of both INTELSAT/INMARSAT activities and support functions for corporate affiliates. As described in Appendix C, Comsat apportions home office costs in a manner comparable to direct assignment by measuring costs applicable to a corporate entity on the basis of the output of the function performed. It then accumulates those expense costs not allocable by direct assignment into a "residual pool" and apportions them by means of a "three-factor formula." This formula is based on calculating the ratio to total of: (1) salary expenses; (2) operating revenues, including amounts charged to and net of amounts received from affiliated entities; and (3) average net book value of tangible capital assets plus inventories (excluding property held primarily for leasing to others) of the entities that are to share costs. The resulting percentages for the three factors are averaged, and the expenses are then apportioned to each entity on the basis of this average.

67. We find that, while application of certain aspects of this methodology is acceptable from a regulatory standpoint, Comsat's use of the the three-factor formula to allocate the home office residual expense pool raises serious problems. The question of whether Comsat's use of the three-factor formula will result in a reasonable assignment of the residual expense pool is important because the Commission's authority to audit a carrier's assignment of common costs will not remedy any distortions that result from the three-factor formula.

[17] A reasonable share of corporate overhead and applicable loadings for the Labs is to be excluded from Comsat's operating expenses when developing costs for ratemaking purposes.

[18] Comsat ratepayers bear some portion of the cost incurred by Comsat Labs for the Labs' work on INTELSAT contract projects. INTELSAT's total operating costs are recovered from all of its member organizations and Comsat, as an INTELSAT member, is responsible for a portion of INTELSAT's costs. INTELSAT costs incurred by Comsat are passed on to the U.S. ratepayers.

[19] Shared Services Order, FCC 82-282, released June 16, 1982.

Approval of the three-factor formula as part of Comsat's cost-allocation methodology means acceptance of any distortions which are inherent in the application of the formula to the carrier. We faced a similar problem in acting on AT&T's shared administrative proposal in *Computer II* because subsequent auditing will not reveal misallocations of costs caused by distortions. As Comsat has indicated, the application of the three-factor formula is a mechanical process subject to revenue, investment, and salary variables. A Commission audit can only determine whether the formula is being properly applied. It cannot challenge the results if the formula itself is deficient for the purposes being used.

68. In general, a formula based upon revenues, investments and salaries will allocate the residual expense pool in a manner reasonably consistent with the incursion of those costs when corporate lines of business are similarly mature in development. That is, the averaging of these three factors will most accurately reflect the incursion of common costs among corporate segments when lines of business are in comparable stages of development. The use of revenues as an allocative factor, however, can yield distorted results when the lines of business within the various corporate segments are at different stages of development. As discussed in Appendix C, distortions may occur when a corporation having mature lines of business with large operating revenues and substantial investment in plant and equipment diversifies into new ventures. Distortions will be perpetuated as long as the corporation is involved in developing new business ventures while maintaining mature businesses that have comparatively large operating revenues and plant and equipment investment.

69. Comsat's corporate make-up contains all of the elements necessary to cause distortions in the application of the formula. Comsat has a mature line of business in providing international satellite services through INTELSAT. This business accounts for the largest portion of corporate operating revenues, investment and salaries. Comsat is actively pursuing a policy of diversifying into new lines of business. These new businesses are at various stages of development and not fully mature in terms of either investment in plant or generation of revenues. Because of the potential for distortion, we find that Comsat's use of the three-factor formula to apportion the residual expenses will not ensure a reasonable result. Accordingly, we reject it.[20]

70. The conceptual deficiencies of the three-factor formula notwithstanding, we find that Comsat's cost allocation methodology raises two specific problems. First, use of budgeted rather than actual data to estimate entries into the three-factor formula adds a subjective element to the allocation process. Comsat budgets revenues, property and salary projections at the beginning and middle of the year and uses these budgets for six months. No correction is made at the end of the six month period for deviations of the budget figures from actual figures. We have noted substantial deviations of this kind in the property, revenue, and salary budgets for 1980.[21] We find that the use of estimates during the year are permissible only if the final allocation to the ratepayer is based on actual figures. Comsat should revise its allocation at least once a year to bring it into conformity with actual figures.

71. Second, Comsat excludes substantial capital investments of its subsidiaries from computation of the capital investment factor in the three-factor formula. Comsat fails to account for most of the tangible assets of Comsat General in the three-factor formula. Comsat excludes 100 percent of the assets of the COMSTAR satellite system and 75 percent of the assets fo the MARISAT satellite system. We find that Comsat's exclusion of its COMSTAR and MARISAT investments is unreasonable, that it distorts the three-factor formula and that it results in more costs being allocated to Comsat's INTELSAT/INMARSAT businesses than warranted.

72. An allocation methodology specifically tailored to Comsat's unique organization and complement of businesses is necessary to assure cost apportionment reflective of what is happening in the corporation. Comsat should consider allocating residual expenses based on gross operating expenses. Under such a methodology Comsat would spread residual expenses between corporate segments on the basis of each segment's gross operating expenses as a percent of the corporation's gross operating expenses.

73. In sum, Comsat must remedy the deficiencies of its proposal for allocating common administrative and support services. We direct Comsat to file within 90 days of the release of this order a report on the measures it intends to take to remedy these deficiencies and to clearly state how it intends to account for all administrative and common support activities to be shared between the parent organization and its competitive subsidiaries. Comsat must also demonstrate that it tracks costs in a manner which is auditable by Commission staff.

(3) Information Flow

74. Another fundamental concern raised in the Comsat Study is Comsat's access to INTELSAT/INMARSAT information and its use of this information to its advantage in competitive ventures. This information includes not only information and data about satellite communications-related technology developments, but also knowledge of when and where a market could exist for its products or services. We described how, as the U.S. Signatory in INTELSAT, Comsat both learns from and contributes to INTELSAT technology development and can exploit this relationship to the commercial benefit of its competitive business activities. *Comsat Study* at 648. These competitive advantages flow from (a) intracorporate transfer of INTELSAT-provided technology and information to support competitive activities, and (b) integration of Comsat's INTELSAT system planning and technology development functions with competitive activities. Access to this information can provide Comsat's competitive affiliates with "lead time" advantages in particular markets. In addition, Comsat's role in INTELSAT/INMARSAT system planning and technology development provides it with the opportunity to influence specifications of technical parameters for equipment used in connection with the global system, and to set performance standards for the INTELSAT system. These standards have importance beyond the INTELSAT system to the extent other systems seek compatibility with INTELSAT.

75. We proposed in the Comsat Study that Comsat not be allowed to treat as proprietary or confidential any technology and information to which it has access by virtue of its unique INTELSAT/INMARSAT roles and which it makes available to its affiliates.

[20] In our Shared Services Order we required AT&T to remove revenues as a factor in its composite accounts because it would serve to understate costs attributable to the subsidiary. FCC 82-202 at para. 53.

[21] For example, while Comsat budgeted WSD's net property as $283.1 million for 1980, the actual net property shown on Comsat's Form 901, December 1980, was $228.3 million. Similarly, Comsat budgeted $212.2 million for WSD's revenue in 1980, while the Comsat Annual Report shows only $161.1 million of INTELSAT/INMARSAT operating revenue for the same year. The differences between actual and budgeted figures appear to have increased the amount of home office costs allocated to WSD for 1980.

Essentially, our approach was to broaden information flow to U.S. industry rather than preventing information flow between Comsat and its affiliates. We suggested that as a general rule any such technology and information made available to affiliates would have to be made immediately and fully available to the public.

76. This proposal drew a variety of comments. Many parties support it, but ask that the requirement be expanded to include certain information which they allege it fails to cover. NTIA agrees with our general approach. However, it asks that we also consider requiring Comsat to make planning, marketing and financial data available to the public because it believes that such information might be of assistance to U.S. industry in participating in INTELSAT procurement. AT&T and other carriers similarly ask that we both expand and modify our proposed requirement. AT&T maintains that Comsat should be required to make INTELSAT/INMARSAT facilities planning information publicly available even if such information is not provided to a Comsat affiliate. RCA and Hawaiian support AT&T's contention. The Electronic Industries Association states that other INTELSAT members pass INTELSAT technical and planning information to manufacturers in the members' countries. EIA maintains that withholding such information from U.S. manufacturers puts them at a disadvantage with respect to foreign manufacturers as well as Comsat's competitive equipment manufacturing affiliates. Finally, the Department of State points out that it, together with NTIA and the Commission, has been discussing with Comsat the establishment of a framework that will afford the greatest possible public access to INTELSAT documents while protecting important public and private interests.

77. Comsat believes that procedures which it has adopted or intends to adopt will satisfy our concerns in this area. Comsat indicates that certain INTELSAT information is already distributed by both itself and INTELSAT (INTELSAT RFP's annual summary of research and development contracts, INTELSAT Satellite System Operations Guide, *Comsat Technical Review*, *Report to the President and Congress*, and summaries of Comsat Labs' R&D accomplishments). Comsat states that it is taking additional steps to make information available in view of the concerns that we expressed in the Comsat Study. First, Comsat states that in conjunction with the Department of State, NTIA and the Commission, it is developing procedures to broaden the availability of INTELSAT information. Second, Comsat states that it "is in the process of implementing internal procedures to assure that corporate affiliates are not given access to INTELSAT and INMARSAT documents except on the same basis as unaffiliated entities." According to Comsat, documents will be made publicly available at the same time and on the same terms and conditions as they are made available to affiliates. Comsat opposes the distribution of planning documents because it believes that such distribution will jeopardize INTELSAT/INMARSAT interests. Comsat states that these documents contain information about proposals for system evolution, operational plans, business plans, contracts, budgets, charges and terms of services procurement, intersystem coordination, and new facilities. It believes that public scrutiny of this material before final action is taken by the international organizations will constrain decision-making within these organizations. Comsat also opposes EIA's proposal that it be required to make information available without charge.

78. Hawaiian believes that Comsat's proposal for broadening the availability of INTELSAT documents is "a step in the right direction," but asserts that it must be expanded to provide for dissemination of planning information and meeting agendas and minutes. Hawaiian asserts that this information should be made available whether or not it is provided to Comsat's affiliates. AT&T states that its concern about the current unavailability of INTELSAT and INMARSAT planning and design information may be satisfied by Comsat's proposal. However, AT&T made this statement prior to Comsat filing its reply comments opposing the distribution of such information. Finally, NTIA believes that in view of the controversy surrounding the proper extent of distribution of INTELSAT documents, the Commission should establish guidelines for such distribution. NTIA states that it will continue to work with the Commission, as well as with the Department of State and Comsat, to define the types of documents that are appropriate for distribution.

79. *General approach.* In this proceeding, we adopt measures to broaden public access to INTELSAT information consistent with U.S. law and INTELSAT procedures. We deal with three categories of information. The first category consists of INTELSAT Board of Governors documents. We take the position that once Board of Governors documents are provided to the Commission they become agency records which are subject to disclosure under the Freedom of Information Act (FOIA). Because the FOIA was enacted to permit greater public access to government information, we are establishing a framework under which a threshhold determination is made as to those categories of documents which should be made available to the public and those which should be withheld when they are received by the Commission. As to documents which Comsat believes should not be routinely available for public inspection, Comsat must demonstrate that confidential treatment is warranted under the FOIA. The second category encompasses INTELSAT facilities planning documents. Rather than adopt a blanket requirement for public release of this information, as some parties have urged, we adhere to the above framework as set forth for category one documents without imposing special disclosure requirements. The third category consists of inventions and technical data which arise out of or are utilized in work performed at INTELSAT's expense. INTELSAT has established procedures for the dissemination of this information. For purposes of accessing this information, we are requiring Comsat to treat as its designee any U.S. firm which complies with these established procedures.

80. There may be some information which is not routinely available to Comsat's potential competitors. We recognize, for example, that INTELSAT and INMARSAT may require protection of information or data that they or their other contractors provide to Comsat Labs in connection with sole-source research performed by Labs on behalf of these organizations. In such cases, the Labs should not be permitted to provide this information to corporate affiliates or otherwise use it in developing products or services for Comsat's affiliated subsidiaries. Therefore, as a general rule, neither Comsat's World Systems Division nor any other unit within the parent company may make INTELSAT information available to a corporate affiliate that is not otherwise available to the general public under the same terms and conditions. Comsat must establish control mechanisms sufficient to ensure that entities within the parent organization, including Comsat Labs, do not disclose to any of its competitive subsidiaries technical data or information generated by INTELSAT or INMARSAT-funded work unless it

makes such information available to non-affiliated entities under the same terms and conditions. Such control mechanisms must also assure that Comsat and Comsat Labs do not utilize for competitive purposes any proprietary information which a non-affiliated entity must submit directly to INTELSAT or INMARSAT or to Comsat as U.S. Signatory in these organizations. Comsat is directed to file with the Commission within 90 days of the release of this order a detailed description of such control mechanisms.

81. *Board of Governors documents.* INTELSAT Board of Governors documents are prepared by INTELSAT management to assist the Board of Governors in the planning and operation of the global system. These documents include system status reports and operating data, system planning, design and technical information, and financial and other administrative information. This Commission, NTIA and the State Department receive them from Comsat as a necessary aid in carrying out governmental oversight of Comsat's participation in INTELSAT as required by Section 201 of the Communications Satellite Act.

82. Comsat has historically requested each agency to accord confidentiality to Board of Governors documents and not release them to the public. However, in 1978, the Commission, NTIA and the State Department began a joint effort to broaden their availability to the public where confidentiality is unwarranted under applicable law. The goal of this joint effort has been to establish a framework for the identification and protection of limited categories of INTELSAT information which may warrant confidential treatment. The agencies have made it clear that the fundamental principle established by the Freedom of Information Act and other legislation is that "information in the possession of the government must be made available to the public unless it falls under one of the statutory exemptions to disclosure." [22] We restated this principle in the Comsat Study. *Comsat Study* at 804. Pending establishment of a framework for protection of limited categories of INTELSAT information, we have accorded confidentiality to Board of Governors documents and released them to the public on an *ad hoc* basis upon request made under the Freedom of Information Act.

83. The administrative burden on the Commission to date in treating requests for Board of Governors documents has not been great. These requests have come from U.S. carriers for facility planning documents.[23] However, as Comsat increasingly expands into competitive markets, it is likely that greater public demand for Board of Governors' documents will evolve. Comsat's access to evolutionary planning and technical Board of Governors documents can provide it with advance knowledge of technical specifications and marketing information which can provide Comsat with lead-time advantages over U.S. firms in specialized communications equipment and special user-oriented service markets. The Electronics Industries Association, for example, has expressed particular concern regarding these types of advantages and indicated a need for greater dissemination of INTELSAT information to U.S. firms.

84. Comsat has proposed to divide Board of Governors documents into three categories: (a) status/reports documents and approved specifications; (b) evolutionary/planning documents; and (c) confidential internal financial and competitive documents. Comsat would disseminate all documents in the first category. It would also disseminate those in the second category on which the Board of Governors has taken decisive action. It would develop a list of parties interested in obtaining INTELSAT documents and periodically provide to each party information as to what documents are available on a cost-reimbursable basis. Comsat believes that 80 percent of the Board of Governors documents could be made available in this manner. Documents in the third category would not be made publicly available. Comast maintains that these documents contain confidential information, the dissemination of which "might jeopardize INTELSAT's operations." Comsat would continue to request privileged treatment of all INTELSAT documents provided to the U.S. government to assist in the performance of its responsibility to provide guidance and instructions to the U.S. Signatory. Comsat expects the Commission to treat INTELSAT documents as working papers and not place them in public files.

85. Comsat recently announced implementation of its proposal.[24] It stated that it would make certain documents immediately available for release on a cost-reimbursable basis; but remaining documents which it said contain confidential information would not be made available. Through the State Department, the U.S. Government imposed no objection to public dissemination of those documents Comsat proposed to be available for release.[25] However, Comsat's action was viewed as an "interim measure" while the status of remaining documents was still under consideration.

86. We believe that a framework should be established which provides for increased public access to those documents while at the same time protecting documents which merit confidential treatment. Accordingly, we intend to render a threshold determination as to those general categories of Board of Governors documents which should be made available to the public and those which should be withheld on a continuing basis. Within this framework Comsat would have an opportunity to satisfy the Commission as to those general categories of documents which should be withheld under FOIA standards. All other general categories of documents would be made available for public inspection as they are received by the Commission.

87. It is clear that once Board of Governors documents are provided to the Commission they become agency records subject to the Freedom of Information Act. The underlying policy of the Freedom of Information Act governs distribution of documents in the government's possession. The FOIA is a broadly conceived statute which was enacted to permit access by the public to official government information. The FOIA places a general obligation on an agency to make information available to the public, and sets out specific procedures for disclosure of certain types of information. Information subject to the FOIA can be withheld only pursuant to one of nine exemptions listed in the Act. As an agency, we are obligated to comply with the Act's requirements and face litigation if we improperly withhold records.

88. Certain aspects of Comsat's proposal conflict with our responsibilities under the FOIA. First, Comsat proposes to be the sole

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[22] *See* letter from Director, Office of International Communications Policy, Department of State, to Vice President and General Manager, International Division, Communictions Satellite Corporation; November 21, 1978.

[23] In the Comsat Study, carriers indicated that they have been receiving documents from overseas sources, thus obviating the need to request them from the Commission pursuant to the FOIA.

[24] *See* letter from Vice President and General Counsel, COMSAT World Division, to Secretary, FCC; February 11, 1982; and Comsat news release and public notice; January 12, 1982.

[25] *See* letter form Director, Office of International Communications Policy, Department of State, to Edward J. Martin, Vice President, Maritime Services, COMSAT World Systems Division; January 4, 1982.

distributor of INTELSAT documents for which it claims no confidentiality under an FOIA exemption. Notwithstanding its admission that approximately 80 percent of all Board of Governors documents will be suitable for public dissemination under its proposal, Comsat would have the Commission refrain from placing these documents in the Commission's public files. Parties would have to obtain these documents from Comsat by first getting placed on a list Comsat would keep of parties interested in receiving documents and then ordering desired documents from a list of available documents provided by Comsat on a periodic basis. We reject this procedure as inconsistent with our obligations under the FOIA. The FOIA requires us to honor requests for information not subject to a claim of exemption. This responsibility does not change because of Comsat's willingness to serve as the source of distribution. Moreover, Comsat's scheme could cause unnecessary delay to Comsat's competition in obtaining information from category one documents that the Commission otherwise would make immediately available. Therefore, we are of the view that INTELSAT documents for which Comsat does not claim a specific FOIA exemption should be placed in the Commission's public file and made available without resort to Comsat.

89. Second, Comsat's proposal that categories two and three documents be identified as Commission "work papers" is also inconsistent with the provisions of the FOIA. There is no FOIA exemption which protects agency "work papers" *per se*. The only exemptions which could be construed as addressing "work papers" are the fifth (interagency or intraagency memorandum) and seventh (investigatory files). The language of the fifth exemption clearly limits its application to internal government-generated documents. INTELSAT Board of Governors documents are not government-generated documents. The application of the seventh exemption requires a showing that the records have been collected for "law enforcement purposes." An agency's broad regulatory or monitoring responsibilities do not qualify as "law enforcement." *Sears, Roebuck & Co. v. GSA*, 509 F. 2d 527 (D.C. Cir. 1974); *Lamont v. Dept. of Justice*, 475 F. Supp. 761 (S.D.N.Y. 1979). Even if records have been compiled for law enforcement purposes, the agency wishing to withhold must show that the release of the particular records is likely to cause demonstrable harm to its investigatory effort. Therefore, neither the fifth nor the seventh exemption could be used to withhold INTELSAT documents.

90. It appears that the only FOIA exemption which may be applied to category two and three documents is the fourth, the exemption which protects "trade secrets and commercial or financial information obtained from a person and privileged or confidential."[26] Interpretation of this provision has turned on the words "privileged" and "confidential". In applying these terms and attendant exemption four status, courts have found that an agency must first show that the company whose records are at issue actually faces competition. *National Parks Conservation Association v. Kleppe* ("National Parks II"), 547 F. 2d 673 (D.C. Cir. 1976). Secondly, the agency must demonstrate a likelihood that release will damage the government's ability to obtain such information in the future or cause substantial competitive harm to the company which generated the records. *National Parks and Conservation Association v. Morton* ("National Parks I"), 498 F. 2d 765 at 770 (D.C. Cir. 1974). Comsat does not attempt to show in its comments in this proceeding that either it or INTELSAT faces competition and that its competitive position would likely be harmed were categories two and three to be disclosed.[27]

91. In light of the foregoing, Comsat's proposal must be modified. Consistent with our determination to render a threshold determination on the status of INTELSAT and INMARSAT documents, Comsat is directed to report to the Commission within 90 days of release of this order. In its report, Comsat is to identify and list the types of INTELSAT Board of Governors and INMARSAT Counsel documents which it considers falling within category one and available for public dissemination. These documents will be made available for public inspection at the Commission. Board of Governors documents containing the agenda of each Board of Governors meeting and INMARSAT documents containing the agenda of each INMARSAT Council meeting should be included in category one. Comsat is also to identify and list the types of INTELSAT and INMARSAT documents which it believes fall under categories two and three and require confidential treatment. For these types of documents, Comsat must show that confidential treatment is permitted under the FOIA. Comsat is to provide a description of the information contained in each type of document as required by Sections 0.457(d) and 0.459 of the Commission's Rules and indicate under which FOIA exemption the document should be treated as confidential.

92. A threshold determination will be made as to which types of category two and three documents, as general classes, merit confidential treatment. In doing so, we will give weight to the views of NTIA and the State Department. Through this process we will not have to review each individual document issued after every Board of Governors meeting. For those types of documents that we determine merit confidential treatment, we will issue a letter to Comsat confirming that they will be held as non-routinely available and stating that Comsat's future filings of like documents will be treated similarly. All other category two and three documents will be made available to the public along with category one documents. If the Commission receives an FOIA request for any non-routinely available category two or three documents, the specific documents must be reviewed to determine whether continued withholding is appropriate. We believe that this procedure respects the rights of both Comsat and its competitors and meets the requirements of the FOIA, while avoiding the time-consuming process of ruling on each and every document submitted by Comsat.[28] We instruct the Chief, Common Carrier Bureau, to take such steps as may be necessary for its implementation.

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[26] Exemption one, concerning national security and foreign policy interests permits withholding only when documents have been classified pursuant to executive order.

[27] However, where the documents contain information which "concerns or relates to the trade secrets, processes, operations style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures * * *", 18 USC 1905, the Commission may not disclose the information irrespective of its determination of competitive harm under the *National Parks* test, without specific statutory authority implemented by notice and comment rulemaking. *Chrysler Corp. v. Brown*, 441 U.S. 281 (1979).

[28] We will not apply this process to the Board of Governors documents now in the possession of the Commission. It is unclear that the large number of documents accumulated since 1964 (including ICSC documents) will be in such demand as to justify commitment of Commission resources to determine which documents should continue to be withheld. In the alternative, we will make available those accumulated documents which Comsat has determined by its own review process belong in category one and no longer require confidential treatment. All other documents will be subject to release upon specific request under the Freedom of Information Act. If there evolves a significant demand for Board of Governors documents that are now in the Commission's possession, but for which Comsat continues to claim confidentiality, we instruct the Chief, Common Carrier Bureau, to develop an administrative process for their release consistent with the FOIA.

93. *Facilities planning information.* We note that AT&T and other parties do not elaborate on the types of documents which they regard as falling within the area of facilities planning information. The Commission receives INTELSAT planning information from Comsat for use in the facilities planning process. This information is generally contained in Board of Governors documents. Some parties apparently seek imposition of a blanket requirement for the public release of these documents because of their relevance to the facilities planning process. However, such a requirement would ignore Comsat's rights under the FOIA to seek confidentiality of facilities planning documents. Consequently, we cannot agree with such an approach. Under the FOIA, Comsat must be accorded the same opportunity to seek confidential status for INTELSAT facilities planning documents as it does for other INTELSAT documents which it believes fall within an FOIA exemption. We believe that the procedures that we have proposed above will afford such an opportunity. No special requirements for the dissemination of facilities planning documents need be imposed.

94. *Inventions and technical data.* We face different circumstances regarding inventions and technical data resulting from or utilized in work performed at INTELSAT expense. Intellectual property of this type is not routinely supplied to the Commission.[29] Dissemination of INTELSAT inventions and technical data is governed by specific INTELSAT principles and procedures. Article 17 of the INTELSAT Operating Agreement provides for the identification and distribution to Signatories and their designees of rights acquired by INTELSAT in inventions and technical data. INTELSAT implements this provision through procedures for publication and distribution of inventions and data reports to Signatories and their designees.

95. Article 17 also provides that INTELSAT technical data and patent rights be licensed royalty-free for INTELSAT purposes, and under reasonable terms and conditions to be determined by the Board of Governors for non-INTELSAT purposes. The primary rights to INTELSAT technology generally rest in the contractor. INTELSAT acquires license rights to such technology. Signatories and their designees may acquire license rights on a royalty-free basis for INTELSAT purposes and under reasonable terms and conditions for other purposes.[30]

96. INTELSAT maintains a Patent Portfolio that contains over 500 patents and patent applications on nearly 100 separate inventions. Most of these inventions are the result of work performed by Comsat as INTELSAT manager and later as the Management Services Contractor.[31] Comsat retains title to these inventions. Comsat states that, as the U.S. Signatory, it will designate all qualified applicants in the United States as eligible to obtain rights to patented inventions that result from research undertaken by either Comsat or any other contractor on behalf of INTELSAT. However, we believe that public availability of the INTELSAT Patent Portfolio at the Commission is necessary to inform interested U.S. parties of the full range of opportunities to obtain rights in INTELSAT-funded inventions. As we have stated, the Portfolio contains information concerning inventions resulting from work done by contractors other than Comsat Labs. Therefore, we require Comsat to provide the Patent Portfolio to the Commission for public inspection during normal business hours.

97. The INTELSAT Data Handbook identifies technical data and information (reports, drawings, computer programs and technical papers) generated or utilized in INTELSAT-funded work and outlines the procedures for obtaining such information. The Data Handbook contains a cumulative listing by subject matter of such technical data and information. The stated purpose of the Handbook "is to provide increased access" for INTELSAT Signatories and their designees to such information. It sets forth the procedures by which these parties can obtain this information.

98. The Data Handbook provides a useful tool by which to assure that U.S. firms competing with Comsat in non-INTELSAT activities will have access to INTELSAT technology and information in a manner consistent with INTELSAT policy and contractual restrictions. In view of Comsat's increasing activities in competitive markets, there is a need for exposure of the opportunities available to Comsat's potential competitors to obtain licenses to the INTELSAT technology to which Comsat has access as the U.S. Signatory. In this respect, Comsat has returned to its former practice of providing the Handbook to the Commission for public inspection. Comsat is directed to provide all supplements and revisions to the Handbook to the Commission on a timely basis.

99. The availability of the Data Handbook to Comsat's competitors will not assure their access to the technical data and information listed therein. Neither the Handbook, nor Article 17 of the Operating Agreement or INTELSAT's Data and Distribution Procedures define the term "designee" of a Signatory or otherwise limit its application. INTELSAT policy encourages the broad dissemination of INTELSAT-funded technology not only to promote its use in connection with the global system, but also for other purposes in order to stimulate independent development and improvement of the technology. In view of this policy, Comsat, as the U.S. Signatory to INTELSAT, shall treat as its designee for obtaining such technology any U.S. firm which can comply with the requirements of such procedures. Comsat has a responsibility to assist U.S. industry in obtaining such technology for use consistent with INTELSAT policy by representing qualified U.S. firms to the Director General as designees and rendering reasonable assistance to them in obtaining the technical data or information that they desire.

D. Other Measures

(1) Mandatory Licensing

100. In the Comsat Study, we proposed mandatory licensing to give Comsat the incentive not to allocate research costs to the ratepayer if it wishes the benefits of such research to apply exclusively to its competitive activities. We proposed that when the parent company enters into a sole-source arrangement with the Labs for research and development, the primary rights (title) to inventions and data generated by such research are to reside in the parent company. If the parent company grants license rights to an affiliate, it must make license rights available to competitors at the same time and under the same conditions. We stated that we would not require mandatory licensing with respect to inventions and data generated by ratepayer-funded research done pursuant to competitive bidding. In such

[29] The Commission does receive Board of Governors annotated reports on the status of INTELSAT research projects. These reports are documents which are subject to the classification process discussed above.

[30] The exception to this arrangement pertains to work performed by Comsat as the Management Services Contractor to INTELSAT from 1974 through 1978. Under the terms of Comsat's MSC contract, INTELSAT obtained primary rights to inventions and data generated by research that Comsat performed as the MSC.

[31] A few inventions are included in the Portfolio as a result of contractual arrangements with other entities in which INTELSAT obtained primary rights to these inventions. Others are included because some INTELSAT contractors under current policy elected not to file patent applications.

cases, the parent company would be free to specify in the RFP where title to inventions and data would reside. For inventions and data generated by ratepayer-funded research done by other contractors, the parent company could follow normal practices which would place primary rights (title) to inventions and data with the contractor.

101. Comsat maintains that its current licensing policy satisfies the objectives of our proposal. Comsat states that it owns or has rights to license all technical data and patented inventions that result from research and development undertaken and funded by it as part of its INTELSAT/INMARSAT activities. Comsat further states that it will continue its current policy of licensing all such technology on a nondiscriminatory basis. Comsat indicates that it normally licenses technology to all financially qualified applicants (including affiliate), but reserves the right to grant exclusive licenses in such situations "in order to ensure that the products involved are promptly manufactured and marketed." In addition, Comsat indicates that it will periodically (at least annually) publish a catalogue listing "all technical documentation and patented inventions available for licensing through Comsat".

102. The primary concern behind our licensing proposal is the opportunity Comsat has to make inventions and data generated by ratepayer-funded research and development available to an affiliate on an exclusive basis. Our proposal to require Comsat to make available to the public license rights to inventions and data generated by ratepayer-funded, sole-source research conducted by Comsat Labs was intended to minimize the opportunity for such conduct. We find that Comsat's licensing policy goes beyond our Comsat Study proposal by licensing all ratepayer-funded inventions and data whether or not made available to corporate affiliates. It provides a framework for regulatory oversight of Comsat's licensing practices and a benchmark from which Comsat's competitors can base complaints to the Commission if they believe that they are not getting access to ratepayer-funded research on an equal basis with Comsat affiliates. We retain jurisdiction to review Comsat's grant of exclusive licenses to assure that this mechanism is not used to unreasonably deny access to ratepayer-funded research products.

103. Comsat has recently announced the availability of the COMSAT Data Catalog which identifies documentation and patents that result from ratepayer-funded research and development. According to Comsat, the Data Catalog lists and describes specific data items presently available which have resulted from previous and ongoing ratepayer-funded research and development. In addition, the Data Catalog lists and describes current projects which are a likely source of new documentation. Comsat states that rights of use of the data items will in many instances be without additional cost but in certain cases may be subject to payment of a reasonable royalty and nondiscriminatory terms and conditions. Comsat indicates that the Data Catalog is available for a fee, with an additional charge for semi-annual updates. It has filed a copy with the Commission and we have made the Data Catalog available for public inspection.

104. Annual publication of a catalogue that lists patents available for licensing through Comsat is helpful in attaining our objectives. However, semi-annual updates do not provide sufficient notice to the public of the opportunity to obtain licenses. Comsat's affiliates will have knowledge of the availability of ratepayer-funded technology long before an annual catalogue is compiled and published. We therefore will require Comsat to notify the Commission about the availability of ratepayer-funded technology for licensing at the time such technology becomes available. The Commission's staff will publish this information in a Commission public release. In this way, Comsat's competitors will have a faster means of learning of the availability of ratepayer-funded technology.

(2) Limitations on Financial Support of Affiliates

105. Two parties in this proceeding call for limitations on the extent to which Comsat provides financial support for investment in an affiliate's competitive ventures. ABC asserts that we should require Comsat to submit a plan for consideration and approval, after public notice and comment, which would: (a) set forth Comsat's capitalization plans for existing and planned non-INTELSAT/INMARSAT activities; (b) establish limits on the amount of parent company investment in such activities; (c) limit direct and indirect liabilities undertaken by the parent company on behalf of its affiliates; and (d) limit the amount of credit the parent company can extend to its affiliates. WUI argues that Comsat will manipulate what it terms "unfairly obtained capitalization and asset valuation" in an anticompetitive fashion. WUI states that Comsat will be able to use surplus capital funds not applied to its original statutory mission to support competitive ventures by manipulation of asset valuation.

106. In response to ABC, Comsat contends that it demonstrated in the Comsat Study that it will be able to meet its INTELSAT and INMARSAT financial obligations notwithstanding investment in competitive ventures. As for WUI's contentions, Comsat first maintains that capital initially raised by Comsat but not invested in its jurisdictional enterprises was derived solely from the shareholders and may be used by the corporation for the shareholders' benefit. Second, with regard to investment of profits from its INTELSAT operations, Comsat implies that it has the same right as any regulated firm "to use and invest lawfully earned net income as it sees fit, subject to certain legal constraints."

107. The requirements that ABC seeks to have imposed on Comsat are similar to those that we imposed on Comsat when it created COMSAT General. In 1973, we required Comsat to form COMSAT General to pursue domestic satellite ventures and any other non-INTELSAT related activities to assure that it would continue to be able to discharge its financial obligations to INTELSAT. *Domestic Communications Satellite Facilities*, 35 FCC 2d 844 at 853 (1972). We required that the establishment of COMSAT General be supported by a plan providing for its eventual financial independence from the parent company. We placed limits on the amount of investment that the parent company could make in its new subsidiary and on the liabilities which the parent could assume on behalf of the new subsidiary. We required COMSAT General to exhaust all available opportunities for outside financing before seeking additional funding from the parent company. And we required Comsat to seek prior Commission approval for any additional funding of COMSAT General. *Communications Satellite Corporation*, 45 FCC 2d 444, 450–51 (1974).

108. It is not evident that prior approval of a comprehensive capitalization plan at this time is essential for meeting our statutory responsibilities. The same can be said for any action that would impose across-the-board limitations on the future investments of the parent company in support of its competitive activities. Of course, Comsat is free to file such a plan if it so desires. In the absence of a comprehensive plan, however, we can fulfill our statutory responsibilities through *ad hoc* Commission oversight of Comsat's individual investment decisions. This

can be accomplished through Commission review of Comsat's Title II or Title III applications filed with the Commission. Moreover, with respect to Comsat's ability to issue shares of capital stock, to borrow moneys or "to assume any obligation in respect of the securities of any other person", Congress has already mandated under Section 201(c)(8) of the 1962 Satellite Act that Comsat may be authorized to engage in such issuance, borrowing or assumption only upon a Commission finding, in each instance, that the action contemplated is compatible with the public interest and "necessary or appropriate for or consistent with carrying out the purposes and objectives" of the 1962 Satellite Act by Comsat.[32]

109. In those instances where approval under Title II, Title III or Section 201(c)(8) is not required, the only requirement we impose on Comsat at this time is that it must provide the Commission with at least 90 days advance notice of any expenditures related to a competitive venture which would necessitate or result in Comsat having to seek additional debt or equity financing for other corporate activities. The Commission's staff will then have an opportunity to assess the impact on both the ratepayer and on Comsat's ability to meet its INTELSAT/INMARSAT financial obligations. If the Commission, or the Common Carrier Bureau pursuant to delegated authority, takes no action within this period, Comsat may proceed with its plans without prior Commission authorization. We reserve the right, however, to approve such expenditures depending upon the complexity of the issue at hand. Such approval may take more than 90 days. We believe that this requirement will give us sufficient opportunity to assess the impact of parent company support of affiliates and enable us to protect monopoly ratepayers and to insure Comsat's ability to meet its INTELSAT/INMARSAT financial obligations.

IV. Conclusions

110. The issues in this proceeding have focused on Comsat's pursuit of diversified business opportunities through the application of corporate technology and expertise. The paramount reason for Comsat's existence must be fulfillment of its statutory missions as the U.S. representative in INTELSAT and in INMARSAT. Nevertheless, we reaffirm our Comsat Study determination that, as a matter of policy, Comsat should not be foreclosed from applying its corporate technology and expertise to the development of new lines of business which will result in public benefit. Comsat's involvement in diversified satellite-related activities will contribute to the overall development of satellite communications technology in the public interest. However, we also reaffirm our Comsat Study finding that Comsat's involvement in diversified businesses provides opportunities for anticompetitive behavior which require regulatory safeguards. These safeguards involve both structural separation of Comsat's monopoly INTELSAT/INMARSAT activities from its competitive activities and the imposition of certain non-structural measures.

111. We have considered Comsat's response to the proposals set forth in the Comsat Study. We have found Comsat's response to be deficient in several significant areas. However, before we prescribe further structural separation, we believe that Comsat should have an opportunity to remedy the problems we have raised. If Comsat is unable to establish or implement appropriate accounting and information flow control mechanisms, then we must consider whether further structural separation is warranted. Comsat is required to file various reports in response to this order. The Chief, Common Carrier Bureau, is directed to assess the proposals submitted by Comsat which are intended to remedy the problems we have raised. The Bureau should apprise Comsat of any deficiencies warranting its consideration. The Bureau is directed to report back to the Commission within nine months as to what further action may be appropriate, including a recommendation as to what, if any, further structural separation is warranted.

V. Ordering Clauses

112. In view of the foregoing, it is ordered, that, pursuant to Sections 4(i), 4(j), 201–205, 214, 215, 218, 220, 303, 309, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201–205, 214, 215, 218, 220, 303, 309, and 403 (1976), Sections 102(c), 201(c), and 401 of the Communications Satellite Act of 1962, as amended, 47 U.S.C. 701(c), 721(c) and 741 (1976), and Section 553(b) of the Administrative Procedure Act, 5 U.S.C. 553(b) (1970):

(1) Comsat shall provide the Commission with 90 days advance notice if it intends to alter the structural separation it has undertaken in response to the Comsat Study as set forth in paragraphs 15–21, *supra;*

(2) Comsat shall report to the Commission and adhere to the directives as set forth herein.

113. It is further ordered that the Chief, Common Carrier Bureau is directed to report back to the Commission within nine months on what further action, if any, is warranted to satisfactorily address the issues raised in this proceeding.

114. It is further ordered, that this proceeding is subject to further order of the Commission.[33]

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

1. Comments in this proceeding were filed by:

(1) American Broadcasting Companies, Inc. (ABC)
(2) American Satellite Company (ASC)
(3) American Telephone and Telegraph Company (AT&T)
(4) Communications Satellite Corporation (Comsat)
(5) Department of Defense (DOD)
(6) Department of State (State)
(7) Hawaiian Telephone Company (Hawaiian)
(8) ITT World Communications, Inc. (ITT)
(9) Magnavox Government and Industrial Electronics Company (Magnavox)
(10) Maritel, Inc. (Maritel)
(11) National Telecommunications and Information Administration (NTIA)
(12) RCA Global Communications, Inc. (RCA)
(13) Satellite Communications Section, Communications Division, of the Electronic Industries Association (EIA)
(14) Teleconsult, Inc. (Teleconsult)
(15) Western Union International, Inc. (WUI).

2. Reply comments were filed by:

(1) American Broadcasting Company, Inc.
(2) American Telephone and Telegraph Company
(3) Communications Satellite Corporation
(4) Department of Defense
(5) Hawaiian Telephone Company
(6) ITT World Communications, Inc.
(7) Magnavox Government and Electronics Company
(8) RCA Global Communications, Inc.
(9) Western Union International, Inc.

3. Additional pleadings were filed by Magnavox and, also by Comsat jointly

[32] Even though this explicit statutory requirement did not govern our decision in *Computer II*, we have required AT&T to obtain Commission approval as to how it intends to capitalize its separate subsidiary. Our review there extended beyond financial obligations and focuses on preoperational expenses and asset transfers associated with the provision of enhanced service and customer-premises equipment by its separate subsidiary.

[33] Although Section 601(2) applies the Regulatory Flexibility Act of 1980 (RFA) (P.L. 96-354) to rules adopted pursuant to Section 553 of the Administrative Procedure Act, the RFA is inapplicable where, as here, the underlying Notice of Proposed Rulemaking was adopted prior to January 1, 1981. 5 U.S.C. 601 note (1980 Supp.)

with its subsidiary, with respect to COMSAT General's January 19, 1981 letter to the Commission indicating its intention to manufacture and sell shipboard terminals for use in connection with the INMARSAT system. Comsat and COMSAT General filed a response to Magnavox's reply comments and a motion to file such response. Thereafter, Magnavox filed a reply to Comsat's response, a motion to sever the shipboard terminal issue from the other issues in this proceeding, and a motion to issue an order against Comsat directing a halt to its shipboard terminal marketing activity pending a decision in this proceeding.

4. Western Union International filed supplemental comments in which it argued for continued exclusion of Comsat and its competitive subsidiaries from the international retail communications market, and a motion to file such comments. Comsat and ASC filed responses.

Appendix B

Comsat Lab 1981 Data

PERCENTAGE BREAKDOWN OF COMSAT LAB BUDGET DATA

[Dollars in thousands]

	Line No. and description	Dollars	Percentage
1.	Jurisdictional R&D	11,003	28.55
2.	Non-Jurisdictional	1,343	3.49
3.	Support and Other:		
4.	Intelsat Lab Service Contract	8,016	20.81
5.	Intelsat Tech Services	3,462	8.98
6.	SBS	5,764	14.96
7.	Comsat General	1,521	3.95
8.	STC	2,006	5.20
9.	ERT	141	.37
10.	WSD	1,569	4.07
11.	Outside Contracts	1,897	4.92
12.	Other	1,812	4.70
13		26,190	67.96
14.	Total	38,536	100.00

Non-Jurisdictional Lab Work

15.	Non-Jurisdictional (line 2)	3.49
16.	Intelsat Lab Service Contract (line 4)	20.81
17.	SBS (line 6)	14.96
18.	Comsat General (line 7)	3.95
19.	STC (line 8)	5.20
20.	ERT (line 9)	.37
21.	Outside Contracts (line 11)	4.92
22.	Total Non-Jurisdictional	53.70

Source: Letter to Chief, Audits Branch, from the Comptroller of Comsat dated November 13, 1981.

Appendix C

Comsat's Application of the Three-Factor Formula

1. Comsat's cost allocation procedures are based on its interpretation of Cost Accounting Standards Board (CASB) methodology. The CASB was established by a 1970 amendment to the Defense Production Act. 50 U.S.C. 2168 (1976). It was empowered to develop cost accounting standards for firms bidding for U.S. Government defense prime contracts. The overall purpose of these standards is to safeguard against excess profits and promote more favorable contract terms for the government. Comsat maintains that through creation of WSD and use of CASB methodology it has limited any opportunity for misallocation of costs and increased the detectability of improper cross-subsidization. It also argues that common costs are minimized by WSD having its own support capabilities.

2. A fundamental requirement of CASB standards is that home office expenses be allocated on the basis of the beneficial or causal relationship between supporting and receiving activities. "Home Office" is defined as an office responsible for directing or managing two or more, but not necessarily all, segments of an organization reporting directly to a home office, and is usually identified with responsibility for profit and/or producing a product or service. A "home office" typically establishes policy for, and provides guidance to the segments of their operations. It usually performs management, supervisory and administrative functions, and may also perform services in support of the operations of the various segments. CASB standards require that home office expenses be allocated directly to specific corporate segments to the maximum extent practicable. Expenses not directly allocated to a specific segment, if significant in amount and in relation to home office expenses, must be grouped in logical and homogeneous expense pools and allocated in accordance with specific procedures. Expenses that cannot be so grouped are to be considered residual expenses and allocated to corporate segments by means of a base representative of the total activity of such segments. One such base is an average of investment, revenue and salary.

3. Comsat uses a budgetary process to estimate entries in the three-factor formula. For 1980, Comsat used the following breakdown as unadjusted entries in the three-factor formula.[1]

[Figures in percent]

	World systems	Comsat general	ERT	Satellite Television Corp.
Revenue	58	25	17	
Property	89	8	3	
Salaries	51	25	23	1
Average	80	15	14	1

It adjusted these percentages to exclude amounts from those organizational units which do not benefit from certain general and administrative service areas to determine its initial 1980 allocation factors for application of the three-factor formula.

	Percent
World System Division	69
COMSAT General	20
ERT	10
Satellite Television	1

4. Comsat applied these allocation factors in the following manner. Comsat's total 1980 operating expenses were $219.1 million. Of this amount, $14.4 million was the home office general and administrative costs apportioned over the entire corporation pursuant to CASB methodology. Of this $14.4 million, Comsat apportioned $3.3 million in one-time expenses and overhead to WSD by direct transfer and $5.0 million in a manner comparable to direct assignment by measuring costs applicable to a corporate segment on the basis of the function performed.[2] WSD's share of home office costs under these methods was $5.9 million. Comsat accumulated the remaining $6.1 million in a residual pool and apportioned this amount among corporate lines of business using the three-factor formula (after making two adjustments). It made an adjustment to the residual pool by adding the Personnel and General Services "cost/service" overheads which also are allocated to general and administrative headquarters functions.[3]

[1] Letter from Comptroller, Communications Satellite Corporation to Acting Chief, Audits Branch, Common Carrier Bureau dated May 1, 1981, Attachment 1 "Summary Description of Cost Allocation Process, April 1981."

[2] Comsat labeled this method "cost/service relationship." This method is used when no direct relationship exists between costs and lines of business. In such a case, Comsat reviews its general and administrative costs to identify, if possible, a meaningful cost/service relationship from which an allocation factor can be derived. Comsat allocated a total of $5.0 million in 1980 on cost/service relationship basis—$2.6 million of which was assigned to WSD. *See* letter from George Skinner, Comptroller, Comsat Corporation; August 26, 1981.

[3] *Id.* Comsat states that the costs of Personnel and General Services are allocated to each unit based upon the headcount in the department served.

	Millions
Residual G & A pool	$6.1
Add: Personnel and General Services allocated to G & A departments	0.8
Total	6.9

It further adjusted the pool to remove certain home office financial functions which do not provide services to ERT (primarily Treasury and Management Systems). According to Comsat, a portion of the pool was then allocated by using a three-factor formula to all units including ERT and the remainder of the adjusted pool was allocated by using a three-factor formula for all units except ERT.

	Millions
To all units	$5.7
To all units, except ERT	1.2
Total residual pool	6.9

WSD's share of the total residual pool was then derived.

	Millions
From all units allocation	$3.8
From all units, except ERT	0.9
Total WSD share	4.7

5. Thus, according to Comsat's application of CASB standards, WSD's share of residual home office expenses was $4.7 million or about 68% of the residual pool. WSD's share of total allocable home office expenses for 1980 was $10.6 million, or about 74% of the total.[4] The remaining $3.8 million was assigned to other corporate segments.

6. Comsat's use of the three-factor formula to apportion residual home office expenses presents both conceptual and specific problems.

7. *Conceptual Problems.* A three-factor formula for the allocation of residual home office expenses can yield distorted results when corporate lines of business within the various corporate segments are at different stages of development. The differences in the maturity of Comsat's various lines of business is reflected in the following comparison of its major corporate segments.

CALENDAR YEAR 1980

[Dollars in thousands]

	Jurisdictional (Intelsat)	Comsat General	ERT	Satellite Television Corp.
Revenues	161,066	85,162	36,506	
Net property	228,362	130,156	9,267	
Operating expenses	87,530	75,771	33,146	2,372

Source: December, 1980 Form 901; December, 1980 Financial Statements of COMSAT General, ERT, Satellite Television Corporation.

8. Distortions may occur when a corporation having mature lines of business with large operating revenues and substantial investment in plant and equipment diversifies into new ventures. In their early stages of development, new ventures are likely to require significant corporate home office general and administrative support as well as executive officer attention. While these new ventures incur salary expenses and other administrative costs, they generally do not have substantial operating revenues. This occurs in later stages of development. Ventures in the early stages of development, however, require significant corporate home office general and administrative support. For a company with new ventures in either stages of development, the use of revenues as an allocative factor will result in more costs being allocated to corporate segments with more mature lines of business. This effect is magnified if those mature segments actually perform many of their own general and administrative support functions rather than obtain them from the corporate home office. As a result, much of the common expense pool will be apportioned for those segments with the more mature businesses and proportionately less to segments with a significant number of developing lines of business. This result may not accurately reflect the extent to which developing businesses rely on corporate home office services.

9. Distortions will be perpetuated as long as the corporation is involved in developing new business ventures while maintaining mature businesses that have comparatively large operating revenues and plant and equipment investment. Arguably, the distortions that result may be remedied as the new business ventures reach maturity — at which time revenue and investment amounts will be such that the formula will more accurately reflect the incursion of common costs over the entire corporation. However, this logic presumes that the new business ventures will become successful. And it ignores the potential that exists in the meantime for misallocation of expense pool costs through the mechanical application of a three-factor formula.

10. *Specific Problems.* Comsat's use of budgeted rather than actual data to estimate entries into the three-factor formula distorts the allocation process. Comsat budgets revenue, property and salary projections at the beginning and middle of the year and uses these budgets for six months. No correction is made at the end of the six-month period for deviations of the budget figures from actual figures. We have noted substantial deviations of this kind in the property, revenue, and salary budgets for 1980. For example, while Comsat budgeted WSD's net property as $283.1 million for 1980, the actual net property shown on Comsat's Form 901, December 1980, was $228.3 million. Similarly, Comsat budgeted $212.2 million for WSD's revenue in 1980, while the Comsat Annual Report shows only $161.1 million of jurisdictional operating revenue for the same year. The differences between actual and budgeted figures appear to have increased the amount of home office costs allocated to WSD for 1980.

11. In addition, Comsat interprets CASB standards so as to exclude substantial capital investments of its subsidiaries from computation of the capital investment factor in the three-factor formula. The CASB defines the capital investment factor as:

> The average net book value of the sum of the segment's tangible capital assets to the total average net book value of such assets of all segments. Property held primarily for leasing to others shall be excluded from the computation. 4 CFR 403.50(c)(1)(iii).

The CASB defines a segment as "[o]ne of two or more divisions, product departments, plants, or other subdivisions of an organization reporting directly to a home office; usually identified with responsibility for profit and/or producing a product or service." The term includes Government-owned, contractor-operated facilities, and joint ventures and subsidiaries (domestic and foreign) in which the organization has a majority ownership. The term also includes those joint ventures and subsidiaries (domestic and foreign) in which the organization has "less than a majority of ownership, but over which it exercises control." 4 CFR 403.40(4).

12. Under the guise of these definitions, Comsat fails to account for most of the tangible assets of COMSAT General in the three-factor formula. Comsat broadly excludes 100% of the assets of the COMSTAR satellite system and 75% of the assets of the MARISAT

[4] According to Comsat, the $10.6 million represents 15% of WSD's total labor-related 1980 expenses. The remaining $61.2 million are costs directly assigned to WSD, coming to a total of $71.8 million in labor-related operating expenses for WDS in 1980.

satellite system. Comsat excludes these tangible capital assets on the theory that they are "property held primarily for leasing to others" under 4 CFR 403.50. We find Comsat's exclusion of its COMSTAR and MARISAT investments to be unreasonable. First, we see no compelling reason for excluding capital investment in assets used by COMSAT General to provide domestic satellite telecommunications services to AT&T and maritime satellite services to the U.S. Navy. COMSAT General owns, either in whole or in part, and is involved in the operation of, the COMSTAR and MARISAT satellite systems. We do not believe that the fact that these services are provided on yearly or long term agreements to a single customer, rather than on a message basis to the general public, is relevant in rationally allocating home office expenses. In its annual reports, Comsat does not treat either the COMSTAR or MARISAT satellites at leased property. To the contrary, both are shown on the balance sheets as property in service without any notation as to a leased nature. In sum, the COMSTAR and MARISAT service agreements are not capital leases and, therefore, they do not fall within the CASB exclusion. (We would also point out that the Commission's Rules and Regulations do not even recognize capital leases for regulatory purposes.) In light of the foregoing, we find that exclusion of COMSAT General's COMSTAR and MARISAT investments from computation of the capital investment factor in the three-factor formula distorts the formula and results in more costs being allocated to Comsat's jurisdictional businesses than warranted.

[FR Doc. 82-25388 Filed 9-16-82; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 47, No. 181
Friday, September 17, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 610, 620, and 630

Hours of Duty; Alternative Work Schedules

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking, with request for comments.

SUMMARY: The Congress has passed legislation authorizing the Alternative Work Schedules (AWS) program for another three years. Public Law 95–390, the Federal Employees Flexible and Compressed Work Schedules Act of 1978, previously providing for the AWS experimental program, has been replaced by this non-experimental three-year progrm. The proposed regulations are similar to the regulations covering Pub. L. 95–390, containing only a few technical changes, and will provide necessary direction to the agencies for administration of this law.

DATE: Comments must be received on or before November 16, 1982.

ADDRESS: Comments may be mailed to Mr. Craig B. Pettibone, Assistant Director for Pay and Benefits Policy, P.O. Box 57, Compensation Group, Office of Personnel Management, Washington, D.C. 20044, or delivered to Room 4351, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Raymond J. Kirk, (202) 632–4614.

SUPPLEMENTARY INFORMATION: The three-year experimental program for alternative work schedules, authorized by Pub. L. 95–390, has been replaced by Pub. L. 97–221, the Federal Employees Flexible and Compressed Work Schedules Act of 1982, continuing the alternative work schedules program for another three years from date of enactment of the law. The legislation continues existing flexible and compressed work schedules uninterrupted, unless stated provisions for termination have been met, and also permits the establishment of new programs. The types of schedules permitted have not changed, so agencies will not have to redesign or revise successful existing programs.

There are several technical and substantive changes in the AWS program as a result of the enactment of Pub. L. 97–221.

. (1) Under the proposed regulations, Part 620 of Title 5, Code of Federal Regulations, will be removed and Part 610 will be amended to include a subpart D-Alternative Work Schedules.

(2) Public Law 97–221 increases the maximum credit hour carryover from one pay period to another from 10 hours to 24 hours. An agency may prescribe lower limits within its organization than the maximum allowed by law.

(3) The basic work requirement for part-time employees on an AWS program has been changed to a biweekly requirement of 32–64 hours from a weekly work requirement of 16–32 hours, thereby allowing part-time employees to work compressed and certain flexible schedules from which they were previously excluded under Section 3401(2) of 5 U.S.C.

(4) The method of determining entitlement of pay for part-time employees when relieved or prevented from working on a holiday has been changed based on findings from administration of the procedures in Pub. L. 95–390 regulations. The regulations implementing Pub. L. 95–390 required dividing the number of hours the employee was scheduled to work over the biweekly pay period by the number of days which comprised the employee's tour of duty to determine the pay entitlement for the holiday. Under the proposed regulations, a part-time employee will now be entitled to the number of hours for which he or she is scheduled to work on that day, up to a maximum of 8 hours, the number of hours for which a full-time employee is entitled.

(5) Public Law 97–221 changes the definition of part-time employment. Part-time employees under an alternative work schedule may work fewer than 16 or more than 32 hours in a week so long as they work 32 to 64 hours in a biweekly period. Therefore, the requirement that part-time employees be scheduled to work on at least one day each week in order to accrue leave is no longer applicable under alternative work schedules. Under the proposed regulations, part-time employees whose alternative work schedules have biweekly rather than daily or weekly work requirements will be entitiled to accrue leave even though they may not be scheduled to work in one of the weeks of a pay period.

(6) The 10-hour limit on the accrual of compensatory time for both wage grade and General Schedule employees, stipulated in the regulations under Pub. L. 95–390, has been eliminated. The change was made because OPM found in administering programs provided for under Pub. L. 95–390 that the 10-hour limit was an unnecessary and inhibiting protection against abuse for both agencies and employees. Agencies and individual employees wishing to structure workload accomplishment most efficiently frequently were stymied by the 10-hour limit. Any limit on accrual of compensatory time is left to the discretion of the agency.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation concerns the pay and hours of duty of Federal employees only.

List of Subjects in 5 CFR Part 610

Government employees, Holidays, Wages.

Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, the Office of Personnel Management proposes to amend Title 5 of the Code of Federal Regulations as follows:

PART 610—HOURS OF DUTY

1. Subpart D, §§ 610.401 through 610.408, is added to read as follows:

Subpart D—Flexible and Compressed Work Schedules

Sec.
610.401 General.
610.402 Coverage.
610.403 Definitions.
610.404 Requirement for time-accounting method.
610.405 Holiday for part-time employees on flexible work schedules.
610.406 Holiday for employees on compressed work schedules.
610.407 Premium pay for holiday work for employees on compressed work schedules.
610.408 Leave accural for part-time employees.

Authority: 5 U.S.C. 6133(a).

Subpart D—Flexible and Compressed Work Schedules

§ 610.401 General.

This subpart contains regulatory requirements prescribed by the Office of Personnel Management to implement certain provisions of subchapter II of chapter 61 of title 5, United States Code. These regulations supplement that subchapter and must be read together with it.

§ 610.402 Coverage.

The regulations contained in this subpart apply only to flexible work schedules and compressed work schedules established under subchapter II of chapter 61 of title 5, United States Code.

§ 610.403 Definitions.

In this subpart "Agency" and "Employee" have the meaning given these terms in section 6121 of title 5, United States Code.

§ 610.404 Requirement for time-accounting method.

An agency that authorizes a flexible work schedule or a compressed work schedule under this subpart shall establish a time-accounting method that will provide affirmative evidence that each employee subject to the schedule has worked the proper number of hours in a biweekly pay period.

§ 610.405 Holiday for part-time employees on flexible work schedules.

If a part-time employee is relieved or prevented from working on a day within the employee's scheduled tour of duty that is designated as a holiday by Federal statute or Executive order, the employee is entitled to basic pay with respect to the holiday for the number of hours the employee is scheduled to work on that day, not to exceed 8 hours.

§ 610.406 Holiday for employees on compressed work schedules.

(a) If a full-time employee is relieved or prevented from working on a day designated as a holiday by Federal statute or Executive order, the employee is entitled to basic pay for the number of hours of the compressed work schedule on that day.

(b) If a holiday occurs on a day within a part-time employee's scheduled tour of duty, the employee is entitled to basic pay with respect to that holiday for the number of hours the employee is schedule to work on that day.

§ 610.407 Premium pay for holiday work for employees on compressed work schedules.

An employee on a compressed schedule who performs work on a holiday is entitled to basic pay, plus premium pay at a rate equal to basic pay, for the work that is not in excess of the employee's compressed work schedule for that day. For hours worked on holiday in excess of the compressed work schedule, a full-time employee is entitled to overtime pay under applicable provisions of law and a part-time employee is entitled to straight time pay or overtime pay, depending on whether the excess hours are non-overtime hours or overtime hours.

§ 610.408 Leave accrual for part-time employees.

Under alternative work schedules, a part-time employee for whom there is established a biweekly work requirement is entitled to earn leave in accordance with § 630.303.

PART 620—ALTERNATIVE WORK SCHEDULES EXPERIMENTS [REMOVED]

2. Part 620 is removed from 5 CFR.

PART 630—ABSENCE AND LEAVE

3. The introductory text to § 630.303 is revised to read as follows:

§ 630.303 Part-time employees; earnings.

A part-time employee for whom there has been established in advance a regular tour of duty on one or more days during each administrative work week, or a part-time employee for whom there has been established in advance a biweekly work requirement under an alternative work schedule, and an hourly employee in the field service of the U.S. Postal Service, earn annual leave as follows:

* * * * *

(5 U.S.C. 6133(a))

[FR Doc. 82-25640 Filed 9-16-82; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182, 184, and 186

[Docket No. 79N-0095]

GRAS Status of Sodium Dithionite and Zinc Dithionite

AGENCY: Food and Drug Administration.

ACTION: Tentative final rule.

SUMMARY: The Food and Drug Administration (FDA) is tentatively affirming that sodium dithionite (hydrosulfite) is generally recognized as safe (GRAS) as a direct human food ingredient, and that zinc dithionite (hydrosulfite) is GRAS as an indirect human food ingredient. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency. FDA is publishing this document as a tentative final rule because the agency is not including the level of use for sodium dithionite that appeared in the proposal. The agency is offering an opportunity to comment on this change.

DATE: Comments on the revisions made to the proposed regulation and issued as part of this tentative final rule by November 16, 1982.

ADDRESS: Written comments may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 25, 1980 (45 FR 6117), FDA published a proposal to affirm that sodium dithionite is GRAS for use as a direct human food ingredient, and that zinc dithionite is GRAS for use as an indirect human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on dithionites and the report of the Select Committee on GRAS Substances (the Select Committee) on dithionites have been made available for public review in the Dockets Management Branch (address above). Copies of these documents have also been made available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of sodium dithionite and zinc dithionite, FDA gave public notice that it was unaware of any prior-sanctioned food ingredient uses for these substances, other than for the proposed conditions of use. Persons asserting additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of the prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of dithionites recognized by issuance of an appropriate final rule under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for sodium dithionite and zinc dithionite were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for uses of these ingredients under conditions different from those set forth in this tentative final rule has been waived.

One comment was submitted in response to the proposal. It was cosigned by two trade associations and concerned the level of use of sodium dithionite in the brewing of malt beverages. The comment requested elevation of the current good manufacturing practice (CGMP) level of use of sodium dithionite from 0.002 percent to 0.004 percent. The result was based on recognition of the use of this level by the Bureau of Alcohol, Tobacco and Firearms of the U.S. Department of the Treasury, as documented in a brewing industry circular. The comment reported that levels up to 0.0078 percent had been used in the past.

The agency has considered the request for expanded levels of use of sodium dithionite in the manufacture of malt beverages and finds that the requested levels are consistent with those previously reported by industry to be current good manufacturing practice. The agency observes that sodium dithionite shows relatively low toxicity in dogs and rats, and that it readily decomposes in water to other sulfur-containing substances (sulfate, sulfite and sulfur dioxide, and colloidal sulfur). At the current level of use in the manufacture of beer, these decomposition products do not pose significant health problems. In addition, toxicity from its use in food is also unlikely because beer is the only food in which sodium dithionite is being used. FDA has reconsidered its proposal to list the level of use for this substance. Contrary to the interpretation underlying the comments, FDA has never intended to establish specific limits on the use of sodium dithionite.

Additionally, FDA has decided not to include in the GRAS regulation for sodium dithionite the level of use reported in the National Academy of Sciences/National Research Council food survey for this ingredient. Both the Federation of American Societies for Experimental Biology and the agency have concluded that a large margin of safety exists for this substance, and that a reasonably foreseeable increase in the level of consumption of sodium dithionite will not adversely affect human health. Therefore, the agency has decided to affirm tentatively the GRAS status of sodium dithionite when it is used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the tentative affirmation of the GRAS status of sodium dithionite is based on the evaluation of limited uses, the regulation sets forth the technical effect and food category that FDA evaluated.

In the judgment of FDA, its decision not to include the level of use does not represent a major departure from the proposed regulation. The level of use included in the proposal was never intended to be a specific limitation. However, to afford interested persons the opportunity to comment on the agency's decision, FDA is issuing this tentative final rule under § 10.40(f)(6) (21 CFR 10.40(f)(6)). FDA will review any comments relevant to the removal of the level of use that it receives within the 60-day comment period and will issue in the **Federal Register** either an announcement that this tentative final rule has become final or an announcement of modification to this regulation made on the basis of the new comments.

In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that is appropriate to do so.

Additionally, FDA is withdrawing the proposed specifications for sodium dithionite in the GRAS affirmation regulation. The agency concludes that it is not appropriate to establish food-grade specifications based on the limited information available to it at this time. The affirmation of sodium dithionite as GRAS without detailed specifications does not pose a significant health problem. FDA will work with the Committee on Codex Specifications of the National Academy of Sciences to develop acceptable specifications for this ingredient. If acceptable specifications are developed and are still considered necessary, the agency will incorporate them into this regulation at a later date. Until any such specifications are developed, FDA has determined that the public health will be adequately protected if commercial sodium dithionite complies with the description in this tentative final rule and is of food-grade purity (21 CFR 170.30(h)(1) and 182.1(b)(3)).

The format of the regulations included in this tentative final rule is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of § 184.1755 and paragraph (b) of § 186.1987 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, which includes the technical effects for both substances and the food category for sodium dithionite. This change has no substantive effect but is made merely for clarity.

The agency has determined pursuant to CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect this tentative final rule would have on small entities including small businesses. Because the tentative final rule imposes no new restrictions on the use of these ingredients, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this tentative final

rule, and the agency has determined that the final rule, if promulgated from this tentative final rule, would not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

21 CFR Part 186

Food ingredients, Generally recognized as safe (GRAS) food ingredients, Indirect food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182, 184, and 186 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.90 [Amended]

1. In Part 182, § 182.90 *Substances migrating to food from paper and paperboard products* is amended by removing the entries for "Sodium hydrosulfite" and "Zinc hydrosulfite" from the list of substances.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. In Part 184, by adding new § 184.1755 to read as follows:

§ 184.1755 Sodium dithionite.

(a) Sodium dithionite ($Na_2S_2O_4$, CAS Reg. No. 7775–14–6), also referred to as sodium hydrosulfite and sodium hyposulfite, is a fine white power that is extremely soluble in water. It is prepared by the reduction of sulfur dioxide with zinc power followed by alkali treatment or by the reaction of sodium formate, sodium hydroxide, and sulfur dioxide.

(b) FDA is developing food-grade specifications for sodium dithionite in cooperation with the National Academy of Sciences. In the interim, the ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing conditions of use:

(1) The ingredient is used as an antioxidant as defined in § 170.3(o)(3) of this chapter.

(2) The ingredient is used in the manufacture of beer at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for sodium dithionite different from the use established in this section do not exist or have been waived.

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. In Part 186, by adding new § 186.1987 to read as follows:

§ 186.1987 Zinc dithionite.

(a) Zinc dithionite (ZnS_2O_4, CAS Reg. No. 7779–86–4), also referred to as zinc hydrosulfite and zinc hyposulfite, is a fine white powder that is extremely soluble in water. It is prepared by the reduction of sulfur dioxide with zinc powder.

(b) In accordance with § 186.1(b)(1), the ingredient is used as an indirect human food ingredient with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as an indirect human food ingredient would be based upon the following current good manufacturing conditions of use:

(1) The ingredient is used as a constituent of paper and paperboard used for food packaging.

(2) The ingredient is used at levels not to exceed current good manufacturing practice.

(c) Prior sanctions for zinc dithionite different from the use established in this section do not exist or have been waived.

Interested persons may on or before November 16, 1982, file with the Dockets Management Branch (address above), written comments regarding this tentative final rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 30, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25643 Filed 9-16-82; 8:45 am]
BILLING CODE 4160-01-M

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21 CFR Part 184

[Docket No. 78N-0199]

GRAS Status of Pectins

Correction

In FR Doc. 82–21885 beginning on page 35242 in the issue of Friday, August 13, 1982, make the following correction:

On page 35243, middle column, in § 184.1775(a), in the fourth line from the bottom of the page, "The extract of filtered" should have read "The extract is filtered."

BILLING CODE: 1505-01-M

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21 CFR Parts 876 and 892

[Docket Nos. 78N–1990, 78N–2749, and 78N–2799]

Medical Devices; Proposed Rules for Device Classification; Withdrawal of Proposed Rules

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of proposed rules.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing proposed rules related to classification of a gastroenterology-urology device and two radiology devices to eliminate unnecessary regulations.

FOR FURTHER INFORMATION CONTACT: For gastroenterology-urology devices: Norman T. Welford, Bureau of Medical Devices (HFK–420), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7750, or

For radiology devices: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: In the Federal Register of January 23, 1981 (46 FR 7562 and 7582) and January 29, 1982 (47 FR 4406), FDA proposed that a gastroenterology-urology device and two radiology devices be classified. These actions were taken as part of the agency's overall implementation of the Medical Device Amendments of 1976 (the amendments) that established a system for the regulation of medical devices for human use. One provision of the amendments, section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), establishes three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness: class I (general controls), class II (performance standards), and class III (premarket

approval). The amendments also established a procedure for the agency to promulgate regulations classifying each generic type of device into one of these three classes. Persons who disagree with a final classification of a device may petition for reclassification of the device under Subpart C of Part 860 (21 CFR Part 860). Because the same generic type of device may be used in different medical specialty areas (anesthesiology, neurology, general and plastic surgery, etc.) under different names, the agency continues to consolidate its list of generic types of devices.

Docket No. 78N-1990; Circumcision Instrument

After publication of the proposal (46 FR 7562 and 7582; January 23, 1981) to classify the circumcision instrument as part of the gastroenterology-urology device classification processing, the agency determined that the circumcision instrument is essentially the same as another generic type of device, the circumcision clamp, that has been classified into class II as part of the classification proceeding for obstetrics-gynecology devices (21 CFR 884.4530).

The one comment received on the proposal to classify the circumcision instrument suggested that the device be classified into class I rather than class II as proposed. The comment stated that the skill of the user is more essential to the safe use of the device than its design or construction. FDA partially agrees with the comment regarding the need for skillful users but has determined that the device already has been properly classified into class II. A performance standard is necessary to assure the shape, surface finish, tensile strength, biocompatibility, and adequate labeling of the circumcision clamp.

The agency has determined that the circumcision instrument is essentially the same as the circumcision clamp. Accordingly, to avoid unnecessary device classification regulations, the agency withdraws the January 23, 1981 proposal to classify the circumcision instrument. The administrative record for the January 23, 1981 proposal shall be included in the administrative record (Docket No. 78N-1153) for the proceeding to classify the circumcision clamp into class II.

Docket No. 78N-2749; Radionuclide Generator

After publication of the proposal (47 FR 4406; January 29, 1982) to classify the radionuclide generator as part of the radiology device classification proceeding, the agency determined that the radionuclide generator is regulated as a radiopharmaceutical drug by FDA's National Center for Biologics and Drugs.

In response to the proposal to classify the radionuclide generator into class II as a device, FDA received several comments. The comments stated that the product is regulated appropriately and effectively as a radiopharmaceutical drug product and classification as a medical device is unnecessary. FDA agrees with the comments. The agency advises that a radionuclide generator, such as the Molybdenum-99/Technetium-99m generator, that produces a radionuclide intended for use in medical diagnosis or therapy is regulated as a drug. Accordingly, the agency withdraws the January 29, 1982 proposal classifying radionuclide generators into class II.

Docket No. 78N-2799; Automatic Contrast Medium Injector

After publication of the proposal (47 FR 4435; January 29, 1982) to classify the automatic contrast medium injector as part of the radiology device classification proceeding, the agency determined that the automatic contrast medium injector is essentially the same as another generic type of device, the angiographic injector and syringe, that has been classified into class II as part of the classification proceeding for cardiovascular devices (21 CFR 870.1650).

No comments were received on the proposal to classify the automatic contrast medium injector.

The agency has determined that the automatic contrast medium injector is essentially the same as, or is included in, the angiographic injector and syringe. Accordingly, to avoid unnecessary device classification regulations, the agency withdraws the January 29, 1982 proposal to classify the automatic contrast medium injector. The administrative record for the January 29, 1982 proposal shall be included in the administrative record (Docket No. 78N-1436) for the proceeding to classify the angiographic injector and syringe into Class II.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), the following proposals are withdrawn: Circumcision instrument (Docket No. 78N-1990) published January 23, 1981 and the radionuclide generator (Docket No. 78N-2749) and the automatic contrast medium injector (Docket No. 78N-2799) published January 29, 1982.

Dated: September 9, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25683 Filed 9-16-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1306

Dispensing Controlled Substances in Institutional Practitioner Emergency Rooms

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This is a proposal to amend Part 1306 of Title 21 of the Code of Federal Regulations to permit hospital emergency room personnel to dispense controlled substances to nonpatients when alternative pharmacy services are not available. Only persons authorized to dispense under state law would be permitted to dispense under the proposed regulation.

Under current DEA regulations only physicians, medical or other persons acting as agents or employees under their direct supervision, or pharmacists filling their prescriptions, may dispense controlled substances. A physician may not call a local hospital emergency room and ask that personnel there dispense controlled substances to a patient whom the physician is sending over for that purpose alone. DEA has received numerous comments from members of the medical community and from state regulatory agencies concerning this matter. This proposal seeks to remedy the situation.

DATE: Written comments and objections should be received on or before November 16, 1982.

ADDRESS: Comments and objections should be submitted in quintuplicate to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, Northwest, Washington, D.C. 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Ronald W. Buzzeo, Chief of Operations, Diversion Operations Section, Office of Diversion Control, Drug Enforcement Administration, 1405 I Street, Northwest, Washington, D.C. 20537, Telephone Number (202) 633-1321.

SUPPLEMENTARY INFORMATION: The issue of dispensing controlled

substances in hospital emergency rooms is not specifically addressed by regulation or official policy. Nevertheless, a reading of the relevant statutory and regulatory provisions, 21 U.S.C. 829 and 21 CFR 1306.06, does lead to the conclusion that hospital emergency room personnel cannot administer or dispense controlled substances to anyone other than their patients. This interpretation has restricted, with respect to controlled substances, what is otherwise a common practice in the medical community, particularly in rural areas where 24-hour pharmacy services are not available. To eliminate this problem, DEA proposes to permit hospital emergency room personnel to dispense controlled substances pursuant to prescriptions issued by practitioners outside the hospital, provided that certain conditions are met.

These conditions are as follows: First, the dispensing authorized by this regulation must be done by those permitted to do so under state law. Second, normal pharmacy services must not be available. It is not the intention of this regulation to substitute emergency services for those of pharmacies, where the latter are available to serve the needs of the community. Third, the outside physicians must be properly registered to authorize the dispensing of the medication in question and, finally, all Federal and state requirements for the issuing and filling of prescriptions and the maintenance of records thereon must be followed.

List of Subjects in 21 CFR Part 1306

Drug traffic control, Health professions, Hospitals, Prescription drugs.

Pursuant to Section 3(c)(3) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to this proposed rulemaking.

This regulatory amendment is intended to allow for the efficient dispensing of controlled substances in certain limited situations in which normal pharmacy services are unavailable. The Acting Administrator has considered the effect that this amendment will have upon entities such as pharmacies, physicians and hospitals, whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. It is anticipated that the impact upon any such entities affected will be positive. Accordingly, the Acting Administrator certifies that there will be no significant impact upon these entities.

PART 1306—PRESCRIPTIONS

Accordingly, pursuant to the authority vested in the Attorney General by 21 U.S.C. 821 and 871 and delegated to the Administrator of the Drug Enforcement Administration by regulations of the Department of Justice (28 CFR 0.100), the Acting Administrator hereby proposes that Title 21 of the Code of Federal Regulations, Part 1306 be amended as follows:

1. Section 1306.06 is revised to read as follows:

§ 1306.06 Persons to fill prescriptions.

A prescription for controlled substances may only be filled by:

(a) A pharmacist acting in the usual course of his professional practice and either employed in a registered pharmacy or employed in a registered institutional practitioner, or

(b) Emergency room medical personnel located within a facility registered as an institutional practitioner, if such personnel are so authorized in the jurisdiction in which they practice, and only if pharmacy services are not available. Controlled substances may only be dispensed pursuant to the prescription order of a properly registered practitioner. Requirements for filling such prescriptions are the same as those required of a pharmacist.

§§ 1306.03, 1306.04, 1306.05, 1306.11, 1306.13, 1306.14, 1306.21, 1306.22, 1306.24, 1306.31, 1306.32 [Amended]

2. In addition to the amendment set forth in 1 above, 21 CFR Part 1306 is amended by removing the word "pharmacist" and inserting, in its place, the phrase "individual authorized under Section 1306.06" in the following places:

(a) 1306.03(b).
(b) 1306.04(a).
(c) 1306.05(a).
(d) 1306.11(a) and (d).
(e) 1306.13(a) and (b).
(f) 1306.14(a) and (b).
(g) 1306.21(a) and (c).
(h) 1306.22(a) and (b).
(i) 1306.24(a) and (b).
(j) 1306.31(a) and (c).
(k) 1306.32(a), (d) and (e).

* * * * *

Dated: September 7, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-25040 Filed 9-16-82; 8:45 am]
BILLING CODE 4410-09-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[LR-23-82]

Withholding Social Security or Railroad Retirement Tax From Sick Pay; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to withholding social security or railroad retirement tax from sick pay.

DATES: The public hearing will be held on October 28, 1982, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by October 14, 1982.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-23-82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden, of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 3121 and 3231 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Tuesday, July 6, 1982 (47 FR 29266).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by October 14, 1982. Each speaker will be limited to 10 minutes for oral presentation exclusive of time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive for improving government regulations appearing in the **Federal Register** for Wednesday, Novermber 8, 1978.

By direction of the Commissioner of Internal Revenue.

Fred T. Goldberg, Jr.,

Acting Director, Legislation and Regulations Division.

[FR Doc. 82-25678 Filed 9-16-82; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 941

Surface Mining and Reclamation Operation Under a Federal Program for South Dakota

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of postponement of public hearing, and extension of public comment period.

SUMMARY: On August 10, 1982 (47 FR 34760), OSM published the proposed Federal program for the State of South Dakota for public comment that would regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Washington. OSM is extending the public comment period and postponing the public hearing for the convenience of commenters who have indicated that additional time is needed to adequately review and comment on the proposed Federal Program.

DATES:

Written Comments: The close of the comment period on the proposed Federal program is extended to 5:00 p.m. on October 12, 1982.

Public Hearing: The public hearing on the proposed Federal program has been changed from September 20, 1982, to October 5, 1982.

ADDRESSES:

Written Comments: Hand-delivered to the Office of Surface Mining, Wyoming State Office, Freden Bldg. 935 Pendell Blvd., Mills, Wyoming 82244, or mail to Administrative Record (R&I–25), Office of Surface Mining, Wyoming State Office, P.O. Box 1420, Mills, Wyoming 82644.

Public Hearing: Joe Foss Building, Room 216, Pierre, South Dakota 57201 beginning at 1:30 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, 202–343–5866.

Dated: September 16, 1982.

Donald Willen,

Acting Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 82-25859 Filed 9-16-82; 10:24 am]

BILLING CODE 4310-05-M

30 CFR Part 946

Cancellation of Public Hearing on Modified Portion of the Virginia Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Cancellation of public hearing.

SUMMARY: The Office of Surface Mining (OSM) is announcing the cancellation of a public hearing on the substantive adequacy of program amendments submitted by Virginia to satisfy 16 conditions imposed by the Secretary of the Interior on the approval of the Virginia permanent regulatory program (hereinafter referred to as the Virginia program) pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and 30 CFR 732.17.

This notice cancels the public hearing because no one expressed an interest in attending the hearing by September 10, 1982, but does not alter the time and location at which the Virginia program and proposed amendments are available for public inspection, or the comment period during which interested persons may submit written comments on the proposed program elements.

DATES: The following hearing is cancelled: The public hearing on the proposed amendments to the Virginia program, September 21, 1982.

ADDRESS: Written comments should be mailed or hand delivered to: Ralph Cox, Field Office Director, Virginia Field Office, Office of Surface Mining Reclamation and Enforcement, P.O. Box 626, Big Stone Gap, Virginia 24219.

Copies of the Virginia program, the proposed amendments to the program, a listing of scheduled public meetings, and all written comments are available for review at the OSM Offices and the Office of the State regulatory authority listed below, Monday through Friday 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of surface Mining Reclamation and Enforcement, Room 5315, 1100 "L" Street, NW., Washington, D.C.

Office of Surface Mining Reclamation and Enforcement, Highway 23, South, Big Stone Gap, Virginia 24219

Office of Surface Mining Reclamation and Enforcement, Flannagan and Carroll Streets, Lebanon, Virginia 24266

Virginia Division of Mined Land Reclamation, 620 Powell Avenue, Big Stone Gap, Virginia 24219

FOR FURTHER INFORMATION CONTACT: Ralph Cox, Field Office Director, Virginia Field Office, Office of Surface Mining, P.O. Box 626, Big Stone Gap, Virginia 24219, Telephone: (703) 523–4303.

SUPPLEMENTARY INFORMATION: On August 13, 1982, Virginia submitted promulgated revisions to the Virginia Coal Surface Mining Regulations to satisfy conditions (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (l), (m), (n), (o), (p) and (s) set by the Secretary in his conditional approval of the Virginia program (Administrative Record No. VA 411). Also, in the August 13, 1982 letter, Virginia submitted proposed revisions to the Virginia Coal Surface Mining Control and Reclamation Act and its regulations which are non-substantive corrections.

On August 30, 1982, notice of opportunity for public hearing on the proposed amendments to the Virginia program, was published in the **Federal Register** (47 FR 38150–38152). The notice stated that any person interested in making an oral or written presentation at the hearing should contact Mr. Cox by September 10, 1982, and that if no person contact Mr. Cox to express an interest in participating in the hearing by the above date, the hearing would be cancelled.

Because no one expressed an interest in attending the hearing by September 10, 1982, the hearing has been cancelled.

While there is no public hearing, interested persons may still submit written comments on the proposed program elements. Written comments not received on or before 4:00 p.m., or September 29, 1982, may not necessarily be considered in the Secretary's decision on whether the proposed amendments are acceptable.

Dated: September 15, 1982.

William B. Schmidt,

Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 82-25681 Filed 9-16-82; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2208-5]

Standards of Performance for New Stationary Sources; Metallic Mineral Processing Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Amended notice of public hearing and extension of public comment period.

SUMMARY: The public hearing has been postponed 14 days and the end of the public comment period extended 14 days for the proposed new source performance standards for metallic mineral processing plants. This will allow additional time for interested persons to review the background information document, for which there has been a 2-week delay in printing.

DATES: Written comments to be included in the record on the proposed standards must be postmarked no later than November 8, 1982. Persons wishing to present oral testimony must contact EPA by September 30. The public hearing will be held on October 7 beginning at 9:00 a.m.

ADDRESSES: Comments on the proposed standards should be submitted (in duplicate, if possible) to: Central Docket Section (A-130), Attention: Docket Number A-81-03, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

The public hearing will be held at the EPA Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons wishing to present oral testimony should notify Ms. Naomi Durkee, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

SUPPLEMENTARY INFORMATION: On August 24, 1982, EPA proposed in the **Federal Register** (47 FR 36859) new source performance standards for metallic mineral processing plants. In that notice, EPA announced the date ending the public comment period and the date and location of the public hearing to receive public comment on the proposed standards. This notice amends the date of the public hearing and extends the end of the public comment period.

The background information document has been printed in two volumes because of the length. Volume 1 contains Chapters 1-9 (EPA-450/3-81-009a) and Volume 2 contains the appendices (EPA-450/3-81-009b). Only the first document number was referenced in the August 24 **Federal Register**.

Dated: September 9, 1982.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 82-25628 Filed 9-16-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[A-5-FRL 2188-2]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: On January 12, 1982, the State of Ohio submitted a request to revise the attainment status designation for Lucas County, Ohio, relative to the total suspended particulate (TSP) National Ambient Air Quality Standard (NAAQS). The State requested that the TSP primary nonattainment area be reduced in size to include only the City of Toledo, east of the Maumee River and that the remainder of the County be designated attainment. EPA is proposing to approve this designation. The purpose of this notice is to notify the public of this proposed approval and solicit comments on this rulemaking action.

DATE: Comments must be received by October 18, 1982.

ADDRESSES: Copies of the redesignation request and supporting air quality data are available at the following addresses:

Environmental Protection Agency, Region V. Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Delores Sieja (312) 886-6038.

SUPPLEMENTARY INFORMATION: On January 12, 1982, the State of Ohio submitted a request to revise the attainment status designations for 15 counties relative to the TSP NAAQS. On June 9, 1982 (47 FR 25016) in a notice of final rulemaking, EPA: discussed its criteria for redesignation; discussed the monitoring data submitted by the State to support their 15 county redesignation request; and approved the redesignation request for the 15 counties. The approval included Lucas County in which the TSP primary nonattainment area was reduced in size to include only the City of Toledo, east of the Maumee River and the remainder of the County designated attainment.

In the approval notice, EPA advised the public that it was deferring the effective date of its approval until August 9, 1982. EPA announced that, if by July 9, 1982, it received notice that someone wanted to submit an adverse or critical comment it would withdraw its approval and begin a new rulemaking by proposing the action and establishing a 30 day comment period. EPA published a general notice explaining this special procedure on September 4, 1981 (46 FR 44477).

On July 8, 1982, EPA received notice that a member of the public wished to submit an adverse or critical comment on the approval of the Lucas County designation. Therefore, in accordance with the procedures described above, EPA is today (1) taking final action elsewhere in today's **Federal Register** to withdraw its June 9, 1982, approval of the Lucas County designation (the June 9, 1982, approval of the other 14 counties remains effective); and (2) in this notice is proposing to approve the Lucas County designation. A detailed description of EPA's rationale for proposing approval of the Lucas County designation are found at 47 FR 25016 (June 9, 1982). Interested parties are invited to submit comments on this proposed approval. EPA will consider all comments received within 30 days of publication of this notice.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. Section 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Clean Air Act, as amended (42 U.S.C. 7407))

Dated: August 4, 1982.

Alan Levin,

Acting Regional Administrator.

[FR Doc. 82-25635 Filed 9-16-82; 8:45 am]

BILLING CODE 6560-50-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order 1473 (Sub-1)]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed changes in reporting requirements.

SUMMARY: In a decision served January 27, 1982 [47 FR 4261, January 29, 1982], the Commission determined that interim service over lines of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), should be continued and that the compensation to be paid the Trustee for the use of Rock Island lines should be increased. In addition, the decision established reporting requirements for interim operators under Section 122 of the Rock Island Railroad Transition and Employee Assistance Act (RITEA) relating to the new compensation formula. This notice proposes changes in those reporting requirements and will allow interim operators to annualize their operating results under certain conditions.

The changes proposed should improve the ability of the operator to report results of its operations, increase the equity in the formula used to determine the amount of payments due the Trustee from the interim operator and enhance the prospect of continued rail service over Rock Island lines.

DATE: Information from all parties shall be filed by October 15, 1982.

ADDRESS: Fifteen copies of such documents shall be filed with the Secretary of the Commission, 12th and Constitution Ave. NW., Washington, DC 20423, and a copy served on the Rock Island. Rock Island shall serve a copy of its comments on any respondent providing comments on this notice and which serves its comments on the Rock Island. Each filing with the Commission shall have appearing in the lower left front corner of the envelope in large lettering—RSB–7115.

FOR FURTHER INFORMATION CONTACT: Melvin F. Clemens, Jr., (202) 275–1559.

SUPPLEMENTAL INFORMATION: Under Section 122 of the Rock Island Railroad Transition and Employee Assistance Act (RITEA), Pub. L. 96–254, we have been authorizing a number of carriers to provide service to shippers on Rock Island's lines. This is an interim measure designed, at least in part, to ensure continued transportation service pending the implemention of long-term solutions.

In a notice served September 21, 1981 [46 FR 47101, September 24, 1981], we indicated our intent to consider whether, and for how long, this service over Rock Island lines should be permitted to continue and the compensation formula to be applied, where the Rock Island and operating carriers have not agreed on a compensation amount, and requested carriers and interested parties to comment in this regard.

By decision served January 27, 1982, in Service Order No. 1473 and Service Order No. 1495 [1] [47 FR 4261, January 29, 1982], the Commission established a policy with respect to how long service over the Rock Island should be permitted to continue under the authority of Section 122 of RITEA. Further, the decision established the compensation to be paid to the Trustee for the use of Rock Island lines where interim operators utilizing those lines do not have a lease or purchase agreement with the Trustee. Essentially, the decision assured shippers that Section 122 authorities would continue without interruption at least until the Trustee provides the Commission and the public with a definitive statement describing his plans for carrying out the court ordered liquidation; and established the Rock Island Formula which replaced the Frisco Formula and set a new base for calculating compensation to be paid to the Trustee for the use of his property. The new formula assures the Trustee of a substantially higher rental rate, including additional compensation from net revenues derived from interim operations. The formula also establishes a reporting requirement to determine whether net revenues exist. It is this reporting, and the ultimate determination of net revenues, which is the subject of this notice.

Specifically, interim operations utilizing the Rock Island Formula are required to report to the Trustee and the Commission monthly by the 15th day following the month in which operations are performed. That reporting consists of an analysis of expenses and revenues solely attributable to the interim operations, sufficient to determine how much, if any, net revenue exists. The Rock Island Trustee is entitled to 14.4 percent of any net revenues as part of the monthly rental.

Two problems associated with the reporting have been brought to the Commission's attention by interim operators. The first is the reporting time limit. Reports are due to the Trustee and the Commission by the 15th day following the month in which operations are performed. The Norfolk and Western Railway (NW) has indicated that it is unable to complete its revenue accounting by the 15th of the month as required. Its reports thus far have reflected operational activity, in terms of numbers of cars handled, but do not reflect the associated revenues. NW further indicates that it will supplement its reports with a revenue statement as soon as possible. However, to date none has been received. Cadillac and Lake City Railway (CLK), another operator utilizing the Rock Island Formula, has been reporting reasonably on schedule. A third carrier, the North Central Oklahoma Railway (NCOK), is utilizing the formula for a portion of its operation, and to date has reported on its operations only through April 1982.

The interim operations of these three carriers are substantially different in scope and nature. In the case of NW, it is far more difficult for that carrier to identify the interim operations which are integrated into its system operations in terms of revenues and expenses solely attributable to those operations. Thus the delayed reporting. In the case of CLK and NCOK which both serve grain producing areas, the interim operations are their only rail operations and, therefore, a total accountability is considerably easier.

The second and more serious problem brought to our attention is that of coping with the seasonal nature of business on certain of the lines. In essence, an interim operator (most of which serve short unconnected line segments) may have to sustain a substantial loss in an off-season in order to survive until a more profitable time. This is especially true for operators in the grain producing areas.

With this in mind, it is proposed that carriers should be able to annualize revenues and expenses. To the extent that this occurs, the negative earnings or loss could be carried forward, thus permitting a more balanced revenue

[1] By April 30, 1982, the authorities for the Burlington Northern and Fort Worth and Denver in Service Order No. 1495 were substantially reduced and the order was vacated [47 FR 19150, May 4, 1982] and the remaining authorizations were included in Appendix A of Service Order No. 1473 at Items 26 and 27 [47 FR 18509, April 30, 1982].

picture and greater equity in applying the revenue related part of the formula. As proposed, the reporting requirement would remain unchanged with respect to traffic volumes, however, the accounting for the percentage of net revenues (14.4 percent) would occur annually. This annualization of expenses would be permitted only when operations are continuous and rental payments under the formula are current, and when a showing is made to the Commission's Railroad Service Board that there is a need for such authorization.

The changes proposed should improve the ability of the operator to report results of its operations, increase the equity in the formula used to determine the amount of payments due the Trustee from the interim operator and enhance the prospect of continued rail service over Rock Island lines. Further, we propose that the reporting requirements become a permanent part of the Service Order No. 1473, which authorizes the interim operations over the Rock Island.

In order for us to reexamine the reporting requirements, the various carriers utilizing the Rock Island Formula and authorized to provide service on the Rock Island in Forty-first Revised Service Order No. 1473 and any interested person (particularly shippers and communities on the lines) should file comments or provide information and argument relating to the necessity and appropriateness of such a change.

List of Subjects in 49 CFR Part 1033

Railroads.

Dated: September 10, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25524 Filed 9-16-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Notice of Withdrawal of an Expired Proposal for Listing of the U.S. Populations of the Thick-Billed Parrot, Short-Tailed Albatross, Margay Cat, and Jaguar

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of withdrawal of an expired proposed rule.

SUMMARY: As amended November 10, 1978, the Endangered Species Act mandates withdrawal of proposed rules to list species which have not been finalized within 2 years of the proposal. The time limit has expired for the proposed rulemaking regarding the U.S. populations of the thick-billed parrot (*Rhynchopsitta pachyrhynchus*), short-tailed albatross (*Diomedea albatrus*), margay cat (*Felis wiedii*), and jaguar (*Pantheraonca*), which were orginally proposed for listing as Endangered on July 25, 1980 (45 FR 49844–47). The listing of the U.S. population of the ocelot (*Felis pardalis*), which was proposed at the same time as the above species, was finalized on July 21, 1982 (47 FR 31670–72). This notice constitutes the formal withdrawal of the listing proposal for the U.S. populations of the thick-billed parrot, short-tailed albatross, margay cat, and jaguar.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr. Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background. Section 4(f)(5) of the Endangered Species Act of 1973, as amended November 10, 1978, states that:

> A final regulation adding a species to any list published pursuant to Subsection (c) shall be published in the **Federal Register** not later than 2 years after date of publication of notice of the regulation proposing listing under paragraph (B)(i)(1). If a final regulation is not adopted within such 2 year period, the Secretary shall withdraw the proposed regulation and shall publish notice of such withdrawal in the **Federal Register** not later than 30 days after the end of such period.

The 2 year time limit on proposals which was established in this section has expired for the U.S. populations of the thick-billed parrot, short-tailed albatross, margay cat, and jaguar, which were proposed for listing on July 25, 1980 (45 FR 49844–47). In accordance with Section 4(f)(5), this notice officially withdraws the proposed rulemaking to list these species as Endangered.

This notice is issued under the authority contained in the endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.; 87 Stat. 884; 92 St. 3751).

The primary author of this notice is John L Paradiso, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

Dated: August 13, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-25660 Filed 9-16-82; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 47, No. 181
Friday, September 17, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

Elkton Livestock Auction, Inc., Elkton, Ohio; Correction

On July 26, 1982, a notice was published in the **Federal Register** (47 FR 32177) giving notice of the proposed posting for certain stockyards listing their facility no., name and location of stockyards.

This notice is to correct the facility no. assigned to Elkton Livestock Auction, Inc., Elkton, Ohio.

The notice should have read:

OH-148 Elkton Livestock Auction, Inc., Elkton, Ohio

Done at Washington, D.C. this 13th day of September 1982.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 82-25667 Filed 9-16-82; 8:45 am]
BILLING CODE 3410-02-M

Tripp Livestock Market, Tripp, South Dakota; Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

Facility No.	Name and location of stockyard	Date of Posting
SD-167	Tripp Livestock Market, Tripp, South Dakota.	Aug. 16, 1982.
TX-320	Van Alstyne Livestock Commission, Inc., Van Alstyne, Texas.	Aug. 13, 1982.
TX-326	O K Auction Co., Breckenridge, Texas.	Aug. 7, 1982.
VA-155	Abingdon Livestock Market, Abingdon, Virginia.	Aug. 16, 1982.

Done at Washington, D.C., this 13th day of September 1982.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 82-25666 Filed 9-16-82; 8:45 am]
BILLING CODE 3410-02-M

Rural Electrification Administration

Soyland Power Cooperative, Inc.; Final Environmental Impact Statement

AGENCY: Rural Electrification Administration (REA), USDA.

ACTION: Availability of Final Environmental Impact Statement (FEIS).

SUMMARY: REA has prepared a FEIS in connection with potential financing assistance to Soyland Power Cooperative, Inc., (Soyland) P.O. Box A1606, Decatur, Illinois 62525, for construction of a 450 MW coal-fired generating facility, 138 kV and 345 kV transmission lines and related facilities.

FOR FURTHER INFORMATION CONTACT: Mr. Frank W. Bennett, Director, Power Supply Division, Rural Electrification Administration, 14th St., and Independence Ave., SW., Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: In connection with the project described above, REA has prepared a FEIS. The FEIS may be examined during regular business hours at the following locations and at local libraries in the project area.

Rural Electrification Administration, USDA, 14th St., and Independence Ave., SW., Room 0230, Washington, D.C.

Soyland Power Cooperative, 675 Imboden Drive, Decatur, Illinois

The alternatives considered in the FEIS are no action, purchasing additional power from existing sources, alternative energy sources, energy conservation and load management, alternative transmission line corridors, and alternative construction methods.

The alternative sites for the project were Pike County near Florence, Wabash County near Mt. Carmel and Randolph County near Evansville, all in Illinois.

The preferred alternative is the construction of a coal-fired generating facility to be located on the west bluffs of the Illinois River in Pike County, south of Florence, Illinois. The project consists of a 450 MW (net) coal-fired generating unit scheduled for operation in summer of 1987 and ancillary facilities. The proposed electric transmission associated with this proposed plant involves two 345 kV lines and one 138 kV line. One of the 345 kV lines and the 138 kV line would be constructed on a double circuit tower line 16.1 km (10 mi) east from the Pike County Site to an existing substation in the vicinity of Winchester, Illinois, where the 138 kV line will terminate. The 345 kV line will continue east for another 72.4 km (45 mi) and terminate at an existing substation at Pawnee, Illinois. The second 345 kV line will be constructed 25.7 km (16 mi) north from the Pike County Plant to a proposed substation in the vicinity of Chambersburg, then west for 61.1 km (38 mi) to a proposed substation in the area southeast of Quincy, Illinois, and then 17.7 km (11 mi) southwest to terminate at an existing substation at Palmyra, Missouri.

Transmission line structures may be constructed in the floodplains of the Mississippi and Illinois Rivers. REA has concluded that there is not practicable alternative to crossing the floodplain. Further information concerning this matter can be found in the FEIS.

Copies of the FEIS have been sent to various Federal, State and local agencies as outlined in the Council on Environmental Quality regulations. The FEIS is available upon request to: Mr. Frank W. Bennett, Director, Power Supply Division, at the address above.

Final REA action concerning the project, including any release of funds for construction, will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and compliance with the National Environmental Policy Act of 1969, and with other environmentally related statutes,

regulations, Executive Orders, and Secretary's Memoranda.

The Federal assistance program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: September 13, 1982.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82-25663 Filed 9-16-82; 8:45 am]

BILLING CODE 3410-15-M

Office of the Secretary

White or Irish Potato Production

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Estimates with respect to 1982 white or Irish potato production Headnote 2 of Subpart A of Part 8 Schedule 1 of the Tariff Schedules of the United States (TSUS) provides that, if for any calendar year the production in the United States of white or Irish potatoes, including seed potatoes, according to the estimate of the Department of Agriculture made as of September 1, is less than 21 billion pounds, an additional quantity of potatoes equal to the amount by which such estimated production is less than 21 billion pounds shall be added to the 45 million pounds for which duty at 36.5 cents per 100 pounds is provided by TSUS item 137.25 for the 12-month period beginning September 15.

The estimate of the Department of Agriculture, made as of September 1, 1982, is that for the calendar year 1982 the production in the United States of white or Irish potatoes, including seed potatoes, will exceed 21 billion pounds.

Issued at Washington, D.C. this 14th day of September 1982.

Richard E. Lyng,

Acting Secretary of Agriculture.

[FR Doc. 82-25632 Filed 9-14-82; 3:30 pm]

BILLING CODE 3410-01-M

Soil Conservation Service

Berry-Smith Group Irrigation RC&D Measure, South Carolina

AGENCY: Soil Conservation Service.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Berry-Smith Group Irrigation RC&D Measure, Edgefield County, South Carolina.

FOR FURTHER INFORMATION CONTACT: George E. Huey, State Conservationist, Soil Conservation Service, 1835 Assembly Street, Room 950, Columbia, South Carolina 29201, telephone (803-765-5681).

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, George E. Huey, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for the construction of a small water supply reservoir to provide irrigation. The planned works of improvement include a small water supply reservoir.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting George E. Huey.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

G. E. Huey,

State Conservationist.

September 9, 1982.

[FR Doc. 82-25481 Filed 9-16-82; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Applications for Certifcates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See, 14 CFR 302.1701 et seq.); Week Ended September 10, 1982

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Sept. 7, 1982	40966	Bidzy Ta Hot' Aana, Inc. d/b/a/ Tanana Air Service, c/o John B. Patterson, Strachan, Kelly & Patterson, 310 K Street, Suite 407, Anchorage, Alaska 99501. Application of Bidzy Ta Hot' AAna d/b/a/ Tanana Air Service, pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests issuance of a certificate of public convenience and necessity which would authorize it to engage in scheduled air transportation of passengers, property, and mail as follows between: Fairbanks Nenana Manley Hot Springs Minto Rampart Tanana Conforming Applications, motions to modify scope, and Answers may be filed by October 5, 1982.
Sept. 7, 1982	40970	Altair Airlines, Inc., c/o James M. Burger, Shaw, Pittman, Potts & Trowbridge, Suite 900 South, 1800 M Street, N.W., Washington, D.C. 20036. Application of Altair Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests authority to provide scheduled foreign air transportation of persons, property, and mail as follows: Between a point or points in the United States and a point or points in the Bahamas.

Date filed	Docket No.	Description
		Conforming Applications, motions to modify scope, and Answers may be filed by October 5, 1982.
Sept. 8, 1982	40972	Western Air Lines, Inc., P.O. Box 92005, World Way Postal Center, Los Angeles, California 90009. Application of Western Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests an amendment of its certificate of public convenience and necessity for Route 152 authorizing it to engage in foreign air transportation with respect to persons, property and mail: Between the terminal point Los Angeles, California, and the coterminal points Puerto Vallarta and Mazatlan, Mexico. Western requests it be authorized to integrate this new authority with its other Mexico authority on Route 152 subject, to such route authority integration being consistent with applicable local regulations and bilateral agreements. Conforming Applications, motions to modify scope, and Answers may be filed by October 6, 1982.
Sept. 8, 1982	40975	Northern Air Cargo, Inc., c/o William J. Miller, Bill Miller Associates, Suite 301, 1341 G Street, N.W., Washington, D.C. 20005. Application of Northern Air Cargo, Inc. pursuant to Section 401 of the Act, and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity for an indefinite term to engage in unrestricted interstate air transportation of property and mail in all-cargo service within the State of Alaska between and among the terminal point Adak, Alaska, the 160 intermediate points listed in Exhibit B (Proposed Service Area) and the terminal point Yakutat, Alaska. Conforming Applications, motions to modify scope, and Answers may be filed by October 6, 1982.
Sept. 9, 1982	40976	Transamerica Airlines, Inc., c/o Jeffrey A. Manley, Burwell, Hansen, Manley & Peters, 1706 New Hampshire Avenue, N.W., Washington, D.C. 20009. Conforming Application of Transamerica Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, with respect to the application of Capitol Air, Inc., Docket 40921. Transamerica requests issuance of a certificate of public convenience and necessity to engage in foreign air transportation of persons, property and mail, as follows: Between the terminal point Miami, Florida, and the terminal point London, United Kingdom. Answers may be filed by September 23, 1982.
Sept. 10, 1982	40979	Continental Air Lines, Inc. and Texas International Airlines, Inc., c/o Emory N. Ellis, Fulbright & Jaworski, 1150 Connecticut Avenue, N.W., Washington, D.C. 20036. Joint Application of Continental Air Lines, Inc. and Texas International Airlines, Inc. apply to the Board for coextensive certificates for routes between the United States and Mexico. Conforming Applications, motions to modify scope, and Answers may be filed by October 8, 1982.
Sept. 7, 1982	40822	Northeastern International Airways, Inc., c/o James Lawrence Smith, 1600 S.E. 10th Terrace, Ft. Lauderdale, Florida 33316. Amendment No. 1 to the Application of Northeastern International Airways, Inc. amends its application in the following respects: 1. Section I, paragraph 3 is amended to read as follows: "Northeastern hereby requests authorization to provide scheduled air transportation of persons, property and mail (a) 'Between the terminal point Albany, New York and the terminal point Montreal, Canada; and (b) 'Between the terminal point Erie, Pennsylvania and the terminal point Toronto, Canada' subject to such terms, conditions and limitations as the Board may find required by the Public Convenience and Necessity." 2. Section I, paragraph 9 is amended as follows: "The number 1,600,000 is deleted and the number 1,554,400 is inserted in lieu thereof." 3. Section II, paragraph 3 is amended as follows: "The number 1,600,000 is deleted and the number 1,554,400 is inserted in lieu thereof." 4. Revised Exhibit A is substituted for Exhibit A. Answers may be filed by October 5, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-25668 Filed 9-16-82; 8:45 am]
BILLING CODE 6320-01-M

[Order 82-9-40]

Fitness Determination of Grand Canyon Airlines, Inc.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 82-9-40, Order To Show Cause.

SUMMARY: The Board is proposing to find that Grand Canyon Airlines, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service will conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than October 4, 1982, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to Order 82-9-40.

FOR FURTHER INFORMATION CONTACT: Ms. Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5088.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-9-40 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-9-40 to that address.

By the Civil Aeronautics Board, September 14, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-25669 Filed 9-16-82; 8:45 am]
BILLING CODE 6320-01-M

Order Concerning Mail Rates

Order 82-9-41, September 14, 1982, establishes temporary intra-Alaska service mail rates for SouthCentral Air, Inc. and Yute Air Alaska, Inc. at the same level as those authorized for other intra-Alaska carriers by Order 80-12-152, 46 FR 2156.

Copies of the order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington Metropolitan area may send a postcard request.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-25670 Filed 9-16-82; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is consolidated decision on applications for duty-free entry of scientific articles published pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-561, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097, Statutory Import

Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Decision: Applications Denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles for such purposes as the foreign articles are intended to be used are not being manufactured in the United States.

Reasons: The requirements for the resubmission of applications that have been denied without prejudice to resubmission are contained in § 301.5(e) of the regulations. Each of the applicants has failed to resubmit its application within the specified time period. Pursuant to § 301.5(e)(4), this failure shall result in a denial of the application.

In accordance with § 301.5(f), notice of these decisions is forwarded to the **Federal Register** for publication.

Docket No. 81–00210. Applicant: Solar Energy Research Institute, 1617 Cole Blvd., Golden, Colorado 80401. ARTICLE: Scanning Electron Microscope, Model JSM 35C with Accessories. Date of denial without prejudice to resubmission: March 30, 1982.

Docket No. 81–00233. Applicant: Wilkes-Barre General Hospital, River & Auburn Streets, Wilkes-Barre, PA 18764. ARTICLE: Therac 20/Saturne Linear Accelerator with Accessories. Date of denial without prejudice to resubmission: March 11, 1982.

Docket No. 81–00236. Applicant: University of California, Los Angeles, 405 Hilgard Avenue, Los Angeles, CA 90024. ARTICLE: Treatment Planning System, Model TP 11/44. Date of denial without prejudice to resubmission: March 11, 1982.

Docket No. 81–00251. Applicant: Michigan Technological University, Department of Metallurgical Engineering, Houghton, MI 49931. ARTICLE: Axiomat Optical Microscope with Accessories. Date of denial without prejudice to resubmission: March 26, 1982.

Docket No. 81–00252. Applicant: University of California, Lawrence Livermore National Laboratory, P.O. Box 5012, Livermore, CA 94550. ARTICLE: Scanning Electron Microscope, Model S250–TP with Accessories. Date of denial without prejudice to resubmission: March 31, 1982.

Docket No. 81–00256. Applicant: National Jewish Hospital/Research Center, 3800 East Colfax Avenue, Denver, Colorado 80206. ARTICLE: Custom Electronic Circuits. Date of denial without prejudice to resubmission: March 29, 1982.

Docket No. 81–00290. Applicant: Sandia National Laboratories, P.O. Box 5800, Kirtland Air Force Base, Albuquerque, NM 87185. ARTICLE: Cinetheodolite Accessory Equipment. Date of denial without prejudice to resubmission: March 29, 1982.

Docket No. 81–00311. Applicant: Providence Hospital, 3200 Providence Drive, Pouch 6604, Anchorage, AK 95502. ARTICLE: Therac 20/Saturne Linear Accelerator with Accessories. Date of denial without prejudice to resubmission: March 11, 1982.

Docket No. 81–00325. Applicant: University of Rochester, Laboratory for Laser Energetics, 250 East River Road, Rochester, NY 14623. ARTICLE: Neodymium Doped Laser Rods. Date of denial without prejudice to resubmission: March 31, 1982.

Docket No. 81–00341. Applicant: Medical College of Wisconsin, National Biomedical ESR Center, 8701 Watertown Plank Road, P.O. Box 26509, Milwaukee, Wisconsin 53226. ARTICLE: Laser Energy Meter with Accessories. Date of denial without prejudice to resubmission: March 26, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Porgrams Staff.

[FR Doc. 82–25656 Filed 9–16–82; 8:45 am]

BILLING CODE 3510–25–M

Duke University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82–00192. Applicant: Duke University, Marine Laboratory, Pivers Island, Beaufort, NC 28516. Article: Lipoprep Apparatus, 110 Volts AC, 60 Hz. Manufacturer: Dianorm-Gerate, West Germany. Intended use of article: See Notice on page 27389 in the **Federal Register** of June 24, 1982.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides for the formation of uniform vesicles of different sizes in the range of 25 to 200 nanometers and uniform composition. The Department of Health and Human Services advises in its memorandum dated July 20, 1982 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82–25660 Filed 9–16–82; 8:45 am]

BILLING CODE 3510–25–M

Initiation of Antidumping Investigation; Shop Towels of Cotton From the People's Republic of China

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether shop towels of cotton from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this merchandise are materially injuring, or threatening to materially injure, a United States industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before October 11, 1982, and we will make ours on or before January 31, 1983.

EFFECTIVE DATE: September 17, 1982.

FOR FURTHER INFORMATION CONTACT: Lou Apple, Office of Investigation, Import Administration, International

Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 377–3962.

The Petition

On August 24, 1982, we received a petition from counsel for Milliken and Company on behalf of all United States producers of shop towels. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from the PRC are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a United States industry. The allegation of sales at less than fair value is supported by comparisons of United States prices (based on quoted prices adjusted for freight, brokerage fees, insurance, bonding, cartage and U.S. tariffs) on sales of this merchandise from the PRC with a constructed value based on U.S. production costs adjusted to match the estimated PRC cost structure.

Initiation of Investigation

Under section 732(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1673a) (the Act), we must determine, within 20 days after the petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition filed by the industry, and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping dumping investigation to determine whether shop towels from the People's Republic of China are being, or are likely to be, sold at less than fair value in the United States. If our investigation proceeds normally, we will make our preliminary determination by February 1, 1983.

Scope of the Investigation

The merchandise covered by this investigation is shop towels of cotton from the People's Republic of China which are currently classified under item number 366.2740, and which falls within Textile and Apparel Category 369, of the Tariff Schedules of the United States (TSUS). Shop towels are generally used for wiping in industrial and commercial facilities. Although some towels in the market may contain as much as 40% acrylic in a cotton-acrylic blend, virtually all shop towels imported from the PRC are made from 100% woven cotton fabric.

Notification to ITC

Section 732(d) of the Act requires us to notify the United States International Trade Commission of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all non-privileged and non-confidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination By ITC

The ITC will determine within 45 days whether there is a reasonable indication that imports of shop towels from the People's Republic of China are materially injuring, or are likely to materially injure, a United States industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 13, 1982.

[FR Doc. 82–25654 Filed 9–16–82; 8:45 am]

BILLING CODE 3510–25–M

National Radio Astronomy Observatory; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82–00166. Applicant: National Radio Astronomy Observatory, Associated Universities, Inc., 2010 N. Forbes Blvd., Suite 100, Tucson, AZ 85745. Article: Repair of Klystron VRB2113OA40, SN 0603G8. Manufacturer: Varian Canada, Inc., Canada. Intended use of article: See Notice on page 21905 in the Federal Register of May 20, 1982.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides a frequency range of 80–110 gigahertz. The National Bureau of Standards advises in its memorandum dated July 22, 1982 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82–25657 Filed 9–16–82; 8:45 am]

BILLING CODE 3510–25–M

North Carolina State University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Wasington, D.C. 20230.

Docket No. 82–00193. Applicant: North Carolina State University, Purchasing Department, Box 5935, Raleigh, NC 27650. Article: Digital Oxygen Electrode System. Manufacturer: Rank Brothers, United Kingdom. Intended use of article: See Notice on page 27380 in the Federal Register of June 24, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides magnetic stirring, temperature control, and continuous digital measurements on very small samples. The Department of Health and Human Services advises in its memorandum dated July 20, 1982 that (1) the capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-25661 Filed 9-16-82; 8:45 am]

BILLING CODE 3510-25-M

[A-401-040-003]

Stainless Steel Plate From Sweden; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On April 19, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on stainless steel plate from Sweden. The review covers one of the two known exporters of this merchandise to the United States, Uddeholm/Nyby Uddeholm AB, and the period January 1, 1980 through May 31, 1980.

Interested parties were given an opportunity to submit oral or written comments. One domestic party submitted written comments. As a result of our analysis of the comments we have made no changes in the final results from those contained in our preliminary results of review.

EFFECTIVE DATE: September 17, 1982.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3601).

SUPPLEMENTARY INFORMATION:

Background

On June 8, 1973, a dumping finding with respect to stainless steel plate from Sweden was published in the Federal Register as Treasury Decision 73-157 (38 FR 15079). On April 19, 1982, the Department of Commerce ("the Department") published in the Federal Register the preliminary results of its administrative review of the finding (47 FR 16666). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of stainless steel plate which is commonly used in scientific and industrial equipment because of its resistance to staining, rusting and pitting. Stainless steel plate is currently classifiable under item 607.9005 of the Tariff Schedules of the United States Annotated (TSUSA).

The review covers one of the two known firms exporting stainless steel plate to the United States, Uddeholm/Nyby Uddeholm AB ("Uddeholm"), and the period January 1, 1980 through May 31, 1980. The Department will cover shipments by Uddeholm in earlier periods, unreviewed by the Treasury Department, in a subsequent review.

Analysis of Comments Received

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. We received the following written comments from the petitioner, Jessop Steel Company ("Jessop").

(1) Comment: Jessop informed the Department that the notice of preliminary results erroneously stated that Uddeholm no longer shipped stainless steel plate to the United States.

Position

The Department agrees with this statement. The Department corroborated that Uddeholm continues to make infrequent shipments on a special order basis.

(2) Comment: Jessop contended that the adjustment to the U.S. price for "landed costs" was understated.

Position

The Department is satisfied, based on its receipt of supporting documentation, that Uddeholm submitted accurate information.

(3) Comment:

Jessop contended that adjustments to the U.S. price for selling expenses were understated and that comparable home market selling expenses were overstated.

Position

The Department has no evidence, and none has been submitted by Jessop, to support the above allegation.

Final Results of the Review

As a result of our analysis of the comments received, the final results of our review are the same as those presented in our preliminary reults of review, and we determine that no margins exist for sales during the review period.

Because there are no margins for the review period, the Department shall not require a cash deposit of estimated antidumping duties, as provided for in § 353.48(b) of the Commerce Regulations, on shipments of stainless steel plate manufactured and exported by Uddeholm entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For any shipment from a new exporter not covered in this administrative review, unrelated to the covered firm, a cash deposit shall be required at the rate for the other exporter, Avesta Jernverks Aktiebolag, of 5.22 percent. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin the next administrative review immediately after publication of this notice. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with sections 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 10, 1982.

[FR Doc. 82-25658 Filed 9-16-82; 8:45 am]

BILLING CODE 3510-25-M

State University of New York at Stony Brook; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82–00126. Applicant: State University of New York at Stony Brook, Stony Brook, N.Y. 11794. Article: Temperature-Jump Spectrophotometer System. Manufacturer: Dialog, Gesellschaft Fur Digital-Analoge Datentechnik GMBH, West Germany. Intended Use of Article: See Notice on page 15819 in the **Federal Register** of April 13, 1982.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such pruposes as this instrument is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides a sensitivity of 10^{-5} to 10^{-4} absorbance units and a response time of one to two microseconds. The Department of Health and Human Services advises in its memorandum dated June 10, 1982 that (1) the capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-25668 Filed 9-16-82; 8:45 am]

BILLING CODE 3510-25-M

University of Hawaii at Manoa; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC. 20230.

Docket No. 82–00190. Applicant: University of Hawaii at Manoa, Procurement and Property Management Office, Bachman Hall Annex #3, 2444 Dole Street, Honolulu, Hawaii 96822. Article: Miniature Propeller Flowmeter. Manufacturer: Delft Hydraulic Laboratory, The Netherland. Intended Use of Article: See Notice of page 27389 in the **Federal Register** of June 24, 1982.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides for the measuring of rapidly varying currents in a wave flume and current direction (positive and negative). The National Bureau of Standards advises in its memorandum dated August 5, 1982 that (1) the capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-25669 Filed 9-16-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Civil Remote Sensing Satellites; Request for Information and Notice of Meeting

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Request for Information/Notice of meeting.

SUMMARY: The Secretary of Commerce is requesting the views of private industry with regard to the nation's civil remote sensing satellites. A request for information was published in the *Commerce Business Daily* on September 10, 1982.

DATE: A conference for industry will be held at 9:30 a.m. on September 17, 1982.

ADDRESS: Room 4830 of the Herbert C. Hoover Building (formerly the Commerce Building), 14th and Constitution Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. John H. Mc Elroy, Assistant Administrator for Satellites, National Earth Satellite Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20233 (202–763–5240).

SUPPLEMENTARY INFORMATION: Preamble to *Commerce Business Daily* Notice. It is the policy of this Administration to seek commercialization of Governmental activities which are not uniquely Governmental in nature since private enterprise is the primary source of our national economic strength.

The United States Government currently operates civil satellite systems to collect and disseminate remotely sensed weather and land satellite data. This data is used by numerous departments and agencies to perform Government services and is used by the private sector to extract information valuable in that sector. Civil satellite remote sensing is an activity which has a potential for substantially greater commercialization. Private entities have expressed interest in providing the remotely sensed satellite data that is needed by the Government and non-Government users on a commercial basis. The Land Remote Sensing Advisory Committee is currently soliciting other expressions of interest from the private sector for ownership and/or operation.

While it is the current policy of the Administration to seek prompt commercialization of land satellite remote sensing and to retain the civil

weather satellites in the Government, that policy will be reexamined if commercialization of both systems is shown to produce cost savings to Federal agencies.

The Secretary of Commerce is examining two issues with regard to the nation's civil remote sensing satellites:

1. What is the best mechanism to implement the current policy of transfer of civil land remote sensing systems (LANDSAT) to the private sector as soon as possible?

2. Should the Administration consider simultaneously private sector transfer of both civil weather and land remote sensing systems? (At this time, Administration policy is that civil weather satellite systems should remain in the Government.)

To assist in the process, the Secretary is requesting that the views of private industry be obtained. These views will be analyzed by the Administration and its advisory committee. This committee includes private sector representatives. Based in part on the results of this process, it is planned that a formal Request for Proposals will be prepared.

Private sector representatives are invited to present their views and expressions of interest on ownership and/or operation of the land and weather satellites and the likelihood of Government savings in either mode and the mechanisms for transfer of these systems to the private sector. All or part of the information provided will be treated as confidential to the extent permitted by law. Offerors should clearly mark those pages of their response that contain proprietary information. The response may include both, either, or any part of either system. The desired information includes:

1. A statement of the recommendations and rationale for transfer of all or any part of these satellite systems.

2. A discussion of the technical and business aspects of any proposed transfer, with particular emphasis on continuity of service and the cost savings to the Government.

3. A description of the terms and conditions that are necessary for a successful transfer. This should include, but not necessarily be limited to:

a. Any desirable or undesirable Government regulation.

b. Any need for legislation.

c. Use of Government facilities, ground stations, and equipment.

d. Services to be provided to the Government and public.

e. Time frame in which transfer is considered feasible.

4. A description of the proposed remote sensing system and its capabilities (area of coverage, spatial resolution, sensor frequency bands, interval between repeat coverages of a ground site, etc.), including plans regarding direct transmission of data of foreign ground stations and distribution of data to international and domestic customers.

5. Anticipated evolutaion of new or improved sensing capabilities under the proposed transfer, and recommendations for a means to assure that evolution in any contractual or regulatory vehicle.

6. Response to foreign competition and its effects.

7. Potential for commercial international joint ventures in remote sensing and their implications in the areas of export control and national security.

8. If transfer is recommended for all or part of the civil weather satellite systems, information should be supplied on:

a. Assumption of command and control by the Department of Defense in emergencies.

b. Effect of providing selected priority service to defense needs when required.

c. Feasibility and savings associated with combining weather and land satellite functions (space and/or ground segment), and recommendation.

d. Use of existing Government facilities, ground stations, and equipment inventory.

e. Use of existing industry facilities, ground stations, and equipment inventory.

f. Proposed criteria for launching replacement satellites and selection of orbital parameters.

g. Weather satellite service costs under the proposed transfer to permit comparisons with current costs.

h. A statment of the pricing and data distribution practice (domestically and internationally) that would be employed for weather data.

i. Intended approach to the evolution of sensor systems still in an R&D stage, such as the VAS on the geostationary weather satellites.

j. Approach to be used with foreign-supplied instruments, such as the ARGOS and SSU on the polar-orbiting weather satellites.

k. Approach to respond to the National Weather Service priorities for severe storm data (National Severe Storms Forecast Center in Kansas City and National Hurricane Center in Miami) and for major forecast operations (National Meteorological Center in Camp Springs, Maryland).

A briefing package on civil remote sensing satellites has been prepared and interested parties may obtain it from Mr. Robert L. Birchfield, Director of Resources and Management Services, National Earth Satellite Service/NOAA, Washington, D.C. 20233. His telephone number is (301) 763-2690. Firms planning to attend the conference should notify Mr. Robert L. Birchfield of their intent and the number of persons attending.

Offerors should submit 25 copies of their response to Dr. John H. McElroy, Assistant Administrator for Satellites, National Earth Satellite Service/NOAA, Washington, D.C. 20233, no later than October 22, 1982. This request for information does not commit the Government to pay any costs incurred for the preparation of a response.

Queries may be addressed to either of the above.

This request for information is not subject to the normal clearance functions required in Sec. 3506(c)(5) of P.L. 96-511 (Paperwork Reduction Act).

John H. McElroy,

Assistant Administrator for Satellites, National Oceanic and Atmospheric Administration.

[FR Doc. 82-25644 Filed 9-16-82; 8:45 am]
BILLING CODE 3510-22-M

Travel and Tourism Administration

Travel and Tourism Advisory Board; Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976) notice is hereby given that the Travel and Tourism Advisory Board of the U.S. Department of Commerce will meet on October 7, 1982, at 10:45 a.m., in Room 5859 of the Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Established March 19, 1982, the Travel and Tourism Advisory Board consists of 15 members, representing the major segments of the travel and tourism industry and state tourism interests, and includes one member of a travel labor organization, a consumer advocate, an academician and a financial expert.

Members advise the Secretary of Commerce on matters pertinent to the Department's responsibilities to accomplish the purpose of the National Tourism Policy Act (Pub. L. 97-63), and provide guidance to the Assistant Secretary for Tourism marketing in the preparation of annual marketing plans. A detailed agenda will be published in the **Federal Register** in advance of the meeting.

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with

the Committee before or after the meeting. To the extent time is available, the presentation of oral statements is allowed.

Christine Hathaway, Committee Control Officer, United States Travel and Tourism Administration, Room 1865, U.S. Department of Commerce, Washington, D.C. 20230 (telephone: 202–377–0136) will respond to public requests for information about the meeting.

Peter McCoy,

Under Secretary for Travel and Tourism, Department of Commerce.

[FR Doc. 82-25853 Filed 9-16-82; 8:45 am]

BILLING CODE 3510-11-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1982, Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1982 commodities to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

Comments must be received on or before: October 20, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION:

This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1982, November 12, 1981 (46 FR 55740):

Class 7520

Stand, Calendar Pad
7520–00–162–6156
(GSA Regions 4 through 10)

Class 8455

Scarf, Branch of Service, Camouflage
8455–01–078–0745

Class 8465

Binding Assembly, Snowshoe Universal
8465–00–965–2175

SIC 7349

Janitorial Service
Scotia Depot Complex
Buildings 2, 3, 12, 13, 14, 22
Scotia, New York

C. W. Fletcher,

Executive Director.

[FR Doc. 82-25854 Filed 9-16-82; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1982; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1982 commodities to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: September 17, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

On May 21, 1982, July 9, 1982, and March 19, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (47 FR 22141, 47 FR 29870, and 47 FR 11918) of proposed additions to Procurement List 1982, November 12, 1981 (46 FR 55740).

After consideration of the revelant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1982:

Class 6532

Gown, Hospital
6532–00–104–9895

Class 7530

Jacket, Filing, Wallet
7530–00–285–2915

Class 8105

Coin Bags
Size 9 (11 x 17¼")
8105–00–NSH–0005 (1 cent)
8105–00–NSH–0006 (5 cents)
8105–00–NSH–0008 (unmarked)
Size 1 (12¼ x 19")
8105–00–NSH–0009 (10 cents)
8105–00–NSH–0010 (25 cents)
8105–00–NSH–0011 (50 cents)
8105–00–NSH–0012 (unmarked)
(50% of the Government's requirement for the above items)

C. W. Fletcher,

Executive Director.

[FR Doc. 82-25855 Filed 9-16-82; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Determinations of Active Military Service and Discharge; Civilian or Contractual Personnel

In accordance with Pub. L. 95–202, section 401 (The G.I. Bill Improvement Act of 1977) and under the provisions of DODD 1000.20, Determinations of Active Military Service and Discharge: Civilian or Contractual Personnel, the Secretary of the Air Force, acting in accordance wth authority delegated to him by the Secretary of Defense, determined on August 30, 1982, that the service of the members of the groups known as the United States Merchant Marine Cadet Corps; the American Red Cross; and the Civilian U.S. Navy IFF Technicians Who Served in the Combat Area of the Pacific During World War II not be considered active military service in the Armed Forces of the United States for all laws administered by the Veterans Administration.

FOR FURTHER INFORMATION CONTACT: Mrs. Simard, telephone 694–5074, Office of the Secretary of the Air Force Personnel Council, (SAF/MIPC), The Pentagon, Washington, DC 20330.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-25817 Filed 9-16-82; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Board of Visitors, United States Military Academy; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting.

Name of committee: Board of Visitors, United States Military Academy
Date of meeting: 4–6 November 1982
Place of meeting: West Point, New York
Time: At West Point:
2000–2300, 4 November, Board Discussions (Hotel Thayer)

0630–1530, 5 November, Board Discussions (Bldg 600)
0800–1030, 6 November, Board Discussions (Cadet Library)
1100–1130, 6 November, Attend Cadet Review (The Plain)
1130–1700, 6 November, Attend Army-Air Force Football Game Activities (Michie Stadium)

Proposed agenda: Inquire into the optional academic majors program; the preparation of Graduates to meet initial leadership challenges to include a report from the Leadership Development Committee; excellence in athletics, the Command Operating Budget and other matters that the Board decides to consider. The Board will also draft conclusions and recommendations for their Report to the President.

All proceedings are open. For further information, contact COL D. P. Tillar, Jr., United States Military Academy, West Point, New York, telephone (914) 938–4723/2785.

For the Board of Visitors.

D. P. Tillar,

Col. GS, Executive Secretary, USMA Board of Visitors.

[FR Doc. 82-25603 Filed 9-16-82; 8:45 am]
BILLING CODE 3710-08-M

Medical Research and Development Advisory Committee, Subcommittee on Medical Entomology; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Subcommittee meeting:

Name of committee: Army Medical Research and Development Advisory Committee, Subcommittee on Medical Entomology.
Date of meeting: October 18–19, 1982.
Time and place: 0630 hrs, Conference Room US Army Medical Research Institute of Infectious Diseases, Fort Detrick, Frederick, MD.

Proposed agenda: This meeting will be open to the public from 0630 to 1330 hrs on October 18, for the administrative review and discussion of the scientific research program of the Medical Entomology Branch, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), US Code, Title 5 and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 1330 to 1630 hrs on October 18, and from 0900 to 1200 hrs on October 19, for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director for Research Management, Walter Reed Army Institute of Research, Bldg. 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20012 (202/576–2436) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 82-25601 Filed 9-16-82; 8:45 am]
BILLING CODE 3710-08-M

Medical Research and Development Advisory Committee, Subcommittee on Bacterial Diseases; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Subcommittee meeting:

Name of committee: Army Medical Research and Development Advisory Committee, Subcommittee on Bacterial Diseases.
Date of meeting: October 25–26, 1982.
Time and place: 0630 hrs, Room 3092, Walter Reed Army Institute of Research, Washington, DC.

Proposed agenda: This meeting will be open to the public from 0630 to 1330 hrs on October 25, for the administrative review and discussion of the scientific research program of the Bacterial Diseases Branch, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), US Code, Title 5 and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 1330 to 1630 hrs on October 25, and from 0900 to 1200 hrs on October 26 for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director for Research Management, Walter Reed Army Institute of Research, Bldg., 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20012 (202/576–2436) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 82-25602 Filed 9-16-82; 8:45 am]
BILLING CODE 3710-08-M

Medical Research and Development Advisory Committee, Subcommittee on Pharmacology; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Subcommittee meeting:

Name of committee: Army Medical Research and Development Advisory Committee, Subcommittee on Pharmacology.
Date of meeting: October 27–28, 1982.
Time and place: 0630 hrs, Room 3092, Walter Reed Army Institute of Research, Washington, DC.

Proposed Agenda: This meeting will be open to the public from 0630 to 1330 hrs on October 27 for the administrative review and discussion of the scientific research program of the Pharmacology Branch, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), US Code, Title 5 and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 1330 to 1630 hrs on October 27, and from 0900 to 1200 hrs on October 28, for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director for Research Management, Walter Reed Army Institute of Research, Bldg. 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20012 (202/576–2436) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 82-25600 Filed 9-16-82; 8:45 am]
BILLING CODE 3710-08-M

Defense Nuclear Agency

Membership of the Defense Nuclear Agency Performance Review Boards

AGENCY: Defense Nuclear Agency, DOD.

ACTION: Notice of membership of the Defense Nuclear Agency Performance Review Boards.

SUMMARY: This notice announces the appointment of the members of the Performance Review Boards (PRBs) of the Defense Nuclear Agency. The publication of PRB membership is required by 5 U.S.C. 4314(c)(4). The Performance Review Boards provide fair and impartial review of Senior Executive Service performance appraisals and make recommendations regarding performance and performance awards to the Director, Defense Nuclear Agency.

EFFECTIVE DATE: The effective date of service for appointees of the DNA PRBs is September 14, 1982.

FOR FURTHER INFORMATION CONTACT: J. David Woodend, Chief, Civilian Personnel Management Division (MPCV), Defense Nuclear Agency, Washington, D.C. 20305, (202) 325–7591/92.

SUPPLEMENTARY INFORMATION: The names and titles of the members of the DNA PRBs are set forth below. All are DNA officials unless otherwise identified.

Board 1

Carew, Paul H., Comptroller.
Myers, Lawrence S., Jr., Scientific Advisor to Director, Armed Forces Radiobiology Research Institute (AFRRI).
Reid, John E., Director, Acquisition Managaement Directorate.
Brown, S. E., Brig. Gen., USAF, Commander, Field Command.
Vaughn, John R., Comptroller, Defense Mapping Agency (DMA).
Levine, Robert H., Assistant Deputy Director, Defense Communications System Directorate, Defense Communications Agency (DCA).
Dellas, Ray W., Staff Director, Office of Small and Disadvantaged Business Utilization, Defense Logistics Agency (DLA).

Board 2

Sevin, Eugene, Assistant to Deputy Director (Science & Technology) for Experimental Research.
Mansfield, John E., Assistant to Deputy Director (Science & Technology) for Theoretical Research.
Knowles, Cyrus P., Assistant to Deputy Director (Science & Technology) for Testing.
Soper, Gordon K., Scientific Assistant to the Deputy Director (Science & Technology).
Rubenstein, Morton J., Technical Programs Manager, Nuclear Assessment Directorate.
Slaughter, John I., Chief, Aerospace Systems Division, Shock Physics Directorate.
Linger, Don A., Chief, Strategic Structures Division, Shock Physics Directorate.
Fitz, Harold C., Jr., Chief, Atmospheric Effects Division, Radiation Directorate.
Brown, S. E., Brig. Gen., USAF, Commander, Field Command.
Vaughn, John R., Comptroller, Defense Mapping Agency (DMA).
Levine, Robert H., Assistant Deputy Director, Defense Communications System Directorate, Defense Communications Agency (DCA).
Dellas, Ray W., Staff Director, Office of Small and Disadvantaged Business Utilization, Defense Logistics Agency (DLA).

M. S. Healy,
OSD Federal Register Liaison Officer, Department of Defense.
September 13, 1982.
[FR Doc. 82–25807 Filed 9–16–82; 8:45 am]
BILLING CODE 3810–01–M

Department of the Navy

Public Information Collection Requirement Submitted to OMB for Review

The Department of the Navy has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Inquiry, School of Nursing—NAVMED 6550/6.

To provide medium for submitting an evaluation and other pertinent data on the potential ability of the applicant for a direct appointment in the Navy Nurse Corps.

Deans, Schools of Nursing: 1,000 responses, 100 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD(C), IRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697–1195.

A copy of the information collection proposal may be obtained from W. F. Showalter, Head, Management Systems Branch, MED–3111 Room 5115, Bureau of Medicine and Surgery, Washington, D.C. 20372, telephone (202) 254–4132.

M. S. Healy,
OSD Federal Register Liaison Officer, Department of Defense.
September 13, 1982.
[FR Doc. 82–25808 Filed 9–16–82; 8:45 am]
BILLING CODE 3810–01–M

Office of the Secretary

Privacy Act of 1974; Amendments to Notices for Systems of Records

AGENCY: Defense Department.

ACTION: Amendments to notices for systems of records.

SUMMARY: This notice makes several administrative amendments to the notices for five systems of records maintained by the Office of the Secretary of Defense (OSD). The changes to the five system notices are set forth below, followed by the system notices as amended in their entirety.

DATES: These amendments shall become effective on October 18, 1982.

FOR FURTHER INFORMATION CONTACT: Norma Cook, Privacy Act Officer, ODASD(A), Room 5C–315, The Pentagon, Washington, D.C. 20301, Telephone: 202/695–0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) system notices for systems of records subject to the Privacy Act of 1974, Title 5 United States Code, Section 552a (Pub. L. 93–579; 88 Stat. 1896 *et seq.)* have been published in the **Federal Register** at:

FR Doc. 82–674 (47 FR 2544) January 18, 1982
FR Doc. 82–3758 (47 FR 6462) February 12, 1982
FR Doc. 82–21537 (47 FR 34441) August 9, 1982
FR Doc. 82–23920 (47 FR 38574) September 1, 1982

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of an altered system report.

M. S. Healy,
OSD Federal Register Liaison Officer, Department of Defense.
September 13, 1982.

DGC 04

System name:

Industrial Personnel Security Clearance Case Files (47 FR 2544, January 18, 1982).

Changes:

System location:

In line three, remove "Assistant General Counsel for Fiscal Matters, OAGC(FM)" and insert "Assistant General Legal Counsel, OAGC(LC)."

Categories of individuals covered by the system:

In line two, remove "OAGC(FM)" and insert "OAGC(LC)."

In last line, remove "Logistics Agency (DLA)" and insert "Investigative Service (DIS)."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Internal users, uses and purposes:

First paragraph, line one, remove "DLA" and insert "DIS."

Second paragraph, line one, remove "OAGC(FM)" and insert "OAGC(LC)."

Second paragraph, second line, remove "DLA" and insert "DIS."

System manager(s) and address:

In line one, remove "Assistant General Counsel for Fiscal Matters, AGC(FM)" and insert "Assistant General Legal Counsel, AGC(LC)."

Notification procedure:

In line one, remove "OAGC(FM)" and insert "OAGC(LC)."

Record access procedures:

In line one, remove "OAGC(FM)" and insert "OAGC(LC)."

Before last paragraph, insert: "Administrative Director, Washington Hearing Office, DISCR, Office of the General Counsel, DoD, 710 Commonwealth Building, 1300 Wilson Blvd., Arlington, Virginia 22209".

Record source categories:

In line three, delete "Defense Logistics Agency (DLA)."

DGC 05

System name:

Administrative Files on Active Psychiatric Consultants to Department of Defense (DoD) (47 FR 2544, January 18, 1982)

Changes:

System location:

In line two, remove "Assistant General Counsel for Fiscal Matters, OAGC(FM)" and insert "Assistant General Legal Counsel, OAGC(LC)."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Internal users, uses, and purposes:

In line three, remove "OAGC(FM)" and insert "OAGC(LC)."

In line four, remove "Defense Logistics Agency (DLA)" and insert "Defense Investigative Service (DIS)."

System manager(s) and address:

Delete line one and insert "The Assistant General Legal Counsel, AGC(LC)."

Notification procedure:

Remove "OAGC(FM)" and insert "OAGC(LC)."

Record access procedures:

In line one, remove "OAGC(FM)" and insert "OAGC(LC)."

Third paragraph, line three, remove "OAGC(FM)" and insert "OAGC(LC)."

DPA&E 02

System name:

Administration Flies for Office of the Assistant Secretary of Defense for PA&E (47 FR 2544, January 18, 1982)

Changes:

System name:

Delete entry under above heading and insert: "Administrative Files for Office of the Director, Program Analysis and Evaluation."

System location:

Delete entry under above heading and insert: "Office of the Director, Program Analysis and Evaluation, Pentagon, Washington, D.C. 20301."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Internal users, uses, and purposes:

First line, remove, "OASD(PA&E)" and insert "ODPA&E."

System manager(s) and address:

Delete entry under above heading and insert "Office of the Director, Program Analysis and Evaluation, Room 2D321, Pentagon, Washington, D.C. 20301."

Notification procedure:

Remove "OASD(PA&E)" and insert "ODPA&E."

Record access procedures:

First line, remove "OASD(PA&E)" and insert "ODPA&E."

DUSDP 01

System name:

DoD Motions for Discovery of Electronic Surveillance Files (47 FR 2544, January 18, 1982)

Changes:

System location:

Third line, delete "Review."

System manager(s) and address:

Second line, delete "Review."

Notification procedure:

Fifth line, delete "Review."

Record access procedures:

Fourth line, delete "Review."

Last paragraph, fourth line, delete "Review."

DUSDP 02

System name:

Special Personnal Security Cases (47 FR 2544, January 18, 1982)

Changes:

System location:

Second line, delete "Review."

System manager(s) and address:

Second line, delete "Review."

Notification procedure:

Third line, delete "Review."

Record access procedures:

Third line, delete "Review."

Third last line, remove "(PR)" and insert "(P)."

DGC 04

SYSTEM NAME:

Industrial Personnel Security Clearance Case Files.

SYSTEM LOCATION:

Primary System and Decentralized Segments—Active case files, Directorate for Industrial Security Clearance Review (DISCR), Office of the Assistant General Legal Counsel, OAGC(LC), Office of the General Counsel (OGC), Department of Defense, (DoD), Pentagon, Washington, D.C. 20301.

Inactive case files, U.S. Army Investigative Records Repository, Ft. Meade, Maryland 20755.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Government contractor employees whose industrial security clearance cases were referred to the OAGC(LC), DISCR, for adjudication under Executive Order 10865, as amended by Executive Order 10909, as implemented by DoD

Directive 5220.6; these cases pertain only to the individuals who cannot be granted clearance by the Defense Industrial Security Clearance Office (DISCO), Defense Investigative Service (DIS), Columbus, Ohio.

CATEGORIES OF RECORDS IN THE SYSTEM:

Alphabetical card index files for identification and location of case files within the DISCR.

Individual case files include general correspondence relating to case, investigative reports prepared by various investigative agencies conducting security clearance investigations. DISCO referral recommendation, determinations of the Screening Board, Examiners and the Appeal Board, DISCR, with implementing documents, including but not limited to, Statement of Reasons (SOR) issued to individual, his answer to the SOR, transcripts of hearings and exhibits.

DISCR case correspondence files maintained by case number, including case correspondence initiated by DISCR, with individuals, employers, attorneys, congressmen and investigative agencies.

Additionally, correspondence files include copies of Screening Board determinations and Appeal Board determinations from July 1967 to date in order to furnish an index and register of administrative determinations under the Freedom of Information Act (FOIA), Pub. L. 93–502, § 552.a(2)(C) of Title 5, United States Code.

All final decisions in cases arising under DOD Directive 5220.6, since 1967, are published and indexed for public perusal. Names of applicants, witnesses, sources of information, etc., and identifying information, relative to those persons are deleted from these records to protect the privacy of persons involved.

DISCR Reader Files including DISCR-initiated correspondence, Screening Board determinations and Appeal Board determinations.

Decentralized Reader File segments of copies of Examiner's determinations and Appeal Board determinations to Department Counsel's Office and Screening Board, DISCR.

Chronological correspondence file of letters from assigned trial counsel to individuals, attorneys or counsel, and other Federal offices for hearing arrangements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10865, "Safeguarding Classified Information Within Industry," dated February 20, 1960, as amended by Executive Order 10909, dated January 17, 1961, and DOD Directive 5220.6, "Industrial Personnel Security Clearance Program" dated December 20, 1976.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The purpose and use of this record system is to determine whether it is clearly consistent with the national interest to grant or continue an individual's access to classified information.

Internal users, uses and purposes:

DISCO, DIS, initiates investigation at request of employer and may grant but not deny clearance.

OAGC(LC), DISCR, determines individual's eligibility for security clearance and notifies the individuals, and DISCO, DIS, of final decision.

U.S. Army, JAG, U.S. Army, Claims Services, Ft. Meade, Maryland 20755 in cases where claims for reimbursement are requested by an applicant.

External users, uses, and purposes:

Department of Justice in cases where individual seeks Federal court review of adverse administration determinations under the Industrial Security Clearance Program.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, vertical file cards.

RETRIEVABILITY:

Active files alphabetically by name or by case number.

Inactive files by individual's name, date and place of birth, and Social Security Number (SSN).

SAFEGUARDS:

Records are stored in security combination locked file containers accessible only to DISCR authorized personnel.

RETENTION AND DISPOSAL:

Destroyed 25 years after file is no longer active.

Primary alphabetical card index files are retained permanently in Central Office, DISCR. Alphabetical Index Cards for case control purposes in sub-offices, i.e., Screening Board, Department Counsel's Office and Appeal Board are retained during active processing of cases and then destroyed.

All Reader Files are destroyed within 60 days of issue.

SYSTEM MANAGER(S) AND ADDRESS:

The Assistant General Legal Counsel, AGC(LC), Directorate for Industrial Security Clearance Review (DISCR), Pentagon, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Information may be obtained from: OAGC(LC), DISCR, Room 3D282, Pentagon, Washington, D.C. 20301. Telephone: 202–697–6350.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to OAGC(LC), DISCR, Room 3D282, Pentagon, Washington, D.C. 20301.

Written requests should include the individual's full name, date and place of birth, Social Security Number (SSN), and notarized signature.

The records requested and available, subject to statutory exemptions, may be made available to the record subject for review at the following locations:

Directorate for Industrial Security Clearance Review (DISCR), Office of the General Counsel, DoD, Room 3D282, Pentagon, Washington, D.C. 20301

Administrative Director, Eastern Hearing Office, DISCR, Office of the General Counsel, DoD, 26 Federal Plaza, Room 36–112, New York, New York 10007

Administrative Director, Western Hearing Office, DISCR, Office of the General Counsel, DoD, 9920 S. LaCienega Blvd., Suite 1026, Inglewood, California 90301

Administrative Director, Washington Hearing Office, DISCR, Office of the General Counsel, DoD, 710 Commonwealth Building, 1300 Wilson Blvd., Arlington, Virginia 22209

Fees for copies must be borne by the record subject or his authorized representative requesting the review of the records.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR Part 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Defense Investigative Service (DIS); Office of the Secretary of Defense (OSD); Defense Industrial Security Clearance Office (DISCO); U.S. Army Investigative Records Repository; record subjects; attorneys or representatives.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this record system may be exempt under 5 U.S.C. 522a(k)(5).

DGC 05

SYSTEM NAME:

Administrative Files on Active Psychiatric Consultants to Department of Defense (DoD).

SYSTEM LOCATION:

Directorate for Industrial Security Clearance Review (DISCR), Office of the Assistant General Legal Counsel, OAGC (LC), Office of the General Counsel, DoD.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Psychiatric consultants who have entered into agreement with the Department of Defense to conduct psychiatric examinations of individuals applying for industrial security clearance for access to classified information required in the performance of their work for classified Government contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records filed alphabetically by last name of psychiatrist, consisting of correspondence concerning agreement to conduct psychiatric examinations requested by the Government; and initiation and confirmation of security clearance issued to psychiatrists.

Current list of active DoD psychiatric consultants.

Alphabetical card index file for identification and address of active psychiatric consultants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

DoD Directive 5220.6, "Industrial Personnel Security Clearance Program," December 20, 1976; Executive Order 10865, February 20, 1960, and Executive Order 1090, January 17, 1961.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The purpose of this system is to maintain a record of active psychiatric consultants available to conduct psychiatric examinations of individual applicants for industrial personnel security clearance in convenient geographical areas.

Internal users, uses, and purposes:

Psychiatric consultants having active professional service agreements with and having been granted security clearance by the Department of Defense (DoD) are used by DISCR, OAGC(LC), and Defense Industrial Security Clearance Office (DISCO), Defense Investigative Service, (DIS), in processing requests for industrial personnel security clearance of individuals.

External users, uses, and purposes:

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, vertical file cards.

RETRIEVABILITY:

Alphabetically by surname.

SAFEGUARDS:

Records are stored in security combination locked file cabinets accessible only to DISCR authorized personnel.

RETENTION AND DISPOSAL:

Destroy six months after agreement between consultant and DoD has been terminated.

SYSTEM MANAGER(S) AND ADDRESS:

The Assistant General Legal Counsel, AGC(LC), Directorate for Industrial Security Clearance Review, Pentagon, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Information may be obtained from: OAGC(LC), DISCR, Room 3D282, Pentagon, Washington, D.C. 20301, Telephone: 202-697-8350.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to OAGC(LC), DISCR, Room 3D282, Pentagon, Washington, D.C. 20301.

Written requests should include the individual's full name, date and place of birth, and notarized signature.

The records requested may be made available to individuals for review at the following location: DISCR, OAGC(LC), Room 3D282, Pentagon, Washington, D.C. 20301.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR Part 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Copy of Letter of Consent (for security clearance), DISCO Form 560, and correspondence with individual psychiatrists.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DPA&E 02

SYSTEM NAME:

Administrative Files for Office of the Director, Program Analysis and Evaluation.

SYSTEM LOCATION:

Office of the Director, Program Analysis and Evaluation, Pentagon, Washington, D.C. 20301.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former military and civilian personnel employed by or assigned to PA&E since 1965.

Current and some past applicants or prospects for civilian or military jobs.

Some contractor personnel.

Other DoD or outside personnel currently or previously assigned, or under consideration, to provide support or work with PA&A.

CATEGORIES OF RECORDS IN THE SYSTEM:

System contains individual application forms; biographical data; employment history; professional and military experience; schooling and academic records; performance effectiveness data; honors; awards and decorations; security forms; security clearances; security violations publications; training and career development information; telephone rosters; certain financial interest and medical history data; information used to evaluate individuals for employment, promotion, reassignment, training, retention and awards; job descriptions; letters of commendation or appreciation; overtime pay records; travel orders; certain travel vouchers; retirement application papers; tenure data; next employment information; savings bond and Combined Federal Campaign (CFC) data (current year only); and miscellaneous personnel and administrative data of like nature.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal users, uses, and purposes:

ODPA&E—To evaluate current and prospective employees; to locate former personnel and prospects; to analyze

professional staff background; to make decisions on hiring, promotion, training, awards, or disciplinary actions; to make comparative analyses of personnel data such as turnover rates, awards, academic degrees, average age, travel, and overtime; to determine level of security access permissible; to evaluate conformance with standards of conduct rules; to evaluate contractor capabilities; to provide information on current or former personnel to authorized investigators and potential outside employers; to make campaign reports; to evaluate effectiveness of PA&E personnel operations; to input selected data to computer systems; to perform computer analyses of the data; and to prepare reports, rosters and statistical data.

External users, uses and purposes:

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, biography book, computer disks, computer paper printouts, microfiche; charts.

RETRIEVABILITY:

Information accessed by last name of individual.

Individual user codes and passwords required to access information stored in computer.

SAFEGUARDS:

Building employs security guards.

Sensitive manually stored data kept in locked cabinets or safes and may be accessed only by authorized personnel.

Computer stored data is kept in a secure computer facility and may be accessed only by authorized, properly trained personnel who have access codes and passwords.

RETENTION AND DISPOSAL:

Records on current and former personnel are permanent. Travel orders, overtime authorizations and similar fiscal records kept for three years. Applicant files are screened about once a year and information outdated or no longer needed is destroyed. Campaign data for other than current year is destroyed annually.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Director, program Analysis and Evaluation, Room 2D321, Pentagon, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Information may be obtained from: ODPA&E, Assistant for Management, Room 2D321, Pentagon, Washington, D.C. 20301, Telephone: 202-697-9189.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: ODPA&E, Assistant for Management, Room 2D321, Pentagon, Washington, D.C. 20301.

Written request must contain full name and identification of the individual. Visitors may be required to provide identification.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR Part 286b, and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Current and previous employers, instructors, associates and contacts; DoD civilian and military personnel offices; DoD security offices; DoD payroll, travel and fiscal offices; Civil Service Commission; contractors; Air Force Data Services Center (AFDSC); PA&E personnel; educational institutions; and financial institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DUSDP 01

SYSTEM NAME:

DoD Motions for Discovery of Electronic Surveillance Files.

SYSTEM LOCATION:

Primary System—Counterintelligence and Investigative Program Directorate, Office of the Deputy Under Secretary of Defense for Policy, Room 3C 290, Pentagon, Washington, D.C. 20301.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those individuals and/or organizations on which the Department of Justice has requested information upon which to base their reply to court-approved motions for discovery of electronic surveillance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Chronological listing for identification and location of files. Individual case files to include original and subsequent requests from the Department of Justice; file copy of memorandum to the DoD Components directing search of their records, indices, etc.; copies of DoD Components' responses to the Office of the Secretary of Defense (OSD), and copies of OSD's responses to the Department of Justice.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 28, United States Code, Section 526, "Conduct of Litigation Reserved to Department of Justice".

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal users, uses and purposes:

Preparation of response to Department of Justice, as well as any subsequent inquiries from that office.

External users, uses, and purposes:

Department of Justice's response to court-approved motion for discovery.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed by year by case name.

SAFEGUARDS:

Records are stored in security combination lock file containers accessible only by Counterintelligence and Investigative Programs Directorate personnel.

RETENTION AND DISPOSAL:

Records are permanent. They are retained in active file until end of calendar year in which project is completed, held one additional year in inactive file and subsequently retired to Washington National Records Center (WNRC).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Counterintelligence and Investigative Programs, Office of the Deputy Under Secretary of Defense for Policy, Pentagon, Washington, D.C. 20301.

NOTIFICATION PROCEDURES:

Information may be obtained from: Office of the Director, Counterintelligence and Investigative Programs, Office of the Deputy Under Secretary of Defense for Policy, Room 3C290, Pentagon, Washington, D.C. 20301, Telephone: 202-697-9678.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Director, Counterintelligence and Investigative Programs, Office of the Deputy Under Secretary of Defense for Policy, Room

3C290, Pentagon, Washington, D.C. 20301.

Written requests for information should contain the full name of the individual, date and place of birth, Social Security Number (SSN), and notarized signature.

The records requested may be made available to individuals for review at the following location: Office of the Director, Counterintelligence and Investigative Programs, Office of the Deputy Under Secretary of Defense for Policy, Room 3C290, Pentagon, Washington, D.C. 20301.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR Part 286b, and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Department of Justice formal written inquiries, and internal correspondence necessary to gather information to make replies to such inquiries.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DUSDP 02

SYSTEM NAME:

Special Personnel Security Cases.

SYSTEM LOCATION:

Security Plans and Programs Directorate, Office of the Deputy Under Secretary of Defense (Policy), ODUSD(P), Washington, D.C. 20301.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals affiliated with the DoD, upon whom an investigation has been conducted by a Department of Defense (DoD) Component investigative organization authorized to conduct personnel security investigations; other investigative organizations of the Federal Government, or individuals who have been the subject of a DoD Component personnel security determination, or who have had access to DoD classified information, whenever the investigation, personnel security determination, or access involves unique circumstances having special significance with respect to DoD personnel security policy. Also, individuals for whom waivers have been granted from specific provisions of the Industrial Security Regulation (5220.22-R) and/or Industrial Security Manual (5220.22-M).

CATEGORIES OF RECORDS IN THE SYSTEM:

Statements of personal history; investigative reports; adjudicative findings; intra-office memoranda; policy interpretation; memoranda recommending courses of action; legal opinions, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, United States Code, Section 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

Internal users, uses, and purposes:

This system will be used as basis for Security Plans and Programs Directorate staff access to determine the need for overall personnel security policy revision or adjustment; to ensure that component personnel security determinations are consistent with DoD personnel security program policy; to assure that personnel security investigations conducted by the Defense Investigative Service (DIS), the National Security Agency (NSA), and the Military Departments are in compliance with DoD personnel security investigative policy; and to provide precedents for use in determining whether to grant waivers of the provisions of the Industrial Security Regulation and/or Industrial Security Manual.

External users, uses, and purposes:

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices.

RECORDS MANAGEMENT POLICIES AND PROCEDURES:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Records are filed alphabetically by last name of the subject of the investigation or personnel security determination having special significance with respect to DoD personnel security policy. Also, records are filed alphabetically by last name of the personnel for whom waivers have been granted under the Industrial Security Program.

SAFEGUARDS:

Records are stored in security combination lock file containers, and are accessible only by Security Plans and Programs personnel who are properly cleared and who are the official authorized users.

RETENTION AND DISPOSAL:

Routine investigations are destroyed 15 years after the date of the last action. Those involving significant incidents are destroyed 25 years after the date of the last action.

SYSTEMS MANAGER(S) AND ADDRESS:

Director, Security Plans and Programs Directorate, Office of the Deputy Under Secretary of Defense (Policy), Pentagon, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Information may be obtained from: Office of the Deputy Under Secretary of Defense (Policy), Security Plans and Programs Directorate, Room 3C277, Pentagon, Washington, D.C. 20301, Telephone: 202-697-3969.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: Office of the Deputy Under Secretary of Defense (Policy), Security Plans and Programs Directorate, Room 3C277, Pentagon, Washington, D.C. 20301.

Written requests for information should contain the full name of the individual, date and place of birth, Social Security Number (SSN), and notarized signature.

The records requested may be made available to individuals for review at the following location: Security Plans and Programs Directorate, ODUSD(P), Room 3C271, Pentagon, Washington, D.C. 20301.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determination by the individual concerned are contained in 32 CFR Part 286b, and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Information is obtained from record subjects; Federal Bureau of Investigation; Office of the Secretary of Defense; Organization of the Joint Chiefs of Staff; DoD Defense Agencies; and the Military Departments, including investigative reports, inter and intra Department memoranda and letters, case analyses, memoranda for the record, and other correspondence related to the cases.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this record system may be exempt under 5 U.S.C. 552a(k)(5).

[FR Doc. 82-25038 Filed 9-16-82; 8:45 am]
BILLING CODE 3810-01-M

Privacy Act of 1974; Deletion of System Notices

AGENCY: Defense Department.

ACTION: Deletion of system notices.

SUMMARY: The Office of the Secretary of Defense proposes to delete the notice for two systems of records. This system of records is no longer being maintained.

DATES: These deletions shall be effective October 18, 1982.

FOR FURTHER INFORMATION CONTACT: Norma Cook, Privacy Act Officer, ODASD(A), Room 5c–315, Pentagon, Washington, D.C. 20301. Telephone: 202/695–0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) proposes to delete the system notice for system of records DWHS P02, entitled: "Job Opportunity Announcements." The records in this system are not retrieved by name or any other identifier assigned to an individual. Therefore, the system does not qualify as a system of records under the Privacy Act of 1974, Title 5 United States Code, Section 552a (Pub. L. 93–579, 88 Stat. 1896, *et seq.*).

In addition OSD proposes to delete the notice for DWHS SPM001, entitled: "Application for Pentagon Parking Permits." This system of records is no longer being maintained. The OSD system notices for systems of records subject to the Privacy Act of 1974, have been published in the **Federal Register** at:

FR Doc. 82–674 (47 FR 2544) January 18, 1982
FR Doc. 82–3758 (47 FR 6462) February 12, 1982
FR Doc. 82–21537 (47 FR 34441) August 9, 1982
FR Doc. 82–23920 (47 FR 38574) September 1, 1982

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

September 13, 1982.

[FR Doc. 82-25630 Filed 9-16-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

National Advisory Council on Vocational Education; Changed Meeting

ACTION: Amendment of notice.

SUMMARY: This document is intended to notify the general public of change in Notice of Public Meeting of the National Advisory Council on Vocational Education published September 3, 1982, on **Federal Register** page 38964.

The times, location, and agenda remain the same, except that, at the September 22, 1982 session, the hours from 9:30 to 11:30 A.M. will be closed to the public. Discussions will be held on issues related to the selection of the Executive Director position, including the qualifications and fitness of individually identified candidates for the position. These discussions will touch upon matters that would disclose information of a personal nature, which disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. This session will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix I) and under exemptions (2) and (6) contained in the Government in the Sunshine Act (Pub. L. 94–409, 5 U.S.C. 552b(c) (2) and (6).

A summary of the activities of the closed session and related matters which would be informative to the public consistent with the policy of Title 5 U.S.C. 552b(c) will be available to the public within 14 days of the meeting at the Council's offices, 425 13th Street NW, Suite 412, Washington, DC from 9:00 A.M. to 5:00 P.M. daily.

Signed at Washington, DC on September 14, 1982.

George Wallrodt,

Acting Executive Director.

[FR Doc. 82-25680 Filed 9-16-82; 8:45 am]

BILLING CODE 4000-01-M

National Commission on Excellence in Education; Meetings

AGENCY: National Commission on Excellence in Education.

ACTION: Notice of meetings.

SUMMARY: This notice amends the announcement of the hearings of the National Commission on Excellence in Education published in the **Federal Register** on March 4, 1982 on page 9271, and sets forth the schedule of the fifth and sixth full commission meeting. Notice of these meetings is required under Section 10(a) (2) of the Federal Advisory Committee Act.

DATES: September 16, 1982 (8:30 a.m. until 5:00 p.m.); September 28 & 29, 1982 (8:30 a.m. until 5:00 p.m.); October 15, 1982 (8:30 a.m. until 5:00 p.m.); November 15 & 16, 1982 (8:30 a.m. until 5:00 p.m.).

LOCATIONS:

September 16, 1982 (Hearing—EDucation & Work), Auraria Higher Education Center, St. Cajetan's Center, Ninth and Lawrence Streets, Denver, Colorado.

September 28, 1982 (Full Commision Meeting), Exxon Education Foundation, Exxon Corporation, C–1 Conference Center, 1251 Avenue of the Americas, New York, New York.

September 29, 1982 (Full Commission Meeting), Marriott's Essex House, 160 Central Park South, New York, New York 10019.

October 15,1982, Hearing—Education for the Gifted and Talented, Harvard University Graduate School of Education, Gutman Library—Conference Area, 6 Appian Way, Cambridge, Mass.

November 15 & 16, 1982, Full Commission Meeting, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Milton Goldberg, Executive Director, (202) 254–7920 or Betty Baten, Administrative Officer, (202) 254–7920, 1200 19th Street, N.W. Washington, D.C. 20208

The National Commission on Excellence in Education is governed by the provisions of Part D of the General Education Provisions Act (Pub. L. 90–247 as amended; 20 U.S.C. 1233 *et seq.*) and the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix I) which set forth standards for the formation and use of advisory commitees. The Commission is established to advise and make recommendations to the nation and to the Secretary of Education.

On September 16, 1982, the hearing on Education and Work will be chaired by Commission member Anne Campbell, Commissioner of Education, Nebraska, and hosted by the Education Commission of the States, Robert C. Andringa, Executive Director. In the morning, the Commission members will hear three panel discussions on such topics as education and the changing workplace, and employer needs and training programs. In the afternoon, special attention will be paid to secondary and postsecondary programs and their roles in preparing students for work.

On September 28 and September 29, the full commission will address Educational Standards.

On October 15, 1982, the hearing on Education for the Gifted and Talented will examine issues related to human intelligence as it is challenged by the educational experience.

The topic for the full Commission meeting on November 15 & 16 will be published later.

In addition to the testimony the Commission receives the day of the hearings, individuals and organizations across the country are invited to submit 2–5 pages of written testimony that will assist the Commission in developing recommendations for the final report.

The records will remain open for one month following each hearing.

Testimony should be submitted to: Commission Hearings, National Commission on Excellence in Education, Washington, D.C. 20208 (202) 254–7920.

All meetings of the Commision are open to the public.

Records are kept of all Commission proceedings, and are available for public inspection at the office of the National Commission on Excellence in Education, 1200 19th Street, N.W. room 222, from the hours of 8:00 a.m. to 5:00 p.m.

Dated: September 13, 1982.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 82-25469 Filed 9-16-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

National Petroleum Council, Coordinating Subcommittee of the Committee on Third World Petroleum Development; Meeting

Notice is hereby given that the Coordinating Subcommittee of the Committee on Third World Petroleum Development will meet in October 1982. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Third World Petroleum Development will investigate the petroleum resource potential of Third World countries and analyze those factors impacting the development of these resources. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Coordinating Subcommittee meeting follows:

The Coordinating Subcommittee will hold its third meeting on Monday and Tuesday, October 4 and 5, 1982, beginning at 9:00 a.m. each day, in the Mount Vernon Room, The Madison Hotel, 15th and M Street, NW., Washington, D.C.

The tentative agenda for the Coordinating Subcommittee meeting follows:

1. Review preliminary final draft.
2. Discuss any other matters pertinent to the overall assignment of the Coordinating Subcommittee.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas, Shale and Coal Liquids, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on September 13, 1982.

Donald L. Bauer,

Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 82-25629 Filed 9-16-82; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-82-023]

Powerplant and Industrial Fuel Use Act of 1978; Electric Utility Conservation Plans

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of receipt of proposed electric utility conservation plans.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received a number of electric utility conservation plans developed and submitted for DOE approval pursuant to Section 808 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*, as amended (FUA or the Act).

Pursuant to 10 CFR 508.4(b), DOE hereby gives Notice of Receipt of Proposed Conservation Plans from the electric utility owners or operators listed in the **SUPPLEMENTARY INFORMATION** section below. The publication of this notice commences a thirty (30) day public comment period during which interested persons are invited to submit written comments concerning the content of any such proposed conservation plan.

The public file for each of the listed electric utility owners or operators containing the proposed conservation plan and any other pertinent documents is available at the Department of Energy, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, D.C. 20585, telephone (202) 252–6020. ERA will approve or non-approve the proposed plan of each electric utility within 120 days of the receipt of each plan. Approval or non-approval of a conservation plan will be based on the entire record of the proceeding including any comments received during the public comment period provided herein. Notice of Approval or Non-approval of each conservation plan will be published in the **Federal Register.**

DATE: Written comments on any proposed conservation plan identified in the **SUPPLEMENTARY INFORMATION** section of this notice are due on or before October 18, 1982.

ADDRESS: Five copies of written comments shall be submitted to: Case Control Unit, Fuels Conversion Division, Forrestal Building, Room GA–093, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

The name of the subject utility and the identifying case number should be printed on the outside of the envelope and on the documents contained therein.

FOR FURTHER INFORMATION CONTACT:

Clifford Tomaszewski, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–073 F, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–1251.

Henry Garson, Esq., Acting Assistant General Counsel for Coal Regulations, Office of General Counsel, Forrestal Building, Room 6D–033, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–6947.

SUPPLEMENTARY INFORMATION: Section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35 (OBRA) amended the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act) by adding a new section 808, entitled "Electric Utility Conservation Plan."

Section 808 requires utilities which own or operate any existing electric powerplant which used natural gas as a primary energy source between August 14, 1980 and August 13, 1981, and which also plan to use natural gas in any electric powerplant, to develop and submit to DOE for approval a conservation plan to conserve electric energy. The plan must set forth the means to achieve the conservation of electric energy at a level equal to 10 percent of the electric energy output of the utility sold within its own system which was attributable to natural gas during the four calendar quarters ending on June 30, 1981. The plan must be fully

implemented during the five year period following DOE approval.

Proposed conservation plans must be submitted to DOE on or before August 13, 1982. DOE will, within 120 days of the receipt of a proposed plan, approve each plan meeting the requirements of 10 CFR 508.8. If a proposed plan, as originally submitted, fails to meet the requirements for approval, DOE will notify the utility submitting the plan by letter, setting forth the reasons therefore, and provide a reasonable time for the submission of a modified conservation plan. If an acceptable modified plan is not submitted within the specified time period, a Notice of Non-approval will be published in the Federal Register together with the basis for the determination that the proposed plan fails to meet the requirements of 10 CFR 508.8. The following list of utilities have submitted proposed conservation plans to DOE for approval. Publication of this notice does not constitute approval of such plans.

Utilities	FC Case No.	Date filed
Dallas Power and Light Co., Dallas, Tex.	50736-9999-99-49	Aug. 11, 1982.
Hastings Utilities, Hastings, Neb.	51259-9999-99-49	Do.
Interstate Power Co. Dubuque, Iowa.	51403-9999-99-49	Do.
St. Joseph light & Power Co. St. Joseph, Mo.	52786-9999-99-49	Do.
Cedar Falls Utilities, Cedar Falls, Iowa.	50467-9999-99-49	Do.
City of Bryan, Bryan, Tex.	50354-9999-99-49	Do.
City of Austin, Austin, Tex.	50135-9999-99-49	Do.
South Texas Electric Cooperative, Inc., Nursery, Tex.	52712-9999-99-49	Aug. 12, 1982
Medina Electric Cooperative, Inc., Hondo, Tex.	51825-9999-99-49	Do.
Texas Power and Light Co. Dallas, Tex.	52902-9999-99-49	Do.
Lake Worth Utilities Authority, Lake Worth, Fla.	51573-9999-99-49	Do.
Los Angeles Department of Water and Power, Los Angeles, Calif.	51691-9999-99-49	Do.
Northeast Utilities Hartfort, Conn.[1]	53266-9999-99-49	Do.
The Empire District Electric Co. Joplin, Mo.	50904-9999-99-49	Do.
Iowa Power and Light Co. Des Moines, Iowa.	51407-9999-99-49	Do.
Wisconsin Electric Power Co., Milwaukee, Wis.	53330-9999-99-49	Do.
Niagara Mohawk Power Corp. Syracuse, NY.	52053-9999-99-49	Do.
General Public Utilities Corp., NJ.[2]	03020-9999-99-49	Do.
Lower Colorado River Authority, Austin, Tex.	51702-9999-99-49	Do.
The City of Winfield, Winfield, Kans.	53320-9999-99-49	Do.
Orlando Utilities Commission, Orlando, Fla.	52180-9999-99-49	Do.
Public Service Co. of Colorado, Denver, Colo.	52408-9999-99-49	Do.
City Power & Light Department, Independence, Mo.	51392-9999-99-49	Do.
City of Farmington, Farmington, N. Mex.	50908-9999-99-49	Aug. 13, 1982.
City of Vero Beach, Vero Beach, Fla.	53132-9999-99-49	Do.
Midwest Energy, Inc., Hays, Kans.	85034-9999-99-49	Do.
Long Island Lighting Co., Mineola, NY.	51685-9999-99-49	Do.
Nebraska Public Power District, Columbus, Nebr.	51985-9999-99-49	Do.
Detroit Edison Co., Detroit, Mich.	50792-9999-99-49	Do.
City of Clarksdale, Clarksdale, Miss.	50570-9999-99-49	Do.
Florida Power and Light Co., Miami, Fla.	51005-9999-99-49	Do.
Arkansas Power and Light Co., Little Rock, Ark.	50105-9999-99-49	Do.
Virginia Electric and Power Co., Richmond, Va.	53145-9999-99-49	Do.
City of Grand Island, Grand Island, Nebr.	51150-9999-99-49	Do.
Consolidated Edison Co. of New York, Inc., New York, NY.	50653-9999-99-49	Do.
Gainesville Regional Utilities, Gainesville, Fla.	51070-9999-99-49	Do.
Greenwood Utilities, Greenwood, Miss.	51185-9999-99-49	Do.
Arizona Public Service Co., Phoenix, Ariz.	50101-9999-99-49	Do.
City of Tallahassee, Tallahasse, Fla.	52875-9999-99-49	Do.
CDM Electric, Wareham, Mass.	50412-9999-99-49	Do.
Utah Power and Light Co., Salt Lake City, Utah.	53107-9999-99-49	Do.
City of Glendale, Glendale, Calif.	51121-9999-99-49	Do.
Central Hudson Gas and Electric Corp., Poughkeepsie, NY.	50484-9999-99-49	Do.
South Carolina Electric and Gas Co., Columbia, SC.	52992-9999-99-49	Do.
The Dayton Power and Light Co., Dayton, Ohio.	50752-9999-99-49	Do.
Southern Company Services, Inc., Birmingham, Ala.	87042-9999-99-49	Do.
Louisiana Power and Light Co., New Orleans, La.	51684-9999-99-49	Do.
Brazos Electric Power Cooperative, Inc., Waco, Tex.	50316-9999-99-49	Do.
Central Louisiana Electric Co., Pineville, La.	50490-9999-99-49	Do.
Madison Gas and Electric Co., Madison, Wis.	51738-9999-99-49	Do.
Consumers Power Co., Jackson, Mich.	50656-9999-99-49	Do.
Houston Lighting and Power Co., Houston, Tex.	51352-9999-99-49	Do.
Missouri Public Service Co., Kansas City, Mo.	51692-9999-99-49	Do.
Oklahoma Gas and Electric Co., Oklahoma City, Okla.	52164-9999-99-49	Do.
City of Coffeyville, Coffeyville, Kans.	50610-9999-99-49	Do.
El Paso Electric Co., El Paso,	50868-9999-99-49	Do.
Fort Pierce Utilities Authority, Fort Pierce, Fla.	51025-9999-99-49	Do.
Southern Indiana Gas and Electric Co., Evansville, Ind.	52727-9999-99-49	Do.
Delmarva Power and Light Co., Wilmington, Del.	54006-9999-99-49	Do.
Commonwealth Edison Co., Chicago, Ill.	50643-9999-99-49	Do.
Wolverine Electric Cooperative, Inc., Big Rapids, Mich.	53341-9999-99-49	Do.
Neveda Power Co., Las Vegas, Nev.	51998-9999-99-49	Do.
Iowa-Illinois Gas and Electric Co., Davenport, Iowa.	51406-9999-99-49	Do.
Carolina Power and Light Co., Raleigh, NC.	50441-9999-99-49	Do.
Lake Superior District Power Co., Ashland, Wis.	51570-9999-99-49	Do.
Sunflower Electric Cooperative, Inc., Hays, Kans.	52655-9999-99-49	Do.
Southwestern Public Service Co., Amarillo, Tex.	52748-9999-99-49	Do.
Portland General Electric Co., Portland, Oreg.	52370-9999-99-49	Do.
Orange and Rockland Utilities, Inc., Pearl River, NY.	52181-9999-99-49	Do.
Public Service Co. of New Mexico, Albuquerque, N. Mex.	52412-9999-99-49	Do.
San Diego Gas and Electric, San Diego, Calif.	52570-9999-99-49	Aug. 16, 1982.
City Public Service of San Antonio, San Antonio, Tex.	52567-9999-99-49	Do.
Idaho Power, Boise, Idaho.	51381-9999-99-49	Do.
Power Authority of the State of New York, New York N.Y.	52375-9999-99-49	Do.
Lincoln Electric System, Lincoln, Nebr.	51649-9999-99-49	Do.
Duke Power Co., Charlotte, N.C.	50816-9999-99-49	Do.

[1] Northeast Utilities is a holding company of Western Massachusetts Electric Company.
[2] General Public Utilities Corporation is a holding company of Jersey Central Power and Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company.

Issued in Washington, D.C., on September 1, 1982.

Robert L. Davies,

Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-25106 Filed 9-16-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ORD-FRL-2208]

Critical Assessment Document: The Acidic Deposition Phenomenon and its Effects

AGENCY: Environmental Protection Agency, Acid Precipitation Program.

ACTION: Notice of public meeting.

SUMMARY: A series of peer-review workshops will be held in Raleigh, North Carolina, on November 1 and 2, 1982, to facilitate scientific and technical evaluation of draft chapters of the *Critical Assessment Document.* The workshops, each of three to four hours and dealing with one chapter of the Document, will be held in the McKimmon Center, North Carolina State University, Raleigh, N.C. Individual workshop sessions will occur in the period from 8:00 a.m. to 9:00 p.m. on November 1 and from 7:00 a.m. to 5:30 p.m. on November 2, 1982. The public is invited to attend as observers.

DATE: The workships on November 1 and 2, 1982, will be held at McKimmon Center at North Carolina State University, intersection of Western Blvd. and Gorman Street, Raleigh, N.C. Any changes in date or location will be announced in a subsequent **Federal Register** notice. On Monday, November 1, following an introductory session from 8:00 a.m. to 9:00 a.m., four workshops, on Natural and Anthropogenic Sources, Soils, Deposition Models, and Materials chapters, will be held in parallel from 9:00 a.m. until 12:30 p.m. Two afternoon sessions, on Vegetation and Aquatic Chemistry chapters, will run from 1:30 p.m. until 6:00 p.m. Two other afternoon sessions, on Atmospheric Concentration and Distribution and Transformation Processes chapters, will run from 3:00 p.m. until 6:00 p.m. An evening general session is planned from 6:00 p.m. to 9:00 p.m. On Tuesday, November 2, activities begin with a general session from 7:00 a.m. until 7:30 a.m. followed by parallel workshops from 7:30 a.m. until noon on Dry Deposition Transport Processes, Aquatic Biology, Indirect Health Effects, and Processes chapters. Three parallel afternoon sessions from 1:00 p.m. until 4:30 p.m. will consider Deposition Monitoring, Precipitation Scavenging Processes, and Economics chapters. The workshop will end with a general session from 4:30 p.m. until 5:30 p.m. The public is invited to attend as observers.

FOR FURTHER INFORMATION CONTACT: Ms. Betsy Hood, Critical Assessment Document Assistant Coordinator, EPA/NCSU Acid Precipitation Program, Department of Botany, P.O. Box 5186, North Carolina State University at Raleigh, NC 27650. Telephone (919) 737-3520.

SUPPLEMENTARY INFORMATION: The *Critical Assessment Document,* developed at the request of EPA's Clean Air Science Advisory Committee and the Federal Interagency Task Force on Acid Precipitation, is being prepared through the North Carolina State Acid Precipitation Program (EPA/NCSU) and cooperating scientists. This document will be an evaluation of the state of knowledge of the acidic deposition phenomenon and its effects. The current draft of the document consists of 17 chapters dealing with atmospheric sciences (9 chapters) and effects (8 chapters) with chapter summaries plus an executive Summary.

As part of the review process, EPA/NCSU is assembling a panel consisting of its editors and contributors, EPA personnel and other scientific and technically qualified persons selected by EPA to facilitate scientific and technical evaluation of draft document chapters.

Persons wishing to attend these workshops as observers must contact Betsy Hood (see "Further Information" above) by October 8, 1982. Copies of the draft chapters will be provided to registered observers, who will have an oppotunity to submit writen comments or to make a brief oral statement at the end of the meeting. Ample opportunity for public review of the revised chapters and submission of written comments will be provided when the external review draft of the entire document is submitted in February for EPA Clean Air Science Advisory Committee review. EPA will publish a notice of availability at that time.

A facilitator will chair each session. Any materials submitted or resulting from the meeting will be included in the record established for the review of the *Critical Assessment Document.*

Dated: September 10, 1982.

Courtney Riordan,

Acting Assistant Administrator for Research and Development

[FR Doc. 82-25820 Filed 9-16-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51431; TSH-FRL-2208-3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of sixteen PMNs and provides a summary of each.

DATES: Close of Review Period: PMN 82-642, 82-643, 82-644, 82-645, 82-646, 82-647, 82-648, 82-649 and 82-650, December 1, 1982. PMN 82-651, 82-652, 82-653, 82-654 and 82-655, December 5, 1982. PMN 82-656 and 82-657, December 7, 1982. Written comments by: PMN 82-642, 82-643, 82-644, 82-645, 82-646, 82-647, 82-648, 82-649 and 82-650, November 1, 1982. PMN 82-651, 82-652, 82-653, 82-654 and 82-655, November 5, 1982. PMN 82-656 and 82-657, November 7, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51431]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460 (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460 (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the public reading room E-107.

PMN 82-642

Manufacturer. FMC Corporation.

Chemical. (G) Oryanophosphorous compound.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >50 mg/kg, but <500 mg/kg; Skin irritation: Severe irritant; Eye irritation: Minimal irritant.

Exposure. Minimal exposure.

Environmental Release/Disposal. No release.

PMN 82-643

Manufacturer. FMC Corporation.
Chemical. (G) Organophosphorous compound.
Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: Males—>150 mg/kg, females—<150 mg/kg; Skin irritation: Severe irritant; Eye irritation: Extreme irritant (unwashed), severe irritant (washed).
Exposure. Minimal exposure.
Environmental Release/Disposal. No release.

PMN 82-644

Manufacturer. Confidential.
Chemical. (G) Alkylene ether diol.
Use/Production. (S) Reaction intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, inhalation and eye, a total of 10 workers, up to 8 hrs/da, up to 80 da/yr.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 82-645

Importer. Confidential.
Chemical. (G) Condensate of formaldehyde and an organic base.
Use/Import. (S) Retanning agent for leather. Import range: Confidential.
Toxicity Data. Acute oral: 5,000 mg/kg; Skin irritation: Slight irritant; Eye irritation: Non-irritant.
Exposure. Use: dermal and inhalation, a total of 2 workers, up to 2 hrs/da, up to 200 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by approved landfill.

PMN 82-646

Importer. Confidential.
Chemical. (G) Cobalt complex-[(hydroxynitrophenyl-azo)-(substituted)phenyl pyrazolones], sodium salt.
Use/Import. (S) Dye for leather and paper. Import range: Confidential.
Toxicity Data. Acute oral: >5 g/kg; Skin irritation: Non-irritant; Eye irritation: Non-irritant.
Exposure. Processing, use and disposal: dermal, a total of 8 workers, up to 2 hrs/da, up to 100 da/yr.
Environmental Release/Disposal. Less than 100 kg/yr released to water. Disposal by incineration and approved landfill.

PMN 82-647

Importer. Confidential.
Chemical. (G) [(benzoquinolinyl)-(imidazolyl methylene)]-indenedione derivate, mixed salt.
Use/Import. (S) Dye for paper. Import range: Confidential.
Toxicity Data. Acute oral: >5 g/kg; Acute dermal: 1.5–2 g/kg; Skin irritation: Non-irritant; Eye irritation: Moderate irritant; LC_{50} 96 hr. (minnow): >500 mg/l; Ames Test: Negative.
Exposure. Processing, use and disposal: dermal, a total of 4 workers, up to 2 hrs/da, up to 60 da/yr.
Environmental Release/Disposal. 100–1,000 kg/yr released to water with 10–100 kg/yr to land. Disposal by biological treatment system and incineration.

PMN 82-648

Importer. Confidential
Chemical. (G) [(benzoquinolinyl)-(imidazolyl methylene)]-indenedione derivative, mixed salt.
Use/Import. (S) Dye for paper. Import range: Confidential.
Toxicity Data. Acute oral: >5 g/kg; Acute dermal: ~1.5–2 g/kg; Skin irritation: Non-irritant; Eye irritation: Moderate irritant; LC_{50} 96 hr. (minnow): >500 mg/l; Ames Test: Negative.
Exposure. Processing, use and disposal: dermal, a total of 4 workers, up to 2 hrs/da, up to 60 da/yr.
Environmental Release/Disposal. 100–1,000 kg/yr released to water with 10–100 kg/yr to land. Disposal by biological treatment system and incineration.

PMN 82-649

Manufacturer. Confidential.
Chemical. (G) Benzene dicarboxylic acid polyester.
Use/Production. (G) Open use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by incineration.

PMN 82-650

Manufacturer. Confidential.
Chemical. (G) Pentasubstituted pentanamide.
Use/Production. (G) Site-limited intermediate. Prod. range: 300–600 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: minimal dermal, a total of 10 workers, up to 2 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. No release.

PMN 82-651

Importer. Sandoz Colors and Chemicals.
Chemical. (G) Metal complexed substituted aromatic salt.
Use/Import. (S) Industrial colorant for paper and writing ink. Import range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Skin irritation: Non-irritant; Eye irritation: Non-irritant.
Exposure. Import and processing: dermal and inhalation, a total of 1 worker per plant, up to 1 hr/da max.
Environmental Release/Disposal. 10–100 kg/yr released to air and water. Disposal by on-site biological waste treatment.

PMN 82-652

Importer. Sandoz Colors and Chemicals.
Chemical. (G) Metal complexed substituted aromatic salt.
Use/Import. (S) Industrial colorant for paper. Import range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Skin irritation: >5,000 mg/kg; Eye irritation: Non-irritant.
Exposure. Import and processing: dermal, a total of 1 worker per plant, up to 1 hr/da max.
Environmental Release/Disposal. 10–100 kg/yr released to water. Disposal by on-site biological waste treatment.

PMN 82-653

Importer. Sandoz Colors and Chemicals.
Chemical. (G) Metal complexed substituted aromatic salt.
Use/Import. (S) Industrial colorant for paper. Import range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Skin irritation: >5,000 mg/kg; Eye irritation: Non-irritant.
Exposure. Import and processing: dermal, a total of 1 worker per plant, up to 1 hr/da max.
Environmental Release/Disposal. 10–100 kg/yr released to water. Disposal by on-site biological waste treatment.

PMN 82-654

Importer. Sandoz Colors and Chemicals.
Chemical. (G) Mixed complexed substituted aromatic salt.
Use/Import. (S) Industrial colorant for paper and writing ink. Import range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Skin irritation: Non-irritant; Eye irritation: Non-irritant.
Exposure. Import and processing: dermal and inhalation, a total of 1 worker per plant, up to 1 hr/da max.
Environmental Release/Disposal. 10–100 kg/yr released to air and water. Disposal by on-site biological waste treatment.

PMN 82-655

Manufacturer. American Cyanamid Company.

Chemical. (G) Substituted acrylamide copolymer.

Use/Production. (S) Waste water flocculant. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 25 workers, up to 24 hrs/da, up to 365 da/yr.

Environmental Release/Disposal. Disposal by publicly owned treatment works (POTW).

PMN 82-656

Manufacturer. Confidential.

Chemical. (G) Polymer of disubstituted benzenes and disubstituted alkane.

Use/Production. (S) Minor constituent of an article for commercial use. Prod. range: 3,000–5,000 kg/yr.

Toxicity Data. Acute oral: >3,000 mg/kg; Acute dermal: >1,000 mg/kg; Skin irritation: Slight irritant.

Exposure. Manufacture and use: dermal and inhalation, a total of 80 workers, up to 2 hrs/da, up to 80 da/yr.

Environmental Release/Disposal. Minimal release to air. Disposal by incineration.

PMN 82-657

Manufacturer. Confidential.

Chemical. (G) Sulfonated vinylic polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: a total of 35 workers, up to 4 hrs/da, up to 365 da/yr.

Environmental Release/Disposal. Minimal release. Disposal by POTW and approved landfill.

Dated: September 13, 1982.

Denise F. Swink,

Acting Director, Management Support Division.

[FR Doc. 82-25822 Filed 9-16-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59100; TSH-FRL-2206-2]

Polymer of Alkyl and Heteromonocyclic Amines and An Alkanedioic Acid; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the Federal Register of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for an exemption, provides a summary, and requests comments on the appropriateness of granting the exemption.

DATE: Written comments by: October 4, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-59100]" and the specific TME number should be sent to:

82T-2752

Documents Control Officer (TS-793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E-401, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David Dull, Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

TME 82-47

Close of Review Period. October 17, 1982.

Manufacture. Diamond Shamrock.

Chemical. (G) Polymer of alkyl and heteromonocyclic amines and an alkanedioic acid.

Use/Production. (S) Epoxy hardener. Prod. range: 10/82-6/30/83 —10,000 kg (max).

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal and inhalation, a total of 8 workers at 2 sites, up to 6-24 hrs/da, up to 4 da/yr; processing: dermal and inhalation, a total of 4 workers at 2 sites, 8-24 hrs/da, 4 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and land with 10-100 kg/yr to water.

Dated: September 13, 1982.

Denise F. Swink,

Acting Director, Management Support Division.

[FR Doc. 82-25821 Filed 9-16-82; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2206-6]

Availability of Environmental Impact Statement; Filed September 7 through September 10, 1982 Pursuant to 40 CFR 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information 382-5075 or 382-5076

Corps of Engineers:

EIS No. 820592, Draft, COE, CA, Bel Marin Keys Development, Unit 5, 404 Permit, Marin County, Due: Nov. 19, 1982

EIS No. 820582, Final, COE, GU, Agat Small Boat Harbor Improvements at Nimitz Beach, Agat Area, Due: Oct. 3, 1982

Department of Interior:

EIS No. 820591, Draft, FWS, AK, REG Arctic Nat'l Wildlife Refuge Coastal Plain, Oil/Gas Exploration, Due: Nov. 1, 1982

EIS No. 820577, Draft, BLM, UT, Price River Resource Area Grazing Management Program, Due: Nov. 1, 1982

EIS No. 820587, Final, BLM, CA, Sierra Planning Area Livestock Grazing Management Program, Due: Oct. 18, 1982

EIS No. 820589, Final, BLM, OR, Riley Area Grazing Management Plan, Harney County, Due: Oct. 18, 1982

Department of Transportation:

EIS No. 820578, Final, FHW, SEV, N.J., N.Y. I-287 Completion, U.S. 202 to New York Thruway/I-87, Due: Oct. 18, 1982

EIS No. 820590, Final, FHW, MT, U.S. 2 Reconstruction, Hungry Horse to West Glacier, Flathead County, Due: Oct. 18, 1982

EIS No. 820593, Draft, UMT, MD, Baltimore N. Corridor/Metro Center Transit Improvements, Baltimore County, Due: Nov. 01, 1982

Environmental Protection Agency:

EIS No. 820581, Final, EPA, DE, Rehoboth Beach Wastewater Treatment Facilities, Grant, Sussex County, Due: Oct. 18, 1982

EIS No. 820584, DSuppl, EPA, MD, West Ocean City Wastewater Treatment Facilities, Grant, Worcester County, Due: Nov. 01, 1982

EIS No. 820583, Final, EPA, FL, Tampa-Hillsborough County Area Wastewater Treatment Facilities, Grant, Due: Oct. 18, 1982

EIS No. 820580, Final, EPA, FL, Southern Region Area WWT Facilities, Grant, Palm Beach County, Due: Oct. 18, 1982

EIS No. 820588, Final, EPA, OH, Nettle Lake Area WWT System, Case Study No. 6, Grant, Williams County, Due: Oct. 18, 1982

Department of Housing and Urban Development:

EIS No. 820585, Draft, HUD, PR, Nueva Caparra Community/Comunidad Del Rio Bayamon, Mortgage Insurance, Due: Nov. 3, 1982

EIS No. 820579, Final, HUD, NM, Rio Rancho Subdivisions, Mortgage Insurance, Sandoval County, Due: Oct. 18, 1982

EIS No. 820586, Final, HUD, UT, Dixie Knolls Development, Mortgage Insurance, Washington County, Due: Oct. 18, 1982

Amended Notices:

EIS No. 820444, Draft, DOE, MT, Fort Peck Havre 230 kV Transmission Line, Approval. *Published FR 07/09/82—Review extended, Due: Oct. 22, 1982

EIS No. 820462, DSuppl, BLM, CO, Prototype Oil Shale Leasing, Piceance Basin, Rio Blanco County. *Published FR 07/23/82—Review extended, Due: Sept. 22, 1982

EIS No. 790707, Draft, UMT, CA, San Francisco Bay Area Transportation Terminal Expansion. *Published FR 07/20/79—Officially withdrawn.

Dated: September 14, 1982.

Louis J. Cordia,

Acting Director, Office of Federal Activities.

[FR Doc. 82-25701 Filed 9-16-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CI82-46-000, et al.]

Energy Reserves Group, Inc., et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

September 9, 1982.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 24, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price 1,000 ft [3]	Pressure base
CI82-46-000, D, 5/26/82	Energy Reserves Group, Inc., 217 North Water Street, P.O. Box 1201, Wichita, Kan. 67201.	Southern Natural Gas Company, Grange Field, Lawrence and Jefferson Davis Counties, Mississippi.	(1)	
CI82-366-000 (CI62-102), B, 8/23/82.	Northern Natural Gas Producing Company, Nine Greenway Plaza, Suite 2700, Houston, Tex. 77046.	Northern Natural Gas Company, N. Harper Ranch Field, Clark County, Kansas.	(1)	
CI82-369-000, B, 8/23/82	Waco Oil and Gas Company, Inc.—G. Collins, 309 A, 1297 N. Lewis Street, Glenville, West Virginia 26351.	Equitable Gas Company, Collins Run, Gilmer County, West Virginia.	(1)	
CI82-370-000, B, 8/23/82	Waco Oil and Gas Company—C. P. Snider 229 A, 1297 N. Lewis Street, Glenville, West Virginia 26351.	Equitable Gas Company, Collins Run, Gilmer County, West Virginia.	(1)	
CI82-371-000, B, 8/23/82	Waco Oil and Gas Company, Inc.; Waldeck, S1-148A, 1297 N. Lewis Street, Glenville, West Virginia 26351.	Equitable Gas Company, Cedarville Field, Gilmer County, West Virginia.	(1)	
CI82-372-000, B, 8/23/82	I. L. Morris—B. Messenger, 1297 N. Lewis Street, Glenville, West Virginia 26351.	Equitable Gas Company, Mudlick Field, Gilmer County, West Virginia.	(1)	
CI82-373-000, B, 8/23/82	I. L. Morris—Steinbeck, 1297 N. Lewis Street, Glenville, West Virginia 26351.	Equitable Gas Company, Leading Creek Field, Gilmer County, West Virginia.	(1)	
CI82-374-000, B, 8/23/82	Waco Oil and Gas Company Inc.—Lynch, 1297 N. Lewis Street, Glenville, West Virginia 26351.	Equitable Gas Company, Gluck Run Field, Gilmer County, West Virginia.	(1)	
CI82-375-000, B, 8/23/82	Waco Oil and Gas Company, Inc., Goff, 1, 3, 4, 5, 6, 1297 N. Lewis Street, Glenville, West Virginia 26351.	Equitable Gas Company, Bull Run Field, Gilmer County, West Virginia.	(1)	
CI82-376-000, B, 8/23/82	Waco Oil and Gas Company, Inc., Goff 7, 1297 N. Lewis Street, Glenville, West Virginia 26351.	Equitable Gas Company, Bull Run Field, Gilmer County, West Virginia.	(1)	
CI82-377-000, B, 8/23/82	Waco Industries—Deeperd Campbell, 1297 N. Lewis Street, Glenville, West Virginia 26351.	Equitable Gas Company, Bull Run Field, Braxton County, West Virginia.	(1)	
CI82-378-000, B, 8/23/82	I. L. Morris & J. W. Perrill—A. B. Campbell, 1297 N. Lewis Street, Glenville, West Virginia 26351.	Equitable Gas Company, Ellis Field, Gilmer County, West Virginia.	(1)	
CI82-379-000, B, 8/23/82	Waco Industries—Burke 1A, 1297 N. Lewis Street, Glenville, West Virginia 26351.	Equitable Gas Company, Bull Run Field, Gilmer County, West Virginia.	(1)	
CI82-380-000, B, 8/23/82	Mack R. Worl—Atty. in-Fact, Young-Collins, 1297 N. Lewis Street, Glenville, West Virginia 26351.	Equitable Gas Company, Collins Run Field, Gilmer County, West Virginia.	(1)	
CI82-381-000, B, 8/23/82	Mack R. Worl—Atty. in-Fact, Young-Simmons, 1297 N. Lewis Street, Glenville, West Virginia 26351.	Equitable Gas Company, Collins Run Field, Gilmer County, West Virginia.	(1)	
CI82-382-000, B, 8/23/82	Waco Industries—S. Waldeck, 148 A M.M., 1297 N. Lewis Street, Glenville, West Virginia 26351.	Equitable Gas Company, Cedarville Field, Gilmer County, West Virginia.	(1)	
CI82-383-000, B, 8/23/82	Waco Oil and Gas Company, Inc.—M. Wyant, 1297 N. Lewis Street, Glenville, West Virginia 26351.	Equitable Gas Company, San Fork Field, Gilmer County, West Virginia.	(1)	

Docket No. and date filed	Applicant	Purchaser and location	Price 1,000 ft ³	Pressure base
CI82-364-000, B, 8/23/82	Waco Oil and Gas Company Inc.—Joseph Black, 1297 N. Lewis Street, Glenville, West Virginia 26351.	Equitable Gas Company, Ellis Field, Gilmer County, West Virginia.	(1)	
CI82-365-000, A, 8/25/82	Sohio Petroleum Company, 50 Penn Place, Suite 1100, Oklahoma City, Oklahoma 73116.	Transcontinental Gas Pipe Line Corporation, Brazo Area, Block 578, Offshore Texas.	(2)	14.73
CI82-366-000, A, 8/25/82	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Oklahoma 73125.	Tennessee Gas Pipeline Company, Eugene Island Block 24, Offshore Louisiana.	(3)	15.025
CI82-367-000, A, 8/24/82	Pennzoil Company, P.O. Box 2967, Houston, Texas 77001.	Northern Natural Gas Company, Bernstein Field, Hansford County, Texas.	(4)	14.73
CI82-368-000, A, 8/25/82	Odeco Oil & Gas Company, *et al.*, Odeco Building, 1600 Canal Street, P.O. Box 61780, New Orleans, Louisiana 70161.	Tennessee Gas Pipeline Company, Eugene Island Block 24, Offshore Louisiana, Federal Domain.	(5)	15.025
CI82-369-000 (G-10369), B, 8/25/82.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Florida Gas Transmission Company, McGill Ranch, Kennedy County, Texas.	(6)	
CI82-390-000 (CI61-1439), B, 8/25/82.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company.	Texas Gas Transmission Corporation, Cartwright Field, Jackson County, Louisiana.	(7)	

(1) Lease on acreage in Section 24-8N-20W, Jefferson Davis County, Mississippi expired of its own terms in February, 1975.
(2) Wells plugged and abandoned and lease expired under its own terms.
(3) This well was released by Equitable as part of a court settlement and WACO wishes to sell the gas to another purchaser.
(4) Applicant is willing to accept an initial rate consistent with that prescribed by the Natural Gas Policy Act of 1978.
(5) Applicant is filing under Gas Purchase Contract dated August 10, 1982.
(6) Applicant is willing to accept a certificate of public convenience and necessity conditioned in price to the applicable ceiling rates as established by the Natural Gas Act of 1978.
(7) Applicant is filing under Gas Purchase and Sales Agreement dated August 12, 1982.
(8) Contract was cancelled on May 20, 1979. The three tracts involved in this lease were assigned. ARCO has no remaining reserves or production.
(9) The last producing well, the T. L. Scarborough No. 1 was plugged and abandoned on January 28, 1971.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 82-25409 Filed 9-16-82; 8:45 am]

BILLING CODE 6717-01-M

[Volume 726]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 9, 1982.

JD ##	JD DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-GOULD OIL INC				RECEIVED:	08/12/82	JAI KS			
8249071	K-82-0264	15[illegible]429		108-SA		DAVIS #1		0.0	CITIES SERVICE GA
8249078	K-81-0312	151452[illegible]3M		108-ER		GALLIART #1		0.0	KANSAS NEBRASKA N
-GRAHAM-MICHAELIS CORP				RECEIVED:	08/12/82	JAI KS			
8249075	K-79-0938	15[illegible]0		108-ER		TONER #1		0.0	NORTHERN NATURAL
-GULF OIL CORPORATION				RECEIVED:	08/12/82	JAI KS			
8249068	K-81-0191	15[illegible]006		108-ER		INSLEE #1	NORTH RHODES	0.0	CITIES SERVICE GA
-MARDEN PRODUCING CO				RECEIVED:	08/12/82	JAI KS			
8249074	K-81-0366	15055[illegible]006		108-ER		REED RANCH #1	HUGOTON	0.0	KANSAS NEBRASKA N
-MCKELVY OPERATING CORP				RECEIVED:	08/12/82	JAI KS			
8249076	K-81-0207	15[illegible]0000		108-ER		HARMS #a	HUGOTON	0.0	CITIES SERVICE GA
8249077	K-81-0206	15055[illegible]000		108-ER		R GREATHOUSE #1	HUGOTON	6.0	NORTHERN NATURAL
-MULL DRILLING CO INC				RECEIVED:	08/12/82	JAI KS			
8249073	K-82-0353	15[illegible]00		108-ER		MILLS #2	PALMER WEST	0.0	CITIES SERVICE GA
8249072	K-81-1247	15[illegible]000		108-ER		WHEELOCK #2	MEDICINE RIVER	0.0	CITIES SERVICE GA
-OLYMPIC PETROLEUM COMPANY				RECEIVED:	08/12/82	JAI KS			
8249069	K-81-0875	15[illegible]731		108-ER		JESSE HARRIS #1		0.0	CITIES SERVICE GA
-ROBERT F WHITE				RECEIVED:	08/12/82	JAI KS			
8249070	K-79-1238	151[illegible]0		108-ER		HEISE B #1	EAST ANTELOPE FIELD	18.0	CITIES SERVICE GA
OHIO DEPARTMENT OF NATURAL RESOURCES									
-APPALACHIAN EXPLORATION INC				RECEIVED:	08/13/82	JAI OH			
8249113		3410322975		103	107-TF	PRASSE LUMBER CO #1	MEDINA	16.3	COLUMBIA GAS TRAN
8249114		3415123124		103	107-TF	TRANSUE AND WILLIAMS UNIT #1	LEXINGTON	15.5	T & W DIVISION OF
-AUSTIN DEVELOPMENT CO				RECEIVED:	08/13/82	JAI OH			
8249115A		34.7523658		103		DALESSANDRO #1	GLENMONT	50.0	COLUMBIA GAS TRAN
8249115b		34[illegible]523658	D	107-TF		DALESSANDRO #1	GLENMONT	50.0	COLUMBIA GAS TRAN
-BEREA OIL AND GAS CORPORATION				RECEIVED:	08/13/82	JAI OH			
8249116		3411924406		108		J & B BALL #1	RICH HILL	17.6	COLUMBIA GAS TRAN
-BLAUSER WELL SERVICE INC				RECEIVED:	08/13/82	JAI OH			
8249127		3416725[illegible]95		108		DAVID D DUNBAR #2		0.5	COLUMBIA GAS TRAN
8249126		3416725[illegible]94		108		DAVID D DUNBAR #3		0.5	COLUMBIA GAS TRAN
8249134		3416725131		108		DAVID D DUNBAR #4		0.5	COLUMBIA GAS TRAN
8249125		3416725[illegible]83		108		E GRANT RUSSELL #1		1.1	COLUMBIA GAS TRAN
8249124		3416725082		108		E GRANT RUSSELL #2		1.1	COLUMBIA GAS TRAN
8249120		3416724354		108		HENRY WUNDERLICH #1		4.5	COLUMBIA GAS TRAN
8249121		3416725[illegible]48		108		HENRY WUNDERLICH #2		1.1	COLUMBIA GAS TRAN
8249122		3416725049		108		HENRY WUNDERLICH #3		1.1	COLUMBIA GAS TRAN
8249131		3416725114		108		HOWARD L MATLACK #1		2.7	COLUMBIA GAS TRAN
8249133		3416725116		108		HOWARD L MATLACK #2		2.7	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8249136		3416725137		108		HOWARD L MATLACK #3		2.7	COLUMBIA GAS TRAN
8249118		3400921992		108		M E HARPER #1		8.6	COLUMBIA GAS TRAN
8249117		3400921991		108		M E HARPER #2		8.6	COLUMBIA GAS TRAN
8249119		3400921998		108		M E HARPER #3		8.6	COLUMBIA GAS TRAN
8249123		3416725081		108		ROBERT J KUBOTA #1		3.3	COLUMBIA GAS TRAN
8249129		3416725112		108		ROBERT J KUBOTA #2		3.3	COLUMBIA GAS TRAN
8249128		3416725098		108		RUSSELL F & MARY L MCVICAR #1		1.0	COLUMBIA GAS TRAN
8249132		3416725115		108		RUSSELL F & MARY L MCVICAR #2		1.0	COLUMBIA GAS TRAN
8249130		3416725113		108		RUSSELL F & MARY L MCVICAR #3		1.0	COLUMBIA GAS TRAN
8249135		3416725136		108		RUSSELL F & MARY L MCVICAR #4		1.0	COLUMBIA GAS TRAN
-CALLANDER & KIMBREL INC				RECEIVED: 08/13/82 JA: OH					
8249138		3403124514		103	107-TF	J & S BRIGHT #1	TRINWAY	6.0	
-CAMERON & KINCAID				RECEIVED: 08/13/82 JA: OH					
8249139		3411926126		107-TF		LEAH ZINSMEISTER #1A	BLUE ROCK	10.0	
-CLINTON OIL CO				RECEIVED: 08/13/82 JA: OH					
8249142		3411926059		103	107-TF	D BELL #1-677	OTESEGO	10.0	
8249143		3411926074		103	107-TF	D BELL #2-678	OTSEGO	10.0	
8249144		3412725171		103	107-TF	J WILSON #2A-515	CLAYTON	10.0	
8249140		3411925934		103	107-TF	LAYMAN-WARREN UNIT #1-676	BLOOMFIELD	10.0	
8249141		3411926057		103	107-TF	W MUSKINGUM SCHOOL DIST #1-646	FALLS	10.0	
-DERBY OIL & GAS CORP				RECEIVED: 08/13/82 JA: OH					
8249146A		3412725611		103		IDA PRICE #1	JACKSON	12.0	FORAKER GAS CO IN
8249146B		3412725611	D	107-TF		IDA PRICE #1	JACKSON	12.0	FORAKER GAS CO IN
8249145A		3412725610		103		MARION L NELSON #1	CLAYTON	12.0	NATIONAL GAS & OI
8249145B		3412725610	D	107-TF		MARION L NELSON #1	CLAYTON	12.0	NATIONAL GAS & OI
-EAGLE MOUNTAIN ENERGY CORP				RECEIVED: 08/13/82 JA: OH					
8249153		3411522842		103	107-TF	EDGELL UNIT #1	MALTA	20.0	COLUMBIA GAS TRAN
8249147		3411522820		103	107-TF	F & R SILVUS UNIT #1	CENTER	20.0	EAST OHIO GAS CO
8249154		3411522843		103	107-TF	G & V SHOOK #1	MALTA	20.0	COLUMBIA GAS TRAN
8249149		3411522836		103	107-TF	GOINS UNIT #1	MALTA	20.0	COLUMBIA GAS TRAN
8249151		3411522838		103	107-TF	LAPRADD UNIT #1	MALTA	20.0	COLUMBIA GAS TRAN
8249150		3411522837		103	107-TF	ROBERTS UNIT #1	MALTA	20.0	COLUMBIA GAS TRAN
8249152		3411522841		103	107-TF	TAYLOR #1	MALTA	20.0	COLUMBIA GAS TRAN
8249148		3411522827		103	107-TF	TOWNSEND #1-A	MALTA	20.0	COLUMBIA GAS TRAN
-EAST OHIO GAS CO				RECEIVED: 08/13/82 JA: OH					
8249205		3415721226		108		A & L ANDEL #1		8.4	EAST OHIO GAS CO
8249195	2472	3415721084		108		A & M NATOLI COMM #1		2.8	EAST OHIO GAS CO
8249194	2459	3415721058		108		B & E HIBBS COMM #1		5.9	EAST OHIO GAS CO
8249185		3415121179		108		B & L ALLOWAY COMM #1		2.7	EAST OHIO GAS CO
8249210		3415721324		108		C & F RUMMELL COMM #1		10.1	EAST OHIO GAS CO
8249178	2430	3413320471		108		C & M BINGHAM COMM #2		5.3	EAST OHIO GAS CO
8249208		3415721278		108		C & M DESTEFANI COMM #1		6.0	EAST OHIO GAS CO
8249190	2444	3415721014		108		D & B WRIGHT COMM #1		4.4	EAST OHIO GAS CO
8249171	2377	3413320416		108		D & J BROCKETT COMM #2		4.6	EAST OHIO GAS CO
8249187	2507	3415122130		108		D & M WHITMER #1		11.2	EAST OHIO GAS CO
8249193		3415721046		108		E & M SCHWARK #2		7.5	EAST OHIO GAS CO
8249192		3415721033		108		E & M SCHWARK COMM #1		2.9	EAST OHIO GAS CO
8249198		3415721148		108		F & C EVERETT #1		4.1	EAST OHIO GAS CO
8249170	2374	3413320413		108		F & H HRUBY - COMM #1		7.0	EAST OHIO GAS CO
8249158		3400720321		108		F DOVSOAK UNIT #1		2.5	EAST OHIO GAS CO
8249167		3413320388		108		G & B MYERS COMM #1		2.3	EAST OHIO GAS CO
8249172		3413320417		108		G & E STEINEL COMM #1		6.4	EAST OHIO GAS CO
8249206		3415721234		108		H & M HAGLOCK #1		7.4	EAST OHIO GAS CO

JD NO	JR DKT	API NO	D	SPECIAL	SPECIAL	WELL NAME	FIELD NAME	PROD	PURCHASER
8249179	2437	3413320472		108		H W WISE #2		2.3	EAST OHIO GAS CO
8249208		3415721206		108		J & A JOHNSON #A-1		6.4	EAST OHIO GAS CO
8249201		3415721207		108		J & A JOHNSON #B-1		10.1	EAST OHIO GAS CO
8249173	2382	3413320421		108		J & L MELTON #1		1.6	EAST OHIO GAS CO
8249177	2424	3413320453		108		J & M JORDAN - COMM #1		2.1	EAST OHIO GAS CO
8249176	2413	3413320433		108		J & M WINKLER COMM #1		3.0	EAST OHIO GAS CO
8249189		3415720984		108		JOHNSON-UTZ #2		5.6	EAST OHIO GAS CO
8249166		3413320383		108		L & L SKUTLE COMM #1		9.0	THE EAST OHIO GAS
8249188	2536	3415122138		108		L & M BORON #1		7.1	EAST OHIO GAS CO
8249168	2364	3413320394		108		L & V ZEMAN COMM #1		5.8	EAST OHIO GAS CO
8249163	4896	3412121483		108		OHIO POWER-COMBS #4-B		6.0	EAST OHIO GAS CO
8249191		3415721032		108		P & C BERLANDIS COMM #1		2.9	EAST OHIO GAS CO
8249180	2440	3413320476		108		R & E DORNAN COMM #1		1.8	EAST OHIO GAS CO
8249202		3415721211		108		R & E WARNER #1		10.0	EAST OHIO GAS CO
8249184		3415121139		108		R & J GEORGE #1		14.4	EAST OHIO GAS CO
8249174		3413320426		108		R & L BURT COMM #1		6.0	EAST OHIO GAS CO
8249164		3413320167		108		R & M TEETS #1		3.1	EAST OHIO GAS CO
8249186		3415121726		108		R & P FEUCHT #1		20.0	EAST OHIO GAS CO
8249209		3415721323		108		R & S LICHTI COMM #1		4.3	EAST OHIO GAS CO
8249183		3415121103		108		R G BATTERSHELL #1		1.6	EAST OHIO GAS CO
8249207		3415721275		108		R HEIRS COMM #1		6.5	EAST OHIO GAS CO
8249203		3415721212		108		R HOSTETLER COMM #1		9.8	EAST OHIO GAS CO
8249162		3412121428		108		R M BALL #1		3.2	EAST OHIO GAS CO
8249204		3415721223		108		R O LEHR COMM #1		4.0	EAST OHIO GAS CO
8249161	3061	3411922448		108		R YOUNG #1		1.9	EAST OHIO GAS CO
8249181	2453	3413320486		108		SANDY LAKE LAND CO COMM #1		2.3	EAST OHIO GAS CO
8249182	2454	3413320487		108		SANDY LAKE LAND CO COMM #2		6.3	EAST OHIO GAS CO
8249199		3415721155		108		T & M KANE COMM #1		10.2	EAST OHIO GAS CO
8249160	3064	3405921089		108		UPHOLE & BRANDON #1		2.7	EAST OHIO GAS CO
8249196	2476	3415721110		108		URFER & BRICK COMM #1		2.5	EAST OHIO GAS CO
8249159	2428	34J2920571		108		W & M GINGERICH #1		2.2	THE EAST OHIO GAS
8249169	2373	3413320407		108		W & M SOBER COMM #1		3.6	EAST OHIO GAS CO
8249165		3413320376		108		W & P BROCKETT COMM #1		11.0	EAST OHIO GAS CO
8249197	2413	3415721111		108		W & P MOSS COMM #1		5.6	EAST OHIO GAS CO
8249175		3413320427		108		W C SIMCOX COMM #1		2.3	EAST OHIO GAS CO
-EDCO DRILLING & PRODUCING INC				RECEIVED: 08/13/82 JA: OH					
8249155		3407522361		108		MARMET SM-1A		16.0	COLUMBIA GAS TRAN
8249156		3407522364		108		MARMET SM-2A		16.0	COLUMBIA GAS TRAN
-ENERGY DEVELOPMENT CORP				RECEIVED: 08/13/82 JA: OH					
8249157		3400721944		103	107-TF	WOLFE WELL #1	ORWELL	16.0	
-GASEARCH INC				RECEIVED: 08/13/82 JA: OH					
8249211		3409921466		103	107-TF	NATIONAL NORTHERN INC (JACKSON) #1	JACKSON	20.0	YANKEE RESOURCES
-GEO ENERGY INC				RECEIVED: 08/13/82 JA: OH					
8249212		3411926353		107-TF		PIDCOCK #1-2	PERRY	14.0	
-GUARDIAN MANAGEMENT INC				RECEIVED: 08/13/82 JA: OH					
8249216		3403124652		103	107-TF	BECHTOL WC #1	KEENE	16.0	
8249215		3403124651		103	107-TF	CATLIN WC-#1	CLARK	16.0	
8249220		3403124702		103	107-TF	FINTON WC-#1	COSHOCTON	16.0	
8249217		3403124668		103	107-TF	HOSFELT WC-#1	RANDLE	16.0	
8249213		3403124649		103	107-TF	HUGHES WC-#1	RANDLE	16.0	
8249218		3403124689		103		JONES WC-#1	BRINKHAVEN	18.0	
8249219		3403124691		103	107-TF	POWELL WC-#1	TRINWAY	16.0	
8249214		3403124650		103	107-TF	WC-#1 FISHER WC-#1	RANDLE	16.0	

JO NO	JA TKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-INTEGRATED PETROLEUM COMPANY INC		RECEIVED: 08/13/82 JA: OH							
8249221		34-5520362		103	107-TF	D D S MILLER #1	PARKMAN	42.0	
-J D DRILLING CO		RECEIVED: 08/13/82 JA: OH							
8249223		3410522372		107-DV		C V & MAXINE PRICE #1	RAVENSWOOD	4.0	COLUMBIA GAS TRAN
8249222		3410522370		107-DV		PROFFITT-BEEGLE #1	PORTLAND	7.0	COLUMBIA GAS TRAN
-JOHN C MASON		RECEIVED: 08/13/82 JA: OH							
8249241		3407523746		107-TF		KENNETH GERBER #1	BERLIN	25.0	COLUMBIA GAS TRAN
8249242		3407523749		107-TF		MOSE COBLENTZ #1	BERLIN	36.0	COLUMBIA GAS TRAN
-KEN-TRAK VII		RECEIVED: 08/13/82 JA: OH							
8249224		3410522367		107-TF		RAYMOND FOWLER #5	2ND BEREA (LOWER MISS	0.0	
-KEN-TRAK X		RECEIVED: 08/13/82 JA: OH							
8249225		3410522414		107-TF		WILLIAM SMITH #1	LOWER MISSISSIPPIAN	0.0	
-KRAMER EXPLORATION CO		RECEIVED: 08/13/82 JA: OH							
8249226		3405320544		107-TF		GILBERT #1	CHESHIRE	0.1	COLUMBIA GAS TRAN
8249228		3405320765		103	107-TF	OHIO POWER #17	ADDISON	12.0	COLUMBIA GAS TRAN
8249227		3405320763		103	107-TF	OHIO POWER CO #2	ADDISON	12.0	COLUMBIA GAS TRAN
8249229		3405320766		103	107-TF	OHIO POWER CO #23	ADDISON	0.0	COLUMBIA GAS TRAN
-L BOORD OIL COMPANY INC		RECEIVED: 08/13/82 JA: OH							
8249137A		3416726049	D	107-TF		LAURA L BOORD #2	BARLOW TOWNSHIP SEC 6	4.5	COLUMBIA GAS TRAN
8249137B		3416726049		108		LAURA L BOORD #2	BARLOW TOWNSHIP SEC 6	4.5	COLUMBIA GAS TRAN
-LANDPROVEST INC		RECEIVED: 08/13/82 JA: OH							
8249230		34-5923114		107-TF		C WILSON #5-#3114	CAMBRIDGE	50.0	COLUMBIA GAS TRAN
-LEADER EQUITIES INC		RECEIVED: 08/13/82 JA: OH							
8249231		3407322632		103	107-TF	WATT #1	STARK	13.0	
-LESLIE OIL AND GAS CO INC		RECEIVED: 08/13/82 JA: OH							
8249232		3410322147		107-TF		KOVAC #1	SPENCER TWP	7.5	COLUMBIA GAS TRAN
8249233		3410322623		107-TF		MCLOMAS - CLIFFORD UNIT #1	SPENCER TWP	7.5	COLUMBIA GAS TRAN
-LOMAK PETROLEUM INC		RECEIVED: 08/13/82 JA: OH							
8249235		3411926227		107-TF		BROMLEY UNIT #1	HARRISON	30.0	COLUMBIA GAS TRAN
8249234		3411926103		107-TF		C FUNK #1	HARRISON	24.0	COLUMBIA GAS TRAN
8249240		3415521708		107-TF		G MAGRUDER #1	MESOPOTAMIA	24.0	COLUMBIA GAS TRAN
8249238		3413322881		107-TF		HOPWOOD UNIT #2	HIRAM	18.0	EAST OHIO GAS CO
8249239		3415521706		107-TF		J MILLER #1	MESOPOTAMIA	24.0	COLUMBIA GAS TRAN
8249237		3413322865		107-TF		K REID UNIT #1	HIRAM	16.0	EAST OHIO GAS CO
8249236		3411926286		107-TF		M SWINGLE #1	HARRISON	30.0	COLUMBIA GAS TRAN
-M B OPERATING CO INC		RECEIVED: 08/13/82 JA: OH							
8249249		3415723210		108		A FISH #1		6.0	REPUBLIC STEEL CO
8249243		3401921282		108		BETTINGER U #1		11.0	REPUBLIC STEEL CO
8249248		3415721596		108		EWING-CHESLOCK #1		3.8	REPUBLIC STEEL CO
8249245		3415122640		108		FOGLE #1		3.8	REPUBLIC STEEL CO
8249247		3415721573		108		H & C BURTON #1		3.8	REPUBLIC STEEL CO
8249246		3415122965		108		J & C BLEND #1-A		29.2	REPUBLIC STEEL CO
8249244		3415122532		108		JON GARAUX U #3		5.3	REPUBLIC STEEL CO
-NEW FRONTIER EXPLORATION INC		RECEIVED: 08/13/82 JA: OH							
8249253		3415123693		103	107-TF	C BISHOP #1	NIMISHILLEN	18.0	YANKEE RESOURCES
8249254		3415123694		103	107-TF	C BISHOP #2	NIMISHILLEN	18.0	YANKEE RESOURCES
8249251		3406720544		103	107-TF	D HOST #2	MONROE	18.0	TENNECO INC
8249250		34-5923168		103	107-TF	E WEBER #1	LIBERTY	18.0	
8249252		3410322583		103	107-TF	LANDTREK PARTNERSHIP #3	WADSWORTH	18.0	YANKEE RESOURCES
8249255		3415723723		103	107-TF	M LEHIGH #1	MILL	18.0	YANKEE RESOURCES
8249256		3415723724		103	107-TF	M LEHIGH #2	MILL	18.0	YANKEE RESOURCES
-NOBLE OIL CORP		RECEIVED: 08/13/82 JA: OH							
8249259		3413322705		107-TF		DEB #1	PALMYRA	20.0	GENERAL ELECTRIC

JD NO	JR DAT	API NO	U	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8249262		3415123557		107-TF		MOLEDOR-RAFFERTY #2	LEXINGTON	20.0	YANKEE RESOURCES
8249258		3413326080		107-TF		POWERS #3	DEERFIELD	20.0	REPUBLIC STEEL CO
8249257		3413325990		107-TF		POWERS #4	DEERFIELD	20.0	REPUBLIC STEEL CO
8249260		3413322707		107-TF		SHARI-JODI #1	PALMYRA	20.0	GENERAL ELECTRIC
8249261		3413322708		107-TF		SHARI-JODI #2	PALMYRA	20.0	GENERAL ELECTRIC
-OHIO OIL & GAS CO				RECEIVED:	08/13/82	JA: OH			
8249266		3415522027		107-TF		BEDLION #1	ORANGEVILLE	20.0	COLUMBIA GAS TRAN
8249268		3415522044		107-TF		KOHLMORGAN #1	KINSMAN	20.0	COLUMBIA GAS TRAN
8249269		3415522055		107-TF		LASTER #1	KINSMAN	20.0	COLUMBIA GAS TRAN.
8249267		3415522029		107-TF		PALMER #1	ORANGEVILLE	20.0	COLUMBIA GAS TRAN
8249265		3415522021		107-TF		PHILBRICK #1	ORANGEVILLE	20.0	COLUMBIA GAS TRAN
8249270		3415522130		107-TF		RHODES #2	CORTLAND	20.0	COLUMBIA GAS TRAN
8249271		3415522148		107-TF		ROOKS #1	GUSTAVUS	20.0	COLUMBIA GAS TRAN
8249264		3415521915		107-TF		TOROK #1	JOHNSTON	20.0	COLUMBIA GAS TRAN
-ONEAL PETROLEUM INC				RECEIVED:	08/13/82	JA: OH			
8249263		3405922099	D	108		D SHRIVER #2		6.0	
-OXFORD OIL CO				RECEIVED:	08/13/82	JA: OH			
8249273		3416923249		107-TF		HAROLD THOMPSON #1	CRESTON	16.0	
8249272		3403124575		107-TF		PAUL ROBINSON #2	RANDLE	11.0	
-PEERLESS/TRANSATLANTIC OHIO 82				RECEIVED:	08/13/82	JA: OH			
8249277		3400721991		103	107-TF	CHUTAS #P-1	COLEBROOK	27.0	EAST OHIO GAS CO
8249275		3400721986		103	107-TF	JANOWITZ #P-1	COLEBROOK	27.0	EAST OHIO GAS CO
8249274		3400721984		103	107-TF	PRINDLE #P-1	COLEBROOK	28.0	EAST OHIO GAS CO
8249276		3400721989		103	107-TF	STINSON #P-1	COLEBROOK	26.0	
-POMINEX INC				RECEIVED:	08/13/82	JA: OH			
8249278		3413322773		103	107-TF	NEISS #2	FREEDOM	16.0	
-POSTON OPERATING CO INC				RECEIVED:	08/13/82	JA: OH			
8249282		3405320615		107-TF		BRIGGS & WHITE #1	CHESHIRE	1.3	COLUMBIA GAS TRAN
8249285		3412724880		107-TF		C & P EMBREY #3	HEMLOCK	26.2	COLUMBIA GAS TRAN
8249284		3412724505		107-TF		C & P EMBREY #4	HEMLOCK	26.2	COLUMBIA GAS TRAN
8249280		3405320488		107-TF		E & P THOMPSON #2	CHESHIRE	4.4	COLUMBIA GAS TRAN
8249281		3405320562		107-TF		E & P THOMPSON #3	CHESHIRE	4.9	COLUMBIA GAS TRAN
8249279		3405304879		107-TF		OHIO ELECTRIC COMPANY #1	CHESHIRE	3.3	COLUMBIA GAS TRAN
8249283		3405320625		107-TF		OHIO POWER COMPANY #1	CHESHIRE	2.0	COLUMBIA GAS TRAN
-QUAKER STATE OIL REFINING CORP				RECEIVED:	08/13/82	JA: OH			
8249287		3401921574		103	107-TF	A & I SCHANDEL UNIT #1	MINERVA	3.7	
8249286		3401921552		103	107-TF	H J SCHANDEL UNIT #1	MINERVA	5.1	
-QUINTIN LITTLE CO				RECEIVED:	08/13/82	JA: OH			
8249288		3400721576		107-TF		KENYON-LATUK #1	JEFFERSON	7.0	
-REPUBLIC ENERGY INV CORP 80-II				RECEIVED:	08/13/82	JA: OH			
8249290		3405320592		107-TF		HALLIDAY-SHEETS #1	CHESHIRE	1.4	COLUMBIA GAS TRAN
8249291		3405320593		107-TF		HALLIDAY-SHEETS #2	CHESHIRE	1.4	COLUMBIA GAS TRAN
8249289		3405320591		107-TF		HALLIDAY-SHEETS #4	CHESHIRE	1.4	COLUMBIA GAS TRAN
-ROVI RESOURCES CORP				RECEIVED:	08/13/82	JA: OH			
8249296		3411521932		107-TF		HANSON #1	BLOOM	11.0	TENNESSEE GAS PIP
8249294		3411521930		107-TF		HANSON #2	BLOOM	11.0	TENNESSEE GAS PIP
8249293		3411521929		107-TF		HANSON #3	BLOOM	11.0	TENNESSEE GAS PIP
8249292		3411521928		107-TF		HANSON #4	BLOOM	11.0	TENNESSEE GAS PIP
8249295		3411521931		107-TF		HANSON #5	BLOOM	11.0	TENNESSEE GAS PIP
-ROYAL PETROLEUM *81-III				RECEIVED:	08/13/82	JA: OH			
8249297		34 5330709		107-TF		HALLIDAY-SHEETS #7	CHESHIRE	1.4	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 81-I				RECEIVED:	08/13/82	JA: OH			
8249301		3411522135		107-TF		GENHEIMER #1	SALISBURY	6.5	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	J SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8249302		3410522136	107-TF		HOYT #1	BEDFORD	0.5	COLUMBIA GAS TRAN
8249298		3410522016	107-TF		HOYT #2	BEDFORD	0.5	COLUMBIA GAS TRAN
8249303		3410522137	107-TF		HOYT #3	BEDFORD	0.5	COLUMBIA GAS TRAN
8249299		3410522133	107-TF		ROSS #1	BEDFORD	0.8	COLUMBIA GAS TRAN
8249300		3410522134	107-TF		ROSS #2	BEDFORD	0.8	COLUMBIA GAS TRAN
-TIGER OIL INC			RECEIVED: 08/13/82 JA: OH					
8249304		3412122160	107-TF		JAMES MOORE #1	SARAHSVILLE	0.0	COLUMBIA GAS TRAN
-VANLOCO INC			RECEIVED: 08/13/82 JA: OH					
8249305		3410522766	103	107-TF	KLOPP #2	MONTVILLE	20.0	
-WILLS CREEK LTD			RECEIVED: 08/13/82 JA: OH					
8249306		3403124690	103	107-TF	GUTHRIE WC-#1	RANDLE	18.0	

OKLAHOMA CORPORATION COMMISSION

-ATLAS OIL INC			RECEIVED: 08/12/82 JA: OK					
8249019	17748	3508321976	102-2		OLIVER 1-5 LEASE	WEST GUTHRIE	54.8	EASON OIL CO
-BECK PRODUCTION CO			RECEIVED: 08/12/82 JA: OK					
8249055	15562	3504921647	103		MANDY #1	WHITEBEAD	0.0	WARREN PETROLEUM
8249056	15563	3504921798	103		MITZI #1	WHITEBEAD	0.0	WARREN PETROLEUM
-BRISCOE OIL CO			RECEIVED: 08/12/82 JA: OK					
8249038	14234	3507300000	103		BRISCOE-MILLER 2-2	C NE SW SEC 2-17N-6W	35.0	TESORO CRUDE OIL
-CENTRAL CALIFORNIA OIL CO			RECEIVED: 08/12/82 JA: OK					
8249061	15687	3511123010	103		HENRY J #3	WEST BALD HILL	0.0	PHILLIPS PETROLEU
-CHAMPLIN PETROLEUM COMPANY			RECEIVED: 08/12/82 JA: OK					
8249042	15553	3509300000	103		GAY-ALLSPACH #2	EAST CHANEY DELL	50.0	CHAMPLIN PETROLEU
-CHARLES HILL JR			RECEIVED: 08/12/82 JA: OK					
8249035	14075	3506321269	102-2		WILSON #2	CITRA	365.0	ARKANSAS LOUISIAN
-CUMMINGS OIL CO			RECEIVED: 08/12/82 JA: OK					
8249051	15491	3515121225	102-4		GERLOFF #1-18	NW AVARD	0.0	
-CURTIS PRYOR			RECEIVED: 08/12/82 JA: OK					
8249031	14377	3503120868	102-2		LLOYD COKER #1	EAST HULEN	109.0	NATURAL GAS OPERA
-DAL TEX OIL CO INC			RECEIVED: 08/12/82 JA: OK					
8249046	17743	3506321624	102-2		FITZPATRICK #1	MOUNDS DISTRICT	159.0	PHILLIPS PETROLEU
-EGC OIL CO			RECEIVED: 08/12/82 JA: OK					
8249037	14295	3510523508	102-2		GLASS 5A SW/4 SW/4 NE/4 14-20N-15E	LENAPAH	55.0	OKAN GAS CO
-E. W. SULLIVANT			RECEIVED: 08/12/82 JA: OK					
8249021	20349	3506321284	103		ANNA B #1	NORTH HULL	6.6	EASON OIL CO
8249049	20350	3506321292	103		CLARA #1	NORTH HULL	4.0	EASON OIL CO
8249020	20348	3506321163	103		MARY ANN #1	NORTH HULL	9.8	EASON OIL CO
-GEORGE P POST DBA POST PETROLEUM CO			RECEIVED: 08/13/82 JA: OH					
8249060	15577	3513921537	103		LUNCEFORD #1	DONBEY	6.0	PHILLIPS PETROLEU
-GULF OIL CORPORATION			RECEIVED: 08/12/82 JA: OK					
8249065	15251	3501722013	102-4		COBB-CARTER NO 1-13	YUKON SOUTH	12.0	CONOCO INC
-HARPER OIL COMPANY			RECEIVED: 08/12/82 JA: OK					
8249047	17752	3512920665	102-2		LEDDY #1	EAST ROLL	127.0	DELHI GAS PIPELIN
-HESTON OIL CO			RECEIVED: 08/12/82 JA: OK					
8249052	15554	3510920525	103		QUILLIN #22-3	MITCHER	0.0	GARFIELD GAS GATH
-HPC INC			RECEIVED: 08/12/82 JA: OK					
8249041	15549	3501722147	103		ALLEN MOFFET #1	SOUTH REEDING	7.0	PHILLIPS PETROLEU
-JET OIL COMPANY			RECEIVED: 08/12/82 JA: OK					
8249059	15569	3508321754	103		WEINKAUF "B" #1	ELKHORN	4.0	EASON OIL CO
-JOE COURSEY JR			RECEIVED: 08/12/82 JA: OK					
8249048	17775	3514300000	102-2		C W ROSS JR #1	COLLINSVILLE	36.5	DIAMOND S GAS SYS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	08/12/82	JA: OK			
8249058	15567	3501120920		103		BENEDA #1		200.0	EL PASO NATURAL G
-L O WARD				RECEIVED:	08/12/82	JA: OK			
8249022	15535	3505121163		103		WINNIE 1	S W NORGE	250.0	PHILLIPS PETROLEU
-LARRY HARVILL INC				RECEIVED:	08/12/82	JA: OK			
8249036	14107	3513722882		103		KELLER #1	STAGE STAND	110.0	ENSERCH CORP
-LOBAR OIL CO INC				RECEIVED:	08/12/82	JA: OK			
8249053	15555	3508321049		103		RAPP A-1	N E STROUD	0.0	EASON OIL CO
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	08/12/82	JA: OK			
8249067	15480	3500320242		108		JOHN MITCHELL #1	RINGWOOD	8.0	UNION TEXAS PETRO
8249058	15481	3500320648		108		MADDOX #1	WEST ALINE	9.0	MAGIC CIRCLE ENER
8249066	15479	3500320192		108		MAX BENTLEY #1	RINGWOOD	8.0	UNION TEXAS PETRO
-OFS-TULSA CORP				RECEIVED:	08/12/82	JA: OK			
8249039	15537	3508321590		103		STATE #16-2	SOONER TREND	76.0	EASON OIL CO
-OIL & GAS LOGISTICS INC				RECEIVED:	08/12/82	JA: OK			
8249043	15799	3503700000		103		ALDRIDGE #1		10.5	PHILLIPS PETROLEU
8249062	15797	3503700000		103		ALDRIDGE #4		3.2	PHILLIPS PETROLEU
8249044	15800	3503700000		103		SAMUELS #2		19.4	PHILLIP PETROLEUM
8249045	15801	3503700000		103		SAMUELS #3		2.2	PHILLIPS PETROLEU
-OKLAHOMA CONVEYANCE CORP				RECEIVED:	08/12/82	JA: OK			
8249032	13390	3507121411		108		JOHN N OTTO #2-12	PERMEAN BASIN	1.3	CITIES SERVICE GA
8249033	13391	3507121861		108		KELLE #2-23	PERMEAN BASIN	2.0	CITIES SERVICE GA
-PETRA PETROLEUM CORP				RECEIVED:	08/12/82	JA: OK			
8249029	14281	3511721334		102-2		STATE #16-14	GREENUP	108.0	COLORADO GAS COMP
8249030	14283	3511721283		102-2		STATE 16-2	GREENEY	9.0	COLORADO GAS COMP
-PETRO-ENERGY EXPLORATION INC				RECEIVED:	08/12/82	JA: OK			
8249057	15564	3504722719		103		SMITH #1-6	SOONER TREND	100.0	CHAMPLIN PETROLEU
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	08/12/82	JA: OK			
8249034	13623	3513900000		108		SIEBERT #1	GUYMON HUGOTON	0.0	PANHANDLE EASTERN
-SCHICK OIL & GAS INC				RECEIVED:	08/12/82	JA: OK			
8249064	12122	3509321894		103		MUNKRES 18-1	RINGWOOD	30.0	PIONEER GAS PRODU
-SHEMEN PRODUCTION INC				RECEIVED:	08/12/82	JA: OK			
8249028	14235	3514321469		102-2		AGAPE #1		0.0	DIAMOND "S" GAS S
-STEVE JERNIGAN INC				RECEIVED:	08/12/82	JA: OK			
8249063	11010	3501722696		103		JERNIGAN #1	YUKON	0.0	DELHI GAS PIPELIN
-THOMPSON TYE DRILLING CO INC				RECEIVED:	08/12/82	JA: OK			
8249040	15539	3511921775		103		STATE #2 OTC 119 16559	NORTH CUSHING	60.0	ENTERPRISE DEVELO
-TRIANGLE OIL CO				RECEIVED:	08/12/82	JA: OK			
8249023	12682	3503722538		103		COOKER #3	LAYTON	0.0	COLORADO GAS COMP
8249024	12683	3503700000		103		COOPER #1	LAYTON	0.0	COLORADO GAS COMP
8249025	12684	3503722832		103		COOPER #4	LAYTON	0.0	COLORADO GAS COMP
8249027	12681	3503722833		103		COOPER #5	LAYTON	0.0	COLORADO GAS COMP
8249026	12685	3503722976		103		COOPER #6	LAYTON	0.0	COLORADO GAS COMP
-UNION TEXAS PETROLEUM				RECEIVED:	08/12/82	JA: OK			
8249054	15560	3509322416		103		RAYMOND KECK #2	HODGE AREA I	91.3	PANHANDLE EASTERN
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-BLUE CREEK GAS COMPANY				RECEIVED:	08/12/82	JA: WV			
8249112		4703503789		107-DV		MATHENY #1	ELK	0.0	COLUMBIA GAS TRAN
-BOW VALLEY PETROLEUM INC				RECEIVED:	08/12/82	JA: WV			
8249081		4708505057		103		BENNETT #916	GRANT DISTRICT	0.0	COLUMBIA GAS TRAN
8249085		4708505057		107-DV		BENNETT #916	GRANT DISTRICT	0.0	COLUMBIA GAS TRAN

JO NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8249082		4708505054		103		CANARY #913	GRANT DISTRICT	0.0	COLUMBIA GAS TRAN
8249094		4710500899		107-DV		HOFFMAN #908	CLAY DISTRICT	0.0	COLUMBIA GAS TRAN
8249095		4710500895		107-DV		HOFFMAN #909	CLAY DISTRICT	0.0	COLUMBIA GAS TRAN
8249080		4708505069		103		JACKSON #907	GRANT DISTRICT	0.0	COLUMBIA GAS TRAN
8249093		4785050690		107-DV		JACKSON #907	GRANT DISTRICT	0.0	COLUMBIA GAS TRAN
8249084		4710500900		107-DV		JACKSON #914	CLAY DISTRICT	0.0	COLUMBIA GAS TRAN
8249088		4710500884		103		JOY #905	CLAY DISTRICT	0.0	COLUMBIA GAS TRAN
8249089		4710500884		107-DV		JOY #905	CLAY DISTRICT	0.0	COLUMBIA GAS TRAN
8249092		4710500896		107-DV		MC CAULEY #911	BURNING SPRINGS DISTR	0.0	COLUMBIA GAS TRAN
8249096		4710500911		107-DV		MCCAULEY #947	BURNING SPRINGS DISTR	0.0	COLUMBIA GAS TRAN
8249083		4710500886		103		MCGEE #902	CLAY DISTRICT	0.0	COLUMBIA GAS TRAN
8249097		4710500886		107-DV		MCGEE #902	CLAY DISTRICT	0.0	COLUMBIA GAS TRAN
8249090		4710500888		107-DV		ROBINSON #912	CLAY DISTRICT	0.0	COLUMBIA GAS TRAN
8249091		4710500906		107-DV		VALENTINE #941	CLAY DISTRICT	0.0	COLUMBIA GAS TRAN
8249079		4710500883		103		WELCH #901	BURNING SPRINGS DIST	0.0	COLUMBIA GAS TRAN
8249087		4710500883		107-DV		WELCH #901	BURNING SPRINGS DISTR	0.0	COLUMBIA GAS TRAN
8249086		4710500910		107-DV		WELCH #945	BURNING SPRINGS DISTR	0.0	COLUMBIA GAS TRAN
-CARSON PETROLEUM CORP				RECEIVED:	08/12/82	JA: WV			
8249102		4701723026		103		DROPPLEMAN #3	ST CLAIR	25.0	COLUMBIA GAS TRAN
-CHASE PETROLEUM				RECEIVED:	08/12/82	JA: WV			
8249101		4708504947		107-DV		AMOS #4	CLAY DISTRICT	42.6	
8249109		4708504877		107-DV		BALL #1A	UNION DISTRICT	58.8	CONSOLIDATED GAS
8249100		4708504878		107-DV		CLAYTON #1A	UNION DISTRICT	66.0	
8249108		4708504904		107-DV		PRUNTY #1	UNION DISTRICT	24.6	
-CNG PRODUCING COMPANY				RECEIVED:	08/12/82	JA: WV			
8249106		4703302515		103		GOLDIE C BARTLETT WN-AA-22	CLAY	2.1	CONSOLIDATED GAS
-D C MALCOLM INC				RECEIVED:	08/12/82	JA: WV			
8249111		4708703511		107-DV		HUFFMAN #2 C47-087-3511	AMMA-LOONEYVILLE	0.0	COLUMBIA GAS TRAN
-GEORGE JACKSON				RECEIVED:	08/12/82	JA: WV			
8249105		4703302624		103		JAMES S HARBERT #1	EAGLE DISTRICT	15.0	CONSOLIDATED GAS
-GILBERT IMPORTED HARDWOODS				RECEIVED:	08/12/82	JA: WV			
8249104		4710900878		103		LUGAR #1	OCEANA	50.0	CONSOLIDATED GAS
-J C BAKER & SONS INC				RECEIVED:	08/12/82	JA: WV			
8249107		4708701767		103		GLADYS BULL	SALT LICK	26.0	CONSOLIDATED GAS
-L & M PETROLEUM INC				RECEIVED:	08/12/82	JA: WV			
8249110		4707321373		107-DV		ARLINGTON SHULTZ #3	UNION	12.0	COLUMBIA GAS TRAN
-R & B PETROLEUM INC				RECEIVED:	08/12/82	JA: WV			
8249098		4704700863	D	102-2		GEORGIA PACIFIC #8	BIG CREEK	50.0	COLUMBIA GAS TRAN
8249099		4704700861	D	102-4		POCAHONTAS MINING CO #3	BIG CREEK	50.0	COLUMBIA GAS TRAN
-SPARTAN GAS COMPANY				RECEIVED:	08/12/82	JA: WV			
8249103		4710900864		103		Y & O COAL COMPANY 86-S-277	SLAB FORK	0.0	COLUMBIA GAS TRAN

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-25467 Filed 9-10-82; 8:45 am]
BILLING CODE 6717-01-C

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued September 9, 1982.

JD NO	JA DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
********** LOUISIANA OFFICE OF CONSERVATION **********									
-AMOCO PRODUCTION CO				RECEIVED:	08/16/82	JA: LA			
8249380	81-1650	1701723325		102-4		FRED WAPPLER "H" #1	GREENWOOD-WASKOM	220.0	ARKANSAS-LOUISIAN
8249447	82-3426	1707720280		107-DP		J G BEAUD #1 18,100' TUSC RA SUU	MOORE-SAMS	2926.0	TEXAS GAS TRANSMI
-ARKLA EXPLORATION COMPANY				RECEIVED:	08/16/82	JA: LA			
8249502	82-3445	1707522879		102-2		DELACROIX #7	TIGERS RIDGE FIELD	550.0	SOUTHERN NATURAL
-BETHLAN PRODUCTION CORP				RECEIVED:	08/16/82	JA: LA			
8249409	82-2060	1707321767		108		FIDDLER #1	MONROE	3.3	IMC PIPELINE CO I
8249478	82-2059	1707321765		108		MAE POWELL #1	MONROE GAS FIELD	4.5	IMC PIPELINE CO I
-CAPITAL GAS INC				RECEIVED:	08/16/82	JA: LA			
8249395	82-2017	1707321818		108		WILLIAMS #1	MONROE	3.0	IMC PIPELINE CO I
-CEKA GAS CORP				RECEIVED:	08/16/82	JA: LA			
8249485	82-2173	1711121993		108		MSC #9	MONROE GAS FIELD	6.0	INTERNATIONAL MIN
-CHARLES B BICE				RECEIVED:	08/16/82	JA: LA			
8249522	81-2068	1705922130		103		PIONEER NATURAL GAS B #2	CHICKASAW CREEK	51.0	TEXAS GAS TRANSMI
-COCKRELL CORPORATION				RECEIVED:	08/16/82	JA: LA			
*8249430	82-2280	1710121003		107-DP		C CREMALDI #2 P A 06-3 RC SU	PATTERSON	5000.0	SOUTHERN NATURAL
-COLUMBIA PETROLEUM CORP				RECEIVED:	08/16/82	JA: LA			
8249400	82-1249	1703100255		108		WEMPLE A #12 SERIAL #9,340	RED RIVER-BULL BAYOU	6.0	LOUISIANA INTRAST
-CORNELL OIL CO				RECEIVED:	08/16/82	JA: LA			
8249448	82-3423	1731711321		107-DP		CARL D CURTIS #1	SOUTH RICEVILLE	750.0	TEXAS EASTERN TRA
-COTTON PETROLEUM CORPORATION				RECEIVED:	08/16/82	JA: LA			
8249443	82-3411	1711321182		107-DP		ROSELLA SARVER #1	WILDCAT	0.0	TRANSCONTINENTAL
-CRYSTAL OIL COMPANY				RECEIVED:	08/16/82	JA: LA			
8249434	82-2988	1701521369		102-4	107-TF	HAY RA SU C HALL #1	ARKANA	65.3	ARKANSAS LOUISIAN
-CUSTER K PRIMOS				RECEIVED:	08/16/82	JA: LA			
8249505	82-0864	1711102815		108		HOWARD ESTATE #4	MONROE	7.0	IMC PIPELINE CO I
-DALECO RESOURCES				RECEIVED:	08/16/82	JA: LA			
8249402	82-2045	1706720695		108		COX #1 147632	MONROE GAS FIELD	2.0	MID LOUISIANA GAS
8249401	82-2044	1707320609		108		GREGORY FARLEY #1 146639	MONROE GAS	6.0	MID LOUISIANA GAS
8249398	82-2031	1706720666		108		HALTERMAN #1 146415	MONROE GAS	0.1	MID LOUISIANA GAS
8249397	82-2032	1706720667		108		HALTERMAN #2 146416	MONROE GAS	0.1	MID LOUISIANA GAS
8249399	82-2005	1706720635		108		JOHNSTON #1 145614	MONROE GAS	1.5	MID LOUISIANA GAS
8249381	82-2006	1706720651		108		MARTIN #1 146020	MONROE GAS FIELD	2.5	MID-LOUISIANA GAS
8249396	82-2033	1706720668		108		MC NABB #1 146417	MONROE GAS FIELD	0.1	MID LOUISIANA GAS
8249412	82-2046	1706721636		108		WILLIAMS #1 173150	MONROE GAS	1.0	MID LOUISIANA GAS
8249411	82-2047	1706721637		108		WILLIAMS #2 173151	MONROE	1.0	MID LOUISIANA GAS
8249410	82-2048	1706720655		108		WILLIAMS #4 146022	MONROE GAS	3.0	MID LOUISIANA GAS
-DOME PETROLEUM CORP				RECEIVED:	08/13/82	JA: LA			
8249313	82-2105	1701100995		102-4		ATLANTIC RICHFIELD - SINCL FEE #1	FIELDS	0.0	LOUISIANA INTRAST
8249312	82-2106	1701120005		102-4		ATLANTIC RICHFIELD - SINCL FEE #3	FIELDS	0.0	LOUISIANA INTRAST
8249315	82-2107	1701120010		102-4		ATLANTIC RICHFIELD - SINCL FEE #4	FIELDS	1715.0	LOUISIANA INTRAST

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8249311	82-2108	1701120198		102-4		ATLANTIC RICHFIELD - SINCL FEE #7	FIELDS	1825.0	LOUISIANA INTRAST
8249310	82-2109	1701120188		102-4		ATLANTIC RICHFIELD - SINCL FEE #8	FIELDS	0.0	LOUISIANA INTRAST
8249309	82-2076	1701120120		102-4		BOISE SOUTHERN #1	FIELDS	164.0	LOUISIANA INTRAST
8249308	82-2077	1701120175		102-4		BOISE SOUTHERN #2	FIELDS	1715.0	LOUISIANA INTRAST
8249314	82-2078	1701120020		102-4		BOISE SOUTHERN #3	FIELDS	1715.0	LOUISIANA INTRAST
8249307	82-2075	1701120361		102-4		SMITH ESTATES #1	FIELDS	164.0	LOUISIANA INTRAST
				RECEIVED:	08/16/82	JA: LA			
-EDWIN L COX									
8249499	82-0311	1705721817		103		COX-STATE LEASE 328 #3	LAKE LONG	365.0	COLUMBIA GAS TRAN
				RECEIVED:	08/16/82	JA: LA			
-ENTEX PETROLEUM INC									
8249529	82-0088	1705721648		103		R C PLATER #4	THIBODEAUX	730.0	TRANSCONTINENTAL
				RECEIVED:	08/16/82	JA: LA			
-EQUITABLE PETROLEUM CORP									
8249390	81-1645	1710922339		102-4		CONTINENTAL LAND & FUR CO #1	ST PAUL BAYOU FIELD	175.0	TRANSCONTINENTAL
				RECEIVED:	08/16/82	JA: LA			
-EXXON CORPORATION									
8249530	82-0089	1705721875		103		EXXON FEE B #26	BULLY CAMP	6.0	TENNESSEE GAS PIP
8249394	81-1887	1704520619		102-4		PETIT ANSE CO #71	AVERY ISLAND	500.0	COLUMBIA GAS TRAN
8249385	81-2602	1772520261		102-2		S L 6894 A #11	MAIN PASS BLOCK 74	125.0	UNITED GAS PIPE L
				RECEIVED:	08/16/82	JA: LA			
-FRANKS & PETROFUNDS INC									
8249527	82-0087	1701320511		103		HENRY SALTER #1-ALT HOSS B SUDD	WEST BRYCELAND	195.0	LOUISIANA GAS PUR
				RECEIVED:	08/16/82	JA: LA			
-GATOR HAWK GAS CO									
8249457	82-2030	1707321785		108		BANKS #1	MONROE	0.0	IMC PIPELINE CO I
8249455	82-2027	1707321630		108		HEMPHILL #1	MONROE	12.0	IMC PIPELINE CO I
8249454	82-2028	1707321631		108		HEMPHILL #2	MONROE	12.0	IMC PIPELINE CO I
8249453	82-2029	1707321707		108		HEMPHILL #4	MONROE	3.0	IMC PIPELINE CO I
				RECEIVED:	08/16/82	JA: LA			
-GLENDA PETROLEUM CORP									
8249405	82-2166	1717321557,		108		PENNZOIL 20 #1 S/N 170959	MONROE	18.0	UNITED GAS PIPELI
8249406	82-2167	1707321558		108		PENNZOIL 20 #2 S N 170960	MONROE	12.0	UNITED GAS PIPELI
8249407	82-2168	1707321577		108		PENNZOIL 20 #3 S/N 171090	MONROE	12.0	UNITED GAS PIPELI
8249408	82-2163	1707321499		108		PENNZOIL 28 #1 S/N 170616	MONROE	12.0	UNITED GAS PIPELI
8249403	82-2164	1707321560		108		PENNZOIL 28 #19 S/N 170962	MONROE	12.0	UNITED GAS PIPELI
8249404	82-2165	1707321561		108		PENNZOIL 28 #20 S/N 170963	MONROE	11.0	UNITED GAS PIPELI
				RECEIVED:	08/16/82	JA: LA			
-GOLDSBERRY OPERATING CO INC									
8249391	81-2080	1708120398		102-4		OHRT #1	GAHAGAN	54.8	LOUISIANA INTRAST
				RECEIVED:	08/16/82	JA: LA			
-GULF OIL CORPORATION									
8249516	82-0259	1707522878		103		S L 195 OO #83	NORTH BLACK BAY	16.5	SOUTHERN NATURAL
8249415	82-0297	1707522783		102-4		SL 7332 #4	QUARANTINE BAY	330.0	UNITED GAS PIPELI
				RECEIVED:	08/16/82	JA: LA			
-HAMMAN OIL & REFINING CO									
8249392	81-2071	1705320654		102-4		GENERAL FARMS #1 168607	CHINA FIELD	0.6	CONOCO INC
				RECEIVED:	08/16/82	JA: LA			
-HERBST RESOURCES INC									
8249458	82-1997	1707300000		108		POTTS #1	MONROE GAS ROCK	4.9	MID LOUISIANA GAS
8249483	82-2068	1707320184		108		POTTS #3	MONROE GAS ROCK	1.2	MID LOUISIANA GAS
				RECEIVED:	08/16/82	JA: LA			
-HUGGS INCORPORATED									
8249521	82-0823	1702720748		102-4		MEADOWS #1 SMK A RA SUL	LISBON FIELD	1095.0	LA GAS INTRASTATE
				RECEIVED:	08/16/82	JA: LA			
-IMC EXPLORATION COMPANY									
8249480	82-2041	1707321811		108		ABE ARENT #8	MONROE	14.0	IMC PIPELINE CO I
8249501	82-0387	1706120162		103		LORAINE HOWARD ESTATE #1	TERRYVILLE	27.0	LOUISIANA GAS INT
8249469	82-2036	1711122240		108		OLIN GAS TRANSMISSION CO #14	MONROE	26.0	IMC PIPELINE CO I
8249470	82-2037	1711121627		108		OLIN GAS TRANSMISSION CO #67	MONROE	18.0	IMC PIPELINE CO I
8249471	82-2038	1711122755		108		OLIN GAS TRANSMISSION CO #75	MONROE	21.0	IMC PIPELINE CO I
8249477	82-2039	1711123427		108		OLIN GAS TRANSMISSION CO #85	MONROE	6.0	IMC PIPELINE CO I
8249481	82-2040	1711123429		108		OLIN GAS TRANSMISSION CO #91	MONROE	4.0	IMC PIPELINE CO I
8249472	82-2042	1711122756		108		U S GOVERNMENT #2	MONROE	19.0	IMC PIPELINE CO I
				RECEIVED:	08/16/82	JA: LA			
-INDEPENDENT EXPLORATION CO									
8249379	81-1986	1711321030		102-4		MARK BROUSSARD #1	ERATH	329.0	LOUISIANA INTRAST

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-KERR-MCGEE CORPORATION				RECEIVED:	08/16/82	JA: LA			
8249384	81-2603	1772620225		103		S L 2000 #59	BRETON SOUND BLOCK 20	530.0	SOUTHERN NATURAL
8249517	82-0300	1772620246		103		S L 2326 #46	BRETON SOUND BLOCK 20	136.2	SOUTHERN NATURAL
8249498	82-0301	1772620246		103		S L 2326 #46-D	BRETON SOUND BLOCK 20	24.9	SOUTHERN NATURAL
-KILROY CO OF TEXAS				RECEIVED:	08/16/82	JA: LA			
8249378	81-2073	1710922214		102-A		TERREBONNE PARISH SCHOOL BOARD #1	BAYOU SAUVEUR	548.0	LOUISIANA INTRAST
8249393	81-2072	1710922214		102-A		TERREBONNE PARISH SCHOOL BOARD #1-D	BAYOU SAUVEUR	368.0	LOUISIANA INTRAST
-LANKFORD & NANCE				RECEIVED:	08/16/82	JA: LA			
8249431	82-2200	1711123331		108		EXXON #1	MONROE	10.0	MID-LOUISIANA GAS
8249461	82-2021	1711123215		108		FROST #2	MONROE	12.0	TEXAS GAS TRANSMI
8249456	82-2020	1711123189		108		J W LANKFORD #1	MONROE	14.0	TEXAS GAS TRANSMI
8249459	82-2019	1711123164		108		POTTS #1	MONROE	14.0	TEXAS GAS TRANSMI
-MARSHALL EXPLORATION INC				RECEIVED:	08/16/82	JA: LA			
8249479	82-2050	1703121453		107-TF		FRANK MATTHEWS "A" #1	BENSON	150.0	SABINE-DESOTO PIP
-MAY PETROLEUM INC				RECEIVED:	08/16/82	JA: LA			
8249444	82-3390	1705520219		102-A		NELSON FAULK #1 BOLMEX 3 RA SUA	SCOTT	547.5	
-MCELROY DRILLING CO INC				RECEIVED:	08/16/82	JA: LA			
8249492	82-1402	1706721051		108		J W PERRY #1 S/N 157156	MONROE	3.0	IMC PIPELINE CO I
8249438	82-1403	1706721230		108		J W PERRY #2 S/N 160881	MONROE	3.0	IMC PIPELINE CO I
8249494	82-1400	1706720604		108		LILLIE DAVIS #1 S/N 143935	MONROE	3.5	IMC PIPELINE CO I
8249493	82-1401	1706720605		108		LILLIE DAVIS #2 S/N 143936	MONROE	3.5	IMC PIPELINE CO I
-MCRAE EXPLORATION INC				RECEIVED:	08/16/82	JA: LA			
8249503	82-0515	1711123267		102-2		COLLINGSWORTH #1 M HOSS RA SUD	DOWNSVILLE	0.0	LOUISIANA GAS INT
8249414	82-0516	1711123280		102-2		U HOSS RA SUA BEARDEN NO 3	DOWNSVILLE	0.0	LOUISIANA GAS INT
8249524	82-0518	1711123435		102-2		WALLACE #2 U HOSS RA SUC	DOWNSVILLE	0.0	LOUISIANA GAS INT
-MID LOUISIANA GAS COMPANY				RECEIVED:	08/16/82	JA: LA			
8249428	82-2194	1711100000		108		MLGC FEE GAS #1028	MONROE GAS	8.5	MID LOUISIANA GAS
8249429	82-2195	1711123688		108		MLGC FEE GAS #1034	MONROE GAS	9.1	MID LOUISIANA GAS
8249484	82-2169	1711123121		108		MLGC FEE GAS #1043	MONROE GAS FIELD	1.8	MID LOUISIANA GAS
8249482	82-2170	1711123153		108		MLGC FEE GAS #1052	MONROE GAS FIELD	1.0	MID LOUISIANA GAS
8249474	82-2171	1711123246		108		MLGC FEE GAS #1060	MONROE GAS FIELD	13.1	MID LOUISIANA GAS
8249476	82-2172	1711123252		108		MLGC FEE GAS #1064	MONROE GAS FIELD	12.9	MID LOUISIANA GAS
8249504	82-1224	1711101924		108		MLGC FEE GAS #269	MONROE GAS FIELD	5.7	MID LOUISIANA GAS
8249509	82-1225	1711101539		108		MLGC FEE GAS #279	MONROE GAS FIELD	16.2	MID LOUISIANA GAS
8249508	82-1226	1711101979		108		MLGC FEE GAS #333	MONROE GAS FIELD	10.0	MID LOUISIANA GAS
8249510	82-1227	1711101522		108		MLGC FEE GAS #413	MONROE GAS FIELD	6.2	MID LOUISIANA GAS
8249511	82-1228	1711101565		108		MLGC FEE GAS #491	MONROE GAS FIELD	5.2	MID LOUISIANA GAS
8249512	82-1229	1711101559		108		MLGC FEE GAS #492	MONROE GAS FIELD	4.8	MID LOUISIANA GAS
8249513	82-1230	1711100337		108		MLGC FEE GAS #494	MONROE GAS FIELD	20.4	MID LOUISIANA GAS
8249495	82-1231	1711101137		108		MLGC FEE GAS #501	MONROE GAS FIELD	3.6	MID LOUISIANA GAS
8249475	82-2178	1711121680		108		MLGC FEE GAS #760	MONROE GAS FIELD	20.0	MID LOUISIANA GAS
8249486	82-2179	1711121838		108		MLGC FEE GAS #768	MONROE GAS FIELD	16.5	MID LOUISIANA GAS
8249488	82-2181	1711121844		108		MLGC FEE GAS #778	MONROE GAS FIELD	17.8	MID LOUISIANA GAS
8249418	82-2182	1711121846		108		MLGC FEE GAS #780	MONROE GAS FIELD	16.8	MID LOUISIANA GAS
8249417	82-2183	1711121852		108		MLGC FEE GAS #786	MONROE GAS FIELD	20.1	MID LOUISIANA GAS
8249421	82-2184	1711121866		108		MLGC FEE GAS #799	MONROE GAS FIELD	16.5	MID LOUISIANA GAS
8249519	82-0800	1707321415		108		MLGC FEE GAS #8	MONROE GAS FIELD	14.8	MID LOUISIANA GAS
8249487	82-2185	1711121867		108		MLGC FEE GAS #800	MONROE GAS FIELD	19.5	MID LOUISIANA GAS
8249420	82-2186	1711121952		108		MLGC FEE GAS #822	MONROE GAS FIELD	19.1	MID LOUISIANA GAS
8249419	82-2187	1711121959		108		MLGC FEE GAS #829	MONROE GAS FIELD	14.2	MID LOUISIANA GAS
8249425	82-2188	1711121979		108		MLGC FEE GAS #843	MONROE GAS FIELD	21.3	MID LOUISIANA GAS
8249424	82-2189	1711121983		108		MLGC FEE GAS #847	MONROE GAS FIELD	20.1	MID LOUISIANA GAS
8249423	82-2190	1711121987		108		MLGC FEE GAS #848	MONROE GAS FIELD	19.4	MID LOUISIANA GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA JKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8249422	82-2191	1711121989		108		MLGC FEE GAS #850	MONROE GAS FIELD	16.8	MID LOUISIANA GAS
8249426	82-2192	1711122590		108		MLGC FEE GAS #939	MONROE GAS FIELD	17.5	MID LOUISIANA GAS
8249427	82-2193	1711122685		108		MLGC FEE GAS #962	MONROE GAS FIELD	19.3	MID LOUISIANA GAS
-MITCHELL ENERGY CORPORATION				RECEIVED:	08/16/82	JA: LA			
8249383	81-2681	1704920160		103		DAVIS BROS SHAREHOLDERS #1	COTTON VALLEY (BODCAW	273.0	LOUISIANA GAS PUR
-NATOMAS NORTH AMERICA INC				RECEIVED:	08/16/82	JA: LA			
8249433	82-2819	1708720207		107-DP		STATE LEASE 7951 #1 WELL	FORT PIKE 3930	2226.0	UNITED GAS PIPE L
-O B MOBLEY JR				RECEIVED:	08/16/82	JA: LA			
8249377	81-2077	1711123044		102-4		C J BOLLIER #1	CORNEY BAYOU 2892	425.0	MISSISSIPPI RIVER
-PEL-TEX OIL COMPANY INC				RECEIVED:	08/16/82	JA: LA			
8249389	81-2525	1710922454		102-4		S L 7752 #3	MOSQUITO BAY	360.0	TRANSCONTINENTAL
-PELICAN DRILLING				RECEIVED:	08/16/82	JA: LA			
8249466	82-2013	1707321710		108		CULPEPPER #2	MONROE	0.0	IMC PIPELINE CO I
8249468	82-2014	1707321711		108		CULPEPPER #3	MONROE	0.0	IMC PIPELINE CO I
8249467	82-2015	1707321823		108		CULPEPPER #4	MONROE	0.0	IMC PIPELINE CO I
8249452	82-2016	1707321824		108		CULPEPPER #5	MONROE	0.0	IMC PIPELINE CO I
-PELICAN PRODUCING CO				RECEIVED:	08/16/82	JA: LA			
8249464	82-2001	1717723414		108		HANDY HEIRS #2	MONROE	10.0	PETRO-LEWIS FUNDS
8249465	82-2000	1711123407		108		STUBBS #2	MONROE	11.0	PETRO-LEWIS FUNDS
8249462	82-1998	1711123402		108		UNION PRODUCING CO #1	MONROE	21.0	PETRO-LEWIS FUNDS
8249463	82-1999	1711123406		108		UNION PRODUCING CO #3	MONROE	21.0	PETRO-LEWIS FUNDS
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	08/16/82	JA: LA			
8249491	82-1378	1703120973		108		NAB #1	SPIDER	10.0	SOUTHERN NATURAL
-PIONEER PRODUCTION CORPORATION				RECEIVED:	08/16/82	JA: LA			
8249416	82-0406	1708120400		102-2		CROWN ZELLERBACH #1 TROY RA SUB	MARTIN	0.0	UNITED GAS PIPELI
-POGO PRODUCING COMPANY				RECEIVED:	08/16/82	JA: LA			
8249531	81-2998	1772620220		102-2		STATE LEASE 8669 #1	BRETON SOUND BLOCK 2	850.0	UNITED GAS PIPE L
-PRIMOS PRODUCTION CO				RECEIVED:	08/16/82	JA: LA			
8249376	82-1384	1711121717		108		GRAYLING #14	MONROE	55.2	UNITED GAS PIPELI
8249525	82-0753	1711123170		103		PETRO LEWIS FROST LUMBER #75	MONROE	14.4	PETRO-LEWIS FUNDS
8249449	82-1387	1711122463		108		PETRO-LEWIS FROST LUMBER #6	MONROE	38.6	PETRO-LEWIS FUNDS
8249526	82-0752	1711123033		103		PETRO-LEWIS FROST LUMBER #65	MONROE	14.4	PETRO-LEWIS FUNDS
8249528	82-0754	1711123171		103		PETRO-LEWIS FROST LUMBER #76	MONROE	16.4	PETRO-LEWIS FUNDS
8249451	82-1388	1711122787		108		PETRO-LEWIS IMPERIAL #1	MONROE	44.1	PETRO LEWIS FUNDS
8249432	82-2285	1711123330		108		PETRO-LEWIS UNION POWER #25	MONROE	23.9	PETRO-LEWIS FUNDS
8249442	82-2286	1711123207		108		PETRO-LEWIS UNION POWER #26	MONROE	47.9	PETRO-LEWIS FUNDS
8249441	82-2287	1711123211		108		PETRO-LEWIS UNION POWER #30	MONROE	44.0	PETRO-LEWIS FUNDS
8249440	82-2288	1711123212		108		PETRO-LEWIS UNION POWER #31	MONROE	44.0	PETRO-LEWIS FUNDS
-PRIMOS-PENNZOIL JV				RECEIVED:	08/16/82	JA: LA			
8249450	82-1386	1706721626		108		FEE 71 #3	MONROE	21.2	UNITED GAS PIPELI
8249490	82-1385	1711122692		108		GRAYLING #16	MONROE	5.5	UNITED GAS PIPELI
-PRIMOS-TOMLINSON				RECEIVED:	08/16/82	JA: LA			
8249460	82-2018	1707321787		108		CORDELL #1	MONROE	2.0	IMC PIPELINE CO I
-QUINTANA PETROLEUM CORP				RECEIVED:	08/16/82	JA: LA			
8249446	82-3412	1730121107		107-DP		J N ZIMMERMAN #1	RAYNE	600.0	
8249437	82-1569	1771120256		107-DP		SL 8010 #1	SHIP SHOAL BLOCK 15	4000.0	TEXAS GAS TRANSMI
-RICHARD T PERRY				RECEIVED:	08/15/82	JA: LA			
8249436	82-1389	1711120820		108		ROBERTS #1	MONROE GAS	10.0	IMC PIPELINE CO I
8249435	82-1390	1711120821		108		ROBERTS #2	MONROE GAS	10.0	IMC PIPELINE CO I
-SHELL OIL CO				RECEIVED:	08/16/82	JA: LA			
8249382	81-2551	1701120383		102-3		A KOHLER #1 N STARKS FLD	NORTH STARKS	0.0	MID-LOUISIANA GAS
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	08/16/82	JA: LA			
8249473	82-2156	1701900000		108		ALLIED CHEMICAL #1	BECKWITH CREEK	11.0	UNITED GAS PIPELI

JD NO	JA DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8249439	82-2981	1703120810		108-ER		JENKINS D/601	MANSFIELD	0.0	J-W OPERATING CO
8249523	82-0636	1703121543		102-2		LELONG #13	RED RIVER BULL BAYOU	275.0	LOUISIANA INTRAST
-SUPERIOR OIL CO				RECEIVED:	08/16/82	JA: LA			
8249520	81-1644	1710922070		102-4		SOUTHDOWN INC #9	SUNRISE	1500.0	UNITED GAS PIPELI
-TEDCO				RECEIVED:	08/16/82	JA: LA			
8249496	82-1233	1706720969		108		PERRY HEIRS #10	MONROE	4.0	IMC PIPELINE CO I
8249514	82-1234	1706720970		108		PERRY HEIRS #11	MONROE	3.0	IMC PIPELINE CO I
8249515	82-1235	1706720971		108		PERRY HEIRS #12	MONROE	4.0	IMC PIPELINE CO I
8249507	82-1222	1706720962		108		PERRY HEIRS #7	MONROE	4.0	IMC PIPELINE CO I
8249506	82-1223	1706720961		108		PERRY HEIRS #8	MONROE	4.0	IMC PIPELINE CO I
8249497	82-1232	1706720968		108		PERRY HEIRS #9	MONROE	3.0	IMC PIPELINE CO I
-TEE OPERATING CO				RECEIVED:	08/16/82	JA: LA			
8249489	82-1243	1704520688		102-4		J B SCHWING EST "C" #4	IBERIA	844.0	MICHIGAN WISCONSI
-TEXACO INC				RECEIVED:	08/16/82	JA: LA			
8249518	82-0270	1710121026		103		WKL #43-ALT SUN STATE RSW-18 SUA	BATEMAN LAKE	196.0	CITY OF MORGAN CI
8249386	81-2723	1710121144		103		WKL 51 BAL A-1 RSE-2 SU	BATEMAN LAKE	292.0	CITY OF MORGAN CI
-TEXAS CRUDE INC				RECEIVED:	08/16/82	JA: LA			
8249445	82-3389	1704520555		107-DP		PETIT ANSE #5	AVERY ISLAND	350.0	LOUISIANA INTRAST
-TEXAS GAS EXPLORATION CORP				RECEIVED:	08/16/82	JA: LA			
8249413	81-1392	1705721741		102-4		RUTH D CLOW #2	LAKE ENFERNER	1080.0	
-UNION TEXAS PETROLEUM				RECEIVED:	08/16/82	JA: LA			
8249388	81-2817	1706120224		107-TF		DHU DOWLING 30-2 GRAY RA SUC	TERRYVILLE	109.5	SUGAR BOWL GAS CO
8249387	81-2816	1706120210		107-TF		WILLAMETTE 31 #1 GRAY RA SUM	TERRYVILLE	182.5	SUGAR BOWL GAS CO
-W B MCCARTER JR INC				RECEIVED:	08/16/82	JA: LA			
8249503	82-1122	1704520632		102-4		P BOURGEOIS PLAN 3 RA SUA	LOISEL	365.0	SOUTHERN NATURAL
MISSISSIPPI OIL & GAS BOARD									
-CELT OIL, INC.				RECEIVED:	08/13/82	JA: MS			
8249375	48-82-119	2314720135		102-4	103	FORTENBERRY #1	DEXTER	730.0	SOUTHERN NATURAL
MONTANA BOARD OF OIL & GAS CONSERVATION									
-AMINOIL USA INC				RECEIVED:	08/13/82	JA: MT			
8249362	8-81-152	2508321464		103		BIDEGARAY #2	RIDGELAWN	19.0	MONTANA DAKOTA UT
8249364	8-81-152-A	2508321464		102-2		BIDEGARAY #2	RIDGELAWN	19.0	MONTANA DAKOTA UT
8249346	8-81-155	2509121364		102-2		MADSEN #1	COLORED CANYON	26.0	PHILLIPS PETROLEU
8249351	8-81-156	2509121364		103		MADSEN #1	COLORED CANYON	26.0	PHILLIPS PETROLEU
8249358	8-81-158	2508321412		103		SORENSEN #2	RIDGELAWN	34.0	MONTANA DAKOTA UT
8249359	8-81-157	2508321412		102-2		SORENSEN #2	RIDGELAWN	34.0	MONTANA DAKOTA UT
-AMOCO PRODUCTION CO				RECEIVED:	08/13/82	JA: MT			
8249353	8-81-154	2508321405		102-2		AMOCO BN "E" #1	WILDCAT	16.2	
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	08/13/82	JA: MT			
8249350	8-81-161	2508321452		103		FORT GILBERT #4	FORT GILBERT	0.0	MONTANA DAKOTA UT
8249354	8-81-162	2508321482		103		FORT GILBERT #5	FORT GILBERT	0.0	
8249355	8-81-163	2508321458		103		LEVNO #1	FORT GILBERT	0.0	
-DOME PETROLEUM CORP				RECEIVED:	08/13/82	JA: MT			
8249361	8-81-164	2508521247		102-2		DETIENNE #1-17	RED BANK	11.0	MONTANA-DAKOTA UT
8249363	8-81-165	2508521231		102-2		DETIENNE #1-18	RED BANK	29.2	MONTANA-DAKOTA UT
-ENERGY RESERVES GROUP INC				RECEIVED:	08/13/82	JA: MT			
8249349	8-81-146	2510121801		103		A G GOLDEN #2	CUT BANK	196.6	MONTANA POWER CO
8249348	8-81-150	2510121758		103		HAROLD ALBIN #1	CUT BANK	162.0	MONTANA POWER CO
8249352	8-81-149	2510121555		103		RIGNEY #1	CUT BANK	72.0	MONTANA POWER CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8249347	8-81-147	2510121792		103		STATE OF MONTANA #2	CUT BANK	36.0	MONTANA POWER CO
8249344	8-81-148	2510121756		103		W H KIEHLBAUCH #1	CUT BANK	216.0	MONTANA POWER CO
8249345	8-81-145	2510121791		103		W H KIEHLBAUCH #2	CUT BANK	140.0	MONTANA POWER CO
-GULF OIL CORPORATION				RECEIVED:	08/13/82	JA: MT			
8249356	8-81-153	2508321351		102-2		MABLE DEMING 1-13-4C	UNDESIGNATED	8.0	
-LUFF EXPLORATION CO				RECEIVED:	08/13/82	JA: MT			
8249357	8-81-159	2508321431		103		GLATTER #2-25	NORTH SIOUX PASS	67.0	TRUE OIL CO
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	08/13/82	JA: MT			
8249360	8-81-120	2509121311		102-4		STATE 16 #12	RAYMOND	16.0	PHILLIPS PETROLEU
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NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
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-BELCO PETROLEUM CORPORATION				RECEIVED:	08/13/82	JA: NM			
8249373		3001521869		108		JONES COMM #1 21859	WILDCAT	0.0	LLANO INC
-GULF OIL CORPORATION				RECEIVED:	08/13/82	JA: NM			
8249372		3002527776		103		LEA "LL" STATE #2	MALJAMAR GRAYBURG SAN	0.0	CONOCO INC
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	08/13/82	JA: NM			
8249367		3002500000		108		S R COOPER #2	JALMAT	0.2	EL PASO NATURAL G
8249368		3002500000		108		STATE A A/C-1 #71	LANGLIE MATTIX	12.0	EL PASO NATURAL G
8249369		3002500000		108		STATE A A/C-1 #92	LANGLIE MATTIX	14.0	PHILLIPS PETROLEU
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	08/13/82	JA: NM			
8249370		3002504923		108		W A RAMSAY (NCT-A) #22	EUMONT	8.1	EL PASO NATURAL G
8249371		3002504797		108		W A RAMSAY (NCT-A) #29	EUMONT	4.7	EL PASO NATURAL G
**********									
OKLAHOMA CORPORATION COMMISSION									
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-AMOCO PRODUCTION CO				RECEIVED:	08/13/82	JA: OK			
8249318	15766	3513921139		108		DRAPER GAS UNIT #2	GUYMON - HUGOTON (CHA	18.0	PHILLIPS PETROLEU
8249339	15571	3509321922		103		KEPNER UNIT #4	N E CEDARDALE (CHESTE	60.0	MICHIGAN WISCONSI
-BARUCH-FOSTER CORP				RECEIVED:	08/13/82	JA: OK			
8249342	15580	3503723540		103		WOODROW CHILDERS "D"-1	WEST SHAMROCK	20.0	CITIES SERVICE GA
-BLAIK OIL COMPANY				RECEIVED:	08/13/82	JA: OK			
8249338	15570	3504722929		103		MORAVEC #2	SOONER TREND	3.0	EXXON CO USA
-C & J TRUCKS INC				RECEIVED:	08/13/82	JA: OK			
8249326	13177	3508121389		102-2		SALLY #1	E CARNEY	37.0	SUN GAS CO
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	08/13/82	JA: OK			
8249331	15586	3509300000		103		MINNIE HILT #2	E CHANEY DELL	0.0	CHAMPLIN PETROLEU
-COTTON PETROLEUM CORPORATION				RECEIVED:	08/13/82	JA: OK			
8249337	19606	3501521318		107-DP		CADE ESTATE #1	S W COTTONWOOD	0.0	UNITED GAS PIPELI
-COX EDWIN L & BERRY R				RECEIVED:	08/13/82	JA: OK			
8249334	15920	3504300000		108		STATE HOYT #1	LENORA MORROW	18.0	AMINOIL USA INC
-DEEP GAS EXPLORATION CO				RECEIVED:	08/13/82	JA: OK			
8249316	20260	3501521394		107-DP		EMILY #15A		0.0	EL PASO NATURAL G
-EAGLE OIL CO				RECEIVED:	08/13/82	JA: OK			
8249336	17709	3510721134		102-4		JONES #1	WILDCAT	0.0	SWAB CORP
-EDWARD KEITH				RECEIVED:	08/13/82	JA: OK			
8249324	13976	3503120779		103		BAILEY #5		30.0	MANN INDUSTRIES I
-J M HUBER CORPORATION				RECEIVED:	08/13/82	JA: OK			
8249333	15919	3500700000		108		SITTON #1	LAVERNE	17.0	NORTHERN NATURAL
-KETAL OIL PRODUCING CO				RECEIVED:	08/13/82	JA: OK			
8249330	15585	3504722875		103		CARSON #1	SOUTH HAYWARD	42.0	
-LRF CORP				RECEIVED:	08/13/82	JA: OK			
8249329	15583	3501100000		103		BAKER #1	SOONER TREND	237.3	ARKANSAS LOUISIAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8249343	15582	3506120394		103		WITHROW #2	MCCURTAIN	275.9	ARKANSAS LOUISIAN
-LUBELL OIL CO				RECEIVED:	08/13/82	JA: OK			
8249317	15689	3512120694		108		LUBELL #1-29 THORNAL	ULAN	9.0	ARKANSAS-LOUISIAN
-MOBIL OIL CORP				RECEIVED:	08/13/82	JA: OK			
8249332	15804	3501921684		108		WALTER NEUSTADT #28	SHO VEL TUM	11.8	LONE STAR GAS CO
-NATURAL GAS ANADARKO INC				RECEIVED:	08/13/82	JA: OK			
8249335	17411	3500722264		102-4		W-BAR 1-27		280.0	TRANSWESTERN PIPE
-OIL & GAS LOGISTICS INC				RECEIVED:	08/13/82	JA: OK			
8249321	15798	3503700000		103		ALDRIDGE #2		97.2	PHILLIPS PETROLEU
8249320	15796	3503700080		103		ALDRIDGE #5		20.7	PHILLIPS PETROLEU
-PETRO-LEWIS CORPORATION				RECEIVED:	08/13/82	JA: OK			
8249322	13870	3507300000		108		ALTA 35-1	SOONER TREND	6.0	EXXON CORP
8249323	13871	3504700000		108		NORA-FRANK 26-1	SOONER TREND	4.0	EXXON CORP
8249328	13869	3507300000		108		RICHARDSON 34-1	LYONS	5.6	PARTNERSHIP PROPE
-RAMEY DRILLING CO				RECEIVED:	08/13/82	JA: OK			
8249325	06790	3514300000		108		JENKINS #1 145 20410	GLENNPOOL	0.0	PHILLIPS PETROLEU
-RED EAGLE OIL CO				RECEIVED:	08/13/82	JA: OK			
8249340	15575	3509322355		103		JENSEN #1	FAIRVIEW	128.0	PIONEER GAS PRODU
8249341	15576	3501121645		103		SAM #1		200.0	PHILLIPS PETROLEU
-RICKS EXPLORATION CO				RECEIVED:	08/13/82	JA: OK			
8249327	13240	3504520918		102-4		NEW 13A	S E HARMON	108.0	PHILLIPS PETROLEU
-T F HODGE				RECEIVED:	08/13/82	JA: OK			
8249319	15774	3504700000		108		HELEN OVEN #1	NORTH ENID	27.0	CHAMPLIN PETROLEU

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UTAH DIVISION OF OIL,GAS, & MINING

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-BELCO PETROLEUM CORPORATION				RECEIVED:	08/16/82	JA: UT			
8249374	K-111-17	4304730611		107-TF		STAGECOACH 18-17	STAGECOACH	0.0	MOUNTAIN FUEL SUP
-BOW VALLEY PETROLEUM INC				RECEIVED:	08/13/82	JA: UT			
8249366	K-116-2	4301330609		107-DP		WISSE #1-28Z1	BLUEBELL - WASATCH	240.3	GARY ENERGY CORP
-WAINOCO OIL & GAS CO				RECEIVED:	08/13/82	JA: UT			
8249365	K-137-3	4304731173		103		PRESCOTT 1-35Z1	HAYDEN	60.0	GARY ENERGY CORP

OTHER PURCHASERS VOLUME NO 1727

8249433 MONTEREY PIPELINE CO

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25469 Filed 9-16-82; 8:45 am]

BILLING CODE 6717-01-C

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ABA OIL EXPLORATION CORP				RECEIVED:	08/18/82	JA: TX			
8249571	F-03-047688	4247700000		102-2		WATFORD #1	GIDDINGS	0.0	PHILLIPS PETROLEU
8249566	F-03-047100	4247700000		102-2		WILKENING #1	GIDDINGS	18.5	PHILLIPS PETROLEU
-AHERN AND FULTZ INC				RECEIVED:	08/18/82	JA: TX			
8249746	F-09-055033	4223732437		108		J D CRAFT #20 #80345	MARINA-MAG (CONGLOMER	1.8	CITIES SERVICE GA
8249711	F-09-054942	4223731953		108		ROY CHERRYHOMES D-4 #74536	MARINA-MAG (CONGL)	3.7	CITIES SERVICE GA
8249712	F-09-054944	4223732119		108		ROY CHERRYHOMES D-7 #75732	MARINA-MAG CONGLOMERA	5.1	CITIES SERVICE GA
8249744	F-09-055031	4223732042		108		ROY CHERRYHOMES F-3 #76366	MARINA-MAG (CONGL)	7.7	CITIES SERVICE GA
8249745	F-09-055032	4223708000		108		W R RICHARDS 1 #21585	MARBLE FALLS (CONGLON	16.6	SOUTHWESTERN GAS
-ALTA ENERGY CORP				RECEIVED:	08/18/82	JA: TX			
8249785	F-7C-055068	4238332171		103		BRADEN #1	SPRABERRY (TREND AREA	0.0	EL PASO NATURAL G
-AMOCO PRODUCTION CO				RECEIVED:	08/18/82	JA: TX			
8249671	F-08-053787	4210330711		108		ELL LONG #13-U	BLOCK 27 (TUBB)	23.3	DELHI GAS PIPELIN
8249547	F-7C-047239	4210510242		107-PE		MILLER RANCH GAS UNIT #1	MILLER (ELLENBURGER)	295.0	AMOCO GAS CO
-ANDERSON PETROLEUM INC				RECEIVED:	08/18/82	JA: TX			
8249560	F-7C-046201	4210532223		107-TF		JOHN MITCHELL ESTATE "A" 1-55	OZONA (CANYON SAND)	50.0	ANDERSON PIPELINE
-ANDOVER OIL COMPANY				RECEIVED:	08/18/82	JA: TX			
8249650	F-06-052837	4220330791		102-2	107-TF	H O BOLDING GAS UNIT WELL #1	BLOCKER (COTTON VALLE	200.0	SOUTHWEST GATHERI
-ARCO OIL AND GAS COMPANY				RECEIVED:	08/18/82	JA: TX			
8249822	F-03-055180	4215731161		102-4		GEORGE FOUNDATION #2	BOOTH (YEGUA 10500)	1825.0	TEXAS EASTERN TRA
8249542	F-7C-039844	4243532486		103	107-TF	THOMSON 1-A	SAWYER (CANYON)	54.0	EL PASO NATURAL G
-AUBREY C BLACK				RECEIVED:	08/18/82	JA: TX			
8249660	F-08-053299	4204731076		103		CANTU DE LUNA #1	LAALAMEDA (FRIO 6800)	100.0	PAISANO TRANSMISS
-B & B ENTERPRISES				RECEIVED:	08/18/82	JA: TX			
8249559	F-09-046104	4223700000		102-2		CONNIE WILTON #1 RRC #19160	JACK COUNTY REGULAR	21.9	SOUTHWESTERN GAS
-BINK INC				RECEIVED:	08/18/82	JA: TX			
8249659	F-10-053180	4217931084		103		ANN LEASE #2	PANHANDLE-GRAY	180.0	GETTY OIL CO
-BURNS PETROLEUM				RECEIVED:	08/18/82	JA: TX			
8249824	F-09-055187	4223734127		102-4		ALLAR CO #1	CRUM (MARBLE FALLS)	55.0	SOUTHWESTERN GAS
8249823	F-09-055186	4223734175		102-4		GAHAGAN "A" #1	CRUM (MARBLE FALLS)	76.0	
8249825	F-09-055189	4223732374		103		GARRETT "B" #4	LAZY "B" (STRAWN)	25.0	FAGADAU ENERGY CO
-C F LAWRENCE & ASSOC INC				RECEIVED:	08/18/82	JA: TX			
8249743	F-7C-055025	4210500000		108		TODD "A" #1 74340	HOWARD DRAW (GRAYBURG	10.3	APACHE GAS CORP
-CASHCO OIL CO				RECEIVED:	08/18/82	JA: TX			
8249581	F-03-048616	4216530311		102-2		MEDLAND ESTATE #1	MARTINS PRAIRIE (SUB	0.0	LONE STAR GAS CO
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	08/18/82	JA: TX			
8249670	F-08-053689	4243131124		103		D L GLASS #7	CONGER SW (PENN)	0.0	INTERNORTH INC
-CHARLES HALE				RECEIVED:	08/18/82	JA: TX			
8249626	F-7B-051300	4235933105		103		LEDBETTER #3	CALLAHAN COUNTY REGUL	2.0	BENGAL GAS TRANSM
-CHARLES M CHILDERS				RECEIVED:	08/18/82	JA: TX			
8249536	F-7B-035271	4236731964		103		THOMAS #1 (90662)	MILLSAP	140.0	LONE STAR GAS CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
				RECEIVED: 08/18/82 JA: TX					
8249573	F-05-047915	4234900000		102-4		L M JAMES #2 RRC ID #77532	D L HILL UPPER PALUXY	364.0	LONE STAR GAS CO
-CHEVRON U S A INC				RECEIVED: 08/18/82 JA: TX					
8249829	F-8A-055193	4241532177		103		SACROC UNIT #146-5	KELLY - SNYDER	13.0	EL PASO NATURAL G
8249828	F-8A-055192	4241532198		103		SACROC UNIT #148-6	KELLY - SNYDER	46.0	EL PASO NATURAL G
8249830	F-8A-055194	4241532186		103		SACROC UNIT #169-6	KELLY - SNYDER	22.0	EL PASO NATURAL G
8249831	F-8A-055195	4241532151		103		SACROC UNIT #71-6	KELLY - SNYDER	28.0	EL PASO NATURAL G
8249832	F-8A-055196	4241532187		103		SACROC UNIT #8-9	KELLY - SNYDER	62.0	EL PASO NATURAL G
-CIRCLE SEVEN PRODUCTION CO				RECEIVED: 08/18/82 JA: TX					
8249656	F-09-052976	4223734379		102-4		MARY C SEWELL #3	MIGL (5150)	6.0	LONE STAR GAS CO
-CLAYTON W WILLIAMS JR				RECEIVED: 08/18/82 JA: TX					
8249648	F-11-052831	4249300000		102-2		MARY ROSE SCHIFFERS #3	SUTIL (AUSTIN)	0.0	VALERO TRANSMISSI
-CONOCO INC				RECEIVED: 08/18/82 JA: TX					
8249689	F-8A-054261	4222700000		108		G O CHALK -B- #6 ID #026866	HOWARD-GLASSCOCK	0.1	PHILLIPS PETROLEU
8249690	F-08-054262	4200300000		108		MUNGER-NIX #25 ID #10694	FUHRMAN-MASCHO	0.9	PHILLIPS PETROLEU
8249801	F-10-055126	4206500000		108		SUQUA #8	WEST PANHANDLE	17.0	CITIES SERVICE GA
8249577	F-04-048104	4247933159		102-2	107-TF	VAQUILLAS RANCH "A" #15	VAQUILLAS RANCH (GATO	500.0	E I DUPONT DENEMO
-CONVEST OIL CORP				RECEIVED: 08/18/82 JA: TX					
8249640	F-04-052348	4200700000		103		STATE TRACT 82 #1	GOOSE ISLAND (D-2)	0.0	VALLEY PIPELINES
-COSTA RESOURCES INC				RECEIVED: 08/18/82 JA: TX					
8249620	F-08-050839	4210332843		103		ROGERS #3	COSTA (CLEARFORK UPPE	0.0	PERRY GAS PROCESS
-DELTA DRILLING CO				RECEIVED: 08/18/82 JA: TX					
8249616	F-06-050670	4236500000		102-2	103	HOWE #2	CARTHAGE (CV)	6.0	NATURAL GAS PIPEL
8249616	F-06-050670	4236500000		107-TF		HOWE #2	CARTHAGE (CV)	0.0	NATURAL GAS PIPEL
8249585	F-7C-049138	4210500000		103	107-TF	VADA BEAN "26" #4	OZONA (CANYON SAND)	0.0	INTERNORTH INC
-DEMINEX U.S. OIL CO				RECEIVED: 08/18/82 JA: TX					
8249651	F-7B-052869	4225331424		103		DUGAN A #5	CRESLENN (UPPER STRAW	17.5	DENACO INC
8249652	F-7B-052884	4225331768		103		DUGAN A #7	CRESLENN (UPPER STRAW	4.2	DENACO INC
8249653	F-7B-052886	4225300000		103		DUGAN A #9	CRESLENN (UPPER STRAW	2.0	DENACO INC
-DEVILS RIVER OIL & GAS				RECEIVED: 08/18/82 JA: TX					
8249666	F-7B-053426	4204932727		103		NEVA SEWARD A-1	BROWN COUNTY REGULAR	20.0	ODESSA NATURAL CO
8249665	F-7B-053425	4204932726		103		NEVA SEWARD B-1	BROWN COUNTY REGULAR	106.0	ODESSA NATURAL CO
8249664	F-7B-053424	4204932728		103		NEVA SEWARD C-1	BROWN COUNTY REGULAR	54.0	ODESSA NATURAL CO
8249663	F-7B-053423	4204932725		103		NEVA SEWARD D-1	BROWN COUNTY REGULAR	366.0	ODESSA NATURAL CO
-DIAMOND SHAMROCK CORPORATION				RECEIVED: 08/18/82 JA: TX					
8249599	F-10-049615	4221100000		103		CHARLES BROWN #13	CANADIAN SE	0.0	INTERNORTH INC
8249578	F-10-048367	4221131400		103		J T BROWN ET AL "B" 219 #8	CANADIAN SE (DOUGLAS)	0.0	INTERNORTH INC
-DONCO PETROLEUM INC				RECEIVED: 08/18/82 JA: TX					
8249533	F-06-033302	4240136978		102-4	107-TF	FAY HERGESHEIMER UNIT #1 WELL #1	HENDERSON SOUTH (COTT	6.0	UNITED GAS PIPE L
-EGAN-WILSON PETROLEUM INC				RECEIVED: 08/18/82 JA: TX					
8249532	F-04-052782	4235500000		102-4		BALZER #1-C	BALZER (1600)	55.0	VALLEY PIPE LINES
-EL PASO NATURAL GAS COMPANY				RECEIVED: 08/18/82 JA: TX					
8249598	F-10-049577	4221130262		108		CAMPBELL #1	E E MENDOTA UPPER MOR	69.1	EL PASO NATURAL G
8249624	F-7C-051137	4243532596		103	107-TF	DAVIS B #4	SONORA CANYON UPPER	83.0	EL PASO NATURAL G
8249625	F-7C-051138	4243532587		103	107-TF	DAVIS C #3	SONORA CANYON UPPER	92.0	EL PASO NATURAL G
8249626	F-7C-051139	4243532588		103	107-TF	DAVIS C #5	SONORA CANYON UPPER	92.0	EL PASO NATURAL G
8249627	F-7C-051140	4243532589		103	107-TF	DAVIS C #6	SONORA CANYON UPPER	92.0	EL PASO NATURAL G
8249649	F-10-052829	4208731686		108		HENDERSON #2	PANHANDLE - EAST	22.3	EL PASO NATURAL G
8249696	F-10-054500	4208726144		108		LEDBETTER #1	PANHANDLE EAST	19.1	EL PASO NATURAL G
-ENSERCH EXPLORATION INC				RECEIVED: 08/18/82 JA: TX					
8249642	F-09-052407	4223700000		103		BELLE ALSTOT #5	BOONSVILLE (BCG)	100.0	LONE STAR GAS CO
8249636	F-09-051890	4249732350		103		C W B ONIT 14 #2	BOONSVILLE (BCG)	6.0	LONE STAR GAS CO
8249609	F-09-049915	4249732239		103		CRAFT WATER BOARD UNIT 12 #2	BOONSVILLE (BCG)	260.0	LONE STAR GAS CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8249611	F-7B-052885	4225300000		103		DUGAN A #8	CRESLENN (UPPER STRAW	2.0	DENACO INC
8249612	F-7B-052887	4225300000		103		DUGAN A #10	CRESLENN (UPPER STRAW	2.0	DENACO INC
-ENSERCH EXPLORATION INC				RECEIVED: 08/18/82 JA: TX					
8249610	F-09-049916	4249732240		103		CRAFT WATER BOARD UNIT 12 #3	BOONSVILLE (BCG)	260.0	LONE STAR GAS CO
-EXXON CORP				RECEIVED: 08/18/82 JA: TX					
8249574	F-05-047916	4234900000		102-4		L M JAMES #3 RRC ID #77532	D L HILL UPPER PALUXY	364.0	LONE STAR GAS CO
-FINA OIL & CHEMICAL CO				RECEIVED: 08/18/82 JA: TX					
8249697	F-10-054501	4208726145		108		LEDBETTER #2	PANHANDLE EAST	19.1	EL PASO NATURAL G
-FLAG-REDFERN OIL CO				RECEIVED: 08/18/82 JA: TX					
8249694	F-10-054498	4208726142		108		LEDBETTER #3	PANHANDLE EAST	19.1	EL PASO NATURAL G
-GETTY OIL CO				RECEIVED: 08/18/82 JA: TX					
8249695	F-10-054499	4208726143		108		LEDBETTER #4	PANHANDLE EAST	19.1	EL PASO NATURAL G
-GULF OIL CORP				RECEIVED: 08/18/82 JA: TX					
8249622	F-7C-051135	4243532595		103	107-TF	DAVIS A #3	SONORA CANYON UPPER	83.0	EL PASO NATURAL G
8249623	F-7C-051136	4243532594		103	107-TF	DAVIS A #4	SONORA CANYON UPPER	83.0	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249650	F-10-052830	4208731687		108		HENDERSON #3	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249647	F-10-052828	4208731685		108		HENDERSON #1	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249646	F-10-052827	4208731684		108		HENDERSON #4	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249645	F-10-052826	4208731683		108		HENDERSON #5	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249644	F-10-052825	4208731682		108		HENDERSON #6	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249643	F-10-052824	4208731681		108		HENDERSON #7	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249641	F-10-052823	4208731680		108		HENDERSON #8	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249639	F-10-052822	4208731679		108		HENDERSON #9	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249638	F-10-052821	4208731678		108		HENDERSON #10	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249637	F-10-052820	4208731677		108		HENDERSON #11	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249635	F-10-052819	4208731676		108		HENDERSON #12	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249634	F-10-052818	4208731675		108		HENDERSON #13	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249633	F-10-052817	4208731674		108		HENDERSON #14	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249632	F-10-052816	4208731673		108		HENDERSON #15	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249631	F-10-052815	4208731672		108		HENDERSON #16	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249630	F-10-052814	4208731671		108		HENDERSON #17	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249629	F-10-052813	4208731670		108		HENDERSON #18	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249628	F-10-052812	4208731669		108		HENDERSON #19	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249621	F-10-052811	4208731668		108		HENDERSON #20	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249619	F-10-052810	4208731667		108		HENDERSON #21	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249618	F-10-052809	4208731666		108		HENDERSON #22	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249617	F-10-052808	4208731665		108		HENDERSON #23	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249615	F-10-052807	4208731664		108		HENDERSON #24	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249614	F-10-052806	4208731663		108		HENDERSON #25	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249613	F-10-052805	4208731662		108		HENDERSON #26	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249608	F-10-052804	4208731661		108		HENDERSON #27	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249607	F-10-052803	4208731660		108		HENDERSON #28	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249606	F-10-052802	4208731659		108		HENDERSON #29	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249605	F-10-052801	4208731658		108		HENDERSON #30	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249604	F-10-052800	4208731657		108		HENDERSON #31	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249603	F-10-052799	4208731656		108		HENDERSON #32	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249602	F-10-052798	4208731655		108		HENDERSON #33	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249601	F-10-052797	4208731654		108		HENDERSON #34	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249600	F-10-052796	4208731653		108		HENDERSON #35	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249597	F-10-052795	4208731652		108		HENDERSON #36	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249596	F-10-052794	4208731651		108		HENDERSON #37	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249595	F-10-052793	4208731650		108		HENDERSON #38	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249594	F-10-052792	4208731649		108		HENDERSON #39	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249593	F-10-052791	4208731648		108		HENDERSON #40	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249592	F-10-052790	4208731647		108		HENDERSON #41	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249591	F-10-052789	4208731646		108		HENDERSON #42	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249590	F-10-052788	4208731645		108		HENDERSON #43	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249588	F-10-052787	4208731644		108		HENDERSON #44	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249587	F-10-052786	4208731643		108		HENDERSON #45	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249586	F-10-052785	4208731642		108		HENDERSON #46	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249584	F-10-052784	4208731641		108		HENDERSON #47	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249583	F-10-052783	4208731640		108		HENDERSON #48	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249582	F-10-052782	4208731639		108		HENDERSON #49	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249581	F-10-052781	4208731638		108		HENDERSON #50	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249580	F-10-052780	4208731637		108		HENDERSON #51	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249579	F-10-052779	4208731636		108		HENDERSON #52	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249576	F-10-052778	4208731635		108		HENDERSON #53	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249575	F-10-052777	4208731634		108		HENDERSON #54	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249572	F-10-052776	4208731633		108		HENDERSON #55	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249571	F-10-052775	4208731632		108		HENDERSON #56	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249570	F-10-052774	4208731631		108		HENDERSON #57	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249569	F-10-052773	4208731630		108		HENDERSON #58	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249568	F-10-052772	4208731629		108		HENDERSON #59	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249567	F-10-052771	4208731628		108		HENDERSON #60	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249566	F-10-052770	4208731627		108		HENDERSON #61	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249565	F-10-052769	4208731626		108		HENDERSON #62	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249564	F-10-052768	4208731625		108		HENDERSON #63	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249563	F-10-052767	4208731624		108		HENDERSON #64	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249562	F-10-052766	4208731623		108		HENDERSON #65	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249561	F-10-052765	4208731622		108		HENDERSON #66	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249560	F-10-052764	4208731621		108		HENDERSON #67	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249559	F-10-052763	4208731620		108		HENDERSON #68	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249558	F-10-052762	4208731619		108		HENDERSON #69	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249557	F-10-052761	4208731618		108		HENDERSON #70	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249556	F-10-052760	4208731617		108		HENDERSON #71	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249555	F-10-052759	4208731616		108		HENDERSON #72	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249554	F-10-052758	4208731615		108		HENDERSON #73	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249553	F-10-052757	4208731614		108		HENDERSON #74	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249552	F-10-052756	4208731613		108		HENDERSON #75	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249551	F-10-052755	4208731612		108		HENDERSON #76	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249550	F-10-052754	4208731611		108		HENDERSON #77	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249549	F-10-052753	4208731610		108		HENDERSON #78	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249548	F-10-052752	4208731609		108		HENDERSON #79	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249547	F-10-052751	4208731608		108		HENDERSON #80	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249546	F-10-052750	4208731607		108		HENDERSON #81	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249545	F-10-052749	4208731606		108		HENDERSON #82	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249544	F-10-052748	4208731605		108		HENDERSON #83	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249543	F-10-052747	4208731604		108		HENDERSON #84	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249542	F-10-052746	4208731603		108		HENDERSON #85	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249541	F-10-052745	4208731602		108		HENDERSON #86	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249540	F-10-052744	4208731601		108		HENDERSON #87	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249539	F-10-052743	4208731600		108		HENDERSON #88	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249538	F-10-052742	4208731599		108		HENDERSON #89	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249537	F-10-052741	4208731598		108		HENDERSON #90	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249536	F-10-052740	4208731597		108		HENDERSON #91	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249535	F-10-052739	4208731596		108		HENDERSON #92	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249534	F-10-052738	4208731595		108		HENDERSON #93	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249531	F-10-052737	4208731594		108		HENDERSON #94	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249530	F-10-052736	4208731593		108		HENDERSON #95	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249529	F-10-052735	4208731592		108		HENDERSON #96	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249528	F-10-052734	4208731591		108		HENDERSON #97	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249527	F-10-052733	4208731590		108		HENDERSON #98	PANHANDLE - EAST	22.3	EL PASO NATURAL G
-HARKEN OIL & GAS INC				RECEIVED: 08/18/82 JA: TX					
8249526	F-10-052732	4208731589		108		HENDERSON #99	PANHANDLE - EAST	22

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8249604	F-7C-049777	4243532550		103	107-TF	G W STEWART #5	SAWYER	401.0	LONE STAR GAS CO
8249605	F-05-049779	4221300000		103		T MAGERS #2-LT	OPELIKA (TRAVIS PEAK)	0.0	LONE STAR GAS CO
-EXCELSIOR OIL CORP				RECEIVED: 08/18/82 JA: TX					
8249606	F-06-049861	4245900000		103	107-TF	O L RUTLEDGE GAS UNIT #1-2 096866	ROSEWOOD (COTTON VALL	56.0	WESTERN GAS CORP
8249590	F-05-049458	4221300000		103		W C TOMPKINS HEIRS #1-97614	OPELIKA (TRAVIS PEAK)	216.0	ENDEVCO NATURAL G
-EXXON CORPORATION				RECEIVED: 08/18/82 JA: TX					
8249720	F-08-054963	4213533868		103		AUGUSTA BARROW #22	COWDEN NORTH	2.0	ODESSA NATURAL GA
8249750	F-03-055042	4216730837		103		BAYOU DEVELOPMENT CO B #17	DICKINSON DEEP (FRIO)	46.5	HOUSTON PIPELINE
8249802	F-03-055130	4237330525		103		C B GRANBURY A/C 4 #84	LIVINGSTON (WILCOX)	13.2	UNITED TEXAS TRAN
8249804	F-04-055133	4224931362		102-4		E M BROWNLEE #5 092956	BROWNLEE N (5000)	801.0	SOUTHERN GAS PIPE
8249693	F-38-054358	4200333044		103		FULLERTON CLEARFORK UNIT #2025	FULLERTON	15.0	PHILLIPS PETROLEU
8249644	F-38-052534	4200333136		103		FULLERTON CLEARFORK UNIT #3029	FULLERTON	15.0	PHILLIPS PETROLEU
8249692	F-08-054357	4200332942		103		FULLERTON CLEARFORK UNIT #519	FULLERTON	15.0	PHILLIPS PETROLEU
8249652	F-10-053920	4229531148		103		HENRY FRASS JR B #5	FRASS (TONKAWA)	11.0	TRANSWESTERN PIPE
8249677	F-08-053857	4210332872		103		J B TUBB A/C 1 261L	SAND HILLS (TUBB)	60.0	EL PASO NATURAL G
8249679	F-08-053869	4210332841		103		J B TUBB A/C1 #261U	SAND HILLS (TUBB)	80.0	EL PASO NATURAL G
8249676	F-38-053855	4210332841		103		J B TUBB A/C2 #265U	SAND HILLS (MC KNIGHT	10.0	EL PASO NATURAL G
8249684	F-38-054063	4210332827		103		J C TUBB A/C 2 #264U	SAND HILLS (MCKNIGHT)	3.0	EL PASO NATURAL G
*8249716	F-04-054952	4227331641		102-4		K R BORREGOS 573 (099355)	BORREGOS (ZONE N-23 N	1484.0	ARMCO STEEL CORP
8249671	F-08-054355	4200333099		103		MEANS/SAN ANDRES-UNIT #2560	MEANS	15.0	PHILLIPS PETROLEU
8249681	F-08-053918	4200333070		103		MEANS/SAN ANDRES/UNIT #1626	MEANS	15.0	PHILLIPS PETROLEU
8249704	F-8A-054651	4216532261		103		ROBERTSON CLEARFORK UNIT #8103	ROBERTSON N (CLEARFOR	15.0	PHILLIPS PETROLEU
8249719	F-08-054961	4222732721		102-4		S WALDRON #2	MOORE (DEEP FSLM)	28.0	
-FARGO TRADING CO INC				RECEIVED: 08/18/82 JA: TX					
8249647	F-04-052755	4248900000		102-4		YTURRIA CATTLE COMPANY #2	LASARA (4300)	421.0	TENNESSEE GAS PIP
-FLYNN ENERGY CORP				RECEIVED: 08/18/82 JA: TX					
8249586	F-02-049206	4229700003		102-4		HERRING RANCH 67-1 #1	MAXINE EAST (9700)	146.0	UNITED TEXAS TRAN
-FOREST OIL CORPORATION				RECEIVED: 08/18/82 JA: TX					
8249645	F-04-052630	4204730903		102-4		ALMA BAYARENA #1	RACHAL (FRIO 6860)	600.0	TRANSCONTINENTAL
-FORTUNE PRODUCTION CO				RECEIVED: 08/18/82 JA: TX					
*8249782	F-7C-055081	4223531931		103		MURPHEY "1221" #4	CAL SOUTH (CANYON)	32.2	CRA INC
-FRED S HOPSON				RECEIVED: 08/18/82 JA: TX					
8249685	F-04-054154	4247900000		102-2	107-TF	C P CANTU JR	LAREDO-LOBO	292.0	DELHI GAS PIPELIN
-FRENCH M ROBERTSON OIL CO				RECEIVED: 08/18/82 JA: TX					
8249708	F-78-054781	4208332792		103		GRIFFIN "C" #4	ROBERTSON-GRIFFIN (GR	126.0	UNION TEXAS PETRO
-GENERAL PRODUCTION CORP				RECEIVED: 08/18/82 JA: TX					
8249639	F-03-052332	4247700003		103		BEN R PIETSCH #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-GERALD STEINBERGER				RECEIVED: 08/18/82 JA: TX					
8249742	F-09-055022	4207732609		103		KINDER #1 - RRC #22214	SCALING RANCH SOUTH (	0.0	FAGADAU ENERGY CO
-GETTY OIL COMPANY				RECEIVED: 08/18/82 JA: TX					
8249568	F-03-047381	4205100000		102-2		M A GIESENSCHLAG #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
8249561	F-06-046425	4236500000		103	107-TF	MAE SEALY UNIT #4	CARTHAGE (COTTON VALL	0.0	UNITED GAS PIPELI
-GLEN H MCCARTHY				RECEIVED: 08/18/82 JA: TX					
8249614	F-03-050456	4215731290		102-4	103	BLACKWOOD #2 (ID N/A)	ROSENBERG (FRIO 5220)	529.0	HOUSTON PIPELINE
-GRAHAM ENERGY LTD				RECEIVED: 08/18/82 JA: TX					
8249817	F-08-055170	4235331069		103		JAMEW JAMESON "B" #2 27324	JAMESON NORTH (STRAWN	0.0	SUN OIL CO
8249816	F-08-055169	4235331078		103		JAMEW JAMESON "C" #2 26464	JAMESON NORTH (STRAWN	0.0	SUN OIL CO
-GULF OIL CORPORATION				RECEIVED: 08/18/82 JA: TX					
8249833	F-03-055211	4224531168		103		C W BURRELL #46	FANNETT	48.0	TEXAS EASTERN TRA
8249574	F-7C-047975	4246131630		102-2		CLARA NEAL #1	CLARA NEAL (FUSSLEMAN	906.0	
8249761	F-08-055057	4247510079		108		ESTES E W #179	WARD-ESTES NORTH	1.5	CABOT CORP
8249757	F-08-055053	4247510081		108		ESTES E W #181	WARD-ESTES NORTH	2.0	CABOT CORP
8249753	F-08-055049	4247510082		108		ESTES E W #182	WARD-ESTES NORTH	1.0	CABOT CORP

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8249755	F-08-055051	4247501297	108			ESTES E W #25	WARD-ESTES NORTH	1.0	CABOT CORP
8249759	F-08-055055	4247501298	108			ESTES E W #26	WARD-ESTES NORTH	1.0	CABOT CORP
8249756	F-08-055052	4247501283	108			ESTES E W #3	WARD-ESTES NORTH	1.0	CABOT CORP
8249764	F-08-055061	4247510797	108			ESTES W A #84	WARD-ESTES NORTH	1.0	CABOT CORP
8249790	F-08-055102	4213500000	103			GOLDSMITH SAN ANDRES UNIT #1364	GOLDSMITH SAN ANDRES	1.0	PHILLIPS PETROLEU
8249796	F-08-055115	4213500582	108			GOLDSMITH SAN ANDRES UNIT 1-168	GOLDSMITH SAN ANDRES	2.0	PHILLIPS PETROLEU
8249794	F-08-055113	4213500688	108			GOLDSMITH SAN ANDRES UNIT 1-278	GOLDSMITH SAN ANDRES	13.0	PHILLIPS PETROLEU
8249789	F-08-055101	4213531186	108			GOLDSMITH SAN ANDRES UNIT 1329	GOLDSMITH SAN ANDRES	1.0	PHILLIPS PETROLEU
8249798	F-08-055117	4213531379	108			GOLDSMITH SAN ANDRES UNIT 1334	GOLDSMITH SAN ANDRES	2.0	PHILLIPS PETROLEU
8249795	F-08-055114	4213502497	108			GOLDSMITH SAN ANDRES UNIT 2-38	GOLDSMITH SAN ANDRES	4.0	PHILLIPS PETROLEU
8249797	F-08-055116	4213531349	108			GOLDSMITH SAN ANDRES UNIT 3-6	GOLDSMITH SAN ANDRES	3.0	PHILLIPS PETROLEU
8249721	F-08-054974	4247530898	108			HUTCHINGS STOCK ASSN #1001	WARD-ESTES NORTH	1.0	CABOT CORP
8249770	F-08-05567	4247532017	108			HUTCHINGS STOCK ASSN #1059	WARD-ESTES NORTH	1.0	CABOT CORP
8249733	F-08-054987	4247502044	108			HUTCHINGS STOCK ASSN #145	WARD-ESTES NORTH	1.0	CABOT CORP
8249725	F-08-054978	4247502045	108			HUTCHINGS STOCK ASSN #146	WARD-ESTES NORTH	1.0	CABOT CORP
8249724	F-08-054977	4247502235	108			HUTCHINGS STOCK ASSN #232	WARD-ESTES NORTH	1.0	CABOT CORP
8249781	F-08-055078	4247501809	108			HUTCHINGS STOCK ASSN #268	WARD-ESTES NORTH	2.0	CABOT CORP
8249730	F-08-054983	4247502300	108			HUTCHINGS STOCK ASSN #298	WARD-ESTES NORTH	1.0	CABOT CORP
8249760	F-08-055056	4247502332	108			HUTCHINGS STOCK ASSN #329	WARD-ESTES NORTH	2.0	CABOT CORP
8249728	F-08-054981	4247502339	108			HUTCHINGS STOCK ASSN #336	WARD-ESTES NORTH	1.0	CABOT CORP
8249732	F-08-054985	4247502345	108			HUTCHINGS STOCK ASSN #342	WARD-ESTES NORTH	1.0	CABOT CORP
8249758	F-08-055054	4247502355	108			HUTCHINGS STOCK ASSN #352	WARD-ESTES	2.0	CABOT CORP
8249778	F-08-055075	4247502356	108			HUTCHINGS STOCK ASSN #353	WARD-ESTES NORTH	2.0	CABOT CORP
8249729	F-08-054982	4247502365	108			HUTCHINGS STOCK ASSN #362	WARD-ESTES NORTH	1.0	CABOT CORP
8249766	F-08-055063	4247502371	108			HUTCHINGS STOCK ASSN #368	WARD-ESTES NORTH	1.0	CABOT CORP
8249774	F-08-055071	4247502380	108			HUTCHINGS STOCK ASSN #377	WARD-ESTES NORTH	1.0	CABOT CORP
8249731	F-08-054984	4247502405	108			HUTCHINGS STOCK ASSN #402	WARD-ESTES NORTH	1.0	CABOT CORP
8249735	F-08-054999	4247502419	108			HUTCHINGS STOCK ASSN #416	WARD-ESTES NORTH	1.0	CABOT CORP
8249767	F-08-055064	4247502376	108			HUTCHINGS STOCK ASSN #421	WARD-ESTES NORTH	2.0	CABOT CORP
8249780	F-08-055077	4247502433	108			HUTCHINGS STOCK ASSN #430	WARD-ESTES NORTH	2.0	CABOT CORP
8249763	F-08-055060	4247501981	108			HUTCHINGS STOCK ASSN #55	WARD-ESTES NORTH	1.0	CABOT CORP
8249726	F-08-054979	4247502363	108			HUTCHINGS STOCK ASSN #564	WARD-ESTES NORTH	1.0	CABOT CORP
8249762	F-08-055059	4247510189	108			HUTCHINGS STOCK ASSN #585	WARD-ESTES NORTH	5.0	CABOT CORP
8249775	F-08-055072	4247505261	108			HUTCHINGS STOCK ASSN #646	WARD-ESTES NORTH	1.0	CABOT CORP
8249777	F-08-055074	4247510737	108			HUTCHINGS STOCK ASSN #664	WARD-ESTES NORTH	1.0	CABOT CORP
8249776	F-08-055073	4247511003	108			HUTCHINGS STOCK ASSN #738	WARD-ESTES NORTH	1.0	CABOT CORP
8249723	F-08-054976	4247530009	108			HUTCHINGS STOCK ASSN #752	WARD-ESTES NORTH	1.0	CABOT CORP
8249734	F-08-054989	4247511152	108			HUTCHINGS STOCK ASSN #753	WARD-ESTES NORTH	1.0	CABOT CORP
8249773	F-08-055070	4247511145	108			HUTCHINGS STOCK ASSN #761	WARD-ESTES NORTH	1.0	CABOT CORP
8249769	F-08-055066	4247511146	108			HUTCHINGS STOCK ASSN #762	WARD-ESTES NORTH	2.0	CABOT CORP
8249722	F-08-054975	4247511219	108			HUTCHINGS STOCK ASSN #775	WARD-ESTES NORTH	1.0	CABOT CORP
8249779	F-08-055076	4247511216	108			HUTCHINGS STOCK ASSN #776	WARD-ESTES NORTH	2.0	CABOT CORP
8249727	F-08-054980	4247530044	108			HUTCHINGS STOCK ASSN #789	WARD-ESTES NORTH	1.0	CABOT CORP
8249772	F-08-055069	4247530048	108			HUTCHINGS STOCK ASSN #793	WARD-ESTES NORTH	1.0	CABOT CORP
8249771	F-08-055068	4247530049	108			HUTCHINGS STOCK ASSN #794	WARD-ESTES NORTH	1.0	CABOT CORP
8249768	F-08-055065	4247530218	108			HUTCHINGS STOCK ASSN #877	WARD-ESTES NORTH	3.0	CABOT CORP
8249765	F-08-055062	4247530547	108			HUTCHINGS STOCK ASSN #964	ESTES BLOCK 34 (PENN)	1.0	CABOT CORP
8249736	F-08-055080	4247530760	108			HUTCHINGS STOCK ASSN #993	WARD-ESTES NORTH	2.0	CABOT CORP
8249787	F-03-055094	4224531201	103			I R BORDAGES ETAL "A" #23	FANNETT	62.0	TEXAS EASTERN TRA
8249710	F-08-054905	4249501369	108			KEYSTONE CATTLE CO #221	KEYSTONE (COLBY)	2.0	CABOT CORP
8249709	F-08-054904	4249510147	108			KEYSTONE CATTLE CO #268	KEYSTONE (COLBY)	1.0	CABOT CORP
8249754	F-08-055050	4249503938	108			SOUTH KEYSTONE SILURIAN UNIT #8	KEYSTONE (SILURIAN)	1.0	CABOT CORP
8249786	F-03-055093	4224531197	103			VICTOR AUBEY #13	FANNETT	37.0	TEXAS EASTERN TRA

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-HAMILTON BROTHERS OIL CO				RECEIVED:	08/18/82	JA: TX			
8249535	F-10-034240	4221131191		102-4		GEORGE #1	WASHITA CREEK (GRANIT	350.0	PANHANDLE EASTERN
8249737	F-01-055005	4217731268		102-2		MANFORD-COLE UNIT 2 #1	COST (AUSTIN CHALK)	13.9	VALERO TRANSMISSI
-HCW DRILLING PARTNERSHIP 75				RECEIVED:	08/18/82	JA: TX			
8249563	F-08-047030	4210332704		105		ABELL DEVONIAN UNIT #30	ABELL (DEVONIAN)	18.3	NORTHERN GAS PROD
-HERITAGE OPERATING CO INC				RECEIVED:	08/18/82	JA: TX			
8249613	F-04-050278	4221531127		102-4		HALE SCHALEBEN #1	SCHALEBEN (8565) FIEL	547.5	TENNESSEE GAS PIP
-HILL INTERNATIONAL PRODUCTION CO				RECEIVED:	08/18/82	JA: TX			
8249548	F-06-041922	4240100000		103	107-TF	JOHN G MINOR #2	OAK HILL (COTTON VALL	0.0	DELHI GAS PIPELIN
-HILL PRODUCTION CO				RECEIVED:	08/18/82	JA: TX			
8249547	F-06-041586	4240100000		103	107-TF	MAUDE LAIRD #2	OAK HILL (COTTON VALL	0.0	
-HLH PETROLEUM CORP				RECEIVED:	08/18/82	JA: TX			
8249678	F-78-053861	4215131500		103		J W WICKHAM #2212	RAVEN CREEK (STRAWN)	28.0	SID RICHARDSON CA
-HUFO OILS				RECEIVED:	08/18/82	JA: TX			
8249680	F-10-049686	4234130636		103		BRENT 66-4	PANHANDLE MOORE NR	0.0	PANHANDLE EASTERN
-HUGHES & HUGHES				RECEIVED:	08/18/82	JA: TX			
8249688	F-02-054181	4202531268		102-4		JUDITH M HEALEY #3	HEALEY (YEGUA 4824) (	37.0	FERGUSON CROSSING
8249668	F-04-053532	4235531374		102-4		TEXAS SCOTTISH RITE HOSPITAL "A" 2	AGUA DULCE (8340) (PR	420.0	HOUSTON PIPE LINE
-HUMBLE EXPLORATION CO INC				RECEIVED:	08/18/82	JA: TX			
8249551	F-03-043678	4214900000		102-2	103	AMELIA #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8249565	F-03-047049	4214900000		102-2	103	EMILY BUSH MOORE #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8249552	F-03-043691	4214900000		102-2	103	HEATHER DAWN #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8249564	F-03-047045	4247700000		102-2	103	JACQUENETTA #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8249562	F-03-046981	4228731054		102-4	103	MARGARET GREGORY #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-INDIAN WELLS OIL CO				RECEIVED:	08/18/82	JA: TX			
8249661	F-7C-053405	4223531885		102-2		RICHEY 54A-7	PROBANDT (CANYON)	0.0	INTERNORTH INC
-INTEGRAL ENERGY CORP				RECEIVED:	08/18/82	JA: TX			
8249550	F-04-042054	4232100000		103		STATE TRACT 84 #3	GOOSE ISLAND (D-1)	115.0	VALLEY PIPE LINES
-J M HUBER CORPORATION				RECEIVED:	08/18/82	JA: TX			
8249819	F-10-055172	4223331375		103		BRYAN MAYFIELD UNIT #9-27			
8249818	F-10-055171	4223331376		103		BRYAN MAYFIELD UNIT #9-28	PANHANDLE	22.0	COLORADO INTERSTA
8249821	F-10-055175	4223331325		103		HODGES #10	PANHANDLE	22.0	COLORADO INTERSTA
8249820	F-10-055174	4223331326		103		HODGES #11	PANHANDLE	40.0	COLORADO INTERSTA
-J REX REYNOLDS				RECEIVED:	08/18/82	JA: TX	PANHANDLE	29.0	COLORADO INTERSTA
8249544	F-03-041015	4207131128		103		SCHOENJAHN #1T			
-JACKSON EXPLORATION INC				RECEIVED:	08/18/82	JA: TX	HANKAMER SOUTH (U-F-2	300.0	DOW CHEMICAL CO
8249700	F-7C-054565	4210533243		102-4	103	P C PERNER "A" #1			
8249701	F-7C-054575	4210533454		102-4	103	P C PERNER "A" #2	DUDLEY EAST (DEVONIAN	35.0	LINK SYSTEMS INC
-JMI INC				RECEIVED:	08/18/82	JA: TX	DUDLEY EAST (DEVONIAN	35.0	LINK SYSTEMS INC
8249555	F-03-045617	4208931271		102-4		D C HILLBOLDT A-1			
-JOHN L COX				RECEIVED:	08/18/82	JA: TX	ORANGE HILL SOUTH (YE	180.0	SEAGULL PIPELINE
8249591	F-7C-049463	4246131674		103		NEAL "40-36" #2			
-KILLAM & HURD LTD				RECEIVED:	08/18/82	JA: TX	SPRABERRY (TREND AREA	10.0	MOBIL PRODUCING T
8249588	F-03-049388	4205132073		102-2		SKRIVANEK #2			
-L TEXAS PETROLEUM INC				RECEIVED:	08/18/82	JA: TX	GIDDINGS (AUSTIN CHAL	0.0	
8249594	F-04-049541	4224731317		102-4		VARN-MESTENA #2			
-LACY & BYRD INC				RECEIVED:	08/18/82	JA: TX	WILDCAT	0.0	SUN GAS CO
8249707	F-8A-054689	4211531669		103		STEWART #2 RRC #63291			
-LAMBERT HOLLUB DRILLING CO				RECEIVED:	08/18/82	JA: TX	JO-MILL (SPRABERRY)	15.0	GETTY OIL CO
8249751	F-03-055043	4205132197		102-4		FARMER #3			
-LESTER CLARK				RECEIVED:	08/18/82	JA: TX	HOOKER CREEK (NAVARRO	40.1	FERGUSON CROSSING
8249784	F-7B-055086	4242933250		103		CLARK-BLACK BROTHERS #19			
-LMG RESOURCES INC				RECEIVED:	08/18/82	JA: TX	STEPHENS COUNTY REGUL	0.0	PETROLEUM CORP OF

JD NO	JA DAT	API NO	J	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8249752	F-78-055048	4242933021		103		EDDLEMAN #1	FRANKEL NE(CADDO)	54.5	WARREN PETROLEUM
-LONDON PETROLEUM CORP				RECEIVED:	08/18/82	JA: TX			
8249747	F-09-055034	4249732225		103		A R CARTER "A" #2	BOONSVILLE (BEND CONG	200.0	CITIES SERVICE CO
-LONDSTONE CORP				RECEIVED:	08/18/82	JA: TX			
8249706	F-03-054669	4204130755		102-2		TRIOLO #1	KURTEN (BUDA)	73.0	FURGESON CROSSING
-LOUIS A NEWITT				RECEIVED:	08/18/82	JA: TX			
8249543	F-03-049174	4208900000		102-4		EDGAR J POPP 1-C	LYDIA	90.0	LONE STAR GAS CO
-M J G INC				RECEIVED:	08/18/82	JA: TX			
8249673	F-02-053816	4217500000		102-4	103	MARY SCHMIDT WELL #1	WEEMATCHE WEST (SLICK	110.0	UNITED GAS PIPELI
-MARSHALL EXPLORATION INC				RECEIVED:	08/18/82	JA: TX			
8249557	F-06-045815	4220330889		103		MCCOWAN #1	GOOCH (TRAVIS PEAK)	350.0	TEXAS EASTERN TRA
8249587	F-06-049309	4236531373		103	107-TF	PIERCE ESTATE #1	CARTHAGE (COTTON VALL	250.0	UNITED GAS PIPELI
8249597	F-06-049570	4236531386		103		WERNER SAWMILL #3	BELLE BOWER	180.0	TENNESSEE GAS PIP
-MAY PETROLEUM INC				RECEIVED:	08/18/82	JA: TX			
8249657	F-10-053029	4221131419		103		ADCOCK #1-25	CANADIAN S E (DOUGLAS	109.5	
-MCFARLANE OIL CO INC				RECEIVED:	08/18/82	JA: TX			
8249748	F-02-055036	4246931828		103		PICKERING & ROOS #35	PLACEDO FIELD	0.0	TENNECO CHEMICALS
-MCMAHON-BULLINGTON DRLG CO				RECEIVED:	08/18/82	JA: TX			
8249667	F-09-053530	4223700000		102-4		ROUNDSAVILLE #1	ANTELOPE SE (MARBLE F	200.0	LONE STAR GAS CO
-MIN-TEX EXPLORATION CORP				RECEIVED:	08/18/82	JA: TX			
8249593	F-78-049491	4236732171		102-4		BERKLEY-WATERS #1 (099129)	MARMAC (MARBLE FALLS)	327.0	SOUTHWESTERN GAS
-MITCHELL ENERGY CORPORATION				RECEIVED:	08/18/82	JA: TX			
8249617	F-09-050696	4249700000		108		BOYD TOWNSITE #1 #42404	BOONSVILLE (BEND CONG	12.0	NATURAL GAS PIPEL
8249815	F-78-055156	4214300000		108		CHARLES F KEITH #2 #082083	MORGAN MILL (MARBLE F	0.6	SOUTHWESTERN GAS
8249814	F-78-055155	4214300000		108		CHARLES F KEITH #3 #082132	MORGAN MILLS (MARBLE	2.7	SOUTHWESTERN GAS
8249813	F-78-055154	4222100000		108		HUFFSTUTLER #1 #085027	MORGAN MILLS (MARBLE	0.0	SOUTHWESTERN GAS
8249672	F-09-053791	4249732362		103		JACK DALY UNIT 7 #2	BOONSVILLE (BEND CONG	5.3	NATURAL GAS PIPEL
8249819	F-78-055148	4222100000		108		M PEVELER #2 #093534	MCINTOSH (BIG SALINE)	10.3	SOUTHWESTERN GAS
8249811	F-78-055152	4214300000		108		O C WINSLETT #1 #083793	MORGAN MILL (MARBLE F	5.9	SOUTHWESTERN GAS
8249643	F-09-052509	4223734112		102-4	103	OLIVER LOVING #6	JERMYN WEST (CADDO)	8.0	SOUTHWESTERN GAS
8249799	F-78-055120	4214300000		108		PARKEY RANCH #10 #083788	MORGAN MILL (MARBLE F	1.9	SOUTHWESTERN GAS
8249808	F-78-055147	4214300000		108		PARKEY RANCH #4 #080585	MORGAN MILL (MARBLE F	1.5	SOUTHWESTERN GAS
8249807	F-78-055146	4214300000		108		PARKEY RANCH #5 #080571	MORGAN MILL (MARBLE F	1.5	SOUTHWESTERN GAS
8249800	F-78-055121	4214300000		108		PARKEY RANCH #9 #083789	MORGAN MILL (MARBLE F	10.5	SOUTHWESTERN GAS
8249810	F-78-055149	4214300000		108		R T DRAKE #3 #080978	MORGAN MILL (MARBLE F	4.6	SOUTHWESTERN GAS
8249812	F-78-055153	4214300000		108		R T DRAKE A #1 #084181	MORGAN MILL (MARBLE F	7.3	SOUTHWESTERN GAS
8249623	F-09-05111[illegible]	4249732291		103		T C W B #33 LT	BOONSVILLE (BEND CONG	962.0	NATURAL GAS PIPEL
-MOBIL PROG TEXAS & NEW MEXICO INC				RECEIVED:	08/18/82	JA: TX			
8249749	F-7C-055037	4246131893		103		AMERICAN REPUBLIC A #5	PEGASUS (SPRABERRY)	6.4	EL PASO NATURAL G
8249788	F-AA-055095	4221933521		103		NORTH CENTRAL LEVELLAND UNIT #358	LEVELLAND	4.4	AMOCO PRODUCTION
-MONSANTO COMPANY				RECEIVED:	08/18/82	JA: TX			
8249680	F-7C-053905	4258332192		103		UNIVERSITY 48-11 #1	BARNHART SOUTH (ELLEN	26.0	
-MOTE RESOURCES INC				RECEIVED:	08/18/82	JA: TX			
8249619	F-09-050769	4249732270		103		DENISON #1	BOONSVILLE (BEND CONG	120.0	NATURAL GAS PIPEL
-MURPHY H BAXTER				RECEIVED:	08/18/82	JA: TX			
8249795	F-01-054826	4249331076		102-4		GLENEWINKEL UNIT #1	CINDY ANN (AUSTIN CHA	365.0	UNITED TEXAS TRAN
-NORTH AMERICAN ROYALTIES INC				RECEIVED:	08/18/82	JA: TX			
*8249583	F-03-048921	4232100000		102-4		CORNELIUS #3	WADSWORTH E (11,200)	1006.0	HOUSTON PIPE LINE
-NOCORP ENERGY INC				RECEIVED:	08/18/82	JA: TX			
8249621	F-03-051052	4228730907		102-2		SEHLKE UNIT #1	GIDDINGS (AUSTIN CHAL	536.0	PHILLIPS PETROLEU
-PARKER & PARSLEY INC				RECEIVED:	08/18/82	JA: TX			
8249658	F-08-05312[illegible]	4231732478		103		MADISON #1	SPRABERRY (TREND AREA	15.0	ADOBE OIL & GAS C
-PENNZOIL PRODUCING COMPANY				RECEIVED:	08/18/82	JA: TX			

JD NO	JA DKT	API NO	J	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8249752	F-78-055048	4242933021		103		EDDLEMAN #1	FRANKEL NE(CADDO)	54.5	WARREN PETROLEUM
-LONDON PETROLEUM CORP				RECEIVED:	08/18/82	JA: TX			
8249747	F-09-055034	4249732225		103		A R CARTER "A" #2	BOONSVILLE (BEND CONG	200.0	CITIES SERVICE CO
-LONDSTONE CORP				RECEIVED:	08/18/82	JA: TX			
8249706	F-03-054669	4204130755		102-2		TRIOLO #1	KURTEN (BUDA)	73.0	FURGESON CROSSING
-LOUIS A NEWITT				RECEIVED:	08/18/82	JA: TX			
8249543	F-03-049174	4208900000		102-4		EDGAR J POPP 1-C	LYDIA	90.0	LONE STAR GAS CO
-M J G INC				RECEIVED:	08/18/82	JA: TX			
8249673	F-02-053816	4217500000		102-4	103	MARY SCHMIDT WELL #1	WEEMATCHE WEST (SLICK	110.0	UNITED GAS PIPELI
-MARSHALL EXPLORATION INC				RECEIVED:	08/18/82	JA: TX			
8249557	F-06-045815	4220330889		103		MCCOWAN #1	GOOCH (TRAVIS PEAK)	350.0	TEXAS EASTERN TRA
8249587	F-06-049309	4236531373		103	107-TF	PIERCE ESTATE #1	CARTHAGE (COTTON VALL	250.0	UNITED GAS PIPELI
8249597	F-06-049570	4236531386		103		WERNER SAWMILL #3	BELLE BOWER	180.0	TENNESSEE GAS PIP
-MAY PETROLEUM INC				RECEIVED:	08/18/82	JA: TX			
8249657	F-10-053029	4221131419		103		ADCOCK #1-25	CANADIAN S E (DOUGLAS	109.5	
-MCFARLANE OIL CO INC				RECEIVED:	08/18/82	JA: TX			
8249748	F-02-055036	4246931828		103		PICKERING & ROOS #35	PLACEDO FIELD	0.0	TENNECO CHEMICALS
-MCMAHON-BULLINGTON DRLG CO				RECEIVED:	08/18/82	JA: TX			
8249667	F-09-053530	4223700000		102-4		ROUNDSAVILLE #1	ANTELOPE SE (MARBLE F	200.0	LONE STAR GAS CO
-MIN-TEX EXPLORATION CORP				RECEIVED:	08/18/82	JA: TX			
8249593	F-78-049491	4236732171		102-4		BERKLEY-WATERS #1 (099129)	MARMAC (MARBLE FALLS)	327.0	SOUTHWESTERN GAS
-MITCHELL ENERGY CORPORATION				RECEIVED:	08/18/82	JA: TX			
8249617	F-09-050696	4249700000		108		BOYD TOWNSITE #1 #42404	BOONSVILLE (BEND CONG	12.0	NATURAL GAS PIPEL
8249815	F-78-055156	4214300000		108		CHARLES F KEITH #2 #082083	MORGAN MILL (MARBLE F	0.6	SOUTHWESTERN GAS
8249814	F-78-055155	4214300000		108		CHARLES F KEITH #3 #082132	MORGAN MILLS (MARBLE	2.7	SOUTHWESTERN GAS
8249813	F-78-055154	4222100000		108		HUFFSTUTLER #1 #085027	MORGAN MILLS (MARBLE	0.0	SOUTHWESTERN GAS
8249672	F-09-053791	4249732362		103		JACK DALY UNIT 7 #2	BOONSVILLE (BEND CONG	5.3	NATURAL GAS PIPEL
8249819	F-78-055148	4222100000		108		M PEVELER #2 #093534	MCINTOSH (BIG SALINE)	10.3	SOUTHWESTERN GAS
8249811	F-78-055152	4214300000		108		O C WINSLETT #1 #083793	MORGAN MILL (MARBLE F	5.9	SOUTHWESTERN GAS
8249643	F-09-052509	4223734112		102-4	103	OLIVER LOVING #6	JERMYN WEST (CADDO)	8.0	SOUTHWESTERN GAS
8249799	F-78-055120	4214300000		108		PARKEY RANCH #10 #083788	MORGAN MILL (MARBLE F	1.9	SOUTHWESTERN GAS
8249808	F-78-055147	4214300000		108		PARKEY RANCH #4 #080585	MORGAN MILL (MARBLE F	1.5	SOUTHWESTERN GAS
8249807	F-78-055146	4214300000		108		PARKEY RANCH #5 #080571	MORGAN MILL (MARBLE F	1.5	SOUTHWESTERN GAS
8249800	F-78-055121	4214300000		108		PARKEY RANCH #9 #083789	MORGAN MILL (MARBLE F	10.5	SOUTHWESTERN GAS
8249810	F-78-055149	4214300000		108		R T DRAKE #3 #080978	MORGAN MILL (MARBLE F	4.6	SOUTHWESTERN GAS
8249812	F-78-055153	4214300000		108		R T DRAKE A #1 #084181	MORGAN MILL (MARBLE F	7.3	SOUTHWESTERN GAS
8249623	F-09-05111[illegible]	4249732291		103		T C W B #33 LT	BOONSVILLE (BEND CONG	962.0	NATURAL GAS PIPEL
-MOBIL PROG TEXAS & NEW MEXICO INC				RECEIVED:	08/18/82	JA: TX			
8249749	F-7C-055037	4246131893		103		AMERICAN REPUBLIC A #5	PEGASUS (SPRABERRY)	6.4	EL PASO NATURAL G
8249788	F-AA-055095	4221933521		103		NORTH CENTRAL LEVELLAND UNIT #358	LEVELLAND	4.4	AMOCO PRODUCTION
-MONSANTO COMPANY				RECEIVED:	08/18/82	JA: TX			
8249680	F-7C-053905	4258332192		103		UNIVERSITY 48-11 #1	BARNHART SOUTH (ELLEN	26.0	
-MOTE RESOURCES INC				RECEIVED:	08/18/82	JA: TX			
8249619	F-09-050769	4249732270		103		DENISON #1	BOONSVILLE (BEND CONG	120.0	NATURAL GAS PIPEL
-MURPHY H BAXTER				RECEIVED:	08/18/82	JA: TX			
8249795	F-01-054826	4249331076		102-4		GLENEWINKEL UNIT #1	CINDY ANN (AUSTIN CHA	365.0	UNITED TEXAS TRAN
-NORTH AMERICAN ROYALTIES INC				RECEIVED:	08/18/82	JA: TX			
*8249583	F-03-048921	4232100000		102-4		CORNELIUS #3	WADSWORTH E (11,200)	1006.0	HOUSTON PIPE LINE
-NOCORP ENERGY INC				RECEIVED:	08/18/82	JA: TX			
8249621	F-03-051052	4228730907		102-2		SEHLKE UNIT #1	GIDDINGS (AUSTIN CHAL	536.0	PHILLIPS PETROLEU
-PARKER & PARSLEY INC				RECEIVED:	08/18/82	JA: TX			
8249658	F-08-05312[illegible]	4231732478		103		MADISON #1	SPRABERRY (TREND AREA	15.0	ADOBE OIL & GAS C
-PENNZOIL PRODUCING COMPANY				RECEIVED:	08/18/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8249610	F-10-050020	4235531971		102-4		E A KINSEY #B-4	AGUA DULCE (YAHUDE EA	281.0	UNITED GAS PIPE L
-PHARAOH & ASSOCIATES INC				RECEIVED:	08/18/82	JA: TX			
8249872	F-03-047892	4214931050		102-2	103	K C HINZE #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-PHILLIPS PEJROLEUM COMPANY				RECEIVED:	08/18/82	JA: TX			
8249793	F-08-055109	4249531274		108		BASH #13	KEYSTONE (COLBY)	1.0	SID RICHARDSON GA
8249792	F-08-055107	4222731532		108		BELLAM #12	IATAN EACT (HOWARD)	1.0	GETTY OIL CO
8249629	F-10-051406	4217931111		103		BRALLEY A #2	PANHANDLE GRAY	0.0	
8249608	F-10-049878	4217931066		103		CASSIE #3	PANHANDLE GRAY	0.0	
*8249602	F-10-049747	4223300000		103		CHILDERS #7	PANHANDLE HUTCHINSON	0.0	EL PASO NATURAL G
8249537	F-10-035486	4219530782		103		COFFIN #2	HANSFORD MISSISSIPPIA	0.0	INTERNORTH INC
8249558	F-10-045841	4229531094		103		CRUISE D #3	BRADFORD CLEVELAND	0.0	PANHANDLE EASTERN
8249607	F-10-049878	4217931068		103		DOROTHY #2	PANHANDLE GRAY	0.0	
8249703	F-08-054598	4200304514		108		EMBAR B #16	EMBAR (PERMIAN)	23.0	EL PASO NATURAL G
8249549	F-10-041950	4242100000		108		EZRA #1	TEXAS HUGOTON	0.0	MICHIGAN WISCONSI
8249641	F-10-05239[illegible]	4217900000		103		HUSTED #4	PANHANDLE GRAY	0.0	
8249570	F-10-047545	4223331277		102-4		IVY A #4	HUTCHINSON NORTH (MIS	0.0	
*8249631	F-10-051408	4223331345		103		J M SANFORD #3	PANHANDLE HUTCHINSON	0.0	EL PASO NATURAL G
8249618	F-10-050758	4217900000		103		KEAHEY A #2	PANHANDLE GRAY	0.0	
8249622	F-10-051069	4217900000		108		PHIL-PAMPA UNIT 6-2	PANHANDLE GRAY	0.0	GETTY OIL CO
*8249615	F-10-050665	4234100000		108		PORTER PITTMAN #2	PANHANDLE MOORE	0.0	EL PASO NATURAL G
8249791	F-08-055104	4200331700		103		TEXAS UNIVERSITY A #5	FUHRMAN MASCHO	12.0	
*8249630	F-10-051407	4223331346		103		YAKE G #14	PANHANDLE HUTCHINSON	0.0	EL PASO NATURAL G
-R LACY INC				RECEIVED:	08/18/82	JA: TX			
8249698	F-06-054561	4236531357		103		ELLA SMITH UNIT 1 WELL 5	CARTHAGE (JAMES LIME)	14.0	WESTERN GAS CORP
8249554	F-7C-045604	4209530556		102-4		SMITH LAND & CATTLE CO #1 RRC #N/A	WILDCAT	27.5	LONE STAR GAS CO
8249633	F-7C-051779	4209530586		102-4		SMITH LAND & CATTLE CO #4 RRC #N/A	PAINT ROCK SW (GARDNE	27.5	LONE STAR GAS CO
-RALPH L WAY INC				RECEIVED:	08/18/82	JA: TX			
8249638	F-7C-051954	4238331885		103		UNIVERSITY "8" #6	FARMER (SAN ANDRES)	3.0	INTERNORTH INC
-RETAMCO INC				RECEIVED:	08/18/82	JA: TX			
8249654	F-03-052966	4214930939		102-2		E T ZOCH #1	GIDDINGS (AUSTIN CHAL	6.0	PHILLIPS PETROLEU
8249655	F-03-052967	4214939074		102-2		LORENZ UNIT #1	GIDDINGS (BUDA)	19.7	PHILLIPS PETROLEU
-ROY FARRELL				RECEIVED:	08/18/82	JA: TX			
8249553	F-10-04536[illegible]	4206530794		108-ER		C L CULVER #1A (RRC ID NA)	WEST PANHANDLE FIELD	100.0	NATURAL GAS PIPEL
-SAGE DRILLING CO INC				RECEIVED:	08/18/82	JA: TX			
8249592	F-10-049472	4235731187		102-4		NORRIS #1	NORRIS	365.0	PHILLIPS PETROLEU
-SAGE ENERGY CO				RECEIVED:	08/18/82	JA: TX			
8249738	F-7C-055018	4238300000		103		UNIVERSITY 4-A #5 RRC #07703	FARMER (SAN ANDRES)	3.2	INTERNORTH INC
8249739	F-7C-055019	4238300000		103		UNIVERSITY 4-A #6 RRC #07703	FARMER (SAN ANDRES)	1.6	INTERNORTH INC
8249646	F-03-052710	4205132166		102-2		WEGNER #1 RRC #	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:	08/18/82	JA: TX			
8249699	F-03-054563	4228731244		102-2	103	PLACKE #4	GIDDINGS (AUSTIN CHAL	319.0	PERRY PIPELINE CO
-SAXON OIL COMPANY				RECEIVED:	08/18/82	JA: TX			
8249662	F-7C-053421	4246100000		103		HANKS "B" #1	SPRABERRY (TREND AREA	0.0	MOBIL PRODUCING T
-SEAGO OIL INC				RECEIVED:	08/18/82	JA: TX			
8249695	F-09-054497	4233731886		102-4		NABORS #1	MAXANNE (VIOLA MISS)	72.0	LONE STAR GAS CO
-SHELL OIL CO				RECEIVED:	08/18/82	JA: TX			
8249803	F-8A-055131	4250131916		103		OWNBY (SAN ANDRES) UNIT #62	OWNBY	16.8	AMOCO PRODUCTION
-SNOW OIL CO				RECEIVED:	08/18/82	JA: TX			
8249713	F-7B-054946	4213333731		102-4		RR #2 (18234)	CISCO (CONGL 3600)	186.0	ENSERCH EXPLORATI
-SOHIO PETROLEUM CO				RECEIVED:	08/18/82	JA: TX			
8249718	F-7C-05496[illegible]	4217331278		103		J C BRYANS "B" #7	CALVIN (DEAN)	21.9	EL PASO NATURAL G
-SOUTHLAND ROYALTY CO				RECEIVED:	08/18/82	JA: TX			
8249697	F-08-054556	4243131111		103		FLINT ESTATE #7	CONGER	12.0	VALERO TRANSMISSI

JD No.	Dist	API No.	C	SEC(1)	SEC(2)	WELL NAME
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	08/18/82	JA: TX
8249669	F-04-053679	4244731688		102-4		D J SULLIVAN #14L
8249674	F-03-053823	4207131316		103		J E JACKSON #5
8249675	F-04-053824	4242731411		103		WEIL BROS #44
-SUPERIOR OIL CO				RECEIVED:	08/18/82	JA: TX
8249582	F-03-048697	4228731070		102-2	103	W DAWSON UNIT #1
-TASCOSA PRODUCTION CO				RECEIVED:	08/18/82	JA: TX
8249569	F-10-047442	4233300000		103		SCOTT #S-A
-TEE OPERATING CO				RECEIVED:	08/18/82	JA: TX
8249635	F-01-051887	4228333709		102-4		SOUTH TEXAS SYNDICATE #1-97
-TEXACO INC				RECEIVED:	08/18/82	JA: TX
8249632	F-09-051701	4210931553		102-4		CULBERSON "X" FEE #2
8249687	F-08-054163	4210931623		102-4		CULBERSON "X" FEE #5
8249595	F-03-049556	4236130392		102-4		J V LINSCOMB #1
8249612	F-08-050250	4232931052		102-4		MIDLAND "AC" FEE #2
8249714	F-7C-054949	4245100000		106		N G KENT "B" NCT-3 #4
8249686	F-8A-054162	4216532354		103		ROBERTSON UNIT #45
8249556	F-03-045757	4224531487		102-4		SANDERS G/U #1
8249589	F-08-049407	4243131100		103		STERLING "T" FEE #3
8249584	F-08-049041	4243131098		103		STERLING "U" FEE #1
8249715	F-08-054950	4232900000		106		TXL "H" NCT-2 #3
-TEXAS GENERAL PETROLEUM CORP				RECEIVED:	08/18/82	JA: TX
8249783	F-02-055083	4229732637		102-4		E B BAKER #1
-TEXAS OIL & GAS CORP				RECEIVED:	08/18/82	JA: TX
8249546	F-02-041225	4228531596		102-4		GARNER #1
-THOMPSON OPERATING CO				RECEIVED:	08/18/82	JA: TX
8249694	F-10-054408	4235700000		108		NITSCHKE - TEXAS RRC #28311 #121
-THROCKMORTON GAS SYSTEMS				RECEIVED:	08/18/82	JA: TX
8249539	F-7B-037135	4244731808		102-4		MORRISON #1-B 14821
8249540	F-7B-037136	4244732097		102-4		MORRISON #2-B 14821
8249541	F-7B-037137	4244732098		102-4		MORRISON #3-B 14821
-TXO PRODUCTION CORP				RECEIVED:	08/18/82	JA: TX
8249637	F-7C-051909	4246131679		102-4		DAMRON "D" #1
8249603	F-06-049772	4207330462		102-4		DIXON "A" #2
8249702	F-10-054591	4229531134		103		HAMKER #1
8249596	F-06-049565	4241900000		103		HOOPER #1-C
8249611	F-03-050022	4208900000		102-4		MONAHAN A #1
8249634	F-05-051848	4216130717		103	107-TF	OWENS "C" #1
-VENUS OIL COMPANY				RECEIVED:	08/18/82	JA: TX
8249580	F-04-048376	4224700000		102-4		DANA HELLEN #2
8249579	F-03-048375	4248100000		102-4		GOLD-ZAPP
-VORTT EXPLORATION CO INC				RECEIVED:	08/18/82	JA: TX
8249545	F-09-041109	4250335144		102-4		DOZIER-BROCKMAN #3
-W B D OIL & GAS CO				RECEIVED:	08/18/82	JA: TX
8249827	F-10-055191	4234130801		103		RUSSELL #1 01353
8249826	F-10-055190	4234130798		103		RUSSELL #2 01353
-W L BRUCE OPERATOR				RECEIVED:	08/18/82	JA: TX
8249740	F-10-055020	4206500000		103		ALLEY #2 (ID# 05099)
8249741	F-10-055021	4206500000		103		GLENN #1 (ID# 05110)
-WAGNER & BROWN				RECEIVED:	08/18/82	JA: TX
8249806	F-08-055141	4243131135		103		GLASS "H" #4-32
-WALTER EXPLORATION INC				RECEIVED:	08/18/82	JA: TX
8249601	F-7B-049740	4236332781		103		KING-LANHAM GAS UNIT RRC ID NA

FIELD NAME	PROD	PURCHASER
FLOWELLA/VICKSBURG 4	3.0	
JACKSON PASTURE (8440	17.0	
WEIL (6046)	32.0	
GIDDINGS (AUSTIN CHAL	0.0	
PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
WILDCAT	0.0	
GERALDINE	19.2	EL PASO NATURAL G
GERALDINE	0.0	EL PASO NATURAL G
VIDOR N E	350.0	
BRADFORD RANCH	0.0	EL PASO NATURAL G
KENT (STRAWN)	2.4	ARCO OIL & GAS
ROBERTSON N (CLEARFOR	0.0	PHILLIPS PETROLEU
CONSTITUTION (WESTBUR	266.0	TRANSCONTINENTAL
CONGER SW (PENN)	0.0	
CONGER SW (PENN)	297.8	VALERO TRANSMISSI
SPRAYBERRY (TREND ARE	0.9	PHILLIPS PETROLEU
E B BAKER (MACKHANK)	912.0	EL PASO NATURAL G
SPEAKS S W (3275') PR	0.0	DELHI GAS PIPELIN
HANSFORD MORROW	13.6	INTERNORTH INC
RICHARDS RANCH (HOME	0.0	WARREN PETROLEUM
RICHARDS RANCH (HOME	0.0	WARREN PETROLEUM
RICHARDS RANCH (HOME	0.0	WARREN PETROLEUM
HELUMA SE (DEVONIAN)	40.0	DELHI GAS PIPELIN
WHITE OAK CREEK (TRAV	0.0	
BRADFORD (TONKAWA)	35.0	DIAMOND SHAMROCK
TIMPSON (HAIRGROVE 69	0.0	DELHI GAS PIPELIN
WILDCAT	0.0	
TEAGUE TOWNSITE (COTT	0.0	
ROMEO S	0.0	VALERO TRANSMISSI
HUTCHINS SOUTHWEST	0.0	DOW CHEMICAL CO
MURRAY NW (440 SAND)	0.0	J H TAYLOR GAS CO
PANHANDLE	0.0	PHILLIPS PETROLEU
PANHANDLE	0.0	PHILLIPS PETROLEU
PANHANDLE CARSON	100.0	GETTY OIL CO
PANHANDLE CARSON	50.0	GETTY OIL CO
CONGER (PENN)	154.0	TEXAS UTILITIES C
SANTO S (CONGL)	0.0	TEXAS UTILITIES F

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-WCS PETROLEUM INC				RECEIVED:	08/18/82	JA: TX
8249683	F-03-053986	4228731231		102-2		LEON TOUBIN #1
-WHITLEY & YOCHAM OIL CO				RECEIVED:	08/18/82	JA: TX
8249717	F-7C-054958	4238331759		103		SCOTT B #1
-WILLIAMS PETROLEUM CO				RECEIVED:	08/18/82	JA: TX
8249534	F-09-033819	4207700000		103		DEBRELLA CARTER #1
-WOOLF & MAGEE INC				RECEIVED:	08/18/82	JA: TX
8249575	F-03-048001	4200530129		102-4		CARTER BROS GAS UNIT #2
8249576	F-03-048002	4237300000		102-4		CARTER BROS GAS UNIT #3
-WORLD PRODUCERS INC				RECEIVED:	08/18/82	JA: TX
8249805	F-09-055135	4223733943		103-4		WILTON 1135-1
-ZENITH EXPLORATION COMPANY				RECEIVED:	08/18/82	JA: TX
8249938	F-01-036249	4216331849		103		ESTHER BERRY #5

FIELD NAME	PROD	PURCHASER
GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
JOHN SCOTT (GRAYBURG)	2.5	NEW ENERGY CO
WATSON	100.0	SANFORD P FAGADAU
DAMASCUS (WOODBINE 93	720.0	
DAMASCUS (SEAMANS)	720.0	
WILTON (STRAWN LO)	14.0	SOUTHWESTERN GAS
BERRY (FRIO)	50.0	TRANSCO CO

OTHER PURCHASERS VOLUME NO 728

8249583	DOW CHEMICAL CO
8249602	PANHANDLE EASTERN PIPELINE CO
8249615	PANHANDLE EASTERN PIPELINE CO
8249630	PANHANDLE EASTERN PIPELINE CO
8249631	PANHANDLE EASTERN PIPELINE CO
8249716	E I DUPONT DE NEMOURS & CO INC
8249782	LONE STAR GAS CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2,5 mile rule)
102–3: New well (1000 ft rule)
102–4: New on shore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: OCS 15,000 feet or deeper
107–FB: Geopressered brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight Formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb

Secretary.

[FR Doc. 82–25469 Filed 9–16–82; 8:45 am]

BILLING CODE 6717–01–M

[Volume 729]

JD No	JA DKT	API No	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-ANADARKO PRODUCTION COMPANY				RECEIVED:	08/16/82	JA: KS			
8249888	K-82-0730	1517520593	102-4			CROW B #1	SHUCK	29.2	CIMARRON-QUINQUE
8249890	K-82-0710	1517520583	102-4			HITCH "J" #1	SHUCK	68.0	PANHANDLE EASTERN
8249889	K-82-0490	1517520557	102-4			HITCH G #7	SHUCK	182.5	CIMARRON-QUINQUE
-PETRO-DYNAMICS CORP				RECEIVED:	08/16/82	JA: KS			
8249891	K-82-0725	1591921340	102-4			ERSKINE #1	ERSKINE	150.0	DELHI GAS PIPELIN
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-NORTHERN MICHIGAN EXPLORATION CO				RECEIVED:	08/16/82	JA: MI			
8249852		2113735209	102-4			ZEIMET-HIGGINS-STATE-CHARLTON #1-6	CHARLTON "6"	128.0	CONSUMERS POWER C
MONTANA BOARD OF OIL & GAS CONSERVATION									
-CONSOLIDATED OIL & GAS INC				RECEIVED:	08/16/82	JA: MT			
8249856	9-81-175-A	2508321424	103			SWANBY #1	FORT GILBERT	0.0	
-DOME PETROLEUM CORP				RECEIVED:	08/16/82	JA: MT			
8249859	9-81-166	2508521240	102-2			DETIENNE #1-20	RED BANK	14.2	MONTANA DAKOTA UT
8249857	9-81-174	2508521243	102-2			PANASUK #3	RED BANK	8.0	MONTANA-DAKOTA UT
-FUEL RESOURCES DEVELOPMENT CO				RECEIVED:	08/16/82	JA: MT			
8249860	9-81-177	2500522190	102-2			J-33-24-18-N	LEROY	32.0	MONTANA POWER CO
8249853	9-81-178	2500522058	102-2			J-9-24-18-N	LEROY	6.7	MONTANA POWER CO
-MIDLANDS GAS CORPORATION				RECEIVED:	08/16/82	JA: MT			
8249854	9-81-181	2507121690	102-2			SETZER #1833	BOWDOIN	16.0	KANSAS-NEBRASKA N
-ORBIT VENTURES INC				RECEIVED:	08/16/82	JA: MT			
8249858	9-81-176	2509121392	102-2			L W ROSTAD #1-22	DIVIDE	9.1	PHILLIPS PETROLEU
-TEXAS OIL & GAS CORP				RECEIVED:	08/16/82	JA: MT			
8249855	9-81-173	2500921136	103			PAPEZ #1	DRY CREEK	100.0	MONTANA POWER CO
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-EL PASO NATURAL GAS COMPANY				RECEIVED:	08/16/82	JA: NM			
8249868		3004506142	108			CUCCIA COM B #4	BLANCO - MESA VERDE	19.0	EL PASO NATURAL G
8249867		3004507630	108			SCHULTZ COM F #11	AZTEC - FRUITLAND	21.0	EL PASO NATURAL G
8249861		3004505721	108			THOMPSON A #1	BALLARD - PICTURED CL	19.0	EL PASO NATURAL G
8249871		3004505759	108			THOMPSON B #1	BALLARD - PICTURED CL	13.0	EL PASO NATURAL G
8249869		3004506771	108			TURNER B COM G #1E	SOUTH BLANCO - PICTUR	21.0	EL PASO NATURAL G
-GULF OIL CORPORATION				RECEIVED:	08/16/82	JA: NM			
8249881		3002500304	108			ATOKA SAN ANDRES UNIT #105	ATOKA SAN ANDRES	0.3	PHILLIPS PETROLEU
8249880		3002500281	108			ATOKA SAN ANDRES UNIT #134	ATOKA SAN ANDRES	0.2	PHILLIPS PETROLEU
8249879		3001500225	108			ATOKA SAN ANDRES UNIT #155	ATOKA SAN ANDRES	0.1	PHILLIPS PETROLEU

JD NO	JA DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8249877		3002508582		108		JALMAT FIELD YATES SAND UNIT #111	JALMAT	0.2	PHILLIPS PETROLEU
8249878		3002508613		108		JALMAT FIELD YATES SAND UNIT #134	JALMAT	0.7	PHILLIPS PETROLEU
8249883		3001520421		108		JONES "D" #5	ATOKA SAN ANDRES	1.1	PHILLIPS PETROLEU
8249887		3002511531		108		STUART LANGLIE-MATTIX UNIT #121	LANGLIE-MATTIX	0.2	EL PASO NATURAL G
8249882		3002511530		108		STUART LANGLIE-MATTIX UNIT #122	LANGLIE-MATTIX	6.3	EL PASO NATURAL G
-HICKS OIL & GAS INC				RECEIVED:	08/16/82	JA: NM			
8249884		3004520165		102-4		DANA STATE #1	RUSTY GALLUP	37.0	EL PASO NATURAL G
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	08/16/82	JA: NM			
8249873		3002510174		108		BRUNSON ARGO #1-T	BLINEBRY-GAS	21.7	NORTHERN NATURAL
8249872		3002506869		108		E O CARSON #4	EUMONT QUEEN-GAS	20.2	NORTHERN NATURAL
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	08/16/82	JA: NM			
8249862		3002502144		108		LEA #11	VACUUM GB/SA	2.0	EL PASO NATURAL G
8249863		3002521080		108		SANTA FE #105	VACUUM GLORIETA	4.0	EL PASO NATURAL G
-SHELL OIL CO				RECEIVED:	08/16/82	JA: NM			
8249886		3002500000		108		STATE SEC 2 #16	DRINKARD & BLINEBRY	6.9	GETTY OIL CO
-SOUTHLAND ROYALTY CO				RECEIVED:	08/16/82	JA: NM			
8249885		3004524060		103		SATEGNA #2-E	BASIN	89.0	GAS CO OF NEW MEX
-TENNECO OIL COMPANY				RECEIVED:	08/16/82	JA: NM			
8249874		3004525271		103		FIELDS 2E	BASIN DAKOTA	500.0	EL PASO NATURAL G
-THRESHOLD DEVELOPMENT CO				RECEIVED:	08/16/82	JA: NM			
8249875		3001523933		102-4		CONOCO "7" STATE #10	UNDES TURKEY TRACK MO	10.0	CONOCO INC
-W A MONCRIEF JR				RECEIVED:	08/16/82	JA: NM			
8249876		3001500000		102-4		CROOKED CREEK "A" STATE COM #1	BALDRIDGE CANYON UNDE	6.0	
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	08/16/82	JA: NM			
8249871		3002506974		108		CENTRAL DRINKARD UNIT #144	DRINKARD	6.1	EL PASO NATURAL G
8249864		3002506968		108		CENTRAL DRINKARD UNIT #145	DRINKARD	2.7	EL PASO NATURAL G
8249865		3002504902		108		W A RAMSAY (NCT-A) #38	EUMONT	1.9	EL PASO NATURAL G
8249866		3002504803		108		W A RAMSAY (NCT-A) #39	EUMONT	5.6	EL PASO NATURAL G
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NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
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-ABARTA OIL & GAS INC				RECEIVED:	08/16/82	JA: NY			
8249836	3684	3102916954		103		ABARTA B81-009 OFFHAUS	LAKESHORE	6.0	NATIONAL FUEL GAS
8249837	3683	3102916978		103		ABARTA E81-010 (SCOUT TH)	HAMBURG	0.0	NATIONAL FUEL GAS
-BEREA OIL AND GAS CORPORATION				RECEIVED:	08/16/82	JA: NY			
8249838	3715	3101316385		103		H CRUMP UNIT #1	RIPLEY-MINA	11.0	COLUMBIA GAS TRAN
-CHAUTAUQUA ENERGY INC				RECEIVED:	08/16/82	JA: NY			
8249846	3710	3101316584		103		CONLEY #1	LAKE PLAIN	10.0	NATIONAL FUEL GAS
8249847	3712	3101315983		103		DOHLER #1	LAKE PLAIN	10.0	NATIONAL FUEL GAS
-ECLIPSE MANAGEMENT ASSOCIATES INC				RECEIVED:	08/16/82	JA: NY			
8249834	3058	3101314792		107-TF		ROCKEY #3161	LAKE SHORE	0.0	COLUMBIA GAS TRAN
-LENAPE RESOURCES CORP				RECEIVED:	08/16/82	JA: NY			
*8249841	3687	3105116191		103		LRC #83 - G P MANCUSO #1	CALEDONIA	20.0	NEW JERSEY NATURA
*8249842	3688	3105116194		103		LRC #84 - H W STEIN #1	CALEDONIA	20.0	NEW JERSEY NATURA
*8249843	3689	3105116188		103		LRC #89 - W A NIXON #1	CALEDONIA	20.0	NEW JERSEY NATURA
*8249844	3690	3105116189		103		LRC #90 - W A NIXON #2	CALEDONIA	20.0	NEW JERSEY NATURA
*8249845	3691	3105117316		103		LRC #91 - H & R SIN CLAIR #1	WILDCAT	20.0	NEW JERSEY NATURA
-RICHARDSON PETROLEUM CORP				RECEIVED:	08/16/82	JA: NY			
8249835	3662	3100317616		103		S & M GREY #1	INDEPENDENCE	12.0	NATIONAL FUEL GAS
-TEMPLETON ENERGY INC				RECEIVED:	08/16/82	JA: NY			
8249848	3033	3101313768		107-TF		A SWANSON UNIT #560	LAKESHORE	12.0	COLUMBIA GAS TRAN
8249840	3142	3101313780		107-TF		P BECK UNIT #578	LAKESHORE	185.0	COLUMBIA GAS TRAN
8249849	3046	3101314547		107-TF		R MANSFIELD UNIT #584	LAKESHORE	12.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TRAHAN PETROLEUM INC			RECEIVED: 08/16/82 JA: NY						
8249851	2361	3101315581		107-TF		MARVIN WELLMAN #3	WILDCAT	36.0	COLUMBIA GAS TRAN
8249850	2363	3101312512		107-TF		MILTON WOOLLEY-NY #43 31-013-12512	LEON	36.0	COLUMBIA GAS TRAN
-WARNER BROTHERS WELL DRILLING INC			RECEIVED: 08/16/82 JA: NY						
8249839	3661	3102913947		108		R K ZIMMERMAN-RF KRAATZ	AKRON	4.9	NATIONAL FUEL GAS
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WEST VIRGINIA DEPARTMENT OF MINES									
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-ALLEGHENY LAND & MINERAL COMPANY			RECEIVED: 08/16/82 JA: WV						
8249998		4708300390		103		A-954	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8249983		4708300423		103		A-975	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8249982		4709702237		103		A-982	WASHINGTON DISTRICT	0.0	COLUMBIA GAS TRAN
8249999		4709702217		103		A-989	UNION DISTRICT	0.0	CONSOLIDATED GAS
8249997		4704103028		103		A-991	FREEMANS CREEK DISTRI	0.0	CONSOLIDATED GAS
-BOW VALLEY PETROLEUM INC			RECEIVED: 08/16/82 JA: WV						
8249995		4710500899		103		HOFFMAN #908	CLAY DISTRICT	0.0	COLUMBIA GAS TRAN
8249994		4710500900		103		JACKSON #914	CLAY DISTRICT	0.0	COLUMBIA GAS TRAN
8249990		4710500911		103		MCCAULEY #947	BURNING SPRINGS DISTR	0.0	COLUMBIA GAS TRAN
8249992		4710500908		103		MCGEE #943	BURNING SPRINGS DISTR	0.0	COLUMBIA GAS TRAN
8249993		4710500906		103		VALENTINE #941	CLAY DISTRICT	0.0	COLUMBIA GAS TRAN
8249991		4710500910		103		WELCH #945	BURNING SPRINGS DISTR	0.0	COLUMBIA GAS TRAN
-CABOT OIL & GAS CORP			RECEIVED: 08/16/82 JA: WV						
8249973		4703903574		107-DV		BERRY HILLS #3	JEFFERSON	25.0	TENNESSEE GAS PIP
8249974		4703903574		103		BERRY HILLS #3	JEFFERSON	25.0	TENNESSEE GAS PIP
8249978		4703903782		103		BERRY HILLS #7	WASHINGTON	10.0	TENNESSEE GAS PIP
8249975		4703903750		103		MALLORY #1	WASHINGTON	7.0	TENNESSEE GAS PIP
8249977		4703903767		103		P J GEORGE #1	WASHINGTON	40.0	TENNESSEE GAS PIP
8249996		4710900823		102-2		POCAHONTAS LAND CORP I-15	BARKERS RIDGE	40.0	CONSOLIDATED GAS
8249981		4710900848		102-2		POCAHONTAS LAND CORP I-18	BARKERS RIDGE	50.0	CONSOLIDATED GAS
8249980		4710900847		102-2		POCAHONTAS LAND CORP I-22	BARKERS RIDGE	50.0	CONSOLIDATED GAS
8249979		4710900851		102-2		POCAHONTAS LAND CORP I-27	BARKERS RIDGE	35.0	CONSOLIDATED GAS
8249976		4703903672		103		W E PITTMAN #1	WASHINGTON	34.0	TENNESSEE GAS PIP
-CHASE PETROLEUM			RECEIVED: 08/16/82 JA: WV						
8249958		4704103047		103		ALLMAN #1	HACKERS CREEK DISTRIC	10.0	
8249964		4704103047		107-DV		ALLMAN #1	HACKERS CREEK DISTRIC	10.0	
8249950		4709702211		103		BYRD #1	WARREN DISTRICT	10.0	
8249967		4709702211		107-DV		BYRD #1	WARREN DISTRICT	10.0	
8249949		4709702185		103		BYRD #2	WARREN DISTRICT	10.0	
8249968		4709702185		107-DV		BYRD #2	WARREN DISTRICT	10.0	
8249988		4708505160		103		CAMPBELL #1	UNION DISTRICT	10.0	
8249955		4704103080		103		CARNEY #1	FREEMAN'S CREEK DISTR	10.0	
8249963		4704103080		107-DV		CARNEY #1	FREEMAN'S CREEK DISTR	10.0	
8249953		4701703019		103		CHARLES PRIMM #2	CENTRAL DISTRICT	10.0	
8249956		4704103041		103		DENOBEL #1	FREEMAN'S CREEK DISTR	12.0	
8249962		4704103041		107-DV		DENOBEL #1	FREEMAN'S CREEK DISTR	12.0	
8249989		4708505300		103		HORNBERGER #1	UNION DISTRICT	10.0	
8249970		4701703037		103		ICIE JONES #1	SOUTHWEST DISTRICT	12.0	
8249951		4709702168		103		JAMES #1	WARREN DISTRICT	10.0	
8249957		4704103031		103		KRAUS #1	FREEMAN'S CREEK DISTR	10.0	
8249961		4704103031		107-DV		KRAUS #1	FREEMANS CREEK DISTRI	10.0	
8249972		4708505079		107-DV		LEMLEY #1	CLAY DISTRICT	27.0	
8249948		4709702214		103		LEWIS #3	WARREN DISTRICT	10.0	
8249969		4709702214		107-DV		LEWIS #3	WARREN DISTRICT	10.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8249987		4708505162		103		MCCABE #2	UNION DISTRICT	10.0	
8249960		4701703020		103		PRIMM #3	UNION	15.0	
8249952		4709702167		103		SIMONS #1	WARREN DISTRICT	10.0	
8249971		4709702167		107-DV		SIMONS #1	WARREN DISTRICT	10.0	
8249954		4704103050		103		STRADER #1	SKIN CREEK DISTRICT	10.0	
8249966		4704103050		107-DV		STRADER #1	SKIN CREEK DISTRICT	10.0	
8249959		4704103081		103		THORN LINGER #1	COURTHOUSE DISTRICT	20.0	
8249965		4704103081		107-DV		THORN LINGER #1	COURTHOUSE DISTRICT	20.0	
-ENERGY UNLIMITED INC				RECEIVED:	08/16/82	JA: WV			
8249985		4707300920		108		ELLIOTT #2	GRANT DISTRICT	0.0	CONSOLIDATED GAS
8249986		4707300921		108		NORRIS #1	NORRIS #1	0.0	CONSOLIDATED GAS
-TERRY GAS CO				RECEIVED:	08/16/82	JA: WV			
8249984		4701100496		108		E W CHILDERS	UNION	0.0	GAS SUPPLY CORP
-UNITED PETRO LTD				RECEIVED:	08/16/82	JA: WV			
8249947		4701303220		108		RANDY FRY #2	RUSH RUN	6.0	CONSOLIDATED GAS
8249946		4701303219		108		RONNIE MARGOLIS #1	RUSH RUN	6.0	CONSOLIDATED GAS
8249944		4701303202		108		W VA PULP & PAPER CO #1	RUSSETT	6.0	CONSOLIDATED GAS
8249945		4701303203		108		W VA PULP & PAPER CO #2	RUSSETT	6.0	CONSOLIDATED GAS
-YALE OIL ASSOCIATION INC				RECEIVED:	08/16/82	JA: WV			
8249943		4700701678		103		W W KELLY #2	SALT LICK	0.0	CONSOLIDATED GAS
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, CASPER,WY									
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-FALCON-COLORADO EXPLORATION INC				RECEIVED:	08/17/82	JA: MT 5			
8249916	M34-2	2510521199		103		FEDERAL 29-1	BOWDOIN	1.0	MONTANA-DAKOTA UT
8249915	M33-2	2510521198		103		FEDERAL 29-2	BOWDOIN	0.4	MONTANA-DAKOTA UT
8249914	M32-2	2510521196		103		FISHER 21-1	SWANSON CREEK	1.6	MONTANA-DAKOTA UT
-MIDLANDS GAS CORPORATION				RECEIVED:	08/17/82	JA: MT 5			
8249892	M 36-1	2507121349		108		333432 #1 3342	BOWDOIN	22.0	KANSAS-NEBRASKA N
-APACHE CORPORATION				RECEIVED:	08/17/82	JA: ND 5			
8249895	ND575-1	3300700689		102-2		FEDERAL #2-2	BUCKHORN	70.8	KOCH HYDROCARBON
8249894	ND574-1	3300700573		102-2		FEDERAL #3-1	BUCKHORN	96.5	KOCH HYDROCARBON
-GETTY OIL COMPANY				RECEIVED:	08/17/82	JA: ND 5			
8249929	ND49-2	3300700738		102-2		MYSTERY CREEK 1-11F	T R FIELD	18.0	KOCH HYDROCARBON
-LADD PETROLEUM CORPORATION				RECEIVED:	08/17/82	JA: ND 5			
8249917	ND37-2	3305300135		102-2		DUNCAN-FEDERAL #30-24A	SCAIRT WOMAN	219.0	KOCH HYDROCARBON
-SHELL OIL CO				RECEIVED:	08/17/82	JA: ND 5			
8249893	ND 503-1	3305301282		102-4		USA 13-14-65	MONDAK	52.5	MONTANA DAKOTA UT
-TENNECO OIL COMPANY				RECEIVED:	08/17/82	JA: ND 5			
8249933	ND53-2	3300700639		102-2		MOHRLE USA 4-13	BIG STICK	14.6	WESTERN GAS PROCE
-AMOCO PRODUCTION CO				RECEIVED:	08/17/82	JA: WY 5			
8249934	W 54-2	4902920772		103		LITTLE BUFFALO BAS DSU 21 EMBAR	LITTLE BUFFALO BASIN	15.0	AMOCO PRODUCTION
8249936	W 56-2	4902920772		103		LITTLE BUFFALO BAS DSU 21 MUDDY	LITTLE BUFFALO BASIN	15.0	AMOCO PRODUCTION
8249935	W 55-2	4902920772		103		LITTLE BUFFALO BAS DSU 21 TENSLEEP	LITTLE BUFFALO BASIN	15.0	AMOCO PRODUCTION
8249901	W15-2	4903721304		103		LOST SOLDIER UNIT #113 (TENSLEEP)	LOST SOLDIER - TENSLE	11.0	NORTHERN GAS CO
8249902	W16-2	4903721240		103		LOST SOLDIER UNIT #114 (TENSLEEP)	LOST SOLDIER - TENSLE	19.7	NORTHERN GAS CO
8249903	W17-2	4903721239		103		LOST SOLDIER UNIT #115 (TENSLEEP)	LOST SOLDIER - TENSLE	0.9	NORTHERN GAS CO
8249948	W 60-2	4903721713		103		LOST SOLDIER UNIT #139 (MADISON)	LOST SOLDIER - MADISO	1.0	NORTHERN GAS CO
8249939	W 59-2	4903721714		103		LOST SOLDIER UNIT #140 (MADISON)	LOST SOLDIER - MADISO	2.6	NORTHERN GAS CO
8249896	W10-2	4903720910		103		LOST SOLDIER UNIT #91 (TENSLEEP)	LOST SOLDIER - TENSLE	3.6	NORTHERN GAS CO
8249897	W11-2	4903720911		103		LOST SOLDIER UNIT #92 (TENSLEEP)	LOST SOLDIER - TENSLE	5.0	NORTHERN GAS CO
8249898	W12-2	4903720912		103		LOST SOLDIER UNIT #93 (TENSLEEP)	LOST SOLDIER - TENSLE	2.0	NORTHERN GAS CO
8249899	W13-2	4903720914		103		LOST SOLDIER UNIT #96 (TENSLEEP)	LOST SOLDIER - TENSLE	11.3	NORTHERN GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8249900	W-14-2	4903720915		103		LOST SOLDIER UNIT #97 (TENSLEEP)	LOST SOLDIER - TENSLE	3.2	NORTHERN GAS CO
8249941	W 61-2	4902320424		103		SHUTE CREEK UNIT #8 (DAKOTA)	SHUTE CREEK - DAKOTA	22.0	
8249937	W 57-2	4900720598		103		SOUTH BAGGS UNIT #26	BAGGS DEEP FIELD-MORG	220.0	
8249938	W 58-2	4900720598		107-DP		SOUTH BAGGS UNIT #26	BAGGS DEEP FIELD-MORG	220.0	
8249905	W20-2	4903721634		103		WERTZ ABC UNIT #59 (TENSLEEP)	WERTZ - TENSLEEP	24.8	NORTHERN GAS CO
8249906	W21-2	4903721780		103		WERTZ ABC UNIT #66 (TENSLEEP)	WERTZ - TENSLEEP	12.8	NORTHERN GAS CO
-CITIES SERVICE COMPANY				RECEIVED:	08/17/82	JA: WY 5			
8249922	W42-2-T	4903721136		107-TF		FEDERAL "W" #1	WILDROSE	38.9	CITIES SERVICE GA
8249912	W30-2	4900525875		102-2		FEDERAL BU #1	PUMPKIN BUTTES	12.8	
-DAVIS OIL COMPANY				RECEIVED:	08/17/82	JA: WY 5			
8249913	W31-2	4900525918		103		BUZZELL FEDERAL #1	PORCUPINE	114.8	BIG HORN FRACTION
8249927	W47-2	4900525799		103		HAHN FEDERAL #10	E HILIGHT	31.6	PHILLIPS PETROLEU
8249928	W48-2	4900526131		103		HAHN FEDERAL #11	DEVELOPMENT	3.2	PHILLIPS PETROLEU
8249910	W27-2	4904521592		103		HANCOCK FEDERAL #1	WILDCAT	0.0	PHILLIPS PETROLEU
8249925	W45-2	4900526096		103		NORTH GRADY FEDERAL #1	NORTH HILIGHT	26.6	PHILLIPS PETROLEU
8249926	W46-2	4900526082		108		NORTH GRADY FEDERAL #2	HILIGHT	21.0	PHILLIPS PETROLEU
8249923	W43-2	4900525999		103		OLSEN DRAW FEDERAL #1	DEVELOPMENT	29.4	BIG HORN FRACTION
8249942	W 62-2	4900921918		103		PEARL UNIT #1-A	WILDCAT	20.0	PHILLIPS PETROLEU
8249924	W44-2	4904521701		103		PLOVER FED #1	TODD	13.8	PHILLIPS PETROLEU
-GETTY OIL COMPANY				RECEIVED:	08/17/82	JA: WY 5			
8249932	W52-2	4900921966		102-2		SCOTT #1-11	SCOTT	75.0	PHILLIPS PETROLEU
8249931	W51-2	4900921789		102-2		SCOTT #1-3	SCOTT	10.0	PHILLIPS PETROLEU
-MPC INC				RECEIVED:	08/17/82	JA: WY 5			
8249907	W23-2	4900525681		102-2		ROLLING PIN FEDERAL #4	COLLINS	1.0	WESTERN GAS PROCE
-SOHIO PETROLEUM CO				RECEIVED:	08/17/82	JA: WY 5			
8249921	W41-2	4901920553		103		FEDERAL #5-13	JEPSON DRAW	14.6	PHILLIPS PETROLEU
8249920	W40-2	4901920617		103		FEDERAL #5-5	JEPSON DRAW	36.0	PHILLIPS PETROLEU
8249918	W38-2	4901920406		103		FEDERAL #6-A	JEPSON DRAW	0.0	PHILLIPS PETROLEU
8249919	W39-2	4901920412		103		FEDERAL #6-D	JEPSON DRAW	0.0	PHILLIPS PETROLEU
-TEXAS AMERICAN OIL CORP				RECEIVED:	08/17/82	JA: WY 5			
8249908	W 25-2	4902920984		102-2		MEETEETSE 21-1	WILDCAT	791.3	TENNESSEE GAS PIP
8249909	W 26-2	4902920984		103		MEETEETSE 21-1	WILDCAT	791.3	TENNESSEE GAS PIP
-TRUE OIL COMPANY				RECEIVED:	08/17/82	JA: WY 5			
8249930	W50-2	4900320364		108		SPEAR FEDERAL #33-31	EMBLEM	14.0	MONTANA-DAKOTA UT
-WOODS PETROLEUM CORPORATION				RECEIVED:	08/17/82	JA: WY 5			
8249911	W28-2	4900526287		103		PINE TREE UNIT 5-31	PINE TREE	1.0	WESTERN GAS PROCE
8249904	W18-2	4900525859		103		PINE TREE UNIT 6-24	PINE TREE	1.0	WESTERN GAS PROCE

OTHER PURCHASERS VOLUME NO :729

8249841	ELIZABETHTOWN GAS CO
8249842	ELIZABETHTOWN GAS CO
8249843	ELIZABETHTOWN GAS CO
8249844	ELIZABETHTOWN GAS CO
8249845	ELIZABETHTOWN GAS CO

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-25470 Filed 9-16-82; 8:45 am]
BILLING CODE 6717-01-C

Office of Hearings and Appeals

Issuance of Proposed Decision and Order; Week of August 23 Through August 27, 1982

During the week of August 23 through August 27, 1982, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of the proposed decision and order are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave. NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated: September 13, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

State of Connecticut, Hartford, Connecticut, HEE–0032, conservation

The State of Connecticut filed an Application for Exception from the provisions of 10 CFR Part 455. The exception request, if granted, would permit Connecticut to use 45% (instead of 15%) of the federal funds allocated for conservation programs for schools and hospitals in Cycle IV of the DOE Institutional Building Grant Program for technical assistance programs. On August 27, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 82-25604 Filed 9-16-82; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

September 10, 1982.

Background

When executive departments and agencies proposed public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act [44 U.S.C. Chapter 35]. Departments andagencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appears below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:
Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3829).

OMB Reviewer—Richard Sheppard—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202–395–6880).

Request for Extension Without Revision

1. Report title: Monthly Bankers' Acceptance Survey.

Agency form number: FR 2006.

Frequency: Monthly.

Reporters: Commercial banks, U.S. branches and agencies of foreign banks and Edge Act Corporations whose bankers' acceptances are traded in the New York market.

SIC Code: 602, 605.

Small businesses are not affected.

General description of report: approximately 4,080 responses; approximately 27,744 hours needed to complete the form on an annual basis; average response time of 6.8 hours; respondent's obligation to reply is voluntary; a pledge of confidentiality is promised; cost to the public is approximately $416,160 annually; cost to the Federal Government is approximately $11,450; 1 form submitted for approval; the report is not being reviewed under Section 3504(h) of Pub. L. 96–511.

Data obtained from this survey are used to construct estimates of monetary aggregates and bank credit. These data are also needed to monitor developments in the acceptance market for analytical and monetary policy purposes.

2. Report title: Weekly Report of Assets and Liabilities for Large U.S. Branches and Agencies of Foreign Banks.

Agency form number: FR 2069.

Frequency: Weekly.

Reporters: U.S. branches and agencies of foreign banks with assets of $750 million or more as of 6/30/80.

SIC code: 605 pt.

Small businesses are not affected.

General description of report: approximately 2,548 responses; approximately 8,918 hours needed to complete the form on an annual basis; average response time of 3.5 hours; respondent's obligation to reply is voluntary; a pledge of confidentiality is promised; cost to the public is approximately $133,770 annually; cost to the Federal Government is approximately $54,475; 1 form submitted

for approval; the report is not being reviewed under Section 3504(h) of Pub. L. 96–511.

The report provides current information on credit developments and sources of funds at U.S. branches and agencies of foreign banks. The data are used to analyze current banking and monetary conditions.

3. Report title: Quarterly Reports of International Banking Facilities.

Agency form numbers: FR 2073 a, b, c; 2074; 2075.

Frequency: Quarterly.

Reporters: International Banking Facilities established by U.S. depository institutions, U.S. branches and agencies of foreign banks or Edge Act Agreement Corporations.

SIC code: 602 pt; 605 pt.

Small businesses are not affected.

General description of reports: approximately 1,444 responses; approximately 1,640 hours needed to complete the form on an annual basis; average response time of approximately 1 hour; respondent's obligation to reply is mandatory (12 U.S.C. 248(a), 3105(h), 602, 625); a pledge of confidentiality is not promised; cost to the public is approximately $32,800 annually; cost to the Federal Government is approximately $110,464; 5 forms submitted for approval; the reports are not being reviewed under section 3504(h) of Pub. L. 96–511.

The reports provide information needed by the Federal Reserve to monitor International Banking Facilities (IBFs). These reports enable the user to adjust the establishing entity's consolidated Report of Condition information for IBF assets and liabilities.

Board of Governors of the Federal Reserve System, September 10, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-25823 Filed 9-16-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Cooperative Agreement Program for Occupational Health and Safety Surveillance; National Institute for Occupational Safety and Health; Public Health Service; Centers for Disease Control

Correction

In FR Doc. 82–23934 beginning on page 38424 in the issue of Tuesday, August 31, 1982, make the following corrections:

1. On page 38426, middle column, in the second full paragraph under *Application Procedure*, the room number in the address now given as "Room 125" should have read "Room 124".

2. In the next column, under **Schedule for Receipt and Review of Applications**, the dates for Initial Review Group now reading "December 1982 or January 1982" should have read "December 1982 or January 1983", and the date for Earliest Award Date now reading "April 1982" should have read "April 1983".

BILLING CODE 1505-01-M

Neurotoxicity of Straight-Chain Carbon Compounds; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health of the Centers for Disease Control and will be open to the public for observation and participation, limited only by space available.

Date: September 29, 1982
Time: 10:30 a.m. to 4:00 p.m.
Place: Robert A. Taft Laboratories, 4676 Columbia Parkway, Room B36, Cincinnati, Ohio 45226
Purpose: This meeting is intended to review an intramural research project to evaluate the comparative neurotoxicity of selected carbon-based compounds varying in chemical structure and functional characteristics. Neurobehavioral tests of nerve conduction, reflex responding, and general excitability of the central nervous system will be used in a laboratory investigation of animals exposed to the selected compounds in both subchronic and acute schedules. Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited

Additional information may be obtained from: John Russo, Ph. D., Division of Biomedical and Behavioral Science, National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control (CDC), 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: (513) 684–8383.

Dated: September 9, 1982.

William H. Foege, M.D.,

Director, Centers for Disease Control.

[FR Doc. 82-25825 Filed 9-16-82; 8:45 am]

BILLING CODE 4160-19-M

Cooperative Agreements; Preventive Health Services-Tuberculosis Control; Availability of Funds for Fiscal Year 1982

The Centers for Disease Control (CDC) announces the availability of funds in Fiscal Year 1982 for Cooperative Agreements for Tuberculosis Control Programs, Catalog of Federal Domestic Assistance Number 13.283. This program is authorized by Section 317(a) of the Public Health Service Act (42 U.S.C. 247b), as amended. Regulations governing programs for preventive health services are codified at 42 CFR Part 51b. Subpart A contains general provisions relating to these programs. A new subpart governing tuberculosis control programs is being developed.

Eligible applicants for this program are the official public health agencies of State and local governments, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa. However, because of the limited funds available in Fiscal Year 1982, awards will be limited to support of programs in high-priority urban areas with a city of at least 250,000 population which have reported an average of more than 250 new cases of tuberculosis per year over the past 2 years and had an incidence rate greater than the national tuberculosis incidence rate reported in 1981 (11.9 per 100,000 population) during each of the past 2 years.

Applications meeing these requirements will be evaluated and priority for funding of new projects established, based upon the following factors: (1) The total number of cases reported in the past 2 years; (2) the number of bacteriologically confirmed cases reported in the past 2 years; (3) the bacteriologically substantiated incidence of disease reported during the past 2 years; (4) the number of tuberculosis cases among children under 15 years of age; (5) the community impact of tuberculosis among individuals who were born in countries with high rates of tuberculosis; (6) the prevalence of drug resistant tuberculosis within the area; (7) a significant increase in tuberculosis morbidity within the past 2 years; and (8) the overall potential effectiveness of the applicant's plan of operation in meeting the objectives of the proposed project. These factors were chosen to establish the extent of an area's tuberculosis problem and to incorporate the intent of Congress for expenditure of these funds.

Purpose and Cooperative Activities

A. Purpose

The national goal in tuberculosis control is to reestablish an annual reduction of reported tuberculosis cases of at least 5 percent. The minimum

short-term objectives needed to meet this goal include:

1. At least 75 percent of all initially infectious patients will become noninfectious (convert their sputum from positive to negative) within 3 months of starting treatment and at least 95 percent will become noninfectious within 6 months.

2. At least 90 percent of all reported cases of tuberculosis will complete an Amercian Thoracic Society/Centers for Disease Control (ATS/CDC) recommended regimen of antituberculosis drug therapy.

At least 95 percent of all close contacts to infectious cases will receive examinations, with at least 95 percent of all those under 15 years of age and 75 percent of all infected persons over 15 years of age placed on preventive treatment.

4. For close contacts and recently infected individuals placed on preventive therapy, at least 90 percent of those persons under 15 years of age and 75 percent of those persons who are infected and over 15 years of age will complete a recommended course of preventive therapy.

B. Cooperative Activities

The collaborative and programmatic involvement of CDC and recipients of funds is as follows:

1. *Recipient Public Health Agency Activities.*

a. Improvement in the reporting of all tuberculosis cases, suspects, and significant laboratory results by health care providers and laboratories in both the public and private sectors and the analysis of reporting trends. Implementation of updated public health record systems needed to monitor the current care status of patients, suspects, contacts, and high-risk infected persons in the community.

b. Deployment of outreach personnel for followup of patients and their contacts and application or intensification of directly administered daily or intermittent drug treatment.

c. Tuberculosis diagnostic, treatment, and prevention services that are available and effectively adapted to the characteristics of tuberculosis population subgroups. Implementation of special approaches to meet the needs of immigrants with inherent language and cultural barriers.

d. Development or continuation of cost effective, medically sound tuberculosis medical care and public health policies. A major policy component should be the use of recommended ATS/CDC treatment regimens.

e. Epidemiological analysis and rapid followup for laboratory reports of drug resistant organisms.

f. Special epidemiological direction and assistance for the investigation and analysis of special tuberculosis problems such as tuberculosis in foreign born, etc. This should include detailed investigation of all cases in children to identify causes of community control failure and to design more effective prevention and control actions.

2. *Centers for Disease Control Activities.*

a. Collaboration in the development and operation of tuberculosis case reporting and program management record systems. Assistance in analysis and evaluation of morbidity, mortality, and program management information.

b. Assistance in the development of program personnel through onsite assistance and the provision of training materials for use by project staff.

c. Provision of onsite technical assistance in the planning, operation, and evaluation of program activities.

d. Provision of medical and programmatic consultation from headquaters through telephone and written consultation.

e. Development and dissemination of public health and medical policies and recommendations for the diagnosis, treatment, and prevention of tuberculosis (including the development of joint ATS/CDC statements). Development of patient education and motivation materials.

Quarterly and/or semiannual narrative and performance statistical reports may be required subject to approval by the Office of Management and Budget (OMB). Financial status reports are required no later than 90 days after the end of each budget period. Final financial status and progress reports are required 90 days after the end of a project period.

It is expected that $1 million will be available in Fiscal Year 1982 to award between 5 and 10 cooperative agreements with individual projects ranging from $50,000 to $250,000.

Applications should be submitted for a 1 year budget period and a 1 to 3 year project period. Continuation awards within the project period will be made by CDC on the basis of satisfactory progress in meeting project objectives and on the availability of funds. Funding estimates outlined above may vary and are subject to change due to the uncertainties in the appropriation process.

Cooperative agreement funds may be used to support both local personnel and the employment of individuals in direct (i.e., "in lieu of cash") assistance positions under Section 317 of the Public Health service Act; and to purchase supplies and services directly related to public health tuberculosis outpatient activities, including morbidity surveillance, outreach, training, assessment, and expanded prevention activities. Project funds may not be used to supplant funds supporting existing tuberculosis control services provided by a State or locality, or to support construction costs or inpatient care.

The application for a new cooperative agreement must include a *brief* narrative which summarizes: (1) A description of the background and need for project support including information (not previously submitted) that relates to factors by which the application will be evaluated; (2) a listing to both long- and short-term objectives of the proposed project which are consistent with the national goal outlined above and which are specific, measurable, realistic, and time-framed; (3) the activities and methods which will be employed to accomplish the objectives (of special importance will be the employment of outreach workers in high incidence areas for use in patient followup and directly administered therapy programs); (4) the methods which will be employed to evaluate program activities; (5) fiscal information of the applicant pursuant to provisions of Section 317(b)(2), although there are no matching or cost participation requirements; and (6) any other information which will support the request for assistance.

In order to supplement information provided in the application, a more detailed narrative expanding the six project elements listed in the previous paragraph may be required to be submitted for review and approval of the awarding agency within 90 days after the cooperative agreement has been awarded.

The original and one copy of the application must be submitted to the address in 1.a. below on or before 4:30 p.m. (e.d.t.) on September 27, 1982. Applications may meet the deadline by either delivering or mailing the application on or before that date provided the following conditions are met:

1. *Mailed applications.* Applications mailed through the U.S. Postal Service shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date by Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control 255 E. Paces Ferry Road, N.E., Room 107A, Atlanta, Georgia 30305, or

b. Sent by first class mail, postmarked on or before the deadline date, and received by the granting agency in time for submission to the independent review group. (Applicants must be cautioned to request a legible U.S. Postal Service postmark or to use express mail or certified or registered mail and obtain a legible dated mailing receipt from the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. *Applications submitted by other means.* Applications submitted by any means except mailing first class through the U.S. Postal Service shall be considered as meeting the deadline only if they are physically received at the place specified in paragraph 1 above before the close of business on or before the deadline date (4:30 p.m., e.d.t., on September 27, 1982).

3. *Late applications.* Applications which do not meet the criteria in either paragraphs 1 or 2, are considered late applications. In that event an application will not be considered in the current competition.

4. *Copies of Applications.* A copy of the application should be simultaneously submitted to the appropriate Department of Health and Human Services Regional Office listed below. For applicants who are other than State agencies, a copy of the application should be sent to the appropriate State health agency.

Applications are subject to review as governed by OMB Circular A–95 and regulations (42 CFR Part 122—amendment published 47 FR 3551, January 26, 1982, and Part 123) implementing the National Health Planning and Resources Development Act of 1974. Information on application procedures, copies of application forms, and other material may be obtained from Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 E. Paces Ferry Road, N.E., Room 107A, Atlanta, Georgia 30305, telephone (404) 262–6575, or FTS: 236–6575. Technical assistance may be obtained from Mr. John J. Seggerson, Tuberculosis Control Division, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404) 329–2508, or FTS: 236–2508. Both application information and technical assistance are also available from the appropriate Department of Health and Human Services Regional Office listed below.

Dated: September 15, 1982.

William H. Foege,

Director, Centers for Disease Control.

Department of Health and Human Services (HHS) Regional Offices

Regional Health Administrator, PHS, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203, (617) 223–6827

Regional Health Administrator, PHS, HHS Region II, Federal Building, 26 Federal Plaza, New York, New York 10278, (212) 264–2561

Regional Health Administrator, PHS, HHS Region III, Gateway Building #1, 3521–35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596–6637

Regional Health Administrator, PHS, HHS Region IV, 101 Marietta Towers, Suite 1007, Atlanta, Georgia 30323, (404) 221–2316

Regional Health Administrator, PHS, HHS Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606, (312) 353–1385

Regional Health Administrator, PHS, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767–3879

Regional Health Administrator, PHS, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374–3291

Regional Health Administrator, PHS, HHS Region VIII, Room 1185, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294, (303) 837–4461

Regional Health Administrator, PHS, HHS Region IX, 50 United National Plaza, San Francisco, California 94102, (415) 556–5810

Regional Health Administrator, PHS, HHS Region X, 2901 Third Avenue, M.S./402, Seattle, Washington 98121, (206) 442–0430

[FR Doc. 82-25697 Filed 9-16-82; 10:24 am]

BILLING CODE 4160-18-M

Food and Drug Administration

Advisory Committee; Notice of Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel

Date, time, and place. October 15, 9 a.m., Auditorium, 200 Independence Ave. SW., Washington, D.C.

Type of meeting and executive secretary. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; George C. Murray, Bureau of Medical Devices (HFK–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

General function of committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation. The committee also reviews data on new devices and makes recommendations regarding their safety and effectiveness and their suitability for marketing.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the executive secretary before October 1 and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss premarket approval applications or general issues relating to contact lens or other ophthalmic products.

Science Advisory Board—Logistics Systems Subcommittee

Date, time, and place. October 21 and 22, 9 a.m., Conference Room, Bldg. 13, National Center for Toxicological Research, Jefferson, AR.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m., open committee discussion, 10 a.m. to 4:30 p.m.; Lawrence L. Fishbein, National Center for Toxicological Research (HFT–30), Jefferson, AR 72079, 501–541–4390.

General function of the committee. To assist the Director, National Center for Toxicological Research, in establishing and implementing as well as reviewing a

research program including support areas that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfulling their regulatory responsibilities. The Board, as a whole or under the subcommittee structure, provides the extra-agency review in ensuring that research programs and methodology development at National Center for Toxicological Research are scientifically sound and pertient to environmental problems.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Agenda—Open committee discussion. The Subcommittee will hear reports and make recommendations on the following agenda items: (a) Review of existing facilities: (1) Recommendations as to equipment requirements for diet preparation and animal husbandry; (2) renovations of existing facilities for diet preparation and animal care areas; and (3) controls for maintaining good laboratory practice standards in diet preparation and animal care areas. (b) Review of flow processes in animal husbandry, diet preparation, and pathology. (c) Review of the science management tracking system: (1) administrative systems; (2) experimental tracking systems; and (3) computerization of systems.

Fertility and Maternal Health Drugs Advisory Committee

Date, time, and place. October 28 and 29, 9 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and executive secretary. Open public hearing, October 28, 9 a.m. to 10 a.m.; open committee discussion, October 28, 10 a.m. to 5 p.m.; October 29, 9 a.m. to 5 p.m.; A. T. Gregoire, National Center for Drugs and Biologics (HFD–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1889.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in obstetrics, gynecology, and contraception.

Agenda—Open public hearing. Interested persons who wish to present data, information, or views, orally or in writing, on issues pending before the committee should contact the committee executive secretary.

Open committee discussion. On October 28, the committee will discuss (1) the safety and efficacy of the small Cu7 intrauterine device (NDA 18–601) and (2) the efficacy and labeling of "Secure", a vaginal contraceptive sponge (NDA 18–683). On October 29, the Committee will discuss (1) the FDA action report, (2) animal testing requirements for new parenteral formulations of previously approved oral progestagens, and (3) draft guidelines for the testing of GnRH and its analogues.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: September 9, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25274 Filed 9-16-82; 9:45 am]

BILLING CODE 4160-01-M

[Docket No. 80N–0382; DESI Nos. 64, 6340, 7337, 8658, 10996, and 11792]

Prescription and Over-the-Counter Drug Products Containing Phenacetin; Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

Correction

In FR Doc. 82–21740, published at page 34636, on Tuesday, August 10, 1982, on page 34639, in the third column, in the third full paragraph, in the first line "L. NDA 12–365" should be corrected to read "L. NDA 12–366".

BILLING CODE 1505-01-M

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting: Newark District Office, chaired by Matthew H. Lewis, District Director.

DATE: Tuesday, September 28, 1982, 12:30 p.m. to 2:30 p.m.

ADDRESS: St. Paul's Episcopal Church, 11 York Rd., North Arlington, NJ.

FOR FURTHER INFORMATION CONTACT: Joan Godal, Consumer Affairs Officer, Food and Drug Administration, 20 Evergreen Place, East Orange, NJ 07018, 201–645–6365.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: September 14, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25288 Filed 9-16-82; 9:45 am]

BILLING CODE 4160-01-M

Burroughs Wellcome Co., Oxytocin Injection and Pentobarbital Solution; Withdrawal of Approval of NADA's

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of new animal drug applications (NADA's) sponsored by Burroughs Wellcome Co. for pentobarbital sodium and oxytocin double strength solution. The firm requested withdrawal of approval.

EFFECTIVE DATE: September 27, 1982.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Bureau of Veterinary Medicine (HFV–214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1846.

SUPPLEMENTARY INFORMATION: Wellcome Animal Health Division, Burroughs Wellcome Co., Kansas City, MO 64108, is the sponsor of NADA 2–562 for Toxital Solution (pentobarbital sodium) for intravenous administration in dogs, and NADA 9–147 Oxytocin (double U.S.P. strength) for intravenous, intramuscular, or subcutaneous administration in cats, dogs, ewes, sows, cows, and horses. The firm, by letter dated May 6, 1982, requested withdrawal of approval of these applications because the products have not been manufactured or marketed for many years.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84) and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA's 2–562 and 9–147 and all supplements thereto are hereby withdrawn effective September 27, 1982.

Dated: September 9, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82–25502 Filed 9–16–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82F–0271]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of polymaleic acid and/or its sodium salt to control mineral scale in beet sugar juice and liquor, or cane sugar juice and liquor.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2A3652) has been filed by Ciba-Geigy Corp., Hawthorne, NY 10532, proposing that Part 173 (21 CFR Part 173), Subpart A—Polymer Substances for Food Treatment, be amended to provide for the safe use of polymaleic acid and/or its sodium salt to control mineral scale in beet sugar juice and liquor, or cane sugar juice and liquor.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: September 9, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82–25500 Filed 9–16–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No.82D–0049

Defect Action Levels for Insect Fragments and Rodent Hairs in Macaroni and Noodle Products; Availability of Guide

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of compliance Policy Guide 7102.06 that revises the established defect action levels for insect fragments and rodent hairs in macaroni and noodle products.

DATE: Comments, data, and information may be submitted by September 19, 1983.

ADDRESS: Written comments, data, and information on the defect action levels and requests for single copies of FDA's Compliance Policy Guide 7102.06 may be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Campbell, Bureau of Foods (HFF–312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–3092.

SUPPLEMENTARY INFORMATION: FDA collected 1,500 samples of macaroni and noodle products from the retail market and analyzed them for insect and rodent filth. As a result of this analysis, FDA established defect action levels for insect and rodent filth in macaroni and products as an average of 25 or more insect fragments per 225 grams or an average of 1.2 rodent hairs per 225 grams. After these action levels were published, the agency discovered that they conflicted with the action levels established for insect and rodent filth in soft wheat flour.

Macaroni and noodle products are normally made from hard flours (durum flour, semolina, and farina), which are not included in the action levels for flour (soft wheat flour). However, the standards of identity for macaroni and products (21 CFR Part 139) also allow the use of soft wheat flour for which defect action levels have been established.

The defect action levels for macaroni and noodle products are lower than those for soft wheat flour. Thus, macaroni or noodle products manufactured from nonviolative soft wheat flour may violate the action levels set for macaroni and noodle products. Therefore, although the results of the retail market survey indicate that soft wheat flour is not commonly used in the manufacture of macaroni and noodle products, the action levels for macaroni and noodle products have been revised to permit the use of nonviolative soft wheat flour in such products.

The revised action levels for macaroni and noodle products are based on those established for soft wheat flour. Under the standards of identity, macaroni and noodle products may be made entirely of soft wheat flour. Therefore, the action levels for macaroni products have been established by extrapolation from the action levels for flour. The resulting action levels for macaroni products, as set forth in revised Compliance Policy Guide 7102.06, are an average of 225 insect fragments or more per 225 grams of product or an average of 4.5 rodent hairs or more per 225 grams of product.

Background data and information concerning the establishment of these defect action levels have been filed with the Dockets Management Branch (address above), along with a copy of

Compliance Policy Guide 7102.06, and are available in that office for public examination between 9 a.m. and 4 p.m., Monday through Friday. Requests for single copies of Compliance Policy Guide 7102.06 should be submitted in writing to the Dockets Management Branch. During the year following publication of this notice in the Federal Register, FDA invites interested persons to submit any relevant data and information showing why these revised levels should be changed. These action levels will remain in effect until FDA has evaluated all the available data and has published its decision in the Federal Register.

Interested persons may submit to the Dockets Management Branch written comments, data, and information regarding these defect action levels. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 9, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25866 Filed 9-16-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82D-0233]

Defect Action Level for Mold in Apricot, Peach, and Pear Nectars; Revision of Guide

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is revising defect action levels for apricot, peach, and pear nectars that are contaminated by mold.

DATE: Comments, data, and information may be submitted by September 19, 1983.

ADDRESS: Written comments, data, and information on the revised defect action levels and requests for single copies of FDA Compliance Policy Guide 7110.31 should be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Campbell, Bureau of Foods (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: Defect action levels are guidelines that, although not promulgated in a rulemaking proceeding, are evaluated by FDA for any potential impact on the affected industry. In some instances in the past, FDA has set action levels on the basis of studies of the actual levels of defects found in correlation with the attendant natural variables manufacturing practices, and sanitary conditions. Although FDA recognizes that the actual level of defects constitutes the best data on which to base defect action levels, the agency lacks the manpower and resources to obtain these kinds of data. In some cases, the agency may obtain data on which to base a defect action level from a retail survey, an alternative procedure that is also adequate.

A defect in a food may have been introduced during growth, processing, storage, or shipment. When defects are present at levels that meet or exceed defect action levels, FDA considers the condition of the products sufficiently defective, even with no attendant history of production, to justify regulatory action. When there is, or FDA has, evidence of insanitary conditions of production of storage, the agency may initiate regulatory action even when the adulteration is below the action level.

In the Federal Register of July 31, 1981 (46 FR 39222), FDA announced the availability of FDA Compliance Policy Guide (CPG) 7110.31 "Apricot, Peach, and Pear Nectars—Adulteration with Mold." The guide, which was based on data from a retail survey, established a defect action level that anticipated regulatory action when the average Howard mold count for six or more subsamples is 5 percent or above or if the Howard mold count for any one subsample is 20 percent or above. The notice invited comments on the defect action level. In response to the invitation, the National Food Processors Association (NFPA) submitted comments to the agency and submitted data stating that the action level would have adverse economic effects on the affected industry. The NFPA said that the action level should be far less stringent and that the sample preparation procedures specified in CPG 7110.31 were inappropriate.

As discussed above, the agency believes that the retail survey it used to obtain data is appropriate for the purpose of establishing the defect action level. However, after reviewing the comments and the summary of data presented, FDA agrees that there may be a greater adverse economic impact on the fruit nectar industry than the agency originally estimated. Accordingly, FDA has revised Compliance Policy Guide 7110.31 to provide a less stringent defect action level. Under revised CPG 7110.31, FDA will initiate regulatory action when the average Howard mold count for six or more subsamples is 12 percent or above. Regulatory actions will not be taken when only one subsample exceeds the action level. Further, the revised defect action level specifies that for the next 12 months, mold counts will be made on samples without further treatment (i.e., centrifuging). However, as discussed subsequently, after the 12-month period, samples will be subjected to the preparation procedures in official methodology. FDA believes that the new action level is still stringent enough to ensure that industry will produce apricot, peach, and pear nectars with only trivial and harmless levels of mold. Although FDA does not agree with the comments that the sample preparation procedures of CPG 7110.31 are inappropriate, the agency concludes that affected firms should have ample time to review and comment on the procedures before they are implemented. Accordingly, FDA is instructing its personnel not to use the new procedures for 12 months because many firms do not have the equipment required.

Background data and information concerning the revised defect action levels are on file in the Dockets Management Branch, along with a copy of Compliance Policy Guide 7110.31 and are available in that office for public examination between 9 a.m. and 4 p.m., Monday through Friday. Requests for single copies of FDA Compliance Policy Guide 7110.31 should refer to the docket number found in brackets in the heading of this document and should be submitted to the Dockets Management Branch, Food and Drug Administration (address above). During the year following publication of this notice in the Federal Register, FDA invites interested persons to submit any relevant data and information showing why these revised levels should be changed.

Interested persons may submit to the Dockets Management Branch, Food and Drug Administration, written comments, data, and information regarding these revised defect action levels. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 9, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25901 Filed 9-16-82; 8:45 am]

BILLING CODE 4160-01-M

Hess & Clark, Inc.; PŌL Solution; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Hess & Clark, Inc., providing for use of PŌL Solution for removing horns from calves and kids. The firm requested the withdrawal of approval.

EFFECTIVE DATE: September 27, 1982.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Bureau of Veterinary Medicine (HFV–214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3183.

SUPPLEMENTARY INFORMATION: Hess & Clark, Inc., Seventh and Orange Sts., Ashland, OH 44805, is sponsor of NADA 6–074 which provides for use of the preparation PŌL Solution (antimony trichloride 26.5 percent and salicylic acid 6.75 percent) for removing horns from calves and kids.

The product was approved November 4, 1940. In their submission of May 4, 1982 to the Bureau of Veterinary Medicine, Hess & Clark requested withdrawal of approval of the NADA because the product is not being marketed. Approval of this NADA has not been codified in the Code of Federal Regulations.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 6–074 and all supplements for Hess & Clark's PŌL Solution is hereby withdrawn, effective September 27, 1982.

Dated: September 9, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-25901 Filed 9-16-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0198]

Sof-Form, Inc.; Premarket Approval of SOF-FORM® II (Polymacon) Hydrophilic Contact Lenses

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of SOF-FORM® II (polymacon) Hydrophilic Contact Lenses, sponsored by Sof-Form Inc., Sarasota, FL. The lenses are to be manufactured under an agreement with National Patent Development Corp., New Brunswick, NJ, which has authorized Sof-Form, Inc., to incorporate by reference information contained in its approved premarket approval application for the Hydron® (polymacon) Hydrophilic Contact Lens. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by October 18, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Bureau of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On March 5, 1982, Sof-Form, Inc., Sarasota, FL, submitted to FDA an application for premarket approval of SOF-FORM® II (polymacon) Hydrophilic Contact Lenses for daily wear. The application included authorization from the National Patent Development Corp., New Brunswick, NJ, to incorporate by reference the information contained in its approved premarket approval application for the Hydron® (polymacon) Hydrophilic Contact Lens (Docket No. 79M–0244). The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application for this device. On June 1, 1982, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), soft contact lenses and solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft contact lenses and solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the Federal Register of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of approved contact lenses states that the lenses are to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses. However, the restrictive labeling needs to be updated periodically to refer to new lens solutions that FDA approves for use with approved contact lens. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of

the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 18, 1982, file with the Dockets Management Branch (address above) four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 13, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25300 Filed 9-16-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0272]

Sun Chemical Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Sun Chemical Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of propylene glycolated poly(*N*-1',2'-dihydroxyethylene-4-hydroxy-5-methylpyrimid-2-one) copolymer as a starch insolubilizer in paper coatings intended to contact dry food.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3651) has been filed by Sun Chemical Corp., P.O. Box 70, Chester, SC 29706, proposing that the food additive regulations be amended to provide for the safe use of propylene glycolated poly(*N*-1',2'-dihydroxyethylene-4-hydroxy-5-methylpyrimid-2-one) copolymer as a starch insolubilizer in paper coatings intended to contact dry food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: September 8, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-25300 Filed 9-16-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0242]

Teledyne Industries, Inc., Teledyne Avionics Division; Premarket Approval of Sleep Sentry®

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Sleep Sentry® sponsored by Teledyne Industries, Inc., Teledyne Avionics Division, Charlottesville, VA. After reviewing the recommendation of the General Hospital and Personal Use Device Section of the General Medical Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by October 18, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On August 28, 1981, Teledyne Industries, Inc., Teledyne Avionics Division, Charlottesville, VA, submitted to FDA an application for premarket approval of the Sleep Sentry®, a monitor for skin temperature drop or a galvanic skin resistance drop in the area of the wrist to warn diabetics between the ages of 7 and 55 that one of two common symptoms of hypoglycemia is present. The application was reviewed by the General Hospital and Personal Use Device Section of the General Medical Devices Panel, an FDA advisory committee, which recommended approval of the application for this device. On July 8, 1982, FDA approved the application by a letter to the sponsor from the Acting Associate Director for Device Evaluation for the Bureau of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under

section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 18, 1982, file with the Dockets Management Branch (address above), four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 13, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25097 Filed 9-16-82; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Clinical Applications and Prevention Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, National Institutes of Health, November 8, 1982. The meeting will be held at the Federal Building, 7550 Wisconsin Avenue, Conference Room B119, Bethesda, Maryland 20205.

This meeting will be open to the public from 8:30 a.m. to adjournment to discuss new initiatives and program policies and issues. Attendance by the public is limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of meetings and rosters of committee members. Dr. William Friedewald, Executive Secretary of the Committee, Federal Building, Room 212, Bethesda, Maryland 20205, Phone (301) 496-2533, will furnish substantive program information.

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in Section 8(b) (4) and (5) of that Circular.

Dated: September 1, 1982.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82-25100 Filed 9-16-82; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Grants; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the following study sections for October through December 1982, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Grants Inquiries Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20205, telephone 301-496-7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are A.M. unless otherwise specified.

Study section	October-December 1982 meetings	Time	Location
Allergy and Immunology, Dr. Eugene Zimmerman, Rm. 320, Tel. 301-496-7380	November 4-8	8:30	Holiday Inn, Georgetown, DC.
Bacteriology and Mycology-1, Dr. Milton Gordon, Rm. 304, Tel. 301-496-7340	October 20-22	8:30	Holiday Inn, Chevy Chase, MD.
Bacteriology and Mycology-2, Dr. William Branche, Jr., Rm. 306, Tel. 301-496-7861	October 20-22	9:00	Holiday Inn, Silver Spring, MD.
Behavioral Medicine, Dr. Joan Rittenhouse, Rm. 232, Tel. 301-496-7109	October 18-22	9:00	Capitol Hilton, Washington, DC.
Biochemical Endocrinology, Dr. Norman Gold, Rm. 226, Tel. 301-496-7430	October 25-27	8:30	Room 6, Bldg. 31C, Bethesda, MD.
Biochemistry-1, Dr. Adolphus P. Toliver, Rm. 316A, Tel. 301-496-7516	November 3-6	9:00	Georgetown Hotel, Washington, DC.
Biochemistry-2, Dr. Alex Liacouras, Rm. 316A, Tel. 301-496-7516	November 4-6	8:30	Linden Hill Hotel, Bethesda, MD.
Bio-Organic and Natural Products Chemistry, Dr. Michael Rogers, Rm. A-27, Tel. 301-496-7107	October 17-19	9:00	Holiday Inn, Georgetown, DC.
Biophysical Chemistry, Dr. John B. Wolff, Rm. 236B, Tel. 301-496-7070	October 28-30	8:30	Linden Hill Hotel, Bethesda, MD.
Bio-Psychology, Dr. A. Keith Murray, Rm. 220, Tel. 301-496-7058	October 12-16	9:00	Ramada Inn, Bethesda, MD.
Cardiovascular and Pulmonary, Dr. Mischa E. Friedman, Rm. 2A-04, Tel. 301-496-7316	October 25-27	8:00	Linden Hill Hotel, Bethesda, MD.
Cardiovascular and Renal, Dr. Rosemary Morris, Rm. 321, Tel. 301-496-7901	October 25-27	8:30	Westpark Hotel, Rosslyn, VA.
Cell Biology, Dr. Gerald Greenhouse, Rm. 338, Tel. 301-496-7396	November 29-December 1	8:30	Room A, Landow Bldg., Bethesda, MD.
Chemical Pathology, Dr. Edmund Copeland, Rm. 363, Tel. 301-496-7078	October 27-29	8:00	Holiday Inn, Bethesda, MD.
Communicative Sciences, Dr. Michael Halasz, Rm. 225, Tel. 301-496-7560	October 27-29	8:30	Capitol Holiday Inn, Washington, DC.
Diagnostic Radiology, Dr. Catherine Wingate, Rm. 2188, Tel. 301-496-7890	November 1-3	8:30	Shoreham Hotel, Washington, DC.
Endocrinology, Mr. Morris M. Graff, Rm. 333, Tel. 301-496-7346	October 18-20	7:00 p.m.	Holiday Inn, Georgetown, DC.
Epidemiology and Disease Control-1, Dr. Michael Alavanja, Rm. 209C, Tel. 301-496-7348	October 19-21	8:30	Wellington Hotel, Washington, DC.

Study section	October–December 1982 meetings	Time	Location
Epidemiology and Disease Control-2, Dr. Ann Schlueder berg, Rm. 203B, Tel. 301-496-7246	October 19-21	8:30	Wellington Hotel, Washington, DC.
Experimental Cardiovascular Sciences, Dr. Richard Peabody, Rm. 234, Tel. 301-496-7940	October 26-28	8:00	Holiday Inn, Chevy Chase, MD.
Experimental Immunology, Dr. David Lavin, Rm. 222B, Tel. 301-496-7239	October 27-29	8:30	Holiday Inn, Georgetown, DC.
Experimental Therapeutics, Dr. Ira Kline, Rm. 319A, Tel. 301-496-7630	October 20-23	8:30	Linden Hill Hotel, Bethesda, MD.
Experimental Virology, Dr. Eugene Zabovitz, Rm. 206, Tel. 301-496-7474	October 18-20	8:30	Room 8, Bldg. 31C, Bethesda, MD.
General Medicine A, Dr. Harold Davidson, Rm. 354A, Tel. 301-496-7797	November 8-10	8:30	Room 10, Bldg. 31C, Bethesda, MD.
General Medicine B, Dr. Antonia Novello, Rm. 322, Tel. 301-496-7730	October 25-27	8:30	Holiday Inn, Georgetown, DC.
Genetics, Dr. David Remondini, Rm. 349, Tel. 301-496-7271	October 21-23	9:00	Wilson Hall, Bldg. 1, Bethesda, MD.
Hematology-1, Dr. Clark Lum, Rm. 355A, Tel. 301-496-7506	October 27-29	8:00	Marriott Hotel, Bethesda, MD.
Hematology-2, Dr. M. Wayne Hurst, Rm. 355B, Tel. 301-496-7506	October 20-22	8:00	Room 9, Bldg. 31C, Bethesda, MD.
Human Development and Aging-1, Dr. Teresa Levitin, Rm. 303, Tel. 301-496-7025	November 2-5	9:00	Wellington Hotel, Washington, DC.
Human Development and Aging-2, Dr. Samuel Rawlings, Rm. 305, Tel. 301-496-7640	November 17-19	9:00	Embassy Square, Washington, DC.
Human Embryology and Development, Dr. Arthur Hoversland, Rm. 221, Tel. 301-496-7597	October 25-27	8:00	Westpark Hotel, Rosslyn, VA.
Immunobiology, Dr. William Stylos, Rm. 222A, Tel. 301-496-7760	October 27-29	8:30	Holiday Inn, Bethesda, MD.
Immunological Sciences, Dr. Lottie Kornfeld, Rm. 223A, Tel. 301-496-7179	October 27-29	8:30	Room 8, Bldg. 31C, Bethesda, MD.
Mammalian Genetics, Dr. Jerry Roberts, Rm. 349, Tel. 301-496-7271	November 15-17	8:30	Room 10, Bldg. 31C, Bethesda, MD.
Medicinal Chemistry, Dr. Ronald Dubois, Rm. A-27, Tel. 301-496-7107	October 20-22	8:00	Holiday Inn, Georgetown, DC.
Metabolism, Dr. Robert Leonard, Rm. 339A, Tel. 301-496-7091	November 4-6	8:30	Room 8, Bldg. 31C, Bethesda, MD.
Metallobiochemistry, Dr. Marjam Behar, Rm. 310, Tel. 301-496-7733	October 28-30	9:00	Westpark Hotel, Rosslyn, VA.
Microbial Physiology and Genetics-A, Dr. Martin Slater, Rm. 238, Tel. 301-496-7183	October 27-29	8:30	Ramada Inn, Bethesda, MD.
Microbial Physiology and Genetics-B, Dr. Gerald Liddel, Rm. 357, Tel. 301-496-7130	October 27-29	8:30	Marriott Hotel, Tyson's Corner, VA.
Molecular and Cellular Biophysics, Dr. Patricia Strasi, Rm. 236A, Tel. 301-496-7060	October 14-16	8:30	Sheraton Inn, Silver Spring, MD.
Molecular Biology, Dr. Donald Disque, Rm. 328, Tel. 301-496-7830	October 21-23	8:30	Holiday Inn, Georgetown, DC.
Molecular Cytology, Dr. Ramesh Nayak, Rm. 233B, Tel. 301-496-7149	October 28-30	8:30	Linden Hill Hotel, Bethesda, MD.
Neurological Sciences, Dr. Edwin Bartos, Rm. 439B, Tel. 301-496-7260	October 28-30	8:30	Executive House, Washington, DC.
Neurology A, Dr. Catherine Woodbury, Rm. 326, Tel. 301-496-7095	November 11-13	8:00	Highland Hotel, Washington, DC.
Neurology B-1, Dr. Herman Tietelbaum, Rm. 2A05, Tel. 301-496-7422	October 5-8	9:00	Wellington Hotel, Washington, DC.
Neurology B-2, Dr. Willard McFarland, Rm. 2A03, Tel. 301-496-7422	October 28-29	8:30	Wellington Hotel, Washington, DC.
Nutrition, Dr. John Schubert, Rm. 204, Tel. 301-496-7178	October 20-22	8:30	Room 7, Bldg. 31C, Bethesda, MD.
Oral Biology and Medicine, Dr. Thomas M. Tarpley, Jr., Rm. 325, Tel. 301-496-7818	October 26-29	8:30	Linden Hill Hotel, Bethesda, MD.
Orthopedics and Musculoskeletal, Ms. Ileen Stewart, Rm. 350, Tel. 301-496-7581	October 28-30	8:30	Holiday Inn, Georgetown, DC.
Pathobiochemistry, Dr. Clarice Gaylord, Rm. A-26, Tel. 301-496-7820	October 13-16	8:30	Room 8, Bldg. 31C, Bethesda, MD.
Pathology A, Dr. Robert M. Conant, Rm. 337, Tel. 301-496-7305	October 27-29	8:00	Linden Hill Hotel, Bethesda, MD.
Pathology B, Dr. Martin Padarathsingh, Rm. 352, Tel. 301-496-7244	October 27-29	8:30	Linden Hill Hotel, Bethesda, MD.
Pharmacology, Dr. Joseph Kaiser, Rm. 206, Tel. 301-496-7408	October 26-28	9:00	Holiday Inn, Bethesda, MD.
Physical Biochemistry, Dr. Jeanne Ketley, Rm. 218B, Tel. 301-496-7120	October 26-30	9:00	Holiday Inn, Bethesda, MD.
Physiological Chemistry, Dr. Harry Brodie, Rm. 339B, Tel. 301-496-7837	November 4-6	8:30	Holiday Inn, Rosslyn, VA.
Physiology, Dr. Martin Frank, Rm. 209, Tel. 301-496-7878	October 20-23	2:00 p.m.	Holiday Inn, Georgetown, DC.
Radiation, Dr. Robert Straube, Rm. 219A, Tel. 301-496-7073	November 8-10	8:30	Room 9, Bldg. 31C, Bethesda, MD.
Reproductive Biology, Dr. Dharam Dhindsa, Rm. 307, Tel. 301-496-7318	October 12-15	8:30	Ramada Inn, Bethesda, MD.
Social Sciences and Population, Ms. Carol Campbell, Rm. 210, Tel. 301-496-7906	October 21-23	8:30	Shoreham Hotel, Washington, DC.
Surgery and Bioengineering, Dr. Joe Atkinson, Rm. 303A, Tel. 301-496-7506	October 21-22	8:00	Holiday Inn, Bethesda, MD.
Surgery, Anesthesiology and Trauma, Dr. Keith Kramer, Rm. 319B, Tel. 301-496-7771	October 18-19	8:30	Ramada Inn, Bethesda, MD.
Toxicology, Ms. Faye J. Calhoun, Rm. 205, Tel. 301-496-7570	October 20-22	8:30	Holiday Inn, Bethesda, MD.
Tropical Medicine and Parasitology, Dr. Betty June Myers, Rm. 225, Tel. 301-496-7484	October 25-27	8:00	Room 10, Bldg. 31C, Bethesda, MD.
Virology, Dr. Claire Winestock, Rm. 309, Tel. 301-496-7605	October 21-23	8:30	Room 10, Bldg. 31C, Bethesda, MD.
Visual Sciences A-1, Dr. Orvil Bolduan, Rm. 207, Tel. 301-496-7000	November 10-12	9:00	Shoreham Hotel, Washington, DC.
Visual Sciences A-2, Dr. Jane Hu, Rm. 439A, Tel. 301-496-7310	October 13-15	8:30	Holiday Inn, Georgetown, DC.
Visual Sciences B, Dr. Luigi Giacometti, Rm. 325, Tel. 301-496-7251	October 13-16	9:00	Holiday Inn, Georgetown, DC.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: August 27, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82-25365 Filed 9-16-82; 8:45 am]

BILLING CODE 4140-01-M

Health Resources and Services Administration

Redesignation; Iowa Health Service Area No. 1

AGENCY: Health Resources and Services Administration, Public Health Service, HHS.

ACTION: Notice Regarding Redesignation of Iowa Health Service Area 1.

SUMMARY: In accordance with Section 1511(b)(4) of the Public Health Service Act, as amended by Pub. L. 96–79, the Secretary of Health and Human Services has determined that Iowa Health Service Area 1 should be revised to include the Iowa counties of Harrison, Shelby, Pottawattamie, Mills, Montgomery, Adams, Fremont, Page, and Taylor. This revision constitutes approval of a redesignation request initiated by the Governor of Iowa on February 11, 1982. The request complied with all of the requirements of the Interim Regulations on the Revision of Health Service Area Boundaries published in the **Federal Register**, Vol. 47, No. 136, July 15, 1982.

Accordingly, Iowa Health Service Area 1 is revised to comprise the following counties: Lyon, Osceola, Dickinson, Emmet, Kossuth, Winnebago, Worth, Mitchell, Howard, Winneshiek, Allamakee, Sioux, O'Brien, Clay, Palo Alto, Hancock, Cerro Gordo, Floyd, Chickasaw, Plymouth, Cherokee, Buena Vista, Pocahontas, Humboldt, Wright, Franklin, Butler, Bremer, Fayette, Clayton, Woodbury, Ida, Sac, Calhoun, Webster, Hamilton, Hardin, Grundy, Black Hawk, Buchanan, Delaware, Dubuque, Monona, Crawford, Carroll, Green, Boone, Story, Marshall, Tama, Benton, Linn, Jones, Jackson, Harrison, Shelby, Audubon, Guthrie; Dallas, Polk, Jasper, Poweshiek, Iowa, Johnson, Cedar, Clinton, Pottawattamie, Cass, Adair, Madison, Warren, Marion, Mahhaska, Keokuk, Washington, Louisia, Mills, Montgomery, Adams, Union, Clarke, Lucas, Monroe, Wapello, Jefferson, Henry, Des Moines, Fremont, Page, Taylor, Ringgold, Decatur, Wayne, Appanoose, Davis, Van Buren, and Lee. Dakota County, Nebraska (population 16,573) is deleted from Iowa Health Service Area 1. The redesignation increases the population of Iowa Health

Service Area 1 to 2,712,979 (1980 estimate).

FOR FURTHER INFORMATION CONTACT: William R. Berry, Acting Associate Director for Health Planning, Bureau of Health Maintenance Organizations and Resources Development, 3700 East-West Highway, Room 6–22, Hyattsville, Maryland 20782, (301) 436–6850.

Dated: September 15, 1982.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 82–25801 Filed 9–16–82; 10:24 am]

BILLING CODE 4160–15–M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on September 10.

Public Health Service

Health Resources Administration

Subject: Health Professions Student Loan and Nursing Student Loan Programs Administrative Forms (0915–0044)—Revision.

Respondents: Educational institutions.

OMB Desk Officer: Richard Eisinger.

Centers for Disease Control

Subject: Application for Approval of Respiratory Protective Devices (0920–0109)—Extension.

Respondents: Manufacturers of respirators.

OMB Desk Officer: Richard Eisinger.

Food and Drug Administration

Subject: Medicated Feed Application (0910–0011)—Extension.

Respondents: Manufacturers of medicated feed.

OMB Desk Officer: Fay S. Iudicello.

Office of the Secretary

Subject: Recipient Earnings Per Month—New.

Respondents: Employers of 300 randomly selected SSI recipients.

OMB Desk Officer: Richard Eisinger.

Subject: A Study of the Financing of Graduate Medical Education (0990–0082)—Revision.

Respondents: Nurses, physicians, physician extenders.

OMB Desk Officer: Milo Sunderhauf.

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524–F, Washington, D.C. 20201.

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503.

ATTN: (Name of OMB Desk Officer).

Dated: September 12, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82–25824 Filed 9–16–82; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[Docket No. N–82–1164]

Community Development Block Grant Program

AGENCY: Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD is issuing a Notice of the dates for submission of applications to HUD Area Offices for the HUD-operated Small Cities Program under the Community Development Block Grant Program for Fiscal Year 1982.

FOR FURTHER INFORMATION CONTACT: Helen Duncan, Small Cities Division, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755–6322. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given that in accordance with 24 CFR 570.420(h)(3) the Department of Housing and Urban Development (HUD) has established dates for submission of applications for Small Cities Program Grants in those States where HUD is administering the program, to be accepted by HUD for Fiscal Year 1982.

For all applicants, from both metropolitan and nonmetropolitan areas, the earliest and latest date for submission are dates established below for each State. Applications for funding under the Single Purpose and Comprehensive Grant provisions of the HUD-operated Small Cities Program will be accepted only during the designated time period. Applications received in the Area Office after the deadline must be postmarded no later than the applicable deadline submission date. Any applications postmarked after that date are unacceptable and will be returned.

Applicants are hereby advised to submit their applications for Single Purpose Grants pursuant to 24 CFR 570.430, or their applications for Comprehensive Grants pursuant to 24 CFR 570.426, to the appropriate HUD Area Office serving the applicant's jurisdiction.

BILLING CODE 4210–29–M

FINAL DATE FOR SUBMISSION

Region/State	No earlier than	No later than
I		
New Hampshire, Vermont	Oct. 11, 1982	Oct. 25, 1982
II		
New York	Nov. 8, 1982	Nov. 22, 1982
III		
Maryland	Oct. 25, 1982	Nov. 8, 1982
IV		
Florida	Oct. 25, 1982	Nov. 8, 1982
V		
Minnesota	Sept. 27, 982	Oct. 12, 1982
VI		
Arkansas, New Mexico, Texas	Oct. 25, 1982	Nov. 8, 1982
VII		
Kansas	Sept. 20, 1982	Oct. 5, 1982
VIII		
Colorado	Oct. 18, 1982	Nov. 1, 1982
IX		
California	Nov. 15, 1982	Nov. 29, 1982
Hawaii	Oct. 25, 1982	Nov. 8, 1982
X		
Oregon	Nov. 15, 1982	Nov. 29, 1982

BILLING CODE 4210-25-C

Dated: September 15, 1982.

Claire E. Freeman,

Deputy Assistant Secretary for Program Policy Development and Evaluation.

[FR Doc. 82-25666 Filed 9-16-82; 11:30 am]
BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[INT FEIS 82-30]

Final Brothers Grazing Management Environmental Impact Statement; Availability of FEIS

AGENCY: Bureau of Land Management, Interior.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Final Environmental Impact Statement for the Brothers EIS area. The proposal involves implementing a livestock grazing program on public lands within the Brothers EIS area of the Prineville District in central Oregon.

Public reading copies will be available for review at the following locations:

Bureau of Land Management, Office of Public Affairs, 825 N.E. Multnomah Street, Portland, Oregon
Bureau of Land Management, Prineville District Office, 185 East Fourth St., Prineville, Oregon
Library, University of Oregon, Eugene, Oregon
Central Oregon Community College, College Way, Bend, Oregon
Library, Portland State University, 727 SW Harrison, Portland, Oregon
Harney County Library, 80 West D, Burns, Oregon
Crook County Library, 200 East 2nd, Prineville, Oregon
Deschutes County Library, 507 N.W. Wall, Bend, Oregon
Library, Oregon State University, Corvallis, Oregon

A limited number of copies are available upon request to the BLM Oregon State Office or the Prineville District Office.

Comments for the District Manager's consideration in development of the decision will be accepted until October 30, 1982.

Written comments may be sent to: Prineville District Manager, Bureau of Land Management, P.O. Box 550, Prineville, Oregon 97754.

Dated: August 24, 1982.

Stanley D. Butzer,

Chief, Division of Resources.

[FR Doc. 82-25619 Filed 9-16-82; 8:45 am]
BILLING CODE 4310-84-M

[F-14931-A, F-14931-B]

Alaska Native Claims Selection

On September 27, 1974, and November 19, 1974, Zho-Tse, Incorporated, for the Native village of Shageluk, filed selection applications F-14931-A and F-14931-B, respectiveley, under the provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), as amended, for the surface estate of certain lands in the vicinity of Shageluk.

Zho-Tse, Incorporated, in its applications excluded several bodies of water. Because certain of those water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn under section 11(a)(1) and available for selection by the village pursuant to section 12(a) of ANCSA.

Section 12(a) and 43 CFR 2651.4 (b) and (c) provide that the village corporation shall select all available lands within the township or townships within which the village is located. The regulations also provide that the area selected will not be considered to be reasonably compact if it excludes other lands available for selection within its exterior boundaries.

For these reasons, the water bodies which were improperly excluded in Zho-Tse, Incorporated's applications are considered selected.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of ANCSA, as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a) of ANCSA, as amended, aggregating approximately 86,358 acres, is considered proper for acquisition by Zho-Tse, Incorporated, and is hereby approved for conveyance pursuant to section 14(a) of ANCSA.

U.S. Survey No. 2045, of the School Reserve, reserved under Executive Order No. 5289, dated March 4, 1930, situated in the unsurveyed village of Shageluk, Alaska.
Containing 3.10 acres.
Lots 1 and 4 of U.S. Survey No. 4086, Alaska, situated at Shageluk.
Containing 5.01 acres.
Block 9, lot 3 of U.S. Survey No. 4493, Alaska, Shageluk Addition Townsite, situated on the left bank of the Innoko River, approximately one and one-half miles downstream from the old village of Shageluk.
Containing 4.84 acres.
Aggregating 12.95 acres.

Seward Meridian, Alaska (Surveyed)

T. 31 N., R. 54 W.,
Sec. 4, excluding Native allotment F-13920;
Secs. 5 and 6, excluding Native allotment F-17759;
Secs. 17 and 18, excluding Native allotment F-15247 Parcel A;
Sec. 19, excluding Native allotments F-14301 Parcel B and F-15247 Parcel A;
Sec. 20, excluding Native allotment F-15247 Parcel A;
Sec. 30, excluding Native allotment F-15006 Parcel A;
Sec. 31, excluding Native allotment F-15241.
Containing approximately 4,505 acres.

T. 32 N., R. 54 W.,
Secs. 1, 2, and 3;
Secs. 10 to 14, inclusive;
Secs. 22, 23, 26, and 27;
Secs. 31 and 32, excluding Native allotment F-17759;
Sec. 33, excluding Native allotment F-13926;
Sec. 34;
Sec. 35, excluding Native allotment F-15478 Parcel A.
Containing approximately 9,401 acres.

T. 28 N., R. 55 W.,
Secs. 5 and 6;
Sec. 7, excluding U.S. Survey No. 6580 and Native allotment F-13925;
Sec. 8;
Sec. 18, excluding U.S. Survey No. 6580 and Native allotment F-13925;
Sec. 30;
Sec. 31, excluding U.S. Survey No. 6583 and Native allotment F-15024 Parcel A.
Containing approximately 3,272 acres.

T. 29 N., R. 55 W.,
Sec. 2, excluding Native allotment F-14293 Parcel B;
Secs. 3, 4, and 5;
Secs. 8, 9, and 10;
Sec. 11, excluding Native allotment F-15250 Parcel B;
Sec. 14, excluding Native allotments F-13934, F-14292 Parcel A, and F-15033;
Sec. 15, excluding Native allotments F-14292 Parcel A and F-15033;
Sec. 16, excluding Native allotments F-13931 and F-14293 Parcel A;
Sec. 17;
Sec. 20, excluding Native allotments F-14295 Parcels A and B and F-14300 Parcel A;
Sec. 21;
Sec. 22, excluding Native allotment F-13928;
Sec. 23, excluding Native allotments F-13928 and F-13934;
Sec. 26;
Sec. 27, excluding Native allotment F-13928;
Sec. 28;
Sec. 29, excluding Native allotments F-14294 Parcel A, F-14295 Parcel A, and F-14300 Parcel A;
Sec. 30, excluding Native allotment F-14300 Parcel A;
Secs. 31 and 32;
Sec. 33, excluding Native allotment F-13923;
Secs. 34 and 35.

Containing approximately 14,534 acres.

T. 30 N., R. 55 W.,
Secs. 1 to 9, inclusive;
Sec. 10, excluding Native allotments F–14297 Parcel B and F–14298 Parcel C;
Secs. 11 to 14, inclusive;
Sec. 15, excluding U.S. Survey No. 2045, U.S. Survey No. 3782, U.S. Survey No. 4066, and Native allotments F–14298 Parcels C and D, and F–15006 Parcel B;
Secs. 16 to 19, inclusive;
Sec. 20, excluding Native allotment F–13830;
Sec. 21;
Sec. 22, excluding U.S. Survey No. 3782 and Native allotment F–15243;
Sec. 23, excluding Native allotment F–15243;
Sec. 24;
Sec. 25, excluding U.S. Survey No. 4493;
Sec. 26, excluding U.S. Survey No. 4493 and Native allotments F–14293 Parcel C and F–15243;
Sec. 27, excluding Native allotment F–15243;
Sec. 28;
Sec. 29, excluding Native allotment F–13939;
Secs. 30 to 34, inclusive;
Sec. 35, excluding U.S. Survey No. 4493 and Native allotments F–13297 and F–14293 Parcel B;
Sec. 36.

Containing approximately 20,538 acres.

T. 31 N., R. 55 W.,
Sec. 1;
Secs. 2 and 3, excluding U.S. Survey No. 6622 and Native allotment F–14298 Parcel B;
Sec. 4, excluding U.S. Survey No. 6624 and Native allotment F–14298 Parcel A;
Sec. 10;
Sec. 11, excluding Native allotment F–14297 Parcel A;
Secs. 12, 13, and 14;
Secs. 18, 19, and 20;
Sec. 23, excluding U.S. Survey No. 6621 and Native allotment F–14574;
Sec. 24;
Secs. 25 and 26, excluding Native allotment F–14301 Parcal A;
Secs. 27, 28, and 29;
Sec. 33, excluding Native allotment F–13924;
Sec. 34;
Sec. 35, excluding Native allotment F–14301 Parcel A;
Sec. 36, excluding U.S. Survey No. 6625 and Native allotments F–15247 Parcel B and F–14301 Parcel A.

Containing approximately 12,582 acres.

T. 32 N., R. 55 W.,
Secs. 18 and 19, excluding Native allotment F–15480;
Secs. 27, 28, and 29;
Sec. 30, excluding Native allotment F–154472;
Secs. 34 and 35, excluding U.S. Survey No. 6622 and Native allotment F–14298 Parcel B;
Sec. 36.

Containing approximately 5,226 acres.

T. 28 N., R. 56 W.,
Sec. 1;
Sec. 2, excluding Native allotment F–16454;
Secs. 3, 4, 9, and 10;
Sec. 11, excluding Native allotment F–16454;
Secs. 12 and 13, excluding U.S. Survey No. 6560 and Native allotment F–13925;
Sec. 14;
Secs. 23 and 24, excluding U.S. Survey No. 6564 and Native allotment F–13927;
Secs. 25, 26, 35, and 36.

Containing aproximately 8,999 acres.

T. 29 N., R. 56 W.,
Secs. 25 and 36.

Containing approximately 1,219 acres.

T. 30 N., R. 56 W.,
Secs. 22 to 25, inclusive;
Sec. 36.

Containing approximately 2,774 acres.

T. 31 N., R. 56 W.,
Secs. 13, 14, and 15.

Containing approximately 1,522 acres.

T. 32 N., R. 56 W.,
Sec. 1, excluding U.S. Survey No. 96608 and Native allotment F–027929 Parcel A;
Sec. 12;
Sec. 13, excluding Native allotment F–15480.

Containing approximately 1,723 acres.
Aggregating approximately 66,345 acres.
Total aggregated acreage approximately 66,350 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–14931–EE.

All other water bodies not depicted as navigable on the attached maps, within the lands to be conveyed, were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one of the following reasons: Lands are no longer under Federal jurisdiction; or lands are under applications pending further adjudication. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)), as amended; and

2. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14931–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulations. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

a. (EIN 3 C3, D1, D9) An easement for an existing access trail twenty-five (25) feet in width from Sec. 25, T. 30 N., R. 53 W., Seward Meridian, westerly to the village of Shageluk and from Shageluk westerly toward the village of Anvik. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

b. (EIN 11a C5) An easement for a proposed access trail twenty-five (25) feet in width from the left bank of the Innoko River in Sec. 17, T. 31 N., R. 54 W., Seward Meridian, easterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever

right of access as is now provided for under existing law;

3. Airport lease F–030056, located in Secs. 10 and 15, T. 30 N., R. 55 W., Seward Meridian, issued to the State of Alaska, Division of Aviation, under the provisions of the act of May 24, 1928 (49 U.S.C. 211–214), as amended;

4. A right-of-way, AA–13869, fifty (50) feet in width, issued to the State of Alaska for a road from the new Shageluk townsite to the Shageluk airport, traversing lands in Secs. 15, 22, 26, and 27, T. 30 N., R. 55 W., Seward Meridian, issued pursuant to Public Law 94–579, October 21, 1976, Title V (43 U.S.C. 1701, 1761); and

5. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Zho-Tse, Incorporated, is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 86,358 acres. The remaining entitlement of approximately 5,802 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Doyon, Limited when the surface estate is conveyed to Zho-Tse, Incorporated, and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native Village of Shageluk shall be subject to the consent of Zho-Tse, Incorporated.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week for four (4) consecutive weeks, in the Tundra Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances, (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 18, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Zho-Tse, Incorporated, Shageluk, Alaska 99665.

Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-25010 Filed 9-16-82; 8:45 am]
BILLING CODE 4310-84-M

[AA–8103–5]

Alaska Native Claims Selection

On April 2, 1975, Doyon, Limited, filed selection application AA–8103–5, as amended under the provisions of section 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611(c) (1976)) (ANCSA), as amended, for the surface and subsurface estates of certain lands withdrawn pursuant to section 11 (a)(1) in the vicinity of Grayling.

The application excluded the Yellow River as being navigable. As the Yellow River is considered nonnavigable and as section 12(c)(3) of ANCSA and Departmental regulation 43 CFR 2652.3(c) require the region to select all available lands within the township, the bed of this water body is considered selected.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of ANCSA, as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to section 12(c) of ANCSA, as amended, aggregating approximately 74,733 acres, are considered proper for acquisition by Doyon, Limited, and are hereby approved for conveyance pursuant to Sec. 14(e) of ANCSA.

Kateel River Meridian, Alaska (Surveyed)

T. 29 S., R. 7 W.
Sec. 1.
Containing approximately 362 acres.

Kateel River Meridian, Alaska (Unsurveyed)

T. 29 S., R. 9 W.
Secs. 1 to 6, inclusive.
Containing approximately 3,373 acres.

Seward Meridian, Alaska (Surveyed)

T. 33 N., R. 55 W.
Secs. 1 to 5, inclusive;
Secs. 7 to 14, inclusive;
Sec. 15, excluding Native allotment F–17786 Parcel A;
Secs. 16 to 21, inclusive;
Sec. 22, excluding Native allotment F–17786 Parcel B;
Secs. 23 to 32, inclusive;
Secs. 33 and 34, excluding U.S. Survey No. 6606 and Native allotment F–027929 Parcel A;
Secs. 35 and 36.
Containing approximately 21,557 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 34 N., R. 58 W.
Secs. 31 to 36, inclusive.
Containing approximately 3,030 acres.
T. 33 N., R. 59 W.
Secs. 1 to 36, inclusive.
Containing approximately 23,005 acres.
T. 32 N., R. 60 W.
Secs. 1 to 36, inclusive.
Containing approximately 22,806 acres.
Aggregating approximately 74,733 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all

water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the orignal of which will be found in easement case file AA–16630–5.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded because lands are under applications pending further adjudication. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservation to the United States:

Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA–16630–5, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

a. (EIN 23 C5) An easement for a proposed access trail twenty-five (25) feet in width from Sec. 31, T. 32 N., R. 59 W., Seward Meridian, southwesterly to Sec. 1, T. 31 N., R. 60 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

b. (EIN 24 C5) An easement for a proposed access trail twenty-five (25) feet in width from Sec. 36, T. 34 N., R. 59 W., Seward Meridian, southeasterly to Sec. 6, T. 33 N, R. 58 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

c. (EIN 25 C5) An easement for a proposed access trail twenty-five (25) feet in width from Sec. 3, T. 29 S., R 6 W., Kateel River Meridian, southwesterly to Sec. 1, T. 33 N., R. 58 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat, or supplemental plat, of survey confirming the boundary description and acreage of the lands hereinabove granted; and

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, section 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

To date, approximately 3,617,758 acres of land, selected pursuant to section 12(c) of ANCSA, have been approved for conveyance to Doyon, Limited.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearing and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 18, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filling an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701.

Ann Johnson,

Chief, Branch of Alaska Native Claims Settlement Act Adjudication.

[FR Doc. 82–25611 Filed 9–10–82; 8:45 am]

BILLING CODE 4310–84–M

[F–19155–2]

Alaska Native Claims Selection

On March 31, 1975, Doyon, Limited, filed selection application F–19155–2, as amended, under the provisions of section 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611(c) (1976)) (ANCSA), as amended, for the surface and subsurface estates of certain lands withdrawn pursuant to section 11(a)(1) for the Native village of Beaver. The application excluded several water bodies as being navigable. As these are considered nonnavigable and as section 12(c)(3) of ANCSA and Departmental regulation 43 CFR 2652.3(c) require the region to select all available lands within the township, the beds of these water bodies are considered selected.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of ANCSA, as amended, and of the regulations issued pursuant thereto.

These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to section 12(c) of ANCSA, as amended, aggregating approximately 229,194 acres, are considered proper for acquisition by Doyon, Limited, and are hereby approved for conveyance pursuant to section 14(e) of ANCSA.

Fairbanks Meridian, Alaska (Unsurveyed)

T. 17 N., R. 1 E.
Sec. 1, excluding Native allotment F–026102;
Sec. 2;
Sec. 3, excluding Native allotment F–026098;
Secs. 4, 5, and 6;
Sec. 7, excluding Native allotment F–14654;
Secs. 8 to 17, inclusive;
Sec. 18, excluding Native allotment F–14654;
Secs. 19 to 34, inclusive;
Secs. 35 and 36, excluding Native allotment F–14411 Parcel B.
Containing approximately 15,580 acres.

T. 19 N., R. 1 E.
Secs. 1 to 36, inclusive.
Containing approximately 22,843 acres.

T. 16 N., R. 2 E.
Secs. 1 to 16, inclusive;
Secs. 17 and 18, excluding Native allotments F–14411 Parcel C and F–102094;
Secs. 19 and 20, excluding Native allotment F–020094;
Secs. 21 to 36, inclusive.
Containing approximately 21,892 acres.

T. 20 N., R. 2 E.
Secs. 1 to 36, inclusive.
Containing approximately 22,763 acres.

T. 17 N., R. 3 E.
Sec. 1;
Secs. 2 and 3, excluding Native allotment F–13419;
Secs. 4 to 9, inclusive;
Secs. 10 and 11, excluding Native allotment F–13419;
Secs. 12 to 36, inclusive.
Containing approximately 18,871 acres.

T. 19 N., R. 3 E.
Secs. 1 to 27, inclusive;
Sec. 28, excluding Native allotment F–12015 Parcel A;
Secs. 29, 30, and 31;
Sec. 32, excluding Native allotments F–17878 Parcel D and F–12015 Parcel A;
Sec. 33, excluding Native allotment F–12015 Parcel A;
Secs. 34, 35, and 36.
Containing approximately 21,053 acres.

T. 16 N., R. 4 E.
Secs. 1 to 36, inclusive.
Containing approximately 22,292 acres.

T. 18 N., R. 4 E.
Secs. 1 to 36, inclusive.
Containing approximately 22,432 acres.

T. 20 N., R. 4 E.
Secs. 1 to 36, inclusive.
Containing approximately 22,763 acres.

T. 17 N., R. 1 W.
Secs. 1 and 2;
Sec. 3, excluding Native allotments F–14652 Parcel A and F–14653;
Sec. 4, excluding Native allotments F–14653 and F–14652 Parcel B;
Secs. 5 to 8, inclusive;
Sec. 9, excluding Native allotments F–14653 and F–14652 Parcel B;
Sec. 10, excluding Native allotments F–14653 and F–14652 Parcel A;
Sec. 11;
Secs. 12 and 13, excluding Native allotment F–14654;
Sec. 14;
Sec. 15, excluding Native allotment F–13667;
Sec. 16, excluding Native allotments F–13667, F–13671 Parcels A and B, and F–13663 Parcels A and B;
Sec. 17, excluding Native allotment F–14377 Parcel A;
Secs. 18 and 19;
Sec. 20, excluding Native allotment F–14377 Parcel A;
Sec. 21, excluding Native allotments F–13663 Parcels A and B, and F–13667;
Sec. 22;
Sec. 23, excluding Native allotment F–14651 Parcel B;
Secs. 24 to 36, inclusive.
Containing approximately 16,407 acres.

T. 19 N., R. 1 W.
Secs. 1 and 2;
Sec. 3, excluding Native allotment F–026100 Parcel C;
Secs. 4 to 9, inclusive;
Sec. 10, excluding Native allotments F–14651 Parcel A and F–026100 Parcel C;
Secs. 11 to 36, inclusive.
Containing approximately 22,298 acres.
Aggregating approximately 229,194 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–21779–2.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded because they are under applications pending further adjudication. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservation to the United States:

Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–21779–2, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

a. (EIN 15 D9) An easement twenty-five (25) feet in width for an existing access trail from public lands in Sec. 32, T. 20 N., R. 3 E., Fairbanks Meridian, southerly to Beaver and then on to public lands to the southwest. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

b. (EIN 16 C5) An easement twenty-five (25) feet in width for an existing access trail from the village of Beaver in Secs. 29 and 30, T. 18 N., R. 2 E., Fairbanks Meridian, southeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

c. (EIN 20 D1) An easement twenty-five (25) feet in width for an existing access trail from trail easement EIN 15 D9 in Sec. 20, T. 18 N., R. 2 E., Fairbanks Meridian, northwesterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted; and

2. Valid existing rights therein, if any,

including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, section 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

To date, approximately 3,846,952 acres of land, selected pursuant to section 12(c) of ANCSA, have been approved for conveyance to Doyon, Limited.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances, (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 18, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–25612 Filed 9–16–82; 8:45 am]

BILLING CODE 4310–84–M

Office of the Secretary

Federal-State Task Force on the Hawaiian Homes Commission Act; Establishment

Pursuant to Pub. L. 92–463, notice is hereby given of the establishment of the Federal-State Task Force on the Hawaiian Homes Commission Act. Following consultation with the General Services Administration, the Secretary is establishing the Task Force to advise the Secretary of the Interior and the Governor of Hawaii on ways to better effectuate the purposes of the Hawaiian Homes Commission Act (HHCA).

Further information regarding the Task Force may be obtained from Stephen P. Shipley, Executive Assistant to the Secretary, U.S. Department of the Interior, 18th and C Sts., N.W., Washington, D.C. 20240; (202) 343–7351.

The certification of establishment is published below.

Certification

I hereby certify that the Federal-State Task Force on the Hawaiian Homes Commission Act is in the public interest in connection with the performance of duties imposed on the Department of the Interior by the Hawaiian Homes Commission Act, 42 Stat. 108 and the Hawaii Statehood Act, Pub. L. 86–3.

Dated: September 15, 1982.

James G. Watt,

Secretary of the Interior.

[FR Doc. 82–25760 Filed 9–16–82; 8:45 am]

BILLING CODE 4310–10–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–167 (Sub-380N)]

Conrail Abandonment Between Rittman and Burbank, OH; Findings

Notice is hereby given to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued certificates and decisions authorizing the Consolidated Rail Corporation to abandon its rail lines between (1) Rittman, milepost 226.2 and Burbank, milepost 231.6 effective on March 12, 1982, and between (2) Rittman, milepost 220.5 and Creston, milepost 226.2 effective on June 10, 1982, a total distance of 11.1 miles, in the Counties of Wayne and Medina, OH.

The net liquidation value of the line between (1) mileposts 226.2 and 231.6 is $344,257 and (2) mileposts 220.5 and 226.2 is $404,128. If, within 120 days from the date of this publication, Conrail receives bona fide offers for the sale, for 75 percent of the net liquidation value, of these lines it shall sell such lines and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–25587 Filed 9–16–82; 8:45 am]

BILLING CODE 7035–01–M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: All American of Ashburn, Inc., A Georgia Corporation, P.O. Box 669, Ashburn, GA 31714.

2. Wholly-owned subsidiary which will participate in the operations, and State of incorporation: All American Housing of Alabama, Inc., an Alabama Corporation.

1. Parent corporation: Tultex Corporation, P.O. Box 5191A, Martinsville, VA 24115, including all divisions within the Corporation.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their principal offices:

(i) Tultex Transportation, Inc., P.O. Box 5191A, Martinsville, VA 24115.

(ii) Peerless Spinning Corporation, Lowell, NC 28098.

(iii) Athletic Textile Co., Inc., Gastonia, NC 28052.

(iv) Washington Mills Co., Winston-Salem, NC 27102.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25466 Filed 9-16-82; 8:45 am]

BILLING CODE 7035-01-M

Long-and-Short-Haul Application for Relief (Formerly Fourth Section Application)

September 14, 1982.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of the notice.

No. 43978, reduced rates on brandy, champagne, vermouth or wine, minimum 112,000 pounds, from Modesto Colony, CA to the East, published in Trans-Continental Freight Bureau Tariff, I.C.C. TCFB 3002-S, Supplement 345, to become effective September 19, 1982. Grounds for relief—motor and water competition.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25589 Filed 9-16-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44). *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditionss et forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: September 13, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,

Secretary.

MC-F-14936, authority is sought by HOHENWALD TRUCK LINES, INC. (HTL), a Tennessee Corporation, of P.O. Box 196, Hwy 99, Hohenwald, TN, to purchase the operating authority of PULASKI HIGHWAY EXPRESS, INC., also a Tennessee Corporation, of 640 Hamilton Ave., Nashville, TN, under Certificate No. MC-56553 (Sub-No. 34)X, Robert V. Gafford, P.O. Box 196, Hwy 99, Hohenwald, TN, who controls HTL through ownership of all its outstanding capital stock, seeks authority to control the operating rights through the purchase. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. The operating rights involved authorize the transportation of *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), over regular routes, generally between Nashville, on the one hand, and, on the other, Pulaski, Lawrenceburg and Memphis, TN, Tuscumbia and Sheffield, AL, and Russellville and Cadiz, KY, serving various intermediate and off-route points. Application has been filed for temporary authority.

MC-F-14944, BROOKS INTERNATIONAL, INC., d.b.a. HARPER'S/AERO DISTRIBUTION SERVICE, and KEYSTONE DELIVERY SERVICE, INC., Seek authority under 49 U.S.C. §§ 11343 and 11344 for approval of the merger of Keystone Delivery Service, Inc. into Brooks International, Inc. with Brooks International, Inc., the surviving corporation. Henry Brooks, who controls Brooks International, seeks authority to control the merged operating rights through the transaction. Brooks International holds nationwide authority (excluding AK and HI) (permits) to transport various commodities for five contractual shippers and one contractual shipper in the Southern United States. It also holds nationwide small package authority and general commodity authority between GA and eight southern states. Keystone holds nationwide contract authority for one shipper and nationwide small package authority. No temporary authority is sought.

[FR Doc. 82-25586 Filed 9-16-82; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order P-43]

Passenger Train Operation; Kansas City Southern Railway Co.

It appearing, That the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Chicago, Illinois, and Laredo, Texas. The operation of these trains requires the use of the tracks and other facilities of the Missouri Pacific Railroad Company (MP). A portion of the MP tracks between Jefferson and Dallas, Texas, are temporarily out of service because of a derailment. An alternate route is available via The Kansas City Southern Railway Company (KCS) between Jefferson and Greenville, Texas.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission decided April 29, 1982, and of the authority vested in the Commission by Section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), The Kansas City Southern Railway Company (KCS) is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between Jefferson and Greenville, Texas, in order to connect with Missouri-Kansas-Texas Railroad Company (MKT) at Greenville, Texas, and thence the MP at Dallas, Texas.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 11:30 a.m., September 1, 1982.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 1, 1982, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon The Kansas City Southern Railway Company (KCS) and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 1, 1982.

Interstate Commerce Commission.

J. Warren McFarland,

Agent.

[FR Doc. 82-25584 Filed 9-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30006]

Rail Carriers; Illinois Central Gulf Railroad Co.; Exemption; Abandonment in Cook County, IL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts Illinois Central Gulf Railroad Company from the requirements of prior review and approval under 49 U.S.C. 10903 *et seq.* concerning its abandonment of a 0.43-mile segment of line in Cook County, IL.

DATES:

Exemption effective on October 18, 1982. Petitions for reconsideration must be filed by October 7, 1982. Petitions for stay must be filed by September 27, 1982.

Send pleadings to:

(1) Section of Finance, Room 5349, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Howard D. Koontz, Illinois Central Gulf Railroad Company, 233 North Michigan Avenue, Chicago, IL 60601.

FOR FURTHER INFORMATION CONTACT:

Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: For further information, see the decision served concurrently in Finance Docket No. 30006. To purchase a copy of the full decision, contact T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 in the D.C. Metropolitan Area, or toll free (800) 424-5403.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25581 Filed 9-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30003]

Rail Carriers; Norfolk and Western Railway Company and Consolidated Rail Corporation—Acquisition and Trackage Rights Exemption

September 13, 1982.

On July 30, 1982, Norfolk and Western Railway Company (N&W) filed a notice of its proposed acquisition of 1.1 miles of a line of rail of the Consolidated Rail Corporation (Conrail) under 49 CFR 1111.2(d)(5). See *Railroad Consolidation Procedures,* 366 I.C.C. 75, 94 (1982). Conrail, which will retain trackage rights on the segment, submitted a confirmatory letter on August 23, 1982.

The purpose of the proposed acquisition is to complete a relocation project which will reduce congestion over N&W's Front Street line located along the Ohio River in Cincinnati, OH. N&W will purchase Conrail's Oakley Wye, which extends approximately 1.1 miles between East Norwood and Oakley Junction, in Cincinnati. The Commission previously approved N&W's proposed acquisition of trackage rights over Conrail's line in *CSX Corp.—Control—Chessie and Seaboard C.L.I.,* 363 I.C.C. 518, 582 (1980), but the parties have determined that a purchase of the line by N&W, with Conrail retaining trackage rights, is preferable. N&W will continue to maintain its Front Street line for use in emergencies.

As a condition to use of the exemption, any N&W employees affected by its acquisition of the line will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.,* 360 I.C.C. 60 (1979), and any Conrail employees affected by its retention of trackage rights will be protected by the conditions set forth in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This will satisfy the statutory requirement of 49 U.S.C. 10505(g)(2).

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25585 Filed 9-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30023]

Rail Carriers; Southern Pacific Transportation Company; Abandonment and Acquisition of Trackage Rights Over the Western Pacific Railroad Co.; Exemption

September 13, 1982.

On September 2, 1982, Southern Pacific Transportation Company (SPT) and Western Pacific Railroad Company (WP) filed a notice of exemption concerning a relocation project proposed by them under 49 CFR 1111.2(d)(5). See *Railroad Consolidation Procedures*, 366 I.C.C. 75, 94 (1982).

The purpose of the transaction is to eliminate redundant parallel trackage and share the costs of the remaining trackage. Under the proposed relocation project SPT will abandon its line of railroad from milepost 29.09 at Niles, CA, to milepost 66.5 near Tracy in Alameda and San Joaquin, CA (Niles line). Concurrently, SPT will acquire trackage rights over the parallel WP track which will allow SPT to operate between Niles and Lathrop, CA. SPT shippers on the Niles line will continue to receive service. The relocation will enhance the efficiency of SPT's operations, for the reason that redundant facilities will be eliminated.

As a condition to use of the exemption, SPT has proposed that any employees affected by the transaction be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979). However, since the relocation project involves not only an abandonment but a trackage rights transaction, we must also impose the conditions set forth in *Norfolk and Western Ry. Co—Trackage Rights—CN*, 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980). Together these conditions satisfy the statutory requirements of 49 U.S.C. 10505(g)(2).

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25583 Filed 9-16-82; 8:45 am]
BILLING CODE 7035-01-M

[Section 5b Application 2]

Western Railroads—Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed amendments to rate bureau agreement.

SUMMARY: The Western Railroad Traffic Association requests approval of amendments to its articles of organization and procedure to transfer the headquarters of its: (1) North Pacific Coast Freight Bureau and Pacific Southcoast Freight Bureau from San Francisco, CA, to Chicago, IL; and (2) Southwestern Freight Bureau from St. Louis, MO, to Chicago. All regular meetings and ratemaking activities of these bureaus would be in Chicago.

DATES: Comments are due 20 days from publication of this notice in the **Federal Register.**

ADDRESSES: An original and 10 copies of comments should be sent to: Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278, or Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: By petitions dated December 11, 1981, March 5, 1982, and July 13, 1982, the Western Railroad Traffic Association (Association) requested approval of amendments to its Articles of Organization and Procedure (agreement) to transfer the headquarters of its: (1) North Pacific Coast Freight Bureau (NPCFB) and Pacific Southcoast Freight Bureau (PSFB) from San Francisco, CA, to Chicago, IL, and (2) Southwestern Freight Bureau (SWFB) from St. Louis, MO, to Chicago.[1] The Association also states its intention to transfer all regular meetings and ratemaking activities of these bureaus to Chicago.[2] However, to reduce any inconvenience to shippers, NPCFB and SWFB will continue to schedule some public hearings in San Francisco. The effect of the proposed amendments would be to centralize staff functions and tariff publication activities of the NPCFB, PSFB, and SWFB with those of the Association's. The Association has served copies of the petitions upon the regulatory bodies of each State having jurisdiction over the rates, fares, and charges embraced within the scope of the amendments to the agreement.

The amendments are proposed to apply to the Association's ratemaking agreement, under which the member Western Railroads have derived their immunity for collective activity in the past, and the Association's proposed agreement, which has been under consideration by the Commission.[3] The Commission, in a recent decision in Section 5b Application No. 2, *Western Railroads—Agreement* 365 I.C.C. 918, served August 17, 1982, denied approval of the Association's proposed agreement. Nonetheless, the Commission has extended antitrust immunity to the operations of the Association insofar as they conform with the decision. Where the Association's activities do not conform with the decision, no antitrust immunity has been given.[4]

In support of its proposal, the Association submits that the proposed change of headquarters to Chicago will have no adverse effect on the shipping public. It emphasizes that the existing jurisdictional or ratemaking procedures of the NPCFC, PSFB, and SWFB would be unaffected. It further argues that the transfer will effectuate savings by reducing fixed overhead expenses, since centralized tariff publishing, mailing and distribution, and legal and managerial supervision would be consolidated and enhanced. Finally, the Association states that agreements have been entered into with the Allied Services Division/Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees (BRAC) providing for the protection of their members at St. Louis adversely affected by the centralization in accordance with the terms of *New York Dock Railway—Control—Brooklyn Eastern District Terminal*, 360 I.C.C. 60 (1979). This agreement has been ratified by the labor organization membership and the carriers members of the Western Railroad Traffic Association. The Association also contends that non-contract employees, those who are not members of a labor organization, have been advised that to the extent any of them will be adversely affected by the centralization they will be protected on the same basis as employees represented by BRAC.

We invite any interested party to address the proposed amendments.

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[1] NPCFB, PSFB, and SWFB are regional organizations of the Association.

[2] The Association proposes to amend its agreement to provide that regular meetings of the Freight Traffic Managers Committee of the NPCFB and PSFB would convene in Chicago and that the location of joint NPCFB/PSFB meetings would be in Chicago or at any other place as may be agreed upon, rather than San Francisco. No specific amendment is proposed with regard to SWFB, since the agreement does not designate a specific location for meetings and ratemaking activities.

[3] In *Western Railroads-Agreement*, 364 I.C.C. 635 (1981), the Commission interpreted 49 U.S.C. 10706(a) as it was amended by Section 219 of the Staggers Rail Act of 1980 (Staggers Act), Pub. L. 96-448, 94 Stat. 1926-1928 and described the system of ratemaking contemplated by the new law. In response, the Western Railroad Traffic Association and other rate bureaus filed amended agreements. The Commission, while considering these proposed agreements, granted interim immunity.

[4] The Association has been directed to file new or amended agreements within 45 days from the date of service of the decision. Comments are due by the 65th day.

It does not appear that this decision will significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10706)

Decided: September 9, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25582 Filed 9-16-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket 29996]

Rail Carriers; Pittsburgh & Lake Erie Railroad Company—Exemption—Abandonment—1.92 Miles of Track at Colona, PA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from regulation the abandonment by the Pittsburgh & Lake Erie Railroad Company of 1.92 miles of railroad at Colona Dock, Colona, PA.

DATES: This exemption is effective on October 18, 1982. Petitions for reconsideration must be filed by October 6, 1982, and petitions for stay by September 27, 1982.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

ADDRESSES: Send petitions to: (1) Section of Finance, Room 5349, Interstate Commerce Commission, Washington, DC 20423, and Petitioner's representative: Richard R. Wilson, 324 P&LE Terminal Building, Pittsburgh, PA 15219. Pleadings should refer to F.D. No. 29996

SUPPLEMENTARY INFORMATION: The decision served by the Commission contains further information. To purchase a copy of the full decision, contact TS Infosystems, Inc., Interstate Commerce Commission, Room 2227, Washington, DC 20423 or call 289-4357 in the D.C. Metropolitan area or toll free 800-424-5403.

Decided: September 8, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25577 Filed 9-16-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Justice-Treasury Advisory Committee on State and Local Law Enforcement Training; Meeting

The Justice-Treasury Advisory Committee on State and Local Law Enforcement Training will meet from 9:00 a.m. until 4:00 p.m. on Wednesday, October 6, 1982 and 9:00 a.m. until 12 noon Thursday, October 7, 1982 in the Tom Steed Building, Room S-9, at the Federal Law Enforcement Training Center, Glynco, Georgia.

The Committee will be provided an update of the Justice-Treasury State and Local Law Enforcement Training Program, including the selection and scheduling of courses offered. Also, the Committee will review and discuss a process for certification of training. In addition, the Committee will be given formal presentations on other potential courses that could be offered to state and local law enforcement personnel through FLETC. Further, the Committee will discuss law enforcement training programs currently offered by educational institutions and professional associations and review methods to coordinate the delivery of that training with public agencies.

The meeting will be open to the public. Approximately 100 seats will be available for the public and the media representation on a first-come first-served basis.

Inquiries or comments may be addressed to the Committee Management Liaison Officer, Justice-Treasury State and Local Law Enforcement Training Program, Office of the Associate Attorney General, U.S. Department of Justice, Room 4119, Washington, D.C. 20530. (Committee Management Liaison Officer's telephone number is 202/566-4086 or the FLETC Coordinator's telephone number is 912/267-2226.)

George H. Bohlinger III,

Executive Director, Justice-Treasury Advisory Committee.

[FR Doc. 82-25616 Filed 9-16-82; 8:45 am]

BILLING CODE 4410-01-M

Proposed Amended Consent Decree in Action to Enjoin Emission of Air Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19020, notice is hereby given that a proposed amended consent decree in *United States* v. *United States Steel Corporation* (Geneva Works) (D. Utah, Civ. No. C-80-661W), has been lodged with the United States District Court for the District of Utah. This proposal would amend the consent decree entered in the same case in January of 1981.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *United States Steel Corporation*, D.J. Ref. 90-5-2-1-326.

The proposed consent decree may be examined at the office of the United States Attorney, 200 Post Office and Courthouse Building, 350 South Main Street, Salt Lake City, Utah 84101; at the Region VIII office of the Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203; and at the office of the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. A check or money order in the amount of $18.30 and payable to the Treasurer of the United States, covering the cost of reproduction, must accompany any request for a copy of the amendment. No request which is not accompanied by a check or money order in the required amount will be honored.

Mary Walker,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-25626 Filed 9-16-82; 8:45 am]

BILLING CODE 4410-01-M

National Institute of Justice

Visiting Fellowship Program for Fiscal Year 1983; Solicitation

The National Institute of Justice announces its Visiting Fellowship Program for Fiscal Year 1983. The purpose of this program is to enable senior level policy-makers and advanced researchers to establish residence at NIJ for periods up to 15 months to work on research projects of their design, research that will contribute creative new ideas toward greater understanding of crime and the operation of the criminal justice system.

Fellowships are awarded to single individuals rather than to pubic or private organizations. Preliminary research proposals that meet basic

eligibility criteria will be evaluated by a peer review panel; selection criteria include the significance of the problem to be addressed, the soundness of the proposal's design and methodology, project feasibility and overall cost.

Excluded from consideration are projects that are action oriented (such as training or demonstration projects) in which research is a relatively minor component, part-time research efforts, students seeking educational assistance and persons previously awarded Visiting Fellowship grants. It is anticipated that up to three Fellowships will be awarded in Fiscal Year 1983. Applications post marked later than November 15, 1982, will not be considered.

A complete explanation of the program, its residency requirements and application procedures, can be obtained by sending a self addressed mailing label to: Solicitation—Visiting Fellowship Program, National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850.

Dated: September 9, 1982.

James K. Stewart,

Acting Director, National Institute of Justice.

[FR Doc. 82-25827 Filed 9-16-82; 8:45 am]

BILLING CODE 4410-18-M

Bureau of Prisons

National Institute of Corrections Advisory Board; Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) will meet on Thursday, October 28, 1982, starting at 9:00 a.m., on campus at the California State University at Long Beach, California in the Administration Building, 1250 Bellflower Blvd. At this meeting (one of the regularly scheduled triannual meetings of the Advisory Board), the Board will receive its subcommittees' reports and recommendations as to future thrusts of the Institute.

Allen F. Breed,

Director.

[FR Doc. 82-25815 Filed 9-16-82; 8:45 am]

BILLING CODE 4410-05-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Council; Meeting

The regular fall meeting of the Business Research Advisory Council will be held at 9:30 a.m., October 13, 1982, in Room N-5437 of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry. The agenda for the meeting is as follows:

1. Election of Officers.
2. Chairman's Opening Remarks.
3. Commissioner's Remarks.
4. Committee Reports:

(a) Productivity-Foreign Labor.

(b) Economic Growth.

(c) Price Indexes.

5. Other Business.
6. Chairman's Closing Remarks.

This meeting is open to the public. It is suggested that persons planning to attend as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code (202) 272-5241.

Signed at Washington, D.C. this 10th day of September 1982.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 82-25874 Filed 9-16-82; 8:45 am]

BILLING CODE 4510-24-M

Business Research Advisory Council's Committee on Price Indexes; Meeting

The BRAC Committee on Price Indexes will meet on Tuesday, October 12, 1982, at 2:00 p.m., in Room 7216 of the Bicentennial Building, 600 E Street NW., Washington, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry. The agenda for the meeting is as follows:

1. Election of Committee Officers.
2. Status of Homeownership Change.
3. Status of Continuing Expenditure Survey.
4. Plans for CPI Revision.
5. Response to Committee Recommendations Made Last Spring.
6. Other Business.

This meeting is open to the public. It is suggested that persons planning to attend as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code, (202) 272-5241.

Signed at Washington, D.C. this 10th day of September 1982.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 82-25873 Filed 9-16-82; 8:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

Federal-State Unemployment Compensation Program; Extended Benefits; Ending of Extended Benefit Period in Kentucky

This notice announces the ending of the Extended Benefit Period in the State of Kentucky, effective on September 4, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation Laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured unemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of Kentucky on June 6, 1982 and has now triggered off.

Determination of "Off" Indicator

The head of the employment security agency of the State named above has

determined that the rate of insured unemployment in the State for the period consisting of the week ending on August 14, 1982, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in the State.

Therefore, the Extended Benefit Period in the State terminated with the week ending on September 4, 1982.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Period and its effect on the individuals's right to Extended Benefits. 20 CFR 615.13(d)(3)

Persons who wish information about their rights to Extended Benefits in the State named above should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C. on September 10, 1982.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 82-25675 Filed 9-16-82; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; New Extended Benefit Period in the State of New Mexico

This notice announces the beginning of a new Extended Benefit Period in the State of New Mexico, effective on August 29, 1982.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

In accordance with section 203(d) of the Act, each State unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State named above has determined tha the rate of insured unemployment in the State, for the period consisting of the week ending on August 14, 1982, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in the State.

Therefore, a new Extended Benefit Period commenced in the State with the week beginning on August 29, 1982.

Information for Claimants

The duration of extended benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State named above, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on September 9, 1982.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 82-25676 Filed 9-16-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,666]

Western Electric Co., Inc., Kansas City Works, Lee's Summit, Missouri; Affirmative Determination Regarding Application for Reconsideration

By an application dated June 15, 1982, counsel for the union requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers and former workers of Western Electric Company, Inc., Kansas City Works, Lee's Summit, Missouri. The determination was published in the **Federal Register** on June 1, 1982 (47 FR 23828).

The application for reconsideration claims that Western Electric is not the exclusive supplier of telephone transmission equipment for the Bell System of AT&T; Western Electric's purchases of imports are larger than negligible and that Western Electric's sales, in terme of quantity, decreased in 1981 compared to 1980.

Conclusion

After review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 30th day of July 1982.

Stephen A. Wandner,

Deputy Director, Office of Research, Legislation and Program Policies.

[FR Doc. 82-25671 Filed 9-16-82; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Federal Advisory Council on Occupational Safety and Health; Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, established under Section 1–5 of Executive Order 12196 of February 26, 1980, published in the **Federal Register** February 27, 1980 (45 FR 12769), will meet on October 6, 1982 starting at 10:00 a.m. in Rooms N5437 A, B, C, of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW.,

Washington, D.C. The meeting will be open to the public.

The agenda provides for:

I. Call to Order.

II. Announcement of Appointments and Reappointments.

III. Approval of Minutes of June 30, 1982 Meeting.

IV. Progress Report on "New Initiatives".

V. Safety Belt Program.

VI. Reports.

VII. New Business.

VIII. Adjournment.

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions received by close of business October 1, 1982, will be provided to the members of the Council and included in the record of the meeting.

The Council will consider oral presentations relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close of business October 1, 1982. The request must include the name and address of the person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All communications regarding this Advisory Council should be addressed to John E. Plummer, Director, Office of Federal Agency Programs, Department of Labor, OSHA, Bicentennial Building, 600 E Street, NW., Suite 500, Washington, D.C. 20210, telephone (202) 376–3005.

Signed at Washington, D.C. this 14th day of September 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-25672 Filed 9-16-82; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Literature Advisory Panel (Creative Writing Fellowships); Meeting

Pursuant to Section 10 (a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Creative Writing Fellowships) to the National Council on the Arts will be held on October 4 and 5, from 9:00 a.m.–6:00 p.m. and on October 6, from 9:00 a.m.–12:30 p.m. in room 1340 of the Columbia Plaza Office Complex, 2401 E Street, NW. Washington, D.C. 20506

A portion of this meeting will be open to the public on October 6, from 11:00 a.m.–12:30 p.m. to discuss fellowship policy.

The remaining sessions of this meeting on October 4 and 5 from 9:00 a.m.–6:00 p.m. and on October 6 from 9:00 a.m.–11:00 a.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

September 10, 1982.

[FR Doc. 82-25613 Filed 9-16-82; 8:45 am]

BILLING CODE 7537-01-M

Music Advisory Panel (Festivals Section); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Festivals Section) to the National Council on the Arts will be held on October 4–5, 1982, from 9:30 a.m.–5:30 p.m. in room 1426 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on October 5, 1982 from 2:30–4:00 to discuss guidelines and policy.

The remaining sessions of this meeting on October 4th from 9:30 a.m.–5:30 p.m. and on October 5th from 9:30 a.m.–2:30 p.m. and from 4:00 p.m.–5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

September 10, 1982.

[FR Doc. 82-25614 Filed 9-16-82; 8:45 am]

BILLING CODE 7537-01-M

DEPARTMENT OF STATE

[Public Notice CM–8/558]

Presidential Commission on Broadcasting to Cuba; Notice of Partially Closed Meeting

In accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) as amended by Pub. L. 94–409 Section 5(c), notice is hereby given that the Presidential Commission on Broadcasting to Cuba will meet in open and closed sessions on September 30, 1982.

The open session will convene at 1:30 p.m. in Room 6909, Department of State, Washington, D.C. The open session of the Commission meeting will allow public discussion of programming, technical, and other aspects of radio broadcasting to Cuba. The general public attending the open session may participate in the discussion or submit statements subject to instructions of the Chairman.

The purpose of the closed session is to discuss aspects of radio broadcasting to Cuba that should not be prematurely disclosed to the public. Documents classified under the provisions of Executive Order 12356 will also be discussed. Accordingly, it has been determined that it is in the public interest to close this meeting pursuant to 5 U.S.C. 552b(c)(1) and 5 U.S.C. 552b(c)(9).

Because entry to the State Department is controlled, members of the public who wish to attend the open session should contact the Commission in advance in order to provide their names and affiliation and to facilitate their attendance. Its telephone number is (202) 632–3998 or 632–4189. Attendees should use the Diplomatic Entrance located on C Street, NW., between 21st and 23rd Streets.

This notice of meeting is being published with less than 15 days advance notice because of the need for

the Commission to hold a meeting before its current term ends on October 1.

Myles R. R. Frechette,

Acting Executive Director, Presidential Commission on Broadcasting to Cuba.

September 15, 1982.

[FR Doc. 82-25682 Filed 9-16-82; 8:45 am]

BILLING CODE 4710-29-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Treasury Department Announces Upcoming Income Tax Treaty Negotiations With Ireland

The Treasury Department announced that representatives of the United States and Ireland will be meeting in Washington, in late September, 1982, to renegotiate the income tax treaty between the two countries which was signed in 1949.

The discussions will take into account changes in the tax laws of both countries and developments with respect to the model income tax treaties published by the Organization for Economic Cooperation and Development (OECD) and by the United States.

Anyone wishing to provide information or comments on tax matters related to the upcoming negotiations may submit such information or comments in writing to A. W. Granwell, Room 3064, Washington, D.C. 20220.

Dated: September 14, 1982.

John E. Chapoton,

Assistant Secretary (Tax Policy).

[FR Doc. 82-25683 Filed 9-16-82 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 181
Friday, September 17, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From September 14th Open Meeting

September 13, 1982.

The following item has been deleted at the request of the Office of the Chairman from the list of agenda items scheduled for consideration at the September 14, 1982, Open Meeting, and previously listed in the Commission's Notice of September 7, 1982 (47 FR 39934; September 10, 1982).

Agenda, Item No., and Subject

General—2—*Title:* Petitions filed by the American Telecommunications Corporation (ATC) and Electronics Industries Association (EIA) for waiver of Section 15.7 of the FCC Rules for cordless telephones. This action considers whether to grant the ATC and EIA requests for waiver of Section 15.7 for cordless phones to allow them to operate under a more practical technical standard.

Issued: September 13, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–1331–82 Filed 9–15–82; 11:19 am]

BILLING CODE 6712–01–M

2

FEDERAL ELECTION COMMISSION

["Federal Register" No. 1326]

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, September 23, 1982 at 10 a.m.

CHANGE IN MEETING: The following matter has been added to the open meeting scheduled for this date:

Addendum to the Final Audit Report—Reagan Bush Committee (RBC), Reagan Bush Compliance Fund and Democrats for Reagan

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S–1329–82 Filed 9–15–82 10:24 am]

BILLING CODE 6715–02–M

3

FEDERAL ELECTION COMMISSION

["Federal Register" No. 1283]

PREVIOUSLY ANNOUNCED DATE AND TIME: Tuesday, September 14, 1982 at 10 a.m.

CHANGE IN MEETING: The Executive Session (closed) held on this date has been continued to September 16, 1982, following the conclusion of the open meeting scheduled to convene at 10:00 a.m.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S–1330–82 Filed 9–15–82 10:24 am]

BILLING CODE 6715–01–M

4

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: Approximately 11:00 a.m., Wednesday, September 22, 1982, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: September 14, 1982.

James McAfee,

Associate Secretary of the Board.

[S–1332–82 Filed 9–15–82; 11:34 am]

BILLING CODE 6210–01–M

5

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m., Wednesday, September 22, 1982.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Summary Agenda:* Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed exemption for Massachusetts, Oklahoma, and Wyoming from Regulation Z (Truth in Lending). (Proposed earlier for public comment; Docket No. R–0415.)

Discussion Agenda:

2. Publication for comment for a proposed amendment to Regulation T (Credit by Brokers and Dealers) regarding the eligibility of private mortgage pass-through certificates for margin credit.
3. Any items carried forward from a previously announced meeting.

Notes.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: September 15, 1982.

James McAfee,

Associate Secretary of the Board.

[S–1333–82 Filed 9–15–82; 11:34 am]

BILLING CODE 6210–01–M

6

INTERNATIONAL TRADE COMMISSION

[USITC SE–82–39]

TIME AND DATE: 10 a.m., Thursday, September 30, 1982.

PLACE: Room 331, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Investigations 701–TA–66/128 (Final) (Certain Carbon Steel Products from Belgium, Brazil, France, Italy, Luxembourg, and the United Kingdom, and the Federal Republic of Germany)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

[S-1396-82 Filed 9-15-82; 3:07 pm]

BILLING CODE 7020-02-M

7

INTERNATIONAL TRADE COMMISSION

[USITC SE–82–38]

TIME AND DATE: 9:30 a.m., Wednesday, September 29, 1982.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
   a. Welding equipment (Docket No. 868).
5. Investigation 731–TA–102 (Preliminary) (Certain Radio Paging and Alerting Devices from Japan)—briefing and vote.
6. Investigation 731–TA–103 (Preliminary) (Cotton Shop Towels from the People's Republic of China)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S-1336-82 Filed 9-15-82; 3:00 pm]

BILLING CODE 7020-02-M

8

NUCLEAR REGULATORY COMMISSION

DATE: Tuesday, September 14, 1982 (Revised).

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED: *Tuesday, September 14:*

4:00 p.m.
Affirmation/Discussion and Vote (public meeting)
a. Indian Point Special Proceeding—Order Responding to Licensing Board's Certified Questions (Continued from Friday, September 10, 1982)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,

Office of the Secretary.

September 14, 1982.

[S-1304-82 Filed 9-15-82; 2:49 pm]

BILLING CODE 7590-01-M

9

POSTAL RATE COMMISSION

TIME AND DATE: 2 p.m., Wednesday, September 22, 1982.

PLACE: Conference Room, Room 500, 2000 L Street, N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Election of the Officer of the Commission (OOC)
(Closed pursuant to 5 U.S.C. 552b(c)(2)(6))

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, N.W., Washington, D.C. 20268; telephone (202) 254–5614.

[S-1328-82 Filed 9-15-82; 9:34 am]

BILLING CODE 7715-01-M

10

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1297]

TIME AND DATE: 10:15 a.m. (edt), Wednesday, September 22, 1982.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

A—Project Authorization
1. Project Authorization No. 3625—Construction of the Union, Mississippi, 500–kV Substation and transmission line connections.

B—Purchase Awards
1. Invitation C3–651180—Indefinite quantity term contract for unleaded gasoline for any TVA project or warehouse.
2. Invitation C2–621725—Indefinite quantity term contract for plant operating and other chemicals for any TVA project or warehouse.
3. Proposal 59–025420–3—Labor, tools, equipment, and material for Torus recoating application at Browns Ferry Nuclear Plant.
4. Amendment to Contract 78K50–821100 with Zurn Industries, Incorporated for heat rejection system for Hartsville and Phipps Bend Nuclear Plants.

C—Power Items
1. Cogeneration agreement among Harriman Paperboard Corporation, City of Harriman, Tennessee, and TVA covering the purchase by the city of Harriman of up to 4,500 kW of cogenerated power from the Harriman Paperboard Corporation.
2. TVA policy regarding cogeneratation and dispersed power production.
3. Letter agreement with East Kentucky Power Cooperative providing for term energy exchange.
4. Deed covering conveyance to Duck River Electric Membership Corporation of a 0.76-acre portion of TVA's East Shelbyville Substation site located in Bedford County, Tennessee.
5. Lease and amendatory agreement with Pontoluc Electric Association covering arrangements for distributor's lease of TVA's Bruce Substation and a short double-circuited section of TVA's Calhoun-Bruce 69-kV Line (46-kV operation) and Houston-Bruce 46-kV Line.
6. Lease and amendatory agreement with City of Athens, Alabama, covering arrangements for distributor's lease of TVA's complete Athens District, Belle Mina, Mount Roazell, and Poplar Creek 46-kV substations; portions of TVA's Ardmore-Belle Mina and Athens-Mount Roazell 46-kV transmission lines; and TVA's Poplar Creek 46-kV tapline.
7. Lease and amendatory agreement with Gibson County Electric Membership Corporation and City of Newbern, Tennessee, covering arrangements for 161-kV service to both distributors at TVA's Newbern 161-kV Substation.
8. Adoption of supplemental resolution authorizing 1982 Series D power bonds.
9. Resolution authorizing the Chairman and other executive officers to take further action relating to issuance and sale of 1982 Series D power bonds.

F—Unclassified
*1. Interagency agreement between TVA and Agency for International Development (AID) covering arrangements for TVA's assistance to AID's bioenergy program.
*2. Interagency agreement with Department of Energy (DOE) covering arrangements for technical assistance for DOE's fuel alcohol loan guarantee program.
*3. Interagency agreement between TVA and Agency for International Development (AID) providing for TVA's assistance to AID's managing energy and resource efficient cities project.
4. Agreement between West Eight County Association of Soil Conservation Diatricts and TVA to develop and implement a coordinated and comprehensive project for controlling erosion and restoring area stream channels.
5. Agreement between Greater Knoxville Economic Development Corporation (GKEDCO) and TVA providing for TVA's assistance to GKEDCO in the formation of a revolving loan fund to serve the venture capital requirements of socially and economically disadvantaged persons

*Item approved by individual Board members. This would give formal ratification to the Board's action.

in the Knoxville and east Tennessee areas.

6. Agreement with Tennessee Valley Center for Minority Economic Development, Inc., covering arrangements for cooperation in project to salvage scrap marine metals.
7. Payments to States and counties in lieu of taxes for fiscal year ending September 30, 1982, as provided under Section 13 of the TVA Act, as amended.
8. Allocation of cost in Tellico Reservoir Project.
9. Payment from net power proceeds for fiscal year 1982 to the Treasury of the United States.
10. Short-term borrowing from the Treasury.
11. Contribution rate to the TVA Retirement System for fiscal year 1983.

DATED: September 15, 1982.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

[S–1337–82 Filed 9–15–82; 4:30 pm]

BILLING CODE 8120–01–M

federal register

Friday
September 17, 1982

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Alabama: AL82–1035	July 30, 1982.
Mississippi: MS81–1297	Oct. 16, 1981
New York: NY81–3024	Apr. 3, 1981
Texas: TX82–4026	June 18, 1982
Washington: WA82–5117	Aug. 13, 1982
Wisconsin: WI82–2043	Aug. 27, 1982.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama: AL81–1296 (AL82–1047)	Oct. 9, 1981.
Georgia: GA79–1156 (GA82–1046)	Dec. 7, 1979.

Please note that we are changing the format for **Federal Register** wage decisions to coincide with the provisions of All Agency Memorandum No. 132 dated January 29, 1980, which provides that the Department of Labor will discontinue identifying fringe benefits separately. Rather, they will be stated as a composite figure which is the total hourly equivalent value of fringe benefits found to be prevailing. Fringe benefits which can not be stated in monetary terms will be shown in footnotes. This procedure is being phased in gradually.

Signed at Washington, D.C., this 10th day of September 1982.

Dorthy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

DECISION NO. AL82-1035 - MOD. #1 (July 30,1982 - 47 FR 33043)	Basic Hourly Rates	Fringe Benefits
JEFFERSON COUNTY,ALABAMA HIGHWAY CONSTRUCTION		
CHANGE: IRONWORKERS,Reinforcing	$ 6.50	
DECISION NUMBER MS81-1297 - MOD. #1 (October 16, 1981 - 46 FR 51168)		
LOWNDES COUNTY(Excluding Columbia Lock & Dam & Tennessee Tombigbee Projects) MISSISSIPPI		
BUILDING CONSTRUCTION		
ADD: BRICKLAYERS	$ 8.75	
DECISION NO. NY81-3024 - MOD. #5 (46 FR 20442 - April 3, 1981) BRONX, KINGS, NEW YORK, QUEENS & RICHMOND COS., NEW YORK		
CHANGE: ELECTRICIANS	17.00	19%+a+ b+c
Jobbing, maintenance, repair work, alterations and new work up to a contract price of $50,000	8.75	19%+a+ b+c
DECISION NO. TX82-4028 - MOD. #3 (47 FR 26553 - 6/18/82) Jefferson & Orange Cos., Texas		
CHANGE: Electricians	$19.63	1.135+ 3%
Line Construction: Linemen	19.94	.80+3½%
Groundmen	14.56	.80+3½%
Plumbers	17.71	.99

DECISION NO. WA82-5117 - Mod #2 (47 FR 35433 - Aug. 13, 1982) Statewide Washington	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS: Area 3	$19.38	$2.80
BRICKLAYERS;MARBLE SETTERS: Area 3	17.84	2.29
CEMENT MASONS: Area 1 (Base Rate, Zone 1)		
Group 1	15.50	3.20
Group 2	16.00	3.20
Group 3	16.50	3.20
ELECTRICIANS: Area 3:		
Electricians	18.70	3%+3.5[illegible]
Cable Splicers	20.57	3%+3.5[illegible]
GLAZIERS: Area 5	16.77	b+1.85
Area 6	13.06	1.90
SOFT FLOOR LAYERS: Area 1	14.19	1.74
Area 8	15.05	1.89
TILE, MARBLE, AND TERRAZZO FINISHERS: Area 1	14.71	1.97
ELEVATOR CONSTRUCTORS: Mechanics: Area 1	19.73	a+2.6[illegible]
DECISION NO. WI82-2043 - MOD. #2 (47 FR 38035 - August 27, 1982)		
Statewide Wisconsin		
Add: Truck Drivers: Zone 2 - Kenosha and Racine Counties:		
Group 1	11.25	.35+b
Group 2	11.40	.35+b
[illegible]ne 3 - Remaining Counties:		
Group 1	11.25	.35+c
Group 2	11.40	.35+c

SUPERSEDEAS DECISION

STATE: ALABAMA — COUNTIES: LAWRENCE,LIMESTONE, & MORGAN
DECISION NUMBER: AL82-1047 — DATE: DATE OF PUBLICATION
Supersedes Decision No.: AL81-1296 dated October 9, 1981 in 46 FR 50222.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING & HEATING MECHANIC	$ 6.00	
BRICKLAYERS	13.50	
CARPENTERS:		
Carpenters	10.50	1.39
Millwrights	11.15	1.39
CEMENT MASONS	6.29	
ELECTRICIANS	14.10	2.32
IRONWORKERS	10.00	
LABORERS	5.00	
PAINTERS,Brush	6.10	
PLUMBERS & PIPEFITTERS	14.85	2.23
ROOFERS	$ 9.20	
SHEET METAL WORKERS	6.50	
SHEETROCK FINISHERS	6.00	
SHEETROCK HANGERS	5.50	
STEAMFITTERS	5.00	
TRUCK DRIVERS	5.00	
WELDERS-Rate for Craft		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR,5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: GEORGIA
COUNTIES: BANKS, DAWSON, FORSYTH, FRANKLIN, HABERSHAM, HALL, LUMPKIN, RABUN, STEPHENS, TOWNS, UNION, & WHITE.
DECISION NUMBER: GA82-1048 DATE: DATE OF PUBLICATIONS
Supersedes Decision Number GA79-1156, dated December 7, 1979, in 44 FR 70629.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - includes single family homes and apartments up to and including four stories.

	Basic Hourly Rates	Fringe Benefits		Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING & HEATING MECHANICS	$ 8.00				
BRICKLAYERS	8.02				
CARPENTERS	6.28				
CEMENT MASONS	6.26				
DRYWALL FINISHERS	6.00				
DRYWALL HANGERS	6.00				
ELECTRICIANS	5.93				
INSULATION INSTALLERS	6.00				
LABORERS - GENERAL	4.31				
PAINTERS	6.00				
PLUMBERS & PIPEFITTERS	6.50				
ROOFERS	6.00				
SHEET METAL WORKERS	6.51				
TRUCK DRIVERS	4.31				
WELDERS - RATE FOR CRAFT.					
POWER EQUIPMENT OPERATORS:					
ASPHALT SPREADER - SCREED	5.38				
BULLDOZER	5.50				
FRONT END LOADER	6.28				
MOTOR GRADER	5.30				
UNLISTED CLASSIFICATIONS NEEDED FOR WORK NOT INCLUDED WITHIN THE SCOPE OF THE CLASSIFICATIONS LISTED MAY BE ADDED AFTER AWARD ONLY AS PROVIDED IN THE LABOR STANDARDS CONTRACT CLAUSES (29 CFR, 5.5 (a) (1) (ii)).					

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federal register

Friday
September 17, 1982

Part III

Department of the Interior

Fish and Wildlife Service

Final Frameworks for Late Season Migratory Bird Hunting Regulations

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Final Frameworks for Late Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final late season frameworks (i.e., the outer limits for dates and times when shooting may occur, hunting areas, and the number of birds which may be taken and possessed) from which States may select season dates, limits, and other options for the 1982–83 migratory bird hunting season. The earliest of these seasons generally commence on or about October 1, 1982, and include most of those for waterfowl.

Except as noted, the frameworks are similar to those in effect last hunting season. The Service continues its program of stabilized duck hunting regulations into the 1982–83 hunting season as the third year of a 5-year cooperative study with Canada.

The Service annually prescribes hunting regulations frameworks to the States. The effects of this final rule are to facilitate the selection of hunting seasons by the States and to further the establishment of the late season migratory bird hunting regulations for the 1982–83 season. State selections will be published in the **Federal Register** as amendments to §§ 20.104 through 20.107 and § 20.109 of Title 50 CFR Part 20.

EFFECTIVE DATE: This rule takes effect on September 17, 1982. Tentative State selections of seasons and other options based on the proposed frameworks were due by September 3, 1982.

ADDRESSES: State season selections to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments received on the proposed late season frameworks are available for public inspection during normal business hours in Room 525–B, Matomic Building, 1717 H Street, NW., Washington, D.C. Copies of the environmental assessment on stabilized duck hunting regulations are available from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202–254–3207).

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

On April 19, 1982, the U.S. Fish and Wildlife Service (hereinafter the Service) published for public comment in the **Federal Register** (47 FR 16718) proposals to amend 50 CFR Part 20, with comment periods ending June 23, July 16, and August 23 (later extended to August 30), 1982, respectively, for the 1982–83 Alaska, Puerto Rico, and Virgin Islands; other early hunting seasons; and the late hunting seasons frameworks. That document dealt with the establishment of hunting seasons, hours, areas, and limits for migratory game birds under §§ 20.101 through 20.107 and 20.109 of Subpart K. A supplemental proposed rulemaking for both the early and late season frameworks appeared in the **Federal Register** dated June 15, 1982 (47 FR 25922).

On July 12, 1982, the Service published for public comment in the **Federal Register** (47 FR 30162) a third document consisting of a proposed rulemaking dealing specifically with frameworks for early season migratory bird hunting regulations. On July 19, 1982, the Service published in the **Federal Register** (47 FR 31282) a fourth document containing final frameworks for Alaska, Puerto Rico, and the Virgin Islands, and on August 9, 1982 (47 FR 34498), a fifth document containing final frameworks for other early seasons for migratory bird hunting regulations from which State wildlife conservation agency officials selected early season hunting dates, hours, areas, and limits for the 1982–83 season. On August 20, 1982, the Service published in the **Federal Register** (47 FR 36578), a sixth document containing proposed frameworks for late season migratory bird hunting regulations. On August 30, 1982, the Service published in the **Federal Register** (47 FR 38246) a seventh document consisting of a final rule amending Subpart K of Title 50 CFR Part 20 to set hunting seasons, hours, areas, and limits for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic Flyway; ducks in September in Florida, Iowa, Kentucky, and Tennessee; sandhill cranes in the Central Flyway and Arizona; sandhill cranes and Canada geese in southwestern Wyoming; migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands, and special falconry seasons. This document is the eighth in the series and establishes final frameworks for late season migratory bird hunting regulations for the 1982–83 season.

These proposed regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Review of Public Comments and the Service's Response

Written Comments Received

In the **Federal Register** dated June 15, 1982 (at 47 FR 25923), the Service responded to comments on proposed late season frameworks which had been received up to that time. Twenty additional written comments and 13 statements made at the public hearing on proposed late hunting season frameworks were summarized and responded to in the **Federal Register** dated August 20, 1982 (at 47 FR 36578). Since then, 44 written comments have been received. These are summarized and responded to following the numbered list of regulatory topics which appeared in the **Federal Register** dated April 19, 1982 (at 47 FR 16718). In several cases, more than one comment was received from the same respondent, and in some other cases a commentor offered views on more than one regulatory subject. The new comments originated from 16 States, 3 waterfowl flyway councils, 4 national conservation organizations, 1 regional organization, 14 individuals, 3 State legislators, and 3 congressional representatives. The latter originated from individuals and States that had also written the Service separately.

Black ducks. Three comments were received on the Service's proposal that no changes be made in the frameworks for this species. Maine expressed disappointment that the Service had not proposed measures to curtail the take of black ducks throughout the Atlantic Flyway. The letter noted that the species had declined to a very low level in Maine. The International Council for Bird Preservation, United States Section, Inc. (ICBP) noted that the black duck

winter inventory indicated a population decrease from 429,000 in 1976 to 309,000 in 1982, a decline of about 4 percent annually. Trend data for black ducks in Maine and Massachusetts, information on the infiltration of the black duck's range by mallards, hybridization between the two species, and high mortality rates of the black duck were cited. Included were recommendations for a significant reduction in harvest or a temporary total closure of the black duck season so that the relative importance of hunting mortality as compared with mallard incursion can be viewed with needed clarity, and so that management can be put back on sound biological footing.

Covington and Burling, attorneys for the Humane Society of the United States (HSUS), submitted a voluminous statement on the black duck. It is comprised of a 9-page transmittal summarizing major concerns of the HSUS, and supporting affidavits by Joseph A. Hagar (7 pp.), an ornithologist and long time student of black ducks; Reverend Robert A. Bryan, a hunter and observer of black ducks over extensive areas of New England and eastern Canada (7 pp.); and Dr. John W. Grandy IV, presently HSUS Vice-President for Wildlife and Environment (45 pp. plus references). All 3 stated that black duck hunting should be prohibited or severely restricted this year.

The HSUS summary alleges that the black duck population is declining drastically and that hunting is contributing substantially to the decline. According to HSUS, the Service has delayed implementing protective measures for the black duck for many years. HSUS urges the Service to develop a national plan for the species "inasmuch as it is the federal agency delegated the duty to protect the species under mandate by the Migratory Bird Treaty Act." HSUS opposed any delay in action to permit development and coordination of a management program with the Atlantic and Mississippi Flyway Councils and Canada, and to familiarize hunters with the status of the black duck and its need for greater protection from hunting. HSUS notes that the Service has had ample opportunity to inform hunters of the critical plight of the black duck and the need for a hunting moratorium this year. According to HSUS, "* * * The Service's failure to close the hunting season or to take any other immediate action to protect the black duck is unlawful, irresponsible, and will severely damage the species."

Response. The Service has responded to the HSUS assertion that it has delayed protective measures for the black duck for many years, at 47 FR 36561. That response is incorporated here by reference. The HSUS assertion that the black duck is presently undergoing a precipitous decline in population is not correct. An examination of winter survey data on which this assertion is apparently based, clearly shows that 65 percent of the observed decline in black ducks since 1955 occurred during the period 1955–1962 for reasons that are not entirely clear. Since that time, during the 20-year period 1963–1982, winter survey data show a decline averaging about 1.6 percent annually. Although a long-term decline is evident from the winter survey data, except for the early 1955–1962 period, it has been gradual and does not indicate an immediate crisis for the species' welfare. The HSUS cites winter survey data as suggesting that the black duck population was at a low point of only 309,000 birds in 1980. However recent winter survey indices which show that the status of the black duck has been slightly better overall in the past two years than it was in 1980 indicate that no immediate "crisis" condition pertains to black ducks in 1982.

Winter survey data is used for trend analysis and does not reflect the true size of the population. Data in Service files indicate that only one-third to one-fifth of the wintering population is observed in the winter survey. Indirect estimates of black duck populations based on an analysis of banding and harvest data showed an average annual wintering population of 1.4 million black ducks for the 1967–70 period, and 1.5 million black ducks for the 1971–76 period. In addition, indirect estimates of preseason (just prior to the hunting season) black duck populations since 1967 indicate a relatively stable fall flight population of black ducks that averages about 2.7 million birds annually. These estimates of the current size of the black duck population provide no reason to believe that unless a black duck season closure or severe harvest restrictions are imposed this year, the future of the black duck is in jeopardy.

The Service has stated on a number of occasions that a decline in numbers of black ducks has been underway for many years. While hunting has frequently been alleged to be the principal factor involved and is recognized as a factor, the precise cause of the decline is not clear. Observations and investigations in both Canada and the United States in recent years indicate that a combination of factors is most likely involved. These include land use changes that affect black duck breeding in important segments of the breeding grounds, deterioration and loss of habitat there and elsewhere, competition with mallards, and hybridization with mallards. Comprehensive analyses of banding and other data recently conducted by the Service indicate that hunting is a contributing factor and that the greatest effect may be on the number of immatures that survive to enter the breeding population. The Service has concluded, therefore, that a management program for black ducks should include harvest restrictions with attention given to increasing the number of immatures that survive to enter the breeding population.

The Service has previously explained its belief (47 FR 36561) that it is undesirable to restrict black duck hunting regulations this year. The claim by HSUS that this explanation is specious demonstrates a lack of appreciation for factors which must exist before a change in managment can have its most beneficial effect. There is need to develop a comprehensive, coordinated international black duck management program involving the Canadian Wildlife Service (CWS) and Provincial wildlife agencies in Canada, and State wildlife agencies in the Atlantic and Mississippi Flyways through their respective Flyway Councils. These agencies all have management responsibilities for waterfowl including black ducks and contribute substantially to such management programs in connection with habitat management, law enforcement, management of hunting, population monitoring, research, and other investigations. Involvement of CWS and Provincial agencies is important because Canada contains the bulk of black duck breeding habitat and, in recent years, has accounted for about 50 percent of the harvest of black ducks. Therefore, an attempt to reach agreement on a coordinated comprehensive program will, given the current population status of the black duck, have more beneficial results in the long run than immediately and unilaterally closing the season, as HSUS suggests.

It is necessary to allow adequate time to determine the most appropriate measures to take in restricting harvest, and how best to apply and coordinate them in the many different jurisdictions within the range of the black duck. A number of options for restrictive measures have been identified in the Atlantic Waterfowl Council's Black

Duck Management Plan. However, not all may apply equally well flywaywide or throughout the black duck's range. Further, it may be desirable to apply different measures in different parts of the range. Time is needed to evaluate the relative merits of several regulatory options and to determine which are most appropriate in various geographical areas in the eastern United States. In essence, the Service's duties to manage the resource require that the Service determine the most efficacious means of restricting the black duck harvest. This determination can only be made after analysis of the various regulatory options mentioned above and full public involvement. Prior to implementing hunting restrictions, hunters need to be informed about the status of the black duck, and, to the extent possible, the reasons why restrictive measures are required, the nature of those measures, and what they are intended to accomplish. Service experience with canvasback and steel shot regulations indicates that full understanding and cooperation by hunters and other interested groups are vital to actual accomplishment of a regulatory objective like this one.

The Service wishes to announce that it is committed to a program to effect necessary hunting restrictions on black ducks beginning in the 1983–84 hunting season. Ideally, this program will be initiated jointly in the United States and Canada with the full cooperation of State, Provincial, and Federal wildlife agencies, and other concerned parties. Discussions already in progress with these groups will continue toward that end. However, if agreement on a hunting program cannot be reached, the Service will proceed with a 1983–84 program of harvest restrictions based on its assessment of what actions are necessary and desirable to effectively reduce hunting pressure on black ducks. This program has already begun with the assignment of the following tasks to Service staff:

1. Develop an analysis of regulatory options for consideration by the Director for implementation in 1983.
2. Develop an environmental assessment on the regulatory options.
3. Develop a program of hunter information about the black duck situation, restrictions to be initiated in 1983 based on 1 and 2 above, and the need for those restrictions. This program will be implemented as soon as possible.

Canvasbacks. Michigan amended its earlier request regarding canvasback closure areas, reporting that 5,000 or fewer canvasbacks are regularly observed in six counties (Arenac, Bay, Huron, Monroe, Tuscola, and Wayne) closed to hunting of this species. It recommended that these closures be abolished.

Response: In the **Federal Register** dated August 20, 1982, the Service responded to proposals to abolish certain canvasback closed areas. On page 36582, the Service announced its intention to undertake a comprehensive review of canvasback management strategies and objectives which have been in place since 1976. In consideration of these plans, the Service believes that the requested change should be deferred pending completion of the review.

Goose and brant seasons. Both Maryland and Massachusetts reiterated their requests that Canada goose seasons in their respective States be increased from 70 to 90 days. In the case of Maryland the request was that a 90-day goose season similar to that on the eastern shore be provided in the portion of Maryland west of Chesapeake Bay. Three Maryland legislators, in a single letter, and a sportsman supported the request. The request had initially appeared in the **Federal Register** dated April 19, 1982 (at 47 FR 16726). The Massachusetts request was published in the **Federal Register** dated June 15, 1982 (at 47 FR 25923). In both cases justification for the extended seasons was based on the need to control populations of locally breeding, non-migratory Canada geese that have become nuisances, and to reduced crop depredations and other complaints. A recent letter provided additional information on the distribution of these geese and documentation of specific agricultural depredations complaints.

Response. In the **Federal Register** dated August 20, 1982 (at 47 FR 36582) the Service explained reasons for not favoring the changes requested. For convenience, the portion of the Service's reply relating to the two States is repeated:

> The Service is of the view that the western shore of Maryland is outside the areas of the Atlantic Flyway where 90-day seasons and 4-bird bag limits are permitted for Canada geese for the purpose of stabilizing these goose populations or limiting the rate of increase which, in the past, has been judged excessive. No formal proposal and supporting information has been submitted by Maryland or the Atlantic Flyway Council to document the need for further expansion of the 90-day, 4-bird area. In this regard the Service notes that the Atlantic Flyway Canada goose population in the Delmarva Peninsula area where the population problem was most acute is presently significantly below the levels of previous years. Thus, the need for further increase in harvest opportunity at present is unclear. Also, such further increases appear to be inconsistent with the intention of the AFC to seek ways of adjusting harvest regulation to promote improved distribution of the population especially in regard to increasing the proportion of the population in more southerly wintering areas. For these reasons, the Service does not believe that the proposed change is desirable at this time. The Service does not favor the Massachusetts request for many of the same reasons, including the need to better document need for the season extension.
>
> At the request of the two States involved the Service has reviewed this matter again. Massachusetts provided additional information on the distribution of its breeding Canada geese and further details about goose damage to agricultural crops, including cranberries. A recent Maryland letter indicated that the number of geese in the area surveyed along the Western Shore (of Chesapeake Bay) has increased from an average of 8,400 during 1970–72 to an average of 38,900 during 1980–82, and reported on the capture and transfer of nuisance geese to areas outside the State, and problems associated with geese near Dulles Airport in Virginia.
>
> The Service is aware of problems caused by so-called nuisance geese in New England and New York, and has cooperated with State officials in capturing and transferring geese to other locations where there is a demand for these geese. Also, the Service has undertaken research on biological measures to limit the growth of "nuisance" goose populations. These approaches have been taken because additional hunting pressure during the regular hunting season is usually not a practical approach to limiting or reducing such local populations. The birds are often not accessible to hunting because of local restrictions or other factors. It is necessary to make distinctions between problems associated with local vs. migrant Canada geese. In this respect, the population of geese wintering along the Western Shore of Maryland appears to include both local and migrant Canada geese. The situation in Massachusetts may be different but it is not clear that the solution lies with extending the hunting season. The Service wishes to avoid unnecessary increases in the harvest of Atlantic Flyway Canada geese pending decisions on an effort to rebuild populations of Canada geese in southern areas presently under consideration by the Atlantic Flyway Council. For this reason the Service continues to believe that it is not desirable to make the requested changes at this time. However, this matter will be pursued further during the coming

year in consultation with Maryland and Massachusetts in an effort to find an appropriate solution to these local goose problems.

The proposed frameworks relating to the Mississippi Valley Population of Canada geese were the subject of 31 comments. Of these, 6 originated from State conservation agencies, 5 from conservation organizations, 2 from State legislators, 2 from the Mississippi Flyway Council, 14 from individuals, and 2 from members of Congress. Most expressed views on the harvest quotas assigned to Wisconsin and Illinois; 19 comments originated from Wisconsin while 3 came from Illinois.

Response. In the **Federal Register** dated August 20, 1982 (at 47 FR 36580), the Service provided a detailed explanation of how the proposed harvest quotas were developed this year. Because of the widely differing views on appropriate regulations for these geese, expressed during the comment period, the proposed regulations were re-examined and the suggested changes carefully evaluated in the light of information available on the likely status of MVP geese in 1982. No significant new information or data were presented which would suggest a change in any of the information previously available to the Service or in the desirability of changing the harvest regulations proposed in the August 20, 1982 **Federal Register**. Therefore, the Service believes that the regulation should remain as proposed. No change is made in the following final frameworks.

An exception to this relates to the proposed area where the Canada goose season would be restricted to 40 days for MVP Canada geese in Kentucky. The Service proposed expanding the area to all or parts of 14 western counties, compared to 4 counties previously used to delineate the harvest area of Mississippi Valley Population (MVP) Canada geese on recommendation of the Upper Region of the Mississippi Flyway Council. Kentucky noted that much of the enlarged area had been considered as within the range of Tennessee Valley Population Canada geese, and provided limited band recovery data to support that contention. In a second letter, Kentucky noted that the proposed new boundary would result in a 70-day season on that portion of Kentucky Lake which is in Tennessee but only a 40-day season on the Kentucky portion of the lake.

Response. The Service, after consideration of Kentucky's comments and supporting information and examination of additional information, has modified and shifted the boundary separating the 70- and 40-day season areas westward. The reduced area in which the 40-day season applies should continue to give adequate protection to MVP Canada geese. It also eliminates a season length incongruity between Kentucky and Tennessee. The revised boundary is shown in the final frameworks.

Michigan reiterates its interest in a framework that would permit a September 26 opening for waterfowl in the Upper Peninsula, specifically for a three year experimental early season for Canada geese.

Response. The Service addressed the question of earlier waterfowl season frameworks in Michigan in the **Federal Register** dated June 15, 1982 (at 47 FR 25923) and repeated in the **Federal Register** dated August 20, 1982 (at 47 FR 36581), and gave reasons why it did not favor these requests. Insofar as the earlier goose season is concerned, the Service finds it inconsistent to implement measures to increase the harvest of Mississippi Valley Population Canada geese in Michigan while relatively severe harvest restrictions are being implemented elsewhere in the U.S. range of these geese.

Nontoxic Shot Regulations

On August 13, 1981, the Service published in the **Federal Register** (46 FR 40879) final rules describing nontoxic shot zones for waterfowl hunting. When eaten by waterfowl, spent lead pellets can have a toxic effect Nontoxic shot zones reduce availability of lead pellets in selected waterfowl feeding areas.

Amendments to these regulations were published in the **Federal Register** (47 FR 32546; July 28, 1982). These amendments relate to changes in Indiana, Maine, Massachusetts, and Nebraska. Colorado, South Dakota, and Texas have regulations requiring steel shot for waterfowl hunting in areas that are not included in the Federal regulations published in the **Federal Register** on August 13, 1981 (46 FR 40879). Zones in other States will remain as they were described on August 13, 1981 (46 FR 40879).

Some national wildlife refuges require use of steel shot on hunting areas within their boundaries, and these rules are published with other regulations regarding public use of the refuges (Title 50 CFR Part 32—Hunting).

Waterfowl hunters are advised to become familar with State and local regulations regarding the use of nontoxic shot for waterfowl hunting.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75-54)" was filed with the Council of Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. Copies of these documents are available from the Service.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" [and] ". . . by taking such action necessary to insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species . . . which is determined to be critical." The Service therefore initiated Section 7 consultation under the Endangered Species Act for the proposed hunting season frameworks.

On July 1, 1982, Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, concluded:

"Therefore, it is my biological opinion that your action, as proposed, is not likely to jeopardize the continued existence of the above listed species or result in the destruction or adverse modification of the American peregrine falcon, whooping crane, or Everglade kite Critical Habitat.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species.

The Service's biological opinion resulting from its consultation under Section 7 is considered a public document and is available for public inspection in or available from the Office of Endangered Species and the Office of Migratory Bird Management, Department of the Interior, Washington, D.C.

Regulatory Flexibility Act and Executive Order 12291

In the **Federal Register** dated April 19, 1982 (at 47 FR 16722), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and

an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Memorandum of Law

The Service published its Memorandum of Law, required by Section 4 of Executive Order 12291, in the **Federal Register** dated July 19, 1982 (at 47 FR 31283).

Authorship

The primary author of this final rule is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed late hunting season rulemakings were published on April 19, June 15, and August 20, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the States would have insufficient time to select their season dates, shooting hours, and limits; to communicate those selections to the Service; and finally establish and publicize the necessary regulations and procedures to implement their decisions.

Therefore, the Service under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended, (40 Stat. 755; 16 U.S.C. 701–711), prescribes final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials may select hunting season dates and other options. Upon receipt of season and option selections from State officials, the Service will publish in the **Federal Register** final rulemaking amending 50 CFR Part 20 (§§ 20.104 through 20.107 and § 20.109) to reflect seasons, limits, and shooting hours for the contiguous United States for the 1982–83 season.

The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

BILLING CODE 4310-55-M

3. The season must be limited to areas mutually agreed upon between

Final Regulations Frameworks for 1982–83 Late Hunting Seasons

Final Regulations Frameworks for 1982-83 Late Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved final frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting waterfowl, coots, and gallinules; and common snipe in the Pacific Flyway. Frameworks are summarized below. States may be more restrictive in selecting season regulations, but may not exceed the framework provisions.

GENERAL

Split Season: States in all Flyways may split their season for ducks, geese, or brant into two segments of equal or unequal lengths. States in the Atlantic and Central Flyways may, in lieu of zoning, split their season for ducks or geese into three segments of equal or unequal lengths. Exceptions are noted in appropriate sections.

Shooting Hours: Between one-half hour before sunrise and sunset daily in all States, for all species, and for all seasons. The hours noted here also apply to hawking (taking by falconry).

Extra Blue-winged Teal: States in the Mississippi and Central Flyways selecting neither a teal or early duck season in September nor the point system may select an extra daily bag and possession limit of 2 and 4 blue-winged teal, respectively, for 9 consecutive days designated during the regular duck season. These extra limits are in addition to the regular duck bag and possession limits.

Extra teal: States in the Atlantic Flyway (except Florida) not selecting the point system may select an extra teal limit for 9 consecutive days during the regular duck season of no more than 2 blue-winged teal or 2 green-winged teal or 1 of each daily and no more than 4 singly or in the aggregate in possession.

Special Scaup-only Season: States in the Atlantic, Mississippi, and Central Flyways may select a special scaup-only hunting season not to exceed 16 consecutive days, with daily bag and possession limits of 5 and 10 scaup, respectively, subject to the following conditions:

1. The season must fall between October 1, 1982, and January 31, 1983, all dates inclusive.

2. The season must fall outside the open season for any other ducks except sea ducks.

3. The season must be limited to areas mutually agreed upon between the State and the Service prior to September 1, 1982.

4. These areas must be described and delineated in State hunting regulations.

OR

Extra Scaup: As an alternative, States in the Atlantic, Mississippi, and Central Flyways, except those selecting a point system, may select an extra daily bag and possession limit of 2 and 4 scaup, respectively, during the regular duck hunting season, subject to conditions 3 and 4 listed above. These extra limits are in addition to the regular duck limits and apply during the entire regular duck season.

Point System: Selection of the point system for any State entirely within a flyway must be on a statewide basis, except if New York selects the point system, conventional regulations may be retained for the Long Island Area. New York may not select the point system within the Upstate zoning option, and Maine, New Hampshire, Massachusetts, Connecticut, Pennsylvania, and West Virginia may not select the point system pending completion of zoning studies.

Deferred Season Selections: States that did not select their rail, woodcock, snipe, sandhill crane, gallinule, and sea duck seasons in July should do so at the time they make their waterfowl selections.

Frameworks for open seasons and season lengths, bag and possession limit options, and other special provisions are listed below by Flyway.

ATLANTIC FLYWAY

Ducks, Coots, and Mergansers

Outside Dates: Between October 1, 1982, and January 20, 1983.

Hunting Season: 50 days.

Daily Bag and Possession Limits (including restrictions on black ducks): (a) basic daily bag and possession limits of 4 and 8 ducks, respectively, of which no more than 2 in the daily bag and 4 in possession may be black ducks; or (b) basic daily bag and possession limits of 5 and 10 ducks, respectively, of which no more than 1 in the daily bag and 2 in possession may be black ducks.

Canvasbacks and Redheads: Except in closed areas, the limit on canvasbacks is 1 daily and 1 in possession. The limit on redheads throughout the flyway is 2 daily, except that in areas open to canvasback harvest the daily bag limit is 2 redheads, or 1 redhead and 1 canvasback. The possession limit on redheads is twice the daily bag limit under conventional regulations. The canvasback possession limit is equal to the daily bag limit. Under the point system, canvasbacks (except in closed areas) count 100 points each and redheads flywaywide count 70 points each. Areas closed to canvasback hunting are:

New York - Upper Niagara River between the Peace Bridge at Buffalo, New York, and the Niagara Falls. All waters of Lake Cayuga.

New Jersey - Those portions of Monmouth County and Ocean County lying east of the Garden State Parkway.

Maryland, Virginia and North Carolina - Those portions of each State lying east of U.S. Highway 1.

Restrictions on Wood Ducks: Under conventional and point system options, the daily bag and possession limits may not include more than 2 and 4 wood ducks, respectively.

Early Wood Duck Season Option: Virginia, North Carolina, South Carolina, and Georgia may split their regular hunting season so that a hunting season not to exceed 9 consecutive days occurs between October 1 and October 15. During this period under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the flyway shall apply to wood ducks. Under the point system, wood ducks shall be 25 points. For other ducks, daily bag and possession limits shall be the same as established for the flyway under conventional or point system regulations. For those States using conventional regulations, the extra teal option may be selected concurrent with the early wood duck season option. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

Merganser Limits: The daily bag limit on mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag and possession limits of coots are 15 and 30, respectively.

Lake Champlain Area, New York Follows Vermont: The Lake Champlain Area of New York must follow the waterfowl seasons, daily bag and possession limits, and shooting hours selected by Vermont. This area includes that part of New York lying east and north of a boundary running south from the Canadian border along U.S. Highway 9 to New York Route 22 south of Keeseville, along New York Route 22 to South Bay, along and around the shoreline of South Bay to New York Route 22, along New York Route 22 to U.S. Highway 4 at Whitehall, and along U.S. Highway 4 to the Vermont border.

Special Scaup and Goldeneye Season: In lieu of a special scaup season, Vermont may, for the Lake Champlain Area, select a special scaup and goldeneye season not to exceed 16 consecutive days, with a daily bag limit of 3 scaup or 3 goldeneyes or 3 in the aggregate and a possession limit of 6 scaup or 6 goldeneyes or 6 in the aggregate, subject to the same provisions that apply to the special scaup season elsewhere.

Zoning:

Long Island: New York may, for Long Island, select season dates and daily bag and possession limits which differ from those in the remainder of the State.

Upstate New York: Upstate New York (excluding the Lake Champlain area) may be divided into three zones (West, North, South) on an operational basis for the purpose of setting separate duck, coot and merganser seasons. Option (a) or (b) for seasons and bag limits is applicable to the zones in the Upstate area within the Flyway framework; only conventional regulations may be selected. Each zone will be permitted the full number of days offered under options (a) or (b). In addition, a 2-segment split season without penalty may be selected in each zone. The basic daily bag limit on ducks in each zone and the restrictions applicable to
options (a) and (b) of the regular season for the Flyway also apply. Teal and scaup bonus bird options shall be applicable to the Upstate zones, but the 16-day special scaup season will not be allowed.

New York Zone Definitions: The zones are defined as follows:

The West Zone is that portion of Upstate New York lying west of a line commencing at the north shore of the Salmon River and its junction with Lake Ontario and extending easterly along the north shore of the Salmon River to its intersection with Interstate Highway 81, then southerly along Interstate Highway 81 to the Pennsylvania border.

The North and South Zones are bordered on the west by the boundary described above and are separated from each other as follows: starting at the intersection of Interstate Highway 81 and State Route 49 and extending easterly along State Route 49 to its junction with State Route 365 at Rome, then easterly along State Route 365 to its junction with State Route 28 at Trenton, then easterly along State Route 28 to its junction with State Route 29 at Middleville, then easterly along State Route 29 to its intersection with Interstate Highway 87 at Saratoga Springs, then northerly along Interstate Highway 87 to its junction with State Route 9, then northerly along State Route 9 to its junction with State Route 149, then easterly along State

New Hampshire

Route 9 to its junction with State Route 149, then easterly along State Route 149 to its junction with State Route 4 at Fort Ann, then northerly along State Route 4 to its intersection with the New York/Vermont boundary.

Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, Pennsylvania, and West Virginia: Maine and Connecticut may implement their current zoned season programs on an operational basis. New Hampshire, Massachusetts, and West Virginia each may be divided into two zones on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. New Jersey may be divided into three zones and Pennsylvania may be divided into four zones for the same purpose. Option (a) or (b) for seasons and bag limits is applicable to the zones within the Flyway framework. Only conventional regulations may be selected in Maine, New Hampshire, Massachusetts, Connecticut, West Virginia, and Pennsylvania. New Jersey must select the point system. Each zone will be permitted the full number of days offered under options (a) or (b). In addition, a two-segment split season without penalty may be selected. The basic daily bag limit on ducks in each zone and the restrictions applicable to options (a) and (b) of the regular season for the Flyway also apply. Teal and scaup bonus bird options, and the 16-day special scaup season shall be allowed.

Zone definitions:

Connecticut

North Zone - That portion of the State north of Interstate 95.

South Zone - That portion of the State south of Interstate 95.

Maine

North Zone - Game Management Zones 1 through 5.

South Zone - Game Management Zones 6 through 8.

Massachusetts

Coastal Zone - Beginning at the New Hampshire-Massachusetts border, that portion of the State east and south of a boundary formed by Interstate 95, south to U.S. Route 1, south to Interstate 93, south to Route 3, south to U.S. Route 6, southwest to Route 28, northwest to Interstate 195, and west to the Rhode Island line.

Inland Zone - That portion of the State west and north of the above boundary.

New Hampshire

Coastal Zone — Beginning at the Maine-New Hampshire line in Rollinsford, that portion of the State east of a boundary formed by State Highway 4 west to the city of Dover, south to the intersection of State Highway 108, south along State Highway 108 through Madbury, Durham, and Newmarket to the junction of State Highway 85 in Newfields, south to State Highway 101 in Exeter, east to State Highway 51 (Exeter-Hampton Expressway), east to Interstate 95 (New Hampshire Turnpike) in Hampton, and south to the Massachusetts line.

Inland Zone — That portion of the State west of the above boundary.

New Jersey

Coastal Zone — That portion of New Jersey seaward of a continuous line beginning at the New York State boundary line in Raritan Bay; then west along the New York boundary line to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with the Garden State Parkway; then south on the Garden State Parkway to the shoreline at Cape May City and continuing to the Delaware boundary in Delaware Bay.

North Zone - That portion of New Jersey west of the Coastal Zone and north of a boundary formed by Route 70, west to the New Jersey Turnpike, north on the turnpike to Route 206, north on Route 206 to Route 1, Trenton, west on Route 1 to the Pennsylvania State boundary in the Delaware River.

South Zone - That portion of New Jersey not within the North Zone or the Coastal Zone.

Pennsylvania

Lake Erie Zone - The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

North Zone - That portion of the State north of I-80 from the New Jersey State line west to the junction of State Route 147, then north on State Route 147 to the junction of Route 220, then west and/or south on Route 220 to the junction of I-80, then west on I-80 to its junction with the Allegheny River, and then north along but not including the Allegheny River to the New York border.

Northwest Zone - That portion of the State bounded on the north by the Lake Erie Zone and the New York line, on the east by and including the Allegheny River, on the south by Interstate Highway I-80, and on the west by the Ohio line.

South Zone - The remaining portion of the State.

West Virginia

Allegheny Mountain Upland Zone (contained within the circumscribed boundaries below).

The north boundary is the State line adjacent to Pennsylvania and Maryland. The eastern boundary extends south along U.S. Route 220 through Keyser, West Virginia, to the intersection of U.S. Route 50, and follows U.S. Route 50 to the intersection with State Route 93. The boundary follows State Route 93 south to the intersection with State Route 42 and continues south on State Route 42 to Petersburg. At Petersburg, the boundary follows State Route 28 south to Minnehaha Springs, and then follows State Route 39 west to U.S. Route 219 and follows 219 south to the intersection of Interstate 64. The southern boundary follows I-64 west to the intersection with U.S. Route 60, and follows Route 60 west to the intersection of U.S. Route 19. The western boundary follows Route 19 north to the intersection of I-79, and follows I-79 north to the Pennsylvania State line.

Remainder of the State - That portion outside the above boundaries.

Point System Option for all States in the Atlantic Flyway: As an alternative to conventional bag limits for ducks, a 50-day season with a point-system bag limit may be selected by States in the Atlantic Flyway during the framework dates prescribed. Point values for species and sexes taken are as follows: in Florida only, the fulvous tree duck counts 100 points each; in all States the canvasback counts 100 points each (except in closed areas); the female mallard, black duck, mottled duck, wood duck (except in Virginia, North Carolina, South Carolina, and Georgia during the early wood duck season option), redhead, and hooded merganser count 70 points each; the blue-winged teal, green-winged teal, pintail, gadwall, wigeon, shoveler, scaup, sea ducks, and mergansers (except hooded) count 10 points each; the male mallard, the wood duck during the early wood duck season option in Virginia, North Carolina, South Carolina, and Georgia, and all other species of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

Sea Ducks: In any State in the Atlantic Flyway selecting both point-system regulations and a special sea duck season, sea ducks count 10 points each during the point-system season, but during any part of the sea duck season falling outside the point-system season, sea duck daily bag and possession limits of 7 and 14, respectively, apply.

Coot Limits: Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Canada Geese

Outside Dates, Season Lengths, and Limits: Between October 1, 1982, and January 20, 1983, Maine, New Hampshire, Vermont, Massachusetts, Pennsylvania, West Virginia, Maryland, and Virginia (excluding those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17) may select 70-day seasons on Canada geese; the daily bag and possession limits are 3 and 6 geese, respectively. However, in the area comprised of New York (including Long Island), Rhode Island, Connecticut, New Jersey, Delaware, the Delmarva Peninsula portions of Maryland and Virginia, and that portion of Pennsylvania lying east and south of a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on U.S. Highway 22 to the New Jersey border, the Canada goose season length may be 90 days with the closing framework date extended to January 31, 1983. The daily bag limit within this area (except New York, Rhode Island, and Connecticut) will be 4 birds with a possession limit of 8 birds. The daily bag and possession limits in New York, Rhode Island, and Connecticut will be 3 and 6, respectively. Those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17 in Virginia may select a 50-day season on Canada geese within the October 1, 1982, to January 20, 1983, framework; the daily bag and possession limits are 2 and 4 Canada geese, respectively. North Carolina and South Carolina may select a 43-day season on Canada geese within a December 20, 1982, to January 31, 1983, framework; the daily bag and possession limits are 1 and 2 Canada geese, respectively.

Closures on Canada Geese: The season is closed on Canada geese in Florida and Georgia.

Snow Geese

Outside Dates, Season Lengths, and Limits: Between October 1, 1982, and January 31, 1983, States in the Atlantic Flyway may select 90-day seasons on snow geese (including blue geese); the daily bag and possession limits are 4 and 8 geese, respectively.

Atlantic Brant

Outside Dates, Season Lengths, and Limits: Between October 1, 1982, and January 20, 1983, States in the Atlantic Flyway may select 30-day seasons on Atlantic brant; the daily bag and possession limits are 2 and 4 brant, respectively.

MISSISSIPPI FLYWAY

Wisconsin - In the Mississippi River Zone, all that part of Wisconsin west

MISSISSIPPI FLYWAY

Ducks, Coots, and Mergansers

Outside Dates: Between October 2, 1982, and January 20, 1983, in all States, except that the framework opening date is September 18 in Iowa and October 1 in Wisconsin, and the framework closing date is January 31 in Mississippi.

Hunting Season: Not more than 50 days.

Limits: The daily bag limit for ducks is 5, and may include no more than 3 mallards (no more than 2 of which may be female mallards), 1 black duck, and 2 wood ducks (except as noted below). The possession limit is 10, including no more than 6 mallards (no more than 4 of which may be female mallards), 2 black ducks, and 4 wood ducks (except as noted below).

Canvasback and Redhead Limits: Except in closed areas, the conventional limit on canvasbacks and redheads is 1 daily and 2 in possession for each species. Under the point system, canvasbacks count 100 points each (except in closed areas) and redheads count 70 points each.

Closed Areas for Canvasback Hunting:

Mississippi River - Entire river, both sides, from Alton Dam upstream to Prescott, Wisconsin, at confluence of St. Croix River.

Alabama - Baldwin and Mobile Counties.

Louisiana - Caddo, St. Charles, and St. Mary Parishes; that portion of Ward 1 formerly designated as Ward 6 of St. Martin Parish; and Catahoula Lake in LaSalle and Rapides Parishes.

Michigan - Arenac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola, and Wayne Counties, and those adjacent waters of Saginaw Bay south of a line extending from Point au Gres in Sec. 6, T18N, R7E (Arenac County) to Sand Point in Sec. 11, T17N, R9E (Huron County), the St. Clair River, Lake St. Clair, the Detroit River and Lake Erie, under jurisdiction of the State of Michigan.

Minnesota - Douglas, Mahnomen, Polk, Pope, and Sibley Counties. Where the county line of any of the above counties crosses any portion of a lake, that entire lake is closed. In addition, all land in Sec. 13, T130N, R31W (i.e., land between Lake Christina and Pelican Lake) is closed.

Ohio - Land and water areas comprising Erie, Ottawa, and Sandusky Counties.

Tennessee - Kentucky Lake lying north of Interstate Highway 40.

Wisconsin - In the Mississippi River Zone, all that part of Wisconsin west of the Burlington-Northern Railroad in Grant, Crawford, Vernon, LaCrosse, Trempealeau, Buffalo, Pepin, and Pierce Counties. Also, the following lakes and waters, including a strip of land 100 yards wide adjacent to the shorelines thereof: Lake Poygan in Winnebago and Waushara Counties and Lakes Winneconne and Butte des Morts, including the connecting waters thereof, in Winnebago County.

Merganser Limits: The daily bag limit on mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag and possession limits on coots are 15 and 30, respectively.

Point System Option: As an alternative to conventional bag limits for ducks, a 50-day season with point-system bag and possession limits may be selected by States in the Mississippi Flyway during the framework dates prescribed. Point values for species and sexes taken are as follows: except in closed areas, the canvasback counts 100 points; the redhead, female mallard, wood duck (except as noted below), black duck, and hooded merganser count 70 points each; the pintail, blue-winged teal, cinnamon teal, wigeon, gadwall, shoveler, scaup, green-winged teal, and mergansers (except hooded merganser) count 10 points each; the male mallard and all other species of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

Coot Limits—Point System: Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Early Wood Duck Season Option: Arkansas, Louisiana, Mississippi, and Alabama may split their regular duck hunting seasons in such a way that a hunting season not to exceed 9 consecutive days may occur between October 2 and October 15. During this period, under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the Flyway shall apply to wood ducks, and under the point system, the point value for wood ducks shall be 25 points. For other species of ducks, daily bag and possession limits shall be the same as established for the Flyway under conventional or point system regulations. In addition, the extra blue-winged teal option available to States in this Flyway that select conventional regula-

tions and do not have a September teal season may be selected during this period. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

Western Louisiana: In that portion of Louisiana west of a boundary beginning at the Arkansas-Louisiana border on Louisiana Highway 3; then south along Louisiana Highway 3 to Bossier City; then east along Interstate 20 to Minden; then south along Louisiana Highway 7 to Ringgold; then east along Louisiana Highway 4 to Jonesboro; then south along U.S. Highway 167 to Lafayette; then southeast along U.S. Highway 90 to Houma; then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass—the season on ducks, coots and mergansers may extend 5 additional days, provided that the season opens no later than November 6, 1982. If the 5-day extension is selected, and if point-system regulations are selected for the State, point values will be the same as for the rest of the State.

Pymatuning Reservoir Area, Ohio: The waterfowl seasons, limits, and shooting hours in the Pymatuning Reservoir area of Ohio will be the same as those selected by Pennsylvania. The area includes Pymatuning Reservoir and that part of Ohio bounded on the north by County Road 306 known as Woodward Road, on the west by Pymatuning Lake Road, and on the south by U.S. Highway 322.

Zoning: Alabama, Illinois, Indiana, Michigan, Missouri, Ohio, and Tennessee may select hunting seasons on ducks, coots, and mergansers by zones described as follows:

Alabama: South Zone - Mobile and Baldwin Counties. North Zone - The remainder of Alabama. The season in the South Zone may be split.

Illinois: North Zone - That portion of the State north of a line running east from the Iowa border along Illinois Highway 17 to I-74, north along I-74 to I-80, then east along I-80 to the Indiana border. Central Zone - That portion of the State between the North and South Zone boundaries. South Zone - That portion of the State south of a line running east from the Missouri border along Illinois Highway 150 to Illinois Highway 4, north along Illinois Highway 4 to Illinois Highway 15, east along Illinois Highway 15 to I-57, north along I-57 to I-70, then east along I-70 to the Indiana border.

Indiana: North Zone - That portion of Indiana north of State Highway 18. South Zone - The remainder of Indiana.

Michigan: North Zone - That portion of the State north of a line extending east from the mouth of the Manistee River along the south bank to the U.S. 31 bridge, south on old U.S. 31 to East Preuss Road, east on East Preuss Road to Huer Road, north on Huer Road to County 591 in Stronach, east on County 591 to M-55, east on M-55 to M-37, south on M-37 to M-82, east on M-82 to U.S. 131, north on U.S. 131, then east on M-46 to Port Sanilac. South Zone - The remainder of Michigan.

Missouri: North Zone - That portion of Missouri north of a line running east from the Kansas border along U.S. Highway 54 to U.S. Highway 65, south along U.S. Highway 65 to State Highway 32, east along State Highway 32 to State Highway 72, east along State Highway 72 to State Highway 34, then east along State Highway 34 to the Illinois border. South Zone - The remainder of Missouri. Missouri may split its season in each zone into two segments.

Ohio: North Zone - The counties of Darke, Miami, Clark, Champaign, Union, Delaware, Licking, Muskingum, Guernsey, Harrison, and Jefferson and all counties north thereof. In addition, the North Zone also includes that portion of the Buckeye Lake area in Fairfield and Perry Counties bounded on the west by State Highway 37, on the south by State Highway 204, and on the east by State Highway 13. South Zone - The remainder of Ohio. Ohio may split its season in each zone into two segments.

Tennessee: Reelfoot Zone - Lake and Obion Counties, or a designated portion of that area. State Zone - The remainder of Tennessee.

Within each State: (1) the same bag limit option must be selected for both zones; and (2) if a special scaup season is selected for a zone, it shall not begin until after the regular season closing date in that zone.

Geese

Definition: For the purpose of hunting regulations listed below, the term "geese" also includes brant.

Outside Dates, Season Lengths, and Limits: Between October 2, 1982, and January 20, 1983, States in this Flyway may select 70-day seasons on geese, with a daily bag limit of 5 geese, to include no more than 2 white-fronted geese. The possession limit is 10 geese, to include no more than 4 white-fronted geese. Regulations for Canada geese and exceptions to the above general provisions are shown below by State.

Outside Dates and Limits on Snow and White-fronted Geese in Louisiana: Between October 2, 1982, and February 14, 1983, Louisiana may select 70-day seasons on snow (including blue) and white-fronted geese by zones established for duck hunting seasons, with daily bag and possession limits as described in the above paragraph.

Minnesota. In the:

(b) Mississippi River Zone (that portion of the State west of the Burlington-

Minnesota. In the:

(a) Lac Qui Parle Zone (described in State Regulations)—the season on Canada geese closes after 50 days or when 5,500 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose and the possession limit is 4.

(b) Southeastern Zone (described in State regulations)—the season for Canada geese may extend for 70 consecutive days. The daily bag limit is 2 Canada geese and the possession limit is 4.

(c) Remainder of the State—the season on Canada geese will be concurrent with the duck season. The daily bag limit is 2 Canada geese and the possession limit is 4.

Iowa: The season may extend for 70 consecutive days. The daily bag limit is 2 Canada geese and the possession limit is 4.

Missouri. In the:

(a) Swan Lake Zone (described in State regulations)—the season on Canada geese closes after 70 days or when 20,000 birds have been harvested, whichever occurs first. Through November 21, the daily bag limit is 1 Canada goose and the possession limit is 4. After November 21, the daily bag limit is 2 Canada geese and the possession limit is 4.

(b) Southeastern Area (east of U.S. Highway 67 and south of Crystal City)—State may select a 50-day season on Canada geese between December 1, 1982, and January 20, 1983, with a daily bag limit of 2 Canada geese and a possession limit of 4.

(c) Remainder of the State—the season on Canada geese will be concurrent with the duck season in the respective duck hunting zones. The daily bag limit is 2 Canada geese, and the possession limit is 4.

Wisconsin: The framework opening date for geese is October 1. The harvest of Canada geese is limited to 18,000 birds. In the:

(a) Horicon and Central Zones (described in State regulations)—the season for Canada geese may not exceed 40 days and the season bag and possession limit is 1 bird.

(b) Mississippi River Zone (that portion of the State west of the Burlington-Northern Railroad in Grant, Crawford, Vernon, LaCrosse, Trempealeau, Buffalo, Pepin, and Pierce Counties)—the season for Canada geese may not exceed 70 days. Through November 24, the daily bag limit is 1 Canada goose and the possession limit is 2. After November 24, the daily bag limit is 2 Canada geese and the possession limit is 4.

(c) Remainder of the State—the season for Canada geese may not exceed 30 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

Illinois: Seasons on geese up to 40 days may be selected by zones established for duck hunting seasons, except that in the South Zone the season will close no later than December 31. The harvest of Canada geese is limited to 27,000, with 17,500 birds allocated to the Southern Illinois Zone (described in State regulations). In the Southern Illinois Zone, the daily bag limit is 2 Canada geese and the possession limit is 4. Elsewhere in Illinois, the daily bag limit is 1 Canada goose and the possession limit is 4.

In the Tri-County Area (all of Knox County; in Fulton County the townships of Buckhart, Canton, Cass, Deerfield, Fairview, Farmington, Joshua, Orion, Putnam, and that portion of Banner Township bounded on the north by Illinois Route 9 and on the east by U.S. 24; in Henry County the townships of Alba, Annawan, Atkinson, and Cornwall), the season for Canada geese may extend for 10 days or until a quota of 700 birds is reached, whichever occurs first. The daily bag limit is 1 Canada goose and the possession limit is 4.

Michigan. In the:

(a) Counties of Baraga, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee, and Ontonagon—the season for Canada geese may extend for 40 days. The daily bag limit is 2 Canada geese and the possession limit is 4.

(b) Southeastern Canada Goose Management Area (described in State regulations)—the season for Canada geese may not exceed 107 days between October 2, 1982, and February 15, 1983. During that portion of the season which coincides with the duck hunting season in the South Zone, the daily bag limit is 2 Canada geese and the possession limit is 4. During that portion of the season which occurs after the close of the duck season in the South Zone, the daily bag limit is 3 Canada geese and the possession limit is 6.

(c) Remainder of the State—the daily bag limit is 2 Canada geese and the possession limit is 4.

Ohio: The daily bag limit is 2 Canada geese and the possession limit is 4, except that in the counties of Ashtabula, Trumbull, Marion, Wyandot, Lucas, Ottawa, Erie, Sandusky, Mercer, and Auglaize, the daily bag limit is 1 Canada goose and the possession limit is 2.

Indiana: The season for Canada geese may extend for 70 days, except in Posey County, where the season may not exceed 40 days. The daily bag limit is 2 Canada geese and the possession limit is 4. The goose seasons may be set by zones established for duck hunting.

Kentucky: The season for Canada geese may extend for 70 days, except in the area west of the following boundary where the season may not exceed 40 days: Starting at the Kentucky-Tennessee border at Fulton, Kentucky, extending northerly along the Purchase Parkway to I-24, east on I-24 to U.S. 641; northerly on U.S. 641 to U.S. 60; northeasterly on U.S. 60 to U.S. 41; and then northerly on U.S. 41 to the Kentucky-Indiana border. The daily bag limit is 2 Canada geese and the possession limit is 4.

Tennessee: The season for Canada geese may extend for 70 days, except in Lake, Obion, Weakley, and Carroll Counties, and those portions of Gibson and Dyer Counties north of State Highways 20 and 104 and east of U.S. Highway 45W, where the season may not exceed 40 days. The daily bag limit is 1 Canada goose and the possession limit is 2, except in that portion of the State west of State Highway 13, where the daily bag limit is 2 Canada geese and the possession limit is 4. In that portion of Tennessee bounded on the north by State Highways 20 and 104, and on the east by U.S. Highways 45W and 45, the season for Canada geese may extend for 40 days, with bag and possession limits of 2 and 4 birds, respectively.

Arkansas, Louisiana, and Mississippi: the season for Canada geese may extend for 40 days, with bag and possession limits of 2 and 4 birds, respectively.

Alabama: The season is closed on all geese in the counties of Henry, Russell, and Barbour. Elsewhere in Alabama, the daily bag limit is 2 Canada geese and the possession limit is 4.

Missouri and Illinois Quota Zone Closures: When it has been determined that the quota of Canada geese allotted to the Southern Illinois Zone, the Tri-County Area of Illinois, and the Swan Lake Zone of Missouri will have been filled, the season for taking Canada geese in the respective area will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing.

Shipping Restrictions: Geese taken in Illinois and Missouri and in the Kentucky counties of Ballard, Hickman, Fulton, and Carlisle may not be transported, shipped or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of licensed waterfowl hunters, provided that no hunter shall possess or transport more than the legally-prescribed possession limit of geese. Geese possessed or transported by persons other than the taker must be labeled with the name and address of the taker and the date taken.

CENTRAL FLYWAY

The Central Flyway includes Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide and the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Ducks (including mergansers) and Coots

Outside Dates: October 2, 1982, through January 23, 1983.

Hunting Season: The basic season in the Low Plains Unit may include no more than 60 days and in the High Plains Mallard Management Unit may include no more than 83 days provided that the last 23 days of such season must begin on or after December 11, 1982. The High Plains Unit, roughly defined as that portion of the Central Flyway which lies west of the 100th meridian, shall be described in State regulations. States may split their seasons into 2 or, in lieu of zoning, 3 segments.

Daily Bag and Possession Limits: Conventional limits on ducks (including mergansers), singly or in the aggregate, are 5 daily and 10 in possession. The aggregate daily bag limit on ducks (including mergansers) may include no more than 1 canvasback (note areas closed to canvasback hunting), 1 redhead, 1 female mallard, 1 hooded merganser, and 2 wood ducks. The possession limit may include no more than 1 canvasback (note areas closed to canvasback hunting), 2 redheads, 2 female mallards, 2 hooded mergansers, and 4 wood ducks. The daily bag and possession limits on coots are 15 and 30, respectively.

As an alternative to conventional bag and possession limits for ducks, States may select point system regulations.

Point Values: Canvasbacks count 100 points each (note areas closed to canvasback hunting); female mallards, Mexican-like ducks, mottled ducks (Texas only), wood ducks, redheads, and hooded mergansers count 70 points each; blue-winged teal, green-winged teal, cinnamon teal, scaup, pintails, gadwalls, wigeon, shovelers, and mergansers (except the hooded merganser) count 10 points each; all other species and sexes of ducks count 20 points each. The daily bag limit is reached when the point value of the last bird taken, when added to the sum of the point values of other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days. Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Closures. Areas closed to canvasback hunting are:

Zone 3. The Low Plains portions of Brown, Blaine, and Custer Counties and all of Rock, Holt, Loup, Garfield, Valley, Greeley, Sherman,

Closures. Areas closed to canvasback hunting are:

North Dakota - that portion lying east of State Highway 3, including all or portions of 27 counties.

South Dakota - all of Marshall County; that portion of Day County east of State Highway 25; that portion of Codington County south of State Highway 20 and west of U.S. Highway 81; that portion of Hamlin County west of U.S. Highway 81; and that portion of Kingsbury County east of State Highway 25 and north of U.S. Highway 14.

Zoning: Kansas, Montana, Nebraska, New Mexico, South Dakota, Oklahoma, and Wyoming may select hunting seasons on ducks, coots, and mergansers by zones described as follows:

Kansas: Two zones in the Low Plains portion of the State as follows:

Zone 1. That portion of south-central Kansas bounded by the State line and the following highways: on the west by U.S. 283; on the north by K-4, U.S. 81, U.S. 56, K-150, and U.S. 50; and on the east by K-99.

Zone 2. The remaining area within the Low Plains of Kansas.

Montana: Two zones in the Central Flyway portion as follows:

Zone 1. The counties of Bighorn, Blaine, Carbon, Daniels, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Richland, Roosevelt, Sheridan, Stillwater, Sweetgrass, Valley, Wheatland, and Yellowstone.

Zone 2. The counties of Carter, Custer, Dawson, Fallon, Powder River, Prairie, Rosebud, Treasure, and Wibaux.

Nebraska: Four zones within the Low Plains portion of the State as follows:

Zone 1. Keya Paha County east of U.S. Highway 183 and all of Boyd, Knox, Cedar, and Dixon Counties, including the adjacent waters of the Niobrara River.

Zone 2. The Low Plains portions of Dawson, Gosper, Frontier, and Furnas Counties and all of Boone, Buffalo, Phelps, Harlan, Hall, Kearney, Franklin, Merrick, Nance, Hamilton, Platte, Polk, Colfax, Butler, Dodge, Saunders, Douglas, Washington, and Wheeler Counties, including the adjacent waters of the Platte River.

Zone 3. The Low Plains portions of Brown, Blaine, and Custer Counties and all of Rock, Holt, Loup, Garfield, Valley, Greeley, Sherman, Howard, Antelope, Pierce, Madison, Wayne, Stanton, Cuming, Dakota, Thurston, and Burt Counties.

Zone 4. Adams, Webster, Clay, Nuckolls, York, Fillmore, Thayer, Seward, Saline, Jefferson, Lancaster, Gage, Sarpy, Cass, Otoe, Johnson, Nemaha, Pawnee, and Richardson Counties.

New Mexico: Two zones as follows:

Zone 1. That portion of northern New Mexico east of the Continental Divide and the Jicarilla Apache Indian Reservation and north of Interstate Highway 40 and U.S. Highway 54.

Zone 2. The remainder of the Central Flyway portion of New Mexico.

Oklahoma: Two zones in the Low Plains portion of the State as follows:

Zone 1. That portion of northwestern Oklahoma, except the Panhandle, bounded by the following highways: starting at the Texas-Oklahoma border, OK 33 to OK 47, OK 47 to U.S. 183, U.S. 183 to I-40, I-40 to U.S. 177, U.S. 177 to OK 51, OK 51 to I-35, I-35 to U.S. 60, U.S. 60 to U.S. 64, U.S. 64 to OK 132, and OK 132 to the Oklahoma-Kansas state line.

Zone 2. The remainder of the Low Plains portion of Oklahoma.

South Dakota: Two zones within the Low Plains portion of the State as follows:

South Zone. Bon Homme, Charles Mix, Clay, Gregory, Union, and Yankton Counties.

North Zone. The remainder of the Low Plains portion of South Dakota.

Wyoming: Four zones in the Central Flyway portion as follows:

Zone 1. Sheridan, Johnson, Natrona, Campbell, Crook, Weston, Converse, and Niobrara Counties.

Zone 2. Platte, Goshen, and Laramie Counties.

Zone 3. Carbon and Albany Counties.

Zone 4. Park, Big Horn, Hot Springs, Washakie, and Fremont Counties.

Geese

Definitions: In the Central Flyway, the terms "geese" include all species of geese and brant, "dark geese" include Canada and white-fronted geese and black brant, and "light geese" include all other species.

Outside Dates: October 2, 1982, through January 23, 1983, (except as noted for New Mexico).

Possession Limits: Goose possession limits are twice the daily bag limits.

West Tier States.

Montana: For its Central Flyway portion, Montana may select a season of 93 days. The daily bag limits are 2 geese in Sheridan County and 3 geese in the remainder of the Central Flyway portion.

Wyoming: Wyoming may select seasons of 93 days with daily bag limits of 2 geese for each of four Goose Management Units, which coincide with management zones for ducks, in the Central Flyway portion.

Colorado: Colorado may select, for the Central Flyway portion, a season of 93 days with a daily bag limit of 2 geese.

New Mexico: New Mexico, for the Central Flyway portion, may select a season for dark geese of 93 days with a daily bag limit of 2 during the period October 2, 1982, through January 23, 1983; and a season for light geese of 93 days with a daily bag limit of 5 during the period October 2, 1982, through February 13, 1983.

Texas (west of U.S. 81): Texas, for that portion west of U.S. Highway 81, may select a season of 93 days with a daily bag limit of 5 geese which may include no more than 2 dark geese.

East Tier States - Light geese.

North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (for that portion east of U.S. Highway 81) may select seasons for light geese of 86 days with daily bag limits of 5 geese.

East Tier States - Dark geese. States in this tier may select seasons, statewide or in designated management units, on dark geese of 72 days (except in Nebraska and South Dakota as noted) as follows:

North Dakota: The daily bag limits may include no more than 1 Canada goose and 1 white-fronted goose or 2 white-fronted geese through October 31, 1982, and no more than 2 Canada geese or 2 white-fronted geese or 1 of each during the remainder of the season.

South Dakota: In Bon Homme, Brule, Buffalo, Campbell, Charles Mix, Corson (east of SD Highway 65), Dewey, Gregory, Hughes, Hyde, Lyman, Potter, Stanley, Sully, Tripp (east of U.S. Highway 183), Walworth, and Yankton (west of U.S. Highway 81) Counties, the season length may not exceed 79 days and the daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose through November 12, 1982, and no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose for the remainder of the season. In the remainder of the State, the season length may not exceed 72 days and the daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose.

Nebraska: In Goose Management Unit 1 comprised of Boyd, Cedar (west of U.S. Highway 81), Keya Paha (east of U.S. Highway 183), and Knox Counties, the season length may not exceed 79 days and the daily bag limits may include no more than 1 Canada goose and 1 white-fronted goose through November 12, 1982, and no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose for the remainder of the season.

In Goose Management Unit 2, the remainder of Nebraska east of U.S. Highway 183, and in Goose Management Unit 3, that portion of Nebraska west of U.S. Highway 183, the daily bag limits may include no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 21, 1982, and no more than 1 Canada goose and 1 white-fronted goose for the remainder of the season.

Kansas: The daily bag limit may include no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 28 and no more than 1 Canada goose and 1 white-fronted goose during the remainder of the season.

Oklahoma: In Goose Management Unit 1 (that portion of western and southern Oklahoma bounded by the following highways: starting at the Kansas-Oklahoma line, U.S. 77 to U.S. 177, U.S. 177 to OK 33, OK 33 to U.S. 75, U.S. 75 to Indian Nation Turnpike, Indian Nation Turnpike to U.S. 271, and U.S. 271 to the Oklahoma-Texas line) and in Goose Management Unit 2 (the remainder of Oklahoma), the daily bag limits may include no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose.

Texas: In that portion east of U.S. Highway 81, the bag limit may include no more than 1 Canada goose and 1 white-fronted goose daily.

PACIFIC FLYWAY

Colorado, Montana, New Mexico, and Wyoming — Common Snipe: For States partially within the Flyway 93-day seasons on common snipe may be selected to

PACIFIC FLYWAY

The Pacific Flyway includes the States of Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, those portions of Colorado, Wyoming (including the Great Divide Basin), and New Mexico (including the Jicarilla Apache Indian Reservation) lying west of the Continental Divide, and that portion of Montana including and to the west of Hill, Chouteau, Cascade, Meagher, and Park Counties.

Ducks (including Mergansers), Coots, Gallinules, and Common Snipe

Outside Dates: Between October 2, 1982, and January 23, 1983.

Hunting Seasons: Concurrent 93-day seasons on ducks (including mergansers), coots, gallinules, and common snipe may be selected in Pacific Flyway States except as subsequently noted.

Duck Limits: Basic daily bag and possession limits on ducks (including mergansers) are 7 and 14, respectively. No more than 2 redheads or 2 canvasbacks or 1 of each may be taken daily and no more than 4 singly or in the aggregate may be possessed.

Coot and Gallinule Limits: The daily bag and possession limits on coots and gallinules are 25 singly or in the aggregate.

Common Snipe Limits: The daily bag and possession limits on common snipe are 8 and 16, respectively.

California—Waterfowl Zones: Season dates for the Colorado River Zone of California must coincide with season dates selected by Arizona. Season dates for the Northeastern Zone of California must coincide with season dates selected by Oregon. For the Southern Zone of California, the State may designate season dates differing from those in the remainder of the State.

Nevada—Clark County Waterfowl Zone: Nevada may designate season dates for Clark County differing from those in the remainder of the State.

"Columbia Basin" Portions of Washington, Oregon, and Idaho: In the Idaho counties of Ada, Bannock, Benewah, Blaine, Bonner, Boundary, Camas, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Kootenai, Latah, Lewis, Lincoln, Minidoka, Nez Perce, Owyhee, Payette, Power, Shoshone, Twin Falls, Washington, and that portion of Bingham County lying outside the Blackfoot Reservoir drainage; the Oregon counties of Baker, Gilliam, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco; and in Washington all areas lying east of the summit of the Cascade Mountains and east of the Big White Salmon River in Klickitat County, the seasons may be 100 days and must run concurrently.

Colorado, Montana, New Mexico, and Wyoming — Common Snipe: For States partially within the Flyway 93-day seasons on common snipe may be selected to occur between September 1, 1982, and February 28, 1983, and which need not be concurrent with the duck season.

Geese

Outside dates, season lengths, and limits on geese: Between October 2, 1982, and January 23, 1983, 93-day seasons on geese (except brant) may be selected in the Pacific Flyway States, except as subsequently noted. The basic daily bag and possession limits are 6, provided that the daily bag limit includes no more than 3 white geese (snow, including blue, and Ross' geese) and 3 dark geese (Canada and white-fronted geese); the daily bag and possession limits are proportionately reduced in those areas where special restrictions apply to Canada geese. In Washington and Idaho, the daily bag and possession limits are 3 and 6 geese, respectively.

Aleutian Canada goose closure: The season is closed on the Aleutian Canada goose. Emergency closures may be invoked for all Canada geese should Aleutian Canada goose distribution patterns or other circumstances justify such actions.

Canada goose closures in California: Three areas in California, described as follows, are restricted in the hunting of all Canada geese:

(1) In the counties of Del Norte and Humboldt there will be no open season on any Canada geese during the 1982-83 waterfowl hunting season.

(2) In the Sacramento Valley in that area bounded by a line beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes on the Sacramento River; then southerly on the Sacramento River to the Tisdale By-pass; then easterly on the Tisdale By-pass to where it meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45-162 to Glenn; then westerly on State Highway 162 to the point of beginning in Willows, the hunting season for taking any Canada geese will not open until December 15, 1982, and may continue to the end of the 1982-83 waterfowl hunting season.

(3) In the San Joaquin Valley in that area bounded by a line beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate Highway 5; then southerly on Interstate Highway 5 to the junction of State Highway 152 in Merced County; then easterly on State Highway 152 to the junction of State Highway 59; then northerly on State Highway 59 to the junction of State Highway 99 at Merced; then northerly and westerly to the point of beginning; the hunting season for taking any Canada geese will close on November 23, 1982.

Canada goose closures in Oregon: Those portions of Coos and Curry counties lying west of U.S. Highway 101 and that portion of Tillamook County lying south of an east-west line passing through the most westerly point of Cape Lookout shall be closed to the hunting of all Canada geese.

"Columbia Basin" Portions of Washington and Oregon—geese: In the Washington counties of Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla Walla, and Yakima, and in the Oregon counties of Gilliam, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco, the goose season may be of 100 days duration and must run concurrently with the duck season.

Oregon (Lake and Klamath Counties) — geese: In the Oregon counties of Lake and Klamath the daily bag and possession limits through October 29 are reduced to 2 and 4 geese, respectively, with no more than 1 and 2, respectively, being dark geese. Thereafter, the limits may be increased to those which are allowed for the Flyway.

California (Northeastern Zone) — geese: In the Northeastern Zone of California through October 29, the limits are 1 dark goose or 1 white goose in the daily bag and 2 geese in possession. Thereafter, the limits may be increased to 4 geese in bag and possession with not more than 2 dark geese or 3 white geese being in either the daily bag or possession.

California (Balance of the State Zone) — geese: In the Balance of the State Zone the season shall not exceed 79 days. The daily bag and possession limits are 5, with not more than 2 dark geese or 3 white geese in either the daily bag or possession.

Pacific Population of Canada geese—Idaho, Oregon, and Montana: In that portion of Idaho lying west of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border (except Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Lewis, Clearwater and Idaho Counties); in the Oregon counties of Baker and Malheur; and in Montana (Pacific Flyway portion west of the Continental Divide), the daily bag and possession limits are 2 Canada geese and the season on Canada geese may not extend beyond January 2, 1982.

Rocky Mountain Population of Canada Geese—Montana and Wyoming: In Montana (Pacific Flyway portion east of the Continental Divide) and Wyoming the season may not extend beyond January 2, 1982. In Lincoln County, Wyoming, the combined special sandhill crane-Canada goose season and the regular regular goose season shall not exceed 93 days.

Idaho, Colorado, and Utah: In that portion of Idaho lying east of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border; in Colorado; and in Utah, except Washington County, the daily bag and possession limits are 2 and 4 Canada geese, respectively, and the season on Canada geese may be no more than 86 days and may not extend beyond January 2, 1983.

Nevada—experimental zoning: Nevada may experimentally designate season dates on geese in Clark County, in Elko County, and in that portion of White Pine County within Ruby Lake National Wildlife Refuge differing from those in the remainder of the State. The daily bag and possession limits are 2 Canada geese throughout the State.

Arizona, Nevada, California, Utah, and New Mexico: In California, the Colorado River Zone where the season must be the same as that selected by Arizona and the Southern Zone; in Arizona; in New Mexico; in Clark County, Nevada; and in Washington County, Utah; the season on Canada geese may be no more than 86 days. The daily bag and possession limits are 2 Canada geese except in that portion of California Department of Fish and Game District 22 within the Southern Zone (i.e. Imperial Valley) the daily bag and possession limits on Canada geese are 1 and 2, respectively.

Washington—snow geese: In the Washington counties of Island, Skagit, Snohomish, and Whatcom, the seasons on snow geese may not extend beyond January 2, 1983.

Pacific Brant

Between October 23, 1982, and February 20, 1983, States in this Flyway may select an open season on Pacific brant of 93 days with daily bag and possession limits of 4 and 8 brant, respectively.

Whistling Swans

Whistling Swans

In Utah, Nevada and Montana, an open season for taking a limited number of whistling swans may be selected subject to the following conditions: (a) the season must run concurrently with the duck season; (b) in Utah, no more than 2,500 permits may be issued, authorizing each permittee to take 1 whistling swan; (c) in Nevada, no more than 500 permits may be issued, authorizing each permittee to take 1 whistling swan in Churchill County; (d) in Montana, no more than 500 permits may be issued authorizing each permittee to take 1 whistling swan in either Teton or Cascade Counties; and (e) the appropriate State agency must issue permits, obtain harvest and hunter participation data, and require successful hunters to immediately validate their harvests.

Sandhill Cranes

Arizona may select an experimental sandhill crane season subject to the conditions specified in the frameworks for early seasons.

SPECIAL FALCONRY FRAMEWORKS

Extended Seasons: Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States
may select an extended season for taking migratory game birds in accordance with the following:

Framework Dates: Seasons must fall within the regular season framework dates and, if offered and accepted, other special season framework dates for hunting.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting seasons and extended falconry seasons.

Regulations Publication: Each State selecting the special season must inform the Service of the season dates and publish said regulations.

Regular Seasons: General hunting regulations, including seasons, hours, and limits, apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

NOTE: In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season, or falconry season) exceed 107 days for a species in one geographical area.

Dated: September 2, 1982.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-25609 Filed 9-16-82; 8:45 am]

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federal register

Friday
September 17, 1982

Part IV

Department of Commerce

Patent and Trademark Office

Revision of Patent and Trademark Fees Confirmation

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 2

[Docket No. 2714-129]

Revision of Patent and Trademark Fees Confirmation

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Confirmation of rules.

SUMMARY: This document confirms certain rule changes for patent and trademark fees and fee-related procedures which take effect on October 1, 1982. These rule changes implement H.R. 6260 which was enacted as Pub. L. 97-247 on August 27, 1982.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT:

As to the patent rules contact: R. Franklin Burnett, by telephone at (703) 557-3054 or by mail addressed to the Commissioner of Patents and Trademarks, Attention: R. Franklin Burnett, Room 3-11A13, Washington, D.C. 20231.

As to the trademark rules contact: Miss Maude Williams, by telephone at (703) 557-2222 or by mail addressed to the Commissioner of Patents and Trademarks, Attention: Miss Maude Williams, Room 3-11C17, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: The Patent and Trademark Office is required by law to publish a notice in the **Federal Register** of its fees at least 60 days before the effective date thereof (35 U.S.C. 41 (g)). Thus, on July 30, 1982 a final rule document was published at 47 FR 33086 setting forth rule changes for patent and trademark fees and procedures which take effect on October 1, 1982. The document was based on the public law in effect at that time, Pub. L. 96-517 and on H.R. 6260, which was then pending but is now Pub. L. 97-247. The final rule document published on July 30, 1982, in the **Federal Register** sets out—

(1) Rules that are common to both Pub. L. 96-517 and H.R. 6260 (now Pub. L. 97-247);

(2) Alternative A which contains rule changes implementing Pub. L. 96-517 alone; and

(3) Alternative B which contains rule changes implementing H.R. 6260 (now Pub. L. 97-247).

H.R. 6260 was enacted as Public Law 97-247 on August 27, 1982, and the Patent and Trademark Office hereby confirms that the rule changes common to both Pub. L. 96-517 and H.R. 6260 and Alternative B are those which go into effect on October 1, 1982. The rules under Alternative A are hereby withdrawn. Additional rule changes required by Pub. L. 97-247 will be made the subject of separate rulemakings.

List of Subjects in 37 CFR Parts 1 and 2

Administrative practice and procedure, Courts, Inventions and patents, Lawyers, Nonprofit organizations, Small businesses, Trademarks.

Amendment of Regulations

For the reasons set out in the preamble, 37 CFR Parts 1 and 2 are confirmed as being amended by the final rule published on July 30, 1982 at 47 FR 33086 as set forth below.

Dated: September 14, 1982.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

1. The rule changes made in Alternative A relating to patents which begin at 47 FR 33107 and in Alternative A relating to trademarks which begin at 47 FR 33112 are hereby withdrawn.

2. Confirmed as effective October 1, 1982 are the rule changes published July 30, 1982 common to Pub. L. 96-517 and H.R. 6260 (now Pub. L. 97-247) and Alternative B. The rule changes relating to patents common to Pub. L. 96-517 and H.R. 6260 (now Pub. L. 97-247) were published on July 30, 1982 at 47 FR 33089. The rule changes relating to patents under Alternative B were published at 47 FR 33108. The rule changes relating to trademarks common to Pub. L. 96-517 and H.R. 6260 (now Pub. L. 97-247) were published on July 30, 1982 at 47 FR 33111. The rule changes relating to trademarks under Alternative B were published at 47 FR 33112. Corrections to the July 30, 1982 publication were published on August 4 and 5, 1982 at 47 FR 33668 and 33959.

3. For the convenience of the user, the rule changes common to Pub. L. 96-517 and H.R. 6260 and Alternative B have been integrated into numerical order and are reprinted below:

For the reasons indicated above and pursuant to the authority given to the Commissioner of Patents and Trademarks by 35 U.S.C. 6, and under Sections 31 and 41 of the Trademark Act of July 5, 1946, 15 U.S.C. 1113, and 1123, Parts 1 and 2 of Title 37, Code of Federal Regulations, are amended as set forth below.

PART 1—RULES OF PRACTICE IN PATENT CASES

1. Section 1.11 is amended by revising paragraph (c) to read as follows:

§ 1.11 Files open to the public.

* * * * *

(c) All requests for reexamination for which the fee under § 1.20(c) has been paid, will be announced in the *Official Gazette*. Any reexaminations at the initiative of the Commissioner pursuant to § 1.520 will also be announced in the *Official Gazette*. The announcement shall include at least the date of the request, if any, the reexamination request control number or the Commissioner initiated order control number, patent number, title, class and subclass, name of the inventor, name of the patent owner of record, and the examining group to which the reexamination is assigned.

* * * * *

2. Section 1.12 is revised to read as follows:

§ 1.12 Assignment records open to public inspection.

(a) The assignment records, relating to original or reissue patents, including digests and indexes, and assignment records relating to pending or abandoned trademark applications and to trademark registrations, are open to public inspection and copies of any instrument recorded may be obtained upon request and payment of the fee set forth in § 1.19(a)(5).

(b) Assignment records, digests, and indexes, relating to any pending or abandoned patent application are not available to the public. Copies of any such assignment records and information with respect thereto shall be obtainable only upon written authority of the applicant or applicant's assignee or attorney or agent or upon a showing that the person seeking such information is a bona fide prospective or actual purchaser, mortgagee, or licensee of such application, unless it shall be necessary to the proper conduct of business before the Office or as provided by these rules.

(c) Any request by a member of the public seeking copies of any assignment records of any pending or abandoned patent application preserved in secrecy under § 1.14, or any information with respect thereto, must (1) be in the form of a petition accompanied by the petition fee set forth in § 1.17(i) or (2) include written authority granting access to the member of the public to the particular assignment records from the applicant or applicant's assignee or attorney or agent of record.

(d) An order for a copy of an assignment should give the identification of the record. If identified only by the name of the patentee and number of the patent, or in the case of a

trademark registration by the name of the registrant and number of the registration, or by name of the applicant and serial number or international application number of the application, an extra charge as set forth in § 1.21(f) will be made for the time consumed in making a search for such assignment.

3. Section 1.14 is amended by adding a new paragraph (e) to read as follows:

§ 1.14 Patent applications preserved in secrecy.

* * * * *

(e) Any request by a member of the public seeking access to, or copies of, any pending or abandoned application preserved in secrecy pursuant to paragraphs (a) and (b) of this section, or of any papers relating thereto, must (1) be in the form of a petition and be accompanied by the petition fee set forth in § 1.17(i) or (2) include written authority granting access to the member of the public in that particular application from the applicant or the applicant's assignee or attorney or agent of record.

4. A new § 1.16 is added which reads as follows:

§ 1.16 National application filing fees.

(a) Basic fee for filing each application for an original patent, except design or plant cases:	
By a small entity (§ 1.9(f))	$150.00
By other than a small entity	300.00
(b) In addition to the basic filing fee in an original application, for filing or later presentation of each independent claim in excess of 3:	
By a small entity (§ 1.9(f))	15.00
By other than a small entity	30.00
(c) In addition to the basic filing fee in an original application, for filing or later presentation of each claim (whether independent or dependent) in excess of 20 (Note that § 1.75(c) indicates how multiple dependent claims are considered for fee calculation purposes.):	
By a small entity (§ 1.9(f))	5.00
By other than a small entity	10.00
(d) In addition to the basic filing fee in an original application, if the application contains, or is amended to contain, a multiple dependent claim(s), per application:	
By a small entity (§ 1.9(f))	50.00
By other than a small entity	100.00
(If the additional fees required by paragraphs (b), (c) and (d) are not paid on filing or on later presentation of the claims for which the additional fees are due, they must be paid or the claims cancelled by amendment, prior to the expiration of the time period set for response by the Office in any notice of fee deficiency.)	
(e) Surcharge for filing the basic filing fee or oath or declaration on a date later than the filing date of the application:	
By a small entity (§ 1.9(f))	50.00
By other than a small entity	100.00
(f) For filing each design application:	
By a small entity (§ 1.9(f))	62.50
By other than a small entity	125.00
(g) Basic fee for filing each plant application:	
By a small entity (§ 1.9(f))	100.00
By other than a small entity	200.00
(h) Basic fee for filing each reissue application:	
By a small entity (§ 1.9(f))	150.00
By other than a small entity	300.00
(i) In addition to the basic filing fee in a reissue application, for filing or later presentation of each independent claim which is in excess of the number of independent claims in the original patent:	
By a small entity (§ 1.9(f))	15.00
By other than a small entity	30.00
(j) In addition to the basic filing fee in a reissue application, for filing or later presentation of each claim (whether independent or dependent) in excess of 20 and also in excess of the number of claims in the original patent. (Note that § 1.75(c) indicates how multiple dependent claims are considered for fee purposes.):	
By a small entity (§ 1.9(f))	5.00
By other than a small entity	10.00
(Note, see § 1.445 for international application filing and processing fees.)	

5. A new § 1.17 is added which reads as follows:

§ 1.17 Patent application processing fees.

(a) Extension fee for response within first month pursuant to § 1.136(a):	
By a small entity (§ 1.9(f))	$25.00
By other than a small entity	50.00
(b) Extension fee for response within second month pursuant to § 1.136(a):	
By a small entity (§ 1.9(f))	75.00
By other than a small entity	150.00
(c) Extension fee for response within third month pursuant to § 1.136(a):	
By a small entity (§ 1.9(f))	175.00
By other than a small entity	350.00
(d) Extension fee for response within fourth month pursuant to § 1.136(a):	
By a small entity (§ 1.9(f))	275.00
By other than a small entity	550.00
(e) For filing a notice of appeal from the examiner to the Board of Appeals:	
By a small entity (§ 1.9(f))	57.50
By other than a small entity	115.00
(f) In addition to the fee for filing a notice of appeal, for filing a brief in support of an appeal:	
By a small entity (§ 1.9(f))	57.50
By other than a small entity	115.00
(g) For filing a request for an oral hearing before the Board of Appeals:	
By a small entity (§ 1.9(f))	50.00
By other than a small entity	100.00
(h) For filing a petition to the Commissioner under a section of this part listed below which refers to this paragraph:	130.00
§ 1.45—for correction of inventorship	
§ 1.47—for filing by other than all the inventors or a person not the inventor	
§ 1.182—for decision on questions not specifically provided for	
§ 1.183—to suspend the rules	
§ 1.266—for late filing of interference settlement agreement	
(i) For filing a petition to the Commissioner under a section of this part listed below which refers to this paragraph:	50.00
§ 1.12—for access to an assignment record	
§ 1.14—for access to an application	
§ 1.55—for entry of late priority papers	
§ 1.102—to make application special	
§ 1.103—to suspend action in application	
§ 1.177—for divisional reissues to issue separately	
§ 1.266—for access to interference settlement agreement	
§ 1.312—for amendment after payment of issue fee	
§ 1.313—to withdraw an application from issue	
§ 1.314—to defer issuance of a patent	
§ 1.334—for patent to issue to assignee, assignment recorded late	
(j) For filing a petition to institute a public use proceeding under § 1.292	750.00
(k) For processing an application filed with a specification in a non-English language (§ 1.52(d))	20.00
(l) For filing a petition (1) for the revival of an abandoned application under 35 U.S.C. 133, or (2) for delayed payment of the issue fee under 35 U.S.C. 151:	
By a small entity (§ 1.9(f))	25.00
By other than a small entity	50.00
(m) For filing a petition (1) for revival of an unintentionally abandoned application or (2) for the unintentionally delayed payment of the fee for issuing a patent:	
By a small entity (§ 1.9(f))	250.00
By other than a small entity	500.00

6. A new § 1.18 is added which reads as follows:

§ 1.18 Patent issue fees.

(a) Issue fee for issuing each original or reissue patent, except a design or plant patent:	
By a small entity (§ 1.9(f))	$250.00
By other than a small entity	500.00
(b) Issue fee for issuing a design patent:	
By a small entity (§ 1.9(f))	87.50
By other than a small entity	175.00
(c) Issue fee for issuing a plant patent:	
By a small entity (§ 1.9(f))	125.00
By other than a small entity	250.00

7. A new § 1.19 is added which reads as follows:

§ 1.19 Document supply fees.

The Patent and Trademark Office will supply copies of the following documents upon payment of the fees indicated:

(a) Uncertified copies of Office documents:	
(1) Printed copy of a patent, including a design patent, or defensive publication document, except color plant patent	$1.00
(2) Printed copy of a plant patent in color	8.00
(3) Copy of patent application as filed, each 50 pages or fraction thereof	10.00
(4) Copy of patent file wrapper and contents, each 100 pages or fraction thereof	30.00
(5) Copy of Office records, except as provided in paragraphs (a) (1) through (4) of this section, per page	0.20
(6) Microfiche copy of microfiche, per microfiche	0.50
(b) Certified copies of Office documents:	
(1) For certifying Office records, per certificate	3.00
(2) For a search of assignment records, abstract of title and certification, per patent	12.00
(3) For comparing copies not prepared by the Office with the original, prior to certification of the copies, per page	0.10
(c) Subscription services:	
(1) Subscription orders for printed copies of patents as issued, annual service charge for entry of order and one subclass	4.00
(2) For annual subscription to each additional subclass in addition to the one covered by the fee under paragraph (c)(1) of this section, per subclass	0.40
(d) Library service (35 U.S.C. 13): For providing to libraries copies of all patents issued annually, per annum	50.00
(e) Lists of patents in subclass:	
(1) For list of all United States patents in a subclass, per 100 patent numbers or fraction thereof	1.00
(2) For list of United States patents in a subclass limited by date or patent number, per 50 patent numbers or fraction thereof	1.00

8. A new § 1.20 is added which reads as follows:

§ 1.20 Post-issuance fees.

(a) For providing a certificate of correction of applicant's mistake (§ 1.323)	$40.00
(b) Petition for correction of inventorship in patent (§ 1.324)	120.00
(c) For filing a request for reexamination (§ 1.510(a))	1,500.00
(d) For filing each statutory disclaimer (§ 1.321):	
By a small entity (§ 1.9(f))	25.00
By other than a small entity	50.00
(e) For maintaining an original or reissue patent, except a design patent, based on an application filed on or after December 12, 1980 and before August 27, 1982, in force beyond 4 years; the fee is due by three years and six months after the original grant	200.00
(f) For maintaining an original or reissue patent, except a design patent, based on an application filed on or after December 12, 1980 and before August 27, 1982, in force beyond 8 years; the fee is due by seven years and six months after the original grant	400.00
(g) For maintaining an original or reissue patent, except a design patent, based on an application filed on or after December 12, 1980 and before August 27, 1982, in force beyond 12 years; the fee is due by eleven years and six months after the original grant	600.00
(h) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after August 27, 1982, in force beyond 4 years; the fee is due by three years and six months after the original grant:	
By a small entity (§ 1.9(f))	200.00
By other than a small entity	400.00
(i) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after August 27, 1982, in force beyond 8 years; the fee is due by seven years and six months after the original grant:	
By a small entity (§ 1.9(f))	400.00
By other than a small entity	800.00
(j) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after August 27, 1982, in force beyond 12 years; the fee is due by eleven years and six months after the original grant:	
By a small entity (§ 1.9(f))	600.00
By other than a small entity	1200.00

9. Section 1.21 is revised to read as follows:

§ 1.21 Miscellaneous fees and charges.

The Patent and Trademark Office has established the following fees for the services indicated:

(a) Registration of attorneys and agents:	
(1) For admission to examination for registration to practice, fee payable upon application	$75.00
(2) On registration to practice	50.00
(3) For reinstatement to practice	25.00
(4) For certificate of good standing as an attorney or agent	10.00
(b) Deposit accounts:	
(1) For establishing or reinstating a deposit account	10.00
(2) Service charge for each month when the balance at the end of the month is below $40	2.00
(c) Disclosure document: For filing a disclosure document	10.00
(d) Delivery box: Local delivery box rental, per annum	24.00
(e) International-type search reports: For preparing an international-type search report of an international-type search made at the time of the first action on the merits in a national patent application	25.00
(f) Search of Office records: For searching Patent and Trademark Office records for purposes not otherwise specified, per one-half hour or fraction thereof	10.00
(g) Copy machine tokens: Token for copying machine, each	0.20
(h) Recording of documents:	
(1) For recording each assignment, agreement or other paper relating to the property in a patent or application	20.00
(2) Where a document to be recorded under paragraph (h)(1) of this section refers to more than one patent or application, for each additional patent or application	5.00
(i) Publication in *Official Gazette*: For publication in the *Official Gazette* of a notice of the availability of an application or a patent for licensing or sale, each application or patent	8.00
(j) For a duplicate or replacement of a permanent Office user pass (There is no charge for the first permanent user pass)	5.00
(k) For items and services, that the Commissioner finds may be supplied, for which fees are not specified by statute or by this section, such charges as may be determined by the Commissioner with respect to each such item or service	actual cost

10. Section 1.24 is revised to read as follows:

§ 1.24 Coupons.

Coupons in denominations of forty cents and one dollar are sold by the Patent and Trademark Office for the convenience of regular purchasers of U.S. patents and trademark registrations; these coupons may not be used for any other purpose. The 40-cent coupons are sold individually and in books of 50 with stubs for record for $20. The one dollar coupons are sold individually and in books of 50 with stubs for record for $50. These coupons are good until used; they may be transferred but cannot be redeemed.

11. Section 1.25 is revised to read as follows:

§ 1.25 Deposit accounts.

(a) For the convenience of attorneys, agents, and the general public in paying any fees due, in ordering services offered by the Office, copies of records, etc., deposit accounts may be established in the Patent and Trademark Office upon payment of the fee for establishing a deposit account (§ 1.21(b)(1)). A minimum deposit of $50 or more, depending on the activity of the individual account, is required. At the close of each month's business, a statement will be rendered. A remittance must be made promptly upon receipt of the statement to cover the value of items or services charged to the account and thus restore the account to its established normal deposit value. An amount sufficient to cover all services, copies, etc., requested must always be on deposit. A service charge (§ 1.21(b)(2)) will be assessed for each month that the balance at the end of the month is below $40.

(b) Filing, issue, appeal, international-type search report, international application processing, petition, and post-issuance fees may be charged against these accounts. A general authorization to charge all fees, or only certain fees, set forth in §§ 1.16 to 1.18 to a deposit account may be filed in an individual application, either for the entire pendency of the application or with respect to a particular paper filed. An authorization to charge to a deposit account the fee for a request for reexamination pursuant to § 1.510 and any other fees required in a reexamination proceeding in a patent may also be filed with the request for reexamination.

12. Section 1.26 is revised to read as follows:

§ 1.26 Refunds.

(a) Money paid by actual mistake or in excess, such as a payment not required by law, will be refunded, but a mere change of purpose after the payment of money, as when a party desires to withdraw an application, an appeal, or a request for oral hearing, will not entitle a party to demand such a return. Amounts of one dollar or less will not be returned unless specifically demanded within a reasonable time, nor will the payer be notified of such amount; amounts over one dollar may be returned by check or, if requested, by credit to a deposit account.

(b) [Reserved]

(c) If the Commissioner decides not to institute a reexamination proceeding, a refund of $1,200.00 will be made to the requester of the proceeding. Reexamination requesters should indicate whether any refund should be made by check or by credit to a deposit account.

13. Section 1.45 is amended by revising paragraphs (b) and (c) to read as follows:

§ 1.45 Joint inventors.

* * * * *

(b) If an application for patent has been made through error and without any deceptive intention by two or more persons as joint inventors when they were not in fact joint inventors, the application may be amended to remove the names of those not inventors upon filing of a petition including a statement of the facts verified by all of the original applicants, the required fee (§ 1.17(h)), and an oath or declaration as required by § 1.65 by the applicant who is the actual inventor, provided the amendment is diligently made. Such amendment must have the written consent of any assignee.

(c) If an application for patent has been made through error and without any deceptive intention by less than all the actual joint inventors, the

application may be amended to include all the joint inventors upon filing of a petition including a statement of the facts verified by, and an oath or declaration as required by § 1.65 executed by all the actual joint inventors, along with the required fee (§ 1.17(h)), provided the amendment is diligently made. Such amendment must have the written consent of any assignee.

14. Section 1.47 is revised to read as follows:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the omitted inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts and by the required fee (§ 1.17(h)) and must state the last known address of the omitted inventor. The Patent and Trademark Office shall forward notice of the filing of the application to the omitted inventor at said address. Should such notice be returned to the Office undelivered, or should the address of the omitted inventor be unknown, notice of the filing of the application shall be published in the *Official Gazette*. The omitted inventor may subsequently join in the application on filing an oath or declaration of the character required by § 1.65. A patent may be granted to the inventor making the application, upon a showing satisfactory to the Commissioner, subject to the same rights which the omitted inventor would have had if he or she had been joined.

(b) Whenever an inventor refuses to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom the inventor has assigned or agreed in writing to assign the invention or who otherwise shows sufficient proprietary interest in the matter justifying such action may make application for patent on behalf of and as agent for the inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts and a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, and by the required fee (§ 1.17(h)) and must state the last known address of the inventor. The assignment, written agreement to assign or other evidence of proprietary interest, or a verified copy thereof, must be filed in the Patent and Trademark Office. The Office shall forward notice of the filing of the application to the inventor at the address stated in the application. Should such notice be returned to the Office undelivered, or should the address of the inventor be unknown, notice of the filing of the application shall be published in the *Official Gazette*. The inventor may subsequently join in the application on filing an oath or declaration of the character required by § 1.65. A patent may be granted to the inventor upon a showing satisfactory to the Commissioner.

15. Section 1.51 is amended by revising paragraph (a)(4) and by adding a new paragraph (c) to read as follows:

§ 1.51 General requisites of an application.

(a) * * *

(4) The prescribed filing fee, see § 1.16.

* * * * *

(c) Applicants may desire and are permitted to file with, or in, the application an authorization to charge, at any time during the pendency of the application, any fees required under any of §§ 1.16 to 1.18 to a deposit account established and maintained in accordance with § 1.25.

16. Section 1.52 is amended by revising paragraph (a) and by adding a new paragraph (d) to read as follows:

§ 1.52 Language, paper, writing, margins.

(a) The application, any amendments or corrections thereto, and the oath or declaration must be in the English language except as provided for in § 1.69 and paragraph (d) of this section, or be accompanied by a verified translation of the application and a translation of any corrections or amendments into the English language. All papers which are to become a part of the permanent records of the Patent and Trademark Office must be legibly written, typed, or printed in permanent ink or its equivalent in quality. All of the application papers must be presented in a form having sufficient clarity and contrast between the paper and the writing, typing, or printing thereon to permit the direct reproduction of readily legible copies in any number by use of photographic, electrostatic, photo-offset, and microfilming processes. If the papers are not of the required quality, substitute typewritten or printed papers of suitable quality may be required.

* * * * *

(d) An application including a signed oath or declaration may be filed in a language other than English if it is accompanied by the fee set forth in § 1.17(k). A verified English translation of the non-English language application is required to be filed with the application or within such time as may be set by the Office.

17. Section 1.55 is amended by revising paragraph (b) to read as follows:

§ 1.55 Serial number and filing date of application.

* * * * *

(b) An applicant may claim the benefit of the filing date of a prior foreign application under the conditions specified in 35 U.S.C. 119. The claim to priority need be in no special form and may be made by the attorney or agent if the foreign application is referred to in the oath or declaration as required by § 1.65. The claim for priority and the certified copy of the foreign application specified in the second paragraph of 35 U.S.C. 119 must be filed in the case of interference (§ 1.224); when necessary to overcome the date of a reference relied upon by the examiner; or when specifically required by the examiner; and in all other cases they must be filed not later than the date the issue fee is paid. If the papers filed are not in the English language, a translation need not be filed except in the three particular instances specified in the preceding sentence, in which event a sworn translation or a translation certified as accurate by a sworn or official translator must be filed. If the priority papers are submitted after the date the issue fee is paid, they must be accompanied by a petition requesting their entry and the fee set forth in § 1.17(i).

* * * * *

18. Section 1.66 is revised to read as follows:

§ 1.66 Officers authorized to administer oaths.

(a) The oath or affirmation may be made before any person within the United States authorized by law to administer oaths. An oath made in a foreign country may be made before any diplomatic or consular officer of the United States authorized to administer oaths, or before any officer having an official seal and authorized to administer oaths in the foreign country in which the applicant may be, whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States, or by an apostille of an official designated by a foreign country which, by treaty or convention, accords like effect to apostilles of designated officials in the United States. The oath shall be attested in all cases in this and other countries, by the proper official seal of the officer before whom the oath or affirmation is made. Such oath or

affirmation shall be valid as to execution if it complies with the laws of the State or country where made. When the person before whom the oath or affirmation is made in this country is not provided with a seal, his official character shall be established by competent evidence, as by a certificate from a clerk of a court of record or other proper officer having a seal.

(b) When the oath is taken before an officer in a country foreign to the United States, any accompanying application papers, except the drawings, must be attached together with the oath and a ribbon passed one or more times through all the sheets of the application, except the drawings, and the ends of said ribbon brought together under the seal before the latter is affixed and impressed, or each sheet must be impressed with the official seal of the officer before whom the oath is taken. If the papers as filed are not properly ribboned or each sheet impressed with the seal, the case will be accepted for examination, but before it is allowed, duplicate papers, prepared in compliance with the foregoing sentence, must be filed.

19. Section 1.75 is amended by revising paragraph (c) to read as follows:

§ 1.75 Claim(s).

* * * * *

(c) One or more claims may be presented in dependent form, referring back to and further limiting another claim or claims in the same application. Any dependent claim which refers to more than one other claim ("multiple dependent claim") shall refer to such other claims in the alternative only. A multiple dependent claim shall not serve as a basis for any other multiple dependent claim. For fee calculation purposes under § 1.16, a multiple dependent claim will be considered to be that number of claims to which direct reference is made therein. For fee calculation purposes, also, any claim depending from a multiple dependent claim will be considered to be that number of claims to which direct reference is made in that multiple dependent claim. In addition to the other filing fees, any original application which is filed with, or is amended to include, multiple dependent claims must have paid therein the fee set forth in § 1.16(d). Claims in dependent form shall be construed to include all the limitations of the claim incorporated by reference into the dependent claim. A multiple dependent claim shall be construed to incorporate by reference all the limitations of each of the particular claims in relation to which it is being considered.

* * * * *

20. Section 1.85 is revised to read as follows:

§ 1.85 Informal drawings.

The requirements of § 1.84 relating to drawings will be strictly enforced. A drawing not executed in conformity thereto, if suitable for reproduction, may be admitted but in such case the drawing must be corrected or a new one furnished, as required.

§ 1.86 [Removed]

21. Section 1.86 is removed.

22. Section 1.102 is amended by revising paragraph (a) and adding new paragraphs (c) and (d) to read as follows:

§ 1.102 Advancement of examination.

(a) Applications will not be advanced out of turn for examination or for further action except as provided by this part, or upon order of the Commissioner to expedite the business of the Office, or upon filing of a request under paragraph (b) of this section or upon filing a petition under paragraphs (c) or (d) of this section with a verified showing which, in the opinion of the Commissioner, will justify so advancing it.

* * * * *

(c) A petition to make an application special may be filed without a fee if the basis for the petition is the applicant's age or health or that the invention will materially enhance the quality of the environment or materially contribute to the development or conservation of energy resources.

(d) A petition to make an application special on grounds other than those referred to in paragraph (c) of this section must be accompanied by the petition fee set forth in § 1.17(i).

23. Section 1.103 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1.103 Suspension of action.

(a) Suspension of action by the Office will be granted for good and sufficient cause and for a reasonable time specified upon petition by the applicant and, if such cause is not the fault of the Office, the payment of the fee set forth in § 1.17(i). Action will not be suspended when a response by the applicant to an Office action is required.

(b) If action by the Office on an application is suspended when not requested by the applicant, the applicant shall be notified of the reasons therefor.

* * * * *

24. Section 1.104 is amended by revising paragraph (d) to read as follows:

§ 1.104 Nature of examination; examiner's action.

* * * * *

(d) Any national application may also have an international-type search report prepared thereon at the time of the national examination on the merits, upon specific written request therefor and payment of the international-type search report fee. See § 1.21(e) for amount of fee for preparation of international-type search report.

* * * * *

25. Section 1.134 is added and reads as follows:

§ 1.134 Time period for response to an Office action.

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for response to an Office action. Unless the applicant is notified in writing that response is required in less than six months, a maximum period of six months is allowed.

26. Section 1.135 is amended by revising paragraphs (a), (b) and (c) to read as follows:

§ 1.135 Abandonment for failure to respond within time period.

(a) If an applicant of a patent application fails to respond within the time period provided under §§ 1.134 and 1.136, the application will become abandoned unless an Office action indicates otherwise.

(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper action as the condition of the case may require. The admission of an amendment not responsive to the last Office action, or refusal to admit the same, and any proceedings relative thereto, shall not operate to save the application from abandonment.

(c) When action by the applicant is a bona fide attempt to respond and to advance the case to final action, and is substantially a complete response to the Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, opportunity to explain and supply the omission may be given before the question of abandonment is considered.

* * * * *

27. Section 1.136 is revised to read as follows:

§ 1.136 Filing of timely responses with petition and fee for extension of time and extensions of time for cause.

(a) If an applicant is required to respond within a non-statutory or shortened statutory time period, applicant may respond up to four months after the time period set if a petition for an extension of time and the fee set in §1.17 are filed prior to or with the response, unless (1) applicant is notified otherwise in an Office action or (2) the application is involved in an interference declared pursuant to § 1.207. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for purposes of determining the period of extension and the corresponding amount of the fee. The expiration of the time period is determined by the amount of the fee paid. In no case may an applicant respond later than the maximum time period set by statute, or be granted an extension of time under paragraph (b) of this section when the provisions of this paragraph are available.

(b) When a response with petition and fee for extension of time cannot be filed pursuant to paragraph (a) of this section, the time for response will be extended only for sufficient cause, and for a reasonable time specified. Any request for such extension must be filed on or before the day on which action by the applicant is due, but in no case will the mere filing of the request effect any extension. In no case can any extension carry the date on which response to an Office action is due beyond the maximum time period set by statute or be granted when the provisions of paragraph (a) of this section are available. See § 1.245 for extension of time in interference proceedings.

28. Section 1.137 is revised to read as follows:

§ 1.137 Revival of abandoned application.

(a) An application abandoned for failure to prosecute may be revived as a pending application if it is shown to the satisfaction of the Commissioner that the delay was unavoidable. A petition to revive an abandoned application must be promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment, and must be accompanied by a showing of the causes of the delay, by the proposed response unless it has been previously filed, and by the petition fee set forth in § 1.17(l). Such showing must be a verified showing if made by a person not registered to practice before the Patent and Trademark Office.

(b) An application unintentionally abandoned for failure to prosecute may be revived as a pending application if the delay was unintentional. A petition to revive an unintentionally abandoned application must be filed within one year of the date on which the application became abandoned or be filed within three months of the date of the first decision on a petition to revive under paragraph (a) of this section which was filed within one year of the date of abandonment of the application. A petition to revive an unintentionally abandoned application must be accompanied by (1) a statement that the abandonment was unintentional, (2) a proposed response unless it has been previously filed, and (3) a petition fee as set forth in § 1.17(m). Such statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. The Commissioner may require additional information where there is a question whether the abandonment was unintentional. The three month period set forth in this paragraph may be extended under the provisions of § 1.136(a), but no further extensions under § 1.136(b) will be granted. Petitions to the Commissioner under § 1.183 to waive any time periods for requesting revival of an unintentionally abandoned application will not be considered, but will be returned to the applicant.

(c) Any petition pursuant to paragraph (a) of this section not filed within six months of the date of abandonment must be accompanied by a terminal disclaimer with fee under § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application.

29. Section 1.155 is revised to read as follows:

§ 1.155 Issue and term of design patents.

(a) If, on examination, it shall appear that the applicant is entitled to a design patent under the law, a notice of allowance will be sent to the applicant, or applicant's attorney or agent, calling for the payment of the issue fee (§ 1.18(b)). If this issue fee is not paid within 3 months of the date of the notice of allowance, the application shall be regarded as abandoned.

(b) The Commissioner may accept the payment of the issue fee later than three months after the mailing of the notice of allowance as though no abandonment had ever occurred if upon petition the delay in payment is shown to have been unavoidable. The petition to accept the delayed payment must be promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment, and must be accompanied by (1) the issue fee, unless it has been previously submitted, (2) the fee for delayed payment (§ 1.17(1)), and (3) a showing that the delay was unavoidable. Such showing must be a verified showing if made by a person not registered to practice before the Patent and Trademark Office.

(c) The Commissioner may, upon petition, accept the payment of the issue fee later than three months after the mailing of the notice of allowance as though no abandonment had ever occurred if the delay in payment was unintentional. The petition to accept the delayed payment must be filed within one year of the date on which the application became abandoned or be filed within three months of the date of the first decision on a petition under paragraph (b) of this section which was filed within one year of the date of abandonment of the application. The petition to accept the delayed payment must be accompanied by (1) the issue fee, unless it has been previously submitted, (2) the fee for unintentionally delayed payment (§ 1.17(m)), and (3) a statement that the delay was unintentional. Such statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. The Commissioner may require additional information where there is a question whether the abandonment was unintentional. The three-month period from the date of the first decision referred to in this paragraph may be extended under the provisions of § 1.136(a), but no further extensions under § 1.136(b) will be granted. Petitions to the Commissioner under § 1.183 to waive any time periods for requesting revival of an unintentionally abandoned application will not be considered, but will be returned to the applicant.

(d) Any petition pursuant to paragraph (b) of this section not filed within six months of the date of abandonment must be accompanied by a terminal disclaimer with fee under §1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application.

30. Section 1.165 is amended by revising paragraph (b) to read as follows:

§ 1.165 Drawings.

* * * * *

(b) The drawing may be in color and when color is a distinguishing characteristic of the new variety, the drawing must be in color. Two copies of color drawings must be submitted. Color drawings may be made either in permanent water color or oil, or in lieu thereof may be photographs made by color photography or properly colored on sensitized paper. Permanently mounted color photographs are acceptable. The paper in any case must correspond in size, weight and quality to the paper required for other drawings. See § 1.84.

31. Section 1.171 is revised to read as follows:

§ 1.171 Application for reissue.

An application for reissue must contain the same parts required for an application for an original patent, complying with all the rules relating thereto except as otherwise provided, and in addition, must comply with the requirements of the rules relating to reissue applications. The application must be accompanied by a certified copy of an abstract of title or an order for a title report accompanied by the fee set forth in § 1.19(b)(2), to be placed in the file, and by an offer to surrender the original patent (§ 1.178).

32. Section 1.177 is revised to read as follows:

§ 1.177 Reissue in divisions.

The Commissioner may, in his or her discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for each division. Each division of a reissue constitutes the subject of a separate specification descriptive of the part or parts of the invention claimed in such division; and the drawing may represent only such part or parts, subject to the provisions of §§ 1.83 and 1.84. On filing divisional reissue applications, they shall be referred to the Commissioner. Unless otherwise ordered by the Commissioner upon petition and payment of the fee set forth in § 1.17(i), all the divisions of a reissue will issue simultaneously; if there be any controversy as to one division, the others will be withheld from issue until the controversy is ended, unless the Commissioner shall otherwise order.

33. Section 1.181 is amended by revising paragraphs (d) and (g) to read as follows:

§ 1.181 Petition to the Commissioner.

* * * * *

(d) Where a fee is required for a petition to the Commissioner the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

* * * * *

(g) The Commissioner may delegate to appropriate Patent and Trademark Office officials the determination of petitions.

34. Section 1.182 is revised to read as follows:

§ 1.182 Questions not specifically provided for.

All cases not specifically provided for in the regulations of this part will be decided in accordance with the merits of each case by or under the authority of the Commissioner, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(h).

35. Section 1.183 is revised to read as follows:

§ 1.183 Suspension of rules.

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).

36. Section 1.191 is amended by revising paragraph (a) to read as follows:

§ 1.191 Appeal to Board of Appeals.

(a) Every applicant for a patent or for reissue of a patent, or every owner of a patent under reexamination, any of the claims of which have been twice rejected, or who has been given a final rejection (§ 1.113), may, upon the payment of the fee set forth in § 1.17(e), appeal from the decision of the examiner to the Board of Appeals within the time allowed for response.

* * * * *

37. Section 1.192 is amended by revising paragraph (a) to read as follows:

§ 1.192 Appellant's brief.

(a) The appellant shall, within 2 months from the date of the notice of appeal under § 1.191 in an application, reissue application, or patent under reexamination, or within the time allowed for response to the action appealed from, if such time is later, file a brief in triplicate. The brief must be accompanied by the requisite fee set forth in § 1.17(f) and must set forth the authorities and arguments on which the appellant will rely to maintain the appeal. The brief must include a concise explanation of the invention which should refer to the drawing by reference characters, and a copy of the claims involved. The time periods set forth herein are subject to the provisions of § 1.136.

* * * * *

38. Section 1.194 is amended by revising paragraphs (b) and (c) to read as follows:

§ 1.194 Oral hearing.

* * * * *

(b) If appellant desires an oral hearing, appellant must file a written request for such hearing accompanied by the fee set forth in § 1.17(g) within one month after the date of the examiner's answer. If appellant requests an oral hearing and submits therewith the fee set forth in § 1.17(g), an oral argument may be presented by, or on behalf of, the primary examiner if considered desirable by either the primary examiner or the Board.

(c) If no request and fee for oral hearing have been timely filed by the appellant, the appeal will be assigned for consideration and decision. If the appellant has requested an oral hearing and has submitted the fee set forth in § 1.17(g), a day of hearing will be set, and due notice thereof given to the appellant and to the primary examiner. Hearing will be held as stated in the notice, and oral argument will be limited to twenty minutes for the appellant and fifteen minutes for the primary examiner unless otherwise ordered before the hearing begins.

39. Section 1.197 is amended by revising paragraph (b) to read as follows:

§ 1.197 Action following decision.

* * * * *

(b) A single request for rehearing or reconsideration, or modification of the decision, may be made if filed within thirty days from the date of the original decision, unless that decision is so modified as to become, in effect, a new decision, and the Board of Appeals so states. Such time may be extended under the provisions of § 1.136.

* * * * *

40. Section 1.231 is amended by revising paragraph (a)(1) to read as follows:

§ 1.231 Motions before the primary examiner.

(a) Within the period set in the notice of interference for filing motions any party to an interference may file a motion seeking:

(1) To dissolve as to one or more counts, except that such motion based on facts sought to be established by affidavits, declarations or evidence outside of official records and printed publications will not normally be considered. A motion to dissolve an interference in which a patentee is a party on the ground that the claims corresponding to the counts are unpatentable to the patentee over patents or printed publications will be considered through reexamination if it complies with the requirements of § 1.510(b) and is accompanied by the fee for requesting reexamination set in § 1.20(c). Otherwise, a motion to dissolve an interference in which a patentee is a party will not be considered if it would necessarily result in the conclusion that the claims of the patent which correspond to the counts are unpatentable to the patentee on a ground which is not ancillary to priority. Where a motion to dissolve is based on prior art, service on opposing parties must include copies of such prior art. A motion to dissolve on the ground that there is no interference in fact will not be considered unless the interference involves a design or plant patent or application or unless it relates to a count which differs from the corresponding claim of an involved patent or of one or more of the involved applications as provided in §§ 1.203(a) and 1.205(a).

* * * * *

41. Section 1.245 is revised to read as follows:

§ 1.245 Extension of time.

Extensions of time in any interference proceeding not otherwise provided for may be had by stipulation of the parties, subject to approval, or on motion duly brought, sufficient cause being shown for such extension. The provisions of § 1.136 do not apply to time periods in interferences.

42. Section 1.246 is revised to read as follows:

§ 1.246 Late papers.

A motion or other paper belatedly filed will not normally be considered except upon a showing, under oath or in the form of a declaration (§ 1.68), of sufficient cause as to why such motion or paper was not timely presented. The provisions of § 1.136 do not apply to time periods in interferences.

43. Section 1.263 is revised to read as follows:

§ 1.263 Statutory disclaimer by patentee.

The disclaimer referred to in § 1.262, when made by a patentee in interference is not a disclaimer under 35 U.S.C. 253. If a disclaimer under the statute and the fee set forth in § 1.20(d) (see § 1.321) cancelling claims involved in the interference from the patent, is made by the patentee, including all assignees as shown by the records of the Patent and Trademark Office, the interference will be dissolved pro forma as to such claims.

44. Section 1.268 is added to read as follows:

§ 1.268 Filing of interference settlement agreements.

(a) Any agreement or understanding between parties to an interference, including any collateral agreements referred to therein, made in connection with or in contemplation of the termination of the interference, must be in writing and a true copy thereof filed in the Patent and Trademark Office, directed to the Board of Patent Interferences, before the termination of the interference as between the said parties to the agreement or understanding.

(b) If any party filing the agreement or understanding pursuant to paragraph (a) of this section so requests, the copy will be kept separate from the file of the interference, and made available only to Government agencies on written request, or to any person upon petition accompanied by the fee set forth in § 1.17(i) and on a showing of good cause.

(c) Failure to file the copy of the agreement or understanding pursuant to paragraph (a) of this section, will render permanently unenforceable such agreement or understanding and any patent of the parties involved in the interference or any patent subsequently issued on any application of the parties so involved. The Commissioner may, however, upon petition accompanied by the fee set forth in § 1.17(h) and on a showing of good cause for failure to file within the time prescribed, permit the filing of the agreement or understanding during the six-month period subsequent to the termination of the interference as between the parties to the agreement or understanding.

45. Section 1.292 is amended by revising paragraph (a) to read as follows:

§ 1.292 Public use proceedings.

(a) When a petition for the institution of public use proceedings, supported by affidavits or declarations and the fee set forth in § 1.17(j) is filed by one having information of the pendency of an application and is found, on reference to the primary examiner, to make a prima facie showing that the invention involved in an interference or claimed in an application believed to be on file had been in public use or on sale one year before the filing of the application, or before the date alleged by an interfering party in his or her preliminary statement or the date of invention established by such party, a hearing may be had before the Commissioner to determine whether a public use proceeding should be instituted. If instituted, times may be set for taking testimony, which shall be taken as provided by §§ 1.271 to 1.286. The petitioner will be heard in the proceedings but after decision therein will not be heard further in the prosecution of the application for patent.

* * * * *

46. Section 1.304 is amended by revising paragraph (a) to read as follows:

§ 1.304 Time for appeal or civil action.

(a) The time for filing the notice and reasons of appeal to the U.S. Court of Appeals for the Federal Circuit (§ 1.302) or for commencing a civil action (§ 1.303) is sixty days from the date of the decision of the Board of Appeals or the Board of Patent Interferences. If a request for rehearing or reconsideration, or modification of the decision, is filed within the time provided pursuant to § 1.197(b) or § 1.256(b), the time for filing an appeal or commencing a civil action shall expire at the end of the sixty-day period or thirty days after action on the request, whichever is later. The time periods set forth herein are subject to the provisions of § 1.136.

* * * * *

47. Section 1.311 is revised to read as follows:

§ 1.311 Notice of allowance.

(a) If, on examination, it shall appear that the applicant is entitled to a patent under the law, a notice of allowance will be sent to applicant at the correspondence address indicated in § 1.33, calling for the payment of a specified sum constituting the issue fee (§ 1.18), which shall be paid within 3 months from the date of the mailing of the notice of allowance.

(b) An authorization to charge the issue fee (§ 1.18) to a deposit account may be filed in an individual application, either before or after

mailing of the notice of allowance. Where an authorization to charge the issue fee to a deposit account has been filed before the mailing of the notice of allowance, the issue fee will be automatically charged to the deposit account at the time of mailing the notice of allowance.

48. Section 1.312 is revised to read as follows:

§ 1.312 Amendments after allowance.

(a) No amendment may be made as a matter of right in an application after the mailing of the notice of allowance. Any amendment pursuant to this paragraph filed before the payment of the issue fee may be entered on the recommendation of the primary examiner, approved by the Commissioner, without withdrawing the case from issue.

(b) Any amendment pursuant to paragraph (a) of this section filed after the date the issue fee is paid must be accompanied by a petition including the fee set forth in § 1.17(i) and a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented.

49. Section 1.313 is revised to read as follows:

§ 1.313 Withdrawal from issue.

(a) Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. Any such petition by the applicant must include a showing of good and sufficient reasons why withdrawal of the application is necessary and, if the reason for the withdrawal is not the fault of the Office, must be accompanied by the fee set forth in § 1.17(i). If the application is withdrawn from issue, a new notice of allowance will be sent if the application is again allowed. Any amendment accompanying a petition to withdraw an application from issue must comply with the requirements of § 1.312.

(b) When the issue fee has been paid, and the patent to be issued has received its issue date and patent number, the application will not be withdrawn from issue for any reason except (1) mistake on the part of the Office, (2) a violation of § 1.56 or illegality in the application, (3) unpatentability of one or more claims, or (4) for interference.

50. Section 1.314 is revised to read as follows:

§ 1.314 Issuance of patent.

If payment of the issue fee is timely made, the patent will issue in regular course unless (a) the application is withdrawn from issue (§ 1.313) or (b) issuance of the patent is deferred. Any petition by the applicant requesting deferral of the issuance of a patent must be accompanied by the fee set forth in § 1.17(i) and must include a showing of good and sufficient reasons why it is necessary to defer issuance of the patent.

51. Section 1.316 is revised to read as follows:

§ 1.316 Application abandoned for failure to pay issue fee.

(a) If the issue fee is not paid within 3 months from the date of the notice of allowance, the application will be regarded as abandoned. Such an abandoned application will not be considered as pending before the Patent and Trademark Office.

(b) The Commissioner may accept the payment of the issue fee later than three months after the mailing of the notice of allowance as though no abandonment had ever occurred if upon petition the delay in payment is shown to have been unavoidable. The petition to accept the delayed payment must be promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment, and must be accompanied by (1) the issue fee, unless it has been previously submitted, (2) the fee for delayed payment (§ 1.17(1)), and (3) a showing that the delay was unavoidable. Such showing must be a verified showing if made by a person not registered to practice before the Patent and Trademark Office.

(c) The Commissioner may, upon petition, accept the payment of the issue fee later than three months after the mailing of the notice of allowance as though no abandonment had ever occurred if the delay in payment was unintentional. The petition to accept the delayed payment must be filed within one year of the date on which the application became abandoned or be filed within three months of the date of the first decision on a petition under paragraph (b) of this section which was filed within one year of the date of abandonment of the application. The petition to accept the delayed payment must be accompanied by (1) the issue fee, unless it has been previously submitted, (2) the fee for unintentionally delayed payment (§ 1.17(m)), and (3) a statement that the delay was unintentional. Such statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. The Commissioner may require additional information where there is a question whether the abandonment was unintentional. The three-month period from the date of the first decision referred to in this paragraph may be extended under the provisions of § 1.136(a), but no further extensions under § 1.136(b) will be granted. Petitions to the Commissioner under § 1.183 to waive any time periods for requesting revival of an unintentionally abandoned application will not be considered, but will be returned to the applicant.

(d) Any petition pursuant to paragraph (b) of this section not filed within six months of the date of abandonment must be accompanied by a terminal disclaimer with fee under § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application.

52. Section 1.317 is revised to read as follows:

§ 1.317 Lapsed patents; delayed payment of balance of issue fee.

(a) If the issue fee was paid prior to October 1, 1982, any remaining balance of the issue fee is to be paid within three months from the date of notice thereof and, if not paid, the patent will lapse at the termination of the three month period.

(b) The Commissioner may accept the payment of the remaining balance of the issue fee later than three months after the mailing of the notice thereof as though no lapse had ever occurred if upon petition the delay in payment is shown to have been unavoidable. The petition to accept the delayed payment must be promptly filed after the applicant is notified of, or otherwise becomes aware of, the lapse, and must be accompanied by (1) the remaining balance of the issue fee, unless it has been previously submitted, (2) the fee for delayed payment (§ 1.17(1)), and (3) a showing that the delay was unavoidable. Such showing must be a verified showing if made by a person not registered to practice before the Patent and Trademark Office.

(c) The Commissioner may, upon petition, accept the payment of the remaining balance of the fee later than three months after the mailing of the notice thereof as though no lapse had ever occurred if the delay in payment was unintentional. The petition to accept the delayed payment must be filed within one year of the date on which the patent lapsed or be filed within three months of the date of the first decision on a petition under paragraph (b) of this section which was filed within one year of the date of lapse of the patent. The petition to accept the delayed payment must be accompanied by (1) the remaining balance of the issue fee, unless it has been previously

submitted, (2) the fee for unintentionally delayed payment (§ 1.17(m)), and (3) a statement that the delay was unintentional. Such statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. The Commissioner may require additional information where there is a question whether the delay in payment was unintentional. The three-month period from the date of the first decision referred to in this paragraph may be extended under the provisions of § 1.136(a), but no further extensions under § 1.136(b) will be granted. Petitions to the Commissioner under § 1.183 to waive any time periods for requesting acceptance of an unintentionally delayed payment will not be considered, but will be returned to the applicant.

(d) Any petition pursuant to paragraph (b) of this section not filed within six months of the date of lapse must be accompanied by a terminal disclaimer with fee under § 1.321 dedicating to the public a terminal part of the term of the patent equivalent to the period of lapse of the patent.

53. Section 1.321 is revised to read as follows:

§ 1.321 Statutory disclaimer.

(a) A disclaimer under 35 U.S.C. 253 must be accompanied by the fee set forth in § 1.20(d) and identify the patent and the claim or claims which are disclaimed, and be signed by the person making the disclaimer, who shall state therein the extent of his or her interest in the patent. A disclaimer which is not a disclaimer of a complete claim or claims may be refused recordation. A notice of the disclaimer is published in the *Official Gazette* and attached to the printed copies of the specification. In like manner any patentee or applicant may disclaim or dedicate to the public the entire term, or any terminal part of the term, of the patent granted or to be granted.

(b) A terminal disclaimer, when filed in an application to obviate a double patenting rejection, must be accompanied by the fee set forth in § 1.20(d) and include a provision that any patent granted on that application shall be enforceable only for and during such period that said patent is commonly owned with the application or patent which formed the basis for the rejection.

54. Section 1.324 is revised to read as follows:

§ 1.324 Correction of inventorship in patent.

Whenever a patent is issued and it appears that there was a misjoinder or nonjoinder of inventors and that such misjoinder or omission occurred by error and without deceptive intention, the Commissioner may, on petition of all the parties and the assignees and satisfactory proof of the facts and payment of the fee set forth in § 1.20(b), or on order of a court before which such matter is called in question, issue a certificate deleting the misjoined inventor from the patent or adding the non-joined inventor to the patent.

55. Section 1.331 is amended by revising paragraph (a) to read as follows:

§ 1.331 Recording of assignments.

(a) Assignments, including grants and conveyances, of patents, national applications, or international applications which designate the United States of America, will be recorded in the Patent and Trademark Office under 35 U.S.C. 261. Other instruments affecting title to a patent, a national application, or an international application which designates the United States of America, and licenses, even though the recording thereof may not serve as constructive notice under 35 U.S.C. 261, will be recorded as provided in this section or at the discretion of the Commissioner. Any instrument to be recorded, except those under Part 7 of this title, must be accompanied by the fee set forth in § 1.21(h).

* * * * *

56. Section 1.332 is revised to read as follows:

§ 1.332 Receipt and recording.

Assignments are recorded in regular order as promptly as possible, and then transmitted with the date and identification of the record stamped thereon to the persons entitled to them. The date of the record is the date of the receipt of the assignment at the Office in proper form and accompanied by the fee set forth in § 1.21(h).

57. Section 1.334 is revised to read as follows:

§ 1.334 Issue of patent to assignee.

(a) In case of an assignment of the entire interest in the invention and application, or of the entire interest in the patent to be granted, the patent will normally issue to the assignee. If the assignee should hold an undivided part interest, the patent will normally issue jointly to the inventor and the assignee. If it is desired that the patent so issue, the assignment in either case must first have been recorded, and at a day not later than the date payment is made of the issue fee.

(b) At the time of payment of the issue fee, a statement must be furnished indicating whether or not an assignment has been filed with the Patent and Trademark Office. In the event an assignment has been filed, such statement must include the name and address of the assignee and indicate whether or not an acknowledgement of a recorded assignment has been received from the Patent and Trademark Office.

(c) If the assignment is recorded after the date of payment of the issue fee, the assignee may petition that the patent issue to the assignee as recorded. Any such petition must be accompanied by the fee set forth in § 1.17(i).

58. Section 1.341 is amended by revising paragraph (h) to read as follows:

§ 1.341 Registration of attorneys and agents.

* * * * *

(h) *Oath and registration fee.* Before his or her name may be entered on the register of attorneys or on the register of agents, every applicant for registration must, after his or her application is approved, subscribe and swear to an oath or make a declaration prescribed by the Commissioner of Patents and Trademarks and pay the prescribed registration fee. (See § 1.21(a)(2).)

* * * * *

59. Section 1.347 is revised to read as follows:

§ 1.347 Removing names from registers.

Attorneys and agents, registered to practice before the Patent and Trademark Office, should notify the Office of any change of address for entry on the register, by letter separate from any notice of change of address filed in individual applications. The Office may address a letter to any person on the registers, at the address of which separate notice for the register was last received, for the purpose of ascertaining whether such person desires to remain on the register. The name of any person failing to reply and give the information requested within a time limit specified will be removed from the register, and the names so removed published in the *Official Gazette*. Any name so removed may be reinstated, either on the register of attorneys or the register of agents, as may be appropriate. Any request for reinstatement must be accompanied by the fee set forth in § 1.21(a)(3).

60. Section 1.445 is amended by revising paragraphs (a) (1) through (4) to read as follows:

§ 1.445 International application filing and processing fees.

(a) * * *

(1) A transmittal fee (see 35 U.S.C. 361(d) and PCT Rule 14)	$125.00
(2) A search fee (see 35 U.S.C. 361(d) and PCT Rule 16) where:	
(i) No corresponding prior United States national application with fee has been filed	$500.00
(ii) Corresponding prior United States national application with fee has been filed	250.00
(3) A supplemental search fee when required (see PCT Art. 17(3)(a) and PCT Rule 40.2)	[1]$125.00
(4) The national fee, that is, the amount set forth as the filing fee under § 1.16 (a) through (d) credited by an amount of $250 where an international search fee has been paid on the corresponding international application to the United States as an International Searching Authority. Where the amount of the credit is in excess of that required for the national fee, a request for a refund of the excess under § 1.446(b) may be filed at the time of paying the national fee. Only one such credit is permitted based on a single international search fee.	

[1]Per additional invention.

* * * * *

61. Section 1.446 is amended by revising paragraph (b) to read as follows:

§ 1.446 Refund of international application filing and processing fees.

* * * * *

(b) Refund of a portion of the search fee may be made to the extent set forth in § 1.445(a)(4) if requested at the time of paying the national fee.

* * * * *

62. Section 1.451 is amended by revising paragraph (b) to read as follows:

§ 1.451 The priority claim and priority document in an international application.

* * * * *

(b) Whenever the priority of an earlier United States national application is claimed in an international application, the applicant may request in a letter of transmittal accompanying the international application upon filing with the United States Receiving Office, that the Patent and Trademark Office prepare a certified copy of the national application for transmittal to the International Bureau (PCT Art. 8 and PCT Rule 17). The fee for preparing a certified copy is stated in § 1.19(a)(4) and (b)(1).

* * * * *

63. Section 1.510 is amended by revising paragraph (a) to read as follows:

§ 1.510 Request for reexamination.

(a) Any person may, at any time during the period of enforceability of a patent, file a request for reexamination by the Patent and Trademark Office of any claim of the patent on the basis of prior art patents or printed publications cited under § 1.501. The request must be accompanied by the fee for requesting reexamination set in § 1.20(c).

* * * * *

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

64. Section 2.6 is revised to read as follows:

§ 2.6 Trademark fees.

The following fees and charges are established by the Patent and Trademark Office for trademark cases:

(a) For filing an application, per class	$175.00
(b) For filing an application for renewal of a registration, per class	300.00
(c) For filing to publish a mark under section 12(c), per class	100.00
(d) For issuing a new certificate of registration upon request of assignee	100.00
(e) For a certificate of correction of registrant's error	100.00
(f) For filing a disclaimer to a registration	100.00
(g) For filing an amendment to a registration	100.00
(h) For filing an affidavit under §8 of the Act, per class	100.00
(i) For filing an affidavit under §15 of the Act, per class	100.00
(j) For filing a combined affidavit under §§8 and 15 of the Act, per class	200.00
(k) For petitions to the Commissioner	100.00
(l) For filing petition to cancel or notice of opposition, per class	200.00
(m) For ex parte appeal to the Trademark Trial and Appeal Board, per class	100.00
(n) For printed copy of registered mark	
Copy only	1.00
Copy showing title and/or status	6.50
(o) For certifying trademark records, per certificate	3.50
(p) For photocopies or other reproductions of records, drawings, or printed material, per page of the material copied	0.30
(q) For recording trademark assignments, per document	100.00
For each mark in addition to one assigned in the same document	20.00
(r) For abstracts of title to each registration or application, including the search	12.00
(s) For special service handling of late filed fees in connection with a renewal	100.00
(t) For items and services that the Commissioner finds may be supplied, for which fees are not specified, such charges as may be determined by the Commissioner with respect to each such item or service	actual cost.

65. Section 2.85 is amended by revising paragraph (e) to read as follows:

§ 2.85 Classification schedules.

* * * * *

(e) Where the amount of the fee received on filing an appeal in connection with an application or on an application for renewal or in connection with a petition for cancellation is sufficient for at least one class of goods or services but is less than the required amount because multiple classes in an application or registration are involved, the appeal or renewal application or petition for cancellation will not be refused on the ground that the amount of the fee was insufficient if the required additional amount of the fee is received in the Patent and Trademark Office within the time limit set forth in the notification of this defect by the Office, or if action is sought only for the number of classes equal to the number of fees submitted.

* * * * *

66. Section 2.101 is amended by revising paragraph (c) to read as follows:

§ 2.101 Filing an opposition.

* * * * *

(c) If no fee, or a fee insufficient to cover at least one class, is filed within 30 days after publication of the mark to be opposed or within an extension of the time for filing an opposition, the opposition will not be refused if the required fee(s) (See § 2.6) are filed in the Patent and Trademark Office within the time limit set forth in the notification of this defect by the Office.

* * * * *

67. Section 2.146 is amended by revising paragraph (b) to read as follows, and by removing paragraph (f):

§ 2.146 Petition to the Commissioner.

* * * * *

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested and the requisite fee (See § 2.6). Any brief in support thereof should accompany or be embodied in the petition; in contested cases any brief in opposition shall be filed within fifteen days after service of the petition. Where facts are to be proved in ex parte cases (as in petition to revive an abandoned application), the proof in the form of affidavits or declarations in accordance with § 2.20 (and exhibits, if any) must accompany the petition.

* * * * *

68. Section 2.162 is amended by revising paragraph (d) to read as follows:

§ 2.162 Requirements for affidavit or declaration during sixth year.

* * * * *

(d) Include the required fee for each class to which the affidavit or declaration pertains in the registration. If no fee, or a fee insufficient to cover at least one class, is filed before the expiration of the sixth year following the date of registration or of publication under Section 12(c) of the Act, the affidavit or declaration will not be refused if the required fee(s) (See § 2.6) are filed in the Patent and Trademark Office within the time limit set forth in the notification of this defect by the

Office. If insufficient fees are included to cover all classes in the registration, the particular class or classes to which the affidavit or declaration pertains should be specified.

* * * * *

89. Section 2.167 is amended by adding a paragraph (g) as follows:

§ 2.167 Affidavit or declaration under Section 15.

* * * * *

(g) Include the required fee for each class to which the affidavit or declaration pertains in the registration. If no fee, or a fee insufficient to cover at least one class, is filed at an appropriate time, the affidavit or declaration will not be refused if the required fee(s) (See § 2.6) are filed in the Patent and Trademark Office within the time limit set forth in the notification of this defect by the Office. If insufficient fees are included to cover all classes in the registration, the particular class or classes to which the affidavit or declaration pertains should be specified.

[FR Doc. 82-25631 Filed 9-16-82; 8:45 am]
BILLING CODE 3510-16-M

federal register

Friday
September 17, 1982

Part V

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

September 1, 1982.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of September 1, 1982 of 31 rescission proposals and 252 deferrals contained in the first seventeen messages of fiscal year 1982. These messages were transmitted to the Congress on October 1, 20, 23, and 29, and November 6, and 13, 1981, January 22, February 8, and 19, March 18, April 23, May 18, June 3, and 23, July 16, and 28, 1982, and August 23, 1982.

Rescissions (Table A and Attachment A)

Seven rescission proposals totaling $393.2 million are currently pending before the Congress. Table A summarizes the status of rescissions proposed by the President as of September 1, 1982 while Attachment A shows the history and status of each rescission proposed during fiscal year 1982.

Deferrals (Table B and Attachment B)

As of September 1, 1982, $2,440.4 million in 1982 budget authority was being deferred from obligation and another $7.9 million in 1982 obligations was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during fiscal year 1982.

Information from Special Messages

The special messages containing information on the rescissions and the deferrals covered by the cumulative report are printed in the **Federal Registers** of: Vol. 46, No. 194, FR p. 49793, Wednesday, October 7, 1981; Vol. 46, No. 206, FR p. 52289, Monday, October 26, 1981; Vol. 46, No. 210, FR p. 54259, Friday, October 30, 1981; Vol. 46, No. 212, FR p. 54691, Tuesday, November 3, 1981; Vol. 46, No. 218, FR p. 55905, Thursday, November 12, 1981; Vol. 46, No. 223, FR p. 57019, Thursday, November 19, 1981; Vol. 47, No. 18, FR p. 4021, Wednesday, January 27, 1982; Vol. 47, No. 28, FR p. 6193, Wednesday, February 10, 1982; Vol. 47, No. 37, FR p. 8145, Wednesday, February 24, 1982; Vol. 47, No. 57, FR p. 12751, Wednesday, March 24, 1982; Vol. 47, No. 82, FR p. 18301, Wednesday, April 28, 1982; Vol. 47, No. 100, FR p. 22483, Monday, May 24, 1982. Vol. 47, No. 110, FR p. 24992, Thursday, June 8, 1982; Vol. 47, No. 127, FR p. 28891, Thursday, July 1, 1982; Vol. 47, No. 141, FR p. 31835, Thursday, July 22, 1982; Vol. 47 No. 149, FR p. 33662, Tuesday, August 3, 1982; Vol. 47, No. 166, FR p. 37846, Thursday, August 26, 1982.

David Stockeman.

Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1982 RESCISSIONS

	Amount (In millions of dollars)*
Rescissions proposed by the President	$ 7,734.5
Accepted by the Congress	4,098.6
Rejected by the Congress	3,242.6
Pending before the Congress	$ 393.2 a.

* Detail does not add to total due to rounding.

* *

TABLE B

STATUS OF 1982 DEFERRALS

	Amount (In millions of dollars)*
Deferrals proposed by the President	$ 8,207.5
Routine Executive releases (-$5,423.4 million) and adjustments ($16.9 million) through September 1, 1982.	-5,406.5
Overturned by the Congress	-352.7
Currently before the Congress	$ 2,448.4 b.

a. This amount includes $20.5 million in FY 1983 funds (R82-3).

b. This amount includes $7.9 million in outlays for a Department of the Treasury deferral (D82-23A).

* Detail does not add to total due to rounding.

Attachments

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1982 — AS OF 09/02/82 10:59

AS OF SEPTEMBER 1, 1982 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
FUNDS APPROPRIATED TO THE PRESIDENT							
International Development Assistance							
Functional development assistance program BA	R82- 4	8,129		2 8 82		8,129	4 23 82
Sahel development program BA	R82- 5	2,500		2 8 82		2,500	4 23 82
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL BA		10,629				10,629	
DEPARTMENT OF AGRICULTURE							
Extension Service							
Extension service BA	R82- 6	2,000		2 8 82		2,000	4 26 82
DEPARTMENT OF AGRICULTURE TOTAL BA		2,000				2,000	
DEPARTMENT OF COMMERCE							
National Oceanic and Atmospheric Administration							
Coastal zone management BA	R82- 7	12,000		2 8 82		12,000	4 26 82
Coastal energy impact fund BA	R82- 8	7,000		2 8 82		7,000	4 26 82
DEPARTMENT OF COMMERCE TOTAL BA		19,000				19,000	
DEPARTMENT OF DEFENSE - MILITARY							
Procurement							
Aircraft procurement, Air Force BA	R82- 1	66,700		10 23 81		66,700	12 14 81
Missile procurement, Air Force BA	R82- 2	22,500		10 23 81		22,500	12 14 81
DEPARTMENT OF DEFENSE - MILITARY TOTAL BA		89,200				89,200	
DEPARTMENT OF EDUCATION							
Office of Elementary and Secondary Education							
Compensatory education for the disadvantaged BA	R82- 9	411,833		2 8 82		411,833	4 26 82
Special programs and populations BA	R82-10	65,600		2 8 82		65,600	4 26 82
Indian education BA	R82-11	6,255		2 8 82		6,255	4 26 82
Office of Special Education and Rehab. Services							
Education for the handicapped BA	R82-12	258,572		2 8 82		258,572	4 26 82

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1982 AS OF 08/02/82 10:59

AS OF SEPTEMBER 1, 1982 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
Rehabilitation services and handicapped research								
	BA	R82-13	91,171		2 8 82		91,171	4 26 82
Office of Vocational and Adult Education								
Vocational and adult education								
	BA	R82-14	105,741		2 8 82		105,741	4 26 82
Office of Postsecondary Education								
Student financial assistance								
	BA	R82-15	141,500		2 8 82		141,500	4 26 82
Higher and continuing education								
	BA	R82-16	42,739		2 8 82		42,739	4 26 82
Office of Educational Research and Improvement								
Libraries								
	BA	R82-17	22,110		2 8 82		22,110	4 26 82
Departmental management								
Educ. res. & train. overseas (spec. for. curr.)								
	BA	R82-18	80		2 8 82		80	4 26 82
Office of Bilingual Educ. & Minority Lang. Affairs								
Bilingual education								
	BA	R82-19	11,504		2 8 82		11,504	4 26 82
DEPARTMENT OF EDUCATION TOTAL	BA		1,157,205				1,157,205	
DEPARTMENT OF ENERGY								
Energy Programs								
Fossil energy construction								
	BA	R82-30		83,500	7 28 82			
Energy conservation								
	BA	R82-20	20,000		2 8 82		20,000	4 26 82
DEPARTMENT OF ENERGY TOTAL	BA		20,000	83,500			20,000	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Subsidized housing programs								
	BA	R82-21	9,398,789		2 8 82		5,998,789b	4 26 82
	BA	R82-21A	-3,400,000		4 23 82	4,098,640		
Solar Energy and Energy Conservation Bank								
Assistance for solar and conserv. improvements								
	BA	R82-22	21,850		2 8 82		21,850	4 26 82
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL	BA		6,021,639			4,098,640	6,021,639	
DEPARTMENT OF THE INTERIOR								
Geological Survey								
Exploration of natl petroleum reserve-Alaska								
	BA	R82-28		16,200	7 16 82			

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1982 AS OF 09/02/82 10:59

AS OF SEPTEMBER 1, 1982 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
DEPARTMENT OF LABOR								
Employment and Training Administration								
Employment and training assistance	BA	R82-29		47,429	7 16 82			
Mine Safety and Health Administration								
Salaries and expenses	BA	R82-33	4,095		2 8 82		2,095	4 26 82
	BA	R82-33A	-2,000		2 19 82			
DEPARTMENT OF LABOR TOTAL	BA		2,095	47,429			2,095	
DEPARTMENT OF TRANSPORTATION								
Federal Highway Administration								
Highway-related safety grants	BA	R82-34	9,623		2 8 82		9,623	4 26 82
DEPARTMENT OF TRANSPORTATION TOTAL	BA		9,623				9,623	
OTHER INDEPENDENT AGENCIES								
Board for International Broadcasting								
Grants and expenses	BA	R82-31		2,334	8 23 82			
Corporation for Public Broadcasting								
Public broadcasting fund	BA	R82- 3		20,500a	11 6 81			
National Foundation on the Arts and Humanities								
Institute of Museum Services: Program operations	BA	R82-25	10,877		2 8 82		10,877	4 26 82
Office of Fed. Insp. for the Alaska Nat. Gas Sys.								
Salaries and expenses	BA	R82-27		8,000	6 23 82		8,000b	8 26 82
Postal Service								
Payment to the Postal Service Fund	BA	R82-26		215,230	3 18 82			
OTHER INDEPENDENT AGENCIES TOTAL	BA		10,877	246,064			18,877	
TOTAL	BA		7,341,268	393,193		4,098,640	7,349,268	

a. This is a proposal to rescind FY 1983 funds.

b. This item is still under consideration by the Congress, but the amount shown was made available upon expiration of the 45-day withholding period.

END OF REPORT

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 09/02/82 10:25

AMOUNTS IN THOUSANDS OF DOLLARS

AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 9-1-82
EXECUTIVE OFFICE OF THE PRESIDENT									
White House Office									
Salaries and Expenses	BA	D82- 27	366		10 20 81	-366			
Special Assistance to the President									
Salaries and Expenses	BA	D82- 28	28		10 20 81	-28			
Council of Economic Advisers									
Salaries and Expenses	BA	D82- 86	32		10 23 81	-32			
Council on Envir. Quality & Office of Envir. Qual.									
Salaries and Expenses	BA	D82- 29	9		10 20 81	-9			
Office of Policy Development									
Salaries and Expenses	BA	D82- 30	45		10 20 81	-45			
National Security Council									
Salaries and Expenses	BA	D82- 31	62		10 20 81	-62			
Office of Administration									
Salaries and expenses	BA	D82- 32	139		10 20 81	-139			
OMB, Office of Fed. Procurement Policy									
Salaries and expenses	BA	D82- 33	24		10 20 81	-24			
Office of Science and Technology Policy									
Salaries and expenses	BA	D82- 34	30		10 20 81	-30			
Office of the U.S. Trade Representative									
Salaries and expenses	BA	D82- 35	78		10 20 81	-78			
EXECUTIVE OFFICE OF THE PRESIDENT TOTAL	BA		813			-813			
FUNDS APPROPRIATED TO THE PRESIDENT									
Appalachian Regional Development Programs									
Appalachian regional development programs	BA	D82- 1	15,000		10 1 81				
	BA	D82- 1A		a	1 22 82				
	BA	D82- 1B		a	2 8 82				15,000
Disaster Relief									
Disaster relief	BA	D82-158	7,000		10 29 81	-7,000			
	BA	D82-159	138,000		10 29 81	-138,000			
International Security Assistance									
Foreign military credit sales	BA	D82-222	680,000		2 8 82	-680,000			
Economic support fund	BA	D82-219	1,756,980		1 22 82	-1,754,830			2,150
Military assistance	BA	D82-223	129,512		2 8 82	-101,500			28,012
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL	BA		2,726,492			-2,681,330			45,162
DEPARTMENT OF AGRICULTURE									
Office of the Secretary									
Office of the Secretary	BA	D82-160	29		10 29 81	-29			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 09/02/82 10:25

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 8-1-82
Agricultural Research Service								
Agricultural research service								
BA	D82-161	1,813		10 29 81	-1,813			
Cooperative State Research Service								
Cooperative state research service								
BA	D82-162	2,790		10 29 81	-2,790			
Extension Service								
Extension service								
BA	D82-163	1,990		10 29 81	-1,990			
National Agricultural Library								
National agricultural library								
BA	D82-164	93		10 29 81	-93			
Statistical Reporting Service								
Statistical reporting service								
BA	D82-165	198		10 29 81	-198			
Agricultural Cooperative Service								
Agricultural cooperative service								
BA	D82-166	39		10 29 81	-39			
Office of Internat. Cooperation and Development								
Scientific activities overseas								
BA	D82-167	700		10 29 81	-700			
Rural Electrification Administration								
Rural electr. and telephone revolving fund								
BA	D82-169	49,368b		10 29 81	-49,368			
Foreign Assistance Programs								
Expenses, P.L. 480								
BA	D82- 36	25,696		10 20 81	-25,696			
Agricultural Stabilization & Conservation Service								
Dairy and beekeeper indemnity programs								
BA	D82- 86	28		10 23 81	-28			
Agricultural conservation								
BA	D82- 87	8,600		10 23 81	-8,600			
Emergency conservation program								
BA	D82-168	1,400		10 29 81	-1,400			
Farmers Home Administration								
Salaries and expenses								
BA	D82-171	526		10 29 81	-526			
Rural housing for domestic farm labor								
BA	D82-173	1,750		10 29 81	-1,750			
BA	D82-224	10,728		2 8 82				10,728
Mutual and self-help housing								
BA	D82-174	490		10 29 81	-490			
Rural water and waste disposal								
BA	D82-170	8,680		10 29 81	-8,680			
Rural community fire protection grants								
BA	D82-172	490		10 29 81	-490			
Agricultural credit insurance fund								
BA	D82-175	1,316		10 29 81	-1,316			
Rural development insurance fund								
BA	D82-176	21,000		10 29 81	-21,000			
Soil Conservation Sevice								
Watershed and flood prevention operations								
BA	D82- 89	8,926		10 23 81	-8,926			
BA	D82-244	8,822		6 3 82				8,822
Animal and Plant Health Inspection Service								
Animal and plant health inspection service								
BA	D82- 90	4,125		10 23 81	-4,125			
Buildings and facilities								
BA	D82-177	236		10 29 81	-236			
Agricultural Marketing Service								
Payments to States and possessions								
BA	D82-178	210		10 29 81	-210			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 09/02/82 10:25

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 9-1-82
Food and Nutrition Service									
Food program administration	BA	D82-208	487		11 6 81	-487			
Child nutrition programs	BA	D82-210	472		11 6 81	-472			
Special supplemental food programs (WIC)	BA	D82-211	13,831		11 6 81	-13,831			
Forest Service									
State and private forestry	BA	D82- 92	776		10 23 81	-776			
	BA	D82-179	657		10 29 81	-657			
Agricultural research	BA	D82- 91	1,348		10 23 81	-1,348			
National forest system	BA	D82- 93	12,516		10 23 81	-12,516			
	BA	D82-180	1,059		10 29 81	-1,059			
Construction and land acquisition	BA	D82- 94	6,693		10 23 81	-6,693			
Timber salvage sales	BA	D82- 2	6,723		10 1 81				
	BA	D82- 2A		561	1 22 82				7,284
Rangeland improvements	BA	D82- 96	109		10 23 81	-109			
Acquisition of lands to complete land exchanges	BA	D82- 95	6		10 23 81	-6			
Expenses, brush disposal	BA	D82- 3	49,349		10 1 81				
	BA	D82- 3A		a	4 23 82			-948	48,401
DEPARTMENT OF AGRICULTURE TOTAL BA			254,069	561		-178,447		-948	75,235
DEPARTMENT OF COMMERCE									
General Administration									
Participation in U.S. expositions	BA	D82- 4	507		10 1 81	-32			475
Bureau of the Census									
Periodic censuses and programs	BA	D82-225	1,015		2 8 82				
	BA	D82-225A		a	5 18 82	-100			915
Economic and Statistical Analysis									
Salaries and expenses	BA	D82- 97	420		10 23 81	-420			
Economic Development Administration									
Economic development assistance programs	BA	D82- 98	38,855		10 23 81	-38,855			
	BA	D82-249	2,800		6 3 82	-2,800			
Minority Business Development Agency									
Minority business development	BA	D82- 99	857		10 23 81	-857			
	BA	D82-226	5,000		2 8 82				
	BA	D82-226A		5,000	5 18 82				10,000
United States Travel Service									
Salaries and expenses	BA	D82-181	287		10 29 81	-287			
National Oceanic and Atmospheric Administration									
Operations, research, and facilities	BA	D82-100	12,891		10 23 81	-12,891			
Construction	BA	D82- 5	2,000		10 1 81				
	BA	D82- 5A		a	1 22 82				
	BA	D82- 5B		a	5 18 82				2,000
National Telecom. and Information Admin.									
Salaries and expenses	BA	D82-101	277		10 23 81	-277			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 08/02/82 10:25

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 8-1-82
DEPARTMENT OF COMMERCE									
TOTAL BA			64,908	5,000		-56,519			13,390
DEPARTMENT OF DEFENSE-MILITARY									
Procurement									
Shipbuilding and conversion, Navy									
	BA	D82-227	1,275,000		2 8 82				1,275,000
Military Construction									
Military construction, all services									
	BA	D82- 6	38,837		10 1 81				
	BA	D82- 6A		14,101	1 22 82				
	BA	D82- 6B		714,785	2 8 82	-754,785		81,124	64,062
Family Housing, Defense									
Family housing, Defense									
	BA	D82- 7	1,992		10 1 81	-1,992			
DEPARTMENT OF DEFENSE-MILITARY									
TOTAL BA			1,315,829	728,886		-756,777		81,124	1,339,062
DEPARTMENT OF DEFENSE-CIVIL									
Cemeterial Expenses, Army									
Salaries and expenses									
	BA	D82- 37	85		10 20 81	-85			
Corps of Engineers									
General investigations									
	BA	D82- 38	2,068		10 20 81	-2,068			
Construction, general									
	BA	D82- 39	14,284		10 20 81	-14,284			
General expenses									
	BA	D82- 40	370		10 20 81	-370			
Special recreation use fees									
	BA	D82- 41	59		10 20 81	-59			
Soldiers and Airmen s Home									
Operation and maintenance									
	BA	D82- 42	63		10 20 81	-63			
Wildlife Conservation, Military Reservations									
Wildlife conservation, all services									
	BA	D82- 8	597		10 1 81				
	BA	D82- 8A		433	1 22 82	-30		8	1,008
DEPARTMENT OF DEFENSE-CIVIL									
TOTAL BA			17,526	433		-16,959		8	1,008
DEPARTMENT OF ENERGY									
Energy Programs									
Fossil energy R&D									
	BA	D82-105	14,769		10 23 81	-14,769			
	BA	D82-226	44,883		3 18 82		-44,883		
Fossil energy construction									
	BA	D82- 9	135,000		10 1 81		-135,000		
Gen. science & research-plant & capital									
	BA	D82-102	1,682		10 23 81	-1,682			
Energy supply R&D-operating expenses									
	BA	D82-103	49,393		10 23 81	-49,393			
	BA	D82-226	4,000		2 8 82				4,000
	BA	D82-226A		a	3 18 82				
Energy supply R&D-plant and capital equip.									
	BA	D82-104	11,949		10 23 81	-11,949			
Energy conservation									
	BA	D82-106	14,007		10 23 81	-14,007			
Strategic Petroleum Reserve									
	BA	D82- 10	8,000		10 1 81				
	BA	D82- 10A		52,860	2 8 82	-8,000	-52,860		
Energy information administration									
	BA	D82-107	2,042		10 23 81	-2,042			

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Economic regulation										
	BA	D82-108	2,436			10 23 81	-2,436			
Federal Energy Regulatory Commission										
	BA	D82-109	490			10 23 81	-490			
Geothermal resources development fund										
	BA	D82-110	18			10 23 81	-18			
DEPARTMENT OF ENERGY TOTAL	BA		288,669	52,860			-104,786	-232,743		4,000
DEPARTMENT OF HEALTH AND HUMAN SERVICES										
Health Services Administration										
Health Services										
	BA	D82- 11	1,508			10 1 81	-1,508			
Indian health services										
	BA	D82-212	10,950			11 6 81	-10,950			
Centers for Disease Control										
Preventive Health Services										
	BA	D82-213	791			11 6 81	-791			
Alcohol, Drug Abuse & Mental Health Administration										
Construction & renovation, St. Elizabeths Hospital										
	BA	D82- 12	11,500			10 1 81				
	BA	D82- 12A			a	1 22 82				11,500
Office of Assistant Secretary for Health										
Health services management										
	BA	D82-214	1,142			11 6 81	-1,142			
Special foreign currency program										
	BA	D82- 13	7,000			10 1 81				
	BA	D82- 13A			a	1 22 82				7,000
Health Care Financing Administration										
Program management										
	BA	D82-215	420			11 6 81	-420			
Social Security Administration										
Refugee assistance										
	BA	D82- 43	10,000			10 20 81	-10,000			
Cuban and Haitian entrants, reception & process.										
	BA	D82- 44	4,900			10 20 81	-4,900			
	BA	D82- 44A			a	1 22 82				
Cuban and Haitian entrants, domestic asst.										
	BA	D82- 45	37,000			10 20 81				
	BA	D82- 45A		11,398		1 22 82	-48,398			
Limitation on administrative expenses										
	BA	D82-237	9,600			3 18 82				
	BA	D82-237A			a	5 18 82				9,600
Human Development Services										
Work incentives										
	BA	D82-216	10,523			11 6 81	-10,523			
DEPARTMENT OF HEALTH AND HUMAN SERVICES TOTAL	BA		105,334	11,398			-88,632			28,100
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT										
Housing Programs										
Subsidized housing programs.										
	BA	D82-182	79,218			10 29 81	-79,218			
Payments for operation of low income housing										
	BA	D82-183	102,452			10 29 81	-102,452			
Housing for the elderly or handicapped										
	BA	D82-111	14,284			10 23 81	-14,284			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 09/02/82 10:25

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 9-1-82
Solar Energy and Energy Conserv. Bank								
Assist. for solar and conserv. improvements								
BA	D82-184	3,500		10 29 81	-3,500			
Community Planning and Development								
Community development support assistance								
BA	D82-112	61,589		10 23 81	-61,589			
Urban development action grants								
BA	D82-113	8,412		10 23 81	-8,412			
Rehabilitation loan fund								
BA	D82-185	26,959		10 29 81	-26,959			
Neighborhoods, Vol. Assoc. & Consumer Prot.								
Housing counseling assistance								
BA	D82- 46	207		10 20 81	-207			
Policy Development and Research								
Research and technology								
BA	D82- 47	420		10 20 81	-420			
Fair Housing and Equal Opportunity								
Fair housing assistance								
BA	D82- 48	96		10 20 81	-96			
Management and Administration								
Salaries and expenses								
BA	D82-186	3,590		10 29 81	-3,590			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
TOTAL BA		300,737			-300,737			
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Acquisition, construction and maintenance								
BA	D82- 49	121		10 20 81	-121			
Range improvements								
BA	D82-114	237		10 23 81	-237			
Bureau of Reclamation								
Loan program								
BA	D82-115	792		10 23 81	-792			
Construction program								
BA	D82-116	4,603		10 23 81	-4,603			
General investigations								
BA	D82-117	944		10 23 81	-944			
Operations and maintenance								
BA	D82-118	64		10 23 81	-64			
General administrative expenses								
BA	D82-119	353		10 23 81	-353			
Office of Water Research & Technology								
Salaries and expenses								
BA	D82-120	600		10 23 81	-600			
U.S. Fish and Wildlife Service								
Resource management								
BA	D82-121	5,815		10 23 81	-5,815			
Construction and anadromous fish								
BA	D82- 50	392		10 20 81	-392			
BA	D82-246	600		6 3 82				-600
Land acquisition								
BA	D82-247	400		6 3 82				-400
National Park Service								
Urban park and recreation grants								
BA	D82-125	1,400		10 23 81	-1,400			
BA	D82-238	858		3 18 82				-858
Operation of the National Park Service								
BA	D82-122	5,216		10 23 81	-5,216			
John F. Kennedy Center for the Performing Arts								
BA	D82-124	40		10 23 81	-40			

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AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 8-1-82
Construction									
	BA	D82-123	5,207		10 23 81	-5,207			
Land and water conservation fund									
	BA	D82-126	16,256		10 23 81	-16,256			
	BA	D82- 14	30,000		10 1 81				
	BA	D82- 14A		a	2 8 82				30,000
	BA	D82-239	2,821		3 18 82		-2,821		
Historic preservation fund									
	BA	D82-218	108		11 13 81	-108			
	BA	D82-240	781		3 18 82		-781		
Geological Survey									
Surveys, investigations and research									
	BA	D82- 51	9,019		10 20 81	-9,019			
Exploration of National Petroleum Res. in Alaska									
	BA	D82- 52	80		10 20 81	-80			
Payments from proceeds, sale of water									
	BA	D82- 15	45		10 1 81				45
Office of Surface Mining Reclam. and Enforcement									
Regulation and technology									
	BA	D82- 53	1,245		10 20 81	-1,245			
Bureau of Mines									
Drainage of anthracite mines									
	BA	D82- 16	991		10 1 81				
	BA	D82- 16A			2 8 82				991
Mines and minerals									
	BA	D82- 54	2,600		10 20 81	-2,600			
Bureau of Indian Affairs									
Operation of Indian programs									
	BA	D82-127	16,607		10 23 81	-16,607			
Construction									
	BA	D82-128	148		10 23 81	-148			
Road construction									
	BA	D82-129	279		10 23 81	-279			
Office of Territorial Affairs									
Administration of territories									
	BA	D82- 55	2,439		10 20 81	-2,439			
Trust territory of the Pacific Islands									
	BA	D82- 56	2,068		10 20 81	-2,068			
Office of the Solicitor and Office of the Secy									
Departmental management									
	BA	D82-130	414		10 23 81	-414			
Construction management									
	BA	D82-251	3,613		6 23 82				3,613
Youth conservation corps									
	BA	D82-131	2,494		10 23 81	-2,494			
DEPARTMENT OF THE INTERIOR TOTAL BA			119,650			-79,541	-5,460		34,649
DEPARTMENT OF JUSTICE									
General Administration									
Salaries and expenses									
	BA	D82-187	260		10 29 81	-260			
	BA	D82-188	196		10 29 81	-196			
United States Parole Commission									
Salaries and expenses									
	BA	D82-189	60		10 29 81	-60			
Legal Activities									
Salaries and expenses, Antitrust Division									
	BA	D82-190	81		10 29 81	-81			
Salaries and expenses, Foreign Claims Settl.									
	BA	D82-191	12		10 29 81	-12			
Federal Prison System									
Buildings and facilities									
	BA	D82-192	1,922		10 29 81	-1,922			
	BA	D82- 17	2,700		10 1 81				
	BA	D82- 17A		a	2 8 82				
	BA	D82- 17B		a	5 18 82				2,700

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AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 9-1-82
Office of Justice Assist., Res., and Statistics									
Law enforcement assistance									
	BA	D82-193	10,729		10 29 81	-10,729			
DEPARTMENT OF JUSTICE									
TOTAL	BA		15,950			-13,250			2,700
DEPARTMENT OF LABOR									
Employment and Training Administration									
Employment and training assistance									
	BA	D82-194	407,670		10 29 81	-407,670			
	BA	D82-229	88,543		2 8 82				
	BA	D82-229A		140,544	6 3 82	-159,168		-47,429d	22,490
	BA	D82- 18	49,881		10 1 81	-49,881			
Occupational Safety and Health Admin.									
Salaries and expenses									
	BA	D82-195	8,500		10 29 81	-8,500			
DEPARTMENT OF LABOR									
TOTAL	BA		554,594	140,544		-625,219		-47,429	22,490
DEPARTMENT OF STATE									
Administration of Foreign Affairs									
Emergencies in dipl. and consular service									
	BA	D82- 59	84		10 20 81	-84			
Acquis., oper. and main. of buildings abroad									
	BA	D82- 57	514		10 20 81	-514			
International Commissions									
Salaries and expenses									
	BA	D82- 59	80		10 20 81	-80			
Construction									
	BA	D82- 60	20		10 20 81	-20			
American sections, internat. commissions									
	BA	D82- 61	25		10 20 81	-25			
Other									
Emergency refugee and migration assistance fund									
	BA	D82- 19	35,043		10 1 81				
	BA	D82- 19A		100	1 22 82	-2,000			33,143
Migration and refugee assistance									
	BA	D82-241	40,000		4 23 82				40,000
	BA	D82-242	10,000		4 23 82				10,000
U.S. bilateral science and technology agreements									
	BA	D82-230	1,000		2 8 82				
	BA	D82-230A		1,000	4 23 82				2,000
DEPARTMENT OF STATE									
TOTAL	BA		86,766	1,100		-2,723			85,143
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Civil supersonic aircraft development termination									
	BA	D82- 20	3,446		10 1 81	-3,400			46
Facilities & equip. (Airport & airway trust fund)									
	BA	D82- 21	185,769		10 1 81				
	BA	D82- 21A		164,730	1 22 82				
	BA	D82- 28B		61,121	7 16 82				411,634
Federal Railroad Administration									
Commuter rail transfer									
	BA	D82-243	37,500		4 23 82				37,500
Grants to National Railroad Passenger Corp.									
	BA	D82-217	93,400		11 6 81	-12,740	-80,660		
Maritime Administration									
Ship construction									
	BA	D82-231	10,000		2 8 82				10,000
Research and Special Programs Administration									
Research and special programs									
	BA	D82-220	1,050		1 22 82				1,050

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AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 8-1-82
DEPARTMENT OF TRANSPORTATION TOTAL BA			331,179	225,851		-16,140	-80,660		460,230
DEPARTMENT OF THE TREASURY									
Office of the Secretary									
International affairs	BA	D82-196	109		10 29 81	-109			
Office of Revenue Sharing									
Salaries and expenses	BA	D82-197	26		10 29 81	-26			
State and local government fiscal assistance fund	BA	D82- 22	109,738		10 1 81	-6,732		3,467	106,473
	O	D82- 23	6,287		10 1 81				
	O	D82- 23A		14,635	3 18 82	-23,767		10,754	7,909
Federal Law Enforcement Training Center									
Construction	BA	D82- 24	4,200		10 1 81				4,200
Salaries and expenses	BA	D82-198	240		10 29 81	-240			
Bureau of Government Financial Operations									
New York City loan guarantee program	BA	D82-199	16		10 29 81	-16			
Chrysler Corporation loan guarantee program	BA	D82-200	23		10 29 81	-23			
Bureau of Alcohol, Tobacco and Firearms									
Salaries and expenses	BA	D82-201	1,039		10 29 81	-1,039			
Bureau of the Mint									
Expansion and improvements	BA	D82-132	70c		10 23 81			-70	
Internal Revenue Service									
Payment where energy credit exceeds liab. for tax	BA	D82-202	8		10 29 81	-8			
DEPARTMENT OF THE TREASURY TOTAL BA			115,469			-8,193		3,397	110,673
TOTAL O			6,287	14,635		-23,767		10,754	7,909
ENVIRONMENTAL PROTECTION AGENCY									
Research and development	BA	D82-133	1,889		10 23 81	-1,889			
Abatement, control and compliance	BA	D82-134	8,062		10 23 81	-8,062			
Buildings and facilities	BA	D82-135	69		10 23 81	[illegible]			
Hazardous substance response trust fund	BA	D82-136	3,360		10 23 81	-3,360			
	BA	0000							
ENVIRONMENTAL PROTECTION AGENCY TOTAL BA			13,380			-13,380			
NATIONAL AERONAUTICS & SPACE ADMINISTRATION									
Construction of facilities	BA	D82-137	2,800		10 23 81	-2,800			
	BA	0000							

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AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 9-1-82
NATIONAL AERONAUTICS & SPACE ADMINISTRATION								
TOTAL BA		2,800			-2,800			
VETERANS ADMINISTRATION								
Medical and prosthetic research								
BA	D82-138	2,583		10 23 81	-2,583			
Medical admin. and misc. operating expenses								
BA	D82-139	921		10 23 81	-921			
Construction, major projects								
BA	D82-140	81,300		10 23 81				
BA	D82-140A		4,495	8 23 82		-33,800		61,995
BA	D82-141	7,877		10 23 81	-7,877			
Construction, minor projects								
BA	D82-142	907		10 23 81	-907			
BA	0000							
VETERANS ADMINISTRATION								
TOTAL BA		109,588	4,495		-12,288	-33,800		61,995
OTHER INDEPENDENT AGENCIES								
ACTION								
Operating expenses, domestic programs								
BA	D82- 62	2,896		10 20 81	-2,896			
Administrative Conference of the U. S.								
Salaries and expenses								
BA	D82-143	16		10 23 81	-16			
Advisory Committee on Federal Pay								
Salaries and expenses								
BA	D82-144	4		10 23 81	-4			
Arms Control and Disarmament Agency								
Arms control and disarmament agency								
BA	D82- 63	282		10 20 81	-282			
Board for International Broadcasting								
Salaries and expenses								
BA	D82- 64	252		10 20 81	-252			
Grants and expenses								
BA	D82-248	915		6 3 82	-915			
Comm. for the Purchase From the Blind								
Salaries and expenses								
BA	D82- 65	10		10 20 81	-10			
District of Columbia								
Loans for capital outlay								
BA	D82-232	38,832		2 8 82				38,832
Equal Employment Opportunity Commission								
Salaries and expenses								
BA	D82-145	3,000		10 23 81	-3,000			
Federal Emergency Management Agency								
State and local assistance								
BA	D82-206	1,814		10 29 81	-1,814			
National flood insurance fund								
BA	D82-203	7,140		10 29 81	-7,140			
BA	D82-204	358,860		10 29 81	-358,860			
General Services Administration								
Consumer information center								
BA	D82- 68	26		10 20 81	-26			
Nat. Archives & Records Service-operating								
BA	D82- 66	140		10 20 81	-140			
Federal Property Resources Service-operating								
BA	D82- 67	748		10 20 81	-748			

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AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 9-1-82
Automated Data & Telecom. Service-operating	BA	D82-206	120		10 28 81	-120			
Advisory Commission on Intergovt. Relations									
Salaries and expenses	BA	D82- 68	10		10 20 81	-10			
Delaware River Basin Commission									
Salaries and expenses	BA	D82- 70	2		10 20 81	-2			
Contribution to the Del. River Basin Comm.	BA	D82- 71	4		10 20 81	-4			
Interstate Commission on the Potomac River Basin									
Contrib. to Interst. Comm. on Potomac Riv. Basin	BA	D82- 72	1		10 20 81	-1			
Susquehanna River Basin Commission									
Salaries and expenses	BA	D82- 73	1		10 20 81	-1			
Contrib. to the Susquehanna River Basin Comm.	BA	D82- 74	1		10 20 81	-1			
International Communication Agency									
Salaries & expenses	BA	D82- 75	4,680		10 20 81	-4,680			
Center for cul. and tech. exch. bet. east & west	BA	D82- 76	125		10 20 81	-125			
Special foreign currency program	BA	D82-249	700		6 3 82				700
Interstate Commerce Commission									
Salaries and expenses	BA	D82-146	648		10 23 81	-648			
Payments for directed rail service	BA	D82-252	2,700		8 23 82				2,700
Japan-U.S. Friendship Commission									
Japan-U.S. Friendship Commission trust fund	BA	D82- 77	34		10 20 81	-34			
Marine Mammal Commission									
Salaries and expenses	BA	D82- 78	11		10 20 81	-11			
National Capital Planning Commission									
Salaries and expenses	BA	D82-207	19		10 29 81	-19			
National Foundation on the Arts & Humanities									
Nat. endowment for the arts: sal. & expenses	BA	D82-147	11,208		10 23 81	-11,208			
Nat. endowment for the human.: sal. and expenses	BA	D82-208	5,892		10 29 81	-5,892			
Nat. endowment for the human.: matching grants	BA	D82-148	2,628		10 23 81	-2,628			
National Mediation Board									
Salaries and expenses	BA	D82- 79	58		10 20 81	-58			
National Science Foundation									
Research and related activities	BA	D82- 80	19,924		10 20 81	-19,924			
Scientific activities overseas	BA	D82- 81	89		10 20 81	-89			
Science and engineering educ. activities	BA	D82- 82	2,623		10 20 81	-2,623			
Neighborhood Reinvestment Corporation									
Payment to Neighborhood Reinvest. Corp.	BA	D82- 83	181		10 20 81	-181			

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1982 AS OF 09/02/82 10:25

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE		DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 9-1-82
Pennsylvania Avenue Development Corporation										
Salaries and expenses	BA	D82-149	15			10 23 81	-15			
Public development	BA	D82-150	239			10 23 81	-239			
Land acquisition and development fund	BA	D82-151	42			10 23 81	-42			
	BA	D82- 25	30,896			10 1 81	-10,000			
	BA	D82- 25A			a	2 8 82				20,896
Railroad Retirement Board										
Milwaukee railroad restructuring, administration	BA	D82-250	240			6 3 82				240
Selective Service System										
Salaries and expenses	BA	D82- 84	192			10 20 81	-192			
Small Business Administration										
Salaries and expenses	BA	D82-152	3,137			10 23 81	-3,137			
Business loan and investment fund	BA	D82-233	2,500			2 8 82				
	BA	D82-233A		2,500		9 18 82				5,000
Surety bond guarantees revolving fund	BA	D82-154	373			10 23 81	-373			
	BA	D82-234	3,000			2 8 82				
	BA	D82-234A			a	6 3 82				3,000
Lease guarantees revolving fund	BA	D82-153	67			10 23 81	-67			
Smithsonian Institution										
Museum programs and related research	BA	D82-155	231			10 23 81	-231			
Restoration and renovation of buildings	BA	D82-156	145			10 23 81	-145			
Motor Carrier Ratemaking Study Commission										
Salaries and Expenses	BA	D82- 26	150			10 1 81				150
Pres. Com. for the Study of Ethical Probs. in Med.										
Salaries and expenses	BA	D82-221	262			1 22 82				
	BA	D82-221A		327		8 23 82				589
Tennessee Valley Authority										
Tennessee Valley Authority fund	BA	D82-157	2,321			10 23 81	-2,321			
United States Railway Association										
Payments for purchase of Conrail securities	BA	D82-235	84,500			2 8 82				84,500
Water Resources Council										
Water resources planning	BA	D82- 86	42			10 20 81	-42			
OTHER INDEPENDENT AGENCIES TOTAL BA			584,916	2,827			-441,136			186,607
TOTAL BA			7,012,670	1,173,955			-5,399,670	-952,663	6,152	2,440,444
TOTAL O			6,287	14,635			-23,767		10,754	7,909

a. This report was transmitted solely to reflect technical adjustments to the previous report.

b. Off-budget.

c. This deferral was reported in error. Funds for this budget account were not withheld.

d. This amount is now proposed for rescission.

END OF REPORT

[FR Doc. 82-25690 Filed 9-16-82; 8:45 am]

BILLING CODE 3110-01-C

federal register

Friday
September 17, 1982

Part VI

Department of Labor

Office of the Assistant Secretary for Labor-Management Relations

Labor-Management Services Administration

Airline Employee Protection Program

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Labor-Management Relations

Labor-Management Services Administration

29 CFR Part 220

Airline Employee Protection Program

AGENCY: Office of the Assistant Secretary for Labor-Management Relations and Labor-Management Services Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Department of Labor, through the Labor-Management Services Administration (LMSA), is proposing regulations to implement the Airline Employee Protection Program established by Section 43 of the Airline Deregulation Act of 1978 (Public Law 95–504). By Secretary's Order Number 1–79, the LMSA has been assigned responsibility for provisions concerning protected employees' priority hire rights, air carriers' duty to hire and the comprehensive job listing. These proposed rules are designed to effectuate those provisions.

DATE: Written comments in duplicate must be received by the Department of Labor by close of business on October 18, 1982.

ADDRESS: Written comments should be submitted to the Airline Employee Protection Program, Division of Employee Protections, Room N–5633, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey Salzman, 202–357–0473.

SUPPLEMENTARY INFORMATION:

Background

On October 24, 1978, the Airline Deregulation Act of 1978, Pub. L. 95–504 (the Act), was signed into law to bring to a close economic regulation of the airline industry. Although airline deregulation is expected to result in expanded overall employment opportunities over the long term, Congress recognized the possibility of reductions in the labor force of one or more air carriers as they make the adjustment from government regulation to an economic environment governed by market forces. Section 43 of the Act provides in general terms for certain employee protective provisions to be administered by the Secretary of Labor, which provisions include both a legal hiring preference for certain unemployed airline workers and, under certain defined circumstances, a benefit program. These proposed regulations apply only to the first right of hire and job list provisions contained in Section 43 of the Act (the Rehire Program).

Under the Act those persons (other than members of the board of directors or corporate officers) who as of October 24, 1978 (the Trigger Date) had been employed for at least four years by an air carrier which had been certificated under section 401 of the Federal Aviation Act of 1958 on or before that date (any such carrier being hereinafter called a covered carrier) are protected employees for purposes of the Rehire Program. All protected employees who are furloughed or terminated (other than for cause) by their employer during the ten year period subsequent to the Trigger Date (hereinafter called "designated employees") are entitled to a first right of hire in their occupational specialty by any covered air carrier which is hiring new employees, although any such covered air carrier is specifically entitled to recall its own furloughed or terminated employees or promote existing employees before hiring a designated employee. Air carriers which are not covered carriers for purposes of the Act do not have any duty to hire designated employees. In addition, the Act requires the Secretary to compile and publish a comprehensive list of jobs available with certificated air carriers, whether or not such carriers are subject to the duty to hire designated employees.

In January of 1979, public meetings were held with interested parties from the airline industry to receive their views concerning development of this program. Proposed regulations were published in March of 1979 in the **Federal Register** and public comments were received. However, a final rule was never published.

Summary of Proposed Rule

The proposed regulations are divided into six subparts:

Subpart A contains the purpose, scope, responsibilitites and definitions applicable to this Part 220. It should be noted that a number of these provisions embody significant administrative interpretations of the Act. Of particular importance is the definition of a protected employee contained in § 220.01(j). This definition limits the scope of the Rehire Program to an employee who occupies a position which entitles the individual to accrue seniority rights or to possess recall rights under the applicable collective bargaining agreement or company policy. Specifically, this definition exempts a seasonal or temporary employee who does not occupy such a position.

Particular attention is called to the fact that a protected employee is defined as one who on October 24, 1978 had four years of actual service or had four years accrued seniority with a single covered carrier. Specific comments are requested on the proposal to include accrued seniority in computing an employee's length of service. Comments are requested on the expected impact of this proposal, i.e. the number of employees that may be expected to meet the definition if accrued seniority is counted, as opposed to those that would be covered if only actual service were counted; the different effect, if any on employees in the various occupational specialties; the industry practice of counting seniority as actual time worked with regard to compensation and benefits such as hospitalization and pensions; and the difficulty, if any, of determining an employee's length of service based upon present employment records if accrued seniority is counted.

Similarly, positions which are seasonal or temporary and do not confer seniority or recall rights have been exempted from the vacancy filing requirements contained in proposed section 220.22. This interpretation recognizes the industry practice of hiring temporary or seasonal workers, such as college students and military personnel, over Christmas holidays and periods of peak summer travel. Many carriers utilize seasonal employees who do not accrue any seniority rights and whose employment is terminable at will without recall rights. Because the Rehire Program is intended to facilitate the permanent re-employment of employees with a long-term commitment to the industry, the Department believes that coverage of seasonal and temporary employees and positions, so long as they do not confer seniority or recall rights, was not intended by the Act. However, while air carriers are free to hire non-protected employees to fill seasonal and temporary positions, proposed § 220.20(b) prohibits an air carrier from filling a vacancy which would otherwise be available to a designated employee by promoting a seasonal or temporary employee until the carrier has made the vacancy available to designated employees in accordance with the regulations.

It should also be noted that under the proposed regulations the Rehire Program is applicable only to certain protected employees. A "designated employee" is defined in § 220.01(f) as a protected employee who meets certain statutory

eligibility tests as set forth in these rules. Only designated employees are entitled to exercise the first-right-of-hire.

Subpart B prescribes the eligibility requirements for, as well as the rights of, designated employees under the Rehire Program.

Proposed § 220.10 implements the statutory limitation that only designated employees are eligible for the first-right-of-hire. Specifically excluded from eligibility as designated employees are protected employees who retire, voluntarily quit, strike, withhold services in support of other employees on strike or are terminated for being on strike.

Proposed § 220.11 provides that designated employees shall have a first-right-of-hire, regardless of age, in their occupational specialty and protects existing seniority and recall rights with their former air carriers. This section also permits covered carriers to establish job qualifications or other hiring criteria which applicants must satisfy, subject to the limitations on such criteria set forth in § 220.21.

Subpart C enumerates the duties of covered air carriers under the Rehire Program.

Proposed § 220.20 implements the statutory duty of covered air carriers to hire qualified designated employees before any other applicant from outside the furloughed or existing work force of the hiring carrier. This section also explicitly recognizes a covered carrier's right to select the applicant of its choice from among the designated employees who apply for a given position.

Proposed § 220.21 provides that, solely with respect to the Rehire Program, employment opportunities for designated employees may not be limited by a covered air carrier on the basis of initial hiring age or the absence of seniority, recall rights or previous experience with another air carrier. This provision implements the express language of the Act that protected employees have a first-right-of-hire "regardless of age", thereby invalidating existing initial hiring age criteria of covered air carriers as they apply to designated employees in the Rehire Program. Further, the Department believes that air carriers may not require the absence of seniority, recall rights or previous experience as a condition of employment for protected employees in the Rehire Program. However, these regulations are not intended to affect in any manner the hiring practices of covered air carriers regarding persons who are not designated employees or retirement policies of such carriers which do not discriminate against designated employees.

Proposed § 220.22 provides that all certificated air carriers, irrespective of whether they were certificated before or after the passage of the Act, must list their job vacancies with a Center established by the Secretary which will maintain and publish a National Listing of available airline jobs (See proposed § 220.40). This requirement was established in order to insure that the National Listing contains a comprehensive listing of available jobs, even if some listed jobs are not subject to the express duty to hire imposed under the Rehire Program. In addition, the availability of such a comprehensive list should provide the maximum opportunity for unemployed airline workers to obtain reasonably comparable employment at the soonest possible time.

Proposed § 220.23 prescribes the content of vacancy listings which must be filed by air carriers.

Proposed § 220.24 prohibits a covered air carrier from filling a vacancy (other than on a temporary basis) with anyone other than a designated employee until the vacancy has been listed with the Center pursuant to § 220.22 for at least 30 days.

Proposed § 220.25 establishes a list of protected employees to be published by the Department. Covered air carriers are required to report the specified identifying information for all persons who qualify as protected employees. Additionally, air carriers are required to notify each employee as to whether or not that employee has been designated as a protected employee. It should be emphasized that the employer is not required to use any particular form in notifying employees as to whether or not they are protected. Thus, for example, the carrier is free to notify current employees of their status by placing a statement to the effect on their paystub.

An employee who the air carrier determines is not a protected employee may submit evidence in support of his or her claim to protected employee status to the air carrier, and under procedures outlined in § 220.26 the employee may appeal any adverse final determination by the air carrier to the Secretary. Any air carrier contemplating hiring a designated employee will be able to verify the employee's initial status as a protected employee by contacting the Department.

Proposed § 220.27 requires an air carrier to furnish each protected employee who is furloughed or terminated, other than for cause, during the ten years following the Trigger Date with appropriate evidence of this occurrence at the time of such action. This requirement applies unless the furlough is for a specific period of less than 90 days. This requirement applies to all such furloughs or terminations between the effective date of the regulations and October 24, 1988. In addition, covered air carriers are required to make a reasonable effort to provide comparable evidence to protected employees who were furloughed or terminated by such carrier between October 24, 1978 and the effective date of the regulations. As with the notice under § 220.25, the proposed regulations do not contemplate any particular form to be used by the carriers in notifying employees of their status under this section. Carriers may furnish the employee with a statement or add such information to any letters or forms presently given to an employee upon termination.

Proposed § 220.28 requires covered air carriers to report the filling of vacancies to the Department semi-annually. If the vacancy was filled by a non-designated employee such report must contain a certification that no qualified designated employee filed a timely application.

Proposed § 220.29 provides that the duty to hire a qualified designated employee supercedes any goal, timetable, consent decree or comparable requirement emanating from the general application of civil rights statutes or executive orders. The Act explicitly requires covered air carriers to hire qualified designated employees above all other persons, without exception. Of course, air carriers are still required to carry out their equal employment obligations to the maximum extent possible consistent with their duty to hire under the Act. As covered air carriers remain free to select any applicant from among the pool of designated employees, the Department believes that the duty to hire designated employees and equal employment obligations can be accommodated in most cases.

Subpart D prescribes the obligations of designated employees in seeking to exercise the first-right-of-hire, including seeking suitable employment, making application for specific positions with covered air carriers and providing proof of eligibility for the first-right-of-hire.

Subpart E prescribes the responsibilities of the Department of Labor under the Rehire Program.

Proposed § 220.40 provides that the comprehensive list of jobs available with air carriers will be established and maintained at the Center established by the Secretary. Jobs may be listed with

this facility by air carriers, by telephone, or in writing. The comprehensive list of vacancies will be published on a periodic basis as determined necessary by the Secretary.

Proposed § 220.41 provides for the list of protected employees to be published by the Department.

Subpart F prescribes the beginning and ending dates of the effectiveness of these regulations and provides for the disclosure of information, collected by the Department, consistent with the Privacy Act (5 U.S.C. 552a).

Enforcement

The Act and its legislative history are silent on the existence of a means to enforce the Rehire Program, whether by seeking damages for failure to carry out requirements of the Act or any accompanying regulations or otherwise. After careful study the Department has concluded that it is without specific enforcement authority under the Act. However, it would appear possible that a private right of action may be available to qualified designated employees who actually applied for job vacancies during the effective period of the Rehire Program (see *Cort. v. Ash*, 442 U.S. 66, 78 (1975).

Drafting Information

This document was prepared under the direction and control of Hugh Reilly, Executive Assistant to the Assistant Secretary for Labor-Management Relations, Labor-Management Services Administration, U.S. Department of Labor, Room S–2203, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Consultation with the Equal Employment Opportunity Commission

Pursuant to to Executive Order 12067, this proposal has been submitted to the Equal Employment Opportunity Commission for review. A discussion of the present status of that review is set forth in Appendix II to this document.

Executive Order 12291

The proposed regulations being published today contain several provisions which could have an economic impact on certificated air carriers, unemployed airline personnel and the Federal Government. In particular, today's proposal established: (1) Eligibility requirements and procedures for implementing the first-right-of-hire provisions under the Act; (2) a National Listing of airline job openings for all air carriers, including those certificated after the Trigger Date; (3) a list of protected employees to be published by the Department; (4) a one-time notice to all employees of covered carriers as to whether or not they qualify for protected status under the Act; and (5) semi-annual reporting of any new hires to the Department, which includes certifications for all jobs filled by someone other than a designated employee.

However, for several reasons the Department expects the actual economic impact of these regulations to be minimal. First, the proposed rule does not interfere with covered air carriers' internal promotion and recall practices regarding existing employees. Many job vacancies are filled internally through promotions of existing employees, while the Act and today's proposal are limited to outside hiring to fill job vacancies. This reduces substantially the number of actual job openings where first-right-of-hire provisions will apply. The only aspect of these regulations which will affect internal personnel practices of covered air carriers is the prohibition against promoting temporary or seasonal workers (if the positions held by them do not confer seniority or recall rights) without first offering any permanent job to which such persons might have been promoted to designated employees. Although this prohibition may affect the internal practices of covered carriers slightly, it is counter-balanced by the exemption contained in the regulations for carrier hiring of temporary and seasonal employees, so long as such persons do not acquire seniority or recall rights, This exemption will further reduce the number of job openings affected by the proposed regulations. Finally, covered carriers are entitled to recall their own furloughed or terminated employees prior to offering positions to designated employees.

Thus, the proposed regulations will affect neither existing seniority, promotion, and layoff policies nor short-term hiring practices. Additionally, the proposed exemption of seasonal and temporary positions recognizes a prevalent practice in the industry and allows employers maximum flexibility in meeting workforce requirements during peak demand periods.

A second reason the Department expects the economic impact of the regulations to be minimal is that the proposed regulations recognize the right of covered carriers to impose their own qualifications and hiring criteria (subject to certain prohibitions) on job applicants and to freely select from among all designated employee applicants who possess the requisite qualifications. Thus, the proposed regulations maintain existing employer personnel policies and job criteria intact, and they do not impose dual personnel systems for qualified designated employees and other applicants. The only change from present carrier practices is that they will be required to give preference to qualified designated employees in any outside hiring. Even this requirement is not a new burden imposed by the proposed regulations, but rather is a direct statutory obligation. For many occupations, particularly those where skill requirements are important, the Rehire Program may have no impact at all as covered air carriers would have hired these same employees, who possess substantial experience, even in the absence of this regulation.

The Department does recognize that covered air carriers may experience some increased training costs because of the statute's prohibitions against age restrictions or other criteria designed to minimize the employment of workers with accrued seniority or layoff rights. Since investments in training are amortized over a number of years, employers incur higher training costs for short tenure workers, everything else being equal. The designated employee pool may have a shorter tenure horizon on average than other applicants, because it includes some older workers close to retirement or those who may be recalled back to their previous employer with their seniority rights intact. However, this is not a cost of the regulation, but is a direct statutory limitation. In addition, such costs may be mitigated by the fact that designated employees will tend to be more experienced than other applicants, and hence may require less training. Moreover, any increased training costs could also be further offset by higher productivity from these experienced employees, and hence lower labor costs. At equal wages, the incentive would be for employers to hire more experienced workers even in the absence of these regulations because of the lower labor costs.

Third, the National Listing of openings and list of protected employees will increase the efficiency of the labor market in the airline industry by facilitating the matching of job vacancies with qualified applicants. Employers may find this hiring system preferable to more traditional listing methods, which tend to be haphazard.

In theory, there could be some added costs associated with the proposed requirement that employers not fill a vacancy on a permanent basis with other than a qualified designated employee until the vacancy or anticipated vacancy has been listed for at least 30 days; however, this is highly unlikely in practice. Because of formal training programs in the industry,

airlines doing outside hiring generally hire entire classes of employees rather than isolated individuals. This type of hiring decision takes place well in advance, at which time employers may list the anticipated vacancies. Similarly, under negotiated contracts many jobs must be bid to existing employees for a period of time before outside hiring can take place. These may be simultaneously placed on the National Listing, thereby permitting the 30 day waiting period to run simultaneously with internal bidding procedures. Finally, given the high unemployment-to-job vacancy ratio in the industry at this time, few, if any, job vacancies would require the full 30-day listing. The Department believes that this proposed requirement is necessary to insure the effective operation of the National Listing of job openings and to provide maximum opportunity for the re-employment of protected employees.

Fourth, today's proposal limits employers' paperwork burdens to the minimum necessary to insure effective rehire and job listing programs. Proposed reporting requirements include only a one-time notice to each employee as to his or her protected status, and semi-annual reports to the Department on all jobs filled, including certifications in those cases where the new job did not go to a designated employee. Moreover, the proposed rule allows employers to list job vacancies entirely by telephone, rather than through written job orders. This increases the efficiency of the job listing program and reduces unnecessary employer delays in filling job vacancies.

Finally, the increased administrative costs imposed on air carriers and the Federal Government as a result of the job listing program and the filing and processing of one-time notices and semi-annual reports should not be major. While the precise costs of the proposed reporting requirements on air carriers cannot be estimated because the number of jobs to be filled through outside hiring by covered carriers is not known, they are expected to be minimal. For example, the 36 covered air carriers are expected to require at most one clerical hour annually at $5.94 (Bureau of Labor Statistics, 1981 average hourly rates for a typist class B) to complete the reports. There will be no additional costs associated with the job listing program for the Federal Government if telephone listings average under 100 per week. If the volume is higher, the Department estimates that the increased costs will run in the neighborhood of $50,000 to $100,000 per year.

For the above reasons, the Department has concluded that this proposed rule does not meet the tests for a "major rule" under Executive Order 12291 on Federal Regulations. It is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Paperwork Reduction Act

The information collection requirements set forth in these rules, as well as the forms necessary to implement them are being submitted to the Office of Management and Budget for its review and approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

Although all certificated carriers will be required to list their job vacancies under these regulations, the proposed rehire program itself applies to only 36 U.S. air carriers certificated as of October 23, 1978. According to CAB figures, this represents 52 percent of the total universe of 69 certificated non-commuter air carriers, including those certified after the Trigger Date. Based on annual revenues, only 4 of the 36 covered air carriers affected by today's proposal qualify as small entities (annual revenues of less than $10 million). These small carriers employed a total of 260 full-time workers in May 1982. The remaining covered air carriers affected by the proposed rule include: 8 large regional carriers (annual revenues of $10–$75 million); 13 national airlines (annual revenues of $75 million–$1 billion); and 11 major airlines (annual revenues of over $1 billion). The major airlines carry approximately 80 percent of the airline traffic, and the nationals carry an additional 10–12 percent. Together, these larger affected carriers had 301,527 full-time employees as of May 1982.

The small carriers covered under this proposal are approximately 21 percent of all small certificated air carriers (excluding commuter airlines) and 16 percent of the total full-time employees working for small certificated carriers. In contrast, a much higher percentage of larger air carriers are affected by today's proposal. Larger air carriers certificated as of October 23, 1978 represent 64 percent of the total air carriers in this size group and 95 percent of full-time employment with such carriers. These affected carriers include all of the major airlines, 77 percent of the national airlines, and 44 percent of the large regional air carriers. Thus, the proposed rule does not disproportionately impact on small air carriers.

In addition to the relatively smaller proportion of these carriers affected by today's proposal, the economic impacts of both the job listing requirement and the Rehire Program are not expected to be significant for the reasons previously discussed.

As a result, the Department of Labor believes that the proposed rule will not have a "significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act (Public Law No. 96–354, 91 Stat. 1164 (5 U.S.C. 605(b)). The Secretary of Labor has certified this to the Chief Counsel for Advocacy of the Small Business Administration. Accordingly, a regulatory flexibility analysis is not required.

Regulatory Flexibility Act Certification

I, Raymond J. Donovan, Secretary of Labor, hereby certify pursuant to 5 U.S.C. 605(b) that the proposed rule published hereinafter (29 CFR Part 220), Proposed Rule for the Airline Employee Protection Program, will not have a significant economic impact on a substantial number of small entities. This conclusion is reached because this proposed rule only has a minimal economic impact on a limited number of small air carriers certificated under section 401 of the Federal Aviaton Act of 1958.

Signed at Washington, D.C. this 14th day of September 1982.

Raymond J. Donovan,

Secretary of Labor

List of Subjects in 29 CFR Part 220

Labor, Airline employees and air carriers.

Accordingly, a new 29 CFR Part 220 is proposed to read as set forth below.

Signed at Washington, D.C. this 14th day of September 1982.

Raymond J. Donovan,

Secretary of Labor.

PART 220—AIRLINE EMPLOYEE PROTECTION PROGRAM

Subpart A—Purpose and Scope of the Airline Employee Protection Program

Sec.

220.01 Definitions.
220.02 Purpose.
220.03 Scope.

Sec.
220.04 Responsibilities of the Secretary of Labor.

Subpart B—Designated Employee First-Right-of-Hire Program
220.10 Eligibility requirements.
220.11 Designated employees' rights.

Subpart C—Carrier Responsibilities
220.20 Duty to hire.
220.21 Criteria for employment.
220.22 Listing a vacancy.
220.23 Content of vacancy listing.
220.24 Filling a vacancy.
220.25 List of protected employees.
220.26 Appeals to the Secretary.
220.27 Notice of rights.
220.28 Air carrier actions to be reported to the Secretary.
220.29 Affirmative action.

Subpart D—Designated Employee Responsibilities
220.30 Designated employee responsibilities.

Subpart E—Department of Labor Responsibilities
220.40 Comprehensive job list.
220.41 List of protected employees.

Subpart F—Administration
220.50 Effective period of the program.
220.51 Disclosure of information.
Appendix I U.S. Carriers certificated as of October 23, 1978 under section 401 of the Federal Aviation Act of 1958 as amended.

Authority: Section 43(f) of the Airline Deregulation Act of 1978, Pub. L. No. 95–504, 92 Stat. 1750 (49 U.S.C. 1552). Secretary Order No. 1–79, 44 FR 13093.

Subpart A—Purpose and Scope of the Airline Employee Protection Program

§ 220.01 Definitions.

As used in this Part, unless the content otherwise indicates:

(a) "Act" means the Airline Deregulation Act of 1978, Pub. L. 95–504, 92 Stat. 1705.

(b) "Air carrier" means an air carrier certificated under Section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371).

(c) "Center" means the entity or location which from time to time may be designated by the Secretary to receive, maintain and distribute the job listing information required by this Part.

(d) "Corporate officer" means an individual who holds any officer's position established pursuant to the Articles of Incorporation or by-laws of any air carrier, or who is otherwise identified as an officer by any air carrier in filings with the Federal Aviation Administration, Civil Aeronautics Board or Securities and Exchange Commission or in any reports to stockholders or any public communications of an air carrier.

(e) "Covered air carrier" means an air carrier which was certificated prior to October 24, 1978. (A listing of such carriers appears as an appendix to these regulations.)

(f) "Designated Employee" means a protected employee who meets the eligibility requirements set forth in § 220.10.

(g) "Effective Period" means the period commencing on the effective date of these regulations and ending on the earlier of (1) December 31, 1994, or (2) the last day of the final month in which the Secretary is required to make a payment under Section 43 of the Act.

(h) "Eligibility Period" means the ten-year period beginning on October 24, 1978.

(i) "Occupational specialty" means the class, craft, or field of endeavor in which an individual was employed at the time of separation from a covered air carrier or in which the employee was employed during the 12 months immediately preceding the date of separation.

(j) "Protected employee" means a person other than a member of the Board of Directors or corporate officer of an air carrier who on October 24, 1978 had (1) four years of employment or (2) four years accrued seniority with a single covered air carrier. The term employee shall include any full or part time employee other than an employee in seasonal or temporary employment as defined herein. As used herein four years of employment shall mean not less than 48 months (whether or not consecutive) in which the employee actually completed the minimum number of hours of regular employment required for such employee's craft, class or position under the then applicable requirements of the employing carrier.

(k) "Seasonal employment" means employment during limited periods of the year due to peak market conditions or other factors which are periodic in nature, and in positions which do not confer seniority or recall rights.

(l) "Secretary" means the Secretary of Labor of the United States.

(m) "Temporary employment" means employment of limited duration which does not confer seniority or recall rights.

(n) "Terminated", unless expressly provided to the contrary, means termination of employment other than for cause.

(o) "Terminated for cause" means the separation of an individual from employment initiated by an air carrier for violation of such carrier's rules, policies, procedures, or practices pertaining to employee standards of conduct, job performance, or dependability.

(p) "Vacancy" means an employment opportunity other than seasonal or temporary employment, which an air carrier seeks to fill from outside its existing or furloughed workforce.

§ 220.02 Purpose.

Section 43(d) of the Act provides a first-right-of-hire for designated employees of covered air carriers. The regulations in this Part are issued to effectuate section 43(d)(1) and (2) of the Act (hereinafter referred to as the Rehire Program).

§ 220.03 Scope.

(a) The Rehire Program is applicable only to designated employees, as more fully set forth herein, and only those employees who are expressly granted a hiring preference under the Act and these regulations have any rights under the Rehire Program. The Secretary of Labor will also publish a comprehensive list of jobs available with air carriers.

§ 220.04 Responsibilities of the Secretary of Labor.

The Secretary of Labor is responsible for administering the Rehire Program, and the Assistant Secretary for Labor-Management Relations, Labor-Management Services Administration (LMSA), has been delegated responsibility for the following:

(a) The development and promulgation of policies, regulations and procedures covering the first-right-of-hire provisions of Section 43(d)(1) of the Act;

(b) The development and promulgation of policies, regulations, and procedures covering the comprehensive job list required under Section 43(d)(2) of the Act; and

(c) The establishment and implementation of reporting requirements for air carriers to obtain pertinent information necessary for fulfilling the Secretary's responsibilities under Section 43(d)(2) of the Act.

Subpart B—Designated Employee First-Right-of-Hire Program

§ 220.10 Eligibility requirements.

(a) To qualify as a designated employee eligible for rights under this Part 220, an applicant must be a protected employee who is involuntarily placed on furlough or is terminated by a covered air carrier during the eligibility period.

(b) A protected employee shall not be deemed to be furloughed or terminated if such employee:

(1) Retired voluntarily;

(2) Was required to retire by virtue of reaching the mandatory retirement age, if any, established by a covered air carrier or as prescribed by any

government agency with regulatory authority over a covered air carrier;

(3) Retired due to a disability;

(4) Is on strike or has withheld services in support of other employees who have struck the covered air carrier;

(5) Is terminated for being on strike;

(6) Resigned or voluntarily quit for any reason.

(c) A designated employee who is recalled by his former carrier is no longer eligible under this section to exercise the first-right-of-hire. Such a person may become a designated employee in the future due to a subsequent termination or furlough which occurs on or prior to the expiration of the eligibility period.

§ 220.11 Designated employees' rights.

(a) A designated employee shall have a first-right-of-hire in such employee's occupational specialty, regardless of age, with any covered air carrier hiring additional employees; *Provided, however,* That each designated employee must satisfy all qualifications or other requirements established by the hiring carrier (subject to the limitations contained in § 220.21) and must make a timely application in accordance with normal carrier procedures for any particular job vacancy.

(b) A designated employee hired by any covered air carrier pursuant to the provisions of the Act shall not be required, as a condition of employment or in any other manner, to relinquish, waive or forfeit any seniority or recall rights which such person may possess with any other air carrier; *Provided, however,* That the provisions of this part shall not be deemed to create or prolong any such seniority or recall rights.

Subpart C—Carrier Responsibilities

§ 220.20 Duty to hire.

(a) Subject to § 220.24 hereof, a covered air carrier shall have the duty to hire a designated employee, regardless of age, who otherwise meets the qualification requirements established by such carrier before it hires any other applicant when such carrier is seeking to fill a vacancy in the designated employee's occupational specialty from outside its workforce. As used herein "workforce" shall include all present employees and any furloughed or terminated employees who, at the time of furlough or termination, possessed recall or seniority rights.

(b) Subject to the provisions of § 220.24 hereof, a covered air carrier shall not fill a vacancy, which would otherwise be available to a designated employee, by promoting a seasonal or temporary employee.

(c) When considering applications from more than one designated employee for a particular vacancy, a covered air carrier shall be entitled to offer employment to any such designated employee in its absolute discretion.

§ 220.21 Criteria for employment.

(a) A covered air carrier shall be entitled to apply any prerequisites or qualifications determined by it for any vacancy, except that, solely with respect to the duty to hire created by the Act, a covered air carrier shall not be entitled to limit employment opportunities for designated employees on the basis of:

(1) initial hiring age (provided that such prohibition shall not be applicable to retirement ages applicable to all of any class or craft of such air carrier's employees); or

(2) the existence of any seniority, recall rights or previous experience with any other air carrier; *Provided, however,* That covered air carriers shall be entitled to require prospective employees to disclose the existence of any such seniority or recall rights in making application for employment and to take the existence or non-existence of such rights into account in selecting from among those qualified designated employees who have applied for a particular job vacancy.

(b) In filling job vacancies during the effective period covered air carriers shall be entitled to require applicants to furnish evidence that they are designated employees.

§ 220.22 Listing a vacancy.

(a) During the effective period all air carriers shall be required to list each vacancy with the Center at the earliest practicable time. In addition, any air carrier shall be entitled to list anticipated vacancies with the Center at any time.

§ 220.23 Content of vacancy listing.

Air carriers shall provide the Center with a description for each job listing, which shall include, but need not be limited to, the following:

(a) Job title;

(b) Type of position (full or part-time);

(c) Salary;

(d) Basic qualifications and/or training requirements;

(e) Brief description of duties;

(f) Location of vacancy (if known);

(g) Special requirements such as type rating, licensing, skill requirements, etc.;

(h) Whether the vacancy is subject to the duty to hire; and

(i) Information on how to apply, such as contact person, mailing address, and any special application procedures.

§ 220.24 Filling a vacancy.

(a) A covered air carrier may fill a vacancy with someone who is not a designated employee after the vacancy has been listed with the Center for a least thirty calender days; if:

(1) no designated employee with the requisite occupational specialty has applied for the vacancy in accordance with § 220.30 within that time; or

(2) no designated employee who did apply within that time period meets the carrier's criteria for employment as set forth in § 220.21.

(b) A covered air carrier may fill a vacancy on a temporary basis with someone who is not a designated employee while the carrier is considering applications for the vacancy which were received from designated employees during the listing period.

§ 220.25 List of protected employees.

(a) Within 60 days of the effective date of these regulations, each covered air carrier shall provide the Secretary with a list of all protected employees who were employed by it on October 24, 1978.

(b) The list shall contain the following information:

(1) Protected employee's name;

(2) Social security number (if available); and

(3) Current occupational specialty for present employees or occupational specialty at the time of separation from employment for former employees.

(c)(1) Not later than ninety days after the effective date of these regulations, each convered air carrier shall provide a one-time notice to each employee as to whether or not the carrier has determined that employee to be a protected employee within the meaning of these regulations, and if so that the carrier has reported his or her name to the Secretary.

(2) An employee who disputes the carrier's determination of protected status may submit evidence to the covered air carrier within sixty days of receiving the notice required by paragraph (c)(1) as to the employee's basis for such dispute.

(3) The covered air carrier shall consider the evidence submitted by the employee and shall inform the employee of its final determination. In the event the carrier determines that the employee qualifies as a protected employee it shall forward the employee's name to the Secretary.

§ 220.26 Appeals to the Secretary.

(a) If the employee disagrees with the carrier's final determination under § 220.25 that he or she is not a protected

employee within the meaning of this part the employee may appeal such determination to the Secretary within 60 days of the carrier's final decision.

(b) An appeal must be written, dated, and signed by the employee. It must set forth:

(1) The full name and address of the carrier making the determination;

(2) A summary of the pertinent events and circumstances concerning the employee's status and the basis of the disagreement, including the original date of hire, dates of all periods of furlough, leave or termination, the full name of the individual(s) who made the determination for the carrier, and the date of the carrier's final determination.

(3) The full name, address, and telephone number of the employee; and

(4) Such other information as may be required by the LMSA.

(b) Any appeal hereunder may be filed with any office of the Labor-Management Services Administration (LMSA) (LMSA Area offices and their respective jurisdictions are listed as an appendix to these regulations.). Upon receipt of an appeal by an LMSA Regional Office, the Regional Administrator will make a preliminary review of the appeal, and if warranted, request information from the parties or conduct such other investigation as may be required. If the matter cannot be resolved informally, the Regional Administrator will forward the file to the Secretary for review.

(c) If upon review of an appeal hereunder the Secretary determines that further action is not appropriate he will so advise the parties. If upon review of the entire record the Secretary determines that the employee qualities for protected status the Secretary will take appropriate steps to add the employee's name to the list of protected employees and will so notify the parties.

§ 220.27 Notice of rights.

(a) Not later than the date of separation from employment, a covered air carrrier which furloughs or terminates a protected employee during the eligibility period, unless such furlough is limited to a specific period of less than 90 days, shall furnish such protected employee with a letter or other written documentation that such employee is a designated employee and thereby is entitled to exercise a first-right-of-hire. Such letter or other written documentation shall include, but need not be limited to, the following information:

(1) Name;

(2) Social Security Number (if available);

(2) Occupational specialty;

(4) Date of furlough or termination;

(5) An official of the covered air carrier who can verify the individual's status as a designated employee; and

(6) Signature, name, and location of the certifying official.

(b) As soon as practicable, but in any event not later than 180 days following the effective date of these regulations, each covered air carrier shall make a reasonable effort to provide a letter or other written documentation as required in subparagraph (a) to any designated employee as set forth in section 220.10 of this part who was furloughed or terminated by such carrier subsequent to October 24, 1978 and prior to the effective date of these regulations and who has not been previously recalled to employment by such covered air carrier.

§ 220.28 Air carrier actions to be reported to the Secretary.

(a) A covered air carrier shall report to the Secretary:

(1) The names and social security numbers (if available) of all designated employees hired by it, and

(2) The filling of any vacancy with other than a designated employee.

With respect to any occurrences reported under paragraph (a)(2) of this section, the report of the covered air carrier shall contain the job order number assigned to that vacancy by the Center, the date of hire, and a certification by a corporate officer that the carrier complied with the provisions of this part and that no qualified designated employee with the requisite occupational specialty applied in a timely manner.

(b) The reports required by this section shall be filed with the Secretary covering the six month periods ending June 30 and December 31 of each calendar year in which these regulations are in effect and shall be submitted within sixty days of the end of the reporting period.

§ 220.29 Affirmative action.

The duty to hire a qualified designated employee supersedes any goal, timetable, consent decree or comparable requirement emanating from general application civil rights statutes, executive orders or judicial decrees. However, to the extent possible a covered air carrier remains required to satisfy its equal employment obligations, so long as it does not violate the carrier's duty to hire under this part, by hiring from among qualified designated employees applying for a particular position.

Subpart D—Designated Employee Responsibilities

§ 220.30 Designated employee responsibilities.

It is the responsibility of each designated employee to:

(a) Make application to any covered air carrier for whom the designated employee desires to work in the time and manner reqired by such carrier.

(b) To insure that an application previously submitted to a covered air carrier which currently lists a vacancy is in an active status so as to be considered for such vacancy;

(c) To provide a copy, if requested, of the documentation of designated employee status to a potential employing air carriers; and

(d) To retain the original of the documentation of designated employee status for future use.

Subpart E—Department of Labor Responsibilities

§ 220.40 Comprehensive job list

(a) The Secretary shall establish a Center to maintain a national Listing of all vacancies listed by air carriers in accordance with 220.23 of this part.

(b) The Center will be accessible by telephone throughout the United States to facilitate the listing or modifying of vacancy information by air carriers.

(c) The Center shall provide an air carrier with an identifying number for each vacancy listed on the National Listing.

(d) The National Listing shall be compiled, published and distributed to each local office of the State Employment Security Agencies on a periodic basis as determined necessary by the Secretary, and it shall be distributed to such other individuals or organizations as may desire to receive copies therof in accordance with criteria established by the Secretary from time to time.

§ 220.41 List of protected employees.

The Secretary shall establish and publish a list of protected employees as reported by covered air carriers under § 220.25 of this part. A copy of this list shall be sent to all covered air carriers as soon as available.

Subpart F—Administration

§ 220.50 Effective period

(a) *Beginning date.* The requirements set forth in this past shall be effective on [60 days from publication of these regulations].

(b) *Ending date.* This program and these regulations terminate on the last day of the effective period.

§ 220.51 Disclosure of information.

The Department of Labor shall make available to covered air carriers, and to designated employees, or their representatives, all reports, certifications, or lists collected under this Part to the extent permitted by the Privacy Act (5 U.S.C. 552a) and the Department's regulations issued pursuant to that Act (29 CFR Part 70a).

Appendix I.—U.S. Carriers Certificated as of October 23, 1978 Under Section 401 of the Federal Aviation Act of 1958, as Amended [1]

Note.—This appendix will not appear in the Code of Federal Regulations.

1. Airlift International, Inc.
2. Air Micronesia, Inc.
3. Air Midwest
4. Air New England, Inc.
5. Air Wisconsin, Inc.
6. Alaska Airlines, Inc.
7. Allegheny Airlines, Inc.
8. Aloha Airlines, Inc.
9. American Airlines, Inc.
10. Aspen Airways, Inc.
11. Braniff Airways, Inc.
12. Capitol International Airways, Inc.
13. Chicago Helicopter Airways, Inc.
14. Colonial Air Lines, Inc.
15. Continental Air Lines, Inc.
16. Delta Air Lines, Inc.
17. Eastern Airlines, Inc.
18. Evergreen International Airlines, Inc.
19. The Flying Tiger Line, Inc.
20. Frontier Airlines, Inc.
21. Hawaiian Airlines, Inc.
22. Hughes Air Corp.
23. Kodiak Western Alaska Airlines, Inc.
24. Mackey International Airlines, Inc.
25. McCulloch International Airlines, Inc.
26. Midway Airlines, Inc.
27. Midway (Southwest) Airway Co.
28. Modern Airways, Inc.
29. Munz Northern Airlines, Inc.
30. National Airlines, Inc.
31. New York Airways, Inc.
32. North Central Airlines, Inc.
33. Northwest Airlines, Inc.
34. Overseas National Airways, Inc.
35. Ozark Air Lines, Inc.
36. Pan American World Airways, Inc.
37. Piedmont Aviation, Inc.
38. Reeve Aleutian Airways, Inc.
39. Rich International Airlines, Inc.
40. Seaboard World Airways, Inc.
41. Southern Air Transport, Inc.
42. Southern Airways, Inc.
43. Texas International Airlines, Inc.
44. Trans International Airlines, Inc.
45. Trans World Airlines, Inc.
46. United Airlines, Inc.
47. Western Air Lines, Inc.
48. Wien Air Alaska, Inc.
49. World Airways, Inc.
50. Wright Air Lines, Inc.
51. Zantop International Airlines, Inc.

[1] This list does not reflect the current operating status of certain of these carriers. Some have merged, ceased operating or have been renamed. The Department of Labor intends to publish an updated list reflecting the current status of these carriers.

Appendix II.—Consultation With Equal Employment Opportunity Commission

A draft of this rule was forwarded to the Equal Employment Opportunity Commission for review pursuant to Executive Order 12067, 43 FR 28967. The Commission's Staff Committee on Interagency Policy raised reservations about Section 220.29 as proposed within. The concern was raised that as between a legal obligation specific to a particular carrier and the more general obligations of Section 43(d), the former should prevail. The Commission's Policy Committee agrees with proposed Section 220.29 that, to the extent possible a covered air carrier should satisfy its equal employment obligations by hiring from among qualified designated employees applying for a particular position. However, it believes that where a carrier is under a specific equal employment requirement, such as a court order (including a consent decree), an administrative order, a conciliation agreement, etc., requiring that named individuals or a certain percentage or ratio of a class of individuals be hired, and the carrier cannot meet its obligation by hiring from the pool of protected employees, the carrier should fulfill its obligation with non-protected employees. In those situations, the Committee believes that it is appropriate to conclude that there are no vacanices under the Airline Deregulation Act. Specific comment addressing this issue is requested.

[FR Doc. 82-25129 Filed 9-16-82; 8:45 am]
BILLING CODE 4510-29-M

federal register

Friday
September 17, 1982

Part VII

Department of Labor

Office of the Secretary

Unemployment Compensation Agencies; Hearings

DEPARTMENT OF LABOR

Office of the Secretary

State of California Employment Development Department, State of Illinois Department of Labor, State of Ohio Bureau of Employment Services, U.S. Virgin Islands Employment Security Agency Hearing

This notice announces an opportunity for a hearing for the unemployment compensation agencies of the States of California, Illinois, Ohio, and the U.S. Virgin Islands, pursuant to the last sentence of section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. section 3304(c), and sections 2403 and 2404 of Pub. L. 97–35, 95 Stat. 875, to be held at 10:00 o'clock in the morning on September 28, 1982, in Courtroom A, 8th Floor, Vanguard Building, 1111 20th Street, N.W., Washington D.C.

The hearing will be on the following issues:

Issue 1: Whether, with respect to the certification of the States on October 31, 1982, under section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. section 3304(c), the unemployment compensation laws of the States identified in the caption of this notice have been amended so as to contain the provisions required by section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970 EUCA), 26 U.S.C. section 3304(c) note, with respect to the beginning and the ending of extended benefit periods in the respective States, as is required by section 3304(a)(11) of the Internal Revenue Code of 1954, 26 U.S.C. section 3304(a)(11), and section 2403 of Pub. L. 97–35, 95 Stat. 875, approved August 13, 1981.

Basis for Issue: Section 3304(c) of the Code provides as a condition of certification of the States on October 31 of any taxable year that their unemployment compensation laws must contain "each of the provisions required by law to be included therein (including provisions relating to the Federal-State Extended Unemployment Compensation Act of 1970 (or any amendments thereto) as required under subsection of (a) (11)) * * *."

Section 2403 (a) of Pub. L. 97–35 (the Omnibus Budget Reconciliation Act of 1981) amended section 203(d) of the EUCA by raising the standard beginning and ending triggers for an extended benefit period from 4 to 5 (if the insured unemployment rate in the State equalled or exceeded 120 percent of the average of such rates for the corresponding 13-week periods in each of the preceding two calendar years), and by raising the optional triggers from 5 to 6 (exclusive of the 120 percent factor). Section 2408 (b) of Public Law 97–35 requires States to include the provisions of section 203 (d), as amended, in their unemployment compensation laws for any week which begins after September 25, 1982. The States identified in the caption of this notice have failed to amend their unemployment compensation laws so as to include the revised triggers for beginning and ending extended benefit periods.

Issue 2: Whether, with respect to the certification of the States on October 31, 1982, under section 3304 (c) of the Internal Revenue Code of 1954, 26 U.S.C. section 3304 (c), the unemployment compensation laws of the States identified in the caption of this notice have been amended so as to contain the provisions of section 202 (a)(5) of the EUCA, 26 U.S.C. section 3304 (c) note, with respect to the requirement of 20 weeks of work or the equivalent in the base period, as is required by section 3304 (a)(11) of the Internal Revenue Code of 1954, 26 U.S.C. section 3304 (a)(11), and section 2404 of Pub. L. 97–35, 95 Stat. 875, approved August 13, 1981.

Basis for Issue: section 3304(c) of the Code provides as a condition of certification of the States on October 31 of any taxable year that their unemployment compensation laws must contain "each of the provisions required by law to be included therein (including provisions relating to the Federal-State Extended Unemployment Compensation Act of 1970 (or any amendments thereto) as required under subsection (a)(11)) * * *."

Section 2404(a) of Pub. L. 97–35 amended section 202(a) of the EUCA by adding new paragraph (5) which requires as a condition of eligibility for extended benefits that an individual have worked 20 weeks or the equivalent in the base period. The State law is required to provide the method to be used of the alternatives allowed of measuring employment and wages for that purpose. Section 2404 (b) of Pub. L. 97–35 requires States to include the provisions of section 202 (a)(5) in their unemployment compensation laws for any week which begins after September 25, 1982. The States identified in the caption of this notice have failed to amend their unemployment compensation laws so as to include the work and earnings requirements for extended benefit eligibility.

The respective State unemployment compensation laws, therefore, appear not to be in conformity with the provisions of section 3304 (a)(11) of the Code, and the last sentence of section 3304(c) of the Code is applicable to the issues.

Following the hearing, a decision will be made with respect to each State. Such a decision will have a bearing on whether or not the State is certifiable on October 31, 1982, with respect to normal and additional credits allowable to the State's employers pursuant to subsections (a) and (b) of section 3302 of the Code, 26 U.S.C. section 3302, for the taxable year 1982, and will also have a bearing on other benefits available to the State under the unemployment compensation program.

The proceedings in this matter shall be conducted in accordance with the Rules of Procedure set out after this notice.

For the purposes of this hearing, all motions, briefs, and other documents shall be filed, pursuant to the Rules of Procedure referenced above, with the presiding Administrative Law Judge, U.S. Department of Labor, Suite 700, Vanguard Building, 1111 20th Street, N.W., Washington, D.C. 20036, who will be designated in accordance with such Rules of Procedure.

Signed at Washington, D.C., on September 15, 1982.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 82–25665 Filed 9–16–82; 8:45 am]

BILLING CODE 4510–30–M

State of Maryland Department of Human Resources; Hearing

This notice announces an opportunity for a hearing for the unemployment compensation agency of the State of Maryland pursuant to the last sentence of section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. section 3304(c), and section 414 of Pub. L. 96–364, 94 Stat. 1310, to be held at 2:00 o'clock in the afternoon on September 28, 1982, in Courtroom A, 8th Floor, Vanguard Building, 1111 20th Street, NW., Washington, D.C.

The hearing will be on the following issue:

Issue: Whether, with respect to the certification of the States on October 31, 1982, under section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. section 3304(c), the unemployment compensation law of the State of Maryland has been amended so as to contain provisions permitted by section 3304(a)(15)(B) of the Code with respect to a limitation on the amount or proportion of a pension payment to be deducted from unemployment benefits otherwise payable, as is required by such section 3304(a)(15)(B).

Basis for Issue: Section 3304(a)(15)(B) of the Code permits States to limit the pension deduction otherwise required by subparagraph (A) by reducing the amount to be offset against unemployment benefits otherwise payable for a week of unemployment to an amount that is no larger than the ratio of the unemployed individual's contributions, as an employee, to total contributions to the pension plan or system by both the individual and the employer. The unemployment compensation law of the State of Maryland provides a limitation on pension deduction that is larger, in certain circumstances, than the ratio of the individual's contributions to total contributions to the pension plan or system. Section 414 of Pub. L. 96–364 permits the States to adopt a limitation on pension deductions consistent with subparagraph (B) of section 3304(a)(15), effective on September 26, 1980.

The unemployment compensation law of the State of Maryland, therefore, appears not to be in conformity with the provisions of section 3304(a)(15)(B) of the Code, and the last sentence of section 3304(c) of the Code is applicable to the issue.

Following the hearing, a decision will be made with respect to the State. Such a decision will have a bearing on whether or not the State is certifiable on October 31, 1982, with respect to normal and additional credits allowable to the State's employers pursuant to subsections (a) and (b) of section 3302 of the Code, 26 U.S.C. section 3302, for the taxable year 1982, and will also have a bearing on other benefits available to the State under the unemployment compensation program. (The hearing will not be held if the injunction imposed by the U.S. District Court for the District of Columbia in *Cabais* v. *Egger*, No. 80–2470 (August 27, 1981) is not lifted by September 23, 1982. The State agency will then be notified appropriately.)

The proceedings in this matter shall be conducted in accordance with the Rules of Procedure set out after this notice.

For the purposes of this hearing, all motions, briefs, and other documents shall be filed, pursuant to the Rules of Procedure referenced above, with the presiding Administrative Law Judge, U.S. Department of Labor, Suite 700, Vanguard Building, 1111 20th Street, NW., Washington, D.C. 20036, who will be designated in accordance with such Rules of Procedure.

Signed at Washington, D.C. on September 15, 1982.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 82-25988 Filed 9-16-82; 8:45 am]

BILLING CODE 4510-30-M

State of Massachusetts Department of Labor and Industries, State of Michigan Employment Security Commission, State of New Jersey Department of Labor and Industry; Hearing

This notice announces an opportunity for a hearing for the unemployment compensation agencies of the States of Massachusetts, Michigan, and New Jersey, pursuant to the last sentence of section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. section 3304(c), sections 2403 and 2404 of Public Law 97–35, 95 Stat. 875, and section 414 of Pub. L. 96–364, 94 Stat. 1310, to be held at 2:00 o'clock in the afternoon on September 28, 1982, in Courtroom A, 8th Floor, Vanguard Building, 1111 20th Street, N.W., Washington, D.C.

The hearing will be on the following issues:

Issue 1: Whether, with respect to the certification of the States on October 31, 1982, under section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. section 3304(c), the unemployment compensation laws of the States identified in the caption of this notice have been amended so as to contain the provisions required by section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970 (EUCA), 26 U.S.C. section 3304(c) note, with respect to the beginning and the ending of extended benefit periods in the respective States, as is required by section 3304(a)(11) of the Internal Revenue Code of 1954, 26 U.S.C. section 3304(a)(11), and section 2403 of Pub. L. 97–35, 95 Stat. 875, approved August 13, 1981.

Basis for issue: Section 3304(c) of the Code provides as a condition of certification of the States on October 31 of any taxable year that their unemployment compensation laws must contain "each of the provisions required by law to be included therein (including provisions relating to the Federal-State Extended Unemployment Compensation Act of 1970 (or any amendments thereto) as required under subsection (a)(11))
* * *"

Section 2403(a) of Public Law 97–35 (the Omnibus Budget Reconciliation Act of 1981) amended section 203(d) of the EUCA by raising the standard beginning and ending triggers for an extended benefit period from 4 to 5 (if the insured unemployment rate in the State equalled or exceeded 120 percent of the average of such rates for the corresponding 13-week periods in each of the preceding two calendar years), and by raising the optional triggers from 5 to 6 (exclusive of the 120 percent factor). Section 2403(b) of Pub. L. 97–35 requires States to include the provisions of section 203(d), as amended, in their unemployment compensation laws for any week which begins after September 25, 1982. The States identified in the caption of this notice have failed to amend their unemployment compensation laws so as to include the revised triggers for beginning and ending extended benefit periods.

Issue 2: Whether, with respect to the certification of the States on October 31, 1982, under section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. section 3304(c), the unemployment compensation laws of the States identified in the caption of this notice have been amended so as to contain the provisions of section 202(a)(5) of the EUCA, 26 U.S.C. section 3304(c) note, with respect to the requirement of 20 weeks of work or the equivalent in the base period, as is required by section 3304(a)(11) of the Internal Revenue Code of 1954, 26 U.S.C. section 3304(a)(11), and section 2404 of Pub. L. 97–35, 95 Stat. 875, approved August 13, 1981.

Basis for issue: Section 3304(c) of the Code provides as a condition of certification of the States on October 31 on any taxable year that their unemployment compensation laws must contain "each of the provisions required by law to be included therein (including provisions relating to the Federal-State Extended Unemployment Compensation Act of 1970 (or any amendments thereto) as required under subsection (a)(11))
* * *"

Section 2404(a) of Pub. L. 97–35 amended section 202(a) of the EUCA by adding new paragraph (5) which requires as a condition of eligibility for extended benefits that an individual has worked 20 weeks or the equivalent in the base period. The State law is required to provide the method to be used of the alternatives allowed of measuring employment and wages for that purpose. Section 2404(b) of Pub. L. 97–35 requires States to include the provisions of section 202(a)(5) in their unemployment compensation laws for any week which begins after September 25, 1982. The States identified in the caption of this notice have failed to amend their unemployment compensation laws so as to include the work and earnings requirements for extended benefit eligibility.

Issue 3: Whether, with respect to the certification of the States on October 31, 1982, under section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. section 3304(c), the unemployment compensation laws of the States identified in the caption of this notice have been amended so as to contain provisions permitted by section 3304(a)(15)(B) of the Code with respect to a limitation on the amount or proportion of a pension payment to be deducted from unemployment benefits otherwise payable, as is required by such section 3304(a)(15)(B).

Basis for issue: Section 3304(a)(15)(B) of the Code permits States to limit the pension deduction otherwise required by subparagraph (A) by reducing the amount to be offset against unemployment benefits otherwise payable for a week of unemployment to an amount that is no larger than the ratio of the unemployed individual's contributions, as an employee, to total contributions to the pension plan or system by both the individual and the employer. The unemployment compensation laws of the States identified in the caption of this notice provide a limitation on pension deduction that is larger, in certain circumstances, than the ratio of the individual's contributions to total contributions to the pension plan or system. Section 414 of Public Law 96-364 permits the States to adopt a limitation on pension deductions consistent with subparagraph (B) of section 3304(a)(15), effective on September 26, 1980.

The respective State unemployment compensation laws, therefore, appear not to be in conformity with the provisions of section 3304(a)(11) of the Code with respect to the first two issues and the provisions of section 3304(a)(15)(B) of the Code with respect to the third issue, and the last sentence of section 3304(c) of the Code is applicable to all of the issues.

Following the hearing, a decision will be made with respect to each State. Such a decision will have a bearing on whether or not the State is certifiable on October 31, 1982, with respect to normal and additional credits allowable to the State's employers pursuant to subsections (a) and (b) of section 3302 of the Code, 26 U.S.C. section 3302, for the taxable year 1982, and will also have a bearing on other benefits available to the State under the unemployment compensation program. (The hearing with respect to Issue 3 will not be held if the injunction imposed by the U.S. District Court for the District of Columbia in *Cabais* v. *Egger*, No. 80-2470 (August 27, 1981) is not lifted by September 23, 1982. The State agency will then be notified appropriately.)

The proceedings in this matter shall be conducted in accordance with the Rules of Procedure set out after this notice.

For the purposes of this hearing, all motions, briefs, and other documents shall be filed, pursuant to the Rules of Procedure referenced above, with the presiding Administrative Law Judge, U.S. Department of Labor, Suite 700, Vanguard Building, 1111 20th Street, N.W., Washington, D.C. 20036, who will be designated in accordance with such Rules of Procedure.

Signed at Washington, D.C., on September 15, 1982.

Raymond J. Donovan,

Secretary of Labor.

Rules of Procedure

1. An Administrative Law Judge will be designated by the Chief Administrative Law Judge, United States Department of Labor, to preside over the hearing and perform the functions required by these Rules.

2. The parties of record shall be the State agencies (as defined in 26 U.S.C. section 3306(e)) named in the Notices of Hearing and the U.S. Department of Labor.

3. Any non-party State agency, individual worker, employer, or organization, association of workers or employers, or the public, asserting an interest in the proceedings, may be permitted by the presiding Administrative Law Judge, upon motion granted, to participate in the hearing as amicus curiae only. Participation by any such amicus curiae shall be limited to the submittal of a brief as provided in Rule 14 below. A motion of an amicus curiae to participate in the oral argument will be granted only for extraordinary reasons. All motions contemplated by this Rule shall be filed with the presiding Administrative Law Judge no later than seven days prior to the scheduled hearing, and shall be served promptly upon each party. The presiding Administrative Law Judge shall rule on all such motions and inform the applicants and the parties of the rulings.

4. The presiding Administrative Law Judge may issue an appropriate prehearing order governing all issues to be raised in the proceedings, discovery, and designation of evidence to be offered at the hearing.

5. The Administrative Law Judge shall be authorized to entertain motions for full or partial Summary Judgment filed by any party.

6. (a) The hearing will be conducted in an informal but orderly and expeditious manner. The presiding Administrative Law Judge will regulate all matters pertaining to the course and conduct of the proceedings and, subject to the limitation expressed in Rule 6(b) below, may grant extensions of time regarding the submission of briefs and other papers, and may reschedule the hearing for another time or date for good cause shown.

(b) The annual October 31 certification date under the Federal Unemployment Tax Act imposes time constraints for the issuance of the Administrative Law Judge's recommended decisions, and requires the granting of extensions of time, inclusive of continuances, be limited to the extent necessary to ensure that the recommended decisions are forwarded to the Secretary of Labor no later than 15 days prior to the October 31 certification date.

7. Upon the commencement of the hearing, the U.S. Department of Labor will be offered an opportunity to make an opening statement as to the nature of the hearing and the matter(s) in issue. Each other party to the proceedings shall then be offered a similar opportunity to make an opening statement.

8. The order of the presentation of evidence will be as follows:

(a) The U.S. Department of Labor will proceed first by presenting any evidence it may wish to offer which is relevant to the issue(s) specified in the Notice of Hearing.

(b) Each other party will proceed next to offer any evidence it may wish to present which is relevant to the issue(s) referred to in Rule 8(a) above, followed by any evidence relevant to any additional issue, except that evidence regarding any issue other than the issue(s) referred to in the Notice of Hearing may be admitted only if the party offering such evidence has provided notice of such issue and a summary of such evidence, including a copy of any document to be offered, to each other party of record, a reasonable time prior to the hearing.

(c) The U.S. Department of Labor may next present relevant evidence in rebuttal to any of the issues(s), and the trial record shall thereafter be closed, except as provided for by Rule 10 below.

9. Technical rules of evidence shall not apply to the hearing. The presiding Administrative Law Judge will rule upon offers of proof and the admissibility of evidence, and may exclude irrelevant, immaterial, or unduly repetitious evidence or any other evidence

excludable under these Rules, and may examine witnesses. All writings, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a satisfactory showing of their authenticity, relevancy, materiality, and admissibility under these Rules, be received in evidence.

10. During the hearing, the presiding Administrative Law Judge may require the production and introduction of further evidence upon any relevant matter and may provide for the later receipt of such evidence for the record.

11. The proceedings at the hearing shall be recorded verbatim. The original and one copy of the transcript of the record of the hearing shall be furnished to the presiding Administrative Law Judge. The parties of record and any amicus curiae shall be entitled to secure a copy of the transcript from the reporter upon such terms as the party or amicus may arrange.

12. When any document is offered in evidence, one additional copy thereof shall be furnished to the presiding Administrative Law Judge and, unless previously provided, a copy shall be furnished to each party of record.

13. (a) At the conclusion of the receipt of evidence, the presiding Administrative Law Judge shall hear oral arguments presented by the parties of record and any amicus curiae authorized to present oral argument.

(b) Oral arguments shall be in the following order: Opening argument for the U.S. Department of Labor, unless waived; opening argument for every other party, unless waived; argument of any amicus curiae authorized to present oral argument; closing argument for each of the State agency parties, unless waived; and closing argument for the U.S. Department of Labor, unless waived.

14. The parties of record shall file pre-hearing briefs describing the issues which are the subjects of the hearing no later than the Friday preceding the hearing date and shall file post-hearing briefs on the evidence adduced at the hearing and the law applicable thereto no later than 7 calendar days following the close of the hearing. Any amicus curiae authorized to participate in the proceedings may file a post-hearing brief within the same time limitation. All such briefs and other papers shall be filed with the presiding Administrative Law Judge, with proof of service, within such time periods as are established by the presiding Administrative Law Judge.

15. (a) As soon as possible, but in no event later than 15 days prior to the October 31 certification date, the presiding Administrative Law Judge shall, with respect to each State: (1) Prepare a recommended decision on the basis of the record containing his recommended findings of fact and conclusions of law; (2) promptly certify to the Secretary of Labor such recommended decision and the entire record of the proceeding; and (3) forward a copy of the recommended decision to each party of record and amicus curiae.

(b) In the event that evidence is admitted which is relevant to any issue cognizable under these Rules, findings of fact with respect to such evidence shall be made. No conclusions of law regarding either the constitutionality of any Federal statute or the constitutionality of interpretation thereof shall be made.

16. The parties of record may file with the Secretary a Statement of Exceptions, with proof of service, setting forth any exceptions they may have to the recommend decision, within seven (7) days after the date of the recommended decision.

17. (a) Any briefs or other papers intended to be filed of record with the presiding Administrative Law Judge in the proceedings shall be mailed or otherwise delivered to the Office of the presiding Administrative Law Judge. Unless otherwise ordered, such documents shall be deemed to be filed on the date they are post-marked if they are transmitted by the United States Postal Service, and shall be deemed to be filed on the date they are received in the Office of the Chief Administrative Law Judge if they are transmitted by any other means.

(b) If the last day of a time limit prescribed by these Rules or established by the presiding Administrative Law Judge falls on a Saturday, Sunday, or a federal holiday, the time limit shall be extended to the next official business day.

(c) An original and one copy of the briefs and other papers shall be filed with the presiding Administrative Law Judge and shall be accepted subject to timely filing with sufficient proof of prompt service upon the parties.

18. Following the certification in accordance with Rule 15 above, and consideration of any Statement of Exceptions filed and served in accordance with Rules 16 and 17, the Secretary of Labor shall render a decision in the matter with respect to each State, in writing, and shall forward the decision together with the records to the Chief Administrative Law Judge, and shall forward a copy of his decision with respect to each State, to each party of record and to any amicus curiae authorized to participate in the proceeding.

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Friday
September 17, 1982

Part VIII

Department of Energy

Office of the Secretary

Unclassified Activities in Foreign Atomic Energy Programs

DEPARTMENT OF ENERGY

Office of the Secretary

10 CFR Part 810

Unclassified Activities in Foreign Atomic Energy Programs

AGENCY: Energy Department.

ACTION: Proposed rule.

SUMMARY: Pursuant to the Nuclear Non-Proliferation Act of 1978 (NNPA) and in accordance with the Executive Branch Procedures established and published June 9, 1978 (43 FR 25326), the Department of Energy (DOE) proposes to amend its regulations, 10 CFR Part 810 "Unclassified Activities in Foreign Atomic Energy Programs." The amended regulations reflect changes made by the NNPA to Section 57.b. of the Atomic Energy Act and incorporate the additional export criteria mandated by the NNPA to govern the export of sensitive nuclear technology for peaceful purposes. The proposed amended regulations update the list of countries/areas to which the general authorization does *not* apply. Added to the listed countries are all non-nuclear weapon states that are not parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) (except for those that accept fullscope safeguards or for which the Treaty of Tlatelolco is currently in force) and certain countries in regions of particular volatility and sensitivity. Withdrawal of the general authorization to these countries will assure that authorizations by the Secretary of Energy under 10 CFR Part 810 involving these countries are consistent with other U.S. export licensing requirements under the NNPA.

Although many sections of Part 810 are unchanged by the proposed amendments, it is being published in its entirety for the convenience of the public. The Department is soliciting public comments for 45 days with a view to promptly thereafter publishing final amendments to Part 810.

DATES: Comments are requested and must be received no later than November 1, 1982.

ADDRESSES: Written comments (six copies where possible) should be sent to: Mr. John A. Griffin, Director, Division of Politico-Military Security Affairs (DP-332), Room 4B-026, U.S. Department of Energy, Washington, DC 20585, Phone: (Area Code 202) 252-2127.

FOR FURTHER INFORMATION CONTACT:

Mrs. Johnnie Raymond, Division of Politico-Military Security Affairs, DP-332.1, Room 4B-026, U.S. Department of Energy; Phone (202) 252-2129; or

Mr. Robert Newton, Esquire, Office of General Counsel, GC-32, Room 6B-256, U.S. Department of Energy; Phone (202) 252-6975.

SUPPLEMENTARY INFORMATION:

I. Background

On March 10, 1978, the Nuclear Non-Proliferation Act of 1978 (NNPA), Pub. L. 95-242, was enacted. The NNPA specifically addressed nuclear export licensing and procedures and amended the procedures and criteria governing DOE action under Sec. 57.b. of the Atomic Energy Act (42 U.S.C. 2077). In particular, Sec. 305 of the NNPA amended Chapter 11 of the Atomic Energy Act of 1954, as amended, by adding at the end thereof a new Sec. 127, "Criteria Governing United States Nuclear Exports" (42 U.S.C. 2156). This section added criteria which, in addition to other requirements of law, govern exports for peaceful nuclear uses from the United States of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology. Sec. 306 of the NNPA also amended Chapter 11 of the Atomic Energy Act by adding at the end thereof a new Sec. 128, "Additional Export Criterion and Procedures," (42 U.S.C. 2157), which establishes a further condition on exports of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology.

All requests for specific authorization submitted pursuant to Sec. 57.b.(2) of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2077), will be handled in accordance with the procedures required by Sec. 302 of the NNPA and agreed to by the Departments of Energy, State, Commerce, and Defense, the Arms Control and Disarmament Agency and the Nuclear Regulatory Commission. These agreed upon procedures were published on June 9, 1978, by the Departments of State, Energy, and Commerce in the **Federal Register**, "Procedures Established Pursuant to the Nuclear Non-Proliferation Act of 1978", (43 FR 25326).

II. Regulatory Changes

The major proposed changes to Part 810 are summarized below in the order in which they appear:

1. Section 810.3. Definitions have been deleted for "Administration" and "Administrator of ERDA" and added for "Secretary," "Department of Energy," "IAEA," "NNPA," "NPT," "production facility," "retransfer," "sensitive nuclear technology," "source material," "special nuclear material," and "utilization facility."

2. Section 810.6. The requirement for authorization under Sec. 57.b. of the Atomic Energy Act of 1954, as amended, has been changed to reflect the language as amended by the NNPA. The NNPA amendment to Sec. 57.b. established the requirement for formal review by the Departments of State, Defense, and Commerce, the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission, of applications submitted pursuant to Sec. 57.b.(2).

3. Section 810.7(a)(ii). The list of countries/areas to which the general authorization will not apply has been expanded to include the following categories of countries: (1) Those countries currently listed in § 810.7(a)(1); (2) those countries which are non-nuclear weapon states that are not parties to the NPT (however, the general authorization will continue for those non-nuclear weapon countries which accept full scope safeguards or for which the Treaty of Tlatelolco is currently in force); (3) Afghanistan which has been added to the list of countries in accordance with current U.S. policy; (4) additionally, the general authorization will be withdrawn from certain countries in regions of particular volatility and sensitivity. Finally, the list of countries/areas is revised to update and modernize names of countries. The new requirement for specific authorization for activities in these countries will provide timely information on nuclear activities which do not presently require specific authorization or, in some instances, a report under these regulations.

4. Section 810.8. A new paragraph (c) is added to reflect the requirement established by Sections 305 and 306 of the NNPA (new Sections 127 and 128 of the Atomic Energy act) for additional criteria which must be met for authorization to export "sensitive nuclear technology."

5. Section 810.8. A new paragraph (e) is added to reflect the provision of Sec. 129 of the Act, added by Sec. 307 of the NNPA, (42 U.S.C. 2158), concerning termination of nuclear exports of sensitive nuclear technology to a country or countries which engage in any of the proscribed activities identified in Sec. 129 of the Act.

6. A phrase is added to § 810.11 to permit the Secretary to request additional information on activities approved pursuant to § 810.8.

The Department of Energy will be considering further amendments to 10 CFR Part 810 after these proposed rules have been made final. Among the areas being considered for review are the following: The development of an application form for requesting specific authorization; additional guidance concerning the term "information

available to the public in published form"; establishment of a thirty day prenotification requirement to DOE before commencement of certain generally authorized activities in some countries and/or all countries; specific retransfer guidelines; and clarification and examples of the term "sensitive nuclear technology."

III. Statutory Requirements

Pursuant to section 57.b.(2) of the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 (NNPA), and with the concurrence of the Department of State and following consultations with the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, the Department of Commerce and the Department of Defense, the Secretary of Energy has authorized these proposed revisions to Part 810 of Title 10 CFR.

IV. Saving Clause

Except for any action taken by DOE pursuant to § 810.8(d), this proposed revision shall not affect the validity or terms of any specific authorization granted under the regulations currently in effect, or generally authorized activities in the identified countries/areas for which contracts, orders or licensing arrangements were in place prior to the publication of the proposed changes in this part. Persons with such arrangements involving activities conducted under the general authorization currently in effect for the designated countries are requested to bring such information to the attention of the Department of Energy.

V. Reporting Requirements

It should be stressed that the reporting requirements in the current regulations (§ 810.10), extend to most of the activities covered by the general authorization in § 810.7. Reports under § 810.10 are required within 30 days after commencement of the activity in question.

VI. Rulemaking Requirements

Sec. 501(a)(1) of the DOE Organization Act (Pub. L. 95-91) provides that the provisions of subchapter II of chapter 5 of title 5, United States Code (Administrative Procedure Act, "APA") shall apply in accordance with their terms to any rule or regulation issued pursuant to authority vested by law in, or transferred or delegated to, the Secretary of Energy. Section 553(a)(1) of the APA provides an exemption to the normal notice and comment procedures or rules involving a foreign affairs function of the United States.

Because the amendments deal with the export of sensitive nuclear technology and the need for authorization for activities which assist in the production of special nuclear material in certain countries, these amendments involve the foreign affairs functions of the United States. Therefore, the exemption of section 553(a)(1) applies and notice and comment are not required. Nevertheless, DOE is providing interested persons 45 days in which to submit comments on this proposed rule.

Because notice and comment is not required for this rule, this rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. as provided in Sec. 601(2). This rule is also not subject to the requirements of Executive Order 12291 (46 FR 13193, February 19, 1981), because it relates to a foreign affairs function of the United States. See Sec. 1(a)(2).

VII. Public Comment Procedures

The period for submission of comments will close on November 1, 1982. All interested persons who desire to submit written comments or suggestions for consideration in connection with the revised Part 810 should submit them to the address indicated in the "Addressees" section of the preamble. Six copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified in writing. We reserve the right to determine the confidential status of such information and data and to treat it according to our determination.

All comments received, except those determined to be confidential, will be available for public inspection in the DOE Reading Room, Room GA-152, James Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

List of Subjects in 10 CFR Part 810

Foreign relations, Nuclear energy, Reporting requirements.

(Secs. 57, 127, 128, 129, 161, and 223 of the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 (Pub. L. 95-242), 68 Stat. 932, 948, 950, 958, 92 Stat. 120, 136, 137, 138 (42 U.S.C. 2077, 2156, 2157, 2158, 2201, 2273); sec. 104 of the Energy Reorganization Act of 1974 (Pub. L. 93-438); sec. 301 of the Department of Energy Organization Act (Pub. L. 95-91))

For the reasons set out in the preamble, Part 810 of Title 10 of the Code of Federal Regulations is proposed to be revised as set forth below.

Issued in Washington, D.C., September 13, 1982.

Troy E. Wade II,

Acting Assistant Secretary for Defense Programs.

PART 810—UNCLASSIFIED ACTIVITIES IN FOREIGN ATOMIC ENERGY PROGRAMS

Sec.

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Authority: Sections 57, 127, 128, 129, 161, and 223 of the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 (Pub. L. 95-242), 68 Stat. 932, 948, 950, 958, 92 Stat. 120, 136, 137, 138 (42 U.S.C. 2077, 2156, 2157, 2158, 2201, 2273); sec. 104 of the Energy Reorganization Act of 1974 (Pub. L. 93-438); sec. 301 of the Department of Energy Organization Act (Pub. L. 95-91).

§ 810.1 Purpose.

The regulations in this part incorporate a general authorization made by the Secretary under section 57.b.(2) of the Atomic Energy Act of 1954, as amended (92 Stat. 126); establish reporting requirements applicable to persons who engage in certain unclassified activities in foreign atomic energy programs; and establish procedures governing applications for specific authorizations to engage directly or indirectly in the production of special nuclear material outside the United States.

§ 810.2 Scope.

The regulations in this part apply to all persons within or under the jurisdiction of the United States.

§ 810.3 Definitions.

As used in this part:

(a) "Act" means the Atomic Energy Act of 1954, (68 Stat. 919, 42 U.S.C. 2011), as amended.

(b) "Agreement for Cooperation" means an agreement for cooperation with another nation or group of nations concluded under section 123 of the Act.

(c) "Atomic weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device where such means

is a separate and divisible part of the device, the principal purpose of which is for use as, or for development of, a weapon, or weapon prototype or a weapon test device.

(d) "Department" means the United States Department of Energy.

(e) "Secretary" means the Secretary of the United States Department of Energy.

(f) "Classified information" means National Security information classified pursuant to Executive Order 12356 or any superseding order; or Restricted Data classified under the Atomic Energy Act of 1954, as amended.

(g) "Commission" as used in this regulation refers to the Nuclear Regulatory Commission.

(h) "IAEA" means the International Atomic Energy Agency.

(i) "NNPA" means the Nuclear Non-Proliferation Act of 1978 (Pub. L. 95–242).

(j) "Nuclear material" means special nuclear material or source material.

(k) "NPT" means the Treaty on the Nonproliferation of Nuclear Weapons of July 1, 1968.

(l) "Nuclear reactor" means an apparatus, other than an atomic weapon, or nuclear explosive device, designed or used to sustain nuclear fission in a self-supporting chain reaction.

(m) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Department; any State or any political subdivision of, or any political entity within a State; and (2) any legal successor, representative agent or agency of the foregoing.

(n) "Production facility" means any nuclear reactor or plant specially designed or used to produce special nuclear material through the irradiation of source material or special nuclear material, the separation of isotopes or the chemical reprocessing of irradiated source or special nuclear material.

(o) "Research and development" means (1) theoretical analysis, exploration, or experimentation; or (2) the extension of investigative facilities and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of motors, devices, equipment, materials, and processes.

(p) "Restricted Data" means all data concerning (1) design, manufacturing or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include any data declassified or removed from the Restricted Data category pursuant to Section 142 of the Act.

(q) "Retransfer" means the transport from one foreign country or group of nations to another such entity of information which has been exported from the United States or of nuclear material or equipment produced through the use of such information.

(r) "Sensitive nuclear technology" means any information (including information incorporated in a production or utilization facility or important component part thereof) which is not available to the public and which is important to the design, construction, fabrication, operation or maintenance of a uranium enrichment or nuclear fuel reprocessing facility, a facility for the production of heavy water, or facilities for the fabrication of nuclear fuel containing plutonium, but shall not include Restricted Data controlled pursuant to Chapter 12 of the Act. The information may take a tangible form, such as a model, prototype, blueprint, or operation manual; it may also take an intangible form such as technical services.

(s) "Source material" means:

(1) Uranium or thorium, other than special nuclear material; or

(2) Ores which contain by weight 0.05% or more of uranium or thorium, or any combination of these.

(t) "Special nuclear material" means plutonium, uranium-233 or uranium enriched above 0.711 percent by weight in the isotope U-235.

(u) "United States," when used in a geographical sense, includes all territories and possessions of the United States.

(v) "Utilization facility" means any nuclear reactor, other than one that is a production facility, and the following major components of a nuclear reactor.

(1) Pressure vessels designed to contain the core of a nuclear reactor;

(2) Primary coolant pumps;

(3) Fuel charging or discharging machines; and

(4) Control rods.

§ 810.4 Communications.

All communications concerning regulations in this part should be addressed to the Secretary, U.S. Department of Energy, Washington, D.C. 20585, Attention: Office of International Security Affairs, DP–332. Communications and reports may be delivered in person at the Department's main offices at 1000 Independence Avenue, S.W., Washington, D.C. Any clearly marked trade secret, commercial or financial, or other proprietary information shall be afforded the maximum degree of protection allowed by law.

§ 810.5 Interpretations.

Except as specifically authorized by the Secretary in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Department other than a written interpretation by the General Counsel will be binding upon the Department.

§ 810.6 Authorization requirement.

Section 57.b. of the Act, as amended by the Nuclear Proliferation Act of 1978, provides that:

> It shall be unlawful for any person to directly or indirectly engage in the production of any special nuclear material outside the United States except (1) as specifically authorized under an agreement for cooperation made pursuant to Section 123, including a specific authorization in a subsequent arrangement under section 131 of this Act, or (2) upon authorization by the Secretary of Energy after a determination that such activity will not be inimical to the interest of the United States: *Provided,* That any such determination by the Secretary of Energy shall be made only with the Concurrence of the Department of State and after consultation with the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, the Department of Commerce, and the Department of Defense, * * * *Provided further,* That the export of component parts as defined in subsection 11.v.(2) or 11.cc.(2) shall be governed by section 109 and 126 of this Act * * *

§ 810.7 Generally authorized activities.

(a) In accordance with section 57.b.(2) of the Act, the Secretary has determined with the concurrence of the Department of State and after having consulted with the Departments of Commerce and Defense, the Nuclear Regulatory Commission and the Arms Control and Disarmament Agency, that any activity which constitutes directly or indirectly engaging in the production of any special nuclear material outside of the United States will not be inimical to the interest of the United States and is authorized, provided that it:

(1) Does not constitute directly or indirectly engaging in any such activity in any of the following countries or areas:

Afghanistan; Albania; Algeria; Andorra; Angola; Antigua and Barbuda; Argentina; Bahrain; Belize; Bhutan; Brazil; Bulgaria; Burma; Chile; Comoros; Cuba; Czechoslovakia; Democratic People's Republic of Korea; Djibouti; Dominica; Estonia; Equatorial Guinea; German Democratic Republic (and Berlin, eastern sector); Guyana; Hungary; India; Iran; Iraq; Israel; Kampuchea; Kiribati; Kuwait; Laos; Latvia; Libya; Lithuania; Malawi; Mauritania;

Mongolian People's Republic; Mozambique; Niger; Oman; Pakistan; People's Republic of China; Poland; Qatar; Romania; Saint Vincent and the Grenadines; Sao Tome and Principe; Saudia Arabia; Seychelles; Solomon Islands; South Africa; Soviet Union; Syria; Tanzania; Uganda; United Arab Emirates; Vanuatu; Vietnam; Yemen Arab Republic; Zambia; and Zimbabwe.

(2) Does not constitute directly or indirectly engaging in any of the following activities outside of the United States;

(i) Designing or assisting in the design of facilities for the chemical processing of irradiated special nuclear material, facilities for the production of heavy water, facilities for the separation of isotopes of any source or special nuclear material, facilities especially designed for the fabrication of nuclear fuel containing plutonium, or equipment or components especially designed, modified, or adapted for use in any of the foregoing; or

(ii) Constructing, fabricating, operating, or maintaining such facilities; or

(iii) Constructing or fabricating equipment or components especially designed, modified, or adapted for use in such facilities; or

(iv) Training foreign persons in the design, construction, fabrication, or operation or maintenance of such facilities or equipment or components especially designed, modified, or adapted for use in such facilities; or

(v) Furnishing information not available to the public in published [1] form for use in the design, construction, fabrication or operation or maintenance of such facilities or equipment or components especially designed, modified, or adapted for use in such facilities; and

(3) Does not involve the communication of Restricted Data or other classified information; and

(4) Is not in violation of other provisions of law.

(b) In accordance with section 57.b.(2) of the Act, the Secretary has determined with the concurrence of the Department of State and after having consulted with the Departments of Commerce and Defense, the Nuclear Regulatory Commission and the Arms Control and Disarmament Agency, that any activity not generally authorized pursuant to paragraph (a) of this section, which constitutes directly or indirectly engaging in the production of any special nuclear material outside of the United States, will not be inimical to the interest of the United States, and is authorized by the Secretary, provided that it:

(1) Does not involve the communication of Restricted Data or other classified information; and

(2) Is not in violation of other provisions of law; and either

(3) Is limited to participation in (i) meetings of or conferences sponsored by educational institutions, laboratories, scientific or technical organizations; (ii) international conferences held under the auspices of a nation or group of nations; (iii) exchange programs approved by the Department of State; or (iv) implements the Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America; or

(4) Is limited to the furnishing of information which is available to the public in published form.[2]

§ 810.8 Grant and revocation of specific authorization.

(a) Any person who proposes to directly or indirectly engage in the production of special nuclear material outside of the United States may apply, unless such proposed activity is specifically authorized pursuant to an agreement for cooperation or is authorized by § 810.7, for a specific authorization to the Department of Energy, Washington, D.C. 20585, Attention: Office of International Security Affairs, DP–332.

(b) In accordance with section 57.b.(2). of the Act, the Secretary, with the concurrence of the Department of State and after having consulted with Departments of Commerce and Defense, the Nuclear Regulatory Commission and the Arms Control and Disarmament Agency, will approve an application for a specific authorization to directly or indirectly engage in the production of special nuclear material outside of the United States by conducting any of the activities enumerated in § 810.7(a) if, after taking into account the following factors, he determines that such activity will not be inimical to the interest of the United States:

(1) Whether the United States has an agreement for cooperation with the nation or group of nations in which the proposed activity will be conducted.

(2) Whether the country in which the proposed activity will be conducted is a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) or is a full party to the Treaty of Tlatelolco and, pursuant to either or both of these treaties, has entered into an agreement with the International Atomic Energy Agency (IAEA) for the application of safeguards to all its peaceful nuclear activities;

(3) Whether the country in which the proposed activity will be conducted, if not a party to the NPT or Treaty of Tlatelolco, accepts IAEA safeguards on all its peaceful nuclear activities;

(4) Whether the country in which the proposed activity will be conducted, if not a party to the NPT or Treaty of Tlatelolco, will accept IAEA safeguards with respect to the project;

(5) The relative significance of the proposed activity and availability of comparable assistance from other sources; and

(6) Any other factor which may bear upon the political, economic, or security interests of the United States including U.S. obligations under international agreements or treaties.

(c) In addition to consideration of the above factors, if the proposed activity involves the export of "sensitive nuclear technology" as defined in § 810.3(q), in addition to other requirements of law, international commitments and the criteria as set forth in Sec. 127 and Sec. 128 of the Act must be met.

Note.—For the convenience of the reader, the text of Sec. 127 and Sec. 128 appears in the appendix of this document.

(d) An authorization pursuant to § 810.8 may be revoked, suspended, or modified, in whole or in part:

(1) For any materially false statement in the application for an authorization, or in any additional information submitted pursuant to § 810.11; or

(2) If the Secretary finds that the conduct of any or all of the authorized activities would be inimical to the interest of the United States or would otherwise not meet the criteria specified by law for approval of such export.

(e) See Section 129 of the Act.

Note.—For the convenience of the reader, the text of Sec. 129 appears in the appendix of this document.

[1] For purposes of this section, "information which is available to the public in published form" shall include, but not be limited to any information contained in an application filed in accordance with the regulations of the U.S. Patent Office and eligible for foreign filing under 35 U.S.C. 183. In addition, except for sensitive nuclear technology, information which is available from the Department pursuant to 5 U.S.C. 552 (the Freedom of Information Act) shall, for purposes of this section, be deemed to be information available to the public in published form.

[2] For purposes of this section, "information which is available to the public in published form" shall include, but not be limited to any information contained in an application filed in accordance with the regulations of the U.S. Patent Office and eligible for foreign filing under 35 U.S.C. 183. In addition, except for sensitive nuclear technology, information which is available from the Department pursuant to 5 U.S.C. 552 (the Freedom of Information Act) shall, for purposes of this section, be deemed to be information available to the public in published form.

(f) Except for any action taken by DOE pursuant to § 810.8(d), the revisions made to this Part on (date of final rule) shall not affect (1) the validity or terms of any specific authorization granted under the regulations previously in effect, or (2) the authority of any person to conduct an activity generally authorized under the regulations previously in effect where a firm commitment was made by that person to conduct that activity prior to (the date of publication of proposed changes).

§ 810.9 Contents of application.

(a) Each application shall contain the following information:

(1) The full name and address and citizenship of the applicant. If the applicant is a corporation or other entity, it shall indicate the State where it was incorporated or organized, the location of the principal office, and shall furnish information known to the applicant concerning the control of ownership, if any, exercised over the applicant by any alien, foreign corporation or foreign government. Each application shall contain complete and accurate disclosure with respect to the real party or parties in interest.

(2) A complete description of the activity for which authorization is requested, including the geographical location, the name and address of the person or organization for which such activity is to be performed, and a detailed description of the specific project to which the activity relates.

(b) If the application contains classified information, it shall be prepared in such manner that all classified information is separated from the unclassified information.

(c) Information contained in applications, statements or reports otherwise filed by the applicant with the Department may be incorporated by reference, provided that each such reference is clear and specific.

§ 810.10 Reports.

(a) Except as provided in paragraph (c) of this section, any person who engaged in an activity specified in paragraph (b) of this section shall within 30 days from the commencement of such activity report to the U.S. Department of Energy, Washington, D.C. 20585, Attention: Office of International Security Affairs, DP-332.1. Each such report shall contain the following information:

(1) The name, address and citizenship of person submitting the report;

(2) The name, address and citizenship of person or persons for whom the activity is performed; and

(3) A description of the activity, including its location.

(b) Activities to be reported:

(1) Directly or indirectly assisting in the design, construction, fabrication or operation, outside the United States, of:

(i) A nuclear reactor; or

(ii) A facility for the fabrication of uranium fuel;

(iii) A facility for the production of zirconium (hafnium-free or low-hafnium), reactor-grade graphite, or reactor-grade beryllium; or

(2) Directly or indirectly assisting in the design or fabrication outside the United States, of any component part especially designed or fabricated for a nuclear reactor or other facilities specified in paragraph (b)(1) of this section; or

(3) The furnishing of designs, drawings, or other technical data for use outside the United States in the construction or operation of a facility specified in paragraph (b)(1) of this section or in the fabrication of a component part specified in paragraph (b)(2) of this section; or

(4) The transmittal outside the United States of conceptual design or performance characteristics of nuclear reactors or facilities;

(5) The production, outside of the United States, of zirconium (hafnium-free or low-hafnium), reactor-grade beryllium; or

(6) The chemical, physical or metallurgical processing or fabricating or alloying, outside the United States, of special nuclear material.

(c) The reporting requirements of this section shall not apply to:

(1) Any activity consisting only of (i) the communication of information generally available to the public in published form; or (ii) financial assistance; (iii) the furnishing of component parts which are not especially designed and which are not intended for use in a reactor, facility or component part specified in paragraph (b) (1) or (2) of § 810.10; or (iv) the comparative evaluation of types of reactors or facilities; or (v) the export of a nuclear reactor, nuclear equipment or material for which an export license has been granted by the Nuclear Regulatory Commission; or (vi) any combination of the foregoing.

(2) Any person to the extent that such person engages in an activity authorized by § 810.7 as the employee of a person required to submit a report pursuant to paragraph (a) of this section.

(3) Any activity specifically authorized by the Secretary.

§ 810.11 Additional information.

The Department may at any time require any person who engages in activities authorized pursuant to § 810.7 or specified in § 810.10 to submit additional information with respect to such activity. The public may request an opinion from the Department on whether particular export circumstances or exchanges of information require a specific authorization under § 810.7, are generally authorized, or are a reportable activity under § 810.10.

§ 810.12 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the act or any regulation or order issued thereunder. Any person who willfully violates any provision of the act or any regulation or order issued thereunder may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

Appendix

For the convenience of the reader, the text of Sections 127 and 128 of the Atomic Energy Act referenced in § 810.8(c) and Section 129 of the Atomic Energy Act referenced in § 810.8(e) is set forth below. This Appendix will not appear in the Code of Federal Regulations.

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(4) No such materials, facilities, or sensitive nuclear technology proposed to be exported, and

Sec. 127. Criteria Governing United States Exports.

Sec. 127. Criteria Governing United States Exports.

The United States adopts the following criteria which, in addition to other requirements of law, will govern exports for peaceful nuclear uses from the United States of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology:

(1) IAEA safeguards as required by Article III(2) of the Treaty will be applied with respect to any such material or facilities previously exported and subject to the applicable agreement for cooperation, and to any special nuclear material used in or produced through the use thereof;

(2) No such material, facilities, or sensitive nuclear technology proposed to be exported or previously exported and subject to the applicable agreement for cooperation, and no special nuclear material produced through the use of such materials, facilities, or sensitive nuclear technology, will be used for any nuclear explosive device or for research on or development of any nuclear explosive device.

(3) Adequate physical security measures will be maintained with respect to such material or facilities proposed to be exported and to any special nuclear material used in or produced through the use thereof. Following the effective date of any regulations1/ promulgated by the Commission pursuant to section 304(d) of the Nuclear Non-Proliferation Act of 1978, physical security measures shall be deemed adequate if such measures provide a level of protection equivalent to that required by the applicable regulations.

1/ 10 CFR 110.43

(4) No such materials, facilities, or sensitive nuclear technology proposed to be exported, and no special nuclear material produced through the use of such material, will be retransferred to the jurisdiction of any other nation or group of nations unless the prior approval of the United States is obtained for such retransfer. In addition to other requirements of law, the United States may approve such retransfer only if the nation or group of nations designated to receive such retransfer agrees that it shall be subject to the conditions required by this section.

(5) No such material proposed to be exported and no special nuclear material produced through the use of such material will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor shall be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration.

(6) No such sensitive nuclear technology shall be exported unless the foregoing conditions shall be applied to any nuclear material or equipment which is produced or constructed under the jurisdiction of the recipient nation or group of nations by or through the use of any such exported sensitive nuclear technology.

(2) Sec. 128. Additional Export Criterion and Procedures.

a. (1) As a condition of continued United States export of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology to non-nuclear-weapon states, no such export shall be made unless IAEA safeguards are maintained with respect to all peaceful nuclear activities in, under the jurisdiction of, or carried out under the control of such state at the time of the export.

(2) The President shall seek to achieve adherence to the foregoing criterion by recipient non-nuclear-weapon states.

b. The criterion set forth in subsection a. shall be applied as an export criterion with respect to any application for the export of materials, facilities, or technology specified in subsection a. which is filed after eighteen months from the date of enactment2/ of this section, or for any such application under which the first export would occur at least twenty-four months after the date of enactment2/

2/ March 10, 1978

of this section, except as provided in the following paragraphs:

(1) If the Commission or the Department of Energy, as the case may be, is notified that the President has determined that failure to approve an export to which this subsection applies because such criterion has not yet been met would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, the license or authorization may be issued subject to other applicable requirements of law: Provided, That no such export of any production or utilization facility or of any source or special nuclear material (intended for use as fuel in any production or utilization facility) which has been licensed or authorized pursuant to this subsection shall be made to any non-nuclear-weapon state which has failed to meet such criterion until the first such license or authorization with respect to such state is submitted to the Congress (together with a detailed assessment of the reasons underlying the President's determination, the judgment of the executive branch required under section 126 of this Act, and any Commission opinion and views) for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act) and referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, but such export shall not occur if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that the Congress does not favor the proposed export. Any such license or authorization shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions.

(2) If the Congress adopts a resolution of disapproval pursuant to paragraph (1), no further export of materials, facilities, or technology specified in subsection a. shall be permitted for the remainder of that Congress, unless such state meets the criterion determined that significant progress has been made in achieving adherence to such criterion by such or the President notifies the Congress that he has determined that significant progress has been made in achieving adherence to such criterion by such state or that United States foreign policy interests dictate reconsideration and the Congress, pursuant to the procedure of paragraph (1), does not adopt a concurrent resolution stating in substance that it disagrees with the President's determination.

(3) If the Congress does not adopt a resolution of disapproval with respect to a license or authorization submitted pursuant to paragraph (1), the criterion set forth in subsection a. shall not be applied as an export criterion with respect to exports of materials, facilities and technology specified in subsection a. to that state: Provided, That the first license or authorization with respect to that state which is issued pursuant to this paragraph after twelve months from the elapse of the sixty-day period specified in paragraph (1), and the first such license or authorization which is issued after each twelve-month period thereafter, shall be submitted to the Congress for review pursuant to the procedures specified in paragraph (1); Provided further, That if the Congress adopts a resolution of disapproval during any review period provided for by this paragraph, the provisions of paragraph (2) shall apply with respect to further exports to such states.

Sec. 129. Conduct Resulting in Termination of Nuclear Exports.

No nuclear materials and equipment or sensitive nuclear technology shall be exported to:

(1) any non-nuclear-weapon state that is found by the President to have, at any time after the effective date of this section;

(i) detonated a nuclear explosive device; or

(ii) terminated or abrogated IAEA safeguards; or

(iii) materially violated an IAEA safeguards agreement; or

(iv) engaged in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and has failed to take steps which, in the President's judgment, represent sufficient progress toward terminating such activities; or

(2) any nation or group of nations that is found by the President to have, at any time after the effective date2/ of this section,

(i) materially violated an agreement for cooperation with the United States, or with respect to material or equipment not supplied under an agreement for cooperation materially violated the terms under which such material or equipment was supplied or the terms of any commitments obtained with respect thereto pursuant to section 402(a) of the Nuclear Non-Proliferation Act of 1978; or

(ii) assisted, encouraged, or induced any non-nuclear-

(ii) assisted, encouraged, or induced any non-nuclear-weapon state to engage in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and has failed to take steps which, in the President's judgment, represent sufficient progress toward terminating such assistance, encouragement, or inducement; or

(iii) entered into an agreement after the date2/ of enactment of this section for the transfer of reprocessing equipment, materials, or technology to the sovereign control of a non-nuclear-weapon state except in connection with an international fuel cycle evaluation in which the United States is a participant or pursuant to a subsequent international agreement or understanding to which the United States subscribes;

unless the President determines that cessation of such exports would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security: Provided, That prior to the effective date of any such determination, the President's determination, together with a report containing the reasons for his determination, shall be submitted to the Congress and referred to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act), but any such determination shall not become effective if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the determination. Any such determination shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions.

2/ March 10, 1978

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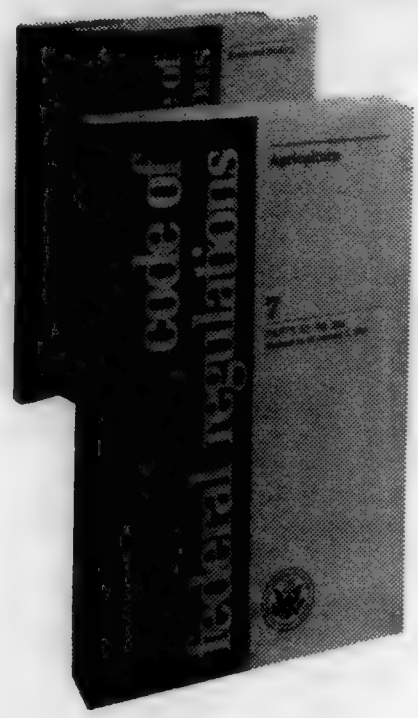
The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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Monday
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Government Property Management
General Services Administration

Loan Programs—Housing and Community Development
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Agricultural Marketing Service

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Food Safety and Inspection Service

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Drug Enforcement Administration

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Nuclear Regulatory Commission

Pipeline Safety
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Presidential Documents

Title 3—

The President

Proclamation 4972 of September 16, 1982

Veterans Day, 1982

By the President of the United States of America

A Proclamation

Veterans Day affords all Americans a special opportunity to honor the deeds of those who sacrificed so much to answer the call to arms during the life of this great country. On this day, our Nation is united in tribute to the valiant men and women who have unselfishly given of themselves to serve in our Armed Forces.

Words alone are insufficient to express our lasting gratitude and admiration to those whose patriotism and courage have ensured our peace and freedom despite threats of tyranny and aggression. Significant disruptions in their lives and other personal hardships have been the price that our Nation's veterans have paid so that the rest of us might enjoy the fruits of justice and liberty.

In order that we pay meaningful tribute to their efforts, Congress has provided (5 U.S.C. 6103(a)) that November 11 shall be set aside each year as a national holiday to honor America's veterans.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby call on all Americans to join in observing Thursday, November 11, 1982, as Veterans Day. I urge both public ceremonies, as well as private thoughts and prayers, in recognition of the great contribution of our veterans to an America that today is an example to all nations of freedom, liberty, and democracy. On this day, let us give special consideration to those who have died in our Nation's wars and to those who have been disabled.

I call upon Federal, State and local Government officials to mark Veterans Day by displaying the flag of the United States, and I ask those Government officials to support fully and personally its observance by appropriate ceremonies throughout the country.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of Sept., in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 82-26014
Filed 9-17-82; 11:17 am]
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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

Handling of Spearmint Oil Produced in the Far West; Amendment of Subpart—Administrative Rules and Regulations; Provisions Pertaining to Issuance of Additional Allotment Bases

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Emergency final rule.

SUMMARY: This action would establish criteria and procedures to enable the Spearmint Oil Administrative Committee to administer the provisions contained in the marketing order with respect to the issuance of additional allotment bases. The marketing order provides that beginning with the 1982–83 marketing year, additional allotment bases shall be made available annually for each class of oil in the amount of no more than 1 percent of the total allotment bases for that class of oil. This action is based upon a recommendation of the Committee. The Committee is established under the order, and works with the USDA in administering the order.

EFFECTIVE DATE: Effective September 20, 1982.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated nine handlers.

It is found that it is impractical, unnecessary, and contrary to the public interest to give preliminary notice because an emergency situation exists which warrants publication without opportunity for a public comment period on this emergency final action. Producers and handlers are making preparations for the production and handling of 1982 crop spearmint oil. Hence, it is critical that they know as soon as possible how much additional allotment base and resulting annual allotment they will have available for the 1982–83 marketing year, which began June 1, 1982. This is necessary so they can plan their operations accordingly. Furthermore, this rule is not controversial because it confers a benefit on producers and imposes no restrictions on handlers.

This action amends Subpart—Administrative Rules and Regulations (7 CFR 985.152–985.156; 46 FR 43129) by adding a new § 985.153, prescribing criteria and procedures for the issuance of additional allotment base to producers. The subpart is pursuant to Marketing Order No. 985, regulating the handling of spearmint oil produced in the Far West (hereinafter referred to as the "order"). The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Section 985.53(d) of the order provides that beginning with the 1982–83 marketing year the Committee annually shall make additional allotment bases available for each class of oil in the amount of no more than 1 percent of the total allotment base for that class of oil Fifty percent shall be made available for new producers and 50 percent made available for existing producers. Paragraph (d) also authorizes establishment of rules and regulations for use in determining the distribution of additional allotment bases. In establishing such rules the Committee is required to take into account, among other things, the minimum economic enterprise requirements for oil production, the applicant's ability to produce oil, the area where the oil will be produced, and other economic and marketing factors.

Producers are defined as either a "new producer" or an "existing producer". A "new producer" is any person who never was issued an allotment base by the Committee for a class of oil in any capacity either as an individual, partnership, corporation or any other business entity. An "existing producer" is any person who was issued an allotment base by the Committee for a class of oil in any capacity either as an individual, partnership, corporation or any other business entity.

Consistent with § 985.53(d)(3) of the order, the procedures require the Committee to determine the size and number of economic enterprises of additional allotment bases for each class of oil to be made available to new producers in each marketing year. The Committee would include this information in its announcements to new producers informing them when to request additional allotment base. Also, consistent with § 985.53(d)(3), the Committee would determine whether new producers requesting additional allotment base have the ability to produce spearmint oil. Additional allotment base would be issued on a random basis to eligible new producers.

The Committee would issue additional allotment base to existing producers by a different method. For the 1982–83, 1983–84 and 1984–85 marketing years, additional allotment base would be issued only to existing producers initially issued an allotment base of less than 1,200 pounds of "Class 1" Oil or 1,800 pounds of "Class 3" Oil. This recognizes that some of the allotment bases initially issued were less than economic enterprises, and the Committee's first objective is to bring those up to these levels. Existing producers requesting additional allotment base must demonstrate their ability to produce additional oil.

Additional allotment bases to be issued to existing producers after the 1984–85 marketing year shall be distributed equally to those producers who request additional base and can demonstrate ability to produce the additional oil.

List of Subjects in 7 CFR Part 985

Marketing agreements and orders; and Spearmint oil.

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

Therefore, Subpart—Administrative Rules and Regulations (7 CFR 985.152–985.156; 46 FR 43129) is amended by adding § 985.153 to read as follows:

§ 985.153 Issuance of additional allotment base to new and existing producers.

(a) *Definitions.* (1) "New producer" means any person who never was issued an allotment base by the Committee for a class of oil in any capacity either as an individual, or as a member of a partnership, corporation, or any other business unit.

(2) "Existing producer" means any person who was issued an allotment based by the Committee for a class of oil in any capacity either as an individual, or as a member of a partnership, corporation, or any other business unit. Any person who was initially issued an allotment base for a class of oil and changed identity of operation, as set forth in § 985.53(a), since April 14, 1980, and requests additional allotment base for that class of oil pursuant to this section, shall be deemed to be an existing producer.

(b) Any new or existing producer desiring additional allotment base for any class of oil made available by the Committee pursuant to § 985.53(d)(1) shall request such base by December 1 prior to the marketing year for which such base will be made available: *Provided,* That additional allotment base for the 1982–83 marketing year shall be requested by September 15, 1982.

(c) *Issuance.*—(1) *New producer*—The Committee shall determine the size and number of economic enterprises of additional allotment base for each class of oil to be made available to new producers in each marketing year. The Committee shall include that information in its announcements to new producers informing them when to submit requests for additional allotment bases. The Committee shall determine whether the new producers requesting additional base have ability to produce spearmint oil. The names of all eligible new producers shall be placed in a lot for drawing, and the Committee shall immediately notify each new producer whose name was drawn and issue that producer an allotment base in the appropriate economic enterprise.

(2) *Existing producers*—(i) The Committee shall review all requests from existing producers for additional allotment base. With respect to additional allotment base for a class of oil to be issued by the Committee for the 1982–83, 1983–84, and 1984–85 marketing years, only an existing producer initially issued an allotment base of less than 1,200 pounds of "Class 1" Oil, or less than 1,800 pounds of "Class 3" Oil, and who has the ability to produce additional quantities of spearmint oil for the respective class of oil, shall be eligible to receive additional allotment base for that class. Each eligible producer's name, along with the difference between 1,200 pounds and that producer's initial allotment base for "Class 1" Oil, or 1,800 pounds and the producer's initial allotment base for "Class 3" Oil, shall be placed in a lot for drawing. The Committee shall draw the names and requested amounts of a sufficient number of eligible producers until the total of the requested amounts equals or exceeds the total of additional allotment base for each class of oil available for that marketing year. The last producer shall receive the amount requested by him. The Committee shall immediately notify each existing producer whose name was drawn by issuing that producer an allotment base for the appropriate amount.

(ii) For each marketing year after the 1984–85 marketing year, each existing producer of a class of spearmint oil who requests additional allotment base and has the ability to produce additional quantities of that class of spearmint oil shall be eligible to receive a share of the additional allotment base for that class of oil. Additional allotment base to be issued by the Committee for a class of oil shall be distributed equally among the eligible producers for that class. The Committee shall immediately notify each producer who is to receive additional allotment base by issuing that producer an allotment base in the appropriate amount.

(d) The person receiving any additional allotment base pursuant to this section shall submit to the Committee, evidence of an ability to produce and sell oil from such allotment base in the first marketing year following issuance of such base. Allotment base issued under this section shall not be transferred for at least two years following issuance.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 14, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82-25837 Filed 9-17-82; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1823 and 1901

Loans to Timber Development Organizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is removing from the Code of Federal Regulations (CFR) its regulation regarding loans to timber development organizations. This regulation is being removed because it is not needed and no need for it is anticipated in the future. The intended effect of this action is to remove an unneeded regulation from the CFR.

EFFECTIVE DATE: September 20, 1982.

FOR FURTHER INFORMATION CONTACT: Benjamin Beckham, Farm Real Estate and Production Division, USDA, FmHA, Room 5320, South Agriculture Building, Washington, DC 20250, Telephone: (202) 475–4002.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291 and has been determined to be exempt from those requirements since it is an internal agency management action to remove an unneeded regulation from the CFR. The Timber Development Loan program has been in effect since December 21, 1966. However, to this date, no loans have been made under this program and FmHA foresees no loans being made at any time in the future. The only indicated interest in Timber Development loans has been from individual applicants whose needs can be met under other existing FmHA loan programs.

It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since the purpose of the action is administrative in nature and publication for comment is unnecessary.

The FmHA program and projects which are affected by this regulation are subject to State and local clearinghouse review in the manner delineated in FmHA Instruction 1901–H.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that this action does not

constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

The Timber Development Loan program is not listed in the current Catalog of Federal Domestic Assistance (CFDA).

List of Subjects

7 CFR Part 1823

Forest and forest products, Loan programs—agriculture, Rural areas.

7 CFR Part 1901

Rural areas, Loan programs, Grant programs.

Accordingly, Chapter XVIII of Title 7, Code of Federal Regulations, is amended as follows:

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Subpart F—Loans to Timber Development Organizations

§§ 1823.161–1823.178 [Removed and Reserved]

1. Sections 1823.161 through 1823.178 are removed and reserved.

PART 1901—PROGRAM-RELATED INSTRUCTIONS

Subpart D—Davis-Bacon Act

§ 1901.152 [Amended]

2. Section 1901.152 is amended by removing paragraph (a)(2) and renumbering paragraphs (a)(3) through (a)(6) to paragraphs (a)(2) through (a)(5) respectively.

(5 U.S.C. 301; 7 U.S.C. 1989; 7 CFR 2.23, 7 CFR 2.70)

Dated: September 2, 1982.

Michael E. Brunner,

Acting Administrator, Farmers Home Administration.

[FR Doc. 82-25636 Filed 9-17-82; 8:45 am]

BILLING CODE 3410-07-M

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7 CFR Parts 1910 and 1944

Rural Rental Housing Loan Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) revises its regulations relating to loan making for multiple family housing (MFH) loans made by the Agency. This revision modifies the present system of assigning borrower case numbers. This action is taken because the present system of assigning case numbers contributes to misapplication of loan payments and an inaccurate data base for measuring MFH caseload. The revised system will permit the coding of a future initial MFH loan as project number 01. A subsequent loan for the same project will be coded in numerical sequence. The new system will result in easier identification, and hence less error, of initial MFH loans for the correct accounting of loan and subsidy payments or credits. It will also provide a more accurate data base for measuring MFH caseload.

EFFECTIVE DATE: September 20, 1982.

FOR FURTHER INFORMATION CONTACT: Jeanine Johnson, Multi-Family Housing Servicing and Property Management Division, Room 5321–S, Farmers Home Administration, 14th and Independence Avenue, SW., Washington, D.C. 20250, Telephone (202) 382–1611.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291 and has been determined to be exempt from those requirements. This is an internal regulation which relates only to agency management. Borrower case numbers are assigned by the Agency and used to track obligation and disbursement of funds, borrower payments and other account transactions. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since the purpose of this change involves only internal agency management and publication for comment is unnecessary.

This regulation does not directly affect any FmHA program or projects which are subject to A–95 clearinghouse review.

CFDA Numbers and Titles: 10.405 Farm Labor Housing Loans and Grants; 10.411 Rural Housing Site Loans; 10.415 Rural Rental Housing Loans.

This action requires no increases in costs to the Government or the public. There is no impact on proposed budget levels and funding allocation will not be affected because of this action. We have determined that this regulation maximizes net benefit to society at the lowest net cost.

The document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that this action does not constitute a Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

This action is taken to provide for a new MFH Case Number system whereby the State Director will assign a unique borrower case number for each individual MFH project. This new system will reduce the number of misapplied loan payments on MFH accounts and facilitate providing more timely and accurate account status reports to borrowers.

The agency presently uses the borrower's social security number or tax number, combined with a state and county code, to form a case number unique to the individual borrower. When a borrower has more than one project in the same county, the only distinction for each project is a separate loan number. This similarity in case numbers contributes to misapplication of loan payments. When a loan payment is misapplied considerable staff time is required to identify the error and correct the accounts. Misapplied payments result in inconvenience of borrowers and diminish the agency credibility with borrowers.

This new system will provide the agency with a better data base for measuring MFH project caseload. These caseload figures are used by the agency for administrative determinations and also to provide program data to the Congress and the public.

List of Subjects

7 CFR Part 1910

Applications, Credit, Loan programs—agriculture, Loan programs—housing and community development, Low and moderate income housing, Marital status discrimination, Sex discrimination.

7 CFR Part 1944

Administrative practice and procedure, Aged, Handicapped, Loan programs—housing and community development, Low and moderate income housing—rental, Mortgages, Nonprofit organizations, Rent subsidies, Rural housing.

Accordingly, FmHA amends Part 1910, Subpart A, and Part 1944, Subpart E, Chapter XVIII of Title 7 of the Code of Federal Regulations as follows:

PART 1910—GENERAL

Subpart A—Receiving and Processing Applications

1. Section 1910.3 is amended by revising paragraph (i), relettering paragraph (j) to (k) and adding a new paragraph (j) to read as follows:

§ 1910.3 Receiving applications.

* * * * *

(i) For all loans and grants except RRH, RCH, RHS and LH loans and grants covered in paragraph (j) of this section, FmHA will normally use the Social Security number or Internal Revenue Service (IRS) tax number, whichever is appropriate, as a borrower identification number. The applicant's Social Security or IRS tax number, preceded by the State and county code number, will constitute the entire case number to be used on all FmHA forms. If the applicant is an individual, the Social Security number should be used. If the applicant is a legal entity, its IRS tax number will be used. If the applicant does not have, or does not authorize use of a Social Security number for identification purposes, the Finance Office will assign a number. No applicant will be denied any right, benefit, or privilege provided by law because of refusal to disclose a Social Security number. Any applicant requested to disclose a Social Security number in the completion of a loan application will be orally counseled or advised in writing that:

(1) Disclosure of the Social Security number is voluntary and that refusal to disclose the Social Security number will not result in any adverse action; and

(2) The Social Security number is used in the identification of loan records and in the administration of payment transactions.

(j) For all RRH, RCH, RHS and LH loans and grants, the State Director will assign a unique case number to each project using the Multiple Family Housing Case Number Format on the Forms Manual Insert for Form FmHA 1940–1, "Request for Obligation of Funds".

* * * * *

PART 1944—HOUSING

Subpart E—Rural Rental Housing Loan Policies, Procedures, and Authorizations

§ 1944.232 [Amended]

2. Section 1944.232(d)(2) is amended to change Form "FmHA 440–1" to "FmHA 1940–1" in the list of loan docket items.

3. Section 1944.233 is amended by renumbering paragraphs (b)(2)(i) (A) through (F) to (b)(2)(i) (B) through (G), respectively, and adding a new paragraph (b)(2)(i)(A) to read as follows:

§ 1944.233 Loan approval.

* * * * *

(b) *Loan approval action.* * * *

(2) *Approval or disapproval of a loan*

(i) *Approval.* * * *

(A) The State Director will assign the appropriate case number to the loan using the Multiple Family Housing Case Number Format on the Forms Manual Insert for Form FmHA 1940–1, "Request for Obligation of Funds."

* * * * *

§ 1944.233 [Amended]

4. Section 1944.233 is amended by changing the reference "Form FmHA 440–1" to "Form FmHA 1940–1" in paragraphs (b)(2)(i)(B), line two; (b)(2)(i)(C), line nine; (b)(2)(i)(D), line three; (b)(2)(ii), line five; (b)(3)(ii), line two; and (b)(3)(iii), line two.

§ 1944.236 [Amended]

5. Section 1944.236, paragraph (c)(2), line three, is amended by changing the reference "Form FmHA 440–1" to "Form FmHA 1940–1."

§ 1944.238 [Amended]

6. Section 1944.236, line seventeen, is amended by changing the reference "Form FmHA 440–1" to "Form FmHA 1940–1."

(42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70)

Dated: August 17, 1982.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 82–25650 Filed 9–17–82; 8:45 am]

BILLING CODE 3410–07–M

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7 CFR Part 1951

Borrower Supervision, Servicing and Collection of Single Family Housing Loan Accounts

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding servicing and collection of 502 and 504 Single Family Housing Loan Accounts. The intended effect of this action is to authorize the use of contractors to perform specific servicing actions and collect payments on single family housing loan accounts on a pilot basis in Indiana and Puerto Rico. This action is being taken to develop a more effective means of managing delinquent accounts.

EFFECTIVE DATE: September 20, 1982.

FOR FURTHER INFORMATION CONTACT: Don Mahaffey, Servicing Branch, Single Family Housing, Farmers Home Administration, USDA, Room 5309, South Agriculture Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, Telephone: 202–382–1452.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 to implement Executive Order 12291, and has been determined to be exempt from those requirements because it involves Agency management concerning contracts entered into for the servicing and collection of single family housing loan accounts on a pilot basis.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comments notwithstanding the exemption in 5 U.S.C. 533 with respect to such rules. This action, however, is not published for proposed rulemaking since the purpose of this change involves only Agency management, and publication for comment is unnecessary.

Catalog of Federal Domestic Assistance numbers are: 10.410 Low to Moderate Income Housing Loans (Rural Housing Loans—Section 502—Insured), 10.417 Very Low-Income Housing Repair Loans and Grants.

This regulation does not directly affect any FmHA programs or projects which are subject to A–95 Clearinghouse review. This document has been reviewed in accordance with FmHA Instruction 1901–G, "Environmental Impact Statements." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

List of Subjects in 7 CFR Part 1951

Account servicing, Low and moderate income housing loans—servicing.

PART 1951—SERVICING AND COLLECTIONS

Accordingly, Subpart G of Part 1951, Chapter XVIII, Title 7, Code of Federal Regulations is amended by revising § 1951.302 to read as follows:

§ 1951.302 Authorities and responsibilities.

County Supervisors are responsible for borrower supervision and servicing and collecting all Single Family Housing loans as prescribed by this Subpart under the general guidance and supervision of District Directors and State Office personnel. Where a servicing and collection contract has been entered into between the FmHA National Office and a contractor, the contractor is responsible for those servicing and collection actions contracted for and RH loans covered by the contract.

(42 U.S.C. 1480; 7 CFR 2.23, 7 CFR 2.70)

Dated: September 1, 1982.

Michael E. Brunner,

Acting Administrator, Farmers Home Administration.

[FR Doc. 82-25835 Filed 9-17-82; 8:45 am]

BILLING CODE 3410-07-M

Food Safety and Inspection Service

9 CFR Parts 309 and 381

[Docket No. 81-041F]

Expanded Use of Microbiological Screening Procedures

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal meat and poultry products inspection regulations to provide inplant screening of livestock and poultry suspected of being contaminated by antimicrobial residues. In the past, suspect livestock and poultry carcasses and parts of carcasses were retained until tissue sample test results could be obtained from USDA laboratories. Implementation of this rule will permit the use of a swab test on premises to detect the presence of antimicrobial residues in suspect animals. By using this test, inspection personnel will be able to determine if the suspect product can be passed and released, or if the product must be retained for additional testing.

EFFECTIVE DATE: October 20, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. John E. Spaulding, Director, Residue Evaluation and Surveillance Division, Science Program, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-2807.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined, in accordance with Executive Order 12291, that this proposal is not a "major rule". It will not result in an annual effect on the economy of $100 million or more. It will not result in a major increase in costs of prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. It will not have a significant adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The only alternative to this final rule would be the continuation of current procedures which require retention of all suspect carcasses and parts while appropriate testing for antimicrobial residues is being conducted by USDA laboratories. While continuation of these procedures would eliminate the expenses of establishing inplant testing, it is anticipated that the long term savings of a Swab Test on Premises (STOP) operation outweigh the expenses of establishing it. Expansion of STOP would result in more expeditious determinations regarding suspect carcasses and parts. FSIS scientists have been able to reduce the cost of establishing this program by developing a microbiological test plate which remains stable at room temperatures for at least 6-9 months. Previously the test plates were not stable this long.

Effect on Small Entities

The Administrator has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it places no new requirements on industry. It only would affect USDA inplant operating procedures.

Background

Pursuant to section 4 of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 604) and section 6(b) of the Poultry Products Inspection Act (PPIA) (21 U.S.C. 455(b)), the Department of Agriculture conducts post-mortem inspection of carcasses and parts of carcasses of cattle, sheep, swine, goats, horses, and other equines; and chickens, turkeys, ducks, geese and guineas, respectively. The purpose of the inspection is to detect adulterated carcasses and parts, and prevent their use as human food.

On March 12, 1982, the Agency proposed to amend the Federal meat and poultry products inspection regulations to establish inplant testing procedures that would determine whether carcasses or parts of carcasses had been contaminated with antimicrobial residues (47 FR 10856). The proposed inplant testing would be used to determine whether the suspect product was safe, wholesome, and unadulterated and could therefore be released, or whether the product should be retained until additional testing could be conducted by USDA laboratories.

Comments

The Agency received 10 comments in response to the proposal: 4 from meat and poultry processors, 4 from meat and poultry trade associations, 1 from a State university, and 1 from a private citizen. Six of the comments favored the proposal and 4 opposed its promulgation. The substantive comments can be grouped according to 3 general issues. The issue most often addressed by the comments was that processing delays might result from the testing. Alternative testing and animal identification were the other 2 issues. These 3 issues are addressed below.

1. *Processing delays resulting from the testing.* Five of the comments addressed processing delays that could be attributed to the testing procedure. The most frequently expressed concern was that processing delays could be caused by unreliable testing results and/or over-administration of the test. One commentor was concerned that inaccurate results could necessitate further testing and thus inappropriate retention of product. Another of the comments suggested that inspection personnel would conduct unnecessary testing which would result in processing delays.

The Agency has considered each of these comments. The instroduction of these procedures in testing cull dairy cattle (9 CFR 309.16(a)) has not resulted in processing delays; nor have any questions arisen concerning over-administration of the test or the accuracy of the test results. In fact, 2 of the comments from meat processors discuss the time and money savings they have experienced since the initiation of the STOP program.

Further, the Agency believes that processing delays should be greatly reduced by inplant screening. The past testing procedures required that samples be sent to USDA laboratories for analysis. Decisions concerning product adulteration resulting from residue contamination had to be deferred from 1 to 2 weeks, depending upon the time required to transmit the tissue samples,

conduct the tests and receive the testing results. Now these decisions can be made within 18 hours after the sample is taken. This procedure eliminates the need to retain suspect product longer than overnight unless the test results indicate the presence of unacceptable residue levels. Such results would be subject to confirmation by further testing in a USDA laboratory.

Testing accuracy is indicated by the fact that the inplant STOP testing procedures are the same as initial testing procedures in use at USDA laboratories for the past 5 to 6 years.

2. *Alternative testing.* Two of the comments mentioned alternative testing. One comment from a meat processing company suggested that the testing be used as a preslaughter tool for determining residue levels.

The agency has recently announced the institution, in cooperation with Producer Associations, of the Total Residue Avoidance Program (TRAP). TRAP focuses on preventing residue problems at the producer level. This program should help to avert large-scale residue problems. The program will offer, in part, preslaughter residue testing. Because the program is under development the Agency does not anticipate any regulatory action at this time. Additional information on TRAP is available by contacting Dr. John Spaulding, (202) 447-2807.

A second comment regarding alternative testing was offered by a State university. The comment included a research publication detailing the development of a procedure that used an adhesive tape method to determine residue levels.

The Agency has reviewed the publication but is not taking any action based upon it at this time. This testing procedure is not within the scope of the original proposal and therefore, if meritorious, should be the subject of a petition for a separate proposal.

3. *Animal identification.* One comment from a meat trade association opposed the implementation of STOP until mandatory animal identification is instituted. The comment asserted that processors may suffer losses when contaminated product can not be traced back to its original source.

While animal identification may reduce losses to processors, those processors that keep adequate records should be able to trace back the vast majority of animals to their point of origin. In any case, this matter is beyond the scope of this proceeding and should be addressed in separate rulemaking.

Final Rule

After careful consideration of the comments presented, the Agency has decided to publish the final rule as proposed. This final rule permits inplant screening of any species of livestock or poultry to detect the presence of unlawful levels of antimicrobial residues. *Indexing Terms.* As required by 1 CFR 18.20 (48 FR 7162, January 22, 1981) the following are the indexing terms for this regulation:

List of Subjects

9 CFR Part 309

Ante-mortem inspection and meat inspection.

9 CFR Part 381

Ante-mortem inspection and poultry inspection.

PART 309—ANTE-MORTEM INSPECTION

1. The authority citation for Part 309 reads as follows:

Authority: Sections 4 and 21, 34 Stat. 1260, 1264, as amended, 21 U.S.C 603, 604, 621; 81 Stat. 584, 588, 592, 593, 42 FR 35625, 35626, 35631.

2. Section 309.16(a) (9 CFR 309.16(a)) is revised to read as follows:

§ 309.16 Livestock suspected of having biological residues.

(a) Except as provided by paragraph (c) of this section, livestock suspected of having been treated with or exposed to any substance that may impart a biological residue that would make the edible tissues unfit for human food or otherwise adulterated, shall be handled in compliance with the provisions of this paragraph. They shall be identified at official establishments as "U.S. Condemned." These livestock may be held under the custody of a Program employee, or other official designated by the Administrator, until metabolic processes have reduced the residue sufficiently to make the tissues fit for human food and otherwise not adulterated. When the required time has elapsed, the livestock, if returned for slaughter, must be re-examined on ante-mortem inspection. To aid in determining the amount of residue present in the tissues, officials of the Program may permit the slaughter of any such livestock for the purpose of collecting tissues for analysis for the residue. Such analysis may include the use of inplant screening procedures designed to detect the presence of antimicrobial residues in any species of livestock.

* * * * *

PART 381—MANDATORY POULTRY PRODUCTS INSPECTION

3. The authority citation for Part 381 reads as follows:

Authority: Section 14 of the Poultry Products Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 *et seq.*); the Talmadge-Aiken Act of September 28, 1962, (7 U.S.C. 450); and Subsection 21(b) of the Federal Water Pollution Control Act, as amended by Pub. L. 91-224 and by other laws (33 U.S.C. 1254).

4. Section 381.74 (9 CFR 381.74) is revised to read as follows:

§ 381.74 Poultry suspected of having biological residues.

When any poultry at an official establishment is suspected of having been treated with or exposed to any substance that may impart a biological residue that would make their edible tissues adulterated, they shall, at the option of the operator of the establishment, be processed at the establishment and the carcasses and all parts thereof retained under U.S. Retained tags, pending final disposition in accordance with § 381.80, of this Part, and other provisions in Subpart K; or they shall be slaughtered at the establishment and buried or incinerated in a manner satisfactory to the inspector. Alternatively, such poultry may be returned to the grower, if further holding is likely to result in their not being adulterated by reason of any residue. The Inspection Service will notify the other Federal and State agencies concerned of such action. To aid in determining the amount of residue present in the poultry, officials of the Inspection Service may permit the slaughter of any such poultry for the purpose of collecting tissues for analysis of the residue. Such analysis may include the use of inplant screening procedures designed to detect the presence of antimicrobial residues in any species of poultry.

Done at Washington, D.C., on September 8, 1982.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 82-25851 Filed 9-17-82; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I, Parts 1, 20, 21 and 73

Minor Clarifying Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to codify nomenclature changes required by a reorganization of NRC staff activities; to reflect the reassignment of the responsibility for implementing the Paperwork Reduction Act and for preparing the monthly *Nuclear Regulatory Commission Issuances;* to indicate a change in the commercial telephone number for the NRC's Region IV Office; and to announce that the NRC Region IV Uranium Recovery Field Office, located in Denver, Colorado, will become operational on October 4, 1982. The amendments are necessary to inform the public of these administrative changes to NRC regulations.

EFFECTIVE DATE: September 20, 1982.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301–492–7086.

SUPPLEMENTARY INFORMATION: 10 CFR Chapter I: On October 16, 1981, the Commission announced a reorganization of NRC staff activities. This reorganization will be accomplished through a regionalization program that will enlarge the role of the NRC's regional offices. The objectives of reorganization are to improve control over requirements imposed on NRC licensees and focus the priorities of the agency and the nuclear industry on those requirements having the greatest safety significance. As a result of the reorganization, certain nomenclature changes are required to reflect the expanded role of the regional offices.

10 CFR Part 1: The NRC has transferred the implementation of the Paperwork Reduction Act and the responsibility for the preparation of *Nuclear Regulatory Commission Issuances*, including managing the collection, review, and publication of Office, Board, and Commission documents, from the Division of Rules and Records to the Division of Technical Information and Document Control. These transfers will result in a more efficient pairing of resources and responsibilities. In addition, on June 16, 1982, the Commission decided to locate the Region IV Uranium Recovery Field Office in Denver, Colorado. The Field Office will be responsible for health, safety, and environmental reviews; the licensing of uranium recovery facilities, which include mills and in-situ operations; providing technical assistance to Agreement States regarding uranium recovery facilities; and performing inspections of these facilities.

On October 4, 1982, the NRC Region IV Uranium Recovery Field Office will become operational. The address for the Field Office is 730 Simms Street, P.O. Box 25325, Denver, Colorado 80225.

10 CFR Parts 20, 21, and 73: (1) Effective August 1, 1982, the commercial telephone number for the NRC's Region IV Office located at 611 Ryan Plaza Drive, Arlington, Texas, will be changed to 817–860–8100; (2) Effective October 4, 1982, the NRC Region IV Uranium Recovery Field Office, located at 730 Simms Street, P.O. Box 25325, Denver, Colorado 80225, will become operational. The telephone number for the Denver Field Office will be (Commercial) 303–234–7232, (FTS) 234–7232.

Because these are nonsubstantive amendments dealing with administrative procedural matters, good cause exists for finding that the notice and comment procedures of the Administrative Procedure Act (5 U.S.C. 553) are unnecessary and for making the amendments effective upon publication.

List of Subjects

10 CFR Part 1

Organization and functions.

10 CFR Part 20

Byproduct material, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Penalty, Radiation protection, Reporting requirements, Special nuclear material, Source material, Waste treatment and disposal.

10 CFR Part 21

Nuclear power plants and reactors, Penalty, Radiation protection, Reporting requirements.

10 CFR Part 73

Hazardous materials—transportation, Nuclear material, Nuclear power plants and reactors, Penalty, Reporting requirements, Security measures.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the following amendments to 10 CFR Chapter 1 and 10 CFR Parts 1, 20, 21, and 73 are published as a document subject to codification.

(Sec. 161, Pub. L. 83–703, 68 Stat. 948, as amended (42 U.S.C. 2201))

CHAPTER I—NUCLEAR REGULATORY COMMISSION

1. In 10 CFR Chapter I, all references to "Regional Director" are changed to read "Regional Administrator," and all references to "Nuclear Regulatory Commission Inspection and Enforcement Regional Office" are changed to "Nuclear Regulatory Commission Regional Office."

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

2. In § 1.3, paragraph (b) is revised to read as follows:

§ 1.3 Location of principal offices and Regional Offices.

* * * * *

(b) The addresses of the NRC Regional Offices (see § 1.64) are:

Region I, USNRC, 631 Park Avenue, King of Prussia, PA 19406
Region II, USNRC, 101 Marietta Street, Suite 3100, Atlanta, GA 30303
Region III, USNRC, 799 Roosevelt Road, Glen Ellyn, IL 60137
Region IV, USNRC, 611 Ryan Plaza Drive, Suite 1000, Arlington, TX 76012
USNRC, Region IV Uranium Recovery Field Office, 730 Simms Street, P.O. Box 25325, Denver, CO 80225
Region V, USNRC, 1450 Maria Lane, Suite 210, Walnut Creek, CA 94596

3. In § 1.41, paragraphs (d) and (f) are revised to read as follows:

§ 1.41 Office of Administration.

* * * * *

(d) The Division of Technical Information and Document Control is responsible for implementing the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and for planning and directing the production (exclusive of writing) and control of NRC documents. Its responsibilities include typing services, publication and graphics; NRC management directives; document evaluation, dissemination, storage, and retrieval; and the preparation and publication of the *Nuclear Regulatory Commission Issuances*.

* * * * *

(f) The Division of Rules and Records is responsible for NRC implementation of the Freedom of Information Act and

the Privacy Act; directing the coordinating NRC Local Public Document Room activities; preparing the NRC Regulatory Agenda; publishing "NRC Rules and Regulations," and reviewing and preparing notices and amendments to NRC regulations, including the processing of petitions for rulemaking.

* * * * *

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

4. In Part 20, Appendix D is revised to read as follows:

APPENDIX D.—UNITED STATES NUCLEAR REGULATORY COMMISSION REGIONAL OFFICES

	Address	Telephone (24 hrs)
Region I: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.	USNRC, 631 Park Ave., King of Prussia, PA 19406	(213) 337-5000, (FTS) 488-1000.
Region II: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virginia, Virgin Islands, and West Virginia.	USNRC, 101 Marietta Street, Suite 3100, Atlanta, GA 30303	(404) 221-4503, (FTS) 242-4503.
Region III: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.	USNRC, 799 Roosevelt Road, Glen Ellyn, IL 60137	(312) 932-2500, (FTS) 384-2500.
Region IV: Arkansas, Colorado, Idaho, Kansas, Louisiana, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming.	USNRC, 611 Ryan Plaza Drive, Suite 1000, Arlington, TX 76102	(817) 860-8100, (FTS) 728-8100.
Region IV Field Office	USNRC, Region IV Uranium Recovery Field Office, 730 Simms Street, P.O. Box 25325, Denver, CO 80225.	(303) 234-7232, (FTS) 234-7232.
Region V: Alaska, Arizona, California, Hawaii, Nevada, Oregon, Washington, and U.S. territories and possessions in the Pacific.	USNRC, 1450 Maria Lane, Suite 210, Walnut Creek, CA 94596	(415) 943-3700, (FTS) 463-3700.

PART 21—REPORTING OF DEFECTS AND NONCOMPLIANCE

5. In footnote 1 of § 21.2, the commercial telephone number for NRC Region IV (Dallas) is revised to read as follows and the telephone number for the NRC Region IV Uranium Recovery Field Office is added to read as follows:

* * * * *

§ 21.2 Scope.

1 * * *

IV (Dallas)..... (817) 860-8100
IV Uranium Recovery Field Office (Denver)..... (303) 234-7232

* * * * *

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

6. In Appendix A of Part 73, the telephone number for Region IV is revised to read as follows:

APPENDIX A.—UNITED STATES NUCLEAR REGULATORY COMMISSION REGIONAL OFFICES

Region IV: [1]		
Arkansas, Colorado, Idaho, Kansas, Louisiana, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming.	USNRC, 611 Ryan Plaza Drive, Suite 1000, Arlington, TX 76102	(817) 860-8100, (FTS) 728-8100.
Region IV Field Office	USNRC Region IV Uranium Recovery Field Office, 730 Simms Street, P.O. Box 25325, Denver, CO 80225.	(303) 234-7232, (FTS) 234-7232.

Dated at Bethesda, Maryland, this 13th day of September 1982.
For the Nuclear Regulatory Commission.
William J. Dircks,
Executive Director for Operations.

[FR Doc. 82-25844 Filed 9-17-82; 8:45 am]
BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; TIL-1]

Truth in Lending; Official Staff Commentary Update

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final official staff interpretation.

SUMMARY: In accordance with Appendix C to 12 CFR Part 226, the staff of the Federal Reserve Board is publishing in final form an update to the official staff commentary to Regulation Z (Truth in Lending), as revised effective April 1, 1981. The commentary applies and interprets the requirements of the revised Regulation Z to open-end and closed-end consumer credit and is intended to substitute for individual Board and staff interpretations of the regulation.

EFFECTIVE DATE: September 17, 1982, but reliance optional until April 1, 1983.

FOR FURTHER INFORMATION:
Contact the following attorneys in the Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452-3667 or (202) 452-3667:

Subpart A—Gerald Hurst, Rugenia Silver
Subpart B and Appendices—Ruth Amberg, Jesse Filkins, Lynn Goldfaden, Gerald Hurst, John Wood
Subpart C and Appendices—Clarence Cain, Lucy Griffin, Rugenia Silver, Susan Werthan, Claudia Yarus, Steven Zeisel
Subpart D—Lynn Goldfaden, Rugenia Silver

SUPPLEMENTARY INFORMATION: (1) *General.* Effective October 13, 1981 (46 FR 50288, Oct. 9, 1981), an official staff commentary was published to interpret Regulation Z, as revised effective April 1, 1981. Creditors now have the option of complying with revised Regulation Z and the commentary, but compliance does not become mandatory until October 1, 1982 (Pub. L. 97-110, December 26, 1981). The commentary is designed to provide general guidance to creditors in applying the regulation to specific transactions. Periodic updates will provide the vehicle for additional staff interpretations that may be necessary as significant new questions

arise. The first update to the commentary was proposed for comment on May 13, 1982 (47 FR 20603) and is now being adopted in final form.

The types of changes being adopted generally give creditors more flexibility in making disclosures while preserving basic consumer protections. Changes generally have been made only when necessary to respond to significant questions that have arisen since the commentary's issuance or to clarify ambiguous language. However, because this is the first update to the commentary, some technical and editorial changes have been necessary in order to expedite adjustment to the commentary's new material and format. In a few cases the location of comments has been changed and others have been renumbered as a result of the deletion or addition of material.

The changes are effective on September 17, 1982. Although creditors are free to rely on the revisions as of that date and are protected if they do so, they need not follow the revisions until April 1, 1983. The latter date is provided to minimize any difficulties that creditors may experience in adjusting to the revisions.

(2) *Commentary revisions.* Following is a brief description of the revisions contained in the commentary update and how they differ, if at all, from those proposed.

Introduction

Comment I–3 is amended to reference the regulation's effective date of October 1, 1982, in accordance with Pub. L. 97–110 (December 26, 1981).

Subpart A—General

Section 226.2—Definitions and Rules of Construction

2(a)(3) "Arranger of Credit":

Comment 2(a)(3)–6 is added to explain the Board's amendment to § 226.2(a)(3) of the regulation (47 FR 7391, February 19, 1982) dealing with real estate brokers. The proposed language has been adopted with only slight modification of the first sentence to eliminate ambiguity.

The note regarding pending Board action on this section is deleted because it is no longer relevant.

2(a)(13) "Consummation":

Comment 2(a)(13)–1 is revised to show that a commitment agreement can be consummated if under applicable law a contractual relationship is created. The updated comment differs from the proposed revision in that the first sentence of the proposal and the phrase "specific credit terms" have been deleted. These deletions have been made from the proposal to avoid the misunderstanding by some commenters that the proposal was intending to create an exception from the general rule that state law governs on the issue of when consummation occurs. The updated comment makes it clear that state or other applicable law is determinative on when a contractual relationship is created and that, for Truth in Lending purposes, the focus is on when the consumer becomes bound to the credit terms.

2(a)(23) "Prepaid Finance Charge":

Comment 2(a)(23)–2 is revised to make clear that any portion of the finance charge paid prior to or at closing or settlement is considered a prepaid finance charge. The updated comment differs from the proposed revision in that it covers amounts paid "prior to" closing or settlement as well as those paid "at" closing or settlement.

2(a)(24) "Residential Mortgage Transaction":

Comment 2(a)(24)–1 is revised to add § 226.20(b) to the list of provisions using the term "residential mortgage transaction." Its omission was inadvertent.

2(a)(25) "Security Interest":

Comment 2(a)(25)–1 is revised by adding a cross reference at the end of the paragraph to updated comment 2(a)(25)–2. This cross reference is added to make clear that while creditors may not disclose an interest that unquestionably falls within an excluded category, where uncertainty exists as to whether an interest is a security interest or an excluded interest, creditors may at their option disclose the interest pursuant to updated comment 2(a)(25)–2.

Comment 2(a)(25)–2 is revised to permit creditors, at their option, to disclose certain interests as security interests when uncertainty exists as to whether a particular interest is one of the excluded interests.

Section 226.4—Finance Charge

4(b) Examples of Finance Charge:

Comment 4(b)(9)–3 is added to explain the "regular price" definition in amended section 103(x) of the act and its relationship to cash discounts offered under section 167(b) of the act. The new comment specifically discusses the displaying of prices for motor vehicle fuel. It differs from the proposal in that it (1) adds the statutory definition of "regular price," and (2) provides additional guidance regarding motor vehicle fuel sales in the context of separate pumps or islands for cash and credit purchases and pumps capable of showing either cash or credit prices.

4(c) Charges Excluded from the Finance Charge:

Comment 4(c)(7)–1 is revised to state that a charge for a lawyer's attendance at a closing or a charge for conducting a closing (for example, by a title company) is not a finance charge if the charge is primarily for services related to items listed in § 226.4(c)(7). In addition, the sentence concerning the requirement that charges excluded under § 226.4(c)(7) be bona fide and reasonable is reworded slightly and placed at the end of the updated comment to make clear that the requirement applies to all excluded charges. The updated comment differs from the proposal in that it (1) is not limited to lawyers' fees and (2) does not limit the exclusion to charges that are purely for insuring that documents are completed and executed properly.

4(d) Insurance:

Comment 4(d)–11 is added to clarify the concept of initial term of insurance coverage and to permit the initial term to be considered one year in situations where the insurance coverage is not clearly for a specific term. The new comment differs from the proposal in that it (1) deletes the reference to the creditor being "unsure" of the initial term, and (2) adds an example of a situation where the initial term of insurance coverage may not be clear and allows the use of a premium for one year in such situations.

Comment 4(d)–12 is added to clarify that loss-of-income insurance includes involuntary unemployment insurance.

Subpart B—Open-End Credit

Section 226.5—General Disclosure Requirements

5(a) Form of Disclosures:

Comment 5(a)(2)–1 is revised to include additional examples of the application of the "more conspicuous" rule. These examples are intended to clarify the rule; no substantive changes are intended. The proposal is changed to clarify that only the terms, and not the numbers, are subject to the "more conspicuous" rule. In addition, the proposed example regarding minimum finance charges is deleted as not being of general applicability.

5(b) Time of Disclosures:

Comment 5(b)(1)–1 is revised to explain more clearly when initial disclosures are timely if the plan involves an initial fee that is paid before the initial disclosures are given, or if the plan involves an advance made at the time that the consumer is given the initial disclosures.

5(c) Basis of Disclosures and Use of Estimates:

Comment 5(c)–1 is revised to clarify the meaning of the term "legal obligation." Because the proposal would have added to comment 17(c)(1)–1 a sentence to show the effect of certain previous court decisions on disclosures, the staff solicited comment on whether a companion provision for open-end credit should be added. The proposed addition is not being included in either Subpart B or Subpart C. (See discussion of comment 17(c)(1)–1.)

5(d) Multiple Creditors; Multiple Consumers:

Material that was inappropriate for commentary treatment regarding legal responsibility for providing disclosures is deleted from comment 5(d)–1. The last paragraph of comment 5(d)–1 is also deleted from that comment; the substance is redesignated as comment 7–2. A companion provision regarding initial disclosure statements is added as comment 6–2.

Section 226.6—Initial Disclosure Statement

Comment 6–2 is added as a companion provision to comment 7–2, regarding circumstances under which creditors involved in a certain open-end credit program may send separate initial disclosure statements.

6(a) Finance Charge:

Comment 6(a)(2)–2 is revised in its description of the types of open-end credit programs for which the creditor's initial disclosure of planned rate changes excuses the creditor from the general requirement to give notices when the rate increases according to the disclosed plan. The commentary as originally written provided that creditors may avoid these notices after giving appropriate disclosures in plans in which the rates follow an index that is "readily verifiable by the borrower and beyond the control of the lender."

A number of questions had arisen as to the interpretation and purpose of the original commentary language. In particular, some creditors raised concerns about programs that would use certain internal rates as the index and therefore not meet the criterion that the index be beyond the lender's control. These creditors noted that tying the rate to their commercial lending rate or to rates paid on savings instruments was customary practice. The updated comment reflects these concerns, while at the same time continuing to provide guidance on the types of rate increases for which additional disclosures may be needed. The updated comment also adds a cross reference to comment 9(c)–1, with regard to disclosures under employee preferential-rate plans.

6(b) Other Charges:

Language is added to comment 6(b)–2 to provide that a charge for submitting as payment a check that is later returned unpaid would not be an "other charge" for purposes of the regulation.

Section 226.7—Periodic Statement

The substance of the last paragraph of comment 5(d)–1 is added as comment 7–2. This comment is more appropriately placed in the section on periodic statements.

7(b) Identification of Transactions:

Comment 7(b)–1 is revised to clarify that the listed ways for a creditor to identify transactions for multifeatured plans are merely examples of acceptable arrangements.

7(c) Credits:

Comment 7(c)–3 is revised to clarify when additional identification of dates is needed, and also that no specific terminology is required for these date identifications.

7(e) Balance on Which Finance Charge Computed:

Comment 7(e)–2 is revised by indicating that the exception permitting the creditor to disclose one combined balance when split rates (or "break rates") are applied does not extend to the case in which split rates are applied to each day's balance. This change in the updated commentary returns to the position under previous Regulation Z, and corrects the inadvertent reference in comment 7(e)–4. That reference permitted a combined balance, which would not allow verification of the finance charge attributable to periodic rates.

The last sentence of current comment 7(e)–4 (updated comment 7(e)–5) is deleted, and the substance is incorporated in comment 7(e)–2.

Comments 7(e)–4, 5, 6, and 7 of the commentary are redesignated as updated comments 7(e)–5, 6, 7, and 8, and comment 7(e)–8, which deals with the disclosure of the periodic rate balance amount in multifeatured plans, is redesignated as updated comment 7(e)–4.

Updated comment 7(e)–4 (formerly comment 7(e)–8) is revised to give more complete guidance on when separate balances must be disclosed when a plan involves different features.

Comment 7(e)–9 is added to clarify that the creditor could explain its balance computation method only once, even if it discloses more than one balance computed by that same method. The updated comment differs from the proposal by adding two specific examples of when one explanation is sufficient.

7(g) Annual Percentage Rate:

Comment 7(g)–2 is expanded to clarify that, in multifeatured plans, the creditor may give separate annual percentage rate disclosures for each feature or may give a composite actual annual percentage rate for the entire plan.

Section 226.8—Identification of Transactions

8(a) Sale Credit:

Comment 8(a)(2)–5 is added to reflect the position under previous Regulation Z that the debiting date may be considered the transaction date for foreign transactions. The placement of this provision in the proposal inadvertently limited the availability of this provision to three-party transactions. By placing the provision under both § 226.8(a) (2) and (3), the updated commentary makes clear that the provision may also be used in two-party transactions.

In the last sentence of comment 8(a)(3)–2, the inadvertent reference to "creditor's" stores is changed to "seller's" stores.

Comment 8(a)(3)–4 is added, as previously noted, to reflect the position under previous Regulation Z that the debiting date may be considered the transaction date for foreign transactions.

Section 226.9—Subsequent Disclosure Requirements

9(c) Change in Terms:

Comment 9(c)–1 is revised to correspond to the revisions to comment 6(a)(2)–2.

Section 226.13—Billing-Error Resolution

13(d) Rules Pending Resolution:

Comment 13(d)(1)–2 is revised to clarify that, for purposes of § 226.13(d)(1), the creditor need only disclose that payment of "any disputed amount" is not required pending resolution, as was the case under the previous Regulation Z. Language has been added to the proposal to clarify that the disclosure is only required if the creditor bills for disputed amounts.

Section 226.14—Determination of Annual Percentage Rate

14(c) Annual Percentage Rate for Periodic Statements:

The new comment 14(c)–6 identifies the method in § 226.14(c)(3) as an acceptable method for calculating the annual percentage rate when the finance charge results from the application of both daily periodic rates and specific transaction charges. The proposal set forth an alternative calculation method, and comment was solicited on the need for that option. The response did not

demonstrate a current need for the alternative method as proposed.

The § 226.14(c)(3) method includes the rules in Appendix F; the appendix gives examples for determining the denominator of the fraction in this formula. Footnote 1 to the appendix instructs creditors that apply both a daily periodic rate and a specific transaction charge to use the average of daily balances instead of the sum of the balances.

Comments 14(c)–6, 7, and 8 have been redesignated as updated comments 14(c)–7, 8 and 9, respectively.

An editorial change is made to updated comment 14(c)–9 (formerly comment 14(c)–8) to correct the inadvertent use of the term "fees" instead of "finance charges." The change indicates that the optional annual percentage rate formula in § 226.14(c)(4) may be used when total finance charges of 50 cents or less are involved.

14(d) Calculations Where Daily Periodic Rate Applied:

Comment 14(d)–2 is revised merely to cross reference updated comment 14(c)–6. The later comment identifies an acceptable method for calculating the annual percentage rate for plans involving both daily periodic rates and specific transaction charges.

Section 226.15—Right of Rescission

15(a) Consumer's Right To Rescind:

Two changes are made in comment 15(a)(1)–2. First, the dates in the comment, which refer to the three-year trial period in section 125(e) of the act, are changed from March 31, 1985 to September 30, 1985 to reflect the change in the mandatory effective date of the act from April 1, 1982 to October 1, 1982. Second, a sentence is added to clarify that the limited rescission option is available for programs whether or not they existed on the effective date of the act.

Section 226.16—Advertising

16(b) Advertisement of Terms That Require Additional Disclosures:

The first example in comment 16(b)–5 is deleted in order to reflect a long-standing position taken under the previous Regulation Z.

Comment 16(b)–6 is added to make clear that charges excluded from the finance charge under § 226.4 are not required disclosures when a triggering term is used in an advertisement.

Subpart C—Closed-End Credit

Section 226.17—General Disclosure Requirements

17(a) Form of Disclosures:

Comments 17(a)(1)–5 adds three examples of information considered directly related to required disclosures. The first new example, relating to § 226.18(k), clarifies the applicability of the § 226.18(k)(1) disclosure. For purposes of this disclosure, a minimum finance charge in a simple interest transaction is considered a penalty. Some state laws prohibit creditors from charging a penalty in the event of prepayment while permitting the creditor to charge a minimum charge. In this instance the creditor may state that a minimum finance charge may be imposed.

The second addition, relating to § 226.18(f), responds to inquiries about disclosing the fact that a variable-rate feature may produce negative amortization. It permits creditors to disclose this fact when making the other required variable-rate disclosures. The last example permits the inclusion of a title for the disclosure statement.

The proposed revision to comment 17(a)(1)–5 also would have added a fourth example, relating to § 226.18(k)(2). That example is reflected in new comment 18(k)–3, which addresses the application of prepayment disclosures to prepaid finance charges.

17(c) Basis of Disclosures and Use of Estimates:

Comment 17(c)(1)–1 is revised to clarify the meaning of the term "legal obligation." The sentence discussing contracts later deemed unenforceably by a court is modified to include situations in which an individual term, rather than an entire contract, is deemed unenforceable. Portions of comments 17(c)(1)–1 and 2 are restructured for added clarity. The proposed addition to comment 17(c)(1)–1, discussing the effect of certain previous court decisions on the legal obligation, has not been adopted.

Comment 17(c)(1)–4 is revised to clarify the treatment of certain buydown plans, including the Federal National Mortgage Association's Buydown Program, as revised for commitments issued on or after February 16, 1982.

A new comment 17(c)(1)–8 is added to address the disclosure of adjustable rate mortgages that contain a graduated payment feature or an initial payment amount resulting in negative amortization. This comment applies to mortgages such as the graduated payment adjustable mortgage loan authorized by the Federal Home Loan Bank Board (12 CFR 545.6–4b). The new comment has been revised from the proposal to apply to all types of loans containing both graduated payment and adjustable rate features.

New comments 17(c)(3)–2 and 17(c)(4)–3 are added to clarify that a creditor may ignore minor variations in calculating some disclosures without being required to ignore those variations in computing all of the disclosures.

17(d) Multiple Creditors; Multiple Consumers:

Material that was inappropriate for commentary treatment is deleted from comment 17(d)–1.

17(h) Series of Sales—Delay in Disclosures:

Comment 17(h)–2 is added to address the content of disclosures for transactions under § 226.17(h).

17(i) Interim Student Credit Extensions:

Comment 17(i)–1 is amended to clarify the applicability of this provision. No substantive change is made.

Comment 17(i)–2 is revised to provide further guidance on the basis for interim student credit disclosures and the use of estimates.

Comment 17(i)–5 is added as a cross reference to Appendix H, regarding approved disclosure forms.

Section 226.18—Content of Disclosures

18(f) Variable Rate:

Comment 18(f)–3 is added to clarify that the presence of a variable-rate feature in a transaction does not, by itself, make disclosures for that transaction estimates. The comment is revised from the proposal to make clear that estimated disclosures in a variable-rate transaction may nevertheless be appropriate for other reasons.

Comment 18(f)–7 is added to discuss the treatment of growth equity mortgages. The proposal has been rewritten and restructured for added clarity.

Comment 18(f)(3)–1 is revised to include a cross reference to updated comment 17(a)(1)–5, which permits the inclusion of a brief reference to negative amortization in the variable-rate disclosures.

Comment 18(f)(4)–1 is revised to provide further guidance on the basis for the hypothetical example.

Comment 18(f)(4)–2 contains additional examples of transactions that need not make the hypothetical disclosure required in most transactions by § 226.18(f)(4).

18(g) Payment Schedule:

Comment 18(g)–1 is revised to clarify that a prepaid finance charge should not be reflected in the repayment schedule as a separate payment.

Comment 18(g)(2)–1 is revised to clarify that the abbreviated disclosures may be employed when mortgage insurance premium payments gradually

increase over a portion of the loan term. This will occur if the accrual rate exceeds the payment rate for a period and negative amortization causes the unpaid principal balance to increase. During this period, the amount of each premium payment will increase to insure the increasing principal balance. When negative amortization ends, the premiums will decrease in a traditional manner. The language permits the creditor to disclose the lowest and highest payments in the increasing series (with a reference to the variation in payments) followed by the highest and lowest payments in the decreasing series (with a reference to the variation in payments).

18(i) Demand Feature:

Comment 18(i)–2 is revised to clarify that a due-on-sale clause is not a demand feature requiring disclosure.

18(k) Prepayment:

A new comment 18(k)–3 is added to address the application of §226.18(k) to prepaid finance charges. Under the new comment, a prepaid finance charge does not by itself require a disclosure under either § 226.18(k)(1) or § 226.18(k)(2). The comment also permits creditors to further identify the finance charge for which a rebate disclosure is made.

Comment 18(k)(1)–1 is changed to clarify that this disclosure applies not only to interest calculations made daily, but to calculations that are made other than daily while taking into account scheduled reductions in principal. A cross reference to updated comment 17(a)(1)–5 is added to point out the permitted reference to a minimum finance charge in the penalty disclosure.

Comment 18(k)(2)–1 is revised from both the original commentary and the proposal, in order to reflect the treatment of prepaid finance charges under new comment 18(k)–3.

18(r) Required Deposit:

A new comment 18(r)–2 is added to address pledged account or FLIP mortgages, allowing creditors two options in disclosing those types of transactions.

Section 226.19—Certain Residential Mortgage Transactions

19(a) Time of Disclosure:

Comment 19(a)–2 is revised to conform with comment 17(a)(1)–5, regarding explanation of the basis for estimates.

Section 226.20—Subsequent Disclosure Requirements

20(a) Refinancings:

Comment 20(a)–3 is revised to clarify the current commentary position that the addition of a variable-rate feature to a previously fixed-rate transaction requires new disclosures regardless of the manner in which the change is made. It also discusses a variable-rate transaction for which no variable-rate disclosures were ever provided. The comment has been reorganized to clarify that both situations require new disclosures.

Comment 20(a)–5 is added to clarify the coverage of §226.20(a). "Refinancing," as the term is used here, refers only to a new transaction undertaken with the original creditor (or a holder or servicer of the original obligation) to replace the original obligation. The term "refinancing" is sometimes used to refer to a loan, the proceeds of which are used in whole or in part to satisfy an obligation to a different creditor. Under the regulation, that loan is not a refinancing but a new transaction subject to the general coverage rules and disclosure requirements of the regulation.

20(b) Assumptions:

The revision to comment 20(b)–1 clarifies the coverage of § 226.20(b). The following elements must all be present before an assumption under this section requires new disclosures:

- The original obligation must have been a consumer credit obligation that was not originally exempt from the regulation.
- The creditor must expressly agree to the new consumer as a primary obligor.
- The agreement must be in writing.
- The transaction must be a "residential mortgage transaction" as to the new consumer.

To determine if disclosures are required for the transfer of an obligation that is not covered by §226.20(b), the creditor must refer to the general coverage rules in § 226.2 and § 226.3.

Comment 20(b)–6 is deleted from the commentary as unnecessary. Discussion of changes in terms does not significantly assist creditors in determining whether an assumption is subject to § 226.20(b).

Section 226.22—Determination of the Annual Percentage Rate

22(a) Accuracy of the Annual Percentage Rate:

A sentence is added to comment 22(a)(1)–4 to provide an example of the calculation of a composite annual percentage rate, as that term is used in a step-rate transaction.

Section 226.24—Advertising

24(b) Advertisement of Rate of Finance Charge:

Comment 24(b)–4 is added to address the advertisement of special financing involving "effective rates," "payment rates" or "qualifying rates." It requires that when the advertisement includes such rates, the annual percentage rate, the term of the reduced payment schedule, and the rate at which interest accrues also be stated. This comment replaces proposed comment 24(b)–2.

Subpart D—Miscellaneous

Section 226.29—State Exemptions

29(a) General Rule:

Comment 29(a)–4 is added to reflect the exemptions granted by the Board for certain transactions in Connecticut and Maine (47 FR 36961, August 24, 1982). Further exemptions that may be granted by the Board will be reflected in future updates to the commentary.

Appendix D—Multiple-Advance Constructions Loans

Comment app. D–2 is added to permit creditors to omit disclosure of a variable-rate example in multiple-advance construction loans disclosed pursuant to Appendix D, Part I. (See comment 18(f)(4)–2)

Comment app. D–3 is added to clarify that the total of payments disclosure under Appendix D may be calculated as either the sum of the payments or as the amount financed plus the finance charge.

Comment app. D–4 is added to make clear that Appendix D does not require creditors to use the Board's Annual Percentage Rate Tables. The estimated annual percentage rate may be computed under either the actuarial method or the Volume I method.

Appendix F—Annual Percentage Rate Computations for Certain Open-End Credit Plans

Comment app. F–1 is added to cross reference updated comment 14(c)–6. The latter comment discusses the annual percentage rate calculation methods for plans involving both daily periodic rates and specific transaction charges.

Appendix H—Closed-End Model Forms and Clauses

Comments app. H–17 through app. H–20 are added to reflect the approval under section 113 of the act of certain student loan forms issued by the United States Department of Education.

List of Subjects in 12 CFR Part 226

Advertising, Banks, Banking, Consumer protection, Credit, Federal Reserve System, Finance, Penalties, Truth in Lending.

(3) *Text of amendments.* The amendments to the commentary

(Supplement I to Part 226) read as follows:

Supplement I—Official Staff Commentary—TIL–1

Introduction

* * * * *

3. *Status of previous interpretations.* All statements and opinions issued by the Federal Reserve Board and its staff interpreting previous Regulation Z remain effective until October 1, 1982, only insofar as they interpret that regulation. When compliance with revised Regulation Z becomes mandatory on October 1, 1982, the Board and staff interpretations of the previous regulation will be entirely superseded by the revised regulation and this commentary except with regard to liability under the previous regulation.* * *

Subpart A—General

Section 226.2—Definitions and Rules of Construction

2(a) Definitions. * * *

2(a)(3) "Arranger of Credit". * * *

1. *Coverage.* * * *

6. *Real estate brokers.* The general definition does not include a person (such as a real estate broker or salesperson) who, as part of the process of arranging the sale of real property or a dwelling, arranges for the seller to totally or partly finance the purchase, even if the obligation by its terms is simultaneously assigned by the seller to another person. However, a broker or salesperson is not exempt from coverage in all transactions. For example, a real estate broker may be a creditor in the following situations:

- The broker acts as a loan broker to arrange for someone other than the seller to extend credit, provided that the extender of credit (the person to whom the obligation is initially payable) does not meet the "creditor" definition.
- The broker extends credit itself, provided that the broker otherwise meets the "creditor" definition.* * *

2(a)(13) "Consummation".

1. *State law governs.* When a contractual obligation on the consumer's part is created is a matter to be determined under applicable law; Regulation Z does not make this determination. A contractual commitment agreement, for example, that under applicable law binds the consumer to the credit terms would be consummation. Consummation, however, does not occur merely because the consumer has made some financial investment in the transaction (for example, by paying a nonrefundable fee) unless, of course, applicable law holds otherwise. * * *

2(a)(23) "Prepaid Finance Charge". * * *

2. *Examples.* Common examples of prepaid finance charges include:

- Buyer's points.
- Service fees.
- Loan fees.
- Finder's fees.
- Loan guarantee insurance.
- Credit investigation fees.

However, in order for these or any other finance charges to be considered prepaid, they must be either paid separately in cash or check or withheld from the proceeds. Prepaid finance charges include any portion of the finance charge paid prior to or at closing or settlement. * * *

2(a)(24) "Residential Mortgage Transaction".

1. *Relation to other sections.* This term is important in six provisions in the regulation:

- Section 226.4(c)(7)—exclusions from the finance charge.
- Section 226.15(f)—exemption from the right of rescission.
- Section 226.18(q)—whether or not the obligation is assumable.
- Section 226.19—special timing rules.
- Section 226.20(b)—disclosure requirements for assumptions.
- Section 226.23(f)—exemption from the right of rescission. * * *

2(a)(25) "Security Interest".

1. *Threshold test.* The threshold test is whether a particular interest in property is recognized as a security interest under applicable law. The regulation does not determine whether a particular interest is a security interest under applicable law. If the creditor is unsure whether a particular interest is a security interest under applicable law (for example, if statutes and case law are either silent or inconclusive on the issue), the creditor may at its option consider such interests as security interests for Truth in Lending purposes. However, the regulation and the commentary do exclude specific interests, such as after-acquired property and accessories, from the scope of the definition regardless of their categorization under applicable law, and these named exclusions may not be disclosed as security interests under the regulation. (But see the discussion of exclusions elsewhere in the commentary to § 226.2(a)(25).)

2. *Exclusions.* The general definition of security interest excludes three groups of interests: incidental interests, interests in after-acquired property, and interests that arise solely by operation of law. These interests may not be disclosed with the disclosures required under § 226.18, but the creditor is not precluded from preserving these rights elsewhere in the contract documents, or invoking and enforcing such rights, if it is otherwise lawful to do so. If the creditor is unsure whether a particular interest is one of the excluded interests, the creditor may, at its option, consider such interests as security interests for Truth in Lending purposes. * * *

Section 226.4—Finance Charge

* * * * *

4(b) Examples of Finance Charge. * * *

Paragraph 4(b)(9). * * *

3. *Determination of the regular price.* The "regular price" is critical in determining whether the difference between the price charged to cash customers and credit customers is a "discount" or a "surcharge," as these terms are defined in amended section 103 of the act. The "regular price" is defined in section 103 of the act as "the tag or posted price charged for the property or service if a single price is tagged or posted, or the price charged for the property or service when payment is made by use of an open-end credit account or a credit card if either (1) no price is tagged or posted, or (2) two prices are tagged or posted. . . ." For example, in the sale of motor vehicle fuel, the tagged or posted price is the price displayed at the pump. As a result, the higher price (the open-end credit or credit card price) must be displayed at the pump, either alone or along with the cash price. Service station operators may designate separate pumps or separate islands as being for either cash or credit purchases and display only the appropriate prices at the various pumps. If a pump is capable of displaying on its meter either a cash or a credit price depending upon the consumer's means of payment, both the cash price and the credit price must be displayed at the pump. A service station operator may display the cash price of fuel by itself on a curb sign, as long as the sign clearly indicates that the price is limited to cash purchases. * * *

4(c) Charges Excluded from the Finance Charge. * * *

Paragraph 4(c)(7).

1. *Real estate or residential mortgage transaction charges.* The list of charges in § 226.4(c)(7) applies both to residential mortgage transactions (which may include, for example, the purchase of a mobile home) and to other transactions secured by real estate. The fees are excluded from the finance charge even if the services for which the fees are imposed are performed by the

creditor's employees rather than by a third party. In addition, credit report fees include not only the cost of the report itself, but also the cost of verifying information in the report. If a lump sum is charged for several services and includes a charge that is not excludable, a portion of the total should be allocated to that service and included in the finance charge. A charge for a lawyer's attendance at the closing or a charge for conducting the closing (for example, by a title company) is excluded from the finance charge if the charge is primarily for services related to items listed in § 226.4(c)(7) (for example, reviewing or completing documents), even if other incidental services, such as explaining various documents or disbursing funds for the parties, are performed. In all cases, charges excluded under § 226.4(c)(7) must be bona fide and reasonable.

4(d) Insurance. * * *

11. *Initial term.* The initial term of insurance coverage determines the period for which a premium amount must be disclosed. In some cases the initial term is clear, for example, a property insurance policy on an automobile written for one year (even though the term of the credit transaction is four years) or a credit life insurance policy for the term of the credit transaction purchased by paying or financing a single premium. In other cases, however, it may not be clear what the initial term of the insurance is, for example, when the consumer agrees to pay a premium that is assessed periodically and the consumer is under no obligation to continue making the payments. In cases such as this, the cost disclosure may be made on the basis of a premium for one year of insurance coverage. The premium must be clearly labeled as being for one year.

12. *Loss-of-income insurance.* The loss-of-income insurance mentioned in § 226.4(d) includes involuntary unemployment insurance, which provides that some or all of the consumer's payments will be made if the consumer becomes unemployed involuntarily. * * *

Subpart B—Open-end Credit

Section 226.5—Geneal Disclosure Requirements

5(a) Form of Disclosures. * * *

Paragraph 5(a)(2).

1. *When disclosures must be "more conspicuous."* The terms "finance charge" and "annual percentage rate", when required to be used with a number, must be disclosed more conspicuously than other required disclosures, except in the two cases provided in footnote 9. At the creditor's option, "finance charge" and "annual percentage rate" may also be disclosed more conspicuously than the other required disclosures even when the regulation does not so require. The following examples illustrate these rules:

- In disclosing the annual percentage rate as required by § 226.6(a)(2), the term "annual percentage rate" is subject to the "more conspicuous" rule.
- In disclosing the amount of the finance charge, required by § 226.7(f), the term "finance charge" is subject to the "more conspicuous" rule.
- Although neither "finance charge" nor "annual percentage rate" need be emphasized when used as part of general informational material or in textual descriptions of other terms, emphasis is permissible in such cases. For example, when the terms appear as part of the explanations required under § 226.6(a) (3) and (4), they may be equally conspicuous as the disclosures required under §§ 226.6(a)(2) and 226.7(g). * * *

5(b) Time of Disclosures.

5(b)(1) Initial Disclosures.

1. *Disclosure before the first transaction.* The rule that the initial disclosure statement must be furnished "before the first transaction" requires delivery of the initial disclosure statement before the consumer becomes obligated on the plan (for example, before the consumer makes the first purchase, receives the first advance, or pays a fee under the plan).

- If the consumer pays a membership fee before receiving the Truth in Lending disclosures, or the consumer agrees to the imposition of a membership fee at the time of application and the Truth in Lending disclosure statement is not given at that time, disclosures are timely as long as the consumer, after receiving the disclosures, can reject the plan. The creditor must refund the membership fee if it has been paid, or clear the account if it has been debited to the consumer's account.
- If the consumer receives a cash advance check at the same time the Truth in Lending disclosures are provided, disclosures are still timely if the consumer can, after receiving the disclosures, return the cash advance check to the creditor without obligation (for example, without paying finance charges).
- Initial disclosures need not be given before the imposition of an application fee under § 226.4(c)(1).
- If, after receiving the disclosures, the consumer uses the account, pays a fee, or negotiates a cash advance check, the creditor may consider the account not rejected for purposes of this section. * * *

5(c) Basis of Disclosures and Use of Estimates.

1. *Legal obligation.* The disclosures should reflect the credit terms to which the parties are legally bound at the time of giving the disclosures.

- The legal obligation is determined by applicable state or other law.
- The fact that a term or contract may later be deemed unenforceable by a court on the basis of equity or other grounds does not, by itself, mean that disclosures based on that term or contract did not reflect the legal obligation.
- The legal obligation normally is presumed to be contained in the contract that evidences the agreement. But this may be rebutted if another agreement between the parties legally modifies that contract. * * *

5(d) Multiple Creditors; Multiple Consumers.

1. *Multiple creditors.* Under § 226.5(d):

- Creditors must choose which of them will make the disclosures.
- A single, complete set of disclosures must be provided, rather than partial disclosures from several creditors.
- All disclosures for the open-end credit plan must be given, even if the disclosing creditor would not otherwise have been obligated to make a particular disclosure. * * *

Section 226.6—Initial Disclosure Statement

2. *Separate initial disclosures permitted.* In a certain open-end credit program involving more than one creditor—a card issuer of travel-and-entertainment cards and a financial institution—the consumer has the option to pay the card issuer directly or to transfer to the financial institution all or part of the amount owing. In this case, the creditors may send separate initial disclosure statements.

6(a) Finance Charge * * *

Paragraph 6(a)(2) * * *

2. *Variable-rate disclosures—coverage.* This section covers open-end credit plans under which rate changes are part of the plan and are tied to an index or formula. A creditor would use variable-rate disclosures (and thus be excused from the requirement of giving a change-in-terms notice when rate increases occur as disclosed) for plans

involving rate changes such as the following:

- Rate changes that are tied to the rate the creditor pays on its 6-month money market certificates.
- Rate changes that are tied to Treasury bill rates.
- Rate changes that are tied to changes in the creditor's commercial lending rate.

In contrast, the creditor's contract reservation to increase the rate without reference to such an index or formula (for example, a plan that simply provides that the creditor reserves the right to raise its rates) would not be considered a variable-rate plan for Truth in Lending disclosure purposes. Moreover, an open-end credit plan in which the employee receives a lower rate contingent upon employment (that is, with the rate to be increased upon termination of employment) is not a variable-rate plan. (With regard to such employee preferential-rate plans, however, see comment 9(c)–1, which provides that if the specific change that would occur is disclosed on the initial disclosure statement, no notice of a change in terms need be given when the term later changes as disclosed.) * * *

6(b) Other Charges * * *

2. *Exclusions.* The following are examples of charges that are not "other charges":

- Fees charged for documentary evidence of transactions for income tax purposes.
- Amounts payable by a consumer for collection activity after default; attorney's fees, whether or not automatically imposed; foreclosure costs; post-judgment interest rates imposed by law; and reinstatement or reissuance fees.
- Premiums for voluntary credit life or disability insurance, or for property insurance, that are not part of the finance charge.
- Application fees under § 226.4(c)(1).
- A monthly service charge for a checking account with overdraft protection that is applied to all checking accounts, whether or not a credit feature is attached.
- Charges for submitting as payment a check that is later returned unpaid. (See the commentary to § 226.4(c)(2).)

* * *

Section 226.7—Periodic Statement

2. *Separate periodic statements permitted.* In a certain open-end credit program involving more than one creditor—a card issuer of travel-and-entertainment cards and a financial institution—the consumer has the option to pay the card issuer directly or to transfer to the financial institution all or part of the amount owing. In this case, the creditors may send separate periodic statements that reflect the separate obligations owed to each. * * *

7(b) Identification of Transactions:

1. *Multifeatured plans.* In identifying transactions under § 226.7(b) for multifeatured plans, creditors may, for example, choose to arrange transactions by feature (such as disclosing sale transactions separately from cash advance transactions) or in some other clear manner, such as by arranging the transactions in general chronological order. * * *

7(c) Credits * * *

3. *Date.* If only one date is disclosed (that is, the crediting date as required by the regulation), no further identification of that date is necessary. More than one date may be disclosed for a single entry, as long as it is clear which date represents the date on which credit was given. * * *

7(e) Balance on Which Finance Charge Computed * * *

2. *Split rates applied to balance ranges.* If split rates were applied to a balance because different portions of the balance fall within two or more balance ranges, the creditor need not separately disclose the portions of the balance subject to such different rates since the range of balances to which the rates apply has been separately disclosed. For example, a creditor could disclose a balance of $700 for purchases even though a monthly periodic rate of 1.5 percent applied to the first $500, and a monthly periodic rate of 1 percent to the remainder. This option to disclose a combined balance does not apply when the finance charge is computed by applying the split rates to each day's balance (in contrast, for example, to applying the rates to the average daily balance). In that case, the balances must be disclosed using any of the options that are available if two or more daily rates are imposed. (See comment 7(e)–5.) * * *

Comment 7(e)–3 is redesignated as 7(e)–4.

4. *Multifeatured plans.* In a multifeatured plan, the creditor must disclose a separate balance (or balances, as applicable) to which a periodic rate was applied for each feature or group of features subject to different periodic rates or different balance computation methods. Separate balances are not required, however, merely because a "free-ride" period is available for some features but not others. A total balance for the entire plan is optional. This does not affect how many balances the creditor must disclose—or may disclose—within each feature. (See, for example, comment 7(e)–5.) * * *

Comment 7(e)–4 is redesignated as 7(e)–5.

5. *Daily rate on daily balance.* If the finance charge is computed on the balance each day by application of one or more daily periodic rates, the balance on which the finance charge was computed may be disclosed in any of the following ways for each feature:

- If a single daily periodic rate is imposed, the balance to which it is applicable may be stated as:
  - —A balance for each day in the billing cycle
  - —A balance for each day in the billing cycle on which the balance in the account changes
  - —The sum of the daily balances during the billing cycle
  - —The average daily balance during the billing cycle, in which case the creditor shall explain that the average daily balance is or can be multiplied by the number of days in the billing cycle and the periodic rate applied to the product to determine the amount of the finance charge.
- If two or more daily periodic rates may be imposed, the balances to which the rates are applicable may be stated as:
  - —A balance for each day in the billing cycle
  - —A balance for each day in the billing cycle on which the balance in the account changes
  - —Two or more average daily balances, each applicable to the daily periodic rates imposed for the time that those rates were in effect, as long as the creditor explains that the finance charge is or may be determined by (1) multiplying each of the average balances by the number of days in the billing cycle (or if the daily rate varied during the cycle, by multiplying by the number of days the applicable rate was in effect), (2) multiplying each of the results by the applicable daily periodic rate, and (3) adding these products together.

Comments 7(e)–5, 6, and 7 are redesignated as 7(e)–6, 7, and 8, respectively.

Comment 7(e)–8 is redesignated as 7(e)–4.

9. *Use of one balance computation method explanation when multiple balances disclosed.* Sometimes the creditor will disclose more than one balance to which a periodic rate was applied even though each balance was computed using the same balance

computation method. For example, if a plan involves purchases and cash advances that are subject to different rates, more than one balance must be disclosed even though the same computation method is used for determining the balance for each feature. In these cases, one explanation of the balance computation method is sufficient. Sometimes the creditor separately discloses the portions of the balance that are subject to different rates because different portions of the balance fall within two or more balance ranges, even when a combined balance disclosure would be permitted under comment 7(e)–2. In these cases, one explanation of the balance computation method is also sufficient (assuming, of course, that all portions of the balance were computed using the same method). * * *

7(g) Annual Percentage Rate * * *

2. *Multifeatured plans.* In a multifeatured plan, the actual annual percentage rate that reflects the finance charge imposed during the cycle may be separately stated for each feature, or may be described as a composite for the whole plan. If separate rates are given, a composite annual percentage rate for the entire plan is optional. * * *

Section 226.8—Identification of Transactions

8(a) Sale Credit * * *

8(a)(2) Copy of Credit Document Not Provided—Creditor and Seller Same or Related Person(s) * * *

5. *Date of transaction—foreign transactions.* In a foreign transaction, the debiting date may be considered the transaction date.

8(a)(3) Copy of Credit Document Not Provided—Creditor and Seller Not Same or Related Person(s) * * *

2. *Location of transaction.* The disclosure of the location where the transaction took place generally requires an indication of both the city, and the state or foreign country. If the seller has multiple stores or branches within that city, the creditor need not identify the specific branch at which the sale occurred. * * *

4. *Date of transaction—foreign transactions.* See comment 8(a)(2)–5. * * *

Section 226.9—Subsequent Disclosure Requirements

9(c) Change in Terms:

1. *"Changes" initially disclosed.* No notice of a change in terms need be given if the specific change is set forth initially, such as: rate increases under a properly disclosed variable-rate plan, a rate increase that occurs when an employee has been under a preferential rate agreement and terminates employment, or an increase that occurs when the consumer has been under an agreement to maintain a certain balance in a savings account in order to keep a particular rate and the account balance falls below the specified minimum. In contrast, notice must be given if the contract allows the creditor to increase the rate at its discretion but does not include specific terms for an increase (for example, when an increase may occur under the creditor's contract reservation right to increase the periodic rate). * * *

Section 226.13—Billing-Error Resolution

13(d) Rules Pending Resolution * * *

13(d)(1) Consumer's Right to Withhold Disputed Amount; Collection Action Prohibited * * *

2. *Right to withhold payment.* If the creditor reflects any disputed amount or related finance or other charges on the periodic statement, and is therefore required to make the disclosure under footnote 30, the creditor may comply with that disclosure requirement by indicating that payment of any disputed amount is not required pending resolution. Making a disclosure that only refers to the disputed amount would, of course, in no way affect the consumer's right under § 226.13(d)(1) to withhold related finance and other charges. The disclosure under footnote 30 need not appear in any specific place on the periodic statement, need not state the specific amount that the consumer may withhold, and may be preprinted on the periodic statement. * * *

Section 226.14—Determination of Annual Percentage Rate

14(c) Annual Percentage Rate for Periodic Statements * * *

6. *Daily rate with specific transaction charge.* Section 226.14(c)(3) sets forth an acceptable method for calculating the annual percentage rate if the finance charge results from a charge relating to a specific transaction and the application of a daily periodic rate. This section includes the requirement that the creditor follow the rules in Appendix F in calculating the annual percentage rate, especially footnote 1 to Appendix F which addresses the daily rate/transaction charge situation by providing that the "average of daily balances" shall be used instead of the "sum of the balances." * * *

Comments 14(c)–6, 7, and 8 are redesignated as 14(c)–7, 8, and 9, respectively.

9. *Small finance charges.* Section 226.14(c)(4) gives the creditor an alternative to § 226.14(c)(2) and (c)(3) if small finance charges (50 cents or less) are involved; that is, if the finance charge includes minimum or fixed fees not due to the application of a periodic rate and the total finance charge for the cycle does not exceed 50 cents. For example, while a monthly activity fee of 50 cents on a balance of $20 would produce an annual percentage rate of 30 percent under the rule in § 226.14(c)(2), the creditor may disclose an annual percentage rate of 18 percent if the periodic rate generally applicable to all balances is 1½ percent per month. This option is consistent with the provision in footnote 11 to §§ 226.6 and 226.7 permitting the creditor to disregard the effect of minimum charges in disclosing the ranges of balances to which periodic rates apply.

14(d) Calculations Where Daily Periodic Rate Applied * * *

2. *Daily rate with specific transaction charge.* If the finance charge results from a charge relating to a specific transaction and the application of a daily periodic rate, see comment 14(c)–6 for guidance on an appropriate calculation method. * * *

Section 226.15—Right of Rescission

15(a) Consumer's Right to Rescind Paragraph 15(a)(1) * * *

2. *Exceptions.* Although the consumer generally has the right to rescind with each transaction on the account, section 125(e) of the act provides an exception: Until September 30, 1985, the creditor need not provide the right to rescind at the time of each credit extension made under an open-end credit plan secured by the consumer's principal dwelling to the extent that the credit extended is in accordance with a previously established credit limit for the plan. This limited rescission option is available whether or not the plan existed prior to the effective date of the act. The consumer will have the right to rescind each extension made after September 30, 1985 under such a secured open-end credit plan, whether that plan was established before or after that date. * * *

Section 226.16—Advertising

16(b) Advertisement of Terms That Require Additional Disclosures. * * *

5. *Triggering terms.* The following are examples of terms that trigger additional disclosures:

- "Small monthly service charge on the remaining balance."
- "12 percent Annual Percentage Rate."
- "A $15 annual membership fee buys you $2,000 in credit."

6. *Minimum, fixed, transaction, activity, or similar charge.* The charges to be disclosed under § 226.16(b)(1) are

those that are considered finance charges under § 226.4. * * *

Subpart C—Closed-End Credit

Section 226.17—General Disclosure Requirements

17(a) Form of Disclosures. Paragraph 17(a)(1). * * *

5. *Directly related.* The segregated disclosures may, at the creditor's option, include any information that is directly related to those disclosures. Directly related information includes, for example, the following:

- A description of a grace period after which a late payment charge will be imposed. For example, the disclosure given under § 226.18(1) may state that a late charge will apply to "any payment received more than 15 days after the due date."
- A statement that the transaction is not secured. For example, the creditor may add a category labelled "unsecured" or "not secured" to the security interest disclosures given under § 226.18(m).
- The basis for any estimates used in making disclosures. For example, if the maturity date of a loan depends solely on the occurrence of a future event, the creditor may indicate that the disclosures assume that event will occur at a certain time.
- The conditions under which a demand feature may be exercised. For example, in a loan subject to demand after five years, the disclosures may state that the loan will become payable on demand in five years.
- When a variable-rate feature is disclosed on other documents under footnote 43 to § 226.18(f), a reference to the variable-rate feature and/or to other documents on which the variable-rate disclosures are made.
- An explanation of the use of pronouns or other references to the parties to the transaction. For example, the disclosures may state, " 'You' refers to the customer and 'we' refers to the creditor."
- Instructions to the creditor or its employees on the use of a multiple-purpose form. For example, the disclosures may state, "Check box if applicable."
- A statement that the borrower may pay a minimum finance charge upon prepayment in a simple interest transaction. For example, when state law prohibits penalties, but would allow a minimum finance charge in the event of prepayment, the creditor may make the § 226.18(k)(1) disclosure by stating "You may be charged a minimum finance charge."
- A brief reference to negative amortization in variable-rate transactions. For example, in the variable-rate disclosure, the creditor may include a short statement such as "Unpaid interest will be added to principal." (See the commentary to § 226.18(f)(3).)
- A brief caption identifying the disclosures. For example, the disclosures may bear a general title such as "Federal Truth in Lending Disclosures" or a descriptive title such as "Real Estate Loan Disclosures."

* * *

17(c) Basis of Disclosures and Use of Estimates. Paragraph 17(c)(1).

1. *Legal obligation.* The disclosures should reflect the credit terms to which the parties are legally bound at the outset of the transaction. The legal obligation is determined by applicable state law or other law. (Certain transactions are specifically addressed in this commentary. See, for example, the discussion of buydown transactions elsewhere in the commentary to § 226.17(c).)

- The fact that a term or contract may later be deemed unenforceable by a court on the basis of equity or other grounds does not, by itself, mean that disclosures based on that term or contract did not reflect the legal obligation.

2. *Modification of obligation.* The legal obligation normally is presumed to be contained in the note or contract that evidences the agreement. But this presumption is rebutted if another agreement between the parties legally modifies that note or contract. If the parties informally agree to a modification of the legal obligation, the modification should not be reflected in the disclosures unless it rises to the level of a change in the terms of the legal obligation. For example:

- If the creditor-employer offers a preferential employee rate, the disclosures should reflect the terms of the legal obligation. (See the commentary to § 226.18(f) for an example of a preferred-rate employee transaction that is a variable-rate transaction.)
- If the contract provides for a certain monthly payment schedule but payments are made on a voluntary payroll deduction plan or an informal principal-reduction agreement, the disclosures should reflect the schedule in the contract.
- If the contract provides for regular monthly payments but the creditor informally permits the consumer to defer payments from time to time, for instance, to take account of holiday seasons or seasonal employment, the disclosures should reflect the regular monthly payments. * * *

4. *Consumer buydowns.* In certain transactions, the consumer may pay an amount to the creditor to reduce the payments or obtain a lower interest rate on the transaction. Consumer buydowns must be reflected in the disclosures given for that transaction. To illustrate, in a mortgage transaction, the creditor and consumer agree to a note specifying a 14 percent interest rate. However, in a separate document, the consumer agrees to pay an amount to the creditor at consummation in return for a reduction in the interest rate to 12 percent for a portion of the mortgage term. The amount paid by the consumer may be deposited in an escrow account or may be retained by the creditor. Depending upon the buydown plan, the consumer's prepayment of the obligation may or may not result in a portion of the amount being credited or refunded to the consumer. In the disclosures given for the mortgage, the creditor must reflect the terms of the buydown agreement. For example:

- The amount paid by the consumer is a prepaid finance charge (even if deposited in an escrow account).
- A composite annual percentage rate must be calculated, taking into account both interest rates, as well as the effect of the prepaid finance charge.
- The payment schedule must reflect the multiple payment levels resulting from the buydown.* * *

8. *Graduated payment adjustable rate mortgages.* These mortgages involve both a variable interest rate and scheduled variations in payment amounts during the loan term. For example, under these plans, a series of graduated payments may be scheduled before rate adjustments affect payment amounts, or the initial scheduled payment may remain constant for a set period before rate adjustments affect the payment amount. In any case, the initial payment amount may be insufficient to cover the scheduled interest, causing negative amortization from the outset of the transaction. In these transactions, the disclosures should treat these features as follows:

- The finance charge includes the amount of negative amortization based on the assumption that the rate in effect at consummation remains unchanged.
- The amount financed does not include the amount of negative amortization.
- As in any variable-rate transaction, the annual percentage rate is based on the terms in effect at consummation.

- The schedule of payments discloses the amount of any scheduled initial payments followed by an adjusted level of payments based on the initial interest rate. Since some mortgage plans contain limits on the amount of the payment adjustment, the payment schedule may require several different levels of payments, even with the assumption that the original interest rate does not increase.* * *

Comments 17(c)(1)–8 and 9 are redesignated 17(c)(1)–9 and 10, respectively.

Paragraph 17(c)(3). * * *

2. *Use of special rules.* A creditor may utilize the special rules in § 226.17(c)(3) for purposes of calculating and making all disclosures for a transaction or may, at its option, use the special rules for some disclosures and not others.

Paragraph 17(c)(4). * *

3.. *Use of special rules.* A creditor may utilize the special rules in § 226.17(c)(4) for purposes of calculating and making some disclosures but may elect not to do so for all of the disclosures. For example, the variations may be ignored in calculating and disclosing the annual percentage rate but taken into account in calculating and disclosing the finance charge and payment schedule. * * *

17(d) Multiple Creditors; Multiple Consumers.

1. *Multiple creditors.* If a credit transaction involves more than one creditor:

- The creditors must choose which of them will make the disclosures.
- A single, complete set of disclosures must be provided, rather than partial disclosures from several creditors.
- All disclosures for the transaction must be given, even if the disclosing creditor would not otherwise have been obligated to make a particular disclosure. For example, if one of the creditors is the seller, the total sale price disclosure under § 226.18(j) must be made, even though the disclosing creditor is not the seller. * * *

17(h) Series of Sales—Delay in Disclosures. * * *

2. *Basis of disclosures.* Creditors structuring disclosures for a series of sales under § 226.17(h) may compute the total sale price as either:

- The cash price for the sale plus that portion of the finance charge and other charges applicable to that sale; or
- The cash price for the sale, other charges applicable to the sale, and the total finance charge and outstanding principal.

17(i) Interim Student Credit Extensions.

1. *Definition.* Student credit plans involve extensions of credit for education purposes where the repayment amount and schedule are not known at the time credit is advanced. These plans include, for example, loans made under the Guaranteed Student Loan program, the PLUS program or any other student credit plan, whether government or private, where the repayment period does not begin immediately. Creditors in interim student credit extensions need not disclose the terms set forth in this paragraph at the time the credit is actually extended but must make complete disclosures at the time the creditor and consumer agree upon the repayment schedule for the total obligation. At that time, a new set of disclosures must be made of all applicable items under § 226.18.

2. *Basis of disclosures.* The disclosures given at the time of execution of the interim note should reflect two annual percentage rates, one for the interim period and one for the repayment period. The use of § 226.17(i) in making disclosures does not, by itself, make those disclosures estimates. Any portion of the finance charge, such as statutory interest, that is attributable to the interim period and is paid by the student (either as a prepaid finance charge, periodically during the interim period, in one payment at the end of the interim period, or capitalized at the beginning of the repayment period) must be reflected in the interim annual percentage rate. Interest subsidies, such as payments made by either a state or the federal government on an interim loan, must be excluded in computing the annual percentage rate on the interim obligation, when the consumer has no contingent liability for payment of those amounts. Any finance charges that are paid separately by the student at the outset or withheld from the proceeds of the loan are prepaid finance charges. An example of this type of charge is the loan guarantee fee. The sum of the prepaid finance charges is deducted from the loan proceeds to determine the amount financed and included in the calculation of the finance charge. * * *

5. *Approved student credit forms.* See the commentary to Appendix H regarding disclosure forms approved for use in certain student credit programs.* * *

Section 226.18—Content of Disclosures

18(f) Variable Rate. * * *

3. *Use of estimates.* The variable rate feature does not, by itself, make the disclosures estimates. (See the commentary to § 226.17(c) for a discussion of basis for estimates.) * * *

Comments 18(f)–3, 4, and 5 are redesignated 18(f)–4, 5, and 6, respectively.

7. *Growth equity mortgages.* Also referred to as payment escalated mortgages, these mortgage plans involve scheduled payment increases to prematurely amortize the loan. The initial payment amount is determined as for a long-term loan with a fixed interest rate. Payment increases are scheduled periodically, based on changes in an index. The larger payments result in accelerated amortization of the loan. In disclosing these mortgage plans, creditors may either:

- Estimate the amount of payment increases, based on the best information reasonably available; or
- Disclose by analogy to the variable rate disclosures, indicating that the payments are subject to increase, describing the circumstances under which the payments would increase, together with limitations on the increase, and providing an example of the increase.

(This discussion does not apply to growth equity mortages in which the amount of payment increases can be accurately determined at the time of disclosure. For these mortages, as for graduated payment mortages, disclosures should reflect the scheduled increases in payments.) * * *

Paragraph 18(f)(3).

1. *Effects.* Disclosure of the effect of an increase refers to an increase in the number or amount of payments or an increase in the final payment. In addition, the creditor may make a brief reference to negative amortization that may result from a rate increase. (See the commentary to § 226.17(a)(1) regarding directly related information.) If the effect cannot be determined, the creditor must provide a statement of the possible effects. For example, if the exercise of the variable-rate feature may result in either more or larger payments, both possibilities must be noted.

Paragraph 18(f)(4).

1. *Hypothetical example.* The example may, at the creditor's option, appear apart from the other disclosures. The creditor may provide either a standard example that illustrates the terms and conditions of that type of credit offered by that creditor or an example that directly reflects the terms and conditions of the particular transaction.

2. *Hypothetical example not required.* The creditor need not provide a hypothetical example in the following transactions with a variable-rate feature:

- Demand obligations with no alternate maturity date.
- Interim student credit extensions.
- Multiple-advance construction loans disclosed pursuant to Appendix D, Part I.

18(g) Payment Schedule.

1. *Amounts included in repayment schedule.* The repayment schedule should reflect all components of the finance charge, not merely the portion attributable to interest. A prepaid finance charge, however, should not be shown in the repayment schedule as a separate payment. The payments may include amounts beyond the amount financed and finance charge. For example, the disclosed payments may, at the creditor's option, reflect certain insurance premiums where the premiums are not part of either the amount financed or the finance charge, as well as real estate escrow amounts such as taxes added to the payment in mortage transactions. * * *

Paragraph 18(g)(2).

1. *Abbreviated disclosure.* The creditor may disclose an abbreviated payment schedule when the amount of each regularly scheduled payment (other than the first or last payment) includes an equal amount to be applied on principal and a finance charge computed by application of a rate to the decreasing unpaid balance. This option is also available when mortage-guarantee insurance premiums, paid either monthly or annually, cause variations in the amount of the scheduled payments, reflecting the continual decrease or increase in the premium due. The creditor using this alternative must disclose the dollar amount of the highest and lowest payments and make reference to the variation in payments. * * *

18(i) Demand Feature. * * *

2. *Covered demand features.* The type of demand feature triggering the disclosures required by § 226.18(i) includes only those demand features contemplated by the parties as part of the legal obligation. For example, this provision does not apply to transactions that covert to a demand status as a result of the consumer's default. A due-on-sale clause is not considered a demand feature. * * *

18(k) Prepayment. * * *

3. *Prepaid finance charge.* The existence of a prepaid finance charge in a transaction does not, by itself, require a disclosure under § 226.18(k). A prepaid finance charge is not considered a penalty under § 226.18(k)(1), nor does it require a disclosure under § 226.18(k)(2). At its option, however, a creditor may consider a prepaid finance charge to be under § 226.18(k)(2). If a disclosure is made under § 226.18(k)(2) with respect to a prepaid finance charge or other finance charge, the creditor may further identify that finance charge. For example, the disclosure may state that the borrower "will not be entitled to a refund of the prepaid finance charge" or some other term that describes the finance charge.

Paragraph 18(k)(1).

1. *Penalty.* This applies only to those transactions in which the interest calculation takes account of all scheduled reductions in principal, as well as transactions in which interest calculations are made daily. The term "penalty" as used here encompasses only those charges that are assessed strictly because of the prepayment in full of a simple-interest obligation, as an addition to all other amounts. Items which are not penalties include, for example:

- Loan guarantee fees.
- Interim interest on a student loan.

However, a minimum finance charge is a penalty in a simple-interest transaction. (See the commentary to § 226.17(a)(1) regarding the disclosure of a minimum finance charge as directly related information.)

Paragraph 18(k)(2).

1. *Rebate of finance charge.* This applies to any finance charges that do not take account of each reduction in the principal balance of an obligation. This category includes, for example:

- Precomputed finance charges such as add-on charges.
- Charges that take account of some but not all reductions in principal, such as mortgage guarantee insurance assessed on the basis of an annual declining balance, when the principal is reduced on a monthly basis.

No description of the method of computing earned or unearned finance charges is required or permitted as part of the segregated disclosures under this section. * * *

18(r) Required Deposit. * * *

2. *Pledged account mortgages.* In these transactions, a consumer pledges as collateral funds that the consumer deposits in an account held by the creditor. The creditor withdraws sums from that account to supplement the consumer's periodic payments. Creditors may treat these pledged accounts as required deposits or they may treat them as consumer buydowns in accordance with the commentary to § 226.17(c)(1). * * *

Comments 18(r)–2, 3, 4, and 5 are redesignated 18(r)–3, 4, 5, and 6, respectively.

Section 226.19—Certain Residential Mortgage Transactions

19(a) Time of Disclosure. * * *

2. *Timing and use of estimates.* Truth in Lending disclosures must be given (a) before consummation or (b) within three business days after the creditor receives the consumer's written application, whichever is earlier. The three-day period for disclosing credit terms coincides with the time period within which creditors subject to RESPA must provide good faith estimates of settlement costs. If the creditor does not know the precise credit terms, the creditor must base the disclosures on the best information reasonably available and indicate that the disclosures are estimates under § 226.17(c)(2). If many of the disclosures are estimates, the creditor may include a statement to that effect (such as "all numerical disclosures except the late-payment disclosure are estimates") instead of separately labelling each estimate. In the alternative, the creditor may label as an estimate only the items primarily affected by unknown information. (See the commentary to § 226.17(c)(2).) The creditor may provide explanatory material concerning the estimates and the contingencies that may affect the actual terms, [either on a separate document or on the same document (but separate from the required disclosures).] in accordance with the commentary to § 226.17(a)(1). * * *

Section 226.20—Subsequent Disclosure Requirements

20(a) Refinancings. * * *

3. *Variable rate.* If a variable-rate feature was properly disclosed under the regulation, a rate change in accord with those disclosures is not a refinancing. For example, a renegotiable rate mortgage that was disclosed as a variable-rate transaction is not subject to new disclosure requirements when the variable-rate feature is invoked. However, even if it is not accomplished by the cancellation of the old obligation and substitution of a new one, a new transaction subject to new disclosures results if the creditor either:

- Increases the rate based on a variable-rate feature that was not previously disclosed, or
- Adds a variable-rate feature to the obligation. * * *

5. *Coverage.* Section 226.20(a) applies only to refinancings undertaken by the original creditor or a holder or servicer of the original obligation. A "refinancing" by any other person is a new transaction under the regulation,

not a refinancing under this section. * * *

20(b) Assumptions.

1. *General definition.* An assumption as defined in § 226.20(b) is a new transaction and new disclosures must be made to the subsequent consumer. An assumption under the regulation requires the following three elements:

- A residential mortgage transaction.
- An express acceptance of the subsequent consumer by the creditor.
- A written agreement.

The assumption of a non-exempt consumer credit obligation requires no disclosures unless all three elements are present. * * *

Comment 20(b)–6 is removed and Comment 20(b)–7 is redesignated 20(b)–6.

Section 226.22—Determination of the Annual Percentage Rate

22(a) Accuracy of the Annual Percentage Rate.

Paragraph 22(a)(1). * * *

4. *Basis for calculations.* When a transaction involves "step rates" or "split rates"—that is, different rates applied at different times or to different portions of the principal balance—a single composite annual percentage rate must be calculated and disclosed for the entire transaction. Assume, for example, a step-rate transaction in which a $10,000 loan is repayable in 5 years at 10 percent interest for the first 2 years, 12 percent for years 3 and 4, and 14 percent for year 5. The monthly payments are $210.71 during the first 2 years of the term, $220.25 for years 3 and 4, and $222.59 for year 5. The composite annual percentage rate, using a calculator with a "discounted cash flow analysis" or "internal rate of return" function, is 10.75 percent. * * *

Section 226.24—Advertising

24(b) Advertisement of Rate of Finance Charge. * * *

4. *Effective rates.* In some transactions the consumer's payments may be based upon an interest rate lower than the rate at which interest is accruing. The lower rate may be referred to as the effective rate, payment rate or qualifying rate. A creditor or seller may advertise such rates by stating: The term of the reduced payment schedule, the interest rate upon which the reduced payments are calculated, the rate at which the interest is in fact accruing, and the annual percentage rate. The advertised annual percentage rate that must accompany this rate must take into account the interest that will accrue but will not be paid during this period. For example, an advertisement may state "An effective first year interest rate of 10 percent. Interest being earned at 14 percent. Annual percentage rate 15 percent."

Subpart D—Miscellaneous * * *

Section 226.29—State Exemptions

29(a) General Rule. * * *

4. *Exemptions granted.* Effective October 1, 1982, the Board has granted the following exemptions from portions of the revised Truth in Lending Act:

- *Maine.* Credit or lease transactions subject to the Maine Consumer Credit Code and its implementing regulations are exempt from chapters 2, 4 and 5 of the federal act. (The exemption does not apply to transactions in which a federally chartered institution is a creditor or lessor.)
- *Connecticut.* Credit transactions subject to the Connecticut Truth in Lending Act are exempt from chapters 2 and 4 of the federal act. (The exemption does not apply to transactions in which a federally chartered institution is a creditor.)

* * *

Appendix D—Multiple-Advance Construction Loans

2. *Variable-rate construction loans.* The hypothetical disclosure required in most variable-rate transactions by § 226.18(f)(4) is not required for multiple-advance construction loans disclosed pursuant to Appendix D, Part I.

3. *Calculation of the total of payments.* When disclosures are made pursuant to Appendix D, the total of payments may reflect either the sum of the payments or the sum of the amount financed and the finance charge.

4. *Annual percentage rate.* Appendix D does not require the use of Volume I of the Board's Annual Percentage Rate Tables for calculation of the annual percentage rate. Creditors utilizing Appendix D in making calculations and disclosures may use other computation tools to determine the estimated annual percentage rate, based on the finance charge and payment schedule obtained by use of the appendix. * * *

Appendix F—Annual Percentage Rate Computations for Certain Open-End Credit Plans

1. *Daily rate with specific transaction charge.* If the finance charge results from a charge relating to a specific transaction and the application of a daily periodic rate, see comment 14(c)–6 for guidance on an appropriate calculation method. * * *

Appendix H—Closed-End Model Forms and Clauses

17. *ED–876A 4/82.* Pursuant to section 113(a) of the amended Truth in Lending Act, Form ED–876A 4/82, issued by the U.S. Department of Education for certain student loans, has been approved. This form may be used for all PLUS loans in which the borrower qualifies for an immediate deferment of principal payments under the terms of the note and disclosures are made under the interim student credit rules in § 226.17(j). The following changes may be made to the form:

- Reducing the size of the form.
- Deleting inapplicable disclosures by whiting out, blocking out, filling in "N/A" (not applicable) or "O," crossing out, leaving blanks, or circling applicable items.
- Deleting, whiting out, blocking out, or crossing out the words "Less" and "Equals" in the Itemization of the Amount Financed.
- Adding lines to the Itemization of the Amount Financed to indicate amounts paid to others.

18. *ED–876 1/82.* Pursuant to section 113(a) of the amended Truth in Lending Act, Form ED–876 1/82, issued by the U.S. Department of Education for certain student loans, has been approved. The form may be used for all PLUS loans in which there is no deferment before the borrower begins repayment of both principal and interest. The form may also be used for PLUS loans when the borrower qualifies for a deferment of principal payments and the annual percentage rate to be disclosed is calculated taking account of the irregular payment schedule. The form may also be used for consolidation of previous PLUS loans, whether or not the borrower had a deferment of principal payments under the earlier loans. The following changes may be made to the form:

- Reducing the size of the form.
- Adding lines to the payment schedule disclosure.
- Deleting inapplicable disclosures by whiting out, blocking out, filling in "N/A" (not applicable) or "O," crossing out, leaving blanks, or circling applicable items.
- Deleting, whiting out, blocking out, or crossing out the words "Less" and "Equals" in the Itemization of the Amount Financed.

- Adding lines to the Itemization of the Amount Financed to indicate amounts paid to others.

19. *ED–888 5/82.* Pursuant to section 113(a) of the amended Truth in Lending Act, Form ED–888 5/82, issued by the U.S. Department of Education for certain student loans, has been approved. The form may be used for all Guaranteed Student Loan Program (GSLP) loans for which disclosures are made under the interim student credit rules in § 226.17(i). The following changes may be made to the form:

- Reducing the size of the form.
- Deleting inapplicable disclosures by whiting out, blocking out, filling in "N/A" (not applicable) or "O," crossing out, leaving blanks, or circling applicable items.
- Deleting, whiting out, blocking out, or crossing out the words "Less" and "Equals" in the Itemization of the Amount Financed.
- Adding lines to the Itemization of the Amount Financed to indicate amounts paid to others.

20. *ED–889 5/82.* Pursuant to section 113(a) of the amended Truth in Lending Act, Form ED–889 5/82, issued by the U.S. Department of Education for certain student loans, has been approved. This form may be used for all Guaranteed Student Loan Program (GSLP) loans in which the borrower is making payments of both interest and principal. These borrowers may or may not have received federal interest benefits during the in-school period and the subsequent grace period. The following changes may be made to the form:

- Reducing the size of the form.
- Deleting inapplicable disclosures by whiting out, blocking out, filling in "N/A" (not applicable) or "O," crossing out, leaving blanks, or circling applicable items.
- Deleting, whiting out, blocking out, or crossing out the words "Plus," "Less" and "Equals" in the Itemization of the Amount Financed.
- Adding lines to the Itemization of the Amount Financed to indicate amounts paid to others.

* * * * *

Board of Governors of the Federal Reserve System, September 13, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82–25677 Filed 9–17–82; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82–NM–70–AD; Amdt. 39–4462]

Airworthiness Directives: British Aerospace (Hawker Siddeley) H.S. 748 Series; 2A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to H.S. 748 airplanes which requires: (1) Inspection of the handle and operating mechanism for the overwing emergency exit panels for excessive play or backlash and correction as required; and (2) a check of certain indicator markings for proper location and correction of any discrepancies, if found to exist. This action is prompted by reports that three emergency overwing exit panels have been lost during flight. Loss of the panel could result in serious or fatal injury to passengers seated in the vicinity of the emergency exit and could result in structural damage to those areas vital to control of the airplane.

DATE: Effective date September 28, 1982.

ADDRESSES: The service bulletin specified in this Airworthiness Directive may be obtained upon request to British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM–150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767–2530. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington, 98168.

SUPPLEMENTARY INFORMATION: The United Kingdom Civil Aviation Authority (CAA) has classified British Aerospace, Inc., H.S. 748 Service Bulletin A52–82 dated May 31, 1979, mandatory. This service bulletin requires inspection of the overwing emergency exit panel handle and operating mechanism, relocation of alignment markings, and adoption of maintenance procedures for reinstallation of the overwing emergency exit. There have been reports of three overwing emergency exit panels becoming detached and lost during flight because the emergency exit panel was not correctly fitted and properly locked. Improper locking of the panel can result because excessive play or backlash exists at the handle due to elongation of the hole in P/N 103D11502, a component in the lock operating mechanism, which permits the handle knob end to clear the Tufnel block and thus appear to be in the panel-locked position while, in fact, the lock is not fully engaged. In order to prevent this from occurring, the CAA is requiring inspection and modifications.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this type design registered in the United States, an AD is being issued which requires the above mentioned inspections and modifications.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effetive in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

British Aerospace (formerly Hawker Siddeley): Applies to H.S. 748 Series 2A airplanes certificated in all categories. Compliance is required as indicated, unless already accomplished. To prevent loss of an emergency overwing exit panel during flight, accomplish the following within thirty days after the effective date of this AD:

1. Remove the word "CLOSED" and the associated indicator line from the exterior of the overwing emergency exit panels.

2. Inspect each overwing emergency exit panel for free movement of the handle and lock operating mechanism in accordance with paragraphs 2A (1), (2), (3), and (4) of the H.S. Service Bulletin A52–82, dated May 31, 1979, Accomplishment Instructions.

3. Check the fit of each overwing emergency exit panel in the fuselage aperture in accordance with Chapter 52–20–1 of the H.S. 748 Maintenance Manual or an FAA approved equivalent procedure.

4. Reestablish the indicator marking on the cam lever in accordance with paragraph 2A(4) of the service bulletin if the inspections and checks required in paragraph 2 of this AD show the indicator markings on the cam lever and the lever stop do not coincide.

5. Alternate means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Manager, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region.

6. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

This amendment becomes effective September 28, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Seattle, Washington, on September 8, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-25630 Filed 9-17-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AWP-20]

Alteration of Transition Area, San Diego, California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the description of the San Diego, California, 700 foot transition area by adding an extension to the north. This extension is necessary to provide additional controlled airspace for an existing instrument approach procedure.

EFFECTIVE DATE: 0900 G.m.t., December 23, 1982. Comments on the rule must be received by October 14, 1982.

ADDRESSES: Send comments in triplicate to Director, Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, AWP-530, 15000 Aviation Boulevard, Lawndale, California 90261. A public docket will be available for examination in the Office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536-6270.

FOR FURTHER INFORMATION CONTACT: Thomas A. Rea, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone (213) 536-6182.

SUPPLEMENTARY INFORMATION:

History

The purpose of this amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate a 700 foot transition area extension to provide controlled airspace for existing IFR operations. This amendment represents a change in the technical description of the transition area and imposes no greater constraints on the public than presently exist.

Request for Comments on the Rule

Although this action is in the form of a final rule and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of the San Diego, California, transition area by adding an extension to encompass existing instrument approaches to McClellan-Palomar Airport, Carlsbad, California. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to redesignate the transition area airspace. Therefore, I find that notice of public procedure under 5 U.S.C. 353(b) is contrary to public interest.

List of Subjects in 14 CFR Part 71

Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 GMT, December 23, 1982, as follows:

71.181 San Diego, California

Following * * * "latitude 33°15'00" N., longitude 117°30'30" W:." Delete "latitude 33°15'00" N., longitude 117°02'00"W:," and add "latitude 33°15'00" N., longitude 116°30'00" W:" to "latitude 33°00'00" N., longitude 116°45'00" * * *"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510, Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under criteria of the Regulatory Flexibility Act.

Issued in Los Angeles, California, on September 7, 1982.

H. C. McClure,

Director, Western-Pacific Region.

[FR Doc. 82-25640 Filed 9-17-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 23318; Amdt. No. 1225]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendant of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO–730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisons of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 Gmt on the dates specified, as follows:

1. By amending Part 97.23 VOR–VOR/DME SIAPs identified as follows:

* * * *Effective October 28, 1982*

Fort Smith, AR—Fort Smith Muni, VOR or TACAN Rwy 25, Amdt. 17
Fort Smith, AR—Fort Smith Muni, VOR/DME or TACAN Rwy 7, Amdt. 7
Napa, CA—Napa County, VOR Rwy 6, Amdt. 9
Red Bluff, CA—Red Bluff Muni, VOR/DME Rwy 15, Amdt. 1
Red Bluff, CA—Red Bluff Muni, VOR Rwy 33, Amdt. 2
Santa Ana, CA—John Wayne Airport—Orange County, VOR Rwy 1L, Amdt. 2
Santa Ana, CA—John Wayne Airport—Orange County, VOR Rwy 19R, Amdt. 19
Erie, CO—Tri-County, VOR/DME–A, Amdt. 1
Bartow, FL—Bartow Muni, VOR/DME Rwy 9, Amdt. 4, cancelled
Bartow, FL—Bartow Muni, VOR/DME Rwy 9L, Original
Freeport, IL—Albertus, VOR Rwy 24, Amdt. 4
Paducah, KY—Farrington Airpark, VOR/DME–B, Amdt. 1
Rayville, LA—Rayville Muni, VOR/DME–A, Amdt. 1
Eliot, ME—Littlebrook Airpark, VOR–A, Original
Waterville, ME—Waterville Robert LaFleur, VOR/DME Rwy 5, Amdt. 4
Hattiesburg, MS—Hattiesburg Muni, VOR Rwy 13, Amdt. 9
Jackson, MS—Hawkins Field, VOR–A, Amdt. 15, cancelled
Laurel, MS—Hesler-Noble Field, VOR Rwy 13, Amdt. 11, cancelled
Laurel, MS—Hesler-Noble Field, VOR/DME–A, Original
Higginsville, MO—Higginsville Industrial Muni, VOR Rwy 16, Amdt. 2
St. Louis, MO—Arrowhead, VOR Rwy 2, Amdt. 3
St. Louis, MO—Arrowhead, VOR–A, Amdt. 1
Reno, NV—Reno Cannon Intl, VOR–D, Amdt. 3
Lakewood, NJ—Lakewood, VOR Rwy 6, Amdt. 2
Lumberton, NC—Lumberton Muni, VOR Rwy 5, Amdt. 4
Lumberton, NC—Lumberton Muni, VOR Rwy 13, Amdt. 4
Grove, OK—Grove Muni, VOR–A, Original
Erie, PA—Erie Intl, VOR Rwy 6, Amdt. 13
Erie, PA—Erie Intl, VOR/DME Rwy 24, Amdt. 8
Newport, RI—Newport State, VOR Rwy 16, Amdt. 3
Bonham, TX—Jones Field, VOR/DME Rwy 17, Original

Wichita Falls, TX—Tom Danaher, VOR/DME Rwy 35, Original

* * * *Effective September 30, 1982*

Batavia, NY—Genesee County, VOR Rwy 28, Amdt. 3
Batavia, NY—Genesee County, VOR–A, Amdt. 1

2. By amending Part 97.25 SDF–LOC–LDA SIAPs identified as follows:

* * * *Effective October 28, 1982*

Fort Smith, AR—Fort Smith Muni, LOC BC Rwy 7, Amdt. 6
Napa, CA—Napa County, LOC Rwy 36L, Original
Santa Ana, CA—John Wayne Airport—Orange County, LOC BC Rwy 1L, Amdt. 9
Santa Ana, CA—John Wayne Airport—Orange County, LOC Rwy 19R, Amdt. 8, cancelled
Waterville, ME—Waterville Robert LaFleur, LOC Rwy 5, Amdt. 2
Reno, NV—Reno Cannon Intl, LOC–1 Rwy 16, Original
Reno, NV—Reno Cannon Intl, LOC–2 Rwy 16, Original
Reno, NV—Reno Cannon Intl, LOC/DME BC–B, Amdt. 5
Reno, NV—Reno Cannon Intl, LOC–C, Amdt. 2, cancelled
Whitefield, NH—Whitefield Regional, LOC Rwy 10, Amdt. 2
Newport, RI—Newport State, LOC Rwy 22, Amdt. 2
Greeneville, TN—Greeneville Muni, LOC Rwy 5, Original
Savannah, TN—Savannah-Hardin County, SDF Rwy 18, Original
Houston, TX—David Wayne Hooks Memorial, LOC/DME Rwy 17R, Original

* * * *Effective September 30, 1982*

Beverly, MA—Beverly Muni, LOC Rwy 16, Original

3. By amending Part 97.27 NDB/ADF SIAPs identified as follows:

* * * *Effective October 28, 1982*

Mobile, AL—Bates Field, NDB Rwy 14, Amdt. 23, cancelled
Fort Smith, AR—Fort Smith Muni, NDB Rwy 7, Amdt. 5
Fort Smith, AR—Fort Smith Muni, NDB Rwy 25, Amdt. 22
Washington, DC—Washington National, NDB Rwy 15, Amdt. 3
Washington, DC—Washington National, NDB Rwy 36, Amdt. 6
Freeport, IL—Albertus, NDB Rwy 24, Amdt. 10
Shelbyville, IL—Shelby County, NDB Rwy 36, Amdt. 4
Pittsburg, KS—Atkinson Muni, NDB Rwy 16, Amdt. 1
Waterville, ME—Waterville Robert LaFleur, NDB–A, Amdt. 10
Hattiesburg, MS—Hattiesburg Muni, NDB Rwy 13, Amdt. 7, cancelled
Laurel, MS—Hesler-Noble Field, NDB Rwy 13, Amdt. 5
Reno, NV—Reno Cannon Intl, NDB Rwy 16, Amdt. 1
Whitefield, NH—Whitefield Regional, NDB Rwy 10, Amdt. 5
Trenton, NJ—Mercer County, NDB Rwy 6, Amdt. 6
Erie, PA—Erie Intl, NDB Rwy 24, Amdt. 14
Columbia, SC—Columbia Metropolitan, NDB Rwy 11, Amdt. 20
Greer, SC—Greenville-Spartanburg, NDB Rwy 3, Amdt. 11
Savannah, TN—Savannah-Hardin County, NDB Rwy 18, Original
Savannah, TN—Savannah-Hardin County, NDB Rwy 36, Amdt. 3, cancelled
San Antonio, TX—San Antonio Intl, NDB Rwy 3, Amdt. 35
San Antonio, TX—San Antonio Intl, NDB Rwy 12R, Amdt. 19
San Antonio, TX—San Antonio Intl, NDB Rwy 30L, Amdt. 8
Amery, WI—Amery Muni, NDB Rwy 18, Original

* * * *Effective October 20, 1982*

Lumberton, NC—Lumberton Muni, NDB Rwy 13, Amdt. 5

Effective September 2, 1982

Vinton, IA—Vinton Veterans Meml Arpk, NDB Rwy 16, Amdt. 1

4. By amending Part 97.29 ILS–MLS SIAPs identified as follows:

* * * *Effective October 28, 1982*

Mobile, AL—Bates Field, ILS Rwy 14, Amdt. 28
Mobile, AL—Bates Field, ILS Rwy 32, Amdt. 4
Fort Smith, AR—Fort Smith Muni, ILS Rwy 25, Amdt. 17
Los Angeles, CA—Los Angeles Intl, ILS Rwy 7L, Original
Los Angeles, CA—Los Angeles Intl, ILS Rwy 25R, Original
Santa Ana, CA—John Wayne Airport-Orange County, ILS Rwy 19R, Amdt. 8
Washington, DC—Dulles Intl, ILS Rwy 19L, Amdt. 7
Washington, DC—Washington National, LDA Rwy 18, Amdt. 11
Washington, DC—Washington National, ILS Rwy 36, Amdt. 32
Laurel-Hattiesburg, MS—Pine Belt Regional, ILS Rwy 18, Amdt. 4
Reno, NV—Reno Cannon Intl, ILS Rwy 16, Amdt. 2
Reno, NV—Reno Cannon Intl, ILS–A, Amdt. 3 cancelled
Trenton, NJ—Mercer County, ILS Rwy 6, Amdt. 5
Erie, PA—Erie Intl, ILS Rwy 6, Amdt. 12
Erie, PA—Erie Intl, ILS Rwy 24, Amdt. 4
Greer, SC—Greenville-Spartanburg, ILS Rwy 3, Amdt. 14
San Antonio, TX—San Antonio Intl, ILS Rwy 3, Amdt. 12
San Antonio, TX—San Antonio Intl, ILS Rwy 12R, Amdt. 9
San Antonio, TX—San Antonio Intl, ILS Rwy 30L, Amdt. 6

* * * *Effective September 30, 1982*

Batavia, NY—Genesee County, ILS Rwy 28, Original

* * * *Effective July 21, 1982*

Rochester, NY—Rochester-Monroe County, ILS Rwy 28, Amdt. 24

5. By amending Part 97.31 RADAR SIAPs identified as follows:

* * * *Effective October 28, 1982*

Fort Smith, AR—Fort Smith Muni, RADAR–1, Amdt. 4
Washington, DC—Washington National, RADAR–1, Amdt. 22
Erie, PA—Erie Intl, RADAR–1, Amdt. 5

6. By amending Part 97.33 RNAV SIAPs identified as follows:

* * * *Effective October 28, 1982*

Washington, DC—Dulles Intl, RNAV Rwy 1R, Amdt. 4
Freeport, IL—Albertus, RNAV Rwy 6, Amdt. 3
Grove, OK—Grove Muni, RNAV Rwy 18, Original
Grove, OK—Grove Muni, RNAV Rwy 36, Original

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on September 10, 1982.

John M. Howard,

Manager, Aircraft Programs Division.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980.

[FR Doc. 82-25714 Filed 9-17-82; 8:45 am]
BILLING CODE 4910-13-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. I

[FPR Temp. Reg. 51, Supp. 2]

Telecommunications Acquisitions

AGENCY: General Services Administration.

ACTION: Temporary regulation supplement.

SUMMARY: The purpose of this regulation is to extend the expiration date of FPR Temporary Regulation 51, Telecommunications Acquisitions, and

to revise Section 1–4.1201–5 concerning the definition of "comparative cost analysis." The basis for this regulatory change is the need to provide agencies with revised guidance. The intended effect is to reflect the present value of money.

DATES: Effective date: This regulation is effective September 30, 1982, but may be observed earlier. Expiration date: This regulation will expire September 30, 1984, unless revised or superseded earlier.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Office of Federal Procurement Regulations, Office of Acquisition Policy, (202–523–4755).

SUPPLEMENTARY INFORMATION:

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 1, FPR Temporary Regulation 51, Supplement 2 is added to the appendix at the end of the chapter.

General Services Administration,
Washington, D.C., August 27, 1982.

Federal Procurement Regulations, Temporary Regulation 51, Supplement 2

To: Heads of Federal agencies.
Subject: Telecommunications acquistions.

1. *Purpose.* Supplement 2 extends the expiration date of FPR Temporary Regulation 51 and revises § 1–4.1201–5 concerning the definition of "comparative cost analysis."

2. *Effective date.* This regulation is effective September 30, 1982, but may be observed earlier.

3. *Expiration date.* This regulation will expire September 30, 1984, unless revised or superseded.

4. *Background.* FPR Temporary Regulation 51 provides Federal agency guidance on the acquisition of telecommunications. The proposed codification of this temporary regulation is being withheld at this time because of potential legislation and the consideration of a revision to a January 24, 1956 Consent Decree with the American Telephone and Telegraph Company.

5. *Explanation of change.*

a. Subpart 1–4.12 is renumbered Subpart 1–4.13 and the sections within the subpart are renumbered accordingly.

b. Section 1–4.1201–5 is renumbered as § 1–4.1301–5 and is amended to read as follows:

§ 1–4.1301–5 Comparative cost analysis.

"Comparative cost analysis" means a procedure for adjusting the system life cost to the present value of money. The present value is computed by using the discount rate prescribed by OMB Circular A–94 or a higher rate as determined by the procuring agency. The higher rate, if used, is to reflect the agency's desired rate of return to assure the optimal allocation of its limited funds.

c. The expiration date contained in paragraph 3 of FPR Temporary Regulation 51 is revised to

6. *Effect on other directives.* Supplement 1 to FPR Temporary Regulation 51 is canceled.

7. *Submission of comments.* Comments are invited concerning this regulation and its effect and impact on the competitive acquisition of telecommunications. Comments should be forwarded to GSA (CPEP), Washington, D.C. 20405 no later than November 30, 1982.

Gerald P. Carmen,
Administrator of General Services.

[FR Doc. 82–25882 Filed 9–17–82; 8:45 am]
BILLING CODE 6820–61–M

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41 CFR Parts 1–1, 1–6, 1–16, 1–18

[FPR Amendment 224]

Federal Procurement Data System Reporting Requirements

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation incorporates the Federal Procurement Data System reporting requirements into the Federal Procurement Regulations. This action is required to make the latest procurement data reporting requirements applicable to executive agencies. The effect will be to improve procurement statistical reporting.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Office of Federal Procurement Regulations, Office of Acquisition Policy, (202–523–4755).

SUPPLEMENTARY INFORMATION:

Information collection requirements contained in this regulation (§§ 1–1.340, 1–1.341, 1–1.709, 1–6.106, 1–16.401(k), and 1–18.607) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control numbers 3090–0075, 3090–0094, 3090–0095, 3090–0074, 3090–0009, and 3090–0061, respectively. Sections 1–16.101(a) and 1–16.401(c) contain information collection requirements which are pending review by OMB. FPR Temporary Regulation 48 (44 FR 2388, January 11, 1979) and Supplements 1 (45 FR 27762, April 24, 1980) and 2 (47 FR 25018, June 9, 1982) and FPR Temporary Regulation 58 (46 FR 17780, March 20, 1981) are canceled and deleted from the appendix at the end of 41 CFR Chapter 1.

List of Subjects

41 CFR Part 1–1

Government procurement, Environmental protection, Labor surplus areas, Minority businesses, Recycled materials, Small businesses, Administrative practices and procedures, and Subcontractor gifts and kickbacks.

41 CFR Part 1–6

Government procurement and Foreign purchases.

41 CFR Part 1–16

Government procurement and Procurement forms.

41 CFR Part 1–18

Government procurement, Labor standards, and Construction.

PART 1–1—GENERAL

The table of contents for Part 1–1 is amended to add three entries, as follows:

* * * * *

Subpart 1–1.3—General Policies

Sec.
1–1.340 Women-owned business concerns.
1–1.340–1 General.
1–1.341 Contract data reporting.
* * * * *

Subpart 1–1.3—General Policies

1. Section 1–1.340 is added as follows:

§ 1–1.340 Women-owned business concerns.

§ 1–1.340–1 General.

It is the policy of the Government under Executive Order 12138 that women-owned business concerns shall have the maximum practicable opportunity to participate in Federal contracts. As used in this § 1–1.340, a "women-owned business" concern means a business that is at least 51 percent owned by a woman or women who also control and operate the business. The Women-Owned Business representation set forth in this § 1–1.340–1 shall be included in all solicitations and all contract awards.

Women-Owned Business

The offeror represents that the firm submitting this offer ☐ is, ☐ is not, a women-owned business. A women-owned business is a business that is at least 51 percent owned by a woman or women who also control and operate the business. Control in this context means exercising the power to make policy decisions. Operate in this context means being actively involved in the day-to-day management.

For the purposes of this definition, businesses which are publicly owned, joint stock associations, and business trusts are exempted. Exempted businesses may voluntarily represent that they are or are not women-owned if this information is available. (Approved by the Office of Management and Budget under OMB control number 3090–0075.)

2. Section 1–1.341 is added, as follows:

§ 1-1.341 Contract data reporting.

(a) This section prescribes reporting requirements to provide data concerning the award of contracts. The data provides (1) a basis for recurring and special reports to the President, the Congress, the General Accounting Office, Federal executive agencies, and the general public; (2) a means of measuring and assessing the impact of Federal contracting on the Nation's economy and the extent to which small and small disadvantaged concerns are sharing in Federal contracts; and (3) data for other policy and management control purposes.

(b) Each executive agency, including the Department of Defense, shall report contract actions that obligate or deobligate funds to the General Service Administration, Federal Procurement Data Center, on the forms prescribed in § 1-16.804. Instructions for completing the forms are contained in the Federal Procurement Data System Reporting Manual, Volumes I and II, as supplemented by FPDS Directives. Copies of the manuals may be obtained from Federal Procurement Data Center, 4040 North Fairfax Drive, Suite 900, Arlington, VA 22203. (Approved by the Office of Management and Budget under OMB control numbers 3090-0094 and 3090-0095).

Subpart 1-1.7—Small Business Concerns

Section 1-1.709 is revised, as follows:

§ 1-1.709 Records and reports.

Executive agencies shall, in soliciting bids or proposals, request from any bidder or offeror any information needed to determine whether the bidder or offeror is a small or small disadvantaged business concern. (Approved by the Office of Management and Budget under OMB No. 3090-0074.) Agencies shall report such procurement data on Standard Form 279, FPDS—Individual Contract Action Report (over $10,000), assigned Interagency Report Control Number 0206-GSA-QU, and Standard Form 281 FPDS—Summary of Contract Actions of $10,000 or Less, assigned Interagency Report Control number 0208-GSA-QU, in accordance with § 1-1.341. (Approved by the Office of Management and Budget under OMB control numbers 3090-0095 and 3090-0094, respectively.)

Subpart 1-1.8—Labor Surplus Area Concerns

Section 1-1.807 is revised, as follows:

§ 1-1.807 Records and reports.

Executive agencies shall maintain such records of procurement contracts to be performed in labor surplus areas as are necessary to prepare reports prescribed in § 1-1.341.

Subpart 1-1.13—Minority Business Enterprises

Section 1-1.1302 is amended by removing paragraphs (a)(8) and (a)(9), as follows:

§ 1-1.1302 Agency programs.

(a) * * *

(8) [Removed]

(9) [Removed]

* * * * *

PART 1-6—FOREIGN PURCHASES

The table of contents for Parts 1-6 is amended to add one entry, as follows:

1-6.106 Country of manufacturer.

Subpart 1-6.1—Buy American Act—Supply and Service Contracts

Section 1-6.106 is added as follows:

§ 1-6.106 Country of manufacturer.

The following representation shall be included in all solicitations and all contract awards which exceed $10,000:

Country of Manufacturer

The product which the offeror proposes to furnish ☐ is, ☐ is not, manufactured, mined, or grown in the United States. If the product is not manufactured, mined, or grown in the United States, the country of manufacturer is———. (Approved by the Office of Management and Budget under OMB control number 3090-0061.)

(End of Clause)

PART 1-16—PROCUREMENT FORMS

The table of contents for Part 1-16 is amended to remove nine entries, revise one entry, and add two entries, as follows:

1-16.804 Contract action reports.
1-16.804-1 [Removed]
1-16.804-2 [Removed]
1-16.804-3 [Removed]
1-16.804-4 [Removed]
1-16.804-5 [Removed]
1-16.804-6 [Removed]
* * * * *
1-16.901-37 [Removed]
1-16.901-37A [Removed]
* * * * *
1-16.901-279 FPDS—Individual Action Report (over $10,000).
1-16.901-281 FPDS—Summary of Actions of $10,000 or Less
* * * * *
1-16.902-OF 61 [Removed]
* * * * *

Subpart 1-16.1—Forms for Advertised Supply Contracts

Section 1-16.101(a) is revised as follows:

§ 1-16.101 Contract forms.

* * * * *

(a) Solicitation, Offer, and Award (Standard Form 33, March 1977 edition). Pending the publication of a new edition of the form, the representation Public and Private Organizations for the Handicapped or Handicapped Individuals, prescribed by § 1-1.709-9; the representation Women-owned Business, prescribed by § 1-1.340; and the representation Country of Manufacturer, prescribed by § 1-6.106, shall be added to the representations and certifications on the form. To the provisions that appear on page 1 of the form, add the requirement that each contractor receiving an award over $10,000 will be requested to identify its principal place of performance and furnish its DUNS number if one has been assigned.

* * * * *

Subpart 1-16.4—Forms for Advertised Construction Contracts

Section 1-16.401(c) is revised as follows:

§ 1-16.401 Forms prescribed.

* * * * *

(c) Representations and Certifications (Construction and Architect-Engineer Contract) (Standard Form 19-B, June 1976 edition). Pending the publication of a new edition of the form, the representations Women-owned Business (see § 1-1.340) and Country of Manufacturer (see § 1-18.607) shall be added to the representations and certifications that appear on the form.

* * * * *

Subpart 1-16.8—Miscellaneous Forms

1. Section 1-16.802 is revised as follows:

§ 1-16.802 Bidder's Mailing List Application.

Bidder's Mailing List Application (Standard Form 129, February 1977 edition) is prescribed for use in connection with the establishment and maintenance of bidders mailing lis's in accordance with § 1-2.205. Supplemental information, when required, may be obtained in accordance with agency procedures.

(a) Pending the publication of a new edition of the form, add to the provisions that appear on page 1 of the form, the following representation:

Women-Owned Business

Concern is ☐ is not ☐ a women-owned business. (Approved by the Office of Management and Budget under OMB control number 3090–0009.)

(b) Add to the provisions that appear on page 2 of the form, the following definition:

Women-Owned Business

A women-owned business is a business concern which is at least 51 percent owned, controlled, and operated by a woman or women. Controlled is defined as exercising the power to make policy decisions. Operated is defined as actively involved in the day-to-day management.

For the purposes of this definition, businesses which are publicly owned, joint stock associations, and business trusts are exempted. Exempted businesses may voluntarily represent that they are, or are not, women-owned if this information is available.

(End of Clause)

2. Section 1–16.804 is revised, as follows:

§ 1–16.808 Contract action reports.

The following Standard forms are prescribed for use in reporting contract actions to the Federal Procurement Data Center.

(a) FPDS—Individual Action Report (over $10,000) (Standard Form 279, October 1982 edition).

(b) FPDS—Summary of Contract Actions of $10,000 or Less (Standard Form 281, October 1982 edition).

§§ 1–16.804–1—1–16.804–6 [Removed]

Subpart 1–16.9—Illustration of Forms

1. Sections 1–16.901–37 and 1–16.901–37A are removed as follows:

§§ 1–16.901–37—1–16.901–37A [Removed]

2. Sections 1–16.901–279 and 1–16.901–281 are added, as follows:

BILLING CODE 6820-61-M

§ 1-16.901-279 FPDS—Individual Action Report (over $10,000).

OMB No. 3090-0095

FPDS—INDIVIDUAL CONTRACT ACTION REPORT (OVER $10,000)

INTERAGENCY REPORT CONTROL NO. 0706-GSA-GU

1. REPORTING AGENCY (*FPDS Organization Designation Code Manual*) — 1 2 3 4
2. CONTRACT NUMBER (*Left justified*) — 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19
3. MODIFICATION NUMBER — 20 21 22 23
1a. NAME OF REPORTING AGENCY
4. CONTRACTING OFFICE ORDER NUMBER — 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38
5. PURCHASING OR CONTRACTING OFFICE (*FPDS Purchase Office Code Manual*) — Code 39 40 41 42 43
5a. NAME
6. DATE OF THIS ACTION — CY 44 45 / Mo. 45 47
7. TYPE OF DATA ENTRY — 48 — ∅ = ORIGINAL, 1 = REVERSING, 2 = CORRECTING
Items Being Changed:
8. REPORT PERIOD — FY 49 50 / Qtr 51
9. D-U-N-S CONTRACTOR ESTABLISHMENT CODE — 52 53 54 55 56 57 58 59 60
9a. ESTABLISHMENT AND COMPLETE ADDRESS
Contractor Name:
Division Name:
Street Address:
City & State or Country
10. PRINCIPAL PLACE OF PERFORMANCE STATE OR U.S. OUTLYING AREA OR COUNTRY—*FIPS 5 or NBS I.C 1067)* - (CITY OR PLACE IN 50 STATES ONLY—*FIPS 55)*
State 61 62 / City 63 64 65 66 67
10a. NAME OF PRINCIPAL PLACE OF PERFORMANCE
11. TOTAL DOLLARS OBLIGATED OR DEOBLIGATED (*Round to nearest whole dollar, right justified for report to HDQTRS) (Round to thousands for report to FPDS)* (*use lead zeros*) — 68 69 70 71 72 73 74 75
11a. TYPE OF OBLIGATION — 76 — 1 = OBLIGATED, 2 = DEOBLIGATED, * = INITIAL LOAD OF BOA TYPE CONTRACT (NO DOLLARS)
12. SUBJECT TO STATUTORY REQUIREMENTS — A. Walsh-Healey Act, Manufacturer; B. Walsh-Healey Act, Regular Dealer; C. Service Contract Act; D. Davis-Bacon Act; E. Not subject to Walsh Healey, Service Contract, or Davis-Bacon Act
13. *For Agency Use* — 77 78
14. KIND OF CONTRACT ACTION — 79 — 1. Initial Letter Contract; 2. Definitive Contract Superseding Letter Contract; 3. New Definitive Contract; 4. Order Under Reporting Agency's Contract; 5. Modification; 6. GSA Schedule; 7. Order under another Agency's Contract; 8. Termination for Default; 9. Termination for Convenience
15. MULTI-YEAR CONTRACT — 80 — 1 = Yes, 2 = No
16. LABOR SURPLUS AREA (LSA) PREFERENCE — 81 — 2. Partial Labor Surplus Area Set-Aside Preference (DoD only); 3. Labor Surplus Area – Tie Bid Preference; 5. Not a Labor Surplus Area Preference Award; 6. Combined Small Business/Labor Surplus Area Set-Aside Preference (DoD only); 7. Total Labor Surplus Area/Small Business Set-Aside Preference (P.L. 96-302); 8. Total Labor Surplus Area Set-Aside Preference (P.L. 96-398)
17. CONSULTANT TYPE AWARD — 82 — 1 = Yes, 2 = No
18. PRINCIPAL PRODUCT OR SERVICE (*FPDS Product/Service Code Manual*) — Code 83 84 85 86
18a. DESCRIPTION
19. METHOD OF CONTRACTING — 87 — 1. Two-step Formal Advertising; 2. Other Formal Advertising; 3. Negotiated Competitive; 4. Negotiated Non-competitive; 5. Directed Contracts for Foreign Governments; 6. Tariff or Regulated Acquisition
20. EXTENT OF COMPETITION IN NEGOTIATION — 88 89
COMPETITIVE: A1. Small Business Total Set-Aside; A2. Small Business Partial Set-Aside; A3. Labor Surplus Area Set-Aside; A4. Labor Surplus Area/Small Business Set-Aside; A9. Other Negotiated Competitive
NON-COMPETITIVE: B1. Buy Indian; B2. 8(a) Program; B3. Follow-on After Competition; B9. Other Negotiated Non-Competitive
21. NEGOTIATION EXCEPTION AUTHORITY — 90 — A = 10 USC 2304 (a) (*applies to DoD, USCG & NASA only*); C = 41 USC 252 (c) (*applies to Civilian Agencies*) — 91 92 — 01 02 04 05 06 07 08 09 11 12 13 14 15 16 17 — *Applies only to authority A.*
22. TYPE OF CONTRACT OR MODIFICATION — 93 — A. Fixed Price Redetermination; J. Firm Fixed Price; K. Fixed Price Economic Price Adjustment; L. Fixed Price Incentive; R. Cost-Plus-Award Fee; S. Cost-No Fee; T. Cost Sharing; U. Cost-Plus-Fixed Fee; V. Cost-Plus-Incentive Fee; Y. Time and Materials; Z. Labor Hour
23. TYPE OF BUSINESS — 94 95 — A1. Small Business-Disadvantaged 8(a); A2. Small Business-Owned by Minority Group; A3. Other Small Business or Individuals; B1. Large Minority Business; B2. Other Large Business; C1. Non-Profit-Private Educational Organization; C2. Non-Profit Hospital; C3. Non-Profit-Research/Institution, Foundation, Laboratory; C4. Other Non-Profit Institutions; D1. State/Local Government-Educational; D2. State/Local Government-Hospital; D3. State/Local Government-Research Organization; D4. Other State/Local; E1. Acquired and Used Outside U.S./Outlying Areas; E2. Acquired Outside U.S./Outlying Areas and Used Inside U.S./Outlying Areas
24. WOMAN OWNED BUSINESS — 96 — ∅ = Exempt, 1 = Yes, 2 = No, 3 = Not Certified
25. *For Agency Use* — 97
26. *For Agency Use* — 98 99 100 101
27. FOREIGN TRADE DATA — A. Number of Bidders Offering Foreign Item — 102; B. Buy American Act Percent Difference — 103 104; C. Country of Manufacturer — 105 106
CONTRACTING OFFICER OR REPRESENTATIVE (*Typed name and Signature*)
TELEPHONE NO.
DATE SUBMITTED

SPECIMEN

NSN 7540-01-074-7031 PREVIOUS EDITION NOT USABLE 279-103

STANDARD FORM 279 (REV. 10-82)
Prescribed by GSA (41 CFR 1-1.341)
FAR (48 CFR 53.204-2(a))

* GPO : 1982 O - 380-498 (54)

§ 1-16.901-281 FPDS—Summary of Contract Actions of $10,000 or Less.

FPDS—SUMMARY OF CONTRACT ACTIONS OF $10,000 OR LESS

INTERAGENCY REPORT CONTROL NUMBER: 0208-GSA-QU

REPORT PERIOD: FY ____ Qtr. ____

REPORTING AGENCY (*FPDS Organization Designation Code Manual*): Code ____ Name: ____

PURCHASING OR CONTRACTING OFFICE (*Do not use for reporting to FPDC*): Code ____ Name: ____

PART I — TOTAL PRIME CONTRACT ACTIONS OF $10,000 OR LESS

METHODS OF CONTRACTING (a)	NUMBER OF ACTIONS (b)	NET DOLLAR AMOUNT (*Round to nearest thousand*) TOTAL (c)	SMALL BUSINESS CONCERNS (d)	LARGE BUSINESS CONCERNS (e)	EDUCATIONAL AND NON-PROFIT INSTITUTIONS (f)	OUTSIDE U.S./ OUTLYING AREAS (g)
1. TOTAL (*2 + 7 + 8*)						
2. Subtotal (*3 + 4 + 5 + 6*)						
3. Formally Advertised (*Including 2 Step*)						
4. Negotiated Competitive						
5. Negotiated Non-Competitive						
6. Procurement Under Another Agency's Contracts						
6a. GSA Schedules						
6b. Another Agency's Contracts						
7. Directed Contracts for Foreign Govern-Governments						
8. Tariff or Regulated Acquisitions						

SPECIMEN

PART II — STATISTICS ON SELECTED TYPES OF ACQUISITION (*Breakdown of contract actions reported in Part I*)

TYPE OF ACQUISITION (a)	NUMBER OF ACTIONS (b)	NET DOLLAR AMOUNT (*Round to nearest thousand*) (c)
9. Small Business Total Set-Asides		
10. Small Business Partial Set-Asides		
11. Total Labor Surplus Area Set-Asides		
12. Total Labor Surplus Area/Small Business Set-Asides		
13. Acquisitions from Minority and Disadvantaged Business Enterprises (*13(a) + 13(b)*)		
13a. Direct to Large or Small Minority Business Enterprises		
13b. Small Business—Disadvantaged 8(a)		
14. Woman-Owned Business		

REMARKS

DATE SUBMITTED	CONTRACTING OFFICER OR REPRESENTATIVE (*Typed name and signature*)	TELEPHONE NUMBER

NSN 7540-01-081-9674 PREVIOUS EDITION NOT USABLE 281-103

STANDARD FORM 281 (REV. 10-82)
Prescribed by GSA 41 CFR 1-1.341
FAR (48 CFR 53.204-2(b))

BILLING CODE 6820-61-C

3. Section 1-16.902-OF 61 is removed as follows:

§ 1-16.902-OF 61 [Removed]

PART 1-18—PROCUREMENT OF CONSTRUCTION

The table of contents for Part 1-18 is amended to add one entry as follows:

1-18.607 Country of manufacturer.

Subpart 1-18.6—Buy American Act

Section 1-18-607 is added as follows:

§ 1-18.607 Country of manufacturer.

The following representation shall be included in all solicitations and all contract awards which exceed $10,000:

Country of Manufacturer

The product which the offeror proposes to furnish ☐ is, ☐ is not manufactured, mined, or grown in the United States. If the product is not manufactured, mined, or grown in the United States, the country of manufacturer is _____.

(Approved by the Office of Management and Budget under OMB control number 3090-0061)

(End of Clause)

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: August 19, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-25730 Filed 9-17-82; 8:45 am]

BILLING CODE 6820-61-M

41 CFR Parts 101-20, 101-26

[FPMR Amendment D-79]

Management of Buildings and Grounds and Federal Buildings Fund; Reimbursable Services

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: In response to findings of a General Accounting Office (GAO) report, GSA is amending its regulations to change the billing procedure for reimbursable services from fixed-price billing in advance-to quarterly billing in an amount equal to obligations accumulated for the billing period, for all except recurring above-standard-level reimbursable work. GSA is also delegating greater authority to client agencies for accomplishing alterations that are not provided by PBS under the Standard Level User Charge (SLUC). This regulation is expected to improve the management of the reimbursable program.

EFFECTIVE DATE: September 20, 1982.

FOR FURTHER INFORMATION CONTACT: Dominick Pastore, Office of Program Support (PF), (202-566-1954).

SUPPLEMENTARY INFORMATION: GAO in its audit report 25-1026-P, GSA's Management of Reimbursable Building Services Needs Improvement, of July 8, 1981, expressed concern over agency complaints of high prices and the perception of frequent overcharging due to faulty fixed-price estimates. The change in billing policy will result in agencies being charged actual cost for most reimbursable services.

GSA will continue to provide cost estimates for which agencies must certify availability of funds. Billing for most reimbursable services will be on a quarterly basis in an amount equal to obligations accumulated for the billing period. At completion, a final bill or refund will be rendered to adjust to the actual cost of the services performed.

Recurring above-standard-level reimbursable services will continue to be provided on a fixed-price basis with billing in advance of the services provided. For the purpose of clarification, recurring above-standard-level reimbursable services are those services, such as additional cleaning or utilities, which are so intermixed with the same services performed under the standard level that it is not possible to isolate their actual cost.

GAO, in the same report, also expressed concern over the slow delivery and increasing backlog of reimbursable work. The increase in the authority delegated to agencies to contract for their own alterations should result in elimination of a large number of smaller reimbursable work requests and allow GSA to more effectively use its resources to provide better services.

GSA, in its efforts to improve the management of the reimbursable program, will delegate greater authority to client agencies for accomplishing alterations which are not provided by PBS under the Standard Level User Charge (SLUC). Under the delegation, agencies may accomplish, within PBS guidelines and standards, alterations valued at $10,000 or less where GSA has an ongoing indefinite quantity contract or unit price agreement and contract directly for alterations valued at $10,000 or less, where GSA contracts are not available.

GSA has determined that this regulation will not be considered a major rule under Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or result in significant adverse effects. GSA has based all administration decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

The information requirements contained in this regulation [section 101-20.105(a)(2)] have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control numbers 3090-0800 and 3090-0071.

List of Subjects

41 CFR Part 101-20

Fire prevention, Blind, Safety, Concessions, Crime, Federal buildings and facilities, Government property management, Security measures.

41 CFR Part 101-21

Federal buildings and facilities and Government property management.

GSA is amending Part 101-20 as follows:

PART 101-20—MANAGEMENT OF BUILDINGS AND GROUNDS

Subpart 101-20.1—Building Operations, Maintenance, Protection, and Alterations

1. Section 101-20.105 is amended by revising paragraph (a) to read as follows:

§ 101-20.105 Reimbursable services.

* * * * *

(a) Special Space alterations, except for communication/security systems, required by occupant agencies above the standard level provided by GSA and prescribed in § 101-20.102.

(1) Where GSA has operative indefinite quantity contracts and unit price agreements for accomplishment of space alterations in Government-owned and -leased buildings, respectively, agencies may order against these contracts and agreements. Agencies wishing to use this authority shall submit names and addresses of proposed ordering officials and their alternates to the GSA buildings manager, who will submit them to the GSA contracting officer. Each agency shall be limited to one designated ordering official and one alternate in any building. The contracting officer shall designate in writing the ordering official and alternate by name and will authorize the contractor to accept orders

from only the designated ordering official or alternate. The GSA contracting officer will advise the agencies' ordering officials and their alternates in writing of their responsibilities, authorities, and limitations under these contracts and agreements. Designated agency ordering officials may, with the prior written approval of the GSA buildings manager on each order, order special space alteration services available under these contracts and agreements. The GSA buildings manager with the assistance of the GSA contracting officer, Real Estate or Buildings Management Divisions, where applicable, shall review and approve the orders and modifications thereto based on, but not limited to, the following criteria:

(i) The work is compatible with, and will not adversely affect, building structures, fire and safety systems, mechanical/electrical systems, or historically preserved building features.

(ii) The work conforms to GSA standards for safety, space utilization, fire protection, and handicapped access.

(iii) In leased buildings, the work is acceptable to the lessor, not the responsibility of the lessor, and within the Economy Act Limitations.

(iv) Whether it is feasible for Government (force account) personnel to perform the work.

(v) Whether it is feasible to combine the work with other similar scheduled work in a building.

(vi) In Government-owned buildings, the work is not already included in a prospectus.

(vii) Only scheduled items have been ordered.

(2) No individual order or combination of orders for a special space alteration project against GSA contracts or agreements shall exceed $10,000. Requirements aggregating more than $10,000 shall not be split into several orders of less than $10,000. Agencies shall use Standard Form 147, GSA Form 300, Order for Supplies or Services, or any other approved purchasing document to order special space alteration services under these GSA contracts and agreements. Any disputes between an agency ordering official and a contractor concerning the provisions of, or performance under, an indefinite quantity contract or unit price agreement that cannot be resolved by mutual agreement shall be referred to the GSA contracting officer for appropriate action. For all orders against GSA contracts or agreements, agency ordering officials shall furnish within 10 days of preparation one copy each of the ordering document and final payment document to the buildings manager and to the GSA Contracting Officer. The final payment voucher shall be supported with the following documents:

(i) GSA Form 1142, Release of Claims, or equivalent forms.

(ii) GSA Form 2419, Certification of Payments to Subcontractors and Suppliers.

(iii) Certification that work has been inspected and accepted and meets the provisions of the contract, and that the contractor has complied with all provisions of the contract regarding the subject delivery order.

(3) Where no GSA contracts or agreements are in effect or where specific items are not available under existing contracts or agreements, an agency may contract directly for services up to a maximum of $10,000 per project, after obtaining written approval of the GSA buildings manager. Agencies contracting directly must provide the GSA buildings manager with complete documentation of the scope of work and contract specifications at the time of submission for approval. GSA review and approval for agency-written contracts will be based on the same criteria applied to orders against GSA contracts and agreements.

(4) Agencies shall be responsible for inspecting and certifying satisfactory completion of the ordered work and for contractor compliance with the provisions of all agency-ordered work, whether against GSA contracts and agreements or agency-written contracts. Agencies shall institute procedures that are adequate to ensure separation of the ordering process from the inspection and acceptance process. Where alterations will affect the classification or utilization of space, or involve special wall finishes or other non-standard items or facilities, Real Estate Division's approval is required. The agency's initial approval submission on all alterations under this delegation of authority must include a layout of the agency's space to assist in the evaluation. The agency must identify the amount of alterations subject to the Economy Act limitation, and, if GSA advises that the 25 percent limit has been reached, the agency must prepare a Certificate of Determination before the work will be approved. As-built drawings must be submitted within 30 days of completion.

* * * * *

GSA is amending Part 101–21 as follows:

PART 101–21—FEDERAL BUILDINGS FUND

Subpart 101–21.6—Billings, Payments, and Related Budgeting Information for Space and Services Furnished by the General Services Administration

2. Section 101–21.604 is amended by revising paragraphs (c) through (h) to read as follows:

§ 101–21.604 Billing procedures for reimbursable charges.

* * * * *

(c) Rates charged for recurring above-standard-level reimbursable services shall be fixed to recover the approximate cost incurred by GSA in providing such services. Recurring above-standard-level reimbursable services are those recurring services, such as cleaning or utilities, which cannot readily be differentiated from the same type of services included in the standard level.

(d) The following basic types of reimbursable work are also performed by GSA but on an actual cost basis:

(1) Non-recurring services performed above standard levels of service, such as out-of-cycle painting;

(2) Recurring services not included in the standard level for which the actual cost can be readily identified;

(3) Repairs and alterations in buildings not controlled by GSA;

(4) Special space alterations and adjustments performed by GSA in GSA-operated buildings, which are requested and financed by other agencies in accordance with § 101–20.105, Reimbursable services; and

(5) Services financed by other agencies but performed by GSA personnel on construction and alteration projects.

(e) GSA Form 2957, reimbursable Work Authorization, must be completed before reimbursable work is begun. This authorization must describe the work or services ordered and include an estimate of the cost of the work described. Work authorizations must be signed by a responsible official capable of authorizing the obligation and committing the agency to payment of the charges, must contain a citation to the appropriation or funds to be charged, and must have a statement that funds in the amount of the stated estimate are available for immediate obligation for the requested work. GSA will make every effort to obtain approval and certification of additional funds before incurring any obligations in excess of the estimate; however, failure of GSA to notify the agency that obligations will

exceed the estimate does not relieve the agency of paying full actual costs.

(f) Bills for recurring above-standard-level services (identified by prefix "R" in the first position of the work authorization number on GSA Form 2957) are rendered in advance at a fixed-price equal to the estimated amount. This type of work authorization, with the right to cancel (subject to incurred costs and obligations) upon 60 days notice by either party must be completed and forwarded to GSA prior to the commencement of the period for which services are required. With the exception of recurring work authorizations for utilities, which GSA may limit to 3-month periods, each "R" type work authorization must authorize charges for the full period during the fiscal year that the services will be required. These work authorizations must always begin and end within the same fiscal year.

(g) Bills for all other reimbursable services are rendered quarterly in an amount equal to the obligations accumulated for the billing period. A final adjustment to actual cost will be made upon completion of the services.

(h) Agencies shall ensure that bills for special space alteration services ordered by them under provisions of § 101–20.105(a) shall be rendered by the contractor or lessor directly to the agencies' paying office. The agencies shall be responsible for timely payment and resolving any billing problems regarding orders they place under the contracts or agreements.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: August 23, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82–25841 Filed 9–17–82; 8:45 am]

BILLING CODE 6820–23–M

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41 CFR Part 101–26

[FPMR Amdt. E–251]

Federal Property Management Regulations; Procurement Sources and Programs; Purchase of New Motor Vehicles

AGENCY: Transportation and Public Utilities Service, General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment revises the number of consolidated volume procurements of standard sedans and station wagons made by GSA each year and revises the time schedules for consolidation of agency requirements for sedans, station wagons, and light trucks. This amendment also sets forth circumstances under which GSA will grant authority for purchase of motor vehicles to the ordering agency without a specific waiver request. In addition, this amendment provides information on GSA's centralized motor vehicle leasing program. Finally, the amendment clarifies administrative requirements for the submission of motor vehicle requisitions and updates form titles and organizational and Federal standard references. The intent of this change is to improve procurement service to the Federal agencies and expedite delivery of vehicles.

EFFECTIVE DATE: July 31, 1982.

FOR FURTHER INFORMATION CONTACT: William Hoffarth, Procurement Division, Office of Automotive Management (202–275–1617).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–26

Government property management.

PART 101–26—PROCUREMENT SOURCES AND PROGRAMS

1. The table of contents for Part 101–26 is amended by adding the following entry:

101–26.501–9 Centralized motor vehicle leasing program.

Subpart 101–26.5—GSA Procurement Programs

2. Section 101–26.501 is amended by revising the introductory material in paragraph (a) and paragraphs (b) and (c) to read as follows:

§ 101–26.501 Purchase of new motor vehicles.

(a) With respect to the procurement of new sedans, station wagons, and light trucks other than those to be used for law enforcement, it shall be the policy to procure standard vehicles (unless other than standard vehicles are specifically required) as follows:

Sedans, class IA-small, class IB-subcompact, or class II-compact; station wagons, class IB-subcompact or class II-compact vehicles, as described in Federal standard No. 122; and light trucks, as defined in Federal standard Nos. 292 and 307. (Federal standard Nos. 122, 292 and 307 as used in this section mean the latest editions.) Requisitions submitted to GSA for motor vehicles shall be in conformance with the requirements of subparts 101–38.9 and 101–38.13.

* * * * *

(b) Requisitions submitted to GSA for new passenger vehicles and light trucks shall contain a certification by the agency head or a designee that the acquisition is in conformance with Pub. L. 94–163 and Executive Order 12003. The certification may be placed on the requisition or on an appropriate attachment thereto. Agency passenger vehicle requisitions omitting this certification will not be processed until such certification is received.

(c) Light trucks shall be requisitioned in accordance with the provisions of this § 101–26.501 and Federal standard Nos. 292 and 307.

* * * * *

3. Section 101–26.501–1 is amended by revising paragraphs (b) and (c) to read as follows:

§ 101–26.501–1 General.

* * * * *

(b) When it is determined by the ordering activity that requirements for passenger motor vehicles and trucks indicate the need for procurement by buying activities other than GSA, a request for waiver justifying the procurement shall be submitted in writing to the General Services Administration (TCP), Washington, DC 20406. GSA will notify agencies in writing whether a waiver has been granted. Justification may be based on the urgency of need or that the vehicle having unique characteristics such as a special purpose body or equipment that may require close supervision by agency personnel to ensure proper installation of the equipment by the contractor; e.g. when a medical van is to be equipped with Government or contractor-supplied equipment. Requests for procurement through sources other than GSA will be handled on an individual basis provided full justification is submitted therefor.

(c) When it is determined by GSA that procurement of an individual agency requirement by GSA would offer no advantage over local purchase of the

item, GSA may grant the ordering activity authority for local purchase. When such a determination is made, the order will be returned to the ordering agency with written authority for local purchase.

4. Section 101–26.501–2 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 101–26.501–2 Consolidated purchase program.

(a) To achieve maximum benefits and economies, GSA makes consolidated procurements of all motor vehicle types each year as follows:

(1) Two volume procurements of sedans and station wagons of the types covered by Federal standard No. 122 and a possible third such volume procurement under circumstances described in § 101–26.501–4(a).

(2) Three volume procurements of light trucks of the types covered by Federal standard Nos. 292 and 307.

(b) Such volume consolidated purchases are made subsequent to consolidation of requirements in accordance with the dates set forth in § 101–26.501–4(a). To assure delivery within a given fiscal (model) year and to obtain the greatest possible savings, agencies shall submit at least 75 percent of their annual requirements, for the types of vehicles covered by Federal standard Nos. 122, 292, and 307 that can be competitively procured, to GSA in time for inclusion in the first or second volume consolidated purchase ((a)(1), above).

(c) When justified as indicated in § 101–26.501–4, requirements for sedans, station wagons, and light trucks will be consolidated and procured on a monthly basis.

* * * * *

5. Section 101–26.501–3 is revised to read as follows:

§ 101-26.501-3 Submission of orders.

Orders for all motor vehicles shall be submitted on GSA Form 1781, Motor Vehicle Requisition-Delivery Order, or DD Form 448, Military Interdepartmental Purchase Request (MIPR), to the General Services Administration, (TC), Washington, DC 20406, and shall contain required FEDSTRIP data for mechanized processing. The Department of Defense shall ensure that appropriate MILSTRIP data are entered on DD Form 448.

(a) Requisitions covering vehicle types not included in Federal standard Nos. 122, 292, or 307, in a military specification, or in an agency specification on file with GSA, shall contain complete descriptions of the vehicles required, the intended use of the vehicles, and terrain where the vehicles will be used.

(b) Requisitions for vehicles within the category of Federal standard Nos. 122, 292, or 307 but for which deviations from such standards are required, unless already waived by the Commissioner, Transportation and Public Utilities Service, shall include with the requisition a justification supporting each deviation from the standards and shall contain a statement of the intended use of the vehicles, including a description of the terrain where the vehicles will be used. Prior approval of deviations shall be indicated on the requisition by citing the waiver authorization number.

(c) GSA Form 1781, Motor Vehicle Requisition-Delivery Order (illustrated at § 101–26.4902–1781), has been specifically designed for agency use to expedite ordering of all vehicles. Agencies are requested to use GSA Form 1781 as a single-line-item requisition for nonstandard as well as standard vehicles. echicles. When ordering standard vehicles, the appropriate item number for such vehilces equipped to meet specific operational needs may be selected from the applicable table in the Federal standards. Additional systems and equipment may be added by inserting in the "Standard Option(s)" portion of block 9 of the form the appropriate code for the selected items from the table of options in the standard. When ordering nonstandard vehicles or options, the instructions on the reverse of GSA Form 1781 shall be followed. Submission of GSA Form 1781, properly completed, will satisfy the requirements regarding the submission of requisitions as set forth in paragraph (a) of this section.

(d) Each requisition shall indicate the appropriation/fund code to be charged and must bear the original signature of an officer authorized to obligate cited funds.

(e) Separate requisitions shall be submitted for each vehicle type and consignee.

6. Section 101–26.501–4 is amended by revising paragraphs (a), (b), and (d) to read as follows:

§ 101–26.501–4 Procurement time schedules.

(a) *Volume consolidated purchases.* Requisitions covering vehicle types included in Federal standard Nos. 122, 292, or 307, will be consolidated for volume procurement unless there is included a statement justifying the need for delivery other than the delivery times indicated in § 101–26.501–4(d). Requisitions containing a statement of justification will be handled on a monthly basis in accordance with § 101–26.501–4(b)(1), or on an emergency basis in accordance with § 101–26.501–4(c).

TIME SCHEDULE FOR VOLUME CONSOLIDATIONS

Vehicle category	Consolidation date
A. Sedans and station wagons of types covered by Fed. Std. 122.	I March 10 to September 9. II September 10 to January 9. III January 10 to March 9 [1]
B. Light trucks of types covered by Fed. Std. Nos. 292 and 307.	I March 10 to August 9. II August 10 to December 15. III December 16 to March 9.

[1] Agencies are cautioned that a solicitation covering requisitions for sedans and station wagons received during this consolidation period will be issued only if it is determined by GSA prior to issuance that competitive bids can be obtained. Otherwise, such requisitions will be held for inclusion in the next volume consolidated procurement.

(b) *Monthly consolidated purchases.* (1) Requirements for vehicles to be included in monthly consolidated purchases must be received by GSA by the dates indicated in the schedule set forth below. Requirements received after these dates will be carried over to the following month's purchase. In the interest of timely and orderly preparation of solicitations, ordering agencies are urged to submit each requirement as soon as it is finalized instead of holding it for submission with later requirements. Such requisitions need not specify a delivery date since delivery will be in accordance with delivery times indicated in § 101–26.501–4(d). Requests for special handling of other than strictly emergency requirements shall not be submitted.

TIME SCHEDULE

Vehicle category	Monthly consolidation dates
(i) Passenger carrying vehicles, light trucks of types not covered by Fed. Std. Nos. 122, 292, or 307 and ambulances.	20th of each month.
(ii) Buses, trucks (other than light trucks in category (i) above), and trailers of not less than 5,000 lbs.	Last day of each month.
(iii) All other categories and types of vehicles.	Last day of each month.

(2) Solicitations issued in September for the consolidated purchase of vehicles will cover only the requirements of those executive agencies whose requisitions are required by § 101–26.501–1 to be placed with GSA. (Submission of requirements for vehicles in categories (i) and (ii) above, is mandatory to the extent provided in § 101–26.501–1.)

(3) No assurance can be given as to price and time of delivery of passenger cars and light trucks on requisitions received by GSA after the 9th of March. This is because of the industry practice of closing out the production of the

current year's model and retooling for new models. Agencies should bear this in mind when programing their requirements. GSA will notify agencies submitting requisitions for sedans and station wagons that cannot be placed on contract before the end of the fiscal year in which submitted.

* * * * *

(d) *Delivery time.* Delivery times for motor vehicles requirements submitted for monthly consolidated and volume consolidated purchases will range from 210 to 330 days after final dates for consolidation of requisitions provided in § 101–26.501–4 (a) and (b)(1). Included in delivery time estimates are 90 to 105 days required for soliciting and receiving bids, 30 to 45 days for evaluation and award of contracts, 90 to 180 days from date of award for delivery of vehicles to the consigned locations. For buses, ambulances and other special duty vehicles procured under monthly consolidated purchases, 240 to 270 days from date of award are usually required to effect delivery. However, special purpose vehicles with unique characteristics, such as certain types of firetrucks, may require longer delivery. In such instances, every effort will be made by GSA to facilitate deliveries and keep the requisitioning agencies informed of any unauthorized delay.

7. Section 101–26.501–6(c) is revised to read as follows:

§ 101–26.501–6 Forms used in connection with delivery of vehicles.

* * * * *

(c) GSA Form 6317, Instructions to Consignee Receiving New Motor Vehicles Purchased by General Services Administration. This form is furnished to each consignee with copies of the delivery order. Personnel responsible for receipt and operation of Government motor vehicles should be familiar with the instructions and information contained in GSA Form 6317.

8. Section 101–26.501–8 is amended to revise the list of manufacturers following paragraph (a) and to revise the GSA address in paragraph (b) to read as follows:

§ 101–26.501–8 Notification of vehicle defects.

* * * * *

Addresses of Manufacturers

American Motors, Corp., Fleet Sales Department, 14250 Plymouth Road, Detroit, MI 48232
AM General Corporation, Logistics Division, 701 West Chippewa Avenue, South Bend, IN 46623
Chevrolet Motors Division, Service Operations, 136–150 Chevrolet Central House, 30007 Van Dyke Avenue, Warren, MI 48090
Ford Customer Service Division, Field Recall Section, General Offices, Park Lane Towers West, 1 Park Lane Boulevard, Dearborn, MI 48126
Director of Services, FWD Corporation, 105 East 12th St., Clintonville, WI 54929
International Harvester Co., Suite 900, 1707 L Street, NW., Washington, DC 20036
Field Service and Engineering, Chrysler Motors Corp., Government Sales Dept., P.O. Box 716, Detroit, MI 48231
General Parts and Service Manager, GMC Truck and Coach Division, General Motors Corp., 660 South Boulevard, East, Pontiac, MI 48053
Mack Trucks, Inc., Service Operations, P.O. Box 1000, Somerville, NJ 08876
Supervisor, Vehicle Service and Safety Programs, Volvo White Truck Corp., P.O. Box D–1, Greensboro, NC 27402

(b) When motor vehicles are manufactured by a concern other than one for whom an address is shown in § 101–26.501–8(a) and the address of the manufacturer is not known, agencies shall inform GSA of the vehicle location address. (This includes those vehicles manufactured by the General Motors Corporation other than the Chevrolet Motor Division and the GMC Truck and Coach Division.) In these cases, agencies shall forward the vehicle location address to the General Services Administration (TCP), Washington, DC 20406. GSA will forward the vehicle location address to the manufacturer or advise the agency concerned.

* * * * *

9. Section 101–26.501–9 is added as follows:

§ 101–26.501–9 Centralized motor vehicle leasing program.

GSA has a centralized leasing program to provide an additional source of motor vehicle support to all Federal agencies. This program relieves Federal agencies that use it from both the time constraints and administrative costs associated with independently entering into lease contracts. The centralized leasing program covers subcompact and compact sedans, station wagons, and certain types of light trucks (pickups and vans). Participation in the Centralized Leasing Program is mandatory on all executive agencies of the Federal Government (excluding the Department of Defense and the U.S. Postal Service) within the 48 contiguous states and Washington, DC. However, agencies must obtain GSA authorization to lease in accordance with § 101–39.601 prior to using these established mandatory use contracts. For further information on existing contracts, including vehicles covered, rates, and terms and conditions of the contract(s), contact General Services Administration (TC), Washington, DC 20406.

Subpart 101–26.49—Illustrations of Forms

10. Section 101–26.4902–1781 is revised to read as follows:

§ 101–26.4902–1781 GSA Form 1781, Motor Vehicle Requisition—Delivery Order.

Note.—The form illustrated in this § 101–26.4902–1781 is filed with the original document and does not appear in this volume.

(Sec. 205(c), 63 Stat. 390; 40 (U.S.C. 486(c))

Dated: August 19, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82–25849 Filed 9–17–82; 8:45 am]

BILLING CODE 6820–AM–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6408]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction

from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register**.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard areas of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Federal Emergency Management Agency's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Alaska: Southeast Fairbanks Division.	Delta Junction, city of	020104B	Aug. 28, 1975, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	Oct. 25, 1977	Sept. 16, 1982.
Arkansas: Baxter	Mountain Home, city of	050351A	Feb. 9, 1976, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	Feb. 14, 1975	Do.
Colorado: Montrose	Olathe, town of	080128B	June 5, 1975, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	June 28, 1974, Dec. 19, 1975.	Do.
Connecticut: Tolland	Columbia, town of	090160B	Aug. 14, 1975, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	Aug. 27, 1976, Nov. 8, 1974.	Do.
Delaware: Kent	Dover, city of	100006C	July 24, 1975, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	July 22, 1977, May 31, 1974, Jan. 2, 1976.	Do.
Florida:					
Brevard	Unincorporated areas	125092C	Nov. 13, 1970, emergency, Sept. 22, 1972, regular, Sept. 16, 1982, suspended.	July 1, 1974, Sept. 6, 1976, Sept. 22, 1972.	Do.
Do	Cape Canaveral, city of	125094D	March 19, 1971, emergency, Sept. 29, 1972, regular, Sept. 16, 1982, suspended.	July 1, 1974, Aug. 15, 1974, May 20, 1974, Sept. 30, 1972.	Do.
Do	Cocoa Beach, city of	125097D	Nov. 20, 1970, emergency, June 16, 1972, regular, Sept. 16, 1982, suspended.	July 1, 1974, Dec. 26, 1975, May 20, 1977, June 16, 1972.	Do.
Dixie	Cross City, town of	120074B	June 26, 1975, emergency, June 26, 1975, regular, Sept. 16, 1982, suspended.	Jan. 30, 1976, Sept. 13, 1974.	Do.
Volusia	Daytona Beach, city of	125099C	Sept. 11, 1970, emergency, Sept. 7, 1973, regular, Sept. 16, 1982, suspended.	Sept. 7, 1973, July 1, 1974, May 27, 1977.	Do.
Do	Daytona Beach Shores, city of	125100C	Jan. 29, 1971, emergency, Sept. 7, 1973, regular, Sept. 16, 1982, suspended.	May 27, 1977, Sept. 7, 1973.	Do.
Do	New Smyrna Beach, city of	125132C	May 14, 1971, emergency, Dec. 7, 1973, regular, Sept. 16, 1982, suspended.	Dec. 7, 1973, May 27, 1977.	Do.
Do	Ormond Beach, city of	125136C	Nov. 20, 1970, emergency, Sept. 7, 1973, regular, Sept. 16, 1982, suspended.	Sept. 7, 1973, July 1, 1974, May 27, 1977.	Do.
Do	Ponce Inlet, town of	125312C	May 28, 1974, emergency, Oct. 8, 1976, regular, Sept. 16, 1982, suspended.	Aug. 9, 1974, Feb. 13, 1976, Oct. 8, 1976.	Do.
Georgia: Liberty	Hinesville, city of	130125B	June 13, 1975, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	Feb. 25, 1977	Do.
Illinois:					
McHenry and Lake	Island Lake, village of	17[illegible]70B	Jan. 24, 1975, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	Mar. 8, 1974, June 4, 1976.	Do.
Perry	Pinckneyville, city of	170540B	July 2, 1975, emergency, Sept. 16, 1982, regular, Sept. 16, 1982..	Mar. 22, 1974, Oct. 10, 1975, Nov. 9, 1979.	Do.
Indiana:					
Knox	Decker, town of	180322C	Aug. 4, 1975, emergency, Nov. 9, 1979, regular, Sept. 16, 1982, suspended.	Feb. 1, 1974, June 11, 1976.	Do.
Dearborn	Greendale, town of	180040B	Mar. 19, 1975, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	Jan. 16, 1974, Dec. 12, 1975.	Do.
Crawford	Marengo, town of	180033B	Jan. 6, 1976, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	Feb. 1, 1974, Sept. 19, 1975.	Do.
Massachusetts: Worcester	Leominster, city of	250314B	Jan. 24, 1975, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	Mar. 22, 1974, Oct. 17, 1975, Oct. 22, 1980.	Do.
Michigan: Kent	Grandville, city of	260271B	Mar. 30, 1973, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	July 13, 1973, June 18, 1976.	Do.

—Continued

—Continued

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Minnesota:					
Marshall	Oslo, city of	270272B	May 15, 1974, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	July 19, 1974, Dec. 20, 1974.	Do.
Do	Stephan, city of	270273B	Apr. 26, 1974, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	May 17, 1974, June 4, 1976.	Do.
Missouri: Lincoln	Silex, village of	290212B	Nov. 1, 1976, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	Nov. 22, 1974, Dec. 5, 1975.	Do.
New Hampshire: Strafford	Rochester, city of	330150B	July 22, 1975, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	Nov. 8, 1977	Do.
New Jersey:					
Gloucester	Greenwich, township of	340204B	Apr. 18, 1973, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	Jan. 23, 1974, Nov. 25, 1977.	Do.
Ocean	Jackson, township of	340375A	Jan. 12, 1973, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	Jan. 24, 1975	Do.
New York:					
Genesee	Batavia, city of	360279B	July 25, 1973, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	Dec. 28, 1973, July 16, 1976.	Do.
Schoharie	Esperance, village of	361542B	July 27, 1976, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	Jan. 24, 1975, Jan. 30, 1976.	Do.
Oswego	Granby, town of	360650B	June 30, 1975, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	May 3, 1974	Do.
Do	Scriba, town of	360663B	Sept. 15, 1975, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	July 19, 1974, Aug. 6, 1976.	Do.
Texas: Wharton	Wharton, city of	480654C	June 11, 1974, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	June 11, 1974, July 19, 1977, July 3, 1979.	Do.
Virginia: Sussex	Stony Creek, town of	510159C	Apr. 9, 1974, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	Aug. 9, 1974, Apr. 30, 1976, Mar. 16, 1979.	Do.
New Mexico: Valencia	Belen, city of	350088B	June 23, 1975, emergency, Sept. 16, 1982, regular, Sept. 16, 1982, suspended.	June 7, 1974, Apr. 2, 1976.	Do.
Alaska: Wrangell-Petersburg Division.	Petersburg, city of	020074C	July 25, 1975, emergency, June 1, 1982, regular, Sept. 16, 1982, suspended.	June 14, 1974, Feb. 4, 1977.	Do.
Oregon: Josephine	Cave Junction, city of	410107B	May 13, 1975, emergency, June 10, 1980, regular, Sept. 16, 1982, suspended.	NSFHA	Do.
Alaska: Sitka Division	Sitka, city and borough of	020006B	Nov. 8, 1974, emergency, June 1, 1982, regular, Sept. 16, 1982, suspended.	June 28, 1974, Sept. 12, 1975.	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: September 1, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25788 Filed 9-17-82; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 33, 75, 94, 160, 180, and 192

[CGD 79–167]

Life Floats and Buoyant Apparatus; Requirements for Painters With Float-Free Links and Other Changes

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: These regulations require life floats and buoyant apparatus on tank vessels, passenger vessels, cargo and miscellaneous vessels, small passenger vessels, and oceanographic vessels to be secured to the vessel by means of a painter and a float-free link. A new specification regulation is included for the float-free link, and the specification regulations for life floats and buoyant apparatus have been revised to require that each new life float and buoyant apparatus be equipped with a painter attachment fitting. These regulations are intended to prevent life floats and buoyant apparatus from quickly drifting away from a vessel casualty. The need for this action arises from a vessel casualty in which some loss of life might have been prevented if the buoyant apparatus had not been carried away. In addition, these amendments include revised specification regulations for life floats and buoyant apparatus that require each new life float and buoyant apparatus to be equipped with retroreflective material in order to make it more visible in night searches. A number of other amendments to the specification regulations bring construction methods and documents incorporated by reference up to date.

EFFECTIVE DATES: (a) The amendments affecting Subparts 160.010, 160.027, and 160.073 become effective on March 20, 1983.

(b) The remainder of the amendments affecting Parts 33, 75, 94, 180, and 192 become effective on September 20, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Markle, Office of Merchant Marine Safety (G–MVI–3/12), Department of Transportation, U.S. Coast Guard Headquarters, Washington, DC 20593, (202) 426–1444.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** of October 8, 1981 (46 FR 49914). The comment period on that proposal (CGD 79–167) ended on January 6, 1982. A total of 39 comments were received from 14 parties.

Drafting Information

The principal persons involved in drafting these regulations are: Mr. Robert Markle, Office of Merchant Marine Safety, and Mr. Michael Mervin, Office of the Chief Counsel.

Discussion of Comments on Painters and Float-Free Links for Life Floats and Buoyant Apparatus

The National Transportation Safety Board (NTSB) commented that the proposal was consistent with its Safety Recommendation M–79–7. This recommendation was based on the NTSB analysis of the capsizing of the Dixie Lee II.

Five comments including those from two vessel operators and three groups of vessel operators, were generally negative, stating that it had no practical value, that the proposal should be withdrawn, and that the capsizing of the Dixie Lee II was a single unusual occurrence that should not be the basis for a regulation change. Although the NTSB recommendations were specific only to the accident involving the Dixie Lee II, the Coast Guard examined three other accidents that had been the subject of formal investigation. It was evident that in two of those three cases the apparatus quickly floated away from the scene of the accident as it had in the case of the Dixie Lee II ("apparatus" refers to both life floats and buoyant apparatus throughout this discussion). It was also evident that the apparatus did not provide a satisfactory level or protection from hypothermia (exposure). The best solution to these shortcomings would be to require inflatable liferafts on the small passenger vessels and other vessels affected by these regulations. These rafts should be provided in sufficient numbers to accommodate all persons on board the vessel, plus additional rafts in reserve. The rafts would be secured to the vessel by the standard painter and float-free link arrangement. The Coast Guard rejected this solution as being too costly to apply to all classes of affected vessels, and instead proposed that the same painter and float-free link arrangement be used for the existing apparatus. In this way the problem of apparatus floating away from the scene of an accident could be rectified at minimum cost. (The question of requiring inflatable liferafts for specific classes of vessels may be considered at a later date.)

Eight comments expressed some concern about the use of float-free links. They included statements to the effect that the float-free link could deteriorate and break at some load other than the design load resulting in loss of the apparatus, that the link results in the apparatus floating away anyway, that the link on the apparatus would allow it to break away if the apparatus was towed alongside, that the link should be located at the vessel end of the painter rather than at the apparatus end, and that the link would be unnecessary on vessels restricted to waters of 100 ft. depth or less.

The proposal would have required the link to be located between the apparatus and the painter so that if the painter became fouled on the sinking vessel, the link would allow the apparatus to break free. The comments that noted the disadvantages of this arrangement are correct. The primary purpose of the painter is to hold the apparatus alongside while the vessel is still afloat. If the float-free link is on the apparatus, forces from wind and waves could cause the link to part resulting in the loss of the apparatus. If the link were attached between the vessel and the painter, the apparatus could be held alongside with the painter tied off beyond the link so that the apparatus would not be lost. This would still allow the apparatus to float free in the event that the vessel sinks. In considering these comments, the proposed rules were compared to the requirements for inflatable liferafts which are also secured to the vessel with a painter and a float-free link. These rafts once had the float-free link at the raft end of the painter, and it was found that rafts were

frequently carried away by wind and waves. Consequently, the float-free link was moved to a point between the vessel and the painter. These regulations have therefore been revised to locate the float-free link between the vessel and the painter rather than between the painter and the apparatus.

The comment that stated that the float-free link was unnecessary in waters of depth less than the 100 ft. painter length is also correct. The regulations have been revised to allow the float-free link to be omitted for those vessels operating solely in waters that are not as deep as the length of the painter.

There were a number of comments concerning the 30 m (100 ft.) long painter. Five comments pointed out that it was too long. Disadvantages noted included lack of space for that much 2 in. circumference line, and the possibility that multiple painters would foul on vessels with more than one apparatus. Another comment recommended that 200 or 250 ft. of painter should be provided. Two comments suggested that smaller sized synthetic rope should be permitted, and one of these suggested that the size of the rope could be determined by the size of the apparatus that it has to handle. In order to evaluate these comments, the proposed apparatus painter requirements were compared to the painter requirements for inflatable liferafts, since both painters perform a similar function. These requirements are in § 160.051–7(b)(8) of Title 46 of the Code of Federal Regulations. The rafts are required to have a painter at least 100 ft. long of nylon or equivalent material with a breaking strength of at least 3,000 lb. for rafts of 10 persons or more capacity, and 1,500 lb. for rafts of less than 10 persons capacity. On the basis of this comparison and the analysis originally done for the proposal, it was concluded that 30 m (100 ft.) is the appropriate minimum length for the painter. As written, the proposal allowed the use of synthetic rope materials, but the term "plastic" was used which may have been misleading. The term "plastic" has been changed to "synthetic" to be consistent with common terminology used in connection with cordage. The proposal would have required the painter to have a breaking strength of 17 kN (3,800 lb.). This represented no change in the strength of the painter as compared to the previous requirements, however, this is almost 10 times stronger than the required strength of the largest float-free link. The required strength of the painter was therefore revised to be similar to the requirement for inflatable liferafts. The painter is required to have a breaking strength of a least 6.7 kN (1,500 lb.), except that if the capacity of the apparatus is 50 persons or more, the required breaking strength is 13.4 kN (3,000 lb.). (The buoyant force of a 50 person apparatus is comparable to the buoyant force of a 10 person inflatable liferaft.) The substantial reduction in the breaking strength of the painter will result in a significantly smaller painter, thereby reducing the problem of stowage space and reducing the economic impact of the rule. Finally, in order to reduce the problem of fouling of multiple painters, the rule was revised to allow the apparatus to be grouped and secured to the vessel by a single painter, provided that the weight of the group does not exceed 185 kg (400 lb.). The size of the painter and float-free link would be based on the combined capacity of the group of apparatus.

Discussion of Comments on the Float-Free Link Specification Regulation

One comment was received relative to the float-free link specification regulation. This comment was that its 1800 N (400 lb.) breaking strength is too high for a 25 person apparatus. An 1800 N (400 lb.) to 2400 N (536 lb.) strength link is required for apparatus of 21 persons or more capacity. The minimum buoyancy of an apparatus in this group is 3045 N (672 lb.), so there is no problem with the apparatus having sufficient buoyancy to break the link. Therefore, no change was made as a result of this comment.

Discussion of Comments on the Buoyant Apparatus and Life Float Specification Regulations

Four comments expressed general support for the revised buoyant apparatus and life float specification regulations, or supported a particular part of them without objecting to any other part.

Two comments noted that if the apparatus was supporting a large number of persons in the water, the retroreflective material on the apparatus could be obscured. One of the comments, from a manufacturer of retroreflective material, suggested that more material be applied. No change has been made as a result of these comments. The amount and placement of retroreflective material conforms with Resolution A.274(VIII) of the Intergovernmental Maritime Consultative Organization (IMCO). It will provide about the same or slightly more area of retroreflective material above the waterline than a life preserver equipped with this material. Accordingly, it will be visible at roughly the same distance. Furthermore, if a large number of people are gathered around an apparatus, it is probable that one or more of those people will have a life preserver equipped with retroreflective material. Therefore, it is concluded that a group of survivors gathered around an apparatus will be able to be spotted under night search conditions whether or not the retroreflective material on the apparatus is obscured.

A manufacturer of retroreflective material suggested that the material should be retrofitted to apparatus in service, not just applied to new apparatus. This suggestion has not been adopted. The addition of retroreflective material is not one of the primary regulatory objectives growing out of the casualty investigations. By phasing in retroreflective material on new life floats and buoyant apparatus, an estimated $95,000 retrofit cost is saved, and the retroreflective material can be applied under the manufacturer's production control. This will make sure that the material is applied under the optimum environmental conditions and that the materials used are compatible. It is expected that retroreflective material applied in this way will last for the life of the device. Nothing in the regulations prohibits the retrofit of retroreflective material on existing apparatus, if desired.

One comment suggested that the retroreflective material should be 100 mm (4 in.) wide and of shorter length, rather than a continuous strip 50 mm (2 in.) wide. The comment stated that this would result in a brighter reflected light. This comment has not been adopted. In a number of nighttime tests, it has been found that the brightness of light reflected from retroreflective material depends on the area of the material provided and not its shape. Therefore, wider and shorter material having the same area would not result in a brighter reflected light.

One comment questioned the need for a painter attachment fitting on the apparatus, and stated that the painter could be attached directly to the apparatus. The requirement for the painter attachment fitting was not changed because the manufacturer of the device should determine how and where the painter should be attached since this connection is used to break the float-free link. The connection point needs to be strong enough to break the link and must be designed in such a way that the apparatus is not damaged when tension is applied to the painter.

Final Evaluation

One comment stated that the draft evaluation underestimated the economic impact of the proposed rules primarily because the labor time estimated to be needed to make the changes was too low. In fact, the draft evaluation did not take any labor time requirements into account, except for the time required to fabricate the float-free link, which was estimated at about ten minutes. The reason for not including the time to attach the painter and the float-free link to the apparatus was that it is expected to be negligible, in that it would be done in the course of preparing the vessel for a season of operation, or in the case of a vessel not in seasonal operation, it would be done in the course of a regular examination of the equipment. This was considered reasonable since a one year period is being provided to comply with these rules, and such an outfitting or inspection should take place at least once during the one-year period. The comment estimated that just to move the float, splice or replace the painter, and restow would require 10 hours. This does not appear to be a realistic estimate. Although an extremely inefficient worker might take that long, it is not representative of the level of effort required to complete these relatively simple tasks.

A Final Evaluation has been prepared for these regulations in accordance with the Department of Transportation's Order on Regulatory Policies and Procedures. That order (DOT 2100.5, 5/22/80, 44 FR 11034, February 26, 1979 as amended by 44 FR 28126, May 14, 1979) requires that the evaluation quantify, to the maximum extent practicable, the estimated cost of the regulations to the private sector, consumers, and federal, state and local governments, as well as the anticipated benefits and impact of the regulations. The Final Evaluation also includes the Environmental Assessment required by the National Environmental Policy Act of 1969 (Pub. L. 91–190). This proposed rule making has also been evaluated under Executive Order 12291 ("Federal Regulation," February 17, 1981, 46 FR 13193, February 19, 1981), and has been determined not to be a "major rule" as defined in that order since the annual effect on the economy would be less than $100 million and no major increase in prices will result.

These regulations are expected to affect approximately 5000 small vessels having an average of two life floats or buoyant apparatus each. This would result in an initial cost of about $150,000 and a recurring annual cost of about $30,000. This is a reduction from the $175,000 initial cost and $35,000 annual cost estimated in the draft evaluation. The reductions result from the change in the painter strength requirement in the final rule, which allows the use of a smaller and therefore less expensive painter. These costs will be imposed directly on the private sector (the manufacturers of life floats and buoyant apparatus, and operators of affected vessels). The manufacturers and operators are expected to pass the costs through to the ultimate consumers of affected maritime services in the form of price increases. However, because of the low overall cost of the proposal, increases in individual prices will be negligible. The average initial cost of these proposed regulations would be about $30 for each affected vessel, with an average annual upkeep or replacement cost of approximately $6. There is no effect on federal, state, and local governments except in their capacities as users of life floats and buoyant apparatus and as consumers of maritime services. Implementation and enforcement of these rules would be accomplished within the scope of current Coast Guard marine safety activities, so that there will not be any need for additional federal budget commitments.

The primary benefit identified for the proposal is improvement of the effectiveness of life floats and buoyant apparatus by preventing them from floating away from the scene of a vessel casualty. Because of the low number of affected vessels, there is no valid statistical basis for predicting the number of lives that might be saved by these regulations. In order to determine the potential benefit of the regulations, four small passenger vessel casualties involving loss of life were reviewed. These casualties occurred between 1973 and 1977 and were formally investigated by the Coast Guard. Three were investigated by the National Transportation Safety Board. In three of the four cases, the apparatus drifted away from the scene of the casualty and could not be used by some or all of the persons on board the vessel. Since those that died in these casualties apparently did not have access to a means of floatation, availability of apparatus could have prevented some of the loss of life. These regulations are intended to prevent the apparatus from quickly drifting away so that they will be available to persons in the water.

Under the Regulatory flexibility Act (Pub. L. 96–354), it is certified that this rule will not have a significant economic impact on a substantial number of small entities. The small entities that are affected by the rule are primarily the owner-operators of tour, fishing, and charter boat businesses. As stated above, the costs are minimal and not a significant impact on any operator. Many life float and buoyant apparatus manufacturers are small businesses. This proposed rule making would add about $12.50 to the cost of each device produced. The average price of these devices at retail is about $500. The added cost would not be a significant impact on these producers.

List of Subjects

46 CFR Part 33

Barges, Marine safety, Tank vessels.

46 CFR Parts 75 and 180

Marine safety, Passenger vessels.

46 CFR Part 94

Cargo vessels, Marine safety.

46 CFR Part 160

Marine safety.

46 CFR Part 192

Marine safety, Oceanographic vessels.

In consideration of the foregoing, Chapter I of Title 46 of the Code of Federal Regulations is amended as set forth below.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

July 6, 1982.

SUBCHAPTER D—TANK VESSELS

PART 33—LIFESAVING EQUIPMENT

1. By adding § 33.20–25 to the table of contents for Part 33 as follows:

* * * * *

Subpart 33.20—Stowage of Lifeboats, Liferafts, and Buoyant Apparatus

* * * * *

33.20–25 Stowage of buoyant apparatus—TB/LBR.

* * * * *

2. By revising Table 33.15–15(a) to read as follows:

§ 33.15–15 Required equipment for rigid type liferafts and buoyant apparatus—TB/LBR.

* * * * *

TABLE 33.15–15(A)

Letter identification	Item	Liferaft		Buoyant apparatus—All waters
		Great Lakes	Lakes, bays, sounds, rivers	
a	Boathook	1	1	None
b	Lifeline	[1] 1	[1] 1	[1] 1
c	Matches (boxes)	1	None	None
d	Oars (units)	[2] 1	[2] 1	None

TABLE 33.15-15(A)—Continued

Letter identification	Item	Liferaft		Buoyant apparatus—All waters
		Great Lakes	Lakes, bays, sounds, rivers	
e	Oil, storm (gallons).	1	None	None
f	Painter	1	1	[3] 1
g	Rowlocks (units)	[2] 1	[2] 1	None
h	Sea anchor	1	None	None
i	Signals, distress (units).	[2] 1	None	None
j	Water light	1	None	[4] [5] 1

[1] Not required on Type A liferafts.
[2] For description of unit see Section 33.15-20.
[3] See § 33.20-25(a)(3).
[4] Not required on buoyant apparatus for less than 25 persons.
[5] Applies to ocean, coastwise and Great Lakes routes.

(46 U.S.C. 391a; 49 CFR 1.46)

3. By revising § 33.15-20(f) to read as follows:

§ 33.15-20 Description of equipment for liferafts and buoyant apparatus—TB/LBR.

* * * * *

(f) *Painter.* Liferaft painters must be of manila rope not less than 69mm (2-3¼ in.) in circumference, or equivalent, and of a length not less than 3 times the distance between the deck on which the liferafts are stowed and the light draft of the vessel. Painters for buoyant apparatus are described in § 33.20-25(a)(3).

(46 U.S.C. 391a; 49 CFR 1.46)

4. By revising §33.20-20 as follows:

§ 33.20-20 Hydraulic releases—TB/ALL.

Each hydraulic release used in the installation of any liferaft, inflatable liferaft, or buoyant apparatus must meet Subpart 160.062 of this chapter.

(46 U.S.C. 91a; 49 CFR 1.46)

5. By adding a new § 33.20-25 to read as follows:

§ 33.20-25 Stowage of buoyant apparatus—TB/LBR.

(a) Each buoyant apparatus must be secured to the vessel by a painter and a float-free link.

(1) The float-free link must be—

(i) Certified to meet Subpart 160.073 of this chapter,

(ii) Of proper strength for the size of the buoyant apparatus as indicated on its identification tag, and

(iii) Secured to the painter at one end and secured to the vessel on the other end.

(2) The means by which the float-free link is attached to the vessel must—

(i) Have a breaking strength of at least the breaking strength of the painter,

(ii) If synthetic, be of a dark color or of a type certified to be resistant to deterioration from ultraviolet light, and

(iii) If metal, be corrosion resistant.

(3) The painter must—

(i) Be at least 30 m (100 ft.) long,

(ii) Have a breaking strength of at least 6.7 kN (1500 lb.), except that if the capacity of the buoyant apparatus is 50 persons or more, the breaking strength must be at least 13.4 kN (3000 lb.),

(iii) If synthetic, be of a dark color or be of a type certified to be resistant to deterioration from ultraviolet light, and

(iv) Be stowed in such a way that it runs out freely when the buoyant apparatus floats away from the sinking vessel.

(4) If the buoyant apparatus does not have a painter attachment fitting, a means for attaching the painter must be provided by a wire or line that—

(i) Encircles the body of the device,

(ii) Will not slip off,

(iii) Has a breaking strength that is at least the breaking strength of the painter, and

(iv) If synthetic, is of a dark color or is of a type certified to be resistant to deterioration from ultraviolet light.

(b) The float-free link described in paragraphs (a)(1) and (a)(2) of this section is not required if the vessel operates solely in waters which have a depth less than the length of the painter.

(c) If the vessel carries more than one buoyant apparatus, the buoyant apparatus may be grouped and each group secured by a single painter, *Provided,* That—

(1) The combined weight of each group of buoyant apparatus does not exceed 185 kg (400 lb.),

(2) Each buoyant apparatus is individually attached to the painter by a line that meets paragraphs (a)(3)(ii) and (a)(3) (iii) of this section and which is long enough so that each buoyant apparatus can float without contacting any other buoyant apparatus in the group, and

(3) The strength of the float-free link under paragraph (a)(1)(ii) of this section and the strength of the painter under paragraph (a)(3)(ii) of this section is determined by the combined capacity of the group of buoyant apparatus.

(46 U.S.C. 391a, 49 CFR 1.46)

SUBCHAPTER H—PASSENGER VESSELS

PART 75—LIFESAVING EQUIPMENT

6. By revising § 75.15-10(d) and -10(e) to read as follows:

§ 75.15-10 Stowage.

* * * * *

(d) Each life float and buoyant apparatus must be secured to the vessel by a painter and a float-free link.

(1) The float-free link must be—

(i) Certified to meet Subpart 160.073 of this Chapter,

(ii) Of proper strength for the size of the life float or buoyant apparatus as indicated on its identification tag, and

(iii) Secured to the painter at one end and secured to the vessel on the other end.

(2) The means by which the float-free link is attached to the vessel must—

(i) Have a breaking strength of at least the breaking strength of the painter,

(ii) If synthetic, be of a dark color or of a type certified to be resistant to deterioration from ultraviolet light, and

(iii) If metal, be corrosion resistant.

(3) If the life float or buoyant apparatus does not have a painter attachment fitting, a means for attaching the painter must be provided by a wire or line that—

(i) Encircles the body of the device,

(ii) Will not slip off,

(iii) Has a breaking strength that is at least the breaking strength of the painter, and

(iv) If synthetic, is of a dark color or is of a type certified to be resistant to deterioration from ultraviolet light.

(4) The float-free link described in paragraphs (d)(1) and (d)(2) of this section is not required if the vessel operates solely in waters which have a depth less than the length of the painter.

(5) If the vessel carries more than one life float or buoyant apparatus, the life floats and buoyant apparatus may be grouped and each group secured by a single painter, provided that—

(i) The combined weight of each group of life floats and buoyant apparatus does not exceed 185 kg (400 lb.),

(ii) Each life float and buoyant apparatus is individually attached to the painter by a line that meets §§ 75.20-35 (d)(2) and (d)(3) and which is long enough so that each can float without contacting any other life float or buoyant apparatus in the group, and

(iii) The strength of the float-free link under paragraph (d)(1)(ii) of this section and the strength of the painter under § 75.20-35(d)(2) is determined by the combined capacity of the group of life floats and buoyant apparatus.

(6) Stowing of life floats and buoyant apparatus must allow easy launching. Life floats and buoyant apparatus over 185 kg (400 lb.) must not require lifting before launching.

(7) Life floats and buoyant apparatus must not be secured to the vessel except by the painter and by lashings which can be easily released or hydraulic releases. They must not be stowed in more than four tiers. When stowed in tiers, the separate units must be kept apart by spacers.

(8) There must be means to prevent shifting.

(e) Each hydraulic release used in the installation of any life raft, inflatable life raft, life float, or buoyant apparatus must meet Subpart 160.062 of this chapter.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

7. By revising § 75.20–35(d) as follows:

§ 75.20–35 Description of equipment for life floats and buoyant apparatus.

* * * * *

(d) *Painter.* The painter must—

(1) Be at least 30 m (100 ft.) long, but not less than 3 times the distance between the deck on which the life floats and buoyant apparatus are stowed and the light draft of the vessel.

(2) Have a breaking strength of at least 6.7 kN (1500 lb.), except that if the capacity of the life float or buoyant apparatus is 50 persons or more, the breaking strength must be at least 13.4 kN (3000 lb.),

(3) Be of a dark color if synthetic, or of a type certified to be resistant to deterioration from ultraviolet light, and

(4) Be stowed in such a way that it runs out freely when the life float or buoyant apparatus floats away from the sinking vessel.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

SUBCHAPTER I—CARGO AND MISCELLANEOUS VESSELS

PART 94—LIFESAVING EQUIPMENT

8. By revising § 94.15–10(d) and –10(e) to read as follows:

§ 94.15–10 Stowage.

(d) *Life float and buoyant apparatus stowage.* Each life float and buoyant apparatus must be secured to the vessel by a painter and a float-free link.

(1) The float-free link must be—

(i) Certified to meet Subpart 160.073 of this Chapter,

(ii) Of proper strength for the size of the life float or buoyant apparatus as indicated on its identification tag, and

(iii) Secured to the painter at one end and secured to the vessel on the other end.

(2) The means by which the float-free link is attached to the vessel must—

(i) Have a breaking strength of at least the breaking strength of the painter,

(ii) If synthetic, be of a dark color or of a type certified to be resistant to deterioration from ultraviolet light, and

(iii) If metal, be corrosion resistant.

(3) If the life float or buoyant apparatus does not have a painter attachment fitting, a means for attaching the painter must be provided by a wire or line that—

(i) Encircles the body of the device,

(ii) Will not slip off,

(iii) Has a breaking strength that is at least the breaking strength of the painter, and

(iv) If synthetic, is of a dark color or is of a type certified to be resistant to deterioration from ultraviolet light.

(4) The float-free link described in paragraphs (d)(1) and (d)(2) of this section is not required if the vessel operates solely in waters which have a depth less than the length of the painter.

(5) If the vessel carries more than one life float or buoyant apparatus, the life floats and buoyant apparatus may be grouped and each group secured by a single painter, provided that—

(i) The combined weight of each group of life floats and buoyant apparatus does not exceed 185 kg (400 lb.),

(ii) Each life float and buoyant apparatus is individually attached to the painter by a line that meets §§ 94.20–35 (d)(2) and (d)(3) and which is long enough so that each can float without contacting any other life float or buoyant apparatus in the group, and

(iii) The strength of the float-free link under paragraph (d)(1)(ii) of this section and the strength of the painter under § 94.20–35(d)(2) is determined by the combined capacity of the group of life floats and buoyant apparatus.

(6) Stowing of life floats and buoyant apparatus must allow easy launching. Life floats and buoyant apparatus over 185 kg (400 lb.) must not require lifting before launching.

(7) Life floats and buoyant apparatus must not be secured to the vessel except by the painter and by lashings which can be easily released or hydraulic releases. They must not be stowed in more than four tiers. When stowed in tiers, the separate units must be kept apart by spacers.

(8) There must be means to prevent shifting.

(e) Each hydraulic release used in the installation of any life raft, inflatable life raft, life float, or buoyant apparatus must meet Subpart 160.062 of this Chapter.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

9. By revising § 94.20–35(d) as follows:

§ 94.20–35 Description of equipment for life floats and buoyant apparatus.

* * * * *

(d) *Painter.* The painter must—

(1) Be at least 30 m (100 ft.) long, but not less than 3 times the distance between the deck on which the life floats and buoyant apparatus are stowed and the light draft of the vessel,

(2) Have a breaking strength of at least 6.7 kN (1500 lb.), except that if the capacity of the life float or buoyant apparatus is 50 persons or more, the breaking strength must be at least 13.4 kN (3000 lb.),

(3) Be of a dark color if synthetic, or of a type certified to be resistant to deterioration from ultraviolet light, and

(4) Be stowed in such a way that it runs out freely when the life float or buoyant apparatus floats away from the sinking vessel.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

SUBCHAPTER Q—EQUIPMENT, CONSTRUCTION AND MATERIALS: SPECIFICATIONS AND APPROVAL

PART 160—LIFESAVING EQUIPMENT

10. By revising Subpart 160.010 to read as follows:

Subpart 160.010—Buoyant Apparatus for Merchant Vessels

Sec.

160.010–1 Incorporations by reference.
160.010–2 Definitions.
160.010–3 General requirements for buoyant apparatus.
160.010–4 Buoyant apparatus with plastic foam buoyancy.
160.010–6 Capacity of buoyant apparatus.
160.010–7 Methods of sampling, inspections and tests.
160.010–8 Nameplate and marking.
160.010–9 Procedure for approval.
160.010–10 Independent laboratory.

Authority: 46 U.S.C. 481; 49 U.S.C. 1655(b); 49 CFR 1.46.

Subpart 160.010—Buoyant Apparatus for Merchant Vessels

§ 160.010–1 Incorporations by reference.

(a) Certain materials are incorporated by reference into this subpart with the approval of the Director of the Federal Register. The Office of the Federal Register publishes a table, "Material Approved for Incorporation by Reference," which appears in the Finding Aids section of this volume. In that table is found the date of the edition approved, citations to the particular sections of this part where the material is incorporated, addresses where the material is available, and the date of the approval by the Director of the Federal Register. To enforce any edition other than the one listed in the table, notice of change must be published in the **Federal Register** and the material made available. All approved material is on file at the Office of the Federal Register, Washington, DC 20408, and at the U.S. Coast Guard, Survival Systems Branch (G–MVI–3), Washington, DC 20593.

(b) The materials approved for incorporation by reference in this subpart are:

National Bureau of Standards (NBS)

"The Universal Color Language" and "The Color Names Dictionary" in *Color: Universal Language and Dictionary of Names*, National Bureau of Standards Special Publication 440.

Military Specifications

MIL–P–19644 C—Plastic Molding Material (Polystyrene Foam, Expanded Bead).

MIL–R–21607 C—Resins, Polyester, Low Pressure Laminating, Fire Retardant.

MIL–P–21929 B—Plastic Material, Cellular Polyurethane, Foam-In-Place, Rigid (2 and 4 Pounds per Cubic Foot).

MIL–P–40619 A—Plastic Material, Cellular, Polystyrene (For Buoyancy Applications).

§ 160.010–2 Definitions.

(a) *Buoyant apparatus.* Buoyant apparatus is flotation equipment (other than lifeboats, liferafts, and personal flotation devices) designed to support a specified number of persons in the water, and of such construction that it retains its shape and properties and requires no adjustment or preparation for use. The types of buoyant apparatus generally in use are the box-float type and the peripheral-body type defined in paragraphs (b) and (c) of this section.

(b) *Box-float.* Box-float is buoyant apparatus of a box-like shape.

(c) *Commandant (G–MVI–3).* Commandant (G–MVI–3) is the Chief of the Survival Systems Branch, U.S. Coast Guard Office of Merchant Marine Safety.

(d) *Peripheral-body.* Peripheral body is buoyant apparatus with a continuous body in the shape of either an ellipse or rectangle with a circular, elliptical, or rectangular body cross-section.

§ 160.010–3 General requirements for buoyant apparatus.

(a) Each buoyant apparatus must be capable of passing the tests in § 160.010–7.

(b) Materials not covered in this subpart must be of good quality and suitable for the purpose intended.

(c) Buoyant apparatus must be effective and stable, floating either side up.

(d) Each buoyant apparatus must be of such size and strength that it can be handled without the use of mechanical appliances, and its weight must not exceed 185 kg (400 lb.).

(e) The buoyant material must be as near as possible to the sides of the apparatus.

(f) Each buoyant apparatus must have a life line securely attached around the outside, festooned in bights no longer than 1 m (3 ft.), with a seine float in each bight, unless the line is of an inherently buoyant material and absorbs little or no water. The life line must be at least 10 mm (⅜ in.) diameter and have a breaking strength of at least 5400 N (1215 lb.).

(g) Pendants must be fitted approximately 450 mm (18 in.) apart around the outside of each buoyant apparatus. Each pendant must be at least 6 mm (¼ in.) diameter, at least 3.5 m (12 ft.) long, secured in the middle, and have a breaking strength of at least 2400 N (540 lb.). Each pendant must be made up in a hank, and the hank secured by not more than two turns of light twine.

(h) Each peripheral body type buoyant apparatus without a net or platform on the inside must also have a life line and pendants around the inside.

(i) Synthetic line or webbing must not be used unless it is of a type represented by its manufacturer as ultraviolet light resistant, or it is pigmented in a dark color. A typical method of securing lifelines and pendants to straps of webbing is shown in Figure 160.010–3(i). If webbing is used to secure life lines and pendants, it must be at least 50 mm (2 in.) wide and must have a breaking strength of at least 3.4 kN (750 lb.) for apparatus of under 25 persons capacity, and 6.7 kN (1,500 lb.) for apparatus of 25 persons capacity and higher.

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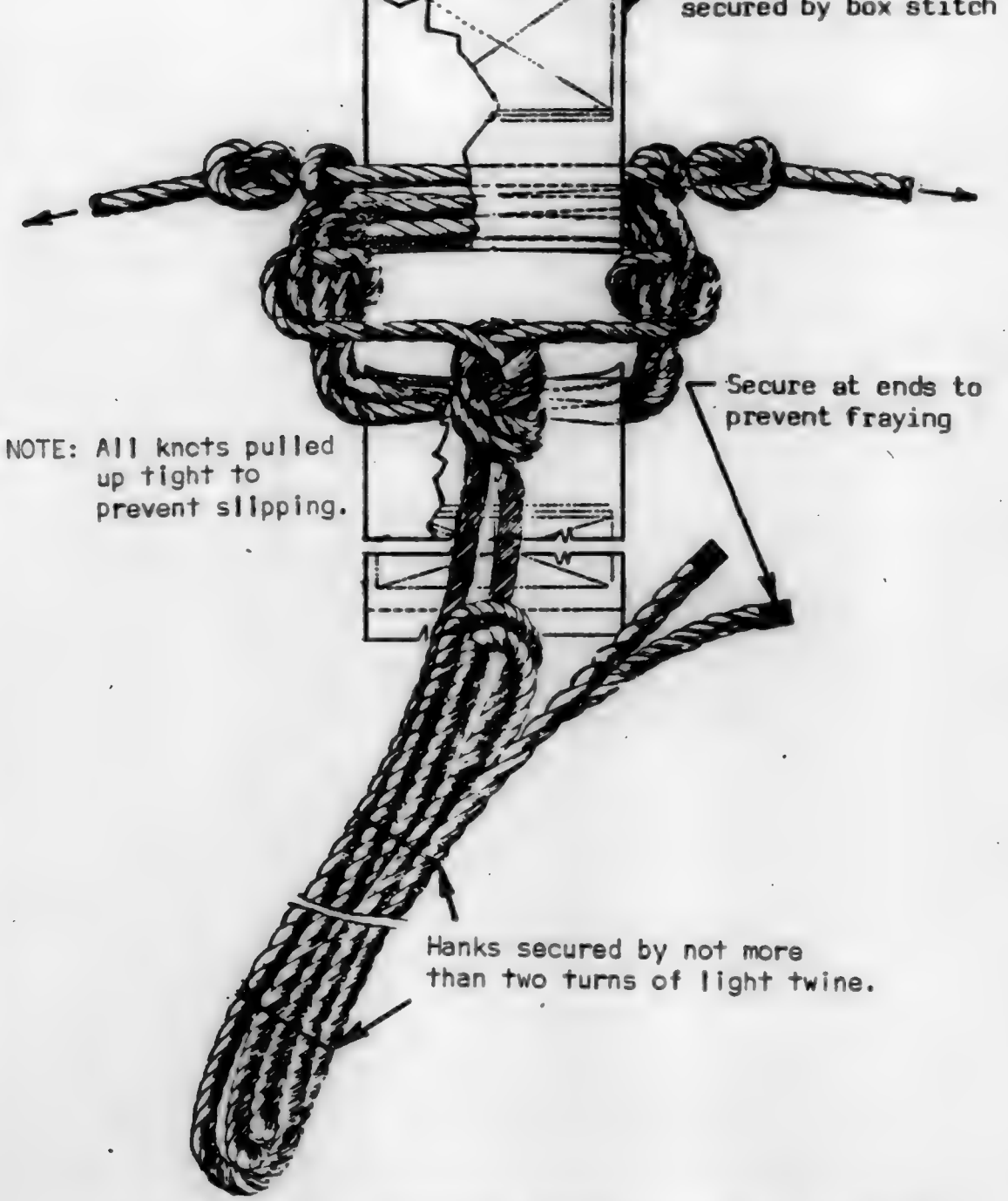


Figure 160.010-3(i)-Acceptable method of rigging a pendant.

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(j) Buoyant apparatus must have a fitting with an inside diameter of at least 50 mm (2 in.) for the attachment of a painter.

(k) Each edge and exposed corner must be well rounded. Buoyant apparatus with a rectangular cross-section must have corners rounded to a radius of at least 75 mm (3 in.).

(l) Buoyant apparatus must not have any evident defects in workmanship.

(m) Each metal part of a buoyant apparatus must be—

(1) 410 stainless steel or have salt water and salt air corrosion characteristics equal or superior to 410 stainless steel; and

(2) Galvanically compatible with each other metal part in contact with it.

(n) The color of the buoyant apparatus must be primarily vivid reddish orange as defined by Sections 13 and 14 of the "Color Names Dictionary."

(o) When fibrous-glass-reinforced plastic is used in the construction of a buoyant apparatus, each cut edge of laminate must be protected from entry of moisture by resin putty or an equivalent method.

(p) Each buoyant apparatus must have Type II retroreflective material meeting subpart 164.018 of this chapter on each side and end. The material must be in strips at least 50 mm (2 in.) wide extending from top to bottom over the side or end and continuing over the top and bottom surfaces of the apparatus. For peripheral body apparatus, each strip must extend completely over the top and bottom surface of the body. For box type apparatus, the strip must extend at least 300 mm (12 in.) inboard from the edge over the top and bottom surface. Each strip must be positioned near the center of the side or end, but so that it is not obscured by any strap. A typical arrangement is shown in Figure 160.010–3(p).

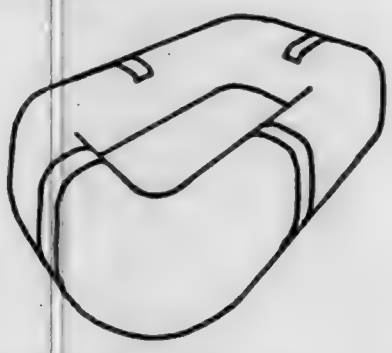


Figure 160.010-3(p)-Typical arrangement of retroreflective material (body fittings omitted).

§ 160.010–4 Buoyant apparatus with plastic foam buoyancy.

(a) Buoyant apparatus with plastic foam buoyancy must have a plastic foam body with an external protective covering. The body may be reinforced as necessary to meet the tests in § 160.010–7.

(b) Plastic foam used in the construction of buoyant apparatus must be a unicellular type accepted by the Commandant (G–MVI–3) as meeting one of the following:

(1) Subpart 164.015 of this chapter.

(2) MIL–P–19644.

(3) MIL–P–21929.

(4) MIL–P–40619.

(c) The external protective covering must be—

(1) Fibrous-glass-reinforced plastic, constructed of a polyester resin listed on the current Qualified Products List for MIL–P–21607, or accepted by the Commandant (G–MVI–3) as meeting MIL–P–21607;

(2) Elastomeric vinyl accepted by the Commandant (G–MVI–3) as meeting § 160.055–3(j) of this Chapter; or

(3) Any other material accepted by the Commandant (G–MVI–3) as providing equivalent protection for the body of the apparatus.

§ 160.010–6 Capacity of buoyant apparatus.

(a) The number of persons for which a buoyant apparatus is approved must be the lowest number determined by the following methods:

(1) Final buoyancy of the buoyant apparatus in Newtons after the watertight integrity test as described in § 160.010–7(e) and (f), divided by 145 (divided by 32 if buoyancy is measured in pounds). The divisor must be changed to 180 (40 if buoyancy is measured in pounds) if the apparatus is designed so that persons supported are only partially immersed or where facilities are provided for climbing on top of the apparatus.

(2) Number of 300 mm (1 ft.) increments in the outside perimeter of the buoyant apparatus. The inside edge of peripheral-body type buoyant apparatus is not considered in determining the capacity.

§ 160.010–7 Methods of sampling, inspections and tests.

(a) *General.* Production tests must be conducted under the procedures in Subpart 159.007 of this chapter. An inspector from the independent laboratory must inspect the place of manufacture, observe the various operations involved in the construction process and determine that buoyant apparatus are made in accordance with this subpart and of materials and parts conforming strictly with the plans and specifications submitted by the manufacturer and approved by the Commandant (G–MVI–3).

(b) *Sampling of production lots.* A production lot must consist of not more than 300 buoyant apparatus of the same design and capacity manufactured by one factory. Samples for production tests must be selected at random from each lot. The required sample size for various lot sizes is given in Table 160.010–7(b).

TABLE 160.010–7(b)—SAMPLE SIZE FOR VARIOUS LOT SIZES

Lot size	Sample size
1 to 30	1
31 to 60	2
61 to 90	3
91 to 300	4

(c) *Testing of sample buoyant apparatus from production lots.* Each sample buoyant apparatus selected for test from a production lot must be subjected to the tests described in paragraphs (d) through (g) of this section. The stability test in paragraph (h) must be performed whenever a question of stability arises.

(d) *Strength tests.* The buoyant apparatus tested for approval must be subjected to the drop test. Buoyant apparatus tested for production lot inspections must also be subjected to the drop test except that in the case of peripheral body type apparatus, the beam loading test may be substituted.

(1) *Drop test.* Drop the complete sample buoyant apparatus into still water from a height of 18 m (60 ft.) twice, once flat and once endwise. There must be no damage that would render the apparatus unserviceable.

(2) *Beam loading test.* The buoyant apparatus must be stood on edge on one of its longer sides. A wood block 600 mm (24 in.) long and wide enough to cover the body of the apparatus must be centered on the top edge of the apparatus. A loading beam must be set at right angles to the float at a height so that the beam is in a horizontal position with its center on the center of the wood block. The loading beam must be hinged at one end and a load applied at the other end at a uniform rate of 225 kg (500 lb.) per minute until the load at the end of the beam as shown on Table 160.010–7(d)(2) is reached. The beam is then held stationary for 10 minutes. The device used to apply the load must be a chain fall, hydraulic cylinder or other device that allows the device to unload as the strain on the buoyant apparatus relieves. At the end of the 10 minute

period, the drop in the load on the device must not exceed the maximum permissible drop shown in Table 160.010–7(d)(2). If the buoyant apparatus is not one of the sizes listed in the table, the loads must be determined by linear interpolation.

Note.—Because of the lever ratio of the beam loading apparatus described here, the actual loads applied to the apparatus are twice the loads shown in the Table.

TABLE 160.010–7(d)(2).—BEAM LOADING TEST

Size of buoyant apparatus (persons)	Test load (kg (lb.))	Maximum permissible drop (kg (lb.))
50	2,400 (5,280)	120 (264)
40	1,800 (3,960)	90 (198)
25	1,500 (3,300)	75 (165)
15	1,200 (2,640)	60 (132)
10	900 (1,980)	45 (100)

(e) *Buoyancy test.* Known weights are loaded on the sample buoyant apparatus until it is awash. The buoyancy is the downward force exerted by the weights loaded on the apparatus. A raised platform of known weight having two runners on edge spaced so as to bear on the apparatus may be used to support the weights out of water to avoid the necessity for making allowances for the displacement of submerged weights. This test is not a required production test if the manufacturer—

(1) Uses the same plastic buoyancy foam used in previous production lots,

(2) Determines that the density of each batch of foam used is within a range specified on the approved plans, and

(3) Closely controls the amount of foam used in each apparatus.

(f) *Watertight integrity test.* The buoyant apparatus is submerged for 24 hours at a depth of 3 m (10 ft.) or equivalent water pressure. The final buoyancy of the buoyant apparatus is determined in accordance with paragraph (e) of this section. The final buoyancy must be at least 145 N (32 lb.) per person capacity of the buouyant apparatus or 180 N (40 lb.) per person capacity if the apparatus is designed so that persons supported are only partially immersed or if facilities are provided for climbing on top of the apparatus. The loss of buoyancy must not exceed 5 percent of the initial buoyancy. This test is not a required production test if the manufacturer uses the plastic buoyancy foam controls permitted as an alternative to the buoyancy test in paragraph (e) of this section.

(g) *Painter attachment strength test.* The apparatus must be positioned with its painter attachment fitting at the lowest point of the apparatus, directly below the center of buoyancy. The apparatus must be suspended in this position from the highest side. A load equal to twice the buoyancy of the apparatus must be suspended from the painter attachment fitting for 10 minutes. The fitting must remain firmly attached to the buoyant apparatus and the apparatus must not sustain any visible damage.

(h) *Stability test.* With the sample buoyant apparatus floating in water, a weight of 22.5 kg of iron per meter of length (15 lb. per foot) must be suspended in the water from the life lines along one of the longer edges. The same test must be performed along one of the shorter edges. The minimum weight along any one edge must be 27 kg (60 lb.). The buoyant apparatus must neither capsize nor become partially awash under either of these tests.

(i) *Weight test.* One buoyant apparatus of the lot submitted for approval must be weighed. The weight of the complete buoyant apparatus must be within the limit required in § 160.010–3(d).

(j) *Lot acceptance or rejection.* Inability of a sample buoyant apparatus to pass any one or more of the tests required in this section causes rejection of the lot. Each buoyant apparatus in a rejected lot must be reworked by the manufacturer to correct the defects found before the lot is resubmitted for inspection and testing.

§ 160.010–8 Nameplate and marking.

(a) A substantial nameplate must be permanently attached to each buoyant apparatus. The nameplate must contain the name of the manufacturer, lot designation or serial number, approval number, dimensions, and number of persons capacity. Space must be provided for the date, and the identification of the independent laboratory.

(b) The nameplates of buoyant apparatus accepted must be marked with the identification of the independent laboratory and the date.

§ 160.010–9 Procedure for approval.

(a) A buoyant apparatus is approved by the Coast Guard under the procedures in Subpart 159.005 of this chapter.

(b) The test required for approval are those in § 160.010–7, and must be performed on the first production lot of buoyant apparatus produced by the manufacturer.

§ 160.010–10 Independent laboratory.

(a) The approval and production tests in this subpart must be conducted by an independent laboratory accepted by the Coast Guard under Subpart 159.010 of this Chapter.

11. By revising Subpart 160.027 to read as follows:

Subpart 160.027—Life Floats for Merchant Vessels

Sec.

160.027–2 Type.

160.027–3 Additional requirements for life floats.

160.027–7 Pre-approval tests for alternate platform designs.

Authority: 46 U.S.C. 461; 49 U.S.C. 1655(b); 49 CFR 1.46.

Subpart 160.027—Life Floats for Merchant Vessels

§ 160.027–2 Type.

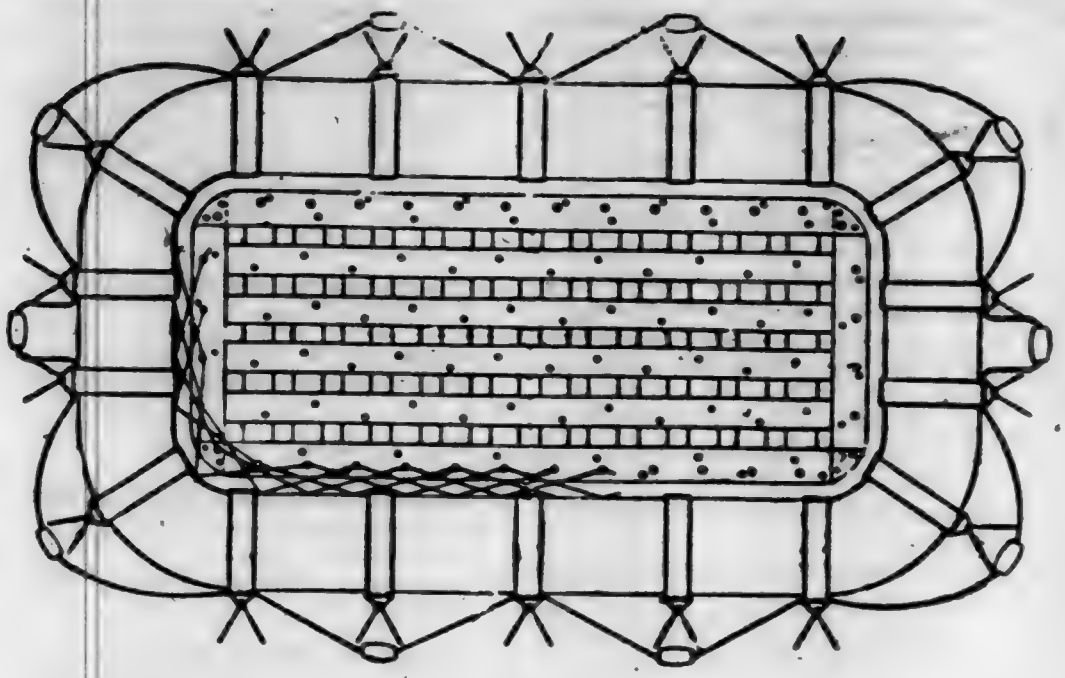
(a) Each life float must meet the requirements in Subpart 160.010 of this chapter for a peripheral body type buoyant apparatus designed so that persons supported are only partially immersed (180 N (40 lb.) of buoyancy per person required).

§ 160.027–3 Additional requirements for life floats.

(a) Each life float must have a platform designed to drop through the center of the float, whichever way the life float is floating. A typical arrangement is shown in Figure 160.027–3(a).

(b) The platform must meet the requirements of one of the following subparagraphs:

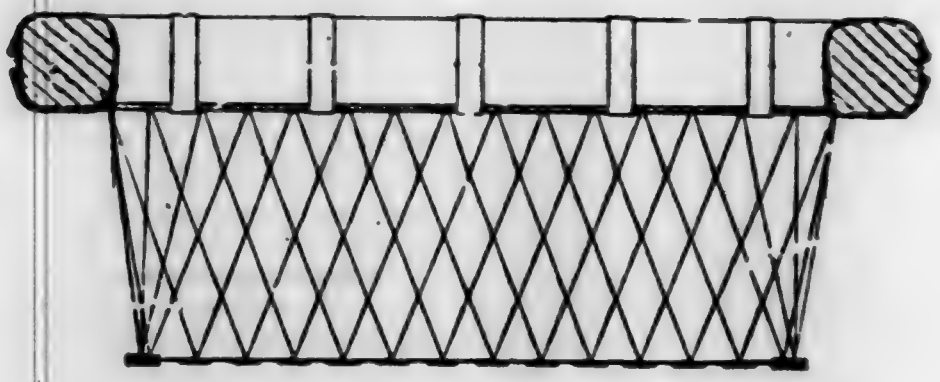
BILLING CODE 4910–14–M



PLAN



PROFILE



SECTION THRU FLOAT

Figure 160.027-3(a) - Typical Life Float.

BILLING CODE 4910-14-C

(1) A lattice type platform must be of western red cedar, port orford cedar, sitka spruce, northern white pine, or southern cypress slats constructed on an oak frame. The slats must have nominal cross-section dimensions not less than 90 mm (3½ in.) by 9.5 mm (⅜ in.). The frame members must have nominal cross-section dimensions not less than 100 mm (4 in.) by 12.5 mm (½ in.). The space between adjacent slats must not exceed the width of the slats. The space between each frame member and the adjacent slat must not exceed twice the width of the slats. The platform must be riveted together at each intersection of—

(i) Frame members,

(ii) Slats, and

(iii) Frame members and slats.

(2) A plywood platform must be made of exterior or marine type plywood with surfaces that are either "A" or "B" grade as commonly designated in the plywood industry. Holes 35 mm (1⅜ in.) to 50 mm (2 in.) in diameter must be drilled through the platform. The number of holes must be at least the number equal to (L–25) (W–25)/225, where L is the length of the platform in cm and W is the width of the platform in cm. (The formula is (L–10)(W–10)/36 where L and W are measured in inches.) The thickness of the plywood must be at least—

(i) 12.5 mm (½ in.) for life floats of 10 persons capacity and under,

(ii) 16 mm (⅝ in.) for life floats between 11 and 25 persons capacity inclusive, and

(iii) 19 mm (¾ in.) for life floats of 26 persons capacity and over.

(3) A platform of construction differing from that described in either (1) or (2) of this paragraph will be approved if it has holes to permit the passage of water and if it passes the tests in § 160.027–7. The number of holes must be the same as required for a plywood platform. If the platform is netting on a frame, the netting must be constructed of cordage with a breaking strength of at least 1600 N (355 lb.). The netting must be constructed on not more than 5 cm (2 in.) centers and must be knotted together at each point where the lines intersect.

(c) Each platform must be of a material that is resistant to deterioration by exposure to weather or must have a surface that protects it from deterioration by exposure to weather. For a wood platform, this surface must be at least two coats of water resistant spar varnish, or two coats of marine paint.

(d) Each part of the platform, including surfaces, edges, and rivets must be smooth and must not have cutting edges, points, or splinters which would be dangerous for bare feet.

(e) The platform must be arranged so that under normal stowed conditions, it can be retained in the center of the float and can be readily released from this position for use.

(f) The platform must be suspended from the body of the float by a net or an equivalent arrangement, which when fully extended, holds the top of the platform approximately 900 mm (36 in.) below the center of the float body.

(1) The net must be constructed of cordage with a minimum breaking strength of 1600 N (355 lb.). The net must be attached to the platform through holes on centers that do not exceed 165 mm (6½ in.).

(2) If the platform is suspended from the body of the float by an arrangement other than a net as described in paragraph (c)(1) of this section, the arrangement must be of equivalent to the net in terms of strength, resistance to tangling, and allowing the platform to freely pass through the center of the life float body.

§ 160.027–7 Pre-approval tests for alternate platform designs.

(a) The tests in this section are for life float platforms that do not meet the requirements of either § 160.027–3(b) (1) or (2).

(b) The float body must be supported so that the platform is suspended in the air by the net or equivalent supporting arrangement. The platform must be loaded evenly with a weight equal to 60 percent of the weight of the total number of persons for which the float is to be rated, assuming a weight of 75 kg (165 lb.) per person. The weight must be allowed to remain on the platform for ten minutes after which it is removed. The supporting arrangement and platform must not show any evidence of damage or permanent deformation as a result of this test.

(c) The float body must be supported so that the platform is suspended in the air by the net or equivalent supporting arrangement. A bag of sand, shot or similar granular material weighing 90 kg (200 lb.) must be dropped onto the center of the platform from a height of 3 m (10 ft.). The supporting arrangement and platform must not show any damage that would affect the serviceability of the float or platform.

(d) As part of the buoyancy test required in § 160.010–7(e) of this chapter, the platform must be loaded with weights equal to ⅓ the rated capacity of the float. There must be no damage to the supporting arrangement or platform as a result of this test.

Note.—Since the weights on the platform will be submerged during this test, allowance must be made for the displacement of the submerged weights. The weight required is calculated by the formula W=(16d)/(d–4885), where W is the required submerged weight per person (in kg) and d is the density of the material (in kg/m³). (In customary U.S. units, the formula is W=40d)/(d–63) where W is in lb. and d is in lb./ft.³).

12. By adding a new Subpart 160.073 to read as follows:

Subpart 160.073—Float-Free Link or Life Floats and Buoyant Apparatus

Sec.

160.073–1 Scope.
160.073–5 Certification.
160.073–10 Construction and performance.
160.073–15 Tests.
160.073–20 Marking.

Authority: 46 U.S.C. 481; 49 U.S.C. 1655(b); 49 CFR 1.46.

Subpart 160.073—Float-Free Link for Life Floats and Buoyant Apparatus

§ 160.073–1 Scope.

(a) This subpart contains requirements for a float-free link used for connecting a life float or buoyant apparatus painter to a vessel. The float-free link is designed to be broken by the buoyant force of the life float or buoyant apparatus so that the float or apparatus breaks free of a vessel that sinks in water deeper than the length of the painter.

§ 160.073–5 Certification.

(a) The float-free link is not approved by the Coast Guard. The manufacturer of the link must certify that it meets all of the requirements of this subpart by application of the markings required in § 160.073–20.

(b) If the manufacturer wants the link to be listed in the Coast Guard publication "Equipment Lists," the manufacturer must send a letter requesting the listing to Commandant (G–MVI–3), U.S. Coast Guard, Washington, DC 20593.

§ 160.073–10 Construction and performance.

(a) The link must be constructed essentially as shown in figure 160.073–10. The link must be formed from a single salt water corrosion-resistant wire. A loop at least 50 mm (2 in.) in diameter must be provided at each end of the wire. Each loop must be permanently secured.

(b) The breaking strength of each link must be between:

(1) 450 N (100 lb.) and 600 N (134 lb.) for links intended for life floats and buoyant apparatus of 10 persons and less capacity.

(2) 900 N (200 lb.) and 1200 N (268 lb.) for links intended for life floats and buoyant apparatus of 11 to 20 persons capacity.

(3) 1800 N (400 lb.) and 2400 N (536 lb.) for links intended for life floats and buoyant apparatus of 21 persons and more capacity.

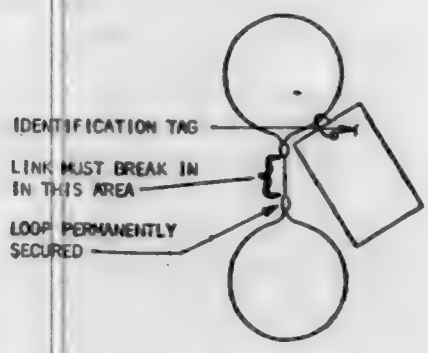


Figure 160.073-10. Typical configuration of float-free link for life floats and buoyant apparatus.

47

§ 160.073-15 Tests.

(a) The manufacturer shall perform a tensile test on the first three links made from a particular spool of wire. The test must be done by slowly loading the link until it breaks. The link must break between the limits specified in § 160.073-10(b). The break must occur in the length of wire at or between the points where the loops are secured (see Figure 160.073-10).

(b) If each of the three links passes the test, each link constructed in the same manner from the same spool of wire may be certified by the manufacturer as meeting the requirements of this subpart.

(c) If one or more of the three links fails the test, no link manufactured in the same manner and from the same spool of wire as the test links may be certified as meeting the requirements of this subpart.

§ 160.073-20 Marking.

(a) Each link certified by the manufacturer to meet the requirements of this subpart must have a corrosion resistant, waterproof tag attached to it that has the following information on it (the manufacturer must make the appropriate entries in the indicated space):

FLOAT-FREE LINK FOR LIFE FLOATS AND BUOYANT APPARATUS
Of *(10 or less) (11 to 20) (21 or more)* persons capacity.
Normal breaking strength ——.
Meets U.S. coast guard Requirements—46 CFR 160.073.
Made by: *(name and address)* ——————
(Date)——————

SUBCHAPTER T—SMALL PASSENGER VESSELS (UNDER 100 GROSS TONS)

PART 192—LIFESAVING EQUIPMENT

13. By revising § 180.15-5 (c) as follows:

§ 180.15-5 Description of equipment for life floats and buoyant apparatus.

* * * * *

(c) *Painter.* The painter must—

(1) Be at least 30 m (100 ft.) long,

(2) Have a breaking strength of at least 6.7 kN (1500 lb.), except that if the capacity of the life float or buoyant apparatus is 50 persons or more, the breaking strength must be at least 13.4 kN (3000 lb.),

(3) Be of a dark color if synthetic, or of a type certified to be resistant to deterioration from ultraviolet light, and

(4) Be stowed in such a way that it runs out freely when the life float or buoyant apparatus floats away from the sinking vessel.

(46 U.S.C. 481, 49 U.S.C. 1655 (b)(1); 49 CFR 1.46)

14. By revising § 180.20-1 to read as follows:

§ 180.20-1 Stowage of lifesaving appliances.

(a) Each life float and buoyant apparatus must be secured to the vessel by a painter and a float-free link.

(1) The float-free link must be—

(i) Certified to meet Subpart 160.073 of this Chapter,

(ii) Of proper strength for the size of the life float or buoyant apparatus as indicated on its identification tag, and

(iii) Secured to the painter at one end and secured to the vessel on the other end.

(2) The means by which the float-free link is attached to the vessel must—

(i) Have a breaking strength of at least the breaking strength of the painter,

(ii) If synthetic, be of a dark color or of a type certified to be resistant to deterioration from ultraviolet light, and

(iii) If metal, be corrosion resistant.

(3) If the life float or buoyant apparatus does not have a painter attachment fitting, a means for attaching the painter must be provided by a wire or line that—

(i) Encircles the body of the device,

(ii) Will not slip off,

(iii) Has a breaking strength that is at least the breaking strength of the painter, and

(iv) If synthetic, is of a dark color or is of a type certified to be resistant to deterioration from ultraviolet light.

(4) The float-free link described in paragraphs (a)(1) and (a)(2) of this section is not required if the vessel operates solely in waters which have a depth less than the length of the painter.

(5) If the vessel carries more than one life float or buoyant apparatus, the life floats and buoyant apparatus may be grouped and each group secured by a single painter, provided that—

(i) The combined weight of each group of life floats and buoyant apparatus does not exceed 185 kg (400 lb.),

(ii) Each life float and buoyant apparatus is individually attached to the painter by a line that meets § 180.15-5(c)(2) and (c)(3) and which is long enough so that each can float without contacting any other life float or buoyant apparatus in the group, and

(iii) The strength of the float-free link under paragraph (a)(1)(ii) of this section and the strength of the painter under § 180.15-5(c)(2) is determined by the combined capacity of the group of life floats and buoyant apparatus.

(6) Stowing of life floats and buoyant apparatus must allow easy launching. Life floats and buoyant apparatus over 185 kg (400 lb.) must not require lifting before launching.

(7) Life floats and buoyant apparatus must not be secured to the vessel except by the painter and by lashings which can be easily released or hydraulic releases. They must not be stowed in tiers more than 1.2 m (4 ft.) high. Tiers of life floats or buoyant apparatus must not interfere with navigation of the vessel. When stowed in tiers, the separate units must be kept apart by spacers.

(8) There must be means to prevent shifting.

(e) Each hydraulic release used in the installation of any liferaft, inflatable liferaft, lifefloat, or buoyant apparatus must meet Subpart 160.062 of this chapter.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

SUBCHAPTER U—OCEANOGRAPHIC VESSELS

PART 192—LIFESAVING EQUIPMENT

15. By revising § 192.15-10(d) and 10(e) to read as follows:

§ 192.15-10 Stowage.

* * * * *

(d) *Life float and buoyant apparatus stowage.* Each life float and buoyant apparatus must be secured to the vessel by a painter and a float-free link.

(1) The float-free link must be—

(i) Certified to meet Subpart 160.073 of this Chapter,

(ii) Of proper strength for the size of the life float or buoyant apparatus as indicated on its identification tag, and

(iii) Secured to the painter at one end and secured to the vessel on the other end.

(2) The means by which the float-free

link is attached to the vessel must—

(i) Have a breaking strength of at least the breaking strength of the painter,

(ii) If synthetic, be of a dark color or of a type certified to be resistant to deterioration from ultraviolet light, and

(iii) If metal, be corrosion resistant.

(3) If the life float or buoyant apparatus does not have a painter attachment fitting, a means for attaching the painter must be provided by a wire or line that—

(i) Encircles the body of the device,

(ii) Will not slip off,

(iii) Has a breaking strength that is at least the breaking strength of the painter, and

(iv) If synthetic, is of a dark color or is of a type certified to be resistant to deterioration from ultraviolet light.

(4) The float-free link described in paragraphs (d)(1) and (d)(2) of this section is not required if the vessel operates solely in waters which have a depth less than the length of the painter.

(5) If the vessel carries more than one lifefloat or buoyant apparatus, the lifefloats and buoyant apparatus may be grouped and each group secured by a single painter, provided that—

(i) The combined weight of each group of lifefloats and buoyant apparatus does not exceed 185 kg (400 lb.),

(ii) Each lifefloat and buoyant apparatus is individually attached to the painter by a line that meets § 192.20–35 (d)(2) and (d)(3) and which is long enough so that each can float without contacting any other lifefloat or buoyant apparatus in the group, and

(iii) The strength of the float-free link under paragraph (d)(1)(ii) of this section and the strength of the painter under § 192.20–35(d)(2) is determined by the combined capacity of the group of lifefloats and buoyant apparatus.

(6) Stowing of lifefloats and buoyant apparatus must allow easy launching. Lifefloats and buoyant apparatus over 185 kg (400 lb.) must not require lifting before launching.

(7) Lifefloats and buoyant apparatus must not be secured to the vessel except by the painter and by lashings which can be easily released or hydraulic releases. They must not be stowed in more than four tiers. When stowed in tiers, the separate units must be kept apart by spacers.

(8) There must be means to prevent shifting.

(e) Each hydraulic release used in the installation of any liferaft, inflatable liferaft, lifefloat, or buoyant apparatus must meet Subpart 160.062 of this chapter.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

16. By revising § 192.20–35(d) as follows:

§ 192.20–35 Description of equipment for lifefloats and buoyant apparatus.

* * * * * *

(d) *Painter.* The painter must—

(1) Be at least 30 m (100 ft.) long, but not less than 3 times the distance between the deck on which the lifefloats and buoyant apparatus are stowed and the light draft of the vessel,

(2) Have a breaking strength of at least 6.7 kN (1500 lb.), except that if the capacity of the lifefloat or buoyant apparatus is 50 persons or more, the breaking strength must be at least 13.4 kN (3000 lb.),

(3) Be of a dark color if synthetic, or of a type certified to be resistant to deterioration from ultraviolet light, and

(4) Be stowed in such a way that it runs out freely when the lifefloat or buoyant apparatus floats away from the sinking vessel.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

[FR Doc. 82–25540 Filed 9–17–82; 8:45 am]
BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 82–406]

Amendment To Reflect a Change in the Office of Managing Director

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending §§ 0.11 and 0.12 of its Rules to establish an FCC International Telecommunications Advisor and staff in the Office of Managing Director. This action was taken to improve the coordination, administration and management of international communications policies and programs. Section 0.12 is also amended to add to the Office of Managing Director a Management By Objectives/Program Evaluation Staff and a Labor Management Relations Office approved by the Commission in March, 1982. No public impact is anticipated.

EFFECTIVE DATE: September 3, 1982.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Terry D. Johnson, Office of Managing Director, (202) 632–7513.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 0

Organization and functions (government agencies).

Adopted: September 2, 1982.

Released: September 3, 1982.

1. The Commission has before it a proposed change in the authority of the Managing Director. The changes increase the scope of the Managing Director's responsibilities by the addition of an FCC International Telecommunications Advisor and staff. The Managing Director will then formulate and adminster all management and administrative policies and programs for international communications activities on behalf of the Chairman and the Commission. Implementation of the proposal requires amendments to §§ 0.11 and 0.12 of the Commission's rules and regulations.

2. Section 0.12 of the Commission's rules and regulations is further amended to add the Management By Objectives/ Program Evaluation Staff and the Labor Management Relations Office to give proper recognition to units approved by the Congress on March 22, 1982.

3. The amendments adopted herein pertain to agency organization. The prior notice procedure and effective date provisions of Section 4 of the Administrative Procedure Act do not apply. Authority for the amendments adopted herein is contained in Sections 4(i) and 5(b) of the Communications Act of 1934, as amended.

4. Therefore, it is ordered, effective September 3, 1982 that Part 0 of the Rules and Regulations is amended as set forth in the Appendix hereto.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082, (47 U.S.C. 154, 303))

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 0—COMMISSION ORGANIZATION

Part 0 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended by adding a new paragraph (l) in § 0.11 and by revising § 0.12 in its entirety to read as follows:

§ 0.11 Functions of the Office.

* * * * * *

(l) Ensure that the resource and administrative aspects of the Commission's international activities are fully coordinated with other Commission programs and functions. Formulate and administer all

management and administrative policies and programs for international communications activities on behalf of the Chairman and the Commission.

§ 0.12 Units in the Office.

(a) Immediate Office of the Managing Director.

(b) FCC International Telecommunications Advisor.

(c) Labor Management Relations Office.

(d) Management By Objectives/ Program Evaluation Staff.

(e) Associate Managing Director for Information Management.

(1) Network Management Staff.

(2) Computer Applications Division.

(3) Information Processing Division.

(4) Planning and Analysis Division.

(f) Associate Managing Director for Operations.

(1) Financial Management Division.

(2) Operations Support Division.

(g) Emergency Communications Division.

(h) Internal Review and Security Division.

(i) Personnel Management Division.

(j) The Secretary.

[FR Doc. 82-25710 Filed 9-17-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-309; RM-4094]

FM Broadcast Station in Deer Lodge, Montana; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 244A to Deer Lodge, Montana, in response to a petition filed by Deer Lodge Broadcasting, Inc. The assigned channel could provide a first FM service to Deer Lodge.

DATE: Effective November 8, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: August 31, 1982.

Released: September 8, 1982.

1. The Commission has under consideration a Notice of Proposed Rule Making, 47 FR 26865, published June 22, 1982, proposing the assignment of Channel 244A to Deer Lodge, Montana, as that community's first FM assignment. The Notice was issued in response to a petition filed by Deer Lodge Broadcasting, Inc. ("petitioner"). Petitioner filed comments in support of the proposal and reaffirmed its interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements. No opposing comments were received.

2. Canadian concurrence has been received.

3. The Commission has determined that the public interest would be served by assigning Channel 244A to Deer Lodge, Montana, since it would provide the community with an opportunity for its first FM broadcast service.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act, as amended, and §§ 0.204(b) and 0.281 of the Commission's rule is amended with respect to the following community, effective November 8, 1982.

City	Channel No.
Deer Lodge, Montana	244A

5. It is further ordered, That this proceeding is terminated.

6. For further information contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-25708 Filed 9-17-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Amdt. No. 192-41; Docket No. PS-65]

Transportation of Natural and Other Gas by Pipeline; Incorporation by Reference

AGENCY: Materials Transportation Bureau (MTB), RSPA, DOT.

ACTION: Technical amendment.

SUMMARY: This amendment updates the existing incorporation by reference of the 1978 edition of the industry specification for thermoplastic pipe to the 1981 edition of that document. The updating provides for the use of current technology, materials, and practices.

EFFECTIVE DATE: This amendment becomes effective October 20, 1982.

FOR FURTHER INFORMATION CONTACT: Ralph T. Simmons, 202-426-2392.

ADDRESS: Copies of the amendment may be obtained from the Dockets Branch, Room 8426, Materials Transportation Bureau, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: Part 192 incorporates by reference parts of the American Society for Testing and Materials (ASTM) Specification D2513 "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings." This document is referenced in § 192.59 as a manufacturing qualification for the use of plastic pipe, in § 192.63 as a standard for marking thermoplastic pipe, in § 192.281 as a standard for solvent cement, and in § 192.283 as burst test requirements in qualifying joining procedures for thermoplastic pipe.

The 1978 edition is the latest edition of ASTM D2513 that is referenced in Part 192, as indicated by the listings in Appendixes A and B to the part. This edition has now been superseded by the 1981 edition, which was published by ASTM in August 1981. In response to a recent petition by the City of Charlottesville, Virgina (Petition No. 82-6W), MTB has reviewed the 1981 edition and finds that it reflects the latest developments in materials and plastic pipe technology, and includes the new material, PE 3408. Accordingly, it is in the interest of operators and the public to allow the use of this latest published edition for pipelines subject to Part 192. Therefore, MTB is by this document changing the edition of ASTM D2513 listed in Appendixes A and B of Part 192 to the 1981 edition.

Because this document does not change any of the substantive requirements of Part 192, notice and public procedure are unnecessary, and in accordance with 5 U.S.C. 553, the amendment is final.

Also, since the amendment will have a positive effect on the economy of less than $100 million a year, will result in a cost savings to consumers and industry, and no adverse effects are anticipated, this action is not "major" under E.O. 12291 or "significant" under DOT procedures.

List of Subjects in 49 CFR Part 192

Pipeline safety, Incorporation by reference.

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

In consideration of the foregoing, Appendixes A and B of Part 192 of Title 49 of the Code of Federal Regulations are amended as follows:

1—In Appendix A—Incorporated by Reference, under subdivision II.B, item (21) is amended by removing "(D2513–78ES)" and adding in its place "(D2513–81)".

2—In Appendix B—Qualification of Pipe, under subdivision I, the listing for ASTM D2513 is amended by removing "(1978)" and adding in its place "(1981)".

(49 U.S.C. 1672 and 1804; 49 CFR 1.53 and Appendix A to Part 1)

Issued in Washington, D.C., on September 9, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82-25700 Filed 9-17-82; 8:45 am]

BILLING CODE 4910-60-M

Proposed Rules

Federal Register
Vol. 47, No. 182
Monday, September 20, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 68

Adjustment of Fees for Federal Rice Inspection Service

AGENCY: Federal Grain Inspection Service [1], USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Grain Inspection Service (FGIS) proposes to increase the fees for Federal rice inspection services. A fee increase is necessary to generate sufficient revenue to as nearly as possible cover the cost of providing this service during the next fiscal year and to begin to gradually reestablish an operating reserve. Rice inspection is a permissive service made available upon request of the applicant. A public meeting will be held to discuss these proposed changes.

DATES: Comments must be submitted on or before October 20, 1982; public meeting, October 14, 1982, 1:00 p.m. to 3:30 p.m.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management, USDA, FGIS, Room 1636, South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382–0231. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

The public meeting will be held in Room 2096, South Agriculture Building, 1400 Independence Avenue, SW., Washington, D.C.

[1] Authority to exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627) concerning inspection and standardization activities related to grain and similar commodities and products thereof has been delegated to the Administrator, Federal Grain Inspection Service (7 U.S.C. 75a; 7 CFR 68.2(e)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., address as above, telephone (202) 382–0231.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1. The action has been classified as "nonmajor" because it does not meet the criteria for major regulation established in the Order.

The Administrator has determined that a 30-day public comment period on this proposed rule is adequate because it is necessary to adjust fees as soon as possible to more nearly equate revenue with the cost of providing service and to begin to gradually reestablish an operating reserve which has been totally depleted. Also, FGIS is holding a public meeting to discuss these proposed fee increases with interested parties.

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities because most users of rice inspection services do not meet these requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Public Meeting

Representatives from the rice industry and other interested parties are invited to attend the scheduled public meeting. At this meeting, Dr. Gilles, Administrator, FGIS, will discuss the proposed changes in the fees and the need for the changes. A question and answer period will follow the presentation and written comments will be accepted from interested parties.

Rice Inspection Service Fee Increase

Section 203(h) of the Agricultural Marketing Act of 1946 (the Act) provides for the collectibn of such fees as will be reasonable and as nearly as possible cover the cost of the services rendered. Fees currently in effect do not cover the costs incurred by FGIS in providing this service. Accordingly, it has been determined that a fee increase is necessary in order to continue providing rice inspection services. This fee increase is being proposed in conjunction with continuing FGIS cost-saving measures such as reductions in staff and reviews of field office areas of responsibility to reduce administrative expenses and thereby provide service more economically.

The rice inspection service fees were intentionally set below the cost of providing service from July 1977 until August 1980 to reduce the size of the operating reserve. An operating reserve is maintained for contingencies when fees may not cover the cost of providing service. This resulted in a return of funds to industry. In August 1980, the fees were increased to slow the rate of depletion of this operating reserve. In November 1981, the fees were again increased which along with numerous cost reducing actions were intended to equate as nearly as possible the revenue with the cost of providing rice inspection service. Costs have been reduced from the same time period last year. However, there was only a small increase in revenue due at least in part to unexpected decreases in the demand for official rice inspection services. Consequently, rice inspection costs have continued to exceed revenue and the operating reserve has been totally depleted. This fee increase is intended to halt the losses and to begin to gradually replenish the operating reserve. FGIS, in order to minimize the size of this fee increase, plans to rebuild this operating reserve to a nominal level over a period of time. Therefore, FGIS is proposing to increase all rice inspection service fees (commitment, non-commitment, appeals, inspection for quality, and factor analysis) by an average of approximately 18.2 percent. FGIS also proposes to increases the charge for providing extra copies of certificates and to increase the charge for providing interpretive line samples. These proposed changes are needed to meet estimated FY 1983 costs and to begin to replenish the operating reserve.

Appeal Inspection Fees

FGIS proposes to assess a fee for all rice appeal inspection services performed by FGIS regardless of the result of the appeal. Currently FGIS, while incurring the cost of performing an appeal inspection, does not assess a fee if the result indicates there was a material error in the inspection being appealed. However, FGIS incurs the cost to perform each appeal and such costs are reflected in the present fees. FGIS

proposes to assess the applicable inspection fee each time the service is performed regardless of a material error determination.

Mileage, Travel Time, Per Diem/ Subsistence and Commercial Transportation Fees for Rice Inspection and Appeal Inspection Services

FGIS proposes to assess a separate fee to recover costs for mileage, travel time, per diem/subsistence and/or commercial transportation when services are performed more than 20 miles from the FGIS field office location or assigned duty station. FGIS considers a normal commuting area to be within 20 miles of the field office or assigned duty station as defined in AMS/FGIS Instruction 467–6.

Currently, FGIS does not assess a fee for these services until the FGIS representative arrives at the point of service. When the point of service is located more than 20 miles from the FGIS field office location or assigned duty station, FGIS incurs considerable travel and salary costs while traveling to the service point. At the present time, these costs are included in the rice inspection fees. FGIS proposes to assess the hourly fee per service representative from the time the representative(s) leaves the FGIS field office or assigned duty station until the representative(s) returns to the FGIS field office or assigned duty station for all rice inspection services performed more than 20 miles from the FGIS field office or assigned duty location. FGIS also proposes to assess a mileage fee of $.20 per mile for all miles driven to provide service at any points more than 20 miles from the field office or assigned duty station. FGIS also proposes to charge the requestor of these services for any per diem or subsistence and commercial transportation costs FGIS incurs in performing these services more than 20 miles from the FGIS field office location or assigned duty station.

Standby Services

FGIS proposes to assess fees for standby services whenever a representative has been requested to provide service at a specified location; is on duty and ready to provide the service; is unable to perform the service because of a delay by the applicant for any reason; and FGIS officials determine that the representative cannot be utilized to provide services elsewhere.

Currently, FGIS does not assess standby fees if the applicant releases the representative(s) for the performance of other duties. In many instances when the applicant has requested the service and FGIS representatives are on duty and ready to provide that service it is not feasible to reassign the representatives to perform service elsewhere. FGIS incurs the cost of maintaining these employees. The present fees for services include these costs.

Application of Fees if Request for Service Is Withdrawn

FGIS propose to assess the applicable minimum service fees, charges for travel time and expenses, and/or charges for standby services if the request for service is withdrawn by the applicant or FGIS, after the Service representative(s) depart for the point of service. Currently, FGIS assesses fees only for costs incurred until the request is withdrawn. In some instances, FGIS may incur costs, such as travel after the request is withdrawn. Therefore, FGIS proposes to assess these fees as applicable.

Conclusion

FGIS proposes to increase rice inspection service fees by an average of approximately 18.2 percent, to increase the charge for providing extra copies of certificates, to increase the charge for providing interpretive line samples, and to alter the method of assessing the fees as described in this proposal in order to cover the costs of providing the Service. Any deviation from these proposed changes, the method of assessment of the fees or the level thereof would result in a need to further evaluate such proposed changes to assure that the fees generate sufficient revenue to cover costs. FGIS is and will continue to review this program in order to determine the need for the program and its cost effectiveness. However, in order to continue to provide service it is necessary to increase the revenue generated from fees for these services.

List of Subjects in 7 CFR Part 68

Administrative practices and procedures—FGIS, Agricultural commodities, Export.

PART 68—REGULATION AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

Accordingly, 7 CFR Part 68 of the regulations are proposed to be amended by revising §§ 68.42c, 68.43(a)(1) and (3), 68.44, 68.45 and are proposed to read as follows:

1. Section 68.42c is amended by revising paragraph (b) to read as follows:

§ 68.42c Fees for Federal rice inspection services.

* * * * *

(b) *Noncommitant service.* (1) A noncommitant service is provided for applicants who do not enter into a commitment service agreement with FGIS or for all hours not covered under a commitment service agreement. Service on a noncommitment basis will be furnished to applicants if personnel are available and in the order in which requests are received, insofar as is consistent with good management, efficiency, and economy. Precedence will be given, when necessary, to (1) commitment service participants, (2) requests for appeal service, (3) requests by Government agencies, and (4) requests by regular users of the service. Hourly rates shall begin when the official inspection personnel arrive at the point of service and shall end when they depart from the point of service, computed to the nearest quarter hour (less mealtime, if any). Hourly rates include the cost of local travel and transportation to perform the service requested and the original and three copies of each certificate. This hourly rate service includes sampling, grading, weighing, and other services as requested by the applicant when performed at the service point.

(2) If service is provided at a location more than 20 miles from the field office from which the service is requested, fees will also be assessed for: (1) Travel time expended by the service representative(s) from the field office location to the service point and return; (2) miles driven in an automobile from the field office location to the service point and return; (3) costs incurred by FGIS for any per diem or subsistence paid to the service representative(s) in connection with providing the service; and, (4) costs incurred by FGIS for commercial transportation for service representative(s) to travel from the field office location to the service point and return. Standby time per person is to be charged at the applicable hourly rates. The minimum fee per callout or inspection visit for noncommitment service is charged at the applicable hourly rate with a 2-hour minimum.

(3) The fees shown in Tables 1 and 2 apply to the Federal rice inspection services:

TABLE 1.—HOURLY RATES [1]

(Rates per hour per person)

	Day [2]	Night and [3] weekend [4]	Holiday [5]
(1) Commitment Service	$25.80	$30.80	$36.20
(2) Noncommitment Service [6] [7]	34.00	39.00	44.40
(i) Travel time [8]	34.00	39.00	44.40
(ii) Mileage (per mile driven) [9]	.20	.20	.20
(iii) Per diem subsistence	(*)	(*)	(*)
(iii) Commercial Transportation [9]	(*)	(*)	(*)

[1] The hourly rate includes sampling, grading, weighing, and other services requested by the applicant if performed at the point of service.
[2] 6 a.m. to 6 p.m.
[3] 6 p.m. to 6 a.m.
[4] Midnight Friday through midnight Sunday.
[5] Holiday means the legal public holiday specified in paragraph (a) of section 6103, title 5, of the United States Code (5 U.S.C. 6103(a)) and any other day declared to be a holiday by Federal Statute or Executive Order. If the specified legal public holiday falls on a Saturday, the preceding Friday shall be considered to be the holiday, or if the specified legal public holiday falls on a Sunday, the following Moday shall be considered to be the holiday.
[6] Minimum fee per person per callout or inspection visit for noncommitment service is 2 hours at the applicable hourly rate.
[7] Standby time per person per hour shall be charged at the applicable hourly rate.
[8] Applicable to noncommitment service round trip travel expenses at locations more than 20 miles from the field office.
[9] Actual cost incurred by the Service in connection with providing the service.

TABLE 2.—OTHER SERVICES

	Rough rice	Brown rice for processing	Milled rice
(1) Appeal [1]			
(2) Extra copies of certificates, per copy	$3.00	$3.00	$3.00
(3) Inspection for quality per lot, sublot, or sample inspection [2]	18.00	16.25	13.50
(4) Factor analysis for any single factor, per factor	5.50	5.50	5.50
(5) Interpretive line samples [3]			
(a) Milling degree, per set			60.00
(b) Parboiled light, per sample			15.00

[1] The same inspection fee is charged as would have been charged if the inspection were not an appeal.
[2] Includes kind, class, grade, factor analysis, equal to type, milling yield, or any other quality designation as defined in the U.S. Standards for Rice or applicable instructions; whether singly or combined; per lot, sublot, or sample inspection when performed at other than the point of service.
[3] Interpretive line samples may be purchased from the U.S. Department of Agriculture, Federal Grain Inspection Service, Field Management Division, Board of Appeals and Review, Richards-Gebaur AFB, Building #221, Grandview, MO 64030. Interpretive line samples are also available for examination at selected FGIS field offices. A list of the field offices may be obtained from the Deputy Director, Field Management Division, USDA, FGIS, Washington, D.C. 20250.
The interpretive line samples illustrate the lower limit for milling degrees only and the color limit for the factor "Parboiled Light" rice.

2. Section 68.43 is amended by revising subparagraphs (a)(1) and (a)(3) to read as follows:

§ 68.43 Fees; general provisions.

(a) * * *

(1) All fees shown shall include the cost of travel and transportation to perform the service requested except as provided in § 68.42c.

* * * * *

(3) Standby time shall be computed whenever the Division representative (i) has been requested by the applicant to perform a service at a specified time and location, (ii) is on duty and ready and willing to perform the service requested, and (iii) is unable to perform the service requested because of a delay by the applicant for any reason, and (iv) cannot be utilized to provide service elsewhere based on a determination made by FGIS. Standby time shall be computed to the nearest quarter hour.

* * * * *

3. Section 68.44 is revised to read as follows:

§ 68.44 Fees for appeal inspection.

Fees for appeal inspection shall be in accordance with §§ 68.42a, 68.42c and 68.43.

4. Section 68.45 is revised to read as follows:

§ 68.45 Fees when an application for inspection or appeal inspection is withdrawn or any inspection service is refused.

In the event an application for inspection or appeal inspection is withdrawn or any inspection service (including original inspection or appeal inspection) is refused pursuant to the applicable provisions of the regulations, the interested party who made the application for the inspection service shall pay only such expenses as were incurred in connection with the service prior to, and for rice inspection services after the withdrawal or refusal.

(Sec. 203(h), Pub. L. 79–733, 60 Stat. 1087 (7 U.S.C. 1622))

Dated: September 7, 1982.

D. R. Galliart,

Acting Administrator.

[FR Doc. 82–25843 Filed 9–17–82; 8:45 am]

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7 CFR Part 800

Fees for Original Inspection, Official Weighing (Class X), Supervision of Weighing (Class Y), Reinspection, Appeal Inspection, and Supervision of Official Services

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Grain Inspection Service (FGIS or Service) has reviewed and is proposing changes to Sections 800.71 through 800.73 of the regulations under the U.S. Grain Standards Act, as amended. This review also is in compliance with the requirements for periodic review of existing regulations. FGIS is proposing to increase fees to cover as nearly as practicable the estimated cost to the Service for official inspection, official weighing (Class X) and supervision of weighing (Class Y) services in the United States and Canada, including related supervisory and administrative costs. FGIS is also proposing to reduce fees for supervision of truck inspection and protein reinspection services provided by delegated States and designated official agencies. In addition, FGIS proposes to change the method of assessment of fees for some services by: (1) Assessing hourly fees for all original inspection and official weighing services; (2) assessing a fee for all appeal inspection, reinspection and review of weighing services; (3) assessing a fee for travel time and costs for special services related to original inspection and official weighing, and all appeal and reinspection services, performed more than 20 miles from an FGIS field office location; (4) assessing a fee for standby time when it is not feasible to reassign Service representatives to perform service at a different location; (5) assessing a fee for all equipment and scale testing services; (6) assessing "factor only" inspection fees for a maximum of two factors for FGIS supervision of delegated States and designated official agencies. FGIS proposes to increase or decrease fees and alter the methods of assessing the fees in order to cover the costs of providing the services.

DATES: Comments must be submitted on or before October 20, 1982; public meeting, October 13, 1982, 9:00 a.m. to 11:30 a.m.

ADDRESSES: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management, USDA, FGIS, Room 1636, South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250; telephone (202) 382–0231. All written comments received will be made available for public inspection at the above office during regular business hours (7 CFR 1.27(b)).

The public meeting will be held in Thomas Jefferson Memorial Auditorium, Room 1072, South Agriculture Building, 1400 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., address as above, telephone (202) 382–0231.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been reviewed under USDA procedures pursuant to the Secretary's Memorandum 1512–1 and Executive Order 12291 and has been determined to be "nonmajor" because it does not meet the criteria for major regulatory actions.

Regulatory Flexibility Act Certification

Dr. Kenneth A. Gilles, Administrator, FGIS, has determined that this proposed rule does not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because: (1) It applies to a limited number of delegated States and designated official agencies under the Act which are not considered to be small entities because they are dominant in their area of operation based on the delegation/designation process; and (2) most other users of FGIS services are not considered to be small entities. Further, FGIS is required by statute to make the services available and to cover as nearly as practicable the costs of the service from the users of the service.

The Administrator has also determined that a 30-day public comment period on this proposed rule is adequate because it is necessary to adjust fees as soon as possible to more nearly equate revenues to costs, and FGIS is holding a public meeting to discuss these proposed fee changes with interested parties.

Public Meeting

Representatives from the grain industry, delegated States, designated official agencies, and other interested parties are invited to attend the scheduled public meeting. At this meeting, Dr. Gilles, Administrator, FGIS, will discuss the proposed changes to the fees and the need for these changes. A question-and-answer period will follow Dr. Gilles' presentation and written comments wil be accepted from interested parties.

Original Inspection, Official Weighing (Class X), and Supervision of Weighing (Class Y) Fee Increases in the United States

The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) requires that FGIS charge and collect reasonable fees that as nearly as practicable cover the estimated cost to the Service incident to the performance of official inspection and weighing services in the United States and Canada, including related administrative and supervisory costs.

FGIS continually monitors costs and revenues to determine if fees are at the minimum level necessary to assure program accomplishment. In Fiscal Year 1982, FGIS reduced staffing levels and the related costs in an effort to provide cost-effective services. In Fiscal Year 1983, FGIS plans to further reduce costs. However, a review and analysis has shown that the present original inspection and official weighing fees for services performed in the United States are not generating sufficient revenue to cover current or projected costs. Therefore, FGIS proposes to increase official weighing (Class X) fees by approximately 6 percent and original inspection fees by approximately 15 percent.

In addition, FGIS proposes to increase fees for supervision of weighing services (Class Y). This service was implemented in June 1981. At the time this service was implemented there was no historical data available on the utilization or cost of the service upon which fees could be based. Fees were based on the best cost estimates available at that time. Currently, Class Y weighing service costs represent less than 1 percent of the total weighing program costs. Current cost and revenue data show that these fees must be increased in order to cover costs. Therefore, FGIS proposes to increase the fees for this service by approximately 28 percent.

Original Inspection Fees for Other Than Online Services

FGIS proposes to assess fees on an hourly basis for all original inspection services performed. Currently fees for original inspection services, when the sample for grading is taken from other than a running stream of grain, are generally assessed on a per-unit carrier basis. This proposed change to an hourly method of assessment will provide the applicant for service with the option of contracting at a reduced rate for these services which would allow the Service to more efficiently and effectively schedule and utilize employees.

Original Inspection and Official Weighing Fee Increases in Canada

FGIS proposes to increase fees for most original inspection and official weighing services performed in Canada by approximately 10 percent. Fluctuations in revenue generated by fees, due to seasonal operations in Canada, result in costs exceeding the revenue generated from fees for a portion of the year. FGIS needs to maintain a nominal operating reserve to cover costs during these periods. Current cost and revenue data show that these fees must be increased to cover estimated program costs and maintain a nominal operating reserve.

Reinspection, Appeal Inspection and Review of Weighing Services in the United States and Canada

FGIS is proposing to increase fees for reinspection, appeal inspection and review of weighing services performed in the United States and Canada. The amount of the increase varies by type of service. However, for some services the increase will be greater than in others. Most of these fees have not been adjusted since the fees published in the **Federal Register** (42 FR 61988) on December 8, 1977, which became effective on January 9, 1978. The fees for special services, minimum fee and standby time related to reinspections and appeal inspections performed during the nonregular workday were increased effective October 1, 1981, (46 FR 7042) in order to reflect the cost difference between regular and nonregular workdays. However, this change did not impact on the services normally requested. This increase in fees is necessary because the program costs are exceeding the revenue generated from fees and the operating reserve has been totally depleted. This increase is proposed to generate sufficient revenue to cover costs and begin to replenish the depleted nominal operating reserve for this program, over a period of time.

FGIS also proposes to assess a fee for grading of all reinspections or all appeal inspections whether or not a material error is found, and an additional fee for sampling if the reinspection or appeal inspection is based on a new sample. Specifically, FGIS proposes to assess fees on a per unit-sample basis for all reinspection and appeal inspection grading services performed in the United States and Canada. In addition, FGIS proposes to assess fees on an hourly basis for reinspection and appeal inspection sampling services when the reinspection or appeal inspection is based on a new sample. FGIS also proposes to assess an hourly fee for all review of weighing services whether or not a material error is found. In addition, FGIS proposes to assess the applicable fee each time a reinspection, appeal inspection and review of weighing is performed regardless of a material error determination.

Currently most reinspection and appeal inspection service fees are assessed on a per unit-carrier or unit-of-grain (per 1,000 bushels) basis which includes sampling and grading. The FGIS Advisory Committee discussed the methods of assessment of fees for these services and advised FGIS to establish a fee on a per unit-sample basis for

reinspection and appeal inspection grading services.

In addition, FGIS does not currently assess a fee if the reinspection or appeal inspection result indicates that there was a material error in the inspection from which a reinspection, appeal inspection or Board appeal inspection is taken. In a similar manner, the service does not assess a fee if the review of weighing indicates there was a material error in the results of a Class X or Class Y weighing service. However, FGIS incurs the cost to perform each reinspection, appeal inspection and review of weighing performed and such costs are reflected in the present fees.

FGIS Equipment and Scale Services

FGIS proposes to assess the special services hourly fee for all scale, weight and equipment testing services performed by FGIS, on applicant owned equipment. These services include but are not limited to testing of grain hopper and vehicle scales, testing of railroad track scales, testing of platform scales, reverification of test weights, evaluation of weight and inspection equipment, and testing of diverter-type mechanical samplers. Currently, FGIS does not assess a fee for evaluation of all weighing and insection equipment or all regular semi-annual scale testing services. However, FGIS incurs costs to perform these services and such costs are reflected in present fees.

Mileage, Travel Time, Per Diem/ Subsistence and Commercial Transportation Fees for Special Services Related to Original Insection and Official Weighing (Class X) Services, Reinspection Services and Appeal Inspection Services

The Service proposes to assess a separate fee to cover costs for mileage, travel time, per diem/subsistence and/or commercial transportation when the requested special services related to original inspection or official weighing (Class X) services, all reinspection services and all appeal inspection services are performed more than 20 miles from the FGIS field office location or assigned duty station in the United States and Canada. Special services include but are not limited to such services as stowage examinations and equipment and scale testing. The Service considers a normal commuting area to be within 20 miles of the field office or assigned duty station as defined in AMS/FGIS Instruction 467–6.

Currently, FGIS does not assess a fee for these services until the FGIS representative arrives at the point of service. When the point of service is located more than 20 miles from the FGIS field office location or assigned duty station, FGIS representatives expend a significant amount of time traveling to the service point for these services, and FGIS incurs all travel costs (mileage, commercial transportation and per diem/subsistence) as well as salary costs associated with traveling to the service point. At the present time, these costs are included in the original inspection, offical weighing, reinspection and appeal inspection fees for services provided in the United States and Canada.

FGIS proposes to assess the hourly service fee per service representative from the time the representative(s) leaves the FGIS field office or assigned duty station until the representative(s) returns to the FGIS field office for all special services related to originl inspection or official weighing, all reinspection services and all appeal inspection services, performed more than 20 miles from the FGIS field office or assigned duty station. In addition, FGIS proposes to assess a mileage fee of $.20 per mile for all miles driven to provide service at any point more than 20 miles from the FGIS field office location or assigned duty station. FGIS also proposes to charge the applicant for any per diem or subsistence and commercial transportation costs FGIS may incur in performing these services at a point more than 20 miles form the FGIS field office location or assigned duty station.

Standby Services

FGIS proposes to assess fees for standby services whenever a Service representative has been requested to provide service at a specified location; is on duty and ready to provide the service; is unable to perform the service because of a delay by the applicant for any reason; and FGIS officials determine that the Service representative cannot be utilized to provide services elsewhere.

Currently, FGIS does not assess standby fees if the applicant releases the Service representative(s) for the performance of other duties. In many instances when the applicant has requested the service and FGIS representatives are on duty and ready to provide that service it is not feasible to reassign the representative to perform service elsewhere. FGIS incurs the cost of maintaining these employees. The present fees for services include these costs.

FGIS also proposes to eliminate the 30-consecutive-minute grace period prior to assessing a fee for standby time for some services. Currently, this grace period applies to original inspection services when the sample for grading is taken from other than a running stream of grain in the United States. This grace period was published in the **Federal Register** (45 FR 79736) on December 1, 1980, and became effective on January 4, 1981. This grace period was established on the basis of revenue that was being generated under the per unit-carrier method of assessing fees. Under the hourly method proposed in this rule, the basis for the grace period is no longer applicable.

FGIS Clerical Services

FGIS proposes to provide on-site typing of certificates at the service point location upon request. Currently, certificates are usually prepared at the FGIS field office location. FGIS has in the past received requests for this type of service. This service is being proposed in order to provide applicant with the option of having certificates typed at the service point location. Normally, certification is included in the fees for service. In order to provide this on-site typing of certificates upon request, FGIS proposes to assess the applicable contract and noncontract hourly fees for special services related to original inspection or official weighing.

FGIS also proposes to assess a fee for clerical services for typing of certificates at the FGIS field office upon request if an applicant requests these services during other than normal FGIS field office duty hours. FGIS incurs additional costs to provide these services for the applicant during other than normal working hours and therefore, proposes to assess the special services fee for these services.

Application of Fees if Request for Service is Withdrawn or Refused

FGIS proposes to assess applicable fees for minimum, travel, and/or standby services if the request for service is withdrawn or dismissed after the Service representative(s) departs for the point of service. Currently, FGIS assesses fees for costs incurred until the request is withdrawn or dismissed. In some instances, FGIS may incur costs, such as travel, associated with this request after the request is withdrawn or dismissed. Therefore, FGIS proposes to assess these fees as applicable.

Fees for FGIS Supervision of Inspection Services Performed by Delegated States and Designated Official Agencies

FGIS proposes to decrease fees for FGIS supervision of truck inspection services from $1.00 to $.75 per inspection, and for supervision of

protein reinspection services from $.75 to $.25 The Service also proposes to change the assessment of "factor only" fees for supervision of inspection services provided by delegated States and designated official agencies. Currently, "factor only" fees are assessed regardless of the number of factors inspected. These "factor only" fees were established on the assumption that 1 or a maximum of 2 factors would be requested per inspection. There has been a significant increase in "factor only" inspections performed on more than 2 factors. In order to reflect the basis on which this fee was established, FGIS proposes to assess "factor only" fees for a maximum of 2 factors and full-grade carrier fees for "factor only" inspections on more than 2 factors. The revenue generated from the present fees for supervision of inspection services performed by delegated States and designated official agencies is not sufficient to cover the current costs of providing the services.

Fees for FGIS Supervision of "All Other Lots" Officially Weighed by Delegated States and Designated Official Agencies.

FGIS proposes to add a fee for FGIS supervision of "All Other Lots" officially weighed by delegated States and designated official agencies. Current fees per carrier do not specifically include containers or other types of lots which are officially weighed. This has resulted in some confusion as to which fee applies. In order to provide for fees to be assessed for lots weighed when a specfic type carrier is not included in the fee schedule, FGIS proposes to add an "all other lots" fee to Schedule C, Table 2.

Termination of Delegation or Designation

The United States Grain Standards Act, as amended, requires automatic termination of the delegation or designation of an official agency if fees assessed by the Service are not paid within 30 days after due. The Act also provides for reinstatement of the delegation or designation after payment of all fees, interest and expenses incurred by the Service, within such period of time as prescribed by the Administrator. FGIS proposes to amend the procedures for termination of the delegation or designation of a state or private agency by providing that the delegation or designation shall be reinstated if all fees, interest and expenses are paid within 60 days after such termination.

Format Changes to Fee Tables

FGIS is also proposing to combine Tables 1 and 2 of Schedule A and to make wording and format changes in Table 1, Schedule A and Table 1, Schedule B in order to simplify and clarify the fee schedules. The footnotes to the tables in schedules A, B and C are also proposed to change in order to implement proposed changes in the assessment methods as discussed above.

Conclusion

FGIS proposes to increase or decrease fees and alter the method of assessing the fees as described in this proposal in order to cover the costs of providing the services. These proposed changes were presented to the FGIS Advisory Committee. The Committee recognized the need to equate revenues to costs and to maintain a nominal operating reserve, and endorsed the publication of these changes in a proposed rule. In addition, a public meeting will be held to dicuss these proposed changes. Any deviation from the proposed changes in the method of assessment of the fees or the level thereof would result in a need to further evaluate such proposed changes to assure that the fees generate sufficient revenue to cover costs. FGIS is and will continue to review programs in order to determine the need for the program and the cost effectiveness of the program. However, in order to continue to provide services it is necessary to increase the revenue generated from fees for some services.

List of Subjects in 7 CFR Part 800

Administrative practices and procedures, Export, and Grain.

PART 800—GENERAL REGULATIONS

Accordingly, 7 CFR Part 800 of the regulations are proposed to be amended by revising §§ 800.71 and 800.72, and by revising paragraphs (a), (b), and (f), and removing paragraph (h) of § 800.73 to read as follows:

§ 800.71 Fees assessed by the Service.

(a) *Official inspection and weighing services.* The fees shown in Schedules A and B apply to official grain inspection and weighing services performed by the Service in the United States and Canada. The fees shown in Schedule C apply to official grain inspection and weighing services performed by delegated States and designated official agencies in the United States. Failure of a delegated State or designated official agency to pay to the Service the fees prescribed in Schedule C within 30 days after due shall result in automatic termination of the delegation or designation. The delegation or designation shall be reinstated if fees currently due, plus interest and any further expenses incurred by the Service because of the termination are paid within 60 days after the termination.

BILLING CODE 3410-EN-M

Schedule A.- Fees for Official Inspection and Weighing Services (Including Supervision and Administration Services) Performed by the Service in the United States 1/

Schedule A.- Fees for Official Inspection and Weighing Services (Including Supervision and Administration Services) Performed by the Service in the United States 1/

Table 1

Inspection and Weighing Services (bulk or sacked grain)	Regular Workday	Nonregular Workday
(1) Original inspection services, official weighing services (Class X) and related special services:2/3/4/		
(i) Contract service (per hour per Service representative).....	$21.80	$25.20
(ii) Noncontract service (per hour per Service representative).....	24.20	28.00
(iii) Special services performed more than 20 miles from an FGIS field office location or assigned duty station:		
(A) Travel time (per hour per Service representative).....	24.20	28.00
(B) Mileage (per mile driven).....	.20	.20
(C) Per diem/subsistence (per Service representative).....	4/	4/
(D) Commercial transportation (per Service representative).....	4/	4/
(2) Reinspection services, appeal inspection services, Board appeal inspection services, review of weighing services, and related special services:2/3/4/5/		
(i) Grading service		
(A) Grade and factors (per sample).....	39.00	45.50
(1) Protein test (per sample).....	13.00	15.50
(2) Factor determination (per factor).....	19.50	22.75
(B) Board of Appeals and Review (per sample).....	51.80	60.40
(1) Protein test (per sample).....	21.50	25.20
(ii) Sampling service performed within 20 miles of FGIS field office location or assigned duty station:		
(A) Sampling service (per hour per Service representative).....	51.80	60.40
(iii) Service performed more than 20 miles from FGIS field office location or assigned duty station:		
(A) Sampling service (per hour per Service representative).....	51.80	60.40
(B) Travel time (per hour per Service representative).....	51.80	60.40
(C) Mileage (per mile driven).....	.20	.20
(D) Per diem/subsistence (per Service representative).....	4/	4/
(E) Commercial transportation (per Service representative).....	4/	4/
(iv) Review of weighing service:		
(A) Service (per hour per Service representative).....	51.80	60.40
(3) Minimum fee per service request:2/6/		
(i) Original inspection services, official weighing services (Class X) and related special services (2 hour minimum) (per hour per Service representative).....	24.20	28.00

Table 1-Continued

Inspection and Weighing Services (bulk or sacked grain)	Regular Workday	Nonregular Workday
(ii) Reinspection services, appeal inspection services, review of weighing services and related special services (2 hour minimum) (per hour per Service representative)	$51.80	$60.40
(4) Standby:2/7/		
(i) Original inspection services, official weighing services (Class X) and related special services (per hour per Service representative)	24.20	28.00
(ii) Reinspection services, appeal inspection services, review of weighing services, and related special services (per hour per Service representative)	51.80	60.40
(5) Extra copies of certificates (per copy)8/	3.00	3.00

Note: The footnotes for Table 1 are shown at the end of Table 2.

Table 2

Table 2

Official Services (bulk or sacked grain)	Supervision of Weighing Services (Class Y)
Export elevators at export port locations:2/	
(1) Barge (per barge or part barge)	$ 6.40
(2) Boxcar (per car or part car)	1.30
(3) Hopper car (per car or part car)	1.30
(4) Truck or trailer (per truck or trailer or part truck or part trailer)	.65
(5) Unit trains (per each car or part car of unit train)	1.30
(6) Extra copies of certificates and reports (per copy)	3.00
All other locations:2/	
(1) Barge (per barge or part barge)	12.80
(2) Boxcar (per car or part car)	4.50
(3) Hopper car (per car or part car)	4.50
(4) Truck or trailer (per truck or trailer or part truck or part trailer)	3.20
(5) Unit trains (per each car or part car of unit train)	4.50
(6) Extra copies of certificates and reports (per copy)	3.00

Footnotes - Schedule A - Table 1 and 2

1/ The fees include the cost of performing official inspection and official class X weighing by Service representatives and related supervision and administration costs, and the cost of class Y weighing functions. For incidental costs included in the fees, and fees in addition to the unit and the hourly fees, see § 800.72, paragraphs (a) and (b).

2/ Only one original inspection, special services, reinspection, appeal inspection, official weighing (Class X), or supervision of weighing (Class Y) fee, as applicable, will be charged for these services whether performed singly or concurrently by the same Service representative.

3/ Special services include, but are not limited to the following:
Sampling, stowage examination, testing of inspection equipment, testing or certification of grain hopper and vehicle scales, testing or certification of platform scales, testing and certification of railroad track scales, reverification of test weights, evaluation of weighing and inspection equipment, demonstrating official inspection and weighing functions, furnishing standard illustrations, clerical services performed during other than normal field office hours or at the service point upon request, and related services.

4/ If special services related to original inspection and official weighing (Class X) services, all reinspection services, and all appeal inspection services are performed at a location more than 20 miles from the FGIS field office location, from which the service is requested, fees will be assessed for: 1) travel time expended by Service representative(s) from the field office location to the service point and return; 2) miles driven in an automobile from the field office location to the service point and return; 3) costs incurred by the Service for any per diem or subsistence paid to Service representative(s) in connection with providing the service; and 4) costs incurred by the Service for commercial transportation for Service representative(s) to travel from the field office location to the service point and return.

5/ If at the request of the Service a file sample is located and forwarded by an agency for official appeal, the agency may, upon request, be reimbursed at the rate of $2.50 per sample by the Service for the cost of locating and forwarding the sample(s).

6/ The minimum fee is applicable to all services, except warehouseman's sample-lot inspection, submitted sample inspection, reinspection grading and appeal inspection grading services, when the request for service is cancelled after the Service representative(s) arrives at the point of service or when the service is performed in 2 hours or less.

7/ For application of fee for standby, see § 800.72(b) and 800.73(b).

8/ For application of fees for extra copies of certificates, see § 800.160(c)(3).

Schedule B.- Fees for Official Inspection and Weighing Services (Including Supervision and Administration Services) Performed by the Service in Canada 1/

Schedule B.- Fees for Official Inspection and Weighing Services (Including Supervision and Administration Services) Performed by the Service in Canada 1/

Table 1

Services (bulk or sacked grain)	Regular Workday	Nonregular Workday
(1) Original inspection services, official weighing services (Class X) and related special services:2/3/		
(i) Contract service (per hour per Service representative).....	$ 26.80	$ 31.20
(ii) Noncontract service (per hour per Service representative).....	37.80	44.40
(iii) Special services performed more than 20 miles from an FGIS field office location or assigned duty station:		
(A) Travel time (per hour per Service representative).....	37.80	44.40
(B) Mileage (per mile driven).....	.20	.20
(C) Per diem/subsistence (per Service representative).....	3/	3/
(D) Commercial transportation (per Service representative).....	3/	3/
(3) Reinspection services, appeal inspection services, Board appeal inspection services, and related special services:3/4/		
(i) Grading service		
(A) Grade and factors (per sample).....	39.00	45.50
(B) Board of Appeals and Review (per sample).....	51.80	60.40
(ii) Service performed more than 20 miles from FGIS field office location or assigned duty station:		
(A) Travel time (per hour per Service representative).....	51.80	60.40
(B) Mileage (per mile driven).....	.20	.20
(C) Per diem/subsistence (per Service representative).....	3/	3/
(D) Commercial transportation (per Service representative).....	3/	3/
(4) Minimum fee per Service request:5/		
(i) Original inspection sevices, official weighing services, and related special services (3 hour minimum)(per hour per Service representative)....	37.80	44.40
(ii) Reinspection services, appeal inspection services, and related special services (3 hour minimum)(per hour per Service representative)6/.....	51.80	60.40
(5) Standby (per hour per Service representative)7/.....	37.80	44.40
(6) Extra copies of certificates (per copy) 8/.....	3.00	3.00

1/ The fees include the cost of performing official inspection and official class X weighing by Service representatives and related supervision and administration costs. For incidental costs included in the fees, and fees in addition to the unit and hourly fees, see § 800.72, paragraphs (a) and (b).

2/ Special services include, but are not limited to the following: sampling, stowage examination, testing of inspection or weighing equipment, demonstrating official inspection or weighing functions, furnishing standard illustrations, clerical services performed during other than normal field office hours or at the service point, and related services.

3/ If special services related to original inspection and official weighing (Class X) services, all reinspection services, and all appeal inspection services are performed at a location more than 20 miles from the FGIS field office location, from which the service is requested, fees will be assessed for: 1) travel time expended by Service representative(s) from the field office location to the service point and return; 2) miles driven in an automobile from the field office location to the service point and return; 3) costs incurred by FGIS for any per diem or subsistence paid to Service representative(s) in connection with providing the service; and, 3) costs incurred by FGIS for commercial transportation for Service representative(s) to travel from the field office location to the point of service and return.

4/ Appeal inspections are based on file samples.

5/ Applicable to all services, except submitted sample inspection, reinspection grading and appeal inspection grading services, when the requested service is performed in 3 hours or less, or the request for service is cancelled after the Service representative(s) arrives at the point of service.

6/ Not applicable if the reinspection or appeal inspection is performed concurrently with an original inspection unless additional FGIS personnel are required.

7/ For application of fee for standby, see § 800.72(b) and 800.73(b).

8/ For application of fee for extra copies of certificates, see § 800.160(c)(3).

Schedule C.- Fees for FGIS Supervision Services for the Official Inspection and Weighing Services Performed by the Delegated States and/or Designated Official Agencies in the United States 1/

Schedule C.- Fees for FGIS Supervision Services for the Official Inspection and Weighing Services Performed by the Delegated States and/or Designated Official Agencies in the United States 1/

Table 1

Inspection Services (bulk or sacked grain)	Official Inspection or Reinspection Services
(1) Official sample-lot inspection service (white certificate):	
(i) For official grade and official factor determinations:	
(A) Truck or trailer (per inspection) 2/	$ .75
(B) Boxcar (per inspection) 2/	2.40
(C) Hopper car (per inspection) 2/	2.60
(D) Barge (per inspection) 2/	15.75
(E) Ship (per ship) 3/	125.00
(F) All other lots (per inspection) 2/4/	.75
(ii) For official factor or official criteria determinations:	
(A) Factor determination (per inspection)(maximum 2 factors)5/	.45
(B) Protein test (per inspection) 2/6/	.25
(2) Stowage examination services:	
(A) Ship (per stowage certificate)	7.60
(B) Other carriers (per stowage certificate)	.45
(3) Warehouseman's sample-lot inspection service (yellow certificate) or submitted sample inspection service (pink certificate):	
(i) For official grade and official factor determinations (per inspection)	.75
(ii) For official factor or official criteria determinations:	
(A) Factor determination (per inspection)(maximum 2 factors)5/	.45
(B) Protein test (per inspection) 2/6/	.25
(4) Reinspection services:	
(i) Truck, boxcar, hopper car, barge, ship, warehouseman's sample-lot, submitted sample, factor determination, and all other lots (per inspection)	.75
(ii) Protein test (per inspection)	.25

Note - The footnotes for table 1 are shown at the end of table 2.

Table 2

Official Services (bulk or sacked grain)	Official Weighing Services (Class X)
(1) Official weighing services:	
(A) Truck or trailer (per carrier)	$ .50
(B) Boxcar and hopper car (per carrier)	1.25
(C) Barge (per carrier)	11.30
(D) Ship (per carrier) 3/	137.90
(E) All other lots (per lot or part lot)4/	.50

1/ The fees include the cost of supervision functions performed by the Service for the official inspection and weighing services performed by the delegated States and/or designated official agencies.

2/ A fee shall be assessed for each carrier or sample inspected if a combined lot certificate is issued or a uniform loading plan is used to determine grade.

3/ A fee shall be assessed per ship regardless of the number of lots or sublots loaded at a specific service point. A fee shall not be assessed for divided original certificates.

4/ All other lots inspection services include, but are not limited to, sampling service, condition examinations, examination of grain in bins, and containers; and for weighing services all other lots include, but are not limited to, seavans and inhouse bin transfers.

5/ Fees shall be assessed for a maximum of 2 factors. If more than 2 factors are determined, fees are assessed at rates in (1)(i) or (3)(i) above, as applicable, based on carrier or type sample represented.

6/ Fees shall be assessed for each sample tested for protein.

* * * * *

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§ 800.72 Explanation of Service fees and additional fees.

(a) *Costs included in fees.* Fees for original inspection services and Class X or Class Y weighing services, in the United States and Canada include: (1) Except as provided in § 800.71(a), Schedules A and B, the cost of per diem or subsistence during travel and the cost of transportation to perform the service requested; (2) postage and other delivery costs; (3) the cost of overtime; and (4) except as provided in § 800.71(a), Schedules A and B, the cost of certification.

(b) *Fees in addition to unit and hourly fees.* Fees for standby time shall be assessed in all cases except no fee shall be assessed for standby time under a service contract for official inspection and weighing services in the United States and Canada.

§ 800.73 Computation and payment of service fees; general fee information.

(a) *Computing hourly rates.* Except as provided in § 800.71(a), Schedules A and B, hourly rates shall begin when the Service representative arrives at the point of service and is available to perform service and shall end when the representative departs from the point of service, computed to the nearest quarter hour (less mealtime, if any). For application of minimum fee per service request, see § 800.71(a), Schedules A and B. For application of fee for travel time for original inspection special services, official weighing (Class X) special services, reinspection services and appeal inspection services, see § 800.71(a), Schedules A and B.

(b) *Computing Standby.* Subject to the provisions of § 800.72(b), standby time shall be computed whenever a Service representative: (1) Has been requested by an applicant to perform a service at a specified location; (2) is on duty and is ready to perform the service requested; (3) is unable to perform the service requested because of a delay by the applicant for any reason; and (4) cannot be utilized to provide service elsewhere based on a determination made by the Service. Standby time shall be computed to the nearest quarter hour (less mealtime, if any) for each Service representative.

* * * * *

(f) *Fees when an application for service is withdrawn or service is refused.* If an application for service is withdrawn or a service is refused under the regulations after a Service representative departs for the point of service the applicant shall pay the applicable minimum fees, standby fees and/or travel fees. For application of minimum fee per service request, see § 800.71(a), Schedules A and B. For application of fees for standby time, see § 800.73(b). For application of fees for travel for original inspection special services, official weighing (Class X) special services, reinspection services, and appeal inspection services, see § 800.71(a), Schedules A and B.

* * * * *

(Secs 8 and 9, Pub. L. 94–582, 90 Stat. 2873 and 2877 (7 U.S.C. 79(j), 79a(l)) as amended by Pub. L. 97–35, 95 Stat. 371, 372)

Dated: September 7, 1982.

D. R. Galliart,

Acting Administrator.

[FR Doc. 82-25931 Filed 9-17-82; 8:45 am]

BILLING CODE 3410-EN-M

Food Safety and Inspection Service

9 CFR Parts 318 and 319

[Docket No. 81-035]

Cooked Italian Sausage and Curing Agents in Italian Sausage

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This is a proposal to amend the standard of identity and composition for Italian sausage to allow the addition of curing agents to Italian sausage and require that the product be prominently labeled to indicate the addition of curing agents, to permit a "smoked" Italian sausage, and to require that "cooked" Italian sausage and "smoked" Italian sausage be labeled as such in the name. This proposed rule would also clarify the definition of cooked Italian sausage to reflect the amount of water content allowed in that product and the restriction that antioxidants are permitted for use in only "fresh" Italian sausage, not in other kinds of Italian sausage. This amendment is necessary because many producers of Italian sausage have found the current definition of cooked Italian sausage to be confusing.

DATE: Comments must be received on or before November 19, 1982.

ADDRESS: Written comments and data should be sent to the Regulations Office, Attn: Annie Johnson, Room 2637, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Hibbert, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6042.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule is being issued in conformance with Executive Order 12291 and has been determined not to be a "major rule." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This proposed rule has been reviewed for cost effectiveness pursuant to guidelines established by Secretary's Memorandum 1512–1. It is anticipated that this proposed rule will give rise to no additional costs to the Agency or any segment of the public as this proposal would merely clarify the existing regulation and amend the standard to conform with present industry practices. It would merely formalize the practice of 65 plants producing cooked Italian sausage, 13 plants producing cured Italian sausage and 23 plants producing both cooked and cured Italian sausage. The limitation of antioxidants to "fresh" Italian sausage would have no effect due to the fact that antioxidants are now only used in "fresh" Italian sausages. Permitting the preparation of a "smoked" Italian sausage simply allows processors the option of producing such a product.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601). There would be no economic impact on small entities since this proposal would merely clarify the existing regulation and amend the standard to conform with present industry practices. There are 65 plants producing cooked Italian sausages, 13 plants producing cured Italian sausage, and 23 plants producing both cooked and cured Italian sausage out of a total of 797 plants producing Italian sausage. Additionally, antioxidants are being used in "fresh" Italian sausage and are not being used in cured Italian sausages. Allowing the preparation of a "smoked" Italian sausage simply allow processors the option of producing such a product; it is not known how many establishments

might in fact decide to produce such a product.

Background

On July 14, 1972, the Department published a proposal in the **Federal Register** (37 FR 13803–13804) to establish standards of identity and composition for Italian sausage. After consideration of the comments received in response to the proposed standards, and review of products labeled "Italian Style Sausage" and "Italian Brand Sausage," a final rule establishing a standard of composition for Italian sausage products was published in the **Federal Register** on January 19, 1976 (41 FR 2629–2630).

In developing the standard for Italian sausage, primary consideration was given to (1) species of meat used, (2) fat content of the meat, (3) spices and flavorings normally used, and (4) trichinae control.

While the use of curing agents in this type of product was mentioned in the comments on the proposed standard, no information was submitted or received indicating the relative significance of cured Italian sausage as compared to uncured Italian sausage. It appeared that cured Italian sausage was produced only in very small amounts and was not a representative type of Italian sausage. Thus, no provisions were made in the standard for cured Italian sausage. However, since the standard was published, the Food Safety and Inspection Service (FSIS) has learned from a variety of sources that using sodium nitrite and potassium nitrite in "Italian Sausage" formulas is a common and longstanding practice of domestic producers and that these two substances are traditional ingredients of this product as made in Northern Italy and Sicily.

In light of the fact that industry has traditionally added curing agents to Italian sausage, the Agency is proposing to amend § 319.145 of the Federal meat inspection regulations (9 CFR 319.145) to permit the addition of the curing agents sodium nitrite and potassium nitrite to Italian sausage, in conformity with industry practice. The amount of curing agent allowed would be regulated by § 318.7(c)(4) of the Federal meat inspection regulations (9 CFR 318.7(c)(4)).

Those products containing the curing agent would be required to be prominently labeled with the term "cured" included in the product name in the same size and style of lettering as the other words in the product name.

The Federal meat inspection regulations currently permit the use of antioxidants in Italian sausage. However, antioxidants are not used in cured Italian sausages and are not permitted in most other cured sausage products. Therefore, this proposal would amend the chart in § 318.7(c)(4) of the Federal meat inspection regulations under the class of substance "Antioxidants and oxygen interceptors" to clarify that antioxidants are permitted only in "fresh" Italian sausage.

Many producers have long produced a precooked Italian sausage. This type of product was provided for when the Agency established the standards for Italian sausages found in § 319.145 (a), (b) and (c) of the Federal meat inspection regulations (9 CFR 319.145 (a), (b) and (c)). Cooked Italian sausage is specifically addressed in § 319.145(c), which states that "if Italian sausage products are cooked (by the producer) determination of compliance with (the standards of composition found in) paragraphs (a) and (b) of this section (§ 319.145) shall be based upon the uncooked product." This means that the product before cooking must comply with all requirements for Italian sausage contained in § 319.145 (a) and (b). Producers of Italian sausage apparently have not understood whether the requirements for water content contained in § 319.145(b)(2) applies to the cooked or the uncooked product.

The intention of the regulation is that all requirements contained in § 319.145 (a) and (b), including the requirements for water content contained in § 319.145(b)(2), be met prior to the product being cooked. In order to clarify this intent, the Agency is proposing to amend § 319.145(c) to specifically state that all the requirements of § 319.145 (a) and (b), including the water content requirements of § 319.145(b)(2), are to be complied with prior to the product being cooked.

The proposal would require that cooked Italian sausage products be prominently labeled with the term "cooked" included in the food product label in the same size and style of lettering as the other words in the product name. The Agency also is proposing to amend the Italian sausage standard to allow for "smoked" Italian sausages, giving processors the option of making smoked Italian sausages. Therefore, the Agency is proposing to delete the word "unsmoked" from the definition of Italian sausage in 9 CFR 319.145(a) and to amend § 319.145(c) to state specifically that all the requirements of § 319.145 (a) and (b), including the water content requirement of § 319.145(b)(2), are to be met prior to smoking the product.

For these reasons, the Agency is proposing to revise the Federal meat inspection regulations as set forth below.

Indexing Terms: As required by 1 CFR 18.20 (46 FR 7162, January 22, 1981), the following are the index terms for this regulation:

List of Subjects

9 CFR Part 318

Food additives, Meat inspection.

9 CFR Part 319

Standards of identity, Meat and meat food products, Meat inspection, Food labeling.

1. The authority citation for Parts 318 and 319 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

§ 318.7 [Amended]

2. The chart in § 318.7(a)(4) (9 CFR 318.7(a)(4)) would be amended under the class of substance "Antioxidants and oxygen interceptors" for the products "Fresh pork sausage, brown and serve sausages, Italian sausage products, pregrilled beef patties, and fresh sausage made from beef or beef and pork, by adding the word "fresh" before "Italian sausage products" to read "Fresh pork sausage, brown and serve sausages, fresh Italian sausage products, pregrilled beef patties, and fresh sausage made from beef or beef and pork."

PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION

3. Section 319.145 would be amended by removing the words "uncured" and "unsmoked" from the first sentence of paragraph (a), by adding a new paragraph (a)(4), and by revising paragraph (c) to read as follows:

§ 319.145 Italian sausage products.

(a) Italian sausage products are sausages containing at least 85 percent meat, or combination of meat and fat, with the total fat content constituting not more than 35 percent of the finished product.

* * * * *

(4) Product made in conformance with the provisions of paragraphs (a) (1), (2), and (3) of this section and of paragraphs (b) and (c) of this section may contain sodium nitrite or potassium nitrite, in amounts allowed in § 318.7(c)(4), if it is labeled with the word "cured" in the

product name, such as "Cured Italian Sausage." The word "cured" shall be in the same size and style of lettering as the other words in the product name.

* * * * *

(c) If Italian sausage products are cooked or smoked, determination of compliance with the provisions of paragraphs (a) and (b) of this section shall be based on the uncooked or unsmoked product. The product before cooking or smoking shall contain no more than 3 percent water as specified in paragraph (b)(2) of this section. Product which is cooked shall be labeled with the word "cooked" in the product name, such as "Cooked Italian Sausage" or "Cooked Cured Italian Sausage." Product which is smoked shall be labeled with the word "smoked" in the product name, such as "Smoked Italian Sausage" or "Smoked Cured Italian Sausage." The words "cooked" and "smoked" shall be in the same size and style of lettering as the other words in the product name.

Done at Washington, D.C., on September 3, 1982.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 82-25842 Filed 9-17-82; 8:45 am]
BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-NM-74-AD]

Airworthiness Directives: Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new Airworthiness Directive which would require inspection of the wing landing gear jury strut spindles for cracks. In one incident a broken spindle resulted in the wing landing gear being down but not locked. An unlocked wing gear could be dislocated by touchdown forces and allow a wing-low rollout which could result in damage/loss of the outboard engine and a possible fire. Terminating action will be the replacement of the spindle with an improved spindle.

DATES: Comments must be received on/or before November 8, 1982.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82-NM-74-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Mr. Owen Schrader, Airframe Branch, ANM-120S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2516. Mailing Address: Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the rules docket, for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the rules docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82-NM-74-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

Broken wing landing gear jury strut spindles have been reported on two airplanes. This caused a wing landing gear down-and-not-locked condition. The jury strut holds the side strut in the locked position.

Hydraulic power was lost in system four on one of the airplanes when the gear was cycled with the jury strut disconnected at the broken spindle. The unlocked gear could not be retracted and it was necessary to land with one wing gear down but not locked. An unlocked wing gear could be dislocated by touchdown forces and allow a wing-low rollout. In such a rollout it is possible that the outboard engine could be damaged or separate from the wing and a fire could result.

Examination of the broken spindles indicated that the cracks were initiated by cyclic loading. The two airplanes had over 9,000 flight cycles. Subsequent analysis indicated any wing gear jury strut spindle with over 8,000 cycles may be subject to such cracking. Since the spindle is high strength steel, cracks will grow quickly.

Boeing has issued Service Bulletin 747-32-2261 which defines the specific inspection procedures to be used to check for cracks in the wing gear jury strut spindle on all delivered 747 airplanes. The inspection requirements will continue until terminating action is taken. Terminating action is described by Revision "A" to the service bulletin which consists of installing an improved spindle. It is expected that Revision "A" will be released in the near future.

Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed AD would require inspection and/or modification of all delivered 747 series airplanes.

It is estimated that 170 airplanes of U.S. operators will be affected by this AD, that it will take approximately 42 man-hours per airplane to accomplish the required actions, and that the average labor cost will be $40 per man-hour. Repair parts are estimated at $1,440 per airplane. Based on these figures, the total cost impact of the AD is estimated to be $530,400. For these reasons the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Boeing: Applies to all Model 747 series airplanes certificated in all categories listed in Boeing Service Bulletin 747-32-2261 or later FAA approved revisions. To prevent wing landing gear jury strut spindle failures, accomplish the following:

A. Within the next 375 landings after the effective date of this AD or prior to the accumulation of 7625 landings, whichever is

later, and thereafter at intervals not to exceed 750 landings, magnetic particle or dye penetrant inspect the wing landing gear jury strut spindles for cracks in accordance with Table I of Boeing Service Bulletin 747–32–2261 or later FAA approved revisions. Cracked parts are to be replaced prior to further flight.

B. Upon installation of the new spindles in accordance with Boeing Service Bulletin 747–32–2261 Revision "A" or later FAA approved revisions, the requirements of this AD are terminated.

C. Alternate means of compliance with the AD which provides an equivalent level of safety may be used when approved by the Manager, Seattle Area Aircraft Certification Office, FAA, Northwest Mountain Region.

D. For purposes of complying with this AD, subject to acceptance by the assigned FAA maintenance inspector, the number of flight cycles may be determined by dividing each airplane's hours time-in-service by the operator's fleet average from takeoff to landing for the airplane type.

E. Aircraft may be ferryed to a base for maintenance in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations.

Manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made part hereof pursuant to 5 U.S.C. 552(a)(1).

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble: the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities since it involves few, if any, small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington, on September 9, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-25647 Filed 9-17-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-45]

Proposed Alteration of Transition Area, Cheraw, South Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to increase the size of the Cheraw, South Carolina, transition area to provide additional controlled airspace for aircraft departing the Cheraw Municipal Airport during Instrument Flight Rule (IFR) operations. In addition, two arrival area extensions will be revoked as one is in excess of needs and the other will be encompassed by the increased size of the radius area.

DATES: Comments must be received on or before: October 28, 1982.

ADDRESSES: Send comments on the proposal in triplicate to:

Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344; telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–SO–45." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that will increase the radius of the Cheraw transition area to encompass that airspace needed for protection of IFR departure operations from the Cheraw Municipal Airport. Existing transition area arrival extensions, which are predicated on the Chesterfield VOR and the Cheraw radio beacon, will be revoked as the airspace required for arrival operations will be contained in the enlarged radius area. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Cheraw, SC—Revised

That airspace extending upwards from 700 fet above the surface within a 7-mile radius of Cheraw Municipal Airport (Lat. 34°42'45" N., Long. 79°57'35" W.).

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air

traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on September 9, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-25645 Filed 9-17-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Proposed Rescheduling of Burprenorphine From Schedule II to Schedule V of the Controlled Substances Act

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Acting Administrator of the Drug Enforcement Administration (DEA) proposes to reschedule the narcotic drug, buprenorphine, from Schedule II to V of the Controlled Substances Act (21 U.S.C. 801 *et seq.*). This action is initiated upon DEA's receipt of a letter from the Assistant Secretary for Health, Department of Health and Human Services (DHHS), recommending that buprenorphine be rescheduled from Scheduled II to Schedule V. DEA's final decision concerning the relative abuse potential of buprenorphine will take account of the Assistant Secretary's recommendation and any information received in response to this proposal. The effects of this rule would be to require that the manufacture, distribution, dispensing, security, registration, record keeping, inventory, exportation and importation of this drug be subject to controls for Schedule V narcotic substances.

DATE: Comments and objections must be received on or before November 19, 1982.

ADDRESS: Comments and objections should be submitted in quintuplicate to the Acting Administrator, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION:

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Buprenorphine is controlled in Schedule II of the Controlled Substances Act (CSA) under section 202, Schedule II(a)(1) as a "derivative * * * of opium or opiate."

On May 12, 1982, the Assistant Secretary for Health, on behalf of the Secretary, Department of Health and Human Services, sent a letter to the Acting Administrator of the Drug Enforcement Administration recommending that buprenorphine be rescheduled into Schedule V and continue to be defined as a narcotic. The letter is set forth below:

May 12, 1982

Mr. Francis M. Mullen, Jr.,
Acting Administrator, Drug Enforcement Administration, 1405 Eye Street, N.W., Washington, D.C. 20537.

Dear Mr. Mullen: Pursuant to the Controlled Substances Act 21 U.S.C. 811(f), this letter is notification that the Food and Drug Administration has approved a New Drug Application for buprenorphine, an analgesic drug with a potential for abuse. Buprenorphine is currently listed in Schedule II of the Act by virtue of its derivation from the Schedule II opioid precursor thebaine. The Food and Drug Administration has recommended that buprenorphine be rescheduled into Schedule V and continue to be defined a narcotic. The Schedule V recommendation is based on findings that buprenorphine has a low potential for abuse relative to the drugs or other substances in Schedule IV, that buprenorphine has a currently accepted medical use in treatment in the United States, and that abuse of buprenorphine may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule IV. The recommendation that buprenorphine be classified as a narcotic is based on the legal definition of "narcotic drug" in 21 U.S.C. 802(16), which includes all opiate derivatives, because buprenorphine is derived from the opiate thebaine.

I concur with these recommendations and have enclosed the Basis for Rescheduling of Buprenophine as a Schedule V Narcotic Under the Controlled Substances Act.

The Drug Abuse Advisory Committee of the FDA Bureau of Drugs has recommended that the agonist-antagonist class of analgesic drugs (butorphanol, nalbuphine, pentazocine and buprenorphine) be monitored and periodically reviewed for changes in abuse patterns. To this end, the Department of Health and Human Services would appreciate your cooperation in reporting diversion and any other law enforcement data on this class of drugs to the Food and Drug Administration at yearly, or if possible, semi-yearly intervals.

Should you, or any of your staff, have any questions, please direct your inquiries to the Drug Abuse Staff of the Bureau of Drugs, Food and Drug Administration.

Sincerely yours,

Edward N. Brandt, Jr., M.D.,
Assistant Secretary for Health.

Based on the scientific and medical evaluation and the recommendation of the Secretary, Department of Health and Human Services, with respect to buprenorphine, received in accordance with section 201(b) of the CSA (21 U.S.C. 811(b)), and under the authority vested in the Attorney General by section 201(a) of the CSA (21 U.S.C. 811(a)) and delegated to the Acting Administrator by regulations of the Department of Justice (28 CFR Part 0.100), the Acting Administrator hereby proposes that paragraph (b)(1) through (b)(6) of Title 21, Code of Federal Regulations, § 1308.15 be redesignated as (c)(1) through (c)(6) and that a new paragraph (b) entitled *Narcotic drugs* be added to § 1308.15 of Title 21 of the Code of Federal Regulations (CFR) to read as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

§ 1308.15 Schedule V.

* * * * *

(b) *Narcotic drugs.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts, as set forth below:

(1) Buprenophine..... 9064

* * * * *

All interested persons are invited to submit their comments or objections in writing regarding this proposal. If a person believes that one or more issues raised by him warrant a hearing, he should so state and summarize the reasons for his belief. Comments and objections should be submitted in quintuplicate to the Acting Administrator, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative.

In the event that comments or objections to this proposal raise one or more issues which the Acting Administrator finds, in his sole discretion, warrant a hearing, the Acting Administrator will publish in the **Federal Register** an order for a public hearing which will summarize the issues to be heard and set the time for the hearing that will not be less than 30 days after the date of the order.

Pursuant to Title 5, United States Code, section 605(b), the Acting Administrator certifies that the

rescheduling of buprenorphine, as proposed herein, will not have a significant impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354). The regulatory requirements imposed on Schedule V substances are considerably less burdensome than those imposed on Schedule II substances.

In accordance with the provisions of 21 U.S.C. 811(a), this proposal to reschedule buprenorphine from Schedule II to Schedule V is a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and as such have been exempted from the consultation requirements of Executive Order 12291 (46 FR 13193).

Dated: September 15, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-25845 Filed 9-17-82; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 240

[Notice No. 426; Re: Notice No. 413]

Materials and Processes for the Production and Treatment of Wine, Juice, and Distilling Material

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Reopening of the comment period.

SUMMARY: This notice reopens the comment period for an additional 90 calendar days on issues relating to the proposed regulatory revisions pertaining to wine treatments which were published in the **Federal Register** of June 18, 1982 (Notice No. 413, 47 FR 26399). Due to the sensitive and controversial nature of the proposed changes, the Bureau believes that an additional comment period should be given to provide an opportunity for all interested persons, especially grape growers and winemakers, to present comments.

DATE: Comments must be received on or before December 20, 1982.

ADDRESS: Comments should be addressed to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Notice No. 426).

FOR FURTHER INFORMATION CONTACT: Michael J. Breen, Rulings Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC (202–566–7632).

SUPPLEMENTARY INFORMATION:

Background

On June 18, 1982, ATF published Notice No. 413 to obtain comment on proposed regulatory changes in the listings of materials and processes authorized for use in the production and treatment of wine, juice, and distilling material. The proposed amendments update the listings of authorized materials and processes and amend the procedure for making additions and other changes. Although comments received during the original comment period generally have supported the Bureau's intent and purpose for the proposed changes, a significant number of potential commenters were unable to submit written suggestions and modifications to the proposed regulatory language due to the brevity of the comment period.

Since the proposed changes to the regulations are sensitive and controversial, ATF believes an opportunity should be given for all interested persons to submit further comments on these issues. This will ensure that all pertinent information is available to ATF before any final decision is reached. All comments previously submitted will remain a part of the record and no resubmission of comments will be necessary unless the commenter wishes to furnish additional information.

Disclosure of Comments

ATF will not recognize materials and comments as confidential. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. Comments may be disclosed to the public. The name of the person submitting comments is not exempt from disclosure.

Copies of all notices and all written comments will be available for public inspection at: ATF Reading Room, Room 4405, Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC.

Drafting Information

The author of this document is Michael J. Breen, Rulings Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 240

Administrative practice and procedure, Authority delegations, Claims, Electronic funds transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Transportation, Warehouses, Wine, and Vinegar.

Authority and Issuance

This notice is issued under the authority contained in Section 7805 of the Internal Revenue Code of 1954, as amended (68A Stat. 917, as amended).

Signed: August 24, 1982.

Stephen E. Higgins,

Acting Director.

Approved: September 3, 1982.

Robert E. Powis,

Acting Assistant Secretary (Enforcement and Operations).

[FR Doc. 82-25838 Filed 9-17-82; 8:45 am]

BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[WH-FRL 2192-2]

Ocean Dumping; Proposed Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to designate the existing cellar dirt disposal site located in the New York Bight as an EPA approved ocean dumping site for the dumping of cellar dirt. This action is necessary to provide an ocean dumping site for the current and future disposal of this material.

DATE: Comments must be received on or before November 4, 1982.

ADDRESSES: Send comments to: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH–585), EPA, Washington, DC 20460.

The draft Environmental Impact Statement (EIS) is available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), Room 2404 (rear), 401 M Street Southwest, Washington, DC
EPA Region II Library, Room 1002, 26 Federal Plaza, New York, New York
EPA Region II Library, Woodbridge Avenue, GSA Raritan Depot, Edison, New Jersey
NOAA/RD/OMPA Northeast Office, Old Biology Building, State University of New York, Stony Brook, New York

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, 202/755–0356.

SUPPLEMENTARY INFORMATION: Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq. (hereafter "the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On September 19, 1980, the Administrator delegated the authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Management, now the Assistant Administrator for Water. This proposed site designation is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, § 228.4) state that ocean dumping sites will be designated by publication in this Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2561 et seq.) and extended on December 9, 1980 (45 FR 81042 et seq.). That list established this site as an interim site.

The purpose of this notice is to provide the public an opportunity to comment on the proposed final designation, as an EPA Approved Ocean Dumping Site, of a site in the New York Bight for the continuing disposal of cellar dirt; that is excavation dirt and rock resulting from construction work in the metropolitan New York area.

The location of the cellar dirt site is approximately 6.6 nautical miles east of Highlands, New Jersey, and 11.7 nautical miles south of Rockaway, Long Island, positioned in a circle with a radius of 0.6 nautcial miles and center coordinates as follows:

40°23'00" N; 73°49'00" W.

The site occupies an area of approximately 1.1 square nautical miles. Water depths within this area range from 29 to 38 meters. Disposal operations at the site began in 1914.

Section 102(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., ("NEPA") requires that Federal agencies prepare an EIS on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The object of NEPA is to build into the Agency decision-making process careful consideration of all environmental aspects of proposed actions. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EIS's in connection with ocean dumping site designations such as this. 39 FR 16186.

EPA has prepared a draft EIS entitled "Draft Environmental Impact Statement (EIS) For New York Bight Cellar Dirt Disposal Site Designation." The draft EIS was filed with the EPA Office of Environmental Review on March 19, 1982, and a notice of availability for public review and comment was published in the **Federal Register** on March 26, 1982 (47 FR 13033). The public comment period on this draft EIS closed May 10, 1982.

Based on the information reported in the draft EIS, EPA proposes to designate the site for continuing use for the ocean disposal of cellar dirt where the applicant has demonstrated a need for ocean dumping, lack of acceptable alternatives to the dumping, and compliance with EPA's marine environmental impact criteria. The draft EIS is available for inspection at the addresses given above.

The designation of the existing New York Bight cellar dirt disposal site as an EPA Approved Ocean Dumping Site is being published as proposed rulemaking. Management authority of this site will be delegated to the Regional Administrator of EPA Region II. Interested persons may participate in this proposed rulemaking by submitting written comments within 45 days of the date of this publication to the address given above.

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this proposed action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for excavation dirt and other nonfloatable debris. Consequently, this proposal does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this proposed rule does not necessitate preparation of a Regulatory Impact Analysis.

This proposed rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

List of Subjects in 40 CFR Part 228

Water pollution control.

(33 U.S.C. 1412 and 1418)

Dated: September 13, 1982.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

PART 228—CRITERIA FOR THE MANAGEMENT OF DISPOSAL SITES FOR OCEAN DUMPING

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is proposed to be amended by adding § 228.12(b)(14) an ocean dumping site for Region II as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(14) Cellar Dirt Site—Region II.

Location (center point): Latitude—40°23'00" N.; Longitude—73°49'00" W.

Size: 1.1 square nautical miles.

Depth: Ranges from 29 to 38 meters.

Primary Use: Cellar dirt.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to excavation dirt and rock, broken concrete, rubble, tile, and other nonfloatable debris.

[FR Doc. 82-25782 Filed 9-17-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 413, 433, and 469

[WH-FRL 2208-4]

Electrical and Electronic Components Point Source Category and Electroplating and Metal Finishing Point Source Categories

AGENCY: Environmental Protection Agency.

ACTION: Public hearing.

SUMMARY: Notice is hereby given of a hearing open to the public to discuss and receive comments on pretreatment regulations proposed in the **Federal Register** as follows:

Proposal date	Category
Aug. 24, 1982 (47 FR 37048)	Electrical and electronic components.
Aug. 31, 1982 (47 FR 38482)	Electroplating and metal finishing.

DATE: A public hearing has been scheduled for the following date and place: October 21, 1982—Washington, D.C.

ADDRESS: The public hearing will be

held at the following address: L'Enfant Plaza Hotel, 480 L'Enfant Plaza East, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Harold Coughlin, Project Officer for Public Participation, Effluent Guidelines Division (WH–552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 426–2560.

Anyone wishing to make an oral statement and submit written testimony at the hearing should indicate so in writing, including which session of the hearing they plan to attend, to the above address.

SUPPLEMENTARY INFORMATION: Registration for the hearing will be held from 8:30 to 9:00 a.m. Oral testimony will be presented as follows: 9:30 to 11:30 a.m.—Electrical and Electronic Components, 1:00 p.m. to 3:00 p.m.—Electroplating and Metal Finishing. Following the registration period there will be a brief presentation by an EPA official covering the development of effluent limitations and standards under the Clean Water Act of 1977. Also, opportunity will be given throughout the day for audience participants to submit written questions to the Presiding Officer. These questions will be addressed during the question and answer session which will conclude the presentations of oral testimony for each category.

A court reporter will be present at the public hearing. Official transcripts will be available upon request.

Dated: September 9, 1982.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR Doc. 82-25783 Filed 9-17-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 32

[CGD 78–121]

Aluminum Hatch Covers Aboard Tankships

Correction

In FR Doc. 82–24161 appearing on page 38707 in the issue of Thursday, September 2, 1982, make the following correction: The "CGD" number in the heading should have read as set forth above.

BILLING CODE 1505–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82–351; RM–4105]

TV Broadcast Station in La Salle and Pontiac, Illinois; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; Extension of Time for Filing Reply Comments.

SUMMARY: Action taken herein extends the time for filing reply comments in BC Docket No. 82–351 (RM–4104) concerning a proposal to reassign UHF Television Channel 35 from La Salle to Pontiac, Illinois. Counsel for petitioner states that an additional 30 days will be needed to formulate a proper response.

DATE: Reply comments must be filed on or before September 24, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Adopted: August 30, 1982.

Released: September 7, 1982.

1. On June 23, 1982, the Commission adopted the Notice of Proposed Rule Making, 47 FR 29854, published July 9, 1982, in the above-captioned proceeding. Comments have been filed and reply comments were due August 24, 1982.

2. We now have before us for consideration a request for extension of time for filing reply comments, filed on August 17, 1982, by Livingston County Broadcasters, Inc., petitioner in the above-referenced rule making proceeding. Petitioner requests a 30 day extension to and including September 24, 1982. Petitioner states that as a result of comments filed in response to the Notice, it is now seeking to determine whether there is another channel which will fit into the community of La Salle to permit both Pontiac and LaSalle to have their own television assignment. Petitioner believes that such a determination will permit a quicker resolution of this proceeding by removing the need to choose between the two cities. Petitioner states that it needs the additional 30 days to complete its study and prepare its reply comments.

3. We are of the view that, under the circumstances recited, an extension of time is warranted. It appears that no other party to the proceeding would be prejudiced by a grant of the instant request, such request was timely filed and such extension will assure development of a sound and comprehensive record on which to base a decision herein.

4. Accordingly, it is ordered, That the request for extension of time, filed on behalf of Livingston County Broadcasters, Inc., is granted, and the time for filing reply comments is extended to and including September 24, 1982.

5. This action is taken purusant to §§ 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–25754 Filed 9–17–82; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

Coast Guard

33 CFR Part 52

[Docket No. 73]

Final Action on Requests for Correction of Coast Guard Military Records

AGENCY: Board for Correction of Military Records, Office of the Secretary, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would permit the Board for Correction of Military Records to take final action, on behalf of the Secretary, in certain categories of cases. The proposed rule would also establish the categories of cases on which final action would have to be taken by the Secretary.

DATE: Comment closing date: November 19, 1982.

Address for comment: Comments should be sent to Docket Clerk (Docket No. 73), 400 Seventh Street, SW., Room 10421, Washington, D.C., 20590. Comments are available for public inspection at this address Monday through Friday from 9:00 am to 5:30 pm. Persons wishing to have their comments acknowledged should send a stamped self-addressed postcard with their comments. The Docket Clerk will return

these postcards when the comments are docketed.

FOR FURTHER INFORMATION CONTACT: William T. Underwood, Chairman, Board for Correction of Military Records, U.S. Department of Transportation, 400 Seventh Street, SW., Room 8414, Washington, D.C. 20590. (202) 755–8750.

SUPPLEMENTARY INFORMATION: The Department of Transportation's Board for Correction of Military Records (Board), established under 10 U.S.C. 1552, considers applications by present and former members of the Coast Guard and Coast Guard Reserve to correct their military records. Applications for the correction of military records include a wide variety of matters, such as requests for the upgrade of discharges, correction of officers' fitness reports, changes in reenlistment codes, and assignment or modification of disability ratings for disability retirement purposes.

Applications for the correction of a military record are administratively processed by the Board's staff. The Chairman may informally deny an application pursuant to 33 CFR 52.15–5. Applications which are not informally denied by the Chairman, pursuant to 33 CFR 52.15–5, are referred to a three-member Board, drawn from a precept of civilian attorneys who work for the Department of Transportation, for a formal decision. Requests for reconsideration of informal denials and requests for reconsideration of formal Board decisions approved by the General Counsel are also considered by a three-member Board. After the Board members sign a formal decision, other than a denial of a request for reconsideration of an informal denial, it is transmitted to the Office of the General Counsel for review. The General Counsel has been delegated the Secretary's authority to take final action on requests for the correction of military records (see 49 CFR 1.57(e)).

This proposed rule is concerned with the above authority to take final action. The proposal would identify a series of Board actions which, if taken unanimously by all three members of a Board, would not be transmitted to the General Counsel for review. In these cases, the action of the Board itself would be administratively final. The purpose of the proposed change is to speed the processing of routine and uncontroversial cases by eliminating an extra layer of review.

All unanimous Board decisions to grant relief, in matters falling into the categories identified in § 52.35–15(a)(2), may be made administratively final by the Board, unless the Chief Counsel of the Coast Guard states that the application raises a significant issue of Coast Guard policy. A unanimous Board could approve any other application, as long as the Coast Guard had recommended relief. A unanimous Board could also deny any application. All other Board actions would still be referred to the General Counsel's office for final action. A technical conforming amendment would be made to 49 CFR 1.57(e) to make that delegation of authority consistent with this proposed change to 33 CFR Part 52.

This proposed rule is not a major rule within the meaning of Executive Order 12291 or a significant rule under the Department of Transportation's Regulatory Policies and Procedures. This proposed rule relates to agency management and personnel and, therefore, the notice and comment requirements of section 553 of the Administrative Procedure Act are inapplicable. Nevertheless, the Department believes it would be beneficial to publish this proposal to allow present and former Coast Guard personnel an opportunity to comment on proposed changes in the Board's review and decision-making procedures.

Since this proposed rule would only apply to individual Coast Guard personnel, under the criteria of the Regulatory Flexibility Act, the Department certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

List of Subjects

33 CFR Part 52

Military records, Military personnel.

49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

PART 52—BOARD FOR CORRECTION OF MILITARY RECORDS OF THE COAST GUARD

The Department proposes to revise 33 CFR 52.35–15 to read as follows:

§ 52.35–15 Final Action.

(a) *Final Action by the Board.* The Board may take final action on behalf of the Secretary, under 10 U.S.C. 1552, as follows, provided that the Board acts unanimously:

(1) The Board may deny any application for the correction of military records.

(2) The Board may approve an application for the correction of military records in one of the following categories, unless the Chief Counsel of the Coast Guard, in submitting the views of the Coast Guard under § 52.45–5(c), states that the application involves a significant issue of Coast Guard policy:

(i) An application to correct an enlistment or reenlistment contract or agreement to extend an enlistment for the purpose of effecting or increasing entitlement to a Selective Reenlistment Bonus;

(ii) An application to modify an election to participate in the Survivor Benefit Plan;

(iii) An application to change a reenlistment eligibility code;

(iv) An application to correct the character of or reason for a discharge or separation.

(3) The Board may approve any application for the correction of military records not falling into one of the categories in paragraph (a)(2) of this section, provided that the Chief Counsel of the Coast Guard recommends relief. The Board may not take final action under this subsection if the Chief Counsel recommends relief substantially different from that requested by the applicant.

(b) *Final Action by the Secretary.* Except in cases where the Board takes final action under subsection (a) of this section, the Board shall forward the record of its proceedings to the Secretary for approval, disapproval, or return for additional consideration. After taking final action, the Secretary returns the record to the Board for disposition.

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

It is also proposed to revise 49 CFR 1.57(e) to read as follows:

§ 1.57 Delegations to General Counsel.

* * * * *

(e) Review and take final action on referrals of the findings of the Board for Correction of Military Records of the Coast Guard (except with respect to those matters on which the Secretary's authority to take final action is exercised by the Board pursuant to 33 CFR 52.35–15) and the Coast Guard Discharge Review Board.

* * * * *

Issued at Washington, D.C., on September 8, 1982.

Andrew L. Lewis,

Secretary of Transportation.

[FR Doc. 82-25856 Filed 9-17-82; 8:45 am]
BILLING CODE 4910-62-M

National Highway Traffic Safety Administration

49 CFR Part 572

Anthropomorphic Test Dummies

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Response to petition for rulemaking.

SUMMARY: This notice responds to a petition for rulemaking submitted by Humanoid Systems, concerning 49 CFR Part 572, *Anthropomorphic Test Dummies*. The petition requested changes in the specifications for the 50th percentile male dummy. That dummy is referenced by Federal Motor Vehicle Safety Standard No. 208 (49 CFR Part 571.208), *Occupant Crash Protection*, as part of that standard's compliance test procedure applicable to manufacturers choosing to meet that standard's requirements by means of passive restraints. Humanoid's petition stated that the dummy does not have a correct anatomical shape for the pelvis. The agency is currently involved in research concerning the specific problems alleged by Humanoid, as well as potential successor dummies to the current dummy. The agency plans to decide whether or not to amend the specifications for the current dummy after those research projects have been completed. This notice denies Humanoid's petition to the extent that it contemplates action other than that currently in progress.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley H. Backaitis, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–2264).

SUPPLEMENTARY INFORMATION: Part 572, *Anthropomorphic Test Dummies*, provides specifications for the 50th percentile male dummy. That dummy is referenced by Safety Standard No. 208, *Occupant Crash Protection*, as part of the standard's compliance test procedure applicable to manufacturers choosing to meet that standard's requirements by means of passive restraints. Results from tests utilizing the dummy, both for compliance and research purposes, have been used by research institutions, government and industry to develop a large data bank.

Humanoid Systems submitted a petition for rulemaking to change the Part 572 test dummy's specifications with respect to the pelvis. That company stated that the Part 572 dummy does not have a correct anatomical shape for the pelvis. Further, that company stated that due to errors by the manufacturer who furnished drawings, there was a 10 degree difference in the angles of the hip sockets with reference to the principal axes of the pelvic casting. Humanoid stated that modification of the specifications would provide a benefit to the safety community since the pelvic shape of the current dummy creates a predisposition for the lap belt to slide up over the pelvis and to press against the abdomen and its organs (submarining).

NHTSA is aware that the pelvic shape of the Part 572 dummy is not an anatomically perfect representation, and the agency is involved in research concerning possible changes in the pelvic shape. Humanoid's petition cited a part of that research, i.e., the development of a new pelvic shape by a contractor, and asked that the agency change the standard based on that research.

While part of the research concerning the pelvic shape has been completed, other work is continuing. This includes review of the contract work cited by Humanoid. The agency has included interested groups in this review process, including physiological and anthropometric laboratories and the Society of Automotive Engineers (SAE).

The mere fact that the pelvic shape is not anatomically perfect does not by itself necessitate a change in specifications. Any dummy will to some extent differ from a real human being that it simulates for test purposes. Similarly, each human being will differ to some extent from any other human being. The issues under consideration by the agency are to what extent, if any, the current pelvic shape may bias test results in one way or another, and how the shape may be improved. The agency's research project will consider Humanoid's allegation that the current dummy exaggerates submarining.

The decision whether to amend the specifications of the Part 572 dummy will depend on the results of the agency's research project. The decision may also depend on the results of two related agency projects, the devlopment of two potential successors to the current dummy and the advanced dummy program.

Any change in specifications requires development of a new data bank. Thus, a change in specifications not only results in additional costs for purposes of compliance testing but also limits the usefulness of prior test data for research purposes. It is therefore in the interest of maximizing the usefulness of data and thereby promoting safety, as well as reducing costs, to change specifications as infrequently as possible. For those reasons, the agency may decide not to change specifications for the existing dummy if that dummy is likely to be superseded in the near future.

For the reasons set forth above, the agency does not plan any interim action to change the specifications of the current Part 572 dummy, pending completion of its research projects. Therefore, to that extent, this notice denies Humanoid's petition.

(Secs. 103, 119 and 124, Pub. L. 89–563, 80 Stat. 718, (15 U.S.C. 1392, 1407 and 1410a); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on September 13, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82–25679 Filed 9–17–82; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 47, No. 182
Monday, September 20, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Administration; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Administration of the Administrative Conference of the United States, to be held at 2:00 p.m., Wednesday, September 29, 1982, at 400 Maryland Avenue, SW., Room 7002, Washington, D.C. 20546.

The Committee will meet primarily to discuss consultant Thomas J. Madden's study on officials' liability for constitutional torts, and possible areas for recommendations thereon, and to consider a possible project on procurement by grantees under federal grant programs.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information contact Charles Pou, Jr., Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, D.C. (Telephone: 202–254–7065). Minutes of the meeting will be available on request.

Richard K. Berg,
General Counsel.
September 15, 1982.
[FR Doc. 82–25846 Filed 9–17–82; 8:45 am]
BILLING CODE 6116–01–M

Manual for Administrative Law Judges—Revised Edition 1982

The Office of the Chairman of the Administrative Conference of the United States announces publication of a book by Merritt Ruhlen: "Manual for Administrative Law Judges" (Revised Edition 1982). The manual discusses and explains methods and recommended practices for conduct of formal administrative proceedings. It includes new sections designed for special types of cases and a chapter on the writing of judicial decisions.

The report is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Stock No. 052–049–00013–0) for $5.50.

The Office of the Chairman has a limited supply of copies for single copy distribution. To request a copy of the report, write to Administrative Conference of the United States, Suite 500, 2120 L Street, NW., Washington, D.C. 20037, or telephone Sue Boley, Librarian, at 202–254–7020.

Richard K. Berg,
General Counsel.
September 15, 1982.
[FR Doc. 82–25847 Filed 9–17–82; 8:45 am]
BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Sugar Import Quotas; Determination of Import Quotas on Sugar for Fiscal Year 1983

AGENCY: Agriculture Department.

ACTION: Notice.

SUMMARY: This notice establishes the annual (fiscal year) sugar import quota for the period October 1, 1982 through September 30, 1983 at 2,800,000 short tons, raw value.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: James Truran, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250, Tel: (202) 447–2916.

SUPPLEMENTARY INFORMATION: Presidential Proclamation No. 4941, dated May 5, 1982, amended Headnote 3 of subpart A, part 10, schedule 1 of the Tariff Schedules of the United States (TSUS) to establish a system of import quotas for foreign sugar coming into the United States. Under the terms of Headnote 3, the Secretary of Agriculture established an annual (fiscal year) sugar import quota period of October 1, 1982–September 30, 1983.

For the 1983 fiscal year the quota is set at 2,800,000 short tons, raw value. This quota level is 500,000 tons lower than the tentative quota level announced June 15. This reduction in the quota level for 1982/83 is the result of an upward revision in projections for the 1982/83 domestic sugar crop, larger than anticipated carry-in stocks for the new year beginning October 1 and a downturn in estimates for domestic disappearance of sugar due to the dampending of demand for sugar, especially in higher valued sugar containing products, as well as continued competition in the sweetener market from sugar substitutes.

The quota amount will be divided according to allocation provisions of Presidential Proclamation 4941 of May 5, 1982 (47 FR 19661) as modified on August 11, 1982 (47 FR 34870). Countries included in the "other specified countries and areas" category will be permitted to ship either their prorata share of that category's allocation or 16,500 short tons whichever is greater.

Notice is hereby given that, in accordance with the requirements of Headnote 3 of subpart A, part 10, schedule 1 of the TSUS, the Secretary of Agriculture has determined that a quota of 2,800,000 short tons of sugar as described in items 155.20 and 155.30 of the TSUS may be entered or withdrawn from warehouse for consumption during the period October 1, 1982 through September 30, 1983. The Secretary has also determined that this amount gives due consideration to the interests in the United States sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade.

Dated: September 15, 1982.

John R. Block,
Secretary of Agriculture.

[FR Doc. 82–25828 Filed 9–15–82; 4:20 pm]
BILLING CODE 3410–10–M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee of the American Statistical Association; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409), notice is hereby given that the Census Advisory Committee of the American Statistical Association will convene on October 7 and 8, 1982. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee of the American Statistical Association was established in 1919. It advises the Director, Bureau of the Census, on the Bureau's programs as a whole and on their various parts, considers priority issues in the planning of censuses and surveys, examines guiding principles, advises on questions of policy and procedures, and responds to Bureau requests for opinions concerning its operations.

The Committee is composed of 15 members appointed by the President of the American Statistical Association.

The agenda for the October 7 meeting, which will begin at 1 p.m. and adjourn at 5:15 p.m., is: (1) Introductory remarks by the Director of the Bureau of the Census, including (a) staff changes and Bureau organization, (b) major budget and program developments, and (c) other topics of current interest; (2) the 1990 census—update on planning, and automated geographic support; and (3) design of the Survey of Income and Program Participation (SIPP).

The agenda for the October 8 meeting, which will begin at 9 a.m. and adjourn at 4:45 p.m., is: (1) Imputation methodology for (a) the 1980 census, (b) demographic surveys, and (c) economic surveys; (2) development of Committee recommendations; (3) redesign of household surveys, including one versus two primary sampling units per stratum, and the form of the composite estimator; (4) discussion of Committee recommendations; (5) discussion with Census Bureau Staff of (a) Bureau responses to prior Committee recommendations, (b) status of specific Bureau activities, and (c) Bureau activities described at earlier Committee meetings; and (6) recommendations, plans, and suggest agenda items for next meeting.

The meeting will be open to the public, and a brief period will be set aside on October 8 for public comment and questions. Extensive questions or statements must be submitted in writing at least 3 days prior to the meeting.

Persons wishing additional information concerning this meeting or who wish to submit written statements may contact Dr. David W. Chapman, Bureau of the Census, Room 3540, Federal Building 3, Suitland, Maryland. (Mail address: Washington, D.C. 20233). Telephone (301) 763–1292.

Dated: September 14, 1982.

Bruce Chapman,

Director, Bureau of the Census.

[FR Doc. 82-25765 Filed 9-17-82; 8:45 am]

BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Docket No. 21–82]

Proposed Foreign-Trade Zones Everett and Tacoma, Washington; Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Puget Sound Foreign-Trade Zones Association, a non-profit Washington corporation affiliated with the Economic Growth Council of Puget Sound, requesting authority to establish general-purpose foreign-trade zones in Everett and Tacoma, within the Puget Sound Consolidated Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on September 8, 1982. The applicant is authorized to make this proposal under § 24.46.020 of the Revised Code of Washington.

The proposed zone in Everett will be at the Port of Everett's North Terminal, East Norton Avenue and 21st Street in Everett. A 36,000 square foot warehouse will be available for initial zone activities on the 80-acres being requested as the zone area. The Port of Everett will be the operator.

The zone in Tacoma would cover 16 acres within the 2700-acre Port of Tacoma at 2610 Marshall Avenue. A 151,000 square foot structure is being planned to accommodate a variety of zone activities including warehousing, exhibition, assembly and light processing. The operator of the zone facility will be the Port of Tacoma.

The application contains evidence of the need for zone services in the Everett and Tacoma port of entry areas. Prospective users have indicated an interest in using the zone for warehousing and processing of machinery and components, fabricated metal products, wood and paper products, instruments, apparel, polyvinyl sheeting, and food products. Specific approvals for manufacturing are not being sought at this time.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Robert W. Hardy, District Director Designate, U.S. Customs Service, Region VIII, 2039 Federal Office Building, 909 First Avenue, Seattle, Washington 98174; and Colonel Norman C. Hintz, District Engineer, U.S. Army Engineer District, Seattle, P.O. Box C–3755, Seattle, Washington 98124.

As part of its investigation, the examiners committee will hold a public hearing on October 8, 1982, beginning at 9:00 a.m., in the 6th Floor Conference Room of the Lake Union Building, 1700 Westlake Avenue North, Seattle. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested parties are invited to present their views at the hearing. They should notify the Board's Executive Secretary of their desire to be heard in writing at the address below or by phone (202/377–2862) by October 4, 1982. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through November 8, 1982. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Department of Commerce District Office, Room 706, Lake Union Building, 1700 Westlake Avenue North, Seattle, Washington 98109

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3721, 14th and Pennsylvania, NW., Washington, D.C. 20230

September 15, 1982.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82-25787 Filed 9-17-82; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with § 301.5(a) (3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, Room 2097, 14th and Constitution Avenue, NW., Washington D.C. 20230.

Docket No. 82-00087. Applicant: University of Washington, Department of Chemistry, BG-10, Seattle, WA 98195. Instrument: NMR Spectrometer, Model WM-500 and Accessories. Manufacturer: Bruker Analytishe, Messtechnik, West Germany. Intended use of instrument: The instrument is intended to be used to investigate a wide range of materials including but not limited to, newly synthesized chemical materials, natural products, biological macromolecules and natural and synthetic polymers. The wide range of research objectives to be pursued include: (a) Understanding how specific tRNA can be recognized by the appropriate aminoacyl-tRNA and charged with its cognate amino acid, (b) investigating how chemical modification of prostaglandins and prostacylins alters their biochemical effectiveness by making structure-activity correlations, (c) studying how binding of ligands to DNA alters its motional dynamics and (d) investigating how enzyme structure relates to enzyme specificity. The instrument will be used routinely by graduate students whose degree requirements include original, independent research (Chemistry 600, 700, 800). In addition, it will be used to train postdoctoral fellows and other scientists in state-of-the-art applications of nuclear magnetic resonance techniques to chemical and biochemical problems. Application received by Commissioner of Customs: August 16, 1982.

Docket No. 82-00197. Applicant: Brookhaven National Laboratory, Upton, New York 11973. Instrument: Neutron Monochromator Crystals, (Cu_2MnA1). Manufacturer: Cristal Tec., France. Intended use of instrument: The instrument is intended to be used in a research program involving the study of the properties of solids using neutrons from the Brookhaven High Flux Beam Reactor. The neutrons emerge from the pile with a smooth distribution of energies and by employing suitably oriented single crystals, called monochromators, neutrons of a single energy may be selected from the pile spectrum. These monoenergetic neutrons are then used in the study of the properties of solids. The Cu_2MnAl crystal also can be used to polarize the neutron beam so that the spins of the neutrons selected are aligned as well as being monoenergetic. Application received by Commissioner of Customs: August 16, 1982.

Docket No. 82-00311. Applicant: University of Texas Health Science Center at Dallas, 5323 Harry Hines Blvd., Dallas, Texas 75235. Instrument: Topical Magnetic Resonance System. Manufacturer: Oxford Research Systems, United Kingdom. Intended use of instrument: The instrument is intended to be used in basic and applied research of tissue metabolism in living animals. The experiments will include a broad range of metabolic studies of heart, brain, kidney, liver, and muscle metabolism in animal models of disease, stroke, and drug toxicity. The objectives of such experimentation is to gain more extensive insights and knowledge of fundamental biochemical events associated with tissue damage in various disease states, the effects of drug therapies treating disease, and the toxic effects of certain drugs on various internal organs. Application received by Commissioner of Customs: August 18, 1982.

Docket No. 82-00323. Applicant: Montana State University, Department of Chemistry, Bozeman, MT 59717. Instrument: Mass Spectrometer System, MM707OE-HF with Integrated DS2035 and Accessories. Manufacturer: VG Instruments, United Kingdom. Intended use of instruments:

The instrument is intended to be used for a variety of research projects which include but are not limited to the following:

(1) Development of improved methods of trace organic analysis.

(2) Isolation and structure elucidation of natural products of biological significance.

(3) Research focused on new systhetic methodologies, organic mechanisms and natural products.

(4) Research efforts in natural products and organometallic chemistry.

(5) Investigation of the chemical structure and biosynthesis of the unique lipids found on insects with the purposes of providing basic research for the development of specific insecticides.

(6) Obtaining concommitant biological and biochemical data on the kinds and levels of plant growth hormones in western wheatgrass and correlate that to the growth reproduction of the grasshoppers that feed on the wheatgrass.

(7) Further development of the techniques of secondary ion mass formation by ion impact of fast atom bombardment as a method for ionizing complex mixtures and to devlop methods for examining mixtures which would provide a selectivity and a sensitivity which would allow the detection of trace levels without the use of a high resolution mass analyzer.

The instrument will also be used for educational purposes of the following courses:

Chem. 418.	Qualitative Analysis of Organic Compounds.
Chem. 428.	Instrumental Analysis.
Chem. 528.	Advanced Mass Spectroscopy.
Chem. 580.	Degree research.

Application received by Commissioner of Customs: July 30, 1982.

Docket No. 82-00326. Applicant: National Aeronautics and Space Administration, Resident Office, Jet Propulsion Laboratory, 4800 Oak Grove Drive, Pasadena, CA 91109. Instrument: Excimer Laser System, Model EMG-101E and Accessories. Manufacturer: Lambda Physik, West Germany. Intended use of instrument: The instrument is intended to be used to pump a previously purchased dye laser system when conducting experiments in the project: "Development of an In-Situ Measurement Technique for Troposheric No_x in the Part Per Trillion Range Using Resonant Ionization Laser Spectroscopy." Application received by

Commissioner of Customs: August 16, 1982.

Docket No. 82–00327. Applicant: Brigham Young University, Department of Chemistry, 218 ESC, Provo, UT 84602. Instrument: EMG 101E Multi-Gas Laser System with Optics and Model FL 2002E Dye Laser. Manufacturer: Lambda Physik West Germany. Intended use of instrument: The instrument is intended to be used to provide a source of coherent radiation with high power over a wide portion of the visible and ultraviolet spectrum. Specific research will include measurement of the thermodynamic properties of alkali-metal mixtures used in stationary and naval nuclear reactors and research on cancer photoradiation thereapy (dye/light combinations which selectively destroy malignant tissue). The article will be part of a Chemistry Department Laser Facility which will be used by three professors, their graduate students and selected undergraduate students on a continuing basis. Application received by Commissioner of Customs: August 16, 1982.

Docket No. 82–00328. Applicant: Californaia Institute of Technology, 1201 E. California Street, Pasadena, CA 91125. Instrument: Accessories for Ion Microanalyzer System (IMS 3F) consisting of Primary Beam Mass Filter and Cesium Gun and other Sole Source Accessories. Manufacturer: Cameca, France. Intended use of instrument: The instruments are accessories to an existing ion microanalyzer system to be used to analyze mineralogically and chemically complex rock samples from the moon and other extraterrestrial sources and the earth. The rock samples are comprised mainly of electrically nonconducting silicate minerals. Application received by Commissioner of Customs: August 16, 1982.

Docket No. 82–00329. Applicant: National Aeronautics and Space Administration, Lyndon B. Johnson Space Center, Houston, TX 77058. Instrument: Camebax Micro Scanning Electronic X-ray Microprobe Analyzer and Accessories. Manufacturer: Cameca, France. Intended use of instrument: The instrument is intended to be used for the study of the two-or-three dimensional composition of a wide variety of materials. The primary use will be to perform analyses of geological and mineralogical samples, in support of research projects being conducted by staff, contractors, and visitors of the Planetary and Earth Sciences Division. The instrument will also be used for engineering applications such as spacecraft material property and failure analysis. Application received by Commissioner of Customs: August 16, 1982.

Docket No. 82–00330. Applicant: North Carolina State University, Purchasing Department, P.O. Box 5935, Raleigh, NC 27650. Instrument: Multiple-Gas Laser, TE–861S–3. Manufacturer: Lumonics, Inc., Canada. Intended use of instrument: The instrument is intended to be used for studies of rapid photo-etching and photo-synthesis of solid semiconductors and insulators and spectroscopy at high repetition rate, high power, and high energy of organometallic molecules and organic molecules. In addition, the instrument will be used for educational purposes in the courses Inorganic Chem and Physical Chem. Application received by Commissioner of Customs: August 17, 1982.

Docket No. 82–00331. Applicant: South Dakota State University, Brookings, South Dakota 57007. Instrument: Mobile Solar Test Facility, MSTF–2. Manufacturer: Solarfin Products, Canada. Intended use of instrument: The instrument is intended to be used for teaching the experimental portions of three senior-level Mechanical Engineering courses. In these courses (Design of Thermal Systems, Heating, Ventilating and Air conditioning II: Design; and ME Lab III), the objective is to teach some aspect of the complete solar heating system: analysis, operation, optimization, or design. Application received by Commissioner of Customs: August 17, 1982.

Docket No. 82–00333. Applicant: Arkansas State University, P.O. Box 599, State University, Arkansas 72467. Instrument: Electron Microscope, Model JEM–100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: The instrument is intended to be used to study structure, macromolecules of cells and tissues and to analyze chemical structures. The materials to be investigated will include inorganic or organic substances in biological and chemical systems. These will include cells containing proteins, nucleic acids, protein-lipid containing membranes and organic elements and compounds. These studies will be conducted as an integral part of basic research by biology and chemistry professors. The article will also be used to introduce undergraduate and graduate level students to modern electron microscopes and their uses. Application received by Commissioner of Customs: August 17, 1982.

Docket No. 82–00334. Applicant: Naval Post Graduate School, Monterey, CA 93940. Instrument: Electron Microscope, JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: The instrument is intended to be used to conduct microscopic investigation of steels used in construction of USN warships such as HY–80 steel, steels for application as rolling element bearing materials, high strength aluminum alloys and copper based alloys used as shape-memory materials. Characteristics to be examined are the phase or phases present and their structure as a function of processing history. For example, the martensitic structures in high-carbon bearing steels will be examined. The article will also be used for educational purposes in the course Microscopy (MS-3401). Application received by Commissioner of Customs: August 17, 1982.

Docket No. 82–00336. Applicant: The University of California, Department of Chemistry, Davis, California 95616. Instrument: Excimer Laser Pumped Tunable Dye Laser System. Manufacturer: Lambda Physik Gmbh & Co., West Germany. Intended use of instrument: The instrument is intended to be used in time resolved spectroscopic studies of organic research mechanisms and reactive intermediates in the gas phase and gas-phase nuclear magnetic resonance studies of photochemical reactions. Application received by Commissioner of Customs: August 17, 1982.

Docket No. 82–00337. Applicant: University of Pennsylvania, School of Veterinary Medicine, Suite 200, 3800 Spurce Street, Philadelphia, Pennsylvania 19104. Instrument: Electon Microscope, EM 10CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: The instrument is intended to be used for studies of the spleen, bone marrow and other tissues related to the blood and immune system. This work requires obtaining a very low power picture, comparable to the magnification obtained by the light microscope and then carry the study to portions of cells, membranes and protein molecules with a magnification of 200,000. In addition, the instrument will be used to train young investigators who must be able to get right to work with as little time spent as possible to get maximum performance out of the electron microscope. Application received by Commissioner of Customs: August 17, 1982.

Docket No. 82–00338. Applicant: Yale University School of Medicine, 333 Cedar Street, P.O. Box 3333, New Haven, CT 06510. Instrument: JEM–100 CXII Electron Microscope with Accessories. Manufacturer: JEOL Ltd.,

Japan. Intended use of instrument: The instrument is intended to be used to carry out medium and high resolution ultrastructural investigations which concern the interaction of viruses with cellular membranes, especially neuronal membranes and neurotransmitter receptors. These studies will include:

1. The studies of interaction of rabies virus with the acetylcholine receptor.

2. Characterization of arbovirus-host cell receptor interactions, to characterize the receptors involved structurally, and to determine whether common receptors exist among the serologically and morphologically related and unrelated neurotropic viruses.

3. Studies of the early interactions between various animal viruses and their tissue culture host cells.

The instrument will be used in the training of a limited number of graduate and medical students requiring fine structrual work in their doctoral thesis research. Credit is given for this training in the courses: Cell Biology 511 a, b, Advanced Methods in Cell Biology and Cell Biology 521, Research. Application received by Commissioner of Customs: August 17, 1982.

Docket No. 82-00339. Applicant: The University of Texas at Austin, Department of Botany, Austin, TX 78712. Instrument: Electron Microscope Model EM 400T and Accessories. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of instrument: The instrument is intended to be used for studies of biological macromolecules such as cellulose, DNA, proteins, lipids, various carbohydrates, glycoproteins, replicas of biological materials such as shadowing and freeze fractures. The experiments to be conducted include:

a. Visualization of the biosynthesis of cellulose.

b. The role of cellulases and other hydrolytic enzymes in cellulose degradation.

c. Immunological localization of cellulase activity.

d. Morphology of cell wall development.

e. Controlled crystallization and the biosynthesis of cellulosic microfibrils.

f. Classification and morphological identification of various cellulose synthesizing complexes associated with membranes.

g. Ultra-high resolution of biological macromolecules, using dark field electron microscopy.

Application received by Commissioner of Customs: August 17, 1982.

Docket No. 82-00342. Applicant: The Society of the New York Hospital, 525 East 68th Street, New York, NY 10021. Instrument: Electron Microscope, JEM-100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: The instrument is intended to be used for the investigation of the developmental, pathological and experimental ultrastructural features in a variety of human tissues. These include: specialized structures of neoplasms, kidney diseases, the presence and concentration of particular elements such as copper in cases of Wilson's disease, the presence of asbestos and silica in pulmonary diseases, etc. The data obtained will allow clinical diagnosis by characterizing specific disease properties of tissues, i.e., kidney disease, various neoplastic diseases. The research investigations will utilize the information derived to further understand developmental and pathological processes and experimental cellular responses at an ultrastructural level. Application received by Commissioner of Customs: August 17, 1982.

Docket No. 82-00345. Applicant: The Ohio State University, 2009 Millikin Rd., Columbus, Ohio 43210. Instrument: JEM-200 CX Electron Microscope with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: The instrument is intended to be used to carry out a broad range of investigations which will include:

(1) Characterization of crystalline defects in metals, ceramics, and semiconductors—with emphasis placed on the structure and properties of interfaces in these materials.

(2) Characterization of metal-insulator composites, and correlate their microstructures and microchemistry with conductivity and optical reflectance measurements.

(3) Investigation of polymer-based catalysts.

(4) Studies involving friction and wear in metals.

(5) Study of high temperature oxidation of metals—involving the use of a hot stage in the SEM with an oxygen bleed system close to the sample.

(6) Characterization of the microstructure and physical metallurgy of HSLA steels.

(7) Relationship between the corrosion behavior and properties of reactor materials (principally Inconel 600 and 304-type stainless steels), and diffusion induced boundary migration in metals.

Application received by Commissioner of Customs: August 31, 1982.

Docket No. 82-00346. Applicant: Brown University, Division of Biology and Medicine, Box G, Providence, Rhode Island 02912. Instrument: Digamax Gas Mixing Pump Type 2M 303/a-F 110V/60Hz. Manufacturer: H. Wosthoff, KG, West Germany. Intended use of instrument: The instrument is intended to be used in a physiological study of blood-oxygen transport in a small passerine bird. The specific purposes of the instrument are:

(1) Pump will serve as the reference standard for calibration of oxygen and carbon dioxide electrodes.

(2) To generate a variety of different O_2—CO_2—N_2 gas mixtures at a pressure of up to 0.5 ATM for measuring dynamic and static oxygen equilibrium curves.

(3) To generate a variety of different O_2—CO_2 gas mixtures for evaluating the acid-base characteristics of sparrow blood using the Astrup Micro-Tonometer method.

The specific aims of this study are as follows:

(1) Quantify hematologic properties relevant to blood—O_2 transport.

(2) Describe O_2 transport properties of whole blood under controlled conditions of temperature and acid-base.

(3) Describe intrinsic O_2 binding properties and effects of all-osteric modifiers for purified isohemoglobin solutions at 41° C.

(4) Evaluate efficacy of current analytical techniques for characterizing respiratory O_2 transport in multiple hemoglobin blood system.

Application received by Commissioner of Customs: September 1, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

FR Doc. 82-25789 Filed 9-17-82; 8:45 am]

BILLING CODE 3510-25-M

[Case Nos. 608 and 609]

Gerald M. Starek and Carl E. Story; Order Amending Denial of Export Privileges

In the matter of: Gerald M. Starek, 13795 Via Alto Court, Saratoga, California 95070, Case No. 608; and Carl E. Story, 22266 De Anza Circle, Cupertino, California 95014, Case No. 609.

By Order of July 1, 1981, 46 FR 35950 (July 13, 1981) (the "Order"), the above named respondents were denied, pursuant to Part 388 of the Export Administration Regulations (15 CFR Part 388, *et seq.* (1981)) (the "Regulations").

certain privileges of participating, for a period ending September 30, 1986, in the export of U.S.-origin commodities or technical data. Paragraphs Fourth, Seventh, and Ninth of the Order, consistent with Section 387.12(c) of the Regulations, extended, to any related parties of the respondents, the administrative sanctions imposed by the Order on the respondents. Silicon Valley Group, Inc. ("SVG"), a California company in which the respondents had significant ownership and control interests and in which they held positions of responsibility, was named by such Paragraphs as a related party.

The Order was based on Consent Agreements entered into between each of the respondents and the U.S. Department of Commerce (the "Department"); and a Memorandum of Understanding was also executed by the respondents, the Department, and SVG to clarify the Consent Agreements and any Order based thereon. Paragraph IV of the Memorandum of Understanding provided that, at such time as SVG demonstrated to the Hearing Commissioner that neither of the respondents controlled or participated in SVG's exporting, SVG should no longer be considered a related party under the Order.

SVG has now made a submission in an effort at such a demonstration. To remove majority control of SVG's stock from themselves, the respondents have created a Voting Trust, with a commercial bank as Trustee, in which is placed all of SVG's stock, owned by the respondents and their immediate families, that is in excess of 40 percent of the outstanding SVG stock. To document that this Voting Trust has removed majority control of SVG's stock from the respondents, SVG has submitted, among other materials, a copy of the Voting Trust Agreement, a certification by the respondents that they have no arrangement with any other SVG shareholder as to voting on any SVG shareholder voting matter, and an opinion of counsel that the Voting Trust Agreement is valid and enforceable under California law and that the respondents' combined SVG stock ownership held outside the Voting Trust would enable them to elect only two of SVG's five directors.

To remove themselves from any participation in SVG's exporting, the respondents have withdrawn from Silicon Valley Group International, Inc. ("SVGI"), a wholly-owned SVG subsidiary, which conducts all of SVG's exporting. Neither respondent holds any position in SVGI, and SVGI reports to a committee of SVG's Board, the Export Operations Committee, that includes neither respondent. To document that neither respondent participates in its exporting, SVG has submitted, among other materials, a certification by SVG that no such participation exists, a similar certification by each person at SVGI involved in its management or whose basic job responsibility is its exporting, and a copy of a written notice given all SVG employees to the effect that the respondents are to have no such participation.

Based on the submissions made by SVG, I find that control of and participation in SVG's exporting has been sufficiently removed from the respondents that SVG need no longer be considered a related party under the Order, and that to declare SVG no longer a related party would not jeopardize the purpose of the Order. Accordingly, it is hereby ordered that the Order is amended by a declaration that SVG shall be considered not a related party, subject, however, to compliance with the following conditions.

I. Majority control of SVG's stock shall remain removed from the respondents, through the Voting Trust in the manner described by SVG's submissions in support of this Amendment; and participation in SVG's exporting shall remain removed from the respondents, through SVGI in the manner described by SVG's submissions in support of this Amendment.

II. Annually for the duration of the Order, SVG shall submit to the Hearing Commissioner, within 60 days after the end of each calendar year: (a) A certification by SVG that, except for such placement of SVG stock into the Voting Trust as may have been required to keep the combined ownership of SVG stock by respondents and their immediate families held outside the Voting Trust at 40 percent or less of outstanding SVG stock, and except for any withdrawal of SVG stock from the Voting Trust that may have been consistent with that 40 percent provision, the Voting Trust Agreement remained unchanged during such past year and that it remains unchanged; (b) a certification by the respondents that they had no arrangement during such past year with any other SVG shareholder as to voting on any SVG shareholder voting matter and that they have no such arrangement; and (c) an opinion of counsel that during such past year the Voting Trust Agreement was valid and enforceable under California law and that respondents' combined SVG stock ownership held outside the Voting Trust enabled them to elect only two of SVG's five directors, and that the Voting Trust Agreement remains so valid and enforceable and the respondents' combined stock ownership held outside the Voting Trust enables them to elect only two of SVG's five directors.

III. Annually for the duration of the Order, the Trustee of the Voting Trust shall submit to the Hearing Commissioner, within 60 days after the end of each calendar year, a report of its activities under the Voting Trust Agreement during such past year.

IV. Within 90 days after the date of this Amendment of the Order, SVG shall submit to the Hearing Commissioner a written acknowledgment by all SVG employees that they have been notified that the respondents are to have no participation in SVG's exporting.

V. Within 60 days after the end of each calendar quarter, SVG shall submit to the Hearing Commissioner: (a) a listing of its exports during such past quarter, including a description of the commodities and technical data exported and an identification of the country of destination, ultimate consignee, and, if known or if required by the Regulations, of the end use; and (b) minutes of any meetings, during such past quarter, of the SVG Shareholders, of the SVG Board, of the SVGI Board, and of the Export Operations Committee.

VI. Annually for the duration of the Order, SVG shall submit to the Hearing Commissioner, within 60 days after the end of each calendar year: (a) a certification by SVG that all of SVG's exporting during such past year was conducted through SVGI, which functioned in the manner described in SVG's submissions in support of this Amendment, and that the respondents had no participation in SVG's exporting; (b) a certification by each person at SVGI, during such past year, involved in its management or whose basic job responsibility was its exporting, that the respondents had no such participation; (c) a copy of SVG's annual report to shareholders for such past year; and (d) a listing of the officers and directors of SVG and of SVGI during such past year.

VII. For the duration of the Order, authorized U.S. government officials shall at all times have access to records related to exports of SVG.

VIII. The following documents shall be available for public inspection:

The Voting Trust Agreement, the certification by the respondents, and the opinion of counsel referred to in the third paragraph of this Amendment above;

The certification by SVG, the certifications by persons at SVGI, who are SVGI officers, and the notice to SVG employees referred to in the fourth paragraph of this Amendment above;

The certification by SVG required by Paragraph II(a) of this Amendment above, the certifications by the respondents required by this Paragraph II(b), and the opinions of counsel required by this Paragraph II(c); and

The certifications by SVG required by Paragraph VI(a) of this Amendment above, the certifications by persons at SVGI, who are SVGI officers, required by this Paragraph VI(b), and the listings of officers and directors required by this Paragraph VI(d).

Pursuant to § 388.20(b) of the regulations, the following documents are declared to be of restricted access and shall be withheld from public access to the maximum extent authorized by 50 U.S.C. app. section 2412(c) (Supp. III 1979) and by 5 U.S.C. 552(b)(4) (1976):

The reports of SVG exports required by Paragraph SEVENTH of the Order;

The documents submitted by SVG in its request for this Amendment, including the certifications by persons at SVGI, who are not SVGI officers, referred to in the fourth paragraph of this Amendment above, other than those documents declared to be available for public inspection in Paragraph VIII of this Amendment above;

The reports of the Trustee required by Paragraph III of this Amendment above;

The acknowledgments by SVG employees required by Paragraph IV of this Amendment above;

The listings of exports required by Paragraph V(a) of this Amendment above, and the minutes of meetings required by this Paragraph V(b); and

The certifications by persons at SVGI, who are not SVGI officers, required by Paragraph VI(b) above, and the SVG annual reports required by this Paragraph VI(c).

This Amendment of the Order is effective immediately.

Dated September 13, 1982.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 82-25790 Filed 9-17-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Issuance of Permit

On July 23, 1982, Notice was published in the **Federal Register** that an application had been filed with the National Marine Fisheries Service by Dr. Richard H. Lambertsen, Woods Hole Oceanographic Institution to take by biopsy up to 520 humpback whales (*Megaptera novaeangliae*).

Notice is hereby given that on September 13, 1982, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a permit to Richard H. Lambertsen for the above taking subject to certain conditions set forth therein.

As required by the Endangered Species Act of 1973 issuance of this permit is based on a finding that such permit (1) was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the permit, and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was issued in accordance with, and is subject to Parts 220–222 of Title 50 CFR of the National Marine Fisheries Service regulations governing endangered species permits (39 FR 41367), November 27, 1974.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: September 13, 1982.

R. B. Brumsted,

Acting Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-25839 Filed 9-17-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Level for Certain Cotton Textile Products From Pakistan

September 15, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Granting an increase for swing and carryforward from 489,143 dozen pairs to 552,732 dozen pairs for cotton gloves in Category 331, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1982.

(A detailed description of the textile categories in terms of T.S. U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48983), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654).)

SUMMARY: The Bilateral Cotton Textile Agreement of March 9 and 11, 1982, between the Governments of the United States and Pakistan provides, among other things, for percentage increases in certain specific category ceilings during an agreement year (swing) and for the borrowing of designated amounts from the succeeding year's level with the amount used being deducted from the level in the succeeding year (carryforward). Pursuant to the terms of the bilateral agreement, and at the request of the Government of Pakistan, the import restraint level established for Category 331 is being increased to 552,732 dozen pairs for the twelve-month period which began on January 1, 1982 and extends through December 31, 1982.

EFFECTIVE DATE: September 21, 1982.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On March 26, 1982 there was published in the **Federal Register** (47 FR 13024) a letter dated March 22, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specific categories of cotton textile products, including Category 331, produced or manufactured in Pakistan and exported to the United States during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. In accordance with the terms of the bilateral agreement and at the request of the Government of Pakistan, the United States Government has agreed to increase the level of restraint for cotton textile products in Category 331 to 552,732 dozen pairs. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the

Commissioner of Customs to increase that level to the designated amount.

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: On March 22, 1982, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, during the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982 of cotton textile products in certain specified categories, produced or manufactured in Pakistan, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton Textile Agreement of March 9 and 11, 1982, between the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to increase, effective on September 21, 1982, the twelve-month level of restraint established for cotton textile products in Category 331 to 552, 732 dozen pairs.[2]

The action taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-25788 Filed 9-17-82; 8:45 am]

BILLING CODE 3510-25-M

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton Textile Agreement of March 9 and 11, 1982, between the Governments of the United States and Pakistan which provide, in part, that: (1) Within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The level of restraint has not been adjusted to reflect any imports after December 31, 1981.

COMMODITY FUTURES TRADING COMMISSION

MidAmerica Commodity Exchange Proposed Foreign Currency Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contracts.

SUMMARY: The MidAmerica Commodity Exchange ("MidAmerica") has applied for designation as a contract market in British pounds, Canadian dollars, Deutsche marks, Japanese yen and Swiss francs (collectively referred to as "foreign currency futures contracts"). The Commission has determined that the terms and conditions of the proposed foreign currency futures contracts are of major economic significance and that, accordingly, making available the proposed contracts for public inspection and comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before November 19, 1982.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Reference should be made to the MidAmerica Commodity Exchange foreign currency futures contracts.

FOR FURTHER INFORMATION CONTACT: Ronald Hobson, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C., (202) 254–7303.

A copy of the terms and conditions of the MidAmerica proposed foreign currency futures contracts will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the MidAmerica in support of its applications for contract market designation in foreign currencies may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for inspection of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contracts, or with respect to other materials submitted by MidAmerica in support of its application, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, by November 19, 1982. Such comment letters will be publicly available except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on September 14, 1982.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-25779 Filed 9-17-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Procurement and Assistance Management Directorate

AGENCY: Energy Department.

ACTION: Amendment of notice of suspension and proposed debarment.

BACKGROUND: One July 9, 1982, the Department of Energy (DOE) issued a notice announcing that DOE had suspended and proposed to debar Daniel P. Ahearne, President, Total Energy Applications Management, Inc. The notice published in the July 23, 1982, **Federal Register** (47 FR 31957) indicated that Mr. Ahearne had been advised that the deadline for submitting a written request for a hearing and a reply to the notice of proposed debarment was August 9, 1982, and that the three-year period of debarment was proposed to begin on August 30, 1982. On July 29, 1982, DOE issued an amendment of the notice of suspension and proposed debarment which extended the deadline for submitting a request for a hearing and a reply to the notice to August 30, 1982, and the effective date of the proposed debarment to September 20, 1982, (47 FR 38391, August 31, 1982). DOE received a timely request for a hearing on August 30, 1982.

AMENDMENT: On June 25, 1982, the Office of Federal Procurement Policy issued Policy Letter No. 82–1 (47 FR 28854 (July 1, 1982)) which provides that a respondent to a pending proposed debarment should be given 30 days to submit any additional information the

contractor considers appropriate in light of the effect of a Government-wide debarment. Accordingly, the deadline for submitting a written response to the proposed debarment has been extended to September 29, 1982; the proposed effective date of the debarment has been advanced to October 19, 1982.

FOR FURTHER INFORMATION CONTACT: Scott Sheffield, Procurement and Assistance Management Directorate, Room 1I-018, Forrestal Building, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Issued in Washington, D.C., on September 13, 1982.

Hilary J. Rauch,

Director, Procurement and Assistance Management Directorate.

[FR Doc. 82-25756 Filed 09-17-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER82-778-000]

Arizona Public Service Co.; Filing

September 15, 1982.

Take notice that on September 7, 1982, Arizona Public Service Company (Arizona) tendered for filing a Letter Agreement between Arizona and Tucson Electric Power Company (Tucson) terminating Schedules A and B.

Arizona states that these Schedules have been supplanted by the terms of the Inland Power Pool Participation Agreement (IPP, designated as "Public Service of Colorado, Rate Schedule FPC No. 16").

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25815 Filed 9-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2568-000]

Bibb Manufacturing Company, Porterdale Hydroelectric Associates, Inc.; Application for Transfer of License (Minor)

September 15, 1982.

Take notice that Bibb Manufacturing Company, Licensee for the Porterdale Project, and Porterdale Hydroelectric Associates, Inc. have requested that the project license be transferred to Porterdale Hydroelectric Associates, Inc. The Porterdale Project is located on the Yellow River in Newton County, Georgia. The projects installed capacity is 1,200 kilowatts.

Comments, Protests, or Motion To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 12, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25816 Filed 9-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-779-000]

Duke Power Co.; Filing

September 15, 1982.

Take notice that Duke Power Company (Duke) tendered for filing on September 7, 1982, a revised Service Schedule to Duke's Interconnection Agreement with Yadkin, Inc. Duke states that this agreement is on file with the Commission and has been designated Duke Rate Schedule FERC No. 11.

Duke further states that revised Service Schedule E Storage Utilization Agreement amends the provisions with respect to the crediting and return of storage energy and also reduces the demand charge component under the Rate Agreement for Supplementary Power and Energy (accepted for filing April 29, 1982 in FERC Docket No. ER82-380-000) between Duke and Yadkin where no energy transactions occur from Duke to Yadkin as a result of a surplus in the storage energy account.

Duke indicates that this revised Service Schedule E dated August 2, 1982 supersedes the prior Service Schedule E dated March 28, 1966. Duke represents that no change in revenues is produced by the modification of storage crediting provisions and that a reduction of revenues occurs as a result of the modification of the contract demand component.

Duke proposes an effective date of December 1, 1981, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25817 Filed 9-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-769-000]

Minnesota Power & Light Co.; Filing

September 15, 1982.

Take notice that on September 2, 1982, Minnesota Power & Light Company (Minnesota) tendered for filing proposed Outlet Facilities Agreement No. 3, and proposed System Control and Load Dispatching Agreement (Rate Schedule FERC No. 89, as supplemented), all by and between Minnesota and Cooperative Power Association (CPA).

Minnesota states that the proposed contracts are necessary to account for

and recover costs of additional investment in transmission facilities to transfer power from CPA's present generation facilities to the integrated transmission system.

Minnesota requests an effective date of November 1, 1982.

Copies of the filing were served upon CPA, the United States Department of Agriculture, Rural Electrification Administration and the Minnesota Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25618 Filed 9-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-36-000]

Mountain Fuel Supply Co., Tarriff Sheet Filing

September 14, 1982.

Take notice that on September 1, 1982, Mountain Fuel Supply Company (Mountain Fuel), pursuant to Section 154.62 of the Regulations of the Federal Energy Regulatory Commission (Commission), filed Fifteenth Revised Sheet No. 3-A to its FERC Gas Tariff, Original Volume No. 1 Mountain Fuel states that the filed tariff sheet relates to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment Provision authorized by Commission order issued February 27, 1976, in Docket No. RP76-64. More specificially, the tariff sheet reflects a net decrease from that currently being collected of $.07475/Mcf for Rate Schedule X-4, a net increase of $.00847/Mcf for Rate Schedule X-5 and a net increase of $.21402/Mcf for Rate Schedule X-20 all to be effective Octover 1, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25610 Filed 9-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-782-000]

New England Power Pool; Filing

September 15, 1982.

Take notice that on September 7, 1982, the New England Power Pool (NEPOOL) tendered for filing a NEPOOL Agreement dated September 1, 1971, as amended, signed by the Rowley Municipal Light Department. The Rowley Municipal Light Department has its principal office in Rowley, Massachusetts. NEPOOL indicates that the New England Power Pool Agreement has previously been filed with the Commission as a rate schedule (designated NEPOOL FPC No. 1).

NEPOOL requests an effective date of August 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25619 Filed 9-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-771-000]

New York State Electric & Gas Corp.; Filing

September 15, 1982.

Take notice that New York State Electric & Gas Corporation (NYSEG), on August 30, 1982, tendered for filing proposed changes in its transmission agreement with Rochester Gas & Electric Corporation (RG&E) under which NYSEG makes available to RG&E capacity of its transmission system which is surplus to its own requirements for transmission of electricity from the pump-operating unit of the Blenheim-Gilboa Pumped Storage Project of the Power Authority of the State of New York.

NYSEG states that the proposed changes would increase revenues by $201,900.00 based on the twelve-month period ending June 30, 1983.

NYSEG further states that the changes are due to the increase in the investment in transmission plant and increases in the fixed charge rate since the original agreement was initiated in May, 1973.

NYSEG requests an effective date of July 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served RG&E and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25620 Filed 9-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-777-000]

Niagara Mohawk Power Corp.; Filing

September 15, 1982.

Take notice that on September 7, 1982, Niagara Mohawk Power Corporation (Niagara) tendered for filing as a rate

schedule, an agreement between Niagara and Rochester Gas and Electric Corporation (Rochester) dated July 26, 1982.

Niagara states that it presently has on file an agreement with Rochester dated February 14, 1975. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FERC No. 92. This new agreement is being transmitted as a supplement to the existing agreement.

Niagara further states that this supplement revises the transmission rate for transmitting FitzPatrick power and energy from the Power Authority of the State of New York to Rochester as provided for in the terms of the original agreement.

Niagara requests waiver of the Commission's prior notice requirements in order to allow said agreement to become effective as of September 1, 1982.

Copies of this filing were served upon the Rochester Gas and Electric Corporation and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25821 Filed 9-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES81-63-001]

Pacific Power and Light Co.; Application

September 15, 1982.

Take notice that on September 13, 1982, Pacific Power and Light Company (Pacific) filed an amendment to its application on file with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an amendatory order (1) authorizing Pacific to enter into a Loan Agreement with a group of banks pursuant to which it will borrow not more than $75,000,000 [1] for a period of seven years at an adjustable interest rate, and (2) granting Pacific an exemption from competitive bidding pursuant to 18 CFR 34.2(b)(2).

Any person desiring to be heard or to make any protest with reference to this application, as amended, should, on or before October 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with 18 CFR 385.211 or 385.214, respectively. The application, as amended, is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25822 Filed 9-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-772-000]

Public Service Company of Indiana, Inc.; Filing

September 15, 1982.

Take notice that Public Service Company of Indiana, Inc. (PSI) on September 3, 1982, tendered for filing a Power Coordination Agreement, between PSI and Wabash Valley Power Association, Inc. (WVPA).

PSI states that the new agreement, based on the transfer of an undivided interest in PSI's Gibson Unit 5 generating facility to WVPA, provides for service schedules under which the parties can have transactions designed to bring about a number of mutual benefits and advantages. The new service schedules are as follows:

(a) Gibson Unit No. 5 Unit Power.

(b) Gibson Unit No. 5 Reserve Capacity.

(c) Firm Capacity.

(d) Replacement Energy.

(e) Interchange Power.

Copies of the filing were served on WVPA and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25823 Filed 9-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-773-000]

Public Service Company of Indiana, Inc.; Filing

September 15, 1982.

Take notice that Public Service Company of Indiana, Inc. (PSI), on September 3, 1982, tendered for filing a Power Coordination Agreement, between PSI and Indiana Municipal Power Agency (IMPA).

PSI states that the new agreement, based on the transfer of an undivided interest in PSI Gibson Unit No. 5 generating facility to IMPA, provides for the service schedules under which the parties can have transactions designed to bring about a number of mutual benefits and avantages. The new service schedules are as follows:

(a) Gibson Unit No. 5 Unit Power.

(b) Gibson Unit No. 5 Reserve Capacity.

(c) Gibson Unit No. 5 Replacement Energy.

(d) Supplemental Power.

(e) Short-Term Power.

(f) Emergency Service.

(g) Interchange Power.

(h) Bulk Transmission System Use.

(i) Common Transmission System Use.

(j) Distribution System Use.

Copies of the filing were served upon IMPA and the Public Service Commission of Indiana

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

[1] In the original application as noticed, the authority requested was for "not more than $50,000,000."

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25824 Filed 9-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-41-000 (PGA83-1)]

Southwest Gas Corp.; Change in Rates Pursuant To Purchased Gas Cost Adjustment

September 14, 1982.

Take notice that Southwest Gas Corporation ("Southwest") on September 1, 1982 tendered for filing Fifteenth Revised Sheet No. 10 and Fifth Revised Sheet No. 10A pursuant to Section 9, Purchased Gas Adjustment Clause ("PGA"), of the General Terms and Conditions contained in its FERC Gas Tariff, Original Volume No. 1. The purpose of said filing is to reflect an increase in rates occasioned by an increase in rates from Southwest's northern Nevada sole supplier of gas, Northwest Pipeline Corporation, effective October 1, 1982. The proposed increase in rates is October 1, 1982.

Southwest states that a copy of this filing has been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Company and CP national.

Any person desiring to be heard, or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25811 Filed 9-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-774-000]

Tapoco, Inc.; Filing

September 15, 1982.

Take notice that on September 3, 1982, Tapoco, Inc. (Tapoco) tendered for filing a Notice of Termination stating that effective the 31st day of December 1982, the following Rate Schedules, and Supplements, Exhibits and Revisions to Rate Schedules, filed with the Federal Energy Regulatory Commission by Tapoco, are to be cancelled:

FERC Rate Schedule, Designation	Filing or effective date
1. Rate Schedule 3	Nov. 3, 1966.
2. Supplement 1 to Rate Schedule 3.	Oct. 31, 1968.
3. Supplement 2 to Rate Schedule 3.	Effective June 1, 1971.
4. Supplement 3 to Rate Schedule 3.	Designated by FERC Order on Aug. 20, 1981 in Docket No. ER81-581-000.
5. Supplement 1 to Supplement 3 Rate Schedule 3.	Designated by FERC Order on Aug. 28, 1981 in Docket No. ER81-581-000.
6. Supplement 4 to Rate Schedule 3.	Effective July 1, 1981.
7. Exhibit A to Rate Schedule 4.	Filed on Aug. 1, 1966.
8. Supplement 1 to Exhibit A to Rate Schedule 4.	Filed on Jan. 30, 1969.
9. Revison to Exhibit A to Rate Schedule 4.	Filed on Oct. 26, 1981.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-75825 Filed 9-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-512-000]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc., and East Tennessee Natural Gas Company; Application

September 14, 1982.

Take notice that on August 26, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and East Tennessee Natural Gas Company (East Tennessee), P.O. Box 10245, Knoxville, Tennessee 37919, filed in Docket No. CP82-512-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas to effectuate a direct sale by East Tennessee to Houston Lighting and Power Company (HL&P), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to an agreement dated August 25, 1982, Tennessee has agreed to transport and exchange with East Tennessee up to 100,000 Mcf of natural gas per day that East Tennessee has arranged to sell to HL&P through October 31, 1982. Tennessee proposes to receive gas to be sold to HL&P at an existing interconnection between Tennessee and East Tennessee at Greenbrier in Robertson County, Tennessee, for delivery by displacement to Channel Industries Gas Company (Channel) for East Tennessee's account, at an existing interconnection between Tennessee and Channel at Sabine in Newton County, Texas, or at Agua Dulce in Nueces County, Texas. Channel would transport the gas for delivery to Energy Gathering Inc. (EGI) at Cedar Bayou, Chambers County, Texas, which would then deliver the gas to HL&P.

In return for such service, East Tennessee proposes to transport and exchange with Tennessee identical volumes of natural gas purchased by Tennessee from producers in East Tennessee's service area. Applicants state that these volumes are now being delivered by displacement to Tennessee at Greenbrier under East Tennessee's Order No. 60 blanket transportation certificate. If the authorization requested herein is issued, East Tennessee would terminate the Order No. 60 transportation in favor of the proposed exchange service. The proposed exchange service by both Tennessee and East Tennessee would be rendered without charge to either party.

In addition, Applicants state that East Tennessee currently transports gas that is purchased by Tennessee under six separate gas purchase contracts. In order to allow flexibility in transporting and exchanging Tennessee's future increased gas supplies, East Tennessee requests blanket authorization to transport and exchange such new supplies as they become available. East Tennessee states that it would promptly notify the Commission each time an additional delivery point into East Tennessee's system is placed in service.

Applicants aver that no new facilities

would be constructed as a result of approval of this application.

Applicants assert that the subject proposal would be beneficial to each since it would provide the means to transport and exchange gas on an economical basis without the construction and operation of additional and duplicative facilities. Further, it is maintained that the arrangement would enable the sale of gas by East Tennessee to HL&P which in turn benefits East Tennessee's customers through their avoidance of minimum bill charges.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 28, 1982, filed with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25813 Filed 9-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-56-002 (PGA82-1)]

Valero Interstate Transmission Co.; Proposed Change in FERC Gas Tariff

September 13, 1982.

Take notice that on August 13, 1982 Valero Interstate Transmission Company (Vitco) tendered for filing the following material in compliance with Ordering Paragraph (B) of the Federal Energy Regulatory Commission Order issued May 28, 1982:

1. Original Supplement No. 114 (purchased gas cost adjustment) 2nd Revised Exhibit "A" to Vitco's FERC Rate Schedule No. 2 for the sale of gas to Transcontinental Gas Pipe Line Corporation ("Transco"), for the period from June 1, 1982 through June 17, 1982;

2. Substitute Supplement No. 113, 2nd Revised Exhibit "A" to Vitco's FERC Rate Schedule No. 2 for the sale of gas to Transco, for the period beginning June 18, 1982;

3. (Transco) 2nd Revised Attachment 2, Page 1(a), 1(b) and Revised Attachment 2, Page 1(c);

4. Original Supplement No. 9 (purchased gas cost adjustment), Revised Exhibit "A" to Vitco's FERC Rate Schedule No. 14 for the sale of gas to El Paso Natural Gas Company (El Paso), for the period from June 1, 1982 through June 17, 1982;

5. Substitute Supplement No. 7, Revised Exhibit "A" to Vitco's FERC Rate Schedule No. 14 for the sale of gas to El Paso, for the period beginning June 18, 1982;

6. (El Paso) Revised Attachment 2, Pages 1(a), 1(b) and 1(c);

7. Original Supplement No. 37, (Purchased Gas Cost Adjustment), Exhibit "A" to Vitco's FERC Rate Schedule No. 1 for the sale of gas to Natural Gas Pipeline Company of America ("NGPL") for the period from June 1, 1982 through June 17, 1982;

8. Substitute Supplement No. 36, Exhibit "A" to Vitco's FERC Rate Schedule No. 1 for the sale of gas to NGPL, for the period beginning June 18, 1982; and

9. (NGPL) 2nd Revised Attachment 2, Pages 1(a), 1(b) and Revised Attachment 2, Page 1(c).

Vitco states that the above-listed material is similar to that filed with the Commission on June 28, 1982 and incorporates all changes suggested by the Commission Staff after their review.

Furthermore, Vitco refiled data initially filed on June 28, 1982 in compliance with Ordering Paragraph (C) of the Commission Order issued May 28, 1982. In addition, based on the Staff's review of this material Vitco has agreed to reflect in the PGA filing to be effective December 1, 1982 changes related to:

1. Adjustment discussed to exclude from Account 191 the effect of net exchange gas on current cost of gas calculations; and

2. The changes discussed concerning the reflection of the amortization of carrying charges on a monthly basis before computing the interest (carrying charges) each month.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protect with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All such petitions or protests should be filed on or before September 24, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Assistant Secretary.

[FR Doc. 82-25814 Filed 9-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-770-000]

Virginia Electric and Power Co.; Filing

September 15, 1982.

Take notice that on September 2, 1982, the Virginia Electric and Power Company (VEPCO) tendered for filing a supplemental contract which make some changes in the description of the location of the delivery point for Lighthouse Delivery Point of Cape Hatteras Electric Membership Corporation.

VEPCO states that this supplement supercedes Supplement B-1 dated April 10, 1967.

VEPCO further states that no changes other than the description of the delivery point location have been made.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.215). All such motions or protests should be filed on or before September 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25826 Filed 9-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-780-000]

Washington Water Power Co.; Filing

September 15, 1982.

Take notice that on September 7, 1982, Washington Water Power Company (Washington) tendered for filing copies of a service schedule applicable to what Washington refers to as the Intercompany Pool Agreement (Revised) and its First Amendment. An additional signatory utility Sierra Pacific Power Company, has been included.

Washington requests an effective date of August 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 29, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25827 Filed 9-17-82; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Boulder City Area Projects—Public Comment Forum; Withdrawal of Request for Applications for Power

AGENCY: Western Area Power Administration, DOE.

ACTION: Announcement of Public Comment Forum and Notice of Withdrawal of the Notice of Request for Applications for Power from Boulder City Area Projects published in the **Federal Register** on August 24, 1982 (Vol. 47, No. 164, Page 37073).

SUMMARY: The Western Area Power Administration (Western) has scheduled a public comment forum to hear comments concerning the Proposed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects—Revision (Criteria) that was published in the **Federal Register** on August 24, 1982 (Vol. 47, No. 164, Pages 36946–36957). Western also withdraws its Notice of Request for Applications for Power from Boulder City Area Projects which was published on the same date in the **Federal Register** (Vol. 47, No. 164, Page 37073).

DATES AND LOCATION: An opportunity will be given all interested parties to present written or oral statements concerning the proposed Criteria at a public comment forum to be held at the Showboat Hotel, Natchez Room in Los Vegas, Nevada, on November 23, 1982, beginning at 9 a.m. The public comment forum will be held in accordance with the Administrative Procedures Act and the Department of Energy Organization Act and will not be adjudicatory in nature. If an entity does not want to present written comments at the public comment forum, the comments may be mailed to the address given below. All comments must be received at this address on or before December 15, 1982, in order to be considered in the preparation of the final Criteria.

Withdrawal of the Notice of Request for Applications for Power from Boulder City Area Projects is effective immediately.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Olson, Area Manager, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, NV 89005, (702) 293–8800.

SUPPLEMENTARY INFORMATION: Western's Boulder City Area Office has conducted an extensive public process to develop the Proposed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects (Criteria) which Western published in the **Federal Register** on September 22, 1981 (Vol. 46, No. 183, Pages 46864–46874). Due to the comments received, Western published a revised Criteria for further public comment on August 24, 1982 (Vol. 47, No. 164, Pages 36946–36957.

The public comment forum to be held on November 23, 1982, will again afford all interested parties the opportunity to present comments and data to Western regarding the revised Criteria.

Entities who desire to present oral comments and data are required to notify Western's Boulder City Area Office at the preceding address on or before November 19, 1982, so that a list of speakers can be prepared. The speakers will be called in the order in which their requests are received. After all scheduled speakers are heard, other attendees will be allowed to present their views. Speakers are requested to limit their remarks to 30 minutes in which to present the statement of the entity they are representing.

Any entity desiring a copy of the transcript of the public comment forum should make arrangements with the court reporter.

Withdrawal Notice

Subsequent to the publication of the Notice of Request for Applications for Power from Boulder City Area Projects, several entities have informed Western of the difficulty that they would have in meeting certain requirements set forth in the Request for Applications for Power from Boulder City Area Projects by the October 1, 1982, deadline for receipt of applications. Therefore, because of the unintended burden of the time constraint, Western hereby withdraws its August 24, 1982, Notice of Request for Applications for Power from Boulder City Area Projects. Western will publish a revised Notice of Request for Applications for Power from Boulder City Area Projects after the proposed Criteria is published as a final Criteria in the **Federal Register.**

Issued at Golden, Colorado, September 13, 1982.

Robert L. McPhail,

Administrator.

[FR Doc. 82-25755 Filed 9-17-82; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee); Meeting

September 10, 1982.

TASK GROUP A–3 OF WORKING GROUP A: U.S. Interests.

Chairman: John Marus, (212) 664–4700.

Date: Wednesday, October 6, 1982.

Time: 9:30 A.M.–2:30 P.M.

Location: Federal Communications Commission, 1919 M Street, NW., Room 311, Washington, D.C.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-25763 Filed 9-17-82; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 17100; BC Docket No. 82-564]

Inquiry Initiated on FCC Interpretation of Equal Time Requirements; Action in Docket Case

July 26, 1982.

An inquiry looking toward a new interpretation of the Communications Act requiring broadcast licensees to provide equal opportunities for political candidates has been initated by the Commission.

Specifically, the FCC said it was seeking comment on whether broadcasts of debates between legally qualified candidates, arranged and sponsored by a broadcast licensee, should be considered "on-the-spot coverage of bona fide news events" and thus exempt from equal time opportunities.

Additionally, the Commission said it was soliciting comments on whether broadcasts or rebroadcasts of bona fide news events, including exempt debates, should be exempt from the equal opportunity requirements even if broadcast later than the day after the event. And, if so, the Commission asked if it should establish a period of time during which the broadcast of such an event retains its exemption, or whether a good faith standard should be used.

Currently, to qualify for exemption from the equal opportunity requirements a debate must be:

—Arranged and sponsored by a party other than the broadcaster;

—Broadcast in its entirety, live or no later than the day following the event; and

—Covered by the broadcaster because of its reasonable, good faith judgment, that the debate is newsworthy and not for the purpose of giving a political advantage to any candidate.

The Commission also requested comments regarding interpretation of the "bona fide news documentary" exemption from equal opportunities considerations. The statute exempts such documentaries where the appearance of the candidate is "incidental" to the topic addressed in the documentary. Petitioners asserted that candidates' appearances in such documentaries may be "significant as to nature and amount" and remain "incidental."

The inquiry was initiated in response to a petition by Henry Geller seeking issuance of a more liberal interpretation of the equal time rules. Supporting petitions were filed by the national Association of Broadcasters, Radio-Television News Directors Association, Public Broadcating Service, and National Broadcasting Company, Inc.

Regarding the notice of inquiry, the FCC said it will give careful consideration to all suggestions regarding implementation of the equal time rules with respect to broadcast debates and documentaries, and that the inquiry was not necessarily limited to the delineated issues.

Comments are due by October 15, 1982 and replies by November 15, 1982.

Action by the Commission July 22, 1982, by Notice of Inquiry (FCC 82-347). Commissioners Fowler (Chairman), Quello, Washburn, Jones, Dawson and Rivera, with Commissioner Fogarty voting later by circulation.

For more information contact Richard Kalb at (202) 632-7586.

Note.—Because of the continuing effort to minimize publishing costs, the Notice of Inquiry will not be printed herein. However, copies are available through the distribution centers listed in the FCC Office of Public Affairs, Rm. 202, 1919 M St., N.W., Washington, D.C. 20554, (202) 254-7674. A copy is also available for inspection in the FCC Dockets Branch, Rm. 239 and the FCC Library, Rm. 639, both located at 1919 M St., NW.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-25762 Filed 9-17-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Fair Lending and Community Reinvestment

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Notice of request for comments.

SUMMARY: In Section 340(e) of the Housing and Community Development Act of 1980 (12 U.S.C. 2803), Congress assigned several responsibilities to the Examination Council in connection with the agencies' supervisory activities relating to the Community Reinvestment Act, the Home Mortgage Disclosure Act (HMDA), and the fair housing lending provisions of the Equal Credit Opportunity Act and the Fair Housing Act.

To promote efficiency and avoid duplication to the maximum extent feasible, the Federal Financial Institutions Examination Council shall transmit a report to the Congress not later than September 30, 1982, on the feasibility and desirability of establishing a unified system for enforcing fair lending laws and regulations, implementing the Community Reinvestment Act of 1977, and satisfying the public disclosure purposes of the Home Mortgage Disclosure Act of 1975. Such report shall evaluate the status and effectiveness of data collection and analysis systems of such agencies involving fair lending and community reinvestment, and shall outline possible specific timetables for implementing such a unified system.

The emphasis in this legislation is on improved efficiency, while maintaining the effectiveness of the supervisory process. To assist it in this assignment, the Council contracted with JRB Associates of McLean, Virginia, to study the various approaches in use at the five agencies represented on the Council and to make recommendations on the matters addressed in the legislation.

The study by JRB Associates has been completed and has been forwarded to the Congress. In general, the study concludes that a unified system for assisting the agencies in meeting their obligations under the laws referred to in Section 340(e) is feasible. The system recommended in the study would, in the judgement of JRB Associates, reduce costs to depository institutions and improve the information available to the agencies.

Several of the recommendations contained in the JRB study involve statutory, regulatory or procedural changes that could have a significant effect upon depository institutions and the users of data derived from HMDA reports and the agencies' fair housing lending data systems. Therefore, the Examination Council is seeking public comment, for a 60-day period, on the key issues raised by the JRB Study and its recommendations. A number of community and consumer organizations and industry associations have asked the Council to provide an opportunity for comment. After an analysis of comments, the Council will consider what recommendations it should make in this area to the Congress and to the agencies represented on the Council.

DATE: Comments should be received on or before November 29, 1982.

ADDRESS: Comments should be sent to Robert J. Lawrence, Executive Secretary, Federal Financial Institutions Examination Council, Eighth Floor, L'Enfant Plaza, SW., Washington, D.C. 20219.

FOR FURTHER INFORMATION CONTACT: Ms. Louise Kotoshirodo, Consumer Examinations Analyst, Federal

Financial Institutions Examination Council, Washington, D.C. 20219; (202) 287–4210.

SUPPLEMENTARY INFORMATION: The JRB study recommends development and implementation of a unified data submission and processing system, across the five constituent agencies of the Council, for meeting the disclosure requirements of HMDA and the first-stage requirements associated with the enforcement of fair housing lending statutes and regulations.

Under the system recommended in the study, a "tally sheet" would be completed by each decision center of covered depository institutions for each census tract from which it received housing-related loan applications. Check marks for each appropriate category for a single application would be recorded on one line of the first tally sheet. The result would show, by a simple check mark system, the HMDA loan category, the race, sex, and marital status of the applicants for loans that are approved, and the same information for applications that are rejected or withdrawn. A count of the check marks in each column would provide the needed information for loan applications from a single census tract. The total figures along the bottom of the first tally sheet would then be entered by each lending institution's decision centers on a single line of a second tally sheet—one line per census tract.

The second tally sheet for an institution's decision centers would be submitted to the appropriate federal supervisory agency on a schedule established by the agency, and this tally sheet procedure would replace the current requirement for depository institutions to complete the HMDA–1 form. The federal agencies would assume responsibilities for the processing of the information on these tally sheets.

From this information the agencies would produce HMDA disclosure reports for each depository institution, and the HMDA data aggregation reports that the Examination Council is required by statute to prepare. In addition, the agencies would produce fair lending analysis sheets for each covered depository institution. These would be used by agency examiners as they check for fair housing lending compliance and for the institution's performance under the criteria established by the Community Reinvestment Act and its implementing regulations. There analysis sheets would portray for examiners the board lending patterns of an institution. They would show the geographical distribution of the institution's housing-related loans and the race, sex, and marital status of the institution's loan applicants. They would also show the approvals and denials of loan applications by census tract and by loan applicant characteristics. This general analytical approach is similar to the one currently used by the Federal Home Loan Bank Board.

Request for Comment on Specific Issues

Proposed Amendment to HMDA

Implementation of JRB's recommendations would require an amendment to HMDA to eliminate the current requirement that institutions collect and submit data on dollar amounts of housing-related loans by census tract. The proposed amendment would also add a requirement for submission of information on all housing-related loan applications, whether approved, rejected, or withdrawn. JRB supports this proposal as follows:

* * * From the total dollar amounts, one can only compute the average loan amounts for a given census tract; no determination can be made of the characteristics of the recipients, nor of the reasons for a difference in average loan amounts among various census tracts. The differences in average loan amounts for various census tracts are likely to result from the differences in the value of the residential property in those census tracts. Thus, giving up loan amounts to obtain data on the disposition of all applications appears, on balance, to be a reasonable trade-off from the standpoint of usefulness in public disclosure and in compliance examinations.

The Council seeks comment on this proposed amendment to HMDA.

2. JRB Recommendations on Recordkeeping and Reporting by Institutions

Implementation of the JRB recommendations would involve replacement of existing institutional recordkeeping and reporting requirements for HMDA and for the first-stage monitoring of fair housing lending, such as the LAR/DSR for savings and loan associations and the log sheets required by the FDIC, with the proposed tally sheet procedure described in the above summary of recommendations of the JRB study. The output from the proposed unified processing system would be that indicated in the attachments referred to above.

The Council solicits comments on these JRB recommendations.

3. Impact of Implementing the JRB Recommendations on Compliance Costs for Institutions

JRB concluded that the proposed tally sheet procedures would reduce compliance costs for institutions. The Council seeks an assessment by institutions as to whether substitution of the tally sheet procedures for the existing HMDA and first-stage fair housing lending monitoring procedures would reduce or increase their costs. Specific dollar estimates of impact and a description of the methods by which they derived would be especially useful.

4. Appropriate Coverage for Institutions

HMDA covers those depository institutions engaged in making housing-related loans with assets of $10 million or more and with at least one office within an SMSA. Current recordkeeping and data submission requirements of the OCC and the FHLBB fair housing lending regulations apply to some non-HMDA institutions and to most but not all HMDA institutions. The Council seeks comment on the appropriate institutional coverage were the proposed unified system to be implemented.

5. Characteristics of Loan Applicants: Observational Data

The fair housing lending regulations of the OCC, FDIC, and FHLBB currently require that covered institutions record data on race and sex of applicants drawn from observation in those instances in which applicants do not supply such information. The FRB and the NCUA do not have a similar requirement. In the absence of the observational data notation requirement, it is estimated that data gaps exist for about 15 percent of applications.

The Council seeks views on how important this requirement is for fair housing lending enforcement. Respondents should evaluate the tradeoff involved in filling data gaps with observational information and the possible invasion of privacy of loan applicants who prefer not to supply such information. Also, there is a likelihood that some observational data will be inaccurate.

6. Public Disclosure of Fair Housing Lending Data

The proposed unified processing system would generate both HMDA disclosure reports and fair housing lending analysis sheets for each covered institution. The JRB study raises the question of whether the analysis sheets should also be subject to public disclosure. The study notes:

These data (in the analysis sheets) are likely to show instances of disproportionate rejection rates among the various categories. While this information is useful in focussing examiner's efforts, it could mislead public groups to reach unwarranted conclusions regarding possible discrimination. Consequently, the agencies should weigh this issue carefully in deciding whether or not to disclose these particular results.

The Council welcomes comment on this issue.

7. Purchased Residential Loans

The JRB tally sheets as presented do not provide for disclosure of mortgage and home improvement loans *purchased* by covered institutions. Disclosure of such data is currently required by HMDA. The Council requests comments on the usefulness of purchased loan data and the burdens associated with providing it.

Alternative Automated System

The current automated data systems of the FDIC (COMPASS) and the OCC (FHHLDS) have a different approach than the system proposed by JRB; by computer analysis of financial information about individual applicants, the systems select for on-site review a sample of individual applications that appear to have been treated differently than others, perhaps as a result of discrimination. Thus under the OCC and the FDIC systems, individuals who may have been subject to discrimination may be identified.

JRB recommends its system as a "first-stage" monitoring effort, with analysis of more detailed application data to be left to the discretion of the agencies. The Council seeks comment on the value of microlevel systems such as those of the FDIC and the OCC for targeting examination efforts.

Dated: September 15, 1982.

Robert J. Lawrence

Executive Secretary, Federal Financial Institutions Examination Council.

[FR Doc. 82-25797 Filed 9-17-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public; Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate [Casualty]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Royal Caribbean Cruise Line A/S et al., c/o Royal Caribbean Cruise Line, 903 South America Way, Miami, Florida 33132.

Dated: September 14, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-25690 Filed 9-17-82; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-4068.

Filing Party: Nestor D. Ramirez Cuebas, General Counsel, Ports Authority, Commonwealth of Puerto Rico, G.P.O. Box 2829, San Juan, Puerto Rico 00936.

Summary: Agreement No. T-4068 between the Puerto Rico Ports Authority (Authority) and International Shipping Agency, Inc. (ISA) provides for the preferential use of facilities at Pier 11, San Juan, Puerto Rico. ISA shall use the premises for berthing of sea-going vessels, loading and discharging vessels, the temporary storage of outbound and inbound cargo and supplies, and for the handling of passengers. ISA in addition to the rentals provided for in the agreement, shall also pay to the Authority wharfage and dockage charges or a minimum annual payment of $125,000 whichever is higher. Any services rendered by the Authority to ISA, not mentioned in the agreement, shall be charged according to the Authority's port tariffs. The term of the agreement is for 3 years.

Agreement No. 10044-7.

Filing party: R. J. Finnan, Chief Tariff Publishing Officer, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Summary: Agreement No. 10044-7, between Compania Peruana de Vapores and Lykes Bros. Steamship Co., Inc., amends the parties' basic cargo revenue pooling, sailing, and equal access agreement in the southbound United States Gulf/Peru trades. The purpose of the amendment is to extend the termination date of the parties' basic agreement from December 31, 1982 to december 31, 1987.

Agreement No. 10364-1.

Filing parties:

John M. Ridlon, Senior Counsel, Sea-Land Industries, Inc., P.O. Box 800, Iselin, New Jersey 08830

Donald J. Brunner, Counsel for Hanjin Container Lines, Ltd., 1101 Fourteenth Street, N.W., Suite 1000, Washington, D.C. 20005

Summary: Agreement No. 10364-1 amends the basic agreement between Sea-Land Service, Inc. and Hanjin Container Lines, Ltd., which provides for the reciprocal chartering of container slots on a space-available basis between U.S. West Coast ports and ports in Japan and Korea. The purpose of the amendment is to extend the agreement's termination date from January 8, 1983 to January 8, 1986.

Agreements Nos. 10457 and 10458.

Filing party: Charles F. Warren, Esq., Warren & Associates, P.C., 1100 Connecticut Avenue, NW., Washington, D.C. 20036.

Summary: Agreement No. 10457 is a cooperative working arrangement between Korea Marine Transport Co., Ltd. (KMTC) and Nippon Yusen Kaisha (NYK) applicable to the trades between Korea, Taiwan and Hong Hong and the Pacific Coast of the United States, including Hawaii and Alaska. The agreement provides that the parties will operate three containership vessels between ports in these trades, and such

other vessels as they may subsequently agree to operate under the agreement. In addition, vessels may call at Japanese ports to load and discharge KMTC's Japanese cargo. KMTC will contribute two vessels and NYK will contribute one vessel, and the parties will schedule and advertise their sailings in these trades as to promote optimum vessels utilization. While the agreement applies to cargo placed in containers for shipment on the parties' container vessels, it does not preclude the parties from carrying other available cargo on their own vessels. The parties will operate their own respective common carrier services, issuing their own separate bills of lading. KMTC will act as NYK's agent in Korea and NYK will act as KMTC's agent in the United States, including such technical operational assistance as KMTC may require. The parties will ship their loaded and empty containers (including container which they own, lease or control) on their own vessels and on each other's vessels, chartering space to and from each other on terms as they may agree. They may also charter and/or subcharter no more than 780 TEU's per calendar month to Showa Line, Ltd., (Showa) (Showa is not a signatory to Agreement No. 10457) however, any continuing charter agreement with Showa will not be implemented without prior FMC approval (see Agreement No. 10458, below). The parties may load or discharge cargo, regardless of its origin or destination, on or from the vessels which they employ for direct calls within these trades, provided that any transshipment arrangements they may individually conclude with other carriers will be filed with the FMC as may be necessary. The parties will pool and share equally in the revenues they derive from the transportation of the containerized cargo carried in their vessels under the agreement which originates at or is destined to Korea. Excluded are any revenues derived by the parties in any trades other than Korea. The agreement also provides that the parties may interchange their empty containers and/or related equipment. The agreement shall terminate on the fifth anniversary of its effectiveness, however, either party may withdraw from the agreement upon ninety days' prior notice. Upon approval of Agreement No. 10457, Agreement No. 10332, as amended, (which is also between KMTC and NYK) will terminate.

Agreement No. 10458, among KMTC, NYK and Showa, provides that KMTC and NYK will subcharter to Showa space not to exceed 780 TEU's per month on the vessels they are authorized to operate in the trades covered by Agreement No. 10457, above. The agreement's term will commence upon the termination of FMC Agreement No. 10332, as amended, and will expire upon the termination of Agreement No. 10457. Showa will issue its own bills of lading for the cargo (including transshipment cargo) and will be responsible to its own customers for delivery, care and carriage of the cargo carried pursuant to the agreement.

By Order of the Federal Maritime Commission.

Dated: September 15, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-25770 Filed 9-17-82; 8:45 am]

BILLING CODE 6730-01-M

[Amdt. No. 2 to Commission Order No. 1 (Revised)]

Organization and Functions of the Federal Maritime Commission

Commission Order No. 1 is hereby amended as follows:

1. Amend section 3 by:

a. Revising section 3(5) to read:

(5) Office of the Secretary.

a. Office of Informal Inquiries and Complaints.

(b) Deleting section 3(12);

(c) Renumbering sections 3(13)–3(19) as sections 3(12)–3(18).

2. Amend section 4.05 to read:

4.05 The *Office of Informal Inquiries and Complaints* reports to the Secretary on the progress and status of informal inquiries and complaints received by the Commission from the public.

3. Amend section 5.12 to read:

5.12 The *Office of Informal Inquiries and Complaints.*

1. Advises the Commission, through the Secretary, on significant public interest in current and proposed Commission policies, programs and decisions.

2. Receives, coordinates and responds to informal inquiries, complaints, suggestions and expressions of concern from the public and contacts carriers, conferences and other persons to effect solutions.

3. Works in conjunction with the public relations activity to publicize Commission policies, programs and activities of interest to the shipping public.

4. Serves as liaison with the President's Special Assistant for Consumer Affairs.

4. Amend section 5.19(4) to read:

(4) Receive and resolve informal inquiries and complaints in coordination with the Director, Office of Informal Inquiries and Complaints;

5. Amend section 13.05(6) to read:

(6) Office of Informal Inquiries and Complaints.

Dated: September 13, 1982.

Alan Green, Jr.,

Chairman.

[FR Doc. 82-25778 Filed 9-17-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Midwest Bancorp., Inc.*, St. Joseph, Missouri; to acquire 90 percent of the voting shares or assets of The Farmers Bank of Maysville, Maysville, Missouri. Comments on this application must be received not later than October 13, 1982

Board of Governors of the Federal Reserve System, September 14, 1982.

Dolores S. Smith,

Assitant Secretary of the Board.

[FR Doc. 82-25808 Filed 9-17-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that

are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *PB Bancorp of Cedar Rapids, Inc.*, Cedar Rapids, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples Bank and Trust Company, Cedar Rapids, Iowa. Comments on this application must be received not later than October 14, 1982.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoinig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Frankfort Bancshares, Inc.*, Frankfort, Kansas, to become a bank holding company by acquiring 89.2 percent of the voting shares of The First National Bank in Frankfort, Frankfort, Kansas. Comments on this application must be received not later than October 13, 1982.

2. *Plainview Holding Co.*, Plainview, Nebraska, to become a bank holding company by acquiring 80 percent of the voting shares of Plainview National Bank, Plainview, Nebraska. Comments on this application must be received not later than October 12, 1982

Board of Governors of the Federal Reserve System, September 14, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-25699 Filed 9-17-82; 8:45 am]

BILLING CODE 6210-01-M

Fuji Bank, Limited; Corporation to Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as Fuji Bank International, Inc., San Francisco. Fuji Bank International, Inc. would operate as a subsidiary of The Fuji Bank, Limited, Tokyo, Japan. The factors that are considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the Offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 14, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 14, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-25702 Filed 9-17-82; 8:45 am]

BILLING CODE 6210-01-M

Third National Corp.; Acquisition of Bank

Third National Corporation, Nashville, Tennessee, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Ancorp Bancshares, Inc., Chattanooga, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Third National Corporation, Nashville, Tennessee, is also engaged in the following nonbank activities: consumer finance, mortgage banking, leasing, and acting as an underwriter for credit life, health, and accident insurance. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 14, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 14, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-25701 Filed 9-17-82; 8:45 am]

BILLING CODE 6210-01-M

Third National Corp.; Proposed Acquisition of Ancorp Insurance Company

Third National Corporation, Nashville, T4Tennessee, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Ancorp Insurance Company, Chattanooga, Tennessee.

Applicant states that the proposed subsidiary would engage in the activities of acting as an underwriter for credit life and credit accident and health insurance. These activities would be performed from offices of Applicant's subsidiary in Chattanooga, Tennessee, and the geographic areas to be served are Hamilton, Washington and Carter Counties in Tennessee and Walker county in Georgia. Such activities have been specified by the Board § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or

at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 14, 1982.

Board of Governors of the Federal Reserve System, September 14, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-25700 Filed 9-17-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Interstate Bank Holding Company*, Coral Gables, Florida; to become a bank holding company by acquiring at least 80 percent of the voting shares of The Bank of Coral Gables, Coral Gables, Florida. Comments on this application must be received not later than October 13, 1982.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Lebo Bancshares, Inc.*, Lebo, Kansas; to become a bank holding company by acquiring 80 percent of the voting shares of The State Bank of Lebo, Lebo, Kansas. Comments on this application must be received not later than October 13, 1982.

Board of Governors of the Federal Reserve System, September 13, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-25698 Filed 9-17-82; 8:45 am]

BILLING CODE 6210-01-M

United Bancorporation of Wyoming, Inc.; Proposed Acquisition of Jackson State Insurance Agency

United Bancorporation of Wyoming, Inc., Jackson, Wyoming, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C 1843(c)(8) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Jackson State Insurance Agency, Jackson, Wyoming.

Applicant states that the proposed subsidiary would engage in the activities of a general insurance agency in a town with a population of less than 5,000 persons. These activities would be performed from offices of Applicant's subsidiary in Jackson, Wyoming, and the geographic area to be served is Jackson, Wyoming. Such activities have been specified by the Board in 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than October 13, 1982.

Board of Governors of the Federal Reserve System, September 13, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-25697 Filed 9-17-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules; Occidental Petroleum Corp.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Occidental Petroleum Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of Cities Service Company, Colonial Pipeline Company and CLAM Petroleum Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by all parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: SEPTEMBER 8, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 311, Federal trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-25700 Filed 9-17-82; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Taft Broadcasting Co.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Taft Broadcasting Company is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of TCI-Taft Cablevision Associates and with respect to the proposed formation of a joint venture with Tele-Communications, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by all parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: September 9, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 311, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-25759 Filed 9-17-82; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Tele-Communication, Inc.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Tele-Communications, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of TCI-Taft Cablevision Associates and with respect to the proposed formation of a joint venture with Taft Broadcasting Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by all parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: September 9, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 311, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-25758 Filed 9-17-82; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

SES Performance Review Boards for Small Client Agencies Serviced by GSA; Names of Members

Sec. 4314(c) (1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Boards. The board shall review and evaluate the initial appraisal by the supervisor of a senior executive's performance, along with any recommendations to the appointing authority relative to the performance of the senior executive.

As provided under section 601 of the Economy Act of 1932, as amended, 31 U.S.C. 686, the General Services Administration through its External Services Staff, Personnel Division, provides various personnel management services to a number of diverse Presidential commissions, committees, and other small agencies and boards through reimbursable administrative support agreements. This notice is processed on behalf of these client agencies, and it amends our original notices in the **Federal Register** dated March 17, 1980, May 20, 1980, and September 23, 1981. Because of their small size, a Performance Review Board register has been established composed of members of the various agencies. From this register of names, the head of each client agency will appoint executives to a specific board to serve the particular client agency.

The members whose names appear on the Performance Review Board register to serve client agencies are:

Richard A. Ericson, Executive Director, Japan-United States Friendship Commission

Stephen L. Babcock, Executive Director, Administrative Conference of the United States

Richard K. Berg, General Counsel, Administrative Conference of the United States

Sandra L. Massetto, Commissioner Navajo and Hopi Indian Relocation Commission

Hawley Atkinson, Commissioner (Chairman), Navajo and Hopi Indian Relocation Commission

Stephen G. Goodrich, Executive Director, Navajo and Hopi Indian Relocation Commission

Walter R. Roberts, Executive Director, Board for International Broadcasting

James Critchlow, Foreign Information Officer, Board for International Broadcasting

Arthur D. Levin, Financial Manager, Board for International Broadcasting

Anatole Shub, Foreign Information Officer, Board for International Broadcasting

Theodore S. Farfaglia, Executive Director, United Staters Metric Board

Stanley R. Parent, Deputy Executive Director/Director, Research, Coordination and Planning, United States Metric Board

Frank H. Thomas, Acting Director, U.S. Water Resources Council

Rosemary M. Collyer, Chairperson, Federal Mine Safety and Health Review Commission

James A. Lastowka, General Counsel, Federal Mine Safety and Health Review Commission

For further information, contact Betty R. Bruce, External Services Staff, Personnel Division (202–472–9214); mailing address: General Services Administration, National Capital Region (WBPX), Washington, DC 20407.

Dated: September 7, 1982.

Bertrand G. Berube,

Regional Administrator of General Services, National Capital Region.

[FR Doc. 82-25605 Filed 9-17-82; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-82-1162]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Monthly Digest of Current Housing Situation and Quarterly Supplement.
Office: Housing.
Form Number: HUD-2499 and HUD-2499A.
Frequency of Submission: Monthly and Quarterly.
Affected Public: Businesses or Other Institutions (except farms).
Estimated Burden Hours: 800.
Status: New.
Contact: John N. Dickie, HUD, (202) 426-4667, Robert Neal, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 7, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 82-25602 Filed 9-17-82; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-82-1161]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OBM

Proposal: Community Development Block Grant Transfer Evaluation.
Office: Policy Development and Research.
Form number: None.
Frequency of submission: Single-Time.
Affected public: State or Local Governments.
Estimated burden hours: 714.
Status: New.
Contact: Judson James, HUD, (202) 426-1520, Robert Neal, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 7, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 82-25603 Filed 9-17-82; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-82-1160]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OBM

Proposal: Tax-Exempt Construction Financing for Turnkey Public Housing Projects.

Office: Housing.

Form Number: None.

Frequency of Submission: Single-Time.

Affected Public: State or Local Governments and Businesses or Other Institutions (except farms).

Estimated Burden Hours: 480.

Status: New.

Contact: Raymond W. Hamilton, HUD, (202) 426–0938, Robert Neal, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 8, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 82-25604 Filed 9-17-82; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N–82–1159]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer from the Department.

Copies of the proposal forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Office at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Comprehensive Planning Assistance Annual Report.

Office: Community Planning and Development.

Form Number: None.

Frequency of Submission: Annually. Annually.

Affected Public: State or Local Governments.

Estimated Burden Hours: 10,040.

Status: Extension.

Contact: Richard Alexander, HUD, (202) 755–6186, Robert Neal, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 9, 1982.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Uniform Settlement Statement—Certification Page for Settlement Statement.

Office: Housing.

Form Number: HUD–1 and HUD–9596.

Frequency of Submission: On Occasion.

Affected Public: Businesses or Other Institutions (except farms).

Estimated Burden Hours: 1,850,000.

Status: Extension.

Contact: John J. Coonts, HUD (202) 755–6720, Robert Neal, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 9, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 82-25695 Filed 9-17-82; 8:45 am]

BILLING CODE 4210-01-M

Office of the Secretary

[Docket No. N-82-1163]

Privacy Act of 1974; New System of Records

AGENCY: Housing and Urban Development Department.

ACTION: Notification of new system of records.

SUMMARY: The Department is giving notice of a system of records it intends to maintain which is subject to the Privacy Act of 1974.

EFFECTIVE DATE: This notice shall become effective without further notice on October 20, 1982 unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, Telephone 202-755-5320. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The system is the HUD Community Development Block Grant State Transfer Evaluation Files System (HUD/PD&R-11). It will contain information concerning program development and administration obtained from a sample of local community development officials, from a sample of state officials responsible for the Community Development Block Grant (CDBG) Small Cities Program transferred to those same states, and from a limited number of other relevant and informed persons on the state transfer, e.g., in HUD Area Offices or state municipal leagues. The system will contain the name, title, organizational address, and telephone number of these officials.

A new system report was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on August 2, 1982. Appendix A, which lists the addresses of HUD's offices, was published at 47 FR 34331 (August 6, 1982).

HUD/PD&R-11

SYSTEM NAME:

HUD Community Development Block Grant State Transfer Evaluation Files.

SYSTEM LOCATION:

HUD contractor to be selected and Headquarters Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A sample of local community development officials and the state officials responsible for the Community Development Block Grant Small Cities Program transfer to those same states (a sample of states out of a potential universe of thirty-seven states). Also, a limited number of other relevant and informed persons on the state transfer, e.g., HUD Area Office personnel responsible for CDBG small cities program review.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, title, organizational address, and telephone numbers of interviewees; demographic and socio-economic characteristics of the cities and states sampled, such as population, poverty population, and age of housing stock; and program development and administration interview data about the small cities program transfer to the states in the sample cities and states.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To HUD contractor-for analysis by the contractor of the state transfer.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual records stored in locable file drawers located in lockable rooms. Access limited to authorized personnel. Personnel identifiers such as mailing labels, names, addresses, and assigned codes maintained in separate locked files with access restricted. Automated records contain no identification of individuals except assigned numeric codes.

RETRIEVABILITY:

Name, address, and numeric code.

SAFEGUARDS:

Manual records stored in lockable file cabinets in secured areas. Computer records will be maintained in secured areas with technical restraints employed with regard to accessing records. Access to both types of records is limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are periodically returned to Federal Records Center and destroyed in accordance with HUD Handbook 2225.6.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Community Development and Fair Housing Analysis, Assistant Secretary for Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed in relation to contesting the contents of records, it may be obtained by contacting the Privacy Act Officer at the Headquarters location. This location is given in Appendix A. If additional information or assistance is needed in relation to appeals of initial denials, it may be obtained by contacting the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals.

Issued at Washington, D.C., September 10, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 82-25706 Filed 9-17-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-14879-A]

Alaska Native Claims Selection

The purpose of this decision is to modify the decision to issue conveyance of lands to Kotlik Yupik Corporation, dated March 31, 1982, as published in the **Federal Register**, Vol. 47, No. 63, on pages 13899 through 13901, April 1, 1982, corrected in Vol. 47, No. 79, on page 17681, April 23, 1982.

In the decision to issue conveyance, the lands in Sec. 30, T. 27 S., R. 25 W., Kateel River Meridian, were incorrectly described as partially within Public Land Order (PLO) 4584. Since T. 27 S., R. 25 W., Kateel River Meridian was not withdrawn by PLO 4584, Sec. 30 will be conveyed as entirely outside the National Wildlife Refuge System.

The following will modify and correct pages 13899 and 13990 of the March 31, 1982 decision:

Page 13899—Second Column, Second Paragraph

The sentence which reads: This decision approves approximately 39,869 acres of National Wildlife Refuge System lands for conveyance to Kotlik Yupik Corporation.

is hereby modified and corrected to read: This decision approves approximately 39,864 acres of National Wildlife Refuge System lands for conveyance to Kotlik Yupik Corporation.

Page 13899—Middle Column

T. 27 S., R. 25 W., that portion described as within the refuge is hereby deleted.

Page 13899—Third Column

Aggregated acreage of lands within the refuge now reads: Aggregating approximately 39,869 acres.

is hereby modified and corrected to read: Aggregating approximately 39,864 acres.

Page 13900—First Column

T. 27 S., R. 25 W., outside the refuge. The description and acreage for lands now reads: Sec. 30 (fractional), that portion outside PLO 4584, excluding Native allotment F-18757 Parcel A; * * *

Containing approximately 380 acres.

This description and acreage are hereby modified and corrected to read:

Sec. 30 (fractional), excluding Native allotment F-18757 Parcel; * * *

Containing approximately 385 acres.

Page 13900—Third Column

Aggregated acreage of lands outside the refuge now reads: Aggregating approximately 61,968 acres.

is hereby modified and corrected to read: Aggregating approximately 61,973 acres.

These corrections do not affect the total conveyance acreage of 101,837 acres to Kotlik Yupik Corporation.

Except as amended by this decision, the decision of March 31, 1982 stands as written.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in The Tudra Drums.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall until October 20, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Kotlik Yupik Corporation,
Kotlik, Alaska 99620
Calista Corporation,
516 Denali Street,
Anchorage, Alaska 99510

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-25787 Filed 9-17-82; 8:45 am]

BILLING CODE 4310-84-M

[Civil Action No. 1983-73]

Natural Resources Defense Council, Inc., et al v. James G. Watt, et al.; Notice of Proposed Deviation from Scheduled Preparation of Environmental Impact Statements on Livestock Grazing

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed deviation from scheduled preparation of Environmental Impact Statement on livestock grazing.

SUMMARY: This document provides notice of a material deviation from the scheduled preparation of environmental impact statements on livestock grazing as required by the amended final judgment entered in *Natural Resources Defense Council, Inc., et. al. v James G. Watt, et al.*, Civil Action No. 1983-73 (D.D.C. April 14, 1978).

ADDRESS: Office of the Solicitor, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Allan D. Brock, Office of the Solicitor, Department of the Interior, Division of Energy and Resources, Branch of Land Use, 18th and C Streets NW., Washington, D.C. 20240 (202/343-4036).

[Civil Action No. 1983-73]

Natural Resources Defense Council, Inc., et al. *v.* James G. Watt, et al.
Notice of Proposed Deviation From Scheduled Preparation of Environmental Impact Statements on Livestock Grazing

The amended final judgment of April 14, 1978, in the above-entitled case, requires the preparation of a series of environmental impact statements (EISs) on the grazing of livestock in the

Western States, pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. 4321, et seq. Paragraph 9 of the judgment contemplated the possibility of material deviations from the judgment and provided for notice as follows:

9. If the Federal Defendants believe, in good faith, that circumstances dictate that any material deviations must be made, then in any event, the Federal Defendants shall give Notice to this Court wherein a detailed explanation shall be made of the deviation which is anticipated to occur together with the reason(s) therefore. This Notice shall be filed prior to the anticipated implementation of such deviation, and contemporaneously a copy of such Notice shall be sent by registered mail to all parties to this action (No. 1983–73) and such Notice shall be published in the Federal Register. Thereafter, if objections are filed with the court within 30 days from the date of publication in the Federal Register, the Federal Defendants and the objecting parties may make such motions and present evidence to the court as to them seems proper, and the court shall determine if such deviations shall be allowed to occur or make any other appropriate order; provided, however, that if no objections are filed with the court within such 30-day period, BLM shall be authorized to implement such deviation.

Paragraph five of the judgment provides in pertinent part that:

[I]n fiscal years 1980 through 1982, the federal defendants shall prepare EIS's on public land acreages which total the respective, yearly acreages specified in the current EIS schedule for fiscal years 1978 through 1981. Within 90 days the federal defendants shall submit a plan to the court and the parties which specifies the particular areas to be covered during these years and the order in which they will be covered.

According to the plan submitted by the federal defendants to the court, the current schedule requires completion of seventeen EISs by September 30, 1982, the end of the fiscal year. Interior has effectively carried out most of the plan. Indeed, by September 30, Interior will have completed fifteen of the seventeen EISs. There were only two delays. First, immaterial deviation from the current schedule occurred for the preparation and completion of the final EIS covering the Glenwood Springs Area in Colorado. The revised filing date is September 30, 1983. Second, the Federal defendants will be unable to meet the current schedule for completion of the EIS covering 1,397,000 acres of land in the Henry Mountain Area in Utah. The Federal defendants accordingly give notice of a proposed material deviation from the current schedule, thereby allowing completion of the final EIS for the Henry Mountain Area by March 31, 1983.

Delay in the preparation of the EIS for the Henry Mountain Area is due to problems associated with the processing of certain vegetation information through BLM's automated data processing equipment. The appropriate "proper use factors" to be utilized in computing available forage for livestock grazing use from the vegetation information that had been compiled were inadvertantly omitted from the computer program. The results of the computer program indicated forage available for livestock grazing use that exceeded grazing capacities by as much as twenty percent on twenty-seven allotments in the Henry Mountain Area, according to subsequent monitoring studies performed on these allotment areas. A field office requires usuable forage data before it can make any determinations regarding proposed levels of livestock grazing use.

The Federal defendants have incorporated the appropriate proper use factors in the computer program for processing the compiled vegetation information so that the field office will have usable forage data. The computer program re-run is expected to be completed by September 30, 1982. The Federal defendants will thereafter require three months to prepare the draft EIS, and it is anticipated that an additional three months will be needed to complete the final EIS including analysis of public comment.

Dated: September 14, 1982.

Frank DuBois,

Deputy Assistant Secretary, Land & Water Resources.

[FR Doc. 82-25793 Filed 9-17-82; 8:45 am]
BILLING CODE 4310-84-M

Acceptance of Bureau of Land Management Oil and Gas Lease Assignment Forms 3106–5 and 3106–14, OMB No. 1004–0034; Expiration Date: August 31, 1985

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of use and acceptance of assignment forms.

SUMMARY: The Bureau of Land Management (BLM) Form 3106–5, Assignment Affecting Record Title to Oil and Gas Lease, and Form 3106–14, Transfer, Assignment, or Sublease of Operating Rights in Oil and Gas Lease, have been approved by the Office of Management and Budget (OMB) and assigned clearance number 1004–0034, with a new expiration date of August 31, 1985. The previous expiration date had been February 28, 1982. This approval procedure is in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). The expiration date refers to the conformance of the forms with the Act for information collection requirements from Federal oil and gas lease assignees and assignors regarding the transfer or assignment of lease operating rights or the assignment of record title of a lease.

While the basic purpose and substance of such forms used in the administration of the Federal oil and gas or geothermal leasing programs have not changed, the public is hereby notified that such forms will continue to be accepted by the BLM while renewal with OMB is in progress. New stock printed will reflect a changed expiration date. Public interest is best served when no substantive changes have been made to the forms through acceptance by BLM of such forms whether or not the most current expiration date is indicated. To require the public to dispose of existing stock of such forms and to acquire new stock solely in order to reflect a changed expiration date would be burdensome, costly, and counterproductive. The public will be notified of any substantive changes in such forms that would affect their acceptability to BLM.

Upon renewal of Oil and Gas Lease Assignment Forms 3106–5 and 3106–14, certain nonsubstantive changes have been made in addition to the changed expiration date. The public is hereby advised of these minor changes:

1. In Part II of each of the forms, the requirement that information and documents relating to qualifications be submitted has been deleted to reflect regulation changes made at 43 CFR 3102.5, effective February 26, 1982.

2. The Notice provided at the end of each of the two forms will be amended to add the following information, "The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires us to inform you that:

- This information is being collected to transfer, assign, or sublease operating rights or to assign record title of a lease, pursuant to 43 CFR Part 3106.
- This information will be used to create a record of lease assignment and to process the assignment and request for approval.
- Response to this request is mandatory and is to obtain a benefit."

EFFECTIVE DATE: October 20, 1982.

FOR FURTHER INFORMATION CONTACT:

Jeffrey F. Zabler, Division of Oil, Gas and Geothermal, Bureau of Land Management (530), 1800 C Street, NW., Washington, D.C. 20240, telephone (202) 343–7722.

Dated: September 10, 1982.

Delmar D. Vail,

Acting Associate Director.

[FR Doc. 82-25792 Filed 9-17-82; 8:45 am]

BILLING CODE 4310-84-M

Realty Action; Call for Leasing Interest

AGENCY: Department of the Interior (DOI).

ACTION: Proposed competitive lease of public lands administered by BLM as authorized by the Act of Congress of October 21, 1976 (90 Stat. 2743, Pub. L. 94-579) for surface disposal of salt water by-products from oil and gas production operations and for ancillary operations relative thereto.

SUMMARY: In response to interest from oil and gas industry in fulfilling a need of that industry, the BLM acting through the Roswell District Manager, Roswell, NM., is proposing to lease one or more sites for suface disposal of salt water.

The purpose of this notice is to solicit proposals from qualified entities and persons for sites identified by them and to solicit comments from the public regarding the proposed action. After analysis of the proposals received, an applicant may be selected for each site for further evaluation.

Location

The site or sites will be within the Roswell District as identified by qualified entities or persons and meeting environmental and other legal criteria contained in existing laws, rules, and regulations pertaining to management of the public lands.

General Terms and Conditions of Proposals

The proposals will be evaluated and any lease will be issued subject to an in compliance with all applicable existing federal, state, and local laws, rules, and regulations, and in particular under the terms and conditions of 43 CFR Part 2920 as published in 46 FR 5777, January 19, 1981 and reprinted in BLM Circular 2483 which is available from the District Office upon request. Anyone interested in submitting a proposal should be thoroughly familiar with this document. The proposal should indicate an intent to comply with all applicable regulatory statutes, and include any tangible evidence relative thereto in support of the proposal complete with the proponents technical and financial capability to carry the proposal to completion.

Selection of applicants for further evaluation will be a discretionary decision by the District Manager based on his best judgment as a result of evaluation of all pertinent data submitted with the proposal, so it is important that proponents submit documentation as complete as possible in support of their proposal. Any confidential documents must be clearly marked on each page and supported by rationale justifying the confidentiality. Such documents will be withheld from public review but will be considered in the selection of applicants. It should be pointed out, however, that such confidentiality may weaken BLM's defense of its selection in the event of a challenge. If, in the opinion of the District Manager, there is insufficient justification for the confidentiality of the documents, then they will be returned to the proponent and not considered in the selection analysis.

To date there are no known preference rights to any individual or entity under law, regulation, equity, or practical consideration. Any preference right claim should be substantiated in the proposal.

Any lease issued as the result of competition generated hereby will be at fair market value without further competitive bidding.

No funds are required to be submitted with a proposal, however, any applicant selected for further evaluation would incur advance charges as outlined in Circular 2483 prior to any additional processing and evaluation.

Neither publication of this notice nor the submission of a proposal gives right to use the public lands.

Publication of this notice does not segregate any Public Land from operation of the general land laws.

Publication of this notice, receipt of a proposal, and the collection of costs for application processing does not commit BLM to consummate any lease. Any refunds will be in compliance with Circular 2483.

Comments

Interested parties may submit written comments to the Roswell District Office until 4:00 p.m., October 18, 1982.

ADDRESS: P.O. Box 1397, 1717 W. Second St., Roswell, NM 88201.

FOR FURTHER INFORMATION CONTACT: Realty Specialist Mel Barlow (505) 622-7670, or Realty Specialist Jack Ragsdale (505) 887-6544.

SUPPLEMENTARY INFORMATION: Comments relative to this action with the exception of confidential information will be available for public review at the above address.

T. R. Kreager,

Acting District Manager, Roswell District Office.

[FR Doc. 82-25834 Filed 9-17-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Mobil Oil Exploration and Producing Southeast Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0762, Block 176, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 10, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-25704 Filed 9-17-82; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770 (5 U.S.C. App. 1 § 10), that a meeting of the Cape Cod National Seashore Advisory Commission will be held at 1:30 p.m. on Friday, October 8, 1982 at the Headquarters Building, Cape Cod National Seashore.

The Commission was established pursuant to Pub. L. 91–383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The members of the Advisory Commission are as follows:

Dexter M. Keezer, Truro
Francis R. King, Wellfleet
Nathan Malchman, Provincetown
Barbara S. Mayo, Provincetown
Thomas R. Pennypacker, II, Chatham
Sherrill B. Smith, Jr., Orleans
Clifford H. White, Wrentham
Elizabeth F. Worthing, Eastham
Paul F. Nace, Woods Hole

At the meeting at 1:30 p.m. the Commission will consider the following: Election of Officers, South Hollow Wellfield Reclamation, and Operations report.

The afternoon meeting will be preceded by a field trip to Old Harbor Station and North District Headquarters at Race Point. The trip will begin at Park Headquarters at 9:30 a.m., and interested members of the public are invited to participate but must furnish their own transportation.

The meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Herbert Olsen, Superintendent, Cape Cod National Seashore, South Wellfleet, MA 02663, Telephone (617) 349–3785. Minutes of the meeting will be available for public information and copying four weeks after the meeting at the Office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts.

Herbert Olsen,
Superintendent, Cape Cod National Seashore.
September 10, 1982.

[FR Doc. 82–25734 Filed 9–17–82; 8:45 am]
BILLING CODE 4310–70–M

George Washington Memorial Parkway, Availability of Record of Decision for the Development Concept Plan; Daingerfield Island, Va.

The National Park Service has prepared the Record of Decision for the Daingerfield Island, Virginia Development Concept Plan. This record documents the selected course of action for the management and use of this area of the George Washington Memorial Parkway.

Written comments will be accepted for a period of 30-days following the publication of this notice and should be addressed to the Superintendent, George Washington Memorial Parkway, Turkey Run Headquarters, McLean, Virginia 22101.

Copies of the Record of Decision are available from:

George Washington Memorial Parkway, Turkey Run Headquarters, McLean, Virginia 22101
National Capital Region, 1100 Ohio Drive, SW., Washington, D.C. 20242

Dated: September 10, 1982.

Manus J. Fish, Jr.,
Regional Director, National Capital Region.

[FR Doc. 82–25736 Filed 9–17–82; 8:45 am]
BILLING CODE 4310–70–M

Overmountain Victory National Historic Trail Advisory Council

Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Overmountain Victory National Historic Trail Advisory Council will be held at 9:00 a.m. on Friday, October 8, 1982, at Kings Mountain National Military Park, Post Office Box 31, Kings Mountain, North Carolina 28086.

The purpose of the Overmountain Victory National Historic Trail Advisory Council is to consult and advise with the Secretary of the Interior on all matters of planning, management and trail development of the Overmountain Victory Historic Trail. The agenda will include a discussion of the draft comprehensive management plan and the organization and responsibilites of the Advisory Council.

The members of the Advisory Council are as follows:

Mr. Robert M. Baker, Chairman, Atlanta, Georgia
Mr. James A. Cannaday, Eden, North Carolina
Mr. E. Ervin Dargan, Darlington, South Carolina
Mr. Randall Ray Gregory, Raleigh, North Carolina
Mrs. Jean Hawkins, Hilton Head, South Carolina
Mr. Dennis Kline, Rogersville, Tennessee
Mr. Tommy G. Reed, Tale of Palms, South Carolina
Mr. Sydnor M. White, Raleigh, North Carolina
Mr. Fred Burgin, Jr., Rutherfordton, North Carolina
Mrs. Harriette Vaden Price, Williamburg, Virginia
Mr. Walter Carl Cockerham, Greensboro, North Carolina
Mr. Tyron Elliott, Manchester, Georgia
Mr. Hugh Atkins, Spartanburg, South Carolina
Mr. David L. Thomas, Greenville, South Carolina
Mr. Roy A. Taylor, Black Mountain, North Carolina
Mr. Walter H. Schroder, Rock Hill, South Carolina
Mr. Frank Robinson, Elizabethon, Tennessee
Mr. W. Blair Keller, Jr., Abingdon, Virginia
Mr. Terry Chilcoat, Norris, Tennessee
Mr. George Olson, Asheville, North Carolina
Mr. Andrew Duncan, Jr., Wilkesboro, North Carolina

The meeting will be open to the public; however, facilities and space for accommodating members of the public are limited. Any member of the public may file with the council a written statement concerning the matters to be discussed.

Persons wishing further information concerning the meeting or who wish to submit written statements may contact Paul Swartz, Chief, Planning and Compliance Division, National Park Service, Southeast Region, 75 Spring Street, SW. Atlanta, Georgia 30303, Telephone 404/221–5465. Minutes of the meeting will be available for public inspection at the above address approximately 4 weeks after the meeting.

Dated: September 8, 1981.

Neal G. Guse, Jr.,
Acting Regional Director, Southeast Region.

[FR Doc. 82–25735 Filed 9–17–82; 8:45 am]
BILLING CODE 4310–70–M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management

and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. Richard Otis, at 202–395–7340.

Title: 30 CFR Part 817 Permanent Program Performance Standards—Underground Mining
Bureau Form Number: None
Frequency: Once Every Five Years
Description of Respondents: Coal Mine Operators
Annual Responses: 48,543
Annual Burden Hours: 269,061
Bureau clearance officer: Darlene Grose, 202–343–5447

Dated: September 2, 1982.

John G. Prior Jr.,

Acting Assistant Director, Management and Budget.

[FR Doc. 82-25723 Filed 9-17-82; 8:45 am]

BILLING CODE 4310-05-M

Information Collection Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. Richard Otis, at 202–395–7340.

Title: 30 CFR 816 Permanent Program Performance Standards—Surface Mining
Bureau Form Number: None
Frequency: Once Every Five Years
Description of Respondents: Coal Mine Operators
Annual Responses: 94,300
Annual Burden Hours: 668,770
Bureau clearance officer: Darlene Grose, 202–343–5447

Dated: September 2, 1982.

John G. Prior, Jr.,

Acting Assistant Director, Management and Budget

[FR Doc. 82-25722 Filed 9-17-82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier; Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-201

The following applications were filed in region I. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 144979 (Sub-1–1 TA), filed September 7, 1982. Applicant: ATLANTIC LIMOUSINE, INC., 11 East Decatur Avenue, Pleasantville, NJ 08232. Representative: Russell R. Sage, P.O. Box 11278, Alexandria, VA 22312. *Passengers and their baggage, in charter operations restricted to the transportation of not more than 21 passengers in any one vehicle, not inlcuding the driver,* between Philadelphia, PA, on the one hand, and, on the other, points in Atlantic County, NJ. Supporting shipper: Globetrotters, Inc., 21 Fairway Drive, McKee, NJ 08232.

MC 145108 (Sub-1–23 TA), filed September 7, 1982. Applicant: BULLET EXPRESS, INC., Bay Ridge Station, P.O. Box 289, Brooklyn, NY 11220. Representative: Robert L. Van Buren (Same as applicant). *Contract carrier:* irregular routes: *Automotive filters* from Fayetteville, NC, and Rahway, NJ, to points in AZ, CA, NV, OR, UT, WA, under continuing contract(s) with Purolator Products, Inc., of Rahway, NJ. Supporting shipper: Purolator Products, Inc., 970 New Brunswick Avenue, Rahway, NJ 07065.

MC 163717 (Sub-1–1TA), filed September 7, 1982. Applicant: CLARENCE WILSON d.b.a. C & D TRANSPORTATION COMPANY, P.O. Box 334, Rahway, NJ 07065. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier:* irregular routes: *Wire, and metal products* between Edison, NJ, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, OK and TX, under continuing contract(s) with American Metal Moulding Inc., Edison, NJ. Supporting shipper: American Metal Moulding, Inc., 8 Taylor Road, Edison, NJ 08818.

MC 163715 (Sub-1–1TA), filed September 7, 1982. Applicant: JOSEPH P. CARRARA & SONS, INC., Route 7, North Clarendon, VT 05759. Representative: Neil D. Breslin, Esq., 11 North Pearl Street, Albany, NY 12207. *Contract carrier:* irregular routes: *Salt, in bulk, in dump vehicles* from the facility of International Salt Company in Whitehall, NY, to all points in VT, under continuing contract(s) with International Salt Co., Clarks Summit, PA. Supporting shipper: International Salt Co., Clarks Summit, PA 18411.

MC 134272 (Sub-1–2TA), filed September 8, 1982. Applicant: DAY & ROSS, LTD., Mapleton Road, Hartland, New Brunswick, CD E0J IN0. Representative: John C. Lightbody, Esq., 30 Exchange Street, Portland, ME 04101. *Contract carrier:* irregular routes: *Office furniture* from Holland, MI, to points on the U.S./CD Border at Detroit, MI, under

continuing contract(s) with Brunswick Office Equipment, 1978, Ltd. of New Brunswick, CD. Supporting shipper: Brunswick Office Equipment, 390 Queen Street, Fredericton, New Brunswick, CD E3B 1B2.

MC 163714 (Sub-1–1TA), filed September 7, 1982. Applicant: EAGLEBROOK ENVIRONMENTAL CORP., 300 John Street, Suite 600, Thornhill, Ontario, CD L3T 5W4. Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. *Contract carrier:* irregular routes: *Hydrochloric acid, in bulk, in tank vehicles,* between ports of entry on the International Boundary lines between the U.S. and CD in NY and MI, on the one hand, and, on the other, points in Cleveland, OH, Detroit, MI, and Chicago, IL, including points in their Commercial Zones, under continuing contract(s) with C.I.L. Inc., Willowdale, Ontario, CD. Supporting shipper: C.I.L. Inc., P.O. Box 200, Station A, Willowdale, Ontario, CD M2N 6H2.

MC 163740 (Sub-1–1TA), filed September 8, 1982. Applicant: 1843–7475 QUEBEC INC., 270 St. Jacques South, Coaticook, Quebec, CD J1A 2N9. Representative: Adrien R. Paquette, Paquette & Associates, 200 St. James Street, Room 900, Montreal, Quebec, CD H2Y 1M1. *Lumber* from the ports of entry on the U.S./CD Boundary Line at Jackson and Coburn, ME, Pittsburg, NH, Beecher Falls, Norton, Derby and Ogdensburg, NY, to points in ME, NH, MA, VT, CO, RI, NY, and NJ. Supporting shipper(s): The Stowell Lumber Co., Putnam Square, P.O. Box 69, Bennington, VT 05201; Les Produits Forestiers Saucier (Comtois) Ltee, 3988 Dagenais Blvd., Laval, Quebec, CD H7R 1U2; Lavallee Hardwoods Limited, 276 St. James St., Room 417, Montreal, Quebec, CD H2Y 1N3.

MC 163737 (Sub-1–1TA), filed September 8, 1982. Applicant: FAIRFIELD TRUCKING, INC., 421 Tuttle Parkway, Westfield, NJ 07090. Representative: Arthur Liberstein, P.C., 888 Seventh Avenue, New York, NY 10106. *Contract carrier:* irregular routes: *General commodities, except commodities in bulk, Class A and B explosives and household goods, as defined by the Commission,* between all points in the U.S. under continuing contract(s) with Fanny Farmer Candy Shops, Inc., Burlington, MA. Supporting shipper: Fanny Farmer Candy Shops, Inc., 207 Cambridge Street, Burlington, MA 01803.

MC 158361 (Sub-1–3TA), filed September 2, 1982. Applicant: G.F.C. TRUCKING CORP., W. 100 Century Road, Paramus, NJ 07652. Representative: D. Weintraub (Same as applicant). *Contract carrier:* irregular routes: *Aluminum cans* from the facilities of Stroh Container Co., located in the County of Sandusky, OH, to points in IL, IN, MI, NY, NJ, PA, MD and WI , under continuing contract(s) with F. & M. Schaefer Brewing Co., Allentown, PA. Supporting shipper: F. & M. Schaefer Brewing Company, P.O. Box 2568, Allentown, PA 18001.

MC 163712 (Sub-1–1TA), filed September 7, 1982. Applicant: WILBUR W. LOOMIS d.b.a. WILBUR W. LOOMIS TRUCKING, 32 Mountain Street, Haydenville, MA 01039. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *Metal and Metal Products,* between points in Berkshire County, MA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Mohawk Industries, Inc., 173 Howland Avenue, Adams, MA 01220.

MC 155874 (Sub-1–2TA), filed September 2, 1982. Applicant: MUSCILLO TRANSPORT LIMITED, 4078 Highway 7W, Woodbridge, Ontario, CD L7L 1A6. Representative: Willian J. Hirsch, P.C., 64 Niagara Street, Buffalo, NY 14202. *Contract carrier:* irregular routes: *Finished steel and scrap metal (except hazardous waste)* between points on the International Boundary Line between the U.S. and CD, located in NY and MI, on the one hand, and, on the other, all points in NY, OH, and PA, under continuing contract(s) with Lake Ontario Steel Co. Ltd., Toronto, Ontario, CD. Supporting shipper: Lake Ontario Steel Co. Ltd., 176 Cherry Street, Toronto, Ontario, CD.

MC 163738 (Sub-1–1TA), filed September 8, 1982. Applicant: NACKAWIC TRANSPORT LTD., Industrial Park, P.O. Box 583, Nackawic, New Brunswick, CD E0H 1P0. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *Contract carrier:* irregular routes: *Rough and finished lumber* between points on the International Boundary between the U.S. and CD at Houlton, ME, on the one hand, and, on the other, Old Town, ME, under continuing contract(s) with Old Town Lumber Company, Old Town, ME. Supporting shipper: Old Town Lumber Co., Bennoch Rd., Old Town, ME.

MC 140493 (Sub-1–1TA), filed September 3, 1982. Applicant: R & J INDUSTRIES, INC., P.O. Box 266, Elizabeth, N.J. 07207. Representative: Lawrence E. Lindeman, P.C., 4660 Kenmore Avenue, Suite 1203, Alexandria, VA 22304. *Ores and minerals, coal and coal products, clay, concrete, glass or stone products, metal products, and scrap products, in bulk,* between points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: M. R. Clemente, Inc., 49 Woodcrest Road, Staten Island, NY 10303.

The following applications were filed in region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

MC 163742 (Sub-II–1TA), filed September 8, 1982. Applicant: JOHN H. BROWN, R.D. #2, Portersville, PA 16051. Representative: Sally A. Davoren, Esq., Pillar and Mulroy, P.C., 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. *Coal* between the facilities of Kerry Coal Co., at points in the Borough of Clintonville, Venango County, PA and in Franklin Township, Beaver County, PA, on the one hand, and, on the other, points in Trumbull County, OH, for 270 days. An underlying eta seeks 120 days authority. Supporting shipper: Kerry Coal Co., P.O. Box 19, Portersville, PA 16051.

MC 163744 (Sub-II–1TA), filed September 8, 1982. Applicant: HUNTER MOTOR FREIGHT LINE, INC., 2728 Leppo Lane, Finskburg, MD 21048. Representative: Thomas Hunter Sprague, 2728 Leppo Lane, Finskburg, MD 21048. Contract Irregular: *oils, greases, lubricants, anti-freeze, and windshield washer fluid,* (except in bulk) from Bayonne and Elizabeth, N.J. and Linfield, PA to Baltimore and Landover, MD., and Richmond, VA under continuing contract(s) with the Royal Oil Corporation for 270 days. An underlying eta seeks 120 days authority. Supporting shipper: The Royal Oil Corporation, 5515 Selma Avenue, Arbutus, MD 21227.

MC 161495 (Sub-II–4TA), filed September 7, 1982. Applicant: KEY TRANSPORT, INC., 3858 W. Michigan St., Sidney, OH 45365. Representative: John L. Alden, 1396 West Fifth Avenue, Columbus, OH 43212. Contract: Irregular: *Foodstuffs, and materials, equipment and supplies used in the processing and distribution thereof,* between the facilities of The Dannon Company, Inc. at Minster, OH, on the one hand, and, on the other, points in the U.S. (except AK & HI) for 270 days. An underlying eta seeks 120 days authority. Supporting shipper(s): The Dannon Company, Inc., 234 East First St., Minster, OH 45865.

MC 163763 (Sub-II–1 TA), filed September 9, 1982. Applicant: GLEN M. LEE, d.b.a. KEYSER LIMOUSINE SERVICE, 8 Armstrong St., Keyser, WV 26726. Representative: Glen M. Lee

(same as applicant). *Passengers and their baggage in the same vehicle in special and charter operations,* between the WV counties of Mineral, Grant, Tucker, Preston, Taylor, Monongalia, Berkeley, Morgan, Jefferson & Marion; and MD counties of Allegany, Garrett & Washington for 180 days. An underlying eta seeks 120 days authority. Supporting shipper(s): There are 14 supporting shippers. Their statements may be examined in the Phila. ICC office.

MC 154545 (Sub-2–4TA), Filed September 8, 1982. Applicant: L & M EXPRESS, INC., 3224 Toone St., Baltimore, MD 21224. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Irregular: contract: *Cleaning supplies, compounds and chemicals, including materials, equipment and supplies used in the manufacture, sale and distribution thereof,* between Churchill, MD, including its commercial zone, on the one hand, and on the other, points in the United States (except AK and HI), for 270 days, under a continuing contract(s) with Environmental Control Systems, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Environmental Control Systems, Inc., Rt. 1, Box 21, Churchill, MD 21623.

MC 163743 (Sub-II–1TA), filed September 8, 1972. Applicant: MAD RIVER TRANSPORTATION, INC., 4769 Valley St., Dayton, OH 45424. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. *General commodities* (except classes A and B explosives, household goods, and commodities in bulk) between the facilities of or used by Co-Operative Shippers, Inc. and its members located in Miami County, OH. The Cincinnati, OH Commerical Zone and The Dayton, OH Commercial Zone, on the one hand, and, on the other, points in the U.S. (except AK and HI) for 270 days. An underlying eta seeks 120 days authority. Supporting shipper: Co-Operative Shippers, Inc., 4110 Dane Ave., Cincinnati, OH 45223.

MC 157938 (Sub-II–1TA), filed September 7, 1982. Applicant: REGIONAL ENTERPRISES, INC., 1010 North Thompson St., Richmond, Va. 23230. Representative: Joseph C. Lyne (same address as applicant). *Contract irregular: Chemicals and Related Products* between points in Va. and N.C., under continuing contracts with Borden Chemical and Hercofina for 270 days. Supporting shippers: Borden Chemical, P.O. Box 410, Fayetteville, N.C. 28302; Hercofina, P.O. Box 327, Wilmington, N.C. 28402.

MC 163741 (Sub-II–1TA), filed September 8, 1982. Applicant: JOSEF STONE, Stone Meadows Farm, P.O. Box 9, Newtown, PA 18940. Representative: Louis J. Carter, esq., 7300 City Line Avenue, Philadelphia, PA 19151. *Standard wheat middlings* from Martins Creek, Northampton County, PA to Norma, Salem County, NJ for 270 days. Supporting shippers: Franklin Foods Corp., Landis Ave., Norma, NJ 08347; Lovatt & Co. Inc., 46 E. Butler Ave., Ambler, PA 19002.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, NE., Atlanta, GA 30309.

MC 163706 (Sub-3–1 TA), filed September 7, 1982. Applicant: BIG WHELL TRANSPORT, INC., 711 S. Jackson Street, Hawkinsville, GA 31036. Representative: F. Lee Champion, III, P.O. Box 2525, Columbus, GA 31902. (1) *Beef, boxed and carcass,* between points in CO, IL, IA, KS, and NB, on the one hand, and on the other, points in AL, FL, GA, LA, MS and SC; (2) *Canned chicken meat and frozen chicken broth,* between Coffee county, GA, on the one hand, and on the other, points in IL and TX; (3) *Kaolin clay, in bags, and materials, supplies and equipment used in the manufacture thereof,* between points in GA, on the one hand, and on the other, points in AL, AR, CO, FL, IL, IN, IA, KS, KY, LA, MI, MO, MS, NB, NC, OH, OK, SC, TN, TX, VA and WS; (4) *Steel wire, and iron and other materials and supplies used in the manufacturing and shipping thereof,* between Telfair County, GA, on the one hand, and on the other, points in AL, AR, IL, KS, KY, LA, MO, MS, NB, OH, OK, TN and TX. Supporting shippers: There are 5 supporting shippers. Their statements may be examined at the ICC Regional Office, Atlanta, GA.

MC 145722 (Sub-3–2 TA), filed September 7, 1982. Applicant: CAROLINA–PACIFIC DISTRIBUTORS, INC., P.O. Box 2082, High Point, NC 27261. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005. *Food and related products,* between points in CA on the one hand, and, on the other, points in NC, SC, GA, and FL. Supporting shipper: PYA-Monarch, Inc., P.O. Box 1569, Greenville, SC 29602.

MC 152142 (Sub-3–3 TA), filed September 8, 1982. Applicant: D & A TRANSPORT, 3500 S. Fed, Hwy., P.O. Box 974, Ft. Pierce, FL 33454. Representative: Dallas M. Cronrath (same as applicant). *Contract carrier:* irregular: *Plastic fittings, granules, and/or products used in manufacture and/or installation of plastic fittings. Except in tank vehicles.* Between Ft. Pierce, FL and Kalamazoo, MI and points in the U.S. (execpt AK and HI), under continuing contract with Colonial Engineering Incorporated. Supporting shipper: Colonial Engineering Incorporated 4000 Metzger Rd. Ft. Pierce, FL 33450.

MC 116300 (Sub-3–11TA), filed September 7, 1982. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. *Trailers, and trailer parts and accessories,* from Pike County, MS to points in IA, KY, MI, OH and PA. Supporting shipper: Spencer-Harris, P.O. Box 231, Magnolia, MS 39652.

MC 161634 (Sub-3–3TA), filed September 7, 1982. Applicant: SUNDANCE EXPRESS CORPORATION, 1069 Bankhead Highway, P.O. Box 157, Mableton, GA 30059. Representative: Clayton R. Byrd, 2870 Briarglen Drive, Doraville, GA 30340. *Contract:* Irregular: *Frozen bakery products,* from Los Angeles, CA and points in its commercial zone to Phoenix, AZ, Denver, CO, Indianapolis, IN, Grand Rapids, MI, Kansas City, KS, Cincinnati, OH, Portland, OR, Houston, TX, and Seattle, WA; from Atlanta, GA, and points in its commercial zone to Tampa, FL, Raleigh, NC, and Houston, TX; and from Grand Rapids, MI, and points in its commercial zone to points in CT, ME, MA, NH, NY, RI, and VT, under continuing contract with Country Home Bakery, Inc. of Bridgeport, CT. Supporting shipper: Country Home Bakery, Inc., 1700 Barnum Avenue, Bridgeport, CT 06610.

MC 145956 (Sub-3–6TA), filed September 7, 1982. Applicant: TRANSMEDIC CARRIERS, INC., 1340 Indian Rocks Road, Belleair, FL 33516. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *Such commodities as are used or dealt in by wholesale, retail and chain grocery, drug and food business houses,* between facilities used by Colgate-Palmolive Company, Inc. and its affiliates and subsidiaries in the U.S., on the one hand, and, on the other, all points in the U.S. (except AK and HI). Supporting shipper: Colgate-Palmolive Company, Inc., State and Woerner Streets, P.O. Box 9, Jeffersonville, IN 47130.

MC 163705 (Sub-3–1TA), filed September 7, 1982. Applicant: WEAVER TRANSPORT, INC., Route 2, Box 181, Woodbury, TN 37190. Representative: J. Greg Hardeman, 618 United Southern Bank Building, Nashville, TN 37219–2180. *Contract,* irregular: *food products*

between points in Nashville, TN, on the one hand, and, points in the U.S., on the other, (except AK and HI), under a continuing contract with Cumberland Creamery, Inc., Nashville, TN. Supporting shipper: Cumberland Creamery, Inc., 800 Fourth Avenue, North, Nashville, TN 37219.

MC 163785 (Sub-3–1TA), filed September 10, 1982. Applicant: AG TRANSPORT, INC., Route 1, Box 482, Byron, GA 31008. Representative: Michael G. Gray, P.O. Box 1234, 909 Ball Street, Perry, GA 31069. *Forest Products and Lumber and Wood Products* between all points in the U.S. Supporting shipper: Tolleson Lumber Company, Inc., 903 Jernigan Street, Perry, GA 31069.

MC 163753 (Sub-3–1TA), filed September 9, 1982. Applicant: BARD EDRINGTON d.b.a. B.B.C. ENTERPRISES, 4851 South Pine Street, Ocala, FL 32671. Representative: Wade H. Brown, P.O. Box 217, Bessemer, AL 35020. *Transportation Equipment,* between points in Marion County, FL, on the one hand, and, on the other, points in the US (except AK & HI). Supporting shipper: Kimco, Inc., d.b.a. Mark III Conversions, P.O. Box 1868, Ocala, FL 32671.

MC 163650 (Sub-3–1TA), filed September 9, 1982. Applicant: DUNN MANAGEMENT SERVICES, INC., Route No. 1, Erwin, NC 28339. Representative: Gerald W. Hayes, Jr., 109 South Ellis Avenue, Dunn, NC 28334. *Passengers and their baggage, (special and charter service only),* from Cumberland, Harnett and Johnston Counties, NC to points in FL, TN, VA, PA, NJ and return. Supporting shipper(s): There are six statements in support of this application which may be examined at the ICC Regional Office, Atlanta, GA.

MC 134017 (Sub-3–3TA), filed September 9, 1982. Applicant: R. M. HENDERSON d.b.a. H & M MOTOR LINES, P.O. Box 3585, Greenville, SC 29608. Representative: Mitchell King, Jr., P.O. Box 5711, Greenville, SC 29606. *Contract:* irregular; *General commodities (except classes A and B explosives, household goods, and commodities in bulk)* between points in the US (except AK and HI) under continuing contract(s) with Fabri-Kal Corp. Supporting shipper: Fabri-Kal Corp., Rt. 6, Box 397, Piedmont, SC 29673.

MC 163754 (Sub-3–1TA), filed September 9, 1982. Applicant: R. J. McHONE d.b.a. R. J. McHONE TRUCKING, Route 1, Box 540, Weaverville, NC 28787. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *Coal* between points in AL, FL, GA, IN, KY, MI, NC, OH, SC, TN and VA. Supporting shipper(s): Concoal Corporation, P.O. Box 767, Knoxville, TN 37901.

The following applications were filed in region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 15735 (Sub-4–29TA), filed September 7, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. Contract irregular: General commodities (except commodilties in bulk and classes A and B explosives) between points in the U.S. except AK and HI, under a continuing contract with GTE Service Corporation and its divisions, subsidiaries and affiliates.

MC 123194 (Sub-4–6TA), filed September 7, 1982. Applicant: ENTERPRISE TRUCK LINE, INC., 7336 West 15th Ave., Gary, IN 46406. Representative: Bernard J. Kompare, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601. *Such commodities* as are dealt in by manufacturers of building materials between points in Kane County, IL, and Stark County, OH, on the one hand, and, on the other, points in IA, IL, IN, KY, MI, MN, MO, OH, TN and WI. Supporting shipper: Fibrex, Inc., P.O. Box 1148, Aurora, IL 60507.

MC 128462 (Sub-4–3TA), filed September 7, 1982. Applicant: PRAIRIE REFRIGERATED EXPRESS, INC., P.O. Box 36, Long Prairie, MN 56347. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58106. *Frozen potato products,* from the facilities of Chef-Reddy Foods Corp. at or near Park Rapids, MN to points in the U.S. (except AK and HI). Supporting shipper: Chef-Reddy Foods Corp., P.O. Box 552, Park Rapids, MN 56470.

MC 134551 (Sub-4–7TA), filed September 7, 1982. Applicant: LANTER REFRIGERATED DISTRIBUTING CO., No. 3 Caine Dr., Madison, IL 62060. Representative: Dean N. Wolfe, Suite 200, 444 N. Frederick Ave., Gathersburg, MD 20877. (1) *Printed matter,* between St. Louis, MO, and Chicago, IL, and its commerical zone, and (2) *Machinery and parts,* between St. Louis, Sikeston, and Columbia, MO, Mt. Vernon and Peoria, IL, Seymour, IN, Charleston, SC, and Philadelphia, PA, and their respective commercial zones, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shippers: Cummins Missouri, Inc., St. Louis, MO 63147, Open Door Press, Inc., St. Louis, MO 63127.

MC 145014 (Sub-4–1TA), filed August 30, 1982. Applicant: PARENT TRUCKING, INC., 4659 Turtle Rd., Turner, MI 48765. Representative: Sandra Fassett, 3051 Curtice Rd., Coleman, MI 48618. *Contract* irregular *Plastics and plastic products* (except commodities in bulk), between points in the U.S. (except HI an AK), under continuing contract(s) with Robinson Industries, Inc., 3051 Curtice Rd., Coleman, MI 48618.

MC 146438 (Sub-4–9 TA), filed September 7, 1982. Applicant: ETV, INC., P.O. Box 393, Comstock Park, MI 49321. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685–0801, (616) 941–5313.) *Food and related products* between points in MI on the one hand, and, on the other, points in the U.S. (except AK and HI) Supporting shippers: Triple D. Orchard Company, Empire, MI; Southern Michigan Cold Storage, Benton Harbor, MI; Chef Pierre, Inc., Traverse City, MI; Thomas Steele Corporation, Skokie, IL.

MC 147038 (Sub-4–5 TA), filed September 3, 1982. Applicant: C. STRANGE TRUCKING CO., INC., Route 2, Box 38, Wallace, MI 49893. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Contract;* Irregular; *Metal finishing supplies* between Milwaukee, WI on the one hand, and, on the other hand, points in IA, IL, MI, MN, OH, PA and TN. Restriction: restricted to transportation performed under continuing contract(s) with Metal Finishing Supply Company, Inc. Supporting shipper: Metal Finishing Supply Company, Inc., 21575 Doral Road, P.O. Box 526, Brookfield, WI 53005.

MC 149141 (Sub-4–2 TA), filed September 3, 1982. Applicant: MELVIN R. STEEN, Route No. 3, Princeton, IL 61356. Representatives: Edward D. McNamara, Jr., Leslieann G. Maxey, 907 South Fourth St., Springfield, IL 62703. Contract irregular: *Compressors, compressor pumps and parts, and machined castings* between Princeton, IL, on the one hand, and Montgomery, AL, Manteca, and Dallas, TX, on the other hand. Supporting shipper: Champion Pneumatic Machinery Company, 1301 N. Euclid, Princeton, IL 61356.

MC 155022 (Sub-4–6 TA), filed September 3, 1982. Applicant: PROCHNOW FARMS, INC., Route 5, Medford, WI 54451. Representative: James A. Spiegel, Att. Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719. *Diapers, underpants, tissues, cotton and rayon products, and*

wrapping paper between Cobb County, GA and Middlesex County, NJ on the one hand, and, on the other hand, points in Chicago, IL, MI, IN, WI, MN, TX, KS, and NE. Supporting shipper: medical Disposable Co., Inc., Box 1161–1165 Hayes Industrial Drive, Marietta, GA 30067.

MC 158651 (Sub-4–2), filed September 3, 1982. Applicant: GRAEBEL VAN LINES, INC., 719 N. Third Ave., Wausau, Wisconsin 54401. Representative: Robert J. Gallagher, Esq., 1000 Connecticut Ave. NW., Suite 1200, Washington, D.C. 20036. *Contract,* Irregular: *Household Goods, as defined by the Commission,* Between all points in the U.S. (excluding AK and HI), under continuing contract(s) with Texaco Inc., Houston, TX. Supporting shipper: Texaco, Inc., P.O. Box 52332, Houston, TX, 77052.

MC 163711 (Sub-4–1TA), filed September 7, 1982. Applicant: McCOY OF WISCONSIN, INC., d.b.a. FOOD LINER, Highway 11, Shullsberg, WI 53586. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Food and related products* between Green County, WI on the one hand and on the other hand points within the U.S. (except AK and HI). Supporting shipper: Roy's Dairy, Inc., 307 11th Street, Monroe, WI 53566.

MC 87113 (Sub-4–4TA), filed September 10, 1982. Applicant: WHEATON VAN LINES, INC., 8010 Castleton Rd., Indianapolis, IN 46250. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, D.C. 20006, (202) 833–8884. Contract, irregular, *household goods* between points in the U.S., under continuing contract(s) with Pabst Brewing Company of Milwaukee, WI for 270 days. Supporting Shipper: Pabst Brewing Company, 1000 North Market, Milwaukee, WI 53201.

MC 127064 (Sub-4–1TA), filed September 9, 1982. Applicant: E. J. PETER TRUCKING INC., 7525 Corlad Rd., Athens, WI 54411. Representative: Eugene J. Peter (same). *Products as manufactured or sold by Minnesota Mining & Manufacturing Company (3M)* Wausau, WI, (Except commodities in bulk in tank vehicles), from plantsite and storage facilities of Minnesota Mining and Manufacturing Company (3M) Wausau, WI, to points in IL, IN, MN, IA, and OH. Supporting Shipper: Minnesota Mining and Manufacturing Company (3M), 3M Center, St. Paul, MN 55144.

MC 128837 (Sub-4–31), filed September 9, 1982. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Contract,* irregular: *Alcoholic beverages,* (1) between San Francisco and Union City, CA, Plainfield, IL, Louisville, KY, Elizabeth, Linden, Lawrenceville, NJ and Long Island City, NY; (2) between Plainfield, IL, on the one hand, and on the other, points in OH. Restricted to traffic moving under continuing contract(s) with Renfield Importers, Ltd. Supporting Shipper: Renfield Importers, Ltd., 919 Third Ave., New York, NY 10022.

MC 154127 (Sub-4–12TA), filed September 10, 1982. Applicant: A. LUURTSEMA TRUCK LINES, INC., 5367 School St., P.O. Box 67, Hudsonville, MI 49426. Representative: Michael D. McCormick, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract,* irregular: *Food and related products,* from Austin, IN, to Chicago, Moline, and Rock Island, IL, MI, and WI, under continuing contract(s) with Morgan Packing Company, Inc. of Austin, IN. An underlying ETA seeks 120 days authority. Supporting shipper: Morgan Packing Company, Inc., Austin, Indiana 47102.

MC 158583(Sub-4–2TA), filed: September 10, 1982. Applicant: RICHARDS BROS. TRANSPORT, LTD., Route 4, Box 293, Ft. Atkinson, W 53538. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Contract;* irregular; *petroleum products* between Janesville, WI on the one hand and on the other hand points within IL and IA. Restriction: restricted to transportation performed under continuing contract(s) with Cambeck Petroleum Corporation. Supporting shipper: Cambeck Petroleum Corporation, Box 1446, Janesville, WI 53547.

MC 160664 (Sub-4–2TA), filed: September 10, 1982. Applicant: REDWAY CONTRACT CARRIER CORPORATION, 500 Industrial Lane, Prairie View, IL 60069. Representative: Paul J. Maton, 27 E. Monroe St., Rm. 1000, Chicago, IL 60603. *Contract;* irregular; *automotive parts, supplies and materials, incidental to the manufacture of automobiles,* between Kenosha, WI and OH, IN, PA, MO, NY, MI, AR, KY, TN, IA, IL, and SC, under continuing contract with American Motors Corp., 5626 25th Avenue, Kenosha, WI 52140. Supporting shipper: American Motors Corp., 5626 25th Ave., Kenosha, WI 52140.

MC 160670 (Sub-4–4TA), filed: September 9, 1982. Applicant: HILL'S ENTERPRISES OF SOUTHWESTERN MICHIGAN, INC., 6447 Niles Road, St. Joseph, MI 49085. Representative: Nancy J. Amabile, 29691 Red Arrow Highway, Paw Paw, MI 49079. *Contract;* irregular; *Metal containers and metal container ends, and related products* between St. Joseph, MI and Clifton, NJ and points in MI, OH, TN, PA, NY, IL, IN, and NJ under continuing contract with Allstate Can Co., Supporting shipper: Allstate Can Co., 40 Isabella Street, Clifton, NJ 07012.

MC 163652 (Sub-4–1TA), filed: September 10, 1982. Applicant: FRED PURDY ENTERPRISES, INC., 8401 Pawnee Trail, Pinckney, MI 48169. Representative: Joseph Michael Roberts, 1730 M Street, NW., Suite 501, Washington, D.C. 20036–4579. *Contract carrier, Irregular: General commodities* (except classes A and B explosives, household goods, commodities in bulk and hazardous wastes), between points in OH, on the one hand, and, on the other, Atlanta, GA, New Orleans, LA, Dallas and Houston, TX, under continuing contract(s) with Rail-Van, Inc., of Mentor, OH. Supporting shipper: Rail-Van, Inc., P.O. Box 197, Mentor, OH 44060.

MC 163795 (Sub-4–1TA), filed: September 10, 1982. Applicant: THOMAS P. MOXLEY CARTAGE CO., 2325½ North 74th Ave., Elmwood Park, IL. 60635. Representative: Christine M. Steenbergen (same) *General commodities* (except Classes A and B explosives, household goods, and commodities in bulk), between Chicago, IL, Milwaukee, WI and their respective commercial zones as defined by the Commission), on the one hand, and, on the other, points in AR, IL, IN, IA, KY, LA, MI, MO, MS, OH, OK, TN, TX, and WI. An underlying ETA seeks 120 days authority. There are three supporting shippers.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 9291 (Sub-5–10TA), filed September 8, 1982. Applicant: CARROL BALL TRANSPORT, INC., P.O. Box 53, Centerville, KS, 66014. Representative: Clyde N. Christey, Ks. Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Roofing, Roofing Materials & Roofing Equipment,* Between Houston, Dallas, San Antonio & Waxahachie, TX; Natchez, MS; St. Louis and Kansas City, MO and Memphis, TN, on the one hand and points in NE, TX, OK, KS, AR, IN, LA, OH, MS, MN, MO, IL, CO, WY, NM, SD, IA and UT on the other hand. Supporting shipper: Railton, Inc., Houston, TX.

MC 67234 (Sub-5–28TA), filed September 9, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. *General Commodities (except Classes A and B explosives and commodities in bulk)* between points and places in the U.S. (including AK and HI), under continuing contract(s) with Memorex Corporation. Supporting shipper: Memorex Corporation, Santa Clara, CA 95052.

MC 1214557 (Sub-5–1TA), filed September 9, 1982. Applicant: MERCURY TRANSPORTATION, INC., 8502 Miller Road #3, Houston, TX 77049. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701. *Building materials; lumber or wood products, except furniture; and forest products,* between points in AL, AR, LA, MS, OK, and TX. Supporting shipper: Crown-Zellerbach Corporation, Bogalusa, LA 70427.

MC 145797 (Sub-5–7TA), filed September 9, 1982. Applicant: NANCY TRANSPORTATION, INC., 111 Hilltown Village Center, Chesterfield, MO 63017. Representative: R. Thomas Grasso (same as applicant). *General commodities (except hazardous or toxic wastes and Class A and B explosives)* between points in the U.S. Supporting shippers: 6.

MC 154426 (Sub-5–3TA), filed September 10, 1982. Applicant: DITZFELD TRANSFER, INC., 104 West Pacific, Sedalia, MO 65301. Representative: Jeremiah D. Finnegan, 4225 Baltimore, Kansas City, MO 64111. Contract; Irregular. *Chemicals and related products* between points in the US, under continuing contract(s) with ADCO, Inc. Supporting shipper: ADCO, Inc. Sedalia, MO 65301.

MC 163008 (Sub-5–2TA), filed September 9, 1982. Applicant: W. RAY ODOM, Route 3, Williford Road, Pineville, LA 71360. Representative: W. Ray Odom, P.O. Box 115, Ball, LA 71405. Contract; Irregular. *Bakery bun products on plastic trays,* between Meridian, MS, on the one hand, and, on the other, Osceola, Blytheville, Jonesboro, Paragould, Helena, Forrest City, and W. Memphis, AR and Memphis, Millington, Covington, Jackson, and Dyersburg, TN. Supporting shipper: Hardin's Bakeries Corp., Meridian, MS 39301.

MC 163291 (Sub-5–1TA), filed August 20, 1982. Applicant: LAGNIAPPE TRUCKING, INC., 8470 Morrison Rd., New Orleans, LA 70186. Representative: Edward A. Winter, 235 Rosewood Dr., Metairie, LA 70005. *General Commodities, having a prior or subsequent movement by rail or water* between points in AL, AR, FL, GA, LA, MS, TN, and TX. Supporting shipper(s): 5.

MC 163480 (Sub-5–1TA), filed September 10, 1982. Applicant: G. W. WATTERS, 549 Barbara Lane, Burleson, TX 76028. Representative: G. W. Watters (same as above). Contract irregular. *Travel trailers,* from Burleson, TX to points in AL, AR, CT, FL, GA, IL, IN, IA, KS, KY, LA, MA, ME, MD, MO, MI, MS, NE, NY, NJ, NH, NC, OH, OK, PA, SC, TN, VT, VA, WV, and WI. Supporting shipper: Komfort Industries of Texas, Inc., Burleson, TX 76028.

MC 163538 (Sub-5–1TA), filed September 10, 1982. Applicant: LEAD FREE ENTERPRISES INCORPORATED, 26 8th Avenue, Waukon, IA 52172. Representative: D. Douglas Titus, 340 Insurance Exchange Bldg., Sioux City, IA 51101. *Fly ash,* between points in IA, MN, SD, and WI, restricted to shipments originating at the facilities of or used by Midwest Flyash and Materials, Inc. and the suppliers and/or customers of Midwest Flyash and Materials, Inc. Supporting shipper: Midwest Flyash and Materials, Inc., Sioux City, IA 51102.

MC 163761 (Sub-5–1TA), filed September 9, 1982. Applicant: PAYTON OIL COMPANY, INC., d.b.a. PAYTON TRANSPORTATION CO., 5301 N.E. 10th Street, Oklahoma City, OK 73111. Representative: G. Timothy Armstrong, P.O. Box 1124, El Reno, OK 73036. (1) *Alcohol, in bulk in tank vehicles,* (a) from Hydro and Oklahoma City, OK to Alvin, Dallas and Houston, TX; Walsh and Campo, CO; and Leoti, KS; and (b) from Walsh and Campo, CO; and Leoti KS to Hydro, OK: and, (2) *lubricating oils, in bulk in tank vehicles and in containers,* (a) from Nederland, Dallas and Houston, TX to Oklahoma City, OK; (b) from Oklahoma City, OK to Amarillo, TX; and (c) from Oklahoma City and Tulsa, OK to Columbia and Memphis, TN. Supporting shipper: There are 3 supporting shippers.

MC 163762 (Sub-5–1TA), filed September 9, 1982. Applicant: COLT CARTAGE CO., INC., 1535 Roundtable Dr., Dallas, TX 75247. Representative: Larry Joseph Mack, 3115 Oradell #207, Dallas, TX 75220. Contract, Irregular; *Air conditioning and heating units* between Norman, OK and Dallas, TX on the one hand, and points in TX on the other. Supporting Shipper: York, Borg Warner Central Environmental Systems Inc., Dallas, TX 75234.

MC 163781 (Sub-5–1TA), filed September 10, 1982. Applicant: PRADON CONSTRUCTION & TRUCKING CO., INC., 2020 West 83rd, Odessa, TX 79762. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767. *Mercer commodities* between points in Ector and Midland Counties, TX on the one hand and points in CO, NM, and OK on the other. Supporting shippers: 10 supporting shippers.

MC 163782 (Sub-5–1TA), filed September 10, 1982. Applicant: KENT B. BALES, d.b.a. BALES TOWING & RECOVERY SERVICE, 7940 Gateway East, El Paso, TX 79915. Representative: William D. Lynch, 1003 West 6th St., Austin, TX 78703. *Wrecked or disabled vehicles including replacement vehicles,* between points in El Paso County, TX on the one hand and points in TX, NM, and AZ on the other. Restricted to points on and south of I–40, on and west of I–35, and on and east of I–19, I–17 and I–10. Supporting shippers: Southwestern Bell Telephone Company, El Paso, TX 79935; Ryder Truck Rental, El Paso, TX 79915; Magnolia Coca-Cola Bottling Co., El Paso, TX 79935, East Texas Motor Freight, Inc., El Paso, TX 79925.

MC 163787 (Sub-5–1TA), filed September 10, 1982. Applicant: OTTIS ADKISSON d.b.a. ADKISSON'S HOTSHOT SERVICE, Rt. 8 Box 1585, Odessa, TX 79763. Representative: Ottis Adkisson (same as above). *Machinery, materials, supplies, and equipment incidental to, or used in the construction, development, operation, and maintenance of facilities for the discovery, development and production of natural gas and petroleum* between points in TX, NM, and OK. Supporting Shipper(s): There are 22 supporting shippers.

MC 16334 (Sub-5–10TA), filed September 9, 1982. Applicant: DEBRICK TRUCK LINE CO., P.O. Box 421, Paola, KS 66071. Representative: John T. Pruitt, 9832 Connell, Overland Park, KS 66212. *Scrap Batteries and Recycled Metals* between points in Arapahoe and Denver Counties, CO, on the one hand, and, on the other, points in KS, NE, MO, TX, IL, OK, and IA. Supporting shipper: ReMelt Metals, Inc., Englewood, CO 80110.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 151061 (Sub-6–2TA), filed September 7, 1982. Applicant: ROBERTS HOLIDAY LINES, INC., 930 Poinsettia St., Santa Ana, CA 92701. Representative: Richard J. Herbert, 934 W. McDowell Rd., Phoenix, AZ 85007. *Common,* regular route, scheduled service, *passengers and their baggage, express and newspapers* from points in CA to Laughlin, NV and return, for 180 days. An underlying ETA seeks 90 days. Route 1—Over Whittier Blvd. to

Interstate Hwy. 605 to Interstate Hwy. 5 to Anaheim to California 57 to Interstate Hwy. 210 to Claremont to California 66 to San Bernardino to Interstate Hwy. 15 to Interstate Hwy. 40 to Interstate Hwy. 95 to Nevada 163 to Laughlin and return. Route 2–A—Over Indian Ave. to California 62 to Vidal Junction to Interstate Hwy. 95 to Interstate Hwy. 40 to Needles to Interstate Hwy. 95 to Nevada 163 to Laughlin and return. Route 2–B—Over Indian Ave. to Interstate Hwy. 10 to California 111 to Interstate Hwy. 10 to Blythe to Arizona 95 to Lake Havasu City to Arizona 95 to Interstate Hwy. 40 to Needles to Interstate Hwy. 95 to Nevada 163 to Laughlin and return. Supporting shipper: Edgewater Hotel & Casino, 2020 So. Casino Dr., Laughlin, NV 89046.

MC 163720 (Sub-6–1TA) filed September 7, 1982. Applicant: LANPHEIR TRUCKING CO., 550 SW. 139th Ave., Beaverton, OR 97005. Representative: Lex F. Page, 1007 Orbanco Building, 1001 SW. 5th Ave., Portland, OR 97204. *Food and related products* between points in OR, WA, and CA, on the one hand and, on the other, points in the U.S., for 270 days. Supporting shipper: Galletti Brothers Foods, 1729 E. 21st St., Los Angeles, CA 90058.

MC 52793 (Sub-6–25TA), filed September 7, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center Street, Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant). *Contract* irregular: *Electronics, frequency converters, uninterruptible power supply systems and machinery, component parts, accessories, and supplies therefor,* between points in the U.S., except AK and HI. Restricted to traffic moving under continuing contract with Teledyne Inet, for 270 days. Supporting shipper: Teledyne Inet, 2750 West Lomita Boulevard, Torrence, CA 90509.

MC 52793 (Sub-6–26TA), filed September 7, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant). *Contract* irregular: *General commodities (except class A & B explosives and household goods)* between points in MN on the one hand and, on the other, points in AZ, CA, CO and UT, for 270 days. Restricted to traffic moving under continuing contract with International Business Machines Corporation. Supporting Shipper: International Business Machines Corporation, P.O.B. 10, Princeton, NJ 08540.

MC 163721 (Sub-6–1TA), filed September 7, 1982. Applicant: CHAPARRAL EQUIPMENT, LEASING AND RENTAL, INC., 2845 Workman Mill Rd., Whittier, CA 90601. Representative: Miles L. Kavaller, 315 S. Beverly Dr., Suite 315, Beverly Hills, CA 90212. *General commodities,* (except household goods, classes A and B explosives, hazardous waste, bulk) between points in CA, on the one hand and, on the other, points in the US, except AK and HI, under a continuing contract with Interstate Freight Service, Inc. of Downey, CA, for 270 days. Supporting shipper: Interstate Freight Service, Inc., 9710 Shellyfield, Downey, CA 90240.

MC 152330 (Sub-6–6TA), filed September 7, 1982. Applicant: GLACIER CARRIERS, P.O.B. 490, Columbia Falls, MT. 59912. Representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO 80202–3357. *Contract carrier,* irregular routes: *Pipe and tubing,* between the facilities of Plexco at Fontana, CA, Knoxville, TN, Fairfield, IA, North Lima, OH, Franklin Park, IL and Harvey, LA on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Plexco of Franklin Park, IL, for 270 days. Supporting shipper: Plexco, 3240 N. Mannheim Rd., Franklin Park, IL 60131.

MC 148281 (Sub-6–5TA), filed September 7, 1982. Applicant: SUSANA TRANSPORT SYSTEMS, INC., 2845 Workman Mill Rd., Whittier, CA 90601. Representative: Miles L. Kavaller, 315 S. Beverly Dr., Suite 315, Beverly Hills, CA 90212. *General commodities,* (except household goods, classes A and B explosives, hazardous waste, bulk) between points in CA, on the one hand and, on the other, points in the US, except AK and HI, under a continuing contract with Interstate Freight Service, Inc. of Downey, CA, for 270 days. Supporting shipper: Interstate Freight Service, Inc., 9710 Shellyfield, Downey, CA 90240.

MC 162971 (Sub-6–3TA), filed September 9, 1982. Applicant: DONALD R. LIND and NULLET L. SCHNEIDER, a partnership, d.b.a. D & N TRUCKING, 840 Hamilton Dr., Pleasant Hill, CA 94523. Representative: Ronald C. Chauvel, 100 Pine St., No. 2550, San Francisco, CA 94111. *Contract Carrier,* irregular routes, *Food and kindred products,* between Hayward, CA, on the one hand, and, on the other, Portland, Salem and Milwaukee, OR and Spokane, Tacoma and Seattle, WA, under continuing contracts with J & R Warehouses and Service Co., for 270 days. Supporting shipper: J & R Warhouses and Service Co., 31281 Wiegman Dr., Hayward, CA 94544.

MC 149100 (Sub-6–14TA), filed September 9, 1982. Applicant: JIM PALMER TRUCKING (a corporation), 9730 Derby Dr., Missoula, MT 59801. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202–3357. *Contract carrier,* irregular routes: *Lumber and wood products,* from points in WA, OR, ID, MT, MS and AL to points in IL, IN, IA, MI, MN, OH and WI, under continuing contract(s) with Marsh & Truman Lumber Co., Inc. of Chicago, IL, for 270 days. Supporting shipper: Marsh & Truman Lumber Company, Inc., 332 S. Michigan Ave., Chicago, IL 60604.

MC 42487 (Sub-6–70TA), filed September 9, 1982. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Contract Carrier,* irregular routes: *General Commodities,* (except Classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S., (except AK and HI), under continuing contract(s) with General Mills, Inc. of Minneapolis, MN and its wholly owned subsidiaries, for 270 days. Supporting shipper: General Mills, Inc., P.O. Box 1113, Minneapolis, MN 55440.

MC 136939 (Sub-VI–1TA), filed September 9, 1982. Applicant: CLAYTON'S, INC., POB 38, Ucon, ID 83454. Representative: David E. Wishney, P.O. Box 837, Boise, ID 8371. *Contract carrier,* irregular routes: *Corrugated boxes,* knocked down, from the facilities of Packaging Corporation of America, located at or near Salt Lake City, UT, to points in CO and ID, under continuing contract(s) with Packaging Corporation of America of Salt Lake City, UT for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Packaging Corporation of America, P.O. Box 567, Salt Lake City, UT 84110.

MC 163776 (Sub-6–1), filed September 9, 1982. Applicant: D.H.S. TRUCKING, INC., P.O. Box 307, Dupont, CO 80024. Representative: William F. Mix, 21 A Muzzey St., Lexington, MA 02173. *General commodities* (except Classes A & B explosives, commodities in bulk and household goods as defined by the Commission), between points in the U.S. in and west of ND, SD, NE, KS, OK and TX (except AK and HI) for 270 days. Supporting shipper: There are 11 shippers. Their statements may be examined at the Regional Office listed above.

MC 163771 (Sub-6–1TA), filed September 9, 1982. Applicant: TERRY G.

LEEPER, d.b.a. HIGH PLAINS CARRIERS, 3215 Misty Pl., Colorado Springs, CO 80907. Representative: Terry G. Leeper (same as applicant). *Hazadous and Non-Hazardous waste* (limited to transport of materials registered under E.P.A. #COD–980716484), (1) Between points in CO (restricted to loading LTL shipments, originating at E.P.A. regulated generator sites, for transport to named disposal facilities). (2) From points in CO to U.S.P.C.I. Inc. located at Woodward OK, over Interstate Hwy 25 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Hwy 287, then over U.S. Hwy 287 to junction U.S. Hwy 64, then over U.S. Hwy 64 to junction OK Hwy 3, then over OK Hwy 3 to junction U.S. Hwy 270, and then over U.S. Hwy 270 to destination; also to E.S.I. Inc. Grand View ID, over Interstate Hwy 25 (or U.S. Hwy 24 as an alternate) to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction U.S. Hwy 6, then over U.S. Hwy 6 to junction Interstate Hwy 15, then over Interstate Hwy 15 to junction Interstate Hwy 80n, then over Interstate Hwy 80n to junction ID Hwy 78, then over ID Hwy 78 to destination; or, when required by shipper, to continue over Interstate Hwy 80n to Chemical Security Inc. located at Arlington OR, for 270 days. Supporting shippers: Kaman Sciences Corp., 4675 Northpark Drive, Colorado Springs, CO 80907; NCR Corp., 1635 Aeroplaza, Colorado Springs, CO 80916.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25648 Filed 9-17-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision-Notice; Finance Applications

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed by Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 243 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: September 14, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,

Secretary.

MC–F–14930, filed August 11, 1982. BLUE ARROW, INC. (BAI) (525 Burton S.E., Grand Rapids, MI 49507)—merger—ARLEDGE TRANSFER, INC., (ATI). (P.O. Box 157, Burlington, IA 52601). Representative: Carl L. Steiner, 29 South La Salle Street, Chicago, IL 60603. ATI seeks to merge all its operating rights and properties into BAI. BAI operates a motor carrier under certificate No. MC—2990. All the issued and outstanding stock of BAI is owned by Kysor Industrial Corporation (an entity not subject to the provisions of 49 U.S.C. 11302 and 11145). Kysor Industrial Corporation also controls ATI. Kysor Industrial Corporation seeks to control the merged rights through the transaction. ATI transports *general commodities* according to its authority in MC–101186 and subs thereunder. No TA application has been filed.

MC–F–14931, filed August 12, 1982. ZENITH TRANSPORT LTD. (ZENITH) (2381 Rogers Ave., Coquitlam, B.C. Canada V3K 5Y2)—PUR—AAA TRANSFER, INC. (AAA) (615 South 96th St., Seattle, WA 98124). Representative: Michael B. Crutcher, 2000 IBM Building, Seattle, WA 98101. Zenith seeks to purchase all of the operating rights of AAA. 236087 B.C. Ltd., a holding company which controls Zenith through stock ownership and Leigh K. Bennett and Margaret Ann Bennett, who control 236087 B.C. Ltd., through stock ownership, seeks authority to control the operating rights, through the transaction. The authority to be purchased in contained in Certificate No. MC–9194 (Sub-No. 4)X which authorizes operations as a common carrier, over irregular routes, transporting (1) general commodities, (except classes A & B explosives), (a) between points in Washington and Oregon and (b) between points in Washington and Oregon, on the one hand, and, on the other, points in California, Idaho, Nevada, Utah and Montana, and (2) empty used containers, used trailers, and used trailer chassis, between points in Washington and Oregon, on the one hand, and, on the other, points in California, Idaho, Nevada, Utah and Montana. Zenith is presently authorized to conduct common carrier irregular route operations between ports of entry on the United States-Canada Boundary in Washington

and described points and areas in California, Oregon, Washington, and Nevada under Certificate No. MC–134548 (Sub-No. 9)X. Zenith is also authorized to conduct contract carrier operations between points in the United States for named shippers under Permit No. MC–134548 (Sub-No. 10)X. Condition: Zenith is controlled by 236087 B.C. Ltd., through ownership of all stock. Under 49 U.S.C. 11343, it is a necessary party to the transaction. The stock of 236087 B.C. Ltd., is owned jointly by Leigh K. Bennett and Margaret Ann Bennett, who are also necessary parties to the transaction. Only Leigh K. Bennett has joined the application, in his own name, as a party in control of Zenith. Accordingly, 236087 B.C. Ltd., and Margaret Anne Bennett must join in the application. This may be done by submission of a new signature page 3 of the application or by submission of a letter signed by Margaret Ann Bennett and a representative of 236087 B.C. Ltd., requesting joinder in the application.

MC–F–14941, filed August 24, 1982. Decided September 1, 1982. GEORGE B. KING, d.b.a. KING TRANSFER (King) (21st and Pearl Street, P.O. Box 70, Onawa, IA 51040)—purchase (portion)—ECKLEY TRUCKING, INC., (Eckley) (P.O. Box 156, Mead, NE 68041). Representatives: George L. Hirschbach, 920 West 21st Street, P.O. Box 155, South Sioux City, NE 68776; and A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101. King seeks authority to purchase that portion of Eckley's operating rights which are contained in Certificate No. MC–5227 (Sub-No. 70), and which authorize the transportation of *salt and salt products,* from Lyons and Kanapolis, KS, and points in Reno County, KS, to points in AZ, AR, CO, ID, IL, IN, IA, KY, LA, MN, MS, MO, MT, NE, NM, OH, OK, TN, TX, UT, WI, and WY.

Note.—Transferee holds authority under MO–127745.

MC–F–14945, filed August 26, 1982. TIKO TRANSPORTATION, INC. (Tiko) (101 Terminal Court, Nashville, TN 37211)—purchase (portion)—WILSON FREIGHT COMPANY (Wilson) (640 Northland Blvd., Suite 12, Cincinnati, OH 45240) (Debtor in Possession) (CONSOLIDATED CARTAGE CO., INC.—assignor). Representatives: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th Street, NW., Washington, DC 20004; and Fritz R. Kahn, Suite 1100, 1660 L Street, NW., Washington, DC 20036. Tiko, a newly formed non-carrier, seeks authority to purchase a portion of the interstate operating rights of Wilson. James McFarlin and Riggs Hayes, equal stockholders of Tiko, seek authority to acquire control of said rights through the transaction. Riggs Hayes is a stockholder of Nashville-Clarksville-Express, Inc., a motor carrier operating under MC–134670. James McFarlin is president and stockholder of M & W Transportation, a new carrier operating under MC–159420. Tiko seeks to purchase authority set forth in Certificate No. MC–13123 Sub-Nos. 18 (portion), 19, 50, 60, 70, 77, 79, 90, 93, and 96. This authority constitutes package number W–5 sold by order of the U.S. Bankruptcy Court. This authority authorizes the transportation of *general commodities* (with exceptions), over regular routes, between (1) Louisville, KY, and Evansville, IN, (2) Louisville, KY, and Cincinnati, OH, (3) Louisville and Harlan, KY, (4) Lexington and Manchester, KY, (5) Louisville, KY, and Nashville, TN, (6) Bowling Green and Hopkinsville, KY, (7) New Albany and Dale, IN, (8) Jeffersonville and Versailles, IN, (9) junction IN Hwys 62 and 56 and Paoli, IN, (10) Eminence and Louisville, KY, (11) Cincinnati OH, and Eminence, KY, (12) Nashville and Dover, TN, and (13) Hopkinsville, KY, and Clarksville, TN, serving various intermediate and off-route points.

Note.—TA has been filed.

MC–F–14928, filed August 9, 1982. Decided September 3, 1982. TRUMAN BARKS d.b.a. BARKS TRUCKING CO. (BARKS) (Greenville, MO 63944) purchase (portion)—ECKLEY TRUCKING INC. (Eckley) (P.O. Box 156, Mead, NE 68041). Representatives: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101; Stephen G. Newman, Hawkins, Brydon & Swearengen, P.C., P.O. Box 456, Jefferson City, MO 65102. Barks seeks authority to purchase that portion of the operating authority of Eckley contained in certificate Nos. MC–5227 (Subs 48, 50F, 55F, and 56F) authorizing the transportation of *iron and steel* articles, (1) under the Sub 48 certificate, from the facilities of North-Western Steel & Wire Co., at Sterling and Rock Falls, IL, to points in IA, NE, MN, CO, KS, MO, AR, IN, MI, WI, WY, UT, MT, ID, NV, CA, OR, WA, TX, OK, NM, AZ, ND and SD; and (2) under the sub 50 certificate from Chicago, IL to Marianna, AR, and (3) under the sub 56 certificates from Chicago, IL to points in KS, MO and CO; and (4) under sub 5, *iron and steel articles and aluminum articles,* from Chicago, IL to points in OK and TX. Barks is a motor carrier operating under MC–157942 and MC–157942 (Sub-No. S–1 TA). A TA Application has been filed.

[FR Doc. 82-25741 Filed 9-17-82; 8:45 am]
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Motor Carriers; Decision-Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79512. By decision of September 3, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to MARI MOTOR EXPRESS, INC., of Morrisville, PA of Certificate Nos. MC–84450 (Sub-No. 1), issued

October 18, 1979 and MC–84450 (Sub-No. 11) issued September 24, 1981 to S. R. T. MOTOR FREIGHT, INC. of Morrisville, PA, authorizing the transportation under the sub 1 authority of *iron and steel articles* from the facilities of Bethlehem Steel Corporation at Sparrows Point, MD, to points in DE, CT, MA, RI, NJ, NY, and PA, restricted to the transportation of traffic originating at the named origin, and under this sub 11 authority of *metal products* between points in Lebanon and Dauphin Counties, PA, on the one hand, and, on the other, points in OH, IN, IL, MI, IA, WI, MN, MO, AR, KY, TN, MS, AL, LA, TX, VA, WV, NC, SC, GA, and FL. Representative: Alan Kahn, Abrahams & Loewenstein's, 100 South Broad Street, Philadelphia, PA 19110.

Note.—This supplements the notice published in MC–FC–79512 in the **Federal Register** issue of January 13, 1982.

Supplemental Publication

MC–FC–79813. By decision of September 8, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to PECK LEASING, INC., of Fall River, MA, of Permit No. MC–156045 (Sub-No. 3) issued July 20, 1982, to H. P. LEASING, INC., of Somerset, MA, authorizing *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the United States, under continuing contracts with (1) Eastern Company, D/B/A Eastco, of Westwood, MA, (2) Handy Pax Inc., of Randolph, MA, and (3) U.S. Textile Co., Inc., of Fall River, MA. Representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043, Phone: 617–749–6500.

Note.—A prior decision of May 20, 1982, published June 4, 1982, approved the transfer to transferee of transferor's Permit No. MC–156045, MC–156045 (Sub-No. 1) and MC–156045 (Sub-No. 2).

MC–FC–79852. By decision of September 7, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Appellate Division 2 approved the transfer to NCV INDUSTRIES, INC. of Omaha, NE of a portion of Certificate No. MC–127602 (Sub-No. 30)X issued to FLATLANDS EXPRESS, INC. of Litchfield Park, AZ, authorizing general commodities (except classes A and B explosives), between Omaha, NE and Sioux City, IA, serving all intermediate points: from Omaha over U.S. Hwy 73 to Sioux City, and return over the same route. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114. TA lease is not sought. Transferee is not a carrier.

MC–F–79975. By decision of September 1, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to TUSC-MAR, INC. of Certificate No. MC–127777 (Sub-Nos. 1, 12, 13, 14 and 18) issued to MOBILE TRANSPORT SYSTEMS, INC. authorizing the transportation of (1) *mobile homes*, in initial movements, in driveaway or truckaway service, from Reedsburg, WI and points in Kenosha County, WI to points in the United States (including AK but excluding HI), (2) *trailers* designed to be drawn by passenger automobiles, in initial movements (a) from points in Waupaca County, WI, and the facilities of Fleetwood Homes of Wisconsin, Inc. at or near Portage, WI, to points in IL, IA, MI, MN, ND and SD, (b) from points in Humboldt County, IA and Outagamie and Iron Counties, WI (except Hurley) to points in the United States (including AK but excluding HI), (c) from points in Grant County, WI, to points in the United States (including AK but excluding HI), and (d) from points in Anson County, NC, to points in the United States (except AK and HI). Representative: Audrey Thomas, Krapp, WI 54749.

Note.—Transferee is a non-carrier.

MC–FC–80015. By decision of September 3, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to D. SABATELLI, INC., of Media, PA of Certificate No. MC–124045 (Sub-No. 5) issued October 18, 1981, to RAYMOND G. WISHARD, doing business as WISHARD TRUCKING, of Chambersburg, PA, authorizing the transportation of Clay, concrete, glass or stone products between points in Huntingdon County, PA, on the one hand, and, on the other points in 14 Eastern States. Representative: Anthony J. Sabatelli, 630 S. Ridley Creek Road, Media, PA 19063.

MC–FC–80019. By decision of August 31, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to THE SANDERS TRUCK TRANSPORTATION CO., INC., of Augusta, GA, of Certificate No. MC–138521 issued to BEST WAY FREIGHT, INC., of Augusta, GA, authorizing the transportation of (a) groceries and hardware from Augusta, Savannah, and Port Wentworth, GA, and Charleston, SC, to Allendale and Charleston, SC; (b) syrup from Cairo and Thomasville, GA, to Allendale and Charleston, SC; (c) lard and lard substitutes from Chattanooga, TN, and Macon, GA, to points in SC; and (d) canned goods from Atlanta, GA, to Cheriton and Richmond, VA, and Baltimore, MD, to points in SC. TA has not been sought. Representative: Richard M. Tettelbaum, P.O. Box 720434, Atlanta, GA 30328.

Notes.—Transferee holds authority from this Commission in Certificates Nos. MC–28088 and MC–28088 (Sub-Nos. 6, 7, 8, 11, 13, 15, 19, 23, 26F, 27F, 28F, and 29X). That contained in the Sub-No. 29X Certificate has been authorized in MC–F–79834 for transfer to Georgia-Carolina Truck Transportation Co., Inc., which is commonly controlled with transferee.

MC–FC–80024. By decision of September 3, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to TOWN & COUNTRY LIMOUSINE, LTD., of Certificate No. MC–159694 (Sub-No. 1) issued August 12, 1982, to THOMAS F. FOLDY, doing business as COLONIAL LIMOUSINE authorizing the transportation of *passenger and their baggage*, limited to the transportation of not more than 15 passengers (excluding the driver) in one vehicle at one time, beginning and ending at points in CT, ME and extending to points in ME, NH, VT, MA, CT, RI, NY, PA, NJ, DE, MD, VA, NC, SC, GA, FL, and DC. Representative: Edward J. Kiley, 1230 M Street, N.W., Suite 501, Washington, DC 20036.

MC–FC–80034. By decision of September 3, 1982 issued 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to TRANS CARIBBEAN MOVING & SHIPPING, INC., of Bronx, NY, of Certificate No. MC–148260F, issued to LA GRANDE MOVING & SHIPPING, INC., of Bronx, NY, authorizing the transporation of household goods, as defined by the Commission, between New York, NY, on the one hand, and, on the other, points in CT, NJ, and NY, restricted to traffic moving in foreign commerce. Representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY.

Note.—Transferee holds no authority from this Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–25740 Filed 9–17–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR

86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109. Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the from of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP2–221

Decided: September 10, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 20722 (Sub-45), filed August 27, 1982. Applicant: M & G CONVOY, INC., 590 Elk St., Buffalo, NY 14240. Representative: Eugene C. Ewald, 100 West Long Lake Rd., Suite 102, Bloomfield Hills, MI 48013, 313–645–9600. Transporting *motor vehicles,* between points in the U.S. (except AK and HI), under continuing contract(s) with persons as defined in Section 10923 of the Motor Carrier Act of 1980 who are engaged in business as manufacturers, distributors, or dealers of motor vehicles.

MC 140763 (Sub-13), filed August 31,1982. Applicant: ONEIDA-COLUMBUS EXPRESS COMPANY, P.O. Box 376, Oneida, TN 37841. Representative: Marshall Kragen, 1919 Pennsylvania Ave., NW. Suite 300, Washington, DC 20006, 202–466–3778. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Service Brokerage, Inc., of Oneida, TN.

MC 143553 (Sub-17), filed September 1, 1982. Applicant: CONTINENTAL TRANSPORT SYSTEMS, INC., 35 Main St., Versailles, CT 06383. Representative: Ronald I. Shapss, 450 7th Ave., New York NY 10123, 212–239–4610. Transporting *metal articles,* between points in the U.S. (except AK and HI), under continuing contract(s) with Century Brass Products, Inc., of Waterbury, CT.

MC 148653 (Sub-4), filed September 2, 1982. Applicant: MILTON WOODARD d.b.a. WOODARD TRUCKING COMPANY, 261 North Main St., P.O. Box 308, Ripley, TN 38063. Representative: Dale Woodall, 6077 Primacy Parkway, Suite 209, Memphis, TN 38119, 901–683–5400. Transporting *commodities in bulk,* between points in CO, KS, NE, NM, OK, TX, AR, LA, MS, MO, IL, IN, OH, KY, TN, AL, FL, GA, NC, and SC.

MC 162792, filed September 1, 1982. Applicant: JOSEPHINE HARTLE, d.b.a. CROWN LIMOUSINE SERVICE, 62 Roosevelt Dr., Trumbull, CT 06611. Representative Joseph Hartle, 272 West Cedar St., Norwalk, CT 06854, 203–853–6030. Transporting *passengers and their baggage, express, and newspapers,* in the same vehicle with passengers, between points in CT, on the one hand, and, on the other, points in NY, NJ, RI, and MA.

Please direct status inquiries to Team 3 (202) 275–5223.

Volume No. OP3–141

Decided: September 13, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 126904 (Sub-46), filed August 30, 1982. Applicant: H. C. PARRISH TRUCK SERVICE, INC., Rural Route 2, P.O. Box 264, Freeburg, IL 62243. Representative: Larry R. McDowell, 1200 Avenue of the Arts Building, Philadelphia, PA 19107, (215) 735–3090. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 142935 (Sub-30), filed August 25, 1982. Applicant: PLASTIC EXPRESS, a Corporation, 2301 E. Francis St., Ontario, CA 91761. Representative: Richard C. Celio, 2300 Camino Sel Sol, (714) 738–3889. Transporting *such commodities* as are dealt in or used by mining operations, between points in the U.S. (except AK and HI).

MC 144094 (Sub-8), filed August 26, 1982. Applicant: ALADDIN, INC., 15 Scout Ave., Kearny, NJ 07032. Representative: Edward F. Bowes, P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Multi-Carrier Service, Inc. of Hackensack, NJ.

MC 144455 (Sub-3), filed August 31, 1982. Applicant: GAYLORD HAUSSERMAN d.b.a. HAUSSERMAN TRUCKING SERVICE, 44 Lovell Ct., Ionia, MI 48846. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, (212) 263–2078. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (except AK and HI), under continuing contract(s) with L. Perrigo Company of Allegan, MI.

MC 145695 (Sub-12), filed August 30, 1982. Applicant: MAZCO SYSTEMS, INC., 140 Grand St., Carlstadt, NJ 07072. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410, (201) 791–2270. Transporting (1) *general commodities* (except classes A and B

explosives, household goods and commodities in bulk), between Boston, MA, New York, NY, Bridgeport, Ct, Philadelphia, PA, Baltimore, MD, Norfolk, VA, Wilmington, NC, Charleston, SC, Savannah, GA, Jacksonville, Miami and Tampa, FL and points in Suffolk County, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) *ores and minerals, metal products and chemicals,* between points in the U.S. (except AK and HI) and (3) *printed matter,* between points in Adams County, PA and Clarke County, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 149295 (Sub-4), filed August 30, 1982. Applicant: H & W HOTSHOT DELIVERY SERVICE, INC., P.O. Box 96503, Houston, TX 77015. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437–1768. Transporting (1) *Mercer commodities,* (2) *machinery and parts,* and (3) *metal products,* between points in the U.S. (except AK and HI).

MC 154135 (Sub-1), filed August 30, 1982. Applicant: ELLISON TRANSPORTATION CO., P.O. Box 636, Roseburg, OR 97470. Representative: Jerry R. Woods, 1600 One Main Place, 101 SW Main St., Portland, OR 97204 (503) 224–5525. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Coos and Curry Counties, OR, and extending to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY.

MC 15884 (Sub-1), filed August 30, 1982. Applicant: GERALD H. POULSEN, d.b.a. H. D. TRANSFER, P.O. Box 16318, Salt Lake City, UT 84111 (801) 531–1300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in UT, ID, NV, and WY.

MC 163454 (Sub-1), filed August 30, 1982. Applicant: DOT TRANSPORT, INC., 5299 Roswell Road, N.E., Suite 212, Atlanta, GA 30342. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328 (404) 256–4320. Transporting *such commodities* as are dealt in by grocery stores, between those points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 163585, filed August 26, 1982. Applicant: HINKLE TRUCKING, INC., P.O. Box 65, Circleville, WV 26804. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, D.C. 20004 (202) 347–8862. Transporting *clay, glass or stone products,* between points in Pendleton County, WV, on the one hand, and, on the other, points in MD, VA, WV, DE, OH, PA, KY, NC, NJ, TN and DC.

MC 163624, filed August 30, 1982. Applicant: OMNI TOURS, LTD, 12645 W. Burliegh St., Brookfield, WI 53005. Representative: Ruth C. Wakeland, 3438 N. Hackett Ave., Milwaukee, WI 53211 (414) 962–7376. As a *broker* at Milwaukee, WI, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* beginning and ending at points in WI and extending to points in the U.S.

MC 163634, filed August 30, 1982. Applicant: D & M TOURS, INC., 396 Belmont Ave., Haledon, NJ 07508. Representative: Edward F. Bowes, 7 Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. Transporting *passengers and their baggage,* in special and charter operations, between points in the U.S. (except AK and HI), under continuing contract(s) with Gadabout Tours, Inc. of Haledon, NJ.

MC 163635, filed August 30, 1982. Applicant: GLENN R. BROOKS, d.b.a. HAMMERDOWN EXPRESS, Box 635, Lincolnton, NC 28092. Representative: Dwight L. Koerber, Jr., 110 North Second St., P.O. Box 1320, Clearfield, PA 16830, (814) 765–9611. Transporting *furniture,* between points in the U.S. (except AK and HI), under continuing contract(s) with Burris Industries, Inc., of Lincolnton, NC.

Please direct status inquiries to Team 5, (202) 275–7289.

Volume No. OP5-184

Decided: September 2, 1982.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 40898 (Sub-35), filed August 30, 1982. Applicant: S & W MOTOR LINES, INC., I–40 and Highway 68, P.O. Box 18267, Greensboro, NC 27419. Representative: George H. Sharp (same address as applicant), (919) 668–2456. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in the U.S. in and east of TX, OK, MO, IL and WI.

MC 96328 (Sub-10), filed August 4, 1982. Applicant: J. AND W. CORPORATION, 3525 South Leavitt St., Chicago, IL 60609. Representative: Robert J. Gill, First Commercial Bank Bldg., 410 Cortez Road West, Suite 406, Bradenton, FL 33507, (813) 758–4153. Transporting *Paper and related products,* between Chicago, IL, and points in Lincoln County, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 109708 (Sub-107), filed August 27, 1982. Applicant: INDIAN RIVER TRANSPORT COMPANY, INC., 2580 Executive Road, P.O. Box AG, Dundee, FL 33838. Representative: John J. Harned (same address as applicant), (813) 324–2430. Transporting *commodities in bulk,* between points in the U.S. (except AK and HI).

MC 118838 (Sub-100), filed August 30, 1982. Applicant: GABOR TRUCKING, INC., P.O. Box 687, Detroit Lakes, MN 56501. Representative: Patrick M. Porritt (same address as applicant), (218) 847–9217. Transporting *general commodities,* between points in the U.S., under continuing contract(s) with Louisiana-Pacific Corporation, of Portland, OR.

MC 145629 (Sub-7), filed August 30, 1982. Applicant: FUCHS, INC., Rural Route 1, Box 576, Sauk City, WI 53583. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703, 608–256–7444. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in IL and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 155938 (Sub-1), filed August 27, 1982. Applicant: TRI–L TRANSPORT, INC., P.O. Box 558, Richmond, VA 23204. Representative: John R. Simms, Jr., 915 Pennsylvania Bldg., 425 13th St., N.W., Washington, D.C. 20004, 202–737–1030. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 156518 (Sub-1), filed August 27, 1982. Applicant: VIP TRANSFER CO., INC., 1 Westways Plaza, Long Island City, NY 11101. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, 212–263–2076. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Borden, Inc. of Columbus, OH.

MC 159049 (Sub-1), filed August 27, 1982. Applicant: ROBERTSON TRUCKING, INC., 4460 North Springfield, Chicago, IL 60625. Representative: Irwin D. Rozner, 134 North LaSalle St., Chicago, IL 60602, (312) 782–6937. Transporting *foundry and steel mill supplies* between points in the U.S., under continuing contract(s) with Foseco, Inc., of Brook Park, OH.

MC 163608, filed August 30, 1982. Applicant: HELLER & SONS DISTRIBUTING, INC., P.O. Box 66, Hermiston, OR 97838. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210 (503) 226–3755.

Transporting *petroleum, natural gas and their products,* between points in Franklin County, WA, on the one hand, and, on the other, points in OR and ID.

MC 163609, filed August 30, 1982. Applicant: SAVAGE COAL SERVICE CORPORATION, P.O. Box 430, Flora Vista, NM 87415. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111 (801) 328–6987. Transporting *coal,* between points in AZ, CO, NM, TX, and UT.

Volume No. OP5–185

Decided: September 3, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 79658 (Sub-34), filed August 30, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant) 812–424–2222. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Atlantic Richfield Company of Los Angeles, CA.

MC 151118 (Sub-24), filed August 30, 1982. Applicant: M.D.R. CARTAGE, INC., 516 West Johnson St., Jonesboro, AR 72401. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701, 601–335–3576. Transporting (1) *metal products,* (2) *wood products,* (3) *furniture and fixtures,* between Los Angeles, CA, Boston, MA, Portland, OR, Salt Lake City, UT, Boston, MA, and points in Clay, Craighead, Cross, Greene, Lawrence, Randolph, and St. Francis Counties, AR; San Joaquin County, CA; New Haven County, CT; Blackhawk County, IA; Elkhart County, IN; Norfolk County, MA; Cumberland, Penobscot and York Counties, ME; Pettis County, MO; Cass County, ND; Belknap, Grafton and Stratford Counties, NH; and Albany and Onondaga Counties, NY on the one hand, and, on the other, points in the U.S. (except AK and HI), and (4) *rubber and plastic products,* between points in Cross and St. Francis Counties, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152109 (Sub-11), filed August 20, 1982. Applicant: KAIBAB TRANSPORTATION, INC., P.O. Box 20506, Phoenix, AZ 85036. Representative: Michael F. Morrone, 1150 17th St., N.W., Suite 1000, Washington, DC 20036, 202–457–1124. Transporting *petroleum and petroleum products, automotive chemicals* and *filters,* between points in the U.S. (except AK and HI), under continuing contract(s) with Ashland Petroleum Company, Division of Ashland Oil, Inc., of Ashland, KY.

MC 152109 (Sub-12), filed August 20, 1982. Applicant: KAIBAB TRANSPORTATION, INC., P.O. Box 20506, Phoenix, AZ 85036. Representative: Michael F. Morrone, 1150 17 St., NW, Suite 1000, Washington, DC 20036 (202) 457–1124. Transporting *building materials* between points in the U.S. (except AK and HI), under continuing contracts(s) with Hoff Companies, Inc., of Caldwell, ID, and its subsidiaries, Hoff Forest Products, Hoff Building Center, and Hoff Door Shop, all of Caldwell, ID, Hoff Rhonde Valley Lumber of Union, OR, and Western Forest Products of Meridian, ID.

MC 153758 (Sub-4), filed August 23, 1982. Applicant: LAMPMAN BROKERAGE, INC. d.b.a. MASTRO ENTERPRISES, 4233 West Sierra Madre, No. 206, Fresno, CA 93711. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, 608–273–1003. Transporting *food and related products,* between points in IL and WI on the one hand, and, on the other, points in CA, under continuing contract(s) with Monterrey Cheese Company of San Francisco, CA.

MC 156029 (Sub-2), filed August 30, 1982. Applicant: TRANSPORT ENTERPRISES, INC., 400 Broadway, Freehold, NJ 07728. Representative: A. David Millner, P.O. Box Y, 7 Becker Farm Rd., Roseland, NJ 07068, (201) 992–2200. Transporting (1) *general commodities* (Except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Allied Stores Corporation of New York, NY, and (2) *chemicals and related products and rubber and plastic products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Franklin Plastics Corporation of Kearny, NJ.

MC 162048 (Sub-1), filed August 30, 1982. Applicant: GALLATI CARTAGE OF MICHIGAN, INC., 6134 West Jefferson Avenue, Detroit, MI 48209. Representative: Raymond P. Keigher, Suite 102, 401 E. Jefferson St., Rockville, MD 20850, (301) 424–2420. In foreign commerce only, transporting *general commodities* (except classes A and B explosives and household goods) between Detroit, MI, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, MD, MA, MI, MN, NJ, NY, OH, PA, VA, and WI.

MC 163649, filed August 30, 1982. Applicant: METRO ENGINEERING & TRANSPORTATION CORP. d.b.a. METCO, 290 Cocoanut, Sarasota, FL 33577. Representative: Robert J. Gill, First Commercial Bank Bldg., 410 Cortez Rd., West, Bradenton, FL 33507, (813) 758–4153. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with DK Transportation Corp., of Downers Grove, IL.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–25744 Filed 9–17–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP5–183]

Motor Carriers; Permanent Authority; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of petition for leave to intervene must be filed with the Commission within 30 days after the date of this **Federal Register** notice addressing specifically the issue(s) indicated as the purpose for republication.

Agatha L. Mergenovich,

Secretary.

MC 98589 (Sub-5) (republication), filed April 6, 1982, published in the **Federal Register** issue of April 27, 1982, and republished this issue. Applicant: WORLD TRANSPORT, INC., 56 Oak Hill Way, Brockton, MA 02403. Representative: John G. Downes (same address as applicant). An Order of the Commission, Review Board 3, decided July 28, 1982, and served August 5, 1982, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a common carrier, by motor vehicle, over irregular routes, transporting (1) *food and related products,* between points in Plymouth, Suffolk, and Hampden Counties, MA, Cumberland and Penobscot Counties, ME, Hartford County, CT, Franklin, Orleans, and Chittenden Counties, VT, Burlington County, NJ, Kenosha County, WI, Hopkins County, TX, Berrien County, MI, Polk and Indian River Counties, FL, Sutter County, CA, and Montgomery County, AL, on the one hand, and, on the other, points in California and those points in the United States in and east of Minnesota, Iowa, Missouri, Oklahoma, and Texas; (2) *shoes,* between points in Norfolk

County, MA, on the one hand, and, on the other, points in Minnesota, Wisconsin, Pennsylvania, New York, and New Jersey; (3) *nails and fasteners*, between Cleveland, and Cincinnati, OH, and Chicago, IL, and points in Plymouth County, MA, on the one hand, and, on the other, those points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International boundary line between the United States and Canada; and (4) *chemicals and related products and coal tar products* (a) between Los Angeles, CA, Atlanta, GA, Jacksonville, FL, Houston, TX, Chicago, IL, and St. Paul, MN, and points in Suffolk County, MA and Mecklenburg County, NC, on the one hand, and, on the other, points in California and those points in the United States in and east of Minnesota, Iowa, Missouri, Oklahoma, and Texas, and (b) between points in San Mateo County, CA, on the one hand, and, on the other, those points in the United States in and east of Minnesota, Iowa, Missouri, Oklahoma, and Texas, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the applicant's actual grant of authority.

[FR Doc. 82-25739 Filed 9-17-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 295]

Motor Carriers; Permanent Authority Decisions, Restriction Removals; Decision-Notice

Decided: September 14, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1136. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport preperty filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Williams, and Higgins.

Agatha L. Mergenovich,

Secretary.

MC 22510 (Sub-2)X, filed September 3, 1982. Applicant: THOMAS C. DOOLAN & SONS, INC., 48 Prospect St., Canton, MA 02021. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Lead and Sub 1; (1) broaden to (a) "general commodities (except classes A and B explosives, household goods and commodities in bulk)" from general commodities (with exceptions), in lead and Sub 1, (b) "rubber and plastic products, and such materials, supplies and equipment as are used in their manufacture" from rubber goods and products, and * * * manufacture, in Sub 1; (2) authorize service on all intermediate points on regular routes in Sub-1; (3) expand to counties (a) in lead, Boston and Cambridge, MA (Suffolk, Norfolk, Plymouth, Essex, and Middlesex Counties), and Quincy, MA (Suffolk and Norfolk Counties), (b) in Sub 1 (regular routes), off-route points in Braintree, Whitman, East Bridgewater, Avon, Taunton, Abington, and Easton, MA (Norfolk, Bristol, Plymouth, and Suffolk Counties), Milton, Cambridge, Somerville, and Chelsea, MA (Norfolk, Middlesex, Essex, and Suffolk Counties), (c) in Sub 1 (irregular route), Canton, MA (Norfolk County), Bristol, Central Falls, Cranston, Newport, Pawtucket, Providence, Warwick, and Woonsocket, RI (all points in RI [Bristol, Newport, Providence, Kent, and Washington Counties], and Bristol, Norfolk, and Worcester Counties, MA).

MC 42384 (Sub-2)X, filed August 24, 1982. Applicant: ARISTA VAN LINES, INC., 74 Ottawa Road South, Marlboro, NJ 07746. Representative: Arthur J. Piken, Esq., Queens Office Tower, 95–25 Queens Boulevard, Rego Park, NY 11374. Sub 1, broaden household goods to "household goods, furniture and fixtures."

MC 59806 (Sub-27)X, filed August 19, 1982. Applicant: GROSS & HECHT TRUCKING, INC., 35 Brunswick Ave., Edison, NJ 08817. Representative: A. David Millner, P.O. Box Y, 7 Becker Farm Rd., Fairfield, NJ 07068. Sub 24X permit: Broaden (A) from (1) liquid sugar, invert sugar, corn syrup and blends thereof and syrup to "food and related products", part 3; (2) liquid sugar, invert sugar, flavoring syrups, and blends thereof, carbonated beverages and containers to "food and related products and containers", part 4; (3) liquid sugar, invert sugar, flavoring syrups and blends thereof, carbonated beverages, containers, and packaging materials to "food and related products, containers and packaging materials", part 5; (4) liquid sugar, in bulk, in tank vehicles, part 2(b), and invert sugar, in bulk, in tank vehicles, part 2(c) to "commodities in bulk"; and (5) citrus products and beverages and beverage concentrates to "food and related products and farm products", part 7; and, (B) to "between points in the U.S. (except AK and HI)", under continuing contract(s) with unnamed shippers, part 2 (b) and (c).

MC 140139 (Sub-2)X, filed September 8, 1982. Applicant: THEODORE L. PERUSSE, d.b.a. BAUDETTE TRANSFER, Post Office Box 157, Baudette, MN 56623. Representative: Samuel Rubenstein, Post Office Box 5, Minneapolis, MN 55440. Lead, broaden to serve all intermediate points on regular route operations, between named points in MN.

MC 140635 (Sub-35)X, filed August 24, 1982. Applicant: ADAMS LINES, INC., P.O. Box 7343, Omaha, NE 68107. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave., N.W., Washington, D.C. 20036. Sub-Nos. 21F, 23F, 28 and 29F certificates: (A) Broaden (1) Sub 21F, from chemicals, chemical compounds and anti-freeze to "chemicals and related products"; plastic and plastic products to "rubber and plastic products"; (2) Sub 23F, plumbers goods, bathroom vanities,

accessories used in the manufacture and distribution of plumbers goods and bathroom vanities to "furniture and fixtures, rubber and plastic products, clay, concrete, glass or stone products, metal products, and machinery"; and (3) Sub 29F, glass and glass products to "clay, concrete, glass or stone products; and meats, meat products, meat by-products and articles distributed by meat packing houses to "food and related products"; (B) remove (1) all exceptions from its general commodities authority, except classes A and B explosives and household goods, Sub 28; (2) the "except commodities in bulk" and/or "hides", Subs 21F, 23F and 29F; (3) "in tank vehicles" restriction, Sub 29F; (4) "originating at or destined to" restriction, Sub 23F; (5) the "originating at shipper association" restriction, Sub 28, (C) broaden to (1) county-wide authority: (a) Sub 21, Blue Earth County, MN (Mankato); Licking County, OH (Newark); Worcester County, MA (Clinton); Peoria County, IL (Mapleton); Grundy County, IL (Morris); Cook, Lake and DuPage Conties, IL, and Lake County, IN, (Chicago, IL); (b) Sub 23, Maricopa County, AZ (Phoenix); San Bernardino County, CA (Redlands); Greene County, GA (Union Point); Walton County, GA (Monroe); Jasper County, IN (Rennsselaer); Montgomery County, IN (Crawfordsville); Worcester County, MA (Leonminster); Wappello County, IA (Ottumwa); Columbiana County, OH (Salem); Lawrence County, PA (New Castle); Medina County, TX (Hondo); Navarro County, TX (Corsicana); Milwaukee, Ozaukee, Waukesha, and Racine Counties, WI (Milwaukee); (c) Sub 29, Webster County, IA (Ft. Dodge); Pottawattamie County, IA (Oakland); Westmoreland County, PA (Jeanette); Harrison County, WV (Clarksburg); Sullivan County, TN (Kingsport); Cook, Lake, and DuPage Counties, IL, and Lake County, IN (Chicago, IL); Bergen, Essex, Passaic, Hudson, and Union Counties, NJ, Bronx, Kings, and Queens Counties, NY (S. Kearney, NJ); and (2) radial authority, Subs, 28 and 29F.

MC 151740 (Sub-7)X, filed August 24, 1982. Applicant: LARRYMAR CORPORATION, P.O. Box 5, Mt. Holly, NJ 08060. Representative: James H. Sweeney, 468 Kentucky Ave., Williamstown, NJ 80094. Sub 5 certificate: (A) Broaden (1) paragraph 3, petroleum lubricants to "petroleum or coal products"; cleaning oils, in containers to "chemicals and related products"; advertising material and premiums to "printed matter and miscellaneous products of manufacturing"; display racks to lumber and wood products and furniture and fixtures"; cleaning machines to "machinery, including electrical machinery or equipment"; sheet-metal ware used in the distribution and consumption of petroleum lubricating and cleaning oils to "metal products"; (2) paragraph 4, paper, paper products to "pulp, paper and related products"; rubber, printing plates to "printed matter"; (3) paragraph 5, paper products to "pulp, paper and related products"; (4) paragraph 6, soap, soap products, washing, cleaning and bleaching compounds, soda ash and carbonate of soda to "chemicals and related products"; (5) paragraph 7, office furniture to "furniture and fixtures"; and (6) paragraph 8, frozen berries to "food and related products"; (B) remove (1) New Brunswick, NJ and Wilmington, DE in paragraph 6a and New Brunswick, NJ in paragraph 6b; and (2) "except in bulk, in tank vehicles" restriction, paragraph 6; (C) broaden to (1) paragraph 5, (Newark, New Brunswick, Trenton, Perth Amboy, Passaic and Paterson) Essex, Middlesex, Mercer and Passaic Counties, NJ; (2) paragraph 6, (Providence, RI, New Haven and Watertown, CT) Providence County, RI, New Haven and Litchfield Counties, CT; (Wilmington) New Castle County, DE; and (New Brunswick) Middlesex County, NJ; and (3) radial authority, paragraphs 1, 3, 4 and 8.

MC 159977 (Sub-1)X, filed August 12, 1982. Applicant: POLZIN, INC., P.O. Box 119, Stanford, MT 59479. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Lead certificate (A) broaden to "rubber and plastic products, lumber and wood products, metal products, clay, concrete, glass or stone products, building materials, and machinery" from fiberglass buildings, fiberglass building sections and building panels, structured building components, and building equipment, part (1); (B) remove the bulk restriction, part (2); and (C) broaden to county-wide authority: Hall County, NE (facilities—Grand Island), part (2).

[FR Doc. 82-25747 Filed 9-17-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte 387 (Sub-250)]

Burlington Northern Railroad Co., Exemption for Contract Tariff; ICC-BN-C-0144 (Merchandise)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the Federal Register.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse or market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 13, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretay.

[FR Doc. 82-25748 Filed 9-17-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte 387 (Sub-263)]

Chicago, Milwaukee, St. Paul and Pacific Railroad Co., Exemption for Contract Tariff; ICC-MILW-C-0218 (Bituminous Coal via Port of Chicago)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions.

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 13, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25746 Filed 9-17-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte 387 (Sub-261)]

The Denver and Rio Grande Western Railroad Co., Exemption for Contract Tariff; ICC-DRGW-C-0021-A (Canned Goods)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirement of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 13, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25747 Filed 9-17-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte 387 (Sub-265)]

Illinois Central Gulf Railroad Co., Exemption for Contract Tariff; ICC-ICG-C-0045 (Coal)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has aproved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to instituite a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources

(49 U.S.C. 10505)

Decided: September 13, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25749 Filed 9-17-82 8:45 am]

BILLING CODE 7035-01-M

[Docket AB-10 (Sub-26)]

Norfolk and Western Railway Co.—Abandonment in Putnam, Allen, Hancock, and Wyandot Counties, OH; Findings

The Commission has found that the public convenience and necessity permit the Norfolk and Western Railway Company to abandon a 51.24-mile portion of its line of railroad between milepost 1.76 near Delphos, OH and milepost 53.0, near Carey, OH, all in Putnam, Allen, Hancock, and Wyandot Counties, OH. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be resubmitted within this 10-day period.

Information and procedures regarding financial assistance for continued rail services are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25743 Filed 9-17-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte 387 (Sub-262)]

Union Pacific Railroad Company Exemption for Contract Tariff ICC-UP-C-0081 (Grain)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the Federal Register.

ADDRESSES: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101(a) or to protect shippers from abuse of market power, moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following condition:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 13, 1982.

By the Commission, Division 2, Commissioners Andre, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25728 Filed 9-17-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte 387 (Sub-257)]

Western Pacific Railroad Co., Exemption for Contract Tariffs; ICC-WP-C-0035, ICC-WP-C-0036, ICC-WP-C-0039, ICC-WP-C-0041, ICC-WP-C-0044, ICC-WP-C-0046, ICC-WP-C-0047, ICC-WP-C-0049, ICC-WP-C-0051, ICC-WP-C-0052, ICC-WP-C-0053, and ICC-WP-C-0062 (Canned or Preserved Foodstuffs)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariffs may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the Federal Register.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 13, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25745 Filed 9-17-82; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting Addendum

September 15, 1982.

Additions have been made to the agenda for the Coast Guard Panel Meeting of the National Advisory Committee on Oceans and Atmosphere (NACOA) on September 23-24, 1982, published in the **Federal Register** of September 9, 1982 (Page 47 FR 39764). The tentative agenda is as follows:

Thursday, September 23, 1982

9:00 a.m.-10:30 a.m.
Enforcement of Laws and Treaties, Capt. Schowengerdt—USCG, Chief, Operational Law Enforcement Division, TBA—NOAA/National Marine Fisheries Service, Abraham Azzam—Drug Enforcement Administration, Chief, Investigative Support Section, Bob Grimes—U.S. Customs Service, Director, Office of Patrol, Discussion

10:30 a.m.-12:00 Noon
Aids to Navigation, RADM Richard Bauman—USCG, Chief, Office of Navigation, William Godwin—Army Corps, Assistant Chief, Construction Operations Division, Crowley Maritime Corporation, Discussion

12:00 Noon-1:00 p.m.—Lunch

1:00 p.m.-2:30 p.m.
Search and Rescue, Capt. Sullivan—USCG, Chief, Search and Rescue Division, Richard Schwartz—Boat/US, Executive Director, Capt. Charles Mitchell, Mitchell Towing Company, Discussion

2:30 p.m.-4:00 p.m.
Coast Guard Programs, Planning, and Budget, Capt. Duca—USCG, Chief, Programs Division, Discussion

4:00 p.m.-4:30 p.m.
Congressional Actions, Bill Woodward, Duncan Smith, House Subcommittee on Coast Guard and Navigation

4:30 p.m.-6:00 p.m.
User Fees, Charles Bingman—DOT, Office of the Secretary, Michael Sciullo—Boat/US, Director, Government and Public Affairs, Discussion

Friday, September 24, 1982

9:00 a.m.-1:00 p.m.
Panel Discussion, Mission-by-Mission Recommendations, Cross-cut Recommendations, Report Outline

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion, or Ms. Linda K. Glover, the Staff Member for the Coast

Guard Panel. The mailing address is: NACOA, 3300 Whitehaven Street, NW., (Suite 438, Page Building No. 1), Washington, D.C. 20235.

Dated: September 13, 1982.

Steven N. Anastasion,

Executive Director.

[FR Doc. 82-25800 Filed 9-17-82; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Dance Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel to the National Council on the Arts will be held on October 4-6, 1982, from 9:00 a.m.-5:30 p.m. in room 1422 of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on October 4, 1982 from 1:00 p.m.-5:30 p.m.; October 5, 1982 from 9:00 a.m.-5:30 p.m.; and on October 6, 1982 from 9:00 a.m.-3:30 p.m. to discuss guidelines and policy issues.

The remaining sessions of this meeting on October 4, 1982 from 9:00 a.m.-1:00 p.m. and on October 6, 1982 from 3:30 p.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

September 13, 1982.

[FR Doc. 82-25705 Filed 9-17-82; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Clinch River Breeder Reactor, Working Group on Systems Integration and Instrumentation Control; Correction

The ACRS Subcommittee title has been corrected re meeting of the Clinch River Breeder Reactor (CRBR) Working Group on Systems Integration and Instrumentation Control scheduled for September 30, 1982, Room 1046, 1717 H Street, NW., Washington, D.C. The Subcommittee will discuss the CRBR plant protection and instrument and control systems.

All other items regarding this meeting remain the same as announced in the **Federal Register** published Monday, September 13, 1982 (47 FR 40260).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: September 14, 1982.

Samuel J. Chilk,

Acting Advisory Committee Management Officer.

[FR Doc. 82-25772 Filed 9-17-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Reactor Operations; Agenda Changes

The ACRS Subcommittee on Reactor Operations scheduled for September 29, 1982, Room 1046, 1717 H Street, NW., Washington, DC agenda items have been changed as noted below:

The Subcommittee plans to discuss: (a) The pressure transients during shutdown at Turkey Point Unit 4 and other related incidents with the Staffs of the Offices of Analysis and Evaluation of Operational Data, Nuclear Reactor Regulation, Inspection and Enforcement, and Region II; (b) discussion of Quality Assurance Policy; Accreditation of Licensee's Quality Assurance Program; and (c) discussion of suppression pool or containment sump water contamination with potential adverse effects on post-accident cooling pumps.

All other items regarding this meeting remain the same as announced in the **Federal Register** published Monday, September 13, 1982 (47 FR 40259).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard K. Major (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: September 14, 1982.

Samual J. Chilk,

Acting Advisory Committee Management Officer.

[FR Doc. 82-25771 Filed 9-17-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-184]

Availability of Final Environmental Statement for National Bureau of Standards Reactor

Notice is hereby given that a Final Environmental Statement (NUREG-0877) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the license renewal and power increase for the National Bureau of Standards (NBS) research reactor. This reactor is located on the 576-acre NBS site near Gaithersburg in Montgomery County, Maryland about 20 miles northwest of the center of Washington, D.C.

The Final Environmental Statement is also being made available at the State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201.

The notice of availability of the Draft Environmental Statement (DES) and request for comments was published in the **Federal Register** on February 25, 1982 (47 FR 8273). The comments received from Federal, State and local agencies, and interested members of the public have been included as appendices to the Final Environmental Statement.

Copies of the Final Environmental Statement (NUREG-0877) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5238 Port Royal Road, Springfield, Virginia 22161, and from the Sales Office, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 13th day of September 1982.

For the Nuclear Regulatory Commission.

Cecil O. Thomas,

Acting Chief, Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 82-25776 Filed 9-17-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-325 and 50-324]

Carolina Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 49 and 74 to Facility Operating License Nos. DPR-71 and DPR-62 issued to Carolina Power & Light Company (the licensee) which revised the licenses for operation of the Brunswick Steam Electric Plant, Units 1 and 2 (the facility), located in Brunswick County, North Carolina. The amendments are effective as of July 1, 1982.

The amendments change the licenses to permit continued operation until such time as certain surveillances can be performed; but, in any event, no later than July 15, 1982.

The application for amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated July 1, 1982, (2) Amendment Nos. 49 and 74 to License Nos. DPR-71 and DPR-62, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 9th day of September 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-25773 Filed 9-17-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-325 and 50-324]

Carolina Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 50 and 75 to Facility Operating License Nos. DPR-71 and DPR-62 issued to Carolina Power & Light Company (the licensee) which revised the licenses for operation of the Brunswick Steam Electric Plant, Units 1 and 2 (the facility), located in Brunswick County, North Carolina. The amendments are effective as of July 1, 1982 through July 8, 1982, only.

The amendments modify the licenses, for a limited time, to extend from 72 hours to seven days the period of time that a diesel generator may remain inoperable before a plant shutdown must be initiated.

The application for amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated July 3, 1982, (2) Amendment Nos. 50 and 75 to License Nos. DRO-71 and DPR-62, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, North Carolina 28461. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 9th day of September, 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-25774 Filed 9-17-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-309]

Maine Yankee Atomic Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 63 to Facility Operating License No. DPR-36, issued to Maine Yankee Atomic Power Company, which revised Technical Specifications for operation of the Maine Yankee Atomic Power Station (the facility) located in Lincoln County, Maine. The amendment is effective as of the date of issuance.

This amendment changes the Technical Specifications making the Limiting Conditions for Operation more restrictive and increasing the Surveillance Requirements for Ventilation and Filter Systems.

The applications for the amendment comply with the standards and requirments of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 26, 1975 and subsequently revised January 27, 1977, March 19, 1980 and February 13, 1982 (2)

Amendment No. 63 to License No. DPR-36 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 7th day of September 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-25777 Filed 9-17-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 70 to Facility Operating License No. DPR-59 issued to the Power Authority of the State of New York (the licensee), which revises the Technical Specifications for operation of the James A. FitzPatrick Nuclear Power Plant (the facility), located in Oswego County, New York. The amendment was authorized by telephone on August 13, 1982, and was confirmed by letter dated August 13, 1982.

The amendment allows continued plant operation with one relief valve inoperable until the next FitzPatrick plant outage.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated August 12, 1982, (2) Amendment No. 70 to License No. DPR-59, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Penfield Library, State University College of Oswego, Oswego, New York. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 8th day of September 1982.

For the Nuclear Regulation Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-25775 Filed 9-17-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Federal Regional Councils; Evaluation of Federal Regional Council System

AGENCY: Management and Budget Office.

ACTION: Notice of Evaluation of Federal Regional Council System.

SUMMARY: The Federal Regional Councils (FRC's) are interagency coordinating groups structed to respond to opportunities for promoting Federal policies and to support interagency and intergovernmental cooperation. They operate in each of the ten regional cities. The FEC's were restructured through Executive Order 12314 on July 22, 1981. Plans were made at that time to evaluate them after one year of operation. The Office of Management and Budget is now undertaking that evaluation and, based on its results, will make recommendations about the future of the FRC system.

The evaluaiton will focus on whether the goals for the FRC system are appropriate goals; whether the goals are being met; and if they are not, the reasons why. Suggestions for the future of the system will be developed.

ADDITIONAL INFORMATION: For the text of E.O. 12314, see 3 CFR, 1981 comp., p. 161.

COMMENTS: Any persons wishing to comment should submit written comments to James F. Kelly, Deputy Associate Director, Intergovernmental Affairs Division, Office of Management and Budget, Washington, D.C. 20503, by October 11, 1982.

FOR FURTHER INFORMATION CONTACT: William R. Feezle on Area Code 202, 395-5105 or Gary M. Katz on Area Code 202-395-4860.

Issued in Washington, D.C., on September 10, 1982.

Candice C. Bryant,

Acting Deputy Assistant Director for Administration.

[FR Doc. 82-25669 Filed 9-17-82; 8:45 am]

BILLING CODE 3110-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Advisory Committee for Trade Negotiations; Meeting and Determination of Closing of Meeting

The meeting of the Advisory Committee for Trade Negotiations (the Advisory Committee) to be held Friday, October 1, 1982, from 2:30 p.m. to 5:00 p.m. at the Federal Home Loan Bank Board, Amphitheater, will involve a review and discussion of the current issues involving the trade policy of the United States. The review and discussion will deal with information submitted in confidence by the private sector members of the Committee under Section 135(g)(1)(A) of the Trade Act of 1974, as amended, (the Act); information submitted by government officials under Section 135(g)(2) of the Act the disclosure of which could be reasonably expected to prejudice United States negotiating objectives; information the disclosure of which would be likely to significantly frustrate implementation of proposed government action; and information properly classified pursuant to Executive Order 12065 and specifically required by such Order to be kept secret in the interests of national security (i.e., the conduct of foreign relations) of the United States. All members of the Advisory Committee have all necessary security clearances. Consistent with previous determinations concerning other advisory committees, established under Section 135(c) of the Act, I hereby determine that the meeting of the Advisory Committee will be concerned with matters listed above and with matters listed in Section 552b(c) of Title 5 of the United States Code. Therefore, the meeting of the Advisory Committee for Trade Negotiations will be closed to the public.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Director, Office of Private

Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, D.C. 20506.

William E. Brock,

United States Trade Representative.

[FR Doc. 82-25783 Filed 9-17-82; 8:45 am]

BILLING CODE 3190-01-M

POSTAL RATE COMMISSION

[Docket No. C82-1]

Complaint of Warshawsky & Co.; Institution of Proceedings on the Record in Docket No. C82-1

Issued: September 14, 1982.

Notice is hereby given that the Postal Rate Commission will conduct hearings on the complaint of Warshawsky & Company ("Warshawsky") of Chicago, Illinois, filed pursuant to section 3662 of the Postal Reorganization Act (39 U.S.C. 3662). In its complaint, which was denominated Docket No. C82-1, Warshawsky alleges that in charging 45 cents a pound for bulk third-class pieces weighing between approximately 3.9 ounces and 16 ounces that the United States Postal Service has violated several mandates of the Postal Reorganization Act. Specifically, Warshawsky alleges that implementation of the 45 cents pound rate does not comport with the requirement of the Act that (1) rates be fair and equitable, (2) the effect of rate increases for business mail users be considered, and (3) the availability of alternative means of sending and receiving mail at reasonable costs be considered.

Warshawsky also asserts that third-class bulk regular mailers who mail at the pound rate established by the Decision of the Board of Governors of the United States Postal Service on September 29, 1981, must pay rates which cover approximately 240 percent of attributable costs while those mailers using the applicable minimum per-piece rate for mail weighing less than approximately 3.9 ounces pay rates which cover only 172 percent of attributable costs. Warshawsky also points out that the November 1, 1981 rate increase to 45 cents a pound has resulted in a 36 percent increase in its postal rates, that the increase will force it to decrease its third-class mailing during 1982 and, in conjunction with substantial secondary volume effects due to reduced first-class order responses and reduced fourth-class order shipments, will result in a net revenue loss to the Postal Service.

Although Warshawsky cannot specify which other persons would be similarly affected by the rates which are the subject of its complaint, it does state that the alleged inequity would be applicable to any mailer of bulk third-class mail who mails at the pound rate. The relief requested by Warshawsky is for third-class regular rate bulk pieces subject to the pound rate to be charged 33 cents per pound, the temporary rate placed into effect by the Governors on March 22, 1981, rather than the current 45 cents per pound.

On December 4, 1981, the United States Postal Service filed a motion to dismiss Warshawsky's complaint. One of the grounds posited by the Postal Service to justify dismissal of Warshawsky's complaint was the pending review of the third-class rate structure in the United States Court of Appeals for the Second Circuit in *Time, Inc., et al.* v. *United States Postal Service.*[1] Although the Commission denied the Postal Service's motion to dismiss in Order No. 416, January 8, 1982, the Commission taking cognizance of the pending judicial action, decided to defer a determination of whether to proceed with a hearing on Warshawsky's complaint pending resolution of the court case.

On July 9, 1982, the Court of Appeals for the Second Circuit issued its opinion in *Time, Inc.* Insofar as Warshawsky's complaint relating to third-class rates was concerned the court held that the third-class bulk rates implemented by the Governors could only be maintained in effect on a temporary basis until a set of permanent third-class rates consistent with existing classification structure was recommended by the Commission and approved by the Governors.

With the issuance of a definitive decision on the status of bulk third-class rates by the Court of Appeals, at the direction of the Commission in accordance with Rule 84 of the Commission's rules of practice, 39 CFR 3001.84, the Postal Service filed a response to Warshawsky's complaint. In its response the Postal Service denied the substantive allegations of the complaint, *i.e.*, that the 45 cents pound rates violates the requirements of 39 U.S.C. 3621 and 3622(b)(1) that rates be fair and equitable, and that the pound rate was implemented without taking into account the effect on mailers of the rate increase or the availability of alternative means of sending mail at reasonable costs.

Continuing, the Postal Service states that the disparity between the 240 percent cost coverage between pound rated third-class material and the 172 percent cost coverage for minimum per-piece material is justified because "90 percent of all regular bulk third-class mail weighs 3 ounces or less" and presumably benefits from the lower cost coverage. In conclusion, the Postal Service asserts that to remedy the disparity between cost coverages by changing the rate structure to "benefit heavier pieces to the severe detriment of the majority of users of this subclass could not be implemented consistently with the policies of title 39." Postal Service Response at 16.

Section 3662 of the Postal Reorganization Act contemplates that the Commission will ventilate complaints "which clearly raise an issue concerning whether or not rates or services contravene the policies of the Act."[2] On its face, Warshawsky's complaint with its allegations supported by detailed offers of proof relating to disparate costs coverages, financial impact and alternative means of transmitting mail fulfills this standard.

Despite Postal Service's position to the contrary, the Postal Service response coupled with its requests for dismissal tend to accentuate Warshawsky's contention that there are viable issues relating to third-class: for example, which portion of the subclass is to bear the heavier cost coverages if disparate cost coverages are warranted. Otherwise, the only other argument presented by the Postal Service is that the existing temporary rates were found valid in *Time, Inc.* and thus not subject to a section 3662 proceeding. As to the Postal Service's contention relating to *Time, Inc.* validating the existing rates, it is evident to us that the court's opinion was of narrow scope in that it simply found that the implementation of temporary rates now extent were a proper response to the Commission's failure to recommend rates consistent with the existing classification structure. The court did not discuss nor did it reach the issue of whether the rates conform to the policies of the Act. Nor did the court even hint that such rates were immune from scrutiny under the complaint provision of section 3662. In this light, we do not find the actions of the Court of Appeals in *Time, Inc.* represents a barrier to holding a hearing on the merits of Warshawsky's complaint.[3]

[1] Time, Inc., *et al.* v. United States Postal Service,——F.2d ——, No. 81-4183, *et al.*, (2nd Cir., July 9, 1982) (hereinafter "*Time, Inc.*").

[2] 39 CFR 3001.82.

[3] Whether it may be suitable to consolidate this complaint with further consideration of third-class

Based on the foregoing the Commission will hold hearings on Warshawsky's complaint designated as Docket No. C82–1. Any person desiring to be heard with reference thereto and to become a party to the proceeding, or to participate as a party in any hearing thereon, should file a petition for leave to intervene. Petitions for leave to intervene must be filed with the Secretary, Postal Rate Commission, Washington, D.C. 20268 on or before September 27, 1982, and must be in accordance with section 20 of the Commission's rules of practice (39 CFR 3001.20). We direct specific attention to section 20(b) which provides that petitions for leave to intervene shall affirmatively state whether or not petitioner requests a hearing or, in lieu thereof, a conference; and further, whether or not the petitioner intends to participate actively in the hearing. Alternatively, persons seeking limited participation, but who do not wish to become parties may, on or before September 27, 1982, file a written request for leave to be heard as a "limited participator" pursuant to section 19a of the Commission's rules of practice (39 CFR 3001.19a). In addition, persons wishing to express their views informally, and not desiring to become a party or limited participant, may file comments pursuant to section 19b of the Commission's rules, 39 CFR 3001.19B.

The complaint of Warshawsky & Company is on file with the Commission and is available for public inspection during regular business hours. The Commission appoints Mark Stephens as Officer of the Commission to participate in this docket.

Attached is a tentative schedule. Parties seeking modifications to this schedule should file appropriate motions by September 27, 1982.

By the Commission.

David F. Harris,

Secretary.

Attachment—Tentative Hearing Schedule

September 27, 1982—Last day for intervention
October 4, 1982—Warshawsky files testimony
October 18, 1982—Discovery ends
October 25, 1982—Hearings on Warshawsky's proposal
November 8, 1982—Rebuttal testimony due
November 10, 1982—Hearings on rebuttal testimony
December 2, 1982—Briefs due
December 13, 1982—Reply briefs due

[FR Doc. 82-25798 Filed 9-17-82; 8:45 am]
BILLING CODE 7715-01-M

rates in Docket No. R80–1 is not being precluded herein. We note in this context, that the Commission has presently before it a joint motion of various third-class mailers for issuance of a recommended decision in Docket No. R80–1 for permanent third-class rates.

SMALL BUSINESS ADMINISTRATION

Region II—Advisory Council; Public Meeting

The Small Business Administration, Region II Newark Advisory Council, located in the geographical area of Newark, New Jersey, will hold a public meeting at 9:00 a.m. on Thursday, September 30, 1982, at the Ramada Inn, 36 Valley Road, Clark, New Jersey 07066, to discuss such business as may be presented by members and the staff of the Small Business Administration or others attending. For further information, write or call Andrew P. Lynch, District Director, U.S. Small Business Administration, 970 Broad Street, Newark, New Jersey 07102, 201–645–3580.

Jeam M. Nowak,

Actong Director, Office of Advisory Councils.

September 15,1982.

[FR Doc. 82-25804 Filed 9-17-82; 8:45 am]
BILLING CODE 8025-01-M

Region IV Advisory Council Meeting; Birmingham Advisory Council

The Small Business Administration, Region IV Advisory Council located in the geographical area of Birmingham, Alabama, will hold a public meeting at 9:00 a.m., on Friday, October 1, 1982, Holiday Inn-Gulf Shores, Highway 182 East Gulf Shores Boulevard, Gulf Shores, Alabama 36542, to discuss such matters as may be presented by members staff of the Small Business Administration, or others present.

For further information, write or call James C. Barksdale, District Director, U.S. Small Business Administration 908 South 20th Street, Room 202, Birmingham, Alabama, (205) 254–1341.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 15, 1982.

[FR Doc. 82-25799 Filed 9-17-82; 8:45 am]
BILLING CODE 8025-01-M

Region V—Advisory Council; Public Meeting

The Small Business Administration, Region V Advisory Council, located in the geographical area of Wisconsin, will hold a public meeting at 10:00 a.m., on Friday, October 1, 1982, at the Director's Room for Robert W. Baird & Co., Inc., 777 East Wisconsin Avenue, Milwaukee, Wisconsin, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Curtis A. Charter, District Director, U.S. Small Business Administration, 212 East Washington Avenue, Room 213, Madison, Wisconsin 53703, (608) 264–5505.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 15, 1982.

[FR Doc. 82-25800 Filed 9-17-82; 8:45 am]
BILLING CODE 8025-01-M

Region VII—Advisory Council; Public Meeting

The Small Business Administration, Region VII Advisory Council, located in the geographical area of Des Moines, will hold a public meeting at 10:00 a.m., Friday, October 8, 1982, at the Federal Building—210 Walnut Street, Room 749, Des Moines, Iowa, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Conard E. Lawlor, District Director, U.S. Small Business Administration, 210 Walnut, Room 749, Des Moines, Iowa 50309, (515) 284–4567.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 15, 1982.

[FR Doc. 82-25798 Filed 9-17-82; 8:45 am]
BILLING CODE 8025-01-M

Region VII Advisory Council Meeting; Public Meeting

The Small Business Administration, Region VII Advisory Council, located in the geographical area of Kansas City, will hold a public meeting at 9:30 a.m., on Wednesday, October 6, 1982, at the Landmark Building, 309 N. Jefferson (1st floor), Springfield, Missouri, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present. For further information, write or call Patrick R. Smythe, District Director, U.S. Small Business Administration, Fourth Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106, (816) 374–5557.

Jean M. Nowak,

Acting Director, Office of Advisory Council.

September 16, 1982.

[FR Doc. 82-25802 Filed 9-17-82; 8:45 am]
BILLING CODE 8025-01-M

Region VIII—Advisory Council; Public Meeting

The Small Business Administration, Region VIII Advisory Council, located in the geographical area of Denver, Colorado, will hold a public meeting at 9:00 a.m., Wednesday, October 6, 1982, in the U.S. Custom House, 721 19th Street, Room 158, Denver, Colorado, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Douglas F. Graves, District Director, U.S. Small Business Administration, 721 19th Street, Room 426a, Denver, Colorado 80202, (303) 837–3673.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 15, 1982.

[FR Doc. 82–25803 Filed 9–17–82; 8:45 am]

BILLING CODE 8025–01–M

Region X—Advisory Council; Public Meeting

The Small Business Administration, Region X Advisory Council, located in the geographcial area of Portland, Oregon, will hold a public meeting at 10:00 a.m., Wednesday, October 6, 1982, in the Board Room of the Portland Chamber of Commerce, 824 S.W. Fifth Avenue, Portland, Oregon, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Stewart L. Rollins, District Director, U.S. Small Business Administration, 1220 SW., Third Avenue, Portland, Oregon 97202, (502) 423–5221.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 15, 1982.

[FR Doc. 82–25801 Filed 9–17–82; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice CM–8/556]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting of the Advisory Committee on International Investment, Technology, and Development on Wednesday, November 3, 1982, from 9:30 a.m. to 12:00 noon and 2:00 to 4:00 p.m. in the Loy Henderson Conference Room at the Department of State, 2201 C Street, NW., Washington, D.C. 20502. The meeting will be open to the public.

Among the issues to be discussed at the meeting are a report on the U.N. Commission on Transnational Corporations meeting, including next steps on the U.N. Code of Conduct and Accounting Standards; a report on the 27th Session of the OECD Committee on International Investment and Multinational Enterprises; preparations for the GATT Ministerial; an update on the Bilateral Investment Treaty Program; recent developments on transfer of technology and restrictive business practices; a review of the energy and development areas; and a discussion of private capital flows to developing countries.

Requests for further information on the meeting should be directed to Philip T. Lincoln, Jr., Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632–2728.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office in order to arrange entrance to the State Department building.

The Chairman of the Advisory Committee will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: September 1, 1982.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 82–25727 Filed 9–17–82; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM–8/554]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Meeting

The Working Group on Radiocommunications of the Subcommittee on Safety of Life at Sea will conduct an open meeting at 9:00 a.m. on October 7, 1982, Room 8334–8336 of the Department of Transportation, 400 7th St., SW., Wash., D.C. 20590.

The purpose of the meeting is to prepare position documents for the 25th session of the Subcommittee on Radiocommunications of the International Maritime Organization (IMO) to be held in London, December 13, 1982. The working group will discuss the following topics:

—maritime distress system;

—digital selective calling;

—matters related to the ITU WARC for Mobile telecommunications;

—matters related to CCIR Study Group 8;

—satellite EPIRB's.

Members of the public may attend up to the seating capacity of the room. For further information contact Mr. Richard Swanson, USCG (G–TPP–3/63), Wash., D.C. 20593. Telephone: (202) 426–1231.

Gordon S. Brown,

Chairman, Shipping Coordinating Committee.

September 1, 1982.

[FR Doc. 82–25725 Filed 9–17–82; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM–8/555]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The Working Group on Standards of Training and Watchkeeping of the Subcommittee on Safety of Life at Sea (SOLAS), a part of the Shipping Coordinating Committee (SHC), will conduct an open meeting to be held on Tuesday, October 12, 1982, at 2:00 P.M., in room 3201 of the U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, D.C. 20593. If additional time is needed, the meeting will be continued at 9:30 A.M., on Wednesday, October 13, 1982, in the same room of the same building.

The purpose of the meeting will be to discuss the following agenda items of the Sixteenth Session of the IMO Subcommittee on Standards of Training and Watchkeeping tentatively scheduled to commence on January 31, 1983.

1. Matters relating to the 1978 STCW Convention.

2. Training and certification of crews of fishing vessels.

3. Training and qualifications of officers and ratings in the handling of hazardous or noxious dry chemicals in bulk.

4. Revision of the Document for Guidance—1975.

Members of the public may attend up to the seating capacity of the room.

For the further information contact Captain R. A. Sutherland, U.S. Coast Guard Headquarters (G–MVP/14), 2100 Second Street, SW, Washington, D.C. 20593. Telephone: (202) 426–1500.

The Chairman will entertain comments from the public as time permits.

Dated: September 2, 1982.

Gordon S. Brown,

Chairman, Shipping Coordinating Committee.

[FR Doc. 82–25726 Filed 9–17–82; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice CM-8/557]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The U.S. SOLAS Subcommittee will conduct an open meeting on Tuesday, October 12, 1982, at 9:30 A.M., in room 3201 of the U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, D.C. 20593.

The purpose of this meeting will be to examine the 1978 Convention on Standards of Training, Certification and Watchkeeping for Seafarers. The agenda will include the following topics:

(a) Background concerning development of the 1978 STCW Convention;

(b) Discussion of current status;

(c) Description of controversy concerning specific provisions within the Convention;

(d) Examination of alternatives with respect to course of action.

The purpose of the meeting is to determine what course of action the United States should take with respect to ratification thereof.

Members of the public may attend up to the seating capacity of the room.

For further information contact Captain R. A. Sutherland, U.S. Coast Guard (G-MVP/14), 2100 Second Street, SW, Washington, D.C. 20593. Telephone: (202) 426-1500. Or contact Mr. D. F. Sheehan, U.S. Coast Guard (G-MM/24), 2100 Second Street, SW, Washington, D.C. 20593. Telephone: (202) 426-2170.

Dated: September 2, 1982.

Gordon S. Brown,

Chairman, Shipping Coordinating Committee.

[FR Doc. 82-25728 Filed 9-17-82; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/553]

Study Group 9 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 9 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on October 6, 1982, in Room 330, 1200 19th Street, NW., Washington, D.C. (Federal Communications Commission) at 9:30 a.m.

Study Group 9 deals with questions relating to line-of-sight and trans-horizon radio-relay systems operating via terrestrial stations at frequencies above about 30 MHz. The main purposes of the meeting will be:

1. Review of February, 1982 XVth Plenary Assembly;

2. Review of July, 1982 Conference Preparatory Meeting for the 1983 Regional Broadcasting Satellite Conference;

3. Organization of work for the next study period.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Request for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632-2592.

Dated: September 1, 1982.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 82-25724 Filed 9-17-82; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Monmouth County, N.J.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Monmouth County, New Jersey.

FOR FURTHER INFORMATION CONTACT: Lloyd J. Jacobs, Staff Specialist for the Environment, Federal Highway Administration, 25 Scotch Road, Second Floor, Trenton, New Jersey 08628, Telephone: (609) 989-2291.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New Jersey Department of Transportation (NJDOT), intends to prepare an Environmental Impact Statement on a proposed action to construct a section of Route 18 Freeway in Monmouth County, New Jersey (Federal Project Numbers RF-U-29(101) and U-RF-29(101)). The proposed project would consist of constructing a four-lane freeway between the existing termini of Route 18 Freeway at Deal Road in Ocean Township and the Garden State Parkway in Tinton Falls Borough, a distance of approximately three miles. In addition, a spur will be constructed as part of this project ot connect the proposed freeway with Route 36 in Eatontown Borough. The purpose of this proposed project is to complete a "missing link" between completed sections of Route 18 Freeway, thereby forming a unified highway through central Monmouth County. Also, traffic relief would be provided on adjacent state, county, and local routes. Existing conditions force motorists to exit the freeway and use local two-lane roads to bridge the three-mile gap.

Alternatives presently under consideration include (1) development of the missing link as a freeway or as an expressway, (2) major improvements of local roads, (3) TSM consisting of minor widenings and intersection improvements, and (4) the no-build alternative. The FHWA and NJDOT will consult with other government agencies on their areas of responsibility. NJDOT is presently contacting federal, state, and local agencies with a description of the proposed project and inviting those interested agencies with questions or comments to attend project scoping meetings.

John J. Kessler, Jr.,

Division Administrator, Trenton, New Jersey.

[FR Doc. 82-25703 Filed 9-17-82; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. IP82-18; Notice 1]

Suzuki Motor Co., Ltd.; Receipt of Petition for Inconsequential Defect

Suzuki Motor Co., Ltd. of Brea, California, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a defect in certain of its motorcycles that it deems is safety-related. The basis of the petition is that the defect is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the Act (15 U.S.C. 1417) and does not represent any agency decision or exercise of judgment concerning the merits of the petition.

Among the information that 49 CFR Part 567 requires to be placed on a motor vehicle's permanently attached certification of compliance is the vehicle's gross vehicle weight rating (GVWR). The GVWR is "not less than the sum of the unloaded vehicle weight, rated cargo load, and 150 times the vehicle's designating seating capacity (§ 567.4(g)(3)). Suzuki manufactured, imported, and sold almost a thousand 1982 model year GS450GA motorcycles with incorrectly marked certification labels. The GVWR marked on these labels is 60 lbs. The correct value is 660 lbs.

Suzuki argues that the error is inconsequential as it relates to motor

vehicles safety because directly beneath the erroneous value are the correct values for the front gross axle weight rating (330 lbs.) and the rear gross axle weight rating (530) lbs.). Therefore, simply by adding the two additional ratings the operator can determine the correct GVWR for the motorcycle.

Interested persons are invited to submit written data, views and arguments on the petition of Suzuki Motor Co., Ltd. described above. Comments should refer to the docket number and be submitted to Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

The engineer and attorney responsible for this notice are James Thomas and Taylor Vinson, respectively.

Comment closing date: October 20, 1982.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on September 15, 1982.

Francis A. Armstrong,

Acting Associate Administrator for Enforcement.

FR Doc. 82–25833 Filed 9–17–82; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Treasury Current Value of Funds Rate

AGENCY: Bureau of Government Financial Operations.

ACTION: Notice of rate for use in Federal cash management operations.

SUMMARY: This notice provides the percentage rate based on the current value of funds to the Treasury. This rate is required by the Treasury Fiscal Requirements Manual (I TFRM 6–8000) to be used in Federal billing, collection, and disbursement operations and is provided here as public notice to assist agencies in their negotiations with affected contractors, organizations, and individuals. The applicable rate is 11.90 percent.

DATES: The rate will be in effect for the period beginning on October 1, 1982 and ending on December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Inquiries should be directed to the Cash Management Regulations and Compliance Staff, Bureau of Government Financial Operations, Department of the Treasury, Treasury Annex No. 1, (PB–711), Washington, D.C. 20226 (Telephone: 202/634–5707).

SUPPLEMENTARY INFORMATION: Revisions to I TFRM 6–8000 in June 1980, provided that the current value of funds rate would be used in assessing charges for late payments to the Government (except where prohibited by law or where a different rule is prescribed by statute), and in determining whether it is cost-effective for the Government to avail itself of prompt payment discounts. This rate reflects the short-term value of funds to the Treasury and is based on rates set for purposes of Pub. L. 95–147, 91 Stat. 1227. It should be noted that the Federal Claims Collection Standards (4 CFR 102.12) also require that interest be charged on delinquent debts and debts being paid in installments in accordance with I TFRM 6–8000.

Dated: September 15, 1982.

W. E. Douglas,

Commissioner.

[FR Doc. 82–25768 Filed 9–17–82; 8:45 am]

BILLING CODE 4810–35–M

Office of the Secretary

[Department Circular Public Debt Series—No. 24–82]

Treasury Notes of September 30, 1986 Series J–1986

September 15, 1982.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $5,000,000,000 of United States securities, designated Treasury Notes of September 30, 1986, Series J–1986 (CUSIP No. 912827 NR 9). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated September 30, 1982, and will bear interest from that date, payable on a semiannual basis on March 31, 1983, and each subsequent 6 months on September 30 and March 31 until the principal becomes payable. They will mature September 30, 1986, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure depsosits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, September 21, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, September 20, 1982, and

received no later than Thursday, September 30, 1982.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g. 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.000. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calulations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Thursday, September 30, 1982. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Tuesday, September 28, 1982. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number.)" If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be

exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 82-25967 Filed 9-17-82; 8:45 am]

BILLING CODE 4810-40-M

[Department Circular Public Debt Series—No. 25-82]

Treasury Notes of October 15, 1989; Series F-1989

September 15, 1982.

1. Invitation for tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $4,000,000,000 of United States securities, designated Treasury Notes of October 15, 1989, Series F-1989 (CUSIP No. 912827 NS 7). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated September 29, 1982, and will bear interest from that date, payable on a semiannual basis on April 15, 1983, and each subsequent 6 months on October 15 and April 15 until the principal becomes payable. They will mature October 15, 1989, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, September 22, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, September 21, 1982, and received no later than Wednesday, September 29, 1982.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successivelly higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive

tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Wednesday, September 29, 1982. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, September 27, 1982. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 82-25806 Filed 9-17-82; 8:45 am]

BILLING CODE 4810-40-M

[Department Circular Public Debt Series—No. 26-82]

Treasury Bonds of 2002

September 15, 1982.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,750,000,000 of United States securities, designated Treasury Bonds of 2002 (CUSIP No. 912810 DA 3). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated September 29, 1982, and will bear interest from that date, payable on a semiannual basis on May 15, 1983, and each subsequent 6 months on November 15 and May 15 until the principal becomes payable. They will mature November 15, 2002, and will be not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness

day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the prinicipal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of these amounts. Interchanges of securities of difference denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving Time, Thurday, September 23, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, September 22, 1982, and received no later than Wednesday, September 29, 1982.

3.2. Each tender must state the face amount of securities bid for. The mininum bid is $1,000, and larger bids must be multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimials, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commerical banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowing on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customers are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an annual interest rate will be established, on the basis of a ¼ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 95.000. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Wednesday, September 29, 1982. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, September 27, 1982. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference

between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 82-25699 Filed 9-17-82; 8:45 am]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

120-Bed NHCU and Parking Structure, San Francisco, Calif.; Availability of Final Environmental Impact Statement (FEIS)

The Final Environmental Impact Statement, for the 120-Bed Nursing Home Care Unit and Parking Structure, Veterans Administration Medical Center, San Francisco, California, dated June 1982 has been prepared as required by Section 102(2)(C) of the National Environmental Policy Act of 1969, and is available for public distribution. This statement discusses the potential environmental impacts of four alternatives for the project. These alternatives are: (a) A two-story 120-Bed Nursing Home Care Unit (NHCU); (b) The NHCU, and a two level parking structure for approximately 170 cars; (c) The NHCU, and a two level parking structure designed to accommodate vertical expansion to four levels for approximately 340 cars; (d) No action, in which case conditions would remain as they are.

The agency's preferred alternative is (c).

Several other alternatives, such as, renovating an existing offsite building, contracting with private nursing home facilities, and building a NHCU over existing parking were studied by the agency. These alternatives were considered not to be viable solutions.

The Statement is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Environmental Affairs Staff, Room 423, Veterans Administration, 811 Vermont Ave., NW., Washington, D.C., (202)–389–3316. Single copies of the Statement may be obtained by writing to: Environmental Affairs Staff (005B), 811 Vermont Avenue, NW., Washington, D.C. 20420.

Dated: September 13, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 82-25751 Filed 9-17-82; 8:45 am]

BILLING CODE 8320-01-M

National Cemetery, Fla.; Availability of Draft Environmental Impact Statement

Notice is hereby given that a document entitled "Draft Environmental Impact Statement for Veterans Administration National Cemetery, Florida," dated August 1982, has been prepared as required by the National Environmental Policy Act of 1969.

This Draft Environmental Impact Statement evaluates the adverse and beneficial effects of creating a new National Cemetery in Florida. For both of the alternative sites—Withlacoochee State Forest Site and Cross Florida Barge Canal Site near Ocala—seven categories of economic, social and physical environmental effects are examined and compared with existing conditions. For each site and for each category of impact, measures to mitigate impacts are described. Alternative sites are discussed, as is the no-action alternative. Finally, a list of preparers, bibliography and index to appendices available upon request is provided.

The document is being placed for public examination at the Veterans Administration in Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (005B), Room 423, Veterans Administration, 811 Vermont Avenue, NW., Washington, D.C. 20420, (202–389–3316). Single copies of the Draft Environmental Impact Statement may be obtained on request to the above office.

Dated: September 13, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 82-25750 Filed 9-17-82; 8:45 am]

BILLING CODE 8320-01-M

Veterans Administration Wage Committee; Meetings

The Veterans Administration, in accordance with Pub. L. 92–463, gives notice that meetings of the Veterans Administration Wage Committee will be held on:

Thursday, October 14, 1982
Thursday, October 28, 1982
Wednesday, Novmeber 10, 1982
Wednesday, November 24, 1982
Thursday, December 9, 1982
Thursday, December 23, 1982

The meetings will begin at 2:30 p.m. and will be held in Room 304, Veterans Administration Central Office; 810 Vermont Avenue, NW., Washington, DC 20420.

The Committee's purpose is to advise the Chief Medical Director on the development and authorization of wage schedules for Federal Wage System (blue-collar) employees.

At these meetings the Committee will consider wage survey specifications, wage survey data, local committee

reports and recommendations, statistical analyses, and proposed wage schedules.

All portions of the meetings will be closed to the public because the matters considerd are related solely to the internal personnel rules and practices of the Veterans Administration and because the wage survey data considered by the Committee have been obtained from officials of private business establishments with a guarantee that the data will be held in confidence. Closure of the meetings is in accordance with subsection 10(d) of Pub. L. 92–463, as amended by Pub. L. 94–409, and as cited in 5 U.S.C. 552b(c) (2) and (4).

However, members of the public are invited to submit material in writing to the Chairman for the Committee's attention.

Additional information concerning these meetings may be obtained from the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: September 10, 1982.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 82-25792 Filed 9-17-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 182
Monday, September 20, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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	Items
Consumer Product Safety Commission	1
Equal Employment Opportunity Commission	2
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1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Wednesday, September 22, 1982.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Beer Kegs Petition, CP 82-3
The Commission will consider petition CP 82-3 from Mr. William C. Haensch which requests a consumer product safety rule to declare certain beer keg tap rod assemblies to be a banned hazardous product under the CPSA.

Closed to the Public:

2. Enforcement Matter OS# 5966

The staff will brief the Commission on isues related to enforcement matter OS# 5966.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Room 342, 5401 Westbard Avenue, Bethesda, Maryland 20207; Telephone (301) 492-6800.

[S-1338-82 Filed 9-16-82; 2:57 pm]

BILLING CODE 6355-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, September 21, 1982, 9:30 a.m. (eastern time).

PLACE: Commission Conference Room No. 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Freedom of Information Act Appeal No. 82-07-FOIA-088-MK, concerning a request for information from a charge file.

2. Freedom of Information Act Appeal No. 82-7-FOIA-24-DE, concerning a request for information contained in an age, equal pay and Title VII charge file.

3. Freedom of Information Act Appeal No. 82-8-FOIA-031-CT, concerning a request for a closed ADEA file.

4. EEOC's Semi-Annual Regulatory Agenda (as required by Executive Order 12291 and the Regulatory Flexibility Act).

5. Proposed Disposition of Comparable Worth Charges.

6. Ninety-Day Notice: Commission Initiated Charges.

7. Proposed Contracts for Expert Witness Services.

8. A Report on Commission Operations by the Acting Executive Director.

Closed:

1. Litigation Authorization: General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION:
Treva I. McCall, Executive Officer, Executive Secretariat at (202) 634-6748.

This Notice Issued September 14, 1982.

[S-1338-82 Filed 9-16-82; 9:32 am]

BILLING CODE 6570-06-M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

September 15, 1982.

TIME AND DATE: 10 a.m., Wednesday, September 22, 1982.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Secretary of Labor, MSHA, and United Mine Workers of America on behalf of Howard Mullins v. Consolidation Coal Company (successor to Pocahontas Fuel Co.), Docket Nos. HOPE 75-680, IBMA 75-39, IBMA 75-40. (Issues include interpretation and application of § 203(b)(3) of the 1969 Coal Act.)

CONTACT PERSON FOR MORE INFORMATION: JEAN ELLEN (202) 653-5632.

[S-1340-82 Filed 9-16-82; 4:15 pm]

BILLING CODE 6735-01-M

federal register

Monday
September 20, 1982

Part II

Department of the Interior

Office of the Secretary

Theodore Roosevelt National Park and Lostwood National Wildlife Refuge; Final Certification of No Adverse Impact

DEPARTMENT OF THE INTERIOR

Final Certification of No Adverse Impact on Theodore Roosevelt National Park and the Wilderness Portion of Lostwood National Wildlife Refuge Under Section 165(d)(2)(C)(iii) of the Clean Air Act

AGENCY: Interior Department.

ACTION: Notice of final determination under Section 165(d)(2)(C)(iii) of the Clean Air Act.

SUMMARY: This notice announces the final determination by the Federal Land Manager of Theodore Roosevelt National Park and Lostwood National Wildlife Refuge, effective September 15, 1982, that five proposed sources in North Dakota subject to Prevention of Significant Deterioration air quality requirements will not adversely affect the resources of the park and refuge (wilderness portion). The Department of the Interior has made the final determination after full consideration of the best available information and the public comments received on the issues involved. The intent of this notice is to announce the final determination of no adverse impact, provide a statement of reasons supporting it, and inform interested persons of the availability of supporting documentation, including a detailed "Response to Public Comments," for inspection and copying.

DATE: The certification of no adverse impact is effective as of September 15, 1982.

ADDRESSES: Copies of the supporting documentation and response to public comments are available for public inspection and copying between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, at the following locations: National Park Service, Main Interior Building, Room 3021, 18th and C Sts. N.W., Washington, D.C.; Air Quality Division, 11011 W. Sixth Avenue, Denver CO, Room 306; and Theodore Roosevelt National Park, Headquarters, Medora, ND. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: John P. Christiano, Air Quality Division, National Park Service—AIR, P.O. Box 25287, Denver, CO 80225, telephone number (303) 234–6620.

SUPPLEMENTARY INFORMATION: The Prevention of Significant Deterioration section of the Clean Air Act deals with an important issue. It concerns major new facilities which wish to locate in relatively unpolluted areas of the country ("clean air regions"), where the new pollution might affect certain federal conservation areas ("class I areas"), set aside for their pristine air quality or other natural, scenic, recreational, or historic values vulnerable to air pollution. In this situation, the Act imposes special requirements on the proposed facilities to ensure that the pollution from them will be minimal. In addition, the Act imposes special responsibilities on the managers of the federal class I areas to ensure that no new facility will have an unacceptable impact on the areas' protected resources.

The Clean Air Act establishes several "Standards" or "tests" for analyzing a proposed facility's impact on the clean air regions in general, and on the class I area in particular. These standards or tests include, among others, National Ambient Air Quality Standards; Prevention of Significant Deterioration class I, II, and III air pollution increments; and the "adverse impact" determination for class I areas. An explanation of the relationship among these standards or tests is particularly relevant to the action which is the subject of this notice.

In brief, *National Ambient Air Quality Standards,* which a proposed facility must not violate under any circumstances, are standards applicable to the entire country. These standards represent those pollution levels acceptable for protecting the public health and national welfare. Attainment and maintenance of these National Ambient Air Quality Standards constitute one of the fundamental purposes of the Clean Air Act: all areas presently not in compliance with the standards must improve their air quality to meet them, and all areas cleaner than the standards must not deteriorate so as to violate them.

The two remaining "standards" or "tests"—class I, II, and III increments and adverse impact determinations—are the primary tools of the Prevention of Significant Deterioration (PSD) provisions which govern the permitting of proposed major new sources of pollution in clean air regions. The *class I increments* apply to clean air regions of the country containing areas such as national parks and wilderness areas. Under the Clean Air Act, Congress designated 158 natural, scenic, or historic areas of special national significance as class I. The class I increments represent the extremely small amount of additional pollution that Congress thought, as a general rule, should be allowed in class I areas. The class I increments also represent the restriction on additional pollution which Congress thought necessary in most cases for protection of the resources in federal class I areas. Typically, therefore, a proposed facility must not violate the class I increment.

The *"adverse impact" determination,* however, provides the possible exception to the general rule that a proposed facility must not violate the class I increment described above. The adverse impact determination, which is the subject of this notice, is a site specific test which examines whether a proposed facility will, in fact, unacceptably affect the resources of a class I area. If the manager of the federal class I area determines that a proposed facility will not adversely affect the class I area, then the permitting authority may authorize the facility even though the facility's emissions may cause a violation of the class I increment. In this situation, the facility must nevertheless not exceed a revised set of class I increments established by the Act. Conversely, if the Federal Land Manager determines and convinces the permitting authority that a proposed facility will adversely affect the class I area even though it will not cause a violation of the class I increment, then the permitting authority may not authorize the facility. Thus, the adverse impact determination is a critical test for a proposed facility which desires to locate near a class I national park or wilderness area.

The action which is the subject of today's notice concerns two mandatory class I areas: Theodore Roosevelt National Park (Theodore Roosevelt NP) and the wilderness portion of Lostwood National Wildlife Refuge (Lostwood NWR). The situation is that the proposed and existing sources located in the vicinity of the two class I areas will meet the National Ambient Air Quality Standards, but they will apparently exceed the class I increments for sulfur dioxide (SO_2). Therefore, the adverse impact determination of the Federal Land Manager may be the determining factor in the State of North Dakota's pending permit decision for six proposed facilities.

Prevention of Significant Deterioration New Source Applications: Six Prevention of Significant Deterioration (PSD) permit applications have been submitted to the State of North Dakota. The applicants are Basin Electric Power Cooperative for a 500 MW unit expansion to the Antelope Valley electric generating station; Warren Petroleum for an expansion of a natural gas processing facility; Nokota Company for a coal-to-methanol plant; Minnesota Power and Light for a 500 MW electric generating station; Amoco Production Company for a natural gas

processing facility; and Phillips Petroleum Company for a natural gas processing facility.

The State of North Dakota, which has been delegated complete PSD authority, has performed regional scale modeling to determine the cumulative air pollution concentrations resulting from all sources subject to PSD on Theodore Roosevelt NP and Lostwood NWR. These sources include ten facilities already permitted or operating and the six applicants. The results indicate concentrations higher than the allowed sulfur dioxide class I 24-hour and 3-hour increments in the North and South Units of Theodore Roosevelt NP and higher than the class I 24-hour increment at the Theodore Roosevelt Elkhorn Ranch Unit and Lostwood NWR.

Because of the model results, the State informed five of the applicants of several options available for obtaining a permit, including the option of requesting certification from the Federal Land Manager under Section 165(d)(2)(C)(iii) of the Clean Air Act that the sources will have no adverse effect on the resources of Theodore Roosevelt NP and the wilderness portion of Lostwood NWR even though the maximum allowable class I increase (i.e., class I increments) will be exceeded. The sixth applicant, Phillips, does not need to request certification from the Federal Land Manager because the emissions from the proposed Phillips plant do not contribute to concentrations that exceed the maximum allowable increases in the class I areas. The five other applicants have chosen to request Federal Land Manager's certification from the Department of the Interior.

Discussion of Public Comments: On July 12, 1982 (47 FR 30222), the Federal Land Manager announced the preliminary determination that the proposed sources would not adversely affect the resources of the two class I areas and provided for a 30-day public comment period. During the public comment period, the State released new air quality data from the first months of 1982. In addition to considering the new air quality data, the Federal Land Manager performed a revised and expanded visibility analysis, including short-term effects. The analysis included consideration of sulfate formation in response to a request from one of the public commenters. On August 27, 1982, in keeping with its policy to invite full public discussion of the issues and thereafter to make a decision based on the best available information, the Department of the Interior reopened the public comment period to make the supplemental information available to interested persons, to solicit comments on the new data and expanded analysis, and to announce the FLM's preliminary determination that the supplemental information did not change the conclusions published on July 12 (47 FR 37968).

Six comments were received representing nine commenters in response to the July 12 **Federal Register** notice. Three comments were received representing six commenters in response to the August 27 notice. In addition to raising the issue of the availability of the new air quality data, the comments were primarily directed to procedural issues, best available control technology, adverse impact criteria, vegetation effects methodology, visibility impairment analysis, and statistical methodology. A summary of the comments follows.

1. *Procedural issues.* Some of the commenters requested preparation of an Environmental Impact Statement (EIS) or an Environmental Assessment (EA) and the holding of an adjudicatory hearing prior to making a final decision to grant or deny the certification requests. It is the position of the Federal Land Manager that section 102(2)(C) of the National Environmental Policy Act (NEPA), and the various implementing regulations, do not apply to the Department's determination of no adverse impact under section 165(d)(2)(C)(iii) of the Clean Air Act, since the determination is not a proposal for a "major Federal action significantly affecting the quality of the human environment" under NEPA, and even were it considered a proposal for a major federal action, it would be exempt from NEPA's environmental impact statement requirement under the specific provisions of section 7(c)(1) of the Energy Supply and Environmental Coordination Act of 1974 ("ESECA"), 15 U.S.C. 793(c)(1). ESECA specifically exempts all actions under the Clean Air Act from the requirements of section 102(2)(C) of NEPA. Nevertheless, the Department's adverse impact determination process involves the type of thorough environmental review and consideration of public comments that is the essence of NEPA, subject to the statutory time deadlines for processing permit applications under the Clean Air Act.

Regarding the request that the Federal Land Manager hold a separate public hearing on the adverse impact determination, neither the Clean Air Act nor the Administrative Procedure Act requires the Federal Land Manager to provide an adjudicatory hearing on an adverse impact determination pursuant to section 165(d)(2)(C)(iii). The Clean Air Act requires only that the permitting authority, not the Federal Land Manager, provide a public hearing with opportunity for written or oral comment. The State of North Dakota, the permitting authority in this action, has announced a public comment period and a public hearing for each of the proposed applicants. Congress stressed the need for both state and federal agencies to avoid delay in the prevention of significant deterioration permitting process. A separate public hearing on the Federal Land Manager's adverse impact determination would consume time and resources while duplicating an aspect of the public hearing required at the state level. Such an action would therefore be inconsistent with clear Congressional intent. All interested parties, including the Department, will have the opportunity to testify at the State's scheduled public hearing.

2. *Best available control technology (BACT).* Several commenters addressed the Federal Land Manager's BACT findings provided in the July 12 Technical Review. The determination that the proposed sources will have no adverse impact is based on the emissions resulting from the applicants' proposed control technologies, and is not based on the Technical Review's recommendations of BACT. Therefore, the BACT recommendations will be submitted to the state during the public comment period for consideration. Since the State of North Dakota is the permitting authority, it is the responsibility of the state to consider BACT comments and to determine what additional control technology, if any, constitutes BACT after weighing all energy, economic, and environmental concerns.

3. *Adverse impact criteria.* One commenter said that an adverse impact on air quality related values must include any changes in the physical, chemical or biological environment (other than changes in air quality) which measurably or predictably modify the natural environment of the park. The Department disagrees with this definition. The Department believes that changes which do not (1) diminish the national significance of the class I area, (2) impair the structure or functioning of the ecosystem, or (3) impair the quality of the visitor experience, are *de minimis* and, therefore, acceptable. Both the legislative history of section 165(d) of the Clean Air Act as well as EPA's regulatory definition of the term "adverse impact" support the

Department's interpretation. The Department stands by its record in the case at hand as illustrative of the aggressive role required of the Federal Land Manager in protecting class I lands and of the proper allocation of the "benefit of the doubt" in favor of the lands' protection. Accordingly, based on "worst case" analyses with correspondingly ample margins of protection for the class I lands, the Federal Land Manager has concluded with confidence, and set forth in the record, that the granting of permits to the five proposed sources will not cause any unacceptable, adverse impacts on the air quality related values of Theodore Roosevelt NP and Lostwood NWR (wilderness portion.)

One commenter misconstrued the July 12 adverse impact discussion to mean that "reversibility" of damage was a criteria for determining adverse impact. Reversibility is just one of many factors considered by the Federal Land Manager in determining the magnitude and scope of potential effects, but it is not one of the three criteria for adverse impact determinations listed above.

Other commenters equated any perceptible change to visibility as adverse. Again, the Department disagrees with this definition. The EPA "visibility regulations" on new source review clearly distinguish between "visibility impairment," which is defined as a humanly perceptible change (40 CFR 51.301(x)), and "adverse impact," which is defined as visibility impairment which occurs to such an extent or with such intensity, duration or frequency as to interfere with the preservation of the area or with the visitor's visual enjoyment of the area (40 CFR 51.301(a)).

4. *Vegetation effects methodology.* Several commenters sought further elaboration on the Federal Land Manager's methodology for determining the potential for effects on sensitive vegetation resources, the potential for effects on soils and the ecosystem, and the likelihood for synergistic effects from various combinations of pollutants. The Federal Land Manager's "Response to Public Comments" document addresses these concerns in detail.

Other commenters mistakenly equated the potential for the temporary disappearance of a few individual lichens with the elimination of an entire lichen species. Based on conservative, "worst case" assumptions, the Federal Land Manager found that emissions from the proposed new sources will have minimal impact of any kind on the resources of the two class I areas. Indeed, the only identified potential impact concerns certain lichens, which are the resources most sensitive to air pollution. However, even these potential impacts, should they occur, are expected to be minimal, extremely limited in magnitude and scope, and most likely temporary and reversible.

5. *Visibility impairment analysis.* In response to a request by one commenter, the Federal Land Manager expanded the July visibility analysis of plume perceptibility and annual regional haze to include the short-term (24-hour) effects, including sulfate, on regional haze. It should be pointed out that the visibility regulations promulgated by the Environmental Protection Agency in December 1980 (45 FR 80084) were limited to those visibility impacts from plumes that reasonably could be attributed to one or more point sources. This narrow approach was a result of what scientific experts believed were the limits of current scientific knowledge and available modeling techniques. Nevertheless, based on additional modeling provided by the State at the request of the Federal Land Manager, the visibility analysis was expanded in an innovative attempt to quantify the potential 24-hour effects on regional haze resulting from the combined emissions of all increment consuming sources, including the proposed sources.

After reviewing the Federal Land Manager's analysis, one commenter performed an alternative analysis which yielded somewhat different and greater frequencies of occurrence based on a set of different assumptions. After careful consideration of both analyses, the Federal Land Manager concludes that the assumptions used in the August supplemental review are preferable since they are appropriate for the meteorological and atmospheric conditions of the two class I areas. The "Response to Public Comments" document elaborates on this conclusion and provides supporting references from the scientific literature.

It should be noted from the previous discussion on adverse impact criteria, that the Federal Land Manager does not necessarily equate a perceptible visibility impairment with an unacceptable, adverse impact. Rather, the Federal Land Manager takes into account the magnitude, duration and frequency of the occurrence of perceptible visibility impairment as it may affect the scenic features of the class I areas that are important to either the national significance or the visitor's enjoyment of the area.

6. *Statistical methodology.* Several commenters suggested alternative ways of estimating the maximum total contributions and of calculating the conversion of the averaging times of the monitored and modeled estimated concentrations to make them comparable with the dose response times in the effects literature. In all cases, the methodology used by the Federal Land Manager resulted in higher, more conservative, worst-case estimates than would have resulted by the alternative methodologies suggested. The Federal Land Manager believes that the use of these extremely conservative assumptions and methodologies provided an ample margin of safety in favor of assuring park protection.

Findings and Determinations: As detailed in the following statements, the Federal Land Manager concludes that the proposed new sources will have minimal impact of any kind, and no adverse impact, on either of the class I areas.

1. Plant and animal species known to be sensitive to low levels of SO_2 and particulate matter are present in each class I area. Lichens appear to be the species most sensitive to changes in air quality, and potential effects would be minimal.

2. The model predicts that SO_2 concentrations higher than the class I increments would occur in the park and refuge even if the six applicants are not permitted.

3. A cumulative frequency of occurrence analysis of the measured SO_2 data shows that high concentrations are episodic and do not represent typical conditions. Half the hourly values are an order of magnitude below the minimum detectable limit of the instruments (5 $\mu g/m^3$).

4. Worst case estimates of the maximum SO_2 concentrations in Theodore Roosevelt NP and Lostwood NWR are at levels known to produce effects on only certain sensitive species, (i. e., two species of lichens).

5. Predicted concentrations of particulate matter are lower than the class I increments and are expected to contribute virtually nothing to ambient air quality levels.

6. Estimated ambient air fluoride concentrations in the park and refuge (wilderness) are insignificant.

7. Soils in the park and refuge (wilderness) are buffered and are therefore unlikely to be affected by acidic rainfall events. Similarly, the streams, ponds and rivers are also unlikely to be affected.

8. Recent field evaluations of sensitive species in each class I area found no symptoms of visible injury due to current ambient air pollution.

9. None of the applicants alone should cause a perceptible plume affecting visibility in the class I areas. An

estimate of the combined effect of all sources on visibility indicates that less than a 2% reduction in annual standard visual range should occur. This is below the threshold limit for human observers. When the regional haze analysis is extended to short-term (24–hour) periods and expanded to include consideration of sulfate formation, visibility impairment to views within the class I areas probably would not be humanly perceptible. It might further be noted that visibility impairment to views of landscape features outside the boundaries of the areas would occur infrequently and would be barely perceptible.

10. Many factors exist in this analysis that tend to overpredict effects on air quality related values. In other words, the actual impact on the resources from the proposed sources will probably be even less than the analysis assumes.

11. The effects on air quality related values are not found to impair the structure and functioning of ecosystems, impair the quality of visitor experience, or diminish the national significance of either class I area.

Based on the above findings and the overall analysis, the Federal Land Manager concludes the following:

1. Granting these permits will not cause an unacceptable, adverse impact on the natural resources of Theodore Roosevelt NP or the wilderness portion of Lostwood NWR. The predicted concentrations (modeled estimates plus monitored concentrations) in the park are at levels at which studies have indicated no effects on mosses and the potential for effects on only two species of lichens. These effects would be limited in magnitude and scope, and would not threaten the basic abundance of the species in either class I area. Even in the absence of the five new sources which have requested a certification from the Federal Land Manpower/the model estimates and air quality data indicate concentrations high enough to produce these effects. It is likely that the major contributors to the monitored SO_2 concentrations are existing sources near the class I areas. In the case of the proposed gas processing plants, processing sour natural gas which is presently being flared will result in an overall decrease in SO_2 emissions. This offset in emissions cannot be quantified without an extensive emission inventory of all the oil wells that are flaring gas (probably in the thousands); however, there should be an emission reduction when the proposed gas plants begin processing the sour gas.

2. Even though the Federal Land Manager is confident of no significant risk to resources in this case, because of the potential for additional growth near these class I areas, it is recommended that several studies be undertaken to provide an extra measure of protection. Possibilities for studies include completion of vegetation maps for the class I areas; lichen monitoring studies; analysis of particulate matter burdens in bird lungs; sulfur analyses of vegetation and soils; and increased ambient monitoring. In the event these studies indicate increased potential for adverse effects, a State Implementation Plan revision might be appropriate to reduce emissions of existing and unreviewed sources.

Conclusions reached in this certification should not be extrapolated to any future permit applications in the vicinity of Theodore Roosevelt NP or Lostwood NWR. Each future application must be reviewed on a case-by-case basis, because a source's emission parameters, such as stack height, gas temperature, and geographic location, determine its interaction with other sources and hence, the potential for effects. New applicants must demonstrate to the Federal Land Manager's satisfaction that the proposed source will not cause or contribute to an adverse impact on the resources of Theodore Roosevelt NP and wilderness portion of Lostwood NWR.

This certification is based on, and therefore limited to, concentrations at or below those specified in the State of North Dakota's pollution modeling and used in the Federal Land Manager's Technical Review. This certification specifically does not apply to any higher concentrations, such as the alternate concentrations set forth in Section 165(d)(2)(C)(iv) of the Clean Air Act.

Dated: September 15, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks, Federal Land Manager of Theodore Roosevelt National Park and Lostwood National Wildlife Refuge.

[FR Doc. 82–25733 Filed 9–17–82; 8:45 am]

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federal register

Monday
September 20, 1982

Part III

Department of Transportation

Federal Aviation Administration

Air Transportation Regulation

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 120, 121, 135; and SFAR 30

[Docket No. 22480; Notice No. 82-13]

Air Transportation Regulation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to remove Parts 121 and 135 from the Federal Aviation Regulations and to add a new Part 120 which implements a new concept in aviation safety regulations entitled "Regulation By Objective" (RBO). Because of the ever-changing operating environment, the FAA is considering replacing traditional "how to" regulations with the safety objectives they are intended to achieve. This will allow the affected operators to assess their operations and seek more effective and efficient methods of complying with safety objectives while maintaining the highest level of safety. This action, therefore, is consistent with Executive Order 12291 and the Regulatory Flexibility Act of 1980.

DATE: Comments must be received on or before January 20, 1983.

ADDRESS: Comments on the proposals may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 22480, 800 Independence Avenue, SW., Washington, D.C. 20591 or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments delivered must be marked: Docket No. 22480. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Dan Beaudette, Training and Technical Standards Branch (AFO-260), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3460.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adopting the proposals contained in this notice are invited. All comments received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 22480." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Regulatory Objectives

The Federal Aviation Administration (FAA) is considering a significant change in its method of establishing air transportation safety regulations. Under a new concept entitled "regulation by objective" (RBO), the FAA would substitute broadly stated safety objectives for many of its detailed "how to" regulations.

Regulation by objective has three major goals:

1. To continue the high level of safety that has made United States aviation regulatory standards a model for almost every aviation regulatory body in the world.

2. To provide regulatory flexibility so that the aviation industry will not be impeded in developing innovative methods for achieving the level of safety thus far maintained under Federally established safety objectives.

3. To comply with the requirements of Executive Order 12291 and the Regulatory Flexibility Act of 1980 for reviewing existing regulations.

Historical Background

Federal safety regulation of air transportation, which is the primary mission of the FAA, began with the Air Commerce Act of 1926 and continues today under the Federal Aviation Act of 1958. The regulations in which the FAA establishes standards for most commercial flights are Parts 121 and 135 of the Federal Aviation Regulations. These parts cover commercial operations ranging form the use of a small airplane for a 100-mile flight to the use of a 400-seat airplane engaged in worldwide operations. Specific regulations cover such subjects as the number of hours a pilot may fly between rest periods and the amount of fuel an airplane must carry for each flight.

The current regulations have been developed over the last 50 years in response to growth and change within the aviation industry. The earliest Federal aviation regulations, developed in the 1930's, covered the "domestic" operations of scheduled operators. In 1945 regulations to cover overseas operations ("flag" air carriers) and nonscheduled operations ("supplemental" and "nonscheduled" air carriers) were added. Over the next 35 years, detailed and complex regulations were necessitated by factors such as economic regulation by the Civil Aeronautics Board (CAB) and changes in the aircraft available for passenger-carrying operations.

At various times during this period, Federal regulations made distinctions based not only on the domestic, flag, and supplemental categories, but also on the takeoff weight of the airplane ("large" versus "small" airplanes), type of engine (reciprocating versus turbine), and number of passengers that could be carried.

Further distinctions, based on the size and economics of the operation, led to additional categories of operators such as commercial operators, air taxi operators, commuter operators, and others. As the variety of aircraft and the variety of operators grew, so did the complexity of the regulations. Much of this complexity resulted because airlines were treated differently depending on whether they required economic authority from the CAB and, if so, depending on the type of that authority. Some of this historical development was related to the fact that the CAB, for many years, had both economic and safety regulatory authority.

Many of the distinctions that led to the current set of regulations are no longer valid. For example, the traditional relationship between the takeoff weight of a small airplane, the number of passengers carried, and the type of operation flown was obscured as airplane manufacturers produced small airplanes that carried passenger loads nearly double the previously accepted maximums. Because airplanes used, and types of operations flown, no longer fell into traditional categories, a whole new category of operator was needed. Also, the gradual economic deregulation of the airline industry made invalid many other traditional distinction between the types of airline operations.

Federal safety regulators have attempted to respond to these many changes in the aviation industry. However, because most safety regulations are written in detailed "how to" form and because the process of revising regulations is time consuming, it has become increasingly difficult to specifically regulate the various types of operators and operations. Thus, the FAA has sought a more effective method for dealing with the increasing complexity of safety regulations and for maintaining regulatory flexibility. Regulation by objective is that method.

Current Regulatory Climate

For many years there were few major complaints from either the aviation community or the affected public about Federal aviation safety regulations. One indication of this fact is that aviation safety regulations have seldom been the subject of litigation. Before 1970 Federal regulations in general were rarely challenged in court and, if so, rarely challenged successfully. However, throughout the 1970's regulatory litigation flourished and agencies such as the Environmental Protection Agency and the Occupational Safety and Health Administration could expect to be challenged, often successfully, by the regulated industry, a public interest group, or both, on virtually every significant regulatory document issued.

Aviation safety regulations have not been similarly challenged perhaps because the complex "how to" regulations that grew over the last 40 years are serving the best interests of the regulated industry and the public, or perhaps because the aviation industry became accustomed to detailed safety regulations in the same manner that it became accustomed to economic regulation. Whatever the reasons, it is now clear that change in the economic regulatory climate has affected the attitude of regulated aircraft operators. Some of the newer, expanding operators are prone to question the appropriateness of "how to" regulations and are inclined to seek better, more efficient ways of achieving safety objectives. That innovative approaches to solving long-term safety objectives have been initiated by the newer and smaller operators should not be surprising. It has been estimated that nearly half of the technological innovations introduced in the United States between 1953 and 1973 were developed by businesses with fewer than 1,000 employees.

In any case, a regulatory system that sets forth complex and specific methods intended for general applicability throughout an industry tends to inhibit innovation within that industry. A number of FAA regulations are already written, at least partially, in objective terms that allow for individual approaches subject to FAA approval. (The continuous airworthiness maintenance program and other examples are discussed more fully later.) In addition, through individually approved operations specifications, exemptions, and responses to petitions for rulemaking, the FAA has attempted to respond to operators who believe that the present regulations should be changed or who believe that an equivalent level of safety can be achieved through a method not specifically authorized under existing regulations. However, few in the aviation industry are likely to argue that the present system is perceived as being open and responsive to innovative approaches to achieving agreed upon safety goals. Whether justified or not, the present exemption and regulation amendment programs are viewed by most knowledgeable people as ponderous, time-consuming methods for change.

With respect to a general rule change, there is an even stronger perception among some operators that is better to live with the present system than to try to change it. The possibility of a general, though favorable, rule change that will take 2 or 3 years to accomplish does not encourage operators to devote their resources to innovative solutions for achieving regulatory objectives.

The primary thrust of the proposed regulation by objective program is to change the climate described above. The FAA would continue to establish broad safety objectives and detailed acceptable methods of complying with those objectives. Aircraft operators will not be discouraged from seeking and proposing more effective methods of achieving those objectives.

Developing the RBO Concept

Regulation by objective is a system that separates the safety objectives inherent in present Parts 121 and 135 and from the detailed "how to" regulations set out at length in those parts. Most current regulations provide a broad safety objective and specific means for achieving that objective. For example, § 121.337 requires "protective breathing equipment covering the eyes, nose, and mouth" to protect a flight crewmember from smoke or other harmful gased, and then specifies that there be "at least 300-liter standard temperature and pressure dry supply of oxygen for each required flight crewmember * * *."

In numerous sections of Parts 121 and 135, safety objectives are currently stated along with "how to" procedures that are either broadly stated or are specified but include an operator-initiated option. For example, § 121.367 pertaining to maintenance, preventive maintenance, and alterations states that each certificate holder shall have a program that ensures that "maintenance, preventive maintenance, and alterations performed by it, or by other persons, are performed in accordance with the certificate holder's manual;" that "competent personnel and adequate facilities and equipment are provided * * *;" and that "each aircraft released to service is airworthy and has been properly maintained * * *" Each individual operator's maintenance program is an adaptation of these requirements and is approved for that operator by an FAA inspector at the field level. These arrangements allow the operator to tailor its maintenance program to suit its operating characteristics.

Although § 135.39 specifies qualifications for director of operations, chief pilot, and director of maintenance, § 135.39(d) states, "Deviations from this section may be authorized if the person has had equivalent aeronautical experience."

The practice, then, of approving variations of compliance methods or approval of control systems that allow the operator to make such variations exists, in part, under the present system, and operating experience demonstrates that such regulatory flexibility does not result in a reduction in safety.

To achieve regulation by objective, thereby providing regulatory flexibility that will not adversely affect safety, the FAA has reviewed each section of the current regulations and separated the objectives from the means of achieving the objectives. Each section of Parts 121

and 135 was carefully examined by the FAA to determine how that section could be incorporated into the regulation by objective concept. It was determined that portions of sections or entire sections could be assigned to one of the following categories:

1. The objective of the rule could be determined and stated as an objective in Part 120. (§§ 120.17 and 120.25 are examples.)

2. The rule, as stated in Parts 121 or 135, should remain specific ("how to") because no acceptable alternative is anticipated. (§§ 120.81 and 120.85 are examples.)

3. The rule, as stated in Parts 121 or 135, describes applicability, certification, and implementation procedures for an operator category that would no longer be specified, and thus, needs to be revised. (§§ 120.1 and 120.9 are examples.)

4. The rule should be deleted for one of the following reasons:

(a) The rule is an obsolete applicability provision.

(b) The rule contains outdated requirements such as compliance dates which have expired.

(c) The rule describes a service or provides information that is more appropriately published in a nonregulatory document.

The distribution table at the end of proposed new Part 120 indicates the sections that would be deleted and the reasons for doing so.

Proposed Part 120 contains all of the objectives that the FAA identified in current Parts 121 and 135. The FAA proposes that these objectives become the central body of regulations to be issued, periodically reviewed, and updated as needed. Proposed Part 120 also contains certain procedural regulations an some "how to" regulations which will remain in effect as general regulations.

At the time that Part 120 replaces Parts 121 and 135, the full text of each substantive safety requirement that presently appears in Parts 121 and 135, and that is not included in Part 120, will be issued by the FAA in advisory circular form as an acceptable method of complying with the safety objectives in Part 120.

One advisory circular will contain all of the substantive provisions to be transferred from Part 121 while another will do the same for Part 135. The Part 121 and 135 provisions listed in the source notes for proposed §§ 120.17 through 120.77 will be included verbatim in the advisory circular. The Part 121 and 135 provisions listed in the source notes for proposed §§ 120.1, 120.9, 120.13, 120.61, and 120.85 have been fully reflected in Part 120 and, therefore, will not appear in the advisory circular. Each advisory circular will also contain an administrative section that will explain the procedures for use of the RBO system, including the process for changing methods of compliance, either on an indivudual basis for a particular operator or generally—whether initiated by an operator, the FAA, or a third party.

How RBO Works

Under RBO every operator will be required to achieve broadly stated safety objectives to be contained in Part 120. At the time that an RBO system takes effect, the operator's particular "how to" regulations for achieving safety objectives will be identical to the appropriate acceptable methods contained in the advisory circulars as modified by the provisons of any exemptions that are still in effect for that operator. Thus, initially, an operator would be subject to the same regulations that now apply under either Part 121 or 135. An operator will be issued an operating certificate and an operating document consisting of three parts—

1. The sections of Part 120 that apply to that operator;

2. The specific methods of compliance that the operator uses in complying with Part 120 objectives; and

3. The applicable operations specifications.

The specific methods of complying with Part 120 objectives will have the same legal status and enforceability as operations specifications which have been issued with airline operating certificates from the very beginning of Federal safety regulations.

A major difference under RBO is that the operator may either continue to use its specific "how to" regulations as stated in its operating document, or it may seek to change those specific methods of compliance. If it wants to revise a specific method for achieving a safety objective, the operator may request a change to its operating document. The operator submits both the requested change and a validation procedure by which the operator can show that the proposal provides an equal level of safety as that provided under the current specific method of compliance. The proposed change will be reviewed by the FAA and will be approved only if the change is consistent with the current safety level and with the stated objectives.

While one of the primary goals of RBO is to provide regulatory flexibility so that airline operators will not be impeded in developing new methods for achieving the minimum safety objectives, validating a new method will be the operator's responsibility.

Validation

Methods of compliance developed by an operator will require proof-of-concept—a validation procedure. The validation procedure would be submitted to the FAA for approval. The proposed validation procedures will be reviewed for suitability. Once the validation procedure is approved, the operator would then use that procedure to prove to the FAA that the proposed method of compliance is safe, feasible, and capable of implementation and enforcement. One or more validation methods may be appropriate, depending on the proposal to be validated.

The following are examples of validation methods:

1. Tests (written, practical, functional, performance).

2. Analysis (statistical, engineering, operations, technical).

3. Studies (control/study group, data collection).

4. Inspections (persons, equipment, procedures, facilities).

5. Demonstrations (proving runs, operators, maintenance).

6. Sampling techniques (persons, equipment, procedures, facilities).

7. Simulation (aircraft, procedures, equipment, environment, performance).

Other Essential Features of RBO

In addition to the features already described, the RBO system includes several essential components which will ensure that the FAA's overall safety objectives are met. These are:

1. A new Aviation Safety Analysis System (ASAS).

2. Briefings and information documents for those regulated or interested in RBO and its ASAS component and training for FAA personnel in administering the RBO system.

3. A central FAA office that could be responsible for ensuring uniform application throughout the FAA and that there is no decrease in the overall level of aviation safety.

4. Public information files for general and specific methods of compliance and opportunity for public comment for changes that may affect the level of safety.

Aviation Safety Analysis System

Recently the FAA has undertaken to establish an Aviation Safety Analysis System (ASAS) that will be designed to make maximum use of present technology for information collection

and documentation. This system will integrate hardware ranging from simple word processors to sophisticated computers. The ASAS will make it possible for the FAA to accomplish the following:

1. Record and maintain, in a current status, the Part 120 regulations that apply to an operator and the specific methods of compliance that have been approved for that operator. The system will be capable of producing, amending, and storing these documents for such purposes as research, evaluation, and analysis.

2. Correlate data from safety reports presently collected from operators.

3. Correlate information collected and documents produced throughout the FAA system, such as field inspections, legal interpretations, safety objectives, and provide summary data reports.

This system will provide the FAA with the information needed to deal with specific operator requests and to anticipate the need for FAA initiated regulatory changes whether of a general or specific nature. It will also make it possible for those subject to FAA regulation and for the general public to keep abreast of the workings and effectiveness of the regulation by objective system as well as other FAA activities. With the exception of protected materials such as proprietary information, active investigative, files, and certain protected internal agency communications, it is anticipated that information contained in the ASAS will be available to the public, subject to charges for services where applicable.

Training and Information Documents and Briefings

To derive maximum benefit from RBO, both aircraft operators and FAA personnel must be thoroughly informed on all aspects of the system. Training programs and briefing sessions conducted FAA-wide, as well as information documents, will inform field personnel and aircraft operators of their role in the RBO system. These programs and documents will cover in depth the process, management, and legal implications of the RBO system, the Aviation Safety Analysis System, and their interrelationships.

Central Review

A natural, and justified, concern of persons familiar with any particularized system of approval, such as the proposed RBO system, is that inconsistencies will develop that may affect the integrity of the system and ultimately the level of safety that system is designed to achieve.

To address this concern, the RBO system will have, as an integral feature, a central FAA office that will use the Aviation Safety Analysis System to ensure that (1) each operator's specific methods of compliance remain consistent with the level of safety inherent in the acceptable methods of compliance and the overall safety objectives; and, (2) that the system is administered uniformly.

To achieve acceptable and desirable change, this office will be staffed with highly qualified persons in each needed technical area. In addition, this staff will be served by and will be expert in the use of the new Aviation Safety Analysis System.

Public Process

The FAA has, for many years, been a leader in conducting rulemaking in a manner that maximizes the opportunity for public participation. Such opportunities would continue to be available under RBO. First, the proposed RBO system is, under this notice, subject to the usual public participation process. Drafts of advisory circulars will also be made available for public comment before any final action is taken on this proposal. Second, the safety objectives stated in Part 120 would be changed on an industry-wide basis only after the usual notice and public comment procedures. Third, whenever the FAA believes a change to an acceptable method of compliance is warranted and that the change may affect the level of safety, the FAA will invite and consider public comment. Finally, both the acceptable method of compliance in the advisory circular and the particular regulations included in an operating document will be publicly available. In addition, except for certain proprietary information submitted during the validation process, all materials considered by the FAA in approving acceptable methods of compliance or particular regulations will be available to the public.

Economic Evaluation

There are no discernible costs to industry associated with Part 120, since it establishes no new standards and sets no new requirements. Operators may comply with the objectives of Part 120 by following standards which are present Part 121 and Part 135 regulations.

The degree of benefits of the regulatory action proposed are difficult to quantify at this time because they are contingent on industry initiative. If the aviation industry develops innovative, less costly ways to comply with the safety objectives, the benefits will be considerable. However, the number and types of such actions and subsequent benefits cannot currently be forecast in any quantitative manner.

Implementation and Effects of RBO on other Regulations and Related Documents

The requirements of present Parts 121 and 135 are referenced in many other provisions in the Federal Aviation Regulations. In addition, Parts 121 and 135 are affected by Special Federal Aviation Regulations (SFAR) 14, 34, 36, and 41.

This document does not state the impact that adopting a new Part 120 would have on either the existing references to Parts 121 and 135 or the SFAR's. Both issues will be dealt with in a supplemental document to be issued for public comment before final action is taken on this proposal.

This proposal, if adopted, will be implemented by FAA consistent with U.S. obligations under the International Civil Aviation Covention.

Pending Rules. At the present time, the FAA is processing several rulemaking actions affecting Parts 121 and 135. These include NPRM's that are being developed as part of our ongoing regulatory program (for example, the Rotorcraft Review Program), as well as NPRM's that have been published but for which no final action has been taken.

These rulemaking activities are not included in this notice but may be added in the future as amendments to Part 120 (regulatory objectives) or as acceptable methods of compliance following the normal rulemaking process.

Implementation. At the time a regulation by objective system is adopted, each holder of a valid operating certificate will qualify for a Part 120 operating certificate. A reasonable period of time will be allowed for transition from the present system to the new system. Concurrent with issuance of a Part 120 rule, the FAA intends to issue a Special Federal Aviaton Regulation that will state how a Part 121 or Part 135 certificate holder will qualify for operations under Part 120.

Public Meeting

In addition to seeking comments on proposed Part 120, the FAA plans to schedule a public presentation of RBO which will explain what it is and how it will work. The presentation will be followed by a question-and-answer period. This meeting will be announced in the **Federal Register** when the details are finalized.

In commenting on this proposal, the FAA invites attention to the following questions:

1. To what extent will the aviation industry devote resources to finding innovative and more efficient ways to comply with the safety objectives that underlie the present regulations in Parts 121 and 135?

2. Will the RBO concept be perceived as being more conducive to innovation than the present system of detailed "how to" regulations with its provisions for exemptions and petitions for rulemaking?

3. Can you project and quantify any efficiencies, economies or savings which your operation could realize from exercising the flexibility allowed by RBO? If so, please provide such estimates with some indications of your methodology.

4. What effect will this proposal have on the level of safety presently maintained in air transportation operations?

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), any reporting or recordkeeping provisions that may be included in this regulation will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained and the public notified to that effect.

List of Subjects in 14 CFR Part 120

Acceptable method of compliance, Air carriers, Air taxi, Air transportation, Air traffic control, Aircraft, Airmen, Airplanes, Airports, Airspace, Airworthiness directives and standards, Airworthiness, Alcohol, Aviation safety, Baggage, Beverages, Cargo, Chemicals, Children, Common carriers, Drugs, Flammable materials, Flight operations personnel, Handicapped, Hazardous materials, Helicopters, Hours of work, Mail, Narcotics, Operating document, Pilots, Safety, Smoking, Transportation, Weapons.

The Proposed Amendments

Accordingly, the FAA proposes to amend 14 CFR, Chapter I by removing Parts 121 and 135 and SFAR 38 and adding a new Part 120 as follows:

PART 121—[RESERVED]

1. By removing Part 121 and marking it reserved.

PART 135—[RESERVED]

2. By removing Part 135 and marking it reserved.

3. By removing SFAR–38.

4. By adding a new Part 120 to read as follows:

PART 120—AIR TRANSPORTATION

Sec.

120.1 Applicablity.
120.5 Definitions.
120.9 Certification.
120.11 Enforcement.
120.13 General.
120.17 Management requirements.
120.21 Flight operations personnel certification and qualifications.
120.25 Training program—flight operations personnel.
120.29 Training program—maintenance personnel.
120.33 Aircraft airworthiness, certification, and registration requirements.
120.37 Aircraft operational tests.
120.41 Aircraft limitations.
120.45 Maintenance.
120.49 Instrument and equipment requirements.
120.53 Flight authorization and control system.
120.57 Pilot-in-command authority and responsibility.
120.61 Manual requirements.
120.65 Flight rules.
120.69 Operating requirements.
120.73 Passenger safety.
120.77 Reporting, documentation, and recordkeeping requirements.
120.81 Inspection and surveillance.
120.85 Passenger responsibilities.

Authority.—Sections 313(a), 314(a), 601 through 610, and 1120 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1355(a), 1421 through 1430, and 1502); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

§120.1 Applicability.

(a) This part prescribes rules governing the certification and operations of the following:

(1) Each person who, whether directly, indirectly, or by a lease or any other arrangement, engages in air transportation.

(2) Each person who, for compensation or hire, engages in the common carriage of persons or property by aircraft in air commerce solely between points entirely within any state of the United States.

(3) Each person who engages in the carriage, in air commerce, of persons or property for compensation or hire as a commercial operator (not an air carrier) in aircraft having a maximum seating configuration of less than 20 passengers or a maximum payload capacity of less than 6,000 pounds.

Source: 121.1(a).

Note.—To avoid voluminous duplication in the source listings, the part number is listed once and the following numbers are sections within that part.

Example: 121.339; 340; 353; 135.107.

(b) In addition, this part prescribes rules governing—

(1) Each person employed or used by any person conducting operations under this part, including the maintenance, preventive maintenance, and alteration of aircraft; and

(2) Each person on board an aircraft being operated under this part.

Source: 121.1(c); 135.1(a); 3.

(c) The rules in this part which refer to a person certificated under this section apply also to any person who engages in an operation governed by this part without the appropriate certificate and operating document required by this part.

Source: 121.4; 135.7.

(d) This part does not apply to operations conducted under Parts 125, 129, 133, and 137 of this chapter, Part 375 of this title, or emergency mail services conducted under Section 405(h) of the Federal Aviation Act of 1958 as amended. In addition, this part does not apply to the following:

(1) Training or ferry flights.

(2) Aerial work operations, including—

(i) Crop dusting, seeding, spraying, and bird chasing;

(ii) Banner towing;

(iii) Aerial photography or survey;

(iv) Fire fighting; and

(v) Powerline or pipeline patrol.

(3) Sightseeing flights conducted in hot air balloons.

(4) Operations conducted under § 91.59.

(5) Operations with aircraft having a seating configuration of 30 seats or less, or a maximum payload capacity of 7,500 pounds or less when conducting—

(i) Nonstop sightseeing flights that begin and end at the same airport and are conducted within a 25-statute-mile radius of that airport; or

(ii) Nonstop flights conducted within a 25-statute-mile radius of the airport of takeoff carrying persons for the purpose of intentional parachute jumps.

(iii) Helicopter flights conducted within a 25-statute-mile radius of the airport of takeoff, if—

(A) Not more than two passengers are carried in the helicopter in addition to the required flightcrew;

(B) Each flight is made under VFR during the day;

(C) The helicopter used is certificated in the standard category and complies with the 100-hour inspection requirements of Part 91 of this chapter;

(D) The operator notifies the FAA Flight Standards District Office responsible for the geographic area

concerned at least 72 hours before each flight and furnishes any essential information that the office requests;

(E) The number of flights does not exceed a total of six in any calendar year;

(F) Each flight has been approved by the Administrator; and

(G) Cargo is not carried in or on the helicopter.

Source: 121.1(b), (f); 135.1(a)(7), (b).

§ 120.5 Definitions.

For the purpose of this part:

"Flight operations personnel" means all crewmembers, flight operations instructors and evaluators, and those persons designated by the certificate holder to authorize flights.

"Operating document" means an approved document which prescribes a certificate holder's specific methods of complying with this part.

"Specific method of compliance" means a method, system, or equipment approved for use by the certificate holder to comply with one or more rules of this part.

§ 120.9 Certification.

(a) *General.* Each person engaging in operations under this part shall obtain and continuously maintain an appropriate certificate and operating document.

(1) Each person engaging in air transportation shall obtain an air carrier operating certificate and an operating document.

(2) Each person engaging only in common carriage solely between points entirely within any state of the United States shall obtain an operating certificate and an operating document.

(3) Each person engaging only in the carriage in air commerce of persons or property for compensation or hire as a commercial operator (not an air carrier) in aircraft having a maximum seating configuration of less than 20 passengers or a maximum payload capacity of less than 6,000 pounds shall obtain an operating certificate and an operating document.

Source: 121.3(a), (c), (e), (f); 13; 135.5; 9; 13; SFAR–38.

(b) *Certificate contents.* Each certificate, as appropriate, shall contain the following:

(1) The holder's name, all business names under which the holder may conduct operations, and the address of the principal operations base or business office.

(2) A description of the operations authorized.

(3) A statement by the Administrator that the holder has met the requirements for, and is entitled to, the certificate.

(4) The date it is issued.

Source: 121.25(a); 45(a); 135.27(a); 29.

(c) *Operating document contents.* Each operating document shall be approved by the Administrator and contain the following:

(1) Applicable portions of this part.

(2) Specific methods of compliance required to be used by the certificate holder to comply with the portions of this part specified in paragraph (c)(1) of this section.

(3) Operations specifications which contain specific authorizations and limitations such as, but not limited to—

(i) Airports, routes, and area limitations and authorizations applicable to the type of operation conducted by the certificate holder;

(ii) Types of aircraft authorized for use;

(iii) Approved aircraft maintenance program, if applicable;

(iv) Approved aircraft inspection program, if applicable;

(v) Procedures for control of weight and balance of aircraft, if applicable;

(vi) Interline equipment interchange or leasehold agreement requirements, if applicable; and

(vii) Any other item that the Administrator determines is necessary to cover a particular situation.

Source: 121.25(b); 45(b); 135.33.

(d) *Initial application.* (1) An applicant shall be a citizen of the United States and, if required by the Federal Aviation Act of 1958, as amended, hold appropriate economic authority.

(2) An applicant shall possess, through ownership or leasehold agreements, sufficient aircraft and facilities to safely and adequately perform the operations for which application is made.

(3) An applicant shall submit an application, in a form, manner, and content acceptable to the Administrator, to the appropriate FAA district office in whose area the applicant proposes to establish its principal operations base. Application shall be made at least 60 days in advance of the proposed operation.

Source: 121.28; 47; 51(a); 135.11.

(e) *Issuance.* (1) Before issuing a certificate and an operating document, based on the type of operation that the applicant intends to conduct, the Administrator—

(i) Prescribes the contents of the applicant's operating document; and

(ii) Determines that the applicant is properly and adequately equipped, qualified, and able to conduct safe operations in accordance with the operating document.

(2) After issuance of a certificate and operating document, the certificate holder and each person used by the certificate holder, shall conduct operations in accordance with the certificate and the operating document.

Source: 121.27(a); 51(a); 135.11.

(f) *Amendments.* (1) A specific method of compliance in the operating document may be amended if the certificate holder applies for the amendment and the Administrator determines that the proposed amendment meets the intent of the safety objective, provides an equivalent level of safety with the method of compliance it would replace, and is in the public interest. Conditional operating approval may be granted by the Administrator for the purpose of validating the proposal. In the event that the amendment is disapproved, the certificate holder may petition for reconsideration. In such case, within 30 days after receiving a notice to refuse the amendment, the applicant may petition the Director of Airworthiness for amendments pertaining to airworthiness, or the Director of Flight Operations for amendments pertaining to flight operations, to reconsider the refusal to amend.

(2) The certificate or the operations specifications may be amended if the certificate holder applies for the amendment and the FAA district office charged with the overall inspection responsibility determines that safety and the public interest allow the amendment.

(3) The Administrator may amend a certificate holder's specific method of compliance or operations specifications, or both, if it is determined that safety in air transportation or air commerce and the public interest requires the amendment. In such case, the FAA district office charged with overall inspection responsibility notifies the certificate holder, in writing, of the proposed amendment fixing a reasonable period (but not less than 7 days) within which the certificate holder may submit written information, views, and arguments on the amendments. After considering all relevant material presented, the district office notifies the certificate holder of any amendment adopted or rescinds the notice. The amendment becomes effective not less than 30 days after the certificate holder receives notification, unless the certificate holder petitions the Associate Administrator for Aviation Standards to reconsider the amendment, in which

case its effective date is stayed pending a decision by the Associate Administrator. If the district office finds that there is an emergency requiring immediate action with respect to safety in air transportation or air commerce that makes the procedure in this paragraph impracticable or contrary to the public interest, it may issue an amendment, effective without stay, on the date the holder receives notification. In such case, the district office incorporates the finding and a brief statement of the reasons for it in the notice of the amendment to be adopted.

(4) The Administrator may amend a certificate under the provisions of Section 609 of the Federal Aviation Act of 1958, as amended, and Part 13 of this chapter.

Source: 121.77(a); 79(a), (b), (d); 135.15; 17.

(g) *Duration.* A certificate issued or amended under this part is effective until it is surrendered by the holder or it is suspended, revoked, or otherwise terminated by the Administrator. The certificate shall be returned to the Administrator within 30 days after a certificate holder ceases operations under this part. The certificate shall be returned to the Administrator immediately if it is suspended, revoked, or otherwise terminated.

Source: 121.29(a), (b); 53(a), (e); 135.9; 35.

§ 120.11 Enforcement.

No person may operate, or perform maintenance on, an aircraft used in an operation subject to this part except in accordance with the provisions of this part and the requirements of applicable operating documents. Each failure to so comply constitutes a separate violation.

§ 120.13 General.

(a) *Leasing of Aircraft.* (1) A certificate holder who enters into a leasing arrangement whereby that certificate holder agrees to provide a large aircraft and at least one pilot flight crewmember to another person certificated under this part, Part 123, or Part 125 of this chapter or engaged in the operation of a foreign air carrier or other foreign airline shall provide the Administrator with a copy or a written memorandum of the terms of the leasing arrangement.

(2) No person may conduct any operation under such leasing arrangement until the Administrator determines which party to the agreement is conducting the operations and amends that certificate holder's operations specifications as appropriate.

Source: 121.6.

(b) *Carriage of certain prohibited substances.* If a certificate holder allows any aircraft owned or leased by the holder to be engaged in any operation that the certificate holder knows to be in violation of § 91.12(a) of this chapter, that operation is a basis for suspending or revoking the certificate.

Source: 121.15; 135.41.

(e) *Change of address.* Each certificate holder shall notify the FAA district office charged with the overall inspection authority of the certificate holder's operations, in writing, at least 30 days in advance of any change in the address of its principal business office, its principal operations base, or its principal maintenance base.

Source: 121.83; 135.27(b).

(d) *Authority for deviations.* The Administrator may, upon application by the certificate holder, authorize deviations from the applicable requirements of this part by an appropriate amendment to the certificate holder's operating document for U.S. Government contracts or for emergency operations. The Administrator may, at any time, terminate deviation authority issued under this section. Each certificate holder authorized to deviate under this section shall comply with the terms of the authorization when conducting such operations.

(1) If, in the case of U.S. Government contracts, the appropriate Department certifies to the Administrator that the operation is essential to national interests and requires the requested deviation and the Administrator finds that the deviation is not based on an economic advantage or convenience to the certificate holder or the United States, the Administrator may authorize deviations for operations conducted as a primary contractor, or a subcontractor with the primary contractor, under a contract with a Department.

(2) In emergency conditions, the Administrator may authorize deviations for operations if those conditions necessitate the transportation of persons or supplies for the protection of life or property and the Administrator finds that a deviation is necessary for the expeditious conduct of the operation.

Source: 121.57(a), (b), (c).

(e) *Route and area approval.* Each certificate holder seeking route or area approval shall show that it is equipped and able to conduct operations on that route, or in that area, and shall comply with the routes, areas, navigation methods, and limitations listed in the certificate holder's operating document.

Source: 121.93; 113(a); 555.

(f) *Instrument approach procedures.* No person may make an instrument approach at an airport except in compliance with IFR weather minimums and instrument approach procedures set forth in the certificate holder's operating document.

Source: 121.567.

§ 120.17 Management requirements.

Each certificate holder shall have a management system which ensures that all component parts of its operation are conducted with the highest degree of safety and in accordance with its operating document. The certificate holder shall also ensure that positive, operational control of the certificate holder's operations remains vested with persons designated to make operational decisions regardless of where its operations are conducted.

Source: 121.59; 61; 135.37; 39.

§ 120.21 Flight operations personnel certification and qualifications.

(a) No certificate holder may use the services of any person as a pilot, nor may any person serve as a pilot, in operations under this part, or an aircraft having a passenger seating configuration of more than 30 seats or a payload capacity of more than 7,500 pounds, if that person has reached the age of 60.

Source: 121.383(c).

(b) No certificate holder may use the services of any person, nor may any person serve, in operations under this part unless that person meets the applicable airman and medical certification requirements of this chapter, and meets the qualifications, training, and currency requirements of this part and its operating document.

Source: 121.383(a); 432(a); 435; 135.95.

(c) The following are the currency and qualification requirements for the positions indicated.

(1) Each person shall demonstrate to an appropriate supervisor familiarity with and competency in the duties of the position before serving without supervision.

Source: 121.383(a); 434; 463(a)(2); 463(c)(d); 135.244.

(2) Each pilot shall—

(i) Hold the appropriate airman certificates and ratings; and

(ii) Maintain a sufficient skill level to properly perform assigned duties through flight experience or training.

Source: 121.437; 439(a), (b), (c); 135.243; 245; 247.

(3) Each pilot in command shall—

(i) Be recurrently evaluated while performing operations under this part to assure competency in the assigned duties; and

(ii) Before conducting certain operations specified by the Administrator, meet special qualification requirements.

Source: 121.440; 445; 135.243; 244; 299.

(4) Each flight engineer shall—

(i) Be qualified to perform the assigned duties; and

(ii) Maintain a sufficient skill level to properly perform assigned duties through flight experience or as determined through evaluation.

Source: 121.387; 453.

(5) Each flight navigator shall be qualified to perform the assigned duties.

Source: 121.389

(6) Each aircraft dispatcher shall be qualified to perform the assigned dispatching duties.

Source: 121.383(a).

(7) Each flight and simulator instructor shall hold the appropriate certificates and meet the proficiency and currency requirements commensurate with the duties involved. Each pilot flight instructor shall hold a flight instructor certificate or be trained in teaching skills.

Source: 121.411; Appendix H; 135.337.

(8) Each check airman shall hold the appropriate certificates and ratings, meet proficiency and currency requirements commensurate with the duties involved, and obtain FAA approval before serving as a check airman.

Source: 121.411(a), (c); Appendix H; 135.303; 337; 353.

§ 120.25 Training program—flight operations personnel.

(a) Each certificate holder shall provide a training program, specifically approved by the Administrator, for its flight operations personnel. The training program must assure that those persons are familiar with and competent in the assigned duties of their positions before performing such duties. Revisions specified by the Administrator shall be made when necessary for the continued adequacy of the training program.

(b) Each training program shall consist of—

(1) Initial and recurrent courses of training in each person's duty position and in the operation of each type of aircraft operated by that person;

(2) Adequate training facilities, devices, aids, and materials, adequately maintained to provide a proper learning environment; and

(3) Qualified instructors and evaluators to conduct the training and evaluation required by this part.

(c) Each course of training shall include the following subject matter applicable to each person's duty position:

(1) Air transportation system.

(2) Equipment to be operated.

(3) Duties to be performed.

(4) Operational situations which may be encountered.

(5) In addition, for instructors and evaluators:

(i) Duties, functions, and responsibilities of the position.

(ii) Means of conducting training or evaluation.

(iii) Detection and resolution of inadequate training or performance.

(d) Each person shall be trained and evaluated initially and recurrently to ensure proficiency in that person's assigned duties for each type of equipment operated.

Source: 121.400; 401; 403; 405; 407; 409; 413; 417; 418; 419; 420; 421; 422; 424; 425; 426; 427; 432(b); 433; 433a; 435; 441; 463(a)(1); 463(b); Appendix E, F, G, H; 135.97; 293; 295; 297; 299; 301; 321; 323; 325; 327; 329; 331; 333; 335; 337; 339; 341; 343; 345; 347; 349; 351.

§ 120.29 Training program—maintenance personnel.

Each certificate holder shall have, for aircraft under a continuous airworthiness maintenance program, a training program to ensure that each person who determines the adequacy of work done is fully informed about procedures, techniques and equipment in use, and is competent to perform the assigned duties.

Source: 121.375; 135.433.

§ 120.33 Aircraft airworthiness, certification, and registration requirements.

(a) Except as provided in paragraph (c) of this section, no certificate holder may operate an aircraft under this part unless that aircraft is registered as a civil aircraft of the United States, carries an appropriate current airworthiness certificate, and was type certificated in the transport category under Part 25, Part 4b of the Civil Air Regulations, as in effect after October 31, 1946, Special Air Regulations 422, 422A, or 422B, or as specified in paragraphs (a)(1) through (a)(5) of this section.

(1) Large airplanes with engines rated at more than 600 horsepower each not certificated under Part 25, Part 4b of the Civil Air Regulations, as in effect after October 31, 1946, or Special Civil Air Regulations 422, 422A, or 422B shall comply with applicable airworthiness criteria in §§ 121.157 (c) and (d), 121.213 through 121.283, 121.307, 121.312, and 135.169(a) in effect on [the day before the effective date of the amendment.]

(2) Reciprocating engine or turbopropeller-powered small airplanes that have a passenger seating configuration, excluding any pilot seat, of 10 seats or more must have been type certificated—

(i) Before July 1, 1970, in the normal category under Part 23 or Part 3 of the Civil Air Regulations, and meet special conditions issued by the Administrator for airplanes intended for use under Part 135;

(ii) Before July 19, 1970, in the normal category under Part 23 or Part 3 of the Civil Air Regulations, and meet the additional airworthiness standards in Special Federal Aviation Regulation No. 23;

(iii) In the normal category or under Aeronautical Bulletin 7A, and meet the additional airworthiness standards in Part 135, Appendix A in effect [the day before the effective date of the amendment;]

(iv) For aircraft with a passenger seating configuration of 10 seats or more, excluding any pilot seat, type certificated under paragraphs (a)(2)(i) through (a)(2)(iii) of this section, the passenger seating configuration shall not exceed the maximum seating configuration used in that type airplane in operations under Part 135 before August 19, 1977, unless the airplane complies with Part 135, Appendix A in effect on (the day before the effective date of the amendment.)

(3) Reciprocating engine or turbopropeller-powered airplanes, with allowable takeoff gross weight in excess of 12,500 pounds, may have been type certificated in the normal category under Special Federal Aviation Regulation No. 41 instead of the requirements of paragraph (a)(2) of this section.

(4) Small airplanes that have a passenger seating configuration of nine seats or less shall have been type certificated in the normal category or under Aeronautical Bulletin 7A.

(5) Rotorcraft shall have been type certificated in the normal or transport category. In addition, rotorcraft with a passenger seating configuration of more than 30 seats or a payload capacity of more than 7,500 pounds shall comply with § 127.91 in effect on (the day before the effective date of the amendment.)

Source: 121.153(a); 157(c),(d), (e); 213 thru 283; Appendix C; 135.2(e); 25(a); 169.

(b) No certificate holder may operate an aircraft unless the aircraft is in an

airworthy condition and meets the applicable airworthiness requirements of this chapter.

Source: 121.153(a); 135.25(a).

(c) A certificate holder may operate an aircraft, in common carriage and for the carriage of mail under this part, that is leased or chartered to it without crew and is registered as a civil aircraft in a country which is a party to the Convention on International Civil Aviation and carries an appropriate airworthiness certificate issued by the country of registration and meets the requirements of § 121.153(c) or § 135.25(d) in effect on (the day before the effective date of the amendment.)

Source: 121.153(c); 135.25(d).

§ 120.37 Aircraft operational tests.

(a) No certificate holder may conduct operations under this part unless the type or make and model of aircraft to be used has been proven, through aircraft proving flights, to be capable of performing operations allowed under this part.

Source: 121.163(a).

(b) No certificate holder may operate a turbojet airplane, or an aircraft for which two pilots are required by this chapter for operations under VFR, unless it shows through operational proving flights, in a representative sampling of its operations under this part, that it can safely operate and adequately support that type or make and model aircraft. No certificate holder may carry passengers on proving flights except those needed to make the test and those designated by the Administrator.

Source: 121.163(b), (c), (d), (e); 135.145.

(c) Each certificate holder using an aircraft with a seating capacity of more than 44 passengers in passenger-carrying operations under this part shall—

(1) Demonstrate the ability to safely evacuate the aircraft under simulated emergency conditions; and

Source: 121.291(a), (b), (c); Appendix D.

(2) Demonstrate the ability to properly deploy and use ditching equipment where the carriage of such equipment is required.

Source: 121.291(d), (e); Appendix D.

§ 120.41 Aircraft limitations.

No person may take off an aircraft unless the airport and environmental conditions for takeoff, en route flight, and landing, permit operation within the corresponding performance data, including operating limitations, contained in the Airplane or Rotorcraft Flight Manual or as specified by the Administrator.

Source: 121.157(a), (b); 161; 171; 173; 175; 177; 179; 181; 183; 185; 187; 189; 191; 193; 195; 197; 198; 199; 201; 203; 205; 207; 135.183; 361; 363; 365; 367; 369; 371; 373; 375; 377; 379; 381; 383; 385; 387; 389; 391; 395; 397; 399.

§ 120.45 Maintenance.

(a) This section prescribes requirements, in addition to rules in other parts of this chapter, for the maintenance, preventive maintenance, and alteration of each certificate holder's aircraft.

Source: 121.157(e); 361(a); 135.411.

(b) Each certificate holder operating aircraft that are type certified with a passenger seating configuration, excluding any pilot seat, of nine or less and a maximum payload capacity of 7,500 pounds or less:

Source: 135.411(a)(1).

(1) Shall have aircraft inspections conducted in accordance with Part 91 or, at the certificate holder's option, an approved aircraft inspection program. However, the Administrator may require an approved aircraft inspection program on the determination that the Part 91 inspection requirements are inadequate.

Source: 135.411(a)(1); 413(a); 419.

(2) Shall comply with the manufacturer's recommended maintenance programs, or a maintenance program approved by the Administrator for each aircraft engine, propeller, rotor, and each item of emergency equipment required under this part.

Source: 135.413(a); 421.

(3) May maintain these aircraft under paragraph (c) of this section.

Source: 135.411(b).

(c) Aircraft that are type certified with a passenger seating configuration, excluding any pilot seat, of 10 seats or more or with a payload capacity in excess of 7,500 pounds shall be maintained under an approved continuous airworthiness maintenance program. Under that program a certificate holder:

Source: 135.411(a)(2).

(1) May perform and approve maintenance, preventive maintenance, and alterations as provided in its maintenance manual and may also perform these functions for another certificate holder in accordance with the other certificate holder's manual.

Source: 121.105; 123; 379; 135.437.

(2) Shall ensure the performance or maintenance, preventive maintenance, and alteration of its aircraft, including airframes, aircraft engines, propellers, appliances, parts, rotors, and emergency equipment by appropriately certificated persons in accordance with its manual and this chapter.

Source: 121.363; 373; 378; 135.413; 431; 435.

(3) Shall have a maintenance program for each aircraft type that adequately describes maintenance and inspection tasks, provides instructions and standards for their accomplishment, and designates required inspection items.

Source: 121.367; 135.425.

(4) Shall have an organization to perform maintenance, preventive maintenance, or alterations, including an independent inspection unit for required inspection items.

Source: 121.365; 371; 135.423; 429.

(5) Shall develop procedures to ensure that an airworthiness release is issued before flight when required inspections, maintenance, preventive maintenance, or alterations have been performed on the aircraft.

Source: 121.709; 135.443.

(6) Shall provide a means for the prevention and retrieval of aircraft records and the transfer of such records when aircraft are sold, and make the information available for inspection by the Administrator and the National Transportation Safety Board upon request.

Source: 121.380; 380a; 707; 135.439; 441.

(7) The Administrator may, in connection with an international parts pool, permit deviation from those provisions of this section that would prevent the return to service and use of airframe components, powerplants, appliances, and spare parts thereof because those items have been maintained, altered, or inspected by persons employed outside the United States who do not hold U.S. airman certificates.

Source: 121.361(b).

(d) Each certificate holder shall have and comply with—

(1) A maintenance manual approved for its use, defining the inspections and maintenance programs and methods, techniques, practices, standards and procedures for the accomplishment of those programs, and, if applicable, administrative and organization procedures and requirements.

Source: 121.369; 135.23; 427.

(2) Operations specifications required by § 120.9(c)(3) concerning inspection,

maintenance, and weight and balance programs.

(3) An approved weight and balance program or appropriate instructions in its manual which ensures that aircraft are operated within prescribed weight and center-of-gravity limits.

Source: 121.153(b); 135.185.

(4) A means of recording and certifying correction of mechanical irregularities recorded under § 120.57(a)(4).

Source: 121.701(a); 135.65(c).

(e) Each certificate holder shall submit to the Administrator—

(1) A report on the occurrence or detection of each failure, malfunction, or defect in an aircraft at any time the failure, malfunction, or defect has endangered or may endanger the safe operation of the aircraft; and

Source: 121.703; 135.415.

(2) A summary report of multiengine aircraft occurrences involving flight interruptions caused by known or suspected mechanical difficulties or malfunctions; and the number of engines removed prematurely because of malfunction, failure, or defect.

Source: 121.705; 135.417.

§ 120.49 Instrument and equipment requirements.

(a) The requirements of this section are in addition to the applicable instrument and equipment requirements of Part 91. However, this section does not require the duplication of any equipment required elsewhere in this chapter.

Source: 121.303(a); 135.141.

(b) Each certificate holder shall ensure, depending on the aircraft or operation involved, that the following instrumentation and equipment are installed on the aircraft prior to flight:

Source: 121.303(b), (c), (d); 135.143(a), (b).

(1) Flight instruments and lighting.

Source: 121.305; 313(a), (d), (e); 323(a), (b), (d), (e), (f); 325; 342(a); 135.149(a), (c), (d); 159(a), (b), (c), (e); 163(e), (b), (c), (d), (e), (h).

(2) Engine and systems monitoring equipment.

Source: 121.307.

(3) Communications and navigation equipment.

Source: 121.99; 345; 347; 349(a), (b), (c); 351; 355; 369; Appendix G; 135.143(c); 161; 185.

(4) Oxygen equipment.

Source: 121.327; 329; 331; 333; 335; 337; 135.89; 157.

(5) Flight data and cockpit voice recording equipment.

Source: 121.343(a), (b), (e), (f), (g); 359(a), (c), (d), Appendix B; 135.151(a).

(6) Hazardous weather detection equipment.

Source: 121.357(a), (c), (d), (e); 135.173; 175.

(7) Ground proximity warning system.

Source: 121.303(d)(3); 360(a), (c), (d), (e), (f), (i); 135.153.

(8) Public address system.

Source: 121.318.

(9) Aircraft flightcrew and groundcrew communications equipment.

Source: 121.319.

(10) Passenger information equipment.

Source: 121.317(a), (b); 135.117(c); 135.117(a)(3).

(11) Safety belts and shoulder harnesses.

Source: 121.311(e), (f); 135.171(a).

(12) Materials for compartment interiors.

Source: 121.312; 135.170.

(13) Aircraft operating checklists

Source: 121.315(a), (b); 135.83(a)(1), (2), (b), (c).

(14) Functioning dual controls.

Source: 135.147.

(15) A means for crewmembers to unlock any door on the aircraft that can be locked.

Source: 121.313(g), (i).

(16) A placard on each door or divider that provides access to a required passenger emergency exit which indicates that the door or divider shall be open during takeoff and landing.

Source: 121.313(h)

(17) An electrical power distribution system.

Source: 121.313(c); 135.159(d); 163(f), (g), (i).

(18) A means for the prevention or removal of any ice formation that could adversely affect the safe operation of the aircraft.

Source: 121.341; 135.149(b); 158.

(19) A locking door between the pilot and passenger compartments.

Source: 121.313(f).

(20) Landing light(s).

Source: 121.323(c).

(21) Windshield clearing provisions.

Source: 121.313(b).

(22) Landing gear aural warning device.

Source: 121.289.

(c) Each certificate holder shall ensure, depending on the aircraft or operation involved, that the following emergency equipment is installed on the aircraft prior to flight:

(1) Means to extinguish any type fire likely to occur in the aircraft.

Source: 121.287; 309(a), (b), (c); 135.87(e); 155.

(2) A crash axe.

Source: 121.309(c); 135.177(a)(2).

(3) A means, appropriate to the number of passengers and crew, to treat minor injuries that could occur during flight operations.

Source: 121.309(d), Appendix A; 135.177(a)(1).

(4) A method of transmitting voice instructions, independent of aircraft power systems, which can be heard by all passengers over a high level of background noise.

Source: 121.309(f).

(5) Personal, lighted, flotation devices readily accessible to each occupant.

Source: 121.339; 340; 135.167.

(6) Appropriate means to summon assistance and to prevent unnecessary exposure to the environment should an inadvertent landing occur in the water, or in uninhabited terrain.

Source: 121.339; 340; 353; 135.167.

(d) Each item of emergency equipment prescribed by this section shall be—

(1) Inspected regularly to ensure its condition for continued serviceability and immediate readiness to perform its intended purpose;

(2) Readily accessible; and

(3) Clearly identified and marked to indicate its method of operation and date of last inspection and, when carried in a compartment or container, the compartment or container must be clearly marked as to its contents.

Source: 121.309 (a), (b); 135.167; 177(b).

(e) Each certificate holder shall provide for safe emergency egress from the aircraft, depending on the aircraft or type of operation involved.

Source: 121.310; 135.177(a)(4).

§ 120.53 Flight authorization and control system.

(a) Each certificate holder is responsible for operational control and shall establish and maintain a flight authorization and control system which ensures safe operations and positive control.

Source: 121.107; 125; 127; 305; 533(a); 535(a); 537(a); 541; 593; 595; 597; 601; 603; 135.77.

(b) Each person responsible for operational control shall—

(1) Authorize each flight and provide the pilot in command with all the information necessary to safely initiate, continue, and complete the flight.

Source: 121.443; 533(b), (c); 535(b), (c); 537(b), (c); 557(b); 559(b); 631(a); 635; 637; 663.

(2) Cancel, divert, or reauthorize a flight if, in that person's opinion, or in the opinion of the pilot in command, the flight cannot operate or continue to operate safely as planned.

Source: 121.551; 553; 627 (a), (b); 629(a); 631(b); 135.69(a).

(3) Assess the airworthiness of the aircraft to ensure that—

(i) All required equipment is operable except as provided for in the approved minimum equipment list;

(ii) Weather detection equipment which, if required to be installed, is operable for IFR and night VFR operations, when detectable hazardous weather conditions are expected along the route to be flown; and

(iii) Wings, control surfaces, propellers, and helicopter rotors are free of frost, snow, and ice.

Source: 121.605; 627(c); 629(b); 135.71; 179; 227.

(4) Ensure the suitability of each airport and its facilities for the intended operation based on current conditions of the airport, and the aircraft performance operating limitations;

Source: 121.97; 117; 590; 135.229.

(5) Provide forecast weather and, if available, current reported weather from an approved source and determine the suitability of the weather for the operation to be conducted;

Source: 121.101 (a), (b), (c), (d); 119; 599; 637; 657(d); 135.213.

(6) Ensure an adequate fuel supply for each flight which considers weather, airport, and other conditions which may delay the landing of the aircraft;

Source: 121.639; 641; 643; 645; 647; 135.209; 223.

(7) Ensure and document that each aircraft is properly loaded and that the weight and center of gravity is accurately determined;

Source: 121.665; 693 (a), (b), (c), (d).

(8) Ensure that a flight plan is filed. For certain VFR operations, flight locating provisions may be established and met instead of the flight plan requirements;

Source: 121.667; 135.79.

(9) Ensure, before changing a destination or alternate airport while a flight is en route, that the flight meets the flight authorization requirements to the revised destination or alternate at that time;

Source: 121.631(c).

(10) Ensure that during the flight, the pilot in command is aware of any meterological changes and changes or irregularities of services or facilities that may affect the safety of the flight; and

Source: 121.601(c); 603(b).

(11) Ensure, for the entire route to be flown, including departures and approaches, that communication and navigation facilities are adequate and available based on the operation conducted.

Source: 121.103; 121; 607; 609.

§ 120.57 Pilot-in-command authority and responsibility.

(a) The pilot in command shall have the authority and responsibility for the safe operation of the aircraft, safety of the passengers, crew, and cargo, and shall—

Source: 121.533 (d), (e); 535 (d), (e), (f); 537 (d), (e), (f); 135.19 (a), (b).

(1) Take any action in an emergency situation that is considered necessary, and deviate from prescribed operations, procedures, weather minimums, and this chapter to the extent required in the interests of safety;

Source: 121.557(a); 559(a).

(2) Determine and follow the safest course of action in the event of an engine shutdown;

Source: 121.565(a), (b).

(3) Ensure that the appropriate manuals, aeronautical charts, navigational information, and approach procedures are aboard the aircraft for each flight;

Source: 121.549(a); 135.83(a) (3), (4), (5).

(4) Ascertain, before each flight segment, the status of each mechanical irregularity and, following each flight segment, ensure that each mechanical irregularity is documented; and

Source: 121.563; 701(b); 135.65(a), (b), (d).

(5) Notify the appropriate ground station as soon as practical whenever a hazardous condition or an irregularity in a ground or navigational facility is encountered in flight.

Source: 121.349(d); 351; 561; 565(c); 135.67.

(b) The pilot in command shall accept responsibility and exercise authority in compliance with this part and shall ascertain before flight that all conditions necessary for the safe conduct of the flight have been satisfied.

Source: 121.533(b); 535(b); 537(b); 135.69(b); 71.

§ 120.61 Manual requirements.

(a) Each certificate holder shall prepare and keep current a manual or its equivalent.

Source: 121.133; 135.21(a), (b); 81.

(b) The manual shall contain sufficient information and adequate procedures, in usable form, for the guidance of its flight operations, ground operations, and maintenance personnel.

Source: 121.75; 135; 135.23.

(c) Applicable portions of the manual, and changes thereto, shall be furnished, in usable form, to the Administrator and to appropriate persons who shall maintain its currency and have it accessible when performing assigned duties.

Source: 121.137; 139; 135.21(a), (b).

(d) Each certificate holder shall keep a current approved Airplane or Rotorcraft Flight Manual for each applicable aircraft type that it operates and carry it, or an approved equivalent, in each of those aircraft.

Source: 121.141.

§ 120.65 Flight rules.

Each person conducting operations under this part shall—

(a) Conduct flights under the flight rules appropriate to the operation. When conducting VFR operations, available weather reports and forecasts must indicate that the weather is and will remain above the applicable weather minimums:

Source: 121.611; 135.181(a); 205; 207.

(b) Ensure that sufficient ceiling and visibility exist for safe operation, and where marginal weather exists or is forecast, provide for alternatives consistent with operational capabilities;

Source: 121.611; 613, 615; 617; 619; 621; 623; 625; 649; 651; 652; 655; 659(b); 135.181(b); 211(a); 215; 217; 219; 221; 225.

(c) Maintain adequate clearance from terrain, obstacles, and congested areas for safe operation;

Source: 121.657(a), (b) (c); 135.203.

(d) Ensure that when operating under IFR, a descent below the minimum initial approach fix altitude is not started until the position of the aircraft has been definitely established;

Source: 121.659(a); 661.

(e) While operating an aircraft within a foreign country, comply with the air traffic rules of the country concerned and the local airport rules; except where the requirements of this part are more restrictive and may be followed without violating the rules of that country; and

Source: 121.11; 651(f).

(f) Ensure that VFR-over-the-top operations are conducted within the performance capability of the aircraft being operated in order to permit continued flight or a visual descent in the event of power failure.

Source: 135.181(c); 211(b).

§ 120.69 Operating requirements.

(a) Each certificate holder shall—

(1) Provide, for all flight crewmembers and dispatchers, adequate rest periods prior to duty and establish duty periods such as to prevent excessive fatigue while on duty;

Source: 121.465; 471; 481; 483, 485; 487; 489; 491; 493; 501; 503; 505; 507; 509; 511; 513; 515; 517; 519; 521; 523; 525; 135.261.

(2) Ensure that each category of required crewmember is assigned duties to be performed during emergencies and emergency evacuations;

Source: 121.397; 135.123.

(3) Have a system which ensures positive information dissemination to affected personnel concerning operational irregularities and hazards and changes in equipment, procedures, and regulations;

Source: 121.539; 135.81.

(4) Have specific procedures concerning the control, operation, and maintenance of aircraft involved in aircraft lease or interchange agreements;

Source: 121.569.

(5) When using an aircraft autopilot, have established procedures and minimum altitudes for its use;

Source: 121.579; 135.93.

(6) Have approved procedures for the operation of flight data and cockpit voice recording equipment;

Source: 121.343(b); 359(a)

(7) Provide sufficient flight attendants to perform all assigned functions during normal and emergency operations; and

Source: 121.391 (a), (b), (c); 135.107.

(8) Provide sufficient quantities of oxygen, and develop procedures for its use by crewmembers and passengers for circumstances requiring the use of such, including excessive cabin altitudes, presence of excessive smoke or harmful gases, and for use of medical oxygen by passengers.

Source: 121.327; 329; 331; 333; 574; 135.89; 91 (a), (c), (d), (e); 157.

(b) No person may operate an aircraft with less than the minimum flightcrew complement aboard the aircraft as appropriate to the equipment and operating conditions.

Source: 121.385 (a), (b), (c); 135.99; 101; 103; 105; 109; 111.

(c) Each crewmember shall properly use body restraint devices.

Source: 121.311 (g), (h); 135.171(b).

(d) Each crewmember shall have readily available, on each flight, a practical source of emergency illumination.

Source: 121.549(b); 135.159(e).

(e) Each flight crewmember shall use an approved checklist for operation of the aircraft.

Source: 121.315(c); 135.83(a) (1), (2).

(f) Each required flight crewmember shall be positioned to continuously monitor and immediately operate the aircraft at all times except for meeting physiological needs, for the performance of required safety duties in connection with the operation of the aircraft.

Source: 121.543.

(g) No person may engage in, nor may any pilot in command permit, any activity which could distract a flight crewmember from the performance of assigned duties during a critical phase of flight.

Source: 121.542; 135.100.

(h) If a required flight engineer becomes incapacitated in flight, another crewmember shall be capable of the emergency performance of the flight engineer duties.

Source: 121.385(d).

(i) Only those persons properly authorized shall be admitted to the flight deck and, if applicable, a seat shall be provided in the cabin.

Source: 121.547; 550; 135.113.

(j) Only authorized pilots may manipulate the controls during flight.

Source: 121.545; 135.115.

(k) Cargo carried in a passenger compartment shall be secured so as to present no hazard to passengers or the aircraft during normal or emergency operation.

Source: 121.285; 135.87 (a), (b), (c), (d).

§ 120.73 Passenger safety.

(a) Each certificate holder shall develop and each person shall comply with a system that ensures a safe cabin environment.

(b) The system shall include—

(1) Procedures to prevent the boarding of an apparently intoxicated person and the serving of alcoholic beverages to persons apparently intoxicated, prisoners, prisoner escorts, and persons with weapons;

Source: 121.575 (a), (b), (c); 135.121 (b), (c).

(2) Procedures to control the carriage and ensure the safety of nonrevenue passengers;

Source: 121.583; 135.85.

(3) Procedures concerning the boarding of persons requiring assistance and for assisting them during an emergency aboard the aircraft;

Source: 121.586; 135.117(b).

(4) Procedures to prevent passenger interference with the flighcrew;

Source: 121.587; 135.119.

(5) Procedures for appropriate passenger information presentations on equipment, procedures, and emergency actions;

Source: 121.317(c); 333(f); 571; 573; 135.117(a).

(6) Procedures to ensure that each passenger is seated and appropriately restrained during taxi, takeoff, landing, and, when appropriate, in flight;

Source: 121.311 (a), (b), (c), (d).

(7) Procedures to prevent the hazardous shifting or movement of articles in the cabin during flight and ground operations;

Source: 121.576; 589 (a), (b), (d), (e); 135. 67 (a), (b), (c), (d).

(8) Procedures to ensure that flight attendants are properly positioned and that the aircraft is appropriately prepared for emergencies that could occur during takeoff, landing, and ground operations; and

Source: 121.391(d); 577(a), (b); 135.123.

(9) Procedures for the control of the concentration of ozone.

Source: 121.578.

§ 120.77 Reporting, documentation, and recordkeeping requirements.

(a) Each person required by this part to submit a report or document shall do so in an acceptable form and timely manner. Each person required by this part to preserve documents or information shall do so in an appropriate manner and for a reasonable period of time.

(b) Each certificate holder shall maintain, at its principal business office or other place approved by the Administrator, documentation pertaining to its operational procedures, aircraft possessed, and service contracts.

Source: 121.685; 713; 135.63(a) (1), (2), (3), (b).

(c) Each certificate holder shall maintain current personnel records of appropriate flight operations personnel.

Source: 121.683; 135.63(a)(4), (b).

(d) Each certificate holder shall document, for each individual employed by the certificate holder, all training and evaluation required by this part. The person conducting the training or evaluation shall be identified in the record as having certified to the proficiency and knowledge of the individual.

Source: 121.439(d); 135.63(a)(4), (b).

(e) Each certificate holder shall properly prepare and appropriately preserve, for each flight, a list of the names of passengers, a load manifest, a flight authorization and, if required, a flight plan.

Source: 121.685; 687; 689; 693; 695; 697; 135.63(c), (d).

(f) Whenever a pilot in command of flight operations controller exercises emergency authority, that person shall prepare a written report of any deviations and the report shall be sent to the Administrator.

Source: 121.557(c); 559(c); 135.19(c).

(g) Each certificate holder shall remove the flight data and cockpit voice recorder information from the aircraft, and preserve it as appropriate, in the event of an accident or incident which must be reported to the National Transportation Safety Board.

Source: 121.343(d); 359(e); 135.151(b).

(h) Each pilot in command shall prepare an appropriate written report, and the report shall be sent to the Administrator, whenever an engine fails or is shutdown in flight and the pilot in command elects to land at other than the nearest suitable airport.

Source: 121.565(d).

(i) Each certificate holder shall report to the Administrator any violations of this part or disturbances caused by apparently intoxicated persons aboard the aircraft.

Source: 121.575(d).

(j) Each certificate holder shall record each en route radio contact between the air carrier and its pilot.

Source: 121.631(d); 711.

§ 120.81 Inspection and surveillance.

(a) Each certificate holder and each person employed by the certificate holder shall allow the Administrator, at any time or place, to conduct any inspections or tests to determine compliance with the Federal Aviation Act of 1958, as amended, and this part. Each certificate holder shall make available, upon request of the Administrator, any information developed in compliance with this part. Each person holding any certificate required for operations conducted under this part shall present such certificate for inspection upon the request of the Administrator.

Source: 121.73; 81(a); 383(b); 135.73.

(b) Each FAA inspector, when conducting an inspection, shall be given free and uninterrupted access to the pilot compartment of the aircraft upon presenting an Aviation Safety Inspector's Credential, Form 110A, to the pilot in command.

Source: 121.548; 135.75(a).

(c) Each certificate holder shall make available to the Administrator the forward observer's seat, or the observer's seat selected by the Administrator, for the purpose of conducting en route inspections. If the aircraft was certificated without an observer's seat, the certificate holder shall make available, suitable to the Administrator, a forward passenger seat or pilot seat, as appropriate, and either a functioning headset or speaker.

Source: 121.581; 135.75(b).

§ 120.85 Passenger responsibilities.

(a) Each passenger shall comply with instructions given by a crewmember concerning the safety of the flight, including safety belt and no smoking instructions and carry-on baggage provisions.

Source: 121.317(a); 577(c); 589(c).

(b) No person may board an aircraft while under the influence of intoxicating liquor or drugs (except medical patients under proper care) or drink any alcoholic beverage aboard an aircraft unless served by the certificate holder.

Source: 121.575(a); 135.121(a).

(c) No person may assault, threaten, intimidate, or interfere with a crewmember aboard an aircraft.

Source: 91.8; 902(j) of the FA Act.

(d) No person may carry aboard or operate oxygen equipment unless provided or approved by the certificate holder. No person may connect or disconnect such equipment to or from a gaseous oxygen cylinder while any passenger is aboard the aircraft. No person may smoke within 10 feet of such equipment.

Source: 121.574(b), (c); 135.91(b), (c).

DISTRIBUTION TABLE

Old section	New section
121.1(a)	120.1(a).
121.1(b)	120.1(d).
121.1(c)	120.1(b).
121.1(d)	Deleted [1].

DISTRIBUTION TABLE—Continued

Old section	New section
121.1(e)	Deleted [2].
121.1(f)	120.1(c).
121.3(a)	120.9(a).
121.3(b)	Deleted [2].
121.3(c)	120.9(e).
121.3(d)	Deleted [2].
121.3(e)	120.9(d).
121.3(f)	120.9(a).
121.3(g)	Deleted [2].
121.3(h)	Deleted [2].
121.4	120.1(c).
121.5	Deleted [2].
121.6	120.13(a).
121.7	Deleted [2].
121.9	Deleted [2].
121.11	120.85(a).
121.13	120.9(a).
121.15	120.13(b).
121.21	Deleted [1].
121.23	Deleted [1].
121.25(a)	120.9(b).
121.25(b)	120.9(c)(3).
121.26	120.9(d)(3).
121.27(a)	120.9(e).
121.27(b)	Deleted [1].
121.27(c)	Deleted [2].
121.29(a)	120.9(g).
121.29(b)	120.9(g).
121.41	Deleted [1].
121.43	Deleted [2].
121.45(a)	120.9(b).
121.45(b)	120.9(c)(3).
121.47	120.9(d).
121.48	Deleted [2].
121.49	Deleted [2].
121.51(a)	120.9 (d) and (e).
121.51(b)	Deleted [2].
121.53(a)	120.9(g).
121.53(b)	Deleted [1].
121.53(c)	Deleted [1].
121.53(d)	Deleted [2].
121.53(e)	120.9(g).
121.53(f)	Deleted [2].
121.55	Deleted [1].
121.57(a)	120.13(d).
121.57(b)	120.13(d)(1).
121.57(c)	120.13(d)(2).
121.57(d)	Deleted [1].
121.59	120.17.
121.61	120.17.
121.71	Deleted [1].
121.73	120.81(a).
121.75(a)	120.61(b).
121.75(b)	120.61(a).
121.77(a)	120.9(f).
121.77(b)	Deleted [2].
121.77(c)	Deleted [1].
121.79(a)	120.9(f).
121.79(b)	120.9(f).
121.79(c)	Deleted [2].
121.79(d)	120.9(f).
121.79(e)	Deleted [1].
121.81(a)	120.81(a).
121.81(b)	Deleted [2].
121.83	120.13(c).
121.91	Deleted [1].
121.93(a)	120.13(e).
121.93(b)	120.13(e).
121.95	Deleted [1].
121.97	120.53(b)(4).
121.99	120.53(b)(3).
121.101(a)	120.53(b)(5).
121.101(b)	120.53(b)(5).
121.101(c)	120.53(b)(5).
121.101(d)	120.53(b)(5).
121.101(e)	Deleted [1].
121.103	120.53(b)(11).
121.105	120.45(c).
121.107	120.53(a).
121.111	Deleted [1].
121.113(a)	120.13(e).
121.113(b)	Deleted [1].
121.115	Deleted [1].
121.117	120.53(b)(4).
121.119	120.53(b)(5).
121.121	120.53(b)(11).
121.123	120.45(c).
121.125	120.53(a).
121.127	120.53(a).
121.131	Deleted [1].
121.133	120.61(a).
121.135	120.61(b).

DISTRIBUTION TABLE—Continued

Old section	New section
121.137	120.61(c).
121.139	120.61(c).
121.141	120.61(d).
121.151	Deleted [1].
121.153(a)	120.33 (a) and (b).
121.153(b)	120.45(d)(3).
121.153(c)	120.33(c).
121.157(a)	120.41.
121.157(b)	120.41.
121.157(c)	120.33(a).
121.157(d)	120.33(a).
121.157(e)	120.33(a)/120.45(a).
121.159	Deleted [2].
121.161	120.41.
121.163(a)	120.37(a).
121.163(b)	120.37(b).
121.163(c)	120.37(b).
121.163(d)	120.37(b).
121.163(e)	120.37(b).
121.171	120.41.
121.173	120.41.
121.175	120.41.
121.177	120.41.
121.179	120.41.
121.181	120.41.
121.183	120.41.
121.185	120.41.
121.187	120.41.
121.189	120.41.
121.191	120.41.
121.193	120.41.
121.195	120.41.
121.197	120.41.
121.198	120.41.
121.199	120.41.
121.201	120.41.
121.203	120.41.
121.205	120.41.
121.207	120.41.
121.211	Deleted [1]
121.213	120.33(a).
121.215	120.33(a).
121.217	120.33(a).
121.219	120.33(a).
121.221	120.33(a).
121.223	120.33(a).
121.225	120.33(a).
121.227	120.33(a).
121.229	120.33(a).
121.231	120.33(a).
121.233	120.33(a).
121.235	120.33(a).
121.237	120.33(a).
121.239	120.33(a).
121.241	120.33(a).
121.243	120.33(a).
121.245	120.33(a).
121.247	120.33(a).
121.249	120.33(a).
121.251	120.33(a).
121.253	120.33(a).
121.255	120.33(a).
121.257	120.33(a).
121.259	120.33(a).
121.261	120.33(a).
121.263	120.33(a).
121.265	120.33(a).
121.267	120.33(a).
121.269	120.33(a).
121.271	120.33(a).
121.273	120.33(a).
121.275	120.33(a).
121.277	120.33(a).
121.279	120.33(a).
121.281	120.33(a).
121.283	120.33(a).
121.285	120.69(k).
121.287	120.49(c)(1).
121.289	120.49(b)(22).
121.291(a)	120.37(c)(1).
121.291(b)	120.37(c)(1).
121.291(c)	120.37(c)(1).
121.291(d)	120.37(c)(2).
121.291(e)	120.37(c)(2).
121.301	Deleted [3]
121.303(a)	120.49(a).
121.303(b)	120.49(b).
121.303(c)	120.49(b).
121.303(d)	120.49(b).
121.303(d)(3)	120.49(b)(7).
121.305	120.49(b)(1).
121.307	120.49(b)(2).

DISTRIBUTION TABLE—Continued

Old section	New section
121.309(a)	120.49 (c) and (d).
121.309(b)	120.49 (c) and (d).
121.309(c)	120.49(c)(1).
121.309(d)	120.49(c)(3).
121.309(e)	120.49(c)(2).
121.309(f)	120.49(c)(4).
121.310	120.49(e).
121.311(a)	120.73(b)(6).
121.311(b)	120.73(b)(6).
121.311(c)	120.73(b)(6).
121.311(d)	120.73(b)(6).
121.311(e)	120.49(b)(11).
121.311(f)	120.49(b)(11).
121.311(g)	120.69(c).
121.311(h)	120.69(c).
121.312	120.49(b)(12).
121.313(a)	120.49(b)(1).
121.313(b)	120.49(b)(21).
121.313(c)	120.49(b)(17).
121.313(d)	120.49(b)(1).
121.313(e)	120.49(b)(1).
121.313(f)	120.49(b)(19).
121.313(g)	120.49(b)(15).
121.313(h)	120.49(b)(16).
121.313(i)	120.49(b)(15).
121.315(a)	120.49(b)(13).
121.315(b)	120.49(b)(13).
121.315(c)	120.69(e).
121.317(a)	120.49(b)(10).
121.317(b)	120.49(b)(10).
121.317(c)	120.73(b)(5)/120.85(a).
121.318	120.49(b)(8).
121.319	120.49(b)(9).
121.323(a)	120.49(b)(1).
121.323(b)	120.49(b)(1).
121.323(c)	120.49(b)(20).
121.323(d)	120.49(b)(1).
121.323(e)	120.49(b)(1).
121.323(f)	120.49(b)(1).
121.325	120.49(b)(1).
121.327	120.49(b)(4)/120.69(a)(6).
121.329	120.49(b)(4)/120.69(a)(6).
121.331	120.49(b)(4)/120.69(a)(6).
121.333(a)	120.49(b)(4)/120.69(a)(6).
121.333(b)	120.49(b)(4)/120.69(a)(6).
121.333(c)	120.49(b)(4)/120.69(a)(6).
121.333(d)	120.49(b)(4)/120.69(a)(6).
121.333(e)	120.49(b)(4)/120.69(a)(6).
121.333(f)	120.73(b)(5).
121.335	120.49(b)(4).
121.337	120.49(b)(4).
121.339	120.49(c) (5) and (6).
121.340	120.49(c) (5) and (6).
121.341	120.49(b)(18).
121.342(a)	120.49(b)(1).
121.342(b)	Deleted [2].
121.343(a)	120.49(b)(5).
121.343(b)	120.69(a)(6).
121.343(c)	120.49(b)(5).
121.343(d)	120.77(g).
121.343(e)	120.49(b)(5).
121.343(f)	120.49(b)(5).
121.343(g)	120.49(b)(5).
121.345	120.49(b)(3).
121.347	120.49(b)(3).
121.349(a)	120.49(b)(3).
121.349(b)	120.49(b)(3).
121.349(c)	120.49(b)(3).
121.349(d)	120.57(a)(5).
121.351	120.49(b)(3).
121.353	120.49(c)(6).
121.355	120.49(b)(3).
121.357(a)	120.49(b)(6).
121.357(b)	Reserved.
121.357(c)	120.49(b)(6).
121.357(d)	120.49(b)(6).
121.357(e)	120.49.(b)(6).
121.359(a)	120.49(b)(5)/120.69(a)(5).
121.359(b)	Deleted [1].
121.359(c)	120.49(b)(5).
121.359(d)	120.49(b)(5).
121.359(e)	120.77(g).
121.360(a)	120.49(b)(7).
121.360(b)	Deleted [1]
121.360(c)	120.49(b)(7).
121.360(d)	120.49(b)(7).
121.360(e)	120.49(b)(7).
121.360(f)	120.49(b)(7).
121.360(g)	Deleted [1].
121.360(h)	Deleted [2].
121.360(i)	120.49(b)(7).
121.361(a)	120.45(a).

DISTRIBUTION TABLE—Continued

Old section	New section
121.361(b)	120.45(c)(7).
121.363	120.45(c)(2).
121.365	120.45(c)(4).
121.367	120.45(c)(3).
121.369	120.45(d)(1).
121.371	120.45(c)(4).
121.373	120.45(c)(2).
121.375	120.29.
121.377	Deleted.
121.378	120.45(c)(2).
121.379	120.45(c)(1).
121.380	120.45(c)(6).
121.380a	120.45(c)(6).
121.381	Deleted [1].
121.383(a)	120.21 (b) and (c).
121.383(b)	120.61(a).
121.383(c)	120.21(a).
121.385(a)	120.69(b).
121.385(b)	120.69(b).
121.385(c)	120.69(b).
121.385(d)	120.69(h).
121.387	120.21(c)(4).
121.389	120.21(c)(5)/120.6(b)(3).
121.391(a)	120.69(a)(7).
121.391(b)	120.69(a)(7).
121.391(c)	120.69(a)(7).
121.391(d)	120.73(b)(8).
121.395	120.53(a).
121.397	120.69(a)(2).
121.400	120.25.
121.401	120.25.
121.403	120.25.
121.405	120.25.
121.407	120.25.
121.409	120.25.
121.411(a)	120.21(c) (7) and (8).
121.411(b)	120.21(c)(7).
121.411(c)	120.21(c) (7) and (8).
121.413	120.25.
121.415	120.25.
121.417	120.25.
121.418(a)	120.25.
121.419	120.25.
121.420	120.25.
121.421	120.25.
121.422	120.25.
121.424	120.25.
121.425	120.25.
121.426	120.25.
121.427	120.25.
121.431	Deleted [1].
121.432(a)	120.21(b).
121.432(b)	120.25.
121.432(c)	Deleted [2].
121.432(d)	Deleted [2].
121.433	120.25.
121.433a	120.25.
121.434	120.21(c)(1).
121.436	120.21(b)/120.25.
121.437	120.21(c)(2).
121.439(a)	120.21(c)(2).
121.439(b)	120.21(c)(2).
121.439(c)	120.21(c)(2).
121.439(d)	120.77(d).
121.440	120.21(c)(3).
121.441	120.25.
121.443	120.53(b)(1).
121.445	120.120.21(c)(3).
121.453	120.21(c)(4).
121.461	Deleted [1].
121.463(a)(1)	120.25.
121.463(a)(2)	120.21(c)(1).
121.463(b)	120.25.
121.463(c)	120.21(c)(1).
121.463(d)	120.21(c)(1).
121.463(e)	Deleted [2].
121.465	120.69(a)(1).
121.470	Deleted [1].
121.471	120.69(a)(1).
121.480	Deleted [1].
121.481	120.69(a)(1).
121.483	120.69(a)(1).
121.485	120.69(a)(1).
121.487	120.69(a)(1).
121.489	120.69(a)(1).
121.491	120.69(a)(1).
121.493	120.69(a)(1).
121.500	Deleted [1].
121.501	120.69(a)(1).
121.503	120.69(a)(1).
121.505	120.69(a)(1).
121.507	120.69(a)(1).

DISTRIBUTION TABLE—Continued

Old section	New section
121.509	120.69(a)(1).
121.511	120.69(a)(1).
121.513	120.69(a)(1).
121.515	120.69(a)(1).
121.517	120.69(a)(1).
121.519	120.69(a)(1).
121.521	120.69(a)(1).
121.523	120.69(a)(1).
121.525	120.69(a)(1).
121.531	Deleted [1]
121.533(a)	120.53(a).
121.533(b)	120.53(b)(1)/120.57(b).
121.533(c)	120.53(b)(1).
121.533(d)	120.57(a).
121.533(e)	120.57(a).
121.535(a)	120.53(a).
121.535(b)	120.53(b)(1)/120.57(b).
121.535(c)	120.53(b)(1).
121.535(d)	120.57(a).
121.535(e)	120.57(a).
121.535(f)	120.57(a).
121.537(a)	120.53(a).
121.537(b)	120.53(b)(1)/120.57(b).
121.537(c)	120.53(b)(1)
121.537(d)	120.57(a).
121.537(e)	120.57(a).
121.537(f)	120.57(a).
121.538	Deleted [2]
121.539	120.69(a)(2).
121.541	120.53(a).
121.542	120.69(g).
121.543	120.69(f).
121.545	120.69(j).
121.547	120.69(i).
121.548	120.81(b).
121.549(a)	120.57(a)(3).
121.549(b)	120.69(d).
121.550	120.69(i).
121.551	120.53(b)(2).
121.553	120.53(b)(2).
121.555	120.13(e).
121.567(a)	120.57(a)(1).
121.567(b)	120.53(b)(1).
121.567(c)	120.77(f).
121.569(a)	120.57(a)(1).
121.569(b)	120.53(b)(1).
121.569(c)	120.77(f).
121.581	120.57(a)(5).
121.583	120.57(a)(4).
121.585(a)	120.57(a)(2).
121.585(b)	120.57(a)(2).
121.585(c)	120.57(a)(5).
121.585(d)	120.77(f).
121.587	120.13(f).
121.589	120.69(a)(4).
121.571	120.73(b)(5).
121.573	120.73(b)(5).
121.574(a)	120.69(a)(8).
121.574(b)	120.69(a)(8)/120.85(d).
121.574(c)	120.69(a)(8)/120.85(d).
121.574(d)	120.69(a)(8).
121.575(a)	120.73(b)(1)/120.85(b).
121.575(b)	120.73(b)(1).
121.575(c)	120.73(b)(1).
121.575(d)	120.77(f).
121.576	120.73(b)(7).
121.577(a)	120.73(b)(9).
121.577(b)	120.73(b)(9).
121.577(c)	120.85(a).
121.578	120.73(b)(9).
121.579	120.69(a)(5).
121.581	120.81(c).
121.583	120.73(b)(2).
121.586	120.73(b)(3).
121.587	120.73(b)(4).
121.589(a)	120.73(b)(7).
121.589(b)	120.73(b)(7).
121.589(c)	120.85(a).
121.589(d)	120.73(b)(7).
121.589(e)	120.73(b)(7).
121.590	120.53(b)(4).
121.591	Deleted [1].
121.593	120.53(a).
121.595	120.53(a).
121.597	120.53(a).
121.599	120.53(b)(5).
121.601(a)	120.53(a).
121.601(b)	120.53(a).
121.601(c)	120.53(b)(10).
121.603(a)	120.53(a).
121.603(b)	120.53(b)(10).
121.605	120.53(b)(3).

DISTRIBUTION TABLE—Continued

Old section	New section
121.607	120.53(b)(11).
121.609	120.53(b)(11).
121.611	120.65 (a) and (b).
121.613	120.65(b).
121.615	120.65(b).
121.617	120.65(b).
121.619	120.65(b).
121.621	120.65(b).
121.623	120.65(b).
121.625	120.65(b).
121.627(a)	120.53(b)(2).
121.627(b)	120.53(b)(2).
121.627(c)	120.53(b)(3).
121.629(a)	120.53(b)(2)
121.629(b)	120.53(b)(3)(iii).
121.631(a)	120.53(b)(1).
121.631(b)	120.53(b)(2).
121.631(c)	120.53(b)(9).
121.631(d)	120.77(j).
121.635	120.53(b)(1).
121.637	120.53(b) (1) and (5).
121.639	120.53(b)(6).
121.641	120.53(b)(6).
121.643	120.53(b)(6).
121.645	120.53(b)(6).
121.647	120.53(b)(6).
121.649	120.65(b).
121.651(a)	120.65(b).
121.651(b)	120.65(b).
121.651(c)	120.65(b).
121.651(d)	120.65(b).
121.651(e)	120.65(b).
121.651(f)	120.65(e).
121.652	120.65(b).
121.655	120.65(b).
121.657(a)	120.65(c).
121.657(b)	120.65(c).
121.657(c)	120.65(c).
121.657(d)	120.53(b)(5).
121.659(a)	120.65(d).
121.659(b)	120.65(b).
121.661	120.65(d).
121.663	120.53(b)(1).
121.665	120.53(b)(7)/120.77(e).
121.667	120.53(b)(8).
121.681	Deleted. [1]
121.683	120.77(c).
121.685	120.77(b).
121.687	120.77(e).
121.689	120.77(e).
121.693(a)	120.53(b)(7)/120.77(e).
121.693(b)	120.53(b)(7)/120.77(e).
121.693(c)	120.53(b)(7)/120.77(e).
121.693(d)	120.53(b)(7)/120.77(e).
121.693(e)	120.77(e).
121.695	120.77(e).
121.697	120.77(e).
121.701(a)	120.45(d)(4).
121.701(b)	120.57(a)(4).
121.703	120.45(e)(1).
121.705	120.45(e)(2).
121.707	120.45(c)(6).
121.709	120.45(c)(5).
121.711	120.77(j).
121.713	120.77(b).
121.721	Deleted. [1]
121.723	Deleted. [1]
Part 121 Appendix A	120.49(c)(3).
Part 121 Appendix B	120.49(b)(5).
Part 121 Appendix C	120.33(a)(1).
Part 121 Appendix D	120.37(c).
Part 121 Appendix E	120.25.
Part 121 Appendix F	120.25.
Part 121 Appendix G	120.25/120.49(b)(3).
Part 121 Appendix H	120.21(c) (7) and (8)/120.25.
135.1(a)	120.1(b).
135.1(b)	120.1(d).
135.2(a), (b), (c), (d)	Deleted [1]
135.2(e)	120.23.
135.3	120.1(b).
135.5	120.9(a).
135.7	120.1(c).
135.9	120.1(g).
135.10	Deleted. [1]
135.11	120.9 (d) and (e).
135.13	120.9(a).
135.13(b)	Deleted. [1]
135.15	120.9(f).
135.17(a)	120.9(f).
135.17(b)	Deleted. [1]
135.17(c)	Deleted. [1]
135.19(a)	120.57(a).

DISTRIBUTION TABLE—Continued

Old section	New section
135.19(b)	120.57(a).
135.19(c)	120.77(f).
135.21(a)	120.61 (a) and (c).
135.21(b)	120.61 (a) and (c).
135.23	120.61(b)/120.45(d)(1).
135.25(a)	120.33(a), (b).
135.25(b), (c)	Deleted. [1]
135.25(d)	120.33(c).
135.27(a)	120.9(b).
135.27(b)	120.13(c).
135.29	120.9(b).
135.31	Deleted. [1]
135.33	120.9(c).
135.35	120.9(g).
135.37	120.17.
135.39	120.17.
135.41	120.13(b).
135.43	Deleted. [1]
135.61	Deleted. [1]
135.63(a) (1), (2), (3)	120.77(b).
135.63(a)(4)	120.77 (c) and (d).
135.63(b)	120.77 (b), (c), and (d).
135.63(c)	120.77(e).
135.63(d)	120.77(e).
135.65(a)	120.57(a)(4).
135.65(b)	120.57(a)(4).
135.65(c)	120.45(d)(4).
135.65(d)	120.57(a)(4).
135.67	120.57(a)(5).
135.69(a)	120.53(b)(2).
135.69(b)	120.57(b).
135.71	120.53(b)(3)/120.57(b).
135.73	120.81(a).
135.75(a)	120.81(b).
135.75(b)	120.81(c).
135.77	120.53(a).
135.79	120.53(b)(5).
135.81	120.81(a)/120.69(a)(3).
135.83(a) (1), (2)	120.49(b)(13)/120.69(e).
135.83(a)(3)	120.57(a)(3).
135.83(a)(4)	120.57(a)(3).
135.83(a)(5)	120.57(a)(3).
135.83(b)	120.49(b)(13).
135.83(c)	120.49(b)(13).
135.85	120.73(b)(2).
135.87(a) through (d)	120.69(k)/120.73(b)(7).
135.87(e)	120.49(c)(1).
135.89	120.49(b)(4)/120.69(a)(8).
135.91(a)	120.69(a)(8).
135.91(b)	120.85(d).
135.91(c)	120.69(a)(8)/120.85(d).
135.91 (d) and (e)	120.69(a)(5).
135.93	120.69(a)(5).
135.95	120.21(b).
135.97	120.25.
135.99	120.69(b).
135.100	120.69(g).
135.101	120.69(i).
135.103	120.69(d).
135.105	120.69(i).
135.107	120.69(a)(7).
135.109	120.69(b).
135.111	120.69(f).
135.113	120.69(i).
135.115	120.69(j).
135.117(a)	120.73(b)(5).
135.117(b)	120.73(b)(3).
135.117(c)	120.49(b)(10).
135.119	120.73(b)(4).
135.121(a)	120.85(b).
135.121 (b) and (c)	120.73(b)(1).
135.123(a)	120.69(a)(2)/120.73(b)(8).
135.125	120.Deleted [1]
135.141	120.49(a).
135.143 (a) and (b)	120.49(b).
135.143(c)	120.49(b)(3).
135.145	120.37(b).
135.147	120.49(b)(14).
135.149 (a), (c) and (d)	120.49(b)(1).
135.149(b)	120.49(b)(16).
135.149(e)	Deleted [1]
135.151(a)	120.49(b)(5).
135.151(b)	120.77(g).
135.153	120.49(b)(7).
135.155	120.49(c)(1).
135.157	120.49(b)(4)/120.69(a)(8).
135.158	120.49(b)(16).
135.159 (a), (b) and (c)	120.49(b)(1).
135.159(d)	120.49(b)(17).
135.159(e)	120.49(b)(1)/120.69(d).
135.159(f)	Deleted [1]
135.161	120.49(b)(2).

DISTRIBUTION TABLE—Continued

Old section	New section
135.163(a) through (e) and (h)	120.49(b)(1).
135.163 (f), (g) and (i)	120.49(b)(17).
135.165	120.49(b)(3).
135.167	120.49(c)(5)/(c)(6)/(d).
135.169	120.33(a).
135.170	120.49(b)(12).
135.171(a)	120.49(b)(11).
135.171(b)	120.69(c).
135.173	120.49(b)(6).
135.175	120.49(b)(6).
135.177(a)(1)	120.49(c)(3).
135.177(a)(2)	120.49(c)(2).
135.177(a)(3)	120.49(b)(10).
135.177(a)(4)	120.49(e).
135.177(b)	120.49(d)(1).
135.179	120.53(b)(3).
135.181(a)	120.65(a).
135.181(b)	120.65(b).
135.181(c)	120.65(f).
135.183	120.41.
135.185	120.45(d)(3).
135.201	Deleted [1]
135.203	120.65(c).
135.205	120.65(a).
135.207	120.65(a).
135.209	120.53(b)(6).
135.211(a)	120.65(b).
135.211(b)	120.65(f).
135.213	120.53(b)(5).
135.215	120.65(b).
135.217	120.65(b).
135.219	120.65(b).
135.221	120.65(b).
135.223	120.53(b)(6).
135.225	120.65(b).
135.227	120.53(b)(3).
135.229	120.53(b)(4).
135.241	Deleted [1]
135.243	120.21 (c)(2) and (c)(3).
135.244	120.21 (c)(1)/120.21(c)(3).
135.245	120.21(c)(2).
135.247	120.21(c)(2).
135.281	120.69(a)(1).
135.291	Deleted [1]
135.293	120.25.
135.295	120.25.
135.297	120.25.
135.299	120.25/120.21(c)(3).
135.301	120.25.
135.303	120.21(c)(8).
135.321	120.25.
135.323	120.25.
135.325	120.25.
135.327	120.25.
135.329	120.25.
135.331	120.25.
135.333	120.25.
135.335	120.25.
135.337	120.25/120.21(c) (7) and (8).
135.339	120.25.
135.341	120.25.
135.343	120.25.
135.345	120.25.
135.347	120.25.
135.349	120.25.
135.351	120.25.
135.361 through 135.399	120.41.
135.411(a)	120.45(a).
135.411(a)(1)	120.45(b).
135.411(a)(2)	120.45(c).
135.411(b)	120.45(b).
135.413(a)	120.45(b)(1), (2), (c)(2).
135.413(b)	120.45(c)(2).
135.415	120.45(e)(1).
135.417	120.45(e)(2).
135.419	120.45(b)(1).
135.421	120.45(b)(2).
135.423	120.45(c)(4).
135.425	120.45(c)(3).
135.427	120.45(d)(1).
135.429	120.45(c)(4).
135.431	120.45(c)(2).
135.433	120.29.
135.435	120.45(c)(2).
135.437	120.45(c)(1).
135.439	120.45(c)(6).
135.441	120.45(c)(6).
135.443	120.45(c)(5).
Appendix A	120.33(a)(2).

[1] The rule is an obsolete applicability provision.
[2] The rule contains outdated requirements such as compliance dates which have expired.
[3] The rule describes a service or provides information that is more appropriately published in a nonregulatory document.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1355(a), 1421 through 1430, and 1502); Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR § 11.45)

Note.—This notice proposes to remove Parts 121 and 135 from the Federal Aviation Regulations and incorporate their safety objectives into a new Part 120. This action is necessary to allow certificate holders to assess their operations and provide for more effective and efficient methods of compliance with the stated safety objectives while maintaining the highest level of safety through an FAA-approved procedure which would require an operator to prove that any compliance concept proposed by it would provide a level of safety equivalent to the Part 121 or Part 135 level of safety appropriate to the particular operator. This process, while encouraging innovation, will not mandate change from existing rules for any existing certificate holder. Therefore, the FAA has determined that this notice involves a rulemaking action which is not a "major rule" under Executive Order 12291. However, because of the new regulatory concept proposed, this action is a "significant rule" under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, for the reasons stated above, it is certified that the proposals, if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Washington, D.C., on July 19, 1982.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 82-25732 Filed 9-15-82; 4:27 pm]
BILLING CODE 4910-13-M

federal register

Monday
September 20, 1982

Part IV

Department of Energy

Energy Information Administration

Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

DEPARTMENT OF ENERGY

Energy Information Administration

Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95–621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate cost of gas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, Section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are to be effective October 1, 1982. These prices are based on the prices of alternative fuels.

FOR FURTHER INFORMATION CONTACT: Leroy Brown, Jr., Energy Information Administration, Federal Building, Room 4121, Washington, D.C. 20461, Telephone: (202) 633–9710.

Section I

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by Interim Rule issued on March 2, 1981, in Docket No. RM79–21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternataive fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

BILLING CODE 6450-01-M

State		$ Per Million BTU's
Alabama	1	4.00
Arizona	1	3.74
Arkansas	1	3.70
California		3.70
Colorado	2	3.73
Connecticut	1	3.80
Delaware	1	3.84
Florida		3.87
Georgia		3.96
Idaho	2	3.73
Illinois	1	3.42
Indiana	1	3.42
Iowa	1	3.32
Kansas	1	3.32
Kentucky	1	3.42
Louisiana	1	3.70
Maine		3.75
Maryland	1	3.84
Massachusetts		3.79
Michigan		3.27
Minnesota		3.27
Mississippi	1	4.00
Missouri	1	3.32
Montana	2	3.73
Nebraska	1	3.32
Nevada	1	3.74
New Hampshire	1	3.80

State		$ Per Million BTU's
New Jersey		3.78
New Mexico		3.07
New York		3.79
North Carolina	1	4.00
North Dakota	1	3.32
Ohio		3.19
Oklahoma	1	3.70
Oregon	1	3.74
Pennsylvania	1	3.84
Rhode Island	1	3.80
South Carolina	1	4.00
South Dakota	1	3.32
Tennessee		3.88
Texas		3.60
Utah	2	3.73
Vermont	1	3.80
Virginia	1	4.00
Washington	1	3.74
West Virginia	1	3.42
Wisconsin		3.38
Wyoming	2	3.73

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[1]Region based price as required by FERC Interim Rule, issued on March 2, 1981, in Docket No. RM79-21.

[2]Region based price computed as the weighted average price of Regions E, F, and H.

BILLING CODE 6450-01-C

Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during July 1982 was $39.94 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective October 1, 1982, is $8.95 per million BTU's.

Section III. Method Used To Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79–21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81–27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on October 6, 1981, in Docket No. RM81–28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

A. Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: for each selling price, the number of gallons sold to large industrial users in the months of May 1982, June 1982, and July 1982. [1] All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used To Determine Alternative Price Ceilings

(1) *Calculation of Volume-Weighted Average Price.* The prices which will become effective October 1, 1982, (shown in Section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, May 1982, June 1982, July 1982. Reported prices for sales in May 1982 were adjusted by the percent change in the nationwide volume-weighted average price from May 1982 to July 1982. Prices for June 1982 were similarly adjusted by the percent change in the nationwide volume-weighted average price from June 1982 to July 1982. The volume-weighted 3-month average of the adjusted May 1982 and June 1982, and the reported July 1982 prices were then computed for each State.

(2) *Adjustment for Price Variation.* States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) *Calculation of Ceiling Price.* The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in Section III.B(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State's alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in Section III.B.4) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

There were no reported sales in Region G for the months of May, June, and July 1982. The alternative fuel price ceilings for the States in Region G were determined by calculating the volume weighted average price ceilings for Region E, Region F, and Region H.

(4) *Lag Adjustment.* The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* Publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 21 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to caluculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 sulfur residual fuel oil for the ten trading days ending September 14, 1982, and dividing that price by the corresponding weighted average price computed from prices published Platt's for the month of July 1982. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; and one FERC Region C; one for FERC Regions D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Region A

Connecticut
Maine
Massachusetts
New Hampshire
Rhode Island
Vermont

Region B

Delaware
Maryland
New Jersey
New York
Pennsylvania

Region C

Alabama
Florida
Georgia
Mississippi
North Carolina
South Carolina
Tennessee
Virginia

Region D

Illinois
Indiana
Kentucky
Michigan
Ohio
West Virginia
Wisconsin

[1] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State, or Local), and the military are excluded.

Region E

Iowa	Nebraska
Kansas	North Dakota
Missouri	South Dakota
Minnesota	

Region F

Arkansas	Oklahoma
Louisiana	Texas
New Mexico	

Region G

Colorado	Utah
Idaho	Wyoming
Montana	

Region H

Arizona	Oregon
California	Washington
Nevada	

Issued in Washington, D.C., September 17, 1982.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 82-26007 Filed 9-17-82; 11:45 am]

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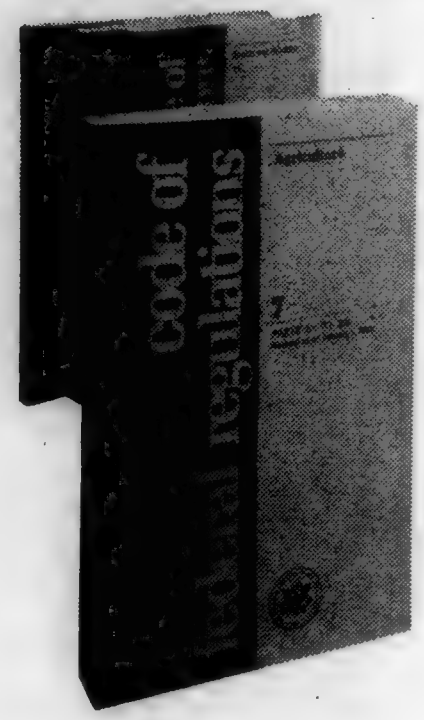
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Rules and Regulations

Federal Register
Vol. 47, No. 183
Tuesday, September 21, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 82-336]

Mediterranean Fruit Fly; Removal of Quarantine Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document removes the Mediterranean fruit fly quarantine and regulations which quarantined California and imposed restrictions on the interstate movement of regulated articles from regulated areas in California. The quarantine and regulations were established for the purpose of preventing the artificial spread of the Mediterranean fruit fly into noninfested areas of the United States. It has been determined that the quarantine and regulations are no longer necessary for this purpose. Various areas were designated as regulated areas under the quarantine and regulations. However, immediately prior to the effective date of this document, only one area, a portion of San Joaquin County, was listed as a regulated area. Based on trapping and sampling surveys, it has been determined that the Mediterranean fruit fly does not occur in San Joaquin County and has been eradicated from all of California. The effect of this action is to delete restrictions on the interstate movement (movement from California into or through any other State, Territory, or District of the United States) of previously regulated articles from the previously regulated area in San Joaquin County.

DATES: Effective date of amendment September 21, 1982. Written comments concerning this rule must be received on or before November 22, 1982.

ADDRESSES: Written comments should be submitted to Thomas Lanier, Assistant Director, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 643 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 641 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: B. Glen Lee, Emergency Programs Coordinator, Plant Protection and Quarantine, Animal and Plant Health Inspection Sevice, U.S. Department of Agriculture, Room 610 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–6365.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This interim rule is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this interim rule would have an annual effect on the economy of less than $100,000; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and would not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291. Also, the Assistant Secretary for Marketing and Inspection Services has waived the requirements of Secretary's Memorandum 1512–1.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action affects the interstate movement of regulated articles from a portion of San Joaquin County in California. There are thousands of small entities that move such articles interstate from California and many more thousands of small entities that move such articles interstate from other States. However, based on information compiled by the U.S. Department of Agriculture, it has been determined that fewer than 30 small entities move such articles interstate from the previously regulated area in San Joaquin County. Further, the overall economic impact from this action is estimated to be less than $100,000.

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this document without opportunity for a public comment period because otherwise there would be unnecessary restrictions imposed on the interstate movement of certain articles. This situation requires immediate action to delete such unnecessary restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this action effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited for 60 days after publication of this document, and a final document discussing comments received and any changes required will be published in the **Federal Register** as soon as possible.

Background

Because of infestations of the Mediterranean fruit fly found in areas in California, the Mediterranean fruit fly quarantine and regulations were made effective on July 20, 1981 (46 FR 37706–37713), and amendments to the quarantine and regulations were made effective on August 7, August 19, and

September 2, 1981, and on June 1, June 17, July 2, July 6, August 6, and September 3, 1982 (46 FR 40203–40205, 42072–42073, 44144–44145; 47 FR 23682–23683, 26121–26122, 29207–29209, 28909–28911, 34109–34111 and 38861–38862). The quarantine and regulations were set forth in 7 CFR 301.78 through 301.78–10.

For the purpose of preventing the artificial spread of the Mediterranean fruit fly to noninfested areas in the United States, the quarantine and regulations restricted the interstate movement (movement from California into or through any other State, Territory, or District of the United States) of articles designated as regulated articles from areas designated as regulated areas. The list of regulated articles included a large number of fruits, nuts, vegetables, and berries. Various areas were designated as regulated areas under the quarantine and regulations. However, immediately prior to the effective date of this document only one area, a portion of San Joaquin County, was listed as a regulated area.

Based on trapping and sampling surveys conducted by inspectors of the U.S. Department of Agriculture and State agencies of California, it has now been determined that the Mediterranean fruit fly does not occur in San Joaquin County. Only one fly was found in the affected area in San Joaquin County. No evidence of infestation has been found since that one fly was found on June 24, 1982. Based on departmental expertise, it has been determined that sufficient time has passed without finding additional flies or other evidence of infestation to conclude that an infestation does not occur in that area.

Further, based on trapping and sampling surveys, it has now been determined that the Mediterranean fruit fly has been eradicated from all of California.

Under these circumstances there is no longer a basis for imposing restrictions on the movement of articles from any area in California because of the Mediterranean fruit fly. Therefore, in order to relieve unnecessary restrictions on the interstate movement of certain articles, it is necessary as an emergency measure to amend 7 CFR Part 301 by removing the Mediterranean Fruit Fly quarantine and regulations.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant pests, Plants (agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

§§ 301.78–301.78–10 [Removed]

Accordingly, "Subpart—Mediterranean Fruit Fly" (7 CFR 301.78 through 301.78–10) is removed.

(Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); secs. 105 and 106, 71 Stat. 32, 71 Stat. 33 (7 U.S.C. 150dd, 150ee); 7 CFR 2.17, 2.51, and 371.2)

Done at Washington, D.C., this 13th day of September 1982.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82–25888 Filed 9–20–82; 8:45 am]
BILLING CODE 3410–34–M

Agricultural Marketing Service

7 CFR Part 982

Handling of Filberts/Hazelnuts Grown in Oregon and Washington; Administrative Rules and Regulations; Establishment of Different Marketing Year Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action changes the marketing year dates from May 1–April 30 to July 1–June 30. Under the current marketing year dates, compliance with any withholding obligation must occur no later than the last day of February. This change would give handlers more time to meet their respective obligations and allow them more time to plan their packing and shelling operations for the coming season.

EFFECTIVE DATE: September 21, 1982.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated nine handlers.

It is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** [5 U.S.C. 553]. USDA action authorizing the Filbert/Hazelnut Marketing Board to incur necessary program operating expenses during the 1982–83 season and to collect assessments from handlers regulated under the order to pay those expenses was delayed pending any change in the marketing year period. to avoid any further delay in the approval of the Borad's 1982–83 season expenses and assessment rate, the marketing year change, hereinafter discussed, must be made as soon as possible.

Notice inviting written comments on this action was published in the **Federal Register** on July 13, 1982 [47 FR 30258]. No comments were received.

This action would amend Subpart—Administrative Rules and Regulations [7 CFR 982.432–982.471] by adding a new § 982.417 entitled "Marketing Year". That section would change the definition of marketing year contained in § 982.17 to mean the 12-months from July 1 to the following June 30, both inclusive, except that the marketing year ending June 30, 1983, should begin May 1, 1982.

This subpart is issued under the marketing agreement and Order No. 982, both as amended (7 CFR 982), regulating the handling of filberts/hazelnuts grown in Oregon and Washington. The marketing agreement and order, hereinafter referred to as the "order", are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based on a unanimous recommendation of the Filbert/Hazelnut Marketing Board, hereinafter referred to as the "Board", which works with USDA in administering the order.

When marketing percentages for inshell filberts are established for a marketing year, the inshell filberts that must be withheld from handling in the domestic inshell market are designated as "restricted filberts". Restricted filberts may be exported or shelled.

An order amendment effective May 11, 1981, changed the beginning date of the marketing year from August 1 to May 1 to permit handlers with excessive inventories of filberts to shell or export these filberts during the months of May, June, and July. Credit for the disposition in these restricted outlets would be available for use if volume regulations were established later for that marketing year. The purpose of the change was to encourage handlers to shell or export filberts during those months, thus lessening the chances of excessive inventory burdening new crop sales, and cutting handlers' inventory costs.

However, during the 1981–82 marketing year, some handlers experienced unanticipated problems in meeting their withholding obligations under the May 1–April 30 marketing year. Pursuant to § 982.54, a handler can defer meeting this withholding obligation up to 60 days prior to the end of the marketing year, by posting bonds as surety that the handler will have satisfied fully his withholding obligation by the date specified in the undertaking. Under the current marketing year period, compliance with any withholding obligation must occur no later than the last day of February.

Those handlers experiencing problems during the 1981–82 season had difficulty meeting this deadline because of limited processing facilities and the short time interval between the peak inshell shipping season and the last day of February. The marketing period for inshell filberts occurs primarily during the fall and winter holiday season. Consequently, handlers concentrate on shipping to this market, which is of comparatively short duration, before meeting their withholding obligations.

The change in the marketing year period to July 1–June 30 gives handlers an additional two months to meet their withholding obligations when volume regulations are in effect for a marketing year. This additional time will allow handlers to schedule their processing operations more efficiently to take full advantage of the inshell marketing season and still meet their withholding obligations in a timely fashion by shelling. This change will also lessen the chances of inadvertent noncompliance with seasonal withholding requirements.

The current 1982–83 marketing year under the order began May 1, 1982, and ends April 30, 1983. Under this action, the next marketing year would begin July 1, 1983. Thus, the action also provides for an extension of the current marketing year by an additional two months through June 30, 1983.

After consideration of all relevant matter presented, including that in the notice issued in connection with the change of the marketing year dates, the information and recommendation of the Board, and other available information, it is further found that the change in the marketing year period, set forth below, will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 982

Marketing agreements and orders, Filberts, Hazelnuts, Oregon and Washington.

PART 982—FILBERTS/HAZELNUTS GROWN IN OREGON AND WASHINGTON

Therefore, § 982.417 is added to Subpart—Administrative Rules and Regulations as follows:

Subpart—Administrative Rule and Regulations

§ 982.417 Marketing year.

"Marketing year" means the 12-month period from July 1 to the following June 30, both inclusive, except that the marketing year ending June 30, 1983, shall begin on May 1, 1982.

Dated: September 15, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82-26000 Filed 9-20-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 399

Clarification of Export Controls on Petroleum Transmission and Refining Equipment to the U.S.S.R.

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: Effective December 30, 1981, the Office of Export Administration announced new controls on exports to the U.S.S.R. of commodities for transmission (including transportation) and refinement of petroleum or natural gas and technical data related to oil and gas transmission or refinement. The controls, which also apply to Estonia, Latvia, Lithuania, and Afghanistan, were published the in the Federal Register of January 5, 1982, pages 141–144. The regulations were amended in a Federal Register notice published on June 24, 1982 (47 FR 27250).

This rule clarifies the scope of those controls by revising an entry on the Commodity Control List (Supplement No. 1 to § 399.1 of the Regulations); by adding a footnote to another entry; by revising the heading of Commodity Interpretation 24 (Supplement No. 1 to § 399.2) in order to refer exporters to those chemicals requiring a validated export license to the U.S.S.R., Estonia, Latvia, Lithuania, and Afghanistan; and by adding a new Commodity Interpretation 33 to Supplement No. 1 to § 399.2.

DATE: Effective September 21, 1982. This rule may be further revised in light of any comments received. Comments must be received by November 22, 1982.

ADDRESSES: Written comments (five copies when possible) should be sent to: Richard J. Isadore, Director, Operations Division, P.O. Box 273, Office of Export Administration, Washington, D.C. 20044.

The public record concerning these regulations may be inspected at the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001B, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377–4811).

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act.

However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in developing final regulations. These regulations may be revised before the end of the comment period. Accordingly, interested persons who desire to comment are encouraged to do so at the earliest possible time to permit the fullest consideration of their views.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is exempt from the requirements of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation" because it relates to a foreign affairs function of the United States.

The period for submission of comments will close November 22, 1982. All comments received before the close of the comment period will be considered by the Department in the development of final regulations. While comments received after the end of the comment period will be considered if

possible, their consideration cannot be assured. Public comments that are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001B, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

List of Subjects in 15 CFR Part 399

Exports.

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

Accordingly, the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

§ 399.1 [Amended]

1. In Supplement No. 1 to § 399.1, in CCL entry No. 6699G, a footnote is added following the entry designation "6699G" and following the "SZ" designation in the Validated License Required column reading as follows:

A validated license is required for export of commodities to the U.S.S.R., Estonia, Latvia, Lithuania, and Afghanistan if intended for use in the production, transmission or transportation of petroleum or natural gas, or in the refining of petroleum, petroleum products or natural gas for energy usage, *excluding petrochemical feedstock.* (See Supplement No. 1 to § 399.2, Interpretation 33, for an illustrative list of such commodities.)

2. In Supplement No. 1 to § 399.1, CCL entry No. 6780F is revised to read as follows:

Export control commodity number and commodity description	Unit	Validated license required	GLV $ value limits T&V	Processing code	Reason for control
.....					
6780F Chemicals and materials intended for use in the production, transmission or transportation of petroleum or natural gas, or in the refining of petroleum, petroleum products or natural gas for energy usage, *excluding petrochemical feedstock.* (See Supplement No. 1 to § 399.2, Interpretation 33, for an illustrative list of commodities included in this entry.).		SZ, Afghanistan and the USSR [1]		MG	

[1] Including Estonia, Latvia, and Lithuania.

3. In the section titled "Inorganic chemicals, elements, acids, oxides, hydroxides, peroxides, and halogen salts, as follows:" of Supplement No. 1 to § 399.2, Interpretation 24, the footnote to the entry "Phosphoric acid" is removed.

§ 399.2 [Amended]

4. The introductory paragraph of Commodity Interpretation 24 of Supplement No. 1 to § 399.2 is revised to read as follows:

Interpretation 24: Chemicals

The commodities listed below require a validated license for export to Country Groups S and Z. See Interpretation 33, Oil and Gas-related Chemicals and Materials, for a list of chemicals requiring a validated license for export to the U.S.S.R., Estonia, Latvia, Lithuania and Afghanistan. (Interpretation 33 is an illustrative list only, and does not include all chemicals and materials that require a validated license for export to the U.S.S.R., Estonia, Latvia, Lithuania and Afghanistan.)

* * * * *

5. An Interpretation 33 is added to Supplement No. 1 to § 399.2 reading as follows:

Interpretation 33: Oil and Gas-related Chemicals and Materials.

The following is an illustrative list of chemicals and materials intended for use in the production, transmission or transportation of petroleum or natural gas, or in the refining of petroleum, petroleum products or natural gas for energy usage, *excluding petrochemical feedstock.* This list is illustrative only. It does not include all commodities covered by CCL entries 6699 and 6780.

Activated carbon for petroleum or chemical processing
Additives for fuels and fuel oils
Alumina
Aluminosilicate
Aluminum carbide
Aluminum chloride, anhydrous
Aluminum ethylhexoate
Aluminum nitrate
Aluminum silicate
Aluminum sulfate
Chromia-Alumina
Cobalt, n.e.s.
Cobalt molybdate
Copper sulfate
Corrosion-inhibiting compounds
Cuprous sulfate
Ferrocene
Hydrofluoric acid
Magnesium silicate impregnated silica gel adsorbent
Molecular sieves
Molybdenum oxides
Monocrystalline and polycrystalline forms of molybdenum & tungsten
Nickel compound catalysts
Nicomo-12 (nickel, cobalt and molybdenum on alumina)
Phospholeum (super phosphoric acid)
Phosphoric acid
Platinum
Potassium phosphate, tribasic
Rust-preventive compounds
Silica gel
Sulfuric acid
Triethyl aluminum
Triisobutyl aluminum
Zeolite A
Zinc chloride
Zinc silicate

(Sec. 6, 13 and 15, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. § 2401 *et seq.*; E. O. No. 12214 (45 FR 29783, May 6, 1980); Dept. Org. Order 10–3 (45 FR 6141, January 25, 1980); International Trade Organization and Function Orders 41–1 (45 FR 11862, February 22, 1980) and 41–4 (45 FR 65003, October 1, 1980))

Dated: August 25, 1982.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 82-25029 Filed 9-20-82; 8:45 am]
BILLING CODE 3510-25-M

FEDERAL TRADE COMMISSION

16 CFR Part 803

Premerger Notification Rules; Waiting Period Termination

AGENCY: Federal Trade Commission.

ACTION: Formal interpretation of rule; correction.

SUMMARY: This document corrects a Commission document previously published in the **Federal Register** on Monday, Sept. 13, 1982. An incorrect version of the "Formal Interpretation" was submitted for publication.

EFFECTIVE DATE: Date Commission approved interpretation with the concurrence of the Assistant Attorney General for Antitrust. (August 20, 1982)

FOR FURTHER INFORMATION CONTACT: FTC-CDM, Patricia A. Foster, Washington, D.C. 20580. (202) 523–3894.

SUPPLEMENTARY INFORMATION: In FR Doc. 82–25116, appearing in the **Federal Register** issue for Monday, Sept. 13, 1982, 47 FR 40159, all material on pages 40159–40160, up to the "Formal Interpretation" (first column, page 40160) remains unchanged. The correct version of the "Formal Interpretation" reads as follows: Formal Interpretation Pursuant to § 803.30 of the Premerger Notification Rules, 16 CFR 803.30, Concerning Early Termination of the Waiting Period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

This formal interpretation of the Premerger Notification Rules concerning "early termination" of the waiting period provided by the Hart-Scott-Rodino Act is issued by the Federal Trade Commission pursuant to 16 CFR 803.30. It supersedes a formal interpretation issued by the staff of the Federal Trade Commission on April 10, 1979. That interpretation announced criteria that would be used by the Federal Trade Commission and the Department of Justice in determining whether a request under 16 CFR 803.11 for early termination would be granted. One of those criteria was a requirement that the parties demonstrate some special business reason that warranted early termination of the waiting period.

After experience with the standard for early termination announced on April 10, 1979, the agencies have determined that early termination requests may be appropriately granted in a wider range of circumstances without diminishing the effectiveness of the enforcement process. In the future, the agencies will normally grant a request for termination of the waiting period under the following circumstances:

1. At least one party to the proposed transaction has requested early termination in writing;

2. All parties to the proposed transaction have submitted notification and report forms and any other information required; and,

3. The Federal Trade Commission and the Antitrust Division of the Department of Justice have determined not to take any enforcement action during the waiting period.

Thus, it will no longer be necessary to include in a request for early termination a statement of reasons why the requesting party wishes to consummate the transaction before the end of the waiting period. The amount of time needed to act upon such requests cannot be predicted with precision. It will necessarily vary according to several factors, including the workload of the agencies, the complexity of the proposed transaction, and the seriousness of the antitrust concerns (if any) raised by the proposed transaction.

Notification of each grant of early termination will be published in the **Federal Register** as required by section 7A(b)(2) of the Clayton Act. 15 U.S.C. 18a(b)(2). In addition, if any party's request for early termination has been granted, it is the practice of the Federal Trade Commission to so notify by telephone all parties who have filed in connection with that acquisition.

The Assistant Attorney General in charge of the Antitrust Division of the Department of Justice concurs in this interpretation.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82–25980 Filed 9–20–82; 8:45 am]

BILLING CODE 6750–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Minimum Financial and Related Reporting Requirements for Futures Commission Merchants

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is amending certain of its minimum financial and related reporting requirements for futures commission merchants ("FCMs"). The amendments will alter, for certain FCMs, the amount of adjusted net capital which must be maintained. The minimum adjusted net capital requirement for FCMs is currently the greatest of (1) the minimum dollar amount, or (2) four percent of all customer funds required to be segregated by the Commodity Exchange Act ("Act") and the Commission's regulations, or (3) for those FCMs which are also registered as brokers or dealers with the Securities and Exchange Commission ("SEC"), the amount of net capital required by Rule 15c3–1(a) of the SEC's rules. Under the rules as amended, an FCM can exclude the market value of exchange-traded commodity options purchased by the FCM's option customers when calculating segregation requirements for purposes of Commission Rule 1.17, except to the extent that such market value exceeds the amount of customer funds in the option customer's account. The new minimum adjusted net capital requirement for most FCMs will therefore be the greater of the minimum dollar amount or four percent of the following amount: the funds required to be segregated less the market value of exchange-traded commodity options purchased by the FCM's option customers, however, the amount deducted with respect to each option customer shall not exceed the amount of customer funds in such option customer's account.

In conjunction with the amendment to the minimum adjusted net capital requirement for FCMs, the Commission is also adopting a new safety factor charge, or "haircut," which must be applied to the net capital of FCMs when computing adjusted net capital. The new haircut is four percent of the market value of exchange-traded commodity options granted (sold) by the FCM's option customers.

The effect of the amendments is to require a greater amount of capital to be maintained by FCMs for each short option customer position carried on its books, and to require less capital for each long option customer position. The Commission believes that these amendments reflect more accurately the relative risks to the financial condition of an FCM resulting from carrying customer exchange-traded commodity option positions than do the present rules. The impact of the amendments on the adjusted net capital requirement or on the actual adjusted net capital of any particular FCM will depend, of course, upon the option customer positions carried at any given point in time.

EFFECTIVE DATE: September 21, 1982.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

On July 13, 1982, the Commission published proposed amendments to certain provisions of the minimum financial and related reporting requirements for FCMs pertaining to the treatment of exchange-traded option transactions, and permitted thirty days for public comment thereon (47 FR 30261). The Commission received eight written comments on the proposals. The commentators included two FCMs, three contract markets, one clearing organization, one trade association, and the National Futures Association, an industry self-regulatory organization. Based upon the comments received and its own review of the issues involved, the Commission has determined to adopt the proposed amendments with certain revisions described below.

II. Amendments to FCM Capital Requirements

The minimum adjusted net capital requirement for FCMs is set forth in § 1.17(a)(1) of the Commission's regulations, which currently reads as follows:

> Except as provided in paragraph (a)(2) of this section, each person registered as a futures commission merchant must maintain adjusted net capital equal to or in excess of the greatest of $50,000 ($100,000 for each person registered as a futures commission merchant who is not a member of a designated self-regulatory organization), or 4 percent of the funds required to be segregated pursuant to the Act and these regulations, or, for securities brokers and dealers, the amount of net capital required by Rule 15c3–1(a) of the regulations of the Securities and Exchange Commission [17 CFR 240.15c3–1(a)].[1]

Thus, for any FCM whose minimum adjusted net capital requirement exceeds the minimum dollar amounts set forth in § 1.17(a)(1) (*i.e.*, an exchange-member FCM with segregation requirements in excess of $1,250,000 and a non-member FCM with segregation requirements in excess of $2,500,000), as segregation requirements increase, the amount of adjusted net capital which must be maintained increases.[2] As the Commission has stated previously, a minimum financial requirement based upon the amount of funds required to be segregated reflects the volume of an FCM's customer business and helps to safeguard customer funds. The Commission has stated further that because one of the principal elements of the financial early warning system is also based upon the amount of funds required to be segregated, the system of early warning of the deterioration of an FCM's financial condition is enhanced.[3]

The Commission has adopted regulations to govern a three-year pilot program under which options on certain commodity futures contracts will be permitted to be traded on and through the facilities of domestic boards of trade designated by the Commission as contract markets for option trading.[4] The Commission has also recently proposed a limited expansion of the pilot program which would allow for exchange trading of options on physicals.[5]

The Commission's Division of Trading and Markets interprets an FCM's segregation requirements in connection with exchange-traded option transactions, whether options on futures contracts or options on physicals are involved, to require an option customer's account to be marked to the market.[6] This interpretation means that FCMs must include the market value of each open commodity option purchased by an option customer in the customer's account equity, and deduct the market value of each open commodity option granted by an option customer from the customer's account equity, based on the contract market's daily settlement price for such options. This interpretation assures that option customers are accorded the same protection as futures customers.

Under the current minimum financial requirement, that segregation interpretation would result in an increase in the minimum amount of adjusted net capital which must be maintained by an FCM for each open commodity option purchased by an option customer. The Commission believes that the financial risk to an FCM would be reflected more accurately if the FCM's financial condition was affected by the market value of each open commodity option granted by an option customer, rather than the market value of each open commodity option purchased by an option customer. The Commission believes that there is relatively less risk associated with a long option position than with a short option position because an option customer must pay the full premium at the time the option is purchased,[7] while an option grantor typically would margin his position.

Certain commentators stated that there should be no haircut based on the market value of options granted by an FCM's option customers because granting an option is no more risky than taking a short futures position. However, the Commission believes that the haircut on granted options is necessary to ensure that option customers are not afforded less protection than futures customers. Four percent of all money, securities or property held by FCMs for futures customers must be reflected in an FCM's capital computation and it is appropriate that four percent of all money, securities and property of option customers be similarly reflected.

Certain other commentators stated that the proposed financial rule changes and the Division of Trading and Markets' Interpretation No. 8 require complex and duplicative calculations, and that leaving the market value of options out of the segregation computation would be simpler and achieve the same result. The Commission believes that the examples set forth in this release and in the Division of Trading and Markets' Interpretation No. 8 illustrating the financial and segregation treatment of exchange-traded option transactions should be understood by all interested parties. Indeed, the Commission's staff has received comments from several members of the industry that they would have established the segregation treatment of exchange-traded options in an identical manner. Moreover, the Commission believes that a failure to recognize the market value of options in the segregation computation would represent a significant divergence from the customer protection principles which to date have guided its promulgation of rules concerning the financial and segregation treatment of customer funds held by FCMs.

Accordingly, the Commission has determined: (1) To amend § 1.17(a)(1) to allow an FCM to exclude the market value of exchange-traded commodity options purchased by the FCM's option customers when calculating segregation requirements for purposes of § 1.17,

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[1] 17 CFR 1.17(a)(1) (1981), as amended, 47 FR 22352 (May 24, 1982).

[2] The remainder of this discussion assumes that any FCM referred to has segregation requirements in excess of the amounts cited in the text and that such an FCM's adjusted net capital requirement would be affected by option customer transactions. The Commission recognizes, however, that FCM/broker-dealers with such segregation requirements may have higher minimum net capital requirements than FCMs which are not broker-dealers due to the volume of their securities business.

[3] 45 FR 42633, at 42635 (June 25, 1980); 45 FR 79418, 79418 (December 1, 1980).

[4] 46 FR 54880 (November 3, 1981).

[5] 47 FR 29401 (June 30, 1982).

[6] Division of Trading and Markets, "Financial and Segregation Interpretation No. 8—Proper Accounting, Segregation and Net Capital Treatment of Exchange-Traded Option Transactions" (August 12, 1982).

[7] *See* regulation 33.4(a)(2), 46 FR 54500, 54530 (Nov. 3, 1981).

provided, however, that the amount excluded with respect to each option customer shall not exceed the amount of customer funds in such option customer's account; and (2) to add a new safety factor charge, or "haircut," against an FCM's net capital of four percent of the market value of exchange-traded commodity options granted (sold) by the FCM's option customers (*see* § 1.17(c)(5)(iii).

The following example will demonstrate the effect of the rule changes. Assume that there ar two FCMs, Firm A and Firm B, which are clearing members of the same contract market, and that Customer C has an account at Firm A with a $5,000 cash ledger balance and Customer D has an account at Firm B with a $1,000 cash ledger balance. Customer C enters an order to buy a commodity option, and the order is executed with Customer D being the grantor. The premium is $5,000. As of the date of the option purchase, Firm A transmits $5,000 to the clearing organization as full payment of the premium to purchase the option for its Customer C. The clearing organization in turn passes on the $5,000 to Firm B. As a result of this transaction, Firm A debits Customer C's account $5,000 for the purchase of the option, reducing Customer C's account to a cash ledger balance of $0, and Firm B credits Customer D's account with $5,000 which represents the proceeds of the granted option, increasing the cash ledger balance in Customer D's account to $6,000.

To determine the segregation requirements for Firm A and Firm B resulting from this hypothetical transaction, assume that the daily settlement price for the option in question was $5,000, the same as the premium paid to purchase the option. Firm A's customer, Customer C, has a zero cash ledger balance and an option with a market value of $5,000, so Firm A's segregation requirement is $5,000. Firm B's customer, Customer D, has a $6,000 cash ledger balance less a $5,000 unrealized obligation with respect to the option which he granted (sold), so Firm B's segregation requirement is $1,000.

The effect of this hypothetical option transaction on the financial position of Firms A and B would be as follows. Under the present minimum financial rules, Firm A's adjusted net capital requirement would be $200 (4% of $5,000) and Firm B's adjusted net capital requirement would be $40 (4% of $1,000). Under the new rules, Firm A's adjusted net capital requirement will be $0, since Firm A can exclude the market value of the option ($5,000) when calculating four percent of segregation requirements. Since the new haircut will not apply to exchange-traded options purchased, Firm A's excess adjusted net capital will be enhanced by $200 under the new rules in comparison to the results under the current rules. On the other hand, Firm B's adjusted net capital requirement will still be $40 under the new rules and, in addition, Firm B's computation of its actual adjusted net capital will be reduced by $200 based on the new haircut. As a result, the new rules will cause a decline in Firm B's adjusted net capital of $200. To sum up, the hypothetical option transaction will require additional capital of $240 between the two firms involved under the current rules as well as under the new rules. However, while the current rules would place a $200 burden on the firm whose customer purchased the option and a $40 burden on the firm whose customer granted the option, the proposed rules will shift the entire $240 burden to the latter firm.

In response to certain comments and as a result of the Commission's reconsideration of this matter, the Commission has determined to further revise the proposed amendment to § 1.17(a)(1) to make it clear that the market value deducted by an FCM, with respect to each option customer, can not exceed the amount of customer funds in the account of such option customer. Without this revision, an FCM could actually enhance its capital position for short periods of time by selling options to customers and not collecting the premiums. Such a result is clearly not desirable. To illustrate the effect of the amendment as revised on the required minimum adjusted net capital computation, assume that an option customer purchased but did not pay for an option with a premium of $5,000 and that the market value of the option at the end of the trading day (based on the settlement price) was $5,000. In this situation the customer would have a $5,000 debit cash ledger balance and an option worth $5,000, resulting in a zero net equity. Pursuant to the revised amendment, the FCM could not deduct any portion of the market value of the option when determining its capital requirement.

III. Other Matters

A. *Conforming Amendments.* Several provisions of the Commission's minimum financial rules for FCMs, as well as one provision of the financial early warning system, make references to specified adjusted net capital levels. Certain actions are restricted, or, in the case of the early warning system, required, if those specified levels are breached. (In all cases, the specified adjusted net capital levels exceed the minimum adjusted net capital requirement.) Because the Commission is amending the minimum adjusted net capital requirement contained in § 1.17(a)(1), conforming changes are also being adopted in the following provisions which refer to specified adjusted net capital levels: Paragraph (e) of § 1.17 (restricting withdrawal of equity capital); paragraphs (h)(2)(vi)(C), (h)(2)(vii), (h)(2)(viii), (h)(3)(ii) and (h)(3)(v) of § 1.17 (concerning subordinated debt); and § 1.12(b) (one component of the financial early warning system). Also, amendments will be made in Form 1–FR, the basic financial reporting form for FCMs. These include Items 22 and 25 of the Statement of the Computation of the Minimum Capital Requirements. In addition, a new item will be added to that Statement under the heading "Charges to Net Capital" for the new charge of four percent of the market value of commodity options granted (sold) by option customers on or subject to the rules of a contract market. Also, changes will be made in the schedule of segregation requirements and funds in segregation. The changes to the Form 1–FR which are necessitated by the new financial rules discussed herein are not being published in this release since those changes simply follow the rule amendments discussed herein and because Form 1–FR does not appear in the Code of Federal Regulations. Anyone interested in further information regarding the changes to Form 1–FR may contact Mr. Patent at the address or telephone number listed in this release. Form 1–FR is available upon request from the Commission.

B. *Contract market rules.* The Commission wishes to reiterate that central to the operation of the financial surveillance system for FCMs are the requirements in § 1.52(a) of the regulations (17 CFR 1.52(a)) that each contract market have in effect, and be responsible for enforcing, financial and reporting rules for their member FCMs which are at least as stringent as those contained in §§ 1.10 and 1.17 of the Commission's regulations, and that each contract market's definition of adjusted net capital be the same as that provided in § 1.17(c). Most of the contract markets' rules in this regard incorporate, by reference, the requirements of §§ 1.10 and 1.17 and, hence, any amendments to § 1.17 are incorporated automatically into the rules of those contract markets upon the effective date of such amendments. Two contract markets do not follow this approach, however, and

instead have detailed financial and reporting rules. The new safety factor charge based on four percent of the market value of exchange-traded commodity options granted by option customers (§ 1.17(c)(5)(iii)) affects the definition of adjusted net capital, and the rules of those two contract markets must be amended so that their definition of adjusted net capital will remain the same as the Commission's definition.

In the **Federal Register** release announcing the proposal of the amendments discussed herein, the Commission stated that those two contract markets should begin the preparations necessary to effectuate an appropriate change in their rules in the event the Commission adopts such an amendment. In this regard, the Commission understands that both exchanges are proceeding to conform their net capital rules to the rules which the Commission has adopted here. Since the Commission is making the amendments to its rules effective immediately, however, the Commission has authorized its Division of Trading and Markets to take a "no-action" position regarding the two contract markets in question for thirty days following publication of this notice in order to allow those contract markets to complete the process of amending their rules. The Commission understands that the "no-action" position which the Division may take under this authorization will allow the two contract markets not to enforce their existing net capital rules so long as the contract markets enforce capital rules as stringent as the Commission rules adopted here until such time as each exchange adopts its own rules amendments and those amendments are approved by the Commission.

C. *Certification Under the Regulatory Flexibility Act.* The Commission does not believe that the rule amendments discussed herein will have significant economic impact on small entities. As discussed above, the only regulated entities which will be affected by the rule amendments are FCMs. The Commission has recently published its determination that a registered FCM not be considered a "small entity" within the meaning of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1165, 1166 (5 U.S.C. 601 (3) and (6)). 47 FR 18618, 18619 (April 30, 1982). Accordingly, pursuant to Section 3(a) of the Regulatory Flexibility Act, 94 Stat. 1168 (5 U.S.C. 605(b)), the Chairman, on behalf of the Commission, certifies that the rule amendments being adopted will not have a significant economic impact on a substantial number of small entities.

D. *Effective Date.* The Commission, in accordance with 5 U.S.C. 553(d)(3), finds good cause for making the rule amendments described herein effective upon publication in the **Federal Register**. The exchange-traded option pilot program will become operational shortly.[*] If FCMs must begin the pilot program using one accounting system and then are required to switch to a different accounting system, confusion and additonal expenses could result. The Commission believes that this would be detrimental to FCMs, the exchanges and the trading public. The Commission has determined, therefore, to make the rule amendments described herein effective upon publication in the **Federal Register** so that all interested parties will know with certainty the accounting system to be used for exchange-traded options.

List of Subjects in 17 CFR Part 1

Commodity futures, Financial requirements, Reporting requirements.

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

In consideration of the foregoing, the Commission, pursuant to the authority contained in Sections 4c, 4d, 4f and 8a of the Act, 7 U.S.C. 6c, 6d, 6f and 12a (1976 and Supp. IV 1980), hereby amends 17 CFR Chapter I in the manner set forth below.

1. 17 CFR Part 1 is amended by revising paragraph (b) of § 1.12 to read as follows:

§ 1.12 Maintenance of minimum financial requirements by futures commission merchants.

* * * * *

(b) Each person registered as a futures commission merchant, or who files an application for registration as a futures commission merchant, who knows or should have known that its adjusted net capital at any time is less than:

(1) The greatest of 150 percent of the appropriate minimum dollar amount required by § 1.71(a)(1)(i);

(2) 6 percent of the following amount: the customer funds required to be segregated pursuant to Section 4d(2) of the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or,

(3) For securities brokers or dealers, the amount of net capital specified in Rule 17a-11(b) of the Securities and Exchange Commission (17 CFR 240.17a-11(b)) must file written notice to that effect as set forth in paragraph (g) of this section within five (5) business days of such event. Such applicant or registrant must also file a Form 1-FR (or, if such applicant or registrant is registered with the Securities and Exchange Commission as a securities broker or dealer, it may file, in accordance with § 1.10(h), a copy of its Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, in lieu of Form 1-FR) or such other financial statement designated by the Commission and/or the designated self-regulatory organization, if any, as of the close of business for the month during which such event takes place and as of the close of business for each month thereafter until three (3) successive months have elapsed during which the applicant's or registrant's adjusted net capital is at all times equal to or in excess of the minimums set forth in this paragraph (b) which are applicable to such applicant or registrant. Each financial statement required by this paragraph (b) must be filed within 30 calendar days after the end of the month for which such report is being made.

* * * * *

2. 17 CFR Part 1 is amended further by revising paragraph (a)(1), by adding a new paragraph (c)(5)(iii), and by revising paragraphs (e),(h)(2)(vi)(C), (h)(2)(vii)(A), (h)(2)(vii)(B), (h)(2)(viii), (h)(3)(ii) and (h)(3)(v) of § 1.17 to read as follows:

§1.17 Minimum financial requirements—futures commission merchants.

(a)(1) Except as provided in paragraph (a)(2) of this section, each person registered as a futures commission merchant must maintain adjusted net capital equal to or in excess of the greatest of:

(i) $50,000 ($100,000 for each person registered as a futures commission merchant who is not a member of a designated self-regulatory organization), or

(ii) 4 percent of the following amount: the customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the

[*] On August 31, 1982, the Commission designated four exchanges, effective October 1, 1982, as contract markets to trade options on commodity futures. Two of those exchanges [Coffee, Sugar and Cocoa Exchange, Inc. and Commodity Exchange, Inc.] automatically incorporate changes in the Commission's net capital rules into their own rules.

rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account, or

(iii) For securities brokers and dealers, the amount of net capital required by Rule 15c3–1(a) of the regulations of the Securities and Exchange Commission (17 CFR 240.15c3–1(a)).

* * * * *

(c) * * *

(5) * * *

(iii) Four percent of the market value of commodity options granted (sold) by option customers on or subject to the rules of a contract market;

* * * * *

(e) No equity capital of the applicant or registrant or a subsidiary's or affiliate's equity capital consolidated pursuant to paragraph (f) of this section, whether in the form of capital contributions by partners (including amounts in the commodities, options and securities trading accounts of partners which are treated as equity capital but excluding amounts in such trading accounts which are not equity capital and excluding balances in limited partners' capital accounts in excess of their stated capital contributions), par or stated value of capital stock, paid-in capital in excess of par or stated value, retained earnings or other capital accounts, may be withdrawn by action of a stockholder or partner or by redemption or repurchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor, or employee if, after giving effect thereto and to any other such withdrawals, advances, or loans and any payments of payment obligations (as defined in paragraph (h) of this section) under satisfactory subordination agreements and any payments of liabilities excluded pursuant to paragraph (c)(4)(vi) of this section which are scheduled to occur within six months following such withdrawal, advance or loan:

(1) Either adjusted net capital of any of the consolidated entities would be less than the greatest of (i) 120 percent of the appropriate minimum dollar amount required by § 1.17(a)(1)(i); (ii) 7 percent of the following amount: the customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or (iii) for securities brokers or dealers, the amount of net capital specified in Rule 15c3–1(e) of the Securities and Exchange Commission (17 CFR 240.15c3–1(e)); or

(2) In the case of any applicant or registrant included within such consolidation, if equity capital of the applicant or registrant (inclusive of satisfactory subordination agreements which qualify as equity under paragraph (d) of this section) would be less than 30 percent of the required debt-equity total as defined in paragraph (d) of this section.

Provided, That this paragraph (e) shall not preclude an applicant or registrant from making required tax payments or preclude the payment to partners of reasonable compensation. The Commission may, upon application of the applicant or registrant, grant relief from this paragraph (e) if the Commission deems it to be in the public interest or for the protection of nonproprietary accounts.

* * * * *

(h) * * *

(2) * * *

(vi) * * *

(C) The secured demand note agreement may also provide that, in lieu of the procedures specified in the provisions required by paragraph (h)(2)(vi)(B) of this section, the lender, with the prior written consent of the applicant or registrant and the designated self-regulatory organization, or, if the applicant or registrant is not a member of a designated self-regulatory organization, then the Commission, may reduce the unpaid principal amount of the secured demand note: *Provided*, That after giving effect to such reduction the adjusted net capital of the applicant or registrant would not be less than the greater of: *(1)* 7 percent of the following amount: the customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or *(2)* for securities brokers or dealers, the amount of net capital specified in Rule 15c3–1d(b)(6)(iii) of the regulations of the Securities and Exchange Commission (17 CFR 240.15c3–1d(b)(6)(iii)): *Provided, further*, That no single secured demand note shall be permitted to be reduced by more than 15 percent of its original principal amount and after such reduction no excess collateral may be withdrawn. No designated self-regulatory organization shall consent to a reduction of the principal amount of a secured demand note if, after giving effect to such reduction, adjusted net capital would be less than 120 percent of the appropriate minimum dollar amount required by this section.

(vii) *Permissive prepayments and special prepayments.* (A) An applicant or registrant at its option, but not at the option of the lender, may, if the subordination agreement so provides, make a payment of all or any portion of the payment obligation thereunder prior to the scheduled maturity date of such payment obligation (hereinafter referred to as a "prepayment"), but in no event may any prepayment be made before the expiration of one year from the date such subordination agreement became effective: *Provided, however*, That the foregoing restriction shall not apply to temporary subordination agreements which comply with the provisions of paragraph (h)(3)(v) of this section nor shall it apply to "special prepayments" made in accordance with the provisions of paragraph (h)(2)(vii)(B) of this section. No prepayment shall be made if, after giving effect thereto (and to all payments of payment obligations under any other subordination agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within six months afters after the date such prepayment is to occur pursuant to this provision, or on or prior to the date on which the payment obligation in respect to such prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the applicant or registrant, the adjusted net capital the applicant or registrant is less than the greatest of: *(1)* 7 percent of the following amount: The customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; *(2)* for securities brokers or dealers, the amount of net capital specified in Rule 15c3–1d(b)(7) of the regulations of the Securities and Exchange Commission (17 CFR 240.15c3–1d(b)(7)); or *(3)* 120 percent of the appropriate minimum dollar amount required by paragraph (a)(1)(i) of this section. Notwithstanding the above, no prepayment shall occur without the prior written approval of the designated

self-regulatory organization and the Commission.

(B) An applicant or registrant at its option, but not at the option of the lender, may, if the subordination agreement so provides, make a payment at any time of all or any portion of the payment obligation thereunder prior to the scheduled maturity date of such payment obligation (hereinafter referred to as a "special prepayment"). No special prepayment shall be made if, after giving effect thereto (and to all payments of payment obligations under any other subordination agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such special prepayment is to occur pursuant to this provision, or on or prior to the date on which the payment obligation in respect to such special prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the applicant or registrant, the adjusted net capital of the applicant or registrant is less than the greatest of: (*1*) 10 percent of the following amount: the customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; (*2*) for securities brokers or dealers, the amount of net capital specified in Rule 15c3–1d(c)(5)(ii) of the regulations of the Securities and Exchange Commission (17 CFR 240.15c3–1d (c)(5)(ii)); or (*3*) 200 percent of the appropriate minimum dollar amount required by paragraph (a)(1)(i) of this section, nor shall any special prepayment be made if pre-tax losses during the latest three-month period were greater than 15 percent of current excess adjusted net capital. Notwithstanding the above, no prepayment shall occur without the prior written approval of the designated self-regulatory organization and the Commission.

(viii) *Suspended repayment.* (A) The payment obligation of the applicant or registrant in respect of any subordination agreement shall be suspended and shall not mature if, after giving effect to payment of such payment obligation (and to all payments of payment obligations of the applicant or registrant under any other subordination agreement(s) then outstanding which are scheduled to mature on or before such payment obligation), the adjusted net capital of the applicant or registrant would be less than the greatest of: *(1)* 6 percent of the following amount: The customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; *(2)* for securities brokers or dealers, the amount of net capital specified in Rule 15c3–1d(b)(8)(i) of the regulations of the Securities and Exchange Commission (17 CFR 240.15c3–1d(b)(8)(i)); or *(3)* 120 percent of the minimum dollar amount required by paragraph (a)(1)(i) of this section: *Provided,* That the subordination agreement may provide that if the payment obligation of the applicant or registrant thereunder does not mature and is suspended as a result of the requirement of this paragraph (h)(2)(viii) for a period of not less than six months, the applicant or registrant shall then commence the rapid and orderly liquidation of its business, but the right of the lender to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this section.

* * * * *

(3) * * *

(ii) *Notice of maturity or accelerated maturity.* Every applicant or registrant shall immediately notify the designated self-regulatory organization and the Commission if, after giving effect to all payments of payment obligations under subordination agreements then outstanding which are then due or mature within the following six months without reference to any projected profit or loss of the applicant or registrant, its adjusted net capital would be less than: (A) 120 percent of the minimum dollar amount required by paragraph (a)(1)(i) of this section; (B) 6 percent of the following amount: The customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; or (C) For securities brokers or dealers, the amount of net capital specified in Rule 15c3–1d(c)(2) of the regulations of the Securities and Exchange Commission (17 CFR 240.15c3–1d(c)(2)).

* * * * *

(v) *Temporary subordinations.* To enable an applicant or registrant to participate as an underwriter of securities or undertake other extraordinary activities and remain in compliance with the adjusted net capital requirements of this section, an applicant or registrant shall be permitted, on no more than three occasions in any 12-month period, to enter into a subordination agreement on a temporary basis which has a stated term of no more than 45 days from the date the subordination agreement became effective: *Provided,* That this temporary relief shall not apply to any applicant or registrant if the adjusted net capital of the applicant or registrant is less than the greatest of: (A) 7 percent of the following amount: the customer funds required to be segregated pursuant to the Act and these regulations less the market value of commodity options purchased by option customers on or subject to the rules of a contract market, provided, however, the deduction for each option customer shall be limited to the amount of customer funds in such option customer's account; (B) For securities brokers or dealers, the amount of net capital specified in Rule 15c3–1d(c)(5)(i) of the Securities and Exchange Commission (17 CFR 240.15c3–1d(c)(5)(i)); or (C) 120 percent of the appropriate minimum dollar amount required by paragraph (a)(1)(i) of this section; or the amount of equity capital as defined in paragraph (d) of this section is less than the limits specified in paragraph (d) of this section. Such temporary subordination agreement shall be subject to all the other provisions of this section.

* * * * *

Issued in Washington, D.C. on September 15, 1982, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82–25014 Filed 9–20–82; 8:45 am]

BILLING CODE 8351–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 82–165]

Generalized System of Preferences; Evidence of the Country of Origin; Correction

AGENCY: Customs Service; Treasury.

ACTION: Final rule; correction.

SUMMARY: This document corrects an error in the effective date of a final rule relating to the Generalized System of Preferences which appeared at page 40160 in the Federal Register of Monday, September 13, 1982 (47 FR 40160).

FOR FURTHER INFORMATION CONTACT: Todd J. Schneider, Regulations Control Branch, U.S. Customs Service (202–566–8237).

The following correction is made to the document:

On page 40160, right-hand column, the date under the caption **EFFECTIVE DATE:** is corrected to read "September 13, 1982, * * *".

Dated: September 15, 1982.

Marvin M. Amernick,

Acting Director, Regulations Control and Disclosure Law Division.

[FR Doc. 82-25886 Filed 9-20-82; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 131

[Docket No. 77N-0143]

Cultured and Acidified Milks, Cultured and Acidified Buttermilks, Yogurts, and Eggnog; Confirmation of Effective Date and Further Amendments; and Stay of Effective Date of Certain Provisions

AGENCY: Food and Drug Administration.

ACTION: Final rule; stay of effective date; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of and further amending certain provisions of the standards of identity for acidified milk, acidified lowfat milk, acidified skim milk, cultured milk, cultured lowfat milk, cultured skim milk, eggnog, yogurt, lowfat yogurt, and nonfat yogurt. FDA also is staying certain provisions of these standards and confirming the redesignation of the standard of identity for skim milk.

DATES: Compliance with the provisions being revised herein may begin November 22, 1982. Effective July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date.

Objections to the provisions being revised herein by October 21, 1982.

Except as to those provisions stayed or amended, compliance with the January 30, 1981 final rule may have begun March 31, 1981, and all products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1983, shall fully comply.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF–215), Food and Drug Administration, 200, C St. SW., Washington, DC 20204, 202–245–1155.

SUPPLEMENTARY INFORMATION: A final rule was published in the Federal Register of January 30, 1981 (46 FR 9924), redesignating 21 CFR 131.145 *Skim milk* as 21 CFR 131.143 *Skim milk* and establishing standards of identity for acidified milk (21 CFR 131.111), cultured milk (21 CFR 131.112), acidified lowfat milk (21 CFR 131. 136), cultured lowfat milk (21 CFR 131. 138), acidified skim milk (21 CFR 131.144), cultured skim milk (21 CFR 131.146), eggnog (21 CFR 131.170), yogurt (21 CFR 131.200), lowfat yogurt (21 CFR 131.203), and nonfat yogurt (21 CFR 131. 206). The final rule provided that any person who would be adversely affected could at any time, on or before March 2, 1981, file written objections to the final rule and request a hearing on the specific provisions to which there were objections.

Twenty-one responses were filed objecting to specific provisions of the final rule and in most cases requesting a hearing. Under section 701(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)) (the act), FDA has considered the objections and requests for a hearing and the conclusions are as follows:

Objections and Requests for a Hearing

General

1. *Other Milk-derived Ingredients.* Objectors assert that replacing the phrase "other milk-derived ingredients" in §§ 131.111(e)(1), 131.112(d)(1), 131.136(e)(1), 131.138(d)(1), 131.144(e)(1), 131.146(d)(1), 131.170(e)(1), 131.200(c)(1), 131.203(c)(1), and 131.206(c)(1) with a limited list of names of milk-derived ingredients, does not promote honesty and fair dealing in the interest of consumers because this interpretation of the phrase bars the use of other safe, nutritional, and functional milk-derived ingredients. The objectors also assert that exclusion of traditional milk-derived ingredients, e.g., partially delactosed skim milk, partially hydrolyzed whey, partially hydrolyzed skim milk, low sodium milks, casein, and caseinates, does not appear to have any rational factual basis, in light of FDA's past interpretation of the phrase to include many or all of these ingredients. The objections also maintain that a definition of the phrase "other milk-derived ingredients" should be established at a hearing.

FDA believes that the objectors raise a genuine and substantial issue of fact that must be resolved at a public hearing as provided for in 21 CFR 12.24. Therefore, FDA is staying the effective date of the provisions of §§ 131.111(e)(1), 131.112(d)(1), 131.136(e)(1), 131.138(d)(1), 131.144(e)(1), 131.146(d)(1), 131.170(e)(1), 131.200(c)(1), 131.203(c)(1), and 131.206(c)(1) that restrict the kinds of safe and suitable milk-derived ingredients that may be used as optional ingredients to increase the nonfat solids contents of these foods, pending the outcome of a public hearing. It should be noted that if no adverse comments are received to the amendment discussed in item 2, below, the paragraphs in all of the yogurt standards will be redesignated, so the paragraphs listed above which are affected by this stay will be changed from § 131.200(c)(1)to § 131.200(d)(1); § 131.203(c)(1) to § 131.203(d)(1); and § 131.206(c)(1) to § 131.206(d)(1).

2. *Optional Addition of Vitamins A and D to Yogurts and Eggnog.* Objectors assert that the standards of identity for eggnog (§ 131.170), yogurt (§ 131.200), lowfat yogurt (§ 131.203), and nonfat yogurt (§ 131.206 (should be amended to provide for the optional addition of vitamins A and D, as the other standards in the final rule do. Reasons given for the amendments are that yogurts are often used as dietary replacements for milk, particularly in the diets of children, and that the requested amendments would be consistent with other milk product standards of identity and would prevent the possibility that a yogurt manufacturer's product would be out of compliance with these standards if the manufacturer uses milk with added vitamins as an ingredient to produce yogurts.

FDA is persuaded that there is merit in permitting the addition of vitamins A and D to yogurt, lowfat yogurt, and nonfat yogurt, but not to eggnog. The agency is aware that children may consume significant amounts of yogurt products, especially flavored yogurts. In addition, many children who cannot tolerate milk physiologically or who dislike milk, are encouraged to consume yogurts and other products. Permitting the addition of vitamins A and D to these products would offer consumers an alternative group of dairy products as

a source of these vitamins. At the same time, the levels being proposed for addition of the vitamins do not provide a significant potential for excess consumption of these nutrients.

It is FDA's current policy to permit the addition of a nutrient to a food to correct a dietary insufficiency recognized by the scientific community to exist and known to result in nutritional deficiency disease. FDA only applies the policy where sufficient information is available to identify the nutritional problem and the affected population groups and where the food is suitable to act as a vehicle for the added nutrient. Because no information on eggnog was submitted to support the inclusion of vitamins A and D to eggnog and inasmuch as eggnog is a seasonal product, FDA concludes that eggnog is not a significant vehicle for added vitamins A and D.

Accordingly, FDA is revising §§ 131.200, 131.203, and 131.206, by adding a new paragraph (b), to each of the three standards for yogurts. This change will necessitate redesignating each subsequent paragraph and including labeling provisions in each standard, as set out below. FDA is allowing interested persons until October 21, 1982 to submit written objections to this amendment.

Cultured and Acidified Milks

3. *Color Additives.* Objectors contend that the provisions in §§ 131.111(e)(4), 131.112(d)(4), 131.136(e)(4), 131.138(d)(4), 131.144(e)(4), and 131.146(d)(4) which limit the type of color additives to those that do not impart a color simulating the color of milkfat or butterfat are unreasonable. The objectors maintain that it is common practice to use color additives to assure uniform color in flakes or granules of milkfat and butterfat.

FDA advises that the basis for the color additive limitation may not have been clear in the preamble to the January 30, 1981 final rule because a sentence was inadvertently dropped from the text. The sentence explained that the intent of the limited use of color additives imposed in §§ 131.111(e)(4), 131.112(d)(4), 131.136(e)(4), 131.138(d)(4), 131.144(e)(4), and 131.146(d)(4) is to prohibit the addition of yellow color, directly to the fluid products, in a manner that could give the products the appearance of containing more milkfat than they actually do, thus misleading consumers about the value of the products. The intent, therefore, was not to prohibit the use of color additives in butterfat or milkfat in the form of flakes or granules which may be added to acidified and cultured buttermilks. However, when butterfat or milkfat flakes or granules are used in acidified or cultured buttermilks, all of the ingredients, including color additives, in the flakes or granules must be declared in the ingredient statement. In order to clarify these provisions, FDA is revising §§ 131.111(e)(6), 131.112(d)(6), 131.136(e)(6), 131.138(d)(6), 131.144(e)(6), and 131.146(d)(6) to read "Butterfat or milkfat, which may or may not contain color additives, in the form of flakes or granules". In light of the foregoing explanation and clarification, FDA believes that the objection does not raise an issue of fact that warrants a hearing.

Eggnog

4. *Minimum Milk Solids Not Fat Requirement.* Objectors assert that a milk solids not fat minimum requirement is not necessary in the standard of identity for eggnog (§ 131.170(a)). The objectors point out that the definition on which this standard is based, found in the "Grade A Pasteurized Milk Ordinance—1965 Recommendations of the U.S. Public Health Service" (PMO), and most State standards for eggnog only require minimum levels of milkfat and egg yolk solids. The objectors further assert that an eggnog containing the minimum 8.25 percent milk solids not fat required by the standard would be too viscous for consumers' tastes.

FDA believes that the objectors raise a genuine and substantial issue of fact that must be resolved at a public hearing as provided for in 21 CFR 12.24. Therefore, FDA is staying the effective date of that portion of § 131.170(a) that sets a minimum milk solids not fat level of 8.25 percent in eggnog, pending the outcome of a public hearing.

5. *Limitation of the Use of Color Additives.* Objectors argue that the limitation established in § 131.170(e)(4) on the use of color additives that simulate the color of egg yolk, butterfat, or milkfat is unreasonable and not in the best interests of consumers. The objectors maintain that States have permitted the use of color additives in eggnog for years and, furthermore, consumers have come to expect a deeper yellow color than could be normally obtained from egg yolks and milkfat alone. One objector asserts that it is fairer to permit manufacturers the use of color additives to give eggnog an improved, uniform appearance year round than it is to create a situation in which highly colored egg yolks obtained from specifically fed laying flocks would be used to color the food, since color from the later source would not be required to be declared on the label of the food.

FDA believes that the objectors raise a genuine and substantial issue of fact that must be resolved at a public hearing as provided for in 21 CFR 12.24. Therefore, FDA is staying the effective date of that portion of § 131.170(e)(4) that prohibits the use of color additives that simulate the color of egg yolk, butterfat, or milkfat, pending the outcome of a public hearing. Until such time as this issue is resolved, the safe and suitable use of color additives that simulate the color of egg yolk, milkfat, or butterfat will not be the basis for regulatory action.

6. *Post-pasteurization Addition of Color Additives and Flavoring Ingredients.* Objectors state that the provision in § 131.170(a) requiring that color additives and, more importantly, flavoring ingredients be added prior to pasteurization of the final product is reasonable and that it will result in less palatable and/or more expensive products. The objectors maintain that eggnog characteristically contains rum flavor, which is volatile, and nutmeg, which becomes lodged in the pasteurization equipment. One of the objectors argues that it is the responsibility of manufacturers, in line with good manufacturing practice, to take the precautionary measures necessary to assure that a safe product reaches the consumer and offers the past record of eggnog as evidence that these measures have been taken. The objectors agree that the egg ingredient should be added prior to pasteurization, and state that this procedure is consistent with good manufacturing practices and would adequately protect consumers against any potential health hazard resulting from use of the egg ingredient.

FDA believes that the objectors have presented sufficient information to justify revising § 131.170(a) to permit addition of color additives and flavoring ingredients after pasteurization or ultra-pasteurization. This is predicated on the fact that these ingredients, as well as the finished food, must be free from physical, chemical, or microbiological contamination as required by the act. FDA is allowing interested persons until October 21, 1982 to submit written objections to this amendment.

Yogurts

7. *Heat-treatment after Culturing.* Objectors state that §§ 131.200(a) and (e)(1)(ii), 131.203(a) and (e)(1)(iii), and 131.206(a) and (e)(1)(ii) (redesignated as §§ 131.200(a) and (f)(1)(ii), 131.203(a) and (f)(1)(iii), 131.206(a) and (f)(1)(ii) in the final rule set forth below), which provide for the heat-treatment of yogurts

after culturing, will confuse and mislead the public into believing that these products have been manufactured in the traditional way. The objectors also contend that the heat-treatment provisions benefit only those processors who operate under less than satisfactory sanitary conditions.

This issue was discussed in the preamble to the final rule published in the **Federal Register** of January 30, 1981 (46 FR 9924). FDA maintains its position that informative labeling, such as the mandatory declaration "heat-treatment after culturing" which must appear on the label of all yogurts that have been heated after culturing, provides sufficient information for consumers to differentiate the traditional product from the heat-treated product. The agency does not agree that use of a post-culturing heat treatment will cover up unsanitary manufacturing conditions and no evidence to support this view was provided. FDA concludes that this objection does not raise an issue of fact that warrants a hearing.

8. *"Heat-treated After Culturing" Labeling.* (a) One objector asserts that the required labeling in §§ 131.200(e)(1)(ii), 131.203(e)(1)(iii), and 131.206(e)(1)(ii) (redesignated as §§ 131.200(f)(1)(ii), 131.203(f)(1)(iii), and 131.206(f)(1)(ii) in the final rule set forth below) is unnecessary when yogurts are heat-treated only enough to destroy part of the total microbial population. Under such circumstances, the shelf life of the product is extended and the microbial population often regenerates to preexisting levels by the time the yogurt is purchased. The objector maintains that consumers will be misled into thinking that all of the microorganisms have been destroyed whenever they see the phrase on a label.

FDA does not agree and reiterates its position that product labeling must be factual and that any heat-treatment applied to yogurt after the food is cultured triggers the "heat-treated after culturing" labeling requirement, regardless of the extent of bacterial destruction. This issue was discussed in the preamble to the final rule published in the **Federal Register** of January 30, 1981 (46 FR 9924). FDA explained that the purpose of the phrase is to alert consumers to the fact that the traditional food has been subjected to heat treatment which may have caused changes such as partial or complete reduction in the number of characterizing microorganisms or changes in enzyme content, aroma, or flavor. The objector does not suggest any alternative labeling that would inform consumers of these changes. FDA concludes that this objection does not raise an issue of fact that warrants a hearing.

(b) One objector also asserts that it is unnecessary to include the "heat-treated after culturing" labeling as part of the name of a yogurt when that yogurt is used as an ingredient in another food. The objector interprets the standards to mean that the phrase must accompany the names of heat-treated yogurts when they are used as ingredients in other foods.

FDA advises the objector that his interpretation is incorrect and that the "heat-treated after culturing" phrase need not appear in a label statement of ingredients when a heat-treated yogurt is used as an ingredient in another food. FDA concludes that this objection does not raise an issue of fact that warrants a hearing.

9. *Milkfat Minimum in "Yogurt".* An objector states that the 3.25 percent minimum milkfat requirement in § 131.200(a) should apply only when the optional dairy ingredients provided for in paragraph (b) of § 131.200 (redesignated as § 131.200(c) in the final rule set forth below) are used to meet the minimum fat (3.25 percent) and minimum milk solids not fat (8.25 percent) requirements for yogurt. The objector states that the language in paragraph (a) of § 131.200 implies that the milkfat minimum must be met after any addition of other optional ingredients to increase the milk solids not fat content of yogurt above the minimum requirement. The objector maintains that applying the milkfat minimum to yogurt which has been made to contain milk solids not fat at a level higher than the minimum requirement of the standard will discourage manufacturers from using higher levels of milk solids not fat in yogurt because such addition would then require the use of more milkfat. The objector wants § 131.200(a) amended so that the minimum milkfat requirement only applies to the optional dairy ingredients utilized in accordance with paragraph (b) of § 131.200 (redesignated as § 131.200(c) in the final rule set forth below).

FDA agrees that § 131.200(a) requires that the milkfat minimum of 3.25 percent must be met after any addition of other optional ingredients. (FDA points out, however, that § 131.200(a) also provides that the minimum 3.25 percent milkfat and 8.25 percent milk solids not fat requirement applies prior to the addition of any bulky flavors.) While paragraph (a) of § 131.200 provides for the use of other optional dairy ingredients to increase the milk solids not fat content of the yogurt ingredients to 8.25 percent or above, it was never intended to provide and does not provide for a proportionate decrease in the minimum milkfat content of yogurt.

FDA believes that the objector has raised a genuine and material issue of fact that must be resolved at a hearing as provided for in 21 CFR 12.24. The hearing issue will be: "Whether the minimum milkfat requirement of 3.25 percent in 21 CFR 131.200(a) should apply to yogurt before or after the addition of one or more of the optional sources of milk solids not fat listed in paragraph (c)(1) of that section." Therefore, FDA is staying the effective date of the requirement in § 131.200(a) that is the subject of the hearing issue.

10. *Fresh Fluid Dairy Ingredients as the Basic Ingredients Versus Use of Condensed and Dry Dairy Ingredients Reconstituted with Water.* (a) An objector states that the standards of identity for yogurt (§ 131.200), lowfat yogurt (§ 131.203), and nonfat yogurt (§ 131.206) should be modified to provide for the manufacture of yogurts from condensed or dry dairy ingredients reconstituted with water. The objector maintains that yogurt manufacturers in Florida and the Southeastern States will be adversely affected because the fluid milk supplies in these States are often insufficient for use in yogurt manufacture. If reconstituted dairy ingredients are not permitted, the price of yogurts will be artificially and unnecessarily inflated in those areas.

FDA believes that the objector raises a genuine and substantial issue of fact that must be resolved at a public hearing as provided for in 21 CFR 12.24. Therefore, FDA is staying the effective date of those portions of §§ 131.200(a), 131.203(a), and 131.206(a) that exclude the use of reconstituted dairy ingredients as the basic ingredients in the manufacture of yogurts, pending the outcome of a public hearing. Until such time as this issue is resolved, the use of reconstituted dairy ingredients as the basic ingredients in the manufacture of yogurt, lowfat yogurt, or nonfat yogurt will not be the basis for regulatory action.

(b) The objector believes that it would allow maximum flexibility in product formulation if skim milk or skim milk reconstituted from concentrated and dry skim milk were included in the list of dairy ingredients in § 131.200(c)(1) (redesignated as § 131.200(d)(1) in the final rule set forth below) that may be used to increase the nonfat solids content of yogurt.

FDA believes it is impossible to increase the milk solids not fat content

of yogurt above 8.25 percent by using either skim milk or reconstituted skim milk. These ingredients contain approximately 9 percent milk solids not fat and 91 percent water. While the addition of skim milk or reconstituted skim milk would contribute milk solids not fat, there would be a concomitant decrease in the percent of milkfat in the dairy ingredients combined to produce yogurt due to the increased volume of water contributed by the skim milk or reconstituted skim milk. The objector did not submit any data or information demonstrating that skim milk or reconstituted skim milk can be used to increase the milk solids not fat content of yogurt above the 8.25 percent minimum without also decreasing the milkfat content below the 3.25 percent minimum. FDA concludes that these ingredients are inappropriate dairy ingredients for increasing the milk solids not fat content of yogurt and that this objection does not raise an issue of fact that warrants a hearing.

11. *Preservatives.* Objectors assert that the standards of identity for yogurt (§ 131.200(c)), lowfat yogurt (§ 131.203(c)), and nonfat yogurt (§ 131.206(c)) (redesignated as §§ 131.200(d), 131.203(d), and 131.206(d) in the final rule set forth below) should provide for the use of preservatives such as potassium sorbate and sorbic acid, to prohibit the growth of yeasts and molds and extend the shelf life of the foods 15 to 30 days. The objectors maintain that the use of preservatives is economically beneficial to consumers.

FDA believes that the objectors raised a genuine and substantial issue of fact that must be resolved at a public hearing as provided for in 21 CFR 12.24. Therefore, FDA is staying the effective date of those portions of §§ 131.200(d), 131.203(d), and 131.206(d) insofar as they exclude the addition of preservatives to yogurts, pending the outcome of a public hearing. Until such time as this issue is resolved, the appropriate use of preservatives in these foods will not be the basis for regulatory action.

12. *"Sweetened" Labeling.* One objector states that the required label declaration "sweetened" in §§ 131.200(e)(1)(i), 131.203(e)(1)(ii), and 131.206(e)(1)(i) (redesignated as §§ 131.200(f)(1)(i), 131.203(f)(1)(ii), and 131.206(f)(1)(i) in the final rule set forth below) is not justifiable for plain yogurts that only contain sufficient sweetener to soften the tart flavor of the acid, but not enough to characterize the yogurts as sweet. The objector maintains that consumers will be misled into thinking the product will taste sweet or will be high in calories due to the word "sweetened" on the label as part of the name of the food.

It is the agency's position that yogurt is sweetened when a nutritive carbohydrate sweetener is added, either to lessen the tartness of the food or to create a perceptible sweet taste, and that consumers should so be informed in a straightforward manner. The most effective method of informing the consumer that sugar or some other sweetener has been added to the food, is to require the word "sweetened " as part of the name of the food, thereby clearly differentiating sweetened from plain yogurt. Therefore, FDA concludes that these objections do not raise an issue of fact that warrants a hearing.

13. *Post-pasteurization Addition of Flavors.* An objector argues that the provisions of the standards of identity for yogurts, §§ 131.200(a), 131.203(a), and 131.206(a), that permit the addition of bulky flavors after yogurts have been pasteurized also should apply to nonbulky flavors such as lemon, vanilla, and coffee. The objector maintains that some of the chemical components of these flavors volatilize upon heating and that other components may be altered by heating in such a way that bitterness or other unpleasant tastes are created. In either case, the flavor of the final product would be adversely affected.

FDA believes that valid technological reasons have been provided by the objector for permitting the addition of nonbulky flavors to yogurt, lowfat yogurt, and nonfat yogurt, after pasteurization. Therefore, FDA is revising §§ 131.200(a), 131.203(a), and 131.206(a) by removing the words "and bulky flavoring material" from the sentence that now reads "The food may be homogenized and shall be pasteurized or ultra-pasteurized prior to the addition of the bacterial culture and bulky flavoring material", and adding the sentence "Flavoring ingredients may be added after pasteurization or ultra-pasteurization". It is the responsibility of the manufacturers of yogurts to assure that the addition of any ingredients after pasteurization will not microbiologically contaminate the final product. FDA is allowing interested persons until October 21, 1982 to submit written objections to this amendment.

14. *Minimum Titratable Acidity.* An objector contends that the minimum titratable acidity of 0.9 percent, expressed as lactic acid, as required for yogurts in §§ 131.200(a), 131.203(a), and 131.206(a), is too high for some consumers' tastes and that 0.75 percent is the common industry practice.

FDA believes that the objector raises a genuine and substantial issue of fact that must be resolved at a public hearing as provided for in 21 CFR 12.24. Therefore, FDA is staying those portions of §§ 131.200(a), 131.203(a), and 131.206(a) that set a minimum titratable acidity of 0.9 percent, expressed as lactic acid, pending the outcome of a public hearing. Until such time as this issue is resolved, yogurt, lowfat yogurt, or nonfat yogurt will not be required to meet the 0.9 percent minimum level of titratable acidity.

Objections Without Requests for a Hearing

Cultured and Acidified Milks

15. *Optional Acidifiers.* An objector asserts that the omission of acetic acid from the list of optional acidifiers that may be used in acidified milk (§ 131.111(d)), acidified lowfat milk (§ 131.136(d)), and acidified skim milk (§ 131.144(d)) is unjustifiable. The objector maintains that acetic acid is an integral component of the flavor of buttermilk, so it is reasonable to add the acid to the list of other acids that may be used to make acidified versions of buttermilk.

FDA agrees and is adding acetic acid to the lists of optional acidifying ingredients in §§ 131.111(d), 131.136(d), and 131.144(d) and is allowing interested persons until October 21, 1982 to submit written objections to this amendment.

16. *Minimum Milkfat Requirement for "Cultured Buttermilk".* An objector argues that the minimum milkfat requirement of 3.25 percent for "cultured buttermilk" (§ 131.112(a)) would cause the objector to increase the milkfat content of its "cultured buttermilk" or be required to change the name of its product to "Lowfat cultured buttermilk". The objector's view is that its product, which it calls "cultured buttermilk", was patterned after the composition of buttermilk obtained from the manufacture of butter from cream.

FDA advises that while some firms may have utilized the name "cultured buttermilk" for a product containing 0.5 to 2 percent milkfat, there are many who use a higher milkfat content. For the purpose of uniformity in composition and labeling within product groups and between products it is essential that names and composition be standardized wherever possible. It is the view of FDA that this promotes honesty and fair dealing in the interest of consumers.

Yogurts

17. *Percent Milkfat Declaration on Lowfat Yogurt Labels.* Objectors assert, in opposition to the label requirements of § 131.203(e)(1)(i) (redesignated as

§ 131.203(f)(1)(i) in the final rule set forth below), that a declaration of the actual quantity of fat, as is found in nutrition labeling, is more informative and less misleading than a declaration of the percent milkfat in the name of the food.

The purpose of requiring the declaration of the percent fat in the name of the food is to provide the consumer with information, at the time of purchase, about the fat content (to the nearest 0.5 percent) of the lowfat yogurt being purchased. The practice is reasonable because the standard of identity for lowfat yogurt provides for a milkfat content of from 0.5 to 2.0 percent. While nutrition labeling requires more definitive information, such as the grams of fat per serving, the nutrition labeling of lowfat yogurt is only required by virtue of the fact that the proposed standard of identity for lowfat yogurt would require the percentage of milkfat to be declared in the name of the food.

18. *Alternative Spelling for Yogurt.* An objector states that the mandatory name of the food "Yogurt", as required in §§ 131.200, 131.203, and 131.206, prevents the use of the name "yogourt". Therefore, the interested party requests that the alternate spelling of the name be provided for in the standards. The request for such consideration is based on the fact that the interested party has been marketing these foods under the name "yogourt" since the mid 1940's.

This issue was discussed in the preamble of the final rule published in the **Federal Register** of January 30, 1981 (46 FR 9924) where it was explained that the word "yogourt" may be used as a fanciful name by those who have rights to such name, but it must be accompanied by the standardized name of the food "yogurt".

19. *"Heat-treated after culturing" Labeling.* An objector interprets the standards to mean that the "heat-treated after culturing" phrase shall accompany the names of the dairy ingredients in the label statement of ingredients rather than accompanying the name of the food on the principal display panel. This objector maintains that the phrase does not convey any valuable information to consumers.

FDA advises that the objectors's interpretation is incorrect and that the "heat-treated after culturing" phrase must accompany the name of the food wherever it appears on the principal display panel or panels of the label, e.g., "nonfat yogurt (heat-treated after culturing)". The phrase need not accompany the name(s) of the dairy ingredients in the label statement of ingredients of the food. FDA also disagrees with the objector's contention that the phrase does not convey any valuable information to consumers. As discussed in the preamble of the final rule published in the **Federal Register** of January 30, 1981 (46 FR 9924), many consumers approve of requiring the "heat-treated after culturing" labeling as part of the name of the food so they can avoid purchasing heat-treated yogurts.

Provisions stayed. Under section 701(e) of the act, FDA hereby announces that the effective date of the following provisions of the January 30, 1981 final rule is stayed by the filed objections, pending a public hearing to be announced at a later date:

1. Those provisions of §§ 131.111(e)(1), 131.112(d)(1), 131.136(e)(1), 131.138(d)(1), 131.144(e)(1), 131.146(d)(1), 131.170(e)(1), 131.200(c)(1), 131.203(c)(1), and 131.206(c)(1) that restrict the type of milk-derived ingredients that may be used, to those so named, to increase the nonfat solids content of cultured and acidified milks, eggnog, and yogurts;

2. That portion of § 131.170(a) that sets a minimum milk solids not fat requirements of 8.25 percent in eggnog;

3. That portion of § 131.170(e)(4) that prohibits the use of color additives that simulate the color of egg yolk, butterfat, or milkfat;

4. Those portions of §§ 131.200(a), 131.203(a), and 131.206(a) that exclude the use of reconstituted dairy ingredients as the basic ingredient in the manufacture of yogurts;

5. Those portions of §§ 131.200(c), 131.203(c), and 131.206(c) insofar as they exclude the addition of preservatives to yogurts; and,

6. Those portions of §§ 131.200(a), 131.203(a), and 131.206(a) that set a minimum titratable acidity of 0.9 percent, expressed as lactic acid.

7. The requirement in § 131.200(a) that the 3.25 percent minimum milkfat level applies to yogurt after the addition of one or more of the optional sources of milk solids not fat listed in § 131.200(c)(1).

List of Subjects in 21 CFR Part 131

Cream, Food standards, Milk, Yogurt.

PART 131—MILK AND CREAM

Therefore, under the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 131 is amended as follows:

1. In § 131.111 by revising paragraphs (d) and (e)(6) to read as follows:

§ 131.111 Acidified milk.

* * * * *

(d) *Optional acidifying ingredients.* Acetic acid, adipic acid, citric acid, fumaric acid, glucono-*delta*-lactone, hydrochloric acid, lactic acid, malic acid, phosphoric acid, succinic acid, and tartaric acid.

(e) * * *

(6) Butterfat or milkfat, which may or may not contain color additives, in the form of flakes or granules.

* * * * *

2. In § 131.112 by revising paragraph (d)(6) to read as follows:

§ 131.112 Cultured milk.

* * * * *

(d) * * *

(6) Butterfat or milkfat, which may or may not contain color additives, in the form of flakes or granules.

* * * * *

3. In § 131.136 by revising paragraphs (d) and (e)(6) to read as follows:

§ 131.136 Acidified lowfat milk.

* * * * *

(d) *Optional acidifying ingredients.* Acetic acid, adipic acid, citric acid, fumaric acid, glucono-*delta*-lactone, hydrochloric acid, lactic acid, malic acid, phosphoric acid, succinic acid, and tartaric acid.

(e) * * *

(6) Butterfat or milkfat, which may or may not contain color additives, in the form of flakes or granules.

* * * * *

4. In § 131.138 by revising paragraph (d)(6) to read as follows:

§ 131.138 Cultured lowfat milk.

* * * * *

(d) * * *

(6) Butterfat or milkfat, which may or may not contain color additives, in the form of flakes or granules.

* * * * *

5. In § 131.144 by revising paragraphs (d) and (e)(6) to read as follows:

§ 131.144 Acidified skim milk.

* * * * *

(d) *Optional acidifying ingredients.* Acetic acid, adipic acid, citric acid, fumaric acid, glucono-*delta*-lactone, hydrochloric acid, lactic acid, malic acid, phosphoric acid, succinic acid, and tartaric acid.

(e) * * *

(6) Butterfat or milkfat, which may or may not contain color additives, in the form of flakes or granules.

* * * * *

6. In § 131.146 by revising paragraph (d)(6) to read as follows:

§ 131.146 Cultured skim milk.

* * * * *

(d) * * *

(6) Butterfat or milkfat, which may or may not contain color additives, in the form of flakes or granules.

* * * * *

7. In § 131.170 by revising paragraph (a) to read as follows:

§ 131.170 Eggnog.

(a) *Description.* Eggnog is the food containing one or more of the optional dairy ingredients specified in paragraph (b), one or more of the optional egg yolk-containing ingredients specified in paragraph (c) of this section, and one or more of the optional nutritive carbohydrate sweeteners specified in paragraph (d) of this section. One or more of the optional ingredients specified in paragraph (e) of this section may also be added. All ingredients used are safe and suitable. Eggnog contains not less than 6 percent milkfat and not less than 8.25 percent milk solids not fat. The egg yolk solids content is not less than 1 percent by weight of the finished food. The food shall be pasteurized of ultra-pasteurized and may be homogenized. Flavoring ingredients and color additives may be added after the food is pasteurized or ultra-pasteurized.

* * * * *

8. In § 131.200 by revising paragraph (a), by redesignating paragraphs (b) through (f) as (c) through (g), and by adding new paragraphs (b) and (f)(1)(iii) to read as follows:

§ 131.200 Yogurt.

(a) *Description.* Yogurt is the food produced by culturing one or more of the optional dairy ingredients specified in paragraph (c) of this section with a characterizing bacterial culture that contains the lactic acid-producing bacteria, *Lactobacillus bulgaricus* and *Streptococcus thermophilus*. One or more of the other optional ingredients specified in paragraphs (b) and (d) of this section may also be added. When one or more of the ingredients specified in paragraph (d)(1) of this section are used, they shall be included in the culturing process. All ingredients used are safe and suitable. Yogurt, before the addition of bulky flavors, contains not less than 3.25 percent milkfat and not less than 8.25 percent milk solids not fat, and has a titratable acidity of not less than 0.9 percent, expressed as lactic acid. The food may be homogenized and shall be pasteurized or ultra-pasteurized prior to the addition of the bacterial culture. Flavoring ingredients may be added after pasteurization or ultra-pasteurization. To extend the shelf life of the food, yogurt may be heat treated after culturing is completed, to destroy viable microorganisms.

(b) *Vitamin addition (optional).* (1) If added, vitamin A shall be present in such quantity that each 946 milliliters (quart) of the food contains not less than 2,000 International Units thereof, within limits of current good manufacturing practice.

(2) If added, vitamin D shall be present in such quantity that each 946 milliliters (quart) of the food contains 400 International Units thereof, within limits of current good manufacturing practice.

(c) *Optional dairy ingredients.* * * *

(d) *Other optional ingredients.* * * *

(e) *Methods of analysis.* * * *

(f) *Nomenclature.* * * *

(1) * * *

(iii) The phrase "vitamin A" or "vitamin A added", or "vitamin D" or "vitamin D added", or "vitamins A and D added", as appropriate. The word "vitamin" may be abbreviated "vit".

* * * * *

(g) *Label declaration.* * * *

9. In § 131.203 by revising paragraph (a), by redesignating paragraphs (b) through (f) as (c) through (g), and by adding new paragraphs (b) and (f)(1)(iv) to read as follows:

§ 131.203 Lowfat yogurt.

(a) *Description.* Lowfat yogurt is the food produced by culturing one or more of the optional dairy ingredients specified in paragraph (c) of this section with a characterizing bacterial culture that contains the lactic acid-producing bacteria, *Lactobacillus bulgaricus* and *Streptococcus thermophilus*. One or more of the other optional ingredients specified in paragraphs (b) and (d) of this section may also be added. When one or more of the ingredients specified in paragraph (d)(1) of this section are used, they shall be included in the culturing process. All ingredients used are safe and suitable. Lowfat yogurt, before the addition of bulky flavors, contains not less than 0.5 percent nor more than 2 percent milkfat and not less than 8.25 percent milk solids not fat, and has a titratable acidity of not less than 0.9 percent, expressed as lactic acid. The food may be homogenized and shall be pasteurized or ultra-pasteurized prior to the addition of the bacterial culture. Flavoring ingredients may be added after pasteurization or ultra-pasteurization. To extend the shelf life of the food, lowfat yogurt may be heat treated after culturing is completed, to destroy viable microorganisms.

(b) *Vitamin addition (optional).* (1) If added, vitamin A shall be present in such quantity that each 946 milliliters (quart) of the food contains not less than 2,000 International Units thereof, within limits of current good manufacturing practice.

(2) If added, vitamin D shall be present in such quantity that each 946 milliliters (quart) of the food contains 400 International Units thereof, within limits of current good manufacturing practice.

(c) *Optional dairy ingredients.* * * *

(d) *Other optional ingredients.* * * *

(e) *Methods of analysis.* * * *

(f) *Nomenclature.* * * *

(1) * * *

(iv) The phrase "vitamin A" or "vitamin A added", or "vitamin D" or "vitamin D added", or "vitamins A and D added", as appropriate. The word "vitamin" may be abbreviated "vit".

* * * * *

(g) *Label declaration.* * * *

10. In § 131.206 by revising paragraph (a), by redesignating paragraphs (b) through (f) as (c) through (g), and by adding new paragraphs (b) and (f)(1)(iii) to read as follows:

§ 131.206 Nonfat yogurt.

(a) *Description.* Nonfat yogurt is the food produced by culturing one or more of the optional dairy ingredients specified in paragraph (c) of this section with a characterizing bacterial culture that contains the lactic acid-producing bacteria, *Lactobacillus bulgaricus* and *Streptococcus thermophilus*. One or more of the other optional ingredients specified in paragraphs (b) and (d) of this section may also be added. When one or more of the ingredients specified in paragraph (d)(1) of this section are used, they shall be included in the culturing process. All ingredients used are safe and suitable. Nonfat yogurt, before the addition of bulky flavors, contains less than 0.5 percent milkfat and not less than 8.25 percent milk solids not fat, and has a titratable acidity of not less than 0.9 percent, expressed as lactic acid. The food may be homogenized and shall be pasteurized or ultra-pasteurized prior to the addition of the bacterial culture. Flavoring ingredients may be added after pasteurization or ultra-pasteurization. To extend the shelf life of the food, nonfat yogurt may be heat treated after culturing is completed, to destroy viable microorganisms.

(b) *Vitamin addition (optional).* (1) If added, vitamin A shall be present in such quantity that each 946 milliliters (quart) of the food contains not less than 2,000 International Units thereof, within limits of good manufacturing practice.

(2) If added, vitamin D shall be present in such quantity that each 946

milliliters (quart) of the food contains 400 International Units thereof, within limits of good manufacturing practice.

(c) *Optional dairy ingredients.* * * *

(d) *Other optional ingredients.* * * *

(e) *Methods of analysis.* * * *

(f) *Nomenclature.* * * *

(1) * * *

(iii) The phrase "vitamin A" or "vitamin A added", or "vitamin D" or "vitamin D added", or "vitamins A and D added", as appropriate. The word "vitamin" may be abbreviated "vit".

* * * * *

(g) *Label declaration.* * * *

Any person who will be adversely affected by the foregoing amendments to the final regulation, published in the January 30, 1981 **Federal Register** (46 FR 9924), may at any time on or before October 21, 1982, submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to the amendment that may be stayed by the filing of proper objections, compliance with these amendments to the final regulations may begin November 22, 1982. The mandatory compliance date for the provisions that are revised in this document shall be July 1, 1985. Notice of the filing of objections or lack thereof will be published in the **Federal Register**. Accordingly, except as to those provisions being herein amended and the provisions listed above as stayed, the effective date of §§ 131.111, 131.112, 131.136, 131.138, 131.143, 131.144, 131.148, 131.170, 131.200, 131.203, and 131.206 as published in the **Federal Register** of January 30, 1981 (46 FR 9924) is confirmed as follows: Compliance with this regulation, including any required labeling changes, may have begun on March 31, 1981 and all affected products initially delivered for introduction into interstate commerce on or after July 1, 1983, shall fully comply.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: September 14, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25781 Filed 9-20-82; 8:45 am]

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21 CFR Part 135

[Docket No. 79P-0441]

Frozen Desserts; Standards of Identity for Goat's Milk Ice Cream, Goat's Milk Frozen Custard, and Goat's Milk Ice Milk

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is establishing standards of identity for goat's milk ice cream, goat's milk frozen custard, and goat's milk ice milk by cross-reference to the standards of identity for ice cream and frozen custard and for ice milk. This action will provide for the manufacture of ice cream, frozen custard, and ice milk from goat's milk, which consumers may use as alternatives to products made from cow's milk.

DATES: Effective July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance may begin November 22, 1982; objections by October 21, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 8, 1981 (46 FR 60007), FDA published a proposal to establish standards of identity for goat's milk ice cream and goat's milk frozen custard (21 CFR 135.115) and goat's milk ice milk (21 CFR 135.125) cross-referenced to the standards of identity for ice cream and frozen custard (21 CFR 135.110) and ice milk (21 CFR 135.120), respectively. The proposal allowed for the filing of comments by February 8, 1982.

Five comments were received in response to the proposal. The comments and the agency's response are discussed below.

1. Several comments requested that the concentrated and dry forms of goat's milk and goat's cream also be permitted in addition to the liquid form.

FDA advises that any of the dairy ingredients permitted in § 135.115(b) may be used in liquid, concentrated, or dry form. To clarify this issue, FDA is revising § 135.115(b) to read "The optional dairy ingredients referred to in paragraph (a) of this section are goat's skim milk, goat's milk, and goat's cream. These optional dairy ingredients may be used in liquid, concentrated, and/or dry form."

2. One comment suggested that goat's milk-derived ingredients, such as whey, caseinates, and coprecipitates of goat's milk protein, be added to the list of optional dairy ingredients that may be used. The comment stated that these ingredients are not now available, but providing for their use now will eliminate the need for amendments at a later date when the ingredients do become available.

FDA cannot approve the use of ingredients before they are actually developed because there are no data with which to establish whether they are safe and suitable. As new goat's milk-derived ingredients are developed and demonstrated to be suitable ingredients, interested persons may submit petitions to amend the standards of identity to provide for their use.

3. One comment suggested that the name of the food be changed from "goat's milk ice cream" to "goat ice cream" because inclusion of the word "milk" may mislead consumers about the nature of the product. The comment also stated that the proper designation should be "goat milk" rather than "goat's milk".

FDA believes the name "goat ice cream" is potentially more confusing than the name "goat's milk ice cream" and, therefore, is not making the suggested change. It is not clear to the agency how inclusion of the word "milk" in the name of the food could mislead consumers since the food is made from goat's milk and/or components of goat's milk. FDA also rejects the suggestion that "goat's milk" be referred to as "goat milk" instead, because the possessive form is the commonly recognized mode of

designating the source of various milks, e.g., cow's milk, sheep's milk.

4. One comment suggested permitting the use of 50 percent cow's milk and 50 percent goat's milk in the manufacture of ice cream. No data or information were submitted to indicate the use or need for such provisions.

In light of the fact that there are no data upon which to base this change, FDA is not providing for the use of combinations of goat's and cow's milks in the making of ice cream. Furthermore, one of the reasons given by the petitioner for establishing a standard for goat's milk ice cream was to increase the number of products available to consumers who are unable to tolerate products made with cow's milk and to do otherwise would defeat this purpose.

After considering the comments received, FDA concludes that it will promote honesty and fair dealing in the interests of consumers to establish standards of identity for goat's milk ice cream, goat's milk frozen custard, and goat's milk ice milk, as set forth below.

List of Subjects in 21 CFR Part 135

Food standards, Frozen desserts, Ice cream.

PART 135—FROZEN DESSERTS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 135 is amended by adding new §§ 135.115 and 135.125 to read as follows:

§ 135.115 Goat's milk ice cream.

(a) *Description.* Goat's milk ice cream is the food prepared in the same manner prescribed in § 135.110 for ice cream, and complies with all the provisions of § 135.110, except that the only optional dairy ingredients that may be used are those in paragraph (b) of this section; caseinates may not be used; and paragraphs (e)(1) and (f) of § 135.110 shall not apply.

(b) *Optional dairy ingredients.* The optional dairy ingredients referred to in paragraph (a) of this section are goat's skim milk, goat's milk, and goat's cream. These optional dairy ingredients may be used in liquid, concentrated, and/or dry form.

(c) *Nomenclature.* The name of the food is "goat's milk ice cream" or, alternatively, "ice cream made with goat's milk", except that when the egg yolk solids content of the food is in excess of that specified for ice cream in paragraph (a) of § 135.110, the name of the food is "goat's milk frozen custard" or, alternatively, "frozen custard made with goat's milk", or "goat's milk french ice cream", or, alternatively, "french ice cream made with goat's milk", or "goat's milk french custard ice cream", or, alternatively, "french custard ice cream made with goat's milk".

(d) *Label declaration.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

§ 135.125 Goat's milk ice milk.

(a) *Description.* Goat's milk ice milk is the food prepared in the same manner prescribed in § 135.115 for goat's milk ice cream, except that paragraph (c) shall not apply, and which complies with all the requirements of § 135.120(a) (1), (2), (4), (5), (6), and (7) for ice milk.

(b) *Nomenclature.* The name of the food is "goat's milk ice milk" or, alternatively, "ice milk made with goat's milk".

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 21, 1982 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the hearing of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date: Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin November 22, 1982, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1985, shall fully comply. Notice of the filing of objections or lack thereof will be published in the **Federal Register.**

(Secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: September 13, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-26716 Filed 9-20-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR PART 145

[Docket No. 78N-0138]

Canned Pears; Standard of Quality

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the standard of quality for canned pears in consideration of the quality provisions of the Recommended International Standard for Canned Pears developed by the Codex Alimentarius Commission and requests by the Canners League of California and the United States Department of Agriculture. This action will promote honesty and fair dealing in the interest of consumers and facilitate international trade.

DATES: Effective July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance may begin November 22, 1982. Objections by October 21, 1982.

ADDRESS: Written objections are to be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 25, 1978 (43 FR 32143), FDA published a proposal to amend the standard of quality for canned pears in § 145.175(b) (21 CFR 145.175(b)) in consideration of the quality provisions of the Recommended International Standard for Canned Pears (Codex standard) developed by the Codex Alimentarius Commission. The comment period was extended until January 23, 1979, in the **Federal Register** of January 9, 1979 (44 FR 1983).

Comments were received from two trade associations representing canners

of pears. The comments and FDA's responses are as follows:

1. One comment recommended eliminating the minimum size requirements for halves and quarters styles of canned pears because they are not in the Codex standard.

The basis for retaining the current minimum size requirements for canned pear halves and quarters was fully discussed in the preamble to the July 25, 1978 proposal. In response, no comments submitted information to show that the current U.S. minimum size requirements for canned pears are incompatible with the promotion of honesty and fair dealing in the interest of consumers. In the absence of such information, FDA concludes that the minimum size requirements for halves and quarters styles of canned pears are reasonable and retains them as part of the standard of quality for canned pears in § 145.175(b)(1)(ii).

2. Two comments characterized as "arbitrary" the agency's reliance upon certain of the more restrictive provisions of the Codex standard, the U.S. standard, or the U.S. Department of Agriculture (USDA) voluntary grade standards. The comments requested that the agency reconsider its position.

The agency has reconsidered its positions on the provisions at issue. With regard to the requirements for peel, FDA proposed adopting the Codex provision which allows an average of 10 square centimeters of peel, adhering to pears or loose in the container, per kilogram (1.6 square inches per 35.3 ounces) of net weight. FDA recognizes that the Codex provision for peel is more restrictive than the U.S. and USDA requirements which permit an average of 1 square inch of peel per 16 ounces (14 square centimeters per kilogram) of net contents. However, the Codex requirements reflect a minimum level of quality considered by the international community to be acceptable for canned pears. Comments have failed to submit any information that (1) shows that the Codex provisions being adopted are unreasonable or (2) supports the adoption of a requirement other than one based on the Codex. Therefore, FDA adopts the Codex provision for § 145.175(b)(1)(iv).

With regard to crushed or broken units, FDA proposed retaining the more restrictive U.S. requirement which states in § 145.175(b)(1)(vii) that, except in the case of mixed pieces of irregular sizes and shapes, not more than 10 percent by count of the units in containers of 10 or more units and not more than 1 unit in containers of less than 10 units are crushed or broken. The U.S. standard also provides that a unit which has lost its shape because of ripeness and bears no mark of crushing shall not be considered crushed or broken.

FDA is retaining the current U.S. provision for crushed or broken units because it reflects a level of quality consumers for many years have come to expect for canned pears in the United States.

The agency has also reassessed its position on the more restrictive proposed provisions for seeds and harmless plant materials. In both instances, FDA had proposed adopting the more restrictive USDA requirements. USDA allows an average of one loose seed per 10 ounces net contents (equivalent to an average of 3.5 seeds per 35.3 ounces (1 kilogram) of net weight or approximately 10.5 seeds in a No. 10 can). The more restrictive USDA standards are voluntary grade standards that are used for grading purposes at the request of industry. Based on this fact and comments received, FDA concludes that the Codex requirement for seeds more nearly reflects a level of quality acceptable to consumers in the United States as well as the rest of the world. Therefore, FDA is adopting the Codex requirement in § 145.175(b)(1)(x) for seeds which allows an average of 8 seeds per kilogram (35.3 ounces) of total contents, except in uncored pears. This is approximately 24 seeds in a No. 10 can.

For harmless plant materials, USDA allows one external pear stem per 100 ounces (2,857 grams of net weight which is approximately one stem per No. 10 can (3.09 kilograms or 109 ounces). Codex limits harmless plant material, including leaf or similar vegetable material and stems in styles in which the stem is customarily removed, to 0.2 percent by weight of total contents. This would allow approximately 10 stems, 3 to 4 centimeters long, in a No. 10 can of pears. FDA believes that the Codex provision permits excessive amounts of harmless plant materials in canned pears. In fact, the United States has proposed an amendment to the Codex standard to lower the limit for harmless plant material to the level provided for in the USDA voluntary grade standards. Under these circumstances, FDA believes that it is prudent to delay establishing a limit for harmless plant material until the Codex Alimentarius Commission has had an opportunity to consider and act on the proposed revision of the Codex standard. Therefore, FDA is not establishing a requirement for harmless plant material.

3. One comment stated that weight and diameter relationships on uniformity of size for halves and quarters styles of pears have been studied in the Northwestern States, and data collected indicate that the uniformity of size requirement should be based on diameter rather than weight. The comment added that supporting data will be submitted in conjunction with a petition to amend the uniformity of size requirement. A second comment also stated that work is being done on weight and diameter relationships for halves and quarters units. When this work is completed, submission of a petition will be considered.

FDA has obtained data only for the 1978 packing season in California on the diameter-weight relationships for uniformity of size for pear halves. In view of the limited data available at this time, the agency is not amending the standard of quality for canned pears to change the requirement for uniformity of size in whole, halves, and quarters styles from a weight to a diameter basis. The agency will review the need for and appropriateness of this and other such requirements when the regulation is subjected to the retrospective review mandated by the Regulatory Flexibility Act of 1980.

4. One comment suggested that § 145.175(b)(1)(vi) be clarified by adding the words "of the unit" to read as follows: "In the case of whole, halves, and quarters styles, all units are untrimmed or are so trimmed as to preserve normal shape of the unit."

FDA concurs, and the final regulation has been changed accordingly.

FDA notes that the current standard of quality for canned pears states in § 145.175(b)(3) that the alternative label statement of substandard quality, that is, "Not tender," "Blemished," etc., "shall immediately and conspicuously precede or follow, without intervening written, printed, or graphic matter, the name 'pears' and any words and statements required or authorized to appear with such name by paragraph (a)(2) of this section." This statement was omitted in the July 25, 1978 proposal. That the omission was inadvertent is obvious. Accordingly, in light of the fact that any prejudice caused by the omission is remote, the agency is including the statement in the final regulation in § 145.175(b)(4).

FDA is changing paragraph (b)(1)(iii) to (b)(1)(iii)(*a*) and (b)(4)(iii) to (b)(4)(iii)(*a*) to be consistent with the format of the final rule for "chunky" style pears which is published elsewhere in this issue of the **Federal Register**. Certain other editorial changes are also made for clarification in the final regulation.

In consideration of the quality aspects of the Codex standard, together with

comments received in response to the proposal, FDA concludes that it will promote honesty and fair dealing in the interest of consumers to amend the standard of quality for canned pears as set forth below.

List of Subjects in 21 CFR Part 145

Canned fruit, Canned pears, Food standards, Fruits.

PART 145—CANNED FRUITS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 361(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 145 is amended in § 145.175 by revising paragraph (b) to read as follows:

§ 145.175 Canned pears.

* * * * *

(b) *Quality.* (1) The standard of quality for canned pears is as follows:

(i) *Maturity.* All units tested in accordance with the method prescribed in paragraph (b)(2) of this section are pierced by a weight of not more than 300 grams (10.6 ounces).

(ii) *Minimum size.* In the case of halves and quarters styles, the weight of each unit is not less than 17 grams (0.6 ounce) and 8.5 grams (0.3 ounce), respectively.

(iii) *Uniformity of size—(a) Whole, halves, and quarters.* In the case of whole, halves, and quarters styles, among those units comprising 95 percent by count of those present in the container that are most uniform in size, the weight of the largest unit is not more than twice the weight of the smallest unit. In containers with fewer than 20 units, 1 unit may be disregarded in making the determination. Where a unit has broken in the container, reassemble the broken pieces to approximate a single unit of the appropriate style.

(*b*) [Reserved]

(iv) *Peel (except unpeeled style).* Not more than 10 square centimeters (1.6 square inches) of peel adhering to pears or loose in the container per kilogram (35.3 ounces) of net weight.

(v) *Blemished units.* Not more than 20 percent by count of the units in the container are blemished with scab, hail injury, discoloration, or other abnormality aggregating the area of a circle more than 6.5 millimeters (0.25 inch) in diameter; corky or hard spots on outer surfaces aggregating the area of a circle more than 13 millimeters (0.51 inch) in diameter; or dark brown areas aggregating the area of a circle less than 6.5 millimeters (0.25 inch) in diameter which penetrate into the flesh or affect the appearance of the unit.

(vi) *Trimmed units.* In the case of whole, halves, and quarters styles, all units are untrimmed or are so trimmed as to preserve normal shape of the unit.

(vii) *Crushed or broken units.* In the case of whole, halves, quarters, slices, and dice styles, not more than 10 percent by count of the units in containers of 10 or more units and not more than 1 unit in containers of less than 10 units are crushed or broken. A unit that has lost its normal shape because of ripeness and bears no mark of crushing shall not be considered to be crushed or broken.

(viii) *Loose core material in all styles except uncored whole style.* Not more than two units of loose core material per kilogram (35.3 ounces) of net weight. A unit of such material is defined as a portion of loose core, with or without seeds, aggregating approximately one-half of a pear core.

(ix) *Partially cored units in all styles except uncored whole style.* Not more than 40 percent by count partially cored units in halves, quarters, slices, and pieces or irregular pieces styles and not more than 5 percent by weight in dice style. A partially cored unit is a unit of pear that contains an attached portion of the seed cell cavity.

(x) *Seeds in all styles except whole uncored style.* Not more than 8 seeds or the equivalent in pieces of seeds per kilogram (35.3 ounces) of net weight. Seeds included as cored material in paragraph (b)(1) (viii) and (ix) of this section shall not be counted a second time.

(2) Canned pears shall be tested by the following method to determine whether they meet the requirements of paragraph (b)(1)(i) of this section: So trim a test piece from the unit as to fit, with peel surface up, into a supporting receptacle. If the unit is of different firmness in different parts of its peel surface, trim the piece from the firmest part. If the piece is unpeeled, remove the peel. The top of the receptacle is circular in shape, of 28.6 millimeters (1.12 inches) inside diameter, with vertical sides; or rectangular in shape, 19 millimeters (0.75 inch) by 25.4 millimeters (1 inch) inside measurements, with ends vertical and sides sloping downward and joining at the center at a vertical depth of 19 millimeters (0.75 inch). Use the circular receptacle for testing units of such size that a test piece can be trimmed therefrom to fit it. Use the rectangular receptacle for testing other units. Test no unit from which a test piece with rectangular peel surface at least 13 millimeters (0.51 inch) by 25.4 millimeters (1 inch) cannot be trimmed. Test the piece by means of a round metal rod 4 millimeters (0.16 inch) in diameter. To the upper end of the rod is affixed a device to which weight can be added. The rod is held vertically by the support through which it can freely move upward or downward. The lower end of the rod is a plane surface to which the vertical axis of the rod is perpendicular. Adjust the combined weight of the rod and device to 100 grams (3.5 ounces). Set the receptacle so that the surface of the test piece is held horizontally. Lower the end of the rod to the approximate center of such surface, and add weight to the device at a uniform, continuous rate of 12 grams (0.42 ounce) per second until the rod pierces the test piece. Weigh the rod and weighted device. Test all units in containers of 50 units or less except those units too small for testing or too soft for trimming. Test at least 50 units, taken at random in containers of more than 50 units; but if less than 50 units are of sufficient size and firmness for testing, test those which are of sufficient size and firmness.

(3) Determine compliance as specified in § 145.3(o) except that a lot shall be deemed to be in compliance for peel in all styles except unpeeled styles and seeds in all styles except whole uncored style based on the average of all samples analyzed according to the sampling plans set out in § 145.3(p).

(4) If the quality of canned pears falls below the standard prescribed in paragraph (b)(1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14(a) of this chapter, in the manner and form therein specified; however, if the quality of the canned pears falls below standard with respect to only one of the factors of quality specified in paragraph (b)(1) (i) through (x) of this section, there may be substituted for the second line of such general statement of substandard quality ("Good Food—Not High Grade") a new line, as specified after the corresponding designation of paragraph (b)(1) of this section which the canned pears fail to meet, as follows:

(i) "Not tender";

(ii) "Small halves" or "small quarters", as the case may be;

(iii)(*a*) "Mixed sizes";

(*b*) [Reserved];

(iv) "Excessive peel";

(v) "Blemished";

(vi) "Unevenly trimmed";

(vii) "Partly crushed or broken";

(viii) "Excessive core";

(ix) "Excessive core";

(x) "Excessive seeds".

Such alternative statement shall immediately and conspicuously precede or follow, without intervening written, printed, or graphic matter, the name "pears" and any words and statements required or authorized to appear with such name by paragraph (a)(2) of this section.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 21, 1982 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin November 22, 1982, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1985, shall fully comply. Notice of the filing of objections or lack thereof will be published in the **Federal Register.**

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: September 14, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25711 Filed 9-20-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 145

[Docket No. 78P-0147]

Canned Pears; Standards of Identity and Quality

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the standards of identity and quality to provide for a new style of pears designated as "chunky" and to define the styles already provided for in the standard of identity. This action will promote honesty and fair dealing in the interest of consumers.

DATES: Effective July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance may begin November 22, 1982. Objections by October 21, 1982.

ADDRESS: Written objections are to be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 1, 1979 (44 FR 31669), FDA published a proposal to amend the standards of identity and quality for canned pears to provide for a new optional style of pears designated as "chunky". The proposal was based on a petition submitted by Libby, McNeill and Libby, Inc. The agency also proposed, on its own initiative, to define the styles already provided for in the standard of identity for canned pears, to be consistent with those currently provided for in the standard of identity for canned peaches in § 145.170 (21 CFR 145.170) and in the Recommended International Standards (Codex standards) for canned pears and for other canned fruits.

Three letters, each containing one or more comments, were received in response to the proposal. One comment supported the proposal. The remaining comments and FDA's responses are as follows:

1. Two comments recommended eliminating the dimension requirements from the definition of "chunky" style pears. One comment suggested that the style be defined as "consisting of peeled pears, with cores removed, and cut into random size pieces." The comment added that this would make clear the distinction between "chunky" style and other styles. A second comment recommended defining chunky style pears as "consisting of peeled pears, with cores removed, and cut into pieces, other than provided in paragraphs (ii), (iii), (iv), and (v) of this section, which may or may not be symmetrical or uniform in shape and size, and conforms to § 145.175(b)(1)(viii)." Paragraph (a)(2)(ii), (iii), (iv), and (v) refers to halves, quarters, slices, and dice styles, respectively. The comment asserts that this is intended for clarification and to provide a definition of the style "chunky" which conforms to the generic-type definition of the other styles of canned pears. The comment also stated the purpose of referencing the styles halves, quarters, slices, and dice is to distinguish clearly "chunky" from the more uniform styles.

FDA does not agree with these suggested changes. FDA advises that establishing dimension requirement in the definition of "chunky" style pears is consistent with a comparable style, "chunks", provided for in the standard of identity for canned pineapple (21 CFR 145.180(a)). FDA believes that the style "chunky" pears would not be clearly defined in relation to the style "pieces or irregular pieces" as provided for in § 145.175(a)(2)(vi) without size specifications. The generic-type definition referred to in the comments seems applicable only to such clearly identifiable styles as halves, quarters, slices, and dice. Therefore, FDA concludes that the proposed dimension requirements are reasonable and is so providing in § 145.175(a)(2)(vii).

2. Two comments recommended that the regulation state that not more than 25 percent of the drained weight of the contents of the container consists of units that will pass through an opening 13 millimeters (0.51 inch) wide or that are more than 44 millimeters (1.75 inches) along the longest cut edge. The purpose of this suggested change is to base compliance on the weighing of units that will pass through a one-half inch wide linear opening "when presented to the opening from all possible orientations or profiles."

FDA agrees with this suggestion and has incorporated the recommended change in § 145.175(b)(1)(iii)(*b*).

FDA is renumbering proposed paragraphs (b)(1)(viii) and (b)(3)(viii) to provide for "chunky" style pears in (b)(1)(iii)(*b*) and (b)(4)(iii)(*b*), respectively. This action will incorporate "chunky" pears into the format of a final regulation considering the quality provisions of the Recommended International Standard

for Canned Pears which is published elsewhere in this issue of the Federal Register. FDA notes that the provision for "chunky" style pears under crushed or broken units was inadvertently omitted from the proposal of June 1, 1979. Therefore, FDA has provided for "chunky" style pears in § 145.175(b)(1)(vii).

In consideration of the petition by Libby, McNeill and Libby, together with comments received in response to the proposal, FDA concludes that it will promote honesty and fair dealing in the interest of consumers to amend the standards of identity and quality for canned pears.

List of Subjects in 21 CFR Part 145

Canned fruit, Canned pears, Food standards, Fruits.

PART 145—CANNED FRUITS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 145 is amended in § 145.175 by revising paragraph (a)(2), revising the first three sentences and adding a new sentence in paragraph (a)(4)(ii), adding new paragraph (b)(1)(iii)(*b*), revising paragraph (b)(1)(vii), and adding new paragraph (b)(4)(iii)(*b*), to read as follows:

§ 145.175 Canned pears.

(a) * * *

(2) *Styles and forms of units.* The optional pear styles and forms of units referred to in paragraph (a)(1) of this section are:

(i) *Whole*—consisting of peeled or unpeeled pears with cores removed or left in.

(ii) *Halves*—consisting of peeled or unpeeled pears with cores removed and cut into two approximately equal parts.

(iii) *Quarters*—consisting of peeled pears with cores removed and cut into four approximately equal parts.

(iv) *Slices*—consisting of peeled pears with cores removed and cut into wedge-shaped sectors.

(v) *Dice*—consisting of peeled pears with cores removed and cut into cube-like parts.

(vi) *Pieces or irregular pieces*—consisting of peeled pears with cores removed and cut into parts of irregular shapes and sizes.

(vii) *Chunky*—consisting of peeled pears with cores removed and cut into parts 13 millimeters (0.51 inch) or greater in the smallest dimension and 44 millimeters (1.75 inches) or less in the largest dimension.

* * * * *

(4) * * *

(ii) The style and forms of units of the pear ingredient as provided in paragraph (a)(2) of this section and the name of the packing medium specified in paragraph (a)(3) (i) and (ii) of this section, preceded by "In" or "Packed in" or the words "Solid pack", where applicable, shall be included as part of the name or in close proximity to the name of the food, except that "Halves" may be alternatively designated as "Halved", "Quarters" as "Quartered", "Slices" as "Sliced", and "Dice" as "Diced". "Pieces" or "Irregular pieces" shall be designated as "Pieces", "Irregular pieces", or "Mixed pieces of irregular sizes and shapes". "Chunky" may be designated as "Chunks". The style of the pear ingredient shall be preceded or followed by "Unpeeled" when the units are whole or halves and are unpeeled. * * *

* * * * *

(b) * * *

(1) * * *

(iii) * * *

(b) Chunky. In the case of chunky style, not more than 25 percent of the drained weight of the contents of the container consists of units that will pass through an opening 13 millimeters (0.51 inch) wide or that are more than 44 millimeters (1.75 inches) along the longest cut edge.

* * * * *

(vii) *Crushed or broken units.* In the case of whole, halves, quarter, slices, dice, and chunky styles, not more than 10 percent by count of the units in containers of 10 or more units and not more than 1 unit in containers of less than 10 units are crushed or broken. A unit that lost its normal shape because of ripeness and bears no mark of crushing shall not be considered to be crushed or broken.

* * * * *

(4) * * *

(iii) * * *

(b) "Undersized and/or oversized pieces";

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 21, 1982 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin November 22, 1982, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1985, shall fully comply. Notice of the filing of objections or lack thereof will be published in the Federal Register.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: September 14, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25717 Filed 9-20-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 177

[Docket No. 82F-0079]

Indirect Food Additives: Polymers; Ethylene-Vinyl Acetate-Vinyl Alcohol Copolymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of ethylene-vinyl acetate-vinyl alcohol copolymers as articles or components of articles in contact with food. This action is based on a petition filed by Kuraray Co., Ltd.

DATES: Effective September 21, 1982, objections by October 21, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA-

305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Clyde A. Takeguchi, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of April 9, 1982 (47 FR 15413), FDA announced that a food additive petition (FAP 7B 3320) had been filed by Kuraray Co., Ltd., 8, Umeda, Kita-Ku, Osaka, Japan, proposing that § 177.1360 *Ethylene-vinyl acetate-vinyl alcohol copolymers* (21 CFR 177.1360) be amended to provide for the safe use of ethylene-vinyl acetate-vinyl alcohol copolymers containing a minimum of 20 percent ethylene, such that the finished copolymer will contain no more than 80 percent vinyl alcohol units by weight, as articles or components of articles in contact with food.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below in new § 177.1360(a)(3) and (d). In addition to adding the new paragraphs, FDA is revising the current regulation to include metric units, to separate the types of copolymers covered by this regulation, and to ensure consistency in language.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will remove from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the potential environmental effects of this regulation as announced in the notice of filing published in the **Federal Register**. No new information or comments have been received that would alter the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

List of Subjects in 21 CFR Part 177

Food additives, Polymeric food packaging.

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drug (21 CFR 5.10), Part 177 is amended by revising § 177.1360, to read as follows:

§ 177.1360 Ethylene-vinyl acetate-vinyl alcohol copolymers.

Ethylene-vinyl acetate-vinyl alcohol copolymers (CAS Reg. No. 26221–27–2) may be safely used as articles or components of articles intended for use in contact with food, in accordance with the following prescribed conditions:

(a) Ethylene-vinyl acetate-vinyl alcohol copolymers are produced by the partial or complete alcoholysis or hydrolysis of those ethylene-vinyl acetate copolymers complying with § 177.1350.

(1) Those copolymers containing a minimum of 55 percent ethylene and a maximum of 30 percent vinyl alcohol units by weight may be used in contact with foods as described in paragraph (b) of this section.

(2) Those copolymers containing a minimum of 55 percent ethylene and a maximum of 15 percent vinyl alcohol units by weight may be used in contact with foods as described in paragraph (c) of this section.

(3) Those copolymers containing 20 to 40 percent ethylene and 60 to 80 percent vinyl alcohol units by weight may be used in contact with foods as described in paragraph (d) of this section.

(b) The finished food-contact article shall not exceed 0.013 centimeter (0.005 inch) thickness and shall contact foods only of the types identified in Table 1 of § 176.170(c) of this chapter in categories I, II, IV–B, VI, VII–B, and VIII under conditions of use D through G described in Table 2 of § 176.170(c) of this chapter. Film samples of 0.013 centimeter (0.005 inch) thickness representing the finished article shall meet the following extractive limitation when tested by ASTM method F34–63T, "Exposing Flexible Barrier Materials to Liquids for Extraction" (issued 1963), which is incorporated by reference. Copies are available from University Microfilms International, 300 N. Zeeb Rd., Ann Arbor, MI 48106, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(1) The film when extracted with distilled water at 21° C (70° F) for 48 hours yields total extractives not to exceed 0.0047 milligram per square centimeter (0.03 milligram per square inch) of food-contact surface.

(2) The film when extracted with 50 percent ethyl alcohol at 21° C (70° F) for 48 hours yields total extractives not to exceed 0.0062 milligram per square centimeter (0.04 milligram per square inch) of food-contact surface.

(c) The finished food-contact article shall not exceed 0.0076 centimeter (0.003 inch) thickness and shall contact foods only of the types identified in Table 1 of § 176.170(c) of this chapter in categories III, IV–A, VII–A, and IX under conditions of use F and G described in Table 2 of § 176.170(c) of this chapter. Film samples of 0.0076 centimeter (0.003 inch) thickness representing the finished articles shall meet the following extractive limitation when tested by ASTM method F34–63T, "Exposing Flexible Barrier Materials to Liquids for Extraction" (issued 1963), which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (b) of this section. The film when extracted with *n*-heptane at 38° C (100° F) for 30 minutes yields total extractives not to exceed 0.0078 milligram per square centimeter (0.05 milligram per square inch) of food-contact surface, after correcting the total extractives by dividing by a factor of five.

(d) The finished food-contact article shall not exceed 0.018 centimeter (0.007 inch) thickness and may contact all foods except those containing more than 8 percent alcohol under conditions of use B through H described in Table 2 of § 176.170(c) of this chapter. Film samples of 0.018 centimeter (0.007 inch) thickness representing the finished articles shall meet the following extractive limitation when tested by ASTM method F34–63T, "Exposing Flexible Barrier Materials to Liquids for Extraction" (issued 1963), which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (b) of this section. The film when extracted with distilled water at 100° C (212° F) for 30 minutes yields total extractives not to exceed 0.023 milligram per square centimeter (0.15 milligram per square inch) of food-contact surface.

(e) The provisions of this section are not applicable to ethylene-vinyl acetate-vinyl alcohol copolymers used in the food-packaging adhesives complying with § 175.105 of this chapter.

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 21, 1982 submit to the Dockets Management Branch (address above) written objections thereto and may make a

written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective September 21, 1982.

(Secs. 201(a), 408, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: September 13, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

Note.—Incorporation by reference provisions were approved by the Director of the Office of the Federal Register on March 31, 1982, and are on file at the Office of the Federal Register.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 6a

[T.D. 7832]

Income Tax; Temporary Income Tax Regulations Under Subtitle C of Title XI of the Omnibus Reconciliation Act of 1980; Foreign Investment in United States Real Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document concerns the taxation of foreign investment in United States real property interests. It contains temporary regulations concerning the information returns which must be filed with respect to foreign investment in U.S. real property interests by certain corporations, partnerships, trusts, estates, and nonresident alien individuals. It also contains temporary regulations concerning procedures for establishing that corporation is not a U.S. real property holding corporation and temporary regulations concerning the election by a foreign corporation to be treated as a domestic corporation. This document also contains temporary regulations defining relevant terms.

These temporary regulations are necessary to provide the public with the immediate guidance needed to comply with the Foreign Investment in Real Property Tax Act of 1980 (subtitle C of title XI of the Omnibus Reconciliation Act of 1980) and section 631 of the Economic Recovery Tax Act of 1981. In addition, the text of the temporary regulations set forth in this document serves as the text of the proposed regulations cross referenced in the proposed rules section of today's Federal Register.

DATES: The temporary regulations are generally effective with respect to dispositions of U.S. real property interests after June 18, 1980. The temporary regulations are also effective with respect to dispositions of U.S. real property interests to related parties during the period after December 31, 1979, and before June 19, 1980.

FOR FURTHER INFORMATION CONTACT: Diane L. Renfroe, Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains additions to the Temporary Income Tax Regulations under Subtitle C of Title XI of the Omnibus Reconciliation Act of 1980 (26 CFR Part 6a) under sections 897 and 6039C of the Internal Revenue Code of 1954, as added by sections 1122 and 1123 of the Foreign Investment in Real Property Tax Act of 1980 (94 Stat. 2682), and as amended by section 631 of the Economic Recovery Tax Act of 1981 (Pub. L. No 97–34; 95 Stat. 172). The additions are issued under the authority contained in sections 897 (94 Stat. 2683; 26 U.S.C. 897), 6039C (94 Stat. 2687; 26 U.S.C. 6039C), and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

Discussion

Statutory Provisions

The Foreign Investment in Real Property Tax Act of 1980 added sections 897 and 6039C to the Internal Revenue Code. Under section 897(a), a foreign person's gain or loss from the disposition of a U.S. real property interest is treated as if such person were engaged in a trade or business within the United States and as if such gain or loss were effectively connected with such trade or business. A United States real property interest as defined in section 897(c)(1) generally includes any interest in real property located in the United States or the Virgin Islands and any interest other than solely as a creditor in a domestic corporation which is or was a United States real property holding corporation. The term does not include an interest in a domestically controlled real estate investment trust ("REIT") under section 897(h), nor does it generally include an interest in a class of stock in a corporation which is publicly traded, unless the person disposing of such stock holds or held more than 5 percent of such class of stock as provided in section 897(c)(3). As provided in section 897(c)(1)(B), the term United States real property interest also does not include an interest in a United States real property holding corporation which has disposed of its United States real property interests in transactions in which the full amount of gain, if any, was recognized.

Section 897(c)(2) provides that a U.S. real property holding corporation is a corporation which holds U.S. real property interests with a fair market value of at least 50 percent of the sum of the fair market values of its U.S. real property interests, its interests in real property located outside the United States, and its other assets which are used or held for use in a trade or business. Although a foreign corporation may be a U.S. real property holding corporation, an interest in a foreign corporation is not a U.S. real property interest under section 897(c)(1) other than for purposes of determining whether another corporation is a U.S. real property holding corporation. (See section 897(c)(4)(A)). As a consequence, any gain from the disposition of such interest by a foreign person is not treated as effectively connected with a U.S. trade or business by reason of section 897(a).

A foreign corporation is required, however, to recognize gain on the distribution of a U.S. real property interest to its shareholders under section 897(d) to the extent the fair market value of the U.S. real property interest distributed exceeds the corporation's adjusted basis in the interest. Such recognition generally would not occur if a similar distribution were made by a domestic corporation.

The disparate treatment accorded foreign and domestic corporations under section 897 makes it possible that a foreign corporation holding a U.S. real property interest could claim entitlement to nondiscrimination under a treaty to which the United States is a party. Section 897(i) provides that such foreign corporation can elect to be treated as a domestic corporation for purposes of sections 897 and 6039C provided that certain conditions are met. Section 897(i)(4) provides that this election is the exclusive remedy for any person claiming discriminatory treatment with respect to sections 897 and 6039C.

Section 897(k) was added to the Code by the Economic Recovery Tax Act of 1981. It provides that a foreign corporation which has adopted or adopts a plan of liquidation described in section 334(b)(2)(A) and which was acquired by purchase within a 12 month period beginning after December 31, 1979, and before November 26, 1980, may elect to be treated as a domestic corporation. Section 897(k) provides that, notwithstanding the election, any selling shareholder is treated as having sold stock in a foreign corporation.

Section 6039C requires certain corporations, other entities, and nonresident alien individuals to disclose the identity and the extent of foreign ownership of U.S. real property interests. Section 6039C also grants the Internal Revenue Service broad discretion to require other relevant information with respect to such interests.

Section 6039C(a) requires information returns to be filed by domestic corporations which are for the calendar year, or were at any time during the 4 prior calendar years, U.S. real property holding corporations and which have one or more foreign shareholders during the calendar year. It also requires that nominees of foreign persons who hold interests in such corporations file information returns.

Section 6039C(b) requires information returns to be filed by foreign corporations and by domestic or foreign partnerships, trusts, and estates which hold U.S. real property interests if such entities have one or more substantial investors in U.S. real property at any time during the calendar year. A "substantial investor in U.S. real property" is a foreign person (as well as a domestic person, in the event that the entity required to report is a foreign corporation) who at any time during the calendar year held an interest in the entity if the fair market value of the person's pro rata share of the U.S. real property interests held by the entity exceeded $50,000.

Section 6039C(b)(2) provides an exception to the requirement of filing a return if an entity furnishes the Commissioner with security sufficient to ensure that any tax which may be imposed with respect to the U.S. real property interests held by the entity will be paid. Section 6039C(b)(3) requires each entity required to file a return to furnish a statement to each substantial investor showing the name and address of the entity, the substantial investor's pro rata share of the U.S. real property interests owned by the entity, and such other information as the Commissioner may require.

Section 6039C(c) requires foreign persons holding U.S. real property interests with a fair market value that equals or exceeds $50,000 at any time during a calendar year to file information returns if such persons were not engaged in a U.S. trade or business during the year and if such persons are not required to file returns under section 6039C(b). Section 6039C(c) requires that the information return include the name and address of the person, a description of the U.S. real property interests held by the person during the year, and such other information as the Commissioner may require.

Need for Temporary Regulations

The effective date of sections 897 and 6039C was June 18, 1980. Since that date, the proper application of these sections has been dependent, in many instances, on the interpretation of certain terms which are not defined by the statute, on determinations of whether a corporation is a U.S. real property holding corporation, and on determinations of whether a foreign corporation is eligible to make an election under section 897(i) to be treated as a domestic corporation.

Because of the need for immediate guidance in this regard, the Internal Revenue Service has found it to be impractical to issue these regulations with notice and public procedure under section 553(b) of title 5 of the United States Code.

The Internal Revenue Service is currently preparing temporary regulations on certain other aspects of the Foreign Investment in Real Property Tax Act of 1980 as to which immediate guidance also is needed. Those aspects include the tax treatment of distributions by foreign corporations under section 897(d), the nonrecognition and reorganization provisions of section 897(e), and the provisions concerning partnerships, trusts, and estates of sections 897 (e) and (g).

Description of Temporary Regulations

Definitions

Section 6a.897–1 provides definitions to be used in applying the regulations under section 897, section 6039C, and section 6852(g).

Under paragraph (b) of § 6a.897–1, real property includes land and improvements thereon, including buildings and structural components of buildings such as wiring. Real property also includes unharvested crops, uncut timber, and mines, wells and other natural deposits. The regulations purposely do not address the issue of whether and at what stage in the extraction or production process minerals cease to be real property. A rule resolving this issue has been omitted pending further study.

Paragraph (b)(4) of § 6a.897–1 provides that real property also includes movable walls and furnishings and other personal property associated with the use of real property. The term "personal property associated with the use of real property" is defined as personal property the use of which is an ordinary and necessary corollary of the use to which real property is put. Personal property which has dominant economic significance in relation to underlying real property is not included in the term "personal property associated with the use of real property." Paragraph (b)(4) also provides that personal property associated with the use of real property will be considered to be real property whether or not the personal property is held by the same person who holds the real property and whether or not the personal property is disposed of separately from the real property.

Paragraph (c) of § 6a.897–1 defines U.S. real property interests. This definition mirrors the statutory definition contained in section 897(c)(1).

Paragraph (d)(1) of § 6a.897–1 provides that an interest solely as a creditor in real property or in a U.S. real property holding corporation is not a U.S. real property interest. It provides, moreover, that an interest solely as a creditor in a corporation, a partnership, a trust or an estate will not be taken into account for purposes of determining whether a corporation is a U.S. real property holding corporation, for purposes of determining whether and the extent to which there has been a disposition of a U.S. real property interest under sections 897(e)(2)(B)(ii) and 897(g), and for purposes of applying the provisions of section 6039C.

Paragraph (d)(2) of § 6a.897–1 provides that in determining whether a person holds an interest in real property

or in an entity other than solely as a creditor, all interests of such person in the real property or entity must be considered. If a person has any interest in real property or in an entity other than solely as a creditor, all his interests in such real property or entity are considered interests other than solely as a creditor.

Under paragraph (d)(3) of § 6a.897–1, an interest in real property other than solely as a creditor includes a fee-ownership, co-ownership or leasehold interest in real property, a life estate, remainder or reversionary interest in real property or any other right to share in the appreciation in value of, or in the gross or net proceeds or profits from, the real property. The term "interest in real property other than solely as a creditor" also includes an interest in production payments with respect to real property, including mineral production payments. In addition, the right to installment or other deferred payments from the disposition of a real property interest will be considered to be an interest in real property other than solely as a creditor.

Under paragraph (d)(4) of § 6a.897–1, an interest in a corporation other than solely as a creditor includes a stock interest, a direct or indirect right to share in the appreciation in value of a stock interest (such as an interest in phantom stock or in stock appreciation rights), a direct or indirect right to share in the appreciation in the value of the assets of or the gross or net proceeds or profits derived by the corporation, and a right to convert or exchange an interest which would otherwise constitute an interest in the corporation solely as a creditor into or for an interest described in this sentence.

Paragraphs (d)(5) and (6) of § 6a.897–1 provide similar rules for determining whether an interest in a partnership, a trust, or an estate is an interest other than solely as a creditor.

Paragraphs (e), (f), and (g) of § 6a.897–1 define the terms "directly and indirectly," "pro rata share" and "percentage ownership interest," respectively. These terms are generally applicable for the purposes of applying the look-through rules of sections 897 (c)(4)(B) and 6039C. Paragraph (g)(3) provides that the percentage ownership interest of a contingent beneficiary of a trust or an estate is required to be determined by reference to the actuarial value of the entire portion of the trust or estate to which the beneficiary potentially may be entitled. The possibility exists in some instances, therefore, that the same gain from the direct or indirect disposition of a U.S. real property interest by a trust or estate may be required to be recognized by more than one beneficiary.

Special rules for determining the assets held by a corporation owning a controlling interest in another corporation under section 897(c)(5) are provided in § 6a.897–2.

Paragraph (h) of § 6a.897–1 defines "asset used or held for use in a trade or business." This term includes property, other than real property, which is includable in inventory or which is held for sale to customers, depreciable property which is used in a trade or business, and certain livestock. The term also includes accounts receivable from the sale of the previously mentioned property or from personal services. The term does not include cash, marketable securities and certain options to acquire stock, securities or commodities.

Sections 6a.897–1 (l) and (m) define the terms "disposition" and "established securities market," respectively.

Section 6a.897–1(n) defines the term "fair market value." The fair market value of property is measured by the gross value of such property and is not affected by liabilities to which the property may be subject.

U.S. Real Property Holding Corporations

Section 6a.897–2 provides procedures for establishing that a corporation is not a U.S. real property holding corporation. A foreign person who disposes of an interest in a domestic corporation must establish that the corporation is not a U.S. real property holding corporation in order that the gain, if any, from the disposition is not subject to the provisions of section 897(a). Failure to establish that a domestic corporation was not a U.S. real property holding corporation will result in the gain, if any, from such disposition being treated as effectively connected with a U.S. trade or business of the foreign person, and such gain will be subject to tax under sections 871 (b) or 882 of the Code. Determining whether or not a domestic or foreign corporation is a U.S. real property holding corporation is also necessary for purposes of determining whether another corporation holding an interest in such domestic or foreign corporation is itself a U.S. real property holding corporation Finally, U.S. real property holding corporation status is important for purposes of applying the reporting provisions of section 6039C.

Under paragraph (b) of § 6a.897–2 a foreign person who disposes of an interest in a U.S. corporation is required to attach certain schedules to its income tax return establishing that the corporation was not a U.S. real property holding corporation for any calendar year during a specified base period. The base period is the shorter of the period after June 18, 1980, during which the foreign person held such interest or the 5 year period ending on the date of the disposition of the interest.

Paragraph (d)(1) describes the required schedules. Information concerning the U.S. real property interests, interests in foreign real property, and trade or business assets held by the corporation at the end of the year and disposed of by the corporation during the year, must be provided. Also, the dates of acquisition and disposition of such assets and the fair market value of such assets as of the end of the calendar year or the day of disposition must be provided. Calculations demonstrating that the corporation was not a U.S. real property holding corporation on specified dates are also required. Paragraph (d)(2) provides that either the owner of an interest in a corporation or the corporation itself may prepare the requisite schedules.

Although a literal reading of section 897(c)(1)(A)(ii) would require a daily determination of U.S. real property holding corporation status, paragraph (c) of § 6a.897–2 provides that a determination of such status need only be made with respect to property held by the corporation certain applicable determination dates.

Paragraph (e) of § 6a.897–2 sets forth the applicable determination dates for applying the U.S. real property holding corporation test. In general, the applicable determination date is December 31 of the calendar year. However, additional applicable determination dates are provided with respect to certain transactions that could occur during the year to cause a U.S. real property holding corporation to lose its status as such. These dates are the dates immediately preceding the date that a corporation disposes of a U.S. real property interest, acquires foreign real property, or acquires other assets used or held for use in a trade or business, respectively. To ease the burden imposed by the additional applicable determination dates, the regulations allow any property which is retained by the corporation after such applicable determination dates to be valued as of December 31 (or, if the retained property is disposed of subsequent to the applicable determination date but prior to December 31, as of the date of disposition of the retained property. For purposes of determining whether an additional applicable determination date has been triggered by the

acquisition of assets used or held for use in a trade or business, only the acquisition of depreciable assets is taken into account, and a de minimis limitation applies.

Paragraphs (f) through (j) of § 6a.897–2 set forth rules by which to identify assets that are held by a corporation for purposes of determining whether it is a U.S. real property holding corporation. Paragraph (f)(1) provides that assets held both directly and indirectly, as provided in paragraphs (h), (i) and (j), are considered to be held by the corporation for this purpose. Paragraph (f)(2) contains an anti-abuse rule which provides that foreign real property and other assets used or held for use in a trade or business which have been acquired for the principal purpose of affecting the status of a corporation as a U.S. real property holding corporation shall not be recognized for the purpose of applying the U.S. real property holding corporation test.

Paragraph (g)(1) of § 6a.897–2 provides that, solely for purposes determining whether another corporation is a U.S. real property holding corporation, an interest in a foreign corporation is treated as a U.S. real property interest unless it is established that such foreign corporation was not a U.S. real property holding corporation during the base period. The procedures of § 6a.897–2(b) must be complied with in order to establish that a foreign corporation is not a U.S. real property holding corporation.

Section 897(c)(4)(B) provides that for purposes of determining whether a corporation is a U.S. real property holding corporation, assets held by a partnership, a trust, or an estate are to be treated as held proportionately by its partners or beneficiaries. Accordingly, paragraph (h) of § 6a.897–2 provides that a partner or beneficiary is treated as holding a pro rata share of the assets held by a partnership, a trust, or an estate. Two examples of the operation of this rule are provided.

Paragraph (i) of § 6a.897–2 sets forth rules concerning controlling interests in corporations, in accordance with the provisions of section 897(c)(5). Such section provides that for purposes of determining whether a corporation is a U.S. real property holding corporation, if a corporation (first corporation) controls a second corporation, the stock in the second corporation is disregarded, and the first corporation is instead treated as owning a portion of the assets held by the second corporation. Such portion is equal to the percentage of the fair market value of the stock of the second corporation held by the first corporation.

The rules of paragraphs (h) and (i) of § 6a.897–2 apply successively upward through a chain of ownership, and the rules of paragraphs (g), (h), and (i) apply in conjunction with one another.

Paragraph (k) of § 6a.897–2 provides procedures for establishing that an interest in a corporation is not a U.S. real property interest in accordance with the exception provided in section 897(c)(1)(B).

897(i) Election

Section 6a.897–3 provides rules for a foreign corporation to elect to be treated as a domestic corporation under section 897(i). Paragraph (a) of § 6a.897–3 describes the corporations that are eligible to make the election. Such paragraph makes it clear that the election to be treated as a domestic corporation applies only for purposes of sections 897 and 6039C of the Code and not for purposes of any other section of the Code. Paragraph (a) also provides that the election under section 897(i) is the sole remedy of a foreign corporation which claims discriminatory treatment under sections 897 and 6039C in violation of a U.S. treaty obligation.

Paragraph (b) of § 6a.897–3 sets forth additional conditions for making the election. In general, the election cannot be made if any interest in the foreign corporation has been disposed of prior to the date of making the election. However, if there has been a disposition of an interest in the corporation after June 18, 1980, and before March 21, 1983, the election may be made, provided that there has been a payment of any tax which would have been owed by the person disposing of the interest had the corporation made the election prior to the disposition, notwithstanding any treaty provision to the contrary. Paragraph (b) also provides that an election must be made in the manner and form prescribed by the regulations. These conditions conform to the statute and the statement in the House-Senate conference report. See H. Rep. No. 96–1479, 96th Cong., 2d Sess. 183 (1980) (Conference Report).

Paragraph (d) makes it clear that after the election is in effect the shareholders cannot claim treaty benefits with respect to the gain, if any, from the disposition of an interest in the electing corporation and the corporation cannot claim treaty benefits with respect to gain, if any, from the disposition of its U.S. real property interests.

Paragraph (e) of § 6a.897–3 prescribes the manner and form for making the election provided in section 897(i). It requires that the corporation agree to be bound by § 6a.897–3(d). Paragraph (e)(3) requires a signed consent to the election and an agreement to be bound by the condition of § 6a.897–3(d) from all owners of interests in the corporation on the date the election is made. This requirement was added by the Economic Recovery Tax Act of 1981.

Paragraph (f) of § 6a.897–3 sets forth rules concerning the time for making and the duration of an election. Generally, the election must be made no later than 90 days after the date a foreign corporation first holds a U.S. real property interest. However, in the case of foreign corporations which held U.S. real property interests between June 19, 1980, and March 21, 1983 may be made at any time before the later of March 21, 1983 or 90 days after the corporation first holds a U.S. real property interest.

Paragraph (g) provides an anti-abuse rule to prevent evasion of the conditions for making the election contained in paragraph (b).

Paragraph (h) provides that an election under this section may be revoked with the consent of the Commissioner. The Commissioner will not consent to a revocation if there have been any distributions of U.S. real property interests by the electing corporation.

897(k) Election

Paragraph (a) of § 6a.897–4 sets forth special rules whereby certain foreign corporations which adopt or have adopted a plan of liquidation described in section 334(b)(2)(A) and whose stock was acquired during a 12 month period beginning after December 31, 1979, and before November 26, 1980, may elect to be treated as domestic corporations under section 897(k). These rules take into account the fact that persons purchasing stock in a foreign corporation prior to enactment of section 897 may reasonably have expected that a tax would have been imposed on the foreign seller rather than on the liquidating corporation. A foreign corporation need not be a beneficiary of a treaty nondiscrimination article nor satisfy any of the other prerequisites to making the election under section 897(i) to be eligible to make the election under section 897(k).

Section 6039C Reporting Requirements

Section 6a.6039C–1 provides general rules with respect to the filing of information returns, including the time and place for filing such returns. In general, information returns must be filed no later than May 15 of the calendar year following the calendar year to which the returns relate. Information returns for calendar years

1980 and 1981 must be filed no later than June 21, 1982.

Section 6a.6039C–2 describes the information returns (Forms 6659) required to be filed by domestic corporations and by certain nominees. Paragraph (a) generally explains which corporations and nominees must file Form 6659. Paragraph (a) also provides that Form 6659 is not required to be filed if all classes of stock of a corporation which were held by foreign persons were regularly traded on an established securities market or if security is provided with respect to all U.S. real property interests held by the corporation in accordance with § 6a.6039C–5.

Paragraph (b) of § 6a.6039C–2 sets forth the information which must be supplied by the reporting corporation on Form 6659 if the information is known to such corporation. The regulations require information concerning the names and addresses of all foreign persons who held an interest in the corporation during the year, the amount and types of interests held by foreign persons, all dispositions of interests in the corporation by foreign persons during the year, distributions of U.S. real property interests to foreign persons, a description of the U.S. real property interests held by the corporation, and the identity of corporations in which the corporation holds interests which constitute U.S. real property interests.

Section 6a.6039C–2(c)(2) provides an additional reporting requirement for REITs which are controlled by foreign persons. Paragraph (c)(1) provides significantly less detailed reporting requirements for REITs which are controlled by domestic persons.

Paragraph (d) of § 6a.6039C–2 requires U.S. real property holding corporations that do not know whether they have foreign owners to notify all owners of record that such owners must file Form 6659 if they are nominees for a foreign beneficial owner. Even if a nominee who holds an interest for a foreign person is required to file Form 6659, the corporation must still file Form 6659 with respect to information which it has access to (such as the description of U.S. real property interests distributed by the corporation during the year). If the corporation itself has all the information required by paragraph (b), it must file with respect to the interest held by a nominee and must notify the nominee (including a nominee holding an interest indirectly through one or more other nominees) that the nominee is not required file Form 6659.

Paragraph (e) of section 6a.6039C–2 sets forth detailed rules concerning the filing of Form 6659 by nominees of foreign beneficial owners. Paragraph (e)(1)(i) of § 6a.6039C–2 makes it clear that there is no knowledge limitation imposed by the statute with respect to nominee filing. Thus, if a nominee does not know the required information, it must either obtain the information or provide security in accordance with § 6a.6039C–5.

A domestic corporation is only required to supply the information requested on Form 6659 if it is "known" to the corporation. Paragraph (f) of § 6a.6039C–2 defines the term "known" for this purpose.

Paragraph (g) of § 6a.6039C–2 provides that persons owning bearer shares and persons with addresses outside the United States shall be treated as foreign persons, unless the corporation or a nominee knows otherwise.

Under section 897(c)(3), stock of a corporation which is of a class that is regularly traded on an established securities market is not treated as a U.S. real property interest unless the stock is held by a person who holds more than 5 percent of that class of stock. Accordingly, paragraph (h) of § 6a.6039C–2 provides that no information is required to be supplied concerning stock in a U.S. real property holding corporation during times when the stock is of a class which is regularly traded on an established securities market.

Section 6a.6039C–3 concerns the information returns (Forms 6660) required under section 6039C(b) to be filed by foreign corporations and by domestic or foreign partnerships, trusts, and estates. Paragraph (a) describes the entities which must file the return on Form 6660 if on any applicable determination date during the calendar year such entities have a substantial investor in U.S. real property and if the entities do not have in effect for the calendar year a security agreement with the District Director, Foreign Operations District. Paragraph (b)(1) defines "substantial investor in United States real property," and provides that the determination of the number of substantial investors is to be made on each applicable determination date during the year. Paragraph (b)(2) explains how the fair market value of a person's pro rata share of U.S. real property interests held by an entity and how a person's percentage ownership interest in the entity are determined for this purpose.

Paragraph (c)(1) of § 6a.6039C–3 provides that interests held both directly and indirectly through corporations, partnerships, trusts and estates (as provided in § 6a.897–1(e)) are considered held by an entity, except that an entity's pro rata share of U.S. real property interests held by a corporation are disregarded for this purpose unless they exceed $50,000. Paragraph (c)(1) also provides that the indirect holding rules apply successively upward through a chain of ownership.

Paragraph (d) of § 6a.6039C–3 sets forth the applicable determination dates for determining whether an entity has substantial investors during the year. Generally, the applicable determination dates are December 31 of the calendar year, the date immediately preceding the date on which the entity disposes of a U.S. real property interest, and the date on which a person with an interest in the entity disposes of such interest.

Paragraph (e) of § 6a.6039C–3 sets forth the information which must be provided on Form 6660. The regulations require disclosure of the identities of substantial investors and require information relating to the U.S. real property interests held by the entity, including a description of each substantial investor's pro rata share of the U.S. real property interests held by the entity.

Paragraph (f) provides that persons holding bearer shares in a foreign corporation and persons with foreign addresses will be presumed to be foreign unless the entity knows otherwise.

Paragraph (g) of § 6a.6039C–3 provides, as indicated by the statute, that an entity which does not know the required information must obtain such information. It also provides that the fact that stock of a foreign corporation is in bearer form does not constitute reasonable cause for failure to provide the required information within the meaning of section 6652(g) of the Code. Section 6652(g) provides for penalties for failure to comply with the reporting requirements of section 6039C.

If the information to be filed on a Form 6660 cannot be obtained, the entity must provide security and enter into a security agreement with the District Director, Foreign Operations District, under § 6a.6039C–5. See H. Rep. No. 96–1479, 96th Cong., 2d Sess. 192 (1980) (Conference Report).

Paragraph (h) of § 6a.6039C–3 sets forth the requirements for furnishing statements to substantial investors for each calendar year as required by section 6039C(b)(3). It provides that in the event the entity provides security in lieu of filing a return required by section 6039C(b)(1), the entity will not be required to furnish statements to substantial investors.

Section 6a.6039C–4 describes the returns (Form 6661) required by section 6039C(c) to be filed by foreign persons holding U.S. real property interests. Paragraph (a) describes the persons who are required to file the Form 6661, and it provides that Form 6661 is not required to be filed if the entity through which the person is treated as owning U.S. real property interests enters into a security agreement for the calendar year with the District Director, Foreign Operations District, as provided in § 6a.6039C–5. Paragraph (a) also includes special rules relating to the U.S. trade or business exemption from reporting under section 6039C(c).

Paragraph (b) sets forth rules concerning the direct and indirect holding of U.S. real property interests by foreign persons through partnerships, trusts, and estates and provides that family attribution rules apply for determining what U.S. real property interests an individual is considered to hold.

Paragraph (c) provides applicable determination dates for determining whether, for purposes of applying section 6039C(c), a person holds U.S. real property interests the fair market value of which equals or exceeds $50,000.

Paragraph (d) of § 6a.6039C–4 sets forth the information which must be included on Form 6661 for each calendar year. The regulations require information concerning the U.S. real property interests held by the foreign person at the end of the calendar year (including their fair market values) and the U.S. real property interests disposed of by the foreign person during the year.

Section 6a.6039C–5 contains rules for providing security and entering into a security agreement with the District Director, Foreign Operations District, in lieu of filing Form 6659, 6660, or 6661 for a calendar year. The security agreement option is explicitly authorized by section 6039C(b)(2) and has been expanded as an option to the return requirements of section 6039C (a) and (c). The regulations give the District Director absolute discretion to determine the type and amount of security required.

Under § 6a.6039C–5(a), the person required to file a return under §§ 6a.6039C–2 through 6a.6039C–4 must provide the Internal Revenue Service with sufficient security to ensure that any income tax which may be owed with respect to the U.S. real property interests held by such person will be paid. The security must secure payment of income taxes which could be imposed not only on the person required to file the return but also on an owner of an interest in the person with respect to property held directly and indirectly by the person.

Paragraph (b) of § 6a.6039C–5 provides that the type of security which the District Director may accept depends upon the facts and circumstances of each case. Types of security which the District Director may accept include (but are not limited to) liens, escrowed property, letters of credit, surety bonds, and evidence of binding voluntary withholding agreements which assure payment of tax on the disposition of a U.S. real property interest. If certain requirements relating to the existence of substantial assets in the United States are met, the written personal guarantee of a person may be accepted as appropriate security by the District Director.

Paragraph (c) of § 6a.6039C–5 provides that the amount of security generally must cover the tax that would be due on the appreciation in value of U.S. real property at the maximum long term capital gains rate. However, in appropriate circumstances a lesser or greater amount of security may be required. In no event shall the required amount exceed the maximum ordinary income rate of tax on the appreciation. In the event that the potential maximum tax liability of the person who would be required to file the return and that of another person having an interest in the U.S. real property interest differ, the security must cover the greater liability.

Paragraph (d) of § 6a.6039C–5 provides that the person desiring to file security in lieu of filing a return for a calendar year must show that any income tax on the disposition of a U.S. real property interest by such person, or on the disposition of an interest in such person, during the calendar year for which the return is required either has been paid or will be paid by the date that such tax is due.

Paragraph (e) of § 6a.6039C–5 provides that for purposes of determining the amount of security, the appraised fair market value of the U.S. real property interests to be secured as of December 31 of the calendar year must be used.

Paragraph (f) of § 6a.6039C–5 provides rules concerning the effect of security on persons holding an interest in an entity that has provided security who also may be required to file a return under section 6039C. If an entity has provided security and has entered into a security agreement with respect to all U.S. real property interests which it holds, a person who holds an interest in such entity is not required to take into account its pro rata share of such U.S. real property interests held by the entity in determining whether such person is required to file a return under section 6039C.

Paragraph (g) of § 6a.6039–5 provides rules concerning the duration and renewal of security agreements. In the event that a security agreement is not renewed for a subsequent calendar year, the section 6039C information returns for such year are due on the dates specified in § 6a.6039C–1(a). The security provided with respect to the expired agreement shall not be released until the information returns and tax returns, if required, are filed and any income tax with respect to dispositions of U.S. real property interests covered by the security agreement is paid.

Drafting Information

The principal author of these temporary regulations is Diane L. Renfroe of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations both on matters of substance and style.

Regulatory Flexibility Act and Executive Order 12291

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule. The Commissioner of Internal Revenue has determined that these temporary regulations are not subject to Executive Order 12291.

List of Subjects in 26 CFR Part 6a

Bonds, Income taxes, Mortgages, Veterans, Foreign investments in United States real property interests.

Adoption of Temporary Regulations

PART 6a—TEMPORARY REGULATIONS UNDER TITLE II OF THE OMNIBUS RECONCILIATION ACT OF 1980.

The following new §§ 6a.897–1 through 6a.897–4, and §§ 6a.6039C–1 through 6a.6039C–5 are hereby added to 26 CFR Part 6a:

§ 6a.897–1 Taxation of foreign investment in United States real property interests, definition of terms.

(a) *Summary.* This section provides definitions of certain terms. The definitions apply when used in §§ 6a.897–1 through 6a.897–4 and 6a.6039C–1 through 6a.6039C–5, unless stated otherwise in those sections.

(b) *"Real property"*—(1) *In general.* Local law definitions will not be controlling for purposes of determining the meaning of the term "real property" as it is used in sections 897 and 6039C and the regulations thereunder.

(2) *Land and improvements.* The term "real property" includes land, unharvested crops (including uncut timber), and improvements, such as buildings and other inherently permanent structures. Also included are the structural components of buildings, such as wiring, plumbing, central heating and central air conditioning systems, pipes and ducts, and elevators or escalators.

(3) *Natural deposits.* The term real property includes mines, wells and other natural deposits.

(4) *"Personal property associated with the use of real property."* (i) The term "real property" includes movable walls, furnishings, and other personal property associated with the use of real property. For purposes of section 897 and 6039C, furnishings are not considered to include such items as antique furniture, paintings and similar ornamental objects if their fair market value depends principally on factors other than their functional use. The term "personal property associated with the use of real property" means personal property the use of which is an ordinary and necessary corrollary of the use to which the real property is put. It is to be distinguished from personal property with which the use of real property is associated (*i.e.*, personal property which has dominant economic significance in relation to the underlying real property). For instance, mining equipment and farming machinery used in connection with mining and farming operations, respectively, constitute personal property associated with the use of real property; whereas factory machinery, office equipment, harvested crops, and livestock and other animals generally do not constitute such property.

(ii) Personal property associated with the use of real property will be considered to be real property for purposes of sections 897 and 6039C irrespective of (A) whether it is held by a person other than the person which holds the real property with which such personal property is associated or (B) whether the personal property is disposed of without the concurrent disposition of the real property with which it is associated.

(iii) The determination of whether personal property is personal property associated with the use of real property as defined in paragraph (b)(4)(i) of this section is to be made on the date the personal property is disposed of and on each applicable determination date. See § 6a.897–2.

(c) *"United States real property interest".* The term "United States real property interest" means an interest, other than an interest solely as a creditor, in real property located in the United States or the Virgin Islands or an interest, other than an interest solely as a creditor, in a domestic corporation unless the taxpayer establishes that the domestic corporation is not a United States real property holding corporation within the time period prescribed in section 897(c)(1)(A)(ii). The term does not include an interest in a domestically controlled REIT as defined by section 897(h)(4)(B); nor does it include shares of a class of stock of a corporation if that class is traded on an established securities market, unless the person disposing of such shares has held or holds more than 5 percent of the class of stock as provided in section 897(c)(3). The term also does not include an interest in a corporation which has disposed of all its U.S. real property interests in transactions in which the full amount of gain, if any, was recognized as provided in section 897(c)(1)(B). See § 6a.897–2(k) for establishing that an interest is described under section 897(c)(1)(B).

(d) *"Interest other than an interest solely as a creditor"*—(1) *In general.* An interest solely as a creditor either in real property or in a domestic corporation will not constitute a United States real property interest. Similarly, an interest solely as a creditor in any corporation, partnership, trust or estate will not be considered to be an interest in such corporation, partnership, trust or estate for purposes of determining whether a corporation is a United States real property holding corporation, for purposes of determining whether and the extent to which there has been a disposition of a United States real property interest under sections 897(e)(2)(B)(ii) and 897(g), and for purposes of applying section 6039C.

(2) *Aggregation rule*—(i) *In general.* For the purpose of determining whether a person has an interest in real property or in an entity other than an interest solely as a creditor, the aggregate interests of such person in the real property or in the entity must be considered. Therefore, if a person has any interest in the real property or in the entity other than solely as a creditor, all interests of such person in the real property or in the entity will be considered to be interests other than solely as a creditor. In determining the aggregate interests of a person in real property or in an entity, the constructive ownership rules of section 318(a) apply as provided in section 897(c)(6)(C). In addition, if a person's interests in real property or in an entity are dispersed among related entities for the principal purpose of causing one or more of such interests to be an interest solely as a creditor, such interest, or each of such interests, will be considered to be an interest in the real property or entity other than solely as a creditor for purposes of sections 897 and 6039C. Entities are considered to be related within the meaning of this paragraph if they are partners or partnerships described in section 707(b)(1) of the Code, if they are related within the meaning of section 267 (b) and (c) of the Code (without reference to the personal holding company or foreign personal holding company limitations of section 267(b)(3)), or if they are members of a controlled group of corporations. For this purpose the term "controlled group of corporations" has the same meaning given to it in section 1563(a), except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a), and subsections (a)(4), (b)(2), and (e)(3)(C) of section 1563 shall be disregarded.

(ii) *Example.* The rules of paragraph (d)(2)(i) are illustrated as follows:

Example. X, a foreign corporation, owns 40 percent of the fair market value of all the outstanding stock of Y, a domestic corporation, and other persons who are not related to X within the meaning of paragraph (d)(2)(i) own interests, solely as a creditor or otherwise, in Y. The only asset of Y is a fee interest in a parcel of real property located in the United States. Y is a U.S. real property holding corporation under section 897(c)(2). X makes a loan to Y which is evidenced by a note providing that the principal is payable in full in 20 years and that interest is payable at a fixed arm's-length rate at regular intervals over the term of the loan. In accordance with the aggregate interests rule of paragraph (d)(2)(i), X's stock interest in Y and its indebtedness from Y are aggregated and are interests in Y other than solely as a creditor.

(3) *Interests in real property other than solely as a creditor*—(i) *In general.* For purposes of section 897 and section 6039C, an interest in real property other than an interest solely as a creditor includes a fee ownership, co-ownership or leasehold interest in real property, a time sharing interest in real property and a life estate, remainder or reversionary interest in such property. The term also includes any direct or indirect right to share in the appreciation in the value of, or in the gross or net proceeds or profits generated by, the real property. A loan to an individual or entity under the terms of which a holder of the

indebtedness has any direct or indirect right to share in the value of, or the gross or net proceeds or profits generated by, an interest in real property of the debtor or of a related party (within the meaning of paragraph (d)(2)(i) of this section) is, in its entirety, an interest in real property other than solely as a creditor.

The term also includes an interest in production payments with respect to real property, including those payments described in section 636 of the Code. An option, a contract, or a right of first refusal to acquire any of the foregoing interests or any other interest in real property (other than an interest solely as a creditor), as well as the right to installment or other deferred payments from the disposition of any such interests, will itself constitute an interest in real property other than an interest solely as a creditor for purposes of sections 897 and 6039C.

(ii) *Example.* The rules of paragraph (d)(3)(i) are illustrated by the following example.

Example. A, a U.S. citizen, purchases a condominium unit located in the United States for $500,000. A makes a $100,000 down payment and borrows $400,000 from B, a foreign person, to pay the balance of the purchase price. Under the terms of the loan, A is to pay B 13 percent annual interest each year for 10 years and 35 percent of the appreciation in the fair market value of the condominium after 10 years. Because B has a right to share in the appreciation in value of the condominium, B has an interest other than solely as a creditor in the condominium. B's entire interest in the obligation from A, therefore, is a United States real property interest.

(4) *Interest in a corporation other than solely as a creditor.* For purposes of sections 897 and 6039C, an interest in a corporation other than an interest solely as a creditor means—

(i) An interest which is or would be treated as stock of such corporation under any principle of federal income taxation;

(ii) An interest which is, in whole or in part, a direct or indirect right to share in the appreciation in value of an interest (whether as a result of actual ownership or hypothetical ownership) in the corporation described in paragraph (d)(iv)(i) of this section or a direct or indirect right to share in the appreciation in value of assets of, or gross or net proceeds or profits derived by, the corporation; or

(iii) A right (whether or not presently exercisable) directly or indirectly to convert or to exchange an interest which otherwise would constitute an interest in the corporation solely as a creditor into or for an interest described in paragraph (d)(iv)(i), paragraph (d)(iv)(ii) or paragraph (d)(iv)(iii) of this section.

The interests described in paragraph (d)(4)(ii) of this section include any right to a payment from a corporation the amount of which is contingent on the appreciation in value of an interest (whether as a result of actual ownership or hypothetical ownership) described in paragraph (d)(4)(i) of this section or which is contingent on the appreciation in value of assets of, or the gross or net proceeds or profits derived by, such corporation

(5) *Interest in a partnership other than solely as a creditor.* For purposes of determining whether any corporation is a United States real property holding corporation and of determining whether under section 897(e)(2)(B)(ii) or 897(g) there has been a disposition of a United States real property interest, as well as for purposes of applying section 6039C, an interest in a partnership other than an interest solely as a creditor means—

(i) An interest in such partnership as a partner within the meaning of section 761(b) and the regulations thereunder;

(ii) A direct or indirect right to share in the appreciation in value of an interest (whether as a result of actual ownership or hypothetical ownership) in the partnership described in paragraph (d)(5)(i) or a direct or indirect right to share in the appreciation in value of assets of, or in gross or net proceeds or profits derived by, the partnership; or

(iii) A right (whether or not presently exercisable) directly or indirectly to convert or exchange an interest which otherwise would constitute an interest in the partnership solely as a creditor into or for an interest described in paragraph (d)(5)(i), paragraph (d)(5)(ii) or paragraph (d)(5)(iii) of this section.

The interests described in paragraph (d)(5)(ii) of this section include any right to a payment from a partnership the amount of which is contingent on the appreciation in value of an interest (whether as a result of actual ownership or hypothetical ownership) described in (d)(5)(i) of this section or which is contingent on the appreciation in value of assets of, or gross or net proceeds and profits derived by, such partnership.

(6) *Interests in trusts and estates other than solely as a creditor.* For purposes of determining whether any corporation is a United States real property holding corporation and of determining whether there has been a disposition of a United States real property interest under sections 897(e)(2)(B)(ii) and 897(g), as well as for purposes of applying section 6039C, an interest in a trust or an estate other than solely as a creditor means—

(i) An interest in a trust or estate as a beneficiary within the meaning of section 643(c) and the regulations thereunder or an ownership interest in any portion of a trust as provided in sections 671 through 679 of the Code;

(ii) A direct or indirect right to share in the appreciation in value of an interest (whether as a result of actual ownership or hypothetical ownership) described in (i) or a direct or indirect right to share in the appreciation in value of, or gross or net proceeds or profits derived by, the trust or estate; or

(iii) A right (whether or not presently excercisable) directly or indirectly to convert or exchange an interest which otherwise would constitute an interest solely as a creditor in the trust or estate into or for an interest described in paragraph (d)(6)(i), paragraph (d)(6)(ii) or paragraph (d)(6)(iii). The interests described in paragraph (d)(6)(ii) of this section include any right to a payment from a trust or estate the amount of which is contingent on the appreciation in value of an interest (whether as a result of actual ownership or hypothetical ownership) described in paragraph (d)(6)(i) of this section or which is contingent on the appreciation in value of assets of, or proceeds or profits derived by, such trust or estate.

(7) *"Interest" means "interest other than solely as a creditor."* Unless otherwise stated, the term "interest" as used with regard to real property or with regard to an entity hereafter in this section and in §§ 6a.897–2 through 6a.897–4 and 6a.6039C–1 through 6a.6039G–5 means an interest in such real property or entity other than an interest solely as a creditor.

(e) *"Directly or indirectly."* Unless otherwise provided, property which is held "directly or indirectly" includes property which is actually held and property which is held by application of this paragraph. A shareholder, partner or beneficiary is considered as holding its pro rata share of the property which is held by a corporation, a partnership, a trust, or an estate, respectively. Property that is considered as being held by reason of the preceding sentence shall be treated as actually held by the person for purposes of reapplying the rule of such sentence. See § 6a.897–2(f) for limitations on the indirect holding rule of this paragraph for purposes of determining whether a corporation is a U.S. real property holding corporation.

(f) *"Pro rata share."* A shareholder's, partner's, or beneficiary's pro rata share of property held by a corporation, partnership, trust, or estate is a percentage of the fair market value of the property equal to the shareholder's,

partner's, or beneficiary's percentage ownership interest in the corporation, partnership, trust, or estate.

(g) *"Percentage ownership interest."*—(1) *Corporations*—(i) *General rule.* A person's "percentage ownership interest" in a corporation is the percentage equal to the ratio of (A) the sum of the liquidation values of all interests in the corporation held by the person to (B) the sum of the liquidation values of all outstanding interests in the corporation. The liquidation value of an interest in a corporation is the amount of cash and the fair market value of any property that would be distributed with respect to such interest upon the liquidation of the corporation after satisfaction of liabilities to persons having interests in the corporation solely as creditors. The fair market value of the assets of the corporation, the amount of cash held by the corporation and the amount of liabilities to persons having interests solely as creditors is determined for this purpose on the date with respect to which the percentage ownership interest is determined.

(ii) *Example.* The rule of paragraph (g)(1)(i) of this section is illustrated by the following example.

Example. Corporation K's only asset is a parcel of U.S. real estate with a fair market value of $20,000,000. The real estate is subject to liabilities of $10,000,000. Included in the liabilities is a $1,000,000 loan from M at 10 percent interest. On the date in question there is no accrued but unpaid interest with respect to the $10,000,000 of liabilities. M is also entitled, on payment of the loan principal to a shared appreciation payment equal to 10 percent of the excess of the fair market value of the U.S. real estate over $18,000,000 but only if all other corporate liabilities have been paid. K has two classes of stock, common and preferred. X and Y each own 100 of the 200 outstanding shares of preferred stock. D and E each own 500 of the 1,000 outstanding shares of common stock. Each preferred shareholder is entitled to $10,000 per share of preferred stock upon liquidation, subject to payment of all corporate liabilities and to any amount owed to M, but before any common shareholder is paid. The liquidation value of M's interest in K, which constitutes an interest other than an interest solely as a creditor, is $1,200,000 ($1,000,000 principal of the loan to K plus $200,000 [10 percent of the excess of $20,000,000 over $18,000,000]).

The liquidation value of each of X's and Y's block of preferred stock is $1,000,000 ($10,000 times 100 shares each). The liquidation value of each of D's and E's block of common stock is $3,900,000 ($20,000,000 (the total fair market value of K's assets)—$9,000,000 (liabilities to creditors other than M)—$1,200,000 (M's liquidation value)—$2,000,000 (X and Y's liquidation value)) times 50 percent (the percentage of common stock owned by each). The sum of the liquidation values of all the outstanding interests in K (*i.e.*, interests other than solely as a creditor) is $11,000,000 ($1,200,000 (M's liquidation value)+$2,000,000 (X's and Y's liquidation values)+$7,800,000 (D's and E's liquidation values)). Each of D's and E's percentage ownership interests in K is 35.5 percent ($3,900,000 divided by $11,000,000). Each of X's and Y's percentage ownership interests in K is 9 percent ($1,000,000 divided by $11,000,000). M's percentage ownership interest in K is 11 percent ($1,200,000 divided by $11,000,000).

(2) *Partnerships*—(i) *General rule.* A person's "percentage ownership interest" in a partnership is the percentage equal to the ratio of (A) the sum of the liquidation values of all interests held by the person in the partnership to (B) the sum of the liquidation values of all outstanding interests in the partnership. The liquidation value of an interest in a partnership is the amount of cash and the fair market value of any property that would be distributed with respect to such interest upon liquidation of the partnership after satisfaction of liabilities to persons having interests in the partnership solely as creditors. The fair market value of the partnership assets, the amount of cash held by the partnership, and the amount of its liabilities to persons having interests solely as creditors is determined for this purpose on the date with respect to which the percentage ownership interest is determined. See the regulations under section 897(g) for an exception to the provisions of this subparagraph where the interest of a person in the United States real property interests held by a partnership is disproportionate to such person's interest in the total assets of the partnership.

(ii) *Example.* The rule of paragraph (g)(2)(i) of this section is illustrated by the following example.

Example. A, a U.S. person, and B, a foreign person, are partners in a partnership the only asset of which is a parcel of undeveloped land located in the United States which was purchased by the partnership in 1980 for $300,000. The partnership has no liabilities, and its capital is $300,000. A's and B's interests in the capital of the partnership are 25 percent and 75 percent, respectively, and A and B each has a 50 percent profits interest in the partnership. In 1984 the partnership has no items of income or deduction, and the fair market value of its parcel of undeveloped land is $500,000. In 1984 the percentage ownership interest of A in the partnership is 35 percent (the ratio of $100,000 (the liquidation value of A's profit interest in 1984) plus $75,000 (the liquidation value of A's 25 percent interest in the partnership's $300,000 capital) to $500,000 (the sum of the liquidation values of all outstanding interests in the partnership)). The percentage ownership interest of B in the partnership in 1984 is 65 percent (the ratio of $325,000 (B's $100,000 profit interest plus his $225,000 capital interest) to $500,000).

(3) *Trusts and estates*—(i) *General rule.* A person's percentage ownership interest in a trust or an estate is the percentage equal to the ratio of (A) the sum of the actuarial values of such person's interests in the cash and other assets held by the trust or estate after satisfaction of the liabilities of the trust or estate to persons holding interests in the trust or estate solely as creditors; to (B) the entire amount of such cash and other assets after satisfaction of liabilities to persons holding interests in the trust or estate solely as creditors. For purposes of calculating this ratio, the fair market value of the trust or estate's assets, the amount of cash held by the trust or estate and the amount of the liabilities to persons having interests solely as creditors is determined on the date with respect to which the percentage ownership interest is determined. In determining its percentage ownership interest in a trust or an estate, a person must be able to demonstrate that the sum of the actuarial values of interests in the cash and the other assets of the trust or estate held by persons in existence on the date with respect to which such determination is made equals the amount in paragraph (g)(3)(i)(B) of this section. The interest of any such person must have a definitely ascertainable actuarial value on such date to be taken into account for this purpose. If the sum of the definitely ascertainable actuarial values of the interests held by persons in existence on the determination date does not equal the amount in paragraph (g)(3)(i)(B) of this section, the excess will be considered to be owned in total by each beneficiary who is in existence on such date, whose interest in the excess is not definitely ascertainable and who is potentially entitled to such excess. For purposes of determining his own percentage ownership interest in a trust, a grantor or other person will be treated as owning any portion of the trust's cash and other assets which such person is treated as owning under sections 671 through 679. See the regulations under section 897(g) for an exception to the provisions of this subparagraph where the interest of a person in the United States real property interests held by a trust or estate is disproportionate to such person's interest in the total assets of the trust or estate. See § 6a.6039C-4(a) regarding limitations on the reporting requirements of persons whose interests in a trust or an estate do not have definitely ascertainable actuarial values.

(ii) *Examples.* The rules of paragraph (g)(3)(i) of this section are illustrated by the following example.

Example. A, a U.S. person, established a trust on December 31, 1984, and contributed $10,000 to the trust. The terms of the trust provide that the trustee, a bank that is unrelated to A, at its discretion may retain trust income or may distribute it to X, a foreign person, or to the head of state of any country other than the United States. The remainder upon the death of X is to go in equal shares to such of Y and Z, both foreign persons, as survive X. On December 31, 1984, the total value of the trust's assets is $10,000. On the same date, the actuarial values of the remainder interest of Y and Z in the corpus of the trust are definitely ascertainable. They are $1,000 and $500, respectively. Neither the income interest of X nor of the head of state of any country other than the United States has a definitely ascertainable actuarial value on December 31, 1984. The interests of Y and Z in the income portion of the trust similarly have no definitely ascertainable actuarial values on such date since the income may be distributed rather than retained by the trust.

Since the sum of the actuarial values of definitely ascertainable interests of persons in existence ($1,500) does not equal $10,000, the excess ($8,500) is treated as owned by each beneficiary who is in existence on December 31, 1984, and who is potentially entitled to such excess. Therefore, X, Y, Z, and the head of state of any country other than the United States are each considered as owning the entire $8,500 income interest in the trust. On December 31, 1984, the total actuarial value of X's interest is $8,500, and his percentage ownership interest is 85 percent. The total actuarial value of Y's interest in the trust is $9,500 ($1,000 plus $8,500), and his percentage ownership interest is 95 percent. The total actuarial value of Z's interest is $9,000 ($500 plus $8,500), and his percentage ownership interest is 90 percent. The actuarial value of the interest of the head of state of each country other than the United States is $8,500, and his percentage ownership interest is 85 percent.

(4) *Dates with respect to which percentage ownership interests are determined.* The dates with respect to which percentage ownership interests are determined are the applicable determination dates outlined in §§ 6a.897–2, 6a.6039C–3 and 6a.639C–4.

(h) *"Asset used or held for use in a trade or business."* The term "asset used or held for use in a trade or business" means—

(1) Property, other than real property, which is described in sections 1221(1), 1231(b)(1) and 1231(b)(3) without regard to the holding period limitations of section 1231(b), and

(2) Accounts receivable from the sale of property described in paragraph (h)(1) of this section or from the performance of personal services.

The term does not include cash or marketable stock or securities. Nor does it include an option or a contract to acquire stock, securities or commodities which option or contract constitutes a capital asset with respect to its holder. If an option or a contract to acquire stock, securities or commodities is not a capital asset with respect to its holder, the determination of whether such option or contract is to be taken into account as an asset used or held for use in a trade or business is made only after application of the rule set forth in § 6a.897–2(f)(2) (relating to the acquisition or disposition of assets principally for the purpose of avoiding United States real property holding company status).

(i) *"Disposition"*—(1) *In general.* A disposition is not taken into account for purposes of applying sections 897 and 6039C if it is not of a type that constitutes a realization event under any principal of federal income taxation.

(2) *Example.* The rule of paragraph (i)(1) of this section is illustrated by the following example.

Example. A, a foreign individual, has an undivided fee interest in a parcel of real property located in the United States. The fair market value of A's interest is $70,000, and A's basis in such interest is $50,000. The only liability to which the real property is subject is a liability of $65,000 secured by a mortgage in the same amount. A transfers his fee interest in the property subject to the mortgage by gift to B. A realizes $15,000 of gain upon such transfer. As the transfer is a realization event for federal income tax purposes, it is of a type that is subject to sections 897 and 6039C. However, such sections would not be applicable to the transfer if the mortgage on the U.S. real property were equal to or less than A's $50,000 basis since the transfer then would not be a transaction of a type which would constitute a realization event for federal income tax purposes.

(j) *"Domestic corporation."* The term "domestic corporation" has the same meaning as set forth in section 7701(a)(4). For purposes of sections 897 and 6039C, it also includes a foreign corporation with respect to which an election under section 897 (i) and (k) and §§ 6a.897–3 and 6a.897–4 to be treated as a domestic corporation is in effect.

(k) *"Foreign person."* The term "foreign person" means a non-resident alien individual (including an individual subject to the provisions of section 877), a foreign corporation, a foreign partnership, a foreign trust or a foreign estate, as such persons are defined respectively by § 1.871–2 and by section 7701 and the regulations thereunder. A resident alien individual, including a nonresident alien individual with respect to whom there is in effect an election under section 6013 (g) or (h) to be treated as a United States resident, is not a foreign person.

(l) *"Foreign corporation."* The term "foreign corporation" has the meaning ascribed to such term in section 7701 (a)(3) and § 301.7701–5. For purposes of sections 897 and 6039C however, the term does not include a foreign corporation with respect to which there is in effect an election under sections 897(i) and 6a.897–3 to be treated as a domestic corporation.

(m) *"Established securities market."* An interest in a corporation is considered to be traded on an "established securities market" if—

(1) It is traded on a national securities exchange which is registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) or on a domestic over-the-counter market, and

(2) Information concerning the identity of persons holding more than 5 percent of any class of interests in the corporation is required by law to be reported to the Securities and Exchange Commission.

For purposes of this paragraph (m), an over-the-counter market is a market reflected by the existence of an interdealer quotation system. An interdealer quotation system is any system of general circulation to brokers and dealers which regularly disseminates quotations of obligations by identified brokers or dealers, other than by quotation sheets which are prepared and distributed by a broker or dealer in the regular course of business and which contain only quotations of such broker or dealer. In no event will an interest be considered to be traded on an established securities market by reason of being traded on a foreign securities exchange which is not registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f).

(n) *"Fair market value."* For purposes of sections 897 and 6039C, the "fair market value" of property is its gross value. Gross value is to be determined by reference to the price at which the property would change hands between an unrelated willing buyer and willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of all relevant facts.

(o) *"Identifying number."* The "identifying number" of an individual is the individual's United States social security number. The "identifying number" of any other person is its United States employer identification number.

§ 6a.897-2 Establishing that a corporation is not a United States real property holding corporation.

(a) *Purpose.* Section 897 (a) provides that gain or loss of a foreign person from the disposition of a U.S. real property interest is taken into account under sections 871 (b)(1) or 882 (a)(1) as is the foreign person were engaged in the conduct of a U.S. trade or business during the taxable year and the gain or loss were effectively connected with the trade or business. Under section 897 (c), a U.S. real property interest generally includes any interest in any domestic corporation unless it is established that the corporation was not a U.S. real property holding corporation at any time during the base period described in paragraph (b) of this section. Therefore, U.S. real property holding corporation status is important for determining whether the disposition by a foreign person of an interest in a domestic corporation is taxable. U.S. real property holding corporation status is also important for reporting purposes. For instance, under section 6039C, a domestic corporation that is a U.S. real property holding corporation is required to report annually if it has foreign shareholders. Solely for purposes of determining whether another corporation is a U.S. real property holding corporation, an interest in a foreign corporation is a U.S. real property interest unless it is established that the foreign corporation is not a U.S. real property holding corporation. This section provides rules for establishing that a corporation is not a U.S. real property holding corporation.

(b) *Establishing that a corporation is not a U.S. real property holding corporation.* Except when section 897 (e) would allow nonrecognition, a foreign person who makes a disposition of an interest in a domestic corporation (other than an interest described in section 897 (c)(3) or (h)(2)) is subject to the provisions of section 897 (a) unless (1) the person supplies the schedules required by paragraph (d) of this section for each calendar year during the base period, or (2) the person establishes as provided in paragraph (k) of this section that the interest meets the requirements of section 897(c)(1)(B). The base period is the shorter of—

(i) The period after June 18, 1980, during which the foreign person held the interest in the corporation, or

(ii) The 5 year period ending on the date of the dispositon of the interest.

The schedules must be attached to an income tax return for the taxable year (even if the foreign person has no income under section 897 or otherwise to report). In order to establish that gain or loss from the disposition is not treated as effectively connected with a U.S. trade or business under section 897(a). An interest in any corporation, whether domestic or foreign, held directly or indirectly by the domestic corporation is taken into account as a U.S. real property interest for purposes of determining whether such domestic corporation is a U.S. real property holding corporation unless the foreign person supplies the schedules required by paragraph (d) of this section for each calendar year during the base period applicable to such other domestic or foreign corporation. However, if a portion of the assets of such other corporation is taken into account by the domestic corporation under paragraph (i) of this section, the schedules do not have to be supplied with respect to the interest in the other corporation.

(c) *U.S. real property holding corporation test.* A corporation is a U.S. real property holding corporation in a calendar year in which the fair market value of the U.S. real property interests held by the corporation on any of the applicable determination dates equals or exceeds 50 percent of the sum of the fair market values of the—

(1) U.S. real property interests;

(2) Interests in real property located outside the United States; and

(3) Other assets used or held for use in a trade or business which are held by the corporation on such dates.

(d) *Schedules*—(1) *Requirement of schedules.* The following schedules must be supplied in accordance with paragraph (b) of this section. A schedule of—

(i) All U.S. real property interests held by the corporation on the last day of the calendar year;

(ii) All U.S. real property interests disposed of by the corporation during the calendar year;

(iii) All property described in paragraphs (c) (2) and (3) of this section which is held by the corporation on the last day of the calendar year;

(iv) All property described in paragraphs (c) (2) and (3) of this section which was disposed of by the corporation during the calendar year; and

(v) Calculations illustrating that the corporation was not a U.S. real property holding corporation on any of the applicable determination dates during the calendar year.

Each schedule required by paragraph (d)(1) (i) through (iv) of this paragraph must include a description of each item, its location, its date of acquisition and disposition, and its fair market value as of the earlier of the date of its disposition or December 31 of the calendar year. If the corporation has substantially identical assets which are used or held for use in a trade or business, it may provide the required information for such assets on an aggregate basis rather than on an item by item basis. Each schedule must be verified as true and signed under penalty of perjury by the person or the responsible corporate officer who prepares the schedule. For purposes of this paragraph (d), calendar year 1980 shall include only the period from June 19, 1980, to December 31, 1980.

(2) *Schedule prepared by the corporation.* The schedules required by paragraph (d)(1) of this section of a foreign person who disposes of an interest in a domestic corporation may be prepared by the corporation. However, the owner of the interest must supply the schedule of calculations required by paragraph (d)(1)(v) of this section for the calendar years of acquisition and disposition of the interest since and including 1980. Each schedule prepared by a corporation must be verified as true and signed under penalty of perjury by the responsible officer of the corporation.

(e) *Applicable determination dates for applying U.S. real property holding corporation test*—(1) *In general.* For purposes of paragraphs (c) and (d)(1)(v) of this section the applicable determination dates for any corporation for a calendar year are:

(i) December 31 of the calendar year;

(ii) The date immediately preceding each date on which the corporation disposes of a U.S. real property interest; and

(iii) The date immediately preceding each date on which the corporation acquires an interest in foreign real property or other assests used or held for use in a trade of business during the year.

For purposes of applying this paragraph (e)(1), if a corporation is treated under paragraph (h) or (i) of this section as owning a portion of the assets owned by an entity, the corporation will be treated as disposing of or acquiring such assets on the dates that the entity disposes of or acquires such assets. For purposes of paragraph (e)(1)(iii) only, other assets used or held for use in a trade or business do not include property described in sections 1221(1) and 1231(b)(3) of the Code. In addition, paragraph (e)(1)(iii) of this section shall not apply to an acquisition of other assets used or held for use in a trade or business described in the preceding sentence unless the fair market value of the assets acquired exceeds 1 percent of the total fair market value of all such

assets. However, if the corporation makes or is treated as making more than one acquisition of less than 1 percent of the value of such assets during the year, a determination must be made with respect to property held before any acquisition which will make the total value of all such assets acquired exceed the above percentage.

(2) *Special determination dates for a calendar year in which foreign person disposes of an interest in a domestic corporation.* In a calendar year in which a foreign person disposes of an interest in a domestic corporation, the applicable determination dates for determining whether the corporation is a U.S. real property holding corporation are:

(i) The date on which the foreign person disposes of an interest in the corporation; and

(ii) Any dates described in paragraph (e)(1) (ii) or (iii) of this section which precede the date described in paragraph (e)(2)(i) of this section.

The determination as to whether the corporation was a U.S. real property holding corporation in any calendar year during the portion of the base period that precedes the year of disposition shall be made on the dates set forth in paragraph (e)(1) of this section.

(3) *Valuation methods*—(i) *In general.* For purposes of determining whether a corporation is a U.S. real property holding corporation on any applicable determination date, the fair market value of the property considered to be held by the corporation (in accordance with § 6a.897–2 (f)) as of the applicable determination date must be used.

(ii) *Alternative valuation method for determination dates other than December 31.* For purposes of paragraph (e)(3)(i) of this section, if an applicable determination date under paragraph (e)(1) and (2) of this section is other than December 31 and if property otherwise required to be valued as of such date is retained after such date, the fair market value of the retained property as of the earlier of the date of its own disposition or December 31 may be used.

(iii) *Consistent methods.* The valuation date method selected under this paragraph (e)(3) (i) or (ii) for the first determination date in a calendar year must be used for all subsequent determination dates for such year. In addition, the valuation date method selected must be used for all property with respect to which the determination is made. The use of one method for one calendar year does not preclude the use of the other method for any other calendar year.

(4) *Illustrations.* The rules of this paragraph (e) are illustrated by the following examples.

Example (1). Nonresident alien individual X purchased 100 shares of stock of domestic corporation K on July 20, 1979. K has additional shares of common stock outstanding, however, its stock has never been traded on an established securities market. At all times during calendar year 1980, K's only assets were a parcel of U.S. real estate (parcel A) and a parcel of country Z real estate (parcel B). On December 31, 1980, the fair market value of parcel A was $1,000,000 and the fair market value of parcel B was $2,000,000. At all times during calendar year 1981, K's only assets were the same parcels of real estate, with fair market values on December 31, 1981, of $1,150,000, and $2,300,000, respectively.

On November 23, 1981, X disposed of 50 shares of the K stock. K prepared the schedules described in paragraph (d) of this section for calendar years 1980 and 1981. With her income tax return for 1981, X attached copies of the schedules prepared by K for 1980 and 1981 and the calculations described in paragraph (d)(1)(v) of this section for 1980 and 1981, required by paragraph (b) of this section, claiming that K was not a U.S. real property holding corporation at any time from June 19, 1980, to November 23, 1981. In determining whether K was a U.S. real property holding corporation during 1980, the only applicable determination date is December 31, 1980, because K did not dispose of or acquire any property described in paragraph (e)(1) of this section during the year. The test of paragraph (c) is applied using the fair market value of the property held on that date. K was not a U.S. real property holding corporation during 1980 because as of December 31, 1980, the fair market value ($1,000,000) of the U.S. real property interests held by K did not equal or exceed 50 percent ($1,500,000) of the sum ($3,000,000) of the fair market values of K's U.S. real property interest ($1,000,000), the interests in real property located outside the United States ($2,000,000), plus other assets used or held for use by K in a trade or business (zero). In determining whether K was a U.S. real property holding corporation during the period in 1981 in which X held the 50 shares which were disposed of, the only applicable determination date is November 23, 1981, since K did not dispose of or acquire any property during the year prior to such date.

Pursuant to paragraph (e)(3) of this section, X chooses to use the fair market value of K's property as of December 31, 1981, in lieu of using the fair market value on November 23, 1981. K was not a U.S. real property holding corporation from January 1, 1981, until November 23, 1981, because the fair market value as of December 31, 1981, ($1,150,000) of the U.S. real property interests held by K on November 23, 1981, did not equal or exceed 50 percent ($1,725,000) of the sum ($3,450,000) of the fair market values, as of December 31, 1981, of K's U.S. real property interests held on November 23, 1981 ($1,150,000), K's interests in real property located outside the United States on November 23, 1981 ($2,300,000), plus other assets used or held for use by K in a trade or business on November 23, 1981 (zero). As K was not a U.S. real property holding corporation from June 19, 1980, to November 23, 1981, the stock of K was not a U.S. real property interest, and X's gain on the disposition of such stock is not subject to the provisions of section 897(a). The following chart summarizes this example.

K CORPORATION

Calendar year	1980	1981
1. Applicable determination dates.	Dec. 31,1980	Nov. 23,1981.
2. Fair market value of U.S. real property interests held on applicable determination date parcel A.	1.0 [1]	1.15 (Dec. 31, 1981)
Total	1.0	1.15.
3. Fair market value of foreign real property held on applicable determination date parcel B.	2.0	2.3 (Dec. 13, 1981)
Total	2.0	2.3.
4. Fair market value of other assets used or held for use in a trade or business on applicable determination date.	0	0.
Total	0	0.
5. Total of (2), (3), and (4).	3	3.45.
6. 50 percent of (5)	1.5	1.725.
7. K's U.S. real property holding corporation status on applicable determination date.	Not a USRPHC (1.0<1.5).	Not a USRPHC (1.15<1.725).

[1] Figures represent millions of dollars.

Example (2). The facts are the same as in *Example (1)*, except that on April 7, 1982, K purchases another parcel of U.S. real estate (parcel C) for $2,000,000; on May 25, 1982, X disposes of her remaining 50 shares of K stock; on October 17, 1982, K disposes of parcel A for its fair market value ($1,500,000); on December 31, 1982, the fair market values of parcels B and C are $2,600,000 and $2,400,000, respectively. K prepares the schedules described in paragraph (d) of this section for calendar year 1982. In determining whether K was a U.S. real property holding corporation from January 1, 1982, to May 25, 1982, the period in 1982 during which X owned her K stock, the only applicable determination date is May 25, 1982, since K did not dispose of or acquire property described in paragraph (e)(1) (ii) or (iii) of this section prior to this date. In accordance with paragraph (e)(3)(ii), X chooses to use the fair market values of parcels B and C as of December 31, 1982, and the fair market value of parcel A on October 17, 1982, in lieu of values of such property on May 25, 1982. K was a U.S. real property holding corporation during the period from January 1, 1982, until May 25, 1982, because the fair market values ($3,900,000) of the U.S. real property interests held by K on May 25, 1982 (determined as of October 17, 1982, in the case of parcel A, and as of December 31, 1982, in the case of parcels B and C), exceeded 50 percent ($3,250,000) of the sum ($6,500,000) of the fair

market values of K's U.S. real property interests held on May 25, 1982 ($3,900,000), K's interests in real property located outside the United States on May 25, 1982 ($2,600,000), plus K's other assets used or held for use in a trade or business on May 25, 1982 (zero). As K was a U.S. real property holding corporation on May 25, 1982, the stock of K is a U.S. real property interest, and X's gain on the disposition of K stock is treated as effectively connected with a U.S. trade or business under section 897(a). The following chart summarizes this example.

K CORPORATION

Calendar year	1982
1. Applicable determination date	May 25, 1982.
2. Fair market value of U.S. real property interests held on applicable determination date:	
Parcel A	1.5 (Oct. 16, 1982).[1]
Parcel C	2.4 (Dec. 31, 1982).
Total	3.9.
3. Fair market value of foreign real property held on applicable determination date: parcel B.	2.6 (Dec. 31, 1982).
Total	2.6.
4. Fair market value of other assets used or held for use in a trade or business on applicable determination date.	0.
Total	0.
5. Total of (2), (3), and (4)	6.5.
6. 50 percent of (5)	3.25.
7. K's status as a U.S. real property holding corporation on applicable determination date.	Is a USRPHC (3.9>3.25).

[1] Figures represent millions of dollars.

Example (3). The facts are the same as in *Example (2)*, except that X disposes of her K stock in 1983, and on December 17, 1982, K purchases a parcel of country Z real estate (parcel D) with a fair marker value of $1,400,000. In determining whether K was a U.S. real property holding corporation in 1982, in accordance with paragraph (e) the applicable determination dates are December 31, 1982, December 16, 1982, and October 16, 1982. On December 31, 1982, K was not a U.S. real property holding corporation since the value of its U.S. real property interests held on that date ($2,400,000) does not equal or exceed 50 percent ($3,200,000) of the total value of all its U.S. real property interests, foreign real property interests and other assets used in a trade or business held on that date ($6,400,000). On December 16, 1982, considering the assets held by K on that date, K was not a U.S. real property holding corporation since the value as of December 31, 1982, of its U.S. real property interests held did not equal or exceed 50 percent ($2,500,000) of the total fair market value of K's U.S. real property interests, its foreign real property, and its other assets used or held for use in its trade or business ($5,000,000). On October 16, 1982, K was a U.S. real property holding corporation since the fair market value of its U.S. real property interests held on that date ($3,900,000) (including the value of parcel A on October 16, 1982 ($1,500,000) and the value of parcel C on December 31, 1982 ($2,400,000)) is greater than 50 percent of the value ($3,250,000) of its total assets ($6,500,000) held on such date. As K was a U.S. real property holding corporation on October 16, 1982, the stock of K is a U.S. real property interest, and X will be subject to the provisions of section 897(a) upon the disposition of K stock in 1983. The following chart summarizes this example.

K CORPORATION

Calendar year		1982	
1. Applicable determination dates	Oct. 16, 1982	Dec. 16,1982	Dec. 31,1982.
2. Fair market value of U.S. real property interests:			
Parcel A	1.5 (Oct. 16, 1982) [1]		
Parcel C	2.4 (Dec. 31, 1982)	2.4 (Dec. 31,1982)	2.4 (Dec. 31, 1982).
Total	3.9	2.4	2.4.
3. Fair market value of foreign real property:			
Parcel B	2.6 (Dec. 31, 1982)	2.6 (Dec. 31, 1982)	2.6 (Dec. 31, 1982.)
Parcel D			1.4 (Dec. 31, 1982).
Total			4.0
4. Fair market value of other assets used or held for use in trade or business on applicable determination date.	0	0	0
Total	0	0	0
5. Total of (2), (3), and (4)	6.5	5.0	6.4.
6. 50 percent of (5)	3.25	2.5	3.2.
7. K's status as a U.S. real property holding corporation on applicable determination date.	Is a USRPHC (3.9>3.25).	Not a USRPHC (2.4<2.5).	Not a USRPHC (2.4≤3.2).

[1] Figures represent millions of dollars.

(f) *Assets held by a corporation*—(1) *Included assets.* For purposes of determining whether a corporation is a U.S. real property holding corporation, the assets held by a corporation include only those held directly by the corporation and those held indirectly by application of the rules of paragraphs (h), (i), and (j) of this section.

(2) *Excluded assets.* For the purposes of paragraph (c) of this section, foreign real property and other assets used or held for use in a trade or business acquired principally for the purpose of affecting the status of a corporation as a U.S. real property holding corporation shall not be recognized. Whether property is acquired principally for such purpose will depend on the facts and circumstances in each case. One of the factors that will be considered is whether a corporation has increased its amount of such property just prior to an applicable determination date and whether it appears that such increase will be accompanied by a decrease in the amount of such property after such date. In such case, the acquired property will be disregarded unless the corporation establishes that a valid business purpose existed for increasing and decreasing the amount of such property.

(g) *Interests in foreign corporations*—(1) *In general.* For purposes only of determining whether any corporation is a U.S. real property holding corporation, an interest in a foreign corporation shall be treated as a U.S. real property interest unless it is established that the foreign corporation was not a U.S. real property holding corporation as defined in paragraph (c) of this section at any time during the base period (as defined in paragraph (b) of this section). The rules of this section must be complied with to establish that the foreign corporation is not a U.S. real property holding corporation. Regardless of whether a foreign corporation is a U.S. real property holding corporation, gain or loss from the disposition of an interest in such corporation will not be treated as effectively connected with a U.S. trade or business by reason of section 897(a), unless the foreign corporation elects to be treated as a domestic corporation under section 897 (i) or (k).

(2) *Examples.* The rules of paragraph (g)(1) of this section are illustrated by the following examples. In each example, fair market value is determined as of the applicable determination dates under paragraph (e)(3)(i) of this section.

Example (1). Nonresident alien individual X holds all of the stock of domestic corporation K. K's only assets are 40 percent of the stock of foreign corporation L, with a fair market value of $500,000, and a parcel of country W real estate, with a fair market value of $400,000. Foreign corporation M, unrelated to K, holds the other 60 percent of the stock of L. L's only asset is a parcel of U.S. real estate with a fair market value of $1,250,000. L is a U.S. real property holding corporation because the fair market value of its U.S. real property interests ($1,250,000) exceeds 50 percent ($625,000) of the sum of the fair market values of its U.S. real property interests ($1,250,000), its interests in real property located outside the United States (zero), plus its other assets used or held for use in a trade or business (zero). Consequently, K's interest in L is treated as a U.S. real property interest under the rule of this paragraph (g). K is a U.S. real property holding corporation because the fair market value ($500,000) of its U.S. real property interests (the stock of L) exceeds 50 percent ($450,000) of the sum ($900,000) of the fair

market value of its U.S. real property interests ($500,000), its interests in real property located outside the United States ($400,000), plus its other assets used or held for use in a trade or business (zero). X's gain on the disposition of her stock in K will be treated as effectively connected with a U.S. trade or business under section 897(a). M's gain on the disposition of its L stock will not be subject to the provisions of section 897(a), because the stock of L is a U.S. real property interest only for purposes of determining whether K is a U.S. real property holding corporation.

Example (2). Nonresident alien individual X holds all of the stock of domestic corporation K. K's only assets are 40 percent of the stock of foreign corporation L. Nonresident alien individual Y, unrelated to X, holds the other 60 percent of L's stock. L's only assets are 40 percent of the stock of foreign corporation M. M's only asset is a parcel of U.S. real estate with a fair market value of $1,000,000. M, therefore, is a U.S. real property holding corporation, and the stock of M held by L is a U.S. real property interest for purposes of determining whether L is a U.S. real property holding corporation (not for purposes of treating L's gain from the disposition of M stock as effectively connected with a U.S. trade or business under section 897(a)). As all of L's assets are U.S. real property interests, the stock of L held by K is a U.S. real property interest for purposes of determining whether K is a U.S. real property holding corporation (not for purposes of subjecting Y's gain on the disposition of L stock to the provisions of section 897(a)). As all of K's assets are U.S. real property interests, K is a U.S. real property holding corporation, and the stock of K held by X is a U.S. real property interest. As K is a domestic corporation, X's gain upon the disposition of the stock of K is subject to the provisions of section 897(a).

(h) *Proportionate ownership of assets held by partnership, trusts, and estates*—(1) *In general.* For purposes of determining whether a corporation is a U.S. real property holding corporation, a partner or beneficiary of a partnership, a trust, or an estate (whether domestic or foreign) shall be treated pursuant to section 897(c)(4)(B) as holding assets directly and indirectly in accordance with § 6a.897-1(e). In addition, for purposes of applying paragraph (c) of this section, a determination of a partner's or beneficiary's percentage ownership interest in a partnership, a trust, or an estate, as well as a determination of its pro rata share of U.S. real property interests, foreign real property, and other assets used or held for use in a trade or business which are held by the partnership, trust, or estate, shall be made as of each applicable determination date described in paragraph (e) (1) or (2) of this section. Any asset treated as held by a partner or beneficiary by reason of this paragraph (h)(1) which is used or held for use in a trade or business by the partnership, trust, or estate shall be treated as so used or held for use by the partner or beneficiary. The proportionate ownership rule of this paragraph (h)(1) applies successively upward through a chain of ownership.

(2) *Examples.* The proportionate ownership rule of paragraph (h)(1) of this section is illustrated by the following examples. In each example fair market value is determined as of the applicable determination date under paragraph (e)(3)(i) of this section.

Example (1). Nonresident alien individual X holds all of the stock of domestic corporation K. K is a partner in foreign partnership L, and K's percentage ownership interest in L is 50 percent. K's other assets are a parcel of country F real estate with a fair market value of $500,000 and other assets which it uses in its business with a fair market value of $100,000. L's assets are a parcel of country Z real estate with a fair market value of $300,000 and a parcel of U.S. real estate with a fair market value of $2,000,000. For purposes of determining whether K is a U.S. real property holding corporation, K is treated as holding its pro rata share of the assets held by L. K's pro rata share of the U.S. real estate held by L is $1,000,000, determined by multiplying the fair market value ($2,000,000) of the U.S. real property interests held by L by K's percentage ownership interest in L (50 percent). K's pro rata share of the country Z real estate held by L is $150,000, determined in the same manner. K is a U.S. real property holding corporation because the fair market value ($1,000,000) of its U.S. real property interests (the U.S. real estate it is treated as holding proportionately) exceeds 50 percent ($875,000) of the sum ($1,750,000) of the fair market values of its U.S. real property interests ($1,000,000), its interests in real property located outside the United States ($850,000) (its country F real estate and is pro rata share of the country Z real estate), plus its other assets which are used or held for use in a trade or business ($100,000). Because K is a U.S. real property holding corporation, the stock of K is a U.S. real property interest and X's gain or loss on the disposition of its K stock will be treated as effectively connected with a U.S. trade or business under section 897(a).

Example (2) Nonresident alien individual X holds all of the stock of domestic corporation K. K is a beneficiary of foreign trust L. K's percentage ownership interest in L is 90 percent. K has no other assets. L is a partner in domestic partnership M. L's percentage ownership interest in M is 30 percent. L has no other assets. M's only asset is a parcel of U.S. real estate with a fair market value of $1,000,000. L is treated as holding U.S. real estate with a fair market value of $300,000 (30 percent of the U.S. real estate held by M with a fair market value of $1,000,000). For purposes of determining whether K is a U.S. real property holding corporation, the proportionate ownership rule is applied successively upward through the chain of ownership. Thus, K is treated as holding 90 percent of L's $300,000 pro rata share of the U.S. real estate held by M. K is a U.S. real property holding corporation because the fair market value ($270,000) of its U.S. real property interests (its pro rata share of the U.S. real estate held by M) exceeds 50 percent ($135,000) of the sum of the fair market values of its U.S. real property interests ($270,000), its interests in real property located outside the United States (zero), plus its other assets used or held for use in a trade or business (zero). Because K is a U.S. real property holding corporation, the stock of K is a U.S. real property interest, and X's gain or loss from the disposition of K stock will be treated as effectively connected with a U.S. trade or business under section 897(a).

(i) *Controlling interests in corporations*—(1) *Rules.* For purposes only of determining whether a corporation is a U.S. real property holding corporation, if the corporation (the "first corporation") holds a controlling interest in a second corporation—

(i) Stock which the first corporation holds in the second corporation is not taken into account.

(ii) The first corporation is treated as holding a portion of each asset (i.e. U.S. real property interests, foreign real property, and assets used or held for use in a trade or business) held by the second corporation equal to the percentage of the fair market value of all classes of stock of the second corporation represented by the stock held by the first corporation, and

(iii) Any asset so treated as held proportionately by the first corporation which is used or held for use by the second corporation in a trade or business shall be treated as used or held for use in a trade or business by the first corporation.

A determination of what portion of the assets of the second corporation are considered to be held by the first corporation shall be made as of the applicable determination dates for determining whether the first corporation is a U.S. real property holding corporation. A determination of the first corporation's percentage of the fair market value of all classes of stock of the second corporation shall also be made on such dates. A "controlling interest" means 50 percent or more of the fair market value of all classes of stock of a corporation. In determining whether a corporation holds a controlling interest in another corporation, section 318 (a) shall apply (except that sections 318(a)(2)(C) and (3)(C) are applied by substituting the phrase "5 percent" for "50 percent"). The controlling interest rules of this paragraph (i)(1) apply regardless of whether a corporation is domestic or

foreign. The rules apply successively upward through a chain of ownership. For example, if the second corporation owns a controlling interest in a third corporation, the rules of this paragraph shall be applied first to determine the portion of the assets of the third corporation that is considered to be held by the second corporation and then to determine the portion of the assets held and considered to be held by the second corporation that is considered to be held by the first corporation.

(2) *Examples.* The rules of paragraph (i)(1) of this section are illustrated by the following examples. In each example fair market value is determined as of the applicable determination date under paragraph (e)(3) of this section.

Example (1). Nonresident alien individual X owns all of the stock of domestic corporation J. J's only assets are 60 percent of the stock of foreign corporation K and 60 percent of the stock of domestic corporation L. The stock held by J in K and L represents 60 percent of the fair market value of all classes of stock of each corporation. The balance of the stock in K and L is held by nonresident alien individual Y, who is unrelated to X. K's only asset is a parcel of country F real estate with a fair market value of $1,000,000. L's only asset if a parcel of U.S. real estate with a fair market value of $2,000,000. The value of J's stock in K and L is not taken into account for purposes of determining whether J is a U.S. real property holding corporation. Rather, because J holds a controlling interest (60 percent) in each of K and L, J is treated as holding a portion of each asset held by K and L. J's portion of the country F real estate held by K is $600,000, determined by multiplying the fair market value (1,000,000) of the country F real estate by the percentage of the fair market value of K stock held by J (60 percent). Similarly, J's portion of the U.S. real estate held by L is $1,200,000 (60 percent of $2,000,000). J is a U.S. real property holding corporation, because the fair market value ($1,200,000) of its U.S. real property in interests (its portion of the U.S. real estate) exceeds 50 percent ($900,000) of the sum ($1,800,000) of the fair market values of its U.S. real property interests ($1,200,000), its interests in real property located outside the United States (the $600,000 portion of country F real estate), plus its other assets used or held for use in a trade or business (zero). If K or L has other assets used or held for use in a trade or business, J would be treated as holding a similar portion of such assets for use in its trade or business.

Because J is a U.S. real property holding corporation, the stock of J is a U.S. real property interest, and X's gain or loss on the disposition of J stock would be treated as effectively connected with a U.S. trade or business under section 897(a).

Example (2). Nonresident alien individual X owns all of the stock of domestic corporation J. J's only asset is 75 percent of the stock of domestic corporation K. The stock of K held by J represents 75 percent of the fair market value of all classes of stock of K. K's only assets are 60 percent of the stock of domestic corporation L with a fair market value of $600,000 and a parcel of country D real estate with a fair market value of $800,000. The stock of L held by K represents 60 percent of the fair market value of all classes of stock of L. L's only asset is a parcel of U.S. real of estate with a fair market value of $2,000,000, but subject to a liability of $1,000,000. K holds a controlling interest in L (60 percent). Consequently, the value of K's stock in L is not taken into account in determining whether K is a U.S. real property holding corporation. Instead K is treated as holding a portion of the U.S. real estate held by L. K's portion of the U.S. real estate is $1,200,000, determined by multiplying K's percentage of the fair market value of L stock (60 percent) by the fair market value ($2,000,000) of the U.S. real estate. The liabilities to which the real estate is subject are not taken into account. J holds a controlling interest in K (75 percent). By reapplying the rules of paragraph (i)(1) of this section successively upward through the chain or ownership, J's stock in K is not taken into account, and J is treated as holding a portion of the country D real estate held by K and the U.S. real estate which K is treated as holding proportionately. J's portion of the country D real estate is $600,000, determined by multiplying J's percentage of the fair market value of K stock (75 percent) by the fair market value ($800,000) of the country D real estate. J's portion of the U.S. real estate which K is treated as owning is $900,000, determined by multiplying J's percentage of the fair market value of K stock (75 percent) by the fair market value ($1,200,000) of K's portion of U.S. real estate held by L. J is a U.S. real estate holding corporation, because the fair market value ($900,000) of its U.S. real property interests (its portion of K's portion of U.S. real estate) is more than 50 percent ($750,000) of the sum ($1,500,000) of fair market values of its U.S. real property interests ($900,000), its interests in real property located outside the United States ($600,000), plus its other assets used or held for use in a trade or business (zero). Because J is a U.S. real property holding corporation and is a domestic corporation, the stock of J is a U.S. real property interest, and X's gain or loss on the disposition of J stock will be treated as effectively connected with a U.S. trade or business under section 897(a).

Example (3). Nonresident alien individual X holds all of the stock of domestic corporation D. D's only assets are 40 percent of the stock of foreign corporation E and a parcel of country R real estate with a fair market value of $100,000. D does not constructively hold any other stock of E. The stock of E held by D represents 40 percent of the fair market value of all classes of stock of E. E's only asset is one parcel of U.S. real estate with a fair market value of $1,000,000, but subject to a liability of $500,000. The fair market value of the E stock held by D is $200,000. E is a U.S. real property holding corporation. Since D does not hold a controlling interest in E, the controlling interest rules of paragraph (i)(1) of this section do not apply to treat D as holding a portion of the U.S. real estate held by E. However, because E is a U.S. real property holding corporation, the stock of E is a U.S. real property interest for purposes of determining whether D is a U.S. real property holding corporation. D is a U.S. real property holding corporation because the fair market value ($200,000) of its U.S. real property interests (the stock of E) exceeds 50 percent ($150,000) of the sum ($300,000) of the fair market values of its U.S. real property interests ($200,000), its interests in real property located outside the United States ($100,000), plus its other assets used or held for use in a trade or business (zero). Because D is a U.S. real property holding corporation and is a domestic corporation, its stock is a U.S. real property interest, and X's gain or loss on the disposition of D stock would be subject to the provisions of section 897(a).

(j) *Co-application of rules of paragraphs (g), (h), and (i).* The rules of paragraphs (g), (h), and (i) of this section apply in conjunction with one another for purposes of determining whether a corporation is a U.S. real property holding corporation. The rule of this paragraph (j) is illustrated by the following example. In the example fair market value is determined as of the applicable determination dates in accordance with paragraph (e)(3)(i) of this section.

Example. Nonresident alien individual X holds 100 percent of the stock of domestic corporation I. I's only asset is 10 percent of the stock of foreign corporation J. J's only asset is 100 percent of the stock of foreign corporation K. K's only asset is a 50 percent interest in domestic partnership L. K's percentage ownership interest in L is 50 percent. L's only asset is a parcel of U.S. real estate with a fair market value of $10,000,000. In determining whether I is a U.S. real property holding corporation, the rules of paragraphs (g), (h), and (i) of this section apply in conjunction with one another. Consequently, under paragraph (h) of this section, K is treated as holding U.S. real estate with a fair market value of $5,000,000 (50 percent of the $10,000,000, its pro rata share of real estate held by L). Under paragraph (i) of this section, J is treated as holding 100 percent of the assets of K (U.S. real estate with a fair market value of $5,000,000). J, therefore, is a U.S. real property holding corporation. Under paragraph (g) of this section, the stock of J is treated as a U.S. real property interest. I is a U.S. real property holding corporation because 100 percent of its assets (the stock of J) are U.S. real property interests. As I is a U.S. real property holding corporation and is a domestic corporation, the stock of I is a U.S. real property interest, and X's gain or loss from the disposition of the stock of I will be subject to the provisions of section 897(a).

(k) *Statements that section 897(c)(1)(B) applies.* To establish that an interest in a domestic corporation is not a U.S. real property interest under section 897(c)(1)(B), the person disposing of the interest must attach a written statement to its income tax return for the year (even if the person has no

income to report for the year). The statement must state that the corporation meets the requirements of section 897(c)(1)(B) on the date of disposition of such interest. Such statement must contain the name, address, and identifying number of the domestic corporation in which the interest is held, a description of the U.S. real property interests held by such corporation during the base period, the dates of acquisition and disposition of such interests by the corporation, the corporation's basis in each of the U.S. real property interests, the fair market value of such interests on the dates of disposition, and the amount of gain, if any, recognized by the corporation on each disposition. To establish that an interest has ceased to be a U.S. real property interest under section 897(c)(1)(B)(ii)(II), the statement must contain the foregoing information with respect to each one or more other corporations within the meaning of section 897(c)(1)(B)(ii)(II). The statement must be verified as true and signed under penalty of perjury by the person disposing of the interest or if the corporation prepares the statement, by the responsible officer of the corporation.

§ 6a.897-3 Election by foreign corporation to be treated as domestic corporation under section 897(i).

(a) *Election to be treated as a domestic corporation.* This section provides rules pursuant to which a foreign corporation may elect under section 897(i) to be treated as a domestic corporation for purposes of sections 897 and 6039C and the regulations thereunder. The election may be made if—

(1) The foreign corporation holds a U.S. real property interest;

(2) Under any treaty to which the United States is a party, the foreign corporation is entitled to nondiscriminatory treatment with respect to its U.S. real property interest; and

(3) The conditions of paragraph (b) of this section are met.

A foreign corporation that makes an election under section 897(i) shall not be treated as a domestic corporation for purposes of any other provision of the Code or regulations. A foreign corporation with respect to which an election under section 897(i) is in effect is subject to all rules under section 897 and 6039C that apply to domestic corporations. Thus, for example, if a foreign corporation makes an election under section 897(i) and if the corporation is a U.S. real property holding corporation, its stock is a U.S. real property interest, and gain or loss, if any, from the disposition of such stock by a foreign person will be treated as effectively connected with a U.S. trade or business under section 897(a) (unless the stock is described in section 897(c)(1)(B), 897(c)(3), or 897(h)(2) or unless under section 897(e) and the regulations thereunder the disposition qualifies as a nonrecognition transaction). In addition, section 897(d) will not apply to any distribution of a U.S. real property interest by such corporation. An election under section 897(i) is the exclusive remedy of any foreign corporation claiming discriminatory treatment under any treaty with respect to sections 897 and 6039C.

(b) *Conditions.* An election under section 897(i) is subject to the following conditions:

(1) Except as provided in paragraph (b)(2), an election may not be made if any interest in the foreign corporation was disposed of at any time after the later of June 19, 1980, or the date on which the corporation first holds a U.S. real property interest;

(2) Notwithstanding the rule of paragraph (b)(1) of this section, if a disposition described in such paragraph occurs before March 21, 1983 an election may be made under paragraph (f)(1) of this section, provided that there has been a payment of any tax which would have been owed under chapter 1 of the Code by the person disposing of the interest in the corporation had the corporation made the election prior to the disposition, notwithstanding the provision of any income tax treaty to the contrary;

(3) The rules of paragraph (e) of this section are complied with;

(4) The corporation agrees to be bound by paragraph (d) of this section; and

(5) Any other condition which the Commissioner may by form prescribe.

If the conditions of paragraphs (b) (1), (2), (3), and (4) (and any condition which may be imposed under paragraph (b)(5) of this paragraph) are not met, the election cannot be made. If an election cannot be made, the nondiscrimination article of a treaty is not otherwise applicable with respect to sections 897 and 6039C.

(c) *Tax paid on prior disposition.* Paragraph (b)(2) of this section provides that, as a condition to making an election under section 897(i), there must have been a payment, no later than the date the election is to be made, of any tax which would have been owed under chapter 1 of the Code by the person disposing of an interest in such foreign corporation had the corporation made the election prior to the disposition, notwithstanding the provision of any income tax treaty to the contrary. For this purpose, it is not necessary that the tax payment be made by the person who would have owed the tax if the election under this section had been made prior to the disposition; moreover, that person is under no obligation to supply any information to the present holders of interests in the electing corporation. The corporation or any other person may make the tax payment to the District Director, Foreign Operations District. This paragraph (c) provides procedural rules only and does not affect any substantive income tax consequences which may arise as a result of the tax payment.

(d) *Subsequent effect of election.* While the election is in effect, neither a foreign person disposing of an interest in the election corporation, nor the electing corporation disposing of a U.S. real property interest, may avail itself of the benefits of any U.S. tax treaty with respect to gain or loss, if any, on the disposition which is taken into account under section 897(a) as effectively connected with a U.S. trade or business.

(e) *Manner and form of election.* An election under section 897(i) is made by filing a statement, and the required attachments, with the Commissioner. The statement and the attachments must be forwarded to the District Director, Foreign Operations District, 1325 K St. N.W., Washington, D.C. 20225. No particular form is required for the statement. The statement must include the name, address, identifying number, and place and date of incorporation of the foreign corporation. The statement must also indicate the treaty and article under which the foreign corporation is seeking nondiscriminatory treatment and must describe the U.S. real property interests held by the corporation, including the dates such interests were acquired, the corporation's adjusted bases in such interests and their fair market values. The statement must provide that an election under section 897(i) is being made and must state that there have been no prior dispositions of an interest in the corporation in accordance with paragraph (b)(1) of this section. If paragraph (b)(2) of this section is applicable, the corporation must describe any dispositions and show that the condition of such paragraph has been met. The statement must also provide that the corporation agrees to be bound by paragraph (d) of this section. In addition the statement must indicate that paragraph (g) of this section is not applicable. The statement and the attachments must be verified as

true and signed by the responsible officer of the foreign corporation under penalty of perjury. The following attachments are required to accompany the statement:

(1) A list of names, addresses, and indentifying numbers (if any) of all owners of interests in the foreign corporation on or between the first date to which the election applies and the date the election is made;

(2) A description of the interest in the foreign corporation held by each person listed in paragraph (e)(1) of this section, including the type and amount of such interest and its fair market value;

(3) A signed consent to the election, and an agreement to be bound by paragraph (d) of this section, from all the owners of interests listed in paragraph (e)(1) of this section who own an interest in the corporation on the date the election is made, except that in the case of an interest which is regularly traded on an established securities market on the day the election is made, the signed consent and agreement need only be provided by a person who holds or has held more than 5 percent (determined after application of the constructive ownership rules of section 897(c)(6)(C)) of a class of interests at some time during the shorter of the periods described in section 897(c)(1)(A)(ii); and

(4) A list of all dispositions of any interests in the foreign corporation after December 31,1979, and before June 19, 1980, between related persons (as defined in section 453(f) (1)), giving the type and the amount of any interest transferred, the name and address of the related person to whom the interest was transferred, and the transferor's basis in the interest transferred.

(f) *Time and duration of election* —(1) *Election for corporations in existence on or between June 19, 1980, and March 23, 1983.* A foreign corporation in existence on or between June 19, 1980, and March 21, 1983, may make an election under section 897(i) only if the election is made by the later of March 21, 1983 or 90 days after the date the corporation first holds (i.e. holds or is treated as holding for federal income tax purposes) a U.S. real property interest. The period to which the election applies begins on the later of June 19, 1980, or the first day on which the foreign corporation holds a U.S. real property interest and, unless revoked, applies for the duration of the time for which the corporation remains in existence.

(2) *Election for corporations created after March 21, 1983.* A foreign corporation which is created after March 21, 1983 may make an election under section 897(i) only if the election is made no later than 90 days after the date the corporation first holds a U.S. real property interest. The period to which the election applies begins on the date the corporation first holds the U.S. real property interest and, unless revoked, applies for the duration of the time for which the corporation is in existence.

(3) *Date of election.* An election is made on the earlier of the date that the statement (and accompanying attachments) is delivered to the District Director, Foreign Operations District, or on the date that is postmarked for delivery to the District Director in accordance with section 7502 of the Code and the regulations thereunder.

(g) *Anti-abuse rule* —(1) *In general* Notwithstanding a corporation's eligibility to make an election under paragraph (b) of this section, an election cannot be made if:

(i) Prior to receipt of a U.S. real property interest by the corporation seeking to make the election, stock in such corporation (or in any corporation above or below such corporation in the same chain of ownership) was acquired in a transaction in which the person acquiring such stock obtained an increase in basis in the stock over the adjusted basis of the stock in the hands of the person from whom it was acquired;

(ii) The full amount of gain realized by the person from whom the stock was acquired was not subject to U.S. tax; and

(iii) The corporation seeking to make the election received the U.S. real property interest in a transaction or series of transactions to which section 897(d)(1)(B) applies to allow for nonrecognition of gain.

(2) *Examples.* The rule of paragraph (g)(1) of this section is illustrated by the following examples.

Example 1. Nonresident alien individual X owns 100 percent of the stock of foreign corporation L which was organized in 1981. L's only asset is a parcel of U.S. real property which it has held since 1981. The fair market value of the U.S. real property held by L on January 1, 1984, is $1,000,000. L's basis in the property is $200,000. X's basis in the L stock is $500,000. On June 1, 1984, M corporation, a foreign corporation owned by foreign persons who are unrelated to X, purchases the stock of L from X for $1,000,000 with title passing outside of the United States. Since the stock of L is not a U.S. real property interest, X's gain from the disposition of the L stock ($500,000) is not treated as effectively connected with a U.S. trade or business under section 897(a). In addition, since X was neither engaged in a U.S. trade or business nor present in the U.S. at any time during 1984, such gain is not subject to U.S. tax under section 871. On January 1, 1987, M liquidates L under a plan of liquidation adopted on that same date. Under section 332 of the Code M recognizes no gain on receipt of the parcel of U.S. real property distributed by L in liquidation. Under section 334 (b)(1) M takes $200,000 as its basis in the U.S. real property received from L. Under section 897(d)(1)(B) no gain would be recognized to L under section 897(d)(1)(A) on the liquidating distribution. As a consequence, no gain is recognized to L under section 336 of the Code. Within 90 days of receipt of the U.S. real property from L, M seeks to make an election to be treated as a domestic corporation. M cannot make the election since M acquired the L stock in a transaction in which it obtained a basis in such stock in excess of the adjusted basis of X in the stock, U.S. tax was not paid on the full amount of the gain realized by X and M has received the property in a distribution to which section 897(d)(1)(B) applied to provide for nonrecognition of gain to L.

Example 2. Nonresident alien individual X owns 100 percent of the stock of foreign corporation A which owns 100 percent of the stock of foreign corporation B. X's basis in the A stock is $500,000. A's basis in B stock is $500,000. B owns U.S. real property with a fair market value of $1,000,000. B's basis in the U.S. real property is $500,000. On January 1, 1985, X sells the stock of A to Y, an unrelated individual, for $1,000,000 with title passing outside of the United States. In addition, X was neither engaged in a U.S. trade or business nor present in the U.S. at any time during 1985. Since the A stock is not a U.S. real property interest, X's gain on such disposition is not treated as effectively connected with a U.S. trade or business under section 897(a) and is therefore not subject to U.S. tax under section 871. On July 1, 1987, a plan of liquidation is adopted, and B is liquidated into A. Under sections 332, 334(b)(1), 336, and 897(d)(1)(B), there is no tax to A on receipt of U.S. real property from B and no tax to B on the distribution of the U.S. real property interest to A. Within the 90 day period after receipt of the property A seeks to make an election under section 897(i). Under the rule of paragraph (g)(1) of this section A cannot make the election.

(h) *Revocation of election*—(1) *In general.* An election under section 897(i) may be revoked only with the consent of the Commissioner. Application for revocation shall be in writing and shall be addressed to the Commissioner of Internal Revenue, Attention: CC:C:R, Washington, D.C. 20224. The request shall include the name, address, and identifying number of the corporation seeking to revoke the election, a description of all U.S. real property interests held by the corporation on the date of the request for revocation and any other information the Commissioner may prescribe. The request shall be signed by the responsible officer of the corporation under penalty of perjury, and shall contain a statement that there have been no distributions of U.S. real property interests by the corporation as

provided in paragraph (h)(2) of this section. The revocation is effective as of the date provided by the Commissioner in the consent to the revocation.

(2) *Condition.* The Commissioner shall not consent to a revocation of an election made under section 897(i) if there have been any distributions of U.S. real property interests by the corporation during the period to which the election applies in which the full amount of gain realized by the corporation, if any, was not subject to U.S. tax.

§ 6a.897–4 Special election under section 897(k) for certain foreign corporations acquired before November 26, 1980.

(a) *In general.* This section provides special rules under which certain foreign corporations may make the election under section 897(k) to be treated as domestic corporations for purposes of sections 897 and 6039C. The election may be made if—

(1) A foreign corporation holds a U.S. real property interest;

(2) The foreign corporation adopts, or has adopted, a plan of liquidation described in section 334(b)(2)(A); and

(3) The 12 month period described in section 334(b)(2)(B) for the acquisition by purchase of the stock of the foreign corporation began after December 31, 1979, and before November 26, 1980.

A foreign corporation with respect to which an election under this paragraph (a) is in effect is subject to all rules under sections 897 and 6039C that apply to domestic corporations, except that in any acquisition described in section 334(b)(2), the selling shareholder shall be considered to have disposed of an interest in a foreign corporation, and any gain or loss from the disposition shall not be taken into account by such shareholder for purposes of section 897(a). If an interest in a corporation that has made an election under this paragraph (a) is a U.S. real property interest, a foreign person exchanging the interest for a liquidating distribution from the corporation shall be subject to the provisions of section 897(a) with respect to any gain or loss on such exchange.

(b) *No conditions to election.* An election under paragraph (a) of this section is not subject to the conditions described in § 6a.897–3.

(c) *Election procedures.* An election under paragraph (a) of this section is made by filing a statement with the commissioner. No particular form is required for the statement. The statement must provide that an election under section 897(k) is being made. The statement must include the name, address, identifying number, and place and date of incorporation of the foreign corporation. The statement must describe the U.S. real property interests held by the corporation, including their dates of acquisition and disposition, adjusted bases and fair market values. The statement must also establish that the requirements of paragraph (a) of this section have been met. The statement must be verified as true and signed by the responsible officer of the foreign corporation under penalty of perjury. The statement shall be forwarded to the District Director, Foreign Operations District, 1325 K Street N.W., Washington, D.C. 20225. The rules of § 6a.897–3(f) concerning the time and duration of the election, and of § 6a.897–3(h), concerning revocation of this section, apply to elections made under this section.

§ 6a.6039C–1 Returns with respect to United States real property interests.

(a) *In general.* Section 6039C requires certain persons who own United States real property interests to file annual information returns concerning the ownership of U.S. real property interests by foreign persons. Section 6a.6039C–2 sets forth rules concerning the information returns required by section 6039C(a) to be filed by certain domestic corporations and direct or indirect nominees of owners of interests in such corporations. Section 6a.6039C–3 sets forth rules concerning the information returns (and statements) required by section 6039C(b) to be filed by certain foreign corporations and certain partnerships, trusts, and estates (whether domestic or foreign). Section 6a.6039C–4 sets forth rules concerning the information returns required by section 6039C(c) to be filed by certain foreign persons, or their nominees, holding direct investments in U.S. real property.

(b) *Period covered by returns.* The information returns required by section 6039C must be filed with respect to each calendar year, beginning with 1980. Except with respect to the information required by §§ 6a.6039C–2(b)(6) and 6a.6039C–4(d)(5), calendar year 1980 shall include only the period from June 19, 1980, to December 31, 1980.

(c) *Time and place for filing returns.* The information returns required by section 6039C must be filed no later than May 15 of the calendar year following the calendar year covered by the return, except that information returns for calendar years 1980 and 1981 must be filed no later than June 21, 1983. The returns must be filed with the Internal Revenue Service Center, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania 19155. Information returns concerning Virgin Islands real property interests under section 6039C(f)(2) shall be filed with the Bureau of Internal Revenue, Tax Division, Charlotte Amalie, St. Thomas, V.I. 00801. For rules on extensions of time for filing, see section 6081 and the regulations thereunder. For rules on the forwarding of notices concerning foreign ownership of domestic corporations, see §§ 6a.6039C–2 (d) and (e). For rules concerning the forwarding of statement to substantial investors in foreign corporations and in domestic or foreign partnerships, trusts, and estates, see § 6a.6039C–3(h).

(d) *Definitions of terms.* Section 6a.897–1 provides definitions of terms used in this section and §§ 6a.6039C–2 through 6a.6039C–5.

§ 6a.6039C–2 Returns of certain domestic corporations with foreign shareholders.

(a) *Requirement of return.* Any domestic corporation that was a U.S. real property holding corporation as defined in § 6a.897–2(c) at any time during the calendar year or the four preceding calendar years must file an information return under section 6039C(a) on Form 6659 if during the calendar year one or more owners of an interest in the corporation are foreign persons. In addition, any person who holds an interest in a domestic corporation which was a U.S. real property holding corporation at any time during the calendar year or during any of the four preceding calendar years must file Form 6659 for the calendar year if such person holds the interest as a nominee, either directly or indirectly through one or more other nominees, for a beneficial owner of the interest who is a foreign person. For purposes of this section, calendar year prior to 1980 are not to be taken into account. Domestic corporations which are not U.S. real property holding corporations for the period described in this paragraph (a) are not required to file Form 6659 or any other document to establish their status. However, a domestic corporation may upon request by the Service be required to show that it was not required to report under this section because it was not a U.S. real property holding corporation during the above mentioned period. See § 6a.897–2 for rules regarding how to establish that a corporation is not a U.S. real property holding corporation. Form 6659 must be filed at the time and place set forth in § 6a.6039C–1(c). Form 6659 is not required to be filed for the calendar year—

(1) If all classes of stock in the corporation which were held by foreign

persons during the calendar year were regularly traded on an established securities market during the entire time held by the foreign persons;

(2) If the domestic corporation has provided security and has in effect for the calendar year a security agreement with the District Director, Foreign Operations District, under § 6a.6039C–5(a); or

(3) If with respect to all U.S. real property interests held by the domestic corporation, such corporation would be exempt from filing a return under § 6a.6039C–5(f).

(b) *Information required.* The corporation shall provide the following information on the Form 6659 which is required to be filed by section 6039C(a), if such information is known (as defined in paragraph (f) of this section) to the corporation:

(1) The name, address, and identifying number of the person filing the return;

(2) The name, address, and identifying number of any foreign person who held an interest in the corporation on the last day of the calendar year;

(3) The name, address and identifying number, if any, of nominees who held interests in the corporation, either directly or indirectly through one or more other nominees, for a foreign beneficial owner on the last day of the calendar year;

(4) A description of the capitalization of the corporation, including a description of the amount of and the class or type of interests held by each foreign person described in paragraph (b) (2) or (3) of this section;

(5) Information concerning all dispositions during the year of interests in the corporation by foreign persons or their direct or indirect nominees (including dispositions in redemption or complete or partial liquidation of the corporation and exchanges pursuant to corporate reorganizations), including the names, addresses, and identifying numbers of all such foreign persons and nominees, the dates of such dispositions, the amount of and a description of the class or type of interests in the corporation disposed of, the date the interests were acquired, the sales prices (if any) for the interests, the adjusted bases in the interests, the fair market values of the interests (in the case of dispositions other than sales), and the amount of gain or loss to the foreign persons upon disposition of their interests in the corporation;

(6) The same information required by paragraph (b)(5) of this section, but concerning all dispositions after December 31, 1979, and before June 19, 1980, of interests in the corporation by foreign persons, if the dispositions were to related persons (as defined in section 453(f)(1) of the Code);

(7) Information concerning all distributions during the year to which section 301 applies of U.S. real property interests to foreign persons, including the names, addresses, and identifying numbers of distributees, a description of the U.S. real property interests distributed, the adjusted bases and fair market values of the U.S. real property interests at the time of the distributions, and the amount of gain recognized, if any, by the corporation on the distributions;

(8) A description (including the location) of all U.S. real property interests held directly and indirectly under §§ 6a.897–2 (f) through (j) by the corporation at the end of the year;

(9) The name, address, and identifying number of any corporation in which the reporting corporation held an interest at any time during the year, if the interest is a U.S. real property interest (including an interest in a foreign corporation as provided in § 6a.897–2(g)); and

(10) Such other information as the Commissioner may by form prescribe.

(c) *Special rules for REITs*—(1) *Domestically-controlled REITs.* A real estate investment trust ("REIT") which is a "domestically-controlled REIT" (as defined in section 897(h)(4)(B)) shall set forth on Form 6659 only the following information:

(i) The information required by paragraph (b)(1) of this section, and

(ii) The "foreign ownership percentage" (as defined in section 897(h)(4)(C)) or the REIT during the calendar year.

(2) *Foreign-controlled REITs.* A REIT which is not a domestically-controlled REIT, in addition to the information required by paragraph (b) of this section, shall set forth on Form 6659 that portion of any gain received from the disposition during the calendar year of a U.S. real property interest which is not treated as a "capital gain dividend" (as defined in section 857(b)(3)(C)) when distributed to shareholders.

(d) *Corporate notification obligations with respect to interests held by nominees.* A corporation which is or has been a U.S. real property holding corporation at any time during the period prescribed in section 6039C(a)(1)(B)(ii) must so notify an owner of record who holds an interest in the corporation at any time during the calendar year if the corporation does not know whether such owner of record is a foreign person or is a nominee for a foreign person. The notice must inform the owner of record that the notice requirements of paragraph (e) of this section must be complied with if the owner of record is a nominee. The notification by the corporation required by this paragraph (d) must be made by January 31 of the year following the year for which the return must be filed, except that the notification must be made by February 21, 1983 for calendar years 1980 and 1981. If the corporation itself knows all information required to be supplied by paragraph (b) of this section with respect to an interest held by a nominee, the corporation must file Form 6659 with respect to such interest. In such case, the corporation must notify the nominee (including each nominee which has been identified in a notice to the corporation from a nominee below it in a chain within the consecutive 30 day period prescribed in paragraph (e)(1)(ii) of this section) by the above dates that the nominee is not required to file Form 6659 with respect to such interest. The corporation also must file Form 6659 setting forth information as to which it has partial knowledge even though a nominee must file Form 6659 with respect to an interest in the corporation under paragraph (e)(1) of this section. For example, the description of property held or distributed by the corporation which is required to be supplied by paragraphs (b) (7) and (8) of this section must be included on a Form 6659 filed by the corporation, even though a Form 6659 also is filed by a nominee. For persons required to give notice under this paragraph (d), notice is considered to be given on the date the notice is actually delivered to the nominee or, if mailed, on the date that such notice is postmarked for delivery to the nominee in accordance with section 7502 of the Code. For persons receiving notice under this paragraph (d) who may be required to give additional notification within a specified time period, notice is considered to be received on the date it is actually delivered.

(e) *Nominee filing*—(1) *Requirement to file*—(i) *In general.* Unless otherwise provided in paragraph (e)(2) of this section, a domestic or foreign person who at any time during the calendar year is a nominee, either directly or indirectly through one or more other nominees, for the beneficial owner of an interest in a domestic corporation which is described in section 6039C(a)(1)(B) must file Form 6659 with respect to such interest if the beneficial owner is a foreign person. The nominee must include on such form all information required to be provided by the corporation under paragraph (b) of this section. Unless it is excepted from filing Form 6659 by paragraph (e)(2) of this section, the nominee is required to obtain and supply any of the

information described in paragraph (b) which it does not otherwise have.

(ii) *Notice requirements.* Each nominee in a chain of nominees (for example, a chain comprised of nominee A who holds an interest in a domestic corporation for nominee B who holds the interest for foreign person X) must notify the nominee above it in the chain that such other nominee must file a Form 6659 if the other nominee holds an interest in a domestic corporation described in section 6039(C)(a)(1)(B), directly or indirectly through one or more other nominees, for a foreign beneficial owner. The notification must be made by both domestic and foreign nominees. The notice by a nominee to another nominee in the chain must be given within 20 consecutive days of its receipt of the notice from the corporation which is described in paragraph (d) of this section or its receipt of the notice from the nominee below it in the chain which is described in this paragraph (e)(1)(ii). Within 30 consecutive days of the receipt of a notice described in paragraph (d) or this paragraph (e)(1)(ii) of this section, a nominee must give notice to the corporation as to whether it is holding the interest in the corporation for a foreign beneficial owner or as to whether it has notified the nominee for whom it holds the interest of the requirement to file. The notice to the corporation that a nominee has delivered a notice to another nominee must include a copy of the notice to the other nominee, a statement of the name and address of the nominee to whom notice was given, and a statement of the name, address, and identifying number (if any) of the nominee giving notice to the corporation. For persons required to give notice under this paragraph (e)(1)(ii), notice is considered to be given on the date that notice is actually delivered to the corporation or to the nominee or, if mailed, on the date that such notice is postmarked for delivery in accordance with section 7502 of the Code. For persons receiving notice under this paragraph who may be required to give additional notification within a specified time period, notice is considered to be received on the date it is actually delivered. The 20 and 30 consecutive day periods described in this paragraph (e)(1)(ii) are to be counted from, and not including, the date of the receipt of a notice which triggers the beginning of such periods. In no event shall the notice requirements of this paragraph (e)(1)(ii) be utilized so as to relieve a corporation, or any nominee in a chain of nominees, from filing Form 6659 by the due date provided in § 6a.6039C–1(c). A corporation or nominee which knows of its obligation to file must do so even though the notification procedures of this paragraph (e)(1)(ii) have not been followed.

(2) *Exceptions to nominee reporting.* A nominee is not required to prepare and file a Form 6659 setting forth the information required by paragraph (b) of this section with respect to an interest that it holds for a foreign beneficial owner if:

(i) The corporation has notified the nominee under paragraph (d) of this section that the nominee is not required to file Form 6659 with respect to such beneficial owner;

(ii) The nominee, or another nonimee in a chain of nominees, has provided adequate security to and has in effect for the calendar year a security agreement with the District Director, Foreign Operations District, in accordance with § 6a.6039C–5;

(iii) With respect to the interest in the corporation held by the nominee, the corporation has provided security to, and has in effect for the calendar year a security agreement with, the District Director, Foreign Operations District, in accordance with § 6a.6039C–5;

(iv) The beneficial owner has provided to the nominee on Form 6659 all of the information required with respect to its interest in the corporation, the nominee is satisfied that the form is complete, and the nominee files the form with the Internal Revenue Service; or

(v) Any of the exceptions set forth in paragraph (a) of this section apply. Notwithstanding the exceptions of paragraph (e)(2) (i) and (iv) of this section, a nominee must file Form 6659 upon written notification from the Internal Revenue Service that the return of the corporation or of the foreign beneficial owner is incomplete.

(f) *Definition of "known".* Information is "known" by a corporation if the information is included on the books and records of the corporation or its agent (including a transfer agent), is known by its directors or officers, or is known by other employees who in the course of their employment have reason to know such information.

(g) *Foreign addresses and bearer shares.* An owner of bearer shares or an owner of record of an interest in a corporation with an address outside the United States shall be treated as a foreign person, unless known to be otherwise by the corporation.

(h) *Publicly traded stocks.* Any information required by paragraph (b) of this section with respect to stock in a corporation need not be included on Form 6659 if the stock was of a class of stock that was regularly traded on an established securities market at all times during the calendar year. Notice under paragraphs (d) and (e) of this section is not required to be made with respect to such stock. If the stock was of a class of stock regularly traded on an established securities market for only part of a calendar year, information with respect to the stock must be included for the part of the year that it was not so traded.

§ 6a.6039C–3 Returns of foreign corporations, and partnerships, trusts, and estates.

(a) *Requirements of return.* An entity to which this section applies must file an annual return under section 6039C(b) on Form 6660. An entity to which this section applies is any foreign corporation and any partnership, trust, or estate (whether domestic or foreign) that has a substantial investor in United States real property on any of the applicable determination dates during the calendar year. Form 6660 must be filed at the time and place set forth in § 6a.6039C–1(c). This section does not apply if the entity has provided security to and has in effect for the calendar year a valid security agreement with the District Director, Foreign Operations District, under § 6a.6039C–5(a) or if with respect to all U.S. real property interests held by the entity, the entity would be exempt from filing under § 6a.6039C–5(f).

(b) *Substantial investors in United States real property*—(1) *In general.* A substantial investor in United States real property (hereinafter referred to as a "substantial investor") is—

(i) Any foreign person who holds an interest in a partnership, trust, or estate (whether domestic or foreign), or

(ii) Any person (whether domestic or foreign) who holds an interest in a foreign corporation, if, on any application determination date during the calendar year, the fair market value of the person's pro rata share (determined in accordance with § 6a.897–1(f)) of the U.S. real property interests held by the entity exceeds $50,000. For purposes of the preceding sentence, a person's percentage ownership interest (determined in accordance with § 6a.897–1(g)) in an entity must be determined as of each applicable determination date. In determining an individual's percentage ownership interest, interests in the entity which are held by a spouse or minor child (as defined in § 1.151–3(a)) of an individual are treated as held by the individual.

(2) *Example.* The rules of this paragraph (b) are illustrated by the following example:

Example. Domestic partnership K's only asset is a parcel of U.S. real estate with a fair market value of $101,000. The partnership has two partners, D (a U.S. citizen) and F (a nonresident alien individual). Each partner's percentage ownership interest in K is 50 percent. The fair market value of F's pro rata share of the U.S. real property interests held by K is $50,500 (50 percent of $101,000). As $50,500 exceeds $50,000, F is a substantial investor, and this section applies to K, unless a security agreement under §6a.6039C–5 is in effect for the calendar year between K and the District Director, Foreign Operations District.

(c) *United States real property interests held by entity*—(1) *Direct and indirect holding rules.* The U.S. real property interests held by any entity include those held directly and indirectly by the entity as provided in § 6a.897–1(e). The rules of § 6a.897–1(e) shall be applied to any corporation, partnership, trust, or estate, whether foreign or domestic, in which the entity holds an interest. However, the U.S. real property interests held by an entity do not include its pro rata share of the U.S. real property interests held by a corporation if such pro rata share does not exceed $50,000. If a pro rata share of a domestic corporation's U.S. real property interests are treated as held by an entity under this paragraph (c)(1) of this section, the entity's stock (or other interest) in the domestic corporation shall not also be treated as a U.S. real property interest held by the entity. The rules of this paragraph (c)(1) shall not be applied with respect to stock in a corporation if the stock both is of a class which is regularly traded on an established securities market and is held by an entity which at no time during the period described in section 897(c)(1)(A)(ii) held more than 5 percent of that class of stock. The indirect holding rules of this paragraph (c)(1) apply successively upward through a chain of ownership.

(2) *Indirect holding rules examples.* The indirect holding rules of paragraph (c)(1) of this section are illustrated by the following examples.

Example (1). Foreign corporation K's only asset is a parcel of U.S. real estate with a fair market value of $1,000,000. Foreign corporation L's only asset is all of the outstanding stock of K, and L's percentage ownership interest in K is 100 percent. Foreign corporation M's only asset is all of the outstanding stock of L, and M's percentage ownership interest in L is 100 percent. Nonresident alien individual X holds 40 percent of all the outstanding stock of M. X's percentage ownership interest in M is 40 percent. L is a substantial investor with respect to K because the fair market value ($1,000,000) of L's pro rata share of the U.S. real property interests held by K (100 percent of $1,000,000) exceeds $50,000. By virtue of the rules of paragraph (c)(1) of this section, L is treated as holding its pro rata share of the U.S. real property interests held by K (the real estate). Thus, L is treated as holding U.S. real property interests with a fair market value of $1,000,000 (100 percent of the fair market value of the parcel of U.S. real estate). M is a substantial investor with respect to L because the fair market value ($1,000,000) of M's pro rata share of the U.S. real property interests held by L (the U.S. real property interests L is treated as holding under the rules of paragraph (c)(1) of this section) exceeds $50,000 (100 percent of $1,000,000). The indirect holding rules of paragraph (c)(1) of this section are applied successively upward through the chain of ownership. Thus, M is treated as holding its pro rata share (100 percent) of the U.S. real property interests held by L (including the parcel of U.S. real estate with a fair market value of $1,000,000 which L is treated as holding). X is a substantial investor with respect to M because the fair market value ($400,000) of X's pro rata share (40 percent of $1,000,000) of the U.S. real property interests held by M (the U.S. real estate) exceeds $50,000. Consequently, K, L, and M must file the return required by this section because each has a substantial investor.

Example (2). The facts are the same as in *Example (1)*, except that K also holds a parcel of real estate located in country Z with a fair market value of $2,000,000 and the parcel of U.S. real estate is subject to liabilities of $975,000. However, the result of *Example (1)* is not changed, as neither the ownership of an asset other than a U.S. real property interest nor the liabilities to which a U.S. real property interest is subject enter into the computations of this section.

Example (3). Domestic partnership K's only asset is a parcel of U.S. real estate with a fair market value of $1,000,000. Foreign trust L's only asset is a 50 percent interest as a partner in K, and its percentage ownership interest in K is 50 percent. Foreign estate M is the sole beneficiary of L. M's percentage ownership interest in L is 100 percent. Nonresident alien individual X is the sole beneficiary of M. X's percentage ownership interest in M is 100 percent. L is a substantial investor with respect to K, because the fair market value ($500,000) of L's pro rata share of the U.S. real property interests held by K (50 percent of $1,000,000) exceeds $50,000. Under the rules of paragraph (c)(1) of this section, L is treated as holding U.S. real property interests with a fair market value of $500,000, L's pro rata share (50 percent) of the U.S. real property interests (the parcel of U.S. real estate) owned by K. M is a substantial investor with respect to L because the fair market value ($500,000) of M's pro rata share of the U.S. real property interests held by L (the pro rata share of U.S. real estate L is treated as holding) is more than $50,000 (100 percent of $500,000). The indirect holding rules of paragraph (c)(1) of this section are applied successively upward through a chain of ownership. Thus, M is treated as holding U.S. real property interests with a fair market value of $500,000 (100 percent of $500,000). X is a substantial investor with respect to M because the fair market value ($500,000) of X's pro rata share of the U.S. real property interests held by M (the pro rata share of U.S. real estate it is treated as holding) is more than $50,000 (100 percent of $500,000). As a result, K, L, and M must each file the return required by this section, as each has a substantial investor.

Example (4). Nonresident alien individual X holds all of the outstanding stock of foreign corporation K. X's percentage ownership interest in K is 100 percent. K's only asset is an interest in domestic partnership L. K's percentage ownership interest in L is 50 percent. L's only asset is 50 percent of the outstanding stock of foreign corporation M. M's only asset is a 100 percent beneficial interest in foreign trust N. M's percentage ownership in N is 100 percent. N's only asset is a parcel of U.S. real estate with a fair market value of $2,000,000. The indirect holding rules of paragraph (c)(1) of this section apply in conjunction with one another such that K is treated as holding U.S. real property interests with a fair market value of $500,000 (50 percent of 50 percent of 100 percent of $2,000,000). X, K, L, and M are each substantial investors. K, L, M, and N each are required to file the return required by this section with respect to the person above them in the chain of ownership.

(d) *Applicable determination dates*—(1) *In general.* For purposes of determining whether an entity is an entity to which § 6a.6039C–3(a) applies and whether a person is a substantial investor under § 6a.6039C–3(b), the applicable determination dates are:

(i) December 31 of the calendar year;

(ii) If the entity disposes of a U.S. real property interest during the year, the date immediately preceding each disposition;

(iii) If the entity is treated as holding a pro rata share of U.S. real property interests held by another entity in accordance with paragraph (c) of this section and the other entity disposes of a U.S. real property interest, the date immediately preceding the disposition by the other entity; and

(iv) The date on which a person described in paragraph (b) of this section disposes of an interest in the entity during the year.

(2) *Valuation methods*—(i) *In general.* For purposes of determining a person's pro rata share of U.S. real property interests held by an entity or for purposes of determining a person's percentage ownership interest in the entity, the fair market value of the property held by the entity on the applicable determination date must be used.

(ii) *Alternative valuation method.* For purposes of paragraph (d)(2)(i) of this section, if the applicable determination date under paragraph (d)(1) of this

section is other than December 31 and if U.S. real property interests otherwise required to be valued as of such date are retained after such date, the entity may use the fair market value of the retained property as of the earlier of the date of its own disposition or December 31.

(iii) *Consistent methods.* The valuation method selected for the first determination date in the calendar year must be used for all subsequent determination dates during the year. In addition, the valuation date method selected must be used for all property with respect to which the determination is made. The use of one valuation method in one calendar year does not preclude the use of the other method for any other calendar year.

(e) *Information required.* The return required by section 6039C(b) on Form 6660 shall set forth the following information:

(1) The name, address, and identifying number of the person filing the return;

(2) The name, address, and identifying number of each substantial investor in the entity during the calendar year;

(3) The fair market value of each substantial investor's pro rata share of the U.S. real property interests held by the entity on the last day of the calendar year (or, in the case of a disposition of an interest in a foreign corporation by a substantial investor, on the date of disposition);

(4) The amount and a description of each class or type of interest in the entity (regardless of whether the interest at any time is of a class regularly traded on an established securities market) which is held by a substantial investor on the last day of the calendar year;

(5) A schedule of all U.S. real property interests held by the entity on the last day of the calendar year, including a description of each interest and its location, adjusted basis, and fair market value;

(6) In the case of a partnership, trust, or estate, the information required by paragraph (e)(5) of this section on the date of disposition of an interest in the entity by a substantial investor;

(7) In the case of a distribution of a U.S. real property interest by any entity to a foreign person (and by a foreign corporation to a domestic person) during the calendar year, the date of distribution, a description of the U.S. real property interest, its adjusted basis and fair market value, and the name, address, and identifying number of the distributee (regardless of whether the distributee is a substantial investor);

(8) A schedule of all dispositions of interests in a partnership, trust, or estate during the calendar year by a foreign person, including the name, address, and identifying number of the transferor (regardless of whether the transferor is a substantial investor), the date of the disposition, the amount and a description of the type of interest disposed of, the sales price (if any), the fair market value of the interest (in the case of a disposition other than a sale), and, in the case of a disposition by a substantial investor, the fair market value of the substantial investor's pro rata share of the U.S. real property interests held by the entity on the date of disposition;

(9) The name, address, and identifying number of any other entity with respect to which the partnership, trust, estate, or foreign corporation is a substantial investor;

(10) The name, address, and identifying number of any domestic corporation in which the entity holds an interest at any time during the year if the interest is a U.S. real property interest; and

(11) Such other information as the Commissioner may by form prescribe.

(f) *Foreign address, bearer shares and nominees.* For purposes of this section, an owner of bearer shares in an entity or an owner of record of an interest in an entity with an address in a foreign country will be treated as a foreign person unless known to be otherwise by the entity. In addition, interests in an entity held by a nominee will be treated as owned by a foreign person, unless known by the entity to be otherwise.

(g) *No Knowledge requirement.* If an entity does not have the information required by paragraph (e) of this section, the entity must obtain and supply the information. However, the entity is not required by paragraph (e) of this section if the entity has provided adequate security to, and has in effect for the calendar year a valid security agreement with the District Director, Foreign Operations District, under § 6a.6039C–5. The fact that stock of a foreign corporation or any other interest in any entity to which this section applies is in bearer form or is held by a nominee or that disclosure of ownership would contravene a secrecy law of any country does not constitute reasonable cause under section 6652(g) for failure to comply with the requirements of this section.

(h) *Statements to substantial investors.* Every entity to which this section applies must furnish a statement for each calendar year to all substantial investors, as required by section 6039C(b)(3). No particular form is required for the statement. The statement must be furnished no later than January 31 of the calendar year following the calendar year for which a statement is required, except that it must be furnished by February 21, 1983 for calendar years 1980 and 1981. A copy of each statement must be retained by the entity. The statement must include the information described in paragraph (e)(1) of this section and the information described in paragraph (e)(2), (3), (7), and (8) of this section which relates to the substantial investor to whom the statement is furnished. The statement also must inform the substantial investor that the information included on the statement is being supplied to the Internal Revenue Service. If the entity has provided adequate security to, and has in effect for the calendar year a valid security agreement with, the District Director, Foreign Operations District, under section 6a.6039C–5, the entity is not required to furnish the statement to substantial investors as otherwise required by this paragraph.

§ 6a.6039C–4 Returns of foreign persons holding United States real property interests.

(a) *Requirement of return.* Any foreign person who holds a U.S. real property interest (or any nominee who holds a U.S. real property interest for a foreign person) on any of the applicable determination dates during a calendar year must file an annual return under section 6039C(c) of Form 6661 if—

(1) Any U.S. real property interest held during the calendar year was not used by the foreign person in the conduct of a trade or business within the United States at any time during the calendar year;

(2) The fair market value of the U.S. real property interests described in paragraph (a)(1) of this section held on any of the applicable determination dates during the calendar year was at least $50,000;

(3) The person is not required to file a return under § 6a.6039C–3 for the calendar year with respect to the U.S. real property interests; and

(4) The person is not exempt from the requirements of this section, with respect to all U.S. real property interests held during the year, by the provisions of § 6a.6039C–5(a) or § 6a.6039C–5(f).

Form 6661 must be filed at the time and place set forth in § 6a.6039C–1(c). A foreign beneficiary of a trust or estate who is treated as owning a portion of the U.S. real property interests owned by the trust or estate will not have to report with respect to such interests if the actuarial value of no portion of the beneficiary's interests in the trust or estate is definitely ascertainable. Instead, the trustee or executor must file

a Form 6661 for each such beneficiary regardless of whether the trust or estate is required to file under section 6039C(b). A person who, with respect to gain or loss, if any, from the disposition of a U.S. real property interest, is treated as engaged in the conduct of a trade or business within the United States solely by reason of section 897(a)(1) shall not be treated as using the U.S. real property interest disposed of in the conduct of a trade or business within the United States for purposes of paragraph (1) of this section. Similarly, a person who is treated as having income effectively connected with the conduct of a trade or business within the United States under the net election provisions of section 871(d) or section 882(d), and a person who is treated similarly under any U.S. income tax treaty, shall not be treated as using the U.S. real property interests covered by those sections or by the treaty, as the case may be, in the conduct of a trade or business within the United States for purposes of paragraph (a)(1) of this section.

(b) *United States real property interests held.* For purposes of this section, the U.S. real property interests held by a foreign person (or a nominee of a foreign person) include those held directly and indirectly in accordance with § 6a.897–1(e), except that such person will not be treated as owning its pro rata share of the assets held by a corporation in which it holds an interest. A person's pro rata share of U.S. real property interests held by an entity (determined in accordance with § 6a.897–1(f)) and the person's percentage ownership interest in the entity (determined in accordance with § 6a.897–1(g)) shall be determined as of each applicable determination date. The U.S. real property interests held by a spouse or minor child (as defined in § 1.151–3(a)) of a non-resident alien individual are treated as held by the individual.

(c) *Applicable determination dates*—(1) *In general.* For purposes of determining whether a foreign person meets the requirements of paragraph (a)(2) of this section, the applicable determination dates are:

(i) December 31 of the calendar year;

(ii) If such person disposes of a U.S. real property interest or of an interest in any entity through which the person is treated as holding a pro rata share of U.S. real property interests, the date of each disposition; and

(iii) If an entity described in paragraph (c)(1)(ii) of this section disposes of a U.S. real property interest, the date immediately preceding such disposition.

(2) *Valuation methods*—(i) *In general.* For purposes of determining whether the fair market value of U.S. real property interests held by a person is equal to or in excess of $50,000, the fair market value of the property as of the applicable determination date must be used.

(ii) *Alternative valuation method.* For purposes of paragraph (c)(2)(i) of this section, if the applicable determination date under paragraph (c)(1) of this section is other than December 31 and if U.S. real property interests otherwise required to be valued as of such date are retained after such date, the entity may use the fair market value of the retained property as of the earlier of the date of its own disposition or December 31.

(iii) *Consistent methods.* The valuation method selected for the first determination date in the calendar year must be used for all other applicable determination dates during the calendar year. In addition, the valuation date method selected must be used for all property with respect to which the determination is made. The use of one valuation method in one calendar year does not preclude the use of the other valuation method for any other calendar year.

(d) *Information required.* The return required by this section shall set forth the following information:

(1) The name, address, and identifying number of the person filing the return (and the name, address and identifying number of the foreign person owning the beneficial interest in U.S. real property if a nominee is filing the return);

(2) A description of all U.S. real property interests held by or on behalf of the foreign person on the last day of the calendar year (other than those used in the conduct of a U.S. trade or business), including the location of and the date the interests were acquired, the name, address, and identifying number of any foreign person from whom the interests were acquired, and the fair market values of the interests;

(3) A schedule of all dispositions of U.S. real property interests held by or on behalf of the foreign person during the calendar year, including a description of the interests, their fair market values, the adjusted bases in the interests of the foreign person filing the return, and their locations (in the case of real or tangible (but not intangible) U.S. real property interests);

(4) In the case of a disposition of a U.S. real property interest to a foreign person, the transferee's name, address, and identifying number (if any), the date of disposition, the sales price (if any), the adjusted basis, and the fair market value (in the case of a disposition other than a sale) of the property;

(5) The same information required by paragraphs (d) (3) and (4) of this section, but with respect to all transfers after December 31, 1979, and before June 19, 1980, of U.S. real property interests to a foreign person, if the person to whom the interests are transferred is a related person (as defined in section 453(f)(1) of the Code); and

(6) Such other information as the Commissioner may by form prescribe.

§ 6a.6039C–5 Furnishing of security instead of filing information return.

(a) *Security option.* A person otherwise required to file a return or to furnish statements to substantial investors under §§ 6a.6039C–2 through 6a.6039C–4 for a calendar year is not required to file the return or furnish such statements if the person furnishes the District Director, Foreign Operations District (hereinafter referred to as "the Director"), with such security as the Director determines necessary to ensure that any tax that may be imposed by chapter 1 of the Code with respect to U.S. real property interests otherwise covered by the return will be paid. The Director will accept such security only pursuant to a binding security agreement with the person. The security must be sufficient to secure payment of chapter 1 taxes which may be imposed upon the person required to file the return or upon a foreign person who holds an interest in the person required to file the return with respect to U.S. real property interests held directly and indirectly by such person in accordance with §§ 6a.6039C–2 through 6a.6039C–4. The security shall secure only chapter 1 taxes which would be attributable to the excess of the fair market value of the U.S. real property interests which would otherwise be required to be covered by the return over their adjusted bases. This section provides procedural rules only and does not affect any substantive income tax consequences which may arise as a result of the entity providing security and entering into a security agreement.

(b) *Types of security.* The Director has absolute discretion to determine the type and amount of security required. The Director will examine the facts and circumstances of each case to determine the appropriate type of security. The types of security that the Director may accept include, but are not limited to, recorded security interests in real property located in the United States with sufficient priority to protect the Government's interest, funds or other property placed in escrow, letters of

credit, bonds executed with satisfactory surety (as described in § 301.7101–1), and evidence of binding voluntary withholding agreements which assure payment of tax on the disposition of a U.S. real property interest. Alternatively, the Director may enter into a binding agreement with an entity for the guarantee by the entity of the payment of the chapter 1 taxes that may be owed by the entity or any direct or indirect owner of the entity if:

(1) The entity is engaged in the conduct of a trade or business within the United States;

(2) The Director determines that the entity has substantial assets within the United States;

(3) The Director is satisfied that the entity will not be liquidated and that its assets will not be disposed of without payment of the taxes covered by paragraph (a) of this section; and

(4) The Director is satisfied that the entity has sufficient assets to pay any such taxes.

The rules of the preceding sentence are illustrated by the following example.

Example. Foreign corporation K is a publicly traded corporation. K is engaged in the conduct of a commercial real estate development business in foreign country Z. In addition, K holds all of the outstanding stock of domestic corporation L. L is engaged in the conduct of a commercial real estate development business in the United States and owns numerous commercial real estate developments in the United States. L is a U.S. real property holding corporation, and the stock of L is a U.S. real property interest. K has numerous substantial investors (as defined in § 6a.6039C–3(b)(1)). K is required to file the return required by § 6a.6039C–3(a). The Director is satisfied that K will not attempt to liquidate L and dispose of L's assets without payment of taxes which would be owed by K with respect to the U.S. real property interests held by L. The Director also is satisfied that L has sufficient assets to pay any tax which would be owed by K upon the disposition of its L stock. The Director may enter into a security agreement with L for the personal guarantee of payment by L of any tax which would be owed by K if K disposed of the stock of L. No other form of security is required.

(c) *Amount of security.* Generally, the amount of the security to be required by the Director will cover the excess of the sum of the appraised fair market values of all U.S. real property interests held by the entity during the calendar year over the sum of their adjusted bases, multiplied by a percentage which equals the greater of the maximum income tax rate applicable to long term capital gain of the person required to file the return or the maximum income tax rate applicable to long term capital gain of foreign persons who hold an interest in the person required to file the return. However, the Director may determine that a greater or lesser amount is appropriate to cover the tax which may be imposed. In no case shall the amount of the security exceed an amount which equals the excess of the sum of the appraised fair market values of all U.S. real property interests held by the entity over the sum of their adjusted bases, multiplied by the maximum income tax rate applicable to ordinary income of the person required to file the return or of foreign persons whose tax liabilities are to be secured under the security agreement. The maximum income tax rate for purposes of this paragraph (c) shall be determined without regard to the actual items of income or of loss, deduction, credit, or other allowance of the foreign person whose tax liability is to be secured.

(d) *Condition for entering into security agreement.* The Director will not enter into a security agreement with a person unless such person establishes to the satisfaction of the Director that any income tax owed by—

(1) the person, as to a disposition of the U.S. real property interests with respect to which a return is required, and

(2) any owner of an interest in the person, with respect to a disposition of an interest in the person,

during the calendar year for which the return is required either has been paid or will be paid by the date that such income tax is due.

(e) *Appraised fair market value of U.S. real property interests*—(1) *In general.* For purposes of paragraph (c), the appraised fair market value of U.S. real property interests held by an entity must be determined as of December 31 of the calendar year to which the security agreement relates. Such appraised fair market value must be based on an appraisal made within 60 days of the close of the calendar year. Appraisals made after 60 days of the close of the taxable year will be accepted only if the Director is satisfied that the person had good cause for not making a timely appraisal and that the appraisal accurately represents the fair maket value of the property at the close of the calendar year. With respect to security in lieu of filing 1980 and 1981 returns, the appraised fair market value of U.S. real property interests shall be determined no later than March 21, 1983.

(2) *"Appraised fair market value".* Fair market value is appraised if it is set by an appraiser of competency to appraise the particular property.

(f) *Effect of security on persons holding an interest in an entity*—(1) *In general.* Where an entity that is required to file a return for the calendar year under 6039C has entered into a valid security agreement for such year with the Director in accordance with paragraph (c) of this section, the entity is not required to make the required return or furnish statements to substantial investors, who hold an interest in such entity. In addition, in determining whether any person who holds an interest in such entity is required to file a return under section 6039C, such person is not required to take into account the fair market value of its pro rata share of the U.S. real property interests held by such entity, provided that the person has received notification in writing from the entity that the entity has entered into a valid security agreement with respect to its U.S. real property interests. No particular form is required for such notification.

Example (1). Foreign corporation K's only asset is a parcel of U.S. real estate with a fair market value of $1,000,000 and an adjusted basis of $200,000. Foreign corporation L's only asset is 100 percent of the stock of K. Nonresident alien individual X owns all the stock of L. If K provides security and enters into a valid security agreement, K is not required to file a return or furnish statements to substantial investors as otherwise required under section 6039C(b). In addition, if K has notified L of its security agreement, L may disregard the fair market value of its pro rata share of U.S. real property interests held by K in determining whether X is a substantial investor in L. Since L holds no other U.S. real property interests other than through K, X is not a substantial investor in L, and L is not required to file a return under section 6039C(b).

Example (2). The facts are the same as in example (1), except that L holds other U.S. real property interests with a fair market value of $60,000. L is required to file under section 6039C(b) because the fair market value of X's pro rata share of the U.S. real property interests held by L (disregarding its pro rata share of U.S. real property interests held by K) is greater than $50,000.

(g) *Duration and renewal of security and security agreement.* Generally, providing security and entering into a security agreement will relieve a person from the filing requirements of § 6a.6039C–2 through § 6a.6039C–4 for one calendar year. However, the Director may extend the security agreement and security provided for 1981 to cover the calendar year 1980, provided that the person entering into the 1981 agreement establishes that the requirements for entering into a security agreement as provided in paragraph (d) of this section were met for calendar year 1980. A security agreement may be renewed annually. In the case of any renewal of a security agreement, the

Director, at his discretion, may enter into a 2 year security agreement provided that the Director is satisfied that the requirements of this paragraph will be satisfied for the second year. A security agreement may be renewed for a subsequent calendar year only if the amount of security is adjusted to reflect any appreciation or depreciation, as of the last day of the subsequent calendar year, of the U.S. real property interests to be covered by the agreement. For this purpose a person seeking renewal of a security agreement must provide the Director with the appraised fair market value of its U.S. real property interests determined as of December 31 of the calendar year (in accordance with paragraph (e) of this section) for which the renewal of the security agreement is sought. A security agreement will be renewed only if no U.S. real property interests to be covered by the agreement and no interests in any entity renewing the agreement were disposed of during the calendar year to which the renewed agreement will relate, or, if any such interests were disposed of, unless it is established to the satisfaction of the Director that any income tax incurred with respect to the dispositions either has been paid or will be paid by the date such income tax is due. The Director may accept a representation, under penalty of perjury, by a responsible officer, general partner, or fiduciary of an entity that no U.S. real property interests and no direct or indirect interests in the entity have been disposed of in a transaction in which gain or loss would be subject to section 897(a). If the terms of a security agreement are violated, or if a security agreement is not renewed, the Director may take such actions with respect to the security as is provided in the security agreement. If there is a violation of the security agreement the returns required by §§ 6a.6039C–2 through 6a.6039C–4 for the calendar year covered by the security agreement are due on the later of the due date of such returns specified in § 6a.6039C–1(c) or the date 30 days from, and exclusive of, the date on which the violation first occurs or is initiated. If the security agreement is not renewed for the subsequent calendar year, the person who entered into the security agreement and any person who was exempt from filing under paragraph (f) of this section must file the information returns required by §§ 6a.6039C–2 through 6a.6039C–4 for such subsequent year. The Director shall not release or return the security held with respect to the security agreement except upon proof that all persons required to file with respect to the real property interests secured have filed the information returns required by §§ 6a.6039C–2 through 6a.6039C–4 or have entered into new security agreements and have provided new security for the appropriate year. Moreover, the security will not be released or returned unless any tax return required is filed and any tax due is paid with respect to a U.S. real property interest covered by the security agreement which was disposed of while the agreement was in effect. Any interest or other proceeds derived from property which serves as collateral under the security agreement shall be paid over to the beneficial owner of such property when the security is released or as otherwise provided in the security agreement.

(h) *Application for security agreement.* Applications to the Director for a security agreement or for a renewal thereof must be made within 30 days of the close of the calendar year for which a security agreement is desired or by March 21, 1983 for calendar years 1980 and 1981. Inquiries concerning security agreements should be addressed to the District Director, Foreign Operations District, Attention: Collection Division, 1325 K St., N.W., Washington, D.C. 20225.

(i) *Security option for Virgin Islands real property interests.* A person otherwise required under § 6a.6039C–1(c) to file a return described in § 6a.6039C–2 through –4 with the Bureau of Internal Revenue of the Virgin Islands to cover its Virgin Islands real property interests may furnish security to, and enter into a security agreement with, the Bureau of Internal Revenue as provided in this section in lieu of filing the return. Inquiries concerning security agreements with the Bureau of Internal Revenue should be addressed to the Bureau of Internal Revenue, Tax Division, Charlotte Amalie, St. Thomas, V.I. 00801.

This Treasury decision is issued under the authority contained in sections 897, 6039C, and 7805 of the Internal Revenue Code of 1954 (94 Stat. 2683; 26 U.S.C. § 897, 94 Stat. 2687; 26 U.S.C. § 6039C, 68A Stat. 917; 26 U.S.C. § 7805).

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: September 14, 1982.
John E. Chapoton,
Assistant Secretary of the Treasury.

[FR Doc. 82-25669 Filed 9-20-82; 8:45 am]
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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

Approval of Permanent Program Amendment From the Commonwealth of Virginia Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 946 by adding the permanent program amendment concerning reclamation bonding submitted by Virginia under the provisions of the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

After providing opportunity for public comment and conducting a thorough review of the program amendments, the Director, OSM, has determined that the modifications of the Virginia program meet the requirements of SMCRA and the Federal regulations. Accordingly, the Director has approved the Virginia program amendment.

Part 946 of 30 CFR Chapter VII is being amended to implement this decision.

EFFECTIVE DATE: This approval is effective September 21, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION:

Background

On July 8, 1982, Virginia submitted to OSM a proposed program amendment consisting of a General Assembly bill passed on an emergency basis creating the Coal Surface Mining Reclamation Fund (Fund) and promulgated regulations to implement the legislation (Administrative Record No. VA 401). The proposed program amendment would create and implement an alternative reclamation bonding system in the Virginia program.

OSM published a notice in the **Federal Register** on July 27, 1982, announcing receipt of the amendment, procedures for the public comment period and a public hearing on the substantive adequacy of the amendment (47 FR 32457–32458). The public comment

period ended August 28, 1982. A public hearing scheduled for August 19, 1982, was not held because no one expressed a desire to present testimony. On August 19, 1982, OSM published a notice in the Federal Register to cancel the public hearing (47 FR 36227). Public disclosure of comments by Federal agencies was made on September 9, 1982, in the Federal Register [47 FR 39696].

Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendment submitted by Virginia on July 8, 1982, consisting of enacted legislation adding in Chapter 19 Title 45.1 of the Virginia Code, an article numbered 5, sections 45.1–270.1—45.1–270.7 and the enacted regulations (sections V808.15, part V809 and references to remainder of Subchapter VJ) which establish an alternative bonding system in the Virginia program, meet the requirements of Sections 509 and 519 of SMCRA and 30 CFR Part 800–809.

The Virginia regulations at V809.17(a) provide that bond release is allowed after two full growing seasons and compliance with V809.16 for areas that have been adequately reclaimed and revegetated. Also, V809.17(a) provides that bond liability shall continue for the appropriate liability period, not less than five years, or as provided by sections V801.13 or V805.13. Section V809.16(b) states that the minimum period of bond liability for the entire permit area shall continue for not less than five years following completion of all reclamation work and that this period of liability shall be in accordance with the provisions of sections V801.13 and V805.13. Since V809.17(a) and V809.16(b) reference V801.13 and V805.13, the Director interprets that the bond amount to be held for the period of liability and the release procedures necessary to obtain release of remaining bond amounts following the liability period are subject to the requirements of V807.11 and V807.12.

Section 45.1–270.5.B of the Virginia Coal Surface Mining Control and Reclamation Act (SMCRA) states that all funds paid into the Fund, and interest accrued to the Fund, shall be available for the completion of defaulted reclamation plans. The Virginia regulations at V809.16(d) state that the regulatory authority may use the Fund as necessary to complete reclamation liabilities in the event of forfeiture after partial bond release. The Director interprets these provisions to mean that the Fund's assets will be used to complete the reclamation plan whenever bond money, forfeited or not, is insufficient.

As part of the approval of the program amendment and as part of OSM's oversight of the Virginia program, the Director requires that the State provide a periodic report (not less than annually) evaluating the adequacy of the Fund dollar amount and other parameters. This report must include, at a minimum, the following items. The report must show how the $500,000 lower limit and the one million dollar upper limit of the Fund is continually sufficient to cover any reclamation costs on forfeited acres which are not covered by bond forfeiture amounts. The rate of Fund replenishment following use of the funds for reclamation purposes must be calculated and the report must show that the Fund is replenished in a timely manner so as not to delay necessary reclamation. In proving adequacy of the Fund, the report should address: average reclamation costs; frequency of default; the dollar amounts of the Fund available at a given time; and the amount of permittee bond versus Fund money used in reclamation. Also, the report on Fund adequacy should include projections of default rates for self-bonded operators and of expected fund expenditures in the event of default on an unsecured self-bond.

In conjunction with the above, the Director encourages and expects Virginia, pursuant to section 45.1–270.7.E of the Virginia Coal SMCRA, to review the program frequently and make any adjustments as necessary to assure adequacy of the Fund.

Disposition of Comments

The Virginia Mining and Reclamation Association, Inc. stated that the proposal complies with the requirements of SMCRA, assures adequate protection of the public and the environment, and it greatly simplifies and reduces the workload and expense on OSM, the Virginia regulatory authority and the coal industry. The Director agrees with the commenter and has approved the program amendment.

The Environmental Protection Agency made comments concerning the Virginia regulations at V800.11 and V807.12. The Director finds that these comments are outside the scope of this rulemaking as they are directed to provisions of the Virginia regulations approved by the Secretary of the Interior on December 15, 1981.

Additional Determinations

The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this action.

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 6, and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I have certified that this rule will not have a significant economic impact on a substantial number of small entities.

On December 8, 1981, the Administrator of the Environmental Protection Agency transmitted her written concurrence on the Virginia permanent program. The amended regulatory provisions approved in this document are not aspects of the Virginia permanent program which relate to air or water quality standards promulgated under the authority of the Federal Clean Water Act, as amended (33 U.S.C. 1151–1175), and the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*)

List of Subjects in 30 CFR Part 946

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Therefore, Part 946 of 30 CFR Chapter VII is amended as set forth herein.

Dated: September 14, 1982.

J. R. Harris,

Director, Office of Surface Mining Reclamation and Enforcement.

PART 946—VIRGINIA

Part 946 of Title 30 is amended by revising § 946.10 to read as follows:

§ 946.10 State regulatory program approval.

The Virginia State Program, as submitted on March 3, 1980, as amended and clarified on June 16, 1980, as resubmitted on August 13, 1981, and clarified in a meeting with OSM on September 21 and 22, 1981, and in a letter to the Director of the Office of Surface Mining on October 15, 1981, was conditionally approved, effective December 15, 1981. Beginning on that date, the Department of Conservation and Economic Development, Division of Mined Land Reclamation, was deemed the regulatory authority in Virginia for all surface coal mining and reclamation operations and all exploration operations on non-Federal and non-Indian lands. Beginning on July 21, 1982

and August 19, 1982, the program also included program amendments submitted on January 28 and July 9, 1982, respectively. Further, beginning on September 21, 1982 the program includes a program amendment submitted on July 8, 1982.

Copies of the conditionally approved program, as amended, are available for review at:

Virginia Division of Mined Land Reclamation, Drawer U, 630 Powell Avenue, Big Stone Gap, Virginia 24219
Virginia Department of Conservation and Economic Development, 1100 State Office Building, Richmond, Virginia 23219
Office of Surface Mining Reclamation and Enforcement, Flannagan and Carroll Streets, Lebanon, Virginia 24266
Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 "L" Street, NW., Washington, D.C.

[FR Doc. 82-25925 Filed 9-20-82; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 723

Board for Correction of Naval Records; Standards and Procedures for Less Than Honorable Discharges

AGENCY: Department of the Navy.

ACTION: Final rule.

SUMMARY: Pursuant to the July 16, 1982, order of the United States District Court for the District of Columbia in *Walters v. Secretary of Defense* (Civil Action No. 81-0962), the procedures for the Board for Correction of Naval Records are amended. The amendment sets forth the standards and procedures to be used in the review of less than honorable discharges that were issued as the result of an administrative proceeding in which the Navy or the Marine Corps introduced evidence developed by or as a result of compelled urinalysis testing administered for the purpose of identifying drug abusers.

EFFECTIVE DATE: The amendment is effective as of August 23, 1982, and will apply to all applications pending before the Board for Correction of Naval Records on that date, as well as to new applications.

FOR FURTHER INFORMATION CONTACT: Mr. W. Dean Pfeiffer, Executive Director, Board for Correction of Naval Records, Washington, D.C. 20370, Telephone number: (202) 694-1403

SUPPLEMENTARY INFORMATION: Pursuant to the authority cited below, the Department of the Navy amends 32 CFR Part 723. Inasmuch as the United States District Court for the District of Columbia has ordered the Department of the Navy to publish this final rule without latitude as to its contents, it has been determined that invitation of public comment prior to adoption under the public rulemaking provisions of 32 CFR Parts 296 and 701 is unnecessary. The Department of the Navy is presently seeking to appeal the district court order that requires promulgation of this amendment. If, as a result of the appeal, the district court order is stayed, modified, or vacated, this rule may be revised or revoked, and actions taken on applications submitted pursuant thereto may be modified or reversed.

List of Subjects in 32 CFR Part 723

Military personnel, Claims, Administrative practice and procedure.

PART 723—BOARD FOR CORRECTION OF NAVAL RECORDS

Accordingly, 32 CFR Part 723 is amended as follows:

1. The authority citation for Part 723 reads as follows:

Authority: Secs. 1552, 5031, 70A Stat. 116, 278, as amended, sec. 301, 80 Stat. 379; 5 U.S.C. 301; 10 U.S.C. 1552, 5031.

§ 723.3 [Amended]

2. Section 723.3 is amended by adding a new paragraph (f) which reads as follows:

* * * * *

(f) *Special standards.* (1) Pursuant to the order of the United States District Court for the District of Columbia in *Walters v. Secretary of Defense* (Civil Action No. 81-0962), a former Navy or Marine Corps servicemember who presently possesses a less than honorable administrative discharge, which was characterized as less than honorable in an administrative proceeding in which evidence was introduced that was developed by, or as a result of, compelled urinalysis testing administered for the purpose of identifying drug abusers, as entitled to special processing.

(2) Applicants who believe that their cases qualify for such special processing should place the word "CATEGORY W" in block 2, DD Form 149, Application for Correction of Military or Naval Record. Such applications shall be reviewed expeditiously by a designated official who will either cause the applicant to be sent an honorable discharge certificate or cause him/her to be forwarded a notice of the initiation of a new administrative proceeding designed to determine whether the less than honorable discharge awarded him/her can be justified. Each notice of initiation of proceedings shall inform the applicant of (i) the bases of separation, other than drug abuse or use or possession of drugs based upon compelled urinalysis, that was specified in the commanding officer's report and upon which the Navy or Marine Corps now seeks to base the less than honorable discharge, (ii) the full complement of procedural protections that are in effect at the time the notice is sent and which are to be accorded the applicant, including the name, address, and telephone number of a judge advocate or law specialist with whom the applicant has a right to consult, and (iii) the right to participate in the new proceedings or to elect to maintain his or her present character of discharge.

(3) Any new administrative proceedings initiated pursuant to this paragraph shall be instituted *ab initio* with the full complement of procedural protections required by current military regulations to be accorded a servicemember prior to administrative separation, and shall be based upon only those bases for separation, other than drug abuse or use or possession of drugs based upon compelled urinalysis, that were specified in the commanding officer's letter of notification in the former member's case. Such new proceedings shall be completed within a reasonable period of time and, if an administrative hearing is held, it shall be conducted at the Navy or Marine Corps installation of the applicant's former service closest to the applicant's current residence.

(4) Applicants determined not to qualify for the relief described in paragraphs (f)(2) or (3) of this paragraph by the designated official, will have their applications referred to the Naval Discharge Review Board for appropriate review and action. This action of the designated official, as well as the action authorized by paragraph (f)(2) of this paragraph, shall not constitute an action or decision by the Board for Correction of Naval Records.

Dated: September 14, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register, Liaison Officer.

[FR Doc. 82-25904 Filed 9-20-82; 8:45 am]
BILLING CODE 3810-AE-M

32 CFR Part 726

Payment of Amounts Due Mentally Incompetent Members of the Naval Service

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its regulations concerning the payment of moneys due to mentally incompetent members of the naval service to reflect recent changes to Chapter XV of the Manual of the Judge Advocate General.

EFFECTIVE DATE: June 11, 1982.

FOR FURTHER INFORMATION CONTACT: Mrs. Val Childress, Civil Affairs Division, Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, Virginia 22332, Telephone number: (202) 325–9752.

SUPPLEMENTARY INFORMATION: Pursuant to the authority cited below, the Department of the Navy amends 32 CFR Part 726, which is derived from Chapter XV of the Manual of the Judge Advocate General, to reflect changes in that regulation. The amendment relates to internal naval management and personnel practices, and is being published by the Department of the Navy solely for the guidance and interest of the public in accordance with 5 U.S.C. 552a(a)(1). It has been determined that invitation of public comment on this amendment prior to adoption would be impracticable and is not required under the public rulemaking provisions of 32 CFR Parts 296 and 701. It has also been determined that this final rule is not a "major rule" within the criteria specified in section 1(b) of Executive Order 12291, and does not have substantial impact on the public.

List of Subjects in 32 CFR Part 726

Mental health programs, military personnel, Administrative practice and procedure, Reporting requirements.

Accordingly, 32 CFR Part 726 is revised as follows:

PART 726—PAYMENT OF AMOUNTS DUE MENTALLY INCOMPETENT MEMBERS OF THE NAVAL SERVICE

Sec.

726.1 Purpose.
726.2 Scope.
726.3 Authority to appoint trustees to receive Federal moneys.
726.4 Procedure.
726.5 Records.
726.6 Travel orders.
726.7 Status of pay account.
726.8 Procedure for designation of a trustee.
726.9 Emergency funds.
726.10 Reports and supervision of trustees.
726.11 Authority of the Judge Advocate General to issue instructions.

Authority: 5 U.S.C. 301; 10 U.S.C. 5031 and 5148; 37 U.S.C. 601–604, and 1001; 32 CFR 700.206 and 700.1202.

§ 726.1 Purpose.

This part prescribes regulations for implementation of 37 U.S.C. Chapter 11, "Payments to Mentally Incompetent Persons."

§ 726.2 Scope.

(a) 37 U.S.C. Chapter 11 grants authority, in the absence of notice that a legal committee, guardian, or other legal representative has been appointed by a court of competent jurisdiction, for the designation by the Department of the Navy of a trustee to receive the active duty pay and allowances, amounts due for accrued or accumulated leave, or retired pay or retainer pay, that are otherwise payable to a member who is found by competent medical authority to be mentally incapable of managing his/her affairs.

(b) The term "member" as used in this part refers to:

(1) Members of a uniformed service who are on active duty (other than for training) or who are on the retired list of that service; and

(2) Members of the Fleet Reserve or Fleet Marine Corps Reserve.

§ 726.3 Authority to appoint trustees to receive Federal moneys.

(a) Pursuant to 37 U.S.C. 602 (1976), the Judge Advocate General and the Deputy Assistant Judge Advocate General (Civil Affairs) [hereafter referred to in this part as the DAJAG (CA)] are delegated authority to appoint trustees to receive and administer federal moneys for members of the naval service.

(b) The commanding officer of any naval medical facility may designate an officer of the command to receive and receipt for up to $30 per month from the accrued pay of a member of the naval service who has been found incapable of handling his/her own affairs and is a patient at a naval medical facility under the following conditions:

(1) A trustee has not been designated by cognizant authority and a committee, guardian, or other legal representative has not been appointed by a court of competent jurisdiction;

(2) The member has no other funds available for use in his/her own behalf; and

(3) The funds are necessary for the purchase of items necessary for the comfort of the member.

This section shall be cited on the pay voucher as authority for payment and receipt of such monthly comfort money.

§ 726.4 Procedures.

(a) The commanding officer of the cognizant naval medical facility shall convene a board of not less than three medical officers or physicians, one of whom is specially qualified in the treatment of mental disorders, when there is evidence that a member of the naval service or a member of another uniformed service who is a patient in the naval medical facility may be incapable of handling his/her affairs. Membership of the board may include members of the Reserve components on active or inactive duty.

(b) At least one officer on the board, preferably a psychiatrist, shall personally observe the member and ensure that the member's medical record, particularly that portion concerning his/her mental health, is accurate and complete. Each board member shall sign the report of the board and shall certify whether the servicemember is or is not mentally capable of managing his/her affairs.

(c) The Judge Advocate General or DAJAG (CA) may direct competent authority to convene a board in accordance with this section to determine the mental capability of a member of the naval service to manage his/her affairs. In appropriate circumstances, a commanding officer or administrator of any Federal medical facility may be requested by the Judge Advocate General or other cognizant authority to convene such a board.

§ 726.5 Records.

(a) The convening authority shall forward one copy of the record of proceedings of each board convened pursuant to §726.4, above, as follows:

(1) *Naval service.* Judge Advocate General (Code 12), Department of the Navy, 200 Stovall Street, Alexandria, Virginia 22332;

(2) *Army.* Commanding General, Finance Center, U.S. Army, Indianapolis, Indiana 46249, Attention: (Central Pay Operations in the case of active-duty personnel, or Retired Pay Division in the case of retired personnel);

(3) *Air Force.* Director of Military Personnel, Headquarters USAF, AFMPC, Washington, D.C. 20030;

(4) *Coast Guard.* Commandant, U.S. Coast Guard (Code C-PS/43), Washington, D.C. 20593;

(5) *National Oceanic and Atmospheric Administration (NOAA).*

Director, NOAA Corps, NOAA, Rockville, Maryland 20852; and

(6) *Public Health Service.* Director, Commissioned Personnel Operations Division (OPM–OM), Room 435, 5600 Fishers Lane, Rockville, Maryland 20857.

(b) In the case of a finding that a servicemember is not mentally capable of managing his/her affairs, the convening authority, in the forwarding endorsement, shall set forth the name, relationship, and address of the member's next of kin and such other pertinent data as may be available to assist in identification of a trustee. This additional information need not be furnished where a trustee or other legal representative has been previously designated and the designation is still in effect.

§ 726.6 Travel orders.

In appropriate cases, the Chief of Naval Personnel or Commandant of the Marine Corps shall issue travel orders to a member of the naval service to appear before an examining board convened for the purpose of determining whether the member is or is not mentally capable of managing his/her affairs. In the case of permanently retired members of the naval service, however, travel expenses in connection with an appearance before a board convened pursuant to § 726.4 shall be at no cost to the Government unless the Judge Advocate General or DAJAG (CA) determines that unusual hardship exists and directs that appropriate authority fund the travel expenses.

§ 726.7 Status of pay account.

The Judge Advocate General or DAJAG (CA) will direct appropriate disbursing officials to suspend the pay of servicemembers found to be mentally incapable of managing their affairs. Thereafter, the Judge Advocate General or DAJAG (CA) will direct payment of moneys to (1) the appointed trustee; (2) the committee, guardian, or other legal representative appointed by a court of competent jurisdiction; or (3) directly to the member following a determination that the member is capable of managing his/her affairs. Disbursing officers shall seek direction from the Judge Advocate General when information from other sources indicates a member is not competent to manage his/her affairs.

§ 726.8 Procedure for designation of a trustee.

Upon receipt of a report from medical authorities that a member has been found mentally incapable of managing his/her affairs, the Judge Advocate General or DAJAG (CA) shall initiate action to appoint a trustee, provided a committee, guardian, or other legal representative has not been appointed by a court of competent jurisdiction. The Judge Advocate General or DAJAG (CA) may direct any appropriate Navy or Marine Corps activity to interview prospective trustees and make recommendations concerning their suitability. The interviewing officer will determine whether the prospective trustee can obtain an appropriate bond as directed by the Judge Advocate General or DAJAG (CA) and ascertain that the prospective trustee is willing to execute an affidavit acknowledging that all moneys shall be applied solely to the use and benefit of the member and his/her legal dependents and that no fee, commission, or charge, for any service performed by the trustee except for payment of the required bond, can be made from Federal moneys. The interviewing officer will forward recommendations to the Office of the Judge Advocate General for appropriate action.

§ 726.9 Emergency funds.

Until such time as a trustee is appointed, the Judge Advocate General or DAJAG (CA) may appoint the member's commanding officer or other appropriate official to receive up to $1000 due from the account of the member without the necessity of a bond. The money shall be applied for the benefit of the member and his/her legal dependents.

§ 726.10 Reports and supervision of trustees.

(a) *Annual accounting report.* The trustee designated under this part shall submit accounting reports annually or at such times as the Judge Advocate General or DAJAG (CA) directs. The report shall account for all funds received from the Navy or Marine Corps on behalf of the servicemember. NAVJAG Forms 5800/13 (Rev. 8–76) and 5800/13A (Rev. 8–76) will be provided for these reports. When requested by the Judge Advocate General or DAJAG (CA), bank records, receipts, canceled checks, or vouchers shall be attached to the report. If the trustee fails to promptly make a satisfactory report, the Judge Advocate General or DAJAG (CA) may terminate payments and appoint a successor trustee. Report Control Symbols JAG 5800–5 and 5800–5A have been assigned to the reports.

(b) *Final accounting.* When payments under this part are terminated, the trustee shall submit a final accounting to the Judge Advocate General or DAJAG (CA), as appropriate. Upon approval of the report, the trustee and the surety will be discharged from liability. In the event of death or disability of a trustee, the final accounting shall be filed by the legal representative of the trustee.

(c) *Finance centers.* The Commanding Officer, Navy Finance Center, Commanding Officer, Marine Corps Finance Center, or the cognizant disbursing officer shall notify the Judge Advocate General or DAJAG (CA) of any fact affecting the pay of a member who is not mentally capable of managing his/her affairs. This includes waiver of retired pay in favor of Veterans Administration compensation; death of the member; death of the trustee; or notice of appointment of a legal representative by a court of competent jurisdiction. At the request of the Judge Advocate General or DAJAG (CA), the cognizant disbursing officer shall report all disbursements from the servicemember's account.

§ 726.11 Authority of the Judge Advocate General to issue instructions.

The Judge Advocate General and the DAJAG (CA) may issue instructions for implementation of this part.

Dated: September 15, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register, Liaison Officer.

[FR Doc. 82-25996 Filed 9-20-82; 8:45 am]

BILLING CODE 3810-AE-M

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32 CFR Part 727

Legal Assistance; Military Members and Dependents

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its regulations concerning the provision of legal assistance to military members and dependents to reflect recent changes to Chapter XIX of the Manual of the Judge Advocate General.

EFFECTIVE DATE: September 21, 1982.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Steven E. Wright, JAGC, U.S. Navy, Head, Legal Assistance Policy Branch, Civil Affairs Division, Office of the Judge Advocate General, Department of the Navy, 200 Stovall Street, Alexandria, Virginia 22332, Telephone number: (202) 325–9752.

SUPPLEMENTARY INFORMATION: Pursuant to the authority cited below, the Department of the Navy amends 32 CFR Part 727, which is derived from Chapter XIX of the Manual of the Judge Advocate General, to reflect changes in that regulation. The amendment relates

to internal naval management and personnel practices, and is being published by the Department of the Navy solely for the guidance and interest of the public in accordance with 5 U.S.C. 552(a)(1). It has been determined that invitation of public comment on this amendment prior to adoption would be impracticable and is not required under the public rulemaking provisions of 32 CFR Parts 296 and 701. It has also been determined that this final rule is not a "major rule" within the criteria specified in § 1(b) of Executive Order 12291, and does not have substantial impact on the public.

List of Subjects in 32 CFR Part 727

Legal services, Military law, Military personnel.

PART 727—LEGAL ASSISTANCE

Accordingly, 32 CFR Part 727 is amended as follows:

1. The authority citation for Part 727 reads as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 5031 and 5148; 32 CFR 700.206 and 700.1202

§ 727.6 [Amended]

2. In § 727.6, paragraph (d) is added to read as follows:

* * * * *

(d) *Professional legal advice.* Only legal assistance officers are authorized to render services that call for the professional judgment of a lawyer. The legal assistance officer may delegate tasks to clerks, secretaries, and other lay personnel provided the officer maintains a direct relationship with the client, supervises the delegated work, and has complete professional responsibility for the work product. Services that call for the professional judgment of a lawyer include, but are not limited to, the preparation of wills and powers of attorney, advising personnel with respect to legal rights and relationships, negotiating contracts, and other matters requiring an educated ability to relate the general body and philosophy of law to a specified legal problem of a client. Guidance in this matter may be had from various official sources including the ethical considerations under Canon 3 of the Code of Professional Responsibility of the American Bar Association and particularly EC 3–2, 3–5, 3–6, and DR 3–101(A).

3. Section 727.10 is revised to read as follows:

§ 727.10 Fees, compensation, solicitation, and representation in civilian courts.

(a) *General.* Active duty military personnel and civilian employees of the Navy and Marine Corps are prohibited from accepting or receiving, directly or indirectly, any fee or compensation of any nature, in cash or otherwise, for legal services rendered to any person entitled to legal assistance under this part whether or not the service rendered is normally provided or available to such person under this part and whether or not the service is rendered during duty hours as a part of official duties. Reserve judge advocates on inactive duty are prohibited from accepting or receiving any fee or compensation of any nature, in cash or otherwise, for legal services rendered to any person entitled to legal assistance under this part with respect to matters about which they consulted or advised said person in an official capacity. The prohibition may be waived only by the Judge Advocate General of the Navy or the Director, Naval Legal Service, as appropriate, in extraordinary circumstances on a case by case basis for inactive duty Reserve judge advocates who consulted with or advised an eligible client in an official capacity. Before a waiver may be granted, the following criteria, as well as other relevant criteria, shall be considered: (1) Whether the waiver is specifically requested by the party concerned or an appropriate representative, (2) whether there is a likelihood that undue and substantial prejudice will otherwise be suffered by the party concerned, (3) whether adequate continued representation for compensation is otherwise reasonably available, and (4) whether the requested representation will violate the Code of Professional Responsibility of the American Bar Association or other applicable legal or ethical requirements.

(b) *Solicitation.* Active duty military personnel, civilian employees of the Navy and Marine Corps, and inactive reservists, acting in an official capacity, are prohibited from soliciting, or advising that any person entitled to legal assistance under this part retain, consult, or seek legal services from themselves in their private capacities, or from any attorney who is a partner or associate of a law firm of which they are partners or associates, or from any attorney with whom they share office spaces; *Provided* that nothing herein shall prevent such person from being referred to civilian counsel as provided in § 727.9.

(c) *Representation before civilian courts or agencies.* No active duty Navy or Marine Corps judge advocate may appear as counsel on behalf of any person entitled to legal assistance, except as provided in paragraph (a)(3) of § 727.6 and under guidelines prescribed in the Manual of the Judge Advocate General before any civil court, civil administrative tribunal, civil regulatory body, or civil governmental agency, in any proceeding, whether or not a fee or other compensation is accepted or received, without prior written approval of the Judge Advocate General, or the Director, Naval Legal Service, as appropriate. Requests for such permission may be in the form prescribed in the Manual of the Judge Advocate General.

§ 723.13 [Amended]

4. Section 727.13 is amended by removing the word "January" in line 2 and inserting in its place the word "October"; by removing the words "two copies" in line 4 and inserting in their place the words "one copy"; by removing the figures "5–71" in line 6 and inserting in their place the figures "12–78"; and by removing the words "calendar-year period" in lines 6–7 and inserting in their place the words "fiscal year".

Dated: September 15, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 82-25866 Filed 9-20-82; 8:45 am]

BILLING CODE 3810-AE-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[W-1-FRL 2204-2]

New Hampshire Water Supply and Pollution Control Commission Underground Injection Control Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Programs.

SUMMARY: The State of New Hampshire has submitted an application under Section 1422 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) Program governing Classes I, II, III, IV, and V injection wells. After careful review of the application, the Agency has determined that the State's injection well program for all classes of injection wells meets the requirements of Section 1422 of the Act and, therefore, approves it.

EFFECTIVE DATE: This approval is effective October 21, 1982.

FOR FURTHER INFORMATION CONTACT: Jerome J. Healey, Drinking Water Branch, Environmental Protection Agency, Region I, JFK Federal Building,

Boston, Massachusetts 02203, (617) 723-6486.

SUPPLEMENTAL INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) Program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which in his judgment a State UIC Program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, a UIC Program which meets the requirements of regulations in effect under Section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC Program.

The State of New Hampshire was listed as needing a UIC Program on March 19, 1980 (45 FR 17632). The State of New Hampshire submitted an application under Section 1422 on April 12, 1982, for the approval of an UIC Program governing Classes I, II, III, IV, and V injection wells to be administered by the New Hampshire Water Supply and Pollution Control Commission (NHWSPCC). On May 7, 1982, EPA published notice of its receipt of the application, requested public comments, and scheduled a public hearing on the New Hampshire UIC Program submitted by the NHWSPCC (47 FR 19726). Neither requests for public hearing nor requests to offer testimony at such hearing were received by EPA. Therefore, pursuant to the provisions of 40 CFR 123.54(c), the public hearing was cancelled on June 1, 1982 because of expressed lack of sufficient public interest.

After careful review of the application I have determined that the New Hampshire UIC Program submitted by the NHWSPCC meets the requirements established by Federal regulations pursuant to Section 1422 of the SDWA, and hereby approve it.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

OMB Review

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 1422 of the Safe Drinking Water Act of the application by the New Hampshire Water Supply and Pollution Control Commission will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: September 9, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-25962 Filed 9-20-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 122 and 260

[SWH-FRL 2209-1]

EPA Administered Permit Programs: The Hazardous Waste Permit Program; and Hazardous Waste Management System: General

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of document; Amendment to final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today announcing the availability of a second edition of the EPA manual "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846. This notice provides information on when and where the manual is available and how it differs from the first edition. This notice also amends the sections of EPA's consolidated permit regulations and hazardous waste regulations that incorporate the manual by reference, to reflect the availability of a second edition of the manual.

EFFECTIVE DATE: September 21, 1982.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline at (800) 424-9346 (toll free), or (202) 382-3000. For technical information contact David Friedman, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-9187.

SUPPLEMENTARY INFORMATION:

I. Second Edition of Manual

The EPA manual "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," (1980) (EPA Publication No. SW-846), is incorporated by reference in several sections of EPA's regulations. EPA first published the manual in May, 1980 when the Agency promulgated Phase I of the hazardous waste regulations in the **Federal Register** (45 FR 33065-33588). Three revisions to the manual—Revision A (August 1980), Revision B (July 1981), and Revision C (February 1982)—have been published since that date. EPA is today announcing the publication of a second edition of the manual which incorporates all three revisions. Although the second edition is significantly reorganized and contains additional explanatory information, EPA views this edition as equivalent to the first edition (with revisions), for regulatory compliance purposes.

II. Availability of Manual and Revisions

In the past, the manual and revisions to the manual have been made available to the public free of charge on request from the EPA Solid Waste Information Office in Cincinnati, Ohio. The Agency is no longer able to distribute these publications on this basis. From now on, these materials will be available to the public as follows:

- A limited number of Revisions A and B are available free of charge from the EPA RCRA Hotline (see telephone number above).
- Revision C is available for $7.50 from the National Technical Information Service (NTIS) at 5285 Port Royal Road in Springfield, Virginia 22161. The order number is PB 82-172-156.
- The second edition of the manual is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, on a subscription basis. The subscription includes both the second edition of the manual and a number of future updates (approximately six mailings). Because the updates will be available only through this subscription, EPA recommends that persons interested in future updates to the manual subscribe to the second edition. The cost is $55.00 per subscription for domestic mailing ($68.75 if mailed to a foreign address).

III. Amendments to 40 CFR 122.20 and 260.11

Sections 122.20 and 260.11 of Title 40 of the Code of Federal Regulations set

forth information about publications incorporated by reference in EPA's consolidated permit regulations and hazardous waste regulations, respectively. Among other things, these sections identify the specific publications being incorporated by reference and explain how they may be obtained.

Sections 122.20 and 260.10 list the manual as one of the publications that EPA incorporates by reference in its regulations. However, they currently refer only to the 1980 edition, and indicate that the 1980 edition is available from the EPA Solid Waste Information Office in Cincinnati. As discussed above, this is no longer accurate since (1) the first edition is no longer available at all, (2) revisions to the first edition are not available from the Solid Waste Information Office, and (3) persons may use the second edition of the manual in lieu of the first edition. Accordingly, EPA is amending §§ 122.20 and 260.11 to reflect these changes.

EPA has determined under Section 553 of the Administrative Procedure Act, 5 U.S.C. 553, that there is good cause for promulgating these amendments without prior notice and opportunity for comment. These amendments are entirely technical in nature and do not change any substantive requirements. Furthermore, in light of the current inaccuracies in §§ 122.20 and 260.11, delaying promulgation of these amendments would be contrary to the public interest.

IV. List of Subjects

40 CFR Part 122

Administrative practice and procedure, Air pollution control, Hazardous materials, Reporting requirements, Waste treatment and disposal, Water pollution control, Confidential business information.

40 CFR Part 260

Administrative practice and procedure, Hazardous materials, Waste treatment and disposal.

Dated: September 9, 1982.

Rita M. Lavelle,

Associate Administrator for Solid Waste and Emergency Response.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is amended as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. The authority citation for Part 260 reads as follows:

Authority: Secs. 1006, 2002(a), 3001–3007 and 3010 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6905, 6912(a), 6921–6927 and 6930).

2. Section 260.11 is amended by revising the fourth reference in paragraph (a) to read as follows:

§ 260.11 References.

(a) * * *

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW–846 (First Edition, 1980, as updated by Revisions A (August, 1980), B (July, 1981), and C (February, 1982)) *or* (Second Edition, 1982). The first edition of SW–846 is no longer in print. Revisions A and B are available from EPA, Office of Solid Waste, (WH–565B), 401 M Street, S.W., Washington, D.C. 20460. Revision C is available from NTIS, 5285 Port Royal Road, Springfield, Virginia 22161. The second edition of SW–846 includes material from the first edition and Revisions A, B, and C in a reorganized format. It is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 783–3238, on a subscription basis, and future updates will automatically be mailed to the subscriber.

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PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM; THE HAZARDOUS WASTE PERMIT PROGRAM; AND THE UNDERGROUND INJECTION CONTROL PROGRAM

3. The authority citation for Part 122 reads as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.; Safe Drinking Water Act, 42 U.S.C. 300(f) et seq.; and Clean Water Act, 33 U.S.C. 1251 et seq.

4. Section 122.20 is amended by revising the first reference in paragraph (a) to read as follows:

§ 122.20 References.

(a) * * *

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW–846 (First Edition, 1980, as updated by Revisions A (August, 1980), B (July, 1981), and C (February, 1982)) *or* (Second Edition, 1982). The first edition of SW–846 is no longer in print. Revisions A and B are available from EPA, Office of Solid Waste, (WH–565B), 401 M Street, SW., Washington, D.C. 20460. Revision C is available from NTIS, 5285 Port Royal Road, Springfield, Virginia 22161. The second edition of SW–846 includes material from the first edition and Revisions A, B, and C in a reorganized format. It is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 783–3238, on a subscription basis, and future updates will automatically be mailed to be the subscriber.

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[FR Doc. 82–25943 Filed 9–20–82; 8:45 am]
BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 433

Equipment Acquired Under Public Assistance Programs

AGENCY: Health Care Financing Administration, HHS.

ACTION: Final rule.

SUMMARY: This Final Rule revises and consolidates current regulations concerning Federal financial participation in the cost of equipment under the Medicaid Program (Title XIX of the Social Security Act). The rule also revises and consolidates current regulations on the management and disposition of equipment under the Program.

The rule would permit State public assistance agencies to claim the cost of most of their equipment at the time of purchase rather than depreciating the equipment over its useful life as required by the current regulations. This change would allow these agencies to claim Federal financial participation in the cost of the equipment at an earlier date than under the current regulations and would simplify the accounting requirements associated with the equipment.

EFFECTIVE DATE: October 21, 1982.

FOR FURTHER INFORMATION CONTACT: Edward M. Tracy, (202) 245–7411.

SUPPLEMENTARY INFORMATION: A Notice of proposed rulemaking was published in the **Federal Register** on July 24, 1981 at 46 FR 38280 inviting public comments on a proposed revision to the Departments' current regulations concerning Federal financial participation in the cost of equipment acquired under HHS supported public assistance programs. The regulation, Subpart G of 45 CFR Part 95, allows for the claiming of the cost of equipment costing $25,000 or less in the period the equipment was acquired. Public comments were invited for 60 days ending September 22, 1981. Comments were received from eleven State or local agencies and two medical care

providers and are discussed in the preamble to Subpart G of 45 CFR Part 95 located elsewhere in the issue.

Accordingly, 42 CFR Part 433 is amended as follows:

List of Subjects in 42 CFR Part 433

Administrative practice and procedure, claims, Grant programs—health; Mechanized Claims Processing and Information Retrieval System, Medicaid, Third party liability.

The Department has determined that this is not a major rule as defined in Executive Order 12291. Pursuant to the provisions of 5 U.S.C. Section 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

Dated: August 18, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 433—STATE FISCAL ADMINISTRATION

42 CFR 433.35 is revised to read as follows:

§ 433.35 Equipment—Federal financial participation.

Claims for Federal financial participation in the cost of equipment under the Medicaid Program are determined in accordance with Subpart G of 45 CFR Part 95. Requirements concerning the management and disposition of equipment under the Medicaid Program are also prescribed in Subpart G of 45 CFR Part 95.

[FR Doc. 82-26068 Filed 9-20-82; 8:45 am]
BILLING CODE 4120-03-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6417]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, Correction.

SUMMARY: This document makes a correction to a final rule of a list of communities eligible for the sale of flood insurance under the National Flood Insurance Program, published August 9, 1982, 47 FR 34395. The City of Arkansas City, Cowley County, Kansas should be deleted from this list.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287-0270, 500 C Street Southwest, Donohoe Building—Room 505, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: As a result of a recent engineering analysis, the Federal Emergency Management Agency deleted the final rule of flood elevation determinations for the City of Arkansas City, Kansas. The rule deletion cancels the community's July 5, 1982 entry in the regular phase of the National Flood Insurance Program. The community should be deleted from the list of eligible communities published August 9, 1982, 47 FR 34395.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective January 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-26064 Filed 9-20-82; 8:45 am]
BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated in the table below.

ADDRESS: See table below.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, National Flood Insurance Program (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Agency has resolved the appeals presented by the community.

The Agency has developed criteria for flood plain management in floodprone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not prescribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100 YEAR) FLOOD ELEVATIONS

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arizona	Flagstaff, City Coconino County (FEMA-6124)	Rio de Flag	Most downstream intersection of Rio de Flag and centerline of Interstate Highway 40.	*6,705
			Intersection of Hopi Drive and Navajo Drive	*6,835
			Intersection of Rio de Flag and center of O'Leary Street.	*6,886
			Intersection of Rio de Flag and center of Crescent Drive.	*6,969
			100 feet upstream of center of Fremont Boulevard	*7,000
		Rio de Flag Split Flow	Intersection of Thorpe Road and Bonito Street	*6,920
		Pennlock Avenue Wash	100 feet upstream from center of Railhead Avenue	*6,787
			50 feet upstream from center of Allen Avenue	*6,835
		Peaceful Valley Wash	Intersection of Peaceful Valley Wash and center of Dieknont Drive.	*6,705
		Country Club Wash	Intersection of Country Club Wash and center of Country Club Drive.	*6,777
		Fanning Drive Wash	Intersection of Fanning Drive Wash and center of Interstate Highway 40 west bound lane.	*6,782
			150 feet north from intersection of Linda Vista Drive and Schievene Boulevard.	*6,884
		Switzer Canyon Wash	Intersection of Switzer Canyon Wash and Butler Avenue.	*6,765
			150 feet south of intersection of Switzer Canyon Wash and center of Huntington Drive.	*6,836
			Intersection of Switzer Canyon Wash and center of Switzer Drive.	*6,886
		Spruce Avenue Wash	40 feet upstream from intersection of Third Street and Sixth Avenue.	*6,878
			Intersection of Spruce Avenue Wash and center of Linda Vista Drive.	*6,962
			850 feet north-northwest from intersection of Paradise Road and Park Way.	#1
		West Street Wash	Intersection of West Street Wash and center of Santa Fe Avenue.	*6,839
			100 feet upstream from center of North High School Driveway.	*6,925
		West Street Wash Split Flow	Intersection of West Street Wash Split Flow and center of First Avenue.	*6,850
		Bow and Arrow Wash	200 feet upstream from confluence with Rio de Flag	*6,799
			50 feet upstream from center of Lake Mary Road	*6,928
		Sinclair Wash	Intersection of Sinclair Wash and O'Leary Street	*6,851
			160 feet upstream from center of University Heights-Drive South.	*6,881
		Clay Avenue Wash	Intersection of Clay Avenue and Leroux Street	*6,882
			170 feet upstream from center of Atchison, Topeka, and Santa Fe Railroad.	*7,022
		Clay Avenue Wash Split Flow	Confluence with Clay Avenue Wash	*6,954
		Peak View Wash	Intersection of Peak View Wash and center of Red Rock Street.	*7,110
	Maps available for inspection at Department of Engineering, 15 North Beaver Street, Flagstaff, Arizona.			
Mississippi	City of Belzoni, Humphreys County (FEMA-5215)	Fisk Bayou	At Jackson Street	*112
			At Virginia Street	*112
		Yazoo River	At Humphreys County Bridge	*114
		County Ditch No. 26	Just downstream of Jackson Street	*108
			Just upstream of Jackson Street	*109
	Maps available for inspection at City Hall, 102 W. Jackson Street, Belzoni, Mississippi 39038.			
Mississippi	Unincorporated areas of Humphreys County (FEMA-5218).	Unnamed Tributary of Yazoo River	Just upstream of Pecan Street	*111
			Just upstream of First Street	*111
		Fisk Bayou	At Fourth Street	*112
		Drainage District Ditch No. 22	Just downstream of State Highway No. 7	*112
		Drainage District Ditch No. 26	Approximately 100 feet upstream of U.S. Highway 49	*107
		Yazoo River	At Humphreys County Bridge	*114
	Maps available for inspection at Chancery Clerk's Office, Humphreys County Courthouse, Castleman Street, Belzoni, Mississippi 39038.			
Texas	City of Temple Bell County (FEMA-6143)	Leon River	Just downstream of Atchison, Topeka and Santa Fe Railway.	*490
			Approximately 500 feet downstream of State Highway 317.	*489
		Fryers Creek	Just upstream of Waters Dairy Road	*590
			Just upstream of Fryers Creek Circle South	*636
			Just upstream of Avenue T	*609
			Just upstream of Avenue P	*670
		Fryers Creek Tributary 1	Just upstream of Corporate Limits (Southern)	*577
		Bird Creek	Just downstream of Shallow Ford Road	*467
			Just upstream of Briar Cliff Road	*534
			Approximately 150 feet downstream of Interstate Highway 35.	*584
			Just downstream of State Highway 36	*661
		Bird Creek Tributary 1	Just downstream of Hemlock Boulevard	*538
			Approximately 120 feet upstream of Cottonwood Lane	*617
		Pepper Creek	Just downstream of Atchison, Topeka and Santa Fe Railway.	*490
			Just downstream of FM 2305 (Adams Avenue)	*606
			Just upstream of State Highway 36	*600

FINAL BASE (100 YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Pepper Creek Tributary 1	Approximately 120 feet upstream of State Highway Loop 363.	*600
		Knob Creek	Just upstream of Dam	*655
			Just downstream of Atchison, Topeka and Santa Fe Railway (Downstream Crossing).	*599
			Just upstream of 30th Street	*631
		Little Elm Creek	Just upstream of Missouri Kansas Texas Railroad	*569
			Approximately 150 feet upstream of Dairy Road	*562
			Approximately 100 feet downstream of Zenith Avenue	*593
			Just upstream of Gun Club Road	*609
			Just upstream of Missouri Kansas Texas Railroad	*642
		Little Elm Creek Tributary 1	Just downstream of Tower Road	*595
			Just downstream of 34th Street	*636
			Just upstream of 16th Street	*677
		Williamson Creek	Just upstream of State Highway 53	*597
			Just downstream of French Street	*622
			Just upstream of Hoover Street	*661
			Just upstream of Walker Avenue	*698
		Williamson Creek Tributary 1	Just upstream of Missouri Kansas Texas Railroad	*667
			Just upstream of 7th Street	*707
		Little Elm Creek Tributary 2	Just downstream of Center Street	*711

Maps available for inspection at Temple Municipal Building, Main and Adams Streets, Temple, Texas 76501.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: September 1, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25794 Filed 9-20-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENDA: FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated in the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determination of flood elevation for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the (final) flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
Arkansas	City of Mountain Home, Baxter County (FEMA-6282)	Hicks Creek	Just upstream of Russell Street	*780
			Just downstream of U.S Highway 62	*793
			Just downstream of College Street	*805
		Tributary A	Just downstream of Langston Street	*790
			Just downstream of U.S. Highway 62	*805
		Indian Creek	Just downstream of Cedar Street extended	*775
			Approximately 100 feet upstream of Buzzard Roost road.	*789
			Just downstream of U.S. Highway 62	*821
Maps available for inspection at City Hall, 720 South Hickory Street, Mountain Home, Arkansas 72153.				
California	Nevada County (Unincorporated areas) (FEMA-6286)	Squirrel Creek	50 feet upstream from center of Clover Road	*1,410
		Squirrel Creek Tributary 1	500 feet upstream from confluence with Squirrel Creek	*1,358
		Squirrel Creek Tributary 2	30 feet upstream from center of Penn Valley Drive	*1,364
		Squirrel Creek Tributary 2-1	50 feet upstream from center of Devonshire Circle	*1,411
		Clear Creek	75 feet upstream from center of Penn Valley Drive	*1,408
		Wolf Creek	60 feet southwest from center of intersection of Sutton Way and Idaho-Maryland Road.	*2,528
		South Fork Wolf Creek	500 feet upstream from center of Colfax Highway	*2,436
		Little Wolf Creek	Intersection of Grass Valley corporate limits and creek	*2,447
		Deer Creek	150 feet southwest from center of intersection of Willow Valley Road and Grove Street.	*2,511
		Truckee River	Intersection of Truckee River and center of Old U.S. Highway 40.	*5,640
			25 feet upstream from center of Bridge Street	*5,760
		Donner Creek	30 feet upstream from center of State highway 89	*5,880
		Summit Creek	25 feet upstream from center of Summit Creek Drive	*5,954
		Trout Creek	100 feet upstream from center of East Main Street	*5,822
		Donner Lake	300 feet north from intersection of Dogwood Street with South Shore Drive.	*5,942
Maps available for inspection at Department of Planning, HEW Building, 10433 Willow Valley Road, Nevada City, California.				
Florida	Belleair (town), Pinellas County (FEMA-6278)	Gulf of Mexico-Clearwater Harbor	Belleview Island	*13
			Western end of Winston Drive	*11
Maps available for inspection at Town Hall, 901 Ponce de Leon Boulevard, Belleair, Florida.				
Florida	Belleair Bluffs (city), Pinellas County (FEMA-6278)	Gulf of Mexico-Clearwater Harbor	Approximately 1,000 feet west along West Bay Drive from its intersection with Harbor View Lane.D*12.	
Maps available for inspection at City Hall, 115 Florence Drive, Belleair Bluffs, Florida.				
Florida	Gainesville (city), Alachua County (FEMA-6286)	Hogtown Creek	At the center of Northwest 8th Avenue crossing	*99
		Hogtown Creek Tributary 1	75 feet upstream from center of Northwest 34th Street	*107
		Hogtown Creek Tributary 2	50 feet upstream from center of Northwest 43rd Avenue.	*148
		Little Hatchet Creek	30 feet upstream from center of Airport Service Road	*110
		Sweetwater Branch	40 feet upstream from center of southeast 4th Street	*113
		Tumblin Creek	At the center of corporate limit crossing	*66
		Newnans Lake Tributary 1	500 feet south from the intersection of Southwest 26th Street and Southeast 26th Terrace	*121
Maps available for inspection at Public Works Department, Thomas Center, 306 NE 6th Avenue, Room 319, Gainesville, Florida.				
Florida	Marion County (Unincorporated areas) (FEMA-6286)	Withlacoochee River	At the center of State Highway 200 crossing	*41
		Blue Run	At the City of Dunnellon corporate limit crossing	*33
		Lake Kerr and Little Lake Kerr	At Petes Island	*27
		Lake Weir and Little Lake Weir	900 feet south from center of intersection of seaboard coast line and Alternate U.S. Highways 27 and 441.	*60
		Mill Dam Lake	500 feet north from center of intersection of State Highway 40 and Levee Hammock Road.	*54
		Halfmoon Lake	900 feet southeast from center of intersection of State Highway 40 and Levee Hammock Road.	*55
		Lake Bryant	3,000 feet south from center of intersection of State Highway 40 and Levee Hammock Road.	*55
Maps available for inspection at Engineering Department, County Office Building, 19 NW Pine Avenue, Ocala, Florida.				
Georgia	City of Porterdale, Newton County (FEMA-6286)	Yellow River	Just upstream of Highway 81	*822
Maps available for inspection at City Hall, Broad Street, Covington, Georgia 30270.				
Illinois	(C) Cuba, Fulton County (Docket No. FEMA-6286)	Shallow Flooding (ponding due to rainfall).	At the intersection of Douglas Street and 9th Avenue	#1
			About 700 feet northeast of the intersection of Toledo Peoria and Western Railroad and 3rd Avenue.	#1
Maps available for inspection at the City Hall, 403 Jefferson Street, Cuba, Illinois.				
Illinois	(V) Lakemoor, McHenry County (Docket No. FEMA-6286).	Lily Lake	Shoreline	*790
		Shallow Flooding (ponding from rainfall).	Intersection of Rose Dale Drive and Sherry Side Road	*782
Maps available for inspection at the Village Hall, 234 West Rand Road, McHenry, Illinois.				
Kentucky	Unincorporated areas of Greenup County (FEMA-6186).	Ohio River	At confluence of Tygarts Creek	*536
			Just upstream of Greenup Locks and Dam	*541

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
		Pond Run	Just upstream of Private Road (located approximately 5,500 feet downstream of City of Raceland corporate limits).	*550
		Chinns Branch	Approximately 3,000 feet south of the intersection of U.S. Highway 23 and Chinns Branch Road.	*559
		Coal Branch	Just upstream of Duck Puddle Road	*559
		Smith Branch	Just upstream of Right Fork Smith Branch Road	*546
		Lower White Oak	Just upstream of John Road	*568
			Just upstream of Belleview Drive	*602
Maps available for inspection at Greenup County Judge's Office or County Clerk's Office, Greenup County Courthouse, Greenup, Kentucky 41144.				
Kentucky	Unincorporated areas of Rowan County (FEMA-6298).	Triplett Creek	Just downstream of Round Street	*680
			just downstream of State Highway 32	*748
			Just upstream of Private Road located at Alec Hall Branch.	*796
		Mill Branch	Just upstream of McBrayer Road	*723
		Morgan Fork	Just upstream of State Highway 519 crossing Morehead and North Fork Railroad.	*750
			Just upstream of State Highway 519 located approximately 250 feet upstream of Warren Branch.	*830
		Dry Creek	Just upstream of State Highway 519	*718
			Just downstream of County Road located approximately 300 feet upstream of Timber Branch.	*789
		Christy Creek	just upstream of Private Road located at Pattee Lick Branch.	*813
			Just downstream of Private Road located approximately 500 feet upstream of Kidd Branch.	*850
		North Fork Triplett Creek	Just downstream of State Highway 32	*699
			Just upstream of Private Road located approximately 200 feet downstream of confluence of Big Brush Creek.	*714
			Just downstream of Private Road located approximately 800 feet downstream of Harvey Branch.	*742
		Big Brush Creek	Just downstream of State Highway 377	*715
			Just downstream of Old Sport Arena Road located approximately 1,500 feet downstream of State Highway 785.	*789
			Just upstream of Middle Prong Brush Creed Road	*845
Maps available for inspection at Rowan County Judge Executive's Office, County Courthouse, Morehead, Kentucky 40351.				
Kentucky	City of Russell, Greenup County (FEMA-6286)	Ohio River	At the border of Boyd County line	*547
		White Oak Creek	Just upstream of State Highway 693 (Deidrick Boulevard).	*557
			Just upstream of Verna Drive	*589
Maps available for inspection at City Clerk's City Hall, Russell, Kentucky 41169.				
Maine	Kennebunk, town York County (Docket No. FEMA-6298).	Kennebunk River	Approximately 600 feet upstream of mouth	*9
			Upstream of U.S. Route 1	*45
			Approximately 2,700 feet upstream of U.S. Route 1	*58
		Day Brook	At confluence with Mousam River	*46
		xl	Approximately 9,500 feet upstream of Cat Mousam Road.	*66
		Atlantic Ocean	From corporate limits to confluence of Mousam River	*14
			From approximately 320 feet east of confluence of Mousam River to Access Road extended.	*21
			From approximately 130 feet east of Access Road extended to Great Hill Road extended.	*18
			From approximately 160 feet west of Lords Point Road extended to approximately 700 feet east of Lords Point Road extended.	*19
			From approximately 400 feet east of Bruen Place extended to Woodland Avenue extended.	*16
			Tidal flooding affecting Little River and Branch Brook	*9
		Mousam River	At State Route 9	*9
			Approximately 2,960 feet upstream of Boston and Maine Railroad.	*10
			Downstream U.S. Route 1	*26
			Upstream of Mousam River Spillway	*44
			At Interstate Route 95	*49
			Downstream of Twine Mills Dam	*65
			Upstream of Twine Mills Dam	*74
			Upstream Dane Perkins Dam	*99
Maps available for inspection at the Town Manager's Office, Kennebunk Town Hall, 1 Summer Street, Kennebunk, Maine.				
Massachusetts	Saugus, town, Essex County (Docket No. FEMA-6279).	Atlantic Ocean	Along the entire southern corporate limits	*10
		Saugus River	Confluence of Shute Brook	*10
			Upstream of Bridge Street	*13
			Upstream of U.S. Route 1	*39
			Approximately 900 feet upstream of Richardson Circle extended.	*47
			Upstream of Water Street	*55
			Upstream corporate limits	*59
		Shute Brook	Confluence with Saugus River	*10
			Upstream of Central Street culvert	*16

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
			Upstream of Highland Street	*25
			Approximately 480 feet upstream of Pennybrook Road	*26
		False Brook	Confluence with Shute Brook	*26
			Approximately 820 feet upstream of confluence with Shute Brook.	*26
		Bennett's Pond Brook	Confluence with Saugus River	*37
			Upstream of Laurine Drive	*48
			Corner of Main Street and Lynn Fells Parkway	*58
			Approximately 1,500 feet upstream of Falmouth Street	*65
Maps available for inspection at the Engineering Department, Town Hall, 298 Central Street, Saugus, Massachusetts.				
Michigan	(Twp) Kochville, Saginaw County (Docket No. FEMA-6280).	[illegible] Drain	About 2.5 miles above mouth at Saginaw River	*585
			At confluence of North Branch Kochville Drain	*587
		South Branch Kochville Drain	Just upstream of Michigan Road	*588
			Just downstream of State Highway 84	*589
		North Branch Kochville Drain	Just upstream of Davis Road	*589
			Just downstream of State Highway 84	*596
		Shallow Flooding	West of Venoy Road and south of Interstate 675	*585
Maps available for inspection at Mr. Trautners' Home, 4510 Pierce Road, Saginaw, Michigan.				
Michigan	(Twp.) Thomas, Saginaw County (Docket No. FEMA-6286).	Tittabawassee River	Just upstream of Conrail	*587
			Just downstream of Tittabawassee Road	*593
		Swan Creek	About 3,600 feet downstream of State Highway 46	*585
			Just downstream of Dice Road	*600
		Hatch Run	At confluence with Swan Creek	*598
			About 2,840 feet upstream of Dice Road	*604
Maps available for inspection at the Township Offices, 249 North Miller Road, Saginaw, Michigan.				
Minnesota	(C) Beltrami, Polk County (Docket No. FEMA-6224)	Sandhill River	Western corporate limits	*894
			About 100 feet downstream of Burlington Northern railroad.	*900
			Just upstream of Burlington Northern railroad	*904
			Just upstream Highway 1	*905
			Eastern corporate limits	*908
Maps available for inspection at the City Hall, Beltrami, Minnesota.				
Minnesota	(C) Winona, Winona County (Docket No. FEMA-6288).	Mississippi River	About 1.3 miles downstream of Burlington Northern Railroad.	*658
			About 2.7 miles upstream of State Route 43	*662
		Gilmore Creek	About 150 feet downstream of U.S. Route 14	*672
			Just upstream of St. Mary's College Bridge	*686
			At upstream corporate limits	*703
		Burns Valley Creek	About 150 feet downstream of County Highway 17	*667
			About 1,100 feet upstream of Sugar Loaf Road	*678
			About 5,800 feet upstream of Sugar Loaf Road	*691
		Pleasant Valley Creek	Just upstream of County Highway 15	*662
			About 1,300 feet upstream of Holler Hill Road	*695
		Crooked Slough	Shoreline	*654
		Shallow Flooding	North of intersection of Goodview Road and U.S. Route 14.	*662
			East of intersection of Goodview Road and U.S. Route 14.	*671
			South of intersection of Goodview Road and U.S. Route 14.	*671
Maps available for inspection at the Director of Public Works' Office, City Hall, 207 Lafayette Street, Winona, Minnesota.				
Missouri	(C) Fayette, Howard County (Docket No. FEMA-6286).	Adams Fork	About 200 feet downstream of abandoned Missouri-Kansas-Texas Railroad.	*636
			About 800 feet upstream of County Highway E	*656
		Bonne Femme	About 1,500 feet downstream of State Highway 240	*629
			About 3,600 feet upstream of State Highway 240	*635
		West Branch Bonne Femme Creek	About 1,900 feet upstream of mouth	*634
			Just downstream of Reynolds Street	*654
Maps available for inspection at the City Hall, 117 South Main, Fayette, Missouri.				
Missouri	(T) New Franklin, Howard County (Docket No. FEMA-6286).	Bonne Femme Creek	At southeastern corporate limits	*599
			At northern corporate limits	*600
		Missouri River	About 0.9 mile downstream of Highway 40	*599
			About 0.17 mile upstream of U.S. Highway 40	*600
Maps available for inspection at City Hall, New Franklin, Missouri.				
Missouri	(C) Orrick, Ray County (Docket No. FEMA-6286)	Missouri River	About 0.34 mile downstream of Atchison, Topeka and Santa Fe Railway.	*718
			About 1.67 miles upstream of Atchison, Topeka and Santa Fe Railway.	*721
		Keeney Creek	About 2,900 feet downstream of Fleenor Street	*718
			About 260 feet downstream of State Highway 210	*720
Maps available for inspection at the City Hall, Orrick, Missouri.				
Missouri	(Uninc.) Ray County, (Docket No. FEMA-6286)	Missouri River	At downstream county boundary	*692

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
			Just upstream of State Highway 13	*703
		Fishing River	About 0.75 mile upstream of county boundary	*723
			At mouth	*714
			About 0.1 mile downstream of Norfolk and Western Railway.	*722
			At upstream county boundary	*731
		East Fork Fishing River	About 0.9 mile downstream of County Road	*769
			About 0.3 mile upstream of County Road	*813
		Crooked River	Mouth at Missouri River	*696
			Just downstream of Burlington Northern Railroad	*722
			Just downstream of County Highway D	*795
		East Fork Crooked River	About 5.4 miles upstream of County Highway D	*834
			At confluence with Crooked River	*704
			Just upstream of Burlington Northern Railroad	*721
			Just upstream of County Road K	*747
		West Fork Crooked River	About 1.5 miles upstream of County Highway	*792
			At mouth	*711
			Just upstream of State Highway 13	*733
		Keeney Creek	Just upstream of State Route 10 (upstream crossing)	*766
			At mouth	*714
			About 0.05 mile downstream of State Highway 210	*720
		West Fork Crooked River Tributary No. 1	Just downstream of Burlington Northern Railroad	*743
			At mouth	*752
			Just downstream of Swanwick Road	*770
		Cockerel Creek	At mouth	*809
			About 0.1 mile upstream of County Highway BB	*820
		Tributary A	At mouth	*752
			Just downstream of County Highway B	*773
		Tributary B	At mouth	*764
			Just downstream of County Highway V	*817
			About 0.3 mile upstream of County Highway V	*824
		Rocky Fork Crooked River	At mouth	*757
			Just upstream of County Highway	*770
		Fire Branch Crooked River	At confluence with Crooked River	*771
			About 0.1 mile downstream of County Highway HH	*806
			About 0.05 mile upstream of County Road D	*898
		Davis Branch Crooked River	At mouth	*785
			Just upstream of County Highway	*787
		Kings Branch Crooked River	At confluence with Crooked River	*791
			About 0.9 mile upstream of confluence with Crooked River.	*793

Maps available for inspection at the Ray County Courthouse, Richmond, Missouri.

Nebraska	(Uninc.), Saunders County (Docket No. FEMA–6286	Platte River (Riverward of Levee)	At south county boundary 1.1 miles downstream of U.S. Highway 6.	*1,059
			Just 500 feet upstream of State Highway 92	*1,123
			Just downstream of City of Fremont extraterritorial jurisdiction about 1.5 miles downstream of U.S. Highway 77.	*1,189
			Just downstream of Chicago and North Western Railroad.	*1,224
			At west county boundary 7.16 miles upstream of State Highway 79.	*1,306
		Platte River (Landward of Levee)	About 1.0 miles downstream of the confluence of Elkhorn River.	*1,075
			About 1.5 miles downstream of State Highway 92	*1,114
			About 1.7 miles upstream of State Highway 92	*1,130
			About 400 feet upstream of the Union Pacific Railroad	*1,146
			About 800 feet upstream of State Highway 64	*1,156
			About 1.0 miles upstream of State Highway 64	*1,161
			About 5.9 miles upstream of State Highway 64	*1,183
			Just upstream of State Highway 79	*1,272
			About 1.7 miles upstream of State Highway 79	*1,280
		Clear Creek	Just upstream of County Road 29	*1,077
			Just downstream of County Road 37	*1,079
		Johnson Creek	At mouth	*1,078
			Just downstream of County Road 37	*1,079
		Cottonwood Creek	Just upstream of County Road 77	*1,312
			Just downstream of County Road 85	*1,358
		Tributary to Cottonwood Creek	At mouth	*1,330
			Just upstream of County Road 18	*1,351
		Salt Creek	About 0.6 miles downstream of U.S. Highway 6	*1,059
			Just downstream of County Road 110	*1,065
		Wahoo Creek	At mouth	*1,068
			Just upstream of Burlington Northern Railroad	*1,070
			About 1.6 miles upstream of Old State Highway 63	*1,073
		Shallow Flooding (overflow from Platte River).	West of Burlington Northern Railroad (from County Road 45 south to County Road 21).	*1

Maps available for inspection at the Zoning Administrator's Office, County Courthouse, Wahoo, Nebraska.

New Jersey	Linwood, city, Atlantic County (Docket No. FEMA–4346)	Patcong Creek	Upstream corporate limits	*12
			From downstream corporate limits to spillway at Central Avenue.	*9
		Scull Bay	Entire shoreline within community	*9

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
		Isaac's Creek	Entire shoreline within community	*8
		Mulberry Thorofare	Entire shoreline within community	*8
		Steelman Bay	Entire shoreline within community	*8
		Sod Thorofare	Entire shoreline within community	*8
Maps available for inspection at the Municipal Building, 400 Poplar Avenue, Linwood, New Jersey.				
New Jersey	Northfield, city, Atlantic County (Docket No. FEMA-6286.	Patcong Creek	Downstream corporate limits	*12
			Confluence with Maple Run	*12
		Maple run	Confluence with Patcong Creek	*12
			Mill Road upstream side	*14
			Upstream corporate limits	*14
		Great Egg Harbor Bay	Tidal flooding affecting Isaac's Creek and the eastern portion of the community.	*8
Maps available for inspection at the Municipal Building, 1600 Shore Road, Northfield, New Jersey.				
New Jersey	Pleasantville, city, Atlantic County (Docket No. FEMA-6286).	Lakes Bay	Entire shoreline within community	*8
		Absecon Bay	In the vicinity of the northeast portion of the community.	*8
Maps available for inspection at the Municipal Building, 18 North Front Street, Pleasantville, New Jersey.				
New York	Cobleskill, town, Schoharie County (Docket No. FEMA-6262).	Cobleskill Creek	Downstream corporate limits	*719
			Upstream of Howes Cave Road	*754
			Upstream of Barnerville Road	*824
			Approximately 20,000 feet downstream of upstream corporate limits.	*879
			Upstream corporate limits	*919
Maps available for inspection at the Town Office, Union Street, Cobleskill, New York.				
New York	Fort Johnson, village, Montgomery County (Docket No. FEMA-6299).	Mohawk River	Downstream corporate limits (extended)	*278
			Upstream corporate limits (extended)	*280
		Kayaderosseras Creek	Confluence with Mohawk Creek	*279
			Upstream of State Route 67/Fort Johnson Avenue	*315
			Upstream corporate limits	*350
Maps available for inspection at the Office of the Village Clerk, 36 Fort Johnson Avenue, Fort Johnson, New York.				
New York	Hastings, town, Oswego County (Docket No. FEMA-6286).	Oneida River	Downstream corporate limits	*372
			Approximately 19,000 feet upstream of corporate limits	*373
		Oneida Lake	Entire shoreline within community	*373
Maps available for inspection at the Town Hall, Route 11, Hastings, New York.				
New York	Hewlett Bay Park, village, Nassau County (Docket No. FEMA-6247).	Macy Channel	Entire shoreline	*8
Maps available for inspection at the Village Hall, 30 Piermont Avenue, Hewlett, New York.				
New York	Hewlett Neck, village, Nassau County (Docket No. FEMA-6247).	Broesewre Bay	Entire shoreline within community including the shoreline of Georges Creek within the community.	*8
Maps available for inspection at the Village Hall, 30 Piermont Avenue, Hewlett, New York.				
New York	Kensington, village, Nassau County (Docket No. FEMA-6286).	Manhasset Bay	Entire shoreline within Kensington	*15
Maps available for inspection at the Village Hall, 2 Nassau Drive, Great Neck, New York.				
New York	Madison, town, Madison County (Docket No. FEMA-6286).	Oriskany Creek	Downstream corporate limits	*1,000
			Approximately 3,000 feet upstream of corporate limits	*1,025
			Approximately 10,500 feet upstream of corporate limits	*1,066
			Upstream of Water Street	*1,086
			Approximately 2,700 feet upstream of Dam	*1,126
		Payne Brook	Downstream corporate limits	*1,125
			Downstream of Spillway Road	*1,166
Maps available for inspection at the Town Hall, Route 20, Madison, New York.				
New York	Massapequa Park, village, Nassau County (Docket No. FEMA-6278).	Jones Creek	Shoreline from northern corporate limits to approximately 50 feet south of extended Wall Court	*7
			Shoreline from approximately 50 feet south of extended Wall Court to confluence with South Oyster Bay	*8
		South Oyster Bay	Shoreline from confluence with South Oyster Bay to approximately 230 feet south of extended Sue Drive.	*8
			Shoreline from approximately 230 feet south of extended Sue Drive to northern corporate limits	*7
Maps available for inspection at the Village Hall, 151 Front Street, Massapequa, New York.				
New York	Minden, town Montgomery County (Docket No. FEMA-6286).	Mohawk River	Downstream corporate limits	*307
			Upstream of Bridge Street	*314
			Upstream corporate limits	*320
		Otsquago Creek	Downstream corporate limits	*363
			Upstream of State Route 80	*368

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
			Upstream of Spring Street	*410
			At Hoffman Road (extended)	*416
			Salt Springville Road	*522
Maps available for inspection at the Minden Town Office, Route 80, R.D. 3, Fort Plain, New York.				
New York	Oriskany Falls, village, Oneida County (Docket No. FEMA-6266).	Oriskany Creek	Downstream corporate limits	*927
			Upstream of Cassidy Street	*963
			Upstream of Madison Street	*985
			Upstream corporate limits	*995
		Lindsley Brook	Confluence with Oriskany Creek	*945
			Upstream corporate limits	*945
Maps available for inspection at the Village Hall, 185 Main Street, Oriskany Falls, New York.				
New York	Saltaire, village Suffolk County (Docket No. FEMA-6262).	Atlantic Ocean	Entire shoreline within community	*14
Maps available for inspection at the Village Hall, Saltaire, New York.				
New York	Shelter Island, town, Suffolk County (Docket No. FEMA-6262).	Gardiners Bay	Shoreline from Hay Beach Point to Cornelius Point	*12
			Shoreline from Cornelius Point to Reel Point	*13
			Shoreline from Reel Point to a Point 0.02 mile northwest of Little Ram Island Drive (extended).	*12
			Shoreline from a point 0.02 mile northwest of Little Ram Island Drive (extended) to a point 0.1 mile northwest of Little Ram Island Drive (extended).	*11
			Shoreline from a point 0.1 mile northwest of Little Ram Island Drive (extended) to a point 0.5 mile northwest of Little Ram Island Drive (extended).	*10
			Shoreline from a point 0.5 mile northwest of Little Ram Island Drive (extended) to a point 0.6 mile northwest of Little Ram Island Drive (extended).	*11
			Shoreline from a point 0.6 mile northwest of Little Ram Island Drive (extended) to a point 0.9 mile east of Cobbetts Lane (extended).	*10
			Shoreline from 0.9 mile east of Cobbetts Lane (extended) to Burns Road (extended).	*11
			Shoreline from Burns Road (extended) to a point 0.59 mile east of Emerson Lane (extended).	*12
			Shoreline from a point 0.59 mile east of Emerson Lane (extended) to a point 0.31 mile southeast of Emerson Lane (extended).	*10
			Shoreline from a point 0.31 mile southeast of Emerson Lane (extended) to 0.46 mile east of Congdon Road (extended).	*12
			Shoreline from a point 0.46 mile east of Congdon Road (extended) to a point 0.31 mile east of Jupiters Lane (extended).	*10
			Shoreline from a point 0.31 mile east of Jupiters Lane (extended) to a point 0.5 mile southeast of Jupiters Lane (extended).	*12
			Shoreline from a point 0.5 mile southeast of Jupiters Lane extended to a point 0.86 mile southeast of Jupiters Lane (extended).	*10
			Shoreline from a point 0.86 mile southeast of Jupiters Lane (extended) to a point 0.18 mile southeast of Sungic Point.	*12
			Shoreline from a point 0.18 mile southeast of Sungic Point to Nichols Point.	*13
			Shoreline from Nichols Point to Mashomack Point	*12
		Shelter Island Sound	Shoreline from Mashomack Point to a point 0.19 mile northwest of Mashomack Point.	*12
			Shoreline from a point 0.19 mile northwest of Mashomack Point to a point 0.03 mile northeast of South Ferry Road (extended).	*10
			Shoreline from a point 0.03 mile northeast of South Ferry Road (extended) to Gracies Lane (extended).	*11
			Shoreline from Gracies Lane (extended) to a point 0.11 mile west of Tarkettle Road (extended).	*10
			Shoreline from a point 0.11 mile west of Tarkettle Road (extended) to a point 0.15 mile northwest of Tarkettle Road (extended).	*9
			Shoreline from a point 0.15 mile northwest of Tarkettle Road (extended) to a point 0.09 mile northeast of Simpson Road (extended).	*8
			Shoreline from a point 0.09 mile northeast of Simpson Road (extended) to a point 0.09 mile southeast of Simpson Road (extended).	*9
			Shoreline from a point 0.09 mile southeast of Simpson Road extended to a point 0.06 mile northwest of Montclair Road (extended).	*10
			Shoreline from a point 0.06 mile northwest of Montclair Road (extended) to a point 0.73 mile northwest of Montclair Road (extended).	*9

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
			Shoreline from a point 0.73 mile northwest of Montclair road (extended) to a point 0.26 mile northwest of Petticoat Lane (extended).	*8
			Shoreline from a point 0.26 mile northwest of Petticoat Lane (extended) to a point 0.12 mile south of Wheeler Drive (extended).	*9
			Shoreline from a point 0.12 mile south of Wheeler Drive (extended) to a point 0.03 mile northeast of Bayview Road (extended).	*8
			Shoreline from a point 0.03 mile northeast of Bayview Road (extended) to North Brand Drive (extended).	*9
			Shoreline from North Brand Drive (extended) to a point 0.90 mile northeast of South Silver Beach.	*10
			Shoreline from a point 0.9 mile northeast of South Silver Beach to Crab Creek Point.	*11
			Shoreline from Crab Creek Point to Hay Beach Point	*10
Maps available for inspection at the Town Hall, 44 North Ferry Road, Shelter Island, New York.				
New York	Stockport, town, Columbia County (Docket No. FEMA-6278).	Claverack Creek	Confluence with Kinderhook Creek and Stockport Creek.	*27
			Upstream of County Route 25	*36
			Downstream of Dam	*70
			Downstream of State Route 401	*99
			Upstream corporate limits	*121
		Fitting Creek	Confluence with Claverack Creek	*39
			Downstream of Fitting Road	*76
			Upstream corporate limits	*93
		Hudson River	Entire shoreline within community	*13
		Kinderhook Creek	Confluence with Claverack Creek and Stockport Creek	*27
			Upstream of Roseman Road	*41
			Upstream of Rossman Falls	*69
			Upstream corporate limits	*88
		Stockport Creek	Downstream of U.S. Route 9	*13
			Confluence with Claverack Creek and Stockport Creek	*27
Maps available for inspection at the Town Hall, Stottsville, New York.				
New York	Tully, village, Onondaga County (Docket No. FEMA-6286).	West Branch	Downstream corporate limits	*1,229
		Tioughnioga River	Downstream of Clinton Street	*1,246
			Upstream corporate limits	*1,275
		Tributary A	Confluence with West Branch Tioughnioga River	*1,235
			Upstream of Grove Street	*1,236
Maps available for inspection at the Municipal Building, One Railroad Avenue, Tully, New York.				
North Carolina	City of Monroe, Union County (FEMA-6286)	Bearskin Creek	Just downstream of Morgan Mill Road	*524
			Just downstream of U.S. Highway 74 and 601	*561
			Just downstream of Charlotte Avenue	*575
		Richardson Creek	Just upstream of Walker Avenue	*486
			Just upstream of U.S. Highway 601	*495
		Bearskin Creek Tributary	Just upstream of Seaboard Coast Line Railroad	*579
			Just downstream of Franklin Street	*586
		Richardson Creek Tributary	Just downstream of Quarry Road	*544
		Still Branch	Just downstream of the confluence of Still Branch Tributary.	*530
			Just downstream of Crowell Street	*574
		Still Branch Tributary	Just upstream of Parker Street	*533
			Just upstream of Hayne Street	*544
Maps available for inspection at City Hall, 300 West Crowell Street, Monroe, North Carolina 28110.				
Ohio	(Uninc.) Miami County (Docket No. FEMA-6286)	Great Miami River	About 1.66 miles downstream of Conrail	*813
			Just upstream of Eldean Road	*842
			Just upstream of U.S. Highway 36	*863
			About 0.27 mile upstream of county boundary	*883
		Great Miami River Bypass	At confluence with Great Miami River	*824
			At City of Troy corporate limits	*825
		Stillwater River	About 0.71 mile downstream of Sugar Grove Road	*871
			Just upstream of Falknor Road	*879
			At Village of Covington corporate limits (about 0.57 miles upstream of Conrail).	*895
		Garbry Creek	At Village of Pique corporate limits	*903
			Just upstream of Looney Road	*924
			Just downstream of Troy Sidney Road	*976
		Greenville Creek	At mouth at Stillwater River	*869
			About 0.24 mile upstream of Range line Road	*924
			Just upstream of Croft Mill Road	*949
			Just downstream of State Route 721	*961
		Honey Creek	About 1.11 miles downstream of State Route 201	*814
			Just upstream of Dayton-Brandt Road	*842
			At county boundary	*860
		Shawnee Creek	At confluence with Rush Creek	*884
			Just upstream of Industry Road	*901
			About 0.29 mile upstream of Industry Road	*909
		Spring Creek	At mouth at Great Miami River	*836
			Just upstream of Pique-Troy Road	*848
			About 2.48 miles upstream of Pique-Troy Road	*886

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
		Rush Creek	At mouth at Great Miami River	*864
			Just upstream of Hetzler Road	*888
			Just downstream of Interstate 75	*916
		Island No. 3 Tributary	About 0.41 mile downstream of Chessie System	*813
			Just downstream of Interstate 75	*863
			Just upstream of Barnhart Road	*880
			Just upstream of McKaig Road	*902
			Just upstream of Stanfield Road	*922
			Just upstream of Washington Road	*936
			About 0.71 mile upstream of Washington Road	*945
		Eldean Tributary	At mouth at Great Miami River	*839
			Just upstream of Chessie System	*849
			Just downstream of Eldean Road	*868
		Swailes Road Tributary	At confluence with Island No. 3 Tributary	*817
			Just downstream of Peters Road	*835
		Staunton Tributary	At mouth at Great Miami River	*822
			Just upstream of Staunton Road	*835
			Just upstream of Pique-Troy Road	*846
			Just upstream of Dewease Road	*881
		Jones Run	About 150 feet downstream of Polecat Road	*917
			About 0.1 mile downstream of State Highway 48	*902
			Just upstream of Jay Road	*959
			About 0.78 mile upstream of Jay Road	*991
Maps available for inspection at the County Engineer's Office, 201 West Main Steet, Troy, Ohio.				
Pennsylvania	Franklin, township, York County (Docket No. FEMA-6254).	North Branch Bermudian Creek	Downstream Corporate Limits	*490
			Approximately 100 feet upstream of Franklintown Road.	*505
			Confluence of Tributary No. 2	*515
			Confluence of Tributary No. 3	*527
			Approximately 200 feet upstream of U.S. Route 15	*549
		Tributary No. 1	Approximately 200 feet upstream of Century Lane	*565
			Approximately 100 feet downstream of downstream Corporate Limits.	*508
			At first upstream Corporate Limits	*540
			At second upstream Corporate Limits	*572
			Approximately 50 feet upstream of Stoney Run Road	*588
			Approximately 100 feet upstream of Private Road located upstream of State Route 194.	*604
		Tributary No. 2	Confluence with North Branch Bermudian Creek	*515
			Approximately 150 feet upstream of U.S. Route 15	*526
		Tributary No. 3	Confluence with North Branch Bermudian Creek	*527
			Approximately 700 feet upstream of Franklin Church Road.	*536
		Dogwood Run	Approximately 200 feet downstream of downstream of Corporate Limits.	*636
			Approximately 1,400 feet upstream of Greenhouse Road.	*660
			Approximately 3,100 feet upstream of Greenhouse Road.	*687
Maps available for inspection at the Franklin Township Building, Dillsburg, Pennsylvania.				
Utah	North Ogden, city, Weber County (FEMA)–6157)	North Ogden Tributary	140 feet downstream from center of 3100 North Street	*4,545
		Coldwater Gulch	200 feet upstream from center of 500 East Street (at culvert entrance under 500 East Street).	*4,358
		Barrett Gulch	At retention pond east of 450 East Street	*4,750
Maps available for inspection at City Hall, 505 East 2600 North, North Ogden, Utah.				
Utah	Ogden, city, Weber County (FEMA–6153)	Weber River	Downstream edge of 24th Street Viaduct	*4,295
			Upstream edge of State Highway 79	*4,319
		Odgen River	Approximately 150 feet upstream of center of Wall Avenue.	*4,287
			Downstream edge of Valley Drive	*4,407
		Burch Creek	Upstream edge of Shadow Valley Drive	*4,905
		Beus Creek	Approximately 100 feet upstream of center of intersection of 4600 South and Old Post Road.	*4,767
		Jumpoff Gulch	Upstream edge of Jackson Avenue	*4,416
Maps available for inspection at Planning Department, 252 25th Street, Odgen, Utah.				
Washington	Naches, town, Yakima County (Docket No. (FEMA-6286).	Naches River	Approximately 2,700 feet downstream of South Naches Road.	*1,440
			Approximately 2,300 feet upstream of South Naches Road.	*1,470
Maps available for inspection at the Town Hall, Naches, Washington.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: September 1, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25985 Filed 9-20-82; 8:45 am]

BILLING CODE 6716-03-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Parts 95, 205, 304 and 1392

Equipment Acquired Under Public Assistance Programs

AGENCY: Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This rule revises and consolidates current HHS regulations concerning Federal financial participation in the cost of equipment under HHS supported public assistance programs. The rule also revises and consolidates current regulations on the management and disposition of equipment under these programs.

The rule would permit State public assistance agencies to claim the cost of most of their equipment acquired at the time of purchase rather than depreciating the equipment over its useful life as required by the current regulations. This change would allow these agencies to claim Federal financial participation in the cost of the equipment at an earlier date than under the current regulations and would simplify the accounting requirements associated with the equipment.

EFFECTIVE DATE: October 21, 1982.

FOR FURTHER INFORMATION CONTACT: Edward M. Tracy, (202) 245-7411.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** on July 24, 1981 at 46 FR 38280 inviting comments on a proposed revision to the Department's current regulations concerning Federal financial participation in the cost of equipment acquired under HHS supported public assistance programs. The regulation, Subpart G of 45 CFR Part 95, allows equipment costing $25,000 or less to be claimed in the period acquired. Public comments were invited for 60 days ending September 21, 1981. Comments were received from eleven State or local agencies and two medical care providers and were considered in the development of the final regulation.

All the comments to the Notice of Proposed Rulemaking were favorable and many suggested that the Department liberalize its requirements even further by eliminating all prior approval requirements. The following summarizes and discusses the major public comments in response to the Notice of Proposed Rulemaking:

1. Applicability.

Comment: The regulation does not indicate whether the undepreciated amount of equipment acquired prior to the effective date of the regulation can be claimed as of the effective date of this rule.

Response: Equipment acquired before the rule and not fully depreciated as of the effective date of the rule will continue to be subject to the established depreciation schedule in effect prior to the rule.

2. Scope.

Comment: Two medical care providers, while supporting the concept, wanted to know if the rule was applicable to other than State public assistance agencies.

Response: The Notice of Proposed Rulemaking indicated that this Subpart applied to equipment purchased by State public assistance agencies, and under certain conditions, to other providers under contract with a State public assistance agency. Section 95.705(b) identifies these conditions. Specifically, equipment costing $25,000 or less may be claimed by a provider under a service agreement or cost-type contract with the State public assistance agency where the State agency (1) approves the specific purchase and agrees to accept its cost as a claim, and (2) the service agreement or cost-type contract requires the transfer of the equipment or its residual value to the State agency when the equipment is no longer needed to carry out the work under the service agreement or cost-type contract.

3. Relationship to the Food and Nutrition Service (FNS) Requirements.

Comment: To achieve the maximum benefit associated with simplification, the requirements of both the Department of Health & Human Services and the Department of Agriculture's FNS should be the same.

Response: We agree with the comment. Standardization and simplification of a State agency's system of accounting for depreciation requires a uniform approach by the Federal Government. HHS is working with the FNS to standardize these requirements.

Finally, the rule reflects several technical changes resulting from the review of the proposed rule, however, it does not contain any substantive changes. Reference to Parts 1393 and 1396 were eliminated since the Interim Final Block Grant rules issued on October 1, 1981 at 46 FR 48582 removed these two Parts.

The Department has determined that this is not a "major rule" as defined in Executive Order 12291. Because of the continuing nature of the programs affected, the proposed regulation is not expected to have a significant effect on costs in the long-term. There will probably be some additional costs during the transition period where some States convert from depreciation on newly acquired equipment to expensing of the equipment in the year of purchase. However, this is not expected to result in a substantial increase in the overall administrative costs of the programs since equipment is only a relatively small part of these costs, and because a number of States currently expense equipment purchases. Pursuant to the provisions of 5 USC Section 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

Dated: August 18, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

List of Subjects

45 CFR Part 95

Claims, Computer technology, Grant programs—health programs—social programs, Social security.

45 CFR Part 205

Administrative practice and procedure, Aid to families with dependent children, Grant programs—social programs, Public assistance programs, Reporting requirements.

45 CFR Part 304

Child welfare, Grant programs—social programs.

45 CFR Part 1392

Aid to families with dependent children, Child welfare, Grant programs—social programs, Guam, Northern Mariana Islands, Puerto Rico, Virgin Islands, Volunteers.

Accordingly, a new Subpart G is added to 45 CFR Part 95, and 45 CFR Parts 205, 304 and 1392 are amended as follows:

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

A. 45 CFR 205.160 is revised to read as follows:

§ 205.160 Equipment—Federal financial participation.

Claims for Federal financial participation in the cost of equipment for the cash assistance programs under Titles I, IV–A, X, XIV, XVI [AABD] and for the separate administrative unit established under Section 402(a)(19)(G) of the Social Security Act are to be determined in accordance with Subpart G or 45 CFR Part 95. Requirements concerning the management and disposition of equipment under these Titles are also prescribed in Subpart G of 45 CFR Part 95.

PART 304—FEDERAL FINANCIAL PARTICIPATION

B. 45 CFR 304.24 is revised to read as follows:

§ 304.24 Equipment—Federal financial participation.

Claims for Federal financial participation in the cost of equipment under the Child Support Enforcement Program are to be determined in accordance with Subpart G of 45 CFR Part 95. Requirements concerning the management and disposition of equipment under the Child Support Enforcement Program are also prescribed in Subpart G of 45 CFR Part 95.

PART 1392—SERVICE PROGRAM FOR FAMILIES AND CHILDREN; TITLE IV: PARTS A AND B OF SOCIAL SECURITY ACT

C. 45 CFR 1392.66 for the Title IV–B Child Welfare Services Program and the Title IV–A Services Program in the Territories is revised to read as follows:

§ 1392.66 Equipment—Federal financial participation.

Claims for Federal financial participation in the cost of equipment under the Child Welfare Services Program and the Services Program in the Territories are to be determined in accordance with Subpart G of 45 CFR Part 95. Requirements concerning the management and disposition of equipment under these programs are also prescribed in Subpart G of 45 CFR Part 95.

PART 95—GENERAL ADMINISTRATION—GRANT PROGRAMS (PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE)

F. 45 CFR 95.641 is revised to read as follows:

§ 95.641 Exemption from Subpart G of this part.

The capitalization and depreciation provisions of Subpart G of this Part do not apply to ADP equipment provided the Department approves the ADP equipment purchase and approves the claiming of the equipment costs in the period acquired. The equipment management and equipment disposition provisions of Subpart G of this Part do apply to ADP equipment.

G. 45 CFR Part 95 is amended by adding a new Subpart G to read as follows:

Subpart G—Equipment Acquired Under Public Assistance Programs

Sec.

95.701 Purpose and scope of subpart.
95.703 Definitions.
95.705 Equipment costs—Federal financial participation.
95.707 Equipment management and disposition.

Authority: Sec. 1102.49 Stat. 647, 42 U.S.C. 1302.

Subpart G—Equipment Acquired Under Public Assistance Programs.

§ 95.701 Purpose and scope of subpart.

(a) This subpart prescribes requirements concerning the computation of claims for Federal financial participation in the cost of equipment under public assistance programs. This subpart also prescribes requirements for the management and disposition of equipment whose costs are claimed for Federal financial participation under these programs.

(b) This subpart applies to equipment purchased by State agencies (as defined in § 95.703) and to equipment purchased under service agreements with other State agencies and under cost-type contracts.

§ 95.703 Definitions.

As used in this subpart: "Acquisition cost" of an item of purchased equipment means the net invoice price of the equipment, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the equipment usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective intransit insurance shall be included in or excluded from the unit acquisition cost in accordance with the regular accounting practices of the organization purchasing the equipment. If the item is acquired by trading in another item and paying an additional amount, "acquisition cost" means the amount received for trade-in plus the additional outlay.

"Equipment" means an article of tangible personal property that has a useful life of more than two years and an acquisition cost of $500 or more. Any recipient may use its own definition of equipment, if its definition would at least include all items of equipment as defined here.

"Public Assistance Programs" means programs authorized by Titles I, IV–A, IV–B, IV–C, IV–D, IV–E, X, XIV, XVI (AABD) and XIX of the Social Security Act, and programs authorized by the Immigration and Nationality Act as amended by the Refugee Act of 1980 (Pub. L. 96–212).

"State" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Northern Mariana Islands and Guam.

"State Agency" means the State agency administering a public assistance program(s). This term includes local government public assistance agencies which administer public assistance programs under a State supervised system and the State agencies which supervise the local agencies.

§ 95.705 Equipment costs—Federal financial participation.

(a) *General rule.* In computing claims for Federal financial participation, equipment having a unit acquisition cost of $25,000 or less may be claimed in the period acquired or depreciated, at the option of the State agency. Equipment having a unit acquisition cost of more than $25,000 shall be depreciated. For purposes of this section, the term "depreciate" also includes use allowances computed in accordance with the cost principles precribed in Subpart Q of 45 CFR Part 74.

(b) *Exceptions.* (1) Equipment purchased under service agreements with other State agencies and under cost-type contracts shall be depreciated. However, equipment having a unit acquisition cost of $25,000 or less may be claimed in the period acquired if (a) the State agency approved the specific purchase and the claiming of the cost of the item, and (b) the contract or service agreement requires that the equipment or its residual value be transferred to the State agency when the equipment is no longer needed to carry out the work under the contract or service agreement.

(2) Reimbursement for ADP equipment having an acquisition cost in excess of $25,000 and subject to Subpart F of this Part must be depreciated over its useful life unless otherwise specifically provided for by the Department. ADP equipment not subject to Subpart F is subject to the requirements of this Subpart.

§ 95.707 Equipment management and disposition.

(a) An item of equipment is subject to the property rules in Subpart O of 45 CFR Part 74 if the total cost of the item was claimed in the period acquired and if the item was accepted for Federal financial participation as a direct cost under a single program or program activity. These rules also apply to ADP equipment where the State agency was permitted under Subpart F of this part to claim the total cost of the equipment in the period acquired.

(b) Other items of equipment whose costs are claimed for Federal financial participation (i.e., equipment that is capitalized and depreciated or is claimed in the period acquired and charged to more than one program) are not subject to the specific requirements in Subpart O of 45 CFR Part 74. However, the State agency is responsible for adequately managing the equipment, maintaining records on the equipment, and taking periodic physical inventories. Physical inventories may be made on the basis of statistical sampling. The following requirements apply to the disposition of this equipment:

(1) If the cost of the equipment was claimed in the period acquired and the equipment is later sold, the proceeds of the sale shall be credited to current expenditures in approximate proportion to the distribution of the equipment's cost.

(2) If the cost of the equipment was claimed in the period acquired and the equipment is later transferred to an activity which is not involved in the performance of programs currently or previously funded by the Federal Government, an amount equal to the fair market value of the Equipment on the date of the transfer shall be credited to current expenditures in approximate proportion to the distribution of the equipment's costs.

(3) If the cost of the equipment was claimed in the period acquired and the equipment is later traded in on other equipment claims for Federal financial participation in the costs of replacement equipment shall be limited to the additional outlay.

(4) If the equipment was depreciated, any gain or loss on the disposition of the equipment shall be treated as a decrease or an increase to the depreciation expense of the period in which the disposition takes place. This provision does not apply to equipment whose costs were claimed for Federal financial participation through use allowances.

[FR Doc. 82-25967 Filed 9-20-82; 8:45 am]
BILLING CODE 4150-04-M

Proposed Rules

Federal Register
Vol. 47, No. 183
Tuesday, September 21, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1207

Potato Research and Promotion Plan; Hearing on Proposed Amendment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of hearing on proposed rule.

SUMMARY: Notice is hereby given of a public hearing to be held to consider a proposed amendment of the Potato Research and Promotion Plan (hereinafter called the "Plan"). The proposal was submitted by the Potato Board, the industry organization administering the plan. The principal changes proposed would authorize an increase in the rate of assessment, the addition of a public member to the Board, and reimbursement of referendum and administrative costs to the Department. The text of the proposals to be considered is set forth below.

DATE: The hearing is scheduled for September 28, 1982, at 9:30 a.m.

ADDRESS: The hearing will be held in the Denver Federal Building, Room 1083, 1961 Stout Street, Denver, Colorado.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447-2615.

SUPPLEMENTARY INFORMATION: This action is exempt from the requirements set forth in E.O. 12291 and has been classified as nonmajor in accordance with USDA guidelines. The hearing is called pursuant to the provisions of the Potato Research and Promotion Act, as amended (title III of Pub. L. 91-670. 91st Congress, approved January 11, 1971, 84 Stat. 2041), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate a plan (7 CFR Part 1200).

Seven days notice for this hearing should be sufficient since this amendment has already been widely discussed and strongly endorsed by all known potato organizations and the proposal is well-known within the industry. Therefore, any persons directly affected by the proposal would not be prohibited from participating in the hearing because of this notice period. Further, increasing operating costs since 1972 have seriously eroded the ability of the Potato Board to conduct an effective promotion program as mandated by Congress in approving the Potato Research and Promotion Act and the amendment to it. Therefore, it is impracticable and contrary to the public interest to give additional notice.

The public hearing is for the purpose of:

(a) Receiving evidence about the economic and marketing conditions which relate to the proposed amendment and the program under which it would be effective;

(b) Determining whether there is a need for an amendment to the Potato Research and Promotion Plan to carry out an effective and continuous coordinated program of research, development, advertising, and promotion for potatoes;

(c) Determining whether the proposed amendment or an appropriate modification of it will tend to effectuate the declared policy of the act.

The Regulatory Flexibility Act (Pub. L. 96-354), effective January 1, 1981, seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of this action, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Under the provisions of the Potato Research and Promotion Act, potato producers who grow less then five acres of potatoes are exempt from paying assessments. Nonexempt potato producers are subject to the same regulatory, recordkeeping, and reporting requirements of the law. In addition, all such nonexempt producers may receive a refund of their assessment upon demand to the National Potato Promotion Board. Interested parties are invited to present evidence at the hearing on the probable regulatory and informational impact of the proposals on small businesses.

List of Subjects in 7 CFR Part 1207

Administrative practice and procedure, Advertising, Agricultural research, Potatoes.

PART 1207—POTATO RESEARCH AND PROMOTION PLAN

The proposed amendment, set forth below, has not received the approval of the Secretary of Agriculture.

Proposal No. 1

Revise paragraphs (a) and (b) of § 1207.320 to read:

§ 1207.320 Establishment and membership.

(a) There is hereby established a National Potato Promotion Board, hereinafter called the "Board," composed of producers and the public as selected by the Secretary. The public representative to the Board shall be nominated by Board members in such manner as recommended by the Board and approved by the Secretary. Producer members shall be selected from nominations submitted by producers in the various States or groups of States pursuant to § 1207.322.

(b) Producer membership on the Board shall be determined on the basis of the potato production set forth in the latest Crop Production Annual Summary Report issued by the Crop Reporting Board, U.S. Department of Agriculture. Each of the 48 contiguous State's producer membership shall be initially determined on the basis of one member for each five million hundredweight of production, or major fraction thereof, produced within such State. Each State initially shall be entitled to at least one producer member on the Board. The public member shall have no direct financial interest in the commercial production or marketing of potatoes except as a consumer and shall not be a director, officer or employee of any firm so engaged. The basis for determining the membership of future boards shall be determined by the Secretary upon recommendation of the Board.

* * * * *

Proposal No. 2

§ 1207.320 [Amended]

Add a new paragraph (e) to § 1207.320 to read:

* * * * *

(e) In the event that producer Board members fail to select a public representative nominee the Secretary may appoint such a member.

Proposal No. 3

§ 1207.322 [Amended]

Where "members" or "nominees" appears in paragraphs (a), (b), and (c) of § 1207.322 insert "producer" before each. Also, add a new paragraph (d) to § 1207.322 to read:

* * * * *

(d) The public member shall be nominated by the producer members of the Board. The Board shall prescribe such additional qualifications, administrative rules and procedure for selection and voting for each candidate as it deems necessary and the Secretary approves.

Proposal No. 4

§ 1207.328 [Amended]

Amend paragraph (a) of § 1207.328 by adding "to nominate the public member;" after "of Board members;".

Proposal No. 5

§ 1207.341 [Amended]

Revise paragraph (b) of § 1207.341 to read:

* * * * *

(b) The Board is authorized to incur such expenses for research, development, advertising, or promotion of potatoes and potato products, such other expenses for the administration, maintenance, and functioning of the Board, and any referendum and administrative costs incurred by the Department of Agriculture as are approved pursuant to § 1207.361.

* * * * *

Proposal No. 6

§ 1207.342 [Amended]

Revise paragraph (a) of § 1207.342 to read:

(a) The funds to cover the Board's expenses shall be acquired by the levying of assessments upon handlers as designated in regulations issued by the Board. Such assessments shall be levied at a rate fixed by the Secretary which shall not exceed one-half of one per centum of the immediate past ten calendar year average United States average price received for potatoes by growers as reported by the Department of Agriculture and not more than one such assessment may be collected on any potatoes.

* * * * *

Proposal No. 7

Make such changes as may be necessary to make the entire Plan conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the Plan may be obtained from Kurt J. Kimmel, Fruit and Vegetable Division, AMS, Room 2545–S, U.S. Department of Agriculture, Washington, D.C. 20250, or from Robert B. Case, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, 721 19th Street, Room 365, Denver, Colorado 80202.

From the time this hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture;

Office of the Administrator, Agricultural Marketing Service;

Office of the General Counsel;

Fruit and Vegetable Division, Agricultural Marketing Service.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

(Title III of Pub. L. 91–670; 84 Stat; 7 U.S.C. 2611–2627)

Signed at Washington, D.C., on September 17, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82–26099 Filed 9–20–82; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 145

[Docket No. 82N–0160]

Canned Fruits; Proposal To Remove Standards of Identity for Canned Fruits With Rum

AGENCY: Food and Drug Administration.

ACTION: Proposal.

SUMMARY: The Food and Drug Administration (FDA) is proposing to remove the standards of identity for canned apricots with rum, canned cherries with rum, canned peaches with rum, and canned pears with rum and is inviting comments regarding the need for such standards. This action is taken in conjunction with FDA's plan for the retrospective review of existing standards to minimize regulatory burdens as required by the Regulatory Flexibility Act and Executive Order 12291.

DATE: Comments by November 22, 1982.

ADDRESS: Written comments, data, or information to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: FDA is required by the Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act of 1980 to review its existing regulations. FDA published a notice in the **Federal Register** of July 14, 1981 (46 FR 36333) announcing the undertaking of a systematic review of its regulations to minimize regulatory burden while maintaining an acceptable level of consumer protection. Among the regulations scheduled for review by FDA during the retrospective review process are the four standards of identity for canned fruits with rum. This action is also in accordance with the Administration's desire for fewer regulations.

In the **Federal Register** of October 23, 1947 (12 FR 6907), FDA published standards of identity for canned apricots with rum (21 CFR 27.13), canned cherries with rum (21 CFR 27.33), canned peaches with rum (21 CFR 27.3), and canned pears with rum (21 CFR 27.23). In the **Federal Register** of March 15, 1977 (42 FR 14302), these regulations were recodified as 21 CFR 145.118, 145.128, 145.173, and 145.178, respectively. Canned apricots with rum, canned cherries with rum, canned peaches with rum, and canned pears with rum conform to the definitions and standards of identity prescribed for canned apricots (21 CFR 145.115), canned cherries (21 CFR 145.125), canned peaches (21 CFR 145.170), and canned pears (21 CFR 145.175), respectively, except that they contain added rum in an amount such that the alcohol content is more than 3 percent but less than 5 percent by weight.

FDA is unaware of any manufacturer producing these foods. Therefore, the agency believes that the standards of

identity are no longer necessary to protect the interest of consumers. Comments are invited on whether there is a need for these standards. If the comments received do not indicate a need for these standards, FDA will remove them.

In accordance with the Regulatory Flexibility Act, FDA has reviewed the proposed rule to repeal the standards of identity for canned apricots with rum, canned cherries with rum, canned peaches with rum, and canned pears with rum and determined that this proposal would not have a significant impact on small entities including small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

List of Subjects in 21 CFR Part 145

Canned fruit, Food standards, Fruits.

PART 145—CANNED FRUITS

§§ 145.118, 145.128, 145.173 [Removed]

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 145 be amended by removing § 145.118 *Canned apricots with rum,* § 145.128 *Canned cherries with rum,* § 145.173 *Canned peaches with rum,* and § 145.178 *Canned pears with rum.*

Interested persons may, on or before November 22, 1982, submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 13, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25713 Filed 9-20-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 168

[Docket No. 81N-0238]

Fructose; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of the establishment of a United States standard for fructose based on the Recommended International Standard for Fructose (Codex standard) because there is neither sufficient interest nor need to warrant proposing a U.S. standard for this food.

EFFECTIVE DATE: September 21, 1982.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HHF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 11, 1981 (46 FR 60625), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex standard and to comment on the desirability and need for a U.S. standard for this food. The Codex standard was submitted to the United States for consideration for acceptance by the Joint Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission.

Four letters, each containing several comments, were received from three trade associations and an ingredient supplier, which stated that there is no need for a United States standard for fructose and recommended that the proposed standard be withdrawn from the rulemaking process.

One comment stated that it is inappropriate for FDA to state that fructose complying with the Codex standard may move in interstate commerce because the loose requirements of the standard would allow the use of fructose of lower quality than that defined by the Food Chemicals Codex specifications.

The agency advises that, inasmuch as this notice terminates consideration of need for a U.S. standard for this food, fructose which moves in interstate commerce in this country will continue to be a nonstandardized food and, regardless of whether it meets Codex requirements, must meet the requirements of all applicable U.S. laws and regulations. FDA considers fructose to be a generally recognized as safe (GRAS) ingredient, even though the agency has not published this determination, and as such, the agency advises that the food Chemicals Codex specifications for fructose constitute adequate minimum purity specifications for this ingredient in accordance with § 182.1(b)(3) (21 CFR 182.1(b)(3)).

Having considered all the comments received and all relevant information, FDA has concluded that there is neither sufficient interest nor need to warrant proposing a U.S. standard at this time for fructose under authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing a U.S. standard for fructose based upon the Codex standard. This action is without prejudice to further consideration of the development of a U.S. standard for fructose upon appropriate justification.

The Codex Alimentarius Commission will be informed that an imported food that complies with the requirements of the Codex standard may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations and the specifications for fructose in the Food Chemicals Codex, 3d Ed. (1981).

Dated: September 13, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25992 Filed 9-20-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 330

[Docket No. 82N-0050]

Over-the-Counter Human Drugs Which Are Generally Recognized as Safe and Effective and Not Misbranded; Proposed Amendment of General Provisions; Correction

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration is correcting several items in the preamble of a proposal to include a warning concerning the use of systematically absorbed OTC drugs by pregnant or nursing women.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In FR Doc. 82-24452 appearing at page 39470 in the issue for Tuesday, September 7, 1982 (47 FR 39470), the following changes are made:

1. On page 39470 in the second column in the first sentence of the second complete paragraph, the words "enacted legislation" are changed to read "adopted a regulation", and the words "Health and Safety" are changed to read "Administrative". In the third sentence, "statute" is changed to read "requirement".

2. On page 39471 in the second column in the third sentence of the first complete paragraph, the "law" is removed. In the fourth sentence, "law" is changed to read "regulation".

3. On page 39471 in the third column in the third sentence of the first complete paragraph, "law" is changed to read "regulation".

Dated: September 15, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25691 Filed 9-20-82; 8:45 am]
BILLING CODE 4160-01-M

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21 CFR Part 357

[Docket No. 79N-0378]

Anthelmintic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

Correction

In FR Doc 82-23024, at page 37062, in the issue of Tuesday , August 24, 1982, make the following corrections:

1. On page 37063, first column, first paragraph, line 3, correct "on" to read "no".

2. On page 37065, first column, ninth line from the bottom, correct "20:5484" to read "20:584".

3. On page 37066, last column, fifth paragraph, line 14, correct "December 22, 1980." to read "December 22, 1982."

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

Foreign Investment in United States Real Property; Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this **Federal Register**, the Internal Revenue Service is issuing temporary income tax regulations relating to foreign investment in U.S. real property interests. The temporary regulations also serve as a notice of proposed rulemaking for final income tax regulations.

DATES: Written comments and requests for a public hearing must be delivered or mailed before November 22, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-30-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Diane L. Renfroe of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (LR-154-82), 202-566-3289.

SUPPLEMENTARY INFORMATION: The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** add a new part 6a, Temporary Income Tax Regulations under Subtitle C of Title XI of the Omnibus Reconciliation Act of 1980, to Title 26 of the Code of Federal Regulations. The final regulations that are proposed to be based on the temporary regulations would amend 26 CFR Part 1.

For the text of the temporary regulations, see FR Doc. 82-25829 [T.D. 7832] published in the Rules and Regulation portion of this issue of the **Federal Register.**

Regulatory Flexibility Act and Executive Order 12291

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6). The Commissioner of Internal Revenue has determined that this proposed rule is not subject to Executive Order 12291.

List of Subjects in 26 CFR Part 1

Income taxes, Administration and procedure, Aliens, Exports, DISC, Filing requirements, Foreign investment in U.S., Foreign tax credit, Sources of income, United States investments abroad.

Comments and Requests For a Public Hearing

Before adopting the temporary and proposed regulations referred to in this document as final regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 82-25830 Filed 9-10-82; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Cancellation of Public Hearing on Modified Portion of the Illinois Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Cancellation of public hearing.

SUMMARY: OSM is announcing the cancellation of a public hearing on the adequacy of a proposed amendment to the Illinois permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977. This notice cancels the public hearing but does not alter the time and location at which the Illinois program and proposed amendment are available for public inspection, or the comment period during which interested persons may submit written comments on the proposed program amendment.

DATE: The following hearing is cancelled: The public hearing on the proposed amendment to the Illinois program scheduled for September 23, 1982, at 1:00 p.m.

ADDRESS: Written comments should be mailed or hand-delivered to: Daniel Jones, Field Office Director, Illinois Field Office, Office of Surface Mining, No. 4 Old Capital Plaza North, Springfield, Illinois 62701.

FOR FURTHER INFORMATION CONTACT: Daniel Jones, Field Office Director, Illinois Field Office, Office of Surface Mining, No. 4 Old Capital Plaza North, Springfield, Illinois 62701, Telephone: (217) 492-4486.

SUPPLEMENTARY INFORMATION: On September 1, 1982, notice of opportunity

for a public hearing on the proposed amendment to the Illinois program was published in the Federal Register (47 FR 38555). The notice stated that any person interested in making an oral or written presentation at the hearing should contact Daniel Jones by September 14, 1982, and that if no person contacted Mr. Jones to express an interest in participating in the hearing by the above date, the hearing will be cancelled. Because no one expressed an interest in attending the hearing, the hearing has been cancelled.

While there is no public hearing, interested persons may still submit written comments on the proposed amendment. Written comments must be received on or before 4:00 p.m. on September 27, 1982, to be considered in the Director's decision on whether to approve or disapprove the amendment. Written comments should be mailed or hand-delivered to the address listed above under "Address".

Dated: September 15, 1982.

Arthur W. Abbs,

Assistant Director, Program Operations and Inspection.

[FR Doc. 82-25885 Filed 9-20-82; 8:45 am]
BILLING CODE 4310-05-M

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30 CFR Part 944

Public Comment and Opportunity for Public Hearing on Modified Portions of the Utah Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule: Notice of receipt of permanent program modifications; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of program amendments submitted to satisfy conditions imposed by the Secretary of the Interior on the approval of the Utah Permanent Regulatory Program (hereinafter referred to as the Utah program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Utah program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed at the public hearing.

DATES: Written comments from members of the public must be received by 4:30 p.m. on October 15, 1982, to be considered in the Secretary's decision on whether the proposed amendments satisfy the conditions of approval.

A public hearing on the proposed amendments has been scheduled for October 8, 1982. Any person interested in making an oral or written presentation at the hearing should contact Mr. Robert Hagen at the address and telephone number listed below by September 25, 1982. If no person has contacted Mr. Hagen by this date to express an interest in participating in this hearing, the hearing will be cancelled. A notice announcing any cancellation will be published in the Federal Register.

ADDRESSES: The public hearing will be held between 8:30 a.m. and 12 p.m. at the Conference Room, Room No. 4108, 4241 State Office Building, Salt Lake City, Utah. Written comments and requests for an opportunity to speak at the public hearing should be sent to Mr. Robert Hagen, Director, New Mexico Field Office, Office of Surface Mining Reclamation and Enforcement, 219 Central, N.W., Albuquerque, New Mexico 87102.

Copies of the Utah program, the proposed modifications to the program and all written comments received in response to this notice will be available for public review at the OSM Field Office above and at the OSM Headquarters office and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Utah Division of Oil, Gas and Mining, Department of Natural Resources, 4241 State Office Building, Salt Lake City, Utah, Telephone: (801) 533-5771

Office of Surface Mining, Room 5315, 1100 "L" Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone: (202) 343-5351.

SUPPLEMENTARY INFORMATION: On March 3, 1980, the State of Utah submitted to the Department of the Interior its proposed permanent regulatory program under SMCRA.

On October 3, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program. Notice of that decision and the Secretary's findings were published in the Federal Register on October 24, 1980 (45 FR 70481-70510). The State of Utah resubmitted the program for approval by the Secretary on December 23, 1980. The resubmitted program included those portions of the initial submission not approved by the Secretary on October 3, 1980. After thoroughly reviewing the program resubmission and providing an opportunity for the public to comment, the Secretary of the Interior determined that the Utah program, including the resubmission did, with minor exceptions, meet the Federal permanent program regulations. Accordingly, the Secretary of the Interior conditionally approved the Utah program subject to the correction of twelve minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the January 21, 1981 Federal Register (46 FR 5899-5915).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Utah program can be found in the January 21, 1981 Federal Register (46 FR 5899-5915).

In accepting the Secretary's conditional approval, Utah agreed to satisfy conditions "a"-"e" by December 1, 1981, and conditions "f"-"l" by July 1, 1981.

Subsequently, Utah requested an extension of the deadline to meet conditions "f", "g", and "h" until January 1, 1982. On October 30, 1981 (46 FR 54070), OSM announced the Secretary's decision to approve the extension.

Upon the State's request the deadline for the State to meet condition "f" was further extended to September 1, 1982, and the deadline for the State to meet condition "h" to January 1, 1983 (47 FR 234155-234156, May 27, 1982).

On June 29, 1981, Utah submitted statutory and regulatory revisions intended to satisfy conditions "a"-"e", "g" and "i"-"l".

On June 22, 1982 (47 FR 26827-26831), the Assistant Secretary for Energy and Minerals announced his decision to remove conditions "a"-"e", "j"and "l" and to grant Utah until September 1, 1982, to submit modifications to satisfy conditions "g", "i" and "k". In the June 22, 1982 notice, the Assistant Secretary also announced his decision to impose a new condition "m" requiring the State to correct by January 1, 1983, a deficiency in the State program which had come to OSM's attention.

On August 26, 1982, Utah adopted and submitted to OSM regulatory modifications intended to satisfy conditions "f", "g", "i" and "k". With regard to conditions "g", "i" and "k", Utah previously submitted on June 29, 1981, amendments to address those conditions. Because the Secretary determined that the provisions submitted by Utah on June 29, 1981, did not fully satisfy the conditions of approval, the State was granted an extension until September 1, 1982, to submit additional modifications to meet those conditions.

Following is a description of the provisions submitted by the State on August 26, 1982, and of the conditions they are intended to satisfy:

Condition "f" of the Secretary's approval of Utah's program stipulates that Utah must submit to the Secretary by September 1, 1982, copies of fully enacted regulations adopting standards for the reduction of highwalls in UMC 817.101(b)(1) to be consistent with 30 CFR 817.101 and Section 510 of SMCRA, or otherwise amend its program to accomplish the same result. To satisfy this condition, Utah amended UMC 817.101(b) by adding a new paragraph (8) which sets forth three additional criteria that must be met before the Division may allow the retention of highwalls.

Condition (g) of the Secretary's conditional Utah program approval states that Utah must submit by September 1, 1982, copies of fully enacted regulations adopting a sediment pond exemption provision in UMC 817.42(a)(3) consistent with 30 CFR 817.42(a)(ii)(A).

In response to this condition, the State previously submitted on June 29, 1981, the following amended version of UMC 817.42(a)(3)(i) and 817.42(a)(3)(ii)(A)(B): 817.42(a)(3)(i): The person who conducts the underground coal mining activities demonstrates, by the use of alternative sediment control measures, that the drainage will:

(A) Either meet all applicable State and Federal effluent limitation standards, or

(B) Not degrade the quality of receiving waters.

817.42(a)(3)(ii)(A): There shall be no mixture of undisturbed drainage with a discharge from the underground workings

(B) Any mixing of disturbed area drainage with a discharge from underground mine workings shall:

(1) Be passed through approved treatment facilities, as necessary, and

(2) Meet all applicable State and Federal effluent limitation standards, where it leaves the permit area.

After reviewing this provision, the Director determined that it was inconsistent with the Federal standard in two respects (see 47 FR 26827–26831, June 22, 1982).

The above version of UMC 817.42(a)(3)(i) specified that the regulatory authority may authorize an exemption from the sedimentation pond requirement if the underground mine operator demonstrates that the drainage *either* meets applicable effluent limitation standards *or* does not degrade the quality of receiving waters. The Secretary determined that the State's provision was inconsistent with OSM's regulations at 30 CFR 817.42(a)(3)(i) which requires that the operator demonstrate that the drainage meets both the effluent limitation standards and the water quality standards for receiving streams.

In addition, the previously submitted version of UMC 817.42(a)(3)(i)(B) provided that the person who conducts underground coal mining activities shall demonstrate that the drainage will not degrade the quality of receiving waters. However, the State regulation did not specify what standards were to be used in determining whether the quality of receiving waters had been degraded. The Secretary determined that Utah's regulation must specify that the State will rely on applicable State and Federal water quality standards to determine whether the quality of receiving waters had been degraded.

Because Utah submitted material to satisfy this condition which the State, in good faith believed to be adequate, the Secretary decided to extend the deadline for Utah to satisfy condition "g" until September 1, 1982, in order to allow the State time to submit further modifications to address the deficiencies noted above.

The amendment submitted by Utah on August 26, 1982, on which the Secretary invites comment, further revises UMC 817.42(a)(3) to provide (1) that the sedimentation pond exemption may be granted only for small areas and (2) that UMC 817.42(a)(3)(i) be revised to read as follows: "The person who conducts the underground coal mining activities demonstrates, by the use of alternative sediment control measures, that the drainage will met all applicable State and Federal effluent limitation standards."

Condition (i) of the Secretary's conditional Utah program approval states that Utah must submit by September 1, 1982, copies of fully enacted regulations adopting well transfer liability provisions in UMC 817.53(c) consistent with 30 CFR 817.53(c).

In response to this condition, the State previously submitted on June 29, 1981, the following amended sections UMC 817.53(c) and SMC 816.53(c): (c) Upon an approved transfer of a well, the transferor shall be secondarily responsible to the regulatory authority for the transferee's obligations under subparagraphs (b)(2) and (b)(3) of this section until final release of the bond or other equivalent guaranty required by Subchapter J for the area in which the well is located. Any legal liability of the transferor for damage to persons or property from the well shall be determined in accordance with applicable law.

The Secretary found (47 FR 26827–26831, June 22, 1982) that the amended rules previously submited by Utah were less effective than the corresponding Federal regulations. Under 30 CFR 816.53(c), the transferor shall be secondarily liable for damages to "persons or property from the well" until release of the bond. Utah's rules differed from their Federal counterparts in that the transferor was not secondarily liable for damage to persons or property but rather "secondarily responsible" to the regulatory authority for meeting the requirements of the State program regulations. Under Utah's previously submitted regulation the legal liability of the transferor for damage to persons or property from the well would have been determined in accordance with applicable law. The Secretary determined that the State's provision was, therefore, not as effective as the Federal regulations because the transferor was not held secondarily liable in all cases for damages to persons or property. Because Utah submitted material to satisfy this condition which the State, in good faith, believed to be adequate, the Secretary decided to extend the deadline for Utah to satisfy this condition to September 1, 1982.

On August 26, 1982, Utah submitted for OSM's approval an amendment to UMC 817.53(c) and SMC 816.53(c) which deletes in each the words "responsible to the regulatory authority" and inserts "secondarily liable" in their place.

Condition (k) of the Secretary's conditional Utah program approval states that Utah must submit by September 1, 1982, copies of fully enacted regulations prohibiting the placement of certain materials on the downslope in steep slope areas in UMC 817.101(c) consistent with 30 CFR 826.12(a).

In response to this condition, the State previously submitted the following amended section UMC 817.101(c):

(c) The following materials shall be prevented from being placed on the downslope of a steep slope as defined in UMC 700.5, except that nothing in this section shall prohibit the placement of material in road and portal pad embankments located on the downslope, so long as the material used and the embankment design comply with the applicable requirements of UMC 817.150–817.180 and the material is moved and placed in a controlled manner.

(1) Spoil;

(2) Waste materials, including waste mineral matter;

(3) Debris, including that from clearing and grubbing of land road construction or portal pad construction, and;

(4) Abandoned or disabled equipment.

Nothing in this subsection (c) prohibits placement of the following materials on steep slopes in accordance with provisions of other performance standards.

The Secretary determined that this provision previously submitted by Utah was consistent with 30 CFR 826.12(a) with one exception. The last sentence in the State's rule appeared to create ambiguity with respect to when an exemption to the requirements of UMC 817.101 could be granted. To eliminate any ambiguity with regard to the State's provision, OSM asked Utah to submit a clarifying statement regarding the last sentence of UMC 817.101(c) explaining what "materials" could be placed on steep slopes under the deadline for Utah to meet condition "k" until September 1, 1982, to allow the State time to submit the clarifying statement.

On August 26, 1982, Utah submitted to OSM an amendment to UMC 817.101(c) revising the last sentence of that section to read: "Nothing in this subsection (c) prohibits placement of durable rock in an engineered fill in accordance with 817.71(e)(2)."

The provisions submitted by Utah on August 26, 1982, are available in full text for public review at the addresses listed above. The Secretary seeks comment on whether the amendments submitted by Utah on that date satisfy the Secretary's conditions as listed at 30 CFR 944.11(f), (g), (i), and (k).

Additional Determinations

1. Compliance With the National Environmental Policy Act

The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Compliance With the Regulatory Flexibility Act

The Secretary hereby determines that this proposed rule will not have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

2. Compliance With Executive Order No. 12291

On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining exemption from sections 3, 4, 6, and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, State regulatory programs, actions, or amendments. Therefore a Regulatory Impact Analysis and regulatory review by OMB is not needed for this program amendment.

List of Subjects in 30 CFR Part 944

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: September 14, 1982.

J. Steven Griles,

Deputy Director, Office of Surface Mining.

[FR Doc. 82-25870 Filed 9-7-82; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 947

Surface Mining and Reclamation Operation Under a Federal Program for Washington

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of extension of public comment period.

SUMMARY: On June 21, 1982 (47 FR 26794), OSM published the proposed Federal program for the State of Washington for public comment that would regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Washington. Since its publication OSM extended the public comment period and postponed the public hearing twice for the convenience of commenters who had indicated that additional time was needed to adequately review and comment on the proposed Federal Program. OSM finds it necessary to extend the public comment period for the same reasons.

DATES:

Written Comments: The close of the comment period on the proposed Federal program is extended to 5:00 p.m. on October 20, 1982.

Public Hearing: The public hearing on the proposed Federal program was held on September 17, 1982, at 1:00 p.m., as scheduled.

ADDRESSES:

Written Comments: Hand-delivered to the Office of Surface Mining, Wyoming State Office, Freden Bldg., 935 Pendell Blvd., Mills, Wyoming 82244, or mail to Administrative Record (R&I–21), Office of Surface Mining, Wyoming State Office, P.O. Box 1420, Mills, Wyoming 82644.

Public Hearing: State of Washington General Administation Building Conference Room, Capitol Campus, Olympia, Washington 98504 beginning at 1:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240; 202–343–5866.

Dated: September 16, 1982.

Donald Willen,

Acting Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 82-25850 Filed 9-20-82; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5 FRL 2053-6]

Approval and Promulation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes rulemaking on revisions to the total suspended particulate (TSP) and legal authority portions of the Ohio State Implementation Plan. These revisions were made pursuant to Part D of the Clean Air Act. EPA is today proposing to conditionally approve the overall Ohio TSP plan and to approve the revisions made to the legal authority portion of the SIP. EPA notes that today's proposed approval does not supersede EPA's previous rulemaking action on the area specific SIP revision developed for Middletown, Ohio (46 FR 19468) and the site-specific SIP revision developed for Owens-Corning Fiberglass (46 FR 62848), General Motors Central Foundry (47 FR 13535) and Republic Steel Youngstown Plant (47 FR 9834). Presented below in the Supplementary Information portion of this notice is a discussion of EPA's

evaluation of and proposed action on specific portions of the Ohio TSP plan and legal authority. Interested individuals are invited to comment on these revisions and on EPA's proposed action on them.

DATE: Comments on these revisions and on EPA's proposed action must be received by October 21, 1982.

ADDRESSES: Copies of the SIP revision are available at the following addresses. (It is recommended that you telephone the contact person lists below before visiting the Region V Office of EPA).

Environmental Protection Agency, Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604

Ohio Evironmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, EPA, Region V, 230 S. Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Delores Seija, Regulatory Analysis Section, Air Programs Branch, EPA, Region V, 230 S. Dearborn Street, Chicago, Illinois 60604, (312) 886–6038.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962) and on October 5, 1978 (43 FR 45993), pursuant to the requirements of section 107 of the Act, EPA designated certain areas in each state as nonattainment with respect to the National Ambient Air Quality Standards (NAAQS) for total suspended particulates (TSP).

Part D of the Clean Air Act requires State Implementation Plans (SIP) to include strategies and regulations adequate to insure attainment of the primary NAAQS as expeditiously as practicable, but no later than December 31, 1982, and in the interim, to provide reasonable further progress toward attainment through the application of reasonable available control technology (RACT). The requirements for an approvable SIP are described in a **Federal Register** notice published on April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979 notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

Where attainment cannot be demonstrated despite the application of RACT to traditional sources of particulate matter, EPA will accept a commitment by the State to conduct additional studies on the causes of particulate nonattainment and to develop and to submit to EPA additional strategies and enforcement regulations, measures, and orders adequate to demonstrate attainment of the primary TSP standards by the statutory attainment date. These studies would include information on the degree to which nontraditional area sources of particulate matter, such as dust from construction or traffic activities, affect air quality. EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by an application of control technology that is reasonably available considering technological and economic feasibility. EPA articulated its definition of RACT in the April 4, 1979 **Federal Register** and in a memorandum from Roger Strelow, former Assistant Administrator for Air and Waste Management, to Regional Administrator, Regions I–X, on "Guidance for Determining Acceptability of SIP Regulations in Non-attainment Areas." Section 1.a. (December 9, 1978), reprinted in (1976) 7 Environmental Reporter, Current Developments (BNA) 1210 col. 2; and in EPA's publication Workshop on Requirements for Non-attainment Area Plans-Compilation of Presentations 154 (OAQPS No. 1.2–103, revised edition April 1978). Depending on site specific considerations, such as geographic constraints, RACT can differ for similar sources.

EPA believes that the burden of demonstrating that a regulation represents RACT rests on the state. In reviewing a proposed SIP revision to determine its adequacy, EPA can verify independently that the provisions in the state plan represent RACT. Although EPA has not specified uniform RACT standards for the iron and steel industry, it has collected data which reflect the emission limitations achieved by various iron and steel sources applying control technology. As EPA noted in the September 8, 1980 **Federal Register** (45 FR 59198) these data are available for review at EPA's, Region V Offices. Where a state proposes regulations which are not technically supported by EPA's data, the state must submit adequate data supporting its proposal as representing RACT.

EPA's proposed rulemaking can take one of three forms: approval, conditional approval and disapproval. A discussion of conditional approval and its practical effect appears in the July 2, 1979 **Federal Register** (44 FR 38583) and the November 23, 1979 **Federal Register** (44 FR 67182). A conditional approval requires the State to submit additional materials by the specified deadlines negotiated between the State and EPA prior to final rulemaking. A conditional approval will mean that the restrictions on new major source construction in the area will not apply unless the State fails to submit the necessary material by the scheduled date, or if it is not approved by EPA. Conditional approvals will not be granted without assurance by the appropriate State official(s) that the deficiencies will be corrected by the date specified.

It should be further noted that the measures proposed for promulgation today will be in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations for any source will remain applicable and enforceable to prevent a source from operating without controls, or under less stringent controls, while it is moving toward compliance with the new regulations or if it chooses, challenging the new regulations. In some instances, the present emission control regulations contained in the federally-approved SIP are different from the regulations currently being enforced by the State. In these situations, the present federally-approved SIP will remain applicable and enforceable until there is compliance with the newly promulgated and federally-approved regulations. Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of noncompliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability of the new regulations, because of a court order or for any other reason, the pre-existing regulations will be applicable and enforceable.

The only exception to this rule is in cases where there is conflict between the requirements of the new regulations and the requirements of the existing regulations such that it would be impossible for a source to comply with the pre-existing SIP while moving toward compliance with the new regulations. In these situations, the State may exempt a source from compliance with the pre-existing regulations. Any exemption granted will be reviewed and acted on by EPA.

In Ohio, there are 47 counties which are presently designated, either in part or entirely, nonattainment for the primary and/or secondary TSP NAAQS. These counties are listed in Chapter 81.355 of title 40 of the Code of Federal Regulations (40 CFR 81.335). Defiance, Henry, Ross and Clermont Counties, which were designated nonattainment in the October 5, 1978 **Federal Register**, were redesignated to attainment or unclassifiable on July 16, 1981 (46 FR 36701), September 25, 1981, (46 FR 47221), October 8, 1981, (46 FR 49857)

and November 25, 1981 (46 FR 57677), respectively.

To remedy its TSP nonattainment problems, the State of Ohio on June 13, 1980, September 19, 1980, February 18, 1981 and August 11, 1981 submitted revisions to the TSP portion of the Ohio SIP. The State also submitted supplementary information on September 14, 1981, November 10, 1981, January 5, 1982, March 16, 1982, and March 23, 1982.

The June 13, 1980 submittal consists of revisions to rules 01 to 11 of Chapter 3745–17 of the Ohio Administrative Code (rules 3745–17–01 to 11) and technical support data for Coke Oven Battery charging and door visible emission limitations specified in rule 3745–17–07. The September 19, 1980 submittal consists of modeling analyses conducted for rule 3745–17–08. The February 18, 1981 submittal consists of a revised version of rule 3745–17–08. This version of the rule replaces the version submitted on June 13, 1980. The August 11, 1981, submittal is an analysis of the economic impact of the implementation of the revised Ohio TSP plan. The September 14, 1981 submittal contains comments and supplementary information from the State. The November 10, 1981 submittal consists of two letters; one withdraws Rule 3745–17–04(A) the other provides EPA with additional information and commitments. The January 5, 1982, submittal consists of a letter which details the State's commitment to correct certain deficient portions of the TSP plan which are discussed below. The March 16, 1982, submittal consists of a site-specific revision for the Southerly Wastewater Treatment Plant in Columbus, Ohio. The March 23, 1982, submnittal consists of a revised version of Volume XXXIX. This volume replaces the volume submitted on September 19, 1980.

As previously noted, this notice also proposes rulemaking on the July 1, 1980, revisions to the Legal Authority portion of the Ohio SIP. In particular, this notice will discuss the approvability of revisions made to Section 11 of Chapter 3704 of Title 37 of the Ohio Revised Code (§ 3704.11). Section 3704.11 defines the enforcement and promulgation authority delegated to a political subdivision relative to the prevention, control and abatement of air pollution.

Rules 3745–17–01 through 11 were previously codified as AP–3–01 to 12. AP–3–01, 04 and 06 through 12 are part of the present Ohio TSP SIP. Rules 3745–17–01 through 11 were submitted by the State to replace rules AP–3–01, 04 and 06 through AP–3–12. Presented below is a summary table for rules AP–3–01 through 12 and rules 3745–17–01 through 11.

Old rule	Title	New rule	Title
AP–3–01	Definitions.	3745–17–01	Definitions.
AP–3–02	Ambient Air Quality Standards.	3745–17–02	Ambient Air Quality Standards.
AP–3–03	Methods of Measurement.	3745–17–03	Measurement Methods and Procedures.
AP–3–04	Compliance Time Schedule.	3745–17–04	Attainment Dates and Compliance Time Schedules.
AP–3–05	Non-degradation Policy.	3745–17–05	Non-degradation Policy.
AP–3–06	Classification of Regions.	3745–17–06	Classification of Regions (Repealed).
AP–3–07	Control of Visible Air Contaminants from Stationary Sources.	3745–17–07	Control of Visible Air Contaminants from Stationary Sources.
AP–3–09	Restriction of Emission of Fugitive Dust and Gases.	3745–17–08	Restriction of Emission of Fugitive Dust.
AP–3–10	Restriction on Emissions from Incinerators.	3745–17–09	Restriction on Particulate Emissions and Odors from Incinerators.
AP–3–11	Restriction on Emission of Particulate Matter from Fuel Burning Equipment.	3745–17–10	Restriction on Particulate Emissions from Fuel Burning Equipment.
AP–3–12	Restriction of Emission of Particulate Matter from Industrial Processes.	3745–17–11	Restriction on Particulate Emissions from Industrial Processes.

The control strategy developed by the State of Ohio relies on implementation of RACT on point sources of particulate matter emissions where Ohio defines a point source as any source which emits particulate matter through a stack. All other sources of particulate matter emissions are considered fugitive sources and are specifically regulated by rule 3745–17–08. Appendix A to rule 3745–17–08 lists those areas of the State in which fugitive sources are required to adhere to the provisions of rule 3745–17–08. Under certain circumstances, the Director of Ohio EPA (Director) may require a source located in an area not listed in Appendix A to comply with rule 3745–17–08.

The State conducted a modeling analysis for each nonattainment area to determine which area to include in Appendix A. These modeling analyses were used to predict those areas of the State where RACT on point sources would not be sufficient by itself to attain the primary and secondary TSP NAAQS by December 31, 1982. The State determined that, in these areas, additional control measures would have to be implemented. The additional control measures consist of RACT on traditional sources of fugitive dust (rule 3745–17–08) and a commitment to study methods of controlling nontraditional sources of fugitive emissions. Examples of traditional sources of fugitive dust are coal piles, shiploading operations and certain industrial processes. Examples of nontraditional fugitive dust sources include reentrained dust from public and private roadways as well as dust generated as a result of construction or agricultural activities. In addition to requiring certain fugitive sources to adhere to rule 3745–17–08 the State committed to meet the secondary TSP standard by December 31, 1987.

In this **Federal Register** EPA will summarize its proposed action on: rules 3745–17–01 through 11, the modeling analysis conducted for Appendix A, Revised Section 3704.11 and a site specific revision for Southerly Wastewater Treatment Plant in Columbus, Ohio. A more detailed description of EPA's analysis of these elements of the Ohio SIP is contained within its document entitled "Rationale for Rulemaking on the Ohio Particulate SIP." A copy of this document may be obtained upon request by contacting any of the persons listed at the beginning of this notice.

EPA's summary on the revisions to the Ohio SIP is segregated below into four separate sections below: (I) The adequacy of rules 3745–17–01 through 11, (ii) The adequacy of the modeling analyses to determine the counties listed in Appendix A, (III) The approvability of revised § 3704.11, and (IV) The approvability of a site specific revision for Southerly Wastewater Treatment Plant.

I. The Adequacy of Rules 3745–17–01 Through 11

Rule 3745–17–01.

Synopsis of the Rule (Synopsis). This rule defines the terms used in rules 3745–17–01 through 3745–17–11. It replaces rule AP–3–01 in the existing Ohio SIP, which contained definitions for AP–3–01 through AP–3–12. Rule 3745–17–01 changes AP–3–01 by:

- Adding the following new terms: British Thermal unit, facility, fuel, grain elevators, particulate emissions, permanent storage capacity, stand-by-boiler, start-up, topping-off, total suspended particulates;
- Modifying the following terms: fuel burning equipment, fugitive dust, incinerator, opacity, single fuel burning unit, uncontrolled mass rate of emission;
- Deleting the following terms: agricultural waste, domicile waste,

garbage, landscape waste, open burning, restricted areas, Ringlemann Chart, and trade waste.

EPA's Assessment of the Rule (Assessment)

The deletions, and the new and modified definitions are acceptable.

Note.—The definition of particulate emissions in rule 3745–17–01(B)(9), under certain circumstances allows the Director to modify the definition of particulate emissions by changing the test method used to measure particulate emissions. The test methods to be used are specified in rule 3745–17–03 and are generally EPA Methods 1 through 5 and 17 in certain circumstances. These procedures can be found in "Appendix A" 40 CFR Part 60 Standards of Performance for New Stationary Sources. Although EPA proposes to approve the definition of particulate emissions contained in rule 3745–17–01(B)(9), it notes that when the Director allows a source to measure its emissions by a test method other than Methods 1 through 5 or 17 such a substitution constitutes a revision to the SIP and must be submitted to EPA for review and approval.

EPA's Proposed Action (Action)

- Approval.

Rule 3745–17–02

Synopsis, Assessment and Action. This rule establishes the Ohio ambient air quality standards for TSP. These are identical to the NAAQS for TSP. EPA finds this rule acceptable and proposes to approve it.

Rule 3745–17–03

Synopsis. This rule does the following three things:

1. *It specifies the test methods and procedures which are to be used when measuring particulate matter mass and visible emissions from a source, for the purposes of determining compliance with rules 3745–17–07, 09, 10 and 11.*

The rule specifies that Methods 1 through 5 in "Appendix A" of 40 CFR, Part 60 "Standards of Performance for New Stationary Sources" are the measurement methods to be used for measuring mass emissions from incinerators, fuel burning equipment and industrial processes. EPA reference Method 9, 40 CFR 50, Appendix A is to be used for measuring the visible emissions from those stack sources which are regulated by paragraphs (A) and (B) of new rule 3745–17–07.

2. *In Section (B), rule 3745–17–03 specifies testing procedures and formulae for measuring visible emissions from Coke Oven Batteries.* These procedures are to be used when determining a source's compliance status with new rule 3745–17–07(E).

Of special interest here are the following:

- *In paragraph (B)(2)(b)(ii), the specific procedures for determining compliance with the visible emissions regulations that apply to offtake piping and charging hole lids at a coke oven battery.* These procedures require the observer to record the identity of visible emissions from all topside emission points in a single traverse of the topside of a coke oven battery. Further, the inspection procedure for offtake piping and charging hole lids in (B)(2)(b)(ii) exempts visible emissions from those charging hole lids and standpipe caps which are opened during a decarbonization or charging period. The procedure in 3745–17–03 does not limit the number of charging hole lids and standpipe caps that may be exempted from the count.
- *In Paragraph (B)(2)(b)(iii), the formula for determining compliance with the offtake piping and charging hole lid visible emissions limitations.*
- *In paragraph (B)(2)(c)(ii), the formula for determining compliance with the oven door visible emissions limitation.*

3. *Under specific circumstances, rule 3745–17–03 gives the Director the authority to modify the required measuring techniques if he has determined that this is appropriate.* In particular, paragraphs (B)(6)(a) and (B)(7)(a) allow the Director to make any other modification to the testing procedure which may be required by specific sampling needs or conditions. In its September 14, 1981, response, and again in a letter dated January 5, 1982, the State indicated that the modifications referred to above will be minor in nature. Further, the State indicated that it will allow new testing procedures to be substituted for required procedures only when necessitated by characteristics that are unique to particulate sampling of the individual source. In its January 5, 1982, letter, the State committed itself to submit to EPA for review and approval any test method other than Methods 1 through 5, and 17 that the Director approves for a particulate emission source.

Assessment

EPA finds that the provisions of this rule are acceptable except for paragraphs (B)(2)(b)(ii), (B)(2)(b)(iii) and (B)(2)(c)(ii). EPA's reservations on these paragraphs are as follows:

1. *(B)(2)(b)(ii):* EPA believes that the procedures are deficient in two ways:

- They do not allow an observer more than one traverse when measuring visible emissions from the topside of a double collector main battery.

EPA believes that one traverse is adequate for a single collector main battery, but that the procedure should be revised to allow the observer to traverse the battery twice when measuring emissions from batteries with double collector mains.

They do not limit the number of charging hole lids and standpipe caps which are open during a decarbonization or charging period, and which are exempted from the visible emissions requirements. EPA believes that a specified number of charging hole lids and standpipe caps should be exempted from this count and that a three-oven maximum exemption is reasonable.

EPA notes at this time that EPA narrowly interprets the exemption provided in this paragraph for visible emissions caused by maintenance work in progress at an oven. EPA recommends that the State develop guidelines for determinng the type of maintenance work which qualifies for this exemption and the amount of time for which such activity will be allowed.

2. *(B)(2)(b)(iii).* The formula outlined in this paragraph must be clarified to reflect the concept that visible emissions observations of offtake piping and charging hole lids must be based upon total operating coke ovens rather than the total number of piping or lids irrespective of oven operational status. In addition to restricting the denominator in this formula to reflect operating ovens, the formula should permit appropriate corrections in the denominator for any exemptions granted under (B)(2)(b)(ii), such as for charging hole lids or standpipe caps that are opened during decarbonization or charging periods.

3. *(B)(2)(c)(ii).* The formula outlined in this paragraph must be clarified to reflect the concept that visible emissions observations of coke oven doors must be based upon total operating coke ovens rather than the total number of coke oven doors irrespective of oven operational status.

Note on paragraphs (B)(6)(a) and (B)(7)(a): Although these paragraphs are acceptable, EPA notes that when the Director allows a source to measure its emissions by a test method other than Methods 1 through 5 or 17, this substitution constitutes a revision to the SIP and must be submitted to EPA for review and approval.

Action

Approval of all the provisions of this rule except for those provisions contained within paragraphs (B)(2)(b)(ii), (B)(2)(b)(iii) and (B)(2)(c)(ii).

Conditional approval of paragraphs (B)(2)(b)(ii), (B)(2)(b)(iii) and (B)(2)(c)(ii). To satisfy the conditions of this approval, the State must correct the deficiencies in these paragraphs described above by December 31, 1982, as it agreed to do in a letter dated January 5, 1982.

Rule 3745–17–04

Synopsis. New rule 3745–17–04 replaces old rule AP–3–04. Old rule AP–3–04 set a date of April 1, 1975, for attainment of the TSP NAAOS in all of the counties in the State. For sources which are subject to the requirements of new rules 3745–17–07(E), 08 and 10(C)(3)–(5) (explained below), new rule 3745–17–04:

Sets compliance deadlines, and

Sepecifies certification and permit application requirements.

With regard to compliance deadlines, this rule requires a source to achieve final compliance with Rule 3745–17–07(E), 08 and 10(C)(3)–(5) ". . . as expeditiously as practicable. . .", but in no event later than December 31, 1982. In some cases final compliance is to be achieved by no later than several months before December 31, 1982. As stated in EPA's Continuity Policy (44 FR 20372) the Clean Air Act allows additional time for sources to comply with new regulations when the new regulations establish more stringent requirements which the source can meet only by installing new or additional control equipment.

Assessment

1. *The compliance deadlines:* EPA believes that, consistent with the Act and its Continuity Policy, Rule 3745–17–04, through its "as expeditiously as practicable" language, requires certain sources to comply immediately with Rules 3745–17–07(E), 08 and 10. In particular, EPA interprets this rule to require immediate compliance in those instances where a source has already installed the type of equipment and has implemented the operation and maintenance practices that would be necessary to comply with the RACT level standards in Ohio's new plan, as a means of complying with the current federally-approved SIP.

The State has committed itself to scrutinize carefully any request for an extension of a compliance schedule to ensure that compliance is achieved as expeditiously as practicable. Further, the State, in its January 5, 1982 letter, has indicated that—in addition to rule 3745–17–04—parts of certain other rules also give the Director of Ohio EPA the legal authority to require sources to achieve compliance "as expeditiously as practicable." These are: (a) paragraph (E) and (j) of Section 3704.03 of the Ohio Revised Code, (b) paragraph (C)(1) of rule 3745–35–02 of the Ohio Administrative Code (OAC), and (c) paragraph (E)(2)(c) of rule 3745–35–03 of the OAC. Finally, in conversations with the State, the State has indicated that, to the extent appropriate, it may require interim emission standards within the permits issued to any source. These interim emission limitation swill prevent any further degradation of ambient air quality and will act to ensure reasonable further progress towards attainment of the particulate standard.

2. *The certification and permit application requirements.* As a part of the permits to be developed for process fugitive sources within the iron and steel industry the State will set fugitive dust control requirements for these sources. In its January 5, 1982, letter the State committed itself to make those requirements consistant with the control requirements contained in Federal Consent Orders with any such sources. EPA believes that this includes establishing interim emission standards where the Consent Orders contain such standards.

Action

- Approval of the certification and permit application requirements of this rule.
- Approval of the *specified compliance dates,* with the understanding that the State will ensure that all sources will be required to achieve compliance with applicable rules as expeditiously as practicable. EPA reiterates that the present, federally-approved emission control regulations for any source will remain applicable and enforceable to prevent a source from operating without controls, or under less stringent controls, while it is moving toward compliance with the new regulations.

Rule 3745–17–05

Synopsis, Assessment and Action. This rule articulates the State's non-degradation policy. It prohibits significant and avoidable deterioration of air quality in any part of an area where the present air quality is equal to or better than that required by the ambient standards established in rule 3745–17–02. EPA's review of this rule indicates that it is acceptable. Therefore, EPA proposes to approve this rule.

Rule 3745–17–06

Synopsis, Assessment and Action. Rule 3745–17–06, previously codified as AP–3–06, has been repealed by the State. This rule classified areas of the State into one of three air quality priority categories. The emission limitations placed on industrial processes and/or fuel burning equipment were dependent on an area's priority category. Emissions from these source categories are now subject to new rules 3745–17–10 and 3745–17–11. Rules 3745–17–10 and 11 specifically state the counties which are subject to their requirements. Therefore, the separate priority categories specified in rule 3745–17–06 are no longer necessary. EPA proposes to approve this revision to the SIP which will in effect repeal new rule 3745–17–06 (old rule AP–3–06).

Rule 3745–17–07

Synopsis. This rule establishes visible emission (V.E.) limits for stack sources and coke oven batteries. AP–3–07 is its counterpart in the existing Ohio TSP SIP.

Under AP–3–07, a source is prohibited from discharging into the atmosphere air contaminants of a shade or density equal to or greater than 20% opacity. The rule further provides that while emissions may equal or exceed 20% opacity for not more than an aggregate of three minutes in any 60 minute period, they may never exceed 60% opacity.

New rule 3745–17–07 prohibits emissions from exceeding 20% opacity and also incorporates the following changes:

1. *Applicability.* Except for paragraph E which establishes specific V.E. limits for certain coke oven battery sources, new rule 3745–17–07 explicity states that it is applicable only to stack sources. It does not regulate fugitive sources. Although EPA previously regulated mass and V.E. limits from these fugitive sources through AP–3–07, they will henceforth be regulated by rule 3745–17–08. (A discussion of the adequacy of rule 3745–17–08, as it applies to industrial process fugitive sources, follows this discussion).

2. *Data Reduction Methodology and Exemptions.* For stack sources, the three minute exemption permitted in AP–3–07 has been amended to allow a source to exceed the 20% opacity limit for "not more than six consecutive minutes." This change was proposed to make the exemption consistent with USEPA Reference Method 9, the test method required by Rule 3745–17–03 (B)(1) for determining a stack source's compliance with 3745–17–07.

Method 9 specifies that the opacity of emissions from a particular source is to be determined as an average of 24 consecutive observations recorded at 15 second intervals (i.e. six consecutive

minutes). Thus, in any 60 minute interval, there will be a maximum of ten "average" readings.

Applying this test method to rule 3745–17–07, EPA believes that the rule allows for one of these ten average six-minute opacity readings to have a value which is greater than 20% but less than 60%. EPA interprets this rule to specify that a violation occurs only when, in any 60 minute interval, there are either (1) two or more six-minute average opacity readings, each with a value greater than 20% or (2) one or more of these readings with value greater than 60%. In its September 14, 1981, submittal the State indicated that this interpretation of the revised rule is correct.

3. *In new paragraph (D), additional exemptions from V.E. limits.* The exemptions in paragraph (D) are from the rule's general V.E. limits, and are in addition to the "six-minute exemption" discussed above. Specifically:

- (D)(1) exempts the start-up of any fuel burning equipment for up to six hours, or some other specified length of time as determined by the Director.
- (D)(2) exempts the shut down of any fuel burning equipment.
- (D)(3) exempts a stack source during shut-down or malfunction, but only if the source complies with rule 3745–15–06. In the case of a malfunction of a source or its control equipment, rule 3745–15–06 requires the source to notify Ohio EPA of the emissions episode immediately, if its emissions are in violation of any applicable law.
- (D)(4) exempts intermittent soot blowing operations for fuel burning equipment.
- (D)(5) exempts salt glazing operations conducted in a gas-fired periodic brick or tile kiln, for a period of not more than two hours during any twenty one consecutive days of operation of this kiln.

4. *In new paragraph (E), V.E. limits for coke oven batteries.*

- (E)(1) sets limits for coke oven battery charging operations such that visible emissions may not exceed 170 seconds during 5 consecutive charges (170/5).
- (E)(2) sets limits applicable to offtake piping such that visible emissions are not permitted from more than ten percent of the offtake piping.
- (E)(3) sets limits applicable to charging hole lids, such that visible emissions are not permitted from more than 5% of the charging hole lids.
- (E)(4) sets limits applicable to oven doors such that visible emissions are not permitted from more than 16% of the doors, (defined as the oven door and the associated chuck door on the pusher side of the battery).
- (E)(5) sets limits for pushing operations, such that visible emissions may not exceed 20% opacity read above the battery top.

5. *In new paragraph (F), allowance for "equivalent visible emission limitations".*

Paragraph (F) allows a source which is subject to the V.E. limits of paragraphs (A) and (B) of this rule to request an "equivalent visible emission limitation" from the Director of Ohio EPA. The equivalent V.E. limitation is the average of the opacity of the emissions from the source during any performance test(s) conducted in accordance with rule 3745–17–03(B).

According to paragraph (F), the owner or operator of a source may obtain an equivalent V.E. limitation if the owner or operator: (a) formally requests the Director to establish such limitation; (b) demonstrates compliance with the applicable mass emission limitations of rule 3745–17–09, 10, or 11, by conducting performance test(s) in accordance with the methods and procedures established in rule 3745–17–03; and (c) demonstrates that during such performance tests the source and its associated control equipment were operated in a manner so as to minimize the average opacity of the emissions.

Assessment

The State has indicated to EPA that it does not consider the opacity limitations in 3745–17–07 for stack sources to be an integral part of its overall control strategy to reduce particulate emissions and achieve the TSP ambient air quality standards. The State has asserted that, with the exception of the V.E. limits for coke oven batteries, which reflect a certain level of control technology, the V.E. limits of 3745–17–07 are of primary importance in enforcing the applicable mass emission limits in rules 3745–17–09 through 11.

In evaluating Ohio's Part D SIP, EPA's primary concern in regard to those sources proposed by Ohio to be covered by rule 3745–17–07, was that the associated mass particulate emission limits in 3745–17–09 through 11 require the implementation of reasonably available control measures, and that, at a minimum, rule 3745–17–07 contains clear, specific and enforceable visible emission limits which will be of use in enforcing the mass particulate limitations.

Based on the general criteria, EPA has reviewed new rule 3745–17–07 and has determined that paragraphs (A), (B), (C), (D)(3), (D)(5), (E)(2), (E)(3), (E)(5) and (F) are acceptable, while the remainder are in some way deficient. The following will explain the acceptability of (D)(3) and (F) and will then present the deficiencies in paragraphs (D)(1), (D)(2), (D)(4), (E)(1) and (E)(4).

1. *The acceptability of (D)(3).*

(D)(3)—when taken in conjunction with rule 3745–15–06—is consistent with EPA's malfunction policy. According to the malfunction policy, EPA will not approve any regulatory provision which would automatically exempt a source from complying with its applicable emission limitations. The intent is to ensure a case-by-case evaluation of the circumstances surrounding any excess emissions which result from an alleged malfunction. This case-by-case analysis is necessary because of the potentially significant impact of emissions from malfunctions on the attainment and maintenance of the NAAQS.

In a **Federal Register** action published on May 7, 1982, EPA proposed to approve amended rule 3745–15–06 (47 FR 19722). This rule requires a source claiming a malfunction exemption to notify the Ohio EPA immediately, whenever its emissions violate any applicable law. EPA interprets paragraph (C) of rule 3745–15–06 as allowing the Director of Ohio EPA to refrain from taking action against a violating source claiming a malfunction exemption only if he determines that (1) shutdown or reduction of the source operation during the breakdown would be or would have been impossible or impracticable; (2) the estimated breakdown period will be or was reasonable in duration, based on installation or repair time, delivery dates for equipment, replacement parts, or materials, or current unavailability of essential equipment, parts, or materials; (3) available alternative operating procedures and interim control adverse affects on public health or welfare; and (4) all actions necessary and required by any applicable preventive maintenance and malfunction abatement plan will be or have been implemented.

If all of these conditions are not satisfied, EPA believes that the exemption in (D)(3) has no effect on the compliance status of the source and the Director is required to take appropriate action. If all these elements are present, (D)(3) and rule 3745–15–06 read together merely provide a structure for the Director to exercise his review and to take action as necessary. In either case, the result is consistent with EPA's malfunction policy, and thus (D)(3) can be approved.

2. *The acceptability of (F).*

EPA notes that although the general concept of an equivalent visible emission limitation is acceptable, any specific equivalent V.E. limit which is

approved by the Director constitutes a revision of the SIP and as such must be submitted to EPA for review and approval. In conjunction with paragraph (F), Ohio has developed Ohio Engineering Guides #13, 14 and 15. These guidelines establish the procedures which Ohio will use when actually determining an equivalent V.E. limitation. EPA has reviewed these guidelines and believes that when they are used in conjunction with paragraph (F), they provide sufficient criteria by which the Agency can consistently determine, for a particular source its equivalent V.E. limitation. EPA therefore believes that if the State were to revise rule 3745–17–07(F) specifically to incorporate by reference Ohio Engineering Guides #13, 14 and 15 as the method for determining the equivalent V.E. limitation, then individual SIP revisions would not need to be submitted for review and approval. The State would only need to submit the equivalent V.E. limitation for a specific source for informational purposes and to ensure consistent State and Federal enforcement.

3. *The deficiencies in (D)(1) and (D)(2).*

EPA does not believe that the exemptions in these paragraphs should be expressed exclusively in terms of time, since such an exemption may be excessive for some sources. EPA believes that it is more appropriate for these exemptions to be expressed in terms of the exhaust gas temperature and operation mode of the equipment, as well as time.

4. *The deficiencies in (D)(4).*

EPA agrees that some exemption could be granted to those small sources which only occasionally blow soot. EPA does not believe, however, that such an exemption should be granted to those sources which blow soot routinely during the day. EPA believes that paragraph (D)(4), as presently written, could be interpreted as providing such an exemption. In order to correct this deficiency EPA believes that the State can either: (1) develop an acceptable definition for what constitutes "intermittent soot blowing operations" or (2) revise paragraph (D)(4) to make the exemption applicable to the appropriate sources.

5. *The deficiencies in E(1).*

EPA does not believe that paragraph (E)(1) of this rule satisfies the RACT requirements for coke oven battery charging operations since it allows visible emissions of up to 170 seconds during 5 consecutive charges (170/5) EPA has studied coke oven charging across the United States and has concluded, based upon technical data which is available for review in the rulemaking docket on this notice, that a standard of 125 seconds over 5 consecutive charges is supportable by current data as representative of the application of stage charging. PEDCo Environmental, Inc., Ohio's environmental contractor, has identified stage charging as the appropriate RACT control alternative in a document entitled "Reasonably Available Control Measures for Fugitive Dust Sources."

Further, EPA would support, in conjunction with the 125/5 standard, a provision in the rule which would permit the exemption from the visible emission standard of one charge, representing the highest charge in every 20 consecutive charges observed. The 125/5 (1-in-20) standard would result in significantly less emissions than that which the submitted 170/5 standard would permit, with no change in the technology necessary to comply.

EPA has evaluated the data submitted by Ohio in support of the 170/5 standard and has computed the rates of compliance which were achieved with the 125/5 (1-in-20) standard and the 170/5 standard at plants using RACT procedures. The 125/5 (1-in-20) standard was met a higher proportion of the time at more plants than was the 170/5 standard (96% versus 95% compliance rate). Furthermore, EPA's exerience indicates that when emissions from the charging operation are relatively small in duration, they are relatively small in amount. The amount of particulate pollution produced by the charging operation is not, however, directly proportional to the number of seconds of visible emissions per charge. When the duration of emissions increases, as in this instance to 1170/5 from the recommended RACT limit of 125/5, the increase in pollution is more rapid than would be obtained if the relationship between seconds of emissions and pollution were more linear in nature. EPA therefore believes that more emissions control is obtained by limiting the large percentage of charges to a small number of seconds per charge, and permitting a few charges to exceed some higher value, than by permitting the average of a set of charges to emit at a higher level. The recommended RACT standard effectively balances stringency and achievability because most visible emissions from the charging operation statistically occur at very low values, with an occasional charge recorded at values three or four times the norm. The technical data upon which EPA based its decision is included in the docket on this rulemaking notice.

6. *The deficiencies in (E)(4).*

EPA does not believe that paragraph (E)(4) represents a RACT-level of control technology since it would permit up to 16% of the doors on a coke battery to be leaking. In its review of visible emissions data for coke oven doors, EPA has determined that this data supports a standard of no more than 10% of the doors on operating coke ovens to be leaking at any one time. EPA would also accept, in conjunction with a 10% standard, an exemption from the visible emissions standard for an additional two doors, representing the last oven charged.

Action

- Approval of paragraphs (A), (B), (C), (D)(3), (D)(5), (E)(2), (E)(3), (E)(5), and (F).
- Conditional approval of paragraphs (D)(1), (D)(2), (D)(4), (E)(1), and (E)(4).

To satisfy the conditions of approval for these paragraphs, the State must revise the paragraphs to correct the deficiencies discussed above. In a letter dated January 5, 1982, the State committed itself to revise paragraphs (E)(1) and (E)(4) and to submit them to EPA by December 31, 1982. In that same letter, the State committed itself to revise paragraphs (D) (1), (2) and (4) if EAP provides the State both with its recommended wording for these exemptions, and with adequately detailed technical support for this wording. If—prior to final rulemaking on these three paragraphs—the State commits itself to revise them by December 31, 1982, EPA will finally approve these three paragraphs on the condition that the State submit the revised version of these rules by December 31, 1982.

Rule 3745–17–08

Synopsis. Rule 3745–17–08 replaces rule AP–3–09, which is part of the existing Ohio TSP SIP. As EPA interprets it, AP–3–09 regulates fugitive dust from what are commonly referred to as "open dust fugitive sources,"—for example: storage piles, sandblasting activities, unpaved roads, and material handling operatings. AP–3–09 requires the owner or operator of any open dust source to use reasonable precautions to prevent particulate matter from becoming airborne. The rule articulates, but does not require, the implementation of certain control measures which are considered reasonable.

New rule 3745–17–08 is designed to control particulate emissions not only from open dust sources, but also from any industrial process which emits particulate matter into the ambient air by means other than a stack. (Examples

of such process fugitive sources are charging operations from a Basic Oxygen Furnace (BOF), or Electric Arc Furnace.) Under the existing Ohio TSP SIP, EPA regulates these sources with rules AP–03–07 and AP–3–12.

New rule 3745–17–08 consists of paragraphs (A), (B) and (C). In accordance with paragraphs (A) and (B) an owner or operator of a process or open dust fugitive source must not operate his source without taking or installing reasonably available control measures to prevent fugitive dust from becoming airborne. Paragraph C contains procedural requirements for fugitive dust sources located in Appendix A areas. EPA believes that the application and requirements of paragraph (A) and (B) differ significantly from SIP rule AP–3–09. The following discussion highlights the more significant provisions.

1. *Applicabiity of RACT requirements (Paragraph (A)).*

Paragraph (A)(1) and (2), require RACT on those sources which are either:

- Located in an Appendix A area, or
- Specifically required by the Director, regardless of location, to comply with the rule.

Appendix A generally lists those nonattainment areas in which, according to Ohio EPA modeling, controls on all stack point sources will not be enough to ensure attainment of the primary or secondary TSP NAAQS by December 31, 1982. Appendix A also lists a few areas which are designated as attainment. (The adequacy of Appendix A and the modeling analysis is discussed in Section II below).

Paragraph (A)(4) lists those sources in Appendix A areas which are exempted from the RACT requirements of this rule. These sources are:

- Any fugutive dust source which is located at a grain elevator having a permanent storage capacity of less than 2.5 million bushels,
- Fugitive dust generated by the Number 3 Blast Furnace and Numbers 15 and 16 Basic Oxygen Furnaces located at the Armco Middletown Works Plant, and
- Any source which satisfies paragraph (A)(3) of this rule.

2. *Determining compliance on a facility-wide basis (Paragraph (A)).*

Paragraph (A)(3) of this rule allows the Director to determine compliance with the requirements of this rule on a facility-wide basis. In conjunction with paragraph (A)(3), the State submitted to EPA for informational purposes, a copy of Ohio EPA Engineering Guide #24 (Guide), which further explains the application of rule 3745–17–08. The Guide points out that rule 3745–17–08 is general in nature and encompasses a large number of sources.

EPA originally interpreted paragraph (A)(3) as enabling the Director to accept a control strategy whereby a facility might under-control emissions from one source in exchange for over-control on another source located at the same facility ("bubble"). However, in its September 14, 1981, letter, Ohio pointed out that this interpretation is incorrect.

In light of this and the Guide, EPA now interprets rule 3745–17–08 in general and paragraph (A)(3) specifically, to require the Director of Ohio EPA to first determine whether each fugitive source will be required to install or implement controls as outlined in paragraph (B) of this rule. This determination must be based upon a careful analysis of reasonably available control measures, which may include an assessment of the economic reasonableness of additional control measures. If, after this analysis, the Director determines that an individual source should not be required to implement controls, such a permit for this source may be issued under paragraph (A)(3).

3. *Control measures for achieving RACT (Paragraph (B)).*

Paragraph B outlines control measures which a source may adopt to establish its RACT program. Subparagraphs (B)(1)–(2) and (B)(5)–(9) specify examples of control measures for open dust sources, paragraph (B)(3) specifies examples of control measures for industrial process fugitive sources, and paragraph (B)(4) specifies control measures for grain terminals. For open dust sources such as unpaved roads and material stockpiles, measures such as "periodic spraying with suitable dust suppressants" or "adequate containment methods which minimize or eliminate visible emissions of airborne dust," are techniques generally considered acceptable by the State. According to the language of paragraph (B), a source, after securing the State's approval, may implement control measures which are different from those contained in subparagraphs (B)(1)–(9).

4. *Minimum criteria for the control of fugitive dust from certain industrial processes (subparagraph (B)(3)).*

Under the existing Ohio SIP, EPA has regulated mass and visible emissions from these sources with AP–3–07 and AP–3–12. Paragraph (B)(3) requires the use of hoods, fans and other equipment which would adequately enclose, contain, capture, vent and control fugitive emissions and achieve a certain collection efficiency and mass emission limitation.

Paragraphs (B)(3)(a) and (B)(3)(b) specify the collection efficiency and mass emission limitation, respectively, which the equipment must meet. According to paragraph (B)(3)(a), the control equipment must have a collection efficiency sufficient to "minimize or eliminate visible emission of fugitive dust at the point of capture to the extent possible with good engineering design (GED)." Paragraph (B)(3)(b) requires that the gas cleaning device installed in conjunction with the particulate control equipment (eg., hoods, fans and ducts) must be capable of cleaning a particular volume of air to either a standard of .030 gains per dry standard cubic foot (.030 gr/dscf), as measured at the outlet, or to such a degree that there are no visible emissions from the exhaust stack, whichever is less stringent.

5. *Minimum criteria for the control of fugitive dust from shiploading operations (Subparagraph (B)(4)).*

Subparagraph (B)(4) allows the owner or operator of such a source to choose between two possible methods of control:

- The use of tarpaulins to cover the hatches and loading spouts of the ship [(B)(4)(a)], or
- The installation of control devices on the loading spouts [(B)(4)(b)].

If the owner or operator uses tarpaulins, fugitive dust emissions from the operation must be vented to control equipment which will achieve an outlet grain loading of .030 gr/dscf. There is no visible emission limitation specified. Furthermore, the use of tarpaulins is not required during the period known as topping-off.

If the owner or operator instead chooses to install control devices—such as deadbox or bullet type loading spouts—the device must have an overall control efficiency which is equivalent to or better than .030 gr/dscf. As with the use of tarpaulins, the proposed new rule does not specify a visible emission limitation or a test method.

Assessment of Paragraph (B)

1. *Acceptability of (B)(1)–(2) and (B)(5)–(9), and the allowance for other control measures.*

EPA believes that paragraphs (B)(1)–(2) and (B)(5)–(9) contain adequate parameters within which acceptable site-specific permits may be developed by Ohio, and, therefore, proposes to approve paragraphs (B)(1)–(2) and (B)(5)–(9). Although the requirements of these subparagraphs are stated in general terms, the specific details of

each source's RACT program will be negotiated between the State and the source. A RACT program which implements the control measures contained in these subparagraphs generally will be acceptable to the State. The State will include each source's RACT program, to the extent possible in the source's permit to operate. According to SIP rule AP-32-02(B)(6), once these permits have been approved by the State and signed by the appropriate representative of the source, they constitute "an agreement * * * to operate and maintain the source in a manner designed to assure compliance with applicable air pollution control regulations," including new rule 3745-17-08. After these permits have been issued, the State must submit them to EPA for informational purposes.

Additionally, EPA finds acceptable the "shall include, but not be limited to," language of paragraph (B). This authorizes control methods other than those specified in paragraphs (B)(1)-(9), provided that the State submits to EPA for review and approval the permits developed for those sources which implement such control measures.

2. *Deficiencies in paragraph (B)(3).*

• (B)(3) fails to provide a clean method of measuring the collection efficiency of control equipment.

(B)(3)(a) specifies neither a V.E. limitation and associated test method nor a mass test for measuring the capture efficiency of the control equipment. This renders the mass emission limitations specified in (B)(3)(b) of little use. Pollution control equipment may be capable of cleaning a particular volume of air to a standard of .030 gr/dscf, but if the equipment fails to collect a large percentage of the air to be cleaned, the environmental benefit will be negligible.

• EPA believes that the universal mass emission limitation of .030 gr/dscf is not always consistent with the installation of pollution control equipment of RACT-level stringency.

For certain iron and steel sources, EPA believes that a mass emission limitation of 0.03 gr/dscf would not represent RACT. Since the outlet concentration from gas cleaning equipment is related to the amount of fugitive emissions generated, the percent of emissions captured by a hood, and the amount of hood draft (in ft^3/min) needed to capture fugitive emissions, and since all of these factors are process and site-specific, a single outlet concentration value is inappropriate.

• EPA does not believe that paragraph (B)(3), as presently written, provides the State with adequate authority to issue permits containing RACT-level limitations in all cases.

Since rule 3745-17-08 does not contain specific enforceable visible and mass emission standards for process fugitive sources, Ohio will control these sources by establishing individual limitations in operating permits which it will issue. EPA believes that an acceptable alternative to promulgating generic visible and mass emission limitations for specific categories of process fugitive sources would be for Ohio to include enforceable RACT-level limitations in the operating permits which it issues to a source under paragraph (B)(3) of this rule. However, (B)(3) may not allow the State to do this, since, as indicated above, the rule does not contain any provisions which require a V.E. limitation in the permits nor does the rule contain an appropriate grain loading standard which would allow Ohio to require RACT-level control from all sources. EPA believes that these deficiencies can be corrected if the State:

1. Revises 3745-17-08 to require that the operating permits issued under 3745-17-04 for the process fugitive sources include a V.E. limitation which represents the performance of each source utilizing the reasonably available control measures required in 3745-17-08(B), and an appropriate test method for each source.

2. Revises 3745-17-08(B)(3)(b) to require that the control equipment which a source installs achieve a grain loading not to exceed a maximum value of .030 gr/dscf.

Even with these changes, which should provide the State with adequate authority to require RACT-level of control, EPA cannot predict at this time if the level of control which a source may implement will represent RACT. Such a determination will not be possible until after the source has developed and submitted its control program to the Director of Ohio EPA for review and approval. Only at that time will it be possible for EPA to approve the program as representing RACT and as being enforceable. EPA has compiled a list of source categories which are currently believed to represent the bulk of the significant fugitive dust sources which will be regulated by rule 3745-17-08(B)(3). EPA solicits comments on whether this list covers all significant process fugitive sources and source categories in Ohio. The list is presented as Table A to this notice.

Note: During the course of rulemaking proceedings on its proposed nonattainment area revisions, Ohio contracted with PEDCo Environmental, Inc. to develop a guidance document which would provide assistance to industry and the State when determining whether control equipment proposed by industry would be RACT and meet the requirements of rule 3745-17-08. This study analyzes all potential control devices for certain categories of sources and recommends control equipment which constitutes RACT. EPA notes at this time that while it generally agrees [1] with PEDCo's recommendations on the type of control equipment to be employed, EPA believes that the study, by itself, is deficient since the study does not contain any visible or mass emission limitations which would coincide with the equipment proposed as RACT for a source.

EPA has compared PEDCo's recommendations in regard to the iron and steel industry to data which EPA has collected. These data reflect the emission limitations achieved by various iron and steel sources applying specific control technology. To aid Ohio in the process of issuing permits which include RACT-level visible and mass emissions limitations, EPA has placed in the rulemaking docket on this notice, specific visible emissions data and methods of testing for BOF, electric arc and blast furnace casthouse sources which correspond to the control alternatives identified by PEDCo in its guidance document. A review of this data indicates that an outlet grain loading standard of .030 grains per dry standard cubic foot of exhaust gases is inconsistent with, and is less stringent than, the levels of control which have been achieved by facilities in Ohio. Some of these facilities are using control equipment which has been recommended by PEDCo as reasonably available control measures for iron and steel sources in Ohio. As an illustration, EPA notes that the outlet from fabric filters on captured electric arc furnace furming typically is on the order of 0.005 gr/dscf, an order of magnitude less than the .03 gr/dscf limitation in 3745-17-08.

3. *Deficiencies in paragraph (B)(4).*

EPA believes that there are deficiencies in the two alternatives for controlling particulate emissions during shiploading operations—presented in paragraphs (B)(4)(a) and (B)(4)(b).

The problems associated with paragraph (B)(4)(a) are that it does not require the use of tarpaulins during the topping-off period and does not specify a V.E. standard. EPA believes particulate emissions are significant during the topping-off period and can be controlled by other devices. Without a V.E. limitation specified for these operations, it is not possible to

[1] For blast furnace casthouses, recent technological developments make the extensive controls recommended by the PEDCo report inappropriate for most sources.

determine whether the tarpaulins are being employed correctly in order to prevent the escape of the fugitive dust emitted as a result of the shiploading operations.

The problem with paragraph (B)(4)(b) is that, although it requires the owner to use acceptable control devices, this paragraph does not specify a V.E. standard by which EPA can determine whether the devices are operating properly and collecting the fugitive emissions which are being generated. Furthermore, while it may require the owner to choose an otherwise acceptable control device, it would permit the owner to design and operate this device at a level of control efficiency which may be less than RACT stringency.

Action

Paragraph (A)

- Approval of paragraphs (A)(2), (A)(3) and (A)(4).
- Approval of paragraph (A)(1) on the condition that the State revises Appendix A to reflect the commitments which it made in its September 14, 1981 letter.

In that letter the State committed itself to remodel the Mahoning, Trumbull and Scioto nonattainment areas; to amend Appendix A to include Madison Township in Sandusky County; and to submit appropriate remedial documentation for these counties by December 31, 1982.

Paragraph (B)

- Approval of paragraphs (B)(1)–(2) and (B)(5)–(9), and the "shall include, but not be limited to," language of paragraph (B).
- Approval of paragraph (B)(3) on the condition that the State revises the rule to reflect the commitments which it made in its January 5, 1982 letter.

In that letter, the State committed itself to submit to EPA for review and approval the permits issued to those sources covered by Table A. The State committed itself to submit these permits by not later than December 31, 1982. In that letter the State also agreed to revise rule 3745–17–08:

(1) To add a new paragraph to this rule to indicate that, wherever possible, the Director will establish V.E. limitations in the terms and conditions of any permit issued to those process fugitive sources which are specified in Table A. Furthermore, the State committed itself to ensure that the V.E. limitations will be set for any capture and control system installed for a source and will be set at levels which will ensure that the systems will be operated and maintained properly. EPA expects that the V.E. limitation will represent the performance of RACT-level control measures which each source will be using.

(2) to revise paragraph (B)(3)(b) such that it requires the control equipment to achieve a grain loading which will not exceed a maximum of .030 gr/dscf.

For any process fugitive source which may not be covered by Table A EPA expects that Ohio will scrutinize these sources in accordance with the RACT criteria of this rule and will issue new permits which reflect the implementation of RACT as outlined in this rule.

- Approval of paragraph (B)(4) on the condition that the State by December 31, 1982, either:

(1) Revises and submits to EPA a version of this rule which specifies in both (B)(4)(a) and (B)(4)(b) an acceptable V.E. limitation and test methodology and which eliminates the "topping off" exemption in (B)(4)(a); or

(2) Revises and submits to EPA a version of this rule which specifies in both (B)(4)(a) and (B)(4)(b) an acceptable V.E. limitation and test methodology and submits an acceptable demonstration which shows that either:

(a) The use of tarpaulins and the elimination of tarpaulins during topping-off represents RACT or

(b) The uncontrolled emissions which result from the "topping-off" period are not significant.

Alternatively, the State could choose to withdraw paragraph (B)(4) and submit to EPA for review and approval, as the Part D plan for shiploading operations, site-specific SIP revisions. These site-specific SIP revisions would be in the form of permits developed for each shiploading source subject to the general RACT requirements of rule 3745–17–08. If the State should choose this option it must withdraw paragraph (B)(4) and submit to EPA these site-specific SIP revisions by December 31, 1982.

EPA will review each permit and will only approve a site-specific permit which includes the following criteria:

(1) A RACT-level V.E. limitation for the entire shiploading period.

(2) A control device which operates during the entire shiploading period, including the topping-off period, unless an acceptable demonstration that emissions generated during the topping-off period are not significant accompanies any permit which grants an exemption from the use of tarpaulins during topping-off, and

(3) A RACT-level overall control efficiency, where a source chooses control measures other than tarpaulins, such as deadbox or bullet-type loading spouts.

Paragraph (C)

- Approval.

Note on this action: The State submitted rule 3745–17–08 to EPA originally on June 13, 1980. On February 18, 1981, the State submitted a revised version of this rule which supersedes the June 13, 1980 version. The February 18, 1981 version differs from the June 13, 1980 submittal in that it exempts from its control requirements three sources located at the ARMCO Middletown Works Plant. EPA in the March 31, 1981 **Federal Register** (46 FR 19468), approved these exemptions and conditionally approved rule 3745–17–08 for the Middletown primary nonattainment area. Today's proposed action does not sepersede EPA's final action announced in the March 31, 1981, **Federal Register**, but proposes action on rule 3745–17–08 as is applies to the remainder of the State.

Rule 3745–17–09

Synopsis

This rule establishes restrictions on emissions and odors from incinerators. It is essentially identical to old rule AP–3–10, except that it deletes the burning capacity and the compliance test method for the incinerators. (These are now specified in rule 3745–17–03). The new rule specifies an emission limit of 0.10 pound of particulate per one hundred pounds of refuse charged for an incinerator with a capacity equal to or greater than one hundred pounds per hour. This limit is relaxed to 0.20 pound of particulate per one hundred pounds charged if the incinerator has a capacity less than one hundred pounds per hour.

Assessment

EPA's review of this rule indicates that it is acceptable.

Action

- Approval of all the provisions of this rule except for those contained within paragraph (C).
- No action on paragraph (C). EPA is not taking any action on paragraph (C), since it deals exclusively with the control of odorous emissions from incinerators. The Clean Air Act does not give EPA any authority to restrict odorous emissions. The agency is responsible only for restricting emissions of the criteria pollutants.

Rule 3745–17–10

Synopsis

This rule establishes mass emission limits for fuel burning equipment. Under the existing Ohio SIP, these limits are established by AP–3–11. Under existing rule AP–3–11, and generally under new rule 3745–17–10, the particulate emission limit applicable to a source is determined by first calculating the maximum heat input into the fuel burning unit or units. Next, the maximum total heat input for all units combined either physically or operationally is calculated. Finally, the maximum allowable emission limitation for a unit is determined by referring to either the P–1 or P–2 curves specified in the Figure 1 graph which is part of the rule. The State also interprets 3745–17–10 to set particulate emission limits for coke oven battery combustion stacks. Under the existing Ohio SIP, EPA has regulated these battery stacks with AP–3–12, the process weight regulation.

However, new rule 3745–17–10 differs from AP–3–11 in the following respects:

- Any product or by-product of a manufacturing process is not to be regulated by rule 3745–17–10.
- The test methods and procedures used to measure compliance have been deleted from rule 3745–17–10. They are, however, specified in rule 3745–17–03.
- Provisions have been included for "derating" a boiler and exempting certain "stand-by-boilers" from the emission limitation calculations.
- Specific emission limitations have been established for sources which burn gaseous fuels and/or number two fuel oil. Consequently, if these sources are part of a multi-unit operation, they are not to be included in the mass emission limitation calculations.
- The P–1 and P–2 curves of Figure 1, which are used to determine the emission limitations for the fuel burning equipment, have been made applicable only to certain counties. In addition, for sources located in the counties of Allen, Clinton, Coshocton, Defiance, Henry, Jackson, Muskingum, Noble, Richland, Ross, Sandusky, Seneca, Shelby and Wyandot, the rule specifies that "Curve P–1," of "Figure I" is to be used in determining that source's emission limitation. Under the existing SIP, sources in these counties are required to meet the emission limitations specified in "Curve P–2."
- Specific emission limits have been set for the coal-fired boilers at the following Ford Motor Company facilities: Brookpark, Sharonville, Canton, Lima, Lorain and Sandusky.

Assessment

EPA's review of this rule indicates that it is acceptable for all sources with the exception of coke oven battery combustion stacks. EPA's technical information contained in the docket on this rulemaking indicates that battery stack emissions falling within the range of .020–.050 gr/dscf represent that degree of control available through the application of RACT. EPA performed numerous caculations using the formulae and curves in rule 3745–17–10, and has determined that this rule would allow emissions from battery stacks, on the average, to approach .1 gr/dscf.

Action

- Approval of 3745–17–10 for all sources except for coke oven battery combustion stacks (battery stacks).
- Approval of 3745–17–10 for battery stacks on the condition that the State revises this rule to represent RACT.

The State in a letter dated January 5, 1982, has given EPA assurances that it will correct this deficiency by promulgating a standard for the combustion stacks which requires the level of control which EPA has indicated represents RACT. The State committed itself to submit a revised version of this rule to EPA for approval by December 31, 1982.

Note: Although EPA is proposing to approve the stand-by boiler and boiler derating provisions of this rule, whenever a boiler is derated or converted to stand-by status, the State must submit the applicable permit to EPA for informational purposes and to ensure consistent enforcement of the SIP.

Rule 3745–17–11

Synopsis. This rule restricts the emission of particulate matter from industrial processes. The present Ohio SIP relies on rule AP–3–12 to restrict particulate matter emission from industrial processes.

1. *Applicability of 3745–17–11 compared to AP–3–12.*

In contrast to AP–3–12, new rule 3745–17–11:

- Does not regulate fugitive emissions from industrial processes (These are instead regulated by rule 3745–17–08 in paragraph (A)(1).)
- Exempts from compliance shiploading operations, grain drying operations at grain elevators, and—during specified time periods—certain salt glazing operations.
- Includes specific provisions for Catalytic Cracking Units at Petroleum Refineries.

2. *The limits established by 3745–17–11.*

For the sources it regulates, the rule sets emission limits with reference to two graphs in "Figure II" and "Table I." The two graphs are county specific and paragraphs (B)(1)–(3) specify their application in terms of counties. Where either of the two graphs may apply to determine a source's emission limits, then—with certain exceptions—the more stringent of the two is to be used.

Figure II uses the uncontrolled mass rate of emissions from a source to determine the maximum mass rate of particulate matter allowed from that source. Figure II consists of three curves—"P–I," "P–2" and "P–3"—to determine, on a county specific basis, the appropriate emission limitations. Paragraphs (B)(1)–(3) of the rule specify which curve is to be used in which county. Under the existing SIP, sources located in Allen, Clinton, Coshocton, Defiance, Henry, Jackson, Muskingum, Noble, Richland, Ross, Sandusky, Seneca, Shelby and Wyandot are subject to either Curves P–2 or P–3. According to the new rule 3745–17–11 sources in these counties, as well as certain other counties specified in paragraph (B)(1), must comply with the emission limitations of Curve P–1.

Table I uses the process weight of all materials introduced into a particular process to determine the maximum mass rate of particulate emissions allowed for that process. Table 1 is not to be used in the counties specified by subparagraphs (B)(2) and (B)(3). Among these counties are some that are primary and secondary nonattainment.

3. *Control of coke quenching (paragraph (B)(4)).*

Paragraph (B)(4) of this regulation proposes to establish a requirement for the control of the coke quenching operation. This paragraph requires that an owner or operator of a quenching tower equip it with an interior baffle system that is designed and maintained in accordance with good engineering practice. This paragraph would modify the existing Ohio SIP, which requires that coke plant quench towers meet the process weight limitations of regulation AP–3–12. EPA believes that compliance with AP–3–12 would require clean water quenching.

4. *Limits for sinter plants and certain BOF shops.*

Rather than relying on rule 3745–17–11, the Ohio Part D plan for Sinter plants and for those BOF shops which use a "closed hood" system to control particulate emissions from the primary stacks, will consist of site-specific emission limitations for the affected

sources. These site-specific emission limitations will be contained within operating permits which will be submitted to EPA for review and approval. The State has indicated that these site-specific emission limitations will not be superseded by rule 3745–17–11.

In Ohio there are only two operating Sinter plants (Armco Inc. of Middletown, Ohio and Republic Steel Corporation of Youngstown, Ohio) and two operating BOF shops which use a "closed hood" system to control particulate emissions from the primary stacks (Republic Steel in Cleveland, Ohio and U.S. Steel in Lorain, Ohio).[3]

For the two operating Sinter plants the State has already submitted site-specific emissions limitations. EPA approved the Armco emission limitations on March 31, 1981 (46 FR 19468) as part of the Middletown, Ohio TSP plan. The Republic Steel emission limitations were approved on March 8, 1982 (47 FR 9834) and constitutes approval of only one small element of an acceptable overall Part D Plan for Mahoning County.

For the two BOF shop primary stacks which are controlled by a closed hood system the State, in its January 5, 1982, letter committed itself to submit by December 31, 1982 to EPA for review and approval, operating permits of RACT-level stringency for these two sources.

EPA's technical data, which are available for review, indicate that these two Ohio BOF shops which use a closed hood cleaning system are currently capable of producing concentrations of 0.02 gr/dscf or less. Therefore, EPA has concluded that an emission limitation of no greater than 0.02 gr/dscf would be representative of RACT for these two facilities unless additional documentation can substantiate a higher number as RACT for a particular source.

Assessment

1. *Control of coke quenching (Paragraph (B)(4)).*

EPA does not believe that paragraph (B)(4) satisfies the requirement for RACT since: (1) it permits the quenching of coke with dirty process water, (2) it does not contain a definition of what constitutes an acceptable interior baffle system and (3) the standard to which the interior baffle system is to be compared, that of a system to be designed and maintained in accordance with good engineering practices (GEP), is vague and unenforceable.

[3] A third BOF shop, operated by Armco in Middletown, Ohio was the subject of another SIP revision (46 FR 19468) and is not affected by today's proposed notice.

2. *Limits for sinter plants and certain BOF shops.*

EPA's action on the Part D plans for Sinter plants and BOF primary stacks which use "closed hood" control devices should not be interpreted as implying that rule 3745–17–11 established acceptable RACT-level emission limitations for these affected sources.

EPA notes that there may be existing Sinter plants in Ohio which, although not presently operational, are capable of re-commencing operation in the future. Similarly, there may be existing non-operational BOF shops with "closed hood" control systems which will become operational in the future. In the event that any of these sources do re-commence operation, Ohio must ensure that these sources operate in compliance with the requirements of the Clean Air Act and rules and regulations of the Administrator of EPA. Furthermore, Ohio must submit all operating permits issued to such sources to EPA for review and approval.

Action

• Approval of this rule, except for:

(a) The emission limit specified for Basic Oxygen Furnace (BOF) Shop primary stacks which use a "closed hood" control device,

(b) The emission limit specified for Sinter plant windbox and discharge end stacks, and

(c) The provisions in (B)(4) for controlling emissions for coke quenching operations.

• Approval of the Ohio Part D plan for BOF shops which use a closed hood system to control particulate emissions from primary stacks on the condition that the State submits acceptable RACT-level stringency permits to EPA on or before December 31, 1982.

• Approval of the Ohio Part D plan for sinter plan windbox and discharge end stacks which consists of site specific permits for each operating sinter plant in Ohio.

• Approval of paragraph (B)(4), on the condition that the State, prior to final rulemaking , commit itself to revise this paragraph to be consistent with RACT and submit the paragraph to EPA by December 31, 1982.

In its January 5, 1982 letter the State indicated that it would consider revising paragraph (B)(4) if EPA provides technical information to support the recommended RACT definition for coke quench towers.

Technical note on revising paragraph (B)(4). With respect to the baffle and GEP design issues, at a minimum, Ohio must expand upon the concept of an acceptable baffle system by specifying the degree to which the horizontal cross-section of the quench tower would be covered by baffles. U.S. EPA believes that coverage of at least 95% of the horizontal cross-section of the tower is a reasonable definition. In addition a definition of GEP must include a definition of an operating and maintenance program for ensuring the continued effective operation of the baffles.

However, a regulation which requires the use of baffles as the sole control mechanism for coke quenching is insufficient to satisfy the RACT requirement, because it would permit quenching of coke using water containing uncontrolled total dissolved solids (TDS) levels. This practice produces unacceptable quench tower particulate mass emission rates. Information EPA has placed in this docket indicates that baffled towers with "clean" water make-up streams will produce significantly lower air emission rates than those which would be generated if high TDS quenching is allowed. To deal with this problem, Ohio must adopt one of the following two alternatives — in addition to further defining the requirements for an acceptable baffle system.

• *Alternative I:* Ohio may develop a testable mass standard for quench towers which effectively requires clean water quenching. EPA acknowledges that particulate mass testing of coke quench towers to determine compliance with a mass limitation is both difficult and costly to conduct. Nevertheless, a modified U.S. EPA Reference Method 5 (40 CFR Part 60, Appendix A) technique has been developed and is available for review in the rulemaking docket on this notice. This technique would be approvable by EPA were it submitted by Ohio to satisfy this deficiency.

• *Alternative II:* Ohio may develop a water-quality based limit. EPA has established that a linear relationship exists between air emission rates from a coke quench tower (in pounds per ton of coke), and the quality of water used for quenching coke (in milligrams per liter of total dissolved solids). This conclusion derives from studies of quench tower emissions based upon tests conducted at U.S. Steel Corporation plants in Lorain, Ohio and Gary, Indiana, and upon tests at the Dominion Foundry and Steel Company (Dofasco) plant in Hamilton, Ontario, Canada. Reports of these tests are contained in the technical docket on this rulemaking at pages 508888, 509249, 509305, 509337, 509943, and 510243 and in the quenching technical support document.

On a filterable solids basis (EPA Method 5, 40 CFR Part 60, App. A), an increase of 1000 mg/l TDS in quench water results in air emission rates of between 0.15–0.40 lb/ton of coal charged into a coke oven depending on specific design factors. Therefore, EPA believes that controlling the TDS levels in water applied to coke affects air emission rates and that make-up water with a total dissolved solids value of no greater than that available from the nearest water source represents a standard achievable with reasonably available control technology. In the course of its rulemaking on Part D SIP revisions in other states, EPA has found to be acceptable TDS limits of 1500 mg/l in Illinois and Indiana, and 1600 mg/l in New York (State commitment to EPA). Similarly, Allegheny County, Pennsylvania has adopted a standard which requires that water of a TDS level equal to the nearest receiving stream be utilized for coke quenching. The method of analyzing for dissolved solids and the number of samples to be taken over a specified time period must also be denoted if Ohio chooses this alternative.

II. The Adequacy of the Modeling Analysis to Determine the Counties Listed in Appendix A

Synopsis. The State conducted a modeling analysis for each of the EPA designated TSP non-attainment areas in the State, except for Ross County, Ohio. (A list of these areas is in the October 5, 1978 **Federal Register** and 40 CFR 81). The purpose of the modeling analyses was to determine which areas of the State should be subject to rule 3745–17–08. Appendix A of rule 3745–17–08 lists those areas. All or portions of forty of the existing fifty EPA designated nonattainment counties and four designated attainment/unclassified areas are contained in Appendix A.

The list of areas in Appendix A represents those nonattainment counties, or portions thereof, in which the State has determined that the implementation of RACT on stationary sources alone will not be sufficient to attain the primary NAAQS by December 31, 1982. In those areas, therefore, the State is requiring implementation of RACT on fugitive sources. In addition to requiring RACT on the fugitive sources in Appendix A areas, the State has also committed itself to conduct additional studies of the nontraditional sources of particulates in these nonattainment areas.

In most of the areas the modeling analysis addressed the annual and 24-hour averaging periods. A modified version of the Climatological Dispersion Model (MCDM) was used to conduct the annual air quality analysis. Larsen's Transform was used with results of the annual air quality analysis to address the short-term 24-hour standards. The models employed by the State are generally consistent with acceptable EPA models which are referenced in the "Guideline on Air Quality Models," April 1978. (A more detailed description of how the analyses were conducted is presented in the "Rationale for Rulemaking on the Ohio Particulate SIP).

Action

EPA has reviewed the modeling analyses and believes that the State's determination of the areas which should be subject to rule 3745–17–08 is adequate for the following counties: Allen, Ashtabula, Belmont, Champaign, Carroll, Clark, Clermont, Clinton, Columbiana, Cuyahoga, Darke, Defiance, Erie, Franklin, Gallia, Geauga, Greene, Hamilton, Hancock, Henry, Jackson, Jefferson, Lake, Lawrence, Logan, Lorain, Lucas, Medina, Meigs, Miami, Monroe, Montgomery, Muskingum, Portage, Preble, Richland, Sandusky, Seneca, Shelby, Stark, Summit, Tuscarawas, Washington, Wayne, Wood and Wyandot. Therefore, EPA proposes to approve the Appendix A designation for these counties.

For Champaign, Clermont, Erie, Hancock, Lawrence, Miami, Montgomery, Richland, Seneca and Tuscarawas Counties, however, due to constraints in the modeling analysis, there was not an adequate demonstration for the secondary TSP NAAQS. In Mahoning and Trumbull Counties the modeling analysis did not adequately address attainment of the secondary standard NAAQS in the designated secondary nonattainment areas. To ensure that the secondary NAAQS will be achieved in these areas by December 31, 1987, the State of Ohio will continue with ambient air quality monitoring in these areas. If necessary, the State will conduct studies to identify the causes of any exceedances and solutions to any secondary standard exceedance in these counties.

EPA's review of the modeling analyses conducted for Scioto, Mahoning, and Trumbull counties indicated that there are some deficiencies which should be corrected prior to EPA's approval of their designation in Appendix A. EPA's review of the modeling analysis for these counties is presented below.

Mahoning, Trumbull and Scioto Counties

Synopsis. Portions of Mahoning, Trumbull and Scioto are designated at either primary or secondary nonattainment. Based upon the modeling analysis the State has exempted from Appendix A all of Scioto and portions of the primary nonattainment areas contained within Mahoning and Trumbull Counties. EPA's review of the modeling analysis indicated the following deficiencies:

(1) For Mahoning and Trumbull Counties there was no analysis conducted for the short-term primary standard.

(2) For Scioto County the MCDM runs for the base year were not able to accurately predict observed concentrations and the emission reductions associated with the application of RACT on the point sources in these counties resulted in little or no reduction in TSP concentrations between the base year and the 1982 attainment date.

In its September 14, 1981 letter the State indicated that it would remodel the Mahoning, Trumbull and Scioto nonattainment areas and appropriately revise Appendix A.

Action

EPA proposes to approve Appendix A of rule 3745–17–08 as it pertains to the Mahoning, Trumbull and Scioto nonattainment areas provided the State submits to EPA by December 31, 1982 the remedial documentation which it committed itself to submit in the September 14, 1981 letter.

In its September 14, 1981 letter, the State also indicated that Madison Township in Sandusky County was mistakenly omitted from the areas included in Appendix A. The State indicated that it will correct this error in the near future. EPA proposes to approve Appendix A for Sandusky County provided the State submits the appropriate remedial documentation to EPA by December 31, 1982. EPA notes that for the primary nonattainment areas contained within these counties attainment of the primary standard must be achieved by December 31, 1982, including any studies and implementation of any necessary control measures.

III. The Approvability of Revised § 3704.11

Synopsis. Section 11 of Chapter 3704 of Title 32 of the Ohio Revised Code (Section 3704.11) is part of the Ohio SIP. As part of the SIP it presently defines the enforcement and promulgation authority delegated to political subdivisions relative to the prevention, control and abatement of air pollution. Generally, it provides a political subdivision with the authority to

promulgate its own ordinances or regulations provided that "... every such local ordinance or regulation ..." shall include emission standards and regulations which are not less stringent than the emission standards and other regulations adopted pursuant to division (E) of section 3704.3 of the Revised Code (Section 3704.3(E)).

On July 1, 1980, the Governor of Ohio submitted to EPA, as a revision to the Ohio SIP, amended House Bill 101 (H.B. 101) amends Section 3704.11 by adding new subparagraph (C). This subparagraph expands the authority given to a political subdivision in relation to certain open burning activities. In particular, Section 3704.11(C) allows a political subdivision to permit a construction contractor to burn, on the construction site, natural wood, lumber, paper, cardboard and wooden boxes. The contractor is not allowed to burn any product with a rubber or petroleum base. Section 3704.11(C) also provides a political subdivision with authority to promulgate its own rules for the issuance of a construction open burning permit. It specifically prohibits open burning during an air pollution alert, warning or emergency for the area of the construction site.

According to the existing Ohio SIP, open burning of construction materials such as those allowed by Section 3704.11(C) is prohibited by rules 01 through 05 of Chapter 3745–19 of the Ohio Administrative Code (rules 3745–19–01 through 05). These rules were promulgated by the State pursuant to Section 3704.3(E) and, except for rules 3745–19–03(D)(1) and 04(D)(1), were approved by EPA in their entirety in the February 3, 1978 **Federal Register** (43 FR 4611). EPA interprets Section 3704.11(C) as superseding rules 3745–19–01 through 05 in those instances where a political subdivision either: (a) issues an open burning permit to a contractor or (b) adopts permit regulations for such open burning activities.

Action

EPA has reviewed the proposed SIP revision and has determined that it is acceptable. Generally, total suspended particulate matter (TSP) and carbon monoxide are the pollutants which are emitted as a result of open burning activities covered by Section 3704.11(C). At the time of submission of Section 3704.11(C) the State indicated that a technical analysis of the change in air quality was not possible. In his July 1, 1980 letter, the Governor of Ohio indicated that the State, however, would submit to EPA at appropriate intervals a report on the annual number of permits issues pursuant to Section 3704.11(C). Although a specific demonstration has not been submitted, EPA does not believe, given the scope of the exemption (i.e., it only allows the burning of specific wood construction debris), that there will be a significant increase in CO emissions in any area of the State. Furthermore, EPA's review of the attainment plans developed by the State for the CO and TSP nonattainment areas indicates that attainment of the appropriate standard does not rely on prohibiting burning of construction debris allowed by Section 3704.11(C). EPA does not believe that approval of Section 3704.11(C) will interfere with an area's ability to attain and maintain the TSP and CO standard. Therefore, EPA is today proposing to approve § 3704.11(C).

IV. Site Specific Revision for Southerly Wastewater Treatment Plant

On March 16, 1982, Ohio EPA submitted as a SIP revision request, an operating permit for the Southerly Wastewater Treatment Plant in Columbus, Ohio. This revision reduces the allowable emissions as required by rule 3745–17–09, from 2.0 lbs./ton (equivalent to .1 lbs. per hundred pounds of refuse charged) to 1.12 lbs./ton of dry sludge combusted. EPA proposes to approve the revision for the Southerly Wastewater Treatment Plant as part of the Ohio TSP SIP. The offset resulting from this emission reduction will be credited to the City of Columbus Refuse-Coal Fired Municipal Electric Plant. Interested individuals are advised that, as EPA indicated in the December 1, 1980 **Federal Register** (45 FR 79153), a 30 day public comment period is being provided on this notice of proposed rulemaking. Public comments received on or before October 21, 1982 will be considered in EPA's final rulemaking.

A thirty day comment period is being provided to enable publication of final action on this submission as expeditiously as possible. Final action approving this revision would satisfy the requirements for a Part D SIP. Until the State has an approved Part D SIP, it is subject to the new source growth prohibitions for section 110(a)(2)(I) of the Clean Air Act. EPA believes that the thirty days will provide the public with ample time to review and comment on today's proposed rulemaking especially since the public was notified on December 1, 1980 of the availability of the documents and EPA's intent to provide 30 days for comment on today's action. It is requested, that where possible, comments be submitted in triplicate. All comments received will be available for inspection during normal business hours at the Region V EPA Office listed at the front of this notice. Please call the contact person listed at the front of this notice before visiting the Region V Office.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirements of a Regulatory Impact analysis. Today's action does not constitute a major regulation since it primarily approves and conditionally approves provisions which the State adopted and submitted to EPA.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

List of Subjects in 40 CFR Part 52

Air Pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

This proposed rulemaking is issued under the authority of sections 110 and 172 of the Clean Air Act.

Dated: April 28, 1982.

Valdas V. Adamkus,

Regional Administrator.

Table A

A. Lime Plants
  (1) Product transfer, conveying and screening
  (2) Packaging and shipping
B. Power Plants
  (1) Coal delivery (Railcar)
  (2) Fly ash handling and disposal
C. Grain Terminals (Other than country grain elevators)
  (1) Truck, railcar and barge unloading
  (2) Truck, railcar, barge and ship loading
D. Gray Iron Foundries
  (1) Cupola, electric arc, electric induction furnace charging and tapping
  (2) Ductile iron innoculation
  (3) Pouring molten metal into molds
  (4) Casting shakeout
  (5) Cooling and cleaning castings
E. Steel Foundries
  (1) Electric arc and electric induction furnace charging and tapping
  (2) Hot metal pouring
  (3) Casting shakeout
F. Secondary Metal Processing Plants
  (1) Rotary chip dryer
  (2) Smelting furnaces, charging and tapping.* (reverberatory, crucible, induction)

* Also applicable to brass/bronze, zinc and lead smelting furnaces.

(3) Fluxing (chlorination)
G. Ferroalloy Production
(1) Furnace charging and smelting
(2) Furnace tapping
H. Galvanizing Plants
(1) Galvanizing Kettle
I. Iron and Steel Industry
(1) Sintering
(2) Blast Furnace Cast Houses
(3) Basic Oxygen Furnaces
(4) Electric Arc Furnaces
(5) Argon-Oxygen Decarbonization Vessels
(6) Hot Metal Desulfurization
(7) Hot Scarfing
(8) Teeming Operations
J. Refractory Manufacturing Plants
K. Primary Metal Production Plants

[FR Doc. 82-25791 Filed 9-20-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[A-8-FRL 2174-7]

Approval and Promulgation of State Implementation Plans; Revisions to the Wyoming Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: On April 30, 1981, Wyoming submitted revisions to its Prevention of Significant Deterioration (PSD) regulations, which had previously been approved by EPA on September 6, 1979 (44 CFR 51977). The April 30, 1981, revisions were subsequently revised by Wyoming after reconsideration of fugitive dust provisions and resubmitted on February 8, 1982. The revisions were developed to meet the EPA requirements in 40 CFR 51.24, as published on August 7, 1980. In addition on February 8, 1982, Wyoming submitted a minor correction to its regulation on permit requirements for construction, modification and operation of a source. EPA today is proposing to approve these revisions.

DATE: Comments due October 21, 1982.

ADDRESSES: Written comments should be addressed to: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following office: Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295.

FOR FURTHER INFORMATION CONTACT: Barry Levene, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3711.

SUPPLEMENTARY INFORMATION: On August 7, 1980, EPA revised 40 CFR 51.24 which contains requirements states must follow in submitting a plan to prevent significant deterioration of air quality (PSD). States were given nine months to revise their state implementation plans (SIP). On April 30, 1981, Wyoming submitted a revised SIP which responded to the new requirements by revising Section 24 of its Air Quality Standards and Regulations.

One portion of the regulations, § 24.b(1)(d), was stayed by the Wyoming Environmental Quality Council pending the outcome of a rehearing based on a petition from a mining company. The stayed section contained procedures for consideration of fugitive dust in determining potential to emit and consumption of increment. A hearing on this matter was held on July 15, 1981, beore the Wyoming Environmental Quality Council. Because the regulation might change as a result of the hearing, Wyoming requested on October 22, 1982, that EPA not proceed with rulemaking until the revised section had been submitted. That section was submitted February 8, 1982.

Summary of PSD Requirements

Section 110(a)(2)(D) and Part C of the Clean Air Act establish specific requirements for the prevention of significant deterioration of air quality in areas where ambient levels are cleaner than the national standards. The Act defines the amount of deterioration that can be tolerated in an area in terms of maximum allowable increases in ambient air quality concentrations (increments). These increments vary and are a function of the classification of an area. There are three applicable classifications under this program: (a) Class I where the increments are very stringent and practically no deterioration is allowed; (b) Class II where moderate, well-controlled growth is allowed: and (c) Class III where a considerable amount of growth is allowed. While the Act established a number of mandatory Class I areas, most of the nation is now Class II. The Act gives redesignation authority to State Governors and Indian governing bodies.

The principal means of protecting the increments are the review and regulation of major new stationary sources and modifications, the tracking of minor source growth and the periodic review of increment consumption. At present, Wyoming is implementing a program approved by EPA prior to the issuance of the revised requirements of 40 CFR 51.24. In that program, operators of major new sources and minor modifications must obtain a permit before commencing construction. A permit is granted only if, among other things: (a) The increments for the area are protected, and (b) best available control technology will be employed.

Summary of Submittal

The February 8, 1982, submittal, (1) revises section 24 of the Wyoming Air Quality Standards and Regulations to make them consistent with the revised requirements, in 40 CFR 51.24 and (2) corrects an error in the Section 21 regulations submitted on August 26, 1981, concerning permitting of new and modified sources. The Section 24 provisions being revised were approved by EPA on September 6, 1979 (44 CFR 51977); the Section 21 provisions being revised were approved by EPA on February 9, 1982 (47 FR 5892).

The EPA review of the submittals identified only one provision in which the Wyoming regulations might not be approvable. The Wyoming PSD regulation establishes a uniform baseline date of August 7, 1977. Federal regulations require the baseline date to be the earliest date after August 7, 1977 that a PSD source submits a complete application. The Wyoming definition could result in a less stringent, lower baseline concentration if, after August 7, 1977, a decrease in emissions were achieved somewhere in the State. In a July 1, 1981, letter to EPA, Wyoming stated that no such decreases occurred in the State before the baseline data would have been triggered under EPA regulations, and that therefore its definition is at least as stringent as EPA's requirements. EPA agrees with the Wyoming determination.

The change to Section 21 of the Wyoming regulations removes a statement concerning documentation of "Ownership" which was not adopted by the Wyoming Environmental Quality Council and yet was included in an August 26, 1981, submittal. Removal of the statement does not affect the approvability of the regulation.

Proposed Action

EPA is proposing to approve both the revisions to the PSD regulations and the correction to the new and modified source permitting regulations.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

This notice of proposed rulemaking is issued order the authority of Section 110 of the Clean Air Act (42 U.S.C. 7420).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: June 15, 1982.

Steven J. Durham,

Regional Administrator.

[FR Doc. 82-25941 Filed 9-20-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 123

[W-3-FRL 2210-2]

Revision of Virginia's NPDES Program Transferring Authority Over Coal Mining and Reclamation Facilities From State Water Control Board to the Department of Conservation and Economic Development, Division of Mined Land Reclamation

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will approve the transfer of certain water discharge regulatory authorities and responsibilities from one Virginia State Agency to another without any change in the substance of those authorities or responsibilities. Currently the Virginia State Water Control Board ("SWCB") administers the National Pollutant Discharge Elimination System ("NPDES") permitting program for regulating all discharges of pollutants to waters within Virginia. This rule will approve transfer of the NPDES authorities for regulating pollutant discharges from coal mining and reclamation facilities from the SWCB to the Virginia Department of Conservation and Economic Development, Division of Mined Land Reclamation ("DMLR"), which is already charged with other regulatory responsibilities for these facilities.

DATE: Comments must be submitted on or before October 21, 1982.

ADDRESS: All comments regarding the proposed rulemaking submitted on or before 30 days after publication of this notice will be considered and should be directed to: Greene A. Jones (3WM00), Director, Water Management Division, U.S. EPA, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106.

FOR FURTHER INFORMATION CONTACT:

Jed Z. Callen, Esquire (3RC12), Office of Regional Counsel, U.S. EPA, Region III, 6th & Walnut Streets, Philadelphia, PA. Telephone: (215) 597-3441.

SUPPLEMENTARY INFORMATION: On March 31, 1975, the Commonwealth or Virginia was given approval by the Environmental Protection Agency to administer the National Pollutant Discharge Elimination System (NPDES) permit program for regulating discharges of pollutants to waters within its boundaries. On December 15, 1981, the Commonwealth was conditionally approved to implement and administer the Surface Mining Control and Reclamation Act of 1977 ("SMCRA") for coal mining and reclamation operations within the Commonwealth. In Virginia, the NPDES permit program is administered by the State Water Control Board ("SWCB"), and the SMCRA permit prgram is administered by the Department of Conservation and Economic Development, Division of Mined Land Reclamation ("DMLR").

As applied to coal mining and reclamation facilities, the requirements of the NPDES and SMCRA permit programs are over-lapping and duplicative. To minimize confusion and duplication of effort, as well as to provide the coal industry with one-stop permitting, Virginia has requested that EPA approve a modification of its NPDES program to permit DMLR to assume all NPDES responsibilities related to coal mining currently performed by the SWCB. DMLR will then issue to each qualifying coal mining or reclamation facility a single permit incorporating the requirements of both SMCRA and NPDES, and will administer both Acts.

Based on the foregoing, it is the tentative decision of the Administrator of the Environmental Protection Agency to modify the Commonwealth of Virginia's NPDES authorization to permit implementation of the portion of the program described above by the DMLR instead of by the SWCB. No substantive rights or obligations of any person will be affected by this amendment. Notice of this proposed rulemaking is referenced under the Clean Water Act. The Administrator's decision to approve or disapprove the proposed amendment will be based on the comments received, and on a determination of whether the proposed amendment will meet the requirements of the Clean Water Act and 40 CFR Part 123.13.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached proposed rule will not have a significant economic impact on a substantial number of small business entities.

Dated: September 3, 1982.

Stanley Laskowski,

Regional Administrator, EPA Region III.

[FR Doc. 82-25940 Filed 9-20-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 123

[SW-6-FRL 2208-6]

Oklahoma Application for Interim Authorization, Phase II, Components A and B, Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Public Comment Period and of a Public Hearing.

SUMMARY: Today EPA is announcing the availability for public review of the Oklahoma application for Phase II, Components A and B, Interim Authorization, Hazardous Waste Management Program, inviting public comment, and giving notice of a public hearing to be held on the application.

DATE: A public hearing will be held on October 26, 1982, at 7:00 p.m. Comments on the Oklahoma Interim Authorization application must be received by the close of the public hearing on October 26, 1982.

ADDRESSES: EPA will hold a public hearing on Oklahoma's application for Interim Authorization on October 26, 1982, at 7:00 p.m., at the Sequoyah Underground Auditorium, 2401 Lincoln Blvd., Oklahoma City, Oklahoma.

Written comments should be sent to: Environmental Protection Agency, Region 6, Air and Waste Management Division, Attention: H. J. Parr, Hazardous Materials Branch, 1201 Elm Street, Dallas, Texas 75270, 214/767-2645.

Copies of the Oklahoma Phase II Interim Authorization application are available during normal business hours at the following addresses for inspection and copying:

Environmental Protection Agency, Region 6, Library, 28th Floor, 1201 Elm Street, Dallas, Texas 75270, 214/767-7341

Oklahoma State Department of Health, Waste Management Service, 1000 N.E. 10th Street, Room 803, Oklahoma City, Oklahoma 73105

EPA Headquarters Library, Room 2404, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: H. J. Parr, Hazardous Materials Branch, U.S. EPA, Region 6, Dallas, Texas 75270, 214/767–2645.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063), the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. Included in these regulations, which became effective 6 months from the date of promulgation, were provisions for a transitional stage in which states would be granted interim program authorization. The interim authorization program will be implemented in two phases corresponding to the two stages in which an underlying Federal program will take effect.

The State of Oklahoma received Interim Authorization for Phase I on January 16, 1981.

In the January 26, 1981, **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions of the second phase of Interim Authorization. EPA's decision to make the second phase of Interim Authorization available in components was based on the desire to proceed with authorizing State programs as expeditiously as possible and because some of the Subparts of the Federal regulations containing standards for hazardous waste treatment, storage and disposal facilities (40 CFR Part 264) are to be promulgated at different times, rather than in one single promulgation as previously anticipated.

As noted in the May 19, 1980 **Federal Register**, copies of state submittals for Interim Authorization are to be available for public inspection and comment. The purpose of this notice is to announce the availability of the Oklahoma submittal for Phase II Interim Authorization, Component A (Permit Program for Containers, Tanks, Surface Impoundments and Waste Piles) and Component B (Permit Program for Incinerators); to invite public comment; and to give notice of a public hearing to be held on Oklahoma's application. A listing and a description of requirements for Interim Authorization are stated in 40 CFR Part 123, Subpart F.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—land, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties and Confidential business information.

(Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 and the Solid Waste Disposal Act Amendments of 1980. 42 U.S.C. 6901 et seq.)

Dated: September 9, 1982.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 82–25940 Filed 9–20–82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

46 CFR Part 536

[Docket No. 82–36]

Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States; Requirements for Filing Currency Adjustment Factors Reflecting Changes in the Exchange Rate of Tariff Currencies

AGENCY: Federal Maritime Commission.

ACTION: Denial of enlargement of time.

SUMMARY: Request for reconsideration of denial of enlargement of time to comment on proposed rules relating to procedures and requirements for currency adjustment factors is denied. Sufficient time for comment originally provided and inadequate basis for extension offered by requesting parties.

DATE: Comments due on or before September 20, 1982.

ADDRESS: Comments (original and fifteen copies) and inquiries to: Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: Counsel for various conferences of shipping lines has requested reconsideration of a denial of enlargement of time to comment on proposed rules published in this proceeding July 20, 1982 (47 FR 31408).

A sixty day period was provided for comment by the Commission's original notice. As stated previously, this is ample time under most circumstances. The grounds offered for extension here while varying from those previously expressed are not persuasive that an exception is warranted. The thrust of the instant request is that this matter has been considered and reconsidered over a period of years evidencing its complexity and need for further analyses. Conversely, the number and length of prior considerations demonstrates that the matter already has been given considerable attention and therefore should not require much time for additional analyses. Accordingly, the instant request for reconsideration is denied.

By the Commission.[1]

Francis C. Hurney,

Secretary.

[FR Doc. 82–25785 Filed 9–20–82; 8:45 am]

BILLING CODE 6730–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1100 and 1122

[Ex Parte No. 428]

Discontinuance or Change of Passenger Train or Ferry Service

Decided: September 9, 1982.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to modify our regulations regarding discontinuance or change of passenger train or ferry service by revising 49 CFR Part 1122 and removing 49 CFR Part 1100.246. These changes are being proposed to eliminate unnecessary and redundant informational requirements and streamline our procedures. Regulations mandated by 49 U.S.C. 10909 are set forth separately. Section 1100.246 is consolidated with regulations at 49 CFR 1122. Additionally, because notice governing intercity passenger train discontinuances pursuant to 45 U.S.C. 561 no longer appears necessary, we request comments from the public on the desirability of eliminating present regulations covering them.

DATES: Comments should be filed on or before October 21, 1982 and should refer to Ex Parte No. 428.

ADDRESSES: An original and 10 copies of comments should be submitted to: Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245

or

Gloria E. Blazsik (202) 275–0948

SUPPLEMENTARY INFORMATION:

Introduction. As part of our ongoing review of regulations, we are proposing to modify 49 CFR Part 1122, and

[1] Vice Chairman Thomas F. Moakley opposed and Commissioner Richard J. Daschbach dissenting:

I would grant the instant request for reconsideration and extend the comment period for the involved conferences, and all interested parties to October 15, 1982.

eliminate 49 CFR 1100.246. These regulations implement 45 U.S.C. 561, and 49 U.S.C. 10908 and 10909.

The rail transportation policy of the United States (49 U.S.C. 10101a(2)) states, in part, that in regulating the railroad industry, it is the policy of the United States Government to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required. Mindful of the objective of the rail transportation policy, we propose to revise these regulations to eliminate unnecessary and redundant information requirements, to streamline the procedures, and to separate regulations required by these separate statutory sections to avoid confusion.

We also propose to clarify that these regulations apply only to the discontinuance or change of passenger train or passenger ferry service. Comments on this interpretation are invited.

Subpart A—Procedures Under 49 U.S.C. 10908. Under 49 U.S.C. 10908, when a carrier seeks to discontinue or change passenger train or ferry service between points in *two* or more States, it must notify the Commission "*at least* 30 days" before the discontinuance or change is to be effective. We propose a 45-day notice period in order to process properly the application and ensure that all parties' interests are adequately considered. As the result of a petition, or on our own initiative, the Commission may conduct a proceeding on the proposed discontinuance or change of operations, provided that the proceeding is instituted between the date the carrier files the notice with the Commission and the date on which the change is to be made. The Commission may order the carrier to continue any part of the transportation proposed for change pending completion of the proceeding if the decision is served on the carrier at least 10 days before the date the transportation is due to end or change. In the decision to conduct a proceeding, the Commission cannot order continuance of the service for more than 4 months after the date the carrier intended the discontinuance or change to be effective.

If the Commission finds that the transportation is required or permitted by the present or future public convenience and necessity and will not unreasonably burden interstate or foreign commerce after the proceeding is completed, it may order the carier to continue or restore the transportation for a period not to exceed one year. After the one year period has expired, jurisdiction over the matter reverts to the State unless a carrier again invokes the jurisdiction of the Commission under the section.

Specifically, we have reduced some of the financial information required to be submitted by the carrier with its notice proposing a discontinuance of passenger train or ferry service or change of operations. A carrier need only submit its last calendar year's financial data and the financial data for that part of the current year for which such information is available. The balance of the rules are revised to simplify language and to eliminate redundancies. Pertinent regulations in 49 CFR 1100.246 have been consolidated into 49 CFR 1122.

Subpart B—Procedures Under 49 U.S.C. 10909. This section concerns procedures to be followed when a carrier proposes to discontinue or change train or ferry service operated solely within one State. If a State's law prohibits the discontinuance or change, or the appropriate State authority has denied the carrier's request of has failed to act on the request by the 120th day after the carrier has made the request, the carrier may petition the Commission for relief. When a petition is filed, the chief executive officer of the State involved must notified of the filing of the petition. The Commission *must* give a full hearing on the proposed change *if a request is made* or if it decides on its own initiative to hold a hearing. Notice at least 30 days in advance of the hearing must be given to all interested persons if a hearing is held, and the hearing must occur in the State of the proposed change or discontinuance.

Because the procedures to be followed in 49 U.S.C. 10909 are presently interspersed with procedures to be followed under section 10908, we have set them apart, streamlined them, and eliminated the overlaps. The rules provide that a hearing shall be either oral or under the modified procedure. The information that carriers must file with their petition is similar to that required pursuant to 49 U.S.C. 10908.

Subpart C—Procedures Under 45 U.S.C. 561 (proposed for elimination). This section provides that any rail carrier which enters into a valid contract with the National Railroad Passenger Corporation (NRPC) between March 1, 1973, and January 1, 1975, may be relieved of its common carrier obligation to provide intercity rail passenger service under 49 U.S.C. Subtitle IV provided that any railroad discontinuing a train service gives notice to the Commission in accordance with the notice provisions established in 49 CFR Part 1122.

The procedures to be followed under 45 U.S.C. 561 are presently set forth in 49 CFR 1122.9. We have separated them as Subpart C and modified them to conform to our shortened and revised regulations set forth in Subparts A and B. Nonetheless, we believe the notice provisions under 45 U.S.C. 561 are no longer necessary and *propose to eliminate them.* We invite comments specifically on the proposed elimination.

All the proposed changes are set forth in the appendix.

Environmental and Energy Considerations

We do not believe that the actions we propose here will have any significant impact upon the quality of the human environment or energy consumption.

Regulatory Flexibility Analysis

This proceeding is instituted to provide streamlining of our regulations concerning train or ferry discontinuances or change of operations. We believe the revised rules will allow railroads and ferries to achieve greater flexibility in their operations by enabling them to take advantage of the streamlined procedures. This will impact favorably on all rail and ferry carriers and should have a modest, albeit beneficial economic impact upon an unascertainable number of small entities, as well as the shipping public. The proposed changes will not require the filing of reports or any unnecessary record-keeping by small entities, nor will the changes duplicate, overlap, or conflict with any other existing Federal rules.

Conclusions

We proposes to revise 49 CFR Part 1122, as shown in the appendix below and to eliminate 49 CFR 1100.246.

This notice is issued under the authority of 5 U.S.C. 553, 559, 45 U.S.C. 561, and 49 U.S.C. 10321, 10908 and 10909.

List of Subjects

49 CFR Part 1100

Administrative practice and procedure.

49 CFR Part 1122

Administrative practice and procedure, Railroads.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

Appendix

Title 49, Chapter of the Code of Federal Regulations would be amended as follows:

PART 1100—GENERAL RULES OF PRACTICE

§ 1100.246 [Removed]

(1) 49 CFR 1100.246 would be removed.

(2) 49 CFR Part 1122 would be revised to read as follows:

PART 1122—PASSENGER TRAIN OR FERRY DISCONTINUANCE OR CHANGE OF OPERATION

Subpart A—Procedures Under 49 U.S.C. 10908

Sec.

1122.1 Scope of rules.
1122.2 Notice of change or discontinuance.
1122.3 Information required with notice.
1122.4 Procedures governing the proceeding on the proposed discontinuance or change.

Subpart B—Procedures Under 49 U.S.C. 10909

1122.5 Scope of rules.
1122.6 Procedures on the petition.
1122.7 Procedures pertaining to the hearing.

Subpart C—Procedures Under 45 U.S.C. 561

1122.8 Notice of discontinuance filed pursuant to section 401(a)(1) of the Rail Passenger Service Act of 1970.

Subpart A—Procedures Under 49 U.S.C. 10908

§ 1122.1 Scope of rules.

These rules govern the proposal of a carrier to discontinue or change passenger train or ferry service which operates between two of more States.

§ 1122.2 Notice of change or discontinuance.

A separate notice for each unrelated proposal to discontinue or change passenger train or ferry service shall be filed with the Commission 45 days before the discontinuance or change is to be effective, and concurrently mailed to the chief executive officer and railroad regulatory body of each State in which the train or ferry is operated and posted at each station, depot, or facility served by the train or ferry. This notice shall contain the following information:

(a) Exact corporate name and address of the carrier.

(b) The passenger train or ferry number or other description of the passenger train or ferry which is the subject of a discontinuance or change; the name of each station, depot, or facility affected by the proposal; and the termini between which the passenger train or ferry operates.

(c) The data when the proposal will be effective.

(d) Notice that persons wishing to object to the proposal should notify the Commission at Washington, D.C. of their objections and their reasons for opposition at least 30 days before the effective date of the change.

§ 1122.3 Information required with notice.

A "Statement Regarding Proposed Discontinuance or Change of Passenger Train or Ferry Service" shall be filed at the Commission along with each separate notice. This statement shall contain the following either in the statement itself or in attached exhibits:

(a) Name and address of counsel or officer to whom correspondence should be addressed.

(b) Complete description of the present service and the proposed change including the effect on each train station, depot, or other facility affected.

(c) The reasons for the proposal.

(d) Description of alternative common carrier service available in the area described in the notice, if any.

(e) A brief summary of the traffic transported on the passenger trains or ferries involved for the last calendar year and for the current year to the extent available. If this information is not submitted, an explanation for the omission is required.

(f) The financial results of the operations described in paragraph (e), above.

(g) A copy of the carrier's balance sheet as of the latest available date and of its income statement for the last calendar year and for the part of the current year for which such information is available. If on file with the Commission, this information may be incorporated by reference.

(h) A map showing the geographic area and route involved in the proposal.

(i) Certification that a copy of the notice and "Statement Regarding Proposed Discontinuance or Change of Passenger Train or Ferry Service" have been mailed as required in § 1122.2 and the dates of mailing.

(j) Attestation and verification as required by 49 CFR 1100.15.

§ 1122.4 Procedures governing proceedings on the proposed discontinuance or change.

(a) Protests. Interested persons opposed to a proposed discontinuance or change of operations should file with the Commission an original of their protest by telegram, letter, or other writing. The protest should identify the protestant and the carrier involved, state the interest of the protestant, and the grounds for opposition. The protest should be filed with the Commission no later than 30 days before the proposed change is scheduled to go into effect.

(b) Intervention. Intervention in any proceeding will be allowed in accordance with 49 CFR 1100.45, 1100.70, or without formal petition for intervention if the ends of justice require it or for other good cause shown.

(c) Notice of proceeding. After the period for protests ends, the Commission will give notice to the carriers involved, the chief executive officer of each State in which the train of ferry is operated, and any other interested parties of record as to whether a proceeding investigating the passenger discontinuance or change will be institued. If a proceeding is instituted, the Commission may order continuance of the passenger train or ferry service pending completion of the proceeding.

(d) Reconsideration of decision as to whether to investigate. Petitions for reconsideration of the Commission's decision as to whether to investigate the proposed change or discontinuance must be filed with the Commission within 10 days after the date of service of the Commission's decision. Interested persons may reply thereto within 15 days after the date of service of the Commission's decision. If an order is desired requiring continuance of the service pending the proceeding, the petition must be filed with the Commission 15 days prior to the date the discontinuance is to take affect and shall contain a request for expedited handling.

Subpart B—Procedures Under 49 U.S.C. 10909

§ 1122.5 Scope of rules.

These rules govern the proposal of a carrier to discontinue or change passenger train or ferry service which is operated entirely within one State.

§ 1122.6 Procedures on a Petition.

(a) Contents. Petitions filed under 49 U.S.C. 10909 shall contain the information required in § 1122.2 (a) and (b) 1122.3(a)–(h). Additionally, the following information shall be provided:

(1) The date on which a request to change or discontinue the transportation was filed with the appropriate State authority.

(2) Identification of the State authority with which the petition was filed.

(3) Description of the action, if any, taken by the State authority on the petition including a copy to the record of the State proceeding, if available, or a copy of the State law prohibiting the action.

(b) Notice on the petition. When a petition is filed pursuant to this Subpart, the applicant shall at the same time (1) notify the chief executive officer of the State in which the passenger train or ferry is operated by mailing a copy of the State and (2) post a notice of change or discontinuance as required by § 1122.2.

§ 1122.7 Procedures pertaining to the hearing.

(a) Notice on the hearing. If a hearing is requested by any interested party in opposition, the Commission shall give all interested parties at least 30 days notice of the hearing to be conducted in the State in which the passenger train or ferry is operated.

(b) Intervention. See § 1122.4(b).

Subpart C—Procedures Under 45 U.S.C. 561

§ 1122.8 Notice of discontinuance filed pursuant to Section 401(a)(1) of the Rail Passenger Service Act of 1970.

A notice of an intercity passenger train discontinuance filed under this section shall be submitted as follows:

(a) Contents. The notice shall include: (1) The information required in § 1122.2(a)–(c); (2) a statement advising the public that the trains are intercity and entitled to be discontinued pursuant to section 401(a)(1) of the Rail Passenger Service Act of 1970, 45 U.S.C. 561, and, therefore, the Interstate Commerce Commission cannot entertain protests since the discontinuance is not within its jurisdiction.

(b) Filing of Copies. Three copies of the notice shall be filed with the Secretary of the Interstate Commerce Commission accompanied by three copies of an opinion of counsel that the subject trains are intercity passenger trains subject to the Rail Passenger Service Act of 1970.

(c) Prior to the effective date of the discontinuance, the carrier shall file three copies of a verified statement, executed by a responsible officer of the carrier, that a valid contract has been entered into with the National Railroad Passenger Corporation.

[FR Doc. 82-25823 Filed 9-20-82; 8:45 am]
BILLING CODE 7035-01-M

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49 CFR Part 1244

[Ex Parte No. 385 (Sub-1)]

ICC Waybill Sample—Revisions

AGENCY: Interstate Commerce Commission.

ACTION: Withdrawal of proposed revisions and termination of proceeding.

SUMMARY: On February 10, 1982, the Commission published for public comment in the **Federal Register** (47 FR 6040) proposed amendments to 49 CFR 1244, *Waybill Analysis of Transportation of Property*. Railroads, in response to this notice, argued convincingly the impracticabilty of the proposed revisons and the adverse effects such proposal would have on the adoption of computerized reporting or waybill information. The Commission has considered the railroads' comments and agrees that the proposed revisons are unworkable and might prove counterproductive. As a result, the proposed revisions are withdrawn and this proceeding is termninated.

EFFECTIVE DATE: September 21, 1982

FOR FURTHER INFORMATION CONTACT: Sidney Fine, (202) 275–7220.

SUPPLEMENTARY INFORMATION: By notice in the **Federal Register** on February 10, 1982 (47 FR 6040) the Commission proposed to amend 49 CFR 1244, *Waybill Analysis of Transportation of Property*. That notice proposed to add certain information to the waybill data submitted by the railroads.

The railroads argued that collecting this additional data would be prohibitively expensive, and that those carriers contemplating conversion to a computerized reporting system would be effectively discouraged from doing so. A survey of Class I railroads performed by the Association of American Railroads (AAR) indicated that many carriers cannot report the proposed additional information in computerized form. Further, many of the requested items such as an indicator of contract rates, indentification by type of multiple car service including unit train, type of train service, and detailed information for certain TOFC movements are not part of the revenue waybill, and therefore not retrievable except at great additional effort and expense to the carriers. In addition, the AAR found certain flaws in the proposed data requirement for multiple-car service characteristics that make these data impossible to obtain.

The railroads pointed out that the waybill sample is neither a suitable nor an effective vehicle for developing the proposed additional information. They suggested that the Commission could, where necesssary, better obtain the data directly from the involved parties.

Commission staff met with interested parties in order to solicit alternative definitions for miltiple car service characteristics. Notice of the meeting was published May 25, 1982, in the **Federal Register** at 47 FR 22570, and the meeting was held on June 28, 1982, at the Commission's Washington office. The railroads submitted written comments and recommendations, and other parties were in attendance and made oral presentations. The railroads suggested that the number of carloads, as shown on the waybill, was adequate for developing cost information on multiple car shipments. All participants at the meeting agreed to hold further informal discussions regarding whether to undertake a special study to obtain more accurate information on multiple-car service characteristics.

This proceeding is terminated. Waybill sample data requirements, as prescribed in Ex Parte No. 385, effective July 1, 1981, 364 I.C.C. 928, (46 FR 27684, May 15, 1981, as amended at 46 FR 45141, September 10, 1981) remain unchanged.

The standards and format for the computerized system of reporting as originally specified in statement No. 81–1, *Procedure for Sampling Waybill Records by Computer* have been incorporated into the report, *Documentation of the ICC Waybill Sample*, published by the Commission on November 1981, and will be included in any revisions thereof.

This not a significant action adversely affecting the quality of the human environment, the conservation of energy resources or small businesses.

(49 U.S.C. 10321)

Decided: September 10, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25818 Filed 9-20-82; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 47, No. 183
Tuesday, September 21, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Coronado National Forest Grazing Advisory Board; Meeting

The Coronado National Forest Grazing Advisory Board; Meeting scheduled for 10:00 a.m., September 21, 1982, at the Federal Building, 301 West Congress, Room 7X, Tucson, Arizona, has been cancelled.

This meeting will be rescheduled at a later date.

R. B. Tippeconnic,
Forest Supervisor.
September 13, 1982.
[FR Doc. 82-25975 Filed 9-20-82; 8:45 am]
BILLING CODE 3410-11-M

Food and Nutrition Service

Child Care Food Program; Administrative Reimbursement Rates for Sponsoring Organizations of Day Care Homes for Payments Made After August 31, 1982

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of adjustments in the administrative reimbursement rates for sponsors of day care homes. Further adjustments are made to these rates to reflect the higher costs of operations in Alaska and Hawaii. The adjustments contained in this notice are required by the statutes and regulations governing the Program.

Adjustments to the administrative rates for sponsors of day care homes would normally have been made at the same time as the other adjustments to Child Care Food Program rates published at 47 FR 31411 (July 20, 1982). However, due to a June 28, 1982, Federal district court order granting a preliminary injunction in the case *Petry v. Block*, no. 82-1682 (D.D.C., June 28, 1982), the Department made no adjustment to these rates at that time. The court order required the Department to rescind the formula for reimbursement published at 47 FR 27540 (June 25, 1982) and to apply the 1981 formula, pending promulgation of a new regulation. Therefore, on August 20, 1982, the Department published adjusted rates for the 1981 formula at 47 FR 36462. These rates were effective for the period beginning July 1, 1982, until such time as other rates might be announced.

In the notice announcing the adjustment to the 1981 rates, the Department pointed out that the preliminary injunction was being appealed and that different rates might be announced in the future if the appeal were successful. On August 31, 1982, the appeals court issued a stay of the district court's preliminary injunction. This stay authorizes the Department to resume applying the rates which became effective on January 1, 1982, pending a resolution of the litigation. These rates will be applied for payments made after August 31, 1982.

EFFECTIVE DATE: August 31, 1982.

FOR FURTHER INFORMATION CONTACT: Jordan Benderly, Director, or Beverly Walstrom, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 416, Alexandria, Virginia 22302 or by telephone at (703) 756-3888.

SUPPLEMENTARY INFORMATION:

Classification

This Notice has been reviewed under Executive Order 12291, and has been determined to be "non-major" because it will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant economic impact on competition, employment, investment, productivity, innovation, or on the ability of U.S. enterprises to compete.

This notice has been reviewed for compliance with the requirements of Pub. L. 96-354. Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has determined that this notice will not have a significant economic impact on a substantial number of small entities. This notice complies with a Congressional requirement to adjust reimbursement rates in the Child Care Food Program to allow for changes in the Consumer Price Index.

Background

Pursuant to section 17 of the National School Lunch Act (NSLA), and § 226.4 and § 226.12 of the regulations governing the Child Care Food Program (7 CFR Part 226), notice is hereby given of the new administrative payment rates for participating sponsoring organizations of day care homes.

These rates shall be in effect *for payments made after August 31, 1982, until further notice by the Department.* July claims for all sponsors will be reimbursed at the temporary rates announced in the August 20, 1982, **Federal Register** notice. August claims (for which reimbursement is due after the August 31, 1982, stay was issued) will be reimbursed according to the rates included in this **Federal Register** notice. The adjustments announced in this notice are based on the CPI for the 12-month period from May 1981 (the month used for the last CPI adjustment on July 1, 1981) and May 1982. The CPI adjustments to all reimbursement rates in the Child Care Food Program are made only once each year, on July 1, in compliance with the requirements of Pub. L. 97-35.

All States Except Alaska and Hawaii

Administrative Payment Rates for Sponsoring Organizations of Day Care Homes—Per Home/Per Month Rates in Dollars:

Initial 50 day care homes	$45
Next 150 day care homes	$34
Next 800 day care homes	$27
Additional day care homes	$23

Alaska

Administrative Payment Rates for Sponsoring Organizations of Day Care Homes—Per Home/Per Month Rates in Dollars:

Initial 50 day care homes	$73
Next 150 day care homes	$55
Next 800 day care homes	$43
Additional day care homes	$38

Hawaii

Administrative Payment Rates for Sponsoring Organizations of Day Care Homes—Per Home/Per Month Rates in Dollars:

Initial 50 day care homes	$52
Next 150 day care homes	$40
Next 800 day care homes	$31
Additional day care homes	$27

The changes in the administrative payment rates reflect a 6.73 percent increase during the 12 month period May 1981 to May 1982 (from 269.0 in May 1981 to 287.1 in May 1982) in the series for all items of the Consumer Price Index for all Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

The total amount of payments available to each State agency for distribution to institutions participating in the Program is based on the rates contained in this notice.

Definitions

The terms used in this notice shall have the meaning ascribed to them in the regulations governing the Child Care Food Program (7 CFR Part 226) published on August 20, 1982 at 47 FR 36524–36551.

(Catalog of Federal Domestic Assistance Program No. 10.558)

(Sec. 810 and 820, Pub. L. 97–35, Omnibus Reconciliation Act of 1981; Sec. 2, Pub. L. 85–627, 92 Stat. 3603 (42 U.S.C. 1766); Sec. 10(a), Pub. L. 95–627, 92 Stat. 3623 (42 U.S.C. 1760)

Dated: September 16, 1982.

Robert E. Leard,

Associate Administrator, Food and Nutrition Service.

[FR Doc. 82–25099 Filed 9–20–82; 8:45 am]

BILLING CODE 3410–30–M

Packers and Stockyards Administration

Shantz & Rodman Livestock Commission Company, Inc.; Depositing of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C 181 *et seq.)*, no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard	Date of posting
AR–134 Shantz & Rodman Livestock Commission Company, Inc., North Little Rock, Arkansas.	May 1, 1965.
MO–168 Mountain Grove, Auction Co., Inc., Mountain Grove, Missouri.	May 13, 1959.
TN–161 Smithville Stockyards, Smithville, Tennessee.	May 30, 1958.

Notice or other public procedure has not proceded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a change relieving a restriction and may be made effective in less than 30 days after publication in the **Federal Register**. This notice shall become effective upon publication in the **Federal Register.**

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.*)

Done at Washington, D.C., this *15th* day of *September, 1982.*

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 82–25098 Filed 9–17–82; 8:45 am]

BILLING CODE 3410–02–M

Rural Electrification Administration

Cajun Electric Power Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500), and REA Bulletin 20–21:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact with respect to proposed additional financing assistance to Cajun Electric Power Cooperative, Inc., (CEPCO) of Baton Rouge, Louisiana, for modifications and increased costs associated with the Big Cajun No. 2 Generating Station Units 1, 2 and 3 in Pointe Coupee Parish, Louisiana. CEPCO has a 100 percent ownership interest in Units 1 and 2 and will have a 58 percent ownership interest in Unit 3. Gulf States Utilities Company has purchased the remaining 42 percent ownership interest in Unit 3.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment and CEPCO's Borrower's Environmental Report (BER) may be reviewed in the office of the Director, Power Supply Division, Room 0230, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382–1400, or at the office of Cajun Electric Power Cooperative, Inc., (James R. Smith, Manager) 10719 Airline Highway, Baton Rouge, Louisiana 70816, telephone (504) 291–3060.

SUPPLEMENTARY INFORMATION: REA, in connection with a request for financing assistance from CEPCO, has reviewed the BER submitted by CEPCO and has determined that it represents an accurate assessment of the environmental impact of the project now in various stages of completion and construction. The project consists of three 540 MW coal-fired units and associated facilities. As of August 1, 1982, Units 1 and 2 are substantially in commercial operation with some repair work underway and Unit 3 was approximately 80 percent complete. The onsite transmission facilities required to connect the three units with the statewide grid have been completed. No offsite transmission facilities were required. Based upon information contained in the BER, the Environmental Assessment and FONSI issued by REA in April 1981, and the Final Environmental Impact Statement issued by REA for Units 1 and 2 in January 1976, and Unit 3 in January 1979, concerning the project and its impacts, REA concluded that the proposed additional financing assistance would not be a major Federal action significantly affecting the quality of the human environment.

The four documents listed above adequately consider impacts of the project on resources, including threatened and endangered species, important farmland, cultural resources, wetlands and floodplains.

Alternatives examined include delaying completion of the three units (no action) and completion of the Big Cajun No. 2 project. REA determined that completion of the project is an acceptable alternative because it best meets the needs of CEPCO with a minimum of adverse impacts.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: September 15, 1982.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82–25099 Filed 9–20–82; 8:45 am]

BILLING CODE 3410–15–M

Soil Conservation Service

Martin County Schools, RC&D Measure, North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on

Environmental Quality Guidelines (7 CFR Part 1500); and the Soil Conservation Service Guidelines (40 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Martin County Schools, RC&D Measure, Martin County, North Carolina

FOR FURTHER INFORMATION CONTACT:
Mr. Coy A. Farrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, telephone (919) 755–4210.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for reducing flooding and for improving drainage on three school grounds. The planned works of improvement include installing catch basins, pipes and subsurface drainage tubing. Grading and shaping will be done to improve surface drainage and to eliminate ponding. All disturbed areas will be seeded with adapted permanent vegetation.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Coy A. Garrett.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: August 24, 1982.

Coy A. Garrett,

State Conservationist.

[FR Doc. 82-25677 Filed 9-20-82; 8:45 am]
BILLING CODE 3410-16-M

River Forks Park RC&D Measure, Ga.; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the River Forks Park RC&D Measure, Hall County, Georgia.

FOR FURTHER INFORMATION CONTACT:
Dwight M. Treadway, State Conservationist, Soil Conservation Service, 355 East Hancock Avenue (P.O. Box 832), Athens, Georgia 30613, telephone 404–546–2273.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Dwight M. Treadway, State Conservationist has determined that the preparation and review of an environmental impact statement are not needed for this project.

The objective of the sponsors is to provide improved facilities for water-based recreation. The planned works of improvement include picnic facilities, campsite development, beach installation, and nature trail location. Conservation practices include preservation of native vegetation and immediate stabilization of exposed areas.

The Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Dwight M. Treadway.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: September 13, 1982.

Dwight M. Treadway,

State Conservationist.

[FR Doc. 82-25700 Filed 9-20-82; 8:45 am]
BILLING CODE 3410-16-M

South Will Neill Subwatershed Project, Will Neill Watershed, MI.; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the South Will Neill Subwatershed, Holmes, Leflore, and Carroll Counties, Mississippi.

FOR FURTHER INFORMATION CONTACT:
Billy C. Griffin, State Conservationist, Soil Conservation Service, Suite 1321, Federal Building, 100 West Capitol Street, Jackson, Mississippi 39269, telephone (601) 960–5205.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Billy C. Griffin, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for flood prevention and drainage. The planned works of improvement include 9.7 miles of channel improvement and floodways and a conservation easement on 237 acres of forest land.

The notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Billy C. Griffin.

No administrative action on implementation of the proposal will be

taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Flood Control Act. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: September 13, 1982.

Billy C. Griffin,

State Conservationist.

[FR Doc. 82-25707 Filed 9-20-82; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

Bicycle Tires and Tubes From Taiwan; Postponement of Antidumping Duty Preliminary Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of antidumping duty preliminary determination.

SUMMARY: The antidumping duty preliminary determination involving bicycle tires and tubes from Taiwan is being postponed upon request of petitioner in this case, the Carlisle Tire and Rubber Company. We intend to issue the antidumping duty preliminary determination no later than November 26, 1982.

EFFECTIVE DATE: September 21, 1982.

FOR FURTHER INFORMATION CONTACT: Paul Nichols, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, D.C. 20230, (202) 377-1768.

SUPPLEMENTARY INFORMATION: On May 20, 1982, we announced the initiation of an antidumping investigation to determine whether bicycle tires and tubes from Taiwan are being, or are likely to be, sold in the United States at less than fair value. The notice of initiation stated that if the investigation proceeded normally we would issue a preliminary determination on or before October 7, 1982.

As detailed in the notice of initiation of antidumping investigation, the petition alleges that bicycle tires and tubes from Taiwan are being, or are likely to be, sold in the United States at less than fair value. On September 3, 1982, the petitioner requested, pursuant to section 353.39(b) of the Commerce Regulations that the period for the preliminary determination be extended in this case. The petitioner requests this extension to allow time for its legal counsel to obtain confidential versions of questionnaire responses submitted by the Taiwanese firms under investigation, and to allow counsel to review these responses and prepare comments. Based on this request, in accordance with section 733(c)(1)(A) of the Tariff Act of 1930, as amended (the Act), we are extending the period for our preliminary determination in this case to not later than November 26, 1982.

This notice is published pursuant to section 733(c)(2) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 15, 1982.

[FR Doc. 82-25981 Filed 9-20-82; 8:45 am]

BILLING CODE 3510-25-M

Litharge, Red Lead and Lead Stabilizers From Mexico; Preliminary Affirmative Countervailing Duty Determinations

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary Affirmative Countervailing Duty Determinations.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Mexico of litharge, red lead and lead stabilizers as described in the "Scope of the Investigations" section of this notice. The estimated net subsidy is 3.389 percent *ad valorem.* Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the products subject to these determinations which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on these products in the amount equal to the estimated net subsidy. If these investigations proceed normally, we will make our final determinations by November 29, 1982.

EFFECTIVE DATE: September 21, 1982.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or Mary A. Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-1276.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

Based upon our investigations, we preliminarily determine that there is reason to believe or suspect that the government of Mexico provides certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended ("the Act"), to manufacturers, producers, or exporters in Mexico of litharge, red lead and lead stabilizers, as described in the "Scope of the Investigations" section of this notice.

We estimate the net subsidy to be 3.389 percent *ad valorem.*

Case History

On June 22, 1982, we received a petition from counsel for the Committee for Litharge, Red Lead and Lead Stabilizers, on behalf of the U.S. industry producing litharge, red lead and lead stabilizers. The petition alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Mexico of litharge, red lead and lead stabilizers.

Since Mexico is not a "Country Under the Agreement" within the meaning of section 701(b) of the Act, and certain of the merchandise at issue here (litharge and red lead) is dutiable, the domestic industries are not required to allege that, and the U.S. International Trade Commission ("ITC") is not required to determine whether imports of these products cause or threaten material injury to the U.S. industries in question. Similarly, no injury determination is required by the ITC with respect to the merchandise which is nondutiable (lead stabilizers including lead compounds not specifically provided for ("NSPF") and pigments containing lead NSPF) because there are, within the meaning of section 303(a)(2) of the Act, no "international obligations" which require such a determination for nondutiable merchandise from Mexico.

We reviewed the petition, and on July 12, 1982, determined that an investigation should be initiated (47 FR 31717).

We presented a questionnaire concerning the allegations to the government of Mexico at its embassy in Washington, D.C. On August 30, 1982, we received a response to the questionnaire. The response provided information on the operations of three firms which exported litharge and red lead. No information was provided on the production, exportation, or provision of bounties or grants on lead stabilizers. On the basis of the best information available, we are assuming that lead stabilizers received the same benefits as the other products under investigation. We are considering the government of Mexico's request that the response be classified pursuant to Executive Order 12356 (effective August 1, 1982).

Scope of the Investigations

The merchandise covered by these investigations consists of litharge, red lead and lead stabilizers which includes lead compounds not specifically provided for ("NSPF") and pigments containing lead NSPF from Mexico. The imported merchandise is currently classifiable under the following Tariff Schedules of the United States ("TSUS") numbers: litharge under TSUS number 473.52, red lead under TSUS number 473.56, lead compounds NSPF under TSUS number 419.04, and pigments containing lead NSPF under TSUS number 473.90.

Litharge is a lead oxide which is manufactured through the simple process of oxidizing refined lead. It is used primarily in lead storage batteries. The merchandise under investigation is also used in the manufacture of ceramics, plastics as a stabilizer, chemicals, protective coatings, sonar devices, and other special applications.

The period for which we are measuring subsidization is the first half of 1982.

Analysis of Programs

In its response, the government of Mexico provided data for the applicable periods.

Based upon our analysis to date of the petition and the response to our questionnaire, we preliminarily determine the following:

I. Programs Preliminarily Determined To Be Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Mexico of litharge, red lead and lead stabilizers under the programs listed below.

A. The CEPROFI Program

In 1979, the government of Mexico introduced a four-year National Industrial Development Plan ("NIDP") which spells out broad economic goals for the country. Tax credits, which are called Certificates of Fiscal Promotion ("CEPROFI"), are used to promote the NIDP goals, which include increased employment, the promotion of regional decentralization, industrial development particularly of small and medium sized firms, and the promotion of exports.

CEPROFI certificates are non-transferable tax certificates of a set value which may be used for a five-year period to pay federal taxes. CEPROFI certificates are granted for carrying out investments in "priority" industrial activities. The amount of the CEPROFI is based upon the location of the activity, the number of jobs generated, the value of the investments in new plants and equipment, or the value of purchases of capital goods produced in Mexico.

Some Mexican producers of the merchandise under investigation received CEPROFI certificates during the review period. The companies allege that the certificates were granted in connection with production of products other than the products under investigation.

Because we are unable to determine from the response whether these benefits also aided the products under investigation, we are assuming for the purpose of these preliminary determinations that the products under investigation received the entire benefit.

The Department has preliminarily determined that the government of Mexico is providing bounties or grants to its manufacturers, producers, and exporters of litharge, red lead and lead stabilizers under the CEPROFI program. We have allocated the countervailable CEPROFI benefits received in the first six months of 1982 over the total production of the merchandise under investigation produced during that period, which results in a net subsidy of .012 percent *ad valorem.*

B. Preferential Financing Programs

The Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX") is a trust established by the government of Mexico to promote the manufacture and sale of exported products. The fund is administered by the Mexican Treasury Department, with the Bank of Mexico (Mexico's central bank) acting as the trustee. The Bank of Mexico administers the financing of FOMEX loans through financial institutions. The financial institutions establish contracts for lines of credit with manufacturers and exporters of merchandise.

The response states that FOMEX loans were obtained by producers, manufacturers, and exporters of litharge and red lead for two purposes: pre-export (production) financing and export financing.

In order for a company to be eligible for FOMEX financing for exports, the following requirements must be met: (1) The product to be manufactured must be included on a list made public by FOMEX; (2) the articles to be exported must have a minimum of 30 percent national content in direct production costs; (3) loans granted for pre-export must be in Mexican currency, while loans for export sales are established in U.S. dollars or any other foreign currency acceptable to the Bank of Mexico; and (4) the exporter must carry insurance against commercial risks to the extent of the loans. We found that the maximum annual interest rate that credit institutions may charge borrowers for FOMEX pre-export financing is 8 percent in Mexican pesos. The maximum annual interest rate for FOMEX export financing is 6 percent in the currency of the country of importation.

The government of Mexico's response provided no information on the commercial rate of interest in Mexico for short term peso and dollar denominated loans. The response included information provided by three companies which exported the merchandise under investigation on the rate of interest the companies obtained on non-FOMEX loans. On the basis of the best information available, we have used a national average commercial rate of interest in Mexico for peso loans and the average company rate received for non-FOMEX dollar-denominated loans during the first half of 1982.

We have preliminarily determined that during the first six months of 1982, comparable peso-denominated loans were available at 46.95 percent, and comparable dollar-denominated loans were available at 17.16 percent.

For those FOMEX loans obtained by manufacturers during the period January 1, 1982—June 30, 1982, we computed the difference in interest expense between the FOMEX loans and that which would have been incurred had the loans been made at commercial rates. We allocated this amount over the value of total exports during the same period in the case of pre-export financing loans, and over the value of exports to the U.S. during the same period in the case of export financing loans.

We have preliminarily determined the net amount of the benefit rate for loans granted for pre-exports to be 1.874 percent *ad valorem* and the net amount of the benefit rate for export financing to be 1.503 percent *ad valorem,* for a total subsidy under the two programs of 3.377 percent *ad valorem.*

II. Program Preliminarily Determined Not To Be Utilized

We preliminarily determine that the Certificado de Devolucion de Impuesto ("CEDI") program which was described in the notice of "Initiation of Countervailing Duty Investigation" is not utilized by the manufacturers, producers, or exporters in Mexico of litharge, red lead and lead stabilizers.

Certificado de Devolucion de Impuesto ("CEDI") is a tax certificate issued by the government of Mexico in an amount equal to a percentage of the

f.o.b. value of the exported merchandise or, if national insurance and transportation are utilized, a percentage of the c.i.f. value of the exported product. The Secretary of Commerce of Mexico is responsible for setting the CEDI rate, which is not published. Exporters are required to apply for each CEDI by providing to the Ministry of Commerce ("SECOM") documentation with respect to each individual shipment of qualifying exports. SECOM processes the application and, on approval, instructs the Ministry of Treasury ("TESORERIA") to issue the CEDIs in the amount specified. The CEDIs are non-transferable and may be applied against a wide range of federal tax liabilities (including payroll taxes, value added taxes, federal income taxes, and import duties) over a period of five years from the date of issuance.

The government of Mexico's response states that it discontinued the eligibility of the products under investigation for CEDI tax rebates by an Executive Order published on August 25, 1982 in the *Diario Oficial de la Federacion* (Official Gazette). The order abrogates prior Executive Orders which contained the lists of products eligible to receive CEDI certificates. Discontinuance of the eligibility to apply for the CEDI was effective one day after publication of the Executive Order in the *Diario Oficial*.

Verification

In accordance with section 776(a) of the Act, we will verify all the information used in making our final determination.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of litharge, red lead and lead stabilizers from Mexico which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond, for each such entry of the merchandise in the amount of 3.389 percent *ad valorem*.

This suspension will remain in effect until further notice.

Public Comment

In accordance with section 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10 a.m. on October 18, 1982, at the U.S. Department of Commerce, Room 3104, 14th Street and Constitution Avenue, NW., Washington, D.C.20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by October 11, 1982. Oral presentations will be limited to issued raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within thirty days of this notice's publication, at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 15, 1982.

[FR Doc. 82-25894 Filed 9-20-82; 8:45 am]

BILLING CODE 3510-25-M

Yarns of Polypropylene Fibers From Mexico; Initiation of Countervailing Duty Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Mexico of yarns of polypropylene fibers receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigation proceeds normally, we will announce a preliminary determination on or before November 19, 1982.

EFFECTIVE DATE: September 21, 1982.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-1273.

SUPPLEMENTARY INFORMATION:

Petition

On August 26, 1982, we received a petition from Quaker Textile Corporation of Fall River, Massachusetts, on behalf of the U.S. industry producing yarns of polypropylene fibers. In compliance with the filing requirements of §355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that the manufacturer, producer, or exporter of yarns of polypropylene fibers in Mexico receives, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended ("the Act").

Since Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the yarns of polypropylene fibers are dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission ("ITC") is not required to determine whether, imports of this product cause or threaten material injury to the U.S. industry in question.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on yarns of polypropylene fibers and we have found that the petition meets these requirements.

Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Mexico of yarns of polypropylene fibers as described in the "Scope of the Investigation" section of this notice receive bounties of grants. If our investigation proceeds normally, we will make our preliminary determination by November 19, 1982.

Scope of the Investigation

The merchandise covered by this investigation is yarns of polypropylene fibers from Mexico. The imported merchandise is currently provided for in items 310.0214, 310.1114, 310.5015, 310.5051, 310.6029, 310.6038 and 310.8000 of the *Tariff Schedules of the United States Annotated*. Yarns of polypropylene fibers are used primarily in the manufacture of fabrics, particularly those for upholstery. The major industrial raw materials for these yarns are man-made fibers of staple, continuous filament and bulked continuous filament made from polypropylene resin.

Allegations of Bounties or Grants

The petitioner alleges that the government of Mexico provides bounties or grants to the exporter of yarns of polypropylene fibers of 15 percent of the f.o.b. value of the exported merchandise through the Certificado de Devolucion de Impuesto ("CEDI").

The government of Mexico has notified us that as of August 25, 1982, it discontinued the eligibility of all products from receiving benefits under this program. However, inasmuch as the program has not been eliminated, we have included the CEDI program as part of our investigation to determine whether this product in fact receives benefits under the CEDI program.

Petitioner also alleges that the government of Mexico provides tax credits through the Certificates of Fiscal Promotion ("CEPROFI") program for "priority" industrial activities and through preferential financing by the Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX").

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 15, 1982.

[FR Doc. 82-25983 Filed 9-20-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), will meet to review comments from the Snapper-Grouper Fishery Management Plan (FMP) public hearings; discuss the decision process of the Calico Scallop and Swordfish FMP's; update the Billfish, Shrimp and Bluefish FMP's; review the FY 83 budget; discuss annual employee evaluations and other business as necessary.

DATES: The public meetings will convene on Monday, October 25, 1982, at approximately noon and will adjourn on Thursday, October 28, 1982, at approximately 5 p.m.

ADDRESS: The public meetings will take place at the Indies Inn, Mile Marker 61, Duck Key, Florida.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle—Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Dated: September 16, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-25985 Filed 9-20-82; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Notice of Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Abbott Laboratories having a place of business at North Chicago, Illinois 60064 an exclusive right in the United States to manufacture, use and sell product embodied in the invention, "Method for the Identification and Purification of Human Lung Tumor-Associated Antigens (HLTAA) and Clinical Detection and Determination of These Antigens," Patent Application No. 6–351,588 (dated February 23, 1982). The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, P.O. Box 1423, Springfield, Virginia 22151. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: September 14, 1982.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 82-25973 Filed 9-20-82; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Levels of Restraint for Certain Wool and Man-Made Fiber Apparel Products Exported from the Polish People's Republic

September 15, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the levels of restraint established for men's and boys' wool suit-type coats in Category 433 to 7,798 dozen and wool and man-made fiber suits in Category 443/643/644 to 17,092 dozen, produced or manufacture in Poland and exported during the agreement year which began on January 1, 1982 by the application of available swing, carryover and/or carryforward and by adjustment for carryforward used in 1981. The sublimit for Category 443/643/644 (except leisure suits in T.S.U.S.A. numbers 379.8351, 379.8352, 379.8920, and 379.9560) is being similarly adjusted for the same agreement period to 13,926 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654)).

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of September 15, 1980 and March 21, 1981, as amended, between the Governments of the United States and the Polish People's Republic provides for the carryover of shortfalls in certain categories from the previous agreement year (carryover), for the borrowing of yardage in certain categories from the succeeding year's level with the amount used being deducted from the level in the following year (carryforward); and for the increase in specific ceilings by designated percentages (swing). Pursuant to the terms of the bilateral agreement, the import restraint levels for Categories 433 and 443/643/644 are being increased for the twelve-month period which began on January 1, 1982.

EFFECTIVE DATE: September 15, 1982.

SUPPLEMENTARY INFORMATION: On December 16, 1981 there was published in the **Federal Register** (46 FR 61091) a letter dated December 14, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements

to the Commissioner of Customs which established levels of restraint for certain cotton, wool, and man-made fiber textile products, including Categories 433 and 443/643/644, produced or manufactured in Poland which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982.

In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to permit entry for consumption and withdrawal from warehouse for consumption of wool and man-made fiber textile products in Categories 433 and 443/643/644, produced or manufactured in Poland, at the designated, increased levels during the agreement year which began on January 1, 1982.

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

September 15, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: On December 14, 1981, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982 of cotton, wool, and man-made fiber textile products in certain specific categories, produced or manufactured in Poland, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of September 15, 1980 and March 21, 1981, as amended, between the Governments of the United States and the Republic of Polish People's; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on September 15, 1982, to increase the twelve-month levels of restraint for Categories 433 and 443/643/644 to the following:

Category	Amended 12-month level of restraint[1]
433	7,795 dozen.
443/643/644	17,062 dozen of which not more than 13,926 dozen shall be applied to all T.S.U.S.A. numbers in these categories except 379.8820, 379.9580, 379.8351, and 379.8352.

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1981.

The actions taken with respect to the Government of the Polish People's Republic and with respect to imports of wool and man-made fiber textile products from Poland have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-25982 Filed 9-20-82; 8:45 am]

BILLING CODE 3510-25-M

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of September 15, 1980 and March 21, 1981, as amended, between the Governments of the United States and the Polish People's Republic which provide, in part, that: (1) within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

DEPARTMENT OF DEFENSE

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee will meet on October 6 and 7, 1982, at the Naval Weapons Center, China Lake, California, and onboard the U.S.S. *New Jersey*, Long Beach California. Sessions of the meeting will commence at 8:30 a.m. and terminate at 3:00 p.m. on October 7, 1982. All sessions of the meeting will be closed to the public.

The entire agenda for the meeting will consist of discussions relating to electronic warfare and other related research. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed i section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander P. D. Quinton, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217, telephone number: (202) 696-4870.

Dated: September 17, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy Alternate Federal Register Liaison Officer.

[FR Doc. 82-26183 Filed 9-20-82; 8:45 am]

BILLING CODE 3810-AE-M

Office of the Secretary

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, October 5, 1982; Tuesday, October 12, 1982; Tuesday, October 19, 1982; and Tuesday, October 26, 1982 at 10:00 a.m. in Room 3D321, the Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5) U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to

the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C.552b.(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, the Pentagon, Washington, D.C. 20301.

M. S. Healy,

OSD Federal Register Liaison Office, Department of Defense.

September 15, 1982.

[FR Doc. 82-25090 Filed 9-20-82; 8:45 am]
BILLING CODE 3810-01-M

Defense Science Board Task Force on Electronic Warfare (Future Systems Subgroup); Notice of Advisory Committee Meeting

The Defense Science Board Task Force on Electronic Warfare will meet in closed session on October 5–6, 1982 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the preceived needs of the Department of Defense.

At the meeting on October 5–6, 1982 the Task Force will discuss the application of technology to future systems designed to improve U.S. Electronic Warfare capabilities.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, (1976)). It has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

September 15, 1982.

[FR Doc. 82-25089 Filed 9-20-82; 8:45 am]
BILLING CODE 3810-01-M

Defense Science Board Task Force on International Industry-to-Industry Armaments Cooperation: Notice of Advisory Committee Meeting

The Defense Science Board Task Force on International Industry-to-Industry Armaments Cooperation will meet in open session on October 18–21, 1982 in Brussels, Belgium.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At its meeting on October 18–21, 1982 the Defense Science Board Task Force on International Industry-to-Industry Armaments Cooperation will continue its review of the Defense Department's policies, plans and procedures which impede or might impede international arms cooperation and thereby have the potential for adversely impacting the collective security of the United States, its friends and Allies. In this context, the Task Force will also analyze the effect of current international cooperation policies have on the utility of the US, its friends and Allies to achieve in good order and sustain mobilization capacities. Meeting space is limited. Persons interested in attending should contact Mr. E. D. Greinke, Task Force Executive Secretary, 202–697–4172. Space will be awarded on a first come, first serve basis.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

September 15, 1982.

[FR Doc. 82-25094 Filed 9-20-82; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

[Docket No. CAS–RM–80–304]

Industrial Energy Conservation Program; Notice of Exempt Corporations and Adequate Reporting Programs

AGENCY: Energy Department.

ACTION: Notice of exempt corporations and adequate reporting programs.

SUMMARY: The Department of Energy (DOE) is exempting certain corporations from the requirement of filing corporate reporting forms with DOE and is determining as adequate certain industrial reporting programs for sponsor reporting pursuant to Section 376(g)(1) of the Energy Policy and Conservation Act (EPCA) and DOE's regulations set forth at 10 CFR Part 445, Subpart D. The exempt corporations and the respective sponsors of adequate programs are listed alphabetically by industry in the appendix to this notice.

This list of exempt corporations is required to be published by EPCA. The program's procedures, which allow identified corporations to be exempted from direct reporting, assist in maintaining the confidentiality of consumption information and reduce the reporting burden for corporations.

FOR FURTHER INFORMATION CONTACT:
Tyler E. Williams, Jr., Office of Industrial Programs, CE–122.1, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–2371

Pamela M. Pelcovits, Office of General Counsel, GC–33, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–9516

SUPPLEMENTARY INFORMATION: DOE issued regulations in 10 CFR Part 445 (45 FR 10194, February 14, 1980) which set forth the requirements of DOE's Industrial Energy Conservation Program, as established by Part D of Title III of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94–163), as amended by the National Energy Conservation Policy Act (NECPA) (Pub. L. 95–619). These regulations, in part, require certain industrial corporations to file reports on energy consumption and conservation and, if appropriate, recovered materials utilization directly with DOE or, if exempted, with sponsors of DOE-approved adequate reporting programs.

On June 21, 1982, DOE issued a "Notice of Proposed Exempt Corporations and Adequate Reporting Programs" (47 FR 28351, June 29, 1982) as required by 10 CFR 445.37. Changes in the list issued today include addition of identified corporations and subsidiaries of identified corporations to sponsor lists as well as removal of non-identified corporations and subsidiaries of identified corporations from sponsor lists. These changes are a result of comments received from affected corporations and sponsors. One approved sponsor has withdrawn from the program.

Parentheses with the word "partial" follow any corporation which will be reporting other than its total energy data in any particular two-digit SIC code through the program sponsor under which it is listed. This signifies that the corporation will be reporting only part of its data for the SIC code through that sponsor and may be reporting the rest of

its efficiency data through another sponsor or sponsors or directly to DOE.

Issued in Washington, D.C., September 13, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

Final Exempt Corporations and Sponsors of Adequate Reporting Programs

SIC 20—Food and Kindred Products

American Bakers Association

Campbell Soup Company (partial)
Campbell Taggart, Inc.
Consolidated Foods Corporation (partial)
Flowers Industries Inc.
G. Heileman Brewing Company, Inc. (partial)
ITT Continental Baking Company Inc. (partial)
Interstate Brands Corporation

American Feed Manufacturers Association

Archer Daniels Midland Company (partial)
Cargill Inc.
Central Soya Company Inc. (partial)
Farmers Union Grain Terminal Association (partial)
Gold Kist Inc.
Land O'Lakes, Inc. (partial)
Moorman Manufacturing Company
Ralston Purina Company (partial)

American Frozen Food Institute

Campbell Soup Company (partial)
Con Agra Inc. (partial)
J. R. Simplot Company
Pillsbury Company (partial)
Twin City Foods Corporation

American Meat Institute

Beatrice Foods Company (partial)
Consolidated Foods Corporation (partial)
Farmland Industries Inc.
Geo. A. Hormel & Company
General Host Corporation (partial)
Greyhound Corporation
ITT Continental Baking Company Inc. (partial)
Oscar Mayer & Company
Rath Packing Company
Swift & Company
United Brands Company
Wilson Foods Corporation

Biscuit & Cracker Manufacturers Association

American Brands Inc. (partial)
Keebler Company
Nabisco Inc. (partial)

Chemical Manufacturers Association

National Distillers Products Company

Corn Refiners Association

A. E. Staley Manufacturing Company (partial)
American Maize-Products Company
Anheuser-Busch Inc. (partial)
CPC International Inc.
Grain Processing Corporation
H. J. Heinz Company (partial)
National Starch & Chemical Corporation

Grocery Manufacturers of America, Inc.

A. E. Staley Manufacturing Company (partial)
American Home Products Corporation
Ampco Foods Inc.
Amstar Corporation
Anderson Clayton & Company
Archer Daniels Midland Company (partial)
Beatrice Foods Company (partial)
Borden Inc. (partial)
Carnation Company

Grocery Manufactures of America, Inc.

Central Soya Company, Inc. (partial)
Coca-Cola Company
Consolidated Foods Corporation (partial)
General Foods Corporation
General Mills Inc.
Great A & P Tea Company Inc.
H. J. Heinz Company (partial)
Hershey Foods Corporation
Heublein Inc.
Kellogg Company
Kraft Inc.
Kroger Company
Lance Inc.
Lever Bros.
Mars Inc.
Nabisco Inc. (partial)
Pepsico Inc.
Pet Incorporated
Pillsbury Company
Procter & Gamble Company
Quaker Oats Company
Ralston Purina Company (partial)
R. T. French Company
Standard Brands Incorporated
Thomas J. Lipton Inc.
Universal Foods Corporation

National Food Processors Association

California Canners and Growers Company
Campbell Soup Company (partial)
Castle & Cooke Inc.
Curtice-Burns Inc.
Gerber Products Company
H. J. Heinz Company (partial)
Norton Simon Inc.
R. J. Reynolds Industries, Inc.
Stokely-Van Camp Inc.
Sunkist Growers Inc.
Tri/Valley Growers Inc.

National Frozen Food Association

ITT Continental Baking Company Inc. (partial)

Pharmaceutical Manufacturers Association

Eli Lilly and Company

U.S. Beet Sugar Association

Amalgamated Sugar Company
American Crystal Sugar Company
Consolidated Foods Corporation (partial)
Holly Sugar Corporation
Michigan Sugar Company
Minn-Dak Farmers Cooperative
Monitor Sugar Company
Southern Minnesota Sugar Cooperative

U.S. Brewers Association

Adolph Coors Company
Anheuser-Busch Inc. (partial)
Archer Daniels Midland Company (partial)
Grain Terminal Association (partial)
Jos. Schlitz Brewing Company
Ladish Malting Company
Olympia Brewing Company
Pabst Brewing Company
Philip Morris, Inc. (partial)
The Stroh Companies Inc.

U.S. Cane Sugar Refiners Association

Archer Daniels Midland Company (partial)
California & Hawaiian Sugar Company
Colonial Sugars Inc.
Imperial Sugar Company
National Sugar Refining Company
Refined Syrups & Sugars Inc.
Revere Sugar Corporation
Savannah Foods & Industries Inc. (partial)

SIC 22—Textile Mill Products

American Textile Manufacturers Institute

American Thread Company
Avondale Mills Inc.
Bibb Company
Burlington Industries Inc.
Clinton Mills Inc.
Coats & Clark Inc.
Colgate-Palmolive Company
Collins & Aikman Corporation
Cone Mills Corporation
Cranston Print Works Company
Crompton Company Inc.
Dan River Inc.
Dixie Yarns Inc.
Fieldcrest Mills Inc.
General Tire & Rubber Company
Goodyear Tire & Rubber Company
Graniteville Company
Greenwood Mills Inc.
J. P. Stevens & Company Inc.
Johnson & Johnson
Kimberly-Clark Corporation
M. Lowenstein & Sons Inc.
Milliken & Company
Northwest Industries Inc.

Reeves Brothers Inc.
Riegel Textile Corporation
Spartan Mills Inc.
Sperry and Hutchinson Company (partial)
Springs Mills Inc.
Standard-Coosa-Thatcher Company
Thomaston Mills Inc.
Ti-Caro Inc.
United Merchants & Manufacturers Inc.
West Point-Pepperell Inc.

Carpet & Rug Institute

Mohasco Corporation
Shaw Industries Inc.
Sperry and Hutchinson Company (partial)
Standard Oil Company (Indiana)
WWG Industries Inc.

SIC 24—Lumber and Wood Products

National Forest Products Association

Abitibi-Price Corporation
Boise Cascade Corporation
Champion International Corporation
Georgia-Pacific Corporation
Koppers Company Inc.
Louisiana-Pacific Corporation
Masonite Corporation
Potlatch Corporation
Weyerhaueser Company
Willamette Industries Inc.

SIC 26—Paper and Allied Products

American Paper Institute

Abitibi-Price Southern Corporation
Alton Box Board Company
American Can Company
Appleton Papers Inc.
Arcata Corporation
Austell Box Board Corporation
Bell Fibre Products Corporation
Blandin Paper Company
Boise Cascade Corporation
Bowater Incorporated
Champion International Corporation
Chesapeake Corporation
Clevepak Corporation
Consolidated Packaging Corporation
Consolidated Papers Inc.
Continental Group Inc.
Crown Zellerbach Corporation
Deerfield Specialty Papers, Inc.
Dennison Manufacturing Company
Dexter Corporation
Diamond International Corporation
Eddy Paper Company Limited
Erving Paper Mills Inc.
Federal Paper Board Company Inc.
Finch Pruyn & Company Inc.
Fort Howard Paper Company
Fraser Paper, Limited
GAF Corporation
Garden State Paper Company Inc.
Georgia-Pacific Corporation
Gilman Paper Company
Great Northern Nekoosa Corporation
Green Bay Packaging Inc.
Gulf States Paper Corporation
Hammermill Paper Company
Hollingsworth & Vose Company
International Paper Company
International Telephone & Telegraph Corporation
James River Corporation of Virginia
Kimberly-Clark Corporation
Litton Industries Inc.
Longview Fibre Company
Macmillan Bloedel Inc.
Marcal Paper Mills Inc.
Mead Corporation
Menasha Corporation
Mobil Oil Corporation (partial)
Mosinee Paper Corporation
National Gypsum Company
Newark Boxboard Company
Newton Falls Paper Mill Inc.
Olin Corporation
Owens-Illinois Inc.
PH Glatfelter Company
Pacific Paperboard Products Inc.
Penntech Papers Inc.
Pentair Industries Inc.
Pope and Talbot Inc.
Port Huron Paper Company
Potlatch Corporation
Procter & Gamble Company
Scott Paper Company
Simpson Paper Company
Sonoco Products Company
Southeast Paper Manufacturing Company
Southwest Forest Industries Inc.
St. Joe Paper Company
St. Regis Paper Company
Sorg Paper Company
Stone Container Corporation
Tenneco Inc.
Time Inc.
Times Mirror Company
Union Camp Corporation
Virginia Fibre Corporation
Wausau Paper Mills Company
Weston Paper & Manufacturing Company
Westvaco Corporation
Weyerhaeuser Company
Willamette Industries Inc.

Chemical Manufacturers Association

Minnesota Mining & Manufacturing Company
Mobil Oil Corporation (partial)

Glass—Pressed & Blown (Battelle Institute)

Owens-Corning Fiberglass Corporation

SIC 28—Chemicals and Allied Products

Aluminum Association

Aluminum Company of America
Reynolds Metals Company

American Feed Manufacturers Association

Cargill Inc.

Chemical Manufacturers Association

Air Products & Chemical Inc.
Airco Inc.
Akzona Inc.
Allied Chemical Corporation
American Can Company
American Cyanamid Company
American Hoechst Corporation
American Petrofina Inc.
Arizona Chemical Company
Ashland Oil Inc.
Atlantic Richfield Company
Avtec Fibers Inc.
B F Goodrich Company
Badische Corporation
BASF Wyandotte Corporation
Big Three Industries Inc.
Borden Inc.
Borg-Warner Corporation
Buffalo Color Corporation
Cabot Corporation
CARUS Chemical Company Inc.
Celanese Corporation
Ciba-Geigy Corporation
Cities Service Company
Commonwealth Oil Refining Company
CONOCO Inc.
CPA International Inc.
Diamond Crystal Salt Company
Diamond Shamrock Corporation
Dow Chemical Company
Dow Corning Corporation
E I du Pont de Nemours & Company
Eastman Kodak Company
El Paso Products Company
Ethyl Corporation
Exxon Corporation
Farmland Industries Inc. (partial)
Firestone Tire & Rubber Company
FMC Corporation
Freeport Minerals Company
GAF Corporation
General Tire & Rubber Company
Georgia-Pacific Corporation
Getty Oil Company
Goodyear Tire & Rubber Company
Great Lakes Chemical Corporation
Greyhound Corporation
Gulf Oil Corporation
Henkel Corporation
Hercules Incorporated
ICI Americas Inc.
International Minerals & Chemicals Corporation (partial)
Inter North Inc.
Kaiser Aluminum & Chemical Corporation
Kerr-McGee Corporation
Koppers Company Inc.
Lever Brothers Company
Lubrizol Corporation
Mallinckrodt Inc.
Merichem Company
Minnesota Mining & Manufacturing Company
Mobay Chemical Corporation
Mobil Oil Corporation

Monsanto Company
Morton Norwich Products Inc.
Nalco Chemical Company
National Distillers & Chemical Corporation
NIPRO Inc.
NL Industries Inc.
Occidental Petroleum Corporation (partial)
Olin Corporation
Pennwalt Corporation
Pfizer Inc.
Phillips Petroleum Company
PPG Industries Inc.
PQ Corporation
Procter & Gamble Company
Reichhold Chemicals Inc. (partial)
Reilly Tar & Chemical Corporation
Rohm and Haas Company
Shell Oil Company
Sherex Chemical Company Inc.
Soltex Polymer Corporation
Standard Oil Company (Indiana)
Standard Oil Company (Ohio)
Standard Oil Company of California
Stauffer Chemical Company
SunOlin Chemical Company
Tenneco Inc.
Texaco Inc.
Texasgulf Inc.
Thiokol Corporation
Union Carbide Corporation
Uniroyal Inc.
United States Borax & Chemical Corporation
United States Steel Corporation (partial)
Upjohn Company (partial)
Velsicol Chemical Corporation
Vertac Inc. (partial)
Virginia Chemicals Inc.
Vulcan Materials Company
W. R. Grace & Company
Westvaco Corporation
Weyerhaeuser Company
Witco Chemical Corporation

Fertilizer Institute

Beker Industries Corporation
C F Industries Inc.
Coastal Corporation (Wycon Chemical Company)
Cominco America Inc.
Estech General Chemicals Corporation
Farmland Industries Inc. (partial)
First Mississippi Corporation
Gardinier Big River Inc.
Getty Oil Company
Green valley Chemical Company
International Minerals & Chemical Corporation (partial)
J. R. Simplot Company
Mississippi Chemical Corporation
Occidental Petroleum Corporation (partial)
Reichhold Chemicals Inc. (partial)
Terra Chemicals International Inc.
Tyler Corporation (Atlas Powder Company)
Union Oil Company of California
United States Steel Corporation (partial)
Vertac Inc. (partial)
The Williams Companies

Pharmaceutical Manufacturers Association

Abbott Laboratories
American Home Products Corporation (partial)
Baxter-Travenol Laboratories
Eli Lilly & Company
Hoffmann-La Roche Inc.
Johnson & Johnson
Merck & Company Inc.
Miles Laboratories Inc.
Richardson Vicks Inc.
Squibb Corporation
Upjohn Company (partial)
Warner-Lambert Company

SIC 29—Petroleum and Coal Products

American Petroleum Institute

Agway Inc.
American Petrofina Inc.
Asamera Oil (US) Inc.
Ashland Oil Inc.
Atlantic Richfield Company
Beacon Oil Company
Champlin Petroleum Company
Charter International Oil Company
Cities Services Company
Clark Oil & Refining Corporation
Coastal Corporation
Commonwealth Oil Refining Company
CONOCO Inc.
Crown Central Petroleum Corporation
Crystal Oil Company
Diamond Shamrock Corporation
Dorchester Gas Corporation
Dow Chemical Company
Earth Resources Company
Energy Cooperative Inc.
Exxon Corporation
Farmers Union Central Exchange Inc.
Farmland Industries Inc.
Fletcher Oil & Refining Company
Getty Oil Company
Gulf Oil Corporation
Hunt Oil Company
Husky Oil Company
Indiana Farm Bureau Cooperative Association
Kerr-McGee Corporation
Koch Industries Inc.
Little America Refining Company
Marathon Oil Company
Mobil Oil Corporation
Murphy Oil Corporation
National Cooperative Refinery Association
OKC Corporation
Pacific Resources Inc.
Pennzoil Company
Phillips Petroleum Company
Placid Refining Company
Powerine Oil Company
Quaker State Oil Refining Corporation
Rock Island Refining Corporation
Shell Oil Company
Southern Union Company
Southland Oil Company
Standard Oil Company (Indiana)
Standard Oil Company (Ohio)
Standard Oil Company of California
Sun Company Inc.
Tenneco Inc.
Tesoro Petroleum Corporation
Texaco Inc.
Texas Eastern Transmission Corporation
Time Oil Company
Tosco Corporation
Total Petroleum Inc.
Union Oil Company of California
USA Petroleum Corporation
Winston Refining Company
Witco Chemical Corporation

Chemical Manufacturers Association

GAF Corporation
Great Lakes Carbon Corporation
Koppers Company Inc.

Glass—Pressed and Blown (Battelle Institute)

Owens-Corning Fiberglas Corporation

SIC 30—Rubber and Miscellaneous Plastic Products

Chemical Manufacturers Association

American Cyanamid Company
Dart Industries Inc.
Ethyl Corporation
Exxon Corporation
Minnesota Mining & Manufacturing Company
Union Carbide Corporation
W. R. Grace & Company

Pharmaceutical Manufacturers Association

Baxter-Travenol Laboratories

Rubber Manufacturers Association

Armstrong Rubber Company
B. F. Goodrich Company
Carlisle Corporation
Cooper Tire & Rubber Company
Dayco Corporation
Dunlop Tire & Rubber Corporation
Firestone Tire & Rubber Company
Gates Rubber Company
General Tire & Rubber Company
Goodyear Tire & Rubber Company
Owens-Illinois Inc.
Uniroyal Inc.

SIC 32—Stone, Clay and Glass Products

Brick Institute of America

Belden Brick Company
Bickerstaff Clay Products Company Inc.
Boren Clay Products Company
Delta Brick & Tile Company
General Dynamics Corporation (partial)
General Shale Products Corporation

Glen-Gery Corporation
Justin Industries Inc.

Chemical Manufacturers Association

Engelhard Corporation
GAF Corporation
Minnesota Mining & Manufacturing Company
Reichhold Chemicals Inc.
Vulcan Materials Company

Expanded Shale Clay and Slate Institute

Lehigh Portland Cement Company (partial)
Solite Corporation

Glass—Flat (Eugene L. Stewart)

AFG Industries Inc.
Ford Motor Company
Guardian Industries Corporation
Libbey-Owens-Ford Company
PPG Industries Inc.

Glass Packaging Institute

Anchor Hocking Corporation (partial)
Ball Corporation
Brockway Glass Company Inc. (partial)
Coors Container Company
Dorsey Corporation
Gallo Glass Company
Glenshaw Glass Company Inc.
Indian Head Inc.
Kerr Glass Manufacturing Corporation
Latchford Glass Company
Liberty Glass Company
Midland Glass Company Inc.
National Bottle Manufacturing Company
National Can Corporation
Norton Simon Inc.
Owens-Illinois Inc. (partial)
Philip Morris Inc.
Thatcher Glass Corporation
Wheaton Industries

Glass—Pressed and Blown (Battelle Institute)

Anchor Hocking Corporation (partial)
Brockway Glass Company Inc. (partial)
Certainteed Corporation
Corning Glass Works (partial)
Owens-Corning Fiberglas Corporation
Owens-Illinois Inc. (partial)

Gypsum Association

Domtar Industries Inc. (partial)
Flintkote Company (partial)
Georgia-Pacific Corporation
Jim Walter Corporation (partial)
National Gypsum Company (partial)
Pacific Coast Building Products Company (partial)
United States Gypsum Company (partial)

National Lime Association

Ash GFrove Cement Company (partial)
Bethlehem Steel Corporation (partial)
Can-Am Corporation
Cutler-Magner Company
Domtar Industries Inc. (partial)
Dravo Corporation
Edw. C. Levy Company
Flintkote Company (partial)
General Dynamics Corporation (partial)
J. E. Baker Company (partial)
Martin Marietta Corporation (partial)
National Gypsum Company (partial)
Pfizer Inc. (partial)
Round Rock Lime Company
St. Clair Lime Company
United States Gypsum Company (partial)
Vulcan Materials Company (partial)
Warner Company

Portland Cement Association

Alamo Cement Company
Alpha Portland Cement Company
Arkansas Louisiana Gas Company
Ash Grove Cement Company (partial)
California Portland Cement Company
Capitol Aggregates Inc.
Centex Corporation
Citadel Cement Corporation
Coplay Cement Manufacturing Company
Crane Company
Cyprus Hawaiian Cement Company
Dundee Cement Company
Filtrol Corporation
Flintkote Company (partial)
Florida Mining & Materials Corporation
General Portland Cement Company
Giant Portland & Masonry Cement Company
Gifford-Hill & Company Inc.
Gulf & Western Industries Inc. (partial)
Ideal Basic Industries Inc.
Independent Cement Corporation
Kaiser Cement & Gypsum Corporation
Keystone Portland Cement Company
Lehigh Portland Cement Company (partial)
Lone Star Industries Inc.
Louisville Cement Company
Martin Marietta Corporation (partial)
McDonough Company
Missouri Portland Cement Company
Monarch Cement Company
Monolith Portland Cement Company
National Cement Company
National Gypsum Company (partial)
Newmont Mining Corporation
Northwestern St. Portland Cement Company
Oregon Portland Cement Company
Penn-Dixie Industries Inc.
Rinker Portland Cement Corporation
River Cement Company
South Dakota Cement Company
Southdown Inc.
Texas Industries Inc. (partial)
Whitehall Cement Manufacturing Company

Refractories Institute

Allied Chemical Corporation (partial)
Combustion Engineering Inc. (partial)
Corning Glass Works (partial)
Dresser Industries Inc. (partial)
Ferro Corporation (partial)
General Refractories Company (partial)
Interpace Corporation (partial)
J. E. Baker Company (partial)
Kaiser Aluminum & Chemical Corporation (partial)
Kennecott Corporation (partial)
Martin Marietta Corporation (partial)
McDermott Inc. (partial)
Norton Company (partial)
Pfizer Inc. (partial)
United States Gypsum Company (partial)

Tile Council of America

National Gypsum Company (partial)

SIC 33—Primary Metal Industries

Aluminum Association

Alcan Aluminum Corporation
Alumax Inc.
Aluminum Company of America
American Can Company
Atlantic Richfield Company (partial)
Cabot Corporation
Consolidated Aluminum Corporation
Ethyl Corporation
Kaiser Aluminum & Chemical Corporation
Martin Marietta Corporation
National Steel Corporation (partial)
Noranda Aluminum Inc.
Pechiney Ugine Kuhlmann Corporation (partial)
Revere Copper and Brass Inc. (partial)
Reynolds Metals Company
Southwire Company

American Die Casting Institute

Hayes-Albion Corporation (partial)

American Foundrymen's Society

American Cast Iron Pipe Company
Clow Corporation
Dayton Malleable Inc.
Grede Foundries Inc.
Jim Walter Corporation (partial)
Mead Corporation
Teledyne Inc. (partial)

American Iron & Steel Institute

A. Finkl & Sons Company
Allegheny Ludlum Steel Corporation
Armco Inc.
Athlone Industries Inc.
Atlantic Steel Company
Bethlehem Steel Corporation
Cargill Inc.
Carpenter Technology Corportation
Ceco Corporation
Colt Industries Inc.
Crane Company
Cyclops Corporation
Eastmet Corporation
Florida Steel Corporation
Ford Motor Company
Guteri Special Steel Corporation

Inland Steel Company
Interlake Inc. (partial)
Kaiser Steel Corporation
Keystone Consolidated Industries Inc.
Korf Industries Inc.
Laclede Steel Company
LTV Corporation
Lukens Steel Corporation
McDermott Inc.
McLouth Steel Corporation
National Steel Corporation (partial)
Northwest Industries Inc. (partial)
Northwest Steel Rolling Mills Inc.
Northwestern Steel & Wire Company
Phoenix Steel Corporation
Republic Steel Corporation
Sharon Steel Corporation
Shenango Inc.
Teledyne Inc. (partial)
Timken Company
United States Steel Corporation
Washington Steel Corporation
Wheeling Pittsburgh Steel Corporation

American Mining Congress

Amax Inc.
Asarco Inc.
Cerro Copper Products Company
Inspiration Consol Copper Company
Kennecott Corporation (partial)
Louisana Land & Exploration Company (partial)
Newmont Mining Corporation (partial)
Phelps Dodge Corporation (partial)
St. Joe Minerals Corporation

Chemical Manufacturers Association

Allied Chemical Corporation
Great Lakes Carbon Corporation

Construction Industry Manafucturers Association

Caterpillar Tractor Company
Tenneco Inc.

Copper and Brass Fabricators Council

Atlantic Richfield Company (partial)
Century Brass Products Inc.
Kennecott Corporation (partial)
Louisiana Land & Exploration Company (partial)
National Distillers & Chemical Corporation
Olin Corporation
Phelps Dodge Corporation (partial)
Revere Copper & Brass Inc. (partial)

Ferroalloys Association

Chromium Mining & Smelting Corporation
Dow Chemical Company
Elkem Metals Company
Hanna Mining Company—Silicon Division
Hanna Nickel Smelting Company
Interlake Inc. (partial)
International Minerals & Chemical Corporation
MacAlloy Corporation
Newmont Mining Corporation (partial)
Ohio Ferroalloys
Roane Electric Furnace Company
Satrolloy Inc.
SKW Alloys
Union Carbide Corporation

SIC 34—Fabricated Metal Products

Aluminum Association

Aluminum Company of America
Kaiser Aluminum & Chemical Corporation
Martin Marietta Corporation
Reynolds Metals Company

American Boiler Manufacturers Association

Combustion Engineering Inc.
McDermott Inc.

Can Manufacturers Institute

American Can Company
Continental Group Inc.
Crown Cork & Seal Company Inc.
Jos Schlitz Brewing Company
National Can Corporation

Chemical Manufacturers Association

Olin Corporation
Remington Arms Company Inc.

SIC 35—Machinery, Except Electrical

Air Conditioning & Refrigeration Institute

Emerson Electric Company
IC Industries
Trane Company

Computer & Business Equipment Manufacturers Association

Control Data Corporation
Digital Equipment Corporation
International Business Machines Corporation
Sperry Rand Corporation
TRW Inc.
Xerox Corporation

Construction Industry Manufacturers Association

Bucyrus-Erie Company
Caterpillar Tractor Company
Clark Equipment Company
Cummins Engine Company Inc.
FMC Corporation
Ford Motor Company
Harnischfeger Corporation
Ingersoll-Rand Company
Tenneco Inc.

SIC 36—Electric, Electronic Equipment

Chemical Manufacturers Association

Great Lakes Carbon Corporation
Minnesota Mining & Manufacturing Company

National Electrical Manufacturers Association

Airco Inc.
Allied Chemical Corporation
Emerson Electric Company
Harvey Hubbell Inc.
Johnson Controls Inc.
McGraw-Edison Company
Reliance Electric Company
Square D Company
Union Carbide Corporation

SIC 37—Transportation Equipment

Aerospace Industries Association of America

Boeing Company
General Dynamics Corporation (partial)
Grumman Corporation
Hughes Aircraft Corporation
Lockheed Corporation
Martin Marietta Corporation
McDonnell Douglas Corporation
Northrop Corporation
Textron Inc. (partial)
Thiokol Corporation
TRW Inc.
Vought Corporation

Chemicals Manufacturers Association

Hercules Incorporated
Tenneco Inc.

Motor Vehicle Manufacturers Association

American Motors Corporation
Chrysler Corporation
Ford Motor Company (SIC Code 33, Recovered Materials)
General Motors Corporation (SIC Code 30, 33, Recovered Materials)

SIC 38—Instruments and Related Products

Chemical Manufacturers Association

Eastman Kodak Company
GAF Corporation
Minnesota Mining & Manufacturing Company

Pharmaceutical Manufacturers Association

Johnson & Johnson
Warner-Lambert Company

[FR Doc. 82-25997 Filed 9-20-82; 8:45 am]
BILLING CODE 6450-01-M

Energy Information Administration

Changes to DOE Reporting and Recordkeeping Requirements

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of changes to the inventory of Department of Energy reporting and recordkeeping requirements.

SUMMARY: The Energy Information Administration (EIA) of the Department

of Energy (DOE) hereby gives notice to respondents and other interested parties of changes to the inventory of current energy information collections as defined in the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

The listing that follows this notice indicates changes made during the quarter from April 1, 1982, to June 30, 1982, to the inventory of current DOE information collections published in the **Federal Register**, 47 FR 12920 (March 25, 1982). Additionally, changes to the inventory for forms retroactively discontinued are provided. The listing includes new information collections approved by the Office of Management and Budget (OMB), collections reinstated, extended, discontinued or allowed to expire, and changes to continuing information collections. For each new requirement, requirement reinstated, requirement extended, and requirement discontinued, the current DOE control or form number, the title, and the OMB control number and approval expiration date are listed. If applicable, the appropriate Code of Federal Regulations citation is also listed.

SUPPLEMENTARY INFORMATION: Changes to the inventory of current DOE information collections made during the quarter from January 1, 1982, to March 31, 1982, were previously published in the **Federal Register**, 47 FR 23106, May 26, 1982.

FOR FURTHER INFORMATION CONTACT: Carolyn Sinclair, Energy Information Administration, Mail Stop 1H023, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, 252–2313.

Issued in Washington, D.C., September 14, 1982.

J. Erich Evered,

Administrator, Energy Information Administration.

NEW DOE INFORMATION COLLECTIONS APPROVED BY OMB

DOE No.	Title	OMB No.	Expiration date	CFR citation	Notes
Conservation and Renewable Energy					
CE–478R–A	Residential Conservation Service Reporting Requirements—Initial Plans.	19040040	Apr. 30, 1985	10 CFR 456	
CE–478R–B	Residential Conservation Service Reporting Requirements—Annual Reports.	19040040	....do	10 CFR 456	
CE–745A	Evaluation of Institutional Conservation Program	19010243	Dec. 31, 1982	10 CFR 455.4, 450.45(a), 455.17(d)	*(1)
Energy Information Administration					
EIA–23P	Oil and Gas Well Operator List Update Report	19050134	Apr. 30, 1985	NA	
EIA–119A	Annual Report of Forecasted Loads and Changes in Generating Capacity.	19030050	Nov. 30, 1984	NA	*(1)
EIA–412	Annual Report of Publicly Owned Electric Utilities	19050136	Apr. 30, 1985	NA	
Environmental Protection, Safety and Emergency Preparedness					
EIA–767(2)	Steam Electric Plant Air and Water Quality Control Data	19050137	Nov. 30, 1982	NA	
Fossil Energy					
FE–748	Enhanced Oil Recovery Annual Report	19050155	May 31, 1985	NA	*(2)
Federal Energy Regulatory Commission					
EIA–767(1)	Steam Electric Plant Air and Water Quality Control Data	19020034	Nov. 30, 1982	18 CFR 141.59	*(2)
FERC–50	Alternative Fuel Demand Due to Natural Gas Deficiencies	19020101	Dec. 31, 1984	18 CFR 260.15	*(1)
FERC–314A	Application for Small Producer Exemption	19020006	Mar. 31, 1985	18 CFR 250.10	*(1)
FERC–565	General Interrogatory of Fuel Purchase Practices	19020117	Dec. 31, 1982	NA	
FERC–576	Report on Service Interruptions by Pipeline Systems	19020004	Mar. 31, 1985	18 CFR 260.9	*(1)
General Counsel					
GC–789R	Contractor's Invention Recordkeeping/Reporting Procedures	19020253	June 30, 1982	41 CFR 9.9.1075(a)(e)(1)	*(1)
GC–790R	Invention Disclosure Report	1901251	June 30, 1985	NA	
Energy Information Administration					
EIA–28	Financial Reporting System	19050054	Dec. 31, 1982	NA	*(1)
Federal Energy Regulatory Commission					
FERC–531	Gas Producer Certificate: New Service	19020052	Apr. 30, 1983	18 CFR 157.23–.29, 2.75	
FERC–532	Gas Producer Rate: Rate Filing	19020055	Apr. 31, 1985	18 CFR 250.9, 154.91–.101, 2.56e	
FERC–533	Gas Producer Rate: Special Relief Petition	19020056	Jan. 31, 1983	18 CFR 2.75–2.77	
FERC–534	Applications for Production Related Costs	19020057	....do	18 CFR 271 Sub K	
FERC–536	Gas Pipeline Certificate: Initial Service	19020061	Dec. 31, 1984	18 CFR 156	
FERC–539	Gas Pipeline Certificate: Import/Export Related	19020062	Apr. 30, 1984	18 CFR 153	
Conservation and Renewable Energy					
CE–780R	Reporting Requirements for Energy Conservation	19040036	July 31, 1982	10 CFR 445.12, .14, .34, .35,470	
Environmental Protection, Safety					
EP–781R	Transmission of Electric Energy at an International Boundary	19010245	....do	10 CFR 205 W, 205.308	
Federal Energy Regulatory Commission					
EIA–194	Monthly Alternate Fuel/Incremental Price Monitoring Report	19050083	Apr. 30, 1985	NA	
FERC–73	Service Life Data	19020019	Dec. 31, 1984	NA	
FERC–537	Gas Pipeline Certificate	19020060	June 30, 1985	18 CFR 2.69, 2.70, 157.5–.16, 157.22 157.100, 284.107, 284.127.	
FERC–541	Gas Pipeline Certificate: Curtailment plan	19020066	Mar. 31, 1985	18 CFR 2.78, PT 281	
FERC–542	Gas Pipeline Rate	19020070	May 31, 1983	18 CFR 154.61–.65, .91	*(1)
FERC–547	Gas Pipeline Rates Refund Obligation	19020084	May 31, 1985	18 CFR 273.302	
FERC–549	Gas Pipeline Rates: NGPA Title III Transactions	19020086	June 30, 1985	18 CFR 284 Sub A, D, E, F, H, 284.106	
FPC–423	Monthly Report of Cost and Quality of Fuels for Electric Plants	19020024	Sept. 30, 1982	18 CFR 141.61	
ICC–ACV–1	Statement of Property Changes Other Than Land and Rights-of-Way Pipeline Carriers.	19020011	Dec. 31, 1984	18 CFR 361.100	
ICC–ACV–2	Statement of Land and Rights-of-Way	19020015	Dec. 21, 1984	18 CFR 361.101	
ICC–ACV–3	Summary of Changes in Original Cost and Total Original Cost at End of Period—Pipeline Carriers.	19020010	Dec. 31, 1984	18 CFR 361.102	

NEW DOE INFORMATION COLLECTIONS APPROVED BY OMB—Continued

DOE No.	Title	OMB No.	Expiration date	CFR citation	Notes
ICC-ACV-4	Summary of Cost Reproduction New and Reproduction of New Less Depreciation Pipeline Carriers.	19020009	do	18 CFR 301.100	
ICC-ACV-5	Inventory of Property Other Than Land and Rights-of-Way	19020015	do	18 CFR 360.100	
ICC-ACV-6	Inventory of Land and Rights-of-Way	19020016	do	18 CFR 360.101	
ICC-ACV-7	Summary of Original Cost of Inventory	19020017	do	18 CFR 360.102	
ICC-ACV-8	Cost Data for Equipment and Tanks	19020014	do	18 CFR 360.103	
ICC-ACV-9	Cost Data for Pipeline Construction	19020013	do	18 CFR 360.104	
ICC-P	Annual Report—Carriers by Pipeline	19020022	Sept. 30, 1982	18 CFR 357.2, 351, 352	
Conservation and Renewable Energy					
CE-60	Evaluation Activity Report	19040029	Feb. 18, 1982	NA	*(3)
CE-745	Evaluation of Institutional Conservation Program	19010240	Apr. 30, 1982	NA	*(1)
RA-161R	Data Gathering Provisions of Regs for Hydroelectric Power Projects.	19010225	Mar. 31, 1982	10 CFR 797, 797.80	*(3)
Energy Information Administration					
EIA-68	Wind Energy Conversion System Sales Survey	19050111	Sept. 30, 1981	NA	*(3)
EIA-196A	Pennsylvania Anthracite Production Survey	19050065	do	NA	*(3)
EIA-196B	Pennsylvania Anthracite Distribution	19050064	do	NA	*(3)
MA-451	Survey of the Consumption of Selected Hydrocarbon, Coal and Coke Materials by Manufacturers—Refinery and Chemical Plants.	19010104	do	NA	*(3)
MA-452	Survey of the Consumption of Sel. Hydrocarbon, Coal, and Coke Materials—Blast Furnace Form.	19010104	do	NA	*(3)
Environmental Protection, Safety					
EP-119A	Annual Report of Forecasted Loads and Changes in Generating Capacity.	19030050	May 19, 1982	NA	*(1)
EP-160	Monthly Electrical Utility and Fuel Planning Report	19030069	June 30, 1982	NA	
Energy Research					
ERDA-601	A Survey of Occupational Employment in Nuclear Energy Activities.	19010022	do	NA	
Economic Regulatory Administration					
ERA-316	Petition for Temporary Use of Natural Gas	19030063	Jan. 31, 1982	10 CFR 508	*(3)
ERA-316R	Information Requirements for Regulations To Grant Temp Public Interest exemption for Use of Natural Gas.	19030018	do	10 CFR 508	*(3)
Fossil Energy					
FE-799R	Federal Loan Guarantee for Alternative Fuel Demonstration Facilities.	19010244	June 30, 1982	10 CFR 796.99, 796	
Federal Energy Regulatory Commission					
FERC-122	Report of First Sales of Natural Gas Under Sec. 109, Natural Gas Policy Act, Other categories of Natural Gas.	19020039	Apr. 30, 1982	18 CFR 276.104	
FERC-123	Initial Rept. of 1st Sale of Nat. Gas Under Sec. 105, Nat. Gas Policy Act, Existing Intrastate Contract.	19020041	do	18 CFR 276.102	
FERC-124	Rept of 1st Sales of Nat. Gas Under Sec. 106(B), Nat. Gas Policy Act, Intrastate Rollover Contracts.	19020040	do	18 CFR 276.103	
FERC-543	Gas Pipeline Rate: Rate Change (Formal)	19020071	May 31, 1982	18 CFR 154.63-.65, .91	*(1)
FERC-544	Gas Pipeline Rate: Rate Change (Non-Formal)	19020072	do	18 CFR 154.63-.65, .91	*(1)
FERC-545	Gas Pipeline Rate: Rate Change Tracking (Formal)	19020060	June 2, 1982	18 CFR 154.63-.65, 91	*(1)
FERC-546	Gas Pipeline Rate: Rate Change Tracking (Non-Formal)	19020061	do	18 CFR 154.63-.65, 91	*(1)
FERC-584	Fuel Purchase Practices—Environmental Constraints	19020106	Apr. 30, 1982	NA	
FPC-R0016	Report on Service Interruptions on Pipeline Systems	19020004	June 2, 1982	18 CFR 250.9	*(1)
FPC-12	Power System Statement	19020035	June 30, 1982	18 CFR 141.51	*(1)
FPC-314A	Application for Small Producer Exemption	19020006	Mar. 31, 1982	18 CFR 250.10	*(1)
General Counsel					
GC-765R	Patent/Invention Reporting/Recordkeeping Requirements	19010246	June 30, 1982	41 CFR 9-9.107-5, .109-6	*(1)
International Affairs					
IA-401	Emergency Report Questionnaire A	19050079	Apr. 5, 1982	18 CFR 209.24	
Power Marketing Administration					
BPA-406-A	Energy Conservation Pilot Program—Energy Conservation Analysis and Heat Loss, Caculation/Recommendation.	19010109	June 30, 1982	NA	
BPA-406-B	Energy Conservation Pilot Program—Recommendations Form	19010109	do	NA	
BPA-406-C	Energy Conservation Pilot Program—Notice of Work for Bid/Bid Release.	19010109	do	NA	
BPA-406-D	Energy Conservation Pilot Program—Weatherization Agreement and Notice to Proceed.	19010109	do	NA	
BPA-406-E	Energy Conservation Pilot Program—Completion, Acknowledgement/Weatherization Improvements.	19010109	do	NA	
BPA-406-F	Energy Conservation Pilot Program—Monthly Financial Statement.	19010109	do	NA	

*(1) See changes in continuing DOE information collections at end of listing.
*(2) EIA-767 (1) and (2) are the same form. This form is jointly sponsored by the Federal Energy Regulatory Commission, the Environmental Protection Agency, the Bureau of Economic Analysis of the Department of Commerce, the DOE Office of Environmental Protection, Safety and Emergency Preparedness, The DOE Office of Nuclear Energy and the EIA. These organizations share the data collected on this form.
*(3) Retroactive listing for previous discontinuances.

CHANGES IN CONTINUING DOE INFORMATION COLLECTIONS

DOE No.	Change
EIA-28	Form revised.
EIA-119A	Replaces EP-119A.

CHANGES IN CONTINUING DOE INFORMATION COLLECTIONS—Continued

DOE No.	Changes
FERC-50	Re:aces EIA-50.
FERC-314A	Replaces FPC-314A.
FERC-542	Consolidates requirements previously listed under FERC-543, 544, 545, and 546.
FERC-576	Replaces FPC-R0016.
GC-788R	Replaces GC-765R.

Economic Regulatory Administration

[Docket No. ERA-FC-82-016; FC Case No. 56372-9107-20-24]

Procter & Gamble Paper Products Co.; Order Granting Exemption

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order Granting to Procter & Gamble Paper Products Company an Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On May 5, 1982 Procter & Gamble Paper Products Company, hereinafter referred to as petitioner, filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for an electric powerplant from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act) that (1) prohibit the use of petroleum and natural gas as a primary energy source in new electric powerplants and (2) prohibit the construction of a new powerplant without the capability to use an alternate fuel as a primary energy source. The final rules containing the criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA were published in the **Federal Register** at 46 FR 59872 (December 7, 1981) and 47 FR 29209 (July 6, 1982). Criteria governing the cogeneration exemption are contained in 10 CFR 503.37.

The petitioner requested a permanent cogeneration exemption for a 19,876 kilowatt gas-fired, with oil backup, combines cycle cogeneration facility producing electricity, process heat, and steam at its plant at Oxnard, California.

Pursuant to section 212(c) of the Act and 10 CFR 503.37, ERA hereby issues this Order granting a permanent cogeneration exemption for the new powerplant. The basis for ERA's Order is provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: In accordance with section 702(a) of FUA, this Order and its provisions shall take effect on November 19, 1982.

The public file containing a copy of this Order and other documents and supporting materials on this proceeding is available for inspection upon request at: Department of Energy Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E-190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m.-4:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-073, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-2201.

Allan Stein, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6B-178, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-2967.

SUPPLEMENTARY INFORMATION: The powerplant for which the petition for exemption has been filed is a 19,876 kilowatt gas-fired combined-cycle cogeneration facility, with oil backup, which (1) generates electrical power for the petitioner's needs, plus an excess for sale, and (2) utilizes the heat exhausted from the turbine for direct-contact drying of its paper products. A heat recovery boiler which utilizes exhaust heat from the turbine, not required in the drying process, has also been installed to meet the petitioner's steam needs. The heat recovery boiler has no supplemental firing capability. Excess electricity is sold to Southern California Edison Company.

The petitioner certified that the gas or oil to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility where the calculation of savings is in accordance with 10 CFR 503.37(b); that the use of mixtures is not feasible, as required under 10 CFR 503.9; and that the criteria in 10 CFR 503.37(a)(1) are, therefore, satisfied by the powerplant.

Documentary evidence submitted by the petitioner in support of its petition under 10 CFR 503.37(a)(1) include: (1) The duly executed certifications required under that subparagraph; (2) exhibits containing the basis for the certifications, including the supporting factual and analytical materials; and (3) an environmental impact analysis, as required under 10 CFR 503.13(a) of the final rule.

After review of the petitioner's environmenal impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act.

In accordance with the procedural requirements of FUA and 10 CFR § 501.3(b), ERA published its Notice of its Acceptance of Petition for Exemption and Availability of Certification relating to the powerplant in the **Federal Register** on June 15, 1982 (47 FR 25762), commencing a 45-day public comment period pursuant to section 701(c) of FUA. As required by section 701(f) of the Act, ERA provided a copy of the petition to the Environmental Protection Agency for comments. During that period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public hearing closed on July 30, 1982. No comments were received and no hearing was requested.

Decision and Order: Based upon the entire record of this proceeding, ERA has determined that the petitioner has satisfied all the eligibility requirements for the requested exemption as set forth in 10 CFR 503.37(a)(1) and, pursuant to section 212(c) of FUA, ERA hereby grants the petitioner a permanent cogeneration exemption for the new powerplant to be located at its plant at Oxnard, California.

Pursuant to section 702(c) of the Act and 10 CFR 501.69 any person aggrieved by this Order may petition for judicial review thereof at any time before the 60th day following the publication of this Order in the **Federal Register**.

Issued In Washington, D.C., on September 8, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-25867 Filed 9-20-82; 8:45 am]

BILLING CODE 6450-01-M

Benton Pruet d.b.a., P&R Trading Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Benton Pruet d/b/a P&R Trading Company of Clyde, Texas. This Proposed Remedial Order charges P&R with pricing violations in the amount of $5,160,948.59 connected with the sale of crude oil at prices in excess of those permitted by 10 CFR Part 212, Subpart L during the time period September 1979 through November 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Ernest D. Moore, Deputy Director, Crude Reseller Audit & Litigation Support Group, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7436. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th & Pennsylvania Ave., NW., Washington, D.C. 20461, in accordance with 10 CFR §208.193.

Issued in Dallas, Texas, on the 10th day of September 1982.

Ben L. Lemos,

Director, Dallas Office Economic Regulatory Administration.

[FR Doc. 82-25869 Filed 9-20-82; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL ENERGY REGULATORY COMMISSION

[Docket Nos. G-3966-000, et al.]

Sun Exploration and Production Co. (formerly Sun Oil Co.) et al.; Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

September 13, 1982.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 28, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Assistant Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [2]	Pressure base
G-3966-000, D, Sept. 2, 1982	Sun Exploration and Production Company (formerly Sun Oil Company), P.O. Box 20, Dallas, Texas 75221.	Texas Gas Pipe Line Corporation, Nome Field, Jefferson County, Texas.	(1)	
CI72-393-001, C, Sept. 2, 1982	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001.	Sea Robin Pipeline Company, Eugene Island Block 295, Offshore Louisiana.	(3)	14.73
CI72-440-009, D, Sept. 7, 1982	Amoco Production Company, 1670 Broadway, Room 1754, Denver, Colorado 80202.	Panhandle Eastern Pipeline Company, Wattenberg Field, Adams and Weld Counties, Colorado.	(3)	
CI82-391-000, A, Aug. 25, 1982	Houston Oil & Minerals Corporation, P.O. Box 2511, Houston, Texas 77001.	Texas Eastern Transmission Corporation, Vermilion Block 72, Offshore Louisiana.	(4)	14.73
CI82-393-000, A, Aug. 26, 1982	Phillips Petroleum Company, 336 HS&L Building, Bartlesville, Oklahoma 74004.	Transcontinental Gas Pipe Line Corporation, Section 29-13S-17E, Lafourche Parish, Louisiana.	(5)	14.73
CI82-394-000, A, Aug. 26, 1982	Case-Pomeroy Oil Corporation, P.O. Box 1511, Midland, Texas 79702.	Tennessee Gas Pipeline Company, Block 24, Eugene Island Area, Offshore Louisiana.	(4)	14.73
CI82-395-000, A, Aug. 26, 1982	Fairmont Oil Corporation, P.O. Box 2266, Midland, Texas 79702.	Tennessee Gas Pipeline Company, Block 24, Eugene Island Area, Offshore Louisana.	(4)	14.73
CI82-396-000, A, Aug. 27, 1982	Pacific Lighting Exploration Company, 720 West Eighth Street Los Angeles, California 90017.	Trunkline Gas Company, OCS-G-2702, High Island SA Block A-542, Offshore Texas.	(6)	14.73
CI82-397-000, B, Aug. 26, 1982	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas Texas 75221.	Warren Petroleum Company, et al., Golden Trend Area, McClain County, Oklahoma.	(7)	
CI82-398-000, B, Aug. 26, 1982	do	Warren Petroleum Company, et al., Golden Trend Area, McClain County, Oklahoma.	(7)	
CI82-399-000, B, Aug. 26, 1982	do	Warren Petroleum Company, et al., Golden Trend Area, Garvin County, Oklahoma.	(7)	
CI82-400-000, B, Aug. 26, 1982	do	Warren Petroleum Company, et al., Golden Trend Area, Garvin County, Oklahoma.	(7)	
CI82-401-000, A, Aug. 30, 1982	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Oklahoma 73125.	Transcontinental Gas Pipe Line Corporation, Ship Shoal Block 237, Offshore Louisiana.	(8)	15.025
CI82-402-000, A, Aug. 30, 1982	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Texas Eastern Transmission Corporation, Chandeleur Area Blocks 17 and 25, Offshore Louisiana.	(9)	14.73

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
CI82-403-000, A, Aug. 30, 1982	Anadarko Production Company, P.O. Box 1330, Houston, Texas 77001.	Trunkline Gas Company, Brazos Block A-7, Offshore Texas.	(¹)	14.73
CI82-404-000, A, Aug. 30, 1982	NT. Corporation, 1990 Post Oak Boulevard, Suite 1400, Houston, Texas 77056.	Texas Eastern Transmission Corporation, East Cameron Block 335 Area, Offshore Louisiana.	(²)	15.025
CI82-405-000, A, Aug. 31, 1982	General American Oil Company of Texas, Meadows Building, Dallas, Texas 75206.	Tennessee Gas Pipeline Company, Eugene Island Block 24, Offshore Louisiana.	(³)	15.025
CI82-406-000, (CI74-172), B, Sept. 1, 1982.	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Transwestern Pipeline Company, Atoka (Morrow Field), Eddy County, New Mexico.	(⁴)	
CI82-407-000, , Sept. 1, 1982	McMoRan-Freeport Oil Company, P.O. Box 6800, Metairie, Louisiana 70009.	Texas Eastern Transmission Corporation, East Cameron Block 336, Offshore Louisiana.	(⁵)	15.025
CI82-408-000, B, Sept. 1, 1982	Estate of Mrs. James R. Dougherty, et al., 2300 Austin National Bank Tower, Post Office Box 98, Austin, Texas 78767.	Val Gas Company, Hidalgo (El Texas Upper) Field, Hiadalgo County, Texas.	(⁶)	
CI82-409-000, A, Sept. 2, 1982	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, Vermilion Area Block 28, Offshore Louisiana.	(⁷)	14.73
CI82-410-000	Transco Exploration Company, P.O. Box 1396, Houston, Texas 77251.	Texas Eastern Transmission Corporation, West Cameron Block 336, Offshore Louisiana.	(⁸)	14.73
CI82-411-000	J. M. Huber Corporation, 2000 West Loop South, Houston, Texas 77027.	Diamond Shamrock Corporation, SW/4 of Section 3, Block R-2, D&P R.R. Company, Hutchinson County, Texas.	(⁹)	
CI82-412-000	Pioneer Production Corporation, P.O. Box 2542, Amarillo, Texas 79189.	Texas Eastern Transmission Corporation, Block 336, East Cameron Area, Offshore Louisiana.	(¹⁰)	15.025
CI82-413-000	Syndex, 1297 N. Lewis Street, Glenville, West Virginia 26351.	Equitable Gas Company, Leading Creek Field, Gilmer County, West Virginia.	(¹¹)	

[1] Sun released rights to these leases because all economically recoverable reserves had been depleted.
[2] Applicant agrees to accept a permanent certificate of public convenience and necessity covering the subject sale conditioned in accordance with the Natural Gas Policy Act of 1978 and the Commission's Regulations under said Act.
[3] Non-productive.
[4] Applicant is filing under Gas Purchase and Sales Agreement dated July 29, 1982.
[5] Applicant is filing under Gas Purchase Contract dated January 7, 1958, amended November 19, 1976.
[6] Applicant is filing under Gas Purchase Contract dated May 13, 1982.
[7] Buyer cannot economically justify the connection of the Well. ARCO is therefore requesting abandonment of this gas so it may seek another purchaser.
[8] Applicant is filing under Gas Purchase Contract dated August 20, 1982.
[9] Applicant is filing under Gas Purchase Contract dated August 15, 1982.
[10] Applicant is filing under Gas Purchase Contract dated August 11, 1982.
[11] Last well plugged and abandoned in October, 1980.
[12] Applicant is filing under Gas Purchase Contract dated August 24, 1982.
[13] Depletion of gas reserves.
[14] Applicant is filing under Gas Purchase and Sale Agreement dated August 16, 1982.
[15] Applicant is filing under Gas Purchase Contract dated July 29, 1982.
[16] Prior contract expired with J. M. Huber and Diamond Shamrock unable to reach an agreement on terms for a new contract. Colorado Interstate Gas Company has agreed to purchase the gas at the full maximum lawful price applicable under the NGPA.
[17] Applicant is filing under Gas Purchase Contract dated July 26, 1982.
[18] These wells were released by Equitable as part of a court settlement and Syndex wishes to sell the gas to another purchaser.
Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 82-25812 Filed 9-20-82; 8:45 am]
BILLING CODE 6717-01-M

Western Area Power Administration

Floodplain/Wetlands Involvement Determination for the Tucson-Apache 115-Kilovolt Transmission Line Rebuild Proposal in Pima and Cochise Counties, Arizona

AGENCY: Western Area Power Administration, DOE.

ACTION: Floodplain/Wetlands involvement and opportunity for comment.

SUMMARY: The Western Area Power Administration (Western) proposes to rehabilitate 80 miles of existing 115-kV transmission line from the Tucson Substation (Pima County, Arizona) east to the Apache Power Plant (Cochise County, Arizona). The proposed action includes replacement of deteriorated poles, replacement of conductor with larger diameter conductor, and replacement of damaged insultors. All actions would take place on Western's existing right-of-way. The action is needed to improve the reliability of this line and increase transmission capability in the Tucson area.

Pursuant to the requirements of the Department of Energy's "Compliance with Floodplain/Wetlands Environmental Review Requirements" (10 CFR 1022), Western has determined that this project would involve activities within floodplain/wetlands areas.

The existing line spans eight floodplains designated on Flood Hazard Boundary Maps prepared by the Federal Insurance Administration of the Department of Housing and Urban Development. Locations of these spans are as follows: Santa Cruz River, NE¼, Sec. 3, T. 14 S., R. 13 E.; Santa Cruz River, SW¼, Sec. 2, T. 15 S., R. 13 E.; West Branch Santa Cruz River, NW¼, Sec. 3 T. 15 S., R. 13 E.; unnamed wash, NE¼, Sec. 5, T. 16 S., R. 14 E.; Davidson Creek, S½, Sec. 6, T. 17 S., R. 17 E.; Cienega Creek, NW¼, Sec. 17, T. 17 S., R. 18 E.; Cienega Creek, S½, Sec. 7, T. 17 S., R. 18 E.; San Pedro River, SW¼, Sec. 2, T. 17 S., R. 20 E. Maps and further information are available from Western at the addresses provided below.

Public comments or suggestions on Western's activities in these floodplain/wetlands areas are invited.

DATE: Any comments are due October 6, 1982.

ADDRESS: Send written comments or suggestions to: Mr. Robert A. Olson, Area Manager, Boulder City Area Office, Western Area Power Administration, Department of Energy, P.O. Box 200, Boulder City, NV 89005.

FOR FURTHER INFORMATION CONTACT: Mr. James G. Hartman, Environmental Specialist, Western Area Power Administration, Department of Energy, P.O. Box 200, Boulder City, NV 89005 (702) 293-8844.

Issued at Golden, Colorado September 13, 1982.

Robert L. McPhail,
Administrator.

[FR Doc. 82-25869 Filed 9-20-82; 8:45 am]
BILLING CODE 6450-01-M

Floodplain/Wetlands Involvement Determination for the Coolidge-Saguaro 115-Kilovolt Transmission Line Rehabilitation Proposal in Pinal County, Arizona

AGENCY: Western Area Power Administration, DOE.

ACTION: Floodplain/Wetlands Involvement and Opportunity for Comment.

SUMMARY: The Western Area Power Administration (Western) proposes to rehabilitate 29.6 miles of existing 115-kV transmission line from the Electrical District No. 2 Substation to Baumgartner Road in Pinal County, Arizona. This section of line is a part of the 47.1 miles of 115-kV line running from the Coolidge Substation to the Saguaro Steam Plant. The proposed action includes replacement of deteriorated poles, replacement of conductor with larger diameter conductor, and replacement of damaged insulators. All actions would take place within Western's existing right-of-way. The action is needed to improve the safety and reliability of this line.

Pursuant to the requirements of the Department of Energy's "Compliance with Floodplain/Wetlands Environmental Review Requirements," (10 CFR 1022), Western has determined that this project would involve some activities within a floodplain/wetlands area.

The existing line spans the floodplain of the Santa Cruz River at Sec. 26, T. 10 S., R. 8 E. A map and further information are available from the address listed below. Public comments or suggestions on Western's activities in this floodplain/wetlands area are invited.

DATE: Comments are due on or before October 6, 1982.

SEND WRITTEN COMMENTS TO: Mr. R. A. Olson, Area Manager, Boulder City Area Office, Western Area Power Administration, Department of Energy, P.O. Box 200, Boulder City, NV 89005.

FOR FURTHER INFORMATION CONTACT: Mr. James G. Hartman, Environmental Specialist, Boulder City Area Office, Western Area Power Administration, Department of Energy, P.O. Box 200, Boulder City, NV 89005, Telephone (702) 293–8844.

Issued at Golden, Colorado, September 13, 1982.

Robert L. McPhail,

Administrator.

[FR Doc. 82-25666 Filed 9-20-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[SAB-FRL 2209-2]

Science Advisory Board, Environmental Health Committee; Amended Notice of Meeting

Under Pub. L. 92–463, notice is hereby given of a change in the agenda for the meeting of the Environmental Health Committee of the Science Advisory Board scheduled for September 28–29, 1982 in Washington, D.C. notice of which was published in the September 8, 1982 issue of the **Federal Register** (47 FR 39609).

The Committee will not review and comment on the scientific adequacy of a Draft Health Advisory of Aldicarb as previously announced. Copies of this document are not yet available.

The remainder of the agenda will be as previously announced.

Any members of the public wishing further information regarding this amended notice of meeting or regarding other aspects of the meeting should contact the Executive Secretary of the Environmental Health Committee, Science Advisory Board, U.S. Environmental Protection Agency, A101M, Washington, D.C. 20460. Please ask for Mrs. Patti Howard or Mr. Ernst Linde. The telephone number is (202) 382–2552.

Dated: September 8, 1982.

Terry F. Yosie,

Acting Staff Director, Science Advisory Board.

[FR Doc. 82-25660 Filed 9-20-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 82-626; File No. BP-781030AJ]

Butte Broadcasting Co., Inc.; Designating Application for Hearing on Stated Issues

Adopted: August 16, 1982.

Released: September 10, 1982.

In re application of Butte Broadcasting Co., Inc., KEWQ, Paradise, California, Has: 930 kHz 0.5 kW, D, Req: 930 kHz, 1 kW, 0.5 kW–LS, DA, N, U; for construction permit.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, now considers (i) the above-captioned application of Butte Broadcasting Company, Inc. for nighttime authority for its station KEWQ; (ii) a petition to deny the application filed by KSEI Broadcasters, Inc., licensee of co-channel station KSEI, Pocatello, Idaho, and; (iii) related pleadings.[1]

2. KSEI contends that, based on its clipping study, the KEWQ nighttime proposal would not afford adequate protection to KSEI's nighttime operation. Further, petitioner submitted a computerized stability study which it says shows that KEWQ's proposed array would be highly unstable, in that radiation would exceed standard-pattern values with only minor operating parameter deviations, resulting in objectionable interference to KSEI.[2] Additionally, petitioner argues, other factors (such as the poor design of the array and a rocky site terrain, suject to heavy rains which, in turn, expose the ground radials) indicate instability of the proposed array.[3] KEWQ opposes the petition, arguing that KSEI's contentions are based on opinion, assumptions and misinterpretations of the Commission's Rules and that even if the proposed array is unstable, no interference to KSEI would result.

3. Interference studies conducted by the Commission on the proposed KEWQ nighttime operation reveal that it is in compliance with applicable Commisssion Rules. No prohibited interference will result either site to site or to the peripheral "clipping" contour of KSEI. However, our own computer studies show that the proposed nighttime array is inherently sensitive to minor parameter variations. For example, we find that with variations as small as 0.5 percent current ratio deviation and 0.5° phase deviation, radiation in the direction of KSEI would exceed the specified standard radiation values. (Our benchmarks are 1%/1° for generally stable arrays and 0.1%/0.1° for highly unstable arrays between these extremes we consider arrays on a case-by-case basis. See *Home Service*

[1] The related pleadings include KEWQ's opposition to the petition, KSEI's reply, and both paties' requests for extension of time to file pleadings. The requests are hereby granted and the pleadings accepted.

[2] As petitioner alleges that KEWQ's proposal would cause objectionable interference to KSEI's service area, we find that petitioner has standing as a party in interest within the meaning of Section 309(d) of the Communications Act of 1934, as amended. *FCC* v. *National Broadcasting Co., Inc.*, 319 U.S. 239 (1943).

[3] KSEI additionally contends that the multitude of errors and deficiencies in the applicant's engineering exhibits render them useless. KEWQ's amendments of August 21, 1978, January 24, 1980 and June 2, 1981 corrected these errors and provided the necessary information to the extent that KSEI's contention is moot.

Broadcasting Corp., 68 FCC 2d 1135 (1978).)

4. However, a determination of stability involves consideration of factors both internal and external to an array. Other indications of instability here include a RSS/RMS ratio of 2.03 and the rocky terrain of the site, which does, in heavy rains, cause the ground radials to be exposed (KSEI has documented this condition with photographs.) We are therefore unable to determine that the proposed array can be adjusted and maintained within the proposed standard pattern. Consequently, exploration of the proposed operation at hearing is required.

5. Except as indicated by the issues specified below, Butte Broadcasting Company, Inc. is qualified to construct and operate as proposed. [4] However, in view of the foregoing, the Commission is unable to determine that grant of this application would serve the public interest, convenience, and necessity, and is of the opinion that it must be designated for hearing.

6. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether the antenna system proposed by Butte Broadcasting Company, Inc. can be adjusted and maintained within the proposed limits of radiation.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, whether a grant of the application would serve the public interest, convenience, and necessity.

7. It is further ordered, That the petition to deny KSEI Broadcasters, Inc. filed against the application IS GRANTED to the extent indicated above, and IS DENIED in all other respects, and that KSEI Broadcasters, Inc. IS MADE A PARTY to this proceeding.

8. It is further ordered, That in the event of a grant of the application, the construction permit shall contain the following conditions:

An antenna monitor of sufficient accuracy and repeatability, and having a minimum resolution of 0.1 degree phase deviation and 0.1 percent sample-current deviation, shall be installed and continuously available to indicate the relative phase and magnitude of the sample current of each element in the array, to insure maintenance of the radiated fields within the authorized values of radiation.

Upon receipt of operating specifications and before issuance of a license, permittee shall submit the results of observations made daily of the base currents and their ratios, relative phases, sample currents and their ratios, and sample-current deviations for each element of the array, along with the final amplifier plate voltage and current, the common-point current, and field strengths of each monitoring point for both nondirectional and directional operations for a period of at least 30 days, to demonstrate that the array will be maintained within the specified tolerances.

9. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221 (c) and (e) of the Commission's Rules, the parties shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence, on the issues specified in this order.

10. It is further ordered, That pursuant to section 311(a) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicant shall give notice of the hearing as prescribed in the rule, and shall advise the Commission of the publication of its notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division.

[FR Doc. 82-25879 Filed 9-20-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-633, File No. BPH-810605AF; and BC Docket No. 82-634, File No. BPH-811026AL]

Chudy Broadcasting Corp., and Riceland Communications, Inc.; Designating Applications for Consolidated Hearing on Stated Issues.

Adopted: September 7, 1982.

Released: September 13, 1982.

In re Applications of Chudy Broadcasting Corp., Stuttgart, Arkansas, Req: 105.5 MHz, Channel 288, 3.0 kW (H&V), 288 feet, BC Docket No. 82-633 File No. BPH-810605AF; and Riceland Communications, Inc., Stuttgart, Arkansas, BC Docket No. 82-634 File No. BPH-811026AL. Req: 105.5 MHz, Channel 288, 3 kW (H&V), 300 feet; For Construction permit for new FM Station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Chudy Broadcasting Corporation and Riceland Communications, Inc.

2. Data submitted by the applicants indicate that there would be a significant difference in the size of the populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

3. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

5. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

6. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in

[4] Operation with the facilities specified herein is subject to modification, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

such Rule, and shall advice the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-25877 Filed 9-20-82; 8:45 am]
BILLING CODE 6712-01-M

[BC Docket No. 82-608, File No. BPCT-820208KE, et al.]

Commanche Broadcasting, Inc.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: August 20, 1982.

Released: September 3, 1982.

In re applications of Commanche Broadcasting, Inc., Kerrville, Texas, BC docket No. 82-608, file No. BPCT-820208KE; Tierra Del Sol Broadcasting Corp., Kerrville, Texas, BC docket No. 82-609, file No. BPCT-820413KE; Hispanic American Broadcasting of Texas, Inc., Kerrville, Texas, BC docket No. 82-610, file No. BPCT-820416KE; for construction permit.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Commanche Broadcasting, Inc. (Commanche), Tierra Del Sol Broadcasting Corporation (Tierra), and Hispanic American Broadcasting Corporation of Texas, Inc. (Hispanic) for authority to construct a new commercial television broadcast station on Channel 35, Kerrville, Texas.[1]

2. The material submitted in Commanche's and Tierra's applications does not demonstrate the applicants' financial qualifications. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, Commanche and Tierra will be given 30 days from the date of mailing of this Order to review their financial proposals in light of Commission requirements, to make any changes that may be necessary and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to their financial qualifications. If the applicants cannot make the required certification, they shall so advise the Administrative Law Judge who shall then specify appropriate issues. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82-378. (released July 15, 1982).

Commanche Broadcasting, Inc.

3. Commanche's proposed antenna is to be mounted on the existing AM station KERV tower. Therefore in order to insure that the AM pattern will not be adversely affected, a grant of this application will be appropriately conditioned.

Hispanic American Broadcasting of Texas, Inc.

4. No determination has been reached that the tower height and location proposed by Hispanic would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Hispanic, whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That Commanche Broadcasting, Inc. and Tierra Del Sol Broadcasting Corporation shall each submit a financial certification in the form required by Section III, F.C.C. Form 301, or advise the Administrative Law Judge that such certification cannot be made, as may be appropriate.

8. It is further ordered, That any grant of a construction permit to Commanche Broadcasting, Inc. will be subject to the following condition:

During installation of the TV antenna, AM station KERV shall determine operating power by the indirect method. Upon completion of the installation, antenna impedance measurements of the AM antenna shall be made. The results shall be submitted to the Commission, along with a tower sketch of the installation, in an application for the AM station to return to the direct method of power determination. Thereafter, the station may commence *Limited Program Tests.*

9. It is further ordered, That the Federal Aviation Administration is MADE A PARTY RESPONDENT with respect to Issue 1.

10. It is further ordered, That the petition to deny filed by Commanche Broadcasting, Inc. against Hispanic American Broadcasting of Texas, Inc. is dismissed.

11. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

12. It is further ordered, That the applicants herein shall, pursuant to section 311 (a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the commission of the publication of such notice as requred by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-25878 Filed 9-20-82; 8:45 am]
BILLING CODE 6712-01-M

[BC Docket No. 82-627, File No. BPH-810316AP]

Jan-Di Broadcasting, Inc. and Fruita Broadcasting Co.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: August 27, 1982.

Released: September 9, 1982.

In re applications of Jan-Di Broadcasting, Inc., Fruita, Colorado, Req: 99.9 MHz, Channel 260C, 100 kW (H&V), 1384.8 feet, BC Docket No. 82-627, File No. BPH-810316AP; John G. Gayer, d.b.a. Fruita Broadcasting Co., Furita, Colorado, Req: 99.9 MHz, Channel 260C, 28.5 kW (H&V), 9952 feet, BC Docket No. 82-628, File No. BPH-

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[1] Commanche filed a petition to deny against Hispanic. The petition is in essence, a pre-designation petition to specify issues. Since such petitions are no longer permitted, it will be dismissed. *Processing of Contested Broadcasting Applications*, 72 F.C.C. 2d 202 (1979).

810819BB; for construction permits for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Jan-Di Broadcasting, Inc. and John G. Gayer, d.b.a. Fruita Broadcasting Co. (Gayer).

2. *Gayer.* Applicants for new broadcast stations are required by Section 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. We have no evidence that Gayer published the required notice. To remedy this deficiency, Gayer must publish local notice of his application, if he has not already done so, and so inform the presiding Administrative Law Judge.

3. Analysis of the financial data submitted by Gayer reveals that $156,937 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	$95,437
Land	22,000
Building	8,000
Miscellaneous	9,000
Operating costs (3 months)	24,500
Total	156,937

Gayer plans to finance construction and operation with $60,000 in revenues generated by the station's first three months of operation. However, such funds may not be relied upon to establish an applicant's financial qualifications. *Financial Qualifications Standards,* 72 FCC 2d 784 (1979). Also, while Gayer reports a net worth of $825,625, only $29,000 of this amount is reported as liquid assets.[1]

4. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicant will be given 30 days from the date of mailing of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.,* BC Docket No. 82-378.

[1] Gayer's balance sheet also shows a $5,900 liability to Ford Motor Credit. Since there is no indication of when this liability is due, it may further reduce his liquid assets.

5. Gayer is President, Director and 50% stockholder of Summit Radio, Inc., applicant for a permit to construct a new AM station in Dillon-Frisco-Silverthorne, Colorado. This application was mutually exclusive with two others and was designated for comparative hearing in *Alan K. Levin,* FCC 80-657, December 1, 1980. In that proceeding, an issue was designated to determine whether the principals of Summit Radio, including Gayer, filed false affidavits with the Commission, and, if so, the effect such conduct would have on Summit's basic and comparative qualifications. *Alan K. Levin,* Docket No. BC 80-713, FCC 82M-0860, March 17, 1982. Because of Gayer's interest in Summit, a finding on this qualifications issue could effect his status in the present proceedings. Therefore, an issue will be specified to determine what effect the resolution of the issue specified in Docket No. BC 80-713 may have on Gayer's basic or comparative qualifications. The evidence adduced in that proceeding will be *res judicata* in the hearing ordered above.

6. Data submitted by the applicants indicate that there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive they must be designated for hearing in a consolidated proceeding.

8. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine with respect to Gayer, the effect of the resolution of the issues specified in *Alan K. Levin,* Docket No. BC 80-713, FCC 82M-0860, released March 17, 1982, upon the applicant's basic or comparative qualifications.

(2) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(3) To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

10. It is further ordered, That the applicant Gayer shall submit a financial certification in the form required by Section III, FCC Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate, within 30 days of the mailing of this Order.

11. It is further ordered, That, Gayer shall file a statement with the presiding Administrative Law Judge showing compliance with the public notice requirements of Section 73.3580(f) of the Commission's Rules.

12. It is further ordered, That, the evidence adduced in BC Docket No. 80-713 with regard to Gayer shall be *res judicata* in this proceeding.

13. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

14. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-25882 Filed 9-20-82; 8:45 am]
BILLING CODE 6712-01-M

[BC Docket No. 82-599, File No. BP-810129AB]

Minority Broadcasting Co. of the Midwest; Hearing Designation Order

Adopted: August 19, 1982.

Released: September 2, 1982.

In re applications of Minority Broadcasting Company of the Midwest, Memphis, Tennessee, Req: 1030 kHz, 1 kW, 50 kW (10kW-CH), DA-N, U, BC Docket No. 82-599, File No. BP-810129AB; Eastern Jackson County Broadcasting Corp., Blue Springs, Missouri, Req: 1030 kHz, 500 W, 1 kW-

LS, DA–2, U, BC Docket No. 82–600, File No. BP–810310AB; Contemporary Broadcasting, Inc., Hallsville, Missouri, Req: 1030 kHz, 1 kW, 5 kW–LS, DA–2, U, BC Docket No. 82–601, File No. BP–810410AI; Gilliam Communications, Inc., WLOK, Memphis, Tennessee, Has: 1340 kHz, 250 W, 1 kW–LS, U, Req: 1030 kHz, 1 kW, 50 kW–LS, U, BC Docket No. 82–602, File No. BP–810410AY; Bowman and Caselman Enterprises, KHOG, Farmington, Arkansas, Has: 1440 kHz, 1 kW, D, Req: 1030 kHz, 1 kW, 10 kW–LS, DA–N, U, BC Docket No. 82–603, File No. BP–810410AZ; for construction permit.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to the delegated authority, has under consideration (1) the above-captioned mutually exclusive applications for AM broadcast stations; (2) conditional objections to grant filed by Westinghouse Broadcasting Company, Inc., licensee of WBZ, Boston, Massachusetts, against the applications of Minority Broadcasting Company of the Midwest (Minority) Contemporary Broadcasting, Inc. (CBI), Gilliam Communications, Inc., (Gilliam) and Bowman and Caselman Enterprises (Bowman); (3) a petition to deny Gilliam's application filed by Minority; (4) a request for waiver of § 73.24(j) of the Commission's Rules filed by Minority; (5) request for waivers of § 73.24(g) and (j) of the Commission's Rules filed by Gilliam; and (6) related pleadings.[1]

2. WBZ's conditional objections. With its objections, WBZ submits computerized stability studies which it contends show that the proposed arrays of Minority, CBI, Gilliam and Bowman would be highly unstable, in that radiation would exceed standard-pattern values with only minor operating-parameters deviations, resulting in objectionable interference to WBZ.[2,3] As a result, WBZ requests that grant of a construction permit to any of the four applicants be stringently conditioned. Minority, Bowman and CBI oppose imposition of WBZ's requested conditions by stating that under normal operating conditions their proposed nighttime arrays are stable.[4]

3. It has been our policy to consider as being generally stable directional arrays which do not exceed their radiation limits with 1.0 percent current ratio and 1.0 degree phase deviation. We consider those arrays which exceed their radiation limits with parameter variations of 0.1 percent and 0.1 degree highly unstable. Where arrays exceed their radiation limits within these parameter variations, we will condition a grant accordingly.[5] Our computerized studies here indicate that CBI's proposed operation would exceed specified standard radiation values with variations as small as 0.5 percent current ratio deviation and 0.5 degree phase deviation. With respect to the Minority, Eastern and Gilliam proposals, the comparable figures are 1.0 percent and 1.0 degree. All four proposals thus fall into the category where stability conditions are called for.

4. *Minority.* Minority requests a waiver of § 73.24(j) of the Rules, as its nighttime normally protected (10 mV/m) contour would not completely encompass all residential areas of the city of Memphis as required by the provision.[6] In support, Minority states that the area outside of the contour consists of an industrial park and wetlands with a total unserved area of 4.9% of Memphis' total area and .26% of Memphis' total population. So slight an omission constitutes substantial compliance with § 73.24(j) and a waiver is thus unnecessary. *Broadcast Station Assignment Standards,* 39 FCC 2d 645, 650 (1973).

5. Review of applicant's proposal reveals that the population within Minority's proposed 1.0 V/m contour is 12,741 persons, which exceeds the limit set by § 73.24(g) of our rules; namely of 300 persons or 1 percent of the population (in this case 722,429) within the proposed daytime 25 mV/m contour. However, in light of the small deviation from our standard, 1.76 instead of 1 percent, waiver is appropriate.[7]

6. *Gilliam.* The petition to deny Gilliam's application, filed by Minority, raises, not threshold questions of the acceptability of Gilliam's application, but rather, because it is filed by a competing applicant, issues of a nature which constitute a petition to specify hearing issues. In the "Paglin Report" we found that competing applicants have ample opportunity to raise objections to other applications after designation for hearing, and that considering their petitions beforehand only delays Commission proceedings. *Processing of Contested Broadcast Applications,* 72 FCC 2d 202, 212–215 (1979). Therefore, Minority's petition is dismissed without prejudice to its refiling at the appropriate time.

7. Gilliam requests waiver of the Commission's blanketing and city coverage rules, § 73.24(g) and (j) respectively. The population within Gilliam's proposed 1 V/m "blanket" contour is 12,536, greater that 300 and equal to 1.6% of the population within Gilliam's proposed 25 mV/m contour daytime. Therefore a waiver is required. In support, Gilliam states that attempts to locate on alternative transmitter site which would reduce the population within the 1 V/m contour while still providing maximum nighttime coverage to Memphis have been unsuccessful. In light of this circumstance, and in view of the fact that waivers of similar blanketing coverage have been granted in the past, grant of Gilliam's request for waiver is appropriate.

8. Acknowledging that its proposed nighttime normally protected (10 mV/m) contour [8] will cover only approximately 82% of the area of Memphis, Gilliam also requests a waiver of § 73.24(j). In support of its request, Gilliam contends that its proposed 10 mV/m coverage would include the most densely populated residential areas and that portions of Memphis outside the 10 mV/m contour include largely unpopulated industrialized or undeveloped area in the far southwest part of the city. Gilliam further argues that no alternative transmitter site or frequency could be located to provide better nighttime coverage nor could changes in the proposed pattern be made without causing skywave interference to other stations operating on the frequency.

9. Gilliam has not submitted sufficient information on which we can make an

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[1] An informal objection against CBI will not be considered due to the anonymity of its author and the lack of any substantiation of its allegations. Further the motion for leave to file additional response filed by Minority is granted and its response to reply is accepted.

[2] As WBZ alleges that the applicants would cause objectionable interference to its service area, we find that WBZ has standing as a party in interest within the meaning of Section 309(d) of the Communications Act of 1934, as amended. *FCC* v. *National Broadcasting Co., Inc.,* 319 U.S. 239 (1943).

[3] WBZ also claims that the proximity of high voltage power line and other towers to Minority's proposed site will contribute a potential for reradiation. While Minority opposes this contention, it has not supplied sufficient site photographs, as required by FCC Form 301, Section V–A, paragraph 11, to permit a determination. Therefore, Minority is required to amend its application with the proper showing.

[4] We have no evidence that Gilliam has filed any pleading opposing WBZ.

[5] Where other factors, internal and/or external to the array, warrant it, a hearing issue may be specified. Such circumstances have not been established here, however.

[6] Section 73.27(j) speaks of residential service with the 5 mV/m or nighttime interference-free contour, whichever is higher. Most class II–B stations will have a normally protected contour of 10 mV/m, and thus may well receive interference to that contour from latter-authorized stations. For them, we must disregard service beyond the 10 mV/m contour in determining compliance with § 73.24(j).

[7] See *In re Application of WHOO Radio, Inc.,* 4 FCC 2d 439 (1966).

[8] Gilliam's nighttime coverage map actually shows its proposed nighttime interfrence-free (10.03 mV/m) contour, but *see* Footnote 5.

informed decision. While it has stated that 82% of the city's area will be covered by its proposed 10 mV/m contour, Gilliam has made no showing as to what percentage of Memphis' population resides in this area except to state that it includes the most densely populated residental areas. Further, a review of Gilliam's map depicting its nighttime coverage reveals that a substantial portion of northeast Memphis would fall outside its proposed 10 mV/m contour, yet we have no information concerning the nature of the area, the population within it, or future plans for development, if any, of the area. As a result, we do not have a sufficient basis on which to make a reasoned determination and an appropriate issue will be specified for hearing.

10. *Suburban community issues.* Eastern Jackson County Broadcasting Corporation (Eastern) proposes to serve the city of Blue Springs, Missouri, population 25,927. Its proposed 5 mV/m contour substantially covers the city of Independence, Missouri however, a city of more than 50,000 whose population of 111,806 is over twice that of Blue Springs.[9] Similarily, CBI proposes service to Hallsville, Missouri, which has a population of 457, but its proposed 5 mV/m contour would completely encompass the city of Columbia, population 62,061. Under these circumstances, a presumption arises that the applicants intend to serve the larger community rather than the smaller specified community. See *Policy Statement on 307(b) Considerations,* 2 FCC 2nd 190, *reconsid. denied,* 2 FCC 2d 866 (1965): *AM Station Assignment Standards,* 54 FCC 2d 1, 21–22 (1975). Appropriate issues will therefore be specified.[10]

11. *Other matters.* Minority's local notice of the filing of its application did not include names of officers and directors, the class of its proposed station or the proposed location of its studio as required by # 73.3580 of the Rules. Eastern's local notice did not include the class of station or its proposed antenna height. We have no evidence that Gilliam gave any local notice of its application. Bowman's local notice did not include its proposed antenna height. Accordingly, we will require (1) Minority, Eastern and Bowman to republish local notice; (2) Gilliam to demonstrate that it has published or broadcast; and (3) all four to certify to the presiding Administrative Law Judge that compliance with the rule has been accomplished.

12. Except as indicated by the issues specified below, all five applicants are qualified to construct and operate as proposed.[11] However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. Although for different communities, the Eastern and CBI proposals would serve substantial areas in common. Therefore, in addition to an issue to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service, a contingent comparative issue will be specified.

13. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether the proposal of Eastern Jackson County Broadcasting Corporation would realistically provide a local transmission service for Blue Springs, Missouri, or for Independence, Missouri.

2. To determine, in the event it be concluded pursuant to Issue 1 that the Eastern proposal would not realistically provide a local transmission service for Blue Springs, Missouri, whether the proposal meets the technical provisions of the Rules for AM broadcast stations assigned to Independence, Missouri.

3. To determine whether the proposal of Contemporary Broadcasting, Inc. would realistically provide a local transmission service for Hallsville, Missouri, or for Columbia, Missouri.

4. To determine, in the event it be concluded pursuant to Issue 3 that the CBI proposal would not realistically provide a local transmission service for Hallsville, Missouri, whether the proposal meets the technical provisions of the Rules for AM broadcast stations assigned to Columbia, Missouri.

5. To determine whether the nighttime proposal of Gilliam Communications, Inc. would provide Memphis, Tennessee with a 10 mV/m nighttime signal as required by Section 73.24(j) of the Commission's Rules, and if not, whether circumstances exist which warrant waiver of that rule.

6. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural service to such areas and populations.

7. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service.

8. To determine, in the event it be concluded that a choice among the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

9. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

14. It is further ordered, That the conditional objections to grant of Minority Broadcasting Company of the Midwest, Gilliam Communications, Inc., Contemporary Broadcasting, Inc., and Bowman and Caselman Enterprises filed by Westinghouse Broadcasting Company, Inc. are granted to the extent indicated above, and are denied in all other respects.

15. It is further ordered, That the petition to deny filed by Minority Broadcasting Company of the Midwest is dismissed.

16. It is further ordered, That Gilliam Communications Inc's request for waiver of § 73.24(g) of our rules is granted.

17. It is further ordered, That Minority Broadcasting Company of the Midwest and Eastern Jackson County Broadcasting Corporation shall file the amendments indicated in footnotes 3 and 9 above, respectively, within 40 days after this order is published in the **Federal Register.**

18. It is further ordered, That Minority Broadcasting Company of the Midwest and Eastern Jackson County Broadcasting Corporation should republish, and that Bowman and Caselman Enterprises should rebroadcast, a corrected local notice of their applications, and that Gilliam Communications, Inc. should broadcast a local notice of its application, as

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[9] Eastern's technical proposal is deficient in that it has not submitted a map depicting its proposed 5 mV/m contour as required by Form 301, Section V–A, paragraph 12. Therefore, we cannot determined whether Eastern's proposed 5 mV/m contour also covers Kansas City, Missouri (population 448,159). Eastern is required to amend its application with the proper showing and the issue would be enlarged if appropriate.

[10] The suburban community policy is currently under review in BC Docket No. 82–320. The disposition of the issues specified here, will, of course, be governed by the policies then in effect as a result of our review.

[11] Operation with the facilities specified herein is subject to modification, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

required by Section 73.3580 of the Rules, and shall file a statement of publication or broadcast with the presiding Administrative Law Judge within 30 days after this order is published in the Federal Register.

19. It is further ordered, That in the event of a grant of the application of either Minority Broadcasting Company of the Midwest, Contemporary Broadcasting, Inc., Gilliam Communications, Inc., or Bowman and Caselman Enterprises, the construction permit shall contain the following conditions:

An antenna monitor of sufficient accuracy and repeatability, and having a minimum resolution of 0.1 degree phase deviation and 0.1 percent sample-current deviation, shall be installed and continuously available to indicate the relative phase and magnitude of the sample current of each element in the array, to insure maintenance of the radiated fields within the authorized values of radiation.

Upon receipt of operating specifications and before issuance of a license, permittee shall submit the results of observations made daily of the base currents and their ratios, relative phases, sample currents and their ratios, and sample-current deviations for each element of the array, along with the final and field strengths of each monitoring point for both nondirectional and directional operations for a period of at least 30 days, to demonstrate that the array will be maintained within the specified tolerances.

20. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221 (c) and (e) of the Commission's Rules, the parties shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence, on the issues specified in this order.

21. It is further ordered, That pursuant to section 311(a) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicant shall give notice of the hearing as prescribed in the rule, and shall advise the Commission of the publication of its notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-25881 Filed 9-20-82; 8:45 am]
BILLING CODE 6712-01-M

[BC Docket No. 82-615, File No. BP-21,127; and BC Docket No. 82-616, File No. BP-790418AD]

Perry Broadcasting Co. and Alum Springs Vision and Outreach Corp.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: August 16, 1982.

Released: September 3, 1982.

In re applications of Perry Broadcasting Co., Hazard, Kentucky, Req: 1170 kHz, 250 W, Day, BC Docket No. 82-615, File No. BP-21,127; Alum Springs Vision and Outreach Corp., Junction City, Kentucky, Req: 1170 kHz, 500 W, DA, Day, BC Docket No. 82-616, File No. BP-790418AD; for construction permit.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it for consideration (a) the above-captioned applications for new AM broadcast stations at Hazard and Junction City, Kentucky; (b) a petition to deny the application of Perry Broadcasting Company (Perry), filed by Mountain Broadcasting Service, Inc. (Mountain); and (c) related pleadings. As licensee of stations WKIC and WSGS-FM, both located in Hazard, Mountain would compete with Perry's proposed station for audience and revenue. Hence the licensee has standing as a petitioner to deny. *Sanders Bros. Radio Station* v. *FCC*, 309 U.S. 470 (1940).

2. *Concentration of control issue.* Our AM multiple ownership rule (Section 73.35) prohibits, *inter alia*, common ownership, operation, or control of two AM stations with overlapping 1 mV/m contours, and of AM and television stations where the proposed 2 mV/m AM contour would overlap the entire community of license of the television station. William D. Gorman, Sr.—father of Perry principal William D Gorman, Jr.—is the 89.65-percent owner of Hazard television station WKYH-TV and holds an interest in the Hazard TV Cable Co. as well. Gorman, Jr.'s uncle—L. D. Gorman—is a minority owner of Mountain.[1]

3. It is well established, as Mountain acknowledges, that family relationship alone does not create a presumption of common control for multiple ownership purposes. *KTRB Broadcasting Co., Inc.*, 46 FCC 2d 605 (Rev. Bd., 1974) [2] Mountain's allegations to the contrary notwithstanding, we find no independent basis for such a presumption here either. Turning first to William D. Gorman, Sr., the fact that Gorman, Jr. once worked at his television station does not itself indicate common purpose, especially since the relationship ended over three years ago. In any event, both men have submitted sworn statements denying any assistance by Gorman, Sr. in the Perry application and any contemplated connection between themselves or their operations in the future.[3]

4. As for L. D. Gorman, his share of Mountain is a minority one which, as Mountain's vigorous prosecution of this claim confirms, does not carry with it control of the licensee's activities. While L. D. Gorman, it is true, is also president of the bank committing funds to Perry's operation, he has stated by affidavit that the bank's line of credit was issued in the normal course of business in reliance primarily upon the assets of Perry principal Jack M. Fitz. Fitz, for his part, has submitted an affidavit acknowledging significant personal deposits at the bank and substantial interests in several companies maintaining significant deposits as well. Finally, L. D. Gorman has sworn that he does not play an active role in the insurance agency which he partially owns and which employs his nephew, and that he lacks authority to hire and fire there.

5. As the above paragraphs indicate, members of the Gorman family hold positions of some influence in Hazard, both within the broadcast community and outside of it. This fact alone does not establish common action, though. William D. Gorman, Jr., William D. Gorman, Sr., and L. D. Gorman have all attested to their independence, and nothing in the relationship between the elder Gormans and Gorman Jr. renders this claim inherently suspect.[4] We conclude therefore that the interests of William D. Gorman, Sr. and L. D. Gorman cannot be attributed to William D. Gorman, Jr., for purposes of our multiple ownership rule, and that a concentration of control issue is unjustified as a result.

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[1] L. D. Gorman owns 47.5 percent of the W.G. Coal Company, which company in turn owns 50 percent of Mountain.

[2] Husband-wife interests are an exception to this rule. See *e.g. Lexington County Broadcasters, Inc.*, 42 FCC 2d 581 (Rev. Bd., 1973).

[3] The suggestion that Gorman, Jr. might misuse his facility to further the political goals of his father, who is mayor of Hazard, is totally without factual support.

[4] Mountain's complaint that the various Gorman family affidavits are self-serving is well founded, but ultimately beside the point. Where thoughts and intentions are at issue, personal statements may be the only available evidence. Certainly we have no basis for questioning the candor and truthfulness of either elder Gorman.

6. *Misrepresentation issues.* To establish that Perry did not actually interview individuals listed in its community leader survey, Mountain initially submitted 24 unsworn statements and the hearsay affidavit of its president reporting 6 additional conversations. Thirteen of these statements were subsequently supplemented by sworn acknowledgments. Clearly prepared in advance by Mountain, the statements denied interviews with William D. Gorman, Jr., or any other Perry representative, for a new radio station.

7. Perry, for its part, submitted 24 affidavits, again prepared by someone other than the affiant, confirming an interview with Gorman but denying knowledge of the interview's purpose. According to these affidavits, Mountain's reference to a new radio station had confused the issue, causing the affiant to sign a statement he now realized to be untrue. At the end of the Mountain-Perry exchange of statements, five individuals still declined to acknowledge being interviewed, two citing lack of memory and three making absolute claims of no contact. Two of the latter three signed statements alleged improper conduct as well, both claiming that William D. Gorman, Jr., sought to pressure them into signing affidavits on his behalf. These statements were called into question, but not effectively rebutted, in later pleadings.[5]

8. We find in all of these submissions cause for concern. Clearly, the affiants here did not fully understand what they were signing. Whether their misunderstanding was a result of Mountain's information gathering,[6] Perry's original interviewing techniques,[7] or subsequent actions on the part of one or both parties we cannot say. It is, of course, possible that all errors were innocent, or at worst the result of excess zeal on the parties' parts. So many unresolved questions remain, however, including allegations of misconduct which cannot be dismissed as insubstantial, that an evidentiary hearing seems to us required.[8]

9. *Other matters.* Except as indicated below, both applicants are qualified to construct and operate as proposed. However, the proposals are mutually exclusive and must be set for hearing in a consolidated proceeding. Because the proposals are for different communities, an issue must be specified to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of them would provide a fair, efficient, and equitable distribution of radio service.

10. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the facts and circumstances surrounding the survey of community leaders conducted by Perry Broadcasting Company and the investigation thereof conducted by Mountain Broadcasting Service, Inc., and in light of the evidence adduced, whether Perry Broadcasting Company is qualified to be a Commission licensee.

2. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural service to such areas and populations.

3. To determine in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

4. To determine in light of the evidence adduced pursuant to the foregoing issues, which application should be granted.

11. It is further ordered, That the petition to deny filed by Mountain Broadcasting Service, Inc. is granted to the extent indicated herein and is denied in all other respects, and that Mountain Broadcasting Service, Inc., is made a party to this proceeding.

12. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the parties shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

13. It is further ordered, That pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing as prescribed in the rule, and shall advise the Commission of the publication of their notices as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division.

[FR Doc. 82-25879 Filed 9-20-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-629, File No. BPH-810408 AC; and BC Docket No. 82-630, File No. BPH-811-027AL]

White Mountain FM, Inc. and Profile Broadcasting, Co. Inc.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: August 25, 1982.

Released: September 9, 1982.

In re applications of White Mountain FM, Inc., Littleton, New Hampshire, Req: 106.3 MHz, Channel No. 292A, 0.115 kW (H&V), 1,256 feet, BC Docket No. 82-629, File No. BPH-810408 AC; Profile Broadcasting Company, Inc., Littleton, New Hampshire, Req: 106.3 MHz, Channel No. 292A, 0.375 kW (H&V), 730 feet, BC Docket No. 82-630, File No. BPH-811027AL; for construction permit for a New FM station.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications file by White Mountain FM, Inc. (White Mountain) and Profile Broadcasting Company, Inc. (Profile).

2. *Profile.* The material submitted in Profile's application does not demonstrate the applicant's financial qualifications. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, Profile will be given 30 days from the date of mailing of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the presiding Administrative Law Judge in the manner called for in revised

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[5] As we propose to specify an issue concerning the matter, we do not believe that Mountain is prejudiced by consideration of Perry's supplemental opposition.

[6] While Mountain's license is not at issue here, we cannot as a practical matter evaluate Perry's conduct without evaluating that of the licensee as well. Should the evidence adduced at hearing call into question Mountain's ability to operate in the public interest, this evidence can be considered at another time in the appropriate context.

[7] At the time Perry's interviews were conducted, William D. Gorman, Jr., was associated with WKYH-TV, in Hazard. A number of affiants apparently believed the interviews to have been connected with the television operation.

[8] Petitioner's objection to the adequacy of Perry's ascertainment is moot in light of our elimination of formal ascertainment requirements. *Deregulation of Radio*, 84 FCC 2d 968, 998 (1981).

Section III, form 301, as to its financial qualifications. If Profile cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82-378.

3. Profile has not submitted a description in narrative form of the programming service relating to the issues of public concern facing its proposed service area. See *Deregulation of Radio*, 84 FCC 2d 968, 999 (1981). Accordingly, it will be necessary for the applicant to file an amendment with the presiding Administrative Law Judge.

4. *White Mountain.* The material submitted in White Mountain's application does not demonstrate the applicant's financial qualifications. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly White Mountain will be given 30 days from the date of mailing of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the presiding Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If white Mountain cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82-378.

5. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

6. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issue, which of the applications, if either, should be granted.

8. It is further ordered, That Profile and White Mountain shall submit financial certifications in the form required by Section III, FCC Form 301, or advise the presiding Administrative Law Judge that the certification cannot be made, as may be appropriate.

9. It is further ordered, That Profile shall file an amendment with the presiding Administrative Law Judge outlining its proposed programming service relating to the issues of public concern facing its proposed service area.

10. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescibed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-25680 Filed 9-20-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-631, File No. BPH-810417AD; and BC Docket No. 82-632, File No. BPH-810618AH]

Wolfe Communications, Inc. and Chester County Broadcasting Co. Inc. et al.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: August 25, 1982.

Released: September 10, 1982.

In re applications of Wolfe Communications, Inc., Henderson, Tennessee, Req: 95.9 MHz, Channel 240A, 3 kW (H&V), 300 feet (H&V); BC Docket No. 82-631, File No. BPH-810417AD; Chester County Broadcasting Co. Inc., Henderson, Tennessee, Req: 95.9 MHz, Channel 240A, 3 kW (H&V), 95 Feet (H&V); BC Docket No. 82-632, File No. BPH-810618AH; for construction permit for a new FM station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Wolfe Communications, Inc. (Wolfe) and Chester County Broadcasting Co. Inc. (Chester).

2. *Wolfe.* In Table II, Section II of FCC Form 301, Steve Williams, a principal of Wolfe, indicates that he is presently the sales manager of station WJHR(FM), Jackson, Tennessee, which is approximately 12 miles from Henderson. He has stipulated that he will resign this sales manager position prior to the commencement of operations of this new FM station at Henderson should the Wolfe application be granted. An appropriate condition will be added.

3. Analysis of the financial data submitted by Wolfe reveals that $109,025 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	$64,125
Building (remodeling)	5,000
Miscellaneous	7,500
Operating costs	32,400
Total	109,025

Wolfe plans to finance construction and operation with a $125,000 line of credit from First Tennessee Bank of Jackson. It has not, however, submitted a bank commitment letter or specified any repayment terms.

4. *Chester.* Staff review of Section II of FCC Form 301 reveals that no Table II information was submitted with regard to Wanda Smith, one of the directors listed on Table I. As a result, the staff is unable to determine whether Ms. Smith has any other relevant media interests. Accordingly, Chester will be required to file an amendment with the presiding Administrative Law Judge listing any interest in a broadcast station, daily newspaper or cable television system attributable to Ms. Smith.

5. Analysis of the financial data submitted by Chester reveals that $47,925 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	$28,500
Building (remodeling)	1,000
Miscellaneous items	2,500
Operating costs	16,925
Total	47,925

Chester plans to finance construction and operation with a $125,000 line of credit from Chester County Bank. The commitment letter it has submitted from the bank, however, does not contain any repayment terms.

6. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicants will be given 30 days from the date of mailing of this Order to review their financial proposals in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit certifications to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to their financial qualifications. If the applicants cannot make the required certifications, they shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82–378.

7. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to either of the applicants.

8. Since the grant of either application is dependent upon the change in frequency of station KHLS(FM), Blytheville, Arkansas, from Channel 241 to 242–C, an appropriate condition will be added.

9. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive they must be designated for hearing in a consolidated proceeding.

10. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications Are Designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(2) To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

11. It is further ordered, That the applicants shall submit financial certifications in the form required by Section III, FCC Form 301, or advise the Administrative Law Judge that the certifications cannot be made, as may be appropriate, within 30 days of the mailing of this Order.

12. It is further ordered, That, in the event of a grant of the application of Wolfe, the construction permit shall contain a condition that program test shall not commence until the permittee has shown that Steve Williams has severed all connections with station WJNR(FM), Jackson, Tennessee.

13. It is further ordered, That, Chester file an amendment listing any interest in a broadcast station, daily newspaper or cable television system attributable to Wanda Smith.

14. It is further ordered, That, the construction permit will not be granted until station KHLS(FM) is granted a construction permit on Channel 242–C, and, program test shall not commence until station KHLS commences program test on Channel 242–C.

15. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

16. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as requried by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

Appendix

17. The Commission has not yet received Federal Aviation Administration clearance for the antenna tower proposed by the below listed applicant. Accordingly, it is further ordered, That the following issue is specified:

3. To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower height and location proposed by Wolfe Communications, Inc.

18. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding.

[FR Doc. 82-25870 Filed 9-20-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

National Emergency Training Center; Board of Visitors for the National Fire Academy; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following committee meeting:

Name: Board of Visitors for the National Fire Academy
Dates of meeting: October 4–5, 1982
Place: National Fire Academy, Emmitsburg, MD
Time: 9:00 a.m. to 5:00 p.m.
Proposed agenda: October 4–5: Approval of Minutes; Old Business (Report of Committees); New Business; Course Title Changes; FY83 Operating Plan; Annual Report (Discuss)

The meeting will be open to the public with approximately 20 seats available on a first-come, first-serve basis. Members of the general public who plan to attend the meeting should contact Mr. Joseph Donovan, Superintendent, National Fire Academy, 16825 South Seton Avenue, Emmitsburg, MD 21727 (telephone number 301–447–6771) on or before September 27, 1982.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the Associate Director's Office, Building N, National Emergency Training Center, Emmitsburg, MD. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: September 14, 1982

Fred J. Villella,

Associate Director for Training and Education, National Emergency Training Center.

[FR Doc. 82-25964 Filed 9-20-82; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-666-DR]

Tennessee; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Tennessee (FEMA-666-DR), dated August 24, 1982, and related determinations.

DATED: August 31, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

NOTICE: The notice of a major disaster for the State of Tennessee dated August 24, 1982, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 24, 1982:

Jackson and Macon Counties for Public Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718-02.)

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 82-25962 Filed 9-20-82; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

[Docket No. 82-43]

Port of New Orleans; Notice of Filing of Petition for Declaratory Order

In the Matter of Board of Commissioners of the Port of New Orleans, Dock Department Tariff FMC T-No. 1, Item 145-0

Notice is given that a petition for declaratory order has been filed by the Board of Commissioners of the Port of New Orleans. Petitioner seeks an order declaring that in pertinent part, Item 145-0 of its Tariff FMC T-No. 1 (1) Holds a vessel berthing agent liable for collection and payment of inbound cargo demurrage charges, and (2) is lawful under the Shipping Act, 1916, in particular Sections 16 and 17 thereof, 46 U.S.C. §§ 816 and 817.

Interested persons may inspect and obtain a copy of the petition at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 11101, or may inspect the petition at the Commission's Field Offices located at New York, New York; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Participation in this proceeding by persons not named in the petition will be permitted only upon grant of intervention pursuant to Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72).

Petitions to intervene shall be accompanied by intervenors complete reply in the matter. Such petitions and any replies to the petition for declaratory order shall be filed with the Secretary on or before October 20, 1982. An original and fifteen copies shall be submitted and a copy served on all parties. Replies shall contain the complete factual and legal presentation of the replying party as to the desired resolution of the petition for declaratory order.

Francis C. Hurney,

Secretary.

[FR Doc. 82-25939 Filed 9-20-82; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 82-44]

Ingersoll Rand Co. v. Waterman Steamship Corp.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by Ingersoll Rand Company against Waterman Steamship Corporation was served September 13, 1982. Complainant alleges that respondent has subjected it to an overcharge of rates for ocean transportation in violation of section 18(b)(3) of the Shipping Act.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 82-25944 Filed 9-20-82; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Regency Cruise Lines, Regency Cruise Lines Ltd., and March Shipping Corporation, c/o March Shipping Corporation, 1001 Franklin Ave., Garden City, New York 11530.

Dated: September 16, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-25945 Filed 9-20-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their view on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing.

identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon National Corporation,* Pittsburgh, Pennsylvania (data processing activities; United States and overseas): To engage, through its subsidiary, Mellon Financial Services Corporation in data processing activities, including: providing bookkeeping or data processing services for the internal operations of the holding company and its subsidiaries and storing and processing other banking, financial, or related economic data, such as performing payroll, accounts receivable or payable, or billing services. These activities would be conducted from an office in Chicago, Illinois, serving clients throughout the United States and possible clients overseas as well. Comments on this application must be received not later than October 13, 1982.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Security Pacific Corporation,* Los Angeles, California (mortgage banking and credit-related life, accident and health insurance activities; Florida): To engage through its subsidiary, Security Pacific Mortgage Corporation, in the origination and acquisition of mortgage loans, including development and construction loans on multi-family and commercial properties for Security Pacific Mortgage Corporation's own account or for sale to others; the servicing of such loans for others; and acting as broker or agent for the sale of credit-related life, accident and health insurance. These activities would be conducted from an office of Security Pacific Mortgage Corporation in Tampa, Florida, serving the State of Florida. Comments on this application must be received not later than October 15, 1982.

Board of Governors of the Federal Reserve System, September 15, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-25939 Filed 9-20-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Gastroenterology-Urology Device Section of the General Medical Devices Panel

Date, time, and place. October 7, 8, and 9 a.m., Rm. 1207, 8757 Georgia Ave., Silver Spring, MD.

Type of meeting and panel section leader. Open public hearing, October 7, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 11:30 a.m. closed presentation of data, 11:30 a.m. to 12 m.; open committee discussion, 1 p.m. to 2:30 p.m.; closed presentation of data, 2:30 p.m. to 3 p.m.; open committee discussion, 3 p.m. to 4 p.m.; open committee discussion, October 8, 9 a.m. to 11:30 a.m.; closed presentation of data, 11:30 a.m. to 12: m.; open committee discussion, 1 p.m. to 4 p.m.; Norman T. Welford, Bureau of Medical Devices (HFK-420), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7750.

General function of the committee. The committee reviews and evaluates available data on the safety and effectivenes of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify Norman T. Welford before September 27 and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss premarket approval applications for plasmapheresis filters and control systems for therapeutic and donor purposes.

Closed presentation of data. The committee will discuss trade secret or confidential commercial information presented by sponsors of premarket approval applications for plasmapheresis filters and control systems for therapeutic and donor purposes. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 55b(c)(4)).

Vaccines and Related Biological Products Advisory Committee

Date, time, and place. October 14 and 15, 8:30 a.m., Rm. 121, Bldg. 29, 8800 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, October 14, 8:30 to 9:30 a.m.; open committee discussion, 9:30 a.m. to 10 a.m.; closed committee deliberations, 10 a.m to 3 p.m.; open committee discussion, 3 p.m. to 4:30 p.m.; closed committee deliberations, October 15, 8:30 a.m. to 12 m.; Jack Gertzog, National Center for Drug and Biologics (HFB-5), Food and Drug Administration, Bldg. 29, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-5455.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of vaccines and related biological products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing on issues pending before the committee.

Open committee discussion. The committee will discuss pneumococcal vaccine formulation and synthetic conjugate vaccines.

Closed committee deliberations. The committee will discuss trade secret or confidential commercial information concerning two pending investigational new drugs and one license application. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552(c)(4)).

Cardiovascular and Renal Drugs Advisory Committee

Date, time, and place. October 28 and 29, 9 a.m., Auditorium, Lister Hill Center, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD.

Type of meeting and executive secretary. Open public hearing, October 28, 9 a.m. to 10 a.m.; open committee discussion, October 28, 10 a.m. to 5 p.m., October 29, 9 a.m. to 12:30 p.m.; closed committee deliberations, October 29, 1:30 p.m. to 5 p.m.; Joan Standaert, National Center for Drugs and Biologics (HFD–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4730.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in gastrointestinal disorders.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss amrinone; Inocor tablet and injection (NDA 18–699, 18–700, Sterling-Winthrop Laboratories) for use in congestive heart failure; Phenytoin Sodium Injectable; Dilantin (NDA 10–151, Parke, Davis-Warner Lambert Co.) for use as an anti-arrhythmic agent; Labetalol; Normodyne tablets and injection (NDA 18–686, 18–687, Schering Corp.; NDA 18–716, Glaxo Inc.) for use in hypertension.

Closed committee deliberations. The committee will discuss trade secret or confidential commercial information regarding metoprolol; Lopressor injection (NDA 18–704, Ciba-Geigy Pharmaceuticals) for use after myocardial infarction. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed here the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedure for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: September 14, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82721 Filed 9-20-82; 8:45 am]

BILLING CODE 4160-01-M

Cardiovascular and Renal Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Cardiovascular and Renal Drugs Advisory Committee by the Secretary, Department of Health and Human Services.

DATE: Authority for this committee will expire on August 27, 1984, unless the

Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: September 14, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–25719 Filed 9–20–82; 8:45 am]

BILLING CODE 4160–01–M

Endocrinologic and Metabolic Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Endocrinologic and Metabolic Drugs Advisory Committee by the Secretary, Department of Health and Human Services.

DATE: Authority for this committee will expire on August 27, 1984, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: September 14, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–25718 Filed 9–20–82; 8:45 am]

BILLING CODE 4160–01–M

Oncologic Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Oncologic Drugs Advisory Committee by the Secretary, Department of Health and Human Services.

DATE: Authority for this committee will expire on September 1, 1984, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: September 14, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–25720 Filed 9–20–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82D–0276]

Penicillinase-Resistant Penicillins, Local Anesthetics, Diagnostic Enteral Cholecystographic Radiopaque Agents, Diagnostic Enteral Gastrointestinal Radiopaque Agents, and Diagnostic IV Radiopaque Agents; Class Labeling Guidelines

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of class labeling guidelines for the professional labeling of five classes of drug products: penicillinase-resistant penicillins, local anesthetics, diagnostic enteral cholecystographic radiopaque agents, diagnostic enteral gastrointestinal radiopaque agents, and diagnostic IV radiopaque agents. Class labeling is appropriate for these classes of drug products because the drug products in each class are closely realted in chemical structure, pharmacology, therapeutic activity, and adverse reactions. The guidelines are intended to promote the use of identical professional labeling for each drug product in each class.

DATE: Effective September 21, 1982, a person may adopt the class labeling guidelines for these five classes of drug products and rely on them to meet FDA's professional labeling requirements for prescription drugs.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

For information concerning penicillinase-resistant penicillins and diagnostic IV radiopaque agents class labeling guidelines or copies contact: Thomas H. Perez, National Center for Drugs and Biologics (HFD–177), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6004.

For information concerning local anesthetics, diagnostic enteral cholecystographic radiopaque agents, and diagnostic enteral gastrointestinal radiopaque agents class labeling guidelines or copies contact: Misoon Y. Chun, National Center for Drugs and Biologics (HFD–177), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6004.

SUPPLEMENTARY INFORMATION: FDA has prepared guidelines for the professional labeling of five classes of drug products: Penicillinase-resistant penicillins, local anesthetics, diagnostic enteral cholecystographic radiopaque agents, diagnostic enteral gastrointestinal radiopaque agents, and diagnostic IV radiopaque agents. These labeling guidelines can be used for each product within that drug class because all drugs in the class are closely related in chemical structure, pharmacology, therapeutic activity, and adverse reactions. Use of the guidelines constitutes compliance with §§ 201.56, 201.57, and 201.100 (21 CFR 201.56, 201.57, and 201.100) of the agency's regulations for the content and format of professional labeling for human prescription drugs.

The professional labeling of prescription drugs is required to contain the information and be in the format specified by §§ 201.56 and 201.57. The application of these regulations to drug products is proceeding under the schedule established in § 201.59 (21 CFR 201.59, published in the Federal Register of May 16, 1980; 45 FR 32550). As described more fully in § 201.59, the regulations apply to these five classes of drug products as follows: (1) As of April 10, 1981, for any drugs in each of the five classes that are not subject to section 505 or 507 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355); (2) on October 1, 1983, to penicillinase-resistant penicillins that on December 26, 1979, were subject to an antibiotic Form 5 application under section 507 of the act, and duplicates of those products; (3) on May 1, 1983, to local anesthetics, diagnostic enteral cholecystographic radiopaque agents, diagnostic enteral gastrointestinal radiopaque agents, and diagnostic IV radiopaque agents that on December 26, 1979, were subject to an approved new drug application under section 505 of the act, and duplicates of those products; (4) as of December 26, 1979, to other drugs in each of these five classes for which marketing approval under section 505 or 507 of the act is sought from FDA. The agency recognizes that some manufacturers and distributors of drugs in the first category may have already revised their drug labeling to comply with the regulations. The agency

nonetheless encourages those persons to adopt the agency's class labeling guidelines when practicable.

Class labeling guidelines should enhance the agency's regulatory program for prescription drugs. The guidelines will promote consistency in labeling among various drugs of the same class and help the agency review proposed labeling for new drugs and antibiotics. They will also help drug manufacturers prepare labeling for drugs they propose to market that is in compliance with legal requirements. Finally, class labeling will be most helpful to health care professionals who prescribe and dispense prescription drug products. Prescribers and dispensers must now compare the labeling for members of a drug class to determine the similarities and differences among the products in the class. Class labeling, which contains information about each member of the drug class, will facilitate the ability of health professionals to make such comparisons.

The penicillinase-resistant penicillins class labeling guideline is appropriate as the basis for labeling for the following drugs in the route of administration identified:

Cloxacillin Sodium, oral
Dicloxacillin Sodium, oral
Methicillin Sodium, IM, IV, and IV infusion
Nafcillin Sodium, oral, IM, IV, and IV infusion
Oxacillin Sodium, oral, IM, IV, and IV infusion

The local anesthetics class labeling guideline is appropriate as the basis for labeling for the following drugs in the route of administration identified:

Bupivacaine HC1, injectable
Chloroprocaine HC1, injectable
Dibucaine HC1, injectable
Etidocaine HC1, injectable
Lidocaine, HC1, injectable, solution, ointment, jelly, viscous solution
Mepivacaine HC1, injectable
Piperocaine HC1, injectable
Prilocaine HC1, injectable
Procaine HC1, injectable
Tetracaine HC1, injectable, solution

The diagnostic enteral cholecystographic radiopaque agents class labeling guideline is appropriate as the basis for labeling for the following drugs in the route of administration identified:

Iocetamic Acid, oral
Iopanoic Acid, oral
Ipodate Calcium, oral
Ipodate Sodium, oral
Tyropanoate Sodium, oral

The diagnostic enteral gastrointestinal radiopaque agents class labeling guideline is appropriate as the basis for labeling for the following drugs in the route of administration identified:

Diatrizoate Meglumine and Diatrizoate Sodium, oral, rectal
Diatrizoate Sodium, oral, rectal

The diagnostic IV radiopaque agents class labeling guideline is appropriate as the basis for labeling for the following drugs in the route of administration identified:

Diatrizoate Meglumine, injection
Diatrizoate Sodium, injection
Iodamide Meglumine, injection
Iodipamide Meglumine, injection
Iothalamate Meglumine, injection
Iothalamate Sodium, injection
Metrizoate Calicium, injection
Metrizoate Meglumine, injection
Metrizoate Magnesium, injection
Metrizoate Sodium, injection

With this notice FDA has made available nine guidelines as part of an effort to develop guideline professional labeling for 32 classes of prescription drug products. The first guideline published as part of this effort was the class labeling guideline for single-entity barbiturates, which appeared in the **Federal Register** of November 18, 1980 (45 FR 76356). That guidelined was followed by the guideline for androgen drug products, for which a notice of availability was published in the **Federal Register** of July 10, 1981 (46 FR 35787), followed by the guideline for topical corticosteroid drug products (46 FR 49205; October 6, 1981). The most recent guideline published was that for thyroid hormone drug products (47 FR 29878; July 9, 1982). The agency's justification and rationale for developing class labeling guidelines as well as a description of the procedures followed in developing the text of the labeling was described in the November 18, 1980 notice. In the future, FDA intends to develop and make available a class labeling guideline for the following drug classes:

Aminoglycosides
Anorexiants—excluding amphetamines
Anticoagulants—oral
Anticholinergics—centrally active
Anticholinergics—synthetic
Antidepressants
Antihistamines
Antipsychotics
Benzodiazepines
Cardiac glycosides
Cephalosporins
Erythromycins
Glucocorticoids
Insulins
Narcotic analgesics
Neuromuscular blocking drugs
Penicillins—G & V
Potassium preparations
Quinidine salts
Rauwolfia alkaloids
Sulfonamides
Tetracyclines
Thiazides

This notice is issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to establish procedures of general applicability that are not legal requirements, but are acceptable to the agency. A person who follows these guidelines is assured that his or her conduct is acceptable to the agency. The agency advises that these five class labeling guidelines comply with the prescription drug labeling regulations in §§ 201.56, 201.57, and 201.100 and can be relied upon by any person to meet these requirements. Under the provisions of § 314.8 (21 CFR 314.8) manufacturers are required to submit supplemental new drug applications advising the agency that the labeling is being revised. However, under § 314.8(d) the guideline labeling may be used before approval of a supplement to a new drug application. A person may choose to use alternative labeling statements that are not provided for in the guideline. If a person chooses to depart from the guideline, he or she may discuss the matter further with the agency to prevent expenditure of money and effort for labeling that the agency may later determine to be unacceptable.

Effective September 21, 1982, a person may adopt any of these five class labeling guidelines. Interested persons may submit written comments on the guidelines to the Dockets Management Branch (address above). Comments will be considered in determining whether future amendments to revisions of the guidelines are warranted. Comments should be in two copies except that individuals may submit single copies, identified with the docket number found in brackets in the heading of this document. The guidelines and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 13, 1982.

William F. Randolph

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25715 Filed 9-20-82; 8:45 am]
BILLING CODE 4160-01-M

[Docket No. 81P-0287]

Defect Action Level for Adulteration of Sauerkraut by Thrips; Availability of Guide; Revised Procedure for Establishing and Evaluating New FDA Defect Action Levels

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) annouces the availability of revised FDA Compliance Policy Guide 7114.23 which establishes a new defect action level for thrips in sauerkraut of 50 thrips per 100 grams of sauerkraut. The agency also announces a revised agency procedure for establishing and evaluating all new defect action levels.

DATE: Comments, data, and information may be submitted for 1 year following publication of this notice in the **Federal Register** or until September 21, 1983.

ADDRESS: Written comments, data, and information on this defect action level and requests for single copies of FDA Compliance Policy Guide 7114.23 may be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raymond W. Gill, Bureau of Foods (HFF–312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–3092.

SUPPLEMENTARY INFORMATION: FDA is establishing this defect action level in response to and based on data contained in a petition submitted by the National Kraut Packers Association. In support of the petition, the petitioner asserts that because there is at present no defect action level for thrips, sauerkraut processors are refusing to accept from growers cabbage infested with thrips.

The petitioner states that thrips are minute insects, almost microsopic, and are not considered a hazard to health in the numbers usually found in cabbage. Thrips attack numerous field and vegetable crops, but have not been considered a serious pest of cabbage until recently. In New York during the last 6 years, thrips have become more abundant. For example, in 1980, processors rejected a large amount of cabbage that contained thrips but that was wholesome in all other respects. As of August 1981, over 80 percent of a sample of 47 commercial fields in upstate New York were infested with thrips. Once thrips have entered the cabbage head, they cannot be controlled by insecticides, and hence it is expected that all harvested cabbage in New York will have some level of thrip infestation.

With the exception of information submitted by the petitioner, FDA is not aware of other analytical or statisical data on which to base a defect action level for thrips in sauerkraut. The agency is therefore requesting other interested persons to submit information and data about other geographical areas that are affected by thrip infestation, the extent of that infestation, any pesticides that are effective in controlling thrips, data showing a correlation between thrip population and pesticide uses, and any other information that may be pertinent to the evaluation of this defect action level.

A copy of the guide and the petition are on file in the Dockets Management Branch. Requests for single copies of FDA Compliance Policy Guide 7114.23 should refer to the docket number found in brackets in the heading of this document and should be submitted to the Dockets Management Branch (address above).

FDA is revising the procedure it uses to establish new defect action levels. The agency believes that this revised procedure will provide interested persons more opportunity to participate in the evaluation and establishment of such action levels. A new defect action level will be effective for an interim period upon publication in the **Federal Register** or notification to the field. During the year following publication of this notice in the **Federal Register** FDA invites interested persons to submit relevant data and information showing why the level should be revised. FDA emphasizes that defect action levels will be revised only on the basis of data and information that adequately support such changes. The defect action level will remain in effect until FDA has evaluated all the available data and has published its decision in the **Federal Register**.

Interested persons may submit to the Docket Management Branch (address above) written comments, data, and information regarding this defect action level. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 13, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–25874 Filed 9–20–82; 8:45 am]
BILLING CODE 4160–01–M

Health Professional Organization Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming meeting with health professional organizations to be chaired by Arthur Hull Hayes, Jr., M.D., Commissioner of Food and Drugs.

DATE: The meeting will be held at 3:30 p.m., Monday, October 4, 1982.

ADDRESS: The meeting will be held at the Hubert H. Humphrey Bldg., Rm. 503A, 200 Independence Ave. SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kenneth Flieger, Office of Health Affairs (HFY–4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6143.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs meets periodically with executives of the health professional organizations to discuss mutual concerns and facilitate dissemination of information on FDA plans and decisions affecting the country's health care.

Dated: September 15, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–25873 Filed 9–20–82; 8:45 am]
BILLING CODE 4160–01–M

[Docket No. 82D–0256]

Investigation of General and Local Anesthetics in Humans; Availability of Revised Clinical Guidelines

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of two revised clinical guidelines entitled "Guidelines for the Clinical Evaluation of General Anesthetics" and "Guidelines for the Clinical Evaluation of Local Anesthetics," under identification numbers HHS (FDA) 82–3052 and 82–3053, respectively. These guidelines were prepared by the National Center for Drugs and Biologics and are revisions of the guidelines bearing the same titles and issued in 1978 under identification numbers HEW (FDA) 78–3052 and 78–3053, respectively. These guidelines describe acceptable procedures and standards for conducting clinical investigations for these classes of drugs.

DATE: Comments by December 20, 1982.

ADDRESS: The guidelines are available for public examination at, and written comments may be submitted to, the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm.

4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles W. Prettyman, National Center for Drugs and Biologics (HFD–102), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4330.

SUPPLEMENTARY INFORMATION: FDA is making available two revised guidelines on the investigation of general anesthetics and local anesthetics in humans. These revisions represent an update of the guidelines originally issued in 1978 under identification numbers HEW (FDA) 78–3052 and 78–3053. This effort is consistent with the agency's commitment to periodic review of the clinical guidelines every 18 to 24 months. The revisions contained in these guidelines are organizational and editorial in nature. No substantive changes have been made. The original guidelines, HEW (FDA) 78–3052 and 78–3053 are hereby revoked. Because no substantive changes have been made in the revisions of the original guidelines, studies conducted in accordance with those guidelines remain acceptable to FDA.

This notice of availability of the guidelines is issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to outline procedures or standards of general applicability that are acceptable to FDA for a subject matter that falls within the laws administered by FDA. Although these guidelines are not legal requirements, a person may be assured that in following an agency guideline the procedures and standards will be acceptable to FDA. A person may also choose to use alternative procedures or standards for which there is scientific rational even though they are not provided for in the guideline. A person who chooses to use procedures or standards not in a guideline may discuss the matter further with the agency to prevent an expenditure of money and effort on work that FDA may later determine to be unacceptable.

The guideline documents subject to this notice are as follows:

HHS (FDA) No.	Guideline title	GPO stock No.	Cost
82-3052	Guidelines for the Clinical Evaluation of General Anesthetics	(017-012-00303-6)	$2.75
82-3053	Guidelines for the Clinical Evaluation of Local Anesthetics	(017-012-00304-4)	2.75

Copies of these guidelines can be purchased from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, D.C. 20402, at the cost listed above. Orders for copies must include the GPO stock number which is also listed.

Interested persons may, on or before December 20, 1982, submit written comments on the guideline to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Such comments will be considered in determining whether further amendments to, revisions of, the guidelines are warranted. Comments should be in two copies (except that individuals may submit single copies), identified with the docket number found in brackets on the heading of this document. The guidelines and received comments may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 15, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25672 Filed 9-20-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0252]

Syntex Ophthalmics, Inc., Premarket Approval of Polycon® II (Silafocon A) Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the supplemental application for premarket approval under the Medical Device Amendments of 1976 of the tinted POLYCON® II (silafocon A) Contact Lens, sponsored by Syntex Ophthalmics, Inc. Phoenix, AZ. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by October 21, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Bureau of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On May 28, 1981, Syntex Ophthalmics, Inc., Phoenix, AZ, submitted to FDA a supplemental application for premarket approval of the POLYCON® II (silafocon A) Contact Lens tinted with D&C Green No. 6. FDA approved an application for premarket approval of the clear (untinted) POLYCON® (silafocon A) Contact Lens on January 19, 1979, following a determination that the lenses were safe and effective for use as recommended in the submitted labeling. The supplemental application for the tinted lens was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On July 15, 1982, FDA approved the supplemental application by a letter to the sponsor from the Acting Associate Director for Device Evalution of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), soft contact lenses and solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft contact lenses and solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles Kyper, address above. Requests should be identified with the name of the device and the

docket number found in brackets in the heading of this document.

The labeling of an approved contact lens states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses. However, the restrictive labeling needs to be updated periodically to refer to new lens solutions that FDA approves for use with approved contact lenses. A sponsor that fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). a petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 21, 1982, file with the Dockets Management Branch (address above), four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 14, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-25871 Filed 9-20-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Notice of Receipt of Application

Applicant: Mr. Ray Berwick, Studio City, CA.

The applicant requests a permit to import two male captive-bred orangutans (*Pongo pygmaeus*) from the Baby-Zoo Wingst, West Germany for enhancement of propagation and survival under the definition of conservation exhibition.

Humane care and treatement during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2–9530. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: September 15, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-25870 Filed 9-20-82; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[A-17681]

Federal Minerals Exchange, Coconino County, Arizona; Realty Action

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action—Exchange, Federal Minerals in Coconino County, Arizona.

SUMMARY: The following described Federal mineral estate has been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona.

T. 26 N., R. 4 E.,
Sec. 14, NW¼, S½.
T. 26 N., R. 5 E.,
Sec. 6, All;
Sec. 20, All.
T. 27 N., R. 4 E.,
Sec. 14, All;
Sec. 30, Lots 1 through 4, E½W½, E½.
Comprising 3,040.28 acres, more or less.

In exchange for this Federal mineral estate, the United States will acquire the following State-owned minerals:

Gila and Salt River Meridian, Arizona.

T. 25 N., R. 8 E.,
Sec. 3, Lots 1 through 4, S½N½, S½;
Sec. 10, All;
Sec. 11, All;
Sec. 14, All;
Sec. 15, N½, N½SW¼, S½SE¼.
Comprising 3,040.80 acres, more or less.

The above described mineral estates are unencumbered and have been determined to be of equal value.

The purpose of the exchange is to acquire State-owned minerals within the Wupatki National Monument, underlying lands administered by the National Park Service, Southwest Region. This action would avoid potential surface impacts that may occur as the result of State approved mineral leasing activities. This action will also provide for the consolidation of split estates which resulted from an earlier surface exchange between the United States and the State of Arizona.

The publication of this notice in the **Federal Register** will segregate the Federal mineral estate described herein to the extent that it will not be subject to appropriation under the mining laws. As set forth in 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant. This segregative effect shall terminate upon

issuance of patent to such minerals, upon publication in the **Federal Register** of the segregation, or 2 years from date of this publication, whichever occurs first.

SUPPLEMENTARY INFORMATION: Detailed information concerning the exchange, including the environmental analysis and the mineral reports, is available for review at the Kingman Resource Area Office, 2475 Beverly Avenue, Kingman, Arizona 86401.

For a period of 45 days interested parties may submit commitments to the District Manager, Phoenix District Office, 2929 West Claredon Avenue, Phoenix, Arizona 85017. Any adverse comments may be evaluated by the Arizona State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State director, this realty action will become the final determination of the Department of the Interior.

Dated: September 10, 1982.

William K. Barker,

District Manager.

[FR Doc. 82-25978 Filed 9-20-82; 8:45 am]

BILLING CODE 4310-84-M

Notice of Segregation; Public Land in Carbon County, Utah

September 13, 1982.

Notice is hereby given that pursuant to the act of May, 24, 1928 (49 U.S.C. 211–214) Carbon County, Utah has applied for an Airport Lease (U–51314) for the following described land:

Salt Lake Base and Meridian, Utah

T. 14 S., R. 10 E.,
Sec. 12, SW¼NE¼;
Sec. 24, NW¼NW¼.
Comprising 80 acres.

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws, including the mining laws but not the mineral leasing laws. Interested parties may submit comments or inquiries to the Moab District Manager, P.O. Box 970, Moab, Utah 84532.

Kenneth V. Rhea,

Associate District Manager.

[FR Doc. 82-25974 Filed 9-20-82; 8:45 am]

BILLING CODE 4310-84-M

[OR 2777(WASH)]

Washington; Realty Action Lease/Sale; Public Land in Pend Oreille County

The following described land has been examined and identified as suitable for public recreation and is hereby classified for lease and/or sale under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.):

Willamette Meridian, Washington

T. 39 N., R. 43 E.,
Sec. 28, Lots 7, 8, and 9 of Block 5 of Metaline Townsite.
Containing .25 acres.

The land is chiefly valuable for public recreation purposes by virtue of its suitability for incorporation into the adjacent waterfront park operated by the Town of Metaline. The land will be leased to the Town of Metaline with an option to purchase, without monetary consideration. Lease will serve the important public objective of providing additional land for expansion of the town's recreational and public purpose projects. The land is isolated and is not essential to any Bureau of Land Management program. The land is not of national significance and this action will have no significant impact on the environment. The action is consistent with existing land use plan and with State and local planning and zoning.

Classification of the land under the provisions of the Recreation and Public Purposes Act segregates them from all appropriation, including locations under the mining laws, except as to applications under the mineral leasing laws and applications under the Recreation and Public Purposes Act.

For a period of 30 days, interested parties may submit comments to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: September 14, 1982.

Robert E. Mallohan,

Chief, Lands Operations Section.

[FR Doc. 82-25966 Filed 9-20-82; 8:45 am]

BILLING CODE 4310-84-M

[INT FEIS 82-34]

Lower Gila North Final Grazing Environmental Impact Statement; Notice of Availability

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability of Final Environmental Impact Statement (final EIS).

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, BLM has prepared a final EIS on the Proposed Grazing Management Program for the Lower Gila North Planning Area, Mohave, Yavapai, Maricopa, and Yuma Counties, Arizona.

SUPPLEMENTARY INFORMATION: The FEIS is to be used in conjunction with the DEIS. The final statement is made up of the oral and written comments received and our responses to those comments.

Comments on the final statement can be submitted within 30 days of this notice to the District Manager, Bureau of Land Management, Projects Office, 2933 W. Indian School Road, Phoenix, Arizona 85017.

A limited number of final EIS copies may be obtained upon request to the District Manager at the above address.

Public reading copies may be reviewed at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th & C Streets NW., Washington, D.C. 20240; Telephone (202) 343–5717

Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073; Telephone (602) 261–3706

Phoenix District Office, Bureau of Land Management, 2929 W. Clarefidon Avenue, Phoenix, Arizona 85017; Telephone (602) 241–2501

Dated: September 15, 1982.

D. Dean Bibles,

State Director.

[FR Doc. 82-25928 Filed 9-20-82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 10, 1982. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243.

Written comments should be submitted by October 6, 1982.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Mobile County

Mobile, *Cavellero House*, 7 N. Jackson St.
Mobile, *Coley Building*, 56 St. Francis St.
Mobile, *Weems House*, 1155 Springhill Ave.

ARKANSAS

Craighead County

Jonesboro, *West Washington Avenue Historic District*, 500–626 W. Washington Ave.

Hot Springs County

Rockport vicinity, *Old Rockport Bridge*, W of Rockport across Ouachita River

Independence County

Batesville, *Batesville Commercial Historic District*, Main and Central Sts.

CALIFORNIA

Marin County

Larkspur, *Larkspur Downtown Historic District*, 234–552 ½ Magnolia Ave.

IDAHO

Canyon County

Givens Springs vicinity, *Map Rock Petroglyphs Historic District*, E of Givens Springs Wilder vicinity, *Peckham Barn*, N of Wilder on US 95

IOWA

Des Moines County

Burlington, *Hedge Block*, 401–407 Jefferson St.

Jasper County

Newton, *Arthur, Thomas, House*, 322 N. 8th Ave. E.

Linn County

Cedar Raids, *Wolff, Phillip A., House and Carriage House*, 1420 Seminole Ave., NW

Scott County

Davenport, *Davenport Crematorium*, 3902 Rockingham Rd.

Woodbury County

Sioux City, *Charles City College Hall*, 1501 Morningside Ave.

LOUISIANA

Natchitoches Parish

Natchitoches, *Site 16NA37*,

Tangipahoa Parish

Amite, *Elliott House*, 745 Duncan Ave.

MISSISSIPPI

Harrison County

Gulfport, *Hewes Building*, 2505 14th St.

NEBRASKA

Cherry County

Valentine, *Walcott, F. M., House*, 431 N. Hall St.

Douglas County

Omaha, *Brandeis, J. L., and Sons Store Building*, 200 S. 16th St.
Omaha, *Garneau-Kilpatrick House*, 3100 Chicago St.
Omaha, *Havens-Page House*, 101 N. 39th St.
Omaha, *Poppleton Block*, 1001 Farnam St.

Lancaster County

Lincoln, *Gold and Company Store Building*, 1033 O St.

NORTH CAROLINA

Forsyth County

Vienna vicinity, *Schaub, John Jacob, House*, NE of Vienna off SR 1455

OHIO

Athens County

Athens, *Beasley Building*, 93 W. Union St.

Erie County

Sandusky, *Barker School (Sandusky MRA)*, 1925 Barker St.
Sandusky, *Barney, Freeland T., House (Sandusky MRA)*, 215–213 Fulton St.
Sandusky, *Bates-Cockrem House (Sandusky MRA)*, 325 Lawrence St.
Sandusky, *Bavarian Brewery (Sandusky MRA)*, 1616–1620 W. Jefferson St.
Sandusky, *Bing's Hotel (Sandusky MRA)*, 302 E. Water St.
Sandusky, *Boalt, John, House (Sandusky MRA)*, 631 Wayne St.
Sandusky, *Boeckling Building (Sandusky MRA)*, 103–105 W. Shoreline Dr.
Sandusky, *Boeckling, G. A., House (Sandusky MRA)*, 614 Columbus Ave.
Sandusky, *Boy with the Boot Fountain (Sandusky MRA)*, W. Washington St. Park
Sandusky, *Cable, Frank, House (Sandusky MRA)*, 809 W. Washington St.
Sandusky, *Cable, Laurence, House (Sandusky MRA)*, 910 W. Monroe St.
Sandusky, *Campbell School (Sandusky MRA)*, 1215 Campbell St.
Sandusky, *Coliseum (Sandusky MRA)*, Midway at Cedar Point
Sandusky, *Columbus Avenue Historic District (Sandusky MRA)*, 102–162 Columbus Ave.
Sandusky, *Commercial Banking & Trust Co. (Sandusky MRA)*, 115 E. Washington Row.
Sandusky, *Converse-Mertz Apartments (Sandusky MRA)*, 301–303 E. Washington St.
Sandusky, *Cooke-Robertson House (Sandusky MRA)*, 412 Columbus Ave.
Sandusky, *Cooke, Eleutheros, House (Sandusky MRA)*, 1415 Columbus Ave.
Sandusky, *Cooke, Eleutheros, House (Sandusky MRA)*, 410 Columbus Ave.
Sandusky, *Curtis, William D., House (Sandusky MRA)*, 1411 Hayes Ave.
Sandusky, *Emmanuel Church (Sandusky MRA)*, 334 Columbus Ave.
Sandusky, *Engels, Herman, House (Sandusky MRA)*, 117 Hancock St.
Sandusky, *Engine House #1 (Sandusky MRA)*, 901 W. Market St.
Sandusky, *Erie County Jail (Sandusky MRA)*, 204 W. Adams St.
Sandusky, *Erie County Oil Products Co. (Sandusky MRA)*, 649 Tiffin Ave.
Sandusky, *Facer's Store (Sandusky MRA)*, 279 E. Market St.
Sandusky, *First Church of Christ Scientist (Sandusky MRA)*, 128 E. Adams St.
Sandusky, *First Congregational Church (Sandusky MRA)*, 431 Columbus Ave.
Sandusky, *Fox's Brewery-Diamond Wine Co. (Sandusky MRA)*, 334 Harrison St.
Sandusky, *Godfrey-Johnson House (Sandusky MRA)*, 417 Columbus Ave.
Sandusky, *Grace Episcopal Church (Sandusky MRA)*, 315 Wayne St.
Sandusky, *Graefe, Henry, House (Sandusky MRA)*, 1429 Columbus Ave.
Sandusky, *Harper, Rice, House (Sandusky MRA)*, 403 E. Washington St.
Sandusky, *Hemminger Saloon (Sandusky MRA)*, 333 W. Market St.
Sandusky, *Hinde & Dauch Paper Co. (Sandusky MRA)*, 409 W. Water St.
Sandusky, *Hinde & Dauch Paper Co. (Sandusky MRA)*, 401 W. Shoreline Dr.
Sandusky, *Hinde & Dauch Paper Co. (Sandusky MRA)*, 407 Decatur St.
Sandusky, *Hinde, James J., House (Sandusky MRA)*, 317 Fulton St.
Sandusky, *Holy Angels Church (Sandusky MRA)*, W. Jefferson St. at Tiffin Ave. and Clinton St.
Sandusky, *Hubbard, Lester, House (Sandusky MRA)*, 134 E. Adams St.
Sandusky, *Hubbard, S. B., House (Sandusky MRA)*, 1205 Columbus Ave.
Sandusky, *Jackson Jr. High School (Sandusky MRA)*, 414 W. Madison St.
Sandusky, *Kerber's Marine Grocery (Sandusky MRA)*, 1006 Tiffin Ave.
Sandusky, *Kuebeler-Stang Block (Sandusky MRA)*, 634 Hancock St.
Sandusky, *Kuebeler, August, House (Sandusky MRA)*, 1319 Tiffin Ave.
Sandusky, *Lane, Ebenezer, House (Sandusky MRA)*, 318 Huron Ave.
Sandusky, *Lea Block (Sandusky MRA)*, 174–186 E. Market St.
Sandusky, *Lotz, Henry, Store (Sandusky MRA)*, 1119 W. Washington St.
Sandusky, *Mallroy, Ogden, House (Sandusky MRA)*, 410 Warren St.
Sandusky, *March, George, House (Sandusky MRA)*, 532 Wayne St.
Sandusky, *Marshall, James E., House (Sandusky MRA)*, 514 Wayne St.
Sandusky, *McKenster-Groff House (Sandusky MRA)*, 334 E. Washington St.
Sandusky, *Monroe School (Sandusky MRA)*, 328 E. Monroe St.
Sandusky, *Moss-Foster House (Sandusky MRA)*, 621 Wayne St.
Sandusky, *Muller, Daniel C., Carousel (Sandusky MRA)*, Midway at Cedar Point
Sandusky, *Murschel House (Sandusky MRA)*, 1221 N. Depot St.
Sandusky, *No. 5 Fire Station (Sandusky MRA)*, W. Madison and Tiffin Ave.
Sandusky, *Ohio Theatre (Sandusky MRA)*, 205–211 W. Market St.
Sandusky, *Old First Church (Sandusky MRA)*, 285 Jackson St.
Sandusky, *Osborne School (Sandusky MRA)*, 922 W. Osborne St.
Sandusky, *Red Popcorn Wagon (Sandusky MRA)*, 102 W. Washington Row
Sandusky, *Root, Joseph, House (Sandusky MRA)*, 231 E. Adams St.

Sandusky, *Ross Hardware (Sandusky MRA)*, 706 Hancock St.
Sandusky, *Schine State Theatre (Sandusky MRA)*, 101–109 Columbus Ave.
Sandusky, *Simpson, Walter, House (Sandusky MRA)*, 521 Hancock St.
Sandusky, *Simpson, William A., House (Sandusky MRA)*, 230 E. Washington St.
Sandusky, *St. Mary's Girls Grade School (Sandusky MRA)*, 514 Decatur St.
Sandusky, *St. Mary's Rectory (Sandusky MRA)*, 429 Central Ave.
Sandusky, *St. Mary's School (Sandusky MRA)*, 410 W. Jefferson St.
Sandusky, *St. Stephens's AME Church (Sandusky MRA)*, 312 Neil St.
Sandusky, *Stang, John, House (Sandusky MRA)*, 629 Columbus Ave.
Sandusky, *Stoffel, Henry, Blacksmith Shop (Sandusky MRA)*, 321 E. Market St. (Rear)
Sandusky, *Stoll, Adam J., House (Sandusky MRA)*, 531 Wayne St.
Sandusky, *Stone's Block (Sandusky MRA)*, 202 Columbus Ave.
Sandusky, *Sts. Peter & Paul Church (Sandusky MRA)*, Columbus Ave. at E. Jefferson St.
Sandusky, *Sts. Peter & Paul Rectory (Sandusky MRA)*, 510 Columbus Ave.
Sandusky, *Taylor-Frohman House (Sandusky MRA)*, 1315 Columbus Ave.
Sandusky, *Third National Bank (Sandusky MRA)*, 220 W. Market St.
Sandusky, *Townsend, William T., House (Sandusky MRA)*, 515 W. Washington St.
Sandusky, *U.S. Coast Guard Building (Sandusky MRA)*, Cedar Point, off Perimeter Rd.
Sandusky, *U.S. Post Office (Sandusky MRA)*, W. Washington & Jackson Sts.
Sandusky, *Von Schulenburg, Ernst, House (Sandusky MRA)*, 922 W. Adams St.
Sandusky, *Wadsworth, James, House (Sandusky MRA)*, 519 Huron Ave.
Sandusky, *Wagner Palace (Sandusky MRA)*, 804–806 Hayes Ave.
Sandusky, *West Market School (Sandusky MRA)*, 211 Fulton St.
Sandusky, *Wichman's Grocery (Sandusky MRA)*, 1118 W. Washington St.
Sandusky, *Zion Lutheran Church (Sandusky MRA)*, 501–503 Columbus Ave.

OREGON

Lane County

Eugene, *Eugene Hotel*, 222 E. Broadway

Linn County

Albany, *Albany Downtown Commercial Historic District*, Roughly bounded by Willamette River, Montgomery, Washington, and 5th Sts.

Multnomah County

Portland, *Grand Stable Building and Adjacent Commercial Building*, 415–421 SW 2nd Ave.
Portland, *Spalding Building*, 319 SW Washington St.
Portland, *Swedish Evangelical Mission Covenant Church*, 1624 NW Glisan St.

TENNESSEE

Hamilton County

Chattanooga, *Audubon Acres Site (40 HA 84)*

UTAH

Millard County

Scipio, *Thuesen-Petersen House (Scandinavian-American Pair-houses TR)*, 280 W. Center St.

Salt Lake County

Salt Lake, *Hintze, Anders, House (Scandinavian-American Pair-houses TR)*, 4249 S. 2300 East

Sanpete County

Ephraim, *Andersen, Claus P., House (Scandinavian-American Pair-houses TR)*, 2nd South St.
Ephraim, *Andersen, Lars S., House (Scandinavian-American Pair-houses TR)*, 213 N. 200 East
Ephraim, *Jacobsen-Jensen House (Scandinavian-American Pair-houses TR)*, 207 S. 100 West
Ephraim, *Jensen, Hans C., House (Scandinavian-American Pair-houses TR)*, 263 E. 100 South
Ephraim, *Jensen, Rasmus, House (Scandinavian-American Pair-houses TR)*, 97 E. 100 South
Ephraim, *Larsen, Oluf, House (Scandinavian-American Pair-houses TR)*, 75 S. 100 West
Ephraim, *Mortensen, Niels, House (Scandinavian-American Pair-houses TR)*, 149 N. 100 East
Ephraim, *Nielsen, Jens, House (Scandinavian-American Pair-houses TR)*, 192 W. 200 South
Ephraim, *Sorensen, Dykes, House (Scandinavian-American Pair-houses TR)*, 2nd East St.
Fountain Green, *Barentsen, Andrew, House (Scandinavian-American Pair-houses TR)*, UT 30
Manti, *Hansen, Peter, House (Scandinavian-American Pair-houses TR)*, 247 S. 200 East

Sevier County

Glenwood, *Johnson, Martin, House (Scandinavian-American Pair-houses TR)*, 45 W. 400 South
Monroe, *Simonsen, Soren, House (Scandinavian-American Pair-houses TR)*, 55 W. 200 North
Richfield, *Petersen, Andrew, House (Scandinavian-American Pair-houses TR)*, 92 E. 200 South

VIRGINIA

Charlottesville (Independent City), *Anderson Brothers Building (Charlottesville MRA)*, 1417–1427 University Ave.
Charlottesville (Independent City), *Armstrong Knitting Factory (Charlottesville MRA)*, 700 Harris St.
Charlottesville (Independent City), *Balz, Henry, Building (Charlottesville MRA)*, 611–617 W. Main St.
Charlottesville (Independent City), *Barringer Mansion (Charlottesville MRA)*, 1404 Jefferson Park Ave.
Charlottesville (Independent City), *Belmont (Charlottesville MRA)*, 759 Belmont Ave.
Charlottesville (Independent City), *Bethel Baptist Institutional Church (Charlottesville MRA)*, 501 Commerce St.
Charlottesville (Independent City), *C&A Ry Co.-Va. Public Service Co. Building (Charlottesville MRA)*, 300 W. Main St.
Charlottesville (Independent City), *Carey House (Charlottesville MRA)*, 706 Ridge St.
Charlottesville (Independent City), *Carter, A. G., Building (Charlottesville MRA)*, 701–709 W. Main St.
Charlottesville (Independent City), *Carter-Gilmer House (Charlottesville MRA)*, 802 E. Jefferson St.
Charlottesville (Independent City), *Chancellor Building (Charlottesville MRA)*, 1411–1415 University Ave.
Charlottesville (Independent City), *Cocke Building (Charlottesville MRA)*, 1100 Gordon Ave.
Charlottesville (Independent City), *Dabney-Thompson House (Charlottesville MRA)*, 1602 Gordon Ave.
Charlottesville (Independent City), *Delevan Baptist Church (Charlottesville MRA)*, 632 W. Main St.
Charlottesville (Independent City), *Doswell-Mayo House (Charlottesville MRA)*, 125 Chancellor St.
Charlottesville (Independent City), *Ebenezer Baptist Church (Charlottesville MRA)*, 113 6th St., NW
Charlottesville (Independent City), *Eddins-Tilden House (Charlottesville MRA)*, 734 Locust Ave.
Charlottesville (Independent City), *Enderly (Charlottesville MRA)*, 603 Watson Ave.
Charlottesville (Independent City), *Enderly Servants' Quarters (Charlottesville MRA)*, 605 Watson Ave.
Charlottesville (Independent City), *Ficklin-Crawford Cottage (Charlottesville MRA)*, 1200 Carlton Ave.
Charlottesville (Independent City), *Four Acres (Charlottesville MRA)*, 1314 Rugby Rd.
Charlottesville (Independent City), *Gardner-Mays Cottage (Charlottesville MRA)*, 1022 Grove St.
Charlottesville (Independent City), *Hard Bargain (Charlottesville MRA)*, 1105 Park St.
Charlottesville (Independent City), *Harmon House (Charlottesville MRA)*, 2005 Jefferson Park Ave.
Charlottesville (Independent City), *Hawkins-Wondree House (Charlottesville MRA)*, 418 5th St., SW
Charlottesville (Independent City), *Hill-Holladay House (Charlottesville MRA)*, 864 Locust Ave.
Charlottesville (Independent City), *Hillcrest Apartments Cottage (Charlottesville MRA)*, 200 15th St., NW
Charlottesville (Independent City), *Holly Hill (Martin-Wilder House) (Charlottesville MRA)*, 631 Culter Lane
Charlottesville (Independent City), *Holsinger-Thomas Building (Charlottesville MRA)*, 620–624 W. Main St.
Charlottesville (Independent City), *Hotel Gleason/Albemarle Hotel, Imperial Cafe (Charlottesville MRA)*, 617–619 W. Main St.
Charlottesville (Independent City), *House at 1025 Locust Ave. (Charlottesville MRA)*, 1025 Locust Ave.

Charlottesville (Independent City), *House at 867 Locust Ave. (Charlottesville MRA)*, 1867 Locust Ave.
Charlottesville (Independent City), *House at Pireus (Charlottesville MRA)*, 302 Riverside Ave.
Charlottesville (Independent City), *Jeffries, William, House (Charlottesville MRA)*, 909 W. Main St.
Charlottesville (Independent City), *Jordan-Morgan-Haden House (Charlottesville MRA)*, 901 E. Jefferson St.
Charlottesville (Independent City), *Keith House (Charlottesville MRA)*, 1615 Keith Valley Rd.
Charlottesville (Independent City), *King Lumber Company Warehouse (Charlottesville MRA)*, 608 Preston Ave.
Charlottesville (Independent City), *King-Runkle House (Charlottesville MRA)*, 201 14th St., NW
Charlottesville (Independent City), *Landrum-Irving House (Charlottesville MRA)*, 940 Locust Ave.
Charlottesville (Independent City), *Lewis Farm (Charlottesville MRA)*, 1201 Jefferson St.
Charlottesville (Independent City), *Lewis, Nicholas, House (Charlottesville MRA)*, 309 12th St.
Charlottesville (Independent City), *Locust Grove (Charlottesville MRA)*, 810 Locust Ave.
Charlottesville (Independent City), *Maury-McCue House (Charlottesville MRA)*, 192 Stribling Ave.
Charlottesville (Independent City), *McConnell-Neve House (Charlottesville MRA)*, 228 14th St., NW
Charlottesville (Independent City), *McKennie-Cook Building (Charlottesville MRA)*, 1403–1409 University Ave.
Charlottesville (Independent City), *Minor Court Building (Charlottesville MRA)*, 1515 University Ave.
Charlottesville (Independent City), *Mt. Zion Baptist Church (Charlottesville MRA)*, 105 Ridge St.
Charlottesville (Independent City), *Nimmo House (Charlottesville MRA)*, 106 Hartmans Mill Rd.
Charlottesville (Independent City), *Page-Payne House (Charlottesville MRA)*, 136 Chancellor St.
Charlottesville (Independent City), *Patton Manison (Charlottesville MRA)*, 1018 W. Main St.
Charlottesville (Independent City), *Paxton Place (Charlottesville MRA)*, 503 W. Main St.
Charlottesville (Independent City), *Peters-Hartmen House (Charlottesville MRA)*, 123 Chancellor St.
Charlottesville (Independent City), *Peyton House—Hillcrest Apartments (Charlottesville MRA)*, 205 14th St., NW
Charlottesville (Independent City), *Peyton-Ellington Building (Charlottesville MRA)*, 711 W. Main St.
Charlottesville (Independent City), *Phi Kappa Sigma House (Charlottesville MRA)*, 160 Madison Lane
Charlottesville (Independent City), *Pireus Store (Charlottesville MRA)*, 1901 E. Market St.
Charlottesville (Independent City), *Pitts-Inge (Charlottesville MRA)*, 331–333 W. Main St.
Charlottesville (Independent City), *Purvis-Seay House (Charlottesville MRA)*, 809 Anderson St.
Charlottesville (Independent City), *Ridge Street Historic District (Charlottesville MRA)*, 200–700 Ridge St.
Charlottesville (Independent City), *Rose Cottage/Peyton House (Charlottesville MRA)*, 800 Delevan, St.
Charlottesville (Independent City), *Rosser Cottage #1 (Charlottesville MRA)*, 907 Cottage Lane
Charlottesville (Independent City), *Rosser Cottage #2 (Charlottesville MRA)*, 909 Cottage Lane
Charlottesville (Independent City), *Rugby (Charlottesville MRA)*, 908 Cottage Lane
Charlottesville (Independent City), *Shapero-Moss Building (Charlottesville MRA)*, 731 W. Main St.
Charlottesville (Independent City), *Smith, John A., House (Charlottesville MRA)*, 1100 Locust Ave.
Charlottesville (Independent City), *Smith-Marshall House (Charlottesville MRA)*, 714 Rugby Rd.
Charlottesville (Independent City), *Sparks-Garrett House (Charlottesville MRA)*, 320 W. Main St.
Charlottesville (Independent City), *St. Anthony Hall (Charlottesville MRA)*, 133 Chancellor St.
Charlottesville (Independent City), *Stonefield (Charlottesville MRA)*, 1204 Rugby Rd.
Charlottesville (Independent City), *Timberlake-Branham House (Charlottesville MRA)*, 1512 E. Market St.
Charlottesville (Independent City), *Turner-LaRowe House (Charlottesville MRA)*, #1 University Court
Charlottesville (Independent City), *Updike, Robert L., House (Charlottesville MRA)*, 620 Prospect Ave.
Charlottesville (Independent City), *Vowles House Kitchen (Charlottesville MRA)*, 104 12th St., NW
Charlottesville (Independent City), *Vowles, John, House (Charlottesville MRA)*, 1111–1113 W. Main St.
Charlottesville (Independent City), *Wertland Street Historic District (Charlottesville MRA)*, Wertland St. between 10th and 14th Sts.
Charlottesville (Independent City), *Wheeler House (Charlottesville MRA)*, 425 W. Main St.
Charlottesville (Independent City), *Wheeler-Dyer House (Charlottesville MRA)*, 501 W. Main St.
Charlottesville (Independent City), *White Cross-Huntley Hall (Charlottesville MRA)*, 152 Stribling Ave.
Charlottesville (Independent City), *White, John S., House (Charlottesville MRA)*, 854 Locust Ave.
Charlottesville (Independent City), *Wood House (Charlottesville MRA)*, 129 Chancellor St.
Charlottesville (Independent City), *Wollen Mills Chapel (Charlottesville MRA)*, 1819 E. Market St.
Charlottesville (Independent City), *Wyndhurst (Charlottesville MRA)*, 605 Preston Pl.
Charlottesville (Independent City), *Wyndhurst (Charlottesville MRA)*, 611 Preston Pl.
Charlottesville (Independent City), *Young Building (Charlottesville MRA)*, 1102 Carlton Ave.

WEST VIRGINIA

Wood County

Parkersburg, *Van Winkle, Peter G., House (Downtown Parkersburg MRA)*, 600 Juliana St.

[FR Doc. 82-25737 Filed 9-20-82; 8:45 am]
BILLING CODE 4310-70-M

Availability of Plan of Operations and Environmental Assessment for the Purpose of Construction and Operation of a 30-Inch Pipeline, Natural Gas Pipeline Company of America, Lake Meredith Recreation Area, Texas

Notice is hereby given in accordance with § 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from Natural Gas Pipeline Company of American a Plan of Operations for the purpose of construction and operation of a 30-inch pipeline in Lake Meredith Recreation Area, Texas.

The Plan of Operations and Environmental Assessment are available for public review and comment for a period of 30 days from the publication date of this notice in the Office of the Superintendent, Lake Meredith Recreation Area, 419 East Broadway, Post Office Box 1438, Fritch, Texas 79036; and the Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trail, Santa Fe, New Mexico. Copies of the document are available from the Superintendent, Lake Meredith Recreation Area, at the address provided above, and will be sent upon request.

Dated: September 15, 1982.

Robert Kerr,

Regional Director, Southwest Region.

[FR Doc. 82-25671 Filed 9-20-82; 8:45 am]
BILLING CODE 4310-70-M

San Antonio Missions Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the San Antonio Missions Advisory Commission will be held at 7:00 p.m., Tuesday, October 12, 1982, at Mission Concepcion, San Antonio, Texas.

The San Antonio Missions Advisory Commission was established pursuant to Public Law 95–629, Title II, November 10, 1978. The purpose of the commission is to advise the Secretary of the Interior

or his designee on matters relating to the park and with respect to carrying out the provisions of the statute establishing the San Antonio Missions National Historical Park.

Matters to be discussed at this meeting include:

—Park Operations Update
—Land Acquisition Report
—Archdiocesan Agreement Status
—General Management Plan/ Development Concept Plan
—Interpretive Prospectus

The meeting will be open to the public, however, facilities and space for accommodating members of the public will be limited and persons will be accommodated on a first-come, first-serve basis.

Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, San Antonio Missions National Historical Park.

Persons wishing further information regarding this meeting or who wish to submit a written statement may contact Jose A. Cisneros, Superintendent, 727 E. Durango, Room A612, San Antonio, Texas 78206, telephone (512) 229–6000.

Minutes of the meeting will be available for public review four weeks after the meeting at the office of the San Antonio Missions National Historical Park.

Dated: September 13, 1982.

Robert Kerr,

Regional Director, Southwest Region.

[FR Doc. 82–25872 Filed 9–20–82; 8:45 am]

BILLING CODE 4310–70–M

Office of Surface Mining Reclamation and Enforcement

Abandoned Mine Lands Reclamation Program; Indiana

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of availability of Findings of No Significant Impact (FONSI) addressing Environmental Assessments (EAs) (for development of 10 abandoned mine land projects, consisting of 56 sites, under the state of Indiana reclamation plan.

SUMMARY: OSM has prepared EAs on projects submitted in the Federal Grant Application from the State of Indiana to the Office of Surface Mining.

A FONSI has been made on the 10 reclamation projects indicated below and included in the grant application developed under Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1231–1234.

ADDRESS: Copies of the EAs and FONSI are available for inspection or may be obtained at the following location between the hours of 8:00 a.m. and 4:00 p.m.: Office of Surface Mining Reclamation and Enforcement, Indiana Field Office, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 524, Indianapolis, Indiana 46204.

FOR FURTHER INFORMATION CONTACT: Richard D. McNabb, Director, Indiana Field Office, (317) 269–2600. Same address as above.

Reclamation projects included in FONSI, location and description:

1.. Project Area No. 1. Wright Township, Greene County, Indiana (Sites #18 Filbert Mine, #19 Salem Church Mine, #22 Calora #2/Northwest Mine, #136 Midland West Mine, #137 Midland South Mine, #155 and #156) Highwalls, barren spoil, subsidence, mine shafts.

2. Project Area No. 2. Nevins Township, Vigo County, Indiana (Sites #58 Burnett Mine, #60 Gibson Mine, #63 Domestic Block Mine, #7 Menshall Mine, and #59 Burnett #1), Vertical shafts, mine entries, gob pile.

3. Project Area No. 3. Clinton Township, Vermillion County, Indiana (Sites #6 West Clinton, #24 Keller No. 1, #68 Interstate, #69 Crown Hill No. 4, #70 Dering No. 7, and #67 Shirkie). Vertical shafts, collapsed shafts, mine entries, barren spoil, slurry.

4. Project Area No. 4. Stockton Township, Greene County, Indiana (Sites #83 Linton No. 5, #173 Summit, and #23 Jewell No. 2). Mine openings, collapsed shafts, subsidence.

5. Project Area No. 5. Boon Township, Warrick County, Indiana (sites #12 Walton, #87 Name Unknown, #89 Chandler, #91 Degonia Springs, #98 Boonville, #99 Baker, #100 Name Unknown, #139 Baker, #140 Mitchum, #170 Big Four). Barren spoil, abandoned equipment and structures, mine shafts, highwalls, water-filled pits, subsidence.

6. Project Area No. 6. Sugar Creek Township, Vigo County, Indiana (Sites #IN–037 Walnut, #38 Dresser, #40 National, #46 Green Valley, #47 Sugar Creek, #127 W. Terre Haute). Vertical shafts, gob piles, abandoned structures, highwall.

7. Project Area No. 7. Posey Township, Clay County, Indiana (Sites #65 Boyce, #132 Turner, #128 Name Unknown). Mine openings and portals, barren spoil, gob, highwall, acid mine drainage.

8. Project Area No. 8. Troy Township, Perry County, Indiana (Sites #117 Paulin, #114 Name Unknown, #115 Sulphur Springs No. 7, #135 Paulin). Vertical openings, portal entry, collapsed drift mine, subsidence.

9. Project Area No. 9. Patoka Township, Pike County, Indiana (Sites #11 Name Unknown, #14 Angusta, #142 Name Unknown, #143 Name Unknown, #144 Name Unknown, #145 Name Unknown, and #IN–024 Winslow). Highwalls, vertical openings, open entry, abandoned structures and equipment.

10. Project Area No. 10. Jackson Township, Sullivan County, Indiana (Sites #31 Penna, #151 Name Unknown, #159 Cummins, #168 Hymera, #153 Name Unknown). Open shafts and portal, highwall.

List of Subjects in 30 CFR

Part 886

Coal mining, Grant program natural resources, Reporting requirements, Surface mining, Underground mining.

Part 914

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: September 15, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82–25852 Filed 9–20–82; 8:45 am]

BILLING CODE 4310–05–M

Abandoned Mine Lands Reclamation Program; Montana

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of availability of Findings of No Significant Impact (FONSI) addressing Environmental Assessments (EAs) for development of 13 abandoned mine land projects under the State of Montana Reclamation Plan.

SUMMARY: OSM has prepared EAs on projects submitted in the Federal Grant Application from the State of Montana to the Office of Surface Mining.

A FONSI has been made on the thirteen reclamation projects indicated below and included in the grant application developed under Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1231–1234.

ADDRESS: Copies of the EAs and FONSI are available for inspection or may be obtained at the following location between the hours of 8:00 a.m. and 4:00 p.m.: Office of Surface Mining, Wyoming Field Office, Box 1420, Mills, Wyoming 82644.

FOR FURTHER INFORMATION CONTACT: William Thomas, Director, Wyoming Field Office, (307) 261–5550, Ext. 5776.

Reclamation Projects included in FONSI and location:

Title: Lewis Coulee. Location: Cascade County. Summary Description of Activities: Unobstructed mine openings, acid mine pollution and flood dangers.

Title: Black Diamond Mine Subsidence. Location: Wibaux County. Summary Description of Activities: Mine subsidence.

Title: Brown Mine. Location: Cascade County. Summary Description of Activities: Unobstructed mine opening, unstable mine related structures, and unsightly toxic coal waste material.

Title: Centerville D. Location: Cascade County. Summary Description of Activities: Unobstructed mine opening and unsightly toxic coal waste.

Title: East Belt Mines. Location: Cascade County. Summary Description of Activities: Two mine openings, unstable mine related structures and unsightly toxic coal waste material.

Title: North Belt Mine. Location: Cascade County. Summary Description of Activities: Open mine void and toxic coal waste material.

Title: North Culbertson Mine. Location: Roosevelt County. Summary Description of Activities: Surface subsidence.

Title: Lekvold-Shaw Property. Location: Daniels County. Summary Description of Activities: Surface subsidence.

Title: North Star Mine. Location: Powder River. Summary Description of Activities: Surface subsidence.

Title: N.W. Centerville Subsidence. Location: Cascade County. Summary Description of Activities: Open mine adit, surface subsidence and toxic coal waste material.

Title: N. 5 Coulee Mouth. Location: Cascade County. Summary Description of Activities: Unobstructed mine opening and unsightly coal waste material.

Title: Royan Property. Location: Roosevelt County. Summary Description of Activities: Surface subsidence.

Title: Storm King Mine. Location: Custer County. Summary Description of Activities: Surface subsidence.

Dated: September 15, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-25854 Filed 9-20-82; 8:45 am]

BILLING CODE 4310-05-M

Abandoned Mine Lands Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of availability of Findings of No Significant Impact (FONSI) addressing Environmental Assessments (EAs) for development of 11 of the 51 abandoned mine land projects under the State of Ohio Reclamation Plan.

SUMMARY: OSM has prepared EAs on projects submitted in the Federal Grant Application from the State of Ohio to the Office of Surface Mining.

A FONSI has been made on the 11 reclamation projects indicated below and include in the grant application developed under Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1231–1234.

ADDRESS: Copies of the EAs and FONSI are available for inspection or may be obtained at the following location between the hours of 8:00 a.m. and 4:00 p.m.: Office of Surface Mining Reclamation and Enforcement, Ohio Field Office, 2242 South Hamilton Road, Room 202, Columbus, Ohio 43227.

FOR FURTHER INFORMATION CONTACT: Nina Rose Hatfield, Director, Ohio Field Office, (614) 459–2500. Same address as above.

The eleven reclamation projects included in FONSI, location and description:

1. Belmont County Road 10, Belmont County, Ohio. Abandoned deep mine, mine seep, slide.

2. Blaine School Subsidence, Belmont County, Ohio. Abandoned deep mine, subsidence.

3. Coe, Belmont County, Ohio. Abandoned deep mine, subsidence.

4. Glenns Run, Belmont County, Ohio. Coal refuse pile, landslides.

5. Harrison County Road 2, Harrison County, Ohio. Abandoned surface coal mine, highwall, slides.

6. Jackson County Road 40, Jackson County, Ohio. Abandoned surface mine, acid mine drainage, landslides.

7. New Lexington Subsidence, Perry County, Ohio. Abandoned deep mine, subsidence.

8. Rivers, Jefferson County, Ohio. Abandoned deep mine, mine seepage, earth instability.

9. Triple V Construction, Lawrence County, Ohio. Abandoned surface mine, slope instability, erosion, acid mine drainage, sedimentation of watershed.

10. Walton Shaft, Jackson Count, Ohio. Abandoned shaft.

11. WTOV Mine Shaft, Jefferson County, Ohio. Abandoned shaft.

Dated: September 15, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-25853 Filed 9-20-82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387 (Sub-No. 256)]

Southern Pacific Transportation Co.; Exemption for Contract Tariff ICC-SP-C-0186 (Milled Feed)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 14, 1982.

By the Commission, Division 2, Commissioners Andre, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was not tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25022 Filed 9-20-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries about the following to Team 1, (202) 275–7992.

Volume No. OP1–155

Decided: September 13, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier. Member Parker not participating in part.

MC 163561, filed August 26, 1982. Applicant: RUSSELL TRANSPORT, 3325 West Darbee, Akron, MI 48701. Representative: Randy Russell (same address as applicant), (517) 691–5576. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 163630, filed August 30, 1982. Applicant: WILLARD J. GOOD, P.O. Box 11, Denver, PA 17517. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, (212) 263–2078. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners* by the owner of the motor vehicle, in such vehicle, between points in the U.S. (except AK and HI).

MC 163631, filed August 30, 1982. Applicant: TERRY G. ROBERTS, d.b.a. VBR TRANSPORTATION, P.O. Box 4990, Riverside, CA 92514. Representative: Terry Glen Roberts, 10101 Leucadia, Riverside, CA 92503, (213) 582–5619. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163641, filed August 31, 1982. Applicant: RONALD E. BUCHANAN and JEFFREY A. BUCHANAN, d.b.a. TRANSACTIONS, 130 Commerce Way, Woburn, MA 01801. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0024. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163690, filed September 2, 1982. Applicant: SHREVE & HAYS, INC., B Street Pier, P.O. Box 82237, San Diego, CA 92138. Representative: Presly T. Jenkins (same address as applicant), (714) 232–89041. As a *broker* of general commodities (except household goods), between points in the U.S.

MC 163700, filed September 3, 1982. Applicant: DONLEY J. GADDIS P.O. BOX 18, Route 4, Fredericktown, OH 43019. Representative: Donley J. Gaddis (same address as applicant), (614) 694–0676. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to team 2, (202) 275–7030.

Volume No. OP2–222

Decided: September 10, 1982.

By the Commission, Review Board number 1, Members Parker, Chandler and Fortier. Member Parker not participating.

MC 163533 (Sub-1), filed August 30, 1982. Applicant: R & K TRUCKING, 134 Redondo Beach Blvd., Gardena, CA 90247. Representative: John C. Russell, 1545 Wilshire Blvd.—Suite 606, Los Angeles, CA 90017, 213–483–4700. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163642, filed August 31, 1982. Applicant: TEMCO EXPRESS, 799 Wright Ave., Richmond, CA 94804. Representative: James O'Grady, 8550 W. Golf Rd., Apt. 250, Niles, IL 60648, 312–827–5600. As a *broker of general commodities* (except household goods), between points in the U.S.

Please direct status inquiries about the following to Team 4, (202) 275–7669.

Volume No. OP4–335

Decided: September 15, 1982.

By the Commission, Review Board Number 2, Members Carleton, Williams and Ewing.

MC 115557 (Sub-42), filed August 25, 1982. Applicant: CHARLES A. McCAULEY, 308 Leasure Way, New Bethlehem, PA 16242. Representative: Verne T. Mahood (same address as

applicant), (814) 365–5811. Transporting (1) *general commodities* (except classes A and B explosives, and household goods), between Birmingham, Fort Dix, Mt. Holly, Pemberton, and Smithville, NJ, Canastota, New Platz, Oneida Castle, and Wallkill, NY, Alexandria, Atlasburg, Bald Eagle, Bellsena Mills, Betts Junction, Birdsboro, Buchanan, Carlisle, Carlton, Chase, Clearfield Junction, Cochranton, Dimeling, Dowler Junction, Dunbar, East Brady, Eclipse, Faunce, Flinton, Garman, Glasgow, Glen Campbell, Harbor Bridge, Heilwood, Hepburnville, Ironsides, Irvona, Julian, Kinport, Madera, Manor, Manver, McGees Mills, Milesburg, Neville, New Providence, Phoenixville, Polk State School at Polk, Port Matilda, Potts Run Junction, Quarryville, Reno, Stowe, Tarr, Tyrone, Unionville, Utica, Vail, Watts Transfer, Williamsport, Wingate, and Youngwood, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), and, (3) transportation for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, sensitive weapons and munitions), between points in the U.S. (except AK and HI). Conditions: Issuance of a certificate in (1) above is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The Certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423. The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 USC 11343 (A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 4, Room 2410.

MC 161577 (Sub-1), filed September 1, 1982. Applicant: FIVE STATE TRANSPORT SERVICE, 580 N. Main St., Centerville, UT 84014. Representative: Cal Buck, P.O. Box 352, Centerville, UT 84014, (801) 292–7032. (1) Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and secret weapons and munitions), between points in the U.S. (except AK and HI), and (2) as *a broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163337, filed August 31, 1982. Applicant: ALBA BLAIR, d.b.a. ALBA BLAIR TRUCKING, 107 Holly Dr., Roland, OK 74954. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, (121) 263–2078. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicles in such vehicle, between points in the U.S. (except AK and HI).

MC 163666, filed September 1, 1982. Applicant: JOHN BOGASKI, P.O. Box 1168, Cortaro, AZ 85230. Representative: John Bogaski (same address as applicant) (602) 682–7182. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicles in such vehicle, between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to Team 5, (202) 275–7289.

Volume No. OP5–186

Decided: September 8, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 160598 (Sub-1), filed August 27, 1982. Applicant: C. R. SMITH TRUCKING P.O. Box 516, Taylor, AZ 85939. Representative: Donald E. Fernaays, 2619 N. 50th Place, Phoenix, AZ 85008, (602) 952–1560. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 163639, filed August 31, 1982. Applicant: RONALD JOHNSON, d.b.a., RON JOHNSON TRUCKING, Box 8, 314 Dakota Ave., Horace, ND 58047. Representative: Truck Licensing Service, Box 682, W. Fargo, ND 58078, (701) 282–5014. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicles in such vehicle, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-25019 Filed 9-20-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 252)]

Burlington Northern Railroad Co. Exemption for Contract Tariffs ICC-BN-C-0129 and ICC-BN-C-0131 (Canned Goods)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariffs may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions.

This grant neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 14, 1982.

By the Commission, Division 2, Commissioners Andre, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie

votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25921 Filed 9-20-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 801109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allow. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note:—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries about the following to Team 1, (202) 275–7992.

Volume No. OP1–154

Decided: September 13, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier. Member Parker not participating in part.

MC 34600 (Sub-6), flied September 2, 1982. Applicant: C. H. COLVIN, INC., Main Street, Box 52, Cherry Creek, NY 14723. Representative: Gregory B. Fraser, 400 Market Street, Warren, PA 16365, (814) 723–7310. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S. (except AK and HI), under continuing contract(s) with Ralston Purina Company, of St. Louis, MO.

MC 111231 (Sub-370), filed August 30, 1982. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: James H. Berry (same address as applicant), (501) 751–4806. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 120991 (Sub-3), filed August 31, 1982. Applicant: FLEMING-SHAW TRANSFER & STORAGE, INC., P.O. Box 20685, 1020 Winston St., Greensboro, NC 27420. Representative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting (1) *general commodities* (except classes A and B explosvies, commodities in bulk, and household goods), (a) between points in Alexander, Durham, Person, Granville, Vance, Warren, Franklin, Nash, Wake, Johnston, Harnett, Cumberland, Hoke, Lee, Moore, Scotland, Richmond, Anson, Montgomery, Union, Caldwell, Mecklenburg, Stanly, Cabarrus, Rowan, Davidson, Davie, Forsyth, Stokes, Rockingham, Caswell, Randolph, Chatham, Orange, Alamance, Guilford, Yadkin, Surry, Iredell, Alleghany, Wilkes, Redell, Catawba, and Lincoln Counties, NC, and Carroll, Grayson, Wythe, Pulaski, Floyd, Patrick, Henry, Franklin, Mechlenburg, Charlotte, Halifax, Pittsylvania, Bedford, Campbell, Roanoke and Montgomery Counties, VA, on the one hand, and, on the other, points in Guilford, Alamance, Orange, Chatham, Randolph, Davidson, Davie, Forsyth, Stokes, Rockingham and Caswell Counties, NC, and Pittsylvania and Henry Counties, VA, and (b) between points in NC, and (2) *those commodities* which because of their size or weight require the use of special handling or equipment, between points in Alexander, Durhan, Person, Granville, Vance, Warren, Franklin, Nash, Wilson, Wake, Johnston, Harnett, Cumberland, Hoke, Lee, Moore, Scotland, Richmond, Anson, Montgomery, Union, Caldwell, Mecklenburg, Stanly, Cabarrus, Rowan, Davidson, Davie, Forsyth, Stokes, Rockingham, Caswell, Randolph, Chatham, Orange, Alamance, Guilford, Yadkin, Surry, Iredell, Alleghany, Wilkes, Redell, Catawba, Lincoln, Halifax, Wayne, Sampson, Bladen, Robeson, Ashe, Watauga, Burke, Cleveland, Gaston and Avery Counties, NC, Marlboro, Chesterfield, Lancaster, Chester and York Counties, SC, Brunswick, Lunenburg, Prince Edward, Campbell, Appomattox, Botetourt, Craig, Giles, Bland, Smythe, Amherst, Rockbridge, Carroll, Grayson, Wythe, Pulaski, Floyd, Patrick, Henry, Franklin, Mecklenburg, Charlotte, Halifax, Pittsylvania, Bedford, Roanoke and Montgomery Counties, VA. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation, at applicant's written request, of its Certificate of Registration in MC–120991 Sub 1.

Note.—The purpose of this application is to convert applicant's certificate of registration in MC–120991 Sub 1 to a certificate of public convenience and necessity.

MC 129480 (Sub-56), filed August 31, 1982. Applicant: TRI-LINE EXPRESSWAYS LTD., 9559–40 Street, S.E., P.O. Bag 1212, Station "T", Calgary, Alberta, Canada T2H–2J1. Representative: David J. Lister, 6035 East 56th Ave., Commerce City, CO 80022, (303) 287–7421. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, OR and WA, on the one hand,

and, on the other, points in AZ, CA, ID, MT, NV, OR, UT and WA.

MC 136031 (Sub-3), filed August 26, 1982. Applicant: EIDSON & USSERY, INC., R. R. No. 2, Marshall, MO 65340. Representative: Thomas P. Rose, P.O. Box 205, Jefferson City, MO 65102, (314) 636–2321. Transporting *general commodities* (except classes A and B explosives and household goods), (a) between points in the U.S. (except AK and HI), under continuing contract(s) with Wilson Foods Corporation, of Oklahoma City, OK, and (b) between points in MO, KS, NE, OK, IA, IL, KY, and TN, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with MFA Incorporated, of Columbia, MO.

MC 142110 (Sub-6), filed September 2, 1982. Applicant: LAURAMORE TRUCKING CO., INC., Route 3, Box 415, Glen St. Mary, FL 32040. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 632–2300. Transporting *building and construction materials*, between points in FL, GA and AL.

MC 142730 (Sub-8), filed August 30, 1982. Applicant: T. McGINNIS TRUCKING CO., INC., Rt. 3, Box 329, Catlettsburg, KY 41129. Representative: John M. Friedman, P.O. Box 426, Hurricane, WV 25526, (304)–562–3460. Transporting *limestone*, between points in the U.S. (except AK and HI), under continuing contract(s) with Ashland Petroleum Company, Division of Ashland Oil, Inc., of Russell, KY.

MC 146300 (Sub-5), filed August 31, 1982. Applicant: J–LOR TRUCKING, INC., Box 5908, Kent, WA 98031. Representative: B. F. Brown, 625 Strader Blvd.—Suite "C", Seattle, WA 98188, (206) 575–0493. Transporting *Food and related products*, between points in WA, OR, CA, ID, NV, UT, and WY.

MC 147040 (Sub-4), filed August 30, 1982. Applicant: E. M. ELLCESSOR d.b.a. E. M. TRANSFER CO., Route 9, Box 15, Muncie, IN 47302. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *machinery and metal products*, between points in Delaware County, IN, on the one hand, and, on the other, points in IL, MO, KY, WI, MI, OH, PA, and WV.

MC 150201 (Sub-3), filed August 30, 1982. Applicant: SAM F. HARKEY d.b.a. S. F. HARKEY TRUCKING, P.O. Box 423, Holdenville, OK 74848. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713)–437–1766. Transporting (1) *Mercer commodities;* (2) *machinery and machinery* parts; and (3) metal products, between points in the U.S. (except AK and HI).

MC 152950 (Sub-5), filed September 1, 1982. Applicant: CENTURY TRANSPORTATION CORPORATION, P.O. Box 207, Columbus, OH 39701. Representative: Lloyd R. Pate (same address as applicant), (601)–329–2121. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with (1) Humboldt Products Corporation; (2) Johnson-Tombigbee Manufacturing Company; and (3) Trojan Enterprises, Inc., each of Columbus, MS; (4) Ben C. Williams Bakery Service, of Dallas, TX; (5) Sugar Services Corporation, of Memphis, TN; (6) Magnolia Wholesale Foods, of Clinton, MS; (7) American Soap Company, of Olive Branch, MS; and (8) Signode Corporation, of Glenview, IL.

MC 153051 (Sub-3), filed August 31, 1982. Applicant: ATS TRANSPORT, INC., 34439 Mills Road, North Ridgeville, OH 44039. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–9900. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of pads, padding, sanitary pads and toilet preparations, between Chicago, IL and points in Will County, IL, on the one hand, and, on the other, points in MI and OH.

MC 153361 (Sub-1), filed September 2, 1982. Applicant: ACORN TRAFFIC CONSULTANTS, INC., P.O. Box 161, Brentwood, TN 37027. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004, (202) 347–8862. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Davidson, Williamson, Cheatham, Montgomery, Robertson, Sumner, Wilson and Rutherford Counties, TN, and extending to points in the U.S. (except AK and HI).

MC 153600 (Sub-1), filed August 20, 1982. Applicant: EMPIRE TRUCK LINES, INC., 1930 McCarty Drive, Houston, TX 77029. Representative: Paul S. Broussard, 501 Crawford, Suite 401, Houston, TX 77002, (713) 227–0735. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AR, LA, MS, OK and TX.

MC 155611 (Sub-1), filed August 31, 1982. Applicant: TOM MCCARTHY TRUCKING, 2400 2nd N.W., Albuquerque, NM 87102. Representative: Tom McCarty, 430 Alcazar S.E. Albuquerque, NM 87106, (505)–265–4542. Transporting *building materials*, between points in TX, NM, AZ, and CA, on the one hand, and, on the other, points in TX, NM, AZ, CA, WY, OK, KS, IL, OH, CO, UT and WA.

MC 156751 (Sub-1), filed August 31, 1982. Applicant: GREEN ARROW MOTOR EXPRESS COMPANY, P.O. Box 1645, Tacoma, WA 89401. Representative: Robert A. Dowdy, c/o Weyerhaeuser Company, Tacoma, WA 98477, (206) 924–2142. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with United Forwarding, Inc., of Omaha, NE, and Trinity Industries, of Dallas, TX, and its subsidiaries, v12: Mosher Steel Company, and Texas Metal Fabricating Company, both of Houston, TX, Ingalls, Inc., of Birmingham, AL, Ingalls, Marine, Inc., of Decatur, AL, Gambles, Inc., of Montgomery, AL, Gretna Machine and Iron Works, of Harvey, LA, Equitable Shipyards, Inc., of Metairie, LA, and Hackney, Inc., of Dallas, TX.

MC 161740, filed August 31, 1982. Applicant: DALE BYBEE, d.b.a. 4–D TRUCKING, P.O. Box 347, Preston, ID 83263. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting (1) *tires*, and (2) *such commodities* as are dealt in by (a) automotive service stations and (b) grocery and food business houses, between points in Bannock, Bonneville and Franklin Counties, ID, Davis, Salt Lake, Utah and Weber Counties, UT, on the one hand, and, on the other, those points in the U.S. in and west of IL, MO, AR and LA (except AK and HI).

MC 162751, filed August 30, 1982. Applicant: WASHINGTON AIR TAXI EXPRESS, INC., d.b.a. W.A.T.E., 903 Industry Drive, Tukwilla, WA 98188. Representative: David W. Wiley, 1100 Norton Bldg., Seattle, WA 98104, (206)–622–4067. Transporting *photographs, photographic materials*, and *those products used in the photofinishing process*, between points in WA and OR, under continuing contract(s) with Guardian Photo Incorporated, of Portland, OR.

MC 162770, filed August 2, 1982. Applicant: TENNYBROOK TRANSPORTATION, INC., 1150 Junction Ave., Schererville, IN 46375. Representative: Lewis S. Witherspoon, 2455 North Star Road, Columbus, OH 43221, (614) 486–0448. Transporting *commodities in bulk*, between points in the U.S. (except AK and HI), under continuing contract(s) with By Products Management of Indiana, Inc., of

Schererville, IN, and Dow Chemical U.S.A., of Rolling Meadows, IL.

MC 163130 (Sub-1), filed August 31, 1982. Applicant: B & B TRUCKING, 213 Pell Ave. Romeoville, IL 60441. Representative: S. James Boudouris (same address as applicant), (815)–886–4464. Transporting (1) *metal products;* and (2) *pulp, paper and related products,* between points in IL, WI and IN.

MC 163550, filed August 25, 1982. Applicant: J. SYVRET & CO. LIMITED, 289 Mill St., Waterdown, Ontario, Canada LOR 2H 0. Representative: Kim D. Mann, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20814, (301) 986–1410. Transporting *metal products, ores and minerals, chemicals and related products, lumber and wood products, and clay, concrete, glass or stone products,* between ports of entry on the international boundary line between the U.S. and Canada in NY, MI, an MN, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Bimac Canada Metallurgical Limited, Babcock & Wilcox Refractories, Babcock & Wilcox Industries—a McDermott company, and Federated Genco Limited, all of Burlington, Ontario, Canada.

MC 163560 (Sub-1), filed August 31, 1982. Applicant: MAY TRUCKING CORPORATION, Route 2, Box 344, Giddings , TX 78942. Representative: Rogert J. Birnbaum, 3636 Executive Center Drive, Suite 151, Austin, TX 78731, (512) 346–4800. Transporting *Mercer commodities,* between points in the U.S., under continuing contract(s) with MGF Drilling Company, of Houston, TX, and High Sky Drilling, Inc., of Midland, TX.

MC 163650, filed August 31, 1982. Applicant: DUNN MANAGEMENT SERVICES, INC., Route #1, Erwin, NC 28339. Representative: Gerald W. Hayes, Jr., 109 South Ellis Avenue, Dunn, NC 28334, (919) 892–2178. As a broker at Erwin, NC, in arranging for the transportation of *passengers and their baggage,* in the same vehicle with passengers, beginning and ending at points in Harnett County, NC, and extending to points in the U.S. (except AK and HI).

MC 163610, filed August 30, 1982. Applicant: R. G. DOBBS, P.O. Box 408, Loraine, IL 62349. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501, (515) 682–8154. Transporting *lime and limestone products,* between points in St. Genevieve County, MO, on the one hand, and, on the other, points in Lee County, IA, and Mayes County, OK.

MC 163621, filed August 30, 1982. Applicant: MISSOURI TRANSFER, INC., Route 4, Box 1000, Richmond, MO 64085. Representative: Warren H. Sapp, 815 Ann Ave., Kansas City, KS 66101, (913)–621–0055. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MO, KS, IA, AR, NE, OK, IL, IN, OH, TN and KY.

MC 163640, filed August 31, 1982. Applicant: E & S TRUCKING CO., Box 78, Meta, NY 41501. Representative: Edwin E. Ratliff (same address as applicant) (606) 631–0682. Transporting (1) *sand and gravel;* and (2) *coal,* between points in OH, KY and WV.

MC 163651, filed August 31, 1982. Applicant: WILLIAM HARDEN & ASSOCIATES, INC., 3301 South Galloway, Office No. 297, Philadelphia, PA 19148. Representative: Larry R. McDowell, 1200 Avenue of the Arts Bldg., Philadelphia, PA 19107, (215) 735–3090. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), (1) between points in DE, MD, NJ, NY, PA, VA and WV, and (2) between points in DE, MD, NJ, NY, PA, VA and WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163660, filed August 30, 1982. Applicant: BRENT CHRISTENSEN, d.b.a. CHRISTENSEN FARMS, Rt. 2, Box 30, Shelley, ID 83274. Representative: Kevin M. Clark, 2417 Bank Dr., Ste. 8, Boise, ID 83705, (208) 344–7714. Transporting *building materials, chemicals, metal products, machinery, and plastic products,* between points in AZ, CA, CO, ID, MT, NV, OR, UT, WA, and WY.

MC 163670, filed September 1, 1982. Applicant: MILLER TRUCKING CO., INC., PO Box 172, Spencer, WV 25276. Representative: John M. Friedman, 2930 Putnam Ave., PO Box 426, Hurricane, WV 25526, (304) 562–3460. Transporting *Mercer commodities,* between points in WV, on the one hand, and, on the other, points in IL, IN, KY, OH, PA, and VA.

MC 163671, filed September 1, 1982. Applicant: HARDEBECK TRUCKING, INC., R.R. 1, Reynolds, IN 47980. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, (414) 722–2848. Transporting *fertilizer and fertilizer ingredients,* between points in IL, IN, KY, MI and OH.

MC 163681, filed September 2, 1982. Applicant: ANTHONY G. FERR, d.b.a. FERREIRA TOWING SERVICE, 33 Marshall Street, E. Chelmsford, MA 01824. Representative: Edward R. Lembo, 118 Washington Street (Rte. 16), P.O. Box 639, Holliston, MA 01746, (617) 429–5888. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in MA, ME, VT, RI, CT, NH, NY, NJ, and PA.

MC 163701, filed September 2, 1982. Applicant: A. TENNENBAUM COMPANY, INC., 4500 Bethany Road, North Little Rock, AR 72117. Representative: M. Douglas Wood, 201 W. Broadway, P.O. Box 5606, North Little Rock, AR 72119. (501) 376–3700. Transporting *metal products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Gray Supply Company, Inc., of North Little Rock, AR, and Arkansas Aluminum Alloys, Inc., of Hot Springs, AR.

Please direct status inquiries about the following to Team 4, (202) 275–7669.

Volume No. OP4–334

Decided: September 15, 1982.

By the Commission, Review Board Number 2, Members Carleton, Williams and Ewing.

MC 8457 (Sub-15), filed September 2, 1982. Applicant: MILWAUKIE TRANSFER & FUEL CO., P.O. Box 522, Clackamas, OR 97015. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *general commodities* (except classes A and B explosives and household goods), between points in OR, WY, WA, CA, ID, NV, UT, AZ, NM, CO, and MT.

MC 15317 (Sub-6), filed September 2, 1982. Applicant: CROWN TRANSIT LINES, INC., 1650 N. 14th St., Springfield, IL 62703. Representative: Edward D. McNamara, Jr., 907 S. Fourth St., Springfield, IL 62703, (217) 528–8476. Transporting *passengers and their baggage and express in the same vehicle with passengers,* between points in Morgan and Sangamon Counties, IL.

MC 70267 (Sub-26), filed August 30, 1982. Applicant: ECKERT TRUCKING, INC., 1090 E. Springettsbury Ave., P.O. Box 1682, York, PA 17405. Representative: David Zimmerman (same address as applicant), (717) 843–0995. Transporting *iron and steel articles* and *aluminum articles,* between points in the U.S. (except AK and HI).

Note.—The purpose of this application is to convert from contract to common carrier authority.

MC 107496 (Sub-1288), filed August 31, 1982. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: Kenneth L. Kessler, P.O. Box 855, Des Moines, IA 50304, (515) 245–2725.

Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 118696 (Sub-51), filed September 3, 1982. Applicant: FERREE FUNITURE EXPRESS, INC., 252 Wildwood Rd., Hammond, IN 46234. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 120547 (Sub-4), filed August 27, 1982. Applicant: PARKER'S EXPRESS, INC., 21 Parker Dr., Avon Industrial Park Avon, MA 02322. Representative: John F. O'Donnell, 60 Adams St., P.O. Box 238, Milton, MA 02187, (617) 696–7610. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. in and east of MN, IA, MO, KS, OK, and TX.

MC 120776 (Sub-2), filed September 1, 1982. Applicant: KRESSER MOTOR SERVICE, INC. 900 E. Church St., Sandwich, IL 60548. Representative: Edward G. Bazelon, 29 S. LaSalle St., Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (a) between points in Boone, Bureau, Cook, De Kalb, Du Page, Grundy, Kane, Kankakee, Kendall, Lake, La Salle, Lee, Livingston, Marshall, McHenry, Ogle, Putnam, Will and Winnebago Counties, IL, (b) between points in Bonne, Bureau, Cook, De Kalb, Du Page, Grundy, Kane, Kanakee, Kendall, Lake, La Salle, Lee, Livingston, Marshall, McHenry, Ogle, Putnam, Will and Winnebago Counties, IL, on the one hand, and, on the other, points, in IL, and (c) between Chicago, IL, on the one hand, and, on the other, points, in Boone, Bureau, Cook, De Kalb, Du Page, Grundy, Kane, Kankakee, Kendall, Lake, La Salle, Lee, Livingston, Marshall, McHenry, Ogle, Putnam, Will and Winnebago Counties, IL. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of Certificate of Registration in MC–120776 Sub-No. 1.

MC 134617 (sub-6), filed August 16, 1982, and noticed in the Federal Register issue of September 1, 1982, and republished this issue. Applicant: OWENTON EXPRESS, INC., P.O. Box 328, Carrollton, KY 41008. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602, (502) 227–2254. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Trimble County, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI). The purpose of this republication is to include the above tacking statement which was previously omitted.

Note.—Applicant will tack this authority with its regular route authority in Sub 4X.

MC 140366 (Sub-5), filed September 2, 1982. Applicant: CREASY TRUCKING, INC., U.S. Hwy 231, 31A, Westmoreland, TN 37186. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004, (202) 347–8802. Transporting (1) *such commodities* as are dealt in or used by manufacturers and distributors of printed matter, between points in Sullivan and Hawkins Counties, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *transportation equipment*, between points in Rutherford County, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141357 (Sub-11), filed August 31, 1982. Applicant: SHANUS, INC., 232 First St., N., Minneapolis, MN 55401. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting (1) *waste or scrap materials*, between Minneapolis, MN, on the one hand, and, on the other, points in IL, IA, MO, SD, and WI, (2) (a) *ores and minerals* and (b) *clay, concrete, glass or stone products*, between Minneapolis, MN, on the one hand, and, on the other, points in IN, IA, MI, MO, and WI.

MC 141546 (Sub-37), filed September 1, 1982. Applicant: BULK TRANSPORT SERVICE, INC, 1700 S. Willow St., Manchester, NH 03108. Representative: Joseph M. Klements, 89 State St., Boston, MA 02109, (617) 523–0800. Transporting *commodities in bulk and in bags*, between points in the U.S. (except AK and HI).

MC 143797 (Sub-4), filed August 31, 1982. Applicant: WALKER'S TRUCK CONTRACTORS, INC., P.O. Box 6173, Knoxville, TN 37914. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, CA 30328, (404) 256–4320. Transporting *ores and mineral*, between points in Jefferson County, AL, on the one hand, and, on the other, points in Knox County, TN.

MC 145956 (Sub-13), filed September 3, 1982. Applicant: TRANSMEDIC CARRIERS, INC., 1340 Indian Rocks Rd., Belleair, FL 33516. Representative: Robert H. Kinker, 314 W Main St., P.O. Box 464, (502) 228–8244. Transporting *such commodities* as are dealt in or used by grocery, drug and food business houses, between points in the U.S. (except AK and HI).

MC 146457 (Sub-9), filed August 27, 1982. Applicant: PAISLEY TRUCKING, INC., RFD–P.O. Box 208, Durango, IA 52039. Representative: James M. Hodge, 3730 Ingersoll Ave. Des Moines, IA 50312, (515) 274–4985. Transporting *chemicals and related products*, between Chicago, IL, on the one hand, and, on the other, points in IA, MN, MO, and WI.

MC 147587 (Sub-2), filed August 27, 1982. Applicant: S & E TRUCKING, INC., 12202 Crewe St., N. Hollywood, CA 91605. Representative: Steven R. Estin (same address as applicant), (213) 765–6536. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AZ, CA, and NV.

MC 150617 (Sub-6), filed August 30, 1982. Applicant: TRANSCONTINENTAL FREIGHT SYSTEMS, INC., 2559 S. Archer Ave., Chicago, IL 60608. Representative: Edward G. Bazelon, 29 S. La Salle St., Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (a) between points in AZ, AR, CA, CO, CT, DE, FL, GA, ID, KS, LA, ME, MD, MN, MS, MT, NE, NV, NH, NM, NC, ND, OK, OR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY, and DC, and (b) between points in AL, IL, IN, IA, KY, MA, MI, MO, NJ, NY, OH, and PA, on the one hand, and, on the other, points in AZ, AR, CA, CO, CT, DE, FL, GA, ID, KS, LA, ME, MD, MN, MS, MT, NE, NV, NH, NM, NC, ND, OK, OR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY, and DC.

MC 154667 (Sub-12) filed August 30, 1982. Applicant: B. I. TRANSPORTATION, INC., P.O. Box 691, Burlington, NC 27215. Representative: J. Franklin Fricks, Jr. (same address as applicant), (919) 228–2239. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Signode Corporation of Glenview, IL.

MC 163286, filed August 30, 1982. Applicant: ROWELL & WATSON CO. INC., 547 Central Ave., Dover, NH 03820. Representative: James M. O'Donnell (same address as applicant), (603) 742–2418. Transporting *petroleum products*, between points in ME and NH,

under continuing contract(s) with Getty Oil Company, of South Portland, ME.

MC 163636, filed August 30, 1982. Applicant: FRATE-MASTERS, INC., 4924 N. Broadway, St. Louis, MO 63147. Representative: Robert E. Hagen (same address as applicant), (314) 621-4726. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between St. Louis, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163637, filed August 30, 1982. Applicant: ASK TRAILER TRANSPORTERS, 1918 S. Highland Ave., Berwyn, IL 60402. Representative: Alan Kondrisack, (same address as applicant), (312) 749-7949. Transporting *trailers, trailer parts and insulation,* between points in the U.S. (except AK and HI).

MC 163647, filed August 31, 1982. Applicant: LAN-SE-AIR TRAVEL, INC., P.O. Box 181, O'Fallon, IL 62269. Representative: James Eichelmann (same address as applicant), (618) 632-7287. As a *broker* arranging for the transportation of *passengers and their baggage,* in special and charter operations, beginning and ending at points in IL, MO and AR, and extending to points in the U.S. (except AK and HI).

MC 163676, filed August 30, 1982. Applicant: KEVIN R. PHILLIPS, 1305 Debra Lane, Madison, WI 53713. Representative: Irwin D. Rozner, 134 N. LaSalle St., Chicago, IL 60602, (312) 782-6937. Transporting *food and related products,* between points in IL, CA, AZ, NV, OR, IA, UT, WA, and MT.

MC 163686, filed September 2, 1982. Applicant: COOK COUNTY TRANSIT, INC., 3810 S. Albany Ave., Chicago, IL 60632. Representative: Edward G. Bazelon, 29 S. La Salle St., Chicago, IL 60603, (312) 236-9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, and WI.

MC 163696, filed September 2, 1982. Applicant: KATHRYN J. DEWEY, d.b.a. PERSON TO PERSON, 3061 Eastland Rd., Muskegan, MI 49441. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, (517) 482-2400. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Muskegon and Ottawa Counties, MI, on the one hand, and, on the other, points in MN, IA, MO, WI, IL, IN, OH, PA, NY, KY and WV.

MC 163697, filed September 3, 1982. Applicant: ROBERT SIMONSON, Bowman, ND 58623. Representative: Robert Simonson (same address as applicant), (701) 523-3785. Transporting *petroleum products,* between points in MT, ND and SD, under continuing contract(s) with Farmers Union Oil Company of Bowman, ND.

Please direct status inquiries about the following to team 5, (202) 275-7288.

Volume No. OP5-187

Decided: September 8, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

W-1358, filed August 31, 1982. Applicant: EASTERN SHORE MARINE, INC., Route 1, Box 121S, St. Michaels, MD 21663. Representative: Leo C. Franey, 918 16th St., NW., Washington, DC 20006, (212) 785-3700. To operate as a *common carrier by water,* transporting *fertilizer,* in bags, between ports in NJ, DE, MD, VA, and NC.

Note.—This application contemplates operations which should result in decreased energy consumption in comparison with existing energy consumption in the affected area. To the extent traffic will be diverted from existing transportation modes, greater energy efficiencies may be obtained without disruption to existing patterns of energy distribution or to development of energy resources. The application is, in all respects, consistent with prevailing goals and objectives of the National Energy Policy.

MC 111729 (Sub-773), filed August 31, 1982. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11042. Representative: Peter A. Greene, 1920 N St., NW., Washington, DC 20036, (202) 331-8800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with General Electric Company, of Bridgeport, CT.

MC 123978 (Sub-6), filed August 30, 1982. Applicant: RICHEY & STEWART, INC., P.O. Box 235, Scottsburg, IN 47170. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, 317-846-6655. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Kolmar Products, Inc. of Austin, IN.

MC 142239 (Sub-11), filed August 31, 1982. Applicant: NEBRASKA COAST, INC., R.R. No. 1, P.O. Box 110, Neola, IA 51559. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397-9900. Transporting *food and related products* between Omaha, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143768 (Sub-2), filed August 30, 1982. Applicant: F.R. ANDERSON, INC., 2744 S.E. Market, Box 782, Des Moines, IA 50306. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309, 515-245-4300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Linn County, IA on the one hand, and, on the other, points in IA.

MC 145108 (Sub-65), filed August 30, 1982. Applicant: BULLET EXPRESS, INC., 5600 First Ave., P.O. Box 289, Bay Ridge Station, Brooklyn, NY 11220. Representative: Terrence D. Jones, 2033 K St., NW., Washington, D.C. 20006, (202) 429-9090. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S. (except AK and HI).

MC 146199 (Sub-3), filed August 30, 1982. Applicant: S.A.M. TRUCKING CO., INC., 1210 North Ave., Plainfield, NJ 07062. Representative: Harold L. Reckson, 33-28 Halsey Rd., Fair Lawn, NJ 07410, (201) 791-2270. Transporting *general commodities* (except classes A and B explosives and household goods), between points in NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160849, filed August 31, 1982. Applicant: ERNIES WRECKER SERVICE, INC., P.O. Box 217, Prairie View, IL 60069. Representative: Irwin D. Rozner, 134 N. LaSalle St., Chicago, IL 60602, 312-782-6937. Transporting *wrecked or disabled motor vehicles and replacement motor vehicles, construction equipment and machinery,* between points in IL, MI, IN, MN, WI, OH, IA, TN, KY, MO, NE, MS, and AR.

MC 163658, filed August 31, 1982. Applicant: HOFF AND COMPANY, INC., 121-129 Depot Street, Wellington, OH 44090. Representative: Charles Ephraim, 406 World Center Bldg., 918 16th St., NW., Washington, DC 20006, (202) 833-1170. Transporting *paper and paper products,* between points in the U.S., under continuing contract(s) with Bowater Southern Paper Company, of Calhoun, TN.

Volume No. OP5-188

Decided: September 9, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 18088 (Sub-73), filed September 2, 1982. Applicant: FLOYD & BEASLEY TRANSFER CO., INC., P.O. Drawer 8, Sycamore, AL 35149. Representative: Charles Ephraim, 406 World Center Bldg., 918 16th St., NW., Washington, DC

2006, (202) 833–1170. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 109449 (Sub-74), filed August 26, 1982. Applicant: KUJAK TRANSPORT, INC., 6366 West Sixth St., Winona, MN 55987. Representative: Stanley C. Olsen, Jr., 5200 Wilson Road, Suite 307, Edina, MN 55424, (612) 927–8855. Transporting *general commodities* (except classes A and B explosives and household goods), betwen points in the U.S. (except HI).

MC 136699 (Sub-3), filed September 2, 1982. Applicant: ROBERT ASCHENBRENNER, d.b.a. BOB'S TRUCKING, P.O. Box 37, Surrey, ND 58785. Representative: Harris P. Kenner, 615 S. Broadway, P.O. Box 970, Minot, ND 58701, (701) 852–4118. Transporting *such commodities* as are dealt in or used by a manufacturer and distributor of dairy and related products, between points in the U.S., under continuing contract(s) with Bridgeman Creameries, a Division of Land O'Lakes, Inc., of Minneapolis, MN

MC 144598 (Sub-8), filed September 1, 1982. Applicant: C & J TRANSPORT, INC., Route 32, P.O. Box 42, N. Vassalboro, ME 04962. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., N.W., Washington, DC 20005, 202–296–3555.Transporting (1) *food and related products, machinery, rubber and plastic products, chemicals and related products, building materials,* and *such commodities* as are dealt in or used by grocery stores, food business and discount houses, between points in ME, NH, VT, MA, CT, RI, FL, and SC, on the one hand, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and TX, and (2) *pulp, paper and related products,* between those points in the U.S. in and east of MN, IA, MO, AR, and TX.

MC 146148 (Sub-21), filed September 2, 1982. Applicant: B-Right TRUCKING CO., 7087 West Boulevard, Youngstown, OH 44512. Representative: Kim D. Mann, 7101 Wisconsin Ave., Suite 1010, Washington, D.C. 20814, (301) 986–1410. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 147178 (Sub-2), filed September 1, 1982. Applicant: INFLATION FIGHTERS TRANSPORT, INC., 101 State Street, Springfield, MA 01103. Representative: David M. Marshall (same address as applicant), Springfield, MA 01103, 413–732–1136. Transporting *such commodities* as are dealt in or used by a manufacturer or distributor of chemicals and chemical products, between points in the U.S. (except AK and HI), under continuing contract(s) with Butcher Polish Company, of Marlboro, MA.

MC 163659, filed September 1, 1982. Applicant: FREEPORT TRANSPORTATION, P.O. Box 266, Clinton, MD 20735. Representative: Veloris Jean Edwards (same address as applicant), 301–868–5055. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, between points in the Washington D.C. commercial zone, on the one hand, and on the other, points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-25920 Filed 9-20-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Final 1982 Revised Aggregate Production Quotas for Hydromorphone and Phenmetrazine

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of final 1982 revised aggregate production quotas for hydromorphone and phenmetrazine.

SUMMARY: This notice establishes final 1982 revised aggregate production quotas for hydromorphone and phenmetrazine, controlled substances in Schedule II, as required under the Controlled Substances Act of 1970.

EFFECTIVE DATE: This order is effective September 21, 1982.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Acting Administrator of the Drug Enforcement Administration in accordance with § 0.100 of Title 28 of the Code of Federal Regulations.

On April 30, 1982, a notice of the proposed revised 1982 aggregate production quotas for certain controlled substances in Schedule II was published in the **Federal Register** (47 FR 18692). All interested parties were invited to comment on or object to these proposed aggregate production quotas on or before June 1, 1982.

Relative to hydromorphone, one comment and objection was received from Knoll Pharmaceutical Company of Whippany, New Jersey. Data subsequently submitted by the company substantiated the comment that an increased quota for this substance was needed. Increased sales particularly to hospitals, inventories which had been overestimated in the determination of the initially established quota, new product introduction, research requirements and manufacturing practices, were among the factors which influenced DEA's decision to raise the previously established hydromorphone quota for 1982.

Although no comments were received in response to the September 1, 1981, **Federal Register** notice (46 FR 43907) proposing the 1982 aggregate production quota for phenmetrazine, Ciba-Geigy Corporation of Summit, New Jersey, subsequently submitted data to DEA substantiating a need for an increased quota. Sales greater than that estimated for the first half of 1982 and the need to rebuild depleted inventories are the primary reasons for increasing the 1982 phenmetrazine quota.

Pursuant to Sections 3(c)(3) and 3(e)(2)(B) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

The Acting Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The establishment of annual aggregate production quotas for Schedule I and II controlled substances is mandated by law and by the international commitments of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

Therefore, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 8260), and delegated to the Acting Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Acting Administrator hereby orders that the 1982 revised aggregate production quotas be established as follows:

FINAL REVISED 1982 AGGREGATE PRODUCTION QUOTA

(Expressed as grams of anhydrous base)

Basic class	Grams
Hydromorphone	167,321
Phenmetrazine	2,267,000

Dated: September 14, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-25937 Filed 9-20-82; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: October 5, 1982, 9:30 a.m., Rm. N3437 A & B Frances Perkins Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

FOR FURTHER INFORMATION CONTACT:

Joseph S. Papovich, Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6171, September 15, 1982.

Signed at Washington, D.C. this 15th day of September 1982.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

[FR Doc. 82-25780 Filed 9-20-82; 8:45 am]

BILLING CODE 4510-28-M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threated to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 1, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 1, 1982.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 13th day of September 1982.

Robert Carpenter,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
American Lace, Inc. (UAW)	Hackensack, NJ	8/31/82	8/25/82	TA-W-13, 760	Lace, embroidered goods, textiles.
Beckley Lick Run Co., Bonny Mine (UMWA)	Raleigh Co., WV	9/8/82	9/2/82	TA-W-13, 761	Coal, metallurgical, mining.
(The) Carbon Limestone Co. (UAW)	Lowellville, Ohio	9/1/82	8/27/82	TA-W-13, 762	Limestone, mining.
Eastern Associated Coal Corp., Keystone No. 1 Mine (UMWA).	McDowell Co., WV	9/7/82	9/1/82	TA-W-13, 763	Coal, Metallurgical, mining.
Elkem Metals Co. (OCAWU)	Marietta, Ohio	9/1/82	8/30/82	TA-W-13, 764	Electro chrome & manganese, ferro & silico manganese, standard & medium carbon ferromanganese, silicon.
General Electric, St. Louis Lamp Plant (workers)	St. Louis, Mo	9/8/82	8/24/82	TA-W-13, 765	Lamps, incandescent.
Ingersoll Rand, Waverly Casting Facility Div. (IMAWU).	Waverly, NY	9/7/82	8/24/82	TA-W-13, 766	Grey iron & ductile iron casting.
Kingston Dress Co. (ILGWU)	Fayetteville, Tenn	8/31/82	8/24/82	TA-W-13, 767	Dresses, blazers, slacks, two piece dresses.
(The) New River Co., Silex Mine (UMWA)	Mt. Hope, WV	9/2/82	8/30/82	TA-W-13, 768	Coal, metallurgical, mining.
Sewell Coal Co., Meadow River No. 1 Mine (UMWA).	Lookout, WV	9/2/82	8/30/82	TA-W-13, 769	Coal, metallurgical, mining.
Allegheny-Ludlum Steel Corp. (USWA)	Wallingford, Conn	9/9/82	9/7/82	TA-W-13, 770	Special metals, electrical alloys, stainless strip products & various tubular products.
Itmann Coal Company, No. 1 Mine (UMWA)	Wyoming Co., WV	9/7/82	9/1/82	TA-W-13, 771	Coal mining.
Itmann Coal Company, No. 2 Mine (UMWA)	Wyoming Co., WV	9/7/82	9/1/82	TA-W-13, 772	Coal mining.
Itmann Coal Company, No. 3A Mine (UMWA)	Wyoming Co., WV	9/7/82	9/1/82	TA-W-13, 773	Coal mining.
Itmann Coal Company, Shop (UMWA)	Wyoming Co., WV	9/7/82	9/1/82	TA-W-13, 774	Repair underground mining equipment.
Itmann Coal Company, Tipple (UMWA)	Wyoming Co., WV	9/7/82	9/1/82	TA-W-13, 775	Preparation plant.
Magma Copper Co., Superior Div. (USWA)	Superior, Arizona	9/9/82	9/3/82	TA-W-13, 776	Copper—mining & milling.
Maverick Tube Corp. (USWA)	Union, Missouri	9/9/82	9/3/82	TA-W-13, 777	Seamless steel pipe.
U.S. Steel Corp., Texas Works (wkrs)	Baytown, Texas	9/3/82	8/31/82	TA-W-13, 778	Steel pipe & steel plate.
U.S. Steel Corp., Pittsburg Works (USWA)	Pittsburg, CA	9/8/82	9/3/82	TA-W-13, 779	Steel & steel product; carbon steel wire rod & products, pipe & tubing.
Venus Lace, Inc. (UAW)	Fort Lee, NJ	8/31/82	8/25/82	TA-W-13, 780	Lace.
Virginia Mills, Inc. (UAW)	Fort Lee, NJ	8/31/82	8/25/82	TA-W-13, 781	Lace.

[FR Doc. 82-25807 Filed 9-20-82; 8:45 a.m]

BILLING CODE 4510-30-M

[TA-W-12,737]

Columbian Chemicals Co., Trenton, N.J.; Negative Determination Regarding Application for Reconsideration

By an application dated August 5, 1982, counsel for the workers requested administrative reconsideration of the Department of Labor's Negative determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers formerly producing iron oxide pigment at the Trenton, New Jersey plant of the Columbian Chemicals Company. The determination was published in the **Federal Register** on July 9, 1982 (47 FR 29903).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Counsel for the workers claims that company officials indicated in written and oral statements that the Trenton workers were laid off because of foreign competition. Counsel claims that data in support of the company statements were not solicited by the Department from Columbian Chemicals. Counsel further claims that increased imports of autos and tires affected worker separations at Trenton.

The Department's review shows that the worker petition did not meet the increased import criterion of the Trade Act of 1974. Aggregate imports of iron oxide pigments declined absolutely and relative to domestic production in each year from 1978 through 1980 when compared with the previous year. Imports were relatively stable in absolute terms and declined relative to domestic production in 1981 compared with 1980.

Statements by company officials or workers concerning import competition are not used as a prima facie basis for certification. The Department found that company officials had no data on increased imports or iron oxide pigments but rested their claim on the fact that a foreign-based firm was producing iron oxide pigments in West Virginia. Since articles produced in West Virginia are not imports, worker separations caused by competition of this nature are not covered under the Trade Act. Company officials indicated that the Trenton plant production was transferred to other domestic plants of the company.

The claim that imports of autos and tires have adversely affected employment at Trenton also would not provide a basis for certification since imported autos and tires are not like or directly competitive with their component or incorporated parts, i.e., iron oxide pigments. Only imports of iron oxide pigments which enter the U.S. not incorporated into final articles can be considered in determining import injury to workers who manufacture these products at Trenton. The courts have held that imported finished articles are not like or directly competitive with domestic component parts thereof, *United Shoe Workers of America, AFL-CIO* v. *Bedell*, 507 2d 174 (D.C. Cir., 1974). In that case, the court held that imported finished women's shoes were not like or directly competitive with shoe counters, a component of footwear.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application, is therefore, denied. Signed at Washington, D.C., this 13th day of September 1982.

Harold A. Bratt,

Acting Deputy Director, Office of Program Management Unemployment Insurance Service.

[FR Doc. 82-25808 Filed 9-20-82; 8:45 am]

BILLING CODE 4510-30-M

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period September 6, 1982–September 10, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-13,199; Jones & Laughlin Steel Corp., Louisville, OH
TA-W-13,176; Sandler of Boston, Inc., Norwood, MA
TA-W-13,160; Bradburn & Brooks, Mt. Vernon, WA
TA-W-12,998; Arno Moccasin Co., Lewiston, ME
TA-W-13,127; Gulf & Western Industries, Inc., Energy Products Group, Taylor Forge Div., Woodstock Plant, Memphis, TN
TA-W-13,126; Gerity Schultz, Toledo, OH
TA-W-13,145; KY & J Shake Co., Chehalis, WA
TA-W-13,148; Rheem Manufacturing Co., Linden, NJ

In the following case the investigation revealed that criterion (3) had not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-13,133; Ford Motor Co., Parts & Service Div., Philadelphia District Office, Pennsauken, NJ

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-13,083; Stuttgart shoe Corp., Stuttgart, AR

Aggregate U.S. imports of slippers did not increase as required for certification

TA-W-13,183; Harbison-Walker Refractories, Div. of Dresser Industries, Inc., Cape May Point, NJ

Aggregate U.S. Imports of Magnesite did not increase as required for certification.

TA-W-13,209; Fashion Specialties, Newark, NJ

Imports of raincoats did not increase during the period under investigation.

TA-W-13,138; The Merchandising Co., Lynchburg, VA

Aggregate U.S. imports of lip balm are negligible.

TA–W–13,136; Merchants Metals, Inc., South East Region, Birmingham, AL

Aggregate U.S. imports of chain link fencing did not increase as required for certification.

TA–W–13,137; Roselon Industries, Inc., Crossville, TN

Aggregate U.S. imports of yarn re negligible.

Affirmative Determinations

TA–W–13,187; County Fair Toy & Novelty Corp., Brooklyn, NY

A certification was issued in response to a petition received on January 20, 1982 covering all workers separated on or after January 11, 1981.

TA–W–13,202; Roanoke Dress Corp., Roanoke, VA

A certification was issued in response to a petition received on January 29, 1982 covering all workers separated on or after January 2, 1982 and before November 3, 1981.

TA–W–13,200; National Garment Co., Hammonton, NJ

A certification was issued in response to a petition received on January 29, 1982 covering all workers separated on or after January 22, 1981 and before November 3, 1981

TA–W–13,149; The Baltimore Luggage Co., Baltimore, MD

A certification was issued in response to a petition received on December 15, 1981 covering all workers separated on or after December 1, 1981 and before April 17, 1982

TA–W–13,141; Boss Manufacturing Co., Chillicothe, MO

A certification was issued in response to a petition received on December 14, 1981 covering all workers separated on or after February 1, 1981.

I hereby certify that the aforementioned determinations were issued during the period September 6, 1982–September 10, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons to write to the above address.

Dated: September 14, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-25806 Filed 9-20-82; 8:45 am]
BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

[Application No. D-3488]

Proposed Exemption for Certain Transactions Involving the Radiology Associates, P.A. Profit Sharing Plan Located in Little Rock, Arkansas

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed loan of funds by the Radiology Associates, P.A. Profit Sharing Plan (the Plan) to Medical Equipment Leasing Company (the Partnership), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the Plan, the Partnership, and any other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before November 3, 1982.

ADDRESS: All written comments requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D–3488. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a a profit sharing plan with 42 participants. Drs. David H. Newbern and George Regnier are the trustees of the Plan (the Trustees) and maintain authority with respect to the management and investment of the Plan's assets. Each Trustee is an employee and owns stock of Radiology Associates, P.A. (the Employer), the sponsor of the Plan. As of January 31, 1982, the Plan had net assets of $3,336,717.

2. The Employer is a professional association engaged in the practice of radiology. The Partnership owns all of the radiology equipment used by the Employer and leases the equipment to the Employer. The Partnership is comprised of 14 doctors (the Partners) who each maintain an equal 7.14% interest of the Partnership. The Partners together maintain an 87.5% interest in the Employer, with each Partner owning 6.25% of the stock of the Employer. The aggregate net worth of the Partners exceeds $5,000,000.

3. The applicant is requesting an exemption to allow the Plan to loan $240,000 to the Partnership (the Loan). The Loan will represent approximately 7% of the Plan's assets. The Loan proceeds will be used by the Partnership to repay indebtedness in the estimated amount of $240,000 to the Commercial National Bank of Little Rock, Arkansas (Commercial). The interest rate on the loan from Commercial is ½% above the prime rate. The Loan will be amortized over a five year term in quarterly installments of principal and interest. The Loan's interest rate will be ½% above the prime rate as quoted by the First National Bank in Little Rock (the Bank) and will be adjusted quarterly. In no event will the interest rate be adjusted to less than 10% per annum.

4. The Loan will be secured by a duly executed and perfected first security interest in certain radiology equipment owned by the Partnership (the Collateral). Mr. D. S. Felsenthal, the director of Valuation Counselors Southwestern Inc., located in Houston, Texas, appraised the Collateral and has determined that, as of December 31, 1981, the Collateral had a fair market value of $508,000. The current fair market value of the Collateral is equal to approximately 210% of the amount of the Loan. The Employer will insure the Collateral against damage by fire or other loss at its own expense throughout the term of the Loan, and the Plan will be the named insured.

5. The Bank will serve as the independent fiduciary with respect to the proposed Loan. Currently, the Employer and four Partners have certain commercial banking relationships with the Bank. The total deposits of the Employer and the four Partners total less than .01% of the Bank's total deposits, and the total outstanding loans to the Partners constitute less than .03% of the total outstanding loans of the Bank. One Partner maintains a nominal shareholder interest in the Bank. There are no other relationships existing between the Bank, the Employer and the Partnership.

6. The Bank has broad experience in pension and profit sharing plan administration, and has general investment and management expertise. The Bank has reviewed the terms of the Loan and has initially determined that the Loan is an appropriate investment for the Plan, and will be in the best interest of the Plan and its participants and beneficiaries. The Bank will make the same determination immediately prior to the consummation of the transaction. The Bank will have final administrative authority and control over the Loan, and will monitor and enforce the performance of the Partnership's obligations under the Loan. Additionally, the Bank's duties will include, but not be limited to, the quarterly adjustment of the Loan's interest rate, the determination of any need for the provision of additional collateral to ensure that the total value of the collateral securing the Loan remains in excess of 150% of the outstanding balance of the Loan, determining whether adequate insurance on all collateral is maintained to protect against a loss by fire or other damage, and the execution and filing of a valid security agreement and financing statement in favor of the Plan.

7. In summary, the applicant represents that the proposed Loan will satisfy the criteria of section 408(a) of the Act because (a) the Loan will be secured by a perfected first security interest in the Collateral which has an initial value equal to 210% of the Loan; (b) the Bank, a qualified, independent party, has reviewed the proposed transaction and has determined that the Loan is appropriate and in the best interest of the Plan and its participants and beneficiaries; and (c) the Bank will monitor the Loan and enforce the performance of the Employer's obligations under the Loan.

Notice to Interested Persons

Within 10 days after the publication of this notice in the **Federal Register**, notice will be provided to participants and beneficiaries of the Plan by prominent posting at the Employer's place of business, and by mailing or hand delivery. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment on and request a hearing with regard to the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the Loan, as described herein, by the Plan to the Partnership, provided that the terms and conditions of the Loan are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately described all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 14th day of September, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-25866 Filed 9-20-82; 8:45 am]
BILLING CODE 4510-29-M

[Application Nos. D-3072 and D-3073]

Proposed Exemption for Certain Transactions Involving the Raznick & Sons, Inc. Pension and Profit Sharing Plans Located in Woodland Hills, California

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed temporary exemption would exempt, for a period of five years, the proposed purchases by the Raznick & Sons, Inc. Pension Plan and the Raznick & Sons, Inc. Profit Sharing Plan (collectively, the Plans) of first mortgages and first deeds of trust (collectively, the Contracts) from Partnerships (the Partnerships) which are or will be 50% or more owned by Raznick & Sons, Inc. (the Employer), the sponsor of the Plans. The proposed exemption would also exempt the guarantees to repurchase Contracts which are in default by the Employer and by Mr. and Mrs. Arnold L. Raznick (Mr. and Mrs. Raznick), parties in interest with respect to the Plan. The proposed exemption, if granted, would affect the Employer, Mr. and Mrs. Raznick, the Partnerships, and the participants and beneficiaries of the Plans.

DATE: Written comments and requests for a public hearing must be received by the Department on or before November 1, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application Nos. D-3072 and D-3073. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Katherine D. Lewis of the Department, telephone (202) 523-8972. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan by Aaron L. Raznick, the trustee of the Plan (the Trustee), pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plans consist of a money purchase pension plan with net assets of approximately $85,581 on December 31, 1981 and a profit sharing plan with net assets of approximately $123,152 on December 31, 1981. The assets of the Plans are commingled for investment purposes. Each of the Plans has approximately nine participants. Investment decisions for the Plans are made by an administrative committee consisting of Aaron L. Raznick, Wayne Colmer and George Palermo, all of whom are officers and employees of the Employer.

2. The Partnerships consist of currently existing and yet-to-be-formed partnerships which are or will be 50% or more owned by the Employer. The applicant is requesting an exemption for a five-year period to permit the Partnerships to sell certain of the above-described Contracts to the Plans. The proposed exemption would also, if granted, exempt the guarantees by the Employer and/or Mr. and Mrs. Raznick to repurchase any Contracts which are in default. The five-year period for the exemption would begin on the date the grant of an exemption for the proposed transactions appears in the **Federal Register.** The Plan currently has approximately 39 percent of its assets invested in mortgages which were purchased from the Employer or the Partnerships. The applicants represent that the Plans have experienced no losses as a result of these investments. No exemptive relief is proposed by the Department for these prior transactions. Accordingly, the applicants represent that they will pay all excise taxes which are applicable under section 4975(a) of the Code by reason of such sales to the Plan within 60 days of the publication in the **Federal Register** of a final notice of the granting of the exemption proposed herein.

3. The Partnerships purchase undeveloped real estate in established communities in southern California, subdivide the same, construct homes on the real estate and obtain mortgages thereon. The Partnerships then sell the homes to purchasers under a purchase money deed of trust or a first mortgage loan. All first mortgage loans will be conventional, FHA, or VA insured loans, the proposed transactions would involve new construction by the Partnerships.

4. In reviewing residential loan applications and in making such loans, the Partnerships will follow the Federal National Mortgage Association (FNMA) guidelines. All Contracts purchased by the Plans will meet all FNMA underwriting criteria. The factors influencing acceptability will include the credit record and financial statements of the loan applicant, the ratio between expenses to be assumed as a result of the loan and the stabilized income of the applicant, the value of the property offered as security and the ratio of the amount of the loan sought to the value of the security. There will be an appraisal of the property which is the security for the Contract by an independent, qualified appraiser prior to the purchase of any Contract by the Plans. The Plans will not purchase any Contract where the amount of the loan exceeds 80 percent of the fair market value of the property as indicated by the appraisal, and any Contract where the Plans do not have a first security interest in the property. Only Contracts which are at least six months old and have an established record of timely payments will be considered for purchase by the Plans. The purchasers of the properties will provide title insurance and property insurance for the

value of any Contracts held by the Plans, with the Plans designated as the beneficiaries of the policies.

5. The Plans will not purchase any Contract from the Partnerships which upon its purchase would put the value of all Contracts owned by the Plans at 50 percent or more of the then current assets of the Plans. No more than 10 percent of Plan assets will be invested in any one Contract and the Plans will not purchase more than one Contract involving any mortgagor. Neither the Employer nor the Partnerships will receive any financial benefit from any Contract sold to the Plans. No commissions will be paid by the Plans with respect to any Contract purchased by them. If the Employer or the Partnerships receive any premiums or additional consideration in connection with any Contract, such premium or consideration will be passed along to the Plans. The Partnerships will service the Contracts at no cost to the Plans.

6. Prior to any purchase of a Contract by the Plans, Mr. Fred Cravens (Cravens), a party unrelated to the Employer or the Partnerships, will determine whether each such transaction is a suitable investment for the Plans and that the terms and conditions of the proposed transactions are at least as favorable to the Plans as those which the Plans could receive in the same type of transaction with an unrelated party. Cravens is a retired Bank or America vice president and a residential real estate specialist with forty years of experience in real estate and finance. Cravens will make all final decisions with regard to which Contracts are purchased by the Plans and the terms and conditions of all such pruchases. Cravens will also monitor the transactions, including the servicing of the Contracts, and will take any steps necessary to enforce the rights of the Plans.

7. The purchase price of the Contracts to be paid by the Plans will be the lesser of the unpaid principal or the discounted value of the unpaid principal as determined by Cravens, such that the yield to the Plans after discount will be equal to or greater than the current annual average effective standard interest rate on a mortgage from the Federal Home Loan Bank Board statistics as published in The Wall Street Journal.

8. The Employer, Aaron L. Raznick and his wife jointly and severally guarantee as follows:

To repurchase at the higher of the Plans' cost or the current market value any mortgage with accrued interest more than three month delinquent in payments at any time during the life of the mortgage. If the Employer has not purchased the mortgage and deed of trust with the accrued interest within ten days of being three months in arrears in payments, Aaron L. Raznick or his wife shall do so within ten days thereafter.

As of April 30, 1981, the Employer had total net assets in excess of $9,000,000. As of December 31, 1980, Mr. and Mrs. Raznick had net assets in excess of $1,000,000.

9. The Trustee represents that the proposed transactions are in the best interests of the Plans in that these investments can result in higher yields for Plan participants than those which are currently being obtained from other investments.

10. The applicants represent that the proposed transactions wil satisfy the statutory criteria of section 408(a) of the Act as follows: (1) the Trustee represents that the proposed transactions are in the best interests of the Plans; (2) the proposed transactions will be approved and monitored by an independent party; (3) the exemption will be a temporary exemption for five years; (4) the Plans will receive a high rate of return on their investments; (5) the Employer and Mr. and Mrs. Raznick guarantee to repurchase any Contracts more than three months in arrears: (6) the dollar amount of all Contracts at the time of their being placed in the Plans will be limited to 50% of the assets of the Plans: (7) no commissions will be paid by the Plans; and (8) the Partnerships will service the Contracts at no cost to the Plans.

Notice to Interested Persons

Within ten days after the notice of pendency is published in the **Federal Register** notice will be given to all the Plans' participants, beneficiaries, and other interested parties by mail, personal delivery, or by posting in locations where participants work and which are customarily used for notices to employees. Such notice shall include a copy of the notice of pendency of the exemption as proposed in the **Federal Register** and shall inform interested persons of their right to comment and request a hearing within the time period set forth in the notice of proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure

75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sales by the Partnerships to the Plans of the Contracts herein described, or to the guarantees by the Employer and Mr. and Mrs. Raznick, as herein described.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in this application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 14th day of September 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–25958 Filed 9–20–82; 8:45 am]

BILLING CODE 4510–29–M

[Application No. L–3537 and L–3538]

Proposed Exemption for Certain Transactions Involving Painters District Council No. 3 Vacation Fund and Painters District Council No. 3 Health & Welfare Fund Located in Kansas City, Missouri

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt the transfer of certain unclaimed funds from the Painters District Council No. 3 Vacation fund (Vacation Fund) to the Painters District Council No. 3 Health & Welfare Fund (the Welfare Fund, collectively, the Funds). The proposed exemption, if granted, would affect the Funds and their participants and beneficiaries.

DATE: Written comments and requests for a public hearing must be received by the Department on or before November 10, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application Nos. L–3537 and L–3538. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenuye, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Department, telephone (202) 523–8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of two applications for exemption from the restrictions of section 406(b)(2) of the Act. The proposed exemption was requested in applications filed by the Funds' trustees (the Trustees), pursuant to section 408(a) of the Act and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Summary of Facts and Representations

The applications contain representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the applications on file with the Department for the complete representations of the applicants.

1. The Funds are collectively bargained multiemployer welfare plans established in accordance with section 302 of the Labor-Management Relations Act of 1947, as amended. Prior to the termination of the Vacation Fund effective May 10, 1978, the participants in each Fund were virtually identical, all participants being covered by the collective bargaining agreement establishing the Funds. For the year ending 1978, employer contributions were made on behalf of approximately 622 Vacation Fund participants and 622 Welfare Fund participants. Four of the six Trustees serve as Trustees for both Funds.

2. Prior to termination of the Vacation Fund, the Trustees attempted to locate participants by mailing their benefit checks to their last known address, as provided by the participant. Upon terminating the Vacation Fund, the Trustees again mailed participants' benefit checks to the most current address the Trustees could obtain. After 90 days or receipt of the uncashed or undelivered checks, a listing of the participants and their benefit amounts was published in the Kansas City Star, a general circulation newspaper in the Kansas City Metropolitan Area.

3. As of June 14, 1982, 671 former Vacation Fund participants had not claimed benefits to which they were entitled, which amounted to a total of $19,809.29. The Trustees wish to transfer these funds to the Welfare Fund, an action which the Vacation Plan document empowers them to take, provided approval is secured from appropriate governmental agencies.

4. The Trustees represent that they have made all diligent efforts to locate the 671 former participants with unclaimed benefits and believe that further retention of such unclaimed benefits by the Vacation Fund will lead to their ultimate total depletion due to administrative costs.

5. The Trustees state that the transfer of the Funds is preferable to a pro-rata distribution to former Vacation Fund participants, because of the administrative difficulty and expense of making such a distribution. The Trustees believe it would be in the interests of the Welfare Fund participants if the unclaimed funds were transferred to the Welfare Fund to be utilized exclusively for the benefit of Welfare Fund participants. The 671 former Vacation Fund participants would be protected by the agreement by the Welfare Fund to pay any such participant the full amount of his unclaimed benefit should he make a claim subsequent to the transfer proposed herein. As of June 30, 1982, the Welfare Fund had net assets of $998,448.42.

6. In summary, the applicants represent that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act, due to the following: (a) It is a one-time transfer of assets between the Funds; (b) it will enhance the level of benefits currently being received by participants of the Welfare Plan; (c) it will eliminate the administrative costs which would otherwise be incurred by the Vacation Plan in maintaining the funds and/or distributing the funds to participants on a pro-rata basis; and (d) the rights of participants of the Vacation Plan are protected by means of the agreement by the Welfare Plan to pay any future claims for benefits due former Vacation Fund participants.

Notice to Interested Persons

Within 20 days of the publication of the proposed exemption in the **Federal Register**, notice of the proposed exemption will be given to interested persons by: (1) Posting it in the offices of the Funds; and (2) posting it in the offices of the Painters District Council No. 3 and the Builders Association of Missouri, the parties to the collective bargaining agreement creating the Funds. The notice will include a copy of

the proposed exemption and will inform interested persons of their right to comment on or request a hearing regarding the proposed exemption.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under sections 406(a), 406(b)(1) and (3) of the Act;

(3) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(b)(2) of the Act shall not apply to the transfer of the remaining assets in the Vacation Fund to the Welfare Fund, as described above.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the applications are true and complete, and that the applications accurately describe all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 14th day of September 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-25957 Filed 9-20-82; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D–3554]

Proposed Exemption for Certain Transactions Involving Goldman, Sachs & Co., Located in New York, New York

AGENCY: Pension and Welfare Benefit Programs, Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendence before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would allow collective investment funds (together, the Funds) that are managed by Goldman, Sachs & Co. (GSC) and its affiliates, in which employee benefit plans participate, to engage in certain transactions provided specified conditions are met. The proposed exemption, if granted, would affect participants and beneficiaries of employee benefit plans, employers of employees covered under such plans, the funds, and other persons engaging in the described transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before November 8, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D–3554. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523–8881. (this is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1), 406(b)(2) and 407(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of GSC, Institutional Property Assets (the Trust), its trustees, and employee benefit plans (Participating Plans) which invest in the Trust, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Preamble

On July 25, 1980, the Department published a class exemption, Prohibited Transaction Exemption 80–51 (PTE 80–51, 45 FR 49709), which permits collective investment funds that are maintained by banks and in which employee benefit plans participate to engage in certain transactions provided that specified conditions are met. The transactions for which the applicant has requested relief are those which are the subject of PTE 80–51.

The Department stated in PTE 80–51 that a comment had been received to the proposed class exemption requesting that it be amended to apply to collective investment funds that are not maintained by banks. Relief was granted for bank collective investment funds because, among other reasons,

such funds are regulated by other governmental agencies and constitute a well-defined class of funds. In the case of collective investment funds that are not maintained by banks, the Department found that the record was insufficient to determine the nature of the funds and the entities managing the funds that would comprise the class covered by such broad relief. As a result, the Department stated that it could not make the required statutory findings for such relief, and that relief for non-bank maintained collective investment funds should be dealt with on an individual rather than a class basis.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. GSC is a limited partnership which is a registered investment adviser under the Investment Advisers Act of 1940. GSC and the Trust have entered into an investment management agreement, pursuant to which GSC is responsible for the Trust's investment, management and administrative operations. GSC consults with the Trust's trustees (the Trustees) and furnishes them with advice and recommendations with respect to the acquisition, holding and disposition of property by the Trust. GSC's compensation as investment manager for the Trust is based on the fair market value of the assets held by the Trust rather than of any particular transaction and is not performance related.

2. The Trust is a group trust within the meaning of Rev. Rul. 81–100, 1981–13 I.R.B. 32, and it has received an Internal Revenue Service determination letter holding that it is exempt from federal income tax under section 501(a) of the Code. The Trust was executed by the Trustees in December 1981 and is now being offered to qualified employee benefit plans as a medium for pooling their assets with other qualified plans for investment primarily in real estate. No contributions to the Trust by an employee benefit plan will be accepted, and no units representing a beneficial interest in the Trust (Units) will be issued, until participation agreements subscribing to at least $25,000,000 worth of Units have been executed.

3. The operation and the organization of the Trust is set forth in detail in a private placement memorandum, which includes copies of the Trust Agreement, the Investment Management Agreement and Participation Agreement. The private placement memorandum also describes the Trust's management, investment objectives and criteria, compensation to GSC, and the income tax consequences of an acquisition of Units by a Participating Plan.

4. Only trusts that are exempt from income tax under section 501(a) of the Code as part of qualified pension or profit sharing plans under section 401(a) of the Code may acquire Units. To participate, a Participating Plan must have total net assets in excess of $10,000,000 and must make an initial investment of at least $1,000,000. Subsequent contributions may be made in amounts of $250,000 or more. After a Participating Plan makes an initial acquisition of Units in the Trust, no additional contributions are required.

5. The Trustees in their discretion may refuse to permit a plan to participate in the Trust. Any decisions as to whether an investment in the Trust is appropriate, however, will be made by the fiduciaries of the Participating Plan who will have no affiliation with GSC or the Trustees. Neither the Trustees nor any employee, officer or partner of GSC will (a) own an equity interest in the Trust, (b) act in a fiduciary capacity to any Participating Plan (other than to the extent such persons would be deemed fiduciaries by reason of the Participating Plan's acquisition of Units in the Trust, or (c) will serve as a director or officer of any employer sponsor of a Participating Plan.

6. In accordance with the requirements of Rev. Rul. 81–100, the Trust's Participation Agreement prohibits the transfer or assignment to a third party of Units acquired by a Participating Plan. A Participating Plan may at any time request redemption of all or part of its Units. Redemption requests will be considered on any quarterly valuation date. While requests for redemption of Units may be satisfied as a result of the sale of the Trust's assets, the Trustees are under no obligation to sell any Trust asset to redeem Units. Redemption of Units is required if a Participating Plan loses its tax-exempt status under section 501(a) of the Code. The Trustees may also require the redemption of a Participating Plan's Units if its continued participation in the Trust would result in a violation of the Act or other applicable law. The Trust may be terminated by the Trustees in their discretion or by the affirmative vote of the holders of two-thirds of the outstanding Units.

7. As stated in paragraph 1 above, GSC is a registered investment adviser under the Investment Advisers Act of 1940. Therefore, certain, but not all, of its activities and operations are regulated by the Securities and Exchange Commission and subject to periodic examination.

8. The Trustees, all of whom are general partners of GSC, receive no compensation from the Trust for their services as Trustees.

9. The Trustees have retained Coopers & Lybrand to serve as the independent certified public accountants for the Trust. Within 120 days after the end of each fiscal year, a report containing a balance sheet, profit and loss statement, and a statement of net asset value as of the end of the year will be distributed to all Participating Plans. Participating Plans will also receive statements of all fees paid to GSC and all distributions and investments made during the year. Appraisals of all interests in real property owned directly or indirectly by the Trust will be made at least once each year by independent appraisers, and such appraisals will be made available by GSC to Participating Plans upon request. All Trust records maintained pursuant to the Trust Agreement will be available for inspection by any Participating Plan at reasonable times during usual business hours.

10. The applicants represent that denial of their exemption application would impose substantial administrative burdens and costs on the Trust. In the absence of exemptive relief, elaborate audit and examination procedures must be undertaken to ensure that no prohibited transactions occur. In addition, the Trust could be precluded from leasing property to excellent tenants or from purchasing worthwhile investment properties due to, for example, the existence of a pre-existing lease involving a party in interest with respect to one of the Participating Plans. The applicants represent that the investment restrictions imposed by the prohibited transaction rules and the administrative burdens and costs resulting therefrom would operate to the detriment of the Participating Plans and their participants and beneficiaries and might impair the Trust's ability to provide qualified pension and profit sharing plans with diversified investments in real property.

11. In summary, the applicants represent that the subject transactions meet the criteria of section 408(a) of the Act because: (1) The Trust will provide that Participating Plans with the best possible real estate investments and leasing opportunities, efficient and relatively inexpensive property management and a broader selection of appropriate real estate investment

vehicles; (2) each of the protections provided to Participating Plans and their participants and beneficiaries by PTE 80–51 will be satisfied for the subject transactions, except that the Trust is privately maintained; and (3) the decisions to invest in the Trust are made by knowledgeable fiduciaries of large employee benefit plans on the basis of a detailed private placement memorandum. Furthermore, such fiduciaries are unrelated to GSC or any of its affiliates. In addition, the proposed exemption imposes limitations which are designed to prevent the potential for abuse while permitting the relief requested by the applicants.

Notice to Interested Persons

Within 14 days of the publication of this notice of proposed exemption in the **Federal Register**, the Trustees will notify by mail the fiduciaries responsible for investment of each Participating Plan that has invested in the Trust. The notice will contain a copy of the proposed exemption and will inform interested persons of their right to comment and request a hearing on the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the following exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Section I. *Exemption for Certain Transactions Involving the Fund.*

(a) The restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the transactions described below if the applicable conditions set forth in Section III are met.

(1) *Transactions Between Parties-In-Interest and the Fund: General.*

Any transaction between a party-in-interest with respect to a Participating Plan and the Fund, or any acquisition or holding by the Fund of employer securities or employer real property, if the party in interest is not GSC or one of its affiliates and if, at the time of the transaction, acquisition or holding, the interest of the plan, together with the interests of any other plans maintained by the same employer or employee organization in the Fund, does not exceed 5 percent of the total of all assets in the Fund.

(2) *Special Transactions Not Meeting the Criteria of Section I(a)(1) Between Employers of Employees Covered by a Multiemployer Plan and the Fund.*

Any transaction between an employer (or an affiliate of an employer) of employees covered by a multiemployer plan (as defined in section 3(37)(A) of the Act and section 414(f)(1) of the Code) that is a Participating Plan, and the Fund, or any acquisition or holding by the Fund of employer securities or employer real property, if at the time of the transaction, acquisition or holding—

(A) The interest of the multiemployer plan in the Fund does not exceed 10 percent of the total assets in the Fund, and the employer is not a substantial employer with respect to the plan, or

(B) The interest of the multiemployer plan in the Fund exceeds 10 percent of the total assets in the Fund, but the employer is not a substantial employer with respect to the plan and would not be a substantial employer if "5 percent" were substituted for "10 percent" in the definition of "substantial employer."

(3) *Acquisitions, Sales or Holdings of Employer Securities and Employer Real Property.*

(A) Except as provided in subsection (B) of this section (3), any acquisition, sale or holding of employer securities or employer real property by the Fund which does not meet the requirements of paragraphs (a)(1) and (a)(2) of this Section I, if no commission is paid to GSC or to the employer, or any affiliate of GSC or the employer in connection with the acquisition or sale of employer securities or the acquisition, sale or lease of employer real property; and

(i) In the case of employer real property—

(aa) Each parcel of employer real property and the improvements thereon held by the Fund are suitable (or adaptable without excessive cost) for use by different tenants, and

(bb) The property of the Fund that is leased or held for lease to others, in the aggregate, is dispersed geographically.

(ii) In the case of employer securities—

(aa) Neither GSC nor any of its affiliates is an affiliate of the issuer of the security, and

(bb) If the security is an obligation of the issuer, either:

1. The Fund owns the obligations at the time the plan acquires an interest in the Fund, and interests in the Fund are offered and redeemed in accordance with valuation procedures of the Fund applied on a uniform or consistent basis, or

2. Immediately after acquisition of the obligation: (a) not more than 25 percent of the aggregate amount of obligations issued in the issue and outstanding at

the time of acquisition is held by such plan, and (b) in the case of an obligation that is a restricted security within the meaning of Rule 144 under the Securities Act of 1933, at least 50 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by persons independent of the issuer. GSC, its affiliates and any collective investment fund maintained by GSC or its affiliates shall be considered to be persons independent of the issuer if GSC is not an affiliate of the issuer.

(B) In the case of a Participating Plan that is not an eligible individual account plan (as defined in section 407(d)(3) of the Act), the exemption provided in subsection (A) of this section (3) shall be available only if, immediately after the acquisition of the securities or real property, the aggregate fair market value of employer securities and employer real property with respect to which GSC or its affiliate has investment discretion does not exceed 10 percent of the fair market value of all the assets of the Participating Plan with respect to which GSC or its affiliate has such investment discretion.

(C) For purposes of the exemption contained in subsection (A) of this section (3), the term "employer securities" shall include securities issued by, and the term "employer real property" shall include real property leased to, a person who is a party-in-interest with respect to a Participating Plan by reason of a relationship to the employer described in section 3(14) (E), (G), (H) or (I) of the Act.

(b) The restrictions of section 406(a)(1) (A) through (D) and section 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the transactions described below, if the conditions of Section III are met.

(1) *Transactions With Persons Who Are Parties-in-Interest With Respect to a Participating Plan Solely by Virtue of Being Certain Service Providers or Certain Affiliates of Service Providers.* Any transaction between the Fund and a person who is a party-in-interest with respect to a Participating Plan if—

(A) The person is a party-in-interest (including a fiduciary) solely by reason of providing services to the Participating Plan, or solely by reason of a relationship to a service provider described in section 3(14) (F), (G), (H) or (I) of the Act, or both, and the person neither exercised nor has any discretionary authority, control, responsibility or influence with respect to the investment of the Participating Plan's assets in, or held by, the Fund, and

(B) The person is not an affiliate of GSC.

(2) *Certain Leases and Goods.* The furnishing of goods to the Fund by a party-in-interest with respect to a Participating Plan or the leasing of real property owned by the Fund to such party-in-interest and the incidental furnishing of goods to such party-in-interest by the Fund, if—

(A) In the case of goods, they are furnished to or by the Fund in connection with real property owned by the Fund;

(B) The party-in-interest is not GSC, any affiliate of GSC, or one of the other Funds; and

(C) The amount involved in the furnishing of goods or leasing of real property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of the Fund with the same party-in-interest, or any affiliate thereof) does not exceed the greater of $25,00 or 0.5 percent of the fair market value of the assets of the Fund on the most recent valuation date of the Fund prior to the transaction.

(3) *Management of Real Property.* Any services provided to the Fund by GSC or by an affiliate of GSC in connection with the management of the real property owned by the Fund, if the compensation paid to GSC or its affiliate does not exceed the cost of the services to GSC or its affiliate.

(4) *Transactions Involving Places of Public Accommodation.* The furnishing of services, facilities and any goods incidental to such services and facilities by a place of public accommodation owned by the Fund to a party-in-interest with respect to a Participating Plan, if the services, facilities and incidental goods are furnished on a comparable basis to the general public.

(c) The restrictions of section 406(a)(1) (A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the purchase and sale of Units of beneficial interest in the Fund if no more than reasonable compensation is paid therefor, each purchase and sale is authorized in writing by a fiduciary of the Participating Plan who is independent of GSC and any of its affiliates, and the applicable conditions of Section III are met.

Section II. *Excess Holdings Exemption for Employee Benefit Plans.*

(a) The restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to any acquisition or holding of qualifying employer securities or qualifying employer real property (other than through the Fund) by a Participating Plan if (1) the acquisition or holding constitutes a prohibited transaction solely by reason of being aggregated with employer securities or employer real property held by the Fund; (2) the requirements of either paragraph (a)(1) or paragraph (a)(2) of Section I of this exemption are met; and (3) the applicable conditions set forth in section III of this exemption are met.

Section III. *General Conditions.*

(a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of GSC or its affiliate, the terms of the transaction are not less favorable to the Fund than the terms generally available in arm's-length transactions between unrelated parties.

(b) GSC or its affiliate maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this Section III to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of GSC or its affiliate, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest shall be subject to the civil penalty that may be assessd under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c)(1) Except as provided in section 2 of this paragraph (c) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this Section III are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of a Participating Plan who has authority to acquire or dispose of the interests in the Fund of the Participating Plan or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any Participating Plan or any duly

authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any Participating Plan, or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this paragraph (c) shall be authorized to examine trade secrets of GSC or its affiliate, or commercial or financial information which is privileged or confidential.

Section IV. *Definitions and General Rules.*

For the purposes of this exemption,

(a) The term "the Fund" shall include the Trust and any collective investment fund that may hereafter be established, operated and managed by GSC or its affiliate in essentially the same manner as the Trust.

(b) An "affiliate" of a person includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any officer, director, employee, relative of, or partner in any such person, and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or sister.

(e) The term "substantial employer" means for any plan year an employer (treating employers who are members of the same affiliated group, within the meaning of section 1563(a) of the Code, determined without regard to section 1563(a)(4) and (e)(3)(c) of the Code, as one employer) who has made contributions to or under a multiemployer plan for each of—

(1) The two immediately preceding plan years, or

(2) The second and third preceding plan years, equaling or exceeding 10 percent of all employer contributions paid to or under that plan for each such year.

(f) The time as of which any transaction, acquisition or holding occurs is the date upon which the transaction is entered into, the acquisition is made or the holding commences. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into, or an acquisition is made, on or after the effective date of this exemption, or a renewal that requires the consent of the Fund occurs on or after the effective date of this exemption, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, or at the time the acquisition is made, the requirements will continue to be satisfied thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued holding of the property so acquired. Notwithstanding the foregoing, this exemption shall cease of apply to a holding exempt by virtue of Section I(a)(1) at such time as the interest of the Participating Plan exceeds the percentage interest limitation of Section I(a)(1), unless no portion of such excess results from an increase in the assets allocated to the Fund by the Participating Plan. For this purpose, assets allocated do not include the reinvestment of Fund earnings. Nothing in this paragraph (f) shall be construed as exempting a transaction entered into by the Fund which becomes a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(g) Each Participating Plan shall be considered to own the same proportionate undivided interest in each asset of the Fund as its proportionate interest in the total assets of the Fund as calculated on the most recent preceding valuation date of the Fund.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this proposed exemption.

Signed at Washington, D.C., this 14th day of September 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-26030 Filed 9-30-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-143; Exemption Application Nos. D-3250 and D-3251]

Exemption From the Prohibitions for Certain Transactions Involving the Profit Sharing Plan for the Employees of Dekalb-Gwinnett Pathologists, P.C., and the Profit Sharing Plan for the Employees of Pathology & Laboratory Medicine, P.C. Located in Atlanta, Ga.

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the sale of promissory notes (the Notes) issued by an unrelated party by certain participants (the Applicants) of the Profit Sharing Plan for the Employees of Dekalb-Gwinnett Pathologists, P.C. and the Profit Sharing Plan for the Employees of Pathology & Laboratory Medicine, P.C. (collectively, the Plans) to the Applicants' respective individual Plan accounts.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 20, 1982, notice was published in the **Federal Register** (47 FR 31471) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b) (1) and (2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the applications for exemption and referred interested persons to the applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was distributed in accordance with the notice requirements of the proposed exemption. No public comments and no

requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Applicants; and

(c) It is protective of the rights of the Applicants.

Accordingly, the restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of the Notes by the Applicants to their respective individual accounts in the Plans, provided that the purchase price for the Notes is not more than the fair market value of the Notes on the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the applications are true and complete, and that the applications accurately describe all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 14th day of September 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services, Administration, U.S. Department of Labor.

[FR Doc. 82–25946 Filed 9–20–82; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 82–144; Exemption Application Nos. D–3453 and D–3454]

Exemption From the Prohibitions for Certain Transactions Involving the LIL Nursery Distributors, Inc. Money Purchase Plan and the LIL Nursey Distributors, Inc. Employees Profit Sharing Plan Located in Worthington, Ohio

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption will permit (1) the sale of an unimproved parcel of real property (the Property) by the LIL Nursery Distributors, Inc. Money Purchase Plan (Money Purchase Plan) and the LIL Nursery Distributors, Inc. Employees Profit Sharing Plan (Profit Sharing Plan; collectively, the Plans) to Mr. Lee W. Larson (Mr. Larson), a disqualified person with respect to the Plans; and (2) other transactions to be executed in accordance with the terms of the sale. Because Mr. Larson is the sole owner of LIL Nursery Distributors, Inc., the sponsor of the Plans, and is the only particpant in the Plans, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Internal Revenue Code of 1954 (the Code).

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 23, 1982, notice was published in the **Federal Register** (47 FR 31993) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply; nor does the fact the transaction is the subject of an exemption affect the requirement of

section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transction is, in fact, a prohibited transaction.

Exemption

In accordance with section 4975(c)(2) of the Code and the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722, and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the of sale the Property by the Plans to Mr. Larson for $42,500, and (2) the extention of credit by the Plans to Mr. Larson under the Note and Mortgage, as such terms are described in the notice of pendency, provided that the terms of the transactions are not less favorable to the Plans than those obtainable in similar transactions with an unrelated third party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 14th day of September 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-3967 Filed 9-20-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82–145; Exemption Application No. D–2277]

Exemption From the Prohibitions for Certain Transactions Involving the Racine Neurosurgical Associates, S.C. Restated Pension Plan and Trust Located in Racine, Wisconsin

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption would permit the proposed loan (the Proposed Loan) of $100,000 by the Racine Neurosurgical Associates, S.C. Restated Pension Plan and Trust (the Plan), to Kandem Associates (the Partnership), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Horace C. Green of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 6, 1982, notice was published in the **Federal Register** (47 FR 29407) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that he has complied with the notification requirements as set forth in the notice. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his of her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the

Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the Proposed Loan, provided the terms and conditions of the Proposed Loan will be and remain at least as favorable to the Plan as those which the Plan could receive in an arm's-length transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 15th day of September 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-25946 Filed 9-20-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-146; Exemption Application Nos. D-2909, D-2912 and D-2913]

Exemption From the Prohibitions for Certain Transactions Involving MIH Pension Plan and Trust, MIH Profit Sharing Plan and MIH Employees Benefit Trust Located in New York, New York

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption will permit a loan by MIH Pension Plan and Trust, MIH Profit Sharing Plan and MIH Employees Benefit Trust (the Plans) to Marine and Industrial Hydraulics, Inc. (the Employer), a party in interest with respect to the Plans, for the lesser of $160,000 or one-third of each Plan's assets and to the personal guarantee of repayment by John J. and Kathleen Wright (Plan's Trustees).

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 23, 1982, notice was published in the **Federal Register** (47 FR 31994) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the transactions described in an application filed by legal counsel for the Plans. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the applications for a complete statement of the facts and representations. The application has been available for the public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of the notification to interested persons as set forth in the notice of pendency. No public comments and no request for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to a loan by the Plans to the Employer for the lesser of $160,000 or one-third of each Plans' assets and to the guarantee of repayment by the Plans' Trustees, provided that the terms of the transactions are not less favorable to the Plans than those obtainable in arm's length transactions with an unrelated party at the time of consummation of the transactions.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C. this 15th day of September 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-25949 Filed 9-20-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-147; Exemption Application No. D-3096]

Exemption From the Prohibitions for Certain Transactions Involving Property Investment Separate Account Maintained by Prudential Life Insurance Co. of America Located in Newark, N.J.

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the past and prospective leasing (the Leases) of office space by Property Investment Separate Account (PRISA), a separate account in which employee benefit plans (the Plans) invest, which is maintained by the Prudential Insurance Company of America (Prudential), to Bache, Halsey, Stuart, Shields, Inc. (Bache), a subsidiary of Prudential.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 8, 1982, notice was published in the **Federal Register** (47 FR 24887) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (D) of the Code, for the above described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. The applicant has represented that a copy of the notice was distributed in accordance with provisions set forth in the proposed exemption, except that the notification was made as of August 3, 1982, whereas the proposed exemption stipulated that the notice was to be made prior to June 23, 1982. However, the applicant represents that the notice informed recipients that the 30-day comment period had been extended through September 2, 1982. The Department has received no public comments regarding the proposed exemption.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1) (E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the Leases between PRISA and Bache, provided that the terms and conditions of the Leases are at least as favorable to PRISA as those it could obtain from an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions that are the subject of the exemption.

Signed at Washington, D.C., this 15th day of September 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-25950 Filed 9-20-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-148; Exemption Application No. D-3111]

Exemption From the Prohibitions for Certain Transactions Involving the F. T. Carey, M.D., P.C. Employee Benefit Plan and Trust Located in Sunnyside, N.Y.

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the proposed sale by the F. T. Carey, M.D., P.C. Employee Benefit Plan and Trust (the Trust) of a parcel of improved real property (the Property) located in Jupiter, Florida to Dr. and Mrs. F. T. Carey (Dr. and Mrs. Carey), disqualified persons with respect to the Trust. The Trust consists of two plans, the F. T. Carey, M.D., P.C. Money Purchase Pension Plan and the F. T. Carey, M.D.,

P.C. Profit Sharing Plan (collectively, the Plans). Because Dr. and Mrs. Carey are the sole shareholders of F. T. Carey, M.D., P.C., the sponsor of the Plans and the only participants in the Plans, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

FOR FURTHER INFORMATION CONTACT: Katherine D. Lewis of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523–8972. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 20, 1982, notice was published in the **Federal Register** (47 FR 31473) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the proposed sale of the Property by the Trust to Dr. and Mrs. Carey as described in an application filed on behalf of the Trust by Dr. and Mrs. Carey. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. Because Dr. and Mrs. Carey are the sole shareholders of F. T. Carey, M.D., P.C., the sponsor of the Plans, and the only participants in the Plans, it was determined that there was no need to distribute the notice of pendency to interested persons. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code does not relieve a fiduciary or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code-that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly the restrictions of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale of the Property by the Trust to Dr. and Mrs. Carey for the cash sum of $131,000, provided that this amount is not less than the fair market value of the Property on the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 15th day of September, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–25861 Filed 9–20–82; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 82–149; Exemption Application No. D–3182]

Exemption From the Prohibitions for Certain Transactions Involving the Elsinore Corporation Profit Sharing and Retirement Investment Trust Located in Las Vegas, Nev.

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption exempts the sale by the Elsinore Corporation Profit Sharing and Retirement Investment Trust (the Trust) of its interest in the John Hancock Mutual Life Insurance Company Group Annuity Contract No. 2776 GAC (the Annuity Contract) to Elsinore Corporation (the Employer).

FOR FURTHER INFORMATION CONTACT: Katherine D. Lewis of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523–8972. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 23, 1982, notice was published in the **Federal Register** (47 FR 31991) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written

request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice was been provided to interested persons in compliance with the notification provisions as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by the Trust to the Employer of its interest in the Annuity Contract for $397,248, less any amounts received by the Plan from John Hancock Mutual Life Insurance Company under the Annuity Contract between January 22, 1982 and the date of sale, provided that such amount is not less than the fair market value of the Annuity Contract on the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 15th day of September 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-25662 Filed 9-20-82; 8:45 am]
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-150; Exemption Application Nos. D-3191 and D-3192]

Exemption From the Prohibitions for Certain Transactions Involving the C. John Robbins Individual Retirement Account and the Ralph Anglin Individual Retirement Account Located in Philadelphia, Pennsylvania

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits cash purchases by the C. John Robbins Individual Retirement Account and the Ralph Anglin Individual Retirement Account (collectively, the Accounts) of certain residential mortgages (the Mortgages) which are owned by Beach Avenue, Ltd. (the Partnership). Since Messrs. Robbins and Anglin are the only participants in their respective Accounts, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3–2(d). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Internal Revenue Code of 1954 (the Code).

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Office of Fiduciary Standards, pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. (202) 523–8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 20, 1982, notice was published in the **Federal Register** (47 FR 31477) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the sanctions resulting from the application of section 4975 of the code, by reason of section 4975(c)(1) (A) through (E) of the Code, for certain transactions described in an application filed on behalf of Messrs. Robbins and Anglin. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretarty of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code. These

provisions include any prohibited transaction provisions to which the exemption does not apply, nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 4975(c)(2) of the Code and the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722, and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Accounts and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Accounts.

Accordingly, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash purchases by each Account of the Mortgages owned by the Partnership, provided the amounts paid for the Mortgages are not more than their fair market values on the dates said pruchases are made.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 15th day of September 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-25963 Filed 9-20-82; 8:45 am]
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82–151; Exemption Application No. D-3204]

Exemption From the Prohibitions for Certain Transactions Involving the David Evans and Associates Profit Sharing Plan and Retirement Trust Located in Portland, Oregon

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale of a parcel of unimproved real property (the Property) by the David Evans and Associates Profit Sharing Plan and Retirement Trust (the Plan) to a partnership (the Partnership), which is a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523–8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 20, 1982, notice was published in the **Federal Register** (47 FR 31464) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed by David Evans and Associates, Inc., the sponsor of the Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the notice to interested persons requirements as set forth in the notice. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary on other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fidiciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of the Property by the Plan to the Partnership for the greater of $126,179.21 or the fair market value of the Property at the time of the sale plus certain pre-construction costs associated with the development of the Property.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 15th day of September, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-25954 Filed 9-20-82; 8:45 am]
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-152; Exemption Application Nos. D-3381 & D-3382]

Exemption From the Prohibitions for Certain Transactions Involving Ritchie Enterprises Pension Plan for Salaried Employees, and Ritchie Enterprises Pension Plan for Hourly Paid Employees Located in Wichita, Kansas

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption will permit for a period of five years certain proposed loans of money by the Ritchie Enterprises Pension Plan for Salaried Employees and the Ritchie Enterprises Pension Plan for Hourly Paid Employees (together, the Plans) to the Ritchie Corporation (the Employer), the sponsor of the Plans.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 20, 1982, notice was published in the **Federal Register** (47 FR 31461) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for the above described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has satisfied the notification provisions as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply for a period of five years to the Loans by the Plans to the Employer provided that the terms and conditions of the Loans are at least as favorable to the Plans as those which the Plans could receive in similar transactions with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 15th day of September, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-25955 Filed 9-20-82; 8:45 am]
BILLING CODE 4510-29-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82-52)]

Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant an exclusive patent license.

SUMMARY: NASA hereby gives notice of intent to grant to William G. Simpson of Huntsville, Alabama, a limited, exclusive, royalty-bearing, revocable license to practice the invention described in U.S. Patent No. 3,941,355 for a "Mixing Insert For Foam Dispensing Apparatus" which issued March 2, 1976, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 60 days of the date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Assistant General Counsel for Patent Matters whether to grant the exclusive license.

DATE: Comments to this notice must be received by November 22, 1982.

ADDRESS: National Aeronautics and Space Administration, Code GP-4, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Mannix, Director of Patent Licensing, (202) 755-3954.

Dated: September 14, 1982.

S. Neil Hosenball,

General Counsel.

[FR Doc. 82-25661 Filed 9-20-82; 8:45 am]

BILLING CODE 7510-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Public Comments: Certain Methods for Extruding Plastic Tubing

The United States International Trade Commission (the Commission) has found a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into, or the sale in, the United States of extruded plastic tubing and reclosable plastic bags that are the product of a process that, if practiced in the United States, would infringe certain claims of U.S. Letters Patent Re 28,991, Re 28,959, or Re 29,208, thereby causing a threat of substantial injury to an efficiently and economically operated domestic industry. The Commission issued an order excluding the products produced by the process from importation into the United States.

Under section 337(g), the President may disapprove the determination of the Commission for policy reasons within sixty days following receipt of the determination and record. Disapproval by the President would cause the determination, and any order issued under that determination, to be without force or effect. The President also may approve the determination, making the determination, and any order issued under it, final on the date the Commission receives notice. The determination, and any related order, will become final automatically following the sixty day review period if the President decides to take no action to disapprove or to approve it.

Interested parties are invited to submit comments concerning foreign or domestic policy issues that should be considered by the President in making his decision regarding the case. Parties submitting comments regarding domestic policy issues should refer to the portion of the Commission record in which information or comment concerning that issue was presented. If no presentation of the domestic policy issue being raised was made to the Commission, the party submitting the comment should include the reason for the lack of such presentation. The Trade Representative will be reluctant to review comments concerning domestic policy issues not addressed in the record developed before the Commission. Interested parties need not refer to the Commission record to submit comments based upon foreign policy issues.

Comments submitted should not exceed 15 double spaced, letter sized pages, including attachments. The original and 19 copies of the submission must be delivered by the close of business Friday, October 1, 1982, to the Secretary, Trade Policy Staff Committee, 600 17th Street, N.W., Washington, D.C. 20506. Copies of comments received will be made available upon request and additional comments will be accepted through the close of business Friday, October 8, 1982. For further information, call Alice Zalik (202) 395-3432.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 82-25679 Filed 9-20-82; 8:45 am]

BILLING CODE 3190-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Columbia River Basin Fish and Wildlife Program

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council.

ACTION: Notice of proposal and opportunity to comment.

SUMMARY: On September 16, 1982, the Pacific Northwest Electric Power and Conservation Planning Council ("the Council") approved release of a proposed Columbia River Basin Fish and Wildlife Program for purposes of public review and comment. This notice describes the proposed program, provides information on how to obtain copies, and outlines the process and schedule for submitting oral and written comments.

DATES AND ADDRESSES: Copies of the proposed program may be obtained at the Council's Central Office, Suite 200, 700 Southwest Taylor Street, Portland, Oregon 97205 or by calling Ms. Beata Teberg at 1-800-547-0134 (toll-free in Montana, Idaho, Washington and California), 1-800-452-2324 (toll-free in Oregon), or 503-222-5161. Hearings are scheduled as follows:

1. October 12, 1982, Portland, Oregon, Hilton Hotel (The Pavilion), 921 S.W. Sixth Avenue, 8 a.m.-5 p.m. and 7 p.m.-9 p.m.;

2. October 15, 1982, Boise, Idaho, The Hall of Mirrors, 700 West State Street, 8 a.m.-5 p.m. and 7 p.m.-9 p.m.;

3. October 18, 1982, Missoula, Montana, The Holiday Inn, 1609 West Broadway, 9:30 a.m.-5 p.m. and 7 p.m.-9 p.m.; and,

4. October 22, 1982, Yakima, Washington, The Holiday Motor Hotel, 1300 North First Street, 8 a.m.-5 p.m. and 7 p.m.-9 p.m.

Requests for time slots at the hearings should be made to Ms. Teberg, through the telephone numbers and addresses given above, at least five weekdays prior to the day of the hearing at which a time slot is requested. Written comments must be received in the Council's Central Office, 700 Southwest Taylor Street, Suite 200, Portland, Oregon 97205, by 5 p.m. Monday,

October 25, 1982. They should be addressed to the attention of Ms. Bobbe Strizek.

FOR FURTHER INFORMATION CONTACT: Ms. Torian Donohoe, Acting Director of Public Involvement, 700 Southwest Taylor Street, Suite 200, Portland, Oregon 97205 (toll-free 1–800–547–0134 in Montana, Idaho, Washington and California; toll-free 1–800–452–2324 in Oregon, or 503–222–5161).

SUPPLEMENTARY INFORMATION: By passage of the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96–501, 94 Stat. 2697, 16 U.S.C. 839 et seq. ("the Act"), Congress provided for the establishment of the Pacific Northwest Electric Power and Conservation Planning Council ("the Council"), a regional agency composed of two gubernatorial appointees each from the states of Idaho, Montana, Oregon and Washington. Congress charged the Council with two major responsibilities: (1) Preparation of a program to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by the development, operation, and management of hydroelectric facilities on the Columbia River and its tributaries; and (2) Development of a conservation and electric power plan for the Pacific Northwest. The Council must adopt its fish and wildlife program first and thereafter incorporate that program into its conservation and electric power plan.

As required by the Act, the Council initiated the statutory process for development of its fish and wildlife program by adopting a motion on June 10, 1981 asking for recommendations for: (1) Measures which can be expected to be implemented by the Bonneville Power Administration and other federal agencies to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by the development and operation of hydroelectric facilities on the Columbia River and its tributaries; (2) Objectives for the development and operation of hydroelectric facilities on the Columbia River and its tributaries in a manner designed to protect, mitigate, and enhance fish and wildlife; and, (3) Fish and wildlife management coordination, research, and development activities, including funding, which would assist protection, mitigation, and enhancement of anadromous fish at and between the region's hydroelectric dams. The Council asked for submission of such recommendations by November 15, 1981.

By November 15, 1981 the Council received more than 2,200 pages of recommendations and related documents. It distributed those materials throughout the region in sets of four "blue books." On January 11, 1982, it opened a public comment period on the recommendations. The comment period ran through April 1, 1982 and included public hearings in Boise, Idaho; Missoula, Montana; Portland, Oregon; and the Yakima Indian Reservation at Toppenish, Washington. Since April, the recommendations also formed the basis for informal and formal consultations, as required by the Act.

Program Proposal

On September 16, 1982, in a public meeting in Helena, Montana, the Council approved release of a proposed Columbia River Basin Fish and Widlife Program for the purposes of public review and comment. As proposed, major program sections would address downstream migration, ocean survival, and upstream migration of anadromous fish; natural and artificial production of fish; protection of resident fish; special fishery problems in the Yakima River Basin; protection of wildlife; establishment of a Council fish and wildlife committee; new hydroelectric development; and coordination of river operations. Each draft section includes a summary of the problem addressed, recommendations for solving the problems, the Council's response to those recommendations, and the Council's proposed program measures. Also included in the program document are two appendices, one providing a glossary to aid understanding of technical terms, and the other outlining how the Council proposes to dispose of each program recommendation it received.

Federal agencies which own, operate or regulate hydroelectric facilities in the Columbia River Basin will be responsible for implementation of the program measures. Those agencies include the Bonneville Power Administration and the Federal Energy Regulatory Commission in the U.S. Department of Energy; the Corps of Engineers, U.S. Department of the Army; and the Bureau of Reclamation, U.S. Department of the Interior. Under the Act, those agencies must take the Council's program "into account at each relevant stage of decisionmaking processes to the fullest extent practicable." The program would be funded primarily through hydroelectric power rates.

Copies of the proposed program now are available at the Council's Central Office at 700 Southwest Taylor Street, Suite 200, Portland, Oregon 97205. They may be ordered by writing to Ms. Beata Teberg at that address or by calling her at 1–800–547–0134 (toll-free in Montana, Idaho, Washington and Califorina), 1–800–452–2324 (toll-free in Oregon), or 503–222–5161.

The Council will accept comments on the proposed program through October 25, 1982. An expedited comment process is necessary because Congress has required the Council to adopt its program on or before November 15, 1982.

Hearings

The dates, times, and locations for the public hearings and the process for reserving a time slot at the hearings are set out above, under "**DATES AND ADDRESSES.**" Persons who have not reserved time slots will be permitted to speak as time permits. The Council encourages speakers to use their hearing time to summarize written comments. Each interested agency, organization and individual will be asked to speak at only one of the four hearings.

The hearings will be chaired by the chairman or vice-chairman of the Council, not a hearing examiner. No cross-examination of speakers will be permitted. However, Council members may ask clarifying questions.

Transcripts of the hearings will be made and will become part of the Council's administrative record of program development. Copies of the transcript will be available for review and copying between 9 a.m. and 4:30 p.m. in the Council's Central Office, 700 Southwest Taylor Street, Suite 200, Portland, Oregon.

Written Comments

All written comments on the proposed program must be received in the Council's Central Office, at the address given above, by 5 p.m. Monday, October 25, 1982. Comments received after that time will not be considered.

Because of the large number of comments expected, special attention should be given to written comments. Written comments should be specific and concise, refer to program sections, and provide alternative language to aid redrafting. The Council requests 10 copies of each set of comments.

A copy of the administrative record of program development, including written comments on the proposed program, may be inspected and copies at the Council's public reading room in Suite 200, 700 Southwest Taylor Street, Portland, Oregon, between the hours of 9 a.m. and 4:30 p.m. weekdays.

(Sec. 4, Pub. L. 96-501, 16 U.S.C. 839b)

Edward Sheets,

Executive Director.

[FR Doc. 82-25884 Filed 9-20-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF STATE

Office of the Secretary

[Delegation of Authority No. 147; Public Notice 825]

Under Secretary of State for Management Delegation of Authority

By virtue of the authority vested in me as Secretary of State, including the authority of section 4 of the Act of May 26, 1949 (22 U.S.C. 2658), the following functions are hereby delegated to the Under Secretary of State for Management:

1. *General Delegation.*

The functions vested in the Secretary of State by Title II of the State Department Basic Authorities Act of 1956, as amended (the Foreign Missions Act, Title II of Pub. L. 97-241).

2. *Technical Provisions.*

(a) As used in this delegation of authority, the term "functions" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, determination or activity.

(b) Notwithstanding any provision of this delegation of authority, the Secretary of State or the Deputy Secretary of State may at any time exercise any function herein delegated.

(c) Any officer to whom functions are delegated by this delegation of authority may, to the extent consistent with law:

(1) Redelegate such functions and authorize their successive redelegation; and

(2) Promulgate such rules and regulations as may be necessary to carry out such functions.

(d) This delegation of authority shall be deemed to be effective on the effective date of the Foreign Missions Act (Title II of Pub. L. 97-241), which is October 1, 1982.

Dated: September 13, 1982.

George P. Shultz,

Secretary of State.

[FR Doc. 82-25903 Filed 9-20-82; 8:45 am]

BILLING CODE 4710-10-M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980; Form Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Form under review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Request for information, including copies of the form proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for Tennessee Valley Authority, 395-7340.

Agency Clearance Officer: E. Eugene Mynatt, Tennessee Valley Authority, 275 Lupton Building, Chattanooga, TN 37401; (615) 751-2146, FTS 858-2146.

Type of Request: Revision.

Title of Information Collection: TVA 7136B, TVA 7136C, and TVA 7136D, TVA Energy Saver Home Program Participation Forms.

Type of Affected Public: Architects, Contractors, Home Builders, and Local Inspection Agencies.

Standard Industrial Classification: 152.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 5,000.

Estimated Total Annual Burden Hours: 2,500.

Estimated Annual Cost to Federal Government: $1,600,000.

Need For and Uses of Information: To promote solar and energy-efficient new home construction, and to certify homes complying with the TVA Energy Saver Home Guidelines.

Dated: September 14, 1982.

Charles Bonine, Jr.,

Manager, Office of Management Services.

[FR Doc. 82-25906 Filed 9-20-82; 8:45 am]

BILLING CODE 8120-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 183
Tuesday, September 21, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, September 21, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

NYFE/NYSE Industrial Stock Index Designation
NYFE/NYSE Financial Stock Index Designation
NYFE/NYSE Utility Stock Index Designation
CME 6-month T-Bill Designation

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S-1343-82 Filed 9-17-82; 10:05 am]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, October 1, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Surveillance Briefing

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S-1343-82 Filed 9-17-82; 10:05 am]

BILLING CODE 6351-01-M

3

FEDERAL COMMUNICATIONS COMMISSION

September 16, 1982.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, September 23, 1982, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* In the Matter of Amendment of the Commission's Rules to Allow the Selection from Among Mutually Exclusive Competing Applications Using Random Selection or Lotteries Instead of Comparative Hearings, Gen. Docket No. 81–768. *Summary:* The Commission will consider whether to adopt a Second Notice of Proposed Rule Making to implement the FCC's random selection authority contained in the recent amendments to 47 U.S.C. 309(i). This rule making proposes to establish a general framework for random selection of certain initial telecommunications licenses, including procedures, administration and preferences.

Private Radio—1—Title: Amendment of Part 83 to delete or reduce the requirements for spare parts for compulsory ship stations in the Maritime Mobile Service. Summary: The FCC will consider whether to adopt a Notice of Proposed Rule Making. This action was initiated by the staff after a review of rules governing the requirements to carry spare parts, tools, test equipment and circuit diagrams to determine if these rules were unduly complex or outdated:

Common Carrier—1—*Title:* In the Matter of Satellite Business Systems. Application for authority pursuant to Section 214 of the Communications Act of 1934, as amended, to acquire and operate lines of communication between points in the contiguous United States and points in the United Kingdom and beyond. *Summary:* The Commission will consider the application of Satellite Business Systems to provide digital data communications services between the United States and the United Kingdom.

Common Carrier—2—*Title:* Amendment of Parts 34 and 35 Uniform System of Accounts and corresponding revisions to Annual Report Forms O and R with respect to accounting for customer-premises equipment (CPE) after detariffing. *Summary:* The Commission will consider soliciting views on the accounting to be followed for the detariffing of CPE, as ordered in Docket 21005 and Computer II, and the regulating changes to Parts 34 and 35 of the Commission's Rules and Regulations (Uniform System of Accounts).

Common Carrier—3—*Title:* Amendment of the Uniform System of Accounts, Part 31, to provide for changing the accounting treatment for certain telephone plant (i.e., account 221, "Central office equipment,"; account 232, "Station connections-other"; and account 234, "Large private branch exchanges"). *Summary:* This Commission will consider the adoption of a Notice of Proposed Rulemaking (1) to change the basis of depreciation and retirement procedures for the "Station connections-other" subclass of account 232 to that used for accounts 242:1, "Aerial cable," and 242:3, "Buried cable"; (2) to transfer the "Station connections-other" plant to account 242:1 and 242:3; and (3) to classify all network channel terminating equipment and subscriber pair gain equipment to account 221 regardless of its location.

Common Carrier—4—*Title:* Amendment of Annual Report Form M regarding revision of certain schedules. *Summary:* The Commission will consider whether to adopt a Notice of Proposed Rulemaking to ease certain reporting requirements in the annual report for telephone carriers in response to a petition of American Telephone and Telegraph Company.

Common Carrier—5—*Title:* Modifications to the Uniform System of Accounts for Class A and Class B Telephone Companies required by detariffing of customer premises equipment and proposed detariffing of customer provided cable/wiring as part of an intrasystem for PBXs and key systems. *Summary:* The Commission will consider whether to adopt a Notice of Proposed Rulemaking to modify the current accounting for public telephone equipment and company used station apparatus. Also this proposal establishes the prescribed accounting for telephone companies that sell or lease customer premises equipment on a detariffed basis.

Broadcast—1—*Title:* Memorandum Opinion and Order In re Application of Satellite Television Corporation for Authority to Construct an Experimental Direct Broadcast Satellite System. *Summary:* On December 17, 1980, Satellite Television Corporation filed an application for authority to begin construction of a Direct Broadcast Satellite System. This Order considers that application and all petitions to deny and other pleadings associated with that application.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office; telephone (202) 254–7674.

Issued: September 16, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1344-82 Filed 9-17-82; 10:17 am]

BILLING CODE 6712-01-M

4

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold a Closed Meeting on the subject listed below on Thursday, September 23, 1982, following the Open Meeting which is scheduled to commence at 9:30 am., in Room 856, at 1919 M Street N.W., Washington, D.C.

Agenda, Items No., and Subject

Hearing—1—Draft Decision in the City of New York Municipal Broadcasting System AM radio proceeding (Docket Nos. 11227, 17588, 19403).

This item is closed to the public because it concerns adjudicatory matters (See CFR 0.603(j)).

The following persons are expected to attend:

Commissioners and their Assistants
Managing Director and Members of his staff
General Counsel and Members of his staff
Chief, Office of Public Affairs and Members of his staff

Action by the Commission September 13, 1982. Commissioners Fowler, Chairman; Quello, Washburn, Fogarty, Jones, Dawson and Rivera voting to consider this item in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Issued: September 16, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1345-82 Filed 9-17-82; 10:12 am]

BILLING CODE 6712-01-M

5

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m., Monday, September 27, 1982.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed acquisition of computer equipment within the Federal Reserve System.
2. Proposed acquisition of check reader sorters within the Federal Reserve System.
3. Personnel actions (appointments, promotions, assignments, reassignments and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: September 17, 1982.

James McAfee,

Associate Secretary of the Board.

[S-1348-82 Filed 9-17-82; 4:00 pm]

BILLING CODE 6210-01-M

6

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

On September 14, 1982, on page 40522 we announced an open hearing on the National Commission on Student Financial Assistance's Study of the Insurance Premium. We are issuing a correction.

The notice should read:

DATE: Friday, September 24, 1982.

TIME/PLACE: 8 a.m. to 10:30 a.m., at the state capitol in Jefferson City, Missouri on the third floor in the Senate Lounge.

TIME/PLACE: 1:30 p.m. to 3:30 p.m., at Central Missouri State University in the Science Building Auditorium.

PURPOSE: To hold a hearing on the National Commission on Student Financial Assistance's study of the Insurance Premium charged to borrowers under the Guaranteed Student Loan Program.

FOR FURTHER INFORMATION CONTACT: Richard T. Jerue, Chief Executive Officer (202) 472-9023.

This hearing was called by the Insurance Premium Subcommittee Chairman, Congressman Wendell Bailey.

Submitted the 16th day of September 1982.

Richard T. Jerue,

Chief Executive Officer.

[S-1341-82 Filed 9-17-82; 10:01 am]

BILLING CODE 6820-BC-M

7

NUCLEAR REGULATORY COMMISSION

DATE: Week of September 20, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Thursday, September 23:*

10:00 a.m.:
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemptions 2 and 6)

3:30 p.m.:
Affirmation/Discussion and Vote (Public Meeting)
a. ALAB-680, Denial of Stay Motion on San Onofre Initial Decision

ADDITIONAL INFORMATION: On September 15, the Commission voted 5-0 to hold on short notice Discussion of Management-Organization and Internal Personnel Matters, held that day. Additional item: Friday, September 17, 9:55 a.m., Affirmation of Revision to Give Additional Delegation of Authority to Director, NMSS to Appoint Presiding Officer to Conduct Informal Hearing (Public Meeting).

Discussion of affirmation of Indian Point Special Proceeding—Order Responding to Licensing Board's Certified Questions held September 9 was continued on September 10.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the date of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Walter Magee,

Office of the Secretary.

September 16, 1982.

[S-1349-82 Filed 9-17-82; 4:00 pm]

BILLING CODE 7590-01-M

8

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of September 20, 1982, at 450 5th Street, N.W., Washington, D.C.

A closed meeting will be held on Thursday, September 23, 1982, at 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b (c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Commissioners Evans, Longstreth and Treadway voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Thursday, September 23, 1982, at 2:30 p.m., will be:

Formal orders of investigation.
Institution of administrative proceedings of an enforcement nature.

Institution of injunctive actions.
Regulatory matter regarding financial institution.

At time changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Richard Starr at (202) 272–3195.

September 14, 1982.

[S–1347–82 Filed 9–17–82; 3:50 pm]

BILLING CODE 8010–01–M

9

TENNESSEE VALLEY AUTHORITY.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: — FR ——, (September —, 1982).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:15 a.m., Wednesday, September 22, 1982.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

ADDITIONAL MATTER: The following item is added to the previously announced agenda:

F—Unclassified

Agreement among The Tellico Reservoir Development Agency, State of Tennessee, the Little Tennessee River Port Authority, and TVA providing for a cooperative project to promote economic development in the Tallico project area.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202–245–0101.

SUPPLEMENTAL INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting to be changed to include the additional item shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Dated: September 17, 1982.

Approved:

C. H. Dean,

S. David Freeman,

Richard M. Freeman.

[S–1346–82 Filed 9–17–82; 3:50 pm]

BILLING CODE 8120–01–M

federal register

Tuesday
September 21, 1982

Part II

Department of the Interior

Bureau of Land Management

Grazing Administration, Exclusive of Alaska; Amendment of Miscellaneous Provisions

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2514]

43 CFR Parts 4100 and 9260

Grazing Administration, Exclusive of Alaska; Amendment of Miscellaneous Provisions

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: The final rulemaking amends the existing regulations for the administration of livestock grazing use on the public lands. These amendments respond to Executive Order 12291 of February 17, 1981, by eliminating needless, burdensome and counterproductive provisions. The intent of this rulemaking is to simplify and improve the administration of grazing use and to remove cumbersome procedural detail from the regulations. The specific amendments to the existing regulations resulted from review of public comments requested by the Secretary of the Interior and consultation with affected interests.

EFFECTIVE DATE: October 21, 1982.

ADDRESS: Any suggestions or inquiries should be addressed to: Director (220), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Chester Conard, (202) 653–9193.

SUPPLEMENTARY INFORMATION: Proposed rulemaking to amend the existing grazing regulations was published in the Federal Register on November 13, 1981 (46 FR 56132) with comments invited for a period of 60 days. The comment period was later extended to February 11, 1982. A total of 81 comments were received and were carefully reviewed as part of the decisionmaking process in the development of this final rulemaking.

The discussion of the comments will be divided into two categories. General comments will be discussed first, then specific comments will be addressed in connection with the sections to which they refer.

General Comments

Most of the comments were supportive of the Department of the Interior's effort to remove what were perceived to be burdensome and cumbersome sections of the existing regulations. Commenters generally thought the proposed amendments streamlined the regulations and would provide local managers with greater flexibility in developing rangeland management programs and solutions that would be appropriate to local needs and conditions.

Much of the streamlining will be accomplished by transferring administrative detail now contained in the existing grazing regulations to the Bureau Manual sections relating to grazing administration, particularly where such detail does not contribute to an understanding of the regulations but, instead, consists of technical or procedural guidelines for field offices responsible for grazing administration. These manual sections are public documents which are available for public review upon request. Specific sections of the existing regulations that will be transferred to the Bureau Manual will be identified in the discussion of those sections.

Numerous comments expressed the concern that removal of references to land use planning from specific sections of the regulations would limit public involvement in land-use planning and reduce the Bureau of Land Management's compliance with the statutory requirement for multiple use management of the public lands. Removal of references to land-use plans is consistent with efforts to eliminate repetitive provisions from the regulations. In addition, 43 CFR 1600 and the Federal Land Policy and Management Act require grazing administration to be consistent with land-use planning. Deletion of numerous references to planning from the regulations does not negate the Bureau of Land Management's responsibility to comply fully with the requirements for land-use planning. These requirements specify that all uses of the public lands be considered within the context of multiple use, and that the planning process provide adequate opportunities for public participation.

The final rulemaking, however, amends the proposed rulemaking to reaffirm the Bureau of Land Management's intent to conduct land-use planning as required by law. A reference to land use plans is included within the "Objectives" section and references to land use planning have been retained in sections 4120.1—Allotments and 4130.2(d)(3)—Grazing Permits or Leases. These references affirm that land use planning is the primary method for determining the balance of resource uses that will best satisfy the requirement for multiple use of the public lands.

Comments also expressed a general concern about the proposal to remove from the existing regulations the section outlining the specific requirements of Rangeland Program Summaries. After considering the comments received, it was decided that transferring this section to the appropriate Bureau Manual section complied with efforts to remove administrative detail from the regulations, while not affecting the program itself.

Specific Comments

Objectives, § 4100.0–2—Several comments expressed the view that the existing language was negative in tone, and unfairly portrayed the resources as needing protection from livestock grazing. The Taylor Grazing Act, the Federal Land Policy and Management Act, and the Public Rangelands Improvement Act all refer to protection of the rangeland resources, including the prevention of injury caused by overgrazing.

To ensure that the Objectives section fairly represents legislative intent, the final rulemaking modifies the objectives to include specific language taken from these laws, and to reflect the Department of Interior's intention to deter unauthorized use of rangeland resources.

Definitions, § 4100.05—The proposed rulemaking would have modified three definitions, deleted one definition, and added two new definitions to the existing regulations. Comments received on the proposed rulemaking offered several modifications to proposed definitions, and suggested changes to other existing definitions. Each comment was reviewed, and several changes were made to proposed or existing definitions in response to the comments.

The final rulemaking retains the definition of the term "Allotment Management Plan" set forth in the proposed rulemaking, but removes subparagraphs describing the detailed provisions of such plans. These subparagraphs will be transferred to the Bureau Manual as part of the streamlining of the existing regulations.

The final rulemaking modifies the new term, "certified actual use," which was included in the proposed rulemaking to provide managers with certified information concerning the amount of use made by livestock during the grazing period. Most comments expressed the view that the proposed definition was satisfactory, but some expressed concern that certified use reports could possibly be used as the basis for actions against unauthorized use. One comment indicated that the proposed rulemaking, as written, could result in misinformation because it required certification on the basis of animal unit months and permittees and lessees were not trained to compute use in animal

unit months. In response to this comment, the final rulemaking removes the reference to AUM's from the definition. This amendment does not remove the provision that the permittee or lessee may be required to submit a certified actual use report of the livestock use made under the permit or lease.

Several comments were received suggesting various changes to the definition of "consultation, cooperation and coordination" in the proposed rulemaking. Although these comments were carefully considered, they were not adopted as final rulemaking.

One respondent recommended that the term "grazing preference" be additionally defined as "a right to the privilege of grazing." Although the Taylor Grazing Act and the Federal Land Policy and Management Act both provide that existing holders of permits or leases shall normally receive preference in the renewal of permits or leases, these laws also give the Secretary of the Interior the authority to revoke these privileges under certain circumstances. In addition, Section 3 of the Taylor Grazing Act specifies that issuance of a permit (or lease) pursuant to the provisions of the Act "shall not create any right, title, interest, or estate in the land." Thus, adoption of this recommendation would be inconsistent with the law.

One comment recommended a change in the term "indigenous animal." The definition has not been changed; however, the final rulemaking does include revisions to § 4130.4–4 and § 4140.1 which relate to indigenous animals.

The term "monitoring" was also the subject of comments. Some comments indicated that the definition was not entirely consistent with the use of the term in the regulations, or that it might be confused with use supervision. The final rulemaking modifies the definition of monitoring to reflect these comments.

The proposed rulemaking removed the definition of "range betterment fund" from the existing regulations. Some comments recommended retention of the definition and additionally suggested it be modified to state that the fund should be devoted to on-the-ground improvements. Other comments interpreted the deletion of the definition and all reference to the range betterment fund from the regulations to mean the Bureau of Land Management would not comply with the law. The range betterment fund is mandated by the Federal Land Policy and Management Act and must be maintained by the Bureau of Land Management. References to this fund have been omitted from the final rulemaking as unnecessary.

Several comments received concerning the term "Range improvement" indicated the language was not consistent with that of the Public Rangelands Improvement Act. After reviewing these comments, this section was revised to reflect language taken directly from the Public Rangelands Improvement Act.

One comment was received suggesting that the definition of supplemental feed be revised to indicate that supplements may be supplied to complement grazing animal maintenance and/or management. The intent of this comment is reflected in the revised definition specifying that supplements are used for improved livestock and rangeland management, rather than to supplement range forage.

Comments were also received concerning the term "suspended preference". Most comments expressed a preference for a definition that focused on voluntary non-use by the operator. After consideration of these comments, it was decided that the term "suspended preference," as defined in the proposed rulemaking, should be retained because it more accurately describes the procedures used when a portion of the public land grazing use is suspended because forage is not available on a sustained yield basis. Temporary non-use is a voluntary adjustment. The final rulemaking, however, does add language to the term "suspension" to recognize that permittees or lessees may voluntarily request that portions of their active grazing preference be placed in suspension.

Base property, § 4110.2–1—The proposed rulemaking would have deleted the requirement that an applicant provide a legal description of the base property. Comments received recommended this language be retained because the authorized officer uses the legal description to determine if the applicant owned or controlled base property. Ownership or control of base property is required before the authorized officer can recognize or approve transfer of a grazing preference. As a result of the comments, this section has been retained in the final rulemaking.

Transfers of grazing preference, § 4110.2–3—Several comments were received on this section. Generally, they indicated that the existing process was cumbersome to follow. After careful consideration of these comments, the Bureau of Land Management removed procedural guidance from final regulations for the purposes of streamlining. The portions removed will be incorporated into the Bureau Manual.

Additional forage, § 4110.3–1—The comments received concerning this section varied widely. The proposed rulemaking alters the priority for allocating additional forage permanently available for livestock grazing, over and above the existing preference. The priority as proposed was to be: first, to the permittees in proportion to their contributions which resulted in this increase; and second, in proportion to the permittee's preference or to other qualified applicants.

Based on comments received during the comment period, the Bureau has placed "other qualified applicants" into a third priority, to emphasize that existing permittees would receive a higher priority. Several comments noted that this system of allocation creates incentives for investment in public lands and may lead to the creation or expectation of a vested interest in the public land. It is Bureau policy to encourage private investment in public lands, based on the assumption that such investment will create better stewardship practices on the public lands.

Permits for range improvements can be authorized under § 4120.6–3 of these regulations or through a cooperative agreement under § 4120.6–2 of these regulations. The range improvement permit acknowledges that a structure or facility is the property of the permittee. However, such ownership does not imply any interest, right, or title to the lands.

One comment noted that it was not clear whether the timing of the initial adjustment is dependent upon the availability of data or is based upon mutual agreement. Data gathering through monitoring efforts will be the primary method utilized to modify the allocation of forage to livestock.

Decrease in forage, § 4110.3–2—Public comments dealt with two proposed changes to paragraph (c) of this section. The first change would have allowed reductions to be implemented either through mutual agreement or by decision. Some of the comments received expressed concern that mutual agreements would not be open for public review, and therefore could not be contested. Other comments requested clarification of what is meant by mutual agreement. Following careful review of public comments, it was determined that even in the case of mutual agreement, the agreement should be open for public review. Therefore, the amendments provide for including the substance of the agreements in the Rangeland

Program Summary and subsequent updates, if appropriate.

The second change would allow authorized officers to issue decisions providing for monitoring to collect adequate, reliable data prior to the initiation of a five year adjustment period. This recognizes that a one-point-in-time survey or forage inventory without monitoring support is not considered adequate, reliable data to serve as a basis for forage allocation decisions.

Comments received indicated that, as written, the proposed rulemaking would permit arbitrary decisions, or decisions without adequate basis in fact. Other comments stated that decisions should not be issued at all until such time as adequate data were available, and that the data be acceptable to all affected parties rather than to just the authorized officer.

This paragraph has been reworded to clarify the intent of the proposed rulemaking. Decisions issued when adequate data are unavailable will specify the data needed and the procedures to be used for arriving at the adjustments in the livestock stocking rates. This provision allows BLM to commence the five year adjustment period when adequate, reliable data are available and to assure that needed adjustments are made in a timely manner.

One comment suggested that the Grazing Advisory Boards be involved in the adjustment process. The role of Grazing Advisory Boards is specifically defined in the Federal Land Policy and Management Act to advise and make recommendations on the development of Allotment Management Plans and the utilization of range betterment funds. Within the scope of allotment management planning, the District Manager can seek advice regarding management considerations such as stocking rates, seasons of use, grazing systems, etc. Although not specified in their charter, Grazing Advisory Boards can participate in the land use planning process, which leads to the issuance of grazing decisions.

Several commenters suggested retaining the provision that the initial adjustment shall be sufficient to achieve significant progress towards achieving the vegetation objectives set forth in the land use plan for the five year period. This phrase was not retained for two reasons. First, in some cases data will not be available to determine an initial level of adjustment needed to achieve identified vegetation objectives.

Second, in those cases where sufficient data exist to base an initial adjustment, the adjustment will be further modified through the use of monitoring data. Since the initial adjustment is simply a starting point for management, it is not always possible to determine the magnitude of an adjustment necessary to lead toward the achievement of vegetation objectives. Such information becomes apparent through the monitoring process.

Additional land acreage § 4110.4–1—Two commenters wanted to eliminate the discretionary authority of the authorized officer because such authority could be used arbitrarily. One commenter suggested that the deletion of the reference to land use planning left the authorized officer without guidance for making allocations of forage and if this reference was removed, the phrase "multiple use management objectives" should be substituted. The discretionary authority permitted the authorized officer refers only to a decision on whether a forage allocation will be made. If made, the regulation provides guidance to the authorized officer by requiring that any allocations shall be made based upon the factors listed at § 4110.5.

Decrease in land acreage § 4110.4–2—One comment stated that if grazing was canceled due to reduction of land available for grazing, the original grazing permittee should have preference to the grazing use if it is reinstated. Section 4110.5 specifies how such distribution shall be made, and notes that historical use shall be one of the factors considered in reallocating grazing use.

Several comments were also received concerning changing the provision of paragraph (b) of this section requiring a two year notification prior to cancellation of a grazing permit or lease in part as well as in whole, when public lands are disposed of or are devoted to a public purpose which precludes livestock grazing. Concern was expressed by some commenters that requiring two year notification for partial cancellation would unduly delay other uses of the land such as making additional lands available for community expansion purposes. In response to these comments, it was determined to return to the language in the original regulations, providing for a 2 year notification in the case of cancellation in whole.

Mandatory terms and conditions § 4120.2–1—The language of the proposed rulemaking was designed to conform paragraph (b) with language contained in section 402(e) of the Federal Land Policy and Management Act. Several comments were received stating that placing decisions in full force and effect granted excessive authority to the authorized officer and that any adjustments in grazing use should be made following consultation, coordination and cooperation with the affected parties. After careful consideration of these comments, it was determined that existing statutes grant authority to manage livestock and that authority is properly reflected in existing regulations which are being retained in the final rulemaking. The management authority contained in paragraphs (b) and (c) of the existing regulations is needed to allow the decision maker to adequately protect the public lands. The proposed change would excessively limit the authority given by statutes to protect the public lands and their users. The final rulemaking does delete the language contained in paragraph (b) on placing decisions in full force and effect.

As a result of this change, the procedures for applying full force and effect decisions will be placed in the Bureau Manual.

Other terms and conditions, § 4120.2–2—Paragraph (c) of this section was revised to include the phrase "for improved livestock and rangeland management" to acknowledge that placement of supplemental feed, including salt, can be used as a range management tool. Several comments were received concerning the proposed changes to paragraph (d) that would require livestock permittees to submit a certified actual use report within 15 days. Two commenters thought 15 days was too short; another thought that certification would not ensure an accurate report of use; a fourth felt that certifying actual use was burdensome. These comments were carefully considered. However, the language was retained because actual use reports must be as accurate as possible to support the Bureau's monitoring efforts. Under normal circumstances, 15 days should be adequate for certification.

Allotment management plans, § 4120.2–3—Some commenters expressed a concern that giving the authorized officer the authority to determine when allotment management plans may be developed was contrary to the intent of the Public Rangelands Improvement Act. The Department has determined that this is a proper delegation of Secretarial authority within the intent of the Public Rangelands Improvement Act of 1978. Section 8 of this act conveys discretionary authority for the Secretary to develop allotment management plans, and if he elects to do so, it requires consultation, cooperation and coordination among all affected parties

concerning the development of such plans.

Temporary modifications and closures to livestock use, § 4120.3—Proposed rulemaking modified this section by removing procedural detail that belongs more appropriately in the Bureau Manual. Comments received generally were in agreement with the proposed language. One comment suggested that paragraph (a)(3) be retained as needed guidance for the authorized officer. This recommendation was accepted and is incorporated in final rulemaking. Another commenter suggested that paragraph (a)(4) be retained and modified to allow ranchers five to ten days to remove livestock affected by the closure. This suggestion was not adopted because this section addresses emergency situations, such as fire, flood, insect infestation or drought, that require immediate action. Consequently, decisions made under this section are implemented under full force and effect provisions.

Ownership and control of livestock, § 4120.4—One commenter recommended that all language after the first sentence be deleted. This recommendation was not adopted because it would substantially bypass the statutory requirement to manage public lands in the public interest, and to administer livestock grazing on the public lands. Other commenters suggested that any identifying marks on livestock should be in compliance with state law. These suggestions were not accepted because of the substantial variation among states concerning appropriate identification and the fact that in some cases, grazing activity occurs across state boundaries. BLM does recognize state livestock identification practices and procedures and relies upon these for identification of livestock on the public lands. The proposed regulations will be adopted as final rulemaking.

Conditions for range improvements, § 4120.6–1—Three commenters stated that the word "install" should not be deleted from paragraph (c) because this authority is needed to assure that terms and conditions are adhered to, particularly in allotments where there are two or more permittees or lessees. This suggestion was adopted by including it as a separate paragraph (d) to emphasize its applicability to allotments with two or more permittees or lessees and to assure that the terms and conditions of an agreement are met.

Several commenters opposed deletion of existing paragraph (e) of this section which deals with the distribution and use of range betterment funds. The expenditure of these funds is governed by statute and need not be repeated in regulations to assure BLM's compliance with existing law. Removal also contributes to streamlining the regulations.

Cooperative agreements, § 4120.6–2—One commenter suggested that credit in the title to a rangeland improvement be given in proportion to the investment made by a permittee or lessee in a rangeland improvement constructed under cooperative agreement. This suggestion is not adopted at this time because procedures for determining what portion of the improvement vests in the Federal government and what portion vests in a permittee or lessee may involve unforseen administrative difficulties. This comment will be fully considered at a later date. Section 4120.6–3 provides for issuing a range improvement permit which allows a permittee or lessee to construct a removable range improvement with total private funding, and retain full title to that improvement.

Range improvement permits, § 4120.6–3—One commenter requested that paragraph (c) of this section be revised so that redesignation of base waters could only be done with the permission of the permittee and with the concurrence of the water base owner. This suggestion was not adopted because the Bureau of Land Management needs to retain the capability to redesignate livestock use areas to achieve multiple use objectives.

Standards, designs and stipulations, § 4120.6–4—Several comments were received which opposed the Bureau's authority to require modification of existing improvements. This provision was retained because the Bureau of Land Management by law is required to provide for multiple use of the public lands and to accomplish multiple use objectives. In some cases, modifications to existing improvements may be necessary to assure the improvement is compatible with other uses.

Assignment of range improvements, § 4120.6–5—One commenter thought that this section should be deleted and range improvements should transfer automatically with the transfer of a permit. This suggestion was not adopted. Such assignment is necessary for the protection of an existing permit holder's interest in rangeland improvements, as required by the Taylor Grazing Act.

Removal and compensation for loss of range improvements, § 4120.6–6—One commenter thought that the language in paragraph (a) of this section requiring prior authorization for removal of range improvements amounted to confiscation of private property. No change was made in response to this comment. The requirement for prior authorization for installation or removal of an improvement is necessary to ensure that such action does not conflict with multiple use objectives, and that necessary rehabilitation measures are performed.

One commenter suggested deletion of paragraph (b) concerning installation and removal of range improvements when the improvement no longer serves the purpose for which it was originally installed. The commentor stated that ". . . there is no statutory authority to force an individual to remove improvements." The Taylor Grazing Act and the Federal Land Policy and Management Act provide the Bureau with the authority to regulate the use of the public lands. Removal or modification of range improvements are consistent with the intent of existing law.

One commenter suggested that paragraph (c) of this section be revised to require that permittees or lessees receive fair market value from the United States for their interest in authorized rangeland improvements when the public lands are no longer available for grazing purposes. The regulation presently provides that permittees or lessees shall receive fair market value, less salvage value, for their interest in authorized range improvements on the public lands. This results in the permittee or lessee receiving fair market value.

One commenter suggested that paragraph (c) of this section be retained, but modified to remove the phrase "less salvage value." This suggestion was not adopted because, unless salvage value is substracted from the market value of the existing improvement, the Federal government would be reimbursing the permittee or lessee for an improvement in excess of its fair market value.

Two comments were received that addressed paragraph (d) of this section. One commenter requested the words "in this removal" be added at the end of the paragraph. The intent of this comment was adopted because it clarifies that any rehabilitation measures deemed necessary by the authorized officer must be directly associated with the removal of a specific improvement. Another commenter stated that the Bureau of Land Management's authority to require rehabilitative measures following removal of an improvement was a "repressive regulation without statutory authority." No changes were made in response to this comment because laws applicable to public land management mandate the Bureau shall manage the

public lands in a manner that will protect and improve the environment.

Special rules, § 4120.6—Several commenters responded to the proposed revision of this section by recommending retention of the provision requiring that special rules be published in a local newspaper. This recommendation was adopted to reflect the Bureau of Land Management's intent to provide adequate public notice to all persons potentially affected by any special rule.

Grazing permits or leases, § 4130.2—One commenter suggested that paragraph (a) of this section be modified to allow for grazing permits or leases to be issued for a term "not less than nor to exceed" 10 years. This suggestion was not adopted because the Federal Land Policy and Management Act recognizes specific conditions exist that warrant the issuance of a permit or lease for a period shorter than 10 years. One commenter thought that the proposed amendments to paragraph (b) of this section removed the authority to authorize nonuse. No changes were made in response to this comment because reference to this authority is contained in the opening paragraph of Section 4130.1. Two commenters recommended removal of paragraph (c), of section 4130.2 which specifies that "grazing permits or leases convey no right, title, or interest held by the United States in any lands or resources." Since this provision is specifically mandated by Section 3 of the Taylor Grazing Act, this recommendation was not adopted. A few comments suggested that the proposed removal of subparagraph (d)(2) of this section deleted guidance to the authorized officer. These comments were not adopted because the Federal Land Policy and Management Act lists specific conditions under which permits or leases can be issued for periods of less than 10 years. Guidance to the authorized officer for complying with these specific conditions will be provided through the Bureau Manual.

A comment was received concerning subparagraph (d)(3) of this section, suggesting that it be revised by substituting the word "may" for "shall". This comment was not adopted because where such changes are required by land use planning, the Bureau's authority is non-discretionary, and decisions reached through the land use planning process cannot be modified except through amendment to the land use plan. One commenter thought that all of paragraph (d) violated congressional intent. Since all provisions of paragraph (d) are derived from statutory authority, no changes were made in response to this comment.

Other grazing authorizations, § 4130.4–4—One comment received in relation to section 4130.4–1(b) suggested the insertion of additional language to clarify the original purpose for agreements for exchange-of-use outside allotments. This subpart has been modified in the final rulemaking to emphasize that lands outside of allotment boundaries may be included in an exchange-of-use agreement, but only where it would meet multiple use objectives for the public lands. Another commenter wanted a provision in this subpart stating that State agencies would be notified whenever a permittee or lessee offered State lands for an exchange-of-use agreement. This provision would be more appropriately addressed through the Bureau Manual and, consequently, the suggestion was not adopted. Another commenter stated that all of Section 4130.4–1 should be deleted, because its provisions were not covered by statutory authority. No changes were made in response to this comment because it was determined that the statutory authority to manage and improve the public lands for multiple use provided the Bureau with the capability to authorize actions which would contribute to achievement of multiple use objectives.

Special grazing permits or leases, § 4130.4–4—One comment was received suggesting that the phrase "land use plans" be deleted and replaced by "multiple-use objectives." This suggestion was adopted.

Payment of fees, § 4130.5–1—Numerous comments were received on this section. One commenter requested that the definition of an Animal Unit Month be revised and variable conversion rates be established, based on the kind, class, and age of animal. This suggestion was not adopted because billings would become extremely complex, and it would be impossible to ensure that the livestock being grazed conformed with those for which the grazing fee had been assessed. In addition, the Bureau already takes these factors into consideration when determining livestock stocking rates for public land areas.

Another commenter suggested that the minimum fee of ten dollars be deleted. This suggestion was not adopted because the provision meets the need to recover administrative costs associated with a grazing permit, and is in support of the Department of Interior's program of maximizing cost recovery.

Several individuals suggested that billings be after-the-fact, both in areas covered by allotment management plans and areas not covered by such plans. After consideration of the comments, it was determined not to adopt this suggestion for two reasons. First, allowing after-the-fact billing in allotment management plan areas was provided as an incentive to encourage permittees and lessees to participate in the development of intensive management plans. Government regulations generally require payment in advance for goods or services provided by the government. A waiver had to be obtained from the Office of Management and Budget to allow for even limited after-the-fact billing in the case of allotment management plans. Second, the interest receipts that would be lost to the government cannot be justified, particularly in view of Federal efforts to offset government expenses and maximize returns.

One commenter recommended that the language in paragraph (f) of this section be retained in order to assure compliance with existing law concerning deposit of fifty percent of grazing fee receipts in a separate account in the Treasury for the range improvement program. This provision was deleted as part of the streamlining of the regulation. The Bureau is still obligated by law to place these monies in a separate account in the Treasury.

Refunds, § 4130.5–2—One comment was received on this section, asking that the word "may" be changed to "shall" to remove the discretionary authority of the authorized officer to refund grazing fees when a permittee or lessee applies for a refund prior to the period of use for which a grazing fee has been paid. This comment was considered but not adopted because the Taylor Grazing Act authorizes the refunding of fees only under specified emergency conditions.

Service charge, § 4130.5–3—Several comments were received on this section. Most requested clarification of how fees would be assessed because of variations among Districts, or asked that a set fee be established. After consideration of these comments, the proposed rulemaking was modified to clarify that a Bureauwide Service Charge would be established, and that a service charge would only apply to supplemental billing notices, transfers of grazing preference and crossing permits. The service charge would not apply to original billings or actions initiated by the authorized officer.

Changes in grazing use, § 4130.6—One comment was received concerning changes in grazing use. The commenter

requested that the word "may" be replaced by "shall". After consideration of this suggestion, the Department determined that "may" should be retained since the authorized officer must consider whether the changes in grazing use as applied for are consistent with multiple use objectives.

Pledge of permits or leases as security for loans, § 4130.7—One comment suggested that only the first sentence of this section be retained. This suggestion was not adopted because the language is required to clearly state the fact that grazing permits are a privilege and not a right, and that the Secretary retains the right to modify or revoke such permits or leases as needed to provide for the management of public lands, or to allow the lands to be devoted to other public purposes.

Acts prohibited on public lands, § 4140.1—Several comments interpreted the provisions of paragraph 1(b) of this section to mean that persons committing prohibited acts could be made subject to both civil and criminal penalties, and could be prosecuted under Title 18 and suffer loss or reduction of privileges under section 4170. These provisions are specifically provided for under the Federal Land Policy and Management Act and the legal question of double jeopardy is not applicable on this point. The issue raised by this comment will be further considered by the Solicitor at a later date. Authorization for public land use is granted at the discretion of the Secretary of the Interior, and the Department reserves the right to examine the activities of users of the public lands to determine whether this use should continue to be granted, especially in the case of an individual who has violated a statute.

Several other commenters requested deletion of various prohibited acts because they thought they were redundant or exceeded statutory authorities. These comments were not adopted because the authority is established by the Taylor Grazing Act and the Federal Land Policy and Management Act to pursue violations of these acts. Further, publication of these prohibited acts as part of regulations emphasizes which acts are prohibited and is intended to prevent and discourage such acts.

Notice and order to remove, § 4150.2—Two comments were received suggesting that the language be revised to cover the situation where it is "known" that a violation exists rather than where it "appears" that a violation exists. This suggestion was not adopted because it requires prejudging that a violation has occurred and would deny an alleged violator the right to present evidence to the contrary.

One commenter indicated that the proposed language appeared to remove the authorized officer's authority to place decisions in full force and effect in an emergency situation. This authority is provided for in §§ 4120.3 and 4160.3 of these regulations.

One comment recommended retention of the provision for notifying a lienholder when it appears a violation exists. A second comment recommended removing this provision because it would appear to create uncertainty on the part of the lienholder. After consideration of these comments, specific procedures for notification of lienholders concerning violations will be placed in the Bureau Manual and have been deleted from this section as well as other sections of the regulations.

One comment objected to the use of the term "specified time" to remove livestock. It was determined that the use of the term "specified time" provided sufficient flexibility to accommodate individual requirements. The final rulemaking includes a sentence under paragraph (a) to acknowledge that the "Notice and Order to Remove" shall also allow a specified time for the alleged violator to show that there has been no violation or to make settlement. The purpose is to allow the alleged violator due process.

Settlement, § 4150.3—Several comments were received that supported an increase in fines for unauthorized use. Several other comments objected to increases in settlement costs, particularly in cases of nonwillful unauthorized use. Since nonwillful violations may occur because of the actions of other public land users, the comments expressed the view that the increased assessments in the proposed rulemaking were punitive or unduly harsh.

Increased settlement charges of three times the value of the forage consumed for willful or repeated willful violations have been retained as proposed because it is believed that these settlement charges will act as a deterrent to unauthorized use. All expenses incurred by the United States in cases necessitating impoundment of livestock are included in settlement costs for all categories of unauthorized use because impoundment action is taken only when an alleged violator refuses to remove the livestock following notification, or the owner of the livestock is unknown.

In these cases, the costs of impoundment result from the negligence of the alleged violator, and are therefore an obligation of the livestock owner and included in settlement charges.

In response to comments concerning settlement for nonwillful violations, the final rulemaking modifies this section to recognize that isolated instances of nonillful unauthorized use do occur and should be assessed at the value of the forage consumed, as specified under section 4150.3(a)(1). In addition, a new category of unauthorized use called "repeated nonwillful" has been developed in the final rulemaking to handle situations where permittees or lesses fail to take actions which would prevent reoccurrence of nonwillful use. Settlement charges for repeated nonwillful use will be assessed at twice the value of the forage consumed.

Impoundment and disposal, § 4150.5, redesignated as § 4150.4—Comments received on this section requested that the time period between notification and impoundment of livestock, as specified in 4150.5–1 and 4150.5–2, be increased from 5 to 10 days. These comments were not adopted because it was determined that 5 days are adequate for the livestock owner to remove unauthorized livestock from the public lands. One comment recommended several subparagraphs be removed from the section and replaced by a statement that the Bureau of Land Management would comply with appropriate State laws and regulations affecting impoundment and disposal of livestock. The authorized officer, in exercising discretionary authority, can follow State law when deemed appropriate. The current regulations state, when a suitable agreement with the State is in effect, the Bureau may turn the impounded livestock over to the State for disposal. Two comments specifically addressed the need to retain language authorizing reoffering of impounded livestock for sale, or destroying the livestock, if satisfactory bids were not received during the original sale offer. Final rulemaking adopts this suggestion to ensure that, when sold, a fair market price is received for the livestock.

Closure to control unauthorized grazing use, § 4150.6—Numerous comments were received recommending that this section be retained. The concerns expressed were that the Bureau of Land Management needed to retain closure authority to control chronic unauthorized use problems and to take action when emergency measures were needed for resource protection. No changes were made in response to these comments because emergency closure authority is provided under section 4120.3. The Bureau has strengthened its ability to address

chronic unauthorized use problems by increasing settlement charges for such use under section 4150.2 and by providing authorized officers with the additional authority to take action under section 4170 of these regulations.

Proposed decisions on permits and leases, § 4160.1—Final rulemaking amends proposed changes to the opening paragraph of this section that would have erroneously limited the issuance of decisions to only actions on applications for permits or leases. Numerous comments were received on paragraph (a) of this section concerning the proposed deletion of procedural requirements for the Rangeland Program Summary and appropriate Updates. Commentors also expressed the view that a "summary document" would not fulfill the requirement for a Rangeland Program Summary. The final rulemaking does not reverse the Bureau of Land Management's commitment to publishing a document summarizing land-use planning decisions affecting specific areas of the rangeland. Rather, the intent is to provide sufficient flexibility concerning the name of the documents that have the major purpose of summarizing rangeland programs.

The proposed rulemaking would have deleted the requirement for updates to the summary document. In response to numerous comments indicating this deletion would restrict public participation in the Bureau of Land Management's decisionmaking process, the final rulemaking reestablishes the requirement for preparation of appropriate updates.

The final rulemaking does not modify the proposed removal of procedural detail concerning information that should be included in summary documents and updates. This administrative detail will be transferred to the Bureau Manual as part of the effort to streamline these regulations.

One comment received on paragraph (b) of this section recommended the word "shall" be changed to "may" in the opening sentence to indicate that grazing decisions need not include all items listed. The final rulemaking does not incorporate this suggestion because such modification would dilute the authority necessary for proper administration of grazing use.

Proposed decisions on alleged violations, § 4160.1–2—One comment suggested the protest period be extended from 15 to 30 days. This comment was not adopted because the Department of the Interior determined that 15 days are adequate for a permittee or lessee to file a written protest or to have a verbal protest accepted and recorded. Another comment requested that final rulemaking delete notification of a lienholder when proposed decisions are issued. The concern was that such notification would raise unnecessary doubts in the mind of the lienholder concerning the managerial ability of the livestock operator. Final rulemaking does not incorporate this suggestion.

Protests, § 4160–2—The final rulemaking amends a proposed change that would have unintentionally limited protests to decisions on violations only. The correct provision is that adversely affected interests may protest proposed decisions under section 4160.1 of these regulations.

Final decisions, § 4160.3—The final rulemaking modifies the proposed rulemaking by inserting the word "known" in subparagraph (b) of this section to clarify that authorized officers are required to serve final decisions to "known affected interests". This change clarifies that an authorized officer cannot issue final decisions to all affected interests unless they make themselves known.

Numerous comments expressed the concern that the proposed removal of the procedural guidance for issuing full force and effect decisions would leave the Bureau of Land Management without the authority needed to issue such decisions. The Bureau retains this authority under paragraph (c) of this section. Procedural guidance will be placed in the Bureau Manual as part of the effort to streamline these regulations.

The final rulemaking clarifies the revisions made to the existing paragraph (e), by changing the phrase "5-year phased-in decision" to "5-year implementation schedule". This change was made to clarify that the adjustments in grazing use (either suspensions or increases) would be made through the issuance of separate decisions over a five year period, in years 1, 3, and 5. In addition, this section was modified to reflect that the decisions issued in the fifth year of a 5-year implementation schedule may be placed into full force and effect.

Two comments expressed the view that the regulations should provide for reimbursement of economic losses suffered by permittees or lessees on a reversal of a full force and effect decision that has been appealed. The final rulemaking does not incorporate this suggestion. Adequate legal recourse is already available to persons wanting compensation for losses incurred as a consequence of administrative actions.

Penalty for violations, § 4170.1–1—A number of comments were received addressing the potential for double jeopardy. One comment expressed the view that only the courts, and not federal agencies, should be able to assess penalty for violations of regulations. These comments have been previously responded to in this preamble, under the heading "Prohibited Acts on Public Lands".

Other changes, § 9264.1, is being amended to reflect changes made by this final rulemaking in subpart 4140. Section 9264.1 is a simple restatement of the prohibited acts that may be subject to criminal penalties set out in subpart 4140 and is, therefore, administrative. Editorial corrections have been made as needed and some wording has been added to improve the clarity of the regulations.

The principal author of this final rulemaking is Ronald B. Wenker, Division of Rangeland Resources, Bureau of Land Management, assisted by the Office of Legislation and Regulatory Management.

The Department of Interior has determined that this document is not a major rule under Executive Order 12291. This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354). The purpose of the rulemaking is primarily to streamline existing regulations and procedures, and will affect all individuals or entities in a similar manner. The information collection requirement contained in § 4120.6–1 has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0068.

List of subjects

43 CFR Part 4100

Administrative practice and procedure, Grazing lands, Livestock, Penalties, Range management.

43 CFR Part 9260

Continental shelf, Forest and forest products, Law enforcement, Penalties, Public lands, Range management, Recreation, Wild horses, Wildlife.

Under the authority of the Taylor Grazing Act of 1934, as amended (43 U.S.C. 315(a)–(r), Section 4 of the Act of August 28, 1937 (43 U.S.C. 1181(d)) and the Federal Land Policy and Management Act of 1976, as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1701 et seq.), Part 4100, Subchapter D and Part 9260, Subchapter I, Chapter II of Title 43 of the

Code of Federal Regulations are amended as set forth below.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

August 12, 1982.

PART 4100—GRAZING ADMINISTRATION—EXCLUSIVE OF ALASKA

1. Insert immediately above the heading, Part 4100—Grazing Administration—Exclusive of Alaska:

Note.—The information collection requirements contained in 43 CFR Part 4100 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers: 1004–0005; 1004–0016; 1004–0019; 1004–0020; 1004–0041; 1004–0047; 1004–0048; 1004–0049; 1004–0051; and 1004–0068. The information is being collected to allow the authorized officer to determine if an application to utilize the public lands for grazing purposes should or should not be granted. This information will be utilized in making this determination. The obligation to respond is required to obtain a benefit.

2. Section 4100.0–2 is revised to read:

§ 4100.0–2 Objectives.

The objectives of these regulations are to enhance the productivity of the public rangelands by preventing overgrazing and soil deterioration; to provide for their orderly use, improvement and development; to stabilize the livestock industry dependent upon the public range; provide for inventory and categorization of public rangelands on the basis of range conditions and trends; consistent with land-use plans, multiple use, sustained yield, environmental values, economic and other objectives stated in 43 CFR Subpart 1725; the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a–315r); section 102 of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701 et seq.) and the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.).

§ 4100.0–5 [Amended]

3. Section 4100.0–5 is amended as follows:

a. By removing the paragraph designations.

b. By revising the definition for "Allotment management plan" as follows:

"Allotment management plan (AMP)" means a document program which applies to livestock operations on the public lands, prepared in consultation, cooperation and coordination with the permittee(s), lessee(s) or other involved affected interests.

c. By adding in alphabetical order or revising the following definitions:

"Certified actual use" means a report of the actual livestock grazing use certified to be accurate by the permittee or lessee.

* * * * *

"Consultation, cooperation and coordination" means communication between the Bureau of Land Management, other agencies and affected permittee(s) or lessee(s), landowners involved, the district grazing advisory boards where established, any State having lands within the area to be covered by such an allotment management plan and other affected interests regarding the planning and preparation of management alternatives for the purpose of deliberation, the interchange of opinions, and the potential resolution of differences or disputes, which recognizes:

(1) The knowledge and experience of those involved or interested in the management of rangelands; and

(2) The Bureau of Land Management's ultimate authority to ensure the proper management and use of public lands;

* * * * *

"Grazing fee year" means the 12 month period used for billing purposes.

* * * * *

"Land use plan" means a planning decision document under the provisions of the Federal Land Policy and Management Act which establishes resource allocations and coordinated objectives and constraints for all forms of public land and resource use within the area covered by the plan;

* * * * *

"Livestock grazing capacity" means the number of animal unit months of forage available for livestock grazing on a sustained yield basis on the public lands.

* * * * *

"Monitoring" means the orderly collection of data to evaluate:

(1) Effects of management actions; and

(2) Effectiveness of actions in meeting management objectives.

"Range improvement" means any activity or program on or relating to rangelands, designed to improve production of forage; change vegetative composition; control patterns of use; provide water; stabilize soil and water conditions; and provide habitat for livestock and wildlife.

* * * * *

"Supplemental feed" means concentrates or harvest feed supplied for improved livestock and rangeland management.

* * * * *

"Suspension" means temporarily withholding, in whole or in part, grazing use authorized under a grazing permit, lease or other grazing use authorization. The withholding may be voluntary by the permittee or lessee."

d. By removing the definition for "Range betterment fund".

§ 4110.2–3 [Amended]

4. Section 4110.2–3 is amended by:

a. Removing paragraph (a)(2) in its entirety;

b. Redesignating paragraph (a)(3) as paragraph (a)(2);

c. Redesignating paragraph (a)(4) as paragraph (a)(3) and removing the last sentence of the subparagraph; and

d. Redesignating paragraph (a)(5) as paragraph (a)(4).

e. Revising paragraph (b) to read:

* * * * *

(b) If base property is sold or leased, the transferee shall within 90 days of the date of sale or lease file with the authorized officer a properly executed transfer application showing the base property and the amount of grazing preference being transferred in animal unit months.

* * * * *

f. Amending paragraph (c) by removing all after the first sentence of the paragraph.

g. Redesignating paragraphs (d) through (f) as paragraphs (e) through (g) respectively.

h. Adding a new paragraph (d) to read:

* * * * *

(d) If the transfer application was properly filed and met the requirements under paragraph (a) of this section, the authorized officer may approve the transfer and may issue a grazing permit or lease.

* * * * *

§ 4110.2–4 [Amended]

5. Section 4110.2–4 is amended by removing in the second sentence the word "applicant" and inserting the words "preference holder".

§ 4110.3 [Amended]

6. Section 4110.3 is amended by removing the text. However, the section heading remains in place.

§ 4110.3–1 [Amended]

7. Section 4110.3–1 is amended by:

a. Revising the introductory paragraph to read:

Additional forage may be allocated to qualified applicants for livestock grazing use consistent with multiple-use management objectives.

* * * * *

b. Revising paragraphs (c)(1) and (c)(2) and adding paragraph (c)(3) to read:

(c) * * *

(1) Permittee(s) or lessee(s) in proportion to their contribution or efforts which resulted in increased forage production; or

(2) Permittee(s) or lessee(s) in proportion to their preference; or

(3) Other qualified applicants under § 4110.5 of this title.

* * * * *

c. Revising paragraph (d) to read:

* * * * *

(d) Permanent increases in allocations of livestock forage shall be implemented over a period not to exceed 5 years, except that increases of 15 percent or less of the authorized active use for the previous year shall be phased in over a period of less than 5 years. The authorized officer may subsequently modify (either increase or decrease) such allocation of forage to livestock based on the results of monitoring.

* * * * *

§ 4110.3–2 [Amended]

8. Section 4110.3–2 is amended by:

a. Revising paragraph (b) to read:

* * * * *

(b) When authorized grazing use, which includes active use and any approved nonuse, exceeds the amount of forage available and allocated for livestock grazing within an allotment, or where reduced grazing use is necessary to facilitate achieving multiple-use management objectives for the allotment, the authorized grazing use shall be reduced to the livestock grazing capacity. The difference between the authorized grazing use and the grazing preference shall be held in suspension.

* * * * *

b. Revising paragraph (c) to read:

* * * * *

(c) Provisions in paragraph (b) of this section shall be implemented over a 5-year period through mutual agreement documented in the Rangeland Program Summary, or by decision. If data acceptable to the authorized officer are available, an initial reduction shall be taken on the effective date of the decision and the balance taken in the third and fifth years following that effective date, except as provided in paragraph (d) and (e) of this section. If data acceptable to the authorized officer to support an initial reduction are not available, a decision will be issued identifying the data needed and procedures to be used for arriving at the adjustments in authorized grazing use. Adjustments based on the additional data shall be implemented by a decision that will initiate the 5 year implementation period.

* * * * *

c. Amending paragraph (d) by removing the word "interest" and replacing it with the word "interests".

9. § 4110.3–2(e) is amended by revising the last sentence in paragraph (e) to read:

"* * * However, such new decision shall not extend an implementation period established in the original decision."

10. Section 4110.4–1 is revised to read:

§ 4110.4–1 Additional land acreage.

When lands outside designated allotments become available for livestock grazing under the administration of the Bureau of Land Management, the livestock forage available may be allocated to qualified applicants at the discretion of the authorized officer. Grazing use shall be allocated under § 4110.5 of this title.

§ 4110.5 [Amended]

11. Section 4110.5 is amended by revising the introductory paragraph to read:

When more than one qualified applicant applies for livestock grazing use of the same public land and/or where additional livestock forage or additional acreage becomes available, the authorized officer may allocate grazing use of such land or forage on the basis of § 4110.3–1 of this title or on the basis of any of the following factors:

* * * * *

§ 4120.2–1 [Amended]

12. Section 4120.2–1(b) is amended by removing the phrase "and shall be put into full force and effect on the date specified by the authorized officer. See § 4110.3–2."

* * * * *

§ 4120.2–2 [Amended]

13. Section 4120.2–2 is amended by:

a. Removing in the opening paragraph, the words "achieving objectives identified in land use plans," and replacing them with the words "achieving management objectives,"; and

* * * * *

b. Revising paragraphs (c) and (d) to read:

* * * * *

(c) Authorization to use, and directions for placement of supplemental feed, including salt, for improved livestock and rangeland management on the public lands;

(d) A requirement that permittees or lessees, operating under a grazing permit or lease, submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, the certified actual use made;

* * * * *

§ 4120.2–3 [Amended]

14. Section 4120.2–3 is amended by:

a. Revising the opening paragraph to read:

If the authorized officer elects to develop an allotment management plan, the following provisions apply:

* * * * *

b. Revising paragraph (a) to read:

* * * * *

(a) An allotment management plan shall be prepared in careful and considered consultation, cooperation and coordination with affected permittee(s) or lessee(s), landowners involved, the district grazing advisory boards where established, any State having lands within the area to be covered by such an allotment management plan and other affected interests. Allotment management plans shall be implemented when approved by the authorized officer (see § 4100.0–5(d) of this title). The allotment management plan shall include terms and conditions under § 4120.2–1 of this title, and shall prescribe a system of grazing designed to meet specific multiple-use management objectives. The plan shall specify the limits of flexibility within which the permittee or lessee may adjust their operations without prior approval of the authorized officer. The plan shall provide for the collection of data that shall be used to evaluate the effectiveness of management actions in achieving the specific multiple-use management objectives of the plan.

* * * * *

c. Amending paragraph (c) by removing the words "parties involved" and replacing them with the words "affected interest."

d. Revising paragraph (e) to read:

* * * * *

(e) Permittees or lessees operating under a grazing permit or lease incorporating an allotment management plan shall, within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, submit a certified actual use report.

* * * * *

§ 4120.3 [Amended]

15. Section 4120.3 is amended by replacing the semicolon at the end of paragraph (a)(3) with a period and by removing paragraphs (a)(4), (a)(5), (b) and (c) in their entirety.

§ 4120.4 [Amended]

16. Section 4120.4(a) is amended by removing all of the paragraph except the first sentence.

§ 4120.6–1 [Amended]

17. Section 4120.6–1 is amended by:

a. Removing from paragraph (a) the phrase "land use plans." and replacing it with the phrase "multiple use management.";

b. Removing the word "install" in paragraph (c) and by adding after the words "public lands", the phrase "under § 4120.2–2 of this title.";

c. Removing paragraph (e) in its entirety.

d. Redesignating paragraph (d) as paragraph (e); and

e. Inserting a new paragraph (d) to read:

(d) The authorized officer may require a permittee or lessee to install range improvements on the public lands in an allotment with 2 or more permittees or lessees and/or to meet the terms and conditions of an agreement.

§ 4120.6–3 [Amended]

18. Section 4120.6–3 is amended by inserting in paragraph (c) the word "those" after the words "under § 4110.2–1 of this title and".

19. Section 4120.6–4 is revised to read:

§ 4120.6–4 Standards, design and stipulations.

Range improvement cooperative agreements and permits shall specify the standards, design, construction and maintenance criteria for the range improvements and other additional conditions and stipulations or modifications deemed necessary by the authorized officer. Where an existing range improvement is significantly inconsistent with established design criteria, the authorized officer may require such improvement be improved or modified to meet established standards through modification of the cooperative agreement or permit. The authorization for improvements may be cancelled for failure to comply with such criteria.

§ 4120.6–6 [Amended]

20. Section 4120.6–6 is amended by removing from paragraph (c), after the words "If grazing permits or", the word "grazing".

21. Section 4120.6–6(d) is revised to read:

* * * * *

(d) Permittees or lessees may be allowed a period of 180 days from the date of cancellation of a range improvement permit to salvage material owned by them and perform rehabilitation measures necessitated by the removal.

22. Section 4120.8 is revised to read:

§ 4120.8 Special rules.

When a State Director determines that local conditions require a special rule to achieve improved administration consistent with the objective of this part, the Director may approve such rules. The rules shall be subject to public review and comment, as appropriate, and upon approval, shall become effective when published in the **Federal Register** as final rules. Special rules shall be published in a local newspaper.

§ 4130.2 [Amended]

25. Section 4130.2 is amended by:

a. Revising paragraph (b) to read:

* * * * *

(b) Grazing permits or leases shall be issued to authorize livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management. These grazing permits or leases shall specify terms and conditions as required by § 4120.2 of this title.";

* * * * *

b. Amending paragraph (d)(1) by removing the words "BLM control" and replacing them with the words "the administration of the Bureau of Land Management";

c. Revising paragraph (d)(2) to read:

* * * * *

(d) * * *

(2) Exceptions to the issuance of a grazing permit or lease for a term of 10 years shall be made on a case-by-case basis.";

* * * * *

d. Revising paragraph (e)(1) to read:

* * * * *

(e) * * *

(1) The lands remain available for livestock grazing in accordance with multiple use management (See § 4120.1 of this title)."

§ 4130.4 [Amended]

26. Section 4130.4 is amended by deleting the comma between the words "permits" and "or" where they first appear.

§ 4130.4–1 [Amended]

27. Section 4130.4–1 is amended by:

a. Revising paragraph (b) to read:

* * * * *

(b) The lands offered for exchange-of-use shall be within the exterior boundaries of the allotment, except lands outside such boundaries may be included only where it would meet multiple use objectives for the allotment.

* * * * *

b. Revising paragraph (d) to read:

* * * * *

(d) The exchange-of-use grazing agreement may be issued for a term of not more than 10 years.

* * * * *

28. Section 4130.4–2 is revised to read:

§ 4130.4–2 Nonrenewable grazing permits and leases.

Nonrenewable grazing permits or leases may be issued on an annual basis to qualified applicants when forage is temporarily available, provided this use is consistent with multiple-use objectives and does not interfere with existing livestock operations on the public lands.

§ 4130.4–4 [Amended]

29. Section 4130.4–4 is amended by removing the phrase "land-use plans" and replacing it with the phrase "multiple-use objectives."

§ 4130.5–1 [Amended]

30. Section 4130.5–1 is amended by:

a. Revising paragraph (a) to read:

(a) Grazing fees shall be established annually by the Secretary based upon the grazing fee formula in the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901).

* * * * *

b. Revising paragraph (c) to read:

* * * * *

(c) Fees shall be charged for livestock grazing upon or crossing the public lands and other lands administered by the Bureau of Land Management at a specified rate per animal unit month. A minimum annual fee of $10 shall be charged for livestock grazing upon these lands.

* * * * *

c. Revising paragraph (e) to read:

* * * * *

(e) Fees are due upon issuance of the billing notice and shall be paid in full prior to grazing use except where an allotment management plan providing for later payment has been incorporated in a grazing permit or lease. In such cases, a billing notice based on certified actual use may be issued at the end of the grazing period or year, or a billing notice based on the normal operation may be issued prior to the grazing period or year followed by an adjusted billing notice based on certified actual use after grazing use has been completed. If a certified actual use report is not submitted, the amount due shall be based on grazing use at the upper limit of flexibility specified in the allotment management plan. Actual use billing privileges shall be cancelled by the authorized officer where the permittee or lessee fails or refuses to:

(1) Submit a timely certified actual use report: or

(2) Make timely payment upon issuance of a billing notice based upon a certified actual use report or, if the actual use report has not been submitted, the upper limit of flexibility specified in the allotment management plan.

In any event, the permittee or lessee, is not relieved of the responsibility for submitting a certified actual use report under § 4120.2–3(e) of this title.

* * * * *

d. Removing paragraph (f) and the citation of authorities immediately following it in their entirety.

§ 4130.5–2 [Amended]

31. Section 4130.5–2 is amended by:

a. Amending paragraph (a) by removing the phrase "at the discretion of the authorized officer"; and

b. Amending paragraph (b) by inserting in the last sentence after the phrase "fees, in whole or in part, or" the word "postpone" and by removing after the words "fee payment" the words "may be postponed."

32. Section 4130.5–3 is revised to read:

§ 4130.5–3 Service charge.

A service charge shall be assessed for each crossing permit, transfer of grazing preference and each replacement or supplemental billing notice except for actions initiated by the authorized officer. Pursuant to section 304(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734(a)), calculation of the Bureau service charge assessed shall reflect processing costs and shall be adjusted periodically as costs change. Notice of changes shall be published periodically in the **Federal Register.**

§ 4130.6 [Amended]

33. Section 4130.6 is amended by revising paragraph (b) to read:

* * * * *

(b) Changes in grazing use may be granted by the authorized officer.

* * * * *

§ 4140.1 [Amended]

34. Section 4140.1 is amended by:

a. Revising the opening paragraph to read:

The following acts are prohibited on public lands and other lands administered by the Bureau of Land Management:

* * * * *

b. Revising the introductory text of paragraph (b)(1) to read:

* * * * *

(b) * * *

(1) Allowing livestock or other privately owned or controlled animals to graze on or be driven across these lands——";

* * * * *

c. Amending paragraph (b)(10) by inserting after the words "cooperative agreements" the words "certified actual use reports";

d. Removing paragraph (b)(12) in its entirety.

§ 4150.1 [Amended]

35. Section 4150.1 is amended by inserting after the words "impoundment and disposal" the words "of their livestock" and by deleting the last sentence of the section.

36. Section 4150.2(a) is revised to read:

§ 4150.2 Notice and order to remove.

(a) Whenever it appears that a violation exists and the owner of the unauthorized livestock is known, written notice of unauthorized use and order to remove livestock by a specified date shall be served upon the alleged violator or the agent of record, or both, by certified mail or personal delivery. The written notice shall also allow a specified time from receipt of notice for the alleged violator to show that there has been no violation or to make settlement under § 4150.3.

* * * * *

§ 4150.3 [Amended]

37. Section 4150.3 is amended by:

a. Revising the opening paragraph to read:

The authorized officer shall determine if the violation is nonwillful or willful. When violations are determined to be nonwillful, settlement shall be made under paragraphs (a)(1), (a)(4) and (a)(5) of this section. When violations are determined to be repeated nonwillful, settlement shall be made under paragraphs (a)(2), (a)(4) and (a)(5) of this section. When violations are determined to be willful or repeated willful, settlement shall be made under paragraphs (a)(3), (a)(4) and (a)(5) of this section. Where violations are repeated nonwillful or willful, the authorized officer may take action under § 4170.1–1(a) of this title. Where violations are repeated willful, the authorized officer shall take action under § 4170.1–1(b) of this title.

* * * * *

b. Paragraphs (a)(2) through (a)(4) are redesignated as paragraphs (a)(3) through (a)(5);

c. Redesignated paragraph (a)(3) is revised to read as follows:

(a) * * *

(3) "Willful and repeated willful violations." Three times the value of the forage consumed as determined in paragraph (a)(1) of this section.

* * * * *

d. New Paragraph (a)(2) is added to read:

(a) * * *

(2) "Repeated non-willful violations." Twice the value of the forage consumed as determined in paragraph (a)(1) of this section.

* * * * *

e. Amending paragraph (c) by removing the words "or § 4160.5," and adding at the end a new sentence to read: "The proposed decision shall include a demand for payment."

§ 4150.4 [Removed]

38. Section 4150.4 is removed in its entirety.

§ 4150.5 [Redesignated as § 4150.4]

39. Section 4150.5 is redesignated as § 4150.4.

§ 4150.5–1 [Redesignated as § 4150.4–1 and amended]

40. Section 4150.5–1 is redesignated as § 4150.4–1 and is amended by:

a. Removing the phrase "and a copy of the notice shall be sent to any lienholder of record" from paragraph (a).

b. Adding a new paragraph (c) to read:

* * * * *

(c) To deter unauthorized use from occuring within a specific area, a notice of intent to impound any livestock other than those authorized in the area described in the notice, shall be published under procedures in paragraph (b) of this section.

41. Section 4150.5–2 is redesignated as § 4150.4–2 and is revised to read:

§ 4150.4–2 Impoundment.

After 5 days from delivery of the notice under § 4150.4–1(a) of this title or any time after 5 days from publishing and posting the notice under §§ 4150.4–1(b) or 4150.4–1(c) of this title, unauthorized livestock may be impounded without further notice any time within the 12-month period following the effective date of the notice.

§§ 4150.5–3 and 4150.5–4 [Redesignated as §§ 4150.4–3 and 4150.4–4]

42. Sections 4150.5–3 and 4150.5–4 are redesignated §§ 4150.4–3 and 4150.4–4 respectively; and § 4150.4–3 is amended by removing the phrase "and lienholders of record", from the last sentence.

§ 4150.5–5 [Redesignated as 4150.4–5 and amended]

43. Section 4150.5–5 is redesignated as § 4150.4–5 and is amended by removing all after the first sentence of the section and replacing it with a sentence to read: "* * * If a satisfactory bid is not received, the livestock may be reoffered

for sale, condemned and destroyed or otherwise disposed of under these regulations, or if a suitable agreement is in effect, in accordance with State Law."

§ 4150.6 [Removed]

44. Section 4150.6 is removed in its entirety.

§ 4160.1–1 [Amended]

45. Section 4160.1–1 is amended by:

a. Revising the opening paragraph to read:

The authorized officer shall serve a proposed decision on any applicant, permittee or lessee, or the agent of record, or both, who is affected by the proposed action on applications for permits (including range improvement permits) or leases, or by the proposed action relating to terms and conditions of permits (including range improvement permits) or leases, by certified mail or personal delivery. The authorized officer shall also send copies to those who have indicated in writing that their interests may be affected by the proposed decision. The proposed decision shall state reasons for the action, including reference to pertinent terms, conditions and/or provisions of these regulations, and shall provide for a period of 15 days after receipt for the filing of a protest.

* * * * *

b. Amending the introductory text of paragraph (a) by removing the words "rangeland program summary and appropriate updates" and replacing them with the words "summary document or appropriate updates".

c. Removing paragraphs (a)(1) and (a)(2) in their entirety;

d. Redesignating paragraph (b) as paragraph (c);

e. Inserting a new paragraph (b) to read:

* * * * *

(b) Updates to the summary document shall be prepared prior to each subsequent adjustment scheduled under § 4110.3 of this title.

* * * * *

46. Section 4160.1–2 is amended by removing the phrase "and shall notify any lienholder of record of the proposed decision" from the first sentence.

47. Section 4160.2 is revised to read:

§ 4160.2 Protests.

Any applicant, permittee, lessee or other adversely affected interests may protest the proposed decision under § 4160.1 of this title in person or in writing to the authorized officer within 15 days after receipt of such decision.

§ 4160.3 [Amended]

48. Section 4160.3 is amended by:

a. Amending paragraph (b) by removing in the second sentence the words "known interested individual" and replacing them with the words "known affected interests,"; and by removing the phrase "and shall notify any lienholder of record of the final decision".

b. Amending paragraph (c) by removing the words "paragraphs (e) and (f)" and replacing them with the words "paragraphs (d) and (e)" and by deleting from the last sentence the words "as provided in paragraph (d) of this section,";

c. Removing paragraph (d) in its entirety;

d. Redesignating paragraph (e) as the introductory text of paragraph (d) and adding paragraphs (d)(1)–(d)(3) to read:

(d) * * *

(1) Decisions in the fifth year of a 5-year implementation schedule may be placed into full force and effect. If the decision is placed into full force and effect, an appeal of such final decision shall not suspend the operation of that decision.

(2) An appeal of the third year increment of a 5-year decision shall suspend implementation of the decision and grazing use shall be authorized at the level scheduled for the first year of the phase-in period.

(3) An application for grazing use in excess of that established for any year of an implementation schedule, or an appeal from a decision rejecting such application shall not suspend the operation of the 5-year implementation schedule.

* * * * *

e. Redesignating paragraph (f) as paragraph (e) and amending it by inserting the word "total" between the words "provides for" and "implementation".

§ 4160.5 [Removed]

49. Section 4160.5 is removed in its entirety.

PART 9260—LAW ENFORCEMENT—CRIMINAL

50. Section 9264.1 is amended by:

a. Revising paragraph (a) to read:

(a) Allowing livestock or other privately owned or controlled animals to graze on or be driven across those lands without a permit or lease or in violation of the terms and conditions of a permit or lease, either by exceeding the number of livestock authorized, or by allowing livestock to be on these lands in an area or at a time different from that designated;

* * * * *

b. Removing paragraph (k) in its entirety;

c. Redesignating paragraph (l) as paragraph (k).

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Tuesday
September 21, 1982

Part III

Department of Health and Human Services

Food and Drug Administration

New Drugs; Camphorated Oil Drug Products for Human Use

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. 80N-0227]

New Drugs; Camphorated Oil Drug Products for Human Use

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing this final rule establishing that any camphorated oil drug product or any similar drug product for human use is misbranded and a new drug, and is subject to regulatory action unless it is the subject of an approved new drug application. FDA is issuing this final rule after considering public comments on the proposed rule. This final rule is part of FDA's ongoing review of OTC drug products.

EFFECTIVE DATE: September 21, 1982.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFD–510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4960.

SUPPLEMENTARY INFORMATION: In the Federal Register of September 26, 1980 (45 FR 63869), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), a proposal to establish a regulation for camphorated oil drug products and drug products containing in excess of 11 percent camphor, together with the conclusions and recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products.

In accordance with § 330.10(a)(2), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA–305), Food and Drug Administration, Room 4–62, 5600 Fishers Lane, Rockville, MD 20857, after deletion of information considered confidential.

Interested persons were invited to file, by November 25, 1980, written comments regarding the proposed rule. Twenty-two comments were received, including comments from individual consumers, groups of consumers, physicians, pharmacists, drug manufacturers, a drug manufacturer association, a pharmaceutical association, and State departments of health.

Although the proposal would have established conditions for both camphorated oil and other drug products containing camphor in excess of 11 percent, the final rule is limited, for reasons discussed later in this document, to camphorated oil and similar drug products (i.e., any drug product containing camphor in oil and any drug product containing camphor that is represented, suggested, or purported to be camphorated oil).

The agency's conclusions on other camphor-containing drug products, including those that contain camphor in excess of 11 percent, will be made as part of the agency's conclusions on the recommendations of the various advisory review panels that have reviewed camphor for specific uses, i.e., antimicrobial, anorectal, cough/cold, and external analgesic. Those conclusions will be published in future issues of the **Federal Register.**

In the preamble to the proposed regulation, FDA advised that it would not follow the full OTC rulemaking procedure set forth in § 330.10, but would proceed directly to a final order after consideration of comments to the proposal. The agency also advised in the proposal that a final order would become effective on the date of its publication in the **Federal Register.**

Because of the risk to pubic health in the potential for accidental ingestion and toxicity to occur from the continued availability of camphorated oil drug products, the Secretary of Health and Human Services and the Commissioner of Food and Drugs have found that there is good cause to have this final rule become effective on the date of publication, as authorized by 5 U.S.C. 553(d)(3) and by 21 CFR 10.40(c)(4)(ii). This final rule containing the agency's final decision on camphorated oil drug products is, therefore, effective immediately.

I. The Agency's Conclusions on the Comments

1. A number of comments concurred with the agency's proposal to remove camphorated oil and other drug products containing more than 11 percent camphor from the OTC market, stating that such action would be beneficial in reducing the number of toxic responses attributed to camphor preparations.

2. A number of comments objected to the Panel's recommendation to remove camphorated oil drug products from the OTC market. The comments argued that the continued marketing of camphorated oil is warranted based on its long history of widespread use and consumer acceptance. The comments also maintained that marketing camphorated oil in child-resistant containers and with distinct and specific labeling would minimize the potential for poisoning. One comment recommended that the confusion surrounding "camphorated oil" could be eliminated by recognizing "camphor liniment" as the product's established name. The comment argued that the name "camphor liniment" indicates the purpose for which the product is intended and eliminates the word "oil," which may have contributed to the confusion of this product with other products that are intended for internal use.

The agency believes that the continued marketing of camphorated oil products is not warranted. The Miscellaneous External Panel reported that statistics compiled by the National Clearinghouse for Poison Control Centers show 706 ingestions of camphorated oil from 1974 to 1978 (Ref. 1) (45 FR 63872). The latest statistics available from the National Clearinghouse for Poison Control Centers show 130 ingestions of camphorated oil in 1979, of which 38 were considered toxic cases (Ref. 2). As the Miscellaneous External Panel also pointed out, some infants and young children have died from ingesting camphorated oil. If death does not occur, mental retardation can be an after effect of camphorated oil ingestion. Even in less serious cases, convulsions followed by central nervous system depression and coma may occur (45 FR 63872).

Accidental ingestions of camphorated oil occur under various circumstances. Sometimes adults confuse camphorated oil for other products and ingest it themselves; sometimes adults mistakenly administer it to other adults; sometimes adults mistakenly administer it to children; and sometimes children drink it themselves. In most cases, the accidental ingestion is attributable to confusion of the camphorated oil product with another product. Most frequently the confusion occurs in the home; sometimes it happens in the store at the time of purchase.

The agency has identified 32 poisoning incidents in which the cause of the ingestion is reported (Ref. 3). In 28 cases, the cause was confusion with another product. In 20 cases, that product was castor oil; in three cases, cough medicine; in one case, acetaminophen. In four cases, the identity of the drug for which camphorated oil was mistaken could not be determined. Of the 28 cases in which confusion occurred, 15 cases involved ingestion of the product by the person who made the mistake, 12 cases involved administration of the product to another person, often a child, and in one case the person who took the

product could not be determined from the information available.

The agency has considered various possible alternatives to removing camphorated oil from the market in order to prevent these accidental ingestions. The alternatives primarily involve either requiring physical changes in the product or limiting the product's availability through a requirement that it be sold by prescription only. These alternatives were rejected for the following reasons.

One way to try to prevent confusion of camphorated oil with other products is to give it a distinctive appearance. Because camphorated oil is often mistaken for castor oil, which has a similar physical appearance (an amber colored, slightly viscous liquid), changes could be required in the color of camphorated oil products and in the appearance of the containers. However, even if camphorated oil were required to be of a non-amber color in an opaque and distinctively-shaped container, it cannot reliably be concluded that the confusion which leads to ingestion would cease. The Panel identified several products other than castor oil—including cod liver oil, mineral oil, olive oil, and cough medicine—for which camphorated oil also has been mistaken. Because these products have various physical appearances, it is unlikely that color and container changes would prevent accidental ingestions of camphorated oil.

Child-resistant containers also have been suggested as a possible solution to the problem. Although this measure could substantially reduce or eliminate the number of accidental ingestions by very young children who drink the product on their own, it would not affect the mistaken administrations by adults. Of the 32 poisoning incidents identified by the agency in which the cause of the ingestion was reported, only four were cases of young unattended children drinking the camphorated oil.

As the comment argues, it might be possible to reduce the confusion surrounding "camphorated oil" if "camphor liniment" were recognized as the product's established name. The argument is that use of the word "oil" has contributed to the confusion of this product with other products that are intended for internal use.

The word "oil" in the product name may well have contributed to the confusion. Yet "camphor liniment" historically has been the established name for this product. "Camphorated oil" was the official synonym for camphor liniment for most of the time that camphor liniment was recognized in the official compendia. Camphorated oil remained the officially recognized synonym in the National Formulary (NF) XI (October 1, 1960), but was deleted as the officially recognized synonym in NF XII (September 1, 1965). Ultimately, camphor liniment was deleted from the official compendium with publication of NF XIII (September 1, 1970). Although camphor liniment was the last established name for the product, it has been marketed under both names since the product was deleted from the official compendium. It is unlikely that reinstating "camphor liniment" as the established name would eliminate the confusion surrounding this product. Through custom and usage, many people could be expected to continue to refer to the product as "camphorated oil," even if it were labeled "camphor liniment. Furthermore, because camphorated oil has been confused with various products that do not have "oil" in the product name, such as cough medicines and analgesics, it is clear that the name is not the only cause of the confusion. Therefore, changing the name would not eliminate the confusion.

Another possible alternative for eliminating the confusion and the resultant accidental ingestions is to have strong warnings on the labeling. Camphorated oil products have for years borne specific label warnings that these products are for external use and not for ingestion; yet confusion with products for internal use has persisted. It is possible that bolder warnings, combined with changes in the physical appearance and name of the product, would reduce the number of accidental ingestions. The risk of mistaking camphorated oil for other products, however, would not necessarily be reduced by such changes. Because of the long history of use of camphorated oil products and concomitant confusion with products intended for ingestion, the agency believes that adequate directions and warnings to protect against unsafe use of camphorated oil products cannot be written. Given the questionable therapeutic benefits from camphorated oil, FDA does not believe that it is worth the risk of additional poisonings to test the possible effectiveness of stronger labeling and other physical changes in preventing confusion of the product with ingestible products.

Requiring camphorated oil products to be sold by prescription only is another possible way to deal with the hazards posed by the drug. If camphorated oil were sold only by prescription, purchasers could be more aware of the product's toxicity through communications with the physician and the pharmacist and through the very fact of prescription status. However, this alternative also does not provide adequate assurance that accidental ingestions would be substantially eliminated. Among the poisoning incidents in which the cause of ingestion was reported were several poisonings that resulted from confusion by older children or teen-agers. Persons in this age group, unlike very young children, make a conscious, but mistaken, decision to take the product, thinking it is something else. Limiting camphorated oil to prescription distribution is unlikely to alert these persons to the toxicity of the product and the need to avoid confusing it with other products, because these persons probably do not purchase the product themselves. Furthermore, they may not share in the communications with the physician, either because they are too young or because the prescription was intended for another member of the household.

Oral communications by health professionals often can significantly reduce the risks involved with toxic drug products. However, given the long history of camphorated oil use, as well as the persistence of the confusion with other products, the risk of confusion and mistaken ingestion could remain significant. Other members of the household would not have received the physician's oral warnings; even the person for whom the prescription was intended might confuse the product with others, especially if some time had passed since the oral warnings had been communicated.

The agency cannot definitively demonstrate that physical alterations, stronger warnings, prescription status, or some combination of these changes would not eliminate the possibility of confusion between camphorated oil and other products and of accidental ingestion for other reasons. Unless these changes are made, the effectiveness of these measures cannot be determined with certainty. The agency believes, however, that there is a sufficient factual basis to conclude that an appreciable risk of poisonings (which might include deaths) will remain even if these measures are instituted, and that the risk is unacceptable in light of the marginal therapeutic value of the product.

References

(1) Poison Control Statistics, Food and Drug Administration, 1974–1978.

(2) Poison Control Statistics, Food and Drug Administration, 1979.

(3) Fow, M. L., Food and Drug Administration, "Analysis of Camphorated Oil Ingestion and Poisoning," Docket No. 80N–0227, Dockets Management Branch.

3. Several comments requested that the agency permit the continued marketing of camphorated oil preparations containing 3 to 11 percent camphor. In support of this request, the comments pointed out that the Advisory Review Panel on OTC Topical Analgesic Drug Products concluded that preparations containing 3 to 11 percent camphor are safe and effective for use as counterirritants (44 FR 69802; December 4, 1979).

As discussed more fully in comment 2 above, the agency's decision on camphorated oil is based on the large number of accidental ingestions of camphorated oil products that have occurred. The Advisory Review Panel on OTC Topical Analgesic Drug Products (hereinafter referred to as the Topical Analgesic Panel), in its report on external analgesic drug products (44 FR 69768; December 4, 1979) concluded that 3 to 11 percent camphor products were safe and effective for external use as counterirritants. The Panel stated that it was unaware of any case of poisoning that had occurred from topical administration of a camphor product. However, that Panel also pointed out that ingesting 0.7 to 1 gram (g) camphorated oil proved fatal to a child and that poisonings from accidental ingestions continue to occur (44 FR 69803). The Miscellaneous External Panel noted that a 3-year-old girl had a convulsion after ingesting an estimated 0.7 g of camphor from a product containing about 5 percent camphor (45 FR 63872). It is clear that toxic amounts of camphor can be ingested accidentally from products containing 3 to 11 percent camphor.

The confusion surrounding camphorated oil products appears to stem from various factors, including the products' appearance and readily ingestible form. The 3 to 11 percent camphorated oil products have the same features contributing to accidental ingestions that the higher concentration camphorated oil products have. Because all of the camphorated oil products pose an unacceptable risk of poisoning in light of their marginal therapeutic value, the agency concludes that camphorated oil products at all concentrations are not generally recognized as safe for human use and are misbranded.

4. Numerous comments objected to the agency's proposal to remove from the OTC market dosage forms, other than camphorated oil, of drug products containing more than 11 percent camphor. The comments contended that, although there was evidence available to demonstrate a potential for toxicity to occur from accidentally ingesting camphorated oil, such evidence was not available for other dosage forms of camphor-containing drug products. The comments pointed out that cream and ointment dosage forms would not be mistaken for castor oil or other internally ingested medicinal products and are unlikely to be accidentally ingested by children. One comment further stated that the potential for toxicity to occur is minimized because of the difficulty in swallowing a sufficiently large amount to cause harm.

One comment urged that the final regulation specifically exempt from enforcement products containing more than 11 percent camphor in combination (chemical complex) with metacresol in a ratio of 3 to 1 respectively. The comment stated that data previously submitted to the agency demonstrate that this combination is unique in that it is far less toxic than pure camphor. The comment argued that these data, plus a 50-year marketing history without one report of adverse reaction from topical use of products containing this combination of ingredients, are sufficient to exempt these products from the final regulation.

The agency points out that the basis for including drug products that contain greater than 11 percent camphor in the proposed rule was the recommendation of the Topical Analgesic Panel in its report on external analgesic drug products (44 FR 69768; December 4, 1979) that OTC counterirritant drug products should not contain more than 11 percent camphor. The agency has not yet evaluated comments on the Topical Analgesic Panel's report. Camphor was reviewed by various OTC advisory review panels for use in cough/cold, anorectal, topical analgesic, anesthetic, and antipuritic products. On September 26, 1980, the administrative records for the rulemakings on these OTC drug products were reopened to allow for consideration of the Miscellaneous External Panel's recommendations on camphor-containing drug products (45 FR 63874–79). That Panel recommended that camphor be limited in OTC drug products for external use to less than 2.5 percent and that the quantity of camphor in a package be limited to 360 mg. Interested persons were invited to comment on the Miscellaneous External Panel's recommendations for camphor products in the respective rulemakings. At a future time, interested persons will also be given an opportunity to comment on this Panel's recommendations with respect to camphor in OTC antimicrobial drug products.

The name, appearance, and readily ingestible form appear to be significant elements contributing to the accidental ingestion of camphorated oil. As the comments pointed out, other dosage forms of camphor-containing products do not necessarily share these characteristics leading to consumer confusion. Because these other camphor-containing products are substantially distinct from camphorated oil products, and because the agency has not yet fully evaluated the comments regarding these other products, the agency has decided not to include other camphor-containing products in this final rule on camphorated oil products. Instead, the agency's final decisions on other camphor-containing products, including those with camphor in excess of 11 percent and including those with camphor complexed with metacresol, will be made in the context of the individual rulemakings in which the other products are being considered. These decisions will be published in future issues of the Federal Register.

5. Several comments objected to the proposed recall of camphorated oil to the retail level. The comments contended that recalls to the retail level should be reserved for removing products which present a significant hazard to the public health and not for products that are safe when used as directed and unsafe only when misused. The comments urged the agency to allow these products to be phased off the market instead of being recalled to the retail level.

Another comment urged that any recall be limited to products marketed after one of the following dates: (1) The date of the recall order; (2) the final date for offering comments to the proposed rulemaking (November 25, 1980); (3) 1 month after the proposed rulemaking was published in the Federal Register (October 26, 1980).

The agency stated in the preamble to the Panel's report (45 FR 63870) that "* * * because the risk of poisoning in infants and young children upon accidental ingestion [of camphorated oil] greatly outweighs any questionable benefits to be derived from the medicinal use of this drug, the agency has determined that marketing of any camphorated oil drug products should cease," and that, upon the effective date of this regulation, "the agency will request firms to recall to the retail level all drug products containing camphor which purport to be or are represented as camphorated oil or camphor liniment * * *" The agency reaffirms this recall at this time. Because of the risk to the public health from harmful accidental ingestions of camphorated oil drug

products, the agency has found that there is good cause to have this final rule become effective on the date of publication, as authorized by 5 U.S.C. 553(d)(3) and by 21 CFR 10.40(c)(4)(ii). A phase-out of existing stocks would allow these products to remain on the market for a substantial period of time, with the continuous risk of accidental ingestion. Limiting the recall to products marketed after a certain date would also allow the risk to the public health to continue for an unacceptably long period of time. This final rule, which contains the agency's final decision on camphorated oil drug products, is effective immediately. The agency is currently initiating a recall of all of these products to the retail level.

6. One comment contended that FDA is without authority to remove camphorated oil drug products from the market under the new drug and misbranding provisions (sections 201(p) and 502) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p) and 352). The comment stated that the proposal failed to state why these products were new drugs or misbranded and that this inadequacy violated the requirements of *Rutherford* v. *United States*, 542 F. 2d 1137 (10th Cir. 1976), that FDA have an administrative record to support its determination that a drug is a new drug. The comment concluded that the agency is without authority to remove camphorated oil drug products from the market on the basis of their toxicity if used other than according to their labeling directions, such as in the case of accidental ingestions. The comment suggested that, rather than removing these products from the market, a proper course of action would be to submit any information on accidental ingestion of these products to the Consumer Product Safety Commission (CPSC), which has express authority to regulate products causing injury resulting from misuse, for whatever action it deems appropriate.

The agency points out that section 502(f) of the act declares a drug to be misbranded unless its labeling bears adequate directions for use and adequate warnings against use "by children where its use may be dangerous to health" and against "unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users." As discussed in comment 2 above, although camphorated oil drug products for years have borne label statements that these products are for external use and not for ingestion, poisonings resulting from accidental ingestion continue to occur from confusing these products with other products that are intended to be ingested. The agency concludes that because consumers continue to confuse camphorated oil with other products, directions and warnings are not adequate to protect against dangerous use by children or to protect the user from an unsafe method of administration. Moreover, because of the long history of use of camphorated oil products and persistent confusion with products intended for ingestion, the agency believes that adequate directions and warnings to protect against unsafe use of camphorated oil products cannot be written. Therefore, the agency concludes that camphorated oil or any drug product which is represented or suggested to be camphorated oil is misbranded under section 502(f) of the act. The introduction or delivery for introduction into interstate commerce of a misbranded drug is a prohibited act under section 301(a) of the act (21 U.S.C. 331(a)).

In addition, under section 201(p) of the act, a drug whose composition is "not generally recognized among [qualified] experts * * * as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling" is a "new drug." The regulations detailing the standards for determining whether OTC drugs are generally recognized as safe and effective are set forth in 21 CFR 330.10(a)(4). The safety criteria include a low incidence of ill effects under adequate directions and warnings against unsafe use, as well as "low potential for harm which may result from abuse under conditions of widespread availability" (21 CFR 330.10(a)(4)(i)). The results of human experience during marketing are to be included in making the safety determination.

The "conditions" of use of camphorated oil products have included a long history of nonprescription use accompanied by confusion resulting in accidental ingestions and toxicities. As has been pointed out previously, statistics compiled by the National Clearinghouse for Poison Control Centers show 836 accidental ingestions in the period 1974 to 1979 alone. The marketing experience thus has shown camphorated oil products to have a significant potential for harm under their customary conditions of use.

Under the applicable regulations, the benefit-to-risk ratio of a drug is to be considered in determining its safety and effectiveness (21 CFR 330.10(a)(4)(iii)). As discussed more fully in comment 2 above, the agency believes that the risk of poisonings from camphorated oil products greatly outweighs any marginal benefits these products might have. The agency concludes that camphorated oil products are not generally recognized as safe and, therefore, are new drugs within the meaning of section 201(p) of the act. The continued marketing of these products without approved new drug applications would be in violation of section 505(a) of the act (21 U.S.C. 355(a)).

The agency concludes that it does have authority under the act to declare camphorated oil products to be misbranded and "new drugs" in this final regulation. Therefore, there is no need to request CPSC to take separate regulatory action. The agency also believes that the administrative record in this rulemaking proceeding supports the agency's determinations as reasonable and correct.

II. Summary of Significant Changes From the Proposed Rule

The agency proposed that any drug product labeled as "camphorated oil," camphor liniment,"or any similar name, and drug products containing camphor in excess of 11 percent be declared misbranded and not generally recognized as safe and effective. As discussed in comment 4 above, the final rule is limited to drug products containing camphor in oil and camphor-containing drug products that are represented, suggested, or purported to be camphorated oil. The agency's conclusions on camphor-containing OTC drug products other than camphorated oil drug products, including those that contain camphor in excess of 11 percent, will be made as part of other appropriate individual rulemakings (e.g., antimicrobial, anorectal, cough/cold, and external analgesic).

III. The Agency's Final Conclusions on Camphorated Oil Drug Products

Historically, camphorated oil (also known as camphor liniment), a solution of 20 percent camphor in cottonseed oil, has been marketed as an OTC drug product for various uses, primarily as a topical counterirritant or liniment. A large number of accidental ingestions of camphorated oil and resultant toxicities have been reported, often because camphorated oil is mistaken for castor oil, cod liver oil, mineral oil, olive oil, cough medicine, or other drug products intended for oral ingestion. Even with labeling explicitly stating that these drug products are intended for extenal use only and not for ingestion, ingestions and toxicities have continued to occur. The agency does not believe that the

suggested alternatives to removing camphorated oil products from the market would effectively reduce the risk of accidental ingestions. The agency concludes that adequate directions and warnings cannot be written to protect against dangerous use by children or to protect the user from an unsafe method of administration. The agency also concludes that any benefit to be obtained from the continued availability of camphorated oil and similar products is insignificant when compared to the risk. Based upon this adverse benefit-to-risk ratio, camphorated oil and similar drug products (i.e., any drug product containing camphor in oil or any camphor-containing drug product that is represented, suggested, or purported to be camphorated oil) cannot be generally recognized as safe. Therefore, the continued marketing of these drug products is not warranted.

Based on the available evidence, the agency is making a final determination that "camphorated oil" or any drug product which is represented, suggested, or purported to be camphorated oil, e.g., "camphor liniment," "camphor oil," "camphorated liniment," is misbranded under section 502(f) of the act and is a new drug under section 201(p) of the act for which an approved new drug application under section 505 of the act and Part 314 of the regulations (21 CFR Part 314) is required for marketing. Any such drug product may not be initially introduced or initially delivered for introduction into interstate commerce on or after the effective date of this final rule. Any such drug product in interstate commerce after the effective date of this final rule that is not in compliance with the regulation is subject to regulatory action. The agency is unaware of any camphorated oil drug product that is the subject of an approved new drug application.

In addition, because of the risk associated with the continued availability of camphorated oil drug products, the agency is requesting firms to recall to the retail level all camphorated oil and similar drug products.

The agency has examined the economic consequences of this rulemaking and has determined that it does not require a Regulatory Impact Analysis as specified in Executive Order 12291. The final rule will prohibit the continued marketing of camphorated oil as an OTC drug product and establish it as a new drug under 21 CFR Part 310. The final rule will further require the recall (market withdrawal) of all stocks of camphorated oil currently marketed as an OTC drug product to eliminate the risk of poisonings resulting from the accidental ingestion of the product. The agency believes that the benefits of camphorated oil are insignificant when compared to this risk and that this final rule will benefit society because it will result in the withdrawal of an unsafe drug product. Given the small volume of sales of camphorated oil products in 1981 and the small number of firms listed as marketing these products, the agency believes that the negative economic effects of this rule will be minimal. Therefore, the agency concludes that the final rule is not a "major" rule as defined in section 1(b) of Executive Order 12291. A copy of the threshold assessment supporting this determination is on file with the Dockets Management Branch (address above). The requirement for a regulatory flexibility analysis under the Regulatory Flexibility Act does not apply to this final rule because the proposed rule was issued prior to January 1, 1981, and is therefore exempt.

List of Subjects in 21 CFR Part 310

New drugs.

PART 310—NEW DRUGS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), Part 310 is amended by adding new § 310.526 to Subpart E, to read as follows:

§ 310.526 Camphorated oil drug products.

(a) Historically, camphorated oil (also known as camphor liniment), a solution of 20 percent camphor in cottonseed oil, has been marketed as an over-the-counter (OTC) drug product for various uses, primarily as a topical counterirritant or liniment. A large number of accidental ingestions of camphorated oil, often mistaken for castor oil, cod liver oil, mineral oil, olive oil, cough medicine, or other drug products, have been reported and toxicity has often resulted, primarily in infants and young children. Because of the potential hazard for poisoning to occur, the benefit from using any drug product containing camphor in oil or from using any camphor-containing drug product that is labeled as "camphorated oil" or "camphor liniment," or any similar name such as "camphor oil" or "camphorated liniment," for any use, is insignificant when compared to the risk. Based upon the adverse benefit-to-risk ratio, camphorated oil, any drug product containing camphor in oil, or any other drug product containing camphor that is represented, suggested, or purported to be camphorated oil, such as a product labeled "camphor liniment," "camphor oil," "camphorated liniment," or any similar name, cannot be considered generally recognized as safe.

(b) Any camphorated oil drug product, any drug product containing camphor in oil, or any other drug product containing camphor that is represented, suggested or purported to be camphorated oil, e.g., "camphor liniment," "camphor oil," "camphorated liniment," is misbranded under section 502 of the Federal Food, Drug, and Cosmetic Act and is a new drug within the meaning of section 201(p) of the act for which an approved new drug application under section 505 of the act and Part 314 of this chapter is required for marketing.

(c) A completed and signed "Notice of Claimed Investigational Exemption for a New Drug" (Form FD–1571), as set forth in § 312.1 of this chapter, is required to cover clinical investigations designed to obtain evidence that any camphorated oil drug product is safe for the purpose intended.

(d) Any such drug product in interstate commerce after September 21, 1982 that is not in compliance with this section is subject to regulatory action.

Effective date. This rule is effective on September 21, 1982.

(Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); secs. 4, 5, 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704))

Mark Novitch,

Acting Commissioner of Food and Drugs.

Dated: August 18, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

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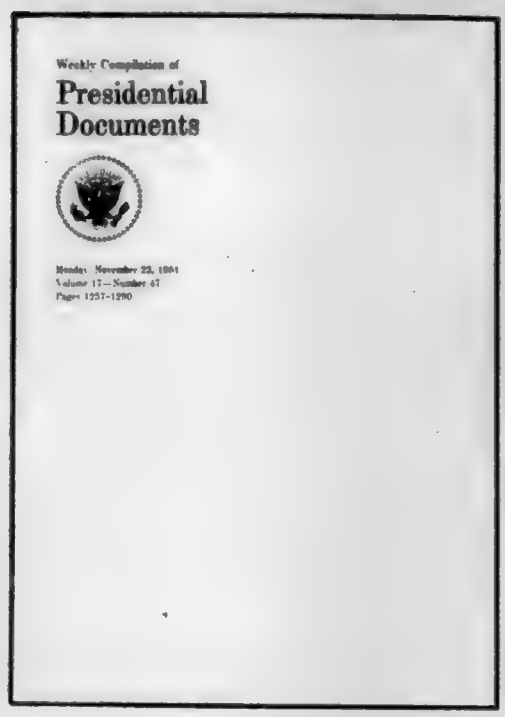
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Grant Programs—Social Programs
Human Development Services Office

Health Insurance
Defense Department

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Commodity Credit Corporation

Meat and Meat Products
Agricultural Marketing Service

Natural Gas
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Presidential Documents

Title 3—

The President

Memorandum of September 20, 1982

Determination Under the Bus Regulatory Reform Act of 1982

Memorandum for the United States Trade Representative

The Bus Regulatory Reform Act of 1982 addresses in Section 6 the issue of transborder trucking. It imposes a moratorium on the issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by persons of, a contiguous foreign country. I am authorized to remove the moratorium in whole or in part for any country or political subdivision thereof upon determining that such action is in the national interest. I must also provide written notice to the Congress of such removal or modification before it becomes effective. Sixty days' advance notice to the Congress is required whenever the removal or modification applies to a foreign contiguous country or political subdivision thereof which substantially prohibits the granting of motor carrier authority to persons from the United States. I hereby determine that this sixty-day advance notification provision is not now applicable to Canada.

The transborder trucking issue has been the subject of extensive discussions between the United States and Canada and between the United States and Mexico. Because of the importance of fair and open competition in this important service sector, I am today instructing you, as my Trade Representative, to intensify our efforts to negotiate a fair and equitable resolution of this issue with both Canada and Mexico.

I regret that with respect to Mexico there has not yet been progress sufficient to justify a modification of the moratorium. A substantial disparity remains between the relatively open access afforded Mexican trucking service coming into the United States and the almost complete inability of United States trucking interests to provide service into Mexico.

In the case of Canada, our trucking industry is not now, nor has it been, precluded from providing services into that country. However, our regulatory schemes do now differ. Since the United States deregulation legislation, Canadian trucking interests could have an opportunity to provide single-line service into the United States more easily than their United States counterparts can provide into Canada. In addition, United States firms seeking to become established in Canada may be subjected to investment restrictions not facing their Canadian competitors.

I believe that our national interest is best served by fair and equitable competition between United States and Canadian trucking interests in our two markets.

Therefore, under my authority to remove in whole or in part the moratorium imposed in Section 6 of the Bus Regulatory Reform Act which prohibits issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by persons of, a contiguous foreign country, I hereby find that it is in the national interest to modify the moratorium by suspending it insofar as Canada is concerned as set forth below.

Accordingly, you are directed to notify the Congress today on my behalf that, effective tomorrow: (1) The moratorium for Canada is suspended insofar as necessary to permit the Interstate Commerce Commission (ICC) to grant authority to motor carriers under the appropriate sections of 49 U.S.C. subtitle IV. This suspension is expressly conditioned upon the Commission, in making determinations on whether the proposed transportation serves a "useful

public purpose" or is in the "public interest," according great weight to the national transportation policy, particularly the mandates to promote "economical and efficient transportation," and "to encourage sound economic conditions in transportation including sound economic conditions among carriers." Such determinations by the Commission shall be consistent with the directives of the United States Trade Representative concerning the international trade policy of the United States; (2) The moratorium in regard to Canadian applicants is further modified by suspending it to permit the ICC to issue temporary and emergency temporary authority, and to issue certificates in motor carrier merger, consolidation, and acquisition of control proceedings, and motor carrier restriction removal proceedings; (3) The moratorium is further modified by suspending it insofar as issuance of ICC authorities to Canadian carriers for domestic traffic in the United States under the appropriate sections of 49 U.S.C. subtitle IV is concerned. Canadian-owned, controlled, or domiciled firms will be able to apply for and receive ICC authority for operations wholly within the United States.

Finally, having directed you to seek an understanding with Canada that will ensure the fair and equitable treatment of both Canadian and United States trucking interests on both sides of the border, I further direct you to report back to me within sixty days on those discussions. It is my expectation that such time should be sufficient for an appropriate understanding to allow me to finally remove the moratorium.

This determination shall be published in the **Federal Register**.

Ronald Reagan

THE WHITE HOUSE,
Washington, September 20, 1982.

[FR Doc. 82-26282
Filed 9-20-82; 5:01 pm]
Billing code 3195-01-M

Presidential Documents

Presidential Determination No. 82-20 of September 7, 1982

The Sale to Lebanon of Communications Equipment

Memorandum for the Secretary of Defense

Pursuant to your recommendation, I determine, pursuant to the provisions of Title 10 United States Code, Section 975, that there is an international crisis in Lebanon affecting the security of the United States and that the sale to the Government of Lebanon of four AN/TRC-145 radio terminals from U.S. Army Prepositioned War Reserves is in the best interests of the United States. You are authorized and directed to report to the Congress on my behalf not later than 60 days after the transfer of such radio terminals to Lebanon a plan for the prompt replenishment of stocks of such radio terminals using the proceeds of the sale for the replenishment.

This determination shall be published in the **Federal Register** pursuant to Section 654 of the Foreign Assistance Act of 1961.

Ronald Reagan

THE WHITE HOUSE,
Washington, September 7, 1982.

[FR Doc. 82-26306
Filed 9-21-82; 11:38 am]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
Vol. 47, No. 184
Wednesday, September 22, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and general officers of the Department to reflect the transfer of responsibilities of Title III of the Federal Seed Act, as amended, from the Administrator, Agricultural Marketing Service to the Administrator, Animal and Plant Health Inspection Service.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: John C. Frey, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782 (301–436–5591).

SUPPLEMENTARY INFORMATION: The U.S. Department of Agriculture is responsible for controlling and/or preventing the entry of noxious weeds into the United States under the Federal Seed Act (FSA) and the Federal Noxious Weed Act (FNWA). The FSA, currently, is administered by the Agricultural Marketing Service while the Federal Noxious Weed Act is administered by the Animal and Plant Health Inspection Service. In order for the Department to carry out its mission more effectively and efficiently, it has been determined that the responsibility contained in Title III of the FSA for inspection of imported seeds should be transferred from the Agricultural Marketing Service to the Animal and Plant Health Inspection Service, thus allowing APHIS to sample all imported seed shipments and to inspect such samples for noxious weeds.

This rule relates to internal agency management, and therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provision of E.O. 12291. Finally, this action is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

2. Section 2.17 is amended by revising paragraph (a)(3)(xii) and by adding a new paragraph (b)(36) to read as follows:

§ 2.17 Delegations of authority to the Assistant Secretary for Marketing and Inspection Services.

* * * * *

(a) * * *

(3) * * *

(xii) Titles I, II, IV, and V of the Federal Seed Act, as amended (7 U.S.C. 1551–1575, 1591–1611).

* * * * *

(b) * * *

(36) Title III (and Title IV to the extent that it relates to activities under Title III,) of the Federal Seed Act, as amended (7 U.S.C. 1581–1610).

* * * * *

3. Section 2.50 is amended by revising paragraph (a)(3)(xii) to read as follows:

§ 2.50 Administrator, Agricultural Marketing Service.

(a) * * *

(3) * * *

(xii) Titles I, II, IV, and V of the Federal Seed Act, as amended (7 U.S.C. 1551–1575, 1591–1611).

* * * * *

4. Section 2.51 is amended by adding a new paragraph (a)(37) to read as follows:

§ 2.51 Administrator, Animal and Plant Health Inspection Service.

(a) * * *

(37) Title III (and Title IV to the extent that it relates to activities under Title III) of the Federal Seed Act, as amended (7 U.S.C. 1581–1610).

* * * * *

For Subpart C:

Dated: August 27, 1982.

John R. Block,

Secretary of Agriculture.

For Subpart F:

Dated: August 27, 1982.

C. W. McMillan,

Assistant Secretary for Marketing and Inspection Services.

[FR Doc. 82-26154 Filed 9-21-82; 8:45 am]
BILLING CODE 3410-01-M

Commodity Credit Corporation

7 CFR Part 1427

Loans, Purchases, and Other Operations; Specifications for Bale Packaging Materials Used in Wrapping Cotton

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule removes unnecessary regulations codified at 7 CFR 1427.1901 through 1427.1905 which previously have set forth detailed specifications for bale packaging materials used in wrapping cotton which is pledged to the Commodity Credit Corporation (CCC) as collateral for a price support loan. The CCC has incorporated by reference in price support regulations for cotton the specifications which are approved and published by the Joint Cotton Industry Bale Packaging Committee for each crop of cotton.

DATES: Effective September 21, 1982

FOR FURTHER INFORMATION CONTACT: Carolyn E. Cozart, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447-7987.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified "not major." It has been determined that this rule will not result in (1) an annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity innovation or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this rule applies to are: Commodity Loans and Purchases; 10.051, as found in the catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

On July 1, 1982, a final rule was published at 47 FR 28605 amending the regulations governing the CCC cotton loan program for the 1980 and subsequent crops to incorporate by reference these specifications for bale packaging materials used in wrapping cotton which were approved and published by the Joint Cotton Industry Bale Packaging Committee (JCIBPC) for the 1982 crop of cotton. Under this final rule, CCC now requires that the packaging of 1982 crop cotton pledged as collateral for a price support loan must meet such specifications.

Since this rule makes no substantive change but merely deletes certain provisions from the Code of Federal Regulations setting forth the detailed specifications for bale packaging materials for cotton which is pledged to CCC for a price support loan, it has been determined that no further public rulemaking is required. The provisions previously appearing at 7 CFR 1427.1901 through 1427.1905 shall remain in effect with respect to those crop years to which they are applicable.

List of Subjects in 7 CFR Part 1427

Cotton, Loan Programs—agriculture.

Final Rule

PART 1427—COTTON

§§1427.1901-1427.1905 [Removed]

Accordingly, the regulations at 7 CFR § 1427.1901 through 1427.1905 and the Subpart heading thereto are hereby removed from the Code of Federal Regulations.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714(b) and (c); secs. 101, 103, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1444, 1421))

Signed at Washington, D.C. on September 15, 1982.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82-25068 Filed 9-21-82; 8:45 am]
BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 82-035]

Change in Disease Status of Great Britain (England, Scotland, Wales, and Isle of Man) Because of Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document makes final the interim rule which added Great Britain (England, Scotland, Wales, and Isle of Man) to the list of countries declared to be free of rinderpest and foot-and-mouth disease. This action is necessary to permit importation of cattle, sheep, or other ruminants, or swine, or fresh, chilled or frozen meats of such animals into the United States from Great Britain (England, Scotland, Wales, and Isle of Man).

EFFECTIVE DATE: September 22, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Import/Export Animals and Products Staff, Room 821, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8530.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The final rule has been determined to be not a "major rule" under Executive Order 12291. Based on information received by the Department, it has been determined that this rule will have an annual effect on the economy of less than $100 million, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and will not have any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291, and the Department of Agriculture has waived the requirements of Secretary's Memorandum No. 1512-1.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action will lift restrictions that were imposed on March 25, 1981, on the importation of cattle, sheep, or other ruminants, or swine, or fresh, chilled, or frozen meats and other products of such animals into the United States from Great Britain (England, Scotland, Wales, and Isle of Man). In recent years approximatley 50-100 cattle, sheep, other ruminants and swine have been imported from Great Britain into the United States annually. Further, in recent years there has been no fresh, chilled, or frozen meat of such animals and a negligible quantity of other animal products imported into the United States from Great Britain. Therefore, it does not appear that this action will have a significant economic impact on a substantial number of small entities.

Background

A document published in the **Federal Register** on December 31, 1981 (46 FR 63206-63208) amended, on an interim basis, the regulations (9 CFR Part 94, § 94.1(a)(2)), to add Great Britain (England, Scotland, Wales, and Isle of Man) to the list of countries declared to be free of rinderpest and foot-and-mouth disease. This action was based upon a review of evidence submitted to APHIS by authorities of Great Britain (England, Scotland, Wales, and Isle of Man) on the health conditions of livestock in Great Britain. However, since Great Britain (England, Scotland, Wales, and Isle of Man) supplements its national meat supply through importations of fresh, chilled or frozen meat of ruminants or swine from countries designated in § 94.1(a)(1) of the regulations under

conditions less restrictive than would be acceptable for importation of such meat into the United States, the possibility exists that meat from Great Britain (England, Scotland, Wales, and Isle of Man) may be commingled with meat from infected countries resulting in an unacceptable risk of introducing rinderpest or foot-and-mouth disease into the United States. Therefore, the interim rule also requires that meat of ruminants or swine and other animal products from Great Britain (England, Scotland, Wales, and Isle of Man) be imported into the United States only under restrictions specified in § 94.11(a) of the regulations.

This document became effective on the date of publication. The document provided that the amendment was necessary as an emergency measure to relieve unnecessary restrictions on the importation of cattle, sheep, or other ruminants or swine or fresh, chilled, or frozen meats of such animals imported into the United States from Great Britain (England, Scotland, Wales, and Isle of Man).

Written comments were solicited for 60 days after publication of the amendments. No comments were received in response to the amendments. The factual situation which was set forth in the document of December 31, 1981, still provides a basis for the amendments. After careful consideration of all relevant information available to the Department, the Deputy Administrator has determined that the interim rule revising §§ 94.1(a)(2) and 94.11(a) should be made a permanent regulation as it appeared in the **Federal Register** on December 31, 1981.

List of Subjects in 9 CFR 94

Additional Terms

Animal diseases, Imports, Livestock and livestock products, Meat and meat products, Milk, Poultry and Poultry products.

African swine fever, Exotic newcastle disease, Foot-and-mouth disease, Fowl pest, Garbage, Hog cholera, Rinderpest, Swine vesicular disease.

(Sec. 2, 32 Stat. 792, as amended; sec. 306, 46 Stat. 689, as amended; secs. 4 and 11, 76 Stat. 130, 132; 19 U.S.C. 1306; 21 U.S.C. 111, 134c, 134f; 47 FR 28464, 28477; 38 FR 19141)

Done at Washington, D.C., this 16th day of September 1982.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-26144 Filed 9-21-82; 8:45 am]

BILLING CODE 3410-34-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB-47]

Staff Accounting Bulletin No. 47

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: The interpretations in this Staff Accounting Bulletin express certain views of the staff concerning (i) the preparation of financial statements of oil and gas exchange offers included in filings with the Commission and (ii) the application of the Commission's rules for oil and gas producing activities, particularly with respect to the determination of future net revenues and various full cost accounting matters.

DATE: September 16, 1982.

FOR FURTHER INFORMATION CONTACT: M. Elizabeth Rader or John W. Albert (202-272-2130), Office of the Chief Accountant, or James W. Ford, Jr., (202-272-2553), Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

Lists of Subjects in 17 CFR Part 211

Accounting, Reporting requirements, Securities.

George A. Fitzsimmons,

Secretary.

September 16, 1982.

Staff Accounting Bulletin No. 47

The staff hereby adds new major Topic 12 "Oil and Gas Producing Activities" and Topic 2-d "Financial Statements of Oil and Gas Exchange Offers" to the staff accounting bulletin series. In addition, the staff hereby deletes Topic 6-J, redesignates Topics 6-D and 6-E as Topics 12-A and 12-B, respectively, adds Question 11 to redesignated Topic 12-A-2, adds Subsection 3-e to Topic 12-A and adds Topics 12-C, 12-D and 12-E.

Topic 2-D describes the staff's administrative policies with respect to the financial statements of oil and gas exchange offers included in filings with the Commission. Question 11 of Topic 12-A-2 sets forth the staff's view on the impact of natural gas deregulation on the determination of estimates of future net revenues. Topic 12-C updates the guidance previously provided in Topic 6-J concerning the selection of accounting methods for oil and gas producing activities. Topic 12-D set forth the staff's views on questions pertaining to the application of the Commission's rules for the full cost method of accounting for oil and gas producing activities. Topic 12-E discusses financial statements of royalty trusts. The purpose of the redesignation under Topic 12 is to centralize the staff's interpretations of matters involving oil and gas producing activities within one topic of the staff accounting bulletin series.

Topic 2.—Business Combinations

* * * * *

D. Financial Statements of Oil and Gas Exchange Offers

Facts.—Recently, the staff has noted increasing use of "exchange offers" (also referred to as "roll-ups" or "put-togethers") by companies in the oil and gas industry to form a publicity held company, take an existing private company public, or increase the size of an existing publicly held company. An exchange offer transaction involves a swap of shares in a corporation for interests in properties, typically limited partnership interests. Such interests could include direct interests such as working interests and royalties related to developed or undeveloped properties and indirect interests such as limited partnership interests or shares of existing oil and gas companies. Generally, such transactions are structured to be tax-free to the individual or entity trading the property interest for shares of the corporation. Under certain circumstances, however, part or all of the transaction may be taxable.

The fundamental accounting issues in exchange transactions involve determining the basis at which the properties exchanged should be recorded and deciding what prior financial results of the entities should be reported. In this regard, generally accepted accounting principles (GAAP) outline two possible accounting treatments: (1) purchase accounting under which the properties are recorded at their estimated fair value at the date on which the transaction is consummated, or (2) pooling accounting under which the properties are reported at the historical cost to their predecessor owners. The choice between the two methods is not optional but is strictly determined based on the particular circumstances involved in a given transaction. Accounting Principles Board Opinion No. 16 (APBO 16) establishes certain criteria which must be met if pooling accounting is to be used; in all other instances the purchase method must be applied. APBO 16 speaks specifically to business combinations between nonaffiliated enterprises. When affiliated enterprises (under common control) are involved, the transaction may be considered a reorganization and, according to the AICPA staff interpretations of APBO 16, should be recorded in a manner similar to pooling accounting even though the transaction may not meet the technical requirements for pooling treatment.

Because of the recent proliferation in the number of exchange offers and because existing GAAP do not clearly address the accounting for such transactions, the staff has developed administrative policies which it has followed with respect to the financial statements of oil and gas exchange offers included in filings with the Commission.

Question 1.—What are the staff's general guidelines in determining the appropriate basis of accounting in an exchange transaction?

Interpretative Response.—The staff believes the basis of accounting should be determined pursuant to the provisions of APBO 16, if it is applicable. However, since these transactions typically involve the exchange of interests in selected assets or operations, rather than the combining of entities in their entirety, the prerequisite conditions for pooling accounting are rarely met. Accordingly, where unrelated parties are involved, it is usually appropriate to apply purchase accounting based on the fair value of either the stock issued or the properties involved.

The following chart shows the method of accounting to be used under some relatively simple sets of circumstances.

Condition	Accounting—based on status of issuing entity	
	Public Company [1]	Nonpublic [2]
Pooling of interests conditions are met (extremely rare)	Pooling of interests accounting.	Same.
High degree of common ownership or common control between issuing corporation and offerees.[3]	Purchase accounting based on fair value of stock.[4]	Reorganization of entities under common control.
All other, i.e., without common ownership or control	Purchase accounting based on fair value of stock.	Purchase accounting based on fair value of properties.

[1] Issuing corporation is an existing public company before the exchange offer with an established market for its stock (includes situations involving use of a shell company established by a public company).
[2] Issuing corporation is not public prior to the exchange offer and thus has no established market for its stock.
[3] Common control ordinarily exists where the issuing corporation acts as general partner for the offeree partnership(s). Where all the following conditions apply, common control will be considered to exist between the issuing corporation and the offerees even though the issuer does not exercise the same legal powers as a general partner:
a. The issuer or its survivor initially acquired the property for exploration and development;
b. Other investors were of a passive nature, solicited to provide financing with the hope of a return on their investment; and
c. The issuer or its survivor has continued to exercise day-to-day managerial control.
[4] In rare instances, such as when the property interest owners accepting the exchange offer acquire a majority of the voting shares of the company emerging from the exchange transaction, reorganization accounting may be considered appropriate. In such cases, the particular facts and circumstances should be reviewed with the Commission staff.

This chart reflects the staff's view that purchase accounting is generally appropriate except in situations where the APBO 16 pooling criteria are met or where the principles for transactions involving common control apply. When a non-public entity acts as offeror to a group of related entities, the transaction is essentially a reorganization, and thus there is no basis for a change in the cost basis of the properties involved. If an existing public company (with an established market for its stock) has common ownership or control with the offerees, and the offerees acquire a majority interest in the emerging company, a question may arise as to whether the transaction is a reorganization.

Question 2.—In some situations, a non-public issuer may be affiliated with some but not all of the offerees. Assuming the nonaffiliated offerees are not deemed "co-promoters" of the new entity, how should such a transaction be accounted for?

Interpretive Response.—The property interests acquired from affiliated and nonaffiliated parties should each be accounted for as though acquired in separate exchange offer transactions. Thus in some circumstances, it may be necessary to record the interests owned by affiliated persons at predecessor cost while recording the interests of nonaffiliated persons as a purchase.

Example

Facts—D Company (a non-public company) forms a shell, E Company, to become its successor and to sponsor an exchange offer. E makes the exchange offer to four entities: A, B, C, and D. A and B are unaffiliated; C is a limited partnership sponsored by D. The shareholders of D will become the principal or controlling shareholders of E.

Basis of Accounting—Since there is no market for E's stock, it should record the properties received from C and from D at their predecessor cost. The properties received from A and B should be recorded at their fair market value.

Question 3.—How should "reorganization accounting" be applied to the specific assets and liabilities of the new exchange company?

Interpretive Response.—Under "reorganization accounting" the various accounting methods followed by the offeree entities should be conformed to the methods adopted by the new exchange company. It is not appropriate to combine assets and liabilities accounted for on different bases. Accordingly, as in the case of any merger between oil and gas companies, all of the oil and gas properties of the new entity must be accounted for on the same basis (either full cost or successful efforts) applied retroactively.

Question 4.—If an exchange transaction is tax-free, the book basis (carrying amount) of the net assets acquired often exceeds their tax basis. In such circumstances, if the transaction is *not* being accounted for as a purchase, is it appropriate to establish (and reflect in the pro forma statements) deferred tax credits for the tax effects of such differences between book and tax basis?

Interpretive Response.—The staff will not object to the recording of deferred tax credits in these circumstances. Although the current accounting literature does not address this situation directly, the deferred taxes can be viewed as an adjustment necessary to conform the accounting of the combining entities.

Question 5.—In Form 10-K filings with the Commission, the staff has permitted limited partnerships to omit certain of the oil and gas reserve data disclosures required by paragraphs (5) through (8) of Rule 4-10(k) in some circumstances. Is it permissible to omit these disclosures from the financial statements included in an exchange offering?

Interpretive Response.—No. Normally full disclosures of reserve data and related information are required. The exemptions previously allowed relate *only* to partnerships where value-oriented data are otherwise available to the limited partners pursuant to the partnership agreement. The staff has previously stated that it will require all of the Rule 4-10(k) disclosures for partnerships which are the subject of merger or exchange offers.[1] These disclosures may, however, be presented on a combined basis.

The staff believes that the financial statements in an exchange offer registration statement should provide sufficient historical reserve quantity and value-based disclosures to enable offerees and secondary market public investors to evaluate the effect of the exchange proposal. Accordingly, in all cases, it will be necessary to present information as of the latest year-end on reserve quantities and the future net revenues associated with such quantities.[2] In certain circumstances, where the exchange is accounted for as a purchase, the staff will consider, on a case-by-case basis, granting exemptions from (i) the disclosure requirements for year-to-year reconciliations of reserve quantities, and (ii) the requirements in Rules 4-10(k)(7) and (8) for a summary of oil and gas producing activities and a summary of changes in the net present value of reserves. For instance, the staff may consider requests for exemptions in cases where the properties acquired in the exchange transaction are fully explored and developed, particularly if the management of the emerging company has not been involved in the exploration and development of such properties.

Question 6.—Assume an exchange transaction is to be accounted for as a purchase and recorded at the fair value of the properties. If the exchange company will use the full cost method of accounting, does the full cost ceiling limitation apply as of the date

[1] See Staff Accounting Bulletin No. 40, Topic 6-D-3-c [46 FR 11533] (February 9, 1981), redesignated in this Staff Accounting Bulletin as Topic 12-A-3-c.

[2] In Securities Act Release 6412 [47 FR 28684] (July 1, 1982), the Commission proposed to delete Rule 4-10(k), and to relocate its requirements for supplemental oil and gas disclosures in Item 302 of Regulation S-K. Under this proposal, registrants would be required to comply with the provisions of a Statement of Financial Accounting Standards expected to be issued. It is anticipated that the interpretive guidance provided in this response would continue to apply if reserve information is ultimately required by the FASB standard.

of the financial statements reflecting the exchange?

Interpretive Response.—Yes. The full cost ceiling limitation on costs capitalized does apply. However, as discussed under Topic 12–D–3, the Commission has stated that in unusual circumstances, registrants may request an exemption if as a result of a major purchase, a write-down would be required even though it can be demonstrated that the fair value of the properties clearly exceeds the unamortized costs.[3]

Question 7.—What pro forma financial information is required in an exchange offer filing?

Interpretive Response.—The requirements for pro forma financial information in exchange offer filings are the same as in any other filings with the Commission and are detailed in Article 11 of Regulation S–X.[4] Rule 11–02(b) specifies the presentation requirements, including periods presented and types of adjustments to be made. The general criteria of Rule 11–02(b)(6) are that pro forma adjustments should give effect to events that are (i) directly attributable to the transaction, (ii) expected to have a continuing impact on the registrant and (iii) factually supportable. In the case of an exchange offer, such adjustments typically are made to:

(1) Show varying levels of acceptance of the offer.

(2) Conform the accounting methods used in the historical financial statements to those to be applied by the new entity.

(3) Recompute the depreciation, depletion and amortization charges, in cases where the new entity will use full-cost accounting, on a combined basis. If this computation is not practicable, and the exchange offer is accounted for as a reorganization, historical depreciation, depletion and amortization provisions may be aggregated, with appropriate disclosure.

(4) Reflect purchase cost in the pro forma statements (where the exchange offer is accounted for on the purchase basis), including depreciation, depletion and amortization based on the purchase cost.

(5) Provide pro forma reserve information.

(6) Reflect significant changes, if any, in levels of operations (revenues or costs), or in income tax status and to reflect debt incurred in connection with the transaction.

In addition, the depreciation, depletion and amortization rate which will apply for the initial period subsequent to consummation of the exchange offer should be disclosed.

Question 8.—Are there conditions under which the presentation of other than full historical financial statements would be acceptable?

Interpretive Response.—Generally, full historical financial statements as specified in Rules 3–01 and 3–02 of Regulation S–X are considered necessary to enable offerees and secondary market investors to evaluate the transaction. Where securities are being registered to offer to the security holders (including limited partners and other ownership interests) of the businesses to be acquired, such financial statements are normally required pursuant to Rule 3–05 of Regulation S–X, either individually for each entity or, where appropriate, separately for the offeror and on a combined basis for other entities, generally excluding corporations. However, certain exceptions may apply as explained in the outline below:

A. Purchase Accounting

1. If the registrant can demonstrate that full historical financial statements of the offeree partnerships are not reasonably available, the staff may permit presentation of audited Statements of Combined Gross Revenues and Direct Lease Operating Expenses for all years for which an income statement would otherwise be required. In these circumstances, the registrant should also disclose in an unaudited footnote the amounts of total exploration and development costs, and general and administrative expenses along with the reasons why presentation of full historical financial statements is not practicable.

2. The staff will consider requests to waive the requirement for prior year financial statements of the offeree partnerships and instead allow presentation of only the latest fiscal year and interim period, if the registrant can demonstrate that the prior years' data would not be meaningful because the offeree partnerships had no material quantity of production.

B. Reorganization Accounting

The staff would expect that full historical financial statements as specified in Rules 3–01 and 3–02 of Regulation S–X would be included in the registration statement for exchange offers accounted for as reorganizations, including all required supplemental reserve information. The presentation of individual or combined financial statements would depend on the circumstances of the particular exchange offer.

Registrants are also reminded that wherever historical results are presented, it may be appropriate to explain the reasons why historical costs are not necessarily indicative of future expenditures.

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Topic 12: Oil and Gas Producing Activities

A. Accounting Series Release No. 257—Requirements for Financial Accounting and Reporting Practices for Oil and Gas Producing Activities

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2. Estimates of Future Net Revenues

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Question 11.—Under the Natural Gas Policy Act, (NGPA), certain categories of natural gas will be deregulated as of January 1, 1985. In computing estimates of future net revenues pursuant to Rule 4–10(k)(6) of Regulation S–X,[5] what price should be used for estimated gas production after the decontrol date?

Interpretive Response.—Companies should base pricing of production subsequent to the date a particular category of gas is scheduled to be decontrolled on the price applicable to the gas immediately prior to the decontrol date, *i.e.*, at the current sales price at the end of the fiscal year for that category of gas, adjusted only for fixed and determinable escalation (provided in all cases the company can reasonably expect to receive the price used). Such pricing should be used even if the applicable gas sales contracts contain escalation provisions such as area-rate escalator clauses or clauses tied to the prices of competitive fuels.

This practice differs from the circumstances involved with the decontrol of crude oil prices in 1980 and 1981 (see Question 7 in this section), because the market and regulatory conditions affecting natural gas differ substantially from those relating to crude oil during the earlier period. The current decontrolled price of gas may not prevail as a market clearing price under deregulated conditions, and accordingly the staff does not consider it appropriate to apply the current decontrolled price to production subsequent to the decontrol date.

Registrants are also reminded that the current instability in the natural gas market may require increased scrutiny of both (1) the expected timing of estimated future production and (2) the appropriate prices to be applied to all future production for purposes of the future net revenue calculation. The estimates of future production should take into account the known or reasonably likely impact of reduced takes by purchasers, pursuant to contractual rights or otherwise. Similarly, as noted in the response to Question 2 in this section, whether the gas in question is eligible for current market prices or is subject to some lower ceiling, the use of the maximum eligible price is appropriate *only* provided the company can reasonably expect to sell the gas at that price.

3. Disclosure of Reserve Information

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e. Rate Regulated Companies

Question.—If a company has cost-of-service oil and gas producing properties, how should they be treated in the supplemental disclosures of reserve quantities and related future net revenues provided pursuant to Rule 4–10(k) of Regulation S–X?

Interpretive Response.—Rule 4–10 provides that registrants may give effect to differences arising from the ratemaking process for cost-of-service oil and gas properties. Accordingly, in these circumstances, the staff believes that the company's supplemental reserve quantity disclosures should indicate separately the quantities associated with properties subject to cost-of-service ratemaking, and that it is appropriate to exclude those quantities from

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[3] See Financial Reporting Release No. 1, "Codification of Financial Reporting Policies," § 406.01.c.iii [47 FR 21028] (May 17, 1982).

[4] As announced in Financial Reporting Release No. 2 [47 FR 29832] (July 9, 1982).

[5] In Securities Act Release 6412 [47 FR 28064] (July 1, 1982), the Commission proposed to delete Rule 4–10(k), and to require instead the presentation in Item 302 of Regulation S–K of the supplemental oil and gas disclosures specified in the Statement of Financial Accounting Standards on disclosures of oil and gas producing activities expected to be issued. It is anticipated that the interpretive guidance provided herein would continue to apply if reserve information is ultimately required by the FASB standard.

the future net revenue disclosures. The company should also disclose the nature and impact of its cost-of-service ratemaking, including the unamortized cost included in the balance sheet.

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C. Methods of Accounting by Oil and Gas Producers

1. First-time Registrants

Facts: In Accounting Series Release No. 300, the Commission announced that it would allow registrants to change methods of accounting for oil and gas producing activities so long as such changes were in accordance with generally accepted accounting principles. Accordingly, the Commission stated that changes from the full cost method to the successful efforts method would not require a preferability letter because of the position expressed in Statement of Financial Accounting Standards No. 25 that successful efforts is considered preferable by the FASB for accounting changes. Changes *to* full cost, however, would require justification by the company making the change and filing of a preferability letter from the company's independent accountants.

Question.— How does this policy apply to a nonpublic company which changes its accounting method in connection with a forthcoming public offering or initial registration under either the 1933 Act or 1934 Act?

Interpretive Response.—The Commission's policy that first time registrants may change their previous accounting methods without filing a preferability letter is applicable. Therefore, such a company may change to the full cost method without filing a preferability letter.

2. Consistent Use of Accounting Methods Within a Consolidated Entity

Facts.—Rule 4-10(i) of Regulation S-X states that "a reporting entity that follows the full cost method shall apply that method to all of its operations and to the operations of its subsidiaries."

Question 1.—If a parent company uses the successful efforts method of accounting for oil and gas producing activities, may a subsidiary of the parent use the full cost method?

Interpretive Response.—No. The use of different methods of accounting in the consolidated financial statements by a parent company and its subsidiary would be inconsistent with the full cost requirement that a parent and its subsidiaries all use the same method of accounting.

The staff's general policy is that an enterprise should account for all its like operations in the same manner. However, Rule 4-10 of Regulation S-X provides that oil and gas companies with cost-of-service oil and gas properties may give effect to any differences resulting from the ratemaking process, including regulatory requirements that a certain accounting method be used for the cost-of-service properties.

Question 2.—Must the method of accounting (full cost or successful efforts) followed by a registrant for its oil and gas producing activities also be followed by any fifty percent or less owned companies in which the registrant carries its investment on the equity method (equity investees)?

Interpretive Response.—No. Conformity of accounting methods between a registrant and its equity investees, although desirable, may not be practicable and thus is not required. However, if a registrant proportionately consolidates its equity investees, it will be necessary to present them all on the same basis of accounting.

D. Application of Full Cost Method of Accounting

1. Treatment of Income Tax Effects in the Computation of the Limitation on Capitalized Costs

Facts.—Item (D) of Rule 4-10(i)(4) of Regulation S-X states that the income tax effects related to the properties involved should be deducted in computing the full cost ceiling.

Question 1.—What specific types of income tax effects should be considered in computing the income tax effects to be deducted from estimated future net revenues?

Interpretative Response.—The rule refers to income tax effects generally. Thus, the computation should take into account (i) the tax basis of oil and gas properties, (ii) net operating loss carryforwards, (iii) foreign tax credit carryforwards, (iv) investment tax credits, (v) minimum taxes on tax preference items, and (vi) the impact of statutory (percentage) depletion.

It may often be difficult to allocate net operating loss carryforwards (NOL's) between oil and gas assets and other assets. However, to the extent that the NOL's are clearly attributable to oil and gas operations and are expected to be realized within the carryforward period, they should be added to tax basis.

Similarly, to the extent that investment tax credit (ITC) carryforwards and foreign tax credit carryforwards are attributable to oil and gas operations and are expected to be realized within the carryforward period, they should be considered as a deduction from the tax effect otherwise computed. Consideration of NOL's and ITC or foreign tax credit carryforwards should not, of course, reduce the total tax effect below zero.

Question 2.—How should the tax effect be computed considering the various factors discussed above?

Interpretative Response.—Theoretically, taxable income and tax could be determined on a year-by-year basis and the present value of the related tax computed. However, the "short-cut" method illustrated below is also acceptable.

Assumption

Capitalized costs of oil and gas assets		$500,000
Accumulated DD&A		(100,000)
Book basis of oil and gas assets		400,000
Related deferred income taxes		35,000
Net book basis to be recovered		365,000
NOL carryforward [1]		$20,000
Foreign tax credit carryforward [1]		$1,000
ITC-Carryforward [1]	$2,000	
Present value of ITC relating to future development costs	1,500	$3,500
Estimated preferential (minimum) tax on percentage depletion in excess of cost depletion		$500
Tax basis of oil and gas assets		$270,000
Present value of statutory depletion attributable to future deductions		$10,000
Statutory tax rate (percent)		46
Present value of future net revenues from proved oil and gas reserves		$272,000
Cost of properties not being amortized		$55,000
Lower of cost or estimated fair value of unproved properties included in costs being amortized		$49,000

Calculation

Present value of future net revenue		$272,000
Cost of properties not being amortized		55,000
Lower of cost or estimated fair value of unproved properties included in costs being amortized		$49,000
Tax effects: Total of above items	$376,000	
Less:		
Tax basis of properties	(270,000)	
Statutory depletion	(10,000)	
NOL carry forward	(20,000)	(300,000)
Future taxable income		76,000
Tax rate (percent)		x.46
Tax payable at statutory rate		[34,960]
ITC		3,500
Foreign tax credit carryforward		1,000
Estimated preference tax		(500)
Total tax effects		[30,960]
Cost Center Ceiling		$345,040
Less: Net book basis		365,000
Required write-off, net of tax [2]		($19,960)

[1] All carryforward amounts in this example represent amounts which are available for tax purposes and which relate to oil and gas operations.

[2] For accounting purposes, the gross write-off should be recorded to adjust both the oil and gas properties account and the related deferred income taxes.

2. Exclusion of Costs from Amortization

Facts.—Rule 4-10(i)(3)(ii) indicates that the costs of acquiring and evaluating unproved properties may be excluded from capitalized costs to be amortized if the costs are unusually significant in relation to aggregate costs to be amortized. Costs of major development projects may also be excluded if unusually significant development costs must be incurred prior to ascertaining the quantities of proved reserves attributable to such properties.

Question.—At what point should amortization of previously excluded costs commence—when proved reserves have been established or when those reserves become marketable? For instance, a determination of proved reserves may be made before completion of an extraction plant necessary to process sour crude or a pipeline necessary to market the reserves. May the costs continue to be excluded from amortization until the plant or pipeline is in service?

Interpretive Response.—No. The proved reserves and the costs allocable to such reserves should be transferred into the amortization base on an ongoing (well-by-well or property-by-property) basis as the project is evaluated and proved reserves are established.

Once the determination of proved reserves has been made, there is no justification for continued exclusion from the full cost pool, regardless of whether other factors prevent immediate marketing. Moreover, at the same time that the costs are transferred into the amortization base, it is also necessary in accordance with FASB Interpretation No. 33

and Statement of Financial Accounting Standards No. 34 to terminate capitalization of interest on such properties.

In this regard, registrants are reminded of their responsibilities not to delay recognizing reserves as proved once they have met the engineering standards.

3. Full Cost Ceiling Limitation

a. Exemptions for Purchased Properties

Facts.—During 1981, a registrant purchases proved oil and gas reserves in place ("the purchased reserves") in an arm's length transaction for the sum of $9.8 million. Primarily because the registrant expects oil and gas prices to escalate, it paid $1.2 million more for the purchased reserves than the "Present Value of Estimated Future Net Revenues" computed as defined in Rule 4–10(k)(6)(ii) of Regulation S–X. An analysis of the registrant's full cost center in which the purchased reserves are located at December 31, 1981 is as follows:

(Amounts in 1,000)

	Total	Purchased reserves	Other proved properties	Unproved properties
Present value of estimated future net revenues	$14,100	5,600	5,500	
Cost, net of amortization	16,300	9,800	5,500	1,000
Related deferred taxes	2,500		2,000	500
Income tax effects related to properties	2,500		2,500	

	Including purchased reserves	Excluding purchased reserves
Comparison of capitalized costs with limitation on capitalized costs at December 31, 19x1:		
Capitalized costs, net of amortization	$16,300	$8,500
Related deferred taxes	(2,300)	(2,300)
Net book cost	14,000	4,200
Present value of estimated future net revenues	14,100	5,500
Lower of cost or market of unproved properties	1,000	1,000
Income tax effects related to properties	(2,500)	(2,500)
Limitation on capitalized costs	12,600	4,000
Excess of capitalized costs over limitation on capitalized costs net of tax [1]	1,400	800

[1] For accounting purposes, the gross write-off should be recorded to adjust both the oil and gas properties account and the related deferred income taxes.

Question.—Is it necessary for the registrant to write down the carrying value of its full cost center at December 31, 1981 by $1,400,000?

Interpretative Response.—Although the net carrying value of the full cost center exceeds the cost center's limitation on capitalized costs, the text of Accounting Series Release No. 258 provides that a registrant may request an exemption from the rule if as a result of a major purchase of proved properties, a write down would be required even though the registrant believes the fair value of the properties in a cost center clearly exceeds the unamortized costs.[6]

Therefore, to the extent that the excess carrying value relates to the purchased reserves, the registrant may seek a temporary waiver of the full-cost ceiling limitation from the staff of the Commission. Registrants requesting a waiver should be prepared to demonstrate that the additional value exists beyond reasonable doubt.

To the extent that the excess costs relate to properties *other than* the purchased reserves, however, a write-off should be recorded in the current period. In order to determine the portion of the total excess carrying value which is attributable to properties other than the purchased reserves, it is necessary to perform the ceiling computation on a "with and without" basis as shown in the example above. Thus in this case, the registrant must record a write-down of $200,000 applicable to other reserves. An additional $1,200,000 write-down would be necessary unless a waiver were obtained.

b. Effect of Subsequent Events on the Computation of the Limitation on Capitalized Costs.

Facts.—Rule 4–10(i)(4)(ii) of Regulation S–X provides that an excess of unamortized capitalized costs within a cost center over the related cost ceiling shall be charged to expense in the period the excess occurs.

Question.—Assume that at the date of a company's fiscal year-end, its capitalized costs of oil and gas producing properties exceed the limitation prescribed by Rule 4–10(i)(4) of Regulation S–X. Thus, a write-down is indicated. Subsequent to year-end but before the date of the auditors' report on the company's financial statements, assume that one of two events occurs: (1) additional reserves are proved up on properties owned at year-end, or (2) price increases become known which were not fixed and determinable at year-end. The present value of future net revenues from the additional reserves or from the increased prices is sufficiently large that if the full cost ceiling limitation were recomputed giving effect to those factors as of year-end, the ceiling would more than cover the costs. Is it necessary to record a write down?

Interpretative Response.—No. In these cases, the proving up of additional reserves on properties owned at year-end or the increase in prices indicates that the capitalized costs were not in fact impaired at year-end. However, for purposes of the revised computation of the "ceiling," the net book costs capitalized as of year-end should be increased by the amount of any additional costs incurred subsequent to year-end to prove the additional reserves or by any related costs previously excluded from amortization.

The registrant's financial statements should disclose that capitalized costs exceeded the limitation thereon at year end and should explain why the excess was not charged against earnings. In addition, the registrant's supplemental disclosures of estimated proved reserve quantities and related future net revenues and costs should *not* give effect to the reserves proved up or costs incurred after year-end or to the price increases occurring after year-end. However, such quantities and amounts may be disclosed separately, with appropriate explanations.

Registrants should be aware that oil and gas reserves related to properties acquired after year-end would *not* justify avoiding a write-off indicated as of year-end. Such acquisitions do not confirm situations existing at year-end.

4. Mineral Property Conveyances and Related Transactions

Facts. Rule 4–10(i)(6)(i) of Regulation S–X provides that sales of oil and gas reserves in place shall, with limited exceptions, be accounted for as *adjustments of capitalized costs, with no gain or loss recognized.* Rule 4–10(i)(6)(iii) relating to drilling arrangements *permits recognition of income* from sales of unproved properties when (A) the cash consideration received from the sale of unproved properties exceeds the total cost of the properties plus any exploration and development costs to be subsequently incurred or (B) the cash received represents reimbursement for amounts currently charged to expense.

Question 1.—These two provisions appear inconsistent. How do they relate to each other?

Interpretive Response. These two rules relate to two different classes of costs: costs included in the full cost pool (whether or not being amortized currently) and costs segregated in an inventory account for contribution or sale to limited partnerships or other forms of drilling arrangements. These two classes of costs have certain distinct features which require different accounting treatments, one based on a concept of significant alteration of relationships within the full cost pool and the other based on a cost recovery concept.

Rule 4–10(i)(6)(i) states the general rule for both proved and unproved properties included in a full cost center. Under the concept of full cost accounting, all costs in a cost center are considered to relate to a single operating asset, the proved reserves within a cost center. It is the staff's view that once costs are charged to a cost center, they lose their identity for all future accounting purposes. No further tracking of costs is appropriate. All future accounting must be based on an allocation of the net carrying value of the full cost account. Consistent with this concept, it is not appropriate to recognize a loss upon drilling an unsuccessful well, nor is it appropriate to recognize a gain (or loss) on the sale or partial sale of a single property.

As the rule states, the only exception to this treatment arises when such sales *significantly* alter the relationship between

[6] See Accounting Series Release No. 258, as codified in *Financial Reporting Release* No. 1, Section 406.01.c.iii. (47 FR 21028) (May 17, 1982).

capitalized costs and proved reserves attributable to a cost center. The rule further states that such a significant alteration ordinarily would not be expected to occur for sales of less than 25 percent of the reserves of a cost center. A significant alteration could also occur in other cases, for instance, if 10 percent of the reserves were sold for an amount equal to 50 percent of the capitalized costs or if an unproved property within the cost center were sold for an amount significant to the total cost center. In all cases where a significant alteration occasions recognition of gain or loss, the amount of the gain or loss should be determined based on an allocation of total costs within the cost center. Such allocation should be calculated on the same basis used to compute amortization unless there are substantial economic differences between the properties sold and those retained. In that case, the allocation should be based on relative fair values.

Rule 4–10(i)(6)(iii) relates to drilling arrangements only. It contemplates that leases held for contribution or sale to limited partnerships or drilling arrangements will be identified and segregated upon acquisition and carried in an inventory account separate from the full cost center. The rules further limit income recognition to the cost recovery method, that is, to cases where the company transferring the lease receives cash proceeds in excess of the total of its costs incurred to date plus any additional costs it expects to incur in connection with the properties transferred. This determination with respect to recovery of total costs shall be made on a partnership-by-partnership basis. Any abandonment or impairment of leases segregated in the inventory account should be charged directly to expense (not to the full cost pool).

Management fees should be accounted for in the same way as sales proceeds. Thus, income should not be recognized unless the cash compensation received exceeds total costs incurred and to be incurred or unless the fees represent reimbursement of amounts currently incurred and charged to expense.

Whenever gain or loss is recognized pursuant to Rule 4–10(i)(6)(i) or Rule 4–10(i)(6)(iii), the registrant should explain the rationale for such treatment in a footnote to the financial statements.

Question 2.—Assume a company engaged in oil and gas producing activities has excluded the costs of certain unevaluated properties from the full cost amortization base because they are unusually significant relative to total capitalized costs of the cost center. If these properties are sold, may gain be recognized?

Interpretive Response.—Although the properties are excluded from amortization, they are still part of the full cost pool. Therefore, gain or loss should not be recognized on such sales unless the sale would otherwise result in a significant alteration of the relationship between costs and reserves being amortized, as stated in subparagraph (i) of Rule 4–10(i)(6) of Regulation S–X, and as discussed in the response to Question 1 above.

Question 3.—In determining whether a gain can be recognized from a transfer of unproved properties to a drilling arrangement, Rule 4–10(i)(6)(iii) indicates that it is necessary to consider the amount of any exploration and development costs estimated to be subsequently incurred with respect to an interest retained by the company in the property or in properties related by common contractual provision. Assuming that the cash proceeds have already been received, at what point in time may gain be recognized?

Interpretive Response.—Gain should be recognized only at such time as it is possible to determine costs actually incurred and to estimate remaining costs to be incurred. Until such time as future exploration and development costs can be reasonably estimated, it is not appropriate to recognize any gain on the transaction. If a reasonable estimate is made and must subsequently be revised, the revision should be accounted for as a change in estimate. In this regard, the staff believes that significant revisions of estimates should be rare and that frequent revisions may indicate a lack of basis to reasonably estimate remaining costs.

Question 4.—Registrants engaged in oil and gas producing activities occasionally also engage in putting together lease prospects for resale to others. Such lease rights may be sold outright, or in other instances, a royalty interest or a small working interest may be retained. These activities are commonly referred to as lease brokerage. Under what circumstances may an oil and gas producing company acting also as a lease broker recognize gain on the sale of unproved leases?

Interpretive Response.—When a registrant is also involved in oil and gas producing activities, it is permissible to recognize gain on the sale of unproved leases *only* if the registrant can establish that its lease brokerage activities are separate and distinct from its oil and gas producing activities. The registrant must be able to demonstrate and document on a continuing basis that it is engaged in the separate activities of lease brokerage on the one hand, and exploration and production on the other. The oil and gas properties and other assets associated with each of those separate activities must be identifiable. Oil and gas properties deemed to be associated with lease brokerage activities should be identified upon acquisition by the company and segregated in a lease inventory account. They should not be included in any full cost pool.

Where the company retains any form of interest in the leases, the rules for drilling arrangements apply. Thus, as discussed in the response to Question 1 above, gain or loss should be recognized only on the cost recovery basis. Whether or not the transactions represent drilling arrangements, the lease inventory account should be subject to a lower of cost or current market value assessment at least annually, and the cost of any properties abandoned from the inventory account should be charged directly to income in the period in which the decision is made to abandon the leases.

Properties should not be transferred from a full cost pool to the inventory account. Transfers from the inventory account to a full cost pool should be rare. They should occur only when the company has definite and immediate plans for exploration and development, as the result of a major decision by management. Such transfers should be appropriately disclosed. The staff feels strongly that the discipline of strictly segregating lease brokerage activities from oil and gas producing activities is of paramount importance in the justification for excluding leases held for resale from the full cost pool.

Question 5.—May an individual lease be split between brokerage and producing categories?

Interpretive Response.—An individual lease may be split between brokerage and producing classifications *provided that* (i) the split is made at the date of acquisition, (ii) the split involves a physical division of interests in the lease, and (iii) there is a reasonable basis for allocation of cost between the two pieces. It follows that such a split may not be made based on actual or intended retention of an undivided interest in the entire lease.

Question 6.—How should leases held in a brokerage inventory account be classified on the balance sheet?

Interpretive Response.—As noted in the response to Question 4 above, the properties associated with lease brokerage should be segregated and reported separately from the full cost pool and should be assessed periodically for cost recoverability based on current market values. The staff recognizes that such leases held for sale or transfer to drilling arrangements may often constitute current assets. However, the appropriate balance sheet classification should be determined in each case based on the timing considerations and liquidity characteristics relevant in the circumstances.

Question 7.—Assuming that a registrant can demonstrate that it is engaged in lease brokerage activities, how should the gain to be recognized on sales of unproved leases by a lease broker be computed?

Interpretive Response.—In order to determine whether gain should be recognized when unproved properties held in inventory are sold or transferred to drilling arrangements, it is first necessary to allocate the proceeds received between the interest sold to related partnerships and the interest sold to unaffiliated third parties. Then, for each portion of the transaction, gain may be recognized only to the extent that all costs, including estimated future exploration and development costs, have been recovered. The estimation of costs to be incurred includes consideration of minimum investments required pursuant to partnership agreements (assessed on a partnership-by-partnership basis), plus any estimated additional costs to be incurred by the registrant in connection with the prospect. The portion of the excess proceeds allocated to the estimated additional future costs should be credited to the full cost pool, and any remaining excess recognized as gain. Where the proceeds are inadequate to cover total costs, including any additional costs yet to be incurred, no gain should be recognized and the net unrecovered cost should be charged to the pool. A series of sample computations are provided below, based on the following assumptions:

Assumptions

Registrant acquires an unproved prospect, held for sale to third parties and/or related partnerships at a cost of $200,000; such prospect is later sold for $350,000.

Case I

The entire interest in the prospect is sold to third parties (non-affilated companies), with the registrant or a related partnership retaining no economic interest.

Conclusion

In this instance, the entire excess of proceeds over book cost ($150,000) would be credited to income.

Case II

The entire interest is sold as follows:

		Percent
Sold to third parties		75
Sold to a related partnership		25
		100
Gain associated with sale to third parties ($350,000-$200,000)×.75	$112,500	
Gain associated with sale to related partnership ($350,000-$200,000) ×.25		37,500
	150,000	

Conclusion

In this instance, the $112,500 gain associated with sales to third parties would be credited to income in its entirety. The amount associated with the sale to the related partnership ($37,500) would be credited to income, to the extent it exceeds estimated costs to be incurred.

Case III

The prospect is sold as shown in Case II above, but registrant retains an overriding royalty interest of 5% on the sale to third parties. Registrant will not be liable for any exploration or development costs as a result of retaining the override. Assume further that estimated costs to be incurred by registrant are $12,000 associated with its completion costs as a general partner through the related partnership and $20,000 associated with registrant's minimum remaining required capital investment in the partnership.

Conclusion

The amount of gain to be recognized as income is as follows:

	Associated with—	
	Sale to third parties	Sale to partnership
Allocation of excess proceeds	$112,500	$37,500
Less:		
(A) Estimated completion costs to be incurred		(12,000)
(B) Capital cost contingency		(20,000)
	112,500	5,500

Gain recognized as income ($112,500+$5,500)		118,000
Amount credited to Registrant's full-cost pool		32,000
		150,000

Case IV

The prospect is sold as shown in Case II above, but registrant retains a "carried working interest" of 18.75% with respect to the sale to third parties. Third parties will carry the registrant's share of drilling costs, and the related partnership will pay an amount of all costs equal to its "straight working interest". An analysis of the division of interest is as follows:

	Division of interest	
	Drilling cost (percent)	Completion cost (percent)
Partnership	25.00	25.00
Third Parties	75.00	56.25
Registrant		18.75

Assume further that estimated costs to be incurred by registrant are $50,000 for completion costs associated with the carried working interest, $12,000 associated with registrant's completion costs as general partner through the partnership and $20,000 associated with registrant's minimum remaining required capital investment in the partnership.

Conclusion

The amount of gain to be recognized as income is as follows:

	Associated with—	
	Sale to third parties	Sale to partnership
Allocation of excess proceeds	$112,500	$37,500
Less:		
(A) Estimated completion costs to be incurred	(50,000)	(12,000)
(B) Capital cost contingency		(20,000)
	62,500	5,500

Gain recognized as income ($62,500+$5,500)		68,000
Amount to be credited to Registrant's full-cost pool		82,000
		150,000

Case V

The prospect is sold as in Case IV; however, the capital cost contingency associated with the registrant's minimum remaining required capital investment in the partnership is $30,000.

Conclusion

The amount of gain to be recognized as income is as follows:

	Associated with—	
	Sale to third parties	Sale to partnership
Allocation of excess proceeds	$112,500	$37,500
Less:		
(A) Estimated completion costs to be incurred	(50,000)	(12,000)
(B) Capital cost contingency		(30,000)
	62,500	(4,500)

Gain recognized as income		62,500
Amount to be credited to registrant's full-cost pool ($50,000 and $37,500)		87,500
		150,000

In this case, the proceeds related to the sale to the partnership are inadequate to cover total costs including costs yet to be incurred. Thus, the $37,500 excess proceeds over book cost should be credited in its entirety to the full cost pool. As additional costs are incurred, they should be charged to the pool so that ultimately the net unrecovered costs will be charged to the pool.

Question 8.—Certain registrants are involved in the organization and management of limited partnerships which purchase proved producing oil and gas properties and subsequently distribute the income from production of the properties to the investors in the partnership. Such arrangements are typically known as "income funds." The company managing the fund may receive, as part of their compensation, an interest in the fund or in the properties acquired by it. Alternatively, this interest may be acquired through the investment of a management fee paid to the company out of the the capital contributed by the limited partners.

May companies recognize income from the management fees received in these circumstances?

Interpretive Response.—The full cost rules in Rule 4–10(i)(6)(iii) relating to drilling arrangements are directed toward transactions involving unproved properties where additional drilling is necessary to evaluate the property and the recoverability of related costs. These rules do not explicitly address proved producing properties.

If a company receives or acquires (through investment of a management fee) an interest in an "income fund" owning proved producing properties or an interest in such properties themselves, the staff believes that the recognition of management fee income is acceptable. Although the company will not receive cash until the reserves are produced, the value of the proved reserves on recently purchased producing properties is normally determinable with sufficient reliability to allow for income recognition. However, if the properties received or acquired require substantial future development expenditures before production of the reserves, then the cost recovery method described in Rule 4–10(i)(6)(iii) should be used because the decision to do future drilling is not

independent of considerations related to the realization in cash of the management fee. Accordingly, in such instances, income would be recognized as the properties are produced and cash accrues to the company.

E. Financial Statements of Royalty Trusts

Facts.—Several oil and gas exploration and production companies have created "royalty trusts." Typically, the creating company conveys a net profits interest in certain of its oil and gas properties to the newly created trust and then distributes units in the trust to its shareholders. The trust is a passive entity which is prohibited from entering into or engaging in any business or commercial activity of any kind and from acquiring any oil and gas lease, royalty or other mineral interest. The function of the trust is to serve as an agent to distribute the income from the net profits interest. The amount to be periodically distributed to the unitholders is defined in the trust agreement and is typically determined based on the cash received from the net profits interest less expenses of the trustee. Royalty trusts have typically reported their earnings on the basis of cash distributions to unitholders. The net profits interest paid to the trust for any month is based on production from a preceding month; therefore, the method of accounting followed by the trust for the net profits interest income is different from the creating company's method of accounting for the related revenue.

Question.—Will the staff accept a statement of distributable income which reflects the amounts to be distributed for the period in question under the terms of the trust agreement in lieu of a statement of income prepared under generally accepted accounting principles?

Interpretive Response.—Yes. Although financial statements filed with the Commission are normally required to be prepared in accordance with generally accepted accounting principles, the Commission's rules provide that other presentations may be acceptable in unusual situations. Since the operations of a royalty trust are limited to the distribution of income from the net profits interests contributed to it, the staff believes that the item of primary importance to the reader of the financial statements of the royalty trust is the amount of the cash distributions to the unitholders for the period reported. Should there be any change in the nature of the trust's operations due to revisions in the tax laws or other factors, the staff's interpretation would be reexamined.

A note to the financial statements should disclose the method used in determining distributable income and should also describe how distributable income as reported differs from income determined on the basis of generally accepted accounting principles.

[FR Doc. 82-26145 Filed 9-20-82; 8:45 am]

BILLING CODE 6010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-122 (Colorado—25); Order No. 259]

High-Cost Gas Produced from Tight Formations; Final Rule

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Regulatory Energy Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Colorado Oil and Gas Conservation Commission that the Codell Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective September 16, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511 or Victor Zabel, (202) 357-8616.

Issued: September 16, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include the Codell Formation in Adams, Boulder, Jefferson, Larimer and Weld Counties, Colorado, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued June 18, 1982 (47 FR 27082, June 23, 1982),[1] based on a recommendation by the Colorado Oil and Gas Conservation Commission (Colorado) in accordance with § 271.703, that the Codell Formation be designated as a tight formation.

Evidence submitted by Colorado supports the assertion that the Codell Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Colorado recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. § 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, *Code of Federal Regulations*, is amended as set forth below, effective September 16, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703(d) is amended by adding a new subparagraph (109) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) Designated tight formations.

* * *

(109) *Codell Formation in Colorado.* RM79-76-122 (Colorado-25).

(i) *Delineation of formation.* The Codell Formation underlies portions of Adams, Boulder, Jefferson, Larimer and Weld Counties, Colorado, and is located on the western flank of the Denver-Julesberg Basin a few miles north of Denver, Colorado. The Codell Formation is found in the following areas: Township 1 South, Ranges 64 through 70 West; Township 2 South, Ranges 69 and 70 West; Township 1 North, Ranges 64 through 70 West; Township 2 North, Ranges 64 through 69 West, all sections, Range 70 West, Sections 1 through 5, and 8 through 36; Township 3 North, Ranges 64 through 69 West, all sections, Range 70 West, Sections 1, 12, 13, 21 through 28, and 33 through 36; Township 4 North, Ranges 64 through 69 West; Township 5 North, Ranges 64 through 68 West, all sections, Range 69 West, Sections 1 through 4, 9 through 16, 20 through 29, and 31 through 36, Township 6 North, Ranges 64 through 68, all sections, Range 69 West, Sections 1

[1] Comments were invited on the proposed rule and one comment supporting the recommendation was received. No party requested a public hearing and no hearing was held.

through 4, 9 through 16, 21 through 28, and 33 through 36.

(ii) *Depth.* The Codell Formation ranges in depth from 3,000 to 8,000 feet, and is generally found at a depth of 7,000 feet, and averages 15 feet in thickness.

[FR Doc. 82-26145 Filed 9-21-82; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Ch. II

Changes in Titles and Office Designations Pursuant to Internal Reorganization

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This action changes certain office designations and titles which are currently listed in Part 1301 through Part 1316 of Title 21 in order to accurately reflect the internal reorganization of DEA. It contains no substantive changes in any regulation. Therefore, no comments have been solicited and the action is being issued as a final rule.

EFFECTIVE DATE: August 8, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Richard N. Ulrich, Acting Deputy Assistant Administrator, Office of Administration, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537. Telephone number (202) 633-1373.

SUPPLEMENTARY INFORMATION: Therefore, pursuant to the authority vested in the Attorney General by 21 U.S.C. 821 and 871(b) as delegated by 28 CFR 0.100 to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that Parts 1301 through 1316 of Title 21 of the Code of Federal Regulations be amended as follows:

§§ 1301.71, 1301.72, 1301.74, 1301.76, 1301.93, 1304.04, 1304.11, 1305.04, 1305.09, 1305.11, 1307.14, 1307.21, 1310.05, 1316.31, 1316.32, 1316.34, 1316.71, 1316.73, 1316.79 [Amended]

"Regional Director" to "Special Agent in Charge"; "Regional Office" to "Field Division Office"; "Region" to "area"; "Regional Administrator" to "Special Agent in Charge". These changes appear in Sections 1301.71(d); 1301.72(b)(6);1301.72(b)(8)(ii); 1301.74(b); 1301.74(c); 1301.76(b); 1301.93; 1304.04(a); 1304.04(b)(4); 1304.04(c); 1304.04(e); 1304.11(d); 1305.04(f); 1305.09(d); 1305.11(d); 1307.14(b); 1307.21(a); 1307.21(a)(1); 1307.21(a)(2); 1307.21(a)(3); 1307.21(b); 1307.21(b)(4); 1307.21(c); 1310.05; 1316.31; 1316.32; 1316.34; 1316.73; 1316.79. In Subpart E—Section 1316.71 delete paragraph (e).

Dated: September 17, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-26097 Filed 9-21-82; 8:45 am]
BILLING CODE 4410-09-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 882

[Docket No. R-82-997]

Section 8 Housing Assistance Payments Program—Existing Housing—Termination of Tenancy

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, (HUD).

ACTION: Notice of effective date for interim rule.

SUMMARY: This document announces the effective date for the interim rule published in the **Federal Register** on August 3, 1982 (47 FR 33497) which amended the Section 8 Existing Housing Program regulation to implement recent statutory changes regarding the lease term and termination of tenancy under the Section 8 Existing Housing Program. The effective date provision of the rule stated that the rule would become effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, subject to waiver, and announced that future notice of the effectiveness of the rule would be published in the **Federal Register.**

Thirty calendar days of continuous session of Congress have expired since the rule was published.

DATE: The effective date for the interim rule published August 3, 1982, at 47 FR 33497, is September 21, 1982.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10278, 451 7th Street, S.W., Washington, D.C. 20410, Telephone No. (202) 755-7055. This is not a toll-free number.

Dated: September 10, 1982.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 82-26094 Filed 9-21-82; 8:45 am]
BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 22

[T.D. 7833]

Executor's Estate Tax Election Relating to Property in Which a Surviving Spouse Receives an Income Interest

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulation.

SUMMARY: This document provides a temporary regulation concerning the new estate tax election to deduct from the gross estate the value of property in which the surviving spouse is granted a life income interest. Changes to the applicable tax law were made by the Economic Recovery Tax Act of 1981.

DATE: This regulation applies to estates of decedents dying after December 31, 1981.

FOR FURTHER INFORMATION CONTACT: John R. Harman of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) 202-566-3238, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains a temporary regulation concerning an executor's election to deduct from the gross estate the value of certain property in which the decedent gives a surviving spouse a life income interest. This election is permitted under section 2056(b)(7) of the Internal Revenue Code of 1954, as added by section 403(d)(1) of the Economic Recovery Tax Act of 1981 (Pub. L. 97-34; 95 Stat. 302). The temporary regulation provided by this document will remain in effect until superseded by final regulations on the subject.

In General

Prior to the Economic Recovery Tax Act of 1981, the estate tax marital deduction was available only with respect to property passing outright to the spouse or in specified forms which gave the spouse control over the transferred property. For estates of decedents dying after 1981, the

Economic Recovery Tax Act of 1981 adopted an exception to this rule for qualified terminable interest property. That exception provides that if certain conditions are met, a marital deduction will be allowed for the value of property in which the surviving spouse is given a qualifying income interest for life. Among the conditions which must be met is the condition that the decedent's executor must elect to treat the property as qualified terminable interest property. The election, once made, is irrevocable.

Estate tax returns for decedents whose estates are subject to the new law will begin to become due after September 30, 1982. Executors of these estates need to know how to make the election. Also, many executors need to know whether the election can be made for a part of property in which the spouse receives a qualifying income interest for life or whether such a partial election will be invalid and disqualify the property from deduction.

This temporary regulation clarifies that an election can be made for a fraction or percentage of property in which the spouse receives a qualifying life interest. However, a partial election is permitted only if it relates to a fractional or percentile share of the property. The fraction or percentage may be determined by means of a formula.

Executive Order 12291 and Regulatory Flexibility Act

The Commission of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required.

This Treasury decision adds a temporary regulation to enable executors to comply with the Economic Recovery Tax Act of 1981. Because this regulation is necessary to provide immediate guidance, it is impractical to issue this Treasury decision with notice and public procedure. Therefore, no general notice of proposed rulemaking is required by 5 U.S.C. 553(b) and no Regulatory Flexibility Analysis is required.

Drafting Information

The principal author of this temporary regulation is John R. Harman of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR Part 22

Estate tax, Economic Recovery Tax Act of 1981.

Adoption of Amendment to the Regulations

Accordingly, 26 CFR Part 22 is amended as follows:

PART 22—TEMPORARY ESTATE TAX REGULATIONS UNDER THE ECONOMIC RECOVERY TAX ACT OF 1981

Paragraph. There is added immediately after § 22.0 the following new § 22.2056–1

§ 22.2056–1 Qualified terminable interest property elections.

(a) *In general.* This paragraph (a) applies to the election under section 2056(b)(7)(B)(v) to deduct the value of property in which the surviving spouse receives a qualifying income interest for life. The new election was added to the Code by section 403(d)(1) of the Economic Recovery Tax Act of 1981. The executor shall make this election on the estate tax return. This election is available with respect to estates of decedents dying after 1981. The election, once made, is irrevocable.

(b) *Partial elections allowed.* The election described in paragraph (a) of this section may be made for all or any part of a property that meets the requirements of section 2056(b)(7)(B)(i)(I) and (II), provided that any partial election shall relate to a fractional or percentile share of the property so that the elective part will reflect its proportionate share of the increment or decline in the whole of the property for purposes of applying sections 2044 or 2519. Thus, if the interest of the surviving spouse in a trust (or other property in which the spouse has a life estate) meets the requirements of section 2056(b)(7)(B)(i)(I) and (II), the executor may make an election under paragraph (a) with respect to a part of the trust (or other property) only if the election relates to a defined fraction or percentage of the entire trust (or other property). The fraction or percentage may be defined by means of a formula.

This Treasury decision is issued under the authority contained in section 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code.

September 14, 1982.

James I. Owens,

Acting Commissioner of Internal Revenue

Approved September 16, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 82-26090 Filed 9-17-82; 3:40 pm]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 162

[PH-FRL 2208-1; OPP 250011E]

Temporary Exemption of Endosulfan and Zineb Combination Dusting Garden Products From Child-Resistant Packaging Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule related notice.

SUMMARY: The Environmental Protection Agency has granted a non-renewable 365-day exemption from the child-resistant packaging requirements for dusting garden products where the packaging/application system which is one unit is such that the product must be dispensed in the tilt and upright position to treat the upper and lower plant leaf surfaces in an efficacious manner, and containing no more than 4 percent endosulfan and 6.5 percent zineb as the combination active ingredients in a clay-like carrier. This exemption was granted upon the request of one registrant who submitted supporting evidence to the Agency.

DATE: This temporary exemption becomes effective on September 22, 1982. All products temporarily exempted by this notice released for shipment on or after September 22, 1983, must be in special packaging and certified accordingly as required by 40 CFR 162.16.

FOR FURTHER INFORMATION CONTACT: Rosalind L. Gross, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 307, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7470).

SUPPLEMENTARY INFORMATION: EPA issued final regulations, published in the **Federal Register** of March 9, 1979 (44 FR 13022), which require certain toxic pesticides to be in special, i.e., child-resistant, packaging after March 9, 1981. The regulations provide that exemptions from compliance may be requested on a case-by-case basis for specific products for which special packaging is not

technically feasible. The regulations further provide that any such exemption decision will be published in the **Federal Register** and will be applicable to any product with identical or substantially similar composition and intended uses. The regulations allow for the specification of a time schedule for the exemption.

One manufacturer of dusting garden products which contain endosulfan and zineb as combination active ingredients has requested technical feasibility exemptions from the special packaging regulations at 40 CFR 162.16.

The registrant seeking exemption on technical feasibility grounds presented the following evidence, which was confirmed in a telephone survey by EPA conducted in May–June 1982:

1. Both products are dust. The products must be applied to the upper and lower leaf surfaces of a plant. Consequently the package which is the product application system, must dispense the product in the tilt and upright position. The physical-chemical properties of the product and their relationship to the package must be evaluated before a package can be selected (i.e., can the package dispense the product in a manner that permits it to be efficacious?, etc.).

2. There apparently was no child-resistant squeeze duster presently available which could serve as a primary package and dispense these products in a manner such that they are efficacious. The registrant contacted several packaging manufacturers for a suitable child-resistant package for these products and has entered into an agreement with one packaging manufacturer to develop a child-resistant squeeze duster for these products.

3. The length of the exemption initially requested by the product company was 12 months. The packaging companies indicated that they expected package devlopment to take 3–12 months based on stage of design development, production gear-up, materials availability, product packaging compatibility, etc.

The dusting garden products containing endosulfan and zineb as combination active ingredients are granted a 365-day exemption from the special packaging regulations based on a finding that a child-resistant squeeze duster package is not currently available, which could serve as the original product package and could dispense these products in a manner that permits them to be efficacious, and the registrant has made a commitment to have such a package developed.

Therefore, a 365-day exemption from 40 CFR 162.16 is granted for dusting garden products where the packaging which incorporates a ready to use application system is required to dispense the product in the tilt and upright position to treat the upper and lower plant leaf surfaces in an efficacious manner, and containing no more than 4 percent endosulfan and 6.5 percent zineb as the combination active ingredients in a clay-like carrier and containing no other substances subject to § 162.16(c)(2). This exemption is effective September 22, 1982 and will expire September 22, 1983. Products released for shipment on or after this date must be in special packaging and certified accordingly as required by 40 CFR 162.16.

However, the Agency expects industry to begin using the special packaging in the event it becomes available prior to September 22, 1983. This exemption is nonrenewable.

List of Subjects in 40 CFR Part 162

Intergovernmental relations, Labeling, Packaging and containers, Pesticides and pests, Administrative practice and procedure.

Dated: September 9, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-25784 Filed 9-21-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 1F2513/R482; FRL 2207-7]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Hexazinone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the herbicide hexazinone and its metabolites in or on the raw agricultural commodity range grasses. This regulation to establish the maximum permissible level for hexazinone in or on the commodity was requested by E.I. du Pont de Nemours and Co.

EFFECTIVE DATE: Effective on September 22, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of June 19, 1981 (46 FR 32071) that E.I. du Pont de Nemours and Co., Wilmington, DE 19898, had submitted a pesticide petition (PP 1F2513) to EPA proposing that 40 CFR 180.398 be amended by establishing a tolerance for the combined residues of the herbicide hexazinone (3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5,-triazine-2,4(1*H*,3*H*)-dione) and its metabolites (calculated as hexazinone) in or on the raw agricultural commodity range grasses at 10 parts per million (ppm).

E.I. du Pont de Nemours submitted a revised Section F petition proposing that the tolerance be amended. This notice, published in the **Federal Register** of December 16, 1981 (46 FR 61326), proposed that the commodity be changed from range grasses to forage grasses with a tolerance for hexazinone at 10 ppm. E.I. du Pont de Nemours subsequently withdrew this amendment. No comments were received in response to the notices of filing.

The data submitted in the petition and other relevant material have been evaluated. The data considered in support of the tolerance included plant and animal metabolism studies; 90-day dog and rat feeding studies with a no-observed-effect level (NOEL) of 1,000 ppm for each study; rat teratology study with no teratogenic effects observed at 5,000 ppm (highest level tested); a rabbit teratology study with a NOEL of 125 milligrams (mg)/kilograms (kg); 2-year rat feeding/oncogenicity study with no oncogenic effects observed at any level tested and a NOEL of 200 ppm; 2-year mouse feeding/oncogenicity study with no oncogenic effects observed at any level tested (highest dose was 10,000 ppm) and a NOEL of 200 ppm; a 3-generation rat reproduction study with a NOEL of 2,500 ppm and a negative Ames mutagenicity test. A rat metabolism study was submitted and is currently under review. No additional data are required.

Tolerances have previously been established for residues of hexazinone ranging from 0.1 ppm in meat, milk, and eggs to 8.0 ppm in alfalfa hay. The established meat and milk tolerances will adequately cover the residues resulting from this use. Previously established tolerances utilize 10.5

percent of the acceptable daily intake (ADI) and will not change as a result of establishing the tolerance in range grasses.

There are no regulatory actions pending against the registration of this chemical. The metabolism of hexazinone in plants and animals is adequately understood and an adequate analytical method (nitrogen selective gas chromatography) is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the tolerance is sought, and it is concluded that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances, or raising tolerance levels, or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950). (Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Raw agricultural commodities, Pesticides and pests.

Dated: September 7, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.396 is amended by adding and alphabetically inserting the commodity grasses, range to read as follows:

§ 180.396 Hexazinone; tolerances for residues.

* * * * *

Commodity	Parts per million
* * * * *	
Grasses, range	10
* * * * *	

[FR Doc. 82–25795 Filed 9–21–82; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 420

[WH–FRC 2205–5]

Iron and Steel Manufacturing Point Source Category Effluent Limitations Guidelines; Correction

AGENCY: Environmental Protection Agency.

ACTION: Notice of correction of final rule.

SUMMARY: EPA is correcting coding and other minor errors in the May 27, 1982, **Federal Register** (47 FR 23258) notice of effluent limitations for the Iron and Steel Manufacturing Point Source Category which was amended as to the effective date on June 7, 1982 (47 FR 24554).

FOR FURTHER INFORMATION CONTACT: Mr. Ernst P. Hall, Effluent Guidelines Division (WH–552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Telephone (202) 426–2726.

Corrections

In the **Federal Register** notice published on May 27, 1982, (47 FR 23258), corrections are required as follows:

1. On page 23258, column 1, **ADDRESSES:** replace entire paragraph (9 lines) with the following: The technical information may be obtained from Mr. Ernst P. Hall at: Effluent Guidelines Division (WH–552) Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. The technical support document is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22151 (telephone: (703) 487–4600). The economic analysis may be obtained from Mr. Robert Greene, Office of Policy Analysis (PM–220), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

2. On page 23258, column 2, line 6 from the bottom; change: the three asterisks "* * *" to periods ". . .".

3. On page 23259, column 1, lline 35; change: "biological" to "biochemical".

4. On page 23259, column 3, line 9; change: "Kolene" to Kolene®"

5. On page 23269, column 3, line 36; (a) Change: "FR 27936–2773" to "FR 27736–27773". (b) After "403)." insert: "See also 46 FR 9404 (January 28, 1981).".

6. On page 23260, column 2, line 39; change: "insuring" to "ensuring".

7. On page 23260, column 3, line 40; change: "nonwater" to "non-water".

8. On page 23261, column 3, line 40; after "selected" insert "129".

9. On page 23262, column 1, line 12 from the bottom; change: "amendable" to "amenable".

10. On page 23262, column 1, line 8 from the bottom; change: "difraction" to "diffraction".

11. On page 23262, column 2, line 14 from the bottom; change: "because" to "because of".

12. On page 23264, column 2, line 5: delete "(40 CFR Part 403),".

13. On page 23264, column 2, line 8: after "at" insert: "40 CFR Part 403. See".

14. On page 23264, column 2, line 9: delete period after "(June 26, 1978)" and add "and 46 FR 9404 (January 28, 1981).".

15. On page 23264, column 2, line 11: replace "metals" with "toxic and nonconventional pollutants".

16. On page 23264, column 2, line 12, delete: ", may limit POTW sludge disposal alternatives".

17. On page 23264, column 2, (a) line 16: replace "metals include:" with "toxic pollutants include the following metals:", (b) line 39: delete "and other".

18. On page 23265, column 1, line 21 from the bottom; change: "because of" to "because".

19. On page 23266, column 1, line 25 from the bottom; change: "3" to "4".

20. On page 23266, column 1, line 10 from the bottom; and on page 23275, column 2, line 15; change: "insure" to "ensure".

21. On page 23269, column 2, line 1: Change "consumes" to "consumers".

22. On page 23272, column 3, line 34: replace "a bubble" with "the bubble policy".

23. On page 23274, column 3, line 23 from the bottom: insert "not" after "has" and delete "no" after "limitations".

24. On page 23275, column 3, line 27; change: "kolene" to "Kolene®".

25. On page 23276, column 2, line 3 from the bottom; change: "categories" to subcategories".

26. On page 23277, column 1, lines 6 and 24; change: "insure" to "ensure".

27. On page 23277, column 1, lines 7 and 8; delete: ", to prevent contamination of POTW sludges".

28. On page 23277, column 3, line 37; add: "million" after "$420".

29. On page 23278, column 3, line 28; change: "Table 3–5" to "Tables 3 through 5".

30. On page 23280, column 3; replace lines five through eight with: "see 40 CFR Part 125, Subpart D.".

31. On page 23281, column 2, line 22; change: "12991" to "12291".

32. On page 23281, column 3, after line 5; add: "Environmental Protection Agency".

33. On pages 23281, column 3, line 34; change: "into waters" to "into navigable waters".

34. On pages 23281, 23282 and 23283, Appendix B Column 3 heading; change: "Not deleted" to "Not Detected".

35. On page 23282, No. 033; change: "1,2 Di . . ." to "1,3–Di . . .".

36. On Page 23282, No. 063; change: "N-Nitrosod-n- . . . to "N-Nitrosodi-n- . . .".

37. On page 23282, No. 079; change: "Benzo (ghi) . . ." to "Benzo (g,h,i) . . .".

38. On page 23282, No. 081; change: "Phenathrene" to "Phenanthrene".

39. On page 23283, No. 101; change: "Heptachlorepoxide" to "Heptachlor epoxide".

40. On page 23283, line two after No. 130; change: "Ammonia-n" to "Ammonia-N".

41. On page 23283, Appendix C: (a) C Ironmaking: delete item 6 "Benzene". (b) "H Scale Removal": change to "H Salt Bath Descaling".

42. On page 23284; column 1, after line 43; add: "Appendix D" (Attached).

43. On page 23285; subpart H, and in § 420.80; change: "Scale Removal . . ." to "Salt Bath Descaling . . .".

44. On page 23285; subpart L, § 420.120; delete: "-galvanizing".

45. On page 23285, column 3, line 1; (a) change: "Control . . ." to "Central . . ."; (b) after "Facilities:" add "(1)".

46. On page 23285, column 3: change the NPDES permit number for item 13 National Steel, Portage, IN from: "IN 0002445" to "0000337".

47. On page 23286, column 3, line 31; change: "though" to "through".

48. On page 23290, column 3, § 420.32: the table headings under "(b) Ferromonganese blast furnace" should match the table headings under "(a) Iron blast furnace".

49. On page 23291, column 1, § 420.33; the table headings under "(a) Iron blast furnace" should match the table headings under "§ 420.32, (a) Iron blast furnace".

50. On page 23291, column 1, § 420.34 opposite pH in the table; change: "(1)" to "(2)".

51. On page 23292, column 3, § 420.46(a); change: "steelingmaking" to "steelmaking".

52. On page 23293, column 1, § 420.46(b); (a) For Lead; change: "0.000626" to "0.0000626". (b) For Zinc; change: "0.000939" to "0.0000939".

53. On page 23297, column 1, last line and at § 420.77(d); change: "speciality" to "specialty".

54. On page 23297, column 3, § 420.82(a) (1) and (2) table headings; change: "Maximum of any 1 day" to "Maximum for any 1 day".

55. On page 23297, column 3, § 420.82(a)(2): For TSS: change "0.0123" to "0.123".

56. On page 23298, column 1, § 420.82(b)(2) for TSS; change: "0.0532" to "0.532".

57. On page 23299, column 3, § 420.85(a)(4); for Nickel; change: "0.00413" to "0.000413".

58. On page 23300, column 2, § 420.86(b)(2): For Cyanide: change "0.000190." to "0.00190". For Chromium: change "0.000304" to "0.00304". For Nickel: change "0.000228" to "0.00228".

59. On page 23301, column 1, § 420.87(b)(2), for TSS; change: "0.0532" to "0.532".

60. On page 23302; column 2, § 420.92(b)(5); and on page 23304; column 1, § 420.93(b)(5); and on page 23307; column 1, § 420.95(b)(5); and on page 23309; column 3, § 420.97(b)(5); change: "Acid regeneration" to "Acid regeneration (absorber vent scrubber)".

61. On page 23306, column 2, § 420.95(a)(2); change: "Bar, billett, and bloom" to "Bar, billet, and bloom".

62. On page 23306, column 2, § 420.95(a)(3), for Lead; change: "0.0000113" to "0.000113".

63. On page 23307, column 3, § 420.96(a)(4), for Lead; change: "0.0000131" to "0.000131".

64. On page 23308, column 3, § 420.96(c)(6): Add this note following the table:

"Note.—The above limitations shall be applicable for each fume scrubber associated with combination acid pickling operations."

65. On page 23312, column 1, § 420.104 change word in section reference from: "perfrmance" to "performance".

66. On page 23316, column 1, § 420.122(c) change: "any or" to "any of".

Dated: August 20, 1982.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

BILLING CODE 6560-50-M

APPENDIX D
CONTROL AND TREATMENT TECHNOLOGY SUMMARY
IRON AND STEEL INDUSTRY

SUBCATEGORY/SUBDIVISION	DIRECT DISCHARGERS																								POTW DISCHARGERS			
	PROCESS	BPT											BAT							BCT		NSPS		PSES		PSNS	
		EQUALIZATION	GF/OS	AERATION	NEUT. W/ACID	LIME ADDITION	POLYMER ADDITION	SEDIMENTATION	VACUUM FILTER	RECYCLE (%)	COOLING TOWER	OTHER	ALT. No.	EQUAL TO BPT	LIME ADDITION	PRESSURE FILTER	COOLING TOWER	RECYCLE (%)	OTHER	EQUAL TO BPT	PRESERVED	EQUAL TO BPT	BPT PLUS	EQUAL TO BPT	BPT PLUS	EQUAL TO BPT	BPT PLUS
A. COKEMAKING																												
Biological	(1) ASF,DP,CT	●	●	●	●	●		CL	●			ASL, BOA	1				●(2)	96(3)	BOA, C&C ACG	●			BAT	(4)		(4)	
Physical Chemical	(1) ASF,DP,CT	●	●		●	●						ASL	1			●		96(3)		●			BAT				
B. SINTERING							●	T	●	92			1			●					●		BAT		BAT		BAT
C. IRONMAKING							●	T	●	96	●		4		●			98	TP,CLB SDA		●		BAT, FP		BAT		BAT
D. STEELMAKING																												
Semi-Wet							●	DT		100			1	●						●	●	●		●		●		
Wet					●	●	●	T	●	90-95			2		●				TP		●		BAT		BAT		BAT
E. VACUUM DEGASSING								PSP		98	●		2		●				TP, NA		●		BAT		BAT		BAT
F. CONTINUOUS CASTING								DT		96	●	FF, SS	2		●			99	TP, NA		●		BAT[5]		BAT		BAT[5]
G. HOT FORMING								PSP/ CLR	●	58-77		FP, SS	-	●						●			CT RTP (96)	(6)		(6)	
H. SALT BATH DESCALING																												
Oxidizing		●			●	●	●	CL	●			SDA	-	●						●			FP	●			FP
Reducing		●					●	CL	●			CLB	-	●						●			FP	●			FP
I. ACID PICKLING		●		●		●	●	CL	●	89(7)		SS	-	●						●			RR	●			RR
J. COLD FORMING																												
Cold Rolling	RTP	●	●			●	●		●				-	●						●		●		●		●		
CF-Pipe & Tube								PSP		100		SS	-	●						●		●		●		●		
K. ALKALINE CLEANING		●			●		●	CL	●			SS	-	●						●		●		(6)		(6)		
H HOT COATING		●			●	●	●	CL	●			SDA(8)	1					85(7)		●			BAT, RR		BAT		BAT, RR

NOTES:
- ● - Designates a component contained in the treatment model for the particular subcategory.
- (1) Cooling towers on final cooler wastewaters.
- (2) Indirect heat exchanger installed at biological reactor to optimize temperature.
- (3) Applies to barometric condenser on crystallizer only.
- (4) BPT without BOA, vacuum filter, and aeration. Includes recycle on barometric condenser.
- (5) Based upon pressure filters prior to recycle step.
- (6) No specific pretreatment standards. Only general pretreatment standards apply.
- (7) Recycle of fume scrubber water.
- (8) Only for those coating operations which discharge wastewaters from a chromate rinse step.

KEY TO ABBREVIATIONS

ACG - Granular Carbon Adsorption
ASF - Free Ammonia Still
ASL - Fixed Ammonia Still
BOA - Biological Oxidation
C & C - Caustic and Carbonate Add.
CL - Clarifier
CLB - Breakpoint Chlorination
CLR - Roughing Clarifier
CT - Cooling Tower
DP - Dephenolizer
DT - Drag Tank
E - Equalization
FF - Flatbed Filter
FP - Pressure Filter
GF - Gas Flotation
OS - Oil Separator
PSP - Primary Scale Pit
RR - Rinse Reduction
RTP - Recycle Treated Process
RTP(96) - 96% Recycle
SDA - Sulfur Dioxide Add.
SS - Surface Skimmer
T - Thickener
TP - Tube Plate Settler

[FR Doc. 82-26094 Filed 9-21-82; 8:45 am]
BILLING CODE 6560-50-C

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-6416]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency. .

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP) and eligible for second layer insurance coverage. These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the regular program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building—Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area [1]	Hazard area identified
Arkansas:				
Independence County	Batesville, city of	050091	750409, emergency; 820616, regular	731123
Jackson County	Jackson County [2]	050096	750505, emergency; 820616, regular	770503
Arizona: Yavapai County	Prescott Valley, town of	040121	800326, emergency; 820616, regular	800311
California: Tehama County	Corning, city of	060398	750508, emergency; 820616, regular	740524
Connecticut: Hartford County	Manchester, town of	090031	740205, emergency; 820616, regular	740524
Illinois:				
Schuyler County	Browning, village of	170606	740823, emergency; 820616, regular	740823
Cook County	Matteson, village of	170123	740625, emergency; 820616, regular	740412
Indiana:				
Johnson County	New Whiteland, town of	180116	750930, emergency; 820616, regular	740116
Wayne County	Richmond, city of	180257	750401, emergency; 820616, regular	740516
Kentucky:				
Carter County	Grayson, city of	210051	750710, emergency; 820616, regular	740201
Do.	Olive Hill, city of	210052	750729, emergency; 820616, regular	740201
Louisiana: Ascension Parish	Gonzales, city of	220015	730406, emergency; 820616, regular	730914
Michigan:				
Wayne County	Brownstown, chartered township of	260218	740823, emergency; 820616, regular	740823
Isabella County	Mount Pleasant, city of	260104	750514, emergency; 820616, regular	740405
Missouri:				
Bone County	Hartsburg, village of	290037	751215, emergency; 820616, regular	741227
Ray County	Henrietta, city of	290306	740408, emergency; 820616, regular	741018
New Hampshire: Strafford County	Somersworth, city of	330151	760206, emergency; 820616, regular	750221
New Jersey:				
Middlesex County	Edison, township of	340291	721006, emergency; 820616, regular	740109
Gloucester County	Glassboro, borough of	340203	750605, emergency; 820616, regular	740628
Warren County	Washington, borough of	340495	750624, emergency; 820616, regular	750103
New York:				
Onondaga County	Baldwinsville, village of	360569	740612, emergency; 820616, regular	740315
Do.	Elbridge, village of	360576	750218, emergency; 820616, regular	740531
Do.	Jordon, village of	360580	741203, emergency; 820616, regular	740412
Do.	Marcellus, town of	360585	750319, emergency; 820616, regular	740503
Do.	Salina, town of	360591	740730, emergency; 820616, regular	750411

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area [1]	Hazard area identified
Pennsylvania:				
Berks County	Lower Heidelberg, township of	421077	750718, emergency; 820616, regular	741105
Do	Perry, township of	421093	750912, emergency; 820616, regular	740813
Do	Sinking Spring, borough of	420150	740530, emergency; 820616, regular	740329
Tennessee:				
Trousdale County	Hartsville, town of	470069	740702, emergency; 820616, regular	740807
Do	Trousdale County [2]	470192	751212, emergency; 820616, regular	771025
Texas: Chambers County	Mont Belvieu, city of	480122	790601, emergency; 820616, regular	781224
Virginia: Buchanan County	Grundy, town of	510025	741108, emergency; 820616, regular	740524
Washington: Grays Harbor County	McCleary, town of	530082	750430, emergency; 820616, regular	740531
Oklahoma: Tillman County	Tipton, town of	400206	781105, emergency; 820617, regular	780813
New York:				
Allegany County	Canaseraga, town of	360028	750817, emergency; 820620, regular	740531
Monroe County	East Rochester, village of	360414	800616, emergency; 820620, regular	770114
Cattaraugus County	Machias, town of	360064	800805, emergency; 820620, regular	741018
Allegany County	New Hudson, town of	361102	800210, emergency; 820620, regular	760903
Arkansas:				
Randolph County	Biggers, town of	050388	751120, emergency; 820624, regular	760822
Benton County	Centerton, city of	050390	750814, emergency; 820624, regular	750416
Washington County	Farmington, city of	050215	750630, emergency; 820624, regular	740412
Benton County	Gravette, city of	050327	750817, emergency; 820624, regular	750502
Lawrence County	Lynn, town of	050269	760506, emergency; 820624, regular	750416
Randolph County	Reyno, town of	050263	760526, emergency; 820624, regular	750711
Texas:				
Hale County	Abernathy, city of	480271	750606, emergency; 820624, regular	740510
Hockley County	Anton, city of	480563	751223, emergency; 820624, regular	740329
Crosby County	Crosbyton, city of	480159	750618, emergency; 820624, regular	740510
Foard County	Crowell, city of	480810	760810, emergency; 820624, regular	750827
Crosby County	Lorenzo, city of	480160	750790, emergency; 820624, regular	740412
Hardeman County	Quanah, city of	480283	741030, emergency; 820624, regular	740909
Georgia: Greene County	Greensboro, city of	130220	760807, emergency; 820627, regular	741220
New York:				
Livingston County	Geneseo, village of	361452	800430, emergency; 820627, regular	741115
Ulster County	Kingston, town of	361216	750721, emergency; 820627, regular	71020
Livingston County	Leicester, village of	361456	800915, emergency; 820627, regular	750110
Albany County	Rensselaerville, town of	360014	770513, emergency; 820627, regular	741205
Livingston County	Sparta, town of	361288	800306, emergency; 820627, regular	741108
Sullivan, County	Tusten, town of	360831	750813, emergency; 820627, regular	740809
Arkansas:				
Clay County	Pollard, city of	050036	750411, emergency; 820631, regular	740823
Lawrence County	Portia, city of	050121	750505, emergency; 820631, regular	740823
Clay County	Rector, city of	050300	760315, emergency; 820631, regular	750718
Do	Success, town of	050289	751212, emergency; 820631, regular	750725

Total is: 61.

[1] Key for reading fourth column (Effective Date): First two digits designate the year, the middle two digits designate the month, and the last two digits designate the day.
[2] Unincorporated areas.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: September 14, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25906 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 65

[Docket No. FEMA-6404]

Communities With No Special Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities would not be inundated by the 100-year flood. Therefore, the Associate Director, State and Local Programs and Support is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without a map.

EFFECTIVE DATE: Date listed in third column of List of Communities with no Special Flood Hazards.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: In these communities, there is no reason not to make full limits of coverage available. The entire community is now classified as zone C. In a zone C, insurance coverage is available on a voluntary basis at low actuarial nonsubsidized rates. For example, under the Emergency Program in which your community has been participating the rate for a one-story 1–4 family dwelling is $.25 per $100 per coverage. Under the Regular Program, to which your community has been converted, the equivalent rate is $.01 per $100 coverage. Contents insurance is also available under the Regular Program at low actuarial rates. For example, when all contents are located on the first floor of a residential structure, the premium rate is $.05 per $100 of coverage.

In addition to the less expensive rates, the maximum coverage available under the Regular Program is significantly

greater than that available under the Emergency Program. For example, a single family residential dwelling now can be insured up to a maximum of $185,000 coverage for the structure and $60,000 coverage for contents.

Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community.

The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register.**

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notices stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

The entry reads as follows:

§ 65.8 Lists of communities with no special flood hazard areas.

State and county	Community name	Date of conversion to regular program
California:		
Fresno	City of Coalinga	Aug. 23, 1982.
Kern	City of Delano	Do.
Fresno	City of Firebaugh	Do.
Monterey	City of Greenfield	Do.
Los Angeles	City of Hermosa Beach.	Do.
San Bernardino.	City of Montclair	Do.
Kern	City of Taft	Do.
Utah:		
Washington	City of Ivins	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: August 13, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25019 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA-6403]

Communities With Minimal Flood Hazard Areas for the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the communities, that these communities' Special Flood Hazard Areas are small in size, with minimal flooding problems. Because existing conditions indicate that the area is unlikely to be developed in the foreseeable future, there is no immediate need to use the existing detailed study methodology to determine the base flood elevations for the Special Flood Hazard Areas.

Therefore, the Agency is converting the communities listed below to the Regular Program of the National Flood Insurance Program (NFIP) without determining base flood elevations.

EFFECTIVE DATE: Date listed in third column of list of Communities with Minimal Flood Hazards Areas.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: In these communities, the full limits of flood insurance coverage are available at actuarial, non-subsidized rates. The rates will vary according to the zone designation of the particular area of the community.

Flood insurance for contents, as well as structures, is available. The maximum coverage available under the Regular Program is significantly greater than that available under the Emergency Program.

Flood insurance coverage for property located in the communities listed can be purchased from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program. The effective date of conversion to the Regular Program will not appear in the Code of Federal Regulations except for the page number of this entry in the **Federal Register.**

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have significant economic impact on a substantial number of small entities. This rule provides routine legal notice regarding the completed stage of engineering tasks in delineating the special flood hazards areas of the specified community and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

The entry reads as follows:

§ 65.7 List of communities with minimal flood hazard areas.

State and county	Community	Date of conversion to regular program
Pennsylvania:		
Huntingdon	Borough of Three Springs.	Oct. 1, 1982.
Arkansas:		
Lonoke	Town of Allport	Oct. 5, 1982.
Desha	City of Arkansas City	Do.
Georgia:		
Bartow	City of Emerson	Oct. 8, 1982.
New Jersey:		
Sussex	Township of Green	Do.
Pennsylvania:		
Cumberland	Township of Lower Mifflin.	Do.
Washington	Township of Mount Pleasant.	Do.
Northampton	Borough of Nazareth	Do.
Virginia:		
Halifax	Town of Halifax	Do.
Greensville and Sussex.	Town of Jarratt	Do.
Arkansas:		
Woodruff	City of Cotton Plant	Oct. 12, 1982.
Lincoln	City of Grady	Do.
Prairie	City of Hazen	Do.
Cleveland	City of Kingsland	Do.
St. Francis	City of Palestine	Do.
Arkansas	Town of St. Charles	Do.
Saline	City of Traskwood	Do.
Drew	City of Wilmar	Do.
Louisiana:		
Allen	Town of Oberlin	Do.
Pennsylvania:		
Washington	Township of Donegal	Oct. 15, 1982.
Dauphin	Township of Jefferson	Do.
Chester	Township of New Garden.	Do.
Mercer	Township of New Vernon.	Do.
Arkansas:		
St. Francis	Town of Caldwell	Oct. 18, 1982.
Bradley	Town of Hermitage	Do.
Desha	City of Watson	Do.
Louisiana:		
Beauregard	City of DeRidder	Do.
Vernon	Village of Rosepine	Do.
Oklahoma:		
Bryan	Town of Bokchito	Do.
Wagoner	City of Wagoner	Do.
Texas:		
San Augustine	City of San Augustine	Do.
New York:		
Ulster	Town of Marbletown	Oct. 22, 1982.
Pennsylvania:		
Bradford	Township of Tuscarora	Do.
Oklahoma:		
Seminole	City of Konawa	Oct. 26, 1982.
Grady	Town of Verden	Do.
Texas:		
Marion	City of Jefferson	Do.
Tyler	City of Woodville	Do.
Wood	Town of Yantis	Do.
Michigan:		
Emmet	City of Petoskey	Oct. 29, 1982.

State and county	Community	Date of conversion to regular program
New York:		
Chautauqua	Town of Carroll	Do.
Schuyler	Town of Dix	Do.
Steuben	Town of Fremont	Do.
Pennsylvania:		
Franklin	Township of Fannett	Do.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: August 23, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25915 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA-6400]

List of Withdrawal of Flood Insurance Maps Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities where Flood Insurance Rate Maps or Flood Hazard Boundary Maps published by the Director, Federal Emergency Management Agency, have been temporarily withdrawn for administrative or technical reason. During that period that the map is withdrawn, the insurance purchase requirement of the National Flood Insurance Program is suspended.

EFFECTIVE DATE: The date listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: The list includes the date that each map was withdrawn, and the effective date of its republication, if it has been republished. If a flood-prone location is now being identified on another map, the community name for the effective map is shown.

The Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, requires, at Section 102, the purchase of flood insurance as a condition of Federal financial assistance if such assistance is:

(1) For acquisition and construction of buildings, and

(2) For buildings located in a special flood hazard area identified by the Director of Federal Emergency Management Agency.

The insurance purchase requirement with respect to a particular community may be altered by the issuance or withdrawal of the Federal Emergency Management Agency's (FEMA) official Flood Insurance Rate Map (FIRM) or the Flood Hazard Boundary Map (FHBM). A FHBM is usually designated by the letter "E" following the community number. If the FEMA withdraws a FHBM for any reason the insurance purchase requirement is suspended during the period of withdrawal. However, if the community is in the Regular Program and only the FIRM is withdrawn but a FHBM remains in effect, then flood insurance is still required for properties located in the identified special flood hazard areas shown on the FHBM, but the maximum amount of insurance available for new applications or renewal is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn. (For definitions see 44 CFR Part 59 et seq.).

This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities. As the purpose of this revision is the convenience of the public, notice and public procedure are unnecessary, and cause exists to make this amendment effective upon publication.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

Accordingly, Subchapter B of Chapter 1 of Title 44 of the Code of Federal Regulations is amended as follows:

1. Present § 65.6 is revised to read as follows:

§ 65.6 Administrative withdrawal of maps.

(a) *Flood Hazard Boundary Maps (FHBM's).*—The following is a cumulative list of withdrawals pursuant to this Part: 40 FR 5148, 40 FR 17015, 40 FR 20798, 40 FR 46102, 40 FR 53579, 40 FR 56672, 41 FR 1478, 41 FR 50990, 41 FR 13352, 41 FR 17726, 42 FR 8895, 42 FR 29433, 42 FR 46226, 42 FR 64076, 43 FR 24019 , 44 FR 815, 44 FR 8383, 44 FR 18485, 44 FR 25636, 44 FR 34120, 44 FR 52835, 44 FR 57094, 45 FR 12421, 45 FR 26051, 45 FR 31318, 45 FR 34120, 45 FR 49570, 45 FR 52385, 46 FR 13695, 46 FR 20176, 46 FR 28776, 46 FR 46810, 47 FR 3121, 47 FR 18869, 47 FR 28657.
(Enter page number of this notice in Federal Register.)

(b) *Flood Insurance Rate Maps (FIRM's).*—The following is a cumulative list of withdrawals pursuant to the Part: 40 FR 17015, 41 FR 1478, 42 FR 49811, 42 FR 64076, 43 FR 24019, 44 FR 25636, 45 FR 12421, 45 FR 49570, 46 FR 20176, 46 FR 46810, 47 FR 3121, 47 FR 18869, 47 FR 41744.

2. The following additional entries (which will not appear in the Code of Federal Regulations) are made pursuant to § 65.6:

State	Community name, number	County	Hazard ID date	Rescission date	Reason
CA	City of Coalinga, 060046(E)	Fresno	Sept. 26, 1975	Aug. 23, 1982	2
CA	City of Delano, 060075(E)	Kern	May 24, 1974	do	2
CA	City of Firebaugh, 060046(E)	Fresno	Apr. 1, 1974	do	2
CA	City of Greenfield, 060446(E)	Monterey	Aug. 6, 1976	do	2
CA	City of Hermosa Beach, 060124(E)	Los Angeles	June 28, 1974	do	2
CA	City of Montclair, 060276(E)	San Bernardino	Aug. 22, 1975	do	2
CA	City of Taft, 065063(E)	Kern	Mar. 28, 1975	do	2
MI	Village of Ravenna, 260464(R)	Muskegon	June 1, 1982	do	2
UT	City of Ivins, 490173(E)	Washington	Sept. 12, 1975	do	1
WI	City of St. Francis, 550281(R)	Milwaukee	July 7, 1978	do	2
MI	City of Norway, 260832	Dickinson	July 11, 1975	do	2

Key to symbols:
E The community is participating in the Emergency Program. It will remain in the Emergency Program without a FHBM.
R The community is participating in the Regular Program.
1. The Community appealed its flood-prone designation and FIA determined the Community would not be inundated by a flood having a one-percent change of occurrence in any given year.
2. FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.
3. The Flood Hazard Boundary Map (FHBM) contained printing errors or was improperly distributed. A new FHBM will be prepared and distributed.
4. The community lacked land-use authority over the special flood hazard area.
5. The FHBM does not accurately reflect the Community's special flood hazard areas (i.e., sheet flow flooding, extremely inaccurate map, etc.). A new FHBM will be prepared and distributed.
6. The Flood Insurance rate Map was rescinded because of inaccurate flood elevations contained on the map.
7. The Flood Insurance Rate Map was rescinded in order to re-evaluate the mudslide hazard in the Community.
8. The T&E or H&E Map was rescinded.
9. A revision of the FHBM within a reasonable period of time was not possible. A new FHBM will be prepared and distributed.
10. Miscellaneous.

(National Flood Insurance Act of 1968 [Title XIII of the Housing and Urban Development Act of 1968]; effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: August 13, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25017 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Dade County, Florida; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Dade County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Dade County, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquistion purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP). P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H and I 125098, Panel 0275 D published on October 6, 1980, in 45 FR 66058 indicates that Lot 6 in Block 4 of Mango Terrace in Dade County, Florida, also known as 6861 S.W. 76th Terrace, recorded in Official Records 11349, Page 1555 in the Public Records of Dade County, is located within the Special Flood Hazard Area.

Map Number H and I 125098, Panel 0275 D is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on November 14, 1980. The existing structure is located in Zone B.

The map amendments listed below are in accordance with § 70.7(b):

Map number H & I 125098, Panel 0275 D published on October 6, 1980, in 45 FR 66058 indicates that Lots 3 through 14 of Block 1; Lots 2 through 6 of Block 2; Lots 2 through 7 of Block 3; Lots 1 through 11 of Block 4; Lot 1 of Block 5; Lots 1 through 17 of Block 6; and Lots 1 through 31 of Block 7, all in the subdivision known as Live Oak of the Hammocks, in Dade County, Florida, as recorded in Book 114 of Plats at Page 56 of the Public Records of Dade County, are located within the Special Flood Hazard Area.

Map Number H & I 125098, Panel 0275 D is hereby corrected to reflect that the existing structures located on the above-mentioned lots are not within the Special Flood Hazard Area identified on November 14, 1980. The structures are in Zone C. However, portions of the lots would still be inundated by a flood having a one-percent of occurrence in any given year.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H and I 125098, Panel 0275 D published on October 6, 1980, in 45 FR 66058, indicates that Lots 1 through 11 of Block 1; Lots 1 through 19 of Block 2; Lots 1 through 16 of Block 3; Lots 1 through 9 of Block 4; Lots 1 through 8 of Block 5; Lots 1 through 19 of Block 6; Lots 1, 2, and 5 through 8 of Block 7; Lots 1 through 6 of Block 8; Lots 1 through 22, and 24 through 38 of Block 9; Lots 1 through 4, and 6 through 9 of Block 10; Lots 1 through 5, 9, and 10 of Block 11; and Lots 1 through 4, 8 through 16, and 18 through 24 of Block 12, and all in the subdivision known as Sun Fish at the Hammocks, in Dade County, Florida, as recorded in Book 115 of Plats at Page 21 of the Public Records of Dade County, are located within the Special Flood Hazard Area.

Map Number H and I 125098, Panel 0275 D is hereby corrected to reflect that the existing structures located on the above-mentioned lots are not within the Special Flood Hazard Area identified on November 14, 1980. The structures are in Zone C. Howerver, portions of the lots would still be inundated by a flood having a one-percent chance of occurrence in any given year.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H and I 125098, Panel 0275 D published on October 6, 1980, in 45 FR 66058, indicates that Lots 1 through 8, 15, and 16 of Block 1; Lots 1 through 15 of Block 2; Lots 2 through 8 of Block 3; Lots 2 through 7 of Block 4; Lots 4 through 10 of Block 5; Lots 2 through 7, and 9 through 11 of Block 6; Lots 2 through 12 of Block 7; Lots 1 through 6 of Block 8; Lots 1 through 11, 19 through 23, and 25 through 54 of Block 9; Lots 1 through 8 of Block 10; Lots 1 through 6 of Block 11; Lots 1 through 8 of Block 12, all in the subdivision known as Juniper at the Hammocks, in Dade County, Florida, as recorded in Book 115 of Plats at Page 17 of the Public Records of Dade County, are located within the Special Flood Hazard Area.

Map Number H and I 125098, Panel 0275 D is hereby corrected to reflect that the existing structures located on the above-mentioned lots are not within the Special Flood Hazard Area identified on November 14, 1980. The structures are in Zone C. However, portions of the lots would still be inundated by a flood having a one-percent chance of occurrence in any given year.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 125098, Panel 0275 D published on October 6, 1980, in 45 FR 66058 indicates that Lots 1, 2, and 9 through 14 of Block 24; Lots 4 through 11 of Block 25; Lots 1 through 8 of Block 26; Lots 1 through 9 of Block 27; Lots 1 through 10, and 12 of Block 28; Lots 1 through 3 of Block 29; Lots 1 through 6, and 16 through 19 of Block 30; Lots 1 through 14, and 16 through 19 of Block 31; Lots 24 and 25 of Block 32, Lots 1 through 9, 15, and 16 of Block 33; Lots 1 through 5, and 8 through 12 of Block 34;

Lots 1, 2, and 17 through 20 of Block 35; Lots 1 and 2 of Block 36; Lots 1 through 6, and 9 through 20 of Block 37; Lots 3 and 4 of Block 38; Lots 1 through 8 of Block 39; Lots 1 through 6 of Block 40; Lot 1 of Block 41; Lots 1, and 3 through 7 of Block 42; and Lots 1 through 7, 9, and 10 of Block 43, all in Section 3 of the subdivision known as The Hammocks, in Dade County, Florida, as recorded in Book 115 of Plats at Page 60 of the Public Records of Dade County, are located with the Special Flood Hazard Area.

Map Number H & I 125098, Panel-0275 D is hereby corrected to reflect that the existing structures located on the above-mentioned lots are not within the Special Flood Hazard Area identified on November 14, 1980. The structures are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: August 23, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25806 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-6909]

Letter of Map Amendment for Maricopa County, Arizona, Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Maricopa County, Arizona. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Maricopa County, Arizona, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 040037 Panel 0935A, published on October 6, 1980, in 45 FR 66116, indicates that Lots 1 through 92, North Valley View-Unit One, Phoenix, Arizona, as recorded in Book 232, Page 36, in the Office of the Recorder, Maricopa County, Arizona, are located within the Special Flood Hazard Area.

Map No. H & I 040037 Panel 0935A is hereby corrected to reflect that the above-mentioned lots are not within the Special Flood Hazard Area identified on July 2, 1979. These lots are in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued August 23, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25804 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-6909]

Letter of Map Amendment for the City of Eagle, Idaho, Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Eagle, Idaho. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Eagle, Idaho, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency

Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 160003 Panel 0001B, published on October 6, 1980, in 45 FR 66123, indicates that Eagle Manor, being a 1.7884 acre tract of land located in Section 9, T4N, R1E, Eagle, Idaho, recorded as Instrument Number 8060737, in the Office of the Recorder, Ada County, Idaho, is located within the Special Flood Hazard Area.

Map No. H & I 160003 Panel 0001B is hereby corrected to reflect that the existing structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on March 4, 1980. This structure is in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: August 23, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25905 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for the City of Tulsa, Oklahoma, Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Tulsa, Oklahoma. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Tulsa, Oklahoma, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition or Federal of federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 405381D Panel 82, published on October 6, 1980, in 45 FR 66095, indicates that Lot 4, Block 4, Turner Park Addition, Tulsa, Oklahoma, recorded as Plat No. 1176, Record No. 631538, in the Office of the Clerk, Tulsa County, Oklahoma, is located within the Special Flood Hazard Area.

Map No. H & I 405381D Panel 82 is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on August 14, 1979. This lot is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: August 20, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25906 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for Harris County, Texas Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas

have been published. This list included Harris County. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Harris County, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related fianancial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 480287 Panels 0050C and 0175C, published on October 6, 1980, in 45 FR 66098, indicates that Lots 1 and 17 through 19, Block 1; Lots 6 through 19, 28, 29, and 35 through 44, Block 2; Lots 9 through 38, Block 3; Lots 5, 6, 12, 13, 22, 23, and 29, Block 4; and Reserve A, Replat Shannon Forest, Section One, Harris County, Texas, recorded as Document No. H019094 in Volume 303, Page 2 of Map Records, in the Office of the Clerk, Harris County, Texas, are located within the Special Flood Hazard Area.

Map No. H & I 480287 Panels 0050C and 0175C is hereby corrected to reflect that the above-mentioned lots are not within the Special Flood Hazard Area identified on February 24, 1981. These lots are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: August 13, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25907 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for the City of Amory, Mississippi, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Amory, Mississippi. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Amory, Mississippi, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP). P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H and I 280116 Panel 0001 C published on October 6, 1980, in 45 FR 66065 indicates that Lot 25, Hedgemoor Subdivision, Amory, Mississippi, as recorded in Plat Book 3, Page 25 in the Office of the Chancery Clerk of Monroe County, Mississippi, is located within the Special Flood Hazard Area.

Map Number H and I 280116, Panel 0001 C is hereby corrected to reflect that the existing structure is not within the Special Flood Hazard Area identified on May 30, 1980. The structure is in Zone B. However, portions of the property would still be inundated by the base flood.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support).

Issued: August 16, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25908 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Rochester, Minnesota, Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of Rochester, Minnesota. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Rochester, Minnesota, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 22, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 275246, Panel No. 0007B, published on October 6, 1980, in 45 FR 66083, indicates that Lots Nos. 1 through 4 and Lots No. 7, Block 1, with the exception of the 30-foot Utility Easement, Replat of Lot 1, Block 1, Compustown Subdivision, City of Rochester, Olmstead County, Minnesota, recorded as Document No. 402385, in the Office of the Recorder of Olmstead County, Minnesota, are located within the Special Flood Hazard Area.

Map No. 275246, Panel No. 0007B, is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on February 4, 1981. The property is in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: August 17, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25909 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Libertyville, Illinois Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map amendment.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Libertyville, Illinois. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Libertyville, Illinois, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. John T. Anderson, Regional Director, Federal Emergency Management Agency, 300 South Wacker Drive, 24th Floor, Chicago, Illinois 60606 (312) 353–1500.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP). P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number 170377, Panel 0005B published on October 6, 1980, in 45 F.R. 66074 indicates that Lot 130 in Red Top Farm of Libertyville, Unit 3, according to the plat thereof, recorded August 29, 1978, as Document 1942331, in Book 67 of

Plats, page 18, in the Office of the Recorder of Deeds of Lake County, Illinois in located within the Special Flood Hazard Area.

Map Number 170377, Panel 0005B is hereby corrected to reflect that the above-mentioned property in not located within the Special Flood Hazard Area identified on January 16, 1980. The property is located in Zones B and C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support).

Issued: August 17, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25910 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5006]

Letter of Map Amendment for the City of Hickory Hills, Illinois, Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of Hickory Hills, Illinois. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Hickory Hills, Illinois, that a certain structure is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structure is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that structure as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 22, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 170103, Panel No. 0001C, published on October 7, 1980, in 45 FR 66456, indicates that the existing structure located on Lot No. 7, K. and K. Industrial Park Subdivision, City of Hickory Hills, Cook County, Illinois, recorded as Document No. 25045447, in the Office of the Recorder of Deeds of Cook County, Illinois, is located within the Special Flood Hazard Area.

Map No. 170103, Panel No. 0001C, is hereby corrected to reflect that the existing structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on July 16, 1980. The structure is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood Insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: August 17, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25911 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5048]

Letter of Map Amendment for Downers Grove, Illinois, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map amendment.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Downers Grove, Illinois. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Downers Grove, Illinois, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for contruction or acquisition purposes.

EFFECTIVE DATE: September 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. John T. Anderson, Regional Director, Federal Emergency Management Agency, 300 South Wacker Drive, 24th Floor, Chicago, Illinois 60606 (312) 353–1500.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial

assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment. the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained though the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP). P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Maps Number 170204, Panel 0006B published on May 12, 1981, in 46 FR 26307 26307 indicates that Lot 15 in Deer Creek Subdivision according to the plat thereof, recorded April 8, 1970, as Document R70–10321, in the Office of the Recorder of Deeds of DuPage County, Illinois is located within the Special Flood Hazard Area.

Map Number 170204 Panel 0006B is hereby corrected to reflect that the aboved-mentioned property is not located within the Special Flood Hazard Area identified on April 15, 1981. The property is located in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulaged will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Floodplains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: August 17, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25012 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for Cobb County, Ga., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Cobb County, Georgia. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Cobb County, Georgia, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: September 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP). P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H and I 130052, Panel 0100 A published on October 6, 1980 in 45 FR 66062 indicates that a property located in Land Lot 279, First District, Second Section, Cobb County, Georgia, as recorded in Deed Book 1059, Page 589 in the Cobb County Records is located within the Special Flood Hazard Area.

Map Number H and I 130052, Panel 0100 A is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on January 3, 1979. The property is located in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: August 30, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25013 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 5

Availability of Information to the Public

AGENCY: Office of the Secretary, HHS.

ACTION: Final rule.

SUMMARY: This final rule amends the Department's regulations implementing the Freedom of Information Act (FOIA). The rule increases fees for FOI searches and copying to reflect increased costs to the Department. It also establishes guidelines for the waiver or reduction of fees.

DATE: The regulations are effective on September 22, 1982.

FOR FURTHER INFORMATION CONTACT: Russell M. Roberts, Freedom of Information Officer, U.S. Department of

Health and Human Services, Room 118–F, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, (202) 472–7453.

SUPPLEMENTARY INFORMATION: HEW issued and adopted regulations implementing the Freedom of Information Act (FOIA) on June 30, 1967, including the fees to be charged for duplication, certification, and searches for records. Although the regulations were amended in 1967, 1968, 1973, 1974 and 1975, the schedule of fees has remained unchanged since 1967. At that time we assumed that the task of identifying and locating the records sought by FOIA requesters could be accomplished by clerical employees at relatively low levels. Experience has shown, however, that records searches sometimes must be made by mid-level program staff more familiar with the content of records and where related documents may be found or by professional staff having still greater knowledge and expertise. The new fees take into account this experience concerning the cost of records searches. Moreover, the effects of inflation on the costs of records searches are reflected in the new fees. We considered, and discarded, multi-tier fee systems. In such systems either separate charges would be made for clerical, mid-level, and professional staff time, or else actual salaries of persons performing searches would be charged. We believe that such multi-tier systems are too cumbersome to administer. We, therefore, are imposing a standard charge—$10.00 an hour—which represents a median salary for Departmental employees. We believe that this figure is a reasonable approximation of the actual direct cost to the Department of identifying and locating the records requested under the FOIA.

We also are expanding that portion of Subpart E that addresses the waiver or reduction of fees. A provision for such waiver or reduction when the government's furnishing information is considered as "primarily benefiting the general public" was included in the FOIA amendments of 1974 and added to our fee schedule in 1975. In this final regulation we are including guidelines based on several years experience implementing FOIA. We believe that the statutory standard of "primarily benefiting the general public" can best be implemented by applying flexible, commonsense guidelines, rather than a rigid formula. We are publishing these guidelines at this time in order to give the public guidance concerning our policy toward waiver and reduction of fees. Each FOIA request will be individually considered and any requester may call to our attention circumstances that might warrant special consideration.

DISCUSSION OF COMMENTS: On page 15610 of the **Federal Register** dated April 12, 1982, the Department of Health and Human Services published a Notice of Proposed Rule Making to amend its regulations implementing the Freedom of Information Act. Six comment letters were received. Individual comments and suggestions are summarized and discussed below.

Comment: The revised regulation should retain the provisions of the current regulation providing that there will be no charge for the first half hour of searching for records and no charge when the total amount of the fee would not exceed $5.00.

Response: We have decided not to establish a threshold amount in either dollars, pages, or hours below which there will be no charge. Instead, our policy will be that we will not charge for processing a FOIA request when the cost of collecting the fee would exceed the amount of the fee. We believe this new policy will be both more practical for the Department to administer, as well as fairer to FOIA requesters. This is because the Department is made up of different component agencies, which have different types of records and retrieval methods, and which accordingly incur different costs in responding to FOIA requests. In most cases, however, there would be no fee charged that would be less than $5.00. An exception to this might be, for example, when a component of the Department receives numerous small requests from a repeat requester which can easily be aggregated on a monthly bill. The regulation has been changed to reflect this policy at § 5.80.

Comment: Change § 5.61(a)(5) to indicate that there is a $10 certification charge only when we are asked to certify that records are true copies.

Response: We have made this change.

Comment: Include in § 5.61(a)(4) the time of computer programmers in the computation of fees.

Response: We have made this change.

Comment: There should be no charge for postage unless several pounds of material are to be mailed.

Response: The cost of mailing thousands of FOIA letters and packages each year is significant. The average FOIA request involves 90 pages of records weighing one pound and costing $3.20 in postage. With more than 50,000 FOIA requests each year, our annual postage costs are almost $200,000. If we were to charge for postage only where the materials mailed weighed several pounds, we would not be able to recover a large portion of our costs. As indicated in the regulation, the fees we will charge for mailing each item will be the actual cost of postage, which we are able to compute without difficulty.

Comment: Modify § 5.61(b) to indicate that there will be a charge for time spent on a fruitless search for records only when the requester has been advised that the search is unlikely to be productive yet still wishes us to continue the search.

Response: We have made this change.

Comment: Change § 5.62(a) to establish an amount for search and copy fees up to which we will assume the requester is willing to pay, unless the request specifies a different limit.

Response: We prefer not to establish such a limit because of the diversity and varied financial resources of those making requests. A flexible approach allows us to use our past experience with organizations and individual requesters, and eliminates the need for burdensome correspondence and telephone calls. When, in our judgment, it is appropriate, we will promptly contact requesters and give them an estimate of the fees to be charged.

Comment: Modify the first sentence of § 5.62(c) to read "* * * costs will be substantially larger than you have agreed to pay,* * *" rather than "* * *costs will be very large,* * *"

Response: We have made this change.

Comment: Modify § 5.62(c) so there is a limit to the amount of time the Department has for making a decision on a request for a reduction or waiver of fees.

Response: This is not practical since we frequently must go back to a requester for additional justification for the reduction or waiver. Once we receive all necessary information, we will make a prompt decision on the reduction or waiver request.

Comment: Section 5.62(c) should indicate that we will commence a record search as soon as a request is received, even in those cases when we think advance payment or a deposit is advisable.

Response: Again, our experience with thousands of FOIA requests indicates a need for latitude here. In many instances it simply is not cost effective to commence a search before the requester is advised of the likely search and copy fee and given an opportunity to make a decision as to whether we should start searching.

Comment: Paragraphs (c) and (d) of § 5.63 appear to be in conflict: (c) leans toward charging a fee to someone who

would benefit financially from the release of records; (d) appears to favor fee waiver or reduction for those who might obtain economic benefit from the release.

Response: Paragraph (d) is meant to apply to indigents or to those for whom it would be a hardship of payment if a fee were required. We have modified the text to reflect our intent more clearly.

Comment: Someone seeking records would not necessarily know if the information has already been made available to others and that, because of this, fee waiver or reduction may be unlikely.

Response: Before denying a request for fee waiver or reduction on this basis, we will make certain that the information is readily available from another source and notify the requester of this. If the information is already public knowledge, then it is not in the public interest to provide it free of charge to someone else.

Comment: There should be no fee charged an office or organization acting on behalf of indigent individuals.

Response: We do not think it appropriate to grant a blanket waiver to such offices and organizations, or to non-profit or tax-exempt establishments generally. We do, however, recognize that many groups providing beneficial services operate on limited budgets and cannot always afford to pay the full search and copy costs. In examining their requests, we will consider, as a factor in our determination, whether a refusal to waive or reduce fees might deprive the clientele served by the office or organization of the benefits of the information. The approach we have adopted will allow us to evaluate each request for information on its own merits and will thereby permit a better founded determination of whether fee waiver or reduction is appropriate.

Comment: The guidelines in § 5.63 do not make clear whether we will waive or reduce fees where the records requested contain information which is likely to be used to actually benefit people, even if the individuals who will benefit do not specifically know about the records themselves or directly receive the information they contain.

Response: We have revised the text of § 5.63(b) to clarify that, in making fee waiver or reduction determinations, we will consider whether the records to be released could be used to benefit people, even when the information contained in the records is not conveyed directly to those who will benefit.

Comment: Section 5.64 should be expanded to include appeals as to agency fee determinations as well as appeals relating to fee waiver or reduction.

Response: We have revised the text to accommodate this suggestion.

Cost/Regulatory Impact Analysis: These regulations do not meet the criteria for a major regulation and a regulatory impact analysis under Executive Order 12291 is not necessary.

Regulatory Flexibility Analysis: These regulations will not have a significant economic impact on small entities. Therefore, a regulatory flexibility analysis as required in Pub. L. 96-354, the Regulatory Flexibility Act, is not necessary.

List of Subjects in 45 CFR Part 5

Freedom of information.

Subpart E of 45 CFR Part 5, is revised as follows:

PART 5—AVAILABILITY OF INFORMATION TO THE PUBLIC

Subpart E—Fees

Sec.

5.60 Policy on fees.
5.61 Fee schedule.
5.62 Procedures on assessing and collecting fees.
5.63 Waiver or reduction of fees.
5.64 Review of a denial of request to waive or reduce fees.

Authority: 5 U.S.C. 552.

Subpart E—Fees

§ 5.60 Policy on fees.

The fees described in this Part apply to FOIA requests. They reflect direct search and duplication costs which the FOIA permits us to collect. The fee schedule is not intended to imply that fees must be charged for responding to FOIA requests nor is it meant as a substitute for any other schedule of fees. Our policy is that we will not charge for processing a FOIA request when the cost of collecting the fee would exceed the amount of the fee.

§ 5.61 Fee schedule.

(a) Our fee schedule is: (1) Manual searching for records—$10 an hour;

(2) Photocopying standard-size pages—10¢ per page;

(3) Photocopying odd-size pages, such as punch cards, or blueprints, or reproducing other records, such as magnetic tapes—actual cost of the operator's time up to $10 an hour, plus the cost of the machine time and the materials used;

(4) Use of electronic data processing equipment to obtain records—our actual cost for the service, including computer search time, runs, printouts, and time of computer programmers and operators, or other employees;

(5) Certifying that records are true copies whenever we are asked to do so—$10 per certification;

(6) Postage—actual cost;

(7) Sending records to you by special methods that you request, such as Express Mail, actual cost of the special service;

(8) Performing other special services that you request and that we agree to do—actual cost to us of the time of our employee who performs the service, plus the cost of any machine time and materials that the employee uses;

(9) Search and reproduction of records of Social Security number holders, wage earners, employers and claimants—full cost as determined under section 1106(c) of the Social Security Act.

(b) We may charge you for search time, even though we fail to find the records, if you request that we continue the search after we have informed you that it is unlikely to be productive. We also may charge you for search time if the records we locate are exempt from disclosure.

§ 5.62 Procedures on assessing and collecting fees.

(a) We will generally assume that when you send us a request, you agree to pay search and copy fees. You may specify a limit on the amount you are willing to spend. We will notify you if it appears that the fee will exceed the limit and ask whether you nevertheless want us to go ahead.

(b) Normally, we will send you a bill along with or following our delivery of the records you asked for. However, in order to avoid sending numerous small bills to frequent requesters, or businesses representing requesters, we may aggregate the charges for certain periods. For example, we might send a bill to such a requester once a month.

(c) If you have failed to pay previous bills, or if it appears likely that the search and duplication costs will be substantially larger than you have agreed to pay, we may ask you to pay the estimated fee, or a deposit, before we start searching for the records you requested, or before we send them to you. If so, we will let you know promptly upon receiving your request. In such cases, the administrative time limits prescribed in section (a)(6) of the FOIA (i.e., ten working days from receipt of initial requests and twenty working days from receipt of appeals from initial denials, plus permissable extensions of these time limits) will begin only after we have come to an agreement with you over payment of the fee, or have decided that fee waiver or

reduction would be appropriate (see § 5.63).

(d) Payment of fees will be made by check or money order payable to "U.S. Department of Health and Human Services" or to the unit stated in the billing and will be sent to the billing unit.

§ 5.63 Waiver or reduction of fees.

Only Freedom of Information Officers as designated at § 5.32 above may waive or reduce a fee where they determine that furnishing the information will primarily benefit the general public. They will consider factors such as those listed below. The existence of one of the factors standing alone, however, would not mean we would automatically waive or reduce the fee.

(a) Whether it is probable that you will disseminate the information to a large number of people. For example, we might waive or reduce the fee if you are a newspaper reporter, have a contract for a book with a publisher, or have often written material that was later published.

(b) Whether the records that you requested contain information which could actually be used to benefit people. We would be more disposed than otherwise to waive or reduce fees when there was strong need for public attention to matters that the records concerned. Records in that category would, for example, include those that bore on the safety, health, or economic well-being of the public, or the integrity and efficiency of government. In such cases, individuals who will benefit need not know about the records themselves or directly receive the information they contain.

(c) Whether release of the records would result primarily in your financial benfit. For example, we would usually expect you to pay the fees if you are engaged in commercial or financial activities in which you normally pay for goods and services in the conduct of business. In such circumstances, taxpayers ordinarily should not be expected to pay the FOIA fees for you. Even in these situations, however, if release of the information would otherwise benefit the general public, and if payment would impose a hardship on you such that you and the public would not receive the information if the full fee were to be charged, we may waive or reduce the fee.

(d) Whether release of the records would help indigents and others of very limited means for whom it would be a hardship if they were required to pay a fee. For example, where release of the records would help you obtain economic benefits, employment, education, or other basic rights and services, and you sent us an accurate statement that paying the fees would amount to a hardship, we would be inclined to waive or reduce them.

(e) Whether you helped us reduce unnecessary costs to the government. For example, you might focus your request so we could in turn focus the scope of our search and thereby eliminate unnecessary search costs. We would take that into consideration along with other factors.

(f) Whether we have already made the information available to others. For example, we would probably refuse to waive or reduce the fees if you requested records that we had already made available for inspection by any member of the public. We would also consider whether records containing the same information are available elsewhere. In such cases, we will inform you where this information is available.

§ 5.64 Review of a denial of request to waive or reduce fees.

If you have been denied a fee waiver or reduction, you may appeal to an official listed in § 5.82. You should specify the manner in which release of the record will benefit the general public. Also, you may appeal agency fee determinations to the same officials.

Dated: August 18, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-26153 Filed 9-21-82; 8:45 am]

BILLING CODE 4150-04-M

Office of Human Development Services

45 CFR Part 1321

Grants for State and Community Programs on Aging; Funding of Program Development and Coordination Activities as Allowable Supportive Service Costs

AGENCY: Office of Human Development Services (OHDS), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: The Administration on Aging is issuing a final regulation regarding the funding of program development and coordination as allowable costs of supportive services under Title III of the Older Americans Act. Under the new regulation, States must expend up to the limit of 8.5 percent for area plan administration prior to spending direct supportive service funds for program development and coordination. In addition, the State Plan on Aging must include an assurance that State and area agencies on aging will obtain review and comment from the general public, including older persons, government officials and the aging services network prior to using additional amounts of direct supportive service funds for program development and coordination. These changes are necessary in order to ensure greater control and accountability with respect to expenditures for program development and coordination activities in a time of significant budget reductions in services to the elderly.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Anita Shalit (202) 245-0641.

SUPPLEMENTARY INFORMATION:

Background

The Older Americans Act (42 U.S.C. 3001 et seq.) was enacted in 1965. It has been amended nine times. The most recent amendments were enacted on December 29, 1981. New regulations, as needed, are being developed to implement this new legislation. The new amendments do not have an impact on the program revision addressed in this final rule.

Under Title III of the Older Americans Act funds are awarded to States to provide supportive services (such as information and referral, transportation, homemaker services, etc.) and congregate and home delivered nutrition services to the elderly. The Act (42 U.S.C. 3024(d)(1)(A)) and the current Title III regulations at 45 CFR 1321.199(b) permit States to use up to 8.5 percent of the combined Part B supportive services allotment and the Part C nutrition services allotment for paying the costs of administering area plans. The remainder is used for providing direct supportive and nutrition services for the elderly. Currently, States have the option of funding program development and coordination activities as supportive service costs at a Federal/State matching rate of 85/15, and as costs of administering area plans at a Federal/State matching rate of 75/25. Program development and coordination activities include liaison with other agencies and organizations serving the elderly, services development and mobilization of non-Older Americans Act funds. States currently expend approximately 6 percent nationally, rather than 8.5 percent, of their supportive and nutrition services allotment for administering area plans.

Notice of Proposed Rulemaking

A Notice of Proposed Rulemaking (NPRM) was published in the Federal Register on February 5, 1982 (47 FR 5440). The NPRM proposed, at 45 CFR 1321.75 and 1321.103 of the Title III regulations, the deletion of program development and coordination as allowable supportive service costs. Under the proposed rule, program development and coordination activities would have continued only as allowable costs of area plan administration. The purpose of the proposed rule was to assure that recent budget reductions would be absorbed in area agency on aging administration costs rather than in costs of direct services to the elderly. An effective date of April 1, 1982 was proposed to facilitate achievement of required budget savings in Fiscal Year 1982.

Summary of Comments

The Notice of Proposed Rulemaking provided for a 30 day comment period. The Administration on Aging received over 700 letters of comment on the proposed rule. Twenty-three letters were in support of the proposed rule whereas the remainder opposed implementation of the rule. Over 150 comments opposing the proposed rule were from members of the Congress. Approximately equal numbers of comment letters were received from representatives of State and area agencies on aging and representatives of service provider agencies, government officials and the general public.

Letters of Support. Several letters state support for the proposed rule. Two of these letters were from States designated as single State planning and service areas. These States have opted to pay costs of area plan administration from the allotment for State agency administration as provided in Section 308(a)(3) of the Act. Therefore, these States are not subject to the 8.5 percent cap on area plan administration. The remaining letters were from service providers and older persons who support absorption of budget reductions in administrative rather than direct service costs.

Commenters opposing the rule addressed eleven issues which are summarized as follows:

Congressional Intent. The proposed rule is contrary to the intent of the Older Americans Act. Many of the commenters contended that the Act gives area agencies on aging responsibility to conduct program development and coordination activities but that implementation of the proposed rule would inhibit the area agencies' ability to conduct these statutorily mandated functions.

Continuing Services. Implementation of the proposed rule would jeopardize continuation of many services that are currently available because area agencies would have to curtail many of their coordination and technical assistance activities to providers and/or potential providers of services in the community.

Generating Additional Revenue. Program development and coordination activities should not be limited to funding as administrative costs because these activities have generated additional revenues and other resources for the elderly. The amount of Title III funds expended on program development and coordination is significantly less than the amount of funds generated.

Administrative Costs. 8.5 percent of the allotment for supportive and nutrition services that States are statutorily permitted to use for area plan administration would not adequately cover both the costs of administration as well as program development and coordination. This was a particular concern expressed by many rural agencies that have minimal resources available in their communities for administrative activities.

Loss of Staff. Implementation of the proposed rule would result in loss of needed staff to perform program development and coordination as well as other area agency functions. This comment can be considered as a sub-issue inherent in the question of whether 8.5 percent of the allotment for supportive and nutrition services would be adequate to cover both area plan administration and program development/coordination activities.

Role of Area Agencies on Aging. Area agencies would no longer have the resources to function as the focal point for the elderly in the community and would become mere administrative "pass-throughs" of Title III funds to service contractors. Some commenters expressed the view that the proposed rule would result in the closing of some area agencies.

State and Local Flexibility. The proposed rule contradicts the Administration's emphasis on providing States and localities with flexibility to determine how programs should be managed. Most of these respondents expressed the view that States and localities are most knowledgeable about their own needs and resources; therefore, they are in the best position to determine how any Federal budget reductions should be absorbed.

Public/Private Collaboration. The proposed rule is contrary to Administration emphasis on developing public/private partnerships and "indirect service" approaches. Diminished resources for coordination and program development would result in fewer opportunities for developing private resources in behalf of the elderly.

Timetable for Implementation. The proposed implementation date of April 1 was judged objectionable because it would require area agencies on aging to amend area plans in the middle of the fiscal year. It was argued that a change at this time would add to the administrative burden of State and area agencies and would create a general disruption of program activities. Some examples of the administrative impact on State and area agencies were cited: no lead time to develop new sources of funds to pay for program development and coordination activities that would no longer be Title III funded; termination/revision of contracts with service providers in mid-year and revision of area plans which in many cases would involve a new series of local public hearings and State agency reviews.

General Opposition. Some letters expressed general opposition to the proposed rule but did not cite specific reasons. Many of these were from elderly persons who indicated general concern for a potential loss in existing services.

Administration on Aging Response

Based on analysis of the issues raised by the letters of comment, the Department decided against final issuance of the proposed rule as originally formulated. In our view, the most serious objection raised by commenters was that our proposal would in fact be counterproductive—resulting in decreased services to the elderly by limiting area agency capacity to develop and expand other resources for the elderly. In this regard we were sensitive to the view that the statutorily established limit of 8.5 percent on area agency administration may not be sufficient to cover the costs of ongoing area agency administration as well as program development and coordination activities. In addition, we agree that the proposed rule could potentially limit the capacity of some area agencies to effectively perform their statutory function as focal points on aging.

While we recognize that area agencies are required to engage in some program development and coordination activities, we also think it is clear that

Congress intended to limit area agency administrative expenditures to the 8.5 percent of services funds specified in the statute. Our proposal was designed to effectuate this congressional intent of limiting the extent to which reduced services funds could be used for activities that are administrative in nature. Our proposal was also designed to effectuate the congressional intent of requiring a higher non-Federal contribution to the costs of administrative activities. Therefore, the thrust of most of the comments is not relevant to the key issue presented. The question is not whether program development and coordination activities are useful, but whether they are administrative in nature and therefore subject to the statutory constraints on administrative costs. We continue to believe that program development and coordination costs contain a large administrative element and that they are not properly treated as equivalent to direct services. The comments objecting to our proposal did not demonstrate the invalidity of this basic premise but simply argued the utility of program development and consolidation activities.

We recognize, however, that program development and coordination activities are not necessarily purely administrative in nature, and that requiring area agencies in all circumstances to limit their combined program development and coordination and other administrative costs to the 8.5 percent cap might work to the detriment of area agencies that have exhausted their administrative allotments but are generating substantial additional services for the elderly in their planning and service areas through additional program development and coordination activities. We have concluded, therefore, that it is not necessary, at least at the present time, to adopt the flat rule proposed in the NPRM in order to carry out the congressional intent of controlling area agency administrative costs. We have concluded that it would be sufficient, and satisfy commenters' concerns for local flexibility, to permit State and area agencies to spend in excess of the 8.5 percent cap for program development and coordination activities if they submitted the details of their proposals to the general public for review and comment. Under this approach, the agencies' constituents who are most directly affected by the agencies' decisions to use additional services funds for program development and coordination activities would be able to advise whether they felt those additional expenditures were warranted in their particular planning and service areas. This requirement for public notice will allow focus on the question whether the program development and coordination activities being proposed sufficiently bolster the provision of direct services as to warrant their being treated as direct services rather than as administrative costs.

We would first require exhaustion of the 8.5 cap at the 75/25 matching rate before we would permit States to use additional supportive services funds at the 85/15 matching rate. Commenters did not object to that aspect of the proposed rule that would have required State and area agencies to contribute a larger non-Federal share for program development and coordination activities. They appeared primarily concerned that the flat ceiling on Federal expenditures for those activities was inappropriate. Our exhaustion requirement will effectuate the congressional intent that agencies contribute a larger share of the costs when they choose to engage in activities that are administrative in nature. It will generate some program savings, and should contribute to a more careful examination by agencies spending under the cap of the necessity for particular program development and coordination activities.

We think that these changes from the present regulations are necessary in order to ensure greater control and accountability with respect to expenditures for program development and coordination activities in a time of significant budget reductions in services to the elderly.

The budgetary urgency to implement the proposed rule by April 1 has decreased significantly. Primarily, the Administration on Aging has established new management initiatives aimed at absorbing some of the budget reductions in FY 1982 and FY 1983. Delaying the implementation date should avoid any administrative burden or program disruption that may have been incurred by State and area agencies under the April 1 date. We are therefore publishing a final rule at this time with an effective date of October 1, 1982 in order to allow States time to incorporate this new provision in their planning cycles for FY 1983.

Changes in the Regulations

45 CFR 1321.25 lists the provisions that must be included in the content of the State Plan on Aging. We are adding a new paragraph to § 1321.25 requiring a State Plan assurance that State and area agencies on aging will obtain review and comment from the general public, including older persons, the general public, government officials and representatives of the aging services network on the details of State and area agency proposals to expend more than the 8.5 percent limit on administration for program development and coordination purposes.

The Department of Health and Human Services will be developing regulations to implement Section 2d of Executive Order 12372, which is designed to allow States to simplify and consolidate State plans and to encourage substitution of State plans for Federally required State plans.

Impact Analysis

Executive Order 12291

E.O. 12291 requires that a regulatory impact analysis be prepared for major rules—defined in the Order as any rule that has an annual effect on the national economy of $100 million or more, or certain other specified effects. The Department concludes that this regulation is not a major rule within the meaning of the Executive Order.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C. Ch. 6) requires the Federal Government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each proposed rule with a "significant economic impact on a substantial number of small entities" an initial analysis must be prepared describing the proposed rule's impact on small entities. Consistent with the provisions of the Regulatory Flexibility Act, I hereby certify that this rule will not have significant economic impact on a substantial number of small entities.

List of Subjects in 45 CFR Part 1321

Administrative practice and procedure, Aged, Grant program-social programs.

(Title III of the Older Americans Act (42 U.S.C. 3021 through 3030g))

(Catalog of Federal Domestic Assistance Program Numbers: 13.633 Special Program for Aging, Title III Parts A and B—Grants on Aging; 13.635 Special Programs for Aging, Title III Part C—Nutrition Services)

Dated: August 16, 1982.

Lennie-Marie P. Tolliver,

Commissioner on Aging.

Approved: August 17, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Approved: August 30, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

Accordingly, 45 CFR Chapter XIII, Subchapter C is amended as follows:

PART 1321—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

45 CFR 1321.25 is amended by adding a new paragraph (h), to read as follows:

§ 1321.25 [Amended]

* * * * *

(h) *Program development and coordination.* The State plan must assure that—

(1) The State will not fund program development and coordination activities as a cost of supportive services, until it has first spent 8.5 percent of the total of its combined allotments for supportive and nutrition services on the administration of area plans; and

(2) State and area agencies on aging will, consistent with their budgeting cycles (annually, biannually or otherwise), submit the details of their proposals to pay for program development and coordination as a cost of supportive services, to the general public (including older persons, government officials, and the aging services network) for review and comment.

[FR Doc. 82-26151 Filed 9-21-82; 8:45 am]
BILLING CODE 4130-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 654

[Docket No. 2901-175]

Stone Crab Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues a final rule amending the regulations for the stone crab fishery of the Gulf of Mexico. These regulations implement an amendment to the fishery management plan for this fishery. The intent of these regulations is to (1) reduce the reporting burden for stone crab fishermen, dealers, and processors; and (2) protect some stone crabs from being caught in lost or abandoned traps.

EFFECTIVE DATE: November 8, 1982.

ADDRESSES: A copy of the regulatory impact review may be obtained from Jack T. Brawner, Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Jack T. Brawner, 813-893-3141.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico (FMP) was prepared by the Gulf of Mexico Fishery Management Council (Council).

The FMP was approved by the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), on March 19, 1979, and implemented by the Secretary of Commerce on September 14, 1979 (44 FR 53519), under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). After monitoring the stone crab fishery and reviewing the management measures established in the FMP, the Council concluded that amendment of the FMP was necessary and appropriate, and approved changes to the FMP. The Assistant Administrator approved the Council's amendment on March 31, 1982. A proposed rulemaking was published on April 23, 1982 (47 FR 17597), initiating a 45-day comment period on the FMP amendment and the proposed regulations. The comment period ended June 7, 1982.

The proposed rulemaking discussed in detail the reasons for the new or revised management measures (i.e., reduction in the reporting burden for fishermen, protection for some stone crabs from being caught in lost or abandoned traps, and deletion of the provision to fish for live bait shrimp shoreward of the line of separation). Information was also presented on the procedure incorporated into the FMP to provide for adjusting the location and effective time period for the line of separation between stone crab and shrimp fishermen. This information is not repeated in this final rule. There are two technical changes incorporated in these final regulations. The first, at § 654.2, removes an inappropriate phrase in the definition of the "Fishery Conservation Zone" and the second, at § 654.23, further clarifies the description of an area restricted to trawl gear.

Response to Comments

No comments were received on the amendment to the FMP or the proposed regulations during the 45-day public comment period initiated on April 23, 1982.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that the FMP changes, the final regulations implementing certain of these changes, and the final regulatory amendment comply with the National Standards, other provisions of the Magnuson Act, and other applicable law.

The Administrator, NOAA, determined on April 7, 1982, that this rule is not a major rule under Executive Order 12291.

List of Subjects in 50 CFR Part 654

Fish, Fisheries, Fishing, Reporting requirements.

Dated: September 17, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

50 CFR Part 654 is amended as follows:

PART 654—STONE CRAB FISHERY

1. The authority citation for Part 654 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 654.2 [Amended]

2. In § 654.2, the definition for the *Fishery Conservation Zone* is amended by removing the words "territorial sea of the constituent States of the".

§ 654.5 [Amended]

3. In § 654.5, paragraph (a) is amended by removing the first sentence and substituting the following sentence in its place: "The owner or operator of any vessel that fishes for stone crabs or any vessel that lands stone crabs or any portion thereof, and who is selected to report, shall report the information required by this paragraph to the Center Director each month on forms obtained from the Center Director."

4. In § 654.5, paragraph (b) is amended by removing that part of the first sentence which precedes the colon and substituting the following phrase in its place: "Any person who receives stone crab claws by way of purchase, barter, trade, or sale from a fishing vessel subject to this Part, and who is selected to report, shall file a monthly report with the Center Director on forms obtained from the Center Director, which will contain the following information:".

5. In § 654.5, paragraph (c) is amended by removing the phrase "were received or harvested" and substituting the following phrase in its place: "were landed, received, or harvested".

6. Section 654.22 is amended by adding paragraph (b) to read as follows:

§ 654.22 Closed season.

* * * * *

(b) Stone crab traps in the management area from 0001 hours May 21 to 2400 hours October 4 will be considered unclaimed or abandoned property and may be disposed of in any manner considered appropriate by the Secretary or an Authorized Officer. Owners of these stone crab traps remain subject to appropriate civil penalties.

7. Section 654.23 is revised to read as follows:

§ 654.23 Area restrictions.

Between January 1 and May 20, it is unlawful to use trawl gear in that part of the FCZ (Figure 1) shoreward of a rhumb line connecting in order points B at 26°16.0′ N. latitude and 81°58.5′ W. longitude, C at 26°00.0′ N. latitude and 82°04.0′ W. longitude, D at 25°09.0′ N. latitude and 81°47.6′ W. longitude, E at 24°54.5′ N. latitude and 81°50.5′ W. longitude, and to the intersection of the seaward boundary of the State of Florida and a line extending from E to Point F at 24°41.9′ N. latitude and 81°40.5′ W. longitude (Snipe Point).

[FR Doc. 82-26152 Filed 9-21-82; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 184
Wednesday, September 22, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

CIVIL AERONAUTICS BOARD

14 CFR Part 201

[EDR-447 Economic Regs. Docket: 40964]

Applications for Certificates of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB proposes several options for dealing with the situation of applicants for airline certificates advertising and selling tickets before receiving their certification. These options include notice and escrow requirements and total or partial prohibitions.

DATES: Comments by: November 22, 1982.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: October 7, 1982.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 40964, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: The Board has become concerned about the practice of selling tickets for airline flights before receiving permission from the Board to engage in air transportion. Under the Federal Aviation Act, a person may not engage in air transportation until it receives a certificate, or an exemption from the requirement, from the Board. The phrase "engage in air transportation" encompasses not merely the operation of aircraft but also selling air service to the general public.

Pre-certification ticket sales also present a tariff problem. Section 403 of the Act requires a carrier to file tariffs with the Board showing the fares it is charging, but some applicants for certificates have sold tickets without any tariffs on file.

In addition to doubts about its legality, there are policy problems with allowing persons to sell tickets for flights that they may not receive authority to operate. There is no assurance that the applicant will not misues the proceeds of the early ticket sales. There is also the danger that the applicant would use the money to finance start-up cost or that the money would be seized by the applicant's creditors. In that event, the customers would be unable to receive refunds if the flights did not take place because certification was delayed or denied. In addition, pre-certification ticket sales could cause members of the public to be misled about the certainty of their flight deparating, with consequent disruption of travel plans. Finally, a large number of such ticket sales may be viewed as exerting pressure on the Board and the Federal Aviation Administration to act favorably on the applicant's request for authority.

Pre-certification ticket sales have become more common recently, during deregulation, since the Board has become favorably disposed to granting certificates to new airlines. Nevertheless, the Board has been faced with similar activities in the past. In Order 72-11-110, (November 27, 1972) the Board held that the solicitation of the general public for a charter program constituted engaging in air transportation. It issued a cease-and-desist order against the operator for doing so without a certificate or exemption from the Board. In Order 79-3-79 (March 15, 1979), the Board stated that the advertising and acceptance of reservations for a route for which a certificated carrier had sought but not yet received authority was a violation of the Act. In the Yucatan Service Case (Order 80-10-186, October 30, 1980), the Board granted an exemption to a certificated airline to permit it to sell tickets for a route for which it did not yet have authority. It did, however, attach several conditions to the grant of the exemption in order to protect consumers.

The Board has faced the question of pre-certification ticket sales in two recent cases. In neither case was the practice prohibited. In the Pacific East Air case (Docket 40458), World Airways filed a complaint against the practice. World alleged that Pacific East violated sections 401 and 411 of the Act by advertising and selling air transportation without authority. In Order 82-7-70, July 21, 1982, the complaint was dismissed, but it was noted that Pacific East had established a trust account in which ticket receipts were deposited and that the public had not been misled about Pacific East's authority.

World also complained about the pre-certification ticket sales of Hawaii Express in the context of the latter's fitness investigation (Docket 40658). In Order 82-8-40, August 6, 1982, the Board found Hawaii Express to be fit despite its sales activity. It did, however, express some serious reservations about the practice and decided to commence this rulemaking on the matter. Earlier, the Administrative Law Judge had ordered Hawaii Express to establish an escrow account and to deposit passenger funds in that account.

Since the issue is likely to arise again, it appears desirable to settle on a consistent Board position for future cases. Several options are proposed below in the alternative. Depending on the comments received, the Board may adopt only one option or may adopt some combination of them.

(1) *Total prohibition.* There are many businesses where one must obtain the necessary licenses and do the necessary paperwork before commencing operations. Under this option, a person would have to obtain the CAB certificate before selling tickets for its flights. While this might impose an impediment to certain types of thinly-financed new entry, the extent to which new entry should be financed by advance ticket sales is debatable. On the other hand, some may contend that a complete prohibition on pre-certification sales may place a formidable barrier to new entry. New entry and the possibility

of new entry are among the cornerstones of airline deregulation.

Carriers in the start-up phase may depend on a demonstration of consumer support to attract additional capital. The inability to sell tickets before certification would place new entrants in the dilemma of having to choose between initially operating with small loads or delaying start-up until ticket sales could be built up.

(2) *Partial prohibition.* This option could take one of two forms. The Board is proposing under this option to prohibit the actual collection of money from the general public but to permit other sales activity. Applicants could advertise the availability of their future services and accept reservations for that service. This would reduce some of the barriers to new entry without placing the public's money at risk.

Another possible approach would be to prohibit all sales activity during the initial stages of the Board's evaluation of the applicant's certificate application. The applicant would, however, be permitted to begin advertising and selling at the midpoint between the date of filing of the application and the projected date for the issuance of the Board's decision on it. The projected date for issuance of a Board decision would be determined through agreement between the applicant and the staff components involved, perhaps on the basis of the projected statutory deadline for a Board decision. This was suggested in footnote 24 of the initial decision of Administrative Law Judge William A. Kane, Jr. in *The Hawaii Express, Inc., Fitness Investigation* (Docket 40658). A variation would be to permit advertising and selling at the point that the Administrative Law Judge renders a favorable decision on the applicant's fitness.

In addition to setting the earliest date at which tickets may be sold, the Board is also considering whether to set the earliest date for those tickets to be valid. Recently, applicants sold tickets in the expectation that service would begin on a particular date, but found their start-up delayed when their certificate was not issued as soon as they expected. This may have caused disruption in some passengers' travel plans. This problem would be minimized if applicants were prohibited from selling tickets for flights that were scheduled to depart earlier than the projected date for the issuance of the Board's decision on their certificate application. The projected date could be determined by agreement between the applicant and Board staff as above. Even if the Board does not establish such a date, it will not be pressured into expediting its decision on a certificate application by the fact that the applicant has sold tickets for flights that are scheduled for an early date.

(3) *Escrow.* Under this option, the Board is proposing to permit precertification ticket sales. The money received, however, would have to be placed in an escrow account. This account would be set up in a fashion similar to the one required of charter operators. See § 380.34 of 14 CFR Part 380, *Public Charters.* The applicant would have to enter into an agreement with a bank, savings and loan institution, or other financial institution that is insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. Customers would have to pay by check or money order payable to the bank. On sales made by travel agents, the agent could retain its commission and send the balance to the designated bank. The bank would reimburse customers directly in any case where the applicant notified the bank that the customer's flight had been cancelled. If the customer had paid a travel agent, the agent would be required to send the bank the full amount of the commission that it previously had deducted. When the applicant notified the bank that it had received its certificate from the Board, it would be entitled to receive its money out of escrow. To the extent that the applicant followed these rules, passenger funds would be protected during the period prior to certification. Failure to follow these rules would, of course, have a bearing on the Board's evaluation of the applicant's fitness and might lead to a denial of its certificate application. The main drawbacks of this option are the burdens it may place on new entrants and the lack of notice about the applicant's authority it provides to customers.

(4) *Notice.* As with the escrow option described above, the Board would permit pre-certification ticket sales under this option. This proposal would require an applicant to notify potential passengers that it did not yet have authority from the government to operate as an airline. This approach might reduce the possibility that the public would be deceived about the certainty of their flights departing, but would not protect the funds of those who chose to buy tickets anyway.

(5) *Ad hoc approach.* Rather than establish a general rule that would apply in all cases of pre-certification ticket sales, the Board is also proposing to deal with each case on an individual basis. Under this approach, an applicant for a certificate would also have to file an application for an exemption if it wanted to sell tickets before receiving that certificate. In granting the exemption, the Board could attach conditions or restrictions to the applicant's sales activities, such as those described above. This approach would allow the Board to tailor its passenger protections to the characteristics of each applicant. It would, however, lack the certainty and consistency of the other options described above.

(6) *No restrictions.* To provide the full range of options, the Board is also proposing to provide a general exemption from sections 401 and 403 of the Act for all persons to engage in pre-certification ticket sale activity without restrictions. While easing the way for new entrants, this would provide no protection to the general public.

Initial Regulatory Flexibility Analysis

The Board tentatively concludes, pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, that options 1 through 5 may, if adopted as proposed, have a substantial economic impact on a substantial number of small entities. The need, objectives, and legal basis for each option is discussed above. They would apply to any small entity that sought permission from the Board to provide air transportation to the general public. None of the options would require any reporting. The escrow requirement may entail some recordkeeping. All the options, except the sixth, would impose compliance requirements that are explained and justified above. They would not duplicate or conflict with other Federal rules.

If a final rule is adopted, all persons with pending certificate applications will have to begin complying with its requirements on its effective date.

List of Subjects in 14 CFR Part 201

Advertising, Air carriers, Consumer protection.

PART 201—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 201, *Applications for Certificates of Public Convenience and Necessity,* in one or more of the following ways:

Option I

A new § 201.6 would be added to read:

§ 201.9 Prohibition on pre-certification ticket sales.

No applicant for a certificate of public convenience and necessity under this part shall advertise or sell air transportation until its application has been approved by the Board.

Option II

A new § 201.6 would be added to read:

§ 201.9 Pre-certification ticket sales.

(a) Applicants for a certificate of public convenience and necessity under this part are exempted from section 401 of the Act to the extent necessary to allow them to advertise and accept reservations from passengers for their proposed air transportation services.

(b) No applicant shall accept money for any of its proposed air transportation services until its application has been approved by the Board.

Option III

A new Subpart B would be added to read:

Subpart B—Protection of Passenger Payments

§ 201.10 Exemption.

Applicants for a certificate of public convenience and necessity under this part are exempted from sections 401 and 403 of the Act and Part 221 of this chapter to the extent necessary to allow them to collect passenger money prior to receiving that certificate, provided that they comply with the other provisions of this subpart.

§ 201.11 Depository agreements.

The applicant shall enter into an agreement with a designated bank, the terms of which shall provide that all deposits by passengers paid to the applicant and its retail travel agents shall be deposited with and maintained by the bank subject to the following conditions:

(a) On sales made to passengers by the applicant, the passenger shall pay by check or money order payable to the bank;

(b) On sales made to passengers by retail travel agents, the retail travel agent may deduct its commission and remit the balance to the designated bank by check or money order, provided that the travel agent agrees in writing with the applicant that if the flight for which the payment was received is cancelled the travel agent shall remit to the bank the full amount of the commission previously deducted within 10 days after notification of the cancellation;

(c) The bank shall reimburse the applicant for refunds made by the latter to a passenger upon written notification from the applicant;

(d) If the applicant notifies the bank that a flight has been cancelled, the bank shall make applicable refunds directly to the passengers;

(e) As used in this section, the term "bank" includes a bank, savings and loan association, or other financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation; and

(f) The bank shall pay the balance in the account to the applicant upon written notification from the applicant that it has received its certificate from the Board.

Option IV

A new § 201.6 would be added to read:

§ 201.6 Pre-certification ticket sales.

Applicants for a certificate of public convenience and necessity under this part are exempted from sections 401 and 403 of the Act and Part 221 of this chapter to the extent necessary to allow them to advertise and sell tickets for their proposed air transportation services provided that all such advertisements include the notice "(name of applicant) has not yet received government authority to provide air transportation" in a form that is prominent enough to reasonably inform the public of the status of the applicant's authority.

Option V

A new § 201.6 would be added to read:

§ 201.6 Pre-certification ticket sales.

No applicant for a certificate of public convenience and necessity under this part shall advertise or sell air transportation until one of the following has occurred:

(a) It has applied for and the Board has granted an exemption from sections 401 and 403 of the Act and Part 221 of this chapter that allows the applicant to engage in such practices. The applicant shall comply with any terms or conditions established in the order granting the exemption.

(b) The Board has issued a final order granting the application.

Option VI

A new § 201.6 would be added to read:

§ 201.6 Pre-certification ticket sales.

Applicants for a certificate of public convenience and necessity under this part are exempted from sections 401 and 403 of the Act and Part 221 of this chapter to the extent necessary to allow them to advertise and sell their proposed air transportation servcies.

(Secs. 204, 401, 403, 411, 416, Pub. L. 85-726, as amended, 72 Stat. 743, 754, 758, 769, 771; 49 U.S.C. 1324, 1371, 1373, 1381, 1386)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-26184 Filed 9-21-82; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD Regulation 6010.8-R, Amendment]

Civilian Health and Medical Program of the Uniformed Services; Appeals and Hearings

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Proposed amendment to rule.

SUMMARY: This proposed rule of DoD 6010.8-R (32 CFR 199) revises policies and procedures for appealing benefit decisions made by Office of Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Office of Civilian Health and Medical Program of the Uniformed Services Europe (OCHAMPUSEUR) and CHAMPUS Fiscal Intermediaries. Implementation of the CHAMPUS appeals and hearing process has identified deficiencies in the process and the multiple levels of appeal have increased the processing time for appeals. It is anticipated that this proposed amendment will provide a more streamlined approach to the CHAMPUS appeals and hearing process.

DATES: Written public comments must be received on or before October 22, 1982.

ADDRESS: Office of Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Policy Division, Aurora, Colorado 80045.

FOR FURTHER INFORMATION CONTACT: Charles M. Gallegos, Chief, Policy Branch, OCHAMPUS, telephone (303) 361-8808.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-7834, appearing in the Federal Register on April 4, 1977 (42 FR 17972), the Office of the Secretary of Defense published its Regulation, DoD 6010.8-R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as part 199 of

this title. Section 199.16 sets forth the various levels of appeal available to appropriate appealing parties, the amounts in dispute which must be met before an appeal to the next level may be considered, and establishes specific time limits in which an appeal must be filed. Levels of appeal available for initial determinations made by CHAMPUS Fiscal Intermediary are (1) Informal Review, (2) Reconsideration review, (3) Formal Review by OCHAMPUS, and (4) Hearing. Levels of appeal available for initial determinations made by OCHAMPUS are (1) Reconsideration review, (2) Formal Review, and (3) Hearing. The required amounts in dispute vary dependent on the level of review, and times allowed to file an appeal are 180 days after the date of the notice of the initial determination, for first level appeals, and 60 days after notice of determination of first level appeals, second level and subsequent appeals. It is proposed that the provisions of Section 199.16 be simplified to achieve better understanding of, and greater access to, the appeals and hearing process by CHAMPUS beneficiaries and providers.

This proposed amendment includes the following major provisions:

- Insertion in Section 199.8 of definitions applicable to Section 199.16.
- Elimination of the informal reviews and reconsideration reviews now conducted by the CHAMPUS Fiscal Intermediaries and OCHAMPUS, respectively.
- Elimination of required amounts in dispute at all appeal levels, except Formal Review and Hearing.
- Reduction in the time allowed for filing a first-level appeal.
- Greater access to the OCHAMPUS level of appeal.
- Assurance of timely action by CHAMPUS Fiscal Intermediaries, OCHAMPUSEUR and OCHAMPUS in responding to appeal requests.

This amendment is being published for proposed rulemaking at the same time as it is being coordinated within the Department of Defense, and with the Department of Health and Human Services and other interested agencies, in order that consideration of both internal and external comments and publication of the final rulemaking document can be expedited.

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, Military personnel, Health.

Accordingly, we propose to amend 32 CFR, Chapter I, Part 199 as follows:

PART 199—IMPLEMENTATION OF THE CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES

1. Section 199.8(b) is amended by removing the paragraph designations and adding or revising the following definitions, which are to be inserted in alphabetical order:

§ 199.8 Definitions.

* * * * *

(b) * * *

Amount in Dispute. "Amount in Dispute" means the amount of money, determined in accordance with the provisions of this Regulation, which CHAMPUS would pay for medical services and supplies involved in an adverse determination being appealed if the appeal were resolved in favor of the appealing party. See § 199.16 for additional information concerning the determination of "amount in dispute" under this Regulation.

* * * * *

Appealable Issue. "Appealable Issue" means disputed question(s) of fact(s) which, if resolved in favor of the appealing party, would result in the authorization of CHAMPUS benefits or approval as an authorized provider in accordance with this Regulation. An appealable issue does not exist if no facts are in dispute, or if no CHAMPUS benefits would be payable, or if there is no authorized provider regardless of the resolution of any disputed facts. See § 199.16 for additional information concerning the determination of "appealable issue" under this Regulation.

Appealing Party. "Appealing Party" means any party to the initial determination who files an appeal of an adverse determination or requests a Hearing under the provisions of this Regulation.

* * * * *

Initial Determination. "Initial Determination" means a formal written decision on a CHAMPUS claim, a request for benefit authorization, a request by a provider for approval as an authorized CHAMPUS provider, or a decision disqualifying or excluding a provider as an authorized provider under CHAMPUS. Rejection of a claim or a request for benefit or provider authorization for failure to comply with administrative requirements, including failure to submit reasonably requested information, is not an initial determination. Responses to general or specific inquiries regarding CHAMPUS benefits are not initial determinations.

* * * * *

Party to the Initial Determination. "Party to the Initial Determination" means a CHAMPUS beneficiary and a participating provider of services whose interests have been adjudicated by the initial determination, and CHAMPUS. In addition, a provider who has been denied approval as an authorized CHAMPUS provider is a party to that initial determination, as is a provider who is disqualified or excluded as an authorized provider under CHAMPUS unless the provider is excluded based on a determination of abuse or fraudulent practices or procedures under another Federal or federally funded program. See § 199.16 for additional information concerning parties not entitled to administrative review under the CHAMPUS appeals and hearing procedures.

* * * * *

Representative. "Representative" means any person who has been appointed by a party to the initial determination as counsel or advisor and who is otherwise eligible to serve as the counsel or advisor of the party to the initial determination, particularly in connection with a Hearing.

* * * * *

2. Section 199.16 is revised as follows:

§ 199.16 Appeal and Hearing Procedures.

(a) *General.* This Section sets forth the policies and procedures for appealing decisions made by OCHAMPUS, OCHAMPUSEUR and CHAMPUS Fiscal Intermediaries, adversely affecting the rights and liabilities of beneficiaries, participating providers and providers denied the status of authorized provider under CHAMPUS. An appeal under CHAMPUS is an administrative review of program determinations made under the provisions of law and regulation. An appeal cannot challenge the propriety, equity or legality of any provision of law or regulation.

(1) *Initial Determination.*—(i) *Notice of Initial Determination and Right to Appeal.* (A) OCHAMPUS, OCHAMPUSEUR, and CHAMPUS Fiscal Intermediaries shall mail notices of initial determinations to the CHAMPUS beneficiary at the last known address. For beneficiaries who are under 18 years of age or who are incompetent, a notice issued under established CHAMPUS procedures to the parent or guardian constitutes notice to the beneficiary.

(B) CHAMPUS Fiscal Intermediaries and OCHAMPUSEUR shall notify providers of an initial determination on a claim only if the provider participated in the claim. (See § 199.13, "Claims Submission, Review and Payment.")

(C) Notice of an initial determination on a claim processed by a CHAMPUS Fiscal Intermediary or OCHAMPUSEUR normally will be made on a CHAMPUS Explanation of Benefits (CEOB) form.

(D) Each notice of an initial determination on a request for benefit authorization, a request by a provider for approval as an authorized CHAMPUS provider or a decision to disqualify or exclude a provider as an authorized provider under CHAMPUS must state the reason for the determination and the underlying facts supporting the determination.

(E) In any case where the initial determination is adverse to the beneficiary or participating provider, or to the provider seeking approval as an authorized CHAMPUS provider, the notice must include a statement of the beneficiary's or provider's right to appeal the determination. The procedure for filing the appeal also shall be explained.

(ii) *Effect of Initial Determination.* The initial determination is final unless appealed in accordance with this Section 199.16, or unless the initial determination is reopened by OCHAMPUS or the CHAMPUS Fiscal Intermediary.

(2) *Participation in an Appeal.* Participation in an appeal is limited to any party to the initial determination (including CHAMPUS) and authorized representatives of the parties. Any party to the initial determination (except CHAMPUS) may appeal an adverse determination. The appealing party is the party who actually files the appeal.

(i) *Parties to the Initial Determination.* For purposes of the CHAMPUS appeals and hearing procedures, the following are not parties to an initial determination and are not entitled to administrative review under this section.

(A) A provider disqualified or excluded as an authorized provider under CHAMPUS based on a determination of abuse or fraudulent practices or procedures under another Federal or federally funded program is not a party to the CHAMPUS action and may not appeal under this section.

(B) A sponsor or parent of a beneficiary under 18 years of age or guardian of an incompetent beneficiary is not a party to the initial determination and may not serve as the appealing party, although such persons may represent the appealing party in an appeal.

(C) While a third party, such as an insurance company, may have an indirect interest in the initial determination, it is not a party to the initial determination and is not entitled to appeal.

(D) A nonparticipating provider is not a party to the initial determination and may not appeal.

(ii) *Representative.* Any party to the initial determination may appoint a representative to act on behalf of the party in connection with an appeal. Generally, the parent of a minor beneficiary and the legally appointed guardian of an incompetent beneficiary will be presumed to have been appointed representative without specific designation by the beneficiary.

(A) The representative will have the same authority as the party to the appeal and notice given to the representative shall constitute notice required to be given to the party under this Regulation..

(B) To avoid possible conflicts of interest, an officer or employee of the United States *(e.g.,* an employee or member of a Uniformed Service, including an employee or staff member of a Uniformed Service legal office (or similar function), and a CHAMPUS Advisor), subject to the exceptions in Title 18, United States Code, Section 205, is not eligible to serve as a representative. In general, an exception exists for an employee or member of a Uniformed Service who represents an immediate family member. In addition, the Director, OCHAMPUS (or designee), may appoint an officer or employee of the United States as the CHAMPUS representative at a Hearing.

(3) *Burden of Proof.* The "Burden of Proof" is on the appealing party affirmatively to establish by substantial evidence the appealing party's entitlement under law and this Regulation to the authorization of CHAMPUS benefits or approval as an authorized provider. Any cost or fee associated with the production or submission of information in support of an appeal will not be paid by CHAMPUS.

(4) *Late Filing.* If a request for Reconsideration, Formal Review, or Hearing is filed after the time permitted in this section, written notice shall be issued denying the request. Late filing may be permitted only if the appealing party can reasonably demonstrate to the satisfaction of the CHAMPUS Fiscal Intermediary, OCHAMPUSEUR or the Director, OCHAMPUS (or designee) that timely filing of the request was not feasible due to extraordinary circumstances over which the appealing party had no practical control. Each request for an exception to the filing requirement will be considered on its own merits.

(5) *Appealable Issue.* An appealable issue is required in order for an adverse determination to be appealed under the provisions of this section. Examples of issues which are not appealable under this section include:

(i) A dispute regarding a requirement of law or regulation is not an appealable issue.

(ii) The amount of the CHAMPUS-determined allowable cost or charge is not an appealable issue, since the methodology for determining allowable costs or charges is established by this Regulation.

(iii) Certain other issues are not appealable under the provisions of this section because the authority for the initial determination is not vested in the CHAMPUS. Examples of such issues include but are not limited to:

(A) Determination of a person's eligibility as a CHAMPUS beneficiary is the responsibility of the appropriate Uniformed Service. Although CHAMPUS, OCHAMPUSEUR and CHAMPUS Fiscal Intermediaries must make determinations concerning a beneficiary's eligibility in order to ensure proper disbursement of appropriated funds on each CHAMPUS claim processed, ultimate responsibility for resolving a beneficiary's eligibility rests with the Uniformed Services. Accordingly, a disputed question of fact concerning a beneficiary's eligibility will not be considered an appealable issue under the provisions of this section, but will be resolved in accordance with § 199.9, "Eligibility."

(B) Similarly, decisions relating to the issuance of a Nonavailability Statement (DD Form 1251) in each case are made by the Uniformed Services. Disputes over the need for a Nonavailability Statement or a refusal to issue a Nonavailability Statement are not appealable under this section. The one exception involves the situation where a dispute arises over the issue of whether the facts of the case demonstrate a medical emergency for which a nonavailability statement is not required. Denial of payment in this one situation is an appealable issue.

(C) The decision to disqualify or exclude a provider because of a determination against that provider of abuse or fraudulent practices or procedures under another Federal or federally funded program is not an initial determination which is appealable under this Regulation. The provider is limited to exhausting administrative appeal rights offered under the Federal or federally funded program that made the initial determination of abuse or fraudulent

practices or procedures against the provider. However a determination to disqualify or exclude a provider because of abuse or fraudulent practices or procedures under CHAMPUS is an initial determination which is appealable under this Regulation.

(6) *Amount in Dispute.* An amount in dispute is required for an adverse determination to be appealed under the provisions of this section, except as set forth below.

(i) The amount in dispute is calculated as the amount of money CHAMPUS would pay if the services and supplies involved in dispute were determined to be authorized CHAMPUS benefits. Examples of amounts of money that are excluded by the Regulation from CHAMPUS payments for authorized benefits include, but are not limited to:

(A) Amounts in excess of the CHAMPUS-determined allowable charge or cost;

(B) The beneficiary's CHAMPUS deductible and cost-share amounts;

(C) Amounts which the CHAMPUS beneficiary (or parent, guardian or other responsible person) has no legal obligation to pay; and

(D) Amounts excluded under the provisions of § 199.14 "Double Coverage", of this Regulation.

(ii) The amount in dispute for appeals involving a denial of a request for authorization in advance of obtaining care will be the estimated allowable charge or cost for the services requested.

(iii) There is no requirement for an amount in dispute when the appealable issue involves a denial of a provider's request for approval as an authorized CHAMPUS provider or the determination to disqualify or exclude a provider as an authorized CHAMPUS provider.

(iv) Individual claims may be combined to meet the required amount in dispute if all of the following exist:

(A) The claims involve the same beneficiary;

(B) The claims involve the same issue; and

(C) At least one of the claims, so combined, has had a Reconsideration decision issued by OCHAMPUSEUR or a CHAMPUS Fiscal Intermediary.

Note.—A request for administrative review under this appeal process which does not involve an appealable issue (Section 199.16(a)(5)) or a sufficient amount in dispute (Section 199.16(a)(6)) may not be rejected at the Reconsideration level of appeal. However, an appeal shall involve an appealable issue and sufficient amount in dispute to be granted a Formal Review or Hearing.

(7) *Levels of Appeal.* The sequence and procedures of a CHAMPUS appeal vary depending on whether the initial determination was made by the CHAMPUS Fiscal Intermediary, OCHAMPUSEUR or OCHAMPUS.

(i) *Appeal Levels for Initial Determination Made by OCHAMPUSEUR or CHAMPUS Fiscal Intermediary.* (A) Reconsideration by OCHAMPUSEUR or CHAMPUS Fiscal Intermediary.

(B) Formal Review by OCHAMPUS.

(C) Hearing.

(ii) *Appeal Levels for Initial Determations Made by OCHAMPUS.*

(A) Formal Review by OCHAMPUS.

(B) Hearing.

(b) *Reconsideration.* Any party to the initial determination made by OCHAMPUSEUR or the CHAMPUS Fiscal Intermediary may request a Reconsideration.

(1) *Requesting a Reconsideration.*—(i) *Written Request Required.* The request shall be in writing, shall state the specific matter in dispute, and shall include a copy of the notice of initial determination made by OCHAMPUSEUR or the CHAMPUS Fiscal Intermediary (*e.g.*, the CHAMPUS Explanation of Benefits (CEOB) Form).

(ii) *Where to File.* The request shall be submitted to the office that made the initial determination (*i.e.*, OCHAMPUSEUR or the CHAMPUS Fiscal Intermediary) or any other fiscal intermediary designated in the notice of initial determination.

(ii) *Allowed Time to File.* The request must be mailed within 90 days after the date of the notice of initial determination.

(iv) *Official Filing Date.* A request for a Reconsideration shall be deemed filed on the date it is mailed and postmarked. If the request does not have a postmark, it shall be deemed filed on the date received by OCHAMPUSEUR or the CHAMPUS Fiscal Intermediary.

(2) *The Reconsideration Process.* The purpose of the Reconsideration is to determine whether the initial determination was made in accordance with law, regulation, policies, and guidelines in effect at the time the care was provided or requested, or at the time the provider requested approval under CHAMPUS as an authorized provider. The Reconsideration is performed by a member of the OCHAMPUSEUR or fiscal intermediary's staff who was not involved in making the initial determination and is a thorough and independent review of the case. The Reconsideration is based on the information submitted which led to the initial determination, plus any additional information that the appealing party may submit or OCHAMPUSEUR or the fiscal intermediary may obtain.

(3) *Timeliness of Reconsideration Determination.* OCHAMPUSEUR or the fiscal intermediary normally will issue its Reconsideration determination no later than 60 days from the date of receipt of the request for Reconsideration by OCHAMPUSEUR or the Fiscal Intermediary.

(4) *Notice of Reconsideration Determination.* OCHAMPUSEUR or the CHAMPUS Fiscal Intermediary shall, when available, issue by certified mail written notice of the Reconsideration determination to the appealing party at his or her last known address. The notice of the Reconsideration determinations must contain the following elements:

(i) A statement of the issue(s) under appeal;

(ii) The provisions of law, regulation, policies and guidelines that apply to the issue(s) under the appeal;

(iii) A discussion of the original and additional information that is relevant to the issue(s) under appeal;

(iv) Whether the Reconsideration upholds the initial determination or reverses it, in whole or in part, and the rationale for the action; and

(v) A statement of the right to further appeal in any case where Reconsideration determination is less than fully favorable to the appealing party and the amount in dispute is $50 or more.

(5) *Effect of Reconsideration Determination.* The Reconsideration determination is final if either of the following exist:

(i) The amount in dispute is less than $50, or

(ii) Appeal rights have been offered but a request for Formal Review is not received by OCHAMPUS within 60 days of the date of the notice of the Reconsideration determination.

(c) *Formal Review.* Any party to the initial determination may request a Formal Review by OCHAMPUS if the party is dissatisfied with the Reconsideration determination and the Reconsideration determination is not final under the provisions of paragraph (b)(5) of this section. Any party to the initial determination made by OCHAMPUS may request a Formal Review by OCHAMPUS if the party is dissatisfied with the initial determination.

(1) *Requesting A Formal Review.*—(i) *Written Request Required.* The request must be in writing, must state the specific matter in dispute, should

include copies of the written determination (notice of Reconsideration determination, or OCHAMPUS initial determination). being appealed, and should include any additional information or documents not previously submitted.

(ii) *Where to File.* The request must be submitted to the Chief, Appeals and Hearings, OCHAMPUS, Aurora, Colorado 80045.

(iii) *Allowed Time to File.* The request must be mailed within 60 days after the date of the notice of the Reconsideration determination or OCHAMPUS initial determination being appealed.

(iv) *Official Filing Date.* A request for a Formal Review shall be deemed filed on the date it is mailed and postmarked. If the request does not have a postmarked, it shall be deemed filed on the date received by OCHAMPUS.

(2) *The Formal Review Process.* The purpose of the Formal Review is to determine whether the initial determination or Reconsideration determination was made in accordance with law, regulation, policies, and guidelines in effect at the time the care was provided or requested, at the time the provider requested approval by CHAMPUS as an authorized provider, or at the time of the action by OCHAMPUS to disqualify or exclude a provider under CHAMPUS. The Formal Review is performed by the Chief, Appeals and Hearings, OCHAMPUS (or designee), and is a thorough review of the case. The Formal Review determination shall be based on the information upon which the initial determination or Reconsideration determination was based, and any additional information the appealing party may submit or OCHAMPUS may obtain.

(3) *Timeliness of Formal Review Determination.* The Chief, Appeals and Hearings, OCHAMPUS (or designee), normally will issue the Formal Review determination no later than 90 days from the date of receipt of the request for Formal Review by the OCHAMPUS.

(4) *Notice of Formal Review Determination.* The Chief, Appeals and Hearings, OCHAMPUS (or designee), shall issue by certified mail (when practicable) written notice of the Formal Review determination to the appealing party at his or her last known address. The notice of the Formal Review determination must contain the following elements:

(i) A statement of the issue(s) under appeal;

(ii) The provisions of law, regulation, policies and guidelines that apply to the issue(s) under appeal;

(iii) A discussion of the original and additional information which is relevent to the issue(s) under appeal;

(iv) Whether the Formal Review upholds the prior determination(s) or reverses the prior determination(s), in whole or in part, and the rationale for the action; and

(v) A statement of the right to request a Hearing in any case where the Formal Review determination is less than fully favorable, the issue is appealable, and the amount in dispute is $300 or more.

(5) *Effect of Formal Review Determination.* The Formal Review determination is final if one or more of the following exist:

(i) The issue is not appealable. (See § 199.16(a)(5) "Appealable Issue.")

(ii) The amount in dispute is less than $300. (See § 199.16(a)(6) "Amount in Dispute.")

(iii) Appeal rights have been offered but a request for Hearing is not received by OCHAMPUS within 60 days of the date of the notice of the Formal Review determination.

(d) *Hearing.* Any party to the initial determination may request a hearing if the party is dissatisfied with the Formal Review determination and the Formal Review determination is not final under the provisions of paragraph (c)(5) of this section.

(1) *Requesting a Hearing.*—(i) *Written Request Required.* The request must be in writing, state the specific matter in dispute, include a copy of the Formal Review determination and include any additional information or documents not previously submitted.

(ii) *Where to File.* The request must be submitted to the Chief, Appeals and Hearings, OCHAMPUS, Aurora, Colorado, 80045.

(iii) *Allowed Time to File.* The request must be mailed within 60 days after the date of the notice of the Formal Review determination being appealed.

(iv) *Official Filing Date.* A request for Hearing shall be deemed filed on the date it is mailed and postmarked. If a request for Hearing does not have a postmark, it shall be deemed filed on the date received by OCHAMPUS.

(2) *The Hearing Process.* The Hearing will be conducted as a nonadversary, administrative proceeding to determine the facts of the case and to allow the appealing party the opportunity to present personally the case before an impartial Hearing Officer. The Hearing is a forum in which facts relevant to the case are presented and evaluated in relation to applicable law, regulation, policies and guidelines in effect at the time the case was provided or requested, or at the time the provider requested approval under CHAMPUS as an authorized provider.

(3) *Timeliness of Hearing.* (i) Except as otherwise provided in this section, within 60 days following receipt of a request for Hearing, the Director, OCHAMPUS (or designee), normally will appoint a Hearing Officer to hear the appeal. Copies of all records in the possession of OCHAMPUS which are pertinent to the matter to be heard or which formed the basis of the Formal Review determination shall be provided to the Hearing Officer, and upon request, to the appealing party.

(ii) The Hearing Officer, except as otherwise provided in this section, normally will have 60 days from the date of written notice of assignment to review the file, schedule and hold the Hearing, and issue a Recommended Decision to the Director, OCHAMPUS (or designee).

(iii) The Director, OCHAMPUS (or designee), may delay the case assignment to the Hearing Officer if additional information is needed which cannot be obtained and included in the record within the time period specified above. The appealing party will be notified in writing of the delay resulting from the request for additional information. The Director, OCHAMPUS (or designee), in such circumstances will assign the case to a Hearing Officer within 30 days of receipt of all such additional information, or within 60 days of receipt of the request for Hearing, whichever shall occur last.

(iv) The Hearing Officer may delay submitting the Recommended Decision if, at the close of the Hearing, any party to the Hearing requests that the record remain open for submission of additional information. In such circumstances the Hearing Officer will have 30 days following receipt of all such additional information (including comments from the other parties to the Hearing concerning the additional information) to submit the Recommended Decision to the Director, OCHAMPUS (or designee).

(4) *Representation at a Hearing.* Any party to the hearing may appoint a representative to act on behalf of the party at the Hearing unless such person is currently disqualified or suspended for wrongdoing from acting in another Federal administrative proceeding, or unless otherwise prohibited by law, this Regulation or any other Department of Defense regulation; (*e.g.*, See § 199.16 (a)(2)(ii)). A Hearing Officer may refuse to allow any person to represent a party at the Hearing when such person engages in unethical, disruptive, or contemptuous conduct, or intentionally

fails to comply with the proper instructions or requests of the Hearing Officer or the provisions of this Regulation. The representative will have the same authority as the appealing party and notice given to the representative shall constitute notice required to be given to the appealing party.

(5) *Consolidation of Proceedings.* the Director, OCHAMPUS (or designee), may consolidate any number of proceedings for Hearing when the facts and circumstances are similar and no substantial right of any appealing party will be prejudiced.

(6) *Authority of the Hearing Officer.* The Hearing Officer in exercising the authority to conduct a Hearing under this Regulation will be bound by Chapter 55 of Title 10, United States Code, and this Regulation. The Hearing Officer in addressing substantive appealable issues will be bound by policy statements, manuals, instructions, procedures, and other guidelines issued by the Assistant Secretary of Defense (Health Affairs) (or designee) or by the Director, OCHAMPUS (or designee), in effect for the period in which the matter in dispute arose. A Hearing Officer may not establish or amend policy, procedures, instructions, or guidelines.

(7) *Disqualification of Hearing Officer.* A Hearing Officer shall voluntarily disqualify himself or herself and withdraw from any proceeding in which the Hearing Officer cannot give a fair or impartial Hearing, or in which there is a conflict of interest. A party to the hearing may request the disqualification of a Hearing Officer by filing a statement detailing the reasons the party believes that a fair and impartial Hearing cannot be given or that a conflict of interest exists. Such request shall immediately be sent by the appealing party or the Hearing Officer to the Director, OCHAMPUS (or designee), who will investigate the allegations and advise the complaining party in writing of the decision. A copy of such decision shall also be mailed to all other parties to the Hearing. If the Director, OCHAMPUS (or designee), reassigns the case to another Hearing Officer, no investigation shall be required.

(8) *Notice and Scheduling of Hearing.* The Hearing Officer shall issue by certified mail, when practicable, a written notice of the time and place for the Hearing to the parties to the Hearing. Such notice shall be mailed at least 15 days before the scheduled date of the Hearing. The notice shall contain sufficient information about the hearing procedure (including the party's right to representation) to allow for effective preparation. The notice shall also advise the appealing party of the right to request a copy of the record prior to Hearing. Additionally, the notice shall advise the appealing party of his or her responsibility to furnish the Hearing Officer, no later than 7 days prior to the scheduled date of the Hearing, a list of all witnesses who will testify and a copy of all additional information to be presented at the Hearing. The time and place of the Hearing shall be determined by the Hearing Officer, who shall select a reasonable time and location that are mutually convenient to the appealing party and OCHAMPUS.

(9) *Dismissal of Request for Hearing.—(i) By Application of Appealing Party.* A request for Hearing may be dismissed by the Director, OCHAMPUS (or designee), at any time prior to the mailing of the Final Decision, upon the application of the appealing party. A request for dismissal must be in writing and filed with the Chief, Appeals and Hearings, OCHAMPUS, or the Hearing Officer. When dismissal is entered pursuant to a request, the Formal Review determination in the case shall be deemed final unless the dismissal is vacated in accordance with subsection (d)(9)(v) of this Section 199.16.

(ii) *By Stipulation of the Parties to the Hearing.* A request for a Hearing may be dismissed by the Director, OCHAMPUS (or designee), at any time prior to the mailing of notice of the Final Decision pursuant to a stipulation agreement between the appealing party and OCHAMPUS. When dismissal is entered pursuant to a stipulation, the Formal Review Decision shall be deemed final unless the dismissal is vacated in accordance with subsection (d)(9)(v) on this Section 199.16.

(iii) *By Abandonment.* The Director, OCHAMPUS (or designee), may dismiss a request for Hearing upon abandonment by the appealing party.

(A) An appealing party will be deemed to have abandoned a request for Hearing, other than where personal appearance is waived in accordance with paragraph (d)(11)(xiii) of this section, if neither the appealing party nor an appointed representative appears at the time and place fixed for the Hearing and within 10 days after the mailing of a notice by certified mail to the appealing party by the Hearing Officer to show cause, such party does not show good sufficient cause for such failure to appear and failure to notify the Hearing Officer prior to the time fixed for Hearing that an appearance could not be made.

(B) An appealing party will be deemed to have abandoned a request for Hearing if, prior to assignment of the case to the Hearing Officer, OCHAMPUS is unable to locate either the appealing party or appointed representative.

(C) An appealing party will be deemed to have abandoned a request for Hearing if the appealing party fails to prosecute the appeal. Failure to prosecute the appeal includes, but is not limited to, an appealing party's failure to provide information reasonably requested by OCHAMPUS or the Hearing Officer for consideration in the appeal.

(D) If the Director, OCHAMPUS (or designee), dismisses the request for Hearing because of abandonment, the Formal Review determination in the case shall be deemed to be final unless the dismissal is vacated in accordance with paragraph (d)(9)(v) of this section.

(iv) *For Cause.* The Director, OCHAMPUS (or designee), may dismiss for cause a request for Hearing either entirely or as to any stated issue. If the Director, OCHAMPUS (or designee), dismisses a Hearing request for cause, the Formal Review determination in the case shall be deemed to be final unless the dismissal is vacated in accordance with paragraph (d)(9)(v) of this section. A dismissal for cause may be issued under any of the following circumstances:

(A) Where the appealing party requesting the Hearing is not a proper party under the paragraph (a)(2)(i) of this § 199.16, or does not otherwise have a right to participate in a Hearing.

(B) Where the appealing party who filed the Hearing request dies and there is no information before the Director, OCHAMPUS (or designee), showing that an individual who is not an appealing party may be prejudiced by the Formal Review determination.

(C) Where the issue is not appealable (see § 199.16(a)(5), "Appealable Issues").

(D) Where the amount in dispute is less than $300 (see § 199.16(a)(6), "Amount in Dispute").

(E) Where all appealable issues have been resolved in favor of the appealing party.

(v) *Vacation of Dismissal.* Dismissal of a request for Hearing may be vacated by the Director, OCHAMPUS (or designee), upon written request of the appealing party, if the request is received within 6 months of the date of the notice of dismissal mailed to the last known address of the party requesting the Hearing.

(10) *Preparation for Hearing.*—(i) *Prehearing Statement of Contentions.* The Hearing Officer may on reasonable notice require a party to the Hearing to submit a written statement of

contentions and the reasons. The written statement shall be provided prior to the Hearing to all parties to the Hearing.

(ii) *Agency Records.*—(A) *Hearing Officer.* A Hearing Officer may request the production or inspection of any records or relevant portions of records in the possession of CHAMPUS when necessary to decide the issues in any proceeding before the Hearing Officer or to assist an appealing party in preparing for the proceeding.

(B) *Appealing Party.* A request to a Hearing officer by an appealing party for disclosure or inspection of CHAMPUS records shall be in writing and shall state clearly the information desired and the records desired to be produced or inspected.

(iii) *Witnesses and Evidence.* All parties to a Hearing are responsible for producing, at each party's expense (i.e., without reimbursement of payment by CHAMPUS), witnesses and other evidence in their own behalf at the Hearing and the furnishing copies of any such documentary evidence to the Hearing Officer and other party(ies) to the Hearing. The Department of Defense is not authorized to subpoena witnesses or records. The Hearing Officer may issue invitations and requests to individuals to appear and testify without cost to the Government, in order that the full facts in the case may be presented.

(iv) *Interrogatories and Depositions.* A Hearing Officer may arrange the taking of interrogatories and depositions, recognizing that the Department of Defense does not have subpoena authority. The expense shall be assessed to the requesting party, with copies furnished to the Hearing Officer and other party(ies) to the Hearing.

(11) *Conduct of Hearing.*—(i) *Right to Open Hearing.* Because of the personal nature of the matters to be considered, Hearings will normally be closed to the public. However, the appealing party may request an open Hearing. In that event, the Hearing will be open except to the extent that other legitimate Government purposes can only be protected by closing certain portions of the Hearing.

(ii) *Right to Examine Parties to the Hearing and Their Witnesses.* Each party to the Hearing shall have the right to produce and examine witnesses; to introduce exhibits; to question opposing witnesses on any matter relevant to the issue, even though the matter was not covered in the direct examination; to impeach any witness regardless of which party to the Hearing first called the witness to testify; and to rebut any evidence presented. Except for those witnesses employed by OCHAMPUS at the time of the Hearing, or records in the possession of OCHAMPUS, a party to a Hearing shall be responsible (i.e., without payment or reimbursement by CHAMPUS), for the cost or fee associated with the production of witnesses or other evidence in his or her own behalf at a Hearing and the furnishing of copies of documentary evidence to the Hearing Officer and other party(ies) to the Hearing.

(iii) *Burden of Proof.* The burden of proof is on the appealing party affirmatively to establish by substantial evidence the appealing party's entitlement under law and this Regulation to the authorization of CHAMPUS benefits or approval as an authorized provider. Any party of the cost or fee associated with the production or submission of information in support of an appeal will not be paid by CHAMPUS.

(iv) *Taking of Evidence.* The Hearing Officer shall control the taking of evidence in a manner best suited to ascertain the facts and safeguard the rights of the parties to the Hearing. Prior to taking evidence, the Hearing Officer shall identify and state the issues in dispute on the record and the order in which evidence will be received.

(v) *Questioning and Admission of Evidence.* A Hearing Officer may question any witness and shall admit any relevant evidence. Evidence which is irrelevant or unduly repetitious shall be excluded.

(vi) *Relevant Evidence.* Any relevant evidence shall be admitted, unless unduly repetitious, if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make improper the admission of such evidence over objection in civil or criminal actions.

(vii) *CHAMPUS Determinations First.* The basis of the CHAMPUS determinations shall be presented to the Hearing Officer first. The appealing party will then be given the opportunity to affirmatively establish why this determination is held to be in error.

(viii) *Testimony* Testimony shall be taken only on oath, affirmation or penalty of perjury.

(ix) *Oral Argument and Briefs.* At the request of any party to the Hearing made prior to the close of the Hearing, the Hearing Officer shall grant oral argument. If written argument is requested, it shall be granted and the parties to the Hearing shall be advised as to the time and manner within which such argument is to be filed. The Hearing Officer, may require any party to the Hearing to submit written memoranda pertaining to any or all issues raised in the Hearing.

(x) *Continuance of Hearings.* A Hearing Officer may continue a Hearing to another time or place on his or her own motion or, upon showing of good cause, at the request of any party. Written notice of the time and place of the continued Hearing, except as provided herein, shall be in accordance with this Regulation. When a continuance is ordered during a Hearing, oral notice of the time and place of the continued Hearing may be given to each party to the Hearing who is present at the Hearing.

(xi) *Continuance for Additional Evidence.* If the Hearing Officer determines, after a Hearing has begun, that additional evidence is necessary for the proper determination of the case, the following procedures may be invoked:

(A) *Continue Hearing.* The Hearing may be continued to a later date in accordance with paragraph (d)(11)(x) of this section.

(B) *Closed Hearing.* The Hearing may be closed, but the record held open in order to permit the introduction of additional evidence. Any evidence submitted after the close of the Hearing shall be made available to all parties to the Hearing, and all parties to the Hearing shall have the opportunity for comment. The Hearing Officer may reopen the Hearing if the nature of the additional evidence or the comments therein make further Hearing desirable. Notice thereof shall be given in accordance with paragraph (d)(8) of this section.

(xii) *Transcript of Hearing.* A verbatim taped record will be made of the Hearing and made a permanent part of the record. Upon request, the appealing party will be furnished a duplicate copy of the tape. A typed transcript of the testimony will be made only when determined to be necessary by OCHAMPUS. If a typed transcript is made, the appealing party will be furnished a copy without charge. (Corrections will be allowed in the typed transcript by the Hearing Officer solely for the purpose of conforming the transcript to the actual testimony.)

(xiii) *Waiver of Right to Appear and Present Evidence.* If all parties waive their right to appear before the Hearing Officer and present evidence and contentions personally or by representation, it shall not be necessary for the Hearing Officer to give notice of or conduct a formal Hearing. A waiver of the right to appear must be in writing and filed with the Hearing Officer or the Chief, Appeals and Hearings, OCHAMPUS. Such waiver may be

withdrawn by the party by written notice received by the Hearing Officer or Chief, Appeals and Hearings, no later than 7 days prior to the scheduled Hearing or the mailing of notice of the Final Decision, whichever occurs first. For purposes of this section, failure of a party to appear personally or by representation after filing written notice of waiver shall not be cause for a finding of abandonment and the Hearing Officer shall make the recommended decision on the basis of all evidence of record.

(12) *Recommended Decision.* At the conclusion of the Hearing and after the record has been closed, the matter shall be taken under consideration by the Hearing Officer. Within the times frames previously set forth in this section, the Hearing Officer shall submit to the Director, OCHAMPUS (or designee), a written Recommended Decision containing a statement of findings and a statement of reasons based on the evidence adduced at the Hearing and otherwise included in the Hearing record.

(i) *Statement of Findings.* A statement of findings is a clear and concise statement of fact(s) evidenced in the record or conclusion(s) that can be readily deduced from the evidence of record. Each finding must be supported by substantial evidence, which is defined as such evidence as a reasonable mind can accept as adequate to support a conclusion.

(ii) *Statement of Reasons.* A reason is a clear and concise statement of law, regulation, policies or guidelines relating to the statement of findings which provides the basis for the recommended decision.

(e) *Final Decision.*—(1) *Director, OCHAMPUS.* The recommended decision shall be reviewed by the Director, OCHAMPUS (or designee), who may concur without comment or who may prepare a written evaluation of the Recommended Decision. The Director, OCHAMPUS (or designee), shall not alter the Recommended Decision; however, the Director, OCHAMPUS (or designee), may return the Recommended Decision to the Hearing Officer for correction of technical or procedural errors. The Hearing Officer will take appropriate action within 60 days to correct the technical or procedural errors and return the Recommended Decision to the Director, OCHAMPUS. In the absence of technical or procedural errors, the Director, OCHAMPUS (or designee), normally will take action with regard to the Recommended Decision within 90 days of its receipt.

(i) *Final Action.* If the Hearing Officer recommends in favor of the appealing party and the Director, OCHAMPUS (or designee) concurs in the statement of findings and statement of reasons, no further agency review is required. The appealing party will be notified by certified mail of the Recommended Decision and its adoption by the Director, OCHAMPUS (or designee), as the final agency decision.

(ii) *Referral for Final Review.* If the Hearing Officer recommended against the appealing party, whether or not the Director, OCHAMPUS (or designee), concurs, or if the Director, OCHAMPUS (or designee) disagrees with the Recommended Decision (whether or not the finding is for or against the appealing party), the Director, OCHAMPUS (or designee), shall forward the Recommended Decision, together with a statement of concurrence or statement giving the reasons for disagreement, to the Assistant Secretary of Defense (Health Affairs) for final agency action.

(2) *Assistant Secretary of Defense (Health Affairs).* The decision by the ASD(HA) (or designee) concerning a case arising under the procedures of this Section 199.16, shall be the final agency decision.

(i) *Review of the Recommended Decision.* The ASD(HA) (or designee), shall adopt or reject the recommended decision. In the case of rejection, the ASD(HA) (or designee) shall prepare a statement outlining the reasons for disagreement with the recommended decision and the underlying facts supporting such disagreement. In this circumstance, the ASD(HA) (or designee) may have a final decision prepared based upon the record, or may remand the matter to the Hearing Officer for appropriate action. In the latter instance, the Hearing Officer thereafter shall submit a new recommended decision within 30 days of receipt of the remand order.

(ii) *Final Decision.* The decision of the ASD(HA) (or designee) is final. Copies of the final decision shall be sent by certified mail to the appealing party(ies).

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(10 U.S.C. 1079, 1086, 5 U.S.C. 301)

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

September 16, 1982

[FR Doc. 82-26085 Filed 9-21-82; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 2171-8]

Approval and Promulgation of Implementation Plans—Kentucky: Disapproval of Revised SO_2 Limits for Bell, Clark, and Woodford Counties; Approval of Revised SO_2 Limits for Pulaski County (KY-002)

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is today proposing to disapprove revised sulfur dioxide (SO_2) emission limits for utility boilers in Bell, Clark, and Woodford Counties, Kentucky. EPA is proposing to approve the revised SO_2 emission limits in Pulaski County, Kentucky. All of these counties are classified as attainment for the SO_2 National Ambient Air Quality Standards (NAAQS). The sources involved are coal-fired power boilers. The boilers are subject to Kentucky Regulation 401 KAR 61:015, Existing Indirect Heat Exchangers. The public is invited to submit written comments on EPA's proposed action on this revision to the Kentucky implementation plan.

DATES: To be considered, comments must be submitted on or before October 22, 1982.

ADDRESSES: Written comments should be addressed to Melvin Russell of EPA Region IV's Air Management Branch (see EPA Region IV address below). Copies of the materials submitted by Kentucky may be examined during normal business hours at the following locations:

Environmental Protection Agency, Air Management Branch, EPA Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Kentucky Department for Natural Resources and Environmental Protection, Division of Air Pollution Control, 18 Reilly Road, Bldg. #2 Fort Boone Plaza, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Melvin Russell of EPA's Air Management Branch at the above address, or by telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: The Commonwealth of Kentucky has submitted to EPA a State Implementation Plan (SIP) revision which relaxes the SO_2 emission limits for indirect heat exchangers having a design input greater than 250 MBTU/hr.

in Bell, Clark, Woodford and Pulaski Counties. The revision was duly adopted by the Commonwealth on June 6, 1979, after adequate public hearing in accordance with State and Federal requirements, and submitted to EPA by Kentucky's Department for Natural Resources and Environmental Protection (DNREP) on June 15, 1979. Additional information was submitted by Kentucky on September 14, 1981, in response to EPA's request.

The applicable regulation is Kentucky regulation 401 KAR 61:015, Existing Indirect Heat Exchangers.

The State SIP terminology identifies Bell, Clark, and Woodford counties as Class II counties, and Pulaski County as a Class III county.

The affected facilities are:

1. Kentucky Utilities Company's (KU) Pineville Plant in Bell County (Pineville, Kentucky)

2. KU's Tyrone Plant in Woodford County (Versailles, Kentucky)

3. Eastern Kentucky Power's (EK) Dale Plant in Clark County (Ford, Kentucky)

4. EK's Cooper Plant in Pulaski County (Burnside, Kentucky)

The Pineville boiler has a capacity of 37.5 megawatts (MW); the Tyrone boiler has a capacity of 76 MW. Both of these boilers are peaking units, relegated to standby service. The Dale boiler has a capacity of 172 MW; the Cooper boiler has a capacity of 354 MW. Both of these units are regular use base-load units.

Appendix B to the Kentucky regulation changes the SO_2 emission limit from 1.8 pounds per million BTU (lbs./MBTU) to 2.3 lbs./MBTU for the boilers in Bell, Clark, and Woodford counties (State Class II counties) and from 3.2 to 3.3 lbs./MBTU in Pulaski County (State Class III county).

Modelling indicates the following results at the 2.3 lbs./MBTU and 3.3 lbs./MBTU emission limits:

1. Violation of the 24-hour primary and the 3-hour secondary SO_2 NAAQS in Bell County.

2. Violation of the the 3-hour secondary SO_2 NAAQS in Clark County.

3. Violation of the the 3-hour secondary SO_2 NAAQS in Woodford County.

4. Attainment of the SO_2 NAAQS in Pulaski County.

Proposed action.—Based on the above, EPA today proposes to disapprove Kentucky's revised SO_2 emission limits for Bell, Clark, and Woodford counties. EPA proposes to approve the revised SO_2 emission limit for Pulaski County.

Under 5 U.S.C. Section 605(b), I hereby certify that this approval/disapproval action will not have a significant economic impact on a substantial number of small entities since it affects only four sources. (See 46 FR 8709.)

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Section 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: June 30, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82-26146 Filed 9-21-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[OPP-300066; PH-FRL 2211-1]

Ethoxylated Lignosulfonic Acid, Sodium Salt; Proposed Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that ethoxylated lignosulfonic acid, sodium salt be exempted from the requirement of a tolerance when used as an inert ingredient in pesticide formulations. This action was requested by Westvaco.

DATE: Written comments must be received on or before October 22, 1982.

ADDRESS: Written comments to: Process Coordination Branch (TS-767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Peter Gray (703-557-7700) at the above address.

SUPPLEMENTARY INFORMATION: At the request of Westvaco, the Administrator proposes to amend 40 CFR 180.1001(c) by establishing an exemption from the requirement of a tolerance for ethoxylated lignosulfonic acid, sodium salt. Inert ingedients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under condideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient: Ethoxylated lignosulfonic acid, sodium salt.

Name and address of requestor: Westvaco, Chemical Division, Box 70848, Charleston Heights, SC 29405.

Basis for Approval

1. Several lignosulfonate salts have been cleared for pre- and post-harvest use under 180.1001(c). The clearances were based in part on animal studies.

2. A number of ethoxylated surfactants have also been cleared for pre- and post-harvest use under 180.1001(c); these clearances likewise were based on animal studies.

3. Ethoxylation is not expected to result in increased toxicity of the new moiety.

Based on the above information, and review of its use, it has been found that, when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains this inert ingredient, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notion indicating both the subject and the petition and document control number, "[OPP-300066]". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Process Coordination Branch at the address given above from 8:00 a.m. to

4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: September 10, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.1001(c) be amended by adding and alphabetically inserting ethoxylated lignosulfonic acid, sodium salt to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * *		
Ethoxylated lignosulfonic acid, sodium salt.	.....	Surfactant.
* * * * *		

[FR Doc. 82-26147 Filed 9-21-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2E2585/P252; PH-FRL 2212-4]

Picloram; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the herbicide picloram in or on the raw agricultural commodities flax seed and flax straw. This proposed regulation to establish maximum permissible levels for residues of the herbicide in or on the commodities was submitted pursuant to a petition by the Interregional Research Project No. 4 (IR–4).

DATE: Comments must be received on or before October 22, 1982.

ADDRESS: Written comments to: Emergency Response Section, Process Coordination Branch, Registration Division (TS–767C), Environmental Protection Agency, Rm. 716A, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 2E2585 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of South Dakota.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the herbicide picloram (4–amino–3, 5, 6–trichloropicolinic acid) resulting from its application in the acid form or in the form of its potassium, triethylamine, or triisopropanolamine salts (expressed as picloram) in or on the raw agricultural commodities flax seed and flax straw at 0.5 part per million) (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought.

The provisional acceptable daily intake (PADI), based on a 90-day rat feeding study (NOEL of 50 mg/kg/day) and using a 2000-fold safety factor, is calculated to be 0.0250 mg/kg of body weight (bw)/day. The maximum permissible intake (MPI) for a 60-kg human is calculated to be 1.5 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.1413 mg/day; the current action will increase the TMRC by 0.0002 mg/day. Published tolerances utilize 9.42 percent of the PADI; the current action will utilize an additional 0.01 percent. Thus the tolerances that will be established by this proposed rule are considered to pose negligible incremental dietary risks since dietary exposure will not be significantly increased.

The nature of the residues is adequately understood and an adequate analytical method, gas chromatography, is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency and the fact that currently established tolerances for meat, milk, poultry, and eggs are adequate to cover any residues resulting from flax straw and flax seed used as animal feed, the tolerances established by amending 40 CFR 180.292 would protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIRFA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number "[PP 2E2585/P252]". All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: September 14, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.292 be amended by adding and alphabetically inserting the raw agricultural commodities flax seed and flax straw to read as follows:

§ 180.292 Picloram; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Flax, seed	0.5
Flax, straw	0.5
* * * * *	

[FR Doc. 82-26148 Filed 9-21-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6401]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappel, P.E., National Flood Insurance Program (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67-4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	Mendocino County (unincorporated areas)	Russian River	At the center of intersection of Howell St. and Hopland Road.	*496
	do	do	100 feet upstream from the center of Vicky Springs Road.	*597
	do	do	100 feet upstream from the center of School Way	*707
		Forsythe Creek	50 feet upstream from the center of Uva Drive	*711
		Mill Creek (at Redwood Valley)	450 feet upstream from confluence with Forsythe Creek.	*794
		York Creek	At the center of U.S. Highway 101 and stream crossing.	*940
		Hensley Creek	100 feet upstream from the center of U.S. Highway 101.	*978
		Ackerman Creek	50 feet upstream from the center of North State Street.	*823
		East Fork Russian River	At the center of Main Street and stream crossing	*934
		Eel River	100 feet upstream of Cape Horn Dam	*1,514
		Anderson Creek	50 feet upstream from the center of State Highway 128.	*347
		Mill Creek (near Talmage)	30 feet upstream from the center of Park Lane	*648
		North Fork Mill Creek	50 feet upstream from the center of Guidiville Reservation Road.	*722
		Robinson Creek	At the center of State Highway 253 and stream crossing.	*627

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Feliz Creek	At the center of Old Hopland Yorkville Road and stream crossing.	*522
		Tenmile Creek	At the center of Branscomb Road and stream crossing	*1,610
		Town Creek	At the State Highway 162 and stream crossing	*1,391
		Davis Creek	75 feet upstream from the center of Hearst Willits Road.	*1,360
		Orrs Creek	At the center of intersection of Orrs Street and Brush Street.	*810
		Doolin Creek	At center of Betty Street and stream crossing	*601
		Haehl/Baechtel Creek	50 feet upstream from the center of Hearst-Willits Road.	*1,353
		Mill Creek (near Willits)	At the city of Willits corporate limit at the stream crossing.	*1,348

Maps available for inspection at County Planning Office, 860 N. Bush, Ukiah, California.

Send comments to the Honorable Norman de Vall, Mendocino County Courthouse, Ukiah, California 95482.

California	Woodlake (city), Tulare County	St. Johns River	50 feet upstream from center of Valencia Boulevard	*426
		Antelope Creek	Center of intersection of Pine Street and Kaweah Avenue.	*448
		East Overflow Antelope Creek	Center of intersection of Sevillano Street and Antelope Avenue.	*439
		West Overflow Antelope Creek	Center of intersection of Palm Street and Sierra Avenue.	*441

Maps available for inspection at City Department of Public Works, 350 North Valencia Boulevard, Woodlake, California.

Send comments to the Honorable Bill Diamond, 350 North Valencia Boulevared, Woodlake, California 93286.

Connecticut	Eastford, town, Windham County	Still River	Approximately 600' downstream of U.S. Route 44	*455
			Downstream of Boston Turnpike	*481
			Downstream of Old Colony Road	*505
			Downstream of Dam	*526

Maps available for inspection at the Town Offices, Eastford, Connecticut.

Send comments to the Honorable John Savage, First Selectman of Eastford, P.O. Box 207, Eastford, Connecticut 06242.

Delaware	Dewey Beach, Town, Sussex County	Atlantic Ocean	Entire shoreline within community	*13
			Entire shoreline of Rehoboth Bay within community	*7

Map available for inspection at the Town Hall, Corner of Route 1 and Route 1A, Dewey Beach, Delaware.

Send comments to Honorable J. Bruce Vavala, Mayor of Dewey Beach, 1904 Highway One, Dewey Beach, Delaware 19971.

Florida	Anna Maria (city), Manatee County	Gulf of Mexico Open Coast and Tampa Bay.	300 feet north from the center of intersection of North Shore Drive and Bay Boulevard.	*14
			300 feet west from the center of intersection of Fern Street and North Shore Drive.	*13
			200 feet southwest from the center of intersection of Coconut Avenue and Palm Drive.	*12
			Center of intersection of Tuna Street and Cypress Avenue.	*11
			Center of intersection of Rose Street and Jacaranda Road.	*10
			Center of intersection of Maxine Place and Magnolia Avenue.	*9

Maps available for inspection at Public Works Department, 1005 Gulf Drive, Anna Maria, Florida.

Send comments to the Honorable I. E. Cagnina, P.O. Box 606, Anna Maria, Florida 33501.

Florida	Homes Beach (city), Manatee County	Gulf of Mexico Sarasota Pass and Tampa Bay.	75 feet west from the center of intersection of 36th Street and 3rd Avenue.	*14
			180 feet west from the center of intersection of 29th Street and Avenue E.	*12
			Center of intersection of 3rd Aveune W and 45th Street.	*11
			Center of intersection of Agua Lane and White Avenue.	*10
			Center of intersection of Marina Drive and 71st Street	*9

Maps available for inspection at City Hall, 5901 Marina Drive, Holmes Beach, Florida.

Send comments to the Honorable Charlotte Long, 5901, Marina Drive, Holmes Beach, Florida 33510.

Florida	Longboat Key (town), Manatee County	Gulf of Mexico Sarasota Bay	170 feet west from the center of intersection of Twinshores Boulevard and Gulf of Mexico Drive.	*16
			90 feet west from the center of junction of Seabreeze Avenue and Coral Avenue.	*15
			350 feet north from the center of intersection of Longboat Drive East and Longboat Court.	*14
			90 feet north from the center of intersection of Joy Street and N. Shore Road.	*13
			Center of intersection of Elmaro Street and Fallsiona Avenue.	*12
			Center of intersection of Bogey Lane and Chipping Lane.	*11
			Center of intersection of Linley Street and Poinsetata Avenue.	*10

Maps available for inspection at Building Department, 501 Bay Isles Road, Longboat Key, Florida.

Send comments to the Honorable Henry G. Riter, 501 Bay Isles Road, Longboat Key, Florida 33548.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Indiana	(Uninc.) Wells County	Wabash River	At western county boundary	*800
			At the confluence of Fleming Ditch	*801
			About 5,000 feet above Six Mile Creek	*814
		Griffin Ditch	At mouth	*800
			Just downstream of 100 West Road	*800

Maps available for inspection at the County City Area Planning Office, Wells County Courthouse, 4th Floor, Bluffton, Indiana.

Send comments to Honorable John Studebaker, President of the County Commissioners, Wells County, Wells County Courthouse, 4th Floor, Bluffton, Indiana 46714.

Iowa	(C) Algona Kossuth County	East Fork Des Moines River	About 200 feet upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad	*1,124
			About 3,780 feet upstream of U.S. Highway 18	*1,124

Maps available for inspection at City Clerk's Office, City Hall, Algona, Iowa.

Send comments to Honorable Harold Van Allen, Mayor, City of Algona, City Hall, Box 452, Algona, Iowa 50511.

Maryland	Worcester County	Atlantic Ocean	Along the eastern coast of Assateague Island, from the Town of Ocean City to Route 611	*13
			On Assateague Island, east of Coffins Point	*9
			On Assateague Island, South of Route 611	*8
			Along the eastern coast of Assateague Island, from Route 116 to Scotts Landing	*12
			On Assateague Island, at Scotts Landing	*8
			Along the eastern coast of Assateague Island, from Scotts Landing to the southern county boundary	*13
			At Pope Bay	*8
		Sinepuxent Bay	Just east of Ocean City Harbor	*10
			At Grays Point	*10
			At Sandy Point	*10
			At Green Point	*9
		Newport Bay	At the confluence with Catbird Creek	*9
			At Out Point	*9
		Chincoteague Bay	At Log Point	*9
			At Windmill Cove	*9
			At Cotter Cove	*10
			At Tingles Narrows	*9
			At Martin Bay	*10
			At Pirate Islands	*9
			At Brockatonorton Bay	*10
			At Johnson Bay	*10
			At West Bay	*9
			At Purnell Bay	*10
		Massey Branch Creek	Area generally located between U.S. Route 113 and Langmaid Landing	*7
		Waterworks Creek	Area generally located between Bowden Road extended and just downstream of Basket Switch Road	*7
		Robins Creek	Area generally located between a point approximately 2,300 feet upstream of the confluence with Chincoteague Bay and the limit of detailed study	*7
		Pawpaw Creek	Area generally located between Bayside Road and Pawpaw Creek Road	*7
		Scarboro Creek	Area generally located between a point approximately 2,600 feet upstream of Scarboro Landing and Route 12	*8

Maps are available for inspection at the Planning and Zoning Office, 111 North Washington Street, Snow Hill, Maryland.

Send Comments to: Mr. John Yankus, County Administrator, Room 127, Worchester County Courthouse, Snow Hill, Maryland 21863.

New Jersey	Keansburg, Borough Monmouth County	Raritan Bay	Shoreline from northwest corporate limits to Raritan Avenue extended	*17
			Shoreline from Raritan Avenue extended to eastern corporate limits	*18
		Waackaack Creek	Downstream of Laurel Avenue	*5
			Upstream Stone Road	*8
			Upstream corporate limits	*8

Maps available for inspection at the Borough Hall, 43 Church Street, Keansburg, New Jersey.

Send Comments to Honorable Thomas J. Keelen, Mayor of Keansburg, Borough Hall, 43 Church Street, Keansburg, New Jersey 07734.

New Jersey	South Amboy, city, Middlesex County	Raritan Bay	Shoreline from southern corporate limits to confluence of Raritan River	*19
		Raritan River	Shoreline from confluence with Raritan Bay to approximately 2,000 feet downstream of Conrail bridge	*16
			Shoreline from 2,000 feet downstream of Conrail bridge to downstream side of Conrail bridge	*17
			Shoreline from downstream side of Conrail bridge to upstream corporate limits	*16

Maps available for inspection at the City Hall, 140 North Broadway, South Amboy, New Jersey.

Send comments to Honorable J. Thomas Cross, 140 North Broadway, South Amboy, New Jersey 08879.

New York	Brookhaven, town, Suffolk County	Atlantic Ocean	Entire shoreline within community	*14
		Great South Bay	Entire shoreline within community	*8
			Carmans River at Long Island Railroad crossing	*8
			Swan River downstream of Swezey Street	*5

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Beaver Dam Creek at Beaver Dam Road crossing	*5
		Narrow Bay	Shoreline at Bay Fair Drive (extended)	*6
			At Pattersquash Island	*9
			Shoreline approximately .50 mile southwest of Pattersquash Island.	*11
			Shoreline at Floyd Point	*9
		Moriches Bay	Entire northern shoreline within community	*9
			Entire southern shoreline within community	*11
			Forge River shoreline at Island Point	*6
			Seatuck Creek at Long Island Railroad crossing	*6
		Long Island Sound	Shoreline at Cedar Beach	*15
			Shoreline at eastern corporate limits	*15
			Shoreline at confluence with Mount Sinai Harbor	*16
			Shoreline north of McAllister County Park	*16
		Smithtown Bay	Entire shoreline within community	*16
		Conscience Bay	Shoreline at Conscience Bay Road (extended)	*14
			Shoreline at Four Winds Road (extended)	*12
			Shoreline at Oak Road (extended)	*14
		Port Jefferson Harbor	Shoreline at Preston Land (extended)	*14
			Little Bay shoreline at Youngs Lane (extended)	*13
			Setauket Harbor shoreline south of Abandoned Bridge Road.	*13
			Shoreline south of McAllister County Park	*11
		Mount Sinai Harbor	Shoreline east of Sandy Path	*16
			Shoreline north of intersection of Cedar Drive and Pipe Stave Hollow Avenue.	*12
			Shoreline at Harbor Beach Road (extended)	*10

Maps available for inspection at the Town Hall, 205 South Ocean Avenue, Patchogue, New York.
Send comments to Honorable Henrietta Acampora, Supervisor of Brookhaven, 205 South Ocean Avenue, Patchogue, New York 11772.

New York	East Hampton, village, Suffolk County	Atlantic Ocean	Entire shoreline	*14
		Georgica Pond	From the southern corporate limits to Daniels Hole Road extended	*12
			From Daniels Hole Road extended to Montauk Highway.	*11

Maps available for inspection at the Village Hall, 27 Main Street, East Hampton, New York.
Send comments to Honorable Douglas Dayton, Mayor of East Hampton, 27 Main Street, East Hampton, New York 11937.

New York	Islip, town, Suffolk County	Atlantic Ocean	Shoreline from western corporate limits to a point 0.63 mile east of western corporate limits.	*15
			Shoreline from a point 0.63 mile east of western corporate limits to eastern corporate limits.	*14
			Shoreline of Fire Island Inlet from western corporate limits to east of the vicinity of the U.S. Coast Guard reservation on Fire Island Inlet.	*12
			Shoreline of Great South Bay, east of the vicinity of the Coast Guard station on Fire Island Inlet to the western limits of the Coast Guard station on Great South Day.	*6
			Shoreline of Great South Bay from the eastern limits of the Coast Guard station on Great South Bay to the western corporate limits of the Village of Ocean Beach.	*5
			Shoreline of Great South Bay from the eastern corporate limits of the Village of Ocean Beach to the eastern corporate limits.	*6
			Entire shoreline of West Fire Island	*5
			Northern shoreline of Great South Bay from the confluence with Sampawams Creek to eastern corporate limits.	*7

Maps available for inspection at the Town Hall, 655 Main Street, Islip, New York.
Send comments to Honorable Michael LoGrande, Supervisor of Islip, 655 Main Street, Islip, New York 11751.

New York	Manorhaven, village, Nassau County	Manhasset Bay	Entire shoreline	*13

Maps available for inspection at the Village Hall, 33 Manorhaven Boulevard, Port Washington, New York.
Send comments to Honorable James E. Mattie, Mayor of Manorhaven, 33 Manorhaven Boulevard, Port Washington, New York 11050.

New York	New York Mills, village, Oneida County	Sauquoit Creek	Downstream corporate limits	*455
			Upstream of Clinton Street	*469
			Upstream corporate limits	*477
		Mud Creek	Downstream corporate limits	*488
			Upstream corporate limits	*495

Maps available for inspection at the Village Hall, 453 Main Street, New York Mills, New York.
Send comments to Honorable John Pietryka, Mayor of New York Mills, 453 Main Street, New York Mills, New York 13417.

New York	Rye, city, Westchester County	Long Island Sound	Entire Long Island Sound shoreline within community	*17
			Entire Milton Harbor shoreline within community	*17

Maps available for inspection at the Office of the City Planner, City Hall, Boston Post Road, Rye, New York.
Send comments to Honorable Frederick Hunziger, Mayor of Rye, City Hall, Boston Post Road, Rye, New York 10580.

New York	Southampton, town, Suffolk County	Atlantic Ocean	Entire shoreline within community	*14
			Shoreline of Sagaponack Pond at Bridge Lane crossing.	*10
		Noyack Bay	Entire shoreline within community	*11

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Little Peconic Bay	Entire shoreline within community	*11
			Entire shoreline of North Sea Harbor	*10
			Entire shoreline of Fish Cove	*9
			Entire shoreline of Scallop Pond	*10
		Great Peconic Bay	Entire shoreline within community	*11
			Entire shoreline of Little Sebonic Creek	*10
			Entire shoreline of Bullhead Bay	*10
			Entire shoreline of Cold Spring Pond	*10
			Entire shoreline of Red Creek Pond	*10
		Flanders Bay	Entire shoreline within community	*11
			Shoreline of Hubbard Creek at confluence with Flanders Bay.	*10
			Shoreline of Hubbard Creek at Red Creek Road crossing.	*9
			Peconic River shoreline at Cross River Drive crossing	*9
		Mecox Bay	Entire shoreline within community	*8
			Entire shoreline of Mill Creek	*7
			Entire shoreline of Hayground Cove	*7
		Heady Creek	Shoreline at East Point Road (extended)	*8
		Shinnecock Bay	Entire southern shoreline within community	*10
			Entire northern shoreline within community	*9
			Entire shoreline of Middle Pond	*8
		Quantuck Bay	Entire shoreline within community	*9
			Shoreline of Aspatuck River just north of Main Street crossing.	*8
			Shoreline of Aspatuck River at Brook Road crossing	*7
			Shoreline of Quantuck Creek at Alden Lane (extended).	*8
			Shoreline of Quantuck Creek at Long Island Railroad crossing.	*7
		Moriches Bay	Entire northern shoreline within community	*9
			Seatuck Creek shoreline at Long Island Railroad crossing.	*8
			Shoreline at Gunning Point	*10
			Shoreline south of Swan Island	*11

Maps available for inspection at the Town Hall, 116 Hampden Road, Southampton, New York.

Send comments to Honorable Martin Lang, Supervisor of Southampton, 116 Hampden Road, Southampton, New York 11968.

New York	Yorkville, village, Oneida County	Mohawk River	Downstream corporate limits	*414
			Upstream corporate limits	*414
		Sauquoit Creek	Upstream of Conrail	*417
			Upstream corporate limits	*422

Maps available for inspection at the Village Hall located between Calder and Sixth Streets, Yorkville, New York.

Send comments to Honorable James Whidtman, Mayor of Yorkville, 52 Whitesboro Street, Yorkville, New York 13503

Pennsylvania	Codorus, township, York County	South Branch Codorus Creek	Downstream corporate limits	*480
			Upstream of downstream CONRAIL bridge	*499
			Upstream Larue Road	*506
			Upstream West Springfield Road	*516
			Upstream corporate limits	*532
		South Branch Codorus Creek Tributary.	Downstream corporate limits	*483
			Upstream of 3rd crossing of Shaffer Church Road	*536
			Upstream of Heindel Road	*557
		Centerville Creek	Downstream corporate limits	*532
			Upstream of Rockville Road	*541
			Upstream Fairs School Road	*578
			Upstream of State Route 216	*590
			Upstream of Sunny Slope Road	*684
			Upstream of most upstream Private Road	*712
		Centerville Creek Tributary	Confluence of Centerville Creek	*687
			Upstream of Young Road	*709
		Buffalo Valley Run	Downstream corporate limits	*584
			Upstream of downstream crossing of Buffalo Valley Road.	*606
			Upstream of upstream crossing of Buffalo Valley Road	*623
		Rockville Run	Upstream of State Route 616	*524
			Upstream Private Road	*535
		Cherry Run	Confluence with South Branch Codrous Creek	*501
			Upstream of State Route 616	*504
			Upstream of Cherry Run Road	*511
		Pierceville Run	At Rockville Road	*552
			Upstream Schuman Road	*608
			Upstream Myers Road	*648
			Upstream Smith Road	*665
			Upstream State Route 216	*679
			Upstream Legislative Route 66168	*700
		Codorus Creek Tributary	At State Route 216	*661
			Upstream Miller Road	*675
		Codorus Creek	Downstream corporate limits	*528
			Upstream of downstream crossing of Pentland Road	*555
			Upstream of upstream crossing of Pentland Road	*578
			Upstream Tannery Road	*613
			Upstream Watertank Road	*635
			Upstream Wool Mill Road	*663

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream Glenville Road	*692
			Upstream corporate limits	795

Maps available for inspection at the Township Building, Codorus, Pennsylvania.
Send comments to Honorable Charles Wehrly, Chairman of the Codorus Board of Supervisors, R.D. 1, box 175, Glen Rock, Pennsylvania 17327

Pennsylvania	Johnstown, city, Cambria County	Conemaugh River	Downstream corporate limits	*1,154
			Coopersdale Bridge (upstream)	*1,159
	do	do	Fourth Avenue (upstream)	*1,164
			Confluence of Little Conemaugh River and Stonycreek River.	*1,167
		Little Conemaugh River	Confluence with Conemaugh River and Stonycreek River.	*1,167
			Chessie System (1st crossing)	*1,171
			Swank Court (upstream)	*1,182
			Upstream corporate limits	*1,212
		Stonycreek River	Confluence with Conemaugh River and Little Conemaugh River.	*1,167
			Haynes Street	*1,173
			Horner Street	*1,179
			Upstream corporate limits	*1,198
		St. Clair Run	Confluence with Conemaugh River	*1,158
			D Street (upstream)	*1,166
			Bachus Avenue	*1,181
			Fairfield Avenue (upstream)	*1,211
			Upstream corporate limits	*1,257

Maps available for inspection at the City Hall, Room 106, Johnstown, Pennsylvania.
Send comments to Honorable Herbert Pfuhl, Mayor of Johnstown, City Hall, Johnstown, Pennsylvania 15901.

Pennsylvania	Stonycreek, township, Cambria County	Stonycreek River	Downstream corporate limits	*1,198
			Chessie System bridge	*1,204
			Upstream of Boone Street	*1,209
			Upstream corporate limits and Kringa Highway	*1,241

Maps available for inspection at the Township Building, 1610 Bedford Street, Stonycreek, Pennsylvania.
Send comments to Honorable William Knipple, Chairman of the Stonycreek Board of Supervisors, 420 Oakland Street, Johnstown, Pennsylvania 15902.

Pennsylvania	Windsor, township, York County	Kreutz Creek	Meadow Road (upstream)	*457
			State Route 124 (Orchard Road) upstream	*464
			Riddle Road (upstream)	*482
			Miller's Mill Road (upstream)	*514
			At Dietz Road	*528
			Windsor Road (upstream)	*553
			Ruppert Road (upstream)	*575
		Fishing Creek	Bahns Mill Road (upstream)	*578
			Private Road (upstream)	*600
			Gebhart Road (upstream)	*608
			Maryland Avenue (downstream)	*620
		North Branch Muddy Creek	Confluence of North Branch Muddy Creek Tributary No. 1.	*559
			Township Route 658 (Grove Road) (upstream)	*603
			Grimm Hollow Road (upstream)	*625
		North Branch Muddy Creek Tributary No. 1.	Confluence with North Branch Muddy Creek	*559
			Husson Road—2nd crossing (downstream)	*580
			Husson Road—3rd crossing	*626
			Dull Road—upstream	*690

Maps available for inspection at the Windsor Township Building, R.D. 3, Red Lion, Pennsylvania.
Send comments to Honorable Melvin Ridenhouse, Chairman of the Windsor Board of Supervisors, Township Building, R.D. 3, Red Lion, Pennsylvania 17356.

Rhode Island	Bristol, town, Bristol County	Walker Brook	Upstream Wood Street	*14
			Upstream Richmond Street	*25
			Upstream Mount Hope Avenue	*31
		East Branch Silver Creek	At confluence with Silver Creek	*14
			Upstream Chestnut Street	*43
			Downstream Gooding Avenue	*53
		West Branch Silver Creek	At confluence with Silver Creek	*14
			Upstream Chestnut Street	*31
			Downstream Verndale Avenue	*55
		Narragansett Bay	From Mount Hope bridge to Curtis Road extended	*18
			From Curtis Road to Warren/Bristol corporate limits	*19
		Mount Hope Bay	Entire shoreline within community	*18
		Kickamuit River	Approximately 2,125 feet upstream of Bristol Narrows Road extended to Smith Avenue (extended).	*15
			Smith Avenue (extended) to northern corporate limits	*18

Maps available for inspection at the Town Clerk's Office, Town Hall, 10 Court Street, Bristol, Rhode Island.
Send comments to Honorable Edward H. Holmes, President of the Bristol Town Council, Town Hall, 10 Court Street, Bristol, Rhode Island 02809.

Rhode Island	East Providence, city, Providence County	Ten Mile River	At Omega Pond Dam	*16
			Upstream Pawtucket Avenue	*20
			Upstream Hunts Mill Dam	*37
			Upstream Newman Avenue	*52
			Upstream corporate limits	*52
		Runnins River	At Mobile Company Dam	*10
			Upstream Highland Avenue	*13
			Upstream Leonard Street	*17
		Willett Pond Brook	Upstream Francis Avenue (extended)	*16
			Upstream Willett Pond Dam	*26
		Seekonk River	Norfolk Avenue (extended) to Henderson Bridge	*19
			Henderson Bridge to Waterman Avenue	*18

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Providence River	Bold Point to Wilkesbarre Pier	*18
			Wilkesbarre Pier to Watchemoket Cove	*19
			Watchemoket Cove to Bullock Cove	*20

Maps available for inspection at the City Clerk's Office, City Hall, 145 Taunton Avenue, East Providence, Rhode Island.
Send comments to Honorable Earl Sandquist, City Manager of East Providence, City Hall, 145 Taunton Avenue, East Providence, Rhode Island 02914.

Rhode Island	Warren, town, Bristol County	Palmer River	Entire shoreline within community	*12
		Warren River	Shoreline from North Main Street to School Street (extended).	*16
			Shoreline from School Street extended to approximately 530 feet south of Locust Terrace.	*19
			Shoreline from approximately 530 feet south of Locust Terrace to downstream corporate limits.	*20
		Kickamuit River	From approximately 1,100 feet south of Child Street to Chase Cove.	*17
			Chase Cove to Bristol Narrows	*18
		Warren Reservoir	Entire shoreline	*10
		Mount Hope Bay	Shoreline from northeastern corporate limits to approximately 1,700 feet north of Calder Drive (extended).	*18
			Shoreline from approximately 1,700 feet north of Calden Drive (extended) to Calden Drive (extended).	*19
			Shoreline from Calden Drive (extended) to southern corporate limits.	*18

Maps available for inspection at the Town Clerk's Office, Town Hall, 514 Main Street, Warren, Rhode Island.
Send Comments to Honorable Paul Harvey, President of the Warren Town Council, Town Hall, 514 Main Street, Warren, Rhode Island 02885.

Texas	City of Alice, Jim Wells County	San Diego Creek	Just upstream of Texas Boulevard	*198
			Just upstream of U.S. Highway 281	*215
		Lattas Creek	Just downstream of South Texas Boulevard	*195
			Just downstream of South Reynold Street	*200
			Just downstream of U.S. Highway 281	*207
		Lattas Creek Tributary	Just upstream of U.S. Highway 281	*225
			Just downstream of South Gulf Street	*212
		San Fernando Creek Tributary	Just downstream of Airport Road	*186
		Chiltipin Creek	Just upstream of Lake Alice Dam	*199
		Recasa De Enmedio	Just downstream of North Texas Boulevard	*190

Maps available for inspection at City Manager's Office, City Hall, 500 East Main Street, Alice, Texas 78332.
Send comments to Mayor Octavio Figueroa of Mr. Roel Valadez, City Manager, City Hall, P.O.Box 3229, Alice, Texas 78332.

Texas	City of San Antonio, Bexar County	San Antonio River	Just upstream of Interstate Highway 410 westbound lanes.	*515
			Approximately 150 feet downstream of S.E. Military Drive (Loop 13).	*547
			Approximately 200 feet upstream of Southcross Boulevard.	*567
			Just upstream of Alamo Street	*628
			Just downstream of Interstate Highway 37	*660
			Just downstream of Olmos Dam	*686
		Olmos Creek	Just upstream of Olmos Dam	*726
			Approximately 100 feet upstream of Montview Drive	*758
			Approximately 100 feet downstream of Jackson Keller Road.	*772
			Just upstream of Dreamland Drive	*825
			Just downstream of George road	*865
		Sixmile Creek	Approximately 150 feet downstream of Ashley Road (most downstream crossing).	*541
			Approximately 150 feet upstream of Roosevelt Avenue	*587
			Just downstream of Moursund Avenue	*588
			Just upstream of Interstate Highway 35 southbound frontage road.	*645
		South Flores Tributary-Sixmile Creek.	Approximately 300 feet upstream of confluence with Sixmile Creek.	*570
			Just upstream of South Flores Street	*596
		Commercial Tributary-Sixmile Creek	Just upstream of West Petaluma Boulevard	*607
			Approximately 200 feet downstream of Grosvenor Boulevard.	*637
		State Hospital Creek	Just downstream of Southern Pacific Railroad	*555
			Approximately 200 feet upstream of U.S. Route 181	*563
			Approximately 200 feet downstream of South New Braunfels Street.	*582
		San Pedro Creek	Approximately 100 feet downstream of Interstate Highway 10 eastbound lanes (most downstream crossing).	*586
			Just upstream of Furnish Street	*814
			Just upstream of West Cevallos Street	*822
			Just upstream of Guadalupe Street	*832
			Just upstream of Dolorosa Street	*847
			Just upstream of West Cypress Street	*861
		Apache Creek	Approximately 100 feet downstream of South Brazos Street.	*829
			Just upstream of U.S. Highway 90	*861
		Zarzamora Creek	Approximately 100 feet downstream of General McMullen Drive.	*868
			Just upstream of N.W. 36th Street	*881
			Just upstream of Fortuna Street	*889

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Ingram Road	*774
			Just downstream of Callaghan Road	*726
			Just upstream of Babcock Road	*865
		Alazan Creek	Just upstream of El Paso Street	*829
			Just upstream of Ruiz Street	*654
			Just upstream of Poplar Street	*662
			Just downstream of Huisache Avenue	*691
			Approximately 150 feet downstream of St. Cloud Road	*699
		Martinez Creek	Just downstream of Ruiz Street	*653
			Just downstream of Interstate Highway 10 eastbound lanes (downstream crossing).	*668
			Just upstream of Fresno Drive	*705
		Bandera Branch	Just upstream of N.W. 25th Street	*669
			Approximately 200 feet upstream of Delgado Street	*679
		Upper Apache Creek	Just upstream of Ruiz Street	*676
			Approximately 80 feet upstream of Culebra Road	*714
		Zarzamora Creek—Tributary A	Just downstream of Horseshoe Bend	*794
			Just downstream of intersection of Bandera and Callaghon Roads.	*811
			Just upstream of Evers Road	*817
			Just upstream of Interstate Highway/410 westbound frontage road.	*851
		Airport Tributary	Just upstream of Jones-Maltzberger Road	*726
			Just downstream of North Expressway (Upstream Crossing).	*735
			Just upstream of Chulie Drive	*742
			Just upstream of Northern Drive	*757
		Tributary A—Airport Tributary	Just downstream of Shannon Lee Drive	*730
		Rock Creek	Just upstream of Southern Pacific Railroad	*782
			Just downstream of Vance Jackson Road	*794
			Just downstream of Callaghon Road	*825
		U.T.S.A. Tributary—Leon Creek	Approximately 1,000 feet upstream of U.T.S.A. Boulevard.	*951
			Approximately 100 feet downstream of Charles W. Anderson Drive.	*932
		West Fork Olmos Creek	Just upstream of Wurzback Road (downstream crossing).	*840
			Just downstream of Orsinger Lane	*883
			Just downstream of De Zarala Road	*933
		Salado Creek	Just downstream of S.E. Military Drive (Loop 13)	*561
			Just downstream of Rigsby Avenue (U.S. Highway 87)	*588
			Just downstream of East Commerce Street	*620
			Just downstream of Rittman Road	*672
			Just upstream of Interstate Highway 410	*704
			Just upstream of Bitter Road (downstream crossing)	*741
			Approximately 100 feet downstream of West Avenue	*905
		Tributary A—Salado Creek	Just downstream of Talisman Road	*933
		Tributary B—Salado Creek	Just upstream of Artesia Avenue	*605
			Approximately 100 feet downstream of Interstate Highway 10.	*615
		Tributary C—Salado Creek	Just downstream of Monson Road	*649
		Fort Sam Houston Tributary—Salado Creek.	Just downstream of Hardee Road	*660
		Walzem Creek	Approximately 70 feet upstream of Eisenhaver Road	*683
			Just upstream of Lanark Drive	*701
		Brier Creek	Just upstream of Perrin Beitel Road	*699
			Just upstream of Schertz Road	*765
		Tributary A—Beitel Creek	Just upstream of Randolph Boulevard	*761
		Quail Creek	Just upstream of Interstate Highway 410	*710
		Tributary D—Salado Creek	Approximately 200 feet upstream of Harry Wurzbach Road.	*720
			Just upstream of Haskin Road	*735
		Tributary E—Salado Creek	Approximately 120 feet upstream of Nacogdoches Road.	*730
		Tributary F—Salado Creek	At Briarway Road extended	*730
		Mud Creek	Just downstream of Buckhorn Road	*757
			Just upstream of Jones—Maltzberger Road	*813
		Lorence Creek	Approximately 100 feet upstream of Jones—Maltzberger Road.	*774
			Just upstream of Shadow Cliff	*813
		U.S. 281 Tributary—Salado Creek	Just downstream of U.S. Highway 281	*785
		Leon Creek	Approximately 100 feet upstream of Interstate Highway 410 (downstream crossing).	*592
			Just downstream of Berman Drive	*842
			Just downstream of Castroville Highway	*700
			Just downstream of Interstate Highway 410 (upstream crossing).	*742
			Just downstream of Interstate Highway 10	*897
		Westwood Village Creek	Approximately 100 feet downstream of Pinn Road	*709
		Southwest Research Creek	Just upstream of Pinn Road	*714
			Approximately 80 feet downstream of Military Drive	*729
		Culebra Creek	Approximately 100 feet upstream of Culebra Road (downstream crossing).	*805
		Huebner Creek	Just upstream of Huebner Road	*844
			Just downstream of Lockhill Road	*906
		Indian Creek	Just downstream of Interstate Highway 35 (eastbound crossing).	*617
		Tributary A—Huebner Creek	Just downstream of Babcock Road	*865

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Tributary B—Huebner Creek	Just upstream of Oakland Road	*876
		French Creek	Approximately 100 feet upstream of South Hausman Road.	*920
		Tributary A—French Creek	Approximately 120 feet upstream of FM 1604	*936
		Tributary B—French Creek	Just upstream of FM 1604	*941
		Huesta Creek	Just upstream of Babcock Road (downstream crossing).	*935
			Just upstream of Hausman Road	*956
		Babcock Tributary—Leon Creek	Approximately 80 feet upstream of FM 1604	*985
			Just downstream of Hausman Road	*951
			Juststream of U.T.S.A. Boulevard	*958
			Just upstream of Babcock Road	*1,007

Maps available for inspection at Director of Public Works Office, City Hall, Dolorosa and South Flores Streets, San Antonio, Texas 78285.
Send comments to Mayor Henry Cisneros or Mr. Frank Kolbasse, Director of Public Works, City Hall, Dolorosa and South Flores Streets, San Antonio, Texas 78285.

Vermont	Berkshire, town, Franklin County	Missisquoi River	Downstream corporate limits	*409
			Upstream State Route 118	*413
			Approximately 100 feet upstream of State Route 105	*425
			Upstream corporate limits	*429

Maps is available for inspection at the Berkshire Town Clerk's Office, Enosburg Falls, Vermont.
Send comments to Honorable Spencer Stanhope, Chairman of the Berkshire Board of Selectmen, Town of Berkshire, R.F.D. 1, Enosburg Falls, Vermont 05478.

Vermont	Cambridge, village, Lamoille County	Lamoille River	Downstream corporate limits	*446
			Upstream of State Route 15	*447
		Seymour River	Abandoned Covered Bridge	*447
			Upstream of Town Highway 1	*451
			Upstream corporate limits	*467

Maps is available for inspection at the Cambridge Village Offices, Jeffersonville, Vermont.
Send comments to Honorable Jon Knudson, Village Trustee of Cambridge, Village of Cambridge, Cambridge, Vermont 05444.

Virginia	Accomack County	Atlantic Ocean	Chincoteague Bay shoreline	*11
			Shoreline from northern county boundary to Wachapreague Inlet.	*12
			Shoreline from Wachapreague Inlet to southern county boundary.	*13
		Chesapeake Bay	Smith Island south to Tangier Island	*6
			Great Fox Island south to Watts Island	*9
			Shoreline from northern county boundary to Doe Creek.	*9
			Shoreline from Doe Creek to Nandua Creek	*10
			Shoreline from Nandua Creek to southern county boundary.	*11

Maps available for inspection at the Zoning Office, Accomack County Office Building, Accomac, Virginia.
Send comments to the Honorable C. M. Williams, Accomack County Administrator, Accomack County Office Building, Accomac, Virginia.

Virginia	Chincoteague, town, Accomack County	Atlantic Ocean	Entire shoreline of Chincoteague Bay and Chincoteague Channel within community.	*11

Maps available for inspection at Town Hall, 403 South Main Street, Chincoteague, Virginia.
Send comments to the Honorable Stewart Baker, Town Manager of Chincoteague, 403 South Main Street, Chincoteague, Virginia 23336.

Washington	Ferndale (city), Whatcom County	Nooksack River Creek	100 feet upstream from center of Interstate 5	*24

Maps available for inspection at City Hall, 936 Ferdale Street, Ferdale, Washington.
Send comments to the Honorable Gary Gibbons, P.O. Box 936, Ferndale, Washington 98248.

Washington	Yakima County (Unincorporated areas)	Yakima River	25 feet upstream from center State Highway 223	*701
			25 feet downstream from center of Toppenish-Zillah Road.	*755
			25 feet upstream from center of Interstate Highway 82	*952
			25 feet upstream from center of Harrison Road	*1,126
		Naches River	At center intersection of North Glead Road and Maple Way.	*1,237
			25 feet upstream from center of Naches-Tieton Road (South Naches Road).	*1,457
		Ahtanum Creek	25 feet upstream from center of of Main Street	*850
			25 feet upstream from center of West 16th Avenue	*1,032
			25 feet upstream from center of Lynch Lane	*1,622
		Wide Hollow Creek	25 feet upstream from center of the Union Pacific Railroad.	*977
			25 feet upstream from center of Stone Road	*1,452
		Bachelor Creek	25 feet upstream from the center of Ahtanum Road	*1,094
			25 feet upstream from the center of 38th Avenue	*1,615
		Hatton Creek	25 feet upstream from the center of South 74th Avenue.	*1,217
			25 feet upstream from the center of Rutherford Road	*1,545
		Ahtanum Creek Bypass	25 feet upstream from the center of South Wiley Road	*1,338
			25 feet upstream from the center of American Fruit Road.	*1,431
		North Fork Ahtanum Creek	25 feet upstream from the center of South Fork Ahtanum Road.	*2,113
		Spring Creek 1	At the confluence of Spring Creek 1 and Spring Creek 1 Tributary 2.	*1,090
		Spring Creek 1, Tributary 1	25 feet upstream from the center of 64th Avenue	*1,172
		Spring Creek 1, Tributary 2	At center of intersection of 48th Avenue and West Washington Avenue.	*1,118

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Spring Creek 2	At confluence of Wide Hollow Creek and Spring Creek 2.	*555

Maps available for inspection at Engineering Office, County Courthouse, Room 408, Yakima, Washington.
Send comments to the Honorable Charles J. Klarich, County Courthouse, Room 416, Yakima, Washington 98901.

Wisconsin	(Uninc.) Portage County	Wisconsin River	At downstream county boundary	*1,037
			Just downstream of Whiting Plover Dam	*1,047
			Just upstream of Whiting Plover Dam	*1,054
			Just downstream of Wisconsin River Division Dam	*1,054
			Just upstream of Wisconsin River Division Dam	*1,069
			At upstream City of Stevens Point corporate limit	*1,089
			Just downstream of Lake Dubay Dam	*1,104
		Rocky Run	Mount at Wisconsin River	*1,041
			About 1.3 miles upstream of West Rivern Drive	*1,048
			About 0.5 mile downstream of County Highway P	*1,071
			Just downstream of Soo Line Railroad	*1,086

Maps available for inspection at the Zoning Administrator's Office, 1513 Church Street, Stevens Point, Wisconsin.
Send comments to Honorable Robert Steinke, County Board Chairman, Portage County, 1513 Church Street, Stevens Point, Wisconsin 54481.

Wisconsin	(V) Potter Calumet County	North Branch Manitowoc River	About 0.48 mile downstream of State Highway 114	*807
			Just downstream of State Highway 114	*867

Maps available for inspection at the Village President's Office, Village Post Office, Potter, Wisconsin.
Send comments to Honorable James Meyer, Village President, Village of Potter, Village Post Office, Potter, Wisconsin 54160.

Wisconsin	(C) Stevens Point, Portage County	Wisconsin River	At downstream corporate limit	*1,072
			Just downstream of Stevens Point Dam	*1,080
			Just upstream of Stevens Point Dam	*1,087
			At upstream corporate limit	*1,089
		Rocky Run	About 2.0 miles downstream of County Highway C	*1,076
			About 0.3 mile upstream of County Highway C	*1,085

Maps available for inspection at the City Administrator's Office, 1515 Strongs Avenue, Stevens Point, Wisconsin. 54481.
Send comments to Honorable Michael Haberman, Mayor, City of Stevens Point, 1515 Strongs Avenue, Stevens Point, Wisconsin 54481.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director.)

Issued: August 23, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25884 Filed 9-21-82; 8:45 am]
BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6356]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 47 FR 30512 on July 14, 1982. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Village of Westhampton Beach, Suffolk County, New York.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287–0230, Washington, D.C. 20472

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Village of Westhampton Beach, Suffolk County, New York, previously published at 47 FR 30512 on July 14, 1982, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The Notice of Proposed Base Flood Elevations has been amended to include the following:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Quantuck Bay	Shoreline of Aspatuck River at Sunswyck Lane extended.	*9
	Shoreline of Aspatuck River at Brook Road (extended).	*7
	Shoreline at southeastern corporate limits.	*10
Moriches Bay	Shoreline at Oneck Lane extended.	*9
	Shoreline at Pickett Point	*10
	Shoreline at Shore Drive (extended).	*7

(National Flood Insurance Act of 1968 (Title XII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: August 25, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25080 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6392]

Proposed Zone Designation and Flood Depth Determinations for the City of Coachella, Riverside County, Calif., Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed zone designations and flood depths as described below.

The proposed zone designations and flood depths are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed zone designations and flood depths are available for review at the Office of the City Clerk, Coachella City Hall, 1515 Sixth Street, Coachella, California.

Send comments to: Honorable Manuel Rios, Mayor, City of Coachella, 1515 Sixth Street, Coachella, California 92236.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed zone designations and flood depths for the City of Coachella, California, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These zoned designations and flood depths, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed zone designations and flood depths will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed special flood hazard areas, identified as Zone AO with a depth of 2 feet, have been added in four recently annexed areas. The first area is generally bounded by Avenue 49, Frederick Street, Avenue 50 and Jazmin Street. The second area is generally bounded by Avenue 50, Balboa Street, Sunrise Avenue Extended, and the western corporate limits. The third area is generally bounded by Industrial Way, the Southern Pacific Railroad, Avenue 54 and Tyler Street. The fourth area is generally bounded by Avenue 54, West Dike Road, the southern corporate limits, and the Southern Pacific Railroad. Additional annexed areas have been identified as Zones B and C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: August 10, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25089 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6356]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 47 FR 30510 on July 14, 1982. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Town of Bath, Steuben County, New York.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287–0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Bath, Steuben County, New York, previously published at 47 FR 30510 on July 14, 1982, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Pursuant to the provisions of 5 USC 605(b), the Associate Director, to whom

authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

Under the Source of Flooding of Five Mile Creek, the base flood elevation for the confluence with Cohocton River has been amended to read 1,148 feet in elevation. The remainder of the Notice of Proposed Base Flood Elevations remains unchanged.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director).

Issued: August 23, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25691 Filed 9-21-82; 8:45 am]
BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA 6405]

National Flood Insurance Program; Proposed Base Flood Elevations for the City of Sevierville, Tennessee

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the porposed base flood elevations described below.

The proposed base flood elevations will be the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Map and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Mayor's Office.

Send comments to: Mr. Russell Treadway, City Administrator, City of Sevierville, 448 Park Road, Sevierville, Tennessee 37862.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, State and Local Programs and Support, Federal Emergency Management Agency, Room 514, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations (100 year flood) for the City of Sevierville, Tennessee in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

The City of Sevierville, Tennessee together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. The proposed base flood elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations for selected locations are:

Source of flooding and location	Elevation (NGVD)	
	Existing	Proposed
Little Pigeon River:		
Franklin Drive at Old Knoxville Highway	894.0	895.0
Between Sunnyside Avenue and Cross Avenue	901.0	902.0
Walnut Grove Road—East Side	913.0	916.0

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: August 26, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25692 Filed 9-21-82; 8:45 am]
BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6407]

Proposed Base Flood Elevation and Zone Designation Determinations for the City of Copperas Cove, Coryell County, Texas, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already

in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Office of the City Engineer, Copperas Cove City Hall, 507 South Main, Copperas Cove, Texas.

Send comments to: Honorable Kenneth J. Ambler, Major, City of Copperas Cove, P.O. Drawer 280, Copperas Cove, Texas 76522.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Copperas Cove, Texas, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Public Law 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Public Law 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations are as follows:

Source of flooding and location	Elevation (feet) national geodetic vertical datum	Zone designation
Stream CC-2:		
At Lynn Lane	1,046	A2.
At Randa Street	1,061	A2.
Just upstream of U.S. Route 190.	1,075	A2.
At 9th Street extended	1,095	A2.
Just downstream of 21st Street.	1,136	A2.
House Creek:		
Just upstream of Avenue B	1,026	A1.
Just upstream of Gulf, Colorado and Santa Fe Railway.	1,043	A10.
Turkey Run:		
At the northernmost corporate limits.	979	A3.
At a point located approximately 1200 feet upstream from the northernmost corporate limits.	993	A3.
At a point located approximately 2300 feet downstream from the Gulf, Colorado and Santa Fe Railway.	1,008	A9

All the additional annexed areas have been identified as Zones B and C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subject 1n 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: August 25, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25603 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6406]

Proposed Base Flood Elevation and Zone Designation Determinations for the City of Sherman, Grayson County, Texas; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Office of the City Manager, Sherman City Hall, 411 North Rusk, Sherman, Texas.

Send comments to: Honorable Jack G. Kennedy, Mayor, City of Sherman, P.O. Box 1106, Sherman, Texas 75090.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Sherman, Texas, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Public Law 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Public Law 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood

plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations, on Panel 5 of 15, are as follows:

Source of flooding and location	Elevation (feet), national geodetic vertical datum	Zone designation
East Fork Post Oak Creek:		
At a point located approximately 750 feet upstream of Atkinson Street extended.	753	A4.
At a point located approximately 700 feet downstream of U.S. Route 82.	760	A4.

In a recently annexed area along a tributary of East Fork Post Oak Creek, special flood hazard area, identified as Zone A, has been added between a point located approximately 1150 feet upstream of the limit of detailed study and U.S. Route 82. Also, in a recently annexed area along a tributary of Post Oak Creek, special flood hazard area, identified as Zone A, has been added between U.S. Route 82 and a point located approximately 2000 feet downstream of U.S. Route 82. The remaining annexed areas have been identified as Zones B and C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subject in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: August 25, 1982.

Lee M. Thomas

Associate Director State and Local Programs and Support.

[FR Doc. 82-25894 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6409]

Proposed Base Flood Elevation and Zone Designation Determinations for the City of Novato, Marin County, California Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Lobby of the Community Development Department, 901 Sherman Avenue, Novato, California.

Send comments to: Honorable Robert Stockwell, Mayor, City of Novato, 901 Sherman Avenue, Novato, California 94947.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Novato, California, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Public Law 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Public Law 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed based flood elevations and zone designations are as follows:

Source of flooding and location	Elevation (feet), national geodetic vertical datum	Zone designation
Novato Creek:		
At the easternmost corporate limits.	6	V1.
Approximately 3400 feet downstream of Simmons Slough.	9	A1.
Just downstream of the Northwestern Pacific Railroad.	9	A2.
West of the Northwestern Pacific Railroad, east of U.S. Route 101, and north of Novato Creek.	9	A12, AH.
West of U.S. Route 101, east of Redwood Boulevard, south of Lamont Avenue, and north of Novato Creek.	12	A9, AH.
Just upstream of San Miguel Way extended.	80	A7.
Vineyard Creek:		
Just upstream of Center Road.	45	A3.
Approximately 725 feet downstream of Wilson Avenue.	54	A3.
Just downstream of Trumbull Avenue.	88	A3.
Just downstream of Mill Road.	102	A3.
At Sutro Avenue extended	127	A3.

Source of flooding and location	Elevation (feet), national geodetic vertical datum	Zone designation
Wilson Creek:		
Just upstream of McClay Avenue.	57	A3.
Approximately 125 feet downstream of Hansen Road extended.	69	A4.
Just downstream of Hansen Road extended.	70	A2.
Just downstream of Shields Lane.	71	A2.
Arroyo San Jose:		
At the easternmost corporate limits.	8	A4.
Just downstream of Bel Marin Keys.	14	A4.
Just upstream of of U.S. Route 101.	27	A5.
Pacheco Creek:		
At the downstream limit of detailed study.	15	A3.
Just upstream of the Northwestern Pacific Railroad.	27	A5.
Just downstream of Main Entrance Road.	44	A5.
Just downstream of Bolling Drive.	62	A3.
Just upstream of Bolling Drive.	71	A4.
San Pablo Bay:		
Along northeastern corporate limits.	6	A1.
Along eastern corporate limits near Novato Creek.	5	V1.
Along northern, eastern, and southern limits of Hamilton Air Force Base.	5	A1, V1.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: September 3, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25886 Filed 9-21-82; 8:45 am]
BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6410]

Proposed Base Flood Elevation and Zone Designation Determinations for the City of Ojai, Ventura County, California; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Office of the City Clerk, Ojai City Hall, 401 South Ventura Street, Ojai, California.

Send comments to: Honorable Derald Chisum, Mayor, City of Ojai, P.O. Box 1570, Ojai, California 93023.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E. Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Ojai, California, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Public Law 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Public Law 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations are as follows:

Source of flooding and location	Elevation (feet), national geodetic vertical datum	Zone designation
San Antonio Creek:		
At a point located approximately 1,050 feet upstream of the confluence with Stewart Canyon Storm Channel.	645	A5.
At a point located approximately 2,800 feet upstream of the confluence with Stewart Canyon Storm Channel.	670	A5.
At a point located approximately 2,550 feet downstream of the confluence with Thatcher Creek.	682	A5.
At a point located approximately 950 feet downstream of the confluence with Thatcher Creek.	700	A5.
At a point located approximately 300 feet upstream of Fairway Lane extended.	740	A5.
At a point located approximately 750 feet downstream of Route 150.	756	A5.
At a point located approximately 975 feet upstream of Route 150.	765	A16.
At a point located approximately 400 feet downstream of Grand Avenue.	800	A16.
Unnamed Tributary of Happy Valley Drain: Area located between Maricopa Road and the western corporate limits.	730	A9.

In addition, along Stewart Canyon Storm Channel, the proposed special flood hazard area, identified as Zone A, has been added in the recently annexed area located between the limit of detailed study and Creek Road.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to

designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 [Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: September 3, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25690 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6411]

Proposed Base Flood Elevation and Zone Designation Determinations for the City of Spencer, Clay County, Iowa; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be niney (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Office of the Public Works Department, Spencer City Hall, 405 First Avenue West, Spencer, Iowa.

Send comments to: Honorable Edward Keith Johnson, Mayor, City of Spencer, 405 First Avenue West, Spencer, Iowa 51301.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Spencer, Iowa, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Public Law 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Public Law 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

The base flood elevations and zone designations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed zone designation along the Little Sioux River for two areas, generally located between 18th Avenue West and 4th Avenue West and between West 18th Street and the Little Sioux River, is Zone A6, with a base flood elevation of 1321 feet National Geodetic Vertical Datum (NGVD). Additional annexed areas have been identified as Zone C.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 [Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: September 1, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25687 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6412]

Proposed Base Flood Elevation and Zone Designation Determinations for the City of West Monroe, Ouachita Parish, Louisiana; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Office of the City Clerk, West Monroe City Hall, 2305 North Seventh Street, West Monroe, Louisiana.

Send comments to: Honorable Dave N. Norris, Mayor, City of West Monroe, 2305 North Seventh Street, West Monroe, Louisiana 71291.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of West

Monroe, Louisiana in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Public Law 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Public Law 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations in the recently annexed areas are as follows:

Source of flooding and location	Elevation (feet), national geodetic vertical datum	Zone designation
Ouachita River: Area located downstream of Riverbend Drive.	84	A10.
Black Bayou:		
In the areas generally located between Haynes Street extended and Travis Street extended.	75–73	A6.
In the area located west of Thomas Road.	75	A2.
Tupawek Bayou:		
At Camp Kiroli Road extended.	85	A5.
At Arkansas Road	86	A1, A4.

Additional annexed areas have been identified as Zones B and C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: September 3, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25686 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6413]

Proposed Base Flood Elevation and Zone Designation Determinations for the Town of Harrah, Oklahoma County, Oklahoma; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Office of the City Clerk, Harrah Town Hall, 204 Harrah Road, Harrah Oklahoma.

Send comments to: Honorable Robert Maxey, Mayor, Town of Harrah, P.O. Box 636, Harrah Oklahoma 73045.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the Town of Harrah, Oklahoma, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Public Law 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Public Law 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations are as follows:

Source of flooding and location	Elevation (feet), national geodetic vertical datum	Zone designation
North Canadian River:		
At a point located approximately 450 feet upstream of the limit of detailed study.	1,068	A10.
At a point located approximately 500 feet downstream of Calvin Street extended.	1,070	A10.
Just downstream of U.S. Route 62.	1,072	A10.

Also along the North Canadian River, in the recently annexed area located between the limit of detailed study and the eastern corporate limits, the proposed special flood hazard area, identified as Zone A, has been added. Along B Creek, between Silver Street extended and the upstream limit of detailed study, the zone designation has been revised to Zone A4, and the base flood elevations remain the same. The additional proposed special flood hazard areas, identified as Zone A, have been added in three recently annexed areas. The first area is located on Panel 0006 along an unnamed tributary to A

Creek, between a point approximately 1400 feet upstream of Northeast 10th Street and the southern corporate limits. The second area is located on Panel 0006 along an unnamed tributary, just west of U.S. Route 270. The third area is located on Panel 0008 along unnamed tributaries, along the southernmost corporate limits. Additional annexed areas have been identified as Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: September 1, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25669 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6414]

Proposed Base Flood Elevation and Zone Designation Determinations for the City of Miami, Ottawa County, Oklahoma Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The Proposed base flood elevations and zone designations are the bais for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Office of the City Engineer, Miami City Hall, 129 Fifth Street N.W., Miami, Oklahoma.

Send comments to: Honorable William J. Hirsch, Mayor, City of Miami, P.O. Box 309, Miami, Oklahoma 74354.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Miami, Oklahoma, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Public Law 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Public Law 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations, on Panel 3 of 4, are as follows:

Source of flooding and location	Elevation (feet), national geodetic vertical datum	Zone designation
Belmont Run:		
At a point located approximately 125 feet upstream of Highland Avenue.	801	A1.
At a point located approximately 1,000 feet downstream of Newman Road.	802	A1.

The remaining annexed areas have been identified as Zones B and C.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support).

Issued: September 3, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25600 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6415]

Proposed Base Flood Elevation and Zone Designation Determinations for the City of Wichita Falls, Wichita County, Texas; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Office of the City Manager, Wichita Falls City Hall, 1300 Seventh Street, Wichita Falls, Texas.

Send comments to: Honorable Gary Cook, Mayor, City of Wichita Falls, 1300 Seventh Street, P.O. Box 1431, Wichita Falls, TX 76307.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Wichita Falls, Texas, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Public Law 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Public Law 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations are as follows:

Source of flooding and location	Elevation (feet), national geodetic vertical datum	Zone designation
East Plum Creek: Area located north of Pleasant View Drive and between Burkett-small Road and Alberta Street	948	A2.
Wichita Lake: Area located between Rock Point Street and the western corporate limits.	966	A4.
East Fork Pond Creek: In the northwestern-most portion of the City.	979	A2.

The proposed special flood hazard areas, identified as Zone A, have been added in four areas of the City. The first area is along Plum Creek and is located upstream of Northwest Freeway. The second area is along Holliday Creek Tributary A and is located upstream of the limit of detailed study. The last two areas are along Holliday Creek Tributary B and are located upstream of the limit of detailed study. Additional annexed areas have been identified as Zones B and C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: September 1, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25931 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

[Docket No. FEMA-6416]

44 CFR Part 67

Proposed Base Flood Elevation and Zone Designation Determinations for the City of Sumner, Pierce County, Washington; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Office of the City Clerk, Sumner City Hall, 1104 Maple Street, Sumner, Washington.

Send comments to: Honorable Lewis R. Noel, Mayor, City of Sumner, 1104 Maple Street, Sumner, Washington 98390.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Sumner, Washington, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by § 60.3 of the program regulations, are the

minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations in the recently annexed areas are as follows:

Source of flooding and Location	Elevation in (feet) national geodetic vertical datum	Zone designation
White River:		
At Route 410	48	A5.
At a point located approximately 400 feet upstream from Pacific Avenue extended.	48	A4.
At a point located approximately 500 feet downstream from the Chicago, Milwaukee, St. Paul, and Pacific Railroad.	49	A4.
At a point located approximately 1,000 feet upstream of 142nd Avenue East.	50	A4.

Also along White River between the limit of detailed study and the northernmost corporate limits, the proposed zone designation has been identified as Zone A. Additional annexed areas have been identified as Zones B and C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

National insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: September 3, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25902 Filed 9-21-82; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 32 and 33

Proposed Addition of Thirteen National Wildlife Refuges to the Lists of Open Areas for Migratory Bird Hunting, Upland Game Hunting, Big Game Hunting, and/or Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service proposes to add thirteen refuges to the list(s) of open areas for migratory bird hunting, upland game hunting, big game hunting, and/or sport fishing. The Director has received information that this action would be in accordance with the provisions of all applicable laws, would be compatible with the principles of sound wildlife management, would otherwise be in the public interest, and that such uses are compatible with the major purposes for which each refuge was established. The hunting of migratory birds, upland game, big game, and/or sport fishing, subject to additional special regulations, will provide additional public recreational opportunities.

DATE: Comments must be received on or before October 22, 1982.

ADDRESSES: Comments may be addressed to the Director (FWS/RF), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: James Gillett, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240; Telephone (202) 343–4791.

SUPPLEMENTARY INFORMATION: Ronald L. Fowler, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240; Telephone (202) 343–4305 is the primary author of this proposed rulemaking.

National Wildlife Refuges are closed to hunting and sport fishing until opened by rulemaking. The Director may open refuge areas to hunting upon a determination that such uses are compatible with the major purposes for which such areas were established and that funds are available for development, operation, and maintenance of the permitted forms of recreation. This action would be in accordance with provisions of all laws applicable to the areas, would be compatible with the principles of sound wildlife management, and would otherwise be in the public interest. The Director may open refuge areas to sport fishing upon a determination that such activity is not detrimental to the objectives for which the area was established and upon a determination that the requirements of 16 U.S.C. 460k and 668dd(d) have been satisfied.

It is the purpose of this proposed rulemaking to seek input regarding the opening of the refuges cited below to the hunting of migratory birds, upland game, big game, and/or sport fishing. The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposal. All relevant comments will be considered by the Department prior to issuance of a final rule.

NEPA Consideration

The "Final Environmental Statement for the Operation of the National Wildlife Refuge System" [FES 76–59] was filed with the Council on Environmental Quality on November 12, 1976; a notice of availability was published in the **Federal Register** on November 19, 1976 (41 FR 51131). Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), environmental assessments have been prepared for each of these proposed openings and are available for public inspection and copying in Room 2343, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, or by mail, addressing the Director at the address above. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

Conformance With Statutory and Regulatory Authorities

In accordance with Section 4(d)(1)(A) of the National Wildlife Refuge System Administration Act, the Secretary is

authorized under such regulations as he may prescribe to permit the use of any area within the System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access whenever he determines that such uses are compatible with the major purposes for which such areas were established: Provided, that not to exceed 40 percent at any one time of any area that has been, or hereafter may be acquired, reserved, or set apart as an inviolate sanctuary for migratory birds, under any law, proclamation, Executive Order, or public land order may be administered by the Secretary as an area within which the taking of migratory game birds may be permitted under such regulations as he may prescribe unless the Secretary finds that the taking of any species of migratory game birds in more than 40 percent of such areas would be beneficial to the species. Except for Lower Suwannee National Wildlife Refuge and Minnesota Valley National Wildlife Refuge, the refuges which would be opened to the hunting of migratory birds by this rule were originally established as inviolate sanctuaries for migratory birds.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer the refuge areas within the National Wildlife Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, The Refuge Recreation Act requires: "(a) that such recreational use[s] will not interfere with the primary purposes for which the areas were established, and (b) that funds are available for the development, operation and maintenance of these permitted forms of recreation."

Fish and Wildlife Service regulations in 50 CFR 32.1 require that the opening of a wildlife refuge area to hunting will be dependent upon the provisions of law applicable to the area and upon a determination by the Secretary that the opening of the area to hunting will be compatible with the principles of sound wildlife management and will otherwise be in the public interest. In regard to sport fishing, 50 CFR 33.1 requires that a wildlife refuge area will be opened to sport fishing only when a determination has been made that such activity is not detrimental to the objectives for which the area was established.

The proposed use authorized by these regulations is compatible with the major purposes for which these areas were established. In regard to the 40 percent provisions of the National Wildlife Refuge System Administration Act, these regulations would not authorize the taking of migratory game birds in more than 40 percent of any refuge area. The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. Funds are available for the administration of the recreational activities permitted by these regulations.

The implementation of these hunting programs will be consistent with all applicable laws and compatible with the principles of sound wildlife management and will otherwise be in the public interest. In regard to the areas to be opened to sport fishing, the proposed use would not be detrimental to the objectives for which the individual areas were established. These determinations are based upon a consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976 and environmental assessments which have been prepared for each of these proposed openings.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Economic Effect

This regulation will have a positive secondary effect on local filling stations, sporting goods stores, providers of meals, and overnight accommodations. This rule will impose no costs on small entities; the exact number and the amount of business that will result from this refuge-related recreation is unknown. The aggregate effect is a positive economic effect on a number of small entities. The number of small entities affected is unknown, but the fact that the estimated aggregate economic effect of $3,520,000 which will be generated annually as a direct result of implementing the proposed activities and the fact that a net aggregate economic effect far less than $100 million will be spread over ten States, indicates that the rule will not be significant. The added cost to the government of law enforcement, posting, etc., to implement these activities will be only a small portion of the total dollars generated as a result of the implementation of these programs.

The Department of the Interior has determined that this document is not a "major rule" within the meaning of Executive Order 12291 and that this document will not have a significant economic effect on a substantial number of small entities under the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This determination is based on the fact that the annual gross effect of the rule on the economy is substantially less than $100 million, that the rule will not result in major increases in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, nor is the rule likely to result in significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects

50 CFR Part 32

Hunting, National Wildlife Refuge System, Wildlife refuges.

50 CFR Part 33

Fishing, National Wildlife Refuge System, Wildlife refuges.

PART 32—HUNTING

Accordingly, it is proposed to amend 50 CFR Parts 32 and 33 by the addition of Choctaw National Wildlife Refuge, San Francisco Bay National Wildlife Refuge, Lower Suwannee National Wildlife Refuge, Delta National Wildlife Refuge, Rachel Carson National Wildlife Refuge, Minnesota Valley National Wildlife Refuge, Sherburne National Wildlife Refuge, Washita National Wildlife Refuge, Tinicum National Environmental Center, Carolina Sandhills National Wildlife Refuge, Hagerman National Wildlife Refuge, San Bernard National Wildlife Refuge, and Texas Point National Wildlife Refuge in §§ 32.11, 32.21, 32.31 and 33.4 as follows:

§ 32.11 List of open areas; migratory game birds.

California

* * * * *

San Francisco Bay National Wildlife Refuge.

* * * * *

Florida

* * * * *

Lower Suwannee National Wildlife Refuge.

* * * * *

Louisiana

* * * * *

Delta National Wildlife Refuge.

* * * * *

Minnesota

Minnesota Valley National Wildlife Refuge.

* * * * *

Oklahoma

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Washita National Wildlife Refuge.

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§ 32.21 List of open areas; upland game.

Alabama

* * * * *

Choctaw National Wildlife Refuge.

* * * * *

Florida

Lower Suwannee National Wildlife Refuge.

* * * * *

Maine

Rachel Carson National Wildlife Refuge.

* * * * *

Minnesota

Minnesota Valley National Wildlife Refuge.

* * * * *

South Carolina

* * * * *

Carolina Sandhills National Wildlife Refuge.

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§ 32.31 List of open areas; big game.

Alabama

Choctaw National Wildlife Refuge.

* * * * *

Florida

* * * * *

Lower Suwannee National Wildlife Refuge.

* * * * *

Minnesota

* * * * *

Minnesota Valley National Wildlife Refuge.

* * * * *

Texas

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Hagerman National Wildlife Refuge.

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PART 33—SPORT FISHING

§ 33.4 List of open areas; sport fishing.

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Minnesota

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Sherburne National Wildlife Refuge.

* * * * *

Pennsylvania

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Tinicum National Environmental Center.

* * * * *

Texas

* * * * *

San Bernard National Wildlife Refuge.
Texas Point National Wildlife Refuge.

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(16 U.S.C. 460k, 668dd)

Dated: August 19, 1982.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-26150 Filed 9-21-82; 8:45 am]
BILLING CODE 4310-55-M

50 CFR Part 32

Proposed Addition of Nine National Wildlife Refuges to the Lists of Open Areas for Migratory Bird Hunting, Upland Game Hunting and/or Big Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service proposes to add nine refuges to the list(s) of open areas for migratory bird hunting, upland game hunting and/or big game hunting. The Director has received information that this action would be in accordance with the provisions of all applicable laws, would be compatible with the principles of sound wildlife management, would otherwise be in the public interest, and that such uses are compatible with the major purposes for which each refuge was established. The hunting of migratory birds, upland game, and big game, subject to additional special regulations, will provide additional public recreational opportunities.

DATE: Comments must be received on or before October 22, 1982. A public hearing concerning the proposed opening of Loxahatchee National Wildlife Refuge to big game hunting will be held on October 12, 1982 at 7:00 p.m.

ADDRESSES: The meeting will be held at the Allied Health Building Auditorium, Palm Beach Junior College, Lake Worth, Florida. Persons interested in making an oral presentation at the public meeting on the proposed opening of Loxahatchee National Wildlife Refuge to big game hunting should call or write Mr. James W. Pulliam, Jr., at the address given below. Those persons submitting a notice of intent to participate will be given first priority for oral presentations at the public meeting. Oral presentations shall be limited to ten (10) minutes; written statements may be submitted if the ten (10) minute limitation is deemed to be inadequate to present all the information that a given witness has to offer. Comments should be addressed to the Director (FWS/RF), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: James W. Pulliam, Jr., Regional Director, U.S. Fish and Wildlife Service, Richard B. Russell Federal Buliding, 75 Spring St., SW, Atlanta, GA 30303; Telephone (404) 221–3588 or James Gillett, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240; Telephone (202) 343–4791.

SUPPLEMENTARY INFORMATION: Ronald L. Fowler, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240, Telephone (202) 343–4305, is the primary author of this proposed rulemaking.

National Wildlife Refuges are closed to hunting until officially opened by rulemaking. The Director may open refuge areas to hunting upon a determination that such uses are compatible with the major purposes for which such areas were established and that funds are available for development, operation, and maintenance of the permitted forms of recreation. This action would be in accordance with provisions of all laws applicable to the areas, would be compatible with the principles of sound wildlife management, and would otherwise be in the public interest.

It is the purpose of this proposed rulemaking to seek input regarding the opening of the refuges cited below to the hunting of migratory birds, upland game, and big game. The policy of the Department of the Interior is whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposal. All relevant comments will be considered by the Department prior to issuance of a final rule.

NEPA Consideration

The "Final Environmental Statement for the Operation of the National Wildlife Refuge System" [FES 76–59] was filed with the Council on Environmental Quality on November 12, 1976, and notice of availability was published in the **Federal Register** on November 19, 1976, (41 FR 51131). Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, (42 U.S.C. 4332(2)(C)), environmental assessments have been prepared for each of these proposed openings and are available for public

inspection and copying in Room 2341, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, or by mail, addressing the Director at the address above. A determination will be made at the time of the final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

Conformance with Statutory and Regulatory Authorities

In accordance with Section 4(d)(1)(A) of the National Wildlife Refuge System Administration Act, the Secretary is authorized under such regulations as he may prescribe to permit the use of any area within the System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access whenever he determines that such uses are compatible with the major purposes for which such areas were established: provided, that not to exceed 40 percent at any one time of any area that has been, or hereafter may be acquired, reserved, or set apart as an inviolate sanctuary for migratory birds, under any law, proclamation, Executive Order, or public land order may be administered by the Secretary as an area within which the taking of migratory game birds may be permitted under such regulations as he may prescribe. The statute also allows the 40 percent limitation to be exceeded if the Secretary finds that the taking of any species of migratory game birds in more than 40 percent of such areas would be beneficial to the species. All of the refuges which would be opened to the taking of migratory birds were originally established as inviolate sanctuaries for migratory birds and are thus subject to the above outlined 40 percent provisions.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer the refuge areas within the National Wildlife Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the areas were established. In addition, the Refuge Recreation Act requires: "(a) that such recreational use(s) will not interfere with the primary purposes for which the areas were established, and (b) that funds are available for the development, operation, and maintenance of these permitted forms of recreation."

Fish and Wildlife Service regulations in 50 CFR 32.1 require that the opening of a wildlife refuge area to hunting will be dependent upon the provisions of law applicable to the area and upon a determination by the Secretary that the opening of the area to hunting will be compatible with the principles of sound wildlife management and will otherwise be in the public interest.

The proposed use authorized by these regulations is compatible with the major purposes for which these areas were established. In regard to the 40 percent provisions of the National Wildlife Refuge System Administration Act, these regulations would not authorize the taking of migratory game birds in more than 40 percent of any area. The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. Funds are available for the administration of the recreational activities permitted by these regulations.

The implementation of these hunting programs will be consistent with all applicable laws and compatible with the principles of sound wildlife management and will otherwise be in the public interest. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976 and environmental assessments which have been prepared for each of these proposed openings.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Economic Effect

This regulation will have a positive secondary effect on local filling stations, sporting goods stores, providers of meals, and overnight accommodations. This rule will impose no costs on small entities; the exact number and the amount of business that will result from this refuge-related recreation is unknown. The aggregate effect is a positive economic effect on a number of small entities. The number of small entities affected is unknown, but the fact that the aggregate economic effect of $28,000 which will be generated annually as a direct result of implementing this rule will be spread over two States, indicates that the economic effect of the rule will not be major under the terms of Executive Order 12291. The added cost to the government of law enforcement, posting, etc., to implement these activities will be less than the income generated as a result of the implementation of these programs.

The Department of the Interior has determined that this document is not a "major rule" within the meaning of Executive Order 12291 and that this document will not have a significant economic effect on a substantial number of small entities under the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This determination is based on the fact that the annual gross effect of the rule on the economy is substantially less than $100 million, that the rule will not result in major increases in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, nor is the rule likely to result in significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 50 CFR Part 32

Hunting, National Wildlife Refuge System, Wildlife refuges.

PART 32—HUNTING

Accordingly, it is proposed to amend 50 CFR Part 32 by the addition of Loxahatchee National Wildlife Refuge, Black Coulee National Wildlife Refuge, Creedman Coulee National Wildlife Refuge, Hailstone National Wildlife Refuge, Halfbreed Lake National Wildlife Refuge, Hewitt Lake National Wildlife Refuge, Lake Mason National Wildlife Refuge, Lake Thibadeau National Wildlife Refuge, and War Horse National Wildlife Refuge, in §§ 32.11, 32.21, and 32.31 as follows:

§ 32.11 List of open areas; migratory game birds.

* * * * *

Montana

* * * * *

Black Coulee National Wildlife Refuge

* * * * *

Creedman Coulee National Wildlife Refuge
Hailstone National Wildlife Refuge
Halfbreed Lake National Wildlife Refuge
Hewitt Lake National Wildlife Refuge

* * * * *

Lake Thibadeau National Wildlife Refuge

* * * * *

War Horse National Wildlife Refuge

* * * * *

§ 32.21 List of open areas; upland game.

* * * * *

Montana

* * * * *

Black Coulee National Wildlife Refuge

* * * * *

Creedman Coulee National Wildlife Refuge
Hailstone National Wildlife Refuge
Halfbreed Lake National Wildlife Refuge
Hewitt Lake National Wildlife Refuge
Lake Mason National Wildlife Refuge
Lake Thibadeau National Wildlife Refuge

* * * * *

War Horse National Wildlife Refuge

* * * * *

§ 32.31 List of open areas; big game.

* * * * *

Florida

* * * * *

Loxahatchee National Wildlife Refuge

* * * * *

Montana

Black Coulee National Wildlife Refuge

* * * * *

Creedman Coulee National Wildlife Refuge
Hailstone National Wildlife Refuge
Halfbreed Lake National Wildlife Refuge
Hewitt Lake National Wildlife Refuge
Lake Mason National Wildlife Refuge
Lake Thibadeau National Wildlife Refuge

* * * * *

War Horse National Wildlife Refuge

* * * * *

(16 U.S.C. 460k, 668dd)

Dated: August 27, 1982.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-26150 Filed 9-21-82; 8:45 am]
BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 47, No. 184
Wednesday, September 22, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE OFFICE OF U.S. COURTS

Board of Certification as Qualified To Be a Circuit Executive, United States Courts of Appeals

AGENCY: Board of Certification for Circuit Executives, United States Courts of Appeals.

ACTION: Notice of meeting of Board of Certification in Washington, D.C. on October 12, and November 11, 1982, to interview applicants who are interested in being certified for positions as circuit executive and who have qualified for an interview.

The position of circuit executive is established in each federal judicial circuit by Section 332(e) of Title 28, United States Code, for appointment by the judicial Council of the circuit.

Individuals who desire to serve as circuit executives in the twelve judicial circuits of the United States (or in any other federal court administration capacity for which similar certification may be required) must be certified as qualified by the statutorily created Board of Certification (28 U.S.C. 332 (f)). While certification is a prerequisite for eligibility to be appointed as circuit executive, it does not ensure such employment.

A personal interview with the Board is necessary for certification, and the Board cannot reimburse candidates for attendant travel expenses.

Details on how to apply may be had by writing to: Board of Certification, Administrative Office of the U.S. Courts, Washington, D.C. 20544.

The next meetings of the Board will be held in Washington, D.C. on October 12, and November 11, 1982. Applicants who have qualified for an interview and desire an appointment on one of these two dates should contact the Board well in advance in order to be considered for a possible interview.

William E. Foley,
Secretary of the Board of Certification and Director, Administrative Office of the U.S. Courts.

[FR Doc. 82-26011 Filed 9-21-82; 8:45 am]
BILLING CODE 2210-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

Bridger-Teton National Forest Grazing Advisory Board; Meeting

The Bridger-Teton National Forest Grazing Advisory Board will meet at 1:00 p.m., October 20, 1982, in the Conference Room of the Sublette County Library, Pinedale, Wyoming. The purpose of this meeting is to discuss utilization of range betterment funds and the development of allotment management plans.

The meeting will be open to the public. Persons who wish to attend should notify Forest Supervisor Reid Jackson, Box 1888, Jackson, Wyoming 83001, telephone (307) 733-2752. Written statements may be filed with the board before or after the meeting.

The board has established the following rules for public participation:

1. If a group wishes to be heard at the meeting, they are required to select a chairman to voice their ideas.

2. Persons or groups may send written statements to the Forest Supervisor for presentation at the meeting.

3. The Chairman of the Forest Grazing Advisory Board will set aside a time period on the agenda for public comment.

Dated: September 13, 1982.
Sonny O'Neal,
Deputy Forest Supervisor.

[FR Doc. 82-26060 Filed 9-21-82; 8:45 am]
BILLING CODE 3410-11-M

Office of the Secretary

Forms Under Review by Office of Management and Budget

September 17, 1982.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), is applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper, Statistical Clearance Officer, (202) 447-6201.

New

• Food and Nutrition Service
Participation by Charitable Institutions
FNS Instruction 70.6-1
Semiannually
State or local governments: 57 responses; 171 hours; not applicable under 3504(h)
Barbara Batts (703) 756-3660

• Food and Nutrition Service
The National WIC Evaluation
Nonrecurring
Individuals or households and state or local governments: 14,000 responses; 21,479 hours; not applicable under 3504(h)
David Shanklin (703) 756-3115

• Food and Nutrition Service
Integrated Quality Control Review Worksheets—Recordkeeping
On occasion
Individuals or households: 69,773 responses; 1,646 hours; not applicable under 3504(h)
Greg Fortine (703) 756-3540

Revised

• Food and Nutrition Service
Integrated Quality Control Review Worksheet—Reporting

FNS-380
On occasion
Individuals or households: 69,773 responses; 627,957 hours; not applicable under 3504(h)
Greg Fortine (703) 756-3540
• Food and Nutrition Service
School Nutrition Application Pilot Project
Nonrecurring
Individuals or households and state or local governments: 4,705 responses; 4,423 hours; not applicable under 3504(h)
Steve Gale (703) 756-3115

Richard J. Schrimper,

Statistical Clearance Officer.

[FR Doc. 82-26071 Filed 9-21-82; 8:45 am]

BILLING CODE 3410-01-M

Office of the Director for Science and Education

National Plant Genetic Resources Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Science and Education Office announces the following meeting:

Name: National Plant Genetic Resources Board.
Date: October 21-22, 1982.
Time and Place: 9:00 a.m.-5:00 p.m. October 21—9:00 a.m.-3:00 p.m. October 22, Conference Room 2789, Rodeway Inn Airport, 10232 Natural Bridge Road, St. Louis, Missouri 63134.
Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person below.
Purpose: To review matters that pertain to plant germplasm in the United States and possible impacts on related National and international programs; and discuss other initiatives of the Board.
Contact Person: C. O. Grogan, Executive Secretary, National Plant Genetic Resources Board, Science and Education, U.S. Department of Agriculture, Room 6017-S, USDA South Building, Washington, D.C. 20250, telephone (202) 447-6195.

Clarence O. Grogan,

Executive Secretary, National Plant Genetic Resources Board.

[FR Doc. 82-26123 Filed 9-21-82; 8:45 am]

BILLING CODE 3410-03-M

CIVIL AERONAUTICS BOARD

[Order 82-9-54; Docket 40888]

Application of International Air Service Company, Ltd. d.b.a. IASCO; for Certificate Authority Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order instituting the *IASCO Fitness Investigation*, 82-9-54, Docket 40888.

SUMMARY: The Director, Bureau of Domestic Aviation, under delegated authority, is instituting an investigation to determine the fitness of International Air Service Company, Ltd., d.b.a. IASCO to engage in the interstate and overseas air transportation of persons, and the interstate and overseas air transportation of property and mail between all points in the United States, its territories and possessions, except in all-cargo service within Alaska or Hawaii.

DATES: Persons wishing to intervene in the *IASCO Fitness Investigation* shall file their petitions in Docket 40888 by October 1, 1982.

ADDRESSES: Petitions to intervene should be filed in Docket 40888, and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. In addition, copies of such filings should be served on persons listed in the attachment and on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: Charles Stohr, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. (202) 673-5330.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-9-54 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-9-54 to that address.

By the Bureau of Domestic Aviation:
September 16, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-26157 Filed 9-21-82; 8:45 am]

BILLING CODE 6320-01-M

Schedule for Awarding SES Bonuses

The Civil Aeronautics Board plans to award bonuses to Senior Executive Service members on or about September 24, 1982.

FOR FURTHER INFORMATION CONTACT: Steven Rappold, Assistant Director, Office of Human Resources, Civil Aeronautics Board, (202) 673-6140.

Wilma J. Kriviski,

Director, Office of Human Resources.

[FR Doc. 82-26156 Filed 9-21-82; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Colorado Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Colorado Advisory Committee to the Commission will convene at 9:00 am and will end at 12:30 pm, on October 16, 1982, at the Executive Tower Inn, 1405 Curtis Street, in the Sebastian Bach Room, Denver, Colorado 80202. The purpose of the meeting will be to discuss program plans for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Minoru Yasui, 1150 South Williams, Denver, Colorado 80210, (303) 575-2621 or the Rocky Mountain Regional Office, Brook Towers, 1020 Fifteenth Street, Suite 2235, Denver, Colorado 80202, (303) 837-2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 15, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-26054 Filed 9-21-82; 8:45 am]

BILLING CODE 6335-01-M

Connecticut Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Connecticut Advisory Committee to the Commission will convene at 10:00 am and will end at 12:00 pm, on October 7, 1982, at the Connecticut Education Association Building, 20 Oak Street, in the Conference Room, Hartford, Connecticut 06106. The Committee will conduct a press conference to release their report *Governmental Respose to Racially and Religiously Motivated Violence and Vandalism.*

Persons desiring additional information should contact the Chairperson, Richard M. Brown, 151 Farmington Avenue, Hartford, Connecticut 06156, (202) 273-6389 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 15, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-26060 Filed 9-21-82; 8:45 am]

BILLING CODE 6335-01-M

New Jersey Advisory Committee; Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the New Jersey Advisory Committee to the Commission originally scheduled for September 23, 1982, at East Brunswick, New Jersey, (FR Doc. 82-23889 on page 38375) has been changed.

The meeting will now be held on October 7, 1982, beginning at 6:30p and will end at 8:30p, at the Ramada Inn, Naricon Avenue, East Brunswick, New Jersey.

Dated at Washington, D.C., September 16, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-26059 Filed 9-21-82; 8:45 am]

BILLING CODE 6335-01-M

North Dakota Advisory Committee; Meeting Change

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the North Dakota Advisory Committee of the Commission originally scheduled for September 27, 1982, at Bismarck, North Dakota, (FR Doc. 82-24867 on page 39706) has been changed.

The meeting now will be held on September 29, 1982, beginning at 1:00 p.m. and will end at 4:00 p.m. at the Holiday Inn, Bismarck, North Dakota, 58501.

Dated at Washington, D.C., September 16, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-26063 Filed 9-21-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Applications For Duty-Free Entry of Scientific Instruments

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with Subsections 301.5(a)(3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register**.

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, Room 2097, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82-00312. Applicant: The New York Blood Center, 310 East 67th Street, New York, New York 10021. Instrument: Electron Microscope, Model EM-410. Manufacturer: Philips Electronic Instruments, NVD. The Netherlands. Intended use of instrument: The foreign instrument is intended for investigation of the following:

1. The Transport Mechanisms of mRNA.
2. Friend Erythroleukemia Cells.
3. Characterization of NANB Hepatitis Viruses.
4. Characterization of Hepatitus B particles.
5. Biosynthesis of Fibrinogen.
6. An Artificial Device.
7. Basic Mechanisms of Secretion.

Application received by Commissioner of Customs: July 30, 1982.

Docket No. 82-00314. Applicant: University of Massachusetts at Amherst, Amherst, MA 01003. Instrument: Minispin with Pocket Computer complete with Printer and Interface. Manufacturer: Molspin Ltd., United Kingdom. Intended use of instrument: The foreign instrument is intended to be used to measure the remanent magnetic field recorded in rocks. Very weak magnetic fields (10^{-2}-10^{-7} emu/cc) are retained in rock units from the time of formation. Experiments which measure these fields reveal the position of the north magnetic pole and allow investigations of continental positions through geologic time, construction of polar wander paths, comparisons of magnetic directions and magnetic-statigraphic studies. Educational uses of this equipment are as a teaching tool in a basic Geophysics course and is the primary laboratory instrument in a graduate level course in Paleomagnetism. The instrument will also be used by graduate students doing research in pursuit of Masters and Doctorate degrees. Application received by Commissioner of Customs: July 30, 1982.

Docket No. 82-00315. Applicant: University of California, Lawrence Livermore National Laboratory, P.O. Box 5012, Livermore, CA 94550. Instrument: Automatic Thermal Ionization Mass Spectrometer, ISOMASS 354E and Accessories. Manufacturer: VG Isotopes, Ltd., United Kingdom. Intended use of instrument: The foreign instrument is intended for study of:

(a) Debris from nuclear weapons tests.
(b) Site environmental survey samples.
(c) Separated isotopes.
(d) Other materials of interest to the nuclear weapons test program.

It is to be used for high-precision measurements of the isotopic compostion of various elements isolated from the materials studied. Elements to be analyzed shall include but not be limited to Li, B, U, Pu, Pa, and Np. The types of experiments to be conducted include the following:

(a) Analysis of the isotopic composition of materials recovered from nuclear weapons tests.
(b) Determination of U and Pu contamination on and off site resulting from LLNL activities.
(c) Measurement of isotopic composition of samples produced in laser isotope separation program.
(d) Development of isotopic analysis techniques of use to the nuclear weapons test program.

The objectives of these analyses are to understand the isotopic record contained in the materials studied. Application Received by Commissioner of Customs: July 30, 1982.

Docket No. 82-00316. Applicant: University of Maryland, Baltimore County, 5401 Wilkens Avenue, Catonsville, Maryland 21228. Instrument: LKB 14800-3 Cryokit, Manufacturer: LKB Produkter AB, Sweden. Intended use of instrument: The foreign instrument is intended to be used to prepare tissue for investigations involving localization of receptors and antigens in normal and experimentally altered animal tissues and cells in cultures. It will also be used in an advanced cell biology course to teach

advanced graduate students and post doctoral fellows methods in cell biology. Application received by Commissioner of Customs: July 30, 1982.

Docket No. 82-00317. Applicant: Indiana University 1101 East 17th Street, Bloomington, IN 47405. Instrument: Helber Bacteria Counting Chambers complete with Accessories. Manufacturer: Hawksely & Sons, Ltd., United Kingdom. Intended use of instrument: The instrument is intended to be used for educational purposes in a general Microbiology course which normally has an enrollment of 275 students. Application received by Commissioner of Customs: July 30, 1982.

Docket No. 82-00318. Applicant: Texas Tech University, Textile Research Center, P.O. Box 5217, Lubbock, TX 79417/5217. Instrument: Fiberblender. Manufacturer: Shirley Development Limited, United Kingdom. Intended use of instrument: The instrument is intended to be used to provide a rapid and very compact way of opening, cleaning, blending and randomizing cotton fiber samples in preparation for testing for maturity and fineness. Experiments will be made to relate the readings obtained with the effect on cotton spinnability. The instrument will be used along with the Fiber Maturity Tester (FMT) to allow faster and more reproducible results. In addition the instrument will be used for teaching purposes in the following courses offered in the Textile Technology curriculum:

TT 230—Applied Textiles
TT 231, 232—Fiber Technology and Microscopy
TT 331, 332—Principles of Fiber Processing
TT 431—Textile Testing and Quality Control

Application received by Commissioner of Customs: July 30, 1982.

Docket No. 82-00319. Applicant: University of Hawaii, Department of Oceanography, Honolulu, HI 96822. Instrument: Electron Microscope, Model H-600-2 and Attachments. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use of instrument: The foreign instrument is intended for study of the structure of photophores and magneto-sensory organs and their heavy metal inclusions. Experiments will utilize different species in both closely related and distantly related genera to compare structures of the tissues and cells examined with the following objectives:

(a) To characterize the structure of photophores and magnetosensory organs.

(b) To determine structural properties of light-producing cells and to correlate this information with data obtained on the biochemistry of this system from related studies.

(c) To determine the type of magneto-sensory transducer used in these sensory organs.

(d) To determine the functional mechanisms that control operation of these two types of organs.

The instrument will also be used to train graduate students who will participate in the work described above and related projects. Application received by Commissioner of Customs: July 30, 1982.

Docket No. 82-00320. Applicant: University of Rochester, 601 Elmwood Avenue, Rochester, NY 14642. Instrument: Pulsating Bubble Surfactometer without Recorder and Accessories. Manufacturer: Surfactometer International, Canada. Intended use of instrument: The foreign instrument is intended to be used to study the dynamic surface tension lowering characteristics of films of lung surfactant and its components. The overall objective of these studies is to generate fundamental information concerning *in vitro* surface properties of pulmonary surfactant and its major components, and then directly to use this information in formulating effective tracheal instillation and aerosol therapy for *in vivo* states of surfactant insufficiency or toxicity induced inactivity. The basic problems addressed in this research are as follows:

a. What are the specific components of pulmonary surfactant that account for its physiologically critical behavior, not only in terms of surface tension lowering characteristics, but also in terms of surface spreading, adsorption facility, and dynamic cycling hysteresis characteristics?

b. How should these components be combined to produce surfactant mixtures that can be tracheally instilled or aerosolized and delivered to the alveoli, and that will effectively spread and remain at the alveolar interface after delivery?

c. How are the various surface properties of lung surfactant reflected in pulmonary mechanics, and what are the ramifications for various lung disease states including not only neonatal RDS but also adult RDS?

Application received by Commissioner of Customs: July 30, 1982.

Docket No. 82-00321. Applicant: State University of New York, Downstate Medical Center, 450 Clarkson Avenue, Brooklyn, New York 11203. Instrument: Transmission Electron Miscroscope, Model EM 10CR and STEM. Manfacturer: Carl Zeiss, West Germany. Intended use of instrument: The instrument is intended to be used for the study of the mechanisms by which cell proteins are distributed from their site of synthesis to their site of function in the cell. To study this problem, enveloped viruses (such as influenza, vesicular stomatitis, sendai, etc.) will be used as probes. The aim of this study is to follow by ultrastructural procedures and biosynthesis of viral proteins (especially the envelope glycoproteins), their insertion into specific membranes (such as the membrane of the endoplasmic reticulum), and their pathway of migration to the cell surface under various experimental conditions. The instrument will also be used for training residents in anatomic pathology. Application received by Commissioner of Customs: August 2, 1982.

Docket No. 82-00324. Applicant: Memorial Sloan-Kettering Cancer Center, Urologic Service, Department of Surgery, Memorial Hospital, 1275 York Ave., New York, NY 10021. Instrument: MBB-AT MediLas 2 YAG Coagulation Laser. Manufacturer: MBB-Angewandte Technologie GmbH West Germany. Intended use of instrument: The instrument is intended to be used in the investigation of the photo-therapeutic effects of Nd: YAG laser in the treatment of bladder tumors. Because of its energy characteristics the laser is theoretically capable of extending the margins of tumor destruction, thereby reducing local recurrences at the periphery and depth of the irradiated field. It is also theoretically possible to reduce new heterotropic occurrences by destroying implantable viable tumor cells. Canine laboratory application and clinical exploration will identify whether or not laser technology can surpass the safe, practical, and cost effective characteristics provided by conventional TUR methods now in common use. In addition, the instrument will be used for teaching in the use of Nd YAG laser and its applicability to specific treatment of bladder tumors and possibly other uses in endoscopic or open urologic procedures. Application received by Commissioner of Customs: August 5, 1982.

Docket No. 82-00332. Applicant: Masters, Mates and Pilots MATES program, 5700 Hammonds Ferry Road, Linthicum Heights, Maryland 21090. Instrument: Ship Operational Research and Education Facility. Manufacturer: Vereinigte Flugtechnische Werke, West Germany. Intended use of instrument: The instrument is intended to be used for studies of "squat" the increase in the

draft of a vessel due to configuration, speed and water depth; the forces known as "bank suction" which tend to draw a vessel in a channel or other confined waters toward a nearby bank; those forces known as "bank cushion" which tend to repel a vessel from a bank; and the hydrodynamic properties of various hull forms, rudder forces, and propeller forces in fluid mediums under varying conditions. Experiments will be conducted to determine and be able to predict the hydrodynamic effects of various vessel types in both restricted and open water situations, including effects in confined channels. In addition, the instrument will be used in a course designated as "The Shiphandling Course." Application received by Commissioner of Customs: July 29, 1982.

Docket No. 82-00340. Applicant: California Institute of Technology, Pasadena, CA 91125. Instrument: Achromatic Corrector Lens. Manfacturer: NEI Parson, Ltd., United Kingdom. Intended use of instrument: The instrument is intended to be used to record on photographic plates the images of astronomical objects: planets and their satellites, comets, stars, instellar gas and dust, galaxies, clusters of galaxies, and quasars. These photographs can be measured to determine a variety of characteristics of these objects including their relative positions, their color index, and, for extended objects, their morphology. In addition, the instrument will be used to conduct a photographic survery of the northern sky which is expected to provide significant new information that will support astronomical research for the rest of this century. Application received by Commissioner of Customs: August 17, 1982.

Docket No. 82-00341. Applicant: U.S. Department of Energy, Pinellas Area Office, P.O. Box 11500, Byran Dairy Road, St, Petersburg, FL 33733. Instrument: JMS-01BM Spark Source Mass Spectrometer System. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: The instrument is intended to be used for studies of ultra pure metals and metal films. Experiments will consist of studies of the effects on chemical and physical characteristics of small changes in the levels of trace impurities and studies of the effect on the chemical and physical characteristics of gold plating foil of small changes in gold plating path impurities. The objective of the studies will be to investigate the effect of trace (part per billion and higher) impurities on the physical characteristics of pure metals and film. The experimental technique will utilize the documented method of RF spark excitation, energy selection of the resultant ion beam, magnetic mass separation and photoplate detection and identification. Application received by Commissioner of Customs: August 17, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs.

[FR Doc. 82-26110 Filed 9-21-82; 8:45 am]

BILLING CODE 3510-25-M

Postponement of Preliminary Antidumping Duty Determination Certain Stainless Steel Sheet and Strip Products From France

AGENCY: International Trade Administration.

ACTION: Postponement of preliminary antidumping duty determination.

SUMMARY: The preliminary antidumping duty determination involving certain stainless steel sheet and strip products from France is being postponed because the investigation has been determined to be extraordinarily complicated. We intend to issue the antidumping duty preliminary determination not later than December 6, 1982.

EFFECTIVE DATE: September 22, 1982.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; Telephone (202) 377-5288.

Postponement

On June 8, 1982, we announced the initiation of an antidumping duty investigation to determine whether certain stainless steel sheet and strip products (see Appendix A) from France are being, or are likely to be, sold in the United States at less than fair value. The notice of initiation of antidumping duty investigation stated that if the investigation proceeded normally we would make our preliminary determination on or before October 18, 1982 (47 FR 24764).

As detailed in the notice of initiation of antidumping duty investigation, the petition alleges that certain stainless steel sheet and strip products from France are being, or are likely to be, sold in the United States at less than fair value. The number and complexity of the transactions to be investigated and adjustments to be considered are considerable. There are numerous firms whose activities must be investigated. Also, on August 24, 1982, we decided to extend the period of investigation an additional four months.

We have determined that the parties concerned are cooperating, and that additional time is necessary to make the preliminary antidumping duty determination. For these reasons, we find that this case is extraordinarily complicated in accordance with section 733(c)(1)(B) of the Tariff Act of 1930, as amended (the Act), and we postpone the preliminary antidumping duty determination to not later than December 6, 1982.

This notice is published pursuant to section 733(c) of the Act.

Dated: September 16, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

Appendix A

Product Description: Certain Stainless Steel Sheet and Strip

For the purpose of this investigation, the term "certain stainless steel sheet and strip products" covers hot or cold-rolled stainless steel sheet or strip, excluding hot or cold-rolled stainless steel strip not over 0.01 inch in thickness, as currently provided for in items 607.7610, 607.9010, 607.9020, 608.4300, and 608.5700 of the *Tariff Schedules of the United States Annotated.*

Hot-rolled stainless steel sheet covers hot-rolled stainless steel sheet products whether or not corrugated or crimped and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; and under 0.1875 inch in thickness and over 12 inches in width.

Hot-rolled stainless steel strip is a flat-rolled stainless steel product whether or not corrugated or crimped and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; and under 0.1875 inch in thickness and not over 12 inches in width. Hot-rolled stainless steel strip, including razor blade strip, not over 0.01 inch in thickness is not included.

Cold-rolled stainless steel sheet covers cold-rolled stainless steel sheet products whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; and under 0.1875 inch in thickness and over 12 inches in width.

Cold-rolled stainless strip is a flat-rolled stainless steel strip product whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; under 0.1875 inch in thickness and over 0.50 inch in width but not over 12 inches in width. Cold-rolled stainless steel strip, including razor

blade strip, not over 0.01 inch in thickness is not included in this investigation.

[FR Doc. 82-26108 Filed 9-21-82; 8:45 am]
BILLING CODE 3510-25-M

Postponement of Preliminary Antidumping Duty Determination Certain Stainless Steel Sheet and Strip Products From the Federal Republic of Germany

AGENCY: International Trade Administration.

ACTION: Postponement of preliminary antidumping duty determination.

SUMMARY: The preliminary antidumping duty determination involving certain stainless steel sheet and strip products from the Federal Republic of Germany is being postponed because the investigation has been determined to be extraordinarily complicated. We intend to issue the antidumping duty preliminary determination not later than November 22, 1982.

EFFECTIVE DATE: September 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; Telephone (202) 377-2438.

Postponement

On May 18, 1982, we announced the initiation of an antidumping duty investigation to determine whether certain stainless steel sheet and strip products (see Appendix A) from the Federal Republic of Germany (FRG) are being, or are likely to be, sold in the United States at less than fair value. The notice of initiation of antidumping duty investigation stated that if the investigation proceeded normally we would make our preliminary determination on or before October 4, 1982 (47 FR 22132).

As detailed in the notice of initiation of antidumping duty investigation, the petition alleges that certain stainless steel sheet and strip products from the FRG are being, or are likely to be, sold in the United States at less than fair value. The number and complexity of the transactions to be investigated and adjustments to be considered are considerable. In addition, there are numerous firms whose activities must be investigated. We have determined that the parties concerned are cooperating, and that additional time is necessary to make the preliminary antidumping duty determination. For these reasons, we find that this case is extraordinarily complicated in accordance with section 733(c)(1)(B) of the Tariff Act of 1930, as amended (the Act), and we postpone the preliminary antidumping duty determination to not later than November 22, 1982.

This notice is published pursuant to section 733(c) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 15, 1982.

Appendix A

Products Description: Certain Stainless Steel Sheet and Strip Products

For the purpose of this investigation, the term "certain stainless steel sheet and strip products" covers hot or cold-rolled stainless steel sheet or strip, excluding hot or cold-rolled stainless steel strip not over 0.01 inch in thickness, as currently provided for in items 607.7610, 607.9010, 607.9020, 608.4300, and 608.5700 of the *Tariff Schedules of the United States Annotated.*

Hot-rolled stainless steel sheet covers hot-rolled stainless steel sheet products whether or not corrugated or crimped and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; and under 0.1875 inch in thickness and over 12 inches in width.

Hot-rolled stainless steel strip is a flat-rolled stainless steel product whether or not corrugated or crimped and whether or not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; and under 0.1875 inch in thickness and not over 12 inches in width. Hot-rolled stainless steel strip, including razor blade strip, not over 0.01 inch in thickness is not included.

Cold-rolled stainless steel sheet covers cold-rolled stainless steel sheet products whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; and under 0.1875 inch in thickness and over 12 inches in width.

Cold-rolled stainless strip is a flat-rolled stainless steel strip product whether or not corrugated or crimped and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; under 0.1875 inch in thickness and over 0.50 inch in width but not over 12 inches in width. Cold-rolled stainless steel strip, including razor blade strip, not over 0.01 inch in thickness is not included in this investigation.

[FR Doc. 82-26109 Filed 9-21-82; 8:45 am]
BILLING CODE 3510-25-M

National Bureau of Standards

Notice of Withdrawal of Application for Duty-Free Entry of Scientific Article

The National Bureau of Standards has withdrawn Docket Number 82-00026, an application for duty-free entry of a mass spectrometer system. Accordingly, further administrative proceedings will not be taken by the Department of Commerce with respect to this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-26111 Filed 9-21-82; 8:45 am]
BILLING CODE 3510-25-M

Appointment of Member to General Performance Review Board

In notice published in the Federal Register on January 4, 1982 (47 FR 68), and January 26, 1982 (47 FR 3580), the National Bureau of Standards (NBS) announced the membership, terms and purpose of the General Performance Review Board (GPRB). A notice published in the Federal Register on September 8, 1982 (47 FR 39554) announced changes in the membership and their terms for the GPRB.

This notice announces a further change in the membership of the GPRB through the appointment of the individual named below in place of Dr. George A. Sinnott who has resigned from the GPRB. Mr. Samuel Kramer, Deputy Director for Programs, National Engineering Laboratory, National Bureau of Standards, Washington, D.C. 20234, Term—September 15, 1982 to December 31, 1982.

Persons desiring further information about the GPRB or its membership, may contact Mrs. Elizabeth W. Stroud, Chief, Personnel Division, National Bureau of Standards, Washington, D.C. 20234, (301) 921-3555.

Dated: September 16, 1982.

Raymond G. Kammer,

Acting Director.

[FR Doc. 82-26013 Filed 9-21-82; 8:45 am]
BILLING CODE 3510-13-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

SN 6–364,290 Supercritical CO_2 Extraction of Lipids from Lipid-Containing Materials, Department of Agriculture
SN 6–382,903 Stable Emulsified Meat Products and Method of Making, Department of Agriculture
SN 6–380,375 Artificial Hoat Egg for Rearing Trichogramma, Department of Agriculture
SN 6–391,065 Disease Control in Avian Species by Embryonal Vaccination, Department of Agriculture
SN 6–352,661 Envoluted Disc Slicer, Department of Agriculture
SN 6–290,542 Vibrating Separator, Department of Agriculture
SN 6–288,261 Method and Composition for Luring Coyotes, Department of Agriculture
SN 6–274,087 A Recessive Tall—A Fourth Genetic Element to Facilitate Hybrid Cereal Production, Department of Agriculture
SN 6–288,259 Bait Post, Department of Agriculture
SN 6–300,784 Hot-Callusing Device for Tree Grafting, Department of Agriculture
SN 6–325,070 Vase Life Extender for Cut Flowers, Department of Agriculture
SN 6–370,019 Dibutylorthobenzylmethoxybenzenes and Dibutylorthocinnamylmethoxybenzenes as Mosquito Larvae Growth Inhibitors, Department of Agriculture
SN 6–326,086 Method of Pressing Reconstituted Lignocelluloatic Materials, Department of Agriculture
SN 6–351,400 Powered Tree Chipper or Bark Hack, Department of Agriculture
SN 6–144,043 (4,344,438) Optical Sensor of Plasma Constituents, Department of Health, Education and Welfare
SN 6–150,550 (4,344,857) Encapsulation by Entrapment, Department of Agriculture

[FR Doc. 82–26107 Filed 9–21–82; 8:45 am]
BILLING CODE 3510–04–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Comprehensive Plan for Responding to the Long Term Threat Created by the Movement and Deposition of Sediment Occasioned by the Eruption of Mount St. Helens: Alternative Strategies and Recommendations

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement.

SUMMARY: On 18 May 1982, President Reagan requested that a comprehensive management plan for the Cowlitz/Toutle Watershed be prepared by the Corps of Engineers. The report is to be completed and presented to the President by 15 November 1983. Portland District has begun the study to assess flooding and navigation problems created by sediment which continues to flow into the Toutle and Cowlitz Rivers because of Mt. St. Helens eruptions, and to determine long-term solutions to those problems.

An Environmental Impact Statement will be prepared to address the effects of the alternative plans. Alternative measures being considered include:

(a) Structural Alternatives:
(1) Debris retaining structures.
(2) Stabilization basins and/or retention ponds.
(3) Dredging.
(4) Large dam.
(5) Excavation of a new channel upstream of the existing debris retention structure and stabilization of the channel banks.

(b) Non-Structural Alternatives:
(1) Flood plain evacuation.
(2) Flood proofing of structures within the 500-year flood plain.
(3) Purchase of all property within the 500-year flood plain and removal of existing structures.

The scoping process will be initiated with a scoping notice describing the study and the alternatives to be considered, and identifying the anticipated significant environmental effects and issues to be analyzed in depth in the EIS. Federal, State, and local agencies, Indian tribes, and interested organizations and individuals will be invited to comment on the issues to be addressed in the EIS. No scoping meetings are planned. The DEIS will be available to the public approximately July 1983.

Questions about the study can be answered by Al Ramirez, (503) 221–6478 (FTS 423–6478). Questions about the DEIS can be answered by David Kurkoski (503) 221–6437 (FTS 423–6437). Mailing address: Portland District, Corps of Engineers, P.O. Box 2946, Portland, Oregon 97208.

Dated: September 13, 1982.

Patrick J. Keough,

Chief, Planning Division.

[FR Doc. 82–26008 Filed 9–21–82; 8:45 am]
BILLING CODE 3710–GB–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 82–CERT–018]

Consolidated Edison Co., of New York, Inc., Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Consolidated Edison Company of New York, (Con Edison), 4 Irving Place, New York, New York 10003, filed an application on September 1, 1982, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at six of its steam and electric generating stations located in New York City: Astoria in Queens; East River in Manhattan; Narrows in Brooklyn; Ravenswood in Queens; Waterside in Manhattan; and East 60th Street in Manhattan, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6144, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Con Edison states that the volume of natural gas for which it requests certification is approximately 6.0 billion cubic feet for a sixty (60) day period commencing November 1, 1982.

This volume is estimated to displace the use of approximately 973,600 barrels of residual fuel oil (0.3 percent sulfur), approximately 7,900 barrels of No. 2 fuel oil (0.2 percent sulfur), and approximately 42,100 barrels of kerosene (0.1 percent sulfur) during the sixty (60) day purchase period.

The quantities at each location are subject to considerable variation with changes in demand and availability of the various steam and electric generating units, but estimated gas usage and resulting oil displacement volumes are listed below:

Location	Type [1]	Estimated volume (MMcf)	Estimated oil displacement (000 barrel)		
			0.3 percent sulfur residual	0.1 percent sulfur kerosene	0.2 percent sulfur No. 2
Astoria, 20th Avenue and 12 St., Queens.	SE	1,850	309.2		
	GT	75		13.7	
East River, 14th St. and East River, Manhattan.	SE	535	89.4		
Narrows, 53d St. and 1st Avenue, Brooklyn.	GT	44			7.9
Ravenswood, 7-18 37th Avenue Queens.	SE	2,430	406.2		
	GT	61		11.1	
Waterside, 38th to 40th St. and East River, Manhattan.	SE	1,010	168.8		
East 60th St., 514 East 60th St., Manhattan.	S	95		17.3	
Totals		5,100	973.6	42.1	7.9

[1] SE Steam-Electric.
GT Gas Turbine.
S Steam Station.

The eligible seller is Equitable Gas Company, 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219. The gas will be transported by Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77251; Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., P.O. Box 2511, Houston, Texas 77252 and Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, Texas 77001.

Con Edison has in effect other certifications by the ERA, as listed below, which authorize purchases of 30 billion cubic feet of natural gas from various eligible sellers for use at the stream and electric generating stations named in this application.

Docket No.	Volume (Bcf)	Effective	Expires
81-CERT-025	8.20	12/03/81	12/02/82
81-CERT-026	21.00	12/24/81	12/23/82
82-CERT-006	5.00	04/06/82	10/31/82
82-CERT-014	1.80	09/27/82	11/09/82
	30.00		

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 6144, RG-631, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, Attention: Paula A. Daigneault, within ten (10) calendar days of the date of publication of this notice in the **Federal Register**.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Con Edison, and any persons filing comments, and will be published in the **Federal Register**.

Issued in Washington, D.C., on September 16, 1982.

F. Scott Bush,

Director, Oil and Gas Imports Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-26136 Filed 9-21-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. EC82-17-000]

Alabama Power Co.; Application

September 16, 1982.

Take notice that on August 30, 1982, Alabama Power Company (Alabama Power) filed an application pursuant to section 203 of the Federal Power Act seeking an order authorizing the sale of certain of its facilities to the Utilities Board of the City of Tuskegee, Tuskegee, Alabama (the Utilities Board).

The facilities consist of 3.32 miles of 46 kV transmission line and associated equipment serving and located in and around the corporate limits of the City of Tuskegee, Macon County, Alabama. The consideration for the sale of the facilities is $183,878.

Consumation of the proposed transaction will result in superseding the present power supply service agreement under Rate Schedule MUN-1 of FERC Electric Tariff Original Volume No. 1 of Alabama Power with a new power supply agreement for service at the same rate and under the same terms and conditions as presently exists but will replace the existing three delivery points with a single metering point.

The Utilities Board, by the use of subject facilities, will be able to take advantage of the diversity that exists between the electrical loads currently served from the three existing delivery points. This should result in a reduction in the Utilities Board's electrical demand which in turn would result in a reduction in their purchased power cost.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26017 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CS79-73-001, et al.]

Byron E. Van Arsdale Jr. and Alice Van Arsdale, et al.; Applications for "Small Producer" Certificates[1]

September 16, 1982.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 5, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20428, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules Of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No.	Date filed	Applicant
CS79-73-001	[1]9/ 3/82	Byron E. Van Arsdale Jr. and Alice Van Arsdale (Adeline K. Van Arsdale) 296 Litchfield Lane, Houston, Tex. 77024.
CS72-36-001	[2]8/18/82	PSEC, Inc. (Potts-Stephenson Exploration Co.), Suite 200, 100 Park Avenue Building, Oklahoma City, Okla. 73102.
CS82-90-000	7/30/82	Americus Resources, Inc., 2000 Kipling, Houston, Tex. 77098.
CS82-91-000	7/30/82	Grigsby Petroleum Inc., 1106 Commercial National Bank Building, Shreveport, La. 71101.
CS82-92-000	8/ 2/82	Enex Resources Corp., One Kingwood Place, Suite 282, Kingwood, Tex. 77339.
CS82-93-000	8/ 2/82	Enex Oil & Gas Income Program I, Series 2, whose general partner is Enex Resources Corp., One Kingwood Place, Suite 282, Kingwood, Tex. 77339.
CS82-94-000	8/ 2/82	Enex Oil & Gas Income Program I, Series 1, whose general partner is Enex Resources Inc., One Kingwood Place, Suite 282, Kingwood, Tex. 77339.
CS82-94-000	8/12/82	Comanche Energy Co., Box 1117, Edmond, Oklahoma 73083.
CS82-96-000	8/19/82	S T Joint Venture, 1982 C. P.O. Box 552, Westport, Conn. 06881.
CS82-97-000	8/31/82	The First National Bank and Trust Company of Tulsa, Successor Trustee of the Nancy Jo Bernard Trusts, 1957 and 1962 First Nat'l Bank & Trust Co. of Tulsa, P.O. Box 1, Tulsa, Okla. 74103.
CS82-98-000	9/ 7/82	Titan Energy Corp., 813 Meadow Lane, Castle Rock, Colo. 80104.

[1] Applicant is filing to change its name from Adeline K. Van Arsdale to Byron E. Van Arsdale Jr. and Alice Van Arsdale.
[2] Applicant is filing to change its name from Potts-Stephenson Exploration Co. to PSEC, Inc.

[FR Doc. 82-26040 Filed 9-21-82; 8:45 am]
BILLING CODE 6715-01-M

[Docket No. QF82-203-000]

Central Plants, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 16, 1982.

On August 18, 1982, Central Plants, Inc., 6140 Bristol Parkway, Culver City, California 90203, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The biomass small power production facility will be located in Los Angeles County, California. The electric power production capacity of the facility will be approximately 700 kilowatts. The primary energy source of the facility will be biomass in the form of biomethane obtained from a sanitary landfill. There will not be any other small power production facilities located within one mile of this facility which are owned by the Applicant and use the same energy source. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26041 Filed 9-21-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 3279-001]

City of Kent, Ohio; Application for Preliminary Permit

September 20, 1982.

Take notice that the City of Kent, Ohio (Applicant) filed on September 1, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Projected No. 3279 to be known as the Kent Project located on the Cuyahoga River, in the City of Kent, Portage County, Ohio. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Philip Movish, Daverman Associates, Inc., 500 South Salina St., Syracuse, New York 13202.

Project Description—The proposed project would consist of: (1) The existing Kent Dam, a 125-foot-long, 16-foot-high sandstone structure which has a spillway crest elevation of 1,030 feet m.s.l. and is owned by the Applicant; (2) an existing reservior of 192 acre-foot storage capacity; (3) an existing 55-foot-long, 12-foot-wide lock structure at the east abutment containing two 5-foot by 3.5-foot gates; (4) three proposed 10-foot-long penstocks; (5) a proposed 30-foot by 35-foot powerhouse containing 3 turbine/generator units with a total installed capacity of 420kW; (6) a proposed tailrace channel; (7) a 1-mile-long, 2.4-kV transmission line; and (8) appurtenant facilities. The average annual generation of 1,926,000 kWh would be used at the City of Kent Wastewater Treatment Plant.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design

alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC lincense. Applicant estimates that the cost of the studies under permit would be $35,000.

Completing Applications—Anyone desiring to file a competing application for preliminary permit must file with the Commission, on or before January 4, 1983, the competing application itself (see: 18 CFR 4.30 et. seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be filed with the Commission on or before December 6, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (a copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commision will consider all protests or other comments filed, but only those who file a notion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before December 6, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26042 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Volume 734]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 15, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-ANGERMAN ASSOCIATES INC			RECEIVED:	08/26/82		JA: PA			
8251272	13677	3712900000		103		EDWIN GEORGE #2 - WES-21971	W PENNA-UPPER DEVONIA	40.0	PEOPLES NATURAL G
8251275	13752	3706300000		103		JOHN P ZOLDAK #1 - IND-26745	W PENNA-UPPER DEVONIA	25.0	PEOPLES NATURAL G
8251273	13678	3712900000		193		JOHN W LEEPER #1 - WES-21967	W PENNA-UPPER DEVONIA	45.0	PEOPLES NATURAL G
8251274	13679	3706326742		103		MARGARET L BROWN #4 - IND-26742	W PENNA-UPPER DEVONIA	50.0	PEOPLES NATURAL G
-ATLAS RESOURCES INC			RECEIVED:	08/26/82		JA: PA			
8251278	13592	3706326644		102-4		ALTEMUS #2	CHERRYHILL	524.0	COLUMBIA GAS TRAN
8251279	13594	3706326719		102-2		BROTHERS #3	GREEN	184.0	COLUMBIA GAS TRAN
8251276	13590	3706326331		102-2		COUDRIET #1	CHERRYHILL	426.0	COLUMBIA GAS TRAN
8251281	13593	3706326688		103		MOORE #2	MONTGOMERY	359.0	COLUMBIA GAS TRAN
8251280	13675	3706326710		102-2		R BASH #1	GREEN	498.0	COLUMBIA GAS TRAN
8251277	13591	3706326553		102-2		STIFFLER #1	CHERRY HILL	258.0	COLUMBIA GAS TRAN
-BEREA OIL AND GAS CORPORATION			RECEIVED:	08/26/82		JA: PA			
8251282	13930	3703921502		102-2		J BOSCH #1	RICHMOND	14.0	COLUMBIA GAS TRAN
8251284	13931	3703921502		107-TF		J BOSCH #1	RICHMOND	14.0	COLUMBIA GAS TRAN
8251283	13932	3703921501		102-2		S ZAHNISER #1	WILDCAT	15.0	COLUMBIA GAS TRAN
8251285	13933	3703921501		107-TF		S ZAHNISER #1	WILDCAT	0.0	COLUMBIA GAS TRAN
-CABOT OIL & GAS CORP			RECEIVED:	08/26/82		JA: PA			
8251287	13617	3703920700		102-2		ALLEN HARVEY #1	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8251292	13616	3703920700		107-TF		ALLEN HARVEY #1	EAST FAIRFIELD	50.0	TENNESSEE GAS PIP
8251289	13785	3703921528		102-2		DALE GUM #2	WAYNE	50.0	TENNESSEE GAS PIP
8251294	13784	3703921528		107-TF		DALE GUM #2	WAYNE	50.0	TENNESSEE GAS PIP
8251286	13615	3703921518		102-2		EARL ALLEN #1	WAYNE	50.0	TENNESSEE GAS PIP
8251291	13614	3703921518		107-TF		EARL ALLEN #1	WAYNE	50.0	TENNESSEE GAS PIP
8251288	13783	3703921435		102-2		ELIZA CHITESTER #1	WAYNE	50.0	TENNESSEE GAS PIP
8251293	13782	3703921435		107-TF		ELIZA CHITESTER #1	WAYNE	50.0	TENNESSEE GAS PIP
8251290	13915	3708520399		102-2		FLOYD I BAILLY #1	DEER CREEK	50.0	TENNESSEE GAS PIP
8251295	13916	3708520399		107-TF		FLOYD I BAILLY #1	DEER CREEK	50.0	TENNESSEE GAS PIP
-DOC-NCC SERVICE CO			RECEIVED:	08/26/82		JA: PA			
8251297	13938	3712922031		103		FRANK L SMITH 1590-2	EAST HUNTINGDON	30.0	TEXAS EASTERN TRA
8251296	13596	3712922015		103		WILLIAM M SEAMAN 1616-2	EAST HUNTINGDON	30.0	TEXAS EASTERN TRA
-EDWARD G KRIEBEL GAS CO			RECEIVED:	08/26/82		JA: PA			
8251298	13327	3706323038		108		CAVOTA #1	INDIANA	15.0	PEOPLES NATURAL G
8251299	13328	3706322839		108		SEXTON #1	INDIANA	15.0	PEOPLES NATURAL G
-ENVIROGAS INC			RECEIVED:	08/26/82		JA: PA			
8251306	13608	3704921588		107-TF		A KATREN #1	CORRY	18.0	NATIONAL FUEL GAS
8251301	13603	3704921580		107-TF		C BENDIG #2	WATERFORD	18.0	COLUMBIA GAS TRAN
8251305	13607	3704921677		107-TF		F STARVAGGI #1	NORTH EAST DEEP	18.0	NATIONAL FUEL GAS
8251309	13611	3704921698		107-TF		G MORRIS #1	WATERFORD	18.0	COLUMBIA GAS TRAN
8251308	13610	3704921697		107-TF		G MORRIS #2	WATERFORD	18.0	COLUMBIA GAS TRAN
8251300	13602	3704921674		107-TF		H BECKER #1	WATERFORD	18.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251304	13606	3704921560		107-TF		H PARKHURST #1	NORTH EAST DEEP	18.0	NATIONAL FUEL GAS
8251310	13612	3704921656		107-TF		J HARNAK #1	WATERFORD	18.0	COLUMBIA GAS TRAN
8251303	13605	3704921773		107-TF		J MYERS #1	WATERFORD	18.0	COLUMBIA GAS TRAN
8251302	13604	3704921653		107-TF		M ALLEN #3	WATERFORD	18.0	COLUMBIA GAS TRAN
8251307	13609	3704921648		107-TF		O LUHMAN #2	NORTH EAST DEEP	18.0	NATIONAL FUEL GAS
8251311	13786	3704921639		107-TF		W VEIHDEFFER #1	NORTH EAST DEEP	18.0	NATIONAL FUEL GAS
-FLANIGAN BROTHERS				RECEIVED:	08/26/82	JA: PA			
8251314	13375	3703920360		108		EDWARD SPAID #1	WILDCAT	3.5	NATIONAL FUEL GAS
8251315	13376	3703920359		108		EDWARD SPAID #2	WILDCAT	3.5	NATIONAL FUEL GAS
8251313	13374	3703920401		108		EGNAC SILATA #2	CONNEAUTVILLE	7.0	NATIONAL FUEL GAS
8251312	13373	3703920393		108		EGNAT SILATA #1	CONNEAUTVILLE	7.0	NATIONAL FUEL GAS
8251316	13377	3703920358		108		ROBERT WELCHECK #1	WILDCAT	8.0	NATIONAL FUEL GAS
8251317	13378	3703920367		108		ROBERT WELCHECK #2	SEMI-WILDCAT	8.0	NATIONAL FUEL GAS
-FOX OIL & GAS INC				RECEIVED:	08/26/82	JA: PA			
8251728	13389	3706325953		102-4		GEORGE MYERS #1	MONTGOMERY TOWNSHIP	25.5	COLUMBIA GAS TRAN
8251727	13388	3706326245		102-4		M GLOBUN #1	MONTGOMERY TOWNSHIP	25.5	COLUMBIA GAS TRAN
-G & G GAS INC				RECEIVED:	08/26/82	JA: PA			
8251319	9481	3703100000		108		M FACENMYER 424	ALLEGHENY	17.1	APOLLO GAS CO
8251318	9480	3703100000		108		M FACENMYER 702	ALLEGHENY	17.1	APOLLO GAS CO
-J & J ENTERPRISES INC				RECEIVED:	08/26/82	JA: PA			
8251321	13924	3703321204		102-4		J L BROTHERS #2 (177A)	BURNSIDE	0.0	CONSOLIDATED GAS
8251325	13923	3703321204		103		J L BROTHERS #2 (177A)	BURNSIDE	0.0	CONSOLIDATED GAS
8251320	13922	3703321205		102-4		J L BROTHERS #3 (177A)	BURNSIDE	0.0	CONSOLIDATED GAS
8251324	13921	3703321205		103		J L BROTHERS #3 (177A)	BURNSIDE	0.0	CONSOLIDATED GAS
8251323	13692	3703321230		103		R & P COAL CO #16 (33A)	BRADY	0.0	COLUMBIA GAS TRAN
8251322	13332	3703321207		103		THOMAS DUKE #1 (70A)	BURNSIDE	0.0	CONSOLIDATED GAS
-MAC-MAR INC				RECEIVED:	08/26/82	JA: PA			
8251326	13934	3712921886		103		BEN RESSLER #1	BLAIRSVILLE	45.0	PEOPLES NATURAL G
8251327	13935	3706326406		103		ROBERT DIXON #1	BLACK LICK	36.0	COLUMBIA GAS TRAN
-MARYBELLE SINNAMOND				RECEIVED:	08/26/82	JA: PA			
8251693	13927	3700521928		108		KISKI-TWP SPORTSMANS WELL	KISKIMINETAS	0.0	PEOPLES NATURAL G
8251692	13926	3700521975		108		RUPERT WELL	KISKIMINETAS	0.0	PEOPLES NATURAL G
8251695	13929	3700521866		108		SINNAMOND #1	KISKIMINETAS	0.0	PEOPLES NATURAL G
8251694	13928	3700521918		108		SINNAMOND #2	KISKIMINETAS	0.0	PEOPLES NATURAL G
-MERIDIAN EXPLORATION CORP				RECEIVED:	08/26/82	JA: PA			
8251328	13764	3703921336		102-2		L MCDUFF #575-1	CAMBRIDGE SPRINGS	0.0	NATIONAL FUEL GAS
8251334	13768	3703921336		107-TF		L MCDUFF #575-1	CAMBRIDGE SPRINGS	0.0	NATIONAL FUEL GAS
8251330	13766	3703921326		102-2		M COWDEN #571-1	CAMBRIDGE SPRINGS	0.0	NATIONAL FUEL GAS
8251335	13769	3703921326		107-TF		M COWDEN #571-1	CAMBRIDGE SPRINGS	0.0	NATIONAL FUEL GAS
8251329	13765	3703921325		102-2		NOSKO #569-1	CAMBRIDGE SPRINGS	0.0	NATIONAL FUEL GAS
8251333	13767	3703921325		107-TF		NOSKO #569-1	CAMBRIDGE SPRINGS	0.0	NATIONAL FUEL GAS
8251331	14142	3703921324		103		RIVERSIDE INN #577-2	CAMBRIDGE SPRINGS	30.0	NATIONAL FUEL GAS
8251332	11477	3703921324		107-TF		RIVERSIDE INN ENTERPRISES #577-2	CAMBRIDGE SPRINGS	30.0	NATIONAL FUEL GAS
-MID-EAST OIL CO				RECEIVED:	08/26/82	JA: PA			
8251336	11799	3706522163		103		SAMUEL J ISHMAN #4	PUNXSUTAWNEY	15.0	CONSOLIDATED GAS
-MONROE RESOURCES LTD				RECEIVED:	08/26/82	JA: PA			
8251337	13880	3712326998		107-TF		NOAH MILLER #1	SUGAR GROVE	25.0	COLUMBIA GAS TRAN
-NATIONAL FUEL GAS SUPPLY CORP				RECEIVED:	08/26/82	JA: PA			
8251570	13775	3706500000		108		A N STAHLMAN #862	ELDRED TOWNSHIP	0.1	GENERAL SYSTEM PU
8251571	13776	3706500000		108		A N STAHLMAN FARM #861	ELDRED TOWNSHIP	0.1	GENERAL SYSTEM PU
8251539	13726	3705300000		108		ADA S HALSEY #1093	JENKS TOWNSHIP	1.4	GENERAL SYSTEM PU
8251569	13774	3704700000		108		ADAM EBERLY #4350	MILLSTONE TOWNSHIP	0.5	GENERAL SYSTEM PU
8251424	13555	3704700008		108		ALGHY NATIONAL FOR #4308	JONES TOWNSHIP	0.9	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251426	13557	3704700000		108		ALGHY NATIONAL FOR #4353	JONES TOWNSHIP	0.6	GENERAL SYSTEM PU
8251433	13564	3704700000		108		ALLEG NAT FOR #4465	JONES	1.1	GENERAL SYSTEM PU
8251628	13867	3704700000		108		ALLEG NAT FOR #5326	BENZINGER	2.7	GENERAL SYSTEM PU
8251403	13534	3704700000		108		ALLEG NAT FOR 2986	JONES	6.9	GENERAL SYSTEM PU
8251422	13553	3704700000		108		ALLEG NAT FOR 4237	JONES	1.2	GENERAL SYSTEM PU
8251435	13566	3704700000		108		ALLEG NAT FOR 4481	JONES	2.7	GENERAL SYSTEM PU
8251437	13568	3704700000		108		ALLEG NAT FOR 4512	JONES	2.2	GENERAL SYSTEM PU
8251438	13569	3704700000		108		ALLEG NAT FOR 4522	JONES	0.8	GENERAL SYSTEM PU
8251487	13646	3704700000		108		ALLEG NAT FOR 4562	JONES	1.0	GENERAL SYSTEM PU
8251488	13647	3704700000		108		ALLEG NAT FOR 4571	JONES	0.6	GENERAL SYSTEM PU
8251375	13506	3704700000		108		ALLEG NAT FOREST FARM #1189-P	HIGHLAND TOWNSHIP	3.2	GENERAL SYSTEM PU
8251356	13481	3704700000		108		ALLEG NAT FOREST FARM #1190-P	HIGHLAND TOWNSHIP	0.6	GENERAL SYSTEM PU
8251379	13510	3704700000		108		ALLEG NAT FOREST FARM #1262-P	HIGHLAND TOWNSHIP	1.4	GENERAL SYSTEM PU
8251546	13733	3704700000		108		ALLEG NAT'L FOREST #SC243	SPRING CREEK TOWNSHIP	1.3	GENERAL SYSTEM PU
8251545	13732	3704700000		108		ALLEG NAT'L FOREST #SC252	SPRING CREEK TOWNSHIP	1.5	GENERAL SYSTEM PU
8251544	13731	3704700000		108		ALLEG NAT'L FOREST #SC269	SPRING CREEK TOWNSHIP	1.5	GENERAL SYSTEM PU
8251543	13730	3704700000		108		ALLEG NAT'L FOREST #SC275	SPRING CREEK TOWNSHIP	5.6	GENERAL SYSTEM PU
8251548	13735	3704700000		108		ALLEG NAT'L FOREST #SC309	SPRING CREEK TOWNSHIP	1.6	GENERAL SYSTEM PU
8251368	13495	3708300000		108		ALLEG NAT'L FOREST #1441-P	HAMILTON TOWNSHIP	0.8	GENERAL SYSTEM PU
8251367	13494	3708300000		108		ALLEG NAT'L FOREST #1442-P	HAMILTON TOWNSHIP	0.4	GENERAL SYSTEM PU
8251366	13493	3708300000		108		ALLEG NAT'L FOREST #1443-P	HAMILTON TOWNSHIP	0.5	GENERAL SYSTEM PU
8251428	13559	3704700000		108		ALLEG NAT'L FOREST #4381	JONES TOWNSHIP	1.7	GENERAL SYSTEM PU
8251431	13562	3704700000		108		ALLEG NAT'L FOREST #4453	JONES TOWNSHIP	1.3	GENERAL SYSTEM PU
8251434	13565	3704700000		108		ALLEG NAT'L FOREST #4467	JONES TOWNSHIP	1.1	GENERAL SYSTEM PU
8251412	13543	3704700000		108		ALLEG NAT'L FOREST #4665	SPRING CREEK TOWNSHIP	0.3	GENERAL SYSTEM PU
8251567	13772	3704700000		108		ALLEG NAT'L FOREST #4856	MILLSTONE TOWNSHIP	0.1	GENERAL SYSTEM PU
8251430	13561	3704700000		108		ALLEG NATIONAL FOREST	JONES TOWNSHIP	1.3	GENERAL SYSTEM PU
8251423	13554	3704700000		108		ALLEG NATL FOREST #4289	JONES TOWNSHIP	2.9	GENERAL SYSTEM PU
8251427	13558	3704700000		108		ALLEGHENY NAT FOREST FARM #4380	JONES TOWNSHIP	2.9	GENERAL SYSTEM PU
8251429	13560	3704700000		108		ALLEGHENY NAT FOREST FARM #4394	JONES TOWNSHIP	1.3	GENERAL SYSTEM PU
8251521	13708	3704700000		108		ALLEGHENY NAT'L FOREST #1137-P	HIGHLAND TOWNSHIP	1.8	GENERAL SYSTEM PU
8251562	13749	3704700000		108		ALLEGHENY NAT'L FOREST #1145-P	HIGHLAND TOWNSHIP	0.5	GENERAL SYSTEM PU
8251563	13750	3704700000		108		ALLEGHENY NAT'L FOREST #1216-P	HIGHLAND TOWNSHIP	6.9	GENERAL SYSTEM PU
8251558	13745	3704700000		108		ALLEGHENY NAT'L FOREST #1238-P	HIGHLAND TOWNSHIP	1.6	GENERAL SYSTEM PU
8251559	13746	3704700000		108		ALLEGHENY NAT'L FOREST #400-P	HIGHLAND TOWNSHIP	1.7	GENERAL SYSTEM PU
8251592	13830	3704700000		108		ALLEGHENY NATL FOR #1138-P	HIGHLAND TOWNSHIP	1.9	GENERAL SYSTEM PU
8251510	13678	3704700000		108		ANDREW P GLASS #SC76	FOX TOWNSHIP	1.2	GENERAL SYSTEM PU
8251483	13642	3708300000		108		ARMSTRONG FOREST CO #4796	SERGEANT TOWNSHIP	0.8	GENERAL SYSTEM PU
8251489	13548	3708300000		108		ARMSTRONG FOREST CO #4821	SERGEANT TOWNSHIP	1.0	GENERAL SYSTEM PU
8251419	13550	3708300000		108		ARMSTRONG FOREST CO FARM #4878	SERGEANT TOWNSHIP	1.4	GENERAL SYSTEM PU
8251637	13876	3708300000		108		ASSO PRODUCERS CO #4272	WETMORE TOWNSHIP	0.8	GENERAL SYSTEM PU
8251503	13662	3708300000		108		ASSO PRODUCERS CO #4286	WETMORE TOWNSHIP	1.3	GENERAL SYSTEM PU
8251638	13877	3708300000		108		ASSO PRODUCERS INC #4328	WETMORE TOWNSHIP	6.8	GENERAL SYSTEM PU
8251602	13841	3706500000		108		B VERSTINE #3489	WARSAW TOWNSHIP	6.1	GENERAL SYSTEM PU
8251443	13574	3708300000		108		BUFFALO COAL CO #1110	SERGEANT TOWNSHIP	0.6	GENERAL SYSTEM PU
8251469	13628	3704700000		108		BUFFALO COAL CO #1166 P	SPRING CREEK TOWNSHIP	2.3	GENERAL SYSTEM PU
8251441	13572	3708300000		108		BUFFALO COAL CO #1176	SERGEANT TOWNSHIP	0.6	GENERAL SYSTEM PU
8251577	13791	3708300000		108		BUFFALO COAL CO #1269	SERGEANT TOWNSHIP	0.2	GENERAL SYSTEM PU
8251347	13472	3708300000		108		BUFFALO COAL CO #4267	SERGEANT TOWNSHIP	0.7	GENERAL SYSTEM PU
8251634	13873	3708300000		108		BUFFALO COAL CO #4285	SERGEANT TOWNSHIP	0.7	GENERAL SYSTEM PU
8251348	13473	3708300000		108		BUFFALO COAL CO #4322	SERGEANT TOWNSHIP	0.7	GENERAL SYSTEM PU
8251349	13474	3708300000		108		BUFFALO COAL CO #4335	SERGEANT TOWNSHIP	0.6	GENERAL SYSTEM PU
8251482	13641	3708300000		108		BUFFALO COAL CO FARM #1208	SERGEANT TOWNSHIP	0.9	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251578	13792	3708300000		108		BUFFALO COAL CO FARM #1270	SERGEANT TOWNSHIP	0.5	GENERAL SYSTEM PU
8251576	13790	3708300000		108		BUFFALO COAL CO FARM #4245	SERGEANT TOWNSHIP	0.5	GENERAL SYSTEM PU
8251575	13789	3708300000		108		BUFFALO COAL CO FARM #4257	SERGEANT TOWNSHIP	0.7	GENERAL SYSTEM PU
8251583	13797	3708300000		108		BUFFALO OAL CO #1252	SERGEANT TOWNSHIP	1.4	GENERAL SYSTEM PU
8251343	13468	3708300000		108		BUTTERFIELD LANDS #2602	SERGEANT TOWNSHIP	1.9	GENERAL SYSTEM PU
8251355	13480	3708300000		108		BUTTERFIELD LANDS #4361	SERGEANT TOWNSHIP	1.3	GENERAL SYSTEM PU
8251538	13725	3705300000		108		C A CARLSON #1087	JENKS TOWNSHIP	0.4	GENERAL SYSTEM PU
8251425	13556	3704700000		108		C ASP #4327	JONES TOWNSHIP	2.1	GENERAL SYSTEM PU
8251472	13631	3706500000		108		C C GEIST EST #4897	OLIVER TOWNSHIP	1.1	GENERAL SYSTEM PU
8251496	13655	3704700000		108		C J W & E ASP #1370	JONES TOWNSHIP	0.7	GENERAL SYSTEM PU
8251613	13852	3700500000		108		C Y BOWSER #4175	WASHINGTON TOWNSHIP	2.2	GENERAL SYSTEM PU
8251612	13851	3700500000		108		C Y BOWSER #4568	WASHINGTON TOWNSHIP	5.2	GENERAL SYSTEM PU
8251468	13619	3710500000		108		CHARLES DUKE #6166	OSWAYO TOWNSHIP	1.8	GENERAL SYSTEM PU
8251459	13618	3710500000		108		CHARLES DUKE #6168	OSWAYO TOWNSHIP	1.6	GENERAL SYSTEM PU
8251421	13552	3704700000		108		CLAWSON & WHITMORE FARM #3732	JONES TOWNSHIP	0.7	GENERAL SYSTEM PU
8251494	13653	3704700000		108		CLAY-HECKER TRACT #1368	JONES TOWNSHIP	0.6	GENERAL SYSTEM PU
8251495	13654	3704700000		108		CLAY-HECKER TRACT #1369	JONES TOWNSHIP	0.9	GENERAL SYSTEM PU
8251627	13866	3705300000		108		COLLINS PINE CO #5629	HICKORY TOWNSHIP	0.3	GENERAL SYSTEM PU
8251598	13668	3703100000		108		D E MCNAUGHTON #4695	MILLCREEK TOWNSHIP	0.8	GENERAL SYSTEM PU
8251465	13624	3712100000		108		D R MORRISON #55	CRANBERRY TOWNSHIP	0.4	GENERAL SYSTEM PU
8251358	13483	3704700000		108		DAVID EASON ET AL FARM #1077-P	HIGHLAND TOWNSHIP	1.7	GENERAL SYSTEM PU
8251373	13504	3704700000		108		DAVID EASON FARM #278-P	HIGHLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
8251357	13482	3704700000		108		DAVID EASON FARM #819-P	HIGHLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
8251376	13507	3704700000		108		DAVID EASON FARM #908-P	HIGHLAND TOWNSHIP	0.4	GENERAL SYSTEM PU
8251608	13847	3703100000		108		DAVID ROBINSON #5475	MADISON TOWNSHIP	5.0	GENERAL SYSTEM PU
8251557	13744	3705300000		108		DEVONION OIL CO #1811	JENKS TOWNSHIP	1.4	GENERAL SYSTEM PU
8251353	13478	3708300000		108		E D COMES FARM #5229	KEATING TOWNSHIP	1.1	GENERAL SYSTEM PU
8251614	13853	3700500000		108		E L MCMILLIN #2797	WEST FRANKLIN TOWNSHI	1.1	GENERAL SYSTEM PU
8251396	13527	3703900000		108		EDGAR V PHILLIPS #SC-401	SUMMERHILL TOWNSHIP	6.5	GENERAL SYSTEM PU
8251481	13640	3704700000		108		EDWARD B MCKEAN #5272	KEATING TOWNSHIP	1.0	GENERAL SYSTEM PU
8251635	13874	3708300000		108		F A SHELLANDER #4548	SERGEANT TOWNSHIP	0.6	GENERAL SYSTEM PU
8251629	13868	3708300000		108		F GRANTIER #4794	NORWICH TOWNSHIP	1.1	GENERAL SYSTEM PU
8251547	13734	3705300000		108		F H ROOT LANDS #1172	JENKS TOWNSHIP	1.8	GENERAL SYSTEM PU
8251464	13623	3712100000		108		FISHER & HARRINGTON #793	CRANBERRY TOWNSHIP	0.5	GENERAL SYSTEM PU
8251391	13522	3703900000		108		FRED W THORNTON #SC-394	SPRING TOWNSHIP	1.5	GENERAL SYSTEM PU
8251397	13528	3703900000		108		G MACKEY #SC-412	SPRING TOWNSHIP	4.5	GENERAL SYSTEM PU
8251593	13831	3704700000		108		GRANT & HORTON #473-P	RIDGWAY TOWNSHIP	0.6	GENERAL SYSTEM PU
8251369	13500	3704700000		108		GRANT & HORTON #622-P	RIDGWAY TOWNSHIP	0.8	GENERAL SYSTEM PU
8251556	13743	3704700000		108		GRANT & HORTON #715-P	RIDGWAY TOWNSMIP	0.5	GENERAL SYSTEM PU
8251395	13526	3703900000		108		H A GREENFIELD #SC-400	SPRING TOWNSHIP	1.9	GENERAL SYSTEM PU
8251389	13520	3704700000		108		H J JAMES #3700	HIGHLAND TOWNSHIP	0.2	GENERAL SYSTEM PU
8251340	13459	3704700000		108		H J JAMES #4034	HIGHLAND TOWNSHIP	1.8	GENERAL SYSTEM PU
8251339	13458	3704700000		108		H J JAMES #4037	HIGHLAND TOWNSHIP	2.8	GENERAL SYSTEM PU
8251398	13521	3704700000		108		HALL & KAUL #SC-221	BENZINGER TOWNSHIP	3.0	GENERAL SYSTEM PU
8251417	13548	3708334704		108		HALL & KAUL #4691	SERGEANT TOWNSHIP	1.2	GENERAL SYSTEM PU
8251598	13828	3704700000		108		HALL & KAUL FARM #5329	BENZINGER TOWNSHIP	0.7	GENERAL SYSTEM PU
8251475	13634	3708300000		108		HALSEY LANDS #1257	SERGEANT TOWNSHIP	1.1	GENERAL SYSTEM PU
8251474	13633	3708300000		108		HALSEY LANDS FARM #1249	SERGEANT TOWNSHIP	0.9	GENERAL SYSTEM PU
8251399	13530	3703900000		108		HARRY W RANSOM #SC-399	SPRING TOWNSHIP	2.8	GENERAL SYSTEM PU
8251565	13778	3705300000		108		HENRY G CLAY #1224	JENKS TOWNSHIP	0.2	GENERAL SYSTEM PU
8251386	13517	3704700000		108		HENRY G CLAY #1225	JONES TOWNSHIP	1.0	GENERAL SYSTEM PU
8251618	13849	3700500000		108		HERBERT HENDERSHOT #5296	SUGAR CREEK TOWNSHIP	0.9	GENERAL SYSTEM PU
8251609	13848	3700500000		108		HERBERT HENDERSHOT #5298	WASHINGTON TOWNSHIP	0.9	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251410	13541	3703920034	108			HOMER A THORNTON #SC-391	SPRING TOWNSHIP	7.6	GENERAL SYSTEM PU
8251456	13587	3708300000	108			I SCHULTZ FARM #2279	WETMORE TOWNSHIP	0.6	GENERAL SYSTEM PU
8251582	13661	3708300000	108			IRVING SCHULTZ #2259	WETMORE TOWNSHIP	0.9	GENERAL SYSTEM PU
8251457	13588	3708300000	108			IRVING SCHULTZ #2477	WETMORE TOWNSHIP	0.6	GENERAL SYSTEM PU
8251385	13516	3704700000	108			J BROS #1227	HIGHLAND TOWNSHIP	1.0	GENERAL SYSTEM PU
8251463	13622	3712100000	108			J D DOWNING #552	ROCKLAND TOWNSHIP	0.4	GENERAL SYSTEM PU
8251450	13581	3704700000	108			J DAVIS #4042	HIGHLAND TOWNSHIP	0.9	GENERAL SYSTEM PU
8251380	13511	3704700000	108			J DAVIS #4132	HIGHLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
8251451	13582	3704700000	108			J DAVIS ET UX #4023	HIGHLAND TOWNSHIP	1.0	GENERAL SYSTEM PU
8251531	13718	3712300000	108			J M PALMER #1-P	SHEFFIELD TOWNSHIP	0.4	GENERAL SYSTEM PU
8251528	13715	3712300000	108			J M PALMER #19-P	SHEFFIELD TOWNSHIP	1.4	GENERAL SYSTEM PU
8251519	13706	3712300000	108			J M PALMER #902-P	SHEFFIELD TOWNSHIP	0.9	GENERAL SYSTEM PU
8251384	13515	3708300000	108			J M RALPH #2680	SERGEANT TOWNSHIP	2.8	GENERAL SYSTEM PU
8251406	13537	3708300000	108			J M RALPH #2682	SERGEANT TOWNSHIP	6.9	GENERAL SYSTEM PU
8251587	13824	3708300000	108			J M RALPH #4309	SERGEANT TOWNSHIP	8.5	GENERAL SYSTEM PU
8251488	13539	3708300000	108			J M RALPH #4804	SERGEANT TOWNSHIP	0.9	GENERAL SYSTEM PU
8251344	13469	3708300000	108			J M RALPH FARM #2681	SERGEANT TOWNSHIP	0.6	GENERAL SYSTEM PU
8251407	13538	3708300000	108			J M RALPH FARM #2886	SERGEANT TOWNSHIP	1.2	GENERAL SYSTEM PU
8251625	13864	3704700000	108			J K P HALL #5324	BENZINGER TOWNSHIP	1.4	GENERAL SYSTEM PU
8251454	13585	3704700000	108			J L BROWN #1554	JONES TOWNSHIP	5.0	GENERAL SYSTEM PU
8251505	13665	3703100000	108			J M & C M BUZZARD #5556	CLARION TOWNSHIP	0.9	GENERAL SYSTEM PU
8251416	13547	3706500000	108			J M WALLACE #4293	HEATH TOWNSHIP	0.8	GENERAL SYSTEM PU
8251411	13542	3704700000	108			J POWELL FARM #3879	SPRING CREEK TOWNSHIP	0.2	GENERAL SYSTEM PU
8251444	13575	3708300000	108			J S GREVES #1071	SERGEANT TOWNSHIP	0.3	GENERAL SYSTEM PU
8251515	13701	3703100000	108			J W KAHLE #2890	WASHINGTON TOWNSHIP	2.4	GENERAL SYSTEM PU
8251492	13651	3706500000	108			J W SONGER #2915	ELDRED TOWNSHIP	8.2	GENERAL SYSTEM PU
8251511	13671	3704700000	108			JAMES BROTHERS #1229	HIGHLAND TOWNSHIP	1.1	GENERAL SYSTEM PU
8251346	13471	3708300000	108			JAMES KELLEY #3475	NORWICH TOWNSHIP	2.1	GENERAL SYSTEM PU
8251341	13462	3704700000	108			JAMES TRACT #1510	HIGHLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
8251388	13914	3704700000	108			JAMES TRACT #1572	HIGHLAND TOWNSHIP	0.7	GENERAL SYSTEM PU
8251446	13577	3708300000	108			JANE C KELLEY #4855	NORWICH TOWNSHIP	1.0	GENERAL SYSTEM PU
8251445	13576	3708300000	108			JAS H RALPH #1044	SERGEANT TOWNSHIP	2.1	GENERAL SYSTEM PU
8251540	13727	3705300000	108			JAS H RALPH #1104	JENKS TOWNSHIP	0.9	GENERAL SYSTEM PU
8251418	13549	3708340298	108			JAS H RALPH FARM #4865	SERGEANT TOWNSHIP	2.5	GENERAL SYSTEM PU
8251595	13833	3704700000	108			JERRY CRARY #1175-P	SPRING CREEK TOWNSHIP	4.8	GENERAL SYSTEM PU
8251596	13834	3704700000	108			JERRY CRARY #1184-P	SPRING CREEK TOWNSHIP	2.3	GENERAL SYSTEM PU
8251597	13835	3704700000	108			JERRY CRARY #1201-P	SPRING CREEK TOWNSHIP	1.1	GENERAL SYSTEM PU
8251598	13836	3704700000	108			JERRY CRARY #1206-P	SPRING CREEK TOWNSHIP	1.1	GENERAL SYSTEM PU
8251599	13837	3704700000	108			JERRY CRARY #1231-P	SPRING CREEK TOWNSHIP	1.2	GENERAL SYSTEM PU
8251600	13838	3704700000	108			JERRY CRARY #1243-P	SPRING CREEK TOWNSHIP	0.9	GENERAL SYSTEM PU
8251601	13839	3704700000	108			JERRY CRARY #1255-P	SPRING CREEK TOWNSHIP	0.4	GENERAL SYSTEM PU
8251581	13795	3704700000	108			JERRY CRARY #1261-P	SPRING CREEK TOWNSHIP	0.8	GENERAL SYSTEM PU
8251560	13747	3704700000	108			JERRY CRARY #177-P	HIGHLAND TOWNSHIP	1.9	GENERAL SYSTEM PU
8251554	13741	3704700000	108			JERRY CRARY #193-P	SPRING CREEK TOWNSHIP	1.1	GENERAL SYSTEM PU
8251586	13800	3704700000	108			JERRY CRARY #204-P	SPRING CREEK TOWNSHIP	1.6	GENERAL SYSTEM PU
8251549	13736	3704700000	108			JERRY CRARY #399-P	SPRING CREEK TOWNSHIP	0.4	GENERAL SYSTEM PU
8251584	13798	3704700000	108			JERRY CRARY #422-P	SPRING CREEK TOWNSHIP	0.7	GENERAL SYSTEM PU
8251579	13793	3704700000	108			JERRY CRARY #453-P	SPRING CREEK TOWNSHIP	0.5	GENERAL SYSTEM PU
8251550	13737	3704700000	108			JERRY CRARY #476-P	SPRING CREEK TOWNSHIP	0.7	GENERAL SYSTEM PU
8251561	13748	3704700000	108			JERRY CRARY #477-P	HIGHLAND TOWNSHIP	1.5	GENERAL SYSTEM PU
8251580	13794	3704700000	108			JERRY CRARY #478-P	SPRING CREEK TOWNSHIP	2.3	GENERAL SYSTEM PU
8251551	13738	3704700000	108			JERRY CRARY #502-P	SPRING CREEK TOWNSHIP	3.0	GENERAL SYSTEM PU
8251552	13739	3704700000	108			JERRY CRARY #526-P	SPRING CREEK TOWNSHIP	1.4	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251527	13714	3704700000		108		JERRY CRARY #606-P	HIGHLAND TOWNSHIP	1.5	GENERAL SYSTEM PU
8251553	13740	3704700000		108		JERRY CRARY #607-P	SPRING CREEK TOWNSHIP	0.9	GENERAL SYSTEM PU
8251466	13625	3704700000		108		JERRY CRARY #920-P	SPRING CREEK TOWNSHIP	1.4	GENERAL SYSTEM PU
8251467	13626	3704700000		108		JERRY CRARY #994-P	SPRING CREEK TOWNSHIP	0.8	GENERAL SYSTEM PU
8251468	13627	3704700000		108		JERRY CRARY #997-P	SPRING CREEK TOWNSHIP	1.5	GENERAL SYSTEM PU
8251470	13629	3704700000		108		JERRY CRARY ET AL #1170-P	SPRING CREEK TOWNSHIP	2.0	GENERAL SYSTEM PU
8251500	13659	3704700000		108		JOHN BURT #1393	JONES TOWNSHIP	2.1	GENERAL SYSTEM PU
8251394	13525	3703900000		108		JOHN F POST #SC-387	BEAVER TOWNSHIP	2.6	GENERAL SYSTEM PU
8251585	13799	3700500000		108		JOHN MCNUTT #4657	SUGAR CREEK TOWNSHIP	0.8	GENERAL SYSTEM PU
8251448	13579	3708300000		108		JOHN MULVIHILL #2874	NORWICH TOWNSHIP	0.9	GENERAL SYSTEM PU
8251354	13479	3708300000		108		JOHN P TYLER FARM #5256	KEATING TOWNSHIP	2.0	GENERAL SYSTEM PU
8251616	13855	3704700000		108		JOSHUA DAVIS #1493	HIGHLAND TOWNSHIP	1.4	GENERAL SYSTEM PU
8251452	13583	3704700000		108		JOSHUA DAVIS #3971	HIGHLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
8251623	13862	3704700000		108		KAUL & HALL #5317	BENZINGER TOWNSHIP	1.7	GENERAL SYSTEM PU
8251624	13863	3704700000		108		KAUL & HALL #5322	BENZINGER TOWNSHIP	0.7	GENERAL SYSTEM PU
8251626	13865	3704700000		108		KAUL & HALL #5328	BENZINGER TOWNSHIP	0.4	GENERAL SYSTEM PU
8251447	13578	3708300000		108		KELLEY BARD VANATTA #3796	NORWICH TOWNSHIP	0.9	GENERAL SYSTEM PU
8251462	13621	3712100000		108		KOCH HEIRS #543	ROCKLAND TOWNSHIP	0.6	GENERAL SYSTEM PU
8251442	13573	3708300000		108		L BAYER #1127	SERGEANT TOWNSHIP	1.1	GENERAL SYSTEM PU
8251542	13729	3705300000		108		L BAYER #1174	JENKS TOWNSHIP	1.6	GENERAL SYSTEM PU
8251440	13571	3708300000		108		L BAYER FARM #1194	SERGEANT TOWNSHIP	0.9	GENERAL SYSTEM PU
8251489	13648	3705300000		108		L S WOLF #2324	KINGSLEY TOWNSHIP	0.8	GENERAL SYSTEM PU
8251490	13649	3705300000		108		L S WOLF #2326	KINGSLEY TOWNSHIP	1.2	GENERAL SYSTEM PU
8251633	13872	3708300000		108		LAWRENCE BAYER #2889	SERGEANT TOWNSHIP	0.4	GENERAL SYSTEM PU
8251615	13854	3712100000		108		LLOYD OIL CO #4307	ROCKLAND TOWNSHIP	0.3	GENERAL SYSTEM PU
8251514	13699	3712100000		108		M & A W OWENS #3136	PINEGROVE TOWNSHIP	0.3	GENERAL SYSTEM PU
8251621	13860	3704700000		108		M E CARTWRIGHT #5318	RIDGWAY TOWNSHIP	1.0	GENERAL SYSTEM PU
8251622	13861	3704700000		108		M E CARTWRIGHT #5319	RIDGWAY TOWNSHIP	0.8	GENERAL SYSTEM PU
8251506	13666	3703100000		108		M RULOFSON CO #2734	MILLCREEK TOWNSHIP	0.5	GENERAL SYSTEM PU
8251611	13850	3703100000		108		M RUMBAUGH #4619	MADISON TOWNSHIP	1.3	GENERAL SYSTEM PU
8251350	13475	3708300000		108		M S COMES #4633	NORWICH TOWNSHIP	0.6	GENERAL SYSTEM PU
8251512	13672	3704700000		108		MARS CO #4406	HIGHLAND TOWNSHIP	1.5	GENERAL SYSTEM PU
8251455	13586	3704700000		108		MARY M POTTS #1561	JONES TOWNSHIP	1.8	GENERAL SYSTEM PU
8251484	13643	3704700000		108		MARY M POTTS FARM #2752	JONES TOWNSHIP	0.9	GENERAL SYSTEM PU
8251383	13514	3704700000		108		MARY M POTTS FARM #2778	JONES TOWNSHIP	3.2	GENERAL SYSTEM PU
8251382	13513	3704700000		108		MARY M POTTS FARM #2829	JONES TOWNSHIP	1.3	GENERAL SYSTEM PU
8251402	13533	3704700000		108		MARY M POTTS FARM #2855	JONES TOWNSHIP	1.9	GENERAL SYSTEM PU
8251439	13570	3704700000		108		MARY M POTTS FARM #4526	JONES TOWNSHIP	1.7	GENERAL SYSTEM PU
8251453	13584	3704700000		108		MCKEAN CHEMICAL CO #1529	JONES TOWNSHIP	1.4	GENERAL SYSTEM PU
8251497	13656	3704700000		108		MFG GAS CO 1377	JONES	8.8	GENERAL SYSTEM PU
8251436	13567	3704700000		108		MIKE LORENZO #4501	JONES TOWNSHIP	2.3	GENERAL SYSTEM PU
8251620	13859	3704700000		108		MORGAN E CARTWRIGHT #5313	RIDGWAY TOWNSHIP	0.6	GENERAL SYSTEM PU
8251491	13650	3705300000		108		N P WHEELER #3095	HICKORY TOWNSHIP	0.4	GENERAL SYSTEM PU
8251619	13858	3704700000		108		NORMAN SCHULTZ #5308	RIDGWAY TOWNSHIP	0.5	GENERAL SYSTEM PU
8251589	13826	3704700000		108		NORMAN SCHULTZ #5415	RIDGWAY TOWNSHIP	1.0	GENERAL SYSTEM PU
8251588	13825	3704700000		108		NORMAN SCHULTZ #5428	RIDGWAY TOWNSHIP	1.3	GENERAL SYSTEM PU
8251345	13470	3708300000		108		NORTH PIPE CO #3450	NORWICH TOWNSHIP	1.4	GENERAL SYSTEM PU
8251537	13724	3704700000		108		O B GRANT #296-P	HIGHLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
8251516	13703	3704700000		108		O B GRANT #613-P	RIDGWAY TOWNSHIP	0.9	GENERAL SYSTEM PU
8251378	13501	3704700000		108		O B GRANT ET AL FARM #759-P	HIGHLAND TOWNSHIP	5.3	GENERAL SYSTEM PU
8251535	13722	3704700000		108		O W PROPER #1099-P	HIGHLAND TOWNSHIP	1.1	GENERAL SYSTEM PU
8251517	13704	3704700000		108		O W PROPER #1114-P	HIGHLAND TOWNSHIP	1.0	GENERAL SYSTEM PU
8251555	13742	3704700000		108		O W PROPER #272-P	HIGHLAND TOWNSHIP	8.5	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251525	13712	3704700000		108		O W PROPER #440-P	HIGHLAND TOWNSHIP	2.2	GENERAL SYSTEM PU
8251536	13723	3704700000		108		O W PROPER #540-P	HIGHLAND TOWNSHIP	4.4	GENERAL SYSTEM PU
8251518	13705	3704700000		108		O W PROPER #768-P	HIGHLAND TOWNSHIP	0.4	GENERAL SYSTEM PU
8251532	13719	3704700000		108		O W PROPER #936-P	HIGHLAND TOWNSHIP	1.3	GENERAL SYSTEM PU
8251363	13488	3704700000		108		O W PROPER FARM #635-P	HIGHLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
8251359	13484	3704700000		108		O W PROPER FARM #822-P	HIGHLAND TOWNSHIP	1.8	GENERAL SYSTEM PU
8251365	13490	3704700000		108		O W PROPER FARM #952-P	HIGHLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
8251504	13663	3704700000		108		O W PROPER FARM #992-P	HIGHLAND TOWNSHIP	1.4	GENERAL SYSTEM PU
8251351	13476	3708300000		108		OTIS IRONS FARM #5204	KEATING TOWNSHIP	1.5	GENERAL SYSTEM PU
8251352	13477	3708300000		108		OTIS IRONS FARM #5206	KEATING TOWNSHIP	0.6	GENERAL SYSTEM PU
8251686	13875	3708300000		108		OTTO CHEMICAL CO #1030	WETMORE TOWNSHIP	1.0	GENERAL SYSTEM PU
8251485	13644	3704700000		108		OTTO CHEMICAL CO #4538	JONES TOWNSHIP	1.6	GENERAL SYSTEM PU
8251420	13551	3704700000		108		P & KAROLINE ANDERSON #3645	JONES TOWNSHIP	1.6	GENERAL SYSTEM PU
8251387	13518	3704700000		108		P SALTER #1144	HIGHLAND TOWNSHIP	1.1	GENERAL SYSTEM PU
8251573	13778	3704700000		108		PA STATE GAME LANDS #SC273	SPRING CREEK TOWNSHIP	0.9	GENERAL SYSTEM PU
8251574	13779	3704700000		108		PA STATE GAME LANDS #SC294	SPRING CREEK TOWNSHIP	2.3	GENERAL SYSTEM PU
8251564	13751	3704700000		108		PA STATE GAME LANDS #1171-P	HIGHLAND TOWNSHIP	2.7	GENERAL SYSTEM PU
8251413	13544	3704700000		108		PA STATE GAME LANDS #4723	SPRING CREEK TOWNSHIP	7.9	GENERAL SYSTEM PU
8251618	13857	3704700000		108		PA STATE GAME LANDS #5078	RIDGWAY TOWNSHIP	8.6	GENERAL SYSTEM PU
8251630	13869	3704700000		108		PA STATE GAME LANDS #5085	RIDGWAY TOWNSHIP	1.8	GENERAL SYSTEM PU
8251631	13870	3704700000		108		PA STATE GAME LANDS #5086	RIDGWAY TOWNSHIP	1.1	GENERAL SYSTEM PU
8251632	13871	3704700000		108		PA STATE GAME LANDS #5179	RIDGWAY TOWNSHIP	0.9	GENERAL SYSTEM PU
8251362	13487	3704700000		108		PA STATE GAME LANDS FARM #1140-P	HIGHLAND TOWNSHIP	0.5	GENERAL SYSTEM PU
8251361	13486	3704700000		108		PA STATE GAME LANDS FARM #1141-P	HIGHLAND TOWNSHIP	0.4	GENERAL SYSTEM PU
8251377	13508	3704700000		108		PA STATE GAME LANDS FARM #1165-P	HIGHLAND TOWNSHIP	1.7	GENERAL SYSTEM PU
8251364	13489	3704700000		108		PA STATE GAME LANDS FARM #1179-P	HIGHLAND TOWNSHIP	0.4	GENERAL SYSTEM PU
8251414	13545	3704700000		108		PA STATE GAME LANDS FARM #4867	SPRING CREEK TOWNSHIP	4.6	GENERAL SYSTEM PU
8251415	13546	3704700000		108		PA STATE GAME LANDS FARM #4877	SPRING CREEK TOWNSHIP	1.9	GENERAL SYSTEM PU
8251509	13669	3704700000		108		PHILIP WEHLER #SC72	BENZINGER TOWNSHIP	0.9	GENERAL SYSTEM PU
8251572	13777	3704700000		108		PORTLAND O & G CO #SC249	SPRING CREEK TOWNSHIP	1.0	GENERAL SYSTEM PU
8251498	13657	3704700000		108		POTTS FARM #1379	JONES TOWNSHIP	1.2	GENERAL SYSTEM PU
8251499	13658	3704700000		108		POTTS FARM #1382	JONES TOWNSHIP	3.5	GENERAL SYSTEM PU
8251432	13563	3704700000		108		POTTS TRACT #4460	JONES TOWNSHIP	3.2	GENERAL SYSTEM PU
8251560	13773	3704700000		108		POWELL #5742	MILLSTONE TOWNSHIP	1.8	GENERAL SYSTEM PU
8251480	13639	3704700000		108		RALPH #1360	JONES TOWNSHIP	0.6	GENERAL SYSTEM PU
8251476	13635	3704700000		108		RALPH FARM #1316	JONES TOWNSHIP	2.5	GENERAL SYSTEM PU
8251477	13636	3704700000		108		RALPH TRACT #1334	JONES TOWNSHIP	1.7	GENERAL SYSTEM PU
8251581	13660	3704700000		108		RALPH TRACT FARM #1522	JONES TOWNSHIP	1.1	GENERAL SYSTEM PU
8251591	13829	3700500000		108		ROBERT H MCCLATCHEY #2808	WASHINGTON TOWNSHIP	3.5	GENERAL SYSTEM PU
8251541	13728	3705300000		108		ROBERT OSGOOD #1160	JENKS TOWNSHIP	2.3	GENERAL SYSTEM PU
8251392	13523	3703900000		108		ROSCOE WATSON #SC-392	SPRING TOWNSHIP	1.5	GENERAL SYSTEM PU
8251393	13524	3703900000		108		S A SAUNDERS #SC-389	SPRING TOWNSHIP	1.9	GENERAL SYSTEM PU
8251493	13652	3706500000		108		S D OAKS #3190	ELDRED TOWNSHIP	0.9	GENERAL SYSTEM PU
8251473	13632	3708300000		108		S HEEBNER FARM #1059	SERGEANT TOWNSHIP	2.6	GENERAL SYSTEM PU
8251507	13667	3703100000		108		S M OLIVER #3934	MILLCREEK TOWNSHIP	0.3	GENERAL SYSTEM PU
8251513	13698	3712100000		108		S POWELL EST #2514	PINEGROVE TOWNSHIP	6.6	GENERAL SYSTEM PU
8251461	13620	3712100000		108		SAMUEL POWELL #721	PINEGROVE TOWNSHIP	0.5	GENERAL SYSTEM PU
8251606	13845	3708300000		108		SAMUEL Y HEEBNER #1258	SERGEANT TOWNSHIP	3.0	GENERAL SYSTEM PU
8251566	13771	3705300000		108		SCHULTZ #1338	JENKS TOWNSHIP	0.8	GENERAL SYSTEM PU
8251449	13580	3708300000		108		SHELANDER & SWANSON #1282	SERGEANT TOWNSHIP	0.7	GENERAL SYSTEM PU
8251605	13844	3704700000		108		SIMPSON TRACT #1322	JONES TOWNSHIP	0.6	GENERAL SYSTEM PU
8251458	13589	3704700000		108		T B SIMPSON #2483	JONES TOWNSHIP	1.3	GENERAL SYSTEM PU
8251480	13531	3704700000		108		T B SIMPSON #2580	JONES TOWNSHIP	1.0	GENERAL SYSTEM PU

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JD NO	DA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8251533	13720	3704700000		108		T E TACK #181-P
8251534	13721	3704700000		108		T E TACK #553-P
8251524	13711	3704700000		108		T E TACK #582-P
8251582	13709	3704700000		108		T E TACK #697-P
8251583	13710	3704700000		108		T E TACK #821-P
8251526	13713	3704700000		108		T E TACK #98-P
8251374	13505	3704700000		108		T E TACK ET AL FARM #795-P
8251371	13502	3704700000		108		T E TACK ET UX FARM 1084-P
8251360	13485	3704700000		108		T E TACK FARM #639-P
8251378	13509	3704700000		108		T E TACK FARM #927-P
8251372	13503	3704700000		108		T E TACK FARM 313-P
8251338	12694	3706500000		108		T T ROSS #4216
8251471	13630	3706500000		108		TWILA HOFFMAN #4895
8251594	13832	3704700000		108		VAN ORSDALL #SC118
8251398	13529	3703900000		108		W BIRTIKIDIS #SC-413
8251617	13856	3704700000		108		W CLYDE #2033
8251405	13536	3704700000		108		W M & G M POTTS FARM #3140
8251530	13717	3712300000		108		WEBB HORTON #17-P
8251529	13716	3712300000		108		WEBB HORTON #18-P
8251520	13707	3712300000		108		WEBB HORTON #20-P
8251401	13532	3704700000		108		WILLIAM POTTS FARM #2775
8251478	13637	3704700000		108		WM M & G M POTTS FARM #1342
8251479	13638	3704700000		108		WM M & G M POTTS FARM #1343
8251381	13512	3704700000		108		WM M & G M POTTS FARM #2964
8251603	13842	3704700000		108		WM M & GM POTTS #1362
8251404	13535	3704700000		108		WM M POTTS FARM #2930
8251486	13645	3704700000		108		WM M POTTS FARM #4555
8251604	13843	3704700000		108		WM POTTS #1353
8251607	13846	3703100000		108		WM SLAUGENHOFF #5485
8251342	13461	3708300000		108		WM SWANSON FARM #1289
8251582	13796	3704700000		108		WRIGHT & CRARY #1273-P
		RECEIVED: 08/26/82 JA: PA				
-NEA CROSS CO						
8251640	11949	3704921825		107-TF		RICHARD P HARRINGTON #1
8251639	11945	3704921700		107-TF		ROSCOE MITCHELL #1
		RECEIVED: 08/26/82 JA: PA				
-PHILLIPS PRODUCTION CO						
8251644	13781	3706326795		103		BARBARA ANN ANDERSON #1
8251643	13780	3703321137		103		CURTIS J BARRETT #1
8251642	13762	3702120116		103		E V RUMMELL #1
8251641	13943	3702120130		102-2		HENRY CARPINELLO #1
8251645	13936	3706326734		103		HOPE HEBERT #1
8251646	13937	3706326735		103		HOPE HEBERT #1
		RECEIVED: 08/26/82 JA: PA				
-REX-HIDE REALTY INC						
8251691	13942	3712922028		103		AGNES S CAVANAUGH #1
8251689	13763	3712922017		103		LOGAN D BRANTHOOVER #1
8251690	13941	3706326796		103		RALPH D CRUSAN #1
		RECEIVED: 08/26/82 JA: PA				
-T W PHILLIPS GAS & OIL CO						
8251652	13685	3706320809		108		A CLYDE LOUMAN #1
8251681	13907	3700520537		108		ADAM L ROWE #1
8251687	13913	3706521271		108		B F SHAFFER #1
8251673	13893	3706520259		108		B H FULTON #2
8251666	13892	3706520222		108		C C CAMPBELL #1
8251672	13898	3706320927		108		CLARK B MCLAUGHLIN #1
8251678	13896	3706520187		108		D M STRAITWELL #2

FIELD NAME	PROD	PURCHASER
HIGHLAND TOWNSHIP	0.6	GENERAL SYSTEM PU
HIGHLAND TOWNSHIP	1.3	GENERAL SYSTEM PU
HIGHLAND TOWNSHIP	1.1	GENERAL SYSTEM PU
HIGHLAND TOWNSHIP	0.7	GENERAL SYSTEM PU
HIGHLAND TOWNSHIP	1.1	GENERAL SYSTEM PU
HIGHLAND TOWNSHIP	1.2	GENERAL SYSTEM PU
HIGHLAND TOWNSHIP	0.5	GENERAL SYSTEM PU
HIGHLAND TOWNSHIP	2.3	GENERAL SYSTEM PU
HIGHLAND TOWNSHIP	0.2	GENERAL SYSTEM PU
HIGHLAND TOWNSHIP	0.5	GENERAL SYSTEM PU
HIGHLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
ELDRED TOWNSHIP	0.2	GENERAL SYSTEM PU
OLIVER TOWNSHIP	2.0	GENERAL SYSTEM PU
RIDGWAY TOWNSHIP	3.0	GENERAL SYSTEM PU
SPRING TOWNSHIP	5.4	GENERAL SYSTEM PU
MILLSTONE TOWNSHIP	0.6	GENERAL SYSTEM PU
JONES TOWNSHIP	3.1	GENERAL SYSTEM PU
SHEFFIELD TOWNSHIP	0.7	GENERAL SYSTEM PU
SHEFFIELD TOWNSHIP	1.0	GENERAL SYSTEM PU
SHEFFIELD TOWNSHIP	0.5	GENERAL SYSTEM PU
JONES TOWNSHIP	0.8	GENERAL SYSTEM PU
JONES TOWNSHIP	1.1	GENERAL SYSTEM PU
JONES TOWNSHIP	1.9	GENERAL SYSTEM PU
JONES TOWNSHIP	3.0	GENERAL SYSTEM PU
JONES TOWNSHIP	3.4	GENERAL SYSTEM PU
JONES TOWNSHIP	1.8	GENERAL SYSTEM PU
JONES TOWNSHIP	0.9	GENERAL SYSTEM PU
JONES TOWNSHIP	4.3	GENERAL SYSTEM PU
MADISON TOWNSHIP	1.9	GENERAL SYSTEM PU
HAMLIN TOWNSHIP	0.6	GENERAL SYSTEM PU
SPRING CREEK TOWNSHIP	0.5	GENERAL SYSTEM PU
UN-NAMED	15.0	NATIONAL FUEL GAS
UN-NAMED	15.0	NATIONAL FUEL GAS
GREEN	25.0	
GREENWOOD	35.0	
SUSQUEHANNA	25.0	
SUSQUEHANNA	35.0	
MONTGOMERY	25.0	
MONTGOMERY	25.0	
SALEM	25.0	
SALEM	70.0	
CONEMAUGH	45.0	
CONEMAUGH	2.5	T W PHILLIPS GAS
REDBANK	8.2	T W PHILLIPS GAS
PORTER	4.1	T W PHILLIPS GAS
PORTER	1.8	T W PHILLIPS GAS
YOUNG	5.0	T W PHILLIPS GAS
BANKS	4.9	T W PHILLIPS GAS
MCCALMONT	4.0	T W PHILLIPS GAS

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251660	13886	3700521673		108		E DEWITT & BERNICE E MARTIN #1	BOGGS	4.9	T W PHILLIPS GAS
8251678	13904	3706520722		108		ELMER MARSH #3	PORTER	3.6	T W PHILLIPS GAS
8251675	13901	3706321253		108		FRANK WILLIAMSON #3	WEST MAHONING	4.8	T W PHILLIPS GAS
8251648	13681	3706320102		108		FRED MUSSER #2	CONEMAUGH	1.4	T W PHILLIPS GAS
8251671	13897	3706520528		108		G L MITCHELL #1	PERRY	7.4	T W PHILLIPS GAS
8251656	13689	3706320021		108		GEORGE W UNCAPHER #4	ARMSTRONG	0.0	T W PHILLIPS GAS
8251667	13893	3700521643		108		HELVATIA COAL MINING CO #1	PLUMCREEK	10.9	T W PHILLIPS GAS
8251682	13908	3700520897		108		HELVATIA COAL MINING CO #3	COWANSHANNOCK	4.3	T W PHILLIPS GAS
8251659	13885	3700520232		108		HELVATIA COAL MINING CO #5	COWANSHANNOCK	3.2	T W PHILLIPS GAS
8251674	13900	3700521888		108		HELVETIA COAL MINING CO #2	COWANSHANNOCK	5.7	T W PHILLIPS GAS
8251655	13688	3706321605		108		HELVETIA COAL MINING CO #6	CONEMAUGH	1.8	T W PHILLIPS GAS
8251661	13887	3700520721		108		J H DUNMIRE #2	PLUMCREEK	2.9	T W PHILLIPS GAS
8251683	13909	3706320507		108		J K HEITZENRATER #1	NORTH MAHONING	3.4	T W PHILLIPS GAS
8251688	13914	3706320750		108		J K HEITZENRATER #2	NORTH MAHONING	2.8	T W PHILLIPS GAS
8251650	13683	3706320839		108		J VINCENT CAMPBELL #1	BLACKLICK	2.7	T W PHILLIPS GAS
8251680	13906	3706320557		108		JENNIE M GAMBLE #1	NORTH MAHONING	5.5	T W PHILLIPS GAS
8251651	13684	3706321333		108		JOHN A GEORGE #1	CENTER	6.2	T W PHILLIPS GAS
8251647	13680	3706320621		108		MUSSER FORESTS INC #1	CONEMAUGH	0.8	T W PHILLIPS GAS
8251664	13890	3700520551		108		ROCHESTER & PITTSBURGH COAL CO #1	COWANSHANNOCK	6.1	T W PHILLIPS GAS
8251668	13894	3700520351		108		ROCHESTER & PITTSBURGH COAL CO #1	COWANSHANNOCK	4.7	T W PHILLIPS GAS
8251663	13889	3700520295		108		ROCHESTER & PITTSBURGH COAL CO #2	COWANSHANNOCK	0.7	T W PHILLIPS GAS
8251657	13690	3706320238		108		ROCHESTER & PITTSBURGH COAL CO #4	CENTER	3.3	T W PHILLIPS GAS
8251665	13891	3706520277		108		ROCHESTER & PITTSBURGH COAL CO #6	WINSLOW	1.1	T W PHILLIPS GAS
8251669	13895	3700521714		108		ROCHESTER & PITTSBURGH COAL CO#2	COWANSHANNOCK	12.8	T W PHILLIPS GAS
8251662	13888	3700520331		108		ROCHESTER AND PITTSBURGH COAL #3	COWANSHANNOCK	3.3	T W PHILLIPS GAS
8251686	13912	3706320725		108		S J HEITZENRATER #1	NORTH MAHONING	2.1	T W PHILLIPS GAS
8251684	13910	3706320835		108		S J HEITZENRATER #3	NORTH MAHONING	8.5	T W PHILLIPS GAS
8251685	13911	3706320367		108		S T GAUL #1	WEST MAHONING	3.2	T W PHILLIPS GAS
8251649	13682	3712920512		108		SAM H LYONS #2	LOYALHANNA	4.7	T W PHILLIPS GAS
8251677	13903	3706320766		108		SAMUEL FOOSE #1	NORTH MAHONING	5.7	T W PHILLIPS GAS
8251679	13905	3706320855		108		SAMUEL FOOSE #3	NORTH MAHONING	3.6	T W PHILLIPS GAS
8251653	13686	3706320103		108		W B MCGINLEY #2	CONEMAUGH	5.8	T W PHILLIPS GAS
8251654	13687	3706320167		108		W B MCGINLEY #3	CONEMAUGH	0.0	T W PHILLIPS GAS
8251676	13902	3706520204		108		WALTER D POWELL #1	PORTER	3.0	T W PHILLIPS GAS
8251658	13691	3706212680		108		WESTMORELAND MINING COMPANY #1	CONEMAUGH	5.3	T W PHILLIPS GAS
-TURM OIL INC				RECEIVED:	08/26/82	JA: PA			
8251696	13968	3700522550		103		MORRIS B & SYLVIA J KIRSHENBAUM #1	RURAL VALLEY	40.0	T W PHILLIPS GAS
-US ENERGY DEVELOPMENT CORP				RECEIVED:	08/26/82	JA: PA			
8251697	13788	3712330560		102-2		F SAVKO #2	COLUMBUS	20.0	COLUMBIA GAS TRAN
8251699	13787	3712330560		107-TF		F SAVKO #2	COLUMBUS	20.0	COLUMBIA GAS TRAN
8251698	13881	3712330561		102-2		F SAVKO #3	COLUMBUS	20.0	COLUMBIA GAS TRAN
8251700	13882	3712330561		107-TF		F SAVKO #3	COLUMBUS	20.0	COLUMBIA GAS TRAN
-VICTORY DEVELOPMENT CO				RECEIVED:	08/26/82	JA: PA			
8251711	13758	3703321253		102-2		BOBAL #1 CLE-21253	BURNSIDE	36.0	COLUMBIA GAS TRAN
8251712	13759	3703321254		102-2		BOBAL #2 CLE-21254	BURNSIDE	36.0	COLUMBIA GAS TRAN
8251710	13757	3703321154		102-2		BOYCE #5 CLE-21154	BURNSIDE	36.0	COLUMBIA GAS TRAN
8251709	13756	3703321197		102-2		CHERRY LANE FARMS #1 CLE-21197	BURNSIDE	36.0	COLUMBIA GAS TRAN
8251708	13755	3703321163		102-2		ENAMA #1 CLE-21163	BURNSIDE	36.0	COLUMBIA GAS TRAN
8251714	13761	3703321282		102-2		H HARKLEROAD #4 CLE-21282	BURNSIDE	36.0	COLUMBIA GAS TRAN
8251713	13760	3703321279		102-2		H HARKLEROAD#1 CLE-21279	BURNSIDE	36.0	COLUMBIA GAS TRAN
8251707	13754	3703321182		102-2		MCKEE #1 CLE-21182	BURNSIDE	36.0	COLUMBIA GAS TRAN
8251706	13753	3703321150		102-2		MILCHAK #2 (U) CLE-21150	BURNSIDE	36.0	COLUMBIA GAS TRAN
8251701	13347	3703321125		102-2		MILCHAK #3 (L) CLE-21125	BURNSIDE	36.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251702	13348	3703321160		102-2		MILCHAK #4 (L) CLE-21160	BURNSIDE	36.0	COLUMBIA GAS TRAN
8251703	13349	3702120109		102-2		PIERCE #1 CBA-20109	ELDER	36.0	COLUMBIA GAS TRAN
8251704	13350	3702120108		102-2		PIERCE #4 CBA-20108	ELDER	36.0	COLUMBIA GAS TRAN
8251705	13351	3703321126		102-2		WETSCHLER #1 CLE-21126	BURNSIDE	36.0	COLUMBIA GAS TRAN
-VINEYARD OIL & GAS CO				RECEIVED:	08/26/82	JA: PA			
8251715	11266	3704921716		102-2		ROWLAND #2	LEBOEUF	24.0	COLUMBIA GAS TRAN
8251716	11267	3704921716		107-TF		ROWLAND #2	LEBOEUF	24.0	COLUMBIA GAS TRAN
-WAINOCO OIL & GAS CO				RECEIVED:	08/26/82	JA: PA			
8251726	12128	3703921432		107-TF		CHARLES M BRUCKNER #1 (W-124)	ATHENS (ROME)	0.0	COLUMBIA GAS TRAN
8251717	11039	3703921143		102-2		CHARLOTTE CORNISH #1 (W-111)	ATHENS (BLOOMFIELD)	21.0	COLUMBIA GAS TRAN
8251721	11040	3703921143		107-TF		CHARLOTTE CORNISH #1 (W-111)	ATHENS (BLOOMFIELD)	21.0	COLUMBIA GAS TRAN
8251720	11134	3703900800		102-2		ERNEST B SHREVE #2 (W-112)	ATHENS (BLOOMFIELD)	18.0	COLUMBIA GAS TRAN
8251724	11135	3703921142		107-TF		ERNEST B SHREVE #2 (W-112)	ATHENS (BLOOMFIELD)	18.0	COLUMBIA GAS TRAN
8251725	12124	3703921406		107-TF		GEORGE M STEWART #1 (W-121)	ATHENS (ROME)	0.0	COLUMBIA GAS TRAN
8251718	11041	3703921136		102-2		JAMES L BURGESS #1 (W-105)	ATHENS (BLOOMFIELD)	90.0	COLUMBIA GAS TRAN
8251722	11042	3703921136		107-TF		JAMES L BURGESS #1 (W-105)	ATHENS (BLOOMFIELD)	90.0	COLUMBIA GAS TRAN
8251723	11132	3703921144		107-TF		NEIL E PARKIN #1 (W-113)	ATHENS (BLOOMFIELD)	37.5	COLUMBIA GAS TRAN
8251719	11131	3703921144		102-2		NEIL PARKIN #1 (W-113)	ATHENS (BLOOMFIELD)	18.5	COLUMBIA GAS TRAN

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 10 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Categories within each NGPA sections are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1,000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26009 Filed 9-21-82; 8:45 am]
BILLING CODE 6717-01-M

[Volume 735]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 15, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KENTUCKY DEPARTMENT OF MINES & MINERALS									
-INLAND GAS CO INC			RECEIVED:	08/27/82	JA: KY				
8251813	502644	1611900000	107-DV			BILL CORNETT 262	BIG SANDY	5.6	
8251808	502639	1611900000	107-DV			D H TOLLIVER 292	BIG SANDY	18.4	
8251831	502662	1611900000	107-DV			DAN CORNETT 258	BIG SANDY	4.8	
8251828	502659	1611900000	107-DV			ELIZA NICKLES 250	BIG SANDY	2.7	
8251821	502652	1611900000	107-DV			GREEN SLONE 119	BIG SANDY	13.0	
8251825	502656	1611900000	107-DV			GREEN SLONE 149	BIG SANDY	13.0	
8251810	502641	1611900000	107-DV			H H SMITH 275	BIG SANDY	18.6	
8251809	502640	1619500000	107-DV			HELEN LESLIE 126	BIG SANDY	29.1	
8251822	502653	1607100000	107-DV			J C HOPKINS 122	BIG SANDY	9.1	
8251823	502654	1607100000	107-DV			J C HOPKINS 123	BIG SANDY	9.1	
8251824	502655	1607100000	107-DV			J C HOPKINS 125	BIG SANDY	9.1	
8251829	502660	1615300000	107-DV			J H HAMMONS 251	BIG SANDY	4.9	
8251820	502651	1615300000	107-DV			J M WHITAKER 118	BIG SANDY	10.1	
8251814	502645	1611900000	107-DV			J W & SUSAN CORNETT 269	BIG SANDY	6.4	
8251816	502647	1607100000	107-DV			JAMES PITTS 95	BIG SANDY	4.3	
8251830	502661	1611900000	107-DV			JENKINS CO 253	BIG SANDY	5.5	
8251819	502650	1611900000	107-DV			JENKINS COAL CO 115	BIG SANDY	5.5	
8251826	502657	1611900000	107-DV			JONAS SLONE 154	BIG SANDY	4.0	
8251827	502658	1607100000	107-DV			KENDALL MOORE 104	BIG SANDY	14.2	
8251817	502648	1611900000	107-DV			KOUNS HEIRS 109	BIG SANDY	3.9	
8251818	502649	1611900000	107-DV			S B WEBB 110	BIG SANDY	2.4	
8251812	502643	1611900000	107-DV			TIVIS SLONE 169	BIG SANDY	14.8	
8251832	502663	1611900000	107-DV			VA-KY COAL CORP 259	BIG SANDY	5.5	
8251811	502642	1611900000	107-DV			W A COMBS 289	BIG SANDY	7.3	
8251815	502646	1607100000	107-DV			W F CLARK 155	BIG SANDY	8.0	
MONTANA BOARD OF OIL & GAS CONSERVATION									
-C & K PETROLEUM INC			RECEIVED:	08/30/82	JA: MT				
8251843	10-81-205	2508321323	102-2			HENDERSON #1	SECOND CREEK	12.5	MONTANA DAKOTA UT
-ORBIT VENTURES INC			RECEIVED:	08/30/82	JA: MT				
8251846	10-81-200	2509121409	102-2			A DAHL #2-27	DIVIDE	36.0	PHILLIPS PETROLEU
-PUMA PETROLEUM CORP			RECEIVED:	08/30/82	JA: MT				
8251838	10-81-214	2508521245	102-2			TININENKO #1-19	RED BANK	21.0	DOME PETROLEUM CO
-SUN OIL COMPANY (DELAWARE)			RECEIVED:	08/30/82	JA: MT				
8251836	10-81-210	2508521214	102-2			BARR #1	EAST BURGET	14.0	
8251840	10-81-212	2508521277	102-2			DETIENNE #2-18	RED BANK	14.0	
8251841	10-81-209	2509121336	102-2			JAMES C HENDERSON #1	OTTER CREEK	17.0	
8251847	10-81-211	2509121386	102-2			SUNMARK STATE #1-36	WEST RESERVE	120.0	
-TEXACO INC			RECEIVED:	08/30/82	JA: MT				

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251844	10-81-204	2508321517		102-Z		W E MCCHESNEY JR #1	INTAKE II	90.0	MONTANA DAKOTA UT
-WESTERN NATURAL GAS COMPANY				RECEIVED:	08/30/82	JA: MT			
8251845	10-81-208	2504122063		108		KAERCHER 3-16 T32N R14E SEC 16	TIGER RIDGE	13.0	NORTHERN NATURAL
8251842	10-81-207	2504122062		108		KAFKA 10-14 T32N R14E SEC 14	TIGER RIDGE	12.0	NORTHERN NATURAL
8251837	10-81-206	2504122059		108		MALSAM 1-31 T33N R14E SEC 31	FRESNO	15.0	NORTHERN NATURAL
-WILLIAMS EXPLORATION COMPANY				RECEIVED:	08/30/82	JA: MT			
8251839	10-81-213	2509121369		102-A		MILLER #3-33	DAGMAR	66.0	
**********									
OKLAHOMA CORPORATION COMMISSION									
**********									
-AMOCO PRODUCTION CO				RECEIVED:	08/25/82	JA: OK			
8251746	16513	3513900080		108		LAVAKE GAS UNIT #1	GUYMON-HUGOTON &CHASE	13.0	PHILLIPS PETROLEU
-BARUCH-FOSTER CORP				RECEIVED:	08/25/82	JA: OK			
8251732	15695	3503723293		103		WOODROW CHILDERS "C"-1	WEST SHAMROCK	20.0	CITIES SERVICE GA
-BEARD OIL COMPANY				RECEIVED:	08/25/82	JA: OK			
8251758	15713	3510920528		103		SHREVE #1	CHOCTAW	73.0	CHAMPLIN PETROLEU
-BETA OIL CO				RECEIVED:	08/25/82	JA: OK			
8251736	17837	3501121709		102-B		SAM COX #1-26	SOUTH OMEGA	150.0	WARREN PETROLEUM
-BOGERT OIL CO				RECEIVED:	08/25/82	JA: OK			
8251755	15703	3507323267		103		CAROLYN 1-35	SOONER TREND	217.0	PHILLIPS PETROLEU
-CROUCH PETROLEUM COMPANY				RECEIVED:	08/25/82	JA: OK			
8251741	17865	3509120321		102-A		DAVIDSON #1	S E CHECOTAH	48.0	COLUMBIA GAS TRAN
8251740	17864	3509120374		102-A		LEWIS WILLIAMS #1	S E CHECOTAH	90.0	COLUMBIA GAS TRAN
8251742	17869	3509120330		102-A		SIZEMORE #1-23	S E CHECOTAH	30.0	COLUMBIA GAS TRAN
8251739	17863	3509120237		102-A		STORM #1-23	S E CHECOTAH	130.0	COLUMBIA GAS TRAN
-DAL TEX OIL CO INC				RECEIVED:	08/25/82	JA: OK			
8251749	15638	3514321427		103		DELCOURE #3	MOUNDS DISTRICT	43.8	PHILLIPS PETROLEU
8251750	15639	3514321440		103		G MOORE #3	THE MOUNDS DISTRICT	36.5	PHILLIPS PETROLEU
8251762	15637	3511123343		103		LEE #1	MOUNDS DISTRICT	273.7	PHILLIPS PETROLEU
8251761	15636	3511123378		103		LEE #2	MOUNDS DISTRICT	109.5	PHILLIPS PETROLEU
-DAVIS OIL COMPANY				RECEIVED:	08/25/82	JA: OK			
8251747	15660	3504722616		103		ESTILL #1	CARRIER	0.0	PANHANDLE EASTERN
8251748	15661	3500320839		103		THAIN #1	GOLTRY	0.0	PANHANDLE EASTERN
-FUNK EXPLORATION INC				RECEIVED:	08/25/82	JA: OK			
8251737	15676	3507323376		103		THARP #1	SOONER TREND	0.0	CONOCO INC
-GEORGE RODMAN INC				RECEIVED:	08/25/82	JA: OK			
8251734	15664	3509321852		103		HUTCHISON #1-28	EAST CAMPBELL	150.0	NORTHERN NATURAL
-GNC OIL AND GAS CORP				RECEIVED:	08/25/82	JA: OK			
8251752	15670	3511921835		103		WALKER #1	WEST YALE	150.0	PHILLIPS PETROLEU
-HAZLEWOOD OIL & GAS CO				RECEIVED:	08/25/82	JA: OK			
8251756	15663	3501121665		103		ROBERTS #1	WATONGA	257.0	
-LEBEN OIL CORP				RECEIVED:	08/25/82	JA: OK			
8251760	15715	3509322421		103		NOBLE #1	CHEYENNE VALLEY	150.0	DELMI GAS PIPELIN
8251759	15714	3509322438		103		NOBLE #2	CHEYENNE VALLEY	150.0	DELMI GAS PIPELIN
-MAPCO PRODUCTION COMPANY				RECEIVED:	08/25/82	JA: OK			
8251743	8324	3513921470		103		G CAIN #2	HUGOTON	36.6	NORTHERN NATURAL
-MOBIL OIL CORP				RECEIVED:	08/25/82	JA: OK			
8251745	16502	3504900080		108		EMMA B WILSON #3	GOLDEN TREND	8.2	WARREN PETROLEUM
-OKLAND OIL CO				RECEIVED:	08/25/82	JA: OK		0.0	PHILLIPS PETROLEU
8251731	15686	3501721728		103		SAVAGE #1-28		0.0	CITIES SERVICE CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	08/25/82	JA: OK			
8251744		3515300000		108-PB		CALDWELL "F" #1			
-RED EAGLE OIL CO				RECEIVED:	08/25/82	JA: OK			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251754	15702	3509322156		103		LOIS #1	FAIRVIEW	91.0	PIONEER GAS PRODU
-SOUTHLAND ROYALTY CO				RECEIVED:	08/25/82	JA: OK			
8251756	15707	3515121200		103		DEBORAH #1-32	SALT SPRINGS	29.0	EL GRANDE PIPELIN
8251757	15709	3515121217		103		LONDON RANCH #1-36	SALT SPRINGS	128.0	EL GRANDE PIPELIN
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	08/25/82	JA: OK			
8251735	15668	3508520454		103		COX #2	N MARIETTA	109.0	AMINOIL USA INC
-TENNECO OIL COMPANY				RECEIVED:	08/25/82	JA: OK			
8251730	15696	3513700000		103		NOPSU #6-6	SHO VEL TUM	0.0	AMINOIL USA INC
-VANCOL OIL CO INC				RECEIVED:	08/25/82	JA: OK			
8251733	15694	3508321677		103		POST 31-1	HULL	14.6	EASON OIL CO
-WIL-MC OIL CORP				RECEIVED:	08/25/82	JA: OK			
8251751	15665	3510321531		103		RYAN #1	NORTH PERRY	18.0	EL GRANDE PIPELIN
-WOODS PETROLEUM CORPORATION				RECEIVED:	08/25/82	JA: OK			
8251753	15701	3504921789		103		MCDANIEL #15-4	ANTIOCH	198.0	
**********									
UTAH DIVISION OF OIL,GAS, & MINING									
**********									
-EXXON CORPORATION				RECEIVED:	08/30/82	JA: UT			
8251834	K-106-2	4304731112		103		BOLTON #2-29A1E	EAST BLUEBELL	46.0	GARY ENERGY CORP
-TEXAS OIL & GAS CORP				RECEIVED:	08/30/82	JA: UT			
8251835	K-142-2	4304731005		107-TF		SQUIER #1	FENCE CANYON	738.0	NORTHWEST PIPELIN
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-ALLEGHENY & WESTERN ENERGY CORP				RECEIVED:	08/06/82	JA: WV			
8251729		4708703478		103		HARPER #1	WALTON DISTRICT	0.0	COLUMBIA GAS TRAN
-CABOT OIL & GAS CORP				RECEIVED:	08/25/82	JA: WV			
8251773		4700501358		103		ALLEN & PRYOR A-1	SCOTT	10.0	TENNESSEE GAS PIP
8251789		4700501358		107-DV		ALLEN & PRYOR A-1	SCOTT	10.0	TENNESSEE GAS PIP
8251794		4703903782		107-DV		BERRY HILLS #7	WASHINGTON	10.0	TENNESSEE GAS PIP
8251770		4707901067		103		CABOT #1	UNION	43.0	TENNESSEE GAS PIP
8251792		4707901067		107-DV		CABOT #1	UNION	43.0	TENNESSEE GAS PIP
8251767		4707901045		103		CABOT #4	POCATALICO	35.0	TENNESSEE GAS PIP
8251784		4707901045		107-DV		CABOT #4	POCATALICO	35.0	TENNESSEE GAS PIP
8251765		4707901036		103		HARDY B-8	UNION	50.0	TENNESSEE GAS PIP
8251790		4707901036		107-DV		HARDY B-8	UNION	50.0	TENNESSEE GAS PIP
8251769		4707901052		103		HAVERTY #1	UNION	25.0	TENNESSEE GAS PIP
8251786		4707901052		107-DV		HAVERTY #1	UNION	25.0	TENNESSEE GAS PIP
8251791		4707901051		107-DV		HAVERTY #2	UNION	30.0	TENNESSEE GAS PIP
8251764		4707901034		103		L S CASTO #1	UNION	40.0	TENNESSEE GAS PIP
8251777		4707901034		107-DV		L S CASTO #1	UNION	40.0	TENNESSEE GAS PIP
8251775		4703903750		107-DV		MALLORY #1	WASHINGTON	7.0	TENNESSEE GAS PIP
8251785		4707901061		107-DV		MCLEAN A-104	UNION	37.0	TENNESSEE GAS PIP
8251766		4707901044		103		MCLEAN A-110	UNION	16.0	TENNESSEE GAS PIP
8251795		4707901044		107-DV		MCLEAN A-110	UNION	16.0	TENNESSEE GAS PIP
8251774		4703903767		107-DV		P J GEORGE #1	WASHINGTON	40.0	TENNESSEE GAS PIP
8251771		4703501579		103		PARSONS B-1	RIPLEY	45.0	TENNESSEE GAS PIP
8251776		4703501579		107-DV		PARSONS B-1	RIPLEY	45.0	TENNESSEE GAS PIP
8251768		4707901050		103		PUTNAM B-18	UNION	44.0	TENNESSEE GAS PIP
8251787		4707901050		107-DV		PUTNAM B-18	UNION	44.0	TENNESSEE GAS PIP
8251772		4703501598		103		PUTNAM B-35	RIPLEY	44.0	TENNESSEE GAS PIP
8251793		4703501598		107-DV		PUTNAM B-35	RIPLEY	44.0	TENNESSEE GAS PIP
8251763		4700501349		103		ROCK CREEK A-10	SCOTT	2.0	TENNESSEE GAS PIP

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251788		4703903672		107-DV		W E PITTMAN #1	WASHINGTON	34.0	TENNESSEE GAS PIP
-CARSON PETROLEUM CORP				RECEIVED:	08/25/82	JA: WV			
8251803		4702103632		108		JAMES #2	BIG ELLIS	13.9	CONSOLIDATED GAS
8251804		4702103633		108		JAMES #3	BIG ELLIS	6.2	CONSOLIDATED GAS
-CHASE PETROLEUM				RECEIVED:	08/25/82	JA: WV			
8251780		4708504948		107-DV		AMOS #5	CLAY DISTRICT	48.0	
8251778		4708504832		103		MAHANEY #1	PENNSBORO-TOLLGATE	16.0	
8251779		4708504833		103		MAHANEY #1A	PENNSBORO-TOLLGATE	10.0	
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	08/25/82	JA: WV			
8251805		4701701766		108		J D MCREYNOLDS 11716	GRANT DISTRICT	14.0	GENERAL SYSTEM PU
8251807		4704101987		108		JOSEPH GUM 11884	FREEMANS CREEK DISTRI	13.0	GENERAL SYSTEM PU
8251801		4704102532		108		MADGE FULTINEAR 12525	WEST VIRGINIA OTHER A	21.0	GENERAL SYSTEM PU
8251802		4705500038		108		POCAHONTAS LAND CORP 12205	ROCK DISTRICT	0.6	GENERAL SYSTEM PU
8251806		4703300560		108		STEPHEN E BENNETT WN-1607	UNION	3.0	GENERAL SYSTEM PU
-NORWES INDUSTRIES INC				RECEIVED:	08/25/82	JA: WV			
8251781		4701303318		103		M C CARPENTER #4	MINNORA GAS	14.0	CONSOLIDATED GAS
8251782		4701303327		103		M C CARPENTER #5	MINNORA GAS	4.0	CONSOLIDATED GAS
8251783		4701303328		103		M C CARPENTER #6	MINNORA GAS	14.0	CONSOLIDATED GAS
-NRM PETROLEUM CORPORATION				RECEIVED:	08/25/82	JA: WV			
8251798		4709701733		108		DEMASTES #1	FRENCH CREEK	14.0	COLUMBIA GAS TRAN
8251797		4709701715		108		HOOVER #1	MIDDLE FORK RIVER	9.0	COLUMBIA GAS TRAN
8251796		4704102489		108		KRAUS #2	COURT HOUSE	2.0	CONSOLIDATED GAS
8251800		4709701810		108		MCCUE #1	FRENCH CREEK	9.0	COLUMBIA GAS TRAN
8251799		4709701735		108		PHILLIPS #1	FRENCH CREEK	14.0	COLUMBIA GAS TRAN

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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, LOS ANGELES,CA

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-UNION OIL COMPANY OF CALIF				RECEIVED:	08/30/82	JA: CA 2			
8251838	OCS-P-3-82	0431120489		102-5		SANTA CLARA UNIT WELL S-3	CALIFORNIA OFFSHORE	0.0	PACIFIC LIGHTING

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2½ mile rule)
- 102–3: New well (1,000 ft rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal seams
- 107–DV: Devonian shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 30058 Filed 9–21–82; 8:45 am]
BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 10, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ALTHEIRS OIL INC				RECEIVED:	08/27/82	JA: OH			
8251853		3412725367		107-TF		AICHELE #1	HARRISON TOWNSHIP	10.0	NATIONAL GAS & OI
8251848		3405320450		103	107-TF	MABEL HAYES #7	ADDISON	6.0	COLUMBIA GAS TRAN
8251852		3412725273		107-TF		PETER #1	BEARFIELD TOWNSHIP	8.0	NATIONAL GAS & OI
8251849		3412724880		107-TF		PONTIOUS #1	HARRISON TOWNSHIP	10.0	NATIONAL GAS & OI
8251851		3412725167		107-TF		R RAMBO #1	HARRISON TOWNSHIP	7.0	NATIONAL GAS & OI
8251850		3412725166		107-TF		T LEWIS #1	HARRISON TOWNSHIP	10.0	NATIONAL GAS & OI
-ATLAS ENERGY GROUP INC				RECEIVED:	08/27/82	JA: OH			
8251855		3415520737		108		COLLIER #1		0.0	COLUMBIA GAS TRAN
-BERMAN J SHAFER				RECEIVED:	08/27/82	JA: OH			
8252130		3415723637		103		D & J GRAEF #1	DOVER	7.5	EAST OHIO GAS CO
8252131		3415723638		103		D & J GRAEF #2	DOVER	7.5	EAST OHIO GAS CO
8252132		3416923529		103		FOLLOWAY UNIT #1	WOOSTER	7.5	EAST OHIO GAS CO
-BERRESFORD ENTERPRISES INC				RECEIVED:	08/27/82	JA: OH			
8251857		3416724596		108		VIRGIL DAVIS #1		0.9	RIVER GAS CO
8251858		3416725163		108		VIRGIL DAVIS #2		2.8	RIVER GAS CO
-BILL BLAIR INCORPORATED				RECEIVED:	08/27/82	JA: OH			
8251859		3402920774		103	107-TF	CHOMA #2	HOMEWORTH	17.0	EAST OHIO GAS CO
-BJVC ENERGY MANAGEMENT CORP				RECEIVED:	08/27/82	JA: OH			
8251856		3410921847		107-TF		THOMAS HART #1	BEDFORD	5.0	COLUMBIA GAS TRAN
-CAMERON & KINCAID				RECEIVED:	08/27/82	JA: OH			
8251861		3411926336		107-TF		AGNES BEISSER #1	WAYNE	10.0	
8251860		3411925296		107-TF		GRACE MORRISON ETAL #1-A	BRUSH CREEK	10.0	NATIONAL GAS & OI
-EAST OHIO GAS CO				RECEIVED:	08/27/82	JA: OH			
8251896		3413320151		108		A & M HARVILLE #1		5.3	EAST OHIO GAS CO
8251897		3413320154		108		A & M HARVILLE #2		6.5	EAST OHIO GAS CO
8251874		3409920211		108		A & M STEISKAL #1		7.2	EAST OHIO GAS CO
8251884		3413320064		108		A M KOVALEVSKI-COMM #1		2.1	EAST OHIO GAS CO
8251908		3413320246		108		A ROGERS COMM #1		12.4	EAST OHIO GAS CO
8251913		3413320315		108		A ROGERS COMM #2		14.5	EAST OHIO GAS CO
8251978		3415720069		108		A S REED #1		1.6	EAST OHIO GAS CO
8251877		3413320843		108		A SHIPLEY #2		6.0	EAST OHIO GAS CO
8251935		3413320486		108		B & M THOMPSON COMM #1		7.0	EAST OHIO GAS CO
8251902		3413320170		108		BABER COMM #1		6.1	THE EAST OHIO GAS
8251946		3415120081		108		BROOKSIDE CLUB #1		4.2	EAST OHIO GAS CO
8251930		3413320386		108		C & G MOULTON COMM #1		6.9	EAST OHIO GAS CO
8251916		3413320332		108		C & H KELLER #1		2.1	EAST OHIO GAS CO
8251895		3413320145		108		C & M BINGHAM COMM #1		1.4	EAST OHIO GAS CO
8251936		3413320408		108		C & S TREASH COMM #1		1.8	EAST OHIO GAS CO
8251960		3415120284		108		C C STEIN #1		3.5	EAST OHIO GAS CO
8251881		3413320054		108		C E EMASZ-COMM #1		1.5	EAST OHIO GAS CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251876		3413320041		108		C H STEWART #1		2.5	EAST OHIO GAS CO
8251954		3415120150		108		C VOLZER #1		3.9	EAST OHIO GAS CO
8251965		3415120408		108		CANTON BD OF ED #1 MERCY HOSP		8.3	EAST OHIO GAS CO
8251947		3415100130		108		CITY OF CANTON #1		2.5	EAST OHIO GAS CO
8251959		3415120274		108		D & F HOWARD #1		1.2	EAST OHIO GAS CO
8251940		3413320450		108		D & J CRAMNER #1		7.8	EAST OHIO GAS CO
8251976		3415121055		108		D & K MILLER #1		2.4	EAST OHIO GAS CO
8251970		3415120783		108		D E MILLER #1		2.4	EAST OHIO GAS CO
8251974		3415121015		108		D E MILLER #2		2.4	EAST OHIO GAS CO
8251957		3415120229		108		D LAWVER #1		1.8	EAST OHIO GAS CO
8251900		3413320161		108		DAVID R KLINE #1		7.4	EAST OHIO GAS CO
8251904		3413320184		108		E & L FOLTER COMM #1		3.0	EAST OHIO GAS CO
8251964		3415120407		108		E & L HOFFAT #1		6.7	EAST OHIO GAS CO
8251968		3415120550		108		E B CRANSTON #1		6.4	EAST OHIO GAS CO
8251867		3402920566		108		E M SMITH COMM #1		9.2	EAST OHIO GAS CO
8251880		3413320052		108		E MILLER #1		8.8	EAST OHIO GAS CO
8251977		3415720023		108		E SPRING #1		3.7	EAST OHIO GAS CO
8251878		3413320044		108		E T WORKMAN #1		18.0	EAST OHIO GAS CO
8251929		3413320384		108		F & A TRACY COMM #1		3.3	EAST OHIO GAS CO
8251912		3413320278		108		F & E WADDELL COMM #1		1.1	EAST OHIO GAS CO
8251938		3413320436		108		F & J MASSA #1		1.2	EAST OHIO GAS CO
8251893		3413320121		108		F & R HECKMAN COMM #1		2.8	EAST OHIO GAS CO
8251883		3413320059		108		F V SUTTON COMM #1		4.3	EAST OHIO GAS CO
8251894		3413320131		108		G & E MCKOWN #1		1.5	EAST OHIO GAS CO
8251878		3409920136		108		G & F COOK #1		17.8	EAST OHIO GAS CO
8251889		3413320092		108		G & F COOK #1		15.7	EAST OHIO GAS CO
8251955		3415120191		108		G & L DOLL #2		4.8	EAST OHIO GAS CO
8251944		3413320475		108		G & V TARTER COMM #1		4.4	EAST OHIO GAS CO
8251966		3415120408		108		GARAUX & SWEIGERT TRUS #3		6.3	EAST OHIO GAS CO
8251918		3413320261		108		H & C MEACHAM #2		3.7	EAST OHIO GAS CO
8251987		3413320240		108		H & C MEACHAM COMM #1		5.6	EAST OHIO GAS CO
8251903		3413320174		108		H & J TWIGGS COMM #1		2.3	EAST OHIO GAS CO
8251872		3409920171		108		H & L HESCHELMAN #1		5.7	EAST OHIO GAS CO
8251943		3413320459		108		H & M EBLE #1		6.6	EAST OHIO GAS CO
8251932		3413320400		108		H & V FRAME COMM #1		4.1	EAST OHIO GAS CO
8251885		3413320065		108		H BOBBY-COMM #1		5.5	EAST OHIO GAS CO
8251975		3415121021		108		H F DIELHENN #1		2.0	EAST OHIO GAS CO
8251981		3413320168		108		H H MILLER COMM #1		8.6	EAST OHIO GAS CO
8251909		3413320260		108		J & F BAILEY COMM #1		21.0	EAST OHIO GAS CO
8251941		3413320451		108		J & F LAMM #1		4.7	EAST OHIO GAS CO
8251906		3413320226		108		J & F MCGRATH COMM #1		3.4	EAST OHIO GAS CO
8251923		3413320372		108		J & H FOLK #1		2.8	EAST OHIO GAS CO
8251919		3413320365		108		J & J RODENBUCHER #1		1.9	EAST OHIO GAS CO
8251939		3413320449		108		J & L DAVIS COMM #1		11.2	EAST OHIO GAS CO
8251866		3402920555		108		J & L DENNY #1		3.1	EAST OHIO GAS CO
8251945		3413320483		108		J & M JORDAN COMM #2		7.5	EAST OHIO GAS CO
8251898		3413320157		108		J & M PARSONS #1		2.1	EAST OHIO GAS CO
8251952		3415120139		108		J & M YEAGER #1		3.5	EAST OHIO GAS CO
8251905		3413320225		108		J & R KLINE COMM #1		6.5	EAST OHIO GAS CO
8251925		3413320374		108		J & R KLINE COMM #2		4.6	EAST OHIO GAS CO
8251869		3409920130		108		J & S KOVAC COMM #1		11.8	THE EAST OHIO GAS
8251921		3413320368		108		J CHUDANOV COMM #1		1.5	EAST OHIO GAS CO
8251958		3415120017		108		J D JOLIET		14.5	EAST OHIO GAS CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251934		3413320404		108		J E FOWLER #1		1.5	EAST OHIO GAS CO
8251972		3415121005		108		J N COBLENTZ #1		1.9	EAST OHIO GAS CO
8251890		3413320093		108		J SVEDA COMM #2		1.9	EAST OHIO GAS CO
8251980		3415720979		108		JOHNSON-UTZ #1		5.6	EAST OHIO GAS CO
8251963		3415120353		108		L & R FOX #1		2.1	EAST OHIO GAS CO
8251886		3413320069		108		L BULLOCK-COMM #1		2.3	EAST OHIO GAS CO
8251887		3413320086		108		L C MCCONNELL #1		2.1	EAST OHIO GAS CO
8251948		3415120245		108		L HUMBERT COMM #1		11.5	EAST OHIO GAS CO
8251892		3413320113		108		L J LEWIS COMM #1		11.6	EAST OHIO GAS CO
8251973		3415121007		108		L TROYER COMM #1		3.6	EAST OHIO GAS CO
8251971		3415121002		108		M & B COBLENTZ #1		2.0	EAST OHIO GAS CO
8251914		3413320319		108		M & C BENICH COMM #1		9.9	EAST OHIO GAS CO
8251937		3413320432		108		M & E MILLER COMM #1		1.5	EAST OHIO GAS CO
8251873		3409920177		108		M & V COFFMAN COMM #2		13.2	EAST OHIO GAS CO
8251958		3415120264		108		M M FOHL #1		2.7	EAST OHIO GAS CO
8251949		3415120355		108		MCFARREN COMM #1		2.5	EAST OHIO GAS CO
8251917		3413320333		108		N & E HANNA #1		5.8	EAST OHIO GAS CO
8251899		3413320159		108		P & B PLETZER COMM #1		6.1	EAST OHIO GAS CO
8251962		3415120309		108		P SURMAY #1		1.9	EAST OHIO GAS CO
8251868		3402920574		108		R & A BRUNNER #1		7.5	EAST OHIO GAS CO
8251922		3413320369		108		R & E HOLMES COMM #1		1.7	EAST OHIO GAS CO
8251979		3415720154		108		R & M REED #1		1.9	EAST OHIO GAS CO
8251915		3413320322		108		R & M RICHARDS #1		3.8	EAST OHIO GAS CO
8251871		3409920152		108		R & M SMITH COMM #1		4.7	EAST OHIO GAS CO
8251928		3413320381		108		R & N GRIGGY #1		1.1	EAST OHIO GAS CO
8251967		3415120532		108		R & R BREINING COMM #1		2.1	EAST OHIO GAS CO
8251911		3413320263		108		R & R KERR COMM #1		6.5	EAST OHIO GAS CO
8251891		3413320098		108		R H BOWER-COMM #2		10.5	EAST OHIO GAS CO
8251888		3413320087		108		R H BOWERS #1		1.9	EAST OHIO GAS CO
8251931		3413320398		108		S & E BOTZ COMM #1		2.7	EAST OHIO GAS CO
8251882		3413320057		108		S & L JONES #1		3.9	EAST OHIO GAS CO
8251875		3409920221		108		S & M LEONARD COMM #1		15.4	EAST OHIO GAS CO
8251969		3415120582		108		SEABREEZE CO LTD COMM #1		6.3	EAST OHIO GAS CO
8251951		3415120096		108		STARK CO COMMISSIONERS #1		19.5	EAST OHIO GAS CO
8251961		3415120304		108		STEINBACH COMM #1		1.2	EAST OHIO GAS CO
8251879		3413320049		108		T H BAILEY #1		6.0	EAST OHIO GAS CO
8251942		3413320452		108		W & A SPRAKA COMM #1		9.0	EAST OHIO GAS CO
8251926		3413320377		108		W & D FOX COMM #1		1.4	EAST OHIO GAS CO
8251918		3413320335		108		W & F KLINE COMM #1		9.0	EAST OHIO GAS CO
8251920		3413320366		108		W & F KLINE COMM #2		1.0	EAST OHIO GAS CO
8251933		3413320402		108		W & R EYRE COMM #1		8.0	EAST OHIO GAS CO
8251953		3415120143		108		W H BECHER AGT #2		6.0	EAST OHIO GAS CO
8251956		3415120204		108		W J KLEINHENZ #1		7.5	EAST OHIO GAS CO
8251924		3413320373		108		W KEYSER COMM #1		10.4	EAST OHIO GAS CO
8251927		3413320380		108		W R PETRISHAK COMM #1		1.8	EAST OHIO GAS CO
-EDCO DRILLING & PRODUCING INC				RECEIVED:	08/27/82	JA: OH			
8251981		3403124167	D	108		SEWELL BL-1A		18.0	COLUMBIA GAS TRAN
8251982		3403124168	D	108		SEWELL BL-2A		18.0	COLUMBIA GAS TRAN
-EDWARD E ATHA				RECEIVED:	08/27/82	JA: OH			
8251854		3400922305		107-TF		JEAN S HUBBARD (VALENTINE) #1	ROME	0.0	COLUMBIA GAS TRAN
-FRANK A CSAPO JR				RECEIVED:	08/27/82	JA: OH			
8251863		3416922215		107-TF		GARRISON-RUPP #2	MILTON	12.0	COLUMBIA GAS TRAN
8251864		3416922257		107-TF		GARRISON-RUPP #3	MILTON	0.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8251865		3416922330		103	107-TF	LOUIS LANDRY #1	MILTON	18.0	COLUMBIA GAS TRAN
-GNC ENERGY CORP				RECEIVED:	08/27/82	JA: OH			
8251983		3411522400		107-TF		GLADYS MORIN #1	ROKEBY LOCK	15.0	COLUMBIA GAS TRAN
-HERALD OIL & GAS CO				RECEIVED:	08/27/82	JA: OH			
8251984		3405320669		107-TF		GENE MCCUITY #1	ADDISON	0.0	COLUMBIA GAS TRAN
8251985		3405320755		107-TF		JANET DAILEY #1	ADDISON	0.0	COLUMBIA GAS TRAN
-JAVCO DRILLING CO				RECEIVED:	08/27/82	JA: OH			
8252086		3411924913		107-TF		JOHNSON #1	RICH HILL	11.0	COLUMBIA GAS TRAN
-KEN-TRAK VI				RECEIVED:	08/27/82	JA: OH			
8251987		3410522330		107-TF		ROBERT MILLER #1 WEST	2ND BEREA LOWER MISSI	0.0	
-KEN-TRAK VII				RECEIVED:	08/27/82	JA: OH			
8251989		3410522399		107-TF		GILLITTE - WHITE #3	LOWER MISSISSIPPIAN	0.0	
-KEN-TRAK VIII				RECEIVED:	08/27/82	JA: OH			
8251990		3410522400		107-TF		GILLETTE - WHITE #4	2N BEREA (LOWER MISSI	0.0	
8251988		3410522388		107-TF		RAYMOND FOWLER #3	(LOWER MISSISSIPIAN)	0.0	
-KEN-TRAK X				RECEIVED:	08/27/82	JA: OH			
8251991		3410522414		107-TF		WILLIAM SMITH #1	LOWER MISSISSIPPIAN	0.0	
-KENOIL				RECEIVED:	08/27/82	JA: OH			
8251986		3403124768		103		CHRISTOPHER FOY #1	WARSAW	5.0	COLUMBIA GAS TRAN
-KRAMER EXPLORATION CO				RECEIVED:	08/27/82	JA: OH			
8251992		3405320766		103	107-TF	OHIO POWER CO #21	ADDISON	0.0	COLUMBIA GAS TRAN
-LANDPROVEST INC				RECEIVED:	08/27/82	JA: OH			
8251993		3411926147		107-TF		R SMITH #5	NASHPORT	50.0	NATIONAL GAS & OI
-M B OPERATING CO INC				RECEIVED:	08/27/82	JA: OH			
8252013		3401921120		108		ASTEN-BULLOCK #4		5.5	REPUBLIC STEEL CO
8252014		3401921121		108		ASTON-BULLOCK #3		5.5	REPUBLIC STEEL CO
8252031		3415721592		108		BOYD MARKLEY #1		5.8	REPUBLIC STEEL CO
8252030		3415721580		108		BOYD-BUTLER U-1		5.8	REPUBLIC STEEL CO
8252015		3401921149		108		D & M WATKINS #2		5.5	REPUBLIC STEEL CO
8252032		3415721593		108		E & R MCINTOSH #1		5.1	REPUBLIC STEEL CO
8252034		3415721609		108		E & R MCINTOSH #2		5.1	REPUBLIC STEEL CO
8251995		3401920411		108		ERNEST KING #1		18.3	REPUBLIC STEEL CO
8251996		3401920417		108		ERNEST KING #2		18.3	REPUBLIC STEEL CO
8251997		3401920418		108		ERNEST KING #3		18.3	REPUBLIC STEEL CO
8252033		3415721594		108		EWING-CHESDOCK U #2		3.8	REPUBLIC STEEL CO
8252027		3415122657		108		FURBAY #1		3.8	REPUBLIC STEEL CO
8252006		3401920764		108		GEISER U #1		15.8	REPUBLIC STEEL CO
8252007		3401920785		108		GEISER U #2		15.8	REPUBLIC STEEL CO
8252008		3401920786		108		GEISER U #3		15.8	REPUBLIC STEEL CO
8252816		3401920819		108		GERMAN #2		5.5	REPUBLIC STEEL CO
8252028		3415720946		108		HALE #2		1.4	REPUBLIC STEEL CO
8252001		3401920555		108		HANIFAN #1		18.3	REPUBLIC STEEL CO
8251999		3401920545		108		HANIFAN #2		18.3	REPUBLIC STEEL CO
8251998		3401920544		108		HANIFAN #3		18.3	REPUBLIC STEEL CO
8252000		3401920554		108		HANIFAN #4		18.3	REPUBLIC STEEL CO
8252002		3401920562		108		HARSA-BOYCE #1		14.6	REPUBLIC STEEL CO
8252003		3401920565		108		JAMES-SCHLARR #1		9.1	EAST OHIO GAS CO
8252022		3415122593		108		KOLP #2		5.1	REPUBLIC STEEL CO
8252021		3415122516		108		LAKE-MARL #1		5.1	REPUBLIC STEEL CO
8251994		3401920279		108		LINDENTREE #1		5.1	EAST OHIO GAS CO
8252009		3401920788		108		LIPPINCOTT #1		5.1	REPUBLIC STEEL CO
8252011		3401920509		108		LIPPINCOTT #2		5.1	REPUBLIC STEEL CO
8252026		3415122654		108		M FIERSTOS U #1		40.2	REPUBLIC STEEL CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252029		3415720947		108		M FIERSTOS U #2		40.2	REPUBLIC STEEL CO
8252010		3401920508		108		MCCUNE #1		5.1	REPUBLIC STEEL CO
8252004		3401920763		108		MCINTOSH #1		5.1	REPUBLIC STEEL CO
8252005		3401920784		108		MCINTOSH #2		5.1	REPUBLIC STEEL CO
8252024		3415122655		108		MCKEE #1		5.1	REPUBLIC STEEL CO
8252025		3415122656		108		MCKEE #2		5.1	REPUBLIC STEEL CO
8252023		3415122594		108		MCKEE-MARL #1		5.1	REPUBLIC STEEL CO
8252035		3415721595		108		MCKEE-MARL #2		5.1	REPUBLIC STEEL CO
8252017		3401921150		108		MILLER #1		5.5	REPUBLIC STEEL CO
8252018		3401921151		108		MILLER #2		5.5	REPUBLIC STEEL CO
8252019		3401921152		108		MILLER #3		5.5	REPUBLIC STEEL CO
8252020		3401921153		108		MILLER #4		5.5	REPUBLIC STEEL CO
8252016		3401921148		108		MILLER-WATKINS #1		5.5	REPUBLIC STEEL CO
8252037		3415721597		108		MORRIS #1		5.1	REPUBLIC STEEL CO
8252036		3415721596		108		MORRIS #2		5.1	REPUBLIC STEEL CO
8252038		3415721598		108		MORRIS #3		5.1	REPUBLIC STEEL CO
8252039		3415721599		108		MORRIS #4		5.1	REPUBLIC STEEL CO
8252040		3415721600		108		MORRIS #5		5.1	REPUBLIC STEEL CO
8252041		3415721601		108		MORRIS #6		5.1	REPUBLIC STEEL CO
8252042		3415721602		108		MORRIS #7		5.1	REPUBLIC STEEL CO
8252043		3415721603		108		MORRIS #8		5.1	REPUBLIC STEEL CO
8252044		3415721604		108		MORRIS #9		5.1	REPUBLIC STEEL CO
8252045		3415721605		108		MORRIS #10		5.1	REPUBLIC STEEL CO
8252046		3415721606		108		MORRIS #11		5.1	REPUBLIC STEEL CO
8252047		3415721607		108		MORRIS #12		5.1	REPUBLIC STEEL CO
8252048		3415721608		108		MORRIS #13		5.1	REPUBLIC STEEL CO
8252049		3415721610		108		MORRIS #14		5.1	REPUBLIC STEEL CO
8252050		3415721611		108		MORRIS #15		5.1	REPUBLIC STEEL CO
8252051		3415721612		108		MORRIS #16		5.1	REPUBLIC STEEL CO
8252052		3415721613		108		MORRIS #17		5.1	REPUBLIC STEEL CO
8252053		3415721614		108		MORRIS #18		5.1	REPUBLIC STEEL CO
8252054		3415721615		108		MORRIS #19		5.1	REPUBLIC STEEL CO
8252055		3415721616		108		MORRIS #20		5.1	REPUBLIC STEEL CO
8252056		3415721617		108		MORRIS #21		5.1	REPUBLIC STEEL CO
8252057		3415721618		108		MORRIS #22		5.1	REPUBLIC STEEL CO
8252058		3415721619		108		MORRIS #23		5.1	REPUBLIC STEEL CO
8252059		3415721620		108		MORRIS #24		5.1	REPUBLIC STEEL CO
8252060		3415721621		108		MORRIS #25		5.1	REPUBLIC STEEL CO
8252061		3415721622		108		MORRIS #26		5.1	REPUBLIC STEEL CO
8252062		3415721623		108		MORRIS #27		5.1	REPUBLIC STEEL CO
8252063		3415721624		108		MORRIS #28		5.1	REPUBLIC STEEL CO
8252064		3415721625		108		MORRIS #29		5.1	REPUBLIC STEEL CO
8252065		3415721626		108		MORRIS #30		5.1	REPUBLIC STEEL CO
8252066		3415721627		108		MORRIS #31		5.1	REPUBLIC STEEL CO
8252067		3415721628		108		MORRIS #32		5.1	REPUBLIC STEEL CO
8252068		3415721629		108		MORRIS #33		5.1	REPUBLIC STEEL CO
8252069		3415721630		108		MORRIS #34		5.1	REPUBLIC STEEL CO
8252070		3415721631		108		MORRIS #35		5.1	REPUBLIC STEEL CO
8252071		3415721632		108		MORRIS #36		5.1	REPUBLIC STEEL CO
8252072		3415721633		108		MORRIS #37		5.1	REPUBLIC STEEL CO
8252073		3415721634		108		MORRIS #38		5.1	REPUBLIC STEEL CO
8252074		3415721635		108		MORRIS #39		5.1	REPUBLIC STEEL CO
8252075		3415721636		108		MORRIS #40		5.1	REPUBLIC STEEL CO
8252076		3415721637		108		MORRIS #41		5.1	REPUBLIC STEEL CO
8252077		3415721638		108		MORRIS #42		5.1	REPUBLIC STEEL CO
8252078		3415721639		108		MORRIS #43		5.1	REPUBLIC STEEL CO
8252079		3415721640		108		MORRIS #44		5.1	REPUBLIC STEEL CO
8252080		3415721641		108		MORRIS #45		5.1	REPUBLIC STEEL CO
8252081		3415721642		108		MORRIS #46		5.1	REPUBLIC STEEL CO
8252082		3415721643		108		MORRIS #47		5.1	REPUBLIC STEEL CO
8252083		3415721644		108		MORRIS #48		5.1	REPUBLIC STEEL CO
8252084		3415721645		108		MORRIS #49		5.1	REPUBLIC STEEL CO
8252085		3415721646		108		MORRIS #50		5.1	REPUBLIC STEEL CO
8252087		3411924914		107-TF		NEWTON #1			
-NEWTON OIL CO				RECEIVED:	08/27/82	JA: OH			
8252088		3411924915		107-TF		NEWTON #2			
-NEWTON OIL CO				RECEIVED:	08/27/82	JA: OH			
8252089		3411924916		107-TF		NEWTON #3			
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8252091		3411924918		107-TF		NEWTON #5			
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8252092		3411924919		107-TF		NEWTON #6			
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8252095		3411924922		107-TF		NEWTON #9			
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8252098		3411924925		107-TF		NEWTON #12			
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8252102		3411924929		107-TF		NEWTON #16			
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8252109		3411924936		107-TF		NEWTON #23			
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8252142		3411924969		107-TF		NEWTON #56			
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8252148		3411924975		107-TF		NEWTON #62			
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8252150		3411924977		107-TF		NEWTON #64			
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8252151		3411924978		107-TF		NEWTON #65			
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8252152		3411924979		107-TF		NEWTON #66			
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8252153		3411924980		107-TF		NEWTON #67			
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8252154		3411924981		107-TF		NEWTON #68			
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8252157		3411924984		107-TF		NEWTON #71			
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8252158		3411924985		107-TF		NEWTON #72			
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8252159		3411924986		107-TF		NEWTON #73			
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8252160		3411924987		107-TF		NEWTON #74			
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8252162		3411924989		107-TF		NEWTON #76			
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8252163		3411924990		107-TF		NEWTON #77			
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8252164		3411924991		107-TF		NEWTON #78			
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8252165		3411924992		107-TF		NEWTON #79			
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8252170		3411924997		107-TF		NEWTON #84			
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8252171		3411924998		107-TF		NEWTON #85			
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8252172		3411924999		107-TF		NEWTON #86			
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8252173		3411925000		107-TF		NEWTON #87			
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8252175		3411925002		107-TF		NEWTON #89			
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8252176		3411925003		107-TF		NEWTON #90			
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8252177		3411925004		107-TF		NEWTON #91			
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8252178		3411925005		107-TF		NEWTON #92			
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8252179		3411925006		107-TF		NEWTON #93			
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8252180		3411925007		107-TF		NEWTON #94			
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8252181		3411925008		107-TF		NEWTON #95			
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8252182		3411925009		107-TF		NEWTON #96			
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8252183		3411925010		107-TF		NEWTON #97			
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8252184		3411925011		107-TF		NEWTON #98			
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8252185		3411925012		107-TF		NEWTON #99			
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8252186		3411925013		107-TF		NEWTON #100			
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8252187		3411925014		107-TF		NEWTON #101			
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8252188		3411925015		107-TF		NEWTON #102			
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8252189		3411925016		107-TF		NEWTON #103			
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8252191		3411925018		107-TF		NEWTON #105			
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8252192		3411925019		107-TF		NEWTON #106			
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8252193		3411925020		107-TF		NEWTON #107			
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8252194		3411925021		107-TF		NEWTON #108			
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8252195		3411925022		107-TF		NEWTON #109			
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8252196		3411925023		107-TF		NEWTON #110			
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8252197		3411925024		107-TF		NEWTON #111			
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8252198		3411925025		107-TF		NEWTON #112			
-NEWTON OIL CO				RECEIVED:	08/27/82	JA: OH			
8252199		3411925026		107-TF		NEWTON #113			
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8252200		3411925027		107-TF		NEWTON #114			
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8252201		3411925028		107-TF		NEWTON #115			
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8252202		3411925029		107-TF		NEWTON #116			
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8252203		3411925030		107-TF		NEWTON #117			
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8252204		3411925031		107-TF		NEWTON #118			
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8252205		3411925032		107-TF		NEWTON #119			
-NEWTON OIL CO				RECEIVED:	08/27/82	JA: OH			
8252206		3411925033		107-TF		NEWTON #120			
-NEWTON OIL CO				RECEIVED:	08/27/82	JA: OH			
8252207		3411925034		107-TF		NEWTON #121			
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8252208		3411925035		107-TF		NEWTON #122			
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8252209		3411925036		107-TF		NEWTON #123			
-NEWTON OIL CO			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252023		3415122605		108		M KLICK #1		10.0	REPUBLIC STEEL CO
8252038		3415723289		108		MARKLEY ESTATE #8		12.8	REPUBLIC STEEL CO
8252035		3415721898		108		NICHOLAS #1		5.5	REPUBLIC STEEL CO
8251028		3415172440		108		PADGITT #1		5.1	EAST OHIO GAS CO
8252017		3411922141		108		PATTON #1		1.9	REPUBLIC STEEL CO
8252024		3415122637		108		R & I HARTLINE U #1-A		11.7	REPUBLIC STEEL CO
8252037		3415723216		108		R & J HULL #1		5.5	REPUBLIC STEEL CO
8252029		3415721579		108		R & L BRANNON U #1	TUSCARAWAS	5.8	REPUBLIC STEEL CO
8252036		3415722930		108		R & R REEL #1		2.3	REPUBLIC STEEL CO
8252004		3461920567		108		S & M GREATHOUSE #2		12.4	REPUBLIC STEEL CO
8252005		3401920568		108		S & M GREATHOUSE U #3		12.4	REPUBLIC STEEL CO
8252012		3401920817		108		SMITH-GASSER U #1		11.0	REPUBLIC STEEL CO
8252010		3401920792		108		SMITH-GASSER U #3		11.0	REPUBLIC STEEL CO
8252018		3415121585		108		SNYDER U #1		12.8	REPUBLIC STEEL CO
8252025		3415122643		108		T & R WOLF #1		36.5	REPUBLIC STEEL CO
8252019		3415121799		108		WHITMIRE #1		29.6	REPUBLIC STEEL CO
-MCCLAIN OIL CO				RECEIVED:	08/27/82	JA: OH			
8252040		3408924441		103		DENNIS/WINLAND #1	HANOVER	0.5	BOWERSTON SHALE C
8252039		3408924423		103		GRAFT #1	GLENFORD	0.6	NEWZANE GAS CO
8252041		3408924442		103		GRAFT #2	GLENFORD	0.6	NEW ZANE GAS CO
-MORGAN-PENNINGTON INC				RECEIVED:	08/27/82	JA: OH			
8252042		3407523750		103		GARRETT-GANDEE #1	KNOX	6.6	COLUMBIA GAS TRAN
-ONEAL PETROLEUM INC				RECEIVED:	08/27/82	JA: OH			
8252053		3411522158		107-TF		M GIFFORD #3	MALTA	19.0	COLUMBIA GAS TRAN
-OXFORD OIL CO				RECEIVED:	08/27/82	JA: OH			
8252054		3408924474		103		NANCY HUGHES #1	PERRY	9.0	
-PETROLEUM SECURITIES FD 1978 COMB P				RECEIVED:	08/27/82	JA: OH			
8252055		3416922161		108		RICE-DUNHAM #1	MORELAND FIELD EXTENS	20.0	COLUMBIA GAS TRAN
-REPUBLIC ENERGY INV CORP 80-I				RECEIVED:	08/27/82	JA: OH			
8252056		3405320558		107-TF		MOORE #1	ADDISON	5.0	COLUMBIA GAS TRAN
8252057		3405320567		107-TF		MOORE #2	ADDISON	5.0	COLUMBIA GAS TRAN
8252058		3405320585		107-TF		MOORE WELL #3	ADDISON	5.0	COLUMBIA GAS TRAN
-REPUBLIC ENERGY INV CORP 80-II				RECEIVED:	08/27/82	JA: OH			
8252059		3410521964		107-TF		BUSH #1	BEDFORD	5.0	COLUMBIA GAS TRAN
-REPUBLIC ENERGY INV CORP 80-III				RECEIVED:	08/27/82	JA: OH			
8252060		3410521965		107-TF		BUSH #2	BEDFORD	5.0	COLUMBIA GAS TRAN
8252061		3410521968		107-TF		HYSELL #1	BEDFORD	5.0	COLUMBIA GAS TRAN
8252062		3410521969		107-TF		HYSELL #2	BEDFORD	5.0	COLUMBIA GAS TRAN
-RICHARD W ULLMAN				RECEIVED:	08/27/82	JA: OH			
8252136		3411522690		107-TF		JANES WELL #1	CHESTERHILL	10.0	COLUMBIA GAS TRAN
-ROBERT D CHARLEBOIS				RECEIVED:	08/27/82	JA: OH			
8251862		3415522122		103	107-TF	BEARDMAN #1	SOUTHINGTON	15.0	COLUMBIA GAS TRAN
-ROVI RESOURCES CORP				RECEIVED:	08/27/82	JA: OH			
8252082		3411924896		107-TF		FOUNDS #1	RICH HILL	11.0	COLUMBIA GAS TRAN
8252083		3411924904		107-TF		FOUNDS #10	RICH HILL	11.0	COLUMBIA GAS TRAN
8252069		3411924885		107-TF		FOUNDS #2	RICH HILL	11.0	COLUMBIA GAS TRAN
8252079		3411924884		107-TF		FOUNDS #3	RICH HILL	11.0	COLUMBIA GAS TRAN
8252080		3411924893		107-TF		FOUNDS #4	RICH HILL	11.0	COLUMBIA GAS TRAN
8252081		3411924895		107-TF		FOUNDS #6	RICH HILL	11.0	COLUMBIA GAS TRAN
8252085		3411924906		107-TF		FOUNDS #8	RICH HILL	11.0	COLUMBIA GAS TRAN
8252084		3411924905		107-TF		FOUNDS #9	RICH HILL	11.0	COLUMBIA GAS TRAN
8252089		3411924916		107-TF		JOHNSON #1	RICH HILL	11.0	COLUMBIA GAS TRAN
8252087		3411924914		107-TF		JOHNSON #2	RICH HILL	11.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252088		3411924915		107-TF		JOHNSON #3	RICH HILL	8.0	COLUMBIA GAS TRAN
8252067		3411522773		107-TF		MOORE #4	BLOOM	11.0	COLUMBIA GAS TRAN
8252072		3411924518		107-RT		OHIO POWER #39	BLUE ROCK	11.0	COLUMBIA GAS TRAN
8252070		3411924516		107-RT		OHIO POWER #41	BLUE ROCK	11.0	COLUMBIA GAS TRAN
8252078		3411924640		107-RT		OHIO POWER #47	BLUE ROCK	0.0	COLUMBIA GAS TRAN
8252074		3411924583		107-RT		OHIO POWER 38	BLUE ROCK	11.0	COLUMBIA GAS TRAN
8252071		3411924517		107-RT		OHIO POWER 40	BLUE ROCK	11.0	COLUMBIA GAS TRAN
8252073		3411924531		107-RT		OHIO POWER 45	BLUE ROCK	11.0	COLUMBIA GAS TRAN
8252075		3411924635		107-RT		OHIO POWER 48	BLUE ROCK	11.0	COLUMBIA GAS TRAN
8252076		3411924636		107-RT		OHIO POWER 49	BLUE ROCK	11.0	COLUMBIA GAS TRAN
8252077		3411924639		107-RT		OHIO POWER 50	BLUE ROCK	11.0	COLUMBIA GAS TRAN
8252063		3411522468		107-TF		WEBER #1	BLOOM	11.0	COLUMBIA GAS TRAN
8252064		3411522469		107-TF		WEBER #2	BLOOM	11.0	COLUMBIA GAS TRAN
8252065		3411522478		107-TF		WEBER #5	BLOOM	11.0	COLUMBIA GAS TRAN
8252090		3411924996		107-TF		WILKINS #1	SALT CREEK	11.0	COLUMBIA GAS TRAN
8252091		3411924997		107-TF		WILKINS #2	SALT CREEK	11.0	COLUMBIA GAS TRAN
8252092		3411924998		107-TF		WILKINS #3	SALT CREEK	11.0	COLUMBIA GAS TRAN
8252093		3411924999		107-TF		WILKINS #4	SALT CREEK	11.0	COLUMBIA GAS TRAN
8252094		3411925000		107-TF		WILKINS #5	SALT CREEK	11.0	COLUMBIA GAS TRAN
8252095		3411925003		107-TF		WILKINS #8	SALT CREEK	11.0	COLUMBIA GAS TRAN
8252066		3411522469		107-TF		WILLIAMS #1	BLOOM	11.0	COLUMBIA GAS TRAN
8252068		3411522774		107-TF		WILLIAMS #4	BLOOM	0.0	COLUMBIA GAS TRAN
-ROYAL LEVERAGED LTD 81-II				RECEIVED:	08/27/82	JA: OH			
8252096		3410520718		107-TF		HARMONY QUARTERLY CONFERENCE #1	ADDISON	5.0	COLUMBIA GAS TRAN
8252097		3410520719		107-TF		HARMONY QUARTERLY CONFERENCE #2	ADDISON	5.0	COLUMBIA GAS TRAN
8252098		3410520720		107-TF		HARMONY QUARTERLY CONFERENCE #3	ADDISON	5.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM *80-XII				RECEIVED:	08/27/82	JA: OH			
8252115		3410522012		107-TF		JOHNSON #1	BEDFORD	5.0	COLUMBIA GAS TRAN
8252116		3410522013		107-TF		JOHNSON #2	BEDFORD	5.0	COLUMBIA GAS TRAN
8252117		3410522014		107-TF		JOHNSON #3	BEDFORD	5.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM *81 - II				RECEIVED:	08/27/82	JA: OH			
8252118		3410522274		107-TF		NAU #2	BEDFORD	5.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM VIII LTD				RECEIVED:	08/27/82	JA: OH			
8252099		3405320517		107-TF		SWISHER #1	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 80 - I				RECEIVED:	08/27/82	JA: OH			
8252101		3405320525		107-TF		BAYLOR #1	ADDISON	5.0	COLUMBIA GAS TRAN
8252106		3405320531		107-TF		BAYLOR #2	ADDISON	5.0	COLUMBIA GAS TRAN
8252100		3405320524		107-TF		STOVER #1	ADDISON	5.0	COLUMBIA GAS TRAN
8252102		3405320527		107-TF		TARA #1	ADDISON	5.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 80 - II				RECEIVED:	08/27/82	JA: OH			
8252103		3405320528		107-TF		TARA DEVELOPMENT CORP #2	ADDISON	5.0	COLUMBIA GAS TRAN
8252105		3405320530		107-TF		TARA DEVELOPMENT CORP #4	ADDISON	5.0	COLUMBIA GAS TRAN
8252107		3405320534		107-TF		TARA DEVELOPMENT CORP #5	ADDISON	5.0	COLUMBIA GAS TRAN
8252104		3405320529		107-TF		TARA DEVELOPMENT CORP WELL #3	ADDISON	5.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 80 - VI				RECEIVED:	08/27/82	JA: OH			
8252108		3405320560		107-TF		TARA #6	ADDISON	5.0	COLUMBIA GAS TRAN
8252109		3405320561		107-TF		TARA #7	ADDISON	5.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 80 - VIII				RECEIVED:	08/27/82	JA: OH			
8252112		3405320628		107-TF		SWISHER #2	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 80 - X				RECEIVED:	08/27/82	JA: OH			
8252111		3405320602		107-TF		HUDSON #1	ADDISON	5.0	COLUMBIA GAS TRAN
8252110		3405320601		107-TF		HUDSON #2	ADDISON	5.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 81-I				RECEIVED:	08/27/82	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252113		3405320627		107-TF		SWISHER #3	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 81-II				RECEIVED:	08/27/82	JA: OH			
8252114		3405320626		107-TF		SWISHER #4	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 81-III				RECEIVED:	08/27/82	JA: OH			
8252119		3405320629		107-TF		SWISHER #5	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 81-IV				RECEIVED:	08/27/82	JA: OH			
8252120		3405320630		107-TF		SWISHER #6	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 81-V				RECEIVED:	08/27/82	JA: OH			
8252121		3405320631		107-TF		SWISHER #7	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 81-VI				RECEIVED:	08/27/82	JA: OH			
8252122		3405320632		107-TF		SWISHER #8	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 81-VII				RECEIVED:	08/27/82	JA: OH			
8252123		3405320633		107-TF		SWISHER #9	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 81-VIII				RECEIVED:	08/27/82	JA: OH			
8252124		3405320634		107-TF		SWISHER #10	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 81-IX				RECEIVED:	08/27/82	JA: OH			
8252125		3405320635		107-TF		SWISHER #11	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 81-X				RECEIVED:	08/27/82	JA: OH			
8252126		3405320636		107-TF		SWISHER #12	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 81-XI				RECEIVED:	08/27/82	JA: OH			
8252127		3405320637		107-TF		SWISHER #13	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 81-XII				RECEIVED:	08/27/82	JA: OH			
8252128		3405320638		107-TF		SWISHER #14	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 82-I				RECEIVED:	08/27/82	JA: OH			
8252129		3405320639		107-TF		SWISHER #15	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 82-II				RECEIVED:	08/27/82	JA: OH			
8252130		3405320640		107-TF		SWISHER #16	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 82-III				RECEIVED:	08/27/82	JA: OH			
8252131		3405320641		107-TF		SWISHER #17	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 82-IV				RECEIVED:	08/27/82	JA: OH			
8252132		3405320642		107-TF		SWISHER #18	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 82-V				RECEIVED:	08/27/82	JA: OH			
8252133		3405320643		107-TF		SWISHER #19	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 82-VI				RECEIVED:	08/27/82	JA: OH			
8252134		3405320644		107-TF		SWISHER #20	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 82-VII				RECEIVED:	08/27/82	JA: OH			
8252135		3405320645		107-TF		SWISHER #21	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 82-VIII				RECEIVED:	08/27/82	JA: OH			
8252136		3405320646		107-TF		SWISHER #22	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 82-IX				RECEIVED:	08/27/82	JA: OH			
8252137		3405320647		107-TF		SWISHER #23	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 82-X				RECEIVED:	08/27/82	JA: OH			
8252138		3405320648		107-TF		SWISHER #24	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 82-XI				RECEIVED:	08/27/82	JA: OH			
8252139		3405320649		107-TF		SWISHER #25	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 82-XII				RECEIVED:	08/27/82	JA: OH			
8252140		3405320650		107-TF		SWISHER #26	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 83-I				RECEIVED:	08/27/82	JA: OH			
8252141		3405320651		107-TF		SWISHER #27	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 83-II				RECEIVED:	08/27/82	JA: OH			
8252142		3405320652		107-TF		SWISHER #28	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 83-III				RECEIVED:	08/27/82	JA: OH			
8252143		3405320653		107-TF		SWISHER #29	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 83-IV				RECEIVED:	08/27/82	JA: OH			
8252144		3405320654		107-TF		SWISHER #30	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 83-V				RECEIVED:	08/27/82	JA: OH			
8252145		3405320655		107-TF		SWISHER #31	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 83-VI				RECEIVED:	08/27/82	JA: OH			
8252146		3405320656		107-TF		SWISHER #32	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 83-VII				RECEIVED:	08/27/82	JA: OH			
8252147		3405320657		107-TF		SWISHER #33	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 83-VIII				RECEIVED:	08/27/82	JA: OH			
8252148		3405320658		107-TF		SWISHER #34	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 83-IX				RECEIVED:	08/27/82	JA: OH			
8252149		3405320659		107-TF		SWISHER #35	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 83-X				RECEIVED:	08/27/82	JA: OH			
8252150		3405320660		107-TF		SWISHER #36	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 83-XI				RECEIVED:	08/27/82	JA: OH			
8252151		3405320661		107-TF		SWISHER #37	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 83-XII				RECEIVED:	08/27/82	JA: OH			
8252152		3405320662		107-TF		SWISHER #38	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 84-I				RECEIVED:	08/27/82	JA: OH			
8252153		3405320663		107-TF		SWISHER #39	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 84-II				RECEIVED:	08/27/82	JA: OH			
8252154		3405320664		107-TF		SWISHER #40	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 84-III				RECEIVED:	08/27/82	JA: OH			
8252155		3405320665		107-TF		SWISHER #41	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 84-IV				RECEIVED:	08/27/82	JA: OH			
8252156		3405320666		107-TF		SWISHER #42	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 84-V				RECEIVED:	08/27/82	JA: OH			
8252157		3405320667		107-TF		SWISHER #43	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 84-VI				RECEIVED:	08/27/82	JA: OH			
8252158		3405320668		107-TF		SWISHER #44	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 84-VII				RECEIVED:	08/27/82	JA: OH			
8252159		3405320669		107-TF		SWISHER #45	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 84-VIII				RECEIVED:	08/27/82	JA: OH			
8252160		3405320670		107-TF		SWISHER #46	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 84-IX				RECEIVED:	08/27/82	JA: OH			
8252161		3405320671		107-TF		SWISHER #47	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 84-X				RECEIVED:	08/27/82	JA: OH			
8252162		3405320672		107-TF		SWISHER #48	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 84-XI				RECEIVED:	08/27/82	JA: OH			
8252163		3405320673		107-TF		SWISHER #49	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 84-XII				RECEIVED:	08/27/82	JA: OH			
8252164		3405320674		107-TF		SWISHER #50	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 85-I				RECEIVED:	08/27/82	JA: OH			
8252165		3405320675		107-TF		SWISHER #51	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 85-II				RECEIVED:	08/27/82	JA: OH			
8252166		3405320676		107-TF		SWISHER #52	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 85-III				RECEIVED:	08/27/82	JA: OH			
8252167		3405320677		107-TF		SWISHER #53	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 85-IV				RECEIVED:	08/27/82	JA: OH			
8252168		3405320678		107-TF		SWISHER #54	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 85-V				RECEIVED:	08/27/82	JA: OH			
8252169		3405320679		107-TF		SWISHER #55	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 85-VI				RECEIVED:	08/27/82	JA: OH			
8252170		3405320680		107-TF		SWISHER #56	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 85-VII				RECEIVED:	08/27/82	JA: OH			
8252171		3405320681		107-TF		SWISHER #57	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 85-VIII				RECEIVED:	08/27/82	JA: OH			
8252172		3405320682		107-TF		SWISHER #58	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 85-IX				RECEIVED:	08/27/82	JA: OH			
8252173		3405320683		107-TF		SWISHER #59	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 85-X				RECEIVED:	08/27/82	JA: OH			
8252174		3405320684		107-TF		SWISHER #60	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 85-XI				RECEIVED:	08/27/82	JA: OH			
8252175		3405320685		107-TF		SWISHER #61	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 85-XII				RECEIVED:	08/27/82	JA: OH			
8252176		3405320686		107-TF		SWISHER #62	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 86-I				RECEIVED:	08/27/82	JA: OH			
8252177		3405320687		107-TF		SWISHER #63	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 86-II				RECEIVED:	08/27/82	JA: OH			
8252178		3405320688		107-TF		SWISHER #64	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 86-III				RECEIVED:	08/27/82	JA: OH			
8252179		3405320689		107-TF		SWISHER #65	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 86-IV				RECEIVED:	08/27/82	JA: OH			
8252180		3405320690		107-TF		SWISHER #66	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 86-V				RECEIVED:	08/27/82	JA: OH			
8252181		3405320691		107-TF		SWISHER #67	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 86-VI				RECEIVED:	08/27/82	JA: OH			
8252182		3405320692		107-TF		SWISHER #68	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 86-VII				RECEIVED:	08/27/82	JA: OH			
8252183		3405320693		107-TF		SWISHER #69	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 86-VIII				RECEIVED:	08/27/82	JA: OH			
8252184		3405320694		107-TF		SWISHER #70	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 86-IX				RECEIVED:	08/27/82	JA: OH			
8252185		3405320695		107-TF		SWISHER #71	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 86-X				RECEIVED:	08/27/82	JA: OH			
8252186		3405320696		107-TF		SWISHER #72	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 86-XI				RECEIVED:	08/27/82	JA: OH			
8252187		3405320697		107-TF		SWISHER #73	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 86-XII				RECEIVED:	08/27/82	JA: OH			
8252188		3405320698		107-TF		SWISHER #74	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 87-I				RECEIVED:	08/27/82	JA: OH			
8252189		3405320699		107-TF		SWISHER #75	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 87-II				RECEIVED:	08/27/82	JA: OH			
8252190		3405320700		107-TF		SWISHER #76	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 87-III				RECEIVED:	08/27/82	JA: OH			
8252191		3405320701		107-TF		SWISHER #77	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 87-IV				RECEIVED:	08/27/82	JA: OH			
8252192		3405320702		107-TF		SWISHER #78	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 87-V				RECEIVED:	08/27/82	JA: OH			
8252193		3405320703		107-TF		SWISHER #79	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 87-VI				RECEIVED:	08/27/82	JA: OH			
8252194		3405320704		107-TF		SWISHER #80	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 87-VII				RECEIVED:	08/27/82	JA: OH			
8252195		3405320705		107-TF		SWISHER #81	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 87-VIII				RECEIVED:	08/27/82	JA: OH			
8252196		3405320706		107-TF		SWISHER #82	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 87-IX				RECEIVED:	08/27/82	JA: OH			
8252197		3405320707		107-TF		SWISHER #83	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 87-X				RECEIVED:	08/27/82	JA: OH			
8252198		3405320708		107-TF		SWISHER #84	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 87-XI				RECEIVED:	08/27/82	JA: OH			
8252199		3405320709		107-TF		SWISHER #85	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 87-XII				RECEIVED:	08/27/82	JA: OH			
8252200		3405320710		107-TF		SWISHER #86	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 88-I				RECEIVED:	08/27/82	JA: OH			
8252201		3405320711		107-TF		SWISHER #87	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 88-II				RECEIVED:	08/27/82	JA: OH			
8252202		3405320712		107-TF		SWISHER #88	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 88-III				RECEIVED:	08/27/82	JA: OH			
8252203		3405320713		107-TF		SWISHER #89	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 88-IV				RECEIVED:	08/27/82	JA: OH			
8252204		3405320714		107-TF		SWISHER #90	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 88-V				RECEIVED:	08/27/82	JA: OH			
8252205		3405320715		107-TF		SWISHER #91	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 88-VI				RECEIVED:	08/27/82	JA: OH			
8252206		3405320716		107-TF		SWISHER #92	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 88-VII				RECEIVED:	08/27/82	JA: OH			
8252207		3405320717		107-TF		SWISHER #93	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 88-VIII				RECEIVED:	08/27/82	JA: OH			
8252208		3405320718		107-TF		SWISHER #94	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 88-IX				RECEIVED:	08/27/82	JA: OH			
8252209		3405320719		107-TF		SWISHER #95	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 88-X				RECEIVED:	08/27/82	JA: OH			
8252210		3405320720		107-TF		SWISHER #96	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 88-XI				RECEIVED:	08/27/82	JA: OH			
8252211		3405320721		107-TF		SWISHER #97	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 88-XII				RECEIVED:	08/27/82	JA: OH			
8252212		3405320722		107-TF		SWISHER #98	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 89-I				RECEIVED:	08/27/82	JA: OH			
8252213		3405320723		107-TF		SWISHER #99	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 89-II				RECEIVED:	08/27/82	JA: OH			
8252214		3405320724		107-TF		SWISHER #100	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 89-III				RECEIVED:	08/27/82	JA: OH			
8252215		3405320725		107-TF		SWISHER #101	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 89-IV				RECEIVED:	08/27/82	JA: OH			
8252216		3405320726		107-TF		SWISHER #102	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 89-V				RECEIVED:	08/27/82	JA: OH			
8252217		3405320727		107-TF		SWISHER #103	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 89-VI				RECEIVED:	08/27/82	JA: OH			
8252218		3405320728		107-TF		SWISHER #104	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 89-VII				RECEIVED:	08/27/82	JA: OH			
8252219		3405320729		107-TF		SWISHER #105	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 89-VIII				RECEIVED:	08/27/82	JA: OH			
8252220		3405320730		107-TF		SWISHER #106	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 89-IX				RECEIVED:	08/27/82	JA: OH			
8252221		3405320731		107-TF		SWISHER #107	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 89-X				RECEIVED:	08/27/82	JA: OH			
8252222		3405320732		107-TF		SWISHER #108	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 89-XI				RECEIVED:	08/27/82	JA: OH			
8252223		3405320733		107-TF		SWISHER #109	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 89-XII				RECEIVED:	08/27/82	JA: OH			
8252224		3405320734		107-TF		SWISHER #110	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 90-I				RECEIVED:	08/27/82	JA: OH			
8252225		3405320735		107-TF		SWISHER #111	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 90-II				RECEIVED:	08/27/82	JA: OH			
8252226		3405320736		107-TF		SWISHER #112	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 90-III				RECEIVED:	08/27/82	JA: OH			
8252227		3405320737		107-TF		SWISHER #113	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 90-IV				RECEIVED:	08/27/82	JA: OH			
8252228		3405320738		107-TF		SWISHER #114	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 90-V				RECEIVED:	08/27/82	JA: OH			
8252229		3405320739		107-TF		SWISHER #115	CHESHIRE	1.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 90-VI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252114		3405320630		107-TF		DILLON #1	CHESHIRE	6.0	COLUMBIA GAS TRAN
8252113		3405320629		107-TF		DILLON #2	CHESHIRE	8.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM 81-IV LTD				RECEIVED: 08/27/82 JA: OH					
8252123		3410522311		107-TF		C SMITH #1	BEDFORD	5.0	COLUMBIA GAS TRAN
8252119		3410522306		107-TF		GAUL-CARMAN-CARMAN #1	SALISBURY	5.0	COLUMBIA GAS TRAN
8252120		3410522307		107-TF		GAUL-CARMAN-CARMAN #1A	POMEROY	5.0	COLUMBIA GAS TRAN
8252121		3410522308		107-TF		GAUL-CARMAN-CARMAN #2	SALISBURY	5.0	COLUMBIA GAS TRAN
8252122		3410522309		107-TF		GAUL-CARMAN-CARMAN #3	SALISBURY	5.0	COLUMBIA GAS TRAN
-SALISBURY ENERGY GROUP				RECEIVED: 08/27/82 JA: OH					
8252128		3411924921		107-TF		ALLISON #1	MUSKINGUM	11.0	COLUMBIA GAS TRAN
8252124		3411924917		107-TF		ALLISON #2	MEIGS	11.0	COLUMBIA GAS TRAN
8252125		3411924918		107-TF		ALLISON #3	MEIGS	11.0	COLUMBIA GAS TRAN
8252129		3411925034		107-TF		ALLISON #4	MEIGS	11.0	COLUMBIA GAS TRAN
8252127		3411924920		107-TF		ALLISON #6	MEIGS	11.0	COLUMBIA GAS TRAN
8252126		3411924919		107-TF		ALLISON 5	MEIGS	11.0	COLUMBIA GAS TRAN
-SHELDON L TURRILL				RECEIVED: 08/27/82 JA: OH					
8252135		3412725538		103		G HAGER #1	THORN	20.0	NATIONAL GAS & OI
-THE MUTUAL OIL & GAS COMPANY				RECEIVED: 08/27/82 JA: OH					
8252050		3411122800		103		BLACKSTONE #1MA	STAFFORD	6.0	COLUMBIA GAS TRAN
8252047		3411122601		103		BLACKSTONE #2M	STAFFORD	5.5	COLUMBIA GAS TRAN
8252048		3411122602		103		D HUGHES #2M	STAFFORD	7.0	COLUMBIA GAS TRAN
8252049		3411122603		103		D HUGHES #3-M	STAFFORD	22.0	COLUMBIA GAS TRAN
8252051		3411122801		103		G BAKER #4MA	SUMMERFIELD	10.0	COLUMBIA GAS TRAN
8252043		3411122495		103		G BAKER #5M	FRANKLIN	6.0	COLUMBIA GAS TRAN
8252045		3411122501		103	107-DV	J ULRICH #2M	SENECA	5.0	COLUMBIA GAS TRAN
8252046		3411122599		103	107-DV	JOHN ULRICH #1M	SUMMERFIELD	4.5	COLUMBIA GAS TRAN
8252044		3411122497		103		M BAKER #6M	SUMMERFIELD	8.0	COLUMBIA GAS TRAN
-VICTOR MCKENZIE				RECEIVED: 08/27/82 JA: OH					
8252052		3412725512		103		CARL EVANS #1	READING	10.0	NATIONAL GAS & OI
-VIKING RESOURCES CORP				RECEIVED: 08/27/82 JA: OH					
8252137		3410322817		103	107-TF	HIGHLAND SCHOOLS #1	GRANGER	30.0	
-WILLIAM N TIPKA				RECEIVED: 08/27/82 JA: OH					
8252133		3411922850		108		DICKSON #2		5.0	EAST OHIO GAS CO
8252134		3411923868		108		WHARTON #2		1.0	EAST OHIO GAS CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.3 mile rule)
- 102–3: New well (1,000 ft rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal seams
- 107–DV: Devonian shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally-affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 20061 Filed 9–21–82; 8:45 am]

BILLING CODE 6717-01-M

[Volume 737]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-MALONE OIL CO			RECEIVED:	08/31/82	JA: KS				
8252416	K-82-0289	1515920183	103			BOYS TOWN #1	CHASE SILICA	36.5	
LOUISIANA OFFICE OF CONSERVATION									
-ABCO PETROLEUM CORP			RECEIVED:	08/26/82	JA: LA				
8252155	82-1017	1711122035	108			EXXON FEE B #2	MONROE GAS FIELD	49.3	INC PIPELINE CO I
-GREAT SOUTHERN OIL & GAS CO INC			RECEIVED:	08/26/82	JA: LA				
8252152	82-148	1705721582	102-4			SL 4534 #1	LAKE RACCOURCI	600.0	COLUMBIA GAS TRAN
-MAY PETROLEUM INC			RECEIVED:	08/26/82	JA: LA				
8252154	81-1986	1700120942	102-4	103		FLOYD HEIRS #1 (171003)	WILDCAT	365.0	
-SONAT EXPLORATION COMPANY			RECEIVED:	08/26/82	JA: LA				
8252153	81-1991	1711720810	102-4			A F RUDOLPH #1	ANGIE FIELD	130.0	SOUTHERN NATURAL
MISSISSIPPI OIL & GAS BOARD									
-GULF OIL CORPORATION			RECEIVED:	08/30/82	JA: MS				
8252139	57-828	2306120344	103			WEST HEIDELBERG CVU 55-8-1	WEST HEIDELBERG	15.0	
-MARION CORPORATION			RECEIVED:	08/30/82	JA: MS				
8252241	55-82-561	2303120068	102-3			MYERS-FAIRCHILD #1	EAST MOUNT OLIVE FIEL	1540.0	
-SUN EXPLORATION & PRODUCTION CO			RECEIVED:	08/30/82	JA: MS				
8252248	58-82-435	2307320121	107-DP			ROSS BEATTY #1	TATUM'S CAMP	1400.0	ALABAMA-TENNESSEE
MONTANA BOARD OF OIL & GAS CONSERVATION									
-AMINOIL USA INC			RECEIVED:	08/27/82	JA: MT				
8252138	9-81-194	2508321487	103			LEWIS #1	RIDGELAWN	37.0	MONTANA DAKOTA UT
8252141	9-81-193	2508321487	102-2			LEWIS #1	RIDGELAWN	37.0	MONTANA DAKOTA UT
-D A S RESOURCE VENTURES INC			RECEIVED:	08/27/82	JA: MT				
8252150	9-81-185	2507300000	102-2			ANDERSON #1 SW SW 27 27N 2	WILDCAT	110.0	MONTANA POWER CO
8252143	9-81-183	2507321528	102-2			BISHOP 5-26 NE SW NW 26 27N 2E	WILDCAT	10.0	MONTANA POWER CO
8252139	9-81-184	2507321527	102-2			JOHNSON 14-21 CN1/2 SE SW 21 27N 2E	WILDCAT	18.0	MONTANA POWER CO
8252151	9-81-186	2507321411	102-2			PREPUTIN 1-28 SW NE NE 28 27N R2E	WILDCAT	18.0	MONTANA POWER CO
-EXETER EXPLORATION COMPANY			RECEIVED:	08/30/82	JA: MT				
8252269	10-81-202	2508321514	103			CURTIS HUNTER #5-23	FAIRVIEW	0.0	
-GETTY OIL COMPANY			RECEIVED:	08/30/82	JA: MT				
8252271	9-81-189	2508321474	102-4			SOUTH NOHLY #28-14	SOUTH NOHLY PROSPECT	300.0	PHILLIPS PETROLEU
-LAWRENCE J MCCARTHY			RECEIVED:	08/30/82	JA: MT				
8252270	10-81-203	2507121757	102-2			TRIBBY #1-35 3571	BOWDOIN	25.5	KANSAS-NEBRASKA N
-MIDLANDS GAS CORPORATION			RECEIVED:	08/27/82	JA: MT				
8252148	9-81-188	2507124150	108-ER			ARCHIE DUNBAR 1-18 1852	BOWDOIN	25.0	KANSAS-NEBRASKA N

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252145	9-81-196	2507121530		108		LAROCHE HARRISON 1-29 2971	WILDCAT	20.0	KANSAS-NEBRASKA N
8252147	9-81-187(EH)	2507121153		108-ER		NETTIE CROGER 1-15 1542	BOWDOIN	22.0	KANSAS-NEBRASKA N
-MONTANA-DAKOTA UTILITIES CO				RECEIVED:	08/30/82	JA: MT			
8252272	10-81-198	2501721124		108		AMARCO-NEFSY 11X-35	LISCOM CREEK	16.0	MONTANA-DAKOTA UT
-SHELL OIL CO				RECEIVED:	08/27/82	JA: MT			
8252146	9-81-190	2502521174		103		RAILROAD 13-29C	PENNEL	0.7	MONTANA DAKOTA UT
8252140	9-81-191	2502521160		103		UNIT 13-32C	PENNEL	1.8	MONTANA DAKOTA UT
-SOUTHLAND ROYALTY CO				RECEIVED:	08/27/82	JA: MT			
8252144	9-81-197	2508321365		102-4		NEVINS #1-19	WILDCAT	15.0	MGPC INC
-TEXACO INC				RECEIVED:	08/27/82	JA: MT			
8252143	9-81-195	2510121981		103		B M WILKINS #2	KEVIN SUNBURST	29.2	MONTANA POWER CO
8252142	9-81-192	2508321469		102-4		DETHMAN & MEYERS WELL NO 1	INTAKE II AREA (WILDC	148.0	MONTANA DAKOTA UT
-TOM BROWN INC				RECEIVED:	08/30/82	JA: MT			
8252268	10-81-201	2508321379		102-4		FINNICUM-UTP #31-44	WILDCAT	28.4	
********** NEW MEXICO DEPARTMENT OF ENERGY & MINERALS **********									
-ALAN J ANTWEIL				RECEIVED:	08/26/82	JA: NM			
8252163		3002527568		103		EAGLE #1 J-36-25S-36E	JALMAT TANSILL YATES	63.1	EL PASO NATURAL G
8252164		3002527799		103		HERMAN #3 E-8-20S-38E	WEST NADINE BLINEBRY	77.8	WARREN PETROLEUM
-ALAN J ANTWEIL				RECEIVED:	08/30/82	JA: NM			
8252236		3002527828		103		LOUIE #2 L-5-20S-38E	WEST NADINE DRINKARD	28.1	WARREN PETROLEUM
-AMERADA HESS CORPORATION				RECEIVED:	08/26/82	JA: NM			
8252175		3002500000		108		FRED TURNER JR "A" #4	SKAGGS	2.9	WARREN PETROLEUM
8252174		3002500000		108		STATE WE "A" #2	EUMONT	15.0	EL PASO NATURAL G
8252173		3002500000		108		STATE WE "F" #2	EUMONT	1.0	PHILLIPS PETROLEU
-C & E OPERATORS INC				RECEIVED:	08/26/82	JA: NM			
8252169		3004500000		108		OLIVER #2	AZTEC PICTURED CLIFFS	4.0	EL PASO NATURAL G
-EL PASO EXPLORATION CO				RECEIVED:	08/26/82	JA: NM			
8252172		3001523441		108		BIRD COM #1	UNDESIGNATED ATOKA	54.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	08/26/82	JA: NM			
8252170		3004506175		108		CUCCIA STATE #2	SOUTH BLANCO - PICTUR	21.0	EL PASO NATURAL G
8252171		3004521274		108		HORTON #4	BLANCO - PICTURED CLI	20.0	EL PASO NATURAL G
-GULF OIL CORPORATION				RECEIVED:	08/31/82	JA: NM			
8252451		3002511612		108		ARNOTT RAMSAY (NCT-E) #2	JALMAT GAS	17.3	NORTHERN NATURAL
8252450		3002504744		108		ARNOTT-RAMSAY (NCT-C) #11	EUNICE MONUMENT	8.0	PHILLIPS PETROLEU
8252452		3002525790		108		C D WOOLWORTH #5	LANGLIE MATTIX	7.5	EL PASO NATURAL G
8252445		3002508779		108		J F JANDA (NCT-F) #12	JALMAT GAS	19.1	NORTHERN NATURAL
8252447		3002521070		108		LEA "KN" STATE #2	MIDWAY ABO	2.2	PHILLIPS PETROLEU
8252449		3002511206		108		LILLIE #1	FOWLER MONTOYA	2.0	EL PASO NATURAL G
8252446		3002509468		108		MANDA (NCT-C) #1	JALMAT GAS	15.3	NORTHERN NATURAL
-KIMBELL OIL COMPANY				RECEIVED:	08/30/82	JA: NM			
8252237		3003922734		107-TF		CORAL COM #3	BALLARD PICTURED CLIF	18.0	EL PASO NATURAL G
8252238		3003922441		107-TF		FEDERAL COM #4	BALLARD PICTURED CLIF	100.0	EL PASO NATURAL G
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	08/30/82	JA: NM			
8252232		3002526994		103		EV GB/SA UNIT TRACT 2913 #009	VACUUM GB/SA	2.0	EL PASO NATURAL G
-SANTA RITA EXPLORATION				RECEIVED:	08/26/82	JA: NM			
8252159		3000561075		103		MOONSHINE #7 BATTERY #2 WELL #2	UND TWIN LAKES - SAN	14.6	MAPCO PRODUCTION
8252166		3000561452		103		MOONSHINE 7 BATTERY #2 WELL #10	UND TWIN LAKES - SAN	3.3	MAPCO PRODUCTION
8252167		3000561453		103		MOONSHINE 7 BATTERY #2 WELL #11	UND TWIN LAKES - SAN	3.3	MAPCO PRODUCTION
8252165		3000561604		103		MOONSHINE 7 BATTERY #2 WELL #13	UND TWIN LAKES - SAN	3.7	MAPCO PRODUCTION
8252160		3000561104		103		MOONSHINE 7 BATTERY #2 WELL #3	UND TWIN LAKES - SAN	1.4	MAPCO PRODUCTION
8252161		3000561105		103		MOONSHINE 7 BATTERY #2 WELL #4	UND TWIN LAKES - SAN	21.9	MAPCO PRODUCTION

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252158		3000561106		103		MOONSHINE 7 BATTERY #2 WELL #5	UND TWIN LAKES - SAN	1.4	MAPCO PRODUCTION
8252162		3000561107		103		MOONSHINE 7 BATTERY #2 WELL #6	UND TWIN LAKES - SAN	1.4	MAPCO PRODUCTION
-MERIDIAN OIL INC				RECEIVED:	08/26/82	JA: NM			
8252153		3004521274		108		HORTON #4	BLANCO - PICTURED CLI	20.0	EL PASO NATURAL G
-MERIDIAN OIL INC				RECEIVED:	08/30/82	JA: NM			
8252233		3002526994		103		EV GB/SA UNIT TRACT 2913 #009	VACUUM GB/SA	2.0	EL PASO NATURAL G
-MESA PETROLEUM CO				RECEIVED:	08/26/82	JA: NM			
8252154		3002527568		103		EAGLE #1 J-36-25S-36E	JALMAT TANSILL YATES	63.1	EL PASO NATURAL G
8252155		3002527799		103		HERMAN #3 E-8-20S-38E	WEST NADINE BLINEBRY	77.8	WARREN PETROLEUM
-MESA PETROLEUM CO				RECEIVED:	08/30/82	JA: NM			
8252234		3002527828		103		LOUIE #2 L-5-20S-38E	WEST NADINE DRINKARD	28.1	WARREN PETROLEUM
-MOBIL PRODUCING TEXAS & NEW MEXICO INC				RECEIVED:	08/26/82	JA: NM			
8252156		3000561452		103		MOONSHINE 7 BATTERY #2 WELL #10	UND TWIN LAKES - SAN	3.3	MAPCO PRODUCTION
8252157		3000561453		103		MOONSHINE 7 BATTERY #2 WELL #11	UND TWIN LAKES - SAN	3.3	MAPCO PRODUCTION
-MOBIL PRODUCING TEXAS & NEW MEXICO INC				RECEIVED:	08/30/82	JA: NM			
8252235		3002527828		103		LOUIE #2 L-5-20S-38E	WEST NADINE DRINKARD	28.1	WARREN PETROLEUM
-PENNZOIL COMPANY				RECEIVED:	08/26/82	JA: NM			
8252168		3004500000		108		OLIVER #2	AZTEC PICTURED CLIFFS	4.0	EL PASO NATURAL G
-PENNZOIL COMPANY				RECEIVED:	08/30/82	JA: NM			
8252239		3002527568		103		EAGLE #1 J-36-25S-36E	JALMAT TANSILL YATES	63.1	EL PASO NATURAL G
8252240		3002527799		103		HERMAN #3 E-8-20S-38E	WEST NADINE BLINEBRY	77.8	WARREN PETROLEUM
-PENNZOIL COMPANY				RECEIVED:	08/31/82	JA: NM			
8252241		3002527828		103		LOUIE #2 L-5-20S-38E	WEST NADINE DRINKARD	28.1	WARREN PETROLEUM
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	08/26/82	JA: NM			
8252149		3002526994		103		EV GB/SA UNIT TRACT 2913 #009	VACUUM GB/SA	2.0	EL PASO NATURAL G
-SANTA RITA EXPLORATION				RECEIVED:	08/26/82	JA: NM			
8252150		3000561075		103		MOONSHINE #7 BATTERY #2 WELL #2	UND TWIN LAKES - SAN	14.6	MAPCO PRODUCTION
8252151		3000561104		103		MOONSHINE 7 BATTERY #2 WELL #3	UND TWIN LAKES - SAN	1.4	MAPCO PRODUCTION
8252152		3000561105		103		MOONSHINE 7 BATTERY #2 WELL #4	UND TWIN LAKES - SAN	21.9	MAPCO PRODUCTION

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252162		3000561106		103		MOONSHINE 7 BATTERY #2 WELL #5	UND TWIN LAKES - SAN	21.9	MAPCO PRODUCTION
8252163		3000561107		103		MOONSHINE 7 BATTERY #2 WELL #6	UND TWIN LAKES - SAN	18.3	MAPCO PRODUCTION
8252156		3000561332		103		MOONSHINE 7 BATTERY #2 WELL #7	UND TWIN LAKES - SAN	0.0	MAPCO PRODUCTION
8252157		3000561333		103		MOONSHINE 7 BATTERY #2 WELL #8	UND TWIN LAKES - SAN	21.9	MAPCO PRODUCTION
8252158		3000561334		103		MOONSHINE 7 BATTERY #2 WELL #9	UND TWIN LAKES - SAN	3.3	MAPCO PRODUCTION
-SOUTHERN UNION EXPLORATION COMPANY				RECEIVED:	08/30/82	JA: NM			
8252234		3004500000		103		SUSCO 16 STATE #1	UNDESIGNATED GALLUP/M	114.0	
8252235		3004500000		103		SUSCO 16 STATE #1	BASIN DAKOTA	1053.0	
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	08/30/82	JA: NM			
8252233		3002525291		108		VIVIAN #11	DRINKARD & WANTZ GRAN	14.7	EL PASO NATURAL G
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	08/31/82	JA: NM			
8252444		3002506918		108		M T MATTERN (NCT-B) #2	PENROSE SKELLY	4.8	EL PASO NATURAL G
-YATES PETROLEUM CORPORATION				RECEIVED:	08/31/82	JA: NM			
8252448		3001524090		103		TRIANGLE RANCH "RA" ST COM #2	UND CISCO	0.0	TRANSWESTERN PIPE
OKLAHOMA CORPORATION COMMISSION									
-AMOCO PRODUCTION CO				RECEIVED:	08/30/82	JA: OK			
8252405	16514	3513900000		108		KEEN GAS UNIT "A" #1	GUYMON-HUGOTON (CHASE	17.8	PHILLIPS PETROLEU
-ANADARKO PRODUCTION COMPANY				RECEIVED:	08/30/82	JA: OK			
8252394	16012	3500320699		108		CASTLE B 1-14	LAMBERT S E	14.0	PIONEER GAS PRODU
-ANDOVER OIL COMPANY				RECEIVED:	08/30/82	JA: OK		75.0	OKLAHOMA GAS PIPE
8252410	15809	3501121537		103		GRABOW #19-1			
-ARCO OIL AND GAS COMPANY				RECEIVED:	08/30/82	JA: OK			
8252351	12142	3505100000		108-PB		THOMAS CHARLSON #6	CHICKASHA	18.3	ARKANSAS LOUISIAN
-B & H EXPLORATION CO				RECEIVED:	08/30/82	JA: OK			
8252370	14752	3514321713		102-2		GAZAWAY 2-A	UNNAMED	29.2	DIAMOND S GAS SYS
8252371	14738	3514321693		102-2		HUMPHREY 2-C	UNNAMED	28.8	DIAMOND S GAS SYS
-B R POLK INC				RECEIVED:	08/30/82	JA: OK			
8252372	14155	3508300000		103		PRESTON HEARN #2A	S MARSHALL	50.0	EASON OIL CO
-BARUCH-FOSTER CORP				RECEIVED:	08/30/82	JA: OK			
8252388	16104	3511921262		108		MCCRACKIN #1	RAVENDALE	8.0	CITIES SERVICE GA
8252375	16103	3503723397		108		MCKENNEY #1	WEST SHAMROCK	8.0	CITIES SERVICE GA
8252379	16105	3503723211		108		WOODROW CHILDERS #1	WEST SHAMROCK	6.8	CITIES SERVICE GA
-BEEDE & STEPHENS OIL CO				RECEIVED:	08/30/82	JA: OK			
8252358	13375	3511123149		103		SNELSON #2	UNKNOWN	36.5	PHILLIPS PETROLEU
-BILL WADLEY & SON DRILLING CO				RECEIVED:	08/30/82	JA: OK			
8252352	15622	3511121199		103		BINGMAN 2-A	BALD HILL	43.2	PHILLIPS PETROLEU
8252363	15623	3511121676		103		BURK #1	BALD HILL	22.2	PHILLIPS PETROLEU
8252362	15621	3511100000		103		CHANCEY 2-A	S E BRYANT	22.8	PHILLIPS PETROLEU
8252359	15628	3511100000		103		GORDON SMITH 2-A	HENRYETTA	30.0	PHILLIPS PETROLEU
8252361	15626	3511100000		103		MARSEY 1-A	OKMULGEE DISTRICT	30.0	PHILLIPS PETROLEU
8252360	15627	3511100000		103		MORGAN 1-A	COLE	30.0	PHILLIPS PETROLEU
8252367	15629	3511100000		103		WATSON 1-A	BALD HILL	8.4	PHILLIPS PETROLEU
-CENTRAL RESOURCES INC				RECEIVED:	08/30/82	JA: OK			
8252412	15889	3510500000		103		STOTTS #2		41.0	OKAN GAS CO
-CHAMPLIN EXPLORATION INC				RECEIVED:	08/30/82	JA: OK			
8252411	15814	3504321361		103		OKIE SLIM #1	CESTOS	750.0	PANHANDLE EASTERN
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	08/30/82	JA: OK			
8252404	16128	3509300000		102-4	103	JACOB JANTZEN #2	E CHANEY DELL	378.0	CHAMPLIN PETROLEU
-CLIFFORD RESOURCES INC				RECEIVED:	08/30/82	JA: OK			
8252387	15777	3507300000		103		GEIS #2-7	SOONER TREND	70.0	PHILLIPS PETROLEU
-CUMMINGS OIL CO				RECEIVED:	08/30/82	JA: OK			

JD NO	DK#	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252388	15578	3508300000		103		FREEBORN #1-4	S ELK HORN	0.0	EASON OIL CO
-DALCO PETROLEUM INC				RECEIVED:	08/30/82	JA: OK			
8252355	15333	3507323324		103		BREHM #1	SOONER TREND	91.3	CITIES SERVICE GA
-EDWIN L COX				RECEIVED:	08/30/82	JA: OK			
8252386	15776	3504921690		103		CASON #1	WEST LINDSAY	4.0	WARREN PETROLEUM
-EL PASO NATURAL GAS COMPANY				RECEIVED:	08/30/82	JA: OK			
8252391	16818	3500906772		108		HESTER #1	SO ERICK BR DOLOMITE	80.5	EL PASO NATURAL G
-EXXON CORPORATION				RECEIVED:	08/30/82	JA: OK			
8252407	15795	3509322259		103		HODGDEN #2-14	CLEO	263.0	
-FRED HARRIS				RECEIVED:	08/30/82	JA: OK			
8252364	18055	3511720865		103		HEWITT #7	LAUDERDALE	8.0	MID-AMERICA GAS L
-GREAT WESTERN LAND CO INC				RECEIVED:	08/30/82	JA: OK			
8252369	15530	3510721220		103		TOLLE #1	LYONS-QUINN	3.6	PHILLIPS PETROLEU
-GREEN OPERATING CO				RECEIVED:	08/30/82	JA: OK			
8252389	16702	3504700000		108		CECIL 4-1	SOONER TREND	8.0	PARTNERSHIP PROPE
-JAN OIL CO				RECEIVED:	08/30/82	JA: OK			
8252385	15912	3508100000		108		CHASE #1	S W MT VERNON	11.5	SUN GAS CO
8252400	15913	3508100000		108		EASON #1	S W MT VERNON	15.2	SUN GAS CO
8252384	15911	3508100000		108		HAGER #1	S W MT VERNON	9.9	SUN GAS CO
8252415	15909	3508100000		108		HARDING A #1	S W MT VERNON	10.9	SUN GAS CO
8252401	15908	3508100000		108		HARDING-HUNT #1	S W MT VERNONE	19.5	SUN GAS CO
8252383	15910	3508100000		108		HAYES #1	S W MT VERNON	3.9	SUN GAS CO
8252402	15907	3508100000		108		JOHNSON #1	S W MT VERNON	13.9	SUN GAS CO
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	08/30/82	JA: OK			
8252376	01310	3500721126		108-ER		ALBERT #1-3	MOCANE LAVERNE	30.0	COLORADO INTERSTA
-KIRKPATRICK OIL CO				RECEIVED:	08/30/82	JA: OK			
8252403	16802	3507323370		103		STATES #3-4	SOONER TREND	0.0	EXXON CO USA
-LUBELL OIL CO				RECEIVED:	08/30/82	JA: OK			
8252381	16137	3510720260		108		LUBELL #1-17 BURDEN	EAST WELEETKA	7.0	PHILLIPS PETROLEU
8252354	15369	3509120094		108		LUBELL #1-35 ADAMS "A"	NORTH RAIFORD	5.1	WELLHEAD ENTERPRI
8252376	16102	3512120191		108		LUBELL #1-35 VAUGHAN	ULAN	12.0	PUBLIC SERVICE CO
8252378	16109	3512120215		108		LUBELL #1-36 VAUGHAN "A"	ULAN	0.0	PUBLIC SERVICE CO
8252377	16100	3509120029		108		LUBELL #1-5 MCCLELLAN	WEST HANNA	11.0	PUBLIC SERVICE CO
8252368	16100	3509120830		108		LUBELL #1-9 JOHNSON	WEST HANNA	7.0	PUBLIC SERVICE CO
-MARLIN OIL CORPORATION				RECEIVED:	08/30/82	JA: OK			
8252408	15806	3500721981		103		CYANIGA #1	MOCANE-LAVERNE	278.0	PANHANDLE EASTERN
-OKLAHOMA DRILLING CORP				RECEIVED:	08/30/82	JA: OK			
8252406	15790	3508321649		103		REIM #1	NONE DESIGNATED	8.0	EASON OIL CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	08/30/82	JA: OK			
8252373	13321	3504721516		108-PB		ALWERT A #1	SOONER TREND	0.0	TRANSOK PIPELINE
8252357	13691	3501721026		108-ER		GRIFFIN D #1	NORTH YUKON	19.0	PANHANDLE EASTERN
8252356	14340	3500721112		103		WHITE F #1	MOCANE CHESTER	0.0	TRANSWESTERN PIPE
-POTTS-STEPHENSON EXPLORATION CO				RECEIVED:	08/30/82	JA: OK			
8252365	15872	3512100000		108		AMMO DEPOT #1-2A	S PINE HOLLOW	16.0	ARKANSAS LOUISIAN
-PROEX ENERGY CORP				RECEIVED:	08/30/82	JA: OK			
8252413	15890	3509322326		103		MCKINNEY #1	N W AMES	54.5	PIONEER GAS PRODU
8252414	15891	3509322327		103		MCKINNEY #2	N W AMES	0.0	PIONEER GAS PRODU
-SABINE CORP				RECEIVED:	08/30/82	JA: OK			
8252393	16781	3504520492		108		GILLISPIE 1-1	PEEK SOUTH (COTTAGE G	0.0	PRODUCERS GAS CO
-SCOTT PRODUCTION CO				RECEIVED:	08/30/82	JA: OK			
8252382	15778	3503723678		103		CRAMER #2 OTC #037-73508		14.6	KERR-MCGEE CORP
-SENECA OIL COMPANY				RECEIVED:	08/30/82	JA: OK			
8252350	12175	3501721863		102-4		SIMPSON #1-4	PIEDMONT	220.8	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252349	12176	3501721868		102-4		SIMPSON #2-4	PIEDMONT	165.4	PHILLIPS PETROLEU
-SOUTHLAND ROYALTY CO				RECEIVED:	08/30/82	JA: OK			
8252397	19301	3509321806		102-4		STAMBAUGH #2-32	ORION	36.0	MICHIGAN WISCONSI
8252399	19300	3504321305		102-4		STAMBAUGH #7-32	ORION	164.0	MICHIGAN WISCONSI
8252396	19299	3509321865		102-4		WOODRING #1-31	ORION	80.0	PHILLIPS PETROLEU
8252395	19298	3509322169		102-4		WOODRING #4-31	ORION	50.0	PHILLIPS PETROLEU
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	08/30/82	JA: OK			
8252390	16721	3505900000		108		O MARKER UT #1	MOCANE-LAVERNE	16.0	COLORADO INTERSTA
8252392	16722	3507300000		108		STRINGER #1	DOVER-HENNESSEY	16.0	EXXON COMPANY USA
-TEXOMA RESOURCES INC				RECEIVED:	08/30/82	JA: OK			
8252366	15699	3507323480		103		MITCHELL "A" #1-19	SOONER TREND	150.0	EXXON CO USA
-TOWNER PETROLEUM CO				RECEIVED:	08/30/82	JA: OK			
8252348	13358	3507323075		103		LINDSEY #28-1	SE ALPHA	0.0	PHILLIPS PETROLEU
-TXO PRODUCTION CORP				RECEIVED:	08/30/82	JA: OK			
8252409	15807	3506120475		103		EAKLE #1	KINTA	272.0	
-UNION OIL COMPANY OF CALIF				RECEIVED:	08/30/82	JA: OK			
8252398	06140	3505900000		108-ER		HIERONYMUS #1-18	LAVERNE	36.0	MICHIGAN WISCONSI
-WHITMAR EXPLORATION CO				RECEIVED:	08/30/82	JA: OK			
8252353	15607	3504921463		103		MURRAY #1-14	ANTIOCH	0.0	BUCKEYE NATURAL G
VIRGINIA DEPARTMENT OF LABOR & INDUSTRY									
-PHILADELPHIA OIL COMPANY				RECEIVED:	08/31/82	JA: VA			
8252247		4505120169		108		ABEDNEGO KISER - #P-25	NORA	15.3	KENTUCKY WEST VIR
8252253		4505120233		108		BROWN TRUST - #P-52	NORA	8.4	KENTUCKY WEST VIR
8252243		4505120142		108		DAVID SMITH - #P-10	NORA	14.6	KENTUCKY WEST VIR
8252263		4505120300		108		EARL HILTON - #P-84	NORA	10.9	KENTUCKY WEST VIR
8252265		4505120322		108		ELEXIUS SMITH - #P-96	NORA	8.8	KENTUCKY WEST VIR
8252267		4505119830		107-DV		FINIS E MCCOY - #P-119	NORA	7.3	KENTUCKY WEST VIR
8252262		4505120302		108		J A ODLE - #P-80	NORA	7.3	KENTUCKY WEST VIR
8252264		4519520317		108		J A ODLE - #P-91	NORA	3.6	KENTUCKY WEST VIR
8252260		4505120293		108		J W WRIGHT - #P-73	NORA	5.1	KENTUCKY WEST VIR
8252266		4519520357		108		JAMES H DUNN - #P-105	NORA	10.9	KENTUCKY WEST VIR
8252256		4505120246		108		JNO & VICEY M FAGE - #P-59	NORA	2.6	KENTUCKY WEST VIR
8252248		4505120189		108		LARKIN STANLEY - #P-32	NORA	13.5	KENTUCKY WEST VIR
8252245		4505120155		108		RAINWATER RAMSEY - #P-15	NORA	16.4	KENTUCKY WEST VIR
8252246		4505120157		108		RAINWATER RAMSEY - #P-16	NORA	10.2	KENTUCKY WEST VIR
8252242		4505120120		108		RAINWATER RAMSEY-#P-3	NORA	7.7	KENTUCKY WEST VIR
8252257		4505120264		108		SAMUEL HENSLEY - #P-65	NORA	10.6	KENTUCKY WEST VIR
8252259		4505120273		108		SAMUEL HENSLEY - #P-67	NORA	9.9	KENTUCKY WEST VIR
8252249		4505120197		108		STEINMAN DEVELOPMENT CO - #P-37	NORA	8.4	KENTUCKY WEST VIR
8252250		4505120200		108		STEINMAN DEVELOPMENT CO - #P-39	NORA	10.6	KENTUCKY WEST VIR
8252252		4505120214		108		STEINMAN DEVELOPMENT CO - #P-42	NORA	9.1	KENTUCKY WEST VIR
8252251		4505120203		108		STEINMAN DEVELOPMENT CO - #P-41	NORA	19.0	KENTUCKY WEST VIR
8252254		4505120237		108		THOMAS BISE - #P-55	NORA	18.6	KENTUCKY WEST VIR
8252255		4505120255		108		THOMAS BISE - #P-56	NORA	19.7	KENTUCKY WEST VIR
8252258		4505120266		108		THOMAS BISE - #P-66	NORA	4.7	KENTUCKY WEST VIR
8252244		4505120144		108		W T GOODLOE - #P-12	NORA	18.6	KENTUCKY WEST VIR
8252261		4505120295		108		WM G BAKER - #P-76	NORA	14.2	KENTUCKY WEST VIR
WEST VIRGINIA DEPARTMENT OF MINES									
-CITIES SERVICE COMPANY				RECEIVED:	08/30/82	JA: WV			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252319		4708703450		107-DV		COON "A" #1	FLAT FORK	31.0	
-CONSOLIDATED GAS SUPPLY CORPORATION RECEIVED: 08/27/82 JA: WV									
8252205		4701701961		108		C G FLEMING WN-4867	WEST UNION	3.0	GENERAL SYSTEM PU
8252203		4700100708		108		DAISY HEATHERLY WN 11947	PLEASANT	20.0	GENERAL SYSTEM PU
8252198		4704103100		103		GW WAGGONER WN 12727	FREEMANS CREEK	0.7	GENERAL SYSTEM PU
8252202		4700100717		108		J L MCBEE 11992	PLEASANT DISTRICT	21.0	GENERAL SYSTEM PU
8252207		4701900243		108		JEFFERY MFG CO WN 11775	KANAWHA	17.0	GENERAL SYSTEM PU
8252201		4701300798		108		LOUIS BENNETT WN-8882	SHERMAN	1.0	GENERAL SYSTEM PU
8252204		4700100018		108		N C HARDIN WN-8948	ELK	7.0	GENERAL SYSTEM PU
8252206		4701701907		108		N M MCDONALD WN-402	SALEM	15.0	GENERAL SYSTEM PU
8252199		4703301069		103		PEARL B JENKINS WN 12341	ELK	7.0	GENERAL SYSTEM PU
8252200		4710900858		103		POCAHONTAS LAND I-34 12733	BARKERS RIDGE DISTRIC	26.0	GENERAL SYSTEM PU
8252197		4709702301		103		WH O'DELL WN 12737	WASHINGTON	50.0	GENERAL SYSTEM PU
8252196		4709702309		103		WH O'DELL WN 12738	WASHINGTON	59.0	GENERAL SYSTEM PU
8252208		4701900232		108		WR JOHNSON WN 11675	FALLS	9.0	GENERAL SYSTEM PU
-CONSOLIDATED GAS SUPPLY CORPORATION RECEIVED: 08/30/82 JA: WV									
8252307		4707700172		108		BIRDIE MORGAN #11876	VALLEY DISTRICT	15.0	GENERAL SYSTEM PU
8252303		4707700204		108		C TRICKETT WN 12585	LYON	17.0	GENERAL SYSTEM PU
8252300		4703301450		108		CONSOLIDATED COAL CO WN-6998	COAL	0.3	GENERAL SYSTEM PU
8252302		4704101774		108		E W WAGGONER WN-8415	FREEMANS CREEK	17.0	GENERAL SYSTEM PU
8252295		4704102093		108		FLORA L HACKER 12081	COURTHOUSE DISTRICT	0.7	GENERAL SYSTEM PU
8252321		4704700633		108		GRETTA M EVANS #11872	SANDY RIVER DISTRICT	11.0	GENERAL SYSTEM PU
8252305		4704900365		108		H L JONES WN-2069	MANNINGTON	8.0	GENERAL SYSTEM PU
8252326		4703302431		108		J B & F W ALLMAN 12663	GRANT DISTRICT	4.0	GENERAL SYSTEM PU
8252309		4703300139		108		J J STROTHER WN-6149	COAL	5.0	GENERAL SYSTEM PU
8252325		4704100089		108		J L J BAILEY WN-8874	FREEMANS CREEK	17.0	GENERAL SYSTEM PU
8252301		4704100258		108		JOSEPH FALLON WN-297	GILMER	2.0	GENERAL SYSTEM PU
8252304		4749000350		108		JOSHUA HESS WN-1000	MANNINGTON	4.0	GENERAL SYSTEM PU
8252310		4703300888		108		LEMAR ROBINSON 11890	EAGLE DISTRICT	19.0	GENERAL SYSTEM PU
8252324		4704101916		108		MCKINLEY - BARB #11553	FREEMANS CREEK DISTRI	11.0	GENERAL SYSTEM PU
8252299		4703300457		108		P H MILKEY WN-8034	UNION	14.0	GENERAL SYSTEM PU
8252311		4703301069		108		PEARL B JENKINS WN 12341	ELK	6.0	GENERAL SYSTEM PU
8252320		4704700773		108		POCAHONTAS LAND CORP 12507	ELKHORN DISTRICT	19.0	GENERAL SYSTEM PU
8252306		4705500073		108		POCAHONTAS LAND CORP 12534	ROCK DISTRICT	17.0	GENERAL SYSTEM PU
8252322		4704102694		108		PORTER ARNOLD WN-1872	COURT HOUSE	7.0	GENERAL SYSTEM PU
8252308		4707700173		108		PRESTON COAL & COKE 11879	VALLEY DISTRICT	15.0	GENERAL SYSTEM PU
8252312		4733013020		108		SERENA ASHCRAFT WN-1402	SARDIS	9.0	GENERAL SYSTEM PU
8252323		4704102113		108		THOMAS R ELLIS WN-3587	COURTHOUSE	11.0	GENERAL SYSTEM PU
-HARRY C BOGGS RECEIVED: 08/30/82 JA: WV									
8252294		4700701633		103		M C CHAPMAN #4	NICUT	6.0	COLUMBIA GAS TRAN
-HYDROCARBON ENERGIES INC RECEIVED: 08/27/82 JA: WV									
8252194		4709702318		107-DV		C HINKLE #2 H-E-4	BUCKHANNON DISTRICT	0.0	COLUMBIA GAS TRAN
8252193		4709702323		107-DV		D J STRADER #1 (H5-6)	BANKS DISTRICT	0.0	COLUMBIA GAS TRAN
8252195		4709702318		103		HINKLE #2 (HE-5)	BUCKHANNON DISTRICT	0.0	COLUMBIA GAS TRAN
8252192		4709702288		107-DV		O GOULD #1 H-E-2	BUCKHANNON DISTRICT	0.0	COLUMBIA GAS TRAN
-KAISER ENERGY INC RECEIVED: 08/30/82 JA: WV									
8252314		4703501530		103		ROGER HATCHER KEM #51	ELK/POCA	5.8	ROARING FORK GAS
-PALEO INC RECEIVED: 08/30/82 JA: WV									
8252296		4701702742		108		COLE #3	COVE	10.6	CONSOLIDATED GAS
8252297		4708504231		108		MOYERS I-633	MURPHY	11.2	CONSOLIDATED GAS
8252298		4708504232		108		MOYERS I-634	MURPHY	18.7	CONSOLIDATED GAS
-ROBERT R JONES RECEIVED: 08/30/82 JA: WV									
8252313		4702103769		107-DV		H E SANDY #1	GLENVILLE NORTH	50.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-STERLING DRILLING & PROD CO INC			RECEIVED: 08/27/82 JA: WV						
8252209		4701502011	103			MURPHY #558	OTTER DISTRICT	3.0	BROOKLYN UNION GA
-STONEWALL GAS CO INC			RECEIVED: 08/30/82 JA: WV						
8252316		4703302667	103			BLAND #1 95-S	UNION DISTRICT	15.0	CONSOLIDATED GAS
8252317		4703302690	103			MARTS #1 104-S	UNION DISTRICT	17.0	CONSOLIDATED GAS
8252318		4703302691	103			MARTS #2 105-S	UNION DISTRICT	57.0	CONSOLIDATED GAS
8252315		4701703068	103			SPALDING #1 120-S	GREENBRIER DISTRICT	80.0	CONSOLIDATED GAS
-UNION DRILLING INC			RECEIVED: 08/27/82 JA: WV						
8252226		4703301195	108			ARTHUR G MARTIN 1421	EAGLE DISTRICT	1.6	CONSOLIDATED GAS
8252212		4709702234	103			DENZIL REX LEIGH #1 1672	WASHINGTON DISTRICT	0.0	COLUMBIA GAS TRAN
8252211		4709702235	103			DENZIL REX LEIGH #2 1673	WASHINGTON DISTRICT	0.0	COLUMBIA GAS TRAN
8252231		4709702248	103			FOSTER - SETTLE #1 1674	WASHINGTON DISTRICT	0.0	COLUMBIA GAS TRAN
8252230		4709702249	103			FOSTER - SETTLE #2 1696	WASHINGTON DISTRICT	0.0	COLUMBIA GAS TRAN
8252225		4703301023	108			G B COFFMAN 7107	EAGLE DISTRICT	50.3	CONSOLIDATED GAS
8252220		4709702069	108			GASTON GROCERY #1 1543	WASHINGTON DISTRICT	35.5	COLUMBIA GAS TRAN
8252221		4709702070	108			GASTON GROCERY #2 1544	UNION DISTRICT	40.9	COLUMBIA GAS TRAN
8252219		4709702011	108			HARVEY GOLDEN #1 1541	MEADE DISTRICT	27.0	COLUMBIA GAS TRAN
8252227		4709700787	108			HOMER ROHR #1 1595	WARREN DISTRICT	8.9	CONSOLIDATED GAS
8252224		4703301021	108			JAMES A GRIFFIN 7106	EAGLE DISTRICT	47.9	CONSOLIDATED GAS
8252223		4700101143	108			JESSE SHEME #1 1486	PLEASANT DISTRICT	32.0	CONSOLIDATED GAS
8252215		4708300180	108			JOHN C CAIN #2 1394	ROARING CREEK	39.9	COLUMBIA GAS TRAN
8252218		4709701941	108			JOHN MONTGOMERY #2 1527	UNION DISTRICT	17.8	COLUMBIA GAS TRAN
8252222		4709702092	108			LENI ASH #1 1578	BANKS DISTRICT	32.9	COLUMBIA GAS TRAN
8252217		4708300316	108			LUCILLE TALLMAN #1 1524	ROARING CREEK DISTRIC	48.9	COLUMBIA GAS TRAN
8252216		4708300315	108			LUCILLE TALLMAN #2 1525	ROARING CREEK DISTRIC	8.0	COLUMBIA GAS TRAN
8252228		4709701828	108			MYRON & CECILE HYMES #4 M-417	WASHINGTON DISTRICT	54.4	EQUITABLE GAS CO
8252229		4709702276	103			PEARL LILLY #1 1698	BANKS DISTRICT	0.0	COLUMBIA GAS TRAN
8252214		4700101575	103			UDI-MIKE ROSS #2 1675	VALLEY DISTRICT	0.0	COLUMBIA GAS TRAN
8252213		4709702224	103			ZICKEFOOSE-LEIGH #1 1669	WASHINGTON DISTRICT	0.0	COLUMBIA GAS TRAN
8252210		4709702231	103			ZICKEFOOSE-LEIGH #3 1671	WASHINGTON DISTRICT	0.0	COLUMBIA GAS TRAN
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, METAIRIE,LA									
-TENNECO OIL COMPANY			RECEIVED: 08/31/82 JA: 3						
8252342	G2-2571	1770540288	102-5			VERMILION 156 A-1	VERMILION	189.8	TENNESSEE GAS PIP
-TRANSCO EXPLORATION COMPANY			RECEIVED: 08/31/82 JA: 3						
8252421	G2-2949	1770540520	102-1			#8	VERMILION	3650.0	TRANSCONTINENTAL
-AMOCO PRODUCTION CO			RECEIVED: 08/30/82 JA: LA 3						
8252278	G1-2384	1771040836	102-5			OCS-G-0987 #B-9	EUGENE ISLAND	2000.0	TEXAS GAS TRANSMI
-AMOCO PRODUCTION CO			RECEIVED: 08/31/82 JA: LA 3						
8252339	G1-2431	1771040940	102-5			OCS-G-0987 #B-13	EUGENE ISLAND	200.0	TEXAS GAS TRANSMI
8252335	G2-2596	1771940193	102-5			OCS-G-1069 #8	WEST DELTA	200.0	TENNESSEE GAS PIP
-CHEVRON U S A INC			RECEIVED: 08/31/82 JA: LA 3						
8252340	G1-2448	1772540221	102-5			OCS-G-0374 #32	MAIN PASS	73.0	MISSISSIPPI POWER
-CONOCO INC			RECEIVED: 08/30/82 JA: LA 3						
8252285	G1-2426	1772440159	102-5			MAIN PASS BLK 311 #B-1	MAIN PASS	100.0	SOUTHERN NATURAL
8252287	G1-2425	1772440195	102-5			MAIN PASS BLK 311 #B-10	MAIN PASS	50.0	SOUTHERN NATURAL
8252293	G1-2289	1772440196	102-5			MAIN PASS BLK 311 #B-11	MAIN PASS	50.0	SOUTHERN NATURAL
8252291	G1-2290	1772440196	102-5			MAIN PASS BLK 311 #B-11D	MAIN PASS	1100.0	SOUTHERN NATURAL
8252290	G1-2294	1772440183	102-5			MAIN PASS BLK 311 #B-2	MAIN PASS	50.0	SOUTHERN NATURAL
8252279	G1-2295	1772440183	102-5			MAIN PASS BLK 311 #B-20	MAIN PASS	50.0	SOUTHERN NATURAL
8252292	G1-2296	1772440192	102-5			MAIN PASS BLK 311 #B-6	MAIN PASS	50.0	SOUTHERN NATURAL
8252273	G1-2297	1772440192	102-5			MAIN PASS BLK 311 #B-60	MAIN PASS	50.0	SOUTHERN NATURAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252281	G1-2388	1772440193		102-5		MAIN PASS BLK 311 #B-7	MAIN PASS	50.0	SOUTHERN NATURAL
8252274	G1-2352	1772440190		102-5		MAIN PASS BLK 311 #B-8	MAIN PASS	50.0	SOUTHERN NATURAL
8252276	G1-2306	1772440194		102-5		MAIN PASS BLK 311 #B-9	MAIN PASS	50.0	SOUTHERN NATURAL
8252275	G1-2307	1772440194		102-5		MAIN PASS BLK 311 #B-9D	MAIN PASS	50.0	SOUTHERN NATURAL
8252277	G1-2387	1772440188		102-5		MAIN PASS BLK 311 B-4	MAIN PASS	50.0	SOUTHERN NATURAL
8252286	G1-2353	1772440190		102-5		MAIN PASS BLK 311 B-8D	MAIN PASS	50.0	SOUTHERN NATURAL
-CONOCO INC				RECEIVED:	08/31/82	JA: LA 3			
8252422	G1-2113	1772440178		102-5		MAIN PASS BLK 311 #A-14	MAIN PASS	50.0	SOUTHERN NATURAL
8252423	G1-2114	1772440178		102-5		MAIN PASS BLK 311 #A-14D	MAIN PASS	50.0	SOUTHERN NATURAL
-EXXON CORPORATION				RECEIVED:	08/30/82	JA: LA 3			
8252288	G1-2423	1770240690		102-5		OCS-G 2560 #A-18	WEST CAMERON	1500.0	COLUMBIA GAS TRAN
-EXXON CORPORATION				RECEIVED:	08/31/82	JA: LA 3			
8252426	G2-2692	1771540451		102-5		OCS-G 1251 #E-4	SOUTH TIMBALIER	4750.0	TRUNKLINE GAS CO
8252432	G1-2219	1770240678		102-5		OCS-G 2560 #A-16	WEST CAMERON	1400.0	COLUMBIA GAS TRAN
8252337	G2-2859	1770940377		102-5		OCS-G 3331 #A-5	EUGENE ISLAND	1500.0	COLUMBIA GAS TRAN
8252434	G2-2655	1770940398		102-5		OCS-G 3331 #A-7	EUGENE ISLAND	1500.0	COLUMBIA GAS TRAN
-FOREST OIL CORPORATION				RECEIVED:	08/30/82	JA: LA 3			
8252289	G1-1845	1770840467		102-5		SOUTH MARSH ISLAND BLK 143 B-7	SOUTH MARSH ISLAND	1050.0	COLUMBIA GAS TRAN
-GULF OIL CORPORATION				RECEIVED:	08/31/82	JA: LA 3			
8252343	G2-2661	1772140199		102-5		OCS-G 2177 A-13 S/P BLOCK 49	SOUTH PASS	1710.0	TEXAS EASTERN TRA
8252435	G2-2660	1772140204		102-5		OCS-G 2177 WELL A-14 S/P BLK 49	SOUTH PASS	1250.0	TEXAS EASTERN TRA
8252427	G2-2673	1771140578		102-5		SHIP SHOAL BLK 169 OCS-G-0820 #BB-3	SHIP SHOAL	182.0	TRANSCONTINENTAL
8252425	G2-2662	1771140596		102-5		SHIP SHOAL BLK 169 OCS-G-0820 #BB-5	SHIP SHOAL	35.0	TRANSCONTINENTAL
-MARATHON OIL COMPANY				RECEIVED:	08/31/82	JA: LA 3			
8252442	G2-2577	1771040939		102-5		EUGENE ISLAND BLK 349 WELL #B-10	EUGENE ISLAND	365.0	TEXAS EASTERN TRA
8252424	G2-2709	1771040875		102-5		EUGENE ISLAND BLK 349 WELL #B-5A	EUGENE ISLAND	50.0	TEXAS EASTERN TRA
-MOBIL OIL EXPLORATION & PROD S E				RECEIVED:	08/30/82	JA: LA 3			
8252283	G2-2954	1771040900		102-1		EUGENE ISLAND 354 #A-6	EUGENE ISLAND	200.0	SEA ROBIN PIPELIN
-OCEAN PRODUCTION CO				RECEIVED:	08/31/82	JA: LA 3			
8252440	G2-2615	1771140605		102-5		OCS-065 #3A	SHIP SHOAL	90.0	TRANSCONTINENTAL
8252429	G2-2616	1771340099		102-5		OCS-074 #29B	SOUTH PELTO	36.0	TRANSCONTINENTAL
-SHELL OIL CO				RECEIVED:	08/31/82	JA: LA 3			
8252420	G2-2890	1773140022		102-1		OCS-G 3958 JA-1	SABINE PASS	0.0	FLORIDA GAS TRANS
-SUPERIOR OIL CO				RECEIVED:	08/31/82	JA: LA 3			
8252328	G2-2934	1773140041		102-1		#B-2	SABINE PASS	0.0	
8252418	G2-2933	1773140042		102-1		#B-6	SABINE PASS	0.0	
-TENNECO OIL COMPANY				RECEIVED:	08/31/82	JA: LA 3			
8252430	G2-2573	1770540428		102-5		VERMILION 155 A-3	VERMILION	1950.0	TENNESSEE GAS PIP
8252431	G2-2574	1770540431		102-5		VERMILION 155 A-4	VERMILION	0.0	TENNESSEE GAS PIP
8252341	G2-2572	1770540422		102-5		VERMILION 156 A-2	VERMILION	3650.0	TENNESSEE GAS PIP
-TEXACO INC				RECEIVED:	08/31/82	JA: LA 3			
8252331	G2-2746	1771940221		102-5		OCS-G-2937 W D 109 #A-4	WEST DELTA	318.0	NATURAL GAS PIPEL
8252347	G2-2747	1771940227		102-5		OCS-G-2937 WD 109 #A-6	WEST DELTA	747.0	NATURAL GAS PIPEL
-TRANSCO EXPLORATION COMPANY				RECEIVED:	08/30/82	JA: LA 3			
8252284	G2-2950	1770540520		102-1		D #8	VERMILION	3650.0	TRANSCONTINENTAL
-TRANSCO EXPLORATION COMPANY				RECEIVED:	08/31/82	JA: LA 3			
8252437	G2-2946	1770540506		102-1		#6	VERMILION	3650.0	TRANSCONTINENTAL
8252334	G2-2947	1770540506		102-1		#6-D	VERMILION	3650.0	TRANSCONTINENTAL
8252443	G2-2948	1770540512		102-1		#7	VERMILION	3650.0	TRANSCONTINENTAL
-UNION OIL COMPANY OF CALIF				RECEIVED:	08/31/82	JA: LA 3			
8252346	G2-2757	1770540238		102-5		OCS 0206 #4 (ST.1)	VERMILION	1100.0	TENNESSEE GAS PIP
8252433	G2-2652	1770540184		102-5		OCS-G 2870 #A-5	VERMILION	712.0	NORTHERN NATURAL
8252338	G2-2847	1771040852		102-1		OCS-G 3570 #A-2	EUGENE ISLAND	1119.0	TEXAS GAS TRANSMI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252439	G2-2599	1771240266		102-5		OCS-G-1031 #E-6	SHIP SHOAL BLOCK	70.0	TRANSCONTINENTAL
8252336	G2-2798	1771540436		102-1		OCS-G-4000 #A-16	SOUTH TIMBALIER	1577.0	TENNESSEE GAS PIP
-AMINOIL USA INC				RECEIVED:	08/31/82	JA: TX 3			
8252441	G2-2787	4271140316		108		OCS-G-2405 WELL #A-1	HIGH ISLAND AREA	510.0	NATURAL GAS PIPEL
8252436	G2-2788	4271140338		108		OCS-G-2405 WELL #A-5	HIGH ISLAND AREA	510.0	NATURAL GAS PIPEL
-CNG PRODUCING COMPANY				RECEIVED:	08/31/82	JA: TX 3			
8252345	G2-2783	4270940497		102-5		A-5S1	HIGH ISLAND	1500.0	CONSOLIDATED GAS
8252438	G2-2784	4270940556		102-5		A-6S1	HIGH ISLAND	1200.0	CONSOLIDATED GAS
8252333	G2-2785	4270940645		102-5		A-7S1	HIGH ISLAND	1500.0	CONSOLIDATED GAS
8252332	G2-2786	4270940631		102-5		A-8S1	HIGH ISLAND	1300.0	CONSOLIDATED GAS
-SHELL OIL CO				RECEIVED:	08/31/82	JA: TX 3			
8252417	G2-2675	4270840076		102-5		OCS-G 3228 A-17A	GALVESTON	1800.0	UNITED GAS PIPE L
8252419	G2-2922	4271540004		102-1		OCS-G 4143 JB-2A	SABINE PASS	380.0	FLORIDA GAS TRANS
8252428	G2-2674	4270600076		102-5		OCS-0709 A-14B	GALVESTON	150.0	DOW CHEMICAL U S
-TENNECO OIL COMPANY				RECEIVED:	08/30/82	JA: TX 3			
8252282	G2-2968	4270640069		102-1		GALVESTON AREA BLK 391 #A-2	GALVESTON AREA	0.0	TENNESSEE GAS PIP
8252280	G2-2969	4270640078		102-1		GALVESTON AREA BLK 393 #A-2	GALVESTON AREA	0.0	TENNESSEE GAS PIP
-TENNECO OIL COMPANY				RECEIVED:	08/31/82	JA: TX 3			
8252327	G2-2943	4270640048		102-1		GALVESTON AREA BLK 391 #A-1	GALVESTON AREA	0.0	TENNESSEE GAS PIP
8252330	G2-2944	4270640052		102-1		GALVESTON AREA BLK 391 #A-3	GALVESTON AREA	0.0	TENNESSEE GAS PIP
8252344	G2-2945	4270640075		102-1		GALVESTON AREA BLK 393 #A-1	GALVESTON AREA	0.0	TENNESSEE GAS PIP
8252329	G2-2881	4271540018		102-1		SABINE PASS 18 #A-7	SABINE PASS	2600.0	TENNESSEE GAS PIP
**********									
** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK									
**********									
-BEK OIL CO INC				RECEIVED:	08/27/82	JA: OK 8			
8252184		3511300000		103		TINKER 2A	NW/4 SEC 8 T25N R9E	7.3	PHILLIPS PETROLEU
8252185		3511300000		103		TINKER 3A	NW/4 SEC 8 T25N R9E	10.0	PHILLIPS PETROLEU
-J M GRAVES				RECEIVED:	08/27/82	JA: OK 8			
8252182		3511300000		102-4		BAKER #2	UNDESIGNATED	20.0	PHILLIPS PETROLEU
8252183		3511327042		102-4		BAKER #3		25.0	PHILLIPS PETROLEU
-NADEL & GUSSMAN				RECEIVED:	08/27/82	JA: OK 8			
8252177		3511300000		103		#3-A	KASHISKA	3.0	PHILLIPS PETROLEU
8252176		3511300000		103		CASH #1-A	KASHISKA	6.0	PHILLIPS PETROLEU
8252178		3511300000		103		CASH #4-A	KASHISKA	2.5	PHILLIPS PETROLEU
8252179		3511300000		103		HOLIDAY #1	PAXTON EAST	2.5	PHILLIPS PETROLEU
8252180		3511300000		103		HOLIDAY #2	PAXTON EAST	3.0	PHILLIPS PETROLEU
8252186		3511300000		103		REED #4	GILLILAND SOUTH	1.4	PHILLIPS PETROLEU
8252187		3511300000		103		REED #5	GILLILAND SOUTH	1.4	PHILLIPS PETROLEU
8252188		3511300000		103		REED #6	GILLILAND SOUTH	1.4	PHILLIPS PETROLEU
8252189		3511300000		103		REED #7	GILLILAND SOUTH	1.4	PHILLIPS PETROLEU
8252190		3511300000		103		SHEWMAKER #3-A	BULL DOG NORTH	3.5	PHILLIPS PETROLEU
8252191		3511300000		103		SHEWMAKER #4-A	BULL DOG NORTH	3.5	PHILLIPS PETROLEU
-TPEX EXPLORATION INC				RECEIVED:	08/27/82	JA: OK 8			
8252181		3511300000		103		LABADIE #2-A	DOMES POND CREEK	60.0	NATIONAL ZINC CO

Kenneth F. Plumb,

Secretary.

[FR Doc. 26080 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-C

[Project No. 6668-000]

Energenics Systems, Inc., Application for Preliminary Permit

September 20, 1982.

Take notice that Energenics Systems, Inc. (Applicant) filed on September 1, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6668 to be known as the Grand Valley Project located on the Colorado River in Mesa County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Granville J. Smith, President, Energenics Systems, Inc., 1717 K Street, Suite 706, Washington, D.C. 20006.

Project Description—The proposed project would utilize the existing U.S. Water and Power Resources Service's Grand Valley Diversion Dam and reservoir and would consist of a powerhouse with two generating units having a total rated capacity of 1.6 MW, a switchyard and a transmission line. The Applicant estimates that the average annual energy output would be 11,000,000 kWh. Energy generated at the project would likely be sold to the Public Service Company of Colorado for distribution to its customers.

Purpose Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, a study of environmental impacts, geotechnical investigations in the immediate area of the dam itself and in the area of the powerhouse tailrace, and of the project's compatibility with irrigation needs. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $30,000.

Competing Application—Anyone desiring to file a competing application for preliminary permit must file with the Commission, on or before January 3, 1983, the competing application itself (see: 18 CFR 4.30 et. seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be filed with the Commission on or before December 2, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before December 2, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26043 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6561-000]

Energenics Systems Inc.; Application for Preliminary Permit

September 20, 1982.

Take notice that Energenics Systems Inc. (Applicant) filed on July 30, 1982, an application for preliminary permit pursuant to the Federal Power Act, 16 U.S.C. 791(a) 825(r) for Project No. 6561 to be known as the Rathbun Dam Hydroelectric Project located on the Chariton River in Appanoose County, Iowa. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Granville J. Smith, Energenics Systems Inc., 1717 K Street, N.W., Suite 706 Washington, D.C. 20006.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 6561 would consist of: (1) A proposed 6 foot diameter and 150-foot-long penstock at the right side of the existing dam; (2) a proposed powerhouse containing one turbine/generator with a total installed capacity of 2 MW; (3) a 50-foot-long, 14-foot-wide concrete trailrace; (4) a proposed transmission line, less than one mile long, interconnecting with the Iowa Southern Utilities; and (5) appurtenant facilities. Applicant estimates the average annual energy production to be 5.5 GWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months. during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with the consultation with Federal, state, and lical agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $35,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must file with the Commission, on or before January 3, 1983, the competing application itself (see: 18 CFR 4.30 et. seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to file such an application in response to this notice. A notice of intent to file an

application for license or exemption must be filed to the Commission on or before October 4, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before October 4, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26046 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6610-000]

Energenics Systems Inc.; Application for Preliminary Permit

September 21, 1982.

Take notice that Energenics systems Inc. (Applicant) filed on August 18, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6610 to be known as the Mississippi River Lock and Dam No. 20 Hydroelectric project located on the Mississippi River in Lewis County, Missouri. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Granville J. Smith, Energenics Systems Inc., 1717 K Street, N.W., Suite 706, Washington, D.C. 20006.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 6610 would consist of: (1) A proposed powerhouse which will be built to replace a section of the existing dam weir; (2) the installation of two bulb units with a total installed capacity of 25 MW; (3) a proposed approach channel and tailrace; (4) a proposed transmission line, less than one mile long, interconnecting with a local utility company; and (5) appurtenant facilities. Applicant estimates the average annual energy production to be 130 GWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with the consultation with Federal, state, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $50,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must file with the Commission, on or before December 13, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to file such an application in response to this notice. A notice of intent to file an application for license or exemption must be filed to the Commission on or before November 15, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 15, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26045 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5103-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

September 17, 1982

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Squaw Creek Hydroelectric Project No. 5103, has requested that its preliminary permit be terminated. The permit was issued on February 1, 1982, and would have expired July 31, 1983. The project would have been located on the Squaw Creek in Sanders County, Montana.

The Permittee filed its request on August 23, 1982, and the surrender of the preliminary permit for Project No. 5103 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26024 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5104-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

September 17, 1982

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Ruby Creek Hydroelectric Project No. 5104, has requested that its preliminary permit be terminated. The permit was issued on March 22, 1982, and would have expired August 31, 1983. The project would have been located on the Ruby Creek in Lincoln County, Montana.

The Permittee filed its request on August 23, 1982, and the surrender of the preliminary permit for Project No. 5104 is deemed acepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26025 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5105-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

September 17, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Six Mile Creek Hydroelectric Project No. 5105, has requested that its preliminary permit be terminated. The permit was issued on April 23, 1982, and would have expired September 30, 1983. The project would have been located of the Six Mile Creek in Lake County, Montana.

The Permittee filed its request on August 23, 1982, and the surrender of the preliminary permit for Project No. 5105 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26026 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5107-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

September 17, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Spruce Creek Hydroelectric Project No. 5107, has requested that its preliminary permit be terminated. The permit was issued on February 1, 1982, and would have expired July 31, 1983. The proposed project would have been located on the Spruce Creek in Boundary County, Idaho.

The Permittee filed its request on August 23, 1982, and the surrender of the preliminary permit for Project No. 5107 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26027 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5110-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

September 17, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Curtis Creek Hydroelectric Project No. 5110, has requested that its preliminary permit be terminated. The permit was issued on February 2, 1982, and would have expired July 31, 1983. The proposed project would have been located on the Curtis Creek in Bonner County, Idaho.

The Permittee filed its request on August 23, 1982, and the surrender of the preliminary permit for Project No. 5110 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26028 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5109-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

September 17, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Hellroaring Creek Hydroelectric Project No. 5109, has requested that its preliminary permit be terminated. The permit was issued on February 2, 1982, and would have expired July 31, 1983. The proposed project would have been located on the Hellroaring Creek in Boundary County, Idaho.

The Permittee filed its request on August 23, 1982, and the surrender of the preliminary permit for Project No. 5109 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26029 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5479-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

September 17, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Camp Creek Hydroelectric Project No. 5479, has requested that its preliminary permit be terminated. The permit was issued on April 23, 1982, and whoud have expired September 30, 1983. The project would have been located on the Camp Creek in Lincoln County, Montana.

The Permittee filed its request on August 23, 1982, and the surrender of the preliminary permit for Project No. 5479 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26030 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5106-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

September 17, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Highland Creek Hydroelectric Project No. 5106, has requested that its preliminary permit be terminated. The permit was issued on

February 1, 1982, and would have expired July 31, 1983. The proposed project would have been located on the Highland Creek in Boundary County, Idaho.

The Permittee filed its request on August 23, 1982, and the surrender of the preliminary permit for Project No. 5106 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26031 Filed 9-21-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5100-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

September 17, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Indian Springs Hydroelectric Project No. 5100, has requested that its preliminary permit be terminated. The permit was issued on March 22, 1982, and would have expired August 31, 1983. The proposed project would have been located on the Indian Creek in Lincoln County, Montana.

The Permittee filed its request on August 23, 1982, and the surrender of the preliminary permit for Project No. 5100 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26032 Filed 9-21-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5475-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

September 17, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed O'Brien Creek Hydroelectric Project No. 5475, has requested that its preliminary permit be terminated. The permit was issued on April 23, 1982, and would have expired September 30, 1983. The project would have been located on the O'Brien Creek in Lincoln County, Montana.

The Permittee filed its request on August 23, 1982, and the surrender of the preliminary permit for Project No. 5475 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26033 Filed 9-21-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6823-000]

Eric R. Jacobson; Application for Preliminary Permit

September 21, 1982.

Take notice that Eric R. Jacobson (Applicant) filed on August 20, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6823 to be known as the Bridal Veil Project located on Bridal Veil Creek, near the town of Telluride, in the Uncompahgre National Forest in San Miguel County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Marian R. Jacobson, P.O. Box 2162, Grand Junction, Colorado 81502.

Project Description—The proposed project would consist of: (1) Upper Lewis Lake at elevation 12,881 feet M.S.L., Lower Lewis Lake at elevation 12,842 feet M.S.L., Blue Lake at elevation 12,202 feet M.S.L., and Mud Lake at elevation 12,255 feet M.S.L.; (2) a system of existing intakes or siphons at each lake connected by a 3.5-mile-long system of steel penstocks from 3 feet to 10 inches in diameter which would be repaired or replaced and connected to; (3) an existing historic powerhouse located at the head of Bridal Veil Falls to be restored and would include a rebuilt 350–kW turbine-generator; (4) a new 4620-foot-long, 4.4–kV transmission line along the existing right-of-way; and (5) appurtenant facilities. Energy produced would be sold to a local utility or industry. The proposed project would produce up to 3,048,480 kWh annually. The powerhouse is a National Historic Landmark and is owned by Idarado Mining Company.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, coordination with the U.S. Forest Service, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. The Applicant has estimated that the cost of studies under the preliminary permit would be $150,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must file with the Commission, on or before January 3, 1983, the competing application itself (see: 18 CFR 4.30 et. seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to file such an application in response to this notice. A notice of intent to file an application for license or exemption must be filed with the Commission on or before December 6, 1982, an should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Agency Comment—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before December 6, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch,

Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26040 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6458-000]

Everand Jensen; Application for Exemption for Small Hydroelectric Power Project of 5 MW or Less Capacity

September 21, 1982.

Take notice that on June 23, 1982, Everand Jensen (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6458 would be located on Birch Creek, a tributary of the Snake River, near Hagerman, in Gooding County, Idaho. Correspondence with the Applicant should be directed to: Mr. Everand Jensen, Star Route, Box 32, Bliss, Idaho 83314.

Project Description—The proposed Birch Creek Hydroelectric project would consist of: (1) A 6-foot-high diversion structure with negligible storage; (2) two intake structures; (3) a 450-foot-long, 18-inch-diameter steel penstock for Powerhouse No. 1; (4) a 283-foot-long, 18-inch-diameter steel penstock for Powerhouse No. 2; (5) Powerhouse No. 1 containing one generating unit with an installed capacity of 24 kW; (6) Powerhouse No. 2 containing one generating unit with an installed capacity of 37 kW; and (7) a 0.25-mile-long, 34.5-kV transmission line. Applicant estimates that the average annual energy production would be 0.54 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must file with the Commission, on or before November 15, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Filing of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFC 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Commission Rules 211 or 214, 18 CFR 385.211 or 385.214 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 15, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory. Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26047 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER82-670-000, and ER82-555-000, ER82-556-000, ER82-557-000, ER82-558-000, and ER82-559-000]

Michigan Power Co.; Order Accepting for Filing and Suspending Revised Rates, Noting Interventions, Granting Waiver of Notice, Consolidating Dockets, and Establishing Hearing Procedures

Issued: September 16, 1982.

On July 21, 1982, Michigan Power Company (Michigan) tendered for filing a proposed two-step rate increase for firm power service to its two wholesale customers, the City of Dowagiac and the Village of Paw Paw, Michigan.[1] The proposed Step I rates would increase revenues by approximately $248,000 (12%) for the calendar year 1981 (Period I) test period. The proposed Step II rate would further increase revenues by approximately $314,000 (a total increase of 27%). Michigan's submittal primarily reflects the pass-through of Michigan's increased purchased power costs incurred as a result of increased rates for service from Indiana and Michigan Electric Company (IME) in Docket Nos. ER82-555-000, *et al.*[2] By order dated July 14, 1982, in Docket Nos. ER82-555-000, *et al.*, the Commission, *inter alia*, accepted for filing IME's two-step rate increase applicable for service to Michigan and suspended IME's Step I and Step II rates for one day and five

[1] *See* Attachment A for rate schedule designations.

[2] Michigan purchases approximately 98% of its power and energy requirements from IME.

months to become effective on July 29, 1982, and December 29, 1982 subject to refund. Michigan requests waiver of the notice requirements to allow its proposed Step I and Step II rates to become effective coincident with the effective dates designated for IME's corresponding rates.

Notice of Michigan's filing was published in the Federal Register with responses due by August 17, 1982. Paw Paw and Dowagiac filed timely petitions to intervene although neither intervenor has raised any specific substantive issues.[3] Paw Paw states that it is a customer of Michigan and will be affected by the proposed rate increase. Dowagiac contends that Michigan's rates should be suspended on the same basis as were IME's inasmuch as Michigan's filing is predicated largely on purchased power costs. Dowagiac states that it does not object to Michigan's request or waiver of notice and a July 29 effective date for the Step I rates, if the rates become effective, subject to refund and suspensions consistent with our treatment of IME's filing.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), Paw Paw's and Dowagiac's timely interventions serve to make them parties to this proceeding absent opposition within 15 days of their pleadings.

Our preliminary examination of Michigan's filing indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and shall suspend them as ordered below.

As we have previously noted, Michigan's submittal, in large part, represents a pass-through of increased purchased power costs attributable to IME's earlier filing. Apart from these purchased power costs, which at this time are properly reflected in Michigan's cost of service although they are being paid to IME subject to refund, our preliminary review suggests that Michigan's proposed rates may not produce substantially excessive revenues as defined in *West Texas Utilities Company*, Docket No. ER82–23–000 (February 26, 1982). Accordingly, we agree that it is appropriate to suspend Michigan's rates so that they become effective coincident with the rates filed by IME in Docket Nos. ER82–555–000, *et al.* With respect to Michigan's request for waiver of the notice requirements, we note that both Dowagiac and Paw Paw intervened in the IME proceeding with appropriate notice of that rate change and in anticipation of this filing by Michigan to recover associated purchased power costs. In addition, neither intervenor objects to the requested waiver. Thus, we find that good cause exists to waive the notice requirements and to suspend Michigan's proposed Step I and II rates to become effective on July 29, 1982, and December 29, 1982, respectively, subject to refund.

Because we find that common questions of law and fact may be presented in this docket and in Docket Nos. ER82–555–000, *et al.*, we shall consolidate these proceedings for purposes of hearing and decision.

The Commission orders: (A) Waiver of the notice requirements is hereby granted; Michigan's proposed rates are hereby accepted for filing and suspended, with the Step I and Step II rates to become effective, subject to refund, on July 29, 1982, and December 29, 1982, respectively.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of Michigan's rates.

(C) Docket No. ER82–670–000 is hereby consolidated with the pending proceeding in Docket Nos. ER82–555–000, *et al.*, for purposes of hearing and decision.

(D) The Commission staff shall serve top sheets in this proceeding on or before October 1, 1982.

(E) The administrative law judge designated to preside in Docket Nos. ER82–555–000, *et al.*, shall convene a conference in this proceeding promptly following the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A.—Michigan Power Company, Rate Schedule Designations, Docket No. ER82–670–000

Designation and Description

(1) Ninth Revised Sheet No. 6 under FPC Electric Tariff Original Volume No. 1 (Supersedes Eighth Revised Sheet No. 6), Step I Rates.

(2) Fifth Revised Sheet No. 7 under FPC Electric Tariff Original Volume No. 1 (Supersedes Eighth Revised Sheet No. 7), Fuel Adjustment Clause.

(3) Tenth Revised Sheet No. 6 under FPC Electric Tariff Original Volume No. 1 (Supersedes (1) above), Step II Rates.

[FR Doc. 30022 Filed 9–21–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–1–25–000]

Mississippi River Transmission Corp.; Rate Change Filing

September 15, 1982.

Take notice that on August 31, 1982 Mississippi River Transmission Corporation ("Mississippi") tendered for filing Eighty-Fourth Revised Sheet No. 3A to its FERC Gas Tariff, First Revised Volume No. 1. An effective date of October 1, 1982 is proposed.

Mississippi states that Eighty-Fourth Revised Sheet No. 3A is being submitted to reflect changes in purchased gas costs by reason of the rate filing of its principal pipeline supplier, United Gas Pipe Line Company at Docket No. RP82–57, which includes the effect on United of the commencement of deliveries through the new Northern Border Pipeline Co. system. Mississippi states that it expects such commencement date to occur sometime after September 1, 1982 but on or before October 1, 1982, and that it is submitting the instant filing with a proposed October 1, 1982 effective date in order to provide its sale for resale customers the normal thirty (30) day notice with respect to the filing. Mississippi requests that in the event deliveries from Northern Border do not commence on September 1, 1982, the date when Mississippi's previously-filed Alternate Eighty-Third Revised Sheet No. 3A is to become effective, that Eight-Fourth Revised Sheet No. 3A be accepted to be effective October 1, 1982. Mississippi further states that it will charge its Unrecovered Purchased Gas Cost Account for any increased gas cost caused by United's RP82–57 rate change from the date Northern Border deliveries do commence and to October 1, 1982.

Mississippi states that copies of its filing have been served on all

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[3] Dowagiac did, however, raise numerous cost of service issues in its petition to intervene in Docket Nos. ER82–555–000, *et al.* that petition was granted.

jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All such petitions or protests should be filed on or before September 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26018 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-79-001]

Natural Gas Pipeline Co. of America, Columbia Gulf Transmission Co., and Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Petition To Amend

September 17, 1982.

Take notice that on May 7, 1982, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), 1010 Milam, Houston, Texas 77002 filed in Docket No. CP81-79-001 a joint petition to amend the order issued June 18, 1981, in Docket No. CP81-79-000 pursuant to Section 7(c) of the National Gas Act so as to authorize a change in the ownership in joint offshore pipeline facilities, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that Natural's present percentage dedication is 75 percent of West Delta Block 109 platform production, offshore Louisiana, and would likely increase from this level pending final unit determination at the conclusion of well drilling. Natural, it is asserted, has been advised that the final unit determination would not occur for several months but Natural's present ownership percentage of 81.82 percent would most likely be increased while the ownership percentages of Columbia Gulf and Tennessee would correspondingly be reduced.

It is indicated that because of the expected increase in Natural's percentage dedication in West Delta 109 production, Petitioners have agreed that Natural should own 100 percent of the facilities and that Natural would transport the remaining natural gas volumes through the West Delta 109 pipeline facilities.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 7, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26094 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6433-000]

Warren B. Nelson; Application for Exemption for Small Hydroelectric Power Project of 5 MW or Less Capacity

September 21, 1982.

Take notice that on June 15, 1982, Warren B. Nelson (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6433 would be located on Riordan Creek near Yellow Pine in Valley County, Idaho. The proposed project would affect U.S. lands in Boise National Forest. Correspondence with the Applicant should be directed to: Mr. Joseph B. Nelson, P.O. Box 3382, Boise Idaho 83703.

Project Description—The proposed project would consist of: (1) A 6-foot-high, 40-foot-long diversion structure; (2) an 8,200-foot-long, 26-inch-diameter steel penstock; (3) a powerhouse with a rated capacity of 1,900 KW; and (4) a 250-foot-long, 6.9-kV transmission line. interconnecting with an existing Idaho Power Company transmission line. The estimated annual energy output is 9.6 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must file with the Commission, on or before November 15, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Filing of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the

requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may file comments, a protest, or a petition to intervene in accordance with the requirements of Commission Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motions to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motion to intervene must be filed on or before November 15, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26048 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6435-000]

Joseph B. Nelson; Application for Exemption for Small Hydroelectric Power Project of 5 MW or Less Capacity

September 21, 1982.

Take notice that on June 15, 1982, Joseph B. Nelson (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6435 would be located on Trapper Creek near Yellow Pine in Valley County, Idaho. The proposed project would affect U.S. lands in Boise National Forest. Correspondence with the Applicant should be directed to: Mr. Warren B. Nelson, 3410 Montvue Drive, Meridian, Idaho 83642.

Project Description—The proposed project would consist of: (1) A 6-foot-high, 40-foot-long diversion structure; (2) a 5,800-foot-long 20-inch-diameter steel penstock; (3) a powerhouse with a rated capacity of 875 kW; and (4) a 50-foot-long, 6.–9kV transmission line interconnecting with an existing Idaho Power Company transmission line. The estimated annual energy output is 3.6 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resouces are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must file with the Commission, on or before November 15, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Filing of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Motions to Intervene— Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Commission Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 15, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26049 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4493-001]

North Valley Land Corp.; Surrender of Preliminary Permit

September 17, 1982.

Take notice that North Valley Land Corporation, Permittee for the proposed Grider Creek Hydroelectric Project No. 4493, has requested that its preliminary permit be terminated. The preliminary permit was issued on August 14, 1981,

and would have expired July 31, 1983. The project would have been located on Grider Creek in Siskiyou County, California. The Permittee stated that a preliminary study found that the project would not be economically feasible.

The Permittee filed its request on August 13, 1982, and the surrender of the preliminary permit for Project No. 4493 is deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26035 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-476-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Application

September 17, 1982.

Take notice that on August 9, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP82-476-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a delivery point and the modification of two existing delivery points, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Peoples Natural Gas Company (Peoples) has requested Applicant to construct a new delivery point to serve the town of Richland, Nebraska. It is indicated that Richland currently uses propane as its energy source but desires natural gas service to accommodate the increased expansion and growth that has occured in the city. The proposed delivery point would provide natural gas service to approximately forty-eight (48) residential, three (3) commercial and four (4) essential agricultural consumers, with an estimated annual usage of 117,000 Mcf of natural gas.

Peoples has requested Applicant to modify the Gretna, Nebraska Town Border Station #1A thereby increasing its annual firm load from 36,808 to 90,079 Mcf to provide for increased expansion and growth that has occurred behind the town border station, it is asserted. It is further explained that Peoples has agreed to provide natural gas service to the J.P. Parks Asphalt Plant which has requirements of 109 Mcf per hour.

It is stated that Applicant proposes to modify one delivery point for industrial and residential service for West Texas Gas, Inc. (WTG) in Pecos County, Texas, with an estimated annual usage of 365,000 Mcf of natural gas.

Additional volumes delivered through the proposed facilities would be within the present entitlements of Peoples and volumes sold to WTG would be made pursuant to Rate Schedule X-40 of Applicant's FERC Gas Tariff, Original Volume No. 2.

It is estimated that the cost of the proposed facilities would be $101,804, which cost would be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 7, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a part in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26036 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-22-003]

Northern Natural Gas Company, Division of InterNorth, Inc.; Petition To Amend

September 17, 1982.

Take notice that on August 9, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP80-22-003 a petition to amend the order issued July 27, 1980, in Docket No. CP80-22 pursuant to Section 3 of the Natural Gas Act so as to authorize Petitioner to import from Canada up to 67,500 Mcf of natural gas per day for an additional two years ending October 31, 1989, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that the order of July 27, 1980, authorized it to import from Canada up to 100,000 Mcf of natural gas per day at a point near Monchy, Saskatchewan. Petitioner states that it also was authorized by the Economic Regulatory Administration (ERA) to import up to 200,000 Mcf per day and up to 73,000,000 Mcf per year at a point near Emerson, Manitoba minus whatever volumes Petitioner elected to import near Monchy for the period from November 1, 1981, through October 31, 1987. It is indicated that Petitioner purchased the subject gas from Consolidated Natural Gas Limited of Calgary, Alberta, Canada (Consolidated).

Pursuant to an amending agreement between Petitioner and Consolidated dated May 13, 1982, Petitioner proposes to extend the term of the original contract an additional two years, through October 31, 1989. The following import increases at Monchy would be pursuant to the Commission's authorization and import increases at Emerson would be pursuant to ERA authorization:

	Contract year	Original authorized volumes (1,000³ per day)	Additional volumes proposed (1,000³ per day)	Total daily contract quantity (1,000³ per day)
At Monchy:				
From 11/01/80 to 10/31/81	1st	0	0	0
From 11/01/81 to 8/31/82	2d Pt 1	0	0	0
From 9/01/81 to 10/31/82	2d Pt 2	100,000	0	100,000
From 11/01/82 to 10/31/83	3d	100,000	0	100,000
From 11/01/83 to 10/31/84	4th	100,000	0	100,000
From 11/01/84 to 10/31/85	5th	75,000	25,000	100,000
From 11/01/85 to 10/31/86	6th	50,000	30,000	80,000
From 11/01/86 to 10/31/87	7th	25,000	42,500	67,500

	Contract year	Original authorized volumes (1,000³ per day)	Additional volumes proposed (1,000³ per day)	Total daily contract quantity (1,000³ per day)
From 11/01/87 to 10/31/88	8th	0	67,500	67,500
From 11/01/88 to 10/31/89	9th	0	67,500	67,500
At Emerson:				
From 11/01/80 to 10/31/81	1st	60,000	0	60,000
From 11/01/81 to 8/31/82	2d Pt 1	200,000	0	200,000
From 9/01/81 to 10/31/82	2d Pt 2	100,000	0	100,000
From 11/01/82 to 10/31/83	3d	100,000	0	100,000
From 11/01/83 to 10/31/84	4th	100,000	0	100,000
From 11/01/84 to 10/31/85	5th	75,000	25,000	100,000
From 11/01/85 to 10/31/86	6th	50,000	30,000	80,000
From 11/01/86 to 10/31/87	7th	25,000	42,500	67,500
From 11/01/87 to 10/31/88	8th	0	67,500	67,500
From 11/01/88 to 10/31/89	9th	0	67,500	67,500

Petitioner states that the total additional volume it would import is 98,550,000 Mcf of gas at the international border price as set from time to time by the National Energy Board of Canada which is currently $4.94 per million Btu in U.S. dollars.

Petitioner asserts that production from presently connected sources of gas would be insufficient to meet its system demands by 1984 and that the additional imports would enable Petitioner to insure a reliable long term gas supply for its customers.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 12, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26023 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-56-002]

Northwest Pipeline Corp.; Motion To Make Tariff Sheets Effective

September 15, 1982.

Take notice that on August 31, 1982, Northwest Pipeline Corporation filed with the Federal Energy Regulatory Commission a Motion for Waiver to Amend Suspended Tariff Sheets and to Make the Amended Tariff Sheets Effective. Northwest moves to make effective on October 1, 1982, subject to refund, revised tariff sheets incorporating two adjustments to those tariff sheets filed on March 31, 1982.

The rates set forth on the revised tariff sheets reflect (1) the reallocation of Northwest's cost of service due to termination of the Winter Service rendered by Northwest under Rate Schedule WS-1 and (2) the change in rate design to a conventional *Atlantic Seaboard* type of rate design. Northwest has requested waiver of the Commission's regulations and orders to the extent necessary to make proposed rates effective on October 1, 1982. Northwest states that the customers identified in the Motion do not oppose granting the requested waiver.

Northwest states that copies of this filing were served on the Company's jurisdictional customers, affected state regulatory agencies and otherwise upon all parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All such petitions or protests should be filed on or before Sept. 23, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26019 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-73-000]

Pacific Power & Light Co.; Application

September 16, 1982.

Take notice that on September 8, 1982, Pacific Power and Light Company (Applicant) filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an order (1) authorizing it to issue and sell not more than $50,000,000 (1,000,000 shares if the stated value is $50 per share) of its Adjustable Rate No Par Serial Preferred Stock, and (2) granting it an exemption from competitive bidding pursuant to 18 CFR 34.2(b)(2).

An person desiring to be heard or to make any protest with reference to this application should, on or before October 7, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with 18 CFR 385.211 or 385.214, respectively. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26020 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EF82-3041-000]

Southeastern Power Administration; Filing

September 17, 1982.

Take notice that on September 2, 1982, the Assistant Secretary for Conservation and Renewable Energy of the Department of Energy confirmed and approved, on an interim basis effective midnight September 30, 1982, an extension of Rate Schedules KP-1-B and KP-2-B and confirmed and approved a new Rate Schedule JHK-1-D for power from Southeastern Power Administration's (SEPA) Kerr-Philpott Projects. The approval extends through March 31, 1983.

The Assistant Secretary states that the Commission, by order issued March

19, 1982, in Docket No. EF81-3041, extended confirmation and approval of Rate Schedules KP-1-B, KP-2-B and JHK-1-C through September 30, 1982. JHK-1-D replaces JHK-1-C.

The interim rate schedules are submitted for confirmation and approval on a final basis pursuant to authority vested in the Commission by Delegation Order No. 0204-33. Approval is requested for a period ending March 31, 1983.

An person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26050 Filed 9-21-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-125-005]

Transcontinental Gas Pipe Line Corp.; Amendment

September 17, 1982.

Take notice that on August 10, 1982, Transcontinental Gas Pipe Line Corportion (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82-125-005 an amendment to its application filed in Docket No. CP82-125-000 pursuant to Section 3 of the Natural Gas Act to extend the requested period of import authorization for gas to be purchased from TransCanada PipeLines Limited (TransCanada) from a 10-year term to a 15-year term, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that its application requests authority *inter alia,* to import a purchased quantity of up to 300,000 Mcf of natural gas per day from Canada and, as to storage quantities, the export to Canada of up to 300,000 Mcf of natural gas per day and import into the United States of up to 600,000 Mcf per day for a term of ten years. It is stated that Applicant also requested import and export authority to enable it to cause up to 40,000,000 Mcf of the natural gas to be purchased annually from TransCanada to be stored at two storage facilities: 20,000,000 Mcf at ANR Storage Company's (ANR Storage) storage facilities in Michigan, and 20,000,000 Mcf at Union Gas Limited's (Union Gas) storage facilities near Dawn, Ontario. Because the storage arrangements with ANR Storage and Union Gas provide for a 20-year term, Applicant asserts that an extension of purchases from TransCanada or some alternate source or sources of gas supply is necessary to maintain such storage arrangements after expiration of the initial term of ten years. Applicant states that it has amended its agreement with TransCanada, by an agreement dated June 9, 1982, and therefore, amends its application so as to extend the initial term of the purchase and sale from 10 to 15 years from the date of first deliveries and to set forth the corresponding increases in the total quantities to be delivered under the contract to 1,643,700,000 Mcf.

It is further stated that by this amendment, the make-up provisions were amended to provide a one-year make-up period for take or pay gas and for make-up from year-to-year and to limit excess gas available for best efforts transportation to ten percent of the daily contract quantity.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 7, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26037 Filed 9-21-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RM79-34 and Docket No. ST82-359]

Transportation Certificates for Natural Gas Displacement of Fuel Oil and United Gas Pipe Line Co.; Self-Implementing Transactions

September 16, 1982.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to § 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

A "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and Section 312 of the NGPA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to § 284.202 of the Commission's Regulations. Any interested persons may file a complaint concerning such transaction pursuant to § 284.205(d) of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G (HT)" or "G (HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Kenneth F. Plumb,
Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Expiration Date[1]	Transportation rate (cents per million Btu)
ST82-359	United Gas Pipe Line Co	Entex, Inc	July 1, 1982	B		
ST82-360	Mississippi Valley Gas Co	Texas Eastern Transmission Co	July 2, 1982	E	Nov. 29, 1982	21.90
ST82-361	United Texas Transmission Co	Florida Gas Transmission Co	July 6, 1982	C		
ST82-362	Mountain Fuel Supply Co	El Paso Natural Gas Co	July 8, 1982	G		
ST82-363	United Gas Pipe Line Co	Florida Gas Transmission Co	July 22, 1982	G		
ST82-364	Northern Natural Gas Co	El Paso Natural Gas Co	July 19, 1982	G		
ST82-365	Transcontinental Gas Pipe Line Corp	Trunkline Gas Co	July 12, 1982	G		
ST82-366	Transcontinental Gas Pipe Line Corp	United Gas Pipe Line Co	do	G		
ST82-367	Columbia Gulf Transmission Co	Tennessee Gas Pipeline Co	do	G		
ST82-368	Western Slope Gas Co	Panhandle Eastern Pipe Line	July 13, 1982	G (HT)		
ST82-369	Taft Pipe line Co	Northern Natural Gas Co	July 14, 1982	C	Dec. 11, 1982	43.00
ST82-370	Northern Illinois Co	Michigan Wisconsin Pipe Line Co	July 15, 1982	G (HT)	Dec. 12, 1982	5.93
ST82-371	El Paso Natural Gas Co	Northern Natural Gas Co	July 13, 1982	G		
ST82-372	Sea Robin Pipe line Co	Florida Gas Transmission Co	July 16, 1982	G		
ST82-373	Northern Natural Gas Co	High Plains Natural Gas Co	July 19, 1982	B		
ST82-374	Northern Illinois Gas Co	Alabama-Tennessee Natural Gas Co	July 20, 1982	G (HT)	Dec. 17, 1982	76.30
ST82-375	Transcontinental Gas Pipe Line Corp	Columbia Gas Transmission Corp	July 21, 1982	G		
ST82-376	Florida Gas Transmission Co	Esperanza Transmission Co	do	B		
ST82-377	United Gas Pipe Line Co	Northern Natural Gas Co	July 22, 1982	G		
ST82-378	Midwestern Gas Transmission Co	Alabama-Tennessee Natural Gas Co	do	G		
ST82-379	Tennessee Gas Pipeline Co	United Gas Pipe Line Co	do	G		
ST82-380	Transcontinental Gas Pipe Line Corp	Sugar Bowl Gas Corp	July 23, 1982	B		
ST82-381	J-W Gathering Co	Transcontinental Gas Pipe Line Corp	do	C	Dec. 20, 1982	43.00
ST82-382	Northern Illinois Gas Co	Southern Natural Gas Co	do	G (HT)	Dec. 20, 1982	5.93
ST82-383	Rocky Mountain Natural Gas Co	Colorado Interstate Gas Co	July 26, 1982	C		
ST82-384	Northern Natural Gas Co	United Gas Pipe Line Co	do	G		
ST82-385	Northern Natural Gas Co	Michigan Wisconsin Pipe Line Co	do	G		
ST82-386	Tennessee Gas Pipeline Co	Alabama-Tennessee Natural Gas Co	do	G		
ST82-387	Gas Gathering Corp	Transcontinental Gas Pipe Line Corp	do	G		
ST82-388	Columbia Gulf Transmission Co	United Gas Pipe Line Co	July 27, 1982	G		
ST82-389	Tennessee Gas Pipeline Co	Mid Louisiana Gas Co	July 28, 1982	C		
ST82-390	Channel Industries Gas Co	East Tennessee Natural Gas Co	do	C		
ST82-391	Mountain Fuel Supply Co	Natural Gas Pipeline Co. of America	do	G		
ST82-392	Delhi Gas Pipeline Co	Southern Natural Gas Co	do	C		
ST82-393	Panhandle Eastern Pipe Line Co	Texas Gas Transmission Corp	July 29, 1982	G		
ST82-394	Southern Natural Gas Co	Florida Gas Transmission Co	July 30, 1982	G		
ST82-395	Riverway Gas Co	Bridgeland Gas Co	July 29, 1982	C		
ST82-396	Tennessee Gas Pipeline Co	Louisiana Intrastate Gas Corp	July 30, 1982	B	Dec. 26, 1982	30.29

[1] The Intrastate Pipe Line has sought Commission approval of its transporation rate pursuant to section 284.123(b)(2) of the Commission's Regulations (18 CFR 284.123(B)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 82-26038 Filed 9-21-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6580-000]

Barbara James Williams; Application for Preliminary Permit

September 20, 1982.

Take notice that Barbara James Williams (Applicant) filed on August 9, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6580 to be known as the Red Mill Dam Project located on the Browns River in Chittenden County, Vermont. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Ms. Barbara J. Williams, 20708 Corinth Road, Olympia Fields, Illinois 60461.

Project Description—The proposed project would consist of: (1) The proposed 17-foot-high dam 45 feet long; (2) a reservoir having a surface area of 2 acres with negligible storage with a normal surface elevation of 525 feet M.S.L.; (3) a new intake; (4) a new 5-foot diameter penstock 60 feet long; (5) a new powerhouse with three options: 1 unit with a generating capacity of 130 kW; 2 units with a generating capacity of 160 kW; and 2 units with a generating capacity of 130 kW; (6) a new tailrace; (7) a new 600-volt transmission line 50 feet long; (8) appurtenant facilities. Project facilities would be owned by Applicant. All project power would be sold to the Central Vermont Power Corporation.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $50,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must file with the Commission, on or before December 2, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981).

The Commission will accept applications for license or exemption from licensing, or a notice of intent to file such an application in response to this notice. A notice of intent to file an application for license or exemption must be filed with the Commission on or before December 2, 1982, and should specify the type of application

forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Filing of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than January 31, 1983.

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before December 2, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATIONS", "COMPETING APPLICATIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-25021 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP82-55-000]

Wyoming Oil and Gas Conservation Commission, NGPA Section 107 Determination, Amoco Production Company, Champlin 449 Amoco "A" No. 1, JD No. 81-45333; Petition To Reopen Final Well Category Determination and To Withdraw Application

September 16, 1982.

On September 1, 1982 Amoco Production Company (Amoco) filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen a final well category determination made by the Wyoming Oil and Gas Conservation Commission (Wyoming) under section 107(c)(5) of the Natural Gas Policy Act of 1978 (NGPA) for the above referenced well. Amoco seeks to withdraw its application for such determination. The determination for the subject will become final by operation of § 275.202 of the Commission's regulations before the date on which Amoco's petition for reopening and withdrawal was made.

Amoco states that the subject well, located in Sweetwater County, is not producing from a tight formation area as originally thought. On August 13, 1981, the Commission received Wyoming's notice of determination that the above referenced well was producing from the "Mesaverde" tight formation under section 107(c)(5). The Commission's forty-five day review period for final determination ended on September 27, 1981. Amoco now states that the subject well is actually producing from "Lewis" formation, which is not a designated tight formation area, and thus requests that the Commission withdraw the determination under section 107(c)(5) of the NGPA for Champlin 449 Amoco "A" No. 1 well.

With respect to the question of refunds arising out of Amoco's request for withdrawal of final well category determination, notice is hereby given that whether refunds will be required is a matter subject to the review and final decision of the Commission.

Any person desiring to be heard or to protest this petition should file, within 30 days after publication of this notice in the **Federal Register** with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a protest or petition to intervene in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 214. All protests filed with the Commission will be considered, but will not make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing must file a petition ot intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26039 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

Northwest Alaskan Pipeline Co.; Availability

[Docket No. CP78-123, et al.]

September 17, 1982.

Take notice that the Commission's Alaskan Delegate, John B. Adger, Jr., has completed and filed a report on issues associated with authorizing "tracking" [1] for charges billed by the Alaska Natural Gas Transportation System (ANGTS). This report was requested by the Commission in an order of April 28, 1980, in Docket Nos. CP78-123, *et al.*[2] The report was filed in Docket No. RM 81-21 in anticipation of a possible rulemaking proceeding to consider the report's recommendations; however, it is also being served on all parties in Docket Nos. CP78-123, *et al.* The report is available for public inspection at the Commission's Division of Public Information, located in Room 1000 at 825 North Capitol Street, NE., in Washington, D.C.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26-140 Filed 9-21-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals has directed that $40,000 in refunds made available pursuant to a consent order entered into by Lyon County Co-operative Oil Company be distributed to customers who were not members of the Lyon Co-operative and which purchased motor gasoline and

[1] "Tracking" refers to automatic adjustment of the shippers' FERC-approved rates for changes in the ANGTS charges which they incur.

[2] "Findings and Order Issuing Certificates of Public Convenience and Necessity and Authorizing the Importation of Natural Gas," Docket Nos. CP78-123, *et al.*, issued April 28, 1980, at 112. The Commission repeated this request in its "Order Granting Applications for Rehearing in Part," issued in the same proceeding on June 20, 1980, at page 40.

middle distillates from the firm during the consent order period.

DATE AND ADDRESS: Requests for adjustment in the refund mechanism specified must be received within 90 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461. All comments should conspicuously display a reference to case number HEF–0002.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633–8377.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the final Decision and Order set out below. The Order provides for the disbursement of the contents of an escrow account funded by Lyon County Co-operative Oil Company pursuant to a consent order entered into by Lyon and the DOE. The settlement covered Lyon's sales of motor gasoline and middle distillates for the period November 1, 1973 through December 31, 1974, to customers who were not members of the Lyon Co-operative.

On April 9, 1982, the Office of Hearings and Appeals issued a Proposed Decision and Order tentatively setting forth procedures to distribute refunds to parties who were injured by Lyon's violations. *Office of Enforcement,* No. HEF–0002 (April 9, 1982) (proposed decision); 47 Fed. Reg. 16396 (April 16, 1982). The Proposed Decision described a two-stage process for distribution of the funds made available by the Lyon consent order.

The Decision attached to this notice indicates that a mechanism different from that described in the Proposed Decision and Order will be used to distribute the Lyon funds for two reasons. First, DOE audit files indicate that all Lyon overcharges to non-member customers were attributable to sales to 16 parties. The audit files also identify these 16 non-member customers and specify the amount each customer was overcharged. Secondly, the audit files contain all of the information these 16 parties would have been required to submit in their applications for refund if the April 16 Decision and Order had been adopted without modification. That information indicates that each of the 16 customers qualifies for refunds. Accordingly, the final decision concludes that the $40,000 Lyon settlement fund plus accumulated interest should be distributed to those customers. The decision additionally states that refunds should not be disbursed to the Lyon customers until 90 days after the issuance of the final Decision and Order, in order to provide an opportunity for any aggrieved party to request an adjustment in the manner in which the refunds have been apportioned. During this 90 day period, any firm other than the 16 already identified in the decision may present its claim that it is entitled to a portion of the Lyon consent order funds. Any portion of principal and accumulated interest in the Lyon escrow account which cannot be disbursed to the allegedly overcharged customers will be deposited in the United States Treasury.

Requests for adjustments should be sent to the address set forth at the beginning of this notice. All requests must be received within 90 days of publication of this notice. All such requests will be available for public inspection between the hours of 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1111, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Issued in Washington, D.C., on September 16, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Department of Energy

Washington, D.C. 20461

September 16, 1982.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of Petitioner: Office of Enforcement, Economic Regulatory Administration: In the Matter of Lyon County Co-operative Oil Company.

Date of Filing: October 9, 1981.

Case Number: HEF–0002.

This proceeding concerns a Petition for the Implementation of Special Refund Procedures filed by the Economic Regulatory Administration's Office of Enforcement (OE) (now the Office of Special Counsel) with the Office of Hearings and Appeals pursuant to the provisions of 10 CFR, Part 205, Subpart V. Under those procedural regulations the OE may request that the Office of Hearings and Appeals formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of DOE regulations. The OE filed the Petition in this case in connection with a consent order which the DOE entered into with Lyon County Co-operative Oil Company (Lyon) on October 9, 1981.

Lyon, with its home office located in Marshall, Minnesota, is engaged in the marketing of motor gasoline and middle distillates to resellers and end-users, and was subject to the Mandatory Petroleum Price and Allocation Regulations set forth at 10 CFR Part 212, Subpart F. A DOE audit of Lyon's records revealed possible violations of the DOE price regulations with respect to sales of motor gasoline, diesel fuel, and Nos. 1 and 2 fuel oil from November 1, 1973 through December 31, 1974. Based on those findings, on July 25, 1977, the OE issued a remedial order to Lyon. On December 14, 1978, the Office of Hearings and Appeals denied Lyon's appeal of the remedial order. *Lyon County Co-operative Oil Co.,* 2 DOE ¶ 80,190 (1978). In order to settle the dispute between Lyon and the DOE regarding Lyon's sales of petroleum products during the audit period, Lyon and the DOE entered into a consent order on June 6, 1979. Under the terms of the consent order, Lyon agreed to pay $40,000 to the DOE. This sum represented a refund of the full amount of the overcharges alleged in the remedial order and interest thereon through the date of the consent order. The settlement covered Lyon's sales of motor gasoline and middle distillates for the period November 1, 1973 through December 31, 1974, to resellers and end-users who were not members of the Lyon Co-operative. The $40,000 which Lyon paid the DOE is being held in an interest-bearing account established with the United States Treasury pending determination of its proper distribution.

On June 15, 1979, the OE published a notice in the **Federal Register** requesting interested persons who believed that they had claims to all or a portion of the Lyon refund amount to provide written notification of their claims to the DOE within 30 days of publication. 44 Fed. Reg. 34632 (1979). The DOE also gave notice through a press release issued the same day. The DOE did not receive any claims in response to the **Federal Register** notice or the press release. Subsequently, the OE filed its petition pursuant to Subpart V.

On April 9, 1982, the Office of Hearings and Appeals issued a Proposed Decision and Order tentatively setting forth procedures to distribute refunds to parties who were injured by Lyon's violations. *Office of Enforcement,* No. HEF–0002 (April 9, 1982) (proposed decision); 47 FR 16396 (April 16, 1982). In the Proposed Decision we described a two-stage process for distribution of the funds made available by the Lyon consent order. Specifically, we proposed to disburse funds in the first stage to claimants who could demonstrate that they were adversely affected by Lyon's overcharges in its sales of covered products during the applicable period. We also proposed several procedures for disbursing any funds remaining after the meritorious claimants had received their shares.

Since the issuance of the Proposed Decision and Order, we have reviewed the data gathered in the audit of Lyon's records. We have decided not to adopt the proposed two-stage distribution scheme for two reasons. First, the audit files indicate that all Lyon overcharges to non-member customers were attributable to sales to 16 parties. The audit files also identify these 16 non-member customers and specify the amount each

customer was overcharged. Secondly, the audit files contain all of the information which these 16 parties would have been required to submit in their applications for refund if we had adopted the April 16 proposal without modification. That information indicates that the 16 customers qualify for refunds.

In our proposed decision and other previous decisions establishing special refund procedures, we have required those parties claiming a portion of consent order funds in the first stage who are not end-users or consumers to demonstrate that they did not pass through the effects of alleged overcharges to their customers.[1] *E.g., Office of Special Counsel (Tenneco)*, 9 DOE ¶ 82,539 (1982). We have also stated in our prior decisions that parties that purchased relatively small amounts of product need not submit evidence showing that they did not pass the overcharges through to their customers to establish eligibility for a refund. In particular, firms claiming purchases averaging less than 50,000 gallons per product per month have been exempted from such a showing. *E.g., Office of Special Counsel (Tenneco)*, 9 DOE ¶ 82,536 at 85,204 (1982); *Office of Enforcement (Vickers)*, 8 DOE ¶ 82,597 at 85,396 (1981). Requiring relatively small purchasers of petroleum products to establish that they did not pass through price increases might prove too great a burden on those firms' recordkeeping and accounting capabilities. *See Office of Special Counsel (Tenneco); Office of Enforcement (Vickers).* Moreover, it is also probable that these smaller purchasers would not find it worthwhile to apply for a refund if they were required to show they absorbed the effects of overcharges. This is because the costs a firm would incur in preparing the detailed application might outweigh the benefits it would receive if its claim were approved. *See Tenneco Oil Co./Cary Oil Co.*, 9 DOE ¶ 82,598 at 85,520 (1982). The applicant's cost of submitting the application and the agency's cost of processing it should be proportional to the benefits obtained by applicants receiving refunds. *Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,222 (1982).

The files from OE's audit of Lyon indicate that the customers in this case all purchased small volumes of product from Lyon. Our analysis of the material in the audit file indicates that Lyon's largest customer for any single product purchased approximately 50,000 gallons of that product per month and that all other firms purchased substantially less than 50,000 gallons per product per month. Consequently, the dollar amount each firm was overcharged was not considerable. The average amount each of the 16 customers was overcharged was only $2,265. For 13 of the customers, the amount overcharged each firm was less than 600.

In view of these considerations, we have concluded that it would impose an undue burden to require Lyon's customers to prove that they did not pass through the price increases. As we have stated, the purchase volumes of the 16 Lyon customers fall within the threshold amounts established in our prior cases and the average amount of overcharges was quite small in value. We have also determined that the DOE should refund the money in escrow to those overcharged on a *pro rata* basis rather than solicit additional claims. This is because those firms overcharged by Lyon have been identified, the amount each firm was overcharged has been adjudicated in a final agency order which is no longer subject to judicial review, and the amounts at issue are relatively small. The solicitation of additional claims now would not be equitable to the injured parties or efficient. Consequently, it is appropriate to distribute the Lyon funds at this stage.

Each of the 16 firms overcharged by Lyon will be refunded a share of the $40,000 consent order fund based on the ratio of the amount that firm was overcharged to the total amount remitted by Lyon. The interest earned on the funds received from Lyon will be apportioned using the same ratio. Appendix A sets forth the amount to be refunded and the percentaage of the interest to be awarded to each firm. The total amount paid to each firm will be determined at the time of actual disbursement from the escrow account.

In the event that the DOE is unable to ascertain the present location of one or more of the overcharged customers, we have determined that it would not be administratively efficient to distribute the remaining funds through a second stage refund process. Because of the small sums involved, the cost of any further tracing process to identify the firms or individuals who should receive refunds would be disproportionately large in comparison with the amount of the refund. Payment to the United States Treasury is appropriate when alternative schemes would not be practical in light of the small sums involved. *See Office of Enforcement (C.K. Smith)*, 9 DOE ¶ 82,594 at 85,501 (1982); *see also Terrace Mobil*, 9 DOE ¶ 83,045 at 86,333–34 (1982). Therefore, the portion of the refund and accumulated interest which cannot be disbursed to the overcharged customers will be deposited into the miscellaneous receipts account of the United States Treasury.[2]

Finally, the disbursement of funds as set forth above shall not be made until 90 days after the date of issuance of this Decision and Order in order to provide an opportunity for any aggrieved party to request an adjustment in the manner in which the refunds have been apportioned. The 90 day period will also permit any firm other than the sixteen already identified to present its claim that it is entitled to a portion of the Lyon refund. *See* 10 CFR 205.283(b).

It Is Therefore Ordered That:

(1) The Director of the Office of Washington Financial Services of the DOE's Office of the Controller shall disburse the deposit fund escrow account established at the Department of the Treasury for the Lyon County Co-operative Oil Company consent order funds as described in paragraph (2) below.

(2) Each Lyon customer listed in Column I of the Appendix to this Decision shall receive a refund in the amount indicated for that firm in Column II of the attached Appendix, plus that percentage of the interest accumulated in the Lyon escrow account which is specified in Column III.

(3) The disbursement of funds as ordered in Paragraph (2) above shall be made ninety (90) days after the date of the issuance of this Decision and Order.

(4) Any portion of the principal and accumulated interest in the Lyon escrow account which cannot be disbursed pursuant to paragraph (2) above shall be deposited in the United States Treasury.

(5) This is a final order of the Department of Energy.

Dated: September 16, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

APPENDIX A

Name and address of Lyon customer	Amount of refund [1]	Share of interest (percent)
Independent Oil Co., Canby, Minn. 56220	$2,332	29.32956
Vets Oil Co., Jackson, Minn. 56143	639	1.58799
Bobs Truck Stop, Worthington, Minn. 56187	15,573	38.93136
Acro Oil Co., Jordan, Minn. 56362	26	0.06624
Johnson Leasing, Marshall, Minn. 56258	12,788	31.90844
Yocum Oil Co., 2729 Stillwater Road, St. Paul, Minn. 55119	45	0.11316
Midland Co-op, 2001 E. Hennepin Ave., Minneapolis, Minn. 55486	430	1.06533
Mortell Oil Co., Sauk Centre, Minn. 56378	236	0.59014
Melody Oil Co., Fairmont, Minn. 56031	47	0.11669
Taylor Oil Co., Sioux Falls, S. Dak. 57101	148	0.37259
Jim Samuelson Co., Sacred Heart, Minn. 56285	92	0.22907
Grenz Oil Co., Tyler, Minn. 56178	55	0.13800
Wades Interstate Texaco, Worthington, Minn. 56178	192	0.48023
Perrizo Texaco, Redwood Falls, Minn. 56283	303	0.76822
Warren Larson Co., Marshall, Minn. 56258	25	0.06600
Ted Haugen Co., Marshall, Minn. 56258	44	0.11040
Total	39,998	100.00000

[1] Excluding interest, rounded off to nearest whole dollar.

[FR Doc. 82-26139 Filed 9-21-82; 8:45 am]
BILLING CODE 6450-01-M

Office of the Secretary

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangements; Government of Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government

[1] The audit files do not specify whether these 16 customers were resellers or end-users. We have assumed that they all are resellers. If they were end-users, they would not have to show that they had been adversely effected by the overcharges in order to qualify for a refund. However, given the circumstances of this case, it makes no difference whether they are resellers or end-users.

[2] Due to the rounding off process in our calculations of the refund to be disbursed to each customer, the sum of $2.00 out of the $40,000 principal remains undistributed. This amount should also be deposited in the United States Treasury.

of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, a amended.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of the following sales:

1) Contract Number S–EU–746, the Central Bureau for Nuclear Measurement, Geel, Belguim, 10 grams of plutonium, for use as standard reference material.

2) Contract Number S–EU–745, to the Commissariat A L'Energie Atomique, France, 3 grams of plutonium and 2 grams of uranium depleted in the isotope U–235, for use as standard reference material.

3) Contract Number S–JA–323, to the Power Reactor and Nuclear Fuel Development Corporation, Tokyo, Japan, 5 grams of plutonium, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: September 15, 1982.

Dennis J. O'Brien,

Acting Deputy Assistant Secretary for International Energy Security.

[FR Doc. 82-26137 Filed 9-21-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements, Civil Uses; Proposed Subsequent Arrangement; Government of Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S–JA–325, to the Japan Atomic Energy Research Institute, 10 milligrams of plutonium-238, 10 milligrams of plutonium-240, 10 milligrams of plutonium-241, and 5 milligrams of plutonium-242, for use in the measurement of fission cross sections at the Fast Critical Assembly Facility.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: September 15, 1982.

Dennis J. O'Brien,

Acting Deputy Assistant Secretary for International Energy Security.

[FR Doc. 82-26138 Filed 9-21-82; 8:45 am]

BILLING CODE 6450-01-M

Marias River Electric Cooperative, Inc.; Application for Amendment to Authorization To Export Electric Energy

AGENCY: Department of Energy (DOE).

ACTION: Notice of Application by the Marias River Electric Cooperative, Inc. (MRE) for Authorization to Export Increased Amounts of Electric Energy.

SUMMARY: DOE has received an application from MRE for an amendment to the export authorization issued by the Federal Power Commission in Docket IT–6097 on October 19, 1970. Specifically, MRE has requested that its export authorization be increased from the previously authorized maximum amount of 2,000,000 kwh of electric energy per year at a maximum rate of transmission of 500 kw to 3,500,000 kwh at a maximum rate of transmission of 750 kw.

FOR FURTHER INFORMATION CONTACT:

Garet Bornstein, Office of Energy Emergency Operations (EP–42), Department of Energy, Forrestal Building, Mail Stop GB–270, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–1714

Lise Courtney M. Howe, Office of General Counsel (GC–11), Department of Energy, Forrestal Building, Mail Stop 6F–094, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–2900

SUPPLEMENTARY INFORMATION: On May 14, 1982, MRE filed an application with DOE requesting that the authorization to export electric energy granted in Docket IT–6097 be increased from 2,000,000 kwh per year at a maximum rate of transmission of 500 kw to 3,500,000 kwh per year at a maximum rate of transmission of 750 kw.

According to the application, the purchaser of the additional energy to be exported will continue to be Southern Utilities, Ltd., a Canadian corporation engaged in the distribution of electric energy in and around the Town of Coutts, Province of Alberta, Canada. These increased amounts of power and energy will be used by Southern Utilities, Ltd. in meeting its increased electrical utility loads. In the applicant's opinion, the increased level of exports, if authorized, will not impair the sufficiency of electrical supply within the United States or to any of the member/consumers within its serving area.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Office of Energy Emergency Operations (EP–42), Department of Energy, Forrestal Building, Mail Stop GB–270, 1000 Independence Avenue, SW., Washington, D.C. 20585, in accordance with § 1.8 or § 1.10 of the Rules of Practice and Procedure (18 CFR 1.8, 1.10

Any such petitions and protests should be filed on or before October 15, 1982. Such protests will be considered by DOE in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are available for public inspection and copying at the DOE Freedom of Information Act Reading Room, Room 1E–190, 1000 Independence Avenue, SW., Washington, D.C.

Issued in Washington, D.C., September 16, 1982.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 82-24714 Filed 9-21-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF–292; PH FRL 2211–2]

Certain Companies; Pesticide, Food, and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide, food, and feed additive petitions relating to establishment of tolerances for

residues of certain pesticide chemicals in or on certain raw agricultural commodities, and food and feed items.

ADDRESS: Written comments to the product manager (PM) cited in each specific petition at the address below: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agnecy, 401 M St., SW., Washington, D.C. 20460.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number "[PF–292]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide, food, and feed additive petitions relating to establishment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities, food and feed items in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

PP 2F2684. Dow Chemical Co., PO Box 1706, Midland, MI 48640. Proposes amending 40 CFR 180.342 by establishing a tolerance for the combined residues of the insecticide chlorpyrifos (*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodity cattle meat (fat basis) at 2.0 parts per million (ppm). The proposed analytical method for determining residues is gas chromatography. (PM 12, Jay Ellenberger, 703–557–2386).

PP 2F2723. Mobay Chemical Corp., PO Box 4913 Hawthorne Road, Kansas City, MO 64120. Proposes amending 40 CFR 180.349 by establishing a tolerance for residues of the nematocide ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl)phosphoramidate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity grapes at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography with thermionic flame ionization. (PM–21, Henry Jacoby, 703–557–1900).

PP 2F2728. Rhone-Poulenc, Inc., PO Box 125 Black Horse Lane, Monmouth Junction, NJ 08852. Proposes amending 40 CFR 180.399 by establishing tolerances as follows.

(a) For residues of the fungicide iprodione 3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide and its metabolites 3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide and 3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide, in or on the raw agricultural commodities almond nutmeat at 0.05 ppm and almond hulls at 0.25 ppm.

(a) For the combined residues of 3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide, by converting the non-hydroxylated phenyl ring moiety to the *N*-heptafluorobutyrate derivative of 3-,5-dichloroaniline common moiety, as iprodione equivalents in or on the raw agricultural commodities meat, meat byproducts (meat, kidney, fat, and liver) of cattle, goats, hogs, horses, and sheep at 0.80 ppm.

(c) For the combined residues of 3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide, 3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide, and *N*-(3,5-dichloro-4-hydroxyphenyl)-ureido carboxamide by converting respectively, the hydroxylated and the non-hydoxylated moiety to the 4-methoxy-3,5-dichloroaniline and the 3,5-dichloroaniline heptafluorobutyrates, as iprodione equivalents in or on the raw agricultural commodity milk at 0.15 ppm.

The proposed analytical method for determining residues is gas liquid chromatography with electron capture detector. (PM 21, Henry Jacoby, 703–557–1900).

FAP 2H5362. ICI Americas Inc., Concord Pike and New Murphy Road, Wilmington, DE 19897. Proposes amending 21 CFR Part 193 by establishing a regulation permitting residues of the insecticide (±)alpha-cyano-(3-phenoxyphenyl) methyl (±)-*cis,trans*-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate in or on foods at 0.05 ppm resulting from application of the insecticide in connection with an experimental use permit. (PM 17, Franklin Gee, 703–557–2690).

FAP 2H5328. FMC Corp., 2000 Market St., Philadelphia, PA 19103. Proposes amending 21 CFR Part 193 by establishing a regulation permitting residues of the insecticide (±)alpha-cyano-(3-phenoxyphenyl) methyl (±)-*cis,trans*-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate in or on cottonseed oil at 5.00 ppm. (PM 17, Franklin Gee, 703–557–2690).

FAP 2H5366. BFC Chemical Inc., 4311 Lancaster Pike, Wilmington, DE 19805. Proposes amending 21 CFR Part 561 by establishing a regulation permitting residues of the insecticide amitraz (*N'*-(2,4-dimethylphenyl)-*N*-[[(2,4-dimethylphenyl)imino]-methyl]-*N*-methylmethanimidamide) and its metabolites containing the 2,4-dimethylaniline moiety in or on the commodity dried apple pomace at 10.0 ppm in connection with an experimental use program. (PM 12, Jay Ellenberger, 703–557–2386).

PP 2F2743. Ciba-Geigy Corp., PO Box 18300 Greensboro, NC 27419. Proposes amending 40 CFR Part 180 by establishing a tolerance for the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, each expressed as metalaxyl, in or on raw agricultural commodities pineapples and pineapple fodder 0.1 ppm. The proposed analytical method for determining residues is gas chromatography with alkali flame ionization detector. (PM 21, Henry Jacoby, (703–557–1900).

PP 2F2737. Uniroyal Chemical, 74 Amity Road, Bethany, CT 06525. Proposes amending 40 CFR 180.406 by establishing a tolerance for residues of the harvest growth regulant (2,3-dihydro-5,6-dimethyl-1,4-dithiin 1,1,4,4-tetraoxide) in or on the raw agricultural commodity potatoes at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography. (PM 25, Robert Taylor, 703–557–1800).

PP 2F2727. Elanco Products Co., 740 South Alabama St., Indianapolis, Indiana 46285. Proposes amending 40 CFR 180.390 by establishing a tolerance for the combined residues of the herbicide tebuthiuron (*N*-[5-1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N,N'*-dimethylurea) and its metabolites containing the dimethylethyl thiadiazole moiety in or on the raw agricultural commodity milk at 0.2 ppm. The proposed analytical methods for determining residues are thin-layer chromatography, high pressure liquid chromatography, and mass spectrometry. (PM 25, Robert Taylor, 703–557–1800).

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: September 13, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-26078 Filed 9-21-82; 8:45 am]

BILLING CODE 6560-50-M

[PF-293; PH-FRL 2207-8]

Certain Companies; Pesticide and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and feed additive petitions relating to establishment and amendment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities and feed items.

ADDRESS: Written comments to the product manager (PM) cited in each specific petition at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Written comments may be submitted while the petitioners are pending before the Agency. The comments are to be identified by the document control number "[PF-293]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide and feed additive petitions relating to establishment and amendment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities and feed items in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

PP 2F2733. Dow Chemical Co., PO Box 1706, Midland, MI 48640. Proposes amending 40 CFR 180.350 by establishing indirect or inadvertent tolerances for residues of the soil microbiocide nitrapyrin [2-chloro-6-(trichloromethyl)pyridine and its metabolite, 6-chloropicolinic acid in or on the following raw agricultural commodities when present therein as a result of its application to the growing of crops listed in 40 CFR 180.350(a): soybeans at 0.5 part per million (ppm); soybean, forage at 1.0 ppm; and soybean straw at 2.0 ppm. The proposed analytical method for determining residues is gas chromatography using electron capture detector. (PM 23, Richard Mountfort, 703-557-1830).

FAP 2H5365. Dow Chemical Co. Proposes amending 21 CFR Part 561 by establishing a regulation permitting indirect residues of the soil microbiocide nitrapyrin and its metabolite in soybean meal at 1.0 ppm. This tolerance would cover residues resulting in soybeans from application of nitroapyrin to crops for which there are specific tolerances established, or from the irrigation water from treated rice fields. (PM 23, Richard Mountfort, 703-557-1830).

FAP 2H5363. Monsanto Co., 1101 17th St., NW., Washington, D.C. 20036. Proposes amending 21 CFR Part 561 by establishing a regulation permitting the combined residues of the herbicide glyphosate (*N*-phosphonomethyl)-glycine and its metabolite, aminomethylphosphonic acid in or on soybean hulls at 30.0 ppm in connection with an experimental use permit. (PM 25, Robert Taylor, 703-557-1800).

PP 1F2500. Ciba-Geigy Corp., PO Box 18300 Greensboro, NC 27419. In the **Federal Register** of June 9, 1981 (46 FR 30562), EPA announced that Ciba-Geigy Corp. had submitted a pesticide petition (PP 1F2500) which proposed the establishment of tolerances for the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, each expressed as metalaxyl, in or on the raw agricultural commodities spinach at 10 ppm; soybean forage and fodder at 7 ppm; green onions at 5 ppm; wheat forage and straw at 2 ppm; tomatoes and dry bulb onions at 1 ppm; kidney of cattle, goats, hogs, horses, poultry, and sheep at 1.0 ppm; broccoli, cabbage, and cauliflower at 0.6 ppm; cucumber, head lettuce, potatoes, and soybean grain at 0.5 ppm; melons at 0.3 ppm; liver of cattle, goats, hogs, horses, poultry, and sheep at 0.3 ppm; wheat grain at 0.2 ppm; cottonseed at 0.1 ppm; eggs and meat of poultry (excluding liver and kidney) at 0.05 ppm; meat, fat, and meat byproducts (excluding liver and kidney) of cattle, goats, hogs, horses, poultry, and sheep at 0.05 ppm; and milk at 0.02 ppm.

Ciba-Geigy Corp. has amended the petition by increasing the proposed tolerances on dry bulb onions from 1 ppm to 3.0 ppm; liver of cattle, goats, hogs, horses, poultry, and sheep from 0.3 ppm to 0.4 ppm; and decreasing tolerances on kidney of cattle, goats hogs, horses, pountry, and sheep from 1.0 ppm to 0.4 ppm. The proposed analytical method for determining residues is gas chromatography with flame ionization detector or mass spectrometry. (PM-21, Henry Jacoby, 703-557-1900).

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: September 9, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-25605 Filed 9-21-82; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180611; PH-FRL 2211-3]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests in the States listed below. Also listed are 14 crisis exemptions initiated by certain States.

DATES: See each exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each exemption for the name of the contact person. The following information applies to all contact people: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arizona Department of Agriculture and Horticulture for the use of acephate on citrus to control citrus thrips; July 29, 1982 to October 15, 1982. Arizona had initiated a crisis exemption for this use. (Jack E. Housenger)

2. Arizona Department of Agriculture and Horticulture for the use of imazalil on citrus to control *Penicillium* spp; August 2, 1982 to August 1, 1983. (Jack E. Housenger)

3. California Department of Food and Agriculture for the use of acephate on citrus to control citrus thrips; July 29, 1982 to October 30, 1982. California had initiated a crisis exemption for this use. (Jack E. Housenger)

4. California Department of Food and Agriculture for the use of benomyl on crucifer seeds to control *Phoma lingam*; August 9, 1982 to July 1, 1983, or upon registration of benomyl for this use in the State of California, whichever occurs first. California had initiated a crisis exemption for this use. EPA has not yet made its final determination concluding the rebuttable presumption against registration (RPAR) of pesticide products containing benomyl. (Libby Welch)

5. California Department of Food and Agriculture for the use of dichlorvos on figs to control dried fruit beetles; July 21, 1982 to October 30, 1982. California had initiated a crisis exemption for this use. (Jim Tompkins)

6. California Department of Food and Agriculture for the use of fenamiphos on grapes to control dagger and root-knot nematodes; August 1, 1982 to July 31, 1983. (Jim Tompkins)

7. California Department of Food and Agriculture for the use of imazalil on cotton (seed treatment) to control *Thielavopsis basicola*; July 21, 1982 to March 12, 1983. California had initiated a crisis exemption for this use. (Jack E. Housenger)

8. California Department of Food and Agriculture for the use of methiocarb on grapes to control depredating birds; July 14, 1982 to November 30, 1982. (Jack E. Housenger)

9. California Department of Food and Agriculture for the use of paraquat on rice to control weeds; August 2, 1982 to August 1, 1983. (Jim Tompkins)

10. California Department of Food and Agriculture for the use of metalaxyl on tomatoes to control late blight; July 29, 1982 to March 26, 1983. California had initiated a crisis exemption for this use. (Jack E. Housenger)

11. California Department of Food and Agriculture for the use of napropamide on basil, marjoram, and savory to control annual grasses and broadleaf weeds; July 29, 1982 to April 7, 1983. California had initiated a crisis exemption for this use. (Jack E. Housenger)

12. California Department of Food and Agriculture for the use of paraquat on kiwi fruit to control annual weeds and grasses; July 6, 1982 to August 31, 1982. California had initiated a crisis exemption for this use. (Jack E. Housenger)

13. California Department of Food and Agriculture for the use of permethrin on almonds to control navel orangeworms; July 9, 1982 to October 31, 1982. (Jim Tompkins)

14. California Department of Food and Agriculture for the use of permethrin or celery to control leafminers; July 19, 1982 to July 1, 1983. California has initiated a crisis exemption for this use. (Libby Welch)

15. California Department of Food and Agriculture for the use of propargite on sweet corn to control two-spotted and Pacific spider mites; July 19, 1982 to October 31, 1982. California has initiated a crisis exemption for their use. (Libby Welch)

16. California Department of Food and Agriculture for the use of sodium chlorate on beans (lima, blackeye, pinto, and mung) as a desiccant; July 29, 1982 to December 15, 1982. (Libby Welch)

17. Florida Department of Agriculture and Consumer Services for the use of imazalil on citrus to control *Penicillium digitatum;* August 2, 1982 to June 30, 1982. (Jack E. Housenger)

18. Georgia Department of Agriculture for the use of acephate on peanuts to control thrips; July 16, 1982 to October 1, 1982. (Libby Welch)

19. Georgia Department of Agriculture for the use of fenvalerate on southern peas to control cowpea *Curculio;* August 7, 1982 to October 31, 1982. (Libby Welch)

20. Idaho Department of Agriculture for the use of metalaxyl/captan on pea seed for export to the United Kingdom and Sweden to control downy mildew; August 2, 1982 to March 31, 1983. (Jack E. Housenger)

21. Idaho Department of Agriculture for the use of methiocarb on grapes to control depredating birds; July 14, 1982 to November 30, 1982. (Jack E. Housenger)

22. Idaho Department of Agriculture for the use of triadimefon on sugar beets to control powdery mildew; July 9, 1982 to August 31, 1982. (Libby Welch)

23. Maryland Department of Agriculture for the use of methiocarb on grapes to control depredating birds; July 14, 1982 to October 31, 1982. (Jack E. Housenger)

24. Maryland Department of Agriculture for the use of mevinphos on watercress to control aphids; July 26, 1982 to October 31, 1982. (Jack E. Housenger)

25. Massachusetts Department of Food and Agriculture for the use of acephate on cranberries to control brown spanworms; July 19, 1982 to August 1, 1982. Massachusetts had initiated a crisis exemption for this use. (Libby Welch)

26. Massachusetts Department of Food and Agriculture for the use of linuron on onions to control various weeds; July 31, 1982 to September 31, 1982. Massachusetts had initiated a crisis exemption for this use. (Libby Welch)

27. Missouri Department of Agriculture for the use of methiocarb on grapes to control depredating birds; July 14, 1982 to October 31, 1982. (Jack E. Housenger)

28. New Jersey Department of Environmental Protection for the use of methiocarb on grapes to control depredating birds; July 14, 1982 to November 30, 1982. (Jack E. Housenger)

29. New Jersey Department of Environmental Protection for the use of iprodione on onions and leeks to control white rot; July 6, 1982 to November 30, 1982. (Libby Welch)

30. New York Department of Environmental Conservation for the use of methiocarb on grapes to control depredating birds; July 14, 1982 to November 30, 1982. (Jack E. Housenger)

31. Ohio Department of Agriculture for the use of methiocarb on grapes to control depredating birds; July 14, 1982 to November 30, 1982. (Jack E. Housenger)

32. Ohio Department of Agriculture for the use of permethrin on mushrooms to control *Sciarid* and phorid flies; July 21, 1982 to June 12, 1983. (Jack E. Housenger)

33. Oklahoma Department of Agriculture for the use of metalaxyl on peanuts to control pod rot; July 16, 1982 to July 31, 1982. (Libby Welch)

34. Oregon Department of Agriculture for the use of methomyl on canberries to control leafrollers, orange *Tortrix,* and alfalfa loopers; August 7, 1982 to September 30, 1982. Oregon had initiated a crisis exemption for this use. (Libby Welch)

35. Oregon Department of Agriculture for the use of triadimefon on sugar beets to control powdery mildew; July 9, 1982 to August 31, 1982. (Libby Welch)

36. Pennsylvania Department of Agriculture for the use of methiocarb on grapes to control depredating birds; July 14, 1982 to November 30, 1982. (Jack E. Housenger)

37. Pennsylvania Department of Agriculture for the use of mevinphos on watercress to control aphids; July 26, 1982 to October 31, 1982. Pennsylvania had initiated a crisis exemption for this use. (Jack E. Housenger)

38. South Carolina Division of Regulatory and Public Service Programs for the use of 1,2-dibromo-3-chlorpropane on peaches to control nematodes; August 13, 1982 to November 30, 1982. Notice of the conclusion of the rebuttable presumption against registration (RPAR) of pesticide products containing 1,2-dibromo-3-chloropropane was published in the **Federal Register** of October 29, 1979 (44 FR 65135). (Libby Welch)

39. Texas Department of Agriculture for the use of metalaxyl on peanuts to control pod rot; July 16, 1982 to July 31, 1982. (Libby Welch)

40. Utah Department of Agriculture for the use of cyhexatin on sweet and tart cherry trees to control spider mites; July 21, 1982 to Ocotober 1, 1982. (Jack E. Housenger)

41. Virginia Department of Agriculture and Consumer Services for the use of methiocarb on grapes to control

depredating birds; July 14, 1982 to November 30, 1982. (Jack E. Housenger)

42. Washington Department of Agriculture for the use of methiocarb on grapes to control depredating birds; July 14, 1982 to November 30, 1982. (Jack E. Housenger)

43. Washington Department of Agriculture for the use of metalaxyl/captan on pea seed for export to the United Kingdom and Sweden to control downy mildew; August 2, 1982 to March 31, 1983. (Jack E. Housenger)

44. Washington Department of Agriculture for the use of methomyl on caneberries to control leafrollers, orange *Tortrix*, and alfalfa loopers; August 7, 1982 to September 30, 1982. (Libby Welch)

45. West Virginia Department of Agriculture for the use of mevinphos on watercress to control aphids; July 26, 1982 to October 31, 1982. (Jack E. Housenger)

46. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of oxyfluorfen on dry bulb onions to control weeds; July 29, 1982 to March 1, 1983. Wisconsin had initiated a crisis exemption for this use. EPA completed a rebuttable presumption against registration (RPAR) on this chemical; the final determination was published in the **Federal Register** of June 23, 1982 (47 FR 27118). (Jim Tompkins)

47. United States Department of the Interior for the use of sodium cyanide to control mammalian predators preying on whooping cranes at Gray's Lake National Wildlife Refuge in Idaho; October 1, 1982 to September 30, 1983. (Jim Tompkins)

Crisis exemptions were initiated by the:

1. California Department of Food and Agriculture on July 2, 1982, for the use of benomyl on crucifers to control blackleg. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. The need for this program is expected to last until July 1, 1983. (Libby Welch)

2. California Department of Food and Agriculture on July 15, 1982, for the use of carbofuran on artichokes to control the cribrate weevil. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. The need for this program is expected to last until July 15, 1983. (Jack E. Housenger)

3. California Department of Food and Agriculture on June 17, 1982, for the use of permethrin on alfalfa grown for seed to control the spotted alfalfa aphid. Since it was anticipated that this program would be needed for more than 15 days, California requested a specific exemption to continue it. The program ended on August 17, 1982. (Jack E. Housenger)

4. California Department of Food and Agriculture on July 2, 1982, for the use of propyzamide on artichokes to control annual weeds and grasses. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. The need for this program is expected to last until December 31, 1982. (Libby Welch)

5. Ohio Department of Agriculture on July 9, 1982, for the use of metalaxyl on tobacco to control blue mold. The program ended July 24, 1982. (Libby Welch).

6. California Department of food and Agriculture on June 28, 1982, for the use of methiacarb on crucifer seeds to control depredating birds. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. The need for this program is expected to last until June 25, 1983. (Libby Welch)

7. California Department of Food and Agriculture on July 2, 1982, for the use of permethrin on celery to control the leafminer. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. The need for this program is expected to last until July 1, 1983. (Libby Welch)

8. California Department of Food and Agriculture on July 28, 1982, for the use of permethrin on tomatoes to control the pinworm, leafminer, and *Heliothis*. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. The need for this program is expected to last until July 28, 1983. (Libby Welch)

9. California Department of Food and Agriculture on July 8, 1982, for the use of triadimefon on cucurbits to control powdery mildew. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. The need for this program is expected to last until July 8, 1983. (Jack E. Housenger)

10. California Department of Food and Agriculture on July 6, 1982, for the use of triadimefon on sugar beets to control powdery mildew. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. The need for this program is expected to last until July 15, 1983. (Libby Welch)

11. California Department of Food and Agriculture on June 29, 1982, for the use of vinclozolin on strawberries to control *Botrytis* gray mold. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. The need for this program is expected to last until June 29, 1983. (Jack E. Housenger)

12. North Carolina Department of Agriculture on July 21, 1982, for the use of chlorpyrifos on grapes to control the grape root borer. The need for this program ended August 9, 1982. (Jack E. Housenger)

13. Texas Department of Agriculture on July 27, 1982, for the use of permethrin on soybeans to control soybean loopers. Since it was anticipated that this program would be needed for more than 15 days, Texas has requested a specific exemption to continue it. The need for this program is expected to last until November 15, 1982. (Libby Welch)

14. Texas Department of Agriculture on July 27, 1982, for the use of permethrin on field corn to control the southwestern corn borer. Since it was anticipated that this program would be needed for more than 15 days, Texas has requested a specific exemption to continue it. The need for this program ended August 31, 1982. (Jack E. Housenger)

(Sec. 18, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: September 10, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82-26079 Filed 9-21-82; 8:45 am]

BILLING CODE 6560-01-M

[OPTS 46011; TSH FRL 2212-5]

Guidelines for Development of Test Data; Initiation of Annual Review Process

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Office of Toxic Substances (OTS) has published guidelines for health effects, environmental effects and chemical fate testing which are available through the National Technical Information Service (NTIS), as announced in the **Federal Register** of July 30, 1982 (47 FR 33001). The Agency will now be conducting an annual review of the generic test guidelines to ensure that testing methodologies recommended by the Agency remain current and consistent

with advances in science. Interested persons are invited to submit written comments to the EPA on the TSCA test guidelines being published by NTIS.

DATE: These comments are to be received no later than the close of business January 3, 1983.

ADDRESS: Written comments should bear the document control number OPTS 46011 and should be submitted to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, D.C 20460.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Room E–511B, 401 M St., SW., Washington, D.C. 20460, In Washington, D.C.: (554–1404), Toll-free: (800–424–9065), Outside the USA: (Operator—202–554–1404).

SUPPLEMENTARY INFORMATION: Section 4(b)(2)(B) of TSCA [90 Stat. 2007 (15 U.S.C. 2603)], requires that, from time to time, but not less than once each 12 months, the Administrator shall review the adequacy of the standards for development of data prescribed in rules under subsection (a) and shall, if necessary, institute proceedings to make appropriate revisions of such standards. EPA's current policy, published for comment in the **Federal Register** of March 26, 1982 (47 FR 13012), calls for the development of test standards on a rule-by-rule basis, rather than incorporation of generic test standards into an individual rule. The rule-by-rule development of the test standards will itself achieve the major goals of the annual review requirement—assuring that testing performed pursuant to section 4(a) test rules for particular chemicals is performed according to the most up-to-date techniques which are available and validated. While it is possible that new testing developments will occur after the standards are imposed for an individual chemical, it is difficult to conceive of a situation in which it would be feasible to change the standards for a chemical already being tested. Thus, an annual review of standards for a chemical already being tested would not generally be performed in the absence of compelling reasons to do so.

In addition to the rule-by-rule development of test standards for individual chemicals subject to section 4(a) rules, EPA will achieve the purposes of section 4(b)(2)(B) through an annual review of is generic test methodology guidelines. These guidelines serve as one of several bases for the development of rule-by-rule test standards. To make the annual review process meaningful and in order to keep test guidelines current with advances and improvements in scientific methodology, the Agency has voluntarily developed a formal process for the annual review of generic test guidelines. Today's notice initiates the first of these reviews.

The OTS annual review will take optimum advantage of existing Agency internal and external resources for information gathering and processing. A comment period has been provided so that potential users and the general public can review the test guidelines and submit suggestions for future improvements, thereby, assisting the Agency in maintaining state of the art test guidelines. Comments offering suggestions or proposing changes in any of the generic test guidelines which will increase clarity or help to keep test guidelines current with advances in science will be carefully reviewed and incorporated as deemed appropriate in the development of guideline modifications or of new guidelines or in individual chemical test standards. The Agency will carefully evaluate public comments on the test guidelines. New guidelines or guideline modifications will be subjected to peer review prior to publication through NTIS so that these documents will represent current levels of scientific expertise available at the time of publication. The current public comment period is open through January 3, 1983 and comments will be accepted on all generic testing guidelines announced as available in the **Federal Register** of July 30, 1982 (47 FR 33001). The annual review, beginning in October of 1983 and in October of subsequent years, will request comment on new guidelines, guideline modifications, and and areas of focused concern requiring further scientific development. The Agency will not consider comments on issues resolved during previous reviews, unless new data have been developed to justify reappraisal.

A formal OTS annual review of test guidelines provides a structured process which will ensure that the Agency will recommend test guideance which is representative of state of the art technology. Development of up-to-date test guidelines will assist the Agency in utilizing the most appropriate and cost effective testing available on a chemical-by-chemical basis.

The annual review process will complete its first cycle in October, 1983. All future annual review cycles are scheduled to begin during the beginning of successive fiscal years.

Dated: September 14, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82–26077 Filed 9–21–82; 8:45 am]

BILLING CODE 6560–50–M

[OPP–C31053A; PH–FRL 2211–5]

Mobay Chemical Corp.; Approval of Application To Register a Pesticide Product Involving a Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has approved the application by the Mobay Chemical Corp. to register the insecticide Oftanol 6 Emulsifiable Insecticide involving a changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: William Miller, Product Manager (PM) 16, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 211, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2600).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of January 13, 1982 (47 FR 1408) that the Mobay Chemical Corp., 1140 Connecticut Ave., NW., Washington, D.C. 20036, had submitted an application to register the insecticide Oftanol 6 Emulsifiable Insecticide containing 66 percent of the active ingredient 1-methylethyl 2-[[ethoxy[(1-methylethyl]amino]phosphinothioyl]oxy] benzoate. The application proposed a changed use pattern for this active ingredient.

The application was approved on July 19, 1982 as a restricted use pesticide for domestic use for control of termites. This active ingredient was previously registered only for non-domestic use on the agricultural crop, corn. The product was assigned EPA Registration No. 3125–339.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (92 Stat. 819; 7 U.S.C. 136), will be available for public inspection in accordance with section

3(c)(2) of FIFRA within 30 days after registration date. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), EPA, 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(2) FIFRA, as amended)

Dated: September 10, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82–26061 Filed 9–21–82; 8:45 am]

BILLING CODE 6560–50–M

[OPP–C30204A; PH–FRL 2212–3]

Uniroyal Chemical Inc.; Approval of Application to Conditionally Register a Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has conditionally approved the application by Uniroyal Chemical Inc. to register the plant growth regulant Harvade 5F containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, CM#2 Rm. 245, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of October 13, 1981 (46 FR 50413) that Uniroyal Chemical Inc., 74 Amity Road, Bethany, CT 06525, had submitted an application to register the plant growth regulant Harvade 5F containing 49 percent of the active ingredient (2,3-dihydro-5,6-dimethyl-1,4-dithiin 1,1,4,4-tetraoxide) an ingredient not included in any previously registered product.

The application was approved on August 13, 1982 for general use in pesticide formulation. The product was assigned EPA Registration No. 400–155.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (92 Stat. 819; 7 U.S.C. 136), will be available for public inspection in accordance with section 3(c)(2) of FIFRA within 30 days after registration date. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), EPA, 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(C)(2) FIFRA, as amended)

Dated: September 13, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82–26076 Filed 9–21–82; 8:45 am]

BILLING CODE 6560–55–M

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. CC82–122]

Interconnection Arrangements Between and Among the Domestic and International Record Carriers

September 13, 1982.

By *Order*, Mimeo No. 5976, released August 25, 1982, we requested that carriers file contracts assertedly grandfathered by the Record Carrier Competition Act of 1981, Pub. L. No. 97–130, § 4, 95 Stat. 1687, for publication in the **Federal Register**. Interested persons may comment on the issue of whether the contracts are subject to Section 4 and are otherwise lawful. These comments must be filed within twenty (20) days of this publication in the **Federal Register**. Carriers submitting contracts may file replies within ten (10) days of the filing of comments.

Two carriers filed contracts listed below.

The text of contracts follows.

TRT Telecommunications Corp.—Contract of May 19, 1980, with Western Union Telegraph Co. and modification of July 1, 1980.

FTC Communications, Inc.—Contract of November 10, 1980, with Western Union Telegraph Co.

Federal Communications Commission,

Gary M. Epstein,

Chief, Common Carrier Bureau.

TRT Telecommunications Corp.

May 19, 1980.

Mr. Delmar Harmon,

Vice President—Carrier Relations, Westrn Union Telegraph Company, One Lake Street, Upper Saddle River, New Jersey 07548.

Dear Mr. Harmon: This letter will confirm the arrangements we have agreed to under which TRT will provide, on a non-exclusive basis, transiting facilities for a portion of the overseas transmission of international telex traffic filed with Western Union pursuant to Western Union's tariff for overseas telex routing service (OTRS) or such other similar traffic as to which Western Union assumes tariffing, billing and collection responsibilities.

For telex traffic transferred to TRT pursuant to this Agreement, Western Union will pay TRT $.30 per minute, except for UK-destined traffic as to which Western Union will pay TRT $.10 per minute. In addition, Western Union will pay TRT for the amounts due TRT's correspondents for their handling of the traffic. The above amounts will be paid on a monthly basis to TRT no later than ninety (90) days following the month in which the traffic is transmitted.

In consideration for TRT's entering into this Agreement, including TRT's investment in facilities to accommodate Western Union's anticipated traffic, Western Union agrees that it will route a minimum of fifty million (50,000,000) minutes of traffic (no more than ten million (10,000,000) minutes destined to the United Kingdom (UK) will be counted against this minimum) during the initial five year period after the effective date of this Agreement. (In all instances in this Agreement, minutes shall mean minutes as billed by Western Union to its customers.) In addition, if Western Union routes more than fifty million (50,000,000) minutes of traffic via TRT, it agrees that no more than 25% of the total telex traffic (in minutes) transferred to TRT pursuant to this Agreement will be destined to the United Kingdom. TRT agrees to accommodate up to forty thousand (40,000) minutes per day within ninety (9) days after the effective date of this Agreement, eighty thousand (80,000) minutes per day within one hundred-fifty (150) days after the effective date of this Agreement and up to one hundred twenty thousand (120,000) minutes per day upon Western Union's providing TRT with reasonable advance notice of its intention to transmit that volume of traffic. Western Union will provide TRT wth sufficient advance notice of its projected traffic volumes to allow TRT adequate opportunity to acquire the facilities necessary to accommodate Western Union's anticipated traffic.

If Western Union routes more than ten million (10,000,000) minutes of traffic subject to this Agreement to TRT during any of the five consecutive 12-month periods commencing with the effective date of this Agreement, the amounts due TRT for its handling of traffic to points other than the UK for such Excess Minutes (i.e., total minutes of traffic transferred during each such 12-month period minus ten million (10,000,000) minutes) shall, at Western Union's election, be reduced on a non-cumulative basis in accordance with the following discount schedule:

Excess minutes	Discount minute
0 to 3 million	$.02
3 to 6 million	.04
6 to 9 million	.06
9 to 12 million	.08
Over 12 million	.10

The above discounts will not be applicable to traffic destined to the UK and UK-destined traffic shall not be considered in the calculation of the discounts applicable pursuant to the above schedule except that a maximum of two million (2,000,000) minutes of UK destined traffic may be included as part of the ten million (10,000,000) minutes of non-discounted traffic required before the discount schedule becomes applicable.

Western Union's fifty million (50,000,000) minute commitment under this Agreement must be satisfied solely out of traffic for which no Excess Minute Discount is applicable. However, should Western Union elect the above Excess Minute Discounts in any 12-month period, it may, within the next succeeding year, repay to TRT the average discount applicable during the preceding year for as much as five million (5,000,000) minutes of such discounted traffic and thereby qualify that traffic for satisfaction of Western Union's fifty million (50,000,000) minute commitment.

TRT will provide the same quality of international transmission and switching for Western Union's traffic pursuant to this Agreement that TRT provides to its own telex customers, except that TRT will have the option upon ninety (90) days notice to Western Union, to require it at any time after January 1, 1981, to switch all TRT-routed UK-destined traffic directly to TRT's overseas telex trunks. Traffic will be transferred to TRT via 50 baud telex trunks provided by Western Union and terminating at TRT's switching center in Ft. Lauderdale, Florida.

Western Union agrees that all outbound "OTRS" (or similar) traffic transmitted by TRT pursuant to this Agreement will be considered TRT's traffic for purposes of obtaining allocations of return telex traffic from foreign correspondents.

This Agreement is completely independent of the Western Union—TRT Agreement for Express Telex Service dated December 12, 1979, and telex traffic transmitted pursuant to this Agreement cannot be used to satisfy Western Union's obligations to TRT pursuant to the Agreement for Express Telex Service. Similarly, this Agreement does not apply to any other traffic originating on the Western Union system that is transmitted via TRT pursuant to (1) our Agreement of August 25, 1967 or (2) our similar arrangements for the exchange of TWX-originated international telex traffic.

This Agreement shall be binding upon both parties immediately upon execution as evidenced by your signature in the space provided at the end of this letter. However, the effective date of the Agreement shall be August 15, 1980, or as soon thereafter as Western Union, using its best efforts, is able to permit its customers to access TRT, via OTRS (or any similar service), for "conversational" or "live" connections with overseas telex subscribers.

In the event that performance of this Agreement is prohibited or enjoined by the Federal Communications Commission or by any court of competent jurisdiction, all obligations or duties arising out of this Agreement shall be postponed for the duration of such prohibition or injunction, and any such prohibition or injunction shall toll the running of the five year period and 12-month periods referred to above in connection with minimum traffic quarantees and the discount applicable to Excess Minutes.

On and after the effective date of this Agreement, this Agreement shall supersede the agreement between the parties evidenced by TRT's telex messages to Western Union dated October 4, 1979, and April 25, 1980.

Sincerely,

David H. Lubetzky.

Delmar Harmon.

TRT Telecommunications Corp.

July 1, 1980.

Mr. Richard C. Callaghan,
Vice President, Western Union Telegraph Company, 1828 L Street, N.W., Washington, D.C. 20036.

Dear Dick: TRT Telecommunications Corporation (TRT) has entered into an Agreement with The Western Union Telegraph Company (Western Union) evidenced by TRT's letter to Western Union, dated May 19, 1980, under which TRT will provide transiting telex facilities to Western Union. Said Agreement presently provides that "... the effective date of the Agreement shall be August 15, 1980 or as soon thereafter as Western Union, using its best efforts, is able to permit its customers to access TRT, via OTRS (or any similar services), for 'conversational' or 'live' connections with overseas telex subscribers.

In view of the fact that the parties desire to exchange traffic pursuant to this Agreement without further delay, it has now been agreed between Western Union and TRT to modify the May 19 Agreement to provide that said Agreement shall become effective as of the date of this letter. However, the five year period relating to the 50 million minute traffic guarantee by Western Union described in the last paragraph beginning on page 1 of the May 19, 1980 letter and the first consecutive 12-month period relating to the calculation of discounts described in the first paragraph beginning on page 2 of the May 19, 1980 letter shall be extended by an additional number of days equal to the number of days between the date of this letter and the earliest of the following dates:

1. The date on which the transfer by Western Union to TRT of the 500,000th minute of traffic pursuant to the Agreement occurs;

2. Any date on which transfer by Western Union to TRT of more than 10,000 minutes of traffic pursuant to the Agreement occurs;

3. December 1, 1980.

The traffic transferred to TRT pursuant to the Agreement between the date of this letter and the earliest of the above dates will be included as part of Western Union's 50 million minute traffic guarantee but will not be included in the calculation of the discounts pursuant to the schedule set forth at page two of the May 19, 1980 letter.

Except as described above, the aforesaid transiting facilities Agreement shall remain as set forth in the letter from TRT to Western Union, dated May 19, 1980.

Two copies of this letter have been furnished to you. To indicate Western Union's concurrence with this modification of the prfor May 19, 1980 Agreement, would you please sign at the place designated below and return one signed copy to me.

Very, truly yours,

David H. Lubetzky.

Richard C. Callaghan,
Vice President, Western Union Telegraph Company.

FTC Communications, Inc.

November 10, 1980.

Mr. Delmar Harmon,
Vice President, The Western Union Telegraph Company, One Lake Street, Upper Saddle River, NY 07950.

Dear Mr. Harmon: This letter will confirm the arrangements we have agreed to under which FTCC will provide, on a non-exclusive basis, transiting facilities for overseas transmission of a portion of the international Telex traffic filed with Western Union pursuant to Western Union's tariff No. FCC 276 for International Telex Access Service or such other similar traffic as to which Western Union assumes tariffing, billing and collection responsibilities. Western Union agrees to transfer to FTCC all such traffic routed by the sender via FTCC.

For Telex traffic transferred to FTCC pursuant to this Agreement, Western Union will pay FTCC 30 cents per minute for all destination countries other than the United Kingdom, and 10 cents per minute to the United Kingdom, plus an allowance for payouts to foreign administrations. The allowance for payouts to foreign administrations shall be the lesser of: (1) the total actual FTCC payout to foreign administrations for the traffic transferred to FTCC pursuant to this Agreement, or (2) the total payout to foreign administrations for such traffic assuming the prime route payouts as reported from time to time to the Federal Communications Commission by TRT Telecommunications Corporation (TRT) pursuant to § 43.53 of the FCC's Rules; provided that in calculating (2) above, the payout rate applicable to traffic transmitted via FTCC shall not be reduced due to a reduction in the TRT prime route payout rate until 90 days from the effective date of said reduction in TRT payouts. FTCC shall provide Western Union with data applicable to it necessary for the performance of the foregoing computation. Western Union will pay FTCC the amounts due under this agreement no later than ninety (90) days following the month in which the traffic is transmitted.

FTCC shall supply Western Union with a list of destination countries to which it will accept traffic pursuant to this Agreement and will give Western Union advance notice of any changes in such list. Western Union shall file necessary revisions to applicable

Western Union tariffs within 15 days of receipt of such notice of change. The change shall become effective upon the effectiveness of such tariff revision.

Western Union agrees that it will not discourage senders from routing traffic via FTCC by charging senders rates for traffic covered hereby to any destination country which are higher than the rates charged by Western Union for traffic to the same country transmitted overseas by any other carrier; except that if such other carrier is willing to accept lower payment than that specified in the second paragraph above, Western Union may pass such reduction to the public in the form of reduced collection rates for traffic routed via such carriers. If Western Union reduces collection rates in accordance with the foregoing provision, FTCC shall have the right to accept a lower payment for its transmission services hereunder; and if it does so, Western Union will reduce its collection rates for traffic routed via FTCC to pass such reduction to the public.

FTCC will provide the same quality of international transmission and switching for Western Union's traffic pursuant to this Agreement that FTCC provides to its own Telex customers. Traffic will be transferred to FTCC via 50 baud Telex trunks provided by Western Union and terminating at FTCC's switching center in New York, New York. Western Union shall take such steps as necessary to prevent switching traffic to FTCC that is destined to a country not included on the list of countries provided by FTCC to Western Union.

Western Union agrees that all outbound "ITAS" (or similar) traffic transmitted by FTCC pursuant to this Agreement will be considered FTCC's traffic for purposes of obtaining allocations of return Telex traffic from foreign correspondents.

This Agreement does not apply to any traffic originating on the Western Union system that is transmitted via FTCC pursuant to (1) our Agreement of April 12, 1973 or (2) our similar arrangements for the exchange of TWX-originated international Telex traffic, or (3) to any traffic not billed by Western Union or not pursuant to a Western Union tariff.

This Agreement shall be binding upon both parties immediately upon execution as evidenced by your signature in the space provided at the end of this letter. However, the Effective Date of the Agreement shall be December 21, 1980, or as soon thereafter as Western Union, using its best efforts, is able to permit its customers to access FTCC, via ITAS (or any similar service), for "conversational" or "live", or store and forward connections with overseas Telex subscribers.

In the event that performance of this Agreement is prohibited, delayed or enjoined by the Federal Communications Commission or by any court of competent jurisdiction, all obligations or duties arising out of this Agreement shall be postponed for the duration of such prohibition, delay or injunction.

The term of this Agreement shall be five years from the Effective Date, and shall continue thereafter from year to year unless terminated by either party by written notice at least 60 days prior to the expiration of the then current term.

Sincerely,

R. Treglos,

FTC Communications, Inc.

Accepted:

The Western Union Telegraph Company.

Delmar Harmon,

Vice President.

Dated: November 13, 1980.

[FR Doc. 82-25784 Filed 9-21-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL ELECTION COMMISSION

[Notice 1982-7]

Filing Dates for Indiana Special General Election

AGENCY: Federal Election Commission.

ACTION: Notice of Filing Dates for Indiana Special General Election.

SUMMARY: Committees required to file reports in connection with the Special General Election to be held in the 1st Congressional District of Indiana on November 2, 1982, must file a 12-day pre-election report by October 21, 1982, and a 30-day post-election report by December 2, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office 1325 K Street, NW., Washington, D.C. 20463, Tel: (202) 523-4068; Toll-free: (800) 424-9530.

Notice of Filing Dates for Special General Election, 1st Congressional District, Indiana

All principal campaign committees of candidates in the Special General Election and all other political committees which suppport candidates in the Special General Election shall file a 12-day pre-election report due on October 21, 1982, and a 30 day post-election report due on December 2, 1982. In addition, because this Special Election coincides with the regularly scheduled General Election, all political committees filing monthly are also required to file the above mentioned reports. All other political committees should contact the Commission for further information concerning General Election reporting requirements.

Dated: September 17, 1982.

Frank P. Reiche,

Chairman, Federal Election Commission.

[FR Doc. 82-26186 Filed 9-21-82; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 82-45]

Cutters Exchange, Inc. v. Cargo International Inc., et al.; Filing of complaint and Assignment

Notice is given that a complaint filed by Cutters Exchange, Inc. against Cargo International Inc., et al. was served September 14, 1982. Complainant alleges that respondent has operated as an independent ocean freight forwarder without benefit of a bond, in violation of 46 U.S.C. 841 b(section 44, Shipping Act, 1916).

This proceeding has been assigned to Administative Law Judge Norman D. Kline. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 82-26070 Filed 9-21-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Manufacturers Hanover Corporation,* New York, New York; to acquire 100 percent of the voting shares or assets of MHC Holding (Delaware) Inc., Wilmington, Delaware and thereby indirectly acquire Manufacturers Hanover Bank (Delaware), Wilmington, Delaware. Comments on this application must be received not later than October 13, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Mid-Central Bancshares Corporation,* Charleston, Illinois; to acquire 51 percent of the voting shares or assets of Ashmore State Bank, Ashmore, Illinois. Comments on this application must be received not later than October 13, 1982.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *CharterCorp,* Kansas City, Missouri; to acquire 100 percent of the voting shares or assets of the successor by merger to American National Bank, St. Louis, Missouri. Comments on this application must be received not later than October 15, 1982.

2. *CharterCorp,* Kansas City, Missouri; to acquire 100 percent of the voting shares or assets of the successor by merger to City Bank, St. Louis, Missouri. Comments on this application must be received not later than October 15, 1982.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Bancshares of Texas, Inc.,* Longview, Texas; to acquire 95.2 percent of the voting shares or assets of The Hamilton National Bank, Hamilton, Texas. Comments on this application must be received not later than October 13, 1982.

Board of Governors of the Federal Reserve System, September 16, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26103 Filed 9-21-82; 8:45 am]
BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *MHC Holding (Delaware) Inc.,* Wilmington, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of Manufacturers Hanover Bank (Delaware), Wilmington, Delaware. Comments on this application must be received not later than October 13, 1982.

Board of Governors of the Federal Reserve System, September 16, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26102 Filed 9-21-82; 8:45 am]
BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *American Banking Corporation of Lake Wales,* Lake Wales, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of American Bank of Lake Wales, Lake Wales, Florida. Comments on this application must be received not later than October 15, 1982.

2. *Dadeland Bancshares, Inc.,* Miami, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Dadeland Bank, Miami, Florida. Comments on this application must be received not later than October 12, 1982.

3. *F.M.B. Corporation,* Monticello, Florida; to become a bank holding company by acquiring 80 percent or more of the voting shares of Farmers & Merchants Bank, Monticello, Florida. Comments on this application must be received not later than October 15, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *East Peoria Community Bancorp, Inc.,* Peoria, Illinois; to become a bank holding company by acquiring 98.95 percent or more of the voting shares of Community Bank of Greater Peoria, East Peoria, Illinois. Comments on this application must be received not later than October 15, 1982.

2. *Malta Bancshares, Inc.* Malta, Illionois; to become a bank holding company by acquiring 80 percent or more of the voting shares of The First National Bank of Malta, Malta, Illinois. Comments on this application must be received not later than October 15, 1982.

3. *The Waldron Financial Corporation,* Waldron, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The State Bank of Waldron, Waldron, Indiana. Comments on this application must be received not later than October 15, 1982.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Falkner Capital Corporation,* Falkner, Mississippi; to become a bank holding company by acquiring 80 percent of the voting shares of The Bank of Falkner, Falkner, Mississippi. Comments on this application must be received not later than October 15, 1982.

2. *First Southern Missouri Bancshares, Inc.,* Van Buren, Missouri; to become a bank holding company by acquiring 83.2 percent of the voting shares of Carter County State Bank, Van Buren, Missouri. Comments on this

application must be received not later than October 15, 1982.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Community Corporation*, Enid, Oklahoma; to become a bank holding company by acquiring 99.5 percent of the voting shares of Community Bank & Trust Company, Enid, Oklahoma. Comments on this application must be received not later than October 15, 1982.

2. *First Fletcher Bancshares, Inc.*, Fletcher, Oklahoma; to become a bank holding company by acquiring 80 percent or more of the voting shares of The First National Bank of Fletcher, Fletcher, Oklahoma. Comments on this application must be received not later than October 15, 1982.

3. *Galva Bancshares, Inc.*, Galva, Kansas; to become a bank holding company by acquiring 95 percent of the voting shares of The Farmers State Bank, Galva, Kansas. Comments on this application must be received not later than October 15, 1982.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Farmersville Bancshares, Inc.*, Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank at Farmersville, Farmersville, Texas. Comments on this application must be received not later than October 15, 1982.

2. *Liberty Bancshares, Inc.*, Dallas, Texas; to become a bank holding company by acquiring 80 percent or more of the voting shares of Liberty National Bank, Dallas, Texas. Comments on this application must be received not later than October 15, 1982.

3. *Sudan Bancshares, Inc.*, Lubbock, Texas; to become a bank holding company by acquiring 80 percent or more of the voting shares of The First National Bank of Sudan, Sudan, Texas. Comments n this application must be received not later than October 15, 1982.

F. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *First City Bancshares, Inc.*, Gainesville, Florida; to become a bank holding company by acquiring 80 percent of the voting shares of First City Bank, Gainesville, Florida. This application may be inspected at the offices of the Board of Governors of the Federal Reserve Bank of Atlanta. Comments on this application must be received not later than October 15, 1982.

Board of Governors of the Federal Reserve System, September 16, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26101 Filed 9-21-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and request for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Barclays Bank PLC* and its subsidiary, Barclays Bank International Limited, each a bank holding company whose principal office is in London, England (consumer finance; Alcoa, Tennessee): To engage through their subsidiary, BarclaysAmerican/Financial, Inc., in making direct consumer loans, including loans secured by real estate, and purchasing sales finance contracts representing extensions of credit such as would be made or acquired by a consumer finance company, and wholesale financing (floor planning) and acting as agent for the sale of related credit life, credit accident and health and credit property insurance. Credit life and credit accident and health insurance sold as agent may be underwritten or reinsured by BAC's insurance underwriting subsidiaries. This activity would be conducted from an office of BAC located in Alcoa, Tennessee, serving customers in Alcoa and surrounding areas in Tennessee. This notification is for the relocation of an existing office located in Alcoa, Tennessee. Comments on this application must be received not later than October 15, 1982.

2. *Barclays Bank PLC* and its subsidiary, Barclays Bank International Limited, each a bank holding company whose principal office is in London, England (consumer finance; Salisbury, North Carolina): To engage through their subsidiaries BarclaysAmerican/Financial, Inc., BarclaysAmerican/Financial Services, Inc., and BarclaysAmerican/Mortgage, Inc., in making direct consumer loans, including loans secured by real estate, and purchasing sales finance contracts representing extensions of credit such as would be made or acquired by a consumer finance company, and wholesale financing (floor planning) and acting as agent for the sale of related credit life, credit accident and health and credit property insurance. Credit life and credit accident and health insurance sold as agent may be underwritten or reinsured by BAC's insurance underwriting subsidiaries. This activity would be conducted from an office of BAC located in Salisbury, North Carolina serving customers in Salisbury and surrounding areas in North Carolina. This notification is for the relocation of an existing office located in Salisbury, North Carolina. Comments on this application must be received not later than October 15, 1982.

3. *Barclays Bank PLC* and its subsidiary, Barclays Bank International Limited, each a bank holding company whose principal office is in London, England (consumer finance; Charlotte, North Carolina): To engage through their subsidiary BarclaysAmerican/Financial, Inc., BarclaysAmerican Financial Services, Inc., and BarclaysAmerican/Mortgage, Inc., all North Carolina corporations, in making direct consumer loans, including loans secured by real estate, and purchasing sales finance contracts representing extensions of credit such as would be made or

acquired by a consumer finance company, and wholesale financing (floor planning) and acting as agent for the sale of related credit life, credit accident and health and credit property insurance. Credit life and credit accident and health insurance sold as agent may be underwritten or reinsured by BAC's insurance underwriting subsidiaries. This activity would be conducted from an office of BAC located in Charlotte, North Carolina serving customers in Charlotte and surrounding areas in North Carolina. This notification is for the relocation of an existing office located in Charlotte, North Carolina. Comments on this application must be received not later than October 15, 1982.

4. *Barclays Bank PLC* and its subsidiary, Barclays Bank International Limited, each a bank holding company whose principal office is in London, England (consumer finance; Ontario, Oregon): To engage through their subsidiary, BarclaysAmerican/Financial, Inc., in making direct consumer loans, including loans secured by real estate, and purchasing sales finance contracts representing extensions of credit such as would be made or acquired by a consumer finance company, and wholesale financing (floor planning) and acting as agent for the sale of related credit life, credit accident and health and credit property insurance. Credit life and credit accident and health insurance sold as agent may be underwritten or reinsured by BAC's insurance underwriting subsidiaries. This activity would be conducted from an office of BAC located in Ontario, Oregon, serving customers in Ontario and surrounding areas in Oregon. This notification is for the relocation of an existing office located in Payette, Idaho. Comments on this application must be received not later than October 15, 1982.

5. *Barclays Bank PLC* and its subsidiary, Barclays Bank International Limited, each a bank holding company whose principal office is in London, England (consumer finance; Monroe, Louisiana): To engage through their subsidiaries, BarclaysAmerican/Financial, Inc. and BarclaysAmerican/Financial Inc. (Texas), in making direct consumer loans, including loans secured by real estate, and purchasing sales finance contracts representing extensions of credit such as would be made or acquired by a consumer finance company, and wholesale financing (floor planning) and acting as agent for the sale of related credit life, credit accident and health and credit property insurance. Credit life and credit accident and health insurance sold as agent may be underwritten or reinsured by BAC's insurance underwriting subsidiaries. This activity would be conducted from an office of BAC located in Monroe, Louisiana, serving customers in Monroe and surrounding areas in Louisiana. This notification is for the relocation of an existing office in Ruston, Louisiana. Comments on this application must be received not later than October 15, 1982.

Board of Governors of the Federal Reserve System, September 16, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26100 Filed 9-21-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of October.

Neuropsychology Research Subcommittee of the Basic Psychopharmacology and Neuropsychology Research Review Committee

October 4–6; 9:00 a.m.

The Capitol Hill, Boardroom,
200 C Street, S.E., Washington, D.C. 20003.

Open—October 4, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Shirley Maltz, Room 9C–26, Parklawn, Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3944.
Purpose: The Neuropsychology Research Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research activities in the field of basic neuropsychology and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00–10:00 a.m., October 4, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5U.S.C. Appendix I).

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Alcohol Psychosocial Research Review Committee

October 6–8; 9:00 a.m.

Embassy Square Hotel,
2000 N Street, N.W., Washington, D.C. 20036.

Open—October 6, 9:00 a.m.–1:30 p.m.
Closed—Otherwise
Contact: Jane A. Taylor, Ph.D., Parklawn Building, Room 16C–26, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6106.
Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and research training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.
Agenda: From 9:00 a.m.–1:30 p.m., October 6, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Epidemiologic and Quantitative Services Subcommittee of the Epidemiologic and Services Research Review Committee

October 11–13; 9:00 a.m.

Thomas Salon, Washington Marriott Hotel
1221 22nd Street, N.W., Washington, D.C. 20037.

Open—October 11, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Gloria Yockelson, Room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367.
Purpose: The Epidemiologic and Quantitative Services Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and training activities in the fields of mental health epidemiology, mental health systems research, mental health services development, and evaluation methodology, and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00–10:00 a.m., October 11, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

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Mental Health Behavioral Sciences Research Review Committee

October 14–15; 9:00 a.m.

Capitol Hill Hotel, Premier Boardroom Suite,
200 C Street, S.E., Washington, D.C. 20003.

Open—October 14, 9:00–10:30 a.m.
Closed—Otherwise

Contact: Claudia Goad, Room 9C–20 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936

Purpose: The Mental Health Behavioral Sciences Research Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research activities in the fields of psychology, psychiatry, anthropology, and sociology and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:30 a.m., October 14, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C., 552b(c)(6) and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

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Aging Subcommittee of the Life Course Review Committee

October 14–15; 9:00 a.m.

The Shoreham Hotel, Calvert Road and Connecticut Avenue, N.W.,
Washington, D.C. 20008

Open—October 14, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Dee Herman, Room 9C–02, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1220

Purpose: The Aging Subcommittee of the life Course Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research activities in the field of aging and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., October 14, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

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Child and Family Subcommittee of the Life Course Review Committee

October 21–22; 9:00 a.m.

The Capitol Hill, Capital Hill Conference Room, 200 C Street, S.E., Washington, D.C. 20003

Open—October 21, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Christine Peers, Room 9C–06, Parklawn Building 5600 Fishers Lane, Rockville, Maryland 20857, (301)443–1177

Purpose: The Child and Family Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research activities in the fields of child and family mental health and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., October 21, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

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Criminal and Violent Behavior Review Committee

October 20–22; 9:00 a.m.

Gramercy Inn,
1616 Rhode Island Avenue, N.E., Washington, D.C. 20036.

Open—October 20, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Jean Byrne, Room 9C–14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301)443–4868

Purpose: The Criminal and Violent Behavior Review Committee is charged with the initial review of applications for assistance from the National Institute of mental Health for support of research activities in the fields of criminal and violent behavior, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:30 a.m., October 20, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

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Mental Health Research Education Review Committee

October 21–22; 9:00 a.m.

Sheraton Inn Washington Northwest,
8727 Colesville Road, Silver Spring, Maryland 20910

Open—October 21, 1:30–3:00 p.m.
Closed—Otherwise
Contact: Emilie Embrey, Room 9–101, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3857.

Purpose: The Mental Health Research Education Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research training activities in the fields of biological sciences, the psychological sciences, and the applied behavioral sciences areas, and makes recommendations to the National Advisory Mental Health Council if for final review.

Agendd: From 1:30–3:00 p.m., October 21, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

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Research Scientist Development Review Committee

October 25; 9:00 a.m.

Washington Marriott Hotel,
1221 22nd Street, N.W., Washington, D.C. 20037.

Open—October 25, 9:00–9:30 a.m.
Closed—Otherwise
Contact: Diana Souder, Room 9C–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6470

Purpose: The Research Scientist Development Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for the support of activities to develop and execute a program of Research Scientist and Research Scientist Development Awards to appropriate institutions for the support of individuals engaged full time in research and related activities relevant to mental health, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–9:30 a.m. October 25, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

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Psychopathology and Clincial Biology Research Review Committee

October 25–27; 9:00 a.m.

The Shoreham
Calvert Street and Connecticut Avenue, N.W., Washington, D.C. 20008

Open—October 25, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Irma Fisher, Room 9C–24, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1340

Purpose: The Psychopathology and Clinical Biology Research Review Committee is

charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities in the fields of clinical psychopathology and clinical biology, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., October 25, the meeting will be open for discussion of administrative announcements and program developments. Otherwise the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisons of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Apendix I).

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Psychosocial Research Subcommittee of the Durg Abuse Clincal, Behavioral, and Psychosocial Research Review Committee

October 25–27; 8:30 a.m.

Conferance Rooms M and H, Parklawn Building,
5600 Fishers Lane, Rockville, Maryland 20857

Open—October 25, 8:30–9:00 a.m.
Closed—Otherwise
Contact: Ron Gold, Executive Secretary, DACA, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620

Purpose: The Psychosocial Research Subcommittee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 8:30–9:00 a.m., October 25, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

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Drug Abuse Biomedical Research Review Committee

October 25–28; 9:00 a.m.

Linden Hill Hotel, Sea Pines Room,
5400 Pooks Hill Road, Bethesda, Maryland 20014

Open—October 25, 9:00–9:30 a.m.
Closed—Otherwise
Contact: Dr. Alan A. Schreier, Executive Secretary, DABR, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620

Purpose: The Drug Abuse Biomedical Research Review Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00–9:30 a.m., October 25, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

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Drug Abuse Clinical and Behavioral Research Subcommittee of the Drug Abuse Clinical, Behavioral, and Psychosocial Research Review Committee

October 25–28; 9:00 a.m.

Linden Hill Hotel, Longwood Room,
5400 Pooks Hill Road, Bethesda, Maryland 20014

Open—October 25, 9:00–9:30 a.m.
Closed—Otherwise
Contact: Daniel L. Mintz, Executive Secretary, DACB, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620

Purpose: The Drug Abuse Clinical and Biomedical Research Subcommittee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00–9:30 a.m., October 25, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

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Cognition, Emotion, and Personality Research Review Committee

October 29–30; 9:00 a.m.

Holiday Inn, Georgetown,
2101 Wisconsin Avenue, N.W. Washington, D.C. 20007

Open—October 29, 9:00–10:00 a.m.
Closed—Otherwise
Contact: Shirley Maltz, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3944

Purpose: The Cognition, Emotion, and Personality Research Review Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and activities in the field of personality, cognition, emotion and higher mental processes and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., October 29, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

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Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained as follows: NIAAA: Mrs. Diana Widner, Committee Management Officer, Room 16C18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4375. NIDA: Ms. Claudette Wright, Committee Management Officer, Room 10–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1644. NIMH: Ms. Helen W. Garrett, Committee Management Officer, Room 17C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: September 16, 1982.

Sue Simons,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 82–26012 Filed 9–21–82; 8:45 am]
BILLING CODE 4160–20–M

Centers for Disease Control

Safety and Occupational Health Study Section; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control announces the following National Institute for Occupational Safety and Health (NIOSH) committee meeting:

Name: Safety and Occupational Health Study Section
Date: October 19–20, 1982
Place: Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
Time and type of meeting: Open—8:30 a.m. to 10:00 a.m.—October 19. Closed—10:00 a.m. to 5 p.m.—October 19. Closed—8:30 a.m. to 5 p.m.—October 20.
Contact person: Mark R. Green, Ph. D., Executive Secretary, 5600 Fishers Lane, Parklawn Building, Room 8–63, Rockville, Maryland 20857, Telephone: 301–443–4493
Purpose: The committee is charged with the initial review of research, training,

demonstration, and fellowship grant applications for Federal assistance in program areas administered by the National Institute for Occupational Safety and Health, and with advising the Institute staff on training and research needs.

Agenda: Agenda items for the open portion of the meeting will include consideration of minutes of previous meeting and administrative reports. Beginning at 10:00 a.m., October 19, through October 20, 1982, the Study Section will be performing the initial review of research, demonstration and training grant applications for Federal assistance, and will not be open to the public, in accordance with the provisions set forth in Section 552b(c)(6), Title 5 U.S. Code, and the Determination of the Director, Centers for Disease Control, pursuant to Public Law 92–463.

Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: September 14, 1982.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 82-26060 Filed 9-21-82; 8:45 am]

BILLING CODE 4160-19-M

Health Care Financing Administration

Medicare Program; Exclusion From Medicare Coverage of DMSO for Conditions Other Than Interstitial Cystitis

AGENCY: Health Care Financing Administration (HCFA), HHS

ACTION: Notice of ruling.

SUMMARY: This notice announces a HCFA ruling that restates Medicare policy for the coverage of the drug dimethyl sulfoxide (DMSO). DMSO is a covered service only when administered for the treatment of interstitial cystitis. This HCFA ruling assures uniform Medicare policy on the coverage of DMSO.

EFFECTIVE DATE: Effective for services furnished after September 22, 1982.

FOR FURTHER INFORMATION CONTACT: Sheila Ryan, Director, Division of Medical Services Coverage Policy, (301) 594–8561.

SUPPLEMENTARY INFORMATION: We plan to compile and publish all rulings in the "Health Care Financing Administration Rulings" booklet which will be indexed for citation purposes. When this ruling is republished in the booklet, it will be known as HCFAR 82–1. The text of the HCFA ruling is as follows:

Exclusion From Medicare Coverage of DMSO for Conditions Other Than Interstitial Cystitis

HCFAR 82–1

Purpose: This ruling restates HCFA policy regarding Medicare coverage of DMSO.

Citations: Section 1862(a)(1) of the Social Security Act; 42 U.S.C. 1395y(a)(1); 42 CFR 405.310(k); 20 CFR 422.40

Pertinent history: The Medicare statute prohibits payment for any expenses incurred for items or services "which are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member" (section 1862(a)(1) of the Act). HCFA has interpreted this statutory provision to exclude from Medicare coverage medical and health care services and items that are not demonstrated to be safe and effective by acceptable clinical evidence. HCFA's source of medical advice on issues of medical safety and efficacy of services and items is the Public Health Service (PHS).

DMSO has been used as an industrial solvent since the 1940s. In 1959, it was found to be useful in protecting biological tissues from damage when they are preserved by freezing. In 1963, DMSO was reported to have medicinal properties and an investigational new drug application for the study of its use in humans was approved by the Food and Drug Administration (FDA). Testing was halted, however, in 1965 after experiments in animals indicated that DMSO had adverse effects on the eyes. Experiments were resumed the following year in light of the lack of evidence of eye damage in humans.

In 1972, the FDA asked the National Academy of Sciences—National Research Council to evaluate all the data available to the FDA on use of DMSO in humans. A committee appointed by the Academy concluded that only a very small number of scientific reports could be used as the basis for scientific conclusions on the toxicity and effectiveness of DMSO. Further, the committee made the following conclusions:

- The evidence on DMSO does not warrant the general approval of the drug. There is suggestive evidence that DMSO may be effective in the treatment of acute traumatic injury and nontraumatic painful shoulder and in relieving the pain of rheumatoid arthritis.
- DMSO produces side effects, particularly of the skin, in many persons. In rare cases, DMSO has been linked to discolored patches of skin in humans. Also, when tested in some species of laboratory animals, DMSO altered the lens of the eye.
- DMSO should be restricted to investigational use until it can be clearly demonstrated that it therapeutic effects are sufficient to risk the side effects it may cause.
- More reliable data are needed on the possible adverse effects and on the way DMSO works in the body.

The FDA approved DMSO for use in the symptomatic relief of chronic interstitial cystitis in 1978. HCFA consulted with PHS when preparing this ruling, and again received advice that there is still insufficient evidence to establish that DMSO is safe and effective in conditions other than interstitial cystitis. The drug is currently being tested for other conditions.

Ruling: DMSO is not established to be safe and effective for any use other than interstitial cystitis, therefore, the use of DMSO for conditions other than interstitial cystitis is excluded from Medicare coverage under the authority of section 1862(a)(1) of the Act.

(Secs. 1102 and 1862(a)(1) of the Social Security Act; 42 U.S.C. 1302 and 1395y(a)(1))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance and No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: September 16, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 82-26136 Filed 9-21-82; 8:45 am]

BILLING CODE 4120-03-M

Office of the Secretary
Office of Human Development Services

Model Act for the Adoption of Children With Special Needs

Correction

In FR Doc. 82–23459 beginning on page 37836 in the issue of Thursday, August 26, 1982, make the following corrections:

1. On page 37836, first column, five lines from the bottom of the page, "section 302(c)" should have read "section 402(c)".

2. On page 37837, second column, six lines from the bottom of the page, "combination of" should have read "combination of the".

3. In the third column, in the last line of paragraph (c) *Continuing special need required for certification,* "eligible" should have read "eligible pursuant to:".

4. In the next line, "(a)(1) or (1)(2)" should have read "(a)(1) or (a)(2)", and

four more lines down, "(1)(3)" should have read "(a)(3)".

5. In the same column, the *Commentary to Section 403* contained errors and is reprinted correctly as follows:

Subsection (a). Assistance payments may begin after an agreement is signed—as early as the time of placement or after an interlocutory or final adoption decree has been issued. Adoption assistance may be made available for costs related to the adoption process, such as legal and court costs of adoption, other costs incidental to adoption placement, or costs for medical treatment or other needs.

Time-limited assistance is designed to help with expenses of integrating the child into the family or to provide funds for a specific short-term service. Long-term adoption assistance is designed for children who cannot be adopted unless their long-term financial needs are met by subsidy. The ceiling on the subsidy to accord with foster family allowances is based on current practice in a majority of the States. One objective of the adoption assistance program is to

* * * * *

6. On page 37838, first column, second line from the top of the page, insert the word "or" at the end of the line.

7. In the same column, in the eighth and ninth lines from the bottom of the page, the words "Legislators debating enactment families" should be removed.

8. In the second column, five lines from the top of the page, after the words "necessary postadoption", insert "services were not available. In addition,".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

New Community Development Corporation

[Docket No. D-82-681]

Redelegation of Authority

AGENCY: Department of Housing and Urban Development (HUD)/New Community Development Corporation.

ACTION: Redelegation of Authority

SUMMARY: This Redelegation of Authority authorizes the Regional Administrator and Deputy Regional Administrator, Region II (New York) and the Area Manager and Deputy Area Manager, New York Area Office, to exercise the authority of the General Manager, New Community Development Corporation, to transfer a parcel of Federally-owned surplus land, together with any improvements and related personal property, to the Town of East Hampton, New York.

EFFECTIVE DATE: September 22, 1982.

FOR FURTHER INFORMATION CONTACT: Angelo M. Scioscia, Director, Office of Surplus Land, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 5182, Washington, D.C. 20410, Telephone 202/755-1882 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: On September 24, 1980, at 45 FR 63360, the Secretary of the Department of Housing and Urban Development delegated the responsibility for management and disposition of surplus Federal property to the General Manager, New Community Development Corporation. The General Manager is redelegating this Authority in turn to the Regional Administrator, Deputy Regional Administrator, Region II (New York) and the Area Manager and Deputy Area Manager, New York Area Office to expedite the transfer of the below listed parcel of Federally-owned surplus land to the Town of East Hampton, N.Y.

Accordingly, the General Manager, New Community Development Corporation, redelegates to the Regional Administrator, Deputy regional Administrator, Region II (New York) and the Area Manager and Deputy Area Manager, New York Area Office, the authority to transfer the real property listed below, together with any improvements and related personal property, to the Town of East Hampton, New York: Montauk Air Force Station, Family Housing Area, Montauk, New York (GAS Control No. 2-D-NY-692-D)

(Sec. 414 of the Housing and Urban Development Act of 1969, 40 U.S.C. 484b; Delegation of Authority, September 24, 1980, 45 FR 63360)

Dated: September 9, 1982.

Warren T. Lindquist,

General Manager, New Community Development Corporation, Department of Housing & Urban Development.

[FR Doc. 82-26016 Filed 9-21-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Powder River Federal Coal Production Region; Coal Lease Offering

September 13, 1982.

U.S. Department of the Interior, Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001. Notice is hereby given that certain coal resources in the tracts described below in Campbell County, Wyoming will be offered for competitive lease by sealed bid to the qualified bidder submitting the highest bonus bid for each tract in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.). Each tract will be leased to the qualified bidder of the highest cash amount provided that the high bid for the tract equals or exceeds the fair market value of the tract as determined by the authorized officer after the sale. The sale will be held at 10:00 a.m., Friday, October 15, 1982, in the third floor conference room, Lea Building, 2515 Warren Avenue, Cheyenne, Wyoming. No bids received after 4:30 p.m., Thursday, October 14, 1982, will be considered.

Coal Offered

Fortin Draw Tract, W-78630

The coal resource to be offered consists of all recoverable reserves in the following-described lands located about five miles east of Gillette, Wyoming:

T. 50 N., R. 71 W., 6th P.M.,
Sec. 34, S½N½, SW¼.

Containing 320.00 acres, Campbell County, Wyoming.

Total recoverable reserves are estimated to be 26.6 million tons. The average overall quality of the coal in the tract is 8000 BTU/lb. with 6 percent ash, 30 percent moisture, and 0.5 percent sulfur.

Surface Owner Consent Information: This tract has one qualified surface owner. Consent granted by the surface owner has been filed with and verified by the Bureau of Land Management. All of the lands in the tract are covered by the consent.

Purchase Price of Surface Owner Consent: $125,000.

Minimum Bid: $4,200 per acre.

Rocky Butte Tract, W-78633

The coal resource to be offered consists of all recoverable reserves in the following-described lands located approximately seven miles southeast of Gillette, Wyoming:

T. 48 N., R. 71 W., 6th P.M.,
Sec. 1, lots 1, 2, 3, 4, S½N½, S½ (all);
Sec. 2, lots 1, 2, 3, 4, S½N½, S½ (all);
Sec. 3, lots 1, 2, 3, 4, S½N½, S½ (all);
Sec. 4, lots 1, 2, 3, 4, S½N½, S½ (all);
Sec. 5, lots 1, 2, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 8, E½, E½NW¼, SE¼SW¼;
Sec. 9, NE¼, W½, W½SE¼.
T. 49 N., R. 71 W., 6th P.M.,
Sec. 32, S½NE¼, N½SE¼, SE¼SE¼;
Sec. 33, S½N½, S½;

Sec. 34, SW¼, SW¼SE¼.

Containing 4,855.54 acres, Campbell County, Wyoming.

Total recoverable reserves are estimated to be 445 million tons. The average overall quality of the coal in the tract is 8,462 BTU/lb. with 5.0 percent ash, 30.2 percent moisture, 0.3 percent sulfur, 31.8 percent volatile matter and 33.3 percent fixed carbon.

Surface Owner Consent Information: This tract has five qualified surface owners. Consents granted by these surface owners (three consent agreements) have been filed with and verified by the Bureau of Land Management. The lands covered by each consent and the purchase price of the consents are shown below:

T. 48 N., R. 71 W., 6th P.M.,
Sec. 3, lot 1, SE¼NE¼.
T. 49 N., R. 71 W., 6th P.M.,
Sec. 33, SE¼NE¼, E½SE¼;
Purchase Price: $114,000.00 (consent also covers lands lying outside tract).

T. 48 N., R. 71 W., 6th P.M.,
Sec. 2, NE¼SW¼.
Purchase Price: $150,000.00.

T. 48 N., R. 71 W., 6th P.M.,
Sec. 5, lot 2, SW¼NE¼, SE¼NW¼, E½SW¼;
Sec. 8, E½NW¼.
T. 49 N., R. 71 W., 6th P.M.,
Sec. 32, S½NE¼, N½SE¼, SE¼SE¼;
Sec. 33, SW¼, S½NW¼, SW¼NE¼, W½SE¼.
Purchase Price: $6,000,000 (Consent also covers lands lying outside tract).
Minimum Bid: $100 per acre.

Rental and Royalty

Leases issued as a result of this offering will provide for payment of an annual rental of $3.00 per acre per year and a royalty payable to the United States of 12.5 percent of the value of coal produced by strip or auger mining methods and 8.0 percent of the value of coal produced by underground methods. The value of the coal shall be determined in accordance with 30 CFR 211.63.

Notice of Availability

Bidding instructions for each tract offered, the terms and conditions of surface owner consents filed and verified, and details on the post-sale transfer or assignment of surface owner consents are included in the Detailed Statements of Lease Sale. Copies of the Statements and of the proposed coal leases are available in the Wyoming State Office. Case file documents are also available for inspection in the Wyoming State Office.

Additional Information

The environmental impact statement and land use plan on which the Secretary based his February 22, 1982, decision to offer these lease tracts for sale are being challenged in the consolidated lawsuit in the U.S. District Court for the District of Montana, *Northern Cheyenne Tribe* v. *Watt*, Civil No. 82–116–BLG, and *National Wildlife Federation* v. *Burford*, Civil No. 82–117–BLG.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-26083 Filed 9-21-82; 8:45 am]
BILLING CODE 4310-84-M

[INT FES 82-35]

Proposed Livestock Grazing Management Program for Clark County, Las Vegas District, Nevada

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability of the Final Environmental Impact Statement (FEIS) on the Livestock Grazing Management Program in Clark County, Nevada.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared an FEIS concerning livestock grazing management on 3.6 million acres of BLM-administered land in Clark County in the Las Vegas District in southern Nevada. This program involves evaluation of proposed levels of rangeland management intensity on livestock grazing allotments, potential reclassification of selected allotments for ephemeral-perennial grazing, alternative methods of protection of crucial resource areas, and range improvements. The FEIS contains only comments, responses, and minor changes to the Draft Environmental Impact Statement (DEIS) and should be used together with the DEIS. This revised procedure has saved substantial time, money, and paperwork and is authorized under 40 CFR 1503.4(c). The DEIS was made available to the public on June 17, 1982, with comments due by August 13, 1982. The DEIS was the subject of a public hearing held in Las Vegas on July 15, 1982.

FOR FURTHER INFORMATION CONTACT: Kemp Conn, District Manager, Attn: EIS Team Leader, Bureau of Land Management, P.O. Box 26569, Las Vegas, NV 89126, (702) 385–6403.

Copies of the DEIS and FEIS are available for review at the following BLM offices:

Office of Public Affairs, 18th and C Streets, NW., Washington, D.C. 20240
Nevada State Office, 300 Booth Street, Reno, NV 89520
Battle Mountain District Office, North 2nd and Scott Streets, Battle Mountain, NV 89820
Carson City District Office, 1050 E. William Street, Carson City, NV 89701
Elko District Office, 2002 Idaho Street, Elko, NV 89801
Ely District Office, Star Route 5, Box 1, Ely, NV 89301
Las Vegas District Office, 4765 W. Vegas Drive, Las Vegas, NV 89126
Arizona Strip District Office, 6916 East Tabernacle, St. George, UT 84770
Cedar City District Office, 1579 North Main, Cedar City, UT 84720
Riverside District Office, 1695 Spruce Street, Riverside, CA 92507

Also, copies are available for review at the following public libaries:

Boulder City Library, 539 California Ave., Boulder City, NV 89005
Bunkerville Library, Bunkerville, NV 89007
Charleston Heights Library, 800 Brush St., Las Vegas, NV 89107
Clark County Community College, Learning Resource Center, 3200 E. Cheyenne Ave., North Las Vegas, NV 89030
Clark County Library, 1401 E. Flamingo Rd., Las Vegas, NV 89109
Las Vegas Public Library, 1762 E. Charleston Blvd., Las Vegas, NV 89104
Moapa Valley Library, Overton, NV 89040
North Las Vegas Library, 2300 Civic Center Dr., North Las Vegas, NV 89030
Searchlight Library, Searchlight, NV 89046
James Dickinson Library, Documents Division, University of Nevada, 4505 Maryland Parkway, Las Vegas, NV 89154
Getchell Library, Government Publications Department, University of Nevada, Reno, NV 89507
Virgin Valley Library, Mesquite, NV 89024
Nevada State Library, Library Building, Carson City, NV 89710

Dated: September 16, 1982.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 82-26081 Filed 9-21-82; 8:45 am]
BILLING CODE 4310-84-M

[INT FES 82-36]

Proposed Livestock Grazing Management for the Bodie-Coleville Planning Units, Bishop Resource Area, Bakersfield District, California

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of

1969, the Bureau of Land Management has prepared a final environmental impact statement concerning a proposed grazing management program for the Bodie-Coleville Planning Units in Mono County in eastern California. The proposed action allocates 14,977 AUMs to livestock, 685 AUMs to deer, and 121 AUMs to wild horses. The alternatives analyzed include no grazing, no action (continue present management with 19,004 AUMs to livestock), maximization of livestock production (17,404 AUMs to livestock), maximization of environmental quality protection (10,999 AUMs to livestock) and a multiple use compromise (11,732 AUMs to livestock).

A limited number of copies of this document are available upon request at the:

Bishop Resource Area, Bureau of Land Management, 873 N. Main Street, Suite 201, Bishop, California 93514, (714) 872–4881

California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, (916) 484–4541

In addition to the above offices, copies of this EIS are available for public reading and review at:

Division of Rangeland Management, Bureau of Land Management, Premier Building, Room 909–H, 1725 I Street, N.W., Washington, D.C. 20006

Bakersfield District Office, Bureau of Land Management, Federal Building, Room 304, 800 Truxtua Street, Bakersfield, CA 93301

Dated: September 15, 1982.

Ron Hofman,

Associate State Director.

[FR Doc. 82-26052 Filed 9-21-82; 8:45 am]

BILLING CODE 4310-84-M

Rawlins District, Wyoming; Intent To Hold Public Scoping Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Hold public scoping meetings on Pan Aero Corporation's proposed wind energy development project near Medicine Bow, Carbon County, Wyoming.

SUMMARY: The proposed action is development of a wind energy production facility utilizing 872 wind turbine generators ranging from 120 feet to 390 feet high. The proposal would also require about 50 miles of access roads and 59 miles of transmission lines. The entire project would utilize about 150 acres and would be located entirely on public land. The project would take from 7 to 10 years to construct and would have the capacity to generate about 1,000 megawats of electricity.

All attendees of the public scoping meetings will be given an opportunity to participate and suggest topics for consideration in determining the issues to be considered and the extent of environmental analysis. Written comments are also welcome.

DATES: Public scoping meetings will be held in order to receive public comment and concerns. The dates, times and locations of the meetings are as follows:

October 19, 1982, 7 p.m., Albany County Library, 310 S. 8th Street, Laramie, Wyoming

October 20, 1982, 7 p.m., Town Hall, Medicine Bow, Wyoming

Any person wishing to submit written comments, including any issues, suggestions or alternatives to the proposed action should send these to the office listed below. Written comments will be accepted until November 15, 1982.

ADDRESSES: Information and materials providing a description of the project are available for review at the Bureau of Land Management, Rawlins District Office, 1300 3rd St., Rawlins, Wyoming.

For further information, contact Kirby Boldan, Bureau of Land Management, Rawlins District Office, P.O. Box 670, Rawlins, Wyoming 82301. Phone (307) 324–7171.

Elbert W. Spencer,

Assistant District Manager

[FR Doc. 82-26092 Filed 9-21-82; 8:45 am]

BILLING CODE 4310-84-M

Socorro District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Public Law 94–579, that a meeting of the Socorro District Grazing Advisory Board will be held on Tuesday, October 19, 1982.

The meeting will begin at 10:00 a.m., in the Community Hall on the rodeo grounds in Datil, New Mexico.

The agenda for the meeting will include:

(1) Response to inquiries made at the last meeting regarding Advisory Board elections, replacing boundary fences, base waters, cattleguards, and county agreements.

(2) Proposed grazing regulations.

(3) Implementation of the West Socorro Rangeland Management Program.

(4) Continued Implementation of the East Socorro Rangeland Management Program.

(5) Grazing management plans.

The meeting is open to the public. Interested persons may make oral statements to the Board at 1:00 p.m., or file written statements for the Board's consideration.

Dated: September 13, 1982.

Donnie R. Sparks,

District Manager,

[FR Doc. 82-26106 Filed 9-21-82; 8:45 am]

BILLING CODE 4310-84-M

[U-51116, U-51450, U-51451]

Utah; Order Providing for Opening of Lands

1. In an exchange of lands under the provisions of Section 206 of the Act of October 21, 1976, the following described lands have been reconveyed to the United States:

Salt Lake Meridian, Utah

T. 12 N., R. 14 W., (U–51116) Surface Only
Sec. 24, N½.
Containing 320.00 acres.
T. 5 N., R. 18 W., (U–51116) Surface Only
Sec. 5, lots 1, 2, 3, 4, S½N½, S½;
Sec. 7, lots 1, 2, 3, 4, E½, E½W½.
T. 6 N., R. 18 W., (U–51116) Surface Only
Sec. 17, all.
T. 4 N., R. 19 W., (U–51116) Surface Only
Sec. 5, lots, 1, 2, 3, 4;
Sec. 15, E½, E½W½;
Sec. 17, lots 1, 2, 3, 4;
Sec. 23, E½, E½NW¼, NE¼SW¼;
Sec. 27, E½;
Sec. 35, all.
T. 5 N., R. 19 W., (U–51116) Surface Only
Sec. 1, lots, 1, 2, 3, 4, S½N½, S½;
Sec. 3, lots 1, 2, 3, 4, S½N½, S½;
Sec. 11, all;
Sec. 13, all;
Sec. 15, all;
Sec. 23, all;
Sec. 27, all.
T. 6 N., R. 19 W., (U–51116) Surface Only
Sec. 1, lots, 1, 2, 3, 4, S½N½, S½;
Sec. 3, lots 1, 2, 3, 4, S½N½, S½;
Sec. 5, lots 1, 2, 3, 4;
Sec. 9, lot 1, NE¼NE¼, W½NE¼, NW¼, NE¼SW¼, NW¼SE¼;
Sec. 17, lots 1, 2, 3, 4;
Sec. 23, all;
Sec. 27, all;
Sec. 29, lots 1, 2, 3, 4.
T. 7 N., R. 19 W., (U–51116) Surface Only
Sec. 17, lots, 1, 2, 3, 4;
Sec. 21, all;
Sec. 23, E½;
Sec. 29, lots 1, 2, 3, 4;
Sec. 33, all;
Sec. 35, all.
Aggregating 13,822.51 acres.
T. 12 N., R. 6 E., (U–51450) Surface Only
Sec. 5, NW¼SW¼;
Sec. 8, NE¼NW¼.
Aggregating 80.00 acres.
T. 11 N., R. 17 W., (U–51451) Surface Only
Sec. 7, lots 1, 2, 3, NE¼, E½NW¼, NE¼SW¼, N½SE¼, SE¼SE¼, E½E½ SW¼SE¼.
Containing 520.62 acres.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph one are hereby open to operation of the public lands laws generally. All valid applications received at or prior to 10:00 a.m. on October 12, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the lands should be addressed to Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: September 14, 1982.

J. K. Latimer,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-26105 Filed 9-21-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Shell Offshore Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3560, Block 33, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 13, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-26087 Filed 9-21-82; 8:45 am]

BILLING CODE 4310-31-M

Office of Surface Mining Reclamation and Enforcement

[Federal Lease No. 71692]

Availability of Draft Environmental Impact Statement and Public Hearing on the Proposed North Rochelle Mine, Campbell County, Wyo.

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of availability of draft environmental impact statement (OSM–EIS–9) and public hearing.

SUMMARY: Pursuant to §1506.6 of Title 40, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining (OSM), Western Technical Center, has prepared a draft environmental impact statement (EIS) on the proposed North Rochelle Mine. The EIS has been written to assist the Department in making a decision on Shell Oil Company Mining's application to surface mine about 197 million tons of coal over a period of 26 years. The proposed site is 50 miles south of the City of Gillette, Wyoming. The mine would encompass 4,587 acres of State, private and Federal land (Thunder Basin National Grasslands) of which 3,271 acres would be disturbed for mining, roads, railroad spur, and facilities.

Copies of the draft EIS may be obtained from OSM at the location listed under **"ADDRESSES"** below. Copies are also available for review at locations listed under **"ADDRESSES."**.

A public hearing will be held. All interested parties are invited to attend this hearing to give their comments. See **"DATES"** and **"ADDRESSES"** for time and location.

DATES: A public hearing will be held on October 27, from 7:00 to 9:00 p.m. The Draft EIS will be available on September 23 at the address listed under **"ADDRESSES"**. All written comments should be received by the Office of Surface Mining at the location listed under **"ADDRESSES"** no later than November 24, 1982.

ADDRESSES: The public hearing will be held at the Campbell County Community Recreation Center in Gillette, Wyoming. Copies of the draft EIS may be obtained from and comments should be addressed to: Allen D. Klein, Administrator, Office of Surface Mining, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202.

Copies of the EIS are available for review at the Converse County Courthouse and the Douglas Library, Douglas, Wyoming; the Campbell County Courthouse and the George Amos Memorial Library, Gillette, Wyoming; and at the State of Wyoming, Department of Environmental Quality, 401 Nineteenth Street, Cheyenne, Wyoming.

FOR FURTHER INFORMATION CONTACT: Allen D. Klein, Attn: Charles Albrecht (telephone 303–837–5656) at the location given under **"ADDRESSES."**

SUPPLEMENTARY INFORMATION: The EIS evaluates two alternative actions the Department could take on the mining and reclamation plan which has been submitted to OSM and the State of Wyoming. Those alternatives are approval and disapproval or no action.

OSM has identified a preferred alternative. The State of Wyoming, the Forest Service, and OSM have identified stipulations that would be attached to the permit if it is granted.

OSM, with assistance from the Geological Survey, Forest Service, Interstate Commerce Commission, and State of Wyoming, has analyzed the impacts of the alternatives. Public comments are sought on this analysis as presented in the EIS. All substantive comments, written or oral, will be considered in preparing the final EIS and in the final recommendation for action on the subject mining and reclamation plan. See **"DATES"** and **"ADDRESSES"** for information on the hearing and comments.

J. Steven Griles,

Acting Director.

[FR Doc. 82-26140 Filed 9-21-82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed by Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: September 17, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,

Secretary.

MC–F–14947, filed August 25, 1982. SURE-WAY TRANSPORTATION, INC. (SURE-WAY) (103 Buckner, Columbia, MO 65201)—PURCHASE (PORTION)—ECKLEY TRUCKING, INC. (ECKLEY) (P.O. Box 156, Mead, NE 68041). Representative: Peter A. Greene, Suite 700, 1920 N Street, NW, Washington, DC 20036. Sure-Way seeks to purchase a portion of the authority of Eckley. L. E. Clark, Jr. and Robert Jurgensmeyer, who control Sure-Way, seek authority to acquire control of the said rights through the transaction. Sure-Way is purchasing a portion of the interstate operating rights contained in No. MC–5227 (Sub-No. 89)X, Part 7, authorizing the transportation of *construction materials*, between Chicago, IL, and points in Will County, IL, on the one hand, and, on the other, points in IA, MO, KS, NE, CO, and MN. Sure-Way is authorized to operate as a common carrier pursuant to certificates issued in No. MC–147774 and subs thereunder.

[FR Doc. 82-26060 Filed 9-21-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries about the following to Team 1 (202) 275–7992.

Volume No. OP2-223

Decided: September 14, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier.

MC 128290 (Sub-23), filed September 7, 1982. Applicant: EARL HAINES, INC., PO Box 2557, Winchester, VA 22601. Representative: Bill R. Davis, Suite 101, Emerson Center, 2814 New Spring Rd., Atlanta, GA 30339 (404) 434-3381. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Please direct status inquiries to Team 2, (202) 275-7030.

Volume No. OP2-223

Decided: September 14, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 156223 (Sub-1), filed August 27, 1982. Applicant: GENE MILWRICK d.b.a. MILWRICK TRUCKING SERVICE, 3530 North Durfee, Pico Rivera, CA 90660. Representative: Gene Milwrick (Same address as applicant) 616-426-4755. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 163723, filed September 7, 1982. Applicant: NATIONWIDE FREIGHT BROKERS OF ILLINOIS, P.O. Box 1021, Homewood, IL 60430. Representative: Edward G. Bazelon, 29 South LaSalle St., Chicago, IL 60603, 312-236-9375. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP2-225

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 129283 (Sub-1), filed September 9, 1982. Applicant: RAY THOMPSON MOVING & STORAGE, INC., P.O. Box 1064, Clarksville, TN 37040. Representative: David Earl Tinker, 1000 Connecticut Ave. NW, Suite 1112, Washington, DC 20036-5391, 202-887-5868. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), (3) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI), and (4) as a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 140493 (Sub-4), filed September 10, 1982. Applicant: R & J INDUSTRIES, INC., P.O. Box 266, Elizabeth, NJ 07207. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, 703-751-2441. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), and (2) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

MC 152082 (Sub-13), filed September 1, 1982. Applicant: R. C. SERVICE, INC., P.O. Box 823, Bensenville, IL 60106. Representative: Daniel C. Sullivan, 180 N. Michigan, Ave., Suite 1700, Chicago, IL 60601, 312-263-1600. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 163692, filed September 1, 1982. Applicant: MO-ARK TRUCK SERVICES, INC., 6816 Englewood, Raytown, MO 64133. Representative: Mary L. Harvey (same address as applicant) (816) 737-3691. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163783, filed September 10, 1982. Applicant: PATRICK C. ROBIN d.b.a. P.C.R. TRUCK BROKERAGE, P.O. Box 160, Newman Lake, WA 99025. Representative: Patrick C. Robins (Same address as applicant) 509-922-9045. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Please direct status inquiries to Team 3, (202) 275-5223.

Volume No. OP3-144

Decided: September 15, 1982.

By the Commission, Review Board No. 2. Members Carleton, Williams and Ewing.

MC 148284 (Sub-6), filed September 1, 1982. Applicant: DON YOUNGBLOOD TRUCKING COMPANY, INC., P.O. Box 309, Mulberry, AR 72947. Representative: George Spencer, 7 North Block, Fayetteville, AR 72701 (501) 442-0585. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 160774 (Sub-2), filed August 26, 1982. Applicant: TRANSCO SERVICES, INC., P.O. Box 20133, Phoenix, AZ 85036. Representative: David Robinson, 2228 W. Northern Avenue B-201, Phoenix, AZ 85021, (602) 864-0990. Transporting (1) for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 162914, filed September 2, 1982. Applicant: LANCER TRANSPORTATION SERVICES, INC., 552 S. Washington St., Naperville, IL 60540. Representative: Daniel O. Hands, 104 S. Michigan Ave., Suite 410, Chicago, IL 60603, (312) 641-1944. As a *broker, transporting general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163485, filed August 20, 1982. Applicant: DENVER F. SISSON, d.b.a. SISSON'S MOBILE HOME TRANSPORT AND TRAILER SERVICE, 6501 MacCorkle Ave., S.E., Charleston, WV 25304. Representative: Ada Kathelene Sission (same address as applicant), (304) 925-1451. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 163644, filed August 30, 1982. Applicant: EVA HART, d.b.a. ROAD RUNNER TRUCK BROKERAGE, 2501 Page St., Texarkana, TX 75501. Representative: Thomas R. Newman, 219 West Broad St., Texarkana, TX 75501, (214) 794-2461. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 163665, filed September 1, 1982. Applicant: METROPOLITIAN DELIVERY SERVICE, INC., 128 No. 23rd St., Philadelphia, PA 19103. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561-1030. Transporting *shipments weighing 100 pounds or less* if

transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 163695, filed September 2, 1982. Applicant: ALLAN P. JONES, d.b.a. ALLANSON TRUCK LINES, 7340 Amestoy St., Van Nuys, CA 91406. Representative: Terry E. Morgan, 2131 Alamanor St., Oxnard, CA 93030, (805) 485–2040. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP3–147

Decided: September 16, 1982.

By the Commission, Review Board Number 2, Members Carleton, Williams, and Ewing.

MC 163675, filed September 2, 1982. Applicant: MATTHEW J. MORRA, d.b.a. G. M. M., INC., 7 Buckingham Circle, Pinebrook, NJ 07058. Representative: Matthew J. Morra, 2236 Morgan Ave., Bronx, NY 10469, (212) 655–6873. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 163745, filed September 8, 1982. Applicant: BRUCE M. BROWN, 9623 North Karlov Ave., Skokie, IL 60076. Representative: Allan C. Zuckerman, 221 N. LaSalle St. Chicago, IL 60601, (312) 641–5900. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163764, filed September 9, 1982. Applicant: LARRY G. CRUTCHFIIELD and TERRY T. BAGBY, d.b.a. C & B TRUCKING COMPANY, R.R. 2, Huntsville, MO 65259. Representative: Larry G. Crutchfield (same address as applicant), (816) 277–3514. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26066 Filed 9-21-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier tuthority are those where service is for a named shipper "under contract".

Please direct status inquiries about the following to Team 1 (202) 275–7992.

Volume No. OP1–157

Decided: September 15, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 121801 (Sub-5), filed September 7, 1982. Applicant: HAYES MOTOR FREIGHT, INC., 2501 SE 15th Street, Oklahoma City, OK 73129. Representative: G. Timothy Armstrong, 200 N. Choctaw, PO Box 1124, El Reno, OK 73036 (405) 262–1322. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OK, on the one hand, and, on the other, Chicago, IL; Shreveport, LA; Little Rock, AR; Memphis, TN; Topeka and Wichita, KS; Kansas City and St. Louis, MO; Dallas, Houston, San Antonio and Texarkana, TX.

Note.—Applicant intends to tack the requested authority with its existing regular route authority.

MC 150440 (Sub-6), filed September 3, 1982. Applicant: UNIVERSAL EXPRESS, LTD., 3820 University Avenue, West Des Moines, IA 50265. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309, (515) 244–2329. Transporting *such commodities* as are dealt in or used in the manufacture, distribution and repair of household and commercial laundry and kitchen appliances, between Indianapolis, IN, and points in Franklin, Jasper, and Jefferson Counties, IA; and Bradley County, TN, on the one hand, and, on the other, points in AZ, CA, ID, MN, MT, ND, NM, NV, OR, SD, UT, WA, and WY.

MC 163111 (Sub-1), filed September 7, 1982. Applicant: PRIVATE TRANSPORT CORP., 1000 Jorie Boulevard, Suite 228, Oakbrook, IL 60521. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603, (312) 782–8880. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with W. W. Grainger, Inc., of Chicago, IL; Health Foods, Inc., of Des Plaines, IL; and Marmon Keystone Corp., of Lemont, IL.

Please direct status inquires about the following to Team 2, (202) 275–7030.

Volume No. OP2–224

Decided: September 14, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier.

MC 107012 (Sub-779), filed September 8, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same as applicant) (219) 429–2234. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Convergent Technologies, Inc., of Santa Clara, CA.

MC 129923 (Sub-27), filed September 7, 1982. Applicant: SHIPPERS TRANSPORTS, INC., 5010 Commerce St., West Memphis, AR 72301. Representative: Edward G. Grogan, Twentieth Floor, First Tennessee Building, Memphis, TN 38103 (901) 526–2000. Transporting *food and related products*, between points in the U.S., (except AK and HI).

MC 146853 (Sub-14), filed September 3, 1982. Applicant: FRANK F. SLOAN, DBA, HAWKEYE WOODSHAVINGS, Rte. 1, Runnells, IA 50327. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309 (515) 244–2329. Transporting *plastic products* and *such commodities* as are dealt in or used in the manufacture and distribution of plastic products, (1) between points in Morrison County, MN, on the one hand, and, on the other, points in CO, IL, IN, MO, and MT, and (2) between points in Winnebago County, WI, on the one hand, and, on the other, points in Morrison County, MN.

MC 151332 (Sub-3), filed September 8, 1982. Applicant: GARRY E. THREADGILL, d.b.a. GARRY E. THREADGILL TRUCKING CO., 16216 S. E. 135th St., Renton, WA 98056. Representative: Jim Pitzer, 15 South Grady Way, Suite 321, Renton, WA 98055–3273, (206) 235–1111. Transporting *foundry supplies, hardware items, petroleum products, clay, concrete and glass products*, between points in the U.S. (except AK and HI), under continuing contract(s) with LaGrand Industrial Supplies, of Portland, OR.

MC 155022 (Sub-3), filed September 8, 1982. Applicant: PROCHNOW FARMS, INC., Route 5, Medford, WI 54451. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, 608–273–1003. Transporting *roofing granules*, between points in Marathon County, WI, on the one hand, and, on the other, points in IA, IL, IN, MN, and OH.

MC 159823 (Sub-1), filed September 8, 1982. Applicant: WESTEXPRESS, INC., 421 West Erie St., Chicago, IL 60610. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440, 216–652–2789. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of textiles, fabrics, and related products, between points in the U.S. (except AK and HI).

MC 163733, filed September 8, 1982. Applicant: MINCPAC, INC., Box 655, Stamford, CT 06904. Representative: Charles B. Minckler, Gray Squirrel Dr., New Canaan, CT 06840, (203) 972–1298. Transporting *passengers*, between points in the U.S. (except AK and HI).

Volume No. OP2–226

Decided: September 15, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier.

MC 662 (Sub-38), filed September 9, 1982. Applicant: BURNHAM VAN SERVICE, INC., 5000 Burnham Blvd., Columbus, GA 31907. Representative: David Earl Tinker, 1000 Connecticut Ave., N.W., Suite 1112, Washington, DC 20036–5391, 202–887–5868. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Phillips Petroleum Company, of Bartlesville, OK, and its subsidiaries which are listed as follows: (a) Phillips Products Co., Inc., (b) Applied Automation, Inc., (c) Phillips Pipe Line Company, (d) Phillips Chemical Company, (e) Phillips Natural Gas Company, (f) Drilling Specialties Company, all of Bartlesville, OK, (g) Phillips Driscopipe, Inc., of Dallas, TX, (h) American Fertilizer and Chemical Co., of Henderson, Co., (i) American Thermoplastics Corporation, of Houston, TX, (j) Phillips Fibers Corporation, of Greenville, SC, (k) Sealright Co., Inc., of Kansas City, MO, (l) H.P. Smith Paper Co., of Chicago, IL, (m) Phillips Uranium Corporation, of Albuquerque, NM, (n) Phillips Coal Company, of Richardson, TX, (o) Phillips Puerto Rico Core, Inc., of Guayama, PR, (p) Phillips Extruded Products, Inc., of Voucherville, CD, (q) Phillips Pacific Chemical Company, of Spokane, WA, and (r) Interplastic Corporation, of Minneapolis, MN.

MC 2392 (Sub-142), filed September 7, 1982. Applicant: WHEELER TRANSPORT SERVICE, INC., P.O. Box 14248, West Omaha Station, Omaha, NB 68124. Representative: Robert R. Harris, 1730 M St., N.W., Suite 501, Washington, DC 20036, 202–296–2900. Transporting *commodities in bulk* (a) between points in PA, on the one hand, and, on the other, points in AL, CA, CT, GA and VA and (b) between points in GA, on the one hand, and, on the other, points in IL, KS, MN and MO.

MC 15643 (Sub-15), filed September 8, 1982. Applicant: POUR WINDS VAN LINES, INC., 7035 Convoy Court, San Diego, CA 92138. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, DC 20423, 202–785–0024. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S., under continuing contract(s) with Hewlett-Packard Company, of Palo Alto, CA. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 2, Room 2379.

MC-117322 (Sub-13), filed September 3, 1982. Applicant: LESTER NOVOTNY, d.b.a. CHATFIELD TRUCKING, Chatfied, MN 55923. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402, 612–333–1341. Transporting *such commodities* as are dealt in by grocery stores and food business houses, between points in MN, WI and those points in IL on and north of U.S. Hwy. 150, on the one hand, and, on the other, those points in the U.S. in and east of MN, WY, CO and NM.

MC 134272 (Sub-6), filed September 2, 1982. Applicant: DAY & ROSS, LTD., Mapleton Rd. Moncton, New Brunswick, Canada, E0J 1N0. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101, (202) 773–5851. Transporting *agricutural chemicals*, between ports of entry on the international boundary line between the United States and Canada in ME, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Rohm and Haas Company, of Philiadelphia, PA.

MC 134612 (Sub-12), filed September 3, 1982. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Rd., Brookfield, Representative: Albert A. Andrin, 180 North La Salle St., Chicago, IL 60601, (312) 332–5106. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between those points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Condition: The

person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 2, Room 2379.

MC 138703 (Sub-6), filed September 8, 1982. Applicant: BOESDORFER TRUCKING, INC., Box 245, Pleasant Plains, IL 62677. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, 217–544–5468. Transporting *machinery and farm implements,* between points in Cass and Sangamon Counties, IL, Cass County, ND, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 140273 (Sub-37), filed August 31, 1982. Applicant: BUESING BROS. TRUCKING, INC., 2285 Daniels St., Long Lake, MN 55356. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting (1) *food and related products,* and (2) *chemicals and related products,* between points in KS and MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145782 (Sub-6), filed September 3, 1982. Applicant: MERCHANTS HOME DELIVERY SERVICE OF TEXAS, INC., P.O. Box 5067, Oxnard, CA 93031. Representative: David B. Schneider, 210 W. Park Ave., Suite 1120, Oklahoma City, OK 73102, (405) 232–9990. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with (1) Levitz Furniture Company of the Eastern Region, Inc., (2) Levitz Furniture Company of the Midwest, Inc., (3) Levitz Furniture Company of Texas, Inc., (4) Levitz Furniture Company of the Pacific, Inc., and (5) Levitz Furniture Company of Washington, Inc., all of Miami, FL.

MC 145793 (Sub-3), filed September 9, 1982. Applicant: EMBERS EXPRESS TRUCKING COMPANY, P.O. Box 937, Lake City, SC 29560. Representative: Kim D. Mann, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20814, 301–986–1410. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with (a) Sonoco Products Company, of Hartsville, SC, and (b) Stone Container Corporation, of Florence, SC.

MC 149333 (Sub-9), filed September 1, 1982. Applicant: RICKY SHAW & SONS TRANSPORTATION COMPANY, INC., 500 Bennington, Kansas City, MO 64125. Representative: Arthur J. Cerra, 2100 CharterBank Center, P.O. Box 19251, Kansas City, MO 64141, 816–842–8600. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with RJW Enterprises, of Bloomingdale, IL.

MC 152383 (Sub-6), filed September 2, 1982. Applicant: C. C. M. ENTERPRISES, INC., Suite 40, 27 Produce Dr., Cincinnati, OH 45202. Representative: John R. Mateyko (same address as applicant), (513) 621–7568. Transporting (1) *metal products,* between St. Louis, MO, and points in OH, and MI, on the one hand, and, on the other, points in CA, and those points in the U.S. in and east of MT, WY, CO, and NM, and (2) *such commodities* as are dealt in or used by distributors of grease, between points in OH, MI, IN, and PA, on the one hand, and, on the other, points in CA, and those points in the U.S. in and east of MT, WY, CO, and NM.

MC 154732 (Sub-2), filed August 30, 1982. Applicant: HARPER TRANSPORT, INC., 3313 Concord Corner, Conyers, GA 30208. Representative: Huey Harper (same address as applicant), 404–483–9262. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 158073 (Sub-1), filed September 7, 1982. Applicant: MEMOREX DISTRIBUTION AND SERVICES CORPORATION, San Thomas at Central Expressway, Santa Clara, CA 95052. Representative: John Paul Fischer, 100 Bush St., Suite 410, San Francisco, CA 94104, (415) 421–6743. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Tandy Corporation, of Santa Clara, CA.

MC 160172 (Sub-1), filed September 7, 1982. Applicant: CARMAC TRANSPORT, INC., 273 Walker Ave., Clarendon Hills, IL 60514. Representative: William J. Boyd, 2021 Midwest Rd., Suite 205, Oak Brook, IL 60521, 312–629–2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 162443, filed September 7, 1982. Applicant: HOLLAND BROS., INC., P.O. Box 87, Wingo, KY 42088. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956, 414–722–2848. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Graves County, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *machinery,* between points in Fulton County, KY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162733 (Sub-1), filed September 2, 1982. Applicant: RAY ALLEN, d.b.a. RAY ALLEN TRUCKING, P.O. Box 24552, Houston, TX 77119. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437–1768. Transporting (1) *mercer commodities,* (2) *machinery and parts,* and (3) *metal products, by-products and derivatives,* between points in the U.S. (except AK and HI).

MC 163202, filed September 2, 1982. Applicant: MIDWEST DISTRIBUTION SYSTEM, INC., 4040 West 40th St., Chicago, IL 60632. Representative: Carl L. Steiner, 29 South LaSalle St., Chicago, IL 60603, 312–236–9375. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Chicago, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) *food and related products, pulp, paper and related products, and containers,* between points in the U.S. (except AK and HI).

MC 163463, filed August 30, 1982. Applicant: B & D ENTERPRISES, INC., 52 E. Freeport Blvd., Sparks, NV 89431. Representative: Mike Pavlakis, Box 646, Carson City, NV 89702, (702) 882–0202. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CA, ID, NV, OR, UT and WA.

MC 163652, filed September 7, 1982. Applicant: FRED PURDY ENTERPRISES, INC., 8401 Pawnee Trail, Pinckney, MI 48169. Representative: Joseph Michael Roberts, 1730 M St. NW—Suite 501, Washington, DC 20036–4579, 202–296–2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Rail-Van, Inc., of Mentor, OH.

MC 163682, filed September 1, 1982. Applicant: SELECT TRUCKING CO., INC., 714 Mancill Rd., Stafford, PA

19087. Representative: Russell R. Sage, P.O. Box 11278, Alexandria, VA 22312, (703) 750-1112. Transporting *general commodities* (except household goods, and classes A and B explosives), between points in the U.S. under continuing contract(s) with (1) R. T. Vanderbilt Company, Inc., of Norwalk, CT, (2) Vanderbilt Chemical Corporation, of Murray, KY, (3) Dixie Clay Company, of Bath, SC, (4) Gouverneur Talc Company, Inc., of Gouverneur, NY, (5) Standard Mineral Company, Inc., of Robbins, NC, (6) Vanderbilt Minerals Corporation, of Beatty, NV, and (7) Vanderbilt Export Corporation, of Norwalk, CT.

MC 163683, filed September 2, 1982. Applicant: DAWDY TRUCK LINE, INC., P.O. Box 1195, Sioux City, IA 51102. Representative: James M. Dawdy (same address as applicant), (712) 258-0147. Transporting *meats, meat products, meat by-products, and articles distributed by meat packinghouses,* between points in the U.S., under continuing contract(s) with John Morrell & Co., of Chicago, IL.

MC 163722, filed September 7, 1982. Applicant: C.M.R., INC., 5865 Burgis S.E., Kentwood, MI 49508. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, 414-722-2848. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Richard Allan Medical Industries, of Richland, MI.

MC 163732, filed September 8, 1982. Applicant: ALASKA FREIGHTERS COOPERATIVE, INC., 3416 24th and S. Alston, Fairbanks, AK 99701. Representative: Shirley A. Willford (same address as applicant), (907) 479-2468. Transporting *general commodities* (except household goods), between points in the U.S. (except HI). Condition: To the extent this certificate authorizes classes A and B explosives, it shall be limited in term to a period expiring 5 years from its date of issuance.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26067 Filed 9-21-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier, Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-202

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 99388 (Sub-6-1TA), filed September 10, 1982. Applicant: ALLTRANS EXPRESS U.S.A., 1335 6th St., San Francisco, CA 94107. Representative: Thomas R. Tuite, (same as applicant). *General Commodities, in ocean containers, having immediately prior or subsequent movement by water,* (1) Between Los Angeles, Los Angeles Harbor or Long Beach, CA on the one hand; and Oakland, San Francisco, Richmond or Stockton CA on the other for 270 days.

Note.— Applicant proposes to serve the Commercial zones of the above named points. Supporting shippers: Trident Navigation Company, Inc. Agent Yang Ming Lines, 332 Pine St, San Francisco, CA 94104: Pacific Oriental Terminal Company, Pier 27, San Francisco, CA.

MC 163818 (Sub-6-1TA), filed September 13, 1982. Applicant: C.P.H. TRANSPORT, INC., P.O.B 950. Florence, OR 97439. Representative: Robert H. Foster, Larry O. Gildea, P.C., 342 East 12th Ave., Eugene, OR 97401. *Forest Products, lumber and wood products,* and *pulp, paper and related products* between points in OR on the one hand and points in CA, ID, NV, UT, and WA on the other for 270 days. Supporting shipper: SeaTerm Services, Inc., P.O.B. 748, North Bend, OR 97459.

MC 42487 (Sub-6-71TA), filed September 13, 1982. Applicant: CONSOLIDATED FREIGHTWAYS, Corporation of Delaware, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Contract Carrier,* irregular routes: *General commodities,* (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Ingersoll-Rand Company of Piscataway, NJ and its wholly owned subsidiaries, for 270 days. Supporting shipper(s): Ingersoll-Rand Company, 91 New England Ave., Piscataway, NJ 08854.

MC 163819 (Sub-6-1TA), filed September 13, 1982. Applicant: J & L FARMS, INC., 22239 S. 118th St., Chandler, AZ 85224. Representative: David Robinson and Lewis P. Amea, 2228 West Northern Ave., Suite B201, Phoenix, AZ 85021. *Fertilizer and fertilizer ingredients, feed and feed ingredients, cottonseed cake and meal, hay cubes and pellets in bulk or bags,* between points in AZ, CA, CO, ID, MT, NV, NM, OR, TX UT, WA and WY, restricted to the transportation of these commodities in walking floor trailers for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Aztec Feeds, 116 West Broadway, Mesa, AZ 85202; Western Farm Service, 3075 Citrus Circle, Suite 195, Walnut Creek, CA 94598.

MC 163798 (Sub-6-1TA), filed September 10, 1982. Applicant: HUNTSMAN AG. SERVICE, P.O. Box 189, Enterprise, UT 84725. Representative: Nicholas Huntsman (same address as applicant). *Building materials* between points in Los Angeles, Orange, Riverside and San Bernardino counties of CA, to points in UT and NV for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: There are (5) five supporting shippers. Their statements may be examined at the Regional office listed.

MC 129031 (Sub-6-1TA), filed September 13, 1982. Applicant:

KLAUSNER TRANSPORTATION CO, INC., 101 N. Ave. 18, Los Angeles, CA 90031. Representative: William Davidson, 5501 Pacific Blvd. Suite 200, Huntington Park, CA 90255. *Contract Carrier,* Irregular Routes: *Wearing apparel on hangers,* and such *commodities as are dealt in by retail department* and *retail chain stores;* Between Los Angeles CA Commercial Zone and points and places in the U.S. for 270 days. Supporting shippers: Transportation Alternatives Company 615 E Alondra Blvd, Gardena, CA; Orient GOH Uni-freight Systems, 22560 Lucerne St., Carson, CA.

MC 163789 (Sub-6–1TA), filed September 10, 1982. Applicant: LCI TRUCKING CO., P.O. Box 2177, Upland, CA 91786. Representative: Jim Pitzer, 15 South Grady Way—Suite 321, Renton, WA 98055–3273. (1) *Commodities as may be dealt in or used by wholesale or retail stores:* (2) *General Commodities* (excluding classes A or B explosives and household goods); between points in AK, CA, OR, WA, for 270 days. There are 5 supporting shippers. Their statements may be examined at the Regional office shown above.

MC 150255 (Sub-6–4TA), filed September 10, 1982. Applicant: LEPRINO TRANSPORTATION COMPANY, 3740 Shoshone St., Denver, CO 80211. Representative: John T. Wirth, 717 17th St., Suite 2800, Denver, CO 80202–3357. *Contract carrier,* irregular routes: *Alcoholic beverages and liquor,* from St. Louis, MO, Seattle, WA, Phoenix, AZ, La Crosse, WI, Omaha, NE, and Ripon and Long Beach, CA to the facilities of C & C Distributing Company at Denver, CO, under continuing contract(s) with C & C Distributing Company of Denver, CO, for 270 days. Supporting shipper: C & C Distributing Company, 6275 E. 39th Ave., Denver, CO 80216.

MC 730 (Sub-6–19TA), filed September 13, 1982. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., P.O. Box 8004, Walnut Creek, CA 94596. Representative: Alfred G. Krebs (same address as applicant). *Contract,* irregular; *General commodities* (except Class A and B explosives, household goods and commodities in bulk) between points in the U.S. (except AK and HI), under continuing contract(s) with North American Philips Corporation and subsidiaries, for 270 days. Supporting shipper North American Philips of 100 E. 42nd Street, New York, NY 10017

MC 163831 (Sub-6–1TA), filed September 13, 1982. Applicant: RAIL-TRAIL CO., 3203 Third Ave. North, Suite 301, Billings, MT 59101. Representative: Mr. Gene Radermacher, 3203 Third Ave. North, Suite 301, Billings, MT. *Contract carrier:* Irregular routes: *freight all kinds,* (except commodities in bulk, household goods and hazardous materials), having a prior and/or subsequent interstate rail haul Between Billings and Laurel, MT, on the one hand, and all points in MT and WY on the other; Between Fargo, ND, on the one hand, and all points in SD, ND and MN on the other; Between Spokane, WA, on the one hand, and all points in WA, ID, OR and MT on the other; Between Denver, CO, on the one hand, and all points in CO, NE and WY on the other, under continuing contract(s) with Burlington Northern Railroad, for 270 days. Supporting shipper: Burlington Northern Railroad, 2100 Executive Tower, 1405 Curtis St., Denver, CO 80202.

MC 54567 (Sub-6–4TA), filed September 13, 1982. Applicant: RELIANCE TRUCK CO., 2500 N. 24th Ave., Phoenix, AZ 85009. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Oil refinery; parts and sections thereof,* from the Conoco Refinery site near Carlton, MN to the Tonkawa Refinery site near Arnett, OK, for 270 days. Supporting shipper: American General Constructers, Inc., P.O. Box 207, Carlton, MN 55718.

MC 163830 (Sub-6–1TA), filed September 13, 1982. Applicant: RICO L CORPORATION, P.O. Box 1878, Grants Pass, OR 96526. Representative: Rich Gallagher, P.O. Box 1346, Grants Pass, OR 97526, *Equipment and machinery* from, to or between all points in Curry, Jackson, Klamath, Josephine, Doulgas, Deschutes Counties, OR: Del Norte, Siskiyou, Modoc, Humboldt, Shasta, Lassen, Tehama, and Trinity Counties, CA, for 270 days. Supporting shippers: There are eleven shippers. Their statements may be examined at the Regional Office listed above.

MC 151853 (Sub-6–2TA), filed September 13, 1982. Applicant: DONALD L. SHIRLEY, 5242 West Via Camille, Glendale, AZ 85306. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114. *Beer,* from Portland, OR to Indio, CA (and points in their commercial zones), for 270 days. An underlying ETA seeks 120-day authority. Supporting shipper: Sun Gold Distributing Co., 83–912 Ave. 45, Suite F, Indio, CA 92201.

MC 161974 (Sub-6–2TA), filed September 10, 1982. Applicant: TRIDENT TRUCK LINE, INC., P.O. Box 4030, Hayward, CA 94540. Representative: Manuel R. Senna (same as applicant). *Contract Carrier,* irregular routes: (1) *food industry equipment and meat packers supplies,* between AZ, CA, NV, OR and WA, under continuing contract with S. Blondheim & Co., Inc.; (2) *electrical switchboards, circuits and components,* between AZ, CA, NV, OR and WA under continuing contract with Industrial Electric Manufacturing, Inc.; (3) *truck parts and related equipment,* between AZ, CA, NV, OR and WA, under continuing contract with Dana Corporation; and (4) *forgings, marine hardware, turnbuckles, block assemblies, clevises and related articles,* between CA, NV, OR and WA, under continuing contract with Gardiner Manufacturing Co., for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: S. Blondheim & Co. Inc., 2444 Cypress St., Oakland, CA 94623; Dana Corp., 3390 Enterprise Ave., Hayward, CA 94545; Industrial Electric Mfg. Inc., 982 Washington Blvd., Fremont, CA 94539; Gardiner Mfg. Co., 2711 Union St., Oakland, CA 94607.

MC 163832 (Sub-6–1TA), filed September 13, 1982. Applicant: RANDY YTTRI TRUCKING, 9218 Iverson Rd., Sohomish, WA 98290. Representative: James E. Wallingford, P.O. Box 2647, Spokane, WA 99220. Contract Carrier irregular routes transporting *building materials and office and kitchen cabinets and parts thereof* between points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA & WY, for 270 days. Supporting shippers: Cascade Cabinet Company, 21415—87th Ave., SE, Woodinville, WA 98072; and Western Cabinet and Millwork, 15300 Woodinville-Redmond Rd., NE, Woodinville, WA 98072.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26068 Filed 9-21-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 367 (Sub-264)]

Rail Carriers; the Atchison, Topeka and Santa Fe Railway Co., Exemption for Contract Tariff ICC-ATSF-C-0114 (Fertilizer)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 15, 1982.

By the Commission, Division 2, Commissioners Andre, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich

Secretary.

[FR Doc. 82-26062 Filed 9-21-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-121)]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment—In Dunklin County, Mo; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its rail line between Kennett, near railroad milepost 231.5 and Holcomb, near railroad milepost 242.5, a distance of 11 miles in Dunklin County, MO, subject to certain conditions. Since no investigation was instituted, the requirement of § 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26066 Filed 9-21-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-258)]

Rail Carriers; Chicago, Milwaukee, St. Paul and Pacific Railroad Co., Exemption for Contract Tariff, ICC-MILW-C-0216 (Iron and Steel Articles)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 15, 1982.

By the Commission, Division 2, Commissioners Andre, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26063 Filed 9-21-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-260)]

Southern Pacific Transportation Co.; Exemption for Contract Tariff, ICC-SP-C-0189 (Pulpboard)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 15, 1982.

By the Commission, Division 2, Commissioners Andre, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich

Secretary.

[FR Doc. 82-26084 Filed 9-21-82; 8:45 am]

BILLING CODE 7035-01-M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-122]

Certain Miniature, Battery-Operated, All-Terrain, Wheeled Vehicles; Notice of Commission Request for Comments Regarding Proposed Termination of Respondents Based on a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Request for public comments on proposed termination of investigation as to three respondents based on a settlement agreement.

SUMMARY: The settlement agreement would result in the termination of this investigation as to respondents LJN Toys, Ltd. (LJN), LJN Toys (Hong Kong), Ltd. (LJN HK) and Universal International (Holdings) U.S.A. Ltd. (Universal). This notice requests comments from the public on the proposed termination of these respondents.

DATES: Comments will be considered if received within 15 days of publication of this notice. They should conform with section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR § 201.8), and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436. Under the authority of section 201.4(b) of the Commission's rules (19 CFR § 201.4(b)), the period for filing comments has been shortened to 15 days from the 30 days prescribed by section 210.51(c)(2) of the Commission's rules (19 CFR § 210.51(c)(2)) because of the short time remaining for the completion of the investigation.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain miniature, battery-operated, all-terrain, wheeled vehicles. Notice of the institution of the investigation was published in the **Federal Register** of May 19, 1982 (47 FR 21638). An amendment to the notice of investigation was published in the **Federal Register** of August 11, 1982 (47 FR 34864).

On July 19, 1982, complainants Schaper Manufacturing Co., Division of Kusan, Inc. (Schaper) and A. Eddy Goldfarb, d.b.a. A. Eddy Goldfarb and Associates (Goldfarb) and respondents LJN, LJN HK and Universal jointly moved to terminate this investigation as to those respondents pursuant to a settlement agreement. The Commission investigative attorney filed a response to the motion which supports termination. On August 19, 1982, the presiding officer recommended that the joint motion be granted.

SUMMARY OF SETTLEMENT AGREEMENT: The settlement agreement provides that:

1. Certain related concurrent litigation is to be terminated by the execution and filing of Consent Judgments which are annexed to the settlement agreement.

2. The Commission's investigation as to respondents LJN, LJN HK and Universal is to be terminated on the basis of the settlement agreement pursuant to a joint motion to terminate.

3. Complainant Schaper is to grant and does grant a nonexclusive license to respondents LJN and LJN HK permitting them to "manufacture, have manufactured for them, export to the United States, import into the United States, offer for sale, distribute and sell throughout the world miniature toy vehicles" under the terms of a license agreement which is annexed to the settlement agreement. The subject matter of the license agreement is certain proprietary rights relating to "toy vehicles", including U.S. Patent No. 4,306,375, other patents, designs, copyrights, and rights to trade dress and indicia of source or origin, but excluding trademarks, asserted or potentially assertable as of June 30, 1982, against those respondents. Corresponding foreign rights are also granted to the extent they do not conflict with those preexisting exclusive licensees. The royalty is payable in equal shares to both complainants and includes an initial lump sum minimum royalty payment and a running royalty expressed as a percentage of net selling price, which declines over time. In addition, certain other payments are to be made over the duration of the license agreement to both complainants and an advertising campaign is to be conducted during 1983 to promote the sale of toy vehicles under the license agreement. The license agreement states that "it is intended that the definition of Toy Vehicle and the basis for royalty payments be broader than the scope of rights granted." The term of the license is coincident with the term of United States Patent No. 4,306,375 and other proprietary rights granted, but will continue at least through December 31, 1984. The respondents may not sublicense nor may they assign the rights granted except to a successor of their entire business as a going concern. The license agreement includes a most-favored licensee clause.

4. Complainants and the moving respondents mutually release one another from any and all claims which have been or might have been asserted by them relating to "miniature toy vehicles" through June 30, 1982, the release by complainants being subject to the rights of any preexisting exclusive licensees of complainant Schaper under its foreign rights.

5. Respondents LJN, LJN HK and Universall acknowledge and agree that all past use or future use by them under license of complainants Schaper's trade dress and indicia of origin in the configuration of "toy vehicles" shall innure to the benefit of Schaper.

6. The parties will issue a joint press release annexed to the settlement agreement which announces the settlement and will otherwise take steps to make the settlement known.

WRITTEN COMMENTS REQUESTED: In order to discharge its statutory obligation to consider the public interest, the Commission seeks written comments from interested persons regarding the proposed termination of this investigation based on the settlement agreement on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers. All written comments must be filed with the Secretary to the Commission no later than 15 days after the publication of this notice in the **Federal Register**. In addition, pursuant to 19 CFR § 210.14(a)(2), the Commission has requested comments from the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and the U.S. Customs Service.

ADDITIONAL INFORMATION: The original and 14 copies of all written submissions must be filed with the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161. Any person desiring to submit

a document (or portion thereof) to the Commission in confidence must request *in camera* treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons the Commission should grant such treatment. The Commission will either accept the submission in confidence or return it. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

FOR FURTHER INFORMATION CONTACT: Wayne W. Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202–523–0480.

Issued: September 17, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 26122 Filed 9–21–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–46 (Final)]

Certain Steel Wire Nails From The Republic of Korea; Errata

In reference to Views of the Commission on Inv. No. 731–TA–46 (Final) published in 47 FR 34864 on August 11, 1982, the first sentence which reads:

On the basis of the record, we have found that there is a reasonable indication that a domestic industry is materially injured by reason of imports of steel wire nails from Korea, which the Department of Commerce has found to be sold in the United States at less than fair value.

Should be changed to read:

On the basis of the record, we have found that a domestic industry is materially injured by reason of imports of steel wire nails from Korea, which the Department of Commerce has found to be sold in the United States at less than fair value.

Dated: September 14, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–26119 Filed 9–21–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–124]

Certain Textile Spinning Frames and Automatic Doffers Therefor; Notice

Notice is hereby given that the oral presentations scheduled for September 30, 1982 (47 FR 39748, September 9, 1982) are cancelled.

The Secretary shall publish this Notice in the **Federal Register**.

Issued: September 14, 1982.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 82–26118 Filed 9–21–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 701–TA–187 (Preliminary) and 731–TA–100 (Preliminary)]

Certain Tool Steels From Brazil and West Germany; Determinations

Determinations

On the basis of the record[1] developed in investigation No. 701–TA–187 (Preliminary), the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury by reason of imports of tool steel bar and rod provided for in items 606.9300, 606.9400, 606.9505, 606.9510, 606.9520, 606.9525, 606.9535, 606.9540, 607.2800, 607.3405, 607.3420, 607.4600, 607.5405, and 607.5420 of the Tariff Schedules of the United States Annotated (TSUSA), which are alleged to be subsidized by the Government of Brazil.[2 3]

On the basis of the record[1] developed in investigation No. 731–TA–100 (Preliminary), the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury by reason of imports from West Germany of tool steel bar and rod provided for in items 606.9300, 606.9400, 606.9505, 606.9510, 606.9520, 606.9525, 606.9535, 606.9540, 607.2800, 607.3405, 607.3420, 607.4600, 607.5405, and 607.5420 of the Tariff Schedules of the United States Annotated (TSUSA), which are alleged to be sold in the United States at less than fair value (LTFV).[2 3]

Background

On July 30, 1982, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce by counsel for Al Tech Specialty Steel Corp., Continental Copper & Steel Industries Inc. (Braeburn Alloy Steel Division), Carpenter Technology Corp., Columbia Tool Steel Company, Colt Industries, Inc. (Crucible Specialty Metals Division), Cyclops Corp., Guterl Special Steel Corp., Jessop Steel Company, Latrobe Steel Company, and the Untied Steelworkers of America (AFL–CIO/CLC), alleging that producers, manufacturers, or exporters of tool steel bar and rod in Brazil receive, directly or indirectly, subsidies from the Brazilian Government and that the U.S. industry producing these products is materially injured and is threatened with material injury by reason of the subsidized imports from Brazil. Accordingly, the Commission instituted countervailing duty investigation No. 701–TA–187 (Preliminary) under section 703(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise from Brazil.

On July 30, 1982, a second petition was filed by counsel on behalf of the same group of petitioners with the Commission and the Department of Commerce alleging that tool steel bar and rod from the Federal Republic of Germany are being, or are likely to be, sold in the United States at LTFV and that the U.S. industry producing these products is materially injured, or threatened with material injury, by reason of LTFV imports from the Federal Republic of Germany. Accordingly, the Commission instituted antidumping investigation No. 731–TA–100 (Preliminary) under section 733(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise from the Federal Republic of Germany.

Notice of the institution of the Commission's investigations and of the public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** of Aug. 11, 1982 (47 FR 34868). The conference was held in Washington, D.C. on August 23, 1982, at which time all persons who requested the opportunity were permitted to appear in person or by counsel. The

[1] The "record" is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (47 FR 6190, Feb. 10, 1982).

[2] Commissioner Haggart determines only that there is a reasonable indication that an industry in the United States is materially injured.

[3] Commissioner Calhoun did not participate in this investigation.

Commission voted on these investigations on September 8, 1982.

Views of the Commission [4]

Introduction

We deterimne, pursuant to section 703(a) of the Tariff Act of 1930 (hereinafter the Act),[5] that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury [6] by reason of imports o tool steel bar and rod which are alleged to be subsidized by the Government of Brazil.[7][8][9][10] Further, we determine, pursuant to section 733(a) o the Act,[11] that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury 6 by reason of imports of tool steel bar and rod from West Germany which are alleged to be sold at less than fair value.[12][13]

Domestic Industry

Section 771(4)(A) of the Act defines the term "industry" as the "domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major portion of the total domestic production of that product." [14] Section 771(10) defines "like product," in turn, as a "product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation." [15]

The imported articles which are the subject of these investigations are tool steel bar and rod. Both imported and domestic tool steel bar and rod are alloy steels used in tools for cutting, shaping, forming, and blanking of materials at either ordinary or elevated temperatures. Tool steels are capable of being hardened and tempered, and are used in those products requiring hot-hardness, wear resistance, and toughness.[16] Types of tool steels vary in chemical composition and in form of finishing, depending upon the final use to which the steel will be put. The production of all tool steels (regardless of chemical composition) occurs on the same production line initially, with some differing procedures occurring during the final stages of production to achieve the desired physical characteristics. These characteristics of each type of tool steel are such as to permit some substitutability. Therefore, for purposes of this preliminary investigation, we have not differentiated among the different specifications of tool steel in our like product analysis.[17]

Tool steel is imported and produced domestically as both bar and rod, although almost all tool steel consists of bar. Bar and rod have certain distinguishable characteristics, namely that rod is always produced in coils and not cut to length while bar is cut to length. Bar can also be made by cutting rod to length. The production process for both bar and rod is similar. However, there are limitations on the diameter possible for rod, and therefore, it may not be suitable for some end uses where a larger diameter of steel is required. We have determined for purposes of this preliminary investigation, that there are two "like products" corresponding to imported bar and imported rod, and accordingly, two corresponding industries producing these products.[18][19][20]

In this preliminary investigation, the information available to the Commission is essentially on a combined basis for bar and rod.[21] Separate data are not maintained for bar and rod operations. Therefore, for purposes of assessing the effect of the allegedly subsidized or LTFV imports in these investigations, we have used the data regarding the domestic product line which includes both bar and rod pursuant to section 771(4)(D) of the Act.[22]

Material Injury by Reason of LTFV or Subsidized Imports

In a preliminary investigation, the Commission is directed by title VII of the Tariff Act of 1930 to determine, based upon the best information available at the time of the determination, whether there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the merchandise that is the subject of the investigation.[23]

Section 717(7) of the Act directs the Commission to consider, in making its determination, among other factors, (1) the volume of imports of the merchandise under investigation, (2) their impact or domestic prices and (3) the consequent impact on the domestic industry.[24]

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[4] Commissioner Calhoun did not participate in these investigations.

[5] 19 U.S.C. § 1671b(a).

[6] Commissioner Haggart determines only that there is a reasonable indication of material injury, and therefore does not reach the issue of threat of material injury.

[7] Retardation of establishment of an industry in the United States is not an issue in these investigations and will not be disucssed further.

[8] We have made these determinations on a case-by-case basis. Should either of the affirmative preliminary cases return for final determinations, however, we do not preclude cumulation of the imported products if the record developed shows that such cumulation is appropriate.

[9] For a further disucssion of related cumulation issued by Commissioner Stern, *see* Stainless Steel Sheet and Strip from West Germany, inv. No. 731-TA-62 (Preliminary), USITC Pub. No. 1252, pp. 7-10 (1982).

[10] Commissioner Frank disagrees with the other Commissioners in this opinion. He believes that cumulation of like products from Brazil and West Germany is appropriate now and thee is no need to separate imports of tool steel bar and rod or make it difficult to anlayze available financial or other data.

Commissioner Frank notes that a low threshold applies in preliminary investigations. His views on this are discussed in Certain Steel Products from Belgium, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany, inv. Nos. 701-TA-66 (Preliminary), *et al.*, USITC Pub. No. 1221, Vol. 1 (1982).

[11] 19 U.S.C. § 1673b(a).

[12] *See* footnote page 4.

[13] *See* footnote page 4.

[14] 19 U.S.C. § 1677(4)(A).

[15] 19 U.S.C. § 1677(10).

[16] For a description of these qualities, *see* Report, p. A-9.

[17] During the course of the investigations, counsel for the Brazilian and West German importers alleged that certain types of tool steel are not produced in the United States and, therefore, that imports of these steels could not injure a domestic industry. For one of these products, West German mold steel, the Commission has ascertained that there is production of such steel in the United States. It likewise appears that there may also be U.S. production of the other tool steels cited by those in opposition to the petition.

[18] It appears that most of the domestic producers of bar also produce rod as well. Producers of either bar or rod of both are as follows: Al Tech Specialty Steel Corp.; Braeburn Allow Steel Division, Continental Copper and Steel Industries, Inc.; Columbia Tool Steel Co.; Crucible Specialty Metals Division, Colt Industries, Inc.; Jessop Steel Co.; Latrobe Steel Co.; Carpenter Technology Corp.; Cyclops Corp.; and Cuterl Special Steel Corp.; National Forge Co.; Electrolloy Steel Co.; A. Finkl & Sons; Champaion Steel Co.; and Copperweld Steel Co.

[19] We emphasize that the definition of the domestic industry in this preliminary investigation is based on the information now available. Based on the record developed in any final investigation, a different definition of the domestic industry is not precluded.

[20] Commissioner Frank determines that despite some of the pre-finishing production processes being slightly different, tool steel bar and rod (which are alloy steels) are like products and does not find two like products. He considers minor chemical composition or end-uses not to be important enough differences to require finding two like products where one like product should be found.

[21] At the conference and in their post-conference briefs, those opposed to the petition argued that tool steel plate should be considered as part of the domestic industry. Tool steel plate may be an intermediate product in the production of bar as well as in the production of other shapes and products, such as octogons and stamping dies, or it may be sold by the producers directly. Plate that is produced and cut into bars by the U.S. tool steel producers has been included in the domestic industry data.

[22] 19 U.S.C. § 1677(4)(D).

[23] 19 U.S.C. §§ 1671b, 1673b.

[24] 19 U.S.C. § 1677(7).

Condition of the Domestic Industry

The condition of the domestic tool steel industry has been deteriorating since 1979, and this downward trend has quickened in the first half of 1982. Although domestic capacity to produce tool steels has remained relatively constant during the 1979–1982 period, shipments by U.S. producers have declined steadily from 94,560 tons in 1979 to 67,360 tons in 1981. Domestic producers' share of the U.S. market declined from 78.4 percent in 1979 to 69.9 percent in 1981.[25] Comparing the first half of 1981 to the first half of 1982, U.S. producer shipments declined more than 9,000. For the period 1979–1981, capacity utilization fell from 62 percent to 53 percent and from January–June 1981 to January–June 1982, capacity utilization declined again from 53 percent to 33 percent.[26]

While the levels of inventories reported by the U.S. producers declined between 1978 and 1981, the number of days' supply in inventory has steadily increased, reflecting the reduced levels of sales.[27]

Employment patterns have exhibited a steadily downward trend. Employment among production and related workers declined 17 percent from 1979 to 1981. From January–June 1981 to January–June 1982, the decline was 28 percent. The number of hours paid—a useful indicator of employment trends in an industry with reduced production—fell by more than 20 percent between 1979 and 1981, and by more than 30 percent during the first half of 1982 as compared with first half of 1982.[28]

Financial performance information reported to the Commission was provided by producers accounting for 70 percent of domestic production. Sales, gross profits, and net profits before taxes fell steadily between 1979 and 1981. As with other factors discussed above, sales, gross profits, and net profits declined precipitously from January–June 1981 to the corresponding period of 1982. The number of domestic firms reporting operating losses more than doubled from January–June 1981 to January–June 1982.[29] [30]

[25] Report, p. A–31.
[26] Report, pp. A–18–20.
[27] Report, p. A–20.
[28] Report, pp. A–21–23.
[29] Report, p. A–24.
[30] The number of firms reporting losses in 1982 accounted for nearly one third of domestic tool steel production.

Reasonable Indication of Material Injury or Threat of Material Injury[31] *by Reason of Imports from Brazil*

Imports from Brazil rose from negligible amounts in 1979 to 1,751 tons in 1981. From January–June 1981 to January–June 1982 imports rose from 311 tons to 1,637 tons. In addition, the percentage of domestic consumption represented by imports from Brazil increased from less than .05 percent in 1979 to 1.9 percent in 1981. From January–June 1981 to January–June 1982, the percentage of domestic consumption represented by imports Brazil increased from 0.7 percent to 3.7 percent.[32]

This investigation also showed that Brazilian tool steel undersold comparable domestic tool steel in nearly every quarter for which a comparison is available. Margins of underselling ranged from 3 to 28 percent. Price was found to be a major consideration in the purchase of tool steel bar and rod.[33]

With regard to threat, we base our determination on the above factors as well as the following information. Brazil's total exports of tool steel products increased 13.9 percent from 1980 to 1981, even though Brazilian production declined over that period.[34] Brazil has gone from being the 12th largest source of U.S. imports of tool steel in 1979 to the fifth largest in 1981. For the priod January–June 1982, Brazil was the forth largest supplier of U.S. imports.[35] The record indicates that Brazil's two leading producers of specialty steel have both increased their capacities in 1980 and 1981. One of these companies is participating in a government program to promote exports and the principal targets of this effort include, in particular, the United States market.[36] [37]

Reasonable Indication of Material Injury or Threat of Material Injury[38] *by Reason of Imports From West Germany*

Imports from West Germany more than tripled from 1979 to 1981. From January–June 1981 to January–June 1982, imports from West Germany more than doubled. As a percentage of apparent U.S. consumption, imports from West Germany increased from 1.7 percent in 1979 to 7.4 percent in 1981. From January–June 1981 to January–June 1982, imports from West Germany as a percentage of apparent U.S. consumption increased from 5.3 to 11.1 percent. By June 1982, West Germany had become the largest source of U.S. tool steel imports.[39]

Price comparisons revealed that West German tool steel bar and rod has undersold domestic tool steel bar and rod by significant margins in most instances. Margins of underselling ranged from 3 to 45 percent.[40] Lost sales information confirms the importance of price to purchasers. The Commission was able to confirm three instances of lost sales and in each case purchasers indicated that price was a major consideration. In two cases, purchasers indicated that domestic producers lowered their prices to meet the West German price.[41]

With regard to threat, we base our determination on the above factors as well as the following information. Imports from West Germany have increased since 1979, and the rate of increase in imports from West Germany appears to be accelerating. Information on West German productive capacity is not available at this time and we believe that further information should be available in the event of a final investigation.[42]

Conclusion

Our investigation reveals that the domestic industry is losing market share, its sales are decreasing, and its financial position is deteriorating. At the same time, imports from both Brazil and West Germany are increasing, both in absolute numbers and in market share. Imports from both Brazil and West Germany undersell the domestic product by significant margins. Historically, Brazilian production has been directed toward the U.S. market and Brazilian capacity has been increasing.[43] Imports from West Germany have likewise steadily increased and that country is now the largest single source of imports.[44] Therefore, we conclude that there is a reasonable indication that the domestic tool steel industry is materially injured or threatened with material

[31] See footnote 6, page 4.
[32] Report, p. A–31.
[33] Report, pp. A–45, A–40, A–42–44.
[34] Report, p. A–29.
[35] Report, p. A–31.
[36] Report, pp. A–29–30.
[37] Commissioner Frank notes that there is not adequate domestic demand in Brazil or in third countries' markets to utilize this increased Brazilian capacity according to preliminary investigation findings.
[38] See footnote 6, page 4.
[39] Report, pp. A–31 and A–35.
[40] Report, pp. A–40 and A–42–44.
[41] Report, p. A–47
[42] Commissioner Frank notes that there appears to be inadequate alternative demand in domestic West Germany or third countries' markets to utilize available unused capacity.
[43] Commissioner Frank notes that such imports will have harmful impacts on the domestic tool steel industry and on prices the industry can obtain.
[44] Commissioner Frank notes that harm to domestic producers and their prices appears to be probable.

injury by reason of the allegedly subsidized imports of tool steel bar and rod from Brazil and by reason of tool steel bar and rod imports from West Germany which are allegedly sold at less than fair value.

Issued: September 13, 1982.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-26115 Filed 9-21-82; 8:45 am]
BILLING CODE 7020-02-M

[TA-201-47]

Heavyweight Motorcycles, Engines, and Power Train Subassemblies; Investigation and Hearing

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under section 201 of the Trade Act of 1974 (19 U.S.C. § 2251) to determine whether motorcycles having engines with total piston displacement over 700 cubic centimeters (cc) and engines and power train subassemblies therefore (whether imported separately or in combination), and parts of such engines and subassemblies, all the foregoing provided for in items 692.50, 660.56, 660.67, and 692.55 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

For the purposes of this investigation, the term "power train subassemblies" covers transmissions and the other parts of a motorcycle which transmit power from the engine to the rear wheel.

EFFECTIVE DATE: September 16, 1982.

FOR FURTHER INFORMATION CONTACT: Daniel Leahy, Senior Investigator, U.S. International Trade Commission, Washington, D.C. 20436 (202-523-1369).

SUPPLEMENTARY INFORMATION:

Background.—The investigation (No. TA-201-47) was instituted following receipt of a petition on September 1, 1982, filed on behalf of Harley-Davidson Motor Co., Inc., and Harley-Davidson York, Inc. This investigation is governed by the Commission's Rules of Practice and Procedure, part 201 (19 CFR § 201) and part 206, subparts A and B (19 CFR § 206, subparts A and B).

Public hearing.—A public hearing in connection with this investigation will be held in Washington, D.C., at 9:30 a.m., on Tuesday, November 30, 1982, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission at his office in Washington no later than the close of business Friday, November 19, 1982.

Prehearing procedures.—To facilitate the hearing process, it is requested that persons wishing to appear at the hearing submit prehearing briefs enumerating and discussing the issues which they wish to raise at the hearing. An original and fourteen copies of such prehearing briefs should be submitted to the Secretary no later than the close of business Monday, November 22, 1982 (19 CFR § 201.8). Confidential submissions should be in accordance with the requirements of section 201.6 of the Commission's rules (19 CFR § 201.6). Copies of any prehearing briefs submitted will be made available for public inspection in the Office of the Secretary. Any prepared statements submitted will be made a part of the transcript. Oral presentations at the hearing should, to the extent possible, be limited to issues raised in the prehearing briefs.

A prehearing conference will be held on Wednesday, November 24, 1982, at 10 a.m., in Room 117 of the U.S. International Trade Commission Building.

Persons not represented by counsel or public officials who have relevant matters to present may give testimony without regard to the suggested prehearing procedures outlined above.

Other written submissions.—Other written submissions should be filed with the Secretary to the Commission not later than December 6, 1982. Commercial or financial data which are confidential should be clearly marked "Confidential Business Information" and should be submitted in accordance with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR § 201.6). Submissions should also conform to the general requirements of section 201.8 of the Commission's rules (19 CFR § 201.8).

Inspection of petition.—The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

Issued: September 17, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-26112 Filed 9-21-82; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 701-TA-87 (Final)]

Hot-Rolled Carbon Steel Plate From Brazil

AGENCY: United States International Trade Commission.

ACTION: Suspension of final countervailing duty investigation.

SUMMARY: On September 7, 1982, the United States Department of Commerce suspended its countervailing duty investigation involving hot-rolled carbon steel plate from Brazil (47 FR 39394, September 7, 1982). The basis for the suspension is an agreement by the Government of Brazil to offset all benefits which Commerce found to constitute subsidies with an export tax on all exports of the subject products to the United States. Accordingly, the United States International Trade Commission hereby gives notice of the suspension of its countervailing duty investigation involving hot-rolled carbon steel plate, provided for in items 607.6615, 607.9400, 608.0710, and 608.1100 of the Tariff Schedules of the United States Annotated, from Brazil (investigation No. 701-TA-87 (Final)).

EFFECTIVE DATE: September 13, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eninger (202-523-0312), Office of Investigations, U.S. International Trade Commission.

This notice is published pursuant to section 207.40 of the Commission's Rules of Practice and Procedure (19 CFR 207.40).

Issued: September 14, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-26114 Filed 9-21-82; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 731-TA-107 (Preliminary)]

Melamine From Brazil; Investigation and Conference

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-107 (Preliminary) under section 733(a) of the Tariff Act (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is

threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of melamine, provided for an item 425.10 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value.

EFFECTIVE DATE: September 13, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Abigail Eltzroth, Office of Investigations, U.S. International Trade Commission; telephone 202–523–0289.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted following receipt of a petition filed by Melamine Chemicals, Inc. on September 13, 1982. Copies of the petition are available for public inspection in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. The Commission must make its determination in this investigation within 45 days after the date of the filing of a petition, or by October 28, 1982 (19 CFR § 207.17). This investigation will be subject to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 CFR § 207, 44 FR 76457 and 47 FR 6190), and particularly subpart B thereof. Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided for in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR § 201.11), not later than seven (7) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Director of Operations, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of documents.—The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with section 201.8 of the Commission's rules (19 CFR § 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in section 201.16(b) of the rules (19 CFR § 201.16(b)).

Written submissions.—Any person may submit to the Commission on or before October 8, 1982, a written statement of information pertinent to the subject matter of this investigation. A signed original and fourteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m., on October 6, 1982 at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the investigator for the investigation, Ms. Abigail Eltzroth, telephone 202–523–0289, not later than October 4, 1982, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR 207), and part 201, subparts A through E (19 CFR 201). Further information concerning the conduct of the conference will be provided by Ms. Eltzroth.

This notice is published pursuant to section 207.12 of the Commission's Rules of Practice and Procedure (19 CFR 207.12).

Issued: September 15, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–26118 Filed 9–21–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 701–TA–190 (Preliminary)]

Nitrocellulose From France

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary countervailing duty investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigation No. 701–TA–190 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from France of nitrocellulose,[1] provided for in item 445.25 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Government of France.

EFFECTIVE DATE: September 14, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Schechter, Office of Investigations, U.S. International Trade Commission; telephone 202/523–0300.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted following receipt of a petition filed by counsel for Hercules, Inc., Wilmington, Delaware. A nonconfidential copy of the petition is available for public inspection during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone (202–523–0448). The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition, or by October 29, 1982 (19 CFR 207.17). This investigation will be subject to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207, 44 FR 76457 and 47 FR 6190), and particularly subpart B thereof.

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission not later than seven (7) days after the publication of this notice in the **Federal Register** (19 CFR 201.11). Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of documents.—The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with section 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the

[1] Also known as cellulose nitrate.

requirements set forth in section 201.16(b) of the rules (19 CFR 201.16(b)).

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompained by a certificate of service will not be accepted by the Secretary.

Written submissions.—Any person may submit to the Commission on or before October 7, 1982, a written statement of information pertient to the subject matter of this investigation (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submittal separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m., on October 5, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the supervisory investigator for the investigation, Mr. Jim McClure, telephone 202/523-0439, not later than September 29, 1982, to arrange for their appearance. Parties in support of the imposition of countervailing duties and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Record.—The record of Commission investigation No. 731-TA-96 (Preliminary), Nitrocellulose from France, will be incorporated in the record of investigation No. 701-TA-189 (Preliminary).

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR 207), and part 201, subparts A through E (19 CFR 201), 47 FR 6182, February 10, 1982 and 47 FR 13791, April 1, 1982. Further information concerning the conduct of the conference will be provided by Mr. McClure.

This notice is published pursuant to section 207.12 of the Commission's Rules of Practice and Procedure (19 CFR 207.12).

Issued: September 17, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-26113 Filed 9-21-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-52 (Final)]

Sheet Piling From Canada

AGENCY: United States International Trade Commission.

ACTION: Suspension of final antidumping investigation.

EFFECTIVE DATE: September 15, 1982.

SUMMARY: On September 15, 1982, the United States Department of Commerce suspended its antidumping investigation involving sheet piling from Canada (47 FR 40683, September 15, 1982). The basis for the suspension is an agreement by the Acier Casteel, Inc., a manufacturer and exporter which accounts for substantially all the known imports of this product from Canada, to revise their prices to eliminate sales of this merchandise to the United States at less than fair value. Accordingly, the United States International Trade Commission hereby gives notice of the suspension of its antidumping investigation involving sheet piling, provided for in items 609.96 and 609.98 of the Tariff Schedules of United States Annotated, from Canada (investigation No. 731-TA-52 (Final)).

FOR FURTHER INFORMATION CONTACT: Mr. Larry Reavis (202-523-0296), Office of Investigations, U.S. International Trade Commission.

This notice is published pursuant to section 207.40 of the Commission's Rules of Practice and Procedure (19 CFR 207.40).

Issued: September 15, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-26117 Filed 9-21-82; 8:45 am]

BILLING CODE 7020-02-M

INTERNATIONAL TRADE COMMISSION

Appointment of Individuals To Serve as Members of Performance Review Boards

AGENCY: International Trade Commission.

ACTION: Appointment of Individuals to Serve as members of Performance Review Boards.

SUPPLEMENTARY INFORMATION: The Chairman of the U.S. International Trade Commission has appointed the following individuals to serve on the Commission's Performance Review Board (PRB).

Acting Chairman of PRB—Commissioner Paula Stern
Member—Commissioner Veronica A. Haggart
Member—Charles W. Ervin
Member—E. William Fry
Member—Lorin L. Goodrich
Member—Norris A. Lynch
Member—Eugene A. Rosengarden
Member—Michael H. Stein
Member—John W. Suomela

Notice of these appointments is being published in the **Federal Register** pursuant to the requirement of 5 U.S.C. 4314(c)(4).

FOR FURTHER INFORMATION CONTACT: Terry P. McGowan, Director of Personnel, U.S. International Trade Commission, (202) 523-0182.

Issued: September 14, 1982.

By order of the Chairman.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-26130 Filed 9-21-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-124]

Certain Textile Spinning Frames and Automatic Doffers Therefor

Notice is hereby given that the prehearing conference and hearing scheduled for September 27, 1982 (47 FR 38647, September 1, 1982) are cancelled.

The Secretary shall publish this Notice in the Federal Register.

Issued: September 10, 1982.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 82-26121 Filed 9-21-82; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Canada Coal Co.; Proposed Consent Decree in Action To Enjoin Discharge of Water Pollutants

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *Canada Coal Company, Inc.*, Civil Action No. 78-234, has been lodged with the United States District Court for the Eastern District of Kentucky. The proposed consent decree requires the payment of $60,000 in

settlement of all civil penalty claims asserted in the case for violation of the Clean Water Act, 33 U.S.C. 1251, *et seq.*, as well as increased monitoring and sampling.

The Department of Justice will receive written comments for thirty (30) days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Canada Coal Company, Inc.*, (D.J. Ref. No. 90-5-1-1-1109).

The proposed consent decree may be examined at the Office of the United States Attorney, Eastern District of Kentucky, 206 Federal Building, Barr and Limestone Streets, Lexington, Kentucky, 40501; at the Region IV Office of the Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia, 30308; and at the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice, Room 1515, 10th and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-26104 Filed 9-21-82; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Itoh and Co. et al. and Pan-Alaska Fisheries, Inc.; Proposed Judgments

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. section 16c, the Antitrust Division publishes below, two comments it received on the proposed judgments in the cases of *United States v. C. Itoh & Co., Ltd., et al.*, Civil No. C-82-810 and *United States v. Pan-Alaska Fisheries, Inc., et al.*, Civil No. C-82-809, together with its responses to such comments.

Joseph H. Widmar,

Director of Operations.

United States Department of Justice and U.S. District Court, in Seattle, Wash. Washington, D.C.

Dear Sirs: Regarding the proposed consent decree on crabs of Alaska.

I am an economist and my family is a consumer occasionally of crabs. We buy our crabs—usually in a can and usually at orientally owned and operated stores. The crabs we get are usually from Japan, Korea, Tailand [sic], Formosa as are shrimp which come from warmer waters. The point is that real competition from these areas will fill the market with product if Alaskan prices rise and I would like to address the possible results of your proposed decree:

1. Greater "competition" in the Alaska and Seattle local market place should make for a greater bureaucracy to deal with girating [sic] prices and less real productivity.

2. To maintain profit levels high enough to attract capital and retain it—would require higher prices for product or lower prices to producers to pay for the bureaucracy.

3. Higher prices to consumers would shift consumer demand to foreign sources over which US has little control and decrease market share for Alaska and Seattle.

4. Lower prices to producers (fisherman) would presumably negate the whole purpose of your decree since it would benefit no one.

You'll forgive my scepticism of "justice" and "bureaucrats" but it is born of long gov't service, broad corporate ownership, community forum participation, and yearning for a better society with increased productivity, competitive capacity and spirit, independent of gov't duress.

I have been disturbed by recent developments in Japan relations and believe that the Japanese Government deeply shares that concern.

Bilaterial trade in seafood and grain are also high on the agenda and what we do to grain prices certainly can't come close to the small amount of control exercised here.

Perhaps the U.S. Gov't should remove itself from the grain marketing picture? Metal? Aircraft Credit?

Regards.

David S. Smith,

1913 Westmont Drive, Alhambra, CA 98103, 213-284-5952.

U.S. Department of Justice

Washington, D.C. 20530

July 30, 1982.

Mr. David S. Smith,
1913 Westmont Drive, Alhambra, California 91803.

Dear Mr. Smith: Thank you for your letter of July 1, 1982. As you may be aware, the Antitrust Division of the Department of Justice filed complaints and proposed consent decrees on June 30, 1982 in two cases involving anticompetitive practices in the Alaska seafood industry. I am enclosing with this letter copies of the complaints and proposed consent decrees for your perusal. The proposed consent decrees are designed in each case to ensure price competition among buyers of certain Alaskan seafood products.

Although the proposed consent decrees do place the defendant companies under certain obligations, they do not in any sense impose a regime of government control over Alaska seafood markets. The terms of the consent decrees simply obligate the defendants to act independently of each other in the marketplace, and require the companies to set up antitrust compliance programs to ensure that their employees understand their responsibilities in this regard. The net effect of these requirements should be to restore free and open competition in Alaska seafood markets.

Thank you for your interest in the effective enforcement of the antitrust laws.

Sincerely yours,

Charles S. Stark,

Chief, Foreign Commerce Section, Antitrust Division.

Enclosures.

July 18, 1982.

Mr. Stark: I read the legal notice in our local paper The Post Intelligencer here in Seattle, Wash. In regard to Crab Fishing in Alaska I am a crab fisherman and would appreciate any information regarding the notices or what other steps we or I am to take or do. Thank you.

William E. Goodfellow,

4625 So. 289 Pl., Auburn, Wash. 98002.

U.S. Department of Justice

Washington, D.C. 20530

August 11, 1982.

Mr. William E. Goodfellow,
4625 So. 289 Place, Auburn, Washington 98002.

Dear Mr. Goodfellow: Thank you for your letter of July 18, 1982. The legal notices recently published in Seattle newspapers were designed to inform the public that the Justice Department has submitted two proposed "consent decrees" to the federal district court in Seattle that would settle two antitrust cases brought by the Department involving alleged price fixing in certain Alaska seafood markets. One case charged that four Dutch Harbor crab processing companies had unlawfully agreed with one another on the price they would pay for live Bering Sea crab, and that an association of crab fishermen had participated in that agreement. In the second case, the complaint alleged that eight Japanese companies had fixed the price they paid to processors for processed Bering Sea tanner crab.

The consent decrees are proposed court orders that would prevent the defendants from repeating the conduct challenged in the complaints. Although the consent decrees have been signed by the defendants, as well as by the Justice Department, they must be approved by the federal district court before they become effective. The court may wish to consider comments from the public in deciding whether to enter the decrees.

I am enclosing for your review copies of the complaints, proposed consent decrees (called "final judgments" in legal terminology), and competitive impact statements, which explain the decrees. If you have any comments concerning the proposed decrees that you wish the court to consider, please send them to me at the above address by September 30, 1982. We will publish them in the Federal Register and file them with the court.

Thank you for your interest in this matter.

Sincerely yours,

Charles S. Stark,

Chief, Foreign Commerce Section, Antitrust Division.

Enclosures.

[FR Doc 82-26091 Filed 9-21-82; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82-53)]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Ad Hoc Informal Advisory Subcommittee on NASA Aeronautical Projects.

DATE AND TIME: October 15, 1982, 8:30 a.m. to 4:30 p.m.

ADDRESS: National Aeronautics and Space Administration, 600 Independence Avenue SW, Room 647, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick P. Povinelli, National Aeronautics and Space Administration, Code R, Washington, D.C. 20546 (202/755-8550).

SUPPLEMENTARY INFORMATION: The Ad Hoc Informal Advisory Subcommittee on NASA Aeronautical Projects is meeting to continue their study of NASA/industry responsibilities in the conduct of aeronautical technology development programs. The Ad Hoc Subcommittee, chaired by Dr. Robert Loewy is comprised of 10 members. The meeting will be open to the public up to the seating capacity of the room (approximately 20 persons including the subcommittee members and participants).

Type of Meeting: Open.
AGENDA:

8:30 a.m.—Chairperson's Remarks
9 a.m.—Presentation of Project Information
1:30 p.m.—Discussion of Information and Identification of Future Activity
4:30 p.m.—Adjourn

Richard L. Daniels,

Director, Management Support Office, Office of Management.

September 15, 1982.

[FR Doc. 82-26007 Filed 9-21-82; 8:45 am]
BILLING CODE 7510-01-M

[Notice (82-54)]

NASA Advisory Council (NAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Informal Task Force for the Study of Issues in Selecting Private Citizens for Space Shuttle Flight.

DATE AND TIME: October 7-8, 1982, 9 a.m. to 5 p.m.

ADDRESS: Lyndon B. Johnson Space Center, Conference Room 945, Building 1, Houston, Texas 77058.

FOR FURTHER INFORMATION CONTACT: Mr. Carl R. Praktish, Code LB-4, National Aeronautics and Space Administration, Washington, DC 20546 (202/755-8380).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Informal Task Force for the Study of Issues in Selecting Private Citizens for Space Shuttle Flight was established under the NASA Advisory Council to conduct a study of the relevant issues and to report its findings and recommendations to the Council. The Task Force is comprised of its Chairman, Dr. John E. Naugle, and seven other members.

The meeting will be closed to the public as follows: (1) October 7, 1:15-2:15 p.m. The discussion of lessons learned from the astronaut selection process will consider the qualifications of specific astronaut candidates; (2) October 8, 9 a.m.-5 p.m. The discussion will evaluate candidates from whom to solicit advice on the options for the selection process. During these sessions, the qualifications of persons considered for astronaut positions and candidates to provide advice to the Task Force will be candidly discussed and appraised.

Because these sessions will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that these sessions should be closed to the public.

The morning meeting in Conference Room 945, Building 1 will be open and visitors will be admitted up to its capacity which is approximately 35 persons, including Task Force members and other participants. The afternoon tour of facilities, et al, will be open and visitors will be admitted up to a capacity of approximately 12 persons including Task Force members and other participants.

Visitors should ask for the appropriate badge at the Receptionist's Desk, Building 1, to meet Johnson Space Center security requirements.

Visitors will be requested to sign a register at the Conference Room.

Type of meeting: Open—except for two closed sessions as noted in the agenda below.

October 7, 1982

9 a.m.—Introduction, Mission Opportunities, Medical and Training Requirements, Flight Experience and Onboard Role (open)
1:15 p.m.—Astronaut Selection Process Review and Evaluation (closed)
2:15 p.m.—Tour
5 p.m.—Adjourn

October 8, 1982

9 a.m.—Evaluation of Candidates From Whom to Solicit Advice on Selection Process Options (closed)
5 p.m.—Adjourn

Richard L. Daniels,

Director, Management Support Office, Office of Management.

September 16, 1982.

[FR Doc. 82-26008 Filed 9-21-82; 8:45 am]
BILLING CODE 7510-01-M

NATIONAL ENDOWMENT FOR THE ARTS

Inter-Arts Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Inter-Arts Panel (Presenting Organizations) to the National Council on the Arts will be held on October 12, 1982, from 9:00 a.m.-5:00 p.m., October 13, 1982, from 9:00 a.m.-5:00 p.m., October 14, 1982, from 9:00 a.m.-5:00 p.m., and October 15, 1982, from 9:00 a.m.-5:00 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

A portion of this meeting will be open to the public on October 15, 1982, from 10:00 a.m.-12:00 noon to discuss guidelines.

The remaining sessions of this meeting on October 12-14, from 9:00 a.m.-5:00 p.m., October 15, 1982, from 9:00 a.m.-10:00 a.m. and 12:00 noon-5:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National

Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 82–26088 Filed 9–21–82; 8:45 am]

BILLING CODE 7537–01–M

Visual Arts Panel; Overview Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Visual Arts Panel to the National Council on the Arts will be held on October 7–8, 1982 from 9:00 a.m.–5:00 p.m. in the Columbia Plaza Office Complex, 2401 E Street N.W., Washington, D.C. Room 1422.

This meeting will be open to the public on a space available basis. The topic for discussion will be briefing on Visual Arts Seminar and Guidelines.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 82–26089 Filed 9–21–82; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published August 25, 1982 (47 FR 37319). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. Those Subcommittee meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the October 1982 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–3267, Attn: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

**Emergency Core Cooling Systems (ECCS)*, September 28, 1982, Washington, DC. The Subcommittee will discuss: (1) natural circulation modeling in Babcock and Wilcox Small Break LOCA Model; (2) Reactor Coolant Pump trip requirement status; (3) results of recent Semiscale tests and status of Mod–5 proposal; (4) status of Appendix K review proposal; (5) status of LOFT consortium effort.

**Reactor Operations*, September 29, 1982, Washington, DC. The Subcommittee will discuss: (a) the pressure transients during shutdown at Turkey Point Unit 4 and other related incidents with the Staffs of the Offices of Analysis and Evaluation of Operational Data, Nuclear Reactor Regulation, Inspection and Enforcement, and Region II; (b) discussion of Quality Assurance Policy, Accreditation of Licensee's Quality Assurance Program; and (c) a discussion of suppression pool or containment sump water contamination with potential adverse effects on post-accident cooling pumps.

**Metal Components Working Group*, September 30, 1982, Washington, DC. The Subcommittee will hear and discuss with the NRC Staff its interim position on pressurized thermal shock. The views of the industry and others on this matter will also be heard.

**Clinch River Breeder Reactor (CRBR) Working Group On Systems Integration and Instrumentation Control*, September 30, 1982, Washington, DC. The Subcommittee will be briefed on the design of the CRBR plant protection and instrument and control systems.

**Anticipated Transients Without Scram (ATWS)*, October 1, 1982, Washington, DC. The Subcommittee will discuss the proposed plan and schedule of the NRC Task Force on ATWS for resolution of this issue.

Meeting with Reactor Safety Commission (RSK), October 5 and 6, 1982, Washington, DC. The Subcommittee will discuss the use of Probabilistic Risk Assessment (PRA) and quantitative safety goals in the design and regulation of nuclear power plants; recent or proposed changes in safety-related policy, including items such as consideration of Class 9 accidents in the design of nuclear plants; changes in safety-related technology, including items such as the use of the Double-Ended Pipe Break as the basis for plant design and consideration of pressurized thermal shock of reactor pressure vessels; and handling/disposal of radioactive wastes.

**Extreme External Phenomena*, October 21 and 22, 1982, Los Angeles, CA. The Subcommittee will review the issues associated with the flooding and seismic hazards at Systematic Evaluation Program (SEP) plants, the NRC Staff's proposed solutions for plants which do not meet the requirements of the Standard Review Plan (SRP), the site-specific development of design basis tornado windspeeds, and the recent ACRS recommendations on the evaluation of seismic design margins.

**Clinch River Breeder (CRBR) Thermal Hydraulic Design*, October 26, 1982, Washington, DC. The Subcommittee will review the thermal hydraulic aspects of the CRBR plant design.

**Systematic Evaluation Program (SEP)*, October 26 and 27, 1982, Washington, DC. The Subcommittee will review the completion of Integrated Plant Safety Assessment/Systematic Evaluation for Oyster Creek and, to the extent possible, for Dresden 2 and Millstone 1.

**Clinch River Breeder Reactor (CRBR)*, October 27 and 28, 1982, Washington, DC. The Subcommittee will continue the review of the Hypothetical Core Disruptive Accident energetics for CRBR.

**Procedures*, November 3, 1982, Washington, DC. The Subcommittee will review activities of ACRS Members regarding (1)(a) working group activities sponsored by ACRS, (b) attendance at ACRS meetings, and (c) comments by ACRS members as individuals prior to ACRS consideration of a matter; (2) review and distribution of Category B documents; and (3) working relations with NRC Regional Offices.

**Safety Philosophy, Technology and Criteria*, November 3, 1982, Washington, DC. The Subcommittee will continue discussions of Safety Goals and their implementation, and severe accident and backfitting policy.

**Waterford Station Unit 3*, November 9, 1982, New Orleans, LA. The Subcommittee will review the Operator Training Program with the Licensee, the

Region IV Office, and the cognizant NRR Staff members.

Clinch River Breeder Reactor (CRBR) Structures and Materials, November 16, 1982 (Tentative), Washington, D.C. The Working Group will continue its review of the CRBR structures and materials to include leak before break, inservice inspection, weldments, and structural seismic margins.

Reactor Radiological Effects, November 18 and 19, 1982, Washington, DC. The Subcommittee will (1) review FY 1983–87 Long-Range Research Plan on radiation safety and waste management programs; (2) review research needs regarding control room habitability and occupational radiation exposures; (3) be briefed by the Department of Energy (DOE) on DOE's radiation safety research programs; and (4) review and comment on DOE's Dose Reduction Working Group draft recommendations (established in response to PL 96–567).

Emergency Core Cooling Systems (ECCS), November 30 and December 1, 1982, San Jose, CA. The Subcommittee will discuss revision of the General Electric (GE) SAFER/GESTER Code and GE's proposals for revision of Appendix K of 10 CFR 50.

Reactor Radiological Effects and Site Evaluation, Date to be determined (November, Tentative), Washington, DC. The Subcommittees will (1) review and comment on Federal Emergency Management Agency's (FEMA) draft national plan on the use of potassium iodide (KI) as a thyroid blocking agent in the event of a radiation accident; (2) discuss consideration of seismic events in nuclear power plant emergency planning; (3) review NRC proposed revision to 10 CFR Part 20 (Standards for Protection Against Radiation); (4) be briefed by the Environmental Protection Agency (EPA) on proposed Federal Radiation Protection Guidance for Occupational Exposure; and (5) be briefed by the Department of Energy (DOE) on its comments on NRC's proposed revision to Part 20.

Metal Components, Date to be determined (November, Tentative), Washington, DC. The Subcommittee will review the elimination of the double-ended pipe break criteria for pipe whip supports.

Metal Components and Three Mile Island Unit 1, December 1, 1982, Washington, DC. The Subcommittee will review the Steam Generator Generic Recommendation Report and TMI–1 steam generator problems and corrective actions.

Safety Research Program, December 8, 1982, Washington, DC. The Subcommittee will discuss the NRC Safety Research Program and Budget for FY 1984 and 1985 and also Draft 1 of the ACRS Report to the Congress on this matter.

Metal Components, Date to be determined (December, Tentative), Washington, DC. The Subcommittee will review the NRC action plan on integrity of steel bolts.

Seabrook Nuclear Plant Units 1 and 2, Date and location to be determined (December, Tentative). The Subcommittee will visit the site and review the application of the Public Service of New Hampshire for an operating license.

Combination of Dynamic Loads, Date to be determined (February, Tentative), Washingtin, DC. The Subcommittee will discuss the status report on work being done on the combination of dynamic loads.

Reliability and Probabilistic Assessment, Date to be determined, Washington, DC. The Subcommittee will discuss the ACRS review of the Limerick Probabilistic Risk Assessment.

ACRS Full Committee Meeting

October 7–9, 1982: Items are *Tentatively* scheduled.

A. *Washington Public Power Supply System Unit 2 (WPPSS)*—Operating License.

B. *Integrity of Reactor Pressure Vessels*—NRC Action Plan to resolve problems associated with reactor pressure vessel thermal shock.

C. *ECCS Evaluation Models*—Proposed changes in 10 CFR Part 50, Appendix K, ECCS Evaluation Models.

D. *Anticipated Transients Without Scram*—Proposed NRC Action Plan to resolve ATWS issues.

E. *Human Factors Integrated Program Plan*—Proposed NRC Action Plan regarding human factors considerations in the design and operation of nuclear power plants.

F. *ACRS Subcommittee Activity*—Reports of ACRS Subcommittees regarding safety-related matters such as nuclear power plant operations, staffing of nuclear plants, impact of Small Break LOCA's on natural circulation, and the CRBR control and instrumentation system.

G. *Future ACRS Activities*—Discuss anticipated subcommittee activities and proposed full committee activities.

November 4–6, 1982: Agenda to be announced.

December 9–11, 1982: Agenda to be announced.

Dated: September 16, 1982.

Samuel J. Chilk,

Acting Advisory Committee Management Officer.

[FR Doc. 82-26132 Filed 9-21-82; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Export/ Import Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application," please take notice that the Nuclear Regulatory Commission has received the following applications for import/export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register.** Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facilities or material to be exported. The table below lists all new major applications.

Dated this 14th day of September at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Marvin R. Peterson,

Acting Assistant Director, Export/Import and International Safeguards, Office of International Programs.

[FR Doc. 82-26134 Filed 9-21-82; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL REGISTER (EXPORT/IMPORT)

Name of applicant, date of application, date received, application No.	Material type	Material in kilograms			
		Total element	Total isotope	End-use	Country of destination
Exxon Nuclear Company, Inc., Aug. 30, 1982, Sept. 2, 1982, XSNM01985.	3.30% Enriched Uranium	25,000	850	For use as fuel in one of Electricite de France (EDF) Reactors.	France.
Separative Work Unit Corp., Sept. 10, 1982, Sept. 10, 1982, ISNM02016.	5% Enriched Uranium	300,000	15,000	For enrichment for use in domestic reactors or re-export.	From various countries.
	Natural Uranium	(1)	(1)	Feed for enrichment and use in domestic reactors or re-export.	Do.

[1] Two (2) million pounds.

[FR Doc. 82-26124 Filed 9-21-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-369]

Duke Power Co.; Issuance of Amendment Facility Operating License No. NPF-9

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 16 to Facility Operating License No NPF-9, issued to Duke Power Company (licensee) for the McGuire Nuclear Station, Unit 1 (the facility) located in Mecklenburg County, North Carolina. The amendment is effective as of its date of issuance.

This amendment revises the descriptions of the offsite organization and the station organization.

Issuance of this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CRF Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CRF 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Duke Power Company letter date July 30, 1982, (2) Amendment No 16 to Facility Operating License No. NPF-9 and (3) the Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223. A copy of these items may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 14th day of September 1982.

For the Nuclear Regulatory Commission.

Carl R. Stahle,

Acting Chief, Licensing Branch No. 4, Division of Licensing, NRR.

[FR Doc. 82-26125 Filed 9-21-82; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-389A]

Florida Power & Light Company, Orlando Utility Commission and Florida Municipal Power Agency; Finding of No Significant Antitrust Changes and Time for Filing Requests for Reevaluation

The Director of Nuclear Reactor Regulation has made an initial finding in accordance with section 105c(2) of the Atomic Energy Act of 1954, as amended, that no significant (antitrust) changes in the licensees' activities or proposed activities have occurred subsequent to the previous construction permit review of Unit 2 of the St. Lucie Plant by the Attorney General and the Commission. The finding is as follows:

Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides for an antitrust review of an application for an operating license if the Commission determines that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review. The Commission has delegated the authority to make the "significant change" determination to the Director, Office of Nuclear Reactor Regulation. Based upon an examination of the events since the St. Lucie Unit No. 2 construction permit antitrust review, the staffs of the Antitrust and Economic Analysis Branch, Office of Nuclear Reactor Regulation and the Antitrust Section of the Office of the Executive Legal Director, hereafter referred to as "staff," have jointly concluded, after consultation with the Department of Justice, that the changes that have occurred are not of the nature to require a second antitrust review at the operating license stage of the application.

The conclusion of the staff's analysis is as follows:

Subsequent to the completion in March of 1982 of the construction permit antitrust proceedings, Seminole Electric Cooperative has decided to withdraw its proposed six percent participation in St. Lucie 2. The reasons given were the current uncertainties of the nuclear industry, the lack of support from the financial community for nuclear projects, and the overall costs of St. Lucie 2. In addition, Seminole has found an economic alternative to St. Lucie 2 in two-600MW coal fired units that it has under construction with delivery of the power from those units to its members using transmission services afforded by Florida Power and Light and Florida Power Corporation. Thus, the decision by Seminole to withdraw from St. Lucie 2 appears to be a reasonable business decision.

Orlando's planned participation in St. Lucie 2 has not changed. In addition, Orlando is planning a 415 MW coal fired unit in which Florida Municipal Power Agency would receive a 35 percent ownership participation. Power will be delivered to FMPA members utilizing the transmission systems of Orlando, Florida Power and Light Co. and Florida Power Corporation. These power supply arrangements are each considered to be pro-competitive.

Florida Municipal Power Agency will acquire an 8.806 percent ownership interest in St. Lucie 2 on behalf of the nineteen of its twenty six members that chose to participate in the project. Florida Power and Light Company will provide the necessary transmission service to deliver the power to the participants to which it is connected or to other electric systems for delivery of the power to those participants to which it is not connected.

Joint action agencies, such as Seminole Electric Cooperative and Florida Municipal Power Agency, coupled with transmission services by Florida Power and Light and Florida Power Corporation have made power supply options available to small cooperative and municipal electric systems statewide. These are positive developments consistent with the antitrust license conditions and settlement provisions of the construction permit antitrust proceedings. Staff therefore concludes that they do not represent significant changes that would warrant a

second antitrust review in connection with the operating license application.

Based on the staff's analysis, it is my finding that a formal operating license antitrust review of the St. Lucie Plant, Unit 2 is not required.

Signed on September 14, 1982, by Harold R. Denton, Director of Office of Nuclear Reactor Regulation.

Any person whose interest may be affected by this finding may file with full particulars a request for reevaluation with the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 by (30 days).

For the Nuclear Regulatory Commission.

Argil Toalston,

Chief, Antitrust and Economic Analysis Branch, Division of Engineering, Office of Nuclear Reactor Regulation.

[FR Doc. 82-26126 Filed 9-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-315 and 50-316]

Indiana and Michigan Electric Co.; Issuance of Amendments To Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 61 to Facility Operating License No. DPR-58 and Amendment No. 44 to Facility Operating License No. DRP-47 issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in Berrien County, Michigan. The amendments are effective as on the date of issuance.

The amendments revise the Technical Specifications to reflect a revised LOCA analysis for Unit 1 and implementation of Supplement 2 to the PDC-II power distribution control procedures for both Units.

The applications for amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the applications for amendments dated April 7, 1982 and July 12, 1982, (2) Amendment Nos. 61 and 44 to License Nos. DPR-58 and DPR-74, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 15th day of September, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-26127 Filed 9-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-309]

Maine Yankee Atomic Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 64 to Facility Operating License No. DPR-36 issued to the Maine Yankee Atomic Power Company (the licensee), which revised the license for operation of the Maine Yankee Atomic Power Station (the facility) located in Lincoln County, Maine. The amendment is effective as of the date of issuance and is to be implemented in accordance with the provisions of 10 CFR 73.40(b) and 10 CFR 73.55(b)(4).

The amendment adds license conditions to include the Commission approved Guard Training and Qualification Plan and the Safeguards Contingency Plan as a part of the license.

The licensee's filing, which has been handled by the Commission as an application, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards condition.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

The licensee's filing dated June 1, 1982 consists of Safeguards Information required to be protected from public disclosure pursuant to 10 CFR 73.21.

For further details with respect to this action, see (1) Amendment No. 64 to Facility Operating License No. DPR-36 and (2) the Commission's related letter to the licensee dated Sept. 15, 1982. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine. A copy of items (1) and (2) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 15th day of September, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-26128 Filed 9-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338 and 50-339]

North Anna Power Station, Units No. 1 and No. 2; Proposed Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to Facility Operating Licenses No. NPF-4 and No. NPF-7, issued to Virginia Electric and Power Company (the licensee), for operation of the North Anna Power Station, Units No. 1 and No. 2, located in Louisa County, Virginia.

In accordance with the licensee's application for amendment dated July 13, 1982, the amendment would revise Facility Operating Licenses No. NPF-4 and No. NPF-7 to permit the receipt and storage of 500 spent fuel assembles from the Surry Power Station, Units No. 1 and No. 2.

Prior to issuance of the proposed license amendments, the Commission

will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By October 22, 1982, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (In Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert A. Clark: (Petitioner's name and telephone number); (date petition was mailed); (Plant name); and (publication date and page number of this **Federal Register** Notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated July 13, 1982, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22902.

Dated at Bethesda, Maryland this 16th day of September 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Division of Licensing.

[FR Doc. 82-26129 Filed 9-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338 and 50-339]

North Anna Power Station, Units No. 1 And No. 2; Proposed Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to Facility Operating Licenses No. NPF-4 and No. NPF-7, issued to Virginia Electric and Power Company (the licensee), for operation of the North Anna Power Station, Units No. 1 and No. 2, located in Louisa County, Virginia.

In accordance with the licensee's application for amendment dated August 20, 1982 the amendment would revise the Technical Specifications to permit the expansion of fuel storage capacity for North Anna units Nos. 1 and 2 from 966 to 1737 fuel assemblies and identify a new nominal center-to-center spacing between fuel assemblies of 10⅞ inches.

Prior to issuance of the proposed license amendments, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By October 22, 1982, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing

Board Panel will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or a appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (In Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert A. Clark: (Petitioner's name and telephone number); (date petition was mailed); (Plant name); and (publication date and page number of this **Federal Register** Notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, and to Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714.

For further details with respect to this action, see the application for amendment dated August 20, 1982, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW. Washington, D.C. 20555 and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22902.

Dated at Bethesda, Maryland this 10th day of September 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-26130 Filed 9-21-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–460–OL; ASLBP No. 82–478–06–OL]

Washington Public Power Supply System; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered:

Washington Public Power Supply System

WPPSS Nuclear Project No. 1

Construction Permit No. CPPR–134

This Board is being constituted pursuant to a notice published by the Commission on August 16, 1982, in the **Federal Register** (47 FR 35567–68) entitled, "Receipt of Application for Facility Operating License; Availability of Applicant's Environmental Report; Consideration of Issuance of Facility Operating License; and Notice of Opportunity for Hearing."

The Board is comprised of the following Admininstrative Judges:

Ivan W. Smith, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Glenn O. Bright, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Jerry Harbour, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Issued at Bethesda, Maryland this 16th day of September 1982.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 82-26131 Filed 9-21-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE U.S. TRADE REPRESENTATIVE

U.S. Generalized System of Preferences

The purpose of this notice is to announce the withdrawal of the 1982 petition (case number 82–65) filed by Pfizer, Inc. to remove imports of sorbitol from Mexico and the Republic of Korea from the U.S. Generalized System of Preferences (GSP) and to modify the product description for transformers (case number 82–68) currently under review.

Case No.	TSUSA [1] Item No.	Article	Petitioner
Request for Withdrawal [2]: 82-65	493.4820 (Republic of Korea, Mexico).	Polysaccharides, rare saccharides and their polyhydric alcohols; [Lactose; levulose; salicine] Other: Sorbitol.	Pfizer, Inc., New York, NY.
Product Description Modification [2]: 82-66	682.0540 (Hong Kong)	Transformers: Rated at less than 1 kva: Rated at 40 va or more.	France, Fairview, TN.

[1] Tariff Schedules of the United States annotated.
[2] The country or countries named are those beneficiary developing countries specified by the petitioner. While the Trade Policy Staff Committee's (TPSC) review will focus on those countries, the TPSC reserves the right to address removal of GSP status for countries other than those specified by the petitioner.

Announcement of the acceptance of these petitions for the 1982 GSP product review appeared in the **Federal Register** of July 16, 1982. The Trade Policy Staff Committee has granted the petitioner's request for withdrawal in the Pfizer case and the TSUSA modification in the France request and is notifying the U.S. International Trade Commission of this action.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 82-26001 Filed 9-21-82; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer—George G. Kundahl—(202) 272-2700

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Extension

Form N-1R (17 CFR 274.101)
SEC File No. 270-223

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for extension of approval Form N-1R under the Investment Company Act of 1940 and the Securities Exchange Act of 1934. Form N-1R is the annual report form to be used by registered open-end and closed-end management investment companies to make publicly available current information concerning the company's operations and financial condition.

The potential respondents are all registered open-end and closed-end management investment companies.

Submit comments to OMB Desk Officer: Robert Veeder—(202) 395-4814.

George A. Fitzsimmons,

Secretary.

September 15, 1982.

[FR Doc. 82-26074 Filed 9-21-82; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer—George G. Kundahl—(202) 272-2700

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549

Extension

Rule 17f-2 [17 CFR 270.17f-2]
SEC File No. 270-233

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for extension of approval Rule 17f-2 under the Investment Company Act of 1940 concerning the custody of investments by registered management investment companies. Rule 17f-2 sets forth certain standards to be followed by such companies that maintain in their own custody their portfolio securities.

The potential respondents are registered management investment companies.

Submit comments to OMB Desk Officer: Robert Veeder (202) 395-4814.

George A. Fitzsimmons,

Secretary.

September 15, 1982.

[FR Doc. 82-26075 Filed 9-21-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22630; (70-6780)]

Michigan Power Co.; Proposed Issuance and Sale of Long-Term Notes to Banks

September 10, 1982.

Michigan Power Company ("Michigan"), P.O. Box 413, Three Rivers, Michigan 49093, a public-utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed a declaration with this Commission pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act").

Michigan has $20 million of notes outstanding evidencing borrowings from Manufacturers Hanover Trust Company and National Bank of Detroit in aggregate amounts of $13 million and $7 million, respectively. Each such note matures December 31, 1987, and bears interest through December 31, 1982, at a fluctuating rate per annum equal at all times to the rate of interest publicly announced by Manufacturers Hanover Trust Company as its prime rate; at a rate of 102% of said prime rate through December 31, 1985; and at 104% of said rate thereafter. At August 31, 1982, such prime rate was 13½%. Each note is prepayable, in which or in part and without payment of a premium or penalty, at any time prior to maturity. Michigan believes that it would be desirable to refinance such notes with the proceeds of fixed rate bank borrowings at such time as interest rates fall sufficiently to warrant such refinancing.

Accordingly, Michigan requests authorization to issue and sell through December 31, 1983, up to $20 million principal amount of its unsecured promissory notes (the "Notes") in connection with borrowings by the company from one or more commercial banks pursuant to a proposed Term Loan Agreement (the "Agreement"). Each Note will be due and payable on a date which shall not be less than two nor more than ten years from the date thereof; and will bear interest on the unpaid principal amount which shall be no greater than the rate of interest payable by the company to Manufacturers Hanover Trust Company under the existing Term Loan Agreement as of the date upon which a definitive Agreement is executed. No compensating balances shall be maintained or fees paid in the form of substitute interest by the company with respect to a lending bank's commitment under the Agreement. The proposed Agreement further specifies that, in the event a Note is paid prior to maturity in whole or in part, Michigan shall pay a

fee to the lending bank calculated to reimburse the bank for interest lost, if any, as a result of the prepayment. Michigan will apply all of the proceeds of the Note or Notes, at the time of such borrowings, to the repayment of notes evidencing indebtdess to Manufacturers Hanover Trust Company and National Bank of Detroit.

Michigan believes that long-term debt financing in the form of unsecured notes issued to commercial banks is the most practicable and cost-effective alternative available to it because of the company's modest size and capital needs and its relatively weak financial strength. The company also feels that the ability to carry out fixed rate financing through unsecured debt at an appropriate time will provide valuable flexibility.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 6, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-26072 Filed 9-21-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19047; File No. SR-NYSE-82-14]

Self-Regulatory Organization; New York Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 8, 1982, the New York Stock Exchange, Inc., filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will facilitate the operation of R4 on a six-month experimental basis and will implement trade comparison procedures using universal contraparty names and automatic submission of trade data into comparison in conjunction with R4. The text of the proposed rule change consists of procedures to be followed in implementing the R4 experiment.

These procedures are intended as "interim rules" for the operation of the experiment and would supersede any other rule inconsistent therewith. Prior to the expiration of the six-month period, the Exchange expects either to submit a formal codification of the procedures, revised as appropriate based on the Exchange's experience with R4, or to request an extension of the time period for the experiment pending further study and evaluation. The Exchange may also terminate the experiment at any time.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

Intense competition for small-size order flow resulting from the availability of automatic execution services on other exchanges (i.e. MAX on the Midwest Stock Exchange, PACE on the Philadelphia Stock Exchange and SCOREX on the Pacific Stock Exchange), has prompted the Exchange to investigate ways in which it can compete more effectively for such orders. The Exchange is planning to test several procedures to provide rapid execution and efficient order handling. R4 is one such experiment.

The R4 experiment is intended as a step in the possible development by the Exchange of a product which would allow member organizations to provide their customers with near-instantaneous executions of small-size market orders, ultimately through equipment developed for the Service, including an intelligent interactive terminal which could be used by the Registered Representative in his office. The execution price would be based upon the quotation displayed by the Exchange's published quotation (bought on offer or sold on bid). The ultimate system would automatically send an execution report back to the Registered Representative and print a report on the Floor. Thus, there would be a minimal lapse between the time the Registered Respresentative enters the order into the system and the time the Registered Representative receives an execution report. Ultimately, this product would also cause a transaction effected through the system to be reported to the Consolidated last sale reporting system (the "Tape"). It would also update the Exchange's published quotation and would automatically submit trade data within the system into comparison. The above description is based on the Exchange's present perception of how such a product would work, the details of which are subject to change.

Although the R4 experiment is consistent with a program designed to provide member organizations with the ability to give near-instantaneous executions to those customers who desire them, the facilities necessary to provide the ultimate product described above are not presently available. The R4 experiment will therefore utilize the order-routing channels presently available to member organizations through the Designated Order Turnaround ("DOT"). System and the procedures outlined below will be followed to provide execution reports to customers.

Initially, eligible participants in the experiment are Merrill Lynch, Pierce, Fenner & Smith Inc. and Dean Witter Reynolds Inc. Eligible stocks are expected to be the thirty Dow Jones Industrial stocks. As the experiment progresses, the member organizations which participate may be changed and stocks may be added and deleted.

The key aspects of the procedures for the R4 experiment can be summarized as follows:

- Registered Representatives commit an immediate and guaranteed execution to a customer based upon the composite quotation.
- Registered Representatives do not send an order to the Floor for execution—they send

a *completed report of execution* to the Floor.

- R4 transactions are executed through an Exchange facility and the time of execution is considered the point at which the execution report passes programmed validation guidelines. The trades, however, will not be considered to have occurred in the regular market on the Floor and Exchange rules will apply accordingly.
- The specialist, when receiving a report via R4, shall accept that report as the report of an execution which has already taken place at the reported price, inclusive of any commission, commission equivalent, differential or other charge imposed by the specialist.
- When an R4 report reaches the Floor and the reported price of the completed transaction is at the current quotation on the Floor at that time and such current quotation is on behalf of the book or the Crowd, the specialist gives up the book or the Crowd, based on priority. Of course, if the specialist has priority over an order in the Crowd at the price of the current quotation, he is not precluded from taking the R4 report into his own account.
- When an R4 report reaches the Floor and the reported price of the completed transaction is either between or outside the current quotation on the Floor at that time, the specialist must accept the execution for his own account.
- If an R4 report does not pass programmed validation guidelines and is rejected back to the entering organization, such member organization is responsible for providing the customer with the guaranteed execution by following the procedure it normally uses to correct an error.
- Registered Representatives are prohibited from using R4 to execute customer "short" sale orders.
- R4 uses the universal contras *RX* and *RR* for comparison purposes and automatically submits completed trade data into comparison.

The Exchange is aware that certain aspects of the proposed R4 procedures might have an impact on the market on the Floor for the stocks involved in the experiment or might raise other questions or concerns including some that relate to the structure of the market. The purpose of the experiment—which we plan to monitor closely—is to help determine the impact, if any, of the R4 experimental procedures and identify unanticipated problems.

The Service offers the following benefits to member organizations and their customers:

—Provides a greater choice in the way customers' orders can be executed; i.e., through R4, a customer can receive an execution the second the customer decides to buy or sell and agrees on the price based on the composite quotation *or* a customer can have the order sent to the Floor through the Exchange's Designated Order Turnaround ("DOT") System if the customer feels it would allow him to obtain a better price.
—Relieves R4 subscribers and specialists of the expense of submitting R4 trade data into comparison and eliminates errors and omissions which might otherwise occur if they submitted their own data.
—Provides a fully compared trade on trade date.
—Reduces frequency of uncompared trades through the use of universal contras.

The procedures for the experiment constitute rules in that they revise current comparison procedures and the way orders are normally executed on the Exchange. The Exchange is also requesting an exemption for the specialist from the short selling rules pursuant to paragraph (f) of SEC Rule 10a–1 with respect to principal short sales effected to fill R4 reports at a price which represents a "minus" or "zero minus" tick on the Exchange. The Exchange is also modifying its rules with respect to a specialist's principal transactions pursuant to an R4 report from the tick restrictions in Rule 104 and from the general prohibition against the specialist dealing for his own account unless such dealings are reasonably necessary to maintain a fair and orderly market (*i.e.*, the specialist's negative obligation). In addition, the Exchange is modifying its rules with respect to a transaction for his own account in a specialty stock that would result in putting into effect any stop order he may have on his book.

Reporting and comparison procedures for R4 will also prevail over existing rules governing these procedures. In addition, odd-lot and PRL orders executed through R4 would be executed in the same manner and at the same price as the round-lot orders, *i.e.*, on the basis of the best composite quotation at the time the order is received by the Registered Representative rather than on the basis of the price of the next round-lot sale as called for presently in Rule 124.

Statutory Basis for the Proposed Rule Change

The R4 experiment proposed herein is designed to facilitate transactions involving small-size market orders on the Exchange and to provide for efficient clearance and settlement of these transactions. Implementation of the experiment will be consistent with those provisions of the Securities Exchange Act of 1934 (the "Act") which encourage use of new data processing and communications techniques and more efficient market operations. It will also advance the prompt and accurate clearance and settlement of securities transactions. See Sections 11A(a)(1) and 17A(a)(1).

B. Self-Regulatory Organization's Statement on Burden on Competition

As explained above, the R4 experiment provides an opportunity for the Exchange to compete more effectively for small-size order flow with other exchanges which utilize automatic execution systems. Thus, the Exchange does not believe the R4 experiment will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change. However, the Exchange has consulted with the member organizations that will participate in the experiment and has been informed that the procedures satisfy their needs.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission has found good cause for approving the proposed rule change on an accelerated basis in that it may prove useful for the NYSE to experiment with this rapid execution system as soon as possible in light of the recent periods of high volume on the NYSE. In addition, the NYSE has completed all preliminary work necessary to implement the experiment and the NYSE notes the temporary nature of the proposed rule change. Accordingly, the Commission has found that notice for 30 days prior to approval of the proposed rule change is unnecessary and that accelerated approval is in the public interest.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the Provisions of 5 U.S.C. 552, will be available for inspection and copying in the

Commission's Public Reference Section, 450 5th Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 14, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-26073 Filed 9-21-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Commissioner's Advisory Group; Notice of Open Meeting

There will be a meeting of the Commissioner's Advisory Group on October 12 and 13, 1982. The meeting will be held in Room 3313 of the Internal Revenue Service Building. The building is located at 1111 Constitution Ave., N.W., Washington, D.C. The meeting will begin at 9:00 a.m. on Tuesday, October 12, and 9:00 a.m. on Wednesday, October 13. The agenda will include the following topics:

Tuesday, October 12, 1982

Tax Compliance Legislation of 1982, Request for Expeditious Treatment on Field Audits and Rulings, IRS Undercover Programs, IRS Paperwork Reduction Efforts.

Wednesday, October 13, 1982

FY 1983 Taxpayer Service Program Pro Se Taxpayer—Approaches by Counsel and Appeals.

The meeting, which will be open to the public, will be in a room that accommodates approximately 50 people. If you would like to have the Committee consider a written statement, please call or write to John E. Burke, Assistant to the Deputy Commissioner, 1111 Constitution Ave., N.W., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: John E. Burke, Assistant to the Deputy Commissioner (202) 566-4143 (Not toll free).

James I. Owens,

Acting Commissioner.

[FR Doc. 82-26134 Filed 9-21-82; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

Supplement to Department Circular; Public Debt Series No. 23-82

September 16, 1982.

The Secretary announced on September 15, 1982, that the interest rate on the notes designated Series W-1984, described in Department Circular—Public Debt Series—No. 23-82 dated September 9, 1982, will be 12⅛ percent. Interest on the notes will be payable at the rate of 12⅛ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 82-26160 Filed 9-21-82; 8:45 am]

BILLING CODE 4810-40-M

Amendment To Department Circular; Public Debt Series—No. 23-82

September 16, 1982.

Department of the Treasury Circular, Public Debt Series—No. 23-82, dated September 9, 1982, as supplemented, descriptive of the 12⅛ percent Treasury Notes of Series W-1984, is hereby amended, effective September 30, 1982, to issue the notes as an additional issue of the 12⅛ percent Treasury Notes of Series F-1984, as described in Department of the Treasury Circular, Public Debt Series—No. 29-80, dated September 15, 1980, as supplemented. The provision in Department of the Treasury Circular, Public Debt Series—No. 23-82, for a $5,000 minimum denomination on the Series W-1984 notes will have no effect following the merger of the two issues. Both series of 12⅛ percent notes will have a $1,000 minimum denomination and will mature on September 30, 1984.

The additional issue of the 12⅛ percent Treasury Notes of Series F-1984 will accrue interest from September 30, 1982, and payment for the notes will be calculated on the basis of the auction price determined in accordance with Department of the Treasury Circular, Public Debt Series—No. 23-82. Otherwise, the notes are as described in the following excerpt from Department of the Treasury Circular, Public Debt Series—No. 29-80:

"2.1. The securities will be dated September 30, 1980, and will bear interest [1] from that date, payable on a semiannual basis on March 31, 1981, and each subsequent 6 months on September 30 and March 31, until the principal becomes payable. They will mature September 30, 1984, and will not be subject to call for redemption prior to maturity.

"2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

"2.3. The securities will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

"2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securties will be availabe to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

"2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date."

The foregoing amendment was effected under authority of Sections 18 and 20 of the Second Liberty Bond Act, as amended (49 Stat. 21, as amended; 31 U.S.C. 753, 754b), and 5 U.S.C. 301. Notice and public procedures thereof are unnecessary as the fiscal policy of the United States is involved.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 82-26161 Filed 9-21-82; 8:45 am]

BILLING CODE 4810-40-M

[1] On September 23, 1980, the Secretary of the Treasury announced that the interest rate on the notes would be 12¼ percent per annum.

Sunshine Act Meetings

Federal Register
Vol. 47, No. 184
Wednesday, September 22, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M–362, September 16, 1982]

TIME AND DATE: 10 a.m., September 23, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. Dockets 40815 and 40894, Notices of Golden West and Aspen to suspend service at Lake Tahoe, California. (BDA, OCCCA)
3. Dockets 40808 and 40809, Republic's Notices to suspend service at Klamath Falls and Bend/Redmond, Oregon. (BDA, OCCCA)
4. Dockets 40807 and 40817, Wien's 90-day notice to suspend service at 109 communities in Alaska effective October 1, 1982, and Alaska Airlines' 90-day notice to suspend service at 28 communities in Alaska effective October 1, 1982. (BDA, OCCCA)
5. Docket 40810, Republic's notice of intent to suspend all service at Benton Harbor/St. Joseph, Michigan. (BDA, OCCCA)
6. Docket 40210 and Docket EAS–550, Metroflight, Inc.'s notice of intent to suspend service at Lawton/Ft. Sill, Oklahoma and Lawton's EAS determination. (Memo 950–A, BDA, OCCCA, OGC)
7. Docket 38818, Second-year subsidy rate for Precision Valley Aviation for provision of essential air service at Montpelier/Barre, Vermont. (Memo 304–B, BDA, OCCCA, OC)
8. Docket 36244, Pioneer Airways, Inc.'s application for compensation for losses in Southern Nebraska. (BDA, OC, OCCCA, BCAA)
9. Dockets 32484, 38011, 30228, 40661, and 40801, Termination of section 406 subsidy payments at end of FY 1982. (BDA, OCCCA, OGC, OC)
10. Commuter carrier fitness determination of Manu'a Air Transport, Inc. (Memo 1497, BDA)
11. Dockets 40674, 40726, and 40847, Motion of Aloha Airlines to consolidate three section 401 certificate applications for intra-Hawaii authority to be heard in one formal hearing. (BDA)
12. Dockets 40832 and 40833, Application of International Air Associates, Inc. waiver of service requirements of section 302.1705 of the Board's Regulations. (BDA)
13. Dockets 40634 and 40635, Applications of United Air Carriers, d.b.a. Overseas National Airways. (Memo 1402–A, BDA)
14. Docket 40673, *Regulatory Flexibility Act;* definition of "small business", (Memo 1255–A, OGC)
15. Docket 40500, *Conner Air Lines, Inc.* v. *Seagreen Air Transport, Ltd.,* petition for Board review of dismissal by the Enforcement Division of OGC of Conner's complaint alleging Seagreen's violation of its section 402 foreign air carrier permits. (Memo 1495, OGC)
16. Docket 39387, USAir petition for permanent confidential treatment for detailed domestic service segment data. (OC, BDA, BIA, BCAA, OEA, OCCCA, OGC)
17. Dockets 39932 and 36294, Denied Board Compensation. (OGC, BDA, BIA, OC, OEA, OCCCA)
18. Docket 40399, Application of Action Air Cargo Corporation for a certificate of public convenience and necessity U.S.-Azores/Africa. (Memo 1491, BIA, OGC, BALJ)
19. Docket 40793, Application of United Air Carriers, Inc. d.b.a. Overseas National Airways for a certificate of public convenience and necessity to engage in scheduled foreign air transportation (New York-Beirut-Amman-Kuwait-Abu Dhabi-Dubai) (Memo 1498, BIA, OGC, BALJ)
20. Docket 35634, IATA agreement proposing a new cargo rate structure within Asia. (Memo 1481, BIA)
21. Docket 36496, Guaranteed Air Fare Rule. (BIA)
22. Report on Canada. (BIA)
23. Discussion on Upcoming Civil Aviation Negotiations with Peru. (BIA)
24. Update on United States-Chile Negotiations. (BIA)
25. Docket 40915, Pan American's Section 23 Complaint against British Airways. (BIA)

STATUS: 1–21 (open), 22–25 (closed).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–1351–82 Filed 9–17–82; 4:40 pm]

BILLING CODE 6320–01–M

2

CIVIL AERONAUTICS BOARD

[M–361 Amdts. 1, 2 and 3, September 10, 1982]

Deletions and Additions to the September 14, 1982 Meeting

TIME AND DATE: 10 a.m., September 14, 1982.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

4. Dockets EAS–765 and EAS–792, Coastal Airlines' Petition for reconsideration of Order 82–6–61 selecting Air Vermont to provide essential air service at Berlin, New Hampshire, and Newport, Vermont. (Memo 518–E, BDA, OCCCA)
15. Docket 35634, IATA agreement proposing a new cargo rate structure within Asia. (Memo 1481, BIA)
15a. Dockets 40534, *et al.,* Order instituting the *Braniff South American Route Transfer Case.* (Memo 1482, BIA, OGC)
17. Dockets 40831, 40940, Applications of Arrow Airways, Inc. for certificate of public convenience and necessity and exemption (Denver-London). (BIA, OGC, BALJ)
24. Report on Japan. (BIA)

STATUS: 4 (open), 15 (open), 15a (open), 17 (open), 24 (closed).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202–673–5068).

[S–1352–82 Filed 9–17–82; 4:40 pm]

BILLING CODE 6320–01–M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Tuesday, September 28, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C. fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

MACE Sugar Designation
NOCE Corn Designation
CBOT 90-Day T-Bill Designations
Rule 21.03 Selected Special Calls—Final Rule.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1356–82 Filed 9–20–82; 3:54 pm]

BILLING CODE 6351–01–M

4

FEDERAL ELECTION COMMISSION

[Federal Register No. 1326]

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, September 23, 1982 at 10 a.m.

CHANGE IN MEETING: The following matter has been added to the open meeting scheduled for this date:

Public Comments on Proposed Rules for Presidential Primary Matching Fund

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; telephone: 202–523–4065.

Majorie W. Emmons,

Secretary of the Commission.

[S–1364–82 Filed 9–20–82; 12:43 pm]

BILLING CODE 6715–01–M

5

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 40977, September 16, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., September 22, 1982.

CHANGE IN THE MEETING: The meeting of September 22, 1982 at 9:00 a.m. has been cancelled.

[S–1358–82 Filed 9–20–82; 3:40 pm]

BILLING CODE 6730–01–M

6

FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 40522, Tuesday, September 14, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, September 20, 1982.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting:

1. Proposals with respect to the Bank Service Corporation Act.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: September 20, 1982.

James McAfee,

Associate Secretary of the Board.

[S1357–82 Filed 9–20–82; 4:02 pm]

BILLING CODE 6210–01–M

7

PAROLE COMMISSION

[2P0401]

AGENCY HOLDING MEETING: U.S. Parole Commission, National Commissioners (the Commissioners presently maintaining offices at Chevy Chase, Maryland, Headquarters).

TIME AND DATE: 10 a.m., Wednesday, September 29, 1982.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 8 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission (301) 492–5987.

[S–1360–82 Filed 9–17–82; 4:15 pm]

BILLING CODE 4410–01–M

8

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 39935, September 10, 1982.

STATUS: Open meeting.

PLACE: Room 1C30, 450 5th Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, September 7, 1982.

CHANGES IN THE MEETING: Deletion. The following item was not considered at an open meeting scheduled on Thursday, September 16, 1982, at 10:00 a.m.

Consideration of an application filed by Union-Investment-Gesellschaft m.b.H. ("Union-Investment"), a West German management company, on behalf of Unifonds, a West German mutual fund, requesting an order pursuant to Sections 6(c) and 7(d) of the Investment Company Act of 1940, permitting registration of Union-Investment under the Act so that it may sell Unifonds shares in the United States, and granting exemptions from many of the provisions of the Act to the extent necessary to permit Union-Investment to comply with various West German regulations and business practices that conflict with those to which U.S. companies are subject. For further information, please contact Barbara Fraser at (202) 272–3042.

Chairman Shad and Commissioners Evans, Longstreth and Treadway determined by vote that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Catherine McGuire at (202) 272–3085.

September 17, 1982.

[S–1353–82 Filed 9–20–82; 10:14 am]

BILLING CODE 8010–01–M

federal register

Wednesday
September 22, 1982

Part II

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Advisory Committee, Meeting; Recombinant DNA Research: Proposed Actions Under Guidelines

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Advisory Committee; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee at Wilson Hall, Building 1, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, on October 25, 1982, from 9:00 a.m. to adjournment at approximately 6:00 p.m. This meeting will be open to the public to discuss:

CDC/NIOSH report on medical surveillance
Classification of microorganisms for purposes of Guidelines
Review of protocols for required containment levels
Containment levels for cloning toxin genes
Amendment of Guidelines
Proposed exemptions to Guidelines
Other matters requiring necessary action by the Committee

Attendance by the public will be limited to space available.

Dr. William J. Gartland, Jr., Executive Secretary, Recombinant DNA Advisory Committee, National Institutes of Health, Building 31, Room 4A52, telephone (301) 496–6051, will provide materials to be discussed at the meeting, rosters of committee members, and substantive program information. A summary of the meeting will be available at a later date.

In addition, notice is hereby given of a meeting of the Large-Scale Review Working Group sponsored by the Recombinant DNA Advisory Committee at the National Institutes of Health, Wilson Hall, Building 1, 9000 Rockville Pike, Bethesda, Maryland 20205, on October 28, 1982, from 9:00 a.m. to 12:00 noon. The meeting will be open to the public to discuss:

CDC/NIOSH report on medical surveillance
Proposed revision of the Physical Containment Recommendations for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules

Attendance will be limited to space available.

Further information may be obtained from Dr. Elizabeth Milewski, Executive Secretary, Large-Scale Review Working Group, NIAID, Building 31, Room 4A52, Bethesda, Maryland, telephone (301) 496–6051.

Dated: September 15, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8–(b)–(4) and (5) of that Circular.

[FR Doc. 82-26000 Filed 9-21-82; 8:45 am]
BILLING CODE 4140-01-M

Recombinant DNA Research; Proposed Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of Proposed Actions under NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth proposed actions to be taken under the NIH Guidelines for Research Involving Recombinant DNA Molecules. Interested parties are invited to submit comments concerning these proposals. After consideration of these proposals and comments by the NIH Recombinant DNA Advisory Committee (RAC) at its meeting on October 25, 1982, the Director of the National Institute of Allergy and Infectious Diseases will issue decisions on these proposals in accord with the Guidelines.

DATE: Comments must be received by October 22, 1982.

ADDRESS: Written comments and recommendations should be submitted to the Director, Office of Recombinant DNA Activities, Building 31, Room 4A52, National Institutes of Health, Bethesda, Maryland 20205. All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from Drs. Stanley Barban and Elizabeth Milewski, Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–6051.

SUPPLEMENTARY INFORMATION: The National Institutes of Health will consider the following actions under the Guidelines for Research Involving Recombinant DNA Molecules.

I. Request for Permission To Clone a Hybrid Gene Involving the Gene Encoding Diphtheria Toxin

Dr. John Murphy of Harvard Medical School requests permission to construct a hybrid molecule in which the gene coding for the melanocyte stimulating hormone (MSH) is joined to a segment of the gene encoding diphtheria toxin. The diphtheria toxin gene segment would encode the A subunit and portions of the B subunit. The segment would be devoid of the diphtheria toxin binding domain. The MSH gene would be a synthetic oligonucleotide. The MSH-diphtheria toxin hybrid gene would be introduced into poorly mobilizable plasmids such as pBR322, PUC9, or PUC8, and cloned in *E. coli* EK1 host-vector systems. Dr. Murphy proposes that work leading up to the gene fusion would be conducted under P1+EK1 containment. P1+EK1 containment would be appropriate for cloning the diphtheria toxin segment, as without a binding domain the polypeptide has very low toxicity. Dr. Murphy proposes that propagation of the hybrid gene in *E. coli* K–12 be conducted in the high containment Building 550 at the Frederick Cancer Research Facility (FCRF), since the specific toxicity of the hybrid gene product is unknown. Laboratory practices and containment equipment are to be specified by the IBC.

II. Request for Permission To Clone a Toxin Structural Gene From E. Coli

Drs. Alison O'Brien and Randall Holmes of the Uniformed Services University of the Health Sciences request permission to clone the

structural gene of the *shiga*-like toxin of *Escherichia coli*. The *E. coli* shiga-like toxin has biological activity similar to the activity of *Shigella dysenteriae* neurotoxin. The shiga-like toxin gene would be cloned in *E. coli* EK1 host-vector systems using plasmid, cosmid, or lambda cloning vectors.

III. Request To Release Strains of Pseudomonas Syringae and Erwinia Herbicola

Drs. Nicholas Panopoulos and Steven Lindow of the University of California, Berkeley, request permission to construct and release *Pseudomonas syringae* pv. *syringae* and *Erwinia herbicola* carrying *in vitro* generated deletions of all or part of the genes involved in ice nucleation for purposes of biological control of frost damage in plants.

IV. Request To Field-Test Transformed Tomato and Tobacco Plants

Dr. John Sanford of Cornell University requests permission to field-test tomato and tobacco plants that will be transformed with bacterial and yeast DNA using pollen as a vector. Plants will be screened in the field to detect transformation events.

V. Proposed Revision of Appendix F

NIH staff proposes to revise Appendix F, Section F–1, second sentence, to clarify that the subject experiments are not in fact "prohibited," but rather fall under Section III–A of the Guidelines, which requires that the experiments receive RAC review and NIH and IBC approval before initiation. The current language is inaccurate.

The relevant sentence in Appendix F currently reads as follows: "Cloning of genes coding for molecules toxic for vertebrates that have an LD_{50} of less than 100 nanograms per kilogram body weight [e.g., microbial toxins such as the botulinum toxins, tetanus toxin, diphtheria toxin, *Shigella dysenteriae* neurotoxin] is prohibited."

NIH staff proposes that this sentence be amended to be read as follows: "The cloning of genes coding for molecules toxic for vertebrates that have and LD_{50} of less than 100 nanograms per kilogram body weight [e.g., microbial toxins such as the botulinum toxins, tetanus toxin, diphtheria toxin, *Shigella dysenteriae* neurotoxin] is covered under Section III–A–1 of the Guidelines and requires RAC review and NIH and IBC approval before initiation."

Dated: September 14, 1982.

Bernard Talbot,

Acting Director, National Institute of Allergy and Infectious Diseases, National Institutes of Health.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

NIH programs are not coverd by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8–(b)–(4) and (5) of that Circular.

[FR Doc. 82-26010 Filed 9-21-82; 8:45 am]

BILLING CODE 4140-01-M

federal register

Wednesday
September 22, 1982

Part III

Environmental Protection Agency

Approval and Promulgation of State Implementation Plans; Utah; Final and Proposed Rulemaking

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7-FRL 2151-7]

Approval and Promulgation of State Implementation Plans; Revisions to the Utah Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: On August 11, 1980, the Governor of Utah submitted revisions to the Utah State Implementation Plan (SIP) to meet the requirements of section 172 of the Clean Air Act concerning the ozone and carbon monoxide (CO) nonattainment areas of the State and the requirements in section 127 of the Act regarding public notification. On May 5, 1981 (46 FR 25110), EPA published a proposed rulemaking based on that submittal. In the notice EPA proposed to approve 1) the section 127 public notification plan, 2) the section 172(b)(11)(A) alternatives analysis plan, and 3) the extension request for the City of Provo to meet the primary standards for CO. EPA also proposed to approve with conditions the Inspection/Maintenance (I/M) programs for both Salt Lake County and Davis County and to revoke several CO and ozone strategies promulgated by EPA prior to the enactment of the CAA of 1977.

Because no comments were received on the unconditional approvals, EPA is today approving the public notification plan, the alternatives analysis plan, the extension for Provo, and the revocation of the outdated strategies, except for the I/M strategy. Elsewhere in today's **Federal Register**, EPA is reproposing action on the I/M component of the SIP.

DATES: This action will be effective 30 days following publication.

ADDRESSES: Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460

The Office of the Federal Register, 110 L Street NW., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: Barry Levene, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Stree, Denver, Colorado 80295, (303) 837-3711

SUPPLEMENTARY INFORMATION: On May 5, 1981 (46 FR 25112) EPA proposed to approve portions of the Utah SIP revised in an August 11, 1980, submittal from the Governor and to conditionally approve others. The portions proposed for approval include the Public Notification Plan required by Section 127 of the Clean Air Act, the Alternatives Analysis Plan required by Section 172(b)(11)(A), and the extension of the CO attainment date for Provo until December 31, 1983. EPA also proposed to revoke several ozone and CO strategies promulgated by EPA prior to the enactment of the Clean Air Act of 1977. The portions proposed for conditional approval concern the I/M programs in Salt Lake and Davis counties. EPA is taking final action only on the portions proposed for unconditional approval. Elsewhere in today's **Federal Register**, EPA is reproposing action on the I/M component.

No comments were received on the portions of the SIP proposed for unconditional approval on May 5, 1981. Neither were there any comments on the proposal to revoke several CO and ozone strategies promulgated by EPA prior to enactment of the Clean Air Act Amendments of 1977.

EPA is therefore approving the following portions of the Utah SIP :

1. Extension of the attainment date for CO in Provo until December 31, 1983.

2. The Public Notification Plan required by section 127 of the Clean Air Act.

3. The Alternatives Analysis Plan required by section 172(b)(11)(A).

EPA is also revoking the strategies proposed for revocation in the May 5, 1981, proposal except for the strategy concerning an I/M program, because the I/M component of the SIP is now being proposed for disapproval.

Under Section 307(b)(1) of the Clean Air Act, petitions for review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, and Hydrocarbons, Intergovernmental relations.

This rulemaking is issued under the authority of Section 110 of the Clean Air Act (42 U.S.C. 7410).

Dated: September 2, 1982.

Note.—Incorporation by reference of the State Implementation Plan for the State of Utah was approved by the Director of the Federal Register on July 1, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart TT—Utah

1. In § 52.2320 (c)(11) is added as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(11) Provisions to meet the requirements of Section 127 and Part D for carbon monoxide and ozone were submitted on August 11, 1980.

§§ 52.2336, 52.2338, 52.2339, 52.2340, 52.2341, 52.2342, 52.2343, 52.2329 [Removed]

2. Section 52.2336 is removed.
3. Section 52.2338 is removed.
4. Section 52.2339 is removed.
5. Section 52.2340 is removed.
6. Section 52.2341 is removed.
7. Section 52.2342 is removed.
8. Section 52.2343 is removed.
9. Section 52.2329 is removed.
10. Section 52.2322(j) is added as follows:

§ 52.2322 Extensions.

* * * * *

(j) The Administrator hereby extends to December 31, 1983, the attainment date for the national standards for carbon monoxide in the City of Provo.

11. In § 52.2331 the attainment date table is revised for the Wasatch Front AQCR. As revised the attainment date table is as follows:

§ 52.2331 Attainment dates for national standards

* * * * *

Air quality control region and nonattainment area	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone
	Primary	Secondary	Primary	Secondary			
Wasatch Front:							
a. Nonattainment Portions	b	b	b	b	a	d	c
b. Remainder of AQCR	a	a	a	a	a	a	a
Four Corners Interstate	a	a	a	a	a	a	a
Utah Intrastate	a	a	a	a	a	a	a

a. Air Quality levels presently below secondary standards.
b. December 31, 1982.
c. December 31, 1985.
d. December 31, 1983.

NOTE 1.—Footnotes which are italic are described by the Administrator because the plans do not provide a specific date, or the date provided is not acceptable.

NOTE 2.—Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) of the Act prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.325.

[FR Doc. 82-26142 Filed 9-21-82; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7-FRL 2151-5]

Approval and Promulgation of State Implementation Plans; Inspection/Maintenance Component of the Utah Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: On August 11, 1980, the Governor of Utah submitted revisions to the Utah State Implementation Plan (SIP) to meet the requirements of Section 172 of the Clean Air Act Amendments of 1977 regarding the ozone and carbon monoxide (CO) nonattainment areas of the State and the requirements of Section 127 of the Act regarding public notification. On May 5, 1981 (46 FR 25110), EPA published a proposed rulemaking based on that submittal. EPA proposed to approve: 1) the Section 127 public notification plan, 2) the Section 172(b)(11)(A) alternatives analysis plan, and 3) the extension of the CO primary standards attainment date for Provo until December 31, 1983, as allowed under Section 172(a)(2). EPA also proposed to approve with conditions the Inspection/Maintenance (I/M) component of the plan and to revoke several CO and ozone strategies promulgated by EPA prior to the amendment of the Act.

Comments were received only on the I/M portion of the notice. EPA is reproposing action on the I/M component by proposing disapproval of the I/M portion of the Plan because all the requirements of Section 172 are not met. Final action on the other portions is published elsewhere in today's **Federal Register**.

DATE: Comments due on or before October 22, 1982.

ADDRESSES: Written comments should be addressed to: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following office: Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295.

FOR FURTHER INFORMATION CONTACT: Barry Levene, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3711.

SUPPLEMENTARY INFORMATION:

I. Background

The State of Utah submitted major revisions to its State Implementation Plan on January 3, 1979. These revisions included, among other things, provisions for county-operated inspection/maintenance (I/M) programs in Davis County and in Salt Lake County. On May 16, 1979 (44 FR 28688), EPA proposed to disapprove certain portions of the Utah SIP, including the I/M provisions, due to a number of significant deficiencies. In response to EPA's proposal, the State submitted revisions to their SIP on November 5, 1979. As a result of a review to this submittal, EPA identified deficiencies and proposed, on February 19, 1980 (45 FR 10817), to approve the strategies for ozone in Weber County and for CO and ozone for all other areas if certain supplemental materials were submitted prior to final rulemaking.

On August 11, 1980, the State submitted supplemental materials in response to the February 19, 1980 proposal. All of the required materials were contained in the August 11, 1980, submittal, except for decisions by each county on the type of I/M enforcement mechanism to be used and supporting legal opinions stating that the counties had adequate authority for the chosen enforcement mechanisms. Schedules and implementation commitments in the form of resolutions from both counties' Boards of Health were submitted and provided for implementation of the programs by December 31, 1981.

On May 5, 1981 (46 FR 25112) EPA proposed to approve, with certain conditions, those portions of the Utah SIP revised in the August 11, 1980, submittal. The portions proposed for unconditional approval include the Public Notification Plan required by Section 127 of the Clean Air Act, the Alternative Analysis Plan required by Section 172(b)(11)(A), and the extension of the CO primary standards attainment date for Provo until December 31, 1983.

No comments were received on other portions of the SIP proposed for approval on May 5, 1981. Neither were there any comments on the proposal to revoke several CO and ozone strategies promulgated by EPA prior to enactment of the Clean Air Act Amendments of 1977. Final approval of these portions is published elsewhere in today's **Federal Register**.

On May 5, 1981, EPA proposed that the I/M component of the SIP be approved conditioned on adoption and submission to EPA of a specific procedure for effective enforcement of the program along with rules, ordinances, or other documentation representing a commitment to enforce and supporting legal opinions. Since EPA learned that Salt Lake County had revised its schedule to provide for program implementation by December 1982, EPA also proposed that, prior to final rulemaking, Salt Lake County provide documentation concerning its revised implementation schedule. Because the Counties of Davis and Salt Lake are responsible for the implementation of the program, each on its own separate schedule, the deadlines for submittal of this information were proposed to be November 30, 1981, for the Salt Lake County program, and June 30, 1981, for the Davis County program. EPA asked specifically for comments on the appropriateness of this condition and deadlines associated with it.

A revised resolution from the Salt Lake City-County Board of Health and an implementation schedule were received by EPA on April 22, 1981, just prior to EPA's May 5, 1981 proposal. The schedule contains revised dates for key milestones with a program implementation date of December 31, 1982. The stated reason for the revision of the schedules was the decision to proceed with a contractor operated program, which, accorded the EPA policy, must be implemented by December 31, 1982. This deadline is acceptable according to EPA policy but, as discussed below, the County has missed several key implementation milestones.

One comment latter on the davis County I/M program was received during the comment period for the May 5, 1981, notice. The Davis County Board of Health in its June meeting had taken several actions related to the county's I/M program. The comment letter summarized the Board's action to proceed with the I/M program as long as three conditions are met:

1. A reasonable and workable enforcement mechanism must be developed prior to program implementation.

2. A clear understanding of the outcome of pending Clean Air Act amendments must be developed and agreed upon prior to program implementation.

3. To make the planning efforts of Davis and Salt Lake Counties more congruent, the implementation date should be extended for one year until December 31, 1982.

On June 2, 1982, Davis County extended its implementation date to December 31, 1982.

In addition, on August 3, 1981, Davis County provided EPA an outline of potential enforcement mechanisms,

accompanied by legal opinions from the County Attorney and State Attorney general on the legal authority for such mechanisms. None of these mechanisms had been adopted.

II. Discussion

EPA issued guidance on February 24, 1978, on the general criteria for SIP approval including I-M, and on July 17, 1978, regarding the specific criteria for I/M SIP approval. Both of these items are part of the SIP guidance material referred to in the General Preamble for Proposed Rulemaking (44 FR 20372, 20373, and 6). The key elements for I/M SIP approval are as follows:

Legal Authority. States or local governments must have adopted the necessary statutes, regulations, ordinances, etc., to implement and enforce the inspection/maintenance program. (Section 172(b)(10)).

Commitment. The appropriate governmental unit(s) must be committed to implement and enforce the I/M program. (Section 172(b)(10)).

Resources. The necessary finances and resources to carry out the I/M program must be identified and committed. (Section 172(b)(7)).

Schedule. A specific schedule to establish the I/M program must be included in the State Implementation Plan. (Section 172(b)(11)(b)). Interim milestones are specified in the July 17, 1982, memorandum in accordance with the general requirements of 40 51.15(c).

Program Effectiveness. As set forth in the July 17, 1978, guidance memorandum, the I/M program must achieve a 25% reduction in passenger car exhaust emissions of hydrocarbons and a 25% reduction for carbon monoxide. This reduction is measured by comparing the levels of emissions projected to December 31, 1987, with and without the I/M program. This policy is based on Section 172(b)(2) which states "the plan provisions * * * shall * * * provide for the implementation of all reasonably available control measures. * * *."

Specific provisions of these five key elements are detailed in a previous EPA proposal published on February 19, 1980 (46 FR 10818) on the Utah I/M program.

III. EPA Action

EPA is proposing to disapprove the I/M component of the Utah Co-ozone SIP because it does not meet the requirements of Section 172(b)(10) and 172.(b)(2) of the Clean Air Act Amendments of 1977. In addition, the deadlines proposed in EPA's proposed conditional approval have not been met, although a final conditional approval was not published. The SIP remains deficient in the areas of enforceability, commitment, and schedules for both Salt Lake and Davis Counties.

A. Enforceability

EPA believes that, although the counties have submitted adequate general legal authority to implement and enforce I/M programs, there remains a question as to whether or not any mechanism that may be selected to implement that authority will be within the general authority and whether it will be effective. Davis County, in its comment letter, recognizes the issue and has evaluated several alternatives. A description of alternative mechanisms was provided to EPA on August 3, 1981, along with legal opinions from the County Attorney and State Attorney General. The opinions indicate that at least one of the approaches is within the county's legal authority, but there is no indication that this mechanism has been adopted through rules, ordinances or other means. This mechanism seems to be generally consistent with EPA policy, but EPA is unable to determine whether it will be enforceable and effective. Salt Lake County has provided no information on any recommended or adopted enforcement mechanism. Thus the Utah SIP does not provide adequate evidence that will be enforceable or effective. EPA believes that the counties' failure to adopt an effective enforcement mechanism constitutes a major deficiency.

B. Commitment

Both counties have made general commitments in the form of resolutions to implement and enforce I/M programs, but no commitments have been made regarding the specific enforcement mechanism to be used. No rules, ordinances, or other documentation representing a commitment to enforce has been provided. Uncertainties regarding the specific enforcement mechanism have not been resolved even though they were identified in previous EPA proposals on February 19, 1980 (45 10818) and May 5, 1981 (46 FR 25112). The counties' lack of commitment to the I/M programs is also evidenced by the fact that implementation schedules have not been met. Regulations implementing the program have not been adopted according to the submitted schedules. Salt Lake County has failed to meet its own date for distributing requests for proposals for its contract-run centralized programs. Both counties are at least one year behind schedule. EPA therefore believes that neither county has demonstrated a sufficient commitment to implementation and enforcement of an I/M program as required by Section 172(b)(10).

C. Schedule

On June 2, 1981, the Davis County Board of Health passed a resolution which extended its I/M implementation date until December 31, 1982. EPA was informed of this action in Davis County's comment letter on EPA's May 5, 1981, proposal. The rationale for the decision, which was based primarily on the desire for increased coordination with neighboring Salt Lake County, was provided to EPA on November 18, 1981.

EPA policy allows for a December 31, 1982, deadline only if a centralized program is planned. Davis County has selected a decentralized approach which, according to EPA policy, must be in place by December 31, 1981. EPA believes that its current policy on implementation deadlines is consistent with the requirements of Section 172(b)(2) which requires that "all reasonably available control measures * * *" be implemented "as expeditiously as practicable." EPA believes that necessary coordination between the two counties would have taken place within the timeframe established by EPA policy. Therefore, EPA is proposing to disapprove the revised implementation schedule.

Although the Salt Lake County schedule contains all key milestones, they have not been met. In fact, the County is approximately one year behind. Request for proposals have not yet been issued for the centralized program and regulations have not been drafted. A conditional approval is inappropriate because it is virtually impossible that the December, 1982 deadline can be met even if the schedule were revised.

Disapproval of the plan will result in continuation of the ban on construction or modification of major stationary sources in the CO and ozone nonattainment areas of Salt Lake and Davis Counties (Section 110(a)(2)(I) of the Clean Air Act).

The Clean Air Act also authorizes EPA to restrict certain federal funds from areas if reasonable efforts are not being made to submit an adequate SIP. If EPA determines that reasonable efforts are not being made, Section 176(a) of the Act states that "The Administrator shall not approve any projects or award any grants authorized by this Act and the Secretary of Transportation shall not approve any projects or award any grants under Title 23, United States Code, other than for safety, mass transit, or transportation improvement projects related to air

quality improvement or maintenance." In addition, under section 316 of the Act, EPA may condition, restrict or withhold wastewater treatment construction grants in areas where an approved SIP is not in effect Prior to applying this limitation EPA will publish a proposed rulemaking and request comments on its determination. See 45 FR 24692 and 45 FR 53382 (1980).

Under 5 U.S.C. 605b, I certify that this disapproval does not have a significant economic impact on a substantial number of small entities. Any economic impact would be a result of a separate EPA action. The construction ban has been in effect since July, 1979.

Under Executive Order 12291, this action is not Major. It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the Region VIII office of EPA.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act (42 U.S.C. 7410).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hycarbons, Intergovernmental relations.

Dated: June 2, 1982.

Steven J. Durham,

Regional Administrator.

[FR Doc. 82-25141 Filed 9-21-82; 8:45 am]

BILLING CODE 6560-50-M

federal register

Wednesday
September 22, 1982

Part IV

Department of Agriculture

Agricultural Marketing Service

Standards for Grades of Carcass Beef and Standards for Grades of Slaughter Cattle

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 53 and 54

Standards for Grades of Carcass Beef and Standards for Grades of Slaughter Cattle

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of withdrawal.

SUMMARY: On Wednesday, December 30, 1981, the U.S. Department of Agriculture (USDA) published a notice of proposed rulemaking to revise the official U.S. standards for grades of carcass beef and standards for grades of slaughter cattle (46 FR 63052–63075). The following is the Department's decision on that proposal.

The proposal allowed until March 31, 1982, for all segments of the industry and the general public to comment. The official number of written comments that were timely received was 3,953. Also, public hearings were conducted on the proposal during February 1982, at the following locations: February 9, Salt Lake City, Utah; February 11, Atlanta, Georgia; February 16, Washington, D.C.; February 22, Des Moines, Iowa; and February 25, Dallas, Texas. A total of 95 persons made statements at these hearing sessions and transcripts of all statements were made. Those transcripts, as well as all submitted comments, are public information available to anyone caring to review them at the Agricultural Marketing Service, USDA.

Since 1927, the USDA has viewed its role in beef grading as providing a service to the meat industry, for a fee, that best represents what the beef producers, manufacturers, wholesalers, marketers, and the consuming public needs, understands, and wants. The beef grades are intended to facilitate the orderly and efficient marketing of livestock and beef by providing a common language for all users. The Department has consistently upheld the philosophy that beef grade standards cannot be static; they must be dynamic to be of the greatest value to all users of the system, from the producer to the consumer. As new technology has emerged and as consumers' tastes and desires have changed, the Department has kept with this philosophy by modernizing the standards as necessary to meet the changing needs of the users of the system. It is further the desire and obligation of this Administration to provide the type and nature of service that best reflects the identifiable and agreed upon wishes of the indusry in marketing beef to a knowledgeable and satisfied consuming public. Marketing is not good marketing unless the consumer is satisfied.

For the reasons set forth below, the Department has decided to withdraw the proposed beef grade changes, and to implement no changes in this voluntary, user-paid-for service at this time.

DATE: This withdrawal is effective September 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. John Ford, Deputy Assistant Secretary for Marketing and Inspection Services, 242–E Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250; (202) 447–7813.

SUPPLEMENTARY INFORMATION:

Background

The Federal grading of beef is a voluntary service, provided under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), which is designed to facilitate the marketing of livestock and meat. Beef grades are intended to segregate the beef supply into groups of carcasses with similar attributes of palatability and yields of cuts. These are the criteria that generally are of primary concern to consumers and the beef industry as they affect the acceptability of beef and to a great extent the ultimate price and consumption of beef. Beef grades have served as useful marketing tools since the voluntary beef grading and stamping service was begun in May 1927. Grades provide a common language and basis for marketing of livestock and meat as well as providing an opportunity for consumer desires to be communicated through the marketing channels so that necessary changes in livestock feeding and production may be made.

Beef grading is voluntary, and not all beef marketed is graded. In 1981, approximately 55 percent of commercial beef production was graded. However, approximately 75 percent of the fed-beef supply was graded. Fed beef is the portion of the beef supply which provides most of the beef available to consumers as retail cuts. Non-fed beef is generally regarded as manufacturing beef and used in sausage, ground beef, and other prepared-type products. Of the beef that was graded in 1981, approximately 5 percent was Prime, 90 percent was Choice, and 4 percent was Good. Most of the fed-beef supply that was not graded would fail to meet the requirements for Prime or Choice. Such fed beef is generally equivalent to the Good grade but is marketed ungraded (commonly referred to as "no rolls").

When beef is voluntarily graded, the official grade consists of both a quality grade and a yield grade. The quality grades are intended to identify differences in the palatability of cooked beef principally through the characteristics of marbling and maturity. The official USDA quality grades are Prime, Choice, Good, Standard, Commercial, Utility, Cutter, and Canner. The yield grades identify differences in the percentage of product that may be obtained from a carcass. The official USDA yield grades are denoted by numbers 1 through 5 with Yield Grade 1 representing the highest yield of cuts (highest cutability).

Since grading is a tool to facilitate marketing, grades should identify segments of the beef supply that have similar attributes of importance to purchasers; e.g., a superior level of palatability or yield for which a value differential should exist. Thus, grading can provide a means of identifying and communicating users' desires throughout the industry. Grades should be as compatibile as possible with efficient production practices although the most desired grade(s) is not necessarily the most efficient to produce. In addition, grades should be based on criteria that can be evaluated as rapidly and accurately as possible while still identifying attributes of importance.

The Department's Current Proposal

Recommendations for changes in the standards may be initiated by the Department or by interested parties; however, before giving consideration to proposing changes, the Department must be assured that such changes would potentially improve the standands. When it appears that a change is warranted, a proposal is published and interested parties are provided an opportunity to comment. A decision regarding adoption of the proposed change is made only after receipt and analysis of all timely received comments.

Events and Concerns Leading to the USDA Proposal. In April 1981, the Department received a formal petition from the National Cattlemen's Association (NCA) that asked for consideration and appropriate action on a resolution "to improve and modernize the USDA Beef Grading Standards." Other formal and informal proposals have also been received. The NCA petition maintained that the current grading system inhibits the production of leaner beef and leads to the overfattening of some cattle and to economic inefficiencies. The NCA petition suggested that their revision of the current standards would lower production costs by reducing the

average feeding time by 15 to 30 days and at the same time provide a product that is as acceptable as the product in the current grades and more in line with consumer desires for leaner beef.

Subsequent to the beef grade changes promulgated in March 1975, the Department initiated a major study of beef quality in cooperation with Texas A&M University, Colorado State University, and Iowa State University. This study, involving over 1,000 beef carcasses, was completed in early 1981 and was the most comprehensive study of grades, grade factors, and beef palatability ever conducted. The Department used an analysis of that study, along with all other available information, in developing its current proposal. The Department concluded that the proposed standards for the Prime and Choice grades would not significantly lower the overall palatability (tenderness, juiciness, and flavor) for those two grades. Therefore, for the most part, the analysis assumed that there would not be a shift in demand due to the proposed changes in the standards. The one available consumer survey that looked at the 1976 change, a change of similar magnitude to this proposed change, did not find any significant changes in purchasing patterns due to the 1976 revisions in the grade standards.

Furthermore, the Department does acknowledge the apparent inefficiencies in a system that produces excess fat that must be created, chilled, and transported only to be trimmed off before the final product appears in the meat counter of a retail store. While there is not a direct cause and effect relationship, there is some evidence that the existing standards do have an influence on the production system that at times produces a relatively high percentage of overfat cattle.

A panel discussion at the National Beef Grading Conference held in Ames, Iowa, in January 1981, concluded that most cattle are sold based on an estimated percentage of Choice in conjunction with weight and number of days on feed. Most cattle are fed until the feeder or buyer estimates that 75 percent or more of the lot or pen will grade Choice. This normally occurs at market weights of 1,050 to 1,200 pounds depending on the size, age, and breed of cattle. At the same time as the cattle are developing the marbling to grade Choice, they are also developing increased exterior and seam fat. The NCA and some other segments of the beef industry have concluded that with the existing grade standards it is generally impossible to achieve the goal of 75 percent or more Choice without producing a relatively high percentage of Yield Grade 4 and Yield Grade 5 cattle that are discounted for being overfat.

Even though most fed cattle may be marketed only after they reach the goal of 75 percent or more Choice, the cattle feeder's profits are still based on considerations of marginal costs and marginal revenues. As cattle approach the traditional market weights of 1,050 to 1,200 pounds, marginal costs are increasing because of decreases in feed efficiency (pounds of grain required per pound of gain). Marginal revenues are simultaneously affected by rising and falling market prices, by premiums paid for Choice cattle over Good cattle, and by discounts for Yield Grade 4 and 5 cattle. These premiums and discounts change over time. For example, over the most recent 4 years preceding the Department's proposal, premiums for Choice slaughter cattle over Good cattle averaged from $3 to $5 per hundred pounds. However, in early February 1981, prices for Good and Choice cattle differed by only $2 dollars per hundred pounds based on the price quotations from certain central markets. These price quotations are based on the slaughter cattle standards. Since 1975, the discounts for Yield Grade 4 and 5 cattle have varied considerably. Prior to 1975, the discounts were less than estimated value differences. The discounts have now increased to often reflect or even exceed the expected value differences. Under certain market conditions, cattle are fed to a point where the total discounts exceed the total premiums. Feeding to a goal of 75 percent or more Choice is one of several factors than can contribute to that type of situation.

Based on a sample of 1,287 carcasses examined in late 1980 and early 1981, the Department estimates that almost 23 percent of fed cattle slaughtered at that time produced a carcass that was either Yield Grade 4 or Yield Grade 5. In 1980, there were approximately 24 million fed steers and heifers slaughtered. This slaughter level produced an estimated 5.5 million Yield Grade 4 or Yield Grade 5 carcasses. An examination of wholesale dressed meat prices in 1980 shows that typical discounts for these carcasses ranged from $12 to $15 per hundred pounds. Assuming that these heavier carcasses averaged 750 pounds, then the total discount for these 5.5 million carcasses would probably have been between $500 and $800 million. These cattle cost as much, if not more, to produce than cattle with more desirable yield grades. It is believed that most of this loss in revenue was borne by the cattle feeder because buyers estimate the number of Yield Grade 4 and 5 cattle when they offer price quotations.

There is a significant portion of the industry that suggests cattle feeders cannot produce leaner beef under the current standards. This is probably true as long as the target goal for feeders is 75 percent or more Choice. The number of overfat cattle could, however, be reduced through improved production practices or if this goal was lowered to 50 to 60 percent Choice. It is not clear whether this goal is set by the production side of the industry or by the consumer side.

The current proposal would have provided feeders with the opportunity to feed to a constant percentage of Choice with less time on feed. With shorter feeding times, overall profitability in the long term should increase because (1) overall feed efficiency would go up for lighter market weights, and (2) the total discounts for Yield Grade 4 and 5 carcasses should go down as fewer are produced.

However, the impacts of the current proposal were highly dependent on the resultant change in feeding patterns. The Department recognizes that there are differences in opinion as to (1) the number and types of feedlot operations that would change feeding patterns in response to a change in the grade standards, and (2) the magnitude of that response in terms of the reduction in average time on feed.

The Department projected, as one of several "best cases", that the average time on feed for approximately half of fed cattle would be reduced by approximately 15 days, or that the overall average time on feed would be reduced by approximately 7 days. The estimated short-term impacts of this projected case are summarized below:

If all fed cattle were fed 7 days less, there would be a 1.7 percent decrease in total live weight, a 2.1 percent decrease in carcass weight, and a 1.4 to 1.8 percent decrease in the supply of closely trimmed retail cuts. Total feed costs would be reduced by almost 5 percent or over $200 million. This represents a decrease in overall production costs of 1.1 percent. It was also estimated that the average yield grade would be decreased by 0.1 to 0.15. With this amount of shift in average yield grade, an estimated 3 to 4 percent of fed cattle would move from Yield Grade 4 down to Yield Grade 3, potentially decreasing overall discounts by 13 to 17 percent. Under this response, it was estimated that the percentage of Choice cattle would rise from 64 percent to 74 percent

and that the percentage of Good cattle would decrease from 28 percent to 12 percent of the fed-beef supply. This could affect the premiums paid for Choice cattle.

The Department's proposal was essentially based upon these two conclusions: (1) That slightly reduced feeding time could result in a product that was less expensive to produce; and (2) that the change would not result in a significant lessening of palatability of Prime and Choice. Stated another way, it appeared that production costs could be lowered while maintaining acceptable palatability levels. With this possibility in mind, the Department published its proposal.

Summary of the USDA Proposal

—Minimum marbling requirements for the Prime, Choice, and Good grades in A maturity beef (cattle up to approximately 30 months of age) would be reduced to minimum moderate, typical slight, and minimum traces marbling, respectively.

—All young beef inferior to the minimum requirements for the Good grade would be graded Utility.

—The Standard grade would be eliminated.

—In the Prime, Choice, and Good grades, the rate of increase in marbling requirements in B maturity beef (from cattle approximately 30 to 42 months of age) would be doubled. (The relationship between marbling and maturity would increase from 1:1 to 2:1.)

—Quality grade requirements for bullock (young bull) beef would be changed to remain the same as those for steer, heifer, and cow beef in A maturity. However, bullock beef still would be identified as a separate class.

—Related standards for slaughter cattle would be changed to reflect the changes made in the standards for carcass beef.

—No changes would be made in the yield grade section of the standards.

Public Response to the Department's Proposal

The following tables present a breakdown of the public response to the Department's proposed changes. A complete summary of the comments is contained in the public record and is available for public inspection at the Livestock, Meat, Grain, and Seed Division, AMS, USDA.

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Table 1. Distribution of Comments

Table 2. Comments in favor of or opposed to adoption of [illegible] proposed changes.

Table 1. Distribution of Comments

Sector	Written[1]		Hearing		Total	
	Organizations[2]	Individuals	Organizations[2]	Individuals	Organizations[2]	Individuals
Consumer	0	2576	1	1	1	2577
Livestock Production	50	246	34	8	84	254
Meat Packing	3	10	11	4	14	14
NRI Supplier	6	172	2	6	8	178
NRI User	21	749	8	8	29	757
Retail	2	50	1	2	3	52
Academic	0	32	0	4	0	36
Others	0	36	0	5	0	41
Total	82	3871	57	38	139	3909
	3953		95		4048	

[1]Statements presented on behalf of more than one organization or sector were recorded under the category believed to represent the respondent's primary interest.

[2]Includes all individual statements presented on behalf of organizations. Several organizations had more than one person present the organization's comments.

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Table 2. Comments in favor of or opposed to adoption of USDA proposed changes.

Sector	Written Comments[1]						Hearing Comments[2]					
	Favor		Favor with Modification[3]		Oppose[4]		Favor		Favor with Modification[3]		Oppose[4]	
	n	%	n	%	n	%	n	%	n	%	n	%
Consumer												
Individuals	63	2.5	4	0.2	2486	97.4	0	—	0	—	1	100.0
Organizations	0	—	0	—	0	—	0	—	0	—	1	100.0
Livestock Production												
Individuals	25	10.2	105	43.3	114	46.5	2	25.0	1	12.5	5	62.5
Organizations	1	2.0	27	55.1	21	42.9	2	6.1	25	75.8	6	18.2
Meat Packing												
Individuals	1	11.1	2	22.2	6	66.7	0	—	3	75.0	1	25.0
Organizations	0	—	1	33.3	2	66.7	0	—	9	81.8	2	18.2
NRI Supplier												
Individuals	2	1.2	0	—	170	98.8	0	—	0	—	5	100.0
Organizations	0	—	0	—	6	100.0	0	—	0	—	2	100.0
NRI User												
Individuals	2	0.3	0	—	747	99.7	0	—	0	—	8	100.0
Organizations	0	—	0	—	21	100.0	0	—	0	—	8	100.0
Retail												
Individuals	0	—	0	—	50	100.0	0	—	0	—	2	100.0
Organizations	0	—	0	—	1	100.0	0	—	0	—	0	—
Academic												
Individuals	2	6.7	3	10.0	25	83.3	1	25.0	0	—	3	75.0
Other												
Individuals	0	—	2	5.9	32	94.1	0	—	1	25.0	3	75.0
Total	96	2.4	145	3.7	3681	93.9	5	5.4	39	42.2	48	52.2

[1]Includes all written comments except 31 which were nonresponsive or noncommittal regarding the proposed changes.

[2]Includes all hearing comments except 3 which were nonresponsive or noncommittal regarding the proposed changes.

[3]Includes all comments that generally favored the USDA or NCA alternatives.

[4]Includes all comments opposed to USDA or NCA alternatives and all those that favored the present or pre-76 standards and the "New Grade" or "New Name" alternatives.

Factors of the Department's Decision

The Department's role in providing the beef industry the voluntary, user fee grading service is again to merely try to reflect what the users of USDA beef grades desire the service to constitute. Since this service is a marketing tool, it is obvious that consumer opinion is vitally important to this process, regardless of whether that opinion is based upon fact or perception.

Of the livestock producer organizations submitting written comments, 55 percent favored the USDA proposal with modifications, but 43 percent opposed the USDA proposal. Of individual livestock producers submitting written comments, 10 percent favored the proposal, 43 percent favored with modifications, and 46 percent opposed the USDA proposal. The USDA proposal was further opposed by 100 percent of all individual retailers submitting written comments, nearly 100 percent of all Hotel, Restaurant, and Institutional (HRI) trade user individuals and organizations, approximately 100 percent of all HRI supplier individuals and organizations, and 8 of the 12 meat packers or meat packing organizations responding. Individual consumers submitting written statements opposed the proposal by 97.4 percent (2,486 comments) and approved the proposal by 2.5 percent (63 comments).

A significant portion of the individuals and organizations submitting testimony or comments stated that they appreciated the purpose of the USDA proposal—that being the USDA objective of encouraging the production and availability of leaner, less expensive beef. The Department certainly wants to encourage a better market for leaner beef at a savings to both producer and consumer alike, by the general trend of the comments expressed a desire for the Department to focus on encouraging consumption of lean beef because of, not in spite of, the lesser fat content.

USDA stated in the Preliminary Regulatory Impact Analysis for this grade change proposal that quality is the most important consideration for consumers in purchasing beef. The comments and testimony strongly indicated that reduced quality, or even the perception of reduced quality in beef could lead to consumer confusion and even to a lessened demand for beef. There is no question that a significant majority of those responding were opposed to the USDA proposal principally upon the issue of quality reduction, be it real or perceived.

Of concern to some responding was the breadth of a new Choice range, approximatley 75 percent of fed beef under the proposed standards. There was a feeling among some that this breadth was too all-encompassing to constitute a meaningful marketing tool and that this too could lead to consumer confusion based upon a perception of lowered quality.

The Department believes that the proposed grade changes could have benefitted purveyors and the HRI trade by identifying a larger category of Prime beef for their customers who demand top quality beef. While the opposition of a large portion of the HRI trade to the proposed change seems based more on tradition and custom than it does upon analyzation of new factual data, and while the Department feels its palatability data is sound, it is nevertheless obvious that perception of fact is important to successful marketing.

The Department does recognize that no amount of research is going to convince all parties that the fat content of beef can be slightly lowered without a significant loss of palatability, or that slightly less feeding can produce a similarly desirable product at a reduced cost. Acceptance must come either through changed consumer taste, aggressive industry marketing, or both.

Continuing Concerns

In taking this action of withdrawing the proposed changes in beef grading, the Department suggests several areas of concern to all industry participants and to the consuming public.

Of concern to USDA is the movement toward disuse of USDA beef grades by retailers. In recent years, retailers have shown an increased tendency to change or modify merchandising programs for reasons other than grading. If retailers or wholesalers find they must purchase graded beef, where they previously purchased ungraded or "no roll" beef, the added cost due to the grading service is only a tenth of a cent per pound. The Department feels the Federal grading system has served industry and consumers well, and will closely monitor this trend in the months ahead.

Furthermore, the Department is concerned about the profitability involved in providing the American consumer with adequate supplies of fairly priced beef at the quality level desired. High interest rates, inflation, and a decrease in the amount of discretionary dollars in the consumer budget have created an economic situation where raising and feeding cattle have been relatively unprofitable in recent years. This has occurred during the phase of the cattle cycle that has traditionally been the most profitable. The cattle feeding industry has two basic problems to solve that are related. They are: (1) Finding ways to produce cattle at reduced costs; and (2) finding and maintaining an overall production (supply) level that leads to a quantity-price relationship on the demand side that makes the production level profitable to produce. If feeding cattle continues to be unprofitable, feeders may significantly cut back on operations leading to far more significant impacts on retail prices. Consumers and industry alike have a stake in profitability. The Department does not expect to see major changes in feeding patterns under the current standards. Some proponents of the existing standards believe that many of the objectives of the proposed changes could be achieved by an extensive educational and promotional campaign extolling the virtues of Good grade beef or by changing the Good name in order to avoid the perceived consumer and industry aversion to its connotation. There was widespread support in the oral testimony and in the written comments for either increased marketing efforts for USDA Good beef or development of a new "lean" grade. The "new grade" concept had much support, and should be addressed by the industry in the future.

The Department feels these concerns, as well as others, should be immediately and continually addressed by the entire beef industry. The Department will closely monitor the health and applicability of USDA beef grades in the months ahead, and will offer new proposals of change and adjustment if such seem appropriate. The Department furthermore will remain willing to work with committees or research groups representing all segments of the industry—producers, packers, the HRI trade, retailers, and consumers—to further study USDA beef grades in an attempt to devise more acceptable proposals in the future and as the need may arise.

However, it is primarily the responsibility of the entire beef industry to work together and with the

consuming public to assist the Department in continually modernizing USDA beef grades so that consumer confidence and industry acceptance are maintained.

In consideration of the foregoing, the proposal published in the **Federal Register** (46 FR 63052–63075) on December 30, 1981, is hereby withdrawn.

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Done at Washington, D.C., on September 20, 1982.

John E. Ford,

Deputy Assistant Secretary for Marketing and Inspection Services.

[FR Doc. 82-26255 Filed 9-21-82; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
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S.J. Res. 194 / Pub. L. 97–260 To provide for the appointment of Nancy Hanks as a citizen regent of the Board of Regents of the Smithsonian Institution. (Sep. 18, 1982; 96 Stat. 1101) Price: $1.75.

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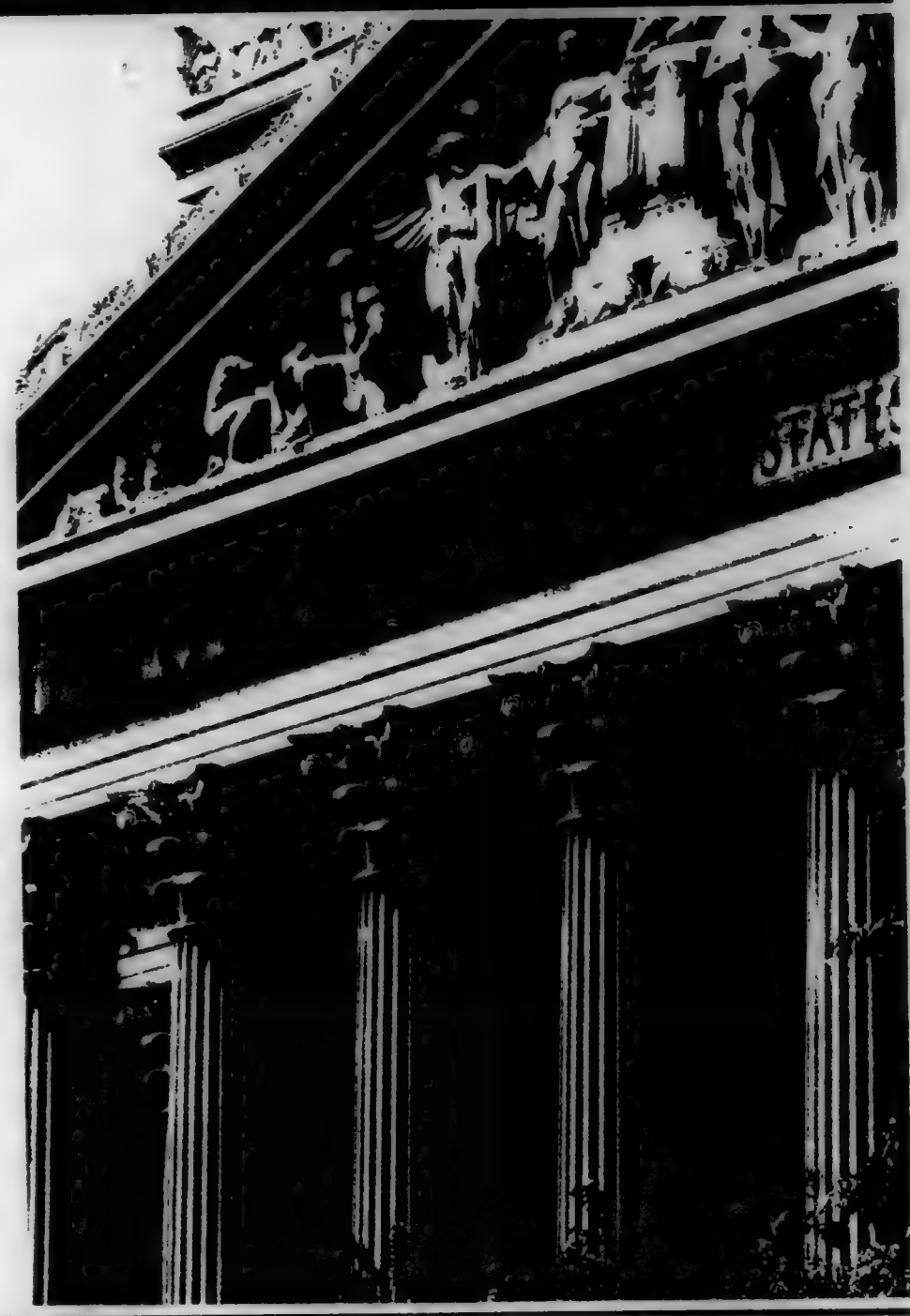
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federal register

Thursday
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Environmental Protection Agency

Aviation Safety
Federal Aviation Administration

Bridges
Coast Guard

Flood Insurance
Federal Emergency Management Agency

Loan Programs—Agriculture
Farmers Home Administration

Loan Programs—Housing and Community Development
Veterans Administration

Marine Safety
Coast Guard

Motor Vehicles
National Highway Traffic Safety Administration

Public Lands
Land Management Bureau

Railroad Safety
Federal Railroad Administration

Securities
Securities and Exchange Commission

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Presidential Documents

Title 3—

The President

Proclamation 4973 of September 21, 1982

Honoring the Ukrainian Helsinki Monitoring Group

By the President of the United States of America

A Proclamation

The spontaneous formation on November 9, 1976, in Kiev, Ukraine, of the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords affirmed once more that the human spirit cannot be crushed and that the desire for human freedom cannot be conquered.

The long prison terms meted out to members of the Ukrainian Helsinki Monitoring Group for their courageous activities to secure greater freedom in Ukraine are graphic testimony to the inability of Communism to compete with the principles of freedom in the marketplace of ideas. The flagrant persecution and imprisonment of Ukrainian citizens for their attempts to exercise basic human rights is an international embarrassment to the Soviet Union and proof that the Soviet Union has failed to live up to its pledges to honor the understandings embodied in the Helsinki Accords.

In commemorating this sixth anniversary of the founding of the Ukrainian Helsinki Monitoring Group, we renew our determination never to forget the valiant struggle of the peoples of Ukraine for their inalienable rights, and we pledge to do all we can to ameliorate the plight of those Ukrainians who have been persecuted by the Soviet authorities for attempting to assert their rights.

By a concurrent resolution agreed to on June 21, 1982 (H. Con. Res. 205), the Congress authorized and requested the President to proclaim November 9, 1982, the sixth anniversary of the establishment of the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords, as a day honoring that Group.

On this day Americans are reminded of the preciousness of our own freedom, and we reaffirm our cherished hope that the aspiration for freedom will ultimately prevail over the morally bankrupt rule of force which denies human rights to so many in the world today.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate November 9, 1982, as a day honoring the sixth anniversary of the establishment of the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of Sept. in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

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Rules and Regulations

Federal Register
Vol. 47, No. 185
Thursday, September 23, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF TRANSPORTATION

14 CFR Part 39

Federal Aviation Administration

[Docket No. 80-ANE-36; Amdt. 39-4464]

General Electric Company CF6-45 Series and CF6-50 Series Model Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: Emergency telegraphic Airworthiness Directives (TADs) were issued on July 25, 1980, February 19, 1981, February 23, 1982, and April 9, 1982, requiring inspections and, in some cases, rework of certain stage one and stage two high pressure turbine (HPT) disks on General Electric CF6-45 and CF6-50 series model engines, in order to prevent disk failure because of low cycle fatigue cracking of the disk embossments. This AD, which combines and supersedes the requirements of the previous TADs, is hereby published in the **Federal Register** as an amendment to Section 39.13 of Part 39 of the Federal Aviation Regulations.

DATES: Effective date—The TADs were effective upon receipt. This amendment is effective October 31, 1982. Comments on the rule must be received on or before October 29, 1982. Compliance schedule—as prescribed in the text of the AD.

ADDRESSES: The applicable Service Bulletins, (CF6-50/-45) 72-700, dated November 20, 1980, and 72-709, dated February 19, 1981, may be obtained from General Electric Company, Neumann Way, Cincinnati, Ohio 45215.

Send comments on the rule to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attn: Rules Docket No. 80-ANE-36, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Arthur W. Nelson, Transport Engine Section, ANE-141, Engine Certification Branch, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7347.

SUPPLEMENTARY INFORMATION:

Prior Regulatory History

Pursuant to the authority delegated by the Administrator, emergency TAD No. T80-16-51, applicable to operators of General Electric CF6-45 and -50 series model engines, was adopted on July 25, 1980. This action was required as a result of a reported instance of a first stage HPT disk failure due to low cycle fatigue which initiated in an embossment radius irregularity. The TAD required the inspection of all first and second stage HPT disks in which the potential for radius irregularities was known to exist.

Emergency TAD No. T81-05-51, also applicable to operators of General Electric CF6-45 and CF6-50 series model engines, was adopted on February 19, 1981, when it was subsequently found that similar cracks existed in disks without radius irregularities. This TAD required fluorescent penetrant inspection of all first stage disks not affected by the earlier TAD. A third emergency TAD No. T82-05-51, also applicable to operators of General Electric CF6-45 and CF6-50 series model engines, was adopted on February 23, 1982, when a number of first state HPT disks were found to be cracked with fewer cycles in service than the threshold or repetitive inspection intervals previously specified. This third TAD required reductions in the initial fluorescent penetrant inspection times for disks with both MPO and MTU serial numbers, as well as a reduction in the reinspection time periods, and discontinued the previously imposed inspection requirements on stage 2 disks.

A fourth emergency TAD No. T82-06-51, also applicable to operators of General Electric CF6-45 and CF6-50 series model engines, was adopted on April 9, 1982, when a first stage HPT disk failed with fewer cycles since inspection than the required repetitive inspection interval. In addition, the results of recent disk inspections indicated that certain disks had more rapid embossment cracking than previously predicted. This fourth TAD required fluorescent penetrant inspections of certain first stage HPT disks with reduced initial and repetitive inspections. In order to improve embossment crack detection, two complete independent inspections were required each time a disk is inspected.

All TADs required the removal from service of any disk with crack indications.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impractical and contrary to the public interest, and good cause existed for making the four TADs effective immediately. Since these conditions still exist, the requirements of the four TADs have been combined, and the final rule is hereby published in the **Federal Register** as an Amendment to Section 39.13 of Part 39 of the Federal Aviation Regulations to make it effective to all persons.

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended

by adding the following new AD which combines and supersedes previous TAD Nos. T80-16-51, T81-05-51, T82-05-51, and T82-08-51.

General Electric Company. Applies to CF6-45 series and -50 series model turbofan engines.

Compliance required as indicated unless already accomplished.

Inspect all first stage HPT disks, P/Ns 9045M34P07 and 9045M34P09, for cracks in accordance with General Electric CF6-45/50 Engine Service Bulletin 72-700, dated November 20, 1980, or Alert Service Bulletin 72-709 dated February 19, 1981, or later revision approved by the Manager, Engine Certification Branch, FAA, New England Region, per the following schedule utilizing two complete independent inspections, hereafter referred to as "double inspections."

A. Disks not previously inspected shall be "double inspected" prior to reaching 2,000 cycles in service for MTU serial number disks and 3,200 cycles in service for MPO serial number disks. All disks removed from service for inspection shall be reinspected every 750 cycles in service thereafter.

B. Disks previously inspected shall be reinspected using the "double inspection" procedure prior to reaching 750 cycles in service since last inspection and every 750 cycles in service thereafter.

C. All first stage turbine disks exposed at each high pressure rotor disassembly shall be "double inspected" prior to further flight per General Electric CF6-45/50 Service Bulletins 72-700 or 72-709.

D. Disks with crack indications must be removed from service prior to further flight.

E. First stage HPT disks, P/Ns 9045M34P07 and 945M34P09, shall not be returned to service after February 1, 1984.

NOTE: For the purposes of this AD, "return to service" is defined as installation on an aircraft.

F. All MTU prefix serial numbered disks reworked per General Electric CF6-45/50 Service Bulletin 72-700 at zero cycles of service may follow the initial inspection limits for MPO prefix serial numbers. Established life limits of first stage HPT disks are not to be exceeded.

Airplanes may be ferried in accordance with the provisions of Federal Aviation Regulation 21.197 to a base where the AD can be accomplished.

Upon request of an operator, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Branch, FAA, New England Region.

The manufacturer's specifications and procedures identified and described in this directive may be obtained upon request to General Electric Company, Neumann Way, Cincinnati, Ohio 45215. These documents may also be examined at the FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts. A historical file on this AD is maintained by the FAA, New England Region Office, Burlington, Massachusetts.

This amendment becomes effective on October 31, 1981.

(Sec. 313(a), 601, 603 Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under the criteria of DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A regulatory evaluation has been prepared and placed in the regulatory docket. A copy may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Burlington, Massachusetts, on September 13, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-26173 Filed 9-22-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ASO-46]

Alteration of Transition Area, Somerset, Kentucky

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment corrects a deficiency in the description of the Somerset, Kentucky, Transition Area. This is an editorial correction and no change in airspace is intended.

DATES: Effective date: 0901 G.m.t., October 28, 1982. Comments must be received on or before October 18, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, ATTN: Manager, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P. O. Box 20636, Atlanta, Georgia 30320

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P. O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves an editorial change to correct a deficiency in the description of the Transition Area, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of the Somerset, Kentucky, Transition Area to correct an error that has gone undetected for approximately two years. In 1980, the Transition Area was amended due to a relocation of a navigational aid. The amendment (Docket No. 80-SO-42), which was effective November 30, 1980, has not been carried forward in the Compilation of Regulations which were published in Advisory Circular AC 70-3, dated January 29, 1982. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is a need for a regulation to properly describe the Somerset, Kentucky, Transition Area. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary and that good cause exists for making this amendment effective in less than 60 days after its publication in the **Federal Register.**

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., October 28, 1982, as follows:

Somerset, KY [Revised]

By deleting the following words from the description, "* * * Somerset RBN (Lat. 37°03'19"N., Long. 84°36'58"W.) extending from the 8.5-mile radius area to 8.5 miles southwest of the RBN. * * *"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a));

section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on September 13, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-26172 Filed 9-22-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AWA-4]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of several airways in the vicinity of Louisville, KY, by deleting alternate airway segments and renumbering other airway segments. This action supports our agreement with the International Civil Aviation Organization (ICAO) to eliminate all alternate airway descriptions from the National Airspace System.

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On August 2, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of several Federal Airway in the vicinity of Louisville, KY, by deleting the alternate route segments (47 FR 33278). This action supports our agreement with ICAO to eliminate all alternate route designations from our National Airspace System. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the description of several Federal Airways in the vicinity of Louisville, KY, by deleting alternate airway segments and renumbering other airway segments. This action supports our agreement with ICAO to eliminate all alternate airways from the National Airspace System.

List of Subjects in 14 CFR Part 71

Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as amended (47 FR 12155 and 20569) is further amended, effective 0901 G.m.t., December 23, 1982, as follows.

1. V-171 [Amended]

By deleting the words "From Louisville, KY, Lewis, IN, including an E alternate from Louisville to Lewis via INT Louisville 312° and Bloomington 153° radials, and Bloomington;" and substituting the words "From Lexington, KY, INT Lexington 251° and Louisville, KY 114° radials, Louisville; Lewis, IN;"

2. V-514 [New]

By adding "V-514 from Louisville, KY; INT Louisville, 312° and Bloomington, IN, 153° radials, Bloomington; to Lewis, IN,"

3. V-51 [Amended]

By deleting the words "Livingston, TN; Louisville, KY, including a W alternate from Livingston to Louisville via INT Livingston 333° and New Hope, KY, 165° radials and New Hope;" and substituting the words, "Livingston, TN; Louisville, KY;"

4. V-513 [New]

By adding "V-513 From Livingston, TN; INT Livingston 333° and New Hope, KY, 165° radials; New Hope, KY, to Louisville, KY."

5. V-67 [Amended]

By deleting the words "Knoxville; London, KY, including an E alternate via INT Knoxville 013° and London 141° radials; Lexington, KY; Cincinnati, OH, including a W alternate via INT Lexington 327° and Cincinnati 192° radials, and also an E alternate from London to Cincinnati via INT London 004° and Lexington 107° radials and Falmouth, KY;" and substituting the words, "Knoxville; London, KY; Lexington, KY; Cincinnati, OH;"

6. V-517 [New]

By adding "V-517 From Knoxville, KY; INT Knoxville 013° and London, KY, 141° radials; London; INT London 004° and Falmouth, KY, 184° radials; Falmouth; to Cincinnati, OH."

7. V-52 [Amended]

By deleting the words "Nashville, TN, including a N alternate" and substituting the words "to Nashville, TN"

8. V-5 [Amended]

By deleting the words "Nashville, TN, including an east alternate via INT Chattanooga 332° and Nashville 116° radials; Bowling Green, KY; New Hope, KY, including an east alternate from Nashville to New Hope via INT Nashville 034° and New Hope 202° radials; Louisville, KY;" and substituting for them the words "Nashville, TN; Bowling Green, KY; New Hope, KY; Louisville, KY;"

9. V-515 [New]

By adding "V-515 From Chattanooga, TN; INT Chattanooga 332° and Nashville, TN, 116° radials; Nashville; INT Nashville, 034° and New Hope, KY, 202° radials; New Hope; to Louisville, KY."

10. V-4 [Amended]

By deleting the words, "Centralia, IL; Pocket City, IN; including an S alternate; Louisville, KY, including an N alternate via INT Pocket City 068° and Louisville 280° radials; Lexington, KY, including an N alternate via INT Louisville 081° and Lexington 303° radials and also an S alternate via INT Louisville 114° and Lexington 251° radials; Newcombe, KY; Charleston, WV; Elkins, WV, including an S alternate via INT Charleston 063° and Elkins 228° radials;" and substituting for them the words, "Centralia, IL; Pocket City, IN; Louisville, KY; Lexington, KY; Newcombe, KY; Charleston, WV; Elkins, WV;"

11. V-512 [New]

By adding "V-512 From Pocket City, IN; INT Pocket City 068° and Louisville, KY, 280° radials; Louisville, INT Louisville 081° and Lexington, KY, 303° radials; Lexington; Newcombe, KY; Charleston, WV; INT Charleston 063° and Elkins, WV, 228° radials; to Elkins."

12. V-511 [New]

By adding "V-511 Dyersburg, TN; INT Dyersburg 006° and Cunningham, KY, 224° radials; Cunningham; INT Cunningham 056° and Pocket City, IN 206° radials, Pocket City; INT Pocket City 046° and Bloomington, IN, 205° radials, Bloomington; INT Bloomington 025° radials, and Indianapolis 185° radials to Indianapolis."

13. V-67 [Amended]

By deleting the words "Dyersburg, TN; Cunningham, KY;" and substituting for them the words "Dyersburg, TN; INT Dyersburg 096° and Cunningham, KY, 187° radials, Cunningham;"

14. V-182 [Amended]

By deleting the words, "Terre Haute, IN" and substituting for them the words "Terre Haute, IN, INT 079° and Indianapolis, IN, 230° radials to Indianapolis."

15. V-14 [Amended]

By deleting the words, "Indianapolis, IN, including an S alternate via INT of Terre Haute 079° and Indianapolis 230° radials;" and substituting for them the words "Indianapolis, IN;"

16. V-140 [Amended]

By deleting the words "Nashville, TN, Livingston, TN, including a south alternate via INT Nashville 085° and Livingston 226° radials;" and substituting for them the words "Nashville, TN; to Livingston, TN;"

17. V-35 [Amended]

By deleting the words "Charleston, WV, including an E alternate via Bluefield, WV;" and substituting for them the words "Charleston, WV;"

18. V-519 [New]

By adding "V-519 From Knoxville, TN; INT Knoxville, 050° and Glade Springs 246° radials; Glade Springs; to Bluefield, WV."

(Secs. 307(a) and 313(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on September 15, 1982.

John W. Baier,

Acting Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-26009 Filed 9-22-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AWA-3]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration and Designation of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of Federal Airway V-2 between Dickinson, ND, and Rochester, NY, by deleting alternate airway segments and renumbering other airway segments. This action supports our agreement with the International Civil Aviation Organization (ICAO) to eliminate all alternate airway descriptions from the National Airspace System.

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On August 12, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of Federal Airway V-2 between Dickinson, ND, and Rochester, NY, by deleting the alternate route segments (47 FR 35002). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the description of Federal Airway V-2 between Dickinson, ND, and Rochester, NY, by deleting the alternate route segments. This action supports our agreement with ICAO to eliminate all alternate route segments from the National Airspace System.

List of Subjects in 14 CFR Part 71

Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409) is amended, effective 0901 G.m.t., December 23, 1982, as follows:

V-2 [Amended]

By deleting the words "Dickinson, ND; 10 miles, 60 miles, 38 MSL, Bismarck, ND, including an N alternate from Dickinson, 10 miles 38 MSL INT Dickinson 078° and Bismarck 290° radials, 28 miles, 38 MSL, to Bismarck; 14 miles, 62 miles, 34 MSL Jamestown, ND, including an N alternate from Bismarck 14 miles, 65 miles, 34 MSL, Jamestown; 7 miles, 43 miles, 28 MSL, Fargo, ND, including an N alternate from Jamestown, 7 miles, 46 miles, 28 MSL, Fargo; Alexandria, MN, including an N alternate, Gopher, MN; Nodine, MN, including an N alternate; Lone Rock, WI, including a south alternate via INT Nodine 159° and Lone Rock 286° radials; Madison, WI; Badger, WI; Muskegon, MI, including an S alternate via INT Badger 102° and Muskegon 252° radials, Lansing, MI, including an S alternate from Muskegon to Lansing via INT Muskegon 154° and Grand Rapids, MI, 284° radials and Grand Rapids (7 miles wide, 3 miles north and 4 miles south of centerline); Grand Rapids to Lansing; Salem, MI, including an N alternate via INT Lansing 091° and Salem 308° radials;" also, "Buffalo; Rochester, NY, including a north alternate via INT of Buffalo 045° and Rochester 273° radials;" and substituting for them the words, "Dickinson, ND; 10 miles, 60 miles, 38 MSL, Bismarck, ND; 14 miles, 62 miles, 34 MSL Jamestown, ND; Fargo, ND; Alexandria, MN; Gopher, MN; Nodine, MN; Lone Rock, WI; Madison, WI; Badger, WI; Muskegon, MI; Lansing, MI; Salem, MI;" and "Buffalo; Rochester, NY;" respectively.

V-510 [New]

By adding "V-510 From Dickinson, ND; INT Dickinson 078° and Bismarck, ND, 290° radials, 28 miles, 38 MSL Bismarck; INT Bismarck 067° and Jamestown, ND, 279° radials, 14 miles, 65 miles, 34 MSL, Jamestown; Fargo, ND; INT Fargo 110° and Alexandria, MN, 321° radials; Alexandria; Gopher, MN; INT Gopher 116° and Nodine, MN, 328° radials; Nodine; Lone Rock. From Muskegon, MI; INT Muskegon 154° and Grand Rapids, MI, 284° radials, Grand Rapids (7 miles wide, 3 miles N and 4 miles S of the centerline); Grand Rapids; Lansing, MI; INT Lansing 091° and Salem, MI, 308° radials; Salem. From Buffalo, NY, INT Buffalo 045° and Rochester, NY, 273° ; Rochester."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on September 15, 1982.

John W. Baier,

Acting Manager, Airspace and Air Traffic Rules Division

[FR Doc. 82-26002 Filed 9-22-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ASW-41]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area: Marksville, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area at Marksville, LA. The intended effect of the amendment is to provide the proper controlled airspace for aircraft executing a new instrument approach procedure to the Marksville Municipal Airport. This amendment is necessary since there is a proposed change in the standard instrument approach procedure (SIAP) using the nondirectional radio beacon (NDB).

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On July 19, 1982, a notice of proposed rulemaking was published in the **Federal Register** (47 FR 31287) stating that the Federal Aviation Administration proposed to alter the Marksville, LA, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3 dated January 29, 1982, is amended, effective 0901 G.m.t., December 23, 1982, as follows:

Marksville, LA [Revised]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Marksville NDB (latitude 31°05'39" N., longitude 92°04'17" W.) and within 3 miles each side of a 224° bearing from the Marksville NDB extending from the 5-mile radius area to 8 miles southwest of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 1103; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) it is certified that the rule will not have a significant economic impact on a substantial number of small entities as the anticipated impact is minimal.

Issued in Fort Worth, TX, on September 13, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-26166 Filed 9-22-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ASW-45]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area: Orange, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area at Orange,TX. The intended effect of the amendment is to provide proper controlled airspace for aircraft executing a new instrument approach procedure to the Orange Airport. This amendment is necessary since there is a proposed change in the standard instrument approach procedure (SIAP) to the Orange Airport using the Beaumont VORTAC.

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On July 26, 1982, a notice of a proposed rulemaking was published in the **Federal Register** (47 FR 32155) stating that the Federal Aviation Administration proposed to alter the Orange, TX, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3 dated January 29, 1982, is amended, effective 0901 G.m.t., December 23, 1982, as follows:

Orange, TX [Amended]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Orange Airport (latitude 30°04'11" N., longitude 93°48'23" W.).

Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); section 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 1103; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) it is certified that the rule will not have a significant economic impact on a substantial number of small entities as the anticipated impact is minimal.

Issued in Fort Worth, TX, on September 13, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-26167 Filed 9-22-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ASW-37]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Transition Area: Grove, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: The nature of the action being taken is to correct an editorial error which occurred in a final rule. The intended effect of the action is to properly describe a transition area designated by the final rule. The circumstances which created the need for the action are a mistake in the geographical coordinates which designated the Grove, OK, transition area.

EFFECTIVE DATE: September 23, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 82-23340 was published on August 26, 1982 (47 FR 37376), designating the transition area at Grove, OK. Inadvertently, an error occurred in the geographical coordinates which improperly describe the transition area. This action is taken to correct the error by designating the proper location of the airspace. This correction is a minor matter upon which the public would have no particular desire to comment. Therefore, notice and public procedure are not necessary.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas.

The Rule

This correction to **Federal Register** Document 82-23340 (47 FR 37376) is made by deleting "* * * latitude 36°34'14" N.," and substituting "latitude 36°36'14" N.," to the final rule.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, the final rule, Docket Number 82-ASW-37, published in the **Federal Register** Document 82-23340, is corrected as stated above, effective upon publication.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 1103; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal, and (4) is certified that the rule will not have a significant economic impact on a substantial number of small entities as the anticipated impact is minimal.

Issued in Fort Worth, TX, on September 13, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-26100 Filed 9-22-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 75

[Airspace Docket No. 81-AGL-24]

Designation on Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; and Establishment of Jet Routes and Area High Routes; Alteration of VOR Federal Airways—Minneapolis Terminal Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes seven new airways, realigns three existing airways, and realigns two jet routes in the Minneapolis, MN, area. This action improves the arrival/departure procedures in the Minneapolis terminal area.

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On August 6, 1981, the FAA proposed to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to establish several VOR Federal Airways, realign several VOR Federal Airways, and realign two jet routes in the Minneapolis, MN, area (46 FR 40035). This action improves traffic flow in the Minneapolis terminal area. After further study, V-82 as described in the NPRM has been omitted from this final rule. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, these amendments are the same as those proposed in the notice. Sections 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Advisory Circular AC 70-3 dated January 29, 1982.

The Rule

These amendments to Parts 71 and 75 of the Federal Aviation Regulations alter several VOR Federal Airways and jet routes and establish several VOR Federal Airways in the vicinity of Minneapolis, MN, airport terminal area. This action will enhance traffic flow and reduce controller coordination problems.

List of Subjects in 14 CFR Parts 71 and 75

Airways, Jet routes.

Adoption of the Amendments

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Accordingly, pursuant to the authority delegated to me, § 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) are amended, effective 0901 G.M.T., December 23, 1982, as follows:

§ 71.123 [Amended]

1. V-410 [New]

From Gopher, MN; Gopher 100° and Eau Claire, WI, 209° radials; Eau Claire.

V-411 [New]

From Rochester, MN; Rochester 319° and Farmington MN, 184° radials; Farmington.

V-412 [New]

From Redwood Falls, MN; Redwood Falls 053° and Flying Cloud, MN, 276° radials; Flying Cloud.

V-413 [New]

From Gopher, MN; Gopher 321° and Brainerd, MN, 174° radials; Brainerd.

V-414 [New]

From Gopher, MN; Gopher 267° and Alexandria, MN, 148° radials; Alexandria.

V-416 [New]

From Gopher, MN; 321° and Alexandria, MN, 110° radials; Alexandria.

V-418 [New]

From Gopher, MN; Gopher 109° and Nodine, WI, 328° radials; Nodine.

V-2 [Amended]

After the words "Nodine, MN" by deleting the words, "including an N alternate"

V-26 [Amended]

After the words "Redwood Falls, MN, including an S alternate;" by deleting the words "Flying Cloud, MN; INT Flying Cloud 061° and Eau Claire, WI, 271° radials; Eau Claire, including a south alternate from Redwood Falls to Eau Claire via Farmington, MN" and substituting for them the words "Farmington, MN; Eau Claire, WI"

V-161 [Amended]

After the words "Rochester 243° radials;" by deleting the words "INT Rochester 356° and Gopher, MN, 116° radials;" and substituting for them the words "INT Rochester 005° and Gopher, MN, 144° radials;"

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

§ 75.100 [Amended]

J-30 [Amended]

By deleting the words "Gopher, MN," and substituting for them the words "Farmington, MN"

J-118 [Amended]

By deleting "Dubuque, IA;" and substituting the words "Dubuque, IA, INT Dubuque 306° and Gopher 155° radials,"

(Sec. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transporation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on September 15, 1982.

John W. Baier,

Acting Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-26008 Filed 9-22-82; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 82-AWA-15]

Special Use Airspace; Alteration of Oswego, NY, Restricted Area R-5203

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the description of Restricted Area R-5203, located in the Oswego, NY, area by changing the time of designation. On July 22, 1982, an amendment to R-5203 was published in the Federal Register (47 FR 31678) Airspace Docket No. 82-AEA-7, which changed the time of designation from continuous to real time periods. Due to unforeseen operational requirements, the time published failed to meet the using agency's needs. This action increases the designated utilization period by one hour (2100L to 2200L) Monday through Friday in order to meet those needs.

DATES: Effective date—September 23, 1982. Comments must be received on or before October 25, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA Eastern Region, Attention: Manager, Air Traffic Division, Docket No. 82-AWA-15, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Bill Hill, Airspace Regulations and Obstruction Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves making a minor change in the time designation of a restricted area and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic and energy aspects of the rule that might suggest the need to modify the rule. Send comments on environmental and land use aspects to: 21st Air Division, DOCOFS, Hancock Field, Syracuse, NY.

The Rule

The purpose of this amendment to § 73.52 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to change the time of designation for Restricted Area R-5203. This change increases the real time designation period by one hour on weekdays to accommodate a regularly scheduled activity which was unforseen when time reductions were made on July 22, 1982. Section 73.52 of Part 73 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982. Since this amendment makes a minor change in the real time use of R-5203, I find that notice or public procedure under 5 U.S.C. 553(b) is contrary to the public interest and that good cause exists for making this amendment effective upon publication in the Federal Register.

List of Subjects in 14 CFR Part 73

Restricted area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 73.52 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as amended (47 FR 31678), is further amended, effective 0901 G.m.t., September 23, 1982 as follows:

R-5203 Oswego, NY [Amended]

Under time of designation by deleting the words "From 0800 to 2100 local time, Monday through Friday" and substituting the words "From 0800 to 2200 local time, Monday through Friday."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of a Regulatory Flexibility Act.

Issued in Washington, D.C., on September 15, 1982.

John W. Baier,

Acting Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-26005 Filed 9-22-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 82-ASO-25]

Special Use Airspace; Establishment of Restricted Area R-2930, Cape Kennedy, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates new Restricted Area R-2930, Cape Kennedy, FL. This joint use restricted area will provide adequate protected airspace required for space shuttle recovery and astronaut training. The restricted area is intended for infrequent use in support of the NASA space program and frequent use is not authorized.

EFFECTIVE DATE: October 28, 1982.

FOR FURTHER INFORMATION CONTACT: Robert Maxey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On August 12, 1982, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to establish new Restricted Area R-2930, Cape Kennedy, FL (47 FR 35003). The restricted area is needed to provide protected airspace for space shuttle recovery and astronaut training. Astronaut training will be limited to two one and one-half hour periods per day the week prior to each shuttle launch date. Nonparticipating aircraft can expect clearance to transit the area during periods of nonuse. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 73.29 of Part 73 of the Federal Aviation Regulations were published in Advisory Circular AC 70-3 dated January 29, 1982.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations designates new Restricted Area R-2930, Cape Kennedy, FL, to provide protected airspace for space shuttle recovery and astronaut training in support of the NASA Space Program.

List of Subjects in 14 CFR Part 73

Restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 73.29 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, effective 0901 G.m.t., October 28, 1982, as follows:

R-2930, Cape Kennedy, FL [New]

Boundaries. Beginning at lat. 28°47'20" N., long. 81°05'00" W.; to lat. 28°56'00" N., long. 80°47'00" W.; thence south 3 NM from and parallel to the U.S. coast to lat. 28°51'15" N., long. 80°42'20" W.; to lat. 28°51'15" N., long. 80°47'15" W.; to lat. 28°49'10" N., long. 80°50'45" W.; to lat. 28°42'10" N., long. 80°48'20" W.; to lat. 28°38'00" N., long. 80°47'02" W.; to lat. 28°31'20" N., long. 80°43'50" W.; to lat. 28°24'30" N., long. 80°41'45" W.; to lat. 28°22'30" N., long. 80°40'50" W.; to lat. 28°22'30" N., long. 80°35'00" W.; to lat. 28°24'30" N., long. 80°30'00" W.; thence south 3 NM from and parallel to the U.S. Coast; to lat. 28°19'00" N., long. 80°33'30" W.; to lat. 28°19'00" N., long. 80°46'30" W.; thence to point of beginning.

Designated altitudes. 11,000 feet MSL to unlimited.

Times of use. Intermittent by NOTAM beginning one week prior to space shuttle launch date until shuttle recovery.

Using agency. Eastern Space and Missile Center (ESMC), Patrick Air Force Base, FL.

Controlling agency. Federal Aviation Administration, Miami ARTCC.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on September 15, 1982.

John W. Baier,

Acting Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-26004 Filed 9-22-82; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 230, 239, and 240

[Release Nos. 33-6426 and 34-19055]

Registration Statement and Other Disclosure Documents Related to Standardized Options

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission today announced the adoption of three rules and a new optional registration statement designed to make the disclosure of information about standardized options more meaningful to investors and less burdensome to registrants and others.

EFFECTIVE DATE: These amendments are effective October 25, 1982 for all documents filed on or after that date, but registrants and others may use the new rules and optional registration statement immediately.

FOR FURTHER INFORMATION CONTACT: Thomas G. Lovett (202) 275-2913 or William L. Golden (202) 272-2855, Division of Market Regulation, regarding Rule 9b-1, and John Thomas (202) 272-2748 or David B. H. Martin (202) 272-2573, Division of Corporation Finance, regarding Form S-20 and Rules 134a, 135b, and 153b, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the adoption of three new rules and one new form relating to the offer and sale of standardized options. Specifically, the Commission has adopted: (1) An optional registration statement form, Form S-20 (17 CFR 239.20), to be used to register standardized options under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq.); (2) Rule 153b (17 CFR 230.153b), which provides that the delivery requirement of Section 5(b) of the Securities Act is satisfied by providing copies of the Form S-20 prospectus to the options market(s) on which the options are traded; (3) Rule 9b-1 (17 CFR 240.9b-1) under the

Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq.), which establishes an options disclosure document (the "disclosure document") containing information concerning standardized options and options trading; and (4) Rule 135b (17 CFR 230.135b), which exempts the disclosure document from the requirements of Section 5 of the Securities Act. The new rules and form are intended to enhance investor understanding of standardized options by presenting all essential information about such options in a more readable Exchange Act disclosure document, and by making available a prospectus for investors who may be interested in more detailed information about the issuer of the options.

In addition, the Commission is adopting Rule 134a (17 CFR 230.134a) under the Securities Act, which permits the dissemination of instructional information about options and options trading without such information being deemed a prospectus for purposes of Section 5 of the Securities Act.

Finally, the Commission is delegating to the Director of the Division of Market Regulation the authority to accelerate or extend the time period with respect to distribution of the disclosure document or amendments thereto and to require refiling of the disclosure document or amendments.

I. Discussion

The Commission received thirteen letters in response to its request for comments on the proposal to establish a new disclosure framework specifically tailored to the information needs of investors in standardized options.[1] While generally supportive of the proposal, the commentators made a number of suggestions which they believed would further reduce compliance burdens and simplify investors' review of the information required to be disclosed. As a result of these suggestions and further analysis by the Commission, the final rules reflect several modifications from those proposed.

A. Form S–20 Registration Statement and Rule 153b

1. *Delivery of the Prospectus pursuant to Rule 153b.* In proposing Form S–20, the Commission stated that the delivery requirements of Section 5(b)(2) of the Securities Act constituted the basic statutory means of assuring that investors are provided with material information about the registrant and the securities being offered. The commentators pointed out, however, that in the context of the proposed options disclosure framework, the disclosure document,[2] rather than a traditional prospectus, would be the investors' primary source of information about standardized options.[3] Commentators argued that a prospectus delivery requirement would be contrary to the stated goals of reducing costs and simplifying disclosure concerning standardized options trading. It was strongly urged that, for the convenience of investors and to minimize the distribution burdens that otherwise would be imposed upon registrants and broker-dealers, the Commission should not require actual delivery of the prospectus to investors.

In response to these concerns, the Commission is adopting Rule 153b, which provides that the statutory requirement to deliver the prospectus portion of Form S–20 shall be deemed to be satisfied by the regiatrant's delivery of copies of the prospectus to each options market trading the options covered by the prospectus in order to redistribute the prospectus to any investor who requests it.[4] The Commission is taking this step because it believes that the unique nature of standardized options, coupled with the significant costs savings associated with the proposed disclosure system, justifies this step. The availability of the rule is conditioned upon the issuer's providing a reasonable number of copies of the prospectus to the options market(s) and each options market promptly providing the prospectus to investors who request it. Because the subjects and issues raised by Rule 153b were discussed in the Proposing Release, the Commission is adopting the Rule without additional notice and comment.

2. *Information Required in the Prospectus.* The information required in Part I of Form S–20 relates to the registrant as issuer of the options. The Proposing Release identified four items of information that would be included in the Part I prospectus. Commentators addressed Items 3 and 4, a description of the securities to be registered and a discussion of the federal income tax consequences of the registered securities, respectively.

Item 3 would contain such information as whether certificates were issued, the registrant's procedures for accepting and rejecting transactions, remedies and the back-up system to assure performance of contractual obligations. One commentator questioned the need to bifurcate disclosure concerning the exercise of options between the disclosure document and the prospectus,[5] and two commentators argued that, because of the changeability of the information in Item 3, should a prospectus delivery requirement be adopted, any reference to this information should be deleted so as not to require costly revision and recirculation of the prospectus each year.[6] In view of the Commission's determination not to require delivery of the prospectus to investors, the concerns of the commentators appear to be alleviated. Moreover, the Commission believes that this information may be of interest to some options investors and, therefore, should be available to those investors through the prospectus. Thus, along with proposed Items 1 and 2, the Commission is adopting proposed Item 3 without change.

Regarding proposed Item 4, which would have required a discussion of the tax consequences of options transactions, the Commission requested comment on whether, in the alternative, it would be preferable to include tax information in the disclosure document rather than in Part I of Form S–20. As discussed *infra*, almost all the commentators expressed the view that it would be more convenient to investors and less costly to registrants if the tax information were described generically and set forth in the disclosure document.[7] Since the Commission has determined not to require delivery of the prospectus to investors, a discussion of tax consequences should be contained

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[1] Securities Act Release No. 6411 (June 24, 1982) (47 FR 28868) (the "Proposing Release").

[2] As discussed below, the new system contemplates that disclosure to investors may be accomplished by delivery of a series of disclosure documents: A "core" document discussing options trading generally and supplemental documents describing specific options classes or kinds of options, such as debt options or foreign currency options.

[3] *See, e.g.*, comment letters of the Options Clearing Corporation ("OCC") and the Securities Industry Association ("SIA") (File No. S7–935). All subsequent comment letters also refer to comments contained in File No. S7–935 submitted in response to the Proposing Release.

[4] In two other unique situations, the Commission has taken a similar approach with respect to the prospectus delivery requirement. Rules 153 and 153a under the Securities Act were adopted because of the impracticality of requiring compliance with the requirements of Section 5(b)(2) of the Securities Act in connection with the unusual circumstances of the transactions covered by those Rules. In this regard, *see* Commission Release at 2 FR 1075 (May 28, 1937) and Release No. 33–5316 [October 8, 1972] (37 FR 21836).

[5] Comment letter of OCC.

[6] Comment letter of the American Bar Association ("ABA") and OCC.

[7] Only the National Association of Securities Dealers ("NASD") suggested that, should a non-generic discussion of the tax consequences of options trading be required, it should be included in the prospectus rather than the disclosure document.

in the disclosure document. Item 4, therefore, has been deleted from the prospectus.

3. *Information not Required in the Prospectus.* With respect to proposed Item 5, which required presentation of the information about officers and directors called for by Item 401 of Regulation S–K, one commentator suggested that Item 401 required more information than would be of interest to most investors in options.[9] The Commission notes, however, that information about the registrant's management is required to be furnished only in Part II of the registration statement and believes it is sufficiently important to warrant such disclosure.

No comments were directed to the other proposed informational requirements for Part II of Form S–20 which are being adopted as proposed. The numbering of the Items in Part II of the Form has been revised to reflect the changes, described above, in the content requirements of Part I.

B. The Rule 9b–1 Options Disclosure Document

Under the revised disclosure framework, Rule 9b–1 establishes a new disclosure document to be used in conjunction with new Form S–20. Much of the information presently required to be disclosed in the registration statement has been shifted to the disclosure document where it will be presented in a manner designed to enhance its readability to options investors.

1. *Availability of Rule 9b–1.* Rule 9b–1 is available to any "options market", as defined in the Rule, which markets and sells standardized options within the United States. The definition of options market encompasses not only domestic and foreign exchanges, but also an automated quotation system of a registered securities association. In discussing the availability of Rule 9b–1 in the Proposing Release, the Commission pointed out the desirability of two or more options markets working together to prepare a single disclosure document covering options traded on each participating options market. Noting that the four existing U.S. options markets, for example, are currently cooperating with the OCC in developing a single disclosure document covering equity options,[9] the Commission requested comment on whether the rule should specifically require options markets that permit the trading of options on the same type of underlying security to jointly prepare a disclosure document covering such options.

All commentators who addressed the issue supported the idea of joint preparation of disclosure documents whenever feasible, pointing out that separate documents would not only be burdensome and confusing to broker-dealers and investors but also duplicative and unnecessarily expensive to the industry.[10] The commentators generally opposed, however, a specific requirement that the document be jointly prepared, asserting that competitive, economic and administrative concerns would cause the options markets to cooperate in preparing joint disclosure documents, and that, in certain circumstances, separately prepared disclosure documents covering particular options products may be desirable and appropriate.[11]

Given these considerations and the fact that the existing options markets have demonstrated their ability to work cooperatively on a voluntary basis in preparing a basic disclosure document covering equity options, the Commission has determined not to mandate joint preparation.

A related concern was raised by the NASD. The NASD asserted that, because no options are "currently" quoted on NASDAQ, its automated quotation system, it might not meet the technical definition of an "options market" contained in paragraph (a)(1) of Rule 9b–1. It expressed the hope that, while the definition of an options market is phrased in the present tense, the rule would not exclude the NASD, which has pending before the Commission a proposal to trade options,[12] from participation in the preparation of any disclosure documents.

By defining "options market" as a securities exchange or automated quotation system "on which standardized options *are* traded" (emphasis added), the Commission does not intend to limit the availability of the new disclosure system to the exchanges that currently operate options markets, but rather anticipates the system will be available to entities, such as the NASD or the New York Stock Exchange, which may serve as markets for standardized options in the future. Of course, if an entity assists in the preparation of a disclosure document in anticipation of beginning to act as a market for the option covered by that document, it must be listed as one of the preparers of the document.

2. *Disclosure Requirements.* Paragraph (c) of Rule 9b–1 sets forth the specific categories of information required to be disclosed in the disclosure document. Except with respect to proposed Item 8, which would have required a description of the tax consequences of trading options, there was virtually no public comment on the proposed informational requirements.

A number of commentators, however, opposed the proposed tax disclosure requirements. They asserted that, while investors should be informed of the importance of tax considerations to options investment decisions, the Commission should not require substantive discussion of the specific tax provisions applicable to options transactions in either Form S-20 or the disclosure document. Several commentators contended that the disclosure document should merely contain a prominently placed statement advising investors that there are significant tax consequences of options transactions and that investors should consult their tax advisers before investing in options.[13] One commentator, however, stated that tax consequences of options should be discussed in detail in the disclosure document.[14]

Commentators opposing a requirement that detailed disclosure of tax consequences be included in the disclosure document argued that the tax considerations attending options investment decisions are extremely complex and difficult to deal with effectively in the document without confusing the general, non-professional investor. It was asserted that, since tax considerations are by their nature highly technical, their inclusion in the disclosure document would burden it with lengthy and detailed discussions of little informative value.[15]

Several commentators also objected to inclusion of tax information in the disclosure document on the ground that tax law is especially vulnerable to legislative or administrative changes and, consequently, any tax treatment of options investments in the disclosure

[9] Comment letter of OCC.

[9] While Rule 9b–1 speaks in terms of the "options markets" preparing the disclosure document, the Commission notes that the rule is not intended to preclude options issuers or others from participating in the preparation of the disclosure document, provided that the options markets themselves are primarily responsible for the document.

[10] *See, e.g.*, comment letters of OCC, Trans Canada Options, Inc. ("TCO") and Merrill Lynch.

[11] *See, e.g.*, comment letters of NASD, OCC and TCO.

[12] *See* File No. SR–NASD–80–10.

[13] *See, e.g.*, comment letters of the SIA, the American Stock Exchange ("Amex"), Oppenheimer and Co., J. J. B. Hilliard, W. K. Lyons, Inc., and the OCC.

[14] Comment letter of Tucker, Anthony, and R. L. Day, Inc. *See also* comment letter of E. F. Hutton.

[15] *See, e.g.*, comment letters of the NASD, OCC, SIA and ABA.

document might become quickly outdated. It was asserted that the disclosure documents would therefore require frequent amendments and supplements which would vitiate one of the major purposes of the revised disclosure system—*i.e.*, to relieve the options markets of the burden and costs of frequently redelivering disclosure material to options investors.[16]

One commentator also opposed inclusion of tax information; on the ground that tax consequences depend upon the individual tax posture of each investor which no amount of detailed tax disclosure could address and, as a result each investor would generally have to consult with his own tax adviser in any event.[17] Another commentator questioned the need for disclosure of tax information with respect to options investments when no such disclosure is required for investors who invest only in stocks and bonds.[18]

The Commission has considered these arguments carefully. It believes that, while the foregoing concerns regarding inclusion of substantive discussions of the tax consequences of options investments in the disclosure document are not without merit, tax consequences of options trading are such an integral part of options investment decisions that they should not be entirely excluded from the disclosure document.

The Commission recognizes, however, that detailed disclosure of tax consequences may necessarily result in a document that might be required to be amended at frequent intervals. Therefore, the Commission has determined to balance the need for tax disclosure with the goal of producing a simplified document that requires infrequent updating. Accordingly, the Commission is retaining the requirement of a discussion of the significant tax consequences of options trading in the disclosure document, but believes that such disclosure can be done generically by explaining that tax treatment is always relevant and often critical to the success or failure of a particular options strategy. Moreover, the document should note that different tax treatment may result from different dispositions of options positions and, with respect to option call writers, whether that person is covered or uncovered. The Commission also believes the document should inform investors of the importance of consulting with their tax advisers.

Thus, all the categories of information proposed to be included in the disclosure document pursuant to paragraph (c) of Rule 9b–1 are being retained in the final rule.[19] In addition, as a result of the adoption of Rule 153b, which permits delivery of the prospectus to be satisfied by delivery to the options markets, two more categories of information have been added to the content requirements for the options disclosure document. New Item 9 calls for the identification of the issuer of the options, including a brief reference to its function in clearing transactions and guaranteeing performance. New Item 11 requires a statement prominently displayed in the disclosure document to the effect that the options described therein are the subject of a registration statement filed with the Securities and Exchange Commission and indicates specifically from whom investors can obtain a copy of the prospectus.

3. *Procedural Requirements.* Rule 9b–1(b)(1) provides that the disclosure document be filed with the Commission 60 days prior to the date it is distributed to investors, unless the Commission "determines otherwise having due regard to the adequacy of the information disclosed and the public interest and protection of investors." Under this section, it is anticipated that the Commission will accelerate the time period for delivery if it determines that disclosure is adequate or extend the time in the event it is unable to make such a determination. As discussed below, the Commission has similar powers with respect to the filing of amendments.

Paragraph (b)(2) of Rule 9b–1 provides that a disclosure document must be amended should the information therein become materially inaccurate or incomplete.[20] It further provides that an amendment must be filed with the Commission 30 days prior to the date definitive copies are furnished to customers, unless the Commission determines otherwise. Several commentators objected to the requirement of a 30-day advance filing of an amendment with the Commission.[21] One commentator argued that the preparers must be able to amend or supplement a disclosure document promptly so as to avoid potential liability for information which, because of some unforeseen change, becomes materially inaccurate or incomplete.[22] Another commentator contended that the failure to provide a "sticker" procedure could result in an unnecessary interruption in options trading.[23]

Since the inception of standardized options trading, no occasions have arisen in which the OCC, with little or no notice, has been required to amend or sticker its prospectus. Indeed, other than the annual amendments to the prospectus required under the Securities Act,[24] the OCC has found it necessary only once to even supplement the prospectus. Given the more generalized nature of the disclosure document, the need to amend suddenly should be reduced further. Thus, in most cases, the Commission believes that the options markets should be able to identify and file needed amendments to the disclosure document substantially before such amendments need become effective. In the unusual case where a change of circumstances occurs which immediately affects options trading in a material way, the Commission believes that the options markets would successfully meet this disclosure obligation by the issuance of a prompt press release explaining the material change in information, coupled with the immediate filing of an amendment under the proposed rule. In that circumstance, paragraph (b)(1) of the Rule would allow the Commission to accelerate the time period where it determines that such acceleration is appropriate, having due regard to the adequacy of the information disclosed and the public interest and the protection of investors. Thus, the 30-day advance filing requirement has generally been retained.

Nevertheless, the Commission has determined that, in the unusual case, an options market may distribute an amendment without the 30-day advance filing with the Commission where it determines, in good faith, that such delivery is necessary to ensure timely and accurate disclosure and provided that it also files the amendment with the Commission at the same time as, or prior to the time of, public distribution. While Rule 9b–1 would provide this alternative, the Rule also will allow the Commission to require refiling of a revised amendment within 30 days of filing, having due regard to the adequacy of the information disclosed and the

[16] *See*, e.g., comment letters of the NASD, OCC, and ABA.

[17] Comment letter of the OCC.

[18] Comment letter of the ABA.

[19] In its comment letter, the OCC expressed concern that detailed disclosure with respect to exercise and settlement of options would be required in the disclosure document. The Commission believes that a general discussion of these matters will be sufficient.

[20] Options markets are free, of course, to make any other amendments that they feel are necessary or appropriate.

[21] *See* comment letters of OCC and TCO.

[22] Comment letter of OCC.

[23] Comment letter of TCO.

[24] *See* Proposing Release at n. 6.

public interest and the protection of investors. Paragraph (b)(2) of Rule 9b–1 has been modified to reflect this determination.[25]

4. *Certain Technical Amendments.* In response to points made by one commentator,[26] the Commission has made two amendments to the definition of standardized options in paragraph (a)(4) of Rule 9b–1. First, the Commission has amended the definition by deleting the phrase "trading on an options market," and specifically listing the markets on which options are traded, thereby eliminating any circularity in the proposed definition. Second, the Commission has added language to authorize the Commission, by order, to allow the use of Rule 9b–1 for new investment vehicles that the Commission believes should be included within the new disclosure framework.

Two commentators pointed out that while, under current exchange rules, a prospectus must be delivered to a customer "at or prior to the time" his or her account is approved for options trading, proposed paragraph (d) of Rule 9b–1 provides that an account may not be approved for options trading unless the broker or dealer "previously has delivered" the disclosure document.[27] They argued that the delivery rule should be no more restrictive than existing exchange rules governing prospectus delivery. The Commission agrees. The wording of paragraph (d) has been clarified to reflect the fact that the disclosure document may be furnished to a customer either before or at the time his or her account is approved for options trading.

5. *Delegation of Authority.* The Commission is amending its Rules of Organization to delegate to the Director of the Division of Market Regulation final authority to review the disclosure document, and amendments and supplements thereto, contemplated by Rule 9b–1 and, under appropriate circumstances, to allow the disclosure document or amendments to be distributed to the public prior to the time period specified in paragraph (b) of Rule 9b–1, or to extent the time period before which distribution can be made to the public. The Commission is also delegating to the Division the power to require refiling of disclosure documents or amendments. The Commission believes that such delegation would facilitate the processing of Rule 9b–1 disclosure documents. Accordingly, the Commission is amending Section 200.30–3 (17 CFR 200.30–3) of the Commission's rules relating to general organization by adding a new paragraph (a)(39) to delegate to the Director of the Division of Market Regulation the authority detailed above.

C. Rule 135b

Rule 135b provides that an option disclosure document prepared in accordance with Rule 9b–1 shall not be deemed to be an offer to sell or an offer to buy for purposes of Section 5 of the Securities Act. Several commentators contended that, as Rule 135b is drafted, it is unclear whether the disclosure document could be deemed to be a prospectus so as to subject the preparers to the liability of provisions of Section 12 of the Securities Act.[28] For purposes of clarification, it should be noted that if the disclosure document is deemed not to be an offer to sell or buy it cannot be deemed to be a prospectus. Thus, the rule as drafted is in fact intended to relieve the preparers of the disclosure document from liability under Section 12(1) of the Act for distributing a disclosure document to investors which might, absent such relief, violate Section 5 of the Act.[29]

D. Rule 134a

In view of the complex nature of options trading, the Commission proposed of Rule 134a which would permit the preparation and dissemination of certain educational materials concerning options and options trading without deeming these materials to be a prospectus, as defined in the Securities Act. While several modifications in the proposed rule were urged, all commentators who addressed the Rule in their comments urged its adoption.[30] The Commission is adopting Rule 134a as proposed.

As noted in the Proposing Release, the Commission's decision to permit the dissemination of additional educational information about options is based in part on its expectation that the self-regulatory organizations will use their established monitoring procedures to review and approve the options communications of broker-dealers and others pursuant to the provisions of the rule.[31] In this regard, one commentator correctly noted that Rule 134a, as proposed, was not limited to broker-dealers and urged that the rule be made expressly applicable to issuers and the options markets as well.[32] The rule is intended to encompass issuers and the options markets as long as the communications are subject to detailed self-regulatory review and clearance by people other than those who prepared the instructional material.

Although one commentator urged that Rule 134a be expanded to apply to all types of communications whether or not they are written,[33] it would render self-regulatory review difficult or impossible in cases where no text of the communication could be reviewed in advance of its public dissemination. Nevertheless, the Commission intends that the term "written materials" be construed broadly to encompass any exact written version of a communication which subsequently may be presented in a different format, such as a video production or a speech.

II. Regulatory Flexibility Act Considerations

The Chairman of the Commission has certified that the proposed simplified disclosure system will not have a significant economic impact on a substantial number of small entities. The Commission did not receive any comments concerning the Chairman's certification.

III. Text of Final Rules

List of Subjects

17 CFR Part 200

Administrative practice and procedure, Freedom of information, Privacy, Securities.

17 CFR Parts 230, 239 and 240

Reporting requirements, Securities.

In accordance with the foregoing, Part 200 of Chapter II, Title 17 of the Code of Federal Regulation is amended as follows:

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[25] When faced with misleading disclosures or omissions, the Commission, of course, would also be able to employ its enforcement powers pursuant to the Securities Act and Exchange Act to address defective disclosure. For example, the Commission could employ Section 21 of the Exchange Act to obtain injunctive relief with respect to activities connected with that defective disclosure.

[26] Comment letter of OCC.

[27] Comment letters of OCC and Amex.

[28] *See, e.g.*, comment letters of OCC and TCO.

[29] In its comment letter, OCC also questioned whether it would be liable under the Securities Act if broker-dealers failed to deliver a prospectus to investors. With the adoption of Rule 153b, and delivery to the options exchanges, OCC's concern has been answered.

[30] *See, e.g.*, comment letters of the NASD, TCO and Amex.

[31] The American Stock Exchange commented that it intends to amend its rules in this regard to ensure that it can carefully monitor compliance with the requirements of Rule 134a. The Commission expects that other self-regulatory organizations also will make any necessary adjustments in their rules and procedures.

[32] Comment letter of TCO.

[33] Comment letter of NASD.

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. By adding paragraph (a)(39) to § 200.30–3 to read as follows:

§ 200.30–3 Delegation of authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(39) Pursuant to Rule 9b–1,

(i) To enable distribution of an options disclosure document or amendment to an options disclosure document to the public prior to the time required in the Rule or to lengthen the period before distribution can be made;

(ii) To require refiling of an amendment to an options disclosure document pursuant to the procedure set forth in (b)(2)(a) of the Rule.

In accordance with the foregoing, Parts 230, 239 and 240 of Chapter II, Title 17 of the Code of Federal Regulations are amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

2. By adding § 230.134a to read as follows:

§ 230.134a Options material not deemed a prospectus.

Written materials relating to standardized options, as defined in Rule 9b–1 under the Securities Exchange Act of 1934, shall not be deemed to be a prospectus for the purposes of Section 2(10) of the Securities Act of 1933: *Provided,* That such materials are limited to explanatory information, describing the general nature of the standardized options markets or one or more strategies: *And, Provided further,* That:

(a) The potential risks related to options trading generally and to each strategy addressed are explained;

(b) No past or projected performance figures, including annualized rates of return are used;

(c) No recommendation to purchase or sell any option contract is made;

(d) No specific option class is identified;

(e) The materials contain the name and address of a person or persons from whom a current prospectus meeting the requirements of Section 10 of the Act may be obtained; and

(f) If there is a definitive options disclosure document, as defined in Rule 9b–1 of the Securities Exchange Act of 1934, the materials shall contain the name and address of a person or persons from whom a copy of such document may be obtained.

3. By adding § 230.135b to read as follows

§ 230.135b Materials not deemed an offer to sell or offer to buy.

For the purposes only of Section 5 of the Act, materials meeting the requirements of Rule 9b–1 of the Securities Exchange Act of 1934 shall not be deemed to constitute an offer to sell or offer to buy any security.

4. By adding § 230.153b to read as follows:

§ 230.153b Definition of "preceded by a prospectus", as used in Section 5(b)(2), in connection with certain transactions in standardized options.

The term "preceded by a prospectus", as used in Section 5(b)(2) of the Act with respect to any requirement for the delivery of a prospectus relating to standardized options registered on Form S–20, shall mean the delivery, prior to any transactions, of copies of such prospectus to each options market upon which the options are traded, for the purpose of redelivery to options customers upon their request, *Provided* That:

(a) Such options market shall thereto have requested of the issuer, from time to time, such number of copies of such prospectus as may have appeared reasonably necessary to comply with the requests of options customers, and shall have delivered promptly from its supply on hand a copy to any options customer making a request thereof; and

(b) The issuer shall have furnished such options market with such reasonable number of copies of such prospectus as may have been requested by the options market for the purpose stated above.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

5. By adding § 239.20 to read as follows: [Form S–20 does not appear in the Code of Federal Regulations].

§ 239.20 Form S–20, for standardized options.

This Form may be used to register standardized options under the Securities Act of 1933 where the issuer undertakes not to issue, clear, guarantee or accept an option registered on Form S–20 unless there is a definitive options disclosure document meeting the requirements of Rule 9b–1 of the Securities Exchange Act of 1934.

Securities and Exchange Commission

Form S–20

Registration Statement Under the Securities Act of 1933

(Exact name of registrant as specified in its charter)

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

(Name, Address, including zip code, and telephone number, including area code, of agent for service)

Approximate date of commencement of proposed sale to public

CALCULATION OF REGISTRATION FEE

Title of securities to be registered	Amount to be registered	Proposed maximum fee or charge per unit	Proposed maximum aggregate fee or charge	Amount of registration fee

Form S–20—GENERAL INSTRUCTIONS

I. Eligibility requirement for use of Form S–20

This form may be used for registration of standardized options under the Securities Act of 1933 ("Securities Act") provided that the registrant undertakes not to issue, clear, guarantee or accept an option registered on Form S–20 unless there is a definitive options disclosure document meeting the requirements of Rule 9b–1 of the Securities Exchange Act of 1934 with respect to the options class.

II. Application of General Rules and Regulations

A. Attention is directed to the General Rules and Regulations under the Securities Act, particularly those comprising Regulation C [17 CFR 230.400 to 230.494] thereunder. That Regulation contains general requirements regarding the preparation and filing of the registration statement.

B. Attention is directed to Regulation S–K [17 CFR Part 229] for the requirements applicable to the content of the non-financial statement portions of registration statements under the Securities Act. Where this Form directs the registration to furnish information required by Regulation S–K and the item of Regulation S–K so provides, information need only be furnished to the extent appropriate.

Part I. Information Required in Prospectus

Item 1. *Forepart of the Registration Statement and Outside Front Cover Page of Prospectus.* Set forth in the forepart of the registration statement and on the outside front cover page of the prospectus the information required by Item 501 of Regulation S–K [§ 229.501 of this chapter]. In the case of a foreign registrant, the information required by Item 502(f) of

Regulation S–K [§ 229.502(f) of this chapter] also shall be included. In addition, the outside front cover page of the prospectus shall contain a statement to the effect that (1) an options disclosure document containing a description of the risks of options transactions is required to be furnished to option investors and stating from whom such a document may be obtained; (2) the financial statements and certain additional information required by Part II of the registration statement, other than exhibits, can be obtained without charge upon request from the registrant; and (3) the exhibits required by Part II of the registration statement can be inspected at the offices of the registrant or obtained from the registrant or the Securities and Exchange Commission upon payment of an appropriate fee.

Item 2. *Description of Registrant.* (a) State the year in which the registrant was organized, its form of organization and the name of the State or other jurisdiction under the laws of which it was organized.

(b) List all the parents of the registrants showing the basis of control.

(c) Briefly describe the business of the registrant and the services rendered by it.

Item 3. *Description of Securities to be Registered.* State the title of the securities to be registered, the rights evidenced by such securities, whether certificates representing these securities are issued, the contractual obligations of the registrant with respect to such securities and any restriction on the purchase of such securities.

Instruction. This item only requires a brief summary of the provisions of the security. A complete legal description of the provisions referred to is not required and should not be given: only a succinct resume is required.

Part II. Information Not Required in Prospectus

Item 4. *Directors and Executive Officers.* Furnish the information required by Item 401 of Regulation S–K [§ 229.401 of this chapter].

Item 5. *Legal Proceedings.* Furnish the information required by Item 103 of Regulation S–K [§ 229.103 of this chapter].

Item 6. *Legal Opinions and Experts.* Furnish the information required by Items 601(b)(5) and 601(b)(24) of Regulation S–K [§ 229.601 of this chapter].

Item 7. *Financial Statements.* Include financial statements meeting the requirements of Regulation S–X [17 CFR Part 210] and the supplementary financial information specified by Item 12 of Regulation S–K [17 CFR 229.20].

Item 8. *Undertakings.* Furnish the following undertakings:

1. The undersigned registrant hereby undertakes to file a post-effective amendment, not later than 120 days after the end of each fiscal year subsequent to that covered by the financial statements presented herein, containing financial statements meeting the requirements of Regulations–X [17 CFR 210] and the supplementary financial information specified by Item 12 of Regulation S–K [17 CFR 229.20].

2. The undersigned registrant hereby undertakes not to issue, clear, guarantee or accept any security registered herein until there is a definitive options disclosure document meeting the requirements of Rule 9b–1 of the Securities Exchange Act of 1934 with respect to the class options.

Signatures

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S–20 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of ———, State of ———, on ———, 19——. (Registrant) ——— by (signature and Title) ———.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

(Signature) ———
(Title) ———
(Date) ———

Instructions 1. The registration statement shall be signed by the registrant, its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer and by at least a majority of the board of directors or persons performing similar functions. If the registrant is a foreign person, the registration statement shall also be signed by its authorized representative in the United States.

2. The name of each person who signs the registration statement shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the registration statement. Attention is directed to Rule 402 concerning manual signatures and to Item 601 of Regulation S–K concerning signatures pursuant to powers of attorney.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1934

6. By adding § 240.9b–1 (Rule 9b–1) to read as follows:

§ 240.9b–1 Options disclosure document.

(a) *Definitions.* The following definitions shall apply for the purpose of this rule.

(1) "Options market" means a national securities exchange, an automated quotation system of a registered securities association or a foreign securities exchange on which standardized options are traded.

(2) "Options class" means all options contracts covering the same underlying instrument.

(3) "Options disclosure document" means a document prepared by one or more options markets which contains the information required by this rule with respect to the options classes covered by the document.

(4) "Standardized options" are options contracts trading on a national securities exchange, an automated quotation system of a registered securities association, or a foreign securities exchange which relate to options classes the terms of which are limited to specific expiration dates and exercise prices, or such other securities as the Commission may, by order, designate.

(b)(1) Five preliminary copies of an options disclosure document containing the information specified in paragraph (c) of this section shall be filed with the Commission by an options market at least 60 days prior to the date definitive copies are furnished to customers, unless the commission determines otherwise having due regard to the adequacy of the information disclosed and the public interest and protection of investors. Five copies of the definitive options disclosure document shall be filed with the Commission not later than the date the options disclosure document is furnished to customers. Notwithstanding the above, the use of an options disclosure document shall not be permitted unless the options class to which such document relates is the subject of an effective registration statement on Form S–20 under the Securities Act. (2)(i) If the information contained in the options disclosure document becomes or will become materially inaccurate or incomplete or there is or will be an omission of material information necessary to make the disclosure document not misleading, the options market shall amend its options disclosure document by filing five copies of an amendment to such document with the Commission at least 30 days prior to the date definitive copies are furnished to customers, unless the Commission determines otherwise having due regard to the adequacy of the information disclosed and the public interest and protection of investors. Five copies of the definitive options disclosure document, as amended, shall be filed with the Commission not later than the date the amended options disclosure document is furnished to customers.

(ii) Notwithstanding paragraph (b)(2)(i) of this section, an options market may distribute such materials prior to such 30-day period if it determines, in good faith, that such delivery is necessary to ensure timely and accurate disclosure with respect to the subject standardized options contracts. Five copies of any amendment distributed pursuant to this paragraph shall be filed with the Commission at the time of distribution. In that instance, if the Commission determines, having given due regard to the adequacy of the information

disclosed and the public interest and the protection of investors, it may require refiling of the amendment pursuant to paragraph (b)(2)(i) of this Rule.

(c) *Information required in an options disclosure document.* An options disclosure document shall contain the following information, unless otherwise provided by the Commission, with respect to the options classes covered by the document:

(1) A glossary of terms;

(2) The mechanics of buying, writing and exercising the options, including settlement procedures;

(3) The risks of trading the options;

(4) The uses of the options;

(5) The market for the options;

(6) Transaction costs for the options;

(7) Applicable margin requirements;

(8) The tax consequences of trading the options;

(9) Identification of the issuer of the options;

(10) Identification of the instrument or instruments underlying the options class; and

(11) The registration of the options on Form S–20 and the availability of the prospectus and the information in Part II of the registration statement; and

(12) Such other information as the Commission may specify.

(d) *Broker-dealer obligations.* (1) No broker or dealer shall accept an order from a customer to purchase or sell an option contract relating to an options class that is the subject of an options disclosure document, or approve the customer's account for the trading of such option, unless the broker or dealer furnishes or has furnished to the customer the options disclosure document.

(2) If an options disclosure document is amended, each broker and dealer shall promptly send the information contained in the definitive amendment to each customer whose account is approved for trading the options class(es) to which the options disclosure document relates.

The Commission finds with respect to its delegation to the Division of Market Regulation, in accordance with 5 U.S.C. 553(b)(A) and 5 U.S.C. 553(d) of the Administrative Procedure Act, that the delegation relates solely to agency organization, procedure, or practice and that notice and public procedures in accordance with 5 U.S.C. 553 are not necessary, pursuant to subsection (b) thereof and that, in view of the foregoing, good cause exists for dispensing with the normal 30-day delay in effectiveness.

Statutory Authority

These amendments are being adopted pursuant to Sections 2, 7, 10, and 19(a) of the Securities Act of 1933 and Sections 9, 15 and 23(a) of the Securities Exchange Act of 1934.

(Sec. 2, 7, 10, 19(a), 48 Stat. 74, 78, 81, 85; secs. 201, 205, 209, 210, 48 Stat. 905, 906, 908; secs. 1–4, 8, 88 Stat. 883, 885; sec. 12(a), 73 Stat. 143; sec. 7(a), 74 Stat. 412; sec. 27(a), 84 Stat. 1433; sec. 306(a)(2), 90 Stat. 57; sec. 505, 94 Stat. 2292; secs. 9, 15, 23(a), 48 Stat. 889, 895, 901; sec. 230(a), 49 Stat. 704; secs. 3, 8, 49 Stat. 1377, 1379; sec. 2, 52 Stat. 1075; secs. 6, 10, 78 Stat. 570–574, 580; sec. 11(d), 84 Stat. 121; sec. 18, 89 Stat. 155; sec. 204, 91 Stat. 1500; 15 U.S.C. 77b, 77g, 77j, 77s(a), 78i, 78o, 78w(a))

Dated: September 16, 1982.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-26177 Filed 9-22-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CCGD8–82–10]

Safety Zone, Calcasieu Channel, Industrial Canal, Calcasieu River, Lake Charles, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: On March 2, 1981, Trunkline LNG Company submitted an application to the USCG Captain of the Port, Marine Safety Office, Port Arthur, Texas, requesting a safety zone be established around their waterfront facility. The Trunkline LNG facility is located in the Industrial Canal, Calcasieu River, Lake Charles, LA. A permanent safety zone would be established around the facility, and a moving safety zone would be established around a non-gas free LNG vessel while transiting to and from the Trunkline facility. The safety zone is established to insure the safety of the port and security of the facility. The proposed rule requires permission from the Captain of the Port or the District Commander to enter the safety zone.

EFFECTIVE DATE: This amendment becomes effective on September 23, 1982.

FOR FURTHER INFORMATION CONTACT: Lt M. H. Simpson, Project Officer, c/o Commanding Officer, U.S. Coast Guard Marine Safety Office, Federal Building/Customhouse, Port Arthur, TX 77640, Tel: (713) 983–8239.

SUPPLEMENTARY INFORMATION: On May 13, 1982, the Coast Guard published a notice of proposed rule making in the Federal Register for these regulations (47 FR 20834). Interested persons were requested to submit comments and one comment was received.

Drafting Information

The principal persons involved in drafting this rule are LT M. H. Simpson, Project Officer, c/o Commanding Officer, U.S. Coast Guard Marine Safety Office, Federal Building/Customhouse, Port Arthur, Texas 77640, Tel: (713) 983–8239, and LT J. C. Helfrich, Project Attorney, c/o Commander, Eighth Coast Guard District (d1), Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, Tel: (504) 589–6188.

Discussion of Comments

The one comment to the public notice offered no objection to the proposed regulation. Submitted by Trunkline LNG Company, the applicant requesting the safety zone, the comment addressed some minor inaccuracies contained in the Supplementary Information of the proposed rule making. The fenced area of the terminal is approximately 125 acres rather than the 170.46 acres noted in the proposed rule. Also in error was the statement concerning permanent private aids to navigation (flashing green lights, 2.5 seconds period; flash length .5 second) fixed to four mooring dolphins adjacent to the shoreline of the facility. These aids are actually installed on each of two end mooring dolphins and on each of two end breasting dolphins. A third inaccuracy noted by the applicant addressed the location of the facility corners in reference to the aid to navigation lights. In the proposed rule, the reference of 19 feet north and 360 feet north for the west and east corners respectively should both be the same distance, only south of the lights.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Waterways.

Final Regulations

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding § 165.805 to read as follows:

§ 165.805 Calcasieu Channel and Industrial Canal, Calcasieu River, Lake Charles, LA.

(a) The waters within the following boundaries are a safety zone: The area extending 150 feet out into the Industrial Canal, Calcasieu River, Lake Charles, LA, along the shoreline of the Trunkline LNG Company's waterfront property,

from position 30°06'31.9" N., 93°18'22.8" W. to the end of the turning basin and to include an area 50 feet out from any LNG ships while moored to the Trunkline LNG facility.

(b) The waters within the following boundaries are a safety zone while a non-gas free LNG vessel is transiting within the Calcasieu River ship channel and between buoy "CC" and the Trunkline LNG facility: The area 2 miles ahead, 1 mile astern, and to either side of an LNG vessel to the width of the ship channel. Meeting, crossing, or overtaking situations are not permitted within the safety zone unless specifically authorized by the USCG Captain of the Port.

(c) Notice of transiting LNG vessels will be provided by Broadcast and/or Local Notice to Mariners.

(92 Stat. 1475, 1477 (33 U.S.C. 1225, 1231); 49 CFR 1.46 (n))

Dated: August 25, 1982.

J. J. Wicks,

Captain, USCG, Captain of the Port.

[FR Doc. 82-26236 Filed 9-22-82; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF EDUCATION

34 CFR Part 674

National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs

Correction

In FR Doc. 82-20658 appearing on page 33228 in the issue for Friday, July 30, 1982, make the following changes:

1. On page 33229, third column, thirteenth line from the bottom of the page, "or" should read "of".

2. On page 33230, third column, sixth line from the top of the page, "than" should read "that".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL 2174-6]

Approval and Promulgation of Implementation Plans, Connecticut; Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Regulatory and narrative revisions to the Connecticut State Implementation Plan (SIP) were submitted to EPA by the Commissioner of the Connecticut Department of Environmental Protection (DEP) on April 8, 1982. Under EPA's new, parallel processing procedures, EPA proposed approval of a draft form of these revisions on November 17, 1981 (46 FR 56461).

In this notice, EPA is approving these revisions, which will change parts of the SIP narrative, strengthen state regulation 19-508-18(d) to reduce the total suspended particulate (TSP) emission limits for fuel oil burning equipment, and revise state regulation 19-508-18(f) to reduce the allowable TSP emissions from iron foundries and hot mix asphalt plants. These changes will satisfy the conditions for approval of Connecticut's primary standard attainment plan for TSP, specified at 45 FR 84781 and 84787 (December 23, 1980).

EFFECTIVE DATE: September 23, 1982.

ADDRESSES: Copies of the Connecticut document which is incorporated by reference, comments received, and EPA's response to comments are available for public inspection during normal business hours at the Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, and the Connecticut Department of Environmental Protection, Air Compliance Unit, State Office Building, Hartford, Connecticut 06115. Copies of the material submitted by Connecticut are also available at the Office of the Federal Register, 1100 L Street, N.W., Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Sarah Simon, Air Management Division, EPA Region I, Room 1903, J.F.K. Federal Building, Boston, Massachusetts 02203, (617) 223-4448.

SUPPLEMENTARY INFORMATION: The Connecticut DEP has adopted revisions to Regulation 19-508-18, governing TSP emissions, which strengthen the existing SIP by tightening the emission limits for certain categories of sources. These SIP revisions, including parts of the TSP narrative, were submitted by the Commissioner of the DEP on April 8, 1982.

A discussion of these revisions, the TSP attainment plan conditions these revisions were designed to meet, and EPA's review were presented in a Notice of Proposed Rulemaking (46 FR 56461, November 17, 1981) and will not be repeated here. With the approval of these revisions, Connecticut will have a completely approved primary TSP attainment plan.

EPA received letters from five commenters dealing with various parts of the revisions. Several of these letters requested a comment period extension. Region I allowed an additional 30 days and then prepared memoranda responding to the issues raised.

The complete memorandum is available at the EPA addresses listed above.

Industry comments included the following issues:

(1) The process weight limits for foundry sand operations will be difficult to enforce because they are not appropriate for all operations, it may be difficult to aggregate emissions from multiple operations, and the term "tons of material cast" is unclear.

(2) The term "tons of iron produced" in the cupola furnace regulation is unclear.

(3) The proposed foundry regulations do not adequately consider economic impacts, as they may cause plant closures and do not differentiate between foundries on the basis of size and operating hours.

Brief summaries of EPA's responses appear below. More detail can be found in the supporting memoranda.

(1) The State decided to withdraw the process weight limit for foundry sand processes from its SIP revision. This resolves the problems concerning applicability, aggregation of emissions, and the definition of material cast. The State regulation includes two emission limits, a 90% reduction requirement and the questioned process weight limit. Since only the 90% requirement is in the SIP revision, only that compliance method will be used for federal enforcement purposes. The narrative submittals that accompanied the TSP RACT regulations have been expanded to clarify the State's intended enforcement scheme. EPA believes that the 90% removal requirement will adequately control TSP emissions from sand operations.

(2) The State clarified its definition of "tons of iron produced."

(3) EPA has found no evidence that foundries will close. A foundry industry consultant informed EPA that most foundries are already meeting the new emission limit. EPA also believes that Connecticut considered factors such as foundry size and hours of operation in developing its RACT limits.

The Connecticut Fund for the Environment (CFE) submitted detailed comments concerning a wide range of issues. For example, CFE claims that:

(1) The State's revisions are not as strict as EPA's RACT recommendations and do not meet the conditions for approval of the Part D TSP attainment plan.

(2) The State and EPA did not reevaluate the impact of revised sulfur

dioxide (SO_2) limits on the entire TSP attainment plan and that TSP levels in Connecticut are increasing.

EPA's responses to all of CFE's comments are available in the response memorandum mentioned above. Due to their length, they will not be included in full in this notice. To summarize our response briefly:

(1) EPA notes that its RACT recommendations were intended to serve only as guidance. Connecticut is tightening its TSP limits in this revision, and our review has found that these limits are RACT in Connecticut.

(2) The State found that its revised SO_2 limits would not have significant impact on TSP levels. EPA concurs and finds that the State's revision to its sulfur-in-fuel limitations was not a part of the State's Part D plan for TSP. Thus, the change in SO_2 limits did not require a re-evaluation of the TSP plan. In addition, ambient air quality data show that TSP levels in many areas of Connecticut are improving.

EPA has determined that these revisions are acceptable for inclusion in the SIP and that the RACT revisions and submittals satisfy the conditions of approval for Connecticut's TSP Primary Attainment Plan, specified at 45 FR 84781 and 84787 (12–23–80).

Action

After evaluation of the state's submittal, the Administrator has determined that these Connecticut revisions meet the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, they are approved as revisions to the Connecticut SIP.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291. The Agency finds that good cause exists for making this action effective immediately since these implementation plan revisions are already in effect under state law and EPA approval imposes no additional regulatory burden.

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements.

(See sec. 307(b)(2))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen oxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Secs. 110(a), 172, and 301(a), Clean Air Act, as amended (42 U.S.C. 7410(a), 7502, and 7601(a)))

Dated: September 16, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1982.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart H—Connecticut

1. Section 52.370 is amended by adding paragraph (c)(22) as follows:

§ 52.370 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(22) Revisions to the narrative and State Regulation 19–508–18, subparts (d), f(1), f(2), and part of f(3), governing total suspended particulate emissions, submitted by the Commissioner of the Connecticut Department of Environmental Protection on April 8, 1982.

2. Section 52.373 is amended by adding paragraph (b) as follows:

§ 52.373 Approval status.

* * * * *

(b) The Administrator approves the total suspended particulate regulation for foundry sand processes as submitted and identified under paragraph (c)(22) of this section. This includes *only* the requirement to remove ninety percent of the particulate matter and *not* the requirement to emit not more than 0.75 pounds of particulate per ton of material cast, a provision which may be found in state regulation 19–508–18(f)(3).

§ 52.380 [Amended]

3. Section 52.380 is amended by removing and reserving paragraphs (c)(4) and (c)(5).

[FR Doc. 82–26251 Filed 9–22–82; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Parts 244, 245, and 246

[SW-FRL-2169-4]

Solid Waste Management; Guidelines for Beverage Containers; Resource Recovery Facilities Guidelines; Source Separation for Materials Recovery Guidelines

Correction

In FR Doc. 82–22836, appearing on page 36602, on Friday, August 20, 1982, in the third column, in the third line of the introductory text of § 244.203, "October 20, 1987" should be corrected to read "October 20, 1977.

BILLING CODE 1505–01–M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Temp. Reg. D–67]

Locating Federal Facilities in Central Business Areas

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation temporarily suspends GSA's regulations concerning the assignment and use of space that require priority consideration be given to locating Federal agencies in central business areas (CBA). The regulations are suspended as requested by the Office of Management and Budget memo order to GSA dated May 11, 1982.

DATES: Effective date: September 23, 1982. Expiration date: June 30, 1983.

FOR FURTHER INFORMATION CONTACT: Paul H. Herndon III, Director, Space Management Division (202–566–1675).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or have significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has

maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter D to read as follows:

General Services Administration,
Washington, D.C. 20405.
September 16, 1982.

Federal Property Management Regulations Temporary Regulation D–67

To: Heads of Federal agencies.
Subject: Locating Federal facilities in Central Business Areas.

1. *Purpose.*—This regulation suspends instructions regarding the use of provisions in Part 101–17, Assignment and Utilization of Space.

2. *Effective date.*—This regulation is effective upon publication in the Federal Register.

3. *Expiration date.*—This regulation expires June 30, 1983, unless sooner superseded or canceled.

4. *Background.*—Executive Order 12072 of August 16, 1978, requires that "the process for meeting Federal space needs in urban areas shall give first consideration to a centralized community business area and adjacent areas of similar character, including other specific areas which may be recommended by local officials." On May 11, 1961, the Director, Office of Management and Budget, requested GSA to delay all moves being made solely in compliance with the Federal Property Management Regulations implementing the EO and to reassess the economic and operational impact thereof.

5. *Effect on other directives.*—Until further notice agencies are directed to take no actions pursuant to the following provisions of Part 101–17:

a. Section 101–17.002(c) is suspended in its entirety, except the first sentence in paragraph 101–17.002(c)(1).

b. Section 101–17.002(d) is suspended in its entirety.

c. Section 101–17.002(e) is suspended in its entirety.

d. Section 101–17.002(f) is suspended in its entirety.

e. Section 101–17.002(k) (1) and (2) are suspended in their entirety.

f. Section 101–17.002(m) (1) and (4) are suspended in their entirety.

g. Section 101–17.101(b)(1) is revised to suspend the requirement that primary consideration be given to location in the central business area in urban areas.

h. Section 101–17.4701, paragraph 6b, is revised to suspend the requirement that first consideration be given to housing county level field offices in the central business area. The preference given to federally controlled space remains in effect.

i. Section 101–17.4702, paragraph IA, is suspended in its entirety.

j. Section 101–17.4702, paragraph IB(1) a and b, are revised to suspend all references to locating and satisfying needs in the CBA. The provisions of these paragraphs for the General Services Administration and the Postal Service to notify each other of projects being planned remain in effect.

Ray Kline,
Acting Administrator of General Services.

[FR Doc. 82-26256 Filed 9-22-82; 8:45 am]
BILLING CODE 6820-24-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6419]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 3429, Bethesda, Maryland 20034; phone (800) 638–8620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance—flood plains.

PART 64—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Illinois:				
Massac	Joppa, village of	170757A	Aug. 16, 1982, emergency	Nov. 23, 1973 and Apr. 23, 1976.
Alexander	Tamms, village of	170005A	do	May 10, 1974 and June 11, 1976.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Mississippi: DeSoto	Southaven, town of	280331, new	do.	
North Carolina: Lenoir and Pitt	Grifton, town of	370192B	Apr. 10, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended; Aug. 16, 1982, reinstated.	Dec. 17, 1973, Jan. 23, 1976 and Feb. 17, 1982.
Kansas: Pottawatomie and Riley	Manhattan, city of	200300C	Jan. 30, 1974, emergency; Apr.1, 1982, regular; Apr. 1,1982, suspended; Aug. 23, 1982, reinstated.	Mar. 8, 1974, Dec. 13, 1974 and May 24, 1977.
Indiana: Warrick	Unincorporated areas	180418B	Apr. 11, 1975, emergency; May 17, 1982, regular; May 17, 1982, suspended; Aug. 25, 1982, reinstated.	Mar. 24, 1978.
Arkansas: Lawrence	Unincorporated areas	050443C	Aug. 30, 1982, emergency	June 3, 1977 and Aug. 4, 1981.
Michigan:				
St. Joseph	Lockport, township of	260715A	do.	Nov. 3, 1978.
Lake	Yates, township of	260432	do.	Aug. 15, 1975.
Tennessee: Sumner	Millersville, city of	470368, new	do.	do.
Texas: Montague	Unincorporated areas	480839	do.	do.
Arkansas:				
Independence	Batesville, city of	050091B	Aug 16, 1982, suspension withdrawn	Nov. 23, 1973, Feb. 13, 1976 and Jan. 24, 1977.
Jackson	Unincorporated areas	050096B	do.	June 3, 1977.
California: Tehama	Corning, city of	060396B	do.	May 24, 1974.
Illinois:				
Schuyler	Browning, village of	170606C	do.	Feb. 6, 1976, Aug. 23, 1974 and Feb. 17, 1978.
Cook	Matteson, village of	170123C	do.	June 25, 1976, Apr. 12, 1974 and Aug. 16, 1978.
Indiana: Wayne	Richmond, city of	180287C	do.	Dec. 5, 1975, May 10, 1974 and July 27, 1979.
Kentucky:				
Carter	Grayson, city of	210051C	do.	Feb. 1, 1974 and Nov. 12, 1976.
do	Olive Hill, city of	2100528	do.	Feb. 1, 1974 and Feb. 20, 1976.
Louisiana: Ascension Parish	Gonzales, city of	220015B	do.	Sept. 14, 1973 and Nov. 28, 1975.
Michigan:				
Wayne	Brownstown, charter township	260218B	do.	Aug. 23, 1974 and July 16, 1976.
Isabella	Mt. Pleasant, city of	260104B	do.	Apr. 5, 1974 and Apr. 11, 1975.
Missouri: Ray	Henrietta, city of	290309B	do.	Oct. 18, 1974 and Mar. 21, 1978.
New Hampshire: Strafford	Somersworth, city of	330151B	do.	Feb. 21, 1974 and Nov. 19, 1976.
New Jersey:				
Middlesex	Edison, township of	340261B	do.	Jan. 9, 1974 and June 4, 1976.
Gloucester	Glassboro, borough of	340203B	do.	June 28, 1974 and July 23, 1976.
New York:				
Onondaga	Baldwinsville, village of	360569B	do.	Mar. 15, 1974 and Sept. 12, 1975.
Do	Elbridge, village of	360576B	do.	May 31, 1974.
Do	Jordan, village of	360580B	do.	Apr. 12, 1974 and Sept. 12, 1975.
DoOnondaga	Marcellus, town of	360585B	do.	May 3, 1974 and July 2, 1976.
Pennsylvania:				
Berks	Lower Heidelberg, township of	421077B	do.	Nov. 8, 1974 and May 21, 1976.
Do	Perry, township of	421093B	do.	Sept. 13, 1974 and May 21, 1976.
Do	Sinking Spring, borough of	420150B	do.	Mar. 29, 1974 and June 4, 1976.
Virginia: Buchanan	Grundy, town of	510025C	do.	May 14, 1976, May 24, 1974 and July 20, 1979.
Washington: Grays Harbor	McCleary, town of	530062B	do.	May 31, 1974 and Jan 9, 1976.
Wisconsin: Waukesha	Mukwonago, village of	550485A	do.	Dec. 17, 1973.
Minnesota:				
Hennepin	Brooklyn Park, city of	270152B	Aug. 17, 1982, suspension withdrawn	Apr. 12, 1974 and May 17, 1982.
Anoka	Lino Lakes, city of	270015B	do.	Dec. 13, 1974 and May 17, 1982.
New York: Onondaga	Salina, town of	360591A	Aug. 16, 1982, suspension withdrawn	Apr. 11, 1975.
Texas:				
Wood	Alba, town of	481000	June 25, 1976, emergency; Sept. 1, 1982, withdrawn.	May 2, 1975.
Palo Pinto	Graford, town of	480984	Jan. 27, 1982, emergency; Sept. 1, 1982, withdrawn.	
Iowa: Story	Roland, city of	190513A	Sept. 8, 1982, emergency	Mar. 25, 1971 and Mar. 25, 1977.
Kentucky: Ohio	Hartford, city of	210357A	do.	Sept. 15, 1978.
Pennsylvania:				
Cumberland	Hopewell, township of	421581	do.	Dec. 27, 1974.
Clinton	Loganton, borough of	421533	do.	Nov. 18, 1974.
Texas:				
Archer	Unincorporated areas	481078	do.	
Wichita	Electra, city of	480659	do.	
California: Alameda	Dublin,[1] city of	060705, new	Sept. 8, 1982, emergency; Sept. 8, 1982, regular.	
Texas: Cameron	Palm Valley,[1] town of	481580, new	do.	
Michigan: Chippewa	Bay Mills, township of	260374A	Sept. 10, 1982, emergency	June 17, 1977.
North Dakota: Richland	Waldo, township of	380659, new	do.	
Wisconsin: Door	Unincorporated areas	550109A	Apr. 30, 1973, emergency; Apr. 3, 1978, regular; Apr. 3, 1978, suspended; Sept. 10, 1982, reinstated.	Dec. 13, 1974 and Apr. 3, 1978.
North Carolina: Madison	Unincorporated areas	370152B	Nov. 26, 1973, emergency; Sept. 2, 1982, regular; Sept. 2, 1982, suspended; Sept. 15, 1982, reinstated.	July 22, 1977.
Arkansas: Jackson	Jacksonport, town of	050102B	Sept. 2, 1982, suspension withdrawn	Aug. 23, 1974.
Idaho: Kootenai	Coeur d'Alene, city of	160078B	do.	Mar. 29, 1974 and July 23, 1976.
Massachusetts: Middlesex	Tyngsborough, town of	1250220A	do.	Aug. 2, 1974.
Indiana: Wayne	Spring Grove, town of	180286C	do.	Mar. 30, 1978, Dec. 13, 1974 and Nov. 3, 1978.
Maryland: Somerset	Crisfield, city of	240062B	do.	Jan. 23, 1976.
Michigan:				
Saginaw	Frankenmuth, city of	260188B	do.	Jan. 23, 1974 and Mar. 7, 1975.
Kent	Wyoming, city of	260111B	do.	Nov. 8, 1973 and Mar. 7, 1975.
Minnesota:				
Kittson	St. Vincent, city of	270232C	do.	July 9, 1976, Aug. 5, 1977 and Aug. 9, 1974.
Olmsted	Stewartville, city of	270332B	do.	May 3, 1974 and Dec. 20, 1974.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Nebraska: Cass	Unincorporated areas	310407A	do	Nov. 6, 1978.
New Jersey:				
Union	Clark, township of	3452908	do	Dec. 28, 1971 and May 14, 1976.
Gloucester	National Park, borough of	340209B	do	Apr. 12, 1974 and June 3, 1977.
New York: Oswego	New Haven, town of	3005558	do	July 19, 1974 and Apr. 29, 1976.
Minnesota: Anoka	Lino Lakes, city of	270015B	Sept. 3, 1982, suspension withdrawn	Dec. 13, 1974 and May 17, 1982.
Ohio:				
Fairfield	Bremen, village of	390160B	Sept. 2, 1982, suspension withdrawn	June 21, 1974 and June 4, 1976.
Licking	Kirkersville, village of	390701A	do	Feb. 14, 1975
Perry	New Lexington, village of	390449C	do	June 12, 1981, May 17, 1974 and April 9, 1976.
Shelby	Unincorporated areas	390503C	do	Dec. 19, 1977, Oct. 20, 1978 and Dec. 20, 1974.
Pennsylvania:				
Westmoreland	Rostraver, township of	4221848	do	May 24, 1974 and June 4, 1976.
Montgomery	Upper Moreland, township of	4219098	do	Dec. 20, 1974 and May 28, 1976.
South Carolina: Florence	Unincorporated areas	4500768	do	Apr. 26, 1976.
Texas: Lubbock	Lubbock, city of	4804528	do	Aug. 30, 1974 and June 18, 1976.
West Virginia: Wetzel	New Martinsville, city of	5402068	do	June 28, 1974 and Apr. 9, 1976.
Washington:				
Whatcom	Bellingham, city of	5301998	do	June 14, 1974 and June 21, 1977.
Do	Nooksack, city of	530203A	do	Nov. 22, 1974.
Wisconsin:				
Kenosha	Kenosha, city of	5502068	do	Dec. 28, 1973 and July 2, 1976.
Waukesha	Waukesha, city of	5504818	do	Feb. 8, 1974 and May 28, 1976.

[1] This is an incorporated community which was formally contained entirely in Alameda County, CA. Since the community was part of a Regular Program community it is being entered directly in the Regular Program and will use Alameda County's map in the interim for insurance and flood plain management purposes. (Alameda Co., CA.—Hazard area ID date: 4–15–81; Eff. FIRM: 4–15–81: Comm. No. 060001A; Reg. Prog. 4–15–81.)

[2] This is an incorporated community which was formally contained entirely in the City of Harlingen, Cameron County, TX. Since the community was part of the Regular Program community, it is being entered directly in the Regular Program and will use the City of Harlingen's map in the interim for insurance and flood plain management purposes. (City of Harlingen, TX.—Hazard Area ID date: 7–1–74, 7–13–72, 10–17–75 and 8–3–81; Eff. FIRM: 6–23–72; Reg. Prog. 6–23–72; Comm. No. 485477.)

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: September 14, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25933 Filed 9-22-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 65

[Docket No. FEMA 6402]

Identification and Mapping of Special Flood Hazard Areas; Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Associate Director, State and Local Programs and Support reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fourth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0220.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations on the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection. Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 65.4.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Texas: Taylor and Jones	City of Abilene	*Abilene Reporter-News*, Aug. 3 and Aug. 10, 1982.	Hon. Elbert E. Hall, Mayor, City of Abilene, P.O. Box 60, Abilene, TX 79604.	July 16, 1982	480648B.
Alaska	Fairbanks-North Star Borough	*Fairbanks Daily News-Miner*, Aug. 17 and Aug. 24, 1982.	Hon. John A. Carlson, Mayor, Fairbanks-North Star Borough, P.O. Box 1267, Fairbanks, AK 99707.	Aug. 24, 1982	025009F.
Arizona: Maricopa	City of Avondale	*The West Sider*, July 27 and Aug. 3, 1982.	Hon. Dessie M. Lorenz, Mayor, City of Avondale, 995 North Central, Avondale, AZ 85323.	Aug. 3, 1982	040039C.
California:					
Yuba	City of Marysville	*Appeal-Democrat*, Aug. 3 and Aug. 10, 1982.	Hon. Ronald Hendicks, Mayor, City of Marysville, 526 "C" St., Marysville, CA 95270.	Aug. 19, 1982	060428C.
Alameda	City of Pleasanton	*Tri-Valley Herald*, Aug. 24 and Aug. 31, 1982.	Mayor Bob Butler, Mayor, City of Pleasanton, 200 Bernal Ave., Pleasanton, CA 94566.	Aug. 31, 1982	060012C.
Alameda	City of Union City	*The Daily Review*, Aug. 10 and Aug. 17, 1982.	Hon. Tom Kitayama, Mayor, City of Union City, 34009 Alvardo-Niles, Union City, CA 94587.	Aug. 17, 1982	060014B.
Stanislaus	City of Modesto	*The Modesto Bee*, Aug.10 and Aug. 17, 1982.	Hon. Peggy Mensinger, Mayor, City of Modesto, P.O. Box 642, Modesto, CA 95353.	....do	060367C.
Colorado: Adams and Arapahoe.	City of Aurora	*The Aurora Sun*, Aug. 26 and Sept. 2, 1982.	Hon. Dennis Champine, Mayor, City of Aurora, 1470 South Havana, Aurora, CO 80012.	Aug. 31, 1982	080002B.
Idaho: Latah	City of Moscow	*Idahonian*, Aug. 10 and Aug. 17, 1982.	Hon. Dee Hager, Mayor, City of Moscow, 122 East Fourth St., Moscow, ID 83843.	Aug. 17, 1982	160060C.
Massachusetts:					
Norfolk County	Dedham, town of	*Dedham Transcript*, Aug. 6 and Aug. 13, 1982.	Mr. Paul Coughlin, Chairman of Selectmen, Town of Dedham, Dedham, MA 02026.	Aug. 13, 1982	250237C.
Norfolk County	Westwood, town of	*Daily Transcript*, Aug. 13 and Aug. 20, 1982.	Mr. Frederick Meagher, Chairman, Board of Selectmen, Town of Westwood, Town Hall, 580 High St., Westwood, MA 02090-1695.	Aug. 20, 1982	2502258.
Missouri: St. Louis	City of Bridgeton	*St. Louis County Star*, Aug. 11 and Aug. 18, 1982.	Hon. E. W. Abram, Mayor, City of Bridgeton, 11955 Natural Bridge Rd., Bridgeton, MO 63044.	Aug. 17, 1982	290338C.
Mississippi: Pearl River County	Picayune, city of	*The Picayune Item*, Aug. 20 and Aug. 27, 1982.	Hon. Greg Mitchell, City of Picayune, P.O. Box 1018, Picayune, MS 39466.	Aug. 27, 1982	250130C.
Montana: Lincoln	City of Libby	*Western News*, Aug. 3 and Aug. 10, 1982.	Hon. Fred A. Brown, Mayor, City of Libby, P.O. Box Z, Libby, MT 59923.	Aug. 10, 1982	300042C.
New Jersey:					
Middlesex County	Spotswood, borough of	*The Home News*, Aug. 13 and Aug. 20, 1982.	Hon. Wayne R. Hamilton, Mayor, Borough of Spotswood, 77 Summerhill Rd., Spotswood, NJ 08884.	Aug. 20, 1982	340282C.
Bergen County	Oakland, borough of	*Suburban Trend*, Aug. 11 and Aug. 18, 1982.	Hon. T. Emmet Bauer, Mayor, Borough of Oakland, Municipal Plaza, Oakland, NJ 07436.	....do	340399B.
Passaic County	Hawthorne, borough of	*The Hawthorne Press*, Aug. 12 and Aug. 19, 1982.	Hon. Louis Say II, Mayor, Borough of Hawthorne, Municipal Bldg., Hawthorne, NJ 07506.	....do	340400C.
Oregon: Marion	City of Aumsville	*Stayton Mail*, Aug. 12 and Aug. 19, 1982.	Hon. Elmer Duncan, Mayor, City of Aumsville, P.O. Box 227, Aumsville, OR 97325.	Aug. 17, 1982	410155C.
Tennessee: White County	Sparta, city of	*The Sparta Expositor*, Aug. 19 and Aug. 26, 1982.	Hon. Kenneth Milligan, Mayor, City of Sparta, P.O. Box 30, Sparta, TN 38583.	Aug. 27, 1982	470203C.
Utah: Weber	City of Plain City	*Ogden Standard-Examiner*, Aug. 3 and Aug. 10, 1982.	Hon. Robert Sharp, Mayor, City of Plain City, P.O. Box 2017, Ogden, UT 84404.	Aug. 10, 1982	490217C.
Wyoming: Hotsprings	Town of Thermopolis	*Thermopolis Independent Record*, Aug. 12 and Aug. 19, 1982.	Hon. Karl Allen, Mayor, Town of Thermopolis, 110 North 5th St., P.O. Box 603, Thermopolis, WY 82443.	Aug. 17, 1982	560026C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Parts 65

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: August 25, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR. Doc. 82-25832 Filed 9-22-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 65

Identification and Mapping of Special Flood Hazard Areas; Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Associate Director, State and Local Programs and Support, after consultation with the Chief Executive Officer of each community listed, finds that modification of the proposed Special Flood Hazard Areas (SFHAs) for those communities is appropriate as a result of requests for changes in the interim and/or Proposed Rule.

DATES: These modified SFHAs are in effect as of the dates listed in the sixth column of the attached list and amend the Flood Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified SFHA determinations for each community are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P. E., Chief, Engineering Branch, Office of State and Local Programs and Support, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support has published a notification of the SFHAs in prominent local newspapers for the communities listed below. Ninety (90) days have elapsed since that publication, and the Associate Director has received appeals from the communities requesting changes in the proposed SFHA determinations.

The numerous changes made in the SFHAs on the Flood Insurance Rate Map for each community make it administratively infeasible to publish in this notice all of the SFHA changes contained on the maps. However, this notice includes the address of the Chief Executive Officer where the modified SFHA determinations are available for inspection.

The modifications are pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 65.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These SFHAs are basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These SFHAs together with the flood plain management measures required by 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified SFHAs shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The changes in the SFHAs listed below are in accordance with 44 CFR 65.4.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Florida:					
Clay	City of Green Cove Springs (FEMA Docket No. 6320).	*Clay County Crescent* Mar. 11 and Mar. 25, 1982.	Mr. William Vermilling, City Manager, Green Cove Springs, City Hall, 229 Walnut Street, Green Cove Springs, FL 32043.	Mar. 26, 1982	120065C.
Orange	City of Orlando (FEMA Docket No. 6320).	*The Sentinel Star* Mar. 10 and Mar. 24, 1982.	The Honorable William Frederick, Mayor, City of Orlando, City Hall, 400 S. Orange Avenue, Orlando, Florida 32801.	Mar. 26, 1982	120186 (D).
Illinois: Alexander	City of Cairo (FEMA Docket No. 6320).	*The Cairo Evening Citizen*, Mar. 5 and Mar. 12, 1982.	Hon. Alan E. Moss, Mayor, City of Cairo, 1501 Washington Avenue, Cairo, Illinois 62914.	Mar. 12, 1982	170004C.
Indiana: Dearborn	City of Aurora (FEMA Docket No. 6320).	*The Journal Press*, Mar. 18 and Mar. 25, 1982.	The Honorable Robert L. Cheek, City of Aurora, 216 3rd Street, Aurora, Indiana 47001.	Mar. 26, 1982	185172B.
Michigan:					
Oakland	City of Rochester (FEMA Docket No. 6320).	*The Rochester Clarion*, Mar. 3 and Mar. 10, 1982.	Mr. Kenneth Johnson, City Manager, City of Rochester, P.O. Box 10, 400 Sixth Street, Rochester, Michigan 48063.	Mar. 12, 1982	260328C.
St. Clair	Township of Fort Gratiot (FEMA Docket No. 6320).	*The Times Herald*, Mar. 19 and Mar. 26, 1982.	Mr. Maurice Foley, Township Supervisor, Township of Fort Gratiot, 3720 Keewahdin Drive, Port Huron, Michigan 48060.	Mar. 26, 1982	260156C.
Ohio: Lucas	Village of Waterville (FEMA Docket No. 6320).	*The Anthony Wayne Herald*, Mar. 17 and Mar. 24, 1982.	Mr. Clayton Chandler, Municipal Administrator, Village of Waterville, P.O. Box 250, Waterville, Ohio 43566.	Mar. 26, 1982	390637C.
Pennsylvania:					
Delaware	Borough of Aldan (FEMA Docket No. 6320).	*Delaware County Daily Times*, Mar. 5 and Mar. 12, 1982.	Thomas Shaiko, President of Council, Borough of Aldan, Springfield Road and the Railroad, Aldan, PA 19018.	Mar. 12, 1982	420401C.
Luzerne	Township of Kingston (FEMA Docket No. 6320).	*The Dallas Post*, Mar. 3 and Mar. 10, 1982.	Mark A. Kunkle, Township Manager, Township of Kingston, Kingston Township Municipal Building, 11 Carverton Road, Trucksville, PA 18708.	Mar. 12, 1982	420813C.
Connecticut: Fairfield County	City of Danbury (FEMA Docket No. 6320).	*The Danbury News Times*, Apr. 9 and Apr. 16, 1982.	The Honorable James E. Dyer, Mayor, City of Danbury, City Hall, 155 Deerhill Avenue, Danbury, Connecticut 06810.	Apr. 16, 1982	090004B.
New York: Tioga	Village of Owego (FEMA Docket No. 6320).	*The Binghamton Press*, Mar. 19 and Apr. 2, 1982.	Hon. John Shafer, Mayor, Village of Owego, 90 Temple Street, Owego, New York 13827.	Apr. 2, 1982	3606409.
Pennsylvania: Bucks	Township of East Rockhill (FEMA Docket No. 6320).	*The Free Press*, Apr. 23 and Apr. 30, 1982.	Paul G. Hunsicker, Chairman, East Rockhill Township, Board of Supervisors, 1622 Ridge Road, Perkasie, PA 18944.	Apr. 30, 1982	4201678.
Wisconsin: Calumet, Outagamie and Winnebago.	City of Appleton (FEMA Docket No. 6320).	*The Post Crescent*, Apr. 1 and Apr. 8, 1982.	The Honorable Dorothy Johnson, City of Appleton, 200 North Appleton Street, Appleton, Wisconsin 54913.	Apr. 9, 1982	5555428.
Illinois:					
Kendall	City of Plano (FEMA Docket No. 6277).	*Kendall County Record*, Apr. 15 and Apr. 22, 1982.	Hon. Vertin Akers, Mayor, City of Plano, 101 West Main Street, Plano, Illinois 60545.	Nov. 26, 1982	170346B.
Madison	Village of South Roxana (FEMA Docket No. 6276).	*The Alton Telegraph*, Apr. 16 and Apr. 23, 1982.	Monte R. Anderson, Village President, Village of South Roxana, P.O. Box 107, South Roxana, Illinois 62087.	Nov. 26, 1982	170449B.
Kansas: Harvey and Sedgwick	City of Sedgwick (FEMA Docket No. 6275).	*Sedgwick Pantagraph*, Apr. 15 and Apr. 22, 1982.	Hon. Tom Trower, Mayor, City of Sedgwick, P.O. Box 131, Sedgwick, KS 67135.	Nov. 30, 1982	200134C.
Nebraska: Washington	Village of Arlington (FEMA Docket No. 6273).	*The Arlington Citizen*, Apr. 8 and Apr. 15, 1982.	Mr. Wayne Royuk, Chairman, Village of Arlington, P.O. Box 39, Arlington, Nebraska 68002.	Nov. 23, 1982	310227C.
Texas: Hidalgo	(Unincorporated Area) (FEMA Docket No. 6265).	*The Daily Review*, Mar. 23 and Mar. 24, 1982.	Hon. Ramiro M. Guerra, Hidalgo County Judge, Hidalgo County Courthouse, P.O. Box 1366, Edinburg, TX 78539.	Nov. 16, 1982	480334C.
California: San Bernardino	City of Redlands (FEMA Docket No. 6281).	*The Sun*, Apr. 27 and May 4, 1982	Hon. Kenneth Roth, Mayor, City of Redlands, P.O. Box 250, Redlands, CA 92373.	Dec. 21, 1982	060279C.
Colorado: Rio Blanco	Town of Rangely (FEMA Docket No. 6294).	*The Rangely Times*, Apr. 29, and May 6, 1982.	Hon. Peggy Rector, Mayor, Town of Rangely, Municipal Building, 209 East Main Street, Rangely, CO 81648.	Dec. 21, 1982	080152C.
Louisiana: Lafayette Parish	City of Lafayette (FEMA Docket No. 6274).	*The Advertiser*, Apr. 8 and Apr. 15, 1982.	Hon. Dud Lastrapes, Mayor, City of Lafayette, P.O. Box 4017–C, Lafayette, LA 70502.	Dec. 14, 1982	220105D.
Virginia: Independent City	City of Norton (FEMA Docket No. 6297).	*The Coalfield Progress*, Apr. 27 and May 4, 1982.	Earl Brown, Acting City Manager, City of Norton, P.O. Box 616, Norton, Virginia 24273.	Dec. 17, 1982	5101088.
Washington: Spokane	City of Spokane (FEMA Docket No. 6282).	*Spokane Chronicle*, Apr. 21 and Apr. 28, 1982.	Hon. James Chase, Mayor, City of Spokane, W. 808 Spokane Falls Blvd., Spokane, WA 99210–3333.	Dec. 21, 1982	5301838.
West Virginia: Logan	Town of Mitchell Heights (FEMA Docket No. 6298).	*Logan Banner*, Apr. 23 and Apr. 30, 1982.	Hon. Melvin Triolo, Mayor, Town of Mitchell Heights, 306 Central Avenue, Logan, West Virginia 25601.	Dec. 3, 1982	5400958.
Wisconsin: Manitowoc	Unincorporated Areas (FEMA Docket No. 6295).	*Herald Times Reporter*, Apr. 30 and May 7, 1982.	James M. Hendricks, Chairman, Manitowoc County Board of Supervisors, 1010 South Eighth Street, Manitowoc, Wisconsin 54220.	Dec. 17, 1982	5502368.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Wyoming: Johnson	City of Buffalo (FEMA Docket No. 6283).	*The Buffalo Bulletin*, Apr. 29 and May 6, 1982.	Hon. Emil O. Hecht, Mayor, City of Buffalo, P.O. Box 1009, Buffalo, WY 82834.	Dec. 21, 1982	560027C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance—flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support).

Issued: August 31, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25935 Filed 9-22-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated in the table below.

ADDRESS: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Agency has developed criteria for flood plain management in flood prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not prescribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67.

Flood insurance—flood plains.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	Riverside, city, Riverside County (FEMA-6278)	Santa Ana River	100 feet upstream from center of upstream crossing of Van Buren Boulevard.	*898
			200 feet upstream from center of State Highway 60	*906
		Spring Brook Wash	Center of Market Street	*909
			150 feet upstream from center of North Main Street	*818
		University Wash	150 feet upstream from center of Orange Street	*830
			100 feet upstream from center of Spruce Street	*866
			10 feet upstream from center of 3rd Street	*900
			Center of Avocado Drive	*1,052
		Box Springs Wash	100 feet upstream from center of Mount Vernon Drive	*1,134
			Center of Park Avenue	*964
			Center of Chicago Avenue	*972
		Tequesquite Arroyo	100 feet upstream from center of Terracina Avenue	*906
			50 feet upstream from center of Sedgewick Avenue	*971
			100 feet upstream from center of Chicago Avenue	*925
		Alessandro Wash	15 feet upstream from center of Victoria Avenue	*946
			15 feet downstream from center of Alessandro Dam	*1,078

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Prenda Wash	25 feet upstream from center of Victoria Avenue	*912
			25 feet upstream from center of Dufferin Avenue	*999
			Center of Whitegate Avenue	*1,095
			15 feet downstream from center of Prenda Dam	*1,165
		Woodcrest Wash	Center of Cleveland Avenue	*915
			50 feet upstream from center of Washington Street	*1,060
		Mockingbird Canyon Wash	70 feet upstream from center of Victoria Avenue	*878
			Centerline of Dufferin Avenue	*912
		Harrison Wash	50 feet upstream from center of Dufferin Avenue	*926
			25 feet upstream from center of Gage Canal	*998
Maps available for inspection at Public Works Department, 3900 Main Street, Riverside, California.				
Colorado	Grand Junction, city Mesa County (FEMA-6121)	Colorado River	At intersection of Chuluta Avenue and Fairview Avenue.	*4,556
		Indian Wash	At the southwest corner of the intersection of Orchard Avenue and 28¼ Road.	*4,633
		Leach Creek	At intersection of Leach Creek and upstream side of Patterson Road.	*4,545
			Approximately 500 feet upstream of 25 Road	*4,590
		Horizon Drive Channel	At intersection of Horizon Drive Channel and 25½ Road.	*4,573
			Approximately 1280 feet upstream of intersection with 25½ Road.	*4,583
			Approximately 1850 feet downstream of 25½ Road	*4,567
Maps available for inspection at Engineering Department, 250 N. 5th Street, Grand Junction, Colorado.				
Florida	Hallandale, city, Broward County (FEMA-6278)	Atlantic Ocean—Open Coast	Approximately 550 feet east of the intersection of Hallandale Beach Boulevard and South Ocean Drive.	*10
		Atlantic Ocean—Intracoastal Waterway/Golden Isles Lake.	Intersection of Parkview Drive and Three Islands Boulevard.	*8
			Intersection of Layne Boulevard and Alameda Drive	*6
			Intersection of Northeast 3rd Street and NE 8th Avenue.	*6
Maps available for inspection at Planning & Zoning Department, 308 Dixie Highway, Hallandale, Florida.				
Georgia	City of West Point, Troup County (FEMA-6286)	Chattahoochee River	Just upstream of U.S. Highway 29	*574
		Long Cane Creek	Just upstream of Interstate Highway 85 southbound	*572
			Just upstream of State Highway 18 westbound	*573
		Long Cane Creek Tributary	Just upstream of Interstate Highway 85 northbound	*577
Maps available for inspection at City Clerk's office, City Hall, Second Avenue, West Point, Georgia 31833.				
Hawaii	City and county of Honolulu (FEMA-6266)	Manoa Palolo Drainage Canal	Approximately 700' upstream of confluence with Alawai Canal.	*7
			Dole Street (upstream)	*13
			Downstream of Waialae Avenue	*30
		Manoa Stream	King Street upstream	*29
			Confluence of Palolo Stream	*35
			Dole Street upstream	*62
			Lowrey Avenue upstream	*167
			Approximately 400' upstream Pawaina Street	*242
			Approximately 150' upstream of confluence with Luaa-laaa Stream.	*266
		Palolo Stream	Upstream of concrete channel	*53
			Saint Louis High School Access Road (3rd. Avenue) upstream.	*76
			Downstream of 2nd concrete culvert	*96
		Ala Wai Canal	From approximately 100' upstream of Seaside Avenue extended to Ainakea Way.	*6
Maps available for inspection at the City Hall, Department of Land Utilization, 7th Floor, 650 South King Street, Honolulu, Hawaii.				
Illinois	(Uninc.) Sangamon County (FEMA-6224)	Sangamon River	About 3.8 miles downstream of the Chicago and North Western Railroad.	*520
			About 3700 feet upstream of Coal Bank Road	*539
			At the confluence of Clear Creek	*548
			About 6300 feet upstream of Township Road 11.25 East.	*562
		South Fork Sangamon River	At mouth	*539
			About 400 feet upstream of the confluence of Horse Creek.	*545
			About 6200 feet upstream of Township Road 8 South	*549
		Spring Creek	At the mouth	*528
			About 1000 feet upstream of New Browning Road	*535
			Just upstream of Bradfordton Road	*545
			Just upstream of of County Highway 15	*567
			Just downstream of Township Road 18 West	*835
		Sugar Creek	At mouth	*539
		id	Just downstream of Spaulding Dam	*547
			Just upstream of Chatham Road	*561
			Just downstream of Township Road 12 South	*572
			Just upstream of Township Road 2 West	*583
			Just upstream of Township Road 3.5 West	*592
			Just upstream of State Highway 104	*600
			Just upstream of Township Road 16 South	*611
			About 200 feet upstream of Township Road 17 South	*617
			About 3600 feet upstream of County Highway 6 South	*630

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Brush Creek	At mouth	*551
			Just downstream of Illinois Central Gulf Railroad	*599
			Just upstream of Illinois Central Gulf Railroad	*602
			Just downstream of Township Road 17 South	*611
		Horse Creek	At mouth	*545
			Just downstream of Township Road 8 South	*548
			Just upstream of County Road 9 South	*598
			Just downstream of Township Road 13.75 South	*592
			Just upstream of Township Road 13.75 South	*605
			Just downstream of County Highway 56	*599
		Clear Creek	At mouth	*548
			Just downstream of County Highway 1A North	*554
			Just upstream of Township Road 2 North	*574
			Just upstream of County Highway 16 East	*581
			Just downstream of Old U.S. Highway 36	*582
		Hoover Branch	At mouth	*539
			About 300 feet downstream of Old U.S. Highway 36	*539
			Just upstream of Old U.S. Highway 36	*544
			At the Springfield corporate limits	*558
		Jacksonville Branch	At mouth	*540
			About 600 feet downstream of Churchill Road	*540
			Just downstream of Churchill Road	*542
		Town Branch	At mouth	*536
			About 150 feet upstream of Amos Avenue	*538
			Just downstream of Lincoln Avenue	*539
			About 220 feet upstream of Lincoln Avenue	*542
Maps available for inspection at the Sangamon County Planning Commission Office, 703 Meyers Building, Springfield, Illinois.				
Indiana	(C) Kendallville Noble County (FEMA-6278)	Waterhouse Ditch	At confluence with Henderson Lake Ditch	*952
			About 1.0 mile upstream of East 900 Road	*956
		Lash Ditch	Just upstream of Brilhart Street	*971
			Just downstream of Wells Road	*975
		Bixler Lake	Within the community	*956
		Henderson Lake Ditch	Just upstream of East 600 road	*942
			Just upstream of Conrail	*953
		Bixler Lake Ditch	Just upstream of Garden Street	*966
			At Bixler Lake Control Structure	*966
Maps available for inspection at the Clerk's Office, City Hall, Kendallville, Indiana.				
Indiana	(C) Ligonier Noble County (FEMA-6278)	Elkhart River	Just upstream of 1100 West Road	*862
			About 0.91 mile upstream of 750 West Road	*874
		Sparta Lake Ditch	At confluence with Elkhart River	*872
			About 700 feet upstream of U.S. Route 6	*873
			About 500 feet upstream of 650 North Road	*880
		Solomon Creek	Just downstream of 500 North Road	*862
			About 0.57 mile downstream of 1050 West Road	*873
			About 0.80 mile upstream of 550 North Road	*881
Maps available for inspection at the City Hall, Third Street, Ligonier, Indiana.				
Indiana	(C) Valparaiso Porter County (FEMA-6278)	Salt Creek	Just upstream of Joliet Street	*680
			Just upstream of Norfolk and Western Railway	*686
			About 2300 feet upstream of U.S. Route 30	*691
Maps available for inspection at the Engineer's Office, City Hall, 16 Indiana Avenue, Valparaiso, Indiana.				
Massachusetts	North Reading, town, Middlesex County (Docket No. FEMA-6278).	Ipswich River	At downstream corporate limits	*60
			Upstream of Haverhill Street	*68
			At upstream corporate limits	*75
		Martins Brook	At confluence with Ipswich River	*71
			At corporate limits (downstream crossing)	*76
			At corporate limits (upstream crossing)	*76
			At Martins Pond Outlet	*80
		Skug River	At confluence with Martins Pond	*80
			At upstream corporate limits	*83
		Martins Pond	Entire shoreline within community	*80
Maps available for inspection at the Office of the Community Planning Commission, Town Hall, Park Street, North Reading, Massachusetts.				
Michigan	(Twp.) Bloomfield, Oakland County (Docket No. FEMA-6282).	Franklin Branch-River Rouge	About 100 feet upstream of 14 Mile Road	*763
			Just upstream of Franklin Road	*767
			About 1.3 miles upstream of Franklin Road	*792
		Army Drain	About 1,700 feet downstream of Great Oaks Drive	*847
			About 1,600 feet upstream of Square Lake Road	*880
		Hamlin Drain	About 800 feet upstream of Subdivision Road	*868
			About 1,350 feet upstream of Subdivision Road	*872
		Murphy Drain	About 100 feet upstream of West Hickory Grove Road	*886
			Just upstream of private drive (about 530 feet upstream of Lahser Road)	*902
			Just downstream of Wilshire Drive	*822
		Long Lake-Forest Lake Drain	Just upstream of Lahser Road	*858
			Just downstream of Pine Valley Way	*874
			Just upstream of Pine Valley Way	*882
			Just downstream of West Long Lake Road	*882
			Just upstream of West Long Lake Road	*890
			Just downstream of Club Drive	*911
		River Rouge	Just upstream of Hunter Boulevard	*748
			Just downstream of 16 Mile Road	*748

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just downstream of Grand Trunk Western railroad	*751
			Just upstream of Grand Trunk Western railroad	*757
			Just downstream of Adams Road	*785
		Sodon Lake Drain	Just upstream of Laheer Road	*832
			Just upstream of Oakleigh Drive	*833
			About 400 feet upstream of Ardmore Court	*848
			Just downstream of Sunningdale Drive	*851
			About 100 feet upstream of Sunningdale Drive	*855
			Just downstream of Old Sound Barrier	*856
		Walnut Lake	Shoreline	*893
		Hammond Lake	Shoreline	*921
		Upper Long Lake	Shoreline	*914

Maps available for inspection at the Town Hall, 4200 Telegraph Road, Bloomfield Hills, Michigan.

Minnesota	(C) Independence, Hennepin County (Docket No. FEMA-6278).	South Fork Crow River	Within the corporate limits	*919
		Lake Robina Tributary	At mouth	*939
			Just upstream of Pioneer Creek Road	*942
			Just downstream of Burlington Northern Railroad	*955
		Pioneer Creek	About 2,500 feet downstream of County Highway 20	*930
			Just upstream of Watertown Road	*932
			Just upstream of Burlington Northern Railroad	*950
			Just downstream of Independence Road	*959
		Lake Independence	Shoreline	*960
		Lake Sarah	Shoreline	*951
		Lake Robina	Shoreline	*958

Maps available for inspection at City Clerk's Office, City Hall, 1790 County Road 90, Independence, Minnesota.

Minnesota	(C) Sandstone, Pine County (Docket No. FEMA-6278).	Kettle River	Just upstream of Kettle River Dam	*952
			About 2,300 feet upstream of State Highway 123	*967
		Skunk Creek	About 900 feet downstream of Government Road	*1,027
			Just upstream of Government Road	*1,039
			About 130 feet upstream of Burlington Northern Railroad.	*1,055
			About 2,300 feet upstream of Burlington Northern Railroad.	*1,058

Maps available for inspection at the City Administrator's Office, City Hall, Fourth and Commercial, Sandstone, Minnesota.

Missouri	(C) Hardin, Ray County (Docket No. FEMA-6278)	Missouri River	At eastern corporate limit	*695
			At western corporate limit	*696

Maps available for inspection at the City Hall, Hardin, Missouri.

Montana	Laurel (city) (Yellowstone County) (FEMA-6278)	Italian Ditch	200 feet upstream of intersection of Interstate Highway 90 (downstream crossing) and Italian Ditch.	*3,267
		Nutting Ditch	40 feet upstream of intersection of Fir Avenue and Nutting Ditch.	*3,292
		Main Street Overflow	Intersection of Fir Avenue and Main Street (U.S. Highway 10).	*3,295
		West Main Street Overflow	50 feet upstream of intersection of Eighth Avenue and West Main Street Overflow.	*3,306
		Yellowstone River	200 feet downstream of intersection of U.S. Highways 310 and 212, and Yellowstone River.	*3,270

Maps available for inspection at City Hall, Laurel, Montana.

Montana	Missoula, city, Missoula County (FEMA-6757)	Clark Fork River	Crossing of Russell Street over channel	*3,166
			Crossing of U.S. Highway 12 and 93	*3,179
			Crossing of Madison Street Bridge	*3,185
		Pattee Creek	South Higgins Avenue crossing—20 feet upstream of centerline.	*3,223
			Pattee Canyon Road	*3,314
		Rattlesnake Creek	Crossing of East Front Street over channel	*3,166
			Private Road crossing	*3,260
		Bitterroot River	Westernmost corner of community approximately 3,000 feet west of intersection of Fort Road and Post Siding Road.	*3,123
		Sheetflow	Southern edge of southern I-90 exit ramp approximately 700 feet southeast from crossing of I-90 over Rattlesnake Creek.	#1
			100 feet northeast of intersection of Russell Street and 39th Street.	#1
			South side of Whitaker Street from Crestline to Pine>ridge.	#1
			Westernmost intersection of Arlington and Cyprus	#1
			300 feet south of intersection of 39th Street and Reserve Street.	#1
			South side of U.S. Highway 12 and 93 approximately 500 feet southwest from its intersection with Dore Lane.	#1
			Bancroft Road between Benton and Livingston	#2
			100 feet south of intersection of Russell Street and 39th Street.	#2
			Southern side of Southwest Higgins Avenue between Northview and Stephens.	#2
			750 feet south of intersection of 39th and Reserve Streets.	#2
			Old Childrens Fishpond	#3

Maps available for inspection at Building Inspector, City Hall, 201 West Spruce Street, Missoula, Montana.

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New Jersey	Cape May City, city, Cape May County (Docket No. FEMA-6286).	Atlantic Ocean	Intersection of Beach and Wilmington Avenues	*14
			Beach Avenue at its intersection with Reading Avenue	*14
			Patterson Avenue extended 100 feet seaward from its intersection with Beach Avenue.	*14
			350 feet east along Mt. Vernon Street from its intersection with 2nd Avenue.	*12
			Intersection of Brooklyn and New Jersey Avenues	*10
			Intersection of Maryland and Madison Avenues	*10
			Intersection of Park Boulevard and Grant Avenue	*10
			Intersection of Wilmington and Delaware Avenues	*10
			Intersection of Washington and Texas Avenues	*10
Maps available for inspection at the Office of the City Clerk, City Hall, 643 Washington Street, Cape May City, New Jersey.				
New Jersey	Cape May Point, borough, Cape May County (Docket No. FEMA-6286).	Atlantic Ocean	Brainard Avenue extended 400 feet seaward from its intersection with Pearl Avenue.	*14
			Lake Drive extended 200 feet seaward from its intersection with Harvard Avenue.	*14
			Intersection of Lighthouse and Lincoln Avenues	*14
			Intersection of Alexander and Pearl Avenues	*10
			Intersection of Oak Avenue and Lake Drive	*10
			Intersection of Lincoln and Lehigh Avenues	*10
			Intersection of Princeton and Ocean Avenues	*10
Maps available for inspection at the Office of the Borough Clerk, Municipal Building, Yale and Lighthouse Avenues, Cape May Point, New Jersey.				
New Jersey	Howell, township, Monmouth County (Docket No FEMA-6278).	Manasquan River	Upstream of Southard Avenue	*44
			Upstream of West Farm Road	*51
			Upstream of Ketchem Road	*60
			Confluence of Ardena Brook	*65
			Upstream of Route 9	*72
			Confluence of Long Brook	*75
			Upstream corporate limits	*78
		Long Brook	Confluence with Manasquan River	*75
			Upstream of Route 9	*95
			Upstream of Adelphia Farmingdale Road	*100
			Upstream of Howell Road	*109
			Upstream of Vanderveer Road	*115
			Upstream of Conrail	*119
			Upstream of Route 33	*125
		Bannen Meadow Brook	Confluence with Manasquan River	*71
			Upstream of Casino Drive	*76
			Upstream of Route 9	*80
			Approximately 700 feet upstream of Fort Plains Road	*88
		Ardena Brook	Confluence with Manasquan River	*65
			Upstream of Adelphia Farmingdale Road	*81
		North Branch Metedeconk River	Downstream of corporate limits	*17
			Confluence of Gravelly Run	*20
			Confluence of Haystack Brook	*23
			Upstream of Ramtown Greenville Road	*24
			Upstream of Lakewood Allenwood Road	*33
			Downstream of Lakewood Farmingdale Road	*43
			Upstream of Route 9	*53
			Upstream of Kent Road	*58
			Upstream of Chruch Road	*70
			Confluence of Aldrich Lake	*81
			Downstream of Interstate Route 195C	*86
			Upstream of Hulses Road	*89
			Approximately 100 feet downstream of upstream corporate limits.	*93
		Haystack Brook	Confluence with North Branch Metedeconk River	*23
			Upstream of Ramtown Greenville Road	*23
			Upstream of Lakewood Allenwood Road	*33
			Upstream of Oak Glen Road	*37
			Upstream of Lakewood Farmingdale Road	*46
			Confluence of Groundhog Brook	*50
			Upstream of Lanes Pond Road	*60
			Upstream of Mason Southard Road	*70
			Approximately 4,300 feet upstream of Mason Southard Road.	*75
		Groundhog Brook	Confluence with Haystack Brook	*50
			Upstream of Lanes Pond Road	*59
			Confluence of Polipod Brook	*58
			Approximately 300 feet downstream of Locust Avenue	*58
		Polipod Brook	Confluence with Groundhog Brook	*59
			Approximately 810 feet upstream of confluence with Groundhog Brook.	*58
		Gravelly Run	Confluence with North Branch Metedeconk River	*20
			Approximately 400 feet downstream of Western Drive	*39
Maps available for inspection at the Municipal Building, Howell, New Jersey.				
New Jersey	Knowlton, township, Warren County (Docket No. FEMA-6146).	Delaware River	Downstream corporate limits	*273
			Upstream confluence of Valley Road Branch	*281
			Upstream Conrail (downstream crossing)	*288
			Upstream U.S. 611	*294

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream Conrail (upstream crossing)	*303
			Upstream corporate limits	*315
Maps available for inspection at the Office of the Township Clerk, Municipal Building, Columbia, New Jersey.				
New Jersey	Logan, township, Gloucester County (Docket No. FEMA-6276).	Delaware River	At the confluence of Repaupo Creek	*10
			At the confluence of Raccoon Creek	*9
			At the confluence of Oldmans Creek	*9
			The entire shoreline of Repaupo Creek	*10
			The entire shoreline of Pargey Creek	*10
			The entire shoreline of Raccoon Creek	*9
			The entire shoreline of Oldmans Creek	*9
Maps available for inspection at the Municipal Building, 73 Main Street, Bridgeport, New Jersey.				
New Jersey	North Wildwood, city, Cape May County (Docket No. FEMA-6276).	Atlantic Ocean	12th Avenue extended 100 feet seaward from its intersection with Beach Drive.	*14
			Intersection of Beach Drive and 2nd Avenue	*14
			Intersection of New Jersey and Spruce Avenues along Hereford Inlet.	*14
			Maryland Avenue extended 50 feet northeast of its intersection with Anglesea Drive.	*14
			Northeast of State Route 585 in the vicinity of the confluence of Beach Creek with the Hereford Inlet.	*12
			The seaward limit of 23rd Avenue, 100 feet northwest of the Boardwalk.	*11
			Intersection of 6th Avenue and Beach Drive	*11
			Intersection of Surf and 2nd Avenues	*11
			Intersection of Anglesea and Taylor Avenues	*11
			Intersection of Virginia and Oak Avenues	*11
			Intersection of Allen Drive and Seaspray Court	*11
			Intersection of Surf and 21st Avenues	*10
			Intersection of Maryland and 16th Avenues	*10
			Intersection of Central and 9th Avenues	*10
			Intersection of Delaware Avenue and Walnut Street	*10
Maps available for inspection at the Office of the City Clerk, 9th and Atlantic Avenues, North Wildwood, New Jersey.				
New Jersey	Ocean, township, Ocean County (Docket No. FEMA-6276).	Barnegat Bay	Entire shoreline within corporate limits	*7
Maps available for inspection at the Municipal Building, 50 Railroad Avenue, Waretown, New Jersey.				
New Jersey	Sea Isle City, city, Cape May County (Docket No. FEMA-6276).	Atlantic Ocean	22nd Street extended 250 feet seaward from its intersection with Landis Avenue.	*14
			34th Street extended 200 feet seaward beyond the Promenade, from its intersection with Pleasure Avenue.	*14
			46th Street extended 75 feet seaward from its intersection with the Promenade.	*14
			66th Street extended 100 feet seaward from its intersection with Pleasure Avenue.	*14
			Portion of 88th Street extending seaward beyond its intersection with Pleasure Avenue.	*14
			Intersection of 23rd Street and Landis Avenue	*12
			Vicinity of the confluence of Swimming Creek with Ludlam Bay.	*12
			Intersection of 32nd Street and Central Avenue	*11
			Intersection of 40th Street and Pleasure Avenue	*11
			Intersection of 58th Street and Landis Avenue	*11
			Intersection of 68th Street and Central Avenue	*11
			Intersection of 91st Street and Pleasure Avenue	*11
			Intersection of 84th Street and Central Avenue	*10
			Intersection of Roberts Street and 77th Street	*10
			Intersection of Central Avenue and 71st Street	*10
			Intersection of 54th Street and Central Avenue	*10
			Intersection of 44th Street and Venician Road	*10
			Intersection of Central Avenue and 36th Street	*10
Maps available for inspection at the Office of the City Clerk, City Hall, 4416 Landis Avenue, Sea Isle City, New Jersey.				
New Jersey	Somerville, borough, Somerset County (Docket No. FEMA-6276).	Raritan River	Upstream corporate limits	*51
			Upstream of U.S. Route 206	*48
			Downstream corporate limits	*47
		Peters Brook	Downstream corporate limits	*47
			Upstream North Bridge Street	*48
			Upstream corporate limits	*60
		Ross Brook	Confluence with Peters Brook	*47
			Upstream corporate limits	*64
		Mars Brook	Confluence with Peters Brook	*56
			Upstream corporate limits	*62
Maps available for inspection at the Municipal Building, 25 West End Avenue, Somerville, New Jersey.				
New Jersey	South Toms River, borough, Ocean County (Docket No. FEMA-6276).	Toms River	Entire shoreline within community	*6
		Jakes Branch	At confluence with Toms River	*6
			Parkway Access Road (upstream)	*10
			Double Trouble Road (upstream)	*18

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 1,980 feet upstream of Double Trouble Road.	*21
Maps available for inspection at the Municipal Building, 144 Mill Street, South Toms River, New Jersey.				
New Jersey	Wildwood, city, Cape May County (Docket No. FEMA-6281).	Atlantic Ocean	Herd Avenue extended 50 feet seaward from its intersection with the Boardwalk.	*14
			Spencer Avenue extended 50 feet seaward from its intersection with the Boardwalk.	*14
			Poplar Avenue extended 50 feet seaward from its intersection with the Boardwalk.	*14
			Intersection of Andrews Avenue and the Boardwalk	*11
			Intersection of Ocean and Wildwood Avenues	*11
			Intersection of Bennett and Atlantic Avenues	*10
			Intersection of Andrews and Mediterranean Avenues	*10
			Intersection of Ocean and Magnolia Avenues	*10
			Intersection of Park Boulevard and Pine Avenue	*10
Maps available for inspection at the Office of the City Clerk, City Hall, 4400 New Jersey Avenue, Wildwood, New Jersey.				
New Jersey	Wildwood Crest, borough, Cape May County (Docket No. FEMA-6286).	Atlantic Ocean	St. Louis Avenue extended 400 feet seaward from its intersection with Atlantic Avenue.	*14
			Intersection of Beach Avenue and Rosemary Road	*14
			Heather Avenue extended 400 feet seaward from its intersection with Ocean Avenue.	*14
			Intersection of Ocean Avenue and Primrose Road	*11
			Intersection of Beach Avenue and Lavender Road	*11
			Intersection of Charleston and Pacific Avenues	*10
			Intersection of Ocean Avenue and Orchid Road	*10
			Intersection of Lake and Morning Glory Roads	*10
Maps available for inspection at the Office of the Borough Clerk, Borough Hall, 6101 Pacific Avenue, Wildwood Crest, New Jersey.				
New Mexico	Town of Bernalillo, Sandoval County (FEMA-6278)	Rio Grande	Just upstream of New Mexico Highway 44	*5,099
Maps available for inspection at Town Hall, 901 Camino Del Pueblo, Bernalillo, New Mexico 87004.				
New Mexico	Village of Corrales, Sandoval County (FEMA-6278)	Rio Grande	Just upstream of Corrales Bridge-New Mexico State Highway 46.	*4,997
		Arroyo de los Monotoyos	Just upstream of confluence of Unnamed Arroyo No. 4.	*5,071
Maps available for inspection at Village Hall, Corrales, New Mexico 87048.				
New Mexico	Village of Tijeras, Bernalillo County (FEMA-6278)	Tijeras Arroyo	Just upstream of State Highway 14 South Bridge	*6,275
			Just upstream of Primera Agua Bridge	*6,341
			Just upstream of U.S. Highway 66	*6,421
Maps available for inspection at Village Hall, Tijeras, New Mexico 87059.				
New York	Canajoharie, town, Montgomery County (Docket No. FEMA-6247).	Mohawk River	At downstream corporate limits	*296
			At upstream corporate limits	*304
Maps available for inspection at the Town Office, Church Street, Canajoharie, New York.				
New York	Colesville, town, Broome County (Docket No. FEMA-6278).	Susquehanna River	Approximately 700' downstream of Ouaquaga Bridge	*931
			Welton Street (extended)	*936
			Thorn Hill Road (extended)	*947
			Approximately 400' downstream of Center Village Bridge.	*953
			Delaware and Hudson Railroad	*958
			Approximately 100' upstream of Interstate Route 88	*960
			Approximately 800' upstream of Nineveh Bridge	*963
Maps available for inspection at the Colesville Town Hall, Harpersville, New York.				
New York	Fonda, village, Montgomery County (Docket No. FEMA-6247).	Mohawk River	Downstream corporate limits (extended)	*286
			Upstream State Route 30A	*286
			Upstream corporate limits (extended)	*291
		Cayadutta Creek	Confluence with Mohawk River	*291
			Upstream corporate limits	*299
Maps available for inspection at the Village Office, Main Street, Fonda, New York.				
New York	Guilderland, town, Albany County (Docket No. FEMA-6278).	Black Creek	Confluence with Bozen Kill	*284
			Upstream of Depot Road	*314
			Upstream corporate limits	*326
		Bozen Kill	Confluence with Watervliet Reservoir	*255
			Upstream of confluence of Black Creek	*284
		Normans Kill	Downstream corporate limits	*126
			Downstream of Grant Hill Road	*153
			Upstream of State Route 146	*192
			Upstream of Conrail High Level Bridge	*238
			Upstream of State Route 159	*266
			Upstream corporate limits	*277
		Altamont Tributary 2	Confluence with Bozen Kill	*342
			At Gun Club Road	*387
		Vly Creek	Confluence with Normans Kill	*127
			Upstream corporate limits	*127
Maps available for inspection at the Town Hall, Route 20, Guilderland, New York.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Laurel Hollow, village, Nassau County (Docket No. FEMA-6278).	Cold Spring Harbor	From the Village of Laurel Hollow-Village of Cove Neck corporate limits to a point approximately 4,000 feet south along the Cold Spring Harbor shoreline.	*15
			From a point approximately 4,000 feet south along the Cold Spring Harbor shoreline from the Village of Laurel Hollow corporate limits to the eastern end of the sand spit.	*14
		Inner Harbor	The entire Inner Harbor shoreline within the community.	*14
Maps available for inspection at the Village Hall, Moores Hill Road, Syosset, New York.				
New York	New Rochelle, city, Westchester County (Docket No. FEMA-6278).	Long Island Sound	Davids Island	*18
			From southern corporate limits to a point .71 mile north along shoreline.	*18
			From a point .71 mile north along shoreline to Echo Island.	*18
			From Echo Island to Beafort Point	*17
			From Beafort Point along shoreline of Echo Bay to northern corporate limits.	*16
Maps available for inspection at the Department of Public Works, City Hall, 515 North Avenue, New Rochelle, New York.				
North Caroline	Unincorporated areas of Greene County (FEMA-6278).	Contentnea Creek	Just downstream of State Route 1004	*31
			Just Downstream of State Highway 123	*38
			upstream of U.S. Highway 13	*49
			upstream of State Route 1222	*52
			Just downstream of State Route 1225	*59
		Little Contentnea Creek	upstream of State Highway 903	*34
			upstream of State Route 1343	*43
			upstream of State Route 1306	*84
			Just downstream of State Route 1308, at the County Limits.	*88
		Middle Swamp	upstream of State Route 1344	*44
			upstream of U.S. Highway 13	*58
			Just Downstream of U.S. Highway 258	*64
Maps available for inspection at the County Finance Office, Greene County Office Complex, 229 Kingold Boulevard, Snow Hill, North Caroline 28580.				
North Carolina	Town of Hazelwood, Haywood County (FEMA-6278)	Richland Creek	Just Downstream of Elysinia Street	*2,696
			Approximately 60 feet downstream of West Main Street.	*2,703
		Browning Branch	Approximately 50 feet downstream of Scales Street	*2,735
Maps available for inspection at Town Hall, Hazelwood, North Caroline 28738.				
North Carolina	Unincorporated areas of Lenoir County (FEMA-6278)	Neuce River	Just downstream of U.S. Highway 55	*26
			At S.R. 1,343 Extended (At confluence of Falling Creek).	*39
		rd	Just upstream of County Road 1152	*49
		Contentnea Creek	Just downstream of Southern Railway	*25
			Just downstream of State Highway 11	*27
			Just downstream of County Road 1004	*31
		Eagle Swamp	Just downstream of County Road 1600	*25
			Just downstream of State Highway 11	*31
			Just downstream of S.R. 1721	*51
		Stonyton Creek	Just downstream of State Highway 11	*30
			Just upstream of County Road 1742	*37
			Just downstream of S.R. 1,004	*50
			Just upstream of County Road 1,581	*67
		Jerico Run	Just downstream of State Highway 55	*30
		Briery Run	At confluence with Stonyton Creek	*30
		Southwest Creek	Just upstream of State Road 1604	*32
			Just upstream of U.S. Highway 258	*59
			Just downstream of County Road 1111	*69
			Just downstream of N.C. 11	*50
			Just upstream of County Road 1143	*108
		Deep Run	Just upstream of County Road 141	*61
			Just downstream of State Highway 11	*65
		Falling Creek	Just upstream of U.S. Highway 70	*48
			Just upstream of County Road 1001	*59
		Falling Creek Tributary	Approximately 150 feet downstream of County Road 1544.	*58
			Approximately 200 feet downstream of a private drive	*73
		Gum Swamp	Just downstream of County Road 1001	*67
			Just upstream of County Road 1091	*70
			Just upstream of County Road 1543	*80
		Jumping Run	Just downstream of County Road 1531	*86
			Just downstream of County Road 1628	*105
		Mosley Creek	Just downstream of County Road 1327	*69
			Just downstream of County Road 1516	*73
			Just upstream of County Road 1515	*82
		Groundnut Creek	Just upstream of County Road 1515	*78
			Just upstream of County Road 1414	*87
			Just downstream of County Road 1504	*90
		Bear Creek	Just downstream of County Road 1366	*58
			Just downstream of U.S. Highway 70 Eastbound	*67

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Tuckahoni Swamp	Just downstream of County Road 1501	*76
			Just upstream of County Road 1105	*92
			Just downstream of County Road 1109	*100
Maps available for inspection at the Countywide Building Inspector's Office, and at the City Planner's Office, Kinston City Hall, East King Street, Kinston, North Carolina 28501.				
North Carolina	Pitt County (Unincorporated areas) FEMA-6278	Tar River	Intersection of secondary roads 1535 and 1536	*19
		Hardee Creek	100 feet upstream from center of secondary road 1726.	*37
		Juniper Branch	60 feet upstream from center of secondary road 1755	*38
		Indian Wells Swamp	100 feet upstream from center of State Highway 43	*47
		Moves Run-Cannon Swamp	Intersection of secondary roads 1523 and 1537	*26
		Baldwin Swamp	Intersection of secondary roads 1534 and 1535	*20
		Baldwin Swamp-North Tributary	100 feet upstream from center of U.S. Highway 264	*22
		Pinelog Branch	50 feet upstream from center of secondary road 1217	*55
		Pinelog Branch-North Tributary	100 feet downstream from center of secondary road 1210.	*71
		Pinelog Branch-South Tributary	50 feet upstream of secondary road 1200	*74
Maps available for inspection at County Auditor's Office, 1717 West 5th Street, Greenville, North Carolina				
North Carolina	Town of Waynesville, Haywood County (FEMA-6278)	Richland Creek	Just downstream of U.S. Highway 19	*2,585
			Just upstream of Howell Mill Road	*2,594
			Just upstream of Southern Railway	*2,596
			Just upstream of Vance Street	*2,606
			Just upstream of State Road 1247	*2,640
			Just upstream of Elysinia Street	*2,696
		Racoon Creek	Just upstream of Southern Railway	*2,581
			Just upstream of State Road 1250	*2,584
			Just downstream of Ratcliffe Cove Road (State Road 1815).	*2,610
			Just downstream of State Road 1810	*2,641
		Browning Branch	Just upstream of U.S. Highway 19A and Business Road 23.	*2,758
			Just upstream of Browning Road	*2,778
			Just downstream of Polk Street	*2,795
		Allen Creek	Just downstream of Camp Branch Road	*2,805
			Just upstream of Southern Railway	*2,758
			Just upstream of U.S. Highway 19A and 23	*2,772
			Just upstream of Hendricks Street	*2,793
			Just upstream of State Road 1148	*2,877
Maps available for inspection at Town Hall, 100 South Main Street, Waynesville, North Carolina 28786.				
North Carolina	Unincorporated areas of Wilson County (FEMA-6278)	Whitecak Swamp	Just downstream of State Highway 264	*82
		Whitecak Swamp Tributary	Just downstream of State Road 1522	*87
		Tolenot Swamp	Just upstream U.S. Highway 264	*86
			Just downstream of State Road 1332	*116
			Just upstream of State Road 1332	*122
			Just downstream of Country Club Drive and Dam	*129
			Just upstream of Wimbledon Drive	*133
			Just upstream of State Highway 58	*135
		Contentnea Creek	Just downstream of State Highway 58	*83
			Just upstream of State Highway 222	*85
			Just upstream of State Road 1628	*70
			Just upstream of Dowing Street	*100
			Just downstream of State Road 1144	*135
		Black Creek	Just downstream of U.S. Highway 117	*91
			Just upstream of State Road	*93
		Black Creek Tributary	Just downstream of State Road 1645	*100
		Tributary to Black Creek Tributary	Just downstream of State Road 1649	*118
		Contentnea Creek Tributary	Just upstream of State Road 1613	*90
			Just downstream of State Road 1615	*103
		Hominy Swamp	Just downstream of City of Wilson extraterritorial Jurisdiction limits.	*85
		Bloomery Swamp	Just downstream of State Highway 42	*101
			Just upstream of State Road 1158	*110
			Just downstream of Interstate 95	*137
		Millstone Creek	Just upstream of State Road 1302	*140
		Shepard Branch	Just downstream of State Road 1136	*124
		Mill Branch	Just downstream of State Road 1160	*130
		Little Swamp	Just upstream of State Highway 42	*128
		Marsh Swamp	Just upstream of State Road 1149	*130
			Just downstream of State Road 1147	*151
			Just downstream of (Dam) State Road 1134	*221
		Marsh Swamp Tributary	Just downstream of State Road 1133	*193
Maps available for inspection at Planning Director's Office, County Courthouse,115 East Nash Street, Wilson, North Carolina 27893.				
Ohio	(C) Canton, Stark County (Docket No. FEMA-6278)	Nimishillen Creek	Just downstream of Mill Street	*1,003
			At confluence of West Branch Nimishillen Creek	*1,009
		East Branch Nimishillen Creek	Just upstream of Eighth Street, N.E.	*1,036
			Just upstream of Conrail about 2,800 feet upstream of Belden Avenue, N.E.	*1,050
		West Branch Nimishillen Creek	Just upstream of Cleveland Avenue, S.W.	*1,014
			About 500 feet upstream of Conrail	*1,022
			About 500 feet downstream of confluence of McDowell Ditch.	*1,042
			About 400 feet downstream of Interstate 77	*1,044
			About 150 feet upstream of Thirty-eighth Street, N.W.	*1,092

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 2,500 feet upstream of Vinal Avenue	*1,065
		Sherrick Run	Just downstream of Allen Avenue, S.E	*1,004
			Just upstream of Chessie System	*1,012
			About 100 feet downstream of Cherry Avenue, S.E	*1,022
			About 150 feet upstream of Cherry Avenue, S.E	*1,030
			About 250 feet upstream of Warner Road, S.E	*1,034
		McDowell Ditch	At confluence with West Branch Nimishillen Creek	*1,043
			Just downstream of Thirty-eighth Street, N.W	*1,047
		Middle Branch Nimishillen Creek	At confluence with East Branch Nimishillen Creek	*1,041
			Just downstream of Spengler Street, N.E	*1,048
			About 2,600 feet upstream of Martindale Road	*1,058
		Tributary No. 1	At confluence with Middle Branch Nimishillen Creek	*1,054
			About 1,200 feet upstream of confluence with Middle Branch Nimishillen Creek.	*1,054
			About 0.7 mile upstream of confluence with Middle Branch Nimishillen Creek.	*1,060
		Fairhope Ditch	About 1,300 feet upstream of Louisville Street	*1,084
			About 1,400 feet downstream of Lesh Street	*1,088
Maps available for inspection at the Department of City Planning and Zoning, City Hall, 218 Cleveland Avenue, S.W., Canton, Ohio.				
Ohio	(C) Mingo Junction, Jefferson County (Docket No. FEMA-6278).	Ohio River	At downstream corporate limits	*668
			About 6,785 feet upstream of Conrail	*669
Maps available for inspection at the Mayor's Office, City Hall, 501 Commercial Street, Mingo Junction, Ohio.				
Ohio	(C) Steubenville, Jefferson County (Docket No. FEMA-6278).	Ohio River	About 0.55 mile downstream of Conrail (near Perners Run Culvert).	*669
			At upstream corporate limit	*672
Maps available for inspection at the Mayor's Office, City Hall, 123 South Third Street, Steubenville, Ohio.				
Oklahoma	City of Lindsay, Garvin County (FEMA-6278)	Washita River	Approximately 1,000 feet downstream of Washita River.	*975
		Hybarger Creek	Just upstream of East 4th Street	*971
			Approximately 300 feet downstream of West 7th Street.	*974
Maps available for inspection at City Hall, 306 S.W. Second Street, Lindsay, Oklahoma 73052.				
Oklahoma	City of Waurika, Jefferson County (FEMA-6278)	Cow Creek	Just upstream of Chicago Rock Island and Pacific Railroad.	*862
			Just upstream of Meridian Street	*868
		Beaver Creek	Just upstream of U.S. Highway 70	*875
			Approximately 300 feet upstream of Chicago Rock Island and Pacific Railroad.	*890
			Just downstream of State Highway 5	*897
Maps available for inspection at City Hall, 107 West Anderson Street, Waurika, Oklahoma 73573.				
Pennsylvania	Ridley, township, Delaware County (Docket No. FEMA-5724).	Crum Creek	Confluence with Delaware River	*10
			Confluence of Little Crum Creek	*13
			Downstream of Jefferson Avenue	*25
			Upstream corporate limits	*43
		Stony Creek	Confluence with Darby Creek	*10
			Downstream of Chester Pike	*23
			Downstream of dam	*65
			Upstream of Fourth Avenue	*85
			Upstream corporate limits	*113
		Little Crum Creek	Confluence with Crum Creek	*12
			Downstream of Haverford Road	*54
			Upstream corporate limits	*66
		Ridley Creek	Downstream corporate limits	*14
			Upstream corporate limits	*21
		Muckinipattis Creek	Downstream corporate limits	*69
			Upstream corporate limits	*81
		Delaware River	Entire shoreline within community	*10
Maps available for inspection at the Ridley Township Municipal Building, MacDade Boulevard and Morton Avenue, Folsom, Pennsylvania.				
Commonwealth of Puerto Rico	Rio Grande, Anasco River Basin, (FEMA-6247)	Rio Grande de Anasco	10 meters downstream of intersection of river and Puerto Rico Highway 2.	*5.1
			30 meters upstream of intersection of river and Puerto Rico Highway 406.	*16.0
		Atlantic Ocean	At mouth of Rio Grande de Anasco	*1.8
Maps available for inspection at Puerto Rico Planning Board, P.O. Box 41119, Minillas Station, Santurce, Puerto Rico.				
South Caroline	Unincorporated areas of Lancaster County (FEMA-6286).	Camp Creek (South)	Just downstream of County Road 179	*456
			Just upstream of County Road 179	*458
			Just downstream of County Road 19	*497
		Cane Creek	Just upstream of County Road 66 (University Drive)	*444
			Approximately 800 feet downstream of U.S. Highway 521.	*462
		Rum Creek	Just downstream of State Highway 200	*473
			Just downstream of Rum Road	*490
			Just downstream of County Road 449	*508
			Just upstream of County Road 449	*511
		Bear Creek	Just upstream of County Road 19 (Lynwood Drive)	*461
			Just downstream of U.S. Highway 521	*471

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Gills Creek	Just downstream of County Road 360	*462
			Just upstream of County Road 51	*473
		Hanvalle Creek	Just upstream of SCS Dam No. 18A	*518
			Just downstream of County Road 51	*476
		Turkey Quarter Creek	Approximately 240 feet upstream of South Carolina State Highway 9.	*482
			Just downstream of County Road 407	*512
			Just upstream of County Road 149	*525
		Little Turkey Creek	Just upstream of County Road 71	*570
			Just downstream of Cauthen Road	*509
			Approximately 280 feet downstream of County Road 521.	*517
		Camp Creek	Just downstream of County Road 38	*537
			Approximately 200 feet upstream of U.S. Highway 521	*454
		Twelvemile Creek	Just upstream of County Road 186 (Craig Drive)	*460
			Just downstream of State Highway 200	*466
			Approximately 500 feet upstream of U.S. Highway 521	*486
		Skirmle Creek	Just upstream of County Road 92	*490
			Just downstream of County Road 66	*503
			Just upstream of County Road 65	*526
			Just downstream of County Road 126	*530
			Just downstream of County Road 54	*563
			Just upstream of County Road 54	*566
		Sugar Creek	Approximately 100 feet downstream of Dobys Bridge Road (State Road 36).	*491
			Approximately 200 feet upstream of Dobys Bridge Road (State Road 36).	*492
			Approximately 200 feet downstream of State Road 150.	*512
			Approximately 200 feet upstream of the confluence of McAlpine Creek.	*520
			Approximately 100 feet upstream of the Southern Railway.	*536

Maps available for inspection at the County Planning Director's Office, County Office Building, 116 West Dunlap Street, Lancaster, South Carolina 29720.

Tennessee	City of Lebanon, Wilson County (FEMA-6286)	Sinking Creek	Just upstream of U.S. Highway 70N Bypass	*529
			Just upstream of Spring Street	*532
		Barton Creek	Just upstream of U.S. Highway 231	*544
			Just upstream of U.S. Highway 70N Bypass	*515
			Just upstream of West Main Street	*521

Maps available for inspection at City-County Planning Office, Room 5, Wilson County Courthouse, Lebanon, Tennessee 37087.

Texas	City of Anahuac, Chambers County (FEMA-6278)	Lake Anahuac	Approximately 570 feet west of intersection of North Main Street and South Main Road along North Main Street.	*13

Maps available for inspection at City Hall, 501 Miller Street, Anahuac, Texas 77514.

Texas	Town of Bevil Oaks, Jefferson County (FEMA-6278)	Pine Island	Just upstream of eastern corporate limits	*25
			Just downstream of State Highway 105	*27

Maps available for inspection at Town Hall, 7390 Sweet Gum Street, Bevil Oaks, Texas 77706.

Texas	City of Bridge City, Orange County (FEMA-6278)	Gulf of Mexico, Sabine Lake	Intersection of Texas Avenue and northeastern corporate limits.	*8
			Intersection of Rosen Street and Farm Drive	*8
			Intersection of Thurman and Young Streets	*8
			Intersection of Gulf States Drive and Joel Street	*8
			Intersection of Texas Avenue and southwestern corporate limits.	*8

Maps available for inspection in Council Chambers, City Hall, 260 Rachel Street, Bridge City, Texas 77611.

Texas	City of Groves, Jefferson County (FEMA-6278)	Shallow Flooding Area	At intersection of Little John Lane and Sherwood Lane	*4
			Approximately 600 feet southeast along Perry Avenue from the intersection of Perry Avenue and David Street.	*4

Maps available for inspection at Public Works Building, 4025 McKinley Avenue, Groves, Texas 77619.

Texas	City of Orange, Orange County (FEMA-6278)	Sabine River	Just upstream of Interstate Highway 10	*11
		Adams Bayou	Approximately 6000 feet upstream of West Green Avenue.	*8
			Approximately 2000 feet upstream of Interstate Highway 10.	*9
		Coopers Gully	Just downstream of 10th Street	*8
		Hudson Gully	Just downstream of 37th Street	*11
		Little Cypress Bayou	Just upstream of State Highway 87	*12

Maps available for inspection at Planning Office, Fourth and Main Streets, Orange, Texas 77630.

Texas	Unincorporated Areas of Orange County (FEMA-6278).	Anderson Gully	Approximately 200 feet downstream of Russell Street	*19
			Approximately 200 feet downstream of Bailey Street	*22
		Caney Creek	Just downstream of FM 1132	*21
		Coon Bayou	Just downstream of State Highway 87	*8
		Cow Bayou	Approximately 100 feet upstream of confluence of Sandy Creek.	*9
		Dam Gully	Approximately 300 feet upstream of Alley Payne Road	*11
		Little Cypress Bayou	Approximately 1000 feet upstream of Farm Road	*15

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Neches River	Approximately 1500 feet upstream of Interstate Highway 10.	*11
			Approximately 2000 feet below Jasper County/Orange County Line.	*20
		Sabine River	Just downstream of Southern Pacific Railroad	*14
			Approximately 1500 feet upstream of Southern Pacific Railroad.	*15
		Sandy Creek	Downstream of Southern Pacific Railroad	*9
			Just downstream of J.B. Arrington Road	*10
		Ten Mile Creek	Just downstream of State Road 1131	*17
		Ten Mile Creek West Fork	Just downstream of FM 1131	*17
		Tiger Creek	Approximately 150 feet upstream of State Road 105	*19
		Walnut Run	Just upstream of Shell Drive	*19
		Sabine Lake/Sabine River	At the confluence of Adams Bayou and Sabine River	*9
		Sabine Lake/Neches River	Just upstream of State Highway 87	*9
Maps available for inspection at Orange County Courthouse, Room 207, Corner of Border and Division Streets, Orange, Texas 77630.				
Texas	City of Pinehurst, Orange County (FEMA-6278)	Adams Bayou	Downstream of West Park Avenue	*6
			Just upstream of Interstate Highway 10	*9
Maps available for inspection at City Hall, 3640 Mockingbird Street, Pinehurst, Texas 77630.				
Texas	City of Pleasant Valley, Wichita County (FEMA-6278)	East Fork Pond Creek	Approximately 150 feet downstream of Fort Worth and Denver Railroad.	*958
			Middle Fork Pond Creek	*959
			Just downstream of Pleasant Valley Road	
			Just upstream of U.S. Highway 287 Business	*979
		West Fork Pond Creek	At Corporate Limits	*971
Maps available for inspection at the Midway Fish Farm, Pleasant Valley, Texas 76367.				
Texas	City of Port Neches, Jefferson County (FEMA-6278)	Sabine Lake/Neches River	MacArthur Drive if extended	*7
			Marion Street if extended	*8
			Pine Street if extended approximately 800 feet from intersection of Old Street.	*7
			Pine Street if extended approximately 1400 feet from intersection of Old Street.	*8
Maps available for inspection at City Hall, 634 Avenue C, Port Neches, Texas 77651.				
Texas	City of Rose City, Orange County (FEMA-6278)	Neches River	At intersection of Daisy Lane and Sparrow Drive	*11
			At intersection of Primrose City Lane and Camellia Lane.	*9
Maps available for inspection at City Hall, Rose City, Texas 77662.				
Texas	City of Vidor, Orange County (FEMA-6278)	Anderson Gully	Just downstream of Orange Street	*22
			Just downstream of Bolivar Street	*22
		Meyers Bayou	Just Upstream of Old Spanish Trail	*8
			Just Upstream of Taylor Street	*18
Maps available for inspection at City Hall, 170 North Main, Vidor, Texas 77662.				
Texas	City of West Orange, Orange County (FEMA-6278)	Adams Bayou	Just Upstream of Western Avenue	*8
The flooding at this location is due to coastal surge from the Gulf of Mexico and Sabine Lake and also from backwater on Sabine River.				
Maps available for inspection at City Hall, 2700 Austin Avenue, West Orange, Texas 77630.				
Wisconsin	(Uninc.) Oconto County (Docket No. FEMA-6278)	Oconto River	At City of Oconto corporate limits, about 8950 feet upstream of U.S. Highway 41.	*590
			Just downstream of County Highway J	*606
			Just downstream of Machickanee Dam	*609
			Just Upstream of Machickanee Dam	*623
			About 3700 feet downstream of Paper Mill Dam	*637
			About 4200 feet upstream of Power Dam	*733
			About 1600 feet upstream of County Highway BB	*744
			About 2.2 miles upstream of County Highway BB	*757
			About 2.4 miles downstream of County Highway V	*774
			About 3000 feet upstream of County Highway H	*784
			About 1.9 miles downstream of State Highway 32	*794
			Confluence of South Branch Oconto River	*797
		South Branch Oconto River	About 1.1 miles upstream of mouth at Oconto River	*799
		North Branch Oconto River	Just downstream of Chicago and North Western railroad (1.4 miles upstream of confluence of South Branch Oconto River).	*796
			About 2.8 miles downstream of North Branch Road	*802
			Just downstream of Logan Road	*817
			About 1.8 miles downstream of State Highway 32, which is about 1.1 miles downstream of confluence of Waupee Creek.	*836
			Just downstream of Chute Dam	*857
			Just upstream of Chute Dam	*870
			Just downstream of Kingston Road	*873
			About 1.2 miles upstream of Kingston Road	*913
			About 4200 feet upstream of County Highway W	*926
			About 1.17 miles downstream of State Highway 32 and 64.	*949
			Just upstream of State Highway 32 and 64	*1027
			Just upstream of Old 32 Road	*1073
			Just upstream of Tar Dam Road	*1087

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 1.1 miles downstream of County Highway F	*1145
			Just upstream of Riverside Road	*1152
			About 1.5 miles upstream of Riverside Road	*1163
		McCaslin Brook	About 900 feet upstream of Old 32 Road	*1173
			About 2900 feet upstream of Old 32 Road	*1196
			Just downstream of North Road	*1233
			Just upstream of North Road	*1236
			Just upstream of Chain Lake Road	*1252
			Just upstream of County Highway T	*1280
			Just upstream of Old County Highway T	*1309
		Christie Brook	About 3150 feet downstream of County Highway SB	*752
			About 300 feet downstream of State Highway 32	*754
			About 700 feet upstream of Klaus Lake Road	*815
		Hayes Creek	Just upstream of Hayes Lane	*830
			Just downstream of Apple Road	*843
		Waupee Creek	About 1.4 miles downstream of County Highway W	*815
			Just upstream of Pritchard Lane	*836
		Pensaukee River	About 100 feet downstream of County Highway S	*585
			About 520 feet upstream of Old Highway 41	*592
			Just downstream of U.S. Highway 41	*596
			About 5100 feet downstream of confluence of Spring Creek.	*635
			About 150 feet upstream of U.S. Highway 141	*656
			About 175 feet upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*667
			About 2.0 miles upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*677
			About 1900 feet downstream of Safian Road	*756
			Just downstream of State Highway 32	*773
		Brookside Creek	Mouth at Pensaukee River	*606
			About 250 feet upstream of Moody Road	*609
			About 3200 feet upstream of U.S. Highway 41	*616
			About 100 feet upstream of Falk Road	*627
			Just upstream of Oak Orchard Road	*655
			About 125 feet upstream of Cross Road	*677
		Spring Creek	Mouth at Pensaukee River	*544
			About 1700 feet upstream of Nikodem Lane	*674
			About 175 feet upstream of Sanulewood Road	*692
			Just upstream of County Highway E, upstream of confluence of Spring Creek Tributary.	*714
		Spring Creek Tributary	Mouth at Spring Creek	*703
			About 425 feet upstream of Burdosh Road	*713
		Little Suamico River	About 2800 feet downstream of Chicago and North Western railroad.	*585
			Just upstream of Chicago and North Western railroad	*588
			About 125 feet upstream of U.S. Highways 41 and 141.	*618
			About 100 feet upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*640
			About 200 feet upstream of Cross Road	*643
			Just upstream of Jaworski Road	*768
			About 950 feet upstream of Waste Treatment Plant Road.	*783
		Tibbet Creek	Just downstream of Old Deer Road	*585
			About 750 feet upstream of Chicago and North Western railroad.	*591
			About 800 feet downstream of Geano Beach Road	*625
		Tributary No. 1	Mouth at Green Bay	*585
			About 350 feet upstream of County Highway S	*588
			Just upstream of Pine Avenue	*591
		Tributary No. 2	Just upstream of Maple Avenue	*629
			Just downstream of Landfill Road	*634
		Green Bay	At shoreline	*585
		Shallow Flooding	East of Chicago and North Western railroad, south of County Highway S.	*594

Maps available for inspection at the Zoning Administrator's Office, Courthouse, Oconto, Wisconsin.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); E. O. 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: September 8, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-25880 Filed 9-22-82; 8:45 am]

BILLING CODE 6718-03-M

Proposed Rules

Federal Register
Vol. 47, No. 185
Thursday, September 23, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1945

Emergency Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its insured emergency (EM) loan regulations to correlate and clarify Subparts B and D so that production loss calculations will be made on a fair and equitable basis for all farmers. A termination date is established to provide that all EM loan applications will be processed under the same regulation.

This action is needed to implement administrative changes to correct program deficiencies. The intended effect is to provide for more efficient administration of the program so that EM loans will be made on a fair and equitable basis to farmers suffering substantial agricultural losses, who need the Federal assistance to continue their farming operations.

DATES: Comments must be received by November 22, 1982.

ADDRESSES: Submit written comments in duplicate to Carl O. Opstad, Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6346–S, Washington, DC 20250, telephone (202) 382–9725. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Keith L. Smalley, Emergency Loan Officer, Emergency Division, Farmers Home Administration, USDA, Room 5346–S, Washington, DC 20250, telephone (202) 382–1651.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291 and has been determined to be "non major". This action will cause no major increase in costs or prices for individuals, organizations, or other Government agencies affected; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action does not directly affect any FmHA programs or projects that are subject to A–95 clearinghouse review.

Approval has been requested from the Office of Management and Budget in regard to the recordkeeping and reporting requirements contained herein.

The Catalog of Federal Domestic Assistance number is 10.404 Emergency Loans (EM).

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Public Law (Pub. L.) 91–190, an Environmental Impact Statement is not required.

Need for Governmental Action

The Congress has been critical of FmHA's overall management of the Disaster Emergency Program. The Administration agrees with these criticisms.

Emergency (EM) loans are being made to farmers who have suffered losses to one crop while having offseting good production in another crop(s). Although some corrective measures have been taken to assure that Emergency loans are made to those actually suffering production losses, it has become evident that an urgent need exists for further revision and clarification of the regulations governing the EM loan program. Revisions must be made in Subparts B and D of Part 1945 so that farmers served under these regulations receive equal and fair treatment in obtaining EM loans.

It is important to take action to prevent the policies and practices causing the program abuses from continuing. It is also important to act immediately so that the effect of these changes can be implemented before a sizeable number of loans are made having subsidized interest rates and terms that would last for several years requiring the unnecessary outlay of several million dollars.

Therefore, to help alleviate these serious problems and restore fiscal integrity to the EM program, corrective amendments are proposed.

Major Alternative Actions Considered

Alternative No. 1: Continue with existing regulations. Both Subparts B and D of 7 CFR, Part 1945 provide for making EM loans to farmers. If the regulations are not revised, EM loan applications made under designations with incidence periods beginning prior to May 26, 1981, would continue to be processed after September 30, 1982, under 7 CFR, Part 1945, Subpart B. Continuing to provide EM loans under Subpart B would permit excessive numbers of EM loans to be made which would be detrimental to the President's plan for economic recovery. The method of calculating production losses would continue to lack uniformity. The method of establishing prices and yields in making loss loan calculations for all crops would not be done on a uniform equitable basis. Acreage-poundage controls would continue to be considered in calculating production losses, thereby giving an unfair advantage to crops under this type of control. Lack of uniformity would exist between Subparts B and D of Part 1945, regarding the percentage of projected income that can be advanced as an annual production loan when only crops and/or livestock and livestock products are available as security for a loan. The definitions of joint farming operation and types of security for FmHA loans would continue to be unclear.

Alternative No. 2: Revise regulations to correlate, unify, and better define terms used in the FmHA EM regulations. All EM loan applications will be processed in a more equitable manner. Regulations governing EM loans will be clarified with regard to the meaning of a joint farming operation, types of security for EM loans, and how prices and normal yields are established.

Alternative No. 2 was selected as the best solution to correct the inequities and deficiencies that have been identified.

The following is a summary of the revisions to be made by this action.

7 CFR, Part 1945, Subpart B is amended by revising the following paragraphs as summarized below:

1. Section 1945.51(a) is revised to provide for a termination date for Part 1945, Subpart B at the close of business on September 30, 1982.

2. Section 1945.54(a)(22) is revised to delete acreage-poundage controls as a consideration in establishing normal year's production and in calculating production losses. Sources of production records for establishment of normal year's production is redesignated as § 1945.63(a)(1).

3. Section 1945.54(a)(32)(i) is revised to clarify the definition of basic security.

4. Section 1945.54(a)(32)(ii) is revised to clarify the definition of normal income security.

5. Section 1945.54(a)(32)(iii) is revised to clarify the definition of additional security.

6. Section 1945.62(c)(2) is revised to define a joint farming operation.

7. Section 1945.62(d) is revised to reference the paragraph with § 1945.63(a)(2)(xvii) in regard to calculating production losses when an applicant's farming operation is conducted in both a designated and nondesignated county(ies).

8. Section 1945.63(a)(1) is revised to clarify how production losses are calculated and the sources of records and their priority of use in establishing normal year's production. Subparagraphs (v) and (vi) are deleted.

9. Section 1945.63(a)(2)(i) through (a)(2)(vii) are revised for clarity.

Subsection (a)(2)(iii) is revised to conform to the requirements of Pub. L. 97–35 regarding average prices to be used to establish production losses, and (a)(2)(xvii) is added to this section to clarify how production losses are calculated for an EM applicant whose farming operation is conducted in both a designated and a nondesignated county(ies).

10. Section 1945.66(a)(1) is revised to reference this paragraph with § 1945.63(a)(2)(xvii).

11. Section 1945.67(d) is revised to clarify that subsequent EM loans can only be made after September 30, 1982, to borrowers who were indebted for EM loan(s) on December 15, 1979.

12. Section 1945.67(h) is added to this paragraph to provide that FmHA employees will not guarantee repayment of advances by other creditors.

13. Section 1945.68(b)(1) is revised to correct a typographical error.

14. Section 1945.69(f)(1) is revised to change the percent from 50 percent to 75 percent of planned gross farm income that can be advanced for annual production purposes, and to delete the reference to the greater of $100,000 or one-half of the estimated gross farm income when the applicant can provide only a first lien on a crop(s) and/or livestock and livestock products.

7 CFR, Part 1945, Subpart D, is amended by revising the following paragraphs as summarized below:

15. Section 1945.154(a)(23) is revised to delete the reference to tobacco under acreage-poundage control as a consideration in establishing normal year's production and in calculating production losses. The source of records and their priority of use is redesignated as § 1945.163(a)(1).

16. Section 1945.154(a)(33)(i) is revised to clarify the definition of basic security.

17. Section 1945.154(a)(33)(ii) is revised to clarify the definition of normal income security.

18. Section 1945.154(a)(33)(iii) is revised to clarify the definition of additional security.

19. Section 1945.162(c)(2) is revised to define a joint farming operation.

20. Section 1945.162(d) is revised to reference this paragraph with § 1945.163(a)(2)(xvii) in regard to calculating production losses when an applicant's farming operation is conducted in both a designated and nondesignated county(ies).

21. Section 1945.163(a)(1) is completely revised to redesignate the source of prices and priority of records to be used in calculating production losses.

22. Section 1945.163(a)(2)(i), (a)(2)(ii), (a)(2)(iv) and (a)(2)(vi) are revised for clarity and (a)(2)(xvii) is added to this paragraph to clarify how production losses are calculated for an EM applicant whose farming operation is conducted in both a designated and a nondesignated county(ies).

23. Section 1945.166(a)(1) is revised to reference this paragraph with § 1945.63(a)(2)(xvii).

24. Section 1945.166(d) is revised to substitute the word refinancing for financing in this section.

25. Section 1945.167(a) is revised to delete the word minor as it relates to crops to further clarify the paragraph.

26. Section 1945.167 (e) is revised to clarify that subsequent EM loans for any purpose can only be made after September 30, 1982 to borrowers who were indebted for EM loan(s) on December 15, 1979.

27. Section 1945.167 (i) is added to this paragraph to provide that FmHA employees will not guarantee repayment of advances from other credit sources.

28. Section 1945.169 (f) (1) is revised to state that 75 percent of planned gross farm income can be advanced for annual production purposes, and to delete the reference to the greater of $100,000 or 75 percent of the estimated gross farm income when the applicant can provide only a first lien on a crop(s) and/or livestock and livestock products.

List of Subjects in 7 CFR Part 1945

Agriculture, Disaster assistance, Intergovernmental relations, Livestock, Loan programs—Agriculture.

PART 1945—EMERGENCY

Therefore, as proposed, Subparts B and D of Part 1945, Chapter XVIII, Title 7, Code of Regulations are amended as follows:

Subpart B—Emergency Loan Policies, Procedures and Authorizations for Those Applications Associated With Disaster Designations Having a Beginning Incidence Period Dated Prior to May 26, 1981

1. In § 1945.51, paragraph (a) is revised to read as follows:

§ 1945.51 Introduction.

(a) *Policy.* This subpart prescribes the policies, procedures, and authorizations of the Farmers Home Administration (FmHA) for making Insured Emergency (EM) loans to farmers, ranchers, and aquaculture operators (hereinafter referred to as farmers). FmHA's policy is to make loans to any otherwise qualified applicant without regard to race, color, religion, sex, national origin, marital status, age, or physical/mental handicap (provided the applicant can execute a legal contract). This subpart applies to borrowers and FmHA personnel involved in making EM loans. *Use of this subpart will terminate at close of business (COB) September 30, 1982.* Any EM loans not approved by COB September 30, 1982, will be processed according to Subpart D of Part 1945 of this chapter.

* * * * *

2. In § 1945.54, paragraphs (a)(22), (a)(32)(i), (a)(32)(ii), and (a)(32)(iii) are revised to read as follows:

§ 1945.54 Definitions and abbreviations.

(a) *Definitions.*

* * * * *

(22) *Normal year's production.* The normal year's production is the average per acre yield or production per animal unit of the 4 better years out of the 5 years immediately preceding the disaster year.

* * * * *

(32) *Security.* * * *

(i) *Basic security.* Real estate, fixtures, personal property, *e.g.*, foundation herds, flocks, aquatic animals and plant

organisms; and machinery and equipment serving as security. When no collateral other than crops, livestock and/or livestock products and/or repayment ability as defined in § 1945.09 (d) of this subpart is available as security for the loan(s), such collateral is also considered to be basic security and sales proceeds *will not* be released for any purpose unless the Farm and Home Plan for that crop year includes plans for release of the proceeds for necessary farm operating or family living expenses.

(ii) *Normal income security.* All collateral (crops, livestock, and/or livestock products) planned to be marketed in the regular course of business, except as set forth in paragraph (a)(32)(i) of this section unless liquidation is approved. When liquidation is approved, all security including normal income security, becomes basic security and sales proceeds *cannot be* released except as reflected in the Farm and Home Plan for that crop year.

(iii) *Additional security.* All collateral not covered by paragraphs (a)(32)(i) or (ii) of this section including: General intangibles, accounts and contract rights, which is encumbered, in addition to basic security and normal income security. Real estate and chattels can be additional security if required by loan approval conditions.

* * * * *

3. In § 1945.62, paragraphs (c)(2) and (d) are revised to read as follows:

§ 1945.62 Eligibility requirements.

* * * * *

(c) *Established farmer.*

* * * * *

(2) An individual invovled in a joint farming operation is not considered to be an established farmer for EM loan purposes. A joint farming operation is an operation where two or more farmers work together sharing equally or unequally land, labor, equipment, expenses and income. The joint ownership of land and/or equipment or the exchange of labor and equipment in separate farming operations does not constitute a joint operation. Thus, the latter type of arrangement is not considered a joint operation, but two separate individual operations.

* * * * *

(d) *Operate in a disaster area.* An applicant for an actual loss loan must have sustained qualifying losses in an area in which the availability of EM loans for actual losses has been determined in accordance with Subpart A of Part 1945 of this chapter and must have filed an application before the expiration of the termination date. When an applicant's farming operation is located both in a designated county(ies) and a non-designated county(ies) refer to § 1945.63(a)(2)(xvii) of this subpart.

* * * * *

4. In § 1945.63, paragraphs (a)(1), and (a)(2)(i) through (a)(2)(vii) are revised, and paragraph (a)(2)(xvii) is added to read as follows:

§ 1945.63 Determining qualifying losses, eligibility for actual loss loan(s) and the maximum amount of actual loss loan(s), annual production and major adjustment loan(s).

* * * * *

(a) *Production losses.* (1) The normal year's production will be established by eliminating the poorest year of the 5-year production history immediately preceding the disaster year and averaging the remaining 4 years' production. The applicant *must* select the year to be eliminated. The year selected to be eliminated *must* be the same year for all farm enterprises (i.e., *all* crops, livestock, and livestock products), which constituted a part of the applicant's farming operation during that year. A State Supplement will be issued which will be used in connection with paragraph (a)(1)(iii) of this section. The State Supplement will contain average production figures provided by the USDA State Crop and Livestock Reporting Service, when available. If those records are not available, the State Supplement will contain statistical data on production from similar State or Federal bodies. When this information is available by County, county averages will be used. If available only by State, the State averages will be used throughout the State. In those States where neither a County nor State average is available for an agricultural commodity(ies), the State Director, with the advice of representatives of other Federal and State agricultural agencies, will establish County or State averages and advise County Offices of these averages in the State Supplement. State Directors and Farmer Programs Chiefs in adjoining States will consult with each other before releasing these figures. An applicant must use data from the production record source(s) in the order of priority as listed in paragraphs (a)(1)(i), (ii) and (iii) of this section. The applicant will identify, on Form FmHA 1945–22, the production record source(s) to be used in determining the normal year's production for each commodity that was produced on all farms operated by the applicant in the disaster year. *The order of priority of production records that will be used is:*

(i) The applicant's actual reliable farm records.

(ii) The agriculture stablization and Conservation Service (ASCS) established yields. When this production record source is used, an applicant must obtain the information from ASCS and submit it with the application to FmHA. This production record source will be used only for those commodities for which the applicant's reliable farm records were not maintained.

(iii) County or State averages. When this production record source is used, an applicant needs to provide production data for only the disaster year. The averages will be found in the State Supplement mentioned in paragraph (a)(1) of this section. This production record source will be used only for those commodities for which neither the applicant's reliable farm records nor ASCS established yields are available.

(iv) When one source of records is not available for the full 5 years preceding the disaster year combinations of record sources in paragraphs (a)(1) (i), (ii) and (iii) of this section will be used.

(2) * * *

(i) In calculating production losses, the same established unit prices will be used for the disaster year and the normal year in computing the dollar value of each enterprise. Unit prices will be established in accordance with paragraph (a)(2)(iii) of this section. In the production loss calculations, those crop production yields and production per animal unit records authorized in paragraphs (a)(1) (i), (ii) and (iii) of this section will be used.

(ii) Information certified on Form FmHA 1945–22 for the disaster year for all single enterprises (as defined in § 1945.54(a)(14)(i)), which suffered a loss due to the disaster, will be transposed from Form FmHA 1945–22 to the appropriate places on Form FmHA 1945–26. The FmHA official completing Form FmHA 1945–26 is responsible for verifying loss information provided by the applicant. Information obtained from ASCS on Form FmHA 1945–29 will be cross checked with information provided by the applicant on Form FmHA 1945–22. Any discrepancies will be resolved, loss calculations adjusted if necessary, and the correct information recorded in the County Office case file. When the applicant's disaster loss is due to a reduction in *quality*, rather than due to a reduction in *quantity*, the applicant will be given credit for this by adjusting actual production yield downward. This will be accomplished by converting the dollar value of the quality loss to a percentage of yield

reduction in sufficient amount to compensate for the quality loss. When such an adjustment is necessary, the basis used in making the adjustment will be the applicant's *accurate* records of production and sales receipts showing the price received and the grade of the commodity in question. This information will be well documented by the County Supervisor.

(iii) The gross dollar value of production losses will be computed for all crops and all livestock enterprises which suffered losses due to the disaster, by calculating the value of the disaster year's production and subtracting that amount from the calculated value of the normal year's production. Unit prices for all agricultural commodities produced commercially in each State will be established on a Statewide bases by all FmHA State Directors each year, and published in a State Supplement to be issued not later than February 15 of each year. *These commodity prices will be established by averaging the monthly market prices of each commodity for the 12-month period preceding the calendar year in which the disaster occurs.* The monthly average market prices will be provided by USDA State Crop and Livestock Reporting Service, or similar State or Federal agency or body. Once established, these prices *will not be changed* for any EM actual production loss loan processed under any disaster occurring on or after February 1 of that calendar year and through January 31 of the next calendar year. If Statewide figures are not available, the state Director will consult with other agricultural agency representatives and agricultural lenders in the local area before establishing commodity prices. State Directors and Farmer Programs Chiefs in adjoining States will consult each other before releasing their established commodity price lists.

(iv) The amount of actual production loss will be calculated for the single enterprise which is a basic part of the farming operation (see § 1945.54(a)(14) of this subpart) by subtracting all compensatory disaster payments which are related to the disaster and which have been received or will be received; *i.e.*, crop insurance indemnity payments, ASCS disaster program payments, or any other disaster compensation *for that enterprise*, from the gross dollar amount of production losses for that enterprise as determined in paragraph (a)(2)(iii) of this section.

(v) The dollar value of the actual production loss for the single enterprises, which is a basic part of the farming operation as designated by the applicant in item F, Form FmHA 1945–22, will be divided by the previously calculated normal year's gross income for that enterprise. This establishes the percentage reduction in production from normal for that enterprise. If the percentage loss in *any* single enterprise which is a basic part of the farming operation, equals or exceeds 20 percent, and the applicant is otherwise eligible, EM actual loss loan assistance will be considered.

(vi) Once eligibility is established based on production losses, the total production loss sustained by the applicant, directly attributable to the disaster, is computed by adding the gross dollar value of production losses of *all* single enterprises, whether or not they constitute a basic part of the farming operation, and subtracting from that total all compensatory disaster payments received or to be received for those enterprises.

(vii) The maximum production loss loan is limited to *90 percent* of the total calculated actual production loss sustained by the applicant.

* * * * *

(xvii) When an applicant's farming operation(s) is conducted in a designated county(ies) and a nondesignated county(ies), eligibility will be established based on losses to a single enterprise which constitutes a basic part of the farming operation without regard to whether the single enterprise is located in the designated county. The disaster year's *actual* yields, both in the designated and nondesignated counties, will be used to determine losses. Compensatory payments will be subtracted as explained in paragraph (a)(2)(iv) of this section when determining eligibility. The amount of the production loss loan will be limited to the production loss sustained in the designated county, *minus* compensatory payments received or to be received for that portion of the operation located in the designated county.

* * * * *

5. In § 1945.66 paragraph (a)(1) is revised to read as follows:

§ 1945.66 Loan purposes.

* * * * *

(a) *Loans for actual losses.*

(1) The amount of the maximum actual loss loan(s) in addition to the limitations contained in § 1945.63 (a)(2)(xvii) and (d) of this subpart, is further limited to the actual dollar loss, or the actual amount of essential family, farm, and nonfarm enterprise credit that the applicant needs to carry on normal operations, *whichever is the lesser.* Actual loss loan funds will not be used to finance a nonfarm enterprise, unless such enterprise is needed to support a reasonable standard of living for the family. The use of the loss loan funds will be identified in the farm and home plan so that a determination can be made as to whether such loan(s) were used for authorized purposes and covered all or a portion of the actual dollar loss. Actual loss loan funds not needed immediately will be scheduled for later disbursement through the Finance Office "Loan Disbursement System". After each actual loss loan is made the resulting operation must be one which is not substantially larger (due to the direct or indirect use of loan funds) than the pre-disaster operation, does not realistically project a net farm income (gross income less annual farm operating expenses) substantially greater than that of the normal operation conducted before the disaster, and is financially sound.

* * * * *

6. In § 1945.67 paragraph (d) is revised and (h) is added to read as follows:

§ 1945.67 Loan limitations and special provisions.

* * * * *

(d) *Subsequent EM loans.* Subsequent (additional) EM loans *will* be made under the provisions of this subpart, until the close of business (COB), September 30, 1982, to EM borrowers who initially became indebted for EM loans under this subpart. Effective October 1, 1982 *only those borrowers who were indebted for EM loans on December 15, 1979, and who applied for an initial annual production loan within 12 months from the disaster authorization date, may receive subsequent EM annual production loans.* Such loans will be made under the provisions of FmHA Instruction 1945–D.

* * * * *

(h) *Prohibition on guaranteeing repayment of advances from other credit sources.* FmHA employees will not guarantee repayment of advances from other credit sources, either personally or on behalf of applicants, borrowers, or FmHA.

7. In § 1945.68, the title of paragraph (b)(1) is revised to read as follows:

§ 1945.68 Rates and terms.

* * * * *

(b) *Terms of loans.* * * *

(1) *Operating purposes (Subtitle B).* * * *

* * * * *

8. In § 1945.69, paragraph (f)(1) is revised to read as follows:

§ 1945.69 Security requirements.

* * * * *

(f) *Operating purposes.* (1) Loan funds used for annual production purposes will be secured by a first lien on the crop(s) and/or livestock and livestock products being financed with EM loan funds, plus enough other security, including personal property, real estate, and crop insurance, to assure that the Government's financial interest will be protected. When the applicant can provide *no* security other than a first lien on the crop(s) and/or livestock and livestock products, the amount of the loan will be limited to 75 percent of the planned gross farm income as shown on Form FmHA 431–2, or as shown on another acceptable plan of operation based on normal production and prices authorized by the State Director for developing annual farm plans within the State. When an EM borrower, who is indebted for an annual production loan which is secured by only a first lien on the crop(s) and/or livestock and livestock products, needs a subsequent EM annual production loan to complete that year's farming operation, and the loan is needed to protect the Government's investment already in the crop and/or livestock and livestock products, the 75 percent gross income requirement may be waived by the State Director.

* * * * *

Subpart D—Emergency Loan Policies, Procedures and Authorizations for Applications Associated With FmHA Disaster Designations Having a Beginning Incidence Period Date on or After May 26, 1981

9. In § 1945.154, paragraphs (a)(23), (a)(33)(i), (a)(33)(ii), and (a)(33)(iii) are revised to read as follows:

§ 1945.154 Definitions and abbreviations.

(a) *Definitions.*

* * * * *

(23) *Normal year's production.* The normal year's production is the average per acre yield or production per animal unit of the 4 better years out of the 5 years immediately preceding the disaster year.

* * * * *

(33) *Security* * * *.

(i) *Basic security.* Real estate, fixtures, personal property, *e.g.*, foundation herds, flocks, aquatic animals and plant organisms, and machinery and equipment serving as security. When no collateral other than crops, livestock and/or livestock products and/or repayment ability as defined in § 1945.169(d) of this subpart is available as security for the loan(s), the collateral is also considered to be basic security and sales proceeds *will not* be released for any purpose unless the Farm and Home Plan for that crop year includes plans for release of the proceeds for necessary farm operating or family living expenses.

(ii) *Normal income security.* All collateral (crops, livestock, and/or livestock products) planned to be marketed in the regular course of business, except as set forth in paragraph (a)(33)(i) of this section, unless liquidation is approved. When liquidation is approved, all security, including normal income security, becomes basic security and sales proceeds *cannot* be released except as reflected in the Farm and Home Plan for that crop year.

(iii) *Additional security.* All collateral not covered by paragraphs (a)(33) (i) or (ii) of this section including: General intangibles, accounts and contract rights, which is encumbered, in addition to basic security and normal income security. Real estate and chattels can be additional security if required by loan approval conditions.

* * * * *

10. In § 1945.162, paragraphs (c)(2) and (d) are revised to read as follows:

§ 1945.162 Eligibility requirements.

* * * * *

(c) *Established farmer.* * * *

* * * * *

(2) An individual involved in a joint farming operation is not considered to be an established farmer for EM loan purposes. A joint farming operation is an operation where two or more farmers work together sharing equally or unequally land, labor, equipment, expenses and income. The joint ownership of land/or equipment or the exchange of labor and equipment in separate farming operations does not constitute a joint operation. Thus, the latter type of arrangement is not considered a joint operation, but two separate individual operations.

* * * * *

(d) *Operate in a disaster area.* An applicant for an actual loss loan must have sustained qualifying losses in an area in which the availability of EM loans for actual losses has been determined in accordance with Subpart A of Part 1945 of this chapter and must have filed an application before the expiration of the termination date. When an applicant's farming operation is located both in a designated county(ies) and a non-designated county(ies) refer to § 1945.163 (a)(2)(xvii) of this subpart.

* * * * *

11. In § 1945.163, paragraphs (a)(1), (a)(2)(i), (a)(2)(ii), and (a)(2)(iv) are revised and paragraph (a)(2)(xvii) is added to read as follows:

§ 1945.163 Determining qualifying losses, eligibility for actual loss loan(s) and the maximum amount of actual loss loan(s), annual production and major adjustment loan(s).

* * * * *

(a) *Production losses.*

(1) The normal year's production will be established by eliminating the poorest year of the 5-year production history immediately preceding the disaster year and averaging the remaining 4 years' production. The applicant *must* select the year to be eliminated. The year selected to be eliminated *must* be the same year for all farm enterprises (i.e., *all* crops, livestock, and livestock products), which constituted a part of the applicant's farming operation during that year. A State Supplement will be issued which will be used in connection with paragraph (a)(1)(iii) of this section. The State Supplement will contain average production figures provided by the USDA State Crop and Livestock Reporting Service, when available. If those records are not available, the State Supplement will contain statistical data on production from similar State or Federal bodies. When this information is available by County, county averages will be used. If available only by State, the State averages will be used throughout the State. In those States where neither a County nor State average is available for an agricultural commodity(ies), the State Director, with the advice of representatives of other Federal and State agricultural agencies, will establish County or State averages and advise County Offices of these averages in the State Supplement. State Directors and Farmer Programs Chiefs in adjoining States will consult with each other before releasing these figures. An applicant must use data from the production record source(s) in the order of priority as listed in paragraphs (a)(1)(i), (ii) and (iii) of this section. The applicant will identify, on Form FmHA 1945–22, the production record source(s) to be used in determining the normal year's production for each commodity that was produced on all farms operated by the applicant in the disaster year. The order of priority of production records that will be used is:

(i) The applicant's actual reliable farm records.

(ii) The Agriculture Stabilization and Conservation Service (ASCS) established yields. When this

production record source is used, an applicant must obtain the information from ASCS and submit it with the application to FmHA. This production record source will be used only for those commodities for which the applicant's reliable farm records were not maintained.

(iii) County or State averages. When this production record source is used, an applicant needs to provide production data for only the disaster year. The averages will be found in the State Supplement mentioned in paragraph (a)(1) of this section. This production record source will be used only for those commodities for which neither the applicant's reliable farm records nor ASCS established yields are available.

(iv) When one source of records is not available for the full 5 years preceding the disaster year combination of record sources (a)(i), (ii) and (iii) of this section as set forth above will be used.

(2) * * *

(i) In calculating production losses, the same established unit prices will be used for the disaster year and the normal year in computing the dollar value of each enterprise. Unit prices will be established in accordance with paragraph (a)(2)(iii) of this section. In the production loss calculation, those crop production yields and production per animal unit records authorized in paragraphs (a)(1)(i), (ii) and (iii) of this section will be used.

(ii) Information certified on Form FmHA 1945–22 for the disaster year for all single enterprises (as defined in § 1945.154(a)(15)(i)), which suffered a loss due to the disaster, will be transposed from Form FmHA 1945–22 to the appropriate places on Form FmHA 1945–26. The FmHA official completing Form FmHA 1945–26 is responsible for verifying loss information provided by the applicant. Information obtained from ASCS on Form FmHA 1945–29 will be cross checked with information provided by the applicant on Form FmHA 1945–22. Any discrepancies will be resolved, loss calculations adjusted if necessary, and the correct information recorded in the County Office case file. When the applicant's disaster loss is due to a reduction in *quality*, rather than due to a reduction in *quantity*, the applicant will be given credit for this by adjusting actual production yield downward. This will be accomplished by converting the dollar value of the quality loss to a percentage of yield reduction in sufficient amount to compensate for the quality loss. When such an adjustment is necessary, the basis used in making the adjustment will be the applicant's *accurate* records of production and sales receipts showing the price received and the grade of the commodity in question. This information will be well documented by the County Supervisor.

* * * * *

(iv) The amount of actual production loss will be calculated for the single enterprise which is a basic part of the farming operation (see § 1945.154(a)(15) of this subpart) by subtracting all compensatory disaster payments which are related to the disaster and which have been received or will be received; *i.e.* crop insurance indemnity payments, ASCS disaster program payments, or any other disaster compensation for that enterprise, from the gross dollar amount of production losses for that enterprise as determined in paragraph (a)(2)(iii) of the section.

* * * * *

(vi) Once eligibility is established based on production losses, the total production loss sustained by the applicant, directly attributable to the disaster, is computed by adding the gross dollar amount of production losses of *all* single enterprises, whether or not they constitute a basic part of the farming operation, and subtracting from this total all compensatory disaster payments received or to be received for those enterprises.

* * * * *

(xvii) When an applicant's farming operation(s) is conducted in a designated county(ies) and a nondesignated county(ies), eligibility will be established based on losses to a single enterprise which constitutes a basic part of the farming operation, without regard to whether the single enterprise is located in the designated county. The disaster year's *actual* yields, both in the designated and nondesignated counties, will be used to determine losses. Compensatory payments will be subtracted as explained in paragraph (a)(2)(iv) of this section when determining eligibility. The amount of the production loss loan will be limited to the production loss sustained in the designated county, *minus* compensatory payments received or to be received for that portion of the farming operation located in the designated county.

* * * * *

12. In § 1945.166 (a)(1) and (d) are revised to read:

§ 1945.166 Loan purposes.

* * * * *

(a) *Loans for actual losses.* (1) The amount of the maximum actual loss loan(s) in addition to the limitations contained in § 1945.163 (a)(2)(xvii) and (d) of this subpart, is further limited to the actual dollar loss, or the actual amount of essential family, farm, and nonfarm enterprise credit that the applicant needs to carry on normal operations, *whichever is the lesser.* Actual loss loan funds will not be used to finance a nonfarm enterprise, unless such enterprise is needed to support a reasonable standard of living for the family. The use of the loss loan funds will be identified in the farm and home plan so that a determination can be made as to whether such loan(s) were used for authorized purposes and covered all or a portion of the actual dollar loss.

* * * * *

(d) *Annual production and major adjustment loan indebtedness ceiling.* During fiscal year 1982, no such loan assistance may be made or guaranteed in an amount that would cause the combined total of unpaid principal indebtedness to exceed $500,000; and during fiscal year 1983, and all fiscal years thereafter, no such loan assistance may be made or guaranteed in any amount. The combined total of *all* EM insured and/or guaranteed major adjustment loan funds used for both Subtitle A and Subtitle B purposes which are to be secured by real estate, and which will be used for refinancing secured and/or unsecured debts, will not exceed $300,000 outstanding principal indebtedness regardless of the number of qualifying disasters. Borrowers with EM loans outstanding on December 15, 1979, may receive subsequent EM annual production loans in accordance with the provisions of paragraph (b) of this section in amounts necessary to continue their normal farming operation(s) without regard to this indebtedness ceiling.

* * * * *

13. In § 1945.167, the introductory paragraph of paragraph (a) and paragraph (e) are revised, and (i) is added to read as follows:

§ 1945.167 Loan limitations and special provisions.

(a) *Use of EM loan funds not authorized for expansion purpose(s).* EM loan funds (actual loss, annual production, and major adjustment Subtitle A and Subtitle B) *will not* be used to expand an applicant's farming, ranching, or aquaculture operation beyond that which constituted the normal predisaster operation(s). This limitation is not intended to prohibit minor changes in crop or livestock enterprises provided:

* * * * *

(e) *Subsequent EM loans.* Subsequent (additional) EM loans will be made under the provisions of this subpart, until the close of business (COB), September 30, 1982, to EM borrowers who initially became indebted for EM loans under this subpart. Effective October 1, 1982, *only those borrowers who were indebted for EM loans on December 15, 1979, and who applied for an initial annual production loan within 12 months from the disaster authorization date, may receive subsequent EM annual production loans.* Such loans will be made under the provisions of this subpart.

* * * * *

(i) *Prohibition on guaranteeing repayment of advances from other credit sources.* FmHA employees will not guarantee repayment of advances from other credit sources, either personally or on behalf of applicants, borrowers, or FmHA.

14. In § 1945.169, paragraph (f)(1) is revised to read:

§ 1945.169 Security requirements.

* * * * *

(f) *Operating purposes.*

(1) Loan funds used for annual production pruposes will be secured by a first lien on the crop(s) and/or livestock and livestock products being financed with EM loan funds, plus enough other security, including personal property, real estate, and crop insurance, to assure that the Government's financial interest will be protected. When the applicant can provide *no* security other than a first lien on the crop(s) and/or livestock and livestock products, the amount of the loan will be limited to 75 percent of the planned gross farm income as shown on Form FmHA 431–2, or as shown on another acceptable plan of operation based on normal production and prices authorized by the State Director for developing annual farm plans within the State. When an EM borrower, who is indebted for an annual operating loan which is secured by only a first lien of the crop(s) and/or livestock and livestock products, needs a subsequent EM annual production loan to complete that year's farming operation, and the loan is needed to protect the Government's investment already in the crop and/or livestock and livestock products the 75 percent gross income requirement may be waived by the State Director.

* * * * *

(7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70)

Dated: July 19, 1982.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 82-26280 Filed 9-22-82; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82-ASW-64]

Proposed Alteration of Transition Area: Duncan, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes alteration of the transition area at Duncan, OK. The intended effect of the proposed action is to privide additional controlled airspace for aircraft executing a new instrument approach procedure to Halliburton Field. This action is necessary to provide protection for aircraft executing a new standard instrument approach procedure (SIAP) using the back course of the ILS localizer to Runway 17.

DATE: Comments must be received on or before October 25, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace, and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW–535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 624–4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 as republished in Advisory Circular AC 70–3 dated January 29, 1982, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area at Duncan, OK, will necessitate an amendment to this subpart. This amendment will be required at Duncan, OK, since there is a proposed change in IFR procedures to Halliburton Field.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–ASW–64." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be change in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624–4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to

amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Duncan, Ok [Amended]

That airspace extending upward from 700 feet above the surface within an 8.5–mile radius of Halliburton Field (latitude 34°26'20" N., longitude 97°57'34" W.) and within 5 miles each side of a 350° bearing from the airport, extending from the 8.5–mile radius area to 17.5 miles north of the airport; and within 2 miles each side of the Duncan VOR 155° radial extending from the 8.5–mile radius area to 7 miles southeast of the VOR.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c).)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on September 13, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-26174 Filed 9-22-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82–ANE–33]

Proposed Amendment to the Description of the Sanford, Maine, 700-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to amend the Sanford, Maine, 700-foot transition area to provide additional airspace protection for aircraft executing a Very High Frequency Omni Range (VOR) original Standard Instrument Approach Procedure (SIAP). This amendment is needed to provide controlled airspace for aircraft executing an approach to land at Sanford Municipal Airport, Sanford, Maine.

DATE: Comments must be on or before October 30, 1982.

ADDRESSES: Send comments in triplicate to: Manager, Operations, Procedures and Airspace Branch, ANE–530, New England Region, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803. The docket may be examined at the following location: Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: David Hurley, Operations, Procedures and Airspace Branch, ANE–530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7285.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the New England Region, Attention: Manager, Operations, Procedures and Airspace Branch, ANE–530, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or about October 30, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this amendment to a Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8065. Communications must identify the number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations [14 CFR Part 71] to amend the 700–foot transition area at Sanford Municipal Airport, Sanford, Maine. This action will provide additional controlled airspace protection for aircraft executing the VOR original SIAP.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 71.181 of the Federal Aviation Regulations [14 CFR Part 71] as follows:

Sanford, Maine

Add to existing text: "and within 3.5 miles each side of the Kennebunk, Maine VOR 243° radial, extending from the 7-mile radius arc a to 24.5 miles SW of the VOR; excluding the portion within the Portsmouth, New Hampshire (Pease AFB) transition area."

(Secs. 307(a) of the Federal Aviation Act of 1958 [49 U.S.C. 1348(a); Sec 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61)].

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Massachusetts, on September 13, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-26170 Filed 9-22-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82–ANE–23]

Proposed Amendment to Description of Block Island, Rhode Island Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Amendment to Notice of proposed rulemaking.

SUMMARY: On June 24, 1982, a Notice of proposed rulemaking (NPRM) was published in the **Federal Register** which proposed to amend the Block Island, Rhode Island, 700-foot transition area to provide additional airspace protection

for aircraft executing the proposed Very High Frequency Omni Range (VOR) Runway 28 original Standard Instrument Approach Procedure (SIAP) at Block Island State Airport, Block Island, Rhode Island. The proposed amendment, however, provided insufficient airspace. Accordingly, the Notice of proposed rulemaking is being amended to further increase the size of the transition area.

DATE: Comments must be on or before October 30, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations, Procedures and Airspace Branch, ANE–530, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. The docket may be examined at the following location: Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: David Hurley, Operations, Procedures and Airspace Branch, ANE–530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7285.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Chief, ANE–530, Operations, Procedures and Airspace Branch, ANE–530, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or about October 30, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this amendment to a Notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8065. Communications must identify the number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Amended Proposal

On June 24, 1982 (47 FR 27373), a Notice of proposed rulemaking (NPRM) was published in the Federal Register which proposed to amend the Block Island, Rhode Island, 700-foot transition area to provide additional airspace protection for aircraft executing the proposed VOR for Runway 28 SIAP at Block Island State Airport, Rhode Island. The FAA Flight Inspection Field Office has since revised the VOR Runway 28 SIAP to accommodate a greater variety of aircraft, while at the same time providing lower minimum altitudes. This revision does, however, require additional airspace protection for aircraft executing subject approach. Accordingly, the Notice of proposed rulemaking is being amended to further increase the size of the transition area.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 71.181 of the Federal Aviation Regulations [14 CFR Part 71] by amending the 700-foot transition area at Block Island State Airport, Block Island, Rhode Island, as follows:

Block Island, Rhode Island

Delete: "within a 5 mile radius."
Insert in lieu thereof: "within a 8.5 mile radius."

(Sec. 307(a) of the Federal Aviation Act of 1958 [49 USC 1348(a); sec. 6(c) of the Department of Transportation Act (49 USC 1655(c); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61))

Note.— The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Massachusetts, on September 13, 1982.

Robert E. Whittington,
Director, New England Region.

[FR Doc. 82-26171 Filed 9-22-82; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASW-53]

Proposed Designation of Transition Area: Caldwell, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to designate a transition area at Caldwell, TX. The intended effect of the proposed action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Caldwell Municipal Airport. This action is necessary to provide protection for aircraft executing a standard instrument approach procedure (SIAP) using the College Station VORTAC. Coincident with this proposed action, the airport is changed from visual flight rules (VFR) to instrument flight rules (IFR).

DATE: Comments must be received on or before October 22, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW–535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 624–4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 as republished in Advisory Circular AC 70–3 dated January 29, 1982, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR)

activity. Designation of the transition area at Caldwell, TX, will necessitate an amendment to this subpart. This amendment will be required at Caldwell, TX, since there is a proposed change in IFR procedures to the Caldwell Municipal Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–ASW–63." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624–4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Caldwell, TX [New]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Caldwell Municipal Airport (latitude 30°31'12" N., longitude 96°42'13" W).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.61(c))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on September 13, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-26175 Filed 9-22-82; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76–069 (Louisiana—3 Addition) et al.]

High-Cost Gas Produced From Tight Formations; Louisiana; Public Hearing

September 17, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of hearing on proposed rules.

SUMMARY: On August 6, 1982, the Director of the Office of Pipeline and Producer Regulation of the Federal Energy Regulatory Commission issued a Notice of Proposed Rulemaking in Docket No. RM79–76–069 (Louisiana—3 Addition), (47 FR 35232, August 13, 1982)) on the recommendation of the Louisiana Office of Conservation that the Cotton Valley Group be designated as a tight formation under § 271.703 of the Commission's regulations (18 CFR 271.703).

The commission has received several requests in response to this Notice of Proposed Rulemaking that a public hearing be held at which time interested parties may present their comments, views, arguments and data concerning the recommendation made by the Louisiana Office of Conservation that the Cotton Valley Group be designated as a tight formation. The Commission agrees that a public hearing should be held in this rulemaking. The parties seeking the hearing have indicated that the hearing is needed to specifically address the issues raised in conjunction with the methodologies used to calculate permeability and flow rate values for recommended formations under the guidelines found in § 271.703 (c)(2)(i).

Because the issues raised in this proceeding are raised as well in several other cases currently pending before the Commission, these cases will be consolidated for the purposes of this hearing, and persons interested in any of the following cases are invited to present their views at the hearing scheduled below. The following cases are consolidated for the purpose of holding a public hearing: Docket No. RM79–76–069 (Louisiana—3 Addition); Docket No. RM79–76–136 (Utah—5); Docket No. RM79–76–090 (Texas—9 Addition II); Docket No. RM79–76–091 (Texas—10 Addition); Docket No. RM79–76–093 (Texas—18); Docket No. RM79–76–094 (Texas—19); Docket No. RM79–76–101 (Colorado—23); Docket No. RM79–76–130 (Colorado—28); Docket No. RM79–76–098 (Montana—1). Persons desiring to participate in such hearing are requested to follow the procedures stipulated herein.

DATES: The public hearing will be held on Thursday, October 14, 1982, at 10:00 a.m. Requests to participate and amount of time requested should be directed to the Secretary of the Commission no later than October 1, 1982.

ADDRESS: The hearing will be held in a hearing room at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Requests to participate and questions regarding participation should be directed to the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511.

SUPPLEMENTARY INFORMATION: In the Notice of Proposed Rulemaking issued on August 6, 1982, in Docket No. RM79–76–069 (Louisiana—3 Addition), the

Director of the Office of Pipeline and Producer Regulation noted that although the Louisiana Office of Conservation had submitted to the Commission its original recommendation for the Cotton Valley Group based on geometric means or median permeability and flow rate values, the Louisiana Office of Conservation had amended its recommendation so that based on the average permeability and flow rate values for such formation, it satisfied the Commission's guidelines for designation found in § 271.703(c)(2)(i). The Louisiana Office of Conservation stated in its amended recommendation that it still believes that the median method of calculating permeability and flow rate is a proper method for estimating reservoir performance and therefore should be acceptable to the Commission, to demonstrate compliance with the guidelines.

Persons requesting a public hearing in this matter have cited the issue concerning the proper method of determining flow rate and permeability values as the issue on which they felt a public hearing was needed. Since the issue of the proper methodology is also raised in several other tight formation recommendations which the commission has received from other jurisdictional agencies, the Commission believes that the public interest would best be served by holding a hearing in which all these cases are consolidated. This will enable all persons who are interested in pending tight formation cases concerning the proper methodology for calculating premeability and flow rate values to present their views on the issue. The Commission will then be in the position to resolve the issue in all such cases, having developed a record on the issue.

The public hearing will not be of a judicial or evidentiary type. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested persons may submit to the presiding officer questions to be asked of persons making statements. The presiding officer will determine whether the questing is relevant and time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearing. Transcripts of the hearing will be available in the public file for this proceeding, Docket No. RM79-76-089 (Louisiana—3 Addition) *et al.*, in the Commission's Office of Public Information and may be ordered from that office.

Requests to participate in the hearing should be submitted by September 30, 1982, to the Office of the Secretary, and should request the amount of time required for the oral presentation. Persons participating at the hearing should, if possible, bring 50 copies of their testimony to the hearing. A list of the participants in the hearing will be available in the Commission's Office of Public Information and at the hearing room on the morning the hearing is convened.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26184 Filed 9-22-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 115

[CGD 81-057]

General Bridge Permit Program Regulations

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rules would establish a program for the issuance of General Bridge Permits. Presently, an individual permit is issued for the construction, reconstruction or modification of each bridge across navigable waters of the United States after a detailed review of the impact on navigation and the environment. The proposed procedures would permit bridges having common characteristics to be evaluated as a group. Thereafter, individual bridges could be authorized by simply verifying that they met the criteria of a General Bridge Permit. This would eliminate significant delay in many instances, thereby reducing costs for the public and the government.

DATE: Comments must be received on or before November 22, 1982.

ADDRESSES: Comments should be mailed to Commandant, G-CMC/44, 2100 Second St., SW, Rm 4402, Washington, D.C. 20593. The comments will be available for inspection and copying at that address. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Jerome D. Schwartz, Project Manager, Bridge Permits Branch, G-NBR/24, 2100 Second St., SW, Room 2418, Washington, DC 20593. Telephone number (202) 755-7820.

SUPPLEMENTARY INFORMATION:

The public is invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, the proposal to which their comments apply (CGD 81-057) and give reasons for each comment. If acknowledgement is desired, a stamped self-addressed post card should be enclosed.

The proposed rules may be changed in view of comments received. All comments received on or before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this notice are Jerome D. Schwartz, Project Manager, Bridge Permits Branch, Bridge Administration Division, Office of Navigation, G-NBR/24, 2100 Second St., SW, Room 2418, Washington, DC 20593 and Michael Tagg, Project Counsel, Office of the Chief Counsel.

Discussion of the Proposed Regulations

These regulations will establish a General Bridge Permit program for the Coast Guard. The program is designed to establish a "fast track" method for the authorization of bridges of similar design over a waterway or an area of many waterways. The current program requires the authorization of each individual bridge over waterways in the same region, despite similiarity of design and siting. The proposed General Bridge Permit will grant authority for the construction, reconstruction, or modification of a specific category of bridges across waterways in a defined region subject to conditions which protect navigation and the environment. This will result in a shift of focus from specific bridges to similar bridge structures in a region with respect to navigational and environmental aspects. It is a movement away from a review of detailed construction plans, towards a review of criteria for work under a General Bridge Permit.

General permits of the type envisioned by this rulemaking have been used sucessfully in other permit programs administered by federal agencies. For many years the U.S. Army Corps of Engineers has issued general permits for a variety of structures and dredge and fill work in the waterways of many different regions of the United States. The U.S. Geological Survey and the Bureau of Land Management, in a

joint effort, have general permits in effect for outer continental shelf oil and gas development structures. General permits for certain industrial pollutant discharges are presently under development by the Environmental Protection Agency.

The common characteristics of bridges or other structures which may be covered by a General Bridge Permit may include: the type of bridge or structure; the nature of the waterway to be crossed; the geographic area in which the bridges will be built; or other common features. Suggested categories of General Bridge Permits may be submitted to the Commandant or any District Commander. Proposed General Bridge Permits will normally be initiated by the District Comander of the district in which the construction will take place or which will be primarily impacted by the anticipated construction. Notice of a proposed General Bridge Permit will be published in the Federal Register and opportunity given for public comment. In appropriate cases, public hearings may be held. The decision to issue or deny a particular General Bridge Permit will be made by the Commandant subsequent to review of the record submitted by the District Commander. The Commandant will conduct a navigational and environmental review and analysis of the record prior to taking final agency action. If a General Bridge Permit proposal is found not to provide for the reasonable needs of navigation with minimal environmental impact, a General Bridge Permit will not be issued. If a General Bridge Permit proposal is found to provide for the reasonable needs of navigation with minimal environmental impact, a General Bridge Permit containing appropriate criteria and permit conditions will be issued. The permit will be published in the Federal Register and become effective immediately.

When an application is made for an individual bridge permit, the Coast Guard will conduct a search to determine if the bridge application proposal falls within an existing General Bridge Permit. If it does, authorization is granted for the construction to commence. If it does not, the District Commander may propose a new General Bridge Permit or process the applicant's request for an individual bridge permit.

Authorization to construct a bridge project under a General Bridge Permit will not relieve the permittee of the obligation or responsibility to obtain any other Federal, State or local approvals required to construct a project, nor will it allow a permittee to ignore the provisions of such approvals.

Certain standard criteria are specified in the proposed regulations which will apply to all bridges to be constructed, reconstructed or modified under the authority of General Bridge Permits. Basically, the standard criteria require that the bridge project provide for the reasonable needs of present and prospective navigation and have no significant effect on wetlands, historic and archeological properties, parklands, the National Wild and Scenic River System, floodplains, barrier islands or endangered species.

General Bridge Permits will also contain specific conditions to ensure that the bridge will provide for the reasonable needs of present and prospective navigation with minimal effect on the quality of the human environment. Only those project categories determined by the Coast Guard to be categorically excluded from the National Environmental Policy Act (NEPA) will qualify to be considered for General Bridge Permits. Under this program no bridge project may be authorized for construction under a General Bridge Permit unless it is covered by a water quality certification and coastal zone management consistency certification and the state's concurrence, as appropriate.

Water Quality Certification: Section 401(a)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1341(a)(1)) provides that bridge permits will not be issued until the state in which the bridge construction work will occur has certified that the construction and operation of the bridge will comply with applicable provisions of that Act. A certification waiver procedure is also provided by Section 401. States will be requested to exercise their certification authority at the time a specific General Bridge Permit is proposed or to indicate that this authority will be waived. This will eliminate later delays when the General Bridge Permit is finalized and a permittee applies for approval from the Coast Guard to proceed with construction work under a General Bridge Permit. A General Bridge Permit will contain special conditions of certification, if any, and list those states which have not granted their certification or waiver. If prospective permittees desire to perform bridge construction work in a state which has not granted a certification or waiver for the General Bridge Permit, they must receive certification or waiver on a project-by-project basis before construction may be authorized. The Coast Guard solicits comments on this certification procedure, particularly from state agencies responsible for water quality certification. Public comment on this issue will also be welcomed.

Coastal Zone Management Consistency Certification: Section 307(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456 (c)) requires non-Federal applicants for permits affecting state coastal zones to certify that the proposed activity will comply with the state's approved coastal zone management program. States will be requested to exercise their authority for concurrence in that certification at the time a specific General Bridge Permit is proposed. This will eliminate later days when the permit is finalized and a permittee expects to receive approval from the Coast Guard to proceed with construction under a General Bridge Permit. A General Bridge Permit document will contain any special conditions of the state's concurrence and list those states which require consistency certification on a project-by-project basis. The Coast Guard solicits comments on this certification procedure, particularly from state agencies responsible for coastal zone management plans. Public comment on this issue will also be welcomed.

Evaluation

The review procedure for issuance of a General Bridge Permit will enhance the environmental evaluation for applicable bridge projects. Before individual permits are issued, the investigation is concentrated on the specific or cumulative effect of a single proposed project in an area rather than the cumulative effects of a number of projects in a region. Through consideration of the cumulative effects of several similar bridge projects before a General Bridge Permit is issued, segmented review and adverse impacts will be minimized.

Issuance of General Bridge Permits will improve the efficiency of the Coast Guard Bridge Administration Program by reducing the backlog of individual bridge permit applications, allowing for additional attention to be directed toward major bridge proposals, and by reducing the paperwork burden. An intensive analysis of Coast Guard bridge permit files from 1978 through September 1981 indicates that similar projects which would qualify categorically for a General Bridge Permit have historically had minimal environmental and navigational impacts. Therefore, individual in-depth environmental and navigational evaluation could have been dispensed with. For example, of the 181 individual

bridge permits issued by the Coast Guard in fiscal year 1981, at least 15 of these, pedestrian bridges, could have been constructed without delay under the authority of just one General Bridge Permit had these proposed regulations been in effect. Ultimately, one-third of the bridges that would otherwise be permitted individually each year could be constructed under the authority of a small number of General Bridge Permits through this proposed General Bridge Permit Program. Coast Guard review of each particular proposed bridge project merely would be to ascertain that the location and design of the proposal qualifies under the standard criteria and bridge project category of a specific General Bridge Permit, and ensure that the permittee is aware of the General Bridge Permit conditions. The resultant reduction in permit paperwork processing is one of the objectives of the Administration in its efforts to reform the regulatory system.

Construction costs will be reduced because of the elimination of delays incurred during processing of an individual bridge permit, which ordinarily takes approximately one year. It is difficult to quantify the savings, due to uncertainty as to the number and types of bridges that might be built under the General Bridge Permit program, however, the percentage savings will coincidentally be equal to the inflation rate experienced by the general construction industry (12%). Based on the 181 bridge permits issued in fiscal year 1981, the estimated savings would have been $24,000 for each bridge.

An Environmental Assessment of this proposed rulemaking has been prepared which includes a discussion of the environmental impacts of the standard criteria. The Environmental Assessment is available for examination at the above address. This assessment indicates that the proposed regulations will not significantly affect the environment. It is anticipated that a Finding of No Significant Impact (FONSI) will be issued in accordance with Coast Guard procedures under the National Environmental Policy Act of 1969.

These proposed regulations have been reviewed under the provisions of E.O. 12291 and have been determined not to be a major rule and are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). The economic impact of these proposed rules will be beneficial, e.g., reduce costs and delays. However, it is certified in accordance with § 605(b) of the Regulatory Flexibility Act (94 Stat. 1164) that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities. This is because very few small entities build bridges across navigable waters of the United States.

We are having difficulty in making an assessment of the number of people affected by this proposed rulemaking under the Paperwork Reduction Act and Executive Order 12291. We are especially interested in receiving comments on the information collection or reporting requirements of the proposed rulemaking.

List of Subjects in 33 CFR Part 115

Administrative practice and procedure, Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 115 of Title 33, Code of Federal Regulations, as follows:

PART 115—BRIDGE LOCATIONS AND CLEARANCES; ADMINISTRATIVE PROCEDURES

The authority citation for Part 115 is revised to read as follows:

Authority: c. 425, sec. 9, 30 Stat. 1151 (33 U.S.C. 401); c. 1130, sec. 1, 34 Stat. 84 (33 U.S.C. 491); sec. 5, 28 Stat. 362, as amended (33 U.S.C. 499); sec. 11, 54 Stat. 501, as amended (33 U.S.C. 521); c. 753, Title V, sec. 502, 60 Stat. 847, as amended (33 U.S.C. 525); 86 Stat. 732 (33 U.S.C. 535); 14 U.S.C. 633; sec. g(6), 80 Stat. 941 (49 U.S.C. 1655(g)); 49 CFR 1.46(c).

Subpart A [Heading Added]

2. By inserting "Subpart A—Individual Bridge Permits" before § 115.01.

3. By adding Subpart B as follows:

* * * * *

Subpart B—General Bridge Permits

Sec.

115.80 General Bridge Permits.
115.85 Procedures for issuing permits.
115.90 Standard and special criteria for bridges under a General Bridge Permit.
115.95 Authorization to proceed under a General Bridge Permit.
115.100 Revocation or withdrawal of General Bridge Permits and authorization to proceed.

Subpart B—General Bridge Permits.

§ 115.80 General Bridge Permits.

(a) A General Bridge Permit is a permit issued by the Commandant for a category of bridge structure or construction work in a specific region of the United States or nationwide. The permit will be issued when the structures or work to be performed are substantially similar and would cause no more than a minimal individual and cumulative environmental impact. The permits issued through this program apply to routine and obvious actions which satisfy the conditions of a categorical exclusion as described in Commandant Instruction M16475.1A which is based upon the requirements set forth in the National Environmental Policy Act of 1969, as amended (Pub. L. 91–190) as implemented by the Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500–1506).

(b) A General Bridge Permit for any region of the United States may be issued by the Commandant after notice and opportunity for public participation have been provided. The permit will include standard and special criteria and conditions which apply to minimum horizontal and vertical clearances, any necessary environmental protective measures, the effective time limits, and any other requirements necessary to comply with the bridge statutes and environmental control laws.

(c) A General Bridge Permit is reevaluated five years after the date of issuance. The permit may be extended by the Commandant provided the permit criteria continue to be met.

(d) The definitions found in § 114.05 of this chapter apply to this subpart.

§ 115.85 Procedures for issuing permits.

(a) A General Bridge Permit may be proposed by any District Commander having responsibility for one or more of the bridges to be covered by the permit. If the permit is limited to proposed bridge construction work in that district, the District Commander is responsible for developing the permit record. If the permit would cover proposed bridge construction work in more than one district, the Commandant designates the official who will have primary responsibility for developing the permit record or assumes this responsibility.

(b) Notice of the proposed General Bridge Permit is published in the **Federal Register** and disseminated by other means in the district or districts most affected. In appropriate cases, public hearings may be held. The permit record includes the findings of fact made by the responsible official, necessary environmental documentation and evaluation, all public comments, and transcripts of any public hearings.

(c) The following criteria are considered in the evaluation of every proposal for the establishment of a General Bridge Permit:

(1) The likelihood that the proposed permit will be utilized.

(2) The potential cumulative environmental impacts created by the bridge projects which could be constructed under the proposed permit.

(3) The necessity that the proposed category of bridges provides for the reasonable needs of present and prospective navigation.

(d) Upon completion of the permit record, the responsible official prepares conclusions and recommendations and submits the record to the Commandant for final action.

(e) The Commandant conducts a navigational and environmental review of the permit record prior to taking final action. If the proposed General Bridge Permit is found to provide for reasonable needs of navigation with not more than a minimal environmental impact, a permit containing appropriate standard and special criteria and conditions is issued.

(f) The issuance or denial of a General Bridge Permit is published in the **Federal Register**. A permit is effective upon publication.

§ 115.90 Standard and special criteria for bridges under a General Bridge Permit.

(a) The following standard criteria describe the basic characteristics of any bridge construction project which may be authorized under a specific General Bridge Permit.

(1) The bridge must provide for the reasonable needs of present and prospective navigation.

(2) The bridge must not interfere with any Federal navigation or flood control project.

(3) The bridge must have no significant effect on flood heights and associated drift.

(4) The bridge must not relocate the stream or riverbed channel.

(5) The bridge must not be located across wetlands if the District Commander determines that there is a feasible and prudent alternative location for the proposed bridge construction work, the following apply:

(i) A bridge may be located across tidal wetlands provided the proposed design and construction does not require dredging or the placement of fill material in the waterbody or wetlands.

(ii) A bridge may be located across non-tidal wetlands provided that the bridge structure will pass the 100 year flood and that dredging or the placement of fill into any wetlands adjacent to the waterbody does not extend beyond 100 feet on either side of the ordinary high water mark of that waterbody. Bridge projects which incorporate a maximum of 200 cubic yards of fill below the ordinary high water mark may be constructed, reconstructed, or modified across non-tidal wetlands provided the District Commander determines that the fill will not have a significant environmental impact on the wetlands.

(6) The bridge must not be located within one-half mile of any property eligible to be, proposed to be, or listed in the National Register of Historic Places (16 CFR Part 60).

(7) The bridge must not be located within one-half mile of any property protected under Section 4(f) of the Department of Transportation Act (49 U.S.C. 1653) unless it is to be used solely for park purposes and will not promote development of any type within the area protected under Section 4(f).

(8) The bridge must not be located in or over, or affect any federally, listed established or prospective component of the National Wild and Scenic River System under 16 U.S.C. 1274 and 1276.

(9) The bridge must not cause a significant encroachment within the base floodplain, or increase the probability of loss of human life, lead to the interruption or loss of a vital transportation link, or adversely affect the beneficial values of the floodplain.

(10) The bridge must not be located on or provide access to a barrier island.

(11) The bridge must not be located within the critical habitat of any federally listed endangered or threatened species.

(b) In addition to the standard criteria in paragraph (a) of this section, a General Bridge Permit contains special criteria specifying:

(1) The maximum quantity of fill material that is authorized for bridge construction work;

(2) A description of the category of bridge construction, reconstruction or modification;

(3) The characteristics of the waterway(s) in which construction, reconstruction or modification may occur; and

(4) Any other limitation deemed appropriate by the Commandant.

§ 115.95 Authorization to proceed under a General Bridge Permit.

(a) Prior to the commencement of any bridge construction work which may be covered by an existing General Bridge Permit, the appropriate District Commander determines that the project meets the standard and special criteria of the General Bridge Permit. The builder or owner of the proposed project must request authorization to proceed from the District Commander. The request must contain the following:

(1) The name and address of the bridge builder and owner.

(2) A vicinity map which shows the waterway and location of the proposed bridge project. The vicinity map submitted for the authorization must be of letter size and of good reproducible quality. It shall have a simple title and date in the lower right hand corner, a graphic scale, and north arrow. It shall identify the entire work site showing the distance to the nearest town, community, or other identifying location, and the latitude and longitude, if known. The course of the waterway shall be shown and any structures crossing the waterway within one-half mile of the proposed structure shall be identified. The location of any historic sites, wetlands, public parks, recreation areas, or wildlife or waterfowl refuges shall be shown.

(3) The plans of the proposed bridge project, in letter size and of good producible quality.

(b) Upon receipt of a request for authorization to proceed, the District Commander reviews the authority for the bridge project under a particular General Bridge Permit.

(1) No bridge construction work will be authorized unless certification or waiver under 33 U.S.C. 1341 is received from the appropriate water pollution control agency.

(2) No bridge construction work will be authorized unless certification and concurrence or waiver under 16 U.S.C. 1456 is received indicating that the proposed construction, reconstruction or modification, and the operation and maintenance of the bridge complies with a state's Federally approved coastal zone management program.

(3) If the proposed project qualifies, the Distict Commander issues authorization to proceed accompanied by a copy of the applicable General Bridge Permit.

(c) If the District Commander determines that the proposed bridge project does not qualify under an existing General Bridge Permit and denies authorization to proceed, the builder or owner may appeal as provided in § 114.50 of this chapter.

(d) A bridge builder or owner who is denied authorization to proceed under a General Bridge Permit may apply for an individual permit as provided by § 115.50.

§ 115.100 Revocation or withdrawal of General Bridge Permits and authorization to proceed.

(a) Authorization to proceed under a General Bridge Permit may be revoked by the cognizant District Commander when that person determines that the builder or owner fails to comply with

any of the conditions of the General Bridge Permit or authorization, or that the bridge structure constitutes an unreasonable obstruction to navigation of Federal flood control programs. The bridge builder or owner may appeal the action of the District Commander under § 114.50 of this chapter.

(b) The Commandant may withdraw a General Bridge Permit when the character of navigation, environmental quality, or other circumstances warrant. Withdrawal action is taken only after notice and opportunity to comment is given by publication in the **Federal Register.**

Dated September 16, 1982.

R. A. Bauman,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation.

[FR Doc. 82-26239 Filed 9-22-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 175

[CGD 82-073]

Visual Distress Signal Equipment Requirements

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend its regulation governing the carriage of visual distress signals on boats. Members of the boating public have expressed considerable confusion over language in the present regulation that identifies the waters on which they are required. The visual distress regulations are being rewritten to define more clearly where the signals are required.

DATE: Comments must be received prior to November 8, 1982.

ADDRESSES: Comments should be mailed to Commandant (G-CMC), U.S. Coast Guard, Washington, D.C. 20593. The comments will be available for inspection and copying at the Marine Safety Council, Room 4402, 2100 2nd Street S.W., Washington, D.C. Normal office hours are between 9:00 A.M. and 4:00 P.M., Monday through Friday. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. William Sobeck, Office of Boating, Public and Consumer Affairs (G-BEL), U.S. Coast Guard Headquarters, Washington, D.C. 20593, (202) 426-4176.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and the proposal to which the comments apply, and give the reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The rules may be changed in light of the comments received. All comments received before the expiration date of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Discussion of Proposed Rule

The Coast Guard published final rules on the carriage of visual distress signals on boats on December 17, 1979 (44 FR 73024). The intent of that rule is to require carriage of visual distress signals on boats subject to the jurisdiction of the United States when used on the high seas, the territorial seas of the United States, and the U.S. waters of the Great Lakes. It also applies to waters which share key characteristics of the open seas or the Great Lakes (e.g., high probability of unconfined search areas for a boat in distress). It was not, however, intended to include restricted or otherwise confined waters where a boater in distress would normally be able to attract the attention of others nearby. In summary, if a boat in distress must pass within a mile of the shore before entering unconfined waters, the occupants have reasonable opportunity of attracting attention without special distress signals.

Existing demarcation lines, such as those used for navigational Rules of the Road, were not chosen since they do not satisfactorily discriminate between waters which are relatively confined and waters which are not.

Since publication of those rules the Coast Guard has received numerous inquiries on the definition of coastal waters. Confusion exists regarding the requirement in waters which, although named "bays" or "sounds," do not appear to meet the intent of the rules. The intent was not to include small bodies of water or restricted, even though large, bodies of water other than the five Great Lakes.

This change seeks to establish a definition not dependent on the size or name a body of water has been given, and to clearly delimit those areas where visual distress signals are *most* needed. By using the words "waters" in the current proposed definition of "coastal waters," the interpretation of the applicability of the regulation can be shifted away from the artifice of the name of the water toward that of the potential need to use the required signals. Likewise, in describing a two mile wide entrance into a body of water, the words "any distance" allows the distance between shorelines, including those of charted islands, to delimit the carriage requirements.

An example of waters on which visual distress signals may be required is Mobile Bay, whose entrance between Dauphin Island and Mobile Point (2.8 nautical miles) exceeds two miles. An example of water on which visual distress signals will not be required is Tampa Bay, whose largest entrance (Southwest Channel) is 1.4 nautical miles between Egmont Key and Passage Key.

In practice, these do not differ from the current enforcement interpretation, although it is hoped that the reasoning may now be more readily understood.

Regulatory Evaluation

An economic evaluation has not been conducted, since the impact is expected to be minimal. No new costs will be imposed on the boating public or the manufacturers of visual distress signals. To the extent that a person may have interpreted the existing regulations to require the devices in restricted waters, there may be some slight savings.

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined to be a nonmajor rule. In addition, the proposed regulations are considered to be nonsignificant in accordance with the guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). In accordance with Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164) it is certified that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are William B. Sobeck, Project Manager, Office of Boating, Public and Consumer Affairs, and Lieutenant Walter Brudzinski, Project Attorney, Office of the Chief Counsel.

List of Subjects in 33 CFR Part 175

Marine safety.

PART 175—EQUIPMENT REQUIREMENTS

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 175 of Title 33, Code of Federal Regulations as set forth below.

1. The authority citation for Part 175 is revised to read as follows:

Authority: Secs. 5 and 39, 85 Stat. 215, 228 (46 U.S.C. 1454, 1488); 49 CFR 1.46(n)(1).

2. Part 175 is amended by revising § 175.105(b) to read as follows:

§ 175.105 Definitions.

* * * * *

(b) "Coastal waters" means:

(1) The U.S. waters of the Great Lakes (Lake Erie, Huron, Michigan, Ontario, and Superior);

(2) The territorial seas of the United States; and

(3) Those waters directly connected to the Great Lakes and territorial seas (i.e. bays, sounds, harbors, rivers, inlets, etc.), where any entrance exceeds 2 nautical miles between opposite shorelines to the first point where the largest distance between shorelines narrows to 2 miles as shown on the current edition of the appropriate National Ocean Survey chart used for navigation. Shorelines of islands or points of land present within a waterway are considered when determining the distance between opposite shorelines.

Dated: September 17, 1982.

H. W. Parker,

Chief, Office of Boating, Public and Consumer Affairs.

[FR Doc. 82-25852 Filed 9-22-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 183

[CGD 81-092]

Electrical and Fuel System Standards; Miscellaneous Amendments

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: This notice proposes miscellaneous amendments to the Electrical and Fuel Systems Standards in Subparts I and J of Part 183 that apply to boats having gasoline powered engines for propulsion or electrical generation. The Coast Guard undertook a review of its regulations governing construction standards which apply to the manufacture of recreational boats in an effort to reduce the burden of existing regulations, while insuring that well reasoned regulations were retained. Based upon the review effort, many sections have been determined to be no longer necessary, or are of limited value in terms of their impact toward improving boating safety. Therefore, these proposed amendments would repeal and revise the unnecessary regulations to relieve the regulatory burden recreational boat manufacturers. A proposed change to § 183.460(a) would increase the regulatory standards.

DATES: Comments must be received on or before December 22, 1982.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/44), (CGD 81-092), U.S. Guard, Washington, D.C. 20593. Comments will available for examination at the Marine Safety Council (G-CMC/44), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street S.W., Washington, D.C. 20593, between 8 am and 4 pm, Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Alston Colihan, Office of Boating, Public, and Consumer Affairs (G-BBT/42), U.S. Coast Guard Headquarters, Washington, D.C. 20593 (202) 426-4027, between 8 am and 4 pm Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: The National Boating Safety Advisory Council has been consulted and its opinions and advice have been considered in the formulation of this proposed rule. The transcripts of the proceedings of the National Boating Safety Advisory Council at which this proposed rule was discussed are available for examination in Room 4224, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. The minutes of the meetings are available from the Executive Director, National Boating Safety Advisory Council, c/o Commandant (G-BA), U.S. Coast Guard, Washington, D.C. 20593.

Interested persons are invited to participate in this proposed rulemaking by submitting written views, data or arguments. Each comment submitted should include the name and address of the person submitting it, identify this notice [CGD 81-092] and the specific section of the propsal to which the comment applies, and give the reasons for the comment. Those desiring acknowledgement that their comment has been received should enclose a stamped, self-addressed post card or envelope.

The proposal may be changed in light of comments received. All comments received will be considered before final action is taken on the proposal. Copies of all written comments received will be available for examination by interested persons.

No public hearing is planned but one may be held at a time and place to be set in a later notice in the **Federal Register** if written requests for a hearing are received and it appears that an opportunity to make oral presentations will aid the rulemaking process.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are Mr. Alston Colihan, Project Manager, Office of Boating, Public, and Consumer Affairs, and LT. Mark Hanlon, Project Attorney, Office of the Chief Counsel.

Discussion of the Proposed Amendment

This proposal is in furtherance of Executive Order No. 12291. It will make the Electrical and Fuel Systems regulations easier to understand, easier for a manufacturer to comply with, and make them more cost-beneficial, with a minimal loss in the degree of safety assured by the regulations. The proposed changes would eliminate provisions determined to be necessary because they are standard industry practices. Other proposed changes would ease overly restrictive requirements or clarify confusing language.

Paragraph 183.401(b) presently lists the effective dates for various electrical system regulations, the latest of which became effective on February 1, 1979. This list was published to provide interested parties notice of effective dates 18 to 24 months from the date of publication. Effective dates were delayed to provide manufacturers and distributors time to redesign and retool. Since all of the listed regulations have been in effect for a period of years, the paragraph is unnecessary. This proposal would remove this paragraph.

Paragraph 183.420(e) presently requires that hydrogen gas discharged by a battery must not accumulate in the boat. The industry believes that the present statement is too much of an absolute. The proposal would require the provision of a vent system or other means to permit the discharge from the boat of hydrogen gas discharged by a battery.

Paragraph 183.420(f) presently requires the positive terminal of each battery to be identified by the letters, "POS" or "P" or the symbol "+" marked on the terminal, or on the battery case near the terminal. Since the markings are standard industry practice, the proposal would delete this requirement.

Paragraph 183.425(g) presently specifies certain exceptions to the

general requirements for conductors. Manufacturers of electronic equipment such as fuel vapor detectors and depth sounders have complained that many circuits, particularly sensor circuits, carry only a tiny fraction of an ampere, which require only very small wires, as small as number 32 AWG. Also, automotive electrical circuitry uses strips of metal foil laminated into plastic ribbons for multiple conductors in circuits used for controls and instrumentation. In order to give manufacturers greater flexibility in designing this equipment, the proposal would amend the exceptions noted to except electronic circuits having a current flow of less than one ampere and conductors which are totally inside an equipment housing.

Paragraph 183.445(a) presently requires, with certain exceptions, support and protection for each conductor or group of conductors; paragraph 183.445(b) requires a loop, slack or strain relief for conductors between two components that move in relation to each other; and parapraph 183.445(d) specifies the exceptions for the section. The proposal would delete all three paragraphs, since the only fires that the Coast Guard is aware of that were related to these requirements were caused by chafing on sharp edges, and they are covered by § 183.445(c).

Section 183.450 prescribes requirements for conductor terminations. Paragraph 183.450(a) presently requires the use of a closed ring connector, eyelet connector, captive spade connector, mechanical locking connector or spring locking connector for each connection to a screw terminal or stud that is outside of a junction box or enclosure. Paragraph 183.450(b) requires that each stripped conductor connected to a compression screw terminal that is outside a junction box or enclosure be secured mechanically to provide strain relief for the stripped conductor connection. Paragraph 183.450(c) requires that each single friction connector, spring-type connector, and multi-connector plug that is outside of a junction box or enclosure must not separate if subjected to a six pound tensile force along the axial direction of the connector for one minute. Paragraph 183.450(d) requires that a soldered connection that is outside a function box or enclosure must not be the sole means of connection between two or more conductors or between a conductor and a connector, except a conductor may be soldered to a connector that joins the conductor to a battery terminal or stud, if the length of the stranded joint is at least 1.5 times the diameter of the stranded portion of the battery conductor. Paragraph 183.450(e) requires that each connection that is outside of a junction box or enclosure and that is used to join conductors to each other or that is used to join a conductor to a connector must not break when subjected for one minute to a tensile force shown in Table 6 for the smallest conductor size in the connection. Paragraph 183.450(g) requires that each termination composed of an ungrounded current carrying conductor, terminal fitting, and connector be protected from accidental short-circuiting with: (1) Another termination from another circuit composed of an ungrounded current carrying conductor, terminal fitting, and connector; or (2) any metal that is grounded. Paragraph 183.450(h) prohibits a conductor from being joined to another conductor by a wire nut or wire screw. Paragraph 183.450(i) excepts communication systems and electronic navigation equipment from the requirements of the section. The proposal would delete all eight of these paragraphs as well as Table 6 which gives the tensile test values for conductor splices, because this section is covered in voluntary standards and by normal commercial practices. For example, no crimp connectors are available that would not pass the specified pull test when properly installed. Also, the failure of a connector or the disconnection of a friction connector is unlikely to cause a fire or explosion because the loose conductor usually is still insulated by the remaining part of the connector. Even when it is not insulated and does manage to come into contact with a metal surface which could cause a short circuit, the fuse or circuit breaker, which is required in nearly all circuits, will open the circuit.

Paragraph 183.460(a) presently requires that each ungrounded supply conductor from a storage battery must have a manually reset, tripfree circuit breaker or fuse, unless the supply conductor is in the main power feed circuit from the battery to an engine cranking motor. The circuit breaker or fuse must be within 72 inches of the battery measured along the conductor unless the circuit has a switch that disconnects the battery. The proposal would delete the exception for a circuit that has a switch that disconnects the battery. This is, in effect, an increase in the requirement of the paragraph rather than a relaxation. The phrase has caused some difficulty in the enforcement of the electrical systems regulations because it is inconsistent with the engineering concept that overcurrent protection for a conductor should protect against both an overload and a short to ground. With the fuse or circuit breaker located at the output end of a conductor, away from the source of power, a short to ground would not interrupt the current flow until the conductor itself was destroyed.

Paragraph 183.501(b) presently lists the effective dates for various fuel system regulations, the latest of which became effective on February 1, 1979. This list was published to provide interested parties notice of effective dates 18 to 24 months from the date of publication. Effective dates were delayed to provide manufacturers and distributors time to redesign and retool. Since all of the listed regulations have been in effect for a period of years, this paragraph is unnecessary. This proposal would remove this paragraph.

Paragraph 183.510(a) presently requires that each fuel tank in a boat must have been tested by its manufacturer under § 183.580 and not leak. The proposal would delete the requirement for testing under § 183.580 and would add a requirement that the tank not leak when subjected to the pressure marked on the tank label under § 183.514(b)(5). There are many methods for conducting a leak test and the manufacturer should be granted maximum flexibility in selecting a suitable test as long as the method selected will detect a leaking tank.

Paragraph 183.510(d) presently requires that each fuel tank with a capacity of 25 to 99 gallons not leak if tested under § 183.586. The proposal would change the applicable capacity to 25 to 199 gallons to raise the size threshold limit of fuel tanks tested in accordance with § 183.586.

Paragraph 183.510(e) presently requires that each fuel tank of 100 gallons capacity or more must not leak if tested under §§ 183.586 and 183.588. The proposal would change the applicable capacity to fuel tanks having a capacity of 200 gallons or more to raise the size threshold limit of fuel tanks tested in accordance with the slosh test in § 183.588. The proposal would raise the size above 199 gallons for tanks subject to the slosh test in § 183.588 because it's expensive and testing laboratories have found that very few tanks of smaller sizes fail it. Those which do fail have been damaged by the pressure impulse test. The pressure impulse test is still valid for the larger tanks.

Paragraph 183.514(b)(7) presently requires that the label required on fuel tanks by § 183.514(a) contain the statement, "This tank has been tested

under 33 CFR 183.580." The proposal would change the statement to, "This tank has been tested under 33 CFR 183.510." The Coast Guard would still require that the tank be tested, but would not specify the procedure to be used.

Paragraph 183.516(c) presently requires that polyurethane cellular plastic used to encase metallic fuel tanks must have a density of at least 3.2 pounds per cublic foot, measured under ASTM D–1622, "Apparent-Density of Rigid Cellular Plastics." The proposal would change the minimum density from 3.2 pounds to 2.0 pounds density per cubic foot. Normal production foam used for flotation in boat manufacturing has a nominal two pound density. The higher density foam was originally chosen for this regulation because it is more reliable structurally and physically. However, it is possible to produce a good quality two pound density foam under carefully controlled production conditions. It is also doubtful that polyurethane foam of less than two pound density will be able to pass the physical test prescribed in Section 183.516(a).

Paragraph 183.522 presently requires that fuel must not blow back through the fill fitting when a tank is between one-fourth and three-fourths full and when the tank is refueled at a rate of at least nine gallons per minute. The proposal would delete this paragraph, since, in general, fuel tank fill systems meet this requirement and the Coast Guard does not have any records of any accidents caused by a failure to meet this requirement.

Paragraph 183.528(b) presently requires that if a fuel stop valve is tested under § 183.590, it must not leak fuel. The proposal would require the fire test only when the valve is installed in a system which requires fuel hose that meets the fire test. If "USCG Type B" hose is permitted, then the fuel stop valve would not be required to pass the fire test.

Paragraph 183.532(b) presently requires that a clip, strap or hose clamp, when tested under § 183.590, must not separate under a one pound tensile force. The proposal would require the fire test only when the clip, strap or hose clamp is installed in a system which requires fuel hose that meets the fire test. If "USCG Type B" hose is permitted, then the clip, strap or hose clamp would not be required to pass the fire test.

Paragraph 183.532(c) presently requires that the minimal nominal band width of a hose clamp be determined under Table 7 by the outside diameter of the hose. The proposal would delete this requirement as well as Table 7. The clamp widths delineated in Table 7 were taken from catalog dimensions of commercially available hose clamps. Manufacturers are constrained to purchasing commercially available hose clamps.

Paragraph 183.536(a) presently requires that each gasket and seal used in a fuel filter and strainer must form an unsplit ring. The proposal would delete this requirement, since this requirement has existed in voluntary standards for over 20 years. The Coast Guard knows of no fuel filter available to the marine market that is available with a split ring gasket.

Paragraph 183.540(a) presently requires that each "USCG Type A" hose and each "USCG Type B" hose be identified by the hose manufacturer by a marking on the hose itself, or if the complete text of the marking is not on a section of the hose, the boat manufacturer must attach a tag that meets the requirements of paragraphs (a) and (b) of the section. The proposal would delete the requirement for a tag, since even though a short length of hose may be used in a part of the boat, the same type of hose is probably used elsewhere on the boat. If all else fails, the Coast Guard could contact the manufacturer to determine whether the hose complies with Federal regulations.

Paragraph 183.540(b) states in part, that "each marking and tag must contain * * *" In accordance with the reasoning for the deletion of the requirement for the tag in paragraph 183.540(a) above, the net effect would be to eliminate the requirement for a tag, but retain the requirement that the hose be marked with the required information.

Paragraph 183.542 presently requires that each fuel system in a boat must have been tested under Section 183.582 by the boat manufacturer and not leak. The proposal would require that each fuel system in a boat be tested by the boat manufacturer and not leak when subjected to the greater of: (1) three pounds of pressure per square inch; or one and one-half times the pressure created in the lowest part of the fuel system when it is filled to the level of overflow with fuel. The proposal would further specify that the test pressure must be obtained with air or inert gas. These proposed changes would eliminate the detailed requirements stated in § 183.582 and simply state that the system should be tested and prescribe the pressure for the test.

Paragraph 183.550(d) presently requires that water must drain from the surface of each metallic fuel tank when the boat is in its static floating position. The proposal would specify the top surface of tanks, since the present wording sounds like it prohibits manufacturers from installing fuel tanks where they would come in contact with water in the bilge of a boat.

Paragraph 183.560(b) presently requires that each hose clamp on a hose from the fuel tank to the fuel inlet connection on the engine, a hose between the fuel pump and the carburetor, or a vent line, must be at least one clamp width from the end of the hose. The proposal would delete this requirement, since there are many installation points where this additional space is not available because of the design of standard hose and fuel tank fittings.

Paragraph 183.564(d)(2) presently requires that hose clamps used in the tank fill system must be over the hose and the spud, pipe or hose fitting and must be not less than one-half inch from the end of the hose. The proposal would delete the distance requirement from the end of the hose, since there are many installations where this additional space is not available because of the design of standard hose and fuel tank fittings.

Paragraph 183.568 presently prescribes three alternative methods for providing anti-siphon protection between the fuel tank and the fuel inlet connection on the carburetor. The proposal would provide a fourth alternative if "USCG Type A" hose is used with one or two manual shutoff valves. One manual shutoff valve that is so arranged as to be readily accessible for operation from outside of the compartment would be required directly at the tank connection. An additional shutoff valve would be required at the fuel inlet connection to the engine, if any part of the fuel tank is above the level of the carburetor.

Paragraph 183.582 presently prescribes detailed requirements for the static pressure testing of fuel systems. The procedures are very detailed and specify the type of pressure gauge, the method of testing, and that two separate tests must be conducted, a pressure drop test and some other type of leak detection test. Double testing of the completed system is redundant if one test is conducted properly. The proposal would delete these detailed requirements.

Regulatory Evaluation

These regulations have been reviewed under the provisions of Section 2 of Executive Order No. 12291 and have been determined not to be a major rulemaking. Additionally, these regulations have been determined to be nonsignificant in accordance with the

guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). An economic evaluation will not be conducted since the impact of these regulations is expected to be minimal. To the extent that there is any impact upon the boating industry it will be favorable, because it will reduce the cost of doing business. Specifically, it is estimated that these proposed amendments will result in savings in the manufacturing costs of a boat of up to ten dollar per boat. The adoption of these proposed amendments will also mean that Coast Guard personnel will not have to inspect as many items per boat on each factory visit, and it is estimated that this will result in savings of one-half manhour per visit. Since the Coast Guard presently makes 5811 factory visits per year, this will save 2905.5 manhours per year. Therefore, the costs to society will decrease with a minimal reduction in the safety level of boats.

In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is certified that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities, since these proposed amendments would result in only a minor reduction in the costs of manufacturing a boat that is subject to the Electrical and Fuel System standards.

List of Subjects in 33 CFR Part 183

Fire prevention, Electrical power, Marine safety, Passenger vessels.

PART 183—BOATS AND ASSOCIATED EQUIPMENT

In consideration of the foregoing, the Coast Guard proposes to amend Part 183 of Title 33, Code of Federal Regulations as set forth below:

Subpart I—Electrical Systems

1. By removing and reserving § 183.401(b) as follows:

§ 183.401 Purpose, applicability, and effective dates.

* * * * *

(b) [Reserved]

2. By revising § 183.420 to read as follows:

§ 183.420 Batteries.

* * * * *

(e) A vent system or other means must be provided to permit the discharge from the boat of hydrogen gas released by the battery.

(f) [Reserved]

* * * * *

3. By revising § 183.425(g) to read as follows:

§ 183.425 Conductors: general.

* * * * *

(g) This section does not apply to communications systems; electronic navigation equipment; electronic circuits having a current flow of less than one ampere; conductors which are totally inside an equipment housing; resistance conductors that control circuit amperage; high voltage secondary conductors and terminations that are in ignition systems; pigtails of less than seven inches of exposed length and cranking motor conductors.

* * * * *

4. By revising § 183.445 to read as follows:

§ 183.445 Conductors: protection.

(a) Each conductor or group of conductors that passes through a bulkhead, structural member, junction box, or other rigid surface must be protected from abrasion.

(b) Each ungrounded terminal or stud that is continuously energized must meet Section 183.455 or must have a boot, nipple, cap, cover, or shield that prevents accidental short-circuiting at the terminals or studs.

§ 183.450 [Removed]

5. By removing § 183.450, conductors: termination.

6. By revising § 183.460(a) to read as follows:

§ 183.460 Overcurrent protection: special applications.

(a) Each ungrounded output conductor from a storage battery must have a manually reset, trip-fee circuit breaker or fuse, unless the supply conductor is in the main power feed circuit from the battery to an engine cranking motor. The circuit breaker or fuse must be within 72 inches of the battery measured along the conductor.

* * * * *

Subpart J—Fuel Systems

7. By removing and reserving § 183.501(b)

§ 183.501 Applicability.

* * * * *

(b) [Reserved]

8. By revising § 183.510(a), (d) and (e) to read as follows:

§ 183.510 Fuel tanks.

(a) Each fuel tank in a boat must have been tested by its manufacturer and not leak when subjected to the pressure marked on the tank label under § 183.514(b)(5).

* * * * *

(d) Each fuel tank with a capacity of 25 to 199 gallons must not leak if tested under Section 183.586.

(e) Each fuel tank of 200 gallons capacity or more must not leak if tested under §§183.586 and 183.588.

9. By revising §183.514(b)(7) to read as follows:

§ 183.514 Fuel tanks: labels.

* * * * *

(b) * * *

(7) The statement, "This tank has been tested under 33 CFR 183.510."

* * * * *

10. By revising § 183.516(c) to read as follows:

§ 183.516 Cellular plastic used to encase fuel tanks.

* * * * *

(c) Polyurethane cellular plastic used to encase metallic fuel tanks must have a density of at least 2.0 pounds per cubic foot, measured under ASTM D–1622, "Apparent Density of Rigid Cellular Plastics."

§ 183.522 Fuel tank fill systems [Removed].

11. By removing § 183.522, "Fuel tank fill systems."

12. By revising § 183.528(b) to read as follows:

§ 183.528 Fuel stop valves.

* * * * *

(b) If tested under § 183.590, a fuel stop valve installed in a fuel line system requiring metallic fuel lines or "USCG Type A" hose must not leak fuel.

13. By revising § 183.532(b) to read as follows:

§ 183.532 Clips, straps, and hose clamps.

* * * * *

(b) If tested under § 183.590 a clip, strap, or hose clamp installed on a fuel line system requiring metallic fuel lines or "USCG Type A" hose must not separate under a one pound tensile force.

* * * * *

14. By removing and reserving § 183.532(c) and removing Table 7.

§ 183.532 Clips, straps and hose clamps.

* * * * *

(c) [Reserved]

15. By removing and reserving § 183.536(a).

§ 183.536 Seals and gaskets in fuel filters and strainers.

(a) [Reserved]

* * * * *

16. By revising § 183.540(a) and (b) to read as follows:

§ 183.540 Hoses: identification.

(a) Each "USCG Type A" hose and each "USCG Type B" hose must be identified by the manufacturer by a marking on the hose itself.

(b) Each marking must contain the following information in English:

* * * * *

17. By revising § 183.542 to read as follows:

§ 183.542 Fuel systems.

(a) Each fuel system in a boat must have been tested by the boat manufacturer and not leak when subjected to the greater of the following pressures:

(1) Three pounds per square inch; or

(2) One and one-half times the pressure created in the lowest part of the fuel system when it is filled to the level of overflow with fuel.

(b) The test pressure shall be obtained with air or inert gas.

18. By revising § 183.550(d) to read as follows:

§ 183.550 Fuel tanks: installation.

* * * * *

(d) Water must drain from the top surface of each metallic fuel tank when the boat is in its static floating position.

* * * * *

19. By removing and reserving § 183.560(b).

§ 183.560 Hose clamps: installation.

* * * * *

(b) [Reserved]

* * * * *

20. By revising § 183.564(d)(2) to read as follows:

§ 183.564 Fuel tank fill system.

* * * * *

(d) * * *

(2) Be over the hose and the spud, pipe, or hose fitting.

21. By revising § 183.568 to read as follows:

§ 183.568 Anti-siphon protection.

* * * * *

(b) Have an anti-siphon device or an electrically operated fuel stop value—

(1) At the tank withdrawal fitting; or

(2) Installed so the line from the fuel tank is above the top of the tank; *OR*

(c) Provided that the fuel tank is below the level of the carburetor inlet, be "USCG Type A" hose with one or two manual shutoff values installed as follows—

(1) Directly at the fuel tank connection arranged to be readily accessible for operation from outside of the compartment, and

(2) If the length of fuel line from the tank outlet to the engine inlet is greater than 12 feet, a manual shutoff value shall be installed at the fuel inlet connection to the engine.

H. W. Parker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Boating, Public and Consumer Affairs

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VETERANS ADMINISTRATION

38 CFR Part 36

Loan Guaranty; To Allow Closing of Refinancing Loans on an Automatic Basis and Requiring That the Maximum Allowable Discount Points Paid by a Veteran-Borrower Be Uniformly Established Based on a Readily Ascertainable Source

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The VA (Veterans Administration) is proposing to amend its regulations to allow those lenders who have authority to close acquisition loans automatically (without VA prior approval) to begin closing refinancing loans on the automatic basis. The proposal also includes a provision requiring that the maximum allowable discount points, if any, paid by a veteran-borrower for a refinancing loan shall be uniformly established based on a readily ascertainable source.

The governing statute and the regulations currently allow a veteran to pay an unspecified reasonable discount as required by a lender for such loans. The proposed amendment will eliminate the requirement that lenders must obtain the prior approval of the VA as to the amount of discount points charged a veteran for a refinancing loan and provide for a uniform objective determination of the maximum allowable discount points chargeable by lenders for these types of loans. The proposal will allow the lender and the veteran-borrower to compute the maximum allowable discount points on or immediately prior to the day of loan closing. The proposed amendment should simplify the processing of refinancing loans.

DATES: Comments must be received on or before October 25, 1982. VA proposes to make these regulations effective on the date of approval of the final regulations.

ADDRESS: Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to the Administrator of Veterans Affairs (217A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), until November 2, 1982. Persons visiting the Veterans Administration Central Office in Washington, D.C. for the purpose of inspecting comments will be received by the Central Office Veterans Services Unit in room 132 of the above address. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Administration, Washington, D.C. 20420, (202) 389-3042.

SUPPLEMENTARY INFORMATION: The VA is proposing to amend §§ 36.4306, 36.4306a and 36.4312 of the regulations to allow for automatic processing of refinancing loans and to incorporate into the regulations a provision for objectively calculating the maximum allowable discount points which a lender may collect from a veteran-borrower when making a refinancing loan.

A VA guarantee refinancing loan is a loan for the purpose of paying off existing mortgage loans or other liens secured by a home which is owned and occupied by the veteran. A veteran may refinance up to 100% of the reasonable value of the property and use the cash proceeds as he or she chooses. Hereafter, this type of loan will be referred to as regular refinancing loans.

Another type of refinancing loan may be used to reduce the interest rate on an existing VA guaranteed loan on a home owned and occupied by the veteran. The veteran may not obtain any cash proceeds from the loan for his/her personal use as the loan may only be used to payoff an existing loan which has a higher interest rate. Hereafter, this type of loan will be referred to as interest rate reduction refinancing loans.

VA currently requires that applications for VA guaranteed loans must be submitted to the local VA office for approval of the amount of loan discount to be paid by the veteran homeowner. Loan discount, sometimes called points, is a charge by the lender. It is based on the fact that investors often do not purchase mortgages for par or 100% of the face amount of the loan notes. An investor will purchase a group of mortgages known as a pool at a

certain simple interest rate and a certain loan term for a price; e.g., the investor would purchase the loans at the price of 97% of the total dollar value shown on the face amount of the loan notes making up the pool of mortgages. Since the lender is lending 100% of the face amount of the note to the consumer and the investor is only purchasing the note at 97%, the lender will charge 3% discount or points to make up the money difference. The investor by paying less than 100% of the face amount of the note increases the return or yield on the mortgage. On VA guaranteed loans to acquire a home the discount may not be paid by the buyer. On a refinancing loan, the veteran homeowner is the party who must bear the expense. Title 38, U.S.C. section 1803(c)(3) authorizes the veteran to pay a reasonable discount on a refinancing loan. Currently, the reasonableness of the proposed discount charge must be approved by the local VA office. In addition regular refinancing loans must be submitted to the local VA office for credit underwriting approval.

We propose to amend the regulations to allow lenders to charge a discount on a refinancing loan without VA prior approval provided the discount charged does not exceed a predetermined reasonable maximum based upon a readily available source for determining such maximum. We propose that lenders may use the GNMA (Government National Mortgage Association) pass through securities Issues bid quote for the day previous to loan closing or two days previous to loan closing as a readily ascertainable point for determining the maximum allowable discount on a VA guaranteed refinancing loan. If a bid quote is more than a whole number it may be rounded to the lower whole number; e.g., 97.7 may be rounded to 97. The GNMA bid quote must be for the GNMA pool for loans with a note rate ½% higher than the pool rate. Thus, if a refinancing loan with a 15½% note rate is to be closed, the lender should refer to the previous day and 2 days' previous GNMA Issues quote. If the bid quotes for example were 97.7 and 97.4, the lender may close the refinancing loan for a discount of up to 3% of the loan amount.

GNMA Issues quotes indicate both a Bid price and an Asked price. We propose to use the bid price as the basis for determining the maximum VA loan discount because this price reflects the price investors are willing to pay for a pool of loans at a particular interest rate.

The proposed amendments would authorize the Administrator to allow a lender to charge a veteran a higher discount than determined by the GNMA Issues in unusual cases. For instance, an investor might determine that a home's size or age would require a slightly higher yield thereby requiring a higher discount than authorized by the use of GNMA Issues. In these unusual circumstances, the lender could seek approval from the Administrator to charge the higher amount of loan discount.

Since we propose to establish a method which would allow lenders to readily determine the maximum allowable discount on refinancing loans, we are also proposing to delete the requirement that all refinancing loans must be submitted to the local VA office for prior approval of the amount of discount or credit underwriting.

Three other types of loans are similar to VA refinancing loans in that the veteran is authorized to pay a loan discount. These are loans on existing, occupied homes for the purposes of repairs, alterations, or improvements when such loans are to be secured by a first lien; loans to construct homes on land already owned or to be acquired by the veteran when the veteran acts as his/her own contractor; and loans to purchase a dwelling from a class of sellers who are legally precluded from paying a loan discount. For consistency, the amendments propose to allow lenders to close these types of loans on the automatic basis using the GNMA Issues bid quote to determine the maximum allowable loan discount to be paid by the veteran.

Alteration, improvement, or repair loans which are unsecured or secured by less than a first lien must continue to be submitted to the local VA regional office for approval of the credit underwriting and the loan discount to be paid by the veteran, if any. These loans are more akin to second mortgage financing or consumer installment loans than to first mortgage loans for the purpose of acquiring real estate. Thus, the use of the GNMA Issues bid price would probably not be reflective of the current discount being charged by lenders for home improvement loans secured by less than a first mortgage.

An advantage to the proposals suggested by these amendments would be that a lender would know in advance that it could collect discount points at closing which would be fully representative of market conditions. Loans could be closed much quicker by lenders with automatic processing authority which would be to the benefit of many veteran-borrowers. It would also simplify the task of the VA regional office personnel in not having to make a determination as to whether the amount of the discount points required by a lender in each individual refinancing loan was reasonable. It would prevent losses by lenders who made loan commitments with discount points predicated on market conditions at the time of commitment only to find that at the time of closing the lender could not sell the loan in the secondary market without a loss due to escalating interest rates since the time of VA loan approval.

A disadvantage of these proposals would be that veteran-borrowers would not know the amount of discount points, if any, they would have to pay until the day before or the day of loan closing. Since the GNMA bid price is based on the composite collective judgment of a wide spectrum of buyers and investors, it may be possible that in some instances the indicated maximum discount rate provided by the index may exceed the market in certain areas. Lender competition in these areas should correct any such imbalances. In addition, a veteran obtaining a refinancing loan or a loan for alterations, improvements or repairs would have the added protection of a Right of Rescission as afforded by the Truth in Lending Act (Pub. L. 90–321, as amended). If the veteran determined that the discount charges requested by the lender were excessive, he/she could rescind the loan transaction thereby canceling the loan.

The proposal to use the GNMA pass through securities bid price as the source for determining reasonable discount points for refinancing and similar loans does not preclude the adoption of some other method for establishing a reasonable uniform discount rate for such loans. Any suggestions for an alternative method by which reasonable discount points may be readily ascertained on a uniform basis are welcomed and will be carefully considered.

An editorial amendment has been proposed to § 36.4312(d)(6)(iii) to correct a regulatory citation. In addition we propose to combine paragraphs (a) and (b) of § 36.4306 to make the regulation more understandable.

The Administrator hereby certifies that these proposed regulation changes will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C., sections 601–612. Pursuant to 5 U.S.C. 605(b), these proposed regulations are exempt from the initial and final regulatory flexibility

analyses requirements of sections 603 and 604. The reason for this certification is that these proposed changes will allow refinancing and similar loans to be closed on the automatic basis with a maximum discount charge reflective of current mortgage money market conditions. Lenders will be only small entities which are directly affected, and the effect on them will not be significant in economic terms. We believe that the proposed regulations, if promulgated, will have no impact on small government jurisdictions. Small lenders should be aided since automatic loan processing of these types of loans is simpler and should be less costly. In addition, they could rely upon the certainty of a competitive discount rate set by market forces at the time of loan closing. Small lenders should be aided but not in a significant manner by these proposed amendments. There will be no new compliance costs or reporting burdens imposed on individuals or small entities.

The proposed regulations have been reviewed pursuant to Executive Order 12291 and have been found to be nonmajor regulation changes. The proposed amendments will expedite processing of refinancing and similar loans and will allow loan discounts to be charged to the veteran based upon free market forces. These changes will not impact on the public or private sectors as major rules. They will not have an annual effect on the economy of $100 million or more, and will not cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; nor will they have other significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

(Catalog of Federal Domestic Assistance Program number, 64.114)

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing, Loan programs—housing and community development, Mobile homes, Veterans.

These amendments are proposed under authority granted the Administrator by sections 210(c) and 1803(c) (1) and (3) of title 38, United States Code.

Approved: September 3, 1982.

By direction of the Administration.
Everett Alvarez, Jr.,
Deputy Administrator.

PART 36—LOAN GUARANTY

It is proposed to amend 38 CFR Part 36 as follows:

1. In § 36.4306, paragraph (a) is revised and paragraphs (b) and (e) are removed. Paragraph (a) reads as follows:

§ 36.4306 Refinancing of mortgage or other lien indebtedness.

(a) Any loan for the purpose of refinancing (38 U.S.C. 1810(a)(5)) an existing mortgage loan or other indebtedness secured by a lien of record on a dwelling or farm residence owned and occupied by an eligible veteran as the veteran's home may be submitted to the Administrator for prior approval or may be processed on the automatic basis by those lenders of a class specified in 38 U.S.C. 1802(d). A loan for such purpose shall be eligible for guaranty in an amount not to exceed sixty (60) percent of the loan amount or $27,500, whichever is less, *Provided,* That—(38 U.S.C. 1810(c))

(1) Unless otherwise approved by the Administrator, the discount, if any, to be paid by the veteran may not exceed the difference between the bid price and the par value for GNMA (Government National Mortgage Association) Issues rounded to the lower whole number as quoted in the securities market on the business day preceding or 2 business days previous to loan closing (consummation) for pass through securities ½ percent less than the note rate of the refinancing loan,

(2) The loan is otherwise eligible for guaranty, and

(3) The issuance of a guaranty commitment on any such loan which exceeds eighty (80) percent of the reasonable value of the veteran's dwelling or farm residence shall require, unless the Chief Benefits Director otherwise directs, the approval of the Director, Loan Guaranty Service.

(b) [Removed]

* * * * *

(e) [Removed]

* * * * *

2. In § 36.4306a, paragraph (a) is revised as follows:

§ 36.4306a Interest rate reduction refinancing loan.

(a) Pursuant to 38 U.S.C. 1810(a)(8), a veteran may refinance an existing Veterans Administration guaranteed, insured or direct loan to reduce the interest rate payable on the Veterans Administration loan provided the following requirements are met:

(1) The loan must be secured by the same dwelling or farm residence as the loan being refinanced and such dwelling or farm residence must be owned and occupied by the veteran as such veteran's home;

(2) The amount of the refinancing loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs as authorized by § 36.4312(d) and a discount not to exceed a dollar amount determined in accordance with § 36.4312(d)(6)(i);

(3) The dollar amount of the guaranty of the 38 U.S.C. 1810(a)(8) loan may not exceed the original dollar amount of guaranty applicable to the loan being refinanced, less any dollar amount of guaranty previously paid as a claim on the loan being refinanced; and

(4) The term of the refinancing loan (38 U.S.C. 1810(a)(8)) may not exceed the original term of the loan being refinanced.

* * * * *

3. In § 36.4312, paragraph (d)(6)(i), the introductory text of (ii) and (iii), and subdivision (iv) is revised as follows:

§ 36.4312 Charges and fees.

* * * * *

(d) * * *

(6) Allowable discounts. (i) The veteran borrower subject to the limitations set forth in this paragraph, may pay a discount required by a lender when the proceeds of the loan will be used for any of the following purposes:

(A) To refinance existing indebtedness pursuant to 38 U.S.C. 1810(a)(5) or (8);

(B) To repair, alter or improve a dwelling owned by the veteran pursuant to 38 U.S.C. 1810(a)(4) or (7) if such loan is to be secured by a first lien;

(C) To construct a dwelling or farm residence on land already owned or to be acquired by the veteran, provided that the veteran did not or will not acquire the land directly or indirectly from a builder or developer who will be constructing such dwelling or farm residence;

(D) To purchase a dwelling from a class of sellers which the Administrator determines are legally precluded under all circumstances from paying such a discount if the best interest of the veteran would be so served.

Unless otherwise approved by the Administrator, the discount, if any, to be paid by the veteran may not exceed the difference between the bid price and the par value for GNMA (Government National Mortgage Association) Issues

rounded to the lower whole number as quoted in the securities market on the business day preceding or 2 business days previous to loan closing (consummation) for pass through securities ⅛ percent less than the note rate of the refinancing loan.

(ii) The veteran-borrower subject to the limitations set forth in this paragraph, may pay a discount required by the lender when the proceeds of the loan will be used to repair, alter or improve a dwelling owned by the veteran pursuant to 38 U.S.C. 1810(a)(4) or (7) if such loan is unsecured or secured by less than a first lien. No discount may be charged unless:

* * * * *

(iii) A veteran may pay the discount on an acquisition and improvement loan (as defined in § 36.4301) provided:

* * * * *

(iv) All powers of the Administrator under paragraph (d)(6) of this section, except the authority to revise the discount after the commitment is issued and the authority to approve a discount higher than authorized by the GNMA Issues, are hereby delegated to those officials designated by § 36.4342(b). The powers of the Administrator to approve an increase in the discount after the commitment is issued or approve a discount higher than authorized by the GNMA Issues are delegated to those officials designated by § 36.4335.
(38 U.S.C. 1803(c)(1) and (3), 1810(a)).

[FR Doc. 82-26284 Filed 9-22-82; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7 FRL 2199-7]

Approval and Promulgation of Implementation Plans, State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Nebraska State Implementation Plan (SIP) covering procedures to be followed by a source when excess emissions result from a startup, shutdown or malfunction. The new procedures require a source to submit information to be used by the state to determine if the excess emissions were due to an unavoidable malfunction, or if additional enforcement action is required in addition to a notice of excess emission. The new rule gives the state greater enforcement capability than malfunction provisions currently provided in the approved SIP.

Public comment is invited on the proposal.

DATE: Comments must be received before November 22, 1982.

ADDRESSES: Comments should be sent to Mrs. Eloise Reed, Air Branch, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106. Copies of the submittal and the EPA prepared evaluation report are available for review at the address above and at the following locations:

Nebraska Department of Environmental Control, 301 Centennial Mall, Lincoln, Nebraska 68509
Lincoln-Lancaster County Air Pollution Control Agency, 2200 St. Mary's Avenue, Lincoln, Nebraska 68502
Permits and Inspection Division, Housing and Community Development Department, 1819 Farnam, Route 402, Omaha, Nebraska 68102
Lincoln-Lancaster County Planning Commission, 55 South Tenth Street, Lincoln, Nebraska 68508
Omaha-Council Bluffs Metropolitan Area Planning Agency, 7000 West Center Road, Omaha, Nebraska 68106

FOR FURTHER INFORMATION CONTACT: Contact Eloise Reed at (816) 374-3791 or FTS 758-3791.

SUPPLEMENTARY INFORMATION: On August 9, 1982, the state of Nebraska submitted a new Rule 18, "Compliance; Exceptions Due to Startup, Shutdown, or Malfunction," to EPA as a SIP revision. The new rule replaced previous Rule 18 "Compliance; Exceptions Due to Breakdown or Scheduled Maintenance." Former Rule 18 allowed excessive emissions due to malfunctions and/or necessary repairs to control or processing equipment and appurtenances, as long as (1) the source notified the state of the occurrence of the malfunction or repair within a specified time; and (2) the number of breakdowns was not deemed excessive by the state; and (3) appropriate, reasonable action was taken to initiate and complete necessary repairs and place the equipment back in operation as quickly as possible. The new rule recognizes all instances of excess emissions as violations and requires that to mitigate the violation the source must provide information to demonstrate that the excess emissions were due to an *unavoidable* malfunction. The state may initiate additional enforcement action, at its discretion, after review of the submitted information, based on criteria specified in the regulation.

The information to be supplied by the source (not later than fifteen days after receipt of a notice of excess emissions) includes, but is not limited to, identification of the emission points; the magnitude of the excess emissions; the identity of the process or control equipment causing the excess emissions; the cause and nature of the excess emissions; and a description of the steps taken by the owner or operator of the source to remedy the situation causing the emissions, prevent a recurrence and limit the excess emissions.

Similar information as above is also required to be mailed by the owner or operator of a source to the state no later than ten days prior to a *planned* startup or shutdown; within forty-eight hours of the beginning of each period of excess emissions (or potential excess emissions) due to a malfunction or *unplanned* shutdown; and within forty-eight hours of the beginning of a startup following an unplanned shutdown. Based on review of this information, the state will determine if additional enforcement action is needed in these instances.

Nothing in the new regulations relieves the source of its obligations to attain and maintain the National Ambient Air Quality Standards during the excess emission period, nor precludes the state from initiating appropriate enforcement actions.

EPA believes that the new rule is consistent with EPA policy that state enforcement discretion should be used in determining whether excess emissions due to malfunction, startup or shutdown required additional enforcement action.

PROPOSED ACTION: EPA proposes to approve Rule 18 as submitted on August 9, 1982, and to incorporate it into the Nebraska SIP. Previous Rule 18 would be deleted.

List of Subjects in 40 CFR Part 52

Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Under 5 U.S.C. § 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: August 17, 1982.
William W. Rice,
Acting Regional Administrator.
[FR Doc. 82-26230 Filed 9-22-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 81

[A-5-FRL 2204-6]

Designations of Areas for Air Quality Planning Purposes; Attainment Status Designations: Ohio

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to change the sulfur dioxide (SO_2) attainment status designation for a portion of Lorain County, Ohio, from nonattainment to attainment. This revision is in response to a request from the State of Ohio to redesignate this area and is based on the supporting certifications of compliance and ambient air monitoring data the State submitted. Under the Clean Air Act (Act), designations can be changed if sufficient data are available to warrant such change.

DATE: Comments on this revision and on EPA's proposed action must be received by October 25, 1982.

ADDRESSES: Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216

Comments on this proposed rule should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, USEPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604 (Please submit an original and thirteen copies if possible).

FOR FURTHER INFORMATION CONTACT: Sharon Reinders (312) 886-6034.

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the Act the Administrator of EPA has promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for each area of every State. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the data warrant.

On October 5, 1978 (43 FR 46014; 40 CFR 81.336), EPA designated the portion of Lorain County north of Route 80 and the City of Elyria as nonattainment for the primary SO_2 NAAQS.

At the time that this designation was made, a number of sources in the nonattainment portion of Lorain County, Ohio, were not complying with the federally promulgated SO_2 emission limits. These limits were developed using reference modeling techniques and have been demonstrated to ensure attainment and maintenance of the NAAQS. Certification of compliance with these limits, thus, is an acceptable basis for redesignation to attainment.

On June 14, 1982, the State of Ohio EPA requested that EPA revise the area of SO_2 primary nonattainment in Lorain County from the entire area north of U.S. Route 80 and the City of Elyria to the area surrounding the U.S. Steel Corporation (USS) facility in northern Lorain County. The boundaries of the remaining nonattainment area would be:

North—The Norfolk and Western Railroad Tracks
East—State Route 301 (Abbe Road)
South—State Route 254
West—Oberlin Road

To support the redesignation request from nonattainment to attainment, the Ohio EPA submitted recent, quality assured ambient SO_2 reference monitoring data collected by the State and two utility companies in the existing nonattainment area. All of the SO_2 monitoring data support the designation of attainment for the area.

In addition to the SO_2 monitoring data, EPA considered modeling data and compliance certifications in its review of the State's request. According to reference modeling analyses, the existing SO_2 emission limitations, which have been promulgated for sources in Lorain County, are adequate to protect the ambient air quality standards. Certifications of compliance with these limits are also an acceptable basis for a redesignation of Lorain County. All major sources of SO_2 emissions in the county have submitted data to EPA and Ohio EPA showing compliance with their federally-approved emission limitations, except for USS. Thus, EPA has determined that all of the county can be designated as attainment except for the area defined above surrounding USS.

EPA today is proposing to revise the SO_2 designation for that portion of Lorain County previously designated nonattainment to attainment, except for the area within the boundaries listed above.

All interested persons are invited to submit written comments on the proposed redesignation. Written comments received by the date specified above will be considered in determining whether EPA will approve the redesignation. After review of all comments submitted, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the redesignation.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Act, as amended (42 U.S.C. 7407))

Dated: August 9, 1982.
Valdas V. Adamkus,
Regional Administrator.
[FR Doc. 82-26235 Filed 9-22-82; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 19045; RM-1637]

TV Broadcast Station in Clarksville, Tennessee; Changes Made in Table of Assignments

Correction.

FR Doc. 82-25091, an FCC release which denied a request by Tennessee Televentures to Assign VHF Television channel 10 to Clarksville, Tennessee, was published in the Rules section of the Monday, September 13, 1982 issue at pages 40169-40170. It should have appeared in the Proposed Rules section. The "ACTION LINE" should have read "Denial of Petition for Rulemaking".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 218

[FRA Docket No. RSOR-3, Notice No. 19]

Blue Signal Protection of Workmen Recordkeeping Requirements

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to amend the FRA regulations concerning the Blue Signal Protection of Railroad Employees while they are inspecting, repairing, and servicing rolling equipment. It would reduce the recordkeeping requirements of the existing rules. This action is taken by FRA in an effort to improve its safety regulatory program by reducing unnecessary recordkeeping requirements.

DATES: (1) Written Comments: Written comments must be received before November 12, 1982. Comments received after that date will be considered so far as possible without incurring additional expense or delay.

(2) Requests for Public Hearings: Requests for public hearings must be received before October 8, 1982.

ADDRESSES: (1) Written comments: Written comments should identify the docket number and the notice number and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Written comments will be available for examination both before and after the closing date for written comments, during regular business hours in Room 7321A of the Nassif Building at the above address.

(2) Requests for Public Hearings: Requests for public hearings should be submitted in triplicate to the Docket Clerk at the above address.

FOR FURTHER INFORMATION CONTACT: Bruce Fine, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590 (Phone 202–426–4345).

SUPPLEMENTARY INFORMATION:

Background

On April 1, 1981, The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*, Pub. L. 96–511) became effective. One purpose of that statute was to minimize the paperwork burden imposed by the Federal Government.

The FRA in conjunction with the Office of Management and Budget (OMB) began a review of FRA regulations to identify ways of reducing the regulatory paperwork burden associated with the FRA safety regulatory program. The FRA Railroad Operating Rules (49 CFR Part 218) were selected for detailed analysis. Based on that analysis, the FRA has concluded that the recordkeeping requirements prescribed in Section 218.30(c)(1) should be reduced by eliminating some of the data required to be recorded by operators of remotely controlled switches and by reducing the retention period for the remaining data from 30 days to 15 days. Under the proposal, the date and time an operator actually receives notification that work is to be performed would no longer have to be recorded. FRA believes that, while this information may be useful for internal management purposes, it is not necessary to accomplish the safety objective of assuring that railroad employees are protected against the movement of equipment that they are inspecting, repairing, or servicing. FRA also believes that a 15 day record retention period is sufficient for safety enforcement purposes.

FRA estimates that these changes will result in a annual savings to railroads of approximately 60,000 manhours of effort.

Regulatory Impact

This proposal has been evaluated in accordance with existing regulatory policies. The proposed amendment will only have a direct impact on railroads. It will not have an adverse economic impact on any entity since it reduces regulatory requirements and burdens. It may have a positive economic impact through cost reductions for the approximately 400 railroads to which the regulation is applicable. Even though some of these railroads may constitute small entities, this proposed amendment will not have a significant impact on a substantial number of small entities. In fact, the overall economic impact is sufficiently minimal that it does not warrant a regulatory evaluation under the terms of Executive Order 12291.

Based on the facts contained in this notice, it is certified that this proposed amendment will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (Pub. L. 95–354, 94 Stat. 1164, September 19, 1980). The proposed amendment does not constitute a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact is not required. The proposed amendment does not constitute a significant rule under the Department of Transportation regulatory policies and procedures.

Public Participation

Interested persons are invited to participate in this proceeding by submitting written data, views or comments. Communications should identify the regulatory docket number and the notice number and must be submitted in triplicate to the Docket. Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street S.W., Washington, D.C. 20590. Persons desiring receipt of their communications to be acknowledged should attach a stamped pre-addressed postcard to the first page of each communication. Communications received before November 12, 1982, will be considered before final action is taken on the proposed rule. All comments received will be available for examination by interested persons at any time during regular working hours in Room 7321A, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

FRA has not scheduled a public hearing to provide an opportunity for oral comments because the facts do not appear to warrant a hearing. Requests for a public hearing must be submitted in writing and received by the FRA Docket Clerk at the above address before October 8, 1982.

List of Subjects in 49 CFR Part 218

Railroad safety.

The Proposed Rule

PART 218—RAILROAD OPERATING RULES

It is proposed to amend Part 218 of Title 49, Code of Federal Regulations by revising paragraph (c) of Section 218.30 to read as follows:

§ 218.30 Remotely controlled switches.

* * * * *

(c) The operator must maintain for 15 days a written record of each notication which contains the following information:

(1) The name and craft of the employee in charge who provided notification;

(2) The number or other designation of the track involved;

(3) The date and time the operator notified the employee in charge that protection had been provided in accordance with paragraph (a) of this section; and

(4) The date and time the operator was informed that the work had been completed, and the name and craft of the employee in charge who provided this information.

This notice is issued under the authority of section 2 of the Hours of Service Act, as amended 45 U.S.C. 61–64(b); and the regulations of the Office of the Secretary of Transportation (49 CFR 1.49(d)).

Issued in Washington, D.C. on September 13, 1982.

Robert W. Blanchette,

Administrator.

[FR Doc. 82-25826 Filed 9-22-82; 8:45 am]

BILLING CODE 4910-06-M

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49 CFR Part 228

[FRA Docket No. HS-4, Notice No. 9]

Hours of Service of Railroad Employees Recordkeeping Requirements

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend FRA regulations concerning the Hours of Service of Railroad Employees. It would eliminate two recordkeeping provisions of existing regulations. This action is taken by FRA in an effort to improve its safety regulatory program by reducing unnecessary recordkeeping requirements.

DATES: (1) Written Comments: Written comments must be received before November 12, 1982. Comments received after that date will be considered so far as possible without incurring additional expense or delay.

(2) Requests for Public Hearings: Requests for public hearings must be received before October 8, 1982.

ADDRESSES: (1) Written Comments: Written comments should identify the docket number and the notice number and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Written comments will be available for examination both before and after the closing date for written comments, during regular business hours in Room 7321A of the Nassif Building at the above address.

(2) Requests for Public Hearing: Requests for a public hearing should be submitted in triplicate to the Docket Clerk at the above address.

FOR FURTHER INFORMATION CONTACT: Bruce Fine, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590 (Phone 202-426-4345).

SUPPLEMENTARY INFORMATION:

Background

On April 1, 1981, the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*, Pub. L. 96-511) became effective. One purpose of that statute was to minimize the paperwork burden imposed by the Federal Government.

The FRA in conjunction with the Office of Management and Budget (OMB) began a review of FRA regulations to identify ways of reducing the regulatory paperwork burden associated with the FRA safety regulatory program. The FRA regulations in Part 228 issued under the Hours of Service Act (45 U.S.C. 61-64b) were selected for detailed analysis.

The purpose of Part 228 is to assure that rail carriers maintain appropriate records to enable FRA to administer effectively the requirements of the Hours of Service Act. As a result of a detailed analysis, FRA has concluded that the recordkeeping requirements prescribed in sections 228.13 and 228.15 are not necessary to achieve that purpose. Section 228.13 requires rail carriers to keep a record of time delays of 10 minutes or more that are experienced at a single location by train and engine crews. Section 228.15 requires rail carriers to keep a record of train movements at specified locations. Examination of current enforcement practices revealed that these records were seldom utilized. In those rare instances where the information they contain would be useful, it can be obtained from other sources. For example, section 228.17 requires rail carriers to keep detailed records concerning train movements in each operating district.

FRA estimates that maintenance of the records required under sections 228.13 and 228.15 causes rail carriers to expend approximately 1,200,000 manhours each year.

Regulatory Impact

This proposal has been evaluated in accordance with existing regulatory policies. The proposal will only have a direct impact on railroads. It will not have an adverse economic impact on any entity since it reduces regulatory requirements and burdens. It may have a positive economic impact through cost reductions realized by the approximately 400 rail carriers subject to the regulation. However, the economic impact would be so minimal that it does not warrant a regulatory evaluation under the terms of Executive Order 12291.

Based on the facts set forth in this notice, it is certified that the proposed amendment will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (Pub. L. 95-354, 94 Stat. 1164, September 19, 1980). The proposed amendment does not constitute a significant rule under the DOT regulatory policies and procedures.

Public Participation

Interested persons are invited to participate in this proceeding by submitting written data, views or comments. Communications should identify the regulatory docket number and the notice number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street S.W., Washington, D.C. 20590. Persons desiring receipt of their communications to be acknowledged should attach a stamped pre-addressed postcard to the first page of each communication. Communications received before November 12, 1982, will be considered before final action is taken on the proposed rule. All comments received will be available for examination by interested persons at any time during regular working hours in Room 7321A, Nassif Building, 400 Seventh Street S.W., Washington, D.C. 20590.

FRA has not scheduled a public hearing to provide an opportunity for oral comments on this proposal because the facts do not appear to warrant it. Requests for a public hearing must be submitted in writing and received by the FRA Docket Clerk at the above address before October 8, 1982

List of Subjects in 49 CFR Part 228

Railroad safety.

The Proposed Rule

PART 228—HOURS OF SERVICE OF RAILROAD EMPLOYEES

In consideration of the foregoing, it is proposed to amend Part 228 of Title 49, Code of Federal Regulations as follows:

1. The references to §§ 228.13 and 228.15 are to be removed from the list of sections at the beginning of Part 228.

§ 228.13 [Removed]

2. Section 228.13 is to be removed in its entirety.

§ 228.15 [Removed]

3. Section 228.15 is to be removed in its entirety.

This notice is issued under the authority of Section 2 of the Hours of Service Act, as amended, 45 U.S.C. 61-64b; and the regulations of the Office of the Secretary of Transportation (49 CFR 1.49(d).

Issued in Washington, D.C. on September 13, 1982.

Robert W. Blanchette,

Administrator.

[FR Doc. 82827 Filed 9-22-82; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

49 CFR Parts 565 and 571

[Docket No. 1-22; Notice 11]

Federal Motor Vehicle Safety Standards; Vehicle Identification Number; Notice of Proposed Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes, in response to a petition for rulemaking filed by the Motor Vehicle Manufacturers Association (MVMA), that portions of Federal Motor Vehicle Safety Standard No. 115, Vehicle Identification Number (49 CFR 571.115), be withdrawn and reissued as a regulation. This action is being taken because the recall and remedy provisions which apply to violations of the motor vehicle safety standards would be inappropriate to correct certain vehicle identification number (VIN) errors. Any violations of the VIN regulations could be corrected by submitting corrected data to the agency or by other relatively simple means.

DATE: Comments on this proposal must be submitted by November 22, 1982.

ADDRESS: Comments on this notice should refer to the docket number and notice number set forth in the heading above and should be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (Docket hours are 8 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Roger Fairchild, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2992)

PAPERWORK REDUCTION ACT: Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act (Pub. L. 96-511) and have been assigned OMB Control Number 2127-0051.

SUPPLEMENTARY INFORMATION: The Motor Vehicle Manufacturers Association (MVMA) filed a petition on June 13, 1980, requesting that Federal Motor Vehicle Safety Standard No. 115 be withdrawn as a safety standard and reissued as a general agency regulation. On April 15, 1982, that petition was modified to request that only portions of FMVSS 115 be reissued as a regulation, with the other portions remaining a safety standard. As discussed below, the agency is herein proposing to make the changes sought by MVMA in their April 15 submission.

The current vehicle identification number (VIN) requirements were established on March 22, 1979, in 44 FR 17489, and became effective for the 1981 model year. Standard 115 specifies a 17 digit format, with specified digits or groups of digits providing such information as the identity of the manufacturer, a description of certain vehicle characteristics (such as engine type and body style), the model year, the plant where the vehicle was produced, and the sequence of production of the vehicle. Also included is a "check digit" which assists in detecting errors in transcription of VIN's by users of those numbers.

The standardized VIN serves a variety of functions. The agency's primary use for the VIN is in connection with safety defect recalls under section 154 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1414, to identify and categorize vehicles. The VIN is also useful to law enforcement officials as an anti-theft mechanism, to insurance companies to identify and classify vehicles, to researchers for identifying vehicles in accident investigation programs, and to State governments for vehicle registration and titling purposes.

The basis for MVMA's concern with regard to the VIN standard is that section 152(b) of the Safety Act specifies that in cases of violation of a Federal motor vehicle safety standard, the affected manufacturer must notify owners and dealers of the violation and remedy the noncompliance. The only exception to this requirement is provided by section 157 of the Act, which authorizes manufacturers to petition for a determination that the noncompliance is "inconsequential." If, however, the VIN requirements were issued not as a standard but as a regulation, the mandatory recall requirements would not apply. That would also eliminate the necessity for submitting inconsequentiality petitions.

MVMA's objections to having to conduct a recall relating to incorrect VIN labeling are: that owners would be unlikely to bring vehicles to dealers to correct the VIN; that the VIN would, as a practical matter, have to be corrected at every location where it appears on the vehicle (one visible and three or more hidden places) to maintain the anti-theft benefits of the VIN, a potentially expensive process; that dealers could not maintain a stock of blank VIN plates due to the expense of the embossing equipment used to imprint the VIN on the plate and the need to control access to blank VIN plates to avoid the creation of false VIN's by thieves; that some States require that law enforcement personnel must witness any changing of VIN plates or require that only employees of the manufacturer may change a VIN, making corrections impracticable; and that many documents would have to be revised if a VIN were corrected, including manufacturer warranty records, State titling and registration files, insurance records, financing records, and records of the National Automobile Theft Bureau. MVMA argues that these problems militate against the use of recall campaigns to remedy VIN errors, and in favor of submitting corrective information to NHTSA, which operates as the central repository for other VIN decoding information.

MVMA argues that the advantage of their modified approach over that advocated in their original petition—coverting the entire VIN standard into a regulation—is clear preservation of Federal preemption. A VIN standard preempts non-identical state VIN requirements on the same aspects of performance (see Section 103(d) of the Safety Act), but MVMA argues that a VIN regulation may preempt state VIN reguirements only when there is a head-on conflict; i.e., when the state requirements cannot be obeyed without disobeying the Federal regulation. Therefore, to the extent that VIN's covered by a Federal standard rather than a Federal regulation, no valid non-identical state VIN requirements would be enforceable. Subjects such as the total number of VIN characters and the permanency and location of the VIN label or plate, which would be retained in MVMA's requested new Federal Motor Vehicle Safety Standard, would occupy the field and preclude non-identical state requirements.

The agency believes that MVMA's suggested course of corrective action may be appropriate. However, the agency is also mindful of the concerns expressed by Allstate Insurance Company in a letter opposing the MVMA petition. Allstate argued that maintaining the accuracy and uniqueness of VIN's issued under Standard 115 is critical to assuring the safety and other benefits of that standard. The agency has tentatively concluded that it can maintain the

accuracy and unique characteristics of the VIN system whether that system takes the form of a Federal Motor Vehicle Safety Standard or a general regulation or a composite of both.

Under the MVMA proposal, the VIN standard would control the more essential elements of the VIN, namely its general physical characteristics and location. The standard would specify that VIN's must have 17 characters including a check digit in the ninth position, and that no two vehicles manufactured within a 30-year period may have identical VIN's. The standard would also specify that the VIN must be affixed clearly and indelibly on the vehicle, and must be located on the driver's side dashboard on passenger cars and light trucks. The VIN regulation would specify the VIN format, structure and content as well as all reporting requirements. Also specified in the regulation would be the manner in which check digits are to be calculated.

From the agency's perspective, the main issue in evaluating the MVMA petition (other than possible impacts on Federal preemption) is the extent to which granting the petition would increase the number of uncorrected VIN errors and thereby possibly impair the usefulness of the VIN system in the agency's research. Certain types of VIN errors, such as numbers having more or less than the specified 17 characters or erroneous check digits, may be detected by State motor vehicle agencies when vehicle purchasers attempt to register vehicles. In that situation, the States may well deny applications for registration. MVMA in its revised petition has assured the agency that in that type of situation, manufacturers would voluntarily correct the error to avoid the inconvenience owners might encounter. Other types of VIN errors could be corrected by simply providing the necessary decoding information to the agency, which would place that information in a public file to make it available to other VIN users. Under the MVMA proposal, the agency could still take enforcement action where necessary, but would not be required to use the recall/inconsequentiality petition process for all errors, no matter how small.

In addition to responding to MVMA's petition, the notice also responds to several issues raised by other parties. Freightliner Corporation and others have raised an issue relating to the requirement in section 6.3 of the current standard that vehicle manufacturers submit to the agency at least 60 days prior to the date a VIN is affixed to a vehicle all information necessary to decipher the VIN. Several manufacturers, particularly small companies which are more likely to build vehicles to fill specific orders, have indicated that they will in many cases not know 60 days prior to the manufacturing date all the necessary VIN-related information about a future vehicle. For example, a company might receive an order for a unique version of a trailer which does not fit within its current VIN numbering system, and might be required to complete manufacturing of the trailer within less than 60 days. The purpose of the 60-day requirement was to permit users of the VIN to obtain necessary decoding information before vehicle purchasers begin registering the vehicles using the new VIN system. Therefore, the agency is proposing to modify section 6.3 of the current standard to permit manufacturing to submit decoding information less than 60 days prior to the manufacturing date if sufficient information to specify the VIN is unavailable in time to meet the generally applicable 60-day requirement.

The agency has also received inquiries as to the applicability of VIN requirements to vehicles manufactured abroad and not in compliance with Federal safety standards, but subsequently imported into the U.S. Requiring full compliance would be burdensome for the individual who imported the vehicle, and would involve obtaining a world manufacturer identifier and submitting diciphering information to NHTSA. Further, adding a conforming VIN would create a situation in which the vehicle had two identifying numbers, the one originally assigned by the manufacturer and the one added by the importer. The potential for confusion and anti-theft problems resulting from two VIN's on the same vehicle is deemed significant by the agency. Therefore, the agency is proposing to exempt such importers from the format and content requirements of the VIN standard and regulation, and basically require that the original VIN assigned by the manufacture be maintained by the importer.

Some minor clarifications are also being proposed in this notice. The first proposed revision would make explicit the agency's policy of requiring vehicle alterers to retain the VIN assigned by the vehicle's original manufacturer. Vehicle alterers modify completed vehicles in some significant manner, such as by replacing the vehicle's original engine with a different one. The agency believes this policy would avoid problems involving tampering with previously assigned VIN's. A second revision would make clear that the manufacturer identifier portion of VIN's will be assigned by the Society of Automotive Engineers, under a contract with the agency. See 44 FR 52784, September 10, 1979. The agency is also proposing to clarify that the VIN for multipurpose passenger vehicles must be affixed in the same location as for light trucks, and that trailers kits are subject to VIN requirements.

The principal impact of this proposal is to remove the threat of an unduly burdensome recall requirement to correct VIN errors. The new Part 565 would have no requirements not now in FMVSS 115. The agency anticipates that the manufacturers will continue to assign VIN's in the same manner regardless of whether VIN requirements take the form of a safety standard or a regulation. Further, the agency anticipates that the corrective action required in case of erroneous VIN's would not essentially differ as a result of this proposed change, since only in extreme cases can the agency envision ordering a vehicle recall.

For these reasons, the agency has concluded that the environmental consequences of this action will be of such limited scope that they clearly will not have a significant effect on the quality of the human environment; that this proposal does not qualify as a "major rule" within the meaning of Executive Order 12291; and that, due to its minimal cost impacts, this rule is not "significant" within the meaning of the Department's regulatory procedures. Therefore, preparation of a regulatory analysis or full regulatory evaluation is not necessary for this proposal. The agency recognizes this rulemaking action, if promulgated, would have a small, positive impact on small firms—particularly small manufacturers and small importers. If established as a final rule, this action would provide relief to small manufacturers from the generally applicable 60-day VIN pre-notification requirements in the case of orders for unique vehicle configurations. The agency is also proposing to exempt small importers (principally individuals importing one vehicle for their own use) from certain VIN format and content requirements. Given the relatively minor economic consequences of these changes, I certify that this proposal, if adopted, would have no significant economic impacts on a substantial number of small entities, including small organizations or governmental units. For this reason no Regulatory Flexibility Analysis will be prepared. If adopted, these proposed changes should have no

impact on vehicle prices. Nor does the agency anticipate any impacts on small organizations or governmental units.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wished to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Parts 565 and 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

(Secs. 108, 112, 119, and 152, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1397, 1401, 1407, and 1412); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on August 30, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

For the reasons stated above, the agency is proposing to amend Chapter V of Title 49 of the Code of Federal Regulations as follows:

1. A new Part 565 would be added, reading as follows:

PART 565—VEHICLE IDENTIFICATION NUMBER

Sec.

565.1 Purpose and scope.
565.2 Application.
565.3 Definitions.
565.4 General requirements.
565.5 Reporting requirements.

Authority: Secs. 108, 112, 119, 152, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1397, 1401, 1407, and 1412); delegations of authority at 49 CFR 1.50 and 501.8.

§ 565.1 Purpose and scope.

This regulation specifies the format and content for a vehicle identification number (VIN) system to simplify vehicle identification information retrieval and increase the accuracy and efficiency of vehicle defect recall campaigns.

§ 565.2 Applicability.

This regulation applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, trailer kits, incomplete vehicles and motorcycles. Vehicles imported into the United States under 19 CFR 12.80(b)(1)(iii) are exempt from the requirements of this Part.

§ 565.3 Definitions.

(a) Statutory Definitions: All terms used in this part that are defined in section 102 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391) are used as defined in the Act.

(b) Motor Vehicle Safety Standard Definitions: Unless otherwise indicated, all terms used in this part that are defined in 49 CFR 571.115 are used as defined therein.

(c) "Body Type" means the general configuration or shape of a vehicle distinguished by such characteristics as the number of doors or windows, cargo-carrying features and the roofline (e.g., sedan, fastback, hatchback).

(d) "Engine Type" means a power source with defined characteristics such as fuel utilized, number of cylinders, displacement, and net brake horsepower. The specific manufacturer and make shall be represented if the engine powers a passenger car or a multipurpose passenger vehicle, or truck with a gross vehicle weight rating of 10,000 pounds or less.

(e) "Line" means a name which a manufacturer applies to a family of vehicles within a make which have a degree of commonality in construction, such as body, chassis or cab type.

(f) "Make" means a name which a manufacturer applies to a group of vehicles or engines.

(g) "Model" means a name which a manufacturer applies to a family of vehicles of the same type, make, line, series, and body type.

(h) "Model Year" means the year used to designate a discrete vehicle model irrespective of the calendar year in which the vehicle was actually produced, so long as the actual period is less than two calendar years.

(i) "Plant of manufacture" means the plant where the manufacturer affixes the VIN.

(j) "Series" means a name which a manufacturer applies to a subdivision of a "line" denoting price, size or weight identification, and which is utilized by the manufacture for marketing purposes.

(k) "Type" means a class of vehicle distinguished by common traits, including design and purpose. Passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, incomplete vehicles, and motorcycles are separate types.

§ 565.4 General requirements.

The VIN shall consist of four sections of characters which shall be grouped accordingly:

(a) The first section shall consist of three characters which occupy positions one through three (1–3) in the VIN. This

section shall uniquely identify the manufacturer, make and type of the motor vehicle if its manufacturer produces 500 or more motor vehicles of its type annually. If the manufacturer produces less than 500 motor vehicles of its type annually, those three characters along with the third, fourth and fifth characters of the fourth section shall uniquely identify the manufacturer, make and type of the motor vehicle. These characters are assigned in accordance with section 565.5(c) of this Part.

(b) The second section shall consist of five characters which occupy positions four through eight (4–8) in the VIN. This section shall uniquely identify the attributes of the vehicle as specified in Table I. For passenger cars, and for multipurpose passenger vehicles and trucks with a gross vehicle weight rating of 10,000 pounds or less, the first and second characters shall be alphabetic and the third and fourth characters shall be numeric. The fifth character may be either alphabetic or numeric. The characters utilized and their placement within the section may be determined by the manufacturer, but the specified attributes must be decipherable with information supplied by the manufacturer in accordance with § 565.5(d) of this Part. In submitting the required information to the NHTSA relating to gross vehicle weight rating, the designations in Table II shall be utilized. The use of these designations within the VIN itself is not required.

TABLE I.—TYPE OF VEHICLE AND INFORMATION DECIPHERABLE

Passenger car: Line, series, body type, engine type,[1] and restraint system type.
Multi-purpose passenger vehicle: Line, series, body type, engine type,[1] gross vehicle weight rating.
Truck: Model or line, series, chassis, cab type, engine type,[1] brake system and gross vehicle weight rating.
Bus: Model or line, series, body type, engine type,[1] and brake system.
Trailer: Type of trailer, series, body type, length, and axle configuration.[1]
Motorcycle: Type of motorcycle, line, engine type,[1] and net brake horsepower.[1]
Incomplete vehicle: Model or line, series, cab type, engine type,[1] and brake system.

[1] Engine net brake horsepower when encoded in the VIN shall differ by no more than 10 percent from the actual net brake horsepower; shall, in the case of motorcycle with an actual net brake horsepower of 2 or less, be not more than 2; and shall, in the case of a motorcycle with an actual brake horsepower greater than 2, be greater than 2.

TABLE II.—GROSS VEHICLE WEIGHT RATING CLASSES

Class A	Not greater than 3,000 pounds.
Class B	3,001–4,000 pounds.
Class C	4,001–5,000 pounds.
Class D	5,001–6,000 pounds.
Class E	6,001–7,000 pounds.
Class F	7,001–8,000 pounds.
Class G	8,001–9,000 pounds.
Class H	9,001–10,000 pounds.
Class 3	10,001–14,000 pounds.
Class 4	14,001–16,000 pounds.
Class 5	16,001–19,500 pounds.
Class 6	19,501–26,000 pounds.
Class 7	26,001–33,000 pounds.
Class 8	33,001 pounds and over.

(c) The third section shall consist of one character which occupies position nine (9) in type VIN. This section shall be the check digit whose purpose is to provide a means for verifying the accuracy of any VIN transcription. After all other characters in the VIN have been determined by the manufacturer, the check digit shall be calculated by carrying out the mathematical computation specified in paragraphs (c)(1) through (4) of this section.

(f) Assign to each number in the VIN its actual mathematical value and assign to each letter the value specified for it in Table III.

TABLE III.—ASSIGNED VALUES

A=1	J=1	T=3
B=2	K=2	U=4
C=3	L=3	V=5
D=4	M=4	W=6
E=5	N=5	X=7
F=6	P=7	Y=8
G=7	R=9	Z=9
H=8	S=2	

(2) Multiply the assigned value for each character in the VIN by the position weight factor specified in Table IV.

TABLE IV.—VIN POSITION AND WEIGHT FACTOR

1st	8	10th	9
2d	7	11th	8
3d	6	12th	7
4th	5	13th	6
5th	4	14th	5
6th	3	15th	4
7th	2	16th	3
8th	10	17th	2
9th (check digit)	0		

(3) Add the resulting products and divide the total by 11.

(4) The numerical remainder is the check digit. If the remainder is 10 the letter "X" shall be used to designate the check digit. The correct numerical remainder zero through nine (0–9) or the letter "X" shall appear in VIN position nine (9).

(5) A sample check digit calculation is shown in Table V.

TABLE V.—CALCULATIONS OF A CHECK DIGIT

VIN Position	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Sample VIN	1	G	4	A	H	5	9	H	———	5	G	1	1	8	3	4	1
Assigned value	1	7	4	1	8	5	9	8	———	5	7	1	1	8	3	4	1
Multiply by weight factor	8	7	6	5	4	3	2	10	0	9	8	7	6	5	4	3	2

Add products 8+49+24+5+32+15+16+80+0+45+56+7+6+40+12+12+2=411
Divide sum of products by 11: 411/11=37 4/11
Remainder is check digit #4 [insert in VIN position nine (9)]

(d) The fourth section shall consist of eight characters which occupy positions ten through seventeen (10–17) of the VIN. The last five (5) characters of this section shall be numeric for passenger cars, and for multi-purpose passenger vehicles and trucks with a gross vehicle weight rating of 10,000 pounds or less, and the last four (4) characters shall be numeric for all other vehicles.

(1) The first character of the fourth section shall represent the vehicle model year. The year shall be designated as indicated in Table VI.

TABLE VI

Year	Code	Year	Code
1980	A	1997	V
1981	B	1998	W
1982	C	1999	X
1983	D	2000	Y
1984	E	2001	1

TABLE VI—Continued

Year	Code	Year	Code
1985	F	2002	2
1986	G	2003	3
1987	H	2004	4
1988	J	2005	5
1989	K	2006	6
1990	L	2007	7
1991	M	2008	8
1992	N	2009	9
1993	P	2010	A
1994	R	2011	B
1995	S	2012	C
1996	T	2013	D

(2) The second character of the fourth section shall represent the plant of manufacture.

(3) The third through the eighth characters of the fourth section shall represent the number sequentially assigned by the manufacturer in the production process if the manufacturer produces 500 or more vehicles of its type annually. If the manufacturer produces less than 500 motor vehicles of its type annually, the third, fourth, and fifth characters of the fourth section, combined with the three characters of the first section, shall uniquely identify the manufacturer, make and type of the motor vehicle and the sixth, seventh, and eighth characters of the fourth section shall represent the number sequentially assigned by the manufacturer in the production process.

§ 565.5 Reporting requirements.

(a) Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act (Pub. L. 96–511) and have been assigned OMB Control Number 2127–0051.

(b) Manufacturers of motor vehicles subject to this regulation shall submit, either directly or through an agent, the unique identifier for each make and type of vehicle it manufacturers a least 60 days before affixing the first VIN using the identifier. Manufacturers whose unique identifier appears in the fourth section of the VIN shall also submit the three characters of the first section which constitutes a part of their identifier.

(c) The NHTSA has contracted with the Society of Automotive Engineers (SAE) to coordinate the assignment of manufacturer identifiers. Manufacturer identifiers will be supplied by SAE at no charge. All requests for assignments of manufacturer identifiers should be forwarded directly to: Society of Automotive Engineers, 400 Commonwealth Avenue Warrendale, Pennsylvania 15096, Attention: WMI Coordinator.

Any requests for identifiers submitted to NHTSA will be forwarded to SAE. Manufacturers may requests a specific identifier or may request only assignment of an identifier(s) SAE will review requests for specific identifiers to determine that they do not conflict with an identifier already assigned or block of identifiers already reserved. SAE will confirm the assignments in writing to the requester. Once confirmed by SAE, the identifiers need not be resubmitted to the NHTSA.

(d) Manufacturers of motor vehicles subject to the requirements of this regulation shall submit to the NHTSA the information necessary to decipher the characters contained in its VIN's. Amendments to this information shall be submitted to the agency for VIN's containing an amended coding. The agency will not routinely provide written approvals of these submissions, but will contact the manufacturer should any corrections to these submissions be necessary.

(e) The information required under paragraph (d) of this section 565.5.3 shall be submitted at least 60 days prior to offering for sale the first vehicle identified by a VIN containing that information, or if information concerning vehicle characteristics sufficient to specify the VIN Code is unavailable to the manufacturer by that date, then within one week after that information first becomes available. The information shall be addressed to: Admininistrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, Attention: VIN Coordinator.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARD

2. Section 571.115 would be revised to read as follows:

§ 571.115 Standard No. 115; Vehicle identification number.

S1. *Purpose and Scope.*

This standard specifies general physical requirements for a vehicle identification number (VIN) and its installation to simplify vehicle information retrieval and to reduce the incidence of accidents by increasing the accuracy and efficiency of vehicle recall campaigns. Vehicles imported into the United States under 19 CFR 12.80(b)(1)(iii) are exempt from the requirements of sections 4.1, 4.2, and 4.7 of this standard.

S2. *Application.*

This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, incomplete vehicles and motorcycles.

S3. *Definitions.*

"Check digit" means a single number or the letter X used to verify the accuracy of the transcription of the vehicle identification number.

"Incomplete vehicle" means an assemblage consisting, as a minimum, of frame and chassis structure, power train, steering system, suspension system, and braking system, to the extent that those systems are to be part of the completed vehicle, that requires further manufacturing operations, other than the addition of readily attachable components, such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, to become a completed vehicle.

"Vehicle identification number" means a series of arabic numbers and roman letters which is assigned to a motor vehicle for identification purposes.

S4. *Requirements.*

S4.1 The VIN shall consist of seventeen (17) characters.

S4.2 A check digit shall be part of each VIN. The check digit shall appear in position nine (9) of the VIN on the vehicle and on any transfer documents containing the VIN and prepared by the manufacturer to be given to the first owner for purposes other than resale.

S4.3 The VIN's of any two vehicles manufactured within a 30-year period shall not be identical.

S4.4 The VIN of each vehicle shall appear clearly and indelibly upon either a part of the vehicle other than the glazing that is not designed to be removed except for repair or upon a separate plate or label which is permanently affixed to such a part.

S4.5 The VIN for passenger cars, multipurpose passenger vehicles, and trucks of 10,000 pounds or less GVWR shall be located inside the passenger compartment. It shall be readable, without moving any part of the vehicle, through the vehicle glazing under daylight lighting conditions by an observer having 20/20 vision (Snellen) whose eye-point is located outside the vehicle adjacent to the left windshield pillar.

S4.6 Each vehicle manufactured in one stage shall have a VIN that is assigned by the manufacturer. Each vehicle manufactured in more than one stage shall have a VIN assigned by the incomplete vehicle manufacturer. Vehicle alterers, as specified in 49 CFR 567.7, shall utilize the VIN assigned by the original manufacturer of the vehicle.

S4.7 Each character in the VIN shall be one of the Arabic or Roman letters set forth in Table 1.

TABLE 1

Numbers:
1234567890
Letters:
ABCDEFGHJKLMNPRSTUVWXYZ

All spaces provided for in the VIN must be occupied by a character specified in Table 1.

S4.8 The type face utilized for the VIN shall consist of capital, san serif characters. Each character in the VIN shall have a minimum height of 4 mm.

[FR Doc. 82-25930 Filed 9-22-82; 8:45 am]
BILLING CODE 4910-59-M

49 CFR Part 571

[Docket No. 82-16; Notice 1]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to propose an amendment to Safety Standard No. 108 that would allow installation of a modulating headlamp on motorcycles. Such a headlamp, whose use is currently not allowed, could improve conspicuity of a motorcycle and its operator during daylight. The proposal implements the agency's grant of a petition by Harley-Davidson Motor Co., Inc.

DATES: Comment closing date for the proposal is November 8, 1982. Effective date of an amendment would be 30 days after publication of the final rule in the **Federal Register**.

ADDRESSES: Comments should refer to the docket number and notice number of this notice and be submitted to: Docket Section, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. (Docket hours are from 8 a.m. to 4 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Marx Elliott, Office of Rulemaking, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-426-1714).

SUPPLEMENTARY INFORMATION: Paragraph S4.6(b) of Standard No. 108 requires headlamps to be steady burning when in use although allowing them to be flashed for signalling purposes. This allows cycles of activation and deactivation of the headlamp but it has not been interpreted as allowing cycles of varying intensity (modulation).

Harley-Davidson Motor Co., Inc. of Milwaukee, a manufacturer of motorcycles would like to introduce headlamp modulation as an option and petitioned the agency for an amendment to allow it. The agency has granted the petition. Under agency procedures (49 CFR 552.9(a)) the granting of a petition and the commencement of a rulemaking proceeding does not signify, however, that the standard will be amended. A decision as to the amendment of the standard is made on the basis of all available information developed in the course of the rulemaking proceeding, in accordance with statutory criteria.

In 1979, on behalf of the agency, the Highway Safety Research Institute evaluated various means of increasing the conspicuity of motorcycles and their operators (DOT-HS-805143). More than 30 types of conspicuity treatments were developed. Three principal means of improvement were found. One was the wearing by the cyclist of a high visibility vest and helmet cover. Another was continual operation of the low beam of the headlamp during daylight (it is now the practice of virtually all cycle manufacturers to wire the headlamp so that it is on when the engine is running). The third was a modulation of the headlamp from high beam to low beam three times per second. Data show that about 75 percent of motorcycle accidents occur in daytime. Therefore, enhancement of conspicuity is manifestly in the interests of motor vehicle safety. State legislatures have shown interest in allowing modulated headlamps on their highways, and NHTSA believes that cyclists should be afforded an option to choose this type headlamp.

The proposal would amend what is presently designated as S4.6 to allow a normally steady burning motorcycle headlamp to be wired to modulate on the upper beam from higher to lower intensity at a pulse rate from 150 to 240 cycles per minute. S4.6 specifies which lamps are to be steady burning and which may flash. Since those requirements relate to wiring, it is proposed to renumber this section S4.5.8, since paragraph S4.5 contains all the standard's other specific wiring requirements for lighting equipment. S4.7 would then be renumbered S4.6.

The agency is particularly interested in comments from States, and from individuals who have used these lamps, with emphasis on whether there is a potential for misuse, such as the likelihood of use of the modulating mode under conditions such as inclement weather or dusk when the steady-burning mode is required for safety, or inadvertently by novice motorcyclists or others unfamiliar with this type of headlamp system.

NHTSA has considered the impacts of this proposal and has determined that it is neither major within the meaning of Executive Order 12291 nor significant under Department of Transportation guidelines regarding regulatory policy and procedure. The proposal will have an impact only on those who voluntarily choose to produce and buy an alternative headlamp. Because the modulating headlamp will not be required but simply an option to a standard motorcycle headlamp, there will be no mandatory increased manufacturing costs connected with this proposal. The cost to the consumer who wishes to purchase a headlamp with a modulating switch could be as much as $60. The impacts are so minimal that preparation of a regulatory impact analysis or a full regulatory evaluation is not warranted.

NHTSA has analyzed this proposal for the purposes of the National Environmental Policy Act, and has determined that it would not have a significant effect on the human environment since neither the weight nor quantity of materials used in the manufacture of the lamps is greatly affected. The agency has also considered the impacts of this proposal in relation to the Regulatory Flexibility Act, and certifies that this proposal would not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a flexibility analysis. Manufacturers of motorcycle headlamps, those affected by the proposal, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Further, compliance with the proposed changes would be optional. Small organizations and governmental jurisdictions would be affected only to the extent that law enforcement agencies chose to purchase motorcycles with modulating headlamps.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of

confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

The engineer and attorney primarily responsible for this notice are Marx Elliott and Taylor Vinson, respectively.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Motor vehicle equipment, Lamps—reflective devices and associated equipment.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, it is proposed that 49 CFR 571.108 be amended as follows:

§ 571.108 [Amended]

1. Paragraph S4.6 would be retitled S4.5.8 and revised to read:

S4.5.8 The wiring requirements for lighting equipment in use are:

(a) Turn signal lamps, hazard warning signal lamps, and school bus warning lamps shall be wired to flash;

(b) Headlamps and side marker lamps may be wired to flash for signaling purposes;

(c) A motorcycle headlamp may be wired to be both steady burning and to modulate its upper beam from a higher intensity to a lower intensity at any rate between 150 and 240 pulses per minute;

(d) All other lamps shall be wired to be steady burning.

2. Paragraphs S4.7, S4.7.1 and S4.7.2 would be renumbered "S4.6", "S4.6.1" and "S4.6.2" respectively.

3. The reference in S4.7.2 to "S4.7.1" would be changed to "S4.6.1".

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on September 20, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82–26284 Filed 9–22–82; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 47, No. 185
Thursday, September 23, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Stanislaus National Forest, Alpine County, Calif.; Change of dates in Original Notice of Intent To Prepare an Environmental Statement

The Notice of Intent for preparation of an environmental impact statement for expansion of the Mt. Reba Ski Area was published in the **Federal Register** on Friday, October 30, 1981. At that time it was anticipated the draft impact statement would be available for public review in September 1982, with the final statement to be completed in January 1983. These dates are being changed. The draft will be available for public review in June 1983 and the final will be completed by April 1984.

Blaine L. Cornell,
Forest Supervisor.

[FR Doc. 82-26226 Filed 9-22-82; 8:45 am]
BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

Arizona Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Arizona Advisory Committee to the Commission will convene at 9:00 a.m., on October 28, 1982 and will adjourn at 12:00 p.m., on October 29, 1982, at the Phoenix Civic Plaza, 225 East Adams, in room N–10, Phoenix, Arizona, 85004. The Committee will conduct a factfinding meeting to gather information on civil rights issues pertaining to minorities and women in the State of Arizona.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. Morrison F. Warren, 1061 East Magdalena Drive, Tempe, Arizona, 85283, (602) 965–6529 or the Western Regional Office, 3660 Wilshire Boulevard, Suite 810, Los Angeles, California, 90010, (213) 688–3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 17, 1982.

John I. Binkey,
Advisory Committee Management Officer.

[FR Doc. 82-26169 Filed 9-22-82; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 1–81]

Application for Expansion of Foreign-Trade Zone 62 (Brownsville Customs Port of Entry); Withdrawal Approved

Notice is hereby given that the Brownsville Navigation District, Grantee of Foreign-Trade Zone No. 62, Brownsville, has requested withdrawal of the application to expand its zone, filed with the Foreign-Trade Zones Board on January 5, 1981 (Docket No. 1–81). The reason is that the proposal is no longer appropriate because of a more current and comprehensive application (Docket No. 15–82) for expansion filed on July 26, 1982 (47 FR 35266, 8/13/82).

The withdrawal has been approved and the case is considered closed effective September 15, 1982.

Dated: September 17, 1982.

John J. Da Ponte, Jr.,
Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 82-26246 Filed 9-22-82; 8:45 am]
BILLING CODE 3510-25-M

[Order No. 200]

Resolution and Order Approving the Application of the City of San Antonio, Tex., for a Foreign-Trade Zone in San Antonio and Bexar County, Within the San Antonio Customs Port of Entry

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the City of San Antonio, Texas, filed with the Foreign-Trade Zones Board (the Board) of February 1, 1982, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in San Antonio and Bexar County, within the San Antonio Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Foreign-Trade Zones Board, Washington, D.C.

Grant To Establish, Operate, and Maintain a Foreign-Trade Zone in San Antonio, Texas

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the City of San Antonio, Texas (the Grantee), has made application (filed February 1, 1982) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade

zones at three sites in San Antonio and Bexar County, Texas, within the San Antonio Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, Therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 80 at the locations mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commence by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone site in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 16th day of September 1982, pursuant to Order of the Board.

Foreign-Trade Zones Board.
Malcolm Baldrige,
Chairman and Executive Officer.

Attest:
John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 82-26247 Filed 9-22-82; 8:45 am]
BILLING CODE 3510-25-M

International Trade Administration

Chain of Iron or Steel From Japan; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on chain of iron or steel from Japan. The review covers the period January 1, 1981 through December 31, 1981. As a result of this review, the Department has preliminarily determined the amount of the net subsidy to be 1.95 percent of the f.o.b. invoice price of the merchandise. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 23, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Black or Richard W. Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202, 377-1774/2786).

SUPPLEMENTARY INFORMATION:

Background

On May 24, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 22391) the final results of its first administrative review of the countervailing duty order on chain of iron or steel from Japan (43 FR 37685) and announced its intent to conduct the next administrative review by the end of August 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

The merchandise covered by the review is chain of iron or steel, the links of which are essentially round in cross section, and parts thereof. This merchandise is currently classifiable under items 652.2410 through .2450, 652.2710 through .2740, 652.3010 through .3040, 652.3310 thorugh .3330 and 652.3510 through .3530 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1981 through December 31, 1981. The program covered by this review is tax deferrals on funds held in the Overseas Market Development Reserve.

Analysis of Programs

The Government of Japan has not responded to our questionnaire on the status of benefits bestowed on the covered merchandise under this program during the review period. Therefore, the Department is using the subsidy calculated during our previous administrative review as the best information available.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the net subsidy conferred by the program cited above is 1.95 percent *ad valorem*. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 1.95 percent of the f.o.b. invoice price on the merchandise exported during the period January 1, 1981, through December 31, 1981.

Further, the Department intends to instruct the Customs Service to collect a cash deposit of esitmated countervailing duties of 1.95 percent on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1))

and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Gary N. Horlick,
Deputy Assistant Secretary for Import Administration.

September 30, 1982.

[FR Doc. 82-26348 Filed 9-22-82; 8:45 am]
BILLING CODE 3510-25-M

Instant Potato Granules From Canada; Preliminary Results of Administrative Review of Antidumping Finding and Intent To Revoke in Part

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding and intent to revoke in part.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on instant potato granules from Canada. The review covers the three known exporters of this merchandise to the United States and generally the period October 1, 1980 through September 30, 1981. The review indicates the existence of dumping margins for two of the firms reviewed and no shipments for the third firm.

As a result of this review, the Department has preliminarily determined to assess dumping duties for the two firms based on the best information available. The response by one of the firms was inadequate and that by the other was untimely, incomplete and not properly summarized. The Department intends to revoke the finding with respect to the third firm. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 23, 1982.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-2923).

SUPPLEMENTARY INFORMATION:

Background

On November 30, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 55297-8) the preliminary results of its first administrative review of, and tentative determination to revoke in part, the antidumping finding on instant potato granules from Canada. For Carnation, Inc., the firm covered by the tenative determination, the review covered the period January 1, 1974 through September 30, 1980. On May 11, 1982, the Department published the final results of the administrative review and announced its intent to conduct the next administrative review by the end of September 1982 (47 FR 20170-1). As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of instant potato granules from Canada, currently classifiable under items 140.5000, 140.7000, and 141.8610 through 141.8630 of the Tariff Schedules of the United States Annotated (TSUSA).

The review covers the three known exporters of Canadian instant potato granules to the United States and the period October 1, 1980 through September 30, 1981. In addition, we have reviewed for one of the three firms, Carnation, Inc., the period October 1, 1981 through November 30, 1981, the date of publication of the Department's tenative determination to revoke with regard to this firm.

The Department received an inadequate response from one of the firms, Vauxhall Foods, Ltd. ("Vauxhall"). Another firm, McCain Foods, Ltd. ("McCain"), provided an untimely response that was both incomplete and not accompanied by a proper non-confidential summary as required by section 353.28(a) of the Commerce Regulations. Therefore, for Vauxhall and McCain we used the best information available to determine the assessment and estimated duty deposit rates. The best information available is the most recent rate for each firm.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Carnation	Oct. 1, 1980 to Nov. 30, 1981	0
McCain	Oct. 1, 1980 to Sept. 30, 1981	8.7
Vauxhall	do.	35.5

[1] No shipments during the period.

As provided for in § 353.54(e) of the Commerce Regulations, Carnation has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding if circumstances develop which indicate that instant potato granules produced by Carnation and thereafter imported into the United States are being sold by it at less than fair value.

Intent To Revoke in Part

As a result of our review we intend to revoke the finding on instant potato granules from Canada with regard to Carnation. If the finding is revoked with regard to Carnation it shall apply to unliquidated entries of instant potato granules exported by Carnation entered, or withdrawn from warehouse, for consumption on or after November 30, 1981.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made within 5 days of the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the time period involved. The Department will issue assessment instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margin for each firm shall be required on all shipments of Canadian instant potato granules from the remaining firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review, intent to revoke, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and

§§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Gary N. Horlick,
Deputy Assistant Secretary for Import Administration.
September 17, 1982.
[FR Doc. 82-25944 Filed 9-22-82; 8:45 am]
BILLING CODE 3510-25-M

Preliminary Affirmative Countervailing Duty Determination; Pectin From Mexico

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty determination.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Mexico of pectin as described in the "Scope of the Investigation" section of this notice. The estimated net subsidy is 8.353 percent *ad valorem.* Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the product subject to this determination which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on pectin in the amount equal to the estimated net subsidy. If this investigation proceeds normally, we will make our final determination by December 1, 1982.

EFFECTIVE DATE: September 23, 1982.

FOR FURTHER INFORMATION CONTACT: Mary A. Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377-1276.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that the government of Mexico provides certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), to manufacturers, producers, or exporters in Mexico of pectin as described in the "Scope of Investigation" section of this notice.

We estimate the net subsidy to be 8.353 percent *ad valorem.*

Case History

On June 24, 1982, we received a petition from Hercules, Inc. of Wilmington, Delaware, on behalf of the U.S. industry producing pectin. The petition alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Act are being provided, directly or indirectly, to the manufacturer, producer, or exporter of pectin in Mexico.

Since Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and pectin is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission (ITC) is not required to determine whether, imports of this product cause or threaten material injury to the U.S. industry in question.

We reviewed the petition, and on July 12, 1982, determined that an investigation should be initiated (47 FR 31414).

We presented a questionnaire concerning the allegations to the government of Mexico at its embassy in Washington, D.C. On August 27, 1982, we received a partial response to the questionnaire. Additional information was supplied on September 7 and 9, 1982. We are considering the government of Mexico's request that the response be classified pursuant to Executive Order 12356 (effective August 1, 1982).

Scope of the Investigation

The merchandise covered by this investigation is pectin from Mexico. The merchandise is currently classifiable under *Tariff Schedules of the United States* item number 455.04. Pectin is used as an ingredient in food and drugs. In food, pectin is used principally as a jelling agent for jams, jellies, and confectionary and as an ingredient in dairy products.

Pectina de Mexico, S.A. (Pectina) is the only known producer in Mexico of pectin. The period for which we are measuring subsidization is the first half of 1982.

Analysis of Programs

Based upon our analysis to date of the petition and the response to our questionnarie, we preliminarily determine the following.

I. Program Preliminarily Determined to be a Bounty or Grant

We preliminarily determine that bounties or grants are being provided to Pectina, the manufacturer, producer and exporter of pectin in Mexico, under preferential financing programs.

The Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX) is a trust established by the government of Mexico to promote the manufacture and sale of exported products. The fund is administered by the Mexican Treasury Department, with the Bank of Mexico (Mexico's central bank) acting as the trustee. The Bank of Mexico administers the financing of FOMEX loans through financial institutions which establish contracts for lines of credit with manufacturers and exporters.

In order for a company to be eligible for FOMEX financing for exports, the following requirements must be met: (1) The product to be manufactured must be included on a list made public by FOMEX; (2) the articles to be exported must have a minimum of 30 percent national content in direct production costs; (3) loans granted for pre-export must be in Mexican currency, while loans for export sales are established in U.S. dollars or any other foreign currency acceptable to the Bank of Mexico; and (4) the exporter must carry insurance against commercial risks to the extent of the loans. We found that the maximum annual interest rate that credit institutions may charge borrowers for FOMEX pre-export financing is 8 percent in Mexican pesos. The maximum annual interest rate for FOMEX export financing is 6 percent in the currency of the country of importation.

The government of Mexcio's response indicated that Pectina received pre-exprt and export financing FOMEX loans. The response provides no information on the commercial rate of interest in Mexico for short term peso and dollar-denominated loans. On the basis of the best information available, we have used a national average commerical rate of interest in Mexico for peso loans and the average company rate received from non-FOMEX dollar-denominated loans in the litharge, red lead and lead stabilizers from Mexico preliminary affirmative countervailing duty determinations of September 15, 1982.

We have preliminarily determined that during the first six months of 1982, comparable peso-denominated loans were available at 46.95 percent, and comparable dollar-denominated loans were available at 17.16 percent.

For those FOMEX loans obtained by Pectina during the period January 1, 1982–June 30, 1982, we computed the difference in interest expense between the FOMEX loans and that which would have been incurred had the loans been made at commercial rates. We allocated this amount over the value of total exports during the same period in the case of pre-export financing loans, and over the value of exports to the U.S.

during the same period in the case of export financing loans.

We have preliminarily determined the net amount of the benefit rate for loans granted for pre-exports to be 4.757 percent *ad valorem* and the net amount of the benefit rate for export financing to be 3.596 percent *ad valorem*, for a total subsidy under the program of 8.353 percent *ad valorem*.

II. Programs Preliminarily Determined Not To Be Utilized

We preliminarily determine that the programs listed below which were described in the notice of "Initiation of Countervailing Duty Investigation" are not being utilized by Pectina for the manufacture, production, or exportation of pectin to the United States.

A. The CEDI Program

The Certificado de Devolucion de Impuesto (CEDI) is a tax certificate issued by the government of Mexico in an amount equal to a percentage of the f.o.b. value of the exported merchandise or, if national insurance and transportation are utilized, a percentage of the c.i.f. value of the exported product. The Secretary of Commerce of Mexico is responsible for setting the CEDI rate, which is not published. Exporters are required to apply for each CEDI by providing to the Ministry of Commerce (SECOM) documentation with respect to each individual shipment of qualifying exports. SECOM processes the application and, on approval, instructs the Ministry of Treasury (TESORERIA) to issue the CEDIs in the amount specified. The CEDIs are non-transferable and may be applied against a wide range of federal tax liabilities (including payroll taxes, value added taxes, federal income taxes, and import duties) over a period of five years from the date of issuance.

The government of Mexico's response states that it discontinued the eligibility of pectin for CEDI tax rebates by an Executive Order published in the *Diario Oficial de la Federacion* (Official Gazette) on August 25, 1982. The order abrogates prior Executive Orders which contained the lists of products eligible to receive CEDI certificates. Discontinuance of the CEDI was effective one day after publication of the Executive Order in the *Diario Oficial*.

B. The CEPROFI Program

In 1979, the government of Mexico introduced a four-year National Industrial Development Plan (NIDP) which spells out broad economic goals for the country. Tax credits, which are called Certificates of Fiscal Promotion (CEPROFI), are used to promote the NIDP goals, which include increased employment, regional decentralization, industrial development, the promotion of small and medium sized firms, and the promotion of exports.

CEPROFI certificates are similar to CEDI certificates; both are non-transferable tax certificates of a set value which may be used for a five-year period to pay federal taxes. CEPROFI certificates are granted for carrying out investments in "priority" industrial activities. The amount of the CEPROFI is based upon the location of the activity, the number of jobs generated, the value of the investments in new plants and equipment, or the value of the purchase of capital goods produced in Mexico.

The response states that Pectina neither received nor applied for CEPROFI certificates during the periods of calendar year 1981 and January–March 1982.

Verification

In accordance with Section 776(a) of the Act, we will verify all the information used in making our final determination.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of pectin from Mexico which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond, for each such entry of the merchandise in the amount of 8.353 percent *ad valorem*.

This suspension will remain in effect until further notice.

Public Comment

In accordance with section 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to accord interested parties an opportunity to comment on this preliminary determination at 10 a.m. on October 19, 1982, at the U.S. Department of Commerce, Room 3104, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by October 12, 1982. Oral presentations will be limited to issued raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within thirty days of this notice's publication, at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 17, 1982.

[FR Doc. 82-26343 Filed 9-22-82; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Affirmative Countervailing Duty Determination; Polypropylene Film From Mexico

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty determination.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Mexico of polypropylene film, as described in the "Scope of the Investigation" section of this notice. The estimated net subsidy is 5.945 percent *ad valorem*. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the product subject to this determination which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on polypropylene film in the amount equal to the estimated net subsidy. If this investigation proceeds normally, we will make our final determination by December 1, 1982.

EFFECTIVE DATE: September 23, 1982.

FOR FURTHER INFORMATION CONTACT: Mary A. Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377–1276.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that the government of Mexico provides certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), to manufacturers, producers, or exporters in Mexico of polypropylene film as described in the "Scope of the Investigation" section of this notice.

We estimate the net subsidy to be 5.945 percent *ad valorem*.

Case History

On June 24, 1982, we received a petition from Hercules, Inc. of Wilmington, Delaware, on behalf of the U.S. industry producing polypropylene film. The petition alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters of polypropylene film in Mexico.

Since Mexico is not a "country Under the Agreement" within the meaning of section 701(b) of the Act, section 303 of the Act applies to this investigation. Because the merchandise is nondutiable and there is no "international obligation" within the meaning of section 303(a)(2) of the Act which requires an injury determination for nondutiable merchandise from Mexico, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten material injury to a U.S. industry. We reviewed the petition, and on July 12, 1982, determined that an investigation should be initiated (47 FR 31414).

We presented a questionnaire concerning the allegations to the government of Mexico at its embassy in Washington, D.C. On August 30, 1982, we received a partial response to the questionnaire. Additional information was supplied on September 7 and 9, 1982. We are considering the government of Mexico's request that the response be classified pursuant to Executive Order 12356 (effective August 1, 1982).

Scope of the Investigation

The merchandise covered by this investigation is polypropylene film, which is a thin transparent film made from polypropylen resin. It is currently provided for in items 774.5590 and 771.4310 of the *Tariff Schedules of the United States Annotated.*

Polypropylene film is used for packaging a wide variety of articles and in the manufacture of pressure sensitive packaging tape, dielectric material in electrical capacitors, and for wrapping power and communication cables.

The period for which we are measuring subsidization is the first half of 1982.

Analysis of Programs

Based upon our analysis to date of the petition and the response to our questionnaire, we preliminarily determine the following.

I. Programs Preliminarily Determined To Be Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Mexico of polypropylene film under the programs listed below.

A. The CEPROFI Program

In 1979, the government of Mexico introduced a four-year National Industrial Development Plan (NIDP) which spells out broad economic goals for the country. Tax credits, which are called Certificates of Fiscal Promotion (CEPROFI), are used to promote the NIDP goals, which include increased employment, regional decentralization, industrial development, the promotion of small and medium sized firms, and the promotion of exports.

CEPROFI certificates are non-transferable tax certificates of a set value which may be used for a five-year period to pay federal taxes. CEPROFI certificates are granted for carrying out investments in "priority" industrial activities. The amount of the CEPROFI is based upon the location of the activity, the number of jobs generated, the value of the investments in new plants and equipment, or the value of the purchase of capital goods produced in Mexico.

The Department has preliminarily determined that the government of Mexico is providing bounties or grants to its manufacturers, producers, and exporters of polypropylene film under the CEPROFI program. We have allocated the countervailable CEPROFI benefits received in the first six months of 1982 over the total production of polypropylene film during that period, which results in a net subsidy of 4.906 percent *ad valorem.*

B. Preferential Financing Programs

The Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX) is a trust established by the government of Mexico to promote the manufacture and sale of exported products. The fund is administered by the Mexican Treasury Department, with the Bank of Mexico (Mexico's central bank) acting as the trustee. The Bank of Mexico administers the financing of FOMEX loans through financial institutions which establish contracts for lines of credit with manufacturers and exporters. In order for a company to be eligible for FOMEX financing for exports, the following requirements must be met: (1) The product to be manufactured must be included on a list made public by FOMEX; (2) the articles to be exported must have a minimum of 30 percent national content in direct production costs; (3) loans granted for pre-export must be in Mexican currency, while loans for export sales are established in U.S. dollars or any other foreign currency acceptable to the Bank of Mexico; and (4) the exporter must carry insurance against commercial risks to the extent of the loans. We found that the maximum annual interest rate that credit institutions may charge borrowers for FOMEX pre-export financing is 8 percent in Mexican pesos. The maximum annual interest rate for FOMEX export financing is 6 percent in the currency of the country of importation.

The government of Mexico's response indicated that one manufacturer and exporter of polypropylene film received pre-export and export financing FOMEX loans. The response included information on some U.S. loans received by the Mexican manufacturer and exporter. The response provided no information on the commercial rate of interest in Mexico for short term peso and dollar-denominated loans. On the basis of the best information available, we have used a national average commercial rate of interest in Mexico for peso loans and the average company rate received for all non-FOMEX dollar-denominated loans in the litharge, red lead and lead stabilizers from Mexico preliminary affirmative countervailing duty determinations of September 15, 1982.

We have preliminarily determined that during the first six months of 1982, comparable peso-denominated loans were available at 46.95 percent, and comparable dollar-denominated loans were available at 17.16 percent. For those FOMEX loans obtained by the manufacturer during the period January 1, 1982–June 30, 1982, we computed the difference in interest expense between the FOMEX loans and that which would have been incurred had the loans been made at commercial rates. We allocated this amount over the value of total exports during the same period in the case of pre-export financing loans, and over the value of exports to the U.S. during the same period in the case of export financing loans.

We have preliminarily determined the net amount of the benefit rate for loans granted for pre-exports to be 0.408 percent *ad valorem* and the net amount of the benefit rate for export financing to be 0.631 percent *ad valorem*, for a total subsidy under the program of 1.039 percent *ad valorem.*

II. Program Preliminarily Determined Not To Be Utilized

We preliminarily determined that the Certificado de Devolucion de Impuesto (CEDI) program which was described in the notice of "Initiation of Countervailing Duty Investigation" is not utilized by the manufacturers, producers, or exporters in Mexico of polypropylene film.

The CEDI is a tax certificate issued by the government of Mexico in an amount equal to a percentage of the f.o.b. value of the exported merchandise or, if national insurance and transportation are utilized, a percentage of the c.i.f. value of the exported product. The Secretary of Commerce of Mexico is responsible for setting the CEDI rate, which is not published. Exporters are required to apply for each CEDI by providing to the Ministry of Commerce (SECOM) documentation with respect to each individual shipment of qualifying exports. SECOM processes the application and, on approval, instructs the Ministry of Treasury (TESORERIA) to issue the CEDIs in the amount specified. The CEDIs are non-transferable and may be applied against a wide range of federal tax liabilities (including payroll taxes, value added taxes, federal income taxes, and import duties) over a period of five years from the date of issuance.

The government of Mexico's response states that it discontinued the eligibility of polypropylene film for CEDI tax rebates by an Executive Order published in the *Diario Oficial de la Federacion* (Official Gazette) on August 25, 1982. The order abrogates prior Executive Orders which contained the lists of products eligible to receive CEDI certificates. Discontinuance of the CEDI was effective one day after publication of the Exective Order in the *Diario Oficial*.

Verification

In accordance with section 776(a) of the Act, we will verify all the information used in making our final determination.

Suspension of Liquidation

In accordance with section 703 of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of polypropylene film from Mexico which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond, for each entry of the merchandise in the amount of 5.945 percent *ad valorem*.

This suspension will remain in effect until further notice.

Public Comment

In accordance with section 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m. on October 20, 1982, at the U.S. Department of Commerce, Room 1851, 14th Street and Constitution Avenue N.W. Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by October 13, 1982. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within thirty days of this notice's publication, at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 17, 1982.

[FR Doc. 82-26242 Filed 9-22-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

September 13, 1982.

The USAF Scientific Advisory Board Ad Hoc Committee on Advanced Technology Fighters will meet at Nellis AFB, NV, on October 18–19, 1982. The purpose of the meeting will be to review USAF activities in design of advanced technology airplanes. The meeting will convene at 9:00 a.m. and adjourn at 5:30 p.m. on the 18th and will convene at 9:00 a.m. and adjourn at 3:30 p.m. on the 19th.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-26222 Filed 9-22-82; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

September 13, 1982.

The USAF Scientific Advisory Board Weapons Panel will meet at the Sandia National Laboratory on October 20–21, 1982. The purpose of the meeting is to review the current programs and technology application that affect advanced tactical fighter designs. The meeting will convene at 8:00 a.m. on both days and adjourn at 4:00 p.m. on both days.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-26222 Filed 9-22-82; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

Final Notice of Decision to Construct New Steam Plant at Puget Sound Naval Shipyard, Bremerton, Washington

Pursuant to the regulations implementing the procedural provisions of the National Environmental Policy Act (NEPA) (§ 1505.2 of Title 40, Code of Federal Regulations), the Department of the Navy announces its decision to construct a central, coal-fired steam plant onsite, at the Puget Sound Naval Shipyard (PSNS), Bremerton, Washington.

PSNS is the largest ship-repair and overhaul facility on the West Coast. It is the only west coast facility with a drydock large enough to accommodate Forrestal and Enterprise-class carriers. The shipyard has a range of capabilities exceeding most other facilities, including the repair and overhaul of all ship types. PSNS also provides support to more than 20 tenant commands, the two largest being the Naval Supply Center and the Inactive Ship Maintenance Facility.

The purpose of the proposed action is to provide a reliable and improved-capability utilities system at PSNS.

Although steam would be the principal service provided, other utilities would include compressed air, emergency electrical generation, and pure-water systems. The shipyard utilizes steam as the basic source of heat energy for building space heating, hotel service to ships, and shipyard process uses, as well as to run turbine generators during test evolutions. PSNS currently generates the steam required to satisfy its process and heating demands onsite from multiple plants. There are no offsite sources of steam and/or equivalent thermal energy available for purchase by PSNS.

Four alternative scenarios were proposed for steam generation capability at PSNS. Those were: the preferred alternative, a central, coal-fired steam plant; central steam plant—multiple, oil-fired boilers; multiple, oil-fired satellite boiler plants; and no project.

The siting alternatives also considered alternative fuel sources pursuant to the Powerplant and Industrial Fuel Use Act of 1978 (FUA). All sites were located on-shipyard; no off-shipyard sites were considered feasible. The FUA requires industrial plants which are "major fuel-burning installations" (i.e., single boiler heat input rate in excess of 100 million BTU's/hour or combined rate of 250 million BTU's/hour) to utilize alternate energy resources. Alternative energy resources are fuel sources other than petroleum-derived products or natural gas. The purpose of FUA is to reduce our dependence on foreign oil by making better use of domestic fuel supplies. Thus, the alternative fuel sources considered for this project included coal, with provisions for conversion to use of waste or refuse-derived fuels and synthetic fuels, and oil, the fuel currently used for the existing steam plant. The oil-fired alternatives would also be able to be converted for use of synthetic fuels in the future.

The central steam plant will consist of three new coal-oil fired steam generators to be installed in a new steam plant located at the west end of the shipyard. Each boiler would be designed for stoker coal (low-sulfur) firing with No. 2 fuel oil as a backup source of fuel. The central steam plant will be designed to accommodate a fourth steam generator. The four steam generators would have the capacity to meet the ultimate projected needs of PSNS. The central steam plant will include emergency diesel generators. Additionally, the central steam plant is designed to accommodate a turbine room for steam electric generation at some future date. Air compressors would be installed at two locations within the shipyard, in the new central steam plant and in a new compressor building to be constructed. The plant aslo is designed for modification at a later date to permit the use of 50 percent refuse-derived fuel (RDF) mixed with coal, and liquid and/or solid synthetic fuels.

The following impact summary is based on currently available design information. Treated industrial and cooling wasterwaters from the plant will be discharged separately into either Sinclair Inlet or the City of Bremerton's wastewater treatment system. These discharges would have to meet applicable Washington State Water Quality Standards for thermal and dissolved oxygen criteria.

Since standards are set for both stack emissions as well as ambient air quality, alternatives studied could meet one set of criteria and not the other. The preferred alternative may require the filing of a Prevention of Significant Deterioration (PSD) application. Air quality standards would be met only with the use of pollution control equipment. Also, the preferred alternative would produce the greatest volume of fly ash, but less SO_2 than other arrangements studied. The preferred alternative would also create the largest amount of solid waste due to ash production.

The preferred alternative, due to the size of the facility and its close proximity to the PSNS west boundary, will have a greater impact on surrounding residential land uses than other alternatives studied. Additionally, the preferred alternative is closest to the USS MISSOURI historical site, and would have a visual impact on this historical site. However, it should be noted that the USS MISSOURI is still a Navy ship and is scheduled for reactivation.

Finally, since availability of the Final Environmental Impact Statement in March 1982, several minor changes to projected specifics have occurred. The FEIS was based on an expected building height of 110 feet, and a stack height of 250 feet. The current design calls for a building height of 120.5 feet and a stackheight of 300 feet. Also the building height over the boilers is expected to increase by 20–30 feet, but this will not affect the maximum building height.

The project also calls for tapping into the existing salt water system to cool the air compressors. The existing salt water intake capacity will not be changed. The base usage of salt water will decrease by 9.5 millions gallons/day (MGD) but the usage at one intake will increase by 1 MGD. Because of these changes, the State of Washington Department of Fisheries will not grant approval unless the Navy also modifies the salt water intakes. At present, the most likely changes appear to be modifying the intakes, using separate cooling towers for the air compressors, or negotiating a compromise with the Washington Department of Fisheries.

Dated: September 17, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 82-26166 Filed 9-22-82; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER82-785-000]

Cincinnati Gas & Electric Co.; Filing

September 20, 1982.

Take notice that on September 7, 1982, the Cincinnati Gas & Electric Company (Cincinnati) tendered for filing a First Supplemental Agreement dated as of June 24, 1982 to the Agreement for Winter Capacity Reservation Service dated September 18, 1979 , between Cincinnati's Rate Schedule FERC No. 40.

Cincinnati states that the First Supplemental Agreement increases the capacity Charge for Winter Capacity Reservation Service from $3.75 per kilowatt per month to $5.50 per kilowatt per month and adds a provision for a Supplemental Demand Capactiy Charge at the same rate in the event the City's peak demand exceeds 86.956% of the net seasonal demonstrated capability of the City's installed generation. There is no estimate of increased revenues from the proposed charges since Winter Capacity Reservation Service transactions will occur only as load and capacity conditions dictate.

Cincinnati further states that the reason for the increase is to establish equitable rates for Winter Capacity Reservation Service for the City of Lebanon.

A copy of the filing was served upon the City of Lebanon and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed

on or before October 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26193 Filed 9-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-787-000]

Commonwealth Electric Co.; Filing

September 20, 1982.

Take Notice that on September 9, 1982, Commonwealth Electric Company (Commonwealth) tendered for filing, an implementation of its currently-effective Rate Schedule FERC No. 34 as initially accepted for filing by letter order of the Commission issued March 30, 1979 in Docket No. ER78-579.

Boston Edison Company, the party receiving service thereunder, wishes to abandon use and support of certain physical facilities used by Commonwealth to render the wheeling service contemplated by such Rate Schedule. Boston Edison Company has the right to so abandon upon payment to Commonwealth of its unrecovered cost of the facilities proposed to be abandoned. Commonwealth's filing in this docket constitutes the agreement between the parties as to the facilities to be abandoned by Boston Edison and Commonwealth's unrecovered costs thereof at the proposed abandonment date of May 31, 1982.

Copies of this filing have been served by Commonwealth upon Boston Edison Company and upon the Massachusetts Department of Public Utilities.

An person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214) All such motions or protests should be filed on or before October 5, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26194 Filed 9-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-788-000]

Florida Power & Light Co.; Filing

September 20, 1982.

Take notice that on September 9, 1982, Florida Power & Light Company (FP&L) tendered for filing documents entitled Amendment Number Two, Amendment Number Three, Amendment Number Four and Amendment Number Five to Agreement to Provide Specified Transmission Service between FP&L and City of St. Cloud.

FP&L states that under Amendment Number Two FP&L will transmit power and energy for the City of St. Cloud (St. Cloud) as is required by St. Cloud in the implementation of its interchange agreement with the Utilities Commission, City of New Smyrna Beach.

Under Amendment Number Three FP&L will transmit power and energy for St. Cloud as is required by St. Cloud in the implementation of its interchange agreement with Lake Worth Utilities Authority.

Under Amendment Number Four FP&L will transmit power and energy for St. Cloud as is required by St. Cloud in the implementation of its interchange agreement with the City of Vero Beach.

Amendment Number Five updates the rates for transmission service provided by FP&L, bringing them in accord with the increased rates filed by the Commission on July 1, 1981, in *Florida Power & Light Company,* Docket No. ER81-588-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 5, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26195 Filed 9-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-781-000]

Idaho Power Co. Filing

September 20, 1982.

Take notice that on September 8, 1982, the Idaho Power Company (Idaho) tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during July, 1982, along with cost justification for the rate charged. This filing includes the following supplements:

Utah Power & Light Company—Supplement 10
Montana Power Company—Supplement 10
Sierra Pacific Power Company—Supplement 8
Portland General Electric Company—Supplement 8
Pacific Power & Light Company—Supplement 8
City of Pasadena—Supplement 6
Los Angeles Department of Water & Power—Supplement 6
City of Glendale—Supplement 6
Southern California Edison Company—Supplement 7
City of Burbank—Supplement 6

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26196 Filed 9-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-397-000]

Midwestern Gas Transmission Co.; Informal Conference

September 20, 1982.

Take notice that an informal conference in the above captioned docket will be held on October 5, 1982, at 10:00 a.m. at the offices of the Federal Energy Regulatory Commission, 825 N. Capitol St. NE., Washington, D.C. 20426.

The informal conference is being called by the Commission Staff to discuss Midwestern Gas Transmission Company's (Midwestern) July 1, 1982, application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon its storage service to Peoples Gas Light and Coke Company (Peoples) and for a certificate of public convenience and necessity authorizing the use of the top gas capacity available for storage released by Peoples as system storage, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Customers and other interested persons will be permitted to attend but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention as a party in this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26197 Filed 9-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER81-645-000 and ER81-646-000]

New England Power Co.; Refund Report

September 20, 1982.

Take notice that on September 2, 1982, New England Power Company filed a refund report pursuant to the Commission's August 2, 1982 acceptance of an offer for settlement.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 4, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26196 Filed 9-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-784-000]

Northern States Power Co.; Filing

September 20, 1982.

Take notice that Northern States Power Company (NSP) on September 7, 1982, tendered for filing a Termination Agreement, dated August 19, 1982, with Missouri Basin Municipal Power Agency.

NSP states that the Agreement terminates the Transmission and Interchange Service Agreement, dated March 28, 1978, between the Parties.

NSP requests an effective date of August 19, 1982.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26199 Filed 9-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-791-000]

Pacific Gas and Electric Co.; Filing

September 20, 1982.

Take notice that Pacific Gas and Electric Company (Pacific) on September 10, 1982, tendered for filing a contract dated May 12, 1982, between Pacific and Sierra Pacific Power Company (Sierra), hereinafter jointly referred to as "Parties". This contract, entitled "Interconnection Agreement Between Pacific Gas and Electric Company and Sierra Pacific Power Company" (Contract) provides the terms and conditions for power sales and purchases between the Parties.

Pacific states that on a scheduled basis, either Party, at the other Party's request, may offer to provide capacity as reserve, spinning reserve or capacity and associated energy to satisfy the other Party's requirements. Emergency assistance, limited short-term service, or energy without capacity are other services also provided for by the Contract.

Pacific requests an effective date of September 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26200 Filed 9-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-790-000]

Pennsylvania-New Jersey-Maryland Interconnection; Filing

September 20, 1982.

Take notice that on September 8, 1982, the Pennsylvania-New Jersey-Maryland Interconnection (PJM) tendered for filing a new Schedule 4.02 and revised Schedules 7.01 and 9.0 to the Interconnection Agreement dated September 26, 1956, as heretofore amended and supplemented.

PJM states that this filing establishes a rate to be used in accounting for import capability whenever a party to the Agreement is allocated the use of a portion of the share of such capability of other parties to the Agreement. The filing also introduces provisions for sharing negative savings and modifies the procedure of allocating among the parties and the cost and expenses of the Office of the Interconnection.

PJM further states no new facilities will be installed nor will existing facilities be modified in connection with these schedules.

PJM requests an effective date of August 9, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211

and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26201 Filed 9-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-19-000]

Phillips & Spradley, et al.,[1] John L. Hada, Jr., Application for Staff Adjustment

September 20, 1982.

On April 29, 1982, Phillips & Spradley, 900 American Bank Tower, Austin, Texas 78701 filed an application for a staff adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432, (Supp. IV 1980), and Rule 1101 of the Federal Energy Regulatory Commission (Commission) Rules of Practice and Procedure. Specifically, Applicant seeks an adjustment from § 273.202 of the Commission's Regulations. This notice for staff adjustment was issued on May 20, 1982, 47 FR 23202 (May 27, 1982). On September 10, 1982, Phillips and Spradley filed on behalf of John L. Hada, Jr., a nonoperator working interest owner of gas produced from the Kirk Gas Unit No. A–3 Well (A–3 Well), an amendment to the application for staff adjustment requesting to be included as a party to this proceeding. The gas produced from the A–3 Well is purchased by Florida Gas Transmission Company and Valero Transmission Company.

Applicants state they would suffer inequity, special hardship and unfair distribution of burdens if unable to collect the section 102 price in place of the section 109 price for natural gas sales for the period between April 20, 1981 and May 5, 1981. Applicants state that they failed to file timely the section 102 application with the jurisdictional agency prior to beginning sales of gas from the A–3 Well due to the blow out of the adjacent A–1 Well. Further Applicants state that it was necessary to immediately attach the A–3 Well to the pipeline in order to relieve bottom hole pressure in the A–1 Well, and bring it under control. As further reason for their inability to file timely, Applicants state that the application included the jurisdictional agency requirement of a completion report which could not be filed until the A–3 Well was completed and tested.

The procedures applicable to the conduct of this adjustment proceeding are found in Rules 1101–17 of the Commission's Rules of Practice and Procedure. Order No. 24, issued March 22, 1979 (44 FR 18961, March 30, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of Rule 214. All petitions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26202 Filed 9-22-82; 8:45 am]

BILLING CODE 6717-01-M

[1] OXOCO—Texas, Inc., Don O.Chapel, Joe Dawson; W. J. Hedrick, Richard Phillips, Jon C. Spradley, W. A. Stickard, Trustee; W.B. Yarborough; and Amoco Production Company.

[Project No. 6618-000]

Quinn Hydrotech Corp.; Exemption from Licensing

September 20, 1982.

A notice of exemption from licensing of a small hydroelectric project known as the Frankfort Project No. 6618, was filed on August 19, 1982, by Quinn Hydrotech Corporation. The proposed hydroelectric project would have an installed capacity of 550 kW and would be located on Marsh Stream near the town of Frankfort, Waldo County, Maine.

Pursuant to § 4.109(c) and 375.308(ss) of the Commission's regulations, and subject to the terms and conditions set forth in Section 4.111 of the Commission's regulations, which incorporates the migratory fish restoration measures prescribed by any fish and wildlife agency, except for measures relating to public access to project waters for public use of fish and wildlife resources,[1] the Director, Office of Electric Power Regulation, issues this notification that the above project is exempted from licensing as of September 19, 1982.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation.

[FR Doc. 82-26203 Filed 9-22-82; 8:45 am]

BILLING CODE 6717-01-M

[1] *See Van Buren Township,* 19 FERC ¶ 61,251 (June 8, 1982).

[Docket No. ER82-769-000]

Southern California Edison Co.; Filing

September 20, 1982.

Take notice that on September 9, 1982, the Southern California Edison Company (SCE) tendered for filing an agreement entitled "Edison/M–S–R Interruptible Transmission Service Agreement (Matrix)" which has been executed by SCE and M–S–R Public Power Agency ("M–S–R").

SCE states that under the terms and conditions of the agreement, SCE will make available to M–S–R interruptible transmission service between several points of receipt and points of delivery.

Copies of this filing were served upon the Public Utilities Commission of the State of California and M–S–R Public Power Agency.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 385.214). All such motions or protests should be filed on or before October 5, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26204 Filed 9-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP81-296-001 and CP81-296-002]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Extended Environmental Comment Period for the Draft Environmental Impact Statement of the Tennessee/Boundary Looping Project

September 17, 1982.

Notice is hereby given that the Federal Energy Regulatory Commission is extending the comment period for the *Tennessee/Boundary Looping Project Draft Environmental Impact Statement* (DEIS). The extended comment period will be 30 days, commencing with the date this notice is published in the **Federal Register.** This action is prompted by recent Tennessee Gas Pipeline Company, a Division of

Tenneco, Inc. (Tennessee) filings to the Commission related to its original application discussed in the DEIS. This extension of time serves a number of purposes by providing for the following: (1) An opportunity for interested parties to incorporate comments on the facility amendments and supplement (most notably the newly proposed Niagara River crossing) into their comments on the DEIS; and (2) an opportunity for interested parties to submit comments on Tennessee's proposed sediment and erosion control plan.

On August 9, 1982, Tennessee submitted four filings related to Docket No. CP81–296–000: (1) an application in Docket No. CP82–470–000, under section 3 of the Natural Gas Act, to import an additional 309 million cubic feet per day (cfd) from Canadian-Montana Pipeline Company, KannGaz Producers Limited, and Ocelot Industries Limited near Niagara Falls, New York; (2) an amendment in Docket No. CP81–296–001 to construct additional facilities to transport the proposed additional volumes; (3) a supplement in Docket No. CP81–296–002 to discuss the feasibility of a 48-inch diameter pipeline to transport all the Canadian gas proposed to be imported near Niagara Falls; and (4) an amendment to its existing Presidential Permit in Docket No. G–1922 for the construction, operation, and maintenance of facilities on the international border near Niagara Falls (as proposed in Docket No. CP81–296–001).

The additional facilities proposed by Tennessee in Docket No. CP81–296–001 to accommodate the additional 309 million cfd of imported gas include:

(1) A new 36-inch-diameter pipeline, 0.25 mile long, to cross the Niagara River as an extension of the originally proposed 42-inch-diameter pipeline (loop 14) in Niagara and Erie Counties, New York;[1]

(2) An additional 6,000 horsepower (hp.) of compression to supplement the currently proposed 6,000-hp. Compressor Station 230B in Niagara County, New York; and

(3) Minor piping modifications at its existing Compressor Station 224 in Chautaugua County, New York, to permit reverse flow.

The estimated cost of these additional facilities to Tennessee is $11,391,000.

In its supplement (Docket No. CP81–296–002), Tennessee expresses its willingness to construct a single large-diameter pipeline to transport proposed U.S. imports of Canadian gas at Niagara Falls, including the 794 million cfd to be transported by Tennessee and 1,418.9 million cfd proposed to be transported by Trans-Niagara Pipeline (Trans-Niagara) in Docket No. CP82–125–003.[2] Tennessee's supplement contemplates that the alternative (similar to the Niagara Spur Alternative identified in the DEIS) would require the following facilities:

1. 48.6 miles of 48-inch-diameter pipeline loop from MP 230B–107+0, Niagara County, to MP 230B–101+0, Erie County, New York;

2. Dual 36-inch-diameter pipelines crossing the Niagara River, Niagara County, New York; and

3. A 52,000-hp. compressor station at the proposed Compressor Station 230B site, Niagara County, New York.

On September 8, 1982, Tennessee indicated that Tennessee and Trans-Niagara have agreed in principle to a joint venture involving the construction of one large diameter pipeline near Niagara Falls, New York. The specific facilities to be constructed are unknown at this time. However, indications are that the facilities would be similar to those described for the alternative submitted by Tennessee and the staff's Niagara Spur Alternative, except that the compression would probably increase (i.e., it would be more than 52,000 horsepower).

Tennessee states that the 36-inch-diameter pipeline crossing of the Niagara River would occur near Stella Niagara, about 6 miles south of Youngstown, where the river is approximately 1,800 feet wide. (See map.) Tennessee indicates that this crossing would use the push/pull method of construction. In this process, the river would be dredged from a dredge barge. The ditch would be dug deep enough to obtain proper cover on the pipeline and wide enough to maintain stability. Pipeline construction would take place on firm ground on the riverbank inside Tennessee's property in Niagara County. The pipeline would be fabricated by welding and joint-coating the concrete-coated pipe in approximately 300-foot-long sections on the bank. The welded and coated pipe would be continuously pulled until it reaches across the river. These sections would have enough floatation devices to keep them off ditch bottom, enabling equipment on the Canadian side of the river to pull the sections across. Divers would continuously inspect and guide the pipe crossing. When the pipeline segment is in position, the floatation devices would be removed and the pipe would be allowed to sink to the bottom of the ditch. As a final step, the ditch would be backfilled.

Crossing the Niagara River would temporarily increase turbidity and sedimentation at the crossing site and for some distance downstream. Fish and other aquatic organisms would temporarily avoid the area of disturbance. Also, construction of the crossing could resuspend contaminated bottom sediments, if they are present at the crossing location. If available information indicated the potential for contaminated sediments, Tennessee could be required to conduct water quality and sediment tests. (See discussion of the Housatonic River crossing, pages 103–104 of the DEIS.)

A possible alternative to the proposed push/pull method of constructing this river crossing would be to use the horizontal directional drilling method. A description of this procedure appears on page 104 of the DEIS.

Because the Niagara River is classified by the U.S. Army Corps of Engineers (Corps) as navigable and because dredging and backfilling are proposed, the crossing would require an individual Department of the Army permit in accordance with section 10 of the Rivers and Harbors Act of 1899 and the guidelines promulgated under section 404(b)(1) of the Clean Water Act. In its application for an individual Corps permit, Tennessee would be required to submit construction plans and specifications for evaluation. Further, crossing of the Niagara River would require a full public interest review before a permit could be issued. This review would involve public notice and receipt of comments, consultations with the U.S. Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service, and various state agencies, and possible public hearings.

The addition of 6,000 horsepower of compression (two 3,000-hp. turbine compressor units) would bring the total horsepower compression proposed at Tennessee's new Compressor Station 230B to 12,000. Tennessee states that all applicable Federal and state emissions and ambient air quality standards would be met. According to calculations made by the Commission's Environmental Evaluation Branch (EEB), a prevention of significant air quality deterioration (PSD) determination by EPA would not be required. However, a compressor station equal to or greater than 52,000 horsepower would require a PSD determination by EPA.

[1] Trans Canada Pipelines Limited would also construct 0.25 mile of 36-inch diameter to complete this river crossing in Canada.

[2] Trans-Niagara has subsequently filed two amendments to its application; one increases the total gas volume proposed to be imported to 1,518.9 million cfd.

Tennessee calculates that with the ambient noise level, an L_{dn} of 57 dB(A), the proposed 12,000-hp. compressor station would produce an L_{dn} at the nearest residence of 60.6 dB(A), an increase of 3.6 dB(A). Under the EEB's recommendation identified in the DEIS (page 162), the noise level of any new compressor station at this site could not exceed an L_{dn} of 59.1 dB(A), an increase of 2.1 dB(A) over the existing ambient level.

To permit reverse flow of gas, Tennessee would make some minor piping changes at its existing Compressor Station 224. These changes would include pipe, valves, and fittings modifications within the compressor station.

On September 10, 1982, Tennessee submitted its sediment and erosion control plan for the proposed project. Concurrent with the EEB's review, copies of the plan have been sent to relevant Federal, state, and local agencies for their review and comment. (See attachment A.) Copies of the plan will be available to other interested parties on request. Copies of the plan or the DEIS may be requested from Mr. James P. Daniel at (202) 357–8042.

After an initial systematic analysis, the EEB believes that no *new significant* environmental impact would result from the construction and operation of facilities proposed in these amendments and the supplement. The EEB's determination is based upon the fact that Tennessee's amendment proposes construction substantially similar to that contemplated by the staff in the Niagara-Spur Alternative described in the DEIS. The EEB's expertise in evaluating the changes in Tennessee's proposal is based, in part, on its numerous environmental analyses of similar proposals for construction of pipeline river crossings and compressor facilities. At present, the staff intends to incorporate in impact analysis of the revisions into the final environmental impact statement (FEIS). However, the staff requests that interested persons comment on the environmental impact of the proposed amendments and supplement and on the EEB's opinion that no new significant environmental impact would result.

The Commission staff therefore requests public comment on the environmental consequences of the modifications in Tennessee's proposed project. These comments, along with those received earlier, will be used in developing the FEIS, which will be *one of the factors used* by the Commission in determining whether the proposed Tennessee/Boundary Looping Project is in the public interest. Comments should be mailed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. All comments should reference Docket No. CP81–296.

Kenneth F. Plumb,
Secretary.

Attachment A.—Agencies Receiving Tennessee's Erosion Control and Restoration Plan

Army Corps of Engineers
Department of Agriculture
Department of Energy
Department of the Interior
Environmental Protection Agency
Fish and Wildlife Service
Soil Conservation Service
Connecticut Department of Environmental Protection
Connecticut State Clearinghouse
Norwalk Conservation Commission
Norwalk Planning and Zoning Commission
Massachusetts Department of Environmental Management
Massachusetts Department of Environmental Quality Engineering
Massachusetts Division of Water Pollution Control
Massachusetts Division of Forests and Parks
Massachusetts Energy Facilities Siting Council
Massachusetts Environmental Impact Review
Massachusetts, Secretary of Environmental Affairs
Pittsfield Conservation Commission
Pittsfield Planning Board
New Hampshire Coordinator of Federal Funds (State Clearinghouse)
New Hampshire Natural Resources Council, Inc.
Southern New Hampshire Planning Commission
New Jersey Department of Agriculture
New Jersey Department of Environmental Protection
New Jersey Division of Fish, Game, and Wildlife
Newark Watershed Corporation
Albany County Environmental Management Council
Capitol District Regional Planning Commission
New York Department of Agriculture and Markets
New York Department of Environmental Conservation
New York Farm Bureau
New York Public Service Commission
Onondaga County Environmental Management Council
Syracuse-Onondaga County Planning Agency
Pennsylvania Bureau of Forests
Pennsylvania Department of Environmental Resources
Pennsylvania Division of State Forest Management
Pennsylvania Fish Commission
Pennsylvania Game Commission.
Tioga County Planning Commission.

[FR Doc. 82-26206 Filed 9-22-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-796-000]

Virginia Electric and Power Co.; Cancellation

September 20, 1982.

Take notice that Virginia Electric and Power Company (VEPCO) on September 7, 1982, tendered for filing a Notice of Cancellation of service to its Rivers Edge Delivery Point with Prince George Electric Cooperative (FERC Rate Schedule No. 101–15 dated August 9, 1974).

VEPCO requests an effective date of June 24, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 5, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-26209 Filed 9-22-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-783-000]

Wisconsin Power and Light Co.; Filing

September 20, 1982.

Take notice that on September 7, 1982, Wisconsin Power and Light Company (WPL) tendered for filing an amendment to its existing wholesale power contract dated May 27, 1982 between the City of Wisconsin Rapids and WPL. WPL states that this filing is for the purpose of modifying the current agreement between the parties to add an additional delivery point for the providing energy and power to the City. The current

agreement was previously designated FERC Rate Schedule 212 by the Commission.

WPL requests an effective date of May 27, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the municipality and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26207 Filed 9-22-82; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-140018; TSH-FRL 2211-4]

MITRE Corp.; Transfer of Data to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will transfer to its contractor, the MITRE Corporation of McLean, Virginia, information which has been or will be submitted by manufacturers and importers under section 5 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed to be confidential. The MITRE Corporation will review this information and use it to assist EPA in performing exposure and health and environmental hazard assessments of new chemical substances prior to manufacture.

DATE: The transfer of data submitted to EPA and claimed to be confidential will occur no sooner than 10 working days after publication of this notice in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, Toll-free: (800-424-9065), in Washington, D.C.: (554-1404), Outside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, EPA is provided 90 days to review new chemical substances prior to commercial manufacture to determine whether they present the potential for an unreasonable risk of injury to health or the environment from their manufacture, processing, distribution in commerce, use, or disposal. To make the unreasonable risk determination, the Agency must evaluate the potential exposures and health and/or environmental hazards associated with the substance in question. To accomplish this, EPA will require assistance from an outside contractor. The MITRE Corporation will assist EPA in these evaluations. (Contract No. 68-01-6610). The MITRE Corporation previously performed this work for the Agency under contract No. 68-01-5863 announced in the Federal Register of October 5, 1979 (44 FR 57490).

Under 40 CFR 2.306(j), EPA has determined that it may need to disclose confidential business information to the MITRE Corporation. Under the terms of the contract, EPA will provide the MITRE Corporation with information submitted in the premanufacturing notices (PMN's) on chemical identity, product formulation, and specific processes used to manufacture or process new chemical substances, as well as other information related to the uses, release rates, exposure levels, and assessment of exposures and potential hazards to health and the environment of new chemical substances.

In accordance with the EPA manual, "Contractor Requirements for the Control and Security of TSCA Confidential Business Information", the MITRE Corporation has been authorized to have access to this information. EPA has approved the MITRE Corporation Security Plan and has conducted the required inspection of the MITRE facilities in McLean, Virginia and found them to be in compliance with the provisions of the manual.

Since the MITRE Corporation will review information claimed to be confidential, EPA is publishing this notice to inform all potential submitters of PMN's that the MITRE Corporation will receive confidential business information from EPA. After completing the exposure and health and environmental hazard assessments, the MITRE Corporation will return all confidential business information to EPA.

The MITRE Corporation personnel will be required to sign a nondisclosure agreement before they are permitted access to such information. The MITRE Corporation is required to treat all confidential business information in accordance with the requirements of the "TSCA Confidential Business Information Security Manual" and the "Contractor Requirements for the Control and Security of TSCA Confidential Business Information Manual."

Dated: September 10, 1982.

Marcia Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 82-26080 Filed 9-22-82; 8:45 am]
BILLING CODE 6560-50-M

[WH-FRL 2200-1]

State and Local Assistance; Grants for Construction of Treatment Works

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of allotment.

SUMMARY: This notice sets forth the allotments to the States of the $2.4 billion appropriated for fiscal year 1982 on July 19, 1982 by Pub. L. 97-216 for the municipal wastewater treatment works construction grants program.

Section 205(c)(2) of the Clean Water Act (the Act), as amended by Pub. L. 97-117, provides that sums authorized to be appropriated for fiscal year 1982 be allotted to the States in accordance with Table 3 of Committee Print 95-30 of the Committee on Public Works and Transportation of the House of Representatives. That table was also the basis for the original allotments of fiscal years 1978, 1979, 1980 and 1981 appropriations.

Through promulgation of this notice, the requirements of the Act are fulfilled and the public is notified of the amounts made available to the States for grants for the construction of municipal wastewater treatment works.

EFFECTIVE DATE: September 23, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Albert Pelmoter, Chief, Program Policy Branch, Municipal Construction Division, Office of Water Program Operations, (202) 426-8620.

SUPPLEMENTARY INFORMATION: As required by section 205(c)(2) of the Act, funds authorized to be appropriated for fiscal year 1982 were allotted on the basis of the percentages listed in Table 3 of the Committee Print Numbered 95-30 of the Committee on Public Works and

Transportation of the House of Representatives. The percentages were adjusted as required by several statutory provisions and applied to the appropriation to arrive at the actual dollar amount allotted to each State.

One adjustment was made to satisfy section 205(e) of the Act, which requires that no State shall receive less than one-half of one percent of a total allotment. Since supplemental funds were not provided to raise certain States to the 0.5 percent "floor", the percentages for the other States were adjusted to satisfy the "floor" requirement and, at the same time, have the total amount allotted not exceed the appropriation.

As in previous allotments, the table of fiscal year 1982 allotments reflects adjustments to provide a minimum of 0.5 percent of the $2.4 billion to each State. The table appears at the end of this notice.

Pub. L. 97-117 further amended the Act by adding a subsection (k) to section 205. Subsection (k) provides for an additional allotment within the appropriation to fund a connection sewer for the New York City Convention Center. Pub. L. 97-216 (Urgent FY 1982 Supplemental Appropriation Act) provides that one third of the special project costs be allocated prior to the national distribution of the appropriation, the remaining two thirds to be divided evenly between New York's and New Jersey's regular allotments, as explained below. The estimated total cost of the special project is $2.8 million.

Pub. L. 97-216 also provides for the reinstatment of $3,965,426 to the State of Kansas to compensate for an accounting error by the Federal Government. Like the special project allocation, the $3,965,426 (rounded to $3,965,400) was allocated to Kansas prior to the national distribution of funds.

The allotments were computed by:

(a) Deducting $933,000 (one third of $2.8 million) for the special project in the State of New York and $3,965,400 for Kansas from the total appropriation of $2.4 billion;

(b) Allotting the remaining $2.395 billion to all the States, including New York and Kansas, using the percentages in "Table 3;"

(c) Deducting $933,000 from each of the resulting allotments to New York and New Jersey; and

(d) Allocating $2,799,000 to the New York City Convention Center project.

The $2.4 billion was allotted as follows:

STATE ALLOTMENT BASED ON $2.4 BILLION APPROPRIATION, JULY 16, 1982

	Fiscal year 1982	
	Ratio	Dollars
Alabama	.012664	30,331,500
Alaska	.004931	11,810,100
Arizona	.007650	18,322,500
Arkansas	.007406	17,745,300
California	.078410	187,800,000
Colorado	.009060	21,699,500
Connecticut	.010919	26,152,100
Delaware	.004931	11,810,100
District of Columbia	.004931	11,810,100
Florida	.037534	90,816,200
Georgia	.019149	45,863,800
Hawaii	.007818	18,724,800
Idaho	.004931	11,810,100
Illinois	.051223	122,684,200
Indiana	.027295	65,374,200
Iowa	.012774	30,596,000
Kansas	.008681	20,791,800
Kentucky	.014415	34,525,300
Louisiana	.012450	29,818,000
Maine	.007391	17,702,100
Maryland	.027382	65,606,800
Massachusetts	.029133	69,776,400
Michigan	.040734	97,562,000
Minnesota	.018432	44,146,400
Mississippi	.009526	22,815,800
Missouri	.024611	58,945,700
Montana	.004931	11,810,100
Nebraska	.005429	13,003,000
Nevada	.004931	11,810,100
New Hampshire	.008668	20,806,600
New Jersey	.035220	[1]83,422,400
New Mexico	.004931	11,810,100
New York	.104737	[1]249,922,300
North Carolina	.019534	46,785,900
North Dakota	.004931	11,810,100
Ohio	.063759	152,709,200
Oklahoma	.009150	21,915,100
Oregon	.012794	30,642,900
Pennsylvania	.043012	103,018,100
Rhode Island	.005179	12,404,100
South Carolina	.011605	27,790,300
South Dakota	.004931	11,810,100
Tennessee	.015271	36,575,500
Texas	.043029	103,056,800
Utah	.004931	11,810,100
Vermont	.004931	11,810,100
Virginia	.019330	46,297,200
Washington	.017443	41,777,700
West Virginia	.017656	42,285,500
Wisconsin	.019233	46,064,900
Wyoming	.004931	11,810,100
Samoa	.000607	1,453,800
Guam	.000734	1,758,000
N. Marianas	.000136	325,700
Puerto Rico	.011571	27,713,700
Pac. Tr. Ter	.001379	3,288,400
Virgin Islands	.000373	893,300
U.S. Totals	1.000000	2,393,235,600
Reinstatement funds to Kansas		3,965,400
New York City Convention Center		2,799,000
Total		2,400,000,000

[1] Excludes $933,000 allocated to fund New York Convention Center Project.

These allotments are available for expenditure until September 30, 1983. After that date, unobligated balances will be reallocated under section 205(b) of the Act (40 CFR 35.2010).

Dated: September 10, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-26240 Filed 9-22-82; 8:45 am]

BILLING CODE 6560-50-M

[SWH-FRL 2215-3]

RCRA Permit Advisory Committee; Establishment

AGENCY: Environmental Protection Agency.

ACTION: Notice of establishment of RCRA Permit Advisory Committee.

SUMMARY: The Administrator of the U.S. Environmental Protection Agency announces the establishment of the RCRA Permit Advisory Committee in accordance with section 9(a)(2) of the Federal Advisory Committee Act.

It has been determined that the establishment of this Committee is in the public interest and essential to the Agency's implementation of the Resource Conservation and Recovery Act of 1976, as amended, (Pub. L. 94-580), 42 U.S.C. 6901 *et seq.*

The Committee will serve to improve communications between the public and the Assistant Administrator, Office of Solid Waste and Emergency Response. The Committee, with membership representing affected interests, will assist the Assistant Administrator in developing effective policies and procedures relating to RCRA permits for hazardous waste treatment, storage and disposal facilities. The Committee will provide expert advice and make recommendations on policy, technical and procedural matters related to the environmental, economic and social impacts of RCRA permits as authorized by and in the manner set forth in the Committee Charter which will be filed with the appropriate Congressional committees and the Library of Congress.

This Committee will terminate within one year of the establishment date.

SUPPLEMENTARY INFORMATION:

1. Composition

The Committee shall consist of no more than 35 members, excluding the Chairperson, who will represent the following groups: State and local government officials, hazardous waste generators, hazardous waste managers, groups involved in the design and construction of hazardous waste facilities, environmental groups, and the affected public.

EPA will select members on the basis of their qualifications and will consider the affiliations of the applicants in order to achieve an appropriate balance of interest and expertise.

It should be noted that members of the Committee will not be compensated nor reimbursed by EPA for travel or per diem.

2. Applications for Committee Membership

Individuals who wish to be considered for membership or organizations and associations which desire representation should apply by providing the following information by October 12, 1982.

Name:
Title:
Organization:
Business address & telephone:
Home address & telephone:
Area of interest or expertise: (a) Storage, (b) class permits, (c) mobile treatment units, (d) incineration, (e) land disposal. Experience and qualifications (a current résumé is acceptable). Membership applications, questions and requests for copies of the Charter should be addressed to: John H. Skinner, Acting Director, Office of Solid Waste (WH–562), U.S. EPA, Washington, D.C. 20460. ATTN: RCRA Permit Advisory Committee.

3. Meetings

It is expected that the first meeting of the Committee will be held in November 1982 and last one day. The Task Forces may meet for an additional day following adjournment of the Committee meeting and four or more times subsequently during the year.

Dated: September 16, 1982.

Rita M. Lavelle,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 82-26310 Filed 9-22-82; 8:45 am]

BILLING CODE 6560-30-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Insurance Administration

[Docket Number (N81)]

Offer to Provide Reinsurance Against Excess Aggregate Loss Resulting From Riots or Civil Disorders

Correction

In FR Doc. 82–25000, appearing at page 40477, in the issue of Tuesday, September 14, 1982, make the following change:

On Page 40477, in the third column, following the second paragraph, insert the following paragraph:

"As of August 1, 1982, the States of Connecticut, Georgia, Illinois, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, North Carolina, Rhode Island, Washington, and Wisconsin, and the District of Columbia were in compliance with the statutory requirements."

BILLING CODE 1505-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Bank of Poplar Bluff Bancshares, Inc.*, Popular Bluff, Missouri; to acquire at least 80 percent of the voting shares of Bank of Marble Hill, Marble Hill, Missouri. Comments on this application must be received not later than October 18, 1982.

2. *Ridgway Bancorp, Inc.*, Ridgway, Illinois; to acquire 81.1 percent of the voting shares or assets of The Bank of West Frankfort, West Frankfort, Illinois, and 100 percent of the voting shares or assets of Drovers State Bank, Vienna, Illinois. Comments on this application must be received not later than October 18, 1982.

Board of Governors of the Federal Reserve System, September 17, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26230 Filed 9-22-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Chase Manhattan Corporation*, New York, New York (trust services; Florida): To engage through its subsidiary, The Chase Manhattan Trust Company of Florida, National Association, in performing the activities that may be conducted by a trust company (including activities of a fiduciary, investment advisory, agency or custodian nature) in the manner authorized by Federal or State law. These activities would be provided from an office in Boca Raton, Florida, serving the State of Florida. Comments on this application must be received not later than October 18, 1982.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. **Hawkeye Bancorporation**, Des Moines, Iowa (financing activities; Iowa): To engage directly in making or acquiring and servicing loans or other extensions of credit, including mortgage, consumer and commercial loans. These

activities would be conducted from an office in Des Moines, Iowa, serving Iowa. Comments on this application must be received not later than October 8, 1982.

2. *Heritage Wisconsin Corporation,* Wauwatosa, Wisconsin (crop hail insurance activities; Wisconsin): To engage in the sale of crop hail insurance through its subsidiary Heritage Insurance Agency, Inc., Wauwatosa, Wisconsin. This activity will be conducted from the offices of Heritage Insurance Agency, Inc., in Milwaukee, Wisconsin; Heritage Bank Beloit, Beloit, Wisconsin, and Heritage Bank of West Bend, West Bend, Wisconsin, serving the Beloit and West Bend communities and surrounding rural areas. Comments on this application must be received not later than October 12, 1982.

Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *U.S. Bancorp,* Portland, Oregon (consumer, industrial and insurance; Colorado): To engage through its subsidary U.S. Bancorp Financial Services, Inc., in the making, acquiring and servicing of loans and other extensions of credit either secured or unsecured for its own account or for the account of others, including the making of consumer installment loans, purchasing consumer installment and real estate sales finance contracts and evidences of debt and making consumer home equity secured by real estate, making industrial loans, and acting as insurance agent with regard to credit life and credit disability insurance. These activities would be conducted from an office in Colorado Springs, Colorado and would serve the entire city of Colorado Springs, Colorado. Comments on this application must be received not later than October 18, 1982.

Board of Governors of the Federal Reserve System, September 17, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26229 Filed 9-22-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Merchants & Farmers Bancshares, Inc.,* Leesville, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Merchants & Farmers Bank and Trust Company, Leesville, Louisiana. Comments on this application must be received not later than October 18, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Shell Rock Bancorporation,* Shell Rock, Iowa; to become a bank holding company by acquiring 90 percent of the voting shares of Security State Bank, Shell Rock, Iowa. Comments on this application must be received not later than October 18, 1982.

2. *Viroqua Bancshares, Inc.,* Viroqua, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of The State Bank of Viroqua, Viroqua, Wisconsin. Comments on this application must be received not later than October 15, 1982.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Pioneer Bank Shares,* Evanston Wyoming; to become a bank holding company by acquiring at least 80 percent of the voting shares of Pioneer Bank of Evanston, Evanston, Wyoming. Comments on this application must be received not later than October 13, 1982.

D. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Dixie Bancorp, Inc.,* and Dixie Financial Services, Inc., both of Miami, Florida; to become a bank holding company by direct and indirect acquisition of at least 80 percent of the voting shares of Dixie National Bank of Dade County, Miami, Florida. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Comments on this application must be received not later than October 18, 1982.

2. *Drew Bancshares, Inc.,* Monticello, Arkansas; to become a bank holding company by acquiring 80 percent of the voting shares of Commercial Bank and Trust Company, Monticello, Arkansas. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Comments on this application must be received not later than October 18, 1982.

3. *First National of South Dakota, Inc.,* Omaha, Nebraska; to become a bank holding company by acquiring 92.6 percent of the voting shares of Valley State Bank, Yankton, South Dakota. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Comments on this application must be received not later than October 18, 1982

Board of Governors of the Federal Reserve System, September 17, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26231 Filed 9-22-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Rental Contract for Motor Vehicle; Profit and Loss Operating Statement (GSA Form 2817)

AGENCY: General Services Administration.

ACTION: Notice of information collections; new/reinstatement.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration plans to request the Office of Management and Budget to review and approve a new information collection requirement and the reinstatement of an expired reporting requirement for the collection of data.

DATES: Comments on these information collections must be submitted on or before September 30, 1982.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Anthony Artigliere, GSA Clearance Officer, General Services Administration (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: James Flowers, Directives and Reports Management Branch (202-566-1164).

SUPPLEMENTARY INFORMATION:

a. Rental Contract for Motor Vehicle

The purpose of the new information collection is to provide GSA data on motor vehicle rental firms under GSA contract. This information is necessary for future adjustments in vehicle allocations at individual contract locations.

b. Profit and Loss Operating Statement (GSA Form 2817)

The reinstatement of the established information collection will enable GSA to continue receiving data on food service contractors proposing to do business with the agency. The information is used to project the estimated revenue and expense and profit and loss items of contractors.

c. Obtaining copies of the proposals

A copy of the information collection proposals may be obtained from the Directives and Reports Management Branch (ORAI), Room 3011, GS Building, Washington, DC 20405, telephone 566–1164.

Dated: September 10, 1982.

Clarence A. Lee, Jr.,

Director of Administrative Services.

[FR Doc. 82-26225 Filed 9-22-82; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–82–1131]

Urban Development Action Grants; Revised Minimum Standards for Small Cities; Correction

AGENCY: Office of Assistant Secretary for Community Planning and Development (CPD), HUD.

ACTION: Notice; Correction.

SUMMARY: This document corrects a Notice published in the **Federal Register** of Tuesday, June 8, 1982, at 47 FR 24820, which provided current minimum standards of physical and economic distress for small cities for the Urban Development Action Grants program. The action is necessary to correct an omission.

FOR FURTHER INFORMATION CONTACT: Frank Ridenour, Office of Urban Development Action Grants, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. Telephone: 202–755–0784. This is not a toll free number.

SUPPLEMENTARY INFORMATION: In a **Federal Register** Notice published June 8, 1982 at 47 FR 24820, 48 New York towns were omitted from Part V. This document corrects that omission, and lists the missing towns which met the minimum standards of physical and economic distress and which are in States where towns and townships may have powers comparable to the powers of municipalities.

New York

Note, name, and county name

Inc. Gouverneur Town, St. Lawrence County
Grafton Town, Rensselaer County
Granger Town, Allegany County
Inc. Granville Town, Washington County
Inc. Green Island Town, Albany County
Greenville Town, Greene County
Inc. Greenwich Town, Washington County
Greenwood Town, Steuben County
Inc. Groton Town, Tompkins County
Grove Town, Allegany County
Guilford Town, Chenango County
Hague Town, Warren County
Hallcott Town, Greene County
Hamden Town, Delaware County
Inc. Hamilton Town, Madison County
Inc. Hammond Town, St. Lawrence County
Hampton Town, Washington County
Inc. Hancock Town, Delaware County
Inc. Hanover Town, Chautauqua County
Hardenbergh Town, Ulster County
Inc. Harpersfield Town, Delaware County
Inc. Harrietstown Town, Franklin County
Harrisburg Town, Lewis County
Inc. Harland Town, Niagara County
Hartsville Town, Steuben County
Hartwick Town, Otsego County
Hebron Town, Washington County
Henderson Town, Jefferson County
Inc. Herkimer Town, Herkimer County
Inc. Hermon Town, St. Lawrence County
Highland Town, Sullivan County
Inc. Homer Town, Cortland County
Inc. Hodsick Town, Rensselaer County
Inc. Hornells Ville Town, Steuben County
Inc. Horseheads Town, Chemung County
Inc. Hounsfield Town, Jefferson County
Howard Town, Steuben County
Inc. Hume Town, Allegany County
Humphrey Town, Cattaraugus County
Inlet Town, Hamilton County
Ischua Town, Cattaraugus County
Italy Town, Yates County
Jasper Town, Steuben County
Jay Town, Essex County
Jefferson Town, Schoharie County
Johnsburg Town, Warren County
Inc. Kingsbury Town, Washington County
Kortright Town, Delaware County

Dated: September 15, 1982.

Claire E. Freeman,

Deputy Assistant Secretary for Program Policy Development and Evaluation.

[FR Doc. 82-26186 Filed 9-22-82; 8:45 am]

BILLING CODE 4210-29-M

Office of the Secretary

[Docket No. N–82–1165]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Section 8 Housing Assistance Payments Program—Application for Existing Housing
Office: Housing
Form No.: HUD–52515
Frequency of submission: On occasion
Affected public: State or Local Governments
Estimated burden hours: 6,000
Status: Extension
Contact: Myra E. Newbill, HUD, (202) 755–5353, Robert Neal, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Notice of Submission of Proposed Information Collection to OMB

Proposal: Urban Development Action Grant Program
Office: Community Planning and Development
Form No.: HUD–3440 and SF–424
Frequency of submission: Quarterly
Affected public: State or Local Governments
Estimated burden hours: 57,760
Status: Revision
Contact: Sue Shinderman, HUD, (202) 755–5898, Robert Neal, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 7, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 82-26265 Filed 9-22-82; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N–82–1166]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interest persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Inspection Form—Section 8 Existing Housing Program
Office: Housing
Form No.: HUD–52580
Frequency of submission: Annually
Affected public: State or Local Governments
Estimated burden hours: 400,000
Status: Extension
Contact: Gerald J. Benoit, HUD, (202) 755–5433, Robert Neal, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 9, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 82-26266 Filed 9-22-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–14831–A]

Alaska Native Claims Selection

On November 19, 1974, Aniak Limited, for the Native village of Aniak, filed selection application F–14831–A, as amended, under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1611 (1976) (ANCSA), for the surface estate of certain lands in the vicinity of Aniak, Alaska.

Aniak Limited in application F–14831–A excluded several bodies of water. Because certain of those water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn by Sec. 11(a)(1) of ANCSA and available for selection by the village pursuant to Sec. 12(a) of ANCSA. Section 12(a) and 43 CFR 2651.4 (b) and (c) provide that a village corporation must, to the extent necessary to obtain its entitlement, select all available lands within the township or townships within which the village is located, and that additional lands selected shall be compact and *in whole sections.* The regulations also provide that the area selected will not be considered to be reasonably compact if it excludes other lands available for selection within its exterior boundaries. For these reasons, the water bodies which were improperly excluded in application F–14831–A are considered selected by Aniak Limited.

On April 25, 1977, in accordance with Title 10, Chapter 05, Secs. 396 and 399 of the Alaska Business Corporation Act, and as authorized by 43 U.S.C. 1627, Georgetown Incorporated, a domestic corporation, merged with Aniak Limited, Chuathbaluk Company, Kipchaughpuk Limited, Lower Kalskag Incorporated, Napamute Limited, Red Devil Incorporated, Sleetmute Limited, Stony River Ltd., and Upper Kalskag Incorporated, all domestic corporations, into Georgetown Incorporated, which consolidated individual village interests into one single constituent corporation whose name was changed to The Kuskokwim Corporation. The surviving corporation, The Kuskokwim Corporation, is entitled to all rights, privileges, and benefits of the Alaska Native Claims Settlement Act.

As to the lands described below, selection application F–14831–A, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto.

These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 104,935 acres, is considered proper for acquisition by The Kuskokwim Corporation (for the village of Aniak) and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

U.S. Survey No. 2638 Amended, Alaska, Aniak Air Navigation Site, excluding Native allotments F–15818 Parcel A and F–15824 Parcel A, Revocation/Restoration F–677, ANCSA Sec. 3(e) application AA–41758 and quitclaim deed F–035092.

Containing approximately 872 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 16 N., R. 56 W.,
Secs. 6, 7 and 8;
Secs. 16, 17 and 18;
Secs. 20 and 21;
Secs. 28, 29, 32 and 33.
Containing approximately 6,776 acres.

T. 17 N., R. 56 W.,
Sec. 3, excluding U.S. Survey No. 5030 and Native allotments F–14170, F–15819 and F–15822;
Sec. 4, excluding U.S. Survey No. 5030 and Native allotment F–15821;
Sec. 5, excluding U.S. Survey No. 3095 and Native allotments F–16123 Parcel C and F–16190 Parcel B;
Sec. 6, excluding U.S. Survey No. 2851;
Sec. 7, excluding U.S. Survey No. 2354;
Secs. 8 and 9;
Sec. 10, excluding Native allotment F–14170;
Secs. 15 and 16;
Sec. 17, excluding Native allotment F–16338 Parcel B;
Sec. 18, excluding U.S. Survey No. 2354;
Secs. 19 and 20;
Sec. 21, excluding U.S. Survey No. 6453 and Native allotment F–16189 Parcel B;
Sec. 22;
Sec. 27, excluding Native allotment F–15817;
Secs. 28 to 34, inclusive.
Containing approximately 12,198 acres.

T. 18 N., R. 56 W.,
Sec. 31;
Sec. 32, excluding Native allotment F–16190 Parcel B;
Sec. 33, excluding Native allotment F–15821;
Sec. 34, excluding Native allotments F–15819 and F–15822.
Containing approximately 2,248 acres.

T. 15 N., R. 57 W.,
Secs. 2 and 3;
Secs. 6, 7 and 8;
Secs. 11, 14 and 17;
Secs. 20, 21 and 23;
Secs. 25, 26 and 28;
Secs. 33, 35 and 36.
Containing approximately 10,620 acres.

T. 16 N., R. 57 W.,
Secs. 1 and 2;
Secs. 6, 7, 8 and 12;
Secs. 16, 17, 21 and 22;
Secs. 27 and 34.
Containing approximately 7,599 acres.

T. 17 N., R. 57 W.,
Sec. 1, excluding U.S. Survey No. 3093;
Sec. 2, excluding U.S. Survey No. 2638 and U.S. Survey No. 3093;
Sec. 3, excluding U.S. Survey No. 2638 and Native allotment F–15823;
Sec. 4, excluding Native allotment F–15816;
Sec. 5, excluding Native allotment F–17330;
Sec. 6, excluding Native allotment F–15820;
Secs. 7, 8 and 9;
Sec. 10, excluding U.S. Survey No. 2638;
Sec. 11, excluding U.S. Survey No. 2638 and U.S. Survey No. 3093;
Sec. 12, excluding U.S. Survey No. 2236, U.S. Survey No. 2638, U.S. Survey No. 3093, U.S. Survey No. 4036, U.S. Survey No. 4286 and U.S. Survey No. 4312 and Native allotment F–15824 Parcel A;
Sec. 13, excluding U.S. Survey No. 2638, U.S. Survey No. 3650, U.S. Survey No. 4158 and U.S. Survey No. 4312;
Sec. 14, excluding U.S. Survey No. 2638;
Secs. 15 to 26, inclusive;
Sec. 27, excluding Native allotment F–15814 Parcel A;
Secs. 28 and 29;
Sec. 30, excluding Native allotment F–15845 Parcel A;
Sec. 31;
Secs. 32 and 33, excluding Native allotment F–15846;
Secs. 34, 35 and 36.
Containing approximately 16,559 acres.

T. 18 N., R. 57 W.,
Sec. 31;
Sec. 32, excluding Native allotment F–17330;
Sec. 33, excluding Native allotments F–15816, F–15826 and F–17332;
Sec. 34, excluding Native allotments F–15823 and F–17328;
Sec. 35, excluding U.S. Survey No. 6497 and Native allotment F–15815;
Sec. 36.
Containing approximately 2,689 acres.

T. 15 N., R. 58 W.,
Secs. 1 and 6.
Containing approximately 1,249 acres.

T. 16 N., R. 58 W.,
Secs. 1 to 5, inclusive;
Secs. 7, 8 and 12;
Sec. 17, excluding Native allotment F–015999;
Secs. 18 and 19;
Sec. 20, excluding Native allotment F–015999;
Secs. 25 to 31, inclusive;
Sec. 32, excluding Native allotment F–15824 Parcel B;
Secs. 33 to 36, inclusive.
Containing approximately 14,861 acres.

T. 17 N., R. 58 W.,
Sec. 1, excluding Native allotment F–16916;
Secs. 2, 3 and 4;
Sec. 5, excluding U.S. Survey No. 4135 and Native allotment F–029316;
Sec. 6;
Sec. 7, excluding Native allotments F–17329 Parcels B and C and F–17348 Parcel A;
Sec. 8, excluding Native allotment F–15665 Parcel A;
Sec. 9, excluding U.S. Survey No. 6473 and Native allotment F–17331;
Sec. 10;
Sec. 11, excluding Native allotment F–15825;
Secs. 12 and 13;
Sec. 14, excluding Native allotment F–15825;
Sec. 15;
Sec. 16, excluding U.S. Survey No. 6473 and Native allotment F–17331;
Secs. 17 to 36, inclusive.
Containing approximately 18,209 acres.

T. 18 N., R. 58 W.,
Secs. 25 to 36 inclusive.
Containing approximately 7,655 acres.

T. 15 N., R. 59 W.,
Sec. 1.
Containing approximately 640 acres.

T. 16 N., R. 59 W.,
Secs. 25 and 26;
Secs. 35 and 36.
Containing approximately 2,560 acres.
Aggregating approximately 104,935 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Lands Management to be navigable because they have been or could be used in connection with travel, trade and commerce. The following named water bodies, together with any unnamed water bodies, are identified on the attached navigability maps, the original of which will be found in easement case file F–14831–EE:

Kuskokwim River
Aniak River
Aniak Slough
Doestock Creek
Owhat River

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are pending a determination under Sec. 3(e) of ANCSA; or lands were previously rejected by decision. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(f); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14831–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: Travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATV's) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: Travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehcles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automibles, and trucks.

One Acre Site—The uses allowed on a one (1) acre site easement are: Vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

a. (EIN 3 C3, D1, D9) An easement twenty-five (25) feet in width for an existing access trail from the townsite of Aniak southeasterly to Sec. 33, T. 17 N., R. 56 W., Seward Meridian, thence southwesterly to public land and the village of Tuluksak. The uses allowed are those listed for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

b. (EIN 6 C3, D1, D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 3, T. 17 N., R. 56 W., Seward Meridian, on the left bank of the Owhat River at the river's mouth. The uses allowed are those listed for a one (1) acre site easement.

c. (EIN 8 C3, D1, D9) An easement sixty (60) feet in width for an existing road from the west boundary of the Alaska Division of Aviation Tract 1 (Aniak Airport) westerly for approximately 2,900 feet to the "CT Site" thence northwesterly for approximately 1,830 feet to the "H Marker Site". The uses allowed are those listed for a sixty (60) foot wide road easement.

d. (EIN 16 C4, C5) An easement twenty-five (25) feet in width for a proposed access trail from the Kuskokwim River in Sec. 2, T. 17 N., R. 57 W., Seward Meridian, northeasterly to public land. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

e. (EIN 16a C4, C5) A one (1) acre site easement upland of the ordinary high water mark in Sec. 2, T. 17 N., R. 57 W., Seward Meridian, on the right bank of the Kuskokwim River. The uses allowed are those listed for a one (1) acre site easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therin, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C., Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the leasee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b)(2) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(c), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

The Kuskokwim Corporation (for the village of Aniak) is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 104,935 acres. The remaining entitlement of approximately 10,265 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to The Kuskokwim Corporation (for the village of Aniak), and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village shall be subject to the consent of The Kuskokwim Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Drums.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interiór Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 25, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

The Kuskokwin Corporation, 429 D Street, Suite 307, Anchorage, Alaska 99501
Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501
State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510

Ann Johnson,

Chief, Branch of Alaska Nature Claims Settlement Act Adjudication.

[FR Doc. 82–26236 Filed 9–22–82; 8:45 am]

BILLING CODE 4310–84–M

[C–12610]

Colorado; Partial Cancellation of Withdrawal Application for Arapaho National Wildlife Refuge

The U.S. Fish and Wildlife Service filed withdrawal application Serial No. C–12610 on March 23, 1971. This application was published as FR Doc. 71–4462 on March 26, 1971, and republished as FR Doc. 79–27783 on September 6, 1979. The requesting agency has canceled this application as to the following described lands:

Sixth Principal Meridian

T. 7 N., R. 79 W.,
Sec. 4, lot 4, SW¼NW¼, NW¼SW¼, and that part of the SW¼SW¼ lying northeast of a diagonal line from the northwest corner to the southeast corner of said quarter-quarter of the section;
Sec. 9, SW¼SE¼;
Sec. 14, that part of the SW¼SW¼ lying northeast of a diagonal line from the northwest corner to the southeast corner of said quarter-quarter of the section;
Sec. 15, that part of the SW¼NE¼ lying northeast of a diagonal line from the northwest corner to the southeast corner of said quarter-quarter of the section.
T. 8 N., R. 79 W.,
Sec. 6, that part of lot 7 lying northwest of a diagonal line from the northeast corner to the southwest corner of said lot, the exact boundary being the existing fence marking the Arapaho National Wildlife Refuge;
Sec. 8, S½;
Sec. 9, S½;
Sec. 17;
Sec. 19, lot 4, SE¼SW¼, and S½SE¼;
Sec. 21, that part of the NW¼SE¼ lying southeast of a diagonal line from the northeast corner to the southwest corner of said quarter-quarter of the section, the exact boundary being the existing fence marking the boundary of the Arapaho National Wildlife Refuge, and SW¼SE¼;
Sec. 28, W½NE¼;
Sec. 33, SW¼SW¼.
T. 8 N., R. 80 W.,
Sec. 11, NE¼NE¼, and that part of the SW¼NE¼ lying northwest of a diagonal line from the northeast corner to the southwest corner of said quarter-quarter of the section, the exact boundary being the existing fence marking the Arapaho National Wildlife Refuge, and those portions of the N½SW¼ and SW¼SW¼ lying northwest of a diagonal line between the northeast corner of the NE¼SW¼ and the southwest corner of the SW¼SW¼ of said quarter-quarter of the section, the exact boundary being the existing fence marking the Arapaho National Wildlife Refuge;
Sec. 12, NE¼, and N½NW¼;
Sec. 15, NW¼NE¼, and NE¼NW¼.

The areas described aggregate approximately 2,315.00 acres.

Therefore, in accordance with the regulations contained in 43 CFR 2310.2–1(c), at 10:00 a.m. on October 28, 1982, the land herein described shall be relieved of the segregative effect of this application and open to operation of the public land laws, including the United States mining laws, subject to any valid existing rights. The land remains open to the mineral leasing laws.

All valid applications received at or prior to 10:00 a.m. on October 28, 1982, shall be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

Any questions concerning this land should be directed to the Chief, Lands and General Mining Law Section, Colorado State Office, Bureau of Land Management, 1037—20th Street, Denver, Colorado 80202.

September 16, 1982.

Robert D. Dinsmore,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82–26218 Filed 9–22–82; 8:45 am]

BILLING CODE 4310–84–M

Federal-State Coal Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting notice.

SUMMARY: This notice advises the public that a special Federal-State Coal Advisory Board Technical Task Force will meet October 12, 1982, in Denver, Colorado.

DATE AND PLACE: The Technical Task Force will meet at 9:00 a.m. on October 12, at the Travelodge-Denver North, 200 West 48th Avenue, Denver, Colorado 80216, phone (303) 893–8811.

SUPPLEMENTARY INFORMATION: At a technical meeting held August 26, 1982, the Federal-State Coal Advisory Board established a technical task force to further develop the technique for forecasting the demand for coal reserves.

Detailed procedures to be used to develop a range of leasing levels will be discussed by the task force. This is a working meeting; no formal public presentations will be made.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Colorado State Office, 1037 20th Street, Denver, CO 80202, Attn: Ken Smith. Phone: (303) 837–3008.

George C. Francis,

State Director.

[FR Doc. 82–26219 Filed 9–22–82; 8:45 am]

BILLING CODE 4310–84–M

[M–046727]

Montana; Partial Termination of Small Tract Classification

1. On September 29, 1961 (26 FR 9387), pursuant to authority delegated to the State Director by Bureau Order No. 541, dated April 21, 1954 (10 FR 2473), and further delegated by State Director's Order of June 28, 1961, 40 acres of public land were classified as suitable for transfer under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U.S.C. 682a–e), as amended. The classification segregated the land from appropriation under the public land laws, including location and entry under the mining laws. The lands have not been selected for transfer.

2. Pursuant to Section 702 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2789), the classification has been reviewed and 32.50 acres have been determined suitable for return to unreserved public lands status. The classification is hereby terminated, in part, as to the following described land:

Principal Meridian

T. 9 N., R. 3 W.,
Sec. 14, N½N½SE¼SE¼, SW¼NW¼SE¼SE¼, and S½SE¼SE¼

The area contains 32.50 acres located in Jefferson County.

3. At 8 a.m. on November 1, 1982, the lands described in Paragraph Two will be open to operation of the public land laws including the general mining laws, subject to valid existing rights, the provisions of existing withdrawals, and requirements of applicable law. All valid applications received at or prior to 8 a.m. on November 1, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning these lands should be addressed to Chief, Branch of Lands and Minerals Operations, Bureau

of Land Management, P.O. Box 30157, Billings, Montana 59107.

Michael J. Penfold,

State Director.

September 15, 1982.

[FR Doc. 82-26213 Filed 9-22-82; 8:45 am]

BILLING CODE 4310-84-M

[M 10816, et al]

Montana; Termination of Classifications for Multiple Use Management

1. Pursuant to authority delegated by Bureau Order No. 701, dated July 23, 1964 (29 FR 10526), as amended, the Bureau of Land Management multiple use classification orders summarized as follows are hereby terminated:

M 10816, 35 FR 18404 (December 3, 1970), containing 313.96 acres in Valley County;

M 12080, 35 FR 13221 (August 19, 1970), aggregating 17,682.99 acres in Dawson and Wibaux Counties;

M 14191, 35 FR 11419 (July 16, 1970), containing 1,274.88 acres in Prairie County;

M 15352, 35 FR 15852–15853 (October 8, 1970); as corrected, 35 FR 16182 (October 22, 1970), aggregating 2,622.32 acres in Yellowstone, Park, Sweet Grass, Stillwater and Treasure Counties;

M 16782, 35 FR 19528 (December 23, 1970), containing 457.04 acres in Carbon County; and

M 16802, 35 FR 19528–19529 (December 23, 1970), aggregating 2,950.34 acres in Yellowstone County.

The total acreage described in the above orders aggregates approximately 25,301 acres.

2. At 8 a.m. on October 27, 1982, the lands of paragraph one shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8 a.m. on October 27, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

3. The lands described in paragraph one have been and continue to be open to location under the mining laws and to application and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Kannon Richards,

Acting State Director.

September 14, 1982.

[FR Doc. 82-26212 Filed 9-22-82; 8:45 am]

BILLING CODE 4310-84-M

Reduction and Redesignation of Mathers Research Natural Area in New Mexico—Serial No. NM-53076

AGENCY: Bureau of Land Management, Interior.

ACTION: Reduction and Redesignation of Mathers Research Natural Area.

SUMMARY: Pursuant to the authority in 43 CFR, Subpart 2070, and authorization from the Director, Bureau of Land Management, dated August 9, 1982, I hereby remove the designation "Mathers Natural Area" from 120.8 acres of public lands in the following described area:

T. 10 S., R. 30 E., Section 1, N½SE¼, NMPM and T. 10 S., R. 31 E., Section 6, Lot 6, NMPM.

and change the designation applied to the public lands in the following described area from "Mathers Natural Area" to "Mathers Research Natural Area":

T. 10 S., R. 30 E., Section 1, Lots 1 and, S½NE¼, NMPM and T. 10 S., R. 31 E., Section 6, Lots 4, and 5, NMPM.

The remaining redesignated area aggregates approximately 241.54 acres of public land in Chaves County, New Mexico.

In accordance with 43 CFR 2071.4(a), this designation removal and redesignation action is only for the purpose of identifying the Bureau of Land Management's current management objectives for the area and has no effect upon established use or management of the lands and resources involved. The entire 362.34 acres subject to this action were originally classified for multiple-use management under the Classification and Multiple Use Act of September 19, 1964, and were segregated from all forms of appropriation under the public land laws on August 27, 1970 (FR Vol. 35, No. 167, page 13670). An opening order was published May 29, 1981, (FR Vol. 46, No. 103, page 28954) which opened the 120.8 acres removed from the designation to the operation of the public land laws. This reduction and redesignation of Mathers Natural Area implements decisions contained in the East Chaves Management Framework Plan which was approved in 1976. This action also brings the boundaries of the Mathers Research Natural Area into full conformance with those of the National Natural Landmark designation applied to the area by the Secretary of the Interior on May 14, 1982.

The remaining Mathers Research Natural Area is designated under the general category of Natural Resources Experiment and Research Areas, which covers relatively small areas used for research or experimental purposes (43 CFR 2071.4(b)(4)). The established primary management objectives for Mathers Research Natural Area, as prescribed by the East Chaves Management Framework Plan and implemented in accordance with a site-specific management plan approved in 1978, are to preserve and maintain the natural quality of its unique plant community and to provide opportunities for nondestructive scientific and educational studies of its natural characteristics.

The redesignated area has been determined to meet the Bureau of Land Management's criteria for Research Natural Areas contained in 43 CFR 8223.0–5. Mathers Research Natural Area may be used by individuals and groups for scientific study, research and demonstration purposes, and for other uses compatible with its established management objectives or authorized by the Roswell District Manager, by law, or by other Federal regulations in accordance with 43 CFR 8223.1.

Inquiries concerning these lands should be addressed to the Bureau of Land Management, P.O. Box 1449, Santa Fe, NM 87501.

Marvin LeNoue,

Acting State Director.

[FR Doc. 82-26221 Filed 9-22-82; 8:45 am]

BILLING CODE 4310-84-M

[INT DEIS 82-50]

Draft Andrews Grazing Management Environmental Impact Statement; Notice of Public Meeting and DEIS Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Meeting on Andrews Grazing Management DEIS.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environment Policy Act of 1969, the Department of the Interior has prepared a Draft Environmental Impact Statement for the Andrews EIS area. The proposal involves implementing a livestock grazing program on public lands within the Andrews EIS area of the Burns District in central Oregon.

Public reading copies will be available for review at the following locations:

Bureau of Land Management, Office of Public Affairs, 825 N.E. Multnomah Street, Portland, Oregon
Bureau of Land Management, Burns District Office, 745 Alvord St., Burns, Oregon
Library, University of Oregon, Eugene, Oregon
Central Oregon Community College, College Way, Bend, Oregon
Library, Portland State University, 727 SW Harrison, Portland, Oregon
Harney County Library, 80 West D, Burns, Oregon
Library, Oregon State University, Corvallis, Oregon

A limited number of copies are available upon request to the BLM Oregon State Office or the Burns District Office.

Informal public information meetings will be held on November 16 in the Community Hall in Denio, Nevada and November 17 in the Club Room of The Harney County Museum in Burns, Oregon.

Written comments on the draft EIS may be sent to: State Director (935), Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Comments should be postmarked on or before December 1, 1982 to be considered in preparation of the Final Andrews EIS.

FOR FURTHER INFORMATION CONTACT: Gerry Fullerton, Oregon State Office, Telephone: (503) 231–6955.

Dated: August 24, 1982.

Stanley D. Butzer,

Chief, Division of Resources.

[FR Doc. 82–26289 Filed 9–22–82; 8:45 am]

BILLING CODE 4310–84–M

[OR 17158]

Oregon; Order Providing for Opening of Public Lands

1. Pursuant to Section 103(a) of the Act of July 14, 1960 (74 Stat. 506, 43 U.S.C. 1384), the following described land was donated and reconveyed to the United States and title was accepted pursuant to Section 205 of the Act of October 21, 1976 (43 U.S.C. 1715):

Willamette Meridian

T. 33 S., R. 5 W.,
Sec. 12, Mineral Survey 920.
The area described contains 19.29 acres in Douglas County, Oregon.

2. At 9:30 a.m., on October 29, 1982, the land will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9:30 a.m., on October 29, 1982, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

3. At 9:30 a.m., on October 29, 1982, the land will be open to location and entry under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

Dated: September 15, 1982.

[FR Doc. 82–26210 Filed 9–22–82; 8:45 am]

BILLING CODE 4310–84–M

Richfield District Grazing Advisory Board; Meeting

September 17, 1982.

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Richfield District Grazing Advisory Board will be held on November 9, 1982.

The meeting will begin at 9 a.m. in the conference room of the Bureau of Land Management Office at 150 East 900 North, Richfield, Utah.

The agenda for the meeting includes discussion of the following items:

1. A discussion of the function of the Board;
2. The expenditure of range betterment and advisory board funds for range improvements;
3. A review of the current policy and program relating to allotment and management plans, including ongoing and future grazing environmental statement effort;
4. Election of officers;
5. Discussion of the board's future involvement in the allotment management plan program, and;
6. The arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 3 p.m. and 4 p.m. on November 9, 1982, or file written statements for the board's consideration.

Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701 by November 8, 1982. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproductions during regular business hours within 30 days following the meeting.

Donald L. Pendleton,

District Manager.

[FR Doc. 82–26208 Filed 9–22–82; 8:45 am]

BILLING CODE 4310–84–M

[W–4471–A]

Wyoming; Proposed Continuation of Public Water Reserves

September 15, 1982.

The Bureau of Land Management, U.S. Department of the Interior, proposes that the existing Public Water Reserves, withdrawn by the Executive and Secretarial Orders as indicated below, be continued in part as to the following described lands for a period of 20 years, pursuant to Section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714. The purpose of the withdrawal is to protect existing permanent water sources.

Sixth Principal Meridian, Wyoming

1. Public Water Reserve No. 32, withdrawn by Executive Order of February 29, 1916.

T. 43 N., R. 93 W.,
Sec. 15, SW¼NE¼;
Sec. 24, SE¼SE¼;
Sec. 27, W½NW¼;
Sec. 29, SW¼NW¼.

The area described contains 200 acres in Hot Springs County, Wyoming.

2. Public Water Reserve No. 45, withdrawn by Executive Order of April 13, 1917.

T. 56 N., R. 103 W.,
Sec. 31, NE¼SW¼.

The area described contains 40 acres in Park County, Wyoming.

3. Public Water Reserve No. 58, withdrawn by Secretarial Order of February 25, 1919.

T. 50 N., R. 100 W.,
Sec. 27, SW¼NW¼, and N½SW¼.
Sec. 28, S½NE¼, and SE¼NW¼.
The area described contains 240 acres in Park County, Wyoming.

4. Public Water Reserve No. 63, withdrawn by Executive Order of April 30, 1919.

T. 49 N., R. 103 W.,
Sec. 15, W½NW¼, NE¼SW¼;
Sec. 16, lots 1, 2, and 3.

The area described contains 226.63 acres in Park County, Wyoming.

5. Public Water Reserve No. 64, withdrawn by Executive Order of June 5, 1919.

T. 49 N., R. 101 W.,
Sec. 1, lot 6.

The area described contains 36.45 acres in Park County, Wyoming.

6. Public Water Reserve No. 75, withdrawn by Executive Order of October 27, 1920.

T. 47 N., R. 87 W.,
Sec. 15, SW¼NE¼.
T. 43 N., R. 94 W.,
Sec. 22, SE¼SE¼;
Sec. 27, E½NE¼.
T. 50 N., R. 101 W.,
Lot 37–D (Sec. 28).
T. 52 N., R. 101 W.,
Sec. 29, SW¼.

The area described contains 360.02 acres in Hot Springs, Park and Washakie Counties, Wyoming.

7. Public Water Reserve No. 119, withdrawn by Executive Order of February 16, 1929.

T. 48 N., R. 87 W.,
Sec. 30, NE¼SE¼, and S½SE¼,
Sec. 31, N½NE¼.
T. 47 N., R. 99 W.,
Sec. 13, NW¼SW¼, and SE¼SW¼.

The area described contains 280 acres in Hot Springs and Washakie Counties, Wyoming.

8. Public Water Reserve No. 132, withdrawn by Executive Order No. 5407 of June 25, 1930.

T. 41 N., R. 90 W.,
Sec. 31, lot 3, and E½SW¼.
T. 55 N., R. 94 W.,
Sec. 1, lots 1, 2, 3, S½NW¼, and NW¼SW¼;
Sec. 2, NE¼SE¼, and S½SE¼;
Sec. 11, NW¼NE¼.

The area described contains 518.90 acres in Hot Springs and Big Horn Counties, Wyoming.

9. Public Water Reserve No. 146, withdrawn by Executive Order No. 5907 of April 18, 1932.

T. 45 N., R. 94 W.,
Sec. 21, lots 1 and 2.

The area described contains 65.51 acres in Washakie County, Wyoming.

10. Public Water Reserve No. 149, withdrawn by Executive Order No. 6025, of February 14, 1933.

T. 46 N., R. 100 W.,
Sec. 14, lot 1;
Sec. 15, NW¼SW¼.

The area described contains 80.13 acres in Hot Springs County, Wyoming.

11. Public Water Reserve No. 107, withdrawn by the Secretarial Orders of February 16, 1929, January 17, and April 15, 1931, April 8, 1932, February 15, and March 23, 1933, May 26, and September 27, 1934, January 18, 1935, March 19, 1936, and August 7, 1959.

T. 42 N., R. 86 W.,
Sec. 11, NE¼NE¼.
T. 47 N., R. 87 W.,
Sec. 21, NW¼NW¼.
T. 48 N., R. 88 W.,
Sec. 24, lot 4, and SW¼SE¼;
Sec. 25, lot 1, W½NE¼, and SE¼NW¼.
T. 50 N., R. 88 W.,
Sec. 5, lot 5.
T. 49 N., R. 89 W.,
Sec. 30, lot 5;
Sec. 35, NW¼SW¼.
T. 51 N., R. 89 W.,
Sec. 21, S½SE¼;
Sec. 28, E½NE¼.
T. 49 N., R. 90 W.,
Sec. 20, lot 5.
T. 51 N., R. 90 W.,
Sec. 1, lot 5, and SE¼NE¼.
T. 49 N., R. 91 W.,
Sec. 12, lot 3.
T. 43 N., R. 92 W.,
Tract 53–C (Sec. 22).
T. 58 N., R. 93 W.,
Sec. 31, lots 2 and 3.
T. 57 N., R. 94 W.,
Sec. 12, NW¼SW¼.
T. 48 N., R. 96 W.,
Sec. 12, lot 1.
T. 57 N., R. 96 W.,
Sec. 26, SW¼NE¼.
T. 45 N., R. 98 W.,
Sec. 6, lot 2.
T. 46 N., R. 99 W.,
Sec. 34, NW¼SW¼.
T. 50 N., R. 100 W.,
Sec. 11, W½NW¼, and NW¼SW¼.

The area described contains 1,185.83 acres in Washakie, Big Horn, Hot Springs and Park Counties, Wyoming.

12. Public Water Reserves No. 107, withdrawn by Bureau of Land Management Orders of November 2, 1949, November 25, 1957, June 29, 1965, November 3, 1967, October 21, and December 30, 1969, April 15, 1970, January 20, 1971, May 30, 1972, August 27, 1973, and January 22, and December 19, 1975.

T. 48 N., R. 88 W.,
Sec. 6, lot 1.
T. 42 N., R. 89 W.,
Sec. 22, NE¼NE¼.
T. 47 N., R. 89 W.,
Sec. 6, lot 9.
T. 49 N., R. 89 W.,
Sec. 28, NE¼NW¼.
T. 43 N., R. 90 W.,
Sec. 6, lot 10.
T. 42 N., R. 91 W.,
Sec. 7, SE¼SE¼.
T. 43 N., R. 91 W.,
Sec. 26, SW¼NW¼.
T. 44 N., R. 91 W.,
Sec. 35, SE¼NE¼.
T. 47 N., R. 91 W.,
Sec. 3, SW¼NE¼.
T. 49 N., R. 91 W.,
Sec. 2, lot 6.
T. 55 N., R. 94 W.,
Sec. 25, NW¼NE¼.
T. 58 N., R. 95 W.,
Sec. 20, SW¼NW¼;
Sec. 23, NE¼SW¼.
T. 46 N., R. 96 W.,
Sec. 27, lot 12.
T. 56 N., R. 100 W.,
Sec. 1, lot 3.

The area described contains 588.98 acres in Washakie, Big Horn, Hot Springs, and Park Counties, Wyoming.

Upon the Secretary's approval of the Public Land Order, all of the lands described above will be opened to nonmetalliferous mineral location, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

13. The following lands were withdrawn by Public Water Reserve No. 107, established by Executive Order of April 17, 1926, but were not previously noted on the official land office records. Upon the Secretary's approval of the Public Land Order, the following described lands will be segregated from the operations of the public land laws generally. The lands have been and will continue to be open to mineral location and mineral leasing, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

Sixth Principal Meridian, Wyoming

T. 44 N., R. 86 W.,
Sec. 8, NW¼SW¼;
Sec. 12, NW¼NW¼, S½NW¼, and SE¼SW¼;
Sec. 14, SW¼NE¼.
T. 45 N., R. 86 W.,
Sec. 24, SE¼SE¼;
Sec. 32, SW¼NE¼.
T. 46 N., R. 86 W.,
Sec. 29, lot 10.
T. 45 N., R. 87 W.,
Sec. 29, NE¼NW¼.
T. 48 N., R. 87 W.,
Sec. 18, NE¼SW¼;
Sec. 28, SW¼SW¼.
T. 42 N., R. 88 W.,
Sec. 8, NW¼SW¼.
T. 48 N., R. 88 W.,
Sec. 12, lot 2;
Sec. 13, SW¼NE¼.
T. 50 N., R. 88 W.,
Sec. 3, SE¼NW¼;
Sec. 4, SE¼NW¼;
Sec. 8, lot 4;
Sec. 9, NE¼NW¼, and NE¼SW¼;
Sec. 10, W½NW¼;
Sec. 11, NW¼NW¼;
Sec. 23, SW¼SW¼.
T. 43 N., R. 89 W.,
Sec. 3, lot 8.
T. 53 N., R. 90 W.,
Sec. 33, NW¼SW¼.
T. 43 N., R. 91 W.,
Sec. 25, lot 3;
Sec. 35, NW¼NW¼.
T. 50 N., R. 91 W.,
Sec. 26, SW¼SE¼.
T. 42 N., R. 92 W.,
Sec. 5, lot 4;
Sec. 18, NW¼NE¼.
T. 43 N., R. 92 W.,
Sec. 4, lot 11.

T. 44 N., R. 92 W.,
Sec. 17, NW¼SW¼.
T. 54 N., R. 92 W.,
Sec. 5, NW¼SW¼.
T. 55 N., R. 92 W.,
Sec. 14, lot 4.
T. 56 N., R. 92 W.,
Sec. 30, lot 5;
Sec. 31, lot 1.
T. 47 N., R. 92½ W.,
Tract 65–C (Sec. 13).
T. 42 N., R. 93 W.,
Sec. 5, SE¼SW¼.
T. 43 N., R. 93 W.,
Sec. 25, NE¼NW¼.
T. 48 N., R. 93 W.,
Sec. 36, lot 3.
T. 56 N., R. 93 W.,
Sec. 17, lot 8;
Sec. 26, NW¼NW¼.
T. 57 N., R. 93 W.,
Sec. 1, NW¼SW¼, and SW¼SE¼;
Sec. 12, SW¼NW¼.
T. 58 N., R. 93 W.,
Sec. 32, SW¼NW¼.
T. 42 N., R. 94 W.,
Sec. 1, SW¼NE¼.
T. 43 N., R. 94 W.,
Sec. 25, SE¼NW¼, and N½SW¼;
Sec. 28, E½SW¼.
T. 45 N., R. 94 W.,
Sec. 4, lot 20.
T. 42 N., R. 95 W.,
Sec. 17, NW¼NW¼.
Sec. 23, SW¼SW¼.
T. 43 N., R. 95 W.,
Sec. 19, SE¼SW¼;
Sec. 20, SW¼SW¼;
Sec. 30, SW¼NE¼.
T. 44 N., R. 95 W.,
Sec. 2, NE¼SE¼;
Sec. 20, SE¼SE¼;
Sec. 21, SE¼SE¼;
Sec. 22, SE¼SW¼.
T. 45 N., R. 95 W.,
Sec. 5, lot 18;
Sec. 7, lot 6;
Sec. 31, lot 8;
Sec. 32, lot 7.
T. 47 N., R. 95 W.,
Sec. 9, lot 13.
T. 57 N., R. 95 W.,
Sec. 22, NE¼NE¼.
T. 44 N., R. 96 W.,
Sec. 20, NE¼SE¼;
Sec. 21, NW¼SW¼, and W½SE¼;
Sec. 22, SW¼NW¼;
Sec. 23, SW¼NW¼;
Sec. 24, NW¼SW¼.
T. 45 N., R. 96 W.,
Sec. 1, lot 12;
Sec. 26, lots 13, and 16;
Sec. 27, lots 10, 12, and 16;
Sec. 28, lot 14;
Sec. 33, lot 5.
T. 47 N., R. 96 W.,
Sec. 21, lot 16.
T. 44 N., R. 97 W.,
Sec. 3, NW¼NE¼;
Sec. 7, lot 4;
Sec. 17, NE¼NW¼, and SW¼SW¼;
Sec. 19, SE¼NW¼;
Sec. 27, NW¼SE¼;
Sec. 29, NE¼NW¼.
T. 45 N., R. 97 W.,
Sec. 5, NE¼SE¼;
Sec. 17, NE¼SW¼, and NW¼SE¼.
T. 46 N., R. 97 W.,
Sec. 17.
T. 48 N., R. 97 W.,
Sec. 30, NW¼SW¼.
T. 50 N., R. 97 W.,
Sec. 2, NE¼SW¼;
Sec. 28, NE¼NW¼;
Sec. 34, NW¼SE¼.
T. 44 N., R. 98 W.,
Sec. 11, NW¼SE¼;
Sec. 12, NW¼SW¼;
Sec. 13, NE¼SE¼;
Sec. 14, NW¼SW¼;
Sec. 24, NE¼SW¼.
T. 45 N., R. 98 W.,
Sec. 7, SW¼NE¼;
Sec. 14, SW¼NW¼;
Sec. 15, NE¼NE¼, SW¼SW¼, and SW¼SE¼;
Sec. 21, NE¼NE¼, and SE¼NW¼;
Sec. 24, SE¼NW¼;
Sec. 29, NE¼NE¼.
T. 46 N., R. 98 W.,
Sec. 17, NE¼SE¼.
T. 47 N., R. 98 W.,
Sec. 12, SE¼NE¼.
T. 48 N., R. 98 W.,
Sec. 25, SE¼NE¼.
T. 44 N., R. 99 W.,
Sec. 3, SW¼NW¼, and NW¼SW¼;
Sec. 4, SE¼NE¼, and NW¼SW¼;
Sec. 5, lot 4;
Sec. 8, NW¼NW¼, and NW¼SE¼;
Sec. 9, SE¼SW¼;
Sec. 10, SE¼NE¼, S½NW¼, and NW¼SW¼;
Sec. 31, lot 3, SE¼NW¼, and SW¼SE¼;
Sec. 33, NE¼SE¼.
T. 45 N., R. 99 W.,
Sec. 1, SE¼SW¼;
Sec. 2, SE¼NW¼;
Sec. 8, NW¼NE¼;
Sec. 9, SE¼SW¼;
Sec. 17, NW¼SE¼;
Sec. 18, NW¼SE¼;
Sec. 19, SW¼NE¼;
Sec. 25, SW¼NW¼, and SE¼SW¼;
Sec. 26, SW¼NE¼;
Sec. 28, NE¼NW¼;
Sec. 31, lot 4, and NE¼SW¼.
T. 46 N., R. 99 W.,
Sec. 7, NE¼SE¼;
Sec. 10, W½NW¼;
Sec. 20, NW¼SW¼, and W½SE¼;
Sec. 35, SW¼NE¼.
T. 47 N., R. 99 W.,
Sec. 20, SE¼SE¼.
T. 48 N., R. 99 W.,
Sec. 12, NE¼NW¼.
T. 43 N., R. 100 W.,
Sec. 2, SW¼NE¼, and SE¼NW¼;
Sec. 4, SW¼NW¼, and N½SE¼;
Sec. 5, SW¼SW¼;
Sec. 6, SW¼SE¼.
T. 44 N., R. 100 W.,
Sec. 1, lots 3 and 7;
Sec. 2, SE¼NE¼;
Sec. 4, lots 1, 2, 4, SW¼NE¼, and SE¼NW¼;
Sec. 6, NW¼SW¼;
Sec. 9, NW¼NE¼, and NE¼SE¼;
Sec. 10, NW¼SW¼, and NW¼SE¼;
Sec. 15, SW¼NE¼;
Sec. 18, NW¼NE¼;
Sec. 19, NW¼NW¼;
Sec. 23, lot 2;
Sec. 30, SE¼SE¼;
Sec. 31, E½NE¼;
Sec. 33, SW¼NW¼, and NW¼SE¼;
Sec. 35, NW¼SE¼.
T. 45 N., R. 100 W.,
Sec. 4, SW¼SW¼;
Sec. 5, NE¼SW¼;
Sec. 6, SW¼NE¼, and SE¼SE¼;
Sec. 8, SW¼NW¼;
Sec. 24, NE¼NW¼, and NE¼SE¼;
Sec. 30, SW¼NE¼;
Sec. 31, lot 3;
Sec. 35, E½SE¼.
T. 46 N., R. 100 W.,
Sec. 4, SW¼NW¼;
Sec. 14, SW¼SW¼;
Sec. 29, NW¼SW¼.
T. 47 N., R. 100 W.,
Sec. 1, lot 6;
Sec. 4, NE¼SW¼;
Sec. 14, SW¼SE¼;
Sec. 24, NE¼NE¼, and SE¼NW¼;
Sec. 27, SE¼SE¼.
T. 53 N., R. 100 W.,
Sec. 12, SW¼NE¼;
Sec. 13, NW¼SW¼;
Sec. 33, lot 40–A.
T. 42 N., R. 101 W.,
Sec. 5, NE¼SW¼.
T. 43 N., R. 101 W.,
Sec. 1, lot 8;
Sec. 2, lots 5, 9, and NE¼SE¼;
Sec. 13, SW¼NW¼.
T. 44 N., R. 101 W.,
Sec. 1, lot 2, and NE¼SE¼;
Sec. 3, SE¼NW¼;
Sec. 4, SW¼NW¼;
Sec. 14, NW¼SE¼;
Sec. 19, NW¼NE¼;
Sec. 30, lot 1;
Sec. 34, NW¼NW¼.
T. 45 N., R. 101 W.,
Sec. 1, lot 11;
Sec. 3, SE¼SE¼;
Sec. 4, lot 8, S½NW¼, and SW¼SE¼;
Sec. 9, NE¼SW¼, and SW¼SW¼;
Sec. 10, NW¼NE¼,SE¼NE¼, and SW¼NW¼;
Sec. 25, SW¼SW¼;
Sec. 26, E½SW¼;
Sec. 27, SW¼NW¼.
T. 46 N., R. 101 W.,
Sec. 11, NW¼SW¼;
Sec. 14, SW¼SW¼;
Sec. 15, NE¼NE¼;
Sec. 26, SW¼SW¼;
Sec. 27, lot 6, and SW¼SE¼;
Sec. 34, NE¼NE¼.
T. 50 N., R. 101 W.,
Sec. 34, SW¼SW¼.
T. 51 N., R. 101 W.,
Sec. 2, SW¼NW¼.
T. 43 N., R. 102 W.,
Sec. 2, NW¼NW¼;
Sec. 3, N½NE¼;
Sec. 26, NE¼NE¼.
T. 44 N., R. 102 W.,
Sec. 20, NE¼NW¼, and NW¼SE¼;
Sec. 23, NW¼SW¼, and SW¼SE¼;
Sec. 24, SW¼SE¼;
Sec. 25, lot 3, S½SW¼, and SW¼SE¼;
Sec. 27, SE¼SW¼, and SW¼SE¼;
Sec. 28, SW¼NE¼, and SW¼NW¼;
Sec. 32, SW¼NE¼, and NW¼NW¼;
Sec. 34, NW¼NE¼, and W½SE¼.
T. 49 N., R. 102 W.,

Sec. 35, lot 5.
T. 55 N., R. 102 W.,
Sec. 1, SW¼SW¼.
T. 56 N., R. 102 W.,
Sec. 34, lot 3.
T. 43 N., R. 103 W.,
Sec. 3, lots 1, 4, and NW¼SE¼;
Sec. 10, lot 1.
T. 52 N., R. 103 W.,
Sec. 18, SW¼NE¼, and NE¼SE¼;
Sec. 19, NE¼SE¼;
Sec. 30, NE¼SE¼;
Sec. 32, NW¼NE¼.
T. 53 N., R. 103 W.,
Sec. 31, NE¼NW¼.

The area described aggregates 11,779.22 acres in Big Horn, Hot Springs, Park, and Washakie Counties, Wyoming.

Notice is hereby given, that a public meeting may be afforded in connection with the proposed withdrawal continuation. All interested persons who desire a meeting to be held on the proposal must submit a written request for a meeting to the undersigned on or before December 22, 1982. Upon the determination by the State Director, Bureau of Land Management, that a public meeting shall be held, a notice stating the time and place of the meeting, shall be published in the **Federal Register** and in at least one newspaper having a general circulation in the vicinity of lands involved, at least 30 days before the scheduled date of the meeting. All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the BLM on or before December 22, 1982.

The authorized officer of the BLM will undertake such investigations as are necessary and prepare a report for consideration of the Office of the Secretary of the Interior. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

All communications in connection with the proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-26211 Filed 9-22-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3129, Block 213, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 17, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-26216 Filed 9-22-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Union Oil Company of California has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 1031 and 1529, Blocks 253 and 252, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 17, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-26217 Filed 9-22-82; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Texaco U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 4437 and OCS 0310, Blocks 236 and 229, South Marsh Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North

Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 17, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-26270 Filed 9-22-82; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Mining Plan of Operations at Death Valley National Monument; Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Pfizer Inc. has filed a plan of operations in support of a proposed plan of operations on lands embracing its Wonder Lode Mining Claim within the Death Valley National Monument. This plan is available for public inspection during normal business hours at the Death Valley National Monument Headquarters, Death Valley, California.

Dated: September 7, 1982.

Edwin L. Rothfuss,

Superintendent, Death Valley National Monument.

[FR Doc. 82-26237 Filed 9-22-82; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

Alaska Land Use Council Land Use Advisors Committee

The Federal and State Cochairmen of the Alaska Land Use Council are soliciting nominations for appointment or reappointment to the Council's Land Use Advisors Committee.

The Land Use Advisors Committee is mandated by Section 1201(m)(1) of the Alaska National Interest Lands Conservation Act. The Committee plays a key role in the public participation program established by the Alaska Land Use Council. Among other responsibilities, the Committee makes recommendations concerning the Council's annual work program and actions of the Federal agencies as they implement the Alaska Lands legislation.

The Alaska Lands Act requires that the Land Use Advisors Committee be representative of a balance between the State and national interests concerned with use of federally-owned public lands and resources in Alaska and the several geographic regions of the State. Members of the Committee serve without compensation but are reimbursed for necessary approved travel.

If you are interested in serving on the Land Use Advisors Committee send a letter of interest along with a resume to:

Alaska Land Use Council, Governor Jay S. Hammond, State Cochairman; Vernon R. Wiggins, Federal Cochairman, P.O. Box 120, Anchorage, Alaska 99510

The deadline for filing your letter of interest is November 17, 1982. For further information you may write to the above address or call (907) 272–3422.

William P. Horn,

Deputy Under Secretary.

September 20, 1982.

[FR Doc. 82-26280 Filed 9-22-82; 8:45 am]

BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries about the following to Team 2 (202) 275–7030.

Volume No. OP2–227

Decided: September 16, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 10223 (Sub-14), filed September 10, 1982. Applicant: CARL BROWN, ESTELLE FUNK, AND ALBERT R. FUNK d.b.a. MACK

TRANSPORTATION COMPANY, 4330 Torresdale Ave., Philadelphia, PA 19124. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966, 215–357–7220. Transporting *such commodities* as are dealt in or used by retail department stores, between points in the U.S., on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S., and Canada.

MC 107012 (Sub-772), filed June 7, 1982 (Clarification), previously published in the FR issue of July 2, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, Fort Wayne, IN 46818. Representative: Bruce W. Boyarko, (same address as applicant), 219–429–2224. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Mobil Corporation, of Fairfax, VA, and its following subsidiaries (a) Mobil Oil Corporation of America, of Fairfax, VA, (b) Container Corporation of America, of Northlake, IL, and (c) Montgomery Ward and Company, Inc., of Chicago, IL.

Note.—This republication is to show the names of the contracting shippers.

MC 133262 (Sub-6), filed September 10, 1982. Applicant: TIGGES TRUCKING, INC., 5071 JFK Rd., Dubuque, IA 52001. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. Transporting *commodities in bulk,* between points in IA, IL, MN, and WI.

MC 154912 (Sub-1), filed September 10, 1982. Applicant: MOTRUX TRANSPORTATION, LTD., 2345 Douglas Rd., Burnaby, B.C., Canada V5C 5A9. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104, (206) 622–3220. Transporting (1) *lumber and wood products,* (2) *pulp, paper and related products,* and (3) *building materials,* between points in the U.S., under continuing contract(s) with (a) Lignum Limited, (b) MacMillan Bloedel Limited, both of Vancouver, British Columbia, Canada, and (c) Domtar, Inc., of Montreal, Quebec, Canada.

MC 156123 (Sub-1), filed September 13, 1982. Applicant: CALCIUM CHLORIDE SALES, INC., 713 West Main St., Grove City, PA 16127. Representative: S. Berné Smith, P.O. Box 1166, Harrisburg, PA 17108–1166, (717) 232–8000. Transporting *liquid calcium chloride,* between points in the U.S., under continuing contract(s) with Allied Corporation, of Morristown, NJ.

MC 161083 (Sub-2), filed September 10, 1982. Applicant: H & H TRUCKING, P.O. Box 191, Okolona, MS 38860. Representative: Donald B. Morrison, P.O. Box 22626, Jackson, MS 39205, (601) 948–8820. Transporting *metal products,* between points in Lee County, MS, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MO, OK, TN, and TX.

MC 161892, (Sub-1), filed September 9, 1982. Applicant: HUBBARD EQUIPMENT CORP., Whiskey Rd., P.O. Box 419, Coram, NY 11727. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, 201–572–5551. Transporting (1) *building materials,* between New York, NY, and points in Suffolk County, NY, on the one hand, and, on the other, points in CT, NJ, NY, and PA, and (2) *those commodities which because of their size or weight require the use of special handling or equipment,* between those points in the U.S., in and east of WI, IA, MO, AR, and TX.

MC 162933, filed September 10, 1982. Applicant: ELLIS ROBERTS TRUCKING, Rt. 1, Box 61, Remlap, AL 35133. Representative: Donald B. Sweeney, Jr., P.O. Box 2366, Birmingham, AL 35201, 205–254–3880. Transporting (1) *metal products,* (2) *rubber and plastics products,* (3) *furniture and fixtures,* (4) *lumber and wood products,* and (5) *forest products,* between points in AL, FL, GA, LA, MS, TN, TX, NC, SC, IL, IN, AR, KY, and MO.

MC 163622, filed September 13, 1982. Applicant: GERALD N. CREASY, d.b.a. CREASY TRANSPORT, 911 Euclid Ave., Lynchburg, VA 24501. Representative: William F. Quillian, III, 801 Court St., Lynchburg, VA 24504, 804–845–6084. Transporting *enemas, douches, drugs and toilet preparations,* between Lynchburg, VA, on the one hand, and, on the other, points in AL, AR, DE, FL, GA, LA, MD, MS, NJ, NC, OK, SC, TN, TX, VA, and WV, under continuing contract(s) with C-B Fleet Company, Inc., of Lynchburg, VA.

MC 163633, filed September 7, 1982. Applicant: JAMES C. BEMIS, d.b.a. JIM BEMIS TRUCKING, R.R. No. 4, Milaca, MN 56353. Representative: James C. Bemis (same address as applicant), 612–983–6268. Transporting *lumber and wood products,* between points in the U.S., under continuing contract(s) with Foreston Dimensions Co., Inc., of Foreston, MN.

MC 163753, filed September 10, 1982. Applicant: BARD EDRINGTON, d.b.a. B.B.C. ENTERPRISES, 4851 South Pine St., Ocala, FL 32671. Representative: Wade H. Brown, P.O. Box 217, Bessemer, AL 35020, 205–428–8629. Transporting *transportation equipment,* between points in Marion County, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Please direct status inquiries about the following to team 3, (202) 275–5223.

Volume No. OP3–143

Decided: September 15, 1982.

By the Commission Review Board Number 2, Members Carleton, Williams and Ewing.

MC 2484 (Sub-61), filed September 2, 1982. Applicant: E & L TRANSPORT COMPANY, 23420 Ford Rd., Dearborn Heights, MI 48127. Representative: Eugene C. Ewald, 100 W. Long Lake Rd., Suite 102, Bloomfield Hills, MI 48013, (313) 645–9600. Transporting *motor vehicles,* between points in the U.S. (except AK and HI), under continuing contract(s) with persons as defined in Section 10923 of the Motor Carrier Act of 1980 who are equipped in business as manufacturers, distributors or dealers of motor vehicles.

MC 8535 (Sub-129), filed August 30, 1982. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INCORPORATED, P.O. Box 500, Parkton, MD 21120. Representative: John Guandolo, 1000 Sixteenth St., N.W., Washington, D.C. 20036, (202) 783–6131. Transporting *machinery and parts and accessories,* between points in the U.S. (except AK and HI).

MC 98694 (Sub-2), filed August 31, 1982. Applicant: FRONTIER WAREHOUSE & TRANSFER CO., 300 S. 25th Ave., Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, (602) 264–4891. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ.

MC 142855 (Sub-6), filed August 26, 1982. Applicant: BAKER TRANSPORT, INC., P.O. Box 668, Hartselle, AL 35640. Representative: Donald B. Sweeney, Jr., P.O. Box 2366, Birmingham, AL 35201, (205) 254–3880. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 142784 (Sub-2), filed September 1, 1982. Applicant: RICHARD H. GRAVES, Box 193, E. Conway Rd., Center Conway, NH 03813. Representative: Richard H. Graves (same address as

applicant), (603) 356–2257. Transporting (1) *building materials, boxes, skids, crates, and pallets,* between points in Carroll County, NH, on the one hand, and, on the other, points in ME, MA, RI, CT, VT, NY, and SC, under continuing contract(s) with John F. Chick & Son, Inc., of Silver Lake, NH, and (2) *forest products* and *lumber and wood products,* between those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada, under continuing contract(s) with Bear Paw Timber Corp., of Fryeburg, ME.

MC 145475 (Sub-4), filed September 1, 1982. Applicant: FRONTIER LEASING, INC. Rt. 7, Box 173, Joplin, MO 64801. Representative: Bruce McCurry, 910 Plaza Towers, Springfield, MO 65804, (417) 883–7311. Transporting *metal products, and clay, concrete, glass or stone products,* between points in the U.S., under continuing contract(s) with Monett Steel Castings, of Monett, MO, Sipi Metals Corp. of Chicago, IL, Central States Stamping Co., Inc. of Springfield, MO, Reagent Chemical and Research, Inc. of Webb City, MO, Walton Foundry, Inc. of Iola, KS and H. Kramer and Company of Chicago, IL.

MC 149565 (Sub-5), filed September 1, 1982. Applicant: G. L. DUNPHY & SON, INC., R.F.D. No. 1, Box 2350, North Anson, ME 04958. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210, (703) 525–4050. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 161034, filed September 1, 1982. Applicant: FAIRFIELD TRANSPORTATION GROUP INC., 28 Suzanne Circle, Box 78, Fairfield, CT 06430. Representative: Charles M. McCullough, Jr. (same address as applicant), (203) 334–6687. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, between points in Fairfield and New Haven Counties, CT, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR and TX .

MC 161234, filed September 2, 1982. Applicant: FAY LARISCEY, d.b.a. LARISCEY ENTERPRISES, 6301 Flamingo, Odessa, TX 79763. Representative: Michael H. Lennox, P.O. Box 75613, Oklahoma City, OK 73147, (405) 943–2477. Transporting *Mercer commodities,* between points in AL, CA, CO, KS, KY, LA, MS, ND, NM, OK, TN, TX, WY, and WV.

MC 163694, filed September 1, 1982. Applicant: GRAY SUPPLY COMPANY, 13th and Marion Sts., P.O. Box 961, North Little Rock, AR 72119. Representative: M. Douglas Wood, 201 W. Broadway, P.O. 5606, North Little Rock, AR 72119, (501) 376–3700. Transporting *metal products,* between points in the U.S. (except AK and HI), under continuing contract(s) with A. Tenebaum Company, Inc. of North Little Rock, AR and Arkansas Aluminum Alloys, Inc. of Hot Springs, AR.

Please direct status inquiries about the following to Team 4 (202) 275–7669.

Volume No. OP4–338

Decided: September 20, 1982.

By the Commission, Review Board Number 2, Members Carleton, Williams and Ewing.

MC 151576 (Sub-2), filed August 30, 1982. Applicant: CHESAPEAKE TRUCKING, INC., 4717 W. Military Hwy., Chesapeake, VA 23321. Representative: Ernest E. Stovall (same address as applicant), (804) 488–6646. Transporting (1) *Lumber and wood products,* and (2) *building materials,* between points in AL, CT, DE, FL, GA, IN, KY, ME, MD, MA, NJ, NH, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC.

MC 155007, filed August 25, 1982. Applicant: FOUR STAR FREIGHTWAYS, INC., 5350 W. 39th St. (rear), Cicero, IL 60650. Representative: Albert A. Andren, 180 N. LaSalle St., Chicago, IL 60601, (312) 332–5106. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Advance Transformer Co., of Elk Grove Village, IL and Harco Aluminum Inc., of Chicago, IL.

MC 162836 (Sub-1), filed August 26, 1982. Applicant: J. KENNETH KATZMAN, JR., INC., 31029 Bushnell Rd., Burlington, WI 53105. Representative: Fred H. Figge, 513 Lewis St., Burlington, WI 53105, (414) 763–6296. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in IL, IN, IA, MI, MN and WI, under continuing contract(s) with Burlington Consumers Cooperative, Packaging Corporation of America, Burlington Farm Implement Co., Kenneth (Chuck) Katzman Jr. Farms, and Kenneth Katzman Jr., all of Burlington, WI. Condition: Issuance of a certificate in this proceeding is subject to the prior or coincidental cancellation, at applicant's written request, of Certificate of Registration No. MC–162836.

MC 163596, filed August 27, 1982. Applicant: ACE WAY TOURS, INC., 1407 St. John Ave., Albert Lea, MN 56007. Representative: Val M. Higgins, 1600 TCF Tower, 121 S. 8th St., Minneapolis, MN 55402. To operate as a *broker,* at Albert Lea, MN, in arranging for the transportation of *passengers and their baggage,* between points in the U.S.

Please direct status inquiries about the following to Team 5 (202) 275–7289.

Volume No. OP5–190

Decided: September 14, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC 163679, filed September 2, 1982. Applicant: AXLS INDUSTRIES, INC., d.b.a. BY THE WAY TOURS, 6425 Darby Ave., Las Vegas, NV 89102. Representative: John E. Cebular (same address as applicant), 702–362–4010. Transporting *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, between points in NV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163679, filed September 2, 1982. Applicant: AXIS INDUSTRIES, INC., d.b.a. BY THE WAY TOURS, 6425 Darby Ave., Las Vegas, NV 89102. Representative: John E. Cebular (same address as applicant), 702–362–4010. Transporting *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, between points in NV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163128, filed September 2, 1982. Applicant: BMC TRANSPORTATION COMPANY, P.O. Box 569, Columbus, NE 68601. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, 402–475–6761. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. under continuing contract(s) with Lindsay Manufacturing Co., Inc of Lindsay, NE; Roberts & Dybdahl Inc. of Des Moines, IA; Reserve Lumber Company of Rock River, OH; Fox Lumber Co. of Hamilton, MT; Mid-West Lumber Company of Lincoln, NE; and Wickes Companies, Inc., of Santa Monica, CA.

MC 163279, filed August 27, 1982. Applicant: EDGAR M. HERR, INC., R.D. #2, Box 395, Quarryville, PA 17566. Representative: John W. Metzger, 49 N.

Duke St., Lancaster, PA 17602, (717) 299–1181. Transporting (1) *fertilizer* between Hopewell, VA, Wilmington, DE, and Baltimore, MD, on the one hand, and, on the other, points in Lancaster and Chester Counties, PA, and (2) *soybean meal* between points in Wicomico County, MD, and points in VA, on the one hand, and, on the other, points in PA.

MC 163689, filed September 1, 1982. Applicant: BFI, INC., 19695 Sun Circle, West Linn, OR 97068. Representative: John G. McLaughlin, 1600 One Main Pl., 101 SW Main St., Portland, OR 97204, (503) 224–5525. Transporting *bulk commodities*, between points in WA, OR, ID, and CA, under continuing contract(s) with Pozzolanic Northwest, Inc., of Mercer Island, WA, Western Industrial Supply Company, Inc., of Portland, OR, Borden Chemical, a division of Borden, Inc., of Bellevue, WA, and Reichhold Chemicals, of White Plains, NY.

MC 163698, filed September 2, 1982. Applicant: JOHN NICKEL, d.b.a. CAL WEST ENTERPRISES, 17325 Midwood Dr., Granada Hills, CA 91344. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, 714–667–8107. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter operations, beginning and ending at points in Los Angeles and Orange Counties, CA and extending to points in AZ, NV and UT.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26102 Filed 9-22-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 296]

Motor Carriers; Permanent Authority Decisions; Restriction Removals, Decision-Notice

Decided: September 16, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Williams, and Higgins.

Agatha L. Mergenovich,

Secretary.

MC 25443 (Sub-6)X, filed September 7, 1982. Applicant: V. J. MARRIAN TRUCKING CORPORATION, 60 Hudson Street, New York, NY 10013. Representative: Charles J. Williams, P.O. Box 186, Scotch Plains, NJ 07076. Subs 4 and 5 permits: (1) Remove the "uncrated" restriction, Sub 5; and (2) broaden to "between points in the U.S. (except Alaska and Hawaii)", under continuing contract(s) with named shippers, both Subs.

MC 127156 (Sub-1)X, filed September 7, 1982. Applicant: C&E BRADLEY'S INC., P.O. Box 139, Wrangell, AK 99929. Representative: Warren G. Kellicut, Suite 500, 437 "E" St., Anchorage, AK 99501. Lead certificate, which authorizes "general commodities (except those of unusual value, and classes A and B explosives)," broaden the territory to: "between points within the First Judicial District of AK" (from between points on Wrangell Island, AK).

MC 145797 (Sub-16)X, filed September 7, 1982. Applicant: NANCY TRANSPORTATION, INC., 111 Hilltown Village Center, Chesterfield, MO 60317. Representative: Daniel J. Sweeney and Steven J. Kalish, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20006. Subs 2, 3, 4, 6, 9, and 11: (1) broaden to (a) "drugs and chemicals and related products" from drugs and chemicals, in Subs 2 and 6, (b) "food and related products, and foodstuffs" from foodstuffs, in Subs 4 and 9, (c) "building and construction materials" from materials and hardware used in the manufacture and sale of overhead door sections, in Sub 11 part (2); (2) change one-way to radial, in all Subs; (3) expand to city or counties: (a) in Sub 2, Elkhart, IN (Elkhart County), facilities at St. Louis, MO and Sauget, IL (St. Louis, MO and St. Clair County, IL), Elkhart and South Bend, IN (Elkhart and Saint Joseph Counties), (b) in Sub 3, North Bergen, NJ (Hudson, Bergen, Passaic, and Essex Counties, NJ, and Kings, Queens, New York, and Bronx Counties, NY), facilities at St. Louis, MO (St. Louis, MO), (c) in Subs 4 and 9, facilities at Itasca, IL (Du Page County), facilities at St. Louis, MO (St. Louis, MO), (d) in Sub 6, facilities at Elkhart, IN (Elkhart County), West Haven, CT (New Haven County), (e) in Sub 11, facilities at Dallas and Ft. Worth, TX (Dallas and Tarrant Counties); and (4) remove originating or destined to restriction in Subs 3 and 4.

MC 146485 (Sub-4)X, filed September 7, 1982. Applicant: MARBURGER REFRIGERATED EXPRESS, INC., P.O. Box 387, Peru, IN 46970. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Lead and Sub 1F: (1) Broaden frozen fruits, frozen vegetables, frozen potatoes, frozen meats, and foodstuffs to "food and related products (except in bulk)"; (2) eliminate the facilities limitations; (3) expand (a) Caldwell and Heyburn to Canyon and Minidoka Counties, ID, in the lead; (b) Peru to Miami County, IN, in the lead and Sub 1F; and (c) Indianapolis and West LaFayette to Marion and Tippecanoe Counties, IN in the lead; and (4) remove the orginating at/and destined to restrictions.

MC 146900 (Sub-2)X, filed September 7, 1982. Applicant: BOBBY W. RAGAN d.b.a. TEKAMAH TRANSFER, 1414 "J" Street, Tekamah, NE 68061. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114. Lead certificate: (1) Broaden commodity description from (a) general commodities with exceptions to "general commodities (except classes A and B explosives and household goods)"; and (b) feed, farm machinery, farm parts and draintile to "food and related products, transportation equipment, machinery, and clay, concrete, glass or stone products"; (2) broaden (a) regular route off-route points from Council Bluffs, IA to

Pottawattamie and Mills Counties, IA and Douglas and Sarpy Counties, NE; and Decatur, NE, to Thurston and Burt Counties, NE, and Monona County, IA; (b) irregular route Sioux City, IA to Woodbury and Plymouth Counties, IA, Dakota County, NE, and Union County, SD; Tekamah, NE and 25 miles thereof to Burt, Thurston, Cuming, Dodge, and Washington Counties, NE, and Harrison and and Monona Counties, IA, and (3) change one-way to radial authority on the irregular route; and authorize service to all intermediate points on the regular route.

[FR Doc. 82-26191 Filed 9-22-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 158]

Motor Carriers; Permanent Authority; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register**.

An original and one copy of opposing verified statements must be filed with the Commission within 45 days after the date of this **Federal Register** notice. Applicant may file a verified statement in rebuttal within 60 days. Such pleadings shall comply with 49 CFR 1100.247 (renumbered 1100.251) addressing specifically the issue(s) indicated as the purpose for republication. Special Rule 247 (renumbered 251) was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Agatha L. Mergenovich,

Secretary.

MC 92371 (Sub-6), (Republication), filed February 22, 1982, published March 10, 1982, and republished this issue. Applicant: SUNCREST TRANSPORTATION, INC., d.b.a. SHEARERS EXPRESS, PO Box 189, Commercial Drive, Oneonta, NY 13820. Representative: Raymond A. Richards, 35 Curtice PK, Webster, NY 14580, (716) 265-9510. A decision by the Commission, Division 2, acting as an Appellate Division, decided July 29, 1982, served August 4, 1982, finds that applicant is authorized to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *textile mill products, pulp, paper and related products, chemicals and related products, rubber and plastic products, clay, concrete, glass or stone products, and wood products*, between points in Missouri and in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the International boundary line between the United States and Canada. Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to include Missouri in the territorial description.

Note.—Certificate served September 1, 1982, will be cancelled upon issuance of the authority granted.

[FR Doc. 82-26186 Filed 9-22-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-103 (Sub-5)]

Rail Carriers; Kansas City Southern Railway Co.—Abandonment—In Jackson County, MO; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Kansas City Southern Railway Company to abandon its rail line known as the Maywood and Sugar Creek Branch extending from railroad milepost 0 to railroad milepost 1+28184 feet and the Independence Air Line Branch railroad milepost 5E+4161.6 feet to railroad milepost 8E+1874.3 feet, a distance of approximately 4.1 miles in Jackson County, MO, subject to certain conditions. Since no investigation was instituted, the requirement of § 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26188 Filed 9-22-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-3 (Sub-31)]

Rail Carriers; Missouri Pacific Railroad Co.—Abandonment—In Clark and Pike Counties, AR; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Missouri Pacific Railroad Company to abandon a portion of a line of railroad known as the Norman Subdivision, extending from railroad milepost 446.6 near Delight Junction to railroad milepost 453.2 at Delight, a distance of 6.6 miles in Clark and Pike Counties, AR, subject to certain conditions. Since no investigation was instituted, the requirement of § 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26189 Filed 9-22-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30017]

Rail Carriers; Old Augusta Railroad Co.—Exemption From 49 U.S.C. 11301

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11301 the issuance of securities by the Old Augusta Railroad Company of 1,000 shares of common stock, at $1.00 per share to Leaf River Forest Products, Inc., to finance its initial capitalization.

DATES: This exemption will be effective on October 25, 1982. Petitions to stay the effectiveness of this decision must be filed by October 4, 1982, and petitions for reconsideration must be filed by October 13, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5349, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Fritz R. Kahn, Suite 1100, 1660 L Street, NW., Washington, DC 20036.

Pleadings should refer to Finance Docket No. 30017.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area (800) 424–5403—Toll-free for outside the DC area.

Decided: September 16, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26190 Filed 9-22-82; 8:45 am]

BILLING CODE 7035-01-M

[AB 26 (SDM)][1]

Rail Carriers; Southern Railway Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Southern Railway Company has filed with the Commission its amended color-coded system diagram map in docket No. AB 26 (SDM). The Commission on September 9, 1982, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 26 (SDM).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26187 Filed 9-22-82; 8:45 am]

BILLING CODE 7035-01-M

[1] AB 26 (SDM) includes its consolidated subsidiaries: Ab 27 (SDM), The Alabama Great Southern Railroad Company; AB 28 (SDM), Central of Georgia Railroad Company; AB 29 (SDM), The Cincinnati, New Orleans and Texas Pacific Railway Company; AB 30 (SDM), Georgia Southern and Florida Railway Company; AB 64 (SDM), Chattanooga Station Company; AB 118 (SDM), Albany Passenger Terminal Company; and AB 125 (SDM), Norfolk Southern Railway Company.

NATIVE HAWAIIANS STUDY COMMISSION

Publication of Draft Report of Findings

The Native Hawaiians Study Commission announces the publication of its Draft Report of Findings. A limited number of copies is available from the Commission's offices in Washington, D.C. (U.S. Department of the Interior Bldg., 18th and C Sts., N.W., Room 6220, Washington, D.C. 20240; 202–343–3107) and in Honolulu (P.O. Box 50247, Honolulu, Hawaii 96850; 808–546–3180).

The Commission was created by Title III of Public Law 96–565 on December 22, 1980. The mandate of the Commission is to "conduct a study of the culture, needs and concerns of the Native Hawaiians." The Commission first met September 23, 1981. The law creating the Commission states that:

> Within one year after the date of its first meeting, the Commission shall publish a draft report of findings of the study and shall distribute copies of the draft report to appropriate Federal and State agencies, to Native Hawaiian organizations, and upon request, to members of the public. The Commission shall solicit written comments from the organizations and individuals to whom copies of the draft report are distributed. (Sec. 303(c))

The Commission has set a 60-day period in which to allow government agencies and the public to comment on the draft report of findings. Written comments must be sent to the Commission no later than November 23, 1982, at the following address:

The Native Hawaiians Study Commission, Department of the Interior Building, 18th and C Sts., N.W.—Room 6220, Washington, D.C. 20240

The Commission will consider all comments received by that date as it prepares its final report. The final report will be submitted to the U.S. Congress and to the President no later than June 23, 1983.

For further information, call Mary Lyon-Allen on 202–343–3107.

Mary Lyon-Allen,

Executive Director.

[FR Doc. 82-25691 9-22-82; 8:45 am]

BILLING CODE 4820-BE-M

NATIONAL LABOR RELATIONS BOARD

Privacy Act of 1974; Systems of Records, Annual Publication

AGENCY: National Labor Relations Board.

ACTION: Annual publication of notices of systems of records.

SUMMARY: The National Labor Relations Board is publishing this document to meet the annual publication requirements of Section 3(e)(4) of the Privacy Act of 1974 (5 U.S.C. 552a). The Agency previously published a complete listing of its systems of records in 45 FR 61821 and an amended listing in 46 FR 47328. This publication is a complete and current listing of the Agency's fourteen Notices of Systems of Records identified as NLRB–1 through NLRB–14 and Appendix, listing the NLRB Offices. Modifications have been made to some of the Notices for purposes of completeness and clarity, and to show changes in organizational designations and locations. These changes are administrative in nature and do not contain any new material which requires a new or altered system report or public comment. The minor changes and the names of the systems of records for which the changes apply are described under the heading "**SUPPLEMENTARY INFORMATION,**" below.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, National Labor Relations Board, Room 701, 1717 Pennsylvania Avenue, NW., Washington, DC 20570, telephone (202) 254–9430.

SUPPLEMENTARY INFORMATION: Those systems of records for which changes apply are:

NLRB–3 Biographical Data File—Presidential Appointees;

NLRB–8 Health Maintenance Program Records;
NLRB–10 Pay Records-Retirement;
NLRB–11 Payroll-Finance Records;
NLRB–13 Time and Attendance Records, NLRB.

Changes to the above systems of records include: (1) The titles of the system managers and locations of records for systems NLRB–3 and NLRB–8; (2) textual changes to NLRB–8 for purposes of clarity and thoroughness; (3) minor modifications of NLRB–10, NLRB–11, and NLRB–13 to provide for the necessary maintenance and processing of information for the purposes of preparing and issuing employee salary and compensation checks under the recently implemented Treasury Payroll/Personnel Information System (TPPIS); and (4) a complete updating of the Appendix.

A listing of all NLRB system notices and their complete texts appear below.

Dated: Washington, D.C., September 17, 1982.

By direction of the Board.

John C. Truesdale,

Executive Secretary.

NLRB–1 Accounting Records—Financial
NLRB–2 Applicant Files for Attorney and Field Examiner Positions
NLRB–3 Biographical Data File—Presidential Appointees
NLRB–4 Claim Records
NLRB–5 Employment and Performance Records, Attorneys and Field Examiners
NLRB–6 Employment and Performance Records, Nonprofessionals and Nonlegal Professionals
NLRB–7 Grievances, Appeals, and Complaints Records
NLRB–8 Health Maintenance Program Records
NLRB–9 Occupational Injury and Illness Records
NLRB–10 Pay Records—Retirement
NLRB–11 Payroll—Finance Records
NLRB–12 Prefiling Communications
NLRB–13 Time and Attendance Records, NLRB
NLRB–14 Equal Employment Opportunity Program Management System

Appendix

NLRB–1

SYSTEM NAME:

Accounting Records—Financial.

SYSTEM LOCATION:

Current records are maintained in: Financial Management Branch, NLRB, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570. Each Washington and Field Office is authorized to maintain copies of records relating to reimbursements to employees of that office and other individuals covered within system. See the attached appendix for addresses of these offices. Inactive records are stored at the appropriate Federal records center in accordance with Federal Property Management Regulations of the U.S. General Services Administration (FPMR 101–11.4).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals reimbursed for expenses in connection with the official functions of the NLRB: i.e., travel on official business, witness fees and transportation expenses, and miscellaneous expenses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include name; home or office address; organizational unit number; purpose, duration, and cost for travel assignments of Agency employees; purpose, duration, points of travel, and cost for witnesses used by the Agency; purpose, category, and cost of miscellaneous expenses incurred by Agency employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records, or information therefrom, are disclosed:

1. To Agency officials and employees who have a need for the records or information:

a. In the processing of claims for reimbursements.

b. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies.

2. To respond to general requests for statistical information (without personal identification of individuals).

3. To individuals who need the information in connection with the processing of an appeal, grievance, or complaint. Wherever feasible, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

4. To the U.S. General Accounting Office for audit purposes or determination of validity of claims.

5. To the U.S. Department of Treasury for issuance of checks.

6. To the appropriate agency, whether Federal, state, or local, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, charged with the responsibility of investigating or prosecuting such violation or enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, or to any agency in connection with its oversight review responsibility.

7. To another agency, whether Federal, state, or local, or private organization where reimbursable arrangements exists between this Agency and such other agency or private organization.

8. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

9. To officials of labor organizations recognized under Pub. L. 95–454, when relevant and necessary to their duties of exclusive representation of NLRB employees under the Act. Wherever feasible and consistent with responsibilities under the Act, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on original source documents except travel summary cards which are maintained on microfilm.

RETRIEVABILITY:

Chronologically by year, and within each year alphabetically by name.

SAFEGUARDS:

Original source documents are maintained in file cabinets within the Finance Section office. Microfilm is maintained in a locked fireproof cabinet within the Services and Systems office. During duty hours cabinets are under surveillance of personnel charged with custody of the records, and after duty hours are behind locked doors. Access is limited to personnel who have a need for access in order to perform their official functions.

RETENTION AND DISPOSAL

Maintained and disposed of in accordance with U.S. General Services Administration retention regulations.

SYSTEM MANAGER(S) AND ADDRESS:

Finance Officer, NLRB, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570.

See the attached appendix for the titles and addresses of officials at other locations responsible for this system at their locations.

NOTIFICATION PROCEDURE:

1. Current NLRB employees inquiring whether this system contains records on them should direct such inquiries to their supervisors.

2. An individual other than a current NLRB employee inquiring whether this system contains a record on such individual should direct such inquiry to the "System Manager" specified above, or to the responsible official designated under "System Manager" as responsible for the system in the geographic area where the expense was incurred.

3. In determining whether this system contains records on the inquirer, the following information is required: The inquirer's name and the year about which inquiry is being made.

RECORD ACCESS PROCEDURES:

An individual seeking to gain access to records in this system pertaining to such individual should contact the appropriate official or office designated under "Notification procedure." In granting access to records in this system, the following information is required: The inquirer's name and the year about which inquiry is being made.

CONTESTING RECORD PROCEDURES:

An individual seeking to contest records in this sytem pertaining to such individual should contact the appropriate official or office designated under "Notification procedure."

RECORD SOURCE CATEGORIES:

Travel vouchers, witness vouchers, and lodging and miscellaneous receipts submitted by the individual; travel orders submitted by Agency officials; subpoenas; claims for reimbursements; and miscellaneous correspondence and information related thereto.

NLRB-2

SYSTEM NAME:

Applicant Files for Attorney and Field Examiner Positions.

SYSTEM LOCATION:

Office of Executive Assistant to the Associate General Counsel; Board Members' Offices; Office of the Solicitor, NLRB, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570.

Washington and Field Offices are authorized to maintain the records or copies of the records in connection with processing of applications for employment in the Agency. See the attached appendix for addresses of the Washington and Field Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for Attorney or Field Examiner positions in offices under the general supervision of the General Counsel; applicants for Attorney positions on Board Members' staffs and in the Office of the Solicitor.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include copies of employment applications, educational transcripts, resumes, employment interview reports, and other information relative to employment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records, or information therefrom, are disclosed:

1. To Agency officials and employees who have a need for the records or information:

a. To process applications and evaluate applicants.

b. As a data source for management information for production of summary statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies.

2. To respond to general requests for statistical information (without personal identification of individuals).

3. To individuals who need the information in connection with the processing of a grievance, appeal, or complaint. Wherever feasible, such information shall be furnished in depersonalized form i.e., without personal identifiers.

4. To a congressional office from the record or an individual in response to an inquiry from the congressional office made at the request of that individual.

5. To officials of labor organizations recognized under Public Law 95–454, when relevant and necessary to their duties of exclusive representation of NLRB employees under the Act. Wherever feasible and consistent with responsibilities under the Act, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

6. To the appropriate agency, whether Federal, state, or local, where there is an indication of a violation of potential violation of law, whether civil, criminal, or regulatory in nature, charged with the responsibility of investigating or prosecuting such violation or enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, or to any agency in connection with its oversight review responsibility.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper including forms, letters, and memoranda.

RETRIEVABILITY:

Alphabetically by name.

SAFEGUARDS:

Maintained in file cabinets. During duty hours cabinets are under surveillance of personnel charged with custody of the records and after duty hours are behind locked doors. Access to the cabinets is limited to personnel having a need for access to perform their official functions.

RETENTION AND DISPOSAL:

Retained for an indefinite period of time.

SYSTEM MANAGER(S) AND ADDRESS:

1. To those applicants for positions under supervision of the General Counsel—Executive Assistant to the Associate General Counsel, NLRB, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570.

2. To those applicants for positions under supervision of a Board Member—Chief Counsel to that Board Member, NLRB, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570.

3. To those applicants for positions under supervision of the Solicitor—Solicitor, NLRB, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570.

NOTIFICATION PROCEDURE:

An individual inquiring whether this system contains a record on such individual should direct such inquiry to the appropriate System Manager specified above.

RECORD ACCESS PROCEDURES:

An individual seeking to gain access to records in this system pertaining to such individual should contact the appropriate System Manager specified above.

CONTESTING RECORD PROCEDURES:

An individual seeking to contest records in this system pertaining to such individual should contact the appropriate System Manager specified above.

RECORD SOURCE CATEGORIES:

Applicants, educational institutions, interviewers, evaluators, personnel specialists, references, previous employers.

NLRB-3

SYSTEM NAME:

Biographical Data File—Presidential Appointees

SYSTEM LOCATION:

Office of the Executive Secretary NLRB, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former Presidential appointees to NLRB positions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include biographical sketches: news releases, news articles on speeches and other newsmaking activities; photographs, and material incidental thereto.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records, or information therefrom, are disclosed:

1. To Agency officials and employees who have a need for the records or information in the performance of their duties.

2. To the public upon demonstrated interest.

3. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on original sources or related papers in file folders.

RETRIEVABILITY:

Alphabetically by name.

SAFEGUARDS:

Maintained in file cabinets within the Office of the Executive Secretary. During duty hours, cabinets are under the surveillance of office personnel charged with custody of the records, and after duty hours are behind locked doors.

RETENTION AND DISPOSAL:

Permanently retained.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Executive Secretary, NLRB, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

NOTIFICATION PROCEDURE:

An individual inquiring whether this system contains a record on such individual should direct such inquiry to the System Manager specified above.

RECORD ACCESS PROCEDURES:

An individual seeking to gain access to records in this system pertaining to such individual should contact the appropriate System Manager specified above.

CONTESTING RECORD PROCEDURES:

An individual seeking to contest records in this system pertaining to such individual should contact the appropriate System Manager specified above.

RECORD SOURCE CATERGORIES:

Information in this system is submitted by the individual, written by Agency staff and approved by the individual, and obtained from general news sources.

NLRB–4

SYSTEM NAME:

Claim Records.

SYSTEM LOCATION:

Security and Safety Branch, NLRB, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals filing claims under the Federal Tort Claims Act of 1946, the Military Personnel and Civilian Employees' Claims Act of 1964 and claims filed under subpart 101–39.8 of the Federal Property Management Regulations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include reports of accidents or other events causing damage or loss; statements of witnesses; claims for damage or loss, investigations of claims, including doctors' reports, if any; records on disposition of claims; and information relative to the above.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records, or information therefrom, are disclosed:

1. To Agency officials and employees who have a need for the records or information:

a. In processing claims against this Agency.

b. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies.

2. To respond to general requests for statistical information (without personal identification of individuals).

3. To the U.S. Department of Justice for purpose of processing or adjudicating claims against the Agency.

4. To a court of competent jurisdiction for adjudicating claims.

5. To investigators utilized by the Agency to obtain information relevant to a claim against the Agency.

6. To the appropriate agency, whether Federal, state, or local, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, charged with the responsibility of investigating or prosecuting such violation or enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, or to any agency in connection with its oversight review responsibility.

7. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

8. To individuals who have a need for the information in connection with the processing of an appeal, grievance, or complaint. Wherever feasible, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

9. To officials of labor organizations recognized under Pub. L. 95–454, when relevant and necessary to their duties of exclusive representation of NLRB employees under the Act. Wherever feasible and consistent with responsibilities under the Act, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on forms, documents, and other papers.

RETRIEVABILITY:

Alphabetically by name.

SAFEGUARDS:

Maintained in file safe within the office of the Security and Safety Branch. File safe remains locked except during access to records. During duty hours, file safe is under the surveillance of personnel charged with the custody of the records, and after duty hours is behind locked doors. Combination is known only to designated members of Security and Safety staff. Access is limited to personnel who have a need for access to perform their official functions.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Security and Safety Branch, NLRB, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570.

NOTIFICATION PROCEDURE:

An individual inquiring whether this system contains records on such individual should direct such inquiries to the System Manager specified above.

RECORD ACCESS PROCEDURE:

An individual seeking to gain access to records in this system pertaining to such individual should contact the System Manager specified above.

CONTESTING RECORD PROCEDURES:

An individual seeking to contest records in this system pertaining to such individual should contact the System Manager specified above.

RECORD SOURCE CATEGORIES:

Claimants, investigators, and witnesses.

NLRB–5

SYSTEM NAME:

Employment and Performance Records, Attorneys and Field Examiners.

SYSTEM LOCATIONS:

Office of Executive Assistant to Associate General Counsel, Board Members' Offices; Office of the Solicitor, NLRB, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570.
Washington and Field Offices are authorized to maintain the records or copies of the records for current and former NLRB employees of that office. See the attached appendix for addresses of the Washington and Field Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Attorneys and Field Examiners in offices under the general supervision of the General Counsel; current and former Attorneys employed on Board Members' Staffs and in the Office of the Solicitor.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include copies of employment applications, copies of personnel records, educational transcripts, resumes, employment interview reports, evaluation reports, career development appraisals, recommendations concerning promotion, copies of the official personnel file, correspondence, memoranda, and other information relevant thereto.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records, or information therefrom, are disclosed:

1. To Agency officials and employees who have a need for the records or information.

2. To individuals who have a need for the information in connection with the processing of an appeal, grievance, or complaint. Wherever feasible, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

3. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. To officials of labor organizations recognized under Pub. L. 95–454, when relevant and necessary to their duties of exclusive representation of NLRB employees under the Act. Wherever feasible and consistent with responsibilities under the Act, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

5. To the appropriate agency, whether Federal, State, or local, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, charged with the responsibility of investigating or prosecuting such violation or enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, or to any agency in connection with its oversight review responsibility.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper including forms, letters, and memoranda.

RETRIEVABILITY:

Alphabetically by name.

SAFEGUARDS:

Maintained in file cabinets. During duty hours cabinets are under the surveillance of personnel charged with custody of the records, and after duty hours are behind locked doors. Access is limited to personnel having a need for access to perform their official functions.

RETENTION AND DISPOSAL:

Retained for an indefinite period of time.

SYSTEM MANAGER(S) AND ADDRESS:

1. To those applicants for positions under supervision of the General Counsel—Executive Assistant to the Associate General Counsel, NLRB, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570

2. To those applicants for positions under supervision of a Board Member—Chief Counsel to that Board Member, NLRB, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570

3. To those applicants for positions under supervision of the Solicitor—Solicitor, NLRB, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570.

See the attached appendix for titles and addresses of officials at other locations responsible for this sytem at their locations.

NOTIFICATION PROCEDURE:

1. Current NLRB employees inquiring whether this system contains records on such individuals should direct such inquiries to their supervisors.

2. An individual other than a current NLRB employee inquiring whether this system contains a record on such individual should direct such inquiry to the appropriate System Manager specified above, or to the official designated under "System Manager" as responsible for the system in the office where the individual was formerly employed.

RECORD ACCESS PROCEDURES:

An individual seeking access to records in this sytem pertaining to such individual should contact the appropriate official or office designated under "Notification procedure."

CONTESTING RECORD PROCEDURES:

An individual seeking to contest records in this system pertaining to such individual should contact the appropriate official or office designated under "Notification procedure."

RECORD SOURCE CATEGORIES:

The individual, the Personnel Branch, educational institutions, interviewers, evaluators, references, previous employers, and supervisors.

NLKRB–5

SYSTEM NAME:

Employment and Performance Records, Nonprofessionals and Nonlegal Professionals

SYSTEM LOCATIONS:

Records are authorized to be maintained for current and former NLRB employees in all Agency offices. See the attached appendix for the addresses of these offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former nonprofessional employees and nonlegal professional employees of the Agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include copies of employment applications, educational transcripts, resumes, employment interview reports, evaluation reports, career development appraisals, recommendations concerning promotion, copies of personnel records, correspondence, memoranda, and other information relevant thereto.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records, or information therefrom, are disclosed:

1. To Agency officials and employees who have a need for the records or information to evaluate job performance, developmental needs, potential within the Agency, and readiness for promotion.

2. To individuals who have a need for the information in connection with the processing of a grievance, appeal, or complaint. Wherever feasible, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

5. To the appropriate agency, whether Federal, state, or local, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, charged with the responsibility of investigating or prosecuting such violation or enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, or to any agency in connection with its oversight review responsibility.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper including forms, letters, and memoranda.

RETRIEVABILITY:

Alphabetically by name.

SAFEGUARDS:

Maintained in file cabinets. During duty hours cabinets are under the surveillance of personnel charged with custody of the records, and after duty hours are behind locked doors. Access is limited to personnel having a need for access to perform their official functions.

RETENTION AND DISPOSAL:

Retained for an indefinite period of time.

SYSTEM MANAGER(S) AND ADDRESS:

See the attached appendix for the titles and addresses of officials responsible for this system at their locations.

NOTIFICATION PROCEDURE:

1. Current NLRB employees inquiring whether this system contains records on such individuals should direct such inquiries to their supervisors.

2. An individual other than a current NLRB employee inquiring whether this system contains a record on such individual should direct such inquiry to the official designated under "System Manager" as responsible for the system in the office where the individual was formerly employed.

RECORD ACCESS PROCEDURES:

An individual seeking access to records in this system pertaining to such individual should contact the appropriate official or office designated under "Notification procedure."

CONTESTING RECORD PROCEDURES:

An individual seeking to contest records in this system pertaining to such individual should contact the appropriate official or office designated under "Notification procedure."

RECORD SOURCE CATEGORIES:

The individual, the Personnel Branch, professional employees, educational institutions, interviewers, evaluators, references and previous employers.

NLRB–7

SYSTEM NAME:

Grievances, Appeals, and Complaints Records.

SYSTEM LOCATIONS:

Records are authorized to be maintained for current and former NLRB employees in all Agency offices. See the attached appendix for the addresses of these offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include formal or informal grievances, appeals, and complaints, together with information and documents related thereto; letters or notices to the individual; records of hearings when conducted, material placed in the file to support or contradict the decision or determination on such grievance, appeal, or complaint; affidavits or statements; testimonies of witnesses; investigative reports; and related correspondence and recommendations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records, or information therefrom, are disclosed:

1. To Agency officials and employees who have a need for the records or information.

2. To respond to general requests for statistical information (without personal identification of individuals).

3. To the appropriate agency, whether Federal, State, or local, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, charged with the responsibility of investigating or prosecuting such violation or enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, or to any agency in connection with its oversight review responsibility.

4. To respond to a subpoena and/or refer to an arbitrator or court of competent jurisdiction.

5. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

6. To officials of labor organizations recognized under Pub. L. 95–454, when relevant and necessary to their duties of exclusive representation of NLRB employees under the Act. Wherever feasible and consistent with responsibilities under the Act, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

7. To individuals who have a need for the information in connection with the processing of a grievance, appeal, or complaint. Wherever feasible, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on forms, documents, letters, memoranda, and other similar papers.

RETRIEVABILITY:

Alphabetically by name.

SAFEGUARDS:

Access to and use of the records are limited to those persons whose official duties require such access until the records are required to be made public in support of an Agency action or position. These records are maintained in file cabinets which during duty hours are under the surveillance of personnel charged with custody of the records and after duty hours are behind locked doors.

RETENTION AND DISPOSAL:

Maintained for an indefinite period of time.

SYSTEM MANAGER(S) AND ADDRESS:

1. To those employees under supervision of the General Counsel—Deputy General Counsel, NLRB, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570.

2. To those employees under supervision of the Board—Deputy

Executive Secretary, NLRB, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570.

NOTIFICATION PROCEDURE:

1. Inquiries from current NLRB employees on whether this system contains records on such individuals should be directed to their supervisors.

2. Inquiries from individuals other than current NLRB employees as to whether this system contains records on such individuals should be directed to the appropriate System Manager specified above.

RECORDS ACCESS PROCEDURES:

A current NLRB employee seeking to gain access to records in this system pertaining to such employee should contact his or her supervisor.

An individual other than a current NLRB employee seeking to gain access to records in this system pertaining to such individual should contact the appropriate System manager specified above.

CONTESTING RECORD PROCEDURES:

A current NLRB employee seeking to contest records in this system pertaining to such employee should contact his or her supervisor.

An individual other than a current NLRB employee seeking to contest records in this system pertaining to such individual should contact the appropriate System Manager specified above.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from the individual to whom the record pertains; Agency officials; affidavits, statements, and record testimony of individuals; and other documents and memoranda relating to the grievance, appeal, or complaint.

NLRB–8

SYSTEM NAME:

Health Maintenance Program Records

SYSTEM LOCATION:

Personnel Branch, NLRB, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current NLRB employees participating in Agency sponsored health maintenance programs, such as Employee Health Maintenance Examinations (EHME's), diabetes tests, glaucoma tests, vision tests, blood donor program, and similar program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may involve recorded information on Health Unit immunization cards which include individuals' names and dates of participation in health maintenance programs, and the name of the screening program in which participated. Also, for blood donor program, contains social security number, sex, donor identification number, home address and telephone, date of last donation, medications being taken, blood type, whether accepted or deferred as donor, and information relevant to the above.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records, or information therefrom, are disclosed:

1. To Agency officials and employees working with the program who have a need for the records or information:

a. In the administration of voluntary health maintenance programs.

b. As a data source for production of summary description statistics and analytical studies in support of the function for which the records are collected and maintained (without personal identification of individuals).

2. To respond to general requests for statistical information (without personal identification of individuals).

3. To the American Red Cross insofar as the records or information pertain to the blood donor program.

4. To the U.S. Department of Health and Human Services in the administration of public health service programs.

5. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on logs, forms, and other papers.

RETRIEVABILITY:

By program name and within each program alphabetically by name.

SAFEGUARDS:

Maintained in file safe within the offices of the Personnel Branch and the Health Unit. File safe remains locked except during access to records. During duty hours, file safe is under the surveillance of personnel charged with the custody of the records, and after duty hours is behind locked doors. Combination is known only to designated members of the Personnel Branch. Access is limited to personnel who have a need for access to perform their official functions.

RETENTION AND DISPOSAL:

Retained until employee leaves the Agency, or for six years, whichever comes first.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Special Programs and Services Unit, Personnel Branch, Room 334, NLRB, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570.

NOTIFICATION PROCEDURE:

1. An individual inquiring whether this system contains records on such individual should direct such inquiries to the System Manager specified above.

2. In determining whether this system contains records on the inquirer, the following information is required: the inquirer's name and the particular health maintenance program about which inquiry is being made.

RECORD ACCESS PROCEDURES:

An individual seeking to gain access to records in this system should contact the System Manager specified above.

In granting access to records in this system, the following information is required: The inquirer's name and the particular health maintenance program about which inquiry is being made.

CONTESTING RECORD PROCEDURES:

An individual seeking to contest records in this system pertaining to such individual should contact the System Manager specified above.

RECORD SOURCE CATEGORIES:

Information submitted by individual; officials of the servicing health units; and American Red Cross.

NLRB–9

SYSTEM NAME:

Occupational Injury and Illness Records.

SYSTEM LOCATION:

Security and Safety Branch, NLRB, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570. Each Washington and Field Office is authorized to maintain copies of records in this system. See the attached appendix for addresses of the Washington and Field Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NLRB employees who have reported a work-related injury or illness.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include information pertaining to the complete history of the employee's occupational injury or illness, including any doctors' or investigative reports submitted, and the disposition of claims for compensation filed under the Federal Employees Compensation Act and information relative thereto.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records, or information therefrom, are disclosed:

1. To Agency officials and employees who have a need for the records or information:

a. In processing reports of occupational injury or illness and claims for compensation under the Federal Employees Compensation Act.

b. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personal management functions or manpower studies.

2. To respond to general requests for statistical information (without personal identification of individuals).

3. To the U.S. Department of Labor for purposes of adjudicating claims for compensation under the Federal Employees Compensation Act.

4. To the U.S. Department of Health and Human Services in the administration of public health service programs.

5. To a court of competent jurisdiction for adjudicating claims arising under the Federal Employees Compensation Act.

6. To an investigator utilized by the Agency to obtain information relevant to a claim arising under the Federal Employees Compensation Act.

7. To the appropriate agency, whether Federal, state, or local, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, charged with the responsibility of investigating or prosecuting such violation or enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, or to any agency in connection with its oversight review responsibility.

8. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

9. To officials of labor organizations recognized under Pub. L. 95–454, when relevant and necessary to their duties of exclusive representation of NLRB employees under the Act. Wherever feasible and consistent with responsibilities under the Act, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

10. To individuals who need the information in connection with the processing of an appeal, grievance or complaint. Whenever feasible such information shall be furnished in depersonalized form, i.e., without personal identifiers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on forms and related correspondence.

RETRIEVABILITY:

Alphabetically by name.

SAFEGUARDS:

Maintained in file safe within the Security and Safety Office. File safe remains locked except during access. During duty hours file safe is under the surveillance of personnel charged with the custody of the records, and after duty hours is behind locked doors. Combination is known only to designated members of Security and Safety staff. Access is limited to personnel who have a need for access to perform their official functions.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Security and Safety Branch, NLRB, 1717 Pennsylvania Avenue, NW., Washington, D.C. 20570. See the attached appendix for the titles and addresses of officials at other locations responsible for this system at their locations.

NOTIFICATION PROCEDURE:

An individual requiring whether this system contains a record on such individual should direct such inquiry to the System Manager specified above.

RECORD ACCESS PROCEDURES:

An individual seeking to gain access to records in this system pertaining to such individual should contact the System Manager specified above.

CONTESTING RECORD PROCEDURES:

An individual seeking to contest records in this system pertaining to such individual should contact the System Manager specified above.

RECORD SOURCE CATEGORIES:

Forms completed by the employee; witnesses; investigators; employee's supervisor; claims examiners of the U.S. Department of Labor; and doctors' statements, if any.

NLRB–10

SYSTEM NAME:

Pay Records—Retirement

SYSTEM LOCATION:

Financial Management Branch, NLRB, 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current NLRB employees under the Civil Service Retirement System.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include name, previous name if any; social security number; sex, birth date; entrance-on-duty date; employment history, including prolonged leave without pay; and monetary contributions to retirement fund made during employment, and information relevant thereto.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records, or information therefrom, are disclosed:

1. To Agency officials and employees who have a need for the records or information:

a. To administer the Civil Service Retirement System within the Agency.

b. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies.

2. To respond to general requests for statistical information (without personal identification of individuals).

3. To the Office of Personnel Management for administering the Civil Service Retirement System.

4. To the U.S. General Accounting Office for audit purposes.

5. To the appropriate agency, whether Federal, state, or local, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, charged with the responsibility of investigating or prosecuting such violation or enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, or to any agency in connection with its oversight review responsibility.

6. To a congressional office from the record of an individual in response to an

inquiry from the congressional office made at the request of that individual.

7. To officials of labor organizations recognized under Pub. L. 95–454, when relevant and necessary to their duties of exclusive representation of NLRB employees under the Act. Whenever feasible and consistent with responsibilities under the Act, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

8. To individuals who need the information in connection with the processing of an appeal, grievance or complaint. Wherever feasible, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on employment history cards and source documents.

RETRIEVABILITY:

By organizational unit and within each unit by employee name or social security number.

SAFEGUARDS:

Maintained in file cabinets within the Payroll and Report Section office. During duty hours file cabinets are under survillance of personnel charged with custody of the records, and after duty hours are behind locked doors. Access is limited to personnel who have a need for access to perform their official functions.

RETENTION AND DISPOSAL:

Maintained only on current employees. Transferred to the Office of Personnel Management upon termination of service with the Agency.

SYSTEM MANAGER(S) AND ADDRESS:

Finance Officer, NLRB, 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570.

NOTIFICATION PROCEDURE:

1. An individual inquiring whether this system contains a record on such individual to the System Manager designated above.

2. In determining whether this system contains records on the inquirer, the following information is required: The inquirer's name and the organizational unit in which currently employed.

RECORD ACCESS PROCEDURES:

1. An individual seeking to gain access to records in this system pertaining to such individual should contact the System Manager specified above.

2. In granting access to records in this system, the following information is required: The inquirer's name and the year about which inquiry is being made.

CONTESTING RECORD PROCEDURES:

An individual seeking to contest records in this system pertaining to such individual should contact the System Manager specified above.

RECORD SOURCE CATEGORIES:

Personnel Branch, timekeepers, and supervisors.

NLRB–11

SYSTEM NAME:

Payroll—Finance Records

SYSTEM LOCATION:

Current records are maintained in:

Financial Management Branch, NLRB, 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570.

Inactive records are stored at the appropriate Federal records center in accordance with Federal Property Management Regulations of the U.S. General Services Administration (FPMR 101–11.4).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include each employee's name, date of birth, home address, payroll identification number, organizational unit number, block number pay plan, grade and step, social security number, state identification code and name, leave earned and used, composite designator code and account number, and for the current pay period, quarterly and year-to-date hours worked, base pay, overtime pay, premium pay, miscellaneous pay, gross earnings, net earnings, and all withholdings from pay including retirement, taxes (Federal, state, and local), FICA, exemptions (Federal, state, and local), life, group, and optional insurance, bonds (authorization number and date of issuance), and miscellaneous allotments and deductions. Employment history is also maintained for retirement purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records, or information therefrom, are disclosed:

1. To Agency officials and employees who have a need for the records or information:

a. To compile payroll records.

b. To maintain agency salary and expense accounts.

c. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies.

d. To transfer information from the records to the individual to whom the record pertains.

e. To determine life insurance eligibility, costs, and types of coverage employees shall receive.

2. To respond to general requests for statistical information (without personal identification of individuals).

3. To individuals who need the information in connection with the processing of an appeal, grievance, or complaint. Wherever feasible, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

4. To the U.S. Department of the Treasury for payroll purposes.

5. To the Office of Personnel Management concerning pay, benefits, retirement deductions and other information necessary for the Office to carry out its Government-wide personnel management functions.

6. To state and local authorities for the purposes of verifying tax collections, unemployment compensation claims, and administering public assistance programs.

7. To the U.S. Department of Health and Human Services for the administration of the social security program.

8. To the U.S. Department of Labor for processing or adjudicating claims under the Federal Employees Compensation Act.

9. To the U.S. General Accounting Office for audit purposes.

10. To the appropriate agency, whether Federal, state, or local, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, charged with the responsibility of investigating or prosecuting such violation or enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, or to any agency in connection with its oversight review responsibility.

11. To a congressional office made at the request of that individual.

12. To officials of labor organizations recognized under Pub. L. 95–454, when relevant and necessary to their duties of exclusive representation of NLRB

employees under the Act. Wherever feasible and consistent with responsibilities under the Act, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on original source documents, computer printouts, and on a computer disk file with two magnetic tape backups and microfiche.

RETRIEVABILITY:

Employee payroll file maintained chronologically by year, and within each year by organizational unit, and within each unit by social security number or by employee name.

SAFEGUARDS:

All doors to the computer room are installed with combination locks and during duty hours the computer and magnetic tape backup are under surveillance of office personnel charged with custody of the records. After duty hours all doors remain locked. Access is limited to authorized personnel, only. Use of the machines for information printouts is restricted to designated personnel and access is password protected. Original source documents are maintained in file cabinets. During duty hours cabinets are under surveillance of personnel charged with custody of the records, and after duty hours are behind locked doors. Access is limited to personnel having a need for access to perform their official functions.

RETENTION AND DISPOSAL:

Payroll records retained and disposed of in accordance with the applicable General Accounting Office and General Services Administration retention schedules. Microfilm, magnetic strip ledgers and microfiche are maintained for 56 years after the last entry of data.

SYSTEM MANAGER(S) AND ADDRESS:

Finance Officer, NLRB, 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570.

Chief, Data Systems Branch, NLRB, 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570

NOTIFICATION PROCEDURE:

1. An individual inquiring whether this system contains a record on such individual should direct such inquiry to the System Manager first specified above.

2. In determining whether this system contains records on the inquirer, the following information is required: the inquirer's name; the year about which inquiry is being made; and, for records other than the payroll file, the organizational unit or units in which employed during that year.

RECORD ACCESS PROCEDURE:

An individual seeking to gain access to records in this system pertaining to such individual should contact the System Manager first specified above.

In granting access to records in this system the following information is required: the inquirer's name; the year about which inquiry is being made; and, for records other than the payroll file, the organizational unit or units in which employed during that year.

CONTESTING RECORD PROCEDURES:

An individual seeking to contest records in this sytem should contact the System Manager first specified above.

RECORD SOURCE CATEGORIES:

The individual, the Personnel Branch, timekeepers, and supervisors; U.S. CIvil Service Commission and Office of Personnel Management bulletins; taxing authority notices; and withholding authorizations.

NLRB–12

SYSTEM NAME:

Prefiling Communications

SYSTEM LOCATION:

Records are authorized to be maintained in all Field Offices of the Agency, at the address listed in the attached appendix, and

Office of the General Counsel, NLRB, 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Perons who have sought assistance regarding possible institution of an unfair labor practice, representation, or other civil action or proceeding before the National Labor Relations Board.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include file memoranda detailing the substance of oral communications, letters of inquiry, and responses thereto, may contain information relating to an individual's employment history, job performance, earnings, home address, telephone number, union activity, or other information relevant to a potential action or proceeding before the National Labor Relations Board.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. These records, or information therefrom, are disclosed to Agency officials and employees who have a need for the records or information in the processing of cases before the Agency.

2. These records, or information therefrom, may be referred, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

3. Disclosures may also be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in paper from file folders.

RETRIEVABILITY:

Alphabetically by name.

SAFEGUARDS:

Maintained in file cabinets in the nonpublic area of the office under the immediate control of the System Manager. During duty hours cabinets are under surveillance of personnel charged with custody of the records and after duty hours are behind locked doors.

RETENTION AND DISPOSAL:

In the recent a civil action or proceeding is instituted prior to the record being destroyed, the record is placed in the case file which is not indexed by the name of the individual. In the event no action or proceeding is instituted, the records are destroyed after varying periods of time; however, not longer than 2 years.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, NLRB, 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570.

See the attached appendix for titles and addresses of officials responsible for this system at their locations.

NOTIFICATION PROCEDURE:

An individual inquiring whether this system contains a record on such individual should direct such inquiry to the General Counsel or to the

appropriate Regional Director, Officer-in-Charge, or Resident Officer of the Agency office where the individual sought or was referred to for assistance, at the address of that office specified in the attached appendix.

RECORD ACCESS PROCEDURE:

An individual seeking to gain access to records in this system pertaining to such individual should contact the appropriate official or office designated under "Notification procedure."

CONTESTING RECORD PROCEDURES:

An individual seeking to contest records in this system pertaining to such individual should contact the appropriate official or office designated under "Notification procedure."

RECORD SOURCE CATEGORIES:

Individual who seeks assistance.

NLRB–13

SYSTEM NAME:

Time and Attendance Records, NLRB.

SYSTEM LOCATION: Current records are maintained in:

Financial Management Branch, NLRB, 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570.

Each Washington and Field Office maintains a copy of time and attendance records for current employees in that office, and is authorized to retain such records on former employees of that office. See the attached appendix for addresses of these offices.

Inactive records are stored at the appropriate Federal records center in accordance with Federal Property Management Regulations of the U.S. General Services Administration (FPMR 101–11.4).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include name; home address; organizational unit number; payroll identification number; entrance-on-duty date; time worked, including regular hours, overtime, compensatory time, and premium pay status; leave earned and used; absences without leave; and doctors' certificates, when required.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records, or information therefrom, are disclosed:

1. To Agency officials and employees who have a need for the records or information:

a. In the compilation of biweekly payrolls.

b. To maintain leave accounts.

c. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies.

2. To respond to general requests for statistical information (without personal identification of individuals).

3. To another Federal Government agency in connection with the transfer of an NLRB employee to that agency.

4. To the Office of Personnel Management for administering the Civil Service Retirement System.

5. To the U.S. General Accounting Office for audit purposes.

6. To another Government agency or private organization in connection with an agreement under the Intergovernmental Personnel Act.

7. To the U.S. Department of Labor for processing or adjudicating claims under the Federal Employees Compensation Act.

8. To the appropriate agency, whether Federal, State, or local, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, charged with the responsibility of investigating or prosecuting such violation or enforcing or implementing the statute, rule, regulations, or order issued pursuant thereto, or to any agency in connection with its oversight review responsibility.

9. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

10. To individuals who have a need for the information in connection with the processing of an appeal, grievance, or complaint. Wherever feasible, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

11. To officials of labor organizations recognized under Pub. L. 95–454, when relevant and necessary to their duties of exclusive representation of NLRB employees under the Act. Wherever feasible and consistent with responsibilities under the Act, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYTEM:

STORAGE:

Maintained on Form TDF 10–11.H–1, H–2 and H–3 and related forms and papers, and on microfilm/microfiche.

RETRIEVABILITY:

Chronologically by year, and within each year by organizational unit, and within each unit by social security number or by employee name.

SAFEGUARDS:

Original source documents or copies thereof are maintained in file cabinets. Microfilm/microfiche is maintained in locked fireproof metal cabinets. During duty hours cabinets are under surveillance of personnel charged with custody of the records, and after duty hours are behind locked doors. Access is limited to personnel having a need for access to perform their official functions.

RETENTION AND DISPOSAL:

Retained and disposed of in accordance with General Accounting Office and General Services Administration retention schedules. Original source documents are retained within the Agency for 3 years and then transferred to the appropriate Federal record center for the balance of the retention period. Microfilm/microfiche records are maintained within the Agency for the full period specified in the appropriate retention schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Finance Officer, NLRB, 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570.

See the attached appendix for the titles and addresses of officials at other locations responsible for this system at their locations.

NOTIFICATION PROCEDURE:

1. Current NLRB employees inquiring whether this system contains records of such individuals should direct such inquiries to their supervisors.

2. An individual other than a current NLRB employee inquiring whether this "System Manager" specified above, or official designated under "System Manager" as responsible for this system in the office where the individual was previously employed.

3. In determining whether this system contains records on the inquirer, the following information is required: year about which inquiry is being made, and inquirer's name and organizational unit

or units in which employed during that year.

RECORD ACCESS PROCEDURES:

1. An indvidual seeking to gain access to records in this system pertaining to such individual should contact the appropriate official or office designated under "Notification procedure."

2. In granting access to records in this sytem, the following information is required: the year about which inquiry is being made, and the inquirer's name and organizational unit or units in which employed during that year.

CONTESTING RECORD PROCEDURES:

An individual seeking to contest records in this system pertaining to such individual should contact the appropriate official or office designated under "Notification procedure."

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, timekeeper or supervisor, doctors' statements.

NLRB-14

SYSTEM NAME:

Equal Employment Opportunity Program Management System.

SYSTEM LOCATION:

Data Systems Branch, NLRB, 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NLRB employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include information such as employee name, social security number, Minority Group Designator (MGD), Code, employment status, sex, date of birth, payroll block and unit number, pay plan, grade and step, entrance-on-duty date, date of last promotion, date of last quality step increase, employment class and date of separation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records, or information therefrom, are disclosed:

1. To Agency officials and employees who have a need for the record or information:

a. In monitoring and evaluating the status and progress of minority/female employment.

b. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the Agency's EEO Program (without personal identification of individuals).

c. In connection with the investigation, processing, adjudication and/or settlement of an EEO complaint or civil action.

2. To respond to general requests for statistical information (without personal identification of individuals).

3. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. To the appropriate agency, whether Federal, state, or local, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, charged with the responsibility of investigating or prosecuting such violation or enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, or to any agency in connection with its oversight review responsibility.

5. To officials of labor organizations recognized under Pub. L. 95-454, when relevant and necessary to their duties of exclusive representation of NLRB employees under the Act. Wherever feasible and consistent with responsibilities under the Act, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

6. To individuals who have a need for the information in connection with the processing of an appeal, grievance, or complaint. Wherever feasible, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer disk file and magnetic tape backup.

RETRIEVABILITY:

By social security account number or alphabetically by name.

SAFEGUARDS:

All doors to the computer room have combination locks and during duty hours the computer and magnetic tape backup are under surveillance of Agency personnel charged with custody of the records. After duty hours the computer disk file and magnetic tape backup are stored in a fireproof safe behind locked doors. Access is limited to authorized personnel only. All format programs are password protected and use of the machines for information printouts restricted to designated personnel.

RETENTION AND DISPOSAL:

The information in these records is updated as necessary as changes in the data elements occur. Information on former employees is retained for three years following their separation from the Agency.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Equal Employment Opportunity, NLRB, 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570.

NOTIFICATION PROCEDURE:

An individual inquiring whether this system contains a record on such individual should direct such inquiry to the System Manager specified above.

RECORD ACCESS PROCEDURES:

An individual seeking to gain access to records in this system pertaining to such individual should contact the System Manager specified above.

CONTESTING RECORD PROCEDURES:

An individual seeking to contest records in this system pertaining to such individual should contact the System Manager specified above.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from the individual to whom the record pertains, Agency officials and from personnel records.

Appendix

Names and Addresses of NLRB Offices referenced in Notice of Record Systems shown above:

NLRB Headquarters Offices

Offices of the Board
- Members of the Board
- Executive Secretary, Office of the Executive Secretary
- Solicitor

Offices of the General Counsel
- General Counsel
- Associate General Counsel, Division of Operations Management
- Associate General Counsel, Division of Advice
- Associate General Counsel, Division of Enforcement Litigation
- Director, Office of Appeals
- Director, Division of Administration
- Director, Equal Employment Opportunity

Address: 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570

Chief Administrative Law Judge, Division of Administrative Law Judges

Address: Room 1121, Hamilton Building, 1375 K Street, N.W., Washington, D.C. 20005

San Francisco Office, Division of Administrative Law Judges

Address: Room 12064, Federal Building, 450 Golden Gate Avenue, San Francisco, CA 94102

New York Office, Division of Administrative Law Judges

Address: Paramount Building, 4th Floor, 1501 Broadway Street, New York, NY 10036

Atlanta Office, Division of Administrative Law Judges

Address: 44 Broad Street NW., 9th Floor, Atlanta, GA 30303

NLRB Field Offices

Regional Director, National Labor Relations Board, Region 1, 12th Floor, Keystone Building, 99 High Street, Boston, Massachusetts 02110

Regional Director, National Labor Relations Board, Region 2, Jacob K. Javits Federal Building, Room 3614, 26 Federal Plaza, New York, New York 10007

Regional Director, National Labor Relations Board, Region 3, Federal Building, Room 901, 111 West Huron Street, Buffalo, New York 14202

Regional Director, National Labor Relations Board, Region 4, One Independence Mall, 615 Chestnut Street, Seventh Floor, Philadelphia, Pennsylvania 19106

Regional Director, National Labor Relations Board, Region 5, Candler Building, 700 East Pratt Street, Fourth Floor, Baltimore, Maryland 21202

Regional Director, National Labor Relations Board, Region 6, Federal Office Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222

Regional Director, National Labor Relations Board, Region 7, Patrick V. McNamara Federal Building, Room 300, 477 Michigan Avenue, Detroit, Michigan 48226

Regional Director, National Labor Relations Board, Region 8, Anthony J. Celebrezze Federal Building, 1240 E. 9th Street, Room 1694, Cleveland, Ohio 44199

Regional Director, National Labor Relations Board, Region 9, Federal Office Building, Room 3003, 550 Main Street, Cincinnati, Ohio 45202

Regional Director, National Labor Relations Board, Region 10, Marietta Tower—Suite 2400, 101 Marietta Street, NW., Atlanta, Georgia 30323

Regional Director, National Labor Relations Board, Region 11, US Courthouse, Federal Building, 251 North Main Street, Room 447, Winston-Salem, North Carolina 27101

Regional Director, National Labor Relations Board, Region 12, Federal Office Building, Room 706, 500 Zack Street, P.O. Box 3322, Tampa, Florida 33602

Regional Director, National Labor Relations Board, Region 13, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604

Regional Director, National Labor Relations Board, Region 14, 210 North 12 Boulevard, Room 448, St. Louis Missouri 63101

Regional Director, National Labor Relations Board, Region 15, Plaza Tower, Room 2700, 1001 Howard Avenue, New Orleans, Louisiana 70113

Regional Director, National Labor Relations Board, Region 16, Federal Office Building, Room 8A24, 819 Taylor Street, Fort Worth, Texas 76102

Regional Director, National Labor Relations Board, Region 17, Two Gateway Center, Room 616, Fourth at State, Kansas City, Kansas 66101

Regional Director, National Labor Relations Board, Region 18, Federal Building, Room 316, 110 South Fourth Street, Minneapolis, Minnesota 55401

Regional Director, National Labor Relations Board, Region 19, Federal Building, Room 2948, 915 Second Avenue, Seattle, Washington 98174

Regional Director, National Labor Relations Board, Region 20, Federal Building, Room 13018, 450 Golden Gate Avenue, Box 36047, San Francisco, California 94210

Regional Director, National Labor Relations Board, Region 21, City National Bank Building—24 Floor, 606 South Olive Street, Los Angeles, California 90014

Regional Director, National Labor Relations Board, Region 22, Federal Building, Room 1600, 970 Broad Street, Newark, New Jersey 07102

Regional Director, National Labor Relations Board, Region 23, One Allen Center, Room 920, 500 Dallas Avenue, Houston, Texas 77002

Regional Director, National Labor Relations Board, Region 24, Federico Degatau Federal Building, U.S. Courthouse, Room 591, Carlos E. Chardon Avenue, Hato Rey, Puerto Rico 00918

Regional Director, National Labor Relations Board, Region 25, Federal Office Building, Room 232, 575 North Pennsylvania Street, Indianapolis, Indiana 46204

Regional Director, National Labor Relations Board, Region 26, Mid-Memphis Tower Building, Suite 800, 1407 Union Avenue, Memphis, Tennessee 38104

Regional Director, National Labor Relations Board, Region 27, U.S. Custom House, Room 280, 721 19th Street, Denver, Colorado 80202

Regional Director, National Labor Relations Board, Region 28, 3030 North Central Avenue, 2nd Floor, Phoenix, Arizona 85012

Regional Director, National Labor Relations Board, Region 29, Fourth Floor, 16 Court Street, Brooklyn, New York 11241

Regional Director, National Labor Relations Board, Region 30, Commerce Building, Suite 230, 744 North Fourth Street, Milwaukee, Wisconsin 53203

Regional Director, National Labor Relations Board, Region 31, Federal Building, Room 12100, 11000 Wilshire Boulevard, Los Angeles, California 90024

Regional Director, National Labor Relations Board, Region 32, Breuner Building, 2201 Broadway, 2nd Floor, P.O. Box 12983, Oakland, California 94604

Regional Director, National Labor Relations Board, Region 33, Savings Center Tower, 16th Floor, 411 Hamilton Boulevard, Peoria, Illinois 61602

Officer-in-Charge, National Labor Relations Board, Subregion 36, 825 Pittock Block, 921 Southwest Washington Street, Portland, Oregon 97205

Officer-in-Charge, National Labor Relations Board, Subregion 37, 300 Ala Moana Boulevard, Room 7318, P.O. Box 50208, Honolulu, Hawaii 96850

Officer-in-Charge, National Labor Relations Board, Subregion 38, 750 Main Street, Suite 1200, Hartford, Connecticut 06103

Resident Officer, National Labor Relations Board, Resident Office—Region 3, Leo W. O'Brien Federal Building, Room 342, Clinton Avenue at North Pearl Street, Albany, New York 12207

Resident Officer, National Labor Relations Board, Resident Office—Region 5, Gelman Building, Suite 100, 2120 L Street, N.W., Washington, D.C. 20037

Resident Officer, National Labor Relations Board, Resident Office—Region 10, City Federal Building, Room 2102, 2026 Second Avenue North, Birmingham, Alabama 35203

Resident Officer, National Labor Relations Board, Resident Office—Region 12, Federal Building, Room 916, 51 Southwest 1st Avenue, Miami, Florida 33130

Resident Officer, National Labor Relations Board, Resident Office—Region 12, Federal Building, Room 276, 400 West Bay Street, Jacksonville, Florida 32202

Resident Officer, National Labor Relations Board, Resident Office—Region 16, Robert S. Kerr Building, 440 S. Houston Ave., Room 210, Tulsa, Oklahoma 74127

Resident Officer, National Labor Relations Board, Resident Office—Region 18, 907 Walnut Street, Room 380, Des Moines, Iowa 50309

Resident Officer, National Labor Relations Board, Resident Office—Region 19, Anchorage Federal Office Building, 701 C Street, Room 510, Box 21, Anchorage, Alaska 99513

Resident Officer, National Labor Relations Board, Resident Office—Region 21, U.S. Courthouse, Room 2-N-20, 940 Front Street, San Diego, California 92189

Resident Officer, National Labor Relations Board, Resident Office—Region 23, Federal Office Building, Room A-509, 727 E. Durango Boulevard, San Antonio, Texas 78206

Resident Officer, National Labor Relations Board, Resident Office—Region 26, 1 Union National Plaza, Suite 1120, Little Rock, Arkansas 72201

Resident Officer, National Labor Relations Board, Resident Office—Region 26, Estes Kefauver Federal Building, Room A-702, U.S. Courthouse, 801 Broadway, Nashville, Tennessee 37203

Resident Officer, National Labor Relations Board, Resident Office—Region 28, First National Building, 109 North Oregon Street, El Paso, Texas 79901

Resident Officer, National Labor Relations Board, Resident Office—Region 28, Patio Plaza Building, Upper Level, 5000 Marble Avenue, NE., Albuquerque, New Mexico 87110

Resident Officer, National Labor Relations Board, Resident Office—Region 31, 720 South Seventh Street, Second Floor, Las Vegas, Nevada 89101

[FR Doc. 82-26234 Filed 9-22-82; 8:45 am]

BILLING CODE 7545-01-M

NATIONAL SCIENCE FOUNDATION

Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit application received under Antarctic Conservation Act of 1978 Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATE: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 18, 1982. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. The regulations appeared in final form in the June 7, 1979 **Federal Register.** Additional information was published in the July 13, 1982 **Federal Register**, page 30328.

The application received is as follows:

1. *Applicant:* Mr. Jack Laney, San Diego Hall of Science, P.O. Box 55303, San Diego, California 92103.

Activities for which permit requested.—Taking, Enter Specially Protected Areas, Enter Sites of Special Scientific Interest.

The applicant requests permission to photograph the flora and fauna of Antarctica using the OMNIMAX motion picture technique. In addition, a 16mm film on current science projects will be made. No flora or fauna will be physically taken or handled; the objective of this project is to photograph various species in their natural environment.

Location: McMurdo Station and vicinity, Palmer Station and vicinity, Selected Sites of Special Scientific Interest, Selected Specially Protected Areas.

Dates: November 10, 1982 to January 31, 1983.

Authority to publish this notice has been delegated by the Director, NSF to the Director, Division of Polar Programs.

Edward P. Todd,

Division Director, Division of Polar Programs.

[FR Doc. 82-26220 Filed 9-22-82; 8:45 am]

BILLING CODE 7555-01-M

Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357–7934.

SUPPLEMENTARY INFORMATION: On July 13 and August 10, 1982, the National Science Foundation published notices in the **Federal Register** of permit applications received. On September 13, 1982 permits were issued to: Eric P. Hoberg, Wayne Trivelpiece, David G. Ainley, David E. Murrish, Donald B. Siniff, Arthur L. DeVries, Wesley E. LeMasurier, William M. Hammer, and Vera Komarkova.

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 82-26215 Filed 9-22-82; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Performance Review Board, Senior Executive Service; Appointment of Members

Appointments of Performance Review Board members are required to be published in the **Federal Register** by 5 U.S.C. 4314(c)(4).

The following persons have been appointed to, and will serve on, Performance Review Boards for senior executives in the National Transportation Safety Board: Patricia A. Goldman, John R. Wheatley, Robert W. Pyle, Lloyd F. Miller, James Danaher, B. Michael Levins, Thomas DeW. Styles, Barry M. Sweedler, and John M. Stuhldreher.

Robert W. Pyle,

Chief, Personnel and Training Division.

September 9, 1982.

[FR Doc. 82-26259 Filed 9-22-82; 8:45 a.m.]

BILLING CODE 4910-58-M

Reports, Recommendations; Availability

Reports Issued

Special Investigation Report —Derailments of New York City Transit Authority Trains Involving Traction Motor Mount Failures (NTSB–TSR–SIR–82–2).

Railroad Accident Reports —Brief Format, Issue Number 3—1980 (NTSB– RAB–82–2).

Highway Accident Report —Truck Engine Fuel Tank Puncture by Bridge Repair Plate, Diesel Spill, and Multiple-Vehicle Skidding Collisions, Interstate Route 10, Lake Charles, Louisiana, August 27, 1981 (NTSB–HAR–82–4).

Aircraft Accident Report —Pilgrim Airlines Flight 458, deHavilland DHC–6–100, N127PM, near Providence, Rhode Island, February 21, 1982 (NTSB–AAR–82–7).

Recommendations Issued

Federal Aviation Administration: Aug. 31: A–82–90: Issue an Airworthiness Directive requiring installation of inboard flow strips on all Piper PA–38–112 aircraft manufactured before January 25, 1979, that have not been modified with these flow strips in accordance with the provisions of Piper Service Letter No. 876. *A–82–106:* Encourage timely adoption of the Society of Automotive Engineers (SAE) standard for "general aviation" flight recorders (intended for installation in multiengine, turbine-power, fixed-wing aircraft and rotorcraft in any type of operation not currently required by 14 CFR 121.343, 121.359, 135.151, and 127.127 to have a cockpit voice recorder and/or a flight data recorder), and issue a Technical Standard Order (TSO) covering such recorders immediately after the SAE document is approved. Include in the TSO requirements that:

(a) specify a cockpit voice recorder (CVR) of high enough audio quality to render intelligible recorded data on each of two channels which reserves one channel for voice communications transmitted from or received in the aircraft by radio, and one channel for audio signals from a cockpit area microphone;

(b) specify all flight data recorder (FDR) parameters, ranges, accuracies, and sampling intervals cited in Tables I and II (attached);

(c) specify crash and fire survivability standards for CVR's and FDR's which are at least as stringent as those of TSO–C51a for Type I (nonejectable) and Type III (ejectable) recorders as appropriate. *A–82–107:* Require that all miltiengine, turbine-powered, fixed-wing aircraft certificated to carry six or more passengers manufactured on or after a

specified date, in any type of operation not currently required by 14 CFR 121.343, 121.359, and 135.151 to have a cockpit voice recorder and/or a flight data recorder, be prewired to accept a "general aviation" cockpit voice recorder (if also certificated for two-pilot operation) with at least one channel for voice communications transmitted from or received in the aircraft by radio, and one channel for audio signals from a cockpit area microphone, and a "general aviation" flight data recorder to record sufficient data parameters to determine the information in Table I (attached) as a function of time. *A–82–108:* Require that all multiengine, turbine-powered rotorcraft certificated to carry six or more passengers manufactured on or after a specified date, in any type of operation not currently required by 14 CFR 127.127 to have a cockpit voice recorder and/or a flight data recorder, be prewired to accept a "general aviation" cockpit voice recorder (if also certificated for two-pilot operation) with at least one channel for voice communications transmitted from or received in the aircraft by radio, and one channel for audio signals from a cockpit area microphone, and a "general aviation" flight data recorder to record sufficient data parameters to determine the information in Table II (attached) as a function of time. *A–82–109:* Require that "general aviation" cockpit voice recorders (on aircraft certificated for two-pilot operation) and flight data recorders be installed when they become commercially available as standard equipment in all multiengine, turbine-powered, fixed-wing aircraft and rotorcraft certificated to carry six or more passengers manufactured on or after a specified date, in any type of operation not currently required by 14 CFR 121.343, 121.359, 135.151, and 127.127 to have a cockpit voice recorder and/or a flight data recorder. *A–82–110:* Require that "general aviation" cockpit voice recorders be installed as soon as they are commercially available in all multiengine, turbine-powered aircraft (both airplanes and rotorcraft), which are currently in service, which are certificated to carry six or more passengers and which are required by their certificate to have two pilots, in any type of operation not currently required by 14 CFR 121.359, 135.151, and 127.127 to have a cockpit voice recorder. The cockpit voice recorders should have at least one channel reserved for voice communications transmitted from or received in the aircraft by radio, and one channel reserved for audio signals from a cockpit area microphone. *A–82–111:* Require that "general aviation" flight data recorders be installed as soon as they are commercially available in all multiengine, turbojet airplanes which are currently in service, which are certificated to carry six or more passengers in any type of operation not currently required by 14 CFR 121.343 to have a flight data recorder. Require recording of sufficient parameters to determine the following information as a function of time (see Table I (attached) for ranges, accuracies, etc.): altitude, indicated airspeed, magnetic heading, radio transmitter keying, pitch attitude, roll attitude, vertical acceleration, longitudinal acceleration, stabilizer trim position or pitch control position.

Federal Railroad Administration: Aug. 31: R–82–96: Conduct a safety review of Seaboard Coastline Railroad and the Duluth, Winnipeg and Pacific Railway to determine if inspection practices on these railroad properties are adequate to detect bolster and center plate interference problems, and provide the National Transportation Safety Board with a report of the findings. *R–82–97:* Inform Federal Railroad Administration safety inspectors of the circumstances of the derailment of the Seaboard Coastline train on November 13, 1981, emphasizing the potentially serious consequences of inadequate bolster and center plate inspections, and require them to include in their scheduled inspections a review of the adequacy of the inspection procedures employed by railroads to detect interference between truck bolsters and the car body center plates.

American Short Line Railroad Association: Sep. 2: R–82–84: Advise its member railroads which handle piggyback traffic to warn employees who may be at the scene of accidents that waybills may not properly identify or describe hazardous materials loaded in TOFC trailers and COFC containers.

Seabulk Transmarine II, Inc.: Sep. 2: M–82–38: Establish a formal training program for the officers of Seabulk Transmarine II, Inc.'s integrated tug-barges which includes instruction in the operation and use of the tug-barge interlocking devices, in emergency procedures to be followed in the event of interlocking device failure or the development of relative motion between the tug and barge, and in the operation of the tug and barge as independent vessels. *M–82–39:* Require each officer assigned to a Seabulk Transmarine II, Inc. integrated tug-barge to satisfactorily complete the training program developed as a result of the above recommendation. *M–82–40:* Require each officer assigned to a Seabulk Transmarine II, Inc. integrated tug-barge to periodically demonstrate competent operation of the interlocking devices and satisfactory knowledge of emergency procedures and tug-barge disconnect/reconnect procedures.

Association of American Railroads: Sep. 2: R–82–88: Inform its membership of the circumstances of the derailment of the Seaboard Coastline train on November 13, 1981, to emphasize the potentially serious consequences of inadequate inspections to detect interference between truck bolsters and body center plates of cars on repair tracks and in train yards. *R–82–82:* Advise its member railroads to warn employees who may be at the scene of accidents that "FAK" waybills may not properly identify or describe hazardous materials loaded in TOFC trailers and COFC containers. *R–82–83:* Develop and disseminate among member railroads procedures designed to provide timely detection and accurate identification of hazardous materials carried in TOFC trailers or COFC containers during rescue, firefighting, or wreck-clearing operations at railroad accidents.

International Association of Fire Chiefs, International Association of Chiefs of Police, National Fire Protection Association, Federal Emergency Management Agency: Sep. 2: R–82–85: Warn firefighters and law enforcement personnel through available communications or training programs that railroad waybills for piggyback TOFC trailers and COFC containers carrying hazardous materials may not adequately describe their contents, and that the contents of derailed trailers or containers must be checked for possible hazardous materials during rescue or firefighting operations at TOFC or COFC derailments.

Research and Special Programs Administration: Sep. 8: P–82–31: Direct its regional field office personnel and State agents to include in their inspection of regulator stations a determination of whether the relief valves are properly set and are operational and whether the control lines are protected against excavation damage.

Missouri Power and Light Company: Sep. 8: P–82–32: Implement a procedure for the systematic review of inspection records to assure that unsafe conditions noted by inspectors are promptly corrected. *P–82–33:* Conduct an inspection of all of its district regulator stations systemwide to determine if all relief valves and control sensing line valves are in their correct positions and if the regulator station control lines are adequately protected against excavation damage and take corrective action as necessary. *P–82–34:* Review its maps and records of district regulator station piping to determine their accuracy and completeness and take appropriate action where necessary to correct these documents. *P–82–35:* Establish a public awareness program for the prevention of excavation-caused damage to underground facilities and support the establishment of a "one-call" notification system in its area of operation. *P–82–36:* Install equipment to transmit gas pressure or gas flow data from district regulator stations in Centralia to the dispatcher at Moberly, Missouri, with alarms to alert the dispatchers in the event of abnormal gas flow rates or pressures.

American Gas Association: Sep. 8: P–82–30: Notify its member companies of the circumstances of the accident in Centralia, Missouri, on January 28, 1982, and urge them to inspect their regulator station relief valves or other overpressure protection equipment to make sure that they are set and operating properly.

Missouri Public Service Commission and State of Missouri: Sep. 8: P–82–37: Encourage operators of underground facilities to develop and implement a statewide one-call excavation notification system.

City of Centralia, Missouri: Sep. 8: P–82–38: Require city officials to give notice to all underground and aboveground utilities of any planned excavation work to be performed for the city by a city employee or a private contractor. *P–82–39:* Instruct the city's excavation equipment operators not to commence excavation activities until they have determined the specific location of underground utility lines in the area.

Governors of the 50 States and the Mayor of the District of Columbia, excluding Colorado, Maryland, Nebraska, Utah, and Washington: Sep. 9: H–82–35: Implement a citizen awareness and citizen drunk driver reporting program such as the REDDI-type programs now used by Colorado, Maryland, Nebraska, Utah, and Washington.

International Association of Chiefs of Police, Inc., and National Safety Council: Sep. 8: H–82–36: Collaborate and act as focal points for gathering information on REDDI-type programs and provide information and assistance to the interested States and local communities.

Manufacturers of multiengine, turbine-powered airplanes and rotorcraft: Sep. 8: A–82–101: Prewire all newly manufactured multiengine, turbine-powered, fixed-wing aircraft certificated to carry six or more passengers in any type of operation not currently required by 14 CFR 121.343, 121.359, and 135.151 to have a cockpit voice recorder and/or a flight data recorder, to accept a "general aviation" cockpit voice recorder (if certificated for two-pilot operation) with at least one channel for voice communications transmitted from or received in the aircraft by radio, and one channel for audio signals from a cockpit area microphone, and a "general aviation" flight data recorder to record sufficient data parameters to determine the information in Table I (attached) as a function of time. *A–82–102:* Prewire all newly manufactured multiengine, turbine-powered rotorcraft certificated to carry six or more passengers in any type of operation not currently required by 14 CFR 127.127 to have a cockpit voice recorder and/or a flight data recorder, to accept a "general aviation" cockpit voice recorder (if certificated for two-pilot operation) with at least one channel for voice communications transmitted from or received in the aircraft by radio, and one channel for audio signals from a cockpit area microphone, and a "general aviation" flight data recorder to record sufficient data parameters to determine the information in Table II (attached) as a function of time. *A–82–103:* Install "general aviation" cockpit voice recorders (on aircraft certificated for two-pilot operation) and flight data recorders when they become commercially available as standard equipment in all newly manufactured multiengine, turbine-powered, fixed-wing aircraft and rotorcraft certificated to carry six or more passengers in any type of operation not currently required by 14 CFR 121.343, 121.359, 135.151, and 127.127 to have a cockpit voice recorder and/or a flight data recorder.

Users of multiengine, turbine-powered airplanes and rotorcraft: Sep. 8: A–82–104: Encourage your members who own or operate multiengine, turbine-powered aircraft (both airplanes and rotorcraft) certificated for two-pilot operation to carry six or more passengers, in any type of operation not currently required by 14 CFR 121.359, 135.151, and 127.127 to have a cockpit voice recorder, to install "general aviation" cockpit voice recorders, and urge that they record voice communications transmitted from or received in the aircraft by radio on one channel, and audio signals from a cockpit area microphone on a separate channel. *A–82–105:* Encourage your members who own or operate multiengine, turbojet airplanes certificated to carry six or more passengers, in any type of operation not currently required by 14 CFR 121.343 to have a flight data recorder, to install "general aviation" flight data recorders as soon as they are commercially available, and urge that they provide for recording sufficient parameters to determine the following information as a function of time (see Table I (attached) for ranges, accuracies, etc.): altitude, indicated airspeed, magnetic heading, radio transmitter keying, pitch attitude, roll attitude, vertical acceleration, longitudinal acceleration, stabilizer trim position or pitch control position.

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703–487–4650 and to order subscriptions to reports call 703–487–4630. Single copies of recommendation letters (identified by recommendation number) and response letters are free on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

September 20, 1982.

[FR Doc. 82-26256 Filed 9-22-82; 8:45 am]

BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, SG 229–4, (which should be mentioned in all correspondence concerning this draft guide), is proposed Revision 1 to Regulatory Guide 5.59, "Standard Format and Content for a Licensee Physical Security Plan for the Protection of Special Nuclear Material of Moderate or Low Strategic Significance." This regulatory guide is being developed to describe the information required in the physical security plan submitted as part of an application for a license to possess, use, or transport special nuclear material of moderate strategic significance or 10 kg or more of special nuclear material of low strategic significance and to recommend a format for its presentation.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by October 22, 1982.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 16th day of September 1982.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Facility Operations, Office of Nuclear Regulatory Research.

[FR Doc. 82-26260 Filed 9-22-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corporation, et.al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 57 to Facility

Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainsville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications (TSs) for operation of the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment becomes effective 30 days after its date of issuance.

This amendment modifies the Technical Specifications to reflect an expanded Plant Review Committee membership, an expanded procedural review and current title designations for CR-3 management.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 3, 1980, as revised January 19, 1982, (2) Amendment No. 57 to License No. DPR-72, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 13th day of September 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-26207 Filed 9-22-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-32]

Industrial Union Department, AFL-CIO; Termination of Complaint

Pursuant to 15 CFR 2006.6, the U.S. Trade Representative is terminating, without prejudice, the investigation of the Section 301 complaint filed by the Industrial Union Department, AFL-CIO alleging that Canada has provided subsidized financing on a contract for the sale of subway cars to the New York Metropolitan Transit Authority in a manner inconsistent with the Agreement on the Interpretation and Application of Articles VI, XVI, XXIII of the General Agreement on Tariffs and Trade (the "Subsidies Code") and further alleging that such subsidization is unreasonable and a burden on U.S. commerce. The U.S. Trade Repesentative initiated an investigation on July 19, 1982 (47 FR 31764), based upon the petition filed by the Industrial Union Department, AFL-CIO.

On the date after the Section 301 investigation was initiated, the U.S. Department of Commerce announced the initiation of a countervailing duty investigation regarding the same alleged subsidy practices which were the subject of the Section 301 investigation (47 FR 31415). The countervailing duty investigation was initiated on the basis of a petition filed by The Budd Company and the Industrial Union Department, AFL-CIO. On August 18, 1982 the International Trade Commission made an affirmative preliminary determination of injury in this matter (47 FR 36042).

As a matter of policy in order to avoid redundant remedies and the waste of limited government resources, the U.S. Trade Representative will not initiate a Section 301 investigation concerning a foreign government practice which is the subject of investigation under any other provision of law. The same policy requires that a pending Section 301 investigation be terminated when the same matter is subsequently subject to investigation under some other provision of law.

In view of the pending countervailing duty investigation regarding alleged Canadian financing subsidies on the sale of subway cars, the U.S. Trade Representative is hereby terminating the subject Section 301 investigation. This termination is without prejudice to a resubmission of the Section 301 petition if action is not taken pursuant to the countervailing duty investigation.

Jeanne S. Archibald,

Chairman, Section 301 Committee.

[FR Doc. 82-26240 Filed 9-22-82; 8:45 am]

BILLING CODE 3190-01-M

PENSION BENEFIT GUARANTY CORPORATION

Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer: National Fruit Canning Company

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has granted National Fruit Canning Company an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended. A notice of the request for exemption from this requirement was published on July 6, 1982 (47 FR 29423). The effect of this notice is to advise the public of the decision on the exemption request.

ADDRESS: The request for an exemption and the PBGC response to the request are available for public inspection at the PBGC Public Affairs Office, Suite 7100, 2020 K Street, NW., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obtained by mail from the PBGC Disclosure Officer (160) at the above address.

FOR FURTHER INFORMATION CONTACT: David Weingarten, Office of the Executive Director, Policy and Planning (140), 2020 K Street, NW., Washington, D.C. 20006; (202) 254-4862.

SUPPLEMENTARY INFORMATION:

Background

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1384, provides that the sale of assets of an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty

Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B). Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets (46 FR 46127, September 17, 1981), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions.

Section 4204(c) and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or an exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

Decision

On July 6, 1982 (47 FR 29423), the PBGC published a notice of the pendency of a request from National Fruit Canning Company ("National") to waive the bond/escrow requirement of section 4204(a)(1)(B) of ERISA in connection with its purchase of substantially all of the assets of Seabrook Foods, Inc. ("Seabrook") located at Seabrook's Albany, Oregon plant, effective as of February 1, 1982. No comments were received in response to the notice.

According to National's request for an exemption, Seabrook contributed to the Western Conference of Teamsters Pension Plan (the "Plan") on behalf of covered employees at its Albany, Oregon plant. As a result of the sale, National agreed to assumed the obligation of Seabrook to contribute to the Plan.

Seabrook's withdrawal liability, absent section 4204, is approximately $734,000.[1] The amount of the bond or escrow required under section 4204(a)(1)(B) of ERISA, absent an exemption from PBGC, would be $177,745.28, the average of the contributions required to be made by Seabrook for the three plan years preceding the year of the sale.

According to its audited financial statement for its fiscal year ended April 30, 1981, National had net assets of approximately $11.6 million. National had net income after taxes of $1,714,570 for its fiscal year ended April 30, 1981, $1,511,182 for its fiscal year ended April 30, 1980 and $2,107,985 for its fiscal year ended April 30, 1979, according to its audited financial statements for those years.

Based on the facts of this case and the representations and statements made in connection with the request for exemption, PBGC has determined that an exemption under section 4204(c) is warranted, in that it would more effectively or equitably carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the plan. Therefore, PBGC hereby grants National's request for an exemption from the bond/escrow requirement. The granting of an exemption or variance from the requirement of section 4204(a)(1)(B) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is a determination to be made by the plan sponsor.

Issued at Washington, D.C. on this 17th day of September, 1982.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-26185 Filed 9-22-82; 8:45 am]

BILLING CODE 7708-01-M

[1] Seabrook has been advised by the Plan that its withdrawal liability is (a $550,833.37, Seabrook's proportional share of the unamortized amount of the Plan's unfunded vested Benefits as of December 31, 1979, plus b) a share of the Plan's "adjusted unfunded vested benefits" as of December 31, 1001, *i.e.*, the change in the plans' unfunded vested benefits between December 31, 1979 and December 31,1981. The Plan has indicated that it cannot calculate the (b) amount at this time. However, the Plan has advised PBGC of a procedure that can be used to approximate the employer's total withdrawal liability. Under this procedure, assuming that the *de minimis* rule in section 4209 of the Act does not apply, an employer's total withdrawal liability is the employer's share of the plan's unfunded vested benefits as if the withdrawal had occurred during 1980, plus an additional 20 percent of that amount for a 1982 withdrawal. Seabrook's estimated withdrawal liability under this procedure would be approximately $734,000 (approximately $612,000 + approximately $122,000). In light of this, the Plan has advised PBGC that it believes that Seabrook's total withdrawal liability in any event should be less than $1 million.

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) Collection title: Report of payments to employee claiming sickness benefits under the RUIA
(2) Form(s) submitted: SI–5
(3) Type of request: Extension
(4) Frequency of use: On occasion
(5) Respondents: Railroads, private companies and individuals
(6) Annual responses: 5,000
(7)Annual reporting hours: 417
(8) Collection description: Section 12(o) of the Railroad Unemployment Insurance Act provides for reimbursement of sickness benefits paid under the Act if the employee receives a settlement for the same injury for which such benefits were paid. The report of personal injury settlement will obtain the information needed for determining the amount of reimbursement the Board is entitled to under the Act.

Additional Information or Comments

Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Milo Sunderhauf (202–395–6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

William A. Oczkowski,

Director of Planning and Information Management.

[FR Doc. 82-26214 Filed 9-22-82; 8:45 am]

BILLING CODE 7905-01-M

SMALL BUSINESS ADMINISTRATION

[SBLC No. 09/B-0028]

AID America, Inc.; Issuance of Small Business Lending Company Participation Agreement

On January 21, 1982, a Notice was published in the **Federal Register** (47 FR 3054) stating that an Application had been filed with the Small Business Administration pursuant to § 120.4(b) of the Regulations governing Small Business Lending Companies (13 CFR 120.4(b) (1981)), by AID America, Inc.,

19782 MacArthur Boulevard, Irvine, California 92715, to participate with the SBA as a Small Business Lending Company (SBLC).

Interested parties were given until the close of business February 5, 1982, to submit their comments on the Applicant and/or its management. No comments were received.

Notice is hereby given that after review of the Application and all other pertinent information, SBA issued Small Business Lending Company participation Agreement No. SBLC 09/B-0028 to AID America, Inc. to operate as an SBLC on this date. AID America's area of operations will be limited initially to that territory covering the jurisdiction of SBA's San Diego, Los Angeles, Miami and New York District Offices.

(Catalog of Federal Domestic Programs N. 59.012, Small Business Loans)

Dated: September 10, 1982.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 82-25941 Filed 9-22-82; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-82-19]

Petitions for Exemption; Summary of Petitions Received; Disposition of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: October 13, 1982.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ——, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on September 17, 1982.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23242	Mr. Stephen Fellows	14 CFR 91.47	To permit petitioner to use a Lockheed L-18 aircraft for the purpose of sport parachute jumping, carrying 24 properly equipped and trained parachute jumpers.
23257	DHL Cargo	14 CFR Portions of Parts 121	To permit petitioner to perform certain prescribed proficiency check maneuvers during scheduled revenue flights.
23217	Cal-West Aviation	14 CFR 135.261	To permit petitioner to construe duty time to begin when a crewmember is dispatched on a flight and that telephone availability does not constitute duty in connection with flight operations.
23256	Hammonde Commuter Airlines	14 CFR 135.107	To permit petitioner to operate certain aircraft in scheduled and on-call/on-demand charter flight operations with 20 fare paying passenger seats without a flight attendant.
23276	Corsair	14 CFR 121.311(f)	To permit petitioner to operate four DC9-30 aircraft without each flight attendant having a seat for takeoff and landing in the passenger compartment that meets the seat requirements of § 25.785.
23139	Wylie Aircraft Corp.	14 CFR 91.31(a)(3)	To permit petitioner to operate its DC-6B aircraft using a 5 percent increase in zero fuel and landing weight.
19911	Aerovias Nacionales de Columbia, S.A	14 CFR Portions of Parts 21 & 91	To permit petitioner to operate five U.S.-registered B-727-259 aircraft using a FAA approved master minimum equipment list and a continuous airworthiness maintenance program.
23220	Summit Airlines	14 CFR 121.583(a)(ii)	To provide transportation for a dependent of an employee of petitioner on its cargo aircraft without the dependent being accompanied by the employee.
20694	Trans-Colorado Airlines, Inc	14 CFR 135.181(a)(2)	Extension of Exemption No. 3078 to permit petitioner to use alternate means of compliance with the performance requirements, the use of procedures, and operations authorized by § 121.201(a) for compliance with the en route limitations.
23286	Sealand Helicopters, Inc	14 CFR 43.3(h)	To permit petitioners' appropriately trained and certificated pilots to remove, check, and reinstall magnetic chip detector plugs on its Allison 250C series engines used on certain helicopters.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
22992	Miami Air Lease, Inc.	14 CFR 91.31(a)	To permit petitioner to operate its Douglas DC-8S aircraft for the purpose of competing with other operators who are authorized to use the 5 percent increase in zero fuel and landing weight when operating under Part 125. *Denied 9/9/82.*
23117	Air Nevada	14 CFR 135.244	To allow petitioner's pilots to operate a single-engine airplane in commuter air carrier operations without having the prerequisite operating experience. *Denied 9/7/82.*
22444	Transamerica Airlines	14 CFR 121.311(e)	Extension of Exemption No. 3486 to permit petitioner to operate certain aircraft without the aircraft being equipped with a combined seat belt and shoulder harness at the flight observer and the crew bunk triple seats located on the flight deck. *Granted 9/15/82.*
22120	American Airlines	14 CFR 121.291(b)(2), (d), & (e)	To permit petitioner to change the number of required flight attendants without conducting a partial demonstration of emergency evacuation procedures and without conducting a simulated ditching demonstration. *Denied 9/10/82.*
22958	Suburban Airlines	14 CFR 135.2(d) & SFAR 36	To permit petitioner to operate its Shorts Model 360 aircraft under the operating rules of Part 135 in lieu of the Part 121 domestic and supplemental rules. *Denied 9/15/82.*
23049	Air Cortez	14 CFR 121.311 & 25.785	To permit petitioner to operate its Fairchild F-27J aircraft without each flight deck station being equipped with a combined safety belt and shoulder harness that meets the applicable requirements and without each flight attendant having a seat for takeoff and landing in the passenger compartment that meets the seat requirements. *Considered withdrawn 9/8/82.*

[FR Doc. 82-26170 Filed 9-22-82; 8:45 am]
BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 149—Airborne Distance Measuring Equipment (DME); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 149 on Airborne Distance Measuring Equipment (DME) to be held on October 13-15, 1982 in Conference Rooms 5A-B, Federal Aviation Administration Building, 800 Independence Avenue, S.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of First Meeting Held on July 7-9, 1982; (3) Briefing on International Civil Aviation Organization (ICAO) Working Group M Activities; (4) Briefing on Interference Problems Between JTIDS and DME/M; (5) Review Task Assignments From First Meeting; (6) Review Second Draft of Committee Report on Minimum Operational Performance Standards for Airborne Distance Measuring Equipment; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on September 14, 1982.

Karl F. Bierach,
Designated Officer.

[FR Doc. 82-25656 9-22-82; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement Supplement: Cordova, Alaska

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplement to a final environmental impact statement (FEIS) will be prepared for a proposed project to establish an overland connection between the City of Cordova, Alaska and the Alaska Highway System. The supplement will consider alternatives to the proposal presented in the FEIS of a highway connection from Cordova through the Copper and Tasnuna River valleys to the Richardson Highway.

FOR FURTHER INFORMATION CONTACT: Glenn E. Johns, Environmental Coordinator, Federal Highway Administration, P.O. Box 1648, Juneau, Alaska 99802, Telephone No. (907)-586-7419 or Michael Tinker, Regional Environmental Coordinator, Alaska Department of Transportation and Public Facilities (DOT/PF), 2301 Peger Road, Fairbanks, Alaska 99701, Telephone No. (907)-452-1911.

SUPPLEMENTARY INFORMATION: A two lane, secondary highway (the Copper River Highway) presently extends from Cordova 49 miles to Miles Lake on the Copper River. The propsed project described in the FEIS would involve the construction of approximately 65 miles of additional two lane secondary roadway between Miles Lake and Mile 22 on the Richardson Highway. The proposed route would follow the Copper River valley north of Miles Lake for about 33 miles, then would turn northwest and follow the Tasnuna River valley for about 32 miles before terminating at the Richardson Highway.

The supplement to the FEIS will address the social, ecomomic and environmental impacts of various alternatives to the proposed action, including the impacts associated with the "no build" alternative. Besides the "no build", other alternatives being considered include routing the highway through the Tiekel River valley to terminate at about Mile 46 on the Richardson Highway, and following the Copper River valley upstream through Woods Canyon to terminate at Chitina (Mile 35 on the Edgerton Highway). The supplement will also discuss the relationship between the various alternatives and the effects of the development of the Bering River coal fields, a project which is under consideration by the Chugach Natives, Inc.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies and to private organizations and citizens who have previously

expressed an interest in this proposal. The draft and final supplements will be available for public and agency review and coment. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the FEIS supplement should be directed to the FHWA or Alaska DOT/PF at the addresses provided above. To be addressed in the draft supplement, comments should be received on or before October 25, 1982.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular A-95 (as amended by Executive Order 12372) regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: September 17, 1982.

Barry F. Morehead,

Division Administrator, Federal Highway Administration, Juneau, Alaska.

[FR Doc. 82-25976 Filed 9-22-82; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[FRA Waiver Petition Dockets HS-82-11 Through HS-82-20]

Petitions for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and 211.9, notice is hereby given that ten railroads have petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91-169, 45 U.S.C. 64a(e)). Each petition requests that the individual railroad be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

Each railroad seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. Each petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, each petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption. The railroads seeking this exemption are as follows:

Louisiana Southern Railroad, Docket Number HS-82-11
Natchez Trace Railroad, Docket Number HS-82-12
Springfield Terminal Railroad, Docket Number HS-82-13
Bay Colony Railroad, Docket Number HS-82-14
Cape Cod and Hyannis Railroad, Docket Number HS-82-15
Wisconsin and Southern Railroad, Docket Number HS-82-16
Fore River Railroad Corporation, Docket Number HS-82-17
East Cooper and Berkeley Railroad Company, Docket Number HS-82-18
Port Utilities Commission of Charleston, South Carolina, Docket Number HS-82-19
Port Terminal Railroad of South Carolina, Docket Number HS-82-20

Interested persons are invited to participate in these proceedings by submitting written views and comments. FRA has not scheduled an opportunity for oral comments since the facts do not appear to warrant it. Communications concerning these proceedings should identify the appropriate Docket Number (e.g., Docket Number HS-82-12) and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before October 30, 1982, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 7321A, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

(Sec. 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d))

Issued in Washington, D.C., on September 17, 1982.

Joseph W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 82-25340 Filed 9-22-82; 8:45 am]

BILLING CODE 4910-06-M

Maritime Administration

Values for War Risk Insurance; Correction

AGENCY: Maritime Administration, DOT.

In the **Federal Register** Document 82-23769 appearing on page 38745 in the issue of Thursday, September 2, 1982 (Vol. 47, No. 171), make the following corrections:

1. On page 38748, the value for the tanker MANHATTAN (Official Number 287253), which reads $2,515,000, should read $20,515,000.

2. On page 38749, the following list of ship valuations should be inserted after the tanker PASADENA (Official Number 248894) and before the RESOLUTE (Official Number 612715).

FEDERAL REGISTER LIST OF SHIP VALUATIONS

Ship type	Lad No.	Fol No.	Binder No.	Vessel name	Official No.	Valuation, Jan. 1, 1982
TKR	19	9	3390	Patriot	571049	$18,000,000
TKR	80	1	2926	Pennsylvania Sun	280202	6,395,000
SPC	3	8	3021	Penny	295109	980,000
TKR	7	5	521	Perryville	244844	1,855,000
SML	2	1	3340	Perth Amboy I	171776	140,000
BPC	8	5	2560	Philadelphia	516541	700,000
CDS	1	2	1658	Pioneer Commander	290606	1,435,000
CDS	1	3	1750	Pioneer Contender	295572	1,435,000
CDS	1	4	1715	Pioneer Contractor	291668	1,435,000
CDS	1	5	1774	Pioneer Crusader	292930	1,435,000
CDS	1	11	1432	Pioneer Moon	292668	1,435,000
SPC	7	2	2944	Pittsburgh	247276	8,800,000
SML	7	8	2999	PL1-[illegible]	[illegible]	[illegible]
SML	7	8	3000	PL1-[illegible]	[illegible]	[illegible]
SML	7	10	3001	PL1-[illegible]	[illegible]	[illegible]
SML	7	11	3006	PL1-[illegible]	[illegible]	[illegible]

FEDERAL REGISTER LIST OF SHIP VALUATIONS—Continued

Ship type	Lad No.	Fol No.	Binder No.	Vessel name	Official No.	Valuation, Jan. 1, 1982
SML	9	1	3313	PL1-1-0526/57—0559/0775	564526	40,000
SML	17	1	3314	PL2-0426-2-0481	540426	25,000
SPC	9	5	2428	Ponce	512975	14,000,000
SPC	2	1	3277	Portland	511467	700,000
SPC	3	2	1505	Potomac	248800	1,980,000
CDS	16	1	2501	President Adams	517120	5,000,000
CDS	16	5	2740	President Cleveland	521866	5,000,000
CDS	27	3	1419	President Eisenhower	268986	5,940,000
CDS	28	4	2447	President Fillmore	513860	7,230,000
CDS	37	3	3483	President Grant	530136	16,110,000
CDS	30	3	2148	President Harrison	502589	5,990,000
CDS	37	2	3485	President Hoover	530137	16,110,000
CDS	16	2	2526	President Jackson	517717	5,000,000
CDS	23	3	3030	President Jefferson	544900	14,100,000
CDS	23	2	3121	President Johnson	552109	14,100,000
CDS	31	1	1947	President Kennedy	296779	8,300,000
CDS	23	4	3041	President Madison	546725	14,100,000
CDS	28	2	2416	President McKinley	512593	7,235,000
CDS	30	2	2113	President Monroe	501712	5,990,000
CDS	23	1	3120	President Pierce	552108	14,100,000
CDS	30	1	2084	President Polk	500484	5,990,000
CDS	27	1	1349	President Roosevelt	267238	5,940,000
CDS	28	3	2398	President Taft	511653	7,235,000
CDS	16	3	2565	President Taylor	518517	5,000,000
CDS	27	2	1418	President Truman	287976	5,940,000
CDS	37	1	3846	President Tyler	530140	16,110,000
CDS	28	1	2359	President Van Buren	509581	7,235,000
CDS	16	4	2622	President Wilson	520392	5,000,000
TKR	2	1	3390	Prince William Sound	570106	45,000,000
TKR	17	1	2894	Puerto Rican	535000	18,000,000
STD	2	1	2706	Pure Oil	248837	650,000
TKR	19	1	3389	Ranger	573810	16,000,000
CDS	17	3	2821	Red Jacket	522650	13,500,000

(Catalog of Federal Domestic Assistance Program No. 20.803 Maritime War Risk Insurance)

Dated: September 13, 1982.

By Order of the Maritime Administrator.

Georgia P. Stamas,

Assistant Secretary.

[FR Doc. 82-26224 Filed 9-22-82; 8:45 am]

BILLING CODE 4910-81-M

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB, August 26–September 10, 1982

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, between Aug. 26 and Sept. 10, 1982, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 7th Street, SW., Washington, D C. 20590, (202) 426–1887 or Donald Arbuckle or Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D. C. 20503, (202) 395–7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

On Mondays and Thursdays, as needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.[1]

(2) An OMB approval number if the submittal involves the renewal,reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) the frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for and uses to be made of the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials

[1] On August 1, 1982, numbers 1988 through 2048 were reserved for new requests proposed for submission during FY 1983.

listed in the "For Further Information Contact" paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB between Aug. 26 and Sept. 10, 1982:

- DOT No: 1972.
OMB No: None.
By: U.S. Coast Guard.
Title: Requirements for the installation and use of oil discharge monitoring equipment on tank vessels and for the retention of discharge data.
Forms: None.
Frequency: On occasion.
Respondents: Tank vessel owners and operators.
Need/Use: Plans for installation of equipment are required to ensure system installation complies with safety standards. Discharge data must be retained in accordance with international treaty requirements.

- DOT No: 2065.
OMB No: 2115–0008.
By: U.S. Coast Guard.
Title: Seaman's certificate application.
Forms: CG–719B.
Frequency: As needed.
Respondents: Applicants for U.S. merchant mariners documents and documented merchant mariners applying for upgrading.
Need/Use: This information is required by the Coast Guard to determine an applicant's suitability for possessing U.S. merchant mariners documentation and to establish permanent record of those issued documents.

- DOT No: 2066.
OMB No: 2130–0022, 2130–0026, 2130–0027, 2130–0040, 2130–0508, 2130,0509, 2130–0510.
By: Federal Railroad Administration.
Title: State Participation Program.
Forms: FRA–F–6180.58; FRA–F–6180.58a; FRA–F–6180.59; FRA–F–6180.59a; FRA–F–6180.68; FRA–F–6180.68a; FRA–F–6180.69; FRA–F–6180.65; FRA–F–6180.65a; FRA–F–6180.67; FRA–F–6180.5; FRA–F–6180.5a; FRA–F–6180.10; FRA–F–6180.29; FRA–F–6180.29a; FRA–F–6180.33; FRA–F–6180.61.
Frequency: Annually; Semi-annually; On occasion (with each inspection).
Respondents: State Transportation Departments or State Public Utility Commissions.
Need/Use: Establishes standards and procedures for State participation in investigative and surveillance activities under the Federal Railroad Safety Laws and Regulations.

- DOT No: 2067.
OMB No.: 2125–0016.
By: Federal Highway Administration.
Title: Driver's Duty Status Record.
Forms: None.
Frequency: Daily.
Respondents: Drivers of commercial motor vehicles operating in interstate or foreign commerce.
Need/Use: The driver's duty status record is required as the principal means of deterring fatigued drivers from operating heavy commercial vehicles in order to protect the motoring public and persons working or residing along highway corridors. It will be the primary regulatory tool used by Federal and State enforcement personnel and commercial motor carriers to determine compliance with the maximum time limitations prescribed in the FMCSR. It will also be used to determine a motor carrier's overall compliance status.

- DOT No: 2068.
OMB No.: 2120–0057.
By: Federal Highway Administration.
Title: Safety Improvement Report Test Program.
Forms: FAA Form 8740–5.
Frequency: Non-Recurring.
Respondents: Individuals—the general aviation public, e.g., pilots, flight instructors, mechanics, etc.
Need/Use: Federal Aviation Act of 1958, Section 601 (49 U.S.C. 1421) directs the Secretary of Transportation to exercise his powers in a manner that will tend to reduce or eliminate the possibility of, recurrence of, air transportation accidents. Safety improvement information is used to initiate corrective actions.

- DOT No: 2069.
OMB No.: None.
By: Maritime Administration.
Title: Inventory of American Intermodal Equipment.
Forms: None.
Frequency: Annually.
Respondents: U.S. steamship and intermodal equipment leasing companies.
Need/Use: The Maritime Administration's Office of Port and Intermodal Development conducts an intermodal operations program. The goals are to assist industry efforts to overcome constraints to the development of improved U.S. intermodal carrier coordination, and interchange. The Maritime Administration has seen the need for the development of an inventory that identifies the capacity of U.S. owned intermodal equipment. The information serves as a planning tool for the movement of Department of Defense containerized traffic. It is also used as a marketing, investment, and planning aid by U.S. flag vessel operators and intermodal equipment leasing companies.

- DOT No: 2070.
OMB No.: 2115–0009; Also consolidates 2115–0001 and 2115–0011 into 2115–0009.
By: U.S. Coast Guard.
Title: Recreational Boat Registration, Duplicate and Change in Status.
Forms: CG–3878, CG–3919, CG–3912.
Frequency: Triennally and On Occasion.
Respondents: Individuals.
Need/Use: 46 U.S.C. 1467 and implementing regulations require the establishment of a standard recreational boat numbering system. Coast Buard is to provide for numbering in States which don't have an approved system, including application and display requirements. The Coast Guard is currently studying the possible consolidation of these three forms into one multiple use form.

- DOT No: 2071.
OMB No.: 2133–0029.
By: Maritime Administration.
Title: Shipbuilding Ordering and Shipyard Employment.
Forms: MA–832.
Frequency: Quarterly.
Respondents: U.S. Commercial Shipyards.
Need/Use: Quality shipbuilding status and employment information is essential for the formulation of national shipbuilding policies and for support of the national defense.

- DOT No: 2072.
OMB No.: 2133–0033.
By: Maritime Administration.
Title: Exporter/Importer Data.
Forms: MA–740.
Frequency: On occasion.
Respondents: Exporters and importers.
Need/Use: The information is needed by the Maritime Administration to identifying existing and potential movements of cargo that can be targeted for the marketing efforts of MARAD and/or the U.S.-flag carriers. In addition to its use in identifying specific markets, this information is passed on to U.S.-flag carriers in order to help them identify and correct

specific service problems and improve the quality of service which further strengthens the overall U.S.-flag market penetration.

Issued in Washington, D.C. on September 14, 1982.

Karen S. Lee,

Deputy Assistant Secretary for Administration.

[FR Doc. 82-26062 Filed 9-22-82; 8:45 am]
BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

During the period September 10 through September 16, 1982, the Department of Treasury submitted the following public information collection requirements to OMB, for review and clearance under the paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the Treasury Reports Management Officer, Information Resources Management Division, Room 309, 1625 I St. NW., Washington, D.C. 20220; *and* to the OMB reviewer listed at the end of each entry.

- *Date Submitted:* September 14, 1982
- *Submitting Bureau:* Comptroller of the Currency
- *OMB Number:* 1557-0094
- *Form Number:* None
- *Type of Submission:* Reinstatement
- *Title:* Notice for Futures and Forward Placement Contracts Activities
- *Purpose:* The information collection is conducted pursuant to the National Bank Act and related statutes empowering OCC to assure that national banks conduct their operations in a safe and sound manner. Purchase and sale of forward placement or financial futures contracts can pose great risk to the financial institution if Management and internal controls are not adequate.
- *OMB Reviewer:* Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503
- *Date Submitted:* September 14, 1982
- *Submitting Bureau:* Internal Revenue Service
- *OMB Number:* 1545-0257
- *Form Number:* None
- *Type of Submission:* Extension
- *Title:* Federal Tax Deposit
- *Purpose:* The Federal Tax Deposit (FTD) form is used by taxpayers to deposit the required taxes at authorized financial institutions or Federal Reserve Banks or Branches. The depository sends the card to the IRS center where the deposit amount is credited to the depositor's tax account. The data is used to make the credit and to verify the tax deposit claimed on a return.
- *OMB Reviewer:* Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503
- *Date Submitted:* September 14, 1982
- *Submitting Bureau:* Internal Revenue Service
- *OMB Number:* 1545-0086
- *Form Number:* 1040C
- *Type of Submission:* Revision
- *Title:* U.S. Departing Alien Income Tax Return
- *Purpose:* Form 1040C is used by aliens departing the U.S. to report income received or expected to be received for the entire taxable year determined as nearly as possible by the date of intended departure. The data collected is used to insure that the departing alien has no outstanding U.S. tax liability.
- *OMB Reviewer:* Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503
- *Date Submitted:* September 14, 1982

Submitting Bureau: Internal Revenue Service
OMB Number: 1545-0644
Form Number: 6781
Type of Submission: Revision
Title: Gains and Losses from Commodity Futures Contracts and Straddle Positions
Purpose: Form 6781 is used by taxpayers in computing their gains and losses from regulated futures contracts and straddle positions and its special tax treatment. The data is used to verify that the tax reported accurately reflects any such gains or losses.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

- *Date Submitted:* September 14, 1982

Submitting Bureau: Internal Revenue Service
OMB Number: N/A (New submission)
Form Number: 637A
Type of Submission: New
Title: Registration for Tax Free Sales and Purchases of Fuels Used in Aircraft
Purpose: Certain sellers and purchases are exempt from the IRS section 4041(c) excise tax on aviation fuel if they use this form to register for tax-free transactions. The data collected is used to determine if the applicant qualifies for exemption.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

- *Date Submitted:* September 14, 1982

Submitting Bureau: Internal Revenue Service
OMB Number: N/A (New submission)
Form Number: PUB 678
Type of Submission: New
Title: Lesson Evalution Booklet (VITA)
Purpose: This form will be used by 500 volunteers to evaluate the new VITA course material. It also permits IRS to give feedback to the volunteers on their attainments of the lessons. This is a one time evaluation.
OMB Reviewer: Michael Abrahams (202) 395-6880, Ofice of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

- *Date Submitted:* September 14, 1982

Submitting Bureau: Internal Revenue Service
OMB Number: 1545-0601
Form Number: 6745 and 6743
Type of Submission: Reinstatement
Title: VITA/Retest (English) and VITA/Retest (Spanish)
Purpose: As part of the VITA training program, volunteers who fail the initial VITA test (English) and the initial VITA test (Spanish) are permitted to take a retest. If the retest is passed, volunteers may then prepare tax returns.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

* * * * *

Joy Tucker,

Departmental Reports, Management Officer.

September 17, 1982.

[FR Doc. 82-26232 Filed 9-22-82; 8:45 am]
BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowance; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on October 15, 1982, at 9:00 a.m., the Veterans

Administration Regional Office, St. Petersburg, Florida, Station Committee on Educational Allowances, shall, at the Federal Building, Room 602A, 144 1st Avenue, St. Petersburg, Florida, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in an Apprenticeship Training Program at Central Florida Operating Engineers Joint Apprenticeship Committee, 8434 Avenue "C", Building 126, McCoy Annex, Orlando, Florida 32812, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: September 14, 1982.

Carlos L. Rainwater,

Director.

[FR Doc. 82-26236 Filed 9-22-82; 8:45 am]

BILLING CODE 8323-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 185
Thursday, September 23, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday, September 28, 1982.

CHANGES IN THE MEETING: Deleted from meeting: NOCE Corn Designation, CEOT 90-Day T-Bill Designation.

[S–1366–82 Filed 9–21–82; 3:40 pm]

BILLING CODE 6351–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, September 20, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re: (Amended) Penn Square Bank, National Association, Oklahoma City, Oklahoma

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: September 20, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary,

[S–1359–82 Filed 9–21–82; 11:11 am]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, September 27, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Request for consent to capitalize the value of the core deposit intangible acquired in a purchase and assumption transaction:

Commercial Bank, Thomasville, Georgia, in connection with its purchase and assumption transaction with Peoples Banking Company, Boston, Georgia.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,396–L: The Mission State Bank & Trust Company, Mission, Kansas

Memorandum and Resolution re: Bank of Enville, Enville, Tennessee

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Schall, Boudreau & Gore, San Diego, California, in connection with the liquidation of Pacific Coast Bank, San Diego, California.

Milbank, Tweed, Hadley and McCloy, New York, New York, for itself and on behalf of Gibson, Dunn & Crutcher, Los Angles, California, in connection with the liquidation of The Greenwhich Savings Bank, New York, New York.

Witherspoon, Kelley, Davenport & Toole, P.S., Spokane, Washington, in connection with the liquidation of Fidelity Mutual Savings Bank, Spokane, Washington.

Memorandum and resolution re: Withdrawal of a proposed amendment to Part 337 of the Corporation's rules and regulations, entitled "Unsafe or Unsound Banking Practices," which would have required insured State nonmember banks to maintain their books and records of account on the accrual basis of accounting.

The meeting will be held in the Board Room on the sixth floor of the FDIC building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr.

Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: September 20, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1360–82 Filed 9–21–82; 11:11 am]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, September 27, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money (penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from the disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to merge and establish one branch:

Farmers Bank & Trust Co., Bardstown, Kentucky, for consent to merge, under its charter and title, with Bank of New Haven, New Haven, Kentucky, and to establish the sole office of Bank of New Haven as a branch of the resultant bank.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning this matter may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: September 20, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1361–82 Filed 9–21–82; 11:11 am]

BILLING CODE 6714–01–M

5

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, September 28, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, September 30, 1982 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Advisory opinion 1982–52—Doug Ross, Candidate for Congress (MI–17th Cong. Dist.)
Appropriations and budget
FY 83 Management Plan (Tenative)
Routine Administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S–1364–82 Filed 9–21–82; 2:51 pm]

BILLING CODE 6715–01–M

6

FEDERAL MARITIME COMMISSION

TIME AND DATE: September 29, 1982—9:00 a.m.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Exemption of Nonexclusive Transshipment Agreements from the Filing Requirements of Section 15, Shipping Act, 1916—Proposed Rulemaking.

Portions closed to the public:

1. Dynamic International Freight Forwarder, Inc.—Compliance with Commission Order in Docket No. 80–6.

2. Japanese Pooling and Space Charter Agreements: Review of record in Docket No. 81–74; Consideration of Status of Fact Finding Investigation No. 12; Consideration of Remand from Court of Sea-Land Service, Inc., et al. v. FMC (D.C. Cir. Nos. 81–1123, 81–1130, and 81–1206).

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–1365–82 Filed 9–21–82; 3:33 pm]

BILLING CODE 6730–01–M

7

NATIONAL LABOR RELATIONS BOARD

Notice of Meeting

AGENCY HOLDING THE MEETING: National Labor Relations Board.

TIME AND DATE: 10 a.m., Monday, September 27, 1982.

PLACE: Board Conference Room, sixth floor, 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS TO BE CONSIDERED: Personnel-related matters.

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, Washington, D.C. 20570; telephone: (202) 254–9430.

Dated: Washington, D.C., September 21, 1982.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[S–1363–82 Filed 9–21–82; 11:04 am]

BILLING CODE 7545–01–M

8

POSTAL SERVICE

(Board of Governors)

Vote to Close Meeting

At its meeting of September 10, 1982, the Board of Governors of the United States Postal Service unanimously voted to close to public observation its

meeting scheduled for October 4, 1982. A portion of the meeting to be closed will involve a continuation of the discussion of the most recent general ratemaking proceeding (Docket No. R80–1) in the light of the July 9, 1982, Decision of the U.S. Court of Appeals for the Second Circuit in *Time, Inc. et al* v. *United States Postal Service*, the discussion having been commenced at the meeting of the Board on August 2, 1982, and continued at the meeting of September 9, 1982, those meetings also having been closed to public observation pursuant to the unanimous vote of the Board.

The Board has determined that, pursuant to section 552b(c)(3) of Title 5, United States Code, and § 7.3(c) of Title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b), in that it is likely to disclose information prepared for use in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification, and postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39. The Board determined further that, pursuant to section 552b(c)(10) of title 5, United States Code, and § 7.3(j) of Title 39 Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding, and the initiation of a particular case involving a determination on the record after opportunity for a hearing. The Board of Governors has determined that the public interest does not require that the Board's discussion of this matter be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation, pursuant to section 552b(c)(3) and (10) of title 5 and section 410(c)(4) of title 39, United States Code, and § 7.3 (c) and (j) of Title 39, Code of Federal Regulations.

Another portion of the Board meeting to be closed will consist of a discussion of Postal Service strategic planning.

The Board is of the opinion that public access to this discussion would be likely to disclose information in connection with future collective bargaining and information that will become involved in future rate litigation.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of Title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b), because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification, and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code. The Board determined further that, pursuant to section 552b(c)(10) of title 5 and § 7.3(j) of Title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the litigation of a particular case involving a determination on the record after opportunity for a hearing. It also determined, pursuant to section 552b(c)(9)(B) and § 7.3(i) of Title 39, Code of Federal Regulations, that the discussion is exempt because premature disclosure of information to be discussed would be likely significantly to frustrate implementation of future action in regard to future collective bargaining. The Board further determined that the public interest does not require that the Board's discussion of this matter to be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation, pursuant to sections 552(c)(3), (9)(B) and (10) of title 5 and sections 410(c) (3) and (4) of title 39, United States Code, and § 7.3 (c), (i), and (j) of Title 39, code of Federal Regulations.

Louis A. Cox,

Secretary.

[S–1358–82 Filed 9–30–82; 4:32 pm]

BILLING CODE 7710–12–M

9

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of September 27, 1982, at 450 5th Street, N.W., Washington, D.C.

A closed meeting will be held on Tuesday, September 28, 1982, at 10:00 a.m. An open meeting will be held on Wednesday, September 29, 1982, at 10:00 a.m. in Room 1C30.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the close meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Commissioners Evans, Thomas and Treadway voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, September 28, 1982, at 10:00 a.m., will be:

Litigation matter.
Settlement of administrative proceedings of an enforcement nature.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive action.
Regulatory matter regarding financial institution.

The subject matter of the open meeting scheduled for Wednesday, September 29, 1982, at 10:00 a.m., will be:

1. Consideration of whether to adopt an amendment to Rule 11Aa2–1 under the Securities Exchange Act of 1934 which would defer the eligibility date for the designation of certain securities as national market system securities from October 1, 1982, to February 1, 1983. For further information, please contact William Uchimoto at (202) 272–2409.

2. Consideration of whether to approve the Municipal Securities Rulemaking Board's ("MSRS") selection of Donald J. Robinson to serve as a public member of the MSRB and whether to delegate its authority to approve public members of the MSRB to the Director of the Division of Market Regulation. For further information, please contact Howard L. Kramer at (202) 272–2411.

The Commission will also consider whether to issue a letter from the Division of Market Regulation to Congressman Dingell commenting on legislation, proposed by the MSRB; which would amend the definition of the term "public representative" in the Securities Exchange Act of 1934 so that persons associated with a broker or dealer that is not a municipal securities broker or a municipal securities dealer could serve on the MSRB as public members. For further information, please contact Katherine A. England at (202) 272–2410.

3. Consideration of whether to approve the application of Claude Locklan Downs to become an associated person in a supervisory capacity with Commonwealth Plan of Church Finance Inc. For further

information, please contact Mary Binno at (202) 272-2318.

4. Consideration of an application filed by Union-Investment-Gesellschaft m.b.H. ("Union-Investment"), a West German management company, on behalf of Unifonds, a West German mutual fund, requesting an order pursuant to Sections 6(c) and 7(d) of the Investment Company Act of 1940, permitting registration of Union-Investment under the Act so that it may sell Unifonds shares in the United States, and granting exemptions from many of the provisions of the Act to the extent necessary to permit Union-Investment to comply with various West German regulations and business practices that conflict with those to which U.S. companies are subject. For further information, please contact Barbara Fraser at (202) 272-3042.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Catherine McGuire at (202) 272-3085.

September 20, 1982.

[S-1383-82 Filed 9-21-82; 1:48 pm]

BILLING CODE 8010-01-M

federal register

Thursday
September 23, 1982

Part II

Department of the Interior

Bureau of Land Management

Exchanges; Amendments To Modify Appraisal Procedure and Provide Segregation on Public Lands Subject to Exchange

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2200

Exchanges; Amendments To Modify Appraisal Procedure and Provide Segregation on Public Lands Subject to Exchange

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would make a number of amendments to the existing regulations on exchanges that would clarify and simplify the exchange process. A significant change is one relating to the appraisal standards used in determining equal value of the lands and interests in lands subject to an exchange.

DATE: Comments by November 22, 1982.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT:
David Hemstreet (202) 343–8693
or
Robert C. Bruce (202) 343–8735

SUPPLEMENTARY INFORMATION: The proposed rulemaking would make a number of changes in the existing regulations on exchanges. The most significant change would provide for equal value appraisals rather than fair market value appraisals as now required in existing regulations. This amendment brings the regulations into greater conformity with the wording of section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) than does the wording of the existing regulations. This change will also allow greater flexibility in the exchange process, particularly in the area of oil shale exchanges where there is insufficient information to permit a fair market value appraisal. In connection with this change in the regulations, the Mineral Management Service has developed a methodology for determining equal value appraisals of oil shale and related resources that will be used in making exchanges. The methodology is being published in the **Federal Register** as a separate document, with a request for public comments. The methodology will, for the present, be limited to oil shale exchanges, but the public is asked to consider its application to other minerals when making comments.

A second change made by the proposed rulemaking concerns the notices given in connection with an exchange. The change would provide that when an amendment to the land use plan is needed to accommodate an exchange and that amendment is simultaneously processed with the exchange, the notice of amendment can be used as the notice of realty action. This change will reduce the number of publications and speed the exchange process, while at the same time keeping the public adequately informed as to the actions of the Bureau of Land Management affecting the public lands. A second part of this change would eliminate the requirement that a notice of the proposed exchange be published at the time the exchange is filed with the Bureau of Land Management. With hundreds of exchange proposals being filed each year, this requirement imposed a burden on the Bureau which served no useful purpose. The public has access to all Bureau offices by personal visit, correspondence and by telephone, and may, on a daily basis, if necessary, obtain information on exchange proposals. In addition, the existing regulations require publication of the notice of realty action prior to the execution of an exchange and another publication after issuance of patent or other conveyance document.

Another change made by the proposed rulemaking would eliminate the requirement that exchange acquisitions of non-Federal lands and interests are subject to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.). As exchanges are a voluntary action on the part of the participants, there is no requirement that relocation assistance be provided. Condemnation or eminent domain proceedings by the United States to acquire lands are not involved in the exchange process. Additionally, exchanges are made on an equal value basis based on the current fair market value of both the lands to be acquired and the public lands to be exchanged.

The principal author of this rulemaking is David C. Hemstreet, Division of Lands, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The changes made by this proposed rulemaking are designed to simplify the exchange process and to speed the process of exchange proposals. The changes will impact all entities equally and will benefit all of them. The exchange process is open to anyone, regardless of whether they are a large or small business, wishing to exchange their lands or interests in lands for lands or interests in lands owned by the United States.

List of subject in 43 CFR Part 2200

Administrative practices and procedures, National forests, Public lands, Public lands—classification.

PART 2200—EXCHANGES—GENERAL PROCEDURES

Under the authority of sections 205, 206 and 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1715, 1716, 1732), it is proposed to amend Part 2200, Group 2200, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

§ 2200.0–5 [Amended]

1. Section 2200.0–5(h) is amended by removing the phrase "where fair market value appraisals" and replacing it with the phrase "where valuations."

§ 2200.1 [Amended]

2. Section 2200.1(a) is amended by adding at the end thereof the sentence "The notice published under § 1601.6–3(b)(1) of this title may, if so designated in the notice, serve as the notice of realty action required by § 2201.1 of this title and may segregate the public lands covered by the exchange proposal to the same extent that they would have been under a notice of realty action issued under § 2201.1 of this title if so stated in the notice."

§ 2200.3 [Amended]

3. Section 2200.3(e) is removed in its entirety.

§ 2201.2 [Amended]

4. Section 2201.2 is amended by:

a. Amending paragraph (a) by removing the last sentence; and

b. Adding a new paragraph (e) to read:

* * * * *

(e) Where 2 or more exchange proposals are submitted covering the same public lands, in whole or in part, the authorized officer shall review the proposals and advise the exchange proponents as to the acceptance or non-acceptance of their proposals in the same manner as specified in paragraphs (b) through (d) of this section.

5. Section 2201.3 is revised to read:

§ 2201.3 Valuations.

(a) Appraisals to determine whether the lands and interests in lands to be exchanged are of equal value shall be in accordance with the principles in the Interagency Department of Justic publication entitle "Uniform Appraisal Standards for Federal Land Acquisitions, where the authorized officer determines such an appraisal is appropriate.

(b) If the authorized officer determines that it is impracticable to asscertain under the procedures provided in paragraph (a) of this section the fair market value of lands or interests in lands containing oil shale which are being exchanged, he/she may utilize another method that will in his/her judgment ascertain their value; provided, that where the authorized officer utilizes another method, such other method shall be set forth in the notice of realty action issued in connection with such exchange.

David G. Houston,

Acting Assistant Secretary of the Interior.

September 14, 1982.

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Part III

Department of Health and Human Services

Office of Human Development Services

Proposed Fiscal Year 1983 Priority Areas for the Use of Discretionary Funds; Request for Comments

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

Request for Comments on Proposed Fiscal Year 1983 Priority Areas for the Use of Discretionary Funds

AGENCY: Office of Human Development Services, HHS.

ACTION: Proposed research, demonstration, evaluation, training and technical assistance priority areas for HDS' FY 1983 Discretionary Funds Program.

SUMMARY: The Office of Human Development Services (HDS) is formulating priority areas for new research, demonstration, evaluation, training and technical assistance grants authorized by its discretionary program legislation and that of its constituent programs—the Administration for Children, Youth and Families (ACYF), the Admininstration on Developmental Disabilities (ADD), the Administration on Aging (AoA), the Administration for Native Americans (ANA), the Office of Policy Development (OPD), the Office of Program Coordination and Review (OPCR) and the President's Committee on Mental Retardation (PCMR). As part of the process, HDS is requesting comments from the public on proposed priority areas for funding in Fiscal Year 1983 and the first quarter of Fiscal Year 1984. *THIS NOTICE SOLICITS PUBLIC COMMENTS ONLY AND IS NOT A REQUEST FOR APPLICATIONS.* An announcement of availability of funds and request for preapplications will be published in the **Federal Register** early this Fall.

FOR FURTHER INFORMATION CONTACT: Mr. Miguel A. Torrado, Acting Director, Division of Research and Demonstration, Office of Policy Development, Office of Human Development Services, Department of Health and Human Services, Room 732E, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, (202) 245-6233.

DATE: The closing date for receipt of public comments is October 25, 1982.

SUPPLEMENTARY INFORMATION:

Background

In FY 1982, HDS and its constituent programs initiated a Coordinated Discretionary Funds Program. As a result, a coordinated announcement of availability of funds and request for preapplications was published in the **Federal Register** on November 16, 1981. That announcement included several separate discretionary funding programs which had previously been announced and competed independently of each other. It also requested, instead of full proposals, that preapplications be submitted in the form of concept papers.

By establishing a coordinated discretionary funds process, which included all of its programs, HDS promoted cooperative and coordinated activity around important issues common to all programs. By requesting short (thirteen pages) concept papers, HDS encouraged wider participation in its discretionary funds program.

In FY 1983, HDS plans to continue the coordinated approach initiated in FY 1982 by publishing, later this fall, a coordinated announcement of funds availability and requesting preapplications in the form of concept papers.

HDS is using a priority-setting process that makes provision for State, local and community participation. With the cooperation of several national organizations, State, local, public, private, and voluntary practitioners were invited to discuss major research, demonstration, evaluation, training and technical assistance issues which should be addressed by Human Services Research and Demonstration efforts during the next two years. As a result of the recommendations developed through that process, a review of recent discretionary program activity, and in light of its mission and goals, HDS is proposing the priority areas discussed below for research, demonstration, evaluation, training and technical assistance activities in FY 1983.

Statutory Authorities

The individual statutory authorities under which grants would be awarded by the Office of Human Development Services Discretionary Funds Program are as follows:

Head Start: Head Start Act of 1982.

Child Welfare Services: Section 426 of Social Security Act as amended.

Runaway Youth Program: Runaway and Homeless Youth Act, as amended.

Child Abuse: Child Abuse Prevention and Treatment Act, as amended.

Adoption Opportunities: Title II of Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, as amended.

Native Americans: Native American Programs Act of 1974, as amended.

Developmentally Disabled Special Projects: Section 145 of the Developmental Disabilities and Bill of Rights Act, as amended.

Social Services Research: Section 1110 of Social Security Act, as amended.

Aging Model Projects; Aging Research and Demonstration; Aging Training: Title IV of the Older Americans Act of 1965, as amended.

Purpose

The purpose of this notice is to invite public comment based on these areas, and to request suggestions for additions or deletions to the specific topics within these areas.

Process for Fiscal Year 1983

Comments received by the closing date will be considered in preparing the FY 1983 announcement of availability of discretionary funds and request for concept papers which will be published in the **Federal Register** in the fall of 1982. Concept papers received in response to that announcement will be reviewed by HDS and experts in the field. It is expected that the top ranked applicants will be invited to submit full proposals in early spring to compete for funding to be awarded in the third and fourth quarters of FY 1983 and the first quarter of FY 1984.

In addition to the coordinated HDS Discretionary Funds Program Announcement, program-specific notices and announcements will appear in the **Federal Register** from time to time. This is in accordance with the requirements of legislation establishing some of HDS' discretionary programs. On July 27, 1982 the notice of proposed Fiscal Year 1983 child abuse and neglect research and demonstration activities was published for comment in accordance with the Child Abuse Prevention and Treatment Act (Public Law 93-247, as amended); (**Federal Register** Vol. 47 No. 144 pp. 32481-32483). However, child abuse and neglect preapplications will later be considered for support under the HDS Coordinated Funds Program Announcement.

Process for Commenting

HDS invites interested members of the public to comment on the areas and topics under consideration. The sections below discuss the general themes, priority areas and topics being considered by HDS for its FY 1983 Discretionary Funds Program **Federal Register** Announcement of Funds Availability in early fall of this year.

Comments should be submitted so that they are received by October 25, 1982. Comments should be sent to: OPD/Division of Research and Demonstration, Office of Human Development Services, Department of Health and Human Services, Room 732E, Hubert H. Humphrey Building, 200

Independence Avenue, SW., Washington, D.C. 20201.

In reviewing the areas and topics presented for comment, several things should be noted. First, there has been a substantial number of projects and studies conducted in most of the areas discussed in this notice. Thus, HDS is seeking *innovative* and *new* approaches. Primary emphasis is placed on furthering and building upon previous HDS knowledge and experience through the exploration of creative approaches. Adapting existing material for use in areas of HDS populations other than the area or group for which the material was originally developed will be considered when the proposed adaptation holds promise of significant innovation.

Secondly, the proposed priority areas take into account the priorities and projects funded in FY 1982. Therefore, emphasis has shifted in many instances from FY 1982 priorities.

Finally, this notice is structured around priority areas that cut across several HDS programs and populations. Readers with primary interest in one HDS population are advised to examine all proposed priority areas, as specific research or demonstration topics particular to one population are to be found—or could be suggested—in all priority areas.

Discretionary Program Purpose

The purpose of the HDS coordinated discretionary program is to fund: research activities that seek to inquire into insightful new ways of addressing human service problems; demonstrations intended to test the effectiveness of previously untried approaches; evaluations that will assess the usefulness of existing techniques; technical assistance/training projects that promote the dissemination and use of services and techniques that have been found to be effective. Above all, HDS discretionary funds are intended to expand the boundaries of human service knowledge by drawing on a variety of fields of expertise. These new ideas and perspectives should stimulate and challenge both human service professionals and the public to respond more effectively to local needs. The HDS discretionary program is not intended to fund existing service programs or to serve as a source of supplementary funds for local activities which need operating subsidies.

In FY 1983 HDS proposes to focus its attention on priority areas that relate to four major themes:

I. The reduction of dependency on social services through social and economic development strategies which generate opportunities for individual and family self-sufficiency.

II. Increased responsiveness of social services to local needs and priorities.

III. Improved use of resources through more efficent administration of programs and provision of services.

IV. Prevention of the need for social services.

Additionally, HDS is considering soliciting ideas and issues solely related to region-specific problems.

HDS proposes to guide FY 1983 discretionary program funding decisions through the application of the following:

- The degree to which proposed projects involve new and creative approaches that add to existing knowledge or promote change through dissemination and utilization.
- The degree to which projects have a research or evaluation component.
- The degree to which applicants provide (a) non-Federal funding participation, and (b) time limited Federal support.
- The degree to which grantees have a likelihood of effecting change in the human service delivery system, as opposed to conducting a study of limited local interest.

Fiscal Year 1983 Priorities and Issues

Proposed priority areas for FY 1983 and the first quarter of 1984 are:

I. Reduction of Dependency on Social Services

Social services, when working properly, should supplement assistance from family resources and the private sector for those in need of help, stimulate increased opportunities for HDS populations to become employed, and assist those who can't be employed to become more self-sufficient through participation in family or community care arrangements. Social services should, in most cases, be an interim supplement to an individual's efforts toward self-sufficiency. They should be used in the absence of, rather than as a substitute for, adequate family and community resources.

HDS proposes to promote innovative approaches that encourage self-sufficiency and reduce dependency on publicly supported social services. HDS plans to consider projects for funding in the following priority areas: (A) Employment and income generation; (B) Community and family-based care; and (C) Targeting resources to reduce dependency.

I.A. Employment and Income Generation

In FY 1983 HDS proposes to focus on the development of new and innovative strategies for employment of HDS populations which are a departure from human services/employment approaches that have been tried in the past. Proposed topical areas include:

I.A.1. Development of new approaches to economic development, particularly with regard to older persons, Native Americans, developmentally disabled individuals, mentally retarded individuals, and AFDC recipients.

I.A.2. Investigation and development of alternative income generating strategies for HDS non-employable subgroups, e.g. reverse annuity mortgages, tax deferral, tax incentives for home maintenance and repair, and home sharing etc.

I.A.3. Development and greater utilization of employment strategies to enable HDS subgroups to enter or remain in the job market and become less dependent on public assistance. Techniques might include: flexitime; shared and part-time work; job restructuring; 2nd and 3rd careers; home-based work; and flexible insurance and fringe benefit packages.

I.A.4. Promotion of employment opportunities in high technology areas in industry through private sector training of older persons using the latest technology and through strategies to employ individuals with developmental disabilities.

I.A.5. Demonstrations which identify and build upon existing linkages between Head Start and other human services to assist parents in securing basic educational skills, vocational training, employment counseling and employment.

I.A.6. Examination of existing day care tax credits and other State tax provisions to determine if and how they can be used to increase the involvement of businesses in the provision of employment related day care.

I.A.7. Demonstrations to provide low income, inner city and minority youth with meaningful work experiences as volunteers in Head Start and other human services agencies, e.g. child and family services, and health and recreation. The focus of these efforts should be upon skill development to make these youths marketable for eventual employment by the participating agencies and organizations, as well as private sector firms.

I.A.8. Development of greater educational opportunities for older persons, including training for second careers, health and consumer education and training for greater self-sufficiency.

I.B. Community and Family-Based Care

Strengthening the family is a key factor in socio-economic growth. Of particular interest is the development of greater service and peer group support for primary care givers of older persons, special needs children and developmentally disabled individuals. Foster care and adoptive parents of hard to place children are part of this area of concern as are Head Start parents. Further effort is needed in:

I.B.1. Development of community support groups; including peer groups; intergenerational support groups; and extended family concepts.

I.B.2. Assessment of the implications of changing life styles (family relocations, dual parent employment, labor market demands on levels of education, changing supply/demand issues in the labor market) on HDS populations and service needs.

I.B.3. Conduct of demonstrations to aid families with handicapped children who are at risk of losing their children to inappropriate placement in foster care, or who need help in reducing the risk of child abuse and neglect.

I.B.4. Promotion of the role the private sector and business might play in foster care and adoption including support, identification and recruitment of prospective adoptive parents for special needs children.

I.B.5. Local development of comprehensive community based day care for children, adults and the handicapped.

I.B.6. Increased linkages of residential day care service providers with other community services.

I.B.7. Promotion of private sector involvement in more effectively addressing the mainstreaming and teaching development of learning models for deaf, hearing impaired and learning disabled individuals using advanced technology. Of particular concern are preschool Head Start children.

I.C. Targeting Resources

HDS will assist States and local governments in developing innovative approaches for targeting resources to the most needy. Emphasis in this area is on providing appropriate care in response to individual problems. Inappropriate placement into restrictive institutional settings not only reduces the individual's and family's ability to be self-sufficient, but also results in the expenditure of public funds for high cost and ineffective services. Effective targeting of resources should result in a cost effective use of services consistent with the needs and capabilities of the individuals and families being served.

To achieve this it is necessary to provide the basic, most effective services to aid individuals in attaining their maximum level of independence and self-sufficiency. It is also necessary to obtain a better definition of these target populations; to identify strategies for effective targeting; and to develop techniques which are effective in reaching those most in need.

In FY 1983 HDS is considering providing assistance to conduct projects in the following topic areas:

I.C.1. Adolescents who remain in foster care until the age of emancipation are a problem of growing concern. The number of youths in this area is increasing. With varying State laws and requirements, this group is in need of assistance in preparing for independent living, e.g. networks of coordinated counseling services to older adolescents using existing delivery systems, including schools, mental health organizations, employment agencies and child welfare agencies.

I.C.2. It is important to target resources on the prevention of runaway and homeless youth. Effective targeting is dependent on updated community information on the number of youths who are homeless. The only valid data on the number of runaway youth was collected in 1975. Valid and current data on the extent of the runaway and homeless youth is needed in order to effectively target preventive and family verification efforts.

I.C.3. Better strategies are needed to target resources on older people in the greatest economic and social need. Title III of the Older Americans Act requires State and area agencies to give preference in provision of supportive and nutrition services to older people in greatests need, including minorities, older women, rural older persons, the homebound, the poor, the impaired and those of limited English ability.

I.C.4. Study is needed on families who have a member who is handicapped, as both the parents and the handicapped person get older. To improve care models, additional information on the responsibiity of siblings, whose roles may or may not be well defined, is also needed.

I.C.5. Better strategies are needed to identify primary caregivers, and determine the education or assistance they require to provide effective services. Addtionally, there is a need for improved definition of the target populations most in need, e.g. impaired older person and the permanently poor elderly.

I.C.6. Currently there are serious procedural and operational problems between the States' child welfare agencies and the courts with regard to children in foster care placement. As a result, children are often denied access to prompt and effective decisions concerning custody, case reviews, parental rights, due process protections and permanency planning. Service improvement grants would be awarded to promote cooperative and more effective relationships between placement agencies and the courts.

I.C.7. Current practices make homestudies difficult when dealing across jurisdictions. HDS is seeking innovative practices which stimulate cooperation and sharing of completed homestudies and potential adoptive families.

I.C.8. The adoption process for special needs children is very labor intensive with many agencies being able to complete the adoptions of only 25 to 30 children per worker per year. Placement agencies need to evaluate the adoption process to determine how to streamline and reduce the costs of adoption.

I.C.9. Families adopting special needs children often do not have knowldege of nor access to the resources needed in parenting children with multiple special needs. There appears to be a direct correlation between the lack of supportive resources and the number of disruptions in these families. HDS is interested in local, regional or State adoptive parent groups for the development of innovative processes by which adoptive parents could engage in a volunteer collaborative effort with social service agencies to assist adoptive families to identify and use existing supportive resources.

I.C.10. Assisting Indian tribes to develop and implement tribal codes and court procedures on adoption, thereby reducing the number of Indian children in foster homes and in out-of-home placements.

I.C.11. Assisting Indian Tribes who are operating their own child welfare services system to reduce the number of Indian children inappropriately in out-of-home placement. This includes the application of permanency planning, case reviews and comprehensive emergency services.

I.C.12. Establishing and demonstrating partnerships of Indian Tribes and States for the development of cooperative processes for the disposition and management of child custody, jurisdiction and services.

II. Increased Responsiveness to Local Needs

HDS proposes, as the second theme of its FY 1983 Discretionary Funds Program, to foster an increase in the ability of HDS grantees—including State and local governments as well as private organizations—to administer and develop service programs responsive to local needs and priorities. Through this effort, HDS is promoting innovation in training, technical assistance, grantee cooperation, tribal and territorial relationships, and the dissemination and utilization of grantee R&D products.

The development and funding of activities with HDS discretionary funds has to an extent been dominated by a Federal perspective rather than by grantee or local needs. There is a need to reverse this pattern and to increase the flexibility grantees have in administering service programs. The underlying assumption is that greater State and local control will produce better use of resources to meet identified needs.

In FY 1983 HDS would like to address this issue by funding: (A) Alternative models of State or local planning and management of training resources; (B) successful demonstrations of new and innovative techniques for the dissemination and utilization of R&D products; and (C) projects that would address the unique service needs and special conditions of tribes and territories.

II.A. Training and Technical Assistance

Under this priority area, HDS proposes to primarily explore innovative training strategies that meet the generic needs of more than one HDS program area. Some of the topics that may be explored are:

II.A.1. State and local level training issues need to be locally determined and explicated. Of particular interest is the achievement of cost efficiencies through pooling of resources within agencies, programs and across organizations; identification of generic training needs; and innovative use of existing community resources.

II.A.2. Given the varied needs of clients, professional workers in human service networks are increasingly required to work in mulit-discipline environments. For example, in certain protective service cases it would be valuable if the social worker had the appropriate legal background. HDS is interested in strategies for addressing this issue at the State and local levels. These should use existing resources and networks, public and private expertise, peer group training and other innovative approaches to establish low-cost formal and informal training for coping with miltidiscipline demands and interface problems in the provision of human services.

II.A.3. The need for management training is generic in human service programs. HDS proposes to solicit ideas for State and local models for the provision of management training, at beginning and advanced levels, for human service managers. These should include the need and use of fiscal management and analytic tools in the delivery of human service. Concepts should be initiated by State or local agencies; have cross program involvement; be cost efficient; and have measurable goals. Of specific concern is management training which addresses gerontological and child welfare service provision needs, and joint projects between State and local agencies, and the business sector.

II.A.4. Training and technical assistance in rural areas continues to be a problem. HDS is interested in the development of methods for delivering effective T/TA to remote programs through the use of existing State and local networks and public media. Current technologies in communications should be considered in addressing this problem as well as other innovative and cooperative efforts. The focus should be on coordination and better use of existing training materials rather than the development of additional curricula.

II.A.5. An area of interest is the use of peer groups in the provision of training and technical assistance. HDS proposes to fund efforts to use social service practitioners as sources for T/TA drawing on their "hands on" experiences in upgrading the quality of service across programmatic and geographical boundaries.

II.A.6. HDS is interested in the provision of T/TA to community groups to increase their competencies in supporting service providers and to improve the quality of services provided by agencies that deal with the handicapped, developmentally disabled children, older presons and children in need of day care.

II.A.7. HDS is interested in supporting pre-service gerontological training programs in a variety of disciplinary and multi-disciplinary settings.

II.A.8. Support is important for activities which introduce aging content into the curricula of specific occupations and professions whose members deal with older persons.

II.A.9. There is a need for the development of certification standards related to training and career ladder mobility for the staff of State and Area Agencies on Aging.

II.B. Dissemination and Utilization

Too often new knowledge from research, demonstration, evaluation, training and technical assistance efforts has been unevenly applied. Information that has generic use needs to be disseminated across all program concerns.

Additionally, funds at the Federal, State and local levels should be devoted to efforts which are commonly shared beyond the confines of a local or State boundary.

Until research, demonstration, evaluation, training and technical assistance findings are put into practice, the process is not complete. Subtopics HDS would like to address in this priority area are:

II.B.1. Reshaping of research, demonstration, evaluation, training and technical assistance materials is crucial, so that they are appealing and can be marketed through paying channels. Development of strategies to effectively market creative human service ideas or practices is also central to this area.

II.B.2. There is continued interest in the establishment by a national organization of a self-sufficient and self-sustaining dissemination and utilization mechanism.

II.C. Service Needs of Tribes and Territories

In FY 1983 HDS proposes to improve human service provision to tribes and territories by exploring the following topics:

II.C.1. Regulatory and statutory barriers to improving service delivery.

II.C.2. Effective service delivery systems which take into account the unique conditions and resources in tribes and territories.

II.C.3. Symposia on tribal/territorial issues related to improved services delivery, integration, linkages and cost effectiveness.

II.C.4. Development of joint efforts between Native American tribes and the private sector to undertake social and economic development projects. Cooperative undertakings may entail one "partner" acting as a catalyst, or providing capital, while the second provides tax advantages and the third provides land or an established market; or in which government provides the regulatory/tax freedom, while the tribe provides resources, and the private organization provides the technical expertise.

II.C.5. Development of tribal commercial codes, i.e. real estate, which

protect both creditors and consumers thereby stimulating private sector economic development on Indian reservations and increased tribal management of programs which serve Indians.

III. Improved Use of Resources Through Efficient Administration

The improved use of resources through more efficient and effective administration of programs has long been a major thrust of HDS discretionary activity. Extensive research and development activity has already been undertaken on caseworker and workload management, financial management systems, management information systems, and fees for services.

In FY 1983 HDS proposes to address topics in three priority areas: (A) management information systems development; (B) program management improvements; and (C) evaluation assistance.

III.A. Management Information Systems

In the systems development area HDS is interested in activities which would demonstrate networking or selected integration of social services information systems with other appropriate data systems. Topical areas might include:

III.A.1. Innovative approaches which link information system output to the decision-making process of community organizations and State or local agencies.

III.A.2. Cooperative development and/or use of information systems.

III.A.3. The use of management information systems for evaluation of HDS programs.

III.A.4. The development of compatible State data bases for possible combination to produce national data bases for specific target groups. HDS expects to continue its current efforts to develop such a national data base on older persons.

III.A.5. Assessments of the Federal, State and private data bases in the area of mental retardation to determine the quality and comparability of such data and the possible use of sampling approaches to provide national data.

III.B. Program Management Improvements

HDS is interested in the following management topics:

III.B.1. Development and testing of techniques for determining cost and cost analysis. Further development is needed in assessing the costs and benefits of service delivery mechanisms for the various HDS populations and conducting cost benefit analyses on such topics as alternative work programs, living arrangements for the mentally retarded and other community based care models.

III.B.2. Assisting States and grantees in conducting cost/benefit analyses of indirect services or governance approaches. To be considered here would be assessment of effectiveness and costs of the planning process, and the cost savings of such alternative financing tools as regulation, taxation, administrative reform, public-private collaboration, self-help and public advocacy. For example, what are the values and trade-offs of shared housing for older persons and handicapped?

III.B.3. Purchase of service activities must move beyond good procurement and administration practices to performance contracting that results in more effective and efficient services. Included in this category is use of performance standard contracting (contracts which define minimum acceptable levels of service), as well as accountability, monitoring and effective sanctions.

III.B.4. The use of vouchers for services to specific groups is also of interest. Vouchers have been used in social services and education programs for a number of years; however, there has been no comprehensive analysis of this aproach to determine its effectiveness in the area of day care. The impact of existing voucher programs on the day care delivery system, parents, and children needs to be determined.

III.B.5. The delivery system response to individuals with multiple needs. An example would be individuals with severe behavior problems who are also developmentally disabled, mentally retarded or emotionally disturbed. There is a need for delivery system accountability. Some of the other multiple needs groups which are of interest to HDS with respect to this topic are:

—Mentally retarded individuals who are abused and neglected.
—Isolated older persons who have mental health problems.
—Mentally retarded or developmentally disabled offenders or alleged offenders who are not appropriately identified by the judicial system and, therefore, do not receive the services and treatment required to prepare them for independent living and employment.

HDS proposes to identify the deficiencies in the available information, and the development of effective service models.

III.B.6. The development of innovative service integration models that lend themselves to economies of scale. The lessons of the jointly funded HDS/DOT transportation projects can serve as a foundation upon which new models of service integration can be built.

III.B.7. The application of advanced management science or operation research techniques to the solution of human service delivery problems. In the last ten years, scientific management techniques have increasingly been used outside of industrial settings to assist in the management of service systems. Similar approaches may be useful in managing human service delivery. Many large scale, system-wide human service problems can be addressed by management science techniques. For example,

III.B.7.a. Given improved foster care data resulting from Pub. L. 96–272, many States should have sufficient information to develop more cost effective assignments for children in care, based upon factors related to quality of care, the likelihood of recidivism, and cost of inappropriate placement.

III.B.7.b. The use of probability theory to improve the number of clients that can be effectively served with reduced service workers at service locations.

III.B.7.c. Application of geographical probability techniques to assist in determining the best location for facilities such as senior centers, day care facilities, etc.

III.C. Evaluation Assistance

With States and localities assuming greater responsibility for planning and managing social services, service delivery organizations need to target their resources on the most needy and to delivery services in the most cost-effective manner. State and local delivery organizations are being pressed to assess their operational efficiency, and to determine whether the needs of their communities are being met, how effective their programs and services are, and whether client outcomes are commensurate with the resources being spent to help them. A complicating problem is that many human service delivery organizations do not currently have an adequate evaluation capacity.

In many areas of the country, a variety of non-governmental organizations such as foundations, community planning councils, local United Ways, charities, and private commercial organizations are included in human service efforts. The purpose of these community organizations is to determine community needs, and to plan

and deliver services locally. This includes priority setting, resource allocation, use of volunteers, and integrated or coordinated services at the local level. An independent evaluation capacity may be needed to assess whether or not they are performing as well as they could.

The focus in the evaluation area in FY 1983 should be to assist States, Indian tribes, local agencies and other human service organizations in enhancing their capacity to evaluate their programs. In State models, better use of MIS data for evaluation purposes is a question of concern. Proposed local efforts should involve community-wide planning agencies or public/private partnerships in addition to multi-program human services agencies.

HDS would therefore assist innovative or cost effective models or approaches that demonstrate enhanced evluation capability and its effective use.

IV. Prevention of the Need for Social Services.

In FY 1982 the HDS focus on prevention was primarily upon tertiary prevention (overcoming the effects of a condition).

In FY 1983 HDS intends to take a broader approach in addressing the issue of prevention while at the same time pursuing dissemination and utilization of FY 1982 findings and successful demonstrations.

Primary prevention (preventing a condition from occurring) and secondary prevention (ameliorating the effects of a condition) will be stressed. Demonstration of effective prevention in human services is needed. Better understanding of which services prevent or minimize what problems for given HDS populations needs to be explored, as well as the kinds of data needed to support prevention strategies.

In FY 1983 HDS proposes four prevention priority areas: (A) public awareness; (B) early prevention; (C) costs and benefits; (D) socio-medical linkages; and (E) targeting prevention.

IV.A. Public Awareness

HDS proposes to study the kinds of public awareness activities that constitute effective primary prevention. For example:

IV.A.1. Of interest is how increased public awareness can play a preventive role in family breakdown, chronic dependency, abuse and neglect and other problems which are seen in the HDS populations.

IV.A.2. Family training, peer group support in parenting, public education about the aging process and needed coping mechanism support are additional primary and secondary prevention activities which need testing.

IV.B. Early Prevention

HDS also is considering studying the kinds of early prevention strategies that are most effective for particular subgroups. Topics such as the following address this issue:

IV.B.1. Studies show that an excessively large portion of the population in correctional institutions consists of MR offenders. To deal with this problem, primary, secondary and ameliorative prevention strategies should be developed.

IV.B.2. Data indicates that similar problems exist in secure youth detention facilities i.e. inappropriate handling of at-risk youth. Minimally, innovative approaches for reducing admission of status offenders and other at-risk youth are called for.

IV.B.3. Exploitation of runaway youth is another area where prevention is needed. More effective strategies need to be developed for the provision of appropriate living arrangements, basic educational skills and vocational training for these youth. Additionally, linkages between runaway youth centers and local schools need to be established for the identification of youth in need, and provision of prevention assistance.

IV.C. Costs and Benefits

In addressing the issue of prevention, it is imperative that costs and benefits, long-term and short-term, be addressed. Broad prevention strategies must look at the initial costs versus the future value of the delayed benefits. In this connection, HDS proposes to study the linkages of indicators and problem resolution using these data bases currently being established which relate to specific HDS target groups.

IV.D. Socio-Medical Linkages

Among some HDS subgroups there is an integral health related component to prevention. HDS is interested in topics such as:

IV.D.1. To further identify socio-medical linkages and develop effective institutional communication and linkages to social service support.

IV.D.2. To develop and test models of self-help, self-care and mutual help to prevent functional disability; to make older individuals effective consumers of health care; and to reduce unnecessary reliance on health professionals.

IV.D.3. To develop strategies for the early identification of high risk older persons and at risk mothers to prevent health conditions from deteriorating significantly.

IV.D.4. To increase the capacity of aging and mental health networks and mental health professionals to address the needs of older persons, and to increase the co-location of services.

IV.E. Targeting Prevention

Predictors for given target groups is another topic critical to prevention. What are the indicators of problems? Of success? Which target groups are more likely than others to require future services? HDS proposes to develop improved assessment, screening and predictive capabilities concerning the prevention needs of target groups and the meeting of those needs. Examples would be:

IV.E.1. The development of predictors of need for home care for impaired older persons which would result in preventing institutional care.

IV.E.2. Development of population indicators of dependency and self-sufficiency among the various HDS populations. The maintenance of self-sufficiency is seen as an issue of prevention of the need for services. There is a need to obtain early indicators of decreasing self-sufficiency so that timely prevention strategies can be employed.

Dated: September 17, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

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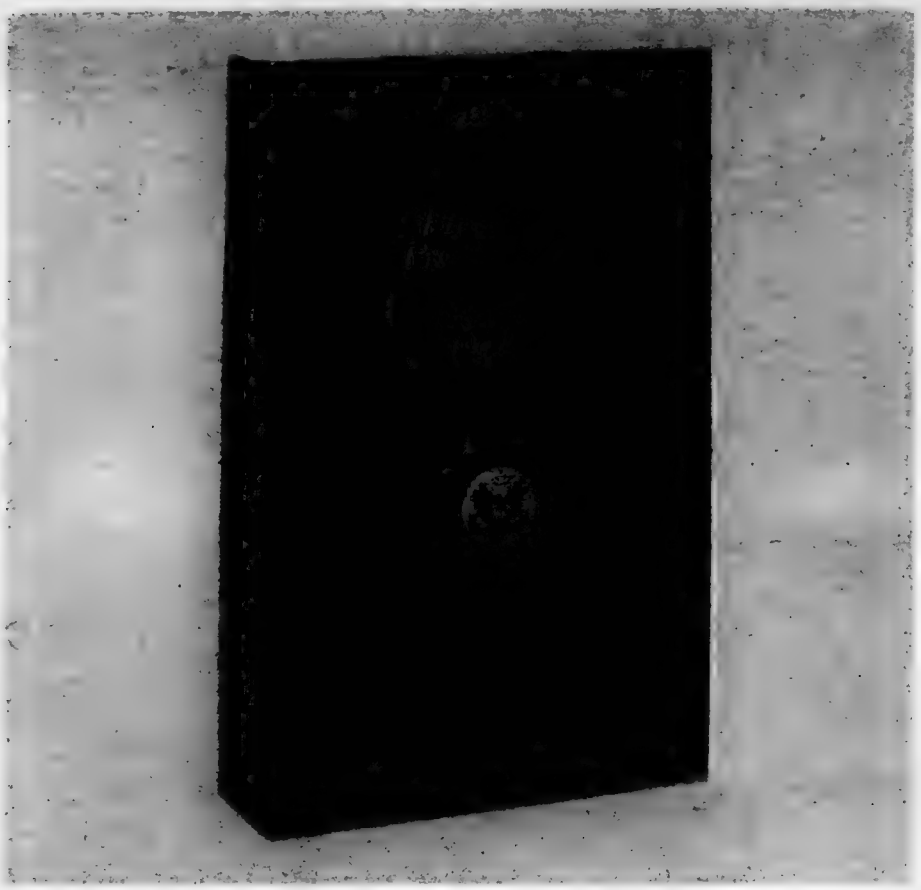
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Rules and Regulations

Federal Register
Vol. 47, No. 188
Friday, September 24, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 378]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period Sept. 26–Oct. 2, 1982. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: September 26, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on September 21, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is moderate.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

Section 910.678 is added as follows:

§ 910.678 Lemon regulation 378.

The quantity of lemons grown in California and Arizona which may be handled during the period September 26, 1982, through October 2, 1982, is established at 225,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated September 22, 1982.

D.S. Kuryloski,

Deputy Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 82-26548 Filed 9-23-82; 11:26 am]
BILLING CODE 3410-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Limitation on Survivor's Benefits and Payments to Persons Who Intentionally Cause the Death of a Worker on Whose Earnings Record the Benefits and Payments are Based

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: These regulations reflect a change in SSA policy. This policy prohibits benefit payments to any survivor who is found to have intentionally caused the death of the worker on whose earnings record the benefit payments are based. It provides for uniform treatment of juveniles and adults in these homicide cases and is consistent with the well-established principle that an individual should not profit directly from intentionally causing another person's death.

EFFECTIVE DATES: These regulations became effective when interim rules were published on March 30, 1982 (47 FR 13324).

FOR FURTHER INFORMATION CONTACT: F. Miranda, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7341.

SUPPLEMENTARY INFORMATION: These regulations reflect a change in SSA policy that a child who is found to have intentionally caused the death of a parent or spouse may not collect Social Security benefits based on that person's earnings. Prior policy denied survivor's payments only to persons finally convicted of a felony for intentionally causing a worker's death. In most jurisdictions, no conviction of a felony is possible for individuals who are under the jurisdiction of the juvenile court system. On that basis, the Social Security Administration has paid

benefits to children in this category who otherwise qualified for benefit payments.

These regulations also remove the term "finally" before "convicted" in the regulations to make clear, both with respect to adults and juveniles, that benefit payments will not be made beginning with the month a court pronounces a conviction and withholding of the benefits or payments will continue unless and until the conviction is reversed.

Provisions of the Regulations

The major portion of this regulation deals directly with juveniles and reflects our policy that an individual subject to the juvenile justice system may not become entitled to, or continue to receive, benefit payments based on the earnings record of the deceased person if he or she has been found by a court of competent jurisdiction to have intentionally caused that person's death by committing an act which, if committed by an adult, would have been considered a felony or an act in the nature of a felony.

The regulations also clarify our rules of administrative finality with respect to individuals involved in proceedings arising out of the intentional killing of the worker in the juvenile justice system to treat such individuals in the same way as adults convicted of the felonious homicide of the worker.

In addition, we are also removing the term "finally" before "convicted" in the regulations in order to make clear with respect to adults and juveniles that benefit payments will not be made beginning with the month a court pronounces a conviction and withholding of the benefits or payments will continue unless and until the conviction is reversed. In situations involving reversals, the rules of administrative finality in § 404.988 will apply.

Interim regulations were published in the Federal Register on March 30, 1982 (47 FR 13324). These rules reflected a change in SSA policy which applies to juveniles and are based on the well-established principle that an individual should not profit from intentionally causing another person's death. As provided by the Administrative Procedure Act (5 U.S.C. 553(b)(B)), we found that publication of a notice of proposed rulemaking (NPRM) was "contrary to the public interest" because the already widely manifested interest of the public in prompt effectuation of this change would have been defeated by any requirement of advance notice. However, to insure that the public had an opportunity to give us their views about these regulations, we asked interested persons to send us their comments before proceeding with these final amendments. The comment period ended on June 1, 1982. We did not receive any comments on or before that date, and we have not made any significant changes in the final regulations.

Regulatory Procedures

Executive Order 12291—These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act—We certify that these regulations do not have a significant impact on small entities because they affect only individuals. Consequently, we have determined that a regulatory flexibility analysis as provided by Pub. L. 96–354, the Regulatory Flexibility Act of 1980, is not necessary.

Paperwork Reduction Act—These regulations impose no reporting or recordkeeping requirements requiring OMB clearance.

(These regulations are issued under the authority contained in sections 205 and 1102 of the Social Security Act; 49 Stat. 624 and 646; 42 U.S.C. 405 and 1302)

(Catalog of Federal Domestic Assistance Program No. 13.805 Social Security Survivor's Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-age, survivors and disability insurance.

Dated: July 21,1982.

John A. Svahn,

Commissioner of Social Security.

Approved: September 1, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 404—FEDERAL OLD AGE, SURVIVORS AND DISABILITY INSURANCE (1950—)

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. In § 404.305, paragraph (b) is revised to read as follows:

§ 404.305 When you may not be entitled to benefits.

* * * * *

(b) Insured's death caused by an intentional act. You may not become entitled to or continue to receive any survivor's benefits or payments on the earnings record of any person if you were convicted of a felony or an act in the nature of a felony of intentionally causing that person's death. If you were subject to the juvenile justice system, you may not become entitled to or continue to receive survivor's benefits or payments on the earnings record of any person if you were found by a court of competent jurisdiction to have intentionally caused that person's death by committing an act which, if committed by an adult, would have been considered a felony or an act in the nature of a felony.

2. In § 404.988, paragraph (c)(9) is revised to read as follows:

§ 404.988 Conditions for reopening

* * * * *

(c) At any time if—

* * * * *

(9) It finds that you are entitled to monthly benefits or to a lump-sum death payment based on the earnings of a deceased person, and it is later established that (i) you were convicted of a felony or an act in the nature of a felony for intentionally causing that person's death; or (ii) if you were subject to the juvenile justice system, you were found by a court of competent jurisdiction to have intentionally caused that person's death by committing an act which, if committed by an adult, would have been considered a felony or an act in the nature of a felony.

[FR Doc.82-26374 Filed 9-23-82; 8:45 am]
BILLING CODE 4110-11-M

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Orphan Products (Drugs, Biologics, and Medical Devices)

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority to add a new delegation of authority regarding orphan products. The Director, Orphan Products Development, Office of the Commissioner, is being delegated the authority to issue notices inviting sponsorship and submission of documentation to obtain marketing approval for orphan products (drugs, biologics, and medical devices).

EFFECTIVE DATE: September 24, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: FDA has established a new program to facilitate the availability of products (drugs, biologics, and medical devices) useful in treating or diagnosing rare diseases or common diseases for which no sponsor exists. The first notices implementing this program are published elsewhere in this issue of the **Federal Register**.

FDA is adding new § 5.58 (21 CFR 5.58) to provide the Director, Orphan Products Development, with authority to issue such notices in the future.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Organization and functions (Government agencies).

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)) and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 5 is amended by adding new § 5.58, to read as follows:

§ 5.58 Issuance of notices inviting sponsorship and submission of documentation for marketing approval for orphan products.

The Director, Orphan Products Development, Office of the Commissioner, is authorized to issue notices, and amendments thereto, inviting sponsorship for orphan products (drugs, biologics, and medical devices) and submission of new drug applications, new animal drug applications, applications for product license for biologics, or premarket approval applications for medical devices, as appropriate.

Effective date.—This regulation shall become effective September 24, 1982.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)); sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262))

Dated: September 9, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82-26169 Filed 9-23-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 442

[Docket No. 82N-0277]

Antibiotic Drugs; Cefamandole Nafate for Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the certification of cefamandole nafate for injection produced by a new manufacturing process. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective September 24, 1982; comments, notice of participation, and request for hearing by October 25, 1982; data, information, and analyses to justify a hearing by November 23, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, National Center for Drugs and Biologics (HFD–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of cefamandole nafate for injection manufactured by a new process which does not involve isolation of cefamandole nafate in the preparation of the finished drug product. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when the drug is used as directed in the labeling and that the regulations should be amended in Part 442 (21 CFR Part 442) to provide for its certification.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 442

Antibiotics, Cepha.

PART 442—CEPHA ANTIBIOTIC

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 442 is amended in § 442.208 by revising paragraphs (a) (1) and (3) and (b)(1) and adding (b)(7) to read as follows:

§ 442.208 Cefamandole nafate for injection.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cefamandole nafate for injection is a dry mixture of cefamandole nafate and one or more suitable and harmless buffering agents. The cefamandole nafate may be isolated in the manufacture of cefamandole nafate for injection. Its cefamandole content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of cefamandole that it is represented to contain. It is sterile. It is nonpyrogenic. It passes the safety test. Its moisture content is not more than 3.0 percent. Its pH is not less than 6.0 and not more than 8.0. If isolated, the cefamandole nafate used conforms to the standards prescribed by § 442.8a(a)(1). If the cefamandole nafate is not isolated, the potency of the dry mixture is not less than 810 micrograms and not more than 1,000 micrograms of cefamandole per milligram on an anhydrous basis when corrected for sodium carbonate; and the dry mixture gives a positive identity test.

* * * * *

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on: (*a*) If isolated, the cefamandole nafate used in making the batch for cefamandole content, moisture, pH, and identity.

(*b*) The batch for cefamandole content, sterility, pyrogens, safety, moisture, and pH. In addition, if the cefamandole nafate is not isolated, results of tests and assays on the dry mixture for potency and identity.

(ii) Samples required: (*a*) For all tests except sterility: A minimum of 10 immediate containers, unless the cefamandole nafate is not isolated, a minimum of 15 immediate containers.

(*b*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Cefamandole content.* Proceed as

directed in § 436.324 of this chapter, preparing the sample solution and calculating the cefamandole content as follows:

(i) *Sample preparation.* Reconstitute the sample as directed in the labeling. If it is represented as a single dose container, remove all of the withdrawable contents with a suitable hypodermic needle and syringe. If the labeling specifies the amount of cefamandole content in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Further dilute an aliquot of this solution with distilled water to obtain a concentration of 2.0 milligrams of cefamandole per milliliter (estimated). Transfer 5 milliliters of this solution to a 50-milliliter volumetric flask, add 30 milliliters of pH 2.3 buffer, dilute to volume with distilled water, and mix. In addition, if the cefamandole nafate is not isolated, prepare the sample solution as described in § 436.324(d) of this chapter. Determine the sodium carbonate content as follows: Dissolve an accurately weighed portion of the dry mixture, approximately 1.0 gram, with approximately 100 milliliters of distilled water. Titrate with 0.2*N* hydrochloric acid. Determine the end-point potentiometrically to the first equivalent using a glass calomel combination electrode. Each milliliter of 0.2*N* hydrochloric acid is equivalent to 21.2 milligrams of sodium carbonate.

(ii) *Calculations*—(*a*) Calculate the cefamandole content as follows:

$$\text{Milligrams of cefamandole} = \frac{A \times \text{Milligrams of working standard} \times \text{Potency of working standard in micrograms per milligram.} \times f}{B \times 50 \times 1{,}000}$$

where:
A = The peak height of the sample;
B = The peak height of the working standard; and
f = The dilution factor of the sample.

(*b*) If the cefamandole nafate is not isolated in the manufacture of cefamandole nafate for injection, calculate the micrograms of cefamandole per milligram of sample as described in § 436.324(f) of this chapter. The micrograms per milligram of cefamandole is corrected for sodium carbonate content and moisture content.

* * * * *

(7) *Identity.* Proceed as directed in § 436.323 of this chapter.

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. In accordance with the conditions for certification in section 507 of the act (21 U.S.C. 357), FDA permits the manufacturer to market this drug on a "release" status pending this regulation's becoming effective. Because this regulation is not controversial and because when effective it provides notice of accepted standards and permits earlier certification of regulated products, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective September 24, 1982. However, interested persons may, on or before October 25, 1982, submit written comments on this rule to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before October 25, 1982, a written notice of participation and request for hearing, and (2) on or before November 23, 1982, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective September 24, 1982.

(Secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g)))

Dated: September 16, 1982.

James C. Morrison,
Acting Assistant Director for Regulatory Affairs.

[FR Doc. 82-26048 Filed 9-23-82; 8:45 am]
BILLING CODE 4160-01-M

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21 CFR Parts 510, 548, and 558

New Animal Drugs; Bacitracin Methylene Disalicylate and Bacitracin Zinc With and Without Penicillin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to withdraw approval of certain claims contained in the new animal drug applications (NADA's) filed by A. L. Laboratories, Inc., and International Minerals & Chemical Corp. for use of various bacitracin products in the drinking water and feed of chickens, turkeys, pheasants, quail, swine, and cattle. The withdrawals comply with the conclusions of the National Academy of Sciences/National Research Council's (NAS/NRC) evaluation of the products.

EFFECTIVE DATE: September 24, 1982.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV–147), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4317.

SUPPLEMENTARY INFORMATION: A. L. Laboratories, Inc., 452 Hudson Terrace, Englewood Cliffs, NJ 07632, is sponsor of NADA's 48–592, 65–470, and 98–452. International Minerals & Chemical Corp., P.O. Box 207, Terre Haute, IN 47808, is sponsor of NADA's 46–920 and 65–313. The applications provide for

various uses of bacitracin methylene disalicylate and/or bacitracin zinc for chickens, turkeys, pheasants, quail, swine, and cattle. Applications for use of bacitracin alone or with penicillin were approved before October 10, 1962. Bacitracin (with or without penicillin) was the subject of NAS/NRC notices published in the Federal Register of July 17, 1970 (DESI 0061NV; 35 FR 11531) and October 2, 1970 (DESI 0061NV; 35 FR 15408). In response to the notices, A. L. Laboratories, Inc., and International Minerals & Chemical Corp. filed supplemental NADA's with final printed labeling and requested that the regulations be amended to remove those claims which were NAS/NRC reviewed and found not effective or probably not effective, or which are not otherwise supported by adequate and well-controlled studies. The final printed labeling reflects the conclusions of the NAS/NRC reviews and complies with the other provisions of the regulations.

A. L. Laboratories, Inc., and International Minerals & Chemical Corp. did not submit NADA's or supplements for bacitracin plus penicillin combination premixes, neither firm is marketing a bacitracin/penicillin combination premix, and both firms have waived opportunity for hearing on withdrawal of approval. Therefore, all approved uses of bacitracin plus penicillin in combination are withdrawn by this action because of the absence of effectiveness data to support the combination products and/or claims (these were therapeutic claims which were judged by NAS/NRC to be probably not effective).

Based on new data and information and revised labeling reflecting newer knowledge concerning the bacitracin products and their use, supplemental NADA's were approved and the regulations were amended accordingly. FDA published these approvals on December 9, 1980 (45 FR 81038); April 10, 1981 (46 FR 21362 and 21363); April 14, 1981 (46 FR 21748); April 17, 1981 (46 FR 22361); April 21, 1981 (46 FR 22754); July 17, 1981 (46 FR 37043); August 14, 1981 (46 FR 41041); December 11, 1981 (46 FR 60571); December 15, 1981 (46 FR 61073); April 27, 1982 (47 FR 17985); April 30, 1982 (47 FR 18591); and June 8, 1982 (47 FR 24693). However, not all of the outdated claims and use levels were removed from the regulations when these supplemental NADA's were approved. This document revises the bacitracin regulations for medicated drinking water and feed premixes by removing those claims not approved by NAS/NRC or not otherwise supported by adequate and well-controlled studies. A summary of specific claims being withdrawn follows:

Claim(s) and dose(s) removed	Sections affected	NADA's affected
1. Treatment of chronic respiratory disease (air-sac infection); infectious sinusitis, and blue comb (non-specific infectious enteritis) in poultry:		
(500 grams bacitracin zinc per ton)	510.515(b)(10)	46-820
(200 grams bacitracin methylene disalicylate per ton)	510.515(b)(10)	46-592
2. As an aid in the treatment of chronic respiratory disease (air-sac infection); infectious sinusitis, blue comb (non-specific infectious enteritis, mud fever) in poultry: (100 grams bacitracin per ton).	510.515(b)(17)	46-820; 46-592
3. Prevention of chronic respiratory disease (air-sac infection); blue comb (nonspecific infectious enteritis) in chickens:		
(100 to 200 milligrams per gallon)	548.112a(c)(5)(i)(a)	65-470
(50 to 100 grams per ton)	558.76(e)(1)(iv)1	46-592
	558.78(e)(1)(iv)1	46-820
4. Treatment of chronic respiratory disease (air-sac infection); blue comb (nonspecific infectious enteritis) in chickens:		
(200 to 400 milligrams per gallon)	548.112a(c)(5)(i)(b)	65-470
(100 to 200 grams per ton)	558.76(e)(1)(iv)1	46-592
(100 to 500 grams per ton)	558.78(e)(1)(iv)1	46-820
5. Prevention of infectious sinusitis; blue comb (mud fever) in turkeys:		
(200 milligrams per gallon)	548.112a(c)(5)(iii)(a)	65-470
(50 to 100 grams per ton)	558.76(e)(1)(iv)3	46-592
	558.78(e)(1)(iv)2	46-820
6. Treatment of infectious sinusitis; blue comb (mud fever) in turkeys: (200 to 400 milligrams per gallon).	548.112a(c)(5)(iii)(b)	65-470
7. Chickens, turkeys, and pheasants; growth promotion and feed efficiency: (4 to 50 grams per ton)	558.76(e)(1)(i)1	46-592
	558.78(e)(1)(i)1	46-820
8. Quail, not over 8 weeks of age; growth promotion and feed efficiency: (5 to 20 grams per ton)	558.76(e)(1)(ii)1	46-592
	558.78(e)(1)(ii)1	46-820
9. Swine; growth promotion and feed efficiency: (10 to 50 grams per ton)	558.76(e)(1)(iii)1	46-592
	558.78(e)(1)(iii)1	46-820
10. Chickens; maintaining or increasing egg production: (10 to 50 grams per ton)	558.76(e)(1)(iii)2	46-592
	558.78(e)(1)(iii)2	46-820
11. Swine; aid in prevention of bacterial swine enteritis: (50 to 100 grams per ton)	558.76(e)(1)(iv)2	46-592
	558.78(e)(1)(iv)3	46-820
12. Chickens; maintaining or increasing hatchability of eggs: (100 grams per ton)	558.76(e)(1)(v)1	46-592
	558.78(e)(1)(v)1	46-820
13. Chickens; during times of stress, prevention of diseases named in this section caused by organisms susceptible to bacitracin: (100 grams per ton).	558.76(e)(1)(v)2	46-592
14. Chickens; prevention of early mortality of chicks due to susceptible organisms:	558.78(e)(1)(v)2	46-820
(100 grams per ton)	558.76(e)(1)(v)3	46-592
(100 to 500 grams per ton)	558.78(e)(1)(v)2	46-820
15. Swine; treatment of bacterial swine enteritis: (100 grams per ton)	558.76(e)(1)(v)3	46-592
	558.78(e)(1)(v)3	46-820
16. Chickens; treatment of chronic respiratory disease (air-sac infection); blue comb (nonspecific infectious enteritis):		
100 to 200 of combination (bacitracin methylene disalicylate and penicillin)	558.76(e)(1)(vi)	46-592
100 to 500 of combination (bacitracin zinc and penicillin)	558.78(e)(1)(vi)	46-820
17. Turkeys; treatment of infectious sinusitis; blue comb (mud fever):		
100 to 200 of combination (bacitracin methylene disalicylate and penicillin)	558.76(e)(1)(vi)	46-592
100 to 500 of combination (bacitracin zinc and penicillin)	558.78(e)(1)(vi)	46-820
18. Swine; treatment of bacterial swine enteritis:		
100 of combination (bacitracin methylene disalicylate and penicillin)	558.76(e)(1)(v)	46-592
100 of combination (bacitracin zinc and penicillin)	558.78(e)(1)(v)	46-820

Also, the approved premix levels for A. L. Laboratories' bacitracin methylene disalicylate had not previously been codified (April 30, 1982; 47 FR 18591). This document amends the regulations in 21 CFR 558.76(a) to add those premix

levels (10, 25, 40, and 50 grams per pound).

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal foods, Labeling, Reporting requirements.

21 CFR Part 548

Animal drugs, Antibiotics, peptides.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510, 548, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. Part 510 is amended in § 510.515 by revising paragraphs (b)(10) and (b)(17)(i), to read as follows:

§ 510.515 Animal feeds bearing or containing new animal drugs subject to the provisions of section 512(n) of the act.

* * * * *

(b) * * *

(10) It is intended for use solely in the treatment of chronic respiratory disease (air-sac infection), infectious sinusitis, and blue comb (nonspecific infectious enteritis) in poultry and/or bacterial swine enteritis; its labeling bears adequate directions and warnings for such use; and it contains, per ton of feed, the equivalent of 100 grams of penicillin. When intended for uses specified in this paragraph, it may also contain, in the amount specified, one, but only one, of the ingredients prescribed by paragraph (a) of this section.

* * * * *

(17)(i) It is intended for use solely as an aid in the treatment of chronic respiratory disease (air-sac infection), infectious sinusitis, blue comb (nonspecific infectious enteritis, mud fever) in poultry; its labeling bears adequate directions and warnings for such use; and it contains not less than 100 grams of chlortetracycline or oxytetracycline or a combination of these two drugs per ton of food.

* * * * *

PART 548—CERTIFIABLE PEPTIDE ANTIBIOTIC DRUGS FOR ANIMAL USE

2. Part 548 is amended in § 548.112a by revising paragraph (c)(5), to read as follows:

§ 548.112a Bacitracin methylene disalicylate soluble powder.

* * * * *

(c) * * *

(5) *Conditions of use.* It is used in drinking water as follows:

(i) *Growing turkeys—(a) Amount per gallon.* 400 milligrams.

(*1*) *Indications for use.* Aid in control of transmissible enteritis complicated by organisms susceptible to bacitracin methylene disalicylate.

(*2*) *Limitations.* Prepare a fresh solution daily.

(*b*) [Reserved]

(ii) *Broiler chickens (a)—Amount per gallon.* 100 milligrams.

(*1*) *Indications for use.* Aid in prevention of necrotic enteritis caused by *Clostridium perfringens* susceptible to bacitracin methylene disalicylate.

(*2*) *Limitations.* Prepare a fresh solution daily.

(*b*) *Amount per gallon.* 200 to 400 milligrams.

(*1*) *Indications for use.* Aid in control of necrotic enteritis caused by *C. perfringens* susceptible to bacitracin methylene disalicylate.

(*2*) *Limitations.* Prepare a fresh solution daily.

(iii) *Swine—(a) Amount per gallon.* One gram.

(*1*) *Indications for use.* For treatment of swine dysentery associated with *Treponema hyodysenteriae.* Administer continuously for 7 days or until signs of dysentery disappear.

(*2*) *Limitations.* Prepare a fresh solution daily. Treatment not to exceed 14 days. If symptoms persist after 4 to 5 days consult a veterinarian. Not to be given to swine that weigh more than 250 pounds.

(*b*) [Reserved]

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. Part 558 is amended:

a. In § 558.76 by adding new paragraph (a) and in the table in paragraph (e)(1) by revising items (i) and (ii), by removing items (v), (vii), and (viii) and marking them reserved, and by revising item (ix), to read as follows:

§ 558.76 Bacitracin methylene disalicylate.

(a) *Approvals.* Premix levels of 10, 25, 40, and 50 grams of bacitracin activity per pound granted to No. 046573 in § 510.600(c) of this chapter.

* * * * *

(e) * * *

(1) * * *

Bacitracin methylene disalicylate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsors
(i) 4 to 50		Chickens, turkeys, and pheasants; increased rate of weight gain and improved feed efficiency.[1]		046573
(ii) 5 to 20		Quail not over 6 weeks of age; increased rate of weight gain and improved feed efficiency.[1]		046573
(v) [Reserved]				
(vi)–(viii) [Reserved]				
(ix) 100 to 200		Broiler chickens, as an aid in the control of necrotic enteritis caused or complicated by *Clostridium* spp. or other organisms susceptible to bacitracin.		046573

[1] These conditions are NAS/NRC reviewed and found effective. Applications for these uses may not require effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

b. In § 558.78 in the table in paragraph (e)(1) by removing items (vii), (viii), and (ix), and by revising items (i), (ii), and (iv), to read as follows:

§ 558.78 Bacitracin zinc.

* * * * *

(e) * * *

(1) * * *

Bacitracin zinc in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsors
(i) 4 to 50		Chickens, turkeys, and pheasants; for increased rate of weight gain and improved feed efficiency[1].	Growing chickens, turkeys, and pheasants[1]	012799, 046573
(ii) 5 to 20		Quail; for increased rate of weight gain and improved feed efficiency[1].	Growing quail; feed as the complete feed to starting quail through 5 weeks of age[1].	012799, 046573
(iv) 10 to 50		Swine; increased rate of weight gain and improved feed efficiency.	Growing and finishing swine	046573

[1]These conditions are NAS/NRC reviewed and found effective. Applications for these uses may not require effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

* * * * *

§ 558.460 [Amended]

c. In § 558.460 *Penicillin* by removing paragraph (f)(2) (iii) and (iv) and marking them reserved.

Effective date. September 24, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: September 15, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-26065 Filed 9-23-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of Supplements to Oregon State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: The State of Oregon has submitted various supplements to its Occupational Safety and Health Plan. This document announces the approval of those supplements.

EFFECTIVE DATE: September 24, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph C. Acton, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202) 523-8045.

SUPPLEMENTARY INFORMATION:

Background

Part 1953 of Title 29, Code of Federal Regulations, provides procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with Section 18(c) of the Act and Part 1902 of this chapter. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon developmental plan and the adoption of Subpart D to Part 1952 containing the decision and a description of the plan. A notice of approval of a Revised Developmental Schedule was published on April 1, 1974 in the **Federal Register** (39 FR 11881).

Subsequently, the State of Oregon submitted State-initiated program changes, and developmental supplements which provide: administrative rules for inspections, citations, extensions of abatement, etc.; rules governing contested cases before the Workers' Compensation Board; rules of the Bureau of Labor and Industries for handling discrimination complaints; a revised State poster; and amended legislation reflecting changes made to the originally approved Oregon Safe Employment Act.

Review of the State supplements by the Regional and National Offices identified some procedural concerns which needed to be addressed before approval. In response, the Oregon Workers' Compensation Department provided adequate corrections, clarifications, and assurances to address those concerns by letters dated May 24, 1982, August 13, 1982 and August 27, 1982. The supplements with the assurances, etc., were then forwarded by the Regional Administrator to the Assistant Secretary for Occupational Safety and Health (hereinafter called the Assistant Secretary) for approval.

Description of Plan Supplements

1. Oregon Administrative Rules (Chapter 436, Division 46-005 through 750). In accordance with the requirements of 29 CFR 1952.106 (c) and (g) the Oregon Workers' Compensation Department adopted rules including procedures for conduct and scheduling of inspections, issuance of citations, proposal of penalties for violations, extension of abatement dates, employee complaints, variances from the standards and on-site consultations to assist public sector employers in voluntary compliance. Private sector employees are provided on-site consultation services through a separate program funded under section 7(c)(1) of the Act. The State originally submitted regulations effective July 1, 1974, which were subsequently revised to address Federal and State-identified procedural concerns. The State also deleted a requirement that an employee observed violating a standard be named on a citation. The most recent complete revision to these State rules became effective August 1, 1982, and incorporated all earlier revisions. By letters dated May 24, 1982, August 13, 1982, and August 27, 1982, to the Regional Administrator, the State provided assurances in response to Federal review and comment that an employer must prove that an extension of abatement application is proper if an administrative hearing is held on his application, that notice and opportunity to comment is provided to affected employees when the director considers discretionary amendment of a citation which has not been appealed in a case of manifest injustice, that employee complaints are assured of confidentiality, and that in imminent danger situations where a red tag is issued to prevent employee exposure a citation will also be issued for any violations of standards.

2. Rules of Practice and Procedure for Contested Cases Under the Oregon Safe Employment Act (Chapter 438, Workers' Compensation Board, Division 85-006 through 870). In accordance with the requirements of 29 CFR 1952.108(c), Oregon adopted rules effective December 20, 1973, governing the review of contested cases, which subsequently were revised to address Federal and State-identified procedural concerns. The revised State rules under this chapter became effective August 2, 1982. In response to Federal review and comment on the contested case rules,

the State Workers' Compensation Department provided under its administrative rules effective August 13, 1982 that settlement agreements of contested cases must be posted for employees before becoming final and that notices of hearings before the Board must also be posted for employees.

3. Complaint Procedures and Substantive Rules, Opposition to Health and Safety Hazards (Chapter 839, Oregon Administrative Rules, Division 3 and 6—Bureau of Labor and Industries). In accordance with 29 CFR 1902.4(v), the State's plan provides for complaints of discrimination against an employee for exercising rights under the Oregon Safe Employment Act to be enforced by the Bureau of Labor and Industries. By letter dated August 13, 1982, to the Regional Administrator, the State Bureau of Labor and Industries provided assurance in response to Federal comment that oral complaints of discrimination are considered timely and investigated if followed by a written complaint. The State rules under Division 3 became effective June 25, 1982, and those rules under Division 6, became effective March 12, 1982.

4. Oregon State Poster. The State submitted a revised poster which references alternate filing of discrimination complaints in accordance with assurances provided with its earlier poster approved November 5, 1975 (40 FR 52367).

5. Oregon Safe Employment Act. The Oregon Safe Employment Act which contained changes to the enabling legislation outlined in its developmental plan was approved June 3, 1975 (40 FR 24522). Revisions to the legislation were made in 1975, 1977, and 1981 and included changes which renamed the designated enforcement agency from the Workmen's Compensation Board to the Workers' Compensation Department, established a director for the department, provided authority to require employers of ten or more workers to establish safety and health committees when an employer exceeds a certain lost work day case incidence rate for its industry, and restricted first-instance penalties for other-than-serious violations in labor camps.

Location of the Plan and Its Supplements for Inspection and Copying

A copy of the State's plan and the supplements may be inspected and copied during normal business hours at the following locations:

Office of the Director of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3619, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174.

Office of Director, Workers' Compensation Department, Labor and Industries Building, Salem, Oregon 97310

Public Participation

Under 29 CFR 1953.2(c) of this chapter, the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) may prescribe alternative procedures to expedite the review process or for any good cause which may be consistent with applicable law. The Assistant Secretary finds that the Oregon regulations for complaints of discrimination under the Oregon Safe Employment Act were adopted in accordance with procedural requirements of State law and consistent with commitments made in the approved plan. Accordingly, it is found that further public participation would be unnecessary.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

Decision

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

After careful consideration, the Oregon plan supplements outlined above are approved under Part 1953 of this chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. Accordingly, § 1952.109 of 29 CFR Part 1952 is amended to reflect the completion of developmental steps and the revision of previously approved developmental steps by adding a paragraph (a)(3), revising paragraph (b), and adding new paragraphs (i), (j) and (k) to the list of completed developmental steps as follows:

§ 1952.109 Completed developmental steps.

(a) * * *

(3) The Oregon Safe Employment Act as last amended in the 1981 legislative session included changes renaming the designated enforcement agency, establishment of a director for that agency, authority for requiring certain employers to establish safety and health committees, and limiting penalties for other-than-serious violations in temporary labor camps. The Assistant Secretary approved the amended legislation on September 15, 1982.

(b) In accordance with the requirements of 29 CFR 1952.10 the Oregon State Poster with assurance submitted on September 2, 1975, was approved by the Assistant Secretary on November 5, 1975. The State's revised poster which implemented the assurance was approved by the Assistant Secretary on September 15, 1982.

* * * * *

(i) In accordance with § 1952.108 (c) and (g), the Oregon Workers' Compensation Department adopted administrative regulations providing procedures for conduct and scheduling of inspections, extension of abatement dates, variances, employee complaints, posting of citations and notices, and voluntary compliance consultation in the public sector, effective July 1, 1974, with revisions incorporated in rules effective August 1, 1982 and August 13, 1982. These regulations with supplemental assurances were approved by the Assistant Secretary on September 15, 1982.

(j) In accordance with § 1952.108(c) the Oregon Workers' Compensation Board adopted rules effective December 20, 1973, governing practice and procedures for contested cases with revisions incorporated in rules effective August 2, 1982. These rules were approved by the Assistant Secretary on September 15, 1982.

(k) The Oregon Workers' Compensation Department submitted rules of the Oregon Bureau of Labor and Industries, the agency asigned responsibility for investigation of complaints of discrimination under the Oregon Safe Employment Act. These regulations and rule effective June 21, 1982, and March 12, 1982 with supplemental assurance were approved by the Assistant Secretary on September 15, 1982.

(Sec. 18, Pub. L. 91-596; 84 Stat. 1608; (29 U.S.C. 667))

Signed in Portland, Oregon, this 15th day of September, 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-26412 Filed 9-23-82; 8:45 am]

BILLING CODE 4510-26-M

29 CFR Part 1952

Certification of Completion of Developmental Steps for Oregon State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: The State of Oregon on or before December 28, 1975, submitted documentation attesting to the completion of all structural and developmental aspects of its approved State plan. After extensive review of those documents and subsequent revisions, and opportunity for State correction, all developmental plan supplements have now been approved. This notice certifies this completion and the beginning of the final evaluation phase of State plan development. This certification attests only to the fact that Oregon now has in place those structural components necessary for an effective program. It renders no judgment on the adequacy of the State's actual performance.

EFFECTIVE DATE: September 24, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph C. Acton, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523–8045.

SUPPLEMENTARY INFORMATION:

Background

Section 18 of the Occupational Safety and Health Act of 1970 (the "Act," 29 U.S.C. 667) provides that States which desire to assume responsibility for the development and enforcement of occupational safety and health standards shall submit for Federal approval a State plan for such development and enforcement. Part 1902 of Title 29, Code of Federal Regulations, sets forth procedures under which the Assistant Secretary of Labor for Occupational Safety and Health ("Assistant Secretary") shall approve such plans. Under the Act and regulations, plan approval is essentially a two step procedure. First a State must submit its plan for an initial determination under Section 18(b) of the Act. If the Assistant Secretary, after reviewing the State submission determines that the plan satisfies or will satisfy within a maximum three year development period the criteria set forth in Section 18(c) of the Act, a decision of "initial approval" is issued and the State may begin enforcement of its safety and health standards in accordance with the plan and with the maintenance of concurrent enforcement authority by the Occupational Safety and Health Administration (OSHA).

A State plan may receive initial approval even though at the time of submission not all essential components of the plan are in place. Pursuant to 29 CFR 1902.2(b), the Assistant Secretary may initially approve the submission as a "developmental plan," and a schedule within which the State must complete specified "developmental steps" is issued as part of the initial approval decision.

When the Assistant Secretary finds that the State has completed all developmental steps specified in the initial approval decision, a notice of such completion is published in the **Federal Register** (see 29 CFR 1902.34 and 1902.35). Certification of completion of developmental steps initiates a thorough evaluation of the State plan by the Assistant Secretary to determine on the basis of actual operations, whether the plan adequately provides safety and health protection to the employees in the State. Certification does not render judgment as to the adequacy of State performance.

The second step of the approval process is final approval of the plan under Section 18(e) of the Act and 29 CFR Part 1902. Final approval may not be granted until at least three years after initial approval and one year after certification of completion of developmental steps. Thereafter, when the Assistant Secretary determines on the basis of actual performance under the plan that the criteria are being met, a decision of final approval may be granted. This decision is based on a thorough evaluation of the State plan under Section 18(e) of the Act and reflects a determination that on the basis of actual operations the plan adequately protects the safety and health of the State's workers. In making this evaluation under Section 18(e), the Assistant Secretary must monitor the continuing development of the State program, applying criteria which assure that the State will have an at least as effective program for achieving the goals of the Act.

On December 28, 1972, a notice was published in the **Federal Register** (37 FR 28628) initially approving the Oregon developmental plan and adopting Subpart D of Part 1952 containing the decision, a description of the plan and the developmental schedule. Approval of a revised developmental schedule was published in the **Federal Register** on April 1, 1974 (39 FR 11861). During the three year period ending December 28, 1975, following commencement of State operations, the Oregon Workers' Compensation Department submitted documentation attesting to the completion of each State developmental commitment for review and approval as provided in 29 CFR Part 1953. Following Agency review and subsequent explanation and modification of the State's submission in response to Federal comment, the Assistant Secretary has approved the completion of all individual developmental steps.

Completion of Developmental Steps

All developmental steps specified in the December 28, 1972, notice of initial approval and other relevant steps not explicitly referred to have been completed as follows:

(a) In accordance with the requirements of 29 CFR 1952.108(a) the Oregon Safe Employment Act (S.B. 44, ORS Chapter 654) effective July 1, 1973, was approved by the Assistant Secretary on June 3, 1975 (40 FR 52388). Revised legislation as last amended by the legislature in 1981 was approved by the Assistant Secretary on September 15, 1982.

(b) In accordance with the requirements of 29 CFR 1952.10 the Oregon State Poster with assurance submitted on September 2, 1975, was approved by the Assistant Secretary on November 5, 1975. The State's revised poster which implemented the assurance was approved by the Assistant Secretary on September 15, 1982.

(c) In accordance with 29 CFR 1952.108(c) Oregon has completed its training of State inspection personnel as described, which completion was approved by the Assistant Secretary on February 24, 1976 (41 FR 8955).

(d) In accordance with 29 CFR 1952.108(d) Oregon has developed and implemented a computerized Management Information System which was approved by the Assistant Secretary on February 24, 1976 (41 FR 8955). Oregon has since begun participation in a Unified Federal-State Management Information System.

(e) In accordance with 29 CFR 1952.108(f) Oregon has developed and implemented an Affirmative Action Plan which was approved by the Assistant Secretary on June 8, 1976 (41 FR 23671).

(f) The personnel operations of the Oregon Workers' Compensation Department under merit system rules were certified by the Director of the Seattle Regional Office, United States Office of Personnel Management (previously U.S. Civil Service Commission) as being in accordance with merit system standards by letter of January 15, 1976.

(g) In accordance with 29 CFR 1952.108(e) a Statement of Goals and Objectives has been developed by the State and was approved by the Assistant Secretary on June 24, 1977 (42 FR 34281).

(h) The Oregon State Compliance Manual modeled after the Federal Field Operations Manual was developed by the State and was approved by the Assistant Secretary on June 24, 1977 (42 FR 34281).

(i) In accordance with 29 CFR 1952.108(c) Oregon has adopted administrative regulations providing procedures for conduct and scheduling of inspections, extension of abatement dates, variances, employee complaints, posting of citations and notices, effective July 1, 1974, with revisions incorporated in rules effective August 1, 1982, Likewise, the Workers' Compensation Board adopted rules effective December 20, 1973, governing practice and procedures for contested cases with revisions incorporated in rules effective August 2, 1982. Also, the Oregon Bureau of Labor and Industries which was assigned responsibility for investigations of complaints of discrimination under the Oregon Safe Employment Act provided its rules effective June 21, 1981, and March 21, 1982. These regulations and rules with supplemental assurances dated May 24, 1982, August 13, 1982 and August 27, 1982 were approved by the Assistant Secretary on September 15, 1982.

(j) In accordance with the requirements of 29 CFR 1952.4, Oregon State recordkeeping and reporting regulations adopted on June 4, 1974, and revised on January 1, 1978, and September 24, 1979, were approved by the Assistant Secretary on August 28, 1980.

(k) Oregon occupational safety and health standards as effective as Federal standards have been promulgated and subsequently amended to reflect changes in and additions to Federal standards, and approved by the Regional Administrator on: October 25, 1974 (39 FR 38037), January 16, 1975 (40 FR 2885), August 22, 1975 (40 FR 36817), September 18, 1975 (40 FR 43102), October 30, 1975 (40 FR 56583), December 12, 1975 (40 FR 57804), December 18, 1975 (40 FR 58704), February 17, 1976 (41 FR 7186), March 16, 1976 (41 FR 11087), April 14, 1976 (43 FR 15806), July 28, 1976 (43 FR 33834), August 8, 1976 (43 FR 35125), May 18, 1979 (44 FR 29174), December 11, 1979 (44 FR 71469), June 27, 1980 (45 FR 43483), July 15, 1980 (45 FR 47545), November 7, 1980 (45 FR 74104), December 9, 1980 (45 FR 81132), February 27, 1981 (46 FR 14489), May 1, 1981 (46 FR 24750), September 22, 1981 (46 FR 46856), October 13, 1981 (46 FR 50444), and May 25, 1982 (47 FR 22622).

(l) In accordance with the requirements of 29 CFR 1952.108(g), the State of Oregon developed and implemented administrative rules relative to an on-site voluntary compliance consultation program which is limited to the public sector, which were approved by the Assistant Secretary on September 15, 1982. (The State operates a voluntary compliance consultation program for the private sector under section 7(c)(1) of the Occupational Safety and Health Act in accordance with the regulations of 29 CFR Part 1908.)

This certification covers all occupational safety and health issues covered under the Federal program (with the exception of the longshoring industry) as well as the State's program covering State and local government employees.

Location of the Plan and Its Supplements for Inspection and Copying

Copies of the supplements along with the approved plan, may be inspected and copied during normal business hours at the following locations:

Office of the Director of Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3619, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210
Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174
Office of the Director, Workers' Compensation Department, Labor and Industries Building, Salem, Oregon 97310

Effect of Certification

The Oregon plan is certified effective September 15, 1982, as having completed all developmental steps on or before December 28, 1975. This certification attests to structural completion, but does not render judgment on adequacy of performance. The Oregon occupational safety and health program will be monitored and evaluated for a period of not less than one year after publication of this certification to determine whether the State program in operation provides for an effective program of enforcement. The Assistant Secretary will then determine whether Federal authority should be withdrawn with respect to issues covered by the plan pursuant to Section 18(e) of the Act.

Level of Federal Enforcement

In accordance with 29 CFR 1902.38 Federal enforcement authority under Sections 5(a)(2), 8, 9, 10, 13, and 17 of the Act (29 U.S.C. 654(a)(2), 657, 658, 659, 662, and 666) and Federal standards authority under Section 6 of the Act (29 U.S.C. 655) will not be relinquished during the evaluation period. However, under the terms of an operational status agreement entered into between Occupational Safety and Health Administration and the Oregon Workers' Compensation Department effective April 28, 1975 (40 FR 18428) and as amended effective August 2, 1977 (42 FR 40268) and August 8, 1978 (43 FR 36624), the exercise of this authority will continue to be limited to, among other things: complaints about employee discrimination; enforcement of new Federal standards including temporary emergency standards until adopted by the State, enforcement of standards in the Warm Springs Indian Reservation and in the longshoring industry which are excluded from plan coverage; investigations for fulfillment of monitoring obligations under Section 18(e) and (f) of the Act; and abatement dates from OSHA-issued citations, which extend beyond the date of State assumption of inspection responsibility. Pursuant to 29 CFR 1954.3(f)(1) the agreement provides for resumption of Federal enforcement activity for failure to substantially comply with the provisions of the agreement or as a result of evaluation or other factors.

List of Subjects in Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

In accordance with this certification 29 CFR 1952.109 is hereby amended to reflect successful completion of the developmental period by changing the title of the section and by adding a paragraph (l) as follows:

§ 1952.109 Completion of developmental steps and certification.

* * * * *

(l) In accordance with § 1902.34 of this chapter, the Oregon occupational safety and health plan was certified effective September 15, 1982, as having completed all developmental steps specified in the plan as approved on December 28, 1972, on or before December 28, 1975. This certification attests to structural

completion, but does not render judgment on adequacy of performance.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Portland, Oregon, this 15th day of September 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-26408 Filed 9-23-82; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 888e

Disposition of Conscientious Objectors

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its military personnel regulations by removing Part 888e of Chapter VII, Title 32. The source document, Air Force Regulation (AFR) 35-24 has been revised. It is intended for internal guidance and has limited applicability to the general public. This action is a result of departmental review in an effort to insure that only regulations which substantially affect the public are maintained in the Air Force portion of the Code of Federal Regulations.

EFFECTIVE DATE: September 24, 1982.

FOR FURTHER INFORMATION CONTACT: Ms Hughes, AF Manpower and Personnel Center, CAKO, Randolph AFB, TX 78148, (512) 652-2148.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 888e

Conscientious objectors, Investigations, Military personnel, Selective service system.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Accordingly, 32 CFR is amended by removing Part 888e.

(10 U.S.C. 8012.)

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-26408 Filed 9-23-82; 8:45 am]

BILLING CODE 3910-01-M

VETERANS ADMINISTRATION

38 CFR Part 21

Definition of Program of Education

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: This regulation updates the definition of a program of education and makes other minor, technical changes. Previously, the regulation made an incorrect reference to a section of the United States Code. This regulation now agrees with the law.

EFFECTIVE DATE: September 7, 1982.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202-389-2092).

SUPPLEMENTARY INFORMATION: On pages 24603 and 24604 of the **Federal Register** of June 7, 1982, there was published notice of intent to amend Part 21 to make technical corrections in the definition of a program of education.

Interested people were given 30 days in which to submit comments, suggestions or objections regarding the proposal. The Veterans Administration received no comments. Accordingly, the agency is adopting this proposal.

The Veterans Administration has determined that this regulation does not contain a major rule as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. The regulation will not result in any major increases in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs hereby certifies that this regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA) 5 U.S.C. 601-612. This regulation is exempt under 5 U.S.C. 605(b) from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. This certification is based on the fact that this regulation will affect only individual benefit recipients. They will have no significant impact on small entities, i.e. small businesses, small private and nonprofit organizations, and small governmental jurisdictions.

(Catalog of Federal Domestic Assistance number for the program affected by the amended regulation is 64.111.)

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: September 7, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration amends 38 CFR Part 21 as follows:

Section 21.4230 is revised to read as follows:

§ 21.4230 Requirements.

(a) *Definition.* A program of education—(1) Is a combination of subjects or unit courses pursued at a school which is generally accepted as necessary to meet requirements for a predetermined educational, professional or vocational objective;

(2) Under chapter 34 may consist of subjects or courses which fulfill requirements for more than one objective if all objectives pursued are generally recognized as being related to a single career field; or

(3) Is any unit course or subject or combination of courses or subjects, pursued by an eligible veteran at an educational institution, required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under the provisions of 15 U.S.C. 636. (38 U.S.C. 1652(b), 1670, 1691(a))

(d) *Educational.* An educational objective is one that leads to the awarding of a diploma, degree or certificate which reflects educational attainment.

(c) *Professional or vocational.* A professional or vocational objective is one that leads to an occupation. It may include educational objectives essential to prepare for the chosen occupation. When a program consists of a series of courses not leading to an educational objective, such courses must be directed toward attainment of a designated professional or vocational objective.

(d) *Selection—Chapter 34.* The Veterans Administration will approve a program of education under Chapter 34 selected by an eligible veteran or serviceperson if it meets the requirements of paragraph (a) of this section; has an objective as described in paragraph (b) or (c) of this section; the courses or subjects in the program are approved for Veterans Administration training; and the veteran or serviceperson is not already qualified for the objective of the program, except: (38 U.S.C. 1671)

(1) A course or courses at the secondary school level for persons who have previously received a secondary school diploma or an equivalency certificate and deficiency courses needed or required to qualify for an educational or training program may be authorized under the provisions of § 21.4235, and

(2) An eligible veteran may receive up to 6 months educational assistance, or the equivalent in part-time assistance, for training in a program of education in which the veteran is already qualified, provided that the program pursued is refresher training to permit the veteran to update knowledge and skills and to be instructed in the technological advances which have occurred in the veteran's field of employment during and since the veteran's period of service. The program of education must be a course to be taken after the date of the veteran's discharge or release from active duty. It may be to update skills learned either during or prior to service but not for skills first acquired after discharge from service. Educational assistance allowance paid under this paragraph (d)(2) will be charged against the veteran's basic entitlement.

(e) *Provisional—Chapter 35—child.* When the Veterans Administration approves an application for educational assistance under chapter 35, the Veterans Administration will inform the eligible child and, if a minor, the parent or guardian also of the need to develop a program of education consistent with paragraphs (a) and (b) or (c) of this section. An educational plan may be submitted and approved without counseling if it meets the requirements of paragraphs (a) and (b) or (c) of this section. (38 U.S.C. 1713, 1720)

(f) *Selection—Chapter 35—spouse or surviving spouse.* The Veterans Administration will approve a program of educational assistance selected by an eligible spouse or surviving spouse if—

(1) It meets the requirements of paragraphs (a) and (b) or (c) of this section, and

(2) The individual is not already qualified for the objective of the program of education. (38 U.S.C. 1721)

[FR Doc. 82-25943 Filed 9-23-82; 8:45 am]
BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 601

Procurement of Property and Services; Amendments to Postal Contracting Manual

AGENCY: Postal Service.

ACTION: Amendments to the Postal Contracting Manual.

SUMMARY: The Postal Service announces revisions of section 1, part 4, of the Postal Contracting Manual, which deals with the authority and responsibility for Postal Service procurement. In general, contracting authority of postal officers has been increased, and additional delegations of contracting authority are made to certain offices. Also, the text of this part of the Manual has been revised for greater readability, and certain renumbering of the sections has been done.

EFFECTIVE DATE: September 13, 1982.

FOR FURTHER INFORMATION CONTACT: Eugene A. Keller, (202) 245-4818.

SUPPLEMENTARY INFORMATION: The Postal Contracting Manual, which has been incorporated by reference in the Code of Federal Regulations (See 39 CFR 601.100) has been amended by the issuance of PCM Circular 82-1, dated September 13, 1982.

In accordance with 39 CFR 601.105, notice of these changes is hereby published in the **Federal Register** and the text of the changes is filed with the Director, Office of the Federal Register. Subscribers to the basic manual will receive these amendments from the Postal Service. (For other availability of the Postal Contracting Manual, see 39 CFR 601.104).

List of Subjects in 39 CFR Part 601

Government procurement.

Explanation of these amendments to the Postal Contracting Manual follows:

Explanation of Changes

This circular revises *Postal Contracting Manual,* Section 1, Part 4, Procurement Responsibility and Authority. The text was revised for readability and most of the paragraph numbers do not coincide with the old. Those that have been renumbered are:

Ex. 1-401.1a includes what was 1-407.1 (d)-(h), 1-407.2 (a)(3)-(b), and 1-407.3
Ex. 1-401.1b includes what was 1-407.2(d).
1-401.2b was 1-407.4 (a), (c), (d), and (e).
1-401.2c was 1-407.4(b).
1-401.3 was 1-407.1 (a)-(c).
1-402 was 1-401.
1-402.2 was 1-403.3.
1-403.1 was 1-402.
1-403.2 was 1-403.1 and 1-406.
1-403.3 was 1-403.2.
1-407.4 was 1-407.2(a) (1) and (2).

Policy changes are:

1. The Assistant for Procurement Policy is now the Senior Advisor, Procurement Policies.

2. The dollar thresholds for legal reviews of contracts increase by $50,000, except the threshold for solicitations for construction contracts which increases from $25,000 to $100,000.

3. Show-cause letters must now be submitted for legal review.

4. Contracting authority changes as follows:

a. The limit on the RPMG's authority to contract for A/E-services increases from $300,000 to $500,000.

b. The limit on the RPMG's authority for lease acquisition increases from $300,000 to $500,000.

c. The MSC Managers and the Postmasters for Chicago, Washington, DC, and Los Angeles now have authority for contract postal unit contracting.

d. The Managers of the area supply center Contract Branches now have direct contracting authority.

e. The Director, Office of Real Estate, has real estate acquisition authority (formerly held by the General Managers, Facilities Procurement Divisions, and the Director, Office of Design and Construction).

f. The General Managers of the regional Procurement Divisions, now have direct contracting authority.

g. The Managers, Procurement Services Offices, now have direct contracting authority.

h. Inspectors-in-Charge receive local purchasing authority ($1,500).

This circular obsoletes the following *Postal Bulletin* notices:

1. PB 21348, 4-22-82, p. 7, "Contracting Authority for CPUs."

2. PB 21362, 7-29-82, p. 2, "Contracting Authorities—Summary."

(5 U.S.C. 552(a), 39 U.S.C. 401, 404, 410, 411)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82-26372 Filed 9-23-82; 8:45 am]
BILLING CODE 7710-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6329

[AA-50218]

Alaska; Classification and Opening of Lands Withdrawn by Public Land Order Nos. 5150, 5173, 5178, 5179, 5180, and 5184, as Amended, Modified or Corrected

Correction

In FR Doc. 82-24594 beginning on page 39495 in the issue of Wednesday,

September 8, 1982, make the following corrections:

1. On page 39496, middle column, the 28th line now reading "T.S., R.3 E." should have read "T.5 S., R.3 E.".

2. On page 39497, third column, in the 33rd line, "and sec. 25" should have read "and sec. 35".

BILLING CODE: 1505-01-M

Proposed Rules

Federal Register
Vol. 47, No. 186
Friday, September 24, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 315

Career and Career-Conditional Employment

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: These proposed regulations establish an authority under which persons having at least 1 year of service under the Panama Canal Employment System (PCES) may be given noncompetitive career-conditional or career appointments in the competitive civil service.

DATE: Comments must be received on or before November 23, 1982.

ADDRESS: Written comments may be sent to Richard B. Post, Associate Director, Staffing Group, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415, or delivered to Room 6F08, 1900 E Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: William Bohling, Noncompetitive Staffing Branch, (202) 632–6000.

SUPPLEMENTARY INFORMATION: Section 1212 of Public Law 96–70, the Panama Canal Act of 1979, provides for replacement of the Canal Zone Merit System by the Panama Canal Employment System (PCES), and further provides for appropriate interchange of United States citizen personnel between the PCES and the competitive civil service. The PCES became effective March 31, 1982. Its personnel regulations on most subjects are patterned on or require PCES agencies to follow those of the competitive civil service. The only significant differences between the PCES and the competitive civil service are: (1) That 11 points are added to the scores of Panamanian eligibles on registers although veterans preference eligibles still receive 5 or 10 extra points and veterans preference applies within score groups; (2) that basic pay is based on local pay rates; (3) that PCES regulations contain no provisions relating to labor-management relations; and (4) that service of non-Panamanian employees appointed in the PCES on or after October 1, 1979, is limited to 5 years.

The proposed regulations provide comparable noncompetitive appointment eligibility for present and former employees of the PCES and its predecessor, the Canal Zone Merit System. Basic eligibility for noncompetitive appointment is established after 1 year of service under a career-conditional appointment in either system. Eligible employees who are entitled to veterans preference or who have 3 years of substantially continuous service under the PCES, the Canal Zone Merit System, or a combination of the two may be noncompetitively appointed in the competitive civil service at any time. Other eligible employees may be noncompetitively appointed within 3 years after separation from the PCES or Canal Zone Merit System. Service in Panama in a position excluded from the Canal Zone Merit System or the PCES, which immediately follows qualifying service under one or both of those systems, may extend noncompetitive eligibility.

In proposing regulations which extend to PCES employees the noncompetitive appointment benefits previously afforded to employees of the Canal Zone Merit System, OPM recognizes both the close parallel between the PCES, the Canal Zone Merit System, and the competitive civil service and the intent of the Panama Canal Treaty and Panama Canal Act of 1979 to maintain as much as possible the level of benefits available to U.S. employees in Panama before adoption of the Treaty.

E.O. 12291, Federal Regulation

OPM had determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only the procedures used to appoint certain employees in Federal agencies.

List of Subjects in 5 CFR Part 315

Government employees.

Office of Personnel Management,
Donald J. Devine,
Director.

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

Accordingly, the U.S. Office of Personnel Management proposes to revise 5 CFR 315.601 to read as follows:

§ 315.601 Appointment of former employees of Canal Zone Merit System and Panama Canal Employment System.

(a) *Agency authority.* An agency may appoint noncompetitively, for other than temporary or term employment, a United States citizen separated from a career or career-conditional appointment under the Canal Zone Merit System, which was in effect before March 31, 1982, or under the Panama Canal Employment System, which became effective on March 31, 1982.

(b) *Service requirement.* An agency may appoint such a former employee under this section only when, immediately prior to separation from a qualifying appointment, the employee served continuously for at least 1 year under a nontemporary appointment in the Canal Zone Merit System, the Panama Canal Employment System, or a combination of nontemporary appointments in the two systems.

(c) *Time limits.* (1) There is no time limit on the appointment under this section of an employee who:

(i) Is a preference eligible; or

(ii) Has completed at least 3 years of service, which did not include any break in service longer than 30 days, under one or more career-conditional or career appointments in the Canal Zone Merit System and/or the Panama Canal Employment System.

(2) An agency may appoint under this section an employee who does not meet the conditions in (c)(1) above provided no more than 3 years have elapsed since:

(i) separation from a qualifying Canal Zone Merit System or Panama Canal Employment System appointment; or

(ii) separation from service in Panama in a position excluded from the Canal Zone Merit System or Panama Canal Employment System, when such service immediately followed service under a qualifying appointment in one of those systems.

(d) *Tenure on appointment.* (1) On appointment under paragraph (a) of this section, a former career employee of the Canal Zone Merit System or Panama Canal Employment System becomes a career employee.

(2) A former Canal Zone Merit System and/or Panama Canal Employment System employee whose service from the date of career-conditional appointment in the Canal Zone Merit System or Panama Canal Employment System through the date of noncompetitive appointment under this section, inclusive, does not include any break in service of more than 30 days and totals at least 3 years becomes a career employee.

(3) All other former Canal Zone Merit System and Panama Canal Employment System employees become career-conditional employees.

(e) *Acquisition of competitive status.* A person appointed under paragraph (a) of this section automatically acquires a competitive status:

(1) On appointment, if he or she has satisfactorily completed a 1-year probationary period under the Canal Zone Merit System and/or the Panama Canal Employment System.

(2) On satisfactory completion of probation in accordance with § 315.801(a)(3) if he or she had not completed a 1-year probationary period under the Canal Zone Merit System or Panama Canal Employment System.

(Pub. L. 96–70)

[FR Doc. 82-26373 Filed 9-23-82; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Proposed Increase in Payment Rates for Services With Respect To Reserve Tonnage Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice proposes to increase the rates of payment to raisin handlers for receiving, storing, fumigating, and handling reserve tonnage raisins during and beyond the crop year of acquisition. The proposal is based on a recommendation of the Raisin Administrative Committee, which works with the Department in administering the marketing agreement and order program for California raisins.

DATES: Comments must be received by October 12, 1982.

ADDRESSES: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5697.

SUPPLEMENTARY INFORMATION:

This proposal has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been determined to be a "non-major" rule.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated 20 handlers.

J. S. Miller, has determined that a comment period of less than 60 days is warranted so the Committee can begin paying raisin handlers and other persons as soon as practicable for those services at the increased rates.

To initiate the proposed rate increases, it is necessary to amend § 989.401 (a)(1) and (b) of Subpart–Schedule of Payments (7 CFR 989.401; 46 FR 37054). This action would be taken under § 989.66(f) of the marketing agreement and Order No. 989 (7 CFR 989), both as amended, regulating the handling of raisins produced from grapes grown in California (hereinafter referred to collectively as the "order"). The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposed action would increase handler payment rates for: (1) Receiving, storing, fumigating, and handling reserve tonnage raisins during the crop year of acquisition from $32.50 to $36 per ton; and (2) holding reserve tonnage raisins beyond the crop year of acquisition from $1.62 to $1.80 per ton for each month of the three-month period ending November 30, and from 84 cents to 93 cents per ton each month of the next nine months.

Funds to pay these costs are deducted from proceeds from the sale of reserve tonnage raisins held by handlers for the account of the Committee. Net proceeds from such sales are remitted to equity holders in the reserve pool.

List of Subjects in 7 CFR Part 989

Marketing Agreements and Orders, Grapes, Raisins, and California.

PART 989—DISPOSITION OF CONSCIENTIOUS OBJECTORS [REMOVED]

The proposal to revise § 989.401 (a)(1) and (b) of Subpart—Schedule of Payments (7 CFR 989.401; 46 FR 37054) is as follows:

Subpart—Schedule of Payments

§ 989.401 Payments for services performed with respect to reserve tonnage raisins.

(a) *Payment for crop year of acquisition*—(1) *Receiving, storing, fumigating, and handling.* Each handler shall, beginning August 15, 1982, be compensated at the rate of $36 per ton (natural condition weight at the time of acquisition) for receiving, storing, fumigating, and handling the reserve tonnage raisins, as determined by the final reserve tonnage percentage, acquired during a particular crop year and held by him for the account of the Raisin Administrative Committee during all any part of the same crop year: *Provided,* That reserve tonnage acquired during the 1981–82 crop year and held as of August 15, 1982, shall be comnpensated at the rate of $36 per ton (natural condition weight at the time of acquisition).

(2) * * *

(b) *Additional payment for reserve tonnage raisins held beyond the crop year of acquisition.* Additional payment for reserve tonnage raisins held beyond the crop year of acquisition shall be made in accordance with this paragraph. Each handler holding such raisins for the account of the Committee on August 15 and the following September 1 shall be compensated for storing, handling, and fumigating such raisins at the rate of $1.80 per ton per month, or any part thereof, for each month of the three-month period ending November 30, and 93 cents per ton per month, or any part thereof, for each month of the next nine months. Such services shall be completed so that the Committee is assured that the raisins are maintained in good condition.

* * * * *

Dated: September 20, 1982.

D. S. Kuryloski

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82-26362 Filed 9-23-82; 8:45 am]
BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1430

Dairy Products

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule sets forth a procedure for implementing certain changes in the dairy price support program. Such changes are authorized by the Omnibus Budget Reconciliation Act of 1982, which provides that during the period of October 1, 1982, through September 30, 1985, the Secretary of Agriculture may provide for the deduction of 50 cents per hundredweight from the sale of all milk marketed commercially by producers. The deductions would be remitted to the Commodity Credit Corporation to offset a portion of the cost of the price support program. Because of the substantial purchases of dairy products by the U.S. Government under the support program, the Secretary has determined that the deductions should become effective on December 1, 1982. Comments on whether the dairy collection plan should be implemented in the manner set forth in this proposed rule are invited.

DATE. Comments should be received by the Department by November 8, 1982, to be assured of consideration.

ADDRESS: Written comments should be sent to the Director, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7183.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified as a "major" action since the rule would result in an annual effect on the economy of $100 million or more.

The title and number of the Federal Assistance program to which this proposed rule applies are: Title—Commodity Loans and Purchases; Number—10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this proposed rule.

Statutory Authority for Proposed Rule

Section 201 of the Agricultural Act of 1949 was amended on September 8, 1982, by the Omnibus Budget Reconciliation Act of 1982, to specify that during the period of October 1, 1982, through September 30, 1985, the Secretary may provide for a deduction of 50 cents per hundredweight from the proceeds of the sale of all milk marketed commercially by producers. These deductions are to be remitted to the Commodity Credit Corporation to offset a portion of the cost of the price support program. The authority would not apply for any fiscal year for which the Secretary projects that the annual price support purchases will be less than 5 billion pounds milk equivalent. If at any time during a fiscal year the Secretary estimates that the net price support purchases during that year will be less than 5 billion pounds, the authority for making deductions would not apply for the balance of the year.

It has been estimated that the net price support purchases of milk or the products of milk will exceed 5 billion pounds milk equivalent for the 1982–83 marketing year.

Summary of Proposed Rule

The proposed rule sets forth the administrative procedures that would be used to implement the deduction of 50 cents per hundredweight from the proceeds of the sale of all milk marketed commercially by producers. The provisions of the proposed rule would apply only to the milk that is marketed commercially by producers during those months for which the Secretary has announced that the deductions are required.

The Dairy Division of the Department's Agricultural Marketing Service would administer the proposed regulations and would be responsible for the collection and verification of all monies deducted from producers for remittance to the Commodity Credit Corporation.

The proposed regulations specify that any individual, partnership, corporation, association or other business unit that pays the individual producer for his milk would be the "responsible person" for remitting to the CCC the deduction of 50 cents per hundredweight from each producer's proceeds. Additionally, a producer who markets all or part of his own production in the form of milk or milk products to consumers, either direclty or through retail or wholesale outlets, also would be defined as a "responsible person" for remitting monies to the CCC. Such a producer would be required to remit an amount equal to 50 cents per hundredweight on the quantity of his own production used in such marketings. If the producer has additional milk production that is marketed to another "responsible person," the person receiving the milk would be required to make the deduction on that milk.

For milk marketed during a particular month, the proposed regulations prescribe that the deductions from a producer's proceeds be remitted to the CCC by the last day of the following month, or on the same date as final payment is made to the producer for such milk, whichever is earlier. In the case of a producer who markets milk of his own production during the month to consumers, such person would be required to remit the money due the CCC by the last day of the following month.

When remitting the monies to the CCC, each responsbile person would be required to report to the Dairy Division: (1) The identity of the responsible person, including such person's business address, (2) the month in which the applicable producer marketings occurred, and (3) the total amount of milk to which the remittance applies.

The proposed regulations also provide that the amounts due the CCC are to be remitted in the form of a check made payable to the "Commodity Credit Corporation." Checks and related reports would have to be mailed to the location designated by the Dairy Division in its instructions to responsible persons.

A late-payment charge would be assessed with respect to any responsible person's obligation that is due the CCC but which is remitted late. Such late-payment charge would be applied on the first day after the date that such obligation was due and would be applied again on the same day of each succeeding month to any such outstanding obligation, including any outstanding late-payment charge, until the obligation is paid. The amount of the late-payment charge would be based on a rate of interest determined periodically by the CCC, which currently is 17 percent per year.

Each responsible person would be required to maintain certain records for the purpose of demonstrating compliance with the regulations. Also, such persons would be required to make available all records and facilities pertaining to their operations as are necessary for determining compliance.

In addition, all records which would be required to be made available would have to be retained by the responsible person for a period of three years, which begins at the end of the month to which such records pertain, unless the Dairy Division notifies the responsible person that such records are necessary in connection with litigation. In such case, such records would have to be retained until the litigation is terminated or a waiver is granted by the Dairy Division.

List of Subjects in 7 CFR Part 1430

Milk, Agriculture, Price support programs, Dairy products.

Proposed Rule

Accordingly, it is proposed that 7 CFR Part 1430 be amended by inserting immediately before § 1430.282 the subpart heading "Subpart—Price Support Program" and by adding immediately after § 1430.282 a new subpart, consisting of §§ 1430.291–1430.299 which would read as follows:

PART 1430—DAIRY PRODUCTS

Subpart—Regulations Governing Certain Deductions on Milk Marketings of Producers

Sec.

1430.291 General Statement.
1430.292 Definitions.
1430.293 Period of applicability.
1430.294 Responsibility for administration of regulations.
1430.295 Remittance of producer deductions to CCC.
1430.296 Responsibility for records and facilities.
1430.297 Adjustment of accounts.
1430.298 Late-payment charge.
1430.299 Continuing obligations.

Authority.—Sec. 201(d) of the Agricultural Act of 1949, as amended, (7 U.S.C. 1446); Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714).

Subpart—Regulations Governing Certain Deductions on Milk Marketings of Producers

§ 1430.291 General statement.

This subpart provides for the implementation of certain provisions of the dairy price support program, which is authorized by section 201 of the Agricultural Act of 1949, as amended (referred to as the "Act"). Section 201(d)(2) of the Act specifies that during the period of October 1, 1982, through September 30, 1985, the Secretary may provide for a deduction of 50 cents per hundredweight from the proceeds of the sale of all milk marketed commercially by producers, including producers who market milk of their own production directly to consumers. The deductions are to be remitted to the Commodity Credit Corporation to offset a portion of the cost of the dairy price support program. The Act also specifies that the Secretary's authority for requiring such deductions shall not apply for any fiscal year for which the Secretary estimates that the net price support purchases of milk or the products of milk would be less than 5 billion pounds milk equivalent. In addition, if at any time during a fiscal year the Secretary should estimate that such net price support purchases during that fiscal year would be less than 5 billion pounds milk equivalent, the Secretary's authority for requiring such deductions shall not apply for the balance of that fiscal year. The regulations set forth in this subpart establish the administrative procedures that will be used in carrying out this phrase of the dairy price support program whenever it is in operation.

§ 1430.292 Definitions.

For purposes of this subpart, the terms listed below shall have the following meanings:

(a) *"United States"* means the 50 states of the United States of America, the District of Columbia, Puerto Rico, and the affected territories of the United States of America.

(b) *"Department"* means the United States Department of Agriculture.

(c) *"Secretary"* means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in his stead.

(d) *"Dairy Division"* means the Dairy Division of the Department's Agricultural Marketing Services.

(e) *"CCC"* means the Commodity Credit Corporation.

(f) *"Person"* means any individual, partnership, corporation, association, or other business unit.

(g) *"Producer"* means any dairy farmer within the United States who produces milk.

(h) *"Responsible person"* means:

(1) Any person who pays a producer for milk marketed commercially by the producer. This shall include a handler regulated under a Federal milk order to the extent of any payments for milk that are transmitted by the handler to the market administrator for transmittal by the market administrator to individual producers.

(2) Any producer with respect to milk of his own production that he commercially markets in the form of milk or milk products to consumers, either directly or through retail or wholesale outlets.

(i) *"Deduction"* means the money that is subtracted under the authority described in § 1430.291 from the proceeds of the sale of all milk marketed commercially by producers.

§ 1430.293 Period of applicability.

The provisions of this subpart shall apply only to the milk that is marketed commercially by producers during those months for which the Secretary has announced that the deductions described in § 1430.291 are required.

§ 1430.294 Responsibility for administration of regulations.

The Dairy Division shall have the responsibility for administering this subpart.

§ 1430.295 Remittance of producer deductions to CCC.

The following procedures shall apply with respect to remitting to the CCC the deductions described in § 1430.291:

(a) Each responsibile person who pays a producer for milk marketed commercially during the month shall remit to the CCC by the last day of the following month, or at the time of making final payment to the producer for such milk, whichever is earlier, an amount equal to 50 cents per hundredweight times the quantity of milk for which payment is being made.

(b) Each responsible person who markets milk of his own production to consumers (either directly or through retail or wholesale outlets) in the form of milk or milk products during the month shall remit to the CCC by the last day of the following month an amount equal to 50 cents per hundredweight times the quantity of such person's own production used in such marketings.

(c) When remitting amounts in accordance with paragraphs (a) and (b) of this section, each responsible person shall file a report prescribed by the Dairy Division showing:

(1) The identity of the responsible person, including such person's business address;

(2) The month in which the applicable producer marketings occurred; and

(3) The total pounds of milk to which the remittance applies.

(d) The amounts remitted under this section shall be in the form of a check made payable to "Commodity Credit Corporation."

(e) Checks and reports required under this section shall be mailed to the location designated by the Dairy Division.

§ 1430.296 Responsibility for records and facilities.

(a) *Records to be maintained.* Each responsible person shall maintain records in a manner that will demonstrate compliance with the provisions of this subpart.

(b) *Availability of records and facilities.* Each responsible person shall make available all records and facilities pertaining to such person's operations that are necessary to determine compliance with the provisions of this subpart.

(c) *Retention of records.* All records required under this subpart shall be retained by the responsible person for a period of three years that shall begin at the end of the month to which such records pertain, unless the Dairy Division notifies the responsible person that such records are necessary in connection with litigation. In such case, the records shall be retained until the litigation is terminated or a waiver is granted by the Dairy Division.

§ 1430.297 Adjustment of accounts.

Whenever an audit of any responsible person's reports, records, books or accounts discloses adjustments to be made in monies due the CCC or due such person from the CCC, such responsible person shall be notified of any such amount due. Any such amount due the CCC shall be remitted by the next date for remitting deductions as provided in § 1430.295.

§ 1430.298 Late-payment charge.

Any unpaid obligation of a responsible person under this subpart shall be increased by a late-payment charge which shall be applied on the first day after the date such obligation was due and on the same day of each succeeding month until such obligation is paid. The total obligation due from such person shall include any unpaid charges computed previously under this section. The charge shall be an amount equal to one-twelfth (rounded to the nearest one-hundredth of one percent) of the annual rate of interest announced by the CCC under 7 CFR 1403.5.

§ 1430.299 Continuing obligations.

Obligations of a responsible person that have arisen under this subpart shall continue in effect until the final disposition of such obligations even though the Secretary has announced that the deductions described in § 1430.291 are no longer required.

Signed at Washington, D.C., on September 21, 1982.

Everett Rank,

Executive Vice President, Commodity Credit Corporation (CCC).

[FR Doc. 82-26410 Filed 9-23-82; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Equipment Contract Requirements Proposed Revision to REA Contract Form 198

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to revise REA Contract Form 198, "Equipment Contract." The REA Contract Form 198 provides REA borrowers with a standardized contract document with which equipment for electric generating stations, substations and transmission line construction can be purchased. The proposed revision to the existing document is intended to update the form by incorporating various clarifications and improvements gained from past experience and by including numerous comments received from the public.

DATE: Public comments must be received by REA no later than November 23, 1982.

ADDRESS: Submit written comments to Frank W. Bennett, Director, Power Supply Division, Rural Electrification Administration, Room 0232, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Holt, Chief, Power Plants Branch, Rural Electrification Administration, Room 0236, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382-1390. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to revise REA Contract Form 198, "Equipment Contract." 7 CFR Part 1701, Appendix A—REA Bulletins, will be amended to include the revised REA Contract Form 198 upon its issuance as a final rule. This proposed action has been issued in conformance with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major." This action is not subject to the Regulatory Flexibility Act or to OMB Circular A-95 review requirements. This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

This revision incorporates various clarifications and improvements gained from past experience and includes numerous comments received from the public resulting from the Advance Notice of Proposed Rulemaking which was published in the **Federal Register** on July 31, 1981. The most significant change is the incorporation of the informal bidding procedure permitted by the May 23, 1973, Supplement to REA Bulletin 40-6.

REA hereby solicits comments and recommendations from interested parties regarding the proposed revision to REA Contract Form 198.

A copy of the proposed REA Contract Form 198 is available upon request from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours at the above address.

List of Subjects in Part 1701

Administrative practice and procedure, Electric power plants, Electric utilities.

Dated: August 23, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-26155 Filed 9-23-82; 8:45 am]

BILLING CODE 3410-15-M

Packers and Stockyards Administration

9 CFR Parts 201 and 203

Regulations and Policy Statements; Review of Existing Regulations

AGENCY: Packers and Stockyards Administration, USDA.

ACTION: Notice of proposed rulemaking; review of existing regulations.

SUMMARY: This notice proposes to remove three recordkeeping and accounting regulations and to retain, in their present form, two regulations concerning the responsibilities of agents in accounting to their principals. It

proposes to revise and consolidate four additional accounting regulations into two and to consolidate the two regulations and one policy statement authorizing the disposal of records into a single regulation.

This proposal would also revise and consolidate eight trade practice regulations into a single, simplified regulation. Three other trade practice regulations involving employment restrictions, solicitation of consignments, and gratuities would be removed. One regulation concerning price guarantees and one policy statement concerning payment of buyers' expenses would be retained in their current form.

DATE: Comments must be received on or before November 23, 1982.

ADDRESS: Comments may be mailed to the Administrator, Packers and Stockyards Administration, Room 3039, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Comments received may be inspected during normal business hours in the office of the Administrator.

FOR FURTHER INFORMATION CONTACT: John A. Sands, Jr., Director, Livestock Marketing Division, (202) 447–6951 or Kenneth Stricklin, Chief, Livestock Procurement Branch, (202) 447–6772.

SUPPLEMENTARY INFORMATION: This is the fourth group of regulations and policy statements selected for review in the Revised Plan of Review published in the **Federal Register** (46 FR 25279) by the Packers and Stockyards Administration in July 1981.

In developing this proposal, consideration has been given to the comments filed in response to two earlier publications in the **Federal Register** (44 FR 71802; 45 FR 21168) which outlined the Administration's plans for review of the existing regulations and policy statements. Consideration has also been given to the recommendations of an agency task force which were widely circulated throughout the livestock marketing and meat packing industries and to the comments received from industry groups and individuals as a result of the circulation of the task force report.

The following proposal would remove §§ 201.46, 201.52, 201.54, 201.63, and 201.65 (9 CFR 201.46, 201.52, 201.54, 201.63, and 201.65). Sections 201.55 and 201.61 (9 CFR 201.55 and 201.61) would be revised. Sections 201.43 and 201.111 (9 CFR 201.43 and 201.111) would be revised and consolidated as § 201.43 (9 CFR 201.43). Sections 201.49 and 201.107 (9 CFR 201.49 and 201.107) would be revised and consolidated as § 201.49 (9 CFR 201.49). Sections 201.50 and 201.101 (9 CFR 201.50 and 201.101) and policy statement 203.4 (9 CFR 203.4 would be revised and consolidated as § 201.50 (9 CFR 201.50) of the regulations. Sections 201.53 and 201.102 (9 CFR 201.53 and 201.102) would be revised and consolidated as § 201.53 (9 CFR 201.53).

This proposal would also consolidate and revise §§ 201.47, 201.56, 201.57, 201.58, 201.59, 201.60, 201.62, and 201.66(b) (9 CFR 201.47, 201.56, 201.57, 201.58, 201.59, 201.60, 201.62 and 201.66(b)) into § 201.56 (9 CFR 201.56). No changes are proposed in §§ 201.44, 201.45, 201.64, and 201.66(a) (9 CFR 201.44, 201.45, 201.64, and 201.66(a)) and policy statement 203.5 (9 CFR 203.5).

Accounting and Records

Prompt Payment and Accounting. Section 201.43 of the regulations prescribes the duty of market agencies selling livestock on a commission basis to provide prompt and accurate accounting to their customers and the responsibility of principals to promptly reimburse their agents for livestock purchases. Further, it sets forth the terms and conditions which packers, market agencies, and dealers are to follow in complying with the prompt pay provisions of section 409 of the Packers and Stockyards Act (7 U.S.C. 228b). Section 201.111 of the regulations requires prompt payment for live poultry purchases by packers and live poultry dealers and handlers.

The proposed revision would remove from § 201.43(a) the requirement that market agencies selling on commission routinely show the name of the purchaser on the account of sale furnished to the consignor. Entering the names of the buyers on the account of sale requires considerable time and effort on the part of the market agency on sale days during the peak of the workload of the office staff. The market agency would continue to be required to disclose the name of the buyer on its accounting to the consignor whenever livestock is sold to an owner, officer, or employee of the market agency. The market agency, in the normal course of business and pursuant to the Act, must maintain records sufficient to disclose the name of the buyer in every transaction, and the consignor, upon proper request to the market agency, would be entitled to know who purchased his livestock.

Paragraph (b) of § 201.43 would be retained without amendment. This paragraph implements the prompt payment and trust amendments enacted in 1976.

The cross references to §§ 201.61 and 201.66 in the current paragraph (d) of § 201.43 are no longer necessary. Section 201.43(d) will be replaced by § 201.111, thereby consolidating §§ 201.43 and 201.111.

Paragraph (c), as proposed, retains the current requirements for prompt payment for livestock by principals to their agents.

This proposal would also remove the current paragraph (d) of § 201.43. A new paragraph (d) would contain prompt payment requirements for live poultry by packers and live poultry dealers and handlers currently set forth in 201.111 of the regulations. These requirements remain necessary to assure timely payment to live poultry sellers and growers. The prompt payment requirements do not preclude the parties to a transaction from agreeing to credit terms.

The proposal would retain § 201.44 in its current form. This regulation requires market agencies to make prompt and accurate accounting to their principals for livestock purchased on commission, and specifies the minimum information which should be provided to a principal by his agent.

Inspection of Records by Principals. Market agencies are required by § 201.45 to make those records disclosing the charges paid by the market agency on behalf of a customer available to the customer for inspection. This notice proposes to retain this regulation. If does not require the market agency to create records; rather, it merely requires the market agency to make existing records documenting pertinent expenditures made on behalf of a customer available for inspection by the customer.

Daily Records. This proposal would remove § 201.46, which requires stockyard owners, market agencies, and dealers to make and keep a daily record of livestock received and shipped or bought and sold or otherwise disposed of each day. Records sufficient to fully and correctly disclose all transactions are required by section 401 of the Packers and Stockyards Act (7 U.S.C. 221). This statutory requirement is not altered by the proposed removal of § 201.46, but persons subject to the Act would be afforded greater flexibility in meeting the recordkeeping requirements of the Act.

Scale Tickets. The current requirements pertaining to the issuance of scale tickets in connection with livestock and live poultry transactions, §§ 201.49 and 201.107, would be retained and consolidated into a single regulation by this proposal. The Administration believes these requirements are necessary for the protection of livestock and poultry sellers. Scale tickets show

that livestock or poultry has been weighed and provide pertinent data to the parties about the weighing, including the actual weight, the number and kind of livestock or poultry weighed, the date, and identity of the weighmaster.

In addition, this proposal would require that scale tickets be used in serially numbered order. Such a requirement is implied, but not specifically required, in the present requirement that scale tickets be serially numbered. Control of scale tickets is important to the issuing firm and to the Administration in enforcing the Act in that it facilitates the identification of fraudulent or unauthorized scale tickets.

This proposal would add the requirement that the hot carcass weights be recorded and also retained as a part of a packer's business records when livestock is purchased on a carcass weight basis. A substantial volume of livestock purchased for slaughter is purchased on a carcass weight basis, and the Administration has found that some packers do not retain documentation of hot carcass weights after the carcasses are sold or otherwise disposed of. These records provide the Administration with essential information in connection with investigations of carcass weight purchases.

Finally, this proposal would remove paragraphs (c) of §§ 201.49 and 201.107. These paragraphs duplicate other provisions of the regulations dealing with accurate weights.

Disposal of Records. Authority for persons subject to the Act to dispose of records after specified time periods is currently contained in two regulations and one policy statement. Section 201.50 provides authority for stockyard owners, market agencies and dealers to dispose of certain records after two years. Authority for records disposal by poultry processors and live poultry dealers or handlers is contained in § 201.101 of the regulations and for meat packers in § 203.4 of the Statements of General Policy.

This proposal would consolidate these two provisions into a single regulation, thereby combining similar requirements for different segments of the industry. It does not impose any new recordkeeping requirements or lengthen the retention periods. In fact, this proposal would reduce the retention period for certain packer records from three years to two years. It would also permit records to be kept on microfilm in lieu of retaining the actual documents.

Withholding of Information by Market Agency. Section 201.52 currently prohibits market agencies from furnishing livestock sales information to unauthorized parties. This notice proposes to remove § 201.52, and to leave decisions concerning release of information to the discretion of the market agency. Agency intervention would be warranted where release of information constitutes an unfair or deceptive practice. Removal will not preclude state and Federal agencies from requesting or requiring information necessary to administer or enforce state or Federal laws.

Trade Practices—Livestock Purchased From Consignment

The current trade practice regulations discussed under this heading are closely related, each dealing with some aspect of a market agency's responsibility to consignors when selling livestock on a commission basis. This proposal would rewrite and simplify §§ 201.47, 201.56, 201.57, 201.58, 201.59, 201.60, 201.62, and 201.66(b) to create a single regulation, thereby removing unnecessary repetition and confusing provisos and cross-references, and eliminating or reducing several of the current restrictions on the business activities of market agencies selling on commission.

Requirements of the Current Regulations (§§ 201.47, 201.56, 201.57, 201.58, 201.59, 201.60, 201.62, 201.66(b)). When a market agency is permitted to sell livestock to any person having a financial interest in the market agency performing the selling service, § 201.47 requires the livestock to be sold openly and at a price higher than the highest available bid. In such a sales transaction, the market agency must disclose to the consignor the nature of the relationship between the buyer and market agency.

These requirements and preconditions for selling livestock to any person having a financial relationship with the selling agency are essential requirements, which reflect and safeguard the fiduciary responsibility of the selling agent to his consignors. The disclosure requirement is of particular significance because it alerts the consignor to potential conflicts of interest.

Sections 201.56 and 201.62 specify the conditions which must be met when a market agency purchases consigned livestock for off-market purchasers. In such transactions, § 201.62 permits the market agency to assess only a selling commission, but allows an additional charge to the buyer to offset expenses incurred by the market agency in soliciting the off-market bids.

Section 201.57 prohibits market agencies selling livestock at auction from purchasing consigned livestock for speculative resale or permitting their owners, officers, and employees from purchasing consigned livestock for speculative resale. It further prohibits the auction markets from permitting their auctioneers, weighmasters, and certain other employees from purchasing consigned livestock for any purpose. Section 201.57 permits a market agency to purchase consigned livestock for market support. If market support livestock is resold by the market agency in one lot on the same day at a higher price, the market agency must remit the difference to the consignor, pursuant to § 201.59.

Section 201.58 requires each consignment to be sold on its own merits and prohibits string sales. Commingling of graded lots of livestock for sale with consignor's consent is allowed.

Sales of consigned livestock by a market agency to its owners, officers, employees, or other persons holding a financial interest in the market agency are prohibited by § 201.60(a), except where otherwise permitted by the regulations. Paragraph (b) of § 201.60 prohibits a market agency from selling its own livestock or livestock owned by its owners, officers, or employees in such a manner as to prejudice the interests of its consignors.

Section 201.66(b) prohibits a market agency from employing any person engaged in buying livestock as a dealer or market agency if that person engages in market agency or dealer transactions at the stockyard where he is employed.

Provisions of the Current Regulations Which Would be Removed By this Proposal. The existing regulations do not expressly prohibit owners, officers, and employees of a market agency from purchasing consigned livestock to fill oders which such persons themselves have obtained as distinguished from orders held or obtained by the market agency. The Packers and Stockyards Administration has, however, generally interpreted the provisions of §§ 201.56, 201.60(a), 201.62, and 201.66(b), taken as a group, to prohibit such persons in their individual capacities from filling orders from consignment.

The proposed § 201.56 will not preclude owners, officers, and employees of a market agency (except key employees whose duties in connection with auction sales involve activities which directly affect consignors' interests) from purchasing livestock from consignments to fill orders on an agency basis. It will continue to permit the market agency itself and wholly-owned subsidiaries of the market agency to fill orders. It is the opinion of the Administration that

removal of this restriction on a market agency's owners, officers,and non-key employees will foster increased demand in the local market and will not interfere with the enforcement of the Act. The regulations will continue to require that the market agency sell consigned livestock openly, at the highest available bid, and in such a manner as to best promote the interest of each consignor. It will further require full disclosure of the relationship between the market agency and buyer.

This proposal would also remove the prohibition against the assessment of a buying commission and the limitation on the charges for expenses when a market agency purchases consigned livestock to fill orders. Continuation of this limitation would be inconsistent with the general deregulation of rates previously accomplished by the Packers and Stockyards Administration.

The new proposed regulation would continue to prohibit auctioneers, weighmasters, and other key employees from purchasing from consignments for speculation or to fill orders. However, these employees would be permitted to purchase livestock for their own farm or ranching operation. Full disclosure to the consignor of the employee's relationship to the market agency would be required. If a situation arises in which a key employee's purchases from consignments for his ranch or farming operation are harmful to the interests of consignors, appropriate action will be taken.

Market agencies would continue to be permitted to purchase livestock for market support under this proposal. However, the provision requiring the market agency to remit any profit derived from the resale, in one lot on the same day, of such livestock, would be removed. Market agencies provide a service to their consignors when they purchase livestock to support the market. This proposal specifies the manner in which such purchases shall be made and requires disclosure to the consignor. Requiring the market agency to relinquish incidental profits while absorbing market support losses imposes an inequitable burden on the market agency and may discourage legitimate market support.

The prohibition against market agencies employing a dealer or order buyer if that person engages in any market agency or dealer activity at the market would be removed. While it is possible that a market agency might favor an employee in connection with sales of the employee's livestock, such a possibility does not warrant a *per se* prohibition.

Lastly, in lieu of a *per se* prohibition against string sales, the proposed regulation focuses on the market agency's responsibility to its consignors.

Provisions of the Proposed Regulation (201.56). Most of the trade practice regulations which deal with a market agency's responsibilities to consignors would be consolidated into a single, simplified regulation by this proposal. Several substantive changes are proposed to give greater flexibility to market agencies in filling orders on an agency basis and to remove restrictions on their business activities. This proposal affirms that the principal duty of a market agency selling on commission is to sell consigned livestock in such a manner as to best promote the interests of each consignor and to obtain the highest available price. In addition, it places greater emphasis on full disclosure as a means of protecting the interests of consignors.

Paragraph (a) of the proposed regulation states simply and concisely the market agency's responsibility to sell livestock in the best interest of its consignors. This requirement is essential to the agent-principal relationship which exits between the market agency and consignor.

Paragraph (b) circumscribes the conditions under which a market agency and its owners, officers, and employees may use consigned livestock to fill orders on an agency basis and requires that the livestock first be offered for sale in an open and competitive manner. Such a requirement is necessary to protect the legitimate interests of the consignors and the integrity of the marketing system.

The prohibition against purchasing livestock out of consignment for speculative resale is continued in paragraph (c) of this proposal. Market agencies and their owners, officers, and employees would be barred from purchasing consigned livestock for speculative resale. However, a proviso is included which permits market agencies to purchase consigned livestock to support their market when necessary to protect the legitimate interests of the consignors. When livestock is purchased for speculative resale, the buyer's interest is a quick resale at a profit. When that buyer is a market agency selling on commission, its self-interest in the transaction necessarily conflicts with its responsibility to consignors. Therefore, this regulatory prohibition continues to be viable and necessary.

Key employees of an auction market, such as the auctioneer, weighmaster, or ringman, would be prohibited from speculating out of consignments or filling orders for their own accounts by paragraph (d) of the proposed regulation. They would not be precluded by this regulation, however, from making incidental purchase for their own farm or ranching operation.

In order to adequately represent and protect the interests of consignors at an auction market, key employees engaged in conducting the auction sale must perform proficiently and with integrity. A failure to do so will result in some consignors receiving less than the highest available price for their livestock. Such a failure, unless flagrant, would not be readily detectable by the consignors and in many instances would not be detectable by the auction market operator.

The key element of this proposed regulation, which eases many of the restrictions on the business activities of selling agencies, is the disclosure requirement of paragraph (e). Under this provision, the market agency would be required to disclose to the consignor the name of the buyer and the nature of the relationship between the market agency and buyer whenever the market agency or its owners, officers, or employees purchase livestock out of consignment for any purpose. Such disclosure is an essential protection to the seller when an agent takes goods received on consignment into his own account or sells such goods to an owner, officer, or employee.

Trade Practices—Other

Market Conditions and Prices—False Reports. This notice proposes to consolidate §§ 201.53 and 201.102 into a single regulation which would proscribe false or misleading reports about market conditions and prices for livestock and live or dressed poultry. In addition, the proposal would apply this section to meat. Accurate reports of market conditions and prices are vital to all segments of the livestock, poultry, and meat packing industries. The regulation would make explicit the position that knowingly circulating false or misleading market information is an unfair trade practice. It would not impose any burden or restriction on the business activities of firms subject to the Act.

Gratuities. Section 201.54 of the regulations would be removed by this proposal. Stockyard owners, market agencies, and dealers are currently prohibited from giving gratuities to truckers by this regulation. Further, stockyard owners and market agencies cannot now receive or permit any

owner, officer, or employee to receive gratuities.

By removing this regulation, the Packers and Stockyards Administration would not be condoning bribery or the granting of unreasonaable inducements intended to procure an unfair preference or advantage. Such practices are considered to be violations of section 312(a) of the Act (7 U.S.C. 213(a)). Because it is unrealistic to establish by regulation an acceptable level of gratuities, each case will require individual scrutiny.

Actual Weights. When livestock is bought and sold on a weight basis, § 201.55 requires the transaction to be on the basis of the actual weights unless otherwise appropriately explained. This proposal would rewrite § 201.55 to make clear the requirements that the weight be an actual weight and that any adjustments to the actual weight be fully and accurately explained. This is an important and necessary regulation which does not impose an unreasonable burden on the industry.

Clearing Services. Section 201.61 of the current regulations prohibits practices resulting in a conflict of interest for selling agencies which finance or clear dealers buying out of consignments and for buying agencies who use livestock purchased from clearees to fill orders. In its present form, this regulation is more restrictive than is necessary to effectuate the intent and purposes of the Act under current marketing conditions.

This proposal rewrites § 201.61 to emphasize the prohibition against entering into any agreement, relationship, or association which may impair the market agency's loyalty to its consignors or principals. It proposes to remove the restriction against market agencies selling on commission furnishing clearing, financing, or bookkeeping services for independently operated and separately registered dealers. A prohibition is included, however, against a selling agency providing clearing services for any dealer who purchases livestock from consignments to such selling agency. Financing the operations of a dealer who purchases livestock from consignments would be prohibited by the proposed § 201.56(c). A conflict of interest exists when a market agency has a financial interest in dealer livestock bought out of consignment through either a clearing or a financing arrangement with the purchaser, and these prohibitions therefore remain necessary.

The restriction against a buying agency purchasing livestock from a dealer whose operations it clears would also be removed by proposed § 201.61. Disclosure to the buying agency's principal of the relationship between the buying agency and dealer would be required in such a situation. Prohibiting a buying agency, which also acts as a clearing agent, from using livestock from a clearee to fill orders removes a source of livestock from the buying agency's principal. However, to permit such purchases presents a potential conflict of interest. These opposing factors are reconciled by requiring full disclosure of the buying agency's relationship with the clearee.

Consignments Not To Be Solicited or Intercepted. Packers, market agencies, and dealers are restricted by § 201.63 from intercepting or soliciting consignments at a stockyard after the livestock has been received and while it is being delivered to a consignee. Section 201.63 would be removed by this proposal. This practice is no longer a significant problem to the industry. Any problems which may occur can and should be controlled by the stockyard where the problem arises.

Price Guarantees Not To Be Given. It is proposed to retain § 201.64 in its current form. Market agencies selling on commission are prohibited by this regulation from guaranteeing the price at which consigned livestock will be sold.

This practice is used to solicit consignments which may otherwise be consigned to a competitior's market. It results in unfair competition to other firms, particularly smaller firms, which cannot afford to engage in this practice. When this practice is left unchecked, market agencies tend to compete on the basis of price guarantees rather than on the basis of the selling services offered. The practice may result in discriminatory prices and selling services, and may also be used as a form of commission rebate.

Employment of Salesman on Split Commission. This proposal would remove § 201.65 which prohibits a market agency from employing a salesman on the basis of a split of the commissions received from consignors considered to be "followers" of the particular salesman. The unfair practices that this regulation was originally intended to prohibit are no longer a problem in the industry. Thus, under current marketing conditions, this regulation is unnecessary.

Market Agencies Not To Employ Packers. Paragraph (a) of § 201.66 would be retained in its current form. Market agencies selling on commission are prohibited by this regulation from employing a packer, or any person employed by a packer to purchase livestock, to provide any of the market agency's services. Packers, or persons employed by packers to purchase livestock for slaughter, are actual or potential livestock buyers at such market agencies. As such the market agency selling on commission and the packer or the packer's employed livestock buyer have conflicting interests which are best resolved through the maintenance of an arm's length relationship.

Paying the Expenses of Buyers. This proposal would retain section 203.5 of the Statements of General Policy in its current form. That policy statement sets forth the Administration's position with respect to market agencies selling on commission paying the expenses of buyers attending their sales. Such payments may become a method of unfair competition between similarly engaged market agencies resulting in unnecessary cost burdens on consignors because of increased rates and charges. It may also result in unreasonable discrimination between buyers.

Executive Order

It has been determined that the proposals to amend and remove the regulations relating to the accounting and recordkeeping and trade practices of market agencies, dealers, meat packers, and live poultry dealers and handlers as proposed herein are not "major" rules as defined by section 1(b) of E.O. 12291.

The proposed rules will not have an annual effect on the economy of $100 million or more, will not result in major increases in costs or prices for consumers, individual industries, Government agencies, or geographic regions, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises to compete with foreign based enterprises in domestic or export markets. Accordingly, regulatory impact analyses are not required.

Regulatory Flexibility Act

B. H. (Bill) Jones, Administrator, Packers and Stockyards Administration, has determined that these proposals will not have a significant economic impact on a substantial number of small entities.

These proposals would remove several restrictions on the business activities of market agencies and greatly simplify and clarify the trade practice regulations. These regulations simply proscribe certain unfair and deceptive practices which are unlawful under the Packers and Stockyards Act.

Consolidation of the records disposal regulations and policy statement would not impose any new recordkeeping requirements and, in fact, would reduce the retention period for some packer records.

List of Subjects

9 CFR Part 201

Accounting and records, Trade practices—Livestock purchased from consignments, Trade practices—other.

9 CFR Part 203

Paying the expenses of buyers.

(7 U.S.C. 228.)

Done at Washington, D.C. September 17, 1982.

B. H. (Bill) Jones,

Administrator, Packers and Stockyards Administration.

PART 201—REGULATIONS UNDER THE PACKERS AND STOCKYARDS ACT

PART 203—STATEMENTS OF GENERAL POLICY UNDER THE PACKERS AND STOCKYARDS ACT

§§ 201.46, 201.47, 201.52. 201.54, 201.57-201.60, 201.62, 201.63, 201.65, 201.101, 201.102, 201.107, 201.111 and 203.4 [Removed]

1. It is proposed to remove §§ 201.46, 201.47, 201.52, 201.54, 201.57, 201.58, 201.59, 201.60, 201.62, 201.63, 201.65, 201.101, 201.102, 201.107, 201.111 (9 CFR 201.46, 201.47, 201.52, 201.54, 201.57, 201.58, 201.59, 201.60, 201.62, 201.63, 201.65, 201.101, 201.102, 201.107, and 201.111) of the regulations and § 203.4 (9 CFR 203.4) of the Statements of General Policy.

2. It is proposed to revise §§ 201.43, 201.49, 201.50, 201.53, 201.55, 201.56, 201.61, and 201.66(a). (9 CFR 201.43, 201.49, 201.50, 201.53, 201.55, 201.56, 201.61, and 201.66) of the regulations to read as set forth below.

§ 201.43 Payment and accounting for livestock and live poultry.

(a) *Market agencies to make prompt accounting and transmittal of net proceeds.* Each market agency shall, before the close of the next business day following the sale of any livestock consigned to it for sale, transmit or deliver to the consignor or shipper of the livestock, or the duly authorized agent, in the absence of any knowledge that any other person, or persons, has any interest in the livestock, the net proceeds received from the sale and a true written account of such sale, showing the number, weight, and price of each kind of animal sold, the date of sale, the commission, yardage, and other lawful charges, and such other facts as may be necessary to complete the account and show fully the true nature of the transaction.

(b) *Prompt payment for livestock—terms and conditions.* (1) No packer, market agency, or dealer shall purchase livestock for which payment is made by a draft which is not a check, unless the seller expressly agrees in writing before the transaction that payment may be made by such a draft. (In cases of packers whose average annual purchases exceed $500,000, and market agencies and dealers acting as agents for such packers, see also § 201.200.)

(2)(i) No packer, market agency, or dealer purchasing livestock for cash and not on credit, whether for slaughter or not for slaughter shall mail a check in payment for the livestock unless the check is placed in an envelope with proper first class postage prepaid and properly addressed to the seller or such person as he may direct, in a post office, letter box, or other receptacle regularly used for the deposit of mail for delivery, from which such envelope is scheduled to be collected (*a*) before the close of the next business day following the purchase of livestock and transfer of possession thereof, or (*b*) in the case of a purchase on a "carcass" or "grade and yield" basis, before the close of the first business day following determination of the purchase price.

(ii) No packer, market agency, or dealer purchasing livestock for slaughter, shall mail a check in payment for the livestock unless (*a*) the check is made available for actual delivery and the seller or his duly authorized representative is not present to receive payment, at the point of transfer of possession of such livestock, on or before the close of the next business day following the purchase of the livestock and transfer of possession thereof, or, in the case of a purchase on a "carcass" or "grade and yield" basis, on or before the close of the first business day following determination of the purchase price; or unless (*b*) the seller expressly agrees in writing before the transaction that payment may be made by such mailing of a check.

(3) Any agreement referred to in paragraphs (b) (1) or (2) of this section shall be disclosed in the records of any market agency or dealer selling such livestock, and in the records of the packer, market agency or dealer purchasing such livestock, and retained by such person for such time as is required by any law, or by written notice served on such person by the Administrator, but not less than two calendar years from the date of expiration thereof.

(4) No packer, market agency, or dealer shall, as a condition to its purchase of livestock, impose, demand, compel, or dictate the terms or manner of payment, or attempt to obtain a payment agreement from a seller through any threat or retaliation or other form of intimidation.

(c) *Purchaser to promptly reimburse agents.* Each packer, market agency, or dealer who utilizes or employs an agent to purchase livestock for him, shall, in transactions where such agent uses his own funds to pay for livestock purchased on order, transmit or deliver to such agent the full amount of the purchase price before the close of the next business day following receipt of notification of the payment of such purchase price, unless otherwise expressly agreed between the parties before the purchase of the livestock. Any such agreement shall be disclosed in the records of the principal and in the records of any market agency or dealer acting as such agent.

(d) *Purchasers to pay promptly for live poultry purchases.* Each packer or live poultry dealer or handler shall, before the close of the fifth business day following slaughter of any poultry purchased, transmit or deliver to the seller of such poultry or his duly authorized agent the full amount of the purchase price thereof, unless otherwise expressly agreed between the parties before the purchase of the poultry. Any such agreement shall be disclosed in such purchaser's records and on all accountings or other documents issued by such purchaser relating to the transaction.

§ 201.49 Requirements regarding scale tickets evidencing weighing of livestock and live poultry.

(a) *Livestock.* When livestock is weighed for purpose of purchase or sale, a scale ticket shall be issued which shall show: (1) The name and location of the agency performing the weighing service; (2) the date of the weighing; (3) the name of the buyer and seller or consignor, or a designation by which they may be readily identified; (4) the number of head; (5) kind; (6) actual weight of each draft of livestock; and (7) the name, initials, or number of the person who weighed the livestock, or if required by State law, the signature of the weigher. Scale tickets issued under this section shall be serially numbered and used in numerical sequence. Sufficient copies shall be executed to provide a copy to all parties to the transaction. In instances where the weight values are automatically recorded directly on the account of purchase, account of sale or

other basic record, this record may serve in lieu of a scale ticket. When livestock is purchased on a carcass weight or carcass grade and weight basis, the hot carcass weights shall be accurately recorded on a permanent record, either manually or automatically, to substantiate settlement of each transaction.

(b) *Live poultry.* When live poultry is weighed for purpose of purchase, sale, acquisition, or settlement by a packer or live poultry dealer or handler, a scale ticket shall be issued which shall show: (1) The name of the agency performing the weighing service; (2) the name of the packer or live poultry dealer or handler; (3) the name and address of the grower, purchaser, or seller; (4) the name or initial of the person who weighed the poultry; (5) the location of the scale; (6) the gross weight, tare weight, and net weight; (7) the date and time gross weight and tare weight are determined; (8) the number of poultry weighed; (9) the weather conditions; (10) whether the driver was on or off the truck at the time of weighing; (11) the license number of the truck or the truck number; *Provided,* That when live poultry is weighed on a scale other than a vehicle scale, the scale ticket need not show the information specified in paragraphs (b)(9), (10), and (11) of this section. Scale tickets issued under this paragraph shall be at least in duplicate form and shall be serially numbered and used in numerical sequence. One copy shall be furnished to the grower, purchaser, or seller, and one copy shall be furnished to or retained by the packer or live poultry dealer or handler.

§ 201.50 Records; disposition.

(a) *Records may be disposed of after two years except as otherwise provided.* Except as provided in paragraph (b) of this section, no packer, live poultry dealer or handler, stockyard owner, market agency, or dealer shall, without the consent in writing of the Administrator, destroy or dispose of books, records, documents, or papers which contain, explain, or modify transactions in its business under the Act for a period of two full calendar years: *Provided,* That the following records made or kept by a packer may be disposed of after one year; cutting tests; departmental transfers; buyers' estimates; drive sheets; scale tickets received from others; inventory and products in storage; receiving records; trial balances; departmental overhead or expense recapitulations; bank statements, reconciliations and deposit slips; production or sale tonnage reports (including recapitulations and summaries of routes, branches, plants, etc.) buying or selling pricing instructions and price lists; correspondence, telegrams, teletype communications and memoranda relating to matters other than contracts, agreements, purchase or sales invoices, or claims or credit memoranda. *Provided further,* That microfilm copies of records may be substituted for and retained in lieu of the actual records.

(b) *Retention for longer periods may be required.* The periods specified in paragraph (a) of this section shall be extended if necessary to comply with any Federal, State, or local law, or if the packer, live poultry dealer or handler, stockyard owner, market agency or dealer is notified in writing by the Administrator that specified records should be retained for a longer period. The periods herein after which records may be disposed of have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 (56 Stat. 1078; 5 U.S.C. 139 *et seq.*).

§ 201.53 Persons subject to the Act not to circulate misleading reports about market conditions or prices.

No packer, live poultry dealer or handler, stockyard owner, market agency, or dealer shall knowingly make, issue, or circulate any false or misleading reports, records or representation concerning the market conditions or prices of livestock, meat, live poultry, or dressed poultry.

§ 201.55 Purchases and sales to be made on actual weights.

When livestock is bought or sold on a weight basis, settlement therefor shall be on the basis of the actual weight shown on the scale ticket. If the actual weight used is not obtained on the date and at the place of transfer of possession, this information shall be disclosed with the date and location of the weighing on the accountings, bills, or statements issued. Any adjustment to the actual weights shall be fully and accurately explained on the accountings, bills, or statements issued and records shall be maintained to support such adjustment.

§ 201.56 Market agencies selling on commission; purchases from consignment.

(a) *Livestock to be sold openly at highest available bid.* Every market agency engaged in the business of selling livestock on a commission or agency basis shall sell the livestock consigned to it openly, at the highest available bid, and in such a manner as to best promote the interests of each consignor.

(b) *Purchases from consignment to fill orders.* No market agency engaged in the business of selling and buying livestock on a commission basis shall use livestock consigned to it for sale to fill orders on an agency basis, nor shall it permit its owners, officers, agents, employees, or any firm in which such market agency or its owners, officers, agents, or employees have an ownership or financial interest to use livestock consigned to such market agency to fill orders on an agency basis, without first offering the livestock for sale in an open and competitive manner to other available buyers, and then only at a price higher than the highest available bid on such livestock.

(c) *Market agencies not to speculate on purchases from consignments.* No market agency engaged in selling livestock on a commission basis shall purchase livestock from consignments to such market agency for speculative resale, and no such market agency shall permit its owners, officers, agents, employees, or any firm in which such market agency or its owners, officers, agents, or employees have an ownership or financial interest to purchase livestock from consignments to such market agency for speculative resale. *Provided,* That this paragraph shall not be construed to prohibit a market agency from purchasing livestock for its own account to support the market when necessary to protect the legitimate interest of its consignors.

(d) *Key employees at auction sales; not to purchase livestock out of consignments to fill orders or for speculation.* No market agency engaged in selling livestock at auction shall permit its auctioneers, weighmasters, ringmen, or other employees performing duties of comparable responsibility in connection with the actual conduct of the auction sales, to purchase livestock out of consignments, directly or indirectly, for speculative resale or to fill orders on an agency basis for their own account.

(e) *Purchases from consignment; disclosure required.* When a market agency purchases livestock consigned to it for sale to fill orders for to support the market, or sells consigned livestock to any owner, officer; agent, employee, or any person in whose business such market agency, owner, officer, agent, or employee has an ownership or financial interest, the market agency shall disclose the name of the buyer and the nature of the relationship existing between the market agency and buyer. Such disclosure shall be made at the time of sale and on the account of sale.

§ 201.61 Market agencies selling or purchasing livestock on commission; relationships with dealers.

(a) *Market agencies selling on commission.* No market agency selling consigned livestock shall enter into any agreement, relationship or association with dealers or other buyers which has a tendency to lessen the loyalty of the market agency to its consignors or impair the quality of the market agency's selling services. No market agency selling livestock on commission shall provide clearing services for any independent dealer who purchases livestock from consignments to such market agency.

(b) *Market agencies buying on commission.* No market agency purchasing livestock on commission shall enter into any agreement, relationship, or association with dealers or others which will impair the quality of the buying services furnished to its principals. No market agency purchasing livestock on commission shall, in filling orders, purchase livestock from a dealer whose operations it clears or finances without disclosing the relationship between the market agency and dealer to its principals on the accounting furnished to the principal.

§ 201.66 Market agencies not to employ packers or persons employed to purchase livestock for a packer.

No maker agency shall employ or permit any packer, or any person employed by a packer to buy livestock to perform any duty in connection with the services furnished by such market agency.

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 337

Insured Nonmember Banks; Request for Comments

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The FDIC, having concluded that the Banking Act of 1933 (commonly known as "the Glass-Steagall Act") does not prohibit FDIC insured banks which are not members of the Federal Reserve System ("insured nonmember banks") from being affiliated with companies that engage in the securities business or from having bona fide subsidiaries that engage in securities activities, is soliciting comments on (1) whether there is a need for rulemaking to condition, restrict, or prohibit insured nonmember banks from establishing or acquiring subsidiaries that issue, underwrite, sell, or distribute stocks, bonds, debentures, notes, or other securities, (2) whether there is a need for rulemaking in order to restrict the manner in which an insured nonmember bank may deal with a securities affiliate, and (3) what criteria should be taken into account in deciding if a securities subsidiary is in fact a bona fide subsidiary.

DATE: Comments must be received by October 25, 1982.

ADDRESS: Send comments to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429. Comments may be hand delivered to Room 6108 between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Pamela E. F. LeCren, Senior Attorney, Legal Division (202-389-4171), Room 4126-E, or Arthur L. Beamon, Counsel, Legal Division (202-389-4171), Room 4037, 550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: On August 23, 1982 the FDIC adopted a policy statement on the applicability of the Glass-Steagall Act to securities activities of insured nonmember banks (47 FR 38984). That policy statement expressed the opinion of the Board of Directors that under the Glass-Steagall Act (1) insurance nonmember banks may be affiliated with companies that engage in securities activities, and (2) securities activities of bona fide subsidiaries of insured nonmember banks are not prohibited by section 21 of the Glass-Steagall Act (12 U.S.C. 378) which prohibits deposit taking institutions from engaging in the business of issuing, underwriting, selling, or distributing stocks, bonds, debentures, notes or other securities.

The policy statement applies solely to insured nonmember banks. As noted in the policy statement, the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et. seq.*) places certain restrictions on non-banking activities. Insured nonmember banks that are members of a bank holding company system need to take into consideration sections 4(a) and 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843 (a) and (c)) and applicable Federal Reserve Board regulations before entering into securities activities through subsidiaries.

The policy statement also expressed the opinion of the Board of Directors of the FDIC that there may a need to restrict or prohibit certain securities activities of subsidiaries of nonmember banks. As the policy statement noted, "the FDIC * * * recognizes its ongoing responsibility to ensure the safe and sound operation of insured nonmember banks, and depending upon the facts, the potential risks inherent in a bank subsidiary's involvement in certain securities activities." In view of the Board's opinion as articulated in the policy statement and recent challenges to the safety or soundness of securities activities when carried on by bank subsidiaries,[1] the FDIC is soliciting public comment on, among other things, whether or not it is inherently unsafe or unsound for a bank subsidiary to engage in securities activities or whether there is a need to condition or restrict such activities (on a case-by-case basis or by regulation) even though they may not be inherently unsafe or unsound in all instances.

The FDIC is specifically requesting comments that address the following:

(1) Whether it is inherently unsafe or unsound for insured nonmember banks to establish or acquire subsidiaries that will engage in securities activities or for insured nonmember banks to be affiliated with a business engaged in securities activities;

(2) Whether certain securities activities when engaged in by subsidiaries of insured nonmember banks pose safety and soundness problems whereas others do not;

(3) Whether, and in what circumstances, securities activities of insured nonmember banks should be considered unsafe or unsound;

(4) Whether securities activities of subsidiaries present conflicts of interest that warrant restricting the manner in which the bank may deal with its securities subsidiary (or its securities affiliate), or the manner in which common officers or employees may function, etc.;[2]

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[1] Two petitions have been filed with the FDIC challenging as unsafe or unsound the proposed entry of insured nonmember banks into the securities area through subsidiaries. One petition specifically requested that the FDIC adopt a rule prohibiting insured nonmember banks from issuing, underwriting, selling, or distributing stocks, bonds, or other securities or engaging in brokerage activities through subsidiaries or affiliates. The FDIC is issuing this advance notice of proposed rulemaking in part so that it may more ably assess the issues raised in the rulemaking request.

[2] The FDIC has in the past imposed conditions in connection with deposit insurance applications where, for example, a trust company owned by a securities dealer wished to obtain FDIC deposit insurance. Conditions that have been imposed due to possible conflicts of interest were (1) that the bank not enter into any securities transactions involving the affiliated securities dealer, (2) that no common director, officer, or employee while acting as a director, officer, or employee of the bank or while on the premises of the bank shall enter into

(5) Should securities activities be limited to subsidiaries of banks of a certain asset size, banks with a certain composite rating, etc. (See "Uniform Financial Institutions Rating system", FDIC Press Release PR 126, 1979; FDIC (P–H) p. 5079 for a definition of "composite rating");

(6) Should nonmember banks obtain FDIC's prior approval before establishing or acquiring subsidiaries that will engage in securities activities in all cases, in some cases, or not at all;

(7) Do the potential benefits, if any that would be available to insured nonmenber banks as a result of competing in the securities area through subsidiaries offset potential disadvantages to the banks; and

(8) Are there any perceived public harms in insured nonmenber banks embarking on such activities.

The FDIC is also requesting comment on how to determine if a securities subsidiary is in fact a bona fide subsidiary and not the alter ego of the parent insured nonmember bank. The policy statement issued by the FDIC indicates that, in the opinion of the Board of Directors of the FDIC, Section 21 of Glass-Steagall does not reach the securities activities of a bona fide subsidiary of an insured nonmember bank. If the subsidiary is, however, merely the alter ego of the parent bank, the bank may be deemed to be engaged in securities activities in violation of Section 21 of Glass-Steagall. The FDIC is therefore soliciting comments on whether it would be appropriate to define the term "bona fide" by listing a number of criteria. Would any of the following be appropriately included if criteria were established:

(1) Whether the bank and the subsidiary have the same or similar names so that the public might be confused as to the separate identity of the two;

(2) Whether the subsidiary maintains separate accounting and other records or conducts separate board meetings;

(3) Whether the subsidiary operates out of the same facilities as the parent bank;

(4) Whether the subsidiary has the same directors, officers, and employees as the parent bank and if there are separate employment contracts; and

(5) Whether the subsidiary is inadequately capitalized.

The public is also invited to address the following general issues:

What additional criteria, if any, should be considered? Is it appropriate at all to try to define "bona fide"? If a definition is developed and criteria used, should certain criteria be given more weight than others in making the assessment?

Comments addressing these issues and any other aspects of the general subject of permitting subsidiaries of insured nonmenber banks to engage in securities activities will be welcomed.

List of Subjects in 12 CFR Part 337

Insured nonmember banks, Glass-Steagall Act, Subsidiaries, Securities activities.

By order of the Board of Directors.

Dated: September 20, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 82-26347 Filed 9-23-82; 8:45 am]

BILLING CODE 6714-01-M

any securities transaction with any customer of the bank, and (3) that the bank make no loans to any person for the purpose of acquiring securities from the affiliated securities dealer so long as any officer, director, or employee of the bank is a registered representative of the dealer.

See also, for example, Federal Reserve Board Regulation Y (12 CFR Part 225) which contains restrictions that have been imposed on bank holding companies that act as advisors to closed-end investment companies. Those, or similar restrictions which address conflicts of interest may or may not be appropriate in the context under consideration here.

CIVIL AERONAUTICS BOARD

14 CFR Part 399

[Policy Statements Docket 40823; PSDR-78A]

Statements of General Policy; Extension of Comment Period

AGENCY: Civil Aeronautics Board.

ACTION: Extension of comment period.

SUMMARY: This action extends until November 29, 1982 the filing date for comments in advance notice of proposed rulemaking proceeding that considers alternatives for changing the duration of experimental certificates awarded to U.S. air carriers to provide foreign air transportation in limited designation international market.

DATES:

Comments by November 29, 1982.

Reply comments by December 14, 1982.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 40823, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Donald H. Horn, Associate General Counsel, Office of the General Counsel, 202–673–5205, or Joseph A. Brooks, Office of the General Counsel, 202–673–5442 or Jeffrey B. Gaynes, Legal Division, Bureau of International Aviation, 202–673–5035; Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: By Advance Notice of Proposed Rulemaking, PSDR–78, 47 FR 32442 July 27, 1982, the Board invited comment on its policy with respect to certificates in limited-designation international markets. Specifically, the Board asked for comment on alternatives that would change the duration of experimental certificates awarded to U.S. air carriers that provide service in these markets. The comment deadline was September 27, 1982.

Pan American World Airways (Pan Am) has requested an extension of this deadline. Pan Am states that recent Congressional action on Section 531 of the Airport and Airway Improvement Act of 1982, and Title V of the Tax Equity and Fiscal Responsibility Act of 1982 greatly affect the issues presented by the current rulemaking. Citing the possibility that the Board will shortly issue an order discussing the impact of the new legislation, Pan Am suggests that the comment date on this rulemaking be deferred until an order is issued.

After consideration of the foregoing, there appears to be good cause to grant a reasonable extension of time. A 60-day extension should suffice at this point for interpretation of the new legislation.

Accordingly, under authority delegated in 14 CFR 385.20(d), the time for filing comments is extended to November 29, 1982 and the time for reply comments is extended to December 14, 1982.

List of Subjects in 14 CFR Part 399

Administrative practice and procedure, Advertising, Air carriers, Antitrust, Archives and records, Consumer protection, Freight forwarders, Grant program-transportation, Hawaii, Motor carriers, Puerto Rico, Railroads, Reporting requirements, Travel agents, Virgin Islands.

Regulatory Flexibility Act

The statement required by the Regulatory Flexibility Act (Pub. L. 96–354) about the effect of the proposed rule on small business remains the same as set forth in PSDR–78.

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324)

Dated: September 21, 1982.

Richard B. Dyson,

Associate General Counsel, Rules and Legislation.

[FR Doc. 82-26355 Filed 9-23-82; 8:45 am]
BILLING CODE 4220-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 167

[Docket No. 78N–0364]

Virgin Olive Oil, Refined Olive Oil, and Refined Olive-Residue Oil; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of the establishment of a U.S. standard for virgin olive oil, refined olive oil, and refined olive-residue oil based on the "Recommended International Standard for Olive Oil, Virgin and Refined, and Refined Olive-Residue Oil" (Codex standard) because there is neither sufficient interest nor need to warrant proposing a U.S. standard for these foods.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–1155.

SUPPLEMENTARY INFORMATION: In the Federal Register of February 23, 1979 (44 FR 10742), FDA published an advance notice of proposed rulemaking which offered interested persons an opportunity to review the Codex standard and to comment on the desirability and need for a U.S. standard for virgin olive oil, refined olive oil, and refined olive-residue oil. The Codex standard was submitted to the United States for consideration for acceptance by the Codex Alimentarius Commission whose worldwide food standards program is sponsored jointly by the Food and Agriculture Organization (FAO) and the World Health Organization (WHO).

Sixty-five comments were received in response to the advance notice of proposed rulemaking. The majority of the comments favored establishing a U.S. standard because they wanted the sale of lower quality "refined olive-residue oil" as higher priced pure or refined olive oil to be curtailed. A number of comments opposing these standards objected to the requirement that the name for olive oil obtained by solvent extraction would be "refined olive-residue oil." The comments pointed out that solvent extraction is a commonly used method of obtaining high quality oil from oilseeds such as safflower and cotton seeds, but that the names of these oils are not required to include the word "residue" as the name of solvent-extracted olive oil would be required to do.

FDA acknowledges that solvent extraction is a standard procedure for removing oil from substances having low oil contents, such as safflower and cotton seeds. Olives, however, have a high oil content and the oil is easily removed by a mechanical or physical process, such as pressing. Solvent extraction of oil from olives is used to remove the residual oil from the pomace and pits remaining from pressing operations. Solvent-extracted olive oil is lower in quality than pressed olive oils due to the higher free fatty acid content caused by breakdown to triglycerides by enzymes liberated from the olive material during the pressing operations. As the free fatty acid content increases, the flavor and keeping quality of the oil deteriorate and the oil must undergo several refining processes to make it suitable for human consumption. For these reasons, the agency believes that it is reasonable to identify a solvent extracted olive oil as a "residue oil."

Many of the opposing comments also expressed the opinion that the "refined olive-residue oil" referred to by the Codex standard is actually "grade B glycerol olive oil," a very low quality oil that should not be permitted for sale in the United States.

The agency advises that refined olive-residue oil and grade B glycerol olive oil are not the same food. Grade B glycerol olive oil is an esterified oil produced by reacting very low quality olive-residue oil (high in free fatty acids), or alternatively, distilled fatty acids, with glycerol to form triglycerides. The result, after refining, is an edible oil, but, because it is retrieved from low quality material, it is not considered saleable in most countries of the world including the United States.

Several comments indicated that there is some confusion as to the proper labeling and nomenclature for various types of olive oils.

The name "virgin olive oil" may be used only for the oil resulting from the first pressing of the olives and which is suitable for human consumption without further processing. The name "refined olive oil" refers to the oil obtained from subsequent pressings and which is made suitable for human consumption by refining processes which neutralize the acidity and remove particulate matter. Oil extracted from olive pomace and pits by chemical means and refined to make it edible must be labeled either "refined olive-residue oil" or "refined extracted olive-residue oil." Blends of virgin olive oil and refined olive oil may be labeled as "olive oil," but blends of olive oil with other edible fats or oils must be labeled in accordance with 21 CFR 102.37.

In view of the fact that no data were submitted to support the need for this standard, FDA has concluded that there is not sufficient need to warrant proposing a U.S. standard at this time for virgin olive oil, refined olive-oil, and refined olive-residue oil under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing a U.S. standard for virgin olive oil, refined olive oil, and refined olive-residue oil based on the Codex standard. This action is without prejudice to further consideration of the development of a U.S. standard for virgin olive oil, refined olive oil, and refined olive-residue oil upon appropriate justification.

FDA will inform the Codex Alimentarius Commission that an imported food which complies with the requirements of the Codex standard may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: September 16, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-26179 Filed 9-23-82; 8:45 am]
BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 2200-7; FL-003]

Approval and Promulgation of Implementation Plans; Florida: Proposal for TSP Nonattainment Areas

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA today proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Florida Department of Environmental Regulation (DER) for the Hillsborough County (Tampa) and Duval County (Jacksonville) particulate nonattainment areas. This action is based on the State's submittal of a control strategy and regulations as required by Part D of Title I of the Clean Air Act (CAA) of 1977. An improvement in the air quality in Hillsborough and Duval Counties is expected from this action. The public is invited to submit written comments.

DATE: To be considered, comments must be received on or before October 25, 1982.

ADDRESSES: Written comments should be addressed to Barry Gilbert of EPA Region IV's Air Management Branch (see EPA Region IV address below). Copies of the materials submitted by the Florida DER may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365

Bureau of Air Quality Mgmt., Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301

FOR FURTHER INFORMATION CONTACT: Barry Gilbert of EPA Region IV's Air Management Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365, telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: In the March 3, 1978 **Federal Register** (43 FR 8962 at 8980), a number of areas within the State of Florida were designated as not attaining certain national ambient air quality standards (NAAQS). Hillsborough and Duval Counties were designated nonattainment for the secondary ambient standard for total suspended particulates (TSP). On September 11, 1978 (FR 40412), the size of these nonattainment areas were reduced. The Florida DER has developed particulate regulations requiring reasonably available control technology (RACT) in the violating areas so that the TSP secondary standard can be attained and maintained.

General Discussion

The implementation plan revision developed for these areas by the Florida DER under Part D of Title I of the CAA was submitted for EPA's approval on Feburary 27, 1981. Action on this submittal was delayed until control strategies were submitted by Florida. The revision has now been reviewed by EPA in light of the CAA of 1977, EPA regulations, and additional guidance. Section 172(b) of the Clean Air Act contains the minimum requirements for approval of Part D plans for designated nonattainment areas.

The two areas in Florida designated as nonattainment for total suspended particulate are defined as follows: The portion of downtown Jacksonville area in Duval County located just north and west of the St. Johns River and east of I-95 and just south of Trout River, and the portion of Hillsborough County that falls within the area of the circle having a centerpoint at the intersection of U.S. 41 South and State Road 60 and a radius of 12 kilometers.

The application of RACT to existing stationary sources is a required part of the particulate nonattainment corrective portion of the State Implementation Plan. Agency personnel investigated the major source categories that represent the type of sources that are located in the two Florida nonattainment areas to assist in determining specific emission limitations. These categories include (1) phosphate process operations, (2) Portland cement plants, (3) electric arc furnaces, (4) sweat or pot furnaces, and (5) materials handling, sizing, screening, crushing, and grinding operations.

The Florida Environmental Regulation Commission adopted these regulatory and non-regulatory SIP revisions following the required public hearings and participation on January 21, 1981. The control strategies, as approved and adopted for the local program agencies (the Duval County Bio-Enviromental Service Division and the Hillsborough County Environmental Protection Commission) were submitted to EPA on March 16 and April 20, 1982, respectively. In preparing the plan, both agencies prepared an extensive inventory of air pollution sources in and impacting the nonattainment area. Using this data base, the primary source categories were modelled following EPA guidelines to determine their respective contribution to the ambient air concentrations. The agencies then evaluated this information and proposed an attainment plan which, by applying RACT to traditional point and industrial process fugitive sources, would result in attainment of the TSP secondary standard by July 31, 1986.

The attainment plan for the secondary standard calls for a reduction in ambient TSP concentrations by the implementation of RACT control measures on industrial point and process fugitive emission sources, primarily in the form of more stringent mass and visible emission limits. The regulations also require certain operation and maintenance activities. Malfunctions of process or control equipment are specifically defined, along with procedures to be followed to minimize emissions when malfunctions occur. Reporting of malfunctions is required.

In reference to FAC Section 17-2.13(3)(g)-Electric Arc Furnaces, DER has placed fugitive visible emission limits of 20% opacity for charging and 40% opacity for tapping operations, to be determined by Test Reference Method 9. Where processes and operations are long-time or continuous, Method 9 would be appropriate. In the case of electric arc furnace charging and tapping emissions, a more appropriate time averaging period would be three minutes, consisting of twelve readings taken at fifteen second intervals. Florida DER has agreed to consider the issue of modifying Method 9 for short-term or intermittent processes which discharge emissions for a shorter time period. For this reason, EPA has recommended to Florida DER that they consider the need to modify and allow visible emission determinations for intermittent processes to be based on time periods shorter than six (6) minutes.

Florida DER has certified in writing to EPA that all sources of air pollution subject to this proposed action, are in fact, in compliance with the stipulated compliance schedules where add-on equipment was required. Any request for redetermination of RACT rules or regulations by an owner or operator requesting such shall be submitted to EPA for approval as a SIP revision.

Since submittal of the SIP revision, Florida Administrative Code (FAC) 17-2 was subsequently reformatted, a revision approved by EPA in the **Federal Register** on March 30, 1982 (47 FR 13338). It should be noted that the RACT rule will be contained in FAC Rules 17-2.400 and 17-2.600.

As required in Section 172(b) of the CAA, the plan also requires preconstruction review of proposed new

or modified major sources before the issuance of a permit. Through emissions offsets and the application of Lowest Achievable Emission Rate (LAER), the plan provides for reasonable further progress toward attainment of the standard as new sources construct in the area. The plan also allows growth and expansion of new sources or modification to take place in the nonattainment areas without jeopardizing progress towards attainment.

The revision submitted by Florida satisfies the requirements of Section 172(b) of the CAA.

Action. Based on the foregoing, EPA is proposing to approve the SIP under Part D of Title I of the CAA as it relates to the attainment of the secondary TSP standards in Hillsborough and Duval Counties, Florida.

As previously stated, written comments must be received on or before October 25, 1982. A thirty-day comment period is being used because the SIP submission and the issues involved are not so complex as to warrant a longer comment period. At the close of the comment period, EPA will review all comments and publish a notice of final rulemaking.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110 and 172, Clean Air Act, as amended, (42 U.S.C. 7410 and 7502)).

Dated: August 19, 1982.

John A. Little,

Acting Regional Administrator.

[FR Doc. 82-26348 Filed 9-23-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 81

[A-3-FRL 2205-6]

Commonwealth of Pennsylvania Attainment Status Designations

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Commonwealth of Pennsylvania has recommended that the sulfur dioxide (SO_2) air quality attainment designation for certain areas in Northumberland and Snyder Counties be revised from nonattainment to "Cannot be Classified". EPA proposes to approve this change as submitted by Pennsylvania. The purpose of this notice is to solicit public comment on the proposed action.

DATE: Comments must be submitted on or before October 25, 1982.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs and Energy Branch, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, ATTN: Patricia Sheridan (3AW12)

Commonwealth of Pennsylvania, Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120, ATTN: Gary Triplett

All comments on the proposed revision submitted on or before October 25, 1982 will be considered and should be submitted to Mr. Glenn Hanson at the EPA Region III address stated above.

FOR FURTHER INFORMATION CONTACT: Laurence J. Budney at the Region III address stated above or call 215/597-2842.

SUPPLEMENTARY INFORMATION:

Background

Section 107(d)(1) of the Clean Air Act (Act) requires the States to submit to the Administrator a list identifying all air quality control areas, or portions thereof, that have not attained the National Ambient Air Quality Standards. The Act further requires that the Administrator promulgate this list, with such modifications as he deems necessary, as required by Section 107(d)(2) of the Act. On March 3, 1978, based on dispersion model estimates, the administrator promulgated nonattainment designations for certain areas in Northumberland and Snyder Counties in Pennsylvania (See 43 FR 8962). The Act also provides that a State, from time to time, may review and revise its designations list and submit these revisions to the Administrator for promulgation (Section 107(d)(5) of the Act). On June 4, 1982, Pennsylvania recommended to EPA that the SO_2 air quality nonattainment designations for the areas in Northumberland and Snyder Counties be changed to "Cannot be Classified". That recommendation is based upon new information regarding the uncertainty of dispersion modeling in those areas and two years of SO_2 ambient air quality data showing attainment of the NAAQS for SO_2. The recommendation includes a commitment by the major SO_2 source in that area to conduct extensive ambient monitoring to help determine the true attainment status of the area.

Conclusion

EPA is proposing to approve the SO_2 redesignations as follows:

Northumberland County—Reclassify Lower Augusta and Point Townships from "Does Not Meet Primary Standards" to "Cannot be Classified".

Northumberland County—Reclassify Little Mahanoy, Rockefeller and Shamokin Townships from "Does Not Meet Secondary Standards" to "Cannot be Classified".

Snyder County—Reclassify Shamokin Dam from "Does Not Meet Primary Standard" to "Cannot be Classified".

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. Section 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709.)

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sections 107(d), 301(a) of the Clean Air Act as amended (42 U.S.C. 7407(d), 7501(2), 7601(a))

Dated: August 25, 1982.

Peter N. Bibko,

Regional Administrator

[FR Doc. 82-26344 Filed 9-23-82; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-357; RM-4103]

FM Broadcast Station in Terrell Hills, Texas; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; Extension of reply comment period.

SUMMARY: Action taken herein extends the time for filing reply comments in BC Docket No. 82–357 (RM–4103) concerning a proposal to substitute FM Channel 294 for Channel 292A at Terrell Hills, Texas, and to modify the license to specify operation on the Class C channel. Petitioner states that the additional time is needed to formulate a proper response.

DATE: Reply comments must be filed on or before October 1, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
D. David Weston, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Order Extending Time for Filing Reply Comments

Adopted: September 15, 1982.
Released: September 17, 1982.

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations, (Terrell Hills, Texas).

1. On June 28, 1982, the Commission adopted a Notice of Proposed Rule Making, 47 FR 31016, published July 16, 1982, in the above-captioned proceeding. Comments have been filed and reply comments were due August 31, 1982.

2. We now have before us for consideration a request for extension of time for filing reply comments, filed on September 13, 1982, by S I T Broadcasting Corporation, petitioner in the above-referenced rule making proceeding. Petitioner requests an extension to and including October 1, 1982. Petitioner states that as a result of the extraordinary circumstances set forth in the comments and the effect thereof upon petitioner's proposal to modify the existing license of its station (KESI(FM)), it will need additional time to prepare and file its reply comments.

3. Section 1.46(b) of the Commission's rules states that extension requests for filing reply comments must be filed seven days in advance of the deadline. Although this request is extremely late and we do not generally act favorably on extension requests if filed after the deadline, the Commission is of the view that under the circumstances recited, an extension of time is warranted. It appears that no other party to the proceeding would be prejudiced by the grant of the instant request and we are desirous of knowing S I T's position with respect to the comments in order to develop a sound comprehensive record on which to base a decision herein.

4. Accordingly, it is ordered, that the time for filing reply comments in BC Docket No. 82–357 (RM–4103), is extended to and including October 1, 1982.

5. This action is taken pursuant to authority contained in section 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules.

Federal Communications Commission.

Martin Blumenthal,
Assistant Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-26949 Filed 9-23-82; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1300, 1306, 1307, 1309 and 1310

[Ex Parte No. 435]

Modify Rules Governing Tariff Amendments

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to adopt a policy to allow (1) piecemeal amendments to items and pages of tariffs and schedules in lieu of requiring the reissue of entire items or pages; (2) an increase in the number of supplements and supplemental pages authorized; and (3) carriers and agents to transmit tariffs or schedules to subscribers up to 5 days after transmitting them to the Commission, unless the subscriber has requested concurrent transmission. These actions are necessary due to the escalation of carriers' independent action proposals which have necessitated a dramatic increase in the number of amendments to tariffs and schedules. This will allow carriers and agents to publish proposals quickly in an efficient manner and will save countless pages of supplemental matter.

DATE: Comments are due November 23, 1982.

ADDRESS: Send an original and, if possible, 15 copies of comments to: Interstate Commerce Commission, Ex Parte No. 435, Room 5340, Washington, D.C. 20423.

The decision with specific text of the amendments proposed can be obtained by contacting: Office of the Secretary, Room 2215, Interstate Commerce Commission, 12th and Constitution Ave., NW., Washington, D.C. 20423 (202) 275–7428.

FOR FURTHER INFORMATION CONTACT:
William P. Geisenkotter (202) 275–7739.

SUPPLEMENTARY INFORMATION: The number of tariffs or schedules filed, and amendments thereto, has increased dramatically over the past two years. The increase was the combined result of (1) the "Staggers Rail Act of 1980", enacted October 14, 1980; (2) the "Motor Carrier Act of 1980", enacted July 1, 1980; (3) the depressed economy; and (4) the Commission's Ex Parte No. 297 (Sub-No. 5), *Motor Carrier Rate Bureaus—Implementation of PL 96–296,* proceeding.

All of the above force or stress increased competition among carriers and independent rate actions by individual carriers, as opposed to collective proposals.

Competition, particularly among motor carriers, has been fierce, and the resulting increase in the number of publications has been overwhelming and very expensive.

Our rules governing the method of publication of amendments are restrictive and have resulted in the filing of tens of thousand of pages that would have been unnecessary under less restrictive regulatory requirements.

These rules were designed to avoid the over supplementation of tariffs, to keep tariff amendments clear and simple, and to transmit quickly to subscribers. All were designed to aid the tariff user. However, due to the volume increase, they appear to have become a burden to the carriers and agents, both in expenses and delays in publication.

Also, since the number of special tariff authority applications increases in proportion to the number of tariff pages filed, the proposal, if adopted, could reduce the number of applications filed.

The time has come for this Commission to reconsider these rules and its policy to determine if the burdens can be lifted without adversely affecting the public in an unreasonable manner. The following is a brief explanation of the changes we are proposing.

Tariffs and schedules are subject to limitations on the number of effective pages and supplements they may contain. We propose to revise §§ 1300.9(e)(1), 1307.5(u) and 1310.9(d)(2) to lessen the limitation to allow 8 effective supplements, each unlimited to the number of pages, but collectively subject to a maximum of 70 percent of the number of pages in the original tariff. Further, we are proposing in § 1307.5(u)(2) to authorize motor

contract carriers to publish schedules without supplemental page limitation provided the schedules are reissued at the end of two years. Also, we are proposing to change the one-year reissue requirement to two years for carriers now authorized to file these kinds of tariffs under the terms of § 1300.9(f) and 1310.9(d)(3).

We realize this will increase the size of the amended tariff and create more pages for review by the user. But carriers often will not be required to bring forward unchanged matter and negate the reissuance of tariffs or schedules prematurely. This would result in substantial savings for carriers and agents and should not overburden tariff users.

When a tariff or schedule, in bound form, is amended now, our rules require that an item be canceled completely by a new item, and that the new item bring forward all matter in the old item, even the matter not being changed. The same practice is true when a page of a tariff or schedule in loose-leaf form is amended, since the amended page is required to be specifically canceled and reprinted, as amended.

While these rules tend to assure that the rate searching process is not overly complicated, compliance therewith is costing the carriers a substantial amount of money. Therefore, we are proposing in §§ 1300.9(a)(1), 1307.5(w)(2) and (3), and 1310.10(c)(6) and (7) to authorize partial amendments to bound tariffs and allow supplements to partially amend loose-leaf pages in §§ 1300.9(e)(14), 1307.31(f)(9) and 1310.10(d)(19). This will permit the filing of relatively small supplements which would expedite publication and reduce costs for compilation, printing and mailing.

Motor common carriers of property are authorized to publish blanket supplements (a common supplement to five or more tariffs). Since the railroad agents occasionally have a need for this authority, we are extending the authority for their use in proposed § 1300.9(o).

In Docket No. 35613, *Regulations—Transmission of Tariffs and Schedules*, 349 I.C.C. 119, decided January 30, 1975, the Commission adopted regulations for the transmission of tariffs. The primary rule required that publications be transmitted to subscribers not later than the time the copies are transmitted to the Commission.

The rules were adopted to cure abuses brought to light by shipper complaints. The rules cause about a seven day delay in mailing publications and increase both handling and postage costs of the carriers.

It is our understanding that more and more carriers are publishing their own individual tariffs due to the delay, since the rate bureaus have huge mailing lists. If the rate bureaus were allowed to mail 5 days later, their costs would come down and less publications would be filed due to carriers remaining in rate bureau tariffs. This would create additional savings.

We are aware that the Commission stated in Docket No. 35613 that immediate transmission takes precedence over costs. We still agree with this general position but believe exceptions must be recognized since the economic and regulatory climate is different today than in 1975.

Therefore, we propose to amend §§ 1300.30, 1306.17, 1307.14, 1309.5 and 1310.31 to provide that the present reqirement for immediate mailing to a subscriber will only apply upon written request. The rules would authorize mailing to all other subscribers up to 5 days later. We believe this would benefit the carriers and still protect subscribers who need and desire the tariffs immediately.

Certain of the proposals would result in an additional burden on tariff users by introducing further complexity to tariffs. However, the changes we are proposing should allow carriers to react more promptly to the demands of the shipping public at reduced tariff publication costs. We specifically invite interested parties to address this issue.

Under the Regulatory Flexibility Act of 1980, we must consider whether this proceeding will have a significant economic impact on a substantial number of small entities. We do not believe that this action will significantly affect a substantial number of small entities.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

List of Subjects

49 CFR Part 1300

Freight, Railroads, Maritime carriers, Pipelines.

49 CFR Part 1306

Buses, Freight, Motor carriers.

49 CFR Part 1307

Freight, Motor carriers, Moving of household goods.

49 CFR Part 1309

Freight, Freight forwarders, Motor carriers, Moving of household goods.

49 CFR Part 1310

Freight, Maritime carriers, Motor carriers, Moving of household goods.

(Sec. 10762 of the Interstate Commerce Act, 49 U.S.C. 10762, and under Sec. 553 of the Administrative Procedure Act, 5 U.S.C. 553)

Decided: September 8, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Sterrett concurred with a separate expression.

Agatha L. Mergenovich,

Secretary.

COMMISSIONER STERRETT, concurring:

In an environment as competitive as the motor carrier industry, carriers should have as much interest in tariff simplicity as their shippers. Easy-to-understand tariffs are a marketing tool, and are being recognized as a valuable one by many in the industry. I am not convinced that our intervention as an arbiter or monitor of what is "reasonable" tariff form is necessary or appropriate, nor do I believe that we can perform this function better than the industry can.

I believe this proposal represents an important first step in a reassessment of all existing tariff circular rules. I encourage parties to suggest other tariff publishing rules that warrant reexamination.

[FR Doc. 82-26314 Filed 9-23-82; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 47, No. 186
Friday, September 24, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Advisory Committee on Instrument Standards for Cotton; Establishment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of intent to establish advisory committee.

SUMMARY: This notice announces the intent of the Secretary of Agriculture to establish an advisory committee to provide the Department with advice on the technical and scientific aspects of measuring cotton fiber quality with instruments. The members of the committee will be drawn from all segments of the cotton industry directly affected by the use of instruments to classify cotton. Interested persons and organizations are invited to submit comments on the establishment of this committee.

EFFECTIVE DATE: October 12, 1982.

ADDRESS: Mail written comments to: Director, Cotton Division, Agricultural Marketing Service, Room 302, Cotton Annex, U.S. Department of Agriculture, Washington, DC 20250; (202) 447–3193.

FOR FURTHER INFORMATION CONTACT: Harvin R. Smith, Chief, Standards and Testing Branch, Cotton Division, Agricultural Marketing Service, Washington, DC 20250; (202) 447–2167.

SUPPLEMENTARY INFORMATION: Under the United States Cotton Standards Act (7 U.S.C. 56–58) the Secretary of Agriculture is responsible for providing cotton inspection services and official standards for the classification of cotton. In recent years instruments have been developed to replace human judgment in cotton classification and to provide additional measures of cotton quality.

The purpose of the Advisory Committee on Instrument Standards for Cotton is to advise the Secretary on the technical and scientific aspects of measuring cotton fiber quality with instruments, and make recommendations with respect to the development and application of appropriate standards, calibration, and measurement procedures. The Committee will help reconcile different interpretations of test results and scientific data between industry and the Department, and secure balanced advice from the cotton industry. The Committee's involvement will tend to insure that the program will operate in a manner which provides an effective service which can be relied upon by the industry.

The Committee shall be appointed by the Secretary and shall consist of members representing all segments of the cotton industry directly affected by the use of instruments to classify cotton. To the extent practicable, the Committee will have an ethnic, racial and sexual balance.

Advance notice of all meetings of the Advisory Committee will be published in the **Federal Register** at least 15 days prior to a scheduled meeting.

Interested persons and organizations are invited to submit comments on the establishment of this Committee.

Dated: September 21, 1982.

John Franke, Jr.,

Deputy Assistant Secretary for Administration.

[FR Doc. 82-26304 Filed 9-23-82; 8:45 am]
BILLING CODE 3410-02-M

Commodity Credit Corporation

1982–83 Milk Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of determinations for 1982–83 milk price support program.

SUMMARY: This Notice of Determination sets forth the support price for milk and the prices Commodity Credit Corporation (CCC) will pay for butter, cheese and nonfat dry milk (NDM) under the Milk Price Support Program for the period October 1, 1982 through September 30, 1983. The notice also sets forth the determination that beginning December 1, 1982, 50 cents per hundredweight shall be deducted from the proceeds of sale of all milk marketed commercially by producers to offset a portion of the cost of the milk price support program. Such deductions are to be collected and remitted to the CCC in accordance with regulations issued by the U.S. Department of Agriculture (USDA). These determinations are made in accordance with Section 201 of the Agricultural Act of 1949, as amended.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Charles N. Shaw, Dairy/Sweeteners Group, Analysis Division, ASCS–USDA, 3741 South Building, P.O. Box 2415, Washington, D.C. 20013; (202–447–7601). The Final Regulatory Impact Analysis describing the action taken in this rule and its impact is available from Charles N. Shaw.

SUPPLEMENTARY INFORMATION: This Notice of Determination has been reviewed under USDA procedures established to implement Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "major" since the determinations with respect to the level of support for milk and deductions from proceeds of milk sold by producers during the 1983 fisal year will have an effect on the economy exceeding $100 million.

The title and number of the federal assistance program to which this notice applies are: Title—Commodity Loans and Purchases; Number—10.051 as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this Notice of Determination since the CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

The Omnibus Budget Reconciliation Act of 1982, approved September 8, 1982, amends the dairy price support provisions contained in Section 201 of the Agricultural Act of 1949. Since the level of support becomes effective October 1, 1982, it has been determined that this notice should be issued without prior opportunity for public comment in order that producers, handlers, and others might be informed of these determinations as soon as possible.

Section 201(c) of the Agricultural Act of 1949, as amended (the "1949 Act"), provides that the price of milk shall be supported through purchases, at a level not in excess of 90 percent nor less than

75 percent of parity as the Secretary determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs. Section 201(d) of the 1949 Act further provides that for the period beginning October 1, 1982, and ending September 30, 1984, the price of milk shall be supported at not less than $13.10 per hundredweight for milk containing 3.67 percent milkfat. In addition, if the Secretary estimates that the net price support purchases of milk or the products of milk will equal or exceed 5 billion pounds milk equivalent during fiscal year 1983, the Secretary may provide for a deduction of 50 cents per hundredweight from the proceeds of sale of all milk marketed commercially by producers to be remitted to the CCC to offset a portion of the cost of the milk price support program. Such deductions shall be collected and remitted to the CCC. If at any time during a fiscal year the Secretary should estimate that such net price support purchases during that fiscal year will be less than 5 billion pounds milk equivalent, the deduction shall not be applicable for the remainder of such fiscal year.

The price of milk is supported through purchases by CCC of butter, cheese and nonfat dry milk (NDM) at prices calculated to enable plant operators to pay dairy farmers a price equal to the support price. The effectiveness of the program depends on competition by manufacturers for available supplies of milk so that the average price received by farmers will equal the announced support price. At times of significant price support purchases, the purchase prices for these products tend to become the floor for the market prices of such products. Since most of the fluid milk prices are based on prices paid for manufacturing milk, the price support program undergirds all milk and dairy products prices.

Summary of the Final Regulatory Impact Analysis

The Final Regulatory Impact Analysis for the 1982–83 milk price support program analyzes the support program for manufacturing milk at the statutory minimum, $13.10 per hundredweight for milk containing 3.67 percent milkfat. This price is equivalent to $12.80 per hundredweight for milk containing 3.5 percent milkfat. With the support price at the minimum ($13.10 per hundredweight) for the 1982–83 marketing year, milk production is projected to be about 1.4 billion pounds higher than in 1981–82. However, consumption is expected to increase by 2 billion pounds, and CCC price support purchases are expected to decrease by 1.1 billion pounds (milk equivalent), thereby resulting in somewhat lower costs to the government.

A level of support of $13.10 per hundredweight is still expected to result in continued over-production of milk, large removals of dairy products by the CCC, and excessive costs to the government. A higher support price would only compound the problem by further increasing milk production. This would lead to even greater market removals by CCC and increased government costs.

Based on $13.10 per hundredweight for the 1982–83 marketing year, CCC removals of dairy products are projected to be 12.6 billion pounds, milk equivalent, compared with a projected 13.7 billion pounds in 1981–82, and 12.7 billion pounds in 1980–81.

In addition, the impact analysis for the 1982–83 milk price support program analyzes supply and use conditions which would result from the implementation of the 50-cent deduction on December 1, 1982. Even with the implementation of such 50-cent deduction, milk production in 1982–83 is likely to increase from 1981–82 levels—although the increase would likely be less than 0.5 percent. Accordingly, it is estimated that net purchases will exceed 5 billion pounds and will total 11.8 billion pounds.

Based on commercial marketings of 133.1 billion pounds of milk, the amount remitted to CCC as a result of the deduction with respect to milk marketed commercially by producers would be $561 million, thereby reducing CCC costs to about $1.5 billion.

The implementation of the deduction program would principally affect the farm income in 8 States—Wisconsin, California, New York, Minnesota, Pennsylvania, Michigan, Ohio and Iowa—that produce more than 60 pecent of the nation's milk. However, every milk producer in the United States (as defined in regulations implementing the program) who markets milk commercially will be affected by the program, including those who market milk directly to consumers.

Determination

Accordingly, it is determined that, effective for the period October 1, 1982, through September 30, 1983, the level of price support shall be $13.10 per hundredweight for manufacturing grade milk of national average milkfat content, 3.67 percent. This support level will assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs.

The CCC purchase prices for butter, cheese and nonfat dry milk for the period October 1, 1982 through September 30, 1983 are as follows:

	Dollars per pound
Butter, U.S. grade A or higher, New York City and Jersey City, Newark and Secaucus, New Jersey [1]	1.5000
Nonfat dry milk (spray) U.S. extra grade (but not more than 3.5 percent moisture). 50-pound bags:	
Unfortified	.9400
Fortified (vitamins A and D)	.9525
Cheddar cheese, standard moisture basis:	
40-pound blocks, U.S. grade A or higher	1.3950
500-pounds in fiber barrels, U.S. extra grade	1.3650

[1] The price of butter located at any other point outside these cities will be the price at New York City minus 80 percent of the lowest published domestic railroad through freight rate for frozen butter in effect on October 1 of each marketing year from such other point to New York City. The appropriate freight car rate will be calculated on a per pound gross weight basis for a 60,000 pound carlot. However, the price at any location shall be not less than the purchase price at New York City minus 3 cents per pound. For any location in Wisconsin or Kentucky, the price shall not exceed the purchase price at Chicago which will be $1.49 per pound.

It is further estimated that net price support purchases by the Commodity Credit Corporation of milk or milk products will exceed 5 billion pounds milk equivalent during the 1983 fiscal year. A deduction of 50 cents per hundredweight shall be made from the proceeds of the sale of all milk marketed commercially by producers which shall be remitted to the Commodity Credit Corporation to offset a portion of the cost of the milk price support program beginning December 1, 1982. The deduction shall be made in accordance with regulations issued by USDA.

(Sec. 201 (c) and (d) of the Agricultural Act of 1949, as amended (7 U.S.C. 1446); and secs. 4 and 5 of the Commodity Corporation Charter Act, as amended (15 U.S.C. 714b and 714c))

Signed at Washington, D.C. on September 22, 1982.

John R. Block,

Secretary of Agriculture.

[FR Doc. 82-26411 Filed 9-23-82; 8:45 am]
BILLING CODE 3410-05-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Filed under Subpart Q of the Board's Procedural Regulations (see, 14 CFR 302.1701 et. seq.); week ended September 17, 1982.

Subpart Q Applications

The due date for answers, conforming, application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Sept. 15, 1982	40987	Taino International Airways, Inc., c/o George Volsky, 1522 K Street, N.W., Suite 1030, Washington, D.C. 20005. Application of Taino International Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for authority to engage in scheduled air transportation of passengers, property and mail to the following domestic and overseas markets: (a) Fort Lauderdale, Florida and Atlantic City, New Jersey. (b) New York, N.Y. and Aguadilla, Ponce and San Juan, Puerto Rico. Conforming Applications, motions to modify scope, and Answers may be filed by October 13, 1982.
Sept. 17, 1982	40993	Ellis Air Taxi, Inc., c/o W. T. Ellis, P.O. Box 106, Glennallen, Alaska 99588 Application of Ellis Air Taxi, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for a certificate of public convenience and necessity for an indefinite term to perform scheduled intrastate air transportation of persons, property and mail within the State of Alaska between the terminal point Glennallen (Gulkana Airport), the intermediate points: McCarthy, May Creek, Chisana. Conforming Applications, motions to modify scope, and Answers may be filed by October 15, 1982.
Do	40994	Unicorn Air, Ltd., c/o Stephen L. Gelband, Hewes, Morella & Gelband & Lamberton, 1010 Wisconsin Avenue, N.W., Suite 640, Washington, D.C. 20007. Application of Unicorn Air, Ltd., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for a certificate of public convenience and necessity to provide scheduled interstate and overseas air transportation, and for a fitness determination. Conforming Applications, motions to modify scope, and Answers may be filed by October 15, 1982.
Do	40995	Unicorn Air, Ltd., c/o Stephen L. Gelband, Hewes, Morella & Gelband & Lamberton, 1010 Wisconsin Avenue, N.W., Suite 640, Washington, D.C. 20007. Application of Unicorn Air, Ltd., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests issuance of a certificate of public convenience and necessity which would authorize it to engage in scheduled foreign air transportation of passengers, property and mail, as follows: New York, NY; Chicago, IL; Atlanta, GA; Washington, DC/Baltimore, MD; Boston, MA; Houston, TX; San Francisco, CA; Denver, CO; New Orleans, LA; Tampa, FL; Newark, NJ; Detroit, MI; Miami, FL; Philadelphia, PA; Dallas, TX; Los Angeles, CA; Seattle, WA; Pittsburgh, PA; St. Louis, MO; Orlando, FL. and points in the following countries: United Kingdom, including London. Federal Republic of Germany, including Frankfurt. The Netherlands, including Amsterdam. Belgium, including Brussels. Conforming Applications, motions to modify scope, and Answers may be filed by October 15, 1982.
Do	40996	Air Ontario Limited, c/o James M. Burger, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036. Application of Air Ontario Limited pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations applies for a Foreign Air Carrier Permit to authorize it to engage in foreign scheduled air transportation of persons, property, and mail between London, Ontario and Cleveland, Ohio. Answers may be filed by October 15, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-26306 Filed 9-23-82; 8:45 am]
BILLING CODE 6320-01-M

[Docket 40771]

American World Airways Fitness Investigation; Notice of Change of Hearing Location

In accordance with a notice issued by Chief Administrative Law Judge Elias C. Rodriguez, dated August 31, 1982, the hearing in the above-entitled proceeding, which was assigned to be held on September 29, 1982, at 9:30 a.m. (local time), in Room 1027, Main Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., will be held on that date at 9:30 a.m., in Room 1012, Main Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Dated at Washington, D.C., September 21, 1982.

William A. Kane, Jr.,
Acting, Chief Administrative Law Judge.

[FR Doc. 82-26307 Filed 9-23-82; 8:45 am]
BILLING CODE 6320-01-M

Petition of Air Midwest, Inc.; Establishment of Subsidy Mail Rates

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order 82-9-66, petition of Air Midwest, Inc., for establishment of subsidy mail rate, Docket 40661.

SUMMARY: The Board is proposing to set the subsidy mail rate for the provision of service to eight Kansas and Colorado points at $2,125,536 for annual periods beginning May 4, 1982.

DATES: Objections: All interested persons having objections to the establishment of the subsidy mail rate shall file and serve upon all parties to Docket 40661, no later than September 30, 1982, a statement of objections, together with a summary of testimony, statistical data, or other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections should be filed in Docket 40661, Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, and served upon all parties.

FOR FURTHER INFORMATION CONTACT: John R. Hokanson, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825

Connecticut Avenue, NW., Washington, D.C. 20428. (202) 673–5368.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–9–66 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a post card request for the order to the Distribution Section, at the above address.

Dated: September 17, 1982.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-26368 Filed 9-23-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-9-58; Order 40967]

Passenger Fares Between the United States and Denmark, Norway, and Sweden; Scandinavian Airlines System; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 7th day of September, 1982.

Scandinavian Airlines System (SAS) has filed the following tariff revisions with the Board:

(1) New winter group inclusive tour (GIT) fares from Scandinavia to New York. The fares would apply for travel from October 1, 1982, through March 31, 1983, with a holiday season blackout from December 16 through January 5. The fares would be available on Thursday or Friday flights, with return Sunday or Monday (minimum stay three nights), for groups of two persons. The proposed fare levels are about 10–28 percent lower than eastbound GIT fares from New York to Scandinavia.

(2) New "YFLA" non-affinity group fares from Scandinavia to Miami, Ft. Lauderdale and Honolulu. The fares would apply for travel from October 1, 1982, through either December 10, 1982, December 31, 1982, or March 31, 1983, for groups of 50 (Florida) or 15 (Honolulu). The new YFLA fares to Florida represent reductions of 1–9 percent from last year's YFLA levels; there were no comparable fares to Honolulu last year.[1]

(3) New normal economy and APEX fares between Spokane and Scandinavia, for travel beginning September 19, 1982, on a joint routing with Republic Airlines between Spokane and Seattle and SAS between Seattle and Scandinavia. The proposed APEX fares are 7–13 percent lower than comparable fares of Northwest Airlines.[2]

We have decided to suspend SAS' filings. Although we are always reluctant to suspend proposals which offer fare reductions to the traveling public, recent actions of the Scandinavian Governments denying fare filings of U.S. carriers and otherwise hampering their ability to compete in the Scandinavia market require us to review SAS tariff proposals more closely than we would prefer.

The actions of Denmark, Norway and Sweden have severely restricted the price/quality of service options available to U.S. and Scandinavian passengers and have imposed a higher array of fares than would otherwise exist. Therefore, we are not inclined to give sympathetic consideration to SAS fare proposals at this time.

Although we continue to hope for an acceptable resolution of U.S.-Scandinavian bilateral difficulties through negotiation, under present circumstances we have no choice but to find that it is in the public interest to suspend SAS' filing.

Accordingly, acting under the Federal Aviation Act of 1958, as amended, and particularly sections 102, 204(a), and 1002(j):

1. We shall institute an investigation to determine whether the fares and provisions set forth in the attached Appendix and rules, regulations or practices affecting such fares and provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful or contrary to the public interest; and if we find them to be unlawful or contrary to the public interest, to act appropriately to prevent the use of such fares and provisions of rules, regulations, or practices;

2. Pending hearing and decision by the Board, we suspend and defer the use of the tariff provisions in the attached Appendix from September 19, 1982, to and including September 18, 1983, unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President[3] and, unless disapproved by the President within ten days, it shall become effective September 19, 1982; and

4. We shall file copies of this order in the aforesaid tariff and serve them on Scandinavian Airlines System and the Ambassadors of Denmark, Norway and Sweden in Washington, D.C.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

APPENDIX

International Passenger Rules Tariff No. IPF–2, CAB No. 376, Issued by Airline Tariff Publishing Company, Agent

The provisions of Rule 4100 (Weekend Group Inclusive Tour Fares from Scandinavia to New York) on 4th Revised Pages 477 and 478

The provisions of Rule 4230 (Non-Affinity Group Fares from Scandinavia to the U.S.A.) applicable to Scandinavian Airlines System on the following pages—

16th Revised Pages 493 and 494 (issued June 29, 1982)
16th Revised Pages 493 and 494 (issued June 30, 1982)
17th Revised Pages 493 and 494
18th Revised Pages 493 and 494
19th Revised Pages 493 and 494

Transatlantic Passenger Fares Tariff No. TAF–2 CAB No. 421 Issued by Airline Tariff Publishing Company, Agent

From	To	On
All YFLA fares		
Copenhagen	Ft. Lauderdale	Original, 1st, 2nd, 3rd Revised Pages SK–18.
Do	Miami	Original, 1st, 2nd Revised Pages SK–19.
Oslo	Ft. Lauderdale	Original, 1st, 2nd Revised Pages SK–24.
Do	Miami	Original Page SK–25.
Gothenburg/ Stockholm	Ft. Lauderdale	Original Page SK–30.
Gothenburg	Miami	Original Page SK–31.

All YFLA, YFLA1, and YFLA2 fare class applications on Original, 1st, 2nd Revised Pages SK–1.

All YGW fare class applications on Original, 1st, 2nd Revised Pages SK–2.

From	To	On
All YLFA 1 and YFLA 2 fares		
Copenhagen	Honolulu	Original, 1st, 2nd, 3rd Revised Pages SK–18.
Oslo	do	Original Page SK–25.
Gothenburg/ Stockholm	do	Original Page SK–30.

[1] SAS does not have authority to serve Florida or Hawaii. It would interline with U.S. domestic carriers at New York or West Coast points, respectively.

[2] Northwest has no direct normal economy fares on file between Spokane and Scandinavia.

[3] We submitted this order to the President on September 7, 1982.

From	To	On
All YLFA 1 and YFLA 2 fares		
All YGW fares		
Copenhagen	New York	Original, 1st, 2nd Revised Pages SK-19.
Oslo	do	Original, 1st, 2nd, 3rd Revised Pages SK-27.
Stockholm	do	Original Page SK-32.
Between	And	On
All fares		
Copenhagen	Spokane	2nd Revised Page SK-20.
Bergen/ Kristiansand.	do	3rd Revised Page SK-23.
Oslo/ Stavanger.	do	Original Page SK-28-A.
Gothenberg/ Malmo/ Stockholm.	do	2nd Revised Page SK-34.

Routing No. 58 on 1st Revised Page SK-44.

Note.—This Suspension does not stay the cancellation of International Passenger Fares Tariff No. TAF-1, CAB No. 377, issued by Airline Tariff Publishing Company, Agent.

[FR Doc. 82-26360-Filed 9-23-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.
Title: 1982 Census of Manufacturers: Report From Penal Institutions.
Type of Request: New.
Burden: 52 respondents; 104 reporting hours.
Needs and Uses: The "Report From Penal Institutions" is conducted as part of the 1982 Economic and Agriculture Censuses in accordance with the requirements of Title 13, United States Code. The data from this report are used by the Bureau of Economic Analysis in its benchmarking of national accounts and are the only source of measured output of manufactured products produced by penal institutions.
Affected Public: State and Federal prisons.
Frequency: Quinquennially.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Timothy Sprehe, 395-4814.

* * * * *

Agency: Bureau of the Census.
Title: Economic Censuses.
Type of Request: Extension.
Burden: 10,000 respondents; 83,333 reporting hours.
Needs and Uses: Questions are added to the IRS income tax forms in years covered by the quinquennial economic censuses. Answers to these questions determine the establishment count for approximately 5 million businesses. This relieves these businesses from filing census reports due to the availability of IRS administrative records.
Affected Public: Sole proprietors, partnerships, and small corporations.
Frequency: Nonrecurring.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Timothy Sprehe, 395-4814.

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Agency: Bureau of the Census.
Title: 1982 Census of Agriculture Coverage Evaluation.
Type of Request: New.
Burden: 20,000 respondents; 4,833 reporting hours.
Needs and Uses: The purpose of the 1982 Census of Agriculture Rural Coverage Evaluation is to estimate the number and characteristics of farms not on the census of agriculture mail list. The results are published in order to provide users of census data information that might affect their use of the data.
Affected Public: Housing units across the U.S.
Frequency: Nonrecurring.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Timothy Sprehe, 395-4814.

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Agency: Bureau of the Census.
Title: Construction Progress Report (Multi-family Residential).
Type of Request: Extension.
Burden: 3,000 respondents; 7,500 reporting hours.
Needs and Uses: These statistics are used in economic research and analysis to assess the effect of construction activity on the economy and for direct input to the National Income and Products Accounts. They are also used for marketing research and by private business.
Affected Public: Owner of multi-family residential buildings.
Frequency: Monthly.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Timothy Sprehe, 395-4814.

* * * * *

Agency: Bureau of the Census.
Title: Current Population Survey.
Type of Request: Revision.
Burden: 174,000 respondents; 90,480 reporting hours.
Needs and Uses: The data will be used to determine differences in the characteristics of union members vs. non-union workers.
Affected Public: Household respondents in one-fourth of monthly sample of 58,000 interviewed households.
Frequency: Monthly.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Timothy Sprehe, 395-4814.

* * * * *

Agency: Bureau of the Census.
Title: Survey of Plant Capacity Utilization.
Type of Request: Revision.
Burden: 9,000 respondents; 13,500 reporting hours.
Needs and Uses: Survey results are used by the Federal Reserve Board to benchmark its monthly series and by other government agencies, such as the Bureau of Industrial Economics and the Bureau of Economic Analysis, business firms, trade associations, and research organizations to measure inflationary pressures and capital flows, to understand productivity determinants, to forecast economic trends, and to analyze industry trends and averages.
Affected Public: Manufacturing establishments.
Frequency: Annually.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Timothy Sprehe, 395-4814.

* * * * *

Agency: Bureau of Economic Analysis.
Title: Industry Classification Questionnaire (Foreign Direct Investment in the United States).
Type of Request: Revision.
Burden: 1,750 respondents; 875 reporting hours.
Needs and Uses: Secures data necessary for classifying by industry U.S. business enterprises in which a foreign person has an equity interest of 10 percent or more. Required for the preparation of the balance of payments and international investment accounts of the United States.
Affected Public: U.S. affiliates of foreign companies.
Frequency: On occasion.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Timothy Sprehe, 395-4814.

* * * * *

Agency: Bureau of Economic Analysis.
Title: Benchmark Survey of U.S. Direct Investment Abroad—1982.
Type of Request: New.
Burden: 3,600 respondents; 414,000 reporting hours.
Needs and Uses: Secures financial and operating data on U.S. parent companies and their foreign affiliates, including information on balance sheets, income statements, external financing by transactor, employment, U.S. trade, sales by destination and affiliation; property, plant, and equipment, and research and development expenditures; and transactions between U.S. parents and their foreign affiliates. Required for preparation of the balance of payments, international investment, and GNP accounts.
Affected Public: U.S. persons owning foreign business enterprises.
Frequency: Quinquennially.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Timothy Sprehe, 395-4814.

* * * * *

Agency: Bureau of Economic Analysis.
Title: Industry Classification Questionnaire (Direct Investment Abroad).
Type of Request: Revision.
Burden: 550 respondents; 550 reporting hours.
Needs and Uses: Secures data necessary for classifying by industry foreign business enterprises in which a U.S. person has an equity interest of 10 percent or more.

Required for the preparation of the balance of payments and international investment accounts of the United States.

Affected Public: U.S. companies with foreign investments.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Timothy Sprehe, 395–4814.

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Agency: Economic Development Administration.

Title: Current and Projected Employee and Payroll Data.

Type of Request: Extension.

Burden: 1,000 respondents; 1,000 reporting hours.

Needs and Uses: In the pre- and post-approval review of projects, EDA needs information from beneficiaries of its financial assistance to evaluate their: (1) job development efforts; (2) civil rights posture; and (3) business and financial plans and practices.

Affected Public: Recipients of EDA assistance.

Frequency: On occasion, annually.

Respondent's Obligation: Required to obtain or retain benefit.

OMB Desk Officer: Timothy Sprehe, 395–4814.

* * * * *

Agency: International Trade Administration.

Title: Scope and Impact of Oil and Gas Sanctions.

Type of Request: New.

Burden: 40 respondents; 80 reporting hours.

Needs and Uses: The information obtained would be used to identify foreign dependence on U.S. oil/gas equipment and technology.

Affected Public: U.S. manufacturers and distributors of oil and gas equipment and technology, their foreign affiliates and licensees.

Frequency: Nonrecurring.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ken Allen, 395–3785.

* * * * *

Agency: International Trade Administration.

Title: Questionnaire for Major Producers and Importers of Nuts, Bolts and Large Screws of Iron and Steel.

Type of Request: New.

Burden: 89 respondents; 890 reporting hours.

Needs and Uses: This survey is required to satisfy the agency's statutory responsibilities for an investigation of the industrial fastener industry per Section 232 of the Trade Expansion Act of 1962, as amended.

Affected Public: Producers of and import wholesalers of nuts, bolts, and large screws of iron or steel.

Frequency: Nonrecurring.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Ken Allen, 395–3785.

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Agency: International Trade Administration.

Title: Copper Controlled Materials.

Type of Request: Extension.

Burden: 1,000 respondents; 540 reporting hours.

Needs and Uses: The information collected is required for the enforcement and administration of the delegated authority of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061; *et seq.*), to manage the consumption and use of copper and copper base alloys.

Affected Public: Copper producers.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Kken Allen, 395–3785.

* * * * *

Agency: National Oceanic and Atmospheric Administration.

Title: Dealer Purchases and Trip Interviews.

Type of Request: Revision.

Burden: 4,547 respondents; 8,474 reporting hours.

Needs and Uses: Data on dealer purchases and from trip interviews are required inputs in proposing and evaluating fishery management and development activities of the National Marine Fisheries Service.

Affected Public: Commercial fishermen and dealers.

Frequency: On occasion, weekly, and monthly.

Respondent's Obligation: Voluntary, required to obtain or retain benefit, and mandatory.

OMB Desk Officer: Ken Allen, 395–3785.

* * * * *

Agency: National Oceanic and Atmospheric Administration.

Title: European Weekly Frozen Fish Report and Export Opportunities Evaluation.

Type of Request: New.

Burden: 3,140 respondents; 248 reporting hours.

Needs and Uses: The *European Weekly Frozen Fish Report* project and the publishing of *Fishery Export Opportunities* commenced in 1979 at the request of the New England fishing industry. This evaluation is necessary to gauge the usefulness of these reports to the U.S. fishing industry and to identify areas for improvement in the reports. Evaluation results will determine if reports will be continued or need to be revised to meet industry needs.

Affected Public: Seafood producers, seafood exporters.

Frequency: Nonrecurring.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ken Allen, 395–3785.

* * * * *

Agency: National Oceanic and Atmospheric Administration.

Title: Automatic Picture Transmission (APT) Station Questionnaire.

Type of Request: New.

Burden: 400 respondents; 200 reporting hours.

Needs and Uses: This information collection will be used to maintain an address and status file for all satellite ground stations, which will enable the Department to provide information on current and proposed environmental satellite operations to such stations. In addition, the questionnaire will be used to collect information for the Department's data base which plays a role in the design and operation of satellites, and helps determine applications of satellite data.

Affected Public: U.S. and foreign meteorological space agencies, academic and commercial institutions, and amateur radio operators.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ken Allen, 395–3785.

* * * * *

Agency: National Oceanic and Atmospheric Administration.

Title: Hawaii Fish Dealer Survey.

Type of Request: Extension.

Burden: 110 respondents; 55 reporting hours.

Needs and Uses: Survey will contribute to the analysis of the wholesale fisheries sector by evaluating the impact of various management alternatives. Additionally, domestic processing capability will be estimated and used to determine optimal yield for fishery management plans.

Affected Public: Fish wholesalers.

Frequency: Bimonthly random sample.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ken Allen, 395–3785.

* * * * *

Agency: National Telecommunications and Information Administration.

Title: Public Telecommunications Facilities Program Grant Application.

Type of Request: Extension.

Burden: 816 respondents; 5,490 reporting hours.

Needs and Uses: The Public Telecommunications Financing Act of 1978 as amended by the Public Broadcasting Amendments Act of 1981 authorized grants to be awarded for the planning and construction of public telecommunications facilities. In order to monitor the use of grant funds, grantees are required to submit certain reports annually.

Affected Public: Public telecommunications stations.

Frequency: Annually.

Respondent's Obligation: Required to obtain or retain benefit.

OMB Desk Officer: Ken Allen, 395–3785.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 82-26266 Filed 9-23-82; 8:45 am]

BILLING CODE 3510-CW-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Level for Certain Cotton, Wool, and Man-Made Fiber Apparel Products From Mauritius

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing an import restraint level of 115,000 dozen for cotton, wool, and man-made fiber knitwear apparel products in Categories 338, 339, 345, 438, 445, 446, 638, 639, 645, and 646, as a group, produced or manufactured in Mauritius and exported to the United States during the twelve-month period beginning on October 1, 1982 and extending through September 30, 1983.

(A detailed description of the textile categories in terms of T.S.U.S.A. number was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654))

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of October 2 and 5, 1981 between the Governments of the United States and Mauritius establishes a twelve-month period of restraint for cotton, wool, and man-made fiber knitwear apparel products in Categories 338, 339, 345, 438, 445, 446, 638, 639, 645, and 646, as a group, in the third agreement period beginning on October 1, 1982 and extending through September 30, 1983. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the bilateral agreement, to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of textile products in Categories 338, 339, 345, 438, 445, 446, 638, 639, 645, and 646, as a group, produced or manufactured in Mauritius and exported during the twelve-month period beginning on October 1, 1982 and extending through September 30, 1983, in excess of 115,000 dozen.

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230; (202/377–4212).

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

September 21, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 2 and 5, 1981, between the Governments of the United States and Mauritius and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on October 1, 1982 and extending through September 30, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in Categories 338, 339, 345, 438, 445, 446, 638, 639, 645, and 646, as a group, in excess of 115,000 dozen.

In carrying out this directive entries of textile products in Categories 338, 339, 345, 438, 445, 446, 638, 639, 645, and 646, as a group, which have been exported to the United States on and after April 1, 1982 and extending through September 30, 1982, shall, to the extent of any unfilled balance, be charged against the level of restraint established for such goods during that six-month period. In the event the level of restraint established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this letter.

The level set forth above is subject to adjustment in the future according to the provisions of the bilateral agreement of October 2 and 5, 1981, between the Governments of the United States and Mauritius, which provide, in part, that (1) the level may be exceeded by not more than 7 percent for carryforward and (2) the two governments agree to consult on any question arising in the implementation of the bilateral agreement. Any appropriate adjustments under the provisions of the agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Mauritius and with respect to imports of cotton, wool and man-made fiber textile products from Mauritius has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-26380 Filed 9-23-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Community College of the Air Force (CCAF) Advisory Committee; Meeting

The Community College of the Air Force Advisory Committee will hold a meeting on October 19, 1982 at 8:30 a.m. in the Conference Room, Number 121, Building 836, located at Maxwell Air Force Base, Montgomery, Alabama.

The meeting is open to the public.

Agenda items include: State of the College, Academic Policy Considerations, Manpower Plan Review, Accreditation Visit Schedule, New Computer System, Catalog, and Student Affairs.

For further information contact Lt. Col. James H. Conely, 205–293–6386, Community College of the Air Force, Maxwell, AFB, Alabama 36112.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-26304 Filed 9-23-82; 8:45 am]

BILLING CODE 3910-01-M

Engineers Corps

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Study To Determine the Feasibility of Modifying Hodges Village Dam and Reservoir, Oxford, Massachusetts

AGENCY: New England Division, Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: 1. The proposed action is a plan to provide improved water quality in a portion of the French River in Massachusetts and Connecticut. During the course of the study, other water resource needs have also been investigated, including flood control

recreation, and fish and wildlife management.

2. The alternative being considered include: (a) Improving water quality in the French River downstream of the towns of Webster and Dudley, Massachusetts by providing water storage at Hodges Village Dam for low flow augmentation releases in conjunction with advanced wastewater treatment at the Webster treatment plant. Water storage would be provided by the creation of a 200 acre seasonal impoundment.

(b) Take no action.

3. (a) Close coordination with key resource agencies and local interests is underway to determine the problems and needs to be addressed and to identify the significant issues related to each alternative being considered. Additional coordination with other agencies will be made as issues and alternatives are more clearly defined. Affected Federal, State and local agencies and other interested organizations and parties will continue to be encouraged to participate in the identification of issues, problems and needs and the formulation of alternative courses of action by communicating with the addressee listed below.

(b) Significant issues to be analyzed in depth in the DEIS include river basin water quality improvement needs, fish and wildlife habitat requisites, potential impacts on existing recreation usage, and reservoir vegetation clearing impacts.

(c) Consultation with the Massachusetts State Historic Preservation Officer, and the U.S. Department of Interior will be initiated in accordance with the National Historic Preservation Act of 1966 and Executive Order 11593. Planning is being coordinated with the U.S. Fish and Wildlife Service on an informal and formal basis, including the procedures required by the Fish and Wildlife Coordination Act of 1958 and the Endangered Species Act Amendments of 1978.

4. A scoping meeting will be held. The date and location will be identified through Public Notice procedures.

5. the DEIS is scheduled to be completed and available for review in August 1982.

ADDRESS: Information concerning the proposed action and DEIS can be obtained by contacting: Charles B. Freeman, Impact Analysis Branch, New England Division, U.S. Army Corps of Engineers, 424 Trapelo Road, Waltham, Massachusetts 02254, ATTN: NEDPL–I, Phone (617) 647–8139, (FTS 839–7139).

Dated: September 16, 1982.

Carl B. Sciple,

Colonel, Corps of Engineers Division Engineer.

[FR Doc. 82-26203 Filed 9-23-82; 8:45 am]

BILLING CODE 3710-24-M

Office of the Secretary

Defense Advisory Committee on Women in the Services (DACOWITS); Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Defense Advisory Committee on Women in the Services (DACOWITS) will be held 7–11 November 1982 at the Bordeaux Motor Inn Convention Center, Fayetteville, North Carolina.

The purpose of the DACOWITS Committee is to assist and advise the Secretary of Defense on matters relating to women in the Services. The Committee meets semiannually.

Sessions will be conducted daily as indicated and will be open to the public. The agenda will include the following meeting and discussions:

Sunday, 7 November 1982—**Bordeaux Motor Inn Convention Center**

12:00 noon–9:00–p.m.–Registration
2:00 p.m.–Executive Committee Meeting
3:00 p.m.–5:00 p.m.–Chair's Procedural Session for all DACOWITS Members, Former Members, and Military Representatives
5:00 p.m.–6:30 p.m.–Subcommittee Meeting
7:00 p.m.–8:30 p.m.–"No-Host" Cocktail Buffet

Monday, 8 November 1982—**Bordeaux Motor Inn Convention Center**

8:00 a.m.–12:00 noon–Registration
8:00 a.m.–8:45 a.m.–Official Opening
9:00 a.m.–12:30 p.m.–OSD/Service Briefings
12:30 p.m.–2:00 p.m.–Official Department of Defense Luncheon (By invitation only)
2:00 p.m.–3:30 p.m.–OSD/Service Briefings
3:30 p.m.–5:30 p.m.–Subcommittee Meetings
7:00 p.m.–10:30 p.m.–Official Department of Defense Reception and Dinner (By invitation only)

Tuesday, 9 November 1982—**Fort Bragg**

8:00 a.m.–5:00 p.m.–Field Trip to Fort Bragg, Fayetteville, North Carolina

Wednesday, 10 November 1982—**Bordeaux Motor Inn Convention Center**

8:30 a.m.–12:00 noon–OSD/Service Briefings
12:00 noon–1:30 p.m.–"No Host" Luncheon
1:30 p.m.–4:30 p.m.–Subcommittee Meetings

Thursday, 11 November 1982—**Bordeaux Motor Inn Convention Center**

8:00 a.m.–9:45–General Business Session Adjourn

Members of the public will not be permitted to go on the field trip or attend the social functions.

The following rules and regulations will govern the participation by members of the public at the meeting:

(1) All business sessions, to include the Executive Committee sessions, will be open to the public.

(2) Interested persons may submit a written statement and/or make an oral presentation for consideration by the Committee during the meeting.

(3) Persons desiring to make an oral presentation or submit a written statement to the Committee must notify Captain Mary J. Mayer, USAF, DACOWITS Executive Secretary, OASD (Manpower, Reserve Affairs and Logistics), Room 3D769, the Pentagon, Washington, D.C. 20301, (202) 697–2122 by 22 October 1982.

(4) Length and number of oral presentations to be made will depend on the number of requests received from the members of the public.

(5) Oral presentations by members of the public will be permitted only from 8:00 a.m. to 8:30 a.m. on Thursday, 11 November 1982, before the full Committee.

(6) Each person desiring to make an oral presentation or submit a written statement must provide the DACOWITS Secretariat with 55 copies of the presentation/statement by 22 October 1982.

(7) Persons submitting a written statement only for inclusion in the minutes of the meeting must submit one (1) copy either before or during the meeting or within (5) days after the close of the meeting.

(8) Members of the public will not be permitted to enter into oral discussion conducted by the Committee members at any of the sessions; however, they will be permitted to reply to questions directed to them by the members of the Committee.

(9) Members of the public will be permitted to orally question the scheduled speakers if time allows after the official participants have asked questions and/or made comments.

(10) Questions from the public will not be accepted during the subcommittee sessions, the Executive Committee sessions, or the Business Session on Thursday, 11 November 1982.

Additional information regarding the Committee and/or this meeting may be obtained by contacting the DACOWITS Executive Secretary, OASD (MRA&L), the Pentagon, Room 3D769, Washington, D.C. 20301.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

September 21, 1982.

[FR Doc. 82-26097 Filed 9-23-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Environmental Record of Decision on the 1982 Rate Proposal

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Record of Decision.

SUMMARY: I have decided to submit to the Federal Energy Regulatory Commission (FERC) a proposal to adjust BPA's wholesale power rates in order to achieve total revenues of $2.2 billion in Fiscal Year (FY) 1983. The decisions made regarding the proposed wholesale power rates are incorporated into the wholesale power rate schedules which are attached as Exhibit B to the rate order filed with FERC. These recommendations are based on a comprehensive review of BPA's Final Environmental Impact Statement (EIS) on the 1982 Rate Proposal, as well as all other materials appurtenant to the rate process. A draft EIS was prepared on BPA's wholesale power rate proposal and circulated to the public for review and comment. Notice of availability of the draft EIS was published in the Federal Register and comments were accepted through the close of BPA's formal rate hearings on wholesale power rates on June 25, 1982. Subsequent to the close of these hearings, a final EIS was prepared based on the draft EIS and comments received on the draft EIS. Copies of the final EIS have been distributed to interested public and additional copies are available upon request from the BPA Environmental Manager.

The proposed rates would permit BPA to collect sufficient revenue to meet its statutorily mandated repayment requirement. Pending FERC approval, the proposed rate adjustment is scheduled to become effective on October 1, 1982. A formal appeal process allows those who desire to comment on the final EIS or the Record of Decision to intervene by filing a petition with FERC.

This Record of Decision is being issued concurrently with the publication of the final EIS pursuant to the Council on Environmental Quality Regulations (40 CFR 1506.10(b)(2) 1981).

SUPPLEMENTARY INFORMATION:

Alternatives Considered and Environmental Impacts

A number of alternative revenue levels and rate designs were evaluated in the EIS. These alternatives were selected in a manner intended to insure consideration of the range of all reasonable alternatives.

Revenue Level Alternatives: The EIS examined five basic revenue alternatives: no action; the initial proposal; modification of the proposal to exclude payment of irrigation assistance, extend the amortization period for generation facilities, and exclude recovery of increased shared facility costs resulting from the termination of two nuclear plants under construction by the Washington Public Power Supply System; long run incremental cost (LRIC) pricing; and phased-in LRIC pricing.

Under the no action alternative, BPA would maintain its existing rate structure, resulting in a revenue deficiency of $731 million, given initial estimated FY 1983 loads. Consequently, if this alternative were implemented, BPA would be prohibited from meeting its financial obligations, its statutory requirement to be self-financing would be violated, and the shortfall would have to be recovered from future ratepayers.

Revenues derived under the proposed revenue level alternative would be sufficient to meet BPA's FY 1983 revenue requirement as determined in BPA's initial proposal and would represent a 43 percent increase over the estimated revenues that would be collected under current rates during FY 1983 using the initial FY 1983 load forecast. This alternative allows BPA to meet all financial obligations and provides that customers receiving service during FY 1983 would pay the full costs incurred during FY 1983 to provide that service.

Several aspects of BPA's repayment analysis could be modified to reduce BPA's revenue requirements. However, these modifications are either outside BPA's current statutory authority, and thus would require Congressional action in order to implement, or would violate current contractual agreements. One way the repayment analysis could be modified would be to eliminate irrigation assistance from BPA's revenue requirement. The effect, however, would be so small that the total revenue requirement for FY 1983 would be virtually unaffected. BPA's repayment process also could be modified by extending the amortization period for generation facilities, thereby reducing the proposed increase in the revenue by approximately 2 percent. Finally, if shared costs of Supply System Plants 4 and 5 were excluded from the budgets for Plants 1 and 3, BPA's revenue requirement for FY 1983 would decrease by approximately 3 percent.

LRIC or marginal cost based rates would price wholesale power at the projected long run cost of acquiring new power resources in the Pacific Northwest. Rates based on the long run incremental costs developed in BPA's 1982 Time-Differentiated Long Run Incremental Cost Analysis if applied to BPA's projected FY 1983 sales volume would produce revenues of approximately $5.7 billion. These revenues would be approximately 250 percent higher than revenues recovered under the no action revenue alternative and 133 percent higher than revenues received under the proposed alternative.

One method of easing the impact of shifting to LRIC pricing would be to phase in the LRIC rates over a 5-year period. One-fifth of the difference between rates based on the proposed rate level and rates based on the 1982 LRIC Analysis could be added to the proposed rate each year for 5 years. Rates designed in this manner and applied to BPA's projected FY 1983 sales volume would recover revenues of approximately $3.1 billion. This would represent an increase of 90 percent over revenues recovered under the no action alternative and 27 percent over revenues collected under the proposed alternative.

Both the revenue level based on LRIC pricing and that based on graduated LRIC would violate the directive in the Bonneville Project Act that BPA rates be the lowest possible consistent with sound business principles. Potential questions also would be raised as to how excess revenues should be distributed or invested.

Increases in the price of electricity discourage consumption. Correspondingly, the level of adverse physical environmental impact associated with the production and consumption of electricity can be expected to vary inversely with the price of electricity (revenue level). These changes in impact would be offset to some extent by changes in the use of alternative forms of energy such as wood, oil, and natural gas. Some alternative energy sources (e.g., solar or wind) may involve lower levels of environmental impact than those associated with conventional thermal generation; other alternatives (e.g., wood) may involve higher levels of impact.

In contrast to physical environmental impacts, socioeconomic impacts would be expected to increase directly with the price of electricity (revenue level). The level of revenue produced by rates based on marginal cost, for example, could have substantial adverse

economic impacts on virtually all regional power consumers, particularly irrigators and low income residential consumers. However, BPA's October 1, 1982, rate proposal is not expected to have serious economic consequences for the Region's electricity consumers (EIS Chapter V(B)(3)).

It is my conclusion after reviewing all pertinent information that the revenue increase I am proposing is the least harmful from an environmental standpoint. It recognizes both the need to minimize potential adverse impacts to the physical environment associated with increases in the use of electricity, as well as the need to take account of the socioeconomic consequences of increases in electricity rates. I believe that the socioeconomic effects of my proposal are within reason and would not result in undue hardship for BPA's customers. I recognize that, on the one hand, the impacts of this proposed rate increase may include reduced growth in the demand for electricity, a lowered rate of new resource additions, and spurred development of alternative energy sources. On the other hand, these impacts also may include additional air pollution, associated with increased use of woodstoves, a strain on lower income groups to stay within their budgets, and a somewhat reduced rate of growth within the region of irrigated agriculture. The proposed revenue increase also will enable BPA to conform to its statutory guidelines for meeting repayment requirements and to ensure the prudent operation of the Federal Columbia River Power System (FCRPS).

Rate Design Alternatives: I considered the environmental effects of several potentially feasible rate design alternatives in arriving at my decision regarding the design of specific rate schedules. Such schedules included those applicable to the sale of priority firm power, industrial and modified firm power, new resources firm power, nonfirm energy, and firm capacity. I did not consider alternatives to the other rate schedules because I do not anticipate that revenues from sales under these rates or associated environmental effects will be significant.

I am proposing a uniform demand/energy rate structure for the priority firm rate with a daily and seasonal differential in the demand charge and a seasonal differential in the energy charge. The alternatives considered for the proposed structure of the priority firm rate include tiered rates and rates based on the inverse elasticity principle. Tiered rates involve application of different rates to specific blocks of consumption. Under the inverse elasticity approach, customers most responsive to an increase in the cost of electricity would be charged rates closer to incremental costs than those rates charged less elastic customers. I chose to exclude tiered rates from the rate proposal because of unresolved concerns about their effects on BPA revenue stability, the potential that they might unnecessarily duplicate the function of BPA's billing credit program, and variations they might produce in customer power costs. I rejected basing rates on the inverse elasticity principle because of the lack of reliable elasticity estimates for BPA's customer classes.

The industrial firm power rate schedule which I am proposing reflects a value of reserves credit that recognizes the value of reserves provided by BPA rights to interrupt direct-service industry (DSI) load. Alternatives I considered and rejected included eliminating the credit, providing a different amount of credit, applyng the credit in a different manner, or tiering the rates. BPA conducted an extensive study to evaluate the reserves offered by DSI's. Alternative methods considered for applying the reserve credit or tiering the rates could create revenue stability problems. Elimination of the credit would violate the requirements of the Pacific Northwest Electric Power Planning and Conservation Act.

The new resources rate that I am proposing would be based on the cost of exchange recources. An alternative to the proposed rate would be a rate similar to the existing rate that is based on an averaging of the power costs of all new resources acquired by BPA. However, such a rate may cause this power to be unmarketable. No purchases have been made under the existing rate, as no investor-owned utilities in the Pacific Northwest have signed the offered power sales contracts which would allow them to purchase power at the new resources rate. A second alternative would be to include two levelized rates in the rate schedule, the first based on lowest cost new resources and the second based on BPA's most costly new resources, the output of which would be marketed as surplus power. This alternative was rejected because sales under the first level would underrecover the average cost of new resources, and power marketed under the second level would be so expensive it would be unmarketable.

The nonfirm rate schedule I am proposing consists of (1) a standard rate in effect at all times, except when a spill or imminent spill condition exists; (2) a spill rate; and (3) an incremental rate applied when the incremental cost of power produced or purchased concurrently with the nonfirm sale is greater than the standard rate. Alternative nonfirm rate schedules considered include a schedule similar to the existing schedule that reflects costs of resources used to produce Federal nonfirm energy, a share-the-savings rate similar to BPA's 1979 nonfirm energy rate, and a flat rate. The proposed rate was selected because it appears to be more acceptable to customers than the current rate, easier to administer than the share-the-savings rate, and more flexible in responding to water and market conditions than the flat rate. If the flat rate were set too high it could discourage purchases of nonfirm energy, resulting in less displacement of thermal resources and increased air and water pollution levels.

I am proposing a firm capacity rate that includes a provision for an additional monthly charge if capacity use exceeds 9 hours per day. In addition to the firm capacity rate I am proposing, I considered a firm capacity rate with no additional monthly charge for capacity use in excess of 9 hours per day and a time-differentiated firm capacity rate. The elimination of the excess capacity charge could result in the need for additional facilities to provide peaking capacity and associated negative physical and socioeconomic environmental impacts. The time-differentiated alternative would have approximately the same effect on the demand for capacity as the proposed rate, but would involve a greater level of administrative complexity.

Decision Factors

I based my decisions concerning level and design of the rates on legal requirements, rate design objectives, and a consideration of environmental impacts.

1. *Legal Requirements.* The Bonneville Project Act requires BPA to establish rates that will recover all costs associated with production, acquisition, and transmission of electric power and to recover the Federal investment in the Federal Columbia River Power System. This Act directs that rates be designed to "* * * encourage the widest diversified use of electric energy * * *" at the "* * * lowest possible rate * * * consistent with sound business principles." The Transmission System Act placed BPA on a self-financing basis, requiring it to pay all operating expenses with revenues collected from its rates.

The Pacific Northwest Power Planning and Conservation Act reaffirms

directives in previous statutes and expands BPA's responsibilities. The Act contains specific provisions regarding power sales, rates, and procedures for establishing rates.

2. *Rate Design Objectives.* In addition to meeting legal requirements, BPA rates are designed to meet its revenue requirement while distributing the burden in an equitable manner among recipients of the service, encourage conservation and minimize environmental impacts, and encourage efficient use of resources by reflecting costs incurred and benefits received. Additionally, consideration is given to rate continuity, ease of administration, revenue stability, customer acceptability, and ease of understanding.

3. *Environmental Impacts.* BPA's analysis of the environmental impacts of the alternatives revealed that the 1982 proposed revenue level would reduce regional load requirements from that expected if rates were not increased. Over time, decreases in electricity load growth would limit the regional need for new generation resources equal to three 500 megawatt coal plants and one 1,000 megawatt nuclear plant. Elimination of the new generation would avoid accompanying land use, solid waste, water, and air quality impacts associated with mining, processing, and power production. These avoided environmental effects would be somewhat offset by physical environmental effects resulting from increases in use of alternative energy sources.

The socioeconomic impacts of the revenue level I am proposing for recovery during FY 1983 would be significant for certain types of consumers. Low-income consumers would be more seriously affected by an increase in electricity rates than other residential consumers; the mental, physical, and economic well-being of the low-income elderly could be strained. The proposal could cause DSI's or other energy intensive industrial consumers to hasten decisions to either improve plant efficiency or shut down operations entirely. Some farmers could be forced to go out of business and some acreage could revert to dryland agriculture or be taken out of production. A decrease in irrigated acreage and DSI operations, while creating economic hardships for those employed in these areas, may produce certain benefits to the physical environment.

The proposed rate design alternatives would not cause environmental impacts significantly different than those experienced under BPA's current rate design.

Mitigation

Existing and proposed conservation programs offered by BPA could mitigate socioeconomic impacts of the proposed rate increase. BPA offered in FY 1981 and FY 1982 and is planning to offer in FY 1983 energy conservation programs through its utility customers to residential, irrigation, business, and industrial consumers. The programs would help residential consumers decrease electricity used for space and water heating, improve the use and distribution efficiencies of irrigators, and would aid commercial and industrial consumers in conserving electricity used in industrial processes, lighting, and water heating.

BPA also is implementing or plans to implement energy conservation programs for other consumers in the Pacific Northwest. These include technical assistance to State and local governments, energy conservation audits and installation of conservation measures in institutional buildings, and efficiency improvements for the transmission and distribution systems of regional utilities.

No monitoring or enforcement programs are applicable for mitigation of the adverse impacts of the proposed action and none have been adopted. However, under the terms of the Regional Act, EPA is required, among other things, to provide for the development of plans to protect and enhance fish and wildlife resources and to provide for environmental quality. BPA's proposed increase includes the cost of implementing these requirements.

Integration with Other Records

This Environmental Record of Decision has been integrated into the Record of Decision filed by the Administrator with FERC in support of BPA's proposed 1982 rate increase.

FOR FURTHER INFORMATION CONTACT: Anthony R. Morrell, Environmental Manager, Bonneville Power Administration, P.O. Box 3621–SJ, Portland, Oregon 97208; telephone (503) 230–5136.

Signed in Portland, Oregon, August 13, 1982.

Peter T. Johnson,
Administrator.

[FR Doc. 82-26280 Filed 9-23-82; 8:45 am]
BILLING CODE 6450-01-M

Economic Regulatory Administration

[6COX00300]

Engle Enterprises, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to Engle Enterprises, Inc. and Robert J. Young of Englewood Cliffs, New Jersey. This Proposed Remedial Order alleges pricing violations of $69,838.00 in connection with the resale of crude oil at prices in excess of those permitted by 10 CFR Part 212, Subpart L during the period of March 1980 through December 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, Attn: John W. Sturges, Director, 440 S. Houston, Room 306, Tulsa, Oklahoma 74127.

Within 15 days of publication of this notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Tulsa, Oklahoma on the 13th day of September 1982.

John W. Sturges,
Director, Tulsa Office, Economic Regulatory Administration.

[FR Doc. 82-26273 Filed 9-23-82; 8:45 am]
BILLING CODE 6450-01-M

[6COX00288]

Kimco Petroleum, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to Kimco Petroleum, Inc. of Houston, Texas. This Proposed Remedial Order alleges pricing violations of $218,749.40 in connection with the resale of crude oil at prices in excess of those permitted by 10 CFR Part 212, Subpart L during the period July 1980 through September 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, Attn: John W. Sturges, Director, 440 S. Houston, Room 306, Tulsa, Oklahoma 74127.

Within 15 days of publication of this notice any aggrieved person may file a Notice of Objection with the Office of

Hearings and Appeals, U.S. Department of Energy, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with the 10 CFR 205.193.

Issued in Tulsa, Oklahoma on the 13th day of September 1982.

John W. Sturges,

Director, Tulsa Office, Economic Regulatory Administration.

[FR Doc. 82-26278 Filed 9-23-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP82-523-000]

ANR Storage Co.; Application

September 20, 1982.

Take notice that on September 3, 1982, ANR Storage Company, One Woodward Avenue, Detroit, Michigan 48220 filed in Docket No. CP82-523-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 13, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on it own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26282 Filed 9-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 4305-001 and 4322-001]

City of Hibbing, Minnesota and Northeastern Minnesota Municipal Power Agency; Application for Preliminary Permit

September 21, 1982.

Take notice that City of Hibbing, Minnesota and Northeastern Minnesota Municipal Power Agency (Applicants) filed on April 27, 1981, and April 30, 1981, respectively, an application for preliminary permit [pursuant to the Federal Power Act, 16, U.S.C. 791(a) 825(r)] for Projects Nos. 4305-001 and 4322-001 to be known as the Mississippi River Lock and Dam No. 5 located on the Mississippi River in Winona County, Minnesota. The applications are on file with the Commission and are available for public inspection. Correspondence with the Applicants should be directed to: Mr. Joseph A. Vumbaco, General Manager, Public Utilities Commission, City of Hibbing, 19th Street & 6th Avenue East, Hibbing, Minnesota 55746, for Project No. 4305, and Mr. Norman G. Schroeder, Chairman, Northeastern Minnesota Municipal Power Agency, Staples, Minnesota 56479, for Project No. 4322.

Project Description—The proposed projects would utilize an existing dam and lands owned by the U.S. Army Corps of Engineers. Projects Nos. 4305 and 4322 would consist of: (1) A proposed powerhouse containing two generating units having a total installed capacity of 5.8 MW; (2) a proposed 69,000-volt transmission line; and (3) appurtenant facilities. The estimated annual energy output for each project is 45,000,000 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicants seeks issuance of a preliminary permit for a period of 36 months. During this time studies would be made to determine the engineering, economic, and environmental feasibility of the project. Consultation with Federal, state, and local government agencies would be made to determine the environmental effects of the project. The Applicants estimate that the cost of the studies would be $86,000.

Competing Applications—These applications were filed as a competing application to Mitchell Energy Company, Inc.'s application for Project No. 3652 filed on November 3, 1980. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or § 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 18 CFR 385.211, 385.212, or 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before October 27, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch,

Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825, North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicants specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26283 Filed 9-23-82; 8:45 am]
BILLING CODE 6717-01-M

[Project Nos. 4307-001 and 4321-001]

City of Hibbing, Minnesota and Northwestern Minnesota Municipal Power Agency; Application for Preliminary Permit

September 21, 1982.

Take notice that City of Hibbing Minnesota and Northeastern Minnesota Municipal Power Agency (Applicants) filed on April 27, 1981, and April 30, 1981, respectively, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a) 825(r)] for Projects Nos. 4307–001 and 4321–001 to be known as the Mississippi River Lock and Dam No. 5A located on the Mississippi River in Winona County, Minnesota. The applications are on file with the Commission and are available for public inspection. Correspondence with the Applicants should be directed to: Mr. Joseph A. Vumbaco, General Manager, Public Utilities Commission, City of Hibbing, 19th Street & 6th Avenue East Hibbing, Minnesota 55746, for Project No. 4307, and Mr. Norman G. Schroeder, Chairman, Northeastern Minnesota Municipal Power Agency, Staples, Minnesota 56479, for Project No. 4321.

Project Description—The proposed projects would utilize an existing dam and lands owned by the U.S. Army Corps of Engineers. Projects Nos. 4307 and 4321 would consist of: (1) A proposed powerhouse containing two generating units having a total installed capacity of 6 MW; (2) a proposed 69,000-volt transmission line; and (3) appurtenant facilities. The estimated annual energy output for each project is 30,000,000 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Both Applicants seeks issuance of a preliminary permit for 36 months to assess the technical and economic feasability of the proposed project and consult with Federal, state, and local government agencies concerning the environmental effects of the project. The Applicants estimated the cost of the studies would be $86,000.

Competing Applications—These applications were filed as a competing application to Continental Hydro Corporation's application for Project No. 3641 filed on November 3, 1980. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 18 CFR 385.211, 385.212, or 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before October 27, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any motion to intervene must also be served upon each representative of the Applicants specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26284 Filed 9-23-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CP82-204-000 and CP82-204-001]

Columbia Gas Transmission Corp.; Amended Application

September 20, 1982.

Take notice that on August 20, 1982, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP82–204–001 an amended application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to The Brooklyn Union Gas Company (Brooklyn Union), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to 5,000,000 dekatherms (dt) equivalent of natural gas per year at a maximum rate of 30,000 dt equivalent per day on a best-efforts basis to Brooklyn Union for a period through October 31, 1986, pursuant to a limited-term gas sales agreement dated May 15, 1981. Applicant indicates that the price Brooklyn Union would pay for all gas delivered by Applicant would be the higher of Applicant's Zone 6 Rate Schedule SR rate in effect at the time of Brooklyn Union's purchase or the maximum lawful price under Section 102 of the Natural Gas Policy Act of 1978.

Applicant asserts that it would deliver the gas sold to Brooklyn Union by reducing receipts from Texas Eastern Transmission Corporation (Texas Eastern) in Texas Eastern's Zone C and/or from Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) in Tennessee's Zone 3 or at such other delivery points as may be agreed to by Applicant and Brooklyn Union. Applicant explains that it would not be necessary for Applicant to construct any facilities to accomplish the deliveries of the gas proposed for sale herein.

On July 20, 1982, the Commission issued an order setting the above-styled proceeding in Docket No. CP82–204–000 for hearing and in which it also convened a pre-hearing conference on August 5, 1982 for the purpose of having the Presiding Administrative Law Judge render a determination as to whether

Applicant's application was sufficiently adequate to enable the proceeding to proceed to formal hearing. The Presiding Administrative Law Judge pursuant to the July 20, 1982 order heard argument on this matter on August 5, 1982, and thereafter required that Applicant file an amended application by August 20, 1982 and set other procedural dates for the purpose of holding an expedited hearing as provided for in the Commission's order.

Applicant in its initial application asserted that the proposed arrangement arises out of the settlement between Applicant and Brooklyn Union, *Brooklyn Union Gas Co.* v. *Distrigas of Massachusetts Corp.*, No. 77–Civ–439 (E.D. N.Y., filed March 4, 1977). Applicant in its August 20, 1982 amended application further indicates that another reason necessitating the proposed sale to Brooklyn Union is the fact that it is incurring take-or-pay obligations of significant proportions. In its amended application, Applicant supplemented its initial filing relative to Brooklyn Union's need for this gas and the techniques that would be employed for purposes of treating the revenues resulting from the sale.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 4, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26286 Filed 9-23-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP80-547-002]

NGPL–Canyon Compression Co.; Notice of Filing of Initial FERC Gas Tariff

September 20, 1982.

Take notice that on July 30, 1982, NGPL–Canyon Compression Co. (NGPL–Canyon), 122 South Michigan Ave., Chicago, Illinois 60603, tendered for filing its initial FERC Gas Tariff, Original Volume No. 1. NGPL–Canyon stated that these tariff sheets set out the initial rates as well as all tariff components relative to the compression service authorized by order issued March 30, 1982, in Docket No. CP80–547. The tariff is on file with the Commission and open to the public inspection.

Any person desiring to be heard or to make any protest with reference to said filing should on or before September 27, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26286 Filed 9-23-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP79-80-007]

Overthrust Pipeline Co.; Tariff Filing and Service Agreement

September 20, 1982.

Take notice that on July 30, 1982, Overthrust Pipeline Company (Overthrust), P.O. Box 11150, Salt Lake City, Utah 84147, tendered for filing its FERC Gas Tariff, Original Volume No. 1. The tariff is on file with the Commission and open to the public inspection.

Overthrust asserts that its proposed tariff sets out the terms under which shippers may receive transportation service on Overthrust's pipeline in Uinta and Sweetwater Counties, Wyoming. The tariff is proposed to be effective October 1, 1982, the scheduled date of commencement of operations for the Overthrust Segment of the Trailblazer System.

It is stated that the initial recipients of transportation service on Overthrust's pipeline are Columbia Gas Transmission Corporation, Natural Gas Pipeline Company of Amerca and Colorado Interstate Gas Company and that these companies have executed Service Agreements date July 26, 1982, which were submitted by Overthrust along with its tariff.

Any person desiring to be heard or to make any protest with reference to said filing should on or before September 27, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26287 Filed 9-23-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP79-80-011]

Overthrust Pipeline Co.; Alternate Tariff Filing and Proposed Initial Rates

September 20, 1982.

Take notice that on August 3, 1982, Overthrust Pipeline Company (Overthrust), P.O. Box 11150, Salt Lake City, Utah 84147, tendered for filing, as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets:

"Alternate" Original Sheet No. 2
Original Sheet No. 6–A
Original Sheet No. 6–B (Rate Schedule PSC)

It is stated that on July 30, 1982, Overthrust submitted a tariff filing reflecting rates in compliance with Opinion No. 138. On August, 1982, Overthrust jointly filed a petition to amend the authority granted in Opinion No. 138, and Overthrust states that the petition to amend seeks to defer the implementation of Opinion No. 138-based rates until January 1, 1983, and to implement a Plant Start-up Coordination Rate for the period prior to January 1, 1983.

Overthrust states that the instant filing is submitted in the event that the Commission grants the certificate amendment requested. The tariff sheets are on file with the Commission and open to public inspection.

Overthrust asserts that Rate Schedule PSC provides for a special rate to be applicable only during the period from the operational date of the Overthrust segment until January 1, 1983, and that the rate would be volumetric in nature and designed to recover all operating

and maintenance expenses and taxes other than income taxes. It is maintained that the rate would not recover any depreciation, interest expense or return on equity. Under Overthrust's proposed Rate Schedule PSC, the project costs would continue to be treated as construction work in progress with continued capitalization of allowance for funds used during construction, it is asserted. It is indicated that the rates under Rates Schedules T and I would go into effect on January 1, 1983, rather than October 1, 1982, as originally proposed.

In its filing Overthrust requests that the Commission waive the provisions of § 154.22 of its regulations and any other of its rules and regulations as may be required to permit the submitted tariff sheets to become effective on October 1, 1982, as proposed.

Any person desiring to be heard or to make any protest with reference to said filing should on or before September 27, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26286 Filed 9-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-80-006]

Trailblazer Pipeline Co. et al.; Filing of Initial FERC Gas Tariff

September 20, 1982.

In the matter of Trailblazer Pipeline Co., Overthrust Pipeline Co., Colorado Interstate Gas Co.

Take notice that on July 30, 1982, Trailblazer Pipeline Company (Trailblazer), 122 South Michigan Ave., Chicago, Illinois 60603, tendered for filing its initial FERC Gas Tariff, Original Volume No. 1. Trailblazer states that these tariff sheets set out the initial rates as well as all tariff components relative to the service authorized by Opinion No. 138 in Docket No. RP79-80. The tariff is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said filing should on or before September 27, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26285 Filed 9-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-80-009]

Trailblazer Pipeline Co. et al.; Filing of Alternate Tariff Sheets

September 20, 1982.

In the matter of Trailblazer Pipeline Co., Overthrust Pipeline Co., Colorado Interstate Gas Co.

Take notice that on August 3, 1982, Trailblazer Pipeline Company (Trailblazer), 122 South Michigan Ave., Chicago, Illinois 60603, tendered for filing alternate sheets to institute the revisions to Trailblazer Gas Tariff—filed under separate cover on July 30, 1982—that are necessary to reflect the changes proposed in the Joint Petition filed concurrently to amend Opinion No. 138. The alternate sheets reflect a Plant Start-Up Coordination (PSC) Rate on Trailblazer effective for the period ending December 31, 1982, together with appropriate revisions to Rate Schedules T and I, it is asserted. The sheets are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said filing should on or before September 27, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26290 Filed 9-23-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-80-005, et al.]

Wyoming Interstate Company Ltd.; Notice of Proposed FERC Gas Tariff and Service Agreements

September 20, 1982.

Take notice that on July 30, 1982 Wyoming Interstate Company, Ltd. (WIC), P.O. Box 1087, Colorado Springs, Colorado, 80944, tendered for filing its proposed initial FERC Gas Tariff, Original Volume No. 1 (Tariff), and service agreements with each of its four existing jurisdictional customers (shippers). Rate Schedules T and I are included in the Tariff and procedures for accommodating requests for transportation by existing and new shippers are deliniated. The Tariff and agreements are on file with the Commission and open to the public inspection.

WIC states that Rate Schedule T consists of a demand and a commodity rate, with the Demand Rate designed to recover all operating and maintenance expenses, taxes other than income taxes, the debt-related portion of depreciation, and interest expense. WIC states further, that the Commodity rate is designed to recover return on equity, depreciation expense related to equity, and income taxes. The commodity volume is 87 percent of free flow capacity and cost of service includes return on equity capital at the authorized rate of 16.8 percent, it is asserted.

WIC states that Rate Schelule I provides a means to charge shippers for deliveries in excess of their contract demand and is based on the commodity portion of Rate Schedule T plus a computed surcharge which is related to the Rate Schedule T demand charge. Rate Schedule I also provides for a credit to the shippers for any collection of excess demand charges, it is said.

It is indicated that the service agreements establish each shipper's contract demand, maximum daily transportation volumes, and points of delivery and receipt for volumes transported.

WIC asserts that the transportation service to be performed by it under the

proposed Tariff and Service Agreement was approved by the Commission in its Opinion No. 138 issued in Docket No. CP79–80, *et al.*, on March 12, 1982. Pursuant to Ordering Paragraph (E) of Opinion No. 138 and § 154.22 of the Commission's Regulations, WIC requests that the proposed Tariff and service agreements be made effective on September 28, 1982, which is the date the facilities are expected to become operational.

Any person desiring to be heard or to make any protest with reference to said filing should on or before September 27, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26291 Filed 9-23-82 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79–80–013 et al.]

Wyoming Interstate Company, Ltd., Alternate Tariff Filing and Proposed Initial Rates

September 21, 1982.

Take notice that on August 20, 1982, Wyoming Interstate Company, Ltd., (WIC), P.O. Box 1087, Colorado Springs, Colorado 80944, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets which include provisions for a new Rate Schedule PSC.

"Alternate" Original Sheet No. 1.
"Alternate" Original Sheet No. 5.
Original Sheet No. 5A.
Original Sheet No. 5B.
"Alternate" Original Sheet No. 6.
"Alternate" Original Sheet No. 8.

The tariff sheets are on file with the Commission and open to the public inspection.

It is stated that on July 30, 1982, WIC submitted a tariff filing reflecting rates in compliance with the Commission's Opinion No. 138 issued on March 12, 1982, in this proceeding. On August 3, 1982, WIC jointly filed a petition to amend the authority granted in Opinion No. 138 and WIC states that the petition to amend seeks to implement a Plant Start-Up Coordination (PSC) Rate for the period prior to January 1, 1983. Implementation of the PSC rate would defer the implementation of Opinion No. 138-based rates until January 1, 1982, it is asserted.

WIC states that the instant filing is submitted as a compliance filing in the event that the Commission grants the certificate amendment requested.

WIC asserts that Rate Schedule PSC provides for a special rate to be applicable only during the period from the operational date of the WIC pipeline through December 31, 1982, and that the rate would be volumetric in nature and designed to recover all operating and maintenance expenses and taxes other than income taxes. It is maintained that the rate would not recover any depreciation, interest expense or return on equity. It is asserted that under WIC's proposed Rate Schedule PSC, the project costs would continue to be treated as construction work in progress with continued capitalization of allowance for funds used during construction, and the PSC Rate revenues would be credited to construction work in progress. It is indicated that the rates under Rate Schedules T and I, as revised to reflect the implementation of Rate Schedule PSC, would be implemented on January 1, 1983, rather than September 28, 1982, as originally proposed.

In its filing WIC requested that the Commission waive the provisions of § 154.22 of its regulations and any other of its rules and regulations as may be required to permit the submitted tariff sheets to become effective on September 28, 1982, as proposed.

Any person desiring to be heard or to make any protest with reference to said filing should on or before September 27, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26292 Filed 9-23-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of August 6 Through August 13, 1982

During the week of August 6 through August 13, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

September 17, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Aug. 6, 1982 Through Aug. 13, 1982]

Date	Name and location of applicant	Case No.	Type of submission
August 6, 1982	Chevron, U.S.A. San Francisco, California	HER-0033	Request for Modification/Recision. If granted: The July 19, 1982 Decision and Order (Case No. BEE-0373) issued to Ashland Oil by the Office of Hearings and Appeals would be modified regarding the amount of relief granted to Ashland Oil, Inc.
August 9, 1982	National Conference of Black Mayors, Inc., Atlanta, Georgia.	HFA-0074	Appeal of an Information Request Denial. If granted: The Information Request Denial issued by the Inspector General would be rescinded, and the National Conference of Black Mayors would receive access to certain DOE information.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Aug. 6, 1982 Through Aug. 13, 1982]

Date	Name and location of applicant	Case No.	Type of submission
August 9, 1982	Shell Oil Company, Houston, Texas	HER-0034	Request for Modification/Rescission. If granted: The July 19, 1982 Decision and Order (Case No. BEE-0373) issued to Ashland Oil, Inc. by the Office of Hearings and Appeals would be modified regarding the relief granted to Ashland Oil, Inc.
August 11, 1982	Cities Service Company/Little America Refining Company, Tulsa, Oklahoma.	HEJ-0022	Protective Order. If granted: Cities Service Company would enter into a Protective Order with Little America Refining Company regarding the release of proprietary information to Cities Service Company in connection with Little America Refining Company's year end review (Case Nos. HYX-0014 and HYX-0006).
August 12, 1982	Oklahoma Refining Company, Oklahoma City, Oklahoma	HEE-0040	Exception to the Reporting Requirements. If granted: Oklahoma Refining Company would not be required to file certain DOE forms.

[FR Doc. 82-26279 Filed 9-23-82; 8:45 am]
BILLING CODE 6450-01-M

Cases Filed; Week of August 27 Through September 3, 1982

During the week of August 27 through September 3, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

September 20, 1982.

SUBMISSION OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—WEEK OF AUGUST 27 THROUGH SEPTEMBER 3, 1982

Date	Name and location of applicant	Case No.	Type of submission
August 30, 1982	ERA/Texaco, Inc., Dallas, Texas	HRZ-0069	Motion to Compel. If granted: An Order would be issued compelling Texaco, Inc. to make two of its employees available for depositions pursuant to the May 28, 1982 Decision and Order (Case No. HRD-0024) issued to the Office of Special Counsel.
August 31, 1982	Duncan, Allen & Mitchell, Washington, D.C	HER-0040	Request for Modification/Rescission. If granted: The August 6, 1982, Decision and Order (Case No. HFA-0073) issued to Duncan, Allen, and Mitchell by the Office of Hearings and Appeals regarding the release of certain DOE information would be rescinded.
August 31, 1982	Stanton T. Friedman, New Brunswick, Canada	HFA-0081	Appeal of an Information Request Denial. If granted: The August 4, 1982, Information Request Denial issued by the DOE Oak Ridge Operations Office would be rescinded, and Stanton T. Friedman would receive access to certain DOE information.
September 2, 1982.	Duke Heating Oil, Inc., Shamokin, Pennsylvania	HEE-0041	Exception to the Reporting Requirements. If granted: Duke Heating Oil, Inc. would not be required to file Form EIA-9A.

NOTICE OF OBJECTION RECEIVED

[Week of August 27 Through September 3, 1982]

Date	Name and location of applicant	Case No.
September 1, 1982	Phillips Petroleum Company, Bartlesville, OK	BEE-1080.

[FR Doc. 82-26277 Filed 9-23-82; 8:45 am]
BILLING CODE 6450-01-M

Objection to Proposed Remedial Order Filed; Week of August 16 Through August 20, 1982

During the week of August 16 through August 20, 1982, the notice of objection to proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

September 17, 1982.

Powerine Oil Company, Santa Fe Springs, California; HRO-0065, gasoline

On August 18, 1982, Powerine Oil Cmpany, 12354 Lakeland Road, Santa Fe Springs, CA

90070, filed a Notice of Objection to a Proposed Remedial Order which the DOE Pacific District Office of Economic Regulatory Administration (ERA) issued to the firm on July 22, 1981. In the PRO the ERA found that from August 1973 through September 1976, Powerine charged prices for gasoline and No. 2 oil which exceed the maximum allowable price levels established pursuant to 6 CFR 150.355 and 10 CFR 212.82(a) and 212.83(a)(1).

According to the PRO the Powerine violation resulted in $12,225,806 of overcharges.

[FR Doc. 82-26276 Filed 9-23-82; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of August 13 Through August 20, 1982

During the week of August 13 through August 20, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,
Director, Office of Hearings and Appeals.
September 17, 1982.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Aug. 13, 1982 through Aug. 20, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Aug. 16, 1982	Professor Gerald Holton, Boston, Massachusetts	HFA-0075	Appeal of an Information Request Denial. If granted: The July 9, 1982, Information Request Denial issued by the Department of Energy and the Department of the Army would be rescinded, and Professor Gerald Holton would receive access to the entire August 1945 transcript of conversations with German scientists.
Aug. 17, 1982	Ashland Oil, Inc., Washington, D.C.	HEZ-0066	Interlocutory Order. If granted: Ashland Oil, Inc. would receive an extension of time in which to make restitutionary payments as ordered in the July 16, 1982 Decision and Order (Case No. BEE-0373).
Aug. 18, 1982	Johnny Payton, Carson City, Nevada	HFA-0077	Appeal of an Information Request Denial. If granted: The July 19, 1982, Information Request Denial issued by the Department of the Army would be rescinded, and Johnny Payton would receive access to information concerning radiation exposure.
Aug. 18, 1982	Jones, Gungoll, Jackson, Collins & Dodd, Enid, Oklahoma	HFA-0076	Appeal of an Information Request Denial. If granted: The July 9, 1982, Information Request Denial issued by the Economic Regulatory Administration would be rescinded and Jones, Gungoll, Jackson, Collins & Dodd would receive access to certain DOE information.
Aug. 19, 1982	Kirkpatrick, Lockhart, Johnson & Hutchinson, Pittsburg, Pennsylvania.	HFA-0078	Appeal of an Information Request Denial. If granted: The July 21, 1982 Information Request Denial issued by the Office of Fuels Programs would be rescinded, and Kirkpatrick, Lockhart, Johnson & Hutchinson would receive access to information concerning the Tertiary Incentive Program.

NOTICES OF OBJECTION RECEIVED

[Week of Aug. 13 to Aug. 20 1982]

Date	Name and location of applicant	Case No.
Aug. 18, 1982	New York State Energy Office, Albany, New York	HEE-0039.
Aug. 18, 1982	Kentucky Refining & Oil Co., Betsy Lane, Kentucky	HYX-0013

REFUND APPLICATIONS RECEIVED

[Week of Aug. 14 to Aug. 21, 1982]

Date	Name of refund proceeding/name of refund applicant	Case No.
Aug. 17, 1982	Upham Oil & Gas/Odessa L.P.G. Transport Co., Inc	RF18-2.
Aug. 18, 1982	Triton Oil & Gas Corp./Cities Service Co	RF18-1.

[FR Doc. 82-26275 Filed 9-23-82; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of August 9 Through August 13, 1982

During the week of August 9 through August 13, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Petroleum Operations and Support Services, Inc., August 11, 1982, HFA-0071.

Petroleum Operations and Support Services, Inc. filed an Appeal from a denial by the Inspector General of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Inspector General's July 15, 1982 response had correctly determined that, at the time of the FOIA request, the requested document did not exist. Accordingly, the Appeal was denied.

Remedial Orders

Claypool Hill Exxon, August 12, 1982, BRO-1544.

Claypool Hill Exxon objected to a Revised Proposed Remedial Order which the Southeastern District of the Economic Regulatory Administration (ERA) issued to the firm on November 3, 1980. In the Revised Proposed Remedial Order, the ERA found that from August 1, 1979, to June 17, 1980, (the audit period), Claypool Hill Exxon sold motor gasoline at price levels which exceeded its maximum lawful selling price calculated pursuant to 10 CFR 212.93. The DOE concluded that the Revised Proposed Remedial Order should be issued in final form. The important issues discussed in the Decision and Order include (i) the specificity

of the Revised Proposed Remedial Order, (ii) the constitutionality of § 205.196(b) of the DOE regulations, (iii) whether this Remedial Order proceeding is part of a criminal investigation, and (iv) whether Claypool Hill Exxon had already refunded overcharges through a reduction in prices.

Barry Ivers d.b.a. Barry Ivers Chevron Service, August 11, 1982, BRO–1496.

Barry Ivers d.b.a. Barry Ivers Chevron Service objected to a Proposed Remedial Order (PRO) issued to it by the DOE Economic Regulatory Administration. In the PRO, the DOE found that Ivers had charged prices for motor gasoline which exceed its maximum lawful selling prices calculated pursuant to 10 CFR 212.93. After considering Ivers' objections, the DOE determined that the PRO should be issued as a final Remedial Order. The important issues considered in the Decision and Order included (i) the validity of the amendments to the retailer price rule adopted in July 1979; (ii) whether or not a retailer may add his costs of installing vapor recovery equipment to his maximum lawful selling price; (iii) and the petitioner's burden of going forward with the evidence once the DOE has established a *prima facie* case.

Southern Terminal & Transport Company, August 11, 1982, HRO–0042, HRH–0063, HRD–0063.

Mr. W. Guy McKenzie, Sr., former president of Southern Terminal & Transport Company (ST&T) filed a Statement of Objections, Motion for Discovery and Motion for Evidentiary Hearing in response to a Proposed Remedial Order which the DOE Southeast District Office of Enforcement issued to the firm on March 17, 1982. In his statement, Mr. McKenzie argued that he and ST&T were not liable for the PRO's allegations of overcharges by three resellers of fuel oil. In response, the Office of Enforcement sought to withdraw the PRO without prejudice. In reply, Mr. McKenzie requested that the PRO be dismissed with prejudice to future enforcement actions against ST&T and himself. The DOE concluded that fundamental defects in the PRO required that it be dismissed and that the related objection proceeding be terminated. Based upon statements made by the Office of Enforcement in support of its motion to withdraw the PRO, the DOE dismissed the PRO with prejudice with respect to allegations of overcharges by the Baker Service Company. In all other respects, the PRO was dismissed without prejudice.

St. Louis Fuel and Supply Company, August 12, 1982, DRO–0159.

St. Louis Fuel and Supply Company objected to a Proposed Remedial Order which Region VII of the ERA Office of Enforcement issued to the firm on November 15, 1978. In the Proposed Remedial Order, the Office of Enforcement found that St. Louis Fuel had charged prices in sales of No. 2 diesel fuel that were in excess of its maximum legal selling prices calculated in accordance with the Mandatory Petroleum Price Regulations. The findings in the PRO were largely based on the Office of Enforcement's determination that the firm should be audited on a single firm-wide inventory basis. St. Louis Fuel claimed that it was entitled to employ separate inventory accounting methods for its stocks of Mobil and Texaco fuels, which it sold from separate barges. After consideration of St. Louis Fuel's arguments, the DOE found that the Proposed Remedial Order should be issued as a final order, since the firm had failed adequately to show that it had consistently and historically used separate inventory accounting for purposes of pricing and cost management throughout the entire relevant period from May 15, 1973 to the end of its audit period, April 30, 1974.

Request for Exception

Mt. Airy Refining Company, August 13, 1982, DEE–1496.

Mt. Airy Refining Company filed an Application for Exception from the provisions of 10 CFR 212.94, as modified by Special Rule No. 2, 44 FR 93972 (1979), in which the firm sought relief from its crude oil pricing obligations under the Buy-Sell Entitlements Programs. In considering Mt. Airy's request, the DOE found that the firm had failed to establish that it would experience a serious hardship in the absence of exception relief. Accordingly, exception relief was denied.

Dismissals

The following submissions were dismissed without prejudice:

Company name	Case No.
Equipment, Inc	BRO–1483; HRD–0016.
Rettinger Bros. Oil Co.	HEE–0034.
L. O. Ward	BRO–1235; BRH–1235; BRD–1235.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management; Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

September 17, 1982.

[FR Doc. 82-26274 Filed 9-23-82; 8:45 am]
BILLING CODE 6450-01-M

Southeastern Power Administration

Order Confirming and Approving Power Rates on an Interim basis

AGENCY: Southeastern Power Administration (SEPA), DOE.

ACTION: Notice of approval on an interim basis of Kerr-Philpott projects' rates

SUMMARY: On September 2, 1982, the Assistant Secretary for Conservation and Renewable Energy confirmed and approved, on an interim basis, the extension of two existing Rate Schedules, KP–1–B and KP–2–B, and a third replacement Rate Schedule JHK–1–D, for Kerr-Philpott Projects' power. The rates were approved on an interim basis through March 31, 1983, and are subject to confirmation and approval by the Federal Energy Regulatory Commission on a final basis.

DATE: Approval of rates on an interim basis is effective on October 1, 1982.

FOR FURTHER INFORMATION CONTACT:

Leon Jourolmon, Jr., Chief, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635

John J. DiNucci, Office of Power Marketing Coordination, Department of Energy, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission by Order issued March 19, 1982, in Docket No. EF81–3041 confirmed and approved Wholesale Power Rate Schedules KP–1–B, KP–2–B, and JHK–1–C applicable to Kerr-Philpott Projects' power for a period ending September 30, 1982. Rate Schedules KP–1–B, and KP–2–B have been extended and JHK–1–D replaces JHK–1–C.

Issued in Washington, D.C., September 2, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

September 2, 1982.

In the Matter of Southeastern Power Administration—Kerr-Philpott Projects' Power Rates; Rate Order No. SEPA–14; Order Confirming and Approving Power Rates on an Interim Basis.

Pursuant to sections 302(a) and 301(b) of the Department of Energy Organization Act, Pub. L. 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southeastern Power Administration (SEPA) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–33, effective January 1, 1979, 43 FR 60636 (December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy

Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. Due to a Department of Energy organizational realignment, Delegation Order No. 0204–33 was amended, effective March 19, 1981, to transfer the authority of the Assistant Secretary for Resource Applications to the Assistant Secretary for Conservation and Renewable Energy. This rate order is issued pursuant to the delegation to the Assistant Secretary for Conservation and Renewable Energy.

Background

Power from the Kerr-Philpott Projects is presently sold under Wholesale Power Rate Schedules KP–1–B, KP–2–B, and JHK–1–C, confirmed and approved through September 30, 1982. SEPA recently issued a new Interim Power Policy for the Kerr-Philpott Projects and represents that it is presently negotiating on an expedited schedule with all affected parties to implement the policy prior to March 31, 1983. To allow time to complete nogotiations under the interim policy, and present revised rate schedules, SEPA has requested that I approve for six additional months extension of two of the currently effective rate schedules and an adjustment to the third rate schedule. Issuance of the interim policy became necessary when SEPA's originally proposed long-term policy ran into insurmountable problems requiring the issuance of a revised proposed long-term policy and the receipt of extensive additional public input.

Public Notice and Comment

Opportunities for public review and comments on the extension of two existing rate schedules and the proposed adjustment of the remaining rate schedule were announced by Notice published in the **Federal Register** on June 22, 1982, 47 FR 26908, and all affected customers were additionally notified by mail. Written comments were invited by the Notice through July 26, 1982. No comments were received.

Discussion

System Repayment

SEPA's Power Repayment Study, prepared in June 1982, for the Kerr-Philpott Projects, shows that the rate schedules proposed for the six-month extension will not produce revenues on a long-term basis sufficient to meet repayment criteria. However, because the shortfall is very moderate and of definite short duration, and because SEPA is engaged in a definite course of action to extricate itself from difficult and complex policy problems, the proposal to extend two of the existing rate schedules and to modify the third to pass on additional wheeling charges applicable to the Carolina Power & Light Company area appears, under the circumstances, to be reasonable and justifiable. Furthermore, SEPA's representation that it will develop and present rate schedules during the requested extension period which will produce revenue adequate to recover on a timely basis all project power costs appears realizable and will be accepted.

Rate Design

Because the rates are expected to be in effect for only a six-month period, Rate Schedules KP–1–B and KP–2–B are proposed for extension and the added wheeling charge from CP&L is being passed directly through to the affected customers. Rate Schedule JHK–1–D is identical to JHK–1–C currently in effect except that the monthly wheeling charge has been increased from $0.58 per kilowatt of contract demand to $0.72 to cover the additional cost.

Environmental Impact

SEPA has reviewed the possible environmental impacts of the rate adjustment under consideration and has concluded with Departmental concurrence that, because the increased rates would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, the proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Availability of Information

Information regarding these rates including studies, and other supporting materials are available for public review in the offices of Southeastern Power Administration, Samuel Elbert Building, Elberton, Georgia 30635, and in the Office of the Director of Power Marketing Coordination, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Submission to the Federal Energy Regulatory Commission

The rates herein confirmed and approved on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis for a period ending no later than March 31, 1983.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective October 1, 1982, attached Wholesale Power Rate Schedules KP–1–B, KP–2–B, and JHK–1–D. The rate schedules shall remain in effect on an interim basis through March 31, 1983, unless such period is extended or until the FERC confirms and approves them or substitute rate schedules on a final basis.

Issued at Washington, D.C., this 2nd day of September 1982.

Joseph J. Tribble,

Assistant Secretary of Conservation and Renewable Energy.

Wholesale Firm Power Rate Schedule KP–1–B

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of which is hereinafter called the Customer) within a 150 mile radius of the John H. Kerr Project, purchasing power generated at the John H. Kerr and Philpott Projects in wholesale quantities under appropriate contracts and served through the facilities of the Virginia Electric and Power Company (hereinafter called the Company).

Applicability

This rate schedule shall be applicable to firm power and accompanying energy generated at the John H. Kerr and Philpott Projects and to deficiency energy purchased by the Government from the Company, purchased in wholesale quantities under appropriate contracts for a specified number of kilowatts of capacity and shall be applied to each Customer's system consisting of one or more delivery points.

Character of Service

The electric capacity and energy supplied hereunder will be 3-phase alternating current at a nominal frequency of 60 Hertz. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$1.25 per kilowatt of contract demand.

Energy Charge

5.00 mills per kilowatt-hour.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy To Be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a total amount annually of 5,000 kilowatt-hours per kilowatt of contract demand prorated on an equal daily amount throughout the year. The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service

The Purchaser shall at its own expense provide, install and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Service Interruption

When energy delivery to the Customer's system is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced.

July 1, 1975.

Availability

This rate schedule shall be available to the Carolina Power and Light Company and the Virginia Electric and Power Company (either one of which is hereinafter called the Company).

Applicability

This rate schedule shall be applicable to electric capacity and energy generated at the John H. Kerr and Philpott Projects (hereinafter called the Projects) and sold under appropriate contracts between the Government and the Company.

Character of Service

Electric capacity and energy delivered to the Company will be 3-phase alternating current at a nominal frequency of 60 Hertz delivered at points of delivery specified by appropriate contract.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$1.25 per kilowatt per month for dependable capacity made available to the Company for their own use.

Energy Charge

An amount for dump energy equal to eighty percent (80%) of the calculated saving in the cost of fuel for the Company's operating generating units due to the generation avoided therein by the delivery of such dump energy; provided, that the procedures to determine saving in the cost of fuel will be agreed upon from time to time by the Government and the Company.

Billing Month

End-of-month meter readings shall be made at 12:00 midnight at the end of the calendar month where meters are located in continously attended power plants and substations.

Service Interruptions

When the dependable capacity available to the Company is reduced or interrupted for 1 hour or longer during on-peak hours and such reduction or interruption is not due to conditions on the Company's system, or in the case of Philpott, the Appalachian Power Company's or the Company's system, or agreed to outages, the dependable capacity to be paid for by the Company for that month shall be reduced for billing purposes for each on-peak hour (the nearest number of whole hours) that dependable capacity available to the Company is reduced or interrupted by an amount equal to one/(number of on-peak hours in the month) times such reduction in kilowatts of dependable capacity. In the event such reduction in dependable capacity to be paid for by the Company should be greater than the dependable capacity sold to the Company in any month, any such excess shall be applied to the dependable capacity sold to the Company in subsequent months. If such reduction or interruption results in a total delivery of energy in that month to or for the account of the Company's system by the Government amounting to less than the total declared available, the declaration of energy for that month shall be reduced for accounting purposes to the amount actually delivered. On-peak hours shall be the hours between 8:00 a.m. and 10:00 p.m. on all days except Sunday.

Power Factor

The Company shall take power and energy from the Government at such power factor as will best serve the Company's system from time to time; provided, that the Company shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities or unreasonably interferes with the delivery of power and energy by the Government to its other customers.

Termination of Contract

The Company shall pay the Government 5.00 mills per kilowatt-hour for energy remaining in the energy bank and for energy remaining as a net debit balance in the storage account at the termination of the contract between the Government and the Company.

July 1, 1975.

Wholesale Firm Power Rate Schedule JHK-1-D

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of which is hereinafter called the Customer) within a 165 mile radius of the existing interconnection point between the Virginia Electric and Power Company and the Carolina Power and Light Company (hereinafter called the Company) at the Virginia-North Carolina State line in the vicinity of John H. Kerr Project (hereinafter called the Project), purchasing power from the Project in wholesale quantities under appropriate contracts and served through the facilities of the Company.

Applicability

This rate schedule shall be applicable to Project firm power and accompanying energy, purchased in wholesale quantities under appropriate contracts for a specified number of kilowatts of capacity and shall be applied to each Customer's system consisting of one or more delivery points.

Character of Service

Electric capacity and energy supplied hereunder will be 3-phase alternating current at a nominal frequency of 60

Hertz delivered at existing or future delivery points on the Company's transmission and distribution system.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$1.25 per kilowatt of contract demand.

Energy Charge

5.00 mills per kilowatt-hour.

An additional rate for wheeling service provided under this rate schedule shall be:

Wheeling Charge

$0.72 per kilowatt of contract demand.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy To Be Furnished by the Government

(a) If the Customer does not own or operate generating facilities (other than mobile generating equipment used for emergency purposes), the Government will supply Project energy to such Customer each month, to the extent that such energy is available, based on the ratio of the Customer's energy requirements (determined by multiplying the Customer's total energy requirements at all points of delivery located within 165 miles of the existing interconnection point between the Company and VEPCO at the Virginia-North Carolina State line in the vicinity of the Project by the ratio of the Customer's contract demand to its maximum 30-minute integrated measured demand for that month at said points of delivery) to the sum of the individual energy requirements of all such Customers purchasing under this rate schedule determined on this same basis. (The maximum 30-minute integrated measured demand of the Customer for the month shall be determined by adding together the highest 30-minute integrated measured demand at each point of delivery located within 165 miles of the aforementioned interconnection point, exclusive of abnormal nonrecurring demands resulting from transfer of loads from one point of delivery to another where such transfers are previously approved by the Company.)

(b) If the Customer owns or operates generating facilities (other than mobile generating equipment used for emergency purposes), the Government will supply Project energy each month in an amount determined by multiplying the ratio of the Customer's contract demand to the dependable capacity made available to the Company's system from the Project by 100/106 of the total energy (exclusive of dump energy) declared and made available to the Company's system from the Project.

Energy Accounting

For the purposes of energy accounting an energy bank shall be maintained, and the Government shall keep the official record of such account. In any month in which the total Project energy (exclusive of dump energy) declared and made available by the Government to the Company exceeds the energy accounted for in such month as accompanying the capacity required to meet the contract demands of the Government to preference customers, increased by six percent (6%) to provide for losses in transmission, such remaining energy shall be credited to the energy bank. Energy stored in this energy bank shall be used in subsequent months to supply to the extent possible preference customer energy requirements not supplied by energy declared and made available from the Project during such months. Withdrawals of energy from the energy bank shall reduce the bank account and shall be accounted for as Proejct energy available to be transmitted by the Company to the preference customers for the account of the Government.

In those months when Project energy (including energy available from the energy bank) multiplied by 100/106 is equal to or more than the total energy requirements of preference customers of the Government, all such energy requirements shall be deemed to have been supplied from the Project and transmitted by the Company for the account of the Government. In those months when Project energy (including energy available from the energy bank) multiplied by 100/106 is less than the total energy requirements of preference customers of the Government, the quantity of energy which shall be deemed to have been transmitted by the Company for the account of the Government shall be 100/106 of the total Project and bank energy available for transmission. In such months each preference customer of the Government that owns or operates generating facilities (other than mobile generating equipment used for emergency purposes) shall receive a portion of the available energy that results from multiplying the ratio of each such Customer's contract demand to the dependable capacity made available to the Company's system by 100/106 of the total energy declared and made available to the Company's system (excluding energy available from the energy bank), and each of the other preference customers of the Government shall receive a proportionate part of the remaining available energy based on the ratio of such Customer's individual energy requirements (determined by multiplying each such Customer's total energy requirements at all points of delivery by the ratio of its contract demand to its maximum 30-minute integrated measured demand for the month at said points of delivery) to the sum of the individual energy requirements of all such preference customers determined on this same basis.

Billing Month

End-of-month meter readings for billing under this schedule shall be made on the last regular working day of each month or as near thereto as may be practicable.

Conditions of Service

(a) *Parallel Operation:* The Government may condition service to the Customer upon payment by the Customer to the Company of the cost of such facilities, including special meters, as are made necessary by the Customer's operation of any generating facilities in parallel with the Company's system and in such event will require the operation and maintenance of such facilities by the Customer in accordance with good operating practices.

(b) *Energy Scheduling:* If the Customer owns or operates generating facilities (other than mobile generating equipment used for emergency purposes), it shall schedule and receive its proportionate share of the minimum monthly declarations of energy as provided in the contract between the Government and the Company dated March 30, 1973, in quantities reasonably distributed over the period of declaration. In the event energy in addition to minimum is available at the Project, the Customer shall receive its proportionate share of any excess energy so declared during the period for which it is declared.

(c) *Service interruption:* When energy delivery to the Customer's system is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced.

(d) *Power Factor:* If the Customer owns or operates generating facilities (other than mobile generating equipment used for emergency purposes), the Customer will so utilize its generating units and power factor corrective equipment as to minimize its reactive requirements; provided, however, that unless otherwise specifically agreed, the Government will not be obligated to make available for delivery power and energy to the Customer at any time at a power factor below .85 lagging.

October 1, 1981.

[FR Doc. 82-26341 Filed 9-23-82; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-7-FRL 2213-3]

Approvals of PSD Permits to Meredith Corp. et al.

In the matter of Meredith Corp., Des Moines, Iowa; City of Beloit, Beloit, Kansas; Mallinckrodt, Inc., St. Louis, Missouri; Empire District Electric Co., La Russell, Missouri; ORTHO/Chevron Chemical Co., Fort Madison, Iowa.

Notice is hereby given that the Environmental Protection Agency (EPA) has issued construction permits under the Prevention of Significant Air Quality Deterioration (PSD) regulations (40 CFR 52.21) to: Meredith Corporation; City of Beloit; and Mallinckrodt, Inc. Notice is also given that EPA approved a change in permits previously issued to: Empire District Electric Company; and ORTHO/Chevron Chemical Company.

On April 15, 1982, the EPA formally approved, with conditions, a proposal by the Meredith Corporation of Des Moines, Iowa, to construct a rotogravure printing press at the company's Des Moines printing plant. The proposed project qualified as a major modification of an existing major stationary source due to a significant increase in emissions of volatile organic compounds (VOC).

On May 26, 1982, the EPA formally approved with conditions, a proposal by the City of Beloit to install one 6000 kilowatt dual fuel engine generator at the Beloit, Kansas, municipal generating plant. The engine addition qualified as a major modification of an existing major stationary source due to a significant increase in nitrogen oxides (NO_x), carbon monoxide (CO), and sulfur dioxide (SO_x) emissions.

On June 17, 1982, the EPA formally approved, with conditions, a porposal by Mallinckrodt, Inc., to install a 115.1 million Btu's per hour coal-fired boiler at its chemical plant in St. Louis, Missouri. The proposed project qualified as a major modification of an existing major stationary source due to a significant increase in emissions of SO_x and NO_x.

On March 25, 1982, the EPA formally approved revisions to a PSD permit condition that was issued to Empire District Electric Company of La Russell, Missouri, on January 7, 1981. The permit modifications corrected an erroneously specified reference condition and added an equivalent CO concentration (parts per million by volume) emission limit. The changes will have no substantial impact in emissions or on air quality.

On March 25, 1982, the EPA formally approved a requested change to a PSD permit issued to the ORTHO/Chevron Chemical Company of Fort Madison, Iowa, on August 15, 1979. The revision adjusted an emission limit upwards to be more representative of variations in emissions over time and also established an additional permit condition which required an increase in the height of a stack. The revisions will have no substantial impact in emissions or on air quality.

Under Section 307(b)(1) of the Clean Air Act, as amended in August 1977, judicial review of any of these determinations is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2), the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

A petition for review for any of the above must be filed with the appropriate court on or before November 23, 1982.

Copies of these permits and related information are available for public inspection at: U.S. Environmental Protection Agency, Air and Waste Management Division, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106.

Dated: September 8, 1982.

William W. Rice,

Acting Regional Administrator.

[FR Doc. 82-26329 Filed 9-23-82; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-59097D; TSH FRL 2214-3]

Benzoic Acid Ester; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-82-37) under section 5 of the Toxic Substances Control Act (TSCA) on August 4, 1982. Notice of receipt of the application was published in the Federal Register of August 13, 1982 (47 FR 35331). EPA has granted the exemption.

EFFECTIVE DATE: September 15, 1982.

FOR FURTHER INFORMATION CONTACT: Rose Allison, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M St., SW., Washington, D.C. 20460 (202-382-3738).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) any and applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the Federal Register. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On August 4, 1982, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-82-37. The submission is for benzoic acid ester. The submitter claimed its identity, the specific chemical identity, specific use, production volume, and industrial sites as confidential business information. The TME substance will be test marketed for a period not to exceed 4

months. During manufacture, six workers may be exposed for 2 hours/day for 2 days.

A notice published in the Federal Register of August 13, 1982 (47 FR 35331) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the new chemical substance submitted under TM–82–37, will not present any unreasonable risk of injury to health or the environment under the specific conditions set out in the application. The Agency did not identify any significant health or ecological concern for the TME substance. Bioconcentration could occur if significant quantities of the TME substance were released. However, the Agency does not expect this to occur.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) to the customers specified in the application, and the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

4. The production volume of the new substance may not exceed the quantity described in the test marketing exemption application.

5. The test marketing activity approved in this notice is limited to a 4-month period commencing on the date of signature of this notice by the Director of the Office of Toxic Substances.

6. The number of workers exposed to the new chemical should not exceed that specified in the application, and the exposure levels and duration of exposure should not exceed those specified in the application.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: September 15, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82-26321 Filed 9-23-82; 8:45 am]
BILLING CODE 6560-50-M

[OPTS–59101; TSH FRL 2214–6]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the Federal Register of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of three applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: October 12, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–59101]" and the specific TME number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E–401, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TMEs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107.

TME 82–48

Close of Review Period. October 19, 1982.

Manufacturer. Confidential.

Chemical. (G) Modified polyurethane.

Use/Production. (S) Binder for electron beam-curable coatings. Prod. range: 8 mos.-500 gals. max.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal and inhalation, a total of 20 workers, up to 4 hrs/da, up to 10 da/yr. Use: A total of 5 workers, up to 8 hrs/da.

Environmental Release/Disposal. No release. Disposal by Resource Conservation Recovery Act (RCRA)—licensed waste handler.

TME 82–49

Close of Review Period. October 29, 1982.

Manufacturer. Confidential.

Chemical. (G) Modified polyurethane.

Use/Production. (S) Binder for electron beam-curable coatings. Prod. range: 8 mos.-500 gals. max.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: Dermal and inhalation, a total of 14 workers, up to 4 hrs/da, up to 7 da/yr.

Environmental Release/Disposal. No release. Disposal by RCRA.

TME 82–50

Close of Review Period. October 29, 1982.

Manufacturer. Texaco Chemical Company.

Chemical. (G) Substituted polyethyleneamine polyisobutenyl succinimide.

Use/Production. (S) Lubricant additive. Prod. range: Confidential.

Toxicity Data. Acute oral: >10g/kg; Acute dermal: >8g/kg; Skin irritation: 1.5/8.0; Eye irritation: 0.67/110.

Exposure. Manufacture: Dermal and inhalation, a total of 1 worker, up to 1.5 hrs/da, up to 300 da/yr. Processing: Dermal and inhalation, 2 workers at each site, up to .2 hr/da, up to 52 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land at each site. Disposal by landfill and privately owned treatment works.

Dated: September 17, 1982.

Denise F. Swink,

Acting Director, Management Support Division.

[FR Doc. 82-26319 Filed 9-23-82; 8:45 am]
BILLING CODE 6560-50-M

[OPTS–51432; TSH FRL 2214–7]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the Federal Register of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of seventeen PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 82–658—December 8, 1982.

PMN 82–659, 82–660, 82–661, 82–662, 82–663, 82–664 and 82–665—December 11, 1982.

PMN 82–666, 82–667 and 82–668—December 12, 1982.

PMN 82–669 and 82–670—December 13, 1982.

PMN 82–671, 82–672, 82–673 and 82–674—December 14, 1982.

Written comments by:

PMN 82–658—November 8, 1982.

PMN 82–659, 82–660, 82–661, 82–662, 82–663, 82–664 and 82–665—November 11, 1982.

PMN 82–666, 82–667 and 82–668—November 12, 1982.

PMN 82–669 and 82–670—November 13, 1982.

PMN 82–671, 82–672, 82–673 and 82–674—November 14, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–51432]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, D.C. 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, D.C. 20460, (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107.

PMN 82–658

Importer. Confidential.

Chemical. (G) Substituted pyrazine salt.

Use/Import. (G) Minor component of a commercial formulation. Import range: 200–400 kg/yr.

Toxicity Data. Acute oral: 500 mg/kg; Acute dermal: >1,000 mg/kg; Skin irritation: Strong irritant; Eye irritation: Strong irritant; Skin sensitization: Low potential.

Exposure. Use: Dermal, a total of 500 workers, minimal exposure.

Environmental Release/Disposal. Minimal release to land. Disposal by incineration and approved landfill.

PMN 82–659

Manufacturer. Ashland Chemical Company.

Chemical. (G) Substituted succinic anhydride.

Use/Production. (S) Captive intermediate. Prod. range: 130,000–285,000 lbs/yr.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 82–660

Manufacturer. Ashland Chemical Company.

Chemical. (G) Polycarboxylic anhydride polymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 82–661

Manufacturer. Confidential.

Chemical. (G) Modified polyurethane.

Use/Production. (S) Binder for electron beam-curable coatings. Prod. range: 5,000–30,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: Dermal and inhalation, a total of 35 workers, up to 8 hrs/da.

Environmental Release/Disposal. No release. Disposal by approved landfill.

PMN 82–662

Manufacturer. Confidential.

Chemical. (G) Modified polyurethane.

Use/Production. (S) Binder for electron beam-curable coatings. Prod. range: 5,000–30,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal and inhalation, a total of 19 workers, up to 8 hrs/da.

Environmental Release/Disposal. No release. Disposal by approved landfill.

PMN 82–663

Manufacturer. Confidential.

Chemical. (G) Modified diol.

Use/Production. (S) Site-limited intermediate for production of modified polyurethanes. Prod. range: 500–3,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: Dermal and inhalation, a total of 24 workers, up to 3 hrs/da.

Environmental Release/Disposal. No release. Disposal by approved landfill.

PMN 82–664

Manufacturer. Confidential.

Chemical. (G) 4-hydroxy-N-substituted-3-nitrobenzenesulfonamide.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: Dermal, a total of 4 workers, up to 3 hrs/da, up 5 da/yr.

Environmental Release/Disposal. Confidential.

PMN 82–665

Manufacturer. Confidential.

Chemical. (G) 3-amino-4-hydroxy-N-substituted benzenesulfonamide.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: Dermal, a total of 4 workers, up to 3 hrs/da, up to 4 da/yr.

Environmental Release/Disposal. Confidential.

PMN 82–666

Manufacturer. Werner G. Smith, Inc.

Chemical. (S) Oleic, linoleic and palmitic acid ester of ethoxylated C_{15}–C_{18} alcohols.

Use/Production. (S) Non ionic emulsifier for metal working lubricants. Prod. range: 400,000–600,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 4 workers, up to 12 hrs/da, up to 72 da/yr.

Environmental Release/Disposal. No release. Disposal by publicly owned treatment works (POTW).

PMN 82–667

Importer. Naarden International.

Chemical. (G) Cyclic aldehyde.

Use/Import. (S) Used in fragrance compounds. Import range: Confidential.

Toxicity Data. Skin sensitization: Negative.

Exposure. Processing: inhalation, a total of 24 workers.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN 82–668

Importer. Sherex Chemical Company, Inc.

Chemical. (S) Poly(oxy-1,2-ethanediyl) alpha-C_{12}-C_{18} alkyloxy-omega methoxy.

Use/Import. (S) Industrial and commercial surfactant textile aid and cleaning agent. Import range: 200,000–600,000 lbs/yr.

Toxicity Data. Acute oral: 5.2 g/kg; Eye irritation: 11.33, 8.83, 11.83, 10.67 @24, 48, 72 hrs. and 7 days.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 82–669

Manufacturer. Ashland Chemical Company.

Chemical. (G) Unsaturated polyester with halogenated glycol.

Use/Production. (S) Reinforced thermosetting plastic for industrial articles. Prod. range: 40,000–500,000 lbs/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: An unknown number of workers, up to 2 hrs/da.

Environmental Release/Disposal. Disposal by incineration and landfill.

PMN 82–670

Manufacturer. Confidential.

Chemical. (G) Oxirane polymer of isocyanic acid ester.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Skin irritation: Slight irritant; Eye irritation: Minimal irritant.

Exposure. Manufacture and use: Dermal and inhalation.

Environmental Release/Disposal. Confidential. Disposal by certified waste disposal service.

PMN 82–671

Manufacturer. Confidential.

Chemical. (G) Vinyl chloride-ethylene copolymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 60 workers, up to 8 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. No release. Disposal by approved landfill.

PMN 82–672

Manufacturer. Texaco Chemical Company.

Chemical. (G) Substituted polyethyleneamine. polyisobutenylsuccinimide.

Use/Production. (S) Lubricant additive. Prod. range: Confidential.

Toxicity Data. Acute oral: >10 g/kg; Acute dermal: >8 g/kg; Skin irritation: 0.83/8.0; Eye irritation: 2.33/110.

Exposure. Manufacture and processing: Dermal and inhalation, a total of 17 workers, up to 1.5 hrs/da, up to 300 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by biological treatment system, and approved landfill.

PMN 82–673

Manufacturer. Texaco Chemicals Company.

Chemical. (G) Substituted polyethyleneamine polyisobutenylsuccinimide.

Use/Production. (S) Industrial, commercial and consumer lubricant additive. Prod. range: Confidential.

Toxicity Data. Acute oral: >g/kg; Acute dermal: >8 g/kg; Skin irritation: 1.50/8.0; Eye irritation: 0.67/110.

Exposure. Manufacture, processing, use and disposal: Dermal and inhalation, a total of 17 workers, up to 1.5 hrs/da, up to 300 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by biological treatment system, and approved landfill.

PMN 82–674

Importer. Interox America.

Chemical. (S) Hexa-aquomagnesium (II) bis(2-carboxylatomonoperoxy-benzoic acid).

Use/Production. (S) Bleaching agent. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >200 mg/kg; Skin irritation: Severe; Eye irritation: Positive; Inhalation: 1.72 mg/1; Skin sensitization: Sensitizer.

Exposure. Manufacture, processing, and use: Dermal, inhalation.

Environmental Release/Disposal. Release minimal. Disposal by incineration and approved landfill.

Dated: September 17, 1982.

Denise F. Swink,

Acting Director, Management Support Division.

[FR Doc. 82-26320 Filed 9-23-82; 8:45 am]

BILLING CODE 6560-50-M

[W-9-FRC 2213-2]

Groundwater System of the Upper Santa Cruz Basin and the Avra-Altar Basin of Pima, Pinal, and Santa Cruz Counties, Arizona; Request for EPA Determination Regarding Aquifer System.

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and public hearing.

SUMMARY: The Environmental Protection Agency announced the receipt of a petition requesting the designation of the groundwater system of the upper Santa Cruz and Avra-Altar Basins as a sole or principal source of drinking water in the November 18, 1981, Federal Register. EPA has prepared a Support Document summarizing the available information regarding the aquifers, and proposes to make the requested determination. The purpose of this notice is to announce that the Support Document is available for review, to request public comments, and to provide information regarding a public hearing on this matter.

DATES: The public hearing will be held on Thursday, December 9, 1982. A morning session will begin at 9:30 a.m. and an evening session will begin at 7:30 p.m. The public is also encouraged to sumit written comments which must be received before the close of business on December 17, 1982 at the EPA Regional Office in San Francisco.

ADDRESSES: Written comments should be sent to: Environmental Protection Agency, Region 9, Water Management Division, Attn: Arizona, Hawaii, Nevada Branch (W–4), 215 Fremont Street, San Francisco, CA 94105. The public hearing will be held at the Pima County Board of Supervisors Hearing Room, Courts Building, First Floor, 111 West Congress Street, Tucson.

FOR FURTHER INFORMATION CONTACT: George Wilson, Project Officer, at the above address, or telephone (415) 974–8345. Copies of the petition and aquifer study are available upon request.

SUPPLEMENTARY INFORMATION: Section 1424(e) of the Safe Drinking Water Act (Pub. L. 93–523) authorizes the Administrator of the Environmental Protection Agency (EPA) to determine that an area has an aquifer which is the sole or principal drinking water source for the area. On November 18, 1981, EPA announced in the **Federal Register** that the Southwest Environmental Service, Tucson, Arizona, had requested the Administrator to determine that the Upper Santa Cruz and Avra-Altar aquifers are the sole or principal drinking water source for south-central Arizona. The petitioned area includes the eastern portion of Pima County, Santa Cruz county, and a portion of southeast Pinal County. Major metropolitan centers in the area include Tucson and Nogales. Information is solicited about the petitioned area's hydrogeologic system including the surface boundary of its recharge area and about the number and kinds of small entities (businesses, governmental jurisdictions, and organizations) receiving Federal financial assistance in the area. This will assist EPA in evaluating the aquifer system and the potential impact of a designation on

small entities pursuant to Regulatory Flexibility Act requirements. Based on EPA experience with other sole source designations, some Federal financially assisted projects that potentially may be affected include highway construction, subdivision construction, and waste disposal sites. EPA has prepared a Support Document on the aquifers and proposes to grant the requested sole source aquifer designation based on the Support Document and public comments received in response to the November 18, 1981 notice. A public hearing will be held on December 9, 1982. Any interested persons unable to attend the public hearing are invited to send their written comments to Environmental Protection Agency, Region 9, Water Management Division, Attn: Arizona, Hawaii, Nevada Branch (W-4), 215 Fremont Street, San Francisco, CA 94105. If received on or before December 17, 1982, these comments will be included in the public record.

Persons who wish to present prepared statements at the public hearing are urged to given notice to George Wilson, Arizona/Hawaii/Nevada Branch (W-4), Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-8345, prior to the hearing. If possible, written copies of these statements should be submitted at the hearing for inclusion in the record.

Dated: August 26, 1982.

Sonia F. Crow,

Regional Administrator.

[FR Doc. 82-26326 Filed 9-23-82; 8:45 am]

BILLING CODE 6560-50-M

[A-9-FRL 2213-5]

Issuance of PSD Permit To Guardian Industries

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to Guardian Industries, Victorville, San Bernardino County, California, EPA project number SE 82-01.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on June 10, 1982 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct and operate a float glass manufacturing plant in Victorville, San Bernardino County, California.

This permit has been issued under EPA's PSD (40 CFR 52.21) regulations and is subject to certain conditions including allowable emissions of SO_2 at 33.5 lbs/hr, and NO_x at 315 lbs/hr.

Best Available Control Technology (BACT) requirements for SO_2 include the burning of natural gas rather than fuel oil, limiting the saltcake-to sand ratio to 10 lbs. Saltcake to 1,000 lbs. sand, and recycling all available cullet. BACT requirements for NO_x include proper furnace design and the recycling of all available cullet.

Air Quality Impact Modeling was required for NO_2 and SO_2; continuous monitoring is not required. The source is subject to New Source Performance Standards.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by November 23, 1982.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Kathryn Strickland (M-5), U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105; (415) 974-8201.

Dated: September 31, 1982.

David P. Howekamp,

Acting Director, Air Management Division, Region 9.

[FR Doc. 82-26324 Filed 9-23-82; 8:45 am]

BILLING CODE 6560-50-M

[A-9-FRL 2214-1]

Issuance of PSD Permit to Merck & Co., Kelco Division

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to Merck & Co., Kelco Division, San Diego County, California, EPA project number SD 81-01.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on February 10, 1982 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct a cogeneration facility utilizing gas turbines with duct burners and waste heat boilers in San Diego County, California.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations and is subject to certain conditions including an allowable emission rate for NO_x of 303 tons per year.

Best Available Control Technology (BACT) requirements include proper operation and design of the turbines using a water injection system. Air quality Impact Modeling was required for NO_x. Continuous monitoring is required; the source is not subject to New Source Performance Standards.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by November 23, 1982.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Kathryn Strickland (M-5), U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105; (415) 974-8201.

Dated: August 31, 1982.

David P. Howekamp,

Acting Director, Air Management Division, Region 9.

[FR Doc. 82-26323 Filed 9-23-82; 8:45 am]

BILLING CODE 6560-50-M

[A-9-FRC 2213-7]

Issuance of PSD Permit to Pacific Gas & Electric Company

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to Pacific Gas & Electric Company for their Geysers Unit 16 facility north of Healdsburg, Lake County, California.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on May 21, 1982 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct a 110 MW geothermal-electric generating station in Lake County, California, EPA project number NC 81-02.

This permit has been issued under EPA's PSD (40 CFR 52.21) regulations and is subject to certain conditions including an allowable emission rate of 7.5 lbs/hr for hydrogen sulfide.

Best Available Control Technology (BACT) requirements include Stretford process for noncondensible gases and a hydrogen perioxide/catalyst system to treat condensate, as necessary to meet emission limits. Pacific Gas & Electric Company will enter into agreement with their steam supplier regarding the necessary degree of control during turbine outages.

Air Quality Impact Modeling was not required; continuous monitoring is not required; the source is not subject to New Source Performance Standards.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by November 23, 1982.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Kathryn Strickland (M–5), U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105; (415) 974–8201.

Dated: September 31, 1982.

David P. Howekamp,

Acting Director, Air Management Division, Region 9.

[FR Doc. 82-26328 Filed 9-23-82; 8:45 am]

BILLING CODE 6560-50-M

[A–10–FRL 2213–8]

Issuance of PSD Permit to Union Oil Company of California

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to Union Oil Company of California, Kern County, California, EPA project number SJ 82–04.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on June 21, 1982 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct one 62.5 MMBtu/hr steam generator with control equipment retrofit on an existing generator, and contemporaneous relocation of two generators to their McKittrick 8 Lease, Kern County, California.

This permit has been issued under EPA's PSD (40 CFR 52.21) regulations and is subject to certain conditions including an allowable emission rate of 0.13 lb/MMBtu for NO_x.

Best Available Control Technology (BACT) requirements for NO_x include use of MHI Lo-NO_x Burners. Air Quality Impact Modeling was required for NO_x. Continuous monitoring is not required; the source is not subject to New Source Performance Standards.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by November 23, 1982.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Kathryn Strickland (M–5), U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105; (415) 974–8201.

Dated: August 31, 1982.

David P. Howekamp,

Acting Director, Air Management Division, Region 9.

[FR Doc. 82-26327 Filed 9-23-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS–59057B; TSH FRL 2214–4]

Copolymer of Acrylamide; Extension of Test Marketing Exemption Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the test marketing period for an additional 12 months for test marketing exemption (TME) TM–81–25, under the authority of section 5(h)(1) of the Toxic Substances Control Act (TSCA). The test marketing exemption was granted for a 1-year period to expire on August 28, 1982, and a Notice of Approval was published in the **Federal Register** of September 8, 1981 (46 FR 44884).

EFFECTIVE DATE: September 15, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–59057B; TM–81–25]," may be submitted on or before October 13, 1982 and should be addressed to: Document Control Officer (TS–793), Office of pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: June Thompson, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–201, 401 M St., SW., Washington, D.C. 20460; (202–382–3737).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA 90 days before manufacture or import begins. Section 5(h)(1) authorizes EPA, upon receipt of an application, to exempt any person from the notice requirements of section 5 and to permit them to manufacture a new chemical substance for test marketing purposes. EPA may impose restrictions on the test marketing activity, including a limit on the time period during which it may take place.

On August 28, 1981, EPA granted a test marketing exemption (TM–81–25) for a copolymer of acrylamide (generic description). The generic use of the test market substance is as a paper additive. The submitter claimed the company identity, specific chemical identity, specific use, and production volume to be confidential business information. Notice of Approval of the TME was published in the **Federal Register** of September 8, 1981 (46 FR 44884). Approval was based on an Agency finding that, under the conditions set out in the application, the test market substance did not present an unreasonable risk of injury to health or to the environment. Overall concerns for health and environmental effects were low. Minimal human exposure and environmental release is expected. Test marketing activity was limited to 1 year. On July 29, 1982, EPA received a request from the submitter to extend the test marketing period for an additional 12 months. The company states that due to adverse economic conditions, the market for the new chemical has developed more slowly than was anticipated and that further test marketing is desirable prior to commercialization consideration.

EPA has decided to extend the 1 year exemption period by an additional 12 months, provided that all other restrictions specified in the notice of approval of the test marketing exemption remain unchanged. These include record-keeping requirements, limit on production volume as originally specified, and worker protection measures. This decision is based on a finding that the additional time will not affect the Agency's original conclusion that test marketing of this substance will not present an unreasonable risk of injury to human health or the environment. The Agency reserves the right to rescind its decision to grant this extension should any new information come to its attention which casts significant doubt on this conclusion.

Dated: September 15, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82-26318 Filed 9-23-82; 8:45 am]

BILLING CODE 6560-50-M

[A–9–FRL 2213–7]

Issuance of PSD Permit to U.S. Borax & Chemical Corp.

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to U.S. Borax and Chemical Corporation in Boron, Kern County, California, EPA project number SE 81–04.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on April 27, 1982 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to install a combustion gas turbine with a heat recovery steam generator at their existing plant at Boron, CA, which will allow them to produce electricity and process steam to be used at the plant. Electricity not utilized by this facility would be exported for use in the public utility grid.

This permit has been issued under EPA's PSD (40 CFR 52.21) regulations and is subject to certain conditions including allowable emission rates as follows: nitrogen oxides at 245.0 lbs/hr, carbon monoxide at 172.0 lbs/hr, particulate matter at 13.0 lbs/hr, and sulfur dioxide at 147.9 lbs/hr.

Best Available Control Technology (BACT) requirements include water injection with a water-to-fuel ration of approximately 0.8 for NO_x and burning natural gas or No. 2 oil with a sulfur content of 0.4% or less for SO_2. Air Quality Impact Modeling was required for SO_2, Particulates, NO_x and CO. Continuous monitoring is required and the source is subject to New Source Performance Standards.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by November 23, 1982.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address request to: Kathryn Strickland (M-5), U.S. Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105; (415) 974-8201.

Dated: September 31, 1982.

David P. Howekamp,

Acting Director, Air Management Division, Region 9.

[FR Doc. 82-26325 Filed 9-23-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59097E; TSH FRL 2214-2]

Metal Compounds; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received applications for test marketing exemptions (TM-82-39, TM-82-40, TM-82-41, TM-82-42) under section 5 of the Toxic Substances Control Act (TSCA) on August 5, 1982. Notice of receipt of the applications were published in the **Federal Register** of August 13, 1982 (47 FR 35331). EPA has granted the exemptions.

EFFECTIVE DATE: September 15, 1982.

FOR FURTHER INFORMATION CONTACT: Rose Allison, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M St., SW., Washington, D.C. 20460; (202-382-3738).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On August 5, 1982, EPA received applications for exemptions from the requirements of sections 5(a) and 5(b) of TSCA to manufacture new chemical substances for test marketing purposes. The applications were assigned test marketing exemption numbers, TM-82-39, TM-82-40, TM-82-41, and TM-82-42. The submissions are for an organic complex of a halogenated metal; product of an alcohol and a halogenated metal; product of an alcohol, halogenated metal, and an organic complex of a halogenated metal; and an organic complex of a halogenated metal. The submitter claimed its identity, the specific chemical identities, specific uses, production volume, industrial sites, exposure, process information, and toxicological values of components as confidential business information. The TME substances will be test marketed for a period not to exceed 1 year.

A notice published in the **Federal Register** of August 13, 1982 (47 FR 35331) announced receipt of these applications and requested comment on the appropriateness of granting the exemptions. The Agency did not receive any comments concerning the applications.

EPA has established that the test marketing of the new chemical substances submitted under TM-82-39, TM-82-40, TM-82-41, and TM-82-42 will not present an unreasonable risk of injury to health or to the environment under the specific conditions set out in the applications. The Agency identified possible health and ecological concerns, but the Agency determined that lack of exposure and environmental release mitigates these concerns.

These test marketing exemptions are granted based on the facts and information obtained and reviewed, but are subject to all conditions set out in the exemption applications and, in particular, those enumerated below.

1. These exemptions are granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) to the customers and the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substances during the test marketing period must state that the use of the substances is restricted to that described to EPA in the test marketing exemption applications.

4. The production volume of the new substances may not exceed the quantity described in the test marketing exemption applications.

5. The test marketing activity approved in this notice is limited to a 1-year period commencing on the date of signature of this notice by the Director of the Office of Toxic Substances.

6. The number of workers exposed to the new chemicals should not exceed that specified in the applications, and the exposure levels and duration of exposure should not exceed those specified in the applications.

The Agency reserves the right to rescind its decision to grant these exemptions should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of these substances under the conditions specified in the applications will not

present an unreasonable risk of injury to human health or the environment.

Dated: September 15, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82-26022 Filed 9-23-82; 8:45 am]

BILLING CODE 6560-50-M

[A-7-FRL 2213-1]

Non-Applicability of PSD Regulations to Hawkeye Chemical Co. and Northern Natural Gas Co.

Notice is hereby given that the Environmental Protection Agency (EPA) has determined that construction proposals by the above companies are not subject to the review requirements of the Prevention of Significant Air Quality Deterioration (PSD) regulations (40 CFR 52.21).

On June 25, 1982, the EPA issued a non-applicability determination to the Hawkeye Chemical Company for a proposal to install a nitric acid distillation unit at an existing ammonia plant. Since the proposed project would not result in a significant increase in emissions from the plant, the PSD regulations did not apply.

On May 3, 1982, the EPA issued a non-applicability determination to the Northern Natural Gas Company for a proposal to install two 1000-horse-power natural gas reciprocating engines at their Stevens County No. 6 compressor station. Since the existing station was not a "major" stationary source and the modification itself could not be classified as "major," the PSD regulations did not apply.

Under Section 307(b)(1) of the Clean Air Act, as amended in August 1977, judicial review of any of the above actions is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2), the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

In the above cases, the appropriate courts are the Eighth Circuit Court of Appeals for Hawkeye Chemical Company of Clinton, Iowa, and the Tenth Circuit Court of Appeals for the Northern Natural Gas Company of Liberal, Kansas. A petition for review must be filed with the appropriate court on or before November 23, 1982.

Copies of these determinations and related information are available for public inspection at: U.S. Environmental Protection Agency, Air and Waste Management Division, Air Branch, 324 East 11th Street, Kansas City, Missouri 64106.

Dated: September 8, 1982.

William W. Rice,

Acting Regional Administrator.

[FR Doc. 82-26330 Filed 9-23-82; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2215-8]

Availability of Environmental Impact Statements Filed September 13 Through September 17, 1982, Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Informaiton 382-5075 or 382-5076.

Corps of Engineers
- EIS No. 820615, Draft, COE, NC, Prulean Farms Agricultural Development, 404 Permit, Dare County, Due: Nov. 8, 1982
- EIS No. 820606 Draft, COE, TN, Obion and Forked Deer Rivers Basin, Stream Renovation, Permits Due: Nov. 8, 1982

Department of Commerce
- EIS No. 820622, Draft, NOA, SEV, REG, American Lobster Fishery Management Plan, Approval Due: Nov. 8, 1982

Department of Interior
- EIS No. 820623, Draft, BLM, SEV, UT, WY, Frontier Pipeline Crude Oil/Condensate Pipeline Right-of-Way, Due: Nov. 10, 1982
- EIS No. 820613, Draft, BLM, SEV, WY, CO, Savery Project, Coal Lease Applications, Due: Nov. 15, 1982
- EIS No. 820616, Final, BLM, AZ, Lower Gila North Grazing Mgmt. Plan, Mohave/Yuma/Yavapai/Maricopa Cos, Due: Oct. 25 1982
- EIS No. 820619, Final, BLM, CA, Bodie-Coleville Planning Units, Grazing Management Plan, Mono County, Due: Oct. 29, 1982
- EIS No. 820620, Final, BLM, NV, Clark County Livestock Grazing Management Program, Clark County, Due: Oct. 25 1982
- EIS No. 820608, Final, BLM, OR, Brothers Area Grazing Mgmt. Plan, Crook, Harney, Lake & Deschutes Cos, Due: Oct. 25, 1982
- EIS No. 820614, Draft, FWS, VA, False Cape State Park/Back Bay Nat'l Wildlife Refuge, Land Exchange, Due: Nov. 12, 1982

Department of Transportation
- EIS No. 820610, Final, FHW, TX, U.S. 281 Bypass Construction, City of Alice, Jim Wells County, Due: Oct. 25, 1982
- EIS No. 820611, Final, CGD, NY, South Bronx-Oak Point Link Railroad Improvement, Permit, Bronx County, Due: Nov. 1, 1982

Environmental Protection Agency
- EIS No. 820609, Final, EPA, SEV, NY, NJ, New York Bight Cellar Dirt Ocean Disposal Site Designation, Due: Oct. 25, 1982

Nuclear Regulatory Commission
- EIS No. 820618, Final, NRC, MD, Nat'l Bureau of Standards Reactor, License Renewal, Montgomery County, Due: Oct. 25, 1982

Department of Agriculture
- EIS No. 820607, Draft, AFS, SEV, CO, KS, Pike & San Isabel National Forests Land & Resource Mgmt. Plan, Due: Dec. 15, 1982
- EIS No. 820594, Final, AFS, AZ, San Francisco River Wild and Scenic Study, Apache NF, Greenlee County, Due: Oct. 25, 1982
- EIS No. 820602, Final, AFS, AZ, Verde Wild and Scenic River Study, Yavapai and Gila Counties, Due: Oct. 25, 1982
- EIS No. 820595, Final, AFS, CO, Piedra Wild/Scenic River, San Juan NF, Hinsdale/Mineral/Archuleta Cos, Due: Oct. 25, 1982
- EIS No. 820596, Final, AFS, CO, Elk Wild and Scenic River Study, Routt National Forest, Routt County, Due: Oct. 25, 1982
- EIS No. 820603, Final, AFS, CO, Los Pinos River Wild and Scenic Study, San Juan NF, Hinsdale County, Due: Oct. 25, 1982
- EIS No. 820605, Final, AFS, CO, Spruce Creek Addition Wilderness Study Area, White R. NF, Pitkin Co., Due: Oct. 25, 1982
- EIS No. 820601, Final, AFS, MI, AuSable River Wild/Scenic Study, Huron NF, Alcona/Crawford/Oscoda Cos, Due: Oct. 25, 1982
- EIS No. 820621, Final, AFS, MO, Paddy Creek Wilderness Study, Mark Twain National Forest, Texas Co., Due: Oct. 25, 1982
- EIS No. 820600, Final, AFS, WY, Clarks Fork Wild and Scenic River Study, Shoshone NF, Park County, Due: Oct. 25, 1982
- EIS No. 820604, Final, AFS, AZ, Salt River Wild and Scenic Study, Tonto National Forest, Gila County, Due: Oct. 25, 1982
- EIS No. 820617, Final, REA, SEV, IL, MO, Pike County Generating Facility/Associated Transmission Lines, Due: Oct. 25, 1982

Veterans Administration
- EIS No. 820612, Final, VAD, CA, San Francisco VA Medical Center, Nursing Home Addition, San Francisco, Due: Oct. 25, 1982

Amended Notice:
- EIS No. 820580, Final, RLM, OR, Riley Area Grazing Management Program, Harney County, Due: Oct. 30, 1982 Published FR 9/17/82—Review extended.

Dated: September 21, 1982.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82-26367 Filed 9-23-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Performance Review Board; Appointment of New Members

As required by the Civil Service Reform Act of 1978 (Pub. L. 95-454), Chairman Mark S. Fowler has appointed effective October 4, 1982, the following

members of the Performance Review Board, to fill two vacancies.

Peter Pitsch, Chief, Office of Plans & Policy, NTE April 22, 1985
Henry Baumann, Deputy Chief, Broadcast Bureau, NTE April 22, 1984

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-26281 Filed 9-23-82; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Privacy Act of 1974, Amendments; Annual Publication of Systems of Records

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Notice of Amendments; Annual Publication of Systems of Records.

SUMMARY: The purpose of this document is to meet the requirements of the Privacy Act to (1) provide public notice of changes to FDIC's existing systems of records, and (2) publish an annual notice of the existence and character of FDIC's systems of records. The majority of the changes in the systems of records are housekeeping in nature and reflect changes in office designations and programs. The two significant changes are (1) the consolidation of four existing systems relating to employee financial information into one system, and (2) expanding the exemption to disclosure of investigatory material. Each system, as amended, is republished in its entirety.

DATE: Comments on the changes to the systems of records must be received on or before November 23, 1982. The amendments will be effective November 30, 1982, unless the FDIC publishes a superseding notice on or before that date.

ADDRESS: Comments may be mailed to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429, or hand delivered during work days to Room 6108, 550 17th Street, NW., Washington, D.C., between 9:00 a.m. and 5:00 p.m. Comments received may also be inspected during work days in Room 6108 between 9:00 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Margaret M. Olsen, Assistant Executive secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Room 6108, Washington, D.C. 20429, (202) 389-4446.

SUPPLEMENTARY INFORMATION: As stated above, two major changes are being made. First, information relating to employee financial records will be consolidated into one system (30-64-0012). Presently, this information is contained in four systems (30-64-0008, 30-64-0012, 30-64-0013, 30-64-0014) This consolidation does not expand the categories of individuals or records in the system, the routine uses of the system or access to the information. For the purpose of uniformity, the retention period will be three years or during employment. Presently one system (30-64-0013) has a two-year retention period.

Second, as provided for in the Privacy Act, FDIC regulation § 310.13 (12 CFR 310.13) provides that investigatory material compiled for law enforcement purposes is exempt from disclosure (unless a person would otherwise be denied an entitled to right, privilege or benefit). In its system description of the two exempt systems (30-64-0002, 30-64-0011), the FDIC further limited the use of this exemption to circumstances where disclosure would interfere with the investigation and preparation of law enforcement proceedings. In a few instances, a concern has been raised that disclosure of investigatory material could have an adverse impact on FDIC's law enforcement functions even if the investigation and preparation of the proceedings has ended. Consequently, this criterion would be deleted from the system description. As a matter of policy, the FDIC will continue to disclose otherwise exempt investigatory material unless disclosure will harm the interests of the FDIC.

The remaining changes are viewed as housekeeping in nature and include the following:

1. Disclosure to an arbitrator is added as a routine use to six systems (30-64-0001, 30-64-0007, 30-64-0009, 30-64-0012, 30-64-0015, 30-64-0018) to reflect the fact that an arbitration procedure was established by employee collective bargaining agreements.

2. The Board of Directors has delegated or may delegate authority to standing committees or other officials to take administrative action. System 30-64-0003 is revised to reflect this delegation in the system name and description of categories of individuals and records covered. The authority provision of this system is revised to reflect the addition of section 9 of the Federal Deposit Insurance act ("FDI Act") (12 U.S.C. 1819) and the deletion of section 2 of the FDI Act (12 U.S.C. 1812).

3. The Legal Division no longer maintains information on persons seeking FDIC's consent under section 19 of the FDI Act (30-64-0011). The categories of individuals covered and the authority provision are changed to reflect this.

4. Several changes are made to the system on personnel-related records (30-64-0015). The changes reflect that (1) records may be located in field offices; (2) FDIC-sponsored life and health insurance is available; (3) upward mobility is now coordinated by the Office of Personnel Management; (4) records on employee performance, assignments and experience may be in the system; and (5) computer discs are accessed only by authorized personnel.

5. Assistant examiner progress evaluation records are maintained for a two-year period and no longer three years (30-64-0009).

6. Records relating to employee grievances will be maintained by the Office of Personnel Management (30-64-0018).

7. The description of the categories of individuals covered by the system including change in bank control records (30-64-0012) is amended to include "persons." This is for clarification purposes and does not expand the category of covered individuals.

8. The title of the office administering to consumer complaints is change (30-64-0005).

9. Because of amendments to the Federal Reports Act, reference to that statute in the authority citation for records on municipal securities dealers is deleted (30-64-0016).

The FDIC is reprinting each system, as amended, in its entirety.

FDIC Systems of Records

30-64-0001

SYSTEM NAME:

Attorney—Legal Intern Applicant System—FDIC.

SYSTEM LOCATION:

Office of the General Counsel, FDIC, 550 17th Street, N.W., Washington, D.C. 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for the position of attorney or legal intern with the General Counsel's office of the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains correspondence from the applicants and individuals whose names were provided by the applicants as references, applicants' resumes, application forms, and, in some instances, comments of individuals who interviewed applicants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of information may be made: (1) In requesting information of individuals or concerns whose names were supplied by the applicant as references and/or past or present employers; (2) to the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, an arbitrator, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary to carry out the government-wide personnel management, investigatory, adjudicatory and appellate functions within their respective jurisdictions; (3) to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folders.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in lockable metal file cabinets.

RETENTION AND DISPOSAL:

Records of unsuccessful applicants are retained two years after their submission; records of successful applicants are retained four years after the successful applicant leaves the employ of the FDIC.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

NOTIFICATION PROCEDURE:

Executive Secretary, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

RECORD ACCESS PROCEDURES:

Same as "Notification" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification" above.

RECORD SOURCE CATEGORIES:

The information is obtained from the applicants, references supplied by the applicants, current and/or former employers of the applicants, and FDIC employees who interviewed the applicants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to § 310.13(b) of the FDIC's Rules and Regulations, investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for FDIC employment may be withheld from disclosure to the extent that disclosure of such material would reveal the identify of a source who furnished information to the FDIC under a promise of confidentiality.

30-54-0002

SYSTEM NAME:

Bank and Proposed Bank Irregularity Records System—FDIC.

SYSTEM LOCATION:

Operations Branch, Division of Bank Supervision, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Directors, officers and employees of FDIC-insured banks who have been involved in reported irregulaties. Directors and officers of noninsured banks and organizers of proposed banks which have applied for Federal deposit insurance and who have been involved in reported irregularities. Customers of FDIC-insured banks, and other individuals, who have been involved in reported irregularities at such banks. In addition, the system may contain information on individuals who have been the subject of background checks designed to uncover irregularities bearing on these individuals' fitness to be directors, officers, or employees of their banks or to control management. These individuals may include the following: directors, officers and employees of FDIC-insured banks; directors and officers of uninsured banks and organizers of proposed banks which have applied for Federal deposit insurances; and controlling shareholders of banks or persons endeavorting to gain control over FDIC-insured banks.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains interagency correspondence, intra-agency memoranda and reports of investigation. May contain newspaper clippings. May contain Federal or State criminal law enforcement agency investigatory and/or arrest and conviction reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 5, 6, 7, 9, 18 and 19 of the Federal Deposit Insurance Act (12 U.S.C. 1815, 1816, 1817, 1819, 1828, 1829).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) In the event that information contained in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting such violation or charges with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(2) In the event of litigation, the appropriate records may be presented to the appropriate court, magistrate, or administrative tribunal as evidence, or to counsel for the presentation of evidence and/or in the course of discovery.

(3) Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of the individual.

(4) Disclosure may be made to the bank affected by a discovered irregularity.

(5) Disclosure may be made to another Federal of State financial institution regulatory agency if the individual involved has notified that agency of his/her intent to acquire controlling interest in a bank or bank holding company, has filed an application for a bank charter or to form a bank holding company, or has or will become associated with an insured bank under that agency's supervision.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained on file cards and in file folders.

RETRIEVABILITY:

Indexed by name

SAFEGUARDS:

Index cards and file folders are maintained in lockable metal file cabinets.

RETENTION LAND DISPOSAL:

Destruction after five years. Destruction is by shredder.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Bank Supervision, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

NOTIFICATION PROCEDURE:

Executive Secretary, FDIC, 550 17th Street, NW., Washington, D.C. 20429. Inquirers must provide their full names and notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

Same as "Notification" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification" above.

RECORD SOURCE CATEGORIES:

FDIC-insured banks and applicants for Federal deposit insurance; Federal and State banking supervisory authorities; newspapers; Federal and State criminal law enforcement and prosecutorial agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to section 310.13(a) of the FDIC's rules and regulations, investigatory material compiled for law enforcement purposes, concerning irregularities involving (1) officers, directors, employees, customers, or other individuals at FDIC-insured banks or (2) directors and officers of noninsured banks or organizers of proposed banks which have applied for Federal deposit insurance, is exempted from the accounting provisions of section 310.10(d)(2) of the FDIC's rules and regulations and may be withheld from disclosure. Federal criminal law enforcement investigatory reports maintained as part of this system may be the subject of exemptions imposed by the originating agency pursuant to 5 U.S.C. 552a(j)(2).

30-64-0003

SYSTEM NAME:

Administrative Action System—FDIC.

SYSTEM LOCATION:

Office of the Executive Secretariat, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been subject to administrative actions by the FDIC Board of Directors or by standing committees or other officials under delegated authority.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains minutes of the meetings of the Board of Directors or standing committees, intra-agency memoranda, orders of the Board of Directors, standing committees, or other officials, and correspondence with the subject individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 8, 9 and 19 of the Federal Deposit Insurance Act (12 U.S.C. 1818, 1819, 1829); Sec. 506 of the Federal Records Act of 1950 (44 U.S.C. 3101).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Index cards and minute ledgers.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Index cards are stored in lockable metal file cabinets; minute ledgers are stored in vault.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS: EXECUTIVE SECRETARY, FDIC, 550 17TH STREET, NW., WASHINGTON, D.C. 20429.

NOTIFICATION PROCEDURE:

Same as "System manager" above.

RECORD ACCESS PROCEDURES:

Same as "System manager" above.

CONTESTING RECORD PROCEDURES:

Same as "System manager" above.

RECORD SOURCE CATEGORIES:

Intra-agency records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

30-64-0004

SYSTEM NAME:

Changes in Bank Control Ownership Records—FDIC.

SYSTEM LOCATION:

Operations Branch, Division of Bank Supervision, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been involved in the change of bank control or ownership in FDIC-insured banks and/or have obtained loans from insured banks, when such loans are secured by 25 percent or more of the outstanding stock of an insured bank.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the name of the individual seller or purchaser of shares of stock, the number of shares of stock involved and outstanding, the name of the bank whose control is changing, the purchase price of the stock, the names of beneficial owners if the shares are registered in another name, the total number of shares owned by the seller, purchaser, or beneficial owner, both before and after the transactions, the personal history, business backgound and experience, and pending legal or administrative proceedings involving each purchaser or beneficial owner, financial and income statements of purchasers or beneficial owners, the source of funds used in the purchase, the identity of any person who will solicit stockholders in connection with the purchase, ther terms and conditions of the acquisition, any plans to make a major change to the business or corporate structure of the acquired bank, copies of invitations, tenders, or advertisements used in making tender offers to stockholders, comments by State and Federal regulatory agencies, and changes of directors and chief executive officers within one year of the change in control and a statement of their past and current business and professional affiliations. In the case of loans, contains all of the information listed above and contains the name and location of the lending bank, the name and address of the borrower, the amount of the loan and the name of the bank issuing the stock securing the loan and the number of shares securing the loan.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) The name of the bank whose control is changing, the seller and purchaser, and the number of shares involved, may be distributed to periodicals for publication.

(2) In the event that the system of recordes indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or

implementing the statute, or rule, regulation or order issued pursuant thereto.

(3) In the event of civil, criminal, or administrative law enforcement proceedings, the relevant records may be disclosed to the appropriate court and/or counsel for purposes of discovery and the development of the proceedings.

(4) Disclosure may be made to the appropriate State banking authority and the appropriate Federal financial institutions regulatory agency as required by the Change in Bank Control Act of 1978 (section 7 (j)(11)) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(11)) as added by section 602 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (92 Stat. 3686).

(5) Disclosure may be made to a law enforcement or other government agency, whether Federal or State, for the purpose of identity verification.

(6) Disclosure may be made to a congressional office from the record of an individual as may be necessary to respond to an inquiry from the congressional office made at the request of the individual.

(7) The records may be disclosed to third parties for the purposes of verifying the accuracy and/or completeness of any of the information contained in these records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained in file folders and on index cards.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in lockable metal file cabinets.

RETENTION AND DISPOSAL:

Destruction after 10 years. Destruction is by shredder.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Bank Supervision, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

NOTIFICATION PROCEDURE:

Executive Secretary, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

RECORD ACCESS PROCEDURES:

Same as "Notification" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification" above.

RECORD SOURCE CATEGORIES:

The persons who are acquiring control of an FDIC-insured bank, the bank in which control is changing, the bank which makes a loan secured by 25 percent or more of the outstanding voting stock of an insured bank, and State and Federal regulatory agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

30-64-0005

SYSTEM NAME:

Consumer Complaint and Inquiry Records—FDIC.

SYSTEM LOCATION:

Division of Bank Supervision, Consumer Affairs Unit, FDIC, 550 17th Street, NW., Washington, D.C. 20429, and the appropriate FDIC regional office for complaints or inquiries originating within or involving a bank located in an FDIC region. (See Appendix A for the location of FDIC regional offices.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed complaints or inquiries concerning activities and practices of FDIC-insured banks.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the names of individuals and the nature of their complaints or inquiries. Contains correspondence and records of other communications between the FDIC and the individuals filing complaints and/or making inquiries. May contain correspondence between the FDIC and the bank in question and/or Federal or State supervisory authorities. May contain copies of supporting documents supplied by a complainant and intra-agency memoranda.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 202 of title II of the Federal Trade Improvement Act (15 U.S.C. 57a(f)); sec. 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Since records are compiled and used for investigation and resolution of consumer inquiries and complaints, disclosure may be necessary to the institution which is the subject of the complaint.

(2) Resolution of the complaint or inquiry may also require disclosure limited to the name of the inquirer and the nature of the inquiry to third party sources during the course of the investigation.

(3) Transmittal may be made to the Federal or State supervisory authority that has direct supervision over the financial institution that is the subject of the complaint.

(4) In the event that the system of records indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system may be referred to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting such violations or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(5) In the event of civil, criminal or administrative proceedings, the relevant records may be disclosed to the appropriate court and/or counsel for purposes of discovery and the development of the proceedings.

(6) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained in file folders and on computer discs and tapes.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in lockable metal file cabinets; computer tapes and discs are accessed only by authorized personnel.

RETENTION AND DISPOSAL:

Records are retained for two years after receipt unless updated by correspondence received during the previous year. Correspondence files are destroyed by shredder; computer tapes and discs are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Bank Supervision, FDIC, 550 17th Street, NW., Washington, D.C. 20429. The appropriate FDIC regional director for records maintained in FDIC regional offices. (See Appendix A for the location of FDIC regional offices.)

NOTIFICATION PROCEDURE:

Executive Secretary, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

RECORD ACCESS PROCEDURES:

Same as "Notification" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification" above.

RECORD SOURCE CATEGORIES:

The information is obtained from the individual on whom the record is maintained; institutions that are the subject of the complaint; the appropriate agency, whether Federal or State, with supervisory authority over the institution; congressional offices that may initiate the inquiry; and other third party sources mentioned in "Routine use" above.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

30-64-0006

SYSTEM NAME:

Employee Financial Disclosure Statements—FDIC.

SYSTEM LOCATION:

Office of the Executive Secretariat, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former officers and employees, including Special Corporation employees and employees occupying noncompetitive positions, required to file Public Financial Disclosure Reports pursuant to the Ehtics in Government Act of 1978 (92 Stat. 1836); current and former employees required to file Confidential Statements of Employment and Financial Interests pursuant to Executive Order 11222 and 12 CFR Part 336; current and former bank examiners and assistant bank examiners required to file disclosures of their personal indebtedness to insured banks or affiliates thereof pursuant to Part 336; and all current and former employees required to disclose their ownership of insured bank securities and other outside interests pursuant to Part 336.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in this system includes records relating to, or data directly furnished by, the subject individual, on the following four forms:

(1) Financial Disclosure Reports, Standard Form 278—Contains financial information such as income from salaries, honoraria, dividends, rent, interest, trusts and captial gains; interest in property held in a trade or business or for investment or the production of income; income from the sale, exchange or purchase of real property or property such as stocks and bonds; gifts; reimbusements; liabilities in excess of $10,000 owed to any creditors; copies of and documents relating to qualified blind trusts; information on positions held in private organizations and on agreements with private employers; and other documents that may be generated in the course of administering the Ethics in Government Act of 1978;

(2) Confidential Statements of Employment and Financial Interests—Contains statements of personal and family holdings, interests in business enterprises and real property, creditors, outside employment, and other documents that may be generated in the course of administering the provisions of Executive Order 11222 and Part 336;

(3) Confidential Disclosures of Indebtedness by Bank Examiners—Contains information on extensions of credit (loans and credit cards) by FDIC-insured banks and noninsured banks to examiners and assistant examiners; may also contain memoranda and correspondence relating to requests for approval of certain loans extended by insured banks to examiners and assistant examiners;

(4) Disclosures of Direct or Indirect Financial Interests in Bank or Other Interests—Contains information on whether or not employees own or control, directly or indirectly, any securities of an insured bank or its affiliates, and if so, lists specific securities; also contain information on other outside interests which may impact on an employee's offiical duties; may also contain memoranda and correspondence relating to requests for approval or retention of bank securities by employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title II of the Ethics in Government Act of 1978 (92 Stat. 1836); section 402 of Executive Order 11222 dated May 8, 1965; section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Financial Disclosure Reports may be disclosed upon written request to any requesting person pursuant to section 205 of the Ethics in Government Act of 1978 (92 Stat. 1836), as amended, or as otherwise authorized by law.

(2) Confidential Statements of Employment and Financial Interests, Confidential Disclosures of Indebtedness by Bank Examiners, and Disclosures of Direct or Indirect Financial Interests in Bank or Other Interests may be disclosed where the Director of the Office of Government Ethics or the Chairman of the Board of Directors of the FDIC determines that good cause has been shown for such use (a) to the appropriate Federal, State or local agency responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation or order where FDIC becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (b) to provide information to a Congressional office from the record of an individual in response to an inquiry from that Congressional office made at the request of that individual; (c) to another Federal agency or to a court where the government is party to a judicial proceeding before the court; (d) to any source where necessary to obtain information relevant to a conflict-of-interest investigation or determination; (e) in response to a request for discovery or for an appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained in file folders and on index cards.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in lockable metal file cabinets in lockable office to which only authorized personnel have access.

RETENTION AND DISPOSAL:

(1) Financial Disclosure Reports—Retained for six years and then destroyed by shredding.

(2) Confidential Statements of Employment and Financial Interests—Retained two years after separation of employee or two years after employee leaves the position for which the Confidential Statement was required and then destroyed by shredding.

(3) Confidential Disclosures of Indebtedness by Bank Examiners—(a) for examiners required to file Confidential Statements retained two years after separation of employee or two years after employee leaves the position for which the Confidential Statement was required; (b) for assistant examiners, destroyed when Corporation employment is terminated. Destruction is by shredding.

(4) Disclosures of Direct or Indirect Financial Interest in Bank or Other

Interest—(a) for employees required to file Financial Disclosure Reports, retained for six years and then destroyed; (b) for employees required to file Confidential Statement, retained two years after separation of employee or two years after employee leaves the position for which the statement was required; (c) for all other employees, destroyed when Corporation employment is terminated. In all cases, destruction is by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Ethics Counselor, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

NOTIFICATION PROCEDURE:

Executive Secretary, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

RECORD ACCESS PROCEDURES:

Same as "Notification" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification" above.

RECORD SOURCE CATEGORIES:

The information is obtained from the individual on whom the record is maintained or a person designated by him/her and from the Corporation's Ethics Counselor and support personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

30-64-0007

SYSTEM NAME:

Employee Education System—FDIC.

SYSTEM LOCATION:

Employee Development Branch, Office or Personnel Management, FDIC, 550 17th Street, NW., Washington, D.C. 20429; Division of Bank Supervision Training Center, FDIC, 1701 N. Fort Myer Drive, Arlington, Virginia 22209, for all FDIC bank examiners; the appropriate FDIC regional office for employees assigned to an FDIC region. (See Appendix A for the location of FDIC regional offices.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All present and former FDIC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the educational history of employees prior to their employment with the FDIC, and eductional progression of employees while employed by the FDIC. Information includes employee's schools of attendance, courses completed or enrolled in, dates of attendance, tuition fees and expenses, and may include per diem and travel expenses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); Exec. Order No. 9397, "Numbering System for Federal Accounts Relating to Individual Persons" (Nov. 22, 1943).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made: (1) To the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, an arbitrator, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary to carry out the government-wide personnel management, investigatory, adjudicatory and appellate functions within their respective jurisdictions; (2) to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual; (3) to educational institutions for purposes of enrollment and verification of employee attendance and performance; and (4) to vendors, carriers, or other appropriate third parties, by the FDIC Office of Corporate Audits, for the purpose of verification, confirmation, or substantiation during the performance of audits or investigations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folders and computer discs.

RETRIEVABILITY:

File folders—alphabetically by name; computer discs—social security number.

SAFEGUARDS:

File folders are stored in lockable metal file cabinets; computer discs are accessed only by authorized personnel.

RETENTION AND DISPOSAL:

Permanent retention.

SYSTEMS MANAGER(S) AND ADDRESS:

Director, Office of Personnel Management, FDIC, 550 17th Street, NW., Washington, D.C. 20429; Director, Division of Bank Supervision, FDIC, 550 17th Street, NW., Washington, D.C. 20429, for records maintained at Division of Bank Supervision Training Center; the appropriate FDIC regional director for records maintained in FDIC regional offices. (See Appendix A for the location of FDIC regional offices.)

NOTIFICATION PROCEDURE:

Executive Secretary, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

RECORD ACCESS PROCEDURES:

Same as "Notification" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification" above.

RECORD SOURCE CATEGORIES:

The information is obtained from the employee on whom the record is maintained and the training institution in which the employee is enrolled.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

30-64-0008

[Reserved]

30-64-0009

SYSTEM NAME:

Examiner, Training and Education Records—FDIC.

SYSTEM LOCATION:

Division of Bank Supervision Training Center, FDIC, 1701 N. Fort Myer Drive, Arlington, Virginia 22209.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

FDIC assistant examiners who have been candidates for determination of progress to become a commissioned bank examiner (progress evaluation candidates). FDIC examiners who attend, or have attended, graduate schools of banking (graduate school of banking students).

CATEGORIES OF RECORDS IN THE SYSTEM:

Progress Evaluation Candidates—contains a statement of the candidate's education, home address, date and place of birth, and experience, a report of evaluation of a progress evaluation panel, the consolidated findings of each progress evaluation panel member, the candidate's case studies, basic work papers, and responses, and, in the case of an unsuccessful candidate, the candidate's complete work papers and reponses, as well as the individual findings of each progress evaluation panel member.

Graduate school of banking students—contains the student's name, enrollment data, record of attendance, record of completion or graduation and general correspondence between the FDIC and the student's school of enrollment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to: (1) The United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, an arbitrator, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary to carry out the government-wide personnel management, investigatory, adjudicatory and appellate functions within their respective jurisdictions; (2) to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual; (3) to educational institutions for purposes of enrollment and verification of employee attendance and performance; and (4) to vendors, carriers, or other appropriate third parties, by the FDIC Office of Corporate Audits, for the purpose of verification, confirmation, or substantiation during the performance of audits or investigations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in lockable metal file cabinets.

RETENTION AND DISPOSAL:

Progress evaluation candidates' records maintained for two years for the successful candidate and then destroyed by shredder, records of unsuccessful candidate retained until the candidate's successful completion or until the candidate leaves the FDIC's employ. Graduate school of banking student records are permanently retained.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Bank Supervision, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

NOTIFICATION PROCEDURE:

Executive Secretary, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

RECORD ACCESS PROCEDURES:

Same as "Notification" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification" above.

RECORD SOURCE CATEGORIES:

Progress evaluation candidates—the candidate, the candidate's personnel record, and members of the candidate's progress evaluation panel. Graduate school of banking students—the student, the student's school, and the student's personnel record.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to § 310.13(c) of the FDIC's rules and regulations, testing material used solely to assess individual qualifications for appointment or promotion, the disclosure of which would compromise the objectivity or fairness of the testing, evaluation or examination process, may be withheld from disclosure.

30-64-0010

[Reserved]

30-64-0011

SYSTEM NAME:

Legal Compliance and Enforcement Records—FDIC.

SYSTEM LOCATION:

Office of the General Counsel, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Directors, trustees, officers, or other persons participating in the conduct of the affairs of an FDIC-insured bank which is not a member of the Federal Reserve System ("an FDIC-insured nonmember bank") who have been the subject of an indictment, information or complaint for a felony involving dishonesty or breach of trust. Directors, trustees, officers or other persons participating in the conduct of the affairs of an FDIC-insured nonmember bank who are suspected of committing violations of law, rule or regulation, or of a final cease-and-desist order, or of committing acts, omissions or practices constituting a breach of fiduciary duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the indictment, information, or complaint filed against the subject individual, and any court order or resolution of such indictment, information, or complaint. Contains newspaper clippings on subject individuals. Contains affidavits of the subject individual and bank employees. Contains intra-agency memoranda and general correspondence between the FDIC and the subject individual and/or his/her attorney. Contains final administrative orders issued by the FDIC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) In the event that the system of records indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system may be referred to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issed pursuant thereto.

(2) In the event of civil, criminal or administrative proceedings, the relevant records may be disclosed to the appropriate court, magistrate, or administrative tribunal as evidence, or to counsel for the presentation of evidence and/or in the course of discovery.

(3) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained in file folders and on computer discs.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in lockable metal file cabinets in a secured room; computer discs are accessed only by authorized personnel.

RETENTION AND DISPOSAL:

Permanent retention.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

NOTIFICATION PROCEDURE:

Executive Secretary, FDIC, 550 17th Street, NW., Washington, D.C. 20429. Inquirers must provide their full name, the name of the bank with which they

were associated, and a notarized statement attesting to their identify.

RECORD ACCESS PROCEDURES:

Same as "Notification" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification" above.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual on whom the record is maintained, the employer of the individual, newspaper articles, and individuals interviewed during the investigation. Federal and State prosecuting authorities and Federal and State financial institution supervisory authorities are also sources of information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to § 310.13(a) of the FDIC's Rules and Regulations, investigatory material compiled as a part of this system for law enforcement purposes is exempted from the accounting provisions of § 310.10(d)(2) of the FDIC's Rules and Regulations and may be withheld from disclosure.

30-64-0012

SYSTEM NAME:

Financial Information System—FDIC.

SYSTEM LOCATION:

Fiscal and Facilities Management Branch, Division of Accounting and Corporate Services, FDIC, 550 17th Street, NW., Washington, D.C. 20429, and the appropriate FDIC regional offices. (See Appendix A for the location of FDIC regional offices.) Information pertaining to State or Federal tax liens bankruptices, attachments, and wage garnishments also is maintained in the Legal Division, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: ALL CURRENT AND FORMER FDIC EMPLOYEES, AND ALL INDIVIDUALS PROVIDING GOODS AND/OR SERVICES TO THE FDIC UNDER CONTRACTUAL ARRANGEMENTS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Consists of the following information on all FDIC employees: Mailing addresses and home addresses; rate and amount of pay; hours worked; leave accrued and leave balances; life insurance, health insurance, and retirement deductions; tax exemptions; and payroll deduction authorizations (including, where applicable, deductions for savings bonds, States or Federal tax liens, bankruptcies, attachments and wage garnishments which have been legally executed by the appropriate taxing or judicial authority). Record relating to employee claims for reimbursement of official travel expenses, including travel authorizations, advances, and vouchers showing amounts claimed, exceptions taken as a result of audit, advance balances applied, and amounts paid. Other records maintained on employees, where applicable, include records relating to claims for reimbursement for relocation expense including authorization, advances, vouchers showing amounts claimed and amounts paid; records pertaining to reimbursement for educational expense or professional membership dues; records relating to incentive award payments; and records relating to advances or other funds owed to the Corporation. Records on individuals who are not employees of the FDIC consist of all documents relating to the purchase of goods and/or services from those individuals including contractual documents and amounts paid.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 9 and 10(a) of the Federal Deposit Insurance Act (12 U.S.C. 1819 and 1820(a)); Exec. Order No. 9397, "Numbering System for Federal Accounts Relatiing to Individual Persons" (November 22, 1943); Travel Expense Act of 1949 (5 U.S.C. 5701–5709).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Records are periodically made available for inspection to auditors employed by the General Accounting Office.

(2) In the event that information contained in this system of records indicates a violation or potential violation of the law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may referred, as a routine use, to the appropriate agency, whether Federal or State, charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(3) In the event of litigation, the records may be presented to the appropriate court, magistrate, or administrative tribunal as evidence or to counsel for the presentation of evidence and/or in the course of discovery.

(4) Disclosure may be made to the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, an arbitrator, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary to carry out the government-wide personnel management, investigatory, adjudicatory and appellate functions within their respective jurisdictions.

(5) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

(6) Disclosure may be made to the United States Treasury Department for preparations of savings bonds.

(7) Information developed form these records in routinely provided to State, City and Federal income tax authorities, including, at the Federal level, the Internal Revenue Service and the Social Security Administration, and to other recipients, as authorized by the employee, including the United States Treasury Department, savings institutions, insurance carriers, and charity funds.

(8) Disclosure may be made by the FDIC Office of Corporate Audits to vendors, carriers, or other appropriate third parties for the purpose of verification, confirmation, or substantiation during the performance of audits or investigations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

File folders, record cards, and computer discs.

RETRIEVABILITY:

File folders and record cards are indexed by name; computer discs are indexed by social security number or specialized identifying number.

SAFEGUARDS:

File folders and record cards are stored in lockable metal file cabinets; computer discs are accessed only by authorized personnel.

RETENTION AND DISPOSAL:

Financial payment, payroll deduction, and official travel expense and reimbursement records are retained by the FDIC for three years and then transferred to the Federal Records center or destroyed. Year-end trial balances (the individual earnings record) are retained during employment and then transferred to the Federal Records Center and maintained indefinitely. Deduction authorizations and documents used to develop payroll and employee financial records are

retained for the period of use and up to three additional years, after which they are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Accounting and Corporate Services, FDIC, 550 17th Street, NW., Washington, D.C. 20429. The appropriate FDIC regional director for records maintained in FDIC regional offices. (See Appendix A for the location of FDIC Regional Offices.) General Counsel, FDIC, 550 17th Street, NW., Washington, D.C. 20429, for records maintained by the Legal Division.

NOTIFICATION PROCEDURE:

Executive Secretary, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

RECORDS ACCESS PROCEDURES:

Same as "Notification" above.

CONTESTING RECORDS PROCEDURES:

Same as "Notification" above.

RECORD SOURCE CATEGORIES:

The information is obtained from the employee or person on whom the record is maintained. Where an employee is subject to a tax lien, a bankruptcy, an attachment, or a wage garnishment, information also is obtained from the appropriate taxing or judicial entity.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

30-64-0013

[Reserved]

30-64-0014

[Reserved]

30-64-0015

SYSTEM NAME:

Unofficial Personnel System—FDIC.

SYSTEM LOCATION:

Office of Personnel Management, FDIC, 550 17th Street, NW., Washington, D.C. 20429. In addition, records are maintained at the division or office levels in the FDIC Washington office, at the FDIC regional offices, and may be maintained at FDIC field offices. (See Appendix A for the location of FDIC regional offices; a list of the field offices may be obtained from the Director, Division of Bank Supervision, FDIC, 550 17th Street, NW., Washington, D.C. 20429.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former FDIC employees and applicants to and graduates of the FDIC upward mobility program.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of personnel-related records that are maintained in addition to those kept in the official personnel folder pursuant to the Federal Personnel Manual Suppl. 296-31, table 8, sec. 1. (The United States Office of Personnel Management has Privacy Act responsibility for those systems of records which are government-wide in nature and it requires agencies to maintain them. Included among these is the Official Personnel Folder. While OPM has designated the FDIC as being responsibile for disclosing to its current employees the contents of their Official Personnel Folder, notice of the existence and character of this system is published by the United States Office of Personnel Management as "General Personnel Records," OPM/GOVT-1.) This system contains records of various types. They are: (1) Records maintained in the Washington, regional, and field offices which may contain information on individuals relating to: Birth date; social security number; past and present salaries, grades, and position titles; home address and telephone number, emergency contacts, addresses and telephone numbers; employment and education experience, original applications, resumes, and letters of reference; statement of bank loans and stock ownership; record of equipment and material issued to the individual; record of leave and time-and-attendance; performance appraisals; written notes or memoranda on employee performance; counseling; employee assignments; lists of banks examined; records relating to on-the-job training; data documenting reasons for personnel actions, decisions, or recommendations made about an employee; disciplinary and adverse action backup material; claims for benefits under the Civil Service Retirement System; Federal Employees' Group Life Insurance; FDIC Employees' Group Life Insurance; documents related to on-the-job injuries; (2) parking permit records containing information (name, address, and type of automobile) about FDIC employees who have applied for (or are members of the applicants' carpool) a parking permit in the FDIC's Washington office garage; (3) FDIC personnel awards including information supporting the employees nomination for one of these awards; (4) dental insurance records including information on earnings, number and name of dependents, sex, birth date, home address, and social security number; (5) employee locator records containing the employee's name, social security number, division or office assignment, office telephone number and office room number; and (6) upward mobility program files coordinated by the FDIC Office of Personnel Management.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); sec. 506 of the Federal Records Act of 1950 (44 U.S.C. 3101). For category (6), sec. 717 of the Equal Employment Opportunity Act (42 U.S.C. 2000e-16).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

With regard to category (1) above, the records are primarily maintained to be used by the employee's supervisor for preparation of general personnel action; however, in the case of categories (1), (2), (3) and (6), disclosures may be made, where relevant:

(a) To financial and credit institutions for loan and credit reference purposes (solely to verify the employee's employment with the FDIC, date of employment, and pay grade);

(b) [Reserved];

(c) To the United States Office of Personnel Management, the Merit Systems Protection Board, the Office of Special Counsel, the Federal Labor Relations Authority, an arbitrator, and the Equal Employment Opportunity Commission, to the extent disclosure is necessary to carry out the government-wide personnel management, investigatory, adjudicatory and appellate functions within their respective jurisdiction;

(d) In the event of litigation, to the appropriate court, magistrate, or administrative tribunal as evidence, or to counsel for the presentation of evidence and/or in the course of discovery;

(e) To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual;

(f) To State authorities regarding reasons for a former employee's separation from FDIC service, where the inquiry is made pursuant to the former employee's application for unemployment compensation;

(g) To Federal and State regulatory agencies, for reasons related to FDIC business, as to the temporary work location of FDIC bank examiners.

Disclosure may be made, in the case of category (4) above, to the dental insurance carrier in support of a claim for dental insurance benefits. In category (5) above, except for the employee's Social Security Number, all information in the record is available to

the public. In category (6) above, disclosure may be made to appropriate FDIC managers, supervisors and Office of Personnel Management individuals who are involved in the assessment, evaluation and selection of an applicant for upward mobility training and/or in the monitoring and evaluation of the upward mobility participant during the training period. In categories (1), (2), and (4) above, disclosure may be made by the FDIC Office of Corporate Audits to vendors, carriers, or other appropriate third parties for the purpose of verification, confirmation, or substantiation during the performance of audits or investigations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on index cards and in file folders. Category (5) is maintained on computer discs, category (6) in file folders.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in lockable metal file cabinets; computer discs are accessed only by authorized personnel.

RETENTION AND DISPOSAL:

Records are destroyed when no longer relevant to the purpose for which they were compiled and maintained. Generally, records are destroyed when the employee no longer works in the division or office which compiled and maintained the information. Parking permit records are kept for one year and then destroyed. Records of unsuccessful upward mobility candidates are retained for four years after submission; records of successful applicants are maintained until two years after leaving the employ of the FDIC.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel Management, FDIC, 550 17th Street, NW., Washington, D.C. 20429, for Corporation level records. For FDIC division or office levels, the head of the approprite division or office; for FDIC regional offices, the regional director; for FDIC field offices, the field office supervisor. (See Appendix A for the location of FDIC regional offices; a list of the field offices may be obtained from the Director, Division of Bank Supervision, FDIC, 550 17th Street, NW., Washington, D.C. 20429.) For Parking Permit Records and Employee Locator Records, the Director, Division of Accounting and Corporate Services, FDIC, 550 17th Street, NW., Washington, D.C. 20429. For the upward mobility program, Director, Office of Personnel Management, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

NOTIFICATION PROCEDURE:

Executive Secretary, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

RECORD ACCESS PROCEDURES:

Same as "Notification" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification" above.

RECORD SOURCE CATEGORIES:

Individuals to whom the records pertain; their immediate supervisors or persons at other supervisory levels; other fellow employees. For upward mobility, record source categories would include educational institutions which the applicant has attended.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

30-64-0016

SYSTEM NAME:

Municipal Securities Principals and Representatives System—FDIC.

SYSTEM LOCATION:

Operations Branch, Division of Bank Supervision, FDIC, 550 17th Street, NW., Washington, D.C. 20429. Records stored in computerized files are maintained off premises on a contract basis with the National Association of Securities Dealers, 1735 L Street, NW., Washington, D.C. 20036.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are or seek to be municipal securities principals or municipal securities representatives associated with municipal securities dealers which are FDIC-insured State-chartered banks, not members of the Federal Reserve System, or are subsidiaries, departments, or divisions of such banks.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records may contain identifying information as well as educational, employment, and disciplinary information, if any, and, where applicable, information regarding termination of employment of individuals covered by the system. Identifying information includes name, addresses, date and place of birth, and may include social security account number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 15B, 23 and 32(a) of the Securities Exchange Act of 1934, as amended (15 U.S.C. sec. 78).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used: (1) To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate governmental authority, whether Federal, State, local, or foreign, or a self-regulatory organization, as defined in section 3(a)(26) of the Securities Exchange Act of 1934 (15 U.S.C. sec. 78c(a)(26)); (2) to refer, in the event of litigation, whether civil, criminal, or regulatory in nature, to the appropriate court, magistrate, or administrative law judge as evidence, or to counsel for the presentation of evidence and/or in the course of discovery; (3) to assist in any proceeding in which the Federal securities or banking laws are in issue or a proceeding involving the propriety of a disclosure of information contained in the information, in which the FDIC or one of its past or present employees is a party; (4) to disclose to a Federal, State, local, or foreign governmental authority or a self-regulatory organization if necessary in order to obtain information relevant to a Federal Deposit Insurance Corporation inquiry concerning a person who is or seeks to be associated with a municipal securities dealer (as such a dealer is described in "Categories of individuals covered by the system" above) as a municipal securities principal or representative; (5) to respond to a request from a Federal, State, local, or foreign government authority or a self-regulatory organization for information in connection with the issuance of a license or other benefit to the extent that such information is relevant and necessary; (6) to disclose to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual; (7) to disclose to a registered dealer, a registered broker or a registered municipal securities dealer that is a past or present employer of an individual that is the subject of a record, or to which such individual has applied for employment, for purposes of identity verification or for purposes of investigating the qualifications of the subject individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained in file folders and on computer discs.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

File folders are stored in lockable metal file cabinets; computer discs are accessed only by authorized personnel.

RETENTION AND DISPOSAL:

Permanent retention with periodic review of contents of record and destruction of excess and dated information.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Bank Supervision, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

NOTIFICATION PROCEDURE:

Executive Secretary, FDIC, 550 17th Street, NW., Washington, D.C. 20429. Inquirers must provide their full name and the date and place of their birth, and may be required to include a notorized statement attesting to identity.

RECORD ACCESS PROCEDURES:

Same as "Notification" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification" above.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained, as well as municipal securities dealers (as such dealers are described in "Categories of individuals covered by the system" above), and Federal, State, local, and foreign governmental authorities and self-regulatory agencies which regulate the securities industry.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

30-64-0017

SYSTEM NAME:

Medical Records and Emergency Contact Information System—FDIC.

SYSTEM LOCATION:

Health Unit, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current and former FDIC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical record of the employee, including the date of visit to the FDIC Health Unit, the diagnosis, and the treatment administered; name and telephone number of the person to contact in the event of an emergency involving the employee; American Red Cross donor cards containing the donor's name, blood type, and dates of donations; Standard Form 78 (Certificate of Medical Examination); and Standard Form 177 (Statement of Physical Ability for Light Duty Work).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819); sec. 506 of the Federal Records Act of 1950 (44 U.S.C. 3101).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

No disclosure (including intra-agency disclosure) of information contained in the medical files is made without the prior written consent of the employee concerned. In the event of an emergency, the emergency contact would be notified. For American Red Cross donor cards, disclosure of name and blood type is made only to the American Red Cross in response to specific requests for emergency donations to ensure that donor will be accepted immediately on arriving at Blood Center.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

On 8" x 10" cards with a separate emergency contact sheet attached to it. American Red Cross donor cards are stored alphabetically in wooden files in the Health Unit.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in lockable metal file cabinets in the nurse's office of the Health Unit. Only the nurse and substitute nurse are allowed access to the files. The Health Unit is locked whenever the nurse is absent.

RETENTION AND DISPOSAL:

Records are kept for the duration of the employees's tenure with the FDIC and for five years thereafter, then destroyed. Standard Forms 78 and 177 are reviewed by the FDIC Nurse. If a disability is noted, the form is kept by the nurse; otherwise, the form is destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel Management, FDIC, 550 17th Street, NW., Washington D.C. 20429.

NOTIFICATION PROCEDURE:

Executive Secretary, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

RECORD ACCESS PROCEDURES:

Same as " Notification" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification" above.

RECORD SOURCE CATEGORIES:

The medical records are compiled by the employee and the nurse during the course of visits to the Health Unit for treatment. The information on the emergency contact sheet is supplied by the employee.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

30-64-0018

SYSTEM NAME:

Grievance Records System—FDIC.

SYSTEM LOCATION:

Office of Personnel Management, FDIC, 550 17th Street, NW., Washington, D.C. 20429. Records at the regional level generated through grievance procedures negotiated with recognized labor organizations and arbitration are located in the FDIC regional office where originated. (See Appendix A for the location of FDIC regional offices.) Duplicate copies are maintained as records by the Office or Personnel Management for the purpose of coordinating grievance and arbitration handling.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former FDIC employees who have submitted grievances in accordance with Part 771 of the United States Office of Personnel Management's regulations (5 CFR Part 771) or a negotiated grievance procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by FDIC employees under Part 771 of the United States Office of Personnel Management's regulations, or under 5 U.S.C. 7121. These case files contain all documents related to the grievance including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the final decision, and related

correspondence and exhibits. This system includes files and records of internal grievance and arbitration systems that FDIC may establish through negotiations with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7121; 5 CFR Part 771.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, or order, where the FDIC becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) to disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request and identify the type of information requested; (3) to disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract or the issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to requesting agency's decision on the matter; (4) to provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual; (5) to disclose information to another Federal agency or to a court when the government is party to a judicial proceeding before the court; (6) by the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906; (7) by the FDIC or the United States Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference; (8) to disclose information to officials of the Merit Systems Protection Board, the Office of the Special Counsel, the Federal Labor Relations Authority and its General Counsel, an arbitrator, or the Equal Employment Opportunity Commission when requested in performance of their authorized duties; (9) to disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding; and (10) to provide information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and neccessary to their duties of exclusive representation concerning personnel polices, practices and matters affecting work conditions.

POLICES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in lockable metal file cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed of three years after closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel Management, FDIC, 550 17th Street, NW., Washington, D.C. 20429. The appropriate FDIC regional director for records maintained in FDIC regional offices. (See Appendix A for the location of FDIC regional offices.)

NOTIFICATION PROCEDURE:

Executive Secretary, FDIC, 550 17th Street, NW., Washington, D.C. 20429.

RECORD ACCESS PROCEDURES:

Same as "Notification" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification" above.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided; (1) By the individual on whom the record is maintained; (2) by testimony of witnesses; (3) by agency officials; and (4) from related correspondence from organizations or persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix A

Federal Deposit Insurance Corporation Regional Offices

Atlanta Regional Office, FDIC, 233 Peachtree Street, N.E., Suite 2400, Atlanta, Georgia 30043.

Boston Regional Office, FDIC, 60 State Street, 17th Floor, Boston, Massachusetts 02109.

Chicago Regional Office, FDIC, Sears Tower, 233 S. Wacker Dr., Suite 6116, Chicago, Illinois 60606.

Columbus Regional Office, FDIC, 1 Nationwide Plaza, Suite 2800, Columbus, Ohio 43215.

Dallas Regional Office, FDIC, 350 North St. Paul Street, Suite 2000, Dallas, Texas 75201.

Kansas Regional Office, FDIC, 2345 Grand Avenue, Suite 1500, Kansas City, Missouri 64108.

Madison Regional Office, FDIC, 1st Wisconsin Plaza, 1 South Pinckney St., Room 813, Madison, Wisconsin 53703.

Memphis Regional Office, FDIC, 1 Commerce Square, Suite 1600, Memphis, Tennessee 38103.

Minneapolis Regional Office, FDIC, 730 Second Avenue, South, Site 286, Minneapolis, Minnesota 55402.

New York Regional Office, FDIC, 345 Park Avenue, 21st Floor, New York, New York 10154.

Omaha Regional Office, FDIC, 1700 Farnam Street, Suite 1200, Omaha, Nebraska 68102.

Philadelphia Regional Office, FDIC, 1900 Market St., Suite 616, Philadelphia, Pennsylvania 19103.

San Francisco Regional Office, FDIC, 44 Montgomery Street, Suite 3600, San Francisco, California 94104.

By order of the Board of Directors September 20, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson

Executive Secretary.

[FR Doc. 82-26364 Filed 9-23-82; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8)) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their

views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Fedeal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Canadian Imperial Bank of Commerce*, Toronto, Canada and its subsidiary, Canadian Imperial Holdings, Inc., Wilmington, Delaware (leasing; New York, California, Illinois, Georgia and Pennsylvania): To engage through their subsidiary Canadian Imperial Leasing Inc., in the activity of leasing real and personal property. These activities will be conducted from offices in New York, New York, serving the states of New York, California, Illinois, Georgia and Pennsylvania. Comments on this application must be received not later than October 9, 1982.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Union Trust Bancorp*, Baltimore, Maryland (financing and insurance activities; Virginia Beach, Virginia): To engage, through its subsidiary, Landmark Financial Services, Inc., in making installment loans to individuals for personal, family or household purposes; in purchasing sales finance contracts executed in connection with the sale of personal, family or household goods or services; in acting as agent in the sale of credit life and credit accident and health insurance directly related to its extensions of credit; in acting as agent in the sale of insurance protecting collateral held against the extensions of credit; and in making second mortgage loans secured in whole or in part by mortgages or other liens on real estate. These activities would be conducted from an office located in Virginia Beach, Virginia, serving the town of Virginia Beach, Virginia and the surrounding rural area. Comments on this application must be received not later than October 18, 1982.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Bank System, Inc.*, Minneapolis, Minnesota; mortgage banking and servicing loans; Minnesota and western Wisconsin): To engage, through its subsidiary, FBS Mortgage Corporation, in the mortgage banking business, including the brokering, origination, purchase, sale and servicing of real estate mortgage loans. These activities would be conducted from an office in Roseville, Minnesota, serving the Minneapolis-Saint Paul SMSA consisting of the following counties: Anoka, Dakota, Hennepin, Ramsey, Washington, Chisago, Wright, Scott, and Carver, all in Minnesota; and St. Croix, Wisconsin. Comments on this application must be received not later than October 19, 1982.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation*, San Francisco, California (financing servicing, and insurance activities; expansion of geographic scope; Pennsylvania): To continue to engage, through its indirect subsidiary, FinanceAmerica Consumer Discount Company, a Pennsylvania corporation, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company; servicing loans and other extensions of credit; and offering credit-related life insurance, credit-related accident and health insurance and credit-related property insurance. Such activities will include, but not be limited to, purchasing installment sales finance contracts, making loans and other extensions of credit to consumers as well as small businesses, making loans and other extensions of credit secured by real and personal property, and offering credit-related life, credit-related accident and health and credit-related property insurance. These activities will be conducted from an existing office located in Quakertown, Pennsylvania, serving the entire State of Pennsylvania. Comments on this application must be received not later than October 20, 1982.

Board of Governors of the Federal Reserve System, September 20, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26907 Filed 9-23-82; 8:45 am]

BILLING CODE 6210-01-M

Eaton Capital Corp.; Proposed Acquisition of Colorado Industrial Bank

Eaton Capital Corporation, Loup City, Nebraska, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Colorado Industrial Bank, Eaton, Colorado.

Applicant states that the proposed subsidiary would engage in the activities of operating as an industrial bank and selling credit related insurance. These activities would be performed from offices of Applicant's subsidiary in Eaton, Colorado, and the geographic area to be served is Weld County, Colorado. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of §225.5(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than October 20, 1982.

Board of Governors of the Federal Reserve System, September 20, 1982.
Dolores S. Smith,
Assistant Secretary of the Board.
[FR Doc. 82-26308 Filed 9-23-82; 8:45 am]
BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Palmetto Bancshares Corporation,* Columbia, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of First Palmetto State Bank and Trust Company, Columbia, South Carolina. Comments on this application must be received not later than October 20, 1982.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Owen Financial Corporation,* Spencer, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Owen County State Bank, Spencer, Indiana. Comments on this application must be received not later than October 20, 1982.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Exchange Corp.,* Jackson, Missouri; to become a bank holding company by acquiring 80 percent of the voting shares of Jackson Exchange Bank and Trust Company, Jackson, Missouri. Comments on this application must be received not later than October 20, 1982.

2. *Smackover Bancshares, Inc.,* Smackover, Arkansas; to become a bank holding company by acquiring 80 percent of the voting shares of Smackover State Bank, Smackover, Arkansas. Comments on this application must be received not later than October 20, 1982.

3. *Missouri Delta Bancshares, Inc.,* Hayti, Missouri; to become a bank holding company by acquiring 95.3 percent of the voting shares of Missouri Delta Bank, Hayti, Missouri. Comments on this application must be received not later than October 20, 1982.

D. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Central Dakota Bank Holding Company,* Lehr, North Dakota; to become a bank holding company by acquiring 84.88 percent of the voting shares of Central Dakota Bank, Lehr, North Dakota. Comments on this application must be received not later than October 20, 1982.

Board of Governors of the Federal Reserve System, September 20, 1982.
Dolores S. Smith,
Assistant Secretary of the Board.
[FR Doc. 82-26309 Filed 9-23-82; 8:45 am]
BILLING CODE 6210-01-M

[Regs. M and Z; Doc. No. R-0415]

Consumer Leasing, Truth in Lending; Order Granting Exemptions to the States of Massachusetts, Oklahoma and Wyoming

AGENCY: Board of Governors of the Federal Reserve System.
ACTION: Order.

SUMMARY: The Board has determined that the exemptions from the revised federal Truth in Lending Act requested by the states of Massachusetts, Oklahoma and Wyoming should be granted. Massachusetts sought an exemption from chapters 2 (credit transactions) and 4 (credit billing) of the act for transactions subject to the Massachusetts Truth in Lending Act; Oklahoma sought an exemption from chapters 2 and 5 (consumer leases) of the act for transactions subject to the Oklahoma Consumer Credit Code, and Wyoming sought an exemption from chapter 2 of the act for transactions subject to the Wyoming Consumer Credit Code.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Rugenia Silver or Lynn Goldfaden, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 at (202) 452-3667 or (202) 452-3867.

SUPPLEMENTARY INFORMATION: (1) *General.* The Truth in Lending Act (15 U.S.C. 1601 *et seq.*) directs the Board to exempt from that act transactions that are subject to state laws meeting certain requirements. Under section 123 of the act, consumer credit transactions may be exempt from chapter 2 (credit transactions) if the applicable state law is substantially similar to the federal act and the state demonstrates adequate provision for enforcement. Sections 171 and 186 prescribe the same exemption standards for chapter 4 (credit billing) and chapter 5 (consumer leases), respectively, except that the Board, in making exemption determinations under those chapters, is also to consider whether the state law is more protective of the consumer.

A state law need not exactly mirror the comparable federal requirement in order to be considered substantially similar. However, any variations should be few in number and minor in nature, in order not to deprive consumers of any federal protections nor significantly complicate compliance by creditors. In measuring the adequacy of enforcement, the Board looks to whether the state requires restitution for certain violations, has adequate funding and personnel, and in other ways demonstrates a commitment to effective enforcement of its laws.

Under the original Truth in Lending Act, the Board granted exemptions to Connecticut, Maine, Massachusetts, Oklahoma and Wyoming for chapter 2. Those exemptions expire on October 1, 1982, the mandatory effective date of the Truth in Lending Act as revised by Congress in Pub. L. 96-221. Effective that date, the Board granted new exemptions to Connecticut and Main under the revised act (47 FR 36931, August 24, 1982). At the same time, the Board published notice of applications from the Sates of Massachusetts, Oklahoma and Wyoming for exemptions from the revised act (47 FR 36962, August 24, 1982). In order to assure final action on the requests by October 1, 1982, the Board requested comments by September 15, 1982.

Massachusetts requested an exemption from chapters 2 and 4 of the revised act, based on chapter 140D (consumer Credit Costs Disclosure) of the General Laws of Massachusetts, and implementing regulations (209 Code of Massachusetts Regulations section 32.00 *et seq.*). After analysis of the state law and regulations, and consideration of the state's enforcement provisions, the

Board has determined that the state of Massachusetts meets the standards for exemption and that its application should be granted as requested.

Oklahoma applied for an exemption from chapters 2 and 5 of the act, pursuant to the Oklahoma Consumer Credit Code as revised (Title 14A Oklahoma Statutes 1–101 *et seq.*) and implementing regulations. In its August notice, the Board noted one variation in the state law that limits the scope of that exemption. Because the state law and regulations contain no counterpart to §§ 132 through 135 of the federal act and § 226.12 of Regulation Z (credit card rules), an exemption from the requirements of chapter 2 does not extend to those provisions of chapter 2 relating to credit card issuance and liability. With this one execption, the Board believes that the Oklahoma statute and regulations meet the requirements for exemption and that the state has adequate provision for enforcement. Therefore, the Board has determined that the Oklahoma exemption should be granted, with the limitation noted.

Wyoming applied for an exemption from chapter 2 of the federal statute for transactions subject to the Wyoming Consumer Credit Code, as amended in 1982 (W.S. 40–14–101 through 40–14–702), and implementing regulations. In its August notice, the Board noted one significant variation in the state law relating to the term "residential mortgage transaction." That term is defined in the federal act and regulation and used in several important federal provisions, including the early disclousre rules of § 226.19, the finance charge rules in § 226.4(e), and the exceptions from the right of rescission under § 226.23. Wyoming law did not use that term, using instead terms such as "real property mortgage" that are not defined in th same manner as "residential mortgage transaction." For this reason, the Board was concerned that the coverage of the special mortgage provisions would be significantly altered under the Wyoming statute.

Since publication of the notice, the state of Wyoming has revised its statute and implementing regulations by replaceing the relevant state terms with there term "residential mortgage transaction," defined in accordance with the federal Truth in Lending Act and Regulation Z. With this change, the Board has determined that the Wyoming statute and regulation are substantially similar to the federal statute, that the state has adequate provision for enforcement, and that the exemption should be granted as requested.

By the close of the comment period, the Board had received 10 comments regarding the exemption requests. Several commenters questioned apparent discrepancies between the federal act and certain of the state laws, relating to cash discounts under section 167 of the federal act, in the case of Oklahoma and Wyoming, and the special federal rules for residential mortgage transactions, in the case of Wyoming (discussed above). Effective October 1, 1982, Wyoming and Oklahoma are adopting revisions to their rules which reflect the revised federal act and regulation. No substantive evidence was offered by commenters to cast doubt on the adequacy of the states' enforcement efforts.

In accordance with Appendix B of Regulation Z and Appendix A of Regulation M, the Board reserves the right to revoke an exemption if at any time it determines that the standards required for exemption are not being met. The state receiving an exemption undertakes to inform the Board within 30 days of any change in its relevant law or regulations. The Board will inform the appropriate state official of any revisions in the federal statute or regulation that must be adopted by the state in the future in order to maintain its exemption. Should an amendment or other revision to a state law become necessary because of a corresponding congressional or Board action, the Board will allow sufficient time to the state to revise its laws and regulations in order to preserve substantial similarity.

(2) *Order of exemption.* The following order sets forth the terms of the Massachusetts, Oklahoma and Wyoming exemptions. Notice of the exemptions will be included in the official staff commentaries on Regulations Z and M.

Order

The states of Massachusetts, Oklahoma and Wyoming have applied for exemptions from the federal Truth in Lending Act as revised on March 31, 1980 (Title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980, Pub. L. 96–221). Pursuant to sections 123, 171 and 186 of the act, the Board has determined that the laws of those states are substantially similar to the federal law and that there is adequate provision for enforcement of those laws. Therefore, the Board hereby grants those exemptions as follows:

Massachusetts. Effective October 1, 1982, credit transactions that are subject to chapter 140D (Consumer Credit Costs Disclosures) of the General Laws of Massachusetts, established by chapter 733 of the Acts of 1981, and its implementing regulations are exempt from chapter 2 (credit transactions) and chapter 4 (credit billing) of the federal Truth in Lending Act. This exemption does not apply to transactions in which a federally chartered institution is a creditor.

Oklahoma. Effective October 1, 1982, credit and lease transactions that are subject to the Oklahoma Consumer Credit Code (Title 14A Oklahoma Statutes 1–101 *et seq.*) and its implementing regulations are exempt from chapter 2 (credit transactions) and chapter 5 (consumer leases) of the federal Truth in Lending Act. The exemption does not apply to sections 132 through 135 of the federal act, nor does it apply to transactions in which a federally chartered institution is a creditor or lessor.

Wyoming. Effective October 1, 1982, credit transactions that are subject to the Wyoming Consumer Credit Code (W.S. 40–14–101 through 40–14–702) and its implementing regulations are exempt from chapter 2 (credit transactions) of the federal Truth in Lending Act. The exemption does not apply to transactions in which a federally chartered institution is a creditor.

By order of the Board of Governors of the Federal Reserve System, September 22, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82–26549 Filed 9–23–82; 11:36 am]

BILLING CODE 6210–01–M

GENERAL SERVICES ADMINISTRATION

Office of the Administrator

Advisory Board; Meeting

Notice is hereby given that the GSA Advisory Board will meet on October 4, 1982, from 10:00 a.m. to 4:45 p.m., in Room 6120, 18th and F Streets, NW, Washington, D.C. 20405. This session will be open to the public and will be devoted to discussions of organizational and management issues of current interest to GSA. The Board will also hear reports relating to the activities of its subcommittees on Facilities and Buildings Management, Supply and Distribution, Contracting, and General Management.

For further information, contact Roger C. Dierman, Deputy Associate Administrator, on (202) 523–1141.

Less then fifteen (15) days notice of this meeting is being provided due to scheduling difficulties.

Charles S. Davis III,

Associate Administrator.

September 20, 1982.

[FR Doc. 82-26305 Filed 9-23-82; 8:45 am]

BILLING CODE 8320-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 82N-0204]

Ethanolamine Oleate for Treating Bleeding Esophageal Varices; Invitation To Submit New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has established an Orphan Products Development office to identify and facilitate the availability of products useful in treating or diagnosing uncommon diseases. This office will also promote availability of products for common diseases where commercial sponsorship of the products is either lacking or is not totally committed to obtaining marketing approval. By this notice, the Orphan Products Development office invites submission of a new drug application (NDA) for the use of ethanolamine oleate in treating bleeding esophageal varices.

FOR FURTHER INFORMATION CONTACT: Roger Gregario, Orphan Products Development (HF-35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4903.

SUPPLEMENTARY INFORMATION: FDA will publish notices in the **Federal Register** inviting sponsorship of specific products when significant amounts of clinical data are available for those products. The notices will describe the available preclinical and clinical data and what additional studies, if any, may be needed for submission of an application for marketing approval.

Ethanolamine Oleate

Ethanolamine oleate has been injected into esophageal varices to treat active bleeding and to prevent rebleeding. Bleeding from esophageal varices is a common disorder. Several methods are used to reverse acute bleeding. These include tamponade with the Sengstaken-Blakemore tube, intraveneous vasopressin, emergency surgical procedures such as portacaval shunt, and sclerotherapy. All these methods have disadvantages. Use of the Sengstaken-Blakemore tube is associated with local tissue damage, which can be severe, and aspiration fatalities; rebleeding is common when the tube is removed. Intravenous vasopressin is not uniformly effective. The various surgical procedures are also associated with some failures, but, in addition, the procedures themselves result in morbidity and mortality, particularly in patients who are poor surgical risks. Indeed, emergency surgery is often not a viable option in many patients. Sclerosing agents require skill in administering and are associated, even in the most experienced hands, with esophageal necrosis, ulceration, and stenosis, although the incidence is low. Because of their high rate of effectiveness, however, and the relatively low incidence of serious adverse effects from their use and their applicability in patients who are poor surgical risks, there has been a recent resurgence of interest in the use of sclerosing agents for control of acute bleeding. Some investigators are also using these agents repetitively to obliterate the varices and prevent rebleeding.

FDA has reviewed some of the published reports on use of ethanolamine oleate specifically and other sclerotherapy in general, as well as other means of treating bleeding esophageal varices. FDA concludes there are sufficient data available in the published literature and from unpublished case report information to invite submission of an NDA for use of ethanolamine oleate in the treatment of bleeding esophageal varices. At present, data are insufficient to approve the drug for prevention of future rebleeding episodes.

Examples of published data that would help to support approval of an NDA for treatment of active bleeding from esophageal varices are as follows: Terblanche, et al., *Surgery*, 85:239, 1979; Johnston and Rodgers, *British Journal of Surgery*, 60:797, 1973; Johnson, *Annals of the Royal College of Surgery*, 59:497, 1977. In addition, Clark, A. W., et al., *Lancet*, 2:552, 1980, and Terblanche, et al., *Surgery Gynecology and Obstetrics*, 148:323, 1979, performed prospective controlled clinical trials on the effectiveness of chronic injection of ethanolamine oleate in preventing rebleeding. These trials can be used as supportive evidence for the relative safety of the drug and the procedure.

Copies of references cited above are on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

FDA is aware of a substantial amount of clinical data from two investigators in the United States who used ethanolamine oleate in acute bleeding. The investigators have agreed to make those data available to a sponsor of an NDA.

FDA would require the following information to be submitted in an NDA:

1. Manufacturing controls informations.

2. Pertinent published reports on the use of ethanolamine oleate in acute esophageal variceal bleeding.

3. Pertinent, representative, published reports on the use of other methods for control of acute bleeding, to provide comparative data on the advantages and disadvantages of the various techniques and their degree of effectiveness.

4. Case report data from the two U.S investigators. (FDA will furnish the names to potential NDA sponsors on request.)

FDA will be pleased to meet with potential sponsors to discuss the data and requirements. Manufacturers interested in submitting an NDA should contact Roger Gregorio at the address above.

Dated: September 9, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82-26181 Filed 9-23-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0290]

Metrosoft Inc.; Premarket Approval of Metrosoft II™ (Polymacon) Hydrophilic Contact Lenses

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of METROSOFT II™ (polymacon) Hydrophilic Contact Lenses, sponsored by Metrosoft Inc., Austin, TX. The lenses are to be manufactured under an agreement with National Patent Development Corp., New Brunswick, NJ, which has authorized Metrosoft Inc., to incorporate by reference information contained in its approved premarket approval application for the Hydron® (polymacon) Hydrophilic Contact Lens. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and

Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by October 25, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Bureau of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On April 28, 1982, Metrosoft Inc., Austin, TX, submitted to FDA an application for premarket approval of METROSOFT II™ (polymacon) Hydrophilic Contact Lenses. These lenses are indicated for daily wear for the correction of visual acuity in persons with nondiseased eyes and aphakia and have spherical ametropias and refractive astigmatism of 1.50 diopters or less. The application included authorization from the National Patent Development Corporation, New Brunswick, NJ, to incorporate by reference the information contained in its approved premarket approval application for the Hydron® (polymacon) Hydrophilic Contact Lens (Docket No. 79M–0244). The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application for this device. On August 27, 1982, FDA approved the application by a letter to the sponsor from the Acting Associate Director for Device Evaluation for the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), soft contact lenses and solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft contact lenses and solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of approved contact lenses states that the lenses are to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses. The restrictive labeling needs to be updated periodically, however, to refer to new lens solutions that FDA approves for use with approved contact lenses. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 25, 1982, file with the Dockets Management Branch (address above) four copies of each petition and supporting data and information, identified with name the of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 15, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-26178 Filed 9-23-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M–0278]

Siemens Corp.; Siemens-Elema Endocardial Carbon Tipped Leads—Models 411S(Flanged) and 412S (Tined)

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Siemens-Elema Endocardial Carbon Tipped Leads—Models 411S(flanged) and 412S(tined) sponsored by Siemens Corp. After reviewing the recommendations of the Circulatory System Devices Panel, FDA notified the sponsor that the application was approved because the devices had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by October 25, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Bureau of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On October 31, 1980, Siemens Corp., New York, NY 10153, submitted to FDA an application for premarket approval of the Siemens-Elema Endocardial Carbon Tipped Leads—Models 411S(flanged) and 412S(tined) for use as an electrically conductive pathway between the pulse generator and the heart in patients requiring permanent pacemaker implantation. The application was reviewed by the Circulatory System Devices Panel, an FDA advisory committee, which recommended approval of the application. On August 9, 1982, FDA approved the application by letter to the sponsor from the Acting Associate Director for Device Evaluation of the Bureau of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 25, 1982, file with the Dockets Management Branch (address above), four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 14, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–26013 Filed 9–23–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82N–0241]

Triethylene Tetramine Dihydrochloride for Treatment of Penicillamine-Intolerant Patients With Wilson's Disease; Invitation To Submit New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Orphan Products Development Office of the Food and Drug Administration (FDA) invites submission of a new drug application (NDA) for the use of triethylene tetramine dihydrochloride in penicillamine-intolerant patients with Wilson's Disease.

FOR FURTHER INFORMATION CONTACT: Roger Gregorio, Orphan Products Development (HF–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4903.

SUPPLEMENTARY INFORMATION: Wilson's Disease is a rare, inherited disorder of copper metabolism that affects approximately 1,000 patients in the United States. It is characterized by progressive accumulation of copper in various body tissues, primarily the liver, brain, and iris, resulting in a wide variety of symptoms predominantly involving the liver and nervous system. The age of onset varies from early childhood to the fifth decade. Without adequate treatment it runs a progressively downhill course of neurological disability and/or hepatic failure, ending fatally within 5 years of onset. Early initiation of appropriate treatment, however, may prevent the development of symptoms; and in established disease, severe symptoms may be dramatically improved or reversed.

Effective therapy consists of aggressive chelation therapy to deplete excess copper from the body and prevent its reaccumulation. Penicillamine, an oral chelating agent, has been the drug of choice since the mid-1950's. Dr. J. M. Walshe, an authority on Wilson's Disease, has reported that approximately 10 percent of Wilson's Disease patients develop intolerance to penicillamine within a few weeks to 13 years of beginning therapy, the most serious manifestations being immune complex nephrosis and lupus erythematosus.

Triethylene Tetramine Dihydrochloride

Walshe developed a new oral chelating agent, triethylene tetramine dihydrochloride, and has reported its successful use as a life-saving alternative in more than 20 penicillamine-intolerant patients in England since 1969. The drug has also been studied by two U.S. investigators.

FDA has reviewed published reports on the use of triethylene tetramine dihydrochloride in the treatment of patients with Wilson's Disease who are intolerant of penicillamine, and a summary of data from one of the U.S. investigators. FDA finds there are sufficient data available in the published literature and unpublished case reports to invite submission of an NDA for use of triethylene tetramine dihydrochloride in treating Wilson's Disease in patients intolerant of penicillamine.

Examples of published data that would support approval of an NDA for treatment of Wilson's Disease in penicillamine-intolerant patients are as follows: Walshe, J. M., *Lancet*, 2:1401, 1969; Dubois, R. S., et al., *Lancet*, 2:775, 1970; Walshe, J. M., *Quarterly Journal of Medicine*, 167:441, 1973; Walshe, J. M., *Lancet*, 1:643, 1982; Walshe, J. M., "Story of Triethylene Tetramine Dihydrochloride" *in* "Orphan Drugs," Edited by Karsh, Marcel Dekker, Inc., NY, 1982.

Copies of references cited above are on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers

Lane, Rockville, MD 20857, and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

Dr. Walshe and the two U.S. investigators have agreed to make their detailed clinical data available to the sponsor of an NDA.

FDA would require the following information to be submitted in an NDA:

1. Manufacturing controls information.

2. Pertinent published reports on the use of triethylene tetramine dihydrochloride in penicillamine-intolerant Wilson's Disease patients.

3. Case report data from the investigators. (FDA will furnish the names of the U.S. investigators to potential NDA sponsors on request.)

FDA will not require the submission of animal toxicology data. One of the investigators and the National Center for Toxicological Research (NCTR) will be conducting subacute studies in animals. In addition, FDA is aware of completed teratology studies in mice and rats (with respect to the latter see Keen, C. L., et al., *Lancet*, 1:1127, 1982). NCTR will be conducting an additional teratology study.

FDA will not require the submission of in vivo bioavailability data for the following reasons:

1. Dosage titration is utilized in each patient to obtain the desired cupriuretic effect.

2. Under 21 CFR 320.22(e), FDA may defer or waive a requirement for submittal of in vivo bioavailability data when such action is compatible with the public health. In the United States, there are an estimated 100 patients who might benefit from this drug. Delay in approval of the NDA for patients with serious disease while a bioavailability method is under development and testing would not be compatible with protection of the public health. Furthermore, the product to be released to the public must meet the manufacturing standards already developed, and a product of this nature has been tested in patients with Wilson's Disease and found to be sufficiently bioavailable to maintain the patients in a state of clinical remission.

FDA will be pleased to meet with potential sponsors to discuss the data and requirements. Manufacturers interested in submitting an NDA should contact Roger Gregorio at the address above.

Dated: September 9, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82-26182 Filed 9-23-82; 8:45 am]

BILLING CODE 4160-01-M

lth Resources and Services inistration

Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1982:

Name: National Advisory Council on Health Professions Education.

Date and Time: November 8-9, 1982, 9:00 a.m.-5:30 p.m.

Place: Conference Room G-20, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

Meeting open to the public.

Purpose: The Council advises the Secretary with respect to the administration of programs of financial assistance for the health professions and makes recommendations based on its review of applications requesting such assistance. This also involves advice in the preparation of regulations with respect to policy matters.

Agenda: The meeting will cover: welcome and opening remarks; report of the Administrator; budget update; discussion on resolution regarding Humanistic Health Care; update of Department's goals for Health Promotion and Disease Prevention; and future agenda items.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Mr. Robert L. Belsley, Executive Secretary, National Advisory Council on Health Professions Education, Bureau of Health Professions, Health Resources Administration, Room 4-27, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436-6564.

Agenda items are subject to change as priorities dictate.

Dated: September 15, 1982.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 82-26363 Filed 9-23-82; 8:45 am]

BILLING CODE 4160-15-M

Office of the Secretary

President's Council on Physical Fitness and Sports; Meeting

AGENCY: Office of the Assistant Secretary for Health, HHS.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the President's Council on Physical Fitness and Sports. This notice also describes the functions of the Council. Notice of this meeting is required under the National Advisory Committee Act.

DATE: September 24, 1982, 9:00 a.m. to 3:00 p.m.

ADDRESS: Capitol (House side) Rm. H-130, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. C. Carson Conrad, Executive Director, President's Council on Physical Fitness and Sports, 450 5th St., NW., Suite 7103, Washington, D.C. 20001.

SUPPLEMENTARY INFORMATION: The President's Council on Physical Fitness and Sports operates under Executive Order 12345 dated February 2, 1982. The functions of the Council are: (1) To recommend to the President and the Secretary of HHS as necessary, steps to accelerate carrying out provisions of the Executive Order and (2) Advise the Secretary on matters pertaining to ways and means of enhancing opportunities for participation in physical fitness and sports activities and on state, local, and private action to extend and improve physical activity programs and services.

The Council will hold this meeting to apprise the new Council members of the 9-point national program of physical fitness and sports; to report on on-going Council programs; and to plan future directions.

Dated: September 17, 1982.

C. Carson Conrad,

Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 82-26301 Filed 9-23-82; 8:45 am]

BILLING CODE 4150-17-M

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on September 17.

Public Health Service

National Institutes of Health

Subject: Health Message Testing Service—Print Component—New (Resubmission).

Respondents: Individuals.

Subject: Biomedical Research Support Grant Application and Annual Progress Report (0925-0008)—Extension.

Respondents: Universities, hospitals and research institutes.

OMB Desk Officer: Richard Eisinger.

Health Care Financing Administration

Subject: Integrated Quality Control Review Schedule (HCFA-301)—Revision.

Respondents: State Medicaid agencies.

Subject: Integrated Quality Control Review Worksheets (HCFA-316)—Revision.

Respondents: State Medicaid agencies and Medicaid recipients.

OMB Desk Officer: Fay S. Iudicello.

Social Security Administration

Subject: Quarterly Report of Child Support Enforcement Activities Under Title IV-D of the Social Security Act (OCSE-3 (8-82))—Revision.

Respondents: State or local governments.

OMB Desk Officer: Milo Sunderhauf.

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524-F, Washington, D.C. 20201

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn: (name of OMB Desk Officer)

Dated: September 17, 1982.

Dale W. Soper,

Assistant Secretary for Management and Budget.

[FR Doc. 82-26227 Filed 9-23-82; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Availability of Pinyon Final Environmental Impact Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 and the 1975 Federal Court Order, the Bureau of Land Management (BLM) has prepared a final grazing management environmental impact statement (EIS) for the Pinyon Planning Unit rangeland management program in portions of Beaver, Iron, Millard and Washington Counties of southwestern Utah.

The Final EIS examines five alternative management programs: (1) Continuation of Current Management (No Action), (2) Planning Recommendations, (3) Livestock Grazing Preference, (4) Resident Resource Values, and (5) Livestock Maximization. The alternatives examine varied levels of livestock grazing (from 60,757 animal unit months [AUMs] to 209,006 AUMs) wildlife forage (from 2,663 AUMs to 8,345 AUMs), and wild horse forage (from 0 AUMs to 12,825 AUMs). Varying levels of vegetation treatment and management intensity would accompany the different alternatives.

Copies of the EIS are available at the Cedar City District Office, 1579 North Main, P.O. Box 724, Cedar City, Utah 84720, (801) 586-2401 and the Beaver River Resource Area Office, 444 South Main, Suite C-3, Cedar City, Utah 84720, (801) 586-2458. Public reading copies of the Final EIS will be available for review at the following locations: Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, NW., Washington, D.C. 20240, and Utah State Office, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Written comments on the Final EIS should be submitted to the Cedar City District Manager by October 29, 1982.

Morgan S. Jensen,

District Manager.

September 16, 1982.

[FR Doc. 82-26302 Filed 9-23-82; 8:45 am]

BILLING CODE 4310-84-M

[F-19155-10]

Alaska; Alaska Native Claims Selection

On April 2, 1975, Doyon, Limited, filed selection application F-19155-10, as amended, under the provisions of Sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611(c) (1976)) (ANCSA), as amended, for the surface and subsurface estates of certain lands withdrawn pursuant to Sec. 11(a)(1) for the Native village of Ruby. The application excluded Deer Creek and Big Creek as being navigable. As these are considered nonnavigable and as Sec. 12(c)(3) of ANCSA and Departmental regulation 43 CFR 2652.3(c) require the region to select all available lands within the township, the beds of these water bodies are considered selected.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act, as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry prefected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 12(c) of ANCSA, as amended, aggregating approximately 192,521 acres, are considered proper for acquisiton by Doyon, Limited, and are hereby approved for conveyance pursuant to Sec. 14(e) of ANCSA:

Kateel River Meridian, Alaska (Surveyed)

T. 7 S., R. 15 E.,
Secs. 1 to 36, inclusive.
Containing 22929.12 acres.

T. 9 S., R. 15 E.,
Secs. 19 to 36, inclusive.
Containing approximately 11,210 acres.

T. 11 S., R. 15 E.,
Secs. 1 to 36, inclusive.
Containing 22,931.04 acres.

T. 8 S., R. 16 E.,
Sec. 1;
Sec. 4, excluding Native allotment F-14475;
Secs. 5 to 9, inclusive;
Secs. 15 to 18, inclusive;
Secs. 22 and 23.
Containing approximately 8,252 acres.

T. 10 S., R. 16 E.,
Secs. 1 to 36, inclusive.
Containing 22,956.32 acres.

T. 7 S., R. 17 E.,
Secs. 3 to 10, inclusive;
Sec. 13;
Secs. 16 to 19, inclusive;
Secs. 23 to 27, inclusive;
Secs. 33 to 36, inclusive.
Containing 13,997.67 acres.

T. 11 S., R. 17 E.,
Sec. 1;
Sec. 11 to 14, inclusive;
Secs. 23 to 26, inclusive;
Secs. 35 and 36.
Containing 7,040 acres.

T. 8 S., R. 18 E.,
Sec. 1;
Secs. 11 to 16, inclusive;
Secs. 20 to 29, inclusive;
Secs. 31 to 36, inclusive.
Containing 14,718.97 acres.

T. 10 S., R. 18 E.,
Secs. 1 to 36, inclusive.
Containing 22,858.32 acres.

T. 9 S., R. 19 E.,
Secs. 1 to 36, inclusive.
Containing 22,785.60 acres.

T. 11 S., R. 19 E.,
Secs. 1 to 36 inclusive.
Containing 22,931.04 acres.
Aggregating approximately 192,521 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable

because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–21779–10.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The land excluded in the above description is not being approved for conveyance at this time and has been excluded for the following reason: Land is under application pending further adjudication. This exclusion *does not* constitute a rejection of the selection application.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservation to the United States:

Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–21779–10, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.

a. (EIN 11a C5, L) An easement fifty (50) feet in width for an existing access trail from Sec. 31, T. 7 S., R. 16 E., Kateel River Meridian, southwesterly to public land. The uses allowed are those listed for a fifty (50) foot wide trail easement.

b. (EIN 11b C5, L) An easement fifty (50) feet in width for a proposed access trail from public land in Sec. 36, T. 10 S., R. 17 E., Kateel River Meridian, southeasterly to public land. The uses allowed are those listed for a fifty (50) foot wide trail easement.

c. (EIN 22 C5) An easement fifty (50) feet in width for a proposed access trail from public land in Sec. 1, T. 10 S., R. 15 E., Kateel River Meridian, northeasterly to public land. The uses allowed are those listed for a fifty (50) foot wide trail easement.

d. (EIN 23 C5) An easement fifty (50) feet in width for a proposed access trail from public land in Sec. 6, T. 11 S., R. 16 E., Kateel River Meridian, northwesterly to public land. The uses allowed are those listed for a fifty (50) foot wide trail easement.

e. (EIN 27 C4) An easement twenty-five (25) feet in width for a proposed access trail from public land in Sec. 1, T. 9 S., R. 18 E., Kateel River Meridian, easterly to public land. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

f. (EIN 35 C5) An easement twenty-five (25) feet in width for a proposed access trail from public land in Sec. 1, T. 11 S., R. 18 E., Kateel River Meridian, northeasterly to public land. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

g. (EIN 36 C5) An easement twenty-five (25) feet in width for a proposed access trail from public land in Sec. 6, T. 10 S., R. 19 E., Kateel River Meridian, northwesterly to public land. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted; and

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

To date, approximately 4,039,473 acres of land, selected pursuant to Sec. 12(c) of ANCSA, have been approved for conveyance to Doyon, Limited.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner.

Any party claiming a property interest in lands affected by this decision, an agency fo the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 25, 1982, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-26630 Filed 9-23-82; 8:45 a.m.]

BILLING CODE 4310-84-M

[F-14837-A]

Alaska; Alaska Native Claims Selection

On December 18, 1974, Beaver Kwit'chin Corporation filed selection application F-14837-A under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), as amended, for the surface estate of certain lands in the vicinity of Beaver.

As to the lands described below, the application is properly filed and meets the requirements of ANCSA, as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In views of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, as amended, aggregating approximately 81,235 acres is considered proper for acquisition by Beaver Kwit'chin Corporation, and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA.

Fairbanks Meridian, Alaska (Unsurveyed)

T. 18 N., R. 1 E.,
- Sec. 13, excluding Native allotment F-13993 Parcel B;
- Sec. 14, excluding Native allotments F-13422 and F-13993 Parcels A and B;
- Sec. 15, excluding Native allotment F-13993 Parcel A;
- Sec. 22, excluding Native allotment F-13416;
- Sec. 23, excluding Native allotments F-13422, F-13416, and F-14366 Parcel C;
- Sec. 24;
- Sec. 25, excluding U.S. Survey No. 3798;
- Secs. 26 to 33, inclusive;
- Sec. 34, excluding Native allotment F-028096;
- Sec. 35, excluding Native allotment F-14377 Parcel B;
- Sec. 36, excluding Native allotment F-028102.

Containing approximately 9,555 acres.

T. 17 N., R. 2 E.
- Secs. 1 to 10, inclusive;
- Secs. 11 to 14, inclusive, excluding Native allotment F-13420;
- Secs. 15 to 24, inclusive.

Containing approximately 12,815 acres.

T. 18 N., R. 2 E.,
- Sec. 1, excluding Native allotment F-14655 Parcel A;
- Secs. 2 to 6, inclusive;
- Sec. 7, excluding Native allotment F-13992 Parcel A;
- Sec. 8, excluding Native allotments F-13996 Parcel B and F-13994 Parcel C;
- Secs. 9 to 14, inclusive;
- Sec. 15, excluding Native allotments F-13996 Parcel A and F-13992 Parcel B;
- Sec. 16, excluding Native allotment F-13992 Parcel B;
- Sec. 17, excluding Native allotment F-13994 Parcel C;
- Sec. 18, excluding Native allotment F-13992 Parcel A;
- Sec. 19, excluding U.S. Survey No. 3798 and Native allotment F-13994 Parcel B;
- Sec. 20, excluding U.S. Survey No. 3798, and Native allotments F-13416 and F-13994 Parcel B;
- Sec. 21, excluding Native allotment F-13992 Parcel B;
- Secs. 22 to 27, inclusive;
- Sec. 28, excluding Native allotment F-13418;
- Sec. 29, excluding U.S. Survey No. 3798, U.S. Survey No. 4895, and Native allotments F-13994 Parcel B and F-13416;
- Sec. 30, excluding U.S. Survey No. 3798, U.S. Survey No. 4895, and Alaska Native Claims Settlement Act Sec. 3(e) application F-36743;
- Secs. 31 to 36, inclusive.

Containing approximately 17,875 acres.

T. 18 N., R. 3 E.
- Secs. 1 and 2;
- Secs. 3 and 4, excluding Native allotment F-14411 Parcel A;
- Secs. 5 to 20, inclusive;
- Secs. 21 and 22, excluding Native allotments F-12014 and F-026101;
- Secs. 23 to 26, inclusive;
- Secs. 27 and 28, excluding Native allotments F-12014 and F-026101;
- Secs. 29 and 30;
- Sec. 31, excluding Native allotment F-12016 Parcel B;
- Secs. 32 to 36, inclusive.

Containing approximately 17,617 acres.

T. 19 N., R. 4 E.,
- Secs. 1 to 7, inclusive;
- Sec. 8, excluding Native allotment F-020098;
- Secs. 9 to 14, inclusive;
- Sec. 15, excluding Native allotments F-14730 and F-12015 Parcel C;
- Sec. 16, excluding Native allotments F-14730 and F-12015 Parcel B;
- Sec. 17, excluding Native allotments F-12015 Parcel B and F-026098;
- Secs. 18, 19, and 20.
- Secs. 21 and 22, excluding Native allotment F-14730;
- Secs. 23 to 36, inclusive.

Containing approximately 17,748 acres.

T. 16 N., R. 1 W.,
- Secs. 1 to 12, inclusive.

Containing approximately 6,125 acres.

Aggregating approximately 81,235 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F-14837-EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; or lands are pending a determination under Sec. 3(e) of ANCSA. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)), as amended; and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14837-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (ATV's) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed on a one (1) acre site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours

a. (EIN 15 D9) An easement twenty-five (25) feet in width for an existing access trail from public lands in Sec. 32, T. 20 N., R. 3 E., Fairbanks Meridian, southerly to Beaver and then on to public lands south of Beaver. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

b. (EIN 16 C5) An easement twenty-five (25) feet in width for an existing access trail from the village of Beaver in Secs. 29 and 30, T. 18 N., R. 2 E.,

Fairbanks Meridian, southeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

c. (EIN 20 D1) An easement twenty-five (25) feet in width for an existing access trail from trail easement EIN 15 D9 in Sec. 20, T. 18 N., R. 2 E., Fairbanks Meridian, northwesterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

d. (EIN 25 E) An easement twenty-five (25) feet in width for a proposed access trail from trail easement EIN 20 D1 in Sec. 31, T. 19 N., R. 2 E., Fairbanks Meridian, southwesterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

e. (EIN 26a E) An easement twenty-five (25) feet in width for a proposed access trail from site easement EIN 26b E in Sec. 6, T. 18 N., R. 3 E., Fairbanks Meridian, northwesterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

f. (EIN 26b E) A one (1) acre site easement upland of the ordinary high water mark in Sec. 6, T. 18 N., R. 3 E., Fairbanks Meridian, on the right bank of Jack Uheen Slough. The uses allowed are those listed above for a one (1) acre site easement.

g. (EIN 27a E) A one (1) acre site easement upland of the ordinary high water mark in Sec. 27, T. 18 N., R. 1 E., Fairbanks Meridian, on the right bank of Joe Guay Slough. The uses allowed are those listed above for a one (1) acre site easement.

h. (EIN 27b E) An easement twenty-five (25) feet in width for a proposed access trail from Joe Guay Slough in Sec. 27, T. 18 N., R. 1 E., Fairbanks Meridian, northwesterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), as amended, that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Beaver Kwit'chin Corporation is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. The total acreage conveyed or approved for conveyance is approximately 81,235 acres. The remaining entitlement of approximately 10,925 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Doyon, Limited when the surface estate is conveyed to Beaver Kwit'chin Corporation, and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop, or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village of Beaver shall be subject to the consent of Beaver Kwit'chin Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the FAIRBANKS DAILY NEWS-MINER.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANSCA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 25, 1982, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Beaver Kwit'chin Corporation, Beaver, Alaska 99724

Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-26340 Filed 9-23-82; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Grazing Management in the Grass Creek Resource Area; Availability of Final Environmental Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of final environmental impact statement.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior, has prepared a final environmental impact statement on grazing management in portions of Park, Hot Springs, Big Horn and Washakie Counties, Wyoming, and has made copies of the document available for public review and comment.

The Bureau of Land Management proposes to continue to allow livestock

grazing on 966,000 acres of public land in the Grass Creek Resource area, Worland District, Wyoming. The proposal is to manage grazing allotments at different levels of intensity to maintain present conditions, improve present conditions or prevent deterioration of present conditions. Proposed actions include changing grazing treatments and seasons of use, adjustments in use levels, and providing additional grazing management facilities and land treatments. Four alternatives (No Change, No Livestock Grazing, Optimize Livestock Grazing and Manage for Other Than Grazing Use) are analyzed along with the proposed action. The affected environment is described, and the environmental impacts are documented.

FOR FURTHER INFORMATION CONTACT: John Moorhouse, Team Leader, Bureau of Land Management, Box 119, Worland, Wyoming 82401, telephone (307) 347–6151.

Paul M. Andrews,

District Manager.

[FR Doc. 82-76370 Filed 9-23-82; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: Miami-Metrozoo, Miami, FL—PRT 2-9048

The applicant requests a permit to import two male and three female captive-bred Eld's deer (*Cervus eldi*) from the Leipzing Zoological Garden, German Democratic Republic for enhancement of propagation.

Applicant: Tennessee Valley Authority, Knoxville, TN—PRT 2-9575

The applicant request an amendment to his permit to allow the take of any endangered mussel species encountered in the Duck River while collecting *Conradilla caelata*. TVA would hold these specimens in a secure location until issues surrounding Columbia Reservoir are resolved.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: September 21, 1982.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-26393 Filed 9-23-82; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permits Issued for the Month of August 1982

Notice is hereby given that the U.S. Fish and Wildlife Service has taken the following action with regard to permit applications duly received according to Section 10 of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1539. Each permit listed as issued was granted only after it was determined that it was applied for in good faith, that by granting the permit it will not be to the disadvantage of the endangered species; and that it will be consistent with the purposes and policy set forth in the Endangered Species Act of 1973, as amended.

Additional information on these permit actions may be requested by contacting the Federal Wildlife Permit Office, Box 3654, Arlington, VA 22203, telephone (703/235–1903) or by appearing in person at the Federal Wildlife Permit Office, 1000 N. Glebe Road, Room 605, Arlington, VA, between the hours of 9:00 a.m. and 3:00 p.m. weekdays.

National Zoo X6400 August 5
Athens Field Station X9263 August 19
Ecosearch X9356 August 23
Dr. Howard Shellhammer X9368 August 19
University of WI X9392 August 23
Dr. Robert Menzies—NOVA X9393 August 23

Dated: September 20, 1982.

Larry LaRochelle

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-26394 Filed 9-23-82; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Kerr-McGee Corporation has submitted a Development and Production Plan describing the activities it proposes to conduct on leases OCS–G 1528 and 3169, Blocks 233 and 238, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 10, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-26300 Filed 9-23-82; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Gates of the Arctic National Park and Preserve, Alaska; Addition of Kurupa Lake and Adjoining Lands to the Park

Correction

In FR Doc. 82–21921 appearing on page 35041 in the issue for Thursday, August 12, 1982, second column, in the land description for Kateel River Meridian, second line, "(S½, and W½ of NW¼)" should read "(S½, and W½ of NW¼)".

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

[Volume No. 13]

Motor Carriers; Applications, Alternate Route Deviations, and Intrastate Applications

Motor Carrier Alternate Route Deviations; Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this **Federal Register** notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Passengers

MC 61599 (Deviation No. 16), TRAILWAYS SOUTHEASTERN LINES, INC., 1500 Jackson Street, Dallas, TX 75201, filed September 8, 1982. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *passengers and their baggage,* and *express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Ft. Jackson, SC over US Hwy 378 to Sumter, SC, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Ft. Jackson, SC over SC Hwy 12 to junction US Hwy 601, then over US Hwy 601 to Camden. From Camden over US Hwy 521 to junction SC Hwy 12, then over SC Hwy 12 to the Kershaw-Sumter County line, then over SC Hwy 43 to Sumter-Lee County line, then over SC Hwy S–31–68 to the Lee-Sumter County line, then over SC Hwy 43 to junction US Hwy 521, then over US Hwy 521 to Sumter, SC, and return over the same route.

MC 61599 (Deviation No. 17), TRAILWAYS SOUTHEASTERN LINES, INC., 1500 Jackson Street, Dallas, TX 75201, filed September 13, 1982. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *passengers and their baggage,* and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Orangeburg SC over US Hwy 21 to its junction with Interstate Hwy 95, then over Interstate Hwy 95 to junction US Hwy 17, then over US Hwy 17 to Ridgeland, SC, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Orangeburg, SC over SC Hwy 601 to Hampton, SC, then over US Hwy 278 to Ridgeland, SC, and return over the same route.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–26316 Filed 9–23–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries about the following to Team 1, (202) 275–7992.

Volume No. OP1–159

Decided: September 20, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier. Member Parker not participating.

MC 128270 (Sub-53), filed August 16, 1982. Applicant: REDIEHS EXPRESS, INC. 1477 Ripley Street, Lake Station, IN 46405. Representative: Richard A. Kerwin, 180 North La Salle Street, Chicago, IL 60601–2897, (312) 332–5106. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 163680 (Sub-1), filed September 3, 1982. Applicant: TRANSPORT AMERICA, INC., 808 S. Joliet Street, Joliet, IL 60436. Representative: James C. Hardman, 33 N. LaSalle Street, Chicago, IL 60602, (312) 236–5944. Transporting *general commodities,* between Dillsburg,

Gifford, Penfield, Potomac and Armstrong, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI). Conditions: (1) To the extent that any certificate issued in this proceeding authorizes the transportation of explosives, it shall expire 5 years from its date of issuance; and (2) The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343 or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the applications for common control to team 1, room 2426.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

Please direct status inquiries about the following to Team 2 (202) 275–7030.

Volume No. OP2–228

Decided: September 16, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier.

MC 163802, filed September 10, 1982. Applicant: A. L. LOPEMAN TRUCKING, P.O. Box 68, 105 E. Henry St., Atkinson, IL 61235. Representative: A. L. Lopeman (same address as applicant) 309–936–7982. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle, in such vehicle, between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to Team 4 (202) 275–7669.

Volume No. OP4–336

Decided: September 17, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

W 1347 (Sub-1), filed August 30, 1982. Applicant: CARGO CARRIERS, INCORPORATED, P.O. Box 9300, Minneapolis, MN 55440. Representative: Gerald W. Brown, (same address as applicant) (612) 475–6756. To operate as a *contract carrier*, by water, by non-self-propelled vessels with the use of separate towing vessels in the transportation of *steel and metal articles*, between ports and points along inland waterways between Minneapolis, MN, Houston, TX, and Tulsa, OK, under continuing contract(s) with North Star Steel Company, of Minneapolis, MN.Conditions: (1) This is a major regulatory action and requires preparation of a statement of energy impact under the provisions of 49 CFR 1106.5(a)(8). Accordingly, applicant must submit the information required by 49 CFR 1106.7(a). Upon submission of such information, an appropriate statement of energy impact will be prepared; and (2) This application contemplates operations which should result in decreased energy consumption in comparison with existing energy consumption in the affected area. To the extent traffic will be diverted from existing transportation modes, greater energy efficiencies may be obtained without disruption to existing patterns of energy distribution or to development of energy resources. The application is, in all respects, consistent with prevailing goals and objectives of the National Energy Policy.

W 1356, filed August 24, 1982, previously noticed in the **Federal Register** issue of September 14, 1982, and republished this issue. Applicant: CONSOLIDATED GRAIN AND BARGE COMPANY, 101 Merchants Exchange Bldg., 5100 Oakland Ave., St. Louis, MO 63110. Representative: Peter A. Greene, 1920 N St., N.W., Suite 700, Washington, DC 10026, (202) 331–8800. Transporting, by water, by non-self-propelled vessels with the use of separate towing vessels, *general commodities*, and by towing vessels in the performance of *general towage*, between ports and points on the Cumberland, Tennessee, Ohio, Missouri, Mississippi, Arkansas, Mobile, Alabama, Tombigbee, Black Warrior, and Illinois Rivers; the Illinois Waterway; Lake Michigan between Chicago, IL and Burns Harbor, IN; the Gulf of Mexico and the Gulf Intracoastal Waterway between Brownsville, TX and Apalachicola, FL, and tributary and connecting waterways and channels.

Note.—The purpose of this republication is to correct the commodity description.

MC 150927 (Sub-3), filed September 3, 1982. Applicant: HORIZON TRANSPORT, INC., P.O. Box 20648, Portland, OR 97220. Representative: Michael D. Crew, 1618 SW 1st Ave., Suite 205, Portland, OR 97201, (503) 221–1529. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 151067 (Sub-2), filed September 3, 1982. Applicant: TWILIGHT TRUCKING, LTD., 4303—76 Ave., Edmonton, Alberta, Canada T6B 2N3. Representative: Dale G. Thiessen, (same address as applicant) (403) 468–4062. Transporting *detergents*, between the ports of entry on the International Boundary line between the U.S. and Canada in MT, ID, and WA, on the one hand, and, on the other, points in CA, OR, WA, and TX.

MC 152447 (Sub-1), filed September 3, 1982. Applicant: OPIES' MILK HAULERS, INC., Highway 52 West, P.O. Box 88, Eldon, MO 65026. Representative: James C. Swearengen, P.O. Box 456, Jefferson City, MO 65102, (314) 635–7166. Transporting *commodities in bulk*, between points in Jasper County, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162417, filed September 1, 1982. Applicant: NAAMAN GERSHOWITZ, INC., Aden Rd., Liberty, NY 12754. Representative: George Gershowitz, (same address as applicant), (914) 292–4485. Transporting *passengers and their baggage*, in special and charter operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in Sullivan County, NY, and extending to points in NJ, CT, MA, and PA.

MC 163687, filed September 2, 1982. Applicant: ALL SOUTHERN TRANSPORT, INC., 307 N.W. 3rd St., Ocala, FL 32670, Representative: Frank C. Amatea, P.O. Box 1147, Ocala, FL 32678, (904) 732–4740. Transporting *General Commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Kimco of Ocala, Inc., of Ocala, FL.

MC 163707, filed September 2, 1982. Applicant: DIRECT CARTAGE CO., INC., P.O. Box 29014, 11311 Stemmons Freeway, Dallas, TX 75229, Representative: Thomas J. O'Brien, 234 Mt. Pleasant Ave., Ambler, PA 19002, (215) 646–6220. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in LA, OK, and TX, under continuing contract(s) with Intermodal Brokerage Services Inc., of Norcross, GA.

Volume No. OP4–337

Decided: September 17, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

MC 163657, filed August 31, 1982. Applicant: CROWN MOVING COMPANY, INC., 6858 South 220th St., Kent, WA 98032. Representative: Michael R. Ginnaty (Same address as applicant) (206) 872–7012. Transporting *used household goods* for the account of the United States Government incident to the performance of a Pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

MC 163546, filed August 25, 1982. Applicant: TRARA BROKERS, INC., 1340 Forest Parkway, Lake City, GA 30052. Representative: William Glisson (same Address as applicant) (404) 363–1539. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to team 5 (202) 275–7289.

Volume No. OP5–189

Decided: September 9, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC 31498 (Sub-4), filed September 2, 1982. Applicant: K&T AIR FREIGHT, INC., 16525 Eastland St., Roseville, MI 48066. Representative: Robert E. McFarland, 2855 Coolidge Rd., Ste. 201A, Troy, MI 48084, (313) 649–6650. (1) Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) transporting *shipments weighing 100 pounds* of less if transported in a motor vehicle in which no one package exceeds 100 pounds, (3) *food and other edible products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, and (4) *use household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI)

MC 163619, filed September 2, 1982. Applicant: EXECUTIVE AIR COURIER, INC., d.b.a. NATIONAL EXPEDITED DATA EXPRESS, 7610 Bristol Pike, Levittown, PA 19057. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth St., NW., Washington, DC 20005, (202) 296 5188. Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Volume No. OP5–191

Decided: September 14, 1982.

By the Commission, Review Board No. 3, members Krock, Joyce and Dowell.

MC 163678, filed September 2, 1982. Applicant: EDWARD R. BEACHY d.b.a. BEACHY TRUCKING, P.O. Box 256 RR 4, Honey Brook, PA 19344. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956, 414–722–2848. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 163638, filed August 30, 1982. Applicant: LAND–LINK TRANSPORTATION, INC., d.b.a., LAND–LINK TRAFFIC SYSTEM, P.O. Box 1516, Point Pleasant Beach, NJ 08742. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, 201–572–5551. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163648, filed August 31, 1982. Applicant: TDP, INC. d.b.a., TRI CITY VAN & STORAGE OF LOUISVILLE, 9901 Callie Dr., Fairdale, KY 40118. Representative: Terry Ray Powers, (same address as applicant), 502–582–1699. Transporting *used household goods*, for the account of the United States Government, incident to the performance of a pack-and-crate service, on behalf of the Department of Defense, between points in the U.S.

MC 163688, filed September 2, 1982. Applicant: FREIGHT SAVERS, INC., 3104 NE 71st Terr., Kansas City, MO 64119. Representative: Arthur J. Cerra, 2100 CharterBank Center, P.O. Box 19251, Kansas City, MO 64141, 816–842–8600. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–26366 Filed 9–23–82; 8:45 am]

BILLING CODE 7035–01–M

[Amendment No. 3]

Section 5a (49 U.S.C. 10706) Application No. 106; Household Good Forwarders Tariff Bureau Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional approval of amendment.

SUMMARY: Provisional approval under the tenets of 49 U.S.C. 10706(c) of non-substantive amendments to rate agreement is granted to the Household Goods Forwarder Tariff Bureau, on behalf of its member carriers. This approval may be revoked if, upon protest, the Commission issues a decision finding the amendment(s) inconsistent the National Transportation Policy.

This amendment may be inspected at the Public Docket Room, Office of the Secretary, Interstate Commerce Commission, Washington, DC.

DATES: Protests should be filed on or before October 14, 1982. A reply may be filed by October 29, 1982.

ADDRESS: Protests (an original and 7 copies) should be addressed to: Interstate Commerce Commission, Office of Proceedings, Room 5356, 12th & Constitution Ave., NW., Washington, DC 10423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278, or Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: On March 22, 1982, the Household Goods Forwarders Tariff Bureau (HGFT), on behalf of its member carriers, filed an application for approval of amendments to the by-laws of its agreement between its members.[1] These amendments were adopted by HGFT's Executive Committee on August 27, 1981, pursuant to a review of HGFT's operations by Commission field staff. HGFT proposes to (1) modify the definition of dues paying members to reflect Commission practices with regard to the 50-State territorial scope of household goods freight forwarder authority; (2) authorize its president to select the date and place of HGFT's annual meeting; and (3) establish quorum rules for its meetings whereby 30 percent of its members in good standing will constitute a quorum at annual or special meetings at which rates, rules or classifications are discussed or considered. At all other meetings, a quorum shall consist of the members present in good standing.

The first two proposed amendments are consistent with Commission practice. The final amendment concerning quorum rules is consistent with the standards and procedures announced in Ex Parte No. 297 (Sub-No. 5), *Motor Carrier Rate Bureau—Implementation of Pub. L. 96–296*, 364 I.C.C. 464 (1980) and our subsequent decision in that proceeding making certain pertinent modifications at 364 I.C.C. 921 (1981). Although that proceeding pertains to motor carriers, we believe its quorum requirements are also reasonable for household goods freight forwarders.

Provisional approval under the tenets of 49 U.S.C. 10706(c) of the non-substantive amendments is granted.

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[1] The original agreement was approved in Section 5a Application No. 106, *Household Goods Forwarders—Agreement*, (not printed) decided April 25, 1972, as amended by Order served May 7, 1973. HGFT has no other pending applications for approval of amendments to its agreement.

This approval may be revoked if an interested party demonstrates that it is inconsistent with the National Policy and we issue a decision withdrawing approval. Pleadings must be served on all parties.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10706)

Dated: September 16, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26317 Filed 9-23-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 297]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: September 20, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC-157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Williams, and Higgins.

Agatha L. Mergenovich,

Secretary.

MC 95398 (Sub-1)X, filed September 13, 1982. Applicant: WM. B. KENT & SONS, INC., 550 Turnpike St., North Andover, MA 01845. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Lead certificate: (1) Broaden household goods to "household goods and furniture and fixtures"; and (2) expand North Andover, MA and points in Massachusetts within 10 miles of North Andover, MA to points in Essex and Middlesex Counties, MA.

MC 111651 (Sub-20)X, filed September 8, 1982. Applicant: MIDDLEWEST FREIGHTWAYS, INC., 6801 Prescott Ave., St. Louis, MO 63147. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Ste. 600, Kansas City, MO 64105. Subs 1, 3, 5, 8, 9, 12 and 17 certificates: (A) Broaden to general commodities (except classes A and B explosives, household goods and commodities in bulk) from "packed, bagged or crated commodities" over a specified regular route between Kansas City, MO, and Wichita, KS, to render authority consistent with authorized "general commodities" service to intermediate and off-route points, Sub 1; (B) remove (1) all restrictions in its general commodity authority except "classes A and B explosives, household goods and commodities in bulk", Subs 1, 3, 5, 8, 9, 12 and 17; (2) intermediate point restrictions, to authorize service at all intermediate points on its regular routes, Subs 1 and 3; (3) "site and/or supply point" restriction, Subs 3, 8, 9 and 12, (C) broaden off-route point authority to county-wide authority: Jefferson, Bullit and Oldham Counties, KY and Harrison, Floyd and Clark Counties, IN (points within 5 miles of Louisville, KY), Sub 3.

MC 126605 (Sub-6)X, filed September 8, 1982. Applicant: BEAVER'S DUMP TRUCK SERVICE, INC., Route 3, Box 338, Live Oak, FL 32060. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Lead certificate, broaden (1)(a) sand to "clay, concrete, glass or stone products," (b) limestone and limestone products to "ores and minerals," and (c) fertilizer and fertilizer materials to "chemicals and related products"; (2) to countywide authority: Cook, Lowndes, Thomas and Tift Counties, GA (Adel, Valdosta, Lake Park, Thomasville, and Tifton), and Jefferson and Madison Counties, FL (Monticello and Madison); (3) from one-way authority to radial authority; and (4) eliminate "dry, in bulk, in dump vehicles" restrictions.

MC 143708 (Sub-9)X, filed September 1, 1982. Applicant: DUNES TRANSPORT, INC., 3965 North Meridian St., Indianapolis, IN 46208. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, IN 46204. Sub 3F certificate, broaden (1) commodity description to "such commodities as are dealt in or used by manufacturers and distributors of food and related products," from such commodities as are dealt in or used by manufacturers and distributors of bakery products; and (2) from plantsites to citywide authority: Fremont, Indianapolis and Lake Station, IN (facilities at Fremont, Indianapolis, and Lake Station).

[FR Doc. 82-26311 Filed 9-23-82; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Inland Oil and Chemical Corporation, 900 S. Eutaw Street, Baltimore, Md. 21230.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation: Leidy Chemical Corporation—Maryland Corporation.

1. Parent corporation and principal office: Parts Industries Corporation, 601 South Dudley Street, Memphis, Tennessee 38104.

2. Wholly-owned subsidiaries which will participate in the operations and state(s) of incorporation: Heavy Duty Parts, Inc., Tennessee; Key Parts, Inc., North Carolina; Worldparts Corporation, Tennessee.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26318 Filed 9-23-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 290 (Sub-2)]

Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of approval of railroad cost index.

SUMMARY: The Commission has decided to approve the cost index filed by the Association of American Railroads (AAR) under the procedures of Docket Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures.* The application of this index provides for a Rail Cost Adjustment Factor (RCAF) of 1.159. This RCAF when compared to the third quarter RCAF of 1.159 shows no change in total railroad input prices. It remains below the RCAF of 1.177 published for the first quarter 1982. No rate actions will be ordered.

EFFECTIVE DATE: September 24, 1982.

FOR FURTHER INFORMATION CONTACT: Robert C. Hasek (202) 275–0938; Tom Smerdon (202) 275–7277.

SUPPLEMENTARY INFORMATION: By decision served April 17, 1981 (46 FR 22594, April 20, 1981), we outlined the procedures for calculation of the interim Mid-Quarter Index of railroad costs and the methodology for computing the Rail Cost Adjustment Factor. We also decided to require the AAR, no later than 20 days before the end of each quarter, to calculate and submit to the Commission the mid-quarter index.

We have received AAR's calculations of the mid-quarter index and have found that these calculations comply with the guidelines outlined in our decision served April 17, 1981.

The indices derived from these calculations are shown in the table below.

Interim Mid-quarter Index

Category	1980 weight (percent)	2d quarter 1982 actual	3d quarter 1982 forecast	4th quarter 1982 forecast
Salaries, wages and supplements	47.8	123.9	129.6	129.5
Fuel	12.3	106.0	111.0	111.7
Materials and supplies	12.2	109.0	108.1	107.9
Other expenses	28.3	111.1	111.2	111.2
Weighted Average:				
A–1980=100		116.3	119.0	119.0
B–10/1/80=100[1] (rail cost adjustment factor)		113.2	115.9	115.9

[1] Weighted average 10/1/80=102.7

Based on the above figures, we conclude that the Third Quarter 1982 Rail Cost Adjustment Factor (RCAF) remains at 1.159 and that the Fourth Quarter 1982 RCAF is also 1.159.

This decision will not significantly affect the quality of the human environment or conservation of energy resources. Although this proceeding is not subject to Public Law 96–354, it is our opinion that it will not have a significant adverse impact on a substantial number of small entities.

(49 U.S.C. 10321, 10707a, 5 U.S.C. 553)

Dated: September 16, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26312 Filed 9-23-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30025]

Rail Carriers; Norfolk and Western Railway Co. and Wabash Railroad Co.—Amendment of Lease—Exemption

September 20, 1982.

Petitioner, the Norfolk and Western Railway Company (N&W), was authorized in *Norfolk & W. Ry. and New York, C. St. L. Ry. Merger,* 324 I.C.C. 1 (1964), to lease the properties of petitioner, the Wabash Railroad Company (Wabash) for an eight year period. The Commission has twice approved eight year extensions of the lease period, with the last commencing October 16, 1980.

Section 4 of the N&W's lease with the Wabash provides that the N&W shall make certain rental payments to the Wabash according to a specified formula. Subsection (11) of section 4 permits adoption of a new formula if any changes are made to, or in, the common stock of N&W as a result of any merger, consolidation, or reorganization involving the N&W.

On June 1, 1982, N&W and the Southern Railway Company (Southern) were consolidated under the common control of Norfolk Southern Corporation (NCS). Each share of N&W's outstanding common stock was converted to one share of common stock in NSC. In view of this change, the N&W and the Wabash propose, pursuant to section 4 (11) of the involved lease agreement, to modify the existing formula for determining the rental payments paid to the Wabash by the N&W. To the extent that the amount of these payments has been based upon the amount of the dividend paid by the N&W prior to its consolidation with the Southern, it would now be based upon the amount of the dividend paid by the NSC.

N&W and Wabash have also agreed to modify their lease agreement so that the rental payments, which have been calculated with reference to allowances for depreciation and retirements, as prescribed by this Commission, would now be calculated with reference to the deductions for depreciation and retirements allowed under Federal tax laws. This change takes into account certain provisions of the Economic Recovery Tax Act of 1981, which make it possible for the Wabash to obtain the maximum benefit from the deductions involved.

The N&W controls the Wabash through its ownership of 99 percent of Wabash common stock and 2.1 percent of Wabash preferred stock. The proposed changes in the lease agreement are minor in nature and will not result in any changes in service levels or operations, nor will they affect the existing competitive scheme.

By petition filed August 20, 1982, the N&W and the Wabash seek an exemption under 49 U.S.C. 10505 of the proposed modification. Since it would be a transaction wholly within a corporate family that would not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family, the proposal is exempt pursuant to 49 CFR 1111.2(d)(3). See *Railroad Consolidation Procedures,* 366 I.C.C. 75, 94 (1982). As a condition to the use of this exemption, any rail employees affected by the described modification of the lease shall be protected pursuant to *Mendocino Coast Ry., Inc.-Lease and Operate,* 354 I.C.C. 732 (1978) and 360 I.C.C. 653 (1980). This will satisfy the statutory requirements of 49 U.S.C. 10505(g)(2).

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26315 Filed 9-23-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Agency Forms Under Review

September 21, 1982.

OMB has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all the entries grouped into new forms, revisions, extensions, or revisions. Each entry contains the following information:

(1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available); (2) The office of the agency issuing this form; (3) The title of the form; (4) The agency form number,

if applicable; (5) How often the form must be filled out; (6) Who will be required or asked to report; (7) An estimate of the number of responses; (8) An estimate of the total number of hours needed to fill out the form; (9) An indication of whether Section 3504(H) of Pub. L. 96–511 applies; (10) The name and telephone number of the person or office responsible for OMB review.

Copies of the proposed forms and supporting documents may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the reviewer listed at the end of each entry and to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

Department of Justice

Agency Clearance Officer Larry E. Miesse—202–633–4312.

Extension (Adjustment to Burden Only)

- Immigration and Naturalization Service, Department of Justice

Agreement by Transportation Line to Assume Responsibility for Removal of Aliens.
Nonrecurring
Businesses or other institutions (except farms)
Transportation lines bringing aliens to the U.S.: 6,000 responses; 720 hours; not applicable under 3504(h).
Andy Uscher—395–4814

Extension (No Change)

- Immigration and Naturalization Service, Department of Justice

Application to File Declaration of Intention (Immigrants).
Nonrecurring
Individuals or households
Permanent resident aliens over 18 years of age: 5,000 responses; 2,500 hours; not applicable under 3504(h).
Andy Uscher—395–4814

- Immigration and Naturalization Service, Department of Justice

Petition to Classify Orphan as an Immediate Relative
Nonrecurring
Individuals or households
Alien orphan petitioners: 6,100 responses; 3,050 hours; not applicable under 3504(h).
Andy Uscher—395–4814

- Immigration and Naturalization Service, Department of Justice

Application for Status as Permanent Resident Cuban Refugee.
Nonrecurring
Individuals or households
Cuban refugees: 7,000 responses; 3,500 hours; not applicable under 3504(h).
Andy Uscher—395–4814

Larry E. Miesse,

Department Clearance Officer, Systems Policy Staff, Office of Information Technology, Justice Management Division, Department of Justice.

[FR Doc. 82-26290 Filed 9-23-82; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period September 13, 1982–September 17, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In the following case the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–13,158; Zenith Radio Corp., Chicago, IL, Plant #6

Affirmative Determinations

TA–W–13,156; Zenith Radio Corp., Chicago, IL, Plant #1

A certification was issued in response to a petition received on December 17, 1981 covering all workers separated on or after December 28, 1981.

TA–W–13,157; Zenith Radio Corp., Chicago, IL, Plant #2

A certification was issued in response to a petition received on December 17, 1981 covering all workers separated on or after December 28, 1981.

I hereby certify that the aforementioned determinations were issued during the period September 13, 1982–September 17, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: September 21, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-26289 Filed 9-23-82; 8:45 am]
BILLING CODE 4510-30-M

Dismissals of Applications for Reconsideration of Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

Pursuant to 29 CFR 90.18 applications for administrative reconsideration were filed with the Director of the Office of Trade Adjustment Assistance in the cases listed below. In each case, the review indicated that the applications contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissals of the applications were issued.

TA–W–12,599; Superior Shake Company, Concrete, WA
Dated: September 13, 1982: Harold A. Bratt, Acting Deputy Director, Office of Program Management, Unemployment Insurance Service

TA–W–12,488; Westclox U.S., Yadkinville, NC
Dated: September 13, 1982: Harold A. Bratt, Acting Deputy Director, Office of Program Management, Unemployment Insurance Service

I hereby certify that the aforementioned determinations were issued on September 13, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: September 21, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-26288 Filed 9-23-82; 8:45 am]
BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 4, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 4, 1982.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C., this 20th day of September 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bata Shoe Co., Inc., Elkins Div. (workers)	Elkins,W. Va	9/14/82	9/10/82	TA-W-13,782	Shoes—men's, ladies' and boys fabric uppers.
Dakota Enterprises, Inc. (workers)	Lyburn, W. Va	9/14/82	9/9/82	TA-W-13,783	Coal, metallurgical mine.
Hawera Tool Manufacturing (workers)	Jackson, Miss	9/10/82	9/3/82	TA-W-13,784	Bits, masonry, carbide.
Jane Ann Fashions (workers)	Coaldale, Pa	9/16/82	9/10/82	TA-W-13,785	Sportswear, dresses—ladies'.
L.F. Fales Machine Co. (workers)	Walpole, Mass	9/13/82	9/8/82	TA-W-13,786	Machining, contract, machines—sewing industrial and sliders.
Lee Ann Coal Co. (UMWA)	Madison, W. Va	9/10/82	9/3/82	TA-W-13,787	Coal—metallurgical mine.
N.L. Chemicals/N.L. Industries, Titanium Div. (OCAWIU)	Sayreville, N.J	9/16/82	9/13/82	TA-W-13,788	Titanium dioxide.
Phoenix Steel Corp., Claymont Plant (USWA)	Claymont, Del	9/16/82	9/8/82	TA-W-13,789	Plates and specialty steel.
Phoenix Steel Corp., (USWA)	Phoenixville, Pa	9/15/82	9/8/82	TA-W-13,790	Pipe and tube.
Relac Electronics Corp. (workers)	Winsted, Conn	9/13/82	8/20/82	TA-W-13,791	Incandescent digital and alphanumeric display.
Republic Steel Corp. Southern District (USWA)	Gadsden, Ala	9/6/82	8/11/82	TA-W-13,792	Steel plate, strip and sheet, galvanized coils and sheets.
Superior Electric Products Corp. (IBEW)	Cape Girardeau, Mo	9/16/82	9/8/82	TA-W-13,793	Fans.

[FR Doc. 82-26400 Filed 9-23-82; 8:45 am]
BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107 (e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on October 13–14, 1982 in Room S–4215, Frances Perkins Department of Labor Building, Washington, D.C. The meeting is open to the public and will begin at 9:00 a.m.

The agenda for this meeting will include the swearing in of new members, updates on safety and health standards activities, a review of a draft proposal for the revision of Subpart P—Trenching and Excavation, and a general discussion of construction safety and health matters.

Written data, views or comments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the Chairman depending on the extent to which time permits. Communications may be mailed to: Ken Hunt, Committee Management Officer, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N–3635, Washington, D.C. 20210, telephone 202–523–8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C., this 20th day of September 1982.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 82-26401 Filed 9-23-82; 8:45 am]
BILLING CODE 4510-26-M

Puerto Rico State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 30, 1977, notice was published in the **Federal Register** (42 FR 43628) of the approval of the Puerto Rico plan and the adoption of Subpart FF to Part 1952 containing the decision.

The Puerto Rico plan provides for the adoption of Federal standards as State standards by reference. Section 1953.20 29 CFR provides that "where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required." In

response to Federal standards changes, the State has submitted by letter dated June 9, 1982 from Assistant Secretary John Cinque to Regional Administrator Roger A. Clark, and incorporated as part of the plan, State standards comparable to the Occupational Safety and Health Administration final standards for Guarding of Low-Pitched-Roof Perimeters During the Performance of Built-Up Roofing Work, as published in the **Federal Register** (45 FR 75618) dated November 14, 1980; Electrical standards, as published in the **Federal Register** (46 FR 4034) dated January 16, 1981; and by letter dated July 12, 1982, Electrical standards—corrections, as published in the **Federal Register** (46 FR 40183) dated August 7, 1981; Occupational Noise Exposure; Hearing Conservation Amendment, as published in the **Federal Register** (46 FR 4078) dated January 16, 1981, with corrections as published in the **Federal Register** (46 FR 42622) dated August 21, 1981. These standards which are contained in the Puerto Rico Regulations, Number Four (equivalent to 29 CFR Part 1910) and Number Ten (equivalent to 29 CFR Part 1926) were promulgated by resolutions adopted by the Puerto Rico Department of Labor and Human Resources on February 12, 1982 and June 2, 1982, pursuant to the Puerto Rico Act Number 16 and Chapter 52 of the Puerto Rico Rules and Regulations Act of 1958.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards it has been determined that the State standards are identical to the Federal standards and accordingly are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standard supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 3445, 1515 Broadway, New York, New York 10036; Puerto Rico Department of Labor and Human Resources, Prudencio Rivera Martinez Bldg., 505 Munoz Rivera Avenue, Hato Rey, Puerto Rico 00917; Office of the Director, Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N3613, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Puerto Rico State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirement of State law and further participation would be unnecessary.

The decision is effective September 24, 1982.

(Sec. 18 Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at New York City, New York, this 10th day of August 1982.

Robert C. Hallock,

Acting Regional Administrator.

[FR Doc. 82-26402 Filed 9-23-82; 8:45 am]

BILLING CODE 4510-26-M

Office of Pension and Welfare Benefit Programs

[Application No. D-3498]

Proposed Exemption for Certain Transactions Involving the Smith, Barney Real Estate Fund Located in New York, New York

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt certain prohibited transactions between Smith, Barney Real Estate Fund (the Fund) and certain parties in interest with respect to the Fund, subject to specified conditions. The proposed exemption, if granted, would affect the Fund, employee benefit plans which participate in the Fund and their participants and beneficiaries, certain parties in interest with respect to the Fund, and any other persons participating in the proposed transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before November 9, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-3498. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of certain sections of the Act and from certain sanctions resulting from the application of section 4975 of the Code. The proposed exemption was requested in an application filed on behalf of the trustees of the Fund (the Trustees), pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Preamble

On July 25, 1980, the Department published a class exemption, Prohibited Transaction Exemption 80-51 (PTE 80-51, 45 FR 49709), which permits collective investment funds that are maintained by banks and in which employee benefit plans participate to engage in certain transactions provided that specified conditions are met. The transactions for which the applicants have requested relief are those which are the subject of PTE 80-51.

The Department stated in PTE 80-51 that a comment had been received to the proposed class exemption requesting that it be amended to apply to collective

investment funds that are not maintained by banks. Relief was granted for bank collective investment funds because, among other reasons, such funds are regulated by other governmental agencies and constitute a well-defined class of funds. In the case of collective investment funds that are not maintained by banks, the Department found that the record was insufficient to determine the nature of the funds and the entities managing the funds that would comprise the class covered by such broad relief. As a result, the Department stated that it could not make the required statutory findings for such relief, and that relief for non-bank maintained collective investment funds should be dealt with on an individual rather than a class basis.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Fund is a qualified group trust formed to provide qualified pension and profit-sharing plans (the Plans) with a medium for pooling a portion of their funds for investment in real estate and interests in real estate. The Internal Revenue Service has ruled that the Fund is qualified under section 401(a) of the Code and is exempt from Federal income tax under section 501(a) of the Code. The Fund was established under a written agreement of Trust (the Trust Agreement) dated October 1, 1976. A Plan's interest in the Fund is represented by Units and a participating Plan in the Fund is referred to as a Unitholder. As of June 30, 1982, there were 55 Unitholders participating in the Fund, and the total value of the Fund's assets was approximately $92,000,000.

2. Messrs. Jack L. Billhardt, Thomas J. Gochberg, John A. Orb, John A. Morgan, and J. Perry Ruddick currently serve as the Trustees of the Fund. The Trustees, in addition to performing certain administrative and ministerial functions, are solely responsible for accepting or rejecting participation in the Fund by a prospective Plan, for determining the net fair market value of the Fund's assets, and for determining the amount and time of distributions to Unitholders.

3. Pursuant to an agreement dated October 1, 1976 (the Agreement), Smith, Barney Real Estate Corporation (SBREC) serves as the investment manager of the Fund. SBREC, a New York corporation, was formed to provide advice and management in connection with real estate activities. Since its founding in 1969, SBREC has invested, on behalf of its clients, over $1 billion in over 150 properties. These investments have been primarily in multi-family residential properties, office buildings, shopping centers, and other commercial properties. Currently, SBREC has approximately 525 employees. SBREC is a wholly-owned subsidiary of SBHU Holdings Inc. (SBHU), and is a sister corporation of Smith Barney, Harris Upham & Co. Incorporated (Smith Barney).

4. SBREC has exclusive authority to exercise, on behalf of the Trustees, all of the powers necessary to acquire, manage and dispose of all of the Fund's investments. SBREC receives reasonable compensation for its services. Pursuant to the Agreement, SBREC does not permit the Fund to own or have any interest in any property in which an interest is owned or held by SBREC or any Trustee, or any entity controlled by or controlling SBREC or any Trustee, or any other individual, corporation or entity affiliated with SBREC or a Trustee, as described within the Fund documents. Neither SBREC nor any of its affiliates receive any real estate commissions, property acquisition fees, mortgage placement fees, property management fees or similar fees in connection with the Fund's acquisition, management or disposition of properties. The Trustees are not compensated by the Fund for serving as trustees, but receive compensation from SBREC and/or SBHU and/or Smith Barney for services performed in connection with their duties as officers and/or directors of those corporations.

5. The Fund instruments provide that only pension and profit-sharing trusts qualified under section 401 of the Code and exempt from taxation under section 501(a) of the Code may participate in the Fund. Each Unitholder executes an agreement (the Adoptive Agreement) causing the governing instrument of such Plan to be amended to incorporate the Trust Agreement. Neither the sponsor-employer of such Unitholder nor any of the trustees, administrators, officers or investment advisers of such sponsor-employer or its Plan have any right or power to control or in any way participate in the operation or management of the Fund.

6. The Fund will invest, except in unusual circumstances, only in income-producing properties. Such investments will be primarily in multi-family residential properties, shopping centers, office buildings and other commercial properties. The Fund intends to diversify its investments geographically throughout the continental United States. Income from the Fund, less expenses, is either reinvested in real estate or distributed to the Unitholders. Pending such reinvestment or distribution, cash assets of the Fund are invested in short-term government obligations. Similarly, capital contributions from new and existing Unitholders are similarly invested in short-term government obligations pending investment in real estate.

7. The fiduciaries of each Unitholder, who are independent of the Fund, will maintain complete discretion with respect to the investment in or redemption of Units from the Fund. In order to provide sufficient time for the orderly disposition of assets of the Fund, the Fund has up to two years and three months to redeem the interests of a requesting Unitholder. It is the intention of the Trustees of the Fund to honor a Unitholder's request for a withdrawal as soon as practicable.

8. Because each Unitholder will incorporate as part of such Plan the terms, provisions, and conditions of the Trust Agreement, the Fund will occupy a position equivalent to the trust created under such Unitholder. Accordingly, pursuant to Rev. Rul. 81-100, 1981-13 I.R.B. 32, it is the position of the Department that a "party in interest" or "disqualified person" as defined in the Act [1] with respect to a Unitholder may be viewed as a party in interest with respect to the Fund. Accordingly, a transaction between such party and the Fund may be viewed as a prohibited transaction as described in section 406(a) of the Act, section 4975(c) of the Code, or both. The applicants represent that if the Fund is unable to enter into transactions with certain persons because such persons are parties in interest with respect to Unitholders, the Fund's ability to prudently make its investments and conduct its operations solely for the benefit of the Unitholders will be unduly restricted. The applicants represent that such transactions, because of the nature of the Fund, are difficult to identify and control, but if entered into would be in the interests of the Funds, the Unitholders and their participants and beneficiaries.

9. The applicants request prospective exemptive relief for transactions between the Fund and parties in interest who maintain no formal authority over the management and investments of the Fund, when such transactions are necessary for the Fund to prudently make its investments and conduct its

[1] For purposes of this exemption the term "party in interest" shall include a disqualified person as defined in section 4975(e)(2) of the Code.

operations. The applicants request prospective exemptive relief for those classes of transactions between the Fund and certain parties in interest which were afforded exemptive relief in PTE 80–51. The applicants propose that such classes of transactions be subject to the identical conditions, limitations, and restrictions as those delineated with respect to the transactions afforded exemptive relief in PTE 80–51.

10. The applicants represent that because Units of the Fund constitute "securities" within the meaning of the Securities Act of 1933 (the 1933 Act), full and fair disclosure of information to investors in connection with the offer and sale of the Units is required. Full and fair disclosure is accomplished by either registration of the securities with the Securities and Exchange Commission (the Commission) or by satisfying the requirements for a private placement of such securities under section 4(2) of the 1933 Act.

11. In furtherance of the purposes of section 4(2), the Commission has promulgated Regulation D which exempts certain transactions meeting stated objective standards from the registration provisions of the securities laws. Generally, Regulation D provides an exemption where, among other things, a purchaser alone, or with his representative, has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment. Regulation D also requires that each issuer provide essentially the same kind of information as would be provided upon registration if the issuer believes such information is material, and that each purchaser generally possess or have access to the same kind of information that would have been available to them upon registration.

12. The Fund fully complies with the requirements of Regulation D (and its predecessor, Rule 146) at the time that Units are offered and sold to prospective Unitholders. As a means of ensuring that these requirements are satisfied, the Fund provides each Unitholder with an offering memorandum describing the Fund, forms of the Fund's Adoptive and Group Trust Agreements, recent reports regarding the Fund's activities, and financial statements describing the assets and liabilities of the Fund. In addition, the Fund requires that a prospective Unitholder's initial purchase of Units must be for at least $250,000. The investments of many Unitholders are substantially in excess of $250,000. The Trustees also make a determination, as required by Regulation D, whether a prospective Unitholder is sufficiently knowledgeable and experienced, or has advisers who have such knowledge and experience, to make the proper investment decision. In this regard, the Trustees are empowered to refuse the sale of Units to any prospective Unitholder if they determine that the prospective Unitholder lacks the sophistication necessary for investing in the Fund. A substantial majority of the Unitholders' investment advisers are banks, insurance companies or registered investment advisers. In addition, virtually all of the Unitholders are continually advised by accounting firms, actuarial firms and law firms.

13. The Fund also supplies Unitholders and their advisers with quarterly reports on the Fund's activities containing unaudited financial information, including a statement of the Fund's annual return and Unit value as of the beginning and end of each quarter, and a statement of current and proposed transactions and developments affecting the Fund and the Fund's investments. The annual report of the Fund includes financial information, audited by the Fund's independent certified public accountants, Arthur Andersen & Co., and includes a balance sheet for the Fund, a profit and loss statement for the Fund and a statement of changes in the Fund's financial position. These reports are audited and distributed to the Unitholders within 90 days after the end of the Fund's fiscal year. These reports also show, for the partcular year, all fees paid to SBREC, all purchases and sales of real estate, the amount of Unitholders' contributions and redemptions, and distributions to Unitholders.

14. Further, the Fund prepares and distributes to each Unitholder such other information as may be requested by Unitholders. The books and records of the Fund are available for examination by Unitholders at all times, and individual Unitholders on a regular basis arrange meetings with representatives of the Fund in order to review the Fund's financial results and to discuss current and proposed transactions of the Fund.

15. In summary, the applicants represent that the proposed exemption for certain transactions between the Fund and certain parties in interest satisfies the criteria of section 408(a) of the Act because: (a) The proposed exemption would allow the Fund to enter into transactions which, although prohibited, are necessary for the Fund to prudently make its investments and conduct its operations solely for the benefit of its Unitholders and their participants and beneficiaries; (b) the proposed exemption would only apply to those classes of prohibited transactions which were afforded relief in PTE 80–51 and would be subject to the identical conditions, limitations, and restrictions as those delineated with respect to the transactions afforded exemptive relief in PTE 80–51; (c) independent fiduciaries, unrelated to the Fund, the Trustees, SBREC, or any other related party maintain complete discretion with respect to investment in or redemption of Unitholders' assets from the Fund; and (d) such fiduciaries are knowledgeable and experienced investors acting on behalf of large Plans and are provided with detailed information on the Fund.

Notice to Interested Persons

Within 14 days after the publication in the **Federal Register** of the proposed exemption, the Fund will send by mail a copy of such proposed exemption to the fiduciaries of each Unitholder in the Fund. The Fund will also inform such fiduciaries of their right to comment and request a hearing within the time period set forth in the notice of proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the

exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interst in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Section I. Exemption for Certain Transactions Involving the Fund

(a) Effective upon the date of publication in the **Federal Register** of the grant of this exemption (hereinafter, the Effective Date), the restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the transactions described below if the applicable conditions set forth in Section III are met.

(1) *Transactions Between Parties-In-Interest and the Fund: General.*

Any transaction between a party-in-interest with respect to a Unitholder and the Fund, or any acquisition or holding by the Fund of employer real property, if the party-in-interest is not SBREC, any of its affiliates, or any other group trust managed by SBREC or any of its affiliates, and if, at the time of the transaction, acquisition or holding, the interest of the Unitholder, together with the interests of any other Unitholders maintained by the same employer or employee organization in the Fund, does not exceed 5 percent of the total of all assets in the Fund.

(2) *Special Transactions Not Meeting the Criteria of Section I(a)(1) Between Employers of Employees Covered by a Multiple Employer Plan and the Fund.*

Any transaction between an employer (or an affiliate of an employer) of employees covered by a multiemployer plan (as defined in section 3(37)(A) of the Act and section 414(f)(1) of the Code) that is a Unitholder and the Fund, or any acquisition or holding by the Fund of employer real property, if at the time of the transaction, acquisition or holding—

(A) The interest of the multiemployer plan in the Fund does not exceed 10 percent of the total assets in the Fund, and the employer is not a "substantial employer" with respect to the plan, or

(B) The interest of the multiemployer plan in the Fund exceeds 10 percent of the total assets in the Fund, but the employer is not a "substantial employer" with respect to the plan and would not be a "substantial employer" if "5 percent" were substituted for "10 percent" in the definition of "substantial employer."

(3) *Acquisitions, Sales or Holdings of Employer Real Property.*

(A) Except as provided in subsection (B) of this section (3), any acquisition, sale or holding of employer real property by the Fund which does not meet the requirements of paragraphs (a)(1) and (a)(2) of this Section I, if no commission is paid to SBREC or to the employer or to any affiliate of SBREC or the employer in connection with the acquisition, sale or lease of employer real property; and

(i) Each parcel of employer real property and the improvements thereon held by the Fund are suitable (or adaptable without excessive cost) for use by different tenants, and

(ii) The property of the Fund that is leased or held for lease to others, in the aggregate, is dispersed geographically.

(B) In the case of a Unitholder that is not an eligible individual account plan (as defined in section 407(d)(3) of the Act), the exemption provided in subsection (A) of this section (3) shall be available only if, immediately after the acquisition of the real property, the aggregate fair market value of employer real property held by the Fund does not exceed 10 percent of the fair market value of the Unitholder's interest in the Fund.

(C) For purposes of the exemption contained in subsection (A) of this section (3), the term "employer real property" shall include real property leased to a person who is a party-in-interest with respect to a Unitholder by reason of a relationship to the employer described in section 3(14)(E), (G), (H) or (I) of the Act.

(b) Effective upon the Effective Date, the restrictions of section 406(a)(1) (A), (B), (C), and (D) and section 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the transactions described below, if the conditions of Section III are met.

(1) *Transactions with Persons Who Are Parties in Interest With Respect to a unitholder Soley by Virtue of Being Certain Service Providers or Certain affiliates of Service Providers.*

Any transaction between the Fund and a person who in a party-in-interest with respect to a Unitholder if—

(A) The person is a party-in-interest (including a fiduciary) solely by reason of providing services to the Unitholder, or solely by reason of a relationship to a service provider described in section 3(14)(F), (G), (H) or (I) of the Act, or both, and the person neither exercised nor has any discretionary authority, control, responsibility or influence with respect to the investment of the Unitholder's assets in, or held by, the Fund, and

(B) The person is not an affiliate of SBREC.

(2) *Certain Leases and Goods.*

The furnishing of goods to the Fund by a party-in-interest with respect to a Unitholder or the leasing of real property owned by the Fund to such party-in-interest and the incidental furnishing of goods to such party-in-interest by the Fund, if—

(A) In the case of goods, they are furnished to or by the Fund in connection with real property owned by the Fund;

(B) The party-in-interest is not SBREC or any affiliate of SBREC; and

(C) The amount involved in the furnishing of goods or leasing of real property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of the Fund with the same party-in-interest, or any affiliate thereof) does not exceed the greater of $25,000 or 0.5 percent of the fair market value of the assets of the Fund on the most recent valuation date of the Fund prior to the transaction.

(3) *Management of Real Property.*

Any services provided to the Fund by SBREC or by an affiliate of SBREC in connection with the management of the real property owned by the Fund, if the compensation paid to SBREC or its affiliate does not exceed the cost of the services to SBREC or its affiliate.

(4) *Transactions Involving Places of Public Accommodation.*

The furnishing of services, facilities and any goods incidental to such services and facilities by a place of public accommodation owned by the Fund to a party-in-interest with respect to a Unitholder, if the services, facilities and incidental goods are furnished on a comparable basis to the general public.

Section II—Excess Holdings Exemption for Employee Benefit Plans

(a) Effective upon the Effective Date, the restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)A) through (D) of the Code shall not apply to any acquisition or holding of qualifying employer real property (other than through the Fund) by a Participating Plan if (1) the acquisition or holding constitutes a prohibited transaction solely by reason of being aggregated with employer real property held by the Fund; (2) the requirements of either paragraph (a)(1) or paragraph (a)(2) of Section I of this exemption are met; and (3) the applicable conditions set forth in Section III of this exemption are met.

Section III—General Conditions

(a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of SBREC or its affiliate, the terms of the transaction are not less favorable to the Fund than the terms generally available in arm's-length transactions between unrelated parties.

(b) SBREC or its affiliate maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this Section III to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of SBREC or its affiliate, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c)(1) Except as provided in section 2 of this paragraph (c) and nothwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this Section III are unconditionally available at their customary location for examination during normal business hours by: (A) any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) any fiduciary of a Unitholder who has authority to acquire or dispose of the interests in the Fund of the Unitholder or any duly authorized employee or representative of such fiduciary,

(C) any contributing employer to any Unitholder or any duly authorized employee or representative of such employer, and

(D) any participant or beneficiary of any Unitholder or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this paragraph (c) shall be authorized to examine the trade secrets of SBREC or any of its affiliates, or commercial or financial information which is privileged or confidential.

Section IV—Definitions and General Rules

For the purposes of this exemption,

(a) An "affiliate" of a person includes—

(1) any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) any officer, director, employee, relative of, or partner in any such person, and

(3) any corporation or partnership of which such person is an officer, director, partner or employee.

(b) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(c) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or sister.

(d) The term "substantial employer" means for any plan year an employer (treating employers who are members of the same affiliated group, within the meaning of section 1563(a) of the Code, determined without regard to section 1563(a)(4) and (e)(3)(c) of the Code, as one employer) who has made contributions to or under a multiemployer plan for each of—

(1) the two immediately preceding plan years, or

(2) the second and third preceding plan years, equaling or exceeding 10 percent of all employer contributions paid to or under that plan for each such year.

(e) The time as of which any transaction, acquisition or holding occurs is the date upon which the transaction is entered into, the acquisition is made or the holding commences. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into, or an acquisition is made, on or after the effective date of this exemption, or a renewal that requires the consent of the Fund occurs on or after the effective date of this exemption, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, or at the time the acquisition is made, the requirements will continue to be satisfied thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued holding of the property so acquired. Notwithstanding the foregoing, this exemption shall cease to apply to a holding exempt by virtue of Section I(a)(1) at such time as the interest of the Unitholder exceeds the percentage interest limitation of Section I(a)(1), unless no portion of such excess results from an increase in the assets allocated to the Fund by the Unitholder. For this purpose, assets allocated do not include the reinvestment of Fund earnings. Nothing in this paragraph (e) shall be construed as exempting a transaction entered into by the Fund which becomes a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(f) Each Unitholder shall be considered to own the same proportionate undivided interest in each asset of the Fund as its proportionate interest in the total assets of the Fund as calculated on the most recent preceding valuation date of the Fund.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and

that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 20th day of September 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-25975 Filed 9-23-82; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-3500]

Proposed Exemption for Certain Transactions Involving the Darby Graphics, Inc. Employees' Profit Sharing Plan and Trust Located in Chicago, Illinois

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security At of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed loan by the Darby Graphics, Inc. Employees Profit Sharing Plan and Trust (the Plan) of the lesser of $175,000 or 40% of the Plan's assets to Citizens Bank and Trust Company (the Bank) as Trustee under Trust Agreement 66-4325 (Land Trust); and the guarantee of repayment by the principals of Rockwell Enterprise (Rockwell). The entire beneficial ownership under the Land Trust is held by Rockwell, a party in interest with respect to the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Land Trust, the Bank and Rockwell.

DATES: Written comments and request for a public hearing must be received by the Department on or before November 3, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-3500. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the retrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Plan's trustees, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procudures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan, which was established in 1967, is a profit sharing plan with 34 participants and total assets as of April 30, 1982 of $432,962. John H. Darby and Terry Stanton serve as co-trustees under the Plan. Darby Graphics, Inc. (the Employer) is an Illinois corporation which has been engaged in the printing business since 1964.

2. Rockwell is a joint venture composed of Terry Stanton, Donald J. Zirnite, Howard D. Gebel and Dennis J. Frantzsve (Principals), each of whom is an officer and/or director of the Employer.

3. On August 19, 1980, Rockwell purchased a parcel of improved real property located at 4015 N. Rockwell Street, Chicago, Illinois (the Property) for $325,000. The Property is improved with an industrial building containing approximately 27,000 square feet. Rockwell conveyed title to the Property to the Bank, but retained full beneficial interest in the resulting Land Trust.[1] The Land Trust has been leasing the Property to the Employer since July 1, 1981 (the Lease).

4. The Plan proposes to loan the Land Trust the lesser of $175,000 or 40% of the Plan's assets. The loan will be secured by a first mortgage on the Property and by an assignment of the Lease to the Plan. The loan is to be repaid in 180 equal monthly installments. The interest rate for the first 5 years of the loan will be 16¼%. On the fifth and tenth anniversaries of the loan the interest rate will be adjusted to the higher of 16¼% per annum or the interest rate for comparable loans prevailing in Cook County, Illinios, as determined by an independent fiduciary.

5. The Property was appraised by Donald F. Martorelli of Brandt Carlson Real Estate Appraisers of Park Ridge, Illinois, as having a fair market value of $350,000 as of April 22, 1982. Thus, the loan would represent only about 50% of the value of the improved real property that will secure it. The loan will also be secured by the personal guarantee of the Principals, whose net worth exceeds $3,000,000. The Land Trust represents that it will add any additional collateral that may be required during the life of the loan to assure that the value of the collateral is at all times equal to at least 150% of the outstanding balance of the loan. It is further represented that if the Land Trust has no additional collateral, the Employer will provide such additional collateral. During the life of the loan, the Land Trust will keep the Property insured for 100% of its full restoration or replacment cost against all risks, including fire, lightning, windstorm, hail and riot.[2] The proceeds of the insurance policies will be payable directly to the Plan.

6. Citizens Bank & Trust Company located in Park Ridge, Illinois, has represented that it would lend $175,000 to the Land Trust for 15 years at 16% per annum. The loan would be secured by a first mortgage on the Property.

7. The Trustees of the Plan will appoint William Zundel (Mr. Zundel), a Vice President and Controller for the National Association of Realtors, who is experienced in accounting, real estate investments and financing to serve as the independent fiduciary for the proposed loan. Mr. Zundel represents that he has been advised by legal counsel with regard to his duties, responsibilities and liabilities as independent fiduciary under the Act and

[1] The applicant represents that a land trust is a device commonly used in Illinois to hold naked title to real estate, the trustee acting upon direction of the beneficiary.

[2] The Lease (Article 6) specifies that the Employer will maintain the required insurance coverage.

that he is fully conversant with such responsibilities. Mr. Zundel has no other relationship with the Employer, Rockwell, the Land Trust or the Plan. Mr. Zundel, who will be responsible for making an independent determination that the proposed loan is appropriate and suitable for the Plan, has examined the terms of the proposed loan and has initially determined that the proposed loan is appropriate and suitable for the Plan. Mr. Zundel will be required to make the same determination immediately prior to consummation of the loan, as a condition to such consummation. Mr. Zundel represents that in addition to reviewing the specific terms and conditions of the proposed loan, he has: (a) examined the overall Plan investment portfolio; (b) considered the cash flow needs of the Plan; (c) given consideration to the necessity of a sale of any Plan assets; (d) examined the diversification of Plan assets in light of the proposed loan investment; and (e) reviewed the terms of the proposed loan as such terms comport with the Plan's investment scheme.

Mr. Zundel will be empowered and directed to enforce the terms of the loan agreements between the Plan, the Land Trust and the Principals, including making demand for timely payment, bringing suit or other appropriate process against the Land Trust and/or the Principals in the event of default, keeping accurate records and reporting at least annually to the Plan's trustees on the performance of the loan, specifically including whether the value of the collateral securing the loan remains equal to at least 150% of the outstanding loan balance. Mr. Zundel will be entitled to such information from the Land Trust, Principals and the Plan as may be reasonably necessary to fulfill his responsibilities and he shall be paid reasonable compensation plus reimbursement for reasonable expenses, if any, including legal or appraisal fees or costs, as agreed upon with the Plan's trustees.

8. In summary, the applicant represents that the proposed transactions meet the statutory criteria for an examption under section 408(a) of the Act because (a) the Plan will receive at least 16¼% interest on its investment, which is greater than the rate proposed by an unrelated party, (b) the Land Trust will insure the collateral and add additional collateral so that the value of collateral securing the loan is always at least 150% of the outstanding balance of the loan, and (c) the loan will be approved by and will be administered by an independent fiduciary.

Notice to Interested Persons

Within 10 days after the notice of pendency is published in the Federal Register, notice will be given to all Plan participants and beneficiaries by mail, personal delivery, or by posting on employee bulletin boards at the employer's premises which are customarily used for notices to employees. Such notice shall include a copy of the notice of pendency of the exemption as proposed in the Federal Register and shall inform interested persons of their right to comment and request a hearing within the time period set forth in the notice of proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) the fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed loan by the Plan to the Land Trust for the lesser of $175,000 or 40% of the Plan's assets, based on the terms and conditions set forth above, and to the personal guarantee of repayment by the Principals, provided that the terms of the transactions are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 20th day of September, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-26070 Filed 9-23-82; 8:45 am]
BILLING CODE 4510-29-M

[Application No. L-3675]

Proposed Exemption for Certain Transactions Involving the Wells Fargo & Company Group Life Insurance Plan Maintained by Wells Fargo & Company Located in San Francisco, California

AGENCY: Pension and Welfare Benefit Programs Office.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt under certain conditions, the reinsurance by the Central Western Insurance Company (CWIC) of group life insurance contracts sold to Wells Fargo & Company (the Employer) on behalf of the Wells Fargo & Company Group Life Insurance Plan (the Plan) maintained by the Employer. CWIC is a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the Employer, participants and beneficiaries of the Plan, CWIC, and other persons participating in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before November 8, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. L-3675. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406 (a) and (b) of the Act. The proposed exemption was requested in an application filed on behalf of the Employer, pursuant to section 408(a) of the Act, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Preamble

On August 7, 1979, the Department published a class exemption [Prohibited Transaction Exemption 79-41 (PTE 79-41), 44 FR 46365] which permits insurance companies that have substantial stock or partnership affiliations with employers establishing or maintaining employee benefit plans to make direct sales of life insurance, health insurance of annuity contracts which fund such plans, if certain conditions are satisfied.

In PTE 79-41, the Department stated its view that if a plan purchases an insurance contract from a company that is unrelated to the employer pursuant to an arrangement or understanding, written or oral, under which it is expected that the unrelated company will subsequently reinsure all or part of the risk related to such insurance with an insurance company which is a party in interest with respect to the plan, the purchase of the insurance contract would be a prohibited transaction.

The Department further stated that as of the date of publication of PTE 79-41, it had received several applications for exemption under which a plan or its employer would contract with an unrelated company for insurance, and that unrelated company would, pursuant to an arrangement or understanding, reinsure part or all of the risk with (and cede part or all of the premiums to) an insurance company affiliated with the employer maintaining the plan. The Department felt that it would not be appropriate to cover the various types of reinsurance transactions for which it had received applications within the scope of the class exemptions, but would instead consider such applications on the merits of each individual case.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Employer is a bank holding company registered under the Bank Holding Company Act of 1956 and is incorporated in the State of California. The Company's principal subsidiary is Wells Fargo Bank, National Association, a national banking association organized under the laws of the United States, and the Employer also pursues bank-related activities through other subsidiaries.

2. The Plan is an employee welfare benefit plan which provides life insurance benefits to employees of the Employer. There are approximately 19,820 participants in the Plan.

3. CWIC is a wholly-owned subsidiary of the Employer. CWIC is a corporation organized under the laws of the State of Arizona, with its principal offices in Phoenix, Arizona. CWIC is engaged in reinsuring risks under group insurance policies. As of December 31, 1981, CWIC's balance sheet assets were approximately $3.7 million.

4. The benefits under the Plan are funded by the Equitable Life Assurance Society (Equitable). Equitable was selected by the Employer on January 1, 1982. This change in direct insurers from the Prudential Insurance Company of America to Equitable was based on providing the Plan participants with the best possible cost effective coverage and was in no way in anticipation of any possible future reinsurance arrangements between CWIC and Equitable. Equitable and CWIC are currently in the process of negotiating a reinsurance agreement. The proposed agreement will involve a certain percentage of the life insurance premiums paid under the Plan. Under the proposed agreement, Equitable would cede a certain percent of the insurance sales to CWIC. CWIC has no other agreements covering the Plan or any other employee benefit plans (and their employers) with respect to which CWIC is a party in interest. Equitable is unrelated to the Employer and to CWIC. The benefits under the Plan are provided unconditionally by Equitable, and the Plan is not a party to the reinsurance transactions.

5. The applicant represents that the subject reinsurance transactions will meet all of the conditions of PTE 79-41 covering direct insurance transactions:

(a) CWIC is a party in interest as described in Act section 3(14)(G) by reason of stock affiliation with the employer maintaining the Plan.

(b) CWIC is licensed to reinsure credit life and credit accident and health insurance in at least one of the United States.

(c) CWIC is audited by the Superintendent of Insurance of the State of Arizona and is presently in good standing. CWIC has received a Certificate of Authority from the Department of Insurance of the State of Arizona.

(d) CWIC underwent a financial examination by the Superintendent of Insurance of the State of Arizona as of December 31, 1980.

(e) The Plan pays no more than adequate consideration for the insurance contracts. Because Equitable

is one of the largest group insurance underwriters in the country and enjoys substantial economies of scale in overall policy administration, the premium charge to the Plan is highly competitive. The reinsurance transactions are not a factor in the premium computation and thus do not in any way affect the cost to the Plan.

(f) No commissions will be paid in connection with either the direct sale of the insurance contracts or with respect to the reinsurance agreement between Equitable and CWIC.

(g) The gross premiums and annuity considerations from reinsurance received in any one calendar year by CWIC for group life and health contracts for plans (and their employers) with respect to which CWIC is a party in interest will not exceed 50 percent of the gross premiums and annuity considerations received for all lines of insurance in the same calendar year.

6. In summary, the applicant represents that the subject transactions meet the statutory criteria of section 408(a) of the Act because: (1) Plan participants and beneficiaries are afforded insurance protection by Equitable, one of the largest and most experienced group insurers in the United States, at competitive rates arrived at through arm's-length negotiations; (2) CWIC is a sound, viable insurance company which has been in business for four years, and which does a substantial amount of business outside its affiliated group of companies; and (3) each of the protections provided to the Plan and its participants and beneficiaries by PTE 79–41 will be met under the subject reinsurance transactions.

Notice to Interested Persons

Notice of this proposed exemption will be provided to all participants and beneficiaries of the Plan within 14 days of the publication of the notice in the **Federal Register.** Participants who are currently employed will be notified by means of posting an announcement in a place that is customarily used for providing notice to Plan participants. Retired employees will be notified by mail. The notice to interested parties will contain a copy of the proposed exemption and will inform all interested persons of their right to comment and request a hearing.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and (b) of the Act shall not apply to the reinsurance of risks and the receipts of premiums therefrom by CWIC from the group life insurance contracts sold by Equitable to the Employer to provide benefits to the Plan, provided the following conditions are met:

(a) CWIC—

(1) Is a party in interest with respect to the Plan by reason of a stock or partnership affiliation with the Employer that is described in section 3(14) (E) or (G) of the Act,

(2) Is licensed to reinsure credit life and credit accident and health insurance in at least one of the United States or in the District of Columbia,

(3) Has obtained a Certificate of Authority from the Insurance Director of its domiciliary state, Arizona, which has neither been revoked nor suspended; and

(4)(A) Has undergone an examination by an independent certified public accountant for its last completed taxable year immediately prior to the taxable year of the reinsurance transaction, or

(B) Has undergone a financial examination (within the meaning of the law of its domiciliary state, Arizona) by the Insurance Commissioner of the State of Arizona within 5 years prior to the end of the year preceding the year in which the reinsurance transaction occurred.

(b) The Plan pays no more than adequate consideration for the group life insurance contracts;

(c) No commissions are paid with respect to the direct sale of the contract, or the reinsurance thereof; and

(d) For each taxable year of CWIC, the gross premiums and annuity considerations received in that taxable year by CWIC for life and health insurance or annuity contracts for all employee benefit plans (and their employers) with respect to which CWIC is a party in interest by reason of a relationship to such employer described in section 3(14) (E) or (G) of the Act does not exceed 50 percent of the gross premiums and annuity considerations received for all lines of insurance (whether direct insurance or reinsurance) in that taxable year by CWIC. For purposes of this condition (d):

(1) The term "gross premiums and annuity considerations received" means as to the numerator the total of premiums and annuity considerations received, both for the subject reinsurance transactions as well as for any direct sale or other reinsurance of life insurance, health insurance, or annuity contracts to such plans (and their employers) by CWIC. This total is to be reduced (in both the numerator and demoninator of the fraction) by experience refunds paid or credited in that taxable year by CWIC.

(2) All premiums and annuity considerations written by CWIC for plans which it alone maintains are to be excluded from both the numerator and the denominator of the fraction.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 20 day of September 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc 82-26577 Filed 9-23-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3610]

Proposed Exemption for Certain Transactions Involving the Key Employee Retirement Plan Located in Pensacola, Florida

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed cash sale of an unimproved parcel of real property by the Key Employee Retirement Plan (the Plan) to Mr. Anthony Ciano (Mr. Ciano), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the Plan and its participants and beneficiaries, Mr. Ciano, and any other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before November 4, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-3610. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of Mr. Ciano, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the application.

1. The Plan is a profit sharing plan with 60 participants. Messrs. Ciano, G. W. Pape, and R. H. Mothershed, the trustees (the Trustees) of the Plan, are responsible for all Plan investment decisions. Each Trustee is an officer and/or director of Key Ford, Inc. (the Employer), the sponsor of the Plan. As of December 31, 1981, the Plan had total assets of $197,477.

2. The Employer is a dealer in new and used cars and trucks. Mr. Ciano is the president and 100% shareholder of the Employer.

3. In April, 1980, the Plan purchased from an unrelated party an unimproved parcel of real property (the Property) for $167,582. The Property consists of approximately 7.9 acres of land located at the southwest corner of Pensacola Boulevard and Stumpfield Road in Pensacola, Florida. The Property was purchased for long term investment purposes and is unimproved. The only expense the Plan has incurred with respect to the Property since its acquisition is annual real estate taxes of approximately $4,000. The Property is located directly across the highway from the Employer's present principal place of business.

4. The applicant is seeking an exemption to allow the Plan to sell the Property to Mr. Ciano for cash at its appraised fair market value. Mr. G. Pratt Martin, Jr., an MAI appraiser located in Pensacola, Florida, has appraised the Property and has determined that, as of May 21, 1982, it had a fair market value of $209,000. Mr. Martin represents that the value of the Property to Mr. Ciano is not greater than its appraised fair market value.

5. The sale will be for cash and no sales expenses will be incurred by the Plan. The sale of the Property will enable the Plan to dispose of an asset which is slowly appreciating and not producing any income. The sale of the Property, which constitutes over 80% of the Plan's assets,[1] will improve the Plan's liquidity position and enable the Plan to more easily satisfy claims of retiring employees.

6. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act because (a) the sale will enable the Plan to dispose of a non-income producing asset at a gain; (b) the sale will be a one-time transaction for cash; (c) the Plan will receive the fair market value of the Property as determined by an independent appraiser; (d) the Plan will not incur any expenses with respect to the sale; and (e) the Trustees represent that the proposed sale is in the best interests of the Plan and its participants and beneficiaries.

Notice to Interested Persons

Within 10 days after publication in the **Federal Register** notice will be provided by registered mail or other receipted delivery methods to all participants in the Plan. Such notice will include a copy of the notice of proposed exemption as published in the **Federal Register** and will inform each participant of his right to comment on or request a hearing regarding the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the code, including any

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[1] In this proposed exemption the Department expresses no opinion as to whether the Plan's acquisition and holding of the Property violates any provision of Part 4 of Title I of the Act.

prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1) (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the cash sale of the Property by the Plan to Mr. Ciano for $200,000, provided that this amount is not less than the fair market value of the Property on the date of sale.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 20th day of September, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-26378 Filed 9-23-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3669]

Proposed Exemption for Certain Transactions Involving the Misener Marine Profit Sharing Plan Located in St. Petersburg, Florida

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the cash sale of a certain parcel of unimproved real property (the Real property) by the Misener Marine Profit Sharing Plan (the Plan) to Donald and Rebecca Hudson (the Hudsons), who are parties in interest with respect to the Plan. The proposed exemption, if granted, would affect the Plan, the participants and beneficiaries of the Plan, the trustees (the Trustees), Misener Marine Construction, Inc. (the Employer), the Hudsons and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before November 8, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D–3669. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department of Labor, telephone (202) 523–8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The employer is a closely-held Florida corporation with principal offices located in St. Petersburg Beach, Florida. The Employer has been engaged in the marine construction business in the Gulf Coast area since 1945, and has participated in a broad spectrum of construction projects , including seawalls, marinas, piers, bridges, and pipelines. Robert P. Bayless (Mr. Bayless) is the President of the Employer corporation, and Richard H. Misener (Mr. Misener) is the Chairman of the Employer's Board of Directors.

2. The Plan, which was adopted in 1966, is a profit-sharing plan with 374

participants and assets having a fair market value of approximately $7,924,554 as of October 31, 1981. The assets of the Plan are held in a trust managed by three individual Trustees—Messrs. Bayless, Misener and Theodore H. Knight, Vice President of Production for the Employer. The Trustees are responsible for the investment of the Plan's assets.

3. Mr. Donald Hudson is the Senior Vice President of Operations for the Employer's corporation. He is the owner of 2.72% of the outstanding stock of the Employer and serves as a member of the Employer's Board of Directors. Mr. Hudson's wife, Mrs. Rebecca Hudson, is employed by the Employer as a paralegal assistant. Both Hudsons are participants in the Plan.

4. The Plan is proposing to sell the Hudsons approximately 9,189 square feet of land located in St. Petersburg Beach, Florida. The Real Property is described on page 39 of Plat Book 72 for Pinellas County, Florida as Lot 17, Bahia Shores, Fifth Addition. The Real Property consists of a vacant residential lot which fronts on Boca Ciega Bay. The Plan purchased the Real Property from Havern Enterprises, Inc., an unrelated party, for $40,000 on February 21, 1975. The Real Property was acquired by the Plan for investment purposes and it has not been improved since its acquisition, nor has it produced any income. Real estate taxes on the Real Property are approximately $880 annually.

5. Two independent appraisal reports have determined that the Real Property has a fair market value of $90,000. This amount constitutes less than 1.5 percent of the total value of the Plan's assets. The first appraisal was performed on December 12, 1981 by Ted Jakimier, IFAS/CRA of St. Petersburg, Florida. The second appraisal was performed on March 26, 1982 by Bert F. Finch, Jr., M.A.I., S.R.A. and Donald R. Carlson, who are appraisers with the firm Fogarty & Finch, Inc. (Fogarty), which is located in St. Petersburg, Florida.

Although the Real Property has appreciated significantly over the past seven years, market activity has declined drastically in recent months. The largest decrease has occurred with respect to vacant lot sales, according to the Fogarty appraisal.

6. In light of current market conditions, the Trustees believe that a sale of the Real Property, as based on the $90,000 appraised fair market valuation, will maximize the Plan's investment yield. Accordingly, on February 3, 1982, the Trustees entered into a conditional sales agreement with the Hudsons whereby the Hudsons paid the Trustees $1,000 as an earnest money deposit and agreed to pay $89,000 in cash at closing. The sales agreement is contingent upon the granting of an exemption by the Department. In the interim, the deposit money has been placed in escrow by the Trustees and neither possession nor title to the Real Property has been awarded to the Hudsons. This will be done at closing. The Plan will not be required to pay any real estate commissions or fees in connection with the proposed sale.

7. An independent fiduciary to the Plan, D. Quigg Porter, Jr. (Mr. Porter), Vice President of the Employee Benefit Trust Division of the Northern Trust Company of Chicago, Illinois, has certified in a letter of May 21, 1982 that a cash sale of the Real Property at fair market value would be in the interests of the Plan and its participants and beneficiaries. Mr. Porter states that the proposed sale will improve the Plan's liquidity position and that it will provide the Trustees with the opportunity to diversify the investments of the Plan.

8. In summary, it is represented that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because: (a) The sale will enable the Plan to divest itself of a non-income producing asset; (b) the Plan will receive the fair market value of the Real Property, as determined by two independent appraisals, without being required to pay real estate commissions, title fees or any other expenses in connection with the sale; (c) the sale will improve the Plan's liquidity position and provide the Trustees with an opportunity to diversify the Plan's investments; and (d) the Plan's Trustees and an independent fiduciary have determined that a cash sale of the Real Property at fair market value will be in the interests of the Plan and its participants and beneficiaries.

Notice to Interested Persons

Notice of the proposed exemption will be given to all present employees of the Employer within 10 days of the publication of the notice of pendency in the **Federal Register**. The notice will include a copy of the notice of pendency as published in the **Federal Register** and will inform interested persons of their right to comment on and/or to request a hearing within the time period set forth in the notice of pendency. Notice will be provided to participating employees of the Employer by posting the notice on employee bulletin boards found in all operating locations. Field personnel and annuitants will be notified by direct mailing.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale of the Real Property by the Plan to the Hudsons for $90,000, provided this amount is not less than the fair market value of the Real Property on the date the transaction is consummated.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 20th day of September, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-26379 Filed 9-23-82; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-3168]

Proposed Exemption for Certain Transactions Involving the Gary Retirement Plan Located in Denver, Colorado

AGENCY: Pension and Welfare Benefit Programs Office, Labor.
ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt a loan (the Loan) of $1,000,000 by the Gary Retirement Plan (the Plan) to Gary Energy Corporation (GEC), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the Plan, the Plan trustee, the participants and beneficiaries of the Plan, GEC and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before November 8, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D–3168. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Department of Labor, telephone (202) 523–8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by GEC, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The Application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined contribution pension plan with approximately two hundred participants and total assets of $5,543,893 as of March 18, 1982. The trustee of the Plan is the United Bank of Denver (United Bank), located in Denver, Colorado. Investment decisions for the Plan are made primarily by United Bank although a Plan administrative committee determines the actual asset mix.

2. The Plan is maintained by four Colorado-based organizations having a number of common directors. GEC is engaged in oil field management and operations. The Piton Foundation is a non-profit organization providing grants in the areas of education and social services. Samuel Gary Oil Producer is a sole proprietorship engaged in oil and gas exploration and real estate managment. Colorado Community Resources, Inc. is a non-profit corporation involved in community development projects. The Plan is maintained by GEC and Samuel Gary Oil Producer as a profit sharing plan and by the Piton Foundation and Colorado Community Resources as a money purchase pension plan. These entities sponsor separate plans although all such plans are consolidated into a single document.

3. GEC is requesting an exemption to borrow $1,000,000 from the Plan. This amount represents nearly 18 percent of the Plan's total assets. GEC intends to use the Loan proceeds for leasehold improvements in its office building. The proposed Loan will be evidenced by a promissory note, providing for the repayment of equal annual installments of principal of $200,000 plus interest over a five year period. the Loan will carry interest at an annual rate equal to the greater of 16 percent or ¼ percent above the prime rate charged by First National Bank of Denver (First National) for comparable short term loans. The interest rate will be adjusted daily. In addition, the Plan will be given the right to demand repayment of any or all of the outstanding Loan balance after two years of the date of the making of the Loan.

4. The proposed Loan will be secured by either of two instruments: a one year, irrevocable letter of credit (the Letter of Credit) issued by First National, or a surety bond (the Performance Bond) issued by the Aetna Casualty and Surety Company (Aetna) of Hartford, Connecticut. The Letter of Credit or Performance Bond, the mechanics of which are similar, will be issued in the amount of the Loan and cover past accrued interest and interest which may accrue during the term of the instrument. Each year as the Loan principal and interest are reduced, the amount of the Letter of Credit or Performance Bond will be reduced correspondingly. Should GEC default on the Loan or the parties decide not to renew the designated security instrument, United Bank will call upon either the Letter of Credit or

Performance Bond before the instrument is permitted to lapse.

5. United Bank, which is unrelated to First National, will serve as the independent fiduciary for the proposed Loan. The exemption application discloses that Samuel Gary Oil Producers owns 1,000 shares of the bank holding company owning United Bank and that GEC has outstanding loans with the bank of less than $10,000,000. The amounts representing outstanding shares and loans each constitute less than one percent of the respective items. In addition, the other organizations sponsoring the Plan have no ownership interest in the trustee bank. Moreover, no employees of any of the sponsoring organizations serve as board members or hold positions of influence at United Bank. Conversely, United Bank has no ownership interest or employees in positions of influence at any of the entities maintaining the Plan.

By letters dated March 23, and April 21, 1982, United Bank has made representations regarding the propriety of the proposed Loan investment and the specific duties it will perform on behalf of the Plan as the independent fiduciary. United Bank considers the Loan transaction to be appropriate for the Plan and in the best interests of the participants and beneficiaries. In making this determination, United Bank indicates it has reviewed the terms of the proposed Loan, the interest rate and the security, all of which it believes are favorable to the Plan. In addition, United Bank represents it has viewed the Loan against the portfolio objectives of the Plan. Specifically, United Bank has examined the overall Plan portfolio, considered the cash flow needs of the Plan, considered the assets that might have to be sold, examined the diversification requirements of the Plan in light of the proposed Loan, and examined the Loan in terms of the overall Plan investment scheme.

With respect to its role as the independent fiduciary, United Bank states it is willing to monitor the Loan and will take whatever actions are necessary if any default occurs or the Letter of Credit (or Performance Bond) is not renewed. United Bank reserves the right to call the Letter of Credit or Performance Bond and will not permit the security instrument that is in effect to lapse. United Bank says it may call the Loan after two years, at which time all outstanding principal and interest would be due from GEC. United Bank says it will be responsible to compute the interest on the Loan in the proper manner.

6. In summary, it is represented that the proposed transaction will satisfy the requirements of section 408(a) of the Act because: (a) The Loan will give the Plan a higher rate of return than is ordinarily available to the Plan with respect to its investments; (b) the Loan will be secured by either an irrevocable Letter of Credit issued by First National or a Performance Bond issued by Aetna, either of which can be called at any time, and must be called if the instrument will not be renewed, or the Employer defaults on Loan payments; (c) the terms and conditions of the Loan will be monitored by United Bank; and (d) United Bank, as independent fiduciary to the Plan, has determined the proposed Loan is appropriate for the Plan and is in the best interests of the participants and beneficiaries of the Plan.

Notice to Interested Persons

Notice of the proposed exemption will be given to active participants, inactive participants having deferred vested benefits, retired and disabled participants and the beneficiary of every deceased participant receiving benefits within ten (10) days of the publication of the notice of pendency in the **Federal Register**. The notice will include a copy of the notice of pendency as published in the **Federal Register** and will inform interested persons of their right to comment and/or request a hearing with respect to the pending exemption. Notice will be given by posting a copy of the proposed exemption in conspicuous places customarily reserved for announcements to employees and by first class mail.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection wih the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the Loan of $1,000,000 by the Plan to GEC, provided the terms of the Loan are at least as equal to those which the Plan could receive in an arm's length transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and

that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 20th day of September, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-26380 Filed 9-23-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3253]

Proposed Exemption for Certain Transactions Involving the Emjay Corporation Master Profit Sharing Plan for Kurek Amusements, Inc., Located in Milwaukee, Wisconsin

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale of real property (the Property) by the Emjay Corporation Master Profit Sharing Plan for Kurek Amusements, Inc. (the Plan) to Mr. George Kurek (Kurek), a party in interest with the respect to the Plan. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before November 5, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-3253. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by Kurek, on behalf of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with seven participants. The Plan is sponsored by the Kurek Amusements, Inc. (the Employer). The Property is known as Tubby's Pub, a small tavern and restaurant, located in Milwaukee, Wisconsin. Kurek and Louis A. Maier, III are co-trustees of the Plan. Kurek is the president of the Employer and sole member of the administrative committee of the Plan which is responsible for investment decisions for the Plan. The Employer is in the process of being sold to an unrelated third party which does not desire to maintain the Plan. As part of the business of winding down the Plan, the administrative committee of the Plan represents that it is necessary to liquidate the investments of the Plan in order to provide sufficient cash to pay benefits to the participants of the Plan. In addition, the trustees of the Plan represent that the proposed sale will be in the best interests of the participants and beneficiaries of the Plan.

2. The Property was purchased by the plan on March 22, 1976 for $85,000 from James and Helen Woods, unrelated third parties. The Plan proposes to sell the Property to Kurek for a cash sum of $92,500. This price was determined to be the fair market value of the Property, as of January 22, 1982, by Richard B. Kuzminski, a qualified independent appraiser from Milwaukee, Wisconsin. No expenses of any kind will be charged the Plan with respect to the sale of the Property.

3. In summary, the applicant represents that the proposed sale of the Property meets the statutory criteria of section 408(a) of the Act because: (a) It will be a one time transaction for cash; (b) the trustees of the Plan represent that the transaction will be in the best interests of the participants and beneficiaries of the Plan; (c) the price of the Property was determined by an independent appraiser; (d) no expenses will be charged the Plan with respect to the sale; and (e) the Plan will soon be terminated and cash is needed for eventual distribution to the participants.

Notice to Interested Persons

Notice will be given to all participants and beneficiaries of the Plan within 10 days of the publication of notice of pendency in the **Federal Register** by mail or posting on the premises of the Employer at locations commonly used for Employee notices. Notice will include a copy of the notice of pendency as it appears in the **Federal Register** as well as a statement informing all interested persons of their right to comment or request a hearing on the exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the sale of the Property by the Plan to Kurek for a cash sum of $92,500, provided that this amount is at least the fair market value of the property at the time of the sale.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 20th day of September, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-26381 Filed 9-23-82; 8:45 am]

BILLING CODE 4510-29-M

[Application Nos. D–3349 and D–3350]

Proposed Exemption for Certain Transactions Involving the Guthrie Clinic, Ltd. Profit Sharing Plan and Guthrie Clinic, Ltd. Revised Pension Plan Located in Sayre, Pa.

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt for a period of five years the proposed loans of money by the Guthrie Clinic, Ltd. Profit Sharing Plan (The Profit Sharing Plan) and the Guthrie Clinic Ltd. Revised Pension Plan (the Pension plan, collectively, the Plans) to Guthrie Clinic, Ltd. (the Employer), the sponsor of the Plans. The proposed exemption, if granted, would affect the Employer, the participants and beneficiaries of the Plans and other persons participating in the proposed transactions.

DATES: Written comments and request for a public hearing must be received by the Department on or before October 28, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application Nos. D–3349 and D–3350. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, telephone (202) 523–7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the retrictions of section 406(a) and 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the applications of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Profit Sharing Plan, as of December 31, 1981, had approximately 95 participants and assets in the amount of $6,640,422. The Pension Plan, as of December 31, 1981, had approximately 95 participants and assets in the amount of $3,785,674. Girard Bank (the Bank), located in Philadelphia, Pennsylvania, is the trustee of the Plans. The Employer is a medical clinic which employs approximately 130 physicians.

2. The applicant is requesting an exemption which will permit the Plans for a period of five years to loan (the Loans) amounts up to 30% of the assets of each Plan to the Employer. The proceeds from the Loans will be used by the Employer to finance one or more satellite office and medical buildings (the Buildings). The Loans will be secured by a first mortgage on the completed Buildings. The applicant represents that each Building will have a fair market value, as determined by an independent M.A.I. appraiser, of at least 150% of the amount of the Loan and that the fair market value of the Buildings will always be at least 150% of the amount of the outstanding balances on the Loans. The applicant also represents that the Buildings will be adequately insured with the Plans being the named insured under the insurance policies. Each Loan will have a term of seven years with equal annual payments of

principal and interest. The interest rate on the Loans will be the prevailing market rate of interest on loans of this type and will be determined by the Bank. The applicant represents that the market rate of interest on the Loans will provide the Plan with a higher rate of return on its assets than the plan is currently receiving.

3. An independent party, the Bank, will examine the proposed transactions. Prior to the Plans entering into the Loans, the Bank: (1) Must certify that the Loans will be in the best interests of the participants and beneficiaries of the Plans; (2) determine the interest rate on the Loans; (3) certify that the terms and conditions of the Loans are at least as favorable to the Plans as those which the Plans could receive in an arms-length transaction; and (4) agree to monitor the terms and conditions of the Loans on behalf of the Plans.

4. In summary, the applicant represents that the investment by the Plans in the Loans will meet the statutory criteria of section 408(a) of the Act as follows: (1) The trustee of the Plans represents that the Loans will be in the best interests of the participants and beneficiaries of the Plans; (2) the Loans will be approved and monitored by an independent fiduciary; and (3) the Plans will be able to receive a higher rate of interest on their investments than they are receiving presently .

Notice to Interested Persons

Within seven days of its publication in the **Federal Register** a copy of the notice of pendency and a statement advising interested persons of their right to comment or request a hearing will be mailed to all participants and beneficiaries of the Plans.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the paritcipants and beneficiaries of the plan and in a prudent fashion in accordance with secion 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writers's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply for a period of five years to the Loans by the Plans to the Employer provided that the terms and conditions of the Loans are at least as favorable to the Plans as those which the Plans could receive in an arms length transaction.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 20th day of September, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-26362 Filed 9-23-82; 8:45 am]
BILLING CODE 4510-29-M

[Application Nos. D-3385 and D-3386]

Proposed Exemption for Certain Transactions Involving South Bay Psychiatric Medical Group Profit Sharing Plan; and South Bay Psychiatric Medical Group Money Purchase Plan, Located in Los Angeles, California

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sales of certain limited partnership interests (the Partnership Interests) by the South Bay Psychiatric Medical Group Profit Sharing Plan (the Profit Sharing Plan) and the South Bay Psychiatric Medical Group Money Purchase Plan (the Money Purchase Plan, collectively, the Plans) to Dr. Edwin Caine (Caine), a disqualified person with respect to the Plans. The proposed exemption, if granted, would affect Caine and other persons participating in the transaction.

Because Caine is the only participant in the Plans, and the sole shareholder of the South Bay Psychiatric Medical Group, the sponsor of the Plans, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3–3(c)(1). However, there is jurisdiction under Title II of the Act under section 4975 of the Code.

DATES: Written comments and requests for a public hearing must be received by the Department on or before October 21, 1982.

ADDRESS: All written comments and requests for a hearing (at least three

copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application Nos. D–3385 & D–3386. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, telephone (202) 523–7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the sanctions resulting from the application of section 4975 of the Code, by reaon of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by Caine, pursuant to section 4975(c)(2) of the Code, and in accordance with procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemtions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The sole participant and trustee of the Plans is Caine. As of June 11, 1982, the Plans had combined assets of $295,000. As a part of their assets, the Plans own the Partnership Interests. The Partnership Interests owned by the Plans and the price paid to acquire such Partnership Interests are as follows: the Profit Sharing Plan, 3.5% interest in 1108 18th St. Associates (the 18th St. Assoc.) for $19,250; 6.2% interest in Chelsea Avenue Associates (the Chelsea Assoc.) for $14,000; the Money Purchase Plan, 6.5% interest in 18th St. Assoc. for $35,750; 11.5% interest in Chelsea Assoc. for $26,000. All the Partnership Interests were purchased by the Plans in 1979 from an unrelated party.

2. The Ernest Auerback Company (Auerback) which is located in Santa Monica, California is the general partner of the 18th St. Assoc. and the Chelsea Assoc. (together, the Partnerships). The sole asset of each of the Partnerships is a condominium apartment building. The applicant represents that despite a concerted effort by Auerback over a two year period the Partnerships have been unable to sell their condominium units (the Units) and that each Partnership is operating at a loss. The applicant further represents that in order to save the Partnership projects from foreclosure by the construction lender, Auerback has suggested that each limited partner (the Limited Partner) of the Partnerships purchase a Unit from such Partnership. The price of the Unit would be the same price that the Unit has been offered for sale to the general public. After the purchase by the Limited Partner of a Unit, the Limited Partner will have no residual interest in the Partnerships. Auerback represents that if the Limited Partners do not purchase the Units "it is very likely that the value of each entire Partnership Interest will be substantially reduced due to the continuing interest carrying costs and operating expenses to maintain the Units." The initial investment which was used by the Limited Partner would be applied as a down payment on the Unit and the remainder of the purchase price would be financed through unrelated lenders.

3. The applicant is requesting an exemption which will permit Caine to purchase the Partnership Interests from the Plans for cash in the amount of $95,000, which is the original cost to the Plans of their Partnership Interests. Caine represents that such purchase will prevent the Plans from having to obtain a substantial loan to purchase the Units which already represent a large percentage of the assets of the Plans. In addition, Caine represents that the purchase will allow the Plans to recoup their investment in the Partnerships which do not provide the Plans with any income and which are having substantial financial difficulties.

4. In summary, the applicant represents that the proposed purchases will meet the criteria of section 408(a) of the Act as follows: (1) The trustee of the Plans represents that it is in the best interests of the Plans' participant; (2) the Plans will be able to recoup their money form a non-income producing investment which is in serious financial difficulty; and (3) the Plans will not be forced to add additional funds to an investment which is in serious financial difficulty.

Notice to Interested Persons

This notice of pendency will constitute the only notice to interested persons.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 4975(c)(2) of the Code does not relieve a fiduciary or disqualified person from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the addresss set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code

shall not apply to the sale by the Plans of their Partnership Interests to Caine for cash in the amount of $95,000, provided that this is at least the fair market value of the Partnership Interests at the time of sale.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 20th day of September, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-26383 Filed 9-23-82; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-2791]

Proposed Exemption for Certain Transactions Involving Metropolitan Mortgage and Securities Co., Inc. Located in Spokane, Washington

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) the past and proposed purchases of debt securities (the Debentures) issued by Metropolitan Mortgage & Securities Co., Inc. (Metropolitan) to those self-employed retirement plans (Keogh Plans) and individual retirement accounts (IRAs), (the IRAs and Keogh Plans are collectively referred to as the Plans), for which Metropolitan is also acting as a custodian; and (2) the past and proposed extension of credit between the Plans and Metropolitan. The proposed exemption, if granted, would affect Metropolitan, the participants and beneficiaries of the Plans and other persons participating in the transactions. To the extent that an IRA meets the conditions contained in 29 CFR 2510.3-2(d) and the Keogh Plans do not have an employee as defined in 29 CFR 2510.3-3(b), there is no jurisdiction over the respective plans under Title I of the Act. However, for purposes of this exemption there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

DATES: Written comments must be received by the Department on or before November 10, 1982.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective July 12, 1977.

ADDRESS: All written comments (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-2791. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Paul R. Antsen of the Department, telephone (202) 523-6915. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) of the Act and/or from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code. The proposed exemption was requested in an application filed by counsel on behalf of Metropolitan, pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application in file with the Department for the complete representations of the applicant.

1. Metropolitan is primarily engaged in the business of real estate financing by purchasing real estate contracts at a discount and making personal and business loans secured by real estate either in the form of first or second mortgages or real estate contracts. Metropolitan has financed its real estate contract purchasing and lending activities almost exclusively through the public sale of the Debentures. Metropolitan was incorporated in the State of Washington in 1953 and is subject to Washington State laws regulating debenture companies because it obtains its capital needs through public offerings of debt securities. These laws, which are designed to protect the interests of investors, including those holding the Debentures, establish minimum capital requirements and certain debt-to-equity ratios, set limits on use of short term public debt securities and prohibit certain interlocking directorships with other financial institutions.

2. To date the Debentures have been issued in two forms. Between July 12, 1977 and December 5, 1979 the Debentures sold to the Plans were pension debenture bonds (Pension Bonds). Because the Pension Bonds were only sold intrastate, they were exempt from registration with the Securities and Exchange Commission (the SEC) based on section 3(a)(11) of the Securities Act of 1933. However, the Pension Bonds were registered in compliance with the Securities Division of the Washington State Business and Professions Administration. The Pension Bonds were issued in denominations of $100 at an interest rate of eight percent with terms ranging from one to ten years from date of purchase. The prospectus for the Pension Bonds stated that purchasers had an undivided proportionate interest in selected real estate contracts and mortgages maintained in a designated general ledger account which were pledged as security for respective bond holding interests.

On July 6, 1979 a new series of the Debentures was issued (the Investment Debentures). The Investment Debentures were issued under a trust indenture (the Indenture) dated July 6, 1979 and a supplement thereto dated October 3, 1980 between Metropolitan and Seattle-First National Bank (Sea-First). Under the terms of the Indenture, Sea-First was obligated to oversee and, if necessary, to take action to enforce fulfillment of Metropolitan's obligations. Because the Investment Debentures were to be sold interstate they were registered with the SEC and applicable state securities commissions. The Investment Debentures were sold in two denominations—$100 and $5,000 with varying interest rates and terms ranging from six months to ten years.

No public trading market for either the Pension Bonds or the Investment Debentures exists and it is unlikely that

such a market will develop. The Pension Bonds have a redemption feature; however, a premature redemption fee of one percent of the amount redeemed (not less than $25 or more than $1,000) will be charged for redemption prior to the maturity date. While the Investment Debentures will be prepaid upon request in the event of death, they are not otherwise unilaterally redeemable prior to maturity.

3. Metropolitan offers the Debentures for sale on a continuing best efforts basis through Metropolitan Investment Securities, Inc. (Investment), a wholly owned subsidiary. Investment is registered as a broker-dealer with the SEC. Investment engages several independent sales representatives (the Sales Representatives) to solicit sales of the Debentures. Although the Sales Representatives are not employees of Metropolitan or Investment, they do have a close relationship. while spending most of their time in the field marketing the Debentures, the Sales Representatives are provided office space in Metropolitan's home office. The Sales Representatives do not sell securities other than those of Metropolitan. Purchases of the Debentures pay only the purchase price which does not include any direct commission, brokerage fee or other amount to Metropolitan, Investment or the Sales Representatives in connection with such sales. However Metropolitan does reimburse Investment for commissions paid by Investment to the Sales Representatives on sales of such securities. Metropolitan suggests that this is a typical arrangement and customary for market transactions of this type.

4. Metropolitan further suggests that other forms of debt securities may be issued in the future pursuant to a subsequent trust indenture or prospectus and requests that such future issues be included within the scope of this exemption. Metropolitan represents that it would always comply with the applicable state and federal securities laws in the issuance of any security to be marketed to IRAs or Keogh Plans. The Department has agreed to this request, consequently the scope of the term "the Debentures" as used in this exemption includes any debt security issued or to be issued by Metropolitan.

5. Metropolitan has established a prototype custodial account program for Keogh Plans and IRAs (hereinafter referred to as "Custodial Accounts"). The plan and custodial account documents for the IRAs were submitted to the Internal Revenue Service (the Service) for a determination as to their qualified status under the pertinent provisions of the Code. The Service approved the request for the IRAs on July 12, 1977. On April 13, 1977 Metropolitan requested approval from the Service for its prototype Keogh Plan. By letter dated June 10, 1977 the Service responded that under the applicable revenue procedure Keogh Plans of sponsoring organizations like Metropolitan which are not trade or professional associations, banks, insurance companies or regulated investment companies are not eligible to receive such determination letters. Thereupon, Metropolitan advised the sponsoring employers of such Keogh Plans to request individual determinations. To the best of Metropolitan's knowledge, no employer seeking such approval has failed to receive a requested favorable determination.

6. By letter dated November 10, 1976 Metropolitan received permission from the Service under the provisions of Code sections 401(d) and 408(a)(2), to serve as a custodian for the Keogh Plans and IRAs. In serving as custodian for such plans, Metropolitan was authorized and acts as a passive custodian within the meaning of Temporary Income Tax Regulation section 11.401(d)(1)–1(g)(1). As a passive custodian, Metropolitan is authorized to acquire and hold particular investments only as directed by each individual participant of the Plan involved or in accordance with the express terms of a Custodial Account.

7. The Debentures were not designed solely or primarily for the Plans but are investments directed to a broad market. In this regard, at least fifty (50) percent of any offering of the Debentures will be sold to parties with respect to which Metropolitan does not act as custodian. However, the Debentures have been and it is contemplated that they would be sold to IRAs (including IRAs established and maintained by employees of Metropolitan) and Keogh Plans. For the convenience and cost savings to purchasers that are IRAs and Keogh Plans, Metropolitan has agreed to act as custodian with respect to such plans.

Thus, Metropolitan has become a party in interest and/or disqualified person with respect to the Plans solely by virtue of providing custodial services for the Plans. Because of prior purchases of the Debentures after the service provider relationship was established and the desire to continue the above described practice, Metropolitan has requested an exemption for both retroactive and prospective relief. In addition, because of the nature of the security being acquired combined with Metropolitan's service provider role, the purchase of the Debentures by the Plans constitutes an extenson of credit to a party in interest and/or disqualified person.

8. In marketing the Debentures the Sales Representatives would also provide existing and potential customers with information regarding the establishment of Custodial Accounts. Any customer choosing to adopt a Custodial Account does so with the understanding that the acquisition of the Debentures is the only investment option available. To overcome concerns regarding lack of investment diversification the applicant notes that participants in the Custodial Accounts are free to establish or participate in other IRAs and/or Keogh Plans. In addition, recent tax law changes now permit individuals to establish IRAs in addition to participating in qualified pension or profit sharing plans.

With respect to future transactions, Metropolitan has agreed to disclose in writing the nature of the relationship between the Sales Representatives and Metropolitan. Such disclosure statement will also provide that decisions regarding investment in the Debentures are the sole responsibility of the individual buyers as fiduciaries for their respective Plan or Custodial Account. Metropolitan has also agreed that such fiduciary will acknowledge his role in writing as additional evidence of independent judgment. While the applicant represents that heretofore decisions had been made by such independent parties, Metropolitan has agreed to such written documentation as further evidence of the arms length nature of the transactions.

9. As of May 27, 1981, Metropolitan was acting as custodian for approximately 355 IRAs and Keogh Plans. The total asset value of the Plans on that date was $1,340,000 with the average participant account having an asset value of less than $4,000. The applicant notes that the transactions described in this application parallel to a great extent the transactions exempted under section III(f) of Prohibited Transaction Exemption 77–9 (PTE 77–9, 42 FR 32395, Amended 44 FR 1479). PTE 77–9 exempts from section 406(a)(1) (A) through (D) and 406(b) of the Act and section 4975(c)(1) of the Code the purchase by plans of securities from investment companies (or their affiliates) which are fiduciaries or service providers by reason of sponsorship of a master of prototype plan or provision of non-discretionary trust or custodial services in connection therewith. The applicant further

represents that the transactions involved in the application are customary, particularly by banks and other financial institutions that offer custodial services and compete with Metropolitan for investment capital.

10. In summary, the applicant represents that the transactions satisfy the statutory criteria of section 408(a) of the Act and/or section 4975(c)(2) of the Code in that:

(a) Investment decisions with respect to the Debentures have been and would be made by a fiduciary on behalf of the respective Plans or Custodial Accounts who is independent of Metropolitan or any affiliate thereof;

(b) Metropolitan has served and will serve only as a custodian with respect to the assets of the Plans and Custodial Accounts and has no authority which could make them a fiduciary with respect to investment decisions regarding such assets;

(c) The purchase of the Debentures by the Plans and Custodial Accounts has been and would be made in the same manner as other investors in the normal course of business; and

(d) At least fifty (50) percent of the Debentures will be sold to parties with respect to which Metropolitan does not act as custodian.

Notice to Interested Persons

Within fifteen (15) days following publication of the notice of pendency in the **Federal Register**, notice of the proposed exemption will be mailed to all interested persons including each of the participants in the Plans. The notice will contain a copy of the proposed exemption as published in the **Federal Register** and will include a statement advising them of their right to comment on the proposed exemption within the time period set forth above.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and, to the extent jurisdiction exists under Title I of the Act, the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and/or section 4975(c)(1) (E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and/or section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) of the Act and/or the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply effective July 12, 1977 to the purchase by the Plans or Custodial Accounts of the Debentures issued by Metropolitan as described herein and to the extension of credit between Metropolitan and the Plans or Custodial Accounts resulting from the purchase of the Debentures provided that the following conditions are met with respect to the purchase of the Debentures:

(1) The purchase price paid for the Debentures does not exceed fair market value at the time of acquisition; and

(2) Effective 30 days after date of publication of this notice in the **Federal Register** the exemption is available only if each of the following conditions are satisfied in addition to the condition described in section (1) of this exemption:

(a) The Sales Representatives have disclosed in writing the nature of their relationship to Metropolitan and Investment and that they are not acting as an investment advisor or other fiduciary with regard to investment decisions of the Plans or Custodial Accounts. Such disclosure also states that all decisions with respect to purchase of the Debentures are the sole responsibility of the individual buyers as a fiduciary for their respective Plan or Custodial Account; and

(b) Following receipt of the information required to be disclosed and prior to the execution of the transaction, a plan fiduciary unrelated to Metropolitan, Investment or the Sales Representatives acknowledges in writing receipt of the information described in subsection (a) of this exemption and approves the transaction on behalf of the Plan or Custodial Account.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions that are the subject of the exemption.

Signed at Washington, D.C., this 10th day of September 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-26084 Filed 9-23-82; 8:45 am]
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-150; Exemption Application No. D-3371]

Exemption From the Prohibitions for Certain Transactions Involving the Donald H. Bohne, D.D.S., P.A. Profit Sharing Plan Located in Tucker, Georgia

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption will permit the sale of two mortgage loans (the Mortgages) to the Donald H. Bohne, D.D.S., P.A. Profit Sharing Plan (the Plan) by Dr. Donald H. Bohne (Dr. Bohne), a disqualified person with respect to the Plan. Because Dr. Bohne is the sole shareholder of Donald H. Bohne, D.D.S., P.A. and the only participant in the Plan, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Internal Revenue Code of 1954 (the Code).

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216; (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 6, 1982, notice was published in the **Federal Register** (47 FR 34218) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 4975(c)(2) of the Code and the procedures set forth in Rev. Proc. 75–26, 1975–1, C.B. 722, and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participant and beneficiaries; and

(c) It is protective of the rights of the participant and beneficiaries of the Plan.

Accordingly, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the code, shall not apply to the cash sale of the Mortgages by Dr. Bohne to the Plan (including the assumption by the Plan of Dr. Bohne's liabilities under certain first mortgages, as described in the notice of pendency), provided that the sales price of each Mortgage is not greater than its fair market value as of the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 20th day of September 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 82-26385 Filed 9-23-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82–160; Exemption Application Nos. D–3408 and D–3409]

Exemption From the Prohibitions for Certain Transactions Involving the Allan D. Stilwell, M.D. Profit Sharing Plan and Trust, and the Allan D. Stilwell, M.D. Money Purchase Plan and Trust Located in Troy, Mich.

AGENCY: Pension and Welfare Benefit Programs Offices, Labor..

ACTION: Grant of individual exemption.

SUMMARY: This exemption will permit the proposed sale of investment grade diamonds (the Diamonds) by the Allan D. Stilwell, M.D. Profit Sharing and Money Purchase Plans and Trusts (the Plans) to Dr. Allan D. Stilwell (Dr. Stilwell), a disqualified person with respect to the Plans. Because Dr. Stilwell is the sole shareholder of Allan D. Stilwell, M.D., P.C., the sponsor of the Plans, and the only participant in the Plans, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Internal Revenue Code of 1954 (the Code).

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216; (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 6, 1982, notice was published in the **Federal Register** (47 FR 34233) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and

representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 4975(c)(2) of the Code and the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722, and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participant and beneficiaries; and

(c) It is protective of the rights of the participant and beneficiaries of the Plans.

Accordingly, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale of the Diamonds by the Plans to Dr. Stilwell, provided that the sales price for each Diamond is not less than its fair market value as of the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C. this 20th day of September 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-26386 Filed 9-23-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82–153; Exemption Application No. D–2981]

Exemption From the Prohibitions for Certain Transactions Involving Marsh and McLennan Asset Management Company and Related Companies Located in Boston, Massachusetts, and New York, New York

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits certain subsidiaries of the Marsh and McLennan Asset Management Company (AMC) to recommend that employee benefit plans (the Plans) with respect to which such subsidiaries are fiduciaries by reason of providing investment management services, invest in one or more commingled investment vehicles (the Trusts) which are designed for the collective investment by employee benefit plans in real estate and which have retained another affiliate of AMC to provide investment advice or investment management services regarding such real estate investments.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216; (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 6, 1982, notice was published in the **Federal Register** (47 FR 34249) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406 (a) and (b) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (F) of the Code, for transactions described in an application filed on behalf of AMC. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an

exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, the restrictions of section 406 (a) and (b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (F) of the Code, shall not apply to the investment of the Plans' assets in one or more of the Trusts as described in the notice of pendency, provided that the terms and conditions of such investments are at least as favorable to the Plans as those obtainable in an arm's-length transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 20th day of September 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-26267 Filed 9-23-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82–154; Exemption Application No. D–3061]

Exemption From the Prohibitions for Certain Transactions Involving the Fletcher Printing Company Profit Sharing Plan and Trust Located in Lakeland, Florida

AGENCY: Pension and Welfare Benefit Programs.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the proposed leasing of office space (the Lease) by the Fletcher Printing Company Profit Sharing Plan and Trust (the Plan) to Fletcher Printing Company (the Employer), the sponsor of the Plan.

FOR FURTHER INFORMATION CONTRACT: Katherine D. Lewis of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216; (202) 523–8972. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 20, 1982, notice was published in the **Federal Register** (47 FR 31476) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been distributed to interested persons in compliance with the notification provisions in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the Lease of office space by the Plan to the Employer as described in the notice of proposed exemption, provided that the terms and conditions of the Lease remain at least as favorable to the Plan as would otherwise be available in an arm's length transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 20th day of September 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-26386 Filed 9-23-82; 8:45 am]
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-155; Exemption Application No. D-3162]

Exemption From the Prohibitions for Certain Transactions Involving Middletown Surgeons, Inc. Revised Pension Plan Located in Middletown, Ohio

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the proposed purchase by Middletown Surgeons, Inc. Revised Pension Plan (the Plan) from John W. Barnes, M.D. (the Owner), a party in interest with respect to the Plan, of 83,000 shares of common stock of Assembly Machines, Inc. (AMi), an unrelated company, in exchange for cash and a note receivable (the Note) executed by the Owner and currently held by the Plan.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216; (202) 523-8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 6, 1982, notice was published in the **Federal Register** (47 FR 34232) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-mentioned transaction, which was described in an application filed on behalf of the Owner. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. Since the Owner is the only participant or beneficiary of the Plan who will be affected by the proposed transaction, it was determined that there was no need to distribute the notice of proposed exemption to interested persons. No public comments and no requests for a hearing were received by the Department.

The notice of pendence was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the Plan's purchase of the Owner's 83,000 shares of AMI common stock in exchange for cash and the Note, provided that the total purchase price does not exceed the fair market value of such shares at the time of the purchase.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 20th day of September 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-26389 Filed 9-23-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-156; Exemption Application No. D-3183]

Exemption From the Prohibitions for Certain Transactions Involving the Automotive Sales Co. Employee Stock Ownership Plan Located in Phoenix, Arizona

AGENCY: Pension and Welfare Benefit Programs Office, Labor

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits: (1) Certain indemnifications by the Automotive Sales Company Employee Stock Ownership Plan (the Plan) for the benefit of HJS, Inc. (the Employer), regarding the proposed sale of the assets of the Employer; and (2) the proposed sale of a portion of certain real property (the Property) by the Plan to the Employer.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216; (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 23, 1982, notice was published in the **Federal Register** (47 FR 31985) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicants have represented that they have satisfied the notification provisions as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) Certain indemnifications by the Plan for the benefit of the Employer; and (2) the proposed sale of a portion of the Property by the Plan to the Employer provided that the Plan receives at least the fair market value of the portion of the Property at the time of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 20th day of September.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-26390 Filed 9-23-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-157; Exemption Application No. D-3390]

Exemption From the Prohibitions for Certain Transactions Involving the Bay View Federal Savings and Loan Association Profit Sharing Plan Located in San Mateo, California

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption will permit, effective March 1, 1982, the cash sale by the Bay View Federal Savings and Loan Association Profit Sharing Plan (the Plan) of 39 mortgage loans (the Mortgage Loans) to Bay View Federal Savings and Loan Association (the Employer), the sponsor of the Plan.

EFFECTIVE DATE: March 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-

4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216; (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 20, 1982, notice was published in the **Federal Register** (47 FR 31474) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been provided to interested persons in accordance with the provisions of the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, effective March 1, 1982, to the cash sale of the Mortgage Loans by the Plan to the Employer for $2,216,815, provided that this amount was not less than the fair market value of the Mortgage Loans on the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject to this exemption.

Signed at Washington, D.C., this 20th day of September 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-26991 Filed 9-23-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82–158; Exemption Application No. D–3499]

Exemption From the Prohibitions for Certain Transactions Involving the L. Michael Feingold, Inc. Profit Sharing Plan Located in Huntington Beach, California

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption will permit the sale to the L. Michael Feingold, Inc. Profit Sharing Plan (the Plan) of an interest in a mortgage note (the Mortgage) by Dr. L. Michael Feingold (Dr. Feingold), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216; (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 20, 1982, notice was published in the **Federal Register** (47 FR 31468) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant

has represented that a copy of the notice was provided to interested persons in accordance with the provisions of the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by Dr. Feingold to the Plan of his ⅓ interest in the Mortgage for $76,343.47 provided that the price paid is not greater then the fair market value of the interest on the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C. this 20th day of September 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefits Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-26592 Filed 9-23-82; 8:45 am]

BILLING CODE 4510-29-M

Employment and Training Administration

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

Pursuant to the court order in *Julian R. Woodrum* v. *Donovan et. al.* Slip OP. 82–60 (July 26, 1982), which remanded the matter for further administrative proceedings we hereby publish notice of receipt of plaintiff's petition. The Director, of the Office of Trade Adjustment Assistance, Employment and Training Administration is instituting an investigation to comply with the above referenced court order by giving notice of institution of investigation concerning (1) whether there is substantial ownership and control of Capital Chrysler Plymouth of Montgomery, Inc., Montgomery, West Virginia by the Chrysler Corporation; and (2) whether the nature of work performed by the petitioners, employees of Capital Chrysler Plymouth of Montgomery, Inc., a car dealership, constitues production within the meaning of the Trade Act of 1974.

The purpose of the investigation is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than ten days after publication in the **Federal Register.**

Interested persons are invited to submit written comments regarding the subject matter of the investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 4, 1982.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 23rd day of September 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers or former workers of)—	Location	Date received	Date of petition	Petition No.	Articles produced
Capital Chrysler Plymouth of Montgomery, Inc. (workers).	Montgomery, WV	Sept. 8, 1982	Aug. 22, 1982	TA-W-13,784	Dealership—auto.

[FR Doc. 82-26593 Filed 9-23-82; 11:01 am]

BILLING CODE 4510-30-M

NATIONAL SCIENCE FOUNDATION

Subcommittee on Mechanical Engineering and Applied Mechanics, Advisory Committee for Engineering; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Mechanical Engineering and Applied Mechanics (MEAM).

Date and Time: October 14th and 15th, 1982—9 a.m. to 5 p.m. each day.

Type of Meeting:

October 14—9:00 a.m. to 12:15 p.m.—Open
1:30 p.m. to 5:00 p.m.—Closed

October 15—9:00 a.m. to 1:00 p.m.—Open;
2:00 p.m. to 5:00 p.m.—Closed.

Contact Person: Dr. R. M. Bowen, Division Director, Mechanical Engineering and Applied Mechanics, Room 1108, National Science Foundation, Washington, D.C. 20550; (202) 357–9542.

Summary/Minutes: May be obtained from Hope Duckett, Division of Mechanical Engineering and Applied Mechanics, Room 1108, National Science Foundation, Washington, D.C. 20550; (202) 357–9542.

Purpose of Subcommittee: To provide directions for Mechanical Engineering and Applied Mechanics research.

Agenda: Thursday October 14th—Open—9 a.m. to 12:15 p.m., Room 540

9:00—Welcome by Dr. J. Slaughter, Director, NSF and Dr J. Sanderson, Assistant Director for Engineering
10:00—Questions and Answers
10:15—Briefing of Division Programs
11:45—Questions and Answers
12:15—Recess for Lunch

Thursday October 14th—Closed—1:30 p.m. to 5:00 p.m., Room 540

1:30—Review and comparison of declined proposals (and supporting documentation) with successful awards under the Mechanical Engineering and Applied Mechanics Division, including review of peer review materials and other privileged material

Friday October 15—Open—9:00 a.m. to 1:00 p.m., Room 540

9:00—Oral reports from Subcommittee
9:30—Subcommittee discussion of future directions of programs
10:30—Subcommittee discussion of division-wide concerns
11:30—Drafting of preliminary Subcommittee response

Friday October 15—Closed—2:00 p.m. to 5:00 p.m., Room 540

2:00—Further review of peer review process on individual grants and declinations
5:00—Adjourn

Reason for Closing: The Subcommittee will be reviewing grant and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pretaining to applicants. These matters are with exemption (4) and (6) of 5 U.S.C. 552b (c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determination by the Director, NSF on July 6, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
September 21, 1982.
[FR Doc. 82-26403 Filed 9-23-82; 8:45 am]
BILLING CODE 7555-01-M

Subpanel for History and Philosophy of Science; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel for History and Philosophy of Science Advisory Committee for Social and Economic Science.

Date and Time: October 14th, 15th and 16th, 1982, 9:00 a.m. to 5:00 p.m. each day.

Place: Room 421, National Science Foundations, 1800 G Street, N.W., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Ronald J. Overmann, Program Director, History and Philosophy of Science Program, Room 312, National Science Foundation, Washington, D.C. 20550, telephone (202) 357–9677.

Purpose of Subpanel: To provide advice and recommendation concerning support for research in History and Philosophy of Science.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority To Close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
September 21, 1982.
[FR Doc. 82-26404 Filed 9-23-82; 8:45 am]
BILLING CODE 7555-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12665; 812–5213]

American General Life Insurance Company of New York, et al; Filing of Application

September 16, 1982.

American General Life Insurance Company of New York ("AGNY"), American General Life Insurance Company of New York Separate Account E ("Account E") and American General Capital Distributors, Inc. ("AG Capital") (together "Applicants") filed an application on June 21, 1982, and an amendment thereto on September 3, 1982, for an order of the Commission exempting Applicants to the extent requested pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") from the provisions of Sections 2(a)(32), 2(a)(35), 22(c), 26(a), 26(a)(2)(C), 27(a)(3), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rule 22c–1 thereunder and granting, pursuant to Section 11 of the Act, approval of the terms of certain offers of exchange. Account E, a separate account of AGNY, was created for the purpose of investing the net purchase payments received by AGNY for single payment and periodic payment variable annuity contracts which it sells. Account E is registered under the Act as a unit investment trust. AGNY is its depositor and AG Capital is its principal underwriter. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations made therein, which are summarized below.

Until recently, AGNY offered certain variable annuity contracts funded through Account E ("Current Contracts") under which contractowners could, from time to time, cause interests in Account E to be transferred for investment purposes among one of three divisions of Account E (divisions one through three), each of which invests its assets solely in a different registered open-end management investment company. The Commission has granted exemptions from certain sections of the Act and

rules thereunder and approval under Section 11 of the Act in connection with the activities and operation of Account E in offering the Current Contracts. As a consequence of Revenue Ruling 81–225, AGNY temporarily ceased sales of Current Contracts. Since two new divisions (divisions six and seven) of Account E have become available, the acceptance of purchase payments under Current Contracts has been resumed. Transfers into divisions six and seven under Current Contracts are effected pursuant to Rule 6c–6(T) under the Act. Under Current Contracts offered and sold subsequent to the availability of divisions six and seven, only those divisions are available. Account E intends to offer a new division (division 8), to which owners of Current Contracts may cause their interests to be invested subject to the same conditions previously applicable to Current Contracts. The fee for any transfer is $5 under Current Contracts, and no change in existing fees relating to transfers under Current Contracts is being sought by Applicants.

AGNY now intends to offer a new class of variable annuity contracts (the "Proposed Contracts") in place of the Current Contracts. The Proposed Contracts provide that contractowners may elect to have their interests in Account E allocated, from time to time, among not more than three divisions of Account E (divisions six through eight), subject to certain conditions. Transfers among divisions under the Proposed Contracts are effected at net asset value, subject only to a fixed charge of $10 with respect to each such transfer. No transfer charge will be imposed in connection with certain transfers effected at or subsequent to annuitization.

Under the Proposed Contracts, premium taxes will be deducted as of the annuity date, although AGNY may have actually paid the tax prior to that time. A withdrawal charge will be imposed on surrenders during the accumulation period, calculated as a percentage of the dollar amount of purchase payments made during the preceding 72 months which are withdrawn; it is always assumed that the earliest payments during a 72-month period are withdrawn first. The withdrawal charge equals the sum of: 1% of purchase payments made during the 61st through 72nd months prior to surrender; 2% of purchase payments made during the 49th through 60th months; 3% of purchase payments made during the 37th through 48th months; 4% of purchase payments made during the 25th through 36th months; 5% of purchase payments made during the 13th through 24th months; and 6% of purchase payments made during the first 12 months prior to surrender.

If a partial surrender is made which reduces the accumulated value of the contract by less than 80% of the accumulated value immediately preceding such partial surrender, no withdrawal charge will be imposed at that time on any amount withdrawn (the "Exempt Amount") which, when added to all other Exempt Amounts previously withdrawn over the life of the contract, does not exceed the sum of the following: 100% of purchase payments made more than 72 months prior to the partial surrender; 50% of purchase payments made during the 61st through 72nd months; 40% of purchase payments made during the 49th through 60th months; 30% of purchase payments made during the 37th through 48th months; 20% of purchase payments made during the 25th through 36th months; and 10% of purchase payments made during the 13th through 24th months prior to the partial surrender. If the partial surrender is for more than the Exempt Amount so calculated, the same withdrawal charge will be imposed as would be imposed on a total surrender in the amount of such excess. Once a withdrawal charge has been imposed on any purchase payment or portion of a purchase payment, that purchase payment or portion will not thereafter be considered as a purchase payment for purposes of calculating either the withdrawal charge or the Exempt Amount.

If a partial surrender is made which reduces the accumulated value of the contract by 80% or more of the accumulated value of the contract immediately preceding such partial surrender, or if a total surrender is made, the amount of the withdrawal charge imposed will be adjusted to reflect a withdrawal charge on Exempt Amounts withdrawn without a withdrawal charge pursuant to any partial surrenders made during the preceding 12 months.

The withdrawal charge also will be imposed in connection with certain settlement options under the Proposed Contracts. Although imposed on or after the annuity date, these charges will be based on purchase payments, as described above in connection with surrenders made during the accumulation period.

Under the Proposed Contracts, AGNY will charge the Account E an amount (the "Asset Charge"), calculated daily, at an annual rate of 1.25% of the average daily net asset value of Account E assets allocable to the Proposed Contracts. The Assets Charge is intended to cover additional anticipated administrative expenses and to compensate the Company for assuming mortality risks. Applicants estimate that compensation for assumption of the mortality risk constitutes ⅘ths of the Asset Charge and additional anticipated administrative expenses constitute approximately ⅕th of the Asset Charge. The Asset Charge is guaranteed and may not be increased by AGNY.

Under the Proposed Contracts, AGNY will also receive reimbursement for administrative expenses from an annual contract maintenance charge in the amount of $30 per contract, which will be assessed on the last day of each contract year during the Accumulation Period. In the case of surrender of the contract, this charge will be prorated on a monthly basis for each month or part of a month during the contract year. This charge is not guaranteed and may be raised or lowered in AGNY's discretion as to contracts outstanding at any time and/or as to contracts issued subsequently.

Applicants represent that the administrative charges under the Proposed Contracts are reasonable, in amounts not exceeding anticipated administrative expenses, and not properly chargeable to sales or promotional activities within the meaning of the Act. Applicants also assert that the level of the Asset Charge, annual maintenance charge, transfer fees and premium taxes is cost-related, reasonable and consistent with industry practice.

Exemptive Relief Requested

Applicants request exemptions from sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2)(C), 27(a)(3), 27(c)(1), 27(c)(2) and 27(d) of the Act and Rule 22c–1 thereunder in order to impose the withdrawal charge.

Applicants request exemptions from Section 26(a) and 27(c)(2) of the Act in order that the assets of Account E may be held by AGNY under the terms and conditions, and subject to the charges and fees, as set forth in the application, rather than by a trustee or custodian.

Section 6(c)

Section 6(c) of the Act generally authorizes the Commission to exempt any person, security or transaction from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly

intended by the policy and provisions of the Act. Applicants assert that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Approval Requested

Pursuant to Section 11 of the Act, Applicants request approval of the terms of the proposed transfers among divisions one through three and six through eight of Account E under the Current Contracts and among divisions six through eight of Account E under the Proposed Contracts.

Notice is further given that any interested party may, not later than October 12, 1982 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following October 12, 1982 unless the Commission thereafter orders a hearing upon request or upon the Commission's motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing, if ordered, and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-26336 Filed 9-23-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12670; 811-1276]

Industries Trend Fund, Inc.; Filing of an Application

September 16, 1982.

Notice is hereby given that Industries Trend Fund, Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an openend, diversified, management investment company, filed an application on August 10, 1982, and an amendment thereto on September 2, 1982, for an order pursuant to Section 8(f) of the Act, declaring that it has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized as a Texas corporation. On July 20, 1964, Applicant registered under the Act and filed a registration statement pursuant to the Securities Act of 1933 with respect to 5,000,000 shares of its common stock. That registration was declared effective on February 5, 1965, whereupon Applicant commenced the initial offering of its shares.

On January 31, 1982, Applicant's board of directors voted unanimously to approve a Plan and Agreement of Reorganization ("Plan") which was further approved by the necessary affirmative vote of two-thirds of Applicant's shareholders on April 9, 1981. Pursuant to the Plan, at the close of business April 30, 1981, substantially all of Applicant's assets were transferred to Pilot Fund, Inc. ("Pilot") in exchange for shares of Pilot common stock on the basis of relative net asset value.

Applicant states that its shareholders received a final dividend from net investment income of $0.238 per share, payable May 11, 1981, to shareholders of record at the close of business on May 1, 1981. Applicant further represents that there were 4,849,873 shares of Pilot common stock issued to its shareholders on the basis of 1.399 Pilot shares for each share of Applicant.

According to the application, Applicant has taken the steps necessary to dissolve itself in accordance with the provisions of Texas law and now seeks an order of the Commission terminating its registration as an investment company under the Act.

Applicant represents that it has no assets, liabilities or securityholders, and that it is not a party to any litigation or administrative proceedings. Applicant further represents that it is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

Section 8(f) of the Act provides, inpertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than October 12, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-26331 Filed 9-23-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12669; 812-5256]

Iowa Liquid Assets Fund, Inc.; Filing of an Application

September 16, 1982.

Notice is hereby given that Iowa Liquid Assets Fund, Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an openend, diversifed, management investment company, filed an application on July 28, 1982, and an amendment thereto on August 30, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant to calculate its net asset value per share using the amortized cost method of valuation. All interested persons are

referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

According to the application, Applicant's investment objective is to seek maximum current income consistent with safety of principal and maintenance of liquidity through investments in United States Government securities and repurchase agreements secured by such securities; commercial and industrial loans issued and guaranteed by Iowa commercial banks ("Banks"); and redeemable trust certificates sponsored by federally insured student loans originated by such Banks. Applicant represents that the creditworthiness, including financial condition and loan loss record, of all Banks seeking to sell loans to Applicant will be carefully evaluated by its investment adviser prior to the execution of any agreement with such Bank, and periodically thereafter.

Applicant further represents that its board of directors will also make a determination of the creditworthiness of each participating Bank before, or at the next quarterly board meeting following, execution of any relevant agreement with such Bank, and at least annually thereafter. Moreover, to the extent that Applicant purchases floating rate or variable rate obligations or obligations with demand features, Applicant intends to determine the maturities of such obligations in accordance with the procedures set forth in proposed Rule 2a–7 under the Act, or if the rule should ultimately be adopted, in accordance with the procedures set forth in the rule as adopted.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to puchase or to sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 states further that protfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a–4 requires that portfolio instruments of "money market" funds be valued with reference to market factors and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments with over sixty-day maturities on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests an exemption from Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to calculate its net asset value per share using the amortized cost method of valuation.

Section 6(c) of the Act provides, in pertinent part, that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of its request, Applicant represents that its board has determined that, absent unusual circumstances, amortized cost value represents the fair value of its portfolio securities and that the amortized cost method of valuation will benefit both the Applicant and its shareholders. Applicant states that by using the amortized cost method of valuing its shares, investors would have the convenience of being able to value their holdings simply by knowing the number of shares which they own. Applicant further maintains that by using the amortized cost method of valuation its net asset value per share would not vary as a result of realized and unrealized capital gains and loses.

Applicant consents to the imposition of the following conditions in an order granting the relief it requests:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to Applicant's shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board shall be the following:

(a) Review by the board, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board will promptly consider what action, if any, should be initiated by it.

(c) Where the board believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: Redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments of Applicant; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

dollar-weighted average portfolio maturity in excess of 120 days.[3]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board's considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board's meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the board determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than October 12, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-26332 Filed 9-23-82; 8:45 am]

BILLING CODE 8010-01-M

[3] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 12673; 812–5031]

LFS Variable Account A, et al.; Filing of Application

September 17, 1982.

Notice is hereby given that Lomas Financial Security Insurance Company (the "Insurance Company"), LFS Variable Account A (the "Variable Account"), a separate account of the Insurance Company registered under the Investment Company Act of 1940 ("Act") as a management investment company, and, where applicable, Advance Financial Services Corporation (the "Broker-Dealer") filed an application on December 1, 1981 and amendments thereto on April 16, 1982 and September 3, 1982 for an order of the Commission, pursuant to Section 6(c) of the Act, exempting them from provisions of Sections 2(a)(32), 2(a)(35), 17(f), 22(c), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rules 17f–2 and 22c–1 thereunder to the extent necessary to permit the transactions described in the application. Additionally, the application, as amended, includes requests by the Insurance Company, the Variable Account, Advance Mortgage Corporation (the "Mortgage Company"), Advance Asset Advisers, Inc., (the "Investment Adviser") and Advance Financial Securities Corporation (collectively, "Applicants") for an order of the Commission, pursuant to Sections 17(b) and 6(c) of the Act, for an exemption from Section 17(a) of the Act and, pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder, to permit the Applicants to engage in certain transactions in the manner and subject to the conditions set forth in the application. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

According to the Applicants, the Mortgage Company, a Delaware corporation, owns all of the outstanding common stock of the Insurance Company and is wholly owned by the Lomas/Advance Venture, which is a joint venture organized under Texas law and controlled by the Lomas & Nettleton Financial Corporation. Optimum Mortgage Company Ltd., a Michigan limited partnership, also has a substantial interest in the Lomas/Advance Venture. The sole general partner of Optimum Mortgage Company Ltd. is Optimum Mortgage Corporation, a Delaware corporation and an affiliate of Oppenheimer and Company, a New York-based investment banker. The Broker-Dealer and the Investment Adviser are also wholly owned by the Mortgage Company.

The Proposed Transactions With Affiliates

Applicants request an exemption from Sections 17(a) and 17(d) of the Act and Rule 17d–1 thereunder to permit the Variable Account to purchase Conventional Mortgage Pass-Through Certificates ("Conventional Certificates"), Federal National Mortgage Association ("FNMA") Guaranteed Mortgage Pass-Through Certificates ("FNMA Certificates"), and Government National Mortgage Association Modified Pass-Through Mortgage-Backed Securities ("GNMA Securities") from the Mortgage Company (collectively, "Mortgage Securities").

According to Applicants, the Variable Account intends to purchase Mortgage Securities from the Mortgage Company for investment purposes. The Variable Account will have no participation in the offering of the Mortgage Securities as an issuer, underwriter, dealer, or manager and will not share in any profits or losses of such offering. The Broker-Dealer will act as placement agent for each purchase of a Mortgage Security from the Mortgage Company by the Variable Account but will receive no compensation, commission or broker's fee for performing this function. The Mortgage Company will be acting as a principal and not as an agent or broker in connection with the sale of Conventional Certificates and GNMA Securities. Although FNMA will be the issuer of FNMA Certificates, it will issue them either to or to the order of the Mortgage Company, and therefore the Mortgage Company also will be acting

as a principal and not as an agent or broker in connection with sales of FNMA Certificates to the Variable Account.

The Insurance Company, the Variable Account, and the Investment Adviser believe that the purchasing of Mortgage Securities from the Mortgage Company is desirable because they believe that the most effective way for the Variable Account to invest in conventional mortgage loans is to purchase Conventional Certificates or FNMA Certificates. According to Applicants, precluding the Variable Account from purchasing Conventional Certificates from the Mortgage Company would significantly limit the investment opportunities of the Variable Account in this market. Applicants also assert that precluding the Variable Account from purchasing FNMA Certificates from the Mortgage Company probably would significantly limit the investment opportunities of the Variable Account in this market because FNMA Certificates are marketed by the seller of the underlying conventional mortgage loans and the Mortgage Banker is one of the largest mortgage bankers in the country. Finally, Applicants contend that it would be advantageous to the Variable Account to purchase GNMA Securities directly from the Mortgage Company because, *inter alia*, the investment in GNMA Securities is extremely safe and the price at which the Mortgage Company will sell the securities to the Variable Account will be better than the price then available on the open market. Therefore, Applicants request an exemption from the prohibitions of Section 17(a), subject to the conditions listed below, to the extent necessary or appropriate to authorize the Variable Account to purchase Mortgage Securities from the Mortgage Company as summarized above and described in the application. Similarly, Applicants request an exemption from the prohibitions of Section 17(d), as implemented in Rule 17d–1, subject to the conditions listed below, to the extent necessary or appropriate to authorize the Mortgage Company to engage in the transactions with the Variable Account as summarized above and described in the application.

In making the foregoing request, Applicants have agreed to the following conditions:

1. A majority of the Board of Managers of the Variable Account will not be "interested persons" of the Applicants as defined in the Act.

2. Before any transaction will be executed with the Mortgage Company for the purchase of a Conventional Certificate, FNMA Certificate, or GNMA Security, the Variable Account or the Investment Adviser will obtain such information as they deem necessary to determine the most favorable terms available with respect to the proposed instrument. To this end, for each contemplated transaction the Investment Adviser will formulate a proposal containing the terms of the proposed instrument. The Variable Account or the Investment Adviser must obtain at least three competitive offers from at least three independent sources for each proposal. Such sources must be those who, in the experience of the Variable Account or the Investment Adviser, are in a position to quote favorable terms with respect to the proposed instrument.

3. The Variable Account will not enter into any agreement with the Mortgage Company with respect to a proposed Conventional Certificate, FNMA Certificate, or GNMA Security unless a determination is made in each instance, based upon information available to the Variable Account and the Investment Adviser, that the price available from the Mortgage Company is "better than" that available from the independent sources. To be considered "better than" that available from other sources, the yield quoted by the Mortgage Company must be at least one basis point better than the best of the bona fide offers obtained from the independent sources.

4. The Variable Account will not enter into any agreement with the Mortgage Company with respect to a proposed Conventional Certificate unless the Mortgage Company agrees that the mortgage loans backing up the proposed Conventional Certificate will be assigned to an independent bank trustee for the benefit of the Account and the pooling and servicing agreement between the Mortgage Company and the trustee will give the trustee the authority to terminate all the rights and obligations of the Mortgage Company under the pooling and servicing agreement upon the occurrence of an event of default by the Mortgage Company and, in furtherance of that authority, provides for the receipt by the trustee of the standard and customary reports and certifications. If a bank letter of credit is used in place of mortgage guaranty insurance for any Conventional Certificate, then for purposes of this condition, a bank trustee shall not be considered "independent" with respect to that Certificate if that bank or any affiliate thereof issued the letter of credit.

5. Before the Variable Account enters into any contract, transaction, or agreement with the Mortgage Company relating to Conventional Certificates or FNMA Certificates, the contract, transaction, or agreement (including, with respect to Conventional Certificates, the terms of the pooling and servicing agreement between the Mortgage Company and the trustee for the benefit of the Variable Account) will be reviewed and approved by a majority of the Variable Account's Board of Managers, including a majority of the disinterested members of the Board, after a thorough examination of all relevant facts. The relevant facts include the proposal formulated by the Investment Adviser and the quotations received from independent sources in response thereto. The Board of Managers shall determine in the course of their review and approval that:

(a) Such contracts, transactions or agreements are in the best interest of the Variable Account and the Contract owners;

(b) The nature and quality of the services that the Mortgage Company will provide pursuant to its agreements with the independent trustee will be at least equal to those provided by others offering the same or similar services; and

(c) The fees received by the Mortgage Company for such services are fair and reasonable in light of the usual and customary charges made by others for services of the same nature and quality.

6. All transactions between the Variable Account and the Mortgage Company will originate with the Variable Account or the Investment Adviser. The Mortgage Company will make no solicitations of the Variable Account. In communications with the Variable Account with respect to the proposed transactions, the Mortgage Company personnel will confine their activities to the response to inquiries made of them by the Variable Account or the Investment Adviser.

7. The Variable Account intends to purchase Conventional Certificates, FNMA Certificates, and GNMA Securities for investment purposes. The Variable Account will have no participation in the offering of these securities as an issuer, underwriter, dealer, or manager and the Variable Account will not share in any profits or losses of such offering.

8. No Mortgage Pass-Through Certificate shall be sold by the Mortgage Company to, or purchased by, the Variable Account if an underlying mortgage in the mortgage pool results from the sale of real estate owned by an affiliated person of the Applicants herein, or if the mortgagor is an affiliated person of the Applicants.

9. Applicants will make every reasonable effort to obtain a rating from a major rating service for each Conventional Certificate purchased from the Mortgage Company.

10. The Variable Account and the Investment Adviser will maintain records with respect to all transactions with the Mortgage Company, including documentation of having obtained quotations from at least three other sources with respect to each transaction in Conventional Certificates, FNMA Certificates, and GNMA Securities, and documentation of having attempted to obtain a rating from a major rating service for each Conventional Certificate purchased from the Mortgage Company and the results thereof. A schedule of all transactions with the Mortgage Company, including the ratings, if any, on Conventional Certificates held by the Variable Account, will be filed with the periodic reports filed by the Variable Account with the Commission pursuant to Sections 30(a) and 30(b)(1) of the Investment Company Act of 1940.

11. All transactions referred to herein shall be carried out in accordance with the representations made in this Application for an exemption order.

12. The Board of Managers of the Variable Account will periodically monitor the activities of the Variable Account and the Investment Adviser to ensure that the conditions stated in this Application are being adhered to in all respects.

Charges and Deductions Under the Contracts

Applicants state that the following charges will be assessed either against contract owners or the Variable Account: (i) A Contract Maintenance Charge of, initially, $25.00 per calendar year per contract; (ii) an Expense Reimbursement Charge which is guaranteed to be no more than $10.00 per year per contract; (iii) a daily mortality and expense risk premium at an effective annual rate of 1.00% of the value of the assets of the variable account; (iv) a daily charge for investment advisory services at an effective annual rate of 0.30% of the value of the assets of the Variable Account; (v) a deduction for premium taxes; and (vi) a contingent deferred sales load.

The Contract Maintenance Charge will be deducted to offset the expected costs of administrative services purchased from a third party pursuant to an administrative services contract. Prior to the annuity date, the Contract Maintenance Charge will be deducted from the contract value on December 31 of each calendar year for the subsequent year. Such a charge also will be deducted from the initial purchase payment in determining the net purchase payment allocated to the Variable Account. The amount will be prorated for the first contract year from the date of issue of a contract to the end of the calendar year so that it will be assessed only for the number of days remaining in the calendar year. After the annuity date, the charge will be prorated and deducted monthly from the amount of each annuity payment, except that the charge shall not be deducted from annuity payments made between the annuity date and December 31 of the year in which annuity payments commence.

The Expense Reimbursement Charge also will be deducted from contracts on December 31 of each year. Each contract which has been in effect on that date for at least 60 days will be charged a pro rata portion of the Insurance Company's accumulated expenses for performing services through such date which are not covered by the Contract Maintenance Charge. The maximum amount of the Expense Reimbursement Charge for any year will be $10.00 per contract. To the extent any actual expenses are not reimbursed during any year or years as a result of the $10.00 limitation, these expenses will be carried over to the next year or years. Applicants represent that the Contract Maintenance Charge and Expense Reimbursement Charge are not designed to exceed the actual expenses incurred in administering the contracts or to subsidize the costs of administering other contracts issued by the Insurance Company.

Of the mortality and expense risk premium 0.80% of the charge is allocable to mortality risks and 0.20% to expense risks. Applicants represent that the mortality and expense risk premium under the contracts is consistent with the protection of investors because it is a reasonable and proper insurance charge. The amount of the charge is consistent with industry practice for policies (as reflected in public filings made with the Commission and with various state insurance departments).

The contingent deferred sales charge ("sales charge"), when imposed, will be 5% of the amount withdrawn (which amount includes the amount withdrawn for the sales charge). However, the first time in any contract year that contractowners make a withdrawal, they may withdraw up to 10% of all purchase payments made more than one year prior to the date of withdrawal without incurring the sales charge. Also, amounts withdrawn that are deemed to come from purchase payments made more than five years prior to the date of withdrawal may be withdrawn free of a sales charge. To determine whether an amount withdrawn is attributable to a purchase payment made more than five years prior to the date of withdrawal, all withdrawals will be handled on a first-in, first-out basis. Accordingly, all amounts withdrawn other than such part of the first withdrawal in any contract year that does not exceed 10% of all purchase payments made more than one year prior to the date of withdrawal will be deemed to come from puchase payments in the chronological order of receipt of these purchase payments. Additionally, amounts withdrawn that are deemed to come from earnings may be withdrawn free of a sales charge (amounts withdrawn in excess of the total amount of purchase payments made under the contract as of the date of withdrawal will be deemed to come from earnings). Finally, there will be no sales charge on distributions made pursuant to the death of the annuitant.

Applicants request an exemption from the provisions of Sections 2(a)(32), 2(a)(35), 22(c), 27(c)(1), 27(c)(2) and 27(d) of the Act and Rule 22c-1 thereunder to the extent necessary or appropriate to permit the offer of the contracts with the described sales load arrangement. Applicants also request an exemption from Section 27(c)(2) of the Act to permit the imposition of the Contract Maintenance Charge, the Expense Reimbursement Charge, the deduction for premium taxes, the mortality and expense risk premium, and the investment advisory fee.

Custodial Requirements

It is anticipated that the securities and similar investments of the Variable Account will be deposited with the National Bank of Detroit or other qualified bank pursuant to a safekeeping agreement. Applicants request an exemption from Section 17 and Rule 17f-2 to permit access to the securities and similar investments of the Variable Account to (1) authorized representatives of the Arizona Director of Insurance, and (2) officers or responsible employees of the Insurance Company authorized by resolutions of both the Board of Directors of the Insurance Company and the Board of Managers of the Variable Account. Applicants also request that the Commission grant an order of exemption from Section 27(c)(2) of the Act to the extent necessary to permit the Insurance Company to act as custodian and hold the assets, although not as trustee, under

the safekeeping arrangements described in the application. Furthermore, Applicants respectfully request an exemption from Section 27(c)(2) to the extent necessary to allow the Insurance Company to hold securities and similar investments in book entry form, as permitted by Section 17(f) and Rule 17f–4.

Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from Section 17(a) of the Act if evidence established that: (1) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (2) the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the Act; and (3) the proposed transaction is consistent with the general purposes of the Act.

Rule 17d–1, promulgated under Section 17(d) of the Act, authorizes the Commission to exempt a joint enterprise, joint arrangement or profit-sharing plan involving a registered investment company from Rule 17d–1 after considering whether the participation of the registered investment company in the joint enterprise, joint arrangement or profit-sharing plan on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Section 6(c) of the Act generally authorizes the Commission to exempt any person, security or transaction from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested party may, not later than October 12, 1982 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following October 12, 1982 unless the Commission thereafter orders a hearing upon request or upon the Commission's motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing, if ordered, and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-26037 Filed 9-23-82; 8:45 am]

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[Release No. 12667; 812–4031]

Merrill Lynch Pacific Fund, Inc.; Filing of an Application

September 16, 1982.

Notice is hereby given that Merrill Lynch Pacific Fund, Inc. ("Applicant"), an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on December 11, 1980, and amendments thereto on June 9, 1981, and February 11, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 17(f) of the Act to permit Applicant's custodian, State Street Bank & Trust Company ("State Street"), to enter into a sub-custodian agreement with The National Bank of Australasia, Ltd. ("Bank") pursuant to which Australian corporate securities owned by Applicant will be deposited in the custody of the Bank. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that prior to July 11, 1980, it invested exclusively in Japanese securities and until that date Applicant was known as The Nomura Capital Fund of Japan, Inc. On July 11, 1980, the management of Applicant was transferred from Nomura Capital Management, Inc. to Merrill Lynch-Nomura Management Company, Inc. and Applicant's present name assumed. Applicant represents that its investment objectives now is to seek long-term capital appreciation through investment in equities of corporations domiciled in Far Eastern or Western Pacific countries, including Japan, Australia, Hong Kong, Singapore and the Philippines.

According to the application, a substantial majority of Applicant's investments, other than Japanese securities, are those of corporations domiciled in Australia. Applicant states, however, that frequently there may be no organized trading market for Australian corporate securities outside Australia, requiring Applicant to effect trading in these securities in Australia. Even where Australian securities are traded abroad, such as in London, Applicant states that they are generally available only at significant premiums over the prices prevailing on Australian exchanges. In addition, Applicant represents that the Articles of Association of some Australian corporations contain provisions which have the effect of requiring foreign owners of their shares to hold the certificates evidencing such shares in Australia in the name of a nominee with an address in Australia.

The application states that the Bank is the third largest non-government bank in Australia in terms of profits, and the third largest in terms of deposits, with total stockholders funds of $A591,084,000 at September 30, 1981, the latest date for which figures are available. The application further states that the Bank is chartered under the laws of Victoria and its operations are subject to supervision of the Reserve Bank of Australia under the Banking Act of Australia. The bank has 902 offices throughout Australia and an additional 17 offices overseas, including offices located in New York, London, Singapore and Hong Kong.

Applicant proposes to join with State Street and the Bank in the execution and delivery of a sub-custody agreement pursuant to which the Bank, through a wholly-owned and fully guaranteed subsidiary, will act as a sub-custodian of the Applicant's securities in Australia and, in that capacity, receive and hold the monies of the Applicant and the Australian securities purchased by the Applicant. Applicant represents that the Bank will be acting solely as the agent of State Street, will be subject only to the instructions of State Street and will not deal directly with Applicant. The proposed sub-custody agreement will provide, among other things, that it will be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts and that the securities held by the Bank shall not be subject to any right, charge,

security interest, lien or claims of any kind in favor of the Bank except for their safe custody or administration, and the beneficial ownership of such securities shall be freely transferable without the payment of money or value other than for safe custody or administration. The sub-custody agreement will further provide that the Bank shall grant access to such accountants, attorneys and agents designated by State Street for the purpose of making such direct physical examination as State Street shall from time to time deem necessary to verify the accuracy of the books and records of the Bank, relating to the money and securities received, held and disbursed for the account of State Street. The Applicant has arranged with Price Waterhouse, its independent public accountants, to have their Australian affiliate make such examinations, including at least one regularly scheduled audit and one surprise audit for each of the Applicant's fiscal years.

Section 17(f) of the Act, in relevant part, provides that every registered management investment company shall maintain its securities and similar investments in the custody of a bank having the qualifications prescribed in paragraph (1) of Section 26(a) of the Act. A bank generally is defined in Section 2(a)(5) of the Act as a bank organized or doing business under the laws of any State or the United States which is supervised or examined by State or Federal authority having supervision over banks. It is the Applicant's understanding that Section 17(f) permits the placement and retention of securities of a registered management investment company in a foreign branch of a domestic bank falling within the definition contained in Section 2(a)(5) of the Act and meeting the requirements of paragraph (1) of Section 26(a), provided that the arrangements therefor are consistent with the arrangements of a domestic custodian bank. Applicant represents that there is, however, no such foreign branch of a domestic bank in Australia. Therefore, it is claimed that unless the Applicant is able to obtain an order exempting it from the requirements of Section 17(f) of the Act, investment in certain Australian corporations will be impeded due to the logistical and safety problems associated with transporting the securities, and in other Australian corporations investment will be precluded entirely due to the requirement that stock certificates of such corporations be held in Australia.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision under the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the exemptive relief requested would be consistent with the protection of investors and the policy and provisions of the Act because the subcustody arrangements provide for the same degree of contractual responsibility as would exist if the Applicant's securities were continuously retained in the direct custody of a bank qualifying as a custodian under the Act. State Street has agreed that, irrespective of the fact that the Bank will have actual physical possession of the securities which are held pursuant to the sub-custody agreement, State Street will be held to the same standard of care with respect to the safekeeping of such securities as would be applicable if State Street were itself holding such securities in Massachusetts. State Street intends that in the performance of its duties under the sub-custody agreement it shall exercise reasonable care. Applicant further represents that State Street will indemnify and hold the Applicant harmless from and against any loss which shall occur as the result of the failure of the Bank to exercise reasonably care with respect to the safekeeping of securities to the same extent that State Street would be required to indemnify and hold the Applicant harmless if State Street itself were holding such securities in Massachusetts. State Street has further warranted to the Applicant that the established procedures to be followed by the Bank, in State Street's opinion, afford protection for the Applicant's securities at least equal to that afforded by State Street's established procedures with respect to similar securities held by State Street in Massachusetts.

The application states that State Street has advised the Applicant that the Bankers Blanket Bond which it maintains provides standard non-negligent loss coverage with respect to securities which may be held in State Street's offices or in offices of any of its affiliates or subsidiaries and securities which may be held in the office of non-affiliated foreign banks and foreign securities depositories. It is further stated that State Street intends to maintain such coverage so long as it is available at reasonable cost, and shall inform the Applicant if at any time State Street shall for any reason discontinue such coverage. The application also states that State Street has advised the Applicant that it does not intend to obtain any insurance for the Applicant's benefit which protects against the imposition of exchange control restrictions or confiscation, expropriation or nationalization of any securities or the assets of the issuer of such securiteis by a government of any foreign country in which the issuer of such securities is organized or in which such securities are held for safekeeping. finally, it is stated that State Street has advised the Applicant that insurance coverage in respect of confiscation, expropriation or nationalization of securities may be available to the Applicant at its own expense.

Notice is further given that any interested person may, not later than October 12, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereof. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-26084 Filed 9-23-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12568, 811-2856]

Morgan Capital Corp.; Filing of an Application

September 16, 1982.

Notice is hereby given that Morgan Capital Corp. ("Applicant"), 23 Wall Street, New York, NY 10015, registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified, management investment company, filed an application on July 27, 1982, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states, among other things, that Applicant, a Maryland corporation and a wholly-owned subsidiary of Morgan Holdings Corp., registered under the Act on July 31, 1978; that it has not filed a registration statement under the Securities Act of 1933, and that it has not made a public offering of its securities.

Applicant's board of directors, by unanimous consent on May 14, 1982, authorized the distribution of all of Applicant's capital surplus and retained earnings, other than $100 representing 100 shares of common stock. Applicant states that it has disposed of its entire investment portfolio and that it has ceased all trading operations; that it paid dividends to its sole securityholder totalling $18,660,000 in 1981, and a final dividend of $174,991 on July 16, 1982. Applicant has no active full time employees. According to the application, Applicant has no unpaid debts or other liabilities, has not created a separate trust to hold any of its assets, and it is not engaged or involved in any litigation or administrative proceedings.

The application states that Applicant has one securityholder, and although it has no present plans to engage in any specific business activity, it may in the future engage in business activities provided that such activities will not require it to register under the Act.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order and, upon taking effect of that order, the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person may, not later than October 12, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing theron. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-26333 Filed 9-23-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19054; SR-NASD-81-19]

National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

September 16, 1982.

The National Association of Securities Dealers, Inc. ("NASD"), 1735 K Street, N.W., Washington, D.C. 20006, filed a proposed rule change on August 7, 1981, and an amendment thereto on July 19, 1982, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to adopt Appendix F to Article III, Section 34 of the NASD's Rules of Fair Practice. Appendix F prescribes standards for members of the NASD, or persons associated with a member, who participate in the public offering of a direct participation program ("DPP"). The standards include requirements regarding investor suitability to purchase a DPP; disclosure of material facts concerning a DPP; and the reasonableness of organization and offering expenses, compensation paid in connection with an offering, and sales incentive items provided to a member or associated person.

Notice of the original proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 18038, August 14, 1981) and by publication in the **Federal Register** (46 FR 42392, August 20, 1981). The amendment was noticed in Securities Exchange Act Release No. 18916, July 26, 1982, and in the **Federal Register** (47 FR 33347, August 2, 1982). All written statements filed with the Commission and all written communications between the Commission and any person relating to the proposed rule change were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission received only three comment letters in response to the original filing of the proposed rule change. Although these comment letters raised a variety of issues regarding the proposed rule change, the amendments to the rule change responded to the majority of issues discussed by the commentators. The NASD, however, did not adopt two suggestions by the commentators. First, one commentator, although generally supportive of Appendix F, believed that so-called "back-end" charges[1] should be permitted as underwriting compensation. In addition, the same commentator believed that an underwriter's due diligence expenses should not be included in calculating the amount of an underwriter's compensation. Although these suggestions were not adopted by the NASD in its amended rule change filing, no comments were received on the proposed amendments to the rule change.

The NASD has prohibited "back-end" compensation due to the difficulty of determining whether the amount of such compensation in an offering is reasonable. Because the amount of revenue produced by a DPP is unknown at the time of a public offering, the exact amount of compensation an underwriter

[1] Such charges permit an underwriter to receive compensation from the revenue produced by a DPP instead of, or in addition to, a fixed percentage of the cash receipts associated with the offering. Examples of "back-end" charges include a working interest, net profits interest, or overriding royalty interest.

would receive from "back-end" charges is not readily determinable. For this reason the NASD has, in the past, permitted only a percentage of the cash receipts of an offering as underwriting compensation. Therefore, in light of the difficulty in determining whether "back-end" compensation is reasonable, the Commission does not believe that it is inconsistent with the Act for the NASD to adopt a flat prohibition of such compensation at this time. In this regard, the Commission would note that the NASD currently is considering the issue of whether to allow "back-end" charges as part of an underwriter's compensation. *See* NASD Notice to Members 82–14, March 9, 1982.

With respect to the comment concerning due diligence expenses, Appendix F already addresses the commentator's concern. Specifically, because the NASD only treats those due diligence expenses reimbursed by the sponsor as compensation, the Commission does not believe that such a characterization will act as a significant disincentive to underwriters fulfilling their due diligence responsibilities under the federal securities laws.

Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association, in particular, the requirements of Section 15A, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the division of Market Regulation, pursuant to delegated authority.[1]

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-26236 Filed 9-23-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 12674; 812-5230]

SMA Life Assurance Co. and SMA Equities, Inc; Filing of Application

September 17, 1982.

Notice is hereby given that SMA Life Assurance Company ("Company"), a stock life insurance company organized under the laws of Delaware, Separate Accounts VA–A, VA–B, and VA–C of the Company ("Separate Accounts"), separate accounts registered under the Investment Company Act of 1940 ("Act") as management investment companies, and SMA Equities, Inc. (collectively "Applicants"), 440 Lincoln Street, Worcester, Massachusetts, filed an application on July 1, 1982 and an amendment thereto on September 3, 1982 for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicants from provisions of Sections 2(a)(32), 2(a)(35), 22(c), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rule 22c–1 thereunder to the extent necessary to permit the transactions described in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants filed an application on September 13, 1979 and an amendment thereto on December 28, 1979 for an order pursuant to Section 6(c) of the Investment Company Act of 1940 granting exemptions from Sections 2(a)(32), 2(a)(35), 22(c), 27(c)(1), and 27(d) of the Act and Rule 22c–1 thereunder, to the extent necessary to permit Applicants to offer the combination fixed and variable annuity policies described in the application with a contingent deferred sales charge instead of a front-end sales load. The Application was noticed on January 18, 1980 in Investment Company Act Release No. 11025, and the requested exemptions were granted by order of the Commission on February 12, 1980 in Investment Company Act Release No. 11045 ("prior order"). Applicants now request an amendment to the order, to the extent necessary to implement certain changes in the contingent deferred sales charge applicable to the policies. Pursuant to the prior order, a contingent deferred sales charge is applied in the case of partial redemptions or surrenders of the policies or annuitization under a period certain option within 14 full policy years under an elective payment policy or 9 full policy years under a single payment policy (the "Surrender Charge Periods"). The charge on single payment policies, as a percentage of accumulated value surrendered, redeemed, or annuitized under a period certain option, is 5% in policy Years 1–5, and thereafter grades down 1% annually to zero after Year 9. The charge on elective payment policies is currently 7% in Years 1–8 and thereafter grades down by 1% annually to zero after Year 14. On and after the 10th policy year of a single payment policy and the 15th year of an elective payment policy no charge is assessed on partial redemption, surrender or annuitization of the policies. In all cases, the contingent deferred sales charge is retained by the Company to reimburse it for the expenses incurred in connection with the sales of the policies. These expenses include commissions, promotional costs, sales administration, and other sales related expenses.

Applicants propose to reduce the number of years a single payment policy would be subject to the contingent deferred sales charge, as follows: (policy years/charge as percent of amount surrendered, redeemed or annuitized) 1–3/5%; 4/4%; 5/3%; 6/2%; 7/1%; and 8 and thereafter/0%. Applicants propose to reduce the number of years an elective payment policy would be subject to the contingent deferred sales charge, as follows: (policy years/charge as percent of amount surrendered, redeemed or annuitized) 1–3/7%; 4/6%; 5/5%; 6/4%; 7/3%; 8/2%; 9/1%; and 10 and thereafter/0%.

Applicants also propose that, under both elective and single payment policies, the policyholder may, after the first policy year, at any time withdraw without a contingent deferred sales charge 10% of the accumulated value of the policy, less the amount of any previous free redemptions in the same policy year. This right shall be noncumulative from policy year to policy year. If the policyholder requests more than one partial withdrawal during the policy year, on the second and subsequent withdrawals the policyholder may withdraw free of charge the difference between 10% of the then accumulated value of the policy and the total of any prior redemptions in the same policy year to which no charge was applied. Each partial redemption must be in a minimum amount of $500 under a single payment policy, or $200 under an elective payment policy. In the event that a withdrawal is made in excess of the amount which may be withdrawn free of charge, only the excess will be subject to a surrender charge. In no event will the total contingent deferred sales charges on any one policy exceed 8% of the gross purchase payments under an elective payment policy or 6.5% of the gross purchase payment under a single payment policy.

Applicants have requested amendment of the prior order exempting them from the provisions of Sections 2(a)(32), 2(a)(35), 22(c), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rule 22c–1 thereunder to the extent necessary to permit the proposed changes.

Section 6(c) of the Act generally authorizes the Commission to exempt any person, security or transaction from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and

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[1] 17 CFR 200.30-3(a)(12).

consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested party may, not later than October 12, 1982 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following October 12, 1982 unless the Commission thereafter orders a hearing upon request or upon the Commission's motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing, if ordered, and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–26336 Filed 9–23–82; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Region III—Advisory Council; Public Meeting

The Small Business Administration Region III Advisory Council, located in the geographical area of Richmond, Virginia, will hold a public meeting at 1:00 p.m., Thursday, October 21, 1982 through Noon, on Friday, October 22, 1982 at the Holiday Inn (39th Street), Virginia Beach, Virginia by members and the staff of the Small Business Administration or others attending.

For further information, write or call M. Hawley Smith, District Director, U.S. Small Business Administration, P.O. Box 10126, Richmond, Virginia 23240; (804) 771–2741.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 21, 1982.

[FR Doc. 82–26361 Filed 9–23–82; 8:45 am]

BILLING CODE 8025–01–M

Region V—Advisory Council; Public Meeting

The Small Business Administration, Region V Advisory Council, located in the geographical area of Minneapolis/St. Paul, will hold a public meeting at 2:30 p.m., Thursday, October 21, 1982, in the SBA Classroom, 610–C Butler Square, 100 North Sixth Street, Minneapolis, MN, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mel Aanerud, Acting District Director, U.S. Small Business Administration, 610–C Butler Square, 100 North Sixth Street, Minneapolis, MN 55403; 612/349–3559.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 21, 1982.

[FR Doc. 82–26359 Filed 9–23–82; 8:45 am]

BILLING CODE 8025–01–M

Region VII—Advisory Council; Public Meeting

The Small Business Administration, Region VII St. Louis Advisory Council, located in the geographical area of St. Louis and Eastern Missouri, will hold a public meeting at 10:30 a.m., Wednesday, October 27, 1982, at Schneithorst's Hofamberg Inn, Lindbergh at Clayton, St. Louis, Missouri, to discuss such business as may be presented by members, staff of the U.S. Small business Administration, or others present.

For further information, write or call Robert L. Andrews, District Director, U.S. Small Business Administration, 815 Olive Street, Room 242, St. Louis, Missouri, 63101; 314/425–6600.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 21, 1982.

[FR Doc. 82–26360 Filed 9–23–82; 8:45 am]

BILLING CODE 8025–01–M

Region VIII—Advisory Council; Public Meeting

The Small Business Administration, Region VIII Advisory Council, located in the geographical area of Casper, will hold a public meeting to include the Wyoming Small Business Administration Advisory Council members in room 240 of the Commerce and Industry Building, University of Wyoming campus, Ivinson at 15th Street, Laramie, Wyoming, on Saturday, October 9th, commencing at 9:00 a.m. to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Paul W. Nemetz, District Director, U.S. Small Business Administration, 100 East B Street P.O. Box 2839, Casper, Wyoming 82601; 307/328–5761.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 21, 1982.

[FR Doc. 82–26362 Filed 9–23–82; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

National Productivity Advisory Committee; Meeting

September 17, 1982.

The National Productivity Advisory Committee will hold its third meeting on Friday, October 1, 1982 at 10:00 a.m. at the Main Treasury Building, at 15th Street and Pennsylvania Avenue, NW, Washington, D.C.

The four subcommittees will meet during the morning beginning at 10:00 a.m. as follows:

Capital Investment—Room 3120
Human Resources—Room 3424
Role of Government in the Economy—Room 4426
Research, Development and Technological Innovation—Room 4125

The full committee will begin its session at 1:30 pm in Room 4121/25 of the Main Treasury. It will adjourn at 3:30 p.m.

The meeting will be open to public observation. Written comments or statements may be submitted at any time before or after the meeting. Approximately 25 seats will be available on a first come, first served basis.

Roger B. Porter,

Executive Secretary, National Productivity Advisory Committee.

[FR Doc. 82–26286 Filed 9–23–82; 8:45 am]

BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 186
Friday, September 24, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (eastern time), Tuesday, September 28, 1982.

PLACE: Commission Conference Room No. 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street N.W., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Ratification of Notation Vote/s.
2. Freedom of Information Act Appeal No. 82–8–FOIA–31–CL, concerning a request for records in a closed charge file compiled under the ADEA.
3. Proposed Contracts for Expert Witness Services.
4. Proposed amendment to existing contract.
5. Ninety-day Notice: Commissioner Initiated Charge Procedures.
6. Procedural Regulations for the Administration and Enforcement of the Age Discrimination in Employment Act of 1967, as amended.
7. A Report on Commission Operations by the Acting Executive Director.

CLOSED:

1. Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Officer, Executive Secretariat at (202) 634–6748.

This Notice Issued September 21, 1982.

[S–1370–82 Filed 9–22–82; 2:43 pm]

BILLING CODE 6570–06–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:03 p.m. on Tuesday, September 21, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in open session, by telephone conference call, to consider a recommendation regarding the consolidation of certain liquidation offices (Case No. 45,412–L).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public and that no earlier notice of the meeting was practicable.

Dated: September 21, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1369–82 Filed 9–22–82; 1:11 pm]

BILLING CODE 6714–01–M

3

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, September 29, 1982.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposals with respect to contemporaneous reserve requirements. (Proposed earlier for public comment; Docket No. R–0371)
2. Proposed amendment to Regulation Z (Truth in Lending) regarding the treatment of seller's points. (Proposed earlier for public comment; Docket No. R–0413)
3. Proposed amendments to Regulation E (Electronic Fund Transfers) to exempt certain small institutions, relax requirements for foreign-initiated and interchange-system transfers, and eliminate duplicate periodic statements for certain intra-institutional transfers. (Proposed earlier for public comment; Docket No. R–0388)
4. Consideration of proposed Statement of Policy on Banking Market Extension Mergers and Acquisitions. (Proposed earlier for public comment; Docket No. R–0366)
5. Proposal to implement automated records management system in the Office of the Secretary.
6. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: September 22, 1982.

James McAfee,

Associate Secretary of the Board.

[S–1367–82 Filed 9–22–82; 10:32 am]

BILLING CODE 6210–01–M

4

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: Approximately 12:30 p.m., Wednesday, September 29, 1982, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: September 22, 1982.

James McAfee,

Associate Secretary of the Board.

[S–1371–82 Filed 9–22–82; 3:17 pm]

BILLING CODE 6210–01–M

5

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 10 a.m., Thursday, October 7, 1982.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 337–TA–122 (Certain Miniature, Battery-Operated, All-Terrain, Wheeled Vehicles)—briefing and vote.
6. Consideration of the FY 84 budget.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–1373–82 Filed 9–22–82; 4:01 pm]

BILLING CODE 7020–02–M

federal register

Friday
September 24, 1982

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Alabama: AL82–1020	Apr. 2, 1982.
Georgia:	
GA81–1306	Oct. 30, 1981.
GA82–1033	July 2, 1982.
Iowa: IA82–4030	June 18, 1982.
Oklahoma: OK81–4067	Aug. 21,1981.
OK82–4035	June 25, 1982.
Louisiana:	
LA82–4020	May 7, 1982.
LA82–4022	May 7, 1982.
LA82–4023	May 7, 1982.
Maryland: MD81–3012	Feb. 6, 1981.
New York:	
NY81–3024	Apr. 3, 1981.
NY81–3045	July 17, 1981.
Texas:	
TX82–4001	Jan. 29, 1982.
TX82–4019	May 7, 1982.
TX82–4024	June 18, 1982.
TX82–4029	June 18, 1982.
TX82–4033	June 18, 1982.
Wyoming: WY82–5106	Mar. 12, 1982.
California:	
CA82–5116	Aug. 20,1982.
CA82–5112	July 16,1982.
CA82–5122	Sept. 3,1982.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama: AL82–1040 (AL82–1049)	Sept. 10, 1982.
Georgia: GA82–1006 (GA82–1051)	Feb. 19, 1982.
Ohio: OH80–2011 (OH82–2040)	Mar. 21, 1980.
South Carolina: SC80–1047 (SC82–1060)	Jan. 25, 1980.
Texas: TX81–4009 (TX82–4045)	Jan. 8, 1981.

Cancellation of General Wage Determination Decision

This is to advise all interested parties that the Department of Labor intends to withdraw 14 days from the date of this notice the following general wage determination:

NJ79-3033—Gloucester County, New Jersey, dated October 12, 1979 in 44 FR 59060—Residential Construction

Please note that we are changing the format for Federal Register wage decisions to coincide with the provisions of All Agency Memorandum No. 132 dated January 29, 1980, which provides that the Department of Labor will discontinue identifying fringe benefits separately. Rather, they will be stated as a composite figure which is the total hourly equivalent value of fringe benefits found to be prevailing. Fringe benefits which can not be stated in monetary terms will be shown in footnotes. This procedure is being phased in gradually.

Signed at Washington, D.C., this 17th day of September 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 1

DECISION NO. AL82-1020 - MOD. #3 (47 FR 14341 dated April 2, 1982)	Basic Hourly Rates	Fringe Benefits
MADISON COUNTY, ALABAMA		
BUILDING CONSTRUCTION		
CHANGE:		
ASBESTOS WORKERS	$14.36	2.06
ELECTRICIANS	14.10	3%+1.90

DECISION #GA81-1308 - Mod. #1 (46 FR 53927 - October 30, 1981 DeKalb & Fulton Counties, Georgia	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians	$15.00	21%

DECISION #GA82-1033 - Mod. #1 (47 FR 29148 - July 2, 1982) Clayton, DeKalb, & Fulton Counties, Georgia	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Asbestos workers	$14.60	$ 2.20
Electricians:		
Wiremen	15.00	21%
Cable splicers	15.90	21%
Plumbers & Pipefitters	14.60	2.2%
Sheet metal workers	14.2%	2.29

DECISION NO. IA82-4030 - MOD. #5 (47 FR 26537 - 6/18/82) Black Hawk, Cerro Gordo, Clinton, Des Moines, Dubuque, Johnson, Linn & Polk Cos., Iowa	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayers & stonemasons: Zone 8	$13.60	2.82
Electricians - Zone 8	15.68	2.60+ 3-3/4%
Ironworkers - Zone 4	16.15	2.15
Plumbers & pipefitters: Zone 1	15.96	3.74

DECISION $OK81-4067-Mod.$12 46FR42613-August 21, 1981 Oklahoma, Cleveland, Caddo, Canadian, Kingfisher, Grady, Lincoln, Logan, McClain, Seminole and Pottawatomie Counties, Oklahoma	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Modification No. 1 (one) published in Federal Register dated September 10, 1982 to read "MODIFICATION NO. 11 (Eleven)"		

DECISION $OK82-4035-Mod.$1 47FR27683-June 25, 1982 Tulsa, Delaware, Creek, Craig, Ottawa, Mayes and Roger Counties, Oklahoma	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	$16.45	1.78
SOFT FLOOR LAYERS	13.47	1.88 +B

MODIFICATION PAGE 2

DECISION NO. LA82-4020 - MOD. #7 (47 FR 19880 - 5/7/82) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayer & stonemason: Zone 2	$12.36	1.48
Electricians:		
Zone 4 - Electricians	17.10	.70+ 3-2/10%
Cable splicers	17.35	"
Ironworkers - Zone 6	15.14	1.62
Painters:		
Zone 1 - Group 1	15.395	.40
Group 2	15.605	.40
Group 3	15.76	.40
Group 4	17.275	.40
Power equipment operator:		
Zone 7 - Group 1	14.48	1.95
Group 2	12.24	1.95
Group 3	12.43	1.95
Group 4	12.24	1.95
Group 5	10.69	1.95
Group 6	9.03	1.95
Group 7	14.73	1.95
Group 8	14.98	1.95
Group 9	15.23	1.95
Group 10	15.48	1.95
Group 11	15.98	1.95
Group 12	16.48	1.95

DECISION NO. LA82-4022 - MOD. #4 (47 FR 19877 - 5/7/82) Calcasieu Parish, Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians - new & old single or multiple family residence & apt. complex not to exceed 12 units 2-story walk ups	10.90	1.50 3-3/10%
Ironworkers	15.14	1.62
Painters - Group 1	15.395	.40
Group 2	15.605	.40
Group 3	15.76	.40

DECISION NO. LA82-4023 - MOD. #3 (47 FR 19878 - 5/7/82) Allen, Beauregard, Bossier, Caddo, Calcasieu, Cameron, Jefferson, Jefferson Davis, Orleans, Plaquemines, St. Bernard, St. Charles Pars., Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Painters:		
Zones 3,4 & 5 (Allen Par. except northeast corner):		
Group 1	$15.395	.40
Group 2	15.76	.40
Allen Par. (northeast most corner north of Rt. 10):		
Group 1	10.75	
Group 2	11.60	
Group 3	12.10	
Plumber & pipefitter: Zone 2	13.94	3.04

DECISION NO. MD81-3012 - MOD. #1 (45 FR 11481 - February 6, 1981) CALVERT, CARROLL, CHARLES, FREDERICK, HOWARD, MONTGOMERY, PRINCE GEORGES, ST MARY'S AND WASHINGTON COUNTIES, MARYLAND	Basic Hourly Rates	Fringe Benefits
OMIT from geographic area covered by the decision and from Zone 2: Washington County		

MODIFICATION PAGE 3

MODIFICATION PAGE 4

DECISION NO. TX82-4001 -	Basic	Fringe

DECISION NO. TX82-4022 -	Basic	Fringe

DECISION NO. NY81-3024 - MOD. #6 (46 FR 20442 - April 3, 1981)	Basic Hourly Rates	Fringe Benefits
BRONX, KINGS, NEW YORK, QUEENS & RICHMOND COS., NEW YORK		
CHANGE:		
ASBESTOS WORKERS	15.64	6.29
BOILERMAKERS	19.09	12%+ .04
BRICKLAYERS	15.22	6.17
CARPENTERS		
Piledrivermen & Dock-builders	15.95	5.75
Diver	19.29	5.83
Diver Tenders	15.09	5.75
ELEVATOR CONSTRUCTORS	14.99	2.33+ a+b
ELEVATOR CONSTRUCTORS HELPER	11.24	2.33+ a+b
ELEVATOR CONSTRUCTORS HELPERS (PROBATIONARY)	7.50	
IRONWORKERS		
Ornamental Finisher	15.43	6.80
Structural	14.40	10.62
Riggers	13.24	8.020%
Stone Derrickmen	14.88	5.34
LABORERS		
Asphalt Laborers	12.40	2.85+h
Asphalt Raker	12.76	2.85+h
Asphalt Tampers	12.42	2.85+h
MARBLE SETTERS		
Cutters & Setters	13.49	4.19+j
Carvers	14.36	4.19+j
Polishers	14.17	4.19+j
Crane Operator	12.49	4.19+j
PAINTERS		
Brush & Roller	14.04	30%+.01
Spray & Scaffold	17.05	30%+.01
Fire Escapes	16.05	30%+.01
PLUMBERS		
NY, Bronx	14.56	7.34
Kings, Queens	16.32	5.65
Richmond	16.40	5.11
POINTERS, CAULKERS & CLEANERS	17.42	4.00+ .07
Steamcleaners	18.02	4.00+ .07
Sandblasters	18.67	4.00+ .07
ROOFERS		
Composition, Damp & Waterproofer	12.75	5.64
SPRINKLER FITTERS & STEAMFITTER	16.07	5.75
TILE SETTERS	13.025	2.25
TILE SETTERS HELPERS	11.71	1.825

DECISION NO. NY81-3045 - MOD. #2 (46 FR 37204 - July 17, 1981)	Basic Hourly Rates	Fringe Benefits
NIAGARA COUNTY, NEW YORK		
CHANGE:		
LABORERS; HEAVY, HIGHWAY, BUILDING CONSTRUCTION		
NIAGARA COUNTY: EXCEPT THE CITY OF NORTH TONAWANDA		
GROUP I	12.66	4.55
GROUP II	13.16	4.55
GROUP III	12.86	4.55
GROUP IV	13.93	4.55
CARPENTERS		
NIAGARA COUNTY: EXCEPT CITY OF NORTH TONAWANDA		
BUILDING CONSTRUCTION		
Carpenters	14.79	3.875
Millwrights	14.89	3.875
HEAVY, HIGHWAY		
Carpenters	11.015	3.875

DECISION NO. TX82-4001 - MOD. #7 (47 FR 4463 - 1/29/82)	Basic Hourly Rates	Fringe Benefits
Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas		
CHANGE:		
Cement masons	$13.80	
Lathers	15.55	
Plasterers	15.55	.01

DECISION NO. TX82-4019 - MOD. #4 (47 FR 19935 - 5/7/82)	Basic Hourly Rates	Fringe Benefits
Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas		
CHANGE:		
Sound installers	11.36	.54+3% +c

DECISION NO. TX82-4024 - MOD. #4 (47 FR 26548 - 6/18/82)	Basic Hourly Rates	Fringe Benefits
Travis County, Texas		
CHANGE:		
Marble, tile & terrazzo workers	12.65	.75

DECISION NO. TX82-4029 - MOD. #5 (47 FR 26552 - 6/18/82)	Basic Hourly Rates	Fringe Benefits
Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas		
CHANGE:		
Building Construction:		
Bricklayers	13.45	1.80

DECISION NO. TX82-4033 - MOD. #4 (47 FR 26549 - 6/18/82)	Basic Hourly Rates	Fringe Benefits
Galveston & Harris Cos., Texas		
CHANGE:		
Electricians:		
Galveston County:		
Electricians	$17.57	1.10+12%
Cable splicers	18.57	1.10+12%
Harris County	17.57	1.08+12%
Line construction:		
Zone 1:		
Lineman & cable splicer	18.10	.80+3½%
Groundman	10.50	.80+3½%
Zone 2:		
Lineman & cable splicer	17.70	.80+3½%
Groundman	10.27	.80+3½%

DECISION NO. WY82-5106 - Mod. #3 (47 FR 10968 - March 12, 1982) Converse, Goshen, Laramie, Natrona, Niobrara, and Platte Counties, Wyoming	Basic Hourly Rates	Fringe Benefits
Changes:		
Sheet Metal Workers:		
Area 1	$14.18	$2.43

MODIFICATION PAGE 5

DECISION NO. CA82-5112 - Mod. #4
(47 FR 31154 - July 16, 1982)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Brick Tenders:		
Area 2	$15.48	$3.70
Ironworkers:		
Fence Erectors	16.41	8.03
Reinforcing, Ornamental, and Structural	17.30	8.03
Plasterers:		
Area 1	17.33	4.43
Plumbers; Steamfitters:		
Area 6	15.47	8.65
Roofers:		
Area 4	14.80	2.85
Area 10:		
Kettleman (1 kettle)	15.01	5.72
Kettleman (2 kettles)	16.01	5.72
Bitumastic, Enameler, Coal Tar, Pitch, and Mastic	17.01	5.72

DECISION NO. CA82-5122 - Mod. #1
(47 FR 39075 - September 3, 1982)
San Diego County, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Drywall Installers and Lathers	$19.90	$2.93
Elevator Constructors:		
Mechanics	22.24	a+2.69
Helpers	15.57	a+2.69
Probationary Helpers	11.12	
Ironworkers:		
Fence Erectors	16.41	8.03
Reinforcing; Ornamental; Structural	17.30	8.03
Omit:		
Rodman and Chainman from Power Equipment Operators' Group 4		

MODIFICATION PAGE 6

DECISION NO. CA82-5118 - Mod. #1
(47 FR 36513 - August 20, 1982)
Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers; Stonemasons:		
Area 4	$17.50	$4.15
Area 5	17.09	4.61
Area 6	17.47	4.06
Drywall Installers	18.06	6.56
Electricians:		
Area 3:		
Electricians	21.52	3%+4.47
Cable Splicers	22.12	3%+4.47
Area 6:		
Electricians	19.00	3%+4.90
Cable Splicers	19.50	3%+4.90
Elevator Constructors:		
Area 1:		
Mechanics	22.24	a+2.69
Helpers	15.57	a+2.69
Probationary Helpers	11.12	
Area 2:		
Mechanics	27.295	a+2.69
Helpers	19.11	a+2.69
Porbationary Helpers	13.65	
Glaziers:		
Area 1	17.62	5.03
Ironworkers:		
Fence Erectors	16.41	8.03
Structural, Ornamental, and Reinforcing	17.30	8.03
Irrigation and Lawn Sprinklers	15.00	39%
Lathers:		
Area 2	18.52	3.63
Area 4	17.70	4.58
Line Construction:		
Area 7:		
Groundman	$15.74	3%+3.36
Lineman; Equipment Operators	20.98	3%+3.36
Cable Splicers	23.08	3%+3.36
Plasterers' Tenders:		
Area 5	17.97	6.52
Roofers:		
Area 2	14.55	1.55
Area 4	18.17	5.485
Sheet Metal Workers:		
Area 6	18.32	10%+4.05
Sprinkler Fitters:		
Area 2	22.39	2.57
Tile Setters:		
Area 2	17.68	3.16
Area 4	16.70	4.20

SUPERSEDEAS DECISION

STATE: ALABAMA
DECISION NUMBER: AL82-1049
COUNTY: CALHOUN
DATE: DATE OF PUBLICATION

SUPERSEDEAS DECISION

STATE: GEORGIA
COUNTIES: DEKALB & FULTON

SUPERSEDEAS DECISION

STATE: ALABAMA COUNTY: CALHOUN
DECISION NUMBER: AL82-1049 DATE: DATE OF PUBLICATION
Supersedes Decision No.: AL82-1040 dated September 10, 1982 in 47 FR 39966.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include residential construction consisting of single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	$ 7.75	
CARPENTERS	10.00	.75
CEMENT MASONS	9.00	
ELECTRICIANS	14.20	11¾+1.20
GLAZIERS	8.93	1.00
IRONWORKERS, Structural, Ornamental, & Reinforcing	9.25	1.475
LABORERS, Unskilled	4.53	
LATHERS	8.00	.11
PAINTERS:		
Brush	8.75	
Spray	7.85	
PLASTERERS	7.86	
PLUMBERS & PIPEFITTERS	14.00	1.42a
ROOFERS	6.50	
SHEET METAL WORKERS	$ 10.80	1.97
SOFT FLOOR LAYERS	6.50	
TILE SETTERS	7.70	
TRUCK DRIVERS	4.53	
WELDERS-Rate for Craft		
POWER EQUIPMENT OPERATORS:		
Backhoe	5.96	
Mechanics	7.50	

FOOTNOTE:
a. 4 Paid Holidays: July Fourth, Labor Day, Thanksgiving, & Christmas Day

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: GEORGIA COUNTIES: DEKALB & FULTON
DECISION NUMBER: GA82-1051 DATE: DATE OF PUBLICATION
Supersedes Decision Number GA82-1006, dated February 19, 1982, in 47 FR 7599.
DESCRIPTION OF WORK: HEAVY CONSTRUCTION PROJECTS (does not include Sewer & Water Lines Construction Projects).

	Basic Hourly Rates	Fringe Benefits
BRICK MASONS	$13.22	$ 2.10
CARPENTERS	13.50	1.77
CEMENT MASONS/FINISHERS	13.20	1.40
ELECTRICIANS	15.00	21%
IRONWORKERS	14.17	1.97
LABORERS:		
Unskilled	9.51	1.02
Air tool operators (air, electric, or gas powered, such as jackhammer, paving breaker, tamper, vibrator, spade, chipping hammer, & barco tamp), & pipe layers	9.73	1.02
Tunnel laborers	10.01	1.02
Powdermen	10.26	1.02
Miners	12.11	1.02
PAINTERS:		
Brush & Roller	13.00	2.45
Spray	14.00	2.45
PILEDRIVERMEN	13.65	1.77
PLUMBERS & PIPEFITTERS	14.60	2.24
SHEET METAL WORKERS	14.24	2.29
TRUCK DRIVERS	7.17	
WATERPROOFERS (ROOFERS)	10.45	.55
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		
POWER EQUIPMENT OPERATORS:		
Crane	$13.35	$ 1.88
Backhoe, Mechanic, & Mucker	13.24	1.88
Bulldozer, Front end loader, & Motor grader	12.89	1.88
Oiler/Greaser, & Pump	9.65	1.88

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Ohio
DECISION NO. OH82-2040
Supersedes Decision No. OH80-2011 dated March 21, 1980 in 45 FR 18654
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and apartments up to and including 4 stories

COUNTIES: Clermont & Hamilton
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS/BLOCKLAYERS	$10.65	
CARPENTERS	7.67	
CEMENT MASONS	8.06	
DRYWALL FINISHERS/TAPERS	8.62	
DRYWALL HANGERS	7.00	
ELECTRICIANS	8.24	
INSULATORS	6.01	
LABORERS	5.18	
PAINTERS	6.00	
PLUMBERS/PIPEFITTERS	8.00	
ROOFERS	7.03	
SHEET METAL WORKERS	7.12	1.50
TRUCK DRIVERS	7.30	
POWER EQUIPMENT OPERATORS		
BULLDOZER OPERATOR	10.07	
FRONT END LOADER	10.07	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: SOUTH CAROLINA
DECISION NUMBER: SC82-1050
Supersedes Decision Number SC80-1047, dated January 25, 1980, in 45 FR 6310.
DESCRIPTION OF WORK: HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects, and railroad construction; bascule, suspension, and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges).

LOCATION: STATEWIDE
DATE: DATE OF PUBLICATION

	Basic Hourly Rates	Fringe Benefits
ASPHALT DISTRIBUTOR	$ 4.23	
ASPHALT LAY-DOWN MAN	4.08	
ASPHALT PAVER	4.84	
ASPHALT PLANT	4.50	
ASPHALT RAKER	4.44	
ASPHALT SCREED	4.86	
BULLDOZER	5.55	
BULLDOZER (UTILITY)	4.50	
CARPENTER	6.10	
CARPENTER'S HELPER	4.84	
CONCRETE FINISHER	5.62	
CONCRETE FINISHER'S HELPER	4.50	
CONCRETE FINISHING MACHINE	5.95	
CONCRETE PAVER	6.23	
CRANE, BACKHOE, DRAGLINE, & SHOVEL (ONE YARD & UNDER)	4.90	
CRANE, BACKHOE, DRAGLINE, & SHOVEL (OVER ONE YARD)	6.90	
FORM SETTER (ROAD)	5.25	
GREASEMAN	4.10	
HYDRO - SEEDER	5.00	
IRONWORKER - REINFORCING	5.79	
LABORER - UNSKILLED	4.08	
LOADER	5.00	
LUTEMAN	4.44	
MASON	6.56	
MECHANIC	5.65	
MOTOR GRADER (FINE GRADE)	$ 5.77	
MOTOR GRADER (ROUGH GRADE)	5.00	
PAINTER - BRIDGE	6.50	
PILEDRIVER - LEADSMAN	7.00	
PIPE LAYER	4.33	
POWER TOOL OPERATOR	4.34	
ROLLER OPERATOR	4.16	
ROLLER OPERATOR (FINISH)	4.93	
SAW	5.00	
SCRAPER	4.94	
SIGN ERECTOR	7.50	
TRACTOR OPERATOR (CRAWLER)	5.13	
TRUCK DRIVER (ALL TYPES)	4.13	
WELDERS	5.89	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Texas
COUNTY: Taylor

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX82-4045
COUNTY: Taylor
DATE: Date of Publication
Supersedes Decision No. TX81-4009, dated 1/6/81, in 46 FR 1549.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANICS	$ 8.14	
BRICKLAYERS	12.20	
CARPENTERS	9.22	
CEMENT MASONS	10.50	
ELECTRICIANS	13.50	1.30+ 3-1/4%
GLAZIERS	8.80	
IRONWORKERS:		
Structural,ornamental, reinforcing	12.50	2.95
Ironworkers on jobs 30 miles or more from the city of Abilene	12.625	2.95
LABORERS:		
Laborers	5.32	
Mason tenders	5.74	
PAINTERS	9.94	
PLASTERERS	$ 8.25	
PLUMBERS & PIPEFITTERS	13.08	1.60
ROOFERS	6.31	
SHEET METAL WORKERS	10.66	
TILE SETTERS	7.50	
TRUCK DRIVERS	6.25	
POWER EQUIPMENT OPERATOR:		
Cranes	13.125	1.425
Bulldozers	13.125	1.425
Graders	12.725	1.425
Oilers	11.825	1.425
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

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Friday
September 24, 1982

Part III

Federal Trade Commission

Funeral Industry Practices; Trade Regulation Rule

FEDERAL TRADE COMMISSION

16 CFR Part 453

Trade Regulation Rule; Funeral Industry Practices

AGENCY: Federal Trade Commission.

ACTION: Final Trade Regulation Rule.

SUMMARY: The Federal Trade Commission issues a final Rule, the purpose of which is to provide detailed information about prices and legal requirements to persons arranging funerals. The Rule will require disclosure of itemized price information, both over the telephone and in writing; prohibit misrepresentations about legal, crematory and cemetery requirements pertaining to disposition of human remains and prohibit certain unfair practices, such as embalming for a fee without prior permission or requiring consumers to purchase caskets when they intend to cremate the remains, or conditioning the purchase of any funeral goods and services on the purchase of any other funeral goods and services.

This notice contains the Rule's Statement of Basis and Purpose, the text of the Rule and a Regulatory Analysis relating to the final rule.

EFFECTIVE DATE: The Rule will become effective three months after the conclusion of Congressional review. The Commission will publish a further notice of effective date in the **Federal Register**.

ADDRESS: Requests for copies of the Rule, the Statement of Basis and Purpose, and the Regulatory Analysis should be sent to Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Erica L. Summers, Division of Service Industry Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3413.

SUPPLEMENTARY INFORMATION: This Rule is being submitted to the Congress for review in accordance with Section 21 of the Federal Trade Commission Improvements Act of 1980, 15 U.S.C. 57a–1. Under that section, a Rule becomes effective unless both Houses of Congress disapprove the Rule within 90 calendar days of continuous session after the Rule is submitted. The present legislative review provision is scheduled to terminate on September 30, 1982. Assuming that a new legislative review process will be implemented after that date, the Commission has determined that the Rule should become effective three months after the conclusion of Congressional review. The Commission will publish a further notice of effective date in the **Federal Register** as soon as possible thereafter.

List of Subjects in 16 CFR Part 453

Funeral homes, Price disclosure, Trade practices.

By direction of the Commission, Chairman Miller dissenting.

Dated: September 20, 1982.

Carol M. Thomas,

Secretary.

Funeral Rule Statement of Basis and Purpose and Regulatory Analysis

I. Introduction

A. *Need for and Objectives of Rule.* Arranging a funeral plainly involves emotional, religious, and other important social considerations. At the same time, a funeral is more than a social ritual: it is also an expensive consumer purchase. In fact, the purchase of a funeral is the third largest single expenditure many consumers will ever have to make, after a home and a car. Although funeral costs vary substantially among funeral homes and among different kinds of dispositions and ceremonies, price surveys have found that the average funeral, which includes embalming, viewing, a ceremony with the body present and a procession to the cemetery followed by ground burial, costs the consumer between two and three thousand dollars. In recent years there have been approximately 1.9 million deaths annually, bringing the total amount which consumers spend on funeral and burial arrangements to over $5.2 billion per year.

While the arrangement of a funeral is clearly an important financial transaction for consumers, it is a unique transaction, one whose characteristics reduce the ability of consumers to make careful, informed purchase decisions. Decisions must often be made while under the emotional strain of bereavement. In addition, consumers lack familiarity with the funeral transaction: close to fifty percent of all consumers have never arranged a funeral before, while another twenty-five percent have done so only once. Further, consumers are called upon to make several important and potentially costly decisions under tight time constraints. Within hours of death, consumers must make arrangements to have the body of the deceased removed from the place of death and taken to a funeral home. Within at most 24 to 48 additional hours all additional decisions must be made concerning the form of disposition desired.

Under any circumstances, giving careful consideration to financial matters while arranging a funeral would be difficult. This difficulty is exacerbated, however, by several practices used by funeral providers which limit the consumer's ability to make informed, independent choices. The evidence indicates that a significant number of funeral providers:

(1) Require that consumers purchase "prepackaged" funerals, which may include goods and services which the consumers would not otherwise purchase;

(2) Misrepresent, either directly or by the failure to disclose material information: (a) that the law requires the purchase of embalming, a casket for cremation services, or grave liners and burial vaults; (b) the extent to which funeral goods and services have a preservative and protective value; and (c) that a mark-up is being charged on items such as flowers and obituary notices, commonly termed "cash advance" items;

(3) Require that consumers who wish to arrange direct cremation services purchase a casket for use in those cremations;

(4) Embalm the body of the deceased without first obtaining specific authorization to do so; and

(5) Refuse to discuss or fail to disclose price information over the telephone.

The Commission has concluded that these acts and practices are unfair or deceptive within the meaning of Section 5 of the Federal Trade Commission Act. Section II of this Statement contains a more detailed description of these acts and practices, as well as a discussion of the frequency with which they occur. The rule promulgated by the Commission prohibits these acts and practices and includes requirements designed to prevent their recurrence. The rule's goal is to lower existing barriers to price competition in the funeral market and to facilitate informed consumer choice. The rule will help achieve these goals by ensuring that: (1) Consumers have access to sufficient information to permit them to make informed decisions about which goods and services they wish to purchase; (2) consumers are not required to purchase goods and services which they do not want and are not required by law to purchase; and (3) misrepresentations are not used to influence consumers' decisions on which goods and services to purchase.

Under the provisions of the rule, funeral providers must give consumers a written list, prior to any arrangements discussion, containing the prices of the

funeral goods and services on an itemized basis. At the choice of the funeral provider, separate price lists may also be used to disclose the prices of caskets and outer burial containers. The rule also requires that funeral providers give price information to consumers who call on the telephone and ask about the terms, conditions, or prices at which funeral goods or services are offered by that funeral home. While the rule requires that price information be given to consumers in a relatively standardized, itemized format, it in no way interferes with the ability of funeral directors to offer their goods and services for sale in additional forms (*e.g.*, funeral packages).

To ensure that funeral consumers have the ability to select only the goods and services they want to purchase, the rule generally requires funeral providers to "unbundle" the goods and services they offer for sale and offer them on an itemized basis. Funeral providers may, however, continue to offer "package funerals" for sale as an alternative to itemized purchasing. The rule simply ensures that the consumer has the ability to make an itemized selection.

In addition to the general right to select goods and services on an individual basis, there are two other related provisions that concern items which funeral providers often have required consumers to purchase. First, the rule requires that funeral providers obtain express permission from a family member or representative before embalming is performed, except under special circumstances. This requirement is designed to ensure that consumers do not have to pay for enbalming which they neither asked for nor wanted. Second, the rule prohibits funeral providers from requiring that consumers purchase a casket for use in a direct cremation service. The rule requires funeral providers to offer an unfinished wood box or other alternative to a traditional casket for use in this form of direct disposition.

Finally, the rule prohibits several specifically described misrepresentations concerning legal requirements for burial, or cremation, and misrepresentations about the existence of mark-ups on cash advance items. To implement these prohibitions, the rule requires funeral providers to include several short disclosures on the general price list which they provide to consumers. These disclosures simply inform consumers of their legal rights and purchase options.

The rule also contains a provision which requires the Commission to start a rule amendment proceeding to review the effect and operation of the rule no later than four years after it becomes effective. This mandatory review will enable the Commission to determine whether the rule has worked as expected and will require the Commission to decide whether the rule should be modified or terminated within eighteen months after the proceeding has started. If the rule has been successful in stimulating price competition by that time, the Commission will decide whether the rule is still needed in light of the marketplace changes. This provision ensures that the Commission will decide whether there is a continuing need for regulation of the funeral industry at an early date and in a proceeding open to public participation.

This overview has highlighted the central elements of the rule. Virtually all of its other provisions, including certain definitions, are designed to ensure the integrity of this disclosure scheme and to prohibit misrepresentations of material information. The rule promulgated today is substantially more limited than that which the Commission originally proposed. These modifications are the result of the Commission's careful consideration of the extensive testimony and comments submitted on three different occasions, as well as Congressionally-mandated limitations (discussed below) on the rule's subject matter. The Commission believes that this rule will effectively curb many of the unfair or deceptive practices identified in the rulemaking record with minimal intrusion into the business operations of funeral providers.

B. *History of the Proceeding.* In December of 1972, at the direction of the Commission, the Commission's Bureau of Consumer Protection began an initial investigation of practices in the funeral industry.[1] During the initial investigation, the Commission's staff interviewed consumers, funeral directors, memorial society members, attorneys, state officials and others, and also visited funeral homes. These efforts led the staff to conclude that a more detailed examination of the industry's practices was warranted. The staff made this recommendation in June, 1973, in a 239 page planning report to the Commission.[2] The Commission subsequently approved a full industry-wide investigation and authorized the use of compulsory process.

An Initial Staff Report by the staff of the Bureau of Consumer Protection based on the industry-wide investigation was published in August, 1975. In that report, the staff recommended that the Commission initiate a rulemaking proceeding pursuant to its authority under Sections 5 and 18 of the Federal Trade Commission Act.[3] The Initial Staff Report described practices relating to the purchase of funeral goods and services which may have violated Section 5 of the Act.

After reviewing the Initial Staff Report, the Commission published an Initial Notice of Proposed Rulemaking ("Initial Notice") on August 29, 1975.[4] It contained the text of a proposed rule, a statement of the Commission's reasons for issuing it, and an invitation to comment on the proposal.

Written comments on the Initial Notice were received through March 6, 1976. More than 9,000 separate documents were received, comprising approximately 20,000 pages. Numerous comments were made by individual funeral industry members, state and national funeral trade associations, individual consumers, consumer groups, state regulatory boards, state and local government officials, representatives of funeral-related industries including florists, cemetery operators, and casket and vault manufacturers, memorial societies, clergymen, academics, and other interested parties.

On February 20, 1976, the Final Notice of Rulemaking ("Final Notice") was published by the Presiding Officer in the funeral proceeding.[5] The Final Notice set out thirty disputed issues of fact to serve as the focus for the public hearings on the proposed rule.[6] Public hearings were

[1] The proposal for a limited initial investigation stemmed from an internal staff analysis suggesting a potential for abuse in the funeral transaction, given the unique disadvantages of the funeral purchaser. While few consumer complaints had been received at the time, the potential for consumer injury had been documented by hearings chaired by Senator Phillip Hart in 1964. *Antitrust Aspects of the Funeral Industry: Hearings Pursuant to S.R. 262 Before the Subcomm. on Antitrust and Monopoly of the Senate Comm. on the Judiciary*, 88th Cong., 2d Sess. (1964) (hereinafter cited as *Antitrust and Monopoly Subcomm. Hearings*). This policy planning approach to identifying areas of potential consumer injury was a direct response to criticism made by the American Bar Association in the late 1960s that the Commission relied too heavily on consumer complaints and consequently chose trivial cases for investigation.

[2] Division of Evaluation, Bureau of Consumer Protection, *Unfair Practices in the Funeral Industry: A Planning Report to the Federal Trade Commission*, June 29, 1973.

[3] 15 U.S.C. 45, 57.

[4] 40 FR 38901 (1975).

[5] 41 FR 7787 (1976).

[6] Prior to the hearings, the National Funeral Directors Association sought to enjoin the hearings in federal court, alleging a number of procedural improprieties and Commission action in excess of its statutory authority. The court denied the injunction. *NFDA* v. *FTC*, 76-0615 (D.D.C., filed April 14, 1976).

held in six cities from April 20 through August 6, 1976.[7] In all, 52 days of hearings were held during which 315 witnesses presented testimony and exhibits and were subject to cross-examination by the various participating parties. The six hearings produced 14,719 pages of transcript and approximately 4,000 additional pages of exhibits.

At the conclusion of the public hearings, a final opportunity for comment was offered the public to rebut any data or views which had previously been submitted into evidence. Forty-seven separate rebuttal submissions were filed by the Commission staff and various parties to the proceeding.

At the conclusion of the public hearing process, reports to the Commission based on the rulemaking record were prepared by the Presiding Officer,[8] who made findings on the issues which had been designated by the Commission for the public hearings, and by the Commission staff,[9] who analyzed the record evidence and made recommendations to the Commission for final action. The Presiding Officer found that the funeral transaction has several characteristics which place the consumer in a disadvantaged bargaining position relative to the funeral director, leave the consumer vulnerable to unfair and deceptive practices, and cause consumers to have little knowledge of legal requirements, available alternatives respecting disposition of the dead, and funeral homes' offerings and prices. The Presiding Officer also found that some funeral providers fail to disclose relevant purchase information to consumers while some other funeral providers affirmatively misrepresent legal, public health and/or religious requirements to customers. The staff, after reaching similar conclusions,[10] recommended a revised trade regulation rule which differed from the initial proposed rule in several respects.

Following publication of these reports, the Commission commenced a comment period to permit the public to comment on the reports of the Presiding Officer and the staff.[11] This comment period was originally scheduled to close after 60 days; however, the Commission extended it for 30 days to afford a greater opportunity to comment.[12] Over 1300 separate comments were received during the comment period. To assist the Commission in reviewing them, the Commission's staff prepared a summary, which accompanied the comments to the Commission. This summary [13] essentially indexed the comments filed, identifying each issue of fact, law or policy raised in the comments. The summary was made available to the Commission as well as to outside parties. On February 2, 1979, the Commission's staff forwarded to the Commission their final recommendations.

On February 27 and 28, 1979, the Commission heard oral presentations from selected rulemaking participants who had been invited to present their views directly to the Commission as provided in § 1.13(i) of the Commission's Rules, 16 CFR 1.13(i).[14]

On March 23, 1979, the Commission met in open session, tentatively approved a final funeral rule and directed the staff to prepare the necessary legal memoranda to implement it. The tentative final rule adopted by the Commission was substantially more limited than the one which the Commission had originally proposed. It required that price information be made available over the telephone, that funeral goods and services be sold on an individual basis enabling consumers to decline goods and services which they did not want, that prior permission be obtained for embalming, and that consumers not be required to purchase caskets for use in cremation. The rule also included a prohibition on deceptive claims and representations concerning legal and cemetery requirements. However, several other major provisions contained in the proposed rule were dropped.[15]

Prior to promulgation, however, Congress adopted the FTC Improvements Act of 1980.[16] Section 19 of that Act imposed a set of procedural and substantive limitations on the Commission's authority to promulgate a rule regulating practices within the funeral industry.[17] Procedurally, Section 19(c)(2)(A) required the Commission to republish a proposed rule in the **Federal Register** for public comment before the Commission could promulgate a final rule.[18]

During the hiatus in the rulemaking proceeding which attended Congressional consideration and subsequent enactment of the Improvements Act of 1980, a second event occurred which necessitated a revision of the rule. In December of 1979, the United States Court of Appeals for the Second Circuit issued its opinion on the Commission's trade regulation rule concerning practices in the proprietary vocational school industry.[19] In adopting

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[7] Hearings were held in Atlanta, Chicago, Los Angeles, New York City, Seattle and Washington, D.C.

[8] Report of the Presiding Officer on Proposed Trade Regulation Rule Concerning Funeral Industry Practices (16 CFR Part 453), July 1977 (hereinafter cited as "Report of the Presiding Officer").

[9] Funeral Industry Practices, Final Staff Report to the Federal Trade Commission and proposed Trade Regulation Rule (16 CFR Part 453), June 1978 (hereinafter cited as "1978 Staff Report").

[10] There were several areas of disagreement between the Presiding Officer and the rulemaking staff. For example, the Presiding Officer, in contrast to staff, found insufficient evidence of consumer injury in the rulemaking record to warrant promulgation of a rule provision prohibiting unauthorized removal of remains. *See* Report of the Presiding Officer, *supra* note 8, at 87. The Presiding Officer also concluded that several practices, such as refusal to release remains or requiring a casket for cremation, were not prevalent, although sufficiently harmful when they occurred to warrant prohibition in the rule. *Id.* at 89, 94. Finally, the Presiding Officer felt that there was insufficient evidence on the rulemaking record to make a finding on the prevalence of certain practices, including misrepresentation of cash advance charges and misrepresentation of legal, public health, and/or religious requirements. *Id.* at 66, 73. The staff disagreed with this assessment and reviewed the record evidence in detail in their report. 1978 Staff Report, *supra* note 9, at 251–259, 282–294.

[11] 43 FR 26588 (1978).

[12] 43 FR 34500 (1978).

[13] Summary of Post-Record Comments on the Funeral Industry Practices Rule, January 25, 1979, XIV–1358.

[14] The participants were U.S. Congressman Marty Russo; National Retired Teachers Association and American Association of Retired Persons; National Selected Morticians; International Order of the Golden Rule; U.S. Small Business Association; New York State Consumer Protection Board; Cremation Association of North America; Americans for Democratic Action and National Council of Senior Citizens; National Funeral Directors Association; Continental Association of Funeral and Memorial Societies; National Funeral Directors and Morticians Association; New York State Public Interest Research Group; Pre-Arrangement Interment Association of America; and California Citizens Action Group.

[15] For example, the Commission eliminated provisions which would have prohibited unauthorized removal of or refusal to release remains, as well as provisions which would have set restrictions on the manner in which funeral providers could display caskets. See Section III(B), *infra*.

[16] Public Law 96–252, 94 Stat. 391.

[17] The substantive limitations imposed by Section 19(c)(1), and the manner in which the rule complies with them, are discussed in Part I(C), *infra*.

[18] The text of Section 19(c)(2)(A), 15 U.S.C. 57a note, states:

"(2)(A) The Commission, before issuing the funeral trade regulation rule in final form—

"(i) shall publish in the **Federal Register** for public comment a revised version of the funeral trade regulation rule which contains the provisions specified in subparagraph (A) and subparagraph (B) of paragraph (1);

"(ii) shall allow interested persons to submit written data, views, and arguments relating to such revised version of the funeral trade regulation rule, and make all such submissions publicly available; and

"(iii) may permit interested persons or as appropriate, a single representative of each group of such persons having the same or similar interests with respect to such revised version of the funeral trade regulation rule, to present their position orally.

[19] Proprietary Vocational and Home Study Schools Trade Regulation Rule, 16 CFR Part 438.

the rule, the Commission had defined and described the underlying unfair and deceptive acts and practices which were the predicate for the final rule in the Statement of Basis and Purpose which accompanied the rule. Within the text of the rule itself, the Commission included only the remedial requirements designed to prevent the unfair acts and practices from recurring.

In *Katharine Gibbs School, Inc.* v. *FTC*, 612 F.2d 658 (2d Cir. 1979) (hereinafter *"Gibbs"*) the Second Circuit held that the Magnuson-Moss Act requires the Commission to include in the actual text of a rule a description of the underlying unfair or deceptive acts or practices which serve as its basis.[20] The version of the funeral rule pending before the Commission in 1979 had been drafted in the same manner as the Vocational School Rule, *i.e.*, in several provisions only the remedial language was actually included in the rule.

On December 17, 1980, the Commission met to consider revisions of the proposed funeral rule in light of Section 19 of the FTC Improvements Act of 1980 and the *Gibbs* decision. At this meeting, the Commission voted to publish for public comment a revised version of the funeral rule. The Commission published a notice on January 22, 1981,[21] which contained the text of the revised version of the funeral rule and set forth a sixty-day written comment period. The Commission also provided for a rebuttal period in which parties could respond to comments submitted by other interested parties concerning the revised rule.

On July 7 and 8, 1981, the Commission heard oral presentations from several major participants in the funeral rule proceeding.[22] On July 22, 1981, the Commission met in open session and approved language of the funeral rule for purposes of submitting the rule's recordkeeping requirement to the Office of Management and Budget (OMB) for review. On June 7, 1982, OMB approved the recordkeeping requirement. After careful consideration and review of the rulemaking record taken as a whole, the Commission has voted to promulgate a trade regulation rule concerning funeral industry practices.

C. *Consistency With Applicable Law.* The funeral rule is being issued under the authority granted the Commission by Section 18 of the FTC Act,[23] as limited by Section 19 of the FTC Improvements Act of 1980.[24] Section 18 of the FTC Act permits the Commission to issue rules defining with specificity acts or practices which are unfair or deceptive under Section 5 of the FTC Act.[25] The Commission further is authorized to include in its rules provisions designed to prevent the defined unfair or deceptive acts or practices. The rule being issued today prohibits and prevents practices which are unfair, deceptive, or both.[26] As such, it is within the Commission's authority under Section 18 of the FTC Act.

The funeral rule, as issued, also complies with the restrictions imposed by Section 19 of the FTC Improvements Act of 1980. Section 19(c)(1) allows the Commission to expend funds to issue and enforce the funeral rule only to the extent that the rule:

"(A) requires persons, partnerships, and corporations furnishing goods and services relating to funerals to disclose the fees or prices charged for such goods and services in a manner prescribed by the Commission; and

"(B) prohibits or prevents such persons, partnerships, and corporations from—

"(i) engaging in any misrepresentation;

"(ii) engaging in any boycott against, or making any threat against any other person, partnership, or corporation furnishing goods and services relating to funerals;

"(iii) conditioning the furnishing of any such goods or services to a consumer upon the purchase by such consumer of other such goods or services; or

"(iv) furnishing any such goods or services to a consumer for a fee without obtaining the prior approval of such consumer.[27]

The Commission has revised the rule to ensure that it falls within the substantive limits imposed by Section 19. Thus, § 453.2 of the rule requires price disclosures, as permitted by Section 19(c)(1)(A). Section 453.3 of the rule prohibits misrepresentations, as permitted by Section 19(c)(1)(B)(i). Section 453.4 prohibits funeral providers from requiring a casket for cremation or from conditioning the furnishing of any funeral goods and services upon purchase of any other funeral good or funeral service. These provisions are permitted by Section 19(c)(1)(B)(iii). Finally, § 453.5 of the rule prohibits funeral providers from embalming for a fee without prior approval, as permitted by Section 19(c)(B)(iv).

D. *The Funeral Service Industry.*—1. *The Funeral Home.* In the United States today there are over 22,000 funeral homes, 50,000 licensed funeral directors and embalmers, and over 400 crematories.[28] In recent years the number of deaths has approached two million per year.[29] The average annual number of deaths per funeral establishment has been about 94.[30] Actual case volume at each funeral establishment varies greatly. Various industry sponsored studies indicate that 50% to over 75% of all funeral homes perform fewer than 100 funerals per year.[31]

The funeral industry is generally composed of small businesses. One report states that 80% of all funeral homes have fewer than seven employees;[32] another report found that 42.9% of the firms in the industry were individual proprietorships[33] and that

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[20] 612 F.2d at 662.

[21] 46 FR 6976 (1981). During the written comment period, the National Selected Morticians and the National Funeral Directors and Morticians Association submitted in their comments a modified rule ("NSM/NFDMA proposal") for Commission adoption in lieu of the rule published in the **Federal Register**. The NSM/NFDMA proposal is discussed in Part III(B)(4), *infra*.

[22] The selected participants were National Funeral Directors Association; National Retired Teachers Association and American Association of Retired Persons; National Funeral Directors and Morticians Association; National Selected Morticians; Continental Association of Funeral and Memorial Societies; Pre-Arrangement Interment Association of America; Cremation Association of North America; New York Public Interest Research Group; National Council of Senior Citizens and Consumer Affairs Committee of Americans for Democratic Action; Conference of Funeral Service Examining Boards; International Order of the Golden Rule; New York State Funeral Directors Association; Congressman Marty Russo; and Congressman Andy Ireland.

[23] 15 U.S.C. 57.

[24] 15 U.S.C. 57a note.

[25] Section 5(a)(1) of the FTC Act declares unlawful "unfair or deceptive acts or practices in or affecting commerce" through trade regulation rules. The Commission has concluded that it has jurisdiction over funeral providers because their business is "in or affecting commerce." For example, funeral providers sell a variety of merchandise which is shipped in interstate commerce. Many also ship human remains across state lines for funeral purposes. For discussion of these and other bases of the Commission's jurisdiction over funeral providers, *see* 1978 Staff Report, *supra* note 9, at 468–71.

[26] The Commission's reasons for defining practices as unfair or deceptive are set forth in Part II (A)(1), *infra*.

[27] 15 U.S.C. 57a note.

[28] 1972–73 American Bluebook of Funeral Directors; 1978 U.S. Industrial Outlook 463; V. Pine, Caretaker of the Dead 21 (1973).

[29] In 1972, the death rate was calculated at approximately 90 per 1,000 or over 1.9 million. Public Health Service, U.S. Dep't. of HEW, 1972 Vital Stat. of the United States: Mortality, Volume II, Part A, at Table 1–1.

[30] *Hearings on Regulations of Various Federal Agencies and Their Effect on Small Business, Before the Subcomm. on the Activities of Regulatory Agencies of the House Small Business Comm. (Part III)*, 94th Cong., 2d Sess. at 65, 75–76 (1975–1976). (Attachment to testimony of H. Raether) (hereinafter cited as *"House Small Business Subcomm. Hearings"*).

[31] *See, e.g.*, V. Pine, A Statistical Abstract of Funeral Services Facts and Figures, 1976, D.C. Ex. 4, at 3 (hereinafter cited as "1976 Statistical Abstract").

[32] U.S. Dept. of Commerce, [1973] Country Business Patterns, at 26.

[33] 1972 Census of Selected Service Industries, Volume I, at 7.

most of the rest operate as partnerships or private corporations.[34] The industry also is characterized by low rates for entry and exit,[35] with most funeral homes operating in local markets. Recently, however, there has been a slight trend toward the development of funeral home chains.[36] The largest chain is Service Corporation International and the second largest is International Funeral Services. These firms have expanded by purchasing existing funeral homes around the country.[37] Recently these two funeral chains merged.

2. *State Licensure.* The first formal instructional programs for the American funeral industry began with a few trade schools which taught embalming, sanitation, anatomy and other related subjects in a program of short duration.[38] Today there are approximately thirty vocational and college level programs accredited at the state level. The curriculum in these educational programs includes instruction in management principles, merchandising techniques, accounting, public speaking and grief counseling as well as in embalming and restorative arts.[39]

State regulation of the industry began in the latter half of the nineteenth century and arose due both to the public's growing concern over sanitation and the efforts of funeral directors to achieve greater professional stature.[40] Today virtually all states license embalmers and/or funeral directors. Generally, state licensing standards require completion of a nine month to one year vocational training program in mortuary science followed by a period of apprenticeship varying from one to three years in length before qualifying to take the state board examination.[41]

3. *Trade Associations.* The development of the funeral industry as a state-licensed occupation occurred along with the formation of a variety of state and national trade associations. The largest of the national funeral trade associations is the National Funeral Directors Association (NFDA) with 14,000 members who conduct approximately 70% of the nation's funerals.[42] The National Funeral Directors and Morticians Association (NFDMA) is the association of black funeral directors and, with over 4,000 members, is the second largest national trade association.[43] National Selected Morticians (NSM) is a national trade group with slightly over 800 member firms.[44] Unlike NFDA, NSM is an association of funeral home firms and not individual funeral directors.[45] Another national trade group is the Order of the Golden Rule (OGR) with 1400 members.[46] A number of smaller organizations serving limited memberships also exist. Two examples are the Jewish Funeral Directors Association (JFDA) and the Pre-Arrangement Interment Association of America (PIAA). JFDA has approximately 200 members,[47] and PIAA has approximately 700 members dedicated to the promotion and sales of the pre-financed funeral.[48] In addition to these national trade associations, all states except Alaska have funeral trade associations. In all but one of these states, membership in the state association brings concurrent membership in NFDA.

State and national funeral trade associations provide a wide range of services to members—newsletters, journals, national and regional meetings, informational and educational programs, consultants, and the collection of statistical information. A number of trade associations also have enacted codes of ethics which set forth conduct which is considered to be unprofessional.

4. *Pre-need Sales Industry.* This segment of the funeral industry is involved in the promotion and sale of funeral-related goods and services prior to the time of death. In this type of arrangement, payment is made to the funeral seller in advance of death and the particular goods and services selected by the buyer are specified in a pre-need contract.[49] Pre-need plans are marketed by insurance companies, funeral homes, and cemetery operators of cemetery lots, vaults, monuments, and crypts.

5. *Immediate Disposition Companies.* In some areas of the country, immediate disposition companies compete with full service funeral homes. These companies provide a single service—direct disposition of human remains by cremation. They generally do not provide facilities for viewing the body or conducting services, nor do these companies attempt to sell merchandise such as caskets or services such as embalming. Immediate disposition companies offer the service of picking up the body, delivering it to the crematory and returning the ashes. The disposition fee in 1977 was generally less than $300.[50]

6. *Memorial Societies.* Memorial societies are non-profit consumer cooperatives organized for the purpose of providing information and assistance to their members concerning funeral arrangements. They do not sell funeral goods and services. Some not only provide information on funeral arrangements to their members, but also enter into agreements with cooperating morticians to obtain specified services for their members at prices determined in advance.[51] The major organization representing the 140 member societies and over 500,000 individual members in the United States is the Continental Association of Funeral and Memorial Societies (CAFMS). These societies are staffed primarily by volunteers and pay operating expenses from membership

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[34] *Id. See also,* Blackwell, "Price Levels in the Funeral Industry," 7 *Q. Rev. of Econ. and Bus.*, VI–A–2, at 75–76 (1976) (hereinafter cited as "Blackwell article").

[35] Blackwell article, *id.* at 77; G. Kissel, An Analysis of the Market Performance of the Funeral Home Industry of Philadelphia (1970) (Wharton School M.B.A. Project), VI–D–23, at 57, 59, 62–65, 70 (hereinafter cited as "Kissel").

[36] Kollat, D.C. Ex. 8, at 13 and Table 8.

[37] 1978 Staff Report, *supra* note 9, at 85, n. 230.

[38] *See* R. Habenstein and W. Lamers, The History of American Funeral Directing 510 (1962) (hereinafter cited as "The History of American Funeral Directing").

[39] Funeral Service: Meeting Needs * * * Serving People, (NFDA pamphlet), Hausman Ex. 1 (N.Y.), at 8.

[40] The History of American Funeral Directing, *supra* note 38, at 450–551.

[41] *See, e.g.*, Tenn. Code Ann. § 62–514(6) (1970); N.M. Stat. Ann. § 67–30–17 (1974 Supp.); Fla. Stat. Ann. § 470.08(1) (1978 Supp.); Va. Code § 54–260.70 (1974). Other states require some college work. *See, e.g.*, Mont. Rev. Code § 66–2708 (1977 Supp.); North Dakota State Board of Embalmers, "Laws, Rules, and Regulations," Rule 43–10–04(3) (1972).

[42] *See House Small Business Subcomm. Hearings (Part III), supra* note 30, at 64 (testimony of H. Raether). NFDA has apparently doubled its membership since 1936. The History of American Funeral Directing, *supra* note 38, at 534.

[43] *House Small Business Subcommittee Hearings (Part IV), supra* note 30, at 24 (testimony of R. Miller, Exec. Dir., NFDMA).

[44] The American Blue Book of Funeral Directors 779 (1976–77).

[45] The History of American Funeral Directing, *supra* note 38, at 537.

[46] American Blue Book of Funeral Directors 785 (1978–79).

[47] American Blue Book of Funeral Directors 776 (1976–77).

[48] *See* PIAA Comment on Revised Rule, XVI–77, at 1.

[49] The seller may be an individual funeral home which makes specific, prepaid arrangements with consumers or a company which specializes in selling prepaid funeral contracts. During the rulemaking proceeding, the sellers of prepaid funeral arrangements have been generally represented by the Pre-Arrangement Interment Association of America (PIAA), which participated as an interested party under Section 1.13(d)(3) of the Rules of Practice. *See generally* PIAA, Proposal Identifying Issues of Fact, II–C–246; Rebuttal of PIAA, X–6. The seller of funeral contracts acts as a broker between buyers and cooperating funeral homes. *See* P. Butler, Exec. Vice Pres., Funeral Security Plans, Inc., D.C. Stmt.

[50] 1978 Staff Report, *supra* note 9, at 82.

[51] *See* Handbook for Funeral and Memorial Societies, D.C. Ex. 39, at II–1 and Appendix; R. Cohen, Exec. Sec., CAFMS, Tx 14,207–10.

fees (usually $5 to $15), contributions and bequests, fundraising events and interest on reserve funds.[52]

E. The Funeral Consumer. Perhaps the most important element in understanding the nature of the problems which have arisen in the funeral market is a thorough understanding of the funeral consumer—the person called upon to make the arrangements for burial or cremation of a spouse, parent, child, other relative or friend. The arrangement of a funeral is often a very expensive transaction. In 1977, annual payments by consumers to funeral homes and crematories exceeded $3.4 billion.[53] A variety of related expenditures such as cemetery charges, flowers and obituary notices represented an additional expenditure of approximately $1.8 billion, bringing the total amount which consumers spent on funeral related expenses to an estimated $5.2 billion.[54] Reducing these numbers to a more personal basis, the average expenditure for a funeral was approximately $2360.[55]

Despite the magnitude of the financial commitment consumers are called upon to make in arranging a funeral, several factors limit their ability to make a carefully considered decision. The funeral transaction is one with which most consumers are unfamiliar. Studies show that over 50% of the adult population, although having attended prior funerals, have never been called upon to arrange one. Yet another 25% of the adult population have only arranged one prior funeral.[56] Thus, close to three-fourths of the population is either wholly inexperienced, or has had only one such experience. Unlike some transactions where consumers will have repeat encounters with sellers in the marketplace, the funeral consumer's purchase decisions are often once-in-a-lifetime decisions, or extremely infrequent ones.

In any transaction where consumers without substantial experience are called upon to make purchase decisions which carry with them substantial price tags, the potential for abuse exists. Other characteristics of the funeral consumer exacerbate this potential for marketplace problems. As discussed below, the two most important of these characteristics are the time-frame in which consumers must act and the psychological state of the persons who must make these important decisions.

While there is no such thing as an "average" or "typical" funeral consumer, some general findings can be made on their mental and emotional state. Often the funeral consumer is grief-stricken, particularly where a close relative or friend is involved; shock and confusion also attend such a death. Research by experts in the field suggests that many consumers feel guilt with respect to the deceased, and view the funeral as the final opportunity to "do right" by the deceased.[57] Others noted the characteristics of dependency and suggestibility following a death.[58] While funeral purchasers are far from helpless, such emotional strains make careful, rational decisions far more difficult than in the typical consumer purchase. In no other situation is a consumer called upon to make decisions about such an expensive purchase under such difficult emotional circumstances.[59]

The need to make prompt decisions about removing the body of the deceased from the place of death and selecting the form of disposition to be employed also serve to distinguish this transaction from other consumer transactions. Where the arranger selects direct cremation or immediate burial, final disposition typically occurs within 24 hours of death. Even in the more traditional funeral setting, involving viewing and ceremony, the necessary decisions still must be made under tight time strictures, normally 24–48 hours from death.[60] Comparison shopping by consumers is not impossible under these circumstances—indeed, one goal of the rule is to facilitate this type of shopping even at the point of need. But under any objective evaluation, comparison shopping is rendered substantially more difficult.

Perhaps the most critical decision which a bereaved consumer must make, and the decision with the tightest time strictures, is whom to contact to remove the body from the place of death. The evidence shows that once a funeral home has been given possession of the body, rarely, if ever, will a consumer move that body to another funeral home in the same community.[61] Thus, in many situations, a consumer may be called upon to select a funeral home on extremely short notice, wholly unexpectedly. The consumer has no time to plan or to arrange finances, or to put the purchase off until a better time. If the home selected does not offer the particular goods or services desired by

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[52] *Id.*

[53] U.S. Dep't. of Commerce, 1977 U.S. Industrial Outlook with Projections to 1985, at 498–99.

[54] *See* 1978 Staff Report, *supra* note 9, at 153–54, which lists related charges equal to $968 per funeral, or approximately $1.8 billion per year.

[55] *Id.*

[56] M. Simmons, A Comparison of Knowledge and Opinions of the Funeral Industry Held by Urban and Rural Consumers in Central New York State 39 (Table 3) (Jan. 1975), VI–D–4. Another survey by Dr. Richard Kalish, commissioned by the FTC staff, found similar results: 48% of the respondents had never before made funeral arrangements; another 29% only once before. D.C. Ex. 24, Table 7 (hereinafter cited as "Kalish Survey"). The evidence further shows that most consumers, even those who have arranged funerals, lack knowledge about prices and legal requirements. For example, in one survey of persons who had arranged funerals, 75% did not know about the legal requirements for embalming. *See* Maryland Citizens Consumer Counsel, D.C. Ex. 36, at 1–2. Similarly, in a 1965 survey, 78% of the respondents gave no response when asked what the average price of a funeral was in their community. An even higher percentage, 91%, gave no response when asked what the national average price of a funeral was. *See* R. Fulton, *Attitudes of the American Public Toward Death*, in Death and Identity 95 (1965). Other surveys also support the conclusion that consumers lack knowledge about funeral arrangements. *See, e.g.*, Dr. C. Collette-Pratt, Sea. Ex. 1, Tx 5237–44 (survey of 400 persons shows little knowledge of what constitutes funeral or what alternatives are); M. Stillwell, Tx 6032–33 (analysis of 139 responses shows general lack of knowledge about funerals by public).

[57] *See, e.g.*, Rabbi E. Grollman, Industry Consultant, Tx 840; Sister J. Corcoran, Tx 7208–09; Dr. M. Bluebond-Langner, Ass't Prof. of Anthropology, Rutgers Univ., Tx 2372; J. Hammon, New York minister, Tx 463; P. Leslie, California minister, II–C–1221. *See also* W. Brown, Ohio Attorney General, II–C–1229; Dr. M. Blum, The Attitudes and Reactions of a Limited Sample of South Dade County Residents Toward Funeral Arrangements, D.C. Ex. 11, at 16 (hereinafter cited as "Blum Study"); Pine & Phillips, The Cost of Dying: A Sociological Analysis of Funeral Expenditures, 17 Social Problems 405, 413 (1970), VI–D–64.

[58] The testimony of experts describes the "hypersuggestibility" of bereaved individuals and their tendency to rely on the funeral director. *See, e.g.*, Dr. N. Humphrey, President of the California Chapter of the National Association of Social Workers, D.C. Ex. 45, at 4; Dr. C. Wahl, psychiatrist psychoanalyst, Southern California Psychoanalytic Institute, Tx 8481; Dr. J. Quint Benoliel, Professor, University of Washington School of Nursing, Tx 5297 (citing I. Glick, R. Weiss, and C. Parkes, *The First Year of Bereavement* 104 (1975)); R. Ebeling, Tx, 6825.

[59] In the majority of cases, a person arranging a funeral is accompanied by another person, most frequently a member of the immediate family. Dr. R. Blackwell, Funeral Services Attitudinal Survey, D.C. Ex. 29 [hereinafter cited as "Blackwell Survey"] (nearly 95% of the persons making arrangements were accompanied by one or more persons; 90% were members of the immediate family.) While support from the family members may help make arranging a funeral less difficult, other members of the immediate family are likely to be under much of the same emotional stress and other disadvantages as the person with primary responsibility for making the arrangement decisions.

[60] Several of the surveys asked consumers why they did not "shop around" before making a decision. Insufficient time was cited by 36% of the respondents in one (*see* D.C. Ex. 45, at A–6), 21% in another (Cohen, Consumer Questionnaire Form A, D.C. Ex. 39, at A–6 (hereinafter cited as "CAFMS Survey"), and between 15–28% in another (D.C. Ex. 11, at 47).

[61] *See, e.g.*, R. Harmer, Bd. member, CAFMS, Prof., California State Poly. U., D.C. Ex. 7, at 6; D. Cornett, California funeral industry sales representative, X–1–124; L. Bowman, The American Funeral 52 (paperback ed. 1964). In addition, a family is likely to be in a very fragile emotional state in the first few hours after death so that any problem in locating or moving the body can cause additional anguish.

the consumer, essentially all options have been foreclosed.

Thus, the funeral transaction possesses some unique characteristics which differentiate it from most, if not all, other consumer transactions. The combination of emotional stress, lack of experience, lack of information and tight time strictures results in the funeral consumer being very susceptible to influence from the funeral director's advice and counsel.[62]

In the sections which follow, the specific unfair and deceptive practices which the Commission has found to occur in this market will be discussed together with an analysis of the Rule provisions adopted by the Commission to address them.

II. The Rule Provisions

A. *Section 453.2—Price Disclosure.* Section 453.2(a) of the rule defines as an unfair act or practice the failure of a funeral provider to furnish information disclosing the cost to the purchaser for each of the specific funeral goods and funeral services used in connection with the disposition of deceased human bodies. There is substantial evidence in the rulemaking record that funeral providers have frequently failed to provide consumers with sufficient information about the prices of funeral goods and services. The record shows that funeral providers generally do not advertise prices, usually do not provide price information over the telephone, and usually do not provide consumers with information on the price of specific items of funeral merchandise and services. As we discuss below, this lack of information, particularly with respect to prices, restricts the consumer's ability to make an informed choice and impairs the efficient operation of the funeral market. The rule is designed to address these problems by requiring funeral providers to give consumers the information necessary for them to make an informed purchase decision.

1. *Unfair Acts or Practices.* Section 453.2 is being issued pursuant to the Commission's authority under Sections 5 and 18 of the Federal Trade Commission Act to proscribe unfair acts or practices. Section 18(a)(1) of the FTC Act states:

> The Commission may prescribe * * * rules which define with specificity acts or practices which are unfair or deceptive acts or practices in or affecting commerce (within the meaning of * * * Section 5(a)(1)).

In December of 1980, the Commission prepared a formal statement analyzing the legal basis for the exercise of its Section 5 consumer unfairness jurisdiction. That document, prepared in response to a request from the Senate Commerce Committee,[63] reviewed the Commission's prior exercise of its unfairness jurisdiction, and clarified the criteria under which this authority will be exercised in the future.[64]

Consumer injury is the focus of the consumer unfairness doctrine. In its recent statement, the Commission observed that:

> Unjustified consumer injury is the primary focus of the FTC Act * * *. By itself it can be sufficient to warrant a finding of unfairness.
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> * * * The independent nature of the consumer injury criterion does not mean that every consumer injury is legally "unfair," however. To justify a finding of unfairness the injury must satisfy three tests. It must be substantial; it must not be outweighed by any countervailing benefits to consumers or competition that the practice produces; and it must be an injury that consumers themselves could not reasonably have avoided.[65]

Earlier articulations of the consumer unfairness doctrine have also focused on whether "public policy" condemned the practice in question.[66] In its December, 1980 statement, the Commission stated that it relies on public policy to help it assess whether a particular form of conduct does in fact tend to harm consumers.

2. *The Unavailability of Price Information.—a. Price Advertising.* The organized funeral industry has historically opposed price advertising; indeed, the first NFDA code of ethics adopted in 1884 included a provision which prohibited newspaper advertising.[67] Moreover, state legislatures were encouraged by the industry to enact statutes or regulations prohibiting price advertising.[68] The National Funeral Directors Association (NFDA) and its state affiliates condemned price advertising in their codes of ethics. Two of the reasons cited for the prohibition were explained by NFDA's Executive Director in 1964:

> * * * Said funeral director advertising does not create new markets or expand old ones. It does not lower the cost of the "unit" to the public. At best, it shifts the market or helps firms maintain their portion thereof. NFDA has more than one member in most communities. How can it comply with the objectives of its constitution and "safeguard the common interests of its members" by fostering competitive weapons?
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> * * * * *
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> Price ads put the emphasis on price disregarding the most important values and inner meaning of the funeral and the funeral director's role in American Society.[69]

Historically, funeral providers have not engaged in price advertising. This tradition has continued despite the elimination of most formal restraints. In 1968, the NFDA settled an antitrust suit brought by the Department of Justice and agreed to refrain from enforcing provisions against advertising in its own code of ethics and discontinuing its affiliation with state associations that had similar restrictions in their own codes.[70] Most states have eliminated legal prohibitions on price advertising of funerals. Moreover, to the extent that any such laws totally ban truthful advertising they are clearly violative of the first amendment.[71]

Nonetheless, there remains strong sentiment throughout the industry against price advertising. The opposition to price advertising expressed by many industry leaders during the rulemaking hearings suggests that considerable peer pressure exists to discourage price advertising.[72] Even in the absence of

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[62] *See* text and accompanying note 58, *supra*.

[63] *See* Letter to the Commission, from the Honorable Wendell H. Ford and the Honorable John C. Danforth, Consumer Subcomm., Senate Comm. on Commerce, Science, and Transportation (June 13, 1980).

[64] *See* Letter from the Commission, to the Honorable Wendell H. Ford and the Honorable John C. Danforth (Dec. 17, 1980) (hereinafter cited as "Commission Unfairness Statement"). *See also Horizon Corporation*, 97 F.T.C. 464 (1981).

[65] *See* Commission Unfairness Statement, *id.*

[66] *See generally* FTC v. R. F. Keppel Bros., 291 U.S. 304, 313 (1934); Statement of Basis and Purpose, Trade Regulation Rule for the Prevention of Unfair or Deceptive Advertising and Labeling of Cigarettes in Relation to the Health Hazards of Smoking, 29 *Fed. Reg.* 8324, 8355 (1964) (hereinafter cited as Cigarette Rule SBP); All State Industries of N.C., Inc., 75 FTC 465, 491 (1969); FTC v. Sperry & Hutchinson Co., 405 U.S. 233, 244–45 n. 5 (1972) (citing Cigarette Rule SBP). Statement of Basis and Purpose, Preservation of Consumers' Claims and Defenses, 40 *Fed. Reg.* 53506, 53522 (1975); Spiegel, Inc., 86 FTC 425, 443 (1975), *aff'd in part*, 540 F.2d 287 (7th Cir. 1976); Statement of Basis and Purpose, Advertising of Ophthalmic Goods and Services, 43 *Fed. Reg.* 23992, 24000 (1978) [hereinafter cited as "Eyeglasses I SBP"].

[67] *See* The History of American Funeral Directing, *supra* note 38, at 475–76.

[68] As recently as 1978, two states still had absolute prohibitions on price advertising, and four more had burdensome restrictions on it. *See* 1978 Staff Report, *supra* note 9, at 429, nn. 88–89.

[69] *See Antitrust and Monopoly Subcomm. Hearings*, *supra* note 1, at 344–46. Such ethical proscriptions of price advertising have been found in other contexts to violate the FTC Act. *See, e.g.*, Eyeglasses I SBP, *supra* note 66.

[70] United States v. National Funeral Directors Ass'n, 1968 Trade Reg. Rep. (CCH) 72,529 (E.D. Wis. 1968).

[71] *See* Bates v. State Bar of Arizona, 433 U.S. 350 (1977).

[72] *See, e.g.*, S. Waring, Treasurer, NFDA, Massachusetts funeral director, Tx 971–272; A. Hornberg, President, Funeral Directors Services Ass'n of Greater Chicago, Tx 4827; J. Curran, Pres., New York FDA, Tx 121; N. Greene, member, Virginia Board of Funeral Directors and Embalmers, Tx 14,184; C Swartz, District Governor of Pennsylvania FDA, Tx 13,964; J. Couch, Illinois State Board of Examiners, Tx 2928; R. Ebeling, former

formal restraints, the rulemaking record indicates only a small amount of price advertising in a few areas of the country.[73]

b. *Failure to Disclose Prices for Individual Items.* Most consumers do not have information on costs when they go to the funeral home to make arrangements.[74] Even at the funeral home, however, many consumers do not receive detailed price information because of the pricing methods which prevail in the industry.

Statistics from funeral trade associations demonstrate that over half of all funeral providers use some form of package or lump-sum pricing.[75] Two variations of packaging are "unit" pricing, in which a consumer is quoted a single price for a complete package of goods and services, and "bi-unit" pricing, in which the casket is priced separately from the other goods and services. Under the unit pricing system, the funeral provider quotes a single price for a package of services, merchandise and facilities which he or she has pre-selected for the consumer. Thus, a $1200 funeral may include transporting the remains, embalming and other preparation, a casket, use of the funeral home facilities for one day of viewing, a ceremony, use of automotive equipment, the services of the funeral director, a guest book and acknowledgment cards. The key feature of the unit pricing scheme is that all of these goods and services are part of a pre-selected package for which there is a fixed price; none of the components is priced separately. The bi-unit method is similar, except that the cost of the casket is separate. Where either method is used, it is usually impossible for consumers to learn the cost of any of the individual components of the funeral package and to select individual items after considering their relative costs.

Under either form of package pricing, a significant number of funeral directors will not reduce the package price if any services or merchandise are unwanted or unused.[76] While some industry members reduce the price if the buyer does not want a part of the package,[77] even those funeral directors who do give credits upon request usually do not disclose to consumers, prior to making a purchase decision, their option to decline services for a reduction in price.[78]

In addition, surveys indicate that consumers are often unaware of the range of goods which are theoretically available. For example, a number of surveys on the rulemaking record show that funeral directors do not display their least expensive caskets in the same selection room as their higher priced units.[79] The evidence also shows that when such merchandise is not displayed, consumers usually are unaware that it is available and usually do not ask about it.[80]

Further, while some funeral providers do quote prices on a more detailed basis,[81] many of them supply such information only after the purchasing decisions have been made, in the form of an itemized agreement or bill.[82] In

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managing editor of Mortuary Management, Tx 6860; L. Peake, past Pres., Oregon FDA, Tx 5705; A. Mamary, Pres., Pennsylvania FDA, Tx 12, 883.

[73] *See* 1976 Staff Report, *supra* note 9, at 96, 412–413.

[74] Due to the absence of price advertising and the lack of previous experience, most consumers do not have prior knowledge about the prices charged either by particular funeral homes or by funeral homes generally. (*See* discussion in Section I(E), *supra*.) For example, one survey showed that consumers' estimates of the price for a standard adult funeral ranged from $300 to $10,000. Maryland Citizens Consumer Council, D.C. Ex. 36, at 3. These findings are confirmed by industry studies. *See, e.g.*, Blackwell & Talarzyk, *American Attitudes Toward Death and Funerals* 34 (1974), VI–D–17 [hereinafter cited as "Blackwell & Talarzyk"].

Further, most consumers do not get specific price information before choosing a funeral home. In some instances, consumers felt that time constraints prevented them from getting comparative price information. See note 60, *supra*. In other instances, consumers attempted to get price information by telephone, but had difficulty in doing so, as discussed in section II(A)(2)(c), *infra*. But in most instances, consumers simply do not try to get price information. Instead, they choose a funeral home on the basis of factors other than price. Some of the more important factors are location and convenience, general reputation, ethnic or religious affiliation, knowing the funeral director personally, and recommendations of friends. Blackwell Survey, *supra* note 59. The same study showed that a majority (55%) of consumers already know which funeral home they would call in the event of a death.

Finally, in other instances, price information is irrelevant in choosing a funeral home, as in the case where there is only one funeral director in the community.

[75] 1976 Statistical Abstract, *supra* note 31, at 94–94 (approximately 65% are priced on a unit or bi-unit basis). *See also* Statement of R. Cohen, Exec. Secretary, CAFMS, D.C. Ex. 30, at 22 (hereinafter cited as "Cohen Statement") (1968 figures compiled by Batesville Casket Co. indicate that 84% of firms use unit pricing and 9% use bi-unit); R. Bishop, Director, Florida Consumer Services, Atl. Stmt., App. A, at 4 (Florida survey in 1974 found that 52% of funeral directors use unit or bi-unit pricing).

The widespread use of package pricing is partly explained by the industry's belief that it is simpler for consumers to use, that it is easier for funeral directors to use in determining prices, and that it enables funeral directors to make full traditional funerals available at a lower price. These asserted benefits are discussed in detail in the text, *infra*, II(A)(3)(d).

[76] *See, e.g.*, California Funeral Director Association, L.A. Ex. 23 (survey of 291 funeral directors revealed that 15 percent do not deduct the embalming charge when the service is declined); A. Nix, Pennsylvania funeral director, Tx 12,922; W. Holman, Oregon funeral director, Tx 12,161; R. Lackey, Pres., Alabama chain of funeral homes, II–A–146, at 4. Surveys confirmed that no credit is given for declined services. L. Speer, Director, CalCAG, Tx 7693; C. Skeels, CAMP Consumer Action Project, Tx 8020 (8 of 10 funeral homes make no price reduction); State of Arkansas Office of the Attorney General, Funeral Survey, VI–D–12, at 4–5 (32 of 104 respondents would not make price reductions for declined services); Delaware Div. of Consumer Affairs, Press Release, VI–D–9 (small deductions are given but do not reflect savings to funeral director). Chosen Statement, *supra* note 75, at 25 (20 out of 101 respondents reported paying for services, merchandise or facilities they didn't want). *See also* Blackwell Survey, *supra* note 59 (3.7% of the consumers surveyed were required to pay for services which they did not want).

[77] *See, e.g.*, State of Arkansas Office of the Attorney General, Funeral Survey, VI–D–12, at 4–5 (72 out of 104 firms provide discounts for unused items); Delaware Div. of Consumer Affairs, Survey of the Funeral Industry in Delaware, VI–D–8, at 2 (15 out of 25 firms allow price adjustments for declined items); H. Coates, State Bd. of Embalmers and Funeral Directors of Kentucky, Tx 3983–84; N. Heard, Pennsylvania funeral director, Tx 13,151; J. Kerr, Sec'y-Treas., Kentucky FDA, Tx 3024; R. Coats, Pres., Michigan FDA, Tx 3771; F. Walterman, Pres., Indiana FDA, Tx 5009; N. Greene, owner of Virginia funeral home, Tx 14,188; J. Altmeyer, West Virginia funeral director, Tx 11,775; B. Hirsch, Pennsylvania funeral director, Tx 12,539; A. Leak, Illinois funeral director, Tx 3875.

[78] While NFDA and NSM apparently recognized the right of the consumer to get a credit for an unwanted item, they do not suggest that such credits be disclosed affirmatively and in advance. *See* T. Clark, General Counsel, NFDA, VI–C–6, at 6; NSM Code of Ethics, D.C. Ex. 30. The proposed Guides submitted to the Commission by the major trade associations in 1980 were similarly vague on the funeral director's obligation to disclose all available credits in advance of any purchase decision.

Several funeral directors testified that they will reduce the price for unwanted items if asked, but that they do not inform consumers of this option. *See, e.g.*, N. Greene, Virginia funeral director, Tx 14,188; R. Fitzgerald, New Mexico funeral director, Tx 6246; R. Ninker, Executive-Director, Illinois FDA, Tx 2687–88; B. Hirsch, Pennsylvania funeral director, Tx 12,533; H. Burton, Pres., consultant in before-need memorial estate planning, Tx 6680; R. Johnson, Indiana funeral director, Tx 12,052.

[79] *See, e.g.*, Comments of Maine PIRG, II–C–1400, at 2 (one-third of 116 funeral homes failed to display least expensive casket); FTC Survey of Funeral Prices in the District of Columbia, VI–D–4, at 16 (14 out of 36 funeral homes did not display least expensive casket).

[80] *See* New York PIRG, Ex. 1 (N.Y.), at 8 (out of 127 respondents, only 26 realized there might be caskets other than those displayed; only 7 of the 28 asked if anything less expensive was available).

[81] A 1976 study of funeral homes indicates that 28% of 151,943 funerals included in the results involved a multiunit form of pricing and 7% of the funerals were priced on a triunit basis. *See* 1976 Statistical Abstract, *supra*, note 31, at 94, 74, 94, 94.

[82] The regulations of several states which require itemization specify only that itemized price information be given "at the time of arrangements." These regulations do not specifically direct that consumers be given itemized price information before they decide what to buy. *See, e.g.*, New Jersey State Board of Mortuary Science, Rule 70(a): "Any person engaged in the practice of mortuary science shall, *at the time funeral arrangements are made*, compile a specific itemization of the charges which will be made for such arrangements." (emphasis added); New York State Department of Health, Rule 78.1(a): "Every person licensed pursuant to article 34 * * * shall furnish *at the time funeral arrangements are made* for the care and disposition of the body of a deceased person * * *

such cases, the consumer agrees to buy each item, but is still not given the prices associated with each item at the time he or she must decide whether or not to buy it.

(c) *Failure to Disclose Prices Over the Telephone.* The time constraints in arranging a funeral after a death has occurred make it difficult for consumers to get price information before choosing a funeral home. The initial call to a funeral provider to pick up the body of the deceased from the place of death necessarily must occur within several hours of death. Thus, in many instances, at least where death has not been anticipated, all efforts to get price information must occur in an extremely short time span.

Under these circumstances, the gathering of price information by telephone may often constitute the only practical way in which price information can be obtained before a funeral provider is selected.[83] The record reveals, however, that funeral providers often fail to provide price information over the telephone when asked. Individual consumers and consumer groups complained about difficulties they had experienced when they called a funeral home and asked about costs.[84] Consumer groups and state officials in numerous states reported substantial resistance or flat refusals when they attempted to gather price data by telephone for survey purposes.[85]

After the record was closed in this proceeding, data became available which suggested that only a small percentage of funeral directors refuse to answer requests for price information over the telephone.[86] The data seemed to suggest either that the findings of the studies contained in the record were in error, or that funeral directors had substantially changed their practices.[87] After a thorough review of the data, and a presentation of differing staff opinions, the Commission decided not to reopen the record to include the data.[88] The data were not sufficiently reliable to require the Commission to reopen the record at this stage of the proceeding.[89] Further, the data confirmed that some funeral directors refuse to provide price information over the telephone on request.[90] Perhaps more importantly, the data confirmed the basic finding that the vast majority of consumers do not get price information over the telephone before choosing a funeral home.[91] One of the major purposes of the rule is to signal to those consumers who did not think to ask or were inhibited from asking, that price information is available at this critical moment of decision. That disclosure, and the requirement that price information be given, is part of the remedial scheme which the Commission has chosen to

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an itemized list of the services and merchandise to be furnished." (emphasis added); Virginia Board of Funeral Directors and Embalmers, Article XVII, Paragraph 3.A: "Every funeral service licensee * * * shall furnish to the party contracting for such funeral arrangements, *at the time such arrangements are made* if such party be present * * * a written itemized statement of any and all charges." (emphasis added).

[83] Of course, many consumers do not try to get price information by telephone prior to choosing a funeral home. *See* discussion at note 74, *supra*. And it is reasonable to believe that funeral directors who refuse to provide price information when asked, as discussed in text and accompanying notes 84–85, are not likely to volunteer this information.

[84] *See, e.g.*, L. Pratt, Washington consumer, II–B–1153; J. Pagdin, Florida consumer, II–B–1534, S. Flanders, Illinois consumer, Tx 4666; E. Sheehan, District of Columbia consumer, Tx 14,666–67; L. MacDonald, NRTA/AARP, Tx 2647. Also, several memorial society representatives cited consumer experiences of unsuccessful attempts to obtain information by the telephone. E. Knapp, Pres., Memorial Society of Metropolitan Washington, II–C–909; L. Tolliver, Pres., Blackhawk Memorial Society, X–1–62.

A number of funeral directors and industry leaders testified that the reason funeral directors could not give information over the telephone was that such information would be confusing, misleading, and deceptive. *See, e.g.*, C. Lightner, former Pres., NFDMA, Tx 10,391; H. Mayes, Oklahoma Funeral Directors Association, Tx 8625; A. Leak, Ill. funeral director. *See also* NFDA Post-Record Comment, XIV–848, at 8.

[85] *See, e.g.*, D. Hoskins, Chairman, Pennsyvania Ass'n of Funeral and Memorial Societies, Tx 13,960; L. Speer, Director, California CAG, Tx 7,717–18; R. Nesoff, Director of Investigation, State Temporary Comm'n on Living Costs and the Economy, Tx 329 (investigator posed as consumer calling for price information but funeral homes refused); M. Edelstein, attorney, New York City Dep't of Consumer Affairs, Tx 163 (three of twelve mortuaries called would not provide price information); R. Pooler, Executive Director, New York State Consumer Protection Bd., Tx 36 (found price information is rarely given on the telephone); NYPIRG Ex. 1 (N.Y.), at 2 (testimony of B. Kronman, research associate) (two-thirds of sixty funeral homes called refused or were uncooperative when asked for price information); Indiana PIRG Reports, A Death in the Family, VI–D–8 at 1; Maine PIRG, II–C–1400, at 4; O. Matthews, Maryland Citizens Consumer Council, Tx 14,053; S. Chenoweth, Director, Minnesota Office of Consumer Services, Tx 3123–24; J. Brown, Assoc. Director, Center for Consumer Affairs of the University of Wisconsin Extension, Tx 4306–07.

One possible factor influencing the funeral directors' response is the advice given by NFDA's General Counsel to its state affiliates that funeral directors not cooperate with any price surveys during the pendency of the Commission's rulemaking proceeding. NYPIRG Ex. 3 (N.Y.). While this advice apparently affected returns on written price surveys, *see* Staff Report, *supra* note 9, at 342–344, its effect on telephone price requests is clear because it would not necessarily be apparent to the funeral director that the questions were part of a price survey.

[86] In 1979, the staff, as part of an on-going program intended to measure the impact of trade regulation rules, began work on an impact evaluation baseline study ("BLS"). The BLS was not intended to be part of the rulemaking record, but was rather intended to gather pre-rule data which could be used as a basis for comparison with a future study to be conducted after the rule had gone into effect. The study was a survey of a national mail panel of consumers, asking for information about funerals that they had arranged in the last year. The data instrument was designed by Market Facts, an independent consultant, along with Commission staff, and information was collected by Market Facts. Due to various delays in the final promulgation, the data from the BLS became available shortly before the Commission's final consideration of the rule. The BLS, and all staff memoranda regarding its findings, were made available to the public but were not made part of the rulemaking record.

[87] The BLS suggested that only 6 percent of the requests for price information over the telephone were rejected.

[88] At its public meeting on July 28, 1982, the Commission heard presentations and considered five memoranda from different staff members, all of which presented different positions. Some staff felt that the record did not need to be reopened because the data were unreliable and did not contradict the record. Other staff felt that the data were reliable and called into question findings of the rulemaking record. All of these staff memos were made available to the public.

[89] The specific questions in the questionnaire were ambiguous, and it was impossible to determine whether all the respondents understood the questions and responded in the same way. A subsequent validation study, for example, showed significant variations with the results found in the original baseline survey, suggesting confusion on the part of respondents. The Commission agreed with the staff analysis that it was impossible to draw any firm conclusions from the study. Indeed, the very breadth of staff opinion on the reliability of the data strongly suggested that the questions of ambiguity and meaning could not be satisfactorily answered by further public comment.

Generally, the Commission is not required to consider relevant evidence that may be generated after the close of the rulemaking record, for the reason that administrative proceedings would otherwise never end. Vermont Yankee Nuclear Power Corp. v. NRD, 435 U.S. 519, 554–555 (1978) (quoting ICC v. New Jersey, 322 U.S. 503, 514 (1944)). The Commission is required to reopen the record for new evidence only when there has been a change in circumstances that is "not merely 'material' but rises to the level of a change in the 'core' circumstances, the kind of change that goes to the very heart of the case." American Optometric Association v. FTC, 626 F. 2d 896, 907 (D.C. Cir. 1980). (quoting Greater Boston Television Corp. v. FCC, 463 F.2d 268, 283 (D.C. Cir. 1971), *cert. denied*, 406 U.S. 950 (1972)).

The data above, in the Commission's consideration, does not challenge the findings of the record because it lacks the requisite certainty needed to rebut the record. While relevant, the serious questions about its reliability render the data less material than otherwise would be the case.

[90] The BLS suggested that a minimum of 6% of funeral directors refused to answer requests for price information. While that finding was a lower figure than that found in the record, the record also showed that a significant number of funeral directors did provide price information on request. *See, e.g.*, NYPIRG, Ex. 1 (N.Y.) (⅓ of sixty funeral homes gave price information).

[91] The data indicated that at the very most, some 35% of those telephoning either asked or were offered price information of some sort over the telephone. (Out of 377 persons who telephoned a funeral home, 72 asked for information on arrangements and prices, while 61 had this information offered to them by the funeral director.)

induce greater price competition and consumer choice in this marketplace.

3. *Consumer Injury Due to Inadequate Price Information.* The failure of funeral providers to furnish basic price information results in substantial economic injury to funeral purchasers. This economic injury takes two related forms: consumers purchase items that they may not want or use, and they pay higher than competitive prices for items they purchase.

(a) *Paying for Unwanted Items.* Package pricing leads consumers to buy items they may not want or use in several ways. As noted above, many funeral directors do not reduce the price of a package even when a consumer asks to have items dropped from the package. By bundling all of the pre-selected goods and services together, the funeral provider is effectively forcing the consumer to buy items as a condition of providing a necessity that only he can provide: disposition. This injury, however, stems less from the lack of price disclosure than from the funeral director's refusal to unbundle the package. Consequently, it is discussed in more detail in Section II(C), *infra.*

Even when funeral directors are willing to unbundle the package upon request, package pricing still causes consumer injury because it denies consumer choice. When a funeral director is willing to give a reduction in price for unwanted goods included in the package, quoting a single price for the full package obscures the fact that the package actually consists of components which may be individually chosen. Further, by the funeral provider's failing to disclose that unwanted components may be declined, consumers are simply likely to assume that the package is not subject to negotiation because all items are necessary or required.[92] Given the funeral purchaser's lack of prior experience and knowledge, and the emotional and time pressures attending the decision, the Commission believes that many funeral purchasers will simply not think to ask whether the package can be broken into parts or to question aggressively the funeral director's offerings.[93] Consequently, consumers are injured in the absence of a disclosure that parts are declinable because they are likely to assume that there are no choices to be made. As a result, they buy the pakages, including items that they would not have bought had they been given information that purchasing the components was optional. In addition, denying consumers information on the *prices* of the parts further injures consumers because they have no idea how much can be saved by declining the components. Lacking such price information, consumers cannot make an informed purchase decision.

Direct evidence of the extent of this injury, through consumer complaint surveys, is difficult to obtain precisely because consumers are often not aware that they had any choice to make.[94] Further, any systematic observation of consumer behavior related to pre-sale itemized disclosures has not been possible, primarily because so few funeral homes provide such information.[95]

Nevertheless, the record establishes significant consumer injury. Some indication of the extent of the injury can be ascertained from attitudinal studies and other surveys, and comments and testimony from individual consumers, consumer groups and experts indicating that, given price and option information, a significant number of consumers would use such information to make informed choices and would often choose to decline items usually included in the package funeral.[96]

A number of consumer surveys show that consumers find cost to be highly important in making funeral arrangements.[97] It is not surprising, then, that large majorities of consumers want detailed price information about funerals [98] and want funeral prices to be quoted on an itemized basis.[99] Consumers believe that such detailed price information will be useful to them in making funeral arrangements.[100]

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[92] J. Todd, Arkansas Funeral Director, Tx 6733: "Why must a package funeral be bought if you only want to be cremated immediately?" E. Given, Michigan consumer, II–B–180. In addition, since many consumers are ignorant of the laws and cemetery requirements applicable to funeral arrangements, they are likely not to question the inclusion of certain items in a package. For example, according to one study, 51% of the consumers surveyed believed embalming was required by law. The Central Area Motivation Program, Consumer Action Project Survey, Sea. Ex. 14 (hereinafter cited as "CAMP Survey"). It can be inferred from this that many of these consumers would, therefore, not think to question the inclusion of embalming in a funeral package.

[93] *See generally* Section I(E), *supra;* Dr. J. Quint Benoliel, Professor, Univ. of Washingon School of Nursing, Tx. 5297, citing I. Glick, R. Weiss, & C. Parkes, *The First Year of Bereavement* (1975). A study of the funeral industry in Minnesota revealed that only consumers who aggressively questioned funeral directors about the availability of limited services were likely to be informed of all the available options. S. Chenoweth, Director, Minn. Office of Consumer Services, Tx. 3110.

[94] Nevertheless, a number of consumers recite instances in which they were aware that they were being required to pay for goods or services (such as limousines, visitation rooms, and use of the chapel) that were either not wanted or not used. *See e.g.,* Comments in category II–B at 54, 184, 366, 496, 829, 1048, 1106, 1266, 1404, 1486, 1893, 1967, 1984, 2003, 2013, 2034, 2240, 5967, and testimony, S. Ross, Washington consumer, Tx 5274–75.

[95] At the time the hearings were conducted, only four states had enacted laws or regulations requiring mandatory price itemization. *See* 1978 Staff Report, *supra* note 9, at 357, n. 77. (Three other states required itemization to be given only on request, and one other state required only a limited breakdown on the package price.) But even in these four states, the funeral director was not required to give consumers the price disclosures *before* the decisions were made, but only a written record of what had been agreed to. As a consequence, no state had a regulatory price disclosure scheme similar to the FTC's proposed rule.

Since that time, a number of states and localities have passed regulations which are more similar to the FTC's proposed rule and which might be suitable for comparative studies. While such studies might be helpful, the Commission believes that the additional time and expense which would be required to conduct such studies and reopen the rulemaking record is not justified and would not add substantially to the record. The Commission is not required to reopen the record to consider relevant evidence which has become available after the record has closed, ICC v. New Jersey, 322 U.S. 503, 514, (1944), unless the evidence suggests a "change of circumstances" going "to the very heart of the case." American Optometric Association v. FTC, 626 F.2d 896, 907 (D.C. Cir. 1980).

Comments submitted by interested parties in 1979 and 1981 offered parties an opportunity to bring to the Commission's attention any such fundamental change since the hearings conducted in 1976. Comments submitted at that time indicated that no significant changes had taken place.

[96] Many consumers, of course, want the package funeral and are not interested in the prices of the parts of the package. Such consumers are not injured by the funeral director's failure to disclose that components of the package are optional and the price of those components, but only because their wants happen to coincide with the funeral director's offering.

[97] *See, e.g.,* Blum Study, *supra* note 57; CAMP Survey, *supra* note 92.

[98] *See, e.g.,* CAFMS Survey which found that a large majority of consumers surveyed supported required price disclosures. CAFMS Survey, *supra* note 60, at A–7 (Form A, Question 22). A survey of over 1000 consumers sponsored by the Casket Manufacturers Ass'n revealed that two-thirds of consumers responding indicated a preference for detailed funeral price quotation. Blackwell and Talarzyk, *supra* note 74, at 34. While these and other surveys on the record have methodological limitations which prevent projection to the national population, these surveys, combined with others and the extensive written comments and oral testimony, show that consumers typically desire more information.

The desire for more detailed price information also was expressed by a great many individual consumers during the rulemaking proceeding. *See, e.g.,* Comments, in category II–B at 87, 240, 305, 529, 541, 597, 706, 726, 738, 780, 796, 916, 1191, 1316, 1562, 1565, 1571, 1589, 1589, 1823, 1834, 1850, 2042 and 2080; and Testimony, *see, e.g.,* W. London, American Legion, Tx 3465.

[99] *See, e.g.,* Blackwell and Talarzyk, *supra* note 74, at 34–35 (CMA survey revealed that two-thirds of respondents preferred pricing quotation that provides some detail on individual components and over one-half of respondents expressed preference for itemization); Blum Study, *supra,* note 57 (survey of South Florida residents indicated that over 90% of respondents favored regulation requiring a funeral director to provide specific information about the price of each item of service and merchandise); Cohen Statement, D.C. Ex. 38, *supra* note 75 (94% of consumers surveyed desired funeral prices to be quoted on an itemized basis).

[100] *See* Blum Study, *supra* note 57; CAMP Survey, *supra* note 92; Humphreys, D.C. Ex. 45.

Evidence shows that, if given the choice, consumers would not buy various parts of the "average" package funeral ranging from rates of 10 percent (for embalming) to 43 percent (for the use of another family car).[101] Many industry leaders expressly opposed itemization at least in part for the fear that consumers, if given the choice, would not buy items usually included in the package.[102]

The aggregate injury caused by consumers purchasing items that they do not want and would not buy if not required to do so, or if they had itemized pre-sale price information, is substantial. Evidence on the record shows that various optional items included in the funeral package are expensive: for example embalming ($50–$150),[103] and limousines ($15–$75).[104]

(b) *Paying Supracompetitive Prices.* The second source of consumer injury is that the lack of adequate price information may be causing consumers to pay higher than competitive prices for funerals.

Information from a variety of sources has led the Commission to conclude that this economic injury exists. Included in these sources are economic studies of the funeral market, which suggest the existence of consumer injury, because of "a striking absence of price competition in the funeral industry."[105] Industry members have also admitted that funeral directors do not compete on the basis of price at the point of sale.[106] Economic analyses on the record have concluded that price competition in the funeral market is severely inhibited because consumers do not have adequate access to price information.[107] Without the pressure of active price competition, prices for funeral services can be set higher than a competitive equilibrium price.[108]

Information plays an important role in the operation of an efficient market. In particular, the significance of price information to a competitive market is well-documented in the economic literature.[109] Consumer ignorance about prices will permit sellers to charge higher than competitive prices, even in a market with numerous sellers.[110] The reason for this result is that sellers will gain few customers by lowering prices if consumers have difficulty obtaining price information. Inadequate price information, therefore, serves to give even a large number of small sellers a degree of market power. These theoretical observations have been confirmed by a number of empirical studies in other markets.[111]

Exactly why the market has failed to generate price information is impossible to say with certainty. Evidence in the record suggests that some of the unique structural and demand characteristics of this industry may provide some explanations.

First, there is the tradition of restraints on price advertising noted above.[112] Although formal restrictions against price advertising have generally been eliminated, many industry leaders and members continue to view price advertising as unprofessional. Thus, industry custom and substantial peer pressure serve to inhibit competition by advertising.

The second factor which may operate to distort normal market incentives is the nature of demand in the industry. Total demand for disposition is a function of the death rate. Economists studying the funeral industry point out that total demand for disposition in all forms is extremely inelastic, i.e., the number of funerals is not responsive to changes in price.[113] The demand for the services of any individual funeral home or for particular forms of disposition, however, may be price-elastic, thereby giving each firm an incentive to lower prices to increase sales. Lower prices and aggressive marketing, however, will not expand the number of consumers in the market; a funeral home can increase the number of funerals it performs only by taking business away from its competitors. Since competing firms are likely to respond with lower prices, the result is that prices are reduced and sales do not increase, thereby reducing total revenues. The funeral home is better off, therefore, avoiding price competition. One economic analysis of the funeral industry concluded that "the funeral director's awareness of the effects of price competition in this demand-inelastic industry" is a major reason for the lack of price advertising.[114] This finding can be contrasted with the experience in professional markets where advertising has flourished after the removal of formal price advertising restraints. For example, studies in the optical market, where perhaps the most professional advertising has occurred, show that demand is price-elastic.[115]

In addition to these two factors which blunt funeral providers' incentives to provide price information, certain aspects of the market make it difficult for new firms to enter and compete. The evidence suggests that a variety of nonprice factors influence a consumer's choice of funeral provider, such as family tradition, religious or ethnic affiliation, and reputation of the firm.[116] These consumer preferences give established firms in the market a distinct advantage over potential entrants. In an industry with a large number of small sellers and significant consumer loyalty, the prospects for attracting a large enough clientele may appear uncertain at best. As a result,

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[101] Blackwell Survey, *supra* note 59.

[102] *See, e.g.*, H. Coates, member, State Bd. of Embalmers and Funeral Directors of Kentucky, Tx 3961; C. Nichols, Director, Nat'l Foundation of Funeral Service, X–24, at 5–6.

[103] *See* text and accompanying note 349, *infra*.

[104] *See* M. Lennon, Tennessee consumer, II–B–3346; FTC Survey of Funeral Prices in the District of Columbia, IV–D–3, at 27 (1973).

[105] Blackwell article, *supra* note 34, at 78.

[106] D. Rollings, Executive Director, OGR, XIX, at 80 (1981 oral arguments).

[107] *See, e.g.*, A. Rappaport, An Analysis of Funeral Service Pricing and Quotation Methods (1971), III–I–2, at 4–5 (hereinafter cited as "Rappaport").

[108] Some commentators see evidence of supracompetitive prices in the excess capacity of the industry. *See, e.g.*, Blackwell article, *supra* note 34, at 82; Rappaport, *supra* note 107; Kissel, *supra* note 35.

[109] *See, e.g.*, Scitorsky, *Ignorance as a Source of Oligopoly Power*, 40 Am. Econ. Rev. 48 (1950); Stigler, *The Economics of Information*, 69 J. of Political Economy 213 (1961); Salop, *Information and Monopolistic Competition*, 66 Amer. Econ. Rev. 240 (1976).

[110] *See, e.g.*, Salop, *Information and Monopolistic Competition*, 66 Am. Econ. Rev. 240 (1976); Grossman and Stiglitz, *Information and Competitive Price Systems*. 66 Am. Econ. Rev. 246 (1976).

[111] *See, e.g.*, J. Begun, "Professionalism and the Public Interest: Price and Quality in Optometry" (Ph. D. dissertation, University of North Carolina, June, 1977); Bureau of Economics, Federal Trade Commission, Economic Report—Effects of Restrictions on Advertising and Commercial Practice in the Professions: The Case of Optometry (Sept. 1980); J. Cady, *Restricted Advertising and Competition: The Case of Retail Drugs*. (American Enterprise Institute for Public Policy Research, Center for Research on Advertising, Domestic Affairs Study 44, 1976); Benham, *The Effect of Advertising on the Price of Eyeglasses*, 15 J.L. & Econ. 337 (1972); Benham and Benham, *Regulating Through the Professions: A Perspective on Information Control*, 18 J.L. & Econ. 421 (1975) (hereinafter cited as "Regulating Through the Professions").

[112] *See* Part II(A)(2)(a), *supra*.

[113] *See, e.g.*, Kissel, *supra* note 35, at 23.

[114] *Id.* at 41. The ability of funeral directors to enforce an informal understanding not to compete on the basis of price is made easier by the fact that most funeral homes have very limited competition. Nearly 70% of all funeral homes have fewer than 4 competitors. V. Pine, Findings of the Professional Census (1971), D.C. Ex. 4.

[115] *See* Regulating Through the Professions, *supra* note 111, at 436–440. *See also* FTC Staff Report on Effects of Restrictions on Advertising and Commercial Practice in the Professions: The Case of Optometry 31 (1980).

[116] Various consumer surveys on the record examined this issue. *See, e.g.* N.Y. Ex. 1(I) (N.Y.); Kalish Survey, *supra* note 56, at Table 8; "Funeral Services Attitudinal Survey," D.C. Ex. 29 (Odesky) at Question 3; G. Refsland Prof. of Sociology, Montana State Univ., D.C. Stmt. at 4. Funeral industry spokesmen also have pointed to the relatively low priority of price as a factor in selecting funeral homes. *See e.g.*, R. Blackwell, Tx 13,707.

entry by low-cost providers is discouraged.[117]

(c) *Injury is Unavoidable.* The consumer injury caused by the lack of adequate price information—paying for items which consumers may not want, and paying for funerals at supracompetitive prices—are harms which are not reasonably avoidable. A consumer can only avoid paying for items in a package he does not want if he or she is knowledgeable enough to ask whether they are optional. In the funeral transaction, it is not reasonable to put that burden on the funeral consumer, who typically lacks prior experience and prior knowledge about laws and options, and who must decide under circumstances of limited time and emotional strain.

The only way a consumer could avoid such harm would be to compare prices and offerings before choosing the funeral home. Yet, because of time constraints and other factors, most people do not get such information. Further, the record indicates that even where some consumers have tried to get price information over the telephone, they had difficulty in obtaining it.

Finally, it appears that the market forces are insufficient to generate the needed price information. Due to some unique structural and demand characteristics of this market, there appear to be significant obstacles to price competition. Further, the usual market discipline is lacking. In most cases, consumers who have unnecessarily bought items because they lacked sufficient price information will not be dissatisfied because they will not know that such choices were denied. Given these factors, it is unlikely that the market will correct the failure to provide sufficient price information by itself.

(d) *Countervailing Benefits.* In considering whether a practice is unfair, the Commission must determine that there is net injury, *i.e.*, that the injury caused by the practice is not outweighed by countervailing benefits.[118] Many funeral providers and the major trade associations believe that package pricing has important benefits.[119]

One suggested benefit is that package pricing is easier for most consumers to use, since most consumers are interested only in the full traditional funeral and how much the total will cost.[120] Undoubtedly, many consumers will not be interested in declining parts of the traditional funeral package, and those consumers would be interested primarily in the total cost in choosing which funeral package to buy. Itemization, however, does not impose any burdens on such consumers. If consumers are not interested in choosing individual components, they are free simply not to use the price information and to select on the basis of the total cost for all of the components. Further, the rule also allows funeral providers to offer package prices. While itemization thus does not interfere with the ability of those consumers who are interested only in packages to choose the funeral package they want based on the total cost, package pricing, in contrast, precludes consumers who are *not* interested in the full funeral from making informed choices.

Funeral providers also argue that package pricing, as an accounting method, is an easier method to use than itemization for setting prices. Since itemization is a more complex accounting system, funeral directors may be required to seek accounting assistance and to spend more time in tracking costs and in setting prices.[121] These increased costs, it is suggested, will be passed on in the form of higher prices to consumers. The Commission considers the arguments that the rule will increase costs, and thereby raise consumer prices, in detail in Section IV, *infra*. There, the Commission determines that, while the rule will impose some compliance costs, those costs are modest and are outweighed by the benefits of the rule.

By far the most strongly pressed argument in favor of package pricings, however, is the contention that package pricing enables funeral providers to offer funerals at lower prices than they would be required to charge under itemization.[122] The various arguments that itemization will lead to higher prices are discussed in detail in Section V(B). As noted there, the Commission finds that, while itemization provides an opportunity for funeral directors to choose to raise their prices, there is no reason why prices would necessarily be lower under package pricing than under itemization.

The Commission finds that the countervailing benefits of package pricing are not significant. While package pricing is probably a less costly accounting method than itemization, the increased costs caused by switching to itemization, as discussed in detail in Section V(B)(2), *infra*, are modest and outweighed by the far greater benefits expected by increased price competition and greater consumer choice.

(e) *Public Policy.* Finally, as discussed in Section II(A)(1), *supra*, the Commission also looks to established public policy for confirmation (or denial) of its finding that a practice is unfair. While the primary focus of the Commission's decision will usually be a direct analysis of the injury caused by a challenged practice, the decisions of other public bodies addressing similar issues will also be taken into account.

In this case, there is clearly no public policy *against* the disclosure of itemized price information.[123] to the extent that there is any clear public policy at all, as evidenced by recent state laws and legislation, it appears to support the Commission's decision.[124] While this might not be sufficient to rest a finding of unfairness on public policy alone, it provides some support for the Commission's own analysis of the consumer injury.

(f) *The Failure to Disclose Itemized Information is an Unfair Practice.* Based on the above evidence, the Commission concludes that the failure of funeral providers to furnish information on the prices of specific funeral goods and services is an unfair practice in violation of Section 5 of the FTC Act. We find that the practice imposes substantial unjustifiable consumer injury.

(g) *Remedial Requirements.* To remedy the unfair and deceptive failure of funeral providers to furnish information on the price of specific funeral goods and services, § 453.2(b) of the rule requires funeral providers to: (1) Provide price information over the

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[117] The difficulty of building a clientele has been cited as the primary barrier to entry in the funeral industry. *See* Kissel, *supra* note 35, at 23. While all states require licensure for morticians, there is no evidence to suggest that the entry barriers posed by those licensure schemes serve to exclude new entrants.

[118] Commission Unfairness Statement, *supra* note 84.

[119] As noted previously, however, most trade associations recognize that consumers are entitled to a "reasonable adjustment" when they decline items; only a few funeral providers defend the required purchase of all parts of the funeral package as being beneficial. *See, e.g.*, D. Hanks, Missouri funeral director, II–B 5159; I. Fisher, Mass. funeral director III–H–15, (suggesting that package pricing, as an accounting method, does not permit them to deduct charges for unwanted items).

[120] *See, e.g.*, NFDA Post-Record Comment, XIV–848, at 70, 79, 482; NSM Post-Record Comment, XIV–849, at 93, 95.

[121] *See, e.g.*, NFDA Post.-Record Comment, XIV–848, at 480.

[122] *See, e.g.*, NFDA Post-Record Comment, XIV–848, at 486–493; NSM Post-Record Comment, XIV–849, 95–107.

[123] Indeed a policy against disclosure would be hard to reconcile with the general public policy favoring informed consumers and the efficient operation of the free market. See Trade Regulation Rule concerning the Labeling and advertising of Home Insulation, 16 CFR Part 460.

[124] See Fla. Stat. Ann. § 470.035 (West 1979); *see also* note 82, *supra*.

telephone; (2) furnish consumers with a written price list containing prices of the various individual items and services offered; and (3) give purchasers a written statement indentifying the goods and services selected and their individual prices.

The remedies selected by the Commission to cure the lack of price information must bear a "reasonable relationship" to the unfair practice found to exist. In *Jacob Siegel Co.* v. *FTC*, 327 U.S. 608, 613 (1946), the Supreme Court set forth the standard for review of remedial provisions of Commission adjudicative orders: "[T]he courts will not interfere except where the remedy selected has no reasonable relationship to the unlawful practices found to exist." Periodically the Supreme Court has reaffirmed the Commission's remedial discretion and the limited role of the reviewing Court. *FTC* v. *Ruberoid Co.*, 343 U.S. 470, 473 (1952); *FTC* v. *National Lead Co.*, 352 U.S. 419, 428–30 (1956); *FTC* v. *Colgate-Palmolive Co.*, 380 U.S. 374, 392–95 (1965).

In exercising this remedial authority, the Commission has not been limited to proscribing only the precise practices found to exist, but rather has been free to "close all roads to the prohibited goal." *Ruberoid, supra*, 343 U.S. at 473; *Colgate-Palmolive, supra*, 380 U.S. at 395. *Cf. International Salt Co.*, v. *United States*, 332 U.S. 392–400 (1947); National Soc'y of Professsional Engineers v. *United States*, 435 U.S. 679, 698 (1978).

The Commission's discretion to formulate an appropriate means of preventing the unfair or deceptive acts or practices found to exist also takes into account the nature of rulemaking, which involves "prediction[s] based upon pure legislative judgment" [125] and "judgmental or predictive" [126] determinations such as those involved in fashioning remedies. In making such determinations, the Commission is "entitled to rely on its judgment, based on experience" [127] as to the appropriate remedy to impose in the rule.

The Commission has designed the remedial requirements in § 453.2(b) to restore consumer choice, enhance the operation of market forces and cure the market failure which has occurred in the funeral industry. In the Commission's judgment, the requirements will achieve this result by giving consumers access to price information at a time and in a form which will permit them to consider price when making purchase decisions. Increasing the ability of consumers to locate funeral services whose mix of price and quality they prefer and to express those preferences in the market gives sellers an incentive to compete.

The itemized price list addresses the failure of a substantial portion of the industry to provide information on the prices of components of a funeral package. It will enable consumers to weigh the costs and benefits both of the various alternatives to a traditional funeral and of the individual items which they might select for use with a traditional funeral. The itemized list also will provide consumers with relatively standardized price information, while still allowing funeral providers to provide any additional price information they wish to. The second disclosure requirement, the telephone price disclosure requirement, addresses directly the record evidence that funeral directors have failed to respond to telephone inquiries about prices. Consumers will thus have the ability to call several funeral homes and compare their offerings before deciding where to purchase. In this manner search costs can be significantly reduced. In many instances, obtaining price information by telephone represents the only practical opportunity for comparison shopping, since many options are foreclosed once the funeral home is closed. The third disclosure requirement, the itemized statement of services selected, is designed to complement the price list by ensuring that consumers are not charged for items they did not select.

The effectiveness of the rule is clearly dependent on the extent to which consumers actually use the information provided to them. This does not mean, however, that all consumers must comparison shop in order for the market to realize the benefits of price competition. Economic theory indicates that consumers who seek and use price information will benefit uninformed consumers. [128] Thus, as long as some consumers comparison shop, the market should respond. The discussion which follows will describe in more detail how the remedial requirements in the rule will assist consumers during selection of a funeral home and while comparing alternative funeral arrangements in the funeral home.

(1) *Operation of Price Lists.* At the funeral home, consumers will receive one or more price lists. The rule itself identifies three separate lists. One is a "general price list", specified by § 453.2(b)(4). The second is a "casket price list", specified by § 453.2(b)(2). The third is an "outer burial container price list," specified by § 453.2(b)(3). However, the rule also permits funeral providers to merge either or both of the latter two lists with the general price list, if this is more convenient and if the information provided is the same.

In any event, consumers would have to be given the general price list for retention upon beginning discussion either of funeral arrangements or of the selection of any funeral goods or funeral services. The list would be present for consultation while the consumers were considering what to purchase. It would show them the prices for 16 basic goods and services which they might wish to use. [129] The general price list would have to be printed or typewritten so that it would be available for retention by consumers.

In addition to the general price list, there would be two other price lists containing information on specific merchandise. The casket price list would show the retail prices of all caskets and alternative containers offered which did not require special ordering. The outer burial container price list would provide similar price information about burial vaults and grave liners. Each of these lists would have to be given to consumers upon beginning discussion of, but in any event before showing the merchandise they list. Unlike the general price list, these lists would not have to be offered to consumers if caskets or outer burial containers happened not to be discussed or shown. Similarly, the lists do not have to be printed or typewritten in a manner which enables them to be given to consumers for retention. Rather, the rule only requires that they be available in the funeral home. Because of this, funeral providers would be free to use alternative formats, such as charts or notebooks. [130]

The principal concern expressed about the operation of these lists was that they would drive up funeral costs because they require funeral directors to itemize prices. [131] For reasons discussed extensively in Part V of this Statement, the Commission has concluded that this would not be the case.

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[125] *Bradford Nat'l Clearing Corp.* v. *SEC*, 590 F. 2d 1085, 1103 (D.C. Cir 1978) (quoting *Industrial Union Dept.* v. *Hodgson*, 499 F. 2d 467, 474 (D.C. Cir. 1974)).

[126] *FCC* v. *National Citizens Comm. for Broadcasting, supra*, 436 U.S. at 813.

[127] *Id.* at 797.

[128] *See, e.g.*, Salop, *Information and Monopolistic Competition*, 66 Amer. Econ. Rev. 240 (1976).

[129] The list might not always be this long. All 16 items have to be listed only if the funeral provider offers them for sale. Moreover, the rule does not prohibit listing other items which the funeral provider might offer for sale in addition to those specified.

[130] If the funeral provider merges these lists with the general price list, the combined list would have to be prepared in a format which consumers could retain.

[131] *See* discussion in Part V(B), *infra*.

Several other concerns were also expressed, however. First, some funeral providers stated that use of an itemized price list would force funeral providers to take more time explaining funeral arrangements and thus substantially lengthen the arrangements conference.[132] Other persons testified, however, that itemized price lists either took no longer to explain or shortened the length of the arrangements conference.[133] To the extent that the time involved in the arrangements conference was lengthened because consumers more carefully review their options and select only those items they desire, such an effect is intended.

A second concern was directed at the casket price list. Some funeral providers suggested that the requirement to have the list reflect all caskets offered would be particularly burdensome in light of the fact that a different casket is sold each time a funeral is arranged.[134] Although the rule does require the casket price list to be kept current, this should not impose a substantial burden. Many funeral providers replace the casket they sell with an identical, comparably priced unit.[135] Whenever this happened, no revision of the casket price list would be necessary. The rule requirement also has been written to minimize the burden which would be imposed on funeral providers when they change their inventory. The casket price list does not have to be prepared as a printed or written list. Instead, it may be displayed in other formats, such as a looseleaf notebook with a page for each casket. If the funeral provider elects to use such a format, revising the list would only require removing one description and replacing it with another. Given this sort of flexibility, the requirement should not be unreasonably burdensome.

A third concern expressed was that the general price lists would be expensive to prepare and duplicate.[136] However, funeral directors who currently provide itemized price information testified that the printed forms do not cost more than a few cents each to obtain.[137] Neither does the evidence suggest that itemization, as an accounting method, is significantly more complicated or substantially more expensive than the methods currently used by many funeral providers.[138]

(2) *Statement of Goods and Services Selected.* In addition to the price lists, persons making funeral arrangements in the funeral home would receive a "Statement of Funeral Goods and Services Selected." The statement, required by § 453.2(b)(5), would be given to people at the conclusion of the arrangements conference. Its purpose is to combine in one place the prices of the individual items the person is considering for purchase, as well as their total price, so that a final decision on whether to add or subtract particular items can be based on a review of the total cost of the arrangements.

To help ensure that the total cost of the funeral is disclosed on the statement, funeral providers are required to show prices of cash advance items, if known, or to give a good faith estimate of their cost if the actual price is unavailable. To simplify the operation of the rule and avoid unnecessary paperwork, § 453.2(b)(5) permits funeral providers to combine the information required for the "statement" on any contract, statement, or other document which they currently provide at the conclusion of the arrangements conference.[139]

(3) *Telephone Price Disclosure.* The rule provision primarily designed to help consumers obtain price information for use in selecting a funeral home is the provision requiring telephone price disclosures.[140] The section imposes two obligations on funeral providers. First, they must affirmatively inform people who call their place of business and ask about the terms, conditions, or prices at which funeral goods or funeral services are offered, that price information is available over the telephone. In other words, the provision requires that funeral providers make an oral disclosure letting persons who call know that they can receive price information over the telephone. This provision is intended to inform the large number of consumers who first contact the funeral home by telephone that price information can be obtained before the selection of the funeral home is made. Many consumers who may be interested in price are not presently getting price information because they do not know enough to ask for it, and funeral providers do not volunteer it. Since options may be foreclosed, even under the rule, once a home is selected, this information will help alert consumers to the importance of price at a time when their choices are still open.

If the person calling is not interested in such information, the funeral provider has no further obligations under § 453.2(b)(1). However, if the caller requests price information, the second requirement of the section is triggered. That requirement is to disclose to persons who make telephone inquiries about the funeral provider's offerings or prices any accurate information from the price lists in § 453.2(b)(2) through (4) which reasonably answers the question and any other information which is readily available. The consumer can use this information to compare the prices of different funeral providers in deciding which one to select.

While the Commission believes that the telephone price disclosure provisions will impose a minimal compliance burden on funeral providers, several concerns about the provisions' operation were expressed during the funeral rule proceedings. One was that the provisions would necessitate the hiring of additional personnel to provide the required information.[141] It was argued that many funeral providers currently staff their phones during off-hours with an answering service or with unlicensed employees who lack detailed information about the provider's offerings and prices. Such a concern apparently is based on the view that the rule would require specific price information to be given by the first person answering the phone. However, this view is not the case. To the extent that a funeral home uses a telephone answering service during non-business hours, that service is not subject to the provisions of the rule. While the rule

[132] *See, e.g.*, A. Anderson, Pres., Utah FDA, Tx 6176. *See also* R. Thompson, Connecticut Funeral Director, Tx. 2023–24.

[133] *See, e.g.*, S. Hausmann, Exec. Director, New Jersey FDA, Tx 537 (he currently discusses itemization form as an integral part of the arrangements conference); C. Kleiber, researcher, Tx 5745 (student researcher who visited several funeral homes found that the itemized price list actually saved time in explaining of charges).

[134] *See, e.g.*, L. Peak, Pres., Oregon FDA, Seattle Stmt. at 5–7; C. Geer, Ohio funeral director, II–A–479, at 1.

[135] *See, e.g.*, F. Galante, funeral director, Tx 1749.

[136] *See, e.g.*, NFDA Post-Record Comment, XIV–159, at 478.

[137] *See, e.g.*, F. Walterman, Tx 4985 (after basic charge of $60, forms can be printed for three cents each). P. Farmer, Tx 2354 (purchases itemization forms for twenty five cents each).

[138] *See* discussion in Part V(B), *infra;* 1978 Staff Report, *supra* note 9, at 405–06.

[139] The major concerns raised about the statement—the cost of preparing itemized price information—has been discussed above, in conjunction with the description of how Sections 453.2(b) (2) through (4) (price lists) operate.

[140] Theoretically, consumers also would be able to go to different funeral homes and obtain their price lists, then compare these. However, substantial time constraints and emotional barriers to in-person shopping make it unlikely that consumers will avail themselves of this opportunity. While this provision makes it easier for consumers to obtain price information before choosing a funeral home, many consumers may still continue to choose a funeral home without first searching for price information. *See* discussion of the funeral consumer in Part I(E), *supra.*

[141] *See, e.g.*, Dr. V. Pine, NFDA, statistical consultant, Tx 10,827; W. Chesen, Illinois funeral director, II–A–705, at 3.

does cover funeral providers, their employees and agents, the Commission does not construe the rule as reaching entities as far removed as a telephone answering service. Second, to the extent that the concern is that not all employees would possess the substantive knowledge to respond to phone inquiries, the uninformed employees could simply refer calls to someone who was familiar with prices. Moreover, the vast majority of information would be available on the price lists themselves, and thus likely could be given out even by part-time or unknowledgeable employees.

Another concern raised was the possibility that the availability of telephone price information could lead to bait-and-switch practices by funeral providers.[143] Such practices are always a potential problem. However, any funeral providers who gave out false or misleading information over the telephone or engaged in bait-and-switch tactics would be engaged in practices which violate Section 5 of the FTC Act and the laws of virtually every state. Nothing in the rule encourages such deception, nor does the rulemaking record suggest that the practice would be engaged in by the majority of ethical funeral directors.[144]

Third, some funeral providers suggested that the funeral transaction is too complex to explain over the telephone and that telephone price information would tend to confuse consumers.[145] In the Commission's judgment, the informational disclosures which the rule requires can be readily understood and used by the majority of consumers. To the extent that individual consumers find this information too complex, they would always be free, as they now are, to visit the funeral home either to obtain it or any other information which was available. Even if all of the details are not provided over the telephone, general comparisons can be useful.

Fourth and finally, funeral providers suggested that the provision might lead to price fixing because funeral providers would be forced to disclose their prices to competitors. Carried to its logical conclusion, this argument would suggest that price conspiracies are likely in any industry where firms have ready access to competitors' prices. However, access to price information tends to be easiest in precisely those markets where price competition is most intense. Obvious examples are food retailing and new and used car sales. Thus, the ready availability of price information is by no means a cause or a symptom of cartel behavior.

In the funeral market, moreover, where services currently tend to be sold as a fixed package and where little entry by new providers has occurred, funeral homes may already have acquired a fairly accurate knowledge of their competitors' prices. The problem is that *buyers* are currently unable to gather comparative price information efficiently and exert the kind of competitive pressure that would discipline the market. Thus, the Commission has concluded that the rule's price disclosure provisions are much more likely to stimulate competition than to serve as an instrument for policing pricing agreements.

B. *Section 453.3—Misrepresentations.*—1. *Introduction.* Section 453.3 addresses six types of misrepresentations which have occurred in funeral transactions.[146] These misrepresentations concern: (1) Embalming; (2) caskets for cremation; (3) outer burial containers; (4) other legal and cemetery requirements; (5) preservative and protective value claims; and (6) cash advances. To remedy certain of these misrepresentations the rule requires funeral providers to disclose several items of information on the price list which consumers receive at the beginning of the funeral transaction.

The Commission's authority to prevent consumer deception in the marketplace has been well-established through an extensive body of Commission and court cases. Section 5 is violated whenever a seller misrepresents or fails to disclose to a purchaser facts that are material to the consumer's purchasing decision.[148]

A statement is deceptive under Section 5 of the FTC Act if it actually misleads consumers, or has the tendency or capacity to deceive a substantial segment of the purchasing public in some material respect.[147] Thus, Section 5 prohibits not only outright falsities, but also statements which, while literally true, are deceptive in their overall impression.[148] Because deceptive information distorts the marketplace, false or misleading statements are unlawful regardless of whether the seller intends to deceive.[149] In determining whether a claim is deceptive, the seller's claim must be considered in its entirety and evaluated in light of the reasonable expectation or understanding of the expected consumer audience.[150] The deceptive quality of a statement may be shown by evidence of actual deception, or the likelihood of deception can be inferred by the Commission by an examination of the claim itself and on the basis of its accumulated expertise.[151]

Section 5 prohibits not only affirmative misstatements of facts but also the failure to disclose material facts even where the seller has made no representations. In the cases where a failure to disclose material information was found to be deceptive, the Commission has looked to the reasonable assumption which consumers make concerning a product or service based on the product's nature, appearance or intended use.[152] Where

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[142] *See, e.g.*, R. Goodwin, Texas funeral director, Att. Stmt. at 7; A. Rayner, Illinois funeral director, Tx 4278.

[143] *See* Report of the Presiding Officer, *supra* note 8, at 95.

[144] *See, e.g.*, R. Grayson, Minnesota FDA, Tx 3378; C. Swartz, Pennsylvania funeral director, Tx 13,940; Oklahoma FDA, Tx 8695.

[145] As originally proposed, the rule addressed these misrepresentations through a general provision prohibiting misrepresentations of legal, public health, religious and cemetery requirements. *See* 40 FR 39901, at 39902 (August 29, 1975). The final rule addresses specific misrepresentations (*i.e.*, misrepresentations regarding the legal necessity for embalming, caskets, and outer burial containers) in order to achieve greater specificity in defining the prohibited conduct. This was necessitated by the *Katharine Gibbs* decision. (*See* Part I (B), *supra*). In addition, the Commission has retained a general prohibition against misrepresentations of legal, cemetery, or crematory requirements to prevent misstatements aside from those specifically defined.

The disclosure requirements associated with the misrepresentation provisions also have been modified in the final rule so as to minimize the paperwork burden on funeral providers. The rule proposed in 1975 mandated more detailed information on the legal requirements concerning disposition of dead bodies and provided that separate documents containing disclosures on legal requirements be given in addition to written price lists.

[146] Firestone Tire and Rubber Co., 81 F.T.C. 398 (1972) *aff'd*, 481 F.2d 946 (6th Cir.), *cert. denied*, 414 U.S. 1112 (1973), *remanded in part*, 492 F.2d 1333 (2d Cir. 1975); Cigarette Rule SBP, *supra* note 66, at 8350; FTC v. Raladam, 316 U.S. 149 (1942); FTC v. Algoma Lumber Co., 291 U.S. 67, 78 (1934); FTC v. Royal Milling Co., 288 U.S. 212, 216–217 (1933).

[147] FTC v. Colgate Palmolive Co., 380 U.S. 374 (1965); FTC v. Standard Education Society, 302 U.S. 113 (1937); J.B. Williams v. FTC, 381 F.2d 884, 889 (6th Cir. 1967); Montgomery Ward v. FTC, 379 F.2d 666, 669 (7th Cir. 1967); Feil v. FTC, 285 F.2d 879, 898 (9th Cir. 1960); Materiality is defined as the capacity to affect purchasing decisions. FTC v. Colgate Palmolive, *supra*.

[148] J.B. Williams v. FTC, 381 F.2d 884, 889 (6th Cir. 1967); Carter Products Inc. v. FTC, 323 F.2d 523 (5th Cir. 1963).

[149] *See* FTC v. Algoma Lumber Co., 291 U.S. 67, 81 (1934).

[150] J. B. Williams v. FTC., 381 F.2d 884, 889 (6th Cir. (1967); Carter Products Inc. v. FTC, 323 F.2d 523 (5th Cir. 1963); Peacock Buick, Inc., 86 FTC 1532, 1555 (1975). A claim is not deceptive if it is likely to mislead only an insignificant and unrepresentative segment of the class of persons to whom the claim is made. Universe Co., 69 FTC 1282, 1290 (1963).

[151] FTC v. Colgate Palmolive Co., *supra* note 147, at 391–92.

[152] Past Commission cases have held that it is a deceptive act or practice to fail to disclose such

the effect of nondisclosure is to deceive a substantial segment of the buying public with respect to a material fact by exploiting the reasonable expectations of consumers, the failure to disclose constitutes a violation of Section 5.[153]

Where proof can be shown that a claim is deceptive, no evidence need be shown as a matter of law that consumers were in fact misled by the claim. Rather, the Commission can make a determination based on its experience, as to what the reasonable expectations of consumers were under the circumstances and hold that the failure to disclose the information in question resulted in harm.[154]

The impact of specific failures to disclose are described below. However, it is the Commission's general finding that, in all these specific cases, many consumers have reasonably believed there were legal or cemetery requirements relating to the disposition of remains. Because the consumers were unfamiliar with the precise nature of the requirements, a significant number of consumers made incorrect assumptions about them. Thus, as we discuss below, many consumers reasonably believe that certain procedures (such as embalming) or particular goods (such as caskets or outer burial containers) are required and, therefore, not subject to individual discretion. Resulting purchase decisions are due, at least in part, to incorrect assumptions by consumers about material facts. Funeral providers have failed to disclose correct information about such facts and have, in some cases, made false claims about them.

2. *Section 453.3(a)(1)—Embalming.*— (a) *Evidence.* Only in exceptional circumstances does state law absolutely require embalming. The two most common occasions are those situations where the body must be transported interstate (where embalming prevents decomposition during transport) and where death has occurred from one of several communicable diseases.[155] Since embalming is not generally required by law, consumers usually have the right to decline to have a body embalmed if they wish. Consumers may wish to decline embalming services because of personal or religious beliefs or in order to avoid the expense of embalming. The record shows, however, that most funeral directors do not disclose that embalming is optional. It is common practice in the industry to embalm without specifically requesting permission.[156] Indeed, industry members stated in comments filed in this proceeding that embalming should be performed unless specificallly rejected by the consumer.[157] The Presiding Officer found that prior express permission for embalming is rarely obtained.[158]

In addition to the widespread failure to disclose that embalming is not required by law, a significant number of funeral providers have affirmatively misrepresented state laws regarding embalming. While such affirmative representations do not appear to be the norm, the record documents numerous instances in which consumers were told that the law required embalming when in fact it did not.[159] In other cases consumers were led to believe that embalming was a legal requirement by statements that embalming is "required" or "necessary."[160] While embalming is a practical necessity where there is viewing for several days before disposition,[161] references to the "necessity" of embalming may mean that the funeral provider requires embalming in all cases. In any event, such representations have generated substantial confusion among consumers as to what the law requires.

The Commission finds that the failure to disclose to consumers that embalming is usually not required as a matter of law is a deceptive act or practice within

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material facts as: 1) the rayon content in rayon clothing, which is indistinguishable from silk or wool; Mary Muffet, Inc. v. FTC, 194 F.2d 504, 505 (2d Cir. 1952); Seymour Dress & Blouse Co., 49 F.T.C. 1276, 1282 (1955); Academy Knitted Fabrics Corp., 49 F.T.C. 697, 700–01 (1952); 2) the true composition of base metal watchcases where the watchcases look like precious metal; Theodore Kagen Corp. v. FTC, 283 F.2d 871 (D.C. Cir. 1960), *cert. denied*, 365 U.S. 843; 3) whether a book being sold is an abridged or condensed version; Bantam Books, Inc. v. FTC, 275 F.2d 680, 682 (2d Cir 1960); 4) a policy of assigning consumers' notes of indebtedness to third parties against whom the consumer may not be able to raise claims or defenses based on the sales contract; All-State Industries, Inc. v. FTC, 75 F.T.C. 465 (1969), *aff'd*, 423 F.2d 423 (4th Cir.), *cert. denied*, 400 U.S 828 (1970); 5) that a prescription drug used by a weight loss clinic was not approved by the Food and Drug Administration; and Simeon Management Corp. v. FTC, 579 F.2d 1137 (9th Cir. 1978).

[153] Cigarette Rule SBP, *supra* note 66; Statement of Basis and Purpose, Trade Regulation Rule, Labeling and Advertising of Home Insulation, 44 FR 50217, 50223 (1979); Statement of Basis and Purpose, Trade Regulation Rule: Care Labeling of Textile Wearing Apparel, 36 FR 119 (1971), 16 CFR Part 423.

[154] *See e.g.*, All-State Industries, Inc. v. FTC, *supra* note 152; Simeon Management Corp. v. FTC, *supra* note 152.

[155] Although there is considerable dispute over the necessity and effectiveness of embalming to prevent the spread of disease, many states require embalming under these circumstances. *See, e.g.*, Rules and Regulations of the State Board of Embalming of the State of Kansas Relative to Embalming, Art. III, §§ 63–3–10 to 63–3–16 (1976); N. H. Rev. Stat. Ann. § 325:40–a (Supp. 1975); Colo. Rev. Stat. § 12–54–112(4) (1973). *See also* CFA, Analysis of State Statutes, Rules, and Regulations Affecting the Funeral Practices Industry, Atl. Stmt. at 18–22 (June 22, 1976).

[156] A number of funeral directors testified during the proceedings that they engage in this practice. Several further felt qualified to describe it as a common practice in their community. *See, e.g.*, W. Rill, Pres., Washington FDA, Tx 5563; F. Noland, Pres., Idaho FDA, Tx 5636; J. Page, California mortician, Tx 7373; L. Ruffner, past Pres., Arizona FDA, Tx 7851; N. Heard, Pennsylvania funeral director, Tx 13,150; V. Polli, Sec.-Treas., Vermont FDA., Tx 2196; R. Murphy, Pres., NSM, Tx 12,596; R. Johnson, Indiana funeral director, Tx 12,595; J. Kaster, Texas State Representative, Tx 6119; S. Waring, Treas., NFDA, Tx 685; R. Thompson, member, Conn. State Board of Examiners of Embalmers and Funeral Directors, Tx 2034. The results of informal surveys of funeral directors also found that a high percentage routinely embalm without seeking permission. *See, e.g.*, CFDA FTC and You, Questionnaire Results, L.A. Ex. 23 (CFDA survey revealed that half of the funeral directors responding do not obtain permission for embalming); S. Chenoweth, Director, Minnesota Office of Consumer Services, II–C–81, at 5–6; H. Sandhu, President, The Memorial Association of Central New Mexico, Inc., II–C–1280. Similarly, a survey of consumers found that embalming took place in 96% of the cases where the respondents had not requested it. P. Sperlich, Ph.D., CalCAG, Tx 7410.

[157] Funeral providers take the position that most consumers expect that funeral directors will immediately embalm the body, and consequently give implied permission to embalm when they authorize the funeral director to pick up the body. They also assert that placing the burden on the consumer to tell the funeral director not to embalm best serves most consumers, because most consumers choose a funeral with viewing, and embalming must be done quickly after a death to ensure the best cosmetic results. *See, e.g.*, B. Hotchkiss, California funeral director, Tx 8520–21; J. Altmeyer, West Virginia funeral director, Tx 11, 735–36; G. Brown, Vermont funeral director, Tx 12,058; C. Lightner, past Pres., NFDMA, Tx 10,417; J. Wright, Mississippi funeral director, Tx 9466–67; H. Ruidl, counsel and Exec. Sec., Wisconsin FDA, Chi. Stmt. at 1–2; T. J. Proko, past Pres., Wisconsin FDA, Tx 4186–87; J. Curran, Pres. New York FDA, Tx 98. *See also* L. Frederick and C. Strub, The Principles and Practice of Embalming 191 (1967) (the act of handing over a dead body carries with it an implied permission to embalm).

[158] Report of the Presiding Officer, *supra* note 8, at 94.

[159] Statement, New York Public Interest Research Group, (NYPIRG), Ex. J at 3 (16% of respondents told that embalming was specifically required by law); Survey, Funerals in Minnesota: Customer Experiences conducted by Minnesota Office of Consumer Services, XI–592, at 27 (hereinafter cited as "Minnesota Survey") (22% of respondents told that embalming is always required by law); Survey, Continental Association of Funeral and Memorial Societies, Inc., D.C., August 5, 1976; (28% of respondents who used embalming told it was required by law). *See* also the following consumer complaints in Category II–B (4, 379, 417, 893, 1090, 1114, 1256, 1534, 1601, 3486, 3821).

[160] Consumer complaints in Category II–B (432, 453, 875, 740, 1863) and Category X (1–77).

[161] Embalming is the only means by which decomposition can be halted temporarily for viewing for more than a day or so. Refrigeration retards decomposition, but does not provide the cosmetic effects of embalming and is not practical when the body is on view for more than several hours. L. Frederick & C. Stub, The Principles and Practices of Embalming (1967). However, where disposition does not involve viewing (e.g., closed casket, direct disposition), the temporary preservation of the body and the cosmetic effects of embalming are not necessary, although some consumers may still desire them.

the meaning of Section 5 of the FTC Act. The evidence discussed above demonstrates that this practice is widespread in the industry, causing many consumers who in fact believe that embalming is required by law, *i.e.*, that it is not an option, to be misled.[162] In addition, the Commission finds the making of affirmative mistatements about legal requirements for embalming to be a deceptive act or practice in violation of Section 5 of the FTC Act. The evidence further indicates that such misinformation causes some consumers to purchase embalming services in situations where the services might otherwise not be purchased.[163] Since embalming generally costs $50 to $150,[164] consumer injury resulting from the misrepresentation is clear.

(b) *Rule Provisions.* Therefore, in § 453.3(a)(1) of the rule, the Commission defines as deceptive: (1) False or misleading statements that state or local law requires that a deceased person be embalmed; and (2) the failure to disclose that embalming is not usually required by law. section 453.3(a)(2) imposes two remedial requirements on funeral providers. First, it prohibits representations that a body must be embalmed in certain specified situations in which embalming is unnecessary, such as direct cremation or immediate burial. Second, it requires that the general price list mandated by § 453.2(b)(4) contain a disclosure concerning embalming requirements. The disclosure informs consumers that embalming is generally not required by law, but that it is usually necessary for certain funeral arrangements, for example, a funeral with viewing. It also states that consumers can usually select an arrangement which does not require embalming.

These requirements are designed to prevent not only the misrepresentations defined in § 453.3(a)(1), but also the acts defined in § 453.4(b)(1). Under that provision, funeral providers may not require consumers to purchase certain goods or services as a condition to obtaining others. Thus, funeral providers may not condition the availability of their services or offerings on agreement by the consumer to purchase embalming. The general rule, accordingly, is that a funeral provider may not require that consumers purchase embalming services as a matter of funeral home policy. There are two exceptions to this. First, in some cases embalming may be required as a matter of law. Second, for certain types of funeral arrangements embalming is a practical necessity because of the natural decomposition of the body. Funeral director are not prohibited from requiring embalming in these instances. Accordingly, § 453.3(a)(2)(i) prohibits statements that a body must be embalmed for specified arrangements for which embalming is not a practical necessity, for example, direct cremations. A funeral director may require embalming for arrangements not listed in § 453.3(a)(2)(i), such as a funeral with a viewing.

2. *Section 453.3(b)(1)—Casket for Cremation.*—(a) *Evidence.* A second misrepresentation identified in the rulemaking record concerns representations by funeral providers that state law requires consumers to purchase caskets to have the deceased cremated. Currently, no state has such a requirement.[165] In the absense of any disclosure to the contrary, many consumers believe that there are no alternatives to caskets or that state and local laws require the use of a casket.[166] Yet few funeral directors provide such a disclosure.[167] Moreover, some funeral providers affirmatively misrepresent the legal requirements for cremation through claims to consumers that state or local law mandates the purchase of a casket. While the evidence suggests that such affirmative misrepresentations are not typical, the record contains consumer testimony and letters which reveal that a number of funeral providers have falsely informed consumers that state law required a casket for direct cremation services,[168] and consumer group representatives have attested that misrepresentations about a casket for cremation requirements are a significant problem.[169] In addition, some funeral directors misrepresent that crematories require the purchase of a casket when such is not the case.[170] Funeral directors also inform consumers who desire direct cremation that a casket is "required" or "necessary" or what they "have to" purchase a casket.[171] There is some evidence to suggest that consumers often interpret these statements to mean that the law requires purchase of a casket [172] and in any event, it is clear that these consumers were not told that the caskets were not legally required.

The misrepresentations by funeral providers regarding legal requirements for cremations result in consumers purchasing caskets when they do not need to and otherwise might not. There are many different types of alternative containers suitable for holding and transporting remains, and for use in

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[162] One study showed that where consumers arranging funerals were unaware that embalming was not legally required, embalming took place in 88.1% of the cases. On the other hand, where consumers were aware that embalming was not legally required, embalming took place in only 58.5% of the cases. Sperlich, L.A. Ex. 17. *See also* Minnesota Survey, *supra* note 159, at 27; CAFMS Survey, D.C. Ex. 39; CAMP Survey, *supra* note 92; *see also* statements of individual consumers, *supra* note 160.

[163] *See, e.g.*, Blackwell Survey, *supra* note 59 (NFDA-sponsored survey of 400 consumers found that only 60% of respondents would definitely choose embalming, 9.5% would not, and 28% were undecided); D. Daley, Seattle funeral director, Tx 3933 (funeral home which presents embalming as true option reports 30% declination rate); CAMP Survey, *supra* note 92 (less than half of those who had purchased embalming expressed a preference for it).

[164] 1978 Staff Report, *supra* note 9, at 190, n. 94.

[165] *See* "Funeral Practices, Survey of State Laws and Regulations," CAFMS, XVI–118, Appendix III–C (hereinafter cited as "CAFMS Survey of State Laws and Regulations").

[166] Surveys show consumer misunderstanding of state laws. *See, e.g.*, M. Stillwell, CAMP, Tx 6032 (49% of respondents thought a casket was required or didn't know); Blum Study, *supra* note 57, at Short Form (42% of respondents did not know if casket required for cremation or thought one is); CAFMS Survey, D.C. Ex. 39, at Ex. 2 (40% of respondents believed caskets required by state law). Other evidence indicates that consumers are unaware of alternatives to traditional caskets. *See, e.g.*, M. Fought, Ohio consumer, II–C–58; E. Klein, Vice President, CAFMS, Klein Ex. 1 (NY) at 2–3; K. Marsh, California mortician, Tx 6801; C. Moles, Iowa consumer, II–B–318; N. Kobernuss, Arkansas consumer, II–B–657.

[167] Surveys offer proof that consumers are often unaware that state laws do not require caskets even after they have been involved in a funeral transaction. *See, e.g.*, Blum Study, *supra* note 57. This evidence suggests that funeral providers are not disclosing to consumers that caskets are not necessary. Moreover, a number of consumers complained about having to buy caskets for cremation. *See, e.g.*, consumer complaints in category II–B (16, 18, 24, 439, 1067, 1152, 1484, 2174). These complaints indicate that the funeral directors probably did not disclose that state law did not require a casket.

[168] *See, e.g.*, Consumer complaints in Category II–B (271, 346, 417, 458, 602, 719, 1165, 1379, 1444, 1474, 1561, 5753, 6749), Category X–1 (66, 99, 24), written comments and testimony; Comments of NRTA/AARP, II–C–1516, at App. 2 (sample letter 6, #5); J. Berk, Cal. NRTA/AARP, L.A. Ex. 2, at 6–8; W. Bowles, Ark. consumer, Tx 9257–58; K. Marsh, Cal. funeral director, Tx. 6749; C. Crawford, Tex. consumer, Tx. 6634; Judy, Chicago Statement #51; D. Nugent, Ill. consumer, Chicago Statement #12.

[169] *See* G. Richardson, Tx 1387 and Richardson, N.Y. Ex. 1 (NY) at 3; S. Cook. Pres., Council Memorial Society, Coinnecticut, Tx 1459; R. Haynes, Pres. Memorial Society of Eastern Oklahoma, II–C–1230; E. Knapp, Federation of Funerals and Memorial Societies of Greater Washington, D.C., D.C. Ex. 14, at 2.

[170] *See* F. Sweeton, East Tennessee Memorial Society, Tx 9676–77. *See also* A. Vickery, Conn. consumer, II–C–45.

[171] *See, e.g.*, D. Pritt, Pa. consumer, II–B–4; Oklahoma consumer, VII–8; A. Garries, Wash. consumer, II–B–1030; L. McCoach, Fla. consumer, II–B–982; M. Carpenter, N.Y. consumer, II–B–1863; B. Larratt, Maine consumer, X–1–64; W. Coleman, Ark. consumer, II–B–740; R. McGuire, Tex. consumer, X–1–55; M. Heptonstall, Tex. consumer, II–B–34; W. Pirnack, Tex. consumer, II–B–136; Comments of NRTA/AARP, II–C–1516, at App. 2 (sample letter 1 and 2); F. Fought, Ohio consumer, II–C–58; M. Kent, Michigan consumer, X–1–77.

[172] *See* L. MacDonald, Illinois, NRTA/AARP, Tx 2640; H. Wienerman, NY NRTA/AARP, Tx 233–34.

cremation. Examples of these containers include unfinished wood boxes and a variety of non-metal receptacles designed for the encasement of human remains, such as containers made of cardboard, pressed-wood or composition materials. In addition, pouches of canvas or other materials (such as polyethylene) can be used for direct cremation. Record evidence suggests that substantial numbers of consumers, possibly as many as 25%, would decline to purchase a casket when presented with an option to do so.[173]

(b) *Rule Provisions.* In response to these problems, § 453.3(b)(1) of the rule defines it as a deceptive act or practice for funeral providers either to represent the law as requiring a casket for cremation or otherwise to represent that a casket (other than an unfinished wood box) is required for cremation. These claims clearly cause harm to the extent that they induce consumers to purchase caskets, where they otherwise would not. Accordingly, in § 453.3(b), the Commission prohibits funeral providers from telling consumers that, by law, a casket must be purchased when the remains are going to be cremated. To prevent this deceptive practice, § 453.3(b)(2) requires that funeral providers who arrange direct cremations place on the general price list an affirmative disclosure concerning casket-for-cremation requirements. This disclosure would inform consumers that they can purchase an unfinished wood box or alternative container for direct cremation. It also describes the construction of various types of alternative containers.

The disclosure requirement is intended to prevent the misrepresentations defined in § 453.3(b)(1) and also the unfair or deceptive acts defined in § 453.4(a)(1). Section 453.4(a)(1) prohibits funeral providers from requiring consumers to purchase a casket, other than an unfinished wood box, for direct cremation. The disclosure required by § 453.3(b)(2) prevents funeral providers from requiring caskets for direct cremation by insuring that consumers are aware of their right to select an alternative.

[173] A funeral home chain which operates 27 funeral homes in Oregon, Washington and Arizona advises its customers that a casket purchase is an option. The chain offers its customers minimal body containers in lieu of a casket, or permits them to select no container whatsoever. The president of the chain testified, in analyzing 1,142 cases, that 73.5% of his clients chose some type of casket, 14.9% chose the body container, and 9.1% rejected any container. *See* E. Purdy, Sea. Ex. 3, at 20.

3. *Section 453.3(c)—Outer Burial Containers.*—(a) *Evidence.* Outer burial containers, used to prevent collapse of grave space, are not required by state law.[174] Many cemeteries, however, do require some form of outer burial container, but generally this requirement may be satisfied by a simple grave liner rather than a more expensive burial vault.[175] Some funeral directors, however, have told consumers that state law required the purchase of an outer burial container or have misrepresented cemetery requirements regarding burial vaults.[176]

Additionally, survey evidence shows that many consumers believe that a burial vault or some form of outer burial container is required by law.[177] The rulemaking record also reveals that consumers are generally unaware of the existence and availability of grave liners, and that funeral providers have failed to disclose this information. As a result, many consumers may purchase a burial vault in the erroneous belief that there are no alternatives.[178] Because the cost of burial vaults tends to be substantially higher than that of liners,[179] the monetary injury to consumers from unnecessary purchase of these items can be substantial.

(b) Rule Provisons. In § 453.3(c) of the rule, the Commission defines as deceptive (1) false or misleading representations that state law or individual cemeteries require the use of outer burial containers, and (2) the failure to disclose that state law does not require the purchase of an outer burial container. To prevent these practices, § 453.3(c)(2) requires that a written disclosure appear on the outer burial container price list. The disclosure explains that state law does not require the use of outer burial containers, that outer burial containers are sometimes required by cemeteries to prevent the grave from sinking in and that either a burial vault or grave liner will satisfy this purpose.

4. *Section 453.3(d)—Legal and Cemetery Requirements Generally.*—(a) *Evidence.* As discussed above in connection with § 453.3(a)–(c), the rulemaking record reveals that funeral directors have misrepresented legal, cemetery or crematory requirements regarding the need for embalming, caskets for cremation and outer burial containers. In addition, the record indicates that there are other misrepresentations which have been made to persons purchasing funerals. For example, some funeral providers have told consumers that cremated remains must be buried or that state law required the use of a sealed casket.[180] All of these representations can result in the purchase of unwanted and unnecessary items.

(b) *Rule Provisions.* In § 453.3(d)(1) of the rule, the Commission declares that it is deceptive to misrepresent that federal, state or local laws or particular cemeteries or crematories require the purchase of funeral goods or services. As a remedy, § 453.3(d)(2) provides that a funeral provider who tells a consumer that a legal, cemetery, or crematory requirement mandates the purchase of funeral goods or services must describe that requirement on the statement of funeral goods and services selected, required by § 453.2(b)(5).

The remedial requirement in § 453.3(d)(2) is intended not only to provide consumers with information, but also to aid enforcement of the prohibitions on affirmative misrepresentations. Prohibitions on oral misrepresentations are extremely difficult to police. The requirement of § 453.3(d)(2) serves to document the representation that has been made to the consumer. Since § 453.6 of the rule provides that a copy of the statement of services must be retained for one year, evidence of violations will be preserved.[181] The requirement will

[174] The Commission is aware of only one local jurisdiction in the country which requires use of an outer burial container, and it permits either a grave liner or a burial vault to be used. *See* 1979 Oral Presentations, XV–1, at 151–52 (Statement of Thomas Clark).

[175] *See* Memorandum from N. Norvold, Legislative Research Analyst, to B. Morrision, Arizona State Senator, re: Cemeteries that require vaults, L.A. Ex. 16; Wycoff, President, George Washington Memorial Park, Tx 940.

[176] *See, e.g.*, F. Sweeton, President, East Tennessee Memorial Society, Tx 9677; M. Siegel, Illinois consumer, Tx 2957; E. Sheehan, Washington, D.C. consumer, Tx 14,666; E. Sloan, Director, D.C. Office of Consumer Protection, Tx. 13,674; R. Mee, casket manufacturer, III–F–16; W. Heller, Alabama consumer, X–1–74; B. Reeves, past president of Georgia Cemetery Association, Tx 10,209.

[177] *See* CAMP Survey, *supra* note 92; CAFMS Survey, D.C. Ex. 39, at Ex. 2.

[178] *See, e.g.*, W. Cushman, Maine consumer, Tx 1360–61. B. Reeves, President, Southeastern Advertising and Sales System, Tx 10,209; W. Heller, Alabama consumer, X–1–74–, at 3.8. The National Concrete Burial Vault Association opposed this provision in part because of the fear that consumers would purchase fewer vaults if they were given the proposed disclosures. Arnold Vice-President, National Concrete Burial Vault Association, Tx 11,530–40.

[179] Testimony show that liners range in price from approximately $55, (T. Sampson, Tx 970), to $180, (M. Arnold, Vice-President, National Concrete Burial Vault Ass'n, Tx 11,524), and that vaults range from $190, (T. Sampson, Tx 970) to $1500, (Comments of CFA, II–B–1518, at 40).

[180] *See, e.g.*, J. Fanagan, CAFMS, Atl. Ex. 9, at 3; M. Kent, Michigan consumer, X–1–77, D. Davis, Mississippi consumer, II–B–417.

[181] A funeral provider intending to make a misrepresentation might well choose not to write it

significantly aid the Commission in detecting and proving violations and creates an additional incentive to comply with the rule. This is particularly important in view of the large number of funeral providers throughout the country.

The Commission has included § 453.3(d) in the final rule to deter future misrepresentations not otherwise specifically proscribed by the rule. The Commission's authority to impose fencing-in requirements in adjudicatory proceedings has been confirmed by the Supreme Court.[182] The rationale for fencing-in is equally applicable to rulemaking proceedings, especially, as here, where the provision imposes a minimal cost burden. The reasonableness of a fencing-in provision is to be judged, therefore, in light of the evidence regarding the similar illegal conduct which forms the basis for the fencing-in provision.

5. *Section 453.3(e)—Preservative and Protective Value Claims.*—(a) *Evidence.* While it is possible briefly to delay decomposition of a deceased body, funeral goods and services such as embalming or sealed caskets do not preserve human remains for long periods of time.[183] However, the record indicates that some funeral providers affirmatively misrepresent the preservative value of embalming [184] and burial vaults.[185] Moreover, both funeral providers and manufacturers often make protective value claims with regard to certain funeral goods, such as caskets and burial vaults,[186] stressing that certain products are airtight, watertight, or offer special protection against the elements. It is impossible to estimate how often such claims are false, because consumers are unable to discover whether protective claims are inflated without exhuming the body. There are, however, reports of instances in which exhumation revealed that the casket had failed to protect the remains, despite claims made by manufacturers.[187]

(b) *Rule Provisions.* While the evidence clearly establishes that false claims of this nature have been made, it does not indicate that these claims are widespread. The Commission has, nonetheless, concluded that a prohibition on such false claims is warranted. Claims concerning the ability of a product to protect the body of a close friend or relative can have a significant capacity to induce the purchase of items which otherwise would not be purchased. Indeed, claims that a product or service will protect the integrity of the body of a deceased person are among the most pernicious made for they directly appeal to the vulnerable emotional state of the consumer. Accordingly, the Commission has chosen to include a provision addressing this practice. Section 453.3(e) prohibits representations that funeral goods or services will delay natural decomposition of the body for an extended period of time. It also prohibits false or misleading claims that caskets, burial vaults or other funeral goods will protect the body from gravesite substances.

6. *Section 453.3(f)—Cash Advances.*—(a) *Evidence.* In a typical funeral transaction, the consumer often pays the funeral provider for so-called "cash advance" items. These items are goods and services which the funeral provider arranges to purchase but which are actually provided by a third party, *e.g.*, flowers, obituary notices, limousine rentals. Many funeral providers charge a markup on these items, or they may simply charge consumers the full price for the cash advance item and receive a rebate or volume discount from the supplier for the cash advance item.[188]

The Commission does not suggest that it is improper for funeral providers to profit on items obtained from third parties. It is clear that it is wholly proper for providers to do so. Moreover, it is clear that the services or goods being received by consumers, (*e.g.*, flowers, obituary notices etc.) are goods which they do wish to purchase. If, with knowledge that the funeral provider will profit from ordering flowers or arranging obituary notices, a consumer chooses to use the services of a funeral provider, a charge for that service should be anticipated. However, the undisclosed charging of a markup for cash advance items is deceptive because consumers believe that items labeled "cash advances," "accommodation" or "cash disbursement" are being provided at cost. There is an implicit representation that the cash advance transaction involves merely a forwarding of cash by the funeral provider and a subsequent dollar-for-dollar reimbursement by the consumer.[189]

In spite of this, the evidence demonstrates that many individual funeral providers do charge markups for cash advances. In a 1976 survey of California funeral directors, 12% of the 291 respondents admitted charging "in excess of the amount actually advanced for any items of service labeled as 'cash advances' or 'accommodation items.'" [190] NFDA's annual survey of funeral

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down. However, the disclosure form which is given to consumers informs them that if state law requires the purchase of goods or services, a written explanation will be provided. Thus, if an oral representation is made, and no disclosure is made of the requirement, the consumer is at least on notice that something may be wrong.

[182] The Court noted in *FTC* v. *Ruberoid*, 343 U.S. 470, 473 (1951): Orders of the Federal Trade Commission are not intended to impose criminal punishment or exact compensatory damages for past acts, but to prevent illegal practices in the future. In carrying out this function the Commission is not limited to prohibiting the illegal practice in the precise form in which it is found to have existed in the past.

[183] *See* L. Frederick and C. Strub, The Principles and Practice of Embalming 131–32, 238–41 (1967).

[184] Several funeral directors commented that embalming does preserve the body, or that they were taught to say it does. *See, e.g.*, J. Todd, co-owner and manager of an Arkansas funeral home, Tx 8752; Ill. F.D.A. XVI–12, at 2; C. Ronald Savage, Oklahoma funeral director, XVI–162, at 2.

[185] *See, e.g.*, O. Matthews, Maryland Citizens Consumer Council, Tx 14,054 (in surveys of Maryland funeral homes, two funeral directors stated that vaults preserved the body); Rev. D. Haun, Oklahoma clergy, Tx 9035.

[186] *See*, J. Harris, Utah consumer, Tx 8092; G. Derrick, Illinois consumer, Chi. Stmt. at 2; C. Gladys, Michigan consumer, Tx 3857–58; B. Hughey, District of Columbia consumer, Tx 10,366–69; M. Blackburn, Florida consumer, VII–176; R. Nesoff, former Director of Investigation, New York State Temporary Commission on Living Costs and the Economy, Tx 345; T. Kuhn, *Undertakers Press Customers to Hike Bills, Reporter Finds*, Arizona Republic September 14, 1975, and articles that follow, VI–D–49, at A–30. (Caskets are often represented as airtight and waterproof). Companies refer to their caskets and vaults with names which imply long-term protections or preservatives, *e.g.*, "Invincible" (Boyertown), X–1–93. *See also* M. Siegel, Illinois consumer, Tx 2957; O. Adams, Michigan consumer, II–B–2119.

[187] New York State Temporary Commission on Living Costs and the Economy, Investigation into the Practices of the Funeral Industry, VI–D–16.

[188] *See, e.g.*, G. Marshall, Massachusetts, clergy, Tx 1194 (clergy honoraria); S. Fritchman, California clergy, Tx 6515 (clergy honoraria); Dr. J. Marcelli, member, New York Funeral Directing Advisory Board, Tx 579–80 (florist fees and obituary notices). *See also* J. Todd, Arkansas funeral director, Tx 8754; N. Gregory, former California funeral director, Tx 8645; G. Brown, Vermont funeral director, Tx 12,067; R. Mee, owner of Wisconsin Casket Co., III–F–16; B. Bennett, Florida funeral director, II–A–516; H. Senison, New York funeral director, I–A–145.

[189] Consumer testimony and letters support this conclusion, since a number of consumers complained about having to pay an additional fee for cash advances. *See, e.g.*, L. Shirk, Tex. Consumer, II–B–1210; D. Bailey, Maryland consumer, II–B–358; Maryland consumer, VII–101. Moreover, testimony and statements by industry members support the conclusion that the practice of adding undisclosed markups to cash advance items is deceptive. Two of the major trade associations, NFDA and OGR, agreed that funeral directors should not profit on cash advances. *See* Comments of NFDA, II–A–659, at 52; Comments of OGR, II–A–666, at 16. Counsel for another trade association, NSM, testified that funeral providers should pass along any rebates they receive on items represented as cash advances. *See* Statement of D. Murchison, Tx 12,606.

[190] California Funeral Directors Ass'n Questionnaire, "The FTC and You," L.A. Ex. 23. Considering the fact that many leaders of the industry believe that any mark-up on cash advances is deceptive, see note 189, *supra*, the 12% response is probably understated since many respondents would not want to admit using a deceptive practice.

homes indicates that, on a national level, funeral homes are receiving a 5% mark-up on cash advance items, amounting to $18,000,000 annually.[191] In addition, there is evidence from industry members,[192] consumers,[193] and businesses which provide cash advance items[194] that funeral directors charge more than they pay for items generally considered to be cash advances.[195]

Similarly, the failure to disclose that a markup will be included on a cash advance item misleads consumers who rely on their reasonable expectations. In ordinary usage, terms such as "cash advance," "accommodation items" or "cash advanced for your convenience" imply that the consumer is being charged only for the actual cash outlay. The use of this term in connection with items such as flowers, obituary notices, etc., which the consumer could easily obtain from a third party, creates the expectation that the amount billed the consumer is the same as the amount paid by the funeral provider.[196] Given this expectation, the failure to disclose the existence of a markup is a deceptive practice.

(b) *Provisions.* Section 453.3(f) defines as deceptive: (1) affirmative misrepresentations that the price charged for a cash advance item is the same as the funeral provider's cost; and (2) the failure to disclose to consumers that a markup is being charged on a cash advance item. In order to prevent these practices, § 453.3(f)(2) requires that funeral providers who charge a markup on cash advances disclose this fact on the general price list. It is important to note that this rule provision covers only those situations where the funeral provider makes an affirmative representation that an item is a cash advance, accommodation, cash disbursement item, or any term of similar import. While it may be true that some items are viewed by consumers as inherently "cash advances," the record in this proceeding does not warrant such a finding.

The Commission believes that requiring a disclosure that a markup is being used is a sufficient remedy in light of the evidence discussed below. Prior versions of the rule would have totally prohibited a profit on such items.[197] The Commission has rejected such a remedy because it views the remedy it has selected as being sufficient to correct the identified abuse, while constituting the minimum intrusion into the business practices of the providers.

C. *Section 453.4—Required Purchases of Goods and Services.*—1. *General Discussion.* When the death of a friend or relative occurs, the persons who will ultimately be charged with arranging the funeral will often not have determined what type of services they wish, nor may they be aware of the deceased's wishes concerning the form of disposition. In other instances death may be anticipated, as in the case of prolonged illness, and the preferred form of disposition selected.

When death is anticipated, market-oriented remedies, such as the provision of information through price lists, can serve to facilitate informed comparison shopping. For example, if consumers knew in advance that they would be called upon to arrange a direct cremation, they could select a provider who offered alternative containers for sale. In this manner, the expense of a casket could be avoided by the consumer, if he or she were so inclined. In many cases, however, the ultimate form of disposition simply has not been selected at the time death occurs. Thus, the person charged with contacting a funeral provider to pick up the body of the deceased may simply be unable to select a funeral provider on the basis of what goods or services they sell, or in what combinations those goods and services are offered for sale.

The fact that the funeral provider may, in many cases, receive the body before the form of final disposition has been selected by the consumer creates a situation with the inherent potential to diminish severely a consumer's ability to select only those goods and services desired. The evidence establishes that once a funeral home is in possession of a body, seldom is it removed to another funeral home.[198] As representatives of the funeral industry have acknowledged, competition in the sale of funeral goods and services does not exist at the point of sale.[199] If consumers are to have the ability to select the goods and services they want, and concomitantly to decline those they do not want, some intervention is necessary at the point of sale to eliminate prevailing industry practices which deny that choice.

Accordingly, in § 453.4 of the rule, the Commission prohibits funeral providers from requiring that consumers who are arranging funerals purchase goods or services which they do not want, as a condition of purchasing those which they do want. As discussed above,[200] many funeral industry members have offered their goods and services for sale only in predetermined packages, thereby denying consumers any ability to decline unwanted items. Section 453.4(a) of the rule prohibits funeral providers from requiring that consumers who wish to arrange direct cremations purchase a traditional casket, other than an unfinished wood box, for that cremation. Section 453.4(b) contains the general prohibition on funeral providers conditioning the sale of any goods or services on the required purchase of other goods or services.

2. *Section 453.4(a)—Casket for Cremation.*—(a) *Evidence.* A direct cremation is one which occurs without any intervening viewing, visitation, or ceremony with the body present.[201] Cremation, as an alternative to traditional burial, is increasing both in terms of the absolute numbers performed, as well as the percentage of all dispositions. Statistics indicate that approximately 3.9% of all dispositions in 1975 were direct dispositions, with the trend toward increasing numbers of such dispositions.[202] The evidence in the

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[191] V. Pine, A Statistical Abstract of Funeral Service Facts and Figures 38 (1977) (hereinafter cited as "1977 Statistical Abstract"). The average cash advance charge is $185; average cost of cash advances is $175, representing about a 5% mark-up. If multiplied by two million deaths annually, a 5% overcharge would amount to $18,000,000.

[192] *See* note 188, *supra*. *See also* H. Gutterman, Funeral Director, Tx 1879; R. Thompson, Embalmer & Connecticut Funeral Director, Tx 2034; R. Ebeling, Former Managing Editor, Mortuary Management, Tx 6883–84; N. Gregory, former Calif. funeral director, Tx 8645; J. Page, Owner, Mortuary school, Tx 7386.

[193] *See, e.g.*, D. Bailey, Maryland consumer, II–B–358 (25% markup on obituary notice); M. Martin, California consumer, II–B–1695 (overbilled $62.75 on crematory charge); Cohen Statement, *supra* note 75, at 9 (crematory and newspaper overcharges); *Pittsburg Post-Gazette*, April 10, 1972, at 8, VI–D–36 (death notices); L. Shirk, Texas consumer, II–B–1210 (clergy honoraria).

[194] G. Marshall, Massachusetts clergy, Tx 1194; S. Fritchman, Calif. clergy, Tx 6515; T. Fulton, Wisconsin florist, II–B–234; L. Abbott, New York florist, II–C–62; C. Harness, Indiana hairdresser, X–1–16. *See also* H. Dailey, Missouri florist, II–B–297; D. Johnson, Oklahoma florist, II–C–15.

[195] In none of these instances is it clear whether the items were specifically labeled cash advances. However, they are of a type that are traditionally considered cash advance items.

[196] *See* evidence cited in note 189, *supra*.

[197] *See, e.g.*, 1978 Staff Report, *supra* note 9, at Appendix B, § 453.2(e).

[198] R. Harmer, Bd. member, CAFMS, Prof., California State Poly. U., D.C. Ex. 7, at 6; D. Cornett, California funeral industry sales representative, X–1–124; L. Bowman, The American Funeral 52 (paperback ed. 1964). *See* discussion in Section I(E), *supra*.

[199] D. Rollings, Executive Director, OGR, XIX, at 80 (1981 oral presentations).

[200] *See* Section II(A)(2)(c), *supra*.

[201] *See* discussion of the term "direct cremation" in Section II(E)(3), *infra*.

[202] Am. Funeral Director, June 1977, at 53. *See also* T. Sherrard, General Counsel, Telophase Society, Tx. 7986. Indicative of the increasing trend in direct dispositions is the increase in cremation rates. Cremation amounted to 9.7% of all dispositions in 1980, *see* Funeral Service Insider, Vol. 5, No. 49 (Sept. 14, 1981), up from 6.55% in 1975 (Cremation Association of North America, Post-Record Comment, XIV–697, at 6 and Exhibit 1). While not all cremations are direct cremations, a substantial percentage are.

record suggests that consumers seek direct cremations for diverse reasons, including simple personal preference and lower cost.[203]

Because cremation reduces a body to ashes, there is no need as there is in ground burial for a permanent container for the body. All that is needed is a container to transport the body to the crematory. If there is to be a viewing before the body is cremated, consumers may prefer to buy a casket to display the body.

The evidence suggests that a significant number of funeral directors require consumers to purchase caskets as a condition of supplying cremation services. Consumer complaints,[204] various surveys,[205] and testimony of funeral directors [206] all suggest that many funeral directors require caskets to be purchased when cremation is desired.

Requiring a consumer to purchase an expensive casket that is unnecessary and unwanted imposes significant consumer injury. While casket prices vary substantially, even the least expensive casket typically carried by a funeral home generally costs substantially more than a non-casket alternative. Although some industry representatives testified that caskets can be purchased by consumers for as low as $85,[207] the evidence indicates that the lowest priced caskets generally available to consumers arranging cremations generally fall in the range of $200 to $250.[208]

There are, however, containers which cost substantially less than even the least expensive casket. These containers, defined as "alternative containers" in the rule,[209] are generally constructed of cardboard, composition board, or are opaque pouches.[210] The record evidence shows that these products sell at retail for anywhere from $20 to $65.[211] Even taking the lowest end of the spectrum of casket prices, a funeral provider imposed requirement that consumers purchase a casket to obtain direct cremation services causes consumers to spend substantial additional money. The extent of this expenditure increases as the minimum price of the caskets offered for sale increases. Thus, a provider-imposed requirement that consumers purchase caskets for any form of disposition imposes a significant cost on those consumers which they might otherwise choose not to assume. As noted in the beginning of this section, this injury is not reasonably avoidable.

In weighing whether a practice is "unfair" under Section 5, the Commission must also consider any countervailing benefits to determine whether the practice imposed net injury. No testimony or comments provided any evidence of countervailing benefits. Indeed, funeral industry representatives agreed that there was "no justification" for requiring the purchase of a casket for direct cremation.[212]

Finally, in assessing a practice's unfairness, the Commission also looks to public policy as expressed in the decisions of other public bodies. No testimony or comments suggested that there was any public policy favoring the requirement of a casket for direct cremation, and at least nine states have actually prohibited such requirements.[213] Thus, to the extent that there is any public policy at all on this point, it clearly supports the Commission's position.

(b) *Rule Provisions.* Section 453.4(a)(1) defines it as unfair or deceptive for a funeral provider or a crematory to require that a casket other than an unfinished wood box be purchased for direct cremation.[214] The prohibition on requiring the purchase of a casket for a direct cremation extends to all funeral providers who arrange direct

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[203] Cremation Association of North America, Post-Record Comments, XIV–897, at 6 and Exhibits; 1978 Staff Report, *supra* note 9, at 216–18.

[204] *See e.g.*, over one hundred written consumer complaints in Category IIB (4, 10, 19, 24, 34, 136, 280) and X (34, 46, 55, 61, 64) and individual consumer testimony (C. Crawford, PhD, Tx 6634). In many of the written comments, it is not clear whether the complaints concern cremations other than direct cremations, in which caskets might be desirable for viewing purposes. In any event, it is clear that consumers resent being required to purchase caskets when they do not want to buy them.

[205] G. Richardson, Memorial Society of New England (43 out of 141 members returning replies reported encountering casket for cremation requirements); Rochester Memorial Society, Sampling of Funeral Directors on Use of Simpler Container for Cremation (1975), Klein, Ex. 2(3) (N.Y.) (eight out of fifteen local funeral directors required a casket for cremation); R. Fox, Ass't Attorney General, Vermont, Chi. Statement (survey by Vermont Attorney General's Office showed that over one-half of the state's funeral homes required a casket for cremation).

[206] While no funeral director testified that they personally required consumers to purchase expensive caskets if they wanted cremation, a number of funeral directors indicated that they required consumers to buy the least expensive casket they sold. *See, e.g.*, J. Curran, Pres., New York FDA, Tx 119; V. Polli, Secretary-Treasurer, Vermont FDA, Tx 2186; J. Wright, Mississippi funeral director, Tx 9450. This was confirmed by several other sources. Division of Consumer Affairs, Department of Community in Delaware 5 (1974), VI–D–9. However, in some instances the least expensive casket could be expensive. *See* notes 207–208, and accompanying text, *infra*.

[207] *See, e.g.*, A. Dunn, Secretary, Okla. FDA, Tx 8224.

[208] *See, e.g.*, D. Boyd, New Hampshire consumer, Tx 1690; R. Coates; Pres., Michigan FDA, Tx 3783; New York consumer complaint, VII–104; B. Kronman, A Death in the Family: A Guide to the Cost of Dying in New York City, Nassau and Suffolk (Sept. 1974). However, in some instances a wider range of prices was available . NYPIRG Ex. 6(C) (N.Y.), at 6 (cost survey reporting that least expensive caskets ranged from $70 to $386); Chenoweth, Minnesota Office of Consumer Services, 1972 Funeral Homes Study, Chi. Ex. 43, at 6–7 (Table I reporting that the cost of the least expensive caskets ranged from $67 to $220 at funeral homes surveyed).

[209] *See* discussion in Section II(E)(1), *infra*.

[210] S. Waring Treasurer, NFDA, Massachusetts funeral director, Tx 674 (containers available for $25–$35 wholesale charge); T. Sampson, Pres. Massachusetts FDA, Tx 966–67 (unfinished particle board casket offered for $30–$75, but most Massachusetts funeral directors don't stock alternative containers); M. Waterson, Minnesota funeral director, Tx 3716 (cremation containers wholesale for less than $10). *See also* A. Dunn, Secretary, Oklahoma FDA and past Pres., NFADA, Tx 8224 (pine boxes available for $65); E. Purdy, *There Must be a Better Way*, Mortuary Management, Oct. 1976, at 34; W. Kinder, President, Minnesota FDA, Tx 3303 ($30 cardboard box on display); N. Heard, NFDA, Tx 13,154 (cardboard container available for $50–$65); E. Wright Pres., South Dakota State Board of Funeral Service, Tx 4704; L. Ruffner, past Pres., Arizona FDA, Tx 7873; C. Denning, Ph.D., Neptune Society, Tx 7762–64; Humphrey Co. Advertisement, X–1–16; Cohen Statement, *supra* note 75, at 7; E. Newcomer, Progessive Mortuary Methods, March, 1976, II–A–860, at 7–8;

[211] *See* note 210, *id.*

[212] *See, e.g.*, Comments of National Selected Morticians, II–A–661, at 20.

[213] Prohibitions on requiring caskets for cremation are effective in Arizona, California, Colorado, Florida, Maryland, Minnesota, New Mexico, Wisconsin and Wyoming. CAFMS Survey of State Laws and Regulations, *supra* note 165, at Appendix III–C.

[214] The cost of a provider-imposed requirement that a casket be purchased, and the resulting consumer injury, is the same whether the form of disposition chosen is direct cremation, immediate burial, or cremation or burial after a service with the body present. At this time, however, the Commission has required that alternative containers be offered only for direct cremations. The evidence in the rulemaking record supports a finding that consumers have sought the option of employing alternative containers for use in direct cremations. *See, e.g.*, E. Purdy, Oregon funeral director, Sea. Ex. 3, at 20. There is little evidence, however, that consumers have sought out these alternatives for other forms of disposition. A distinction can be drawn between traditional burials and cremations on the one hand, and direct cremations on the other. In the former types of disposition, consumers may be able to secure alternative containers from other sources if the funeral provider they have selected does not offer them. Direct cremations, however, have much tighter time strictures, and minimize the ability to secure such a container from a third party. Immediate burials pose much the same, if not identical, problems which attend direct cremations. The record, however, is silent on whether consumers who employ this form of disposition would seek to use alternative containers. Thus, the Commission has declined at this time to extend the protections of this section to immediate burials. The Commission anticipates that where providers arrange direct cremations, and thus note the availability of alternative containers for use in direct cremations on their price lists, those containers will be offered for sale to all consumers, regardless of the type of disposition desired.

cremations, and to all crematories.[215] Some commentors in this proceeding argued that crematories should be permitted to require the use of caskets for safety-related reasons.[216] It was claimed that rigid containers facilitate the handling of the body. The rule accommodates this concern. Funeral providers and crematories are not prohibited from requiring that an unfinished wood box (which is defined as a "casket") or a rigid "alternative container" (*e.g.*, a heavy cardboard container) be purchased as a condition of arranging a direct cremation.

The requirements of this section work in tandem with the requirements of § 453.3(b) of the rule, which prohibits misrepresentations of legal or crematory requirements for purchasing a casket to obtain direct cremation services. In that section the Commission not only proscribes the making of such misrepresentations, but requires that a simple affirmative disclosure be placed on the price lists given to consumers informing them about the existence of alternatives to caskets for use in direct cremations.

The Commission has determined, however, that it is not sufficient simply to prohibit funeral directors from requiring a casket for cremation and to require a disclosure that alternatives for caskets are available. In addition, remedial steps also must be taken to ensure that, at point of sale, consumers retain the ability to decline the purchase of a casket. As we discussed above, in those situations where consumers have anticipated a death and have selected the form of disposition, pre-need comparison shopping can occur. In those instances, prohibiting funeral providers from requiring the purchase of caskets will enable consumers either to seek out a provider who makes alternative containers available, or to make the necessary arrangements to purchase such a container from a third party for use at a funeral home which does not offer them for sale.

As indicated previously, however, many consumers choose a funeral home without obtaining prior information about prices and offerings, some because they have a limited choice, and others for a variety of reasons previously noted. Given the tight time strictures surrounding a direct cremation and the fact that consumers will not remove the body of a deceased from the provider who first acquires possession, a simple prohibition on required purchases of caskets and a disclosure of the availability of alternatives may be insufficient to ensure that consumers do not have to, *de facto*, purchase a casket. For example, a funeral provider might not require the consumer to purchase a casket, but if the provider only sells caskets, consumers must either forgo their desire to employ a direct cremation without a casket, or purchase the only available container—a casket.

The Commission therefore finds it necessary to adopt the remedial requirement, found in § 453.4(a)(2), that funeral providers who arrange direct cremations make unfinished wood boxes or alternative containers available for such services. The rule provision adopted by the Commission does not require funeral providers to maintain an inventory of alternative containers. Rather, the rule requires that providers *make* available either a simple wood box, or some form of alternative container. This distinction is an important one, because it significantly reduces any burden which the provision might otherwise impose. Funeral providers need not maintain a current inventory of alternative containers. Rather, they need only be able to secure one such container, on request, and make it available for use in a direct cremation. Moreover, to the extent that some providers might, because of geographic location or other considerations, feel compelled actually to stock an alternative container, the evidence indicates that containers are available which, because of their construction or size, can be easily stored.[217]

It should be stressed that the rule does not require funeral providers to make a range of alternative containers available to consumers. The rule permits the funeral provider to offer any alternative container for sale—wholly within the discretion and business judgment of the provider. Indeed, in lieu of offering an alternative container, a provider can opt to offer only a plain wood box, which is a form of a casket.

3. *Section 453.4(b)—Other Required Purchases.*—(a) *Evidence.* The record reveals that most funeral providers, in excess of 65%, do not sell their goods and services on an itemized basis.[218] Rather, the industry norm is to offer complete "package funerals" for sale, with all of the items included in the packages having been preselected by the funeral provider.[219] While some industry members reduce the price if the buyer does not want a part of the package, if asked, many funeral providers do not reduce the price of a package funeral even where a consumer asks to have items dropped from the package.[220] By "bundling" all of the preselected goods and services together, the funeral provider is effectively forcing the consumer to buy items he or she doesn't want as a condition of providing a necessity that only he can provide: Disposition of the body. This injury cannot be reasonably avoided. As previously noted, even if the person arranging the funeral is dissatisfied with the terms of this offer, once the funeral home has taken possession of the body, for all practical purposes the consumer will not go somewhere else.[221] The evidence suggests that a significant number of consumers are required to pay the full package price, and that many are thereby required to pay for items they do not want or use.[222]

In weighing this injury to consumers, the Commission must also consider any countervailing benefits that such packaging might create. The only significant benefit advanced by funeral providers is that packaging permits the funeral director to offer lower prices to consumers. That arrangement is considered in detail in Section V(B)(4), *infra*. There, the Commission finds that, while itemization presents opportunities for funeral directors to raise prices, packaging does not inherently permit lower prices for consumers. Therefore, the Commission finds that the injury to consumers is not offset by any savings made possible by packaging.

The Commission also notes that the major trade associations recognize the basic unfairness in requiring buyers of

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[215] *See* Section II(E)(3) and (4), *infra*.

[216] *See* B. Bruce, Past Pres., CANA, Tx 10,706–09. CANA crematories require a rigid, opaque, and safely combustible container. *Id.* at Tx 10,669–60.

[217] *See* 1978 Staff Report, *supra* note 9, at 245.

[218] *See* Section II(A)(2)(b) at note 75, *supra*.

[219] *Id.*

[220] *See* discussion in Section II(A)(2)(b), *supra*, and note 76.

[221] *See* discussion in Section I(E), *supra*. Further, for those consumers served by only one funeral director, which may be nearly one in four, there is no other place to go. And nearly 70% of all funeral homes have less than 4 competitors, suggesting that the choice may be limited in any event. *See* note 114, *supra*.

[222] Evidence of consumers being aware that they were required to pay for items they did not want comes from consumers complaints from across the country, (*see, e.g.*, the following complaints in category II–B: 54, 164, 366, 496, 528, 829, 1048, 1108, 1298, 1404, 1486, 1893, 1987, 1994, 2003, 2013, 2134, 2240, 5967), testimony (S. Ross, Tx. 5274–75; Msgr. R. O'Keefe, Arizona St. Bd. of Funeral Directors and Embalmers, Tx. 7084–7085); and surveys (Cohen, D.C. Ex. 39 [20 out of 101 respondents reported paying for services, merchandise, or facilities they didn't want); Blackwell Survey, *supra* note 50 [3.7% reported paying for services they did not want]). For a number of reasons discussed in the text, *infra*, these results probably underrepresent the number of consumers who bought items that they would not have bought had they been aware of their prices and the fact that they were optional.

funerals to purchase items that they do not want. Both associations take the position that consumers are entitled to a "reasonable adjustment" of the package price when the consumer asks if credits are available for unwanted items.[223] While the problems with that industry position have been discussed above,[224] the industries view seems to confirm that refusing to give any discount for unwanted items takes unfair advantage of funeral purchasers.

(b) *Rule Provisions.* Accordingly, in § 453.4(b) of the rule, the Commission finds that it is an unfair act or practice in violation of Section 5 for funeral providers to require that consumers purchase unwanted goods and services, as a condition of obtaining those which they do want. Section 453.4(b)(2), requires funeral providers to place a disclosure on the general price lists which they must deliver to consumers, informing them of their option to make an itemized selection of goods and services with certain exceptions discussed below. The disclosure imposes the legal requirement that selection be permitted on an itemized basis.

After the effective date of the rule, it will be an unfair act or practice for any funeral provider to require consumers to purchase goods or services which they do not wish to purchase. This does not mean, however, that funeral providers will not be prohibited from offering prearranged packages for sale. So long as they comply with the required form of itemized pricing, and permit consumers to select from those itemized lists, providers may, *in addition,* continue to offer packaged funerals for sale. Consumers may continue to select these packages if they desire to do so. The rule simply prohibits the imposition of packages by the provider.

There are several important exceptions to this general right to select requirement. First, consumers may not decline the basic services of the funeral provider.[225] Irrespective of the combination of goods and services which a consumer may choose to select, the very process of selection itself will involve use of the funeral provider's services. Accordingly, the Commission has made the services of the funeral provider non-declinable. This may be done in one of two ways. On the general price list, which informs consumers of their general right to select goods and services on an itemized basis, the funeral provider must disclose either that: (1) The service charge will be added to the cost of the goods and services; [226] or (2) the service fee has been added to the casket price.[227]

The second major exception to this provision concerns embalming. As we discuss in the next section, the selection of certain forms of disposition, primarily those with a viewing, makes embalming a practical necessity.[228] Thus, funeral providers are permitted to require that embalming be selected by a consumer for all dispositions other than direct cremation and immediate burial.

Third, the Commission also was concerned that § 453.4(b) might be viewed as preventing funeral providers from refusing to deal with consumers who make impractical or idiosyncratic purchase requests.[229] Consequently, the Commission has added a provision in § 453.4(b)(2)(ii) which indicates that the rule does not force funeral providers to comply with a request for a combination of goods which would be impossible, impractical, or excessively burdensome to provide.[230]

It is the Commission's judgment that the remedies it has selected in § 453.4(b) are the least intrusive remedies which will serve to correct the pervasive abuses documented in the record.[231] In the Commission's view, the remedies chosen bear a close relationship to those abuses. Thus, the Commission has not prohibited funeral providers from selling their goods and services in prearranged packages if those sellers view the alternative as desirable in their business judgment. Rather, the rule only prohibits them from imposing that determination on the consumer, in view of the unique characteristics of the funeral transaction.[232]

D. *Section 453.5—Services Provided Without Prior Approval.*—(1) *Description of the Evidence.* The record shows that funeral directors customarily embalm a body without obtaining express authorization from the family to do so. Support for this finding comes from testimony of individual funeral directors stating that they do not attempt to obtain authorization from the family prior to embalming,[233] testimony

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[223] *See* note 78, *supra.*

[224] *See* Section II(A)(2)(b), *supra.*

[225] *See* § 453.2(b)(4)(iii)(C).

[226] Section 453.2(b)(4)(iii)(C)(aa).

[227] Section 453.2(b)(4)(iii)(C)(bb).

[228] *See* Section II(D), *infra.*

[229] The Commission therefore specifically asked for comment from interested parties on the question of whether the rule provisions could be reworded to avoid creating technical rule violations in the case of aberrant selections, without vitiating the goals of the rule's itemized selection provisions. *See* 46 FR 6981 (Jan. 22, 1981) (Question 9). Few comments were received. Of those comments, none provided the Commission with any evidence that such idiosyncratic selection behavior either has occurred in states requiring itemization, or would be likely to occur.

[230] For example, the Commission would not consider it a violation of § 453.4(b) for a funeral provider to refuse doing business with a consumer who said "We have our own casket, transportation, flowers, etc., but wish to use your viewing facilities for two hours next Monday." The Commission wishes to stress, however, that this provision does not give funeral providers the option to reject arrangements which are practical to provide but which do not comport with the provider's judgment of what is appropriate under the circumstances.

[231] *See* Section II(A)(3)(g), *supra,* for a discussion of the legal standards applicable to remedial requirements in Commission rules.

[232] The rule does not affect, of course, other rights that the funeral director may have under law to refuse to deal with certain consumers or certain requests. Section 453.4(b)(2)(ii) is only intended to clarify the extent of obligation which may be created by the operation of § 453.4(b)(2).

[233] W. Rill, Pres., Washington FDA, Tx 5503; F. Noland, Pres., Idaho FDA, Tx 5836; J. Page, California mortician, Tx 7373; D. Deaton, Chairman, Alabama Funeral Service Board, Tx 9988; L. Ruffner, past Pres., Arizona FDA, Tx 7851; N. Heard, Pennsylvania funeral director, Tx 13,150; M. Chabot, Minnesota funeral director, II–C–66; R. Mee, former owner of Wisconsin Casket Co., III–F–16; T. Kimche, Oregon funeral director, Tx 5368; R. Myers, Chairman, Utah Funeral Directors and Examining Board, Tx 8284; A. Dunn, Oklahoma funeral director, past Pres. NFDA, Tx 6922–23; C. Austin, Kentucky funeral director, II–A–6; F. Galante, New Jersey funeral director and past Pres., NFDA, Tx 1741; V. Polli, Sec.-Treas., Vermont Funeral Directors and Embalmers Assoc., Tx 2197–98; B. Hirsch, Vice-Chairman, Pennsylvania State Board of Funeral Directors, Tx 12,533; A. Nix, Pennsylvania funeral director, Tx 12,926–27; N. Greene, member, Virginia Board of Funeral Directors and Embalmers, Tx 14,186.

[234] R. Johnson, Indiana funeral director, Tx 12,595; R. Shackelford, Tennessee funeral director, Tx 6987; J. Kastor, Texas State Representative, Tx 6119; N. Gregory, former California funeral director, Tx 6060; S. Waring, member, Massachusetts FDA, Treas., NFDA, TX 665; R. Thompson, member, Connecticut State Board of Examiners of Embalmers and Funeral Directors, Tx 2034; Dr. E. Jindrich, Coroner, San Rafael, Calif., L.A. Ex. 28.

[235] CFDA, FTC and You, Questionnaire Results, L.A. Ex. 23 California Funeral Directors Association survey revealed that half of the funeral directors responding do not obtain permission for embalming); S. Chenoweth, Director, Minnesota Office of Consumer Services, II–C–51, at 5–6; H. Sandhu, Pres., The Memorial Association of Central New Mexico, Inc., II–C–1280; F. Schneier, Yale student's survey, Schneier, Ex. 1 (N.Y.), at 3; 1972 Study on Funeral Homes by Minnesota Office of Consumer Affairs, Chi. Ex. 43, at 36 (14 of 33 funeral homes surveyed embalm automatically upon arrival of the body).

[236] *See, e.g.,* consumer complaints in category II–B (423, 536, 1107, 1156, 1206, 1302, 1862, 2038, 5056), in category X–1 (106) and testimony (Tx 1419, 9256).

[237] O. Matthews, Maryland Citizens Consumer Council, Tx 14,054; H. Drinkwater, Education Director, Hanover Consumer Cooperative Society, II–C–966; T. Pearson, Memorial Society of New Hampshire, N.Y. Stmt. at 6.

[238] Fuller, *State Study Assails Some Funeral Home Actions,* Minneapolis Tribune, Jan. 7, 1973, at 1A, attached to VI–D–14; S. Chenoweth, Director, Minnesota Office of Consumer Services, Tx 3121–22; New York Temporary State Commission on Living Costs and the Economy, Hearings, Practices of the Funeral Industry, Oct. 17, 1974, VI–D–1, at 15; Investigation by the New York State Temporary Commission on Living Costs and the Economy into the Practices of the Funeral Industry in the State of New York, VI–D–16, at 16.

[239] N. Dunlop, Memorial Society of Maine, II–B–11; E. Lohof, Memorial Society of Montana, II–C–63; R.

of funeral industry trade association representatives and state licensing board representatives,[234] informal surveys of morticians in various parts of the country,[235] individual consumers,[236] consumer group representatives,[237] state agencies,[238] memorial societies,[239] and consumer surveys.[240]

Indeed, while some funeral providers testified to the contrary,[241] the industry acknowledges that express prior permission is not usually sought. Instead, embalming is considered to be a negative option; the consumer must affirmatively state that embalming is not to be done or the process will be automatically performed.[243] The funeral industry contends that funeral directors receive implied permission to embalm from the authorization to pick up the body.[243] Authorization to embalm is also inferred from circumstances, such as from having handled the funeral of another member of the family in question in which embalming was requested [244] or from general authorization "to take care of the preparation" without any specific mention of the embalming process.[245]

The evidence reveals that, contrary to the funeral industry's assumption, a substantial portion of consumers do not in fact intend to authorize embalming by giving the funeral director limited authority to pick up the body.[246] While a precise estimate is not possible, surveys conducted by both industry and consumer groups suggest that a substantial number of funeral consumers would decline embalming if offered an informed choice.[247] This group would include those who object to embalming on a personal or religious basis, as well as many others who simply desire a less elaborate or less expensive funeral service.

Some caution is warranted in projecting what percentage of consumers would actually decline embalming when making an informed choice. It is possible that some consumers who indicate in the abstract that they would decline embalming might actually purchase such services in order to arrange a funeral with a viewing or visitation. Nonetheless, as the limited purchase data show, a substantial number of consumers do decline embalming when presented with the option in a real purchase situation.[248]

While some consumers may not be injured if a funeral director embalms without obtaining authorization,[249] many other consumers suffer substantial economic and emotional injury from unauthorized embalming. In terms of the economic injury, there is a charge for embalming, ranging from $50 to 150,[250] which a consumer interested in a simple, direct or less expensive disposition might not wish to spend. Beyond the actual charge for the service itself, embalming is a necessary predicate to selling techniques which encourage the purchase of higher priced goods and services. Embalming is a practical necessity if there is to be a viewing and an open casket funeral service which normally requires the purchase of a casket, burial clothes, and other servicesand facilities of the funeral home.[251]

Unauthorized embalming may result in substantial emotional injury to the family of the deceased, as well. For some funeral purchasers, personal convictions may dictate that embalming is not appropriate. For others, embalming may be incompatible with religious beliefs. Orthodox Judaism, for example, forbids embalming as a desecration of the body.[252] A funeral director who has performed embalming without prior approval has inflicted substantial, irremediable emotional injury upon the survivors of the deceased. That the funeral director may voluntarily forego his or her embalming

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Haynes, Memorial Society of Eastern Oklahoma, II–C–1230; A. Stensland, Board Member, Minnesota Memorial Society, Chi. Ex. 6, at 2.

[240] P. Sperlich, Ph.D., CalCAG, Tx 7410. The study indicated that "where respondents did not ask for embalming, embalming took place in 98% of the cases * * **". The study also found that 69.6% of 400 respondents said they received embalming but did not ask for it. In the midwest, an informal mail survey conducted by the *Louisville Times* found that the question of embalming was not even raised by funeral ddirectors in approximately two-thirds of the instances. *Cashing in on Grief? Study Reveals Little Exploitation*, The Louisville Times, July 19, 1976, at 6, col. 1, D.C. Ex. 34. *See also* Cohen Statement, *supra* note 75, at 4 (30% of those interviewed said embalming was performed before the funeral director spoke to them about embalming).

[241] Several providers indicated that they did not embalm without permission and expressed doubt about how widespread unauthorized embalming is. G. Primm, New York funeral director and Pres., Empire State FDA, Tx 271; L. Jones, Pres., NFDMA, Tx 9610; A. Juska, Vice-Pres., New Jersey FDA, Tx 2481; R. Miller, Exec. Sec., NFDMA, Tx 3612; M. Waterston, Minnesota funeral director, Tx 3736; H. Coates, member, Kentucky State Board of Embalmers and Funeral Directors, Tx 3985; M. Damiano, past Pres., New Jersey FDA, Tx 1309; P. Farmer, New Jersey funeral director, Tx 2315–16; G. Buell, Oregon funeral director, II–A–766, at 1; M. Russell, Oregon funeral director, II–A–762, G. Heller, Ohio funeral director, II–A–286; S. Fulford, Georgia funeral director, II–C–730. Others felt such a practice would be unfair and even "grossly unethical." J. Broussard, counsel and Pres., Texas FDA Tx 9351; R. Hodge, Sec., New Jersey State Board of Mortuary Science, Tx 2056; M. Damiano, past Pres., New Jersey FDA, Tx 1299; C. Hite, Dean, Simmons School of Mortuary Science, Tx 1523.

[242] According to National Selected Morticians, one of the two major trade associations: Preparation and preservation of a dead human body are standard procedures in funeral service unless there are instructions to the contrary during the initial death call because of religious beliefs or known requests for immediate disposal. Comments of NSM, II–A–661, at 21.

[243] For example, the President of the New York Funeral Directors Association testified that funeral directors often assume the authority to embalm simply because the services of that provider were retained: There has always been an inherent assumption when a funeral director was engaged by a family for one of its members that all necessary authority flows from that engagement. J. Curran, Pres., New York FDA, Tx 90.

Indeed, basic textbooks used in mortuary school instruct that turning a body over to a funeral home authorizes embalming. L. Frederick and C. Strub, The Principles and Practice of Embalming 191 (1967) states: the act of handing over a dead body * * * carries with it an implied permission to embalm that individual.

But see H. Raether and R. Slater, The Funeral Director and His Role as A Counselor (1975). In this book by Howard Raether, Executive Director of the National Funeral Directors Association, and Robert Slater, Director of the Department of Mortuary Science, University of Minnesota the authors advise funeral directors to seek explicit permission to embalm.

[244] J. Proko, past Pres., Wisconsin FDA, Tx 4140.

[245] R. Thompson, Sec., Connecticut State Board of Examiners of Embalmers and Funeral Directors, Tx 1982–83; Anderson, Pres., Utah FDA, Tx 6145; B. Hirsch, Vice-Chairman, Pennsylvania State Board of Funeral Directors, Tx 12,533.

[246] In the consumer complaints set out in note 236, *supra*, the consumer typically complained that by the time he or she reached the funeral home, often only shortly after the death, the embalming had already been performed.

[247] *See, e.g.*, Blackwell Survey, *supra* note 59. (NFDA-sponsored survey of 400 consumers found that only 9.5% of respondents would decline embalming in an "average" funeral home, 25% were undecided, and 60% would not decline embalming). In one study, 68.1% of respondents had embalming when they were unaware that embalming was not legally required while only 58.5% of respondents who knew embalming was optional had embalming done. Sperlich, CalCAG, L.A. Ex. 17.

[248] D. Daley, Seattle funeral director, Tx 5033 (funeral home which presents embalming as true option reports 30% declination rate); CAMP Survey, *supra* note 92 (less than half of those who had purchased embalming expressed a preference for it).

[249] *E.g.*, consumers who would have chosen a funeral in which embalming is required as a practical necessity or those who would have been required by law to embalm.

[250] J. Lyon, Washington consumer, II–B–1100; *House Small Business Subcomm.* (Part III), *supra* note 30, at 91, 329; Funeral Prices, Pricing Policies and Procedures in Florida, VI–D–6, at Question 12; Arkansas Attorney General Study, VI–D–12, at 5; Delaware Consumer Affairs Survey, VI–D–9, at 2; R. Mee, former Wisconsin funeral director, III–F–16.

[251] Recent editions of a basic textbook on the subject state that embalming is the "basis for the sale of profitable merchandise." L. Frederick & C. Strub, The Principles and Practice of Embalming 2 (1967). Another reference book puts it in the following way: "The foundation of the funeral service profession is embalming and the basis of financial profit is merchandising." R. Martin, The Psychology of Funeral Service viii (1979).

[252] *See* M. Tendler, New York, Rabbi, Tx 655; E. Grollman, Massachusetts Rabbi, Tx 630; A. Schneider, New York Rabbi, Tx 1009; S. Appelbaum, New York Rabbi, Tx 1049; Comment of the Washington Board of Rabbis, D.C. Stmt. at 4–5.

fee is likely to be of little or no consolation to the family.

The Commission finds that unauthorized embalming results in substantial consumer injury, both in economic and non-economic terms. The test for unfairness, however, requires that the Commission balance against the harmful effects of conduct, the benefits which may flow from the practice in question. In essence, the unfairness of a practice must be measured by its net effects. Funeral providers have advanced two arguments to support "routine" embalming or embalming predicated on general expression of authority: First, embalming is virtually always desired by funeral consumers; and second, the subject of embalming is repulsive to people and therefore it would be offensive to ask a family about embalming. The record demonstrates, however, that many consumers do not in fact want embalming and would decline it given an option, and that many consumers do not give permission to embalm by authorizing the funeral director to pick up the body.[253] Given consumers' lack of prior experience and knowledge, it is unreasonable to expect that consumers will affirmatively decline embalming in the first telephone contact with the funeral home.

The response to the second argument is twofold. First, evidence suggests that many if not most consumers would not be uncomfortable in giving express permission to embalm. Two surveys of consumer attitudes found that four out of five consumers favor the idea of requiring funeral directors to obtain embalming permission.[254] In addition, the numerous consumer complaints received on the subject of embalming suggest that funeral purchasers are able and willing to address this subject. Furthermore, several funeral director witnesses testified that the subject of embalming did not offend their consumers.[255]

Second, and perhaps more fundamental, the speculative concern of funeral providers that some consumers will be offended by the simple question "May we embalm?," is simply not a justifiable basis for refusing to ask the question at all, thereby imposing the expense of embalming on that segment of the population that would decline if asked.

The Commission finds that consumers cannot readily avoid the harm caused by this practice, since it often occurs at the point of initial contact with the funeral home. To protect themselves from this harm, consumers would have to know that they must affirmatively instruct the funeral provider not to embalm at the moment the pick-up call is placed, or else embalming will be performed. Such knowledge is highly unlikely, given consumers' lack of prior experience with arranging funerals. Further, as discussed in Section II(B)(2)(a), *supra*, the evidence shows that many consumers believe that embalming is legally required and that they may have no choice.

Charging a buyer for goods or services which the buyer did not agree to buy plainly violates established principles of public policy found in fundamental levels of contract law. The common law insists on mutual consent for there to be a binding contract.[256] While consent may be reasonably implied in some circumstances, courts have also made it clear that acceptance cannot be implied where the offeror knows, or should have known, that the offeree does not understand the terms of the offer. In such cases, clear expressions of acceptance are required.[257] For that reason, the Commission and Congress have, in other contexts, reined in marketing schemes which relied upon unknowing or ambiguous consent on the part of consumers.[258] In addition, seven states have enacted provisions which specifically require funeral directors to receive express permission before embalming,[259] confirming the conclusion that such practices are unjustifiable and injurious.

(2) *Rule Provisions.* Accordingly, § 453.5(a) of the rule defines it as unfair for any funeral provider to embalm a deceased human body for a fee without prior approval from a family member or other authorized person, except in certain unusual circumstances.

In determining which practices to proscribe in the rule, however, the Commission is cognizant of the fact that in virtually all instances where disposition does not occur within a very short time span, (*e.g.*, 24 hours) either embalming must be performed or the body refrigerated to delay decomposition. Concerns were raised in the rulemaking proceeding that if prior approval for embalming were required, funeral providers would be unable to embalm in those situations where the family or legal representative of the deceased could not be immediately contacted. Unless embalming were performed, it was argued, decomposition would begin thereby precluding the possibility of a traditional funeral.[260]

The Commission recognizes that the majority of consumers arranging funerals, according to all survey evidence, do want embalming because of their intent to have a traditional funeral with viewing and visitation. Thus, the Commission has cast the unfair acts and practices proscribed by § 453.5(a) in the alternative. As noted above, the general rule adopted by the Commission prohibits funeral providers from embalming for a fee[261] without obtaining prior approval from the family or authorized representative of the deceased.[262] Excepted from this general rule are two situations. First, if state or local law require embalming in certain situations, such as where death has occurred from certain communicable diseases or where the body will be transported interstate,[263] the funeral provider must follow the applicable law.

Second, the provision allows for certain exigent circumstances by providing that if the funeral director is unable to contact a family member or other authorized person after exercising due diligence, has no reason to believe that the family does not want embalming performed, and obtains subsequent approval from the family, the funeral director may charge for embalming without violating the rule.[264] In seeking subsequent approval, the funeral director must first disclose that embalming has been performed, but that no fee will be charged if the family selects a funeral arrangement which would not require embalming, such as direct cremation or immediate burial. If the family then selects a funeral arrangement which would require embalming, such as a funeral with viewing, visitation, or the body present, subsequent approval may be inferred and a fee charged.

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[253] *See* discussion at note 246, *supra*.

[254] CalCAG Study, *supra* note 247, at 20; CAMP Survey, *supra* note 92, at 5.

[255] D. Deaton, Chairman, Alabama Funeral Service Board, Tx 9997; L. Jones, Pres., NFDMA Tx 9812; G. Brown, Chairman, Vermont Board of Funeral Service, Tx 12,059.

[256] *See, e.g.*, Corbin on Contracts § 55 (1963); Restatement (Second) of Contracts § 17 (1979).

[257] *See, e.g.*, Corbin on Contracts § 95, §107 (1963); Restatement (Second) of Contracts § 18 (1979).

[258] *See, e.g.*, Postal Reorganization Act, 39 U.S.C. 3009 (Prohibiting charging consumers for unordered mail merchandise); Trade Regulation Rule on the Use of Negative Option Plans by Sellers in Commerce; 16 CFR § 425 *et seq.* (1975).

[259] CAFMS Survey of State Laws and Regulations, *supra* note 165, at Appendix III–C.

[260] *See* NFDA Comments on Revised Rule, XVI–112, at 11.

[261] Section 453.5(a)(2).

[262] If the funeral director is unable to locate an appropriate family member, the rule permits the required authorization to come from a local official who has legal authority to make such a decision. This may be, depending on the circumstances and the state law, a coroner, sheriff, public health official, a judge, or one expressly authorized to direct disposition of the dead.

[263] Section 453.5(a)(1).

[264] Section 453.5(a)(3).

To help prevent a funeral director from charging for embalming in those situations where the rule does prohibit it, § 453.5(b) of the rule requires funeral directors to place a written disclosure on the final bill or agreement given to customers informing them of their right not to pay for embalming performed without prior approval unless they select a type of funeral which would require embalming. Moreover, the disclosure must state that if a fee is charged for embalming, a written explanation will appear on the final bill or agreement given to a customer.

E. *Section 453.1—Definitions.* In § 453.1, the Commission defines several terms of particular importance in the rule. Some of these terms such as "Commission," "cremation" and "person" require no elaboration. Others, which raise significant issues about the scope and coverage of the Commission's rule are discussed below. We have placed this discussion after the discussion of the substantive provisions of the rule to facilitate understanding of the issues they raise.

1. *Section 453.1(a), (c), and (o)—Definitions of "alternative container," "casket," and "unfinished wood box".* The rule defines three categories of receptacles for human remains: Caskets, alternative containers, and unfinished wood boxes. These terms are used in § 453.4(a) which ensures the consumer's right to use an alternative to a traditional casket when choosing a direct cremation. Caskets are defined generally as containers made of wood or metal, ornamented and lined with fabric. An alternative container, on the other hand, is non-metal, without ornamentation or fixed interior lining, and may be made of a variety of materials, such as cardboard, pressed wood or canvas.

The term "unfinished wood box" has been included in the rule because of a concern that what is perhaps the traditional low cost container, *i.e.*, the plain pine box, could fall within either the definition of casket or that of alternative container.[265] The Commission, therefore, has defined an unfinished wood box as a particular type of casket—one which is made of wood and without lining or ornamentation. Under the rule, an unfinished wood box is treated like an alternative container; that is, a funeral provider may satisfy the requirement in § 453.4(a) to offer an alternative to a casket for use in direct cremations by offering an unfinished wood box.

[265] *See, e.g.*, Rebuttal Comments of NCSC/ADA/CAFMS, XVII–16, at 64–66.

2. *Sections 453.1 (i), (j), and (k)—Definitions of "funeral goods," "funeral provider," and "funeral services".* The definitions of "funeral goods," "funeral provider" and "funeral services" in § 453.1 (i), (j) and (k) are critical because they define the scope of the rule's coverage. Only those persons who fall into the class of "funeral provider" are subject to the rule, and in order to do so a person must sell both "funeral goods" and funeral "services." "Funeral goods," under § 453.1(i), consist of all products sold to the public for use in connection with funeral services. Thus, the definition of "funeral services" is the core on which the definitions of both "funeral provider" and "funeral goods" are based.

Two types of functions come under the definition of "funeral services" in § 453.1(k): (1) Those services used to care and prepare human bodies for burial or other disposition and (2) those services used to arrange, supervise or conduct the funeral or disposition. Both the preparatory and the supervisory types of functions must be performed in order to come within the definition of "funeral services."

A "funeral provider" under § 453.1(j) must sell both "funeral goods" and "funeral services." In order to be classified as a "funeral provider", a person must perform both types of functions listed in § 453.1(k). A cemetery, therefore, would generally not be considered a "funeral provider" under the rule because it only arranges or conducts final dispositions. It does not prepare human remains for burial or other dispositions.[266]

3. *Sections 453.1(g) and (l)—Definitions of "direct cremation" and "immediate burial".* The rule prohibits funeral providers from requiring that consumers choosing direct cremation purchase a casket.[267] In addition, consumers choosing immediate burial or direct cremation may not be required by funeral providers to purchase embalming services.[268] The terms "direct cremation" and "immediate burial" refer to forms of direct disposition of human remains which take place without formal viewing, visitation, or ceremony with the body present.[269] The definitions of these terms do not prescribe a precise time period between death and disposition of the body, but rather refer to the lack of ceremony surrounding the cremation or burial.

[266] Of course, those cemeteries which do prepare human remains for burial would be considered "funeral providers" and therefore covered under the rule.

[267] *See* Section 453.4(a).

[268] *See* Sections 453.4(b) and 453.3(a)(2).

[269] Except perhaps for a brief graveside service in the case of immediate burial.

4. *Section 453.1(g)—Definition of "crematory".* The definition of "crematory" in Section 453.1(g) includes only those persons, partnerships and corporations that both perform cremations and sell funeral goods. The Commission is aware that some crematories do not sell funeral goods and therefore would not fall within this definition. However, the Commission believes that § 453.1(g) is consistent with Section 19 of the 1980 Improvements Act which limits the rule's coverage to persons who sell both funeral goods and funeral services.[270]

5. *Section 453.1(m)—Definition of "outer burial container".* Burial vaults, grave boxes and grave liners are terms commonly used by funeral providers and refer to containers designed for placement in the grave around the casket. The Commission has used the single term "outer burial container" to include the various types of containers which may be used.

6. *Section 453.1(o)—Definition of "services of funeral director and staff".* This term refers to the services which may be furnished by a funeral provider in connection with the arranging of a funeral, including such services as conducting the arrangements conference or planning the funeral services. It does not include services otherwise listed in § 453.2(b)(4), such as embalming, transferring remains to the funeral home, etc.

F. *Section 453.6—Retention of Documents.* Section 453.6 of the rule requires funeral providers to retain a copy of certain documents which must be provided to consumers under the substantive provisions of the rule. Specifically, the retention of documents provision requires funeral directors to retain copies of the price lists required by the rule, and copies of each individual statement of services selected by the consumer for each funeral for a period of one year. Funeral directors would also be required to make these records available to FTC officials upon request for inspection.

The Commission's goal in adopting a recordkeeping requirement is to help ensure compliance with the substantive provisions in the rule. As part of its enforcement program, the Commission will check the records of individual funeral homes to ensure that the price lists and statements required by the rule are complete. Since most of the

[270] *See* Section 19(c)(1)(A) (the Commission has authority over persons "* * * furnishing goods and services relating to funeral"), 15 U.S.C. 57a note.

information which the rule requires be given to consumers will be contained on the price lists and statement of services selected, availability of those documents for inspection will make it feasible to detect rule violations efficiently and thus to enforce the rule effectively. The recordkeeping provision will thereby deter potential violators and help prevent the unfair and deceptive practices defined by the rule.

During the rulemaking proceeding several concerns were expressed about the operation of this provision. Some of the most frequent were: (1) That the requirement was burdensome because funeral providers would be required to store large numbers of documents in order to comply with the rule;[271] (2) that the time period for retention of records was unreasonably long and should be substantially reduced;[272] and (3) that the requirement would unreasonably invade the privacy of persons arranging funerals.[273] The Commission has considered each of these criticisms and has been as responsive as possible, consistent with the goal of efficient enforcement of the rule.

When compared with the version of the rule first published for public comment in 1975,[274] the version which the Commission has now approved has a recordkeeping requirement which substantially reduces the paperwork storage burden on funeral providers.[275] In response to concerns that the period for record retention was too long, the Commission reduced the period from three years to one year. A one-year record retention period will be less useful than a three-year period in helping identify funeral providers who are engaging in a pattern of rule violations or in identifying all consumers who would be entitled to redress under Section 19 of the FTC Act.[276] The Commission has nonetheless concluded that a one-year record retention period will provide an adequate incentive for funeral providers to comply with the rule's substantive provisions and has, accordingly, revised the rule to reduce the burden on funeral providers.

The recordkeeping requirement has not been revised, however, in response to the concern that it would constitute an unwarranted invasion of the privacy of the persons arranging funerals. The Commission views this concern as unfounded. The rule does not require funeral providers routinely to submit records for examination by Commission officials. To the extent that Commission officials obtain any information from the records of funeral providers as part of an investigation, such information would be subject to the provisions of the Privacy Act [277] and Section 21 of the FTC Act,[278] which provide guarantees against unwarranted disclosure of personal information.

G. *Section 453.7—Comprehension of Disclosures.* The Commission has included a requirement in the rule that the disclosures which funeral providers must provide to consumers must be made in a manner which is clear and conspicuous. The Commission's goal is to ensure that the information provided under the rule will be presented in a manner readily discernible by consumers.

H. *Section 453.8—Declaration of Commission Intent.* In § 453.8 of the rule the Commission clarifies three issues with respect to how it interprets its rule on funeral practices. The Commission has included these statements within the rule itself rather than only in the Statement of Basis and Purpose to assist those persons who are covered by the rule in understanding the scope of the rule and the obligations it imposes.

First, the Commission declares its intent that a violation of either the definitional provisions or the remedial provisions of the rule constitutes a violation of the rule, unless otherwise stated. In each provision of the rule, the Commission first describes with particularity the acts or practices which have occurred in the past which the Commission finds to be unfair or deceptive acts or practices. Thereafter, the rule describes what remedial provisions, if any, must be complied with. This format is necessitated by the decision of the Second Circuit in *Katharine Gibbs.*[279]

An example of where a violation of either the definitional or remedial sections would be a violation of the rule is found in § 453.3 concerning misrepresentations. If a funeral provider makes the disclosure required by the rule concerning caskets for cremation (*i.e.*, the remedial provision, § 453.3(b)(2)), but continues to make false claims that the law requires a casket for direct cremation (*i.e.*, the definitional provisions, § 453.3(b)(1)), the funeral provider would be in violation of the definitional section and this would constitute a violation of the rule.

Section 453.2(a) dealing with price disclosure is the one exception to the general standard that a violation of either the definitional or remedial sections constitutes a violation of the rule. In § 453.2(a) the Commission explicity states that a funeral provider who complies with the remedial requirements concerning price disclosure in § 453.2(b) is not engaged in the unfair or deceptive acts or practices as defined in § 453.2(a).

Second, the Commission states its intent that each of the provisions of the rule are separate and severable from one another. If one or more parts of the rule are found to be invalid by a reviewing court, the Commission intends that the other portions of the rule will continue in effect.

The third issue addressed by this section concerns the effect of the rule on burial insurance and the rule's consistency with the exemptions for the business of insurance embodied in the McCarran-Ferguson Act [280] as restated in Section 5 of the FTC Improvements Act of 1980.[281] This section declares the Commission's intent that the rule be inapplicable to the business of insurance or to acts in the conduct thereof. This explicit declaration was included in the rule in response to several comments questioning the effect of the proposed rule on prearranged funerals governed

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[271] *See* Comments, Other Groups, XIV–867; Individual Funeral Industry Member, XIV–739; State or Local Agency or Official, XIV–678; U.S. Small Business Administration, XIV–819; Individual Funeral Industry Member, XIV–20.

[272] *See* Post-Record Comments, Other Groups, XIV–867.

[273] *See id.*

[274] *See* 40 FR 33901 (1975).

[275] The most significant change in this connection is the elimination of the requirement that funeral providers give to each customer (and, therefore, retain a copy) a separate "Statement of Funeral Goods and Services Selected" required by § 453.2(b)(5). The information which formerly would have appeared on the Statement may be incorporated onto the final contract, bill, or other document which the funeral provider already uses to memorialize sales agreements with customers. Since such documents would ordinarily be retained as business records or for tax purposes, the additional burden imposed by the Commission is minimal.

Two other changes in the final rule have significantly reduced the burden imposed by the recordkeeping requirement. First, as published in 1975, the rule required that funeral providers give out a separate sheet describing the legal requirements which a funeral provider claimed required consumers to purchase goods or services. Those disclosures have now been incorporated onto the price lists and statement of services selected, eliminating the need to keep separate records showing compliance with the provision. Second, the rule now permits funeral providers to consolidate certain price information onto one document, *i.e.*, the general price list. Thus, funeral providers may choose to list prices for caskets and outer burial containers on one list, rather than to prepare three separate documents.

[276] 15 U.S.C. 57b.

[277] 5 U.S.C. 552a, *et seq.*

[278] 15 U.S.C. 57b–2.

[279] *See* Section I(B), *supra*, at note 18.

[280] 15 U.S.C. 1011, *et seq.* (1976).

[281] Public Law 96–252, 94 Stat. 391.

by burial insurance.[282] The Commission's declaration of intent is included to address these concerns and clarify that the rule does not apply to such arrangements and other areas involving the business of insurance.

I. *Effect of the Rule on State Law—Section* § 453.9. In § 453.9 of the rule, the Commission has specified a process by which the states may obtain exemptions from part of all of the rule's requirements. The purpose of this section is to encourage federal-state cooperation by permitting appropriate state agencies to enforce their own state laws that are equal to or more stringent than the trade regulation rule. [283] To the extent specified by the Commission, the rule will not be in effect in a state obtaining an exemption. Otherwise, any state laws which conflict with this rule after its effective date are preempted to the minimum extent necessary to resolve that conflict. [284] The following discussion first sets out the basis for the Commission's preemptive authority and then describes how that authority affects existing state laws.

1. *Preemptive Authority.* In general, federal authority to preempt or override state law stems from the Supremacy Clause of the United States Constitution. [285] The Supreme Court of the United States has clearly established the principle that "state legislation which frustrates the full effectiveness of federal law is rendered invalid by the Supremacy Clause." [286] The Court has also made clear that this principle applies to federal agency regulations which have the force and effect of law as well as to acts of Congress. [287]

More specifically, the courts have recognized that federal law may preempt state laws or regulations to the extent that the federal provision requires or authorizes conduct which is inconsistent with state law. [288] This form of preemption is referred to as "conflict" or "inconsistency" preemption. [289] In *Katharine Gibbs*, the United States Court of Appeals held that Magnuson-Moss trade regulation rules promulgated by the Commission preempt inconsistent state law under traditional notions of "conflict" preemption. [290]

2. *Effect of Rule on State Law.* Every state regulates the licensing of funeral directors and funeral establishments, including such subjects as the educational, apprenticeship and examination requirements for licensees and public health standards for handling human remains. This entire area of state regulation remains intact because it does not conflict with or frustrate the purposes of the rule. The rule also specifically recognizes state regulatory limitations imposed on licensees for public health reasons with respect to embalming. [291]

Some states also have enacted certain protections for funeral consumers which appear similar to those in the rule. [292] State laws exist for example, which prohibit funeral directors from embalming remains without permission (Section 453.5(a)(2)) [293] or requiring a casket for cremation (Section 453.4(a)). [294] At least one other state has enacted into law a provision which appears similar to an earlier proposed version of the rule's requirements concerning pre-selection disclosure of itemized prices. [295] Since such provisions do not conflict with the rule, they are not preempted or affected in any way. A violation of such provisions would simply be a violation of both the rule and state law.

Other states have enacted provisions which are directed at the same practices as the rule but appear not to address these problems in a manner similar to the rule. For example, several states require that funeral providers disclose their prices, but require less disclosure than would occur under the rule's itemization requirement. [296] The rule would not conflict with and preempt such regulations either, because a funeral provider complying with the rule also could comply with the more permissive state law provisions. However, in such cases, funeral directors must also comply with the additional requirements of the rule.

While the Commission is aware of no state laws which are in conflict with the rule, individual states may wish to exercise their right, under § 453.9, to exempt their laws entirely from the rule. Under § 453.9, the rule will not be in effect in a state to the extent specified by the Commission where: (1) Application for an exemption is made by a state; (2) there is a state requirement in effect which applies to any transaction to which the rule applies; and (3) the state requirement provides an overall level of protection which is as great as, or greater than, the protection afforded by the rule. If an exemption is granted, it shall be in effect only for as long as the state administers and enforces effectively the state requirement.

The Commission here offers no opinion as to whether existing state laws or regulations provide a level of protection as great as or greater than that provided by the analogous rule provisions. As set forth in § 453.9, the Commission will instead determine the appropriate relationship between the rule and state law on a case-by-case basis in the context of an exemption proceeding conducted pursuant to § 1.16 of the Commission's Rules of Practice. The Commission will evaluate appropriate petitions for exemption made by state governmental agencies to determine the overall level of protection to consumers and whether the state regulation is administered and enforced effectively. Factors which will be considered by the Commission in determining whether an exemption is warranted include such things as the means available to the state to enforce its provisions, the existence of any private rights of action by an aggrieved consumer, and the scope and format of

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[282] Comments on Revised Rule, Academic Group, XVI–171, at 1; Other Groups, XVI–60, at 1.

[283] This provision is in accord with a parallel provision in Section 19(d) of the FTC Improvements Act of 1980. *See* 15 U.S.C. 57a note.

[284] The Commission is unaware of any state laws which would be preempted by the rule. *See* discussion in Section II(I)(2), *infra*.

[285] U.S. Constitution, Art. VI, cl. 2 states that: This Constitution and the laws of the United States which shall be made in pursuance thereof, * * *, shall be the supreme law of the land * * *, anything in the Constitution or laws of any state to the contrary notwithstanding."

[286] Perez v. Campbell, 402 U.S. 637, 652 (1971).

[287] *See, e.g.*, Nash v. Florida Industrial Commission, 389 U.S. 235, 240 (1967); Public Utilities Commission v. United States, 355 U.S. 534, 540–546 (1957). *See also* Jones v. Rath Packing Co., 430 U.S. 519, 525–526 (1977).

[288] *See, e.g.*, Castle v. Hayes Freight Lines, Inc., 348 U.S. 61 (1954).

[289] A federal law may also explicity preempt an entire area covered by state law, in which case the federal statute is viewed as having "occupied the field." *See, e.g.*, Jones v. Rath Packing Co., 430 U.S. 519, 525 (1977). The funeral rule does not contemplate this type of preemption.

[290] 612 F.2d at 667. At issue in that appeal were provisions of the Commission's Vocational School Trade Regulation Rule (16 C.F.R. Part 438) which imposed obligations on private parties that conflicted with the requirements imposed by the states.

[291] *See* Sections 453.3(a)(2)(i) and 453.5(a)(1).

[292] *See* 1978 Staff Report, *supra* note 9, at 123, n. 85 and accompanying text.

[293] *See, e.g.*, Wash. Rev. Code Ann. § 18.39.215 (1982 Supp.); Ind. Code Ann. (Burns 1982) § 25–15–1–11.1(b)(14); and W. Va. Board of Embalmers and Funeral Directors, Rules 10 (A) and (C).

[294] *See, e.g.*, Md. Ann. Code art. 43, § 267A (Supp. 1981); Minn. Stat. Ann. § 149.09(3) (West Supp. 1978).

[295] Fla. Stat. Ann. § 470.035 (West 1979).

[296] For example, most states only require a written agreement; they do not require price lists. The written agreements usually may be in the form of a single (package) price for all of the funeral homes customary charges, with separate prices only for cash advance items and supplemental items. *See* "CAFMS Survey of State Laws and Regulations," *supra* note 165, at Appendix III–C. Any funeral provider itemizing to comply with the rule also would provide the disclosure required by these states.

required price disclosures to funeral consumers.

Only state governmental entities may request exemptions from the Commission's rule under § 453.9. Funeral providers may not use this process. The determination to grant an exemption to state law will necessarily place the primary enforcement burden back onto the state to enforce its provision. Such a decision should be made solely by the state entity involved.

III. Alternatives Considered

During the course of this proceeding the Commission carefully considered several alternatives to the final rule ultimately adopted by the Commission. These options fall into three general categories: (1) Alternatives to the adoption of any rule; (2) specific rule provisions which were ultimately rejected by the Commission in any form; and (3) variations of rule provisions which were included in the final rule. The most significant of those alternatives considered which fall into the third category have been discussed in Part II of this Statement.[297]

The alternatives to the adoption of any final rule which were considered by the Commission include: (1) Taking no action; (2) issuing a nonbinding industry guide; and (3) issuing a model state law for consideration by the states. The alternative requirements which the Commission considered but did not include in the final rule were: (1) Prohibiting funeral providers from removing the remains of a deceased without authorization, or refusing to release the remains of the deceased; (2) prohibiting funeral providers from employing certain techniques and sales practices to steer consumers away from inexpensive funeral merchandise; (3) prohibiting funeral providers from engaging in concerted activity through threats or boycotts aimed at other funeral providers; and (4) permitting funeral providers to use a form of package pricing with declination credits in lieu of itemized pricing. Each of these alternatives will be discussed below.

A. *Alternatives to Any Commission Rule.*—1. *Take No Action.* Throughout the course of the funeral rule proceeding, one option considered by the Commission was that of taking no action, *i.e.*, terminating the proceeding without issuing a rule or other guidelines. This approach would essentially have maintained the status quo. Thus, the principal benefit of adopting this option is that it would impose no compliance costs on funeral providers, since they could continue their existing practices without change. In addition, this course would not have required the expenditure of any funds to enforce a rule.

The Commission has concluded, however, that these benefits are substantially outweighed by the costs to consumers arising from the unfair and deceptive practices currently engaged in by funeral industry members, costs which would continue unabated if the status quo were maintained in this market. The practices described in detail in Section II of this Statement cause consumers to pay higher prices for funeral goods and services because funeral providers are insulated from the need to set prices competitively, and cause consumers to purchase and pay for items which funeral providers misrepresent as being required by law or cemetery regulations. These and other practices prohibited by the rule result in substantial injury to consumers, injury which can be eliminated at minimal compliance costs under the provisions of the rule.[298] The Commission has concluded, therefore, that there will be a significantly greater net benefit to society if it issues the rule than if it takes no action.

2. *Rely on Industry Guides.* Under this option, the Commission would issue voluntary trade practice guides instead of a binding rule. This option was first considered by the Commission in 1976, when two industry trade associations petitioned the Commission to convert the rulemaking proceeding into one for the consideration of guides.[299] The Commission rejected this petition, declining to decide what type of action, if any, was warranted until it had an opportunity to review the evidence in the rulemaking proceeding and make findings based on that evidence.[300]

In passing the FTC Improvements Act of 1980, Congress permitted the Commission to issue a funeral rule but specifically encouraged the Commission to consider whether the goals of the rule could be achieved through voluntary guidelines.[301]

After reviewing the rulemaking record, the Commission has concluded that voluntary industry guides are not an appropriate solution to existing problems. If guides containing the rule's substantive provisions were adopted and complied with by the industry, essentially the same compliance costs would be imposed on the industry as would be imposed by the promulgation of a rule. The major "benefit" in such an instance would be the public savings which would accrue from not having to expend resources to enforce a rule.[302] Adoption of this approach, however, would not ensure that funeral providers would comply with the guides, and the benefits to consumers would be reduced by non-compliance. Clearly, if all providers complied with guidelines, consumers would receive the same benefits that the rule will provide. There is no assurance, though that voluntary guides would substantially alter the business practices of this market, since comments by industry members on the rulemaking record clearly show that there is no consensus among funeral providers on the need to revise their current sales techniques.[303] It is the Commission's judgment that voluntary guides, absent such a consensus, would not be complied with by significant numbers of funeral providers.[304] The guides would, therefore, not provide the net benefits to consumers which would be provided by issuance of a rule.

Guides might also offer the benefit of some flexibility, giving opportunities for experimentation with, among other things, different disclosure formats. Given the lack of industry consensus on the basic issue of the fairness of several major industry practices, however, this approach does not seem practical.

3. *Rely on State Action to Correct Abuses.* A third approach to correcting funeral industry abuses would be to await action at the state level, rather than to issue a federal rule. This alternative has been suggested repeatedly during the rulemaking proceeding, usually in conjunction with the expression of beliefs that existing state regulation is adequate to correct

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[297] *See* Section II, *supra*.

[298] The benefits and costs of issuing a rule are described in some detail in Section IV, *infra* (Benefits, and costs, and Other Effects of Rule Provisions). The reasons why existing practices cause consumer injury are described in detail in Section II, *supra*.

[299] Petition of National Selected Morticians, I–A–22. The petition was joined by the National Funeral Directors Association.

[300] Letter from Charles A. Tobin to David D. Murchison, Attorney for National Selected Morticians (April 10, 1978). *See* Binder 215–46–1–1.

[301] Statement of Congressman Broyhill, 126 Cong. Rec. H3859 (daily ed. May 20, 1980).

[302] This savings would be offset somewhat, however, by the costs attributable to guideline self-enforcement by industry members. In light of this, the Commission has concluded that there would not be a significant reduction in net enforcement costs to society if the guides are enforced actively.

[303] *See, e.g.*, Summary of Post-Record Comments on Funeral Industry Practices rule, XV, at 160–164 (comments in opposition to mandatory itemization).

[304] The result might be to give an unfair competitive advantage to funeral providers who chose not to comply with the guidelines.

whatever abuses might exist.[305] A proposal to the Commission by several major industry trade associations in 1980 also reflected preference for state level regulation. That proposal consisted of a set of model laws which the proposers suggested be issued by the Commission for voluntary adoption by the states.[306]

The Commission recognizes that state action to correct existing industry abuses, if such action were taken, would have significant benefits over regulation at the federal level. First, it would allocate all funeral industry regulation to one level of government (*i.e.*, the state), potentially allowing economies in the cost of enforcing regulations. Second, it would simplify the compliance burden on funeral providers, by giving them a single source of guidance for answers to their questions about their regulatory obligations. Third, state regulators should be able better to keep abreast of non-compliance in local areas than the Commission, and thus should be better able to enforce rule provisions with maximum effectiveness.

The Commission is concerned, however, that state regulation in the past has not addressed the problems which the Commission's rule is designed to correct. A review of state law submitted to the Commission in 1976 [307] and another review conducted in 1980 [308] indicate, while there has been some improvement at the state level since the proceeding commenced, that most states have not moved to enact requirements comparable to those which the Commission is adopting, particularly in the area of price disclosure.[309] The failure of state funeral licensing boards to enact regulations requiring itemized price disclosure is not surprising, given the fact that most state licensing boards are dominated by funeral directors who are likely to share the traditional view of the major trade associations that package pricing is a perfectly permissible practice.[310] Reliance on state laws would, therefore, not fully correct the significant problems identified in the record in this proceeding. Nor is there any evidence that states will be likely in the near future to enact such provisions. The Commission thus rejects the notion that promulgation of any rule should be delayed pending action by the states. The effects of current industry practices on funeral consumers are sufficiently serious that action is warranted now.

It should be noted, however, that the rule provisions presently being adopted by the Commission can serve as a model state law. Where states act to pass laws which meet the minimum level of protection for the funeral consumer established by the rule, states may secure exemptions from the operation of the rule. Section 453.9 of the rule establishes criteria which, if met, would enable states to obtain exemptions from the rule.[311] Once the exemption is received, the Commission's rule will not be in effect in that state as long as the criteria continue to be met.

B. *Alternative Rule Provisions.* The version of the funeral rule published in the initial notice of rulemaking contained four sets of provisions which the Commission has considered and decided not to incorporate in the final version of the funeral rule. Those provisions are described here, with an explanation of the Commission's reasons for deciding against their issuance.

1. *Unauthorized Removal of Remains and Refusal to Release Remains.* In the rule originally proposed by the Commission, funeral providers would have been prohibited from obtaining custody of deceased human remains without permission from a family member or other legally authorized person. They also would have been required to release remains to a family member or other legally authorized person upon request, whether or not they were owed money for services provided.[312] Both provisions were proposed to address practices which take advantage of consumers' strong reluctance to move a body once it is in a particular funeral home, even if the consumer might prefer to do business with a different funeral provider.[313]

In recommending that the Commission prohibit the unauthorized removal of remains from the place of death, the rulemaking staff cited instances in which funeral providers acquired possession of a body from a hospital or nursing home without permission from the relatives, obtained a body because the provider also served as the coroner, or because a provider misinterpreted a call for information as authorization to pick up the body.[314]

The prohibition on unauthorized removal of remains was intended to ensure that the funeral provider who received the body initially was one who was acceptable to the family or their representative. The prohibition on refusal to release remains was intended to ensure that a funeral director could not prevent dissatisfied customers from moving the body to a competitor, should they so desire.

The Commission has concluded, however, that the practices described above are not widespread and that there are sufficient safeguards in state law to protect consumers for these practices. Unlike other practices addressed by the rule, these practices are widely condemned by the industry and contrary to law in most states.[315] They are the type of conduct which consumers are likely to complain about, and consequently trigger state enforcement action. Barring such practices in the rule would contribute little, if anything, to deterring such conduct. Consequently, in

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[305] *See, e.g.*, Summary of Post-Record Comments, XV, at 123–29 (adequacy of existing state regulation).

[306] Proposed "Guides" [model law] and transmittal letter (Oct. 8, 1980), VI–7.

[307] *See* Consumer Federation of America, State Statutes, Rules and Regulations Affecting Funeral Practices, Atl. Ex. 7 (1976).

[308] *See*, CAFMS Survey of State Laws and Regulations, *supra* note 165, at Appendix III–C. The CAFMS study is based, in part, on a survey of state laws conducted by the rulemaking staff in 1980 and submitted for the record in *Funeral Industry: FTC Proposed Rulemaking: Hearings Before the Subcomm. on Oversight and Investigations of the House Comm. on Interstate and Foreign Commerce*, 96th Cong., 2d Sess. 141–144 (1980).

[309] *See* text and accompanying note 95, *supra*.

[310] Until recently, virtually all of the state licensing board members were licensed funeral directors, Consumer Federation of American, State Statutes, Rules and Regulations Affecting Funeral Practices, Atl. Ex. 7. In the last several years, the Conference of Funeral Service Examining Boards has been encouraging the appointment of "lay" members to funeral boards. As a result, most state licensing boards now have "lay" representatives, although only two states have licensing boards where funeral directors are not the controlling majority. *See Hearings on Funeral Industry*, *supra* note 308, at 258–280 (testimony of Royal Keith, Past Pres., NFDA).

Members of state licensing boards are, in many instances, chosen because they are respected industry leaders in their communities and states. As a result, they also tend to be active in trade associations. Funeral directors who have served as officers of state and national funeral trade associations have also served as state licensing board members. *See* 1978 Staff Report, *supra* note 9, at 132–136. While peer review is not inherently a conflict of interest or necessarily bad policy, it does suggest that the state boards are likely to share many of the basic values and opinions of the industry itself. While state boards are thus likely to be active in enforcing regulations against conduct or practices which the industry also condemns (*e.g.*, refusal to release a body, obtaining possession of body without permission, or misrepresentation), it is unlikely to be active in identifying as consumer problems those practices which the industry as a whole condones.

[311] Section 453.9 and the exemption process it establishes are discussed in more detail in Section II(I)(2), *supra*.

[312] The provisions are set out at 40 *Fed. Reg.* 30901 (1975) (Notice of Proposed Rulemaking, Section 453.2(b)) and were supported by the staff, after minor revisions, in the rule version appearing in the 1978 Staff Report, *supra* note 9, at 176–86 and 208–14.

[313] *See* discussion in Part II(A), *supra*.

[314] 1978 Staff Report, *supra* note 9, at 176–77, 208–09.

[315] *See* Report of Presiding Officer, *supra* note 8, at 54–59.

view of the small number of abuses and the availability of other adequate remedies, including such provisions in the rule is not warranted.

2. *Merchandise and Service Selection Techniques.* The Commission has considered and rejected a number of related recommendations of the rulemaking staff [316] which were intended to reduce funeral industry abuses by regulating the manner in which funeral providers presented caskets, as well as other merchandise and services. These provisions would have required that funeral providers:

(i) Display their three least expensive caskets in the same general manner as their other caskets are displayed; [317]

(ii) Disclose that their three least expensive caskets are available in different colors and arrange to obtain caskets in those colors upon customer request, if the caskets can be obtained within 12 hours; [318]

(iii) Not discourage a customer's selection of less expensive merchandise by disparaging its quality, misrepresenting its availability, offering defective or soiled merchandise for sale, or suggesting that a customer's concern for price reflects lack of respect for the deceased. [319]

(iv) Refrain from using any sales plan or compensation method which discourages salespersons from selling any goods or services which are offered for sale. [320]

The purpose of these provisions was to prohibit sales techniques which attempt to exploit a customer's grief or desire to show affection for the deceased in order to manipulate the customer into the purchase of more expensive merchandise. The Commission has concluded, however, that the provisions would not necessarily provide consumers with significant benefits above and beyond those provided by the information disclosure provisions in the rule. Those provisions require full information about a funeral provider's offerings and prices to be disclosed on a general price list, casket price list, and outer burial container price list. Such disclosures would let consumers know what merchandise and services the funeral providers sell, including the three least expensive caskets. The Commission was concerned that the provisions seeking to regulate oral representations would be difficult to enforce. [321] In addition, the Commission felt that the provisions singling out a funeral provider's three least expensive caskets for special treatment could result in significant compliance costs without ensuring that the goals of the provision were met. In particular, the provisions could have the adverse effect of funeral providers choosing not to sell certain low-price caskets which they currently made available to customers. The Commission has concluded, therefore, that reliance on rule provisions designed to stimulate information disclosure is the most effective way to ensure that consumers have a *bona fide* opportunity to purchase low-cost caskets and other merchandise if they so desire.

3. *Market Restraints.* As originally proposed, [322] the market restraints provision would have made it a rule violation for funeral providers to prohibit, hinder, or restrict other persons from (i) offering inexpensive funerals; (ii) entering into contracts with groups (called "memorial societies") which assist their members in making funeral arrangements; or (iii) price advertising. The provision also would have required funeral providers to place a notice in any advertising or promotional materials advising readers that funeral home prices vary considerably and that price information is available over the phone. The intent of the provision was to eliminate practices designed to stifle vigorous price competition.

The Commission has determined not to include a market restraints provision in the funeral rule. Any such provision would have to fall within the limitations specified by Section 19(c)(1)(B)(ii) of the FTC Improvements Act of 1980. [323] Section 19 permits the Commission only to prohibit or prevent the use of "threats or boycotts" by funeral providers against other funeral providers. In 1981, the Commission published a revised version of the provision which was so limited. [324] To comply with Section 19, the 1981 version of the rule did not contain prohibitions on the use of disparagement or blacklists, or the misuse of state administrative or judicial processes. Moreover, Section 19 limited such a provision to acts and practices directed against funeral providers. The scope of Section 19 did not extend to other persons who could be affected by funeral providers' market restraining practices, [325] such as casket wholesalers or body pick-up services.

After receiving comment on the midified version of the market restraints provision proposed in 1981, the Commission has decided that its inclusion in the rule is not warranted.

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[316] The provisions were set out at 40 FR 39902 (1975) (Notice of Proposed Rulemaking, § 453.4), and except for one noted below, were also proposed, with some revisions, in the 1978 Staff Report, *supra* note 9, at 301–339.

[317] The provision was directed at the practice of funeral homes not displaying their least expensive casket(s) in the same selection room as most other caskets to discourage purchase of such merchandise by all but the most persistent consumers. A number of surveys, and other evidence, showed that inexpensive caskets are often not shown in the main selection room. *See, e.g.*, Comments of Maine PIRG, II–C–1400, at 2 (one-third of 116 funeral homes failed to display least expensive casket); FTC Survey of Funeral Prices in the District of Columbia (1974) VI–D–3 (14 out of 36 funeral homes failed to display least expensive casket); H. Buckingham, Maryland consumer, II–B–1159; H. Staples, Florida consumer, II–B–1444. The evidence also indicated that this practice will be successful in preventing most consumers from purchasing the least expensive casket. A NYPIRG survey of 127 consumers found that only 28 realized that there might be caskets available besides those they saw, and only 7 of those respondents asked if anything less expensive was available. NYPIRG Ex. 1 (N.Y.), at 6.

[318] There was some evidence of funeral providers intentionally displaying inexpensive caskets in a damaged condition to discourage their purchase. Instances were cited of inexpensive caskets with nails showing, straw sticking out, and with linings that were worn or ripped. *See* J. Page, California funeral home employee, Tx 7375–77. *See also* R. Mee, former Wisconsin casket salesman, III–F–16, at 5. *But see* Rebuttal of NSM, X–8 (Q–R); Rebuttal of NFDA, X–9 (20).

[319] A number of reports on the record indicate that purchase of inexpensive caskets has been discouraged by referring to them as "welfare" caskets, or "pauper's boxes." *See, e.g.*, J. Greyson, Indiana consumer, II–B–1436; W. Troemel, New Jersey consumer, II–B–436; J. Sagan, Massachusetts consumer, II–B–2239 at 3; C. Moles, Iowa consumer, II–B–316. Similarly, funeral directors appear to have attempted to discourage cremation by referring to that form of disposition as "disposals." *See* L. Smith, California student, VI–D–54, at 7; E. Morgan, author, Tx 9663. The various ways in which concern for price might be discouraged by funeral providers are described generally in the 1978 Staff Report, *supra* note 9, at 320–25.

[320] The evidence indicated that a few of funeral homes in different parts of the country used compensation systems which linked pay to the size of funeral sales. *See* J. Page, California funeral home employee, Tx 7346; K. Marsh, California funeral director and attorney, Tx 6757; H. Semicon, New York funeral director, II–A–145. However, staff deleted the provision from their 1978 recommended rule based upon their view that the limited incidence of the practice and the lack of evidence that it produced significant consumer injury did not warrant the provision's inclusion in the rule. *See* 1978 Staff Report, *supra* note 9, at 337. The Commission also finds that the provision is not appropriate for inclusion in the rule.

[321] The provisions banning the disparagement of merchandise or a concern for costs were not based on deception, but unfairness. As a result, it was not possible to prevent the abuse through affirmative disclosures, as was the case with other oral misrepresentations addressed by the rule. *See* Section II(B), *supra*. Enforcement would have depended solely upon consumer complaints, which would have made enforcement difficult. Further, the scope of the provisions was so vague as to raise serious questions whether funeral providers would have an adequate understanding of the conduct proscribed by the rule.

[322] *See* 40 *Fed. Reg.* 39904 (1975) (Notice of Proposed Rulemaking, Section 453.5).

[323] Public Law 93–252, 87 Stat. 361, 15 U.S.C. 57a note.

[324] *See* 46 FR. 6979 (1981) (Notice of Publication of Revised Proposed Rule and Notice of Opportunity to Comment, Section 453.4).

[325] *See* Section 19(c)(1)(B)(ii), 15 U.S.C. 57a note.

One reason is that the conduct proscribed in the provision was, as limited, already against the law. Since the Commission has the authority to bring individual actions against such violations of the antitrust law, adding such provisions to the rule would be superfluous. In addition, much of the evidence to support earlier version related to abuses which could no longer be covered by the rule under Section 19. It related to activities which are not "threats" or "boycotts" or to activities directed against persons or entities other than funeral providers.[326] The Commission finds that the acts and practices described in the record which fall within the limitations of Section 19 do not warrant a rule provision.

While the Commission has chosen not to include a "market restraints" provision in the final rule, it wishes to make clear its resolve to proceed on a case-by-case basis against any such future activities. The record contains allegations that boycotts and other concerted activity may have been directed at entities attempting to enter the funeral market and offer non-traditional services, such as direct disposition.[327] The Commission encourages industry members, consumers, and others to bring such incidents to its attention.

4. *Nonitemized general price list.* In 1981 the Commission received a proposal from two funeral director trade associations for an alternative version of the rule which would be acceptable to their memberships.[328] The proposal was not accepted, however, by NFDA, the largest funeral trade association. The proposal was supported by some of the Commission's staff.[329] A central feature of the proposal was its price disclosure provision, which gave funeral providers the option not to quote separate prices for the individual goods and services they sell.

Under this proposal, funeral providers would have had the option of listing their funeral arrangements by packages, with each package stating a price and including a description of every funeral good or service it contained. Funeral providers who chose this option also would have had to prepare a credit list, which would have separately indentified the funeral goods and services in the packages and would have shown a dollar amount which would be subtracted from the package price if a consumer declined a particular funeral good or funeral service included in that price. This "package with credits list" proposal would have affirmatively informed consumers of their right to decline.

In opposing this alternative disclosure format, many consumers and consumer groups argued that sanctioning package pricing would encourage consumers to continue purchasing packages;[330] indeed, some contended that the alternative would have the effect of establishing the so-called "traditional" funeral as the standard or norm.[331]

After careful consideration, the Commission rejected the proposal and adopted itemization instead. While the Commission is aware that the proposal would have ensured significantly greater opportunity for choice than present industry practices permit, the Commission was concerned that placing the burden on consumers to affirmatively reject goods and services "bundled" by funeral providers was inappropriate given the consumer's unique vulnerability and dependence on the funeral director for guidance. The "package with credits list" format suggests that the consumer who wants less than a full funeral must choose something other than "normal," whereas the itemization format legitimizes the concept that each part of the funeral is something that is affirmatively chosen by a consumer. Further, in view of the traditional reluctance to "bargain" or "negotiate" prices when arranging a funeral, stemming in part from natural reservations about the propriety of price concerns when arranging a funeral for a loved one, putting the consumer in the position of deciding how to *save* money, rather than deciding how to *spend* money, is likely to have very different results. In short, the Commission decided that it was necessary, in light of the consumer's unique position and past industry sales practices, to remove any vestiges of "packaging" which would suggest to consumers what was appropriate.

In addition, allowing alternative formats would inhibit the consumer's ability to compare prices, one of the goals of the rule. Under the itemization proposal adopted by the Commission, every funeral director is required to have a relatively standardized price list, which can be used to give prices over the telephone or which consumers can obtain from different homes.[332] Under the package with declination proposal, some funeral directors would have itemized lists, while others would have package-with-credits lists, making comparison shopping more difficult.

Finally, itemization is more consistent with the trend in state laws and with trends in the industry itself.[333]

The primary benefit of the alternative price list would be a possible reduction in compliance costs to funeral providers. This reduction might be possible because it would take less time for those funeral providers who currently quote package prices to prepare the alternative price list than to prepare a list with separate prices. However, it is the Commission's judgment that the burden of preparing itemized price lists is itself quite low [334] and that the incremental savings in compliance costs from allowing use of an alternative price list would be minimal.[335]

The trade associations supporting the proposal also believed that the "package with credits" proposal would enable funeral providers to continue using a "graduated recovery" [336] approach, thereby avoiding the itemization's alleged effect of raising prices for low-cost package funerals. As discussed in more detail in Section V(B), *infra*, itemization does not preclude "graduated recovery" and it will not necessarily result in higher prices for low-cost package funerals.

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[326] *See* 1978 Staff Report, *supra* note 9, at 409–425.

[327] *See* 1978 Staff Report, *supra* note 9, at 420–28.

[328] Letter and attached Comment, David C. Murchison and Daniel P. Oppenheim, attorneys for National Selected Morticians and Larry C. Williams, Sr., attorney for National Funeral Directors and Morticians Association, XVI–89 (March 23, 1981).

[329] Staff recommendations on the funeral rule, XVIII–1 (June 26, 1981); Letter of Albert H. Kramer, Director, Bureau of Consumer Protection (March 19, 1981), XVI–89, Ex. A. *But see* Memorandum from L. Dorian, Deputy Director, Bureau of Consumer Protection (June 29, 1981), XVIII–2 (recommending that the Commission not adopt the proposal).

[330] *See, e.g.*, Rebuttal Comment of NRTA/AARP, at XVII–23 (May 13, 1981); Rebuttal Comment of NCSC/ADA/CAFMS, XVII–16, at 30, 32 (May 13, 1981).

[331] *See, e.g.*, Rebuttal Comment of NRTA/AARP, *supra* note 330, at 10.

[332] Of course, funeral directors may offer packages *in addition to* itemized price lists, as discussed, *infra*.

[333] Possibly as a result of the increasing number of state and localities who are requiring itemization, *see* note 95, *supra*, the percentage of funeral directors using itemization has increased over the last fifteen years. For example, in 1971, 74% of funeral directors used unit or bi-unit pricing. *See* 1971 Professional Census, *supra* note 114. In 1976 the number of funeral directors using unit or bi-unit pricing had dropped to 66%. *See* 1976 Statistical Abstract, *supra* note 31.

[334] *See* discussion of costs and benefits for price disclosure provisions of rule in Section IV, *infra*.

[335] The proponents of the alternative price list also suggested that it would benefit consumers through lower costs for funeral arrangements. However, this "benefit" is based upon the view that itemized prices are higher than package prices. The Commission rejects such a view for the reasons stated in Section V, *infra*.

[336] For a more detailed discussion of "graduated recovery" see Section V(B)(6), *infra*.

IV. Analysis of Projected Benefits, Costs, and Effects of Funeral Rule

This section provides a summary analysis of the costs and benefits of the individual provisions of the funeral rule. Each provision of the rule is designed to address particular abuses reflected in the rulemaking record. As a result, the provisions of the rule are largely segregable from each other for purposes of analyzing its projected benefits, costs, and effects.

The costs and benefits of certain provisions are interrelated, however. The interrelated provisions are:

1. Section 453.2 which requires the disclosure of prices on an itemized basis and § 453.4(b) which ensures that consumers can purchase on an itemized basis;

2. Section 453.3(a) which prohibits misrepresentations concerning when embalming is required and § 453.5 which requires funeral providers to obtain prior approval for embalming;

3. Section 453.3(b) which prohibits misrepresentations concerning the legal requirements for purchasing a casket for cremation and § 453.4(a) which prohibits funeral providers from imposing that requirement themselves;

4. Sections 453.3 (c) through (f) which address other misrepresentations; and

5. Section 453.6 which imposes a recordkeeping requirement.

The costs and benefits of these five groups of provisions will be discussed together.

A. *Section 453.2 (price disclosures) and § 453.4(b) (optional purchases).* These portions of the rule address funeral industry practices which prevent consumers from selecting a funeral home on the basis of the prices it charges and from selecting different options for funeral arrangements once at the home. Most consumers do not get price information over the telephone, and in some instances, consumers cannot get price information over the telephone even when they ask.[337] Yet choosing a funeral home is a serious financial decision, since consumers will not change funeral homes once the funeral director has taken possession of the body. If price information is to be obtained prior to selecting a home, it must be obtained quickly since the body must be moved soon after death.

The record also indicates that after consumers have chosen a particular funeral provider, the practice of "package pricing" makes it difficult or impossible for consumers to select the type of funeral option which most suits their needs. The package price does not disclose the individual prices of the arrangement's components, or even that the arrangement consists of discrete components.[338] Many funeral providers refuse to sell other than a complete funeral package and refuse to give consumers a discount even if the consumer desires not to purchase all items in the package.[339]

The fact that consumers fail to obtain detailed price information before selecting a funeral provider and often cannot get such information even at the funeral home tends to insulate individual funeral providers from price competition. The lack of competition suggests that the overall level of prices in the funeral industry are higher than they otherwise would be in a properly functioning competitive market. Moreover, the refusal to sell on an item-by-item basis in the funeral home limits consumers' options and forces them to pay for items which they might refuse to purchase if given the opportunity to do so.[340]

1. *Benefits.* The rule benefits consumers by reducing the economic injury resulting from the aforementioned practices. It does so through a twofold approach. First, it alerts consumers that price information is relevant and available at the critical moment of choosing a funeral provider, and ensures that consumers can obtain sufficient price information to comparison shop among different funeral providers. The telephone price disclosure provision (Section 453.2(b)(1)) requires that funeral providers make price information available over the telephone. The provisions requiring itemized information on a general price list (Section 453.2(b)(2)), casket price list (Section 453.2(b)(2)), and outer burial container price list (Section 453.2(b)(3)), provide a relatively uniform format for the information which will be given to consumers over the telephone, further facilitating comparison shopping. Comparison shopping will help stimulate price competition among funeral providers, thereby better enabling consumers to get the maximum benefit for their money.

Second, the rule gives consumers in the funeral home an opportunity to consider various options and purchase only those items they desire. The itemized price lists disclose the costs of different goods and services, making such comparisons possible. Itemized information also would be made available on the itemized statement required by § 453.2(b)(5). This information would allow consumers to see the total cost of the items they tentatively have decided to purchase for a given funeral and to evaluate them in conjunction with each other. Section 453.4(b), the "optional purchase" provision, ensures that consumers can make use of such price information by making a decision to decline items which they do not wish to purchase.

The Commission anticipates that these provisions will reduce economic injury through both a short term and a long term effect. In the short term, the greater ease with which consumers will be able to obtain price information for purposes of comparison shopping should substantially increase the number of consumers who do so.[341] This in turn, will create a pressure on funeral providers to price their products at competitive levels in order to continue receiving business from consumers who comparison shop. Even consumers who do not comparison shop will benefit from this overall tendency toward lower prices. In addition, all consumers will have the opportunity in the funeral home to purchase only the items they want and to pay accordingly. This will provide them with another opportunity to exercise their choice and save money.[342] Such an opportunity will be the only one directly available to consumers who are unable to comparison shop among funeral homes.

In the long term, increased competition may further benefit consumers by changing the structure of the funeral industry. As prices decrease, the principal way by which existing funeral providers will be able to keep up their profit margins will be by lowering their costs per funeral. This should give at least some firms an incentive in the long term to become more efficient, possibly by adapting their physical plant and marketing strategies or providing more specialized services at greater volume.

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[337] *See* discussion in Part II(A), *supra*.

[338] *Id.* at note 75 and accompanying text.

[339] *Id.* at note 76 and accompanying text.

[340] *Id.* at notes 92–102 and accompanying text.

[341] Surveys of consumer attitudes and other evidence on the rulemaking record suggest that a substantial number of consumers would use such information. *See* 1978 Staff Report, *supra* note 9, at 510–11. For example, a 1974 survey sponsored by The Casket Manufacturers Association reported that 95% of the respondents felt that such information was "somewhat" or "very helpful."

[342] A trade association survey revealed that from 10% to 40% of consumers responding would not use such services as embalming (9.5%), other care of the body (9.7%), visiting hours (20.9%), funeral services in the funeral home (11.4%), family car (29.1%), and other automobiles (40.6%). Moreover, in every one of these categories, another one-quarter to one-third of the respondents were undecided. The survey received these responses based on questions which quoted specific dollar amounts for the services in question. Blackwell Survey, *supra* note 50, at Question 8.

In addition, greater availability of price information may encourage entry into the funeral market of new competitors seeking to attract business by offering lower prices. Such potential competitors appear to be inhibited from entry into the market in most areas of the country by existing practices which make price comparisons difficult and which, thereby, decrease the likelihood that consumers will comparison shop.[343] This decreases the pool of potential customers for any new venture and increases the likelihood that the venture will fail.

2. *Costs.* The Commission believes that the price disclosure provisions will result in two types of compliance costs to funeral providers. First, most funeral providers will be faced with the initial cost of revising their method of quoting prices so as to come into compliance with the rule. Second, they will incur some ongoing costs as they remain in compliance with the rule.

The most substantial initial compliance cost which faces funeral providers will be that falling on those funeral providers who do not currently quote their prices in an itemized manner, approximately 65%.[344] These individuals will be required to produce price information in a format different from that which they currently use.

The Commission estimates that the compliance costs for these funeral providers to revise their pricing formats will be relatively low. One reason is that the preparation of itemized price information will not require that most funeral providers search out new cost data. Rather, the basic data which they will need to use is already available to them and, in fact, is currently used by them, albeit in a different format. Most funeral directors who presently use package pricing also offer credits for unwanted items, and such credits can be a basis for the itemized prices. For others, a number of business texts provide basic "do it yourself" methods for determining prices under an itemization system.[345] It can also be expected that state and national associations will assist in giving advice, and that the experience of funeral providers who have been required to switch to itemization under state law will be useful.

In addition to this cost, which only some funeral providers will incur, all providers will be required to prepare the printed papers, notebooks, charts, or other forms which are the tangible medium on which price lists and statements will be shown to consumers. The time involved in designing the lists also will be minimized, however, through availability from the Commission and other sources of model forms.[346] Funeral providers will be able to convert the model forms into actual price lists and statements simply by inserting in appropriate places the necessary information (such as name, address, and prices) for their particular business.

Besides these initial costs, there will be three relatively minor ongoing costs of complying with the price disclosure provisions. One will be the increased time spent explaining prices over the telephone as more consumers use the telephone to comparison shop. The absolute amount of additional time spent answering price questions over the phone would be minimal, however, given that the prices which are listed on the general price list are basic and relatively few in number and given that, for the most part, the funeral provider need only read these few prices (or a subset of them, if only that is requested) over the phone.

The second ongoing cost would be the cost of reproducing the price lists and statements so that copies of the forms could be made available to consumers. This cost would be nominal for the casket and outer burial container price lists, which do not have to be given to consumers for retention. It also would be negligible for the statement, since it can be merged with forms which funeral providers already use. The marginal cost therefore would be small. The only potentially significant cost would be that of reproducing the general price list, which must be provided to consumers for retention. Given that the average funeral provider conducts 94 funerals a year, however,[347] even in this case the actual number of forms given out would be small and the cost of complying with the provision would be only a few dollars a year.[348]

The third ongoing compliance cost would be the time involved in updating the price lists as the funeral provider's prices or offerings change. However, the incremental burden imposed by the rule in this connection would be small, since funeral providers are already obliged to recalculate their prices whenever their costs or offerings change, irrespective of the pricing method they currently use. If any additional effort were imposed by the rule, it would be time involved in transposing these prices to the price lists required by the rule.

B. *Section 453.3(a) (embalming misrepresentations) and Section 453.5 (prior permission for embalming).* Section 453.3(a) prohibits funeral providers from representing that embalming is required by law when it is not or failing to disclose to consumers that embalming is not required by law except in certain special cases. To prevent such practices, the provision requires that consumers be given a written disclosure advising them of their right, except in special cases, to select arrangements which do not require embalming. The purpose of § 453.3(a) is in short, to ensure that consumers know that embalming is an option.

Section 453.5 works together with § 453.3 by requiring funeral providers in most instances to obtain permission before embalming. Section 453.5 also requires that funeral providers give consumers a disclosure advising them that they have the right not to pay for embalming performed without their prior permission if they select arrangements which do not require embalming. Thus, § 453.5 ensures that most consumers will have the opportunity to exercise a choice in deciding whether or not embalming should be performed.

1. *Benefits.* A significant benefit of these provisions will be to end practices which deceive consumers into purchasing embalming through misrepresentations of those instances where providers embalm without permission. Where embalming would be prevented through the operation of the rule, a savings of the cost of embalming, which amounts to between $50 and $150 per arrangement, will result.[349] The rulemaking record suggests that a substantial percentage of consumers would decline embalming if offered a true choice, possibly as many as thirty percent.[350] While it is impossible to

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[343] *See* discussion in Part II(A), *supra*, at notes 98–103.

[344] *Id.* at note 83.

[345] *See, e.g.*, Blackwell, Talarzyk and Beever, A Manual for the Return-on-Investment Approach to Professional Funeral Pricing (1976); Pine and Pine, Adaptive Funeral Pricing and Quotation (1975).

[346] In addition, the model price lists and statement which the Commission is publishing simultaneously with the rule provide simple, basic guidance on the type of prices which funeral providers must use.

Shortly after the funeral rule was proposed, the National Funeral Directors Association distributed model price disclosure forms. Similarly, state trade associations have helped their members by providing sample forms in states which have enacted itemization requirements. *See* 1978 Staff Report, *supra* note 9, at 488, n. 40. The Commission anticipates similar trade association activities in helping funeral providers comply with the rule.

[347] *See* 1978 Staff Report, *supra* note 9, at 85.

[348] The rulemaking record indicates, of course, that one effect of the rule will be to encourage consumers to contact two or more funeral providers before deciding with whom to make arrangements. Most such contacts will be by phone, however, and would not involve handing out price lists.

[349] *See* discussion in Part II(D), *supra*, at note 248.

[350] *Id.* at notes 247–248.

predict with certainty the number of consumers who will decline embalming given a choice, even a relatively small percentage of declination can amount to large savings. The total benefit to consumers from these provisions alone, therefore, could be expected to equal millions of dollars a year in savings.[351]

2. *Costs.* The provisions will result in minimal initial and ongoing compliance costs for funeral providers. The only initial costs will be those involved in preparing the disclosures required by §§ 453.3(a) and 453.5. There disclosures can be copied verbatim from the model general price list and model statement of funeral goods and services selected which the Commission is publishing along with the rule.

In addition to these initial costs there will be minimal ongoing compliance costs. The only such costs of significance are attributable to § 453.5, and are the costs of the time involved in obtaining prior permission for embalming. These costs should be negligible, however, since approval may be obtained either orally or in writing, and in whatever manner is most expeditious under the circumstances. Typically, permission could be requested of the family during the "first call", when the funeral provider is asked to pick up the body, or during the funeral arrangements conference if that conference is held within a few hours of death. Moreover, § 453.5 has a built-in limitation to ensure that costs of seeking prior permission do not become excessive in extraordinary cases. The Section specifically permits embalming without prior permission if the funeral provider is unable to contact a family member or other authorized person after exercising due diligence (and has no reason to think that the family does not want embalming performed). Thus, the cumulative burden of obtaining prior permission for embalming should be minimal.

C. *Section 453.3(b) (casket for cremation misrepresentations) and § 453.4(a) (alternative container requirements).* The rulemaking record indicates that consumers seeking to arrange direct cremations want to buy inexpensive cremation containers in lieu of an ornamented, and correspondingly more expensive, casket.[352] Sections 453.3(b) and 453.4(a) of the rule are intended to eliminate two related practices. Section 453.3(b) prohibits funeral providers from representing that the law requires a casket for cremation. Section 453.4(a) correspondingly prohibits funeral providers from imposing that requirement themselves. The provision further requires that funeral providers who arrange direct cremations make simply constructed body receptacles (unfinished wood boxes and alternative containers) available to consumers desiring to use such items for direct cremations. Finally, § 453.3(b) requires that funeral providers give consumers a written disclosure to inform them of their right to purchase merchandise other than ornamented caskets for direct cremations.

1. *Benefits.* These provisions will enable persons desiring low-cost, simple dispositions to obtain unfinished wood boxes or alternative containers. The benefit to consumers will be a savings in their total funeral costs. As is the case with embalming, discussed above, these economic savings can be substantial. For example, cardboard, composition, and wooden alternative containers typically cost no more than $20 to $65 at retail, while ornamented metal or solid wood caskets sell for at least $150 to $250.[353] The total savings, of course, would depend on the rate at which consumers will choose to buy such containers in lieu of caskets. While a precise prediction of the rate is impossible, even a modest rate could result in significant aggregate savings.[354]

2. *Costs.* The only potentially significant compliance costs imposed by either § 453.3(b) or § 453.4(a) will be imposed by § 453.4(a). Section 453.3(b) will result in some very minor initial compliance costs, because it requires funeral providers to place a written disclosure on the general price list. However, this can be done quickly and simply by copying the disclosure appearing on the model general price list which accompanies the rule.

On the other hand, the requirement in § 453.4(a) that unfinished wood boxes or alternative containers be "made available" to customers arranging direct cremations could impose somewhat more significant costs on some funeral providers. Even so, these would be negligible for the great majority of funeral providers because the Commission deliberately has drafted § 453.4(a) only to require that unfinished wood boxes or alternative containers be "made available" to customers. Most funeral providers, therefore, would not have to stock such items, since the items could be made available to customers from the stock of the casket wholesaler with whom the funeral provider normally does business. Consequently, most funeral providers would not have inventory or storage costs; the item would be bought only after being ordered by a consumer. The Commission thus anticipates that most funeral providers will be able to comply with § 453.4(a) without any special expenditure of time or money.

A relatively small number of funeral providers, such as those in isolated rural areas, would have to stock unfinished wood boxes or alternative containers so that they would be available to customers arranging direct cremations. For such funeral providers, the compliance burden would be inventory and storage costs. None of these costs should be substantial, however. Funeral providers would only be required to stock a sufficient number of containers to meet expected demand. An average funeral home might arrange 3 or 4 direct dispositions per year.[355] Of course, funeral directors can rely on their experience in predicting the demand for such items in their own community. Inventory costs, then, will be low: for most homes having to stock them, having one or two such unfinished wood boxes or alternative containers would be sufficient. The record shows that such containers have a wholesale cost of as little as $5.[356] Storage costs are also minimal, since many types are collapsible, thereby minimizing storage problems.[357] It is the Commission's

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[351] Approximately 1.9 million funerals are arranged per year. An NFDA-sponsored survey indicated that 9.5% of consumers would decline embalming in an "average" funeral home, while 24.7% more were undecided. Taking a hypothetical declination rate of 10% and an embalming cost of $75, the total savings to them would be over $14 million. Blackwell Survey, *supra* note 50, at Question 5.

[352] *See* Section II(B)(2)(a), *supra*.

[353] 1978 Staff Report, *supra* note 9, at 239, nn. 110, 112. The rule does not, of course, require that funeral providers charge $20–$65, or any other prices for unfinished wood boxes or alternative containers. However, the rule does require that the items be constructed of a limited range of typically inexpensive materials. This will make it difficult for funeral providers to sell such merchandise at an abnormal mark-up.

[354] In 1977, the direct disposition rate was approximately 4.5%. Where cremation is the form of direct disposition, caskets would be unnecessary and consumer could save from $70 to $200 (the difference between the price of alternative containers and the least expensive casket.) If 70% of direct dispositions are cremations, and if only 10% of those consumers choose to save the minimum amount ($70), total aggregate savings would be $418,950. On a high range, if 90% of the consumers buying direct cremation save the maximum amount ($200), total consumer savings would be $10,733,000. In one chain of funeral homes which disclosed that caskets are optional, nearly 15% of the *total* dispositions (including burials and full funerals) involved the purchase of a minimal container. Purdy, Oregon funeral director, Sec. Ex. 3.

[355] Based on an average 84 funerals per year and a 4.5% direct disposition rate. *House Small Business Comm. Hearings*, *supra* note 30.

[356] Progressive Mortuary Methods, 1976, II–A–660, at 8.

[357] *See* Staff Report, *supra* note 9, at 245.

conclusion that the direct compliance costs will be relatively minor.

One indirect effect of this Section of the rule may also impose costs on consumers. Some funeral directors may find it more profitable to stop offering cremation altogether, rather than offer cremation with alternative containers. While this possibility exists, the Commission believes that several factors make such an outcome unlikely. A funeral director who does not offer cremation at all is likely to lose some customers to other funeral homes who do offer it or, in some areas of the country, to immediate disposition firms. While a direct cremation may not be as profitable as a full funeral, it is more profitable than losing a customer altogether. Since many funeral homes operate barely over break-even points,[359] many funeral directors may be reluctant to take the risk of losing even several customers who will make at least some contribution to fixed costs while paying variable costs.[359] Finally, the price lists required by the rule and the telephone price information requirement will make it easy for consumers to determine whether a funeral home offers cremation. To the extent the rule encourages such shopping, it is unlikely that the overall availability of cremation will decline even if individual firms decide to stop offering it.

D. *Sections 453.3(c)–(f) (misrepresentations other than embalming or casket for cremation).* These provisions address a variety of factual misrepresentations and failures to disclose material information. Specifically:

(i) Section 453.3(c) prohibits funeral providers from claiming that laws or cemetery regulations require the purchase of outer burial containers if they do not. The section also requires that funeral providers disclose this information to consumers by means of a statement on the outer burial container price list.

(ii) Section 453.3(d) is a general prohibition against misrepresentations of requirements imposed by federal, state, or local laws or by cemetery or crematory regulations. To decrease the frequency of such misrepresentations, the provision requires that funeral providers briefly describe in writing any requirements orally represented to a customer.[360]

(iii) Section 453.3(e) prohibits two types of false claims about product characteristics. First, it prohibits funeral providers from claiming that funeral goods or services can delay decomposition for a long-term or indefinite time. Second, it prohibits claims that funeral goods (primarily caskets and outer burial containers) will protect the body from gravesite substances (such as water) if they cannot.

(iv) Finally, § 453.3(f) prohibits funeral providers from claiming that they are billing their customers at cost for items purchased for the customer from other persons ("cash advance items"), *e.g.*, flowers or obituary notices, if this is not the case. Correspondingly, the Section requires that funeral providers disclose in writing that they charge for their services in obtaining cash advance items if they do.

Unlike the three sets of provisions described in the immediately preceding sections, these provisions do not address interrelated problems. However, these provisions operate in similar ways to address their discrete problems. For this reason, their benefits and costs can be described together.

1. *Benefits.* With the partial exception of the provision on cash advance items, all of the misrepresentation provisions produce benefits in identical ways: They reduce the economic injury which consumers suffer when misrepresentations or failures to disclose material information induce consumers to purchase unnecessary products. Such losses can be substantial. For example, burial vaults range in price from $190 to $1,500.[361] If a consumer is told falsely that such items are required by law or cemetery regulations, the economic injury can thus be considerable. Even if the cemetery does, in fact, require use of some sort of outer burial container, misrepresentations about such requirements can still cause substantial economic losses to consumers. Cemeteries do not require use of burial vaults *per se*. They permit, alternatively, the use of grave liners, which range in price from $55 to $180. *See* Part II(B)(3)(a), *supra*, at note 175. The difference between this price and the price of a burial vault represents economic injury to a consumer who would have purchased a grave liner if told of the option to do so. Similarly, a consumer who purchases a "sealer" casket (one which keeps out water and other gravesite substances) in the mistaken believe that such a casket will preserve the body may pay $300 to $500 above the price for comparable caskets which are not sealers.[362] However, the merchandise will not perform the function for which a premium price was paid. By preventing misrepresentations and providing accurate information to consumers through disclosures, § 453.3(c)–(e) help ensure that consumers only pay for items which are truly necessary or desired by the consumer for the arrangements selected or which have a genuine ability to perform in the manner described.

The provision on cash advance items also can save consumers money, although in a slightly different manner. Section 453.3(f) helps ensure that consumers are told if they are being charged an amount above and beyond the funeral provider's stated fee for professional services to obtain cash advance items. The consumers then may elect to obtain the items directly and save on the service fee. While these savings would vary depending on the amount of the funeral provider's surcharge, they could be substantial.[363]

2. *Costs.* With the exception of § 453.3(d) the costs of these provisions are virtually nonexistent. They impose only two types of obligations on funeral providers. First, most provisions require that funeral providers prepare standard preprinted (or written) disclosures for inclusion on one of the price lists or the statement which the rule requires. However, these disclosures simply can be copied from the Commission's model forms. Second, the provisions require that funeral providers cease to make certain misrepresentations. This does not require funeral providers to take any affirmative steps or to incur corresponding compliance costs.

Section 453.3(d) is somewhat different from the rest of the provisions because it also requires that funeral providers briefly describe in writing any legal or cemetery requirements which they represent orally to a customer. The amount of time to do so can be expected to vary from one arrangement to another. However, it will be largely

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[359] Blackwell, Appendix B of prepared stmt, D.C. Ex. 20.

[360] *Cf.* S. Shavell, Pro. Economics, Tx 11, 909, 11,924.

[360] Of course, funeral providers desiring to make misrepresentations without detection might consider simply not writing such misrepresentations down. However, the rule requires a preprinted disclosure on the statement of goods and services selected informing consumers that oral claims about legal or cemetery requirements also will be noted in writing. If this does not occur, that fact alone would serve to alert consumers that something was amiss.

[361] *See* Part II(B), *supra*, at note 179.

[362] *See* 1978 Staff Report, *supra* note 9, at 202.

[363] The National Funeral Directors Association's 1977 annual survey of funeral home economic data revealed a 5% difference between the reported income attributable to cash advance items and the corresponding expense figure. This statistic suggests an average national service charge equal to 5% of the cost of cash advance items. The total mark-up amounts to nearly $18,000,000. 1977 Statistical Abstract, *supra* note 101.

within the funeral provider's own control, since statements need not be described in writing unless the funeral provider elects to make them orally in the first place. At most, it might involve a brief description of an embalming regulation and a cemetery requirement. In many situations it would not even be necessary to describe the cemetery requirement, if the customer expressed a desire to purchase an outer burial container for other reasons. Thus, the overall time necessary to comply with § 453.3(d) should be small.

E. *Section 453.6 (recordkeeping requirement).* Section 453.6 of the rule requires that funeral providers keep a copy of each nonidentical casket price list, outer burial container price list, and general price list disseminated to customers as well as a copy of each statement disseminated to customers. The provision does not directly remedy specific abuses. Rather, it is a remedial requirement which will help end the unfair and deceptive practices identified in § 453.2 and § 453.3 of the rule. It will simplify rule enforcement by enabling Commission staff to examine written records rather than having to conduct more time-consuming oral interviews to detect rule violations.

1. *Benefits.* As noted above, the recordkeeping provision will benefit consumers by helping to ensure compliance with the substantive provisions of the rule. As part of its enforcement program, the Commission will check the records of individual funeral homes to ensure that the price lists and statements required by the rule are complete. Since most of the information which the rule requires be given to consumers will be contained on the price lists and statement of services selected, availability of those documents for inspection will make it possible to detect rule violations efficiently and thus to enforce the rule effectively. The recordkeeping provision will thereby have substantial deterrent value.

The principal alternative to a recordkeeping provision would be to use consumer complaints to detect rule violations. However, evidence on the rulemaking record shows that the frequency with which consumers complain about problems in this area does not appoach the frequency with which they occur.[364] In part, this absence of complaints is attributable to the fact that the experience of making funeral arrangements is unpleasant, so that consumers are anxious to put the experience behind them rather than to relieve it by registering a complaint. In part, the lack of complains also is attributable to the fact that consumers are not sufficiently informed to be aware that any improper practices have occurred.

To a considerable extent, therefore, the Commission will need to rely on its own resources to monitor compliance with the rule. The recordkeeping requirement significantly increases the effectiveness of such monitoring by requiring that a substantial majority of the information which the rule requires to be disclosed is readily available for examination by Commission officials.

2. *Costs.* The compliance burdens attributable to Section 453.6 are the tasks of: (1) Storing forms; and (2) removing forms from storage. The amount of time which would be required to perform these functions would depend on the number of funerals arranged yearly by a funeral provider. However, the Commission estimates that the amount of time required to comply with the provision will average under one hour per year for individual funeral providers.[365]

V. Other Economic Issues Raised in the Proceeding

In this section of the regulatory analysis, the Commission discusses two economic issues not specifically addressed in the analysis of the costs and benefits for particular rule provisions. One issue is the general effect of the rule on consumers and small businesses. The other issue is whether or not itemization will cause funeral prices to rise.

A. *Effects of the rule on small businesses and consumers.* There are approximately 22,000 funeral providers in the United States.[366] A 1973 report by the U.S. Department of Commerce indicates that most have a small payroll, with 80% employing seven or fewer persons.[367] Trade association statistics show that in 1972, the average number of deaths per funeral establishment was ninety-four,[368] or fewer than two a week, although actual case volume varies greatly.[369] These statistics and others are consistent with a conclusion that funeral establishments are primarily small businesses.

Thus, it is evident that the primary impact of the rule will be on small businesses. The Commission anticipates that the impact of the rule will be primarily manifest in three areas. First, compliance costs will slightly increase funeral providers' business expenses. The review of the rule's costs and benefits in Part IV indicates, however, that compliance costs will not be significant. Most would be one-time costs attributable to initial preparation of the price lists and "statements of funeral goods and services selected" required by the rule. The only potentially ongoing compliance costs would be those involved in updating the price lists, providing the general price list for retention to customers, and retaining records for a period of one year. There is no reason, however, to believe that these costs would be anything more than minor.

Indeed, evidence on the rulemaking record confirms the fact that compliance costs would be negligible.[370] For example, a survey on the subject of compliance costs,[371] authorized by the Commission, concluded that the cost of complying with the rule would not be significant. These results derived from direct queries to funeral providers about the difficulty they would have had complying with the 1975 version of the funeral rule. In-depth interviews were conducted at a variety of different funeral homes in the Atlanta area, including urban and rural, large and small firms. Compliance costs for the 1975 rule version, according to the survey, were not significant for the industry members surveyed. Even so, the Commission has subsequently revised the rule to futher reduce compliance costs.

Additional evidence that the rule would not be burdensome comes from the expressed views of two of the major funeral trade associations. These associations proposed an alternative rule virtually identical to the final rule promulgated by the Commission with

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[364] *See, e.g.*, 1978 Staff Report, *supra* note 9, at 452–60.

[365] The calculations which resulted in this figure are described in a "Supporting Statement" which the Commission submitted to the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980. *See* Letter from the Commission, to the Honorable David A. Stockman, (March 8, 1982).

[366] 1978 U.S. Industrial Outlook 483.

[367] U.S. Department of Commerce, [1973] Country Business Patterns, VI–A–45, at 25.

[368] *See House Small Business Subcomm. Hearings, supra* note 30, at 65, 75–76 (testimony of H. Basther).

[369] *See, e.g.* Kissel, *supra* note 35, at 47–49 (25–400 funerals per year); and F. Bates, National Selected Morticians, Tx 12,580 (75–5,000 funerals per year).

[370] In reaching this conclusion, the Commission is mindful that some participants felt compliance costs would be significant. Thus, trade associations and individual funeral providers typically expressed concern about compliance costs. *See, e.g.*, National Funeral Directors Association, Post-Record Comment, XIV–848, at 809. On the other hand, consumer groups and individual consumers expressed views that compliance costs would not be substantial. *See, e.g.*, Post-Record Comment, Consumer Federation of America, XIV–869, at 3. The Commission has considered all such views in reaching its own determination.

[371] R. Perry, MacFarlane & Co., Tx 9,149.

the exception of a provision for use of an alternative price disclosure system.[372] In submitting their proposal, the trade associations noted that such a rule would not be unduly burdensome to funeral providers.[373]

The second effect of the rule upon small businesses will be increased price competition, which could have a positive impact on prices in several ways. First, competition induced by greater price information could serve actually to reduce prices as price sensitivity by funeral consumers is increased—or, at least, competitive pressures could place a downward pressure on future price increases. Second, greater price information may serve to shift some consumers away from higher priced sellers to lower priced providers, thereby reducing overall consumer expenditures (and consequently the mean price). Both of these predicted results have in fact occurred in other markets where the Commission has acted to infuse greater price information.[374] Given the relatively fixed demand for funeral services, increased competition will likely lead to an actual reduction in total funeral expenditures, or at least a substantial reduction in the rate of growth. Third, several individual rule provisions will eliminate practices which induce consumers to purchase certain goods and services through misrepresentations or failures to disclose material facts. All of this will mean a loss of revenues to funeral providers. Such revenues are, however, attributable to deceptive practices or to practices which foster noncompetitive market conditions. The loss of such revenues to funeral providers will enable the economy to allocate them to more productive users.

Indeed, these lost industry revenues represent the principal benefit which the rule will provide to consumers. As the discussion in Part IV indicates, the total revenues generated by unfair and deceptive industry practices are substantial. Thus, the Commission anticipates that the rule will produce significant benefits to consumers by allowing them to save on expenses. These savings will much more than offset any price increase which might be attributable to the costs of complying with the rule.

In the Commission's view, these are the only principal effects which the rule will produce for consumers and funeral providers. In concluding this, the Commission rejects the view expressed during the rulemaking proceeding that the rule will cause the funeral industry to become dominated by large firms or chains.[375] Those firms which meet a specific demand—such as serving a small community or a particular racial, ethnic, or religious group—are unlikely to lose business because of generally increased competition.[376] The Commission does recognize, however, that there may be some increase in concentration within the industry resulting from the increased competition. The evidence suggests that there is substantial unused capacity in the funeral market. Notwithstanding this excess capacity and low utilization rates, the absence of competition has permitted inefficient sellers to remain in the market. To the extent that the rule achieves its intended effect, inefficient providers will have to change their operations to become more efficient or risk going out of business. It would be expected, therefore, that some inefficient businesses, including inefficient small businesses, will suffer an adverse competitive impact.

B. *The Effects of "Itemization" Upon Funeral Prices.* One of the designated issues discussed during the rulemaking proceeding was whether mandatory itemization forces up prices.[377] After reviewing the evidence, the Commission concludes that mandatory itemization presents opportunities for raising prices but that it does not, by itself, require funeral directors to raise prices.

The Commission has discerned six different arguments presented in support of the view that itemization would raise prices. Each is discussed below.

1. *Consumers will choose more.* Some funeral providers and others commented or testified that itemization will raise prices because consumers will buy more. It was suggested that when consumers see items broken out on a list, they find the prices so reasonable that they end up choosing more than they would if the items had been packaged.[378]

The record contains no empirical evidence supporting or refuting this claim. However, even if itemization had the effect of allowing consumers to choose more than they would have under itemization, that result would not be a reason not to require itemization. It is evident that such a result would be the operation of consumer choice, not any result of increased costs or marketplace distortions introduced by the rule. The purpose of the rule is to enhance consumer choice. If some consumers choose to buy more, with a clear understanding of the price associated with that choice, that is not a concern to the Commission. Other consumers will have the right to choose less.

2. *Prices will be changed.* Other funeral directors testified that if they were required to examine their pricing structure as a result of having to compile a new price list, many would decide that the prices that they had been charging in the past were too low and that the prices ought to be raised.[379]

Again, such an argument is not of concern to the Commission. The argument is not that the rule will impose costs which must be passed on to consumers in the form of higher prices, but simply that funeral directors have decided to increase profits by raising prices. Funeral directors are, of course, perfectly free to do that at any time. The rule has nothing to do with such a decision other than the fact that it requires funeral directors to think about prices in compiling a new price list. While funeral directors may choose to raise their prices in order to increase their profits, it is certainly not a necessary result of the rule.

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[372] This alternative is discussed in Part III(B)(4), *supra*.

[373] Letter of D. Murchison to A. Kramer, XVI–159, at 00. The principal difference between the rule and the proposal of the trade associations is that their proposal permitted a package price with disclosed discounts for parts of the package not selected.

[374] Following promulgation of the Commission's trade regulation rule on the Advertising of Ophthalmic Goods and Services, 16 CFR Part 456, (permitting price advertising) available evidence indicates that the rate of inflation for eyeglasses and eye examinations has been substantially lower than other medical care services and other consumer goods and services, and in some categories, such as soft contact lenses, average prices have actually declined.

For example, in the year following promulgation of the Eyeglasses rule, prices for soft contact lenses actually decreased from a 1978 average of $256 to a 1981 average of $204. (Includes full package price for eye exam, lenses, fitting, care kit and follow-up care. Source: Health Products Research, Inc., Morristown, N.J.; Prices are those collected in an annual consumer survey.) From October, 1978 to October, 1979, the unadjusted percentage price increase for eyeglasses (6.5), was less than for all consumer goods (12.2), durable goods (9.6), or medical care (9.4). [U.S. Department of Labor, Bureau of Labor Statistics, CPI Detailed Report (Oct. 1979)].

[375] *See, e.g.*, R. Sargent, New Hampshire funeral director, II–A–437; J. Couch, Illinois funeral director, Tx 2,931–32; J. Kerr, Jr., Sec'y-Treas., Kentucky FDA, Tx 3,036; R. Coats, Pres., Michigan FDA, Tx 3,755.

[376] *See, e.g.*, S. Shavell, Prof. Economics, Tx 11,883–84.

[377] 41 FR 7780 (1976) (Final Notice of Rulemaking, Designated Issue 28).

[378] *See, e.g.*, NSM, "Progressive Mortuary Methods," D.C. Ex. 20; NSM, "Itemization May Increase Your Total Profit Margin," D.C. Ex. 30.

[379] *See, e.g.*, Anderson, Pres., Utah FDA, Tx 6140; "The Folly of Itemization," *Mortuary Management*, Jan. 1976, at 8, III–I–113; Oral Presentation of Tom Clark, general counsel of NFDA, Feb. 28, 1979 (154; 158–159); NFDA Post-Record Comments, XIV–648, at 490; Report of the Presiding Officer; *supra* note 8, at 101.

3. *Compliance Costs.* Some funeral providers [380] commented that the direct compliance costs imposed by the rule will be passed on in the form of higher prices to the consumer.

For the reasons discussed above, the Commission believes that the direct compliance costs will be minimal. While such costs will undoubtably be passed on to consumers, rather than absorbed by funeral homes,[381] such increases should be as modest as the compliance costs themselves.

4. *The "economies of packaging argument".* Other funeral providers appear to argue that an identical set of goods and services will inherently cost more on an itemized basis than on a packaged basis and that the higher cost will be passed on in the form of higher prices to consumers. In other words, the argument is that there are "economies of packaging" which result in a lower cost for packaged services and merchandise. The analogy is often made to the "blue plate special" versus the "a la carte" menu.[382]

There are economies of packaging for many goods and services in our economy. Some products can be offered more cheaply to consumers by being packaged because it costs less to produce them in a packaged form than in an unpackaged form.[383]

There is no evidence to suggest, however, that there are any significant economies of packaging in funerals. The cost to the funeral director of offering a set of goods and services is much the same whether the parts are offered separately or together. The only potential savings in packaging is the savings in time that it may take to discuss individual requests under itemization.[384]

Even if there were modest cost differences, however, the rule expressly permits funeral directors to offer packages as long as they also offer goods and services on an itemized basis. Therefore, if there are any savings in packages, they can be passed on to those consumers who are interested in package prices. Consumers who are not interested in packages may have to pay somewhat more in order to buy on an itemized basis, but that is their choice. Further, any increase in price for the total package may be more than offset by the consumer's ability to decline unwanted items.

5. *The effect of declination.* The remaining arguments do not claim that itemization will affect the funeral director's cost, but instead recognize that itemization may result in a shift of prices presently charged. The arguments assume that overall revenues and overall profits will remain unchanged.[385]

Some funeral providers and others argued that if a substantial number of consumers decline items that would ordinarily be included in the package, in order to retain the same revenue and profit level, other prices would have to be increased to make up for the lost revenue.[386]

The rule does not regulate how funeral directors determine prices. Consequently, funeral directors may shift prices and set prices for parts of the funeral which they believe are appropriate. Some funeral directors may well choose to charge more for items which consumers are less likely to decline in order to make up for revenue lost on items consumers are more likely to decline. Other pricing strategies are also possible. As a resut, in the short term, there is the possibility that some consumers will be paying more, while others are paying less, than they would under a package pricing scheme.

The argument that some prices will go up depends, however, on the assumption that funeral directors will simply be able to recover any lost revenue simply by raising prices. As price competition increases, such a strategy may not be possible. Instead competition will generate pressure on funeral directors to become more efficient and to cut costs as the primary means of retaining profitable levels, rather than by raising prices. Further, to the extent that itemization allows consumers to choose less than traditional funerals, the increased demand for less than full funerals may stimulate innovative new services and allow the market to respond. As a result, the long run effect of itemization is expected to drive all prices down to the competitive level.

6. *The effect of itemization on the lowest-priced package funeral.* The major argument advanced by funeral providers and trade associations, however, is that itemization will necessarily cause the price of the lowest-priced package funerals to increase. Again, the argument assumes that revenue and profitability will remain the same: therefore, the argument also assumes that the price of the *average* package funeral will stay the same, while the price of the highest-priced package funeral will actually decrease.[387]

Under the present system of package pricing, many funeral directors apparently determine prices using a "graduated recovery" approach.[388] Basically, this method means that packages are priced so that buyers of higher-priced funerals are contributing proportionately more to overhead and fixed costs than are buyers of lower-priced package funerals. Since the only variable between a higher-priced funeral and a lower-priced funeral is the casket selected,[389] another way of explaining this method is that buyers of the low-priced funerals are paying more than the buyer of the low-priced funeral for the identical services. "Graduated recovery" therefore allows the funeral provider to lower the price of the package funeral on the low-price end, since any loss is made up by raising prices on the high-priced end.[390] In essence, buyers of higher-priced package funerals are subsidizing buyers of lower-priced package funerals.[391]

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[380] *See, e.g.*, R. Dyer, New York Funeral Director, Tx 1870–71; J. Caran, Pres., New York FDA, Tx 132.

[381] Profit margins in the funeral industry are general small and demand is not sensitive to price. Blackwell, Comprehensive Outline, D.C. Ex. 29, at 14, 20. As a result, any increases in costs will undoubtedly be fully passed on to consumers.

[382] In fact, the "economies of packaging" argument is never made explicitly, but only by analogy to situations in which such economies exist, *e.g.*, the blue plate special. *See, e.g., House Small Business Subcomm. Hearings, supra* note 30, at 71 (testimony of H. Raether, Exec. Dir. NFDA).

[383] To take an obvious example, it is often cheaper to buy a radio on a car when it comes as standard equipment than to order it separately, since the manufacturer can cut costs by simply including a radio in every car. The manufacturer can buy the radios at a lower price because it is buying them in greater volume and can cut labor costs by installing radios on all cars rather than on some cars but not on others.

[384] The record shows that the great majority of the costs of funeral homes are fixed costs for overhead which will not vary whether funerals are offered on a package basis or an itemized basis. *See, e.g.*, Blackwell, D.C. Ex. 29, Appendix B, Exhibits 5–7.

[385] Blackwell, D.C. Ex. 29, Comprehensive Outline, Exhibits 6–8.

[386] NFDA Post-Record Comment, XIV–348; *Id.*

[387] Dr. Alfred Rappaport "The Expected Impact of Fragmented Quotation on Funeral Service Prices," III–4–2; NSM Post-Record Comment, XIV–348, at 25–107.

[388] *Id.*

[389] 1978 Staff Report, *supra* note 9, at 393.

[390] Some funeral providers indicated that the desire to create subsidized low-priced funerals stemmed from the funeral director's belief that a full package funeral should be affordable even in the low income range, so that everyone can afford a full, dignified funeral. *See, e.g.*, NFDA Post-Record Comment, XIV–348. Other commentators note, however, that such a pricing strategy could increase profits. *See, e.g.*, Dr. Michael Lawson, D.C. Ex. 26, at 14; Shavell, D.C. Ex. 13, at 18.

[391] Some have suggested that this undisclosed subsidy is improper in that buyers are not paying the "the true cost" for the items bought. Others have suggested that it is not the funeral director's role to re-allocate income by subsidizing the funerals of lower-income consumers with the funerals of high-income consumers. And others have commented that even if such a goal is appropriate, there is no guarantee that graduated recovery achieves that result. Poorer consumers may often be the consumers who buy the more expensive funeral. (Evidence in the record supports the claim, for example, that blacks buy more expensive funerals

The rule requires the prices of each part of the package to be disclosed separately. Funeral providers argue that this means that they will be required to charge all buyers the same price for the same services.[302] Since this would prevent funeral directors from charging buyers of higher-priced package funerals more than buyers of the lower-priced funeral for the same item, it would end the present subsidy of the buyers of the lower-priced funeral. As a consequence, it is argued that the prices of the lowest-priced funerals would have to increase.

The Commission recognizes that funeral directors may chose to respond to the rule by raising the prices of the lowest-priced funeral. The Commission does not believe, however, that this result is required by the rule. The rule does not preclude the use of "graduated recovery." Under one alternative format, for example, funeral directors may quote a single price for professional services and caskets. That price can be structured to achieve a graduated recovery effect. Even under the alternative list, funeral directors can price caskets to achieve the same result.

Nevertheless, some funeral directors may choose to raise the prices of the lowest-priced package funeral. The impact of this change, however, may not be great for two reasons. First, such increases may be offset by savings which consumers can achieve by declining unwanted items. Second increased price competition will generate pressure to keep prices down. Finally, nothing in the rule will prevent funeral directors from meeting any perceived social responsibility to make services available at nominal charges for welfare cases or from charging special lower prices for infant deaths or other special cases.

The evidence submitted during the rulemaking proceeding is consistent with the Commission's finding that while itemization presents opportunities for funeral providers to raise prices, which some funeral directors have in fact done, it is not necessarily required by the rule itself. Many funeral directors testified that prices increased after itemization,[303] while others testified that their prices did *not* increase.[304]

VI. Other Matters

A. *Effective Dates.* Because of the legislative review provisions set forth in Section 21 of the FTC Improvements Act of 1980, the effective date of this rule is most appropriately tied to the conclusion of the legislative veto period.[305] Under the terms of the statute, that period runs for ninety calendar days of continuous legislative session.

Industry members have been on notice since July, 1981, of the terms of the rule. In addition, the rule and this statement will be available during the legislative review process, which is likely to take at least four months. We have determined that the rule should become effective three months after conclusion of Congressional review. We believe that three months is a sufficient amount of time both the industry and consumers to become familiar with the requirements of the rule given the opportunity to become familiar with the rule during the legislative review. The Commission will accept petitions for exemption, pursuant to § 453.9 of the rule, during this period.

B. *Mandatory Review.* Section 432.10 requires the Commission to initiate a rulemaking amendment proceeding, pursuant to Section 18(d)(2)(B) of the Federal Trade Commission Act, within four years after the effective date of this rule, to determine whether the rule should be amended or terminated. Under the terms of Section 18(d)(2)(B) and the Commission's rules of practice, an amendment proceeding will provide full opportunity for all interested parties to provide data and views on the question of whether the rules should be modified or terminated, and will include the rights available under a Magnuson-Moss proceeding to limited cross-examination.

In addition, the Commission is required to decide, within eighteen months after the rulemaking amendment proceeding has been initiated, whether the rule should be modified or terminated.

The Commission has established this early review procedure to ensure that there is a need to continue the rule after it has had an opportunity to work in the marketplace. If the rule operates as expected, there should be increased competition in the market which may obviate the need for continued federal intervention. Requiring an early amendment proceeding commits the Commission to conducting a public proceeding, open to full participation, to review the operation of the rule and its effect. At this time, the Commission expects to have data from its own internal impact evaluation to aid in the consideration of these issues. The Commission will consider whether the rule should be modified or terminated at that time.

While the rule is expected to increase price competition, the Commission cannot say on the basis of the present record when the rule's impact will begin to be felt. For a number of reasons, the effect of the rule may take longer than in other industries.[306] Nevertheless, the Commission is committed to reviewing, at an early date, whether the rule appears to be operating as expected or whether some modification is required. If the marketplace problems addressed by the rule appear to be largely solved by increased competition, the Commission will consider terminating the rule at that time.

Accordingly, Title 16 of the Code of Federal Regulations is amended by the addition of new Part 453.

PART 453—FUNERAL INDUSTRY PRACTICES

Sec.

453.1 Definitions.
453.2 Price disclosures.
453.3 Misrepresentations.

than educated white consumers, *see* CalCAG Study, *supra* not 247, at 30–31).

The Commission does not suggest that such subsidization is improper, nor does it believe that it is the Commission's function to judge the social value of such a pricing scheme. The Commission recognizes that many items in our economy have a pricing structure in which some items contribute proportionately more to profit than to other items.

[302] This result does not follow directly from the rule, but from the funeral director's reluctance to disclose different prices to different people for the same items. A Rappaport, III–I–111, at 10–11; Oral Presentation of Tom Clark, GC, NFDA, at 154.

[303] *See, e.g.*, F. Galante, New Jersey funeral director, Tx 1734–35; T. Sheehan, Pres., New Jersey FDA, Tx 456–57; R. Johnson, Indiana funeral director, Tx 12,404–08; J. Wylie, Exec. Director, Florida FDA, Tx 8714–17; H. Coates, member, State Bd. of Embalmers and Funeral Directors of Kentucky, Tx 3978–79; M. Heitner, Minnesota funeral director, Tx 3940–41. *See also*, NSM comment on Revised Rule, XVI–180, at Appendix B.

[304] *See, e.g.*, G. Primm, Pres., Empire State FDA (NY), Tx 264; N. Panepinto, Director, New York, Bureau of Funeral Directing, Tx 300; S. Hausmann, Exec. Director, New Jersey FDA, Tx 533; M. Damiano, New Jersey funeral director, Tx 1311; C. Whigham, New Jersey funeral director, Tx 766; M. Waterston, Minnesota funeral director, Tx 3745–46; W. Kinder, Pres., Minnesota FDA, Tx 3282; P. Hultquist, California FDA, Tx 7602. *Cf.* J. Wylie, Exec. Director, Florida FDA, Tx 8723–24.

[305] The present legislative review provision is scheduled to terminate on September 30, 1982. If no other legislative review process applies after that date, the legislative review process will be considered concluded for the purposes of determining the effective date of the rule.

[306] As discussed previously, the purchase of a funeral is infrequent. Consequently, many consumers will not have exposure to price lists or other provisions of the rule for many years. Thus, the stimulus for price competition, at least initially, is likely to come from sellers rather than buyers. The extent to which new entrants begin to compete on the basis of price, or which existing sellers begin to compete or advertise prices, is likely to determine how quickly competition begins to affect the marketplace. Considering the industry's tradition opposition to price advertising, and other constraints on price competition and barriers to entry, it is difficult to predict how quickly such competition will emerge.

Sec.

453.4 Required purchase of funeral goods or funeral services.
453.5 Services provided without prior approval.
453.6 Retention of documents.
453.7 Comprehension of disclosures.
453.8 Declaration of intent.
453.9 State exemptions.
453.10 Mandatory review.

Authority: Sec. 6(g) 38 Stat. 721 (15 U.S.C. 46(g); 80 Stat. 383, as amended, 81 Stat. 54 (5 U.S.C. 552).

§ 453.1 Definitions.

(a) *Accounting year.* "Accounting year" refers to the particular calendar year or other one year period used by a funeral provider in keeping financial records for tax or accounting purposes.

(b) *Alternative container.* An "alternative container" is a non-metal receptacle or enclosure, without ornamentation or a fixed interior lining, which is designed for the encasement of human remains and which is made of cardboard, pressed-wood, composition materials (with or without an outside covering) or pouches of canvas or other materials.

(c) *Cash advance item.* A "cash advance item" is any item of service or merchandise described to a purchaser as a "cash advance," "accommodation," "cash disbursement," or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the purchaser's behalf. Cash advance items may include, but are not limited to, the following items: Cemetery or crematory services; pallbearers; public transportation; clergy honoraria; flowers; musicians or singers; nurses; obituary notices; gratuities and death certificates.

(d) *Casket.* A "casket" is a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, or like material, and ornamented and lined with fabric.

(e) *Commission.* "Commission" refers to the Federal Trade Commission.

(f) *Cremation.* "Cremation" is a heating process which incinerates human remains.

(g) *Crematory.* A "crematory" is any person, partnership or corporation that performs cremation and sells funeral goods.

(h) *Direct cremation.* A "direct cremation" is a disposition of human remains by cremation, without formal viewing, visitation, or ceremony with the body present.

(i) *Funeral goods.* "Funeral goods" are the goods which are sold or offered for sale directly to the public for use in connection with funeral services.

(j) *Funeral provider.* A "funeral provider" is any person, partnership or corporation that sells or offers to sell funeral goods and funeral services to the public.

(k) *Funeral services.* "Funeral services" are any services which may be used to care for and prepare deceased human bodies for burial, cremation or other final disposition; and arrange, supervise or conduct the funeral ceremony or the final disposition of deceased human bodies.

(l) *Immediate burial.* An "immediate burial" is a disposition of human remains by burial, without formal viewing, visitation, or ceremony with the body present, except for a graveside service.

(m) *Outer burial container.* An "outer burial container" is any container which is designed for placement in the grave around the casket including, but not limited to, containers commonly known as burial vaults, grave boxes, and grave liners.

(n) *Person.* A "person" is any individual, partnership, corporation, association, government or governmental subdivision or agency, or other entity.

(o) *Services of funeral director and staff.* The "services of funeral director and staff" are the services, not included in prices of other categories in § 453.2(b)(4) which may be furnished by a funeral provider in arranging and supervising a funeral, such as conducting the arrangements conference, planning the funeral, obtaining necessary permits and placing obituary notices.

(p) *Unfinished wood box.* An "unfinished wood box" is an unornamented casket made of wood which does not have a fixed interior lining.

§ 453.2 Price disclosures.

(a) *Unfair or deceptive acts or practices.* In selling or offering to sell funeral goods or funeral services to the public, it is an unfair or deceptive act or practice for a funeral provider to fail to furnish price information disclosing the cost to the purchaser for each of the specific funeral goods and funeral services used in connection with the disposition of deceased human bodies, including at least the price of embalming, transportation of remains, use of facilities, caskets, outer burial containers, immediate burials, or direct cremations, to persons inquiring about the purchase of funerals. Any funeral provider who complies with the preventive requirements in paragraph (b) of this section is not engaged in the unfair or deceptive acts or practices defined here.

(b) *Preventive requirements.* To prevent these unfair or deceptive acts or practices, as well as the unfair or deceptive acts or practices defined in § 453.4(b)(1), funeral providers must:

(1) *Telephone price disclosures.* (i) Tell persons who call the funeral provider's place of business and ask about the terms, conditions, or prices at which funeral goods or funeral services are offered, that price information is available over the telephone.

(ii) Tell persons who ask by telephone about the funeral provider's offerings or prices any accurate information from the price lists in paragraph (b)(2) through (4) of this section which reasonably answers the question and any other information which reasonably answers the question and which is readily available.

(2) *Casket price list.* (i) Give a printed or typewritten price list to people who inquire in person about the offerings or prices of caskets or alternative containers. The funeral provider must offer the list upon beginning discussion of, but in any event before showing caskets. The list must contain at least the retail prices of all caskets and alternative containers offered which do not require special ordering, enough information to identify each, and the effective date for the price list. In lieu of a written list, other formats, such as notebooks, brochures, or charts may be used if they contain the same information as would the printed or typewritten list, and display it in a clear and conspicuous manner. *Provided however,* that funeral providers do not have to make a casket price list available if the funeral providers place on the general price list, specified in paragraph (b)(4) of this section, the information which is required by this paragraph (b)(2)(i) of this section.

(ii) Place on the list, whether a printed or typewritten list or other format is used, the name of the funeral provider's place of business and a caption describing the list as a "casket price list."

(3) *Outer burial container price list.* (i) Give a printed or typewritten price list to persons who inquire in person about outer burial container offerings or prices. The funeral provider must offer the list upon beginning discussion of, but in any event before showing the containers. The list must contain at least the retail prices of all outer burial containers offered which do not require special ordering, enough information to identify each container, and the effective date for the prices listed. In

lieu of a written list, the funeral provider may use other formats, such as notebooks, brochures, or charts, if they contain the same information as the printed or typewritten list, and display it in a clear and conspicuous manner. *Provided however,* that funeral providers do not have to make an outer burial container price list available if the funeral providers place on the general price list, specified in paragraph (b)(4) of this section, the information which is required by this paragraph (b)(3)(i) of this section.

(ii) Place on the list, whether a printed or typewritten list or other format is used, the name of the funeral provider's place of business and a caption describing the list as an "outer burial container price list."

(4) *General price list.* (i) Give a printed or typewritten price list for retention to persons who inquire in person about funeral arrangements or the prices of funeral goods or funeral services. When people inquire in person about funeral arrangements or the prices of funeral goods or funeral services, the funeral provider must offer them the list upon beginning discussion either of funeral arrangements or of the selection of any funeral goods or funeral services. This list must contain at least the following information:

(A) The name, address, and telephone number of the funeral provider's place of business;

(B) A caption describing the list as a "general price list";

(C) The effective date for the price list; and

(D) In immediate conjunction with the price disclosures required by paragraph (b)(4)(ii) of this section, the statement: "This list does not include prices for certain items that you may ask us to buy for you, such as cemetery or crematory services, flowers, and newspaper notices. The prices for those items will be shown on your bill or the statement describing the funeral goods and services you selected."

(ii) Include on the price list, in any order, the retail prices (expressed either as the flat fee, or as the price per hour, mile or other unit of computation) and the other information specified below for at least each of the following items, if offered for sale:

(A) Forwarding of remains to another funeral home, together with a list of the services provided for any quoted price;

(B) Receiving remains from another funeral home, together with a list of the services provided for any quoted price;

(C) The price range for the direct cremations offered by the funeral provider, together with: *(1)* A separate price for a direct cremation where the purchaser provides the container; *(2)* separate prices for each direct cremation offered including an unfinished wood box or alternative container; and *(3)* a description of the services and container (where applicable), included in each price;

(D) The price range for the immediate burials offered by the funeral provider, together with: *(1)* A separate price for an immediate burial where the purchaser provides the casket; *(2)* separate prices for each immediate burial offered including a casket or alternative container; and *(3)* a description of the services and container (where applicable) included in that price;

(E) Transfer of remains to funeral home;

(F) Embalming;

(G) Other preparation of the body;

(H) Use of facilities for viewing;

(I) Use of facilities for funeral ceremony;

(J) Other use of facilities, together with a list of facilities provided for any quoted price;

(K) Hearse;

(L) Limousine;

(M) Other automotive equipment, together with a description of the automotive equipment provided for any quoted price; and

(N) Acknowledgment cards.

(iii) Include on the price list, in any order, the following information:

(A) Either of the following:

(1) The price range for the caskets offered by the funeral provider, together with the statement: "A complete price list will be provided at the funeral home."; or

(2) The prices of individual caskets, disclosed in the manner specified by paragraph (b)(2)(i) of this section; and

(B) Either of the following:

(1) The price range for the outer burial containers offered by the funeral provider, together with the statement: "A complete price list will be provided at the funeral home."; or

(2) The prices of individual outer burial containers, disclosed in the manner specified by paragraph (b)(3)(i) of this section; and

(C) Either of the following:

(1) The price for the services of funeral director and staff, together with a list of the principal services provided for any quoted price and, if the charge cannot be declined by the purchaser, the statement: "This fee for our services will be added to the total cost of the funeral arrangements you select. (This fee is already included in our charges for direct cremations, immediate burials, and forwarding or receiving remains.)"; or

(2) The following statement: "Please note that a fee for the use of our services is included in the price of our caskets. Our services include (specify)." The statement must be placed on the general price list together with casket price range, required by paragraph (b)(4)(iii)(A)*(1)* of this section, or together with the prices of individual caskets, required by (b)(4)(iii)(A)*(2)*.

(5) *Statement of funeral goods and services selected.* (i) Give an itemized written statement for retention to each person who arranges a funeral or other disposition of human remains, at the conclusion of the discussion of arrangements. The statement must list at least the following information:

(A) The funeral goods and funeral services selected by that person and the prices to be paid for each of them;

(B) Specifically itemized cash advance items. (These prices must be given to the extent then known or reasonably ascertainable. If the prices are not known or reasonably ascertainable, a good faith estimate shall be given and a written statement of the actual charges shall be provided before the final bill is paid.); and

(C) The total cost of the goods and services selected.

(ii) The information required by this paragraph (b)(5) of this section may be included on any contract, statement, or other document which the funeral provider would otherwise provide at the conclusion of discussion of arrangements.

(6) *Other pricing methods.* Funeral providers may give persons any other price information, in any other format, in addition to that required by paragraph (b) (2), (3), and (4) of this section so long as the statement required by paragraph (b)(5) of this section is given when required by the rule.

§ 453.3 Misrepresentations.

(a) *Embalming Provisions.*—(1) *Deceptive acts or practices.* In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(i) Represent that state or local law requires that a deceased person be embalmed when such is not the case;

(ii) Fail to disclose that embalming is not required by law except in certain special cases.

(2) *Preventive requirements.* To prevent these deceptive acts or practices, as well as the unfair or deceptive acts or practices defined in §§ 453.4(b)(1) and 453.5(2), funeral providers must:

(i) Not represent that a deceased person is required to be embalmed for

direct cremation, immediate burial, a funeral using a sealed casket, or if refrigeration is available and the funeral is without viewing or visitation and with a closed casket when state or local law does not require embalming; and

(ii) Place the following disclosure on the general price list, required by § 453.2(b)(4), in immediate conjunction with the price shown for embalming: "Except in certain special cases, embalming is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements, such as a funeral with viewing. If you do not want embalming, you usually have the right to choose an arrangement which does not require you to pay for it, such as direct cremation or immediate burial."

(b) *Casket for cremation provisions.* (1) *Deceptive acts or practices.* In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(i) Represent that state or local law requires a casket for direct cremations;

(ii) Represent that a casket (other than an unfinished wood box) is required for direct cremations.

(2) *Preventive requirements.* To prevent these deceptive acts or practices, as well as the unfair or deceptive acts or practices defined in § 453.4(a)(1), funeral providers must place the following disclosure in immediate conjunction with the price range shown for direct cremations: "If you want to arrange a direct cremation, you can use an unfinished wood box or an alternative container. Alternative containers can be made of materials like heavy cardboard or composition materials (with or without an outside covering), or pouches of canvas." This disclosure only has to be placed on the general price list if the funeral provider arranges direct cremations.

(c) *Outer burial container provisions.*—(1) *Deceptive acts or practices.* In selling or offering to sell funeral goods and funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(i) Represent that state or local laws or regulations, or particular cemeteries, require outer burial containers when such is not the case;

(ii) Fail to disclose to persons arranging funerals that state law does not require the purchase of an outer burial container.

(2) *Preventive requirement.* To prevent these deceptive acts or practices, funeral providers must place the following disclosure on the outer burial container price list, required by § 453.2(b)(3)(ii), or, if the prices of outer burial containers are listed on the general price list, required by § 453.2(b)(4), in immediate conjunction with those prices: "In most areas of the country, no state or local law makes you buy a container to surround the casket in the grave. However, many cemeteries ask that you have such a container so that the grave will not sink in. Either a burial vault or a grave liner will satisfy these requirements."

(d) *General provisions on legal and cemetery requirements.*—(1) *Deceptive acts or practices.* In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for funeral providers to represent that federal, state, or local laws, or particular cemeteries or crematories, require the purchase of any funeral goods or funeral services when such is not the case.

(2) *Preventive requirements.* To prevent these deceptive acts or practices, as well as the deceptive acts or practices identified in § 453.3(a)(1), § 453.3(b)(1), and § 453.3(c)(1), funeral providers must identify and briefly describe in writing on the statement of funeral goods and services selected (required by § 453.2(b)(5)) any legal, cemetery, or crematory requirement which the funeral provider represents to persons as compelling the purchase of funeral goods or funeral services for the funeral which that person is arranging.

(e) *Provisions on preservative and protective value claims.* In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(1) Represent that funeral goods or funeral services will delay the natural decomposition of human remains for a long-term or indefinite time;

(2) Represent that funeral goods have protective features or will protect the body from gravesite substances, when such is not the case.

(f) *Cash advance provisions.*—(1) *Deceptive acts or practices.* In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(i) Represent that the price charged for a cash advance item is the same as the cost to the funeral provider for the item when such is not the case;

(ii) Fail to disclose to persons arranging funerals that the price being charged for a cash advance item is not the same as the cost to the funeral provider for the item when such is the case.

(2) *Preventive requirements.* To prevent these deceptive acts or practices, funeral providers must place the following sentence in the general price list, at the end of the cash advances disclosure, required by § 453.2(b)(4)(ii)(C): "We charge you for our services in buying these items," if the funeral provider makes a charge upon, or receives and retains a rebate, commission or trade or volume discount upon a cash advance item.

§ 453.4 Required purchase of funeral goods or funeral services.

(a) *Casket for cremation provisions.*—(1) *Unfair or deceptive acts or practices.* In selling or offering to sell funeral goods or funeral services to the public, it is an unfair or deceptive act or practice for a funeral provider, or a crematory, to require that a casket other than an unfinished wood box be purchased for direct cremation.

(2) *Preventive requirement.* To prevent this unfair or deceptive act or practice, funeral providers must make an unfinished wood box or alternative container available for direct cremations, if they arrange direct cremations.

(b) *Other required purchases of funeral goods or funeral services.*—(1) *Unfair or deceptive acts or practices.* In selling or offering to sell funeral goods or funeral services, it is an unfair or deceptive act or practice for a funeral provider to condition the furnishing of any funeral good or funeral service to a person arranging a funeral upon the purchase of any other funeral good or funeral service, except as required by law or as otherwise permitted by this part.

(2) *Preventive requirements.* (i) To prevent this unfair or deceptive act or practice, funeral providers must:

(A) Place the following disclosure in the general price list, immediately above the prices required by § 453.2(b)(4)(ii) and (iii): "The goods and services shown below are those we can provide to our customers. You may choose only the items you desire. If legal or other requirements mean you must buy any items you did not specifically ask for, we will explain the reason in writing on the statement we provide describing the funeral goods and services you selected."

Provided, however, That if the charge for "services of funeral director and staff" cannot be declined by the purchaser, the statement shall include the sentence: "However, any funeral arrangements you select will include a charge for our services" between the second and third sentences of the statement specified above herein; and

(B) Place the following disclosure on the statement of funeral goods and services selected, required by § 453.2(b)(5)(ii): "Charges are only for

those items that are used. If we are required by law to use any items, we will explain the reasons in writing below."

(ii) A funeral provider shall not violate this section by failing to comply with a request for a combination of goods or services which would be impossible, impractical, or excessively burdensome to provide.

§ 453.5 Services provided without prior approval.

(a) *Unfair or Deceptive Acts or practices.* In selling or offering to sell funeral goods or funeral services to the public, it is an unfair or deceptive act or practice for any provider to embalm a deceased human body for a fee unless:

(1) State or local law or regulation requires embalming in the particular circumstances regardless of any funeral choice which the family might make; or

(2) Prior approval for embalming (expressly so described) has been obtained from a family member or other authorized person; or

(3) The funeral provider is unable to contact a family member or other authorized person after exercising due diligence, has no reason to believe the family does not want embalming performed, and obtains subsequent approval for embalming already performed (expressly so described). In seeking approval, the funeral provider must disclose that a fee will be charged if the family selects a funeral which requires embalming, such as a funeral with viewing, and that no fee will be charged if the family selects a service which does not require embalming, such as direct cremation or immediate burial.

(b) *Preventive requirement.* To prevent these unfair or deceptive acts or practices, funeral providers must include on the contract, final bill, or other written evidence of the agreement or obligation given to the customer, the statement: "If you selected a funeral which requires embalming, such as a funeral with viewing you may have to pay for embalming. You do not have to pay for embalming you did not approve if you selected arrangements such as a direct cremation or immediate burial. If we charged for embalming, we will explain why below."

§ 453.6 Retention of documents.

To prevent the unfair or deceptive acts or practices specified in § 453.2 and § 453.3 of this rule, funeral providers must retain and make available for inspection by Commission officials true and accurate copies of the price lists specified in § 453.2(b) (2) through (4), as applicable, for at least one year after the date of their last distribution to customers, and a copy of each statement of funeral goods and services selected, as required by § 453.2(b) (5) for at least one year from the date on which the statement was signed.

§ 453.7 Comprehension of disclosures.

To prevent the unfair or deceptive acts or practices specified in § 453.2 through § 453.5, funeral providers must make all disclosures required by those sections in a clear and conspicuous manner.

§ 453.8 Declaration of intent.

(a) Except as otherwise provided in § 453.2(a), it is a violation of this rule to engage in any unfair or deceptive acts or practices specified in this rule, or to fail to comply with any of the preventive requirements specified in this rule;

(b) The provisions of this rule are sparate and severable from one another. If any provision is determined to be invalid, it is the Commission's intention that the remaining provisions shall continue in effect.

(c) This rule shall not apply to the business of insurance or to acts in the conduct thereof.

§ 453.9 State exemptions.

If, upon application to the Commission by an appropriate state agency, the Commission determines that:

(a) There is a state requirement in effect which applies to any transaction to which this rule applies; and

(b) That state requirement affords an overall level of protection to consumers which is as great as, or greater than, the protection afforded by this rule;

then the commission's rule will not be in effect in that state to the extent specified by the Commission in its determination, for as long as the State administers and enforces effectively the state requirement.

§ 453.10 Mandatory review.

No later than four years after the effective date of this rule, the Commission shall initiate a rulemaking amendment proceeding pursuant to section 18(d)(2)(B) to determine whether the rule should be amended or terminated. The Commission's final decision on the recommendations of this proceeding shall be made no later than eighteen months after the initiation of the proceeding.

Dissenting Statement of James C. Miller III, Chairman, Federal Trade Commission on Funeral Rule

I cannot in good conscience go along with a final rule affecting the funeral industry at this time. I do not oppose a rule in principle. Indeed, I've always said that this is an area worthy of Commission investigation. But for the reasons set forth below, I believe that action at this time is ill-advised.

Furthermore, I want to make it clear that I respect the views held by my colleagues on the Commission. This is neither a Republican nor a Democratic issue. It is neither conservative nor liberal. The question is whether the action taken today can be defended. I believe it cannot.

The basic reason for my opposition to today's action is the lack of evidence in the record. That record is woefully inadequate for a proceeding that has lasted 10 years. In my view, the Commission does not have a reliable description of the industry, much less a working knowledge of how it operates. The facts presented are often contradictory, are heavily anecdotal, and may not be representative of industry practices. From what description can be gleaned from the record, two theories seem to fit equally well: (a) That the industry is operating quite effectively, and (b) that the industry is vitiated with market imperfections crying out for governmental intervention.[1]

Nor do we have any basis in the record to conclude that the rule approved today will adequately deal with alleged market imperfections, *assuming* they exist. For example, the requirement that services be "unbundled" can easily be circumvented by funeral directors' simply charging higher prices for services a' la carte. (The point about the price of a new automobile's being far less than the summed prices of all new parts is particularly relevant here.)

Moreover, certain provisions may actually harm consumers. For example, the only empirical evidence we have of the effects of forced unbundling (in Minnesota) suggests increased costs to consumers. Also, the requirement of prior authorization before embalming may well raise costs to consumers, diminish their satisfaction with the overall service, or have both effects.

Because of the paucity of evidence in the record, I believe it is likely the courts would sustain a legal challenge to the rule. This risk could have been mitigated if the Commission had taken my recommendation and had reopened the rulemaking record for the submission of additional evidence. The Commission's own "baseline" study, in particular, should have been entered into the record, even if this would have meant a few months delay while the Commission accepted public comment on it.

Portions of the baseline study seriously challenge the theory of market imperfections that is implicit in the Commission's action. For those who think the baseline study actually supports the Commission's rule, it is ironic that by refusing to admit it into evidence the Commission forgoes the opportunity to use the study's results to support the rule, but enable anyone to use it in challenging the Commission's action.

Beyond the integrity and sufficiency of the formal record—on which of course the Commission's decision must be based—there is one other matter I wish to touch upon

[1] The memoranda of Timothy J. Muris, Director of the Bureau of Consumer Protection, and Robert D. Tollison, Director of the Bureau of Economics, disclose in detail these deficiencies in the record.

briefly. I believe that the Commission's action today will make it considerably more difficult to resist efforts by the "learned professions" to obtain exemption from FTC laws concerning unfairness and deception, and from FTC enforcement of the antitrust laws. Indeed, there is a plausible argument that the objects of the Commission's action—funeral directors—would be exempt under the language already adopted by the Senate Commerce Committee ("Federal Trade Commission Amendments Act of 1982").

In conclusion, I fear that the Commission has deceived a very vulnerable segment of American consumers. The Commission's action is deceptive because it raises expectations of lower prices for funerals and better service, when in fact we have little evidence to believe the rule would have these effects. It is also deceptive because the rule may well be reversed in the courts. As if this were not enough, the Commission's action places in further jeopardy a much more important matter—the Commission's efforts to police anticompetitive, unfair, and deceptive practices in the professions.

In view of the inadequacy of the record, I respectfully dissent from the Commission's action. In the larger view of all that is at stake, I fear that in this case the Commission is showing signs of returning to its errant past of regulating first and asking the right questions later.

[FR Doc. 82-26351 Filed 9-23-82; 8:45 am]
BILLING CODE 6750-01-M

federal register

Friday
September 24, 1982

Part IV

Office of Personnel Management

Demonstration Project: An Integrated Approach to Pay, Performance Appraisal, and Position Classification

OFFICE OF PERSONNEL MANAGEMENT

Demonstration Project: An Integrated Approach to Pay, Performance Appraisal, and Position Classification

AGENCY: Office of Personnel Management.

ACTION: Notice of amendment of demonstration project plan and inclusion of technical specialists, administrative specialists, and clerical/assistant positions in the demonstration project.

SUMMARY: This notice identifies the Technical Specialist, Administrative Specialist, and Clerical/Assistant career paths by classification level and shows their relationships to current grade levels. In addition, the notice modifies the amount of salary increase for promotions, changes the labeling of performance groups, permits the combination of performance rating groups within RIF retention groups, and revises the description of the performance rating reconsideration process.

EFFECTIVE DATE: September 19, 1982.

FOR FURTHER INFORMATION CONTACT:

(1) In San Diego, California: Susan Rainville (714) 225–2131;
(2) In China Lake, California: Robert M. Glen (714) 939–2434;
(3) In Washington, D.C.: Donald Hill (202) 254–6486.

SUPPLEMENTARY INFORMATION:

Background

The Office of Personnel Management (OPM) approved a demonstration project, "An Integrated Approach to Pay, Performance Appraisal, and Position Classification for More Effective Operation of Government Organizations," and published the final project plan in the **Federal Register** on Friday, April 18, 1980 (45 FR 26504). Under the section "Types and Numbers of Participating Employees" (45 FR 26513), the approved project plan provides for the addition of other categories of employees as project number limitations and successful experience permit, subject to consultation and agreement with OPM.

Administrative personnel at the GS–12 level entered the demonstration project on January 11, 1981, to complete classification/pay ban level III. In a notice published in the **Federal Register** on July 28, 1981 (46 FR 38660), OPM identified the technician career path by classification level and showed its relationship to grade levels in the General Schedule. Technicians entered the demonstration project on August 23, 1981. In addition, the Notice amended procedures for converting employees existing from the demonstration project to positions in the General Schedule.

Additional Categories of Participating Employees.

Administrative and technical specialists GS 5–11 will enter the Navy Demonstration Project this year on or after September 19, 1982. Clerical and other assistant positions are scheduled to enter the demonstration project in August 1983. However, management's ability to handle additional personnel and the absence of clerical employee objection to early entrance into the project persuaded OPM to approve Navy's request for early entrance of clerical and assistant positions into the demonstration project. Therefore, all clerical/assistant positions at the Naval Ocean Systems Center (NOSC) only will enter the demonstration project on or after September 19, 1982. Because demonstration projects are limited to 5,000 employees, both Centers cannot enter their total clerical work force. Therefore, to provide for a realistic evaluation of a total clerical career path, the Naval Weapons Center (NWC) will limit the project to the other career paths to allow NOSC to use the available numbers to cover clerical/assistant positions.

Project Plan Modifications

The technician career path has been modified by NOSC and the administrative and technical specialist career paths modified by both Centers as indicated in revised Table 5.

The performance appraisal section has been modified to eliminate specific requirements to use the performance labels "O, E, M, B and N." Conforming changes have been made to the RIF section which refers also to "O, E, M, B and N." Additionally, the Centers are permitted to combine performance rating groups within RIF retention groups. The principle of performance as the primary retention criterion is unchanged, as is the relative importance of the remaining factors, tenure, veterans' preference and length of service. The two lower performance rating groups (formerly "B" and "N"), which both represent marginal performers, can be combined under this modification into the lowest RIF retention group.

The provision which specifies the minimum amount an employee may receive at the time of promotion has been modified.

The wording of the "Reconsideration of Performance Rating" section has been modified to more closely parallel the Navy grievance procedure under which Merit Pay performance ratings are reconsidered. The Navy grievance procedure had not been developed at the time the Project Plan was written. This revision will simplify the procedure while protecting employees' due process rights.

OPM Review of Navy Project Plan Modifications

Draft modifications to the Navy demonstration project were transmitted to OPM via telecopier in January 1982 and discussed by NOSC, NWC, and OPM staff in a meeting held at OPM on January 19, 1982. OPM staff members concurred generally with the requested modifications to the project plan. The Commanders of the Naval Weapons Center and the Naval Ocean Systems Center sent a joint letter dated April 9 and 16, 1982 to OPM requesting an August 1982 entry into the demonstration project of administrative and technical specialists at both Centers and clerical/assistants at NOSC only. The letter contained a description of the demonstration career paths and pay levels and requested approval of other project modifications. OPM program staff concurred with the proposed modifications to the project plan and asked NWC and NOSC to proceed with employee discussion and informal hearings. Briefings and meetings were held with employees during April and May. Various written materials and articles were distributed to employees also.

Comments

Informal hearings during which employees could comment on the entry of additional employees into the project plan, the proposed career paths and pay levels, and project modifications were held in Hawaii on May 12, 1982, in San Diego on May 18, 1982, and in China Lake on May 26, 1982. Suitable periods were provided for written comments. Three employees made comments during the hearing at Hawaii, none at San Diego, and four at China Lake. Twelve employees at NOSC and four at NWC submitted written comments. These comments were directed at the following concerns:

1. Six of the eight persons commenting from the Naval Weapons Center objected to the change in the administrator/specialist pay band in which GS–11 was moved from level II to level III to form a pay band composed of GS–11 and GS–12. GS–13 was removed from level III. An administrative employee under the modification must

now be moved up by positive management action to the DP career band which contains both GS–12 and 13. Employees complained that the modification to the career paths and pay levels (a) deviated from earlier understandings and proposals for the administrative career paths and pay levels; (b) moved away from the stated objective of the demonstration project to base salary on performance and returned to the old classification system with its emphasis on the full journeyman level; and (c) set up separate career paths for administrators (DA) and specialists (DS) which are similar to the one-grade-advancement-level technician career path (DT), thereby considering them as less than professionals, in spite of their degrees and credentials, with the implication that they are "less valued" to the organization. In responding to OPM's inquiry concerning these comments and the reasons for the change in career paths, NWC explained that it decided to separate the administrator/specialist career paths, redefine the level III in those career paths as 11/12 instead of 11/13 after considering the following factors:

—Lack of honogeneity of the administrative and specialist population.
—Pay equity within NWC and throughout the Federal system.
—Multiple full performance levels in administrative/specialist occupations.
—Higher starting pay for scientists and engineers and higher salary (grade levels) in general in the market place.
—Different rates of development and promotions for the occupational groups.
—Degree vs non-degree (scientists and engineers require a degree or equivalency).

NWC management decided that the advantages of resolving "the pay equity" issue outweighed the disadvantages of not resolving the "relative status" issue.

2. The remaining two comments from NWC were complaints about (a) management's alleged emphasis on degrees and time in service, rather than properly on performance, and (b) a system which permits an employee to become a supervisor without getting a salary increase.

3. Four NOSC employees offered their support for the demonstration project. Three of the four offered suggestions for further improvement of the project. The employees suggested that the Centers should:

—Consider the quality and total effort expended, in addition to quantitative measures, when assessing performance. Additionally, the Centers should base merit pay increases on salary amounts rather than incentive points.
—Create additional career paths which permit movement from the clerical/assistant career path to the administrative specialist career path.
—Eliminate barriers between division secretary jobs (GS–5) and department secretary jobs (GS–6) and reward their accomplishments.

4. Four NOSC employees objected to modification of the RIF section and one employee urged management to go further than it has gone by suggesting an additional modification. The suggested modification is that NOSC give managers flexibility to make as many divisions of retention groups as there are performance ratings and assess performance on the immediate past performance rating. The objections are:

—Basing retention standing on only one performance rating. Employees suggested use of a weighted point system.
—Including an employee with a "below objectives" performance rating in the lowest retention standing with employees who have been given the "needs improvement" performance rating. Suggested that retention standing be based on two successive performance rating periods.
—Placing too much emphasis on subjective performance appraisals.
—Determining retention in a system which judges performance in relation to current pay. Inequities occur because entry-level employees within a pay band will be judged against lower salaries, and higher ratings will be easier to achieve. In the event of RIF, the system will be biased toward retaining the less experienced entry level employee.

5. Three NOSC employees commented on the performance appraisal system. One employee stated that performance objectives were watered down and too subjective and suggested that points be assigned. Another employee complained that upper-level management changes performance reward recommendations of the employee's immediate supervisor and modifies the original performance rating structure. The third employee noted that the point distribution system causes higher graded personnel to receive a higher percentage of the two highest performance categories than lower graded personnel.

6. One NOSC employee requested that the 10% promotion policy be retained because such factors as date of pay raise, being at the bottom of a pay level because of a recent promotion, and being at the top of a pay level for a long time because of unavailable promotions cause inequities.

7. Other comments were phrased as questions about aspects of the project, such as the combination of former grade levels, dollar value of performance award points, and the difference between career levels.

Office of Personnel Management.

Donald J. Devine,

Director.

The demonstration project plan, An Integrated Approach to Pay, Performance Appraisal, and Position Classification for More Effective Operation of Government Organizations, published in the **Federal Register** on Friday, April 18, 1980, 45 FR 26504–26543, amended by a Notice published in the **Federal Register** on Tuesday, July 28, 1981, 46 FR 38660–38661, is further amended as follows:

1. *Pen and Ink Changes to Methodology Section.* In 45 FR 26507, under the section titled "Methodology", delete the words "one of five" in item (2). Change the title of Figure 1 to "An Example of a Pay and Performance Plan."

2. *Career Paths and Pay Levels as Related to Current GS Grade Levels.* Delete the section "Demonstration Elements, Classification levels", and Tables 4, 4A and 5, which are found in 45 FR 26513–26516 and 46 FR 38660–38661 and replace with the following new text and revised Tables 4 and 5:

Demonstration Elements

Classification levels. The heart of the project is the grouping of the currently used General Schedule (Grades GS 1–18 and PL) pay/classification system into fewer, broader levels of classification. The current GS system will remain as pay anchor for the project.

The project features five discrete career paths as follows: Demonstration Professional (DP)—Scientific, Engineering, and appropriate Supervisory, Managerial, and Specialist positions.

Demonstration Administrative (DA)—Professional Administrative positions;
Demonstration Specialists (DS)—Technical Specialist positions;
Demonstration Technical (DT)—Technician positions;
Demonstration General (DG)—Secretarial, Clerical and Assistant positions.

Table 4 illustrates typical (not all inclusive) GS series that comprise these Career Paths.

The broad pay bands will serve to enhance competitive recruitment of

quality candidates, as well as allow tangible performance-linked distinction between existing employees. Classification of employees under this system will be less burdensome and less susceptible to judgmental errors in precise grade placement.

The system, in fact, incorporates a rank in person system with its inherent flexibilities while retaining through the broad groupings the overall benefit of rank-in-job distinctions that can be reasonably applied by supervisors and managers.

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TABLE 4. TYPICAL GS SERIES IN CAREER PATHS

DP	DA	DS	DT	DG
180, 401, 403, 408, 413, 701, 801, 806, 808, 810, 830, 850, 855, 861, 893, 896, 899, 1301, 1306, 1310, 1313, 1320, 1321, 1350, 1360, 1515, 1520, 1529, 1550, 1599, Other Professional Scientific and Engineering Occuptions and Higher Level Employees from Other Career Paths as Shown by Arrows in Table 5.	201, 212, 221, 230, 235, 260, 301, 341, 343, 346, 501, 505, 510, 560, 1001, 1020, 1060, 1071, 1081, 1082, 1083, 1102, 1410, 1412, 2001, 2003, 2101 And Other Two Grade Interval Administrative Positions.	132, 330, 334, 340, 345, 391, 392, 393, 905, 1150, 1640, 1670, 1910, And Other Two Grade Interval Technical Support Positions.	332, 335, 404, 802, 818, 856, 895, 1060, 1152, 1311, 1341, 1521, 1960, And Other One Grade Interval Technician Support Positions.	019, 134, 181, 203, 204, 302, 303, 304, 305, 309, 312, 318, 322, 344, 350, 359, 361, 385, 388, 394, 525, 540, 544, 561, 590, 904, 991, 1087, 1105, 1106, 1107, 1411, 2005, 2050, 2132, 2134, And Other One Grade Interval Clerical and Assistant Type Positions.

TABLE 5. CAREER PATHS AND PAY LEVELS AS RELATED TO CURRENT GS GRADE LEVELS

SCIENTISTS, ENGINEERS, AND SENIOR STAFF	GS	1-4	5-8	9-11	12-13	14-15	16-18, PL
	DP	A	I	II	III	IV	V
TECHNICIANS NOSC	GS	1-4	5-8	9-10	11-12		
	DT	A	I	II	III		
NWC	GS	1-4	5-7	8-10	11-12		
	DT	A	I	II	III		
TECHNICAL SPECIALISTS	GS	1-4	5-8	9-10	11-12		
	DS	A	I	II	III		
ADMINISTRATIVE SPECIALISTS	GS	1-4	5-8	9-10	11-12		
	DA	A	I	II	III		
GENERAL* CLERICAL/ASSISTANT	GS	1-3	4-5	6-7	8-9	10-11	
	DG	A	I	II	III	IV	

* NOSC ONLY. NWC PATH AND ENTRY DEFERRED

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3. *Modification of Classification/ Performance/Qualification Standards Section.* In 45 FR 26516, under the section titled "Classification/ Performance/Qualification Standards", delete the first six paragraphs which begin with "The Classification levels for professionals * * *" through and including the paragraph which begins with "Level V." Replace with the following new text:

Within each career path, classification levels will differentiate between broad groups of employees based on degree of difficulty and responsibility.

Level A has been included, which covers cooperative education positions as well as apprentices and student aides.

Level V will be used where necessary to accommodate GS–16 through Public Law level candidates who are not offered or who decline Senior Executive Service (SES) membership.

4. *Modification of Incentive Pay Group Labels.* (a) In 45 FR 26516, under the section titled "Incentive Groups", delete starting with the sentence on line 5 which begins "Five incentive pay groups * * *" through the end of the paragraph and replace with the following new text:

Incentive pay groups will be established. Pay for these groups may be fixed as follows. Employees in the lowest performance category will not receive a salary increase. Employees in each of the remaining higher performance rating categories may receive correspondingly larger salary increases from available funds.

(b) Change the title of Figure 3 to read "Example of Incentive Pay Groupings Within Each Level."

5. *Modification of Mechanics of Incentive Pay and Promotions.* (a) In 45 FR 26517, under the section titled "Schedule and Mechanics of appraisals and Incentive Groupings," delete starting with the fourth sentence which begins with "In Incentive Group N * * *" through the rest of the paragraph and replace with the following new text:

Employees whose performance needs substantial improvement (but is not low enough for adverse or performance-based action) will be rated in the lowest incentive group. Those in this group will receive no salary increase. Higher performing emloyees will be placed in higher incentive groups and will receive salary increases based on the incentive group to which assigned. Placement in these groups will be recommended by individual supervisors. Involvement of higher level management will be used to ensure a broad-based equity among employees in separate work groups.

(b) In 45 26518, under the section titled "Compensation", delete the first sentence of the second paragraph and replace with the following new text:

For discussion purposes, a five incentive grouping system (O, E, M, B, N) as depicted earlier in Figure 3 will be used. Incentive group N is a zero increase category.

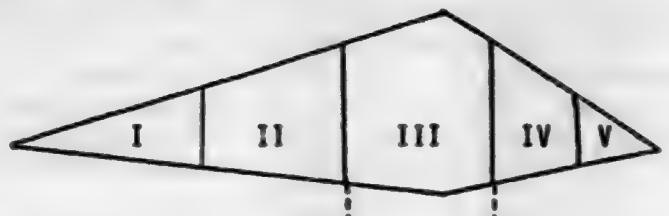
(c) In 45 FR 26518 and the continuation on page 26519, change the title of Table 6 to read "Example of Distribution of Individual Incentive Funds."

(d) In 45 FR 26519, under the section titled "Promotions," delete the words "increase of no less than 10%", and replace with the following text: "increase of up to 10% or the minimum salary of the level to which promoted, whichever is higher."

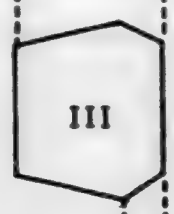
6. *Modification of the Reduction in Force Section.* (a) In 45 FR 26520, under the section titled "Reduction in Force," delete from the first sentence the words "fields (Technical Professional, Administrative, Technical, and Clerical)." and replace with the word "paths."

(b) In 45 FR 26521, delete Figure 5. Replace with the following revised Figure 5.

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Classification Levels (pay bands) within a career path



A Level (pay band)

Electronics Engineer, Level III
(Weapons Systems)
(Development)

A Single Competitive Level

NAME	TENURE	PREF	SCD	
Cecil Peters	Career	Vet	1-6-50	Retention Group 1
David Shine	Career	Non-Vet	6-30-48	High Performance
Elsa Person	Career Cond	Vet	5-20-80	
Hi Markes	Career Cond	Non-Vet	5-1-80	
John Doe	Career	Vet	1-1-60	Retention Group 2
A. Nony Moose	Career	Non-Vet	1-1-50	Mid-Range Performance
I. R. Steddy	Career	Non-Vet	1-1-70	
D. D. Wells	Career Cond	Vet	1-1-82	
Al Tow	Career Cond	Non-Vet	1-1-81	
Mel Steel	Career	Vet	1-1-50	Retention Group 3
Tony Way	Career	Non-Vet	1-1-65	Lower Range Performance

FIGURE 5. EXAMPLE OF RETENTION REGISTER FOR RIF PURPOSES

BILLING CODE 6325-01-C

(c) In 45 FR 28522, delete the chart and all text following the chart through the end of the section. Replace with the following new chart and text:

Incentive pay group (retention group)	Career (I) or career conditional (II)	Veteran (A) or non veteran (B)	30-Compensable (D)
1	I	A	D.
1	I	A	
1	I	B	
1	II	A	D.
1	II	A	
1	II	B	
2	I	A	D.
2	I	A	
2	I	B	
2	II	A	D.
2	II	A	
2	II	B	
3	I	A	D. etc.

The incentive pay group is the primary displacement tool. Performance rating groups may be combined into two or more "retention groups." Within each competitive level, employees in the higher retention group(s) are placed at the top of the retention register in standard tenure, veterans' preference, and length of service order. Employees in the lower performance group(s) are placed at the bottom of the retention register, in standard order, and are first to be released from the competitive level. Individuals in the higher retention groups always displace those in the lower group(s).

For discussion purposes, the higher retention group will be called Performance Group 1, and the lower, Performance Groups 2 and 3 respectively. The following example is an illustration of how RIF rules are applied. A Level III professional Electronics Engineer (specialty) within this competitive level, who is in retention group 1 and is a 30-compensable veteran with career tenure (1–I–A–D), would displace by inverse order of competitive level any employee of lesser retention standing in the same competitive level.

The same individual could bump any individual in the same professional career path with a retention standing of 1–I–A or lower who occupies a position for which the employee is qualified.

If this employee is unable to displace someone in the same competitive level or bump someone in another competitive level in the professional career path, the employee could retreat to a level II position he/she was promoted from or through, if the position is occupied by someone of lower subgroup or within the same subgroup but of lesser service computation date.

For retreat purposes (competition for a position from or through which the employee was promoted), employees in the lower retention group(s) may compete for lower level positions occupied by employees in the higher retention group(s). This special retreat provision recognizes that lower performing employees have reasonable potential for higher quality performance in a lower level position that they formerly held on were promoted through.

7. Modification of the Adverse Actions and Reconsiderations Section.

(a) In 45 FR 28522, under the section titled "Adverse Actions and Reconsiderations," delete sub-paragraph 1. Replace with the following revised sub-paragraph 1:

1. Reconsideration of Performance Ratings. A procedure for reconsideration of performance ratings is established wherein:

a. The deciding official is at a higher organization level than the individual who approved the original rating; and

b. When considered necessary by the deciding official, a fact finder from outside the chain-of-command of the employee may be appointed. The fact finder will gather and report the pertinent facts, and when requested, make a recommendation to the deciding official. A member of the personnel office staff will be available to assist the fact finder and the deciding official.

c. The decision of the deciding official is final.

The intent of the reconsideration process is to make it as informal as possible with a minimum of paperwork and at the same time to make it equitable to the affected employee.

(b) In 45 FR 28522, under the section titled "Adverse Actions and Reconsiderations," delete from the title and text of subparagraph 2 references to "N and B ratings" and substitute "lower performance ratings." In the second paragraph of subparagraph 2, delete the phrase "Incentive Group N." Replace with "the lowest performance rating group."

[FR Doc. 82-26371 Filed 9-23-82; 8:45 am]
BILLING CODE 6325-01-M

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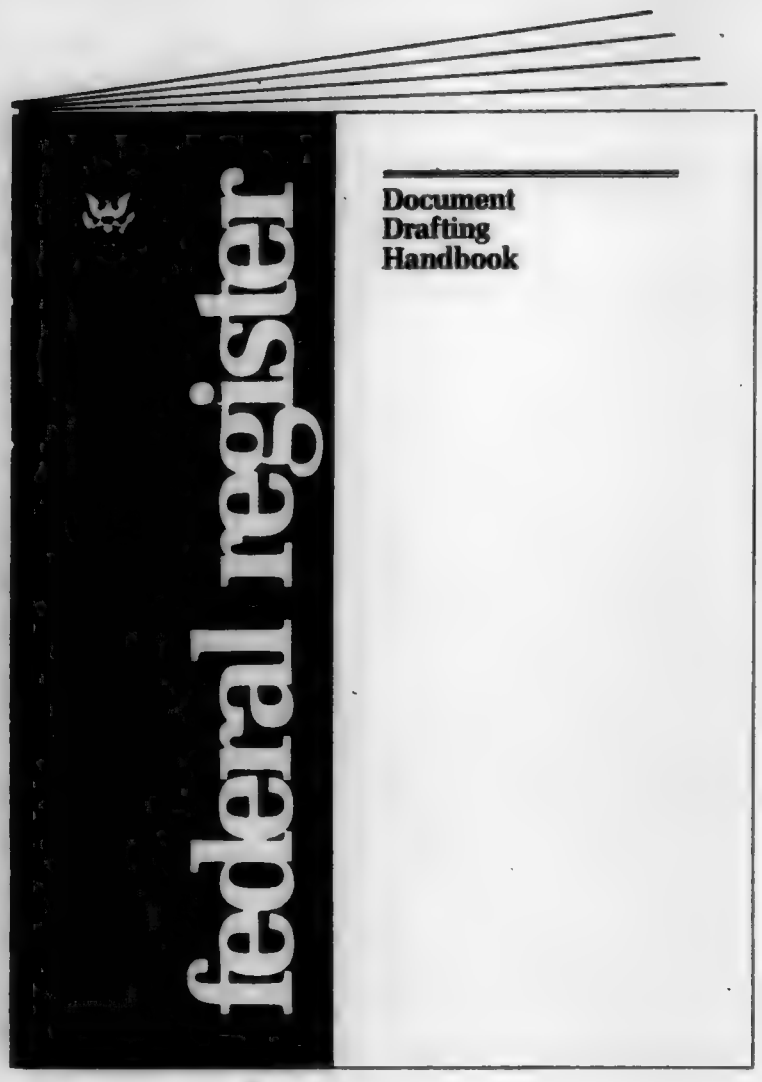
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Presidential Documents

Title 3—

The President

Proclamation 4974 of September 23, 1982

National School Lunch Week, 1982

By the President of the United States of America

A Proclamation

The National School Lunch Program—now in its 36th year—operates to provide nutritious and well-balanced meals for needy young people of our country. School lunch is an outstanding example of a close partnership of the Federal government with State governments and local communities to provide food, funds, and technical assistance for our efforts to provide nutrition assistance to these students.

The children and youth of our Nation are our greatest resource. The School Lunch Program demonstrates our awareness, our concern, and our willingness to work together to promote the health and well-being of our needy youth.

There are over 23 million lunches served every day in over 90,000 schools throughout the country. In an era of limited public resources, this effort is being met by resourceful and creative efforts at all levels of government and through the cooperation of parents, teachers, and civic groups.

By joint resolution approved on October 9, 1962, the Congress designated the week beginning on the second Sunday of October in each year as National School Lunch Week and requested the President to issue annually a proclamation calling for observance of that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby urge the people of the United States to observe the week of October 10, 1982, as National School Lunch Week and to give special and deserved recognition to those people at the State and local level who, through their innovative efforts, have made it possible to have a successful school lunch program.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of Sept. in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 82-26654
Filed 9-24-82; 10:30 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 4975 of September 23, 1982

National Forest Products Week, 1982

By the President of the United States of America

A Proclamation

America's forests—and the products from those forests—have contributed greatly to our Nation's development and progress for more than two centuries.

The seemingly inexhaustible supply of wood, water, wildlife, and other resources challenged our forefathers to carve a civilization out of the wilderness during our Nation's first century.

Then, during the second century, we came to recognize our responsibilities to conserve the forest resources and use them wisely.

Today, as we look forward to the year 2000, we have the knowledge to make the most of our forests and to make them more productive and to protect them more effectively. We need them to be prepared to meet increasing demands for homes, for wood, for paper, and for forest recreation. We know that in the decades ahead, demands for wood products—and for other uses of the forest—will increase dramatically.

Under careful management, our forests can produce more than twice the volume of timber now being grown, without damaging our environment. This means that we can meet our own increasing demands and still export wood products, thus strengthening both our economy and our independence.

Our forests can also be managed to provide not only abundant timber, but also water, wildlife and fish, recreation, paper resources, grazing for domestic livestock, and even mining—while still ensuring a quality environment.

As Americans we are fortunate in having a very large base of public forestlands that are managed for all our people. These forests are serving us well and can meet more of our immediate and future needs than they do now, with careful management. We also have millions of acres of private lands that must be managed to help meet future needs—needs that are not just economic and material, but inspirational as well. The human spirit needs the beauty, solitude, and renewal that are found in forests.

In recognizing the unique qualities and values of America's forest resources, the Congress has by Public Law 86–753, 36 U.S.C. 163, designated the third week in October as National Forest Products Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of October 17 through October 23, 1982, as National Forest Products Week and call upon all Americans to express their gratitude for the abundant forests with which this Nation has been blessed, and which have benefited us materially, economically, and spiritually.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of Sept., in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 82-26655
Filed 9-24-82; 10:31 am]
Billing code 3195-01-M

Presidential Documents

Executive Order 12383 of September 23, 1982

Amendments to the Manual for Courts-Martial, United States, 1969 (Revised Edition)

By the authority vested in me as President by the Constitution of the United States of America and by Chapter 47 of Title 10 of the United States Code (the Uniform Code of Military Justice), in order to prescribe amendments to the Manual for Courts-Martial, United States, 1969 (Revised edition), prescribed by Executive Order No. 11476, as amended by Executive Order No. 11835, Executive Order No. 12018, Executive Order No. 12198, Executive Order No. 12233, Executive Order No. 12306, Executive Order No. 12315, and Executive Order No. 12340, it is hereby ordered as follows:

Section 1. Paragraph 127*c*, Section A (Table of Maximum Punishments) of the said Manual for Courts-Martial is amended by deleting the following language: "Drugs, habit forming, wrongful possession, sale, transfer, use or introduction into a military unit, base, station, post, ship, or aircraft" and the maximum punishments prescribed therefor, and "Drugs, marijuana, wrongful possession, sale, transfer, use or introduction into a military unit, base, station, post, ship, or aircraft" and the maximum punishments prescribed therefor, and by inserting in their place the following entries and maximum punishments:

"Drugs, wrongful use, possession, manufacture, or introduction of amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana (except possession of less than 30 grams or use of marijuana), methamphetamine, opium, phencyclidine, secobarbital, and Schedule I, II, and III controlled substances.". Maximum punishment: Dishonorable discharge, forfeiture of all pay and allowances, and confinement at hard labor not to exceed 5 years.

"Drugs, wrongful possession of less than 30 grams or use of marijuana, and wrongful use, possession, manufacture, or introduction of phenobarbital, and Schedule IV and V controlled substances.". Maximum punishment: Dishonorable discharge, forfeiture of all pay and allowances, and confinement at hard labor not to exceed 2 years.

"Drugs, wrongful distribution of, or, with intent to distribute, wrongful possession, manufacture, or introduction of amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana, methamphetamine, opium, phencyclidine, secobarbital, and Schedule I, II, and III controlled substances.". Maximum punishment: Dishonorable discharge, forfeiture of all pay and allowances, and confinement at hard labor not to exceed 15 years.

"Drugs, wrongful distribution of, or, with intent to distribute, wrongful possession, manufacture, or introduction of phenobarbital and Schedule IV and V controlled substances.". Maximum punishment: Dishonorable discharge, forfeiture of all pay and allowances, and confinement at hard labor not to exceed 10 years.

Sec. 2. Paragraph 127*c*, Section B of the said Manual for Courts-Martial is amended by adding the following new paragraph following the last paragraph therein:

"When any offense described in paragraph 213*g* is committed while the accused is: on duty as a sentinel or lookout; on board a vessel or aircraft used by or under the control of the armed forces; in or at a missile launch facility used by or under the control of the armed forces; in a hostile fire pay zone; or in time of war, the maximum period of confinement at hard labor and

forfeiture of pay and allowances authorized for such offense shall be increased by 5 years.".

Sec. 3. Paragraph 213 of the said Manual for Courts-Martial is amended by deleting the last paragraph of subparagraph 213*b* and by adding the following new subparagraph after the end of subparagraph *f*:

"*g.* Offenses involving controlled substances.

"*Discussion.* Possession, use, introduction into a military unit, base, station, post, ship, or aircraft, manufacture, distribution, and possession, manufacture, or introduction with intent to distribute, of a controlled substance are offenses under Article 134.

"(1) *Controlled substance.* "Controlled substance" means amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana, methamphetamine, opium, phencyclidine, phenobarbital, and secobarbital. "Controlled substance" also means any substance which is included in Schedules I through V established by the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended (21 U.S.C. 801 *et seq.*).

"(2) *Possess.* "Possess" means to exercise control of something. Possession may be direct physical custody like holding an item in one's hand, or it may be constructive, as in the case of a person who hides an item in a locker or car to which that person may return to retrieve it. Possession must be knowing and conscious. Possession inherently includes the power or authority to preclude control by others. It is possible, however, for more than one person to possess an item simultaneously, as when several people share control of an item. An accused may not be convicted of possession of a controlled substance if the accused did not know that the substance was present under the accused's control. Awareness of the presence of a controlled substance may be inferred from circumstantial evidence.

"(3) *Distribute.* "Distribute" means to deliver to the possession of another. "Deliver" means the actual, constructive, or attempted transfer of an item, whether or not there exists an agency relationship.

"(4) *Manufacture.* "Manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of such substance or labeling or relabeling of its container. The term "production", as used above, includes the planting, cultivating, growing, or harvesting of a drug or other substance.

"(5) *Wrongfulness.* To be punishable under Article 134, possession, use, distribution, introduction, or manufacture of a controlled substance must be wrongful. Possession, use, distribution, introduction, or manufacture of a controlled substance is wrongful if it is without legal justification or authorization. Possession, use, distribution, introduction, or manufacture of a controlled substance is not wrongful if such act or acts are: (A) done pursuant to legitimate law enforcement activities (for example, an informant who receives drugs as part of an undercover operation is not in wrongful possession); (B) done by authorized personnel in the performance of medical duties; or (C) without knowledge of the contraband nature of the substance (for example, a person who possesses cocaine, but actually believes it to be sugar, is not guilty of wrongful possession of cocaine). But, possession, use, distribution, introduction, or manufacture of a controlled substance may be inferred to be wrongful in the absence of evidence to the contrary. The burden of going forward with evidence with respect to any such exception in any court-martial or other proceeding under the code shall be upon the person claiming its benefit. If such an issue is raised by the evidence presented, then the burden of proof is upon the United States to establish that the use, possession, distribution, manufacture, or introduction was wrongful.

"(6) *Intent to distribute.* Intent to distribute may be inferred from circumstantial evidence. Examples of evidence which may tend to support an inference of intent to distribute are: possession of a quantity of substance in excess of that which one would be likely to have for personal use; market value of the substance; the manner in which the substance is packaged; and that the accused is not a user of the substance. On the other hand, evidence that the accused is addicted to or is a heavy user of the substance may tend to negate an inference of intent to distribute.

"(7) *Certain amount.* When a specific amount of a controlled substance is believed to have been possessed, distributed, introduced, or manufactured by an accused, the specific amount should ordinarily be alleged in the specification. It is not necessary to allege a specific amount, however, and a specification is sufficient if it alleges that an accused possessed, distributed, introduced, or manufactured "some," "traces of," or "an unknown quantity of" a controlled substance.

"*Proof.*

"(1) *Wrongful possession of controlled substance.* (a) That the accused possessed a certain amount of a controlled substance; (b) that the possession by the accused was wrongful; and (c) that, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

"(2) *Wrongful use of controlled substance.* (a) That the accused used a controlled substance; (b) that the use by the accused was wrongful; and (c) that, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

"(3) *Wrongful distribution of controlled substance.* (a) That the accused distributed a certain amount of a controlled substance; (b) that the distribution by the accused was wrongful; and (c) that, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

"(4) *Wrongful introduction of controlled substance.* (a) That the accused introduced onto a vessel, aircraft, vehicle, or installation used by the armed forces or under the control of the armed forces a certain amount of a controlled substance; (b) that the introduction was wrongful; and (c) that, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

"(5) *Wrongful manufacture of controlled substance.* (a) That the accused manufactured a certain amount of a controlled substance; (b) that the manufacture was wrongful; and (c) that, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

"(6) *Wrongful possession, manufacture, or introduction of controlled substance with intent to distribute.* (a) That the accused possessed, manufactured, or introduced a certain amount of a controlled substance; (b) that the possession, manufacture, or introduction was wrongful; (c) that the possession, manufacture, or introduction was with the intent to distribute; and (d) that, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.".

Sec. 4. Appendix 6c is amended by deleting sample specifications 144, 145, and 146 and the marginal notes with them and inserting in place thereof the following:

"144. In that _____ (personal jurisdiction data) did, (at/on board—location) (subject-matter jurisdiction data, if required) on or about _____ 19 ___, wrongfully (possess) (distribute) (manufacture) _____

(grams) (ounces) (pounds) (_____) of _____ (a Schedule _____ controlled substance), (with the intent to distribute the said controlled substance) [while on duty as a sentinel or lookout] [while (onboard a vessel/aircraft) (in or at a missile launch facility) used by the armed forces or under the control of the armed forces, to wit: _____] [while in a hostile fire pay zone] [during time of war].".

Marginal note: "Drugs—wrongful possession, manufacture, or distribution".

"145. In that _____ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about _____ 19___, knowingly and wrongfully use _____ (a Schedule _____ controlled substance), [while on duty as a sentinel or lookout] [while (onboard a vessel/aircraft) (in or at a missile launch facility) used by the armed forces or under the control of the armed forces, to wit: _____] [while in a hostile fire pay zone] [during time of war].".

Marginal note: "—wrongful use".

"146. In that _____ (personal jurisdiction data), did, on or about _____ 19___, (at/on board—location) wrongfully introduce _____ (grams) (ounces) (pounds) (_____) of _____ (a Schedule ___ controlled substance), onto a vessel, aircraft, vehicle, or installation used by the armed forces or under control of the armed forces, to wit: _____ (with the intent to distribute the said controlled substance) [while on duty as a sentinel or lookout] [while in a hostile fire pay zone] [during a time of war].".

Marginal note: "—wrongful introduction".

Sec. 5. These amendments shall be effective on October 1, 1982. These amendments shall apply to offenses committed on or after that date.

Sec. 6. The Secretary of Defense, on behalf of the President, shall transmit a copy of this Order to the Congress of the United States in accord with Section 836 of Title 10 of the United States Code.

Ronald Reagan

THE WHITE HOUSE,
September 23, 1982.

[FR Doc. 82-26658
Filed 9-24-82; 10:32 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 47, No. 187
Monday, September 27, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 123

[Rev. 9, Amdt. 19]

Disaster Loans: Change in Policy

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This amendment to Part 123 prohibits the guarantee of disaster home loans which exceed SBA's administrative limits. This final rule considers the written comment received in response to the proposed rule which was published in the Federal Register on May 12, 1982 (47 FR 20315). The above change results from the serious adverse impact upon the nation's credit markets of Federal and federally-assisted borrowing.

EFFECTIVE DATE: September 27, 1982.

FOR FURTHER INFORMATION CONTACT: Questions regarding this final rule may be directed to: Bernard Kulik, Deputy Associate Administrator for Disaster Assistance, (202) 653–6879.

SUPPLEMENTARY INFORMATION: SBA received only one written response to the proposed rule. The primary objections raised by the respondent were that insurance against certain hazards is not required by mortgage lenders and that insurance against all hazards is cost prohibitive to homeowners. SBA's position continues to be that it is the responsibility of each homeowner to insure against all insurable hazards likely to occur in their locations. It is doubtful that homeowners who could not afford certain insurance protection could demonstrate the ability to repay a disaster loan(s) made to restore damage inflicted by those certain hazards. It is contemplated that the gross amount of disaster loan funds which will be made unavailable to homeowner disaster victims may be utilized in other areas of the economy.

The $5,000 loan cancellation feature for disasters occurring between January 1, 1972, and April 20, 1973, has been deleted because it is obsolete.

Business loan regulations are also revised to incorporate both the $500,000 statutory limit on total disaster loan assistance to any one business for any one disaster and the exemption from this limit provided for a business which constituted a major source of employment in an area suffering a disaster.

For the purposes of Executive Order 12291, SBA hereby determines that this rule will not constitute a major rule.

In addition, it is hereby certified pursuant to Section 605 of the Regulatory Flexibility Act, 5 U.S.C. 605, that this rule will not have a significant economic impact on a substantial number of small entities. In this regard this rule affects only the applications of homeowners for SBA guaranteed disaster loan assistance, and, it merely sets forth statutory language with respect to businesses. Therefore, it does not have any economic impact upon small entities as defined in section 601 of that Act, 5 U.S.C. 601.

List of Subjects in 13 CFR Part 123

Disaster assistance, Loan programs—business, Small businesses.

PART 123—DISASTER LOANS

§ 123.5 [Amended]

Accordingly, notice is given that, pursuant to the authority of section 5(b)(6) of the Small Business Act, as amended, 15 U.S.C. 634(b)(5), § 123.5(a) of Chapter I of Title 13 of the Code of Federal Regulations is revised by removing subparagraph (4) in its entirety and revising subparagraphs (1) and (3) to read as follows:

(a) * * *

(1) SBA's share in a direct, immediate participation or guaranteed loan to any homeowner, including all members of the household, shall not exceed $50,000 for repair or replacement of the land or building, and shall not exceed $10,000 to repair or replace household goods and personal items: Provided, however, That SBA's share of any such loan or loans to repair or replace a home and household goods for any homeowner shall not exceed $55,000 in the aggregate for any one disaster, excluding eligible refinancing in an amount not to exceed the lesser of the physical damage to the real property or the amount of the loan made to repair such property. Persons living in a damaged home who are not dependents of the homeowner may also apply for disaster assistance for personal property loss, up to $10,000.

* * * * *

(3) The total of SBA's direct loans plus SBA's share of immediate participation and guaranteed loans to any one business concern for any one disaster may not exceed the statutory limit ($500,000). In the case of a major source of employment in an area suffering a disaster, the Administration may waive the $500,000 limitation. Applicants applying for such waiver shall be required to demonstrate to SBA's satisfaction that applicant has used all funds from its own resources and from non-Federal credit available at reasonable interest rates and terms to alleviate the physical damage and/or economic injury sustained, plus eligible refinancing.

(Catalog of Federal Domestic Assistance Program No. 59.008 (Physical Disaster Loans))

Dated: August 31, 1982.

James C. Sanders,
Administrator.

[FR Doc. 82-26406 Filed 9-24-82; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-CE-26-AD; Amdt. 39-4465]

EMBRAER Models EMB-110P1 and EMB-110P2 Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to EMBRAER Models EMB-110P1 and EMB-110P2 airplanes, which supersedes AD 82-15-06, Amendment 39-4421 (July 26, 1982; 47 FR 32064). It continues in effect the requirement in the AD for installation of a temporary revision in the "Pilot's Operating Handbook (POH) and Centro Technico

Aeroespacial (CTA) Approved Airplane Flight Manual" (POH/AFM) limiting flap extension when there is known or suspected ice accumulation on the horizontal stabilizer. Additionally, it authorizes removal of this revision upon incorporation of certain modifications described in EMBRAER Service Bulletins No. 110–30–013 dated March 23, 1982 and No. 110–55–020, Change No. 1, dated April 22, 1982, and sets a date for incorporation of these changes. This action is needed to provide relief to operators who have already incorporated these modifications by authorizing removal of the temporary POH/AFM revision limiting flap operation on their airplanes. A final date for incorporation of the modification is needed to assure that the original level of safety established by the type certification basis of the airplane design is restored.

EFFECTIVE DATE: September 30, 1982.

Compliance required as indicated in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from Empresa Brasileira de Aeronautica S/A (EMBRAER), P.O. Box 343–CEP, 12.200, Sao Jose Dos Campos, Sao Paulo, Brazil.

A copy of these service bulletins and temporary POH/AFM revision is also contained in the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, Federal Building, 601 East 12th Street, Kansas City, Missouri 64106, and in Room 275, Atlanta Aircraft Certification Office, FAA, 3400 Norman Berry Drive, East Point, Georgia 30344.

FOR FURTHER INFORMATION CONTACT: George Carver, ACE–130A, Atlanta Aircraft Certification Office, FAA, P.O. Box 20636, Atlanta, Georgia 30320; Telephone (404) 763–7781.

SUPPLEMENTARY INFORMATION: The FAA issued AD 82–15–06, Amendment 39–4421 (47 FR 32064) to prevent a sharp and unexpected nose-down pitching movement at flap deflections greater than 50 percent if ice is accumulated on the horizontal stabilizer due to an ineffective or malfunctioning horizontal stabilizer deicing system on EMBRAER Models EMB–110P1 and EMB–110P2 airplanes. This AD requires incorporation of a temporary revision in the POH/AFM prohibiting flap extension beyond 50 percent when known or suspected horizontal stabilizer ice exists. When this action was taken, the FAA was aware that the manufacturer was developing modifications which would assure proper operation of the stabilizer deicing system. The manufacturer has now published instructions for accomplishing these modifications in EMBRAER Service Bulletins No. 110–30–013 dated March 23, 1982, and No. 110–55–020, Change No. 1, dated April 22, 1982. The FAA has learned that some operators have incorporated or are in the process of incorporating these modifications in their airplanes. The flap restriction imposed by the temporary AFM/POH revisions are not required on the modified airplanes. Consequently, this requirement by AD 82–15–06, is an unnecessary burden on the operators of modified airplanes and the level of safety in the operation of the affected airplanes is increased when flap usage is unrestricted. Since the flap restriction was imposed by AD 82–15–06 as an interim measure to provide an acceptable level of safety until such time as a modification to assure proper functioning of the stabilizer deice system is available, the FAA finds that establishing a reasonable date for accomplishing the modifications which will impose the minimum cost and loss of airplane availability to the operator is necessary in the interest of safety.

Therefore, the FAA is superseding AD 82–15–06 with a new AD, applicable to the above EMBRAER airplane models, which continues the requirement for installation of a temporary revision to the POH/AFM limiting flap extension to 50 percent when stabilizer ice is known or suspected, allows removal of this revision when the stabilizer deice system is modified per certain requirements of EMBRAER Service Bulletins No. 110–30–013 dated March 23, 1982 and No. 110–55–020, Change No. 1, dated April 22, 1982 and sets a date for completion of these modifications.

Since this amendment is in part relieving in nature, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aircraft, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

EMBRAER: Applies to Models EMB–110P1 and EMB–110P2 (S/Ns 110001 through 110415) airplanes certificated in any category.

Compliance: Required as indicated unless previously accomplished.

To prevent loss of control of the airplane during approach and landing in icing conditions, accomplish the following:

(a) Within the next 25 hours time-in-service after July 29, 1982, on airplanes not in compliance with AD 82–15–06 or modified in accordance with paragraph (b) of this AD:

(1) Incorporate a temporary POH/AFM revision (immediately following page 2–10) in the affected airplane POH/AFM. This revision is set forth in Figure I of this AD.

(2) Make the following pen and ink changes in the Log of Revisions, page IX, of the POH/AFM: "Temporary Revision No. 1," "add page 2–10A," "include temporary landing flap limitations" and "in accordance with Airworthiness Directive 82–15–06."

(3) The incorporation of the temporary POH/AFM revision and Log of Revisions entry required by this AD may be accomplished by the owner/operator of the airplane. This person must make the prescribed entry in the aircraft maintenance records, indicating compliance with paragraph (a) of this AD.

(b) On or before December 31, 1982:

(1) Modify the horizontal stabilizer pneumatic deicing system tubing, including the relocation of the pressure switch and associated cabling, in accordance with EMBRAER Service Bulletin No. 110–30–013, March 23, 1982.

(2) Provide inspection openings in the empennage in accordance with Part I of EMBRAER Service Bulletin No. 110–55–020, Change No. 1, April 22, 1982.

(3) Replace pneumatic supply hoses, P/N 121–770–21–19, with new hoses, P/N B118–1, in accordance with EMBRAER Service Bulletin No. 110–30–012, March 15, 1982.

(4) Upon completion of the above modifications, test the system according to procedures outlined in EMBRAER Maintenance Manual T.O. 1C95–2–6, assuring that there are no leaks.

(5) If installed, remove the temporary revision to the Pilot's Operating Handbook and Centro Technico Aeroespacial (CTA) Approved Airplane Flight Manual (POH/AFM), which was installed according to AD No. 82–15–06.

(c) Aircraft may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) An equivalent method of compliance with this AD may be used if approved by the Chief, Atlanta Aircraft Certification Office, FAA, P.O. Box 20636, Atlanta, Georgia 30320.

This amendment supersedes AD 82–15–06, Amendment 39–4421 (47 FR 32064), effective July 29, 1982.

This amendment becomes effective on September 30, 1982.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft and provide relief to those operators of aircraft on which it has already been corrected. It has been further

determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket identified under the caption "ADDRESSES."

This rule is a final order of the Administrator under Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the various Courts of Appeal of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Kansas City, Missouri, on September 15, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82-26294 Filed 9-24-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Airworthiness Docket No. 82-ASW-33; Amdt. 39-4463]

Hughes Helicopter Model 269 Series Helicopters; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, revision of existing Airworthiness Directive (AD).

SUMMARY: This amendment amends an existing Airworthiness Directive (AD), 82-15-01, (Amendment 39-4414), applicable to certain Hughes Model 269 series helicopters, by making the AD applicable to Hughes Model 269B helicopters. The amendment is needed because the Model 269B helicopters were inadvertently omitted from the applicability section of AD 82-15-01, Amendment 39-4414.

DATES: Effective October 4, 1982.

Compliance required within 50 hours' time in service after the effective date of this amendment to the AD unless already accomplished.

ADDRESSES: The applicable service information may be obtained from Hughes Helicopters, Inc., Centinela and Teale Streets, Culver City, California 90230. A copy of the service information is contained in the Office of Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Harold Ferris, Aerospace Engineer, Propulsion Section, ANM-174W, Western Aircraft Certification Field Office, Federal Aviation Administration, Northwest Mountain Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone (213) 536-6381.

SUPPLEMENTARY INFORMATION: There have been reports that the bolts that attach the main transmission ring gear to its carrier have become loose in service. This loss of torque could cause fretting corrosion, fatigue cracking of the carrier assembly, and fatigue fracture of the attaching bolts resulting in loss of power to the rotor system or jamming of the main transmission and could result in loss of control of the helicopter. The Federal Aviation Administration (FAA) issued AD 82-15-01 Amendment 39-4414 (47 FR 30050) which required inspection, rework, or replacement (as required), and increased bolt torque on the main transmission ring gear/carrier assembly on certain Hughes Model 269 series helicopters. The main transmission assemblies to which the AD applied are also found on the Model 269B helicopters, and the omission of that model from the applicability of the original AD was inadvertent.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aircraft, Aviation safety, Safety, Air transportation.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Amendment 39-4414 (44 FR 30050), AD 82-15-01, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), is amended by revising the first paragraph to read as follows:

Hughes Helicopters.—Applies to Model 269A (all S/N's), TH-55A (all S/N's converted to civil use), 269A-1 (all S/N's), 269B (all S/N's), and 269C (S/N's 0001 through 1074) helicopters equipped with main transmission assemblies P/N 269A5175-7, -9, -11, -13, -15, and -17, except those transmissions with the letter "W" on the transmission nameplate below and adjacent to the transmission serial number. Applies to helicopters certificated in all categories.

This amendment becomes effective October 4, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportaion Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)). As such, it is subject to review only by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, TX, on September 9, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82-26299 Filed 9-24-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AWA-9]

Designation of Federal Airways, Alteration of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns VOR Federal Airway V-203 between Massena, NY, and Montreal, Canada. The realignment enhances traffic flow into Canadian airspace and improves traffic flow in the Mirabel and Dorval International Airports, Canada.

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On August 2, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of V-203 between Massena, NY, and Montreal, Canada, by realigning the airway via an east dogleg (47 FR 34998). Interested parties were invited to participate in this rulemaking

proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations realigns V-203 between Massena, NY, and Montreal, Canada. The realignment enhances traffic flow into Canadian airspace and improves traffic flow into the Mirabel and Dorval International Airports, Canada.

List of Subjects in 14 CFR Part 71

Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., December 23, 1982, as follows:

V-203 [Amended]

By deleting the words "Massena, NY, St. Eustache, PQ, Canada." and substituting for them the words "Massena, NY, INT Massena 045° and Montreal, Canada, 188° radials Montreal."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) amd 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on September 20, 1982.

John W. Baier,

Acting Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-26469 Filed 9-24-82; 8:45 am]
BILLING CODE 4910-13-M

[Docket No. 21022A; Reg. Notice No. 91-100]

14 CFR Part 91

Emergency Air Traffic Regulations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Update of emergency air traffic regulations.

SUMMARY: Section 91.100 of the Federal Aviation Regulations (FAR) (14 CFR 91.100) requires aircraft operators to comply with emergency air traffic regulations issued under that section and covered by Notices to Airmen (NOTAMs) that are also issued under that section. This document provides notice of regulations already adopted that were immediately effective under § 91.100, for which the FAA has also issued NOTAMs. It adds, to Notice 91-100, emergency regulations implementing Special Federal Aviation Regulation (SFAR) No. 44, as amended, that were necessary to respond to a shortage in air traffic control personnel.

EFFECTIVE DATE/TIME: As stated in each regulation listed.

ADDRESSES: Send comments on the listed regulations, in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 21022A, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may be examined in the Rules Docket, Room 915, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: B. Keith Potts, Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 426-3731.

SUPPLEMENTARY INFORMATION:

Comments Invited

The regulations issued under § 91.100 and listed herein are emergency final rules involving immediate air traffic requirements throughout the United States. The need for immediate regulatory response under § 91.100 is stated at 46 FR 16666, *et seq.* In issuing the regulations in this notice, the FAA has found that the conditions cited in § 91.100 exist or will exist and that the regulations are necessary in order to respond to those conditions in the public interest. Where necessary, these regulations may be supplemented or amended hourly, or even more frequently, as air traffic conditions change. Accordingly, good cause exists for making these regulations effective immediately, without prior notice and public procedure.

Comments are invited on any aspect of the listed regulations, individually or cumulatively, and on any aspect of the emergency air traffic control conditions they respond to. When § 91.100 was issued, the FAA noted that it was an emergency regulation under Executive Order 12291 and DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and had no cost impact in itself since it was only procedural. However, the FAA also stated (at 46 FR 16669) that the regulations distributed in accordance with § 91.100 will be evaluated individually, as appropriate, to determine whether they have cost impacts. To assist the FAA in determining, as soon as practicable after issuance, the cost impacts of the regulations issued under § 91.100, comments on economic impact are specifically invited.

"Commenters wishing the FAA to acknowledge receipt of their comments in response to these rules must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 21022A." The postcard will be date/time stamped and returned to the commenter.

Effect of Publication

Publication, in the **Federal Register**, of emergency air traffic regulations issued under § 91.100 provides constructive legal notice of those regulations to all persons who may not have received the NOTAMs concerning those regulations or who otherwise may not have legal notice of the adoption of those regulations. This document provides this constructive legal notice of immediately effective emergency regulations that have already been adopted. Additional emergency rules will be published periodically if the need for their adoption continues.

Availability Prior to Publication: Preflight Requirement

Since there is a necessary time lag between the issuance of emergency air traffic regulations and NOTAMs under § 91.100 and the publication of these regulations in the **Federal Register**, and since these regulations and NOTAMs respond to emergency conditions that exist, or will exist, relating to the FAA's ability to operate the Air Traffic Control System, the NOTAMs concerning these regulations are available at operating air traffic facilities and Regional Air Traffic Division offices prior to **Federal Register** publication and as long as they remain

effective. Under § 91.5 *Preflight Action* (14 CFR 91.5), each pilot in command is required to familiarize himself or herself with all available information concerning each flight.

Air Traffic Controller Shortage: SFAR No. 44, as Amended

The air traffic regulations listed in this amendment to Notice 91–100 follow the adoption of SFAR Nos. 44 through 44–5, in response to an organized air traffic controller job action. The emergency aspects of that action are described at 46 FR 39997, *et seq.* As a result, air traffic control facilities have experienced staffing shortages that have reduced the level of air traffic that can be handled with the required levels of safety and efficiency. To ensure that these levels of safety and efficiency are fully maintained during this shortage of air traffic personnel, the emergency regulations listed in section 2 of this notice have been issued under § 91.100.

Regulatory Impact

The FAA has determined that the regulations listed in this notice are emergency regulations that are not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to these regulations, since they were issued in response to existing or expected emergency conditions relative to FAA's ability to operate the Air Traffic Control System. It has been further determined that the listed regulations are emergency regulations under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If these regulations are later determined to be significant, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

List of Subjects in 14 CFR Part 91:

Air traffic control, Airspace, Aviation safety.

Notice of Adoption

Accordingly, pursuant to the authority delegated to me by the Administrator in § 91.100 of the Federal Aviation Regulations (14 CFR 91.100; 46 FR 16666, March 13, 1981) and that cited below, the following emergency air traffic regulations have been adopted and covered by NOTAMs under that section.

(Secs. 307, 313(a), 601, 603, 902, 1110, and 1202, Federal Aviation Act of 1958, as amended (49 U.S.C. §§ 1348, 1354(a), 1421, 1442, 1443, 1472, 1510, and 1522); sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)).)

In consideration of the foregoing, § 2 of Notice 91–100 is hereby amended by adding the following emergency regulations following the regulation numbered FDC No. 2/1662.

Air Traffic Controller Shortage of 1981, and Related Emergency Conditions (SFAR–44, as amended; Docket No. 21022A).

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FDC 1/2705 Cancel FDC 1/1540.
FDC 2/915 Cancel FDC 1/2760.
FDC 2/1697 Cancel FDC 2/1431.
FDC 2/1772 Cancel FDC 2/1632.
FDC 2/1970 Cancel FDC 2/1404.

FDC 2/1999 Emergency Flight Rules October 18 through 23, 1982. Flight Plan Filing/Annual Permian Basin Oil Show Reservation Rule/Odessa, Texas, effective August 20, 1982, 1621 GMT.

The Permian Basin Oil Show is expected to cause approximately 2,400 IFR aircraft operations to be added to the air traffic control (ATC) system. Current rules issued under SFAR 44, as amended, do not provide the air traffic system with the flexibility to accommodate much of this added traffic. For example, only a departure reservation, regardless of destination, is required under the General Aviation Reservation Rule (GAR). This precludes ATC facilities from effectively managing an above normal and concentrated arrival demand for a specific destination. Further, under the GAR, departure reservations cannot be obtained earlier than 24 hours prior to the estimated departure time. This provision does not facilitate accommodation planning.

To accommodate this traffic without excessive delays and inconvenience to the public, increased ATC staffing and reservations will be required. Pilots proposing general aviation flight to the Permian Basin area will be excluded from the requirements of the GAR once they have obtained an IFR arrival reservation. Departure reservations for IFR flight from the Permian Basin area will be required and advance requests and filing will be necessary.

Reservations for VFR flight will not be required; however, appropriately rated pilots should anticipate the possibility of instrument meteorological conditions and flight plan accordingly. Pilots who plan IFR return flights and obtain IFR departure reservations under this rule have the advantage of being able to know their return departure date and time prior to leaving their "home" for the Permian Basin area.

Accordingly, pursuant to the SFAR 44, as amended, and Federal Aviation Regulations Section 91.100, the following rule is effective immediately to provide for the orderly handling and safe movement of IFR traffic:

1. No person may operate a nonscheduled general aviation flight under IFR into/or out of the Permian Basin area during the effective periods of this rule without a reservation issued under this rule.

2. The Permian Basin area includes the airspace within a 30-nautical mile radius of Midland Regional Airport, Midland, Texas, and includes the following airports:

Midland Regional, Midland Airpark, Schlemeyer.

3. The effective periods are October 20 through 23, 1982, daily from 0600 CDR until 2000 CDT.

4. Each person planning IFR flight under this rule shall comply with, in lieu of the GAR, the following:

A. Reservations may only be requested after 1400 GMT on October 18, 1982.

B. An arrival reservation to the Permian Basin area is required and must be obtained from the Central Flow Control Facility (Telephone No. (202) 382–6866).

C. A departure reservation from the Permian Basin area is required and must be obtained from the Midland FSS (Telephone No. (915) 563–2611).

D. A flight plan may only be filed after receiving a reservation, but must be filed at least 4 hours prior to the proposed departure time.

5. Each person receiving a reservation number under this rule must include it in the remarks section of the appropriate flight plan as filed with ATC.

FDC 2/2030 Cancel FDC Nos. 1/1539, 1/1855, 1/2261, 1/2414, 1/2434, 1/2602, and 1/2631.

FDC 2/2037 EMERGENCY FLIGHT RULES September 4–17, 1982. Flight Plan Filing/Tool Manufacturers Convention, Chicago, Illinois, effective August 26, 1982, 1832 GMT.

The Tool Manufacturer's Convention is expected to generate an above normal and concentrated arrival demand at Chicago's Midway and Meigs Airports. In order to accommodate this demand without impacting other operations in the area, and because the General Aviation Reservation Rule (GAR) is oriented toward metering departures rather than arrivals, special regulations and procedures are required.

During this period, reservations will be required for nonscheduled general aviation IFR arrivals into the impacted

area. Once an IFR arrival reservation is obtained, the operator will not be bound by the GAR Rule for the segment of their trip to the impacted area. The GAR Rule will still apply to flight from the impacted area.

Reservations for VFR flight will not be required; however, appropriately rated pilots should anticipate the possibility of instrument meteorological conditions and flight plan accordingly.

Therefore, pursuant to Special Federal Aviation Regulation No. 44, as amended, and Federal Aviation Regulation § 91.100, the following rule is effective immediately to provide for the safe, orderly handling, and movement of IFR traffic:

1. No person may operate a nonscheduled general aviation flight under IFR into the Chicago Midway/Meigs Airports during the effective periods of this rule without a reservation issued under this rule.

2. The effective periods are as follows:

Arrivals—1100 until 1959 GMT daily from September 7 through September 11, and September 13 through September 17 (exclude Sunday, September 12).

3. Each person planning IFR under this rule shall comply with, in lieu of the GAR, the following:

A. Reservations may only be requested after 1400 GMT on September 4, 1982.

B. An arrival reservation to the Chicago Midway/Meigs Airports is required and must be obtained from the Central Flow Control Facility (Telephone No. (202) 382-6866).

4. Each person receiving a reservation number under this rule must include it in the remarks section of the appropriate flight plan as filed with ATC.

FDC 2/2040 Emergency Flight Rules—IFR Flight Plan Filing/General Aviation Reservation Rule effective September 1, 1982, 0600 Local Time.

The IFR capacity of the enroute ATC system is increasing and permits relaxation of the IFR Flight Plan Filing/General Aviation Reservation Rule (GAR). Previously, the GAR Rule allowed certain aircraft to operate within certain ARTCC areas without a reservation. Conditions are such that now all operations in and between the designated ARTCC's airspace in paragraph 4K can be accommodated without reservations.

Accordingly, pursuant to SFAR No. 44, as amended, and Federal Aviation Regulation Section 91.100, the following regulation is effective in the 20 conterminous ARTCC areas to provide for the orderly handling and safe movement of IFR traffic.

1. All aircraft operators planning a flight under IFR with a proposed departure/enroute pick-up time from 0600 local to 1959 local shall file a flight plan with and obtain a departure/enroute pick-up reservation from an FAA flight service station at least 30 minutes before but not more than 24 hours before his/her proposed departure/enroute time if any segment of the flight will enter ARTCC airspace.

2. ATC clearance must be requested not later than 1 hour after proposed departure/enroute pick-up time.

3. Multiple-Leg Flight Plans may be filed provided:

A. The conditions of paragraph 1 above, are met.

B. The last proposed departure/enroute pick-up time does not exceed the 24-hour filing time limitation specified in paragraph 1 above.

C. The same departure/enroute pick-up point is not specified twice in the request.

D. The request does not involve more than three departure/enroute pick-up points.

4. The provisions of this regulation do not apply to the following operators and flights:

A. FAR Part 121 or Part 135 operators with FAA/ICAO approved two-letter or three-letter call signs.

B. Military flights

C. Medical emergency flights.

D. Presidential or Vice-Presidential flights.

E. FAA critical flights.

F. NASA flights supporting space shuttle launch and recovery operations during periods designated by the Director, Air Traffic Service.

G. Flights to or from the high density airports designated in Subpart K of FAR Part 93 during the periods when reservations are required. (NOTE: Slot allocations for John F. Kennedy, LaGuardia, and O'Hare Airport may be adjusted consistent with pro rata reductions issued under SFAR 44, as amended.)

H. Flights originating within the airspace areas of Anchorage and Honolulu ARTCC's.

I. Turbojet aircraft operations at FL 290 and above to a destination 200 nautical miles or more from the point of departure.

J. Nonstop flights destined for airports outside the continental United States.

K. Operations affecting certain ARTCC's are as follows:

Intra-ARTCC	Inter-ARTCC
Albuquerque Salt Lake	Seattle-Salt Lake City

5. Limitations on obtaining an IFR clearance while airborne remain in effect in the Anchorage ARTCC area as specified in the pertinent regulatory NOTAM.

FDC 2/2147 EMERGENCY FLIGHT RULES September 19–24, 1982. Flight Plan Filing/National Business Aircraft Association (NBAA) Convention, St. Louis, Missouri, effective September 6, 1982, 12:55 GMT.

The NBAA Convention is expected to generate an above normal and concentrated air traffic demand within the St. Louis area. In order to accommodate this demand without impacting other operations in the area, and because the General Aviation Reservation Rule (GAR) is oriented toward metering departures rather than arrivals, special regulations and procedures are required.

During this period, reservations will be required for nonscheduled general aviation IFR flight to and from the impacted area. Once a reservation is obtained, the operator will not be bound by the GAR Rule for that segment of their flight for which the reservation was obtained.

Reservations for VFR flight will not be required; however, appropriately rated pilots should anticipate the possibility of instrument meteorological conditions and flight plan accordingly.

Therefore, pursuant to the Special Federal Aviation Regulations § 91.100, the following rule is effective immediately to provide for the orderly handling and safe movement of IFR traffic.

1. No person may operate a nonscheduled general aviation flight under IFR to or from the St. Louis area during the effective periods of this rule without a reservation issued under this rule.

2. The St. Louis area includes the airspace within a 25-nautical mile radius of St. Louis, Missouri, and includes the following airports:

BiState Parks (CPS)
Lambert-St. Louis International Airport (STL)
Spirit of St. Louis (SUS)

The effective periods are as follows:

A. *Arrivals:* September 19, 1200 until 2300 CDT, September 20 through 23, 0700 until 2300 CDT daily.

B. *Departures:* September 21 through 24, 0700 until 2300 CDT daily.

4. Each person planning IFR under this rule shall comply with, in lieu of the GAR Rule, the following:

A. Reservations may only be requested after 1400 GMT on September 17, 1982.

B. An arrival reservation to the St. Louis area is required and must be

obtained from the Central Flow Control Facility (Telephone No. (202) 382–6866).

C. A departure reservation from the St. Louis area is required and must be obtained from the St. Louis FSS (Telephone No. (314) 532–1011).

D. Flight plans may only be filed after receiving a reservation but must be filed at least 4 hours prior to the proposed departure time.

E. Flight plans for flight from the St. Louis area should be filed with the St. Louis FSS between the hours of 1100 and 0300 GMT.

5. Each person receiving a reservation number under this rule must include it in the remarks section of the appropriate flight plan as filed with ATC.

Issued in Washington, DC, on September 17, 1982.

B. Keith Potts,

Acting Director, Air Traffic Service.

[FR Doc. 82-26424 Filed 9-24-82; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 357

Revision of Annual Report of Carriers by Pipeline: Form P

[Docket No. RM82-5-000; Order No. 260]

September 21, 1982.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: By this rule the Federal Energy Regulatory Commission (Commission) revises Form P, the annual report filed by oil pipeline companies and the related regulations at 18 CFR § 357.2, and redesignates the form as FERC Form No. 6. In creating new FERC Form No. 6, the Commission deletes some schedules entirely and deletes portions of other schedules previously included in Form P. These revisions are made as part of the Commission's ongoing program to review all of its reporting requirements and to eliminate those requirements that are not necessary to the performance of the Commission's responsibilities.

DATE: The final rule is effective October 27, 1982. It applies to reports filed on or before March 31, 1983, and all reports thereafter.

ADDRESS: Copies of FERC Form No. 6 are available at: Federal Energy Regulatory Commission, Division of Public Information, 825 North Capitol Street, N.E., Room 1000, Washington, D.C. 20426 (202) 357–8055.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission (Commission) is revising Form P, "Annual Report of Carriers by Pipeline", redesignating it as FERC Form No. 6, "Annual Report of Oil Pipeline Companies",[1] and revising the related regulations at 18 CFR § 357.2. These revisions are part of the Commission's ongoing program to review and evaluate all of the information it collects for regulatory purposes and to eliminate any unnecessary reporting requirements. This rulemaking reduces the data collected in the old Form P by about 20 percent.

I. Background

A. History of Form P

In 1977, the responsibility to regulate oil pipeline companies was transferred to the Commission from the Interstate Commerce Commission (ICC).[2] In accordance with the transfer of authority, the Commission was delegated the responsibility under section 1 of the Interstate Commerce Act (49 U.S.C. § 1) to regulate the rates and charges for transportation of oil by pipeline and establish valuation of those pipelines, and under section 20 of that Act to require pipelines to file annual reports of information that is necessary to the Commission's exercise of its statutory responsibilities.[3]

Form P was originally developed by the ICC to collect information on an annual basis, to enable it to carry out its regulation of oil pipelines under the Interstate Commerce Act.[4] Many of the schedules in Form P were modeled after schedules in annual reports that were filed by other common carriers other than oil pipelines and, therefore, some of the information collected on Form P is unnecessary for the Commission's regulation of oil pipeline companies.

B. Summary of Notice of Proposed Rulemaking

On December 4, 1981, the Commission issued a Notice of Proposed Rulemaking to amend Form P and the related regulations at 18 CFR § 357.2. The proposed revisions to Form P included the following: (1) redesignating Form P as FERC Form No. 6, "Annual Report of Oil Pipeline Companies"; (2) eliminating information requirements from several schedules; (3) consolidating and clarifying the instructions in the form; (4) adding one new schedule entitled, "Statement of Changes in Financial Position", and (5) eliminating the following schedules entirely:

Title of schedule	Schedule No. in form P
Guaranties and Suretyships	110
Compensating Balances and Short-term Borrowing Arrangements	200
Special Deposits	208
Notes Receivable	210
Accounts Receivable	212
Companies Controlled Through Nonreporting Intermediaries	223
Sinking and Other Funds	225
Rental Expense of Lessee	243
Minimum Rental Commitments	244
Lessee Disclosure	245
Lease Commitments—Present Value	246
Income Impact—Lessee	247
Notes Payable	250
Accounts Payable	252
Long-Term Debt Changes During the Year	261
Security for Long-Term Debt	262
Stock Liabilities for Conversion of Securities of Other Companies	272
Abstracts of Terms and Conditions of Leases	342
Rentals	420
Abstracts of Leasehold Contracts	422
Compensation of Officers, Directors, etc	562

[1] FERC Form No. 6 (reproduced as *Appendix B* of the final rule) will not be printed in the **Federal Register**. A summary of the data required in the new form No. 6, however, is included as Appendix A of this rule. Copies of this final rule, including all appendices, are available at the Federal Energy Regulatory Commission, Division of Public Information, 825 North Capitol Street, N.E., Room 1000, Washington, D.C. 20426, (202) 357–8055. Blank copies of the form may be obtained, after October 1982, from the National Energy Information Center, Energy Information Administration.

[2] Section 402(b) of the Department of Energy Organization Act (DOE Act) (42 U.S.C. § 7172) provides that: "[t]here are hereby transferred to and vested in, the Commission all functions and authority of the Interstate Commerce Commission or any officer or component of such Commission where the regulatory function establishes rates or charges for the transportation of oil by pipeline or establishes the valuation of any such pipeline."

[3] The Secretary of Energy delegated to the Federal Energy Regulatory Commission the authority under the Interstate Commerce Act which was formerly vested in the ICC, as that statute relates "to the transportation of oil pipeline to the extent that such * * * [statute is] not transferred to, and vested in, FERC by Section 402(b) of the DOE Act * * *" (Delegation Order No. 0204–1, October 1, 1977).

[4] The filing of Form P had been required by § 1241.61 of the ICC's regulations (49 CFR § 1241.61). The Form P filings were required to be submitted to this Commission after passage of the DOE Act, under the authority of the ICC regulations. By Order No. 119, "Regulation of Interstate Oil Pipelines", Docket No. RM81–6, (issued December 18, 1980), 46 *Fed. Reg.* 9043 (January 28, 1981), the Commission transferred, among other things, the regulations requiring the filing of Form P to Title 18 of the Code of Federal Regulations. Thus, 49 CFR § 1241.61 was transferred to 18 CFR § 357.2.

Title of schedule	Schedule No. in form P
Competitive Bidding—Clayton Antitrust Act	[1]585

[1] The deletion of Schedule 585 in no way affects the requirement for carriers to file a statement of competitive bidding transactions pursuant to the requirements in 49 CFR Part 1018.

The Commission stated in the notice that Form P could be revised to eliminate data without impairing the Commission's ability to regulate the rates and charges for transportation of oil by pipeline and to establish valuation of the pipelines. The Commission estimated that these revisions could reduce pipelines' reporting burden by about 20 percent.

II. Summary and Analysis Of Comments

In response to the Notice of Proposed Rulemaking, the Commission received twelve comments, all from jurisdictional oil pipeline companies.[5] In general, they agreed with the proposed revisions and supported the efforts of the Commission to reduce the reporting burden on oil pipelines. They offered several suggestions to further reduce and improve of the proposed form. These suggestions fall under three categories: general issues and procedures in filing the form, the format of the form, and comments to specific schedules of the form.

A. General Issues and Procedures

Commenters made certain suggestions respecting five general matters for the form. These were: (1) the complete elimination of the form, (2) classification of the respondents to the form, (3) reduction in the filing burden, (4) effective date of the final rule to revise the form, and (5) publication of statistics from the form.

1. *Complete Elimination of the Form.* One commenter questioned the need to gather information required in the annual report and proposed to eliminate Form P altogether as a step to decontrol oil pipelines.

The Commission will continue to collect data from oil pipeline companies because the Commission's responsibility to regulate rates and charges for transportation of oil by pipeline and to establish the valuation of any such pipelines continues under the DOE Act and the Interstate Commerce Act. Furthermore, this rulemaking eliminates from the form all but the most essential data that the Commission needs in the annual filing to effectively regulate oil pipelines. These changes should reduce the respondents' reporting burdens as compared to the old Form P.

2. *Classification of Respondents.* Another commenter proposed that companies be classified according to the amount of their assets or revenues so that companies below a minimum size (approximately $25,000,000) should not be required to file. As an alternative, the commenter suggested that small companies should only be required to submit the basic financial statements and not the detailed schedules as well.

The Commission believes some type of classification for oil pipelines may be worthy of consideration in the future. However, this matter beyond the scope of this rule, and the Commission is not prepared to consider it at this time. [6]

3. *Reduction in Filing Burden.* One commenter asserted that, while the changes proposed by the Commission should reduce the preparation time for the report, somewhat, the Commission's estimate of a burden reduction of 20 percent appeared very optimistic. Another commenter also observed that, while the proposed changes will reduce the number of schedules in the report by one-third and the number of pages by nearly one-half, this will not necessarily result in a commensurate reduction in the task of preparing the report.

The Commission realizes that not all of the oil pipelines will realize a 20 percent reduction in burden; some will realize less, others more. The basis for determining the estimated burden reduction was derived from the total number of elements of information deleted or simplified. The actual burden reduction for filing companies cannot be measured more accurately until the Commission gains experience with the new form. However, the Commission and the commenters were in agreement that there would probably be at least some reduction in the overall burden.

4. *Effective Date.* One commenter urged the Commission to revise Form No. 6 in sufficient time so that companies could use the new form to file data for the year ending December 31, 1981 (due March 31, 1982).

The Commission realized from the outset that it would be virtually impossible to make the proposed changes in time to file data for the year ending December 31, 1981. The comment period in this rulemaking ended February 2, 1982, leaving only a few weeks to complete work on the final rule at the Commission, obtain approval from the Office of Management and Budget for collection of the form under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501–3520), print the new form, and circulate it to filing companies before the reporting deadline of March 31, 1982. The Commission, therefore, proposed, and now makes final, the new Form No. 6 effective for the calendar year 1982 and each year thereafter, and the filings of the form are due on March 31st of each year. The first filing of the new form will be March 31, 1983.

5. *Publication of Statistics.* Three commenters suggested that the Commission compile and publish statistics from the Form No. 6 reports, similar to the transport statistics that were previously published by the Department of Energy. The commenters said that these publications would be useful to the public. Although the Commission understands this need, the Commission will not publish these statistics. Pursuant to section 205 of the DOE Act, the publication of such statistical compilations is within the responsibility of the Energy Information Administration. The Commission's publication of these statistics could be viewed as an inappropriate use of administrative resources. However, the completed forms, which would include these statistical data, will be available for review by the public at the Commission.

B. Format of the Form

The commenters discussed three matters related to the format of the form. These were: (1) the name of the form, (2) the identification of the pages in the form, and (3) the reporting of dollar amounts in the form.

One commenter suggested that the name of the form not be changed. However, the Commission believes that changing the form's name to "Annual Report of Oil Pipeline Companies" will more accurately describe the report from the standpoint of the Commission's regulatory responsibilities. In addition, the form's new designation of "FERC Form No. 6" will conform the report more closely to the Commission's reporting requirement classification system.

One commenter proposed that page numbers for the new form be in numerical sequence without use of

[5] ARCO Pipe Line Company, Buckeye Pipeline Company, Four Corners Pipe Line Company, Getty Oil Company, Mid-America Pipeline Company, Mobil Pipe Line Company, Shell Pipe Line Company, Sohio Pipe Line Company, Sonat Oil Transmission Inc., Texas Pipe Line Company, Union Alaska Pipeline Company, and Williams Pipe Line Company.

[6] The Commission is reluctant to make any determinations respecting reclassification before the resolution of the issues in the *Williams Pipe Line Company* case (Docket No. OR79–1) currently pending before the Commission. The changes to the Form P in this rulemaking are made for the purpose of reducing reporting burdens, and eliminating the filing of data that are unnecessary to the Commission, regardless of the outcome of the *Williams* case.

alphabetical designations and that the page numbers appear at the bottom of each page rather than the upper right corner. Other commenters suggested that the reference page numbers be retained in the Table of Contents because they are helpful to the use of the report.

The Commission has organized the schedules to which the pages refer to correspond to the account numbers in the Uniform System of Accounts and has eliminated all the alphabetical designations for the pages in the report. In addition to the other changes, the Commission has decided to replace its system of separate schedule numbers and reference page numbers with a system in which the schedule numbers and page numbers are the same. The page numbers are centered at the bottom of each page. The schedules will continue to be identified in a "Table of Schedules" at the beginning of the report.

One commenter proposed that, whenever possible, pipelines should be permitted to round reported dollar amounts to the nearest thousand dollars. The Commission has decided that it will continue to require reporting of dollar amounts on the basis of whole dollars, *i.e.*, rounding cents to the nearest dollar. One reason is that rounding dollars to the nearest thousand may inaccurately reflect the operations of smaller companies. In addition, dollar amounts are rounded to the nearest dollar in other Commission filings, including oil company evaluation reports and reports from companies that have both oil and natural gas operations. The Commission believes that this practice should continue here to establish a useable cross-reference between the various filings and reports.

As part of its format revisions, the Commission has also consolidated all of the definitions used in Form No. 6 in the General Instructions. The Commission has revamped most of the instructions in the form and increased the space for reporting data in the schedules. The Commission believes that all of these changes will make the form easier to use by the companies and will provide better data to the Commission.

C. Particular Schedules in the Form

1. *Schedules 120 and 121—Statement of Changes in Financial Position (New).* The four commenters who discussed this new schedule all favored its addition to the form. They agreed that the requested data would assist the Commission in analyzing operations of the individual pipelines and that the schedule would add only a minimal reporting burden.

2. *Schedule 104—Principal General Officers (Old Schedule 103).* One commenter proposed that column (b) of Schedule 103 entitled, "Department or departments over which jurisdiction is exercised" should be eliminated because officers could have corporate-wide functions rather than only the narrowly-defined departmental responsibilities. The Commission agrees with this comment and has eliminated column (b). The old description is too narrow and, as such, could result in burdensome reporting.

3. *Schedules 230 and 231—Data Pertaining to Federal Income and Other Taxes on the Comparative Balance Sheet (on Old Schedule 200).* One commenter proposed that "Comparative Balance Sheet Statement Notes" (on old Schedule 200) be revised to include a new category for cumulative tax savings from depreciation provided by the recently enacted tax legislation. [7] Another commenter recommended updating some sections on that statement (particularly those relating to deferred taxes) to make them correspond to changes occasioned by the new tax laws.

The Commission agrees with these suggestions and has accordingly provided a line item for ACRS—Accelerated Cost Recovery System-Economic Recovery Tax Act of 1981 in the new Schedules 230 and 231, "Analysis of Federal Income and Other Taxes Deferred".

4. *Schedules 208 and 209—Securities, Advances, and Other Intangibles, Owned or Controlled Through Nonreporting Carrier and Noncarrier Subsidiaries (Old Schedule 224).* Two commenters objected to the Commission's requirement of Schedule 224, claiming that the information reported on this schedule is not necessary to the Commission's regulatory responsibilities. One of these commenters also suggested that the Commission obtain this information directly from a company, as needed, rather than impose a reporting burden on all companies.

The Commission disagrees. The data in this schedule are used to compare the operations of the various companies and to determine historical trends of the industry. The Commission has, however, deleted from this schedule all but essential information to minimize, as much as possible, the reporting burden on companies that respond to it. Furthermore, as revised, the schedule should provide no burden to companies that are not utilizing an intermediary holding company.

5. *Schedules 214 and 215—Depreciation Base and Depreciation Rates (Old Schedule 231).* One commenter proposed that the instructions in Schedule 231 be clarified. The commenter stated that the schedule requires the balancing of the depreciation base with the total assets as of December 31st listed on Schedule 230. However, many companies base their depreciation on the prior month's balance (i.e., November) so that the correct balance for computing December's depreciation would, in fact, be the November ending balance. The commenter added that a reconciling process is needed to include the December data in order to comply with the instructions on Schedule 231.

The Commission has decided to retain the method of reporting of this information in new Schedules 214 and 215 because the information is designed to correspond to data in other subsidiary reporting schedules in the form and to the balance sheet. A revision to these schedule would, therefore, require corresponding changes to the other schedules and the resulting data reported would not be as useful to the Commission as it is in the current format. The Commission does also not feel that reconciling process poses a significant burden for the reporting companies.

6. *Schedule 220—Other Deferred Charges (Old Schedule 240).* Two commenters said that the information in this schedule is not necessary for the performance of the Commission's regulatory responsibilities. One of the commenters suggested that the Commission should obtain information on deferred charges directly from particular companies, as needed, rather than from all companies in an annual report. Two commenters suggested that the schedule require disclosure only of individual items over $100,000, and one commenter requested that the Commission permit items smaller than $100,000 to be grouped for reporting purposes.

The Commission has decided to retain this schedule because it is the only source of information on deferred charges that the Commission receives from all reporting companies. The Commission uses the data on the schedule for comparisons among the various companies, and for decisionmaking in its rate proceedings. The Commission, however, agrees with the suggestion respecting the threshold, and, accordingly has raised the reporting minimum for deferred charges

[7] Economic Recovery Tax Act of 1981, 26 U.S.C. § 1, *et seq.*

from $20,000 to $100,000. The data reported with a higher threshold should be sufficient for Commission purposes and the new threshold should further reduce respondent burdens.

7. *Lease Information—Deleted (Old Schedule Nos. 243, 244, 245, 246 and 247).* Two commenters approved of the elimination of the schedules pertaining to accounting for leases: Schedules 243 (Rental Expense of Leasee), 244 (Minimum Rental Commitments), 245 (Lessee Disclosure), 246 (Lessee Commitments, Present Value), and 247 (Income Impact-Lessee). They recommended, however, that the Commission continue to use generally accepted accounting principles in the regimen of oil pipeline accounting and financial reporting.

The Commission notes that the elimination of these schedules will not change the Commission's oil pipeline accounting procedures.

8. *Schedule 336—Interest and Dividend Income Information (Old Schedule 345).* Two commenters suggested that information reported on this schedule is not necessary for the performance of the Commission's regulatory responsibilities. One of the commenters suggested that the Commission obtain the information collected on this schedule on a case-by-case basis rather than impose a reporting burden on all companies.

The Commission believes the continued reporting of information on this schedule in the current format is necessary. This is because the Commission uses the information to compare interest and dividend income for all of the reporting companies, and to make decisions in rate proceedings.

9. *Schedules 600 and 601—Statistics of Operations (Old Schedule 400).* One commenter objected to this schedule because it requires too many details of deliveries into and out of pipeline systems, that are unnecessary for the Commission's regulatory purposes. The commenter, therefore, recommended that only the totals of these deliveries continue to be required. The commenter said that these revisions would save it an estimated 40 hours in the preparation of the annual report.

The Commission has decided to retain this schedule in its current format at this time because the Commission uses the data to determine any fluctuations in the companies' operation and maintenance expenses as a basis for field audits. However, the Commission may reconsider the requirement to report these data in a future revision of the form.

10. *Schedules 602 and 603—Miles of Pipeline Operated at Close of Year (Old Schedule 410).* Two commenters stated that a significant portion of the information reported on this schedule is already provided in the Form ACV 1, "Statement of Property Changes Other Than Land and Rights-of-Way", and in ACV–4, "Summary of Cost of Reproduction New and Cost of Reproduction New Less Depreciation". The commenter, therefore, suggested that this schedule be deleted. Another commenter also recommended the deletion of the schedule because it is not useful to the Commission and is burdensome to pipeline companies. In the alternative, the company suggested the eliminaton of the detailed information concerning gathering, crude oil, and refined products.

The Commission notes that the Forms ACV 1 and 4 are currently under review, as are other important pipeline proceedings. Until these matters are resolved, the Commission believes that it should continue to collect the data currently required on this schedule. In the future, the Commission may reconsider the requirement to report the data on this schedule.

11. *Schedule 350—Employees and Their Compensation (Old Schedule 561).* Two commenters objected to this schedule, stating that it collects data that are not necessary to the performance of the Commission's regulatory responsibilities. The commenters suggested that the Commission could obtain this detailed information from a company, as needed, rather than impose the reporting burden on all companies.

The Commission will continue collecting this information because it is used by the Commission to develop historical trends in the industry respecting employee services and the related costs reported each year. In addition, the Commission uses these data to evaluate the companies' labor costs projections as part of their justifications for a tariff increase.

12. *Schedule 351—Payments for Service Rendered by Other Than Employees (Old Schedule 563).* Two commenters objected to this schedule because it allegedly collects data that are not necessary for the performance of the Commission's regulatory responsibilities. They suggested that the information could be obtained directly from a company, when needed, rather than from all companies in an annual reporting requirement. As an alternative, one of the commenters suggested that the reporting minimums for service payments be raised to $100,000.

The Commission has decided to continue to collect this information because it enables the Commission to develop historical trends of services provided by reporting companies and to determine which costs should be included in a company's cost-of-service. The Commission will not raise the threshold because it would result in the loss of too many important data respecting payments smaller than $100,000.

III. Certification of No Significant Economic Impact

The Regulatory Flexibility Act (RFA), (5 U.S.C. §§ 601–612) requires certain statements, descriptions, and analyses of proposed and final rules that will have "a significant economic impact on a substantial number of small entities".

Of the 138 oil pipeline companies required to file the annual report, only about 25 companies have annual operating revenues below $1 million. The Commission does not consider this to be a substantial number of small entities. Moreover, this rule, if promulgated, should result in an overall reduction in the filing burden on all oil pipeline companies, both large and small, because most of the revisions either delete or consolidate the schedules presently included in the annual report, and clarify and simplify the requirements for filing the report. Therefore, under section 605(b) of the RFA, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

IV. Summary of Changes

The Commission has adopted the changes to the new Form No. 6 that were proposed in the notice,[1] except as modified by the revisions in response to the comments, discussed above. A summary of all of the changes to the form is attached at Appendix A.

The Commission has also adopted the changes to its regulations at § 357.2 that were proposed in the notice, and, in addition, makes certain nonsubstantive revisions. These revisions include identifying the form by its title in the body of the regulations, making an editorial change to the requirements of "when to file", and making minor reorganizational changes to the regulations.

V. Effective Date

This final rule is effective 30 days after the date of its publication in the **Federal Register**. It applies to reports to be filed on or before March 31, 1983, and for reports filed thereafter.

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[1] *See* Part I of this final rule.

(Department of Energy Organization Act, 42 U.S.C. §§ 7101–7352; E.O. 12009, 3 CFR 142 (1978); Interstate Commerce Act, 49 U.S.C. § 1, et seq.)

List of Subjects in 18 CFR Part 357

Pipelines, Uniform system of accounts.

In consideration of the foregoing, the Commission amends Form P and redesignates the form as FERC Form No. 6 as discussed above and as set forth in *Appendix B* which is not printed in the Federal Register and amends Part 357 of Subchapter R, Chapter I, Title 18 of the Code of Federal Regulations, as set forth below, effective thirty days after publication in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 357—ANNUAL SPECIAL OR PERIODIC REPORTS: CARRIERS SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT

Section 357.2 is revised to read as follows:

§ 357.2 FERC Form No. 6, Annual report of oil pipeline companies.

Every carrier by pipeline subject to the provisions of section 20 of the Interstate Commerce Act must file with the Commission copies of FERC Form No. 6, "Annual Report of Oil Pipeline Companies" pursuant to the General Instructions set out in that form. This report must be filed on or before March 31st of each year for the previous calendar year, beginning with the year ending December 31, 1982.

BILLING CODE 6717-01-M

FERC FORM NO. 6 REVISIONS (Formerly P)

Title	Old Schedule Page No.	New Schedule Page No.	Retained- As is	Retained- Changed Threshold	Retained- Revised Instructions	Retained- Deleted Columns	Deleted Complete Schedule	Explanation
Cover (Data now titled - Identification)	–	1			X			Information moved from cover to separate page.
Notice (New title - Instructions for Filing the FERC Form No. 6)	–	i-iv			X			To clarify instructions and consolidate definitions on pages throughout old form.
Table of Contents (New title - List of Schedules)	–	2,3			X			Title change. Format change. Renumbered schedules and added a column, "Remarks" to indicate "N/A."
Identity of Respondent (New title - General Information)	101	101	X					
Directors	102	105			X	X		Revised instructions and deleted columns (c), (d), (e), and (f).
Principal General Officers	103	104			X	X		Deleted columns (b) and (d).
Corporate Control Over Respondent	108	102	X					
Stockholders Report	108A	3			X			Instructions moved to i. Non-filing to be reported at bottom of List of Schedules (new page 3).
Voting Powers and Elections (New Title- Voting Powers and Security Holders)	109	106,107				X		Column (e) and (f) merged. Spread to a two-page schedule to allow more space.
Guaranties and Suretyships	110	–					X	
Comparative Balance Sheet Statement	200	110-113	X		X			Expanded to a multiple page schedule to give more space. Federal taxes data moved to new 230 and 231. Notes (pension costs, political fund, marketable securities) moved to new 122 and 123.
Income Statement	300	114	X					Old lines 30 thru 32 moved to new schedule 122. Old lines 33 thru 40 moved to new schedule 231.
Analysis of Federal Income and Other Taxes Deferred	300A	230,231			X			Added line for ACRS-Accelerated Cost Recovery System—Economic Recovery Tax Act of 1981. Moved notes on taxes from old schedule, page 200.
Working Capital	302	117	X					
Notes and Remarks (new title – Notes to Financial Statements)	–	122,123			X			Moved and relocated to incorporate all notes applicable to the basic financial statements (new schedules 110 thru 121).
Unappropriated Retained Income Statement	305	119	X					
Dividend Appropriations of Retained Earnings	306	119				X		Deleted columns (b) and (c).
Compensating Balances and Short-Term Borrowing Arrangement	205	–					X	
Statement of Changes in Financial Position	–	120,121						Schedule added to allow for a more complete financial presentation of the financial condition of the pipelines to compensate for the loss of deleted data.
Special Deposits	206	–					X	

FERC FORM NO. 6 REVISIONS (Formerly P)

FERC FORM NO. 6 REVISIONS (Formerly P)

Title	Old Schedule Page No.	New Schedule Page No.	Retained- As is	Retained- Changed Threshold	Retained- Revised Instructions	Retained- Deleted Columns	Deleted Complete Schedule	Explanation
Notes Receivable	210	–					X	
Receivables from Affiliated Companies	211	200	X					
Accounts Receivable	212	–					X	
General Instructions Concerning Returns in Schedules 220 and 221	–	201			X			Moved definitions to new pages i thru iv.
Investments in Affiliated Companies	220	202,203			X	X		Deleted columns (e) thru (h), (j) and (l).
Investments in Common Stocks of Affiliated Companies	220A	204	X					
Other Investments	221	206,207			X	X		Deleted columns (d) thru (g), (i) and (k).
Companies Controlled Directly by Respondent Other Than Thru Title of Securities	222	205	X					
Companies Controlled Thru Nonreporting Intermediaries	223	–					X	
Securities, Advances, and Other Intangibles Owned or Controlled Thru Nonreporting Carriers and Noncarrier Subsidiaries	224	208,209				X		Deleted columns (c), (e) and (g).
Sinking and Other Funds	225	–					X	
Carrier Property	230	211-213	X					Instructions placed on seperate page 211.
Depreciation Base and Rates – Carrier	231	214	X					Instructions placed on seperate page 211.
Depreciation Base and Rates – System	231a	215	X					
Accrued Depreciation – Carrier Property	232	216	X					
Accrued Depreciation – System Property	232A	217	X					
Amortization Base and Reserve	233	218	X					
Noncarrier Property	234	219	X					
Other Deferred Charges	240	220		X				Raised from $20,000 to $100,000 threshold for grouping minor items.
Rental Expense of Lessee	243	–					X	
Minimum Rental Commitments	244	–					X	
Lessee Disclosure	245	–					X	
Lease Commitments – Present Value	246	–					X	
Income Impact-Lessee	247	–					X	
Notes Payable	250	–					X	
Payables to Affiliated Companies	251	225	X					
Accounts Payable	252	–					X	
Long-Term Debt Payable Within One Year	253	–					X	Except column (l) relocated to new schedule 226 and 227.
Long-Term Debt Payable After One Year	260	226,227			X	X		Deleted columns (d) thru (h). Added one from above.

APPENDIX A, Page 2 of 3

FERC FORM NO. 6 REVISIONS (Formerly P)

Title	Old Schedule Page No.	New Schedule Page No.	Retained- As is	Retained- Changed Threshold	Retained- Revised Instructions	Retained- Deleted Columns	Deleted Complete Schedule	Explanation
Long-Term Debt Changes During the Year	261	–					X	
Security for Long-Term Debt	262	–					X	
Capital Stock	270	250,251				X		Deleted columns (n), (o), (p), (r), (s), and (u). Revised heading for column (v) to read "Book Value."
Capital Stock Changes During the Year	271	252,253			X			Revise title headings for column (d) and (i) to read, "Number of Shares."
Stock Liability for Conversion of Securities of Other Companies	272	–					X	
Additional Paid-in Capital	274	254	X					
Appropriated Retained Income	275	118	X					
Operating Revenue Accounts	310	301	X					
Operating Expense Accounts	320	302,303	X					
Pipeline Taxes (Other Than Income Taxes)	330	304	X					
Income From Noncarrier Property	340	335				X		Deleted column (d).
Abstracts of Terms and Conditions of Leases	342	–					X	
Interest and Dividend Income	345	336	X					
Miscellaneous Items in Income and Retained Income Accounts for the Year	360	337	X					
Statistics of Operations	400	600,601	X					
Miles of Pipeline Operated at End of Year Year	410	602,603	X					
Rentals	420	–					X	
Abstracts of Leasehold Contracts	422	–					X	
Employees and Their Compensation	561	350	X					
Compensation of Officers, Directors, Etc.	562	–					X	
Payments for Services Rendered by Other Than Employees	563	351	X					
Important Changes During the Year	591	108,109	X					
Competitive Bidding – Clayton Antitrust Act	595	–					X	
Verification, Oath, Supplemental Oath	–	1			X			Deleted requirement for Notary and Supplemental Oath
Memoranda (for use of Commission only)	–	–					X	
Index	–	Index			X			

[FR Doc. 82-26406 Filed 9-24-82; 8:45 am]
BILLING CODE 6717-01-C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203 and 221

[Docket No. R-82-979]

Mutual Mortgage Insurance and Rehabilitation Loans

Correction

In FR Doc. 82-19112, beginning on page 30750 in the issue of Thursday, July 15, 1982, make the following corrections:

1. On page 30752, in the third column, the part heading should read "Part 203—Mutual Mortgage Insurance and Rehabilitation Loans".

2. On page 30753, in the third column, the line above paragraph 6., should read: "§§ 203.444 through 203.456 [Removed]".

3. On page 30754, in the second column, the line above paragraph "13." should read "§ 221.251 [Amended]".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7836]

Income Tax; Taxable Years Beginning After December 31, 1953; State and Local Government Deferred Compensation Plans

AGENCY: International Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to deferred compensation plans maintained by State and local governments and rural electric cooperatives. Changes to the applicable tax law were made by the Revenue Act of 1978. The regulations would provide the public with the guidance needed to comply with that Act, and would affect State and local governments and rural electric cooperatives that maintain deferred compensation plans, and employees whose compensation is deferred under the plans.

EFFECTIVE DATES: The regulations are generally effective for taxable years beginning after December 31, 1978. However, the rules relating to the tax treatment of participants in ineligible plans under § 1.457-3 are effective for taxable years beginning after December 31, 1981. In addition, the transitional rules of § 1.457-4 are effective for taxable years beginning after December 31, 1978, and before January 1, 1982.

FOR FURTHER INFORMATION CONTACT: Charles K. Kerby, III of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, (Attention: CC:EE-176-78) (202-566-3422) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 24, 1980, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 457 of the Internal Revenue Code of 1954 (45 FR 85077). The amendments were proposed to conform the regulations to section 131 of the Revenue Act of 1978 (92 Stat. 2779). A public hearing on the proposed regulations was held on May 5, 1981. After consideration of all comments regarding the proposed amendments, these amendments are adopted (as revised) by this Treasury decision.

Exclusion From Income by Individuals

Under section 131 of the Revenue Act of 1978, employees and independent contractors who provide services for a State or local government or a rural electric cooperative that maintains an eligible deferred compensation plan may exclude from gross income compensation deferred under the plan until it is paid or otherwise made available.

General Plan Requirements

In order to be an eligible plan, the plan must provide that compensation deferred under the plan for any year may not exceed 33⅓% of the participant's includable compensation (in general, gross salary less any amount excludable from gross income) or $7,500, whichever is less. A plan may, however, inlcude a limited "catch-up" provision for any, or all, of the last three taxable years of a participant ending before the participant attains normal retirement age under the plan. Under the catch-up provision, a participant may defer an additional amount equal to any deferral limitations not utilized for prior taxable years after December 31, 1978, in which the participant was eiligible to participate under the plan and was subject to the normal deferral limitations. The amount that can be deferred under the catch-up prcvision is, however, limited to $15,000. The final regulations make clear that a plan may not permit the catch-up provision to be used more than once, whether or not the participant rejoins the plan or joins a new plan, and whether or not the catch-up is utilized in one or all three of the applicable taxable years. Under the final regulations, normal retirement age is expanded to include a limited range of ages at the option of the participant.

An individual may be a participant in more than one eligible plan. If an individual participates in two or more plans that are maintained by the same employer, any amount deferred under one plan reduces the amount that may be deferred under another, so that the total deferred under all the plans does not exceed the amount which could be deferred under a single plan. If an individual participates in two or more plans maintained by different employers, the maximum amount excludable from the gross income of the participant for a taxable year on account of amounts deferred under the plans cannot exceed $7,500, or, as applicable, the maximum permitted under the "catch-up rules.

If a participant in an eligible plan also has amounts contributed by the same employer for the purchase of a tax-sheltered annuity under Code section 403(b), the maximum amount that may be deferred under the eligible plan is reduced by the amount contributed for the purchase of the annuity contract. If the employer contributing amounts for the purchase of the annuity contract and the employer maintaining the eligible plan are different employers, the maximum deferral permitted under the eligible plan is not reduced by the amount contributed for the purchase of the annuity contract. However, the maximum amount excludable from the participant's gross income on account of amounts deferred under the eligible plan of the one employer is reduced to take into account amounts excludable under section 403(b) on account of contributions by the other employer for the purchase of the annuity contract. In general, in any case in which an individual is both a participant in an eligible plan and is an employee for whom amounts are contributed toward the purchase of an annuity contract under section 403(b), the deferral of compensation under the eligible plan will reduce the amount excludable from gross income under section 403(b), without regard to whether it is a single employer or different employers maintaining the eligible plan and contributing amounts for the purchase of the annuity contract.

Plan Distribution Requirements

An eligible plan is considered to provide a retirement benefit for the participant. Consistent with this view, the proposed regulations prescribed detailed rules limiting the period within which amounts deferred may be paid to the participant and limiting the manner in which distributions could be made to the participant's beneficiary. Commentators objected to the rules prescribed as much too complex and not justified in the case of governmental deferred compensation plans. Upon reconsideration, these rules are withdrawn and the more general incidental benefit rules applicable to qualified pension plans are substituted therefore.

Although the proposed regulations provided that distributions under an eligible plan need not commence until the year in which a participant attains age 70½, the final regulations may require the commencement of distributions at an earlier date if the plan does not specify a normal retirement age or if it specifies a normal retirement age under age 70½. It is not intended that this change adversely affect any eligible plan participant who, in reliance on the proposed regulations, made an irrevocable election to defer the distribution of amounts deferred under the plan until the year in which he or she attains age 70½. Accordingly, an eligible plan need not modify the distribution commencement date of any participant who made such an election prior to October 27, 1982.

PLan to Plan Transfers

The proposed regulations under § 1.457–2(k) prohibited transfers of amounts deferred between different eligible plans. After consideration of the comments received in opposition to this prohibition, the final regulations permit an eligible plan to provide for the transfer of amounts between eligible plans, so long as the entities sponsoring the plans are located in the same State, the plan provides for the automatic transfer of such amounts, and the new plan accepts such amounts.

Pre-1979 Deferred Amounts

The proposed regulations indicated that amounts deferred under an agreement or arrangement in taxable years beginning before January 1, 1979, were not to have the provisions of section 457 apply. The final regulations make clear that amounts deferred under a State deferred compensation plan before 1979 are subject to section 457 if made a part of an eligible plan.

Amounts Made Available

At the behest of commentators, the provisions illustrating when amounts will be made available have been clarified to confirm that redirection of past deferrals as well as current deferrals into different investment modes will not result in those amounts being made available. Other provisions and more examples have been added to further illustrate when amounts will be considered made available, in the case of participants and beneficiaries.

Comments were received urging that participants be permitted to retain the right to accelerate payments once payments have commenced. The final regulations, through examples, reject this suggestion and provide that deferrals under such arrangements will be considered made available. However, in keeping with past practice, payments already commenced will be permitted to be accelerated upon an unforeseeable emergency.

Commentators further urged that the distribution of *de minimis* accounts be expressly permitted in order to accommodate those who have reconsidered participation in the plan shortly after beginning participation. In the absence of any authority in the statute or legislative history to provide for this arrangement, the regulations do not adopt this suggestion. The right to withdraw such amounts from the plan will be considered to make the amounts deferred made available to the participant. Furthermore, a plan that provides for such an arrangement will contravene the payment requirements under § 1.457–2(h)(1) and will not be considered an eligible plan.

Regular Retirement Plan of a State

At the time that the proposed regulations were published in the **Federal Register**, comments were invited with respect to whether regulations could appropriately be promulgated that would exclude unfunded regular retirement plans of a State for the purpose of section 457(e)(1) notwithstanding the limited exceptions provided by section 457(e)(2), and, if so, under what circumstances. Many helpful comments were received on this issue. Nevertheless, in the absence of statutory authority to provide for the exclusion of such plans from section 457(e)(1) and without clearer legislative guidance as to what form this exclusion should take, it has been decided that it is inappropriate to provide for this exclusion through regulations. Consequently, deferrals under an unfunded regular retirement plan of a State will be considered to be made under an ineligible plan, and not excludable from income under section 457(a).

Transitional Rules

All plans to which section 457 applies will have until January 1, 1982, to satisfy the requirements for classification as an eligible State deferred compensation plan. However, for taxable years beginning after December 31, 1978, and before January 1, 1982, transitional rules provide that any amount of compensation deferred under a plan of deferred compensation, regardless of whether the plan is an eligible plan, is excludable from the gross income of the participant until paid or otherwise made available to the participant. However, the maximum amount that may be excluded from gross income for any year is $7,500 or 33⅓% of the participant's includible compensation. Under the transitional rules, increased deferrals under the limited "catch-up" provision are permitted only if the plan is an eligible plan.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for interpretative regulations. Accordingly, the Regulatory Flexibility Act (5 U.S.C. Chapter 6) does not apply and no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of this regulation was Ray K. Kamikawa of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects

26 CFR 1.61–1—1.281–4

Income taxes, Taxable income, Exclusions.

26 CFR 1.401–0—1.425–1

Income taxes, Deferred compensation, Pension plans.

26 CFR 1.441–1—1.483–2

Income taxes, Accounting, Deferred compensation plans.

Adoption of Amendments to the Regulations

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Accordingly, 26 CFR Part 1 is amended as follows:

Paragraph 1. Paragraph (a)(2) of § 1.101–1 is amended by deleting "or" at the end of subdivision (i), deleting the period at the end of subdivision (ii) and inserting in lieu thereof "; or", and by adding a new subdivision (iii) to read as follows:

§ 1.101–1 Exclusion from gross income of proceeds of life insurance contracts payable by reason of death.

(a) * * *

(2) *Cross reference.* * * *

(iii) Under eligible State deferred compensation plans described in section 457(b), see paragraph (c) of § 1.457–1.

* * * * *

Par. 2. Paragraph (b)(2) of § 1.101–2 is amended by deleting the period at the end of subdivision (iii) and inserting in lieu thereof a semicolon, and by adding a new subdivision (iv) to read as follows:

§ 1.101–2 Employees' death benefits.

* * * * *

(b) * * *

(2) *Cross references.* * * *

(iv) Under eligible State deferred compensation plans described in section 457 (b), see paragraph (c) of § 1.457–1.

* * * * *

Par. 3. Paragraph (d)(1) of § 1.403 (b)–1 is amended by revising subdivision (ii) and the flush paragraph which follows it to read as follows:

§ 1.403(b)–1 Taxability of beneficiary under annuity purchased by a section 501(c)(3) organization or public school.

* * * * *

(d) *Exclusion allowance*—(1) *In general.* * * *

(i) * * *

(ii) The aggregate of (*a*) the amounts which have been contributed by the employer for annuity contracts for such employee and which were excludable from the gross income of the employee for any taxable year prior to the taxable year for which the exclusion allowance is being determined, and (*b*) the amounts of compensation excludable from the gross income of the employee under section 457(a) (relating to eligible State deferred compensation plans) for any prior taxable year that is taken into account as a year of service under paragraph (f) of this section. Compensation deferred under an eligible State deferred compensation plan shall be taken into account as described in subdivision (ii) of this subparagraph even if the entity sponsoring the eligible plan is not the employer purchasing the annuity contract with respect to which the employee's exclusion allowance is to be determined. See paragraph (e) of this section for the definition of an employee's includible compensation in respect of a taxable year and paragraph (f) of this section for rules for computing an employee's total number of years of service for an employer.

* * * * *

Par. 4. The following new §§ 1.457–1, 1.457–2, 1.457–3 and 1.457–4 are added in the appropriate place.

§ 1.457–1 Compensation deferred under eligible State deferred compensation plans.

(a) *Year of inclusion in gross income*—(1) *In general.* For taxable years beginning after December 31, 1978, section 457(a) provides that amounts deferred (within the meaning of § 1.457–1(d)(3)) under an eligible State deferred compensation plan that satisfies the requirements of § 1.457–2 (an "eligible plan") are includible in gross income only for the taxable year in which paid or otherwise made available to the participant or beneficiary under the plan.

(2) *Maximum deferral; in general.* Under section 457(c)(1), the exclusion from gross income described in this paragraph (a) does not apply to compensation deferred under one or more eligible plans to the extent that the compensation so deferred during a participant's taxable year exceeds the greater of—

(i) $7,500, or,

(ii) As applicable, the sum of the plan ceilings determined under § 1.457–2(f), to the extent such sum does not exceed $15,000.

(3) *Maximum deferral; exclusions under section 403(b) taken into account.* Under section 457(c)(2), for a participant's taxable year for which an amount is contributed to an annuity contract described in section 403(b) (including a custodial account described in section 403(b)(7)) on behalf of the participant, subparagraph (2) of this paragraph (a) is applied by substituting—

(i) For $7,500, an amount equal to $7,500, less the amount excludable from the participant's gross income under section 403(b) for the taxable year,

(ii) For the sum of the plan ceilings determined under § 1.457–2(f), an amount equal to the sum of the plan ceilings determined under § 1.457–2(f), less the amount excludable from the participant's gross income under section 403(b) for the taxable year, if such amount is not taken into account under such § 1.457–2(f), and

(iii) For $15,000, an amount equal to $15,000, less the amount excludable from the participant's gross income under section 403(b) for the taxable year.

(b) *Amounts made available to participant or beneficiary.*—(1) *In general.* For purposes of section 457(a) and this section, amounts deferred under an eligible plan will not be considered made available to the participant or beneficiary if under the plan the participant or beneficiary may irrevocably elect, prior to the time any such amounts become payable, to defer payment of some or all of such amounts to a fixed or determinable future time. In addition, amounts deferred (including amounts previously deferred) under an eligible plan will not be considered made available to the participant solely because the participant is permitted to choose among various investment modes under the plan for the investment of such amounts whether before or after payments have commenced under the plan.

(2) *Examples.* Further examples of when amounts deferred will or will not be considered as being made available to the participant or beneficiary are provided below:

Example (1). (i) C, an individual, is a participant in an eligible State deferred compensation plan that provides the following:

(A) The total of the amounts deferred under the plan is payable to the participant in 120 substantially equal monthly installments commencing on the date 30 days after the participant attains normal retirement age under the plan (age 65), unless the participant elects, within the 90 day period ending on the date the participant attains normal retirement age, to receive a single sum payment of the deferred amounts. The single sum payment is payable to a participant on the date the first of the monthly payment would otherwise be payable to the participant.

(B) If a participant separates from the service of the State before attaining normal retirement age, the total of the amounts deferred under the plan is payable to the participant in a single sum payment on the date 90 days after the date of the separation, unless, before the date 30 days after the separation, the participant elects not to receive the single sum payment. The election is irrevocable. If the participant makes the election, the total of the amounts deferred under the plan is payable to the participant as described in (A), either in monthly installments or, at the election of the participant, in a single sum payment.

(ii) On June 6, 1982, C, a calendar year taxpayer aged 59, separates from the service of the State. On June 18, 1982, C elects not to receive the single sum payment payable on account of the separation. Because of C's election, no amount deferred under the plan is considered made available in 1982 by reason of C's right to receive the single sum payment.

(iii) On February 6, 1988, C attains age 65. C did not, within the 90 day period elect the single sum payment that is payable in lieu of the monthly installments. Amounts deferred under the plan are includible in C's gross income as they are paid to C in the monthly installments. No amount is considered made available by reason of C's right to elect the single sum payment.

Example (2). Assume the same facts as in example (1), except that the plan provides that notwithstanding that monthly installments have commenced under the plan, as described in (i)(A), the participant may, without restriction, elect to receive all or any portion of the amount remaining payable to the participant. The total of the amounts deferred under the plan is considered made available in 1988.

Example (3). Assume the same facts as in example (1), except that the plan provides that once monthly installment payments have commenced under the plan, as described in (i)(A), the participant may accelerate the payment of the amount remaining payable to the participant upon the occurrence of an unforeseeable emergency as described in § 1.457–2(h)(4) in an amount not exceeding that described in § 1.457–2(h)(5). No amount is considered made available to C on account of C's right to accelerate payments upon the occurrence of an unforeseeable emergency.

Example (4). Under an eligible plan of which individual D is a participant, normal retirement age is age 65 at which time payments must begin. Payments may begin earlier upon a separation from the service. Under the plan, a participant who separates from the service before age 65 or the participant's beneficiary (if the separation is due to the participant's death) may elect to defer the distribution of the amounts deferred until the year in which the participant attains or would have attained age 65. This election may be made only prior to the time any payments commence and once made may not be revoked. If such an election is made, the participant, former participant, or beneficary need not elect the method of payment, or if one is elected may change the method elected, until the date 30 days preceding the date upon which payments are to commence. No amount is considered made available by reason of D's right to defer the distribution of the amounts deferred until age 65, nor on account of D's right to delay the election of the method of payout. Similarly, if D dies at age 60, no amount is considered made available to D's beneficiary by reason of the beneficiary's right to defer the distribution of the amounts deferred until the year in which D would have attained age 65, nor on account of the beneficiary's right to delay the election of the method of payout.

Example (5). Under an eligible plan of which individual E is a participant, the maximum that may be deferred in any taxable year is 33⅓% of includible compensation, not to exceed $7,500. The plan does not provide for a catch-up deferral under section 457(b)(3). In one taxable year, E elects to have amounts deferred in excess of the limitation provided for under the plan. The amounts deferred in excess of the limitation will be considered to have been made available to E in the taxable year in which deferred.

Example (6). Assume the same facts as in example (5), except that E's employer also contributes amounts for the purchase of an annuity contract under section 403(b). In one taxable year, E has amounts contributed for the annuity within the limitations of section 403(b)(2), and also has amounts deferred under the eligible plan for the same year. The aggregate of the amounts contributed for the annuity contract and the amounts deferred under the plan exceed the deferral limitations under the plan. The excess deferrals will be considered made available to E in the year in which the amounts were deferred.

Example (7). Under an eligible plan of which F is a participant, amounts deferred have been invested in a money market investment fund. The plan then transfers the amounts deferred to a life insurance company for the purchase of life insurance contracts as an investment medium. However, the entity sponsoring the plan (1) retains all of the incidents of ownership of the contracts, (2) is the sole beneficiary under the contracts, and (3) is under no obligation to transfer the contracts or to pass through the proceeds of the contracts to any participant or a beneficiary of any participant. The movement of the amounts deferred to the life insurance company (whether or not made at the request of any plan participant) will not be considered to make the amounts available to the plan's participants. The cost of current life insurance protection under the life insurance contracts will not be considered made available to the plan's participants.

(c) *Life insurance proceeds and death benefits paid under eligible plan.* No amount received or made available under an eligible plan is excludable from gross income under section 101(a) (relating to life insurance contracts) or section 101(b) (relating to employees' death benefits).

(d) *Definitions.* For purposes of §§ 1.457–1 through 1.457–4:

(1) *Participant.* "Participant" means an individual who is eligible under § 1.457–2(d) to defer compensation under the plan.

(2) *Beneficiary.* "Beneficiary" means a beneficiary of a participant, a participant's estate, or any other person whose interest in the plan is derived from the participant.

(3) *Amounts deferred.* "Amount(s) deferred" under an eligible plan means compensation deferred under the plan, plus income attributable to compensation so deferred. Income attributable to compensation deferred under an eligible plan includes gain from the disposition of property. The term "amounts deferred" includes amounts deferred in taxable years beginning before January 1, 1979, if such amounts were deferred under a plan described in § 1.457–2(b), and such amounts were made a part of an eligible plan.

§ 1.457–2 Eligible State deferred compensation plan defined.

(a) *In general.* For purposes of §§ 1.457–1 through 1.457–4, an "eligible State deferred compensation plan" (sometimes referred to as "eligible plan") is a plan satisfying the requirements of paragraphs (c) through (k) of this section.

(b) *Plan.* For purposes of this section and § 1.457–3, the term "plan" includes any agreement or arrangement between a State (within the meaning of paragraph (c) of this section) and a participant or participants, under which the payment of compensation is deferred, but only if such agreement or arrangement is not described in § 1.457–3(b).

(c) *State.* The plan must be established and maintained by a State. For this purpose, the term "State" includes:

(1) The 50 states of the United States and the District of Columbia;

(2) A political subdivision of a State;

(3) Any agency or instrumentality of a State or political subdivision of a State;

(4) An organization that is exempt from tax under section 501(a) and engaged primarily in providing electrical service on a mutual or cooperative basis; and

(5) An organization that is described in section 501(c)(4) or (6) and exempt from tax under section 501(a) and at least 80% of the members of which are organizations described in subparagraph (4).

Where it appears in this § 1.457–2, the term "State" means the entity described in this paragraph (c) that sponsors the plan.

(d) *Participants.* The plan must provide that only individuals who perform services for the State, either as an employee of the State or as an independent contractor, may defer compensation under the plan.

(e) *Maximum deferrals*—(1) *In general.* The plan must provide that the amount of compensation that may be deferred under the plan for a taxable year of a participant shall not exceed an amount specifed in the plan (the "plan ceiling"). Except as described in paragraph (f) of this section, a plan ceiling shall not exceed the lesser of:

(i) $7,500, or

(ii) 33⅓% of the participant's includible compensation for the taxable

year, reduced by any amount excludable from the participant's gross income for the taxable year under section 403(b) on account of contributions made by the State.

(2) *Includible compensation.* For purposes of this section, a participant's includible compensation for a taxable year includes only compensation from the State that is attributable to services performed for the State and that is includible in the participant's gross income for the taxable year. Accordingly, a participant's includible compensation for a taxable year does not include an amount payable by the State that is excludable from the employee's gross income under section 457(a) and § 1.457–1 or under section 403(b) (relating to annuity contracts purchased by section 501(c)(3) organizations or public schools), section 105(d) (relating to wage continuation plans) or section 911 (relating to citizens or residents of the United States living abroad). A participant's includible compensation for a taxable year is determined without regard to any community property laws.

(3) *Compensation taken into account at its present value.* For purposes of subparagraph (1) of this paragraph, compensation deferred under a plan shall be taken into account at its value in the plan year in which deferred. However, if the compensation deferred is subject to a substantial risk of forfeiture (as defined in section 457(e)(3)), such compensation shall be taken into account at its value in the plan year in which such compensation is no longer subject to a substantial risk of forfeiture.

(f) *Limited catch-up*—(1) *In general.* The plan may provide that, for 1 or more of the participant's last 3 taxable years ending before the participant attains normal retirement age, the plan ceiling is an amount not in excess of the lesser of:

(i) $15,000, reduced by any amount excludable from the participant's gross income for the taxable year under section 403(b) on account of contributions made by the State, or

(ii) The amount determined under subparagraph (2) of this paragraph.

(2) *Underutilized limitations.* The amount determined under this subparagraph (2) is the sum of:

(i) The plan ceiling established under paragraph (e)(1) of this section for the taxable year, plus

(ii) The plan ceiling established under paragraph (e)(1) of this section for any prior taxable year or years, less the amount of compensation deferred under the plan for such prior taxable year or years. A prior taxable year shall be taken into account under subdivision (ii) of this subparagraph (2) only if (A) it begins after December 31, 1978, (B) the participant was eligible to participate in the plan during all or any portion of the taxable year, and (C) compensation deferred (if any) under the plan during the taxable year was subject to a plan ceiling established under paragraph (e)(1) of this section. A participant will be considered eligible to participate in the plan for a taxable year if the participant is described in paragraph (d) of this section for any part of that taxable year. A prior taxable year includes a taxable year in which the participant was eligible to participate in an eligible plan sponsored by a different entity, provided that the entities sponsoring the plans are located within the same State as that term is used in § 1.457–2(c)(1).

(3) *Restriction on limited catch-up.* The plan shall not provide that a participant may elect to have the limited catch-up provision of this paragraph (f) apply more than once, whether or not the limited catch-up is utilized in less than all of the three taxable years ending before the participant attains normal retirement age, and whether or not the participant or former participant rejoins the plan or participates in another eligible plan after retirement. For example, if the participant elects to utilize the limited catch-up only for the one taxable year ending before normal retirement age, and, after retirement at that age, the participant renders services for the State as an independent contractor or otherwise, the plan may not provide that the participant may utilize the limited catch-up for any of the taxable years subsequent to retirement.

(4) *Normal retirement age.* For purposes of this paragraph (f), normal retirement age may be specified in the plan. If no normal retirement age is specified in the plan, then the normal retirement age is the later of the latest normal retirement age specified in the basic pension plan of the State, or age 65. A plan may define normal retirement age as any range of ages ending no later than age 70½ and beginning no earlier than the earliest age at which the participant has the right to retire under the State's basic pension plan without consent of the State and to receive immediate retirement benefits without actuarial or similar reduction because of retirement before some later specified age in the State's basic pension plan. The plan may further provide that in the case of a participant who continues to work beyond the ages specified in the preceding two sentences, the normal retirement age shall be that date or age designated by the participant, but such date or age shall not be later than the mandatory retirement age provided by the State, or the date or age at which the participant separates from the service with the State.

(g) *Agreement for deferral.* The plan must provide that, in general, compensation is to be deferred for any calendar month only if an agreement providing for such deferral has been entered into before the first day of the month. However, a plan may provide that, with respect to a new employee, compensation is to be deferred for the calendar month during which the participant first becomes an employee, if an agreement providing for such deferral is entered into on or before the first day on which the participant becomes an employee.

(h) *Payments under the plan*—(1) *In general.* The plan may not provide that amounts payable under the plan will be paid or made available to a participant or beneficiary before the participant separates from service with the State, or, if the plan provides for payment in the case of an unforeseeable emergency, before the participant incurs an unforeseeable emergency.

(2) *Separation from service; general rule.* An employee is separated from service with the State if there is a separation from the service within the meaning of section 402(e)(4)(A)(iii), relating to lump sum distributions, and on account of the participant's death or retirement.

(3) *Separation from service; independent contractor*—(i) *In general.* An independent contractor is considered separated from service with the State upon the expiration of the contract (or in the case of more than one contract, all contracts) under which services are performed for the State, if the expiration constitutes a good-faith and complete termination of the contractual relationship. An expiration will not constitute a good faith and complete termination of the contractual relationship if the State anticipates a renewal of a contractual relationship or the independent contractor becoming an employee. For this purpose, a State is considered to anticipate the renewal of the contractual relationship with an independent contractor if it intends to again contract for the services provided under the expired contract, and neither the State nor the independent contractor has eliminated the independent contractor as a possible provider of services under any such new contract. Further, a State is considered to intend to again contract for the services provided under an expired contract, if

the State's doing so is conditioned only upon the State's incurring a need for the services, or the availability of funds or both.

(ii) *Special rule.* Notwithstanding subdivision (i), if, with respect to amounts payable to a participant who is an independent contractor, a plan provides that—

(A) No amount shall be paid to the participant before a date at least 12 months after the day on which the contract expires under which services are performed for the State (or, in the case of more than one contract, all such contracts expire), and

(B) No amount payable to the participant on that date shall be paid to the participant if, after the expiration of the contract (or contracts) and before that date, the participant performs services for the State as an independent contractor or an employee,

the plan is considered to satisfy the requirement described in subparagraph (1) that no amounts payable under the plan will be paid or made available to the participant before the participant separates from service with the State.

(4) *Unforeseeable emergency.* For purposes of this paragraph (h), an unforeseeable emergency is, and if the plan provides for payment in the case of an unforeseeable emergency must be defined in the plan as, severe financial hardship to the participant resulting from a sudden and unexpected illness or accident of the participant or of a dependent (as defined in section 152(a)) of the participant, loss of the participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant. The circumstances that will constitute an unforeseeable emergency will depend upon the facts of each case, but, in any case, payment may not be made to the extent that such hardship is or may be relieved—

(i) Through reimbursement or compensation by insurance or otherwise,

(ii) By liquidation of the participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship, or

(iii) By cessation of deferrals under the plan.

Examples of what are not considered to be unforeseeable emergencies include the need to send a participant's child to college or the desire to purchase a home.

(5) *Emergency withdrawals.* Withdrawals of amounts because of an unforeseeable emergency must only be permitted to the extent reasonably needed to satisfy the emergency need.

(i) *Distributions of deferrals*—(1) *Commencement of distributions.* A plan is not an eligible plan unless under the plan the payment of amounts deferred will commence not later than the later of—

(i) 60 days after the close of the plan year in which the participant or former participant attains (or would have attained) normal retirement age (within the meaning of § 1.457–2(f)(4)), or

(ii) 60 days after the close of the plan year in which the participant separates from service (within the meaning of §§ 1.457–2(h) (2) and (3)) with the State.

A plan is not other than an eligible plan merely because, prior to October 27, 1982, the distribution of amounts deferred under the plan may commence no later than the close of the participant's taxable year in which the participant attains age 70½.

(2) *Limitations on distributions.* Distributions must be made primarily for the benefit of participants (or former participants). Thus, the schedule selected by the participant for payments of benefits under the plan must be such that benefits payable to a beneficiary are not more than incidental. For example, if provision is made for payment of a portion of the amounts deferred to a beneficiary, the amounts payable to the participant or former participant (as determined by use of the expected return multiples in § 1.72–9, or, in the case of payments under a contract issued by an insurance company, by use of the mortality tables of such company), must exceed one-half of the maximum that could have been payable to the participant if no provision were made for payment to a beneficiary.

(3) *Distributions to beneficiaries.* A plan is not an eligible plan unless the plan provides that, if the participant dies before the entire amount deferred is paid to the participant, the entire amount deferred (or the remaining part of such deferrals if payment thereof has commenced) must be paid to a beneficiary over—

(i) The life of the beneficiary (or any shorter period), if the beneficiary is the participant's surviving spouse, or

(ii) A period not in excess of 15 years, if the beneficiary is not the participant's surviving spouse.

(j) *Administration of plan.* A plan is not an eligible plan unless all amounts deferred under the plan, all property and rights to property (including rights as a beneficiary of a contract providing life insurance protection) purchased with the amounts, and all income attributable to the amounts, property, or rights to property, remain (until paid or made available to the participant or beneficiary under the plan) solely the property and rights of the State (without being restricted to the benefits under the plan) subject to the claims of the general creditors of the State only. However, nothing in this paragraph (j) prohibits a plan's permitting participants to direct, from among different modes under the plan, the investment of the above amounts (see § 1.457–1(b)).

(k) *Plan-to-plan transfers.* The plan may provide for the transfer of amounts deferred by a former participant to another eligible plan of which the former participant has become a participant if the following conditions are met—

(1) The entities sponsoring the plans are located within the same State (as that term is used in § 1.457–2(c)(1)),

(2) The plan receiving such amounts provides for the acceptance of the amounts, and

(3) The plan provides that if the participant separates from service in order to accept employment with another such entity, payout will not commence upon separation from service, regardless of any other provision of the plan, and amounts previously deferred will automatically be transferred.

(l) *Effect on plan when not administered in accordance with paragraphs (c) through (k).* A plan that is administered in a manner which is inconsistent with one or more of the requirements of paragraphs (c) through (k) of this section ceases to be an eligible plan on the first day of the first plan year beginning more than 180 days after the date of written notification by the Internal Revenue Service that the requirements are not satisfied, unless the inconsistency is corrected before the first day of that plan year.

(m) *Examples.* The provisions of this section may be illustrated by the following examples:

Example 1. A, born on June 1, 1917, is a participant in an eligible State deferred compensation plan providing a normal retirement age of 65. The plan provides limitations on deferrals up to the maximum permitted under § 1.457–2 (c) and (f).

For 1979, A, who will be 62, is scheduled to receive a salary of $20,000 from the State. A desires to defer the maximun amount possible in 1979. The maximum amount that A may defer under the plan is the lesser of $7,500, or 33⅓% of A's includible compensation (generally the equivalent of 25 percent of gross compensation). Accordingly, the maximum that A may defer for 1979 is $5,000 [$5,000 = $20,000 × .25]. Although A's taxable year 1979 is one of A's last 3 taxable years before the year in which A attains normal retirement age under the plan, A is not able to utilize the catch-up provisions of § 1.457–2(f) in 1979 because only taxable

years beginning after December 31, 1978, may be taken into account under those provisions.

Example 2. Assume the same facts as in example 1. In A's taxable year 1980, A receives a salary of $20,000, and elects to defer only $1,000 under the plan. In A's taxable year 1981, A again receives a salary of $20,000 and elects to defer the maximum amount permissible under the plan's catch-up provisions prescribed under § 1.457–2(f). The applicable limit on deferrals under the catch-up provision is the lesser of $15,000 or the sum of the normal plan ceiling for 1981, plus any underutilized deferrals for any taxable year before 1981. Thus, the maximum amount that A may defer in 1981 is $9,000, the normal plan ceiling for 1981, $5,000, plus the under-utilized deferrals for 1980, $4,000.

Example 3. Assume the same facts as in examples 1 and 2. In A's taxable year 1982, the year in which A will attain age 65, normal retirement age under the plan, A desires to defer the maximum amount possible under the plan. For 1982 the normal limitations of § 1.457–2(e) are applicable, and the maximum amount that A may defer is $5,000, assuming that A's salary for 1982 was again $20,000. The plan's catch-up provisions prescribed under § 1.457–2(f) are not applicable because 1982 is not a year ending before the year in which A attains normal retirement age.

§ 1.457–3 Tax treatment of participants where plan is not an eligible plan.

(a) *In general.* If a State (within the meaning of § 1.457–2(c)) provides for a deferral of compensation (after the effective date described in paragraph (c)) under any agreement or arrangement described in § 1.457–2(b) that is not an eligible plan within the meaning of § 1.457–2—

(1) Compensation deferred under the agreement or arrangement shall be includible in the gross income of the participant of beneficiary for the first taxable year in which there is no substantial risk of forfeiture (within the meaning of section 457(e)(3)) of the rights to such compensation,

(2) Earnings credited on the compensation deferred under the agreement of arrangement shall be includible in the gross income of the participant or beneficiary only when paid or made available, provided that the interest of the participant or beneficiary in the assets (including amounts deferred under the plan) of the entity sponsoring the plan is not senior to the entity's general creditors, and

(3) Amounts paid or made available under the plan to a participant or beneficiary shall be taxable to the participant or beneficiary under section 72, relating to annuities.

(b) *Exceptions.* Paragraph (a) does not apply with respect to—

(1) A plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

(2) An annuity plan or contract described in section 402,

(3) A qualified bond purchase plan described in section 405(a),

(4) That portion of any plan which consists of a transfer of property described in section 83, and

(5) That portion of any plan which consists of a trust to which section 402(b) applies.

(c) *Effective date.* This section is effective for taxable years beginning after December 31, 1981. For rules applicable in taxable years beginning after December 31, 1978, and before January 1, 1982, see § 1.457–4.

§ 1.457–4 Transitional rules.

(a) *In general.* Subject to the limitations described in paragraphs (b) and (c) of this section, amounts deferred (within the meaning of § 1.457–1(d)(3)) in taxable years beginning after December 31, 1978, and before January 1, 1982 under a plan described in § 1.457–2(b) (including an eligible plan within the meaning of § 1.457–2, but not including a plan described in section 457(e)(2) and § 1.457–3(b)) shall be includible in gross income only for the taxable year in which paid or otherwise made available to the participant or other beneficiary.

(b) *General limitation.* Except as described in paragraph (c) of this section, and excluding amounts deferred in taxable years beginning before January 1, 1979, compensation deferred under one or more plans described in paragraph (a) of this section is excludable from a participant's gross income under this section for a taxable year only to the extent it does not exceed the lesser of—

(1) $7,500, or

(2) 33⅓% of the participant's includible compensation (within the meaning of § 1.457–2(e)(2)) for the taxable year, reduced by any amount excludable from the participant's gross income for the taxable year under section 403(b) on account of contributions made by the State (within the meaning of § 1.457–2(c)). For purposes of this paragraph, compensation deferred under a plan shall be taken into account at its value in the plan year in which deferred. However, if the compensation deferred is subject to a substantial risk of forfeiture (as defined in section 457(e)(3)), such compensation shall be taken into account at its value in the plan year in which such compensation is no longer subject to a substantial risk of forfeiture.

(c) *Limited catch-up.* This paragraph (c) applies if all plans described in paragraph (a) of this section in which an individual is a participant are eligible plans within the meaning of § 1.457–2, and the participant's taxable year is a taxable year described in section 457(b)(3) and § 1.457–2(f). In such a case, compensation deferred under the plans for the taxable year is excluded from gross income under paragraph (a) of this section to the extent it does not exceed the amount determined under § 1.457–1(a)(2) or, as applicable, § 1.457–1(a)(3).

(d) *Example.* The provisions of this section may be illustrated by the following example:

Example. A is a participant in a State deferred compensation plan that is not an eligible plan within the meaning of § 1.457–2. The plan provides no limitations on the amount of compensation that may be deferred during any taxable year. For the taxable years 1979, 1980, and 1981 A has includible compensation of $40,000. In each of those years, A has deferred $10,000 of compensation. Under the transitional rules described in this section, $7,500 of A's deferrals in each year will be includible in gross income in the taxable year in which paid or made available to A or A's beneficiary. The remaining $2,500 of each year's deferrals ($10,000 – $7,500) are includible in A's gross income for the deferral year. Thus, $2,500 is includible in A's gross income for each of the taxable years 1979, 1980, and 1981. The tax treatment of amounts deferred by A in taxable years after 1981 is described in § 1.457–3.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Dated: September 14, 1982.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved:

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 82-26521 Filed 9-23-82; 8:58 am]

BILLING CODE 4830-01-M

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26 CFR Part 1

[T.D. 7835]

Income Tax; Taxable Years Beginning After December 31, 1953; Limitation on Additions to Bank Loss Reserves

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to limitation on additions to bank loss reserves. Changes to the tax law were made by the Economic Recovery Tax Act of 1981. The regulations would provide guidance to commercial banks that compute their bad debt deductions under the percentage of outstanding loans method.

DATE: The regulations are effective for taxable years beginning after 1981.

FOR FURTHER INFORMATION CONTACT: Susan K. Thompson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3294).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR Part 1) under section 585(b)(2) of the Internal Revenue Code of 1954. These amendments conform the regulations to section 267 of the Economic Recovery Tax Act of 1981 (95 Stat. 266) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Explanation of New Provisions

Section 585 of the Internal Revenue Code of 1954 requires commercial banks to compute their bad debt deductions under either the "experience method" or the "percentage of outstanding loans" method. The latter method is being phased out under existing law. Section 267 of the Economic Recovery Tax Act of 1981 delays this process as it affects taxable years beginning in 1982. Under the Act, the applicable percentage of loans to be used by commercial banks in computing the bad debt deduction is 1.0 percent, rather than 0.6 percent, for these taxable years.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for interpretative regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Non-Application of Executive Order 12291

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Drafting Information

The principal author of these regulations is Susan K. Thompson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

List of Subjects in 26 CFR Part 1.

Income taxes, Banks.

Adoption of Amendments to the Regulations

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Accordingly, 26 CFR Part 1 is amended as follows:

Section 1.585–2(b)(1)(i), relating to the maximum addition to reserves under the percentage method, and § 1.585–2(e)(1)(i), relating to the definition of base year under the percentage method, are amended to read as follows:

§ 1.585–2 Addition to reserve.

* * * * *

(b) *Percentage method*—(1) *In general*—(i) *Maximum addition.* Except as limited under subparagraph (2) of this paragraph, the maximum reasonable addition to the reserve for losses on loans under the percentage method for a taxable year is the amount determined under paragraph (b)(1) (ii), (iii), or (iv) of this section, whichever is applicable. For purposes of this paragraph, the term "allowable percentage" means 1.8 percent for taxable years beginning before 1976; 1.2 percent for taxable years beginning after 1975 but before 1982; 1.0 percent for taxable years beginning in 1982; and 0.6 percent for taxable years beginning after 1982 and before 1988. This paragraph does not apply for taxable years beginning after 1987.

* * * * *

(e) *Definitions*—(1) *Base year*—(i) *Percentage method.* For purposes of paragraph (b) of this section (relating to the percentage method), the term "base year" means: For years beginning before 1976, the last taxable year beginning on or before July 11, 1969; for taxable years beginning after 1975 but before 1983, the last taxable year beginning before 1976; and, for taxable years beginning after 1982, the last taxable year beginning before 1983. However, for purposes of section 585(b)(2)(A) the term "base year" means the last taxable year before the most recent adoption of the percentage method, if later than the base year as determined under the preceding sentence.

* * * * *

Because this Treasury decision will not be detrimental to any taxpayer, it is found unnecessary to issue this Treasury decision with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: August 23, 1982.

David G. Glickman,
Acting Assistant Secretary of the Treasury.

[FR Doc. 82-26516 Filed 9-24-82; 8:45 am]
BILLING CODE 4830-01-M

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26 CFR Part 48

[T.D. 7834]

Various Excise Tax Amendments Relating to Lubricating Oil, Buses and Light-Duty Truck Parts Under the Energy and Revenue Tax Act of 1978, and the Technical Corrections Act of 1979

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to various excise tax amendments with respect to parts for light-duty trucks, rerefined lubricating oil and buses. Changes to the applicable tax laws were made by the Energy Tax Act of 1978, the Revenue Tax Act of 1978, and the Technical Corrections Act of 1979. The regulations would provide the public with guidance needed to comply with these Acts.

EFFECTIVE DATE: The regulations are generally effective for sales made on or after December 1, 1978.

FOR FURTHER INFORMATION CONTACT: Annie R. Alexander of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On January 2, 1981, the Federal Register published proposed amendments to the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) under sections 4063(e), 4083(b), 4221(e) (5) and (6), and 4222(d) of the Internal Revenue Code of 1954 (Code) (46 FR 129). The amendments were proposed to conform the regulations to changes made by section 701(ff) of the Revenue Act of 1978 (Pub. L. 95–600, 92 Stat. 2924), and sections

404, 232 and 233(c) of the Energy Tax Act of 1978 (Pub. L. 95–618, 92 Stat. 3204, 3189, and 3191). In addition, the amendments reflect the changes made by section 108(c)(5) of the Technical Corrections Act of 1979 (Pub. L. 96–222, 94 Stat. 227). There was no public hearing since none was requested. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

Summary of the Acts

The Revenue Act of 1978 amended section 4063 to provide an exclusion from the manufacturers excise tax imposed by section 4061(b) on parts or accessories for light-duty trucks when sold by the manufacturer, producer or importer for resale by the purchaser, or for resale by the second purchaser on or in connection with the first retail sale of a light-duty truck.

The Energy Tax Act of 1978 amended section 4093 to provide an exemption from the 6-cents-per gallon manufacturers excise tax imposed on lubricating oil by section 4091, if the lubricating oil is sold for use in mixing with previously used or waste lubricating oil which has been cleaned, renovated, or rerefined. The Energy Tax Act of 1978 also amended section 4221 to provide an exclusion from the manufacturers excise tax imposed by section 4071 on tires, tubes, and tread rubber if the tires, tubes, and tread rubber are sold by a manufacturer, producer, or importer for the purchaser's use on or in connection with an intercity, local, or school bus.

The Technical Corrections Act of 1979 amended section 4221 by repealing the 8-percent manufacturers excise tax on parts and accessories imposed by section 4061 if the parts and accessories are sold for use by the purchaser on or in connection with an automobile bus or are to be resold by the first or second purchaser for use on or in connection with an automobile bus.

Summary of Public Comments and Final Regulations

Parts or Accessories for Light-Duty Trucks.

The proposed regulations under section 4063(e) required registration of vendors and vendees as a prerequisite for a tax-free sale of parts or accessories sold on or in connection with the first retail sale of a light-duty truck. A number of comments were received objecting to the registration requirement on the grounds that it was unduly burdensome to parts and accessories manufacturers to secure the registration of over 8,000 dealers.

Commentators also objected to the registration requirements under the proposed regulation because it would place the manufacturer who only makes parts and accessories at a competitive disadvantage as compared to the manufacturer who makes both light-duty trucks and the parts and accessories for those trucks. The competitive disadvantage arises because the manufacturer who sells light-duty trucks and the parts and accessories for those trucks contemporaneously is able to sell the parts and accessories to dealers tax free under section 4061, which does not impose any registration requirement. Since a dealer can obtain the part or accessory tax free without registering by buying the parts from a manufacturer who is subject to section 4061, a dealer would not purchase the part or accessory from a manufacturer who is subject to section 4063. To eliminate this competitive disadvantage, the commentators suggest that the registration requirement under the proposed regulation be eliminated, and in lieu of registration, they suggested the use of an exemption certificate to effectuate the tax-free sale. This suggestion was rejected because the elimination of that requirement might create a precedent under other sections of the Code.

Several commentators also suggested that if dealers are required to register, then rather than require each dealer to file Form 720 quarterly for any part not used on or in connection with the first retail sale of a light-duty truck, each registered dealer should be required to notify the manufacturer of the non-exempt use and pay the Federal excise tax to the manufacturer. The manufacturer would then be required to file a return and pay the tax to the Service. Although this suggestion was not adopted, the final regulations eliminated the requirement that a dealer file Form 720.

Commentators also suggested allowing a tax-free sale under section 4063 when a manufacturer sells directly to an ultimate consumer who uses the part rather than to a dealer who resells the part. One comment was received from a field office objecting to allowing tax-free direct sales from a manufacturer to the ultimate consumer on the grounds that the Code expressly uses the language ". . . resold by the purchaser . . ." However, even though section 4063 uses the language "* * * resold by the purchaser * * *", which indicates that the purchaser must resell the part, a credit or refund is provided by section 6416(b)(2) to the person who paid the tax when the part is sold directly to the ultimate purchaser. To require the taxpayer to pay the tax and then file a claim for refund would create unnecessary paperwork for both the public and the Service. Therefore, the final regulations adopt the rule that a manufacturer may sell directly to an ultimate purchaser tax free. However, the final regulations do require a written certification from the ultimate purchaser in the form of an exemption certificate stating that the part or accessory was purchased for use on or in connection with a substantially contemporaneous purchase of a new light-duty truck.

Parts or Accessories for Buses

Several commentators suggested that the regulations expressly provide means whereby purchasers purchasing "tax paid" parts or accessories for use on or in connection with an automobile bus could avail themselves of the credit or refunds provided by section 6416(b)(2)(I). The suggestion was rejected because there is no authority under any section of the Code for purchasers who purchased "tax paid" to obtain a direct refund from the Service. The credit or refund provided by section 6416(b)(2)(I) is available only to the person who paid the tax to the Service.

Numerous commentators suggested that the final regulations under § 48.4221–12 eliminate the registration and record-keeping requirements for the tax-free sale of parts or accessories that can be readily identifiable by the manufacturer as parts only usable on a bus and thus eliminate further substantiation as required in the proposed regulations. The final regulations do not adopt this rule because under section 4222 registration is required to sell an article tax-free under section 4221 unless the tax-free sale is within one of the exceptions listed under section 4222(b). Since tax-free sales of parts and accessories for buses are not one of these exceptions, registration is required.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although a notice of proposed rulemaking which solicited public comments was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure

requirement of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of this regulation is Annie R. Alexander of the Legislation and Regulations Division of the office of Chief Counsel Internal Revenue Service. However, personnel from other offices of the Internal Revenue and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR Part 48

Agriculture, Arms and munitions, Automobile buses, Coal excise taxes, Light-duty truck parts, Lubricating oil, Gasohol, Gasoline, Motor vehicles, Petroleum, Sporting goods, Tires, Tubes, Tread rubber.

Adoption of Amendments to the Regulations

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Accordingly, 26 CFR Part 48 is amended as follows:

Paragraph 1. Section 48.4063–2 is redesignated § 48.4063–3 and a new § 48.4063–2 is added to read as follows:

§ 48.4063–2 Tax-free sales of parts or accessories sold for resale on or in connection with the first retail sale of a light-duty truck.

(a) *In general.* Under section 4063(e), the 8-percent manufacturers excise tax imposed by section 4061(b) on the sale of truck parts or accessories does not apply to the sale by the manufacturer, producer, or importer of any parts which are to be resold by the purchaser on or in connection with the first retail sale of a light-duty truck as defined in section 4061(a)(2), or which are to be resold by the purchaser to a second purchaser for resale by the second purchaser on or in connection with the first retail sale of a light-duty truck. A tax-free sale is also allowed under section 4063(e) if an ultimate purchaser makes a direct purchase from a manufacturer of a part or accessory for use on or in connection with a substantially contemporaneous purchase of a new light-duty truck.

(b) *Evidence required for tax-free sales of light-duty truck parts and accessories*—(1) *In general.* The provisions of section 4063(e) do not apply with respect to any sale unless the manufacturer, the first purchaser, and the second purchaser, if any, are all registered as required under section 4222, and unless they comply with all the requirements under that section relating to tax-free sales. To effectuate a tax-free sale directly from the manufacturer, first or second purchaser to an ultimate purchaser, the ultimate purchaser must, in every case, satisfy the provisions of paragraphs (b)(3)(i), (ii) and (iii) of this section. Persons not required to be registered under section 4222(b) may purchase articles tax free by following the same procedures that apply to them in the case of other tax-free sales. See § 48.4222(b)–1.

(2) *Revocation or suspension of registration or right to use exemption certificate.* A person's registration and right to sell or purchase articles tax free through the use of an exemption certificate may be revoked or suspended. See § 48.4222(c)–1. Such a revocation or suspension shall be in addition to any other penalties that may apply. Any person who purchases articles tax free and who sells or uses them for a non-exempt purpose shall notify its vendor of the taxable sale or use.

(3) *Exemption certificate*—(i) To establish exemption from tax under section 4061(b) in those instances where a sale is made directly to an ultimate purchaser, the manufacturer, first, or second purchaser must obtain (prior to or at the time of sale) from the ultimate purchaser and retain in its possession a properly executed exemption certificate in the form prescribed in paragraph (b)(3)(iii) of this section.

(ii) Where only occasional sales are made, a separate exemption certificate shall be furnished for each order. However, where sales are regularly or frequently made to a purchaser for such exempt use, a certificate covering all sales for a specified period not to exceed 12 calendar quarters will be acceptable. Such certificates and proper records of invoices, orders, etc. relative to tax-free sales must be kept for inspection by the district director as provided in section 6001 and the regulations thereunder.

(iii) The following form of exemption certificate will be acceptable for purposes of this section and must be adhered to in substance.

Exemption Certificate

(For use by ultimate purchaser who purchase parts or accessories from a manufacturer, producer, importer, first or second purchaser for use on or in connection with the first retail sale of a light-duty truck. (Section 4063 of the Internal Revenue Code.))

(Date)———— 19———,

1. I, the undersigned, certify that I am, or the (Name of company ———— of which I am (Position held————, is purchasing from the manufacturer, producer, importer, first or second purchaser the parts or accessories specified in section 2 below (or in the purchase order or invoice attached hereto) for use on or in connection with a substantially contemporaneous purchase of a new light-duty truck specified in section 3 below. I also certify that (check applicable type of certificate) ——— the article or articles specified in the accompanying order, as described below, or ———— all orders placed by the purchaser for the period commencing (Date)——— and ending (Date)——— (period not to exceed 12 calendar quarters), will be used only for the above stated tax-exempt purposes and will not be used as a replacement part.

I understand that the willful use of this exemption certificate to evade or defeat the manufacturers excise tax otherwise applicable to these parts or accessories will subject me to a fine of not more than $10,000 or imprisonment for not more than 5 years, or both, together with cost of prosecution.

(Signature)————,

(Address)————,

2. *Description of parts and accessories*

Type	Quantity	Price	Total

3. *Description of new light-duty truck*

(a) Type: (b) Quantity, (c) Serial Number. (d) GVWR: (e) Date of Sale, (f) Invoice Number.

(g) Name and Address of Vendor of Vehicle.

(c) *Information; records*—(1) *Information to be furnished to vendee.* A vendor (including the manufacturer) selling light-duty truck parts and accessories tax free under section 4063(e) shall indicate to its vendee that the vendee is obtaining the parts or accessories tax free for the purpose of resale (or use) on or in connection with the first retail sale of a light-duty truck. This information may be transmitted by any convenient means, such as coding of sales invoices, provided that the information is presented with sufficient particularity so that the purchaser is informed that the purchaser has obtained the light-duty truck parts or accessories tax free.

(2) *Records of vendor.* A manufacturer or vendor selling light-duty truck parts or accessories tax free under section 4063(e) shall maintain in its records the identity of the purchaser, a signed statement of the exempt purpose for purchasing the light-duty truck parts or accessories, and the quantity of light-duty truck parts or accessories sold tax free to each purchaser.

(3) *Records of vendee.* A person purchasing light-duty truck parts or accessories tax free under section 4063(e) must maintain sufficient records to establish that the parts or accessories purchased tax free have actually been

resold (or used) on or in connection with the first retail sale of a light-duty truck or have been resold to a second purchaser for such a resale by the second purchaser.

(d) *Duty of selling manufacturer to ascertain validity of tax-free sale.* The selling manufacturer of light-duty truck parts is not relieved of liability under the provisions of section 4063(e) by reason of section 4221(c) for the tax imposed by section 4061(b) if at the time of sale the selling manufacturer has knowledge or reason to believe that the light-duty truck parts or accessories sold by it to the purchaser are not intended for resale (or use) on or in connection with the first retail sale of a light-duty truck. The selling manufacturer is also not relieved of liability if it has knowledge or reason to believe that the purchaser has failed to register, refused to execute an exemption certificate, or that its registration or its right to purchase tax free through the use of an exemption certificate has been revoked or suspended.

(e) *Cross reference.* For credit or refund, see section 6416(b)(2).

(f) *Effective date.* Section 4063(e) (relating to light-duty truck parts and accessories) applies to sales on or after December 1, 1978. Light-duty truck parts or accessories sold prior to that date are not exempt from tax under section 4061(b) by reason of section 4063(e).

Par. 2. Immediately after § 48.4093–1 there is added the following new section.

§ 48.4093–2 Tax-free sales of new lubricating oil sold to produce rerefined lubricating oil.

(a) *In general.* Under section 4093(b), the 6-cents-per-gallon excise tax imposed by section 4091 on the sale of lubricating oil does not apply to new lubricating oil which is sold by the manufacturer directly to a producer of rerefined oil for the purpose of producing rerefined lubricating oil if the requirements of this section are met. Rerefined lubricating oil is a mixture of new oil with used or waste oil in which 25 percent or more of the mixture is used or waste lubricating oil which has been cleaned, renovated, or rerefined. Any person to whom lubricating oil is sold tax free under section 4093(b) shall be treated as the producer of the lubricating oil.

(b) *Use of new oil to produce rerefined oil.* Under section 4093(b), all the new lubricating oil in a mixture is exempt from the six-cents-per-gallon manufacturers excise tax imposed by section 4091 if the rerefined oil contains 55 percent or less new oil. To the extent that the rerefined oil contains more than 55 percent new oil, then that portion of new lubricating oil which exceeds 55 percent of the mixture is subject to the section 4091 excise tax, and only that part of the new oil that does not exceed 55 percent of the mixture is exempt from the tax.

(c) *Requirement for lubricating oil purchasers purchasing tax free.* In order for the sale of lubricating oil by the manufacturer to the purchaser to be exempt from tax under section 4093(b), both the purchaser and the manufacturer must be registered as required under section 4222, and they must comply with all the requirements under that section relating to tax-free sales. See § 48.4222(a)–1. Persons not required to be registered under section 4222(b) may purchase tax free by following the procedures that apply to them in the case of other tax-free sales. See § 48.4222(b)–1. For revocation or suspension of registration, see § 48.4222(c)–1.

(d) *Duty of selling manufacturer to ascertain validity of tax-free sale.* The selling manufacturer of lubricating oil is not relieved of liability under the provisions of section 4093(b) by reason of section 4221(c) for the tax imposed by section 4091 if at the time of sale the selling manufacturer has knowledge or reason to believe that the lubricating oil sold by it to the purchaser is not intended for mixing with used or waste oil for the purpose of producing rerefined oil, or that the purchaser has failed to register, or that its registration has been revoked or suspended.

(e) *Information; records*—(1) *Information to be furnished to purchaser.* A manufacturer selling lubricating oil tax free under section 4093(b) shall indicate to the purchaser that the purchaser is obtaining the lubricating oil tax free for the purpose of making rerefined lubricating oil. The manufacturer may transmit this information by any convenient means, such as coding of sales invoices, provided that the information is presented with sufficient particularity so that the purchaser is informed that the purchaser has obtained the lubricating oil tax free and the purchaser can compute and remit the tax due if the lubricating oil is diverted to a taxable use.

(2) *Records of Manufacturer.* A manufacturer selling lubricating oil tax free under section 4093(b) shall maintain in its records the identity of the purchaser, a signed statement of the exempt purpose for purchasing the lubricating oil, and the quantity of lubricating oil sold tax free to each purchaser.

(3) *Records of Purchaser.* A person purchasing lubricating oil tax free under section 4093(b) must maintain sufficient records to establish that the lubricating oil purchased tax free has actually been mixed with used or waste oil to make rerefined lubricating oil (as defined under paragraph (a) of this section) and that the quantity of new lubricating oil used in the mixture meets the requirements under paragraph (b) of this section.

(f) *Credit or refund.* A credit or refund is available for the 6-cents-per-gallon excise tax paid on up to 55 percent of new lubricating oil contained in a mixture of new lubricating oil with waste or rerefined oil of which at least 25 percent is waste lubricating oil. The refund or credit will be available when the mixture is used or sold. See section 6416(b)(2).

(g) *Effective date.* Section 4093(b) (relating to rerefined lubricating oil) applies to sales on or after December 1, 1978. Lubricating oil sold prior to December 1, 1978 is not exempt from tax under section 4093(b).

Par. 3. Section 48.4221–1 is amended as follows:

1. Paragraph (b)(2)(v) is revised to read as set forth below.

2. Paragraph (b)(2)(viii) is redesignated as paragraph (b)(2)(ix).

3. A new paragraph (b)(2)(viii) is added to read as set forth below.

4. Paragraph (b)(2)(ix) is redesignated as paragraph (b)(2)(x) and is revised to read as set forth below.

5. Paragraph (b)(2)(x) is redesignated paragraph (b)(2)(xi) and revised to read as set forth below.

6. Paragraph (b)(2)(xii) is added to read as set forth below.

The new and revised provisions read as follows:

§ 48.4221–1 Tax-free sales; general rules.

* * * * *

(b) Manufacturer relieved of liability in certain cases * * *

(2) The following are situations wherein sections 4221(c) is applicable with respect to sales made tax free on the assumption that one of the following sections of the Code provides exemption for such sales.

* * * * *

(v) Section 4063(a)(6), relating to sales of any automobile bus chassis or automobile bus body (see regulations thereunder),

* * * * *

(viii) Section 4063(e), relating to light-duty truck parts (see regulations thereunder),

* * * * *

(x) Section 4093, relating to the sale of lubricating oil or rerefined oil to a manufacturer or producer of lubricating or rerefined oil (see regulations thereunder),

(xi) Section 4221(e)(5), relating to the sale of tires, tubes, and tread rubber used on intercity, local, or school buses (see regulations thereunder), and

(xii) Section 4221(e)(6), relating to the sale of bus parts and accessories (see regulations thereunder),

Par. 4. Sections 48.4221–11 and 48.4221–12 are added immediately after 48.4221–10 to read as follows:

§ 48.4221–11 Tax-free sales of tires, tubes, and tread rubber used on intercity, local, and school buses.

(a) *In general.* Under section 4221(e)(5), the taxes imposed by section 4071(a)(1), (3) and (4) shall not apply to sales by a manufacturer, producer, or importer of tires of the type used on highway vehicles or inner tubes for tires sold for use by the purchaser on or in connection with a qualified bus, or to the sales by a manufacturer, producer, or importer of tread rubber sold for use by the purchaser in the recapping or retreading of any tire to be used by the purchaser on or in connection with a qualified bus if the requirements of this section are met.

(b) *Meaning of terms.*—(1) *Qualified bus.* "Qualified bus" means an intercity, local, or school bus.

(2) *Intercity or local bus.* "Intercity or local bus" means any automobile bus which is used predominantly (more than 50 percent) in furnishing (for compensation) passenger land transportation available to the general public if such transportation is scheduled and along regular routes, or if the seating capacity of the bus is at least 20 adults (not including the driver). In determining predominant use, mileage travelled with passengers as well as mileage travelled incidental to such passenger transportation, such as "deadheading", is counted. Under the first alternative, the size of the bus is not relevant for purposes of determining whether or not the use of the bus qualifies for the exemption. Under the second alternative, for non-scheduled bus operations, such as that provided by charter buses, the exemption is available only if the bus has a passenger seating capacity of at least 20 adults and the transportation is available to the general public. For purposes of determining whether the bus has a seating capacity of at least 20 adults, the bus driver is not included. Service is available to the general public if bus service is used in a passenger transportation business in which service is offered to more than a limited number of persons, groups, or organizations.

(3) *School bus.* "School bus" means any automobile bus in which "substantially all" (85 percent or more) of the use involves transporting students and employees of a school. Incidental use (deadheading) of the school bus without passengers to or from a point to which students or employees of school are transported is considered to be a use which involves transporting students or employees of schools. A school is any educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are carried on. Tax-exempt schools, taxable schools, and a private contractor who operates a bus for tax-exempt or a taxable school may qualify for the tax exemption if all the requirements of this section are met.

(b) *Registration requirements for tires, tubes, and tread rubber; vendees purchasing tax free.* The provisions of section 4221(e)(5) do not apply with respect to any sale unless the manufacturer and the vendee are registered as required under section 4222, and unless they comply with all the requirements under that section relating to tax-free sales. See § 48.4222(a)–1. Persons not required to be registered under section 4222(b) may purchase articles tax free by following the same procedures that apply to them in the case of other tax-free sales. See § 48.4222(b)–1. A person's registration and right to sell or purchase articles tax free may be revoked or suspended as provided in § 48.4222(c).1. Such a revocation or suspension shall be in addition to any other penalties that may apply.

(c) *Cross reference.* For credit or refund, see section 6416(b)(2).

(d) *Information; records*—(1) *Information to be furnished to purchaser.* A manufacturer selling tires, tubes, or tread rubber tax free under section 4221(e)(5) shall indicate to the purchaser that the purchaser is obtaining the tires or tubes tax free for the purpose of use on or in connection with a qualified bus, and that the purchaser is obtaining the tread rubber tax free for use in the recapping or retreading of tires to be used by the purchaser on or in connection with a qualified bus. The manufacturer may transmit this information by any convenient means, such as coding of sales invoices, provided that the information is presented with sufficient particularity so that the purchaser is informed that the purchaser has obtained the tires, tubes, and tread rubber tax free.

(2) *Records of Manufacturer.* A manufacturer selling tires, tubes, or tread rubber tax free under section 4221(e)(5) shall maintain in its records the identity of the purchaser, a signed statement of the exempt purpose for purchasing the tires, tubes, or tread rubber, and the quantity of tires, tubes, or tread rubber sold tax free to each purchaser.

(3) *Records of Purchaser.* A person purchasing tires, tubes, or tread rubber tax free under section 4221(e)(5) must maintain sufficient records to establish that the tires, tubes, or tread rubber purchased tax free has actually been used for that purpose.

(e) *Duty of selling manufacturer to ascertain validity of tax-free sale.* The selling manufacturer is not relieved of liability under the provisions of section 4221(e)(5) by reason of section 4221(c) for the tax imposed by section 4061(b) if at the time of sale the selling manufacturer has knowledge or reason to believe that the tires, tubes, or tread rubber sold by it to the purchaser are not intended for use on an intercity, local, or school bus, or that the purchaser has failed to register, or that its registration has been revoked or suspended.

(f) *Effective date.* Section 4221(e)(5) (relating to tires, tubes, and tread rubber) applies to sales on or after December 1, 1978. The sale of tires, tubes, or tread rubber sold prior to that date is not exempt from tax under section 4221(e)(5).

§ 48.4221–12 Tax-free sales of bus parts and accessories.

(a) *In general.* Under section 4221(e)(6), the 8-percent manufacturers excise tax on parts and accessories imposed by section 4061(b) shall not apply to sales by a manufacturer, producer, or importer of any part or accessory which is sold for use by the purchaser on or in connection with an automobile bus, or is to be resold by the first purchaser to a second purchaser or by a second purchaser to an ultimate purchaser for such use.

(b) *Registration requirements for bus parts and accessories; vendees purchasing tax free.* The provisions of section 4221(e)(6) do not apply with respect to any sale unless the manufacturer, the first purchaser, and the second purchaser and the ultimate purchaser, if any, are all registered as required under section 4222, and unless they comply with all the requirements under that section relating to tax-free sales. See § 48.4222(a)–1. Persons not

required to be registered under section 4222(b) may purchase articles tax free by following the same procedures that apply to them in the case of other tax-free sales. See § 48.4222(b)–1. A person's registration and right to sell or purchase articles tax free may be revoked or suspended as provided in § 48.4222(c)–1. Such a revocation or suspension shall be in addition to any other penalties that may apply.

(c) *Cross reference.* For credit or refund, see section 6416(b)(2).

(d) *Information; records*—(1) *Information to be furnished to vendee.* A vendor (including the manufacturer) selling parts and accessories tax free under section 4221(e)(6), shall indicate to its vendee, that the vendee is obtaining the parts or accessories tax free for the purpose of use on or in connection with an automobile bus, or for resale by the vendee for such use. This information may be transmitted by any convenient means, such as coding of sales invoices, provided that the information is presented with sufficient particularity so that the purchaser is informed that the purchaser has obtained the parts or accessories tax free.

(2) *Records of vendor.* A vendor (including the manufacturer) selling parts or accessories tax free under section 4221(e)(6) shall maintain in its records the identity of the purchaser, a signed statement of the exempt purpose for purchasing the parts or accessories, and the quantity of parts or accessories sold tax free to each purchaser.

(3) *Records of vendee.* A person purchasing parts or accessories tax free under section 4221(e)(6) must maintain sufficient records to establish that the parts or accessories purchased tax free have actually been used on or in connection with an automobile bus or have been resold for such a use.

(e) *Duty of selling manufacturer to ascertain validity of tax-free sale.* The selling manufacturer of parts and accessories is not relieved of liability under the provisions of section 4221(e)(6) by reason of section 4221(c) for the tax imposed by section 4061(b) if at the time of sale the selling manufacturer has knowledge or reason to believe that the parts and accessories sold by it to the purchaser are not intended for use on or in connection with an automobile bus or have been resold for such use, or that the purchaser has failed to register, or that its registration has been revoked or suspended.

(f) *Effective date.* Section 4221(e)(6) (relating to bus parts and accessories) applies to sales on or after December 1, 1978. Parts or accessories sold for use on a bus prior to that date are not exempt from tax under section 4221(e)(6).

Par. 5. Section 48.4222(d)–1 is amended as follows:

1. Paragraph (a) is deleted.

2. Paragraphs (b) and (c) are redesignated as paragraphs (a) and (b) respectively.

3. New paragraphs (c) and (d) are added to read as set forth below.

4. Paragraph (d) is redesignated as paragraph (e).

5. Paragraph (e) is redesignated as paragraph (f) and revised to read as set forth below.

6. Paragraph (f) is redesignated as paragraph (g).

§ 48.4222(d)–1 Registration in the case of certain other exemptions.

The registration procedure set forth in § 48.4222(a)–1 also applies in the following cases:

* * * * *

(a) (Reserved)

* * * * *

(c) Tax-free sales under section 4063(e) of parts or accessories sold for resale on or in connection with the first retail sale of a light-duty truck. Both the vendor and vendee must be registered (or the vendee must execute an acceptable exemption certificate as set forth on § 48.4063–2(b)(3)(iii)). See section 4063(e) and the regulation thereunder.

(d) Tax-free sales under section 4064(b)(1)(C) of emergency vehicles. Both the vendor and vendee must be registered. See section 4064 and the regulations thereunder.

* * * * *

(f) Tax-free sales under section 4093 of lubricating oil or rerefined oil by a manufacturer or producer of lubricating oil or rerefined oil for resale, or for use in producing rerefined oil. Both the vendor and the vendee must be registered. See section 4093 and the regulations thereunder.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: September 8, 1982.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 82-26516 Filed 9-24-82; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

Permanent State Regulatory Program of North Dakota

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: The Secretary of the Interior is modifying the deadline for North Dakota to meet one of the conditions of approval of the State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1201 *et seq.* The Secretary is extending the deadline for the State to resolve condition "e" as specified in the Secretary's notice of conditional approval of North Dakota's program (45 FR 82241–82248, December 15, 1980) until July 1, 1983.

EFFECTIVE DATE: September 27, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining, Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION: On July 23, 1982, the Secretary published a proposed rule to extent the deadline for North Dakota to meet one of the conditions of approval on its approved permanent regulatory program under the Act (47 FR 31896–97). Public comments were invited for 30 days ending August 23, 1982.

Parts 730–732 of OSM's regulations establish the procedures for the submission, review, and decision on the State permanent regulatory programs whereby the State assumes primary jurisdiction to regulate surface coal mining under the Act. Under § 732.13(i), the Secretary may conditionally approve a State program which contains minor deficiencies if the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval. The schedule is established in consultation with the State, based on its administrative needs and the time required for changes to be adopted under State rulemaking or legislative procedures.

The North Dakota program was conditionally approved on December 15, 1980 (45 FR 82241–82248). The Secretary's approval was conditioned

on the State's correction of 13 minor deficiencies by July 1, 1981.

That deadline was later extended, upon the State's request, to January 1, 1983 (46 FR 54070–54071). In a letter to the Director dated June 14, 1982, the North Dakota Public Service Commission requested a further extension of that deadline to July 1, 1983, to meet condition "e" as listed at 30 CFR 934.11(e).

Condition "e" stipulates that the Secretary's approval of the North Dakota program will terminate on January 1, 1983, unless North Dakóta submits to the Secretary by that date copies of fully enacted regulations amending the North Dakota Administrative Code 69–05.2–10–03(i) to prohibit issuance of permits to any person with an outstanding violations or a pattern of violation outside of North Dakota in a same or similar manner as Section 510(c) of SMCRA, 30 CFR 786.17 and 30 CFR 786.19(i) or otherwise amends its program to accomplish the same results.

In a notice published July 23, 1982, the Director invited comment on extending the deadline for the State to meet condition "e" until July 1, 1983 (47 FR 31896–97). Comment was invited for 30 days ending August 23, 1982.

Secretary's Findings

The Secretary has decided to grant the State's request for an extension to meet condition "e" until July 1, 1983. In order to satisfy that condition, North Dakota will be required to make a change in the North Dakota Century Code Chapter 38–14.1. The Commission indicated that it would draft the required change for consideration by the Legislative Assembly when it convenes in January 1983. Since statutory changes normally become effective on the first of July following legislative action, the extension to July 1, 1983, will allow time for the statutory change to take effect.

Public comment:

The public comment period on the proposed extension ended August 23, 1982. No comments were received.

Other information:

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for all actions to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OMB is not needed for this extension.

This rule is deemed not to be a major Federal action within the meaning of section 102(2)(c) of NEPA under sections 501(a) or 702(d) of SMCRA. It is hereby designated as a categorical exclusion from the NEPA process. Therefore, this rule is exempt from the requirements of an Environmental Assessment, EIA or FONSI.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–334, I have certified that this rule will not have a significant economic effect on a substantial number of small entities as the rule is essentially a timing change with no direct or indirect impact on small entities.

Indexing Requirements:

List of Subjects in 30 CFR Part 934

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 934 of Title 30 is amended as set forth herein.

Dated: September 20, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 934—NORTH DAKOTA

30 CFR Part 934 is amended by revising § 934.11(e) to read as follows:

§ 934.11 Conditions of State regulatory program approval.

* * * * *

(e) The approval found in § 934.10 of this part will terminate on July 1, 1983, unless North Dakota submits to the Secretary by that date copies of fully enacted regulations amending NDAC 69–05.2–10–03(i) to prohibit issuance of permits to any person with an outstanding violation or pattern of violations outside of North Dakota in a same or similar manner as Section 510(c) of SMCRA, and 30 CFR 786.19(i) or otherwise amends its program to accomplish the same results.

* * * * *

[FR Doc. 82-26606 Filed 9-24-82; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 944

Approval of Amendments to the Utah Permanent Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule: Approval of amendments.

SUMMARY: On January 21, 1981, the Secretary conditionally approved the Utah permanent program under the Surface Mining Control and Reclamation Act (SMCRA or the Act) (46 FR 5899–5915). On July 26, 1982, (47 FR 32173–4) OSM announced receipt of proposed amendments to the approved Utah program submitted by the State for the Director's approval. This notice announces the Director's approval of those modifications which amend the State's civil penalty regulations at UMC/SMC 845 and which provide for the use of the "range site" method for measuring revegetation success.

EFFECTIVE DATE: September 27, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur Abbs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone (202) 343–5361.

SUPPLEMENTARY INFORMATION:

Background on the Utah Program Submission

SUPPLEMENTARY INFORMATION: On March 3, 1980, the State of Utah submitted to the Department of the Interior its proposed permanent regulatory program under SMCRA.

On October 3, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program. Notice of that decision and the Secretary's findings were published in the **Federal Register** on October 24, 1980 (45 FR 70481–70510). The State of Utah resubmitted its program for approval by the Secretary on December 23, 1980. After providing an opportunity for public comment on the program and completing a thorough review of the resubmission, the Secretary of the Interior determined that the Utah program, including the resubmission, did, with minor exceptions, meet the requirements of SMCRA and the Federal permanent program regulations. Accordingly, the Secretary of the Interior conditionally approved the Utah program subject to the correction of twelve minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the January 21, 1981 **Federal Register** (46 FR 5899–5915).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Utah program can be found in the January 21, 1981 **Federal Register** (46 FR 5899–5915).

Background on Conditions of Approval

In accepting the Secretary's conditional approval, Utah agreed to satisfy conditions "a"–"e" by December 1, 1981, and conditions "f"–"l" by July 1, 1981.

Subsequently, Utah requested an extension of the deadline to meet conditions "f," "g," and "h" until January 1, 1982. On October 30, 1981 (46 FR 54070), OSM announced the Secretary's decision to approve the extension.

Upon the State's request the deadline for the State to meet condition "f" was further extended to September 1, 1982, and the deadline for the State to meet condition "h" to January 1, 1983, (47 FR 23155–23156, May 27, 1982).

On June 29, 1981, Utah submitted statutory and regulatory revisions intended to satisfy conditions "a"–"e" and "f"–"l."

On June 22, 1982, (47 FR 26827–26831) the Assistant Secretary for Energy and Minerals announced his decision to remove conditions "a"–"e," "j," and "l" and to grant an extension of the deadline for Utah to satisfy conditions "g," "i," and "k." In the June 22, 1982 notice, the Assistant Secretary also announced his decision to impose a new condition "m" requiring the State to correct by January 1, 1983, a deficiency in the State program which had recently come to OSM's attention.

Submission of Amendments

On July 26, 1982, the Director invited comment on the following amendments submitted by the State which do not relate to any of the conditions (47 FR 32173) and scheduled a public comment period and hearing on the proposed modifications.

1. *Modification of civil penalty regulations.* On April 30 and May 1, 1981, Utah adopted modifications to its civil penalty rules at UMC/SMC 845. These revised rules, together with additional changes to UMC/SMC 845 proposed by the Division of Oil Gas and Mining (DOGM) on June 23, 1982, were submitted to OSM for approval as program amendments. On August 26, 1982, Utah adopted the revisions submitted to OSM on June 23, 1982, in the same form as proposed and on which comment was invited, with the exception of item II of the proposed revisions.

2. *Alternative Standard for Measuring Revegetation Success.* Utah also submitted for the Director's approval a proposal to utilize the "range site method" as an alternative to the "reference area" method of measuring revegetation success set forth under 30 CFR 816.116 and 30 CFR 817.116. Utah's proposal to utilize the range site method as an alternative was submitted to OSM on May 21, 1981. Additional supporting documentation was submitted to OSM by DOGM on October 20, 1981, and February 5, 1982.

Secretary's Findings

1. The Director finds Utah's civil penalty regulations at UMC/SMC 845 as modified April 30 and May 1, 1981 and as further modified August 26, 1982, incorporate penalties no less stringent than those set forth in Section 518 of SMCRA and 30 CFR Part 845 and contain the same or similar procedural requirements related thereto. Therefore, the Director grants his approval of those amendments. It should be noted that the regulatory modifications adopted by Utah on August 26, 1982, are, with one exception, identical to the changes proposed by the State June 23, 1982, and on which OSM invited comment in the **Federal Register**, July 26, 1982, 47 FR 32173.

The one exception is Item II of the June 23, 1982, proposed changes which the Board did not adopt in final form on August 26, 1982. Item II of the proposed changes created a new paragraph (b) at UMC/SMC 845.14 to provide that "When the total number of points for any violation contained in a notice of violation does not exceed fifty, the assessment of a civil penalty shall be discretionary with the Board or its authorized assessment officer." Because the Board did not adopt Item II of the proposed modifications, the Director's approval of these amendments does not extend to that provision. Should Utah adopt that provision at some future date and submit it in final form for approval, the director would reconsider that provision under separate rulemaking.

2. The Director further finds that Utah's adoption of the "range site" method for measuring revegetation success is no less effective than the "reference area" method set forth under 30 CFR 816.116 and 30 CFR 817.116. Both the Federal rules at 30 CFR 816.116 and 817.116 and Utah's rules at UMC 817.116(a) and SMC 816.116(a) provide that success of revegetation shall be measured by techniques approved by the regulatory authority after consultation with appropriate State and Federal agencies. Evaluation of ground cover and productivity may be made on the basis of reference areas or through the use of technical guidance procedures published by U.S. Department of Agriculture (USDA) or U.S. Department of Interior (USDI) for assessing ground cover and productivity. Utah's proposal to utilize the range site method was submitted to OSM on May 21, 1981. Additional supporting documentation was submitted on October 20, 1981, and February 5, 1982, including revised guidelines for obtaining vegetation information and the Soil Conservation Service (SCS) National Range Handbook, 1975, which Utah will rely on as the technical guide for determining revegetation success. After reviewing the State's proposal and supporting technical documentation, the Director has determined that the State program does provide for the use of techniques of measuring revegetation success which are no less effective than those prescribed by the Federal regulations.

Public Comment

OSM received six comments in response to the July 26, 1982, **Federal Register** notice announcing the hearing and comment period on the amendments and proposal submitted by Utah.

The Environmental Protection Agency, Region VIII, favored Utah's adoption of the "range site method" for measuring revegetation success. The commenter suggested that "fair condition" range sites, that are determined acceptable for sampling, should be on an improving trend. It was also recommended that "good condition" range sites be used, when available, for sampling, since the reclamation goal should be to arrive at "good condition" in each range site. OSM believes that Utah's vegetation guideline number 8C clearly states that the range sampled is to be representative of the vegetation that existed before mining operations disturbed the area. OSM believes the commenter's concerns are addressed in the State's vegetation guidelines.

EPA also suggested that post-grading soil horizon characteristics should be assessed and the appropriate adjustments made in revegetation specification and success criteria. OSM recognizes that while this approach could result in success standard (baseline data) adjustments that reflect improved site capabilities, it could also result in success standard adjustments that reflect a capability that is less than the premining capability. The reestablished vegetation is one indicator of the operator's ability to restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining; hence, OSM believes that range site data, as specified in the guidelines, will assure reestablishment of vegetation that is at least equal in extent of cover and as effective as the natural vegetation of the area. Also, a success

standard based on premining site conditions does not preclude the establishment of a plant community or range site condition that is superior to the premining range site condition. OSM finds Utah's guidelines in accordance with the Act and no less effective than OSM's regulations which require a vegetative cover at least equal to the vegetative cover that existed before mining.

The Soil Conservation Service (SCS), Salt Lake City, Utah, supported the use of the range site method to measure revegetation efforts and offered to make available all the data that has been collected and provide direct or consultative assistance needed to establish standards where data is not already available.

The SCS also stated that sampling, required in number 8C of the guidelines, will only be needed when the area is not represented by a currently existing range site because vegetative condition and species composition can be described from the site description on existing range sites. Since range site condition is dynamic, OSM supports the use of a current premining inventory when developing a success standard for a specific range site.

In addition, SCS contended that 8d of the range site guidelines was not a valid procedure because generally there are no long-term precipitation data sites at mine locations; hence, there is no way to predetermine if the precipitation is below average in a sampling year. It was suggested that exact precipitation measurements are probably meaningless since tempreature, soil, exposure, elevation and other variables have compensating mechanisms and the vegetation is a result of long-term adaptation.

OSM agrees that range site vegetation is a result of long-term adaptation and the exact precipitation averages may not be available for all mine sites. However, OSM believes that annual cover and productivity are related to annual precipitation and therefore, OSM approves of the State's use of the precipitation criteria.

The Soil Conservation Service, Forest Service, Ogden, Utah, commented that it was supportive of Utah's adoption of the "range site method". SCS suggested that the definitions of terms used with the range site method conform to those provided in "A Glossary of Terms Used in Range Management" published by the Society of Range Management. OSM will pass this suggestion to the State for its consideration.

The SCS also stated that the term "range condition" is usually arbitrary and is often biased by the intended output of the range while "ecological rating" was considered by the commenter to probably be a better term. The National Range Handbook is to be used by Utah when determining range site and condition class. Utah defines range site as an ecological entity based on climax plant community. Also, in accordance with the National Range Handbook, range condition class is used to express the degree to which the composition of the present plant community reflects that of the climax community. Hence, OSM finds the use of the term "range condition" acceptable.

Another comment made by SCS was that frequency or density measurements are more reliable and less controversial than production measurements or estimates of cover. Utah will use the vegetative parameters of cover, density, productivity, and species composition. OSM believes Utah has developed guidelines to assure that the parameters will be utilized to provide adequate measurements and OSM approves of the use of these parameters when establishing a standard for determining successful revegetation.

OSM also received comments from the Bureau of Mines (BOM), Denver, Colorado, the Minerals Management Service (MMS), Central Region, and the National Park Service (NPS), Rocky Mountain Region. The BOM was supportive of the State ultilizing the "range site method", asserting that adoption of this method would be beneficial to the mine operators as well as the regulatory authority. The MMS and the NPS both indicated they had no objection to the approval of the amendments submitted by Utah.

Approval of Amendments

Accordingly, 30 CFR Part 944 is amended to indicate approval of the program amendments adopted by Utah April 30 and May 1, 1981, as revised August 26, 1982, and of the proposal to utilize the range site method of measuring revegetation success submitted to OSM May 21, 1981, together with supplements submitted October 20, 1981, and February 5, 1982.

Additional Findings

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this approval. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 6, and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State regulatory programs, actions, or amendments. Therefore, with regard to these program amendments OSM is exempt from the requirements for a Regulatory Impact Analysis and regulatory review by OMB.

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 129(d), this rule is not a major Federal action. It is hereby designated as a categorical exclusion from the NEPA process. Therefore, for this rule OSM is exempt from the requirements of an Environmental Assessment, EIS or FONSI.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96-354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

On August 23, 1982, the Environmental Protection Agency transmitted its written concurrence on the Utah program amendments.

List of Subjects in 30 CFR Part 944

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: September 21, 1982.

William B. Schmidt,

Acting Director.

PART 944—UTAH

Accordingly, Part 944 of Title 30 is amended as set forth herein.

1. 30 CFR 944.10, Paragraph (a) is revised to read as follows:

§ 944.10 State Regulatory program approval.

(a) The Utah State program as submitted on March 3, 1980, and as amended and clarified on June 16 and July 24, 1980, and resubmitted on December 23, 1980, was conditionally approved effective January 21, 1981.

* * * * *

2. 30 CFR Part 944 is amended by adding a new § 944.15 to read as follows:

§ 944.15 Approval of Amendments to State Regulatory Program.

(a) The following amendments were approved effective June 22, 1982:

(1) Utah House Bill 66 which amends Section 40-10-10, 40-10-11, 40-10-16, 40-10-17, 40-10-18, 40-10-21, 40-10-22, and 40-10-24, Utah Code Annotated 1953.

(2) Utah revised regulations UMC 817.124(b) and UMC 784.20(b)(3)(v) adopted April 30 and May 1, 1981.

(b) The following amendments are approved effective (date of publication).

(1) Regulatory modifications to UMC/SMC 845 adopted April 30 and May 1, 1981, as revised August 26, 1982.

(2) Modification of guidelines to allow use of the range site method of

measuring revegetation success pursuant to SMC 816.116 and UMC 817.116 submitted to OSM May 21, 1981, together with supplements submitted October 20, 1981 and February 5, 1982.

[FR Doc. 82-26499 Filed 9-24-82; 8:45 am]
BILLING CODE 4310-05-M

30 CFR Part 950

Removal of Condition of Approval of the Wyoming Permanent Regulatory Program and Extension of the Deadline for Wyoming To Satisfy a Condition of Approval

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: The Secretary is removing a condition of approval of the Wyoming Permanent Regulatory Program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), and extending the deadline for the State to meet another condition of approval.

The State submitted amendments May 26, 1982, which satisfy condition "b" but do not fully satisfy condition "c" as specified in the Secretary's notice of conditional approval of the Wyoming program published in the **Federal Register**, November 26, 1980 (45 FR 78638–78884). In addition, the State has submitted a petition to OSM which may have a bearing on the State's satisfaction of a part of condition "c". Therefore, the Secretary is removing condition "b" and extending the deadline for the State to meet condition "c". This extension will allow OSM time to act on the State's petition and allow Wyoming time to submit additional program modifications that will fully satisfy condition "c".

EFFECTIVE DATE: September 27, 1982.

FOR FURTHER INFORMATION CONTACT: Bill Thomas, Director, Wyoming Field Office, Freden Building, P.O. Box 1420, Mills, Wyoming 82644, Telephone: (307) 328–5830.

SUPPLEMENTARY INFORMATION: On August 15, 1979, OSM received a proposed regulatory program from the State of Wyoming. On February 15, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program. Notice of that decision and the Secretary's findings were published in the **Federal Register** on March 31, 1980 (45 FR 20930–20982). The State of Wyoming resubmitted its proposed regulatory program and after a subsequent review, the Secretary approved the program subject to the correction of seven minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the November 26, 1980 **Federal Register** (45 FR 78638–78884).

In accepting the Secretary's conditional approval, Wyoming agreed to correct the seven deficiencies by March 26, 1981. On October 30, 1981, the Secretary extended the date by which Wyoming is required to satisfy conditions "b" and "c" to May 26, 1982 (46 FR 54070–54071).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Wyoming program can be found in the November 26, 1980 **Federal Register** (45 FR 78638–78884).

On March 26, 1981, OSM received from the State of Wyoming revisions to the State regulations intended to satisfy conditions "a", "d", "e", and "f". On March 23, 1981, OSM received from the State of Wyoming an Attorney General's Opinion intended to satisfy condition "g". Following a review of these provisions in accordance with the procedures set forth at 30 CFR 732, the Secretary announced his decision to remove conditions "a", "d", "e", and "f" (47 FR 7218–7220, February 18, 1982). With regard to condition "g" the Secretary found the amendment submitted by the state did not fully satisfy the condition. Hence, the Secretary granted Wyoming an extension to May 20, 1983, to submit additional materials to meet condition "g" (47 FR 7218–7220).

In a notice published May 26, 1982 (47 FR 22975–22976), the Secretary invited comment on the State's request for a second extension that would establish a new deadline for the State to meet condition "c".

The State offered as one reason for requesting a further extension the fact that OSM has not yet finalized amendments to the permanent program rules. Some of these amendments may directly affect Wyoming's satisfaction of this condition. Further, Wyoming referred to the petition submitted by several western States, including Wyoming, to repeal a portion of 30 CFR 840.15 concerning the requirement that each State program provide for public participation consistent with 43 CFR Part 4. Specifically, the petition seeks repeal of 43 CFR 4.1294(b) which relates to the award of costs and expenses against the State as a requirement of State programs (46 FR 54761 and 46 FR 58465–58466).

On May 26, 1982, Wyoming submitted emergency rules pertaining to the definition of "toxic materials" and procedures relating to intervention and the award of costs and expenses in administrative proceedings. These rules were submitted by the State to address condition "b" and the part of condition "c" not affected by the State's petition to OSM discussed above. OSM published notice of opportunity for public comment on these program revisions on July 23, 1982 (46 FR 31898–31899). This notice provides the Secretary's final determinations on the State's request for an extension to satisfy condition "c" and on the amendments submitted by Wyoming May 26, 1982.

Secretary's Findings

1. The Secretary finds that the May 26, 1982 amendment of the rules of the Wyoming Department of Environmental Quality, Land Quality Division, which revises Chapter I, Section 2(99) by substituting "detrimental" for "lethal" makes the State's definition of "toxic materials" consistent with the Federal provision. Accordingly, the Secretary finds that Wyoming has satisfied condition "b" as specified in the Secretary's November 26, 1980, conditional approval of the Wyoming program.

2. The Secretary finds that the May 26, 1982, amendment which revises Chapter II, Section 7 of the Wyoming Rules of Practice and Procedure and creates a new Chapter V does not fully satisfy condition "c". Condition "c" specifies that Wyoming must establish requirements which are consistent with the Federal regulations at 43 CFR Part 4. The State's rules, as amended, do not include provisions comparable to 43 CFR 4.1294, paragraphs (b) and (c). Hence, a person or a permittee could not receive an award from the State for costs and expenses including attorneys' fees reasonably occurred as a result of that person's participation in any administrative proceeding under the Act. As noted above under "Supplementary Information" Wyoming, together with several other western States, submitted a petition to OSM to repeal 43 CFR 4.1294(b) as a requirement of State programs. OSM has not yet acted on this petition. The Secretary also has determined that the amendments submitted by Wyoming are inconsistent with the Federal requirements in the following respect. Under chapter V, Section 2, "Who May Receive an Award", Wyoming's rules

specify that appropriate costs and expenses including attorneys' fees may be awarded to the permittee from any person but only if the Council finds that "the person knew or *should have known* that no violation or imminent hazard occurred or existed to support the enforcement action". The stipulation that the person may be assessed costs and expenses if he/she "should have known" that no violation or imminent hazard occurred places a greater burden on a person than the Federal requirements. 43 CFR 4.1294(d) specifies that a person may be assessed costs and expenses only if it is demonstrated that the person acted in bad faith for the purpose of harassing or embarrassing the permittee. Under Wyoming's rule a person acting in good faith who initiated an administrative proceeding to review an enforcement action could be assessed costs and expenses upon a finding that no violation or imminent hazard had occurred. The Secretary finds that to be consistent with the Federal requirements, Wyoming's program must provide that a person may be assessed reasonable costs or expenses only if he/she initiated a proceeding in bad faith.

Because the material submitted by Wyoming does not fully satisfy condition "c" and because OSM has not yet acted on the petition discussed above which may have a bearing on the State's satisfaction of this condition, the Secretary has decided to extend the deadline for Wyoming to meet condition "c" until May 20, 1983. This extension will allow OSM time to act on the petition and allow Wyoming time to submit additional modifications to correct the deficiencies outlined above.

Public Comment

The public comment period on the State's request for an extension to meet condition "c" ended June 25, 1982, and the comment period on the amendments submitted by the State on May 26, 1982, ended August 13, 1982. No comments were received.

A public hearing scheduled for August 11, 1982, on the proposed program modifications was cancelled as no one expressed an interest in presenting testimony.

Additional Determinations

1. *Compliance with the National Environmental Policy Act.* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Compliance with the Regulatory Flexibility Act.* The Secretary hereby determines that this proposed rule will not have a signficant economic impact on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. *Compliance with Executive Order No. 12291.* On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining exemption from Sections 3, 4, 6, and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OMB are not needed for this condition removal and extension.

4. *Concurrence of the Environmental Protection Agency.* On August 23, 1982, the Environmental Protection Agency transmitted its written concurrence on the Secretary's approval of the amendatory provisions addressed in this notice.

List of Subjects in 30 CFR Part 950

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: September 20, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 950—WYOMING

Accordingly, Part 950 of Title 30 is amended as set forth herein.

1. 30 CFR 950.10 is amended by revising it to read as follows:

§ 950.10 State program approval.

The Wyoming permanent program, as submitted on August 15, 1970, as amended October 23, 1979, May 30, 1980, and August 5, 1980, was approved effective November 26, 1980. The amendments to the program submitted March 26, 1981 and April 8, 1981, were approved effective February 18, 1982. The amendment to the program submitted May 26, 1982, pertaining to the definition of "toxic materials" is approved effective September 27, 1982. Copies of the approved program, as amended, are available at:

Wyoming Department of Environmental Quality, Land Quality Division, Hathaway Building, Cheyenne, Wyoming 82002.
Office of Surface Mining, Room 5315, 1100 "L" Street, N.W., Washington, D.C. 20240, Telephone: (202) 345-7896.

2. 30 CFR 960.11 is amended by removing the material and reserving paragraph (b), and revising paragraph (c) to read as follows:

§ 950.11 Terms and conditions of State program approval.

* * * * *

(b) [Reserved]

(c) On or before May 20, 1983, Wyoming must establish requirements which are consistent with the Federal attorneys' fees and intervention regulation in 43 CFR Part 4.

* * * * *

[FR Doc. 82-26908 Filed 9-24-82; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD3-80-3A]

Anchorage Grounds, Delaware Bay and River

AGENCY: Coast Guard, DOT.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is delegating the authority over operation of the Delaware Bay and River Anchorages from Commander, Third Coast Guard District to the Captain of the Port, Philadelphia; eliminating provisions redundant with authority provided in 33 CFR Part 160; redesignating Anchorage 2 as a general anchorage and permitting the handling of explosives in all general anchorages except Anchorage 2 by permit from the Captain of the Port; and eliminating the requirement for vessels handling explosives and other dangerous cargo to display a red light at night. The present requirements are cumbersome and inefficient and place unnecessary burdens on the users of the anchorages. This change will provide for more efficient management of the vessels in the anchorages without reducing the level of safety.

DATES: Interim rule effective October 27, 1982, comments must be received on or before November 12, 1982.

ADDRESSES: Comments may be mailed to Captain Daniel B. Charter Jr., Captain of the Port, Philadelphia, U.S. Coast Guard Base, Gloucester City, New Jersey, 08030.

FOR FURTHER INFORMATION CONTACT: Captain Daniel B. Charter Jr., Captain of the Port, Philadelphia, U.S. Coast Guard Base, Gloucester City, New Jersey 08030 (Tel: 609-456-1370 or 215-923-4320) between 7:00 AM and 4:30 PM Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: On June 23, 1980, the Coast Guard published a notice of proposed rulemaking, Docket CGD3–80–3A (45 FR 41961). Interested persons were requested to submit comments and two comments were received. No public hearing was held.

Drafting Information: The principal person involved in drafting this rule is Captain Daniel B. Charter Jr., Project Officer, Captain of the Port, Philadelphia.

Discussion of Comments: One of the two comments was from a port affairs spokesman for twenty-one Delaware Valley civic and trade associations. These twenty-one associations represent the vast majority of the public that will be affected by the rule change and their views were considered based on this representation.

Both of the comments agreed with the proposal to transfer authority over the operations of the Delaware River and Bay anchorages from Commander, Third Coast Guard District to the Captain of the Port, Philadelphia. Both also agreed with elimination of the requirement to display the red light at anchor and considered the change a safety enhancement by eliminating the possibility for confusing the red light with a navigation light. No comments were received on the proposal to eliminate the requirements redundant with authority contained in 33 CFR Part 160.

Both comments objected to the redesignation of Anchorage 1 as an explosive anchorage and Anchorage 2 as a general anchorage. They indicated that Anchorage 2 was not an acceptable general anchorage since it could not accommodate deep draft vessels (the primary users of Anchorage 1). Further, they indicated that Anchorage 1 is crucial to and an integral part of the Delaware River navigation system.

The commenter representing the twenty-one civic and trade associations indicated loading or discharging of explosives is a rare circumstance and that the COTP could make the decision with respect to anchorage assignment at the time of application. He also indicated their belief that the provisions of the Ports and Waterways Safety Act provided the necessary authority for the COTP to follow this practice.

The records at the COTP Office in Philadelphia were reviewed and it was found that there were *no* requests for explosive handling by vessels at anchor in the past three years.

The purpose of the amendment as expressed in the NPRM was to reduce the potential hazards caused by the proximity of a nuclear electric generating plant to the explosive anchorage (Anchorage 2). The Coast Guard agrees with the comment that anchorage assignments can be considered at the time an application for explosive handling is received and therefore Anchorage 1 will remain as a general anchorage and Anchorage 2 will be redesignated as a general anchorage. The handling of explosives will be permitted in all general anchorages except Anchorage 2, on a case-by-case basis with a permit from the Captain of the Port as the situation warrants.

One commenter also objected to the proposal to reduce the size of Anchorage 1. The purpose of the reduction in size was to more accurately reflect the area of usable depth. Since the pilots are well aware of the water depths in the area and these are clearly plotted on the charts, it appears there is no practical benefit in reducing the size of the anchorage. Usage will continue to be limited to areas suitable to the draft of the vessels involved; therefore, the present description of the size of Anchorage 1 is retained at this time. However, it is the intent of the Coast Guard to explore better descriptions of the anchorage boundaries in a future rulemaking action.

There were no comments on the proposal to extend to all the general anchorages of the Delaware River the COTP authorization to grant permits for anchoring for periods in excess of 48 hours now limited to Anchorages 15 and 16. This change clarifies the intent of the permit process.

Finally, the citations for Dangerous Cargo regulations have been amended in paragraph 110.157(c). This editorial change reflects the shift of the Dangerous Cargo regulations excluding military explosives from Title 46 Code of Federal Regulations to Title 49 Code of Federal Regulations. Additionally, the term "other dangerous cargo" is being deleted from the regulations for vessels carrying and handling explosives (regulations for explosives anchorage) since the permit required from the Captain of the Port only pertains to explosives.

Summary of Final Evaluation: This amendment has been evaluated under Executive Order 12291 and the Coast Guard has determined that this is not a major rule. This amendment has also been evaluated under the Department of Transportation Order 2100.5, "Policies and Procedures for Simplification, Analysis and Review of Regulations" dated May 22, 1980 and has been determined to be non-significant. This amendment is primarily editorial, updating the regulations to reflect management practices in existence for five years, or merely a redelegation of authority. The impact is considered so minimal that a regulatory evaluation is not required.

Likewise it is hereby certified that this amendment will not have any significant economic impact on a substantial number of small entities, as described in the Regulatory Flexibility Act (Pub. L. 96–354; 5 U.S.C. 601, et seq.). This certification is made in accordance with Section 605 of Title 5 of the United States Code.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

PART 110—ANCHORAGE REGULATIONS

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations is amended as follows:

1. In § 110.157, paragraph (a)(3) is revised to read as follows:

§ 110.157 Delaware Bay and River.

(a) * * *

(3) Anchorage 2 northwest of Artificial Island. On the east side of the channel along Reedy Island Range, bounded as follows: Beginning at a point bearing 105° from the northernmost point of Reedy Island, 167 yards easterly of the east edge of the channel along Reedy Island Range; thence 105°, 800 yards; thence 195°, 4,500 yards; thence 285°, 800 yards, to a point (approximately latitude 39°28′58″, longitude 75°33′37″) opposite the intersection of Reedy Island and Baker Ranges; and thence 15°, 4,500 yards, to the point of beginning.

§ 110.157 [Amended]

2. Section 110.157 is amended by removing the words "District Commander" and inserting, in their place, the words "Captain of the Port" in the following places: 33 CFR 110.157(a)(16), (a)(17), (b)(1), (b)(3), (b)(7).

3. In § 110.157, paragraph (b)(2) is revised to read as follows:

§ 110.157 Delaware Bay and River.

* * * * *

(b) * * *

(2) No vessel shall occupy any prescribed anchorage for a longer period than 48 hours without a permit from the Captain of the Port. Vessels expecting to be at anchor for more than 48 hours shall obtain a permit from the Captain of the Port for that purpose. No vessel in such condition that it is likely to sink or otherwise become a menace or obstruction to navigation or anchorage of other vessels shall occupy an anchorage except in an emergency, and

then only for such period as may be permitted by the Captain of the Port.

§ 110.157 [Amended]

4. By removing and reserving § 110.157(b)(4).

§ 110.157 [Amended]

5. By removing and reserving § 110.157(b)(8).

6. In § 110.157 paragraph (c) is revised to read as follows:

* * * * *

(c) *Regulations for vessels carrying and handling explosives.* (1) All vessels carrying explosives as defined in and subject to, Title 46 Code of Federal Regulations, Part 146, or Title 49 Code of Federal Regulations, Parts 171–177, or on which such explosives are to be loaded, shall obtain a permit from the Captain of the Port, except as provided in paragraph (c)(5) of this section. The maximum amount of explosives for which a permit is required in 46 CFR Part 146, and 49 CFR Parts 171–177, which may be carried or loaded at any time by a vessel shall not exceed 800 tons, except in cases of great emergency or by special permit from the Captain of the Port. This written permit shall be obtained from the Captain of the Port before vessels carrying explosives or on which explosives are to be loaded within the weight limit specified in paragraph (c)(1) of this section, may anchor in any anchorage. Permits will not be issued for Anchorage 2 under any circumstances. Such permit may be revoked at any time. All vessels used in connection with loading, or unloading explosives shall carry written permits from the Captain of the Port, and shall show such permit whenever required by him or his representative.

(2) Vessels handling explosives shall be anchored so as to be at least 2,200 feet from any other vessel, but the number of vessels which may anchor in an anchorage at any one time shall be at the discretion of the Captain of the Port. This provision is not intended to prohibit barges or lighters from tying up alongside the vessels for the transfer of cargo.

(3) Whenever a vessel or barge not mechanically self-propelled anchors while carrying explosives or while awaiting the loading of explosives, the Captain of the Port may require the attendance of a tug upon such vessel or barge when in his judgment such action is necessary.

(4) Fishing and navigation are prohibited within an anchorage whenever occupied by an anchored vessel displaying a red flag.

(5) The District Engineer, U.S. Army Corps of Engineers, may authorize, in writing, a vessel carrying explosives for use on river and harbor works or on other work under Department of the Army permit, to anchor in or near the vicinity of such work. The Captain of the Port will prescribe the conditions under which explosives shall be stored and handled in such cases.

(6) Vessels carrying explosives or on which explosives are to be loaded, within the weight limit specified in subparagraph (c)(1) of this paragraph, shall comply with the general regulations in paragraph (b) of this section when applicable.

(7) Nothing in this section shall be construed as relieving any vessel or the owner or person-in-charge of any vessel, and all others concerned, of the duties and responsibilities imposed upon them to comply with the regulations governing the handling, loading or discharging of explosives entitled "Subchapter C—Hazardous Materials Regulations" (49 CFR Parts 171 to 177) or "Subchapter N—Dangerous Cargoes" (46 CFR Part 146).

(Sec. 7, 38 Stat. 1053, as amended (33 U.S.C. 471); Sec. 6(g)(1), Pub. L. 89–670, 80 Stat. 940 (49 U.S.C. 1655(g)(1); 49 CFR 1.46(c)(1); 33 CFR 1.05–1(g)(2); 33 CFR Part 160))

Dated: August 30, 1982.

W. E. Caldwell,

Commander, Third Coast Guard District.

[FR Doc. 82–26502 Filed 9–24–82; 8:45 am]

BILLING CODE 4910–14–M

POSTAL SERVICE

39 CFR Parts 310 and 320

Enforcement and Suspension of the Private Express Statutes

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The sole purpose of this final rule is to revise the Postal Service regulations which implement the Private Express Statutes (statutory restrictions on private carriage of letters) by removing from the regulations every reference to 18 U.S.C. 1724 as one of the Private Express Statutes. Section 1724 of title 18, United States Code, has had no relation to the restrictions on the private carriage of letters since it was amended in 1951.

EFFECTIVE DATE: October 27, 1982.

FOR FURTHER INFORMATION CONTACT: Charles D. Hawley, (202) 245–4584.

SUPPLEMENTARY INFORMATION: Prior to its repeal in 1951, the first paragraph of section 1724 of title 18, United States Code, established penalties for failure to pay postage on, or for unlawful conveyance of, mail carried to or from any part of the United States by any foreign vessel. The Act of Sept. 25, 1951, ch. 413, 65 Stat. 336, repealed this law as obsolete and unnecessary because of the international postal conventions establishing postal rates and the requirement by all countries that postage be prepaid. As currently in effect, section 1724 contains no language relevant to the restrictions on the private carriage of letters. It is, therefore, no longer appropriate to refer to it as a Private Express Statute.

Although 39 U.S.C. 410(a) exempts the Postal Service from the notice and comment requirements of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553), it is Postal Service policy to adhere to the rulemaking provisions when changes in the Private Express regulations are made. 39 CFR 310.7. Since, however, this rule makes no substantive change in the regulations, notice and an opportunity for the submission of comments in this case are deemed unnecessary. Accordingly, the Postal Service hereby adopts the following revisions of title 39, Code of Federal Regulations.

List of Subjects in 39 CFR Parts 310 and 320

Postal Service, Advertising, Computer technology.

PART 310—ENFORCEMENT OF THE PRIVATE EXPRESS STATUTES

1. The statement of statutory authorities immediately following the table of contents at the head of this Part is revised to read as follows:

Authority: 39 U.S.C. 401, 404, 601–606; 18 U.S.C. 1693–1699.

2. In § 310.1, paragraph (f) is revised to read as follows:

§ 310.1 Definitions.

* * * * *

(f) The "Private Express Statutes" are set forth in 18 U.S.C. 1693–1699 and 39 U.S.C. 601–606 (1970).

PART 320—SUSPENSION OF THE PRIVATE EXPRESS STATUTES

§ 320.2 [Amended]

3. In § 320.2, the parenthetical immediately following paragraph (c) is revised to read as follows:

(39 U.S.C. 401, 404, 601–606; 18 U.S.C. 1693–1699).

§ 320.3 [Amended]

4. In § 320.3, the final parenthetical following paragraph (d) is revised to read as follows:

(39 U.S.C. 401, 404, 601–606; 18 U.S.C. 1693–1699).

§ 320.4 [Amended]

5. In § 320.4, the parenthetical at the end of this section is revised to read as follows:

(39 U.S.C. 401, 404, 601–606; 18 U.S.C. 1693–1699).

§ 320.5 [Amended]

6. In § 320.5, the parenthetical at the end of this section is revised to read as follows:

(39 U.S.C. 401, 404, 601–606; 18 U.S.C. 1693–1699).

§ 320.6 [Amended]

7. In § 320.6, the parenthetical immediately following paragraph (f) is revised to read as follows:

(39 U.S.C. 401, 404, 601–606; 18 U.S.C. 1693–1699).

§ 320.9 [Amended]

8. In § 320.9, the parenthetical at the end of this section is revised to read as follows:

(39 U.S.C. 401, 404, 601–606; 18 U.S.C. 1693–1699).

(39 U.S.C. 401)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82–26503 Filed 9–24–82; 8:45 am]

BILLING CODE 7715–15–M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Amdt. E–252]

Storage and Distribution; Policy on GSA Self-Service Stores

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation provides policy on GSA self-service stores. The regulation is necessary to clarify the purpose and functions of self-service stores and to provide restrictions on the use of these stores. The regulation will provide for more effective control of purchases in these stores.

EFFECTIVE DATE: September 27, 1982.

FOR FURTHER INFORMATION CONTACT: General questions: Mr. Robert A. Renner, Director, Regulations Division (703–557–7990).

Specific technical questions: Mr. James A. Marsden, Acting Director, Distribution Management Division (703–557–7580).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–28

Government property management, Warehouses.

PART 101–28—STORAGE AND DISTRIBUTION

1. The table of contents for Part 101–28 is amended by revising Subpart 101–28.3.

Subpart 101–28.3—Self-Service Stores

Sec.
101–28.300 Scope of subpart.
101–28.301 Applicability.
101–28.302 Mission of self-service stores.
101–28.303 Services provided by self-service stores.
101–28.304 Item selection and stockage criteria.
101–28.304–1 Type of items.
101–28.304–2 Determining items to be stocked.
101–28.305 Prices of self-service store items.
101–28.305–1 [Removed]
101–28.305–2 [Removed]
101–28.306 Access to and use of self-service stores.
101–28.306–3 Limitations on use.
101–28.308 The shopping list.
101–28.309–1 Obtaining Standard Form 3146, GSA Self-Service Store Shopping List/Sales Slip.
101–28.309–2 Use of the shopping list form.
101–28.309–3 Approving official.
101–28.309–4 Agency reviewing official.
101–28.310 Sensitive items.
101–28.310–1 General.
101–28.310–2 Identification.
101–28.310–3 Control.

Subpart 101–28.3—Self-Service Stores

2. Section 101–28.300 is revised to read as follows:

§ 101–28.300 Scope of subpart.

This subpart provides policy for the GSA self-service store program, including a definition of the program and policy on item stockage, services provided, and Federal agency participation in the program.

3. Section 101–28.301 is revised to read as follows:

§ 101–28.301 Applicability.

This subpart is applicable to all activities that are eligible to use self-service stores. Eligible activities include executive agencies and elements of the legislative and judicial branches of the Government. Agency redistribution points such as stockrooms, stores, and depots are not eligible to obtain items for stock purposes from self-service stores. Self-service stores are for the primary use of executive agencies located within an area which GSA has determined to be the store market area for retail quantities of those items stocked by the store.

4. Section 101–28.302 is revised to read as follows:

§ 101–28.302 Mission of self-service stores.

(a) Self-service stores are centralized retail supply distribution outlets established and operated by the General Services Administration to satisfy small repetitive requirements for common-use expendable items.

(b) The stores are established in areas with a high concentration of Federal agencies and Federal employees to economically, efficiently, and effectively provide commonly used items needed for accomplishment of customer agency missions.

5. Section 101–28.303 is revised to read as follows:

§ 101–28.303 Services provided by self-service stores.

The self-service stores provide the following services:

(a) Self-service shopping;

(b) Opportunity for personal observation and substitution of items before purchase;

(c) Simplified purchase through the use of a shopping plate rather than a requisitioning system;

(d) Automated billing;

(e) Assistance in FEDSTRIP requisitioning; and

(f) Other services (when approved by the GSA Regional Administrator) such as delivery or mail order service for selected items.

6. Section 101–28.304 is revised and §§101–28.304–1 and 101–28.304–2 are added as follows:

§ 101-28.304 Items selection and stockage criteria.

§ 101-28.304-1 Types of items.

Items stocked in self-service stores are based on customer requirements for common-use expendable items. Most stores stock only administrative-type items commonly used in Government offices. However, selected stores stock janitorial supplies, handtools, and other industrial-type items when needed to support official agency requirements. No store will stock furniture or controlled/accountable forms. Also, no store will stock items that are peculiar to a particular agency unless the items are commonly used by more than one shopping plate account within that agency and an exemption from this restriction has been obtained from the responsible GSA Regional Administrator.

§ 101-28.304-2 Determining items to be stocked.

(a) GSA regional offices will canvass customer agencies periodically to identify items for which there is an official need. Items identified as satisfying an official need will be stocked in self-service stores.

(b) Customers may request that specific Federal Supply Schedule items be stocked. The requests must be written and addressed to the responsible GSA Regional Administrator. The request shall be signed by a customer agency official at a level of responsibility acceptable to the responsible GSA Regional Administrator. The requests shall indicate the estimated monthly usage of the item. Requests will be evaluated and agencies notified of the results of the evaluation.

7. Section 101-28.305 is revised to read as follows:

§ 101-28.305 Prices of self-service store items.

Items stocked in self-service stores that are obtained from GSA wholesale supply distribution facilities (depots) will carry the price in effect at the time of shipment from the facilities. (This price is normally the price shown in the GSA supply catalog. However, because catalog prices are subject to change without notice, due to pricing analyses, price reductions, etc., the price charged by self-service stores for a particular item may not be the same as the price shown in the current catalog or latest price supplement.) Items stocked in self-service stores that are not available from GSA wholesale supply distribution facilities but are obtained from other Government supply sources or commercial sources will be priced at the invoice cost.

8. Sections 101-28.305-1 and 101-28.305-2 are removed as follows:

§ 101-28.305-1 [Removed]

§ 101-28.305-2 [Removed]

9. Section 101-28.306 is revised to read as follows:

§ 101-28.306 Access to and use of self-service stores.

(a) Customer access to and use of self-service stores is restricted to shoppers with a valid shopping plate (see § 101-28.308) and completed shopping list/sales slip (see § 101-28.309). The customer also shall possess personal identification for positive identification by the store staff. Customers known by the store staff to be official representatives of using agencies may be permitted entry to self-service stores without prior examination of these documents, but those customers shall have these documents in their possession while in a store for presentation upon request by the store staff. GSA officials, judges, Members of Congress, heads of Federal agencies, and other high ranking officials who have prior approval from the Assistant Regional Administrator for personal property may be permitted entry to self-service stores by presenting some valid means of personal identification. However, no transactions will be consummated without a valid shopping plate and a properly completed Standard Form 3146, GSA Self-Service Store Shopping List/Sales Slip.

(b) More than one person per shopping list may be permitted access to a self-service store when the store staff determines that additional personnel are needed to assist with shopping.

(c) Vendors, suppliers, and others from the private sector are not authorized access to self-service stores unless by written approval of the appropriate GSA Regional Administrator or his or her designee.

10. Section 101-28.308-3 is revised to read as follows:

§ 101-28.308-3 Limitations on use.

(a) Agencies shall establish internal controls to ensure that the use of shopping plates by the agency or other officially authorized activities are limited to the purchase of items for official Government business. The controls shall include written instructions that contain a statement prohibiting the use of shopping plates in acquiring items for other than Government business.

(b) Members of Congress, except for the Delegate of the District of Columbia, should limit the use of their shopping plates to self-service stores located outside of the District of Columbia. The Delegate of the District of Columbia may use a shopping plate to obtain office supplies for the use of his or her district offices from self-service stores located in the District of Columbia. Office supplies needed by Members of Congress for use in the District of Columbia and supplies needed by the Delegate of the District of Columbia for use in his or her office in the House Office Building should be obtained from the Senate and House of Representatives supply rooms, as appropriate.

11. Sections 101-28.309, 101-28.309-1, 101-28.309-2, 101-28.309-3, and 101-28.309-4 are added as follows:

§ 101-28.309 The shopping list.

§ 101-28.309-1 Obtaining Standard Form 3146, GSA Self-Service Store Shopping List/Sales Slip.

Agencies may obtain copies of Standard Form 3146 by ordering through FEDSTRIP/MILSTRIP or by including the required quantities on a Standard Form 3146 signed by an agency approving official for self-service store purchases. The national stock number of the form is 7540-01-127-4195.

§ 101-28.309-2 Use of the shopping list form.

A completed Standard Form 3146 is required for access to and for making purchases in all self-service stores, except as indicated in § 101-28.306. Standard Form 3146 also serves as evidence of receipt of merchandise purchased. Instructions on the reverse of Standard Form 3146 include requirements for the use of stores, completion and distribution of the form, item substitutions and additions, and handling of sensitive items. Standard Form 3146 must be completed and approved in accordance with the instructions before shopping in the stores. Copies of the form will be distributed to the shopper, the designated agency reviewing official, and, for transactions requiring manual billing, the applicable GSA finance center. The shopper may substitute similar items for items which are out of stock. However, the shopper may add items only if the approving official has not included the words "LAST ITEM" and a diagonal line through unused spaces below the last item listed on the form. Sensitive items (see § 101-28.310) may not be added or acquired as substitutes for out of stock items.

§ 101-28.309-3 Approving official.

Designation of the approving official is the responsibility of the agency or activity using self-service stores. The signature of an approving official on Standard Form 3146 provides authorization for access to a self-service store and purchase of items listed. Self-service store personnel are not required to verify the names of approving officials.

§ 101-28.309-4 Agency reviewing official.

An official, other than the approving official, shall be designated by the purchaser's organization to review the purchases authorized by the approving official. The title of the reviewing official and other identifying information, such as the mailing address and the six-digit number in the upper right corner of each shopping plate assigned the reviewing official, should be submitted to the appropriate Assistant Regional Administrator for personal property. Copy 3 of all consummated Standard Forms 3146 will be furnished to the designated agency reviewing official at least once each month. Agency reviewing officials are responsible for examining purchases as recorded on Standard Form 3146 and for discipline concerning the use of self-service stores.

12. Sections 101-28.310, 101-28.310-1, 101-28.310-2, 101-28.310-3 are added to read as follows:

§ 101-28.310 Sensitive items.

§ 101-28.310-1 General.

Every item stocked in self-service stores may be considered sensitive to some degree, based upon standard criteria factors such as propensity for personal use; the potential for embarrassment to GSA and customer agencies; the level of customer complaints; and control as an accountable item of personal property. Self-service store merchandise having these factors to a high degree will be identified as "sensitive items" to help ensure that they are obtained only to satisfy real needs of agencies and are consumed in official use.

§ 101-28.310-2 Identification.

Sensitive items stocked in self-service stores will be identified by each GSA region and posted in the stores to help ensure that agencies are aware that the items are subject to abuse. Sensitive items include such supplies as:

(a) Photographic supplies;
(b) Styrofoam cups;
(c) Aspirin;
(d) Facial tissues;
(e) Deodorizers; and
(f) Leather goods; e.g., portfolios, briefcases, and navigator cases. Each GSA region may identify items to add to the above list based upon the standard criteria factors listed in § 101-28.310-1.

§ 101-28.310-3 Control.

(a) Sensitive items purchased in self-service stores will be identified on Standard Form 3146, GSA Self-Service Store Shopping List/Sales Slip, with a checkmark by store personnel in the Sensitive Item Block on the front of the form. These checkmarks are made to assist customer agencies with internal review and control of sensitive item purchases.

(b) Additional controls of sensitive items may include the display of sensitive items in single units to be made available to customers only upon request to store personnel and the imprinting of copies of sales slips with a highly visible cautionary statement, such as "This sale contains sensitive items."

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: September 7, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-26507 Filed 9-24-82; 8:45 am]

BILLING CODE 6820-24-M

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41 CFR Part 5-10

[APD 2800.2 CHGE 26]

Bonds and Insurance; Revision of Policies and Procedures

Revision of Policies and Procedures

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement Regulations, Chapter 5, are amended to revise policies and procedures regarding bonds and insurance. The dollar amount at which contracts are subject to Miller Act bonds is raised from $2,000 to $25,000 in accordance with Pub. L. 95-585, November 2, 1978. Policies and procedures regarding the use of individual sureties are amended to reflect the findings of Comptroller General Decision No. B-203608, June 15, 1982, which stated that matters concerning an individual surety's financial responsibility are matters of responsibility rather than responsiveness. The intended effect of this revision is to improve the procurement system.

EFFECTIVE DATE: October 4, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Philip G. Read, Director, Office of Federal Procurement Regulations, Office of Acquisition Policy, (202-523-4755).

List of Subjects in 41 CFR Part 5-10

Government procurement, Bonds and insurance.

PART 5-10—BONDS AND INSURANCE

1. The table of contents for Subpart 5-10, is revised by adding the following six entries:

Sec.
5-10.103-1 Policy on use.
5-10.103-2 Amount required.
5-10.104-2 Building service contracts.
5-10.105-2 Building service contracts.
5-10.109 Execution and administration of bonds.
5-10.150 Solicitation provisions.

Authority: (Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c))).

2. The contents of Part 5-10, Bonds and Insurance, is revised by removing the following entries:

Sec.
5-10.103-3 Invitation for bids revision.
5-10.150 Bid guarantees and bonds, when unit prices are required.

3. Subpart 5-10-1, Bonds, is revised to read as follows:

Subpart 5-10.1—Bonds

§ 5-10.103 Bid guarantees.

This section authorizes certain actions when determined to be in the best interest of the Government. Each determination shall be supported by an explicit statement of the reasons which constitute the basis for the determination.

§ 5-10.103-1 Policy on use.

(a) *Construction contracts.*—(1) *Bid guarantees.* (i) Bid guarantees shall be required for all construction, alteration and repair contracts, awarded by SBA under Section 8(a) of the Small Business Act, amounting to $25,000 or more when performance and/or payment bonds are required. (See §§ 1-10.104 and 1-10.105.)

(ii) Bid guarantees for all other construction, alteration and repair contracts shall be in accordance with § 1-10.103.

(2) *Waiver of bonding requirements.* Bonding requirements for 8(a) contracts may be waived as provided by the Small Business Act and the regulations of the Small Business Administration (SBA) (13 CFR 124.1-5). However, the use of this authority is tightly circumscribed, and it is the intent of Congress that the waiver authority be used sparingly.

(b) *Building service contracts.* Bid guarantees shall be required for building service contracts in excess of $10,000 when it has been determined that a

performance bond is essential to the best interests of the Government as provided in § 5–10.104–2.

(c) *All other contracts.* Refer to § 1–10.103 for guidance on the use of bid guarantees for all other contracts not covered by (a) and (b) of this section.

§ 5–10.103–2 Amount required.

When a bid guarantee is required, a provision shall be included in the solicitation that clearly sets forth the amount of bid guarantee to be furnished. Solicitation provisions are prescribed in § 5–10.150 for this purpose.

§ 5–10.104 Performance bonds.

§ 5–10.104–1 Construction contracts.

(a) *Performance bonds.* (1) Performance bonds, as required by the Miller Act (40 U.S.C. 270a–270e), shall be provided in connection with all construction contracts (including 8(a) contracts awarded by SBA) which exceed $25,000, in accordance with § 1–10.104–1.

(2) Performance bonds may be required for construction contracts which are less than $25,000 when it is determined in writing at a level above the contracting officer that such a requirement is in the best interest of the Government.

(b) *Clause requirement.* The requirement for furnishing a bid guarantee and performance and payment bonds prescribed in the provision "Bid Guarantee and Bonds" in § 5–10.150(a) shall be set forth in the Special Conditions of the solicitation document.

§ 5–10.104–2 Other than construction contracts—Building service contracts.

(a) Performance bonds shall not be required for other than construction contracts except when it is in the best interests of the Government. (See § 1–10.104–2.)

(b) Performance bonds may be required on a case-by-case basis for building service contracts in excess of $10,000, when it is determined in writing and reviewed at a level above the contracting officer that it is essential to the best interest of the Government. They shall not be used as a substitute for a determination of responsibility.

(c) Performance bonds shall not be required for contracts awarded under Section 8(a) of the Small Business Act, or contracts awarded to workshops for the blind or other severely handicapped under the Wagner-O'Day Act.

(d) The requirement for furnishing a performance bond for building service contracts in excess of $10,000 shall be set forth in the solicitation document as prescribed in § 5–10.150(b)(2).

§ 5–10.105 Payment bonds.

§ 5–10.105–1 Construction contracts.

(a) Payment bonds shall be required, as provided by the Miller Act in connection with any construction contracts (including 8(a) contracts awarded by SBA) exceeding $25,000 in amount, except as provided in § 1–10.105–1. Payment bonds may be required for construction contracts which are less than $25,000 only when it is determined in writing at a level above the contracting officer that such a requirement is in the best interest of the Government.

(b) The payment bond requirement prescribed in § 5–10.150(a) for construction contracts shall be set forth in the Special Conditions of the solicitation document.

§ 5–10.105–2 Other than construction contracts.

Payment bonds shall not be required for building service contracts.

§ 5–10.109 Execution and administration of bonds.

(a) Bid guarantees, other than bid bonds, shall be returned to unsuccessful bidders as soon as an award has been made.

(b) A bid guarantee, other than a bid bond, submitted by a successful bidder, shall be retained until the bidder has executed all contractual documents as may be required and has submitted acceptable payment and performance bonds, if required.

§ 5–10.150 Solicitation provisions.

(a) *Construction contracts.* When bonds are required under §§ 5–10.103, 5–10.104 and 5–10.105, the following provision shall be included in the Special Conditions of the solicitation documents:

Bid Guarantee and Bonds

A bid guarantee is required as provided in Standard Form 20, Invitation for Bids (Construction Contracts).

(a) If the contract price is more than $25,000, the bidder shall furnish a performance bond in a penal amount of 100 percent of the contract price, and payment bond in a penal amount as follows:

(1) Fifty percent of the contract price if the contract price is more than $25,000 but not more than $1,000,000;

(2) Forty percent of the contract price if the contract price is more than $1,000,000, but not more than $5,000,000; if the contract price is over $5,000,000, then forty percent of the contract price or $2,500,000, whichever is less.

(b) If bids on one or more alternate and/or unit price bids were accepted in awarding the contract, the term "contract price" as used above shall mean the aggregate of the lump sum amount plus the product of each unit price accepted multiplied by the applicable number of units specified in the bid form, plus or minus such alternate bids as were accepted.

(c) Performance and payment bonds shall be submitted within the time specified on the reverse side of Standard Form 21, Bid Form, for this contract.

(d) The bidder shall not lose the right to receive any payment due or to become due under the contract unless and until the surety has made payment in settlement of claims by suppliers of labor or material in accordance with the requirements of the surety's undertaking under the payment or performance bond and has notified the Contracting Officer of the claims and amount so paid.

(End of provision)

(b) *Building service contracts.* (1) When it has been determined that a performance bond is required, the bid guarantee statement required by § 1–10.103–3(a)(1) shall, except as otherwise provided in this § 5–10.150, be as follows:

Bid Guarantee

(Applicable to bids in excess of $10,000.) The bid guarantee shall be in the amount of 20 percent of the bid price for the term of the contract or $3,000,000, whichever is less.

(End of Statement)

(i) Whenever one or more unit prices are required for work included in the contract, the bid guarantee requirement set forth in subparagraph (1) of this § 5–10.150(b) shall be modified by adding the following sentence:

For bid guarantee purposes the "amount of the bid" shall be deemed to be the aggregate of each unit price bid multiplied by the applicable number of units shown on the bid form or in the method of award formula.

(ii) In special cases the foregoing shall be modified as necessary to make clear to bidders that the guarantee must cover the maximum amount of the work that might be included in an award.

(iii) The provision in § 1–10.103–3(a)(2) also shall be included.

(2) A provision which requires bidders to furnish performance bonds for building service contracts in excess of $10,000 shall be included in solicitation documents, as follows:

Performance Bond

(a) The offeror to whom the award is made shall furnish a performance bond for the protection of the Government in an amount equal to percent of the contract price for the term of the contract, within 15 calendar days after the prescribed form is presented for signature. The period of time for furnishing the performance bond may be extended for 10 calendar days, if fully justified in the opinion of the contracting officer, and if the request for the extension is received or confirmed in writing within the original 15 calendar day period.

(b) The performance bond shall be a firm commitment, supported by corporate sureties whose names appear on the list contained in Treasury Department Circular 570, individual sureties, or by other acceptable security such as postal money order, certified check, cashiers check, irrevocable letter of credit or, in accordance with Treasury Department regulations, certain bonds or notes of the United States.

(End of Provision)

(3) The percentage amount to be inserted in the blank space in the above clause shall be from 10 percent to 50 percent of the total value of the contract for the term of the contract. The contracting officer shall consider the circumstances and determine the amount of the performance bond on a case-by-case basis.

§ 5–10.151 Acceptability of bonds and sureties.

(a) Upon receipt of a required bond, the contracting officer shall determine whether the bond and the surety are acceptable. (See § 1–10.103–4 regarding failure to submit proper bid guarantee.) If the acceptability of a bond involves a question as to its validity, the contracting officer shall refer the matter to legal counsel. For any question other than validity, the contracting officer shall refer the bond and such questions to the financial management office. The office shall examine the bond and promptly inform the contracting officer regarding its acceptability.

(b) Corporate surety bonds must be manually signed by the Attorney-in-Fact or officer of the surety company. The corporate seal of the surety company must be affixed. Copies of the powers of attorney from the surety company authorizing the Attorney-in-Fact to execute bonds may be requested by the contracting officer.

(c) Questions concerning an individual surety's financial acceptability are matters of responsibility rather than responsiveness (Comptroller General Decision File No. B–203608, June 15, 1982).

(d) When the bond or surety is not acceptable, the bid guarantee, other than a bond, shall be returned to the bidder. The Contracting officer shall provide the offeror with an explanation as to why the bond or surety is not acceptable.

(e) When a contracting officer has verified the acceptability of the surety on a bond, he shall so certify by placing the words "Acceptability of Bond Verified," with his signature immediately thereunder, on the bond or on a properly identified attachment. The bond shall be retained with the original of the contract. The contracting officer shall notify the contractor that the bond(s) have been accepted.

Dated: September 3, 1982.

Philip G. Read,

Acting Assistant Administrator for Acquisition Policy.

[FR Doc. 82–26498 Filed 9–24–82; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 20

Employee Responsibilities and Conduct; Corrections and Amendment

AGENCY: Department of the Interior.

ACTION: Final rule, correction and amendment.

SUMMARY: This notice contains corrections to the final rules governing Employee Responsibilities and Conduct published on December 1, 1981 (46 FR 58420).

In addition, this notice incorporates a September 9, 1982, decision by the Under Secretary to apply to employees of the Minerals Management Service restrictions on ownership of interests in Federal Lands. The restrictions being incorporated are similar to restrictions to which Minerals Management Service employees were subject in the bureaus and offices from which they were transferred when the Minerals Management Service was created.

EFFECTIVE DATE: September 30, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Gabriele J. Paone or Mr. Mason Tsai, Department Ethics Office, U.S. Department of the Interior, Washington, D.C. 20240, (202) 343–3932.

SUPPLEMENTARY INFORMATION: This document corrects typographical and grammatical errors, and incorporates format changes in the text. Language is also added to specific provisions to better explain their meaning. Some of the corrections to specific provisions are based on administrative problems discovered while enforcing the current regulations. The corrections being made do not change the effect of the current regulations or of the statutes cited in the current regulations.

On September 9, 1982, the Under Secretary decided to extend the U.S. Geological Survey statutory provisions of 43 U.S.C. 31(a) to the Director and all employees in the Minerals Management Service. This policy decision is implemented in this final rule by additions incorporated into §§ 20.735–22(c)(3), 20.735–24 and 20.735.36. The vast majority of employees in the Minerals Management Service were subject to either this statutory provision or to similar statutory or regulatory provisions in organizations that were transferred to the Minerals Management Service. Therefore, there will be no significant effect resulting from the adoption of this policy.

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The primary authors of this final rule are Gabriele J. Paone, Deputy Agency Ethics Official and Mason Tsai, Assistant Agency Ethics Official.

The Administrative Procedure Act excepts from its notice-and-comment requirements, rules related to agency management or personnel. While it is the policy of the Department of the Interior to nonetheless consider soliciting public comment on such rules, it has been determined that public comment on this rule is unnecessary because the amendments made are either minor and clarifying or do not impose obligations on Department employees to which they have not previously been subject.

Good cause for making this rule effective on September 30, 1982, rather than 30 days from the date of publication, exists because Title 43 of the Code of Federal Regulations is updated annually as of October 1 and the corrections and additions made in this rule are necessary to assure that the codified version of the Department's Employee Responsibilities and Conduct rules is current and accurate.

List of Subjects in 43 CFR Part 20

Conflicts of interest, Government employees.

Dated: September 21, 1982.

Donald P. Hodel,

Acting Secretary of the Interior.

Accordingly, the Department of the Interior makes the following corrections and additions to 43 CFR Part 20:

PART 20—EMPLOYEE RESPONSIBILITIES AND CONDUCT

§ 20.735–1 [Corrected]

1. Correct § 20.735–1(a)(9) to read: "(9) 'Designated Agency Ethics Official'

means the Principal Deputy Assistant Secretary—Policy, Budget and Administration. In accordance with the rules in 5 CFR 738.202(b), the Deputy Agency Ethics Official shall serve as alternate agency ethics official."

2. Correct § 20.735–1(a)(10) to read "(10) 'Ethics Counselor' means the head of each bureau, as that term is defined in paragraph (3) above, except that the Assistant Secretary—Policy, Budget and Administration is the Ethics Counselor for employees in the Office of the Secretary and other offices for which personnel services are provided by the Division of Personnel Services, Office of Administrative Services."

3. Correct § 20.735–1(a)(11) to read: "(11) 'Deputy Ethics Counselor' means the bureau personnel officer or other qualified headquarters employee who has been delegated responsibility for the operational duties of the Ethics Counselor for that bureau. The Director, Office of Administrative Services is the Deputy Ethics Counselor for employees in the Office of the Secretary and other offices for which personnel services are provided by that Office."

4. Add a new § 20.735–1(a)(16) to read: "(16) 'Office of Personnel' means the Departmental Office of Personnel within the Department of the Interior, as distinguished from the Office of Personnel Management (formerly called the Civil Service Commission) and from personnel offices in each bureau within the Department of the Interior."

§ 20.735–2 [Corrected]

5. Add a new § 20.735–2(h)(4) to read: "(4)(i) Special codes of conduct have been approved in accordance with § 20.735–2(h) for three groups of employees:

"(A) Bureau of Land Management Fire Management Teams—approved January 16, 1981.

"(B) Minerals Management Service Employees—approved January 22, 1982.

"(C) Office of Inspector General Auditors and Investigators—approved July 16, 1982.

"(ii) Special codes are effective when signed by the Designated Agency Ethics Official and a representative of the Office of Personnel and the Office of the Solicitor. The listing of codes adopted will be revised when revisions are made to 43 CFR Part 20. Copies of these codes may be obtained from the Department's Designated Agency Ethics Official or the Bureau Ethics Counselor for the bureau involved."

§ 20.735–7 [Corrected]

6. Correct § 20.735–7(b)(2)(iv) to read: "(iv) Suitable mementos or awards of nominal value for a meritorious public contribution or achievement."

§ 20.735–9 [Corrected]

7. In § 20.735–9(b)(2), replace the words 'Department of" with "Department for".

8. Correct § 20.735–11(b)(4) to read: "(4) An employee is prohibited from accepting any honorarium of more than $2,000 (excluding amounts accepted for actual travel and subsistance expenses for such employee and his or her spouse or an aide to such employee, and excluding amounts paid or incurred for any agent's fees or commissions) for each appearance, speech or article (2 U.S.C. 441(i))."

§ 20.735–12 [Corrected]

9. Correct § 20.735–12(c)(1) to read: "(1) An employee may employ or appoint relatives to meet emergency needs without regard to the restrictions in 5 U.S.C. 3110 and this part. Appointments under these conditions are temporary not to exceed 1 month, but may be extended for a second month if the emergency needs still exist (refer to 5 CFR 310.202). Emergency needs means a national emergency as defined in the Federal Personnel Manual and includes emergencies posing immediate threat to life or property. Exceptions may also be made in situations involving special scientific needs, isolated field stations or locations where there is a shortage of quarters. In regard to summer employees, refer to current Department directives."

§ 20.735–13 [Corrected]

10. In § 20.735–13(b)(1), correct the last phrase ". . . make judgments which may affect those . . ." to read ". . . make judgments which substantially affect those persons or organizations."

§ 20.735–14 [Corrected]

11. In § 20.735–14(a)(2) the first two words, "Permissible activities" should be italicized.

12. In § 20.735–14(a)(3) the first two words, "Prohibited activities" should be italicized.

13. Correct § 20.735–14(a)(3)(ii) to read: "(ii) Serving as an officer of a political party, a member of a National, State or local committee of a political party, an officer or member of a committee of a partisan political club, an officer in a Political Action Committee, or being a candidate for any of these positions. With respect to membership in Political Action Committees employees should obtain guidance from their ethics counselor;"

§ 20.735–17 [Corrected]

14. Correct that last sentence in § 20.735–17(p) to read: "Notwithstanding this paragraph, employees who are not on official duty may carry firearms on Departmental lands under the same conditions and in accordance with procedures and authorizations established for members of the general public."

§ 20.735–20 [Corrected]

15. Correct the list of offices in § 20.735–20(c) by making two changes:

a. Replace "All Assistant Secretary Immediate Offices" with "All Assistant Secretary Immediate Offices including Bureau and Office Directors".

b. Remove "Outer Continental Shelf Program Coordination."

§ 20.735–21 [Corrected]

16. Correct § 20.735–21(b)(3) to read: "(3) 'Direct interest' means any ownership or part ownership by an employee in his or her own name of lands, stocks, bonds, or other holdings. Direct interest also includes: (i) Membership or outside employment in a firm and (ii) Ownership of stock or other securities in a corporation which has, directly or through a subsidiary, business related to the employee's duties."

17. Correct § 20.735–21(b)(4) to read: "(4) 'Indirect interest' means any ownership or part ownership of a financial interest by an employee in the name of another where the employee still reaps the benefits. Indirect interests includes: (i) Partnership agreements, (ii) Sole proprietary or personal relationships where the employee still reaps the benefits, (iii) Substantial holdings of a spouse or dependent child, and (iv) For Executive Order 11222 restrictions, the substantial holdings of other relatives who live in the employee's personal residence."

18. On the first line of § 20.735–21(b)(5), correct the term "Substantially" which is being defined, to read "Substantially or Substantial"

§ 20.735–22 [Corrected]

19. In § 20.735–22(b)(3), remove "proscribed by" and insert "prohibited by the statutes described in".

20. Correct § 20.735–22(c)(3) to read: "(3) The Director and members of the Geological Survey shall have no personal or private interests in the lands or mineral wealth of the region under survey, and shall execute no surveys or examinations for private parties or corporations. Members of the Geological Survey are prohibited from holding any personal or private direct

interest in lands whose title is in the United States. They are also prohibited from holding personal or private direct interests in the mineral wealth of such lands (43 U.S.C. 32(a)). These statutory restrictions are by this sentence, extended to the Director and all members of the Minerals Management Service. Refer to § 20.735–24 for prohibitions on interests in Federal lands and resources by employees of the Department generally."

§ 20.735–23 [Corrected]

21. Correct § 20.735–23(b)(3) to read: "(3) Outside work or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of a regular or special government employee is prohibited. Incompatible activities include but are not limited to: (i) outside work which tends to impair the employee's mental or physical capacity to perform his or her Government duties and responsibilities in an acceptable manner;

"(ii) any work assignment or employment affiliation which might encourage on the part of members of the general public a reasonable belief of a conflict of interest. In this connection, it is not necessary that there be an actual conflict of interest before applying this policy. The fact that the general public could logically perceive a conflict of interest is sufficient for a determination that the work or activity be prohibited."

§ 20.735–23 [Corrected]

22. Clause (ii) of the Note after § 20.735–23(c)(1)(vi) is corrected to read: "(ii) create a substantial appearance of conflict of interest with the employee's official government duties."

23. Correct the first sentence of § 20.735–23(g)(3) to read: "Each report shall be reviewed by the employee's supervisor and a determination shall be made by the supervisor whether there is compliance with the prohibitions of this section and of §§ 20.735–6 and 20.735–22 of this part."

24. Correct § 20.735–23(g)(3)(ii), to read: "(ii) Take remedial action to correct any situations which violate the prohibitions in this section or in §§ 20.735–6 and 20.735–22 of this part."

§ 20.735–24 [Corrected]

25. Correct § 20.735–24(a)(3) to read: "(3) 'Direct interest in federal lands' means any employee ownership or part ownership in federal lands or any participation in the earnings therefrom, or the right to occupy or use the property or to take any benefits therefrom, based upon a contract, grant, lease, permit, easement, rental agreement, or application. Direct interest in federal lands includes:

"(i) Membership or outside employment in a firm which has interests in federal lands, and

"(ii) Ownership of stock or other securities in a corporation which has an interest in federal lands directly or through a subsidiary."

26. Correct § 20.735–24(a)(4) to read: "(4) 'Indirect interest in federal lands' means any ownership or part ownership of an interest in federal lands by an employee in the name of another where the employee still reaps the benefits. Indirect interest in federal lands also includes:

"(i) holdings in land, mineral rights, grazing rights or livestock which in any manner is connected with or involves the substantial use of the resources or facilities of the federal lands, and

"(ii) substantial holdings of a spouse or dependent child."

27. Revise § 20.735–24(b)(1) to read: "(1) The Director and members of the U.S. Geological Survey, Bureau of Land Management and of the Minerals Management Service are prohibited from:

"(i) Voluntarily acquiring a direct or indirect interest in federal lands; or

"(ii) Retaining a direct interest in federal lands acquired voluntarily or by any other method, before or during employment by the Department."

28. Correct § 20.735–24(b)(2)(ii) to read: "(ii) Retaining a direct interest in federal lands acquired voluntarily or by any other method before or during employment by the Department. *Refer to § 20.735–20(c) for the definition of Office of the Secretary and other Departmental offices.*"

29. In § 20.735–24(d)(2), correct the last phrase in the sentence to read, ". . . provided that such an individual shall not acquire any additional interest in federal lands during employment."

30. Add § 20.735–24(d)(5) to read: "(5) Employees in Indian Affairs are not prohibited by the provisions of this section from acquiring or retaining interests in federal lands controlled by the Department for the benefit of Indians and Alaska Natives provided such interests are otherwise legal."

31. Correct § 20.735–24(e)(1) to read: "(1) The Designated Agency Ethics Official may approve the retention of an interest in federal lands for employees identified in § 20.735–24(b) when there is little or no relationship between the employee's functions or duties and the particular interest in federal lands, and: (i) The employee, or the spouse or dependent child of the employee, acquired such an interest by gift, devise, bequest, or operation of law, or

"(ii) The employee or the spouse or dependent child of the employee, acquired such an interest prior to the time the employee entered on duty in the Department, or

"(iii) In the case of stock or securities traded on the open market, divestiture would constitute a financial hardship, or

(iv) The employee, or the spouse or dependent child of the employee acquired such an interest through a pre-existing trust or inherited trust (not established by themselves) provided, the employee has no control over its management or assets."

§ 20.735–27 [Corrected]

32. Correct § 20.735–27(a)(1) to read "(1) 'Direct interest in Mining Activities' means any employee ownership or part ownership in mining activities or any participation in the earnings therefrom, or the right to take any benefits therefrom, based upon a contract, grant, lease, permit, easement, rental agreement, or application. Direct interest in mining activities includes:

"(i) Membership or outside employment in a firm which has interests in mining activities, and

"(ii) Ownership of stock or other securities in a corporation which has an interest in mining activities directly or through a subsidiary."

33. Correct § 20.735–27(a)(2) to read: "(2) 'Indirect interest in mining activities' means any ownership or part ownership of an interest in mining activities by an employee in the name of another where the employee still reaps the benefits. An indirect interest in mining activities also includes:

"(i) holdings in land, mineral rights, or other rights which in any manner are connected with mining activities, and

"(ii) substantial holdings of a spouse or dependent child.

"*Refer to Note* § 20.735–21(b)(4) for examples of the kinds of interests that are not covered."

34. Remove the last sentence from § 20.735–27(b)(4).

35. Correct § 20.735–27(e)(1) to read: "(1) The Designated Agency Ethics Official may approve the retention of an interest in mining activities for employees identified in § 20.735–27(b) when there is little or no relationship between the employee's functions or duties and the particular interest in mining activities, and (i) The employee, or the spouse or dependent child of the employee acquired such an interest by gift, devise, bequest, or operation of law, or (ii) The employee or the spouse or dependent child of the employee, acquired such an interest prior to the time the employee entered on duty in

the Department, or (iii) In the case of stock or securities traded on the open market, divestiture would constitute a financial hardship, or (iv) The employee or the spouse or dependent child of the employee acquired such an interest through a pre-existing trust or inherited trust (not established by themselves) provided, the employee has no control over its management or assets."

§ 20.735–35 [Corrected]

36. In § 20.735–35(c)(2), correct the last phrase, ". . . and such others as the Secretary may designate." to read: . . . the Director, Office of Administrative Services; the Personnel Officer, Division of Personnel Services; and such others as the Secretary may designate."

37. Remove § 20.735–35(c)(5) in its entirety. Redesignate § 20.735–35(c)(6) as § 20.735–35(c)(5). Redesignate § 20.735–35(c)(7) as 20.735–35(c)(6).

§ 20.735–36 [Corrected]

38. Correct § 20.735–36(a) to read: "(a) The following statutory restrictions apply specifically to the heads and members of the bureaus and offices identified and are extended to employees in the Office of the Secretary and in other Departmental offices reporting directly to a Secretarial officer, who are in pay grades equivalent to GS–16 and above or who are in merit-pay positions as described in 5 U.S.C. 5401(b)(1): (1) 43 U.S.C. 31(a)—Geological Survey; (2) 18 U.S.C. 437—Indian Affairs; (3) 43 U.S.C. 11—Bureau of Land Management; (4) 30 U.S.C. 6—Bureau of Mines. In addition, the statutory restrictions of 43 U.S.C. 31(a) are extended to the Director and members of the Minerals Management Service. *Refer to § 20.735–20(c) for the definition of Office of the Secretary and other Departmental Offices.*"

39. Correct the first sentence of § 20.735–36(b) to read: "Each employee covered by one or more of these restrictions shall sign a certificate of disclaimer upon entrance to or upon transfer to these bureaus or offices."

40. Add Appendix A–6 to read:

Appendix A–6

Minerals Management Service Employee Certification

I have been given a copy of Department of the Interior Regulations governing Responsibilities and Conduct of Employees (43 CFR Part 20). I have been advised of the name and location of the Bureau and Deputy Bureau Ethics Counselors. I understand that I may discuss questions or concerns related to my responsibilities, conduct, and financial interests with these individuals.

I certify I have been informed of the regulatory restrictions contained in 43 CFR 20.735–22(c)(3) and 20.735–24 which provide that employees of the Minerals Management Service shall have no direct or indirect interest in federal lands or the mineral wealth of the federal lands, and shall execute no surveys or examinations for private parties or corporations.

The Department has determined that these restrictions prohibit an employee of the Minerals Management Service from having any personal or private interest, direct or indirect, in federal lands. Further, an employee of the Minerals Management Service is prohibited by the Department from having any personal or private interest in the mineral wealth of such lands and from executing surveys or examinations for private parties or corporations with or without remuneration.

I certify that to the best of my knowledge I do not have any personal or private interest, direct or indirect, in Federal lands as defined in § 20.735–24(a).

Note.—The provisions in 43 CFR 20.735–22(c)(3) and 20.735–24 should be read completely before this statement is signed.

(Employee's name (typed or printed))

(Signature of employee)

(Title of position)

(Date)

Instructions

1. All applicable employees of the Minerals Management Service shall complete the certifications on this form.

2. Signed certificates shall be sent to and maintained by the appropriate Personnel Office.

3. If an employee is unable to sign the certificate, he or she must submit a statement of facts to the appropriate Ethics Counselor for review and action.

Authority: 5 U.S.C. 301; 5 CFR 735.104; 5 CFR 734.103; E.O. 11222, 30 FR 6469, 3 CFR 1964–65 (Comp.) as amended (18 U.S.C. note).

Privacy Act Notice

43 CFR 20.735–22(c)(3), 20.735–24 and 5 U.S.C. 301 constitute the authority for requesting this certification. This certification must be signed; failure to do so can be cause for denying appointment or for appropriate disciplinary action.

This certification will be used to record officially the fact that you have knowledge of, and are in compliance with, the restrictions pertinent to your employment. The information certified to will be considered confidential and will form a part of the records of the office where you file; as such, the contents may be routinely disclosed to authorized Interior personnel, the Office of Personnel Management, the Department of Justice and to appropriate law enforcement agencies.

[FR Doc. 82-26407 Filed 9-24-82; 8:45 am]
BILLING CODE 4310-10-M

Bureau of Land Management

43 CFR Public Land Order 6338

[A–12830 WR; A–12843 WR]

Arizona; Partial Revocation of Reclamation Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes three Departmental orders affecting 346.34 acres of public lands withdrawn by the Bureau of Reclamation for use in connection with the Colorado River Storage Project. Some 293.06 acres are located within the Lake Mead National Recreation Area and will be administered by the National Park Service. The remaining 53.28 acres are included in a State Selection Application filed by the State of Arizona. All of the lands will remain closed to operation of the general land laws, including the mining laws, but not the mineral leasing laws.

EFFECTIVE DATE: September 27, 1982.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, 602–261–4774.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Departmental Orders of July 2, 1902, January 31, 1903, and October 16, 1931, which withdrew lands for the Bureau of Reclamation in connection with the Colorado River Project are hereby partially revoked insofar as they affect the following described lands:

(A–12830)

Gila and Salt River Meridian, Arizona

T. 9 S., R. 25 W.,
Sec. 24, lots 1, 3, 4, 5, excepting therefrom 120 feet west and 50 feet east of the centerline of old levee.

The area encompasses 53.28 acres in Yuma County.

(A–12843)

Gila and Salt River Meridian, Arizona

T. 21 N., R. 21 W.,
Sec. 30, lots 1, 2, 3, W½NE¼, E½NW¼, NE¼SW¼, NW¼SE¼ excepting therefrom a strip of land 300 feet in width landward from the existing bank of the Colorado River.

The area encompasses 293.06 acres in Mohave County.

The two areas aggregate 346.34 acres.

2. The lands in Section 24, T. 9 S., R. 25 W., paragraph 1, are currently under

State Selection Application (A–17000–K), filed by the State of Arizona. The lands will remain closed to operation of the public land laws including the mining laws.

The lands in Section 30, T. 21 N., R. 21 W., paragraph 1, lie within the Lake Mead National Recreation Area which is administered by the National Park Service and will therefore remain closed to operation of the general land laws, including the mining laws. The lands will continue to be administered by the National Park Service.

All of the lands in paragraph one have been and will remain open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

September 20, 1982.

[FR Doc. 82–25484 Filed 9–24–82; 8:45 am]

BILLING CODE 4310–84–M

Proposed Rules

Federal Register
Vol. 47, No. 187
Monday, September 27, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Parts 1b and 1c

Revision of National Environmental Policy Act (NEPA) Policies and Procedures

AGENCY: Department of Agriculture.

ACTION: Notice of proposed rulemaking.

SUMMARY: On July 30, 1979, the Department of Agriculture (USDA) published rules setting forth policies and procedures for compliance with the National Environmental Policy Act (NEPA), as amended, and the Council on Environmental Quality's (CEQ) implementing regulations (40 CFR Part 1500–1508).

On September 30, 1981, (46 FR 47747), the USDA published a final rule which revised delegations of authority within the Department. In these revisions, the Office of Environmental Quality was abolished and the Assistant Secretary for Natrual Resources and Environment (NR&E) was delegated the authority to administer NEPA implementation for the Department. It has been determined that effective NEPA implementation can best be achieved by reliance on individual USDA agency NEPA regulations for detailed implementation procedures. It has been further determined that a Departmental statement of policy regarding NEPA is an effective means of assisting agency implementation. This proposed regulation sets forth this policy.

DATES: Comments must be received on or before November 26, 1982.

ADDRESSES: Submit written comments to David E. Ketchum, Co-chairman of the Environmental Issues Working Group, U.S. Department of Agriculture, Forest Service, P.O. Box 2417, Washington, D.C. 20013. All written comments made pursuant to this notice will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Peter F. Smith, Executive Secretary of the Environmental Issues Working Group, Room 6154 South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447–5166.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under procedures established in Secretary's Memorandum 1512–1 and Executive Order 12291 and has been classified as nonmajor. The proposed rule will not have—

(a) An annual effect on the economy of $100 million or more; or

(b) Any increased costs or prices to consumers; individual industries; Federal, State, or local government agencies; or geogrpahic regions; or

(c) A significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

I have determined that this action will not have a significant economic impact on a substantial number of small entities because it imposes on direct or indirect costs on small entities, it requries no paperwork or recordkeeping, it does not affect the competitive position of small entities in relation to large entities, it does not affect the cash flow or liquidity of small entities, it does not affect the ability of a small entity to stay in the market, and it does not require that small entities obtain professional assistance to meet regulatory requirements.

Alternatives to this proposed rulemaking have been considered. The alternative of not amending the regulation was considered. This was not recommended for several reasons. The exising regulation relies on the now abolished Office of Environmental Quality for implementation. The existing regulation does not incorporate the Department's statement concerning the exclusion of some USDA agencies from the need to prepare implementing procedures. Finally, the existing regulation does not reflect recent agency reorganizations and title changes.

Another alternative considered was the cancellation of the existing regulation. This alternative is not recommended because it was decided to be desirable to maintain a Departmental statement of policy and procedures regarding NEPA and because cancellation would have required amendment of the NEPA regulations of several USDA agencies which refer to the Departmental regulations.

The proposed action will provide a USDA policy statement regarding NEPA and environmental matters, including responsibilities for environmental effects abroad; a list of USDA actions categorically excluded from the preparation of environmental assessments and environmental impact statements and a list of USDA agencies which have been excluded from the requirements to prepare implementing procedures. The latter two provisions represent only minor changes from the USDA's existing NEPA regulations. The proposed action modifies the existing regulation by eliminating certain procedural requirements which were formerly carried out by the Office of Environmental Quality.

List of Subjects in 7 CFR Part 1b

Environmental impact statements, Historic preservation, Foreign relations.

Therefore, it is proposed that Title 7, Subtitle A of the Code of Federal Regulations be amended as follows:

1. A new part 1c is added and reserved to read as follows:

PART 1c—CULTURAL RESOURCES [RESERVED]

2. A new part 1b is added to read as follows:

PART 1b—NATIONAL ENVIRONMENTAL POLICY ACT

Sec.

1b.1 Purpose.
1b.2 Policy.
1b.3 Categorical exclusions.
1b.4 Exclusion of agencies.

Authority: National Environmental Policy Act (NEPA), as amended, 42 U.S.C. 4321 et seq.; E.O. 11514, 34 FR 4247, as amended by E.O. 11991, 42 FR 26927; E.O. 12114, 44 FR 1957; 5 U.S.C. 301; 40 CFR 1507.3.

§ 1b.1 Purpose.

(a) This part supplements the regulations for implementation of the National Environmental Policy Act (NEPA), for which regulations were published by the Council on Environmental Quality (CEQ) in 40 CFR Parts 1500–1508. This part incorporates and adopts those regulations.

(b) This part sets forth Departmental policy concerning NEPA, establishes categorical exclusions of actions carried

out by the Department and its agencies, and sets forth those USDA agencies which are excluded from the requirement to prepare procedures implementing NEPA.

§ 1b.2 Policy.

(a) USDA agencies carry out programs for the purposes of encouraging sufficient and efficient production of food, fiber, and forest products; proper management and conservation of the Nation's natural resources; and the protection of consumers through inspection services. Programs to meet this mission are carried out through research; education; technical and financial assistance to landowners and operators, producers, and consumers; and management of the National Forest System.

(b) All policies and programs of the various USDA agencies shall be planned, developed, and implemented so as to achieve the goals and to follow the procedures declared by NEPA in order to assure responsible stewardship of the environment for present and future generations.

(c) Each USDA agency is responsible for compliance with the provisions of this subpart, the regulations of CEQ, and the provisions of NEPA. Compliance will include the preparation and implementation of specific procedures and processes relating to the programs and activities of the individual agency, as necessary, including those involving environmental effects abroad.

(d) The Assistant Secretary, Natural Resources and Environment (NR&E), is responsible for ensuring that agency implementing procedures are consistent with CEQ's NEPA regulations and for coordinating NEPA compliance for the Department (7 CFR Part 2819(b)). The Assistant Secretary, through the USDA Natural Resources and Environment Committee, will develop the necessary processes to be used by the Office of the Secretary in reviewing, implementing, and planning its NEPA activities, determinations, and policies.

§ 1b.3 Categorical exclusions.

(a) The following are categories of activities which have been determined not to have a significant individual or cumulative adverse effect on the human environment and are excluded from the preparation of environmental assessments (EA's) or environmental impact statements (EIS's), unless individual agency procedures prescribe otherwise.

(1) Policy development, planning, and implementation which relates to routine activities such as personnel, organizational changes, or similar administrative functions;

(2) Activities which deal solely with the funding of programs, such as program budget proposals, disbursements, transfer, or reprogramming of funds;

(3) Inventories, research activities, and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity;

(4) Educational and informational programs and activities;

(5) Civil and criminal law enforcement and investigative activities;

(6) Activities which are advisory and consultative to other agencies and public and private entities such as legal counselling and representation;

(7) Activities related to trade representation and market development activities abroad.

(b) Agencies will identify in their own procedures the activities which normally would not require an environmental assessment or environmental impact statement.

(c) Notwithstanding the exclusions listed above and in § 16.4, or exclusions identified in agency procedures, agency heads may determine that circumstances dictate the need for preparation of an EA or EIS for a particular action. Agencies shall continue to scrutinize their activities to determine continued eligibility for categorical exclusion.

§ 1b.4 Exclusions of agencies.

The USDA agencies listed below carry out programs and activities which have been found to have no individual or cumulative effect on the human environment. These agencies are excluded from the requirements to prepare implementing procedures. Actions of these agencies are categorically excluded from the preparation of an EA or EIS unless the agency head determines that an action may have a significant environmental effect.

(a) Agricultural Cooperative Service.
(b) Agricultural Marketing Service.
(c) Extension Service.
(d) Economic Research Service.
(e) Federal Crop Insurance Corporation.
(f) Federal Grain Inspection Service.
(g) Food and Nutrition Service.
(h) Food Safety and Inspection Service.
(i) Foreign Agricultural Service.
(j) Office of Transportation.
(k) Packers and Stockyards Administration.
(l) Statistical Reporting Service.
(m) Office of General Counsel.
(n) Office of Inspector General.
(o) National Agricultural Library.

John B. Crowell, Jr.,
Assistant Secretary, Natural Resources and Environment.

[FR Doc. 82-25867 Filed 9-24-82; 8:45 am]
BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 60

Market News Reports

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to amend the interim final rule published on July 8, 1982, at 47 FR 29643–29645, which established the collection of fees for the distribution upon request of copies of market news reports to the general public. The proposal would require all media, whether trade publication or general news media, to pay for mailed market news reports, thereby eliminating the exemption for news media presently contained in the interim final rule.

EFFECTIVE DATES: Comments due on or before October 27, 1982.

ADDRESS: Send comments to William T. Manley, Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, Room 3071, South Building, United States Department of Agriculture, Washington, D.C. 20250. Comments will be available for public inspection at this location during the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dairy reports: Silvio Capponi, Chief, Market Information Branch, Dairy Division, AMS, USDA, Washington, D.C. 20250, (202) 447–7461. Fruit and vegetable reports: Clay J. Ritter, Chief, Market News Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447–2745. Livestock and grain reports: James A. Ray, Chief, Market News Branch, Livestock, Meat, Grain and Seed Division, AMS, USDA, Washington, D.C. 20250, (202) 447–6231. Poultry reports: Raymond S. Wruk, Chief, Market News Branch, Poultry Division, AMS, USDA, Washington, D.C. 20250, (202) 447–6911.

SUPPLEMENTARY INFORMATION: The Department proposes to amend the interim final rule published on July 8, 1982, at 47 FR 29643–29645 to require that all news media, whether trade publication or general news media, to

pay for mailed market news reports, thereby eliminating the exemption for news media presently contained in the interim final rule. The authority for these regulations is contained in the Agriculture and Food Act of 1981 (7 U.S.C. 2242a).

The Agriculture and Food Act of 1981 authorized the collection of fees for the reporting of economic research and statistical data. The Department promulgated the interim final rule to establish and collect fees to cover the cost of printing and mailing AMS market news reports. These fees were, as nearly as practicable, established to cover the Department's costs of the service, including administrative and supervisory costs of the published reports. In the interim final rule, the Department provided that no fee would be charged for the distribution of market reports to wire services, newspapers, news magazines, and broadcast news outlets. The interim final rule did provide for fees for the large number of trade journals and trade association publications aimed at organizational memberships for the reason that the Department had determined that it would not be appropriate to provide market news reports free of charge to these numerous organizations which serviced limited audiences.

Based upon written comments received from trade associations and trade publications, it appears that the commentators were opposed to the classification and differentiation of general versus specialized news media publications. In light of the overall comments received, it is acknowledged that many publications in direct competition with each other for subscribers cannot be easily categorized as news media or trade publications. Therefore, it is proposed that the interim final rule be amended to eliminate the exemption for the news media. The Department will, however, continue to provide all media with current information by wire service and automatic telephone answering devices without charge. Single, free copies of daily, semi-weekly, and weekly reports are available for pick up at the local office which prepared the report. The Administrator has determined that a 30-day public comment period on this amendment to the interim final rule is adequate to provide all interested parties an opportunity to file views and comments. The comments previously submitted by interested parties demonstrate a necessity to promptly reach a determination in this matter.

The proposed rule has been reviewed under USDA procedures established to implement Executive Order 12291 and the Secretary's Memorandum 1512-1 and has been determined to be a "non-major" rule, because it does not meet any of the criteria established for major rules under the executive order. In conformance with the provision of the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), full consideration has been given to the potential economic impact upon small business. Most producers, dealers, and news media fall within the confines of "small business" as defined in the Regulatory Flexibility Act. A number of firms who are expected to use the market news reports do not meet the definition of small business either because of their individual size or because of their dominant position in one or more marketing areas. It has been determined that the economic impact upon all entities, small and large, will not be adverse and will in no way affect normal competition in the marketplace.

List of Subjects in 7 CFR Part 60

Market news reports, Subscription fees.

PART 60—MARKET NEWS REPORTS

Accordingly, it is proposed that 7 CFR Part 60 as promulgated by the interim final rule published at 47 FR 29645 be amended as follows:

§ 60.1 [Amended]

1. In § 60.1, remove paragraph (f).

2. In § 60.5, paragraph (a) is revised to read as follows:

§ 60.5 Market news reports published by the Dairy Division; Fruit and Vegetable Division; Livestock, Meat, Grain and Seed Division; and Poultry Division

(a) Market news reports shall be available on an annual subscription (or seasonal subscription for reports issued by the Fruit and Vegetable Division) upon written request and upon payment of a subscription fee, except that no fees will be charged to other government agencies which assist in the collection of market news data for the requested report. Establishment of mailing lists, based on the payment of subscription fees, will begin upon publication of this rule and will be updated on a continuing basis.

* * * * *

Done at Washington, D.C., September 22, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-26488 Filed 9-24-82; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 113

[Docket No. 81-008]

Viruses, Serums, Toxins, and Analogous Products; Revision of Standard Requirements for Detection of Viable Bacteria and Fungi in Live Vaccines

Corrections

In FR Doc. 82-21871 beginning on page 34995 in the issue for Thursday, August 12, 1982, make the following changes:

1. On page 34996, third column, § 113.27(b)(5), third line, insert "a" after "into".

2. On page 34997, first column, § 113.27(d)(1), last line, "0.1" should read "0.2".

BILLING CODE 1505-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 545

[No. 82-640]

Data Processing Activities of Federal Associations

September 17, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board is proposing to amend its regulations to authorize federal associations to engage in a wider range of data processing activities. The proposal would allow federal associations to establish or maintain data processing offices through which they could provide certain data processing and transmission services for their own use, the use of a subsidiary, or of another depository institution. The proposal would authorize associations to market by-products generated from such services and to market excess capacity on their equipment as an incident to providing the services. Associations could also provide these services to other institutions if excess capacity is available on the equipment and if they comply with other limitations. The proposed amendments would authorize federal associations to utilize any feasible data processing technology as a means of providing services they currently provide. The proposed amendments are intended to assist associations in engaging in additional data processing activities that will allow them to conduct their

operations as efficiently and productively as possible and to provide such services to other institutions in certain circumstances.

DATE: Comments must be received by November 24, 1982.

ADDRESS: Comments should be sent to the Public Information Office, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Neil R. Crowley, Attorney, Office of General Counsel, at the above address. (202) 377–6417.

SUPPLEMENTARY INFORMATION:

Background

In recent years, financial institutions have made increasing use of new technologies to conduct their business operations. The use of data processing technology and equipment in the financial marketplace is commonplace. As financial markets become more competitive, federal associations will need to utilize new technologies in order to operate efficiently and profitably. Accordingly, the Board believes that associations should be permitted to engage in data processing activities that will allow them to conduct their internal operations as efficiently as possible and to provide data processing services to other institutions in certain circumstances. Therefore, the Board is proposing to amend its regulations pertaining to data processing services in order to clarify that federal associations may utilize any available data processing equipment or technology to conduct their operations, to authorize associations to provide a greater variety of such services, and to remove some of the current limitations on the provision of such services to others.

The proposal would broaden the types of data that associations may process to include any that are financial, economic, or related to thrift, home financing, or the activities of depository institutions. The proposal would also expressly authorize associations to transmit data between the associations' data processing offices and remote customer locations. In conjunction with the provision of data processing and transmission services, associations would now be permitted to provide the necessary facilities as well, including data processing and data transmission hardware and software, documentation, and operating personnel. Associations would be required to provide these services primarily for their own use, for the use of a subsidiary, or for the use of another depository institution, including the parent or a subsidiary of the depository institution. Thus, services could be provided to unaffiliated non-depository financial intermediaries only if such services constitute less than 50% of the services provided. The proposal would give associations new authority to provide services to "others", without restriction on the identity of the customer, to the extent necessary to utilize excess capacity on their equipment. Associations would also be allowed to market by-products of their data processing services and any excess capacity on their equipment, subject to certain limitations. The provisions of the existing regulation allowing associations to participate with others in establishing or maintaining a data processing office would be retained unchanged.

Current Regulations

The Board's present regulations authorize federal associations to maintain a data processing office to provide "data processing services" for their own use and/or primarily for the use of other depository institutions. 12 CFR 545.16–1 (as amended, 47 FR 14468 (1982)). Associations may also provide such services to others on a for-profit basis if done as part of a correspondent relationship authorized by 12 CFR 545.30(a) (added, 47 FR 14468 (1982)). "Data processing services" are defined as the "maintenance of bookkeeping, accounting, or other records primarily by mechanical or electronic methods." 12 CFR 545.16–1(a) (1981).

Use of Technology

As the business of federal associations changes, commensurate with the competitive changes occurring in financial markets, associations will need to be able to employ new technologies. The Board believes that it is imperative for federal associations to be able to benefit from the use of data processing equipment and technology in conducting their day-to-day operations. The Board further recognizes that technology often develops rapidly and that to the extent that associations can incorporate new data processing technology into their authorized operations today, they should be able to do so.

Because the current regulations are silent on this matter, the Board believes that it is desirable to state expressly that associations may make such use of data processing technology. Accordingly, the Board is proposing to amend § 545.16–1, pursuant to its plenary authority to regulate the operations of federal associations granted by section 5(a) of the Home Owners' Loan Act, 12 U.S.C. 1464(a) (Supp. IV 1980) ("HOLA"), by adding a new paragraph (a) that would permit federal associations, when performing activities or services that are expressly or incidentally authorized by statute or by regulation, to utilize any data processing equipment or technology to do so. The authority conferred in new paragraph (a) would not preempt any other regulations dealing with the application of electronic or data processing technology and equipment, such as those pertaining to remote service units. With respect to an association's dealings with its customers, this authority could allow an association to employ data processing equipment and technology in performing such functions as accepting deposits, check cashing, and making withdrawals. The Board believes that such authority would allow an association to use the equipment either at its offices or at the location of its customers. The Board specifically requests comment on the issue of whether an association should be permitted to utilize this authority to provide home banking services to its customers.

Activities Permitted

Under the current regulations, associations may provide "data processing services" to themselves and/or primarily to other depository institutions through a data processing office. These services are, by definition, limited to the maintenance of bookkeeping, accounting, or other records. In proposing to expand the data processing activities of federal associations to include data that are financial, economic, or related to thrift, home financing, or the activities of depository institutions, the Board would limit the permissible data processing activities to those that are incidental to an association's expressly authorized activities.

It is the view of the Board that activities that are necessary, convenient, or useful to the performance of an association's express powers or to the furtherance of its express statutory purposes of promoting thrift and home financing are permissible as incidental activities. Under these criteria, the proposed data processing services would be incidental to both an association's expressly enumerated powers and its express statutory purpose of promoting thrift and providing for home financing. Such services will be useful and convenient to the performance of the expressly authorized functions of accepting deposits, borrowing funds, and making loans. To the extent that an association

can utilize data processing equipment or technology to become more efficient and profitable, it will be better able to fulfill its statutory purposes.

The Board is proposing to amend § 545.16–1(a) to allow associations, through a data processing office, to engage in data processing and data transmission services, provided the data that the association processes or transmits are financial, economic, or related to thrift, home financing or the activities of depository institutions. The first two data categories would include those services currently permitted, maintaining bookkeeping and accounting records, but would also allow associations to collect, process, store, analyze, and transmit other sorts of financial and economic data as well, such as data pertaining to economic trends and statistics, employment, housing starts, interest rates, exchange rates, and prices. Associations are experiencing an increasing need for all types of data in order to compete effectively with other institutions. Consequently, such data has become critical to an association's traditional operations in that it enables it to better manage and analyze its investment portfolio, understand general economic trends, and plan its future operations.

The proposal also would allow an association to process or transmit data that are related to thrift, home financing or the activities of depository institutions. This type of data are clearly integral to an association's own operations and could be provided to other depository institutions pursuant to the authority in 12 CFR 545.30(a) (added, 47 FR 17468 (1982)) regarding correspondent activities. The Board believes that the types of data proposed are all reasonably incident to associations' operations, but specifically solicits comments on the issue of what types of data might be permissible for an association to process or transmit.

The Board is also proposing to amend § 545.16–1 by providing expressly that associations may engage in data processing and data transmission activities. Implicit in this aspect of the proposal is the authority to collect, store, and analyze permissible data and to provide access to its facilities to its customers; the processing and transmission of data necessarily include these activities. The Board believes that in order for associations to provide data processing services in an efficient manner, they must be able to take advantage of developments in technology and facilities.

"Timesharing"—the simultaneous use of a computer by many users—is one such development, and is in widespread use by others engaged in data processing. Through timesharing, the recipients of the data processing services can communicate directly with the association's central processing facility via telephone lines. Integral to timesharing services is the transmission of data to the central facility from the recipient of the services. This necessarily involves the installation of terminal facilities at the location of the recipient. One characteristic of timesharing technology is that the central facility will experience peaks of high usage when many customers use the system simultaneously. As a consequence, there will also be slack periods when the system is used only to a fraction of its capacity.

The Board believes that associations may best provide data processing services for themselves, their subsidiaries, and other depositories (especially in conjunction with providing correspondent services) if they are allowed to use such technologies as timesharing. Accordingly, in addition to being able to process data, associations must be able to provide for their transmission between the remote locations of their offices or those of their customers and the central processing facility. For these reasons, the proposed amendments would authorize associations, as part of providing data processing and transmission services, to provide "data processing facilities" as well. These facilities include data processing and transmission hardware, software, documentation, and, if necessary, operating personnel.

It is not economically desirable to provide data processing services without including some software or hardware as part of the package. Therefore, the proposal would allow the provision of hardware and software to the extent that they are necessary for or integral to the provision of data processing and transmittal services. The Board believes that such limited provision of hardware and software is necessary if associations are to be able to provide comprehensive data processing services to depository institutions.

At this time, although the Board has chosen to propose limiting the activities, services, and equipment that associations may provide to those already described above, it would welcome further comments from the public on this matter. Comments are requested to address the issue of whether it would be appropriate for federal associations to engage in a wider range of data processing activities, such as the marketing of hardware and software independent of its provision of data processing services, electronic funds transfer, electronic home banking, and the provision of data processing services to the general public. The Board also believes that as associations employ timesharing or similar technologies in providing data processing services to others it will be necessary to establish internal and system controls for hardware and software in order that the integrity of its records and those of its customers and depositors be adequately protected. Accordingly, the Board is also requesting comments on what types of controls would best provide this protection.

Customer Base

The proposed § 545.16–1(b)(1) would allow federal associations to provide data processing or transmission services primarily for their own use, the use of a subsidiary, or the use of another depository institution, including the parent or subsidiary of the institution. The recipients of the services would be essentially unchanged from the current regulation, with the exception that subsidiaries and the parent are expressly included. Implicit in the use of the word "primarily" is the condition that the services provided to these recipients in the aggregate constitute at least 50% of the data processing services provided. Thus, as proposed, associations may provide the services to unaffiliated non-depository financial intermediaries only if the services do not constitute more than 50% of the associations' data processing services, as measured by either the number of contracts or the dollar volume of the services provided. As will be explained below, the amendments would also allow associations to provide services to others, i.e., non-depositories and non-intermediaries, to the extent that they have excess time or capacity on their facilities that they are unable to market pursuant to § 545.16–1(b), and subject to certain other restrictions. The Board believes that these limitations on the recipients of the data processing services are adequate to ensure that the equipment and technology are used primarily in aid of an association's express powers and that an association will not engage in any substantial data processing activities that are unrelated to its business.

As previously mentioned, the use of timesharing technology necessarily generates a degree of excess time on the data processing equipment. In order to avoid a financial loss on excess capacity that cannot otherwise be used,

the Board believes that it is necessary to propose allowing associations to market such excess capacity to any other customers. The proposal would require that the data provided or given access to be limited to the types previously described, that the associations not artificially create excess capacity, that the provision of hardware and software be limited, and that associations do no more than furnish the facilities and operating personnel. These safeguards should be adequate to prevent inappropriate use of the system by third parties. The Board specifically solicits comment on whether these restrictions are adequate or whether they may be too burdensome. The Board also believes that associations should be able to market any by-products generated from its data processing services.

The Board is further proposing to allow associations to provide their data processing and transmission services to "others", without restriction on the identity of the customer, provided that it does so only to the extent necessary to utilize any excess capacity on its facilities and further provided that it does so in compliance with additional restrictions that are substantially the same as those pertaining to the marketing of excess capacity. The Board believes this authority is necessary in order for associations to avoid having substantial amounts of costly excess capacity on its equipment. The proposal is not intended to allow associations to enter the data processing business as a substantial part of its business.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (September 19, 1980), the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objective, and legal basis underlying the proposed rule.* These elements have been incorporated into the supplementary information accompanying the proposal.

2. *Small entities to which the proposed rule will apply.* The proposed rule would apply only to savings and loan associations chartered by the Board.

3. *Impact of the proposed rules on small institutions.* The proposal would grant the same authority to engage in data processing activities to both small and large associations. Any association with adequate resources may be able to conduct data processing activities on its own. Smaller associations would also be able to do so by participating with others pursuant to § 545.16–1(b)(2). If individual small associations choose not to engage in data processing activities, they will still be able to benefit from the proposal by obtaining whatever services they need from another association whose data processing facilities would be tailored to the needs of the thrift industry. The proposal does not require specific recordkeeping or other paperwork that might be disproportionately burdensome on small instititions.

4. *Overlapping or conflicting Federal rules.* There are no known federal rules that may duplicate, overlap, or conflict with the proposal.

5. *Alternatives to the proposed rules.* The proposal would allow all federal associations to engage in data processing activities to the extent they are able or desire to do so. There is no alternative that would better enable smaller entities to engage in data processing activities.

List of Subjects in 12 CFR Part 545

Savings and loan associations.

Accordingly, the Board hereby proposes to amend Part 545, Subchapter C, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

Amend § 545.16–1 by revising paragraphs (a) and (b)(1) and by adding new paragraphs (c) and (d) as follows:

§ 545.16–1 Data processing services.

(a) A Federal association may, when performing any activity or service that is expressly or incidentally authorized by statute or by regulation, employ any data processing equipment or technology to do so.

(b)(1) An association may establish or maintain a data processing office through which it may provide data processing and data transmission services primarily for its own use, the use of a subsidiary, or the use of another depository institution (including the parent or a subsidiary of such institution) without observing the application and approval procedures for branch offices set forth in this Part, provided the data to be processed or transmitted are financial, economic, or related to thrift, home financing or the activities of depository institutions. In conjunction with these services, an association may provide data processing facilities, including data processing and data transmission hardware, software, documentation, and operating personnel, to the extent that such facilities are necessary for the provision of data processing and transmitting services.

* * * * *

As an incident to providing data processing and data transmission services pursuant to paragraph (b) of this section, an association may:

(1) Market by-products of such services, and

(2) Market excess capacity on its data processing equipment and facilties if:

(i) The involvement of the association is limited to furnishing the facilities and necessary operating personnel;

(ii) The association has not purchased the equipment or facilities for the purpose of creating excess capacity;

(iii) The data to be processed or transmitted are financial, economic, or related to thrift, home financing or the activities of depository institutions; and

(iv) No hardware is provided to the user of the excess capacity except that which is necessary for processing or transmitting the data, and any software provided is limited to systems software, network communications support, and documentation that is necessary for the use and maintenance of the association's equipment and facilities.

(d) An association may provide data processing and data transmission services, or access to such services, to persons other than those authorized in paragraph (b)(1) of this section on a for-profit basis only if the involvement of the association is limited to furnishing the facilities and the necessary operating personnel, and:

(1) Such services are provided only to the extent necessary to utilize any excess capacity available on the association's data processing equipment or facilities,

(2) The data services so provided, or to which access is given, are financial, economic, or related to thrift, home financing or the activities of depository institutions,

(3) No hardware is provided to the user of the services except that necessary for processing or transmitting the data, and

(4) The services are provided pursuant to a written agreement that describes and incorporates the limitations on such services imposed by this section.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-26666 Filed 9-24-82; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-82-11]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and be received on or before November 26, 1982.

ADDRESS: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. , 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on September 20, 1982.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Rulemaking

Docket No.	Petitioner	Description of the rule requested
23224	Andy F. Mills	*Description of Petition:* To add a new Subpart G to Part 65 to authorize the certification of avionics repairmen, to authorize these avionics repairmen to perform maintenance under § 43.3 and to approve avionics systems for return to service under § 43.7, and to further authorize repair stations certificated under Part 145, Subpart B and Subpart D, to utilize these avionics repairmen. *Regulations Affected:* 14 CFR Portions of Parts 43, 145 and 65. *Petitioner's Reason for Rule:* The specialization of avionics equipment has been ignored by the present system of having an A&P mechanic sign for communication, navigation, and radar system maintenance and having authorized inspectors sign for autopilot, flight director, and remote gyroscopic system maintenance. The sophistication of electronic autopilots and other avionic systems necessitates a detailed knowledge of these systems in order to safely approve these systems. Certificated repairmen at certificated repair stations with radio ratings can now maintain and approve avionics systems. Such employment should not be a requirement in order to perform maintenance and to approve avionics systems for return to service.
23273	Air Transport Assn	*Description of Petition:* To amend §§ 61.31, 61.157, and 121.437 to provide alternative means for issuance of type ratings to pilots employed by Part 121 certificate holders or for service as pilot-in-command without a type rating for the airplane. The petition provides for three options: (1) pilots employed by a FAR 121 operator may be issued a type rating by the FAA after successful completion of an approved aircraft qualification course and a flight check administered by the operator, (2) pilots employed by FAR Part 121 operators who successfully complete an approved aircraft qualification course may serve as P.I.C. of an airplane for that operator without a type rating for that airplane if the pilot holds a type rating on another airplane in the same group, and (3) pilots employed by Part 121 operators may be issued a type rating after successful completion of an approved aircraft qualification course and observed by an FAA inspector on at least one leg of his IOE. *Regulations Affected:* 14 CFR Portions of Parts 61 and 121. *Petitioner's Reason for Rule:* ATA contends that carriers which operate under Part 121 with approved and closely monitored training programs should also be considered competent to determine whether pilots are qualified for additional type ratings. This would apply to pilots who already hold an Airline Transport Pilot Certificate and a jet transport (Group II, per FAR 121.400) type rating and who complete an approved qualification course and flight check in a different type aircraft.

Petitions for Rulemaking: Withdrawn or Denied

Docket No.	Petitioner	Description and disposition of the petition
21756	Mr. Stanley J. Green, General Aviation Manufacturers Assoc. (GAMA).	Change to Section 21.50(b) of FAR issued in Amendment 21-51 effective October 14, 1980, as further modified in Amendment 21-51(A), effective December 29, 1980, to defer the compliance date of January 28, 1981, for general aviation airplanes and transport airplanes up to 75,000 pounds takeoff weight, with respect to compliance with the provisions of Parts 23.1529 and 25.1529, until such time as the objectives and intent of the FAA in accord with the original NPRM, are clarified and made known. *Withdrawn 8/20/82.*

[FR Doc. 82-26465 Filed 9-24-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-NM-49-AD]

British Aerospace DH/BH-125 Airplanes All Series; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an amendment to Airworthiness Directive (AD) 77-13-09 which would require the compliance time for the modification of the front pressure bulkhead on BH/DH-125 airplanes to include an age compliance time of ten years as well as the current 6,600 landings compliance. This action is necessary because corrosion crack propagation is time related.

DATE: Comments must be received on or before October 29, 1982. Compliance schedule as prescribed in the body to the AD, unless already accomplished.

ADDRESSES: The applicable service information and copies may be obtained from British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041 or may also be examined at the address shown below.

Send comments on this proposal to: FAA Northwest Mountain Region, Office of the Regional Counsel, Attn:

Airworthiness Rules Docket No. 82–NM–49–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT:
Mr. Harold N. Watier, Foreign Aircraft Certification Branch, ANM–150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767–2530. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C68966, Seattle, Washington, 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82–NM–49–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington, 98168.

Discussion

The British Aerospace Corporation has, in accordance with existing provisions of a bilateral agreement, notified the FAA of a discrepancy in the compliance time for modification in accordance with Mandatory Service Bulletin 53–46R–(2402) which is required by AD 77–13–09. The service bulletin requires compliance with the modification to the front pressure bulkhead and windshield post within 6,600 landings or upon the airplane reaching 10 years of age, whichever occurs first, on BH/DH–125 airplanes. The AD requires compliance within 25 landings after the effective date of the AD or prior to accumulating 6,600 total landings, whichever occurs later. Since the failures are a result of corrosion propagation, the safety achieved by the modification is lost if a calendar time is not also included.

Since these conditions are likely to exist or develop on airplanes of this type design registered in the United States, an AD is proposed that would amend AD 77–13–09 to require compliance within 100 landings for all airplanes that have either accumulated 6,600 total landings or are ten years old.

It is estimated that 300 airplanes may be affected by this amendment, that it will take approximately 180 man-hours per airplane to accomplish the required actions, and that the average labor cost will be $30 per man-hour. Repair parts are estimated at $2,400 per airplane. Based on these figures, the total cost impact of this AD is estimated to be 2.34 million dollars if none of the airplanes have been modified. It is believed that most operators have complied with AD 77–13–09 because most airplanes will have accumulated more than 6,600 landings. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by amending AD 77–13–09, Amendment 39–2934 (42 FR 31768), by revising the first paragraphs of items (a) and (b) to read as follows:

a. "For the following listed airplanes, prior to the accumulation of 6,600 total landings or upon reaching 10 years after the date of manufacture of the airplane, whichever occurs first, incorporate Hawker Siddeley modification 252402 in accordance with Section 2, Accomplishment Instructions of Hawker Siddeley Aviation, Ltd., Service Bulletin 53–46 (2402), dated June 30, 1975, or an FAA equivalent. Airplanes which have already exceeded 6,600 landings or are over 10 years from date of manufacture must be modified within the next 100 landings or 90 days, whichever occurs first.

b. "For the following listed airplanes, prior to the accumulation of 6,600 total landings or upon reaching 10 years after the date of manufacture of the airplane, whichever occurs first, comply with paragraph (c) or (d) of this AD as applicable. Airplanes which have already exceeded 6,600 landings or are over 10 years from date of manufacture must be modified within the next 100 landings or 90 days, whichever occurs first.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble: The FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities, because it involves few, if any, small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington, on September 20, 1982.

Leroy A. Keith,
Acting Director, Northwest Mountain Region.

[FR Doc. 82–26295 Filed 9–24–82; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–NM–68–AD]

Gates Learjet Model 35, 36, 35A, and 36A Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new Airworthiness Directive (AD), applicable to Learjet Models 35, 36, 35A, and 36A airplanes. This AD would require installation of a trim-in-motion warning, redesigned pitch axis master interrupt, improved takeoff out of trim warning system, modified Mach trim

system, modified stick pusher system, and modified overspeed warning system. Additionally, the proposal adds Airplane Flight Manual (AFM) procedures for the above changes. The AD is needed to provide the Learjet Model 30 series with a modified flight control system which will minimize the potential for hazardous flight conditions that may occur in the event of a pitch trim runaway, a mistrimmed takeoff, a stick pusher failure, or an elevator hardover.

DATE: Comments must be received on/or before November 15, 1982.

ADDRESSES: The applicable service information may be obtained from Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277.

Send comments on this proposal to: FAA Northwest Mountain Region, Office of the Regional Counsel, Attn: Airworthiness Rules Docket No. 82–NM–68–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Ben Sorensen, Aerospace Engineer, Wichita Aircraft Certification Office, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209, telephone (316) 269–7012.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the AD Docket Number and be submitted in duplicate to the address specified above. All comments received on or before the closing date for comments will be considered by the Administrator before action is taken on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82–NM–68–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

Data compiles during an indepth certification review by the Federal Aviation Administration and Gates Learjet Corporation revealed several areas in which certain system failures could cause potentially unsafe flight conditions. The review was instigated as a result of several Learjet accident investigations that indicated that failure of airplane systems may have been a contributing factor. As a result of the review, significant design changes were required for the Learjet Model 25 series airplanes.

The FAA extended their certification review to include the Model 35/36 series airplanes because of the aerodynamic and system similarities to the Model 25 series. During the Model 35/36 series review it was concluded that the malfunction of certain pitch axis control systems in the airplane could cause potentially unsafe flight conditions similar to those conditions noted on the Model 25 series airplane. The Model 35/36 series systems in question are the pitch trim, stick pusher, stick puller/Mach overspeed warning, pitch axis interrupt, Mach trim, and the takeoff out of trim warning.

The requirements presented in this proposed AD are based on an FAA certification review of the Model 35/36 series airplanes and are related to the following unsafe conditions:

A. The secondary pitch trim system may fail in a manner which could cause a trim runaway that is not detected until control forces required to override become unmanageable. Changes are being proposed that will:

1. Increase secondary trim system reliability,

2. Decrease recognition time in case of a runaway, and

3. Assure interruption of trim motion when the interrupt switch is actuated.

B. An undetected or latent failure in the stall prevention system may result in an 80 pound push on the control wheel. A "g" limiter system is being proposed to provide additional protection in the event of a pitch actuator hardover.

C. A single undetectable failure can cause loss of the stick puller and the aural overspeed warning system. The proposed modification will provide a preflight test to detect this failure.

D. Earlier Model 35/36 airplanes are equipped with a takeoff out-of-trim warning system design that results in the takeoff out-of-trim warning cockpit annunciation to be illuminated during a normal takeoff. The system was redesigned and incorporated into production. Learjet Modification Kit "Takeoff-Out-Of-Trim" changes the system to be the same as current production airplanes.

E. A single failure in the Mach trim system can result in an unacceptable hazardous flight maneuver. Learjet Service Bulletin SB 35/36–22–4C, "Mach Trim System," eliminates this failure possibility.

Since these conditions are likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being proposed which requires modification of Learjet Model 35/36 series airplanes to minimize the potential for hazardous flight conditions.

Aproximately 300 airplanes will be affected by this AD. It will take approximately 300 manhours per airplane to accomplish the required actions, and the average labor cost will be $30 per man-hour. Repair parts are estimated at $6,000 per airplane. The loss associated with one week of down time is estimated to be $3,500. Based on these figures, the total cost impact of this AD is estimated to be $5,550,000. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Gates Learjet: Applies to Gates Learjet models 35/35A, Serial Numbers 001 thru 506, and models 36/36A, Serial Numbers 001 thru 053, certificated in all categories. Compliance required within 18 months after the effective date of this AD, as indicated, unless previously accomplished.

A. Modify Learjet Models 35, 36, 35A, and 36A airplane flight control systems and control wheels in accordance with the following Gates Learjet Modification Kits (kits are being developed): Pitch Axis Interrupt, Trim-in-Motion, Stall Prevention (Stick Pusher) "g" Limiter, Overspeed Warning System Test, Mach Trim System and Takeoff-Out-Of-Trim Warning.

B. Insert in the appropriate sections of the existing Airplane Flight Manual (AFM) the FAA approved temporary Airplane Flight Manual Changes pertaining to procedures required as a result of the modification of the flight control system in accordance with Airplane Modification Kit. Upon completion of the modifications required by paragraph "A" of this AD and the insertion of the temporary AFM changes or equivalent permanent AFM revision, the identified, more

restrictive paragraphs of AD 80-19-11 set forth inTable II below are no longer applicable and may be removed.

TABLE II

Learjet model	AFM change date	Paragraph of AD 80-19-11 superseded
35, 36	(To be determined)	A/2, A/5, A/6.
35A, 36A	(To be determined)	A/2, A/5, A/6.

C. Prior to accomplishing the modification required by paragraph "A" of this AD, contact the FAA office noted in paragraph "E" of this AD if any other modification or alteration has been performed on the affected airplane for further instruction relative to the compatibility of these modifications and this AD.

D. Airplanes may be flown in accordance with FAR 21.197 to a location where modifications required by this AD can be accomplished.

E. An equivalent method of compliance with this AD must be approved by the Manager, Wichita Aircraft Certification Office, FAA Central Region, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble: the FAA has determined that this document (1) involves a proposed regulation which is not significant under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington, on September 15, 1982.

Leroy A. Keith,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-26297 Filed 9-24-82; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-69-AD]

Sundstrand Data Control Cockpit Voice Recorder Models AV-557A, AV-557B, and AV-557C; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: Sundstrand Data Control, Inc., Model AV-557A, AV-557B, and AV-557C Cockpit Voice Recorders (CVR) installed in transport-category airplanes may have intermittent operation, erroneous self-test indications, and/or sensor or tape-off-reel failures. These anomalies have been attributed to the wrong type of connector sockets used in the CVR tape deck housing. The failure of the CVR may result in loss of data necessary to determine the probable cause of an accident, and possibly prevent future accidents.

The proposed rule would require an inspection and replacement of, if necessary, the tape deck housing connector of all Models AV-557A, AV-557B, and AV-557C Cockpit Voice Recorders.

DATE: Comments must be received on or before November 29, 1982.

ADDRESSES: The applicable service information may be obtained from: Sunstrand Data Control, Inc., Overlake Industrial Park, Redmond, Washington 98052. This information may also be examined at the FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; or 9010 East Marginal Way South, Seattle, Washington. Send comments on this proposal to: FAA Northwest Mountain Region, Office of the Regional Counsel, Attn: Airworthiness Rules Docket No. 82-NM-69-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Mr. Ted T. Ebina, Systems & Equipment Branch, ANM-130S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2500.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available both before and after the closing date for comments in the rules docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the rules docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Directive Rules Docket, Docket No. 82-NM-69-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion: The FAA has been advised by Sundstrand Data Control, Inc., that some CVR's were manufactured with connectors containing split-ring, rather that full-ring sockets. The use of split type socket connectors does not ensure proper engagement of the mating interface to ensure consistent operation of cockpit voice recorders. Sundstrand Data Control, Inc., has issued Service Bulletin No. 012-0296-109, "Communications—Cockpit Voice Recorders/Models AV-557A, AV-557B, and AV-557C/Tape Deck Housing Connector Check," recommending that owners inspect the CVR's to determine the type of connector sockets used and contact the factory for replacement of any split type connectors with full-ring socket connectors. The split type connectors had been inadvertently introduced at the factory in approximately 580 CVR's and cannot be traced by examining equipment serial numbers. Inspection of the affected CVR models is the only method of determining if the correct tape deck housing full ring socket connectors are installed to ensure proper engagement of the mated parts.

Minor misalignment of the ring connector interfaces may occur with the split ring connector which could significantly affect the proper operation of CVR's by giving intermittent operation, erroneous self test indication, and sensor/tape-off-reel failure. An AD is proposed that would require an inspection of the tape deck housing connectors and replacement of split-ring socket connectors to assure that undetected failures of the CVR will not result in loss of data necessary for accident investigation.

It is estimated that 580 cockpit voice recorders will be affected by this AD and that it will take approximately ½ man-hour to identify the type of tape deck housing connector sockets used. Replacement of connectors will be accomplished at the factory at no charge until January 2, 1984. Based on these figures, the maximum cost of this AD to operators is estimated to be $14,500. For

these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Sundstrand Data Control, Inc.: Applies to Sundstrand Model AV–557A, AV–557B, and AV–557C Cockpit Voice Recorders (CVR) installed in any model aircraft. Within the next 2,000 hours time-in-service after the effective date of this AD, unless already accomplished, inspect the CVR tape deck housing connector socket and replace, if required, in accordance with Sundstrand Service Bulletin 012–0296–109, dated January 25, 1982.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affecterd by this proposal who have not already received this document may obtain copies upon request to Sundstrand Data Control, Inc., Overlake Industrial Park, Redmond, Washington 98052. This document may also be examined at the FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington, on September 15, 1982.

Leroy A. Keith,

Acting Director, Northwest Mountain Region.

[FR Doc. 82-25290 Filed 9-24-82; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[IC–12675; File No. S7–943]

Exchange Offers by Certain Registered Separate Accounts or Others the Terms of Which Do Not Require Prior Commission Approval

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule and related technical rule amendments.

SUMMARY: The Commission is publishing for comment a proposed rule under the Investment Company Act of 1940 that would permit any registered insurance company separate account or any principal under-writer therefor, subject to certain conditions, to make an exchange offer to the securityholders of certain registered separate accounts without the terms of that offer having first been submitted to and approved by the Commission. The proposed rule is intended to codify the standards that the Commission has developed with respect to applications seeking Commission approval of the terms of certain exchange offers and, if adopted, will eliminate the need for separate accounts to file individual applications with respect to such exchange offers.

DATE: Comments must be received by November 22, 1982.

ADDRESSES: Send comments, in triplicate, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comments should refer to File No. S7–943 and will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Thomas P. Lemke, Acting Special Counsel (202–272–2061), or Mary K. Crook, Attorney (202–272–3010), Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today is publishing for comment proposed rule 11a–2 under the Investment Company Act of 1940 [15 U.S.C. 80a–1 *et seq.*] ("Act"), relating to certain offers of exchange made by registered insurance company separate accounts or principal underwriters therefor (collectively sometimes referred to as "separate accounts") the terms of which are required by section 11 of the Act [15 U.S.C. 80a–11] first to be submitted to and approved by the Commission. The proposed rule would permit any separate account or any principal underwriter for such account (collectively the "offering account") to make an offer to a securityholder of that account or of other separate accounts having the same insurance company depositor or sponsor as the offering account to exchange his security for a security of the offering account without the terms of that offer having first been submitted to or approved by the Commission, subject to certain conditions described below. The Commission is also proposing related technical amendments to rule 0–1(e) [17 CFR 270.0–1(e)] of its General Rules and Regulations under the Act.

Background and Discussion

Section 11(a) of the Act [15 U.S.C. 80a–11(a)] makes it unlawful for any registered open-end investment company or any principal underwriter therefor to make an offer to the holder of a security of that company or any other open-end company to exchange his security for a security of the same or another such company "on any basis other than the relative net asset values of the respective securities to be exchanged * * *," unless the terms of the offer have first been submitted to and approved by the Commission or are in accordance with Commission rules in effect at the time the exchange offer is made. Section 11(c) of the Act [15 U.S.C. 80a–11(c)] provides, as relevant here, that the provisions of subsection 11(a) shall be applicable, irrespective of the basis of the exchange, to exchange offers involving a security of a registered unit investment trust.[1] As a registered investment company, any registered insurance company separate account[2] that makes an offer of

[1] Section 11(c) of the Act provides:

The provisions of subsection (a) shall be applicable, irrespective of the basis of exchange, (1) to any offer of exchange of any security of a registered open-end company for a security of a registered unit investment trust or registered face-amount certificate company; and (2) to any type of offer of exchange of the securities of registered unit investment trusts or registered face-amount certificate companies for the securities of any other investment company.

[2] A "separate account" is defined in section 2(a)(37) of the Act [15 U.S.C. 80a–2(a)(37)] as an account established and maintained by an insurance company pursuant to the laws of any state or governmental entity of the United States or Canada, under which income, gains or losses, whether or not realized, from the assets of such account are charged against such account without regard to other income, gains, or losses of the insurance company. A substantially identical definition of "separate account," as that term is used in various rules under the Act, is contained in

exchange to its securityholders or to securityholders of other registered investment companies must, of course, comply with the requirements of section 11 of the Act and, where necessary, obtain Commission approval of the terms of the exchange offer.

The legislative history of section 11 indicates that the purpose of that provision is to provide the Commission with an opportunity to examine the terms of certain exchange offers, and in particular any fees or charges imposed in connection therewith, to insure that the exchange offer is not being made primarily or solely "for the purpose of exacting additional selling charges" [3] from investors "for which they [receive] nothing but the privilege of making successive investments." [4]

A substantial number of applications for Commission approval of the terms of exchange offers pursuant to section 11 involve offers made by offering accounts to their securityholders or to securityholders of different separate accounts having the same insurance company depositors or sponsors as the offering accounts to exchange their securities for securities of the offering account. This type of exchange offer may take a variety of forms, depending upon the classification under the Act of the separate accounts involved.[5] Irrespective of the form, however, such offers generally raise similar issues of law and fact.

Applicants typically justify their requests for approval on the grounds that the exchange offers are in the best interests of securityholders and are not contrary to the legislative intent of section 11. Applicants assert that Commission approval will benefit securityholders by allowing applicants to offer securityholders the opportunity to change their contracts or the funding medium of their contracts when, in the opinion of securityholders, such a change is warranted by their changing investment objectives or by economic, market, or tax considerations. Applicants further assert that the exchange offers are consistent with section 11 because they are not being made solely or primarily for the purpose of "churning" a securityholder's investment, but rather are intended to, and in fact will, provide a substantial benefit to securityholders.

It has been the Commission's experience that such applications have demonstrated that the terms of the exchange offers generally are consistent with the legislative intent of section 11. Accordingly, Commission approval generally has been granted, provided that the offering account includes certain conditions in the offer which the Commission's judgment and experience have shown to be necessary and appropriate to insure that the abuses that Congress intended to be eliminated by section 11 will not occur.

In recognition of these circumstances, and in light of the Commission's rulemaking authority under section 11(a), the Commission is proposing rule 11a–2, which generally would codify the standards that the Commission has developed with respect to applications seeking Commission approval of the terms of the exchange offers herein described.[6] This rule, if adopted, should benefit securityholders by eliminating the unnecessary expenses and delays incurred by separate accounts in connection with obtaining individual orders of the Commission approving the terms of certain typical exchange offers and should significantly reduce the number of applications presently required to be processed by the Commission, thereby permitting the Commission to allocate its resources to other matters. A discussion of the proposed rule is set forth below.

Proposed Rule and Related Technical Amendments

Paragraph (b) of proposed rule 11a–2 provides that notwithstanding section 11 of the Act, any offering account may make an offer to the holder of a security of that account or of other separate accounts [7] having the same insurance company depositor or sponsor as the offering account [8] to exchange his security (termed the "exchanged security" in the proposed rule) [9] for a security of the offering account (termed the "acquired security" in the proposed rule), without the terms of that offer having first been submitted to and approved by the Commission, provided that two conditions are satisfied.

The first condition is prescribed by paragraph (b)(1), and provides that the exchange offer must be made on the basis of the relative net asset values of the securities to be exchanged, except that the offering account may deduct at the time of the exchange two amounts. Paragraph (b)(1)(i)(A) provides that the offering account may deduct an administrative charge that is reasonable in relation to the actual administrative costs incurred in effecting the exchange. Administrative costs could include, for example, costs incurred by the offering account for bookkeeping services, printing costs other than for the printing of prospectuses, postage, and similar costs incurred by contract salespersons.[10] Administrative costs

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rule 0–1(e) under the Act [17 CFR 270.0–1(e)]. A separate account may be registered under the Act as an open-end management company ("management account") or as a unit investment trust ("trust account").

[3] S. Rep. No. 1775, 76th Cong., 3d Sess. 7–8 (1940). *See* H.R. Rep. No. 2639, 76th Cong., 3d Sess. 8 (1940); *Hearings on H.R. 10065 Before a Subcomm. of the House Comm. on Interstate and Foreign Commerce*, 76th Cong., 3d Sess. 111 (June 13, 14, 1940). *See generally Investment Trusts and Investment Companies: Hearings on S. 3580 Before a Subcomm. of the Senate Comm. on Banking and Currency*, 76th Cong., 3d Sess. Part 2 951–957 (April 12, 15, 16, 17, 18, 19, 22, 23, 24, 25 and 26, 1940) (hereinafter "Hearings on S. 3580").

[4] Hearings on S. 3580, *supra* note 3, at 957.

[5] For example, an exchange offer may be made to a securityholder of a management account to exchange his security, funded by a particular portfolio of the separate account, for a security funded by a different portfolio of that account, for a different security funded by the same portfolio of that account, or for a security of a different management or trust account having the same insurance company depositor or sponsor as the offering account. Similarly, an offer may be made to a securityholder of a trust account to exchange his security, funded by a particular portfolio company of the trust account, for a security funded by a different portfolio company of that account, for a different security funded by the same portfolio company of that account, or for a security of a different management or trust account having the same insurance company depositor or sponsor as the offering account.

[6] Proposed rule 11a–2 is the first of several rules which the Commission expects to propose codifying existing Commission practices with respect to certain types of applications filed by separate accounts for exemptive and other relief under the Act.

[7] As noted *supra*, rule 0–1(e) of the General Rules and Regulations under the Act defines the term "separate account," as used in those rules, and sets forth conditions to the availability of exemptive relief for a separate account pursuant to those rules. The Commission is proposing to amend paragraphs (e) and (e)(2) of rule 0–1(e) to include rule 11a–2 as one of the rules listed therein.

[8] The Commission specifically requests comments on whether it is necessary or appropriate to expand the availability of the exemptive relief provided by the proposed rule to permit separate accounts having different insurance company sponsors or depositors to make exchange offers without Commission approval of the terms of those offers provided that the insurance companies have a common parent company.

[9] Paragraph (a)(2) of the proposed rule defines the term "exchanged security" to include not only the security or securities acutally exchanged in the exchange offer but also any security or securities previously exchanged for the exchanged security or its predecessors. This definition is intended to make clear that the relief afforded by the proposed rule would be available to exchange offers involving an exchanged security that itself was the result of one or more exchange offers, provided that the requirements of the proposed rule are satisfied, but that in such a situation the provisions of the rule limiting the amount and method of calculation of a sales load would be applied cumulatively.

[10] Of course, if a separate account proposing to make an exchange offer reasonably anticipates that it will incur significant brokerage expenses directly attributable to the exchange, it may consider these costs in determining the level of its administrative charge.

would not include commissions paid to salespersons. In this regard, the Commission wishes to emphasize that in its view the payment of commissions to salespersons as an incentive to solicit security holders to exchange their securities is inconsistent with the legislative intent of section 11. Paragraph (b)(1)(i)(B) requires that the administrative charge must be disclosed in Part I of the offering account's Registration Statement under the Securities Act of 1933 [15 U.S.C. 77a *et seq.*].[11]

Paragraph (b)(1)(ii) provides that the offering account also may deduct at the time of the exchange any front-end sales load [12] permitted by paragraph (c) of the proposed rule. Paragraph (c) prescribes two requirements in this regard. Paragraph (c)(1) provides that this sales load shall be a percentage that is no greater than the difference between the rate of any front-end sales load otherwise applicable to that security and the rate of any front-end sales load previously paid on the exchanged security. This condition reflects the terms of Commission orders in this area and is intended to insure that a securityholder who exchanges his security is credited for any front-end sales load previously paid on the security.[13] Paragraph (c)(2), which also reflects Commission orders in this area, provides that the total sales load paid on both the acquired and exchanged security shall not exceed 9 percent of the sum of the purchase payments made for the acquired security [14] and the exchanged security. This condition, which is analogous to the requirement of section 27(a)(1) of the Act [15 U.S.C. 80a–27(a)(1)] [15] that any sales load imposed on a periodic payment plan certificate not exceed 9 percent of total purchase payments to be made thereon, also reflects the terms of Commission orders in this area.

The second condition imposed by proposed rule 11a–2 is prescribed by paragraph (b)(2), which provides that if the offering account imposes a contingent deferred sales load [16] on the acquired security, then this sales load shall be calculated in the manner prescribed by paragraphs (d) or (e) of the proposed rule, depending upon whether the exchanged security was subject to a contingent deferred sales load [17] or a front-end sales load was paid on that security.

If the exchanged security was subject to a contingent deferred sales load, paragraph (d) imposes two requirements with respect to the method of computation and the amount of any contingent deferred sales load that the offering account may impose on an acquired security. First, paragraph (d)(1) requires the "tacking" of time for the purpose of calculating the amount of any contingent deferred sales load, *i.e.*, the sales load must be calculated both as if the holder of the acquired security had been a holder of that security from the date on which he became the holder of the exchanged security and as if purchase payments made for the exchanged security had been made for the acquired security on the date on which they were made for the exchanged security. These conditions reflect Commission orders in this area and, similar to paragraph (c)(1), are intended to insure that any securityholder who exchanges his security is credited, for purposes of the computation of any contingent deferred sales load, for the length of time that he held the exchanged security. Second, paragraph (d)(2), which is similar in theory to paragraph (c)(2), provides that any contingent deferred sales load imposed on an acquired security shall not exceed 9 percent of the sum of the purchase payments made for the acquired security and the exchanged security.

If a front-end sales load was paid on the exchanged security, then paragraph

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[11] Paragraph (b)(1) would not provide the offering account with exemptive relief from sections 26(a)(2)(C) [15 U.S.C. 80a–26(a)(2)(C)] and 27(c)(2) [15 U.S.C. 80a–27(c)(2)] of the Act for deduction of an administrative charge. Section 26(a)(2)(C) of the Act provides generally that no principal underwriter or depositor for a trust account shall sell any security of which such trust is the issuer unless the instrument pursuant to which that security is issued provides that no payment to the depositor of or principal underwriter for such trust shall be allowed the trustee as an expense, except that provision may be made for the payment to such person of a fee, not exceeding such reasonable amount as the Commission may prescribe as compensation for performing bookkeeping and other administrative services. This provision is made applicable to management accounts issuing periodic payment plan certificates by section 27(c)(2) of the Act, and it has been the Commission's position that if payment for a security of a separate account is permitted to be made with more than one purchase payment, the security is a periodic payment plan certificate subject to section 27 of the Act. In most cases, however, such exemptive relief would not be necessary because the offering account would have previously obtained an exemptive order permitting the deduction of this charge in connection with exchanges.

[12] Paragraphs (a)(3) and (a)(1) define, respectively, the terms "front-end sales load" and "contingent deferred sales load." For purposes of the proposed rule, a front-end sales load is a sales load that is deducted from a purchase payment before it is invested in a separate account while a contingent deferred sales load is a sales load that is deducted at the time all or a portion of the amount representing a securityholder's interest in a separate account is redeemed or annuitized (see note 16 *infra*).

[13] Thus, for example, if a front-end sales load of 9 percent is to be imposed on the acquired security, and a front-end sales load of 6 percent was paid previously on the exchanged security, then the maximum front-end sales load that could be imposed on the acquired security in reliance on the proposed rule would be 3 percent.

Assuming the facts above except that the exchanged security itself was the result of more than one exchange offer and that a cumulative front-end sales load equal to 7 percent of total purchase payments had been paid on the exchanged security and its predecessors, then the maximum front-end sales load that would be imposed on the acquired security in reliance on the proposed rule would be 2 percent.

On the other hand, if a front-end sales load of 6% is to be imposed on the acquired security, and a front-end sales load of 9% was paid previously on the exchanged security, then no sales load may be imposed on the acquired security.

[14] Paragraph (a)(4) of the proposed rule provides that the phrase "purchase payments made for the acquired security," as used in subparagraphs (c)(2) and (d)(2), shall not include any purchase payments made for the exchanged security or appreciation attributable to those purchase payments transferred to the offering account in connection with the exchange. This provision is intended to insure that purchase payments made for the exchanged security are not, for purposes of the 9 percent limitation of paragraphs (c)(2) and (d)(2) of the proposed rule, considered both as purchase payments made for the exchanged security and as a purchase payment made for the acquired security, and that any appreciation attributable to purchase payments made for the exchanged security is not, for purposes of paragraphs (c)(2) and (d)(2), considered to be a purchase payment made for the acquired security. The phrase "appreciation attributable" to purchase payments made for the exchanged security, as used in paragraph (a)(4), is intended to include any amounts credited to a securityholder's interest in a separate account as a result of the income, gains, or both of that account.

[15] Section 27(a)(1) of the Act provides that:

It shall be unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor or underwriter for such company, to sell any such certificate, if—

(1) The sales load on such certificate exceeds 9 per centum of the total payments to be made thereon * * *.

As discussed in note 11 *supra*, section 27 of the Act is applicable to separate accounts issuing periodic payment plan certificates.

[16] A "contingent deferred sales load," as that term is commonly used, is generally understood to be a deferred sales load the imposition of which is contingent either upon redemption of all or a portion or the amount representing a securityholder's interest in a separate account or, in certain cases, upon annuitization of that amount prior to a specified period of time such as, for example, within five years of the date of purchase. The definition of "contingent deferred sales load" included in paragraph (a)(1) of the proposed rule is broader than this common understanding, however, in that this definition also includes any "deferred sales load." A deferred sales load is a sales load that is deferred until all or a portion of the amount representing a securityholder's interest in a separate account is redeemed or annuitized, but its imposition is not subject to any contingency.

[17] Consistent with exemptive orders previously issued under section 11, the proposed rule does not permit a contingent deferred sales load to be imposed upon the redemption of the exchanged security in connection with the exchange offer.

(e) provides that any contingent deferred sales load imposed on the acquired security may not be imposed on purchase payments made for the exchanged security or appreciation attributable to purchase payments made for the exchanged security that are transferred in connection with the exchange. This paragraph is intended to insure that purchase payments made for the exchanged security for which a front-end sales load was paid, and appreciation attributable to those purchase payments, will not subsequently be subject to a contingent deferred sales load by the offering account.

Finally, paragraph (f) expressly excludes from reliance on the proposed rule any exchange offer which involves an exchanged or acquired security upon which both front-end sales load and a contingent deferred sales load are imposed or are to be imposed. While this type of security has been registered, the Commission has not yet had sufficient experience through the application procedure to determine, by rule, appropriate standards for exchange offers involving it.[18]

List of Subject in 17 CFR Part 270

Investment companies, Reporting requirements, Securities.

Text of Proposed Amendments to Rule 0–1(e) and Proposed Rule 11a–2

PART 270–GENERAL RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is proposed to be amended as follows:

1. By revising paragraphs (e) and (e)(2) of § 270.0–1 to read as follows:

§ 270.0–1 Definition of terms used in this part.

* * * * *

(e) Definition of separate account and conditions for availability of exemptions under §§ 270.6c–6, 270.11a–2, 270.14a–2, 270.15a–3, 270.16a–1, 270.22d–3, 270.22c–1, 270.27a–1, 270.27a–2, 270.27a–3, 270.27c–1, and 270.32a–2 of this chapter.

* * * * *

(2) As conditions to the availability of exemptive Rules 6c–6, 11a–2, 14a–2, 15a–3, 16a–1, 22d–3, 22c–1, 27a–1, 27a–2, 27a–3, 27c–1, and 32a–2, the separate account shall be legally segregated, the assets of the separate account shall, at the time during the year that adjustments in the reserves are made, have a value at least equal to the reserves and other contract liabilities with respect to such account, and at all other times, shall have a value approximately equal to or in excess of such reserves and liabilities; and that portion of such assets having a value equal to, or approximately equal to, such reserves and contract liabilities shall not be chargeable with liabilities arising out of any other business which the insurance company may conduct.

2. By adding § 270.11a–2 to read as follows:

§ 270.11a–2 Offers of exchange by certain registered separate accounts or others the terms of which do not require prior Commission approval.

(a) As used in this section:

(1) "Contingent deferred sales load" shall mean any sales load, including a deferred sales load, that is deducted upon redemption or annuitization of amounts representing all or a portion of a securityholder's interest in a separate account;

(2) "Exchanged security" shall include not only the security or securities of a securityholder actually exchanged in an exchange offer but also any security or securities of the securityholder previously exchanged for the exchanged security or its predecessors;

(3) "Front-end sales load" shall mean any sales load that is deducted from one or more purchase payments made by a securityholder before they are invested in a separate account; and

(4) "Purchase payments made for the acquired security," as used in paragraphs (c)(2) and (d)(2) of this section, shall not include any purchase payments made for the exchanged security or any appreciation attributable to those purchase payments that are transferred to the offering account in connection with an exchange.

(b) Notwithstanding section 11 of the Act [15 U.S.C. 80a–11], any registered separate account or any principal underwriter for such an account (collectively the "offering account") may make or cause to be made an offer to the holder of a security of the offering account or of any other registered separate account having the same insurance company depositor or sponsor as the offering account to exchange his security (the "exchanged security") for a security of the offering account (the "acquired security") without the terms of such exchange offer having first been submitted to and approved by the Commission, *Provided*, That

(1) The exchange is made on the basis of the relative net asset values of the securities to be exchanged, except that the offering account may deduct at the time of the exchange

(i) An administrative charge that

(A) Is reasonable in relation to the administrative costs incurred in connection with the exchange and

(B) Is disclosed in Part I of the offering account's Registration Statement under the Securities Act of 1933, and

(ii) Any front-end sales load permitted by paragraph (c) of this section, and

(2) If the offering account imposes a contingent deferred sales load on the acquired security, then this sales load, if imposed, shall be calculated in the manner prescribed by paragraph (d) or (e) of this section.

(c) If the offering account imposes a front-end sales load on the acquired security, then such sales load

(1) Shall be a percentage that is no greater than the difference between the rate of the front-end sales load otherwise applicable to that security and the rate of any front-end sales load previously paid on the exchanged security, and

(2) Shall not exceed 9 percent of the sum of the purchase payments made for the acquired security and the exchanged security.

(d) If the offering account imposes a contingent deferred sales load on the acquired security and the exchanged security also was subject to a contingent deferred sales load, then any contingent deferred sales load imposed on the acquired security

(1) Shall be calculated as if

(i) The holder of the acquired security had been the holder of that security from the date on which he became the holder of the exchanged security and

(ii) Purchase payments made for the exchanged security had been made for the acquired security on the date on which they were made for the exchanged security, and

(2) Shall not exceed 9 percent of the sum of the purchase payments made for the acquired security and the exchanged security.

(e) If the offering account imposes a contingent deferred sales load on the acquired security and a front-end sales load was paid on the exchanged security, then any contingent deferred sales load imposed on the acquired security may not be imposed on purchase payments made for the exchanged security or any appreciation attributable to purchase payments made for the exchanged security that are transferred in connection with the exchange.

[18] The Commission specifically requests comments on whether it is necessary or appropriate to include within the proposed rule securities that are subject to a front-end and a contingent deferred sales load, and, if so, what limitations on the amount and method of calculation of sales loads should be applied to exchange offers involving such securities.

(f) Notwithstanding the foregoing, no offer of exchange shall be made in reliance on this section if both a front-end sales load and a contingent deferred sales load are to be imposed on the acquired security or if both such sales loads are imposed on the exchanged security.

Paperwork Reduction Act

The information collection required by the rule has been submitted to the Office of Management and Budget for clearance.

Statutory Authority

The Commission proposes rule 11a–2 pursuant to the provisions of sections 11(a) [15 U.S.C. 80a–11(a)] and 38(a) [15 U.S.C. 80a–37(a)] of the Act. The Commission proposes related technical amendments to rule 0–1(e) [17 CFR 270.0–1(e)] pursuant to the provisions of section 38(a) [15 U.S.C. 80a–37(a)] of the Act.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that rule 11a–2, if adopted, will not have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release.

Dated: September 20, 1982.

By the Commission.

George A. Fitzsimmons,

Secretary.

Regulatory Flexibility Act Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that proposed rule 11a–2 under the Investment Company Act of 1940 ("Act"), if adopted, will not have a significant economic impact on a substantial number of small entities. The reason for this certification is that there are few, if any, registered insurance company separate accounts that qualify as "small entities," as that term has been defined in the Commission's rules. Moreover, the reduction in costs to such separate accounts, if any, resulting from the proposed rule's elimination of their need to file exemptive applications seeking Commission approval of the terms of certain routine exchange offers will not have a significant economic impact on any such separate accounts.

Dated: September 20, 1982.

John S. R. Shad,

Chairman.

[FR Doc. 82–26467 Filed 9–24–82; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 886 and 901

Abandoned Mine Land Reclamation Program; Alabama

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Receipt of the Abandoned Mine Land Reclamation (AMLR) Grant Amendment from the State of Alabama.

SUMMARY: On July 27, 1982, the State of Alabama submitted to OSM its proposed Abandoned Mine Land Reclamation (AMLR) grant amendment to add six projects under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comment on the adequacy of the State grant amendment.

DATE: Written comments on the amendment must be received on or before 5:00 p.m., October 27, 1982.

ADDRESS: Copies of the full text of the proposed Alabama grant amendment are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Alabama Field Office, 228 West Valley Avenue, Room 302, Birmingham, Alabama 35209;
and
State of Alabama, Department of Industrial Relations, 649 Monroe Street, Montgomery, Alabama 36130.

Written comments should be sent to: Field Office Director, John T. Davis, Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, Room 302, Birmingham, Alabama, 35209.

FOR FURTHER INFORMATION CONTACT: Roger Wiedeburg, Program Specialist, Alabama Field Office, Telephone (205) 254–0953 or 4.

SUPPLEMENTARY INFORMATION: On July 27, 1982, OSM received an AMLR grant amendment from the State of Alabama. The purpose of this submission is to implement the State reclamation program as codified in 30 CFR, Chapter VII, Subchapter T, Part 901 as published in the **Federal Register** 47 FR 22060 on May 20, 1982.

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, establishes and AMLR program for the purposes of reclaiming and restoring land and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State and Federal law.

Each State having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA may submit to the Secretary a State reclamation grant application to implement the provisions of the approved State Reclamation Plan.

However, grants for mine reclamation may be issued only to States with an approved Title V Regulatory Program and an approved State Reclamation Plan.

A State Reclamation Plan for Alabama was submitted to the Secretary on May 29, 1981 and approved on May 20, 1982 which demonstrated the capability of the State to administer an AMLR program in accordance with Title IV of SMCRA. In approving the State Plan, the Secretary determined that the State had the necessary State legislation to implement the provisions of the Plan.

This notice describes the nature of the proposed additional projects and sets forth information concerning public participation in the Director's determination of whether or not the submitted amendment should be approved.

Approval of the amendment would result in the implementation of the approved additional projects for the reclamation of abandoned mine lands in Alabama.

All written comments must be mailed or hand carried to the Field Office above.

The comment period will close at 5:00 p.m. on October 27, 1982. Comments received after that time may not necessarily be considered. During the comment period representatitives of the Field Office will be available to meet between 8:00 a.m. and 4:00 p.m. at the request of members of the public to receive their advice and recommendations concerning the proposed State AMLR amendment.

Persons wishing to meet with representatives of the Field Office during this time period may place such requests with John T. Davis, Field Office Director, telephone (205) 229–0953 at the Field Office above.

Meetings may be scheduled at the Field Office between 9 a.m. and noon

and 1 p.m. and 4 p.m. Monday through Friday excluding holidays.

OSM intends to continue to discuss the State's amendment with representatives of the State throughout the review process.

In order to comply with the requirements of the National Environmental Policy Act, OSM will assess the environmental effects of all State reclamation projects. The primary basis for this assessment will be the environmental information provided in the project grant amendment.

The Alabama AMLR grant amendment can be approved if:

1. The Director finds that the public has given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.
2. Views of other Federal agencies have been solicited and considered.
3. The amendment meets all the requirements of the OSM, AMLR program provisions and the required Federal circulars.
4. The State has an approved regulatory program and an approved State reclamation plan.

The following constitutes a summary of the contents of the amendment:

1. Designation of authorized State Agency to administer the program,
2. Objectives and need for the assistance,
3. Project ranking and selection,
4. Coordination with other reclamation programs,
5. Results and benefits expected,
6. Plan of action pertaining to the scope,
7. Monthly or quarterly projections of accomplishments to be achieved,
8. Kinds of data to be collected and maintained,
9. Criteria used to evaluate the results and success of the projects,
10. Key individuals to be employed,
11. Precise location of the project and area to be served,
12. Budgetary calculations for each project,
13. Description of the public's participation in planning and preparation of the grant application, and
14. A complete environmental assessment for each project.

Reclamation projects included in amendment, location, and description:

1. Title: Mineral Spring Project, Location: Jefferson County, Description: Abandoned mine portals, airshafts, subsidence-prone areas, dangerous highwall, hazardous mine related structures and associated problems;
2. Title: Sumter, South Project, Location: Jefferson County, Description: Dangerous highwalls, mine portals, abandoned coal loading facility and associated problems;
3. Title: Gurnee Project, Location: Shelby County, Description: Abandoned mine portals, airshaft, dangerous embankment and associated problems;
4. Title: Upper Bear Creek (Phase II) Project, Location: Franklin, Marion and Winston Counties, Description: Restoration of abandoned mine sites which are located in close proximity to the reservoir of potable water supply for the residents of the area;
5. Title: Texas Project, Location: Marion County, Description: Abandoned mine portals, airshafts, abandoned support facilities and other associated problems;
6. Title: Big Bridge Project, Location: Cullman County, Description: Highwalls and inadequately reclaimed surface-mined areas.

List of Subjects

30 CFR Part 886

Coal mining, Grant programs, Natural resources, Reporting requirements, Surface mining, Underground mining.

30 CFR Part 901

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: September 21, 1982.

William B. Schmidt,

Acting Director, Office of Surface Mining.

[FR Doc. 82-26510 Filed 9-24-82; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 934

Cancellation of Public Hearing on Modified Portions of the North Dakota Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Cancellation of public hearing.

SUMMARY: Because no one expressed an interest, OSM is announcing the cancellation of a public hearing on the adequacy of amendments to the North Dakota permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 submitted to OSM by the State for the Director's approval.

This notice cancels the public hearing but does not alter the time and location at which the North Dakota program and proposed amendments are available for public inspection, or the comment period during which interested persons may submit written comments on the proposed program elements.

DATE: The following hearing is cancelled: The public hearing on the proposed modifications to the North Dakota program, September 20, 1982.

ADDRESSES: Written comments should be mailed or hand-delivered to: Office of Surface Mining Reclamation and Enforcement, Wyoming Field Office, P.O. Box 1420, Mills, Wyoming 82644.

FOR FURTHER INFORMATION CONTACT: Mr. William Thomas, Director, Wyoming Field Office, Office of Surface Mining, P.O. Box 1420, Mills, Wyoming 82644. Telephone (307) 328-5830.

SUPPLEMENTARY INFORMATION: On September 10, 1982, notice of oppportunity for a public hearing on the proposed modifications to the North Dakota program was published in the **Federal Register** (47 FR 39868). The proposed modifications were submitted to OSM by North Dakota for the Secretary's approval. Some of the proposed changes are intended to satisfy conditions of the Secretary's approval of the North Dakota program.

The notice stated that any person interested in making an oral or written presentation should contact Mr. William Thomas by September 21, 1982, and that if no person contacted Mr. Thomas to express an interest in participating in the hearing by the above date, the hearing would be cancelled. Because no one expressed an interest in attending the hearing by September 21, 1982, the hearing has been cancelled.

While there is not public hearing, interested persons may still submit written comments on the proposed program elements. Written comments must be received on or before 4:00 p.m. on October 12, 1982, to be considered in the Secretary's decision on whether the proposed modifications satisfy the Secretary's conditions of approval and/or meet the standards for approval of State program amendments at 30 CFR Part 732.

Written comments should be mailed or hand-delivered to: Mr. William Thomas, Director, Wyoming Field Office, Office of Surface Mining Reclamation and Enforcement at the address listed above.

Dated: September 22, 1982.

Wm. B. Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 82-26509 Filed 9-24-82; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 950

Abandoned Mine Land Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: On April 15, 1982, the State of Wyoming submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). On August 16, 1982, the State of Wyoming submitted revisions to its Plan. OSM is seeking public comment on the adequacy of the revised State Plan submission.

DATES: Written comments on the Plan must be received on or before 5:00 p.m., November 12, 1982. Written comments on whether OSM should hold a public hearing on the Plan must be received by 5:00 p.m., October 12, 1982. If requested, a public hearing will be held on October 15, 1982 at 1:30 p.m. and will continue until all discussions have been completed. The hearing may be cancelled, as discussed under Supplementary Information below.

ADDRESSES: The public hearing, if held, will be at Ramada Inn, at Interstate 25 and Center, Casper, Wyoming. The hearing may be cancelled, as discussed under Supplementary Information below. Copies of the full text of the proposed Wyoming Plan are available for review during regular business hours at the following locations:.

State of Wyoming, Land Quality Division, 401 West 19th Street, Cheyenne, Wyoming 80202

Office of Surface Mining Reclamation and Enforcement, Northwest Field Office, P.O. Box 1420, 935 Pendell Blvd., Mills, Wyoming 82644

Office of Surface Mining Reclamation and Enforcement, Administrative Record-Room 5315, 1100 "L" Street, N.W., Washington, D.C. 20240.

Written comments must be mailed or hand carried to: Office of Surface Mining Reclamation and Enforcement, Northwest Field Office, P.O. Box 1420, 935 Pendell Blvd., Mills, Wyoming 82644.

Comments received after 5:00 p.m., November 12, 1982 will not necessarily be considered or included in the administrative record for this rulemaking.

The administrative record will be available for public review at OSM's Northwest Field Office in Mills, Wyoming, on Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

FOR FURTHER INFORMATION CONTACT: Ronald Bertram, Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, P.O. Box 1420, 935 Pendell Blvd., Mills, Wyoming 82644, Telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 *et. seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977 and for which there in no continuing reclamation responsibility under State or Federal law.

Title IV provides that if the Secretary determines that a State has developed and submitted a program for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of Title IV, the Secretary may approve the State program and grant to the State exclusive responsibility and authority to implement the approved program.

On April 15, 1982, OSM received a proposed Abandoned Mine Land Reclamation Plan from the State of Wyoming. On August 16, 1982 the State submitted revisions to its Plan. The purpose of this submission is to demonstrate both the intent and capability to assume responsibility for administering and conducting the provisions of SMCRA and OSM's Abandoned Mine Land Reclamation (AMLR) Program (30 CFR Chapter VII, Subchapter R) as amended in the **Federal Register** (FR) on June 30, 1982, 47 FR 28574–28604.

This notice describes the proposed program and sets forth information concerning public participation in the Assistant Secretary's determination of whether or not the submitted Plan may be approved. The public participation requirements for the consideration of a State Plan are found in 30 CFR 884.13 and 884.14 (47 FR 28600–28601 (1982)). Additional information may be found under corresponding sections of the preamble to OSM's AMLR Rules (47 FR 28587–28588 (1982)).

The receipt of the Wyoming Plan submission is the first step in the process which will result in the establishment of a comprehensive program for the reclamation of abandoned mine lands in Wyoming.

By submitting a proposed Plan, Wyoming has indicated that it wishes to be primarily responsible for this program. If the submission is approved by the Assistant Secretary for Energy and Minerals of the Department of the Interior, the State will have primary responsibility for the reclamation of abandoned mine lands in Wyoming.

All written comments must be mailed or hand carried to OSM's Northwest Field Office at the Mills, Wyoming address listed above under "Addresses." Written comments may be hand carried to the public hearing, if a public hearing is found to be necessary, and submitted as exhibits to the proceedings.

If OSM's Field Office Director finds that the State has given the public adequate notice and opportunity to comment in public hearings, and that the record of such hearings do not reflect major unresolved controversies and that there are not a significant number of requests during the 15-day period to comment on the need for a hearing, the hearing will be cancelled.

Written comments on the issue of waiver of the public hearing must be received by 5:00 p.m., October 12, 1982.

Representatives of OSM's Field Office Director will be available to meet Monday through Friday, excluding holidays, between 8:00 a.m. and 4:00 p.m. at OSM's office in Mills, Wyoming, indicated above under "Addresses", at the request of members of the public to receive their advice and recommendations concerning the proposed Wyoming Reclamation Plan and Program.

Persons wishing to meet with representatives of the Field Director's Office during this time period may place such request with Ronald Bertram, telephone (307) 261–5776.

The Department intends to continue to discuss the State's Plan with representatives of the State throughout the review process. All contacts between Departmental personnel and representatives of the State will be conducted in accordance with OSM's guidelines on contacts with States published September 19, 1979 at 44 FR 54444.

The Office of Surface Mining has examined this proposed rulemaking under Section 1(b) of Executive Order No. 12291 (February 17, 1981) and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local

government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule will not have significant economic effects on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

Further, the Office of Surface Mining has determined that the Wyoming Plan will not have a significant effect on the quality of the human environment because the decision relates only to the policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of the Interior Manual DM 5162.3(A)(1), the Assistant Secretary's decision on the Wyoming Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment (EA) or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Moreover, an EA or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

The Wyoming Abandoned Mine Land Reclamation Plan can be approved if:

1. The Assistant Secretary finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.

2. Views of other Federal agencies have been solicited and considered.

3. The State has the legal authority, policies and administrative structure to carry out the Plan.

4. The Plan meets all requirements of the OSM, AMLR Program Provisions.

5. The State has an approved Surface Mining Regulatory Program.

6. It is determined that the Plan is in compliance with all applicable State and Federal laws and regulations.

The Wyoming Division of Land Quality has been designated by the Governor of the State of Wyoming to implement and enforce the Abandoned Mine Land Reclamation Program in accordance with SMCRA. The Department has developed State regulations to carry out the State mandate. Contents of the State Plan submission include:

(a) A designation by the Governor of the State of the agency authorized to administer the State reclamation program and to receive and administer grants under 30 CFR Part 886.

(b) A legal opinion from the State Attorney General or the chief legal officer of the State agency that the designated agency has the authority under State law to conduct the program in accordance with the requirements of Title IV of the Act.

(c) A description of the policies and procedures to be followed by the designated agency in conducting the reclamation program, including—

(1) The purposes of the State reclamation program;

(2) The specific criteria, consistent with Section 403 of the Act for ranking and identifying projects to be funded;

(3) The coordination of reclamation work among the State reclamation program, the Rural Abandoned Mine Program administered by the Soil Conservation Service, the reclamation programs of any Indian tribes located within the States, and OSM's reclamation programs; and

(4) Policies and procedures regarding land acquisition, management and disposal under 30 CFR Part 879;

(5) Policies and procedures regarding reclamation on private land under 30 CFR Part 882;

(6) Policies and procedures regarding rights of entry under 30 CFR Part 877;

(7) Public participation and involvement in the preparation of the State reclamation plan and in the State reclamation program.

(d) A description of the administrative and management structure to be used in conducting the reclamation program, including—

(1) The organization of the designated agency and its relationship to other State organizations or officials that will participate in or augment the agency's reclamation capacity;

(2) The personnel staffing policies which will govern the assignment of personnel to the State reclamation program;

(3) The purchasing and procurement systems to be used by the agency. Such systems shall meet the requirements of Office of Management and Budget Circular A–102, Attachment O; and

(4) The accounting system to be used by the agency, including specific procedures for the operation of the State Abandoned Mine Reclamation Fund.

(e) A general description, derived from available data, of the reclamation activities to be conducted under the State reclamation plan, including the known or suspected eligible lands and waters within the State which require reclamation, including—

(1) A map showing the general location of known or suspected eligible lands and waters;

(2) A description of the problems occurring on these lands and waters; and

(3) How the plan proposes to address each of the problems occurring on these lands and waters.

(f) A general description, derived from available data, of the conditions prevailing in the different geographic areas of the State where reclamation is planned, including—

(1) The economic base;

(2) Significant esthetic, historic or cultural, and recreational values; and

(3) Endangered and threatened plant, fish, and wildlife and their habitat.

List of Subjects in 30 CFR Part 950

Coal mining, Intergovernmental regulations, Surface mining, Underground mining.

Dated: September 13, 1982.

Recommended:

J. R. Harris,

Director, Office of Surface Mining.

Dated: September 20, 1982.

Approved:

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

[FR Doc. 82-26504 Filed 9-24-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD-7-82-02]

Establishment of Special Anchorage Area in Biscayne Bay, Miami, FL

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the City of Miami, FL, the Coast Guard is proposing to establish a Special Anchorage Area in Biscayne Bay offshore from Dinner Key. This Special Anchorage Area would demarcate the location of an area where the City intends to place permanent moorings, and it would relieve the operators of vessels moored in there of the requirement to display

appropriate lights and shapes while at anchor.

DATE: Comments must be submitted on or before October 27, 1982.

ADDRESSES: Comments should be mailed to Commander (m), Seventh Coast Guard District, 51 SW. First Avenue, Miami, FL 33130. The comments and other materials referenced in this notice will be available for inspection or copying at Room 1231, 51 SW. First Avenue, Miami, FL 33130. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Robert Buford, Commander (m), Seventh Coast Guard District, 51 SW. First Avenue, Miami, FL 33130, (305) 350–5651.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD–7–82–02), and the specific section of the proposal to which their comments apply, and give the reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelop is enclosed.

This rule may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this notice are Lieutenant Robert Buford, Project Officer, Marine Safety Division, Seventh Coast Guard District and Lieutenant Michael T. Harris, Project Attorney, Legal Officer, Seventh Coast Guard District.

Discussion of Proposed Rule

This Special Anchorage Area is being proposed by the Coast Guard in the interests of navigational safety to demarcate this anchorage area on navigational charts. Any vessel of not more than 65 feet in length may anchor within this area without displaying the light and shape for a vessel at anchor. This area will have permanent moorings placed in it by the City of Miami which, with or without any moored vessels, would be an obstruction to navigation. This area is part of a traditional anchoring ground offshore from the marina complex at Dinner Key. There is a channel marked by lights and daybeacons which passes adjacent to the proposed Special Anchorage Area which leads into Dinner Key from Biscayne Bay.

These proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplication, Analysis and Review of Regulations (DOT Order 2100.5 of May 22, 1980). An economic evaluation of the proposals has not been conducted since their impact is expected to be minimal. In accordance with Section 605(d) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule will not have a significant economic impact on a substantial number of small entities.

This Special Anchorage Area is a portion of an area now being used by owners/operators who either live on board their vessels at anchor or leave their anchored vessels unoccupied. This regulation will not place any special restriction on the use of this or adjacent areas for anchoring/mooring except for the area specified by this Rule. The City may restrict use of the Special Anchorage Area to only those vessels using the permanent moorings, to avoid dangerous overcrowding within the anchorage. Reasonable fees for the upkeep of the moorings may be charged by the City, which is responsible for maintaining good order within the anchorage.

List of Subjects in 33 CFR Part 110

Anchorages.

PART 110—ANCHORAGE REGULATIONS

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations, by adding § 110.73b to read as follows:

§ 110.73b Dinner Key, FL.

Beginning at a point approximately 112 feet southwesterly from Dinner Key Channel Light 15 (LLNR 860) at latitude 25°43'28" N., longitude 80°13'52" W.; thence southwesterly to latitude 25°43'22" N., longitude 80°13'50" W.; thence southeasterly to latitude 25°43'20" N., longitude 80°13'56" W.; thence northwesterly to latitude 25°43'24" N., longitude 80°14'02" W.; thence northeasterly to the beginning.

Note.—Vessels desiring to use this anchorage must first obtain a permit from the Harbormaster, Dinner Key Marina.

(Sec. 1, 30 Stat. 98 as amended (33 U.S.C. 180); Sec. 6(g)(1)(B), 80 Stat. 937; (49 U.S.C. 1655(g)(1)(B); 49 CFR 1.46(c)(2)))

Dated: August 30, 1982.

D. C. Thompson,

Rear Admiral, USCG Commander, Seventh Coast Guard District.

[FR Doc. 82-26001 Filed 9-24-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Docket No. AW010WV; A–3–FRL 2215–1]

West Virginia State Implementation Plan; Extension of Time

AGENCY: Environmental Protection Agency.

ACTION: Notice of time extension to correct deficiencies in the West Virginia State Implementation Plan.

SUMMARY: On May 17, 1982, the United States Supreme Court denied West Virginia's writ of certiorari thus upholding the Third Circuit Court of Appeals decision and the EPA Order to submit a sulfur dioxide (SO_2) control strategy demonstration for the Harrison and Mitchell power plants. Because submittal of the required control strategy demonstration prior to resolution of the litigation would have been inappropriate, the State is now requesting eight months from the date of the Supreme Court decision to complete and submit this information. EPA is approving this request and the SO_2 control strategy demonstration must now be submitted on or before January 17, 1983.

FOR FURTHER INFORMATION CONTACT: Eileen M. Glen, Environmental Protection Specialist, U.S. Environmental Protection Agency, Region III, 3AW13, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania, 19106, (215–597–8187).

SUPPLEMENTARY INFORMATION: On November 9, 1978 [43 FR 52239] EPA approved amendments to the West Virginia Air Pollution Control Commission's Regulation X as a revision to the State Implementation Plan (SIP) for control of SO_2 emissions from electric power generating plants. Those amendments, as they applied to the Mitchell and Harrison power stations were challenged in the United States Court of Appeals for the Third Circuit, Pennsylvania v. EPA, Nos. 79–1025, 1026. As a result of this litigation, EPA again reviewed West Virginia's Regulation X

as it applied to the two power plants and determined that the SIP revision was adequate to ensure attainment and maintenance of the primary SO_2 standard [45 FR 74478]. However, EPA determined that West Virginia's SO_2 control strategy was not adequate to ensure attainment and maintenance of the secondary NAAQS for SO_2. On November 10, 1980, EPA published a Notice of Deficiency in West Virginia's SIP [45 FR 74520] and required the State to submit a control strategy and demonstration of attainment of the secondary SO_2 standard within nine months from the date of Notice unless additional time was requested by the State.

On May 28, 1981 West Virginia requested an extension of time for developing a secondary SO_2 control strategy for the Mitchell and Harrison power stations. The State noted that the Third Circuit Court of Appeals would be adjudicating issues raised by EPA's Notice of Deficiency, and that an extension pending resolution of the litigation, was appropriate.

EPA agreed, and, on September 25, 1981, published a Notice in the **Federal Register** (46 FR 47241) granting West Virginia nine months from the date of the Third Circuit Court of Appeals decision to file the required information.

However, when the Third Circuit handed down its decision upholding the EPA Order, the State filed a writ of certiorari with the United States Supreme Court. On May 17, 1982, the Supreme Court denied cert. thus upholding the Third Circuit decision and the EPA Order. Because of the lengthy litigation process, the State of West Virginia, on June 11, 1982, requested an additional eight months in which to complete its modeling demonstrations and any regulations or schedules which may be necessary to ensure that the Harrison and Mitchell power plants will not impede the attainment and maintenance of the secondary SO_2 National Ambient Air Quality Standard.

Based on the lengthy judicial review of this matter, EPA believes the extension is justified and hereby approves January 17, 1983 as the date by which the control strategy must be submitted.

(42 U.S.C. 7401–7642)

Dated: September 10, 1982.

Stanley Laskowski,

Acting Regional Administrator.

[FR Doc. 82-26350 Filed 9-24-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80–520; RM–3358; RM–3795; RM–3796]

FM Broadcast Stations in Aguada, Arecibo, Cidra, Puerto Rico, et al.; Order Extending Time For Filing Responses To Petition For Reconsideration

AGENCY: Federal Communication Commission.

ACTION: Petition for reconsideration; extension of time filing responses.

SUMMARY: Action taken herein extends the time for filing responses to a petition for reconsideration involving the assignment of FM Channel 279 to Lajas, Puerto Rico, as the community's first FM assignment. Petitioner, Radio Americas Corporation, states that the additional time is needed to prepare a response to the petition for reconsideration.

DATE: Responses to the petition for reconsideration must be received on or before September 27, 1982, and replies are to be filed on or before October 7, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Broadcast Bureau, (202) 632–20554.

SUPPLEMENTARY INFORMATION:

Order Extending Time For Filing Responses to a Petition For Reconsideration

Adopted: September 9, 1982.

Released: September 15, 1982.

In the matter of amendment of § 73.202(b), Table of assignments, FM Broadcast Stations (Aguada, Arecibo, Cidra, Lajas, Manati, Mayaquez, Quebradillas, Utuado and Cabo Rojo, Puerto Rico); BC Docket No. 80–520, RM–3358, RM–3795, RM–3796, (8–31–82; 47 FR 38400).

1. On August 16, 1982, a petition for reconsideration was filed by Jose J. Arzuaga, concerning the above-captioned matter. The date for filing responses to this petition is presently September 15, 1982.[1]

2. We now have before us for consideration a request for extension of time, filed on September 7, 1982, by counsel for Radio Americas corporation, a party to the captioned proceeding. Counsel has requested an extension to and including September 27, 1982, to file a response to the petition for reconsideration. In support of his request, counsel states that although the petition was served on August 16, 1982, it was not received by counsel until August 23, 1982, due to delay in mails between Puerto Rico and Washington. Further, Radio Americas states that it has not had its personnel available to analyze the extensive petition for reconsideration filed by Jose J. Arzuaga, due to travel and the intervenig holiday period. Counsel states that the additional time is needed to prepare and file its response.

3. We are of the view that, under the circumstances recited, and extension of time is warranted. It appears that no other party to the proceeding would be prejudiced by a grant of the instant request and such extension will assure development of a sound and comprehensive record on which to base a decision herein. It will also be necessary to extend the time for filing replies.

4. Accordingly, it is ordered, that the request for extension of time, filed on behalf of Radio Americas Corporation, is granted, and the time for filing responses to the petition for reconsideration and replies thereto in Docket 80–520 (RM–3358, RM–3795, RM–3796) is extended to and including September 27, 1982 and October 7, 1982, respectively.

5. This action is taken pursuant to authority contained in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and sections 0.204(b) and 0.281 of the Commission's rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-26350 Filed 9-24-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Public Notice of the filing of the Petition for Reconsideration was published in the Federal Register on August 31, 1982, 47 FR 38400.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 391

[BMCS Docket No. MC–104; Notice No. 82–8]

Qualifications of Drivers

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Public comment is requested on certain modifications recommended

by the National Transportation Safety Board (NTSB) to the Federal Motor Carrier Safety Regulations (FMCSR) which are being evaluated by the FHWA. The modifications under consideration include the revision of the commercial driver disqualification provisions and the development of specific information that a motor carrier must request from a driver applicant's former employer(s). This notice presents a number of questions with respect to the modifications being considered. Public comments and any available data submitted in response to these questions will greatly assist the FHWA in determining the costs and benefits which are associated with the modifications, and whether further rulemaking action in these areas is warranted.

DATE: Comments must be submitted on or before January 27, 1983.

ADDRESS: All comments should refer to the docket number and notice number that appears at the top of this document and should be submitted, perferably in triplicate, to room 3404, Bureau of Motor Carrier Safety (BMCS), 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 426–9767; or Mr. Thomas P. Holian, Office of the Chief Counsel, (202) 426–0346, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Public comment is requested on modifications to the driver qualification requirements (49 CFR 391) of the Federal Motor Carrier Safety Regulations (FMCSR) which are being considered by the FHWA. The modifications under consideration include (1) the revision of the commercial driver disqualification provisions of the FMCSR to provide that certain specified driving offenses shall be disqualifying, without regard to the type of vehicle being driven at the time of the offense or whether the driver was on or off duty; (2) the development of a maximum allowable index or cumulation of traffic convictions, based on the total number and relative seriousness of the violations, above which a driver would be disqualified to operate a commercial motor vehicle; and (3) the development of specific information that a motor carrier must request from a driver applicant's former employer(s) when making the investigation and inquiries required by Part 391. This ANPRM presents a number of questions with respect to the modifications being considered. Public comments and any available data submitted in response to these questions will greatly assist the FHWA in determining the costs and benefits which are associated with the modifications, and whether further rulemaking action in these areas is warranted.

Background

In February 1980, the NTSB completed a report entitled "Safety Effectiveness Evaluation of Detection and Control of Unsafe Interstate Commercial Drivers Through the National Driver Register, State Driver Licensing Policies, and the Federal Motor Carrier Safety Regulations." During this evaluation, the the Board determined that many problem commercial drivers, in spite of their records of unsafe driving, continued to be licensed by the various States and employed by motor carriers to operate large commercial motor vehicles on the nation's highways.

The NTSB, in its evaluation, stated its belief that improvements in the FMCSR and in other elements of the system for detecting and controlling problem drivers, could enhance the level of safety on the nation's highways. The NTSB specifically recommended that the FHWA initiate rulemaking action in the three areas described above. This ANPRM discusses the three NTSB recommendations and requests substantive data and opinions from the public with respect to each recommendation.

History

Prior to 1971, Federal driver qualification requirements required motor carriers to review driver records and give due consideration to the violations and vehicle accident records of its drivers. Motor carriers were required to take into consideration any violation of law which demonstrated a driver's unfitness to be a driver of a motor vehicle operated in interstate or foreign commerce.

On June 7, 1969 (34 FR 9060) the Federal Highway Administrator announced in a Notice of Proposed Rulemaking (NPRM) that consideration was being given to a substantive revision of the driver qualification requirements contained in the FMCSR. With respect to the disqualification of drivers from commercial motor vehicle operations, the FHWA proposed to disqualify those drivers convicted of offenses that would ordinarily lead to a loss of driving privileges under State law, regardless of the type of vehicle being driven or whether the driver was on or off duty. In addition, it was proposed that drivers would be disqualified when they were convicted of three or more moving traffic violations within 3 years.

Based upon the data provided by the approximately 10,000 comments filed during the rulemaking action, the final rule which was published in the Federal Register on April 22, 1970, (35 FR 6458) reflected certain modifications to the NPRM driver disqualification proposals described above. The major modification was the deletion of the proposal that drivers be disqualified upon the conviction of, or the forfeiture of bond under the charge of, three or more moving traffic violations within 3 years. The rationale for this deletion was the uneven motor vehicle law enforcement practices from State to State, the lack of a uniform rule as to what constitutes a moving violation, and the hardships it would cause many drivers.

With respect to the issue of serious motor vehicle offenses committed in personal vehicles or while in an off duty status, however, it was concluded that the commission of a serious offense while operating a vehicle indicates that the perpetrator is unfit to drive a commercial motor vehicle, whether or not the offense was committed while on duty. For this reason, the grounds for disqualification in the final rule were not limited to offenses committed while driving a commercial motor vehicle in an on duty status.

The final rule also provided, among other things, that motor carriers subject to the regulations perform driving record and employment background investigations on newly hired drivers. Also required was an annual review of the driving record for each regularly employed driver in its employ, to determine whether the driver meets minimum requirements for safe driving, requires remedial driver training, or should be disqualified because of conviction of specific offenses or because of the loss of driving privileges. These provisions mandated that the motor carrier give serious consideration in its deliberations, to violations such as speeding, reckless driving, or operating a motor vehicle while under the influence of alcohol or drugs.

On November 23, 1972 (37 FR 24902) the FHWA issued a revision of §391.15 of the FMCSR, pertaining to the disqualification of persons to serve as drivers of commercial motor vehicles operated in interstate or foreign commerce. Based on new trends toward driver rehabilitation rather than punishment and the absence of data which would either prove or disprove a

statistical correlation between the conviction of a disqualifying offense while operating a non-commercial vehicle and bad driving performance in a commercial motor vehicle, the FHWA amended §391.15 to only provide for the disqualification of a driver when the driver was convicted of a disqualifying offense while operating a commercial motor vehicle in an on duty status.

Current Regulations

Section 391.15, paragraph (b) of the FMCSR provides that a driver is disqualified from operating a commercial vehicle for the duration of a license revocation, suspension, withdrawal, or denial of a license, permit, or privilege, by a State driver licensing agency or other appropriate authority. The driver is disqualified until the driving privilege has been restored.

Paragraph (c) of § 391.15 provides that a driver is disqualified for 1 year (3 years for subsequent offenses) from driving a commercial motor vehicle in interstate or foreign commerce upon conviction, while driving in an on duty status, of certain disqualifying offenses. The disqualifying offenses are:

1. Operating a motor vehicle while under the influence of alcohol, an amphetamine, a narcotic drug, a formulation of an amphetamine, or a narcotic derivative;
2. Conviction of a crime involving the knowing transportation, possession, or unlawful use of amphetamines or narcotic derivatives;
3. Leaving the scene of an accident which resulted in a personal injury or death; or
4. A felony involving the use of a motor vehicle.

Motor carriers are required by § 391.23 to perform background investigations and inquiries on newly employed drivers. The background checks must be accomplished within 30 days from the date of the drivers employment and must include: (1) obtaining a copy of the driver's driving record for the preceding 3 years from the appropriate State agency(ies); and (2) investigating, by means of letter, telephone, etc. a driver's employment record for the preceding 3 years.

Finally, according to §§ 391.25 and 391.27 of the FMCSR, the motor carrier must (1) obtain annually from every driver in its employ, a list of all traffic violation convictions (other than parking) during the preceding 12 months; and (2) review each 12 months the driver's driving record, with special attention being given to actions such as speeding, reckless driving, and other violations which indicate that the driver has exhibited a disregard for the safety of the public. The annual review of the driver's driving record permits the motor carrier to determine if the driver continues to meet minimum requirements for safe driving, requires remedial driver training, should be disqualified under the FMCSR provisions, or should be terminated.

Current Data

During 1973–76, the BMCS conducted in-depth investigations of 496 selected heavy duty vehicle traffic accidents. According to a BMCS report [1] which analyzed the data resulting from the investigations, nearly 10 percent of the accidents involved drivers with poor driving records.[2]

In 1979, 6,696 persons died in crashes involving heavy duty trucks. This figure represents a 34 percent increase in fatalities involving heavy duty trucks since 1976 and 13.1 percent of all the Nation's highway deaths occurring during 1079.[3]

In 1978, heavy duty trucks were involved in 5,399 fatal traffic accidents that killed 6,350 persons—12.6 percent of all highway deaths.[3] The National Transportation Safety Board (NTSB) has stated that the driving background of many of the commercial drivers involved in accidents during 1978 included records of traffic convictions, driver license suspensions, and accidents, indicating a flagrant and repeated disregard for the safety of other highway users.

The NTSB investigated and evaluated 41 accidents in 1978 involving suspected problem commercial vehicle drivers and also reviewed the results of three previous major investigations of heavy truck accidents.[4] The driving histories of the 44 commercial drivers involved in the accidents investigated by the NTSB were compiled by making inquiries to the various States. The individual driving records obtained from the States for the 44 commercial drivers listed a total of 63 driver licenses held, 98 driver license suspensions, 104 traffic accidents, and 456 traffic convictions.

The NTSB has determined that, in spite of commercial driver screening provided by the National Driver Register, State driver licensing agencies, and the individual motor carriers, problem commercial drivers continue to be licensed by the States and employed by motor carriers to operate heavy trucks and other commercial vehicles.

Based on the foregoing information, the FHWA invites comments and any available research data in response to the questions set forth below.

On Duty and Off Duty Citations

There is concern that drivers convicted frequently of moving traffic violations while driving during off duty hours will carry over the same driving habits to the operation of a commercial motor vehicle while in an on duty status.

Question 1. (a) Is there a rational basis for believing that moving traffic offenses committed while performing off duty driving are likely to recur while a driver operates a commercial motor vehicle in an on duty status?

(b) If so, should the present disqualifying offenses in the FMCSR be expanded to cover off duty driving periods, regardless of the type of vehicle operated?

(c) Should the present list of disqualifying offenses be expanded to include other offenses?

(d) If so, what new offenses should be included?

(e) If the present list of disqualifying offenses for on duty driving is expanded to include other offenses, should the additional offenses also be applied to off duty driving activities?

Point System or Maximum Number of Citations

The NTSB, in its recommendations to the FHWA, suggested that the FMCSR be modified to establish specific, minimum driver disqualification criteria, such as those specified in State point systems.

A majority of the States have laws or regulations or both, regarding the establishment and administration of a point system. Under this system, demerits are normally assessed against drivers based on the seriousness of moving traffic violations. When a driver accumulates a specified point total, that individual's driving privilege may be suspended.

In addition to the point system just described, two other systems appear to merit some consideration through the

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[1] "Analysis and Summary of Accident Investigations 1973–76", 1977. Available for inspection at the Bureau of Motor Carrier Safety, 400 Seventh Street, SW., Washington, D.C. 20590 (copy available in docket.)

[2] For the purposes of these investigations, the term "poor driving record" means a record of multiple traffic violations occurring with regularity over a period of several years.

[3] Fatal Accident Reporting System (FARS), National Center for Statistics and Analysis, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

[4] "Safety Effectiveness Evaluation of Detection and Control of Unsafe Interstate Commercial Drivers Through: The National Driver Register; State Driver Licensing Policies; and the Federal Motor Carrier Safety Regulations" February 15, 1980. Available to the public through the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, Accession No. PB 80162969, paper copy price, $8.00 (copy available in docket.)

rulemaking process. These systems are: (1) A disqualification system based on a maximum number of moving traffic violations, and (2) a disqualification system encompassing both a point system and a maximum number of moving traffic violations. The latter system would allow some flexibility based on the seriousness of moving traffic violations.

Whether the FHWA determines that disqualifying offenses are to continue to include only those offenses committed while a driver is on duty, or should also include off duty violations, the FHWA desires comments and information with respect to the following questions:

Question 2. Would it be feasible to strengthen driver disqualification requirements by integrating into those requirements a point system or a maximum citation system, or a combination or both?

Question 3. (a) If a point system is adopted, should convictions for all moving traffic violations be included?

(b) If no, for which violations should points be assessed?

(c) What would be the appropriate demerit value for each violation?

Question 4. (a) If a maximum citation system is adopted, should convictions for all moving traffic violations be included?

(b) If so, what should be the maximum number of citations allowed prior to disqualification?

Question 5. Should convictions from States other than the driver's State of residence be included in the driver disqualification process?

Question 6. (a) Some States have driver improvement programs, whereby demerits are subtracted (citations are not withdrawn, however) from a driver's record upon the driver's successful completion of an approved traffic safety course, alcohol rehabilitation course, or some other form of a driver improvement program. Should the FHWA consider a similar deletion process if additional disqualification requirements are adopted?

(b) If the disqualification program were to include credit for attendance at a driver improvement program, how should this procedure be administered?

Question 7. (a) In instances where a driver's disqualification period has not elapsed and the driver successfully completes an approved driver training program, should the driver be reinstated?

(b) If the driver is reinstated, how should this part of the program be administered?

Work Permit Licenses

Provided that a driver meets certain conditions, many States issue some type of hardship (restricted) license in accordance with point system driver license suspensions.

Question 8. If additional disqualification requirements are adopted, should disqualification action be negated for those drivers who have been issued a work permit license by the State, or by the State at the direction of a court?

Question 9. A number of States have "professional" driver laws. A "professional" driver is usually designated as such by: mileage driven annually, type of employment, and type of vehicle driven. These drivers usually are entitled to retain their drivers license when the license would otherwise be subject to suspension under the point system. If additional disqualification requirements are adopted by the FHWA, would the difference in State laws and Federal regulations in this regard cause undue administrative burden with respect to driver license suspensions, for State law enforcement and State driver licensing agencies?

Driving While Disqualified

A concern of many highway safety officials is the number of drivers who continue to drive while their licenses are suspended or revoked.

Question 10. (a) If additional disqualification requirements are adopted by the FHWA, should the current penalties (i.e., up to $500.00 per offense) for continuing to drive during the disqualification period be applied to all of the new disqualification requirements?

(b) If no, to which additional disqualification requirements should the current penalties apply?

(c) Should additional penalties be developed and applied against drivers who continue to drive during their disqualification period?

(d) If so, what additional penalties should be developed and applied against drivers who continue to drive during their disqualification period?

Record of Violations and Annual Review of Driving Record

Question 11. Drivers are presently required by the FMCSR to provide the employing motor carrier with a list of all violations of motor vehicle laws (other than parking), once every 12 months (49 CFR 391.27).

(a) In order to ensure that motor carriers obtain the driver's true driving record, should the present procedure be amended to require the motor carrier or driver to obtain a copy of the driver's record from the appropriate State motor vehicle agency(ies), rather than permit the driver to prepare the list? Privacy restrictions in some States would have to be considered if motor carriers are to obtain the copy of the driving record.

(b) If the motor carrier is required to obtain a copy of the record of each driver from the appropriate State motor vehicle agency(ies), what financial impact would this have on the motor carrier?

(c) If drivers continue to provide the record, whether in the form of a list compiled by the driver or by obtaining a copy of their driving record(s) from the State(s), what safeguards should be included to ensure that the document the driver provides is true and accurate?

(d) If safeguards are added and if motor carriers obtain copies of driving records directly from State motor vehicle agencies, would this procedure create a workload problem for State motor vehicle agencies and thus delay the forwarding of reports to motor carriers within a reasonable time period?

Question 12. The present FMCSR require that a driver's record be checked every 12 months (49 CFR 391.25). If additional disqualification requirements are adopted, should more frequent record checks be made?

Question 13. At the present time, there is no requirement that BMCS and the appropriate State agency(ies) be notified when a driver is disqualified.

(a) If additional disqualification requirements are adopted, is there a need for the motor carrier to notify the BMCS and the appropriate State motor vehicle agency(ies) when a driver is disqualified?

(b) If so, what procedure should be followed?

Investigation of Driver's Employment Record

Question 14. The FMCSR do not specify the information a motor carrier is required to request from a driver applicant's former employer(s). The NTSB has expressed its belief that absent a full definition of the information which must be requested by the employing motor carrier, there is no way to determine if the motor carrier is in full compliance with the requirement.

The FMCSR presently requires the motor carrier to investigate a driver's employment record for the past 3 years, during the initial employment process. The FMCSR however, do not specifically set forth items of information which the motor carrier

must attempt to obtain during contacts with the driver's previous employers.

(a) Should the FMCSR be amended to specify the information an employing motor carrier must attempt to obtain from a driver's previous employer(s)?

(b) If so, what required information should a motor carrier request from an applicant driver's former employer(s)?

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. A draft regulatory evaluation will be prepared based upon the data received from this notice.

Based on the information available to the FHWA at this time, the action taken in this rulemaking would not have a significant economic impact on a substantial number of small entities.

(49 U.S.C. 304, 1655; 49 CFR 1.48 and 301.60)

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

List of Subjects in 49 CFR 391

Motor carriers, Driver qualifications.

Issued on: September 16, 1982.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety, Federal Highway Administration.

[FR Doc. 82-26469 Filed 9-24-82; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Review for Wildlife Classified as Endangered or Threatened in 1977

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: The Endangered Species Act of 1973, as amended, requires the Service to conduct a review of all listed species at least once every 5 years. The purpose of this section is to insure that the listing accurately reflects the most current status of the listed species. In order to aid the Service in discharging this responsibility, the Director is requesting from any party comments and appropriate data which might document the need to delist or reclassify any of the selected speices of Endangered or Threatened wildlife listed below. If as a result of this review, the present classification of Endangered or Threatened is not consistent with current evidence, the Director will propose changes in such classification accordingly.

DATE: Comments must be received no later than January 25, 1983.

ADDRESSES: Submit comments to Regional Director (FA), Fish and Wildlife Service, Suite 1692, Lloyd 500 Building, 500 N.E. Multnomah Street, Portland, Oregon 97232 (species 1, 2, 3, 4, 6, 17, 18, 19, 20) or Regional Director (FA), Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303 (species 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16). Comments and materials received will be available for public inspection by appointment during normal business hours (7:45 a.m. to 4:15 p.m.) at the Service's appropriate Regional Office.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Fish and Wildlife Service, U.S. Department of Interior, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

The lists of Endangered and Threatened Wildlife and Plants are found in 50 CFR 17.11 (wildlife) and 50 CFR 17.12 (plants). The most recent such lists were published in the October 1, 1981, revision of 50 CFR. The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended, and 50 CFR 424.20 require the Service to conduct a review of each listed species at least once every 5 years. Species which are to be considered under the present review are listed below. Species listed during 1977 which subsequently have been affected by rules reclassifying all or significant parts of their populations are not included in this notice.

Definitions

The following definitions are provided to assist those persons who contemplate submitting information regarding the status of the species listed below:

(1) "Critical Habitat" means (a) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (1) essential to the conservation of the species and (2) which may require special management considerations or protection, and (b) specific areas outside the geographical area occupied by a species at the time it is listed upon a determination by the Director that such areas are essential for the conservation of the species.

(2) "Endangered" means any species which is in danger of extinction throughout all or a significant portion of its range.

(3) "Species" includes any species or subspecies of fish or wildlife or plant, and any distinct population segment of any species or subspecies of a vertebrate which is capable of interbreeding when mature. A species is determined to be Endangered or Threatened because of any of the following factors:

(a) The present or threatened destruction, modification or curtailment of its habitat or range;

(b) Overutilization for commercial, sporting, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms, or

(e) Other natural or man-made factors affecting its continued existence.

(4) "Threatened" means any species which is likely to become an Endangered species within the foreseeable future throughout all or a significant portion or its range.

Effects of Review

If substantial evidence is available to the Service or is presented by any party for one or more species listed below, the Director intends to propose new rules that would do any of the following: (a) Reclassify a species from Endangered to Threatened, (b) Reclassify a species from Threatened to Endangered, or (c) Remove a species from the List of Endangered or Threatened Wildlife. Distinct geographic populations of vertebrate species as well as subspecies of all wildlife species may be proposed for either separate reclassification to a different status than the presently listed species or removal from the list. If no substantial data are available or presented to suggest a status change for a particular species, then the next formal status review for that species will be announced no later than 5-years hence.

Once a species has been determined to be Threatened or Endangered, the Act imposes certain restrictions on activities involving the species. Generally, it is unlawful for a person subject to the jurisdiction of the United States to take an Endangered species of fish or wildlife or to engage in foreign and domestic commerce involving an Endangered species or its parts or products, 16 U.S.C. 1538(a)(1); 50 CFR 17.21. The Director has discretion in determining whether the taking and commercial restrictions will be made applicable to Threatened species of fish or wildlife by 50 CFR 17.31. As a general rule, the taking and commerce restrictions applicable to

Endangered species of fish or wildife are made applicable to Threatened species by 50 CFR 17.13. However, the Director does promulgate special rules for some species, varying the taking and commerce prohibitions. See, for example, 50 CFR 17.40(b), Special Rule for Grizzly Bears.

Public Comments Solicited

The Director requests that any comments concerning the status of the species listed below be submitted. Comments from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party are hereby solicited. Such comments must be in writing and should contain the name, signature, address, telephone number, and the association, institution, or business, if any, of the party.

Receipt of all comments will be acknowledged in writing by the Service. If significant data are available warranting a change in a species' classification under the Act, the Director will propose a rule to modify the present status of the listed species. In order to determine if the comments contain significant data, the Director will consider whether the document:

(1) Clearly indicates the scientific and any common name of the species involved;

(2) Contains a detailed narrative describing, as appropriate, the past and present numbers and distribution of the involved species, subspecies, or distinct vertebrate geographic population; the particular threatening factors affecting the species; and, if appropriate, the features and importance of any Critical Habitat;

(3) Is accompanied, as appropriate, by supporting documentation, such as maps, a list of bibliographic references, reprints of pertinent publications, or copies of written reports or letters from authorities; and

(5) Does not essentially repeat scientific, commercial, or other relevant information already cited by the Director in an earlier rulemaking process or notice of review.

The procedural rules for reclassifying or removing a species from the list were published in the February 27, 1980, **Federal Register** (45 FR 13010–13026) and are codified at 50 CFR 424.11.

The primary author of this notice is George E. Drewry, Office of Endangered Species, U.S. Fish and Wildlife Service (703/235–1975).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

The list of species that are subject to this review is as follows:

Animal species		Historic range	Vertebrate population where endangered or threatened	Status	When listed
Common name	Scientific name				
Mammals:					
1. Otter, southern sea	*Enhydra lutris nereis*	West coast U.S.A. (WA) south to Mexico (Baja, California.	Entire	T	21
Birds:					
2. Mallard, Marianas	*Anas oustaleti*	West Pacific Ocean: (Guam, Marianas Islands)	Entire	E	23
3. Shrike, San Clemente loggerhead	*Lanius ludovicianus mearnsi*	U.S.A. (CA)	Entire	E	26
4. Sparrow, San Clemente sage	*Amphispiza belli clementeae*	U.S.A. (CA)	Entire	T	26
Reptiles:					
5. Anole, Culebra giant	*Anolis roosevelti*	U.S.A. (PR: Culebra Island)	Entire	E	25
6. Lizard, island night	*Klauberina riversiana*	U.S.A. (CA)	Entire	T	26
7. Lizard, St. Croix Ground	*Ameiva Polops*	U.S.A. (VI: Green Cay, Protestant Cay)	Entire	T	24
8. Snake, Atlantic salt marsh	*Nerodia fasciata taeniata*	U.S.A. (FL)	Entire	T	30
Amphibians:					
9. Coqui, golden	*Eleutherodactylus jasperi*	U.S.A. (PR)	Entire	T	29
10. Treefrog, pine barrens	*Hyla andersoni*	U.S.A. (FL, AL, NC, SC, NJ)	Florida	E	29
Fishes:					
11. Cavefish, Alabama	*Speoplatyrhinus poulsoni*	U.S.A. (AL)	Entire	T	26
12. Chub, slender	*Hybopsis cahni*	U.S.A. (TN, VA)	Entire	T	28
13. Chub, spotfin	*Hybopsis monacha*	U.S.A. (AL, GA, NC, TN, VA)	Entire	T	28
14. Darter, slackwater	*Etheostoma boschungi*	U.S.A. (AL, IN)	Entire	T	26
15. Madtom, yellowfin	*Noturus flavipinnis*	U.S.A. (GA, IN, VA)	Entire	T	28
Clams:					
16. Riffle shell clam, tan	*Epioblasma walkeri*	U.S.A. (KY, TN, VA)	N/A	E	27

Plant species		Historic range	Status	When listed
Scientific name	Common name			
Fabaceae-Pea family:				
17. *Lotus dendroideus* (= *scoparius*) ssp. *traskiae*	San Clemente Island broom	U.S.A. (CA)	E	26
Malvaceae-Mallow family:				
18. *Malacothamnus clementinus*	San Clemente Island bush-mallow	U.S.A. (CA)	E	26
Ranunculaceae-Buttercup family:				
19. *Delphinium kinkiense*	San Clemente Island larkspur	U.S.A. (CA)	E	26
Scrophulariaceae-Snapdragon family:				
20. *Castilleja grisea*	San Clemente Island indian paintbrush	U.S.A. (CA)	E	26

When Listed Footnotes:
21–42 FR 2968: January 14, 1977.
23–42 FR 28137: June 2, 1977.
24–42 FR 28545: June 3, 1977.
25–42 FR 37373: July 21, 1977.
26–42 FR 40682: August 11, 1977.
27–42 FR 42353: August 23, 1977.
28–42 FR 45528: September 9, 1977.
29–42 FR 58756: November 11, 1977.
30–42 FR 60745: November 29, 1977.

Dated: August 31, 1982.

(5-year Notice of Review, Endangered and Threatened Wildlife and Plants listed in 1977)

J. Craig Potter,

Deputy Assistant Secretary for Fish and Wildlife and Parks

[FR Doc. 82-26936 Filed 9-23-82; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 47, No. 187
Monday, September 27, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 80-083N]

SLD Policy Memoranda

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This document lists memoranda, issued by the Standards and Labeling Division (SLD), Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service (FSIS), and available to the public which contain significant new applications or interpretations of the Federal Meat Inspection Act, the Poultry Products Inspection Act, the regulations promulgated thereunder, or departmental policy in the labeling area.

This action stems from a 1980 notice announcing new procedures established by SLD for advising the public more fully of FSIS's prior approval program for labels and other labeling for federally inspected meat and poultry products.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Hibbert, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION: FSIS conducts a prior approval program for labels or other labeling (specified in 9 CFR 317.4, 317.5, 381.132, and 381.134) to be used on federally inspected meat and poultry products. Pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*,) and the regulations promulgated thereunder, meat and poultry products which do not bear approved labels may not be distributed in commerce.

FSIS's prior label approval program is conducted by label review experts within SLD. A variety of factors, such as continuing technological innovations in food processing and expanded public concern regarding the presence of various substances in foods, has generated a series of increasingly complex issues which SLD must resolve as part of the prior label approval process. In interpreting the Acts or regulations to resolve these issues, SLD may modify its policies on labeling or develop new ones.

A November 28, 1980, notice (45 FR 79130) announced, in part, that any such significant or novel interpretations or determinations made by SLD would be issued in writing in memorandum form. It further stated that FSIS would periodically publish a notice in the **Federal Register** listing all memoranda issued since the previously published notice and advising of the availability of those memoranda.

This document is the first of such notices and lists those SLD policy memoranda issued from May 1, 1980, through August 31, 1982.

Persons interested in obtaining copies of any of the following SLD policy memoranda, or in being included on a list for automatic distribution of future SLD policy memoranda, may write to: Printing and Distribution Section, Paperwork Management Branch, Administrative Services Division, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

Memo No.	Title and date	Issue	Reference
001	Pizzas containing cheese substitutes, May 6, 1980	Appropriate labeling for pizza products containing both cheese and cheese substitutes.	9 CFR 319.600.
002	Butifarra sausage, May 30, 1980	Appropriate labeling for sausage product featuring the term "Butifarra"	9 CFR 319.140-319.141.
003	Reduced price or money saving claims, June 10, 1980	Guidelines for approval of these claims	N/A.
004	Sweet Red Peppers and Pimientos, July 30, 1980	The labeling of sweet red peppers as pimientos	N/A.
004A	Sweet Red Peppers and Pimientos, Aug. 20, 1980	The labeling of sweet red peppers as pimientos	MPI Manual § 17.13(o)(3).
005	Cooked Sausages Containing More Poultry than Permitted, July 30, 1980.	The appropriate labeling of certain cooked red meat sausage products containing more than the 15 percent poultry permitted by the regulations.	9 CFR 319.180.
006	Poultry Salami Products, July 30, 1980	Product names that truthfully and accurately describe the type of salami made from poultry.	N/A.
007	Information Panel, Aug. 20, 1980	Guidelines for the use of an information panel on labels for meat and poultry products.	MPI Bulletin 75-25
008	Not issued.		
009	Labeling Bearing Phrase "Product of U.S.A.", Sept. 8, 1980.	Requirements for the use of the phrase "Product of U.S.A." on labeling	N/A.
010	Label Approval Guidelines for Sausages Containing Cheese, Sept. 8, 1980.	Guidelines for sausages containing cheese as an ingredient	N/A.
011	Label Approval Guidelines for Sausages and Pudding Containing Potatoes, Sept. 8, 1980.	Appropriate guidelines for sausages and pudding containing potatoes	N/A.
012	Uncooked Meat and Poultry Teriyaki, Sept. 8, 1980	Can a meat product be identified as a Teriyaki product without being cooked?	N/A.
013	Chili Verde and Chili Colorado, Sept. 12, 1980	Required ingredients for products labeled "Chili Verde" and "Chili Colorado"	9 CFR 319.300-319.301.
014	Handling Statements in Addition to the Requirements of 9 CFR 317.2(k) and 9 CFR 381.125, Sept. 12, 1980.	Acceptable handling statements in addition to those required in sections 317.2(k) and 381.125, Title 9, of the Code of Federal Regulations.	N/A.
015	Sausage Product Labeled "Linguica," Nov. 5, 1980 (rescinded).	Standards for sausage product labeled "Linguica"	9 CFR 319.140.
015A	Sausage Product Labeled "Linguica," June 22, 1981	Standard for sausage product labeled "Linguica"	9 CFR 319.140.
016	Combinations of Ground Beef or Hamburger and Soy Products, Nov. 25, 1980.	Labeling requirements for the combination of ground beef and soy products or hamburger and soy products.	9 CFR 317.2(l)(1) and 9 CFR 319.15(c).
016A	Combinations of Ground Beef or Hamburger and Soy Products, Mar. 27, 1981.	Labeling requirements for the combination of ground beef and soy products or hamburger and soy products.	9 CFR 317.2(l)(1) and 9 CFR 319.15(c).
017	Potassium Sorbate, Dec. 9, 1980	Use of potassium sorbate as an external mold inhibitor on immitation dry sausage products, dry beef snacks, and beef jerky.	9 CFR 318.7(c)(4).

Memo No.	Title and date	Issue	Reference
018	Dual Weight Requirement for Stuffed Poultry Labels, Dec. 12, 1980.	When must label on consumer size retail packages of stuffed poultry and other stuffed poultry products declare the total net weight of the product and the minimum weight of the poultry in the product?	9 CFR 381.121(b).
019	Negative Ingredient Labeling, Jan. 19, 1981	Appropriate policy for the approval or denial of meat and poultry product labels bearing negative ingredient statements.	N/A.
020	Not issued.		
020A	Labeling of Cooked Mettwurst, Mar. 26, 1981	Whether sausage products labeled as "Mettwurst" may be pre-cooked and how they should be labeled.	N/A.
021	Sausage Products Labeled "Longaniza" and "Longaniza Puerto Rican Style," Feb. 9, 1981.	Standard for product labeled "Longaniza" and "Longaniza Puerto Rican Style"	9 CFR 317.2(l)(5).
022	Poultry Products Labeled as "Fresh," "Not Frozen," and Similar Terms, Feb. 9, 1981 (rescinded).	Guidelines for use of "fresh," "not frozen," and similar terms when labeling poultry products.	N/A.
022A	Poultry Products Labeled as "Fresh," "Not Frozen," and Similar Terms, May 5, 1981.	Guidelines for the use of "fresh," "not frozen," and similar terms when labeling poultry products.	9 CFR 381.66(e).
023	Labeling of Boneless Ham Products, Feb. 10, 1981	Under what circumstances is the use of the term "ham" without qualification an acceptable product name and under what circumstances must the product name be so qualified.	9 CFR 317.2(b)(13).
024	Canadian Style Bacon, Apr. 28, 1981	What cut of pork must be used in a product that is labeled "Canadian Style Bacon"?	N/A.
025	Cooking Temperature Requirements for Fully-Cooked Poultry Rolls and Other Poultry Products and Fully-Cooked, Cured and Smoked Poultry Rolls and Other Cured and Smoked Poultry Products, May 4, 1981.	What are the cooking temperature requirements for poultry rolls and other poultry products and cured and smoked poultry rolls and other cured and smoked poultry products labeled as "fully-cooked," "ready-to-eat," "baked," or "roasted"?	9 CFR 381.150 and MPI Manual § 18.37(3), par. 2.
026	Labeling of Water-Added Cured Pork Products, May 5, 1981.	What size packages of water-added cured pork products must be labeled with the term "water added" the full length of the product?	9 CFR 319.104(d).
027	Clarification of "Meat" Definition in Chopped Beef, Ground Beef or Hamburger, June 16, 1981.	What ingredients, defined as meat in the regulations, may be utilized in preparing chopped beef, ground beef or hamburger?	9 CFR 301.2(tt) and 9 CFR 319.15 (a) and (b).
028	Nutrition Labeling Quality Control Programs, Aug. 31, 1981.	Quality control program requirements for certain nutrition labeled cooked sausages and margarine.	9 CFR 318.180 and 319.700.
029	Labeling Poultry Products Containing Livestock Ingredients, Sept. 4, 1981.	How poultry products containing livestock ingredients should be labeled	N/A.
030	Labeling Meat Food Products Containing Poultry Ingredients, Sept. 4, 1981.	How meat food products containing poultry ingredients should be labeled	9 CFR 319.180.
031	"Cooked Salami" Labeling, Sept. 4, 1981	What is the appropriate labeling for the product "Cooked Salami"?	N/A.
032	Raw Poultry Meat (381.117(b)), Sept. 4, 1981	Appropriate labeling requirements for poultry meat obtained from other than young poultry.	9 CFR 381.117(b).
033	Labeling of Cured Meat Products, Sept. 4, 1981	Can the traditional names of cured meat products be used even though mechanical reduction has taken place before the product has acquired the characteristics expected?	N/A.
034	Fresh Chorizos, Oct. 1, 1981	Limitations on water and other liquids in fresh chorizos	9 CFR 319.140 and 9 CFR 318.7(c)(1).
035	High Fructose Corn Syrup (HFCS) in Meat or Poultry Products, Oct. 27, 1981.	Appropriate use limitations and labeling of HFCS in meat or poultry products	9 CFR 318.7(c).
036	Plastic Cans, Nov. 3, 1981	Whether plastic packaging for meat food products may be considered to be a "can" under 319.104(e).	9 CFR 319.104(e).
037	Alternate Principal Display Panels, Nov. 4, 1981	When is a panel bearing a number of mandatory labeling features considered an alternate principal display panel?	9 CFR 317.2(d) and 9 CFR 381.116(b).
038	Labeling Cured Products as "Honey Cured" "Sugar Cured", or "Honey and Sugar Cured" (Sugar and Honey Cured), Dec. 16, 1981.	What are the guidelines for the use of "Honey Cured", "Sugar Cured", or "Honey and Sugar Cured" (Sugar and Honey Cured) on labeling.	N/A.
039	Label Claims or Features Representing a Product's Caloric Content or Usefulness in the Reduction or Maintenance of Body Weight, Jan. 18, 1982.	Guidelines for approval of subject claims and features	9 CFR 317.2(j)(2) and 9 CFR 381.124.
040	Smoked Products, Jan. 18, 1982	Can products be labeled as "smoked" if they have been exposed to natural liquid smoke which has been transformed into a vapor by mechanical means?	N/A.
041	Labeling of Boneless Ham Products, Feb. 1, 1982	Under What circumstances are the product names for ham products acceptable without qualifications and when must the product names be qualified?	9 CFR 317.2(b)(13).
042	Raw Bone-In Poultry Products Containing Solutions, Feb. 3, 1982.	Labeling of raw bone-in poultry and poultry parts to which solutions are added	9 CFR 381.169.
043	Labeling Ground Poultry, Feb. 8, 1982	How should raw ground poultry be labeled that is to be sold at retail in packages similar to hamburger and ground beef.	9 CFR 381.117—381.118.
044	Raw Boneless Poultry Containing Solutions, Apr. 7 1982	Labeling of raw boneless poultry and poultry parts to which solutions are added	9 CFR 381.169.
045	Product Names of Margarine Substitutes, Apr. 7, 1982	What guidelines should be followed when approving labels for products that are substitutes for margarine?	9 CFR 301.2(ll)(3) and 9 CFR 317.2(e).
046	Percent Fat Free Label Declarations, Apr. 8, 1982	Requirements for the approval of percent fat free declarations	N/A.
047	Net Weight Statements on Packages with Header Labels, May 3, 1982.	What are the size and location requirements for the net weight statements on packages with header labels?	9 CFR 317.2(h)(6) and 9 CFR 381.121.
048	Level of Beef in Berliner, May 18, 1982	What is the maximum amount of beef allowed in a sausage product called "Berliner"?	N/A.
049	Interim Sodium Labeling Guidelines (rescinded), May 20, 1982.	What guidelines should be followed at the present time in the review and approval of labeling which includes quantitative sodium information and/or non-quantitative claims?	MPI Bulletin 82-28.
049	Rescindment of Policy Memo 049, July 27, 1982		MPI Bulletin 82-28
049B	Interim Sodium Labeling Guidelines, Aug. 19, 1982	What guidelines should be followed at the present time in the review and approval of labeling which includes quantitative sodium information and/or nonquantitative claims?	MPI Bulletin 82-28.
050	Canadian Style Bacon, Aug. 25, 1982	What cut of pork must be used in a product that is labeled "Canadian Style Bacon"?	N/A.

The SLD policies specified in these memoranda will be uniformly applied to all revelant labeling applications unless modified by future memoranda or more formal Agency action. As specified in the 1980 notice, applicants retain all rights of appeal regarding decisions based upon these memoranda.

Done at Washington, DC, on September 22, 1982.

Robert G. Hibbert,

Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service.

[FR Doc. 82-26820 Filed 9-24-82; 8:45 am]

BILLING CODE 3410-DM-M

Forest Service

Revised Notice of Intent To Prepare an Environmental Impact Statement for Amendments 2, 3, and 4 to 1980–1983 Plan of Operations for Exploration Activities at Quartz Hill; Tongass National Forest, Ketchikan, Alaska

This notice revises the Notice of Intent published in the **Federal Register** Vol. 47, No. 120, on June 22, 1982. The U.S. Department of Agriculture, Forest Service, is in the process of preparing an Environmental Impact Statement for the 1980–83 Plan of Operations, Amendments 2, 3 and 4, for U.S. Borax and Chemical Corporation exploration activities in the Quartz Hill area. The project is located near Wilson Arm and Boca de Quadra in the Misty Fiords National Monument. Alternatives will include the no action alternative and the proposed plan of operation.

The scoping process has involved participation by Federal, State and local agencies, organizations, and individuals interested in or affected by the decision. This process includes: (a) Identification of those issues to be addressed; (b) identification of issues to be analyzed in depth; (c) elimination of insignificant issues or issues not related to the amendment. This participation is being conducted through written solicitation, small group meetings, or notices sent to news media and interested groups and individuals.

The U.S. Department of the Interior, U.S. Department of Commerce, and the State of Alaska have been consulted during the analysis per the requirements of the Alaska National Interest Lands Conservation Act, Section 505(a).

The Draft Environmental Impact Statement will be issued by November 15, 1982, and the Final Statement is expected to be released about February 15, 1983.

The responsible official is R. Max Peterson, Chief, Forest Service. Comments on this revised Notice of Intent or the proposed activity should be sent to David J. Barber, Interdisciplinary Team Leader, Ketchikan Area, Tongass National Forest, Federal Building, Ketchikan, Alaska 99901, telephone (907) 225–3101.

Dated: September 21, 1982.

R. M. Housley,

Acting Chief, Forest Service.

[FR Doc. 82-26435 Filed 9-24-82; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Docket 40813]

Firstair Corp. Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to commence on October 6, 1982, at 10:00 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Ave., NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., September 22, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-26469 Filed 9-24-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40580]

Samoa, Inc., d.b.a. Samoa Airlines, Inc., Fitness Investigation; Postponement of Hearing

By letter dated September 16, 1982, the applicant requests that the hearing in this proceeding, currently scheduled for September 24, 1982, be postponed. The applicant states that it needs one last extension to prepare certain revised exhibits which were due on September 15, 1982. It requests that it be permitted to submit these exhibits on October 6, 1982, and that the hearing be scheduled soon thereafter. None of the parties object to this request, and it will therefore be granted.

Accordingly, notice is hereby given that a hearing in the above-entitled matter scheduled to be held on September 24, 1982 (47 FR 37942, August 27, 1982) is hereby postponed until October 15, 1982, at 10:00 a.m. (local time), in Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, before the undersigned administrative law judge.

Dated at Washington, D.C., September 21, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-26469 Filed 9-24-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee on Agriculture Statistics; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409), notice is hereby given that the Census Advisory Committee on Agriculture Statistics will convene on October 19, 1982, at 9:15 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

This Committee was established in 1962 to advise the Director, Bureau of the Census, concerning the kind of information that should be obtained from respondents associated with agricultural production; to prepare recommendations regarding the contents of agricultural reports; and to present the views and needs for data of major agricultural organizations and their members, and other suppliers of agricultural statistics.

The Committee is composed of 20 members appointed by the presidents of the nonprofit organizations having representatives on the Committee, and a representative from the U.S. Department of Agriculture.

The agenda for the meeting, which is scheduled to adjourn at 4 p.m. is: (1) Introductory remarks by the Director, Bureau of the Census; (2) current Census Bureau activities and legislative situation; (3) update on the 1982 Census of Agriculture, including the publicity program, the results of the Farm and Ranch Survey, and status of the mail list; (4) coverage evaluation for the 1982 Census of Agriculture; (5) 1978/1982 agriculture census comparability; (6) publication program; (7) report on data linkage seminar; (8) handling data user requests; (9) Committee recommendations; and (10) election of chairperson-elect.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Mr. George Pierce, Agriculture Division, Bureau of the Census, Room 3009, Federal Building 4, Suitland, Maryland. (Mailing address: Washington, D.C. 20233). Telephone (301) 763-7731.

Dated: September 21, 1982.

Bruce Chapman,

Director Bureau of the Census.

[FR Doc. 82-26427 Filed 9-24-82; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[Case No. 633]

Creusot-Loire S.A.; Order Modifying Temporary Denial of Export Privileges

In the matter of: Creusot-Loire S.A., 42 Rue d'Anjou, 75008 Paris, France.

By Order of August 26, 1982, 47 FR 38160 (August 30, 1982), the respondent, Creusot-Loire S.A., was temporarily denied, pursuant to § 388.19 of the Export Administration Regulations (15 CFR Part 388, *et seq.* (1981)) (the "Regulations"), all privileges of participating in any manner or capacity in the export of U.S.-origin commodities or technical data.

The Department of Commerce (the "Department") has now filed a motion to modify the Order of August 26, 1982 to restrict the scope of the denial to U.S.-origin commodities and technical data for or relating to oil and gas exploration, production, transmission, or refinement, on the grounds that a denial order which is restricted in scope will (1) continue to facilitate the Department's investigation, (2) remain consistent with the foreign policy objectives of the Regulations relating to the export to the Soviet Union of commodities or technical data for or relating to oil and gas exploration, production, transmission, or refinement, and (3) reflect conscientious efforts by the Department to adjust its measured approach to possible violations of the Regulations, both in light of information developed during the investigation and in a way that imposes a uniform and not overly broad burden on all respondents.

Based upon the showing made by the Department and having considered the views of the respondent, I find that the motion to modify the order temporarily denying all export privileges to Creusot-Loire is in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401, *et seq.*) (Supp. III (1979)), and the Regulations, and to permit completion of the Department's investigation.

Anyone who is now or may in the future be dealing with the above-named respondent in transactions that in any way involve U.S.-origin commodities or technical data for or relating to oil and gas exploration, production, transmission, or refinement is specifically alerted to the provisions set forth in Paragraph IV below.

Accordingly, it is hereby ordered that the Order of August 26, 1982 is modified as follows.

I. All outstanding validated export licenses concerning U.S.-origin commodities or technical data for or relating to oil and gas exploration, production, transmission, or refinement in which respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation. All validated export licenses revoked by the Order of August 26, 1982, that are not for or related to oil and gas exploration, production, transmission, or refinement are hereby reinstated, and all such licenses received by the Department pursuant to the Order of August 26, 1982, shall be returned forthwith to the licensee by the Office of Export Administration.

II. The respondent, its successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of paticipating, directly or indirectly, in any manner or capacity, in any transaction involving U.S.-origin commodities of technical data for or relating to oil and gas exploration, production, transmission, or refinement exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity, (a) as a party or as a representative of a party to a validated export license application, (b) in the preparation or filing of any export license application or reexport authorization, or of any document to be submitted therewith, (c) in the obtaining or using of any validated or general export license or other export control document, (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any such commodities or technical data exported from the United States in whole or in part, or to be exported, and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall exend not only to the respondent, but also to its agents and employees and to any successor.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data for or relating to oil and gas exploration, production, transmission, or refinement, do any of the following acts, directly or indirectly, or carry out negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondent or whereby the respondent may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any such commodity or technical data exported from the United States in whole or in part, or to be exported, by, to, or for the respondent denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any such commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(b) of the Regulations, the respondent may move at any time to vacate or modify this modified temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 6716, 14th and Constitution Avenue, NW., Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner at the earliest convenient date. In accordance with the provisions of § 388.22 of the Regulations, the respondent may appeal to the Assistant Secretary for Trade Administration, U.S. Department of Commerce, Room 3898-B, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, an order temporarily denying export privileges.

VI. This modification of the Order of August 26, 1982, is effective immediately. It remains in effect until the final disposition of any administrative or judicial proceeding or proceedings initiated against the named respondent as a result of the ongoing investigation. A copy of this modification of the Order of August 26, 1982, shall be served upon the respondent.

Dated: September 23, 1982.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 82-26053 Filed 9-24-82; 8:30 am]

BILLING CODE 3510-25-M

Carbon Steel Wire Rod From Argentina; Suspension of Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of suspension of investigation.

SUMMARY: The Department of Commerce has decided to suspend the countervailing duty investigation involving carbon steel wire rod from Argentina. The basis for the suspension is an agreement by the government of Argentina to eliminate all benefits which we found to be bounties or grants on exports of the subject product to the United States.

EFFECTIVE DATE: September 27, 1982.

FOR FURTHER INFORMATION CONTACT: Paul J. McGarr, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone : (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Case History

On February 8, 1982, the Department of Commerce (the Department) received a petition from Atlantic Steel Corporation, Georgetown Steel Corporation, Georgetown Texas Steel Corporation, Keystone Consolidated Incorporated, Korf Industries Incorporated, Penn-Dixie Steel Corporation and Raritan River Steel Corporation, filed on behalf of the U.S. industry producing carbon steel wire rod. The petition alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Argentina of carbon steel wire rod.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on March 1, 1982, we initiated a countervailing duty investigation (47 FR 9280). We stated that we expected to issue a preliminary determination by May 4, 1982. We subsequently determined that the investigation is "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determination for 65 days until July 8, 1982 (47 FR 17319).

We presented a questionnaire concerning the allegations to the government of Argentina in Washington, D.C. on May 7, 1982, we received the response to the questionnaire. During August 9–13, 1982, we verified this information by a review of government documents and company books and records of Industria Argentina de Aceros, S.A. (ACINDAR), the only known exporter in Argentina of carbon steel wire rod to the United States.

On July 8, 1982, we preliminarily determined that the government of Argentina is providing bounties or grants to manufacturers, producers, or exporters of carbon steel wire rod under two programs. The programs preliminarily found to confer bounties or grants were an overrebate of indirect taxes on exports—the reembolso, and prefinancing of exports through dollar-indexed pesos.

Notice of the preliminary affirmative countervailing duty determination was published in the **Federal Register** on July 14, 1982 (47 FR 30539). We directed the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise, entered or withdrawn from warehouse, for consumption on or after July 14, 1982, and to require a cash deposit or bond in the amount of 13.80 percent of the f.o.b. value of the merchandise.

On August 20, 1982, the Department initiated a proposed agreement to suspend the countervailing duty investigation involving carbon steel wire rod from Argentina. The basis for the proposed agreement to suspend was that the government of Argentina would eliminate the entire amount of benefits we found to confer bounties or grants on exports of carbon steel wire rod to the United States.

On the same date, in compliance with the procedural requirements of section 704(e) of the Act, we called counsel for the petitioners informing them of the proposed agreement. At that time, we discussed the essential points of the proposed agreement and offered to answer any questions. These parties also received a copy of the proposed agreement on that date.

Scope of the Investigation

The product covered by this investigation is carbon steel wire rod manufactured in Argentina and exported, directly or indirectly, from Argentina to the United States. The term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.02 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States*.

The period for which we are measuring the receipt of bounties or grants is calendar year 1981.

Changes Since the Preliminary Determination

(1) *The Reembolso.* In our preliminary determination, we stated that the documentation of taxes rebated by the reembolso on various raw materials and imported inputs was inadequate. Therefore, we preliminarily determined that rebating such taxes was countervailable. We allowed certain final stage taxes totalling 3.66 percent.

At verification, we received and verified a detailed breakout of the various taxes rebated by the reembolso, documentation of those taxes and the rates of taxation. Further, we received a listing of physically-incorporated inputs, the rate of tax incidence on each of these inputs, and the specific incidence of each tax on the input. As a result, we have determined that an additional 3.94 percent of the tax incidence on wire rod meets our requirements and is nof countervailable.

Certain raw material inputs are physically incorporated in carbon steel wire rod. Embedded in each of these inputs are the following indirect taxes which are levied at each stage of production:

	Percent
Control of destination tax	8.0
Foreign exchange tax (on materials imported by suppliers)	0.6
Gross sales tax	1.5
Electricity taxes:	
—National Energy Fund	5.0
—Grand Projects Fund	5.0
—El Chocon Fund	5.0
—Local electricity taxes	(1)
Municipal tax	1.5

[1] Vary by consumption.

As computed by the government of Argentina, the total estimated *ad valorem* incidence of these combined cascading taxes and the total estimated amount of tax per ton of wire rod include a social welfare tax. This is a direct tax, the remission of which is not allowable. We have therefore adjusted the Argentine government's estimate downward by an appropriate amount to account for the inclusion of this tax.

Of the remaining domestic inputs, only a portion of natural gas meets the physical incorporation test. ACINDAR uses the Midrex process for the reduction of iron. This process uses natural gas (methane, CH_4) for combustion, and carburization and reduction. Carburization and reduction occur in a closed system and, therefore, the methane used for this purpose is discrete from that used for combustion. Methane used for combustion is not physically incorporated. Carbon used for carburization, which is 75 percent of methane by atomic weight, is physically

incorporated, while the hydrogen is consumed in the reduction process and is not physically incorporated. Thus, for natural gas used in the production process, we have allowed the remission of the taxes attributable only to the carbon portion of the methane which is used for carburization and is physically incorporated. Because this is a closed system, no allowance need be made for necessary waste with respect to this carbon.

The tax incidence on methane is composed of two elements: the 1.5 percent gross sales tax, and a 10 percent excise tax on gas consumption. This results in an allowable figure that is equal to 0.68 percent of the value of the finished product, carbon steel wire rod.

Finally, there are three imported inputs that are physically incorporated: pellets, sponge iron and electrodes. The indirect taxes borne by these products are:

	Percent
Control of destination tax	2.0
Stamp tax	1.0
Foreign exchange tax	0.6

Although the primary purpose of electrodes is not to introduce carbon into the steel, they gradually wear away while being used in the electric-arc process, and the carbon that is consumed in this process becomes part of the carbon steel produced. The total tax incidence on these imported inputs which we have allowed is 1.16 percent.

On July 5, 1982, Resolution No. 8 of the Ministry of Economy reduced the reembolso for many export products including carbon steel wire rod to 10 percent of the f.o.b. value. Consequently, with the adjustments made to our preliminary determination referred to in this notice, the portion of the reembolso that constitutes an allowable rebate is 7.60 percent and the overrebate, to be eliminated as a condition of the suspension agreement, is currently 2.40 percent.

(2) *Long-Term Loan.* We stated in our preliminary determination that we required additional information concerning a long-term loan granted to ACINDAR in 1976 by the National Development Bank (BND) before making a determination on the allegation that such a loan confers a bounty or grant. At verification, we learned that the loan was in pesos with the principal fully indexed to the inflation rate and a real interest rate of 7 percent. Normally, the BND is the only source of long-term loans denominated in pesos. The BND has two basic types of long-term peso loans: for the purchase of machinery in expansion projects and for working capital, and loans of both types are made to a wide variety of sectors. The interest rates differ by the type of loan, but the interest rate on each type of loan is the same for all borrowers. Because these loans are generally available on the same terms, we have determined that they do not confer a bounty or grant.

Petitioners' Comments

The Department has consulted with counsel for the petitioners and received the following comments from them objecting to the proposed suspension agreement. Our responses are shown for each comment.

Issues Related to the Suspension Agreement

Comment 1: The petitioners request that paragraph B.1.b be modified to state "that it (the goverment of Argentina) shall not through its Central Bank or otherwise, provide directly or indirectly preferential dollar-indexed pre-export financing on any exports of the subject product."

DOC Position: We have incorporated the suggested amendment into paragraph B.1.b.

Comment 2: The petitioners contend that the representative period chosen as a reference period for the section 704(d)(2) requirement—that exports not increase in the interim period between suspension and imposition of the export tax—perpetuates the recent surge of imports of Argentine carbon steel wire rod into the United States.

DOC Position: We are required to select "the most recent representative period." Accordingly, we chose the period February 1981–January 1982—the most recent 12-month period prior to the filing of the petition. The petitioners have contended that we should use a two-year period, 1980–1981, to reflect more accurately the long-term level of Argentine wire rod exports to the United States. The suggested period has 20 months of non-shipment prior to entry into the market and the increase of imports; the period we have chosen begins with 7 months of non-shipment. We note that the period covered by this quantitative restraint is very short—until October 30, 1982, when the agreement will go into effect.

Comment 3: The petitioners state that for effective monitoring the agreement should include a specific provision requiring the government of Argentina to report on a quarterly basis the monthly volume of exports of the subject product.

DOC Position: Pursuant to section 704(b)(1) of the Act, the government of Argentina has agreed to the complete elimination of the net subsidy. No quantitative restrictions are required with such a suspension agreement once the subsidy has been completely eliminated, and thus the proposed amendment has no relevance.

Comment 4: The petitioners state that the agreement should include a provision whereby the government of Argentina consents to access to verification reports by counsel for the petitioners under an administrative protective order, so that counsel may monitor independently the efficacy of the agreement.

DOC Position: Non-confidential versions of verification reports are normally available to the public. A determination concerning the request by counsel for release of the confidential version of a verification report under protective order will be made at the time such requests are submitted.

Comment 5: The petitioners state that the suspension agreement fails to fulfill the explicit statutory conditions of section 704(d)(1) of the Act that any suspension agreement be in the public interest.

DOC Position: By its terms, the suspension agreement will eliminate completely the net subsidy, and *a fortiori* eliminates any injury caused by the net subsidy, without the added expense to the U.S. taxpayers, petitioners, and respondents of completing the investigation.

Subsidy Issues

Comment 6: The petitioners contend that the Department should not determine the net subsidy portion of the reembolso by simply subtracting the amount of indirect taxes considered allowable from the amount of the reembolso payment. Instead, they argue that we should determine the ratio of the reembolso payment to the total tax incidence on wire rod and consider only that percentage of the allowable indirect taxes as rebatable, without given rise to a subsidy.

DOC Position: Through long-standing case precedent and by the dictates of the Act, the Department has determined that only that portion of the reembolso that exceeds the amount of indirect taxes allowable under the Act confers a bounty or grant. The petitioners, in effect, are arguing that in order for the Department to make such a determination, the government of Argentina has the obligation to rebate fully all indirect taxes on wire rod that it has calculated. The government of Argentina has no obligation to rebate any indirect taxes incident on wire rod; the only obligation that exists under the

act is that if it chooses to rebate any of these indirect taxes, they must be reasonably calculated and directly related to wire rod. Having made that determination, the Department cannot consider any portion of those allowable indirect taxes to confer a bounty or grant.

Comment 7: The petitioners argue that the exemption of reembolso payments from the income tax constitutes an additional bounty or grant that is countervailable.

DOC Position: By its nature, the rebate of indirect taxes is not considered income. To determine whether the reembolso is a *bona fide* rebate of indirect taxes, the Department has followed its long-established practice of considering a rebate of indirect taxes to be non-countervailable if it is reasonably calculated, is specifically intended to compensate for the prior payments of indirect taxes, and is directly related to the merchandise exported. These conditions are enumerated in the Senate Report to the Act (S. Rep. 96–29 at 84f/1979) and have been upheld by the Court of International Trade in the case, *Industrial Fasteners Group, American Importers Association* v. *United States*, 2 C.I.T. ——, Slip Op. 81–99 (October 29, 1981). Having met these criteria, we consider the non-excessive portion of the reembolso to be a *bona fide* rebate of indirect taxes and non-countervailable.

The legislative history, however, is silent on the issue of the countervailability of the secondary tax effects of non-countervailable rebates of indirect taxes. We interpret Congressional intent to be that the *whole* of a non-excessive rebate of indirect taxes—including any secondary tax effects—is non-countervailable, provided it meets the above-mentioned criteria.

With respect to that portion of the reembolso determined to confer a bounty or grant and which could be considered income, we conclude that there is no additional benefit attributable to the income tax exemption. Since we have separately determined the full benefit from this overrebate, we would be double-counting if we were to consider that a countervailable benefit is conferred by its exemption from the income tax. Further, the Department consistently has taken the position that it will not examine the income tax consequences of non-income tax subsidy programs. Whether and to what extent each producer's or exporter's benefits from a program unrelated to income taxes would be increased or diminished as a consequence of application of its country's income tax laws is a difficult and complex matter which is neither feasible nor necessary to explore.

Comment 8: The petitioner states that the Department should not use additional information regarding the reembolso received after the preliminary determination because the respondent refused to provide such information at the appropriate time in the investigation.

DOC Position: The respondent never refused to supply any information requested by the Department. Information used with respect to changes in the preliminary determination in calculating the permissible level of reembolso was received at verification, an integral part of the investigation. This material supplemented information provided prior to the preliminary determination in sufficient detail to permit revision of our calculations.

Comment 9: The petitioners state that the Department should not accept *ex post facto* rationalizations of rebates of indirect taxes, in accordance with its past practice.

DOC Response: The Department has relied only on studies of the indirect tax incidence prepared by the government of Argentina prior to the initiation of the investigation. At verification we examined in detail the back-up documents prepared as the basis for the studies submitted by ACINDAR to the government of Argentina before this investigation was initiated. These documents supported the figures we have used in our calculations.

Suspension of the Investigation

The Department has determined that the agreement will eliminate completely the bounties or grants conferred on the subject merchandise exported directly or indirectly to the United States, that the agreement can be monitored effectively, and that the agreement is in the public interest. We find, therefore, that the criteria for suspension of an investigation pursuant to section 704 of the Act have been met. The terms and conditions of the agreement, signed September 21, 1982, are set forth in Annex 1 to this notice.

Pursuant to section 704(f)(2)(A) of the Act, the suspension of liquidation of all entries, entered or withdrawn from warehouse, for consumption of carbon steel wire rod from Argentina effective July 14, 1982, as directed in our notice of "Preliminary Affirmative Countervailing Duty Determination, Carbon Steel Wire Rod from Argentina" is hereby terminated. Any cash deposits on entries of carbon steel wire rod from Argentina pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

The Department intends to conduct an administrative review within twelve months of the anniversary date of publication of this suspension as provided in section 751 of the Act.

Notwithstanding the suspension agreement, the Department will continue the investigation if we receive such a request in accordance with section 704(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 704(f)(1)(A) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 21, 1982.

Annex 1—Suspension Agreement—Carbon Steel Wire Rod From Argentina

Pursuant to section 704 of the Traiff Act of 1930, as amended ("the Act"), and section 355.31 of the Commerce Regulations, the government of the United States through its Department of Commerce ("the Department") and the government of Argentina through its Ministry of Economy ("the Ministry") enter into the following suspension agreement ("the agreement") on the basis of which the Department shall suspend its countervailing duty investigation initiated on March 1, 1982 (47 Fed. Reg. 9260) with respect to carbon steel wire rod from Argentina. The agreement shall be in accordance with the terms and provisions set forth below.

A. Scope of the Agreement

The agreement applies to all carbon steel wire rod manufactured in Argentina and exported, directly or indirectly, from Argentina to the United States (hereinafter referred to as the "subject product"). The term "carbon steel wire rod" covers a coiled simi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.02 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States*.

B. Basis of the Agreement

1. The Ministry hereby agrees to eliminate completely the amount of the net bounty or grant determined by the Department to exist with respect to the subject product. The elimination of the net bounty or grant shall be accomplished for all exports of the subject product made on or after October 30, 1982. The Ministry agrees that:

(a) it will not provide to manufacturers, producers, or exporters of the subject product, either directly or indirectly, any reembolso payment constituting a bounty or grant, as determined by the Department, and

(b) the Central Bank shall not provide, either directly or indirectly, preferential dollar-indexed pre-export financing and that the Ministry shall submit documentation that

the Central Bank prohibits such financing on any exports of the subject product.

2. The Ministry certifies that no new or equivalent benefits shall be granted on the subject product as a substitute for any benefits eliminated by the agreement.

3. The elimination of these benefits does not constitute an admission by the Ministry that such benefits are bounties or grants within the meaning of the U.S. countervailing duty law.

4. The Ministry agrees that from the effective date of the suspension of the investigation and until the complete elimination of the net bounty or grant no later than October 30, 1982, the rate of exports of the subject product will not exceed the average monthly rate of exports to the U.S. in the period February 1981-January 1982. The Department will monitor the exports of the subject product to the United States from the effective date of the suspension of the investigation until the elimination of the net bounty or grant and will issue instructions to the Customs Service to deny entry, or withdrawal from warehouse, for consumption of the subject product exported in excess of the average monthly rate in the period February 1981-January 1982.

5. The Department agrees to suspend its countervailing duty investigation with respect to carbon steel wire rod from Argentina.

C. Monitoring of the Agreement

1. The Ministry agrees to supply to the Department such information as the Department deems necessary to demonstrate that it is in full compliance with the agreement.

2. The Ministry shall immediately provide copies of any resolutions, decrees or legislation governing the changes in the level of reembolso payments or of the indirect taxes rebated by these payments on any exports of the subject product as soon as such changes occur.

3. The Ministry shall notify the Department if any exporters of the subject product transship the subject product through third countries or apply for or receive, directly or indirectly, the benefits of the programs described in paragraph B(1) regarding the manufacture, production or export of the subject product.

4. The Ministry shall certify to the Department within 15 days after the first day of each three-month period beginning on January 1, 1983 whether it continues to be in compliance with the agreement by eliminating the net bounty or grant referred to in paragraph B(1) and whether it has substituted any new or equivalent benefits for the benefits eliminated by the agreement. Failure to supply such information or certification in a timely fashion may result in the immediate resumption of the investigation or issuance of a countervailing duty order.

5. The Ministry shall permit such verification and data collection as is requested by the Department in order to monitor the agreement. The Department will request such information and perform such verification periodically pursuant to administrative reviews conducted under section 751 of the Act.

6. The Ministry shall notify the Department if it decides to alter or terminate its obligations with respect to any of the terms of the agreement.

7. The Department shall notify the Ministry of any subsequent determination in this proceeding as a result of information provided by the Ministry with respect to the monitoring of the agreement.

8. The agreement shall remain in effect until the conditions of section 751(c) of the Act are met, unless the Department determines that paragraph D of the agreement applies.

D. Violation of the Agreement

If the Department determines that the agreement is being or has been violated or no longer meets the requirements of section 704(b) or (d) of the Act, then section 704(i) shall apply.

E. Effective Date

The effective date of the agreement is the date of publication.

Signed in Washington, D.C., on this 21st day of September, 1982.

For the Argentine Ministry of Economy.

Santiago Murray,

Minister-Counselor, Embassy of the Argentine Republic.

I have determined that the provisions of paragraph B completely eliminate the bounties or grants that the government of Argentina is providing with respect to carbon steel wire rod exported directly or indirectly from Argentina to the United States and that the provisions of paragraph C ensure that this agreement can be monitored effectively pursuant to section 704(d) of the Act. Furthermore, I have determined that the agreement meets the requirements of section 704(b) of the Act and suspension of the investigation is in the public interest.

Department of Commerce.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-26461 Filed 9-24-82; 8:45 am]

BILLING CODE 3510-25-M

Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Carbon Steel Wire Rod From South Africa

AGENCY: International Trade Administration, Commerce

ACTION: Final affirmative countervailing duty determination and countervailing duty order.

SUMMARY: We determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in South Africa of carbon steel wire rod, as described in the "Scope of Investigation" section of this notice. The estimated bounty or grant is indicated under the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: September 27, 1982.

FOR FURTHER INFORMATION CONTACT: Paul J. Thran, Office of Investigations, Import Administration, International Trade Administration, U.S.. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377-1766.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in South Africa of carbon steel wire rod, as described in the "Scope of Investigation" section of this notice. The following programs are found to be bounties or grants.

- Export incentive program—category C
- Assumption of financing charges
- Railroad rate differential
- Central government rail rebate

We determine the net bounties or grants to be the amount indicated in the "Suspension of Liquidation" section of this notice.

Case History

On February 8, 1982, we received a petition from counsel for Atlantic Steel Corporation, Georgetown Steel Corporation, Georgetown-Texas Steel Corporation, Keystone Consolidated Incorporated, Korf Industries Incorporated, Penn-Dixie Steel Corporation and Raritan River Steel Corporation, on behalf of the U.S. industry producing carbon steel wire rod. The petition alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in South Africa of carbon steel wire rod.

We found the petition sufficient and, on March 1, 1982, we initiated a countervailing duty investigation (47 FR 5751). We stated that we expected to issue a preliminary determination by May 4, 1982. We subsequently determined that the investigation is "extraordinarily complicated", as defined in section 703(c) of the Act, and postponed our preliminary determination for 65 days until July 8, 1982 (47 FR 17319).

On July 8, 1982, we preliminarily determined there was reason to believe or suspect certain benefits which constitute bounties or grants within the meaning of the countervailing duty law, were being provided to manufacturers,

producers, or exporters in South Africa of carbon steel wire rod (47 FR 30559). Written views and rebuttals were received from all the parties in lieu of a hearing.

Since South Africa is not a "country under the Agreement" within the meaning of section 701(b) the Act, and the carbon steel wire rod at issue here is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission (ITC) is not required to determine whether, imports of this product cause or threaten material injury to the U.S. industry in question.

Scope of Investigation

For the purpose of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.02 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States.*

The South African Iron and Steel Industrial Corporation (ISCOR) is the only known producer in South Africa of the subject product exported to the United States.

The period for which we are measuring subsidization is the corporate fiscal year 1981, which runs from July 1, 1980 through June 30, 1981.

Analysis of Programs

In it response, the government of South Africa provided data for the applicable period. Additionally, we received information from ISCOR, which produced and exported carbon steel wire rod to the United States during 1981. Throughout this notice, the general principles applied by the Department of Commerce to the facts of this investigation are described in detail in Appendices 2 and 4 which accompany the notice of "Final Affirmative Countervailing Duty Determination, Carbon Steel Wire Rod from Belgium," in this issue of the **Federal Register.** Based upon our analysis of the petition and response to our questionnaire, we determine the following.

I. Programs Determined To Be Bounties or Grants to Manufacturers, Producers, or Exporters of Carbon Steel Wire Rod

We determine bounties or grants are being provided to manufacturers, producers, or exporters in South Africa of carbon steel wire rod under the programs listed below.

A. Assumption of Finance Charges

In 1978 The government of South Africa assumed R70 million of ISCOR's finance charges. Under the grants methodology described in Appendix 2, we treated this payment as a grant, and allocated the amount over 15 years, the average life of capital assets in integrated steel mills. Using this methodology, we calculated a benefit of 0.35 percent *ad valorem.*

In our preliminary determination, we calculated the benefit of this program as though the grant were given in 1977, using the discount rate for that year, following our then existing methodology. Since the grant was actually given in 1978, we are now using the appropriate discount rate for 1978, which is lower. This results in a benefit of 0.35 percent instead of 0.5 percent.

B. Railroad Rate Differential

The South African Transport Services (SATS), a government-owned corporation, maintains a rate schedule that generally provides railroad rates for shipments destined for export that are lower than domestic rates.

ISCOR used rail transport for its exports of carbon steel wire rod. The export rate is approximately 50 percent of the domestic rate. In our preliminary determination, we found this program to be a bounty or grant, and we calculated its benefit by dividing the differential per ton by the per ton value of the appropriate product.

As stated in our preliminary notice, SATS maintains that its export rates are "cost justified," and that the difference between the domestic and export rates reflects the difference in the cost of handling the two types of traffic.

SATS has demonstrated that rate differentials between domestic and export steel shipments are generally cost justified. It has shown that the ratio of revenues to costs in export shipments of steel is greater than the similar ratio for most domestic shipments. The exception was certain domestic steel shipments railed under the same conditions as exports. Prior to April 1, these were charged higher rates than exports. Necessarily, the revenue-to-cost ratio for these shipments exceeded the normal ratio for domestic shipments.

During our verification we found that steel for export is shipped in "full-truck loads" (full cars) and 39-car trains. The mill is charged for a fully loaded car whether or not it is able to fill the car completely. These trains are moved to the harbors as complete units. The only handling required is the changing of locomotives on various parts of the lines. At the ports the harbor administration unloads the train and loads the ships; for this service a separate fee is charged.

In contrast, domestic shipments are charged rates on a per ton basis. The railroad moves the cars from the mill to a marshalling yard where they are transferred to other trains for hauling to their destination. (Marshalling may occur more than once during any shipment.) At the destination the railroad is responsible for unloading the train.

SATS has made available to domestic steel shippers, effective April 1, 1982, the same rates export shipments enjoy if the domestic shipments meet the same loading and point-to-point conditions imposed on export shipments.

Based on the availability of the lower rate to all domestic steel shippers meeting the conditions imposed on export shipments of steel, we determine that the rate afforded by SATS to exporters of carbon steel wire rod is not provided on terms more favorable than those for domestic shippers and that it does not constitute a bounty or grant in this case for shipments exported after April 1, 1982. For shipments prior to April 1, 1982, we find the bounty or grant to be 5 percent *ad valorem* based on the difference in the full truckload rate available to exporters and the per ton rate available to domestic shippers.

C. Export Incentive Program—Category C (Finance Charges Aid Scheme)

The South African government provided for a tax-free rebate to certain firms increasing the value of their exports of manufactured goods. The rebate was equal to 25 percent of the interest costs for financing exports. ISCOR benefited from this program in 1981. However, as this program was terminated on April 1, 1982, we are not including this benefit in our calculation of the bounties or grants on shipments after that date. For shipments prior to April 1, 1982, we calculated a benefit of 1.2 percent *ad valorem.*

D. Central Government Rebate

The government of South Africa offered a "Central Government Rebate" of up to 25 percent of the railroad charges on products shipped in open railway cars for export. ISCOR benefited from this program in 1981. However, as this program was terminated on April 1, 1982, we are not including this benefit in our calculation of the bounties or grants on shipments after that date. For shipments prior to April 1, 1982, we find the benefit under this program is 1.25 percent *ad valorem.*

II. Programs Determined Not To Be Bounties or Grants to Manufacturers, Producers, or Exporters of Carbon Steel Wire Rod

Based upon our verification, we determine that bounties or grants are not being provided to manufacturers, producers, or exporters in South Africa of carbon steel wire rod under the following programs:

Government Equity Participation in ISCOR

The government of South Africa owns over 99 percent of the outstanding shares of ISCOR. The remaining shares are not publicly traded. The petitioners alleged that the purchase of equity by the government represents a bounty or grant. In our preliminary determination, we made the tentative judgment, based on ISCOR's financial statements, that the purchase of share capital in ISCOR by the government was inconsistent with commercial considerations, and therefore potentially a bounty or grant.

We then measured the value of the bounty or grant by comparing the government's rate of return in 1981 on its equity investment in ISCOR with the national average rate of return in 1981 on equity investments in South Africa as evidenced by the report of the South African Reserve Bank. We then multiplied this difference by the amount of the government equity infusions since 1974. We preliminarily found the value of the benefit, allocated over total ISCOR sales, to be 3.7 percent *ad valorem*.

ISCOR has provided additional information to suggest that the government's equity infusions were consistent with commercial considerations, and therefore not a bounty or grant. ISCOR's income statements in its annual reports are based on an inflation-based accounting system which charges to production costs the increased replacement costs of fixed assets. This expense item is in addition to normal depreciation. While approved and recommended, this practice is not followed by most South African companies. However, ISCOR has been using it since 1952.

The effect of this practice on ISCOR is to understate its profit performance *vis-a-vis* companies not using the inflation-based system. When the provisions for increased replacement costs are added back to profits, ISCOR's performance changes dramatically. Instead of two profitable years in the last eight, ISCOR showed profits in six of those years.

Moreover, we have found that ISCOR's non-payment of taxes in those years is not related to a poor profit performance, but instead to significant write-offs for major capital expenditures made during earlier periods. These write-offs are not preferential under South African tax law.

For these reasons we determine that the South African government's purchase of ISCOR's share capital was not inconsistent with commercial considerations, and therefore is not potentially a bounty or grant under the Act.

ISCOR Loan Guarantees

The petitioners alleged that the South African government's ownership of ISCOR allows the company to receive loans at interest rates lower than if the company were privately held. In our preliminary determination, we estimated the benefit from loan guarantees based on the best information available. ISCOR has since presented information on all its loans outstanding during the period for which subsidization is being measured.

Government ownership of a firm does not implicitly guarantee the debt of the firm, and thus does not confer *per se* a bounty or grant. An explicit loan guarantee by the state, on the other hand, bestows a benefit to the extent that the recipient of the guaranteed loan pays less for the debt than it would have absent the guarantee. In ISCOR's case we found that only certain of the company's loans obtained in foreign countries were guaranteed by the government. Those loans of ISCOR's which were guaranteed carried rates generally higher than the rates for long-term corporate bonds in the countries in which they were received. The long-term corporate bond rate is the rate we selected as our measure of debt incurred solely on the basis of commercial considerations. Therefore, we determine that the guarantee of ISCOR's loans by the government did not provide a benefit which is a bounty or grant in this case.

Export Credit Insurance

The Credit Guarantee Insurance Company ("CGIC") offers export credit insurance to qualifying export companies. No other insurance company is known to provide similar coverage. According to its annual reports, CGIC's insurance premium rates appear to cover the longterm operating costs and losses of the program. Therefore, we find that the program does not constitute a bounty or grant.

Employee Training Programs

The South African Department of Manpower certifies training programs to the taxing authority which allows businesses to deduct 200 percent of qualified training expenses. The Department of Manpower has demonstrated that all qualified training programs are available to all companies and industries and that they are neither restricted to certain sectors of the economy nor preferential to exporters. Therefore, we find the tax benefits from the training programs not to be bounties or grants.

Reduced Ocean Freight Rates

The petitions alleged that South African shippers benefited from reduced ocean freight rates. We could find no evidence of such a program. We did find evidence of rate negotiation between shippers and carriers; however, this did not constitute a bounty or grant under the Act.

III. Programs Determined Not To Be Used by Manufacturers, Producers, or Exporters of Carbon Steel Wire Rod

We determine that the following programs, which were alleged by the petitioners to confer bounties or grants, are not used by the manufacturers, producers, or exporters in South Africa of carbon steel wire rod.

- Pre- and post-shipment financing,
- Export incentive program—category A, B and D,
- Beneficiation allowances for base mineral processing,
- Homeland development, and
- Iron/steel export promotion scheme

Comment 1: The petitioner argues that the magnitude of the railway rate differential cannot be explained by difference in cost experience, and therefore, exports of steel wire rod are railed at rates more favorable than domestic shipments. This constitutes a bounty or grant.

DOC Position: During our verification we were presented with data that demonstrates that export shipments of all of the subject product return a higher percentage of revenues relative to cost than do domestic shipments of the same products. The data which we examined were the railroad's standard costs applied against its work performance factors. These latter numbers reflected the railroad's actual experience in moving steel from the mills to the ports. The ratio of revenues to cost generated from that traffic results in a larger number than the similar ratio for traffic moved under domestic conditions. As explained above, generally the conditions under which domestic and export traffic move are significantly different. Additionally, the railroad has provided us with information that indicates it now offers the lower rates to domestic shippers who meet the same

conditions that export shippers must meet to obtain the lower rates. This provision is effective April 1, 1982. With this change, there is no further question that export shipments of steel in open cars receive rates more favorable than similar domestic shipments.

Comment 2: The petitioner argues that adjustments to ISCOR's financial statments to reflect its use of a replacement cost inflation factor is improper. They also provide quotes from ISCOR's annual reports which suggest that investments in steel in general, and in ISCOR in particular, were not prudent in the period 1974 to 1980.

DOC Position: ISCOR's use of the replacement cost inflation factor in its accounts is a conservative accounting procedure. It understates the firm's profits relative to other firms not using the system. Therefore, in order to place ISCOR's performance in its proper perspective, an adjustment must be made. When that adjustment is made, ISCOR's profits, while not high, are in a range that could be expected to attract certain investors.

The quotations supplied are not sufficient to demonstrate that investment in ISCOR by the government was unreasonable. We do not find the government's purchases of equity in ISCOR to be based on terms inconsistent with commercial considerations.

Comment 3: The petitioner cites the eight years in which ISCOR did not pay taxes as proof of its unprofitable condition.

DOC Position: We have found that ISCOR's non-payment of taxes in those years was not related to poor profit performance, but instead to significant write-offs for major capital expenditures made during the early and mid-seventies. These write-offs can be carried forward until exhausted. They are not preferential under South African tax law.

Comment 4: The petitioner argues that the government's ownership of ISCOR provides an implied guarantee of all the company's loans.

DOC Position: Government ownership of a firm does not implicitly guarantee the debt of the firm, and thus does not confer *per se* a bounty or grant. Where ISCOR's loans *were* guaranteed by the South African government, we found that those guarantees did not allow the company to obtain loans at interest rates lower than if the loans had not been guaranteed.

Comment 5: The petitioner argues that the benefit received in a homelands region by one of ISCOR's subsidiaries is a bounty or grant affecting ISCOR's steel production.

DOC Position: The subsidiary located in the homeland does not manufacture these steel products or produce any inputs for them. The steel that it handles is not exported to the United States. Therefore, the benefits received by the subsidiary do not constitute a bounty or grant on steel exports to the United States.

Comment 6: The petitioner alleges that employee training allowances are provided only to specific groups of industries and not to all; therefore, training benefits are countervailable. Further, the petitioners argue that even if the benefits of this program are available to all, they are still bounties or grants.

DOC Position: The Department finds that the training benefits are available to any industry or group of industries on an equal basis and that the present participation in the program demonstrates this general availability. Eligibility requirements do not limit the benefits of the program to particular companies or industries. Any corporation which sets up a qualified training program is eligible for the 200 percent tax deduction. These training programs are generally available on equal terms to all companies. As explained in Appendix 2, our interpretation of the Act and past practice is that generally available benefits are not bounties or grants. Since we determine that this program is generally available, we find it does not confer counter vailable benefits under the Act.

Comment 7: The petitioner suggests that because ISCOR did not supply us with sufficient information regarding their loans prior to verification that we should not have accepted that information subsequently and presumably, although he does not explicitly state, our decision should be based on the best information otherwise available.

DOC Position: While ISCOR did not provide us with all of the required information prior to our verification, it did give us that information at verification. While in general we strongly prefer to have complete information prior to verification, we view this action in this instance as not significantly impeding our investigation, and as such, we have no reason not to use this verified information.

Comment 8: The petitioner argues that the government's waiver of dividend payments is a demonstration that its participation in ISCOR is for objectives other than commercial considerations.

DOC Position: Our principal consideration in judging whether a government's participation in a firm is consistent with commercial consideration is the level of returns on equity. After restating ISCOR's performance in historical cost terms we find the returns on equity to be sufficient to warrant making that judgement affirmatively. The fact that the government chose not to take capital out of the firm in the form of dividends is not enough, in and of itself, to make us change our position.

Verification

In accordance with section 776(a) of the Act, we verified the data relied upon in our final determinations. During this verification, we followed standard procedures, including inspection of documents, discussions with government officials and on-site inspection of manufacturer's operations and records.

Suspension of Liquidation

The suspension of liquidation ordered in our preliminary determination shall remain in effect until further notice. The total net bounty or grant for carbon steel wire rod exported before April 1, 1982 and entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice is 7.8 percent *ad valorem*. For shipments exported on or after April 1, 1982 and entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice the total bounty or grant is 0.35 percent, a rate we consider *de minimis*. (For duty deposit purposes: 0.0 percent.)

As required by section 706(a)(3) of the Act, cash deposits of estimated countervailing duties in the amounts specified above of th f.o.b. invoice prices shall be required on shipments of the subject products entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

The Department intends to complete an administrative review of these determinations and orders under section 751 of the Act.

This determination and order are published in accordance with sections 705(d) and 706(a) of the Act.

Dated: September 21, 1982.

Lawrence Brady,

Assistant Secretary for Trade Administration.

[FR Doc. 82-25417 Filed 9-24-82; 8:45 am]
BILLING CODE 3510-25-M

Carbon Steel Wire Rod From Brazil; Suspension of Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of suspension of investigation.

SUMMARY: The Department of Commerce has decided to suspend the countervailing duty investigation involving carbon steel wire rod from Brazil. The basis for the suspension is an agreement by the government of Brazil to offset with an export tax all benefits which we find to be subsidies on exports of the subject product to the United States.

EFFECTIVE DATE: September 27, 1982.

FOR FURTHER INFORMATION CONTACT: Paul J. McGarr, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Case History

On February 8, 1982, the Department of Commerce (the Department) received a petition from Atlantic Steel Corporation, Georgetown Steel Corporation, Georgetown Texas Steel Corporation, Keystone Consolidated Incorporated, Korf Industries Incorporated, Penn-Dixie Steel Corporation and Raritan River Steel Corporation, filed on behalf of the U.S. industry producing carbon steel wire rod. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Brazil of carbon steel wire rod.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on March 1, 1982, we initiated a countervailing duty investigation (47 FR 9261). We stated that we expected to issue a preliminary determination by May 4, 1982. We subsequently determined that the investigation is "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determination for 65 days until July 8, 1982 (47 FR 17319).

We presented a questionnaire concerning the allegations to the government of Brazil in Washington, D.C. on May 25, 1982, we received the response to the questionnaire. During August 2–6, 1982, we verified this information by a review of government documents and company books and records of Companhia Siderurgica Belgo-Mineira (Belgo-Mineira) and Companhia Siderurgica Da Guanabara (COSIGUA), the only known exporters in Brazil of carbon steel wire rod to the United States.

On July 8, 1982, we preliminarily determined that the government of Brazil is providing subsidies to manufacturers, producers, or exporters of carbon steel wire rod under six programs. The programs preliminarily found to confer subsidies were IPI rebates for capital investment, the IPI export credit premium, preferential working capital financing for exports, an income tax exemption for export earnings, benefits on machinery imported under the Industrial Development Council program, and accelerated depreciation for Brazilian-made capital goods. Based upon verification, we also found benefits constituting subsidies were received on export credits provided through Resolution 68. This program is countervailable because it gives export credits to importers at preferential interest rates.

Notice of the preliminary affirmative countervailing duty determination was published in the **Federal Register** on July 14, 1982 (47 FR 30550). We directed the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise, entered or withdrawn from warehouse, for consumption on or after July 14, 1982, and to require a cash deposit or bond in the amount of 14.31 percent of the f.o.b. value of the merchandise.

On August 20, 1982, the Department initialed a proposed agreement to suspend the countervailing duty investigation involving carbon steel wire rod from Brazil. The basis for the proposed agreement to suspend was that the government of Brazil would offset by an export tax the entire amount of benefits we found to confer subsidies on exports of carbon steel wire rod to the United States.

On the same date, in compliance with the procedural requirements of section 704(e) of the Act, we called counsel for the petitioners informing them of the proposed agreement. At that time, we discussed the essential points of the proposed agreement and offered to answer any questions. These parties also received a copy of the proposed agreement on that date.

Scope of the Investigation

The product covered by this investigation is carbon steel wire rod manufactured in Brazil and exported, directly or indirectly, from Brazil to the United States. The term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.02 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States*.

The period for which we are measuring subsidization is calendar year 1981.

Changes Since the Preliminary Determination

(1) *IPI Export Credit Premium.* Our preliminary determination on this program was based on IPI credits received from July 1, 1981 to March 31, 1982, divided by the value of exports for the same period. We noted at the time our concern that the subsidy may have been understated.

At verification, this concern proved correct. The companies record IPI credits when received, which are based on shipments that may have taken place two to three months before. The export figures we used as the denominator bear little relation to the IPI credits received during the same period.

To calculate the value of the IPI credits, we sampled Belgo-Mineira's and COSIGUA's receipts of IPI credits and traced each to the appropriate shipment. We established that the only deduction made from the value of the shipment before the IPI credit is calculated is an agent fee and that not all shipments have this deduction. For each shipment, we calculated the value of the IPI credits as a percentage of the gross value of the shipment. We made this calculation as of the date of the shipment rather than the date of receipt of the IPI credits, not taking into account the devaluation of the cruzeiro in accordance with section 771(6)(B) of the Act.

Instead of the 10.63 percent *ad valorem* subsidy reported in our preliminary determination, we calculated a benefit of 14.89 percent. This rate was based on the 1981 export credit premium of 15 percent. To determine the appropriate export tax, we are prorating the IPI credit found on all carbon steel wire rod shipments by the appropriate rates in the phase-out schedule of the IPI set out below:

September 30, 1982—December 30, 1982=11.0 percent
December 31, 1982—February 15, 1983=9.0 percent
February 16, 1983—April 1, 1983=4.5 percent
April 2, 1983 onward=0 percent

(2) *Export Credits Under Resolution 68.* During verification we discovered that loans at preferential rates had been contracted under this program in 1981.

Normally, we do not consider that benefits are received from loans at preferential rates until payment is due. In this case, the first of four semi-annual payments by importers on all of the loans taken out under this program was not due until after the end of the review period. Consequently, there was no benefit to exports of wire rod to the United States under this program in 1981. However, the suspension agreement obligates the government of Brazil to offset, by an export tax, all current benefits on wire rod exports to the United States. Without a value as yet for 1982 exports, we must estimate the current level of subidy. Based on 1981 exports to the United States we estimate that the benefit from the loans learned about at verification is about 0.5–0.75 percent. Any new loans since that time would, of course, increase this benefit.

(3) *Long-Term Loans.* We stated in our preliminary determination that we required additional information on long-term loans to Belgo-Mineira and COSIGUA before making a determination on the allegation that such loans confer subsidies. At verification, we examined several foreign currency loans and found that such loans are granted with interest rates of LIBOR plus a spread that approximates the average spread available on such LIBOR loans in Brazil. We further verified that loans from FINAME, a program of the National Bank for Economic Development (BNDE) for the purchase of capital equipment manufactured in Brazil, are fully indexed and are made at fixed real interest rates ranging from 7 to 11 percent, depending on the time the loan was granted

FINAME loans are available to a wide variety of sectors in Brazil. While the steel industry is one of the chief recipients, this appears to be warranted in view of the capital requirements of a large capital-intensive industry. Other large capital-intensive industries have received loans in similar proportions. In addition, numerous other sectors also received loans from FINAME during this period. We do not have a benchmark in Brazil for comparing the interest rates on these loans, because of a lack of alternate sources of such financing. However, the real interest rates of 7 to 11 percent are quite high by international standards. Based on the general availability of these loans, we have determined that they do not confer a subsidy.

Petitioners' Comments

The Department has consulted with counsel for the petitioners, and received the following comments from them objecting to the proposed suspension agreement. Our responses are shown for each comment.

Issues Related to the Suspension Agreement

Comment 1: The petitioners suggest that paragraph B.1.(h) be modified by inserting "including any annual review" after the phrase "in this proceeding."

DOC Position: The suggested addition is redundant. The phrase "in this proceeding" encompasses annual reviews and any action taken by the Department with respect to this case until the case is terminated or revoked.

Comment 2: The petitioners contend that the representative period chosen as a reference period for the section 704(d)(2) requirement—that exports not increase in the interim period between suspension and imposition of the export tax—perpetuates the recent surge of imports of Brazilian carbon steel wire rod into the United States.

DOC Position: We are required to select "the most recent representative period." Accordingly, we chose the period February 1982—the most recent 12-month period prior to the filing of the petition. The petitioners have contended that we should use a two-year period, 1980–1981, to reflect more accurately the long-term level of Brazilian wire rod exports to the United States. The suggested period has 19 months of non-shipment prior to entry into the market and the increase of imports. The period we have chosen begins with 6 months of non-shipment, and the time period—the 12-month period before the petition was filed—correlates with the reference period in the suspension agreement on carbon steel plate from Brazil. We note that the periods covered by this quantitative restraint is very short—until October 20, 1982, when the offsetting export tax will go into effect.

Comment 3: The petitioners request that paragraph C.2 be modified by adding the words "production, or export" after the word "manufacture," to comport with the language of the Act.

DOC Position: We have inserted the proposed amendment.

Comment 4: The petitioners state that for effective monitoring to be practicable, the agreement should require that payment of the export tax be reflected on export documents presented to the Customs Service. They claim that this would provide verification that the export tax has been paid on shipments subject to the agreement and that the Customs Service would have appropriate documentation of that fact.

DOC Position: Such a requirement would not enhance the monitoring of the agreement. The U.S. Customs Service is not the administering authority; export documents made available to the Customs Service are not normally available to the Department; and, if such information were lacking on export documents, the Customs Service would not have the authority under a suspension agreement to suspend liquidation, impose countervailing duties, or deny entry. Provided the government of Brazil can present upon request appropriate documentation that the export tax has been timely paid, the agreement can be effectively monitored.

Comment 5: The petitioners state that for effective monitoring the agreement should specify the minimum amount of information to be supplied pursuant to paragraph C.1, and that this information should include on a quarterly basis the monthly volume and value of exports of the subject product to the United States, the total amount of export tax collected and documentation of payment of the tax.

DOC Position: The suggested amendment is unnecessary because paragraph C.1 is not limiting. The Department may request, at any time, any information it deems necessary for effective monitoring of the agreement.

Comment 6: The petitioners state that the agreement should include a provision whereby the government of Brazil consents to access to verification reports by counsel for the petitioners under an administrative protective order, so that counsel may monitor independently the efficacy of the agreement.

DOC Position: Non-confidential versions of verification reports are normally available to the public. A determination concerning the request by counsel for release of the confidential version of a verification report under protective order will be made at the time such requests are submitted.

Comment 7: The petitioners state that the suspension agreement fails to fulfill the explicit statutory conditions of section 704(d)(1) of the Act that any suspension agreement be in the public interest.

DOC Position: By its terms, the suspension agreement will offset completely the net subsidy, and *a fortiori* eliminates any injury caused by the net subsidy, without the added expense to the U.S. taxpayers, petitioners, and respondents of completing the investigation.

Subsidy Issues

Comment 8: The petitioners assert that in calculating the net subsidy under Resolution 674 financing, the Department used an incorrect benchmark. They state that the Banco do Brasil rate for discounting accounts receivable is not a proper benchmark because the discounting of accounts receivable is no longer the most common method of raising working capital. Further, they state that the Department must factor in compensating balances (although illegal in Brazil) to determine an effective interest rate; that the Department has not used its own standard of a national average commercial rate as a benchmark; and that in determining that benchmark the Department should use as one basis of comparison the rate for borrowing in international financial markets.

DOC Position: The Department believes from evidence available to it that there is no meaningful commercial market for short-term working capital loans in Brazil. Instead, most firms meet their needs for working capital through the sale of accounts receivable. Therefore, the Department has determined that the discounting of accounts receivable provides the most appropriate basis for comparison.

In determining a national benchmark, the Department chose the Banco do Brasil rate because prior case precedent and statements of the government of Brazil suggested that this was the appropriate standard. As the largest single banking entity in Brazil (representing 35–40% of all banking assets), the Banco do Brasil acts as a price leader from which the rates of other banks vary. Documents received at verification support our preliminary determination in several respects. First, the Banco do Brasil discount rate is 59.6 percent, as claimed; numerous banks, both state-owned and private, discount receivables at rates near (both above and below) the rate set by the Banco do Brasil. Second, as it applies to Belgo-Mineira and COSIGUA, the market for discounting accounts receivable is still quite active. During the period of review both companies discounted a significant percentage of their domestic accounts receivable with a wide variety of banks, and used this facility as the chief method of raising working capital. During verification, we found no evidence of compensating balances in company records; the amount received by the company after discounting a receivable was the value of a receivable minus the discount rate, the Tax on Financial Transaction (IOF) and a small commission. Lastly, in the memorandum to our preliminary determination we addressed the issue of comparability between cruzeiro and foreign currency sources for working capital. Our analysis has not changed since that time.

Comment 9: The petitioners state that the Department erred in its calculation of the interest equivalent of the discount rate for accounts receivable. They assert that it is normal procedure for a bank to have recourse to the seller of a receivable in the event of non-payment and thus the sale of a receivable has characteristics similar to a loan that must be repaid by the borrower. Consequently, they assert that we must determine the interest equivalent of the discount rate in the event of repayment by the seller and then compound this rate to determine a yearly effective rate for discounting accounts receivable. This procedure would yield a rate substantially higher than the 59.6 percent rate used by the Department to determine the interest subsidy of loans under Resolution 674.

DOC Position: The Department calculated the rate of 59.6 percent based on the following: (1) That the sale of an account receivable constitutes the purchase of an asset by a bank, in which the bank absorbs the risk of non-payment; (2) that once the sale is completed, the seller has no further obligation (such as repayment with interest) to the bank; and (3) that a series of sales of accounts receivable is not equivalent to rolling over a loan where interest on the original loan is compounded. As a result, the discount rate we have used is a simple rate and additive.

If the sale of an account receivable does in fact have more the character of a loan than the sale of an asset, we may have to reassess our position. We will investigate this matter further and make any necessary adjustments in the calculation of the interest differential and the net subsidy.

Comment 10: The petitioners state that FINAME loans are preferential when compared to long-term foreign currency loans granted at LIBOR-plus-spread, and thus FINAME loans confer a subsidy.

DOC Position: Long-term financing in cruzeiros is available in Brazil only through government-controlled financial institutions. We do not have a benchmark in Brazil for fixed interest rate long-term loans to compare with the interest rates on FINAME loans. However, since these loans are indexed, the interest rates are real interest rates. This allows us to construct a benchmark based on the real interest rates of the only private long-term loans commercially available in Brazil—the foreign currency loans referred to by the petitioners. The comparison of that constructed benchmark and the interest rates on these loans, as described below, suggests that they are not made at preferential rates.

Since LIBOR loans are continually readjusted at the prevailing interest rates we constructed the benchmark by calculating the average real interest component of LIBOR-plus-spread on long-term loans to Brazil for the period 1977–81 during which these FINAME loans were made. We than compared that average real interest rate-plus-spread to the rates at which the long-term FINAME loans were made. Our comparison showed that all the FINAME loans to Belgo-Mineira and COSIGUA were made at rates above the benchmark, which indicates that they were not made at preferential rates. We will monitor loans made by FINAME to Belgo-Mineira and COSIGUA in future section 751 administrative reviews in order to evaluate whether such loans were made at preferential rates.

Suspension of the Investigation

The Department has determined that the agreement will offset the subsidies completely with respect to the subject merchandise exported directly or indirectly to the United States, that the agreement can be monitored effectively, and that the agreement is in the public interest. We find, therefore, that the criteria for suspension of an investigation pursuant to section 704 of the Act have been met. The terms and conditions of the agreement, signed September 21, 1982, are set forth in Annex 1 to this notice.

Pursuant to section 704(f)(2)(A) of the Act, the suspension of liquidation of all entries, entered or withdrawn from warehouse, for consumption of carbon steel wire rod from Brazil effective July 14, 1982, as directed in our notice of "Preliminary Affirmative Countervailing Duty Determination, Carbon Steel Wire Rod from Brazil" is hereby terminated. Any cash deposits on entries of carbon steel wire rod from Brazil pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

The Department intends to conduct an administrative review within twelve months of the anniversary date of publication of this suspension as provided in section 751 of the Act.

Notwithstanding the suspension agreement, the Department will continue the investigation if we receive such a request in accordance with section

704(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 704(f)(1)(A) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 21, 1982.

Annex 1—Suspension Agreement—Carbon Steel Wire Rod From Brazil

Pursuant to section 704 of the Tariff Act of 1930, as amended ("the Act"), and section 355.31 of the Commerce Regulations, the United States Department of Commerce ("the Department") and the government of Brazil enter into the following suspension agreement ("the agreement") on the basis of which the Department shall suspend its countervailing duty investigation initiated on March 1, 1982 (47 FR 9261) with respect to carbon steel wire rod from Brazil. The agreement shall be in accordance with the terms and provisions set forth below.

A. Scope of the Agreement

The agreement applies to all carbon steel wire rod manufactured in Brazil and exported, directly or indirectly, from Brazil to the United States (hereinafter referred to as the "subject product"). The term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.02 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States*.

B. Basis of the Agreement

1. The government of Brazil hereby agrees to offset completely the amount of the net subsidy determined by the Department to exist with respect to the subject product. The offset shall be accomplished by an export tax applicable to the subject product exported on or after October 20, 1982. The export tax shall be utilized to offset completely any benefits found to exist with respect to the following programs:

(a) The IPI export credit premium,
(b) Resolution 674 financing,
(c) Decree Law 1547 rebates for investment,
(d) Benefits on imported machinery received under the CDI program,
(e) The income tax exemption for export earnings,
(f) Export credits provided through Resolution 68,
(g) Accelerated depreciation for Brazilian-made capital goods, and
(h) Any other program subsequently determined by the Department in this proceeding to constitute a subsidy under the Act to the subject product.

The Department shall officially notify the government of Brazil of any determination made under item (h) above.

2. The government of Brazil certifies that no new or equivalent benefits shall be granted on the subject product as a substitute for any benefits offset by the agreement.

3. The offset of these benefits does not constitute an admission by the government of Brazil that such benefits are subsidies within the meaning of the U.S. countervailing duty law.

4. The government of Brazil agrees that from the effective date of the suspension of the investigation and until the imposition of an export tax no later than October 20, 1982 that completely offsets the net subsidy determined by the Department to exist, the rate of exports of the subject product will not exceed the average monthly rate of exports to the U.S. in the period February 1981–January 1982. The Department will monitor the exports of the subject product to the United States from the effective date of the suspension of the investigation until the imposition of the export tax and will issue instructions to the Customs Service to deny entry, or withdrawal from warehouse, for consumption of the subject product exported in excess of the average monthly rate in the period February 1981–January 1982.

C. Monitoring of the Agreement

1. The government of Brazil agrees to supply to the Department such information as the Department deems necessary to demonstrate that it is in full compliance with the agreement.

2. The government of Brazil shall notify the Department if any exporters of the subject product transship the subject product through third countries or apply for or receive, directly or indirectly, the benefits of the programs described in paragraph B(1) regarding the manufacture, production or export of the subject product.

3. The government of Brazil shall certify to the Department within 15 days after the first day of each three-month period beginning on January 1, 1983 whether it continues to be in compliance with the agreement by offsetting the net subsidy referred to in paragraph B(1) and whether it has substituted any new or equivalent benefits for the benefits offset by the agreement. Failure to supply such information or certification in a timely fashion may result in the immediate resumption of the investigation or issuance of a countervailing duty order.

4. The government of Brazil shall permit such verification and data collection as is requested by the Department in order to monitor the agreement. The Department will request such information and perform such verification periodically pursuant to administrative reviews conducted under section 751 of the Act.

5. The government of Brazil shall promptly notify the Department, with appropriate documentation, of any change in the amount of benefits to the subject product, of any change in the rate of the export tax, or if it decides to alter or terminate its obligations with respect to any of the terms of the agreement.

D. Violation of the Agreement

If the Department determines that the agreement is being or has been violated or no longer meets the requirements of section 704(b) or (d) of the Act, then section 704(i) shall apply.

E. Effective Date

The effective date of the agreement is the date of publication.

Signed on this 21st day of September, 1982.

For the Government of Brazil:

Luiz Felipe P. Lampreia,

Minister-Counselor, Brazilian Embassy.

I have determined that the provisions of paragraph B completely offset the subsidies that the government of Brazil is providing with respect to carbon steel wire rod exported directly or indirectly from Brazil to the United States and that the provisions of paragraph C ensure that this agreement can be monitored effectively pursuant to section 704(d) of the Act. Furthermore, I have determined that the agreement meets the requirements of section 704(b) of the Act and suspension of the investigation is in the public interest.

Department of Commerce.

By: Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-28480 Filed 9-24-82; 8:45 am]

BILLING CODE 3510-25-M

Final Affirmative Countervailing Duty Determination: Carbon Steel Wire Rod From Belgium

AGENCY: International Trade Administration, Commerce.

ACTION: Final Affirmative Countervailing Duty Determination.

SUMMARY: We have determined that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Belgium of carbon steel wire rod, as described in the "Scope of the Investigation" section of this notice. The estimated net subsidy is indicated under the "Suspension of Liquidation" section of this notice. The U.S. International Trade Commission (ITC) will determine within 45 days of the publication of this notice whether these imports are materially injuring, or threatening to materially injure, a U.S. industry.

EFFECTIVE DATE: September 27, 1982.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–3003.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we have determined that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers,

or exporters in Belgium of carbon steel wire rod, as described in the "Scope of the Investigation" section of this notice. The following programs are found to confer subsidies.

- capital grants
- exemptions from real property tax
- exemptions from capital registration tax
- loans to uncreditworthy companies
- equity participation by the government of Belgium (GOB)
- assumption of financing costs
- preferential loans
- industrial investment loans from the European Coal and Steel Community (ECSC)
- reimbursement of worker training costs
- readaptation and retraining assistance
- funds for loss coverage

We determine the estimated net subsidy to be the amount indicated in the "Suspension of Liquidation" section of this notice.

Case History

On February 8, 1982, we received a petition from counsel for Atlantic Steel Corp., Georgetown Steel Corp., Georgetown Texas Steel Corp., Keystone Consolidated, Inc., Korf Industries, Inc., Penn-Dixie Steel Corp., and Raritan River Steel Co., filed on behalf of the U.S. industry producing carbon steel wire rod. The petitioners alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Belgium of carbon steel wire rod. Counsel for petitioners alleged that "critical circumstances" exist, as defined in section 703(e) of the Act. We found the petitions to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on March 1, 1982 we initiated a countervailing duty investigation (47 FR 9261).

Since Belgium is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the ITC of our initiation. On March 25, 1982 the ITC preliminarily determined that there is a reasonable indication that imports of carbon steel wire rod from Belgium are materially injuring, or threatening to materially injure, a U.S. industry.

We presented questionnaires concerning the allegations to the Delegation of the Commission of the European Communities and to the Government of Belgium in Washington, D.C. On May 7, 1982 we received the responses to the questionnaires. A supplemental response was received on May 25, 1982. On July 8, 1982 we issued our preliminary determination in this investigation (47 FR 30541). This stated that the government of Belgium was providing its manufacturers, producers, or exporters of carbon steel wire rod with benefits which constitute subsidies. The programs preliminarily determined to bestow countervailable benefits were:

- "interest rebates"
- capital grants
- loan guarantees
- exemptions from real property tax
- exemptions from capital registration tax
- loans to uncreditworthy companies
- equity participation by the GOB
- assumption of financing costs
- labor assistance
- preferential loans
- industrial investment loans from the ECSC (Article 54)
- research and development aid

Scope of the Investigation

The product covered by this investigation is carbon steel wire rod. It is fully described in Appendix 1, which follows this notice.

Cockerill Sambre (Cockerill), is the only known Belgian producer and exporter of the subject product to the United States.

Cockerill Sambre is a company which resulted from the merger in June 1981 of Cockerill, which itself is a merger of several steel mills, and Hainaut-Sambre. Hainaut-Sambre was composed of three major components: Carlam, a recently constructed flat products mill which was mostly owned by Hainaut-Sambre; Thy-Marcinelle et Providence (TMP), which resulted from a merger of a Providence mill of the former Cockerill company with Thy-Marcinelle et Monceau in 1979; and the old Hainaut-Sambre Company. TMP merged with Hainaut-Sambre in 1980.

The period for which we are measuring subsidization is the calendar year 1981.

Analysis of Programs

In their responses, the GOB and the Delegation of the Commission of the European Communities provided data for the applicable periods. Additionally, we received information from Cockerill.

Throughout this notice, general principles applied by the Department of Commerce to the facts of the current investigation concerning carbon steel wire rod are described in detail in Appendices 2–4, which follow this notice. Where benefits were provided to the specific product, they were allocated over the value of sales of only that product in calculating the subsidy rate. Based upon our analysis of the petitions, responses to our questionnaires, our verification and oral and written comments by interested parties, we determine the following:

I. Programs Determined To Confer Subsidies

We have determined subsidies are being provided under the programs listed below to manufacturers, producers, or exporters in Belgium of carbon steel wire rod.

A. Programs Administered Under the Laws of July 14, 1966 and December 30, 1970 on Economic Expansion

The laws of July 18, 1959 and July 14, 1966 (the 1966 law) were economic development laws providing regional assistance. They predated the Law of December 30, 1970 (the 1970 law), which applies to the same regions covered by the earlier laws. The 1970 law provided for regional assistance to companies located in certain development areas to promote activities which contribute to the establishment, expansion, conversion or modernization of industrial enterprises. The 1966 law provided for assistance for economic reconversion and development of coal-producing regions and certain other regions experiencing grave and urgent problems. We have determined that benefits were provided under both the 1966 and 1970 laws (items 1–3 below) and that these benefits are countervailable because they are targeted to companies in specific areas.

1. *Capital Grants.* This program provides assistance in financing capital investments made by companies. A grant may be given which totally or partially replaces an "interest rebate" for which the investment is otherwise eligible under both laws. The methodology for calculating the subsidy value of grants is described in Appendix 2. The benefits are allocated over the average useful life of steel assets, 15 years, and are applied to the value of sales of the appropriate products of the company. Cockerill received several grants for less than $50 million. Where grants were not tied to any particular mill or product, but benefited carbon steel production, we allocated the benefits over the total sales value of carbon steel products produced by Cockerill.

The grants received by Cockerill amounted to a subsidy rate of .112 percent *ad valorem.*

2. *Exemptions from Real Property Tax.* Under the 1970 law, qualifying

investments may be granted an exemption from the real property tax levied by the state, province, or local community on the estimated rental income from fixed assets. The exemption may be granted for a period of up to five years, depending on the degree to which the investment program achieves the objectives of the 1970 law. Exemptions received by companies were treated as grants that are normally expensed in the year received and applied to the total sales value of carbon steel products of the company.

The subsidy rate for Cockerill under this program is 0.073 percent *ad valorem.*

3. *Exemptions from Capital Registration Tax.* Assets transferred to a company which makes investments pursuant to the 1970 law may be exempted from the one percent capital registration tax. We treated exemptions under this program as grants that are normally expensed in the year received. The entire amount of the benefit was allocated over the total sales value of all products of the company.

Cockerill received exemptions amounting to a subsidy rate of 0.404 percent *ad valorem.*

B. Restructuring Plan Programs

The GOB has mandated a reorganization of the steel industry in Belgium under the following enactments and agreements:

- The Reorganization Plan of 1978 (Hanzinelle Agreement)
- Council of Ministers decision of November 23, 1978
- Royal Decree of December 15, 1978
- Council of Ministers decision of May 15, 1981
- Related and additional agreements between the government and the individual steel companies

These are intended to assist the modernization of the steel industry. Specific programs include loans to uncreditworthy companies, equity participation by the GOB and assumption of financing costs. We find these programs to provide countervailable benefits.

1. *Loans to Uncreditworthy Companies.* Petitioners allege that Cockerill, Hainaut-Sambre and TMP (now merged with Cockerill) were uncreditworthy at the time that loans from government institutions were made to them. We determine Cockerill to be uncreditworthy from 1978 through 1981. The company received a large, unguaranteed private loan (for which there is no evidence of government direction) during 1977 which establishes its creditworthiness despite negative indicators. Cockerill has been uncreditworthy since 1977 for several reasons. First, the company sustained losses ranging from 2.4 to 7.3 billion Belgian francs (BF) in each of the last four years prior to its merger with Hainaut-Sambre in 1981. Second, certain significant financial ratios for this company indicate an uncreditworthy situation, including successive years (1975 through 1981) of negative cash flow and low current ratios. Third, Cockerill apparently lost access to loans from independent commercial sources after 1977. Fourth, the government-directed moratorium on Cockerill's debt service is a further indication of uncreditworthiness, as is the amount, timing and nature of some of the government equity participation.

We determine Hainaut-Sambre to be uncreditworthy from 1977 through 1981. First, Hainaut-Sambre sustained losses ranging from 0.7 to 5.4 billion BF during the five years preceding its merger with Cockerill in 1981. Second, certain significant financial indicators for this company indicate an uncreditworthy situation, including successive years (1976 through 1978 and 1980) of negative cash flow, and very low current ratios. Third, the government-directed Moratorium on this company's debt service is a further indication of uncreditworthiness, as is the amount, timing and nature of some of the government equity participation.

In our preliminary determinations, we made no decision concerning the uncreditworthiness of TMP because we lacked sufficient information to identify loans to the company. On the basis of information subsequently received we have identified separate loans made to TMP. It was therefore necessary to evaluate TMP's creditworthiness.

We determine TMP to be uncreditworthy from 1977 through 1979. First, the company sustained losses ranging from 0.5 to 1.8 billion BF in the 4 years prior to its merger with Hainaut-Sambre. Second, certain significant financial indicators for this company indicate an uncreditworthy situation, including successive years (1976 through 1978) of negative cash flow and very low current ratios. Third, the government-directed moratorium on this company's debt service is a further indication of uncreditworthiness, as is the amount, timing and nature of some of the government equity participation.

Because we consider Cockerill (and before their acquisition, TMP and Hainaut-Sambre) to have been uncreditworthy, loans and loan guarantees issued by the GOB during the period of uncreditworthiness are treated essentially as equity investments. Under the equity methodology for loans to uncreditworthy companies as discussed in Appendix 2, we compared the national rate of return on equity in Belgium to the rate realized by Cockerill. To prevent countervailing a higher subsidy amount than if the loan had been an outright grant to the company, we limited the 1981 benefit under this methodology to the result that would be found if the loans were treated as grants under the grant methodology discussed in Appendix 2. The countervailable benefit from each loan was allocated over the total sales value of all steel production of the company. Loans actually converted to equity of convertible debentures are treated separately under the section entitled "Equity Participation by the GOB," which follows.

The benefits to Cockerill under this program amounted to a subsidy rate of 1.075 percent *ad valorem.*

2. *Equity Participation by the GOB.* The GOB has purchased equity in certain steel companies and has converted "medium-" and long-term debt to equity. Equity infusions by the GOB took place as follows:

- Cockerill

1979—Converison of debt to equity and convertible debentures

1981—Conversion of debt to equity and convertible debentures; purchases of equity to cover "cash drains"

- Hainaut-Sambre

1979—Conversion of debt to equity and convertible debentures

- TMP

1979—Conversion of debt to equity and convertible debentures

Equity participation by the government is not a subsidy *per se.* Petitioners allege, however, that government infusions of equity in Belgian steel companies were made at a time when these infusions did not represent sound commercial investments. Under the methodology described in Appendix 2, the treatment of government equity in a company hinges essentialy on an analysis of the soundness of the investment. If such an investment was not reasonably sound at the time it was made, we will consider it as giving rise to a potential subsidy.

As described *supra,* all the companies listed above recorded substantial and persistent losses over the last several years. Cockerill sustained losses from 1975 through 1981. Hainaut-Sambre sustained losses from 1975 through 1980, and TMP incurred losses from 1975 through 1979.

Under normal business or financial criteria, companies exhibiting a pattern of deep or significant continuing losses and unfavorable financial ratios would not be regarded as sound commercial investments. In view of these histories of losses and other factors already discussed in the preceding section entitled "Loans to Uncreditworthy Companies," we do not regard these Belgian steel companies as representing sound commercial investments at the time the GOB acquired equity positons in them. Therefore, we determine that the equity infusions were inconsistent with commercial considerations.

Since the stocks of Cockerill, Hainaut-Sambre and TMP were traded on Belgian markets during the time span covering the government's equity infusions, we looked to the market and determined the value of the benefit by comparing the market value of these stocks at the beginning of the month in which the equity infusions were made to the actual price paid by the government. If the value paid by the GOB was greater than the market value, we treated the difference as a grant and allocated it over the average useful life of steel assets, 15 years, and over the total value of the company's sales.

In 1979 and 1981 the GOB entered into arrangements with Cockerill whereby it converted the company's debt into convertible debentures. Because these debentures will be repayable only at such time as the company makes sufficient profits to overcome its present heavy debt burden, we treated these conversions as tantamount to purchases of equity in amounts equal to the value of the debentures.

The benefit to Cockerill under this program amounted to a subsidy rate of 4.981 percent *ad valorem.*

3. *Assumption of Financing Costs.* The GOB, in addition to converting debt to debentures, has assumed all financing costs on "medium-" and long-term borrowing for Cockerill for the years 1979–83 and postponed the repayment of principal until 1984. We treated the assumption of interest charges as grants to Cockerill and followed the methodology described in Appendix 2. Because the grants under this program were not tied to specific capital equipment, we allocated the benefits over the average useful life of steel assets, 15 years, and over the total sales value of steel products produced by Cockerill.

The benefit to Cockerill under this program amounted to a subsidy rate of 2.619 percent *ad valorem.*

C. Preferential Loans

The Societe Nationale de Credit a l'Industrie (SNCI) is a lending institution created by the GOB which sets the long-term interest rates generally adhered to by private banks in Belgium. Loans were provided to Cockerill (prior to the years in which we find it to be uncreditworthy) by SNCI at interest rates lower than those provided by the lender to other customers. We treated these loans as preferential loans to the recipient companies. To calculate the benefit from these preferential loans, we followed the methodology outlined in Appendix 2.

Cockerill also received a short-term loan from the GOB in 1981 that we have determined to be preferential. For short-term benchmark rates we used the representative money-market rates for Belgium for the month the loan was received. We found the difference between the interest rate provided by the GOB and our benchmark to represent an interest subsidy to Cockerill. We calculated the interest saved by Cockerill on that loan during the applicable period of 1981 and treated it as a grant expensed in the year received.

The subsidy rate to Cockerill for this program is 0.025 percent *ad valorem.*

D. Industrial Investment Loans From the ECSC (Article 54)

For the reasons described in Appendix 3, we have determined that ECSC industrial investment loans (pursuant to Article 54 of the Treaty of Paris) provide countervailable benefits. Cockerill received such loans between 1962 and 1976. We calculated the benefits from these loans made to Cockerill by using the methodology for loans to companies not considered uncreditworthy described in Appendix 2. We allocated the benefits of these loans over the total sales value of carbon steel products of the company.

The benefits for Cockerill amounted to a subsidy rate of 0.036 percent *ad valorem.*

E. Reimbursement of Worker Training Costs

The National Employment Office in Belgium reimburses firms for various in-plant and outside professional training costs. Increased benefits are provided to enterprises located in development areas or in areas in which coal mine closings have adversely affected the economic or social situation in the area. We have determined that this program is countervailable because of its regional nature.

The benefit of Cockerill amounted to a subsidy rate of 0.014 percent *ad valorem.*

F. Readaptation and Retraining Assistance

The GOB finances a portion of readaptation and retraining assistance for laid-off employees under Article 56 of the ECSC Treaty (described in Appendix 3). The program provides for the assumption by the government of a portion of the training costs of the steel companies for the re-employment of laid-off workers. We have determined that laid-off workers are being retrained to assume jobs in the steel industry and that the assistance is, therefore, a subsidy to a participating steel company.

The benefits to Cockerill amounted to a subsidy rate of 0.045 percent *ad valorem.*

G. Funds for Loss Coverage

The GOB has provided equity infusions to Cockerill for "cash drains." These funds have been treated as grants used to cover operating deficits. Since these funds were for loss coverage, the benefits were used fully in the year received (see Appendix 2).

The benefits to Cockerill amounted to a subsidy rate of 3.841 percent *ad valorem.*

II. Programs Determined Not To Confer Subsidies

We have determined that subsidies are not being provided under the following programs to manufacturers, producers, or exporters in Belgium of carbon steel wire rod.

A. Environmental Incentives

The GOB provides funding for certain environmental projects. Cockerill received small grants under this program. We have reviewed the applicable laws and have found no provisions which limit aid for environmental projects to specific industries or regions. Since the grants are generally available and we have no evidence that the steel industry in Belgium is a major beneficiary, we have determined that this program does not provide subsidies to the steel industry.

B. Assistance to the Coal Industry

In our preliminary determination, we found that subsidies to Belgian coal producers did not bestow a countervailable benefit upon the production, manufacture or export of Belgian steel.

Between the preliminary determination and this final

determination, we have analyzed and verified aspects of the Belgian coal subsidy program as it applies to steel. Based upon the verified information in the records of these investigations, we find that this program does not confer a countervailable benefit on Belgian steel producers for the following reasons.

Benefits bestowed upon the manufacturer of an input do not necessarily flow down to the purchaser of that input, if the sale is transacted at arm's length. In an arm's-length transaction the seller generally attempts to maximize its total revenue by charging as high a price and selling as large a volume as the market will bear.

These principles apply to Belgian coal sales as follows. With respect to sales of Belgian coal outside Belgium, the price charged for subsidized Belgian coal certainly does not undercut the freely available market price. Therefore, non-Belgian purchasers of subsidized Belgian coal do not benefit from Belgian coal subsidies.

In support of this conclusion, we note that if non-Belgian steel producers did benefit from Belgian coal subsidies, they would attempt to purchase more Belgian coal rather than unsubsidized coal from other sources, including the U.S. The fact that they purchase significant amounts of unsubsidized coal from other sources indicates that the subsidies on Belgian coal do not flow to non-Belgian coal consumers.

Moreover, it is extremely unlikely that the Belgian government would subsidize non-Belgian coal consumers unless compelled to do so by obligations to the European Communities.
Since there is no evidence of such obligation, we conclude that the Belgian government is not in fact subsidizing non-Belgian coal consumers.

With respect to sales of Belgian coal within Belgium—which account for the vast majority of all sales of Belgian coal—we likewise find that the price of Belgian coal does not undercut the market price. Absent special circumstances warranting a contrary conclusion, Belgian steel producers apparently do not benefit from Belgian coal subsidies at least as long as the price for Belgian coal does not undercut the market price.

Further consideration is warranted for two reasons. First, the major Belgian coal producer and Cockerill are both largely government-owned. The issue arises whether transactions between them are conducted on an arm's-length basis. We do not believe that government ownership *per se* confers a subsidy, or that common government ownership of separate companies necessarily precludes arm's-length transactions between them. To determine whether coal sales between Belgian government-owned coal and steel producers appear to have been consummated on arm's-length terms, we considered two factors: (1) Whether the government-owned coal producer sold to the government-owned steel producer at the prevailing market price, and/or (2) whether the government-owned coal producer sold coal at the same prices to steel producers not owned by the government (*e.g.*, Clabecq). We found that Belgian coal producers did charge the prevailing market prices, and that the same coal prices were charged regardless of whether the purchaser was or was not Belgian government-owned. On this basis, we conclude that coal subsidies were not conferred on steel producers as a result of government ownership.

Second, we were told by one Belgian government official that Belgian steel companies are pressured to purchase all coking coal produced by Belgian coal companies at the price established by the government, based upon market prices. This indicates that there are *de facto*, although not *de jure*, restrictions on the importation of coal into Belgium. However, the Belgian coal companies collectively produce only enough coking coal to satisfy less than 50% of the Belgian steel companies' requirements. Therefore, the market prices outside Belgium remain relevant, both directly for the coking coal purchased outside Belgium, and indirectly for the Belgian coking coal since the Belgian price is based on market prices outside Belgium.

Moreover, there is no evidence that the Belgian government would pressure Belgian steel producers to buy Belgian coal if the price for such coal were to rise significantly above the market price—a factor over which the Belgian government has control since it establishes prices.

Based upon the above considerations, we determine that Belgian coal subsidies do not confer upon Belgian steel producers a subsidy within the meaning of the Act.

Regarding the allegation that the Belgian steel industry benefits from German government assistance provided to the coal industry in the FRG, we do not consider such assistance to confer a countervailable benefit on the Belgian steel industry for the reasons outlined in Appendix 2.

The ECSC provides various production and marketing grants to ECSC coal and coke producers. However, we do not consider this assistance to confer a countervailable benefit on the Belgian steel industry for the reasons described in Appendix 3.

C. Programs Contained in the Law of July 17, 1959 for Economic Expansion

The Law of July 17, 1959 for economic expansion (the 1959 law) contains programs which are designed to promote economic expansion and modernization. The 1959 law provides for interest rebates, grants for capital investments, government loan guarantees, exemptions from property taxes on investments approved under the law and grants for research and development (R.&D.). Cockerill received benefits under this law, but these benefits are generally available to all industries in Belgium on equal terms, and we have no evidence that the steel industry in Belgium is a major beneficiary. Thus, absent other evidence of preferentiality, the benefits under this law are not countervailable.

D. GOB Advances for R&D Under the Economic Expansion Laws

Interest-free advances can be provided under the 1959 law and the 1970 law up to a maximum of 80 percent of the expense incurred for the R&D of prototypes. The GOB responded that it has provided this type of aid to the steel industry under the 1959 law, which we have concluded does not confer countervailable benefits, as discussed above.

E. Supplier Credit

Subsequent to the preliminary determination in this investigation, it was alleged in the case of Certain Steel Products from Belgium that, but for government assistance, Cockerill would not have been able to obtain supplier credit. We have no information that would cause us to believe that the supplier credits are provided on terms inconsistent with commercial considerations. Since these credits have been provided by independent, private sources and we have no evidence that the GOB has influenced financial institutions in this regard, we have determined that this program does not provide subsidies to the steel industry. For further discussion of this program, see Appendix 2.

F. Maribel Program

Subsequent to the preliminary determination in this investigation, it was alleged in the case of Certain Steel Products from Belgium that Belgian steel producers benefited from a change in the social security system instituted on July 1, 1981. Under the "Maribel Program," contributions to social security programs by employers of manual workers were reduced by 6.17 percent. Counsel for Bethlehem

maintains that since the program is restricted to manual workers, it provides benefits to a specific industry or group of industries and is, therefore, countervailable. We have decided that assistance to virtually all manual workers does not create a program targeted to steel or to a specific enterprise or industry or group of enterprises or industries. Therefore, we determine that the program does not confer countervailable subsidies to the steel industry.

G. Labor Assistance (Prepension Program)

The government-mandated restructuring of the steel industry included provisions for the early retirement of certain workers. The government assumed responsibility for funding costs for which the company would not normally be obliged. We have determined that this government assistance does not confer countervailable benefits to the companies because it is really extra assistance to the workers passed through the companies.

H. Research and Development (R&D) From the GOB

The GOB provides R&D funds to a wide range of disciplines through the Institute for Scientific Research in Industry and Agriculture (IRSIA). Funding is provided for projects which "ensure the progress" of industry and agriculture. IRSIA is administered by a board of directors which has representation from various sectors of industry and agriculture, trade unions and educational institutions.

In the preliminary determination the Department considered that this program conferred countervailable benefits to Cockerill because of direct grants to it by IRSIA. Because of the broad scope and administration of the IRSIA program, we have determined that the program is not countervailable since there is no evidence of targeting funds for an industry under investigation. In the 1980–81 research cycle, approximately 11 percent of IRSIA's budget went to the entire metallurgical sector for research involving steel and non-ferrous metals.

III. Programs Determined Not To Be Used

We have determined that the following programs which were listed in the notice of "Initiation of Countervailing Duty Investigations" were not used by the manufacturers, producers, or exporters in Belgium of carbon steel wire rod.

A. Accelerated Depreciation

Companies that receive investment benefits provided for by the 1970 law may take twice the normal annual straight-line depreciation for assets acquired as the result of the investment. The benefit from the program is reduced taxable income. Cockerill had losses during the period for which we are measuring subsidization greater than the amounts that would have been saved by use of accelerated depreciation.

B. Employment Premiums

Article 14 of the 1970 law provides for employment premiums for investments that create new jobs. The assistance may be given for new enterprises or for the expansion of existing enterprises. Nonrepayable premiums may be paid for as long as five years depending on the rate at which new jobs are created and filled. We have found no evidence that Cockerill participated in this program. Employment has dropped approximately 30 percent in the steel industry as the result of actions taken under the steel industry restructuring plan.

C. Contractual Aid

The 1970 law provides for aid in realizing specific objectives related to certain long-term, large scale investments. The government and an enterprise negotiate the specific terms of the program and enter into a "progress contract." The GOB has stated that this provision of the 1970 law has not been applied. Companies may also receive aid for reorganizations. Under "management contracts," the government may grant interest-free aid, to be repaid within three years, for up to 75 percent of management advisory fees. The GOB stated that of the twelve management contracts it has entered into, none were with steel companies.

D. Export Assistance

Certain export assistance programs, such as export financing and commercial risk guarantees, are provided by the Office National du Ducroire. We have found no evidence that Cockerill has received assistance under this program.

E. The European Regional Development Fund (ERDF)

On the basis of our investigations we have concluded that Cockerill has not received ERDF funds (see Appendix 3).

F. European Investment Bank (EIB)

We have determined that Cockerill did not carry loans from the EIB in 1981 (see Appendix 3).

G. Loan Guarantees From the ECSC

We have determined that Cockerill did not receive loan guarantees from the ECSC. For further discussion of this issue, see Appendix 3.

H. "Interest Rebates"

"Interest rebate" programs are administered by the Ministry of Economic Affairs. The rebates may be given on investment loans for tangible and intangible assets. The law also provides for "interest rebates" on interest payable by the companies to holders of bonds and convertible debentures. Rebates are variable depending upon the degree to which the investment projects meet the objectives of the 1970 law.

Upon verification we discovered that Cockerill did not receive "interest rebates" during the period for which we are measuring subsidization.

I. ECSC Interest Rebates and R&D Grants

We have determined that Cockerill did not participate in this program. For our treatment of these programs in general, see Appendix 3.

J. Reduction of Capital Gains Tax

Capital gains on the sales of tangible property may be exempt from corporate taxes if receipts are reinvested in Belgium in the development areas of the 1970 law within one year of the end of the tax period. We have determined that Cockerill did not receive any benefits under this program.

K. Employment Premiums for New Workers and Trainees

The "De Wulf Plan" (Royal Decree of October 15, 1979) grants employment premiums of 62,500 BF per quarter to companies that reduce their work week and increase their labor force. Under another plan, 30,000 BF may be paid for each trainee in excess of a number equaling one percent of the workforce of a company in 1980 and 1981. We have no evidence that Cockerill participated in this program.

Petitioners' Comments

Comment 1: Counsel for petitioners argue that programs contained in the Law of July 17, 1959 for economic expansion are countervailable and that the Department's interpretation of specificity under the Act is incorrect.

DOC Position: Two laws were passed in July 1959. Programs under the Law of July 18, 1959 are countervailable on the basis of regional preferentiality. Programs under the Law of July 17, 1959 are not countervailable because they are

available to companies in all regions and are not directed to a specific enterprise or industry or group of enterprises or industries. See Appendix 4 for a discussion of the Department's interpretation of preferentiality under section 771(5) of the Act.

Comment 2: Counsel for petitioners argue that the availability of unsubsidized substitutes for Belgian coal at comparable prices does not obviate the conclusion that Belgian coal subsidies provide a countervailable benefit to the steel industry. Petitioners state that Belgian coal subsidies are targeted to the steel industry. They argue further that transactions between Belgian coal and steel producers are unlikely to be conducted at arm's length since both buyer and seller are government-owned.

DOC Position: In our preliminary determination, one reason cited for concluding that Belgian subsidization of its coal industry does not indirectly subsidize its steel industry is that Belgian governmental assistance is provided to producers of all types of coal, not just coking coal. On this basis, we preliminarily determined that assistance does not subsidize "* * * a specific enterprise or industry or group of enterprises or industries" under investigation.

Upon verification, we determined that the great majority of subsidized Belgian coal is coking coal, which is used primarily by the steel industry (although the Belgian steel industry acquires 55–60 percent of its coking coal from foreign sources, including the U.S.). In this final determination, therefore, we are basing our determination on a different basis, as indicated *supra*. Also as explained *supra*, we do not believe that govrnment ownership of separate companies necessarily precludes them from conducting some transactions on an arm's-length basis. Since the major Belgian coal producer and Cockerill are both largely government-owned, we consider whether (1) the coal prices charged to Cockerill were at the prevailing market rates; and (2) whether the same prices were charged to Cockerill and to othe steel producers not owned by the Belgian government. Since we reached affirmative determinations in both cases, we concluded that it is reasonable to assume that coal transactions between the Belgian government's coal producer and Cockerill were conducted on an arm's-length basis.

Comment 3: Petitioners claim that there are implicit restrictions on the amount of coal Belgian steel companies can buy from abroad.

DOC Position: As indicated *supra*, and in the Department's verification report concerning the GOB, there is some evidence that Belgian steel companies are pressured by the Belgian government to purchase the entire output of Belgian coal companies. (There is no evidence that there are any *de jure* restrictions on the importation of coal). However, Belgian coal producers at best can satisfy less than 50 percent of the requirements of Belgian steel producers. Therefore, market prices outside Belgium remain relevant in determining whether Belgian steel producers benefit from assistance to Belgian coal producers for the following reasons. First, the price for Belgian coal established by the Belgian government is based upon that market price, which is thus indirectly relevant. Second, over 50 percent of the Belgian steel companies' requirements for coking coal are satisfied through coking coal imports. Their prices are therefore directly relevant. Moreover, there is no evidence that the Belgian government would continue to pressure its steel producers to buy Belgian coal if the price for Belgian coal rose significantly above market price. We, therefore, determine that even if there are *de facto* restrictions on the importation of coking coal into Belgium, the Belgian steel producers nonetheless received no countervailable benefits from subsidization by the GOB of its coal industry.

Comment 4: Counsel for petitioners argue that the portion of ECSC assistance funded by producer levies is countervailable.

DOC Position: For reasons set forth in Appendix 3, we determine that the portion of ECSC assistance funded by producer levies is not countervailable.

Comment 5: Counsel for petitioners argue that the discount rate for grant calculations for uncreditworthy companies should be increased to reflect the more limited access of these companies to private funding.

DOC Position: For a discussion of this issue, refer to Appendix 2.

Respondent's Comments

Comment 1: Counsel for Cockerill argues that the Department adopted new methodologies for the calculation of subsidy rates without the normal regulatory notice and comment procedures. They stated that the concept of "creditworthiness" and the methodologies described in Appendix B of the preliminary determinations have no basis in law.

DOC Position: For a discussion of this issue, refer to Appendix 4.

Comment 2: Counsel for Cockerill argues that the stock market price used by the Department does not represent an adequate basis for comparison with the price paid by the GOB because it does not include the added value of a premium for gaining control of the company. In addition, they state the prices paid by the GOB were below book value and were comparable to those paid by purchasers of stock in other European steel mills.

DOC Position: The Department believes that the price set by the market for Cockerill's stock is the most appropriate measure of the true value of its equity. For further discussion of this issue, see Appendix 2.

Comment 3: Counsel for Cockerill argues that the Department's creditworthiness decision concerning Cockerill is incorrect. They assert that Cockerill and Hainaut-Sambre have received substantial private lending in the form of short-term loans. They further argue that the GOB does not implicitly stand behind Cockerill to help it get private credit because the GOB has let several companies it owns go bankrupt. Thus, they argue, Cockerill is creditworthy independent of the backing of the GOB.

DOC Position: Respondent argues that Cockerill is creditworthy because it has received short-term credit from private sources. We determine, however, that such lending, which is largely backed by receivables, does not imply a judgment of creditworthiness.

We determine Cockerill to be uncreditworthy from 1978 through 1981. For each of those years, various financial indicators pointed to the uncreditworthiness of the company. For further discussion of this issue, see the section titled "Loans to Uncreditworthy Companies" *supra*.

Comment 4: Counsel for Cockerill argues that programs under the law of December 30, 1970 are not countervailable for the following reasons:

- The law is regional but not targeted to specific industries.
- The 1970 law is similar to the general law of July 17, 1959.

DOC Position: The 1970 law provides benefits only to companies in certain regions. Consequently, these benefits are provided to a specific group of enterprises or industries and are countervailable under section 771(5) of the Tariff Act of 1930. Further, past administrative practice, judicial decisions, and the legislative history of the Trade Agreements Act of 1979 make

it clear that regional benefits are countervailable.

Comment 5: Respondent argues that since the 1970 law, which provides benefits only to certain regions, provides only marginally higher benefits than would be available under the July 17, 1959 law, only the incremental benefit should be countervailed.

DOC Position: The benefits to which respondents refer were provided under the 1970 law. The Department would have to ignore the facts in the record to treat benefits provided under the 1970 law as if they were provided under the July 17, 1959 law.

Comment 6: Counsel for Cockerill argues that the benefits from the capital registration tax resulted from a corporate reorganization and that similar tax exemptions exist in the United States. They state that there would have been no such benefit if the funds received from the GOB were grants rather than equity.

DOC Position: Regardless of the circumstances of the increase in capital, this exemption from a statutory obligation, provided under the regional incentive law of December 30, 1970, confers a countervailable benefit on cockerill.

Comment 7: Counsel for cockerill argues that the GOB "prepension" benefits are not countervailable subsidies. They argue that , but for these provisions, the company would have had to pay 3–6 months of severance pay to retiring workers, which is less than the obligations under the "prepension" program. They state that under the restructuring plan the government mandated these extraordinary benefits to retirees and at the same time helped the companies to pay for them.

DOC Position: The Department has determined that since the government mandated these payments to the workers as part of the steel restructuring plan, the company is merely a conduit for the flow of funds from the government to the workers, and the government's contribution is not countervailable. See additional discussions of this issue at petitioner's comment on the "prepension program" and the section of this notice titled "Labor Assistance (Prepension Program)."

Comment 8: Counsel for Cockerill argues that the largest instance of research and development funding to Cockerill was made available under the general incentive law of July 17, 1959.

DOC Position: The Department verified that this benefit was granted specifically under the law of July 17, 1959 and determined that it is not a countervailable benefit to Cockerill.

Negative Determination of Critical Circumstances

The petition alleged that imports of carbon steel wire rod under investigation present "critical circumstances." Under §§ 355.29 and 355.33(b) of the Department's regulations, critical circumstances exist when the alleged subsidies include an export subsidy inconsistent with the Agreement and there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period. We have not found any export subsidy in this investigation. Therefore, "critical circumstances" do not exist in this investigation for a carbon steel wire rod from Belgium.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determinations. During this verification, we followed normal procedures, including inspection of documents, discussions with government officials on-site inspection of manufacturers' operations and records.

Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with its regulations (19 CFR 355.35). A public hearing was held on August 11, 1982. In accordance with the Department's regulations (19 CFR 355.34 (a)), written views have been received and considered.

Suspension of Liquidation

The suspension of liquidation ordered in our preliminary affirmative countervailing duty determination shall remain in effect until further notice. The estimated net subsidy is as follows:

Manufacturer/producer/exporter	Ad valorem rate (percent)
Nacw	
Cockerill Sambre	13.225
All other manufacturers/producers/exporters	13.225

We are directing the U.S. Customs Service to require a cash deposit or bond in the amount indicated above for each entry of the subject merchandise entered on or after the date of the publication of this notice in the **Federal Register.** If the manufacturer is unknown, the rate for all other manufacturers/producers/exporters shall be used.

ITC Notifications

In accordance with section 705(d) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to these investigations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine within 45 days of the publication of this notice whether imports of carbon steel wire rod are materially injuring, or threatening to materially injure, a U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, within 7 days of notification by the ITC of that determination, we will issue a countervailing duty order, directing Customs officers to assess a countervailing duty on carbon steel wire rod from Belgium entered or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the net subsidy determined or estimated to exist as a result of the annual review prescribed by section 751 of the Act. The provisions of section 707 of the Act will apply to the first directive for assessment.

This notice is published pursuant to section 705(d) of the Act and § 355.33 of the Department of Commerce Regulations (19 CFR 355.33).

Dated: September 21, 1982.

Lawrence Brady,

Assistant Secretary for Trade Administration.

Appendix 1.—

Description of Product

For the purpose of this investigation the term *"carbon steel wire rod"* covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, not partly manufactured; and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States.*

Appendix 2.—Methodology

Several basic issues are common to the countervailing duty investigations of

carbon steel wire rod initiated by the Department of Commerce (the Department) on March 1, 1982; *e.g.*, government assistance through grants, loans, equity infusions, loss coverage, research and development projects and labor programs. This appendix describes in some detail the general principles applied by the Department when dealing with these issues as they arise within the factual contexts of these cases. This appendix, although substantially the same as Appendix B to the preliminary determinations (see "Preliminary Affirmative Countervailing Duty Determinations, Carbon Steel Wire Rod from Belgium (47 FR 30541)), does describe some changes in methodology. These changes are principally in the areas of the discount rate value, funds for loss coverage, and preferential loans with deferred principal payment.

Grants

Petitioners alleged that respondent foreign steel companies have received numerous grants for various purposes. Under section 771(5)(B) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1677(5)(B)), domestic subsidies are countervailable where they are "provided or required by government action to a *specific* enterprise or industry, or group of enterprises or industries" (emphasis added).

The legislative history of Title VII of the Act states that where a grant is "tied" to—that is, bestowed specifically to purchase—costly pieces of capital equipment, the benefit flowing from the grant should be allocated in relation to the useful life of that equipment. A subsidy for capital equipment should also be "front-loaded" in these circumstances; that is, it should be allocated more heavily to the earlier years of the equipment's useful life, reflecting its greater commercial impact and benefit in those years.

Prior to these cases on carbon steel wire rod, the Department allocated the face value of the grant, in equal increments, over the appropriate time period. For large capital equipment, we used a period of half the useful life of the equipment purchased with the grant. In each year we countervailed only that year's allocated portion of the total grant. For example, a hypothetical grant of $100 million used to purchase a machine with a 20-year life would have been countervailed at a rate of $10 million per year (allocated over the appropriate product group) for 10 years, beginning in the year of receipt.

This allocation technique has been criticized for not capturing the entire subsidy because it ignores the fact that money has a changing value as it moves through time. It has been argued that $100 million today is much more valuable to a grant recipient than $10 million per year for the next 10 years, since the present value (the value in the initial year of receipt) of the series of payments is considerably less than the amount if initially given as a lump sum. We agree with this position and, as indicated in the preliminary determinations, have now changed our methodology of grant subsidy calculation to reflect this agreement. As long as the present value (in the year of grant receipt) of the amounts allocated over time does not exceed the face value of the grants, we are consistent with both our domestic law and international obligations in that the amount countervailed will not exceed the total net subsidy.

The present value of any series of payments is calculated using a discount rate. As indicated in the preliminary determinations, we considered using each company's weighted cost of capital at the time of the grant receipt as the appropriate measure of the time value of its funds. However, we lacked sufficient information to do so for the preliminary determinations, and instead used the national cost of long-term corporate debt as a substitute measure of a company's discount rate.

Between the preliminary and final determinations we reviewed the comments and suggestions of various interested parties, principally contained in the pre- and post-hearing briefs. In addition, we sought the advice of an outside consultant with experience in the field of international investment banking.

On the bais of those discussions and the advice, we determine that the most appropriate discount rate for our purposes is the "risk-free" rate as indicated by the secondary market rate for long-term government debt (in the home country of the company under investigation). The basic function of the "present value" exercise is to allocate money received in one year to other years. Domestic interest rates perform this function within the context of an economy. The foundation of a country's interest rate structure is usually its government debt interest rate (the risk-free rate). All other borrowings incorporate this risk-free rate and add interest overlays reflecting the riskiness of the funded investment.

When we allocate a subsidy over a number of years it is not the intention of the Department to comment on or judge the riskiness of the project undertaken with the subsidized funds, nor to evaluate the riskiness of the company as a whole. We do not intend either to speculate how a project would have been financed absent government involvement in the provision of funds. Rather, we simply need a financial mechanism to move money through time so as to accurately reflect the benefit the company receives. We believe that the best discount rate for our purposes is one which is risk free and applicable to all commercial actors in the country. Therefore we have used in these final determinations long-term government debt rates (as reflected in the secondary market) as our discount rates.

For a costly piece of capital equipment, we believe that the appropriate time period over which to allocate the subsidy is its entire useful life. In the past, we allocated the subsidy over only half the useful life in order to "front-load" the countervailing duties, thereby complying with the legislative intent of the Act. However, so long as we allocate the subsidy in equal nominal increments over the entire useful life, it will still be effectively front loaded in real terms (as long as a positive discount rate is used) since money tomorrow is less valuable than money today.

For these steel investigations we have allocated a grant over the useful life of equipment purchased with it when the value of that grant was large (in these investigations, greater than $50 million) and specifically tied to pieces of capital equipment. Where the grant was small (generally less than one percent of the company's gross revenues and tied to items generally expensed in the year purchased, such as wages or purchases of materials), we have allocated the subsidy solely to the year of the grant receipt. We construe that a grant is "tied" when the intended use is known to the subsidy giver and so acknowledged prior to or concurrent with the bestowal of the subsidy. All other grants—the vast majority of those involved in these investigations—are allocated over 15 years, a period of time reflecting the average life of capital assets in integrated steel mills. The 15-year figure is based on Internal Revenue Service studies of actual experience in integrated mills in the U.S. Furthermore, we understand that a 15-year period is a common useful life adopted in some of the countries involved in these investigations for steel capital equipment. We are using this time period because we sought a uniform period of time for these allocations and this was the best available estimate of the average steel asset life worldwide. We could not calculate the average life of capital assets on a company-by-company basis, since different

accounting principles, extraordinary write-offs, and corporate reorganizations yielded extremely inconsistent results.

Funds to Cover Losses

In the preliminary determinations we did not distinguish funds (either in the form of untied grants or equity infusions) which were available for loss coverage from other grants or equity infusions. We stated that since grants used for loss coverage often have the effect of helping keep the firm in business, we allocated the benefit over 15 years when the funds were in the form of a grant or used the appropriate equity methodology when the loss coverage funds were in the form of equity.

Between the preliminary and final determinations we received the comments and suggestions of various interested parties principally contained in the pre- and post-hearing briefs. In addition, we sought the advice of the Department's accountants and outside consultants on the issue of the appropriate treatment of funds for loss coverage. Based on the above, we have decided not to allocate the subsidy benefit of these funds over time but rather to allocate them to the year of receipt.

We have done so on the advice of these accounting experts in order to reflect the nature of the liabilities giving rise to the loss. These liabilities are generally the basic costs of operations (*e.g.*, wages, materials, certain overhead expenses)—items generally expensed in the year incurred.

We calculated the magnitude of the loss from a company's financial statements beginning with net earnings and working back to a cash-based measure of loss. We allocated to loss coverage only those grants and equity infusions which were truly cash inflows into the company and were actually available to cover losses.

In any instances in which infusions were specifically tied to loss coverage, we allocated such infusions accordingly. If infusions were not so tied, we concluded that general, untied grants were a more logical source of loss coverage assistance than general infusions of equity. Accordingly, in making these allocations we treated funds available from grants as the primary source of monies available for loss coverage. We allocated funds available from equity infusions to loss coverage only in the absence of grants or after available grant funds had been exhausted.

We generally treated such cash inflows as covering the losses incurred in the previous fiscal year and allocated the subsidy benefit flowing from such funds to the year of their receipt. An exception was made where losses were continually covered by a special arrangement with the government (as through the use of a special reserve account). In these cases, since the funds for loss coverage were accessible as the losses arose, we allocated the benefit flowing from these funds to the period in which the losses occurred.

Loans and Loan Guarantees for Companies Considered Creditworthy

In these investigations, various loan activities give rise to subsidies. The most common practices are the extension of a loan at a preferential interest rate where the government is either the actual lender or directs a private lender to make funds available at a preferential rate, or where the government guarantees the repayment of the loan made by a private lender. The subsidy is computed by comparing what a company would pay a normal commercial lender in principal and interest in any given year with what the company actually pays on the preferential loan in that year. We determine what a company would pay a normal commercial lender by constructing a comparable commercial loan at the appropriate market rate (the benchmark) reflecting standard commercial terms. If the preferential loan is part of a broad, national lending program, we used a national average commercial interest rate as our benchmark. If the loan program is not generally available—like most large loans to respondent steel companies—the benchmark used instead, where available, is the company's actual commercial credit experience (*e.g.*, a contemporaneous loan to the company from a private commercial lender). If there were no similar loans, the national commercial loan rate is used as a substitute rate. Finally, where a national loan-based interest rate was not available, an average industrial bond rate was used as best evidence.

For loans denominated in a currency other than the currency of the country concerned in an investigation, the benchmark is selected from interest rates (either national or company-specific, as appropriate) applicable to loans denominated in the same currency as the loan under consideration (where possible, rates on loans in that currency in the country where the loan was obtained; otherwise, loans in that currency in other countries, as best evidence). The appropriate discount rate remains the risk-free rate as indicated by the secondary market rate for long-term debt obligations of the company's home country government. The subsidy for each year is calculated in the foreign currency and converted at an exchange rate applicable for each year.

After calculating the payment differential in each year of the loan, we then calculated the present value of this stream of benefits in the year the loan was made, using the risk-free rate (as described in the grants section of this appendix) as the discount rate. In other words, we determined the subsidy value of a preferential loan as if the benefits had been bestowed as a lump-sum grant in the year the loan was given. This amount was then allocated evenly over the life of the loan to yield the annual subsidy amounts. We did so with one exception: where the loan was given expressly for the purchase of a costly piece of capital equipment, the present value of the payment differential was allocated over the useful life of the capital equipment concerned.

For loans not tied to capital equipment with mortgage-type repayment schedules, this methodology results in annual subsidies equivalent to those calculated under the methodology previously employed by the Department whereby we considered the difference in total repayments in each year of a loan's lifetime to be the subsidy *in that year*. For loans with constant principal repayments (*i.e.*, declining total repayments), loans with deferral of repayments, and loans for costly capital equipment, the value method results in even allocations of the subsidy over the relevant period. This effectively front loads countervailing duties on these loan benefits in the same manner as grants are front loaded.

A loan guarantee by the government constitutes a subsidy to the extent the guarantee assures more favorable loan terms than for an unguaranteed loan. The subsidy amount is quantified in the same manner as for a preferential loan.

If a borrowing company preferentially received a payment holiday from a government lending institution or from a private lender at government direction, an additional subsidy arises that is separate from and in addition to the preferential interest rate benefit. The subsidy value of the payment holiday is measured in the same manner as for preferential loans, by comparing what the company pays versus what it would pay on a normal commercial loan in any given year. A payment holiday early in the life of a loan can result in such large loan payments near the end of its term that, during the final years, the loan recipient's annual payments on the subsidized loan may be greater than

they would have been on an unsubsidized loan. By reallocating the benefit over the entire life of the loan through the present value methodology described above, we avoid imposing countervailing duties in excess of the net subsidy. Where we have sufficient evidence that deferment of principal is a normal and/or customary lending practice in the country under consideration, then such deferral has not been considered as conferring an additional subsidy.

Loans and Loan Guarantees for Companies Considered Uncreditworthy

In a number of cases petitioners have alleged that certain respondent steel companies were uncreditworthy for purposes of these investigations at the time they received preferential loans for guarantees, and that they could not have obtained any commercial loan without government intervention.

Where the company under investigation has a history of deep or significant continuing losses, and diminishing (if any) access to private lenders, we generally agree with petitioners. This does not mean that such a company is totally uncreditworthy for all purposes. Virtually all companies can obtain limited credit, such as short-term supplier credits, no matter how precarious their financial situation. Our use of the term uncreditworthy means simply that the company in question would not, in our view, have been able to obtain comparable loans in the absence of government intervention. Accordingly, in these situations neither national nor company-specific market interest rates provide an appropriate benchmark since, by definition, an uncreditworthy company could not receive loans on these or any terms without government intervention. Nor have we been able to find any reasonable and practical basis for selecting a risk premium to be added to a national interest rate in order to establish an appropriate interest benchmark for companies considered uncreditworthy. Therefore, we continue to treat loans to an uncreditworthy company as an equity infusion by or at the direction of the government. We believe this treatment is justified by the great risk, very junior status, and low probability of repayment of these loans absent government intervention or direction. To the extent that principal and/or interest is actually paid on these loans, we have adjusted our subsidy calculation (which is performed using our equity methodology, *infra*) to reflect this. We have applied the rate of return shortfall (the amount by which the corporate rate of return on equity was lower than the national average rate of return on equity) only to the outstanding principal in the year which we are measuring subsidization. From this amount, we additionally substract any interest and fees paid in that year. Moreover, in no case do we countervail a loan subsidy to a creditworthy or uncreditworthy company more than if the government gave the principal as an outright grant.

Short-Term Credits

In all our cases, even the most financially troubled companies regularly receive short-term supplier credits. We find this type of debt different and easily distinguishable from the loans previously discussed. Where a company receives private-sourced supplier credits we have found this countervailable only where they were at preferential rates because of explicit government direction.

Where supplier credits were not given at a preferential rate directed by the government, we found no subsidy. Furthermore, since the risk involved and basis for giving supplier credits is qualitatively different than for long-term loans, we did not interpret the presence of supplier credits as an indication of creditworthiness.

Equity

Petitioners allege that government purchases of equity in respondent steel companies confer a subsidy equal to the entire amount of the equity purchased. Many respondents claim that such equity purchases are investments on commercial terms, and thus do not confer subsidies on these companies.

It is well settled that neither government equity ownership *per se*, nor any secondary benefit to the company reflecting the private market's reaction to government ownership, confers a subsidy. Government ownership confers a subsidy only when it is on terms inconsistent with commercial considerations. An equity subsidy potentially arises when the government makes equity infusions into a company which is sustaining deep or significant continuing losses and for which there does not appear to be any reasonable indication of a rapid recovery. If such losses have been incurred, then we consider from whom the equity was purchased and at what price, or, absent a market value for the equity, we examine the rate of return on the company's equity and compare it to the national average rate of return on equity.

If the government buys previously issued shares on a market or directly from shareholders rather than from the company, there is no subsidy to the company. This is true no matter what price the government pays, since any overpayment benefits only the prior shareholders and not the company.

If the government buys shares directly from the company (either a new issue or corporate treasury stock) and similar shares are traded in a market, a subsidy arises if the government pays more than the prevailing market price. The Department has a strong preference for measuring the subsidy by reference to a market price. This price, we believe, rightly incorporates private investors' perceptions of the company's future earning potential and worth. To avoid any effect on the market price resulting from the government's purchase or speculation in anticipation of such purchase, we used for comparison a market price on a date sufficiently preceding the government's action. Any amount of overpayment is treated as a grant to the company.

It is more difficult to judge the possible subsidy effects of direct government infusions of equity where there is no market price for the shares (as where, for example, the government is already sole owner of the company). Government equity participation can be a legitimate commercial venture. Often, however, as in many of these steel cases, equity infusions follow massive or continuing losses and are part of national government programs to sustain or rationalize an industry which otherwise would not be competitive. We respect the government's characterization of its infusion as equity in a commercial venture. However, to the extent in any year that the government realizes a rate of return on its equity investment in a particular company which is less than the average rate of return on equity investment for the country as a whole (thus including returns on both successful and unsuccessful investments), its equity infusion is considered to confer a subsidy. This "rate of return shortfall" (the difference between the company's rate of return on equity and the national average rate of return on equity) is multiplied by the original equity infusion (less any loss coverage to which the equity funds were applied) to yield the annual subsidy amount. Under no circumstances do we countervail in any year an amount greater than that which is calculated treating the government's equity infusion as an outright grant.

Forgiveness of Debt

Where we have found that the government has forgiven an outstanding

debt obligation, we have treated this as a grant to the company equal to the outstanding principal at the time of foregiveness. Where outstanding debt has been converted into equity (*i.e.*, the government receives shares in the company in return of eliminating debt obligations of the company), a subsidy may result. The existence and extent of such subsidies are determined by treating the conversions as an equity infusion in the amount of the remaining principal of the debt. We then calculate the value of the subsidy by using our equity methodology, *supra*.

Coal Assistance

As explained in detail in our notice of "Final Affirmative Countervailing Duty Determinations: Certain Steel Products from the Federal Republic of Germany" (47 FR 39345), we have analyzed and verified aspects of the German coal subsidy program as it applied to steel. Based upon the verified information in the records of these investigations, we have determined that this particular program does not confer a countervailable benefit on either non-German or German steel producers.

As we stated in some of the preliminary determinations reached on June 10 (47 FR 26309), benefits bestowed upon the manufacturer of an input do not flow down to the purchaser of that input if the sale is transacted at arm's length. In an arm's length transaction, the seller generally attempts to maximize its total revenue by charging as high a price and selling as large a volume as the market will bear.

The application of these principles to sales of German coal outside Germany is as follows. The records of these transactions show that the prices charged for subsidized German coal outside Germany certainly do not undercut the freely available merit prices. Therefore, non-German purchasers of subsidized German coal do not benefit from Germany coal subsidies.

In support of this conclusion, we note that if non-German steel procedures did benefit from German coal subsidies, they would attempt to purchase German coal rather than unsubsidized coal from other sources including the U.S., since there are no restrictions on their ability to do so. The fact that they purchase significant amounts of unsubsidized U.S. coal indicates that the subsidies on German coal do not flow to non-German coal consumers.

Moreover, it is extremely unlikely that the German government would significantly subsidize non-German coal consumers unless compelled to do so by obligations with respect to the European Communities.

Since there is no evidence of such obligation, we conclude that the German government is not in fact subsidizing non-German coal consumers.

For these reasons, we determine that non-German steel procedures do not benefit from subsidization of German coal.

Research and Development Grants and Loans

Grants and preferential loans awarded by a government to finance research that has broad application and yields results which are made publicly available do not confer subsidies. Programs of organizations or institutions established to finance research on problems affecting only a particular industry or group of industries (*e.g.*, metallurgical testing to find ways to make cold-rolled sheet easier to galvanize) and which yield results that are available only to producers in that country (or in a limited number of countries) confer a subsidy on the products which benefits from the results of the research and development (R&D). On the other hand, programs which provide funds for R&D in a wide range of industries are not countervailable even when a portion of the funds is provided to the steel sector.

Once we determine that a particular program is countervailable, we calculate the value of the subsidy by reference to the form in which the R&D was funded. An R&D grant is treated as an "untied" grant; a loan for R&D is treated as any other preferential loan.

Labor Subsidies

To be countervailable, a benefit program for workers must give preferential benefits to workers in a particular industry or in a particular targeted region. Whether the program preferentially benefits some workers as opposed to others is determined by looking at both program eligibility and participation. Even where provided to workers in specific industries, social welfare programs are countervailable only to the extent that they relieve the firm of costs it would ordinarily incur for example, a government's assumption of a firm's normal obligation partially to fund worker pensions.

Labor-related subsidies are generally conferred in the form of grants and are treated as untied grants for purposes of subsidy calculation. Where they are small and expensed by the company in the year received, we likewise allocated them only to the year of receipt. However, where they were more than one percent of gross revenues we allocated them over a longer period of time generally reflecting the program duration.

Comments by Parties to the Proceeding

• Grants

Comment 1: Respondents claim that the present value methodology used in these investigations does not provide a "real" value and that it is based on assumptions which do not reflect the realities of the manufacture of the products under investigation.

DOC Position: The present value concept is a widely recognized tool of financial and economic analysis. Its utility and necessity derive from the fact that money has a time value. For example, as stated above, $100 million today is considerably more valuable to a grant recipient than $10 million per year for the next ten years. To move a sum of money through time without adjusting the nominal amount would seriously understate the value of the money. So long as the present value (in the year of grant receipt) of the amounts allocated over time does not exceed the face value of the of the grant, the amount countervailed will not exceed the total net subsidy.

Comment 2: Petitioners argue that grants and preferential loans awarded expressly for the benefit of products not under investigation should also be considered countervailable benefits for the product(s) under investigation. They base their argument on the contention that aid thus received is fungible.

DOC Position: We have not viewed all aid received for any purpose by companies under investigation as fungible, and thus equally beneficial to all products made by the company in question. While the law clearly envisions reaching subsidies which benefit the product under investigation indirectly, as well as directly, it would distort and be inconsistent with the clear intent of the statute, as reflected in its legislative history, to allocate to products under investigation any portion of benefits clearly tied to products not under investigation. This is particularly true since we are compelled to allocate fully to the products actually being investigated any subsidies directly tied to them. To allocate tied subsidies fully to the products to which they are tied and simultaneously to allocate any part of the same subsidies to other products would result in double-counting, which would be inconsistent with both the Act and the Subsidies Code.

• Loans and Loan Guarantees for Companies Considered Uncreditworthy

Comment 3: Respondents argue that the Department's method of determining uncreditworthiness was unfair in that it was based on hindsight which was not available to a lender at the time it made a decision whether or not to provide funds to a company.

DOC Position: As outlined in each of these notices in which uncreditworthiness was found, all determinations as to the Creditworthiness of firms were based upon information reasonably available to a potential lender *at the time a loan was given.* For instance, although British Steel Corporation's financial results for the fiscal year 1976/77 were a major factor pointing to uncreditworthiness, in our final determinations were found uncreditworthy beginning in fiscal year 1977/78, when the lending community could reasonably have known of the weakness of the firm's financial position in the preceding year. This approach allows the potential lender time to evaluate its behavior in light of the changed circumstances of the firm.

Comment 4: Petitioners state that to the extent that the Department calculates the benefit from a loan to an uncreditworthy company as if it were a grant, failure to use a discount rate to reflect the greater risk of providing credit to uncreditworthy firms which could not borrow at any average or national rate leads to an understatement of the true value of the subsidy received.

DOC Position: We disagree. Although we used the average national debt rate as the discount rate in the preliminary determinations, we did not intend this to imply that the choice of the discount rate reflected our speculation as to the riskiness of the company or the cost of alternative financing. As discussed in the *Grants* section of this appendix, we view the discount rate as simply a financial tool to move money through time. It is not our intention to embed in this rate any project-specific risk or company risk. For this reason we are changing the discount rate used in these final determinations to the risk-free rate, a rate equally accessible to all companies (including very risky ones) country-wide.

• *Equity*

Comment 5: Respondents argue that premiums paid over market value of stock are common in takeovers where the objective is to gain control of a firm, and that therefore such a payment should not be considered a subsidy.

DOC Position: Payment of a premium over market value for stock (including where the objective is to gain control) is a special commercial circumstance which occurs under fairly unique conditions. Payment of such a premium for stock in a firm in weak or distressed financial condition is unlikely, for as a firm approaches near-bankruptcy, its market price of equity falls to the liquidation value range. Furthermore, it is highly unlikely for a control premium to be warranted when the government is the sole bidder for the troubled firm. Therefore in the absence of compelling evidence that a premium payment by a government was warranted and motivated by commercial conditions (as evidenced, for example, by similar competing private bids), the Department has a strong preference for measuring a subsidy by the difference between the market price of the stock and the stock price paid by the government. We believe that this market price correctly incorporates private investor's perceptions of the worth of the stock.

• *Coal Assistance*

Comment 6: Petitioners reject the Department's view that a party receiving a benefit on the production of its merchandise is not assumed to share that benefit with an unrelated purchaser. They maintain that a party may market its products at a lower price than it would be able to charge absent the subsidy in order to secure or hold on to a larger share of the market, and thus to increase its profitability by realizing lower unit costs and increased unit sales.

DOC Position: We agree that there is more than one way to seek to achieve maximum profitability. In these investigations, in fact, assistance to coal has been provided to enable some coal companies to sell below their cost of production. However, the German coal companies do not sell below the prices of coal as sold in Europe and elsewhere. In fact, German steel producers are required to pay a slight but significant premium for German coal. Under these circumstances, we disagree with petitioners' argument that German steel companies are indirectly subsidized through German coal subsidies.

Comment 7: Petitioners argue that the Department should have considered German coal subsidies to subsidize all steel companies purchasing that coal, both German and non-German, because the intent of the coal subsidies is to stabilize coal supplies to the ECSC steel industry and to insure that industry against the risk of adverse price developments on the world market. Petitioners claim that without this subsidized coal, the ECSC steel companies would have had to pay higher world market prices.

DOC Position: For the reasons indicated *supra,* we believe that it is too speculative to consider possible effects on world prices for coal in the hypothetical absence of German subsidization of its coal industry. However, if coal prices would rise in that event, we believe that they would rise throughout the world. We do not believe that prices would rise for European purchasers of coal rather than non-Europeans.

As also indicated in detail *supra,* we believe that the real economic effect of German subsidies is to penalize, not to assist, German steel companies. As a result of the German coal policy, German steel companies are required to pay a slight premium above the world market price for their coal purchases. Non-German purchasers of subsidized German coal similarly receive no demonstrable price advantage.

Comment 8: Petitioners argue that the ECSC and the FRG government, through an "intense program of coordinated subsidy financing," have assisted the German coal and steel industries in order to sustain production at cost efficient levels, in significant part by producing for export.

DOC Position: Although the arguments seem ambiguous, we believe that petitioners mean to imply that the German and ECSC coal assistance programs constitute an export subsidy for steel. If so, then we disagree, since in both cases coal assistance is provided without the establishment of any condition concerning the exportation of steel produced using that coal.

Comment 9: Petitioners object to the Department's alleged requirement that a subsidy on an imput be demonstrated to confer an unfair competitive advantage. Petitioners imply that in so doing, the Department is usurping the jurisdiction of the International Trade Commission which is authorized to determine injury.

DOC Position: Under the Act, the Department is required to determine whether respondents have received subsidies within the meaning of the Act. To do so, the Department seeks to determine whether or not respondents have received directly or indirectly an economic benefit. Whereas this is relatively easy in the case of the direct bestowal of a grant, it is quite difficult with regard to indirect subsidies allegedly conferred through the subsidization of imputs used in a final product. In this more complex area, we believe it is required for the Department to consider whether there is an economic benefit to foreign manufacturers of an individual imput. This is quite distinct from the ITC's determination whether imports of the final product into the United States

injure a U.S. industry. The Department therefore disagrees with petitioners on this issue.

Appendix 3.—Programs Administered by Organizations of the European Communities

I. The ECSC

On April 8, 1965, the three separate European communities—the European Coal and Steel Community (ECSC), the European Economic Community (EEC), and the European Atomic Energy Community—signed a treaty to merge into the European Communities (EC). Article 9 of the merger treaty established the Commission of the European Communities to take the place of the High Authority of each of the formerly independent institutions. The merger became effective in 1967.

The ECSC itself was established by the Treaty of Paris in 1951 to modernize production, improve quality, and assure a supply of coal and steel to the member countries. The Treaty of Paris governs all programs intended directly to affect the steel industry. Funds for these programs flow from two sources: (1) ECSC borrowings on international capital markets, and (2) the ECSC budget.

A. *ECSC Programs Determined To Be Subsidies.*—1. *ECSC Loan Guarantees.* Under Article 54 of the Treaty of Paris, the ECSC is authorized to guarantee loans from commercial lenders to coal and steel companies. Since these guarantees are intended specifically for the steel industry, we find the resulting benefits to be countervailable. The countervailable benefit is the difference between the interest rate charged by private lenders to commercial customers in the ordinary course of business and the rates available with an ECSC loan guarantee.

2. *Programs Funded Through ECSC Borrowings.* Because of its quasi-governmental nature, the ECSC is able to raise funds at interest rates lower than those which would be available on commercial terms to European steel companies. When the ECSC relends these borrowed funds to a company without increasing the interest rate, any difference between the lower rate passed on and the rate otherwise available to the steel company in the commercial financial market (the "benchmark") is a benefit to the company. For this reason, we determine that ECSC loans raised through capital market funding are countervailable insofar as they offer preferential interest rates (i.e., rates which would not be available on commercial terms) to steel companies. Consequently, any loan to a steel company involving ECSC funds borrowed on international capital markets, provided under an ECSC assistance program, confers countervailable benefits to the extent that the loan is made at a preferential interest rate.

a. *ECSC Industrial Investment Loans.* Article 54 of the Treaty of Paris authorizes the ECSC to provide loans to steel companies in member countries for reducing production costs, increasing production, or facilitating product marketing. Loans provided under this program are funded exclusively from ECSC borrowings on world capital markets. For the reasons discussed above, we reaffirm our preliminary determination that this program confers countervailable benefits to loan recipients to the extent that the interest rates are preferential.

b. *ECSC Industrial Reconversion Loans.* Under Article 56 of the Treaty of Paris, the ECSC provides loans to companies or public authorities for investments in new non-steel ventures in regions of declining steel industry activity. The goal of the loan program is to provide employment for former steel workers in new industries. In our preliminary determinations, we concluded that this program did not appear to benefit steel companies. Therefore, we preliminarily determined that it does not confer subsidies on steel. However, since our preliminary determinations, we verified that some industrial reconversion loans have been made for use in the iron and steel industry. Therefore, to the extent that such loans were made for steel production, they confer benefits on steel production generally or possibly on particular types of steel products if the loans were tied. Since this program is funded exclusively from ECSC borrowing on world capital markets, we determine, for the reasons discussed above, that these loans to steel producers confer subsidies on steel to the extent that the interest rates are preferential.

3. *Programs Funded Through the ECEC Budget.* With respect to programs funded by the ECSC budget, we preliminarily determined that they do not confer countervailable benefits because for 1971–1980 (the last year for which complete data were available) their total amount did not exceed total levies collected from coal and steel producers within the ECSC member states. Since our preliminary determinations were made we have verified the following facts about the composition of the ECSC budget:

- From 1952 through 1956, the ECSC budget was financed exclusively through producer-generated levies.
- From 1971 through 1977, the ECSC budget was financed exclusively through producer-generated levies, funds generated from unexpected levies, and other relatively small amounts obtained from steel companies (*e.g.*, fines and late payment fees).
- Beginning in 1982, the member state contribution is to be used exclusively to fund one particular program, rehabilitation aid provided under Article 56 of the Treaty of Paris.

We continue to believe that programs funded by the ECSC budget through 1977 do not confer countervailable benefits.

However, since 1978 member state contributions have constituted a portion of the ECSC budget. Upon consideration of this newly available information, for the years 1978–1981 we believe it is more reasonable to assume that programs funded by the ECSC budget are subsidized to the extent that the budget derives from member state contributions. To assume to the contrary (i.e., that *all* program assistance derives from levies and levy-generated funds, and that member state contributions are used *exclusively* for expenses other than program assistance) is inappropriate unless member state contributions are expressly earmarked for particular programs. Accordingly, we have treated as a subsidy in 1981 a proportion of the benefits received under programs funded by the ECSC budget.

Although not relevant to the subsidies being determined and measured in these investigations, we note that for 1982, member state contributions have been so earmarked for one particular program, rehabilitation aid provided under Article 56 of the Treaty of Paris. If all member state contributions are expended in funding that program, other programs would then be funded by levies and levy-generated funds, not from member state contributions.

a. *ECSC Labor Assistance Rehabilitation Aids.* Under Article 56 of the Treaty of Paris, the ECSC provides matching grants to member states for programs that assist former steel workers currently unemployed or in training for a new trade. In our preliminary determinations, we implied that this assistance may confer a subsidy on the industries for which workers are newly trained, but decided that it does not confer a subsidy on steel. However, upon verification we learned that some, though not all of this assistance has been provided to retrain

workers for other jobs *within* the *same* industry; and to cover worker unemployment and early retirement expenses, for some of which the employing companies may have been legally responsible. If such assistance has been provided to retrain steel workers for new steel jobs, and/or to cover unemployment and early retirement expenses which steel companies would normally be required to pay, then it benefits the steel industry. To that extent, it is considered a subsidy in these investigations.

This program is funded from the ECSC budget. In view of the relatively small amounts concerned, we are expensing this assistance in the year it was received. Therefore, for purposes of these investigations, we are capturing only assistance provided in the period for which we are measuring subsidies (generally 1981). In 1982, member state contributions accounted for 20.05 percent of the ECSC budget. Therefore, for the reasons discussed above, 20.05 percent of the assistance under Article 56 provided to steel companies for programs benefitting steel production in 1981 constitutes a subsidy on the manufacture or production of steel.

b. *ECSC Interest Rebates.* i. Certain Article 54 industrial investment loans qualify for further interest reduction depending on whether they are for environmental projects, removal of industrial bottlenecks, promotion of steel industry competitiveness, or stabilization of coal production. The rebates generally reduce the interest expense for the first five years of the loan repayment schedule by three percentage points. The interest rebates are paid out of the ECSC budget. Therefore, we preliminarily determined that this program does not confer countervailable benefits.

ii. Certain Article 56 industrial reconversion loans qualify for further interest reductions. Like the interest rebates on Article 54 industrial investment loans, these rebates are paid out of the ECSC budget. In a few instances the underlying loans made under Article 56 benefit the products under investigation (most Article 56 loans were given to non-steel ventures).

For the reasons discussed above, we have now determined that both these programs described under (i) and (ii) above confer countervailable benefits to the extent that the ECSC budget in the year concerned is financed by member state contributions. In view of the relatively small amounts concerned, we are expensing this assistance in the year it was received. Therefore, for purposes of these investigations, we are capturing only assistance provided in the period for which we are measuring subsidies (generally 1981). In 1981, member state contributions accounted for 20.05 percent of the ECSC budget. Therefore, for the reasons discussed above, 20.05 percent of the assistance provided in 1981 consititues a subsidy on the manufacture or production of steel.

c. *ECSC coal and Coke Aids.* Petitioners have alleged that ECSC assistance to coal producers in EC countries constitutes an indirect benefit to steel producers purchasing that coal. In our preliminary determinations, we did not consider this program to confer counteravailable benefits on steel. The basis for this conclusion was our understanding at that time that the ECSC coal aids are bestowed on all types of coal, used widely throughout many industries.

Therefore, we reasoned, the ECSC aids on coal cannot be intended to benefit, and do not benefit, the steel industry in paritcular; consequently, under section 1771(5)(B) of the Act, there is no subsidy to steel in these circumstances, even though steel producers in ECSC countries purchase some ECSC coal.

However, we have verified that, in fact, certain ECSC coal aids are bestowed exclusively on coking coal, which is used primarily by the iron and steel industry. Nonetheless, we continue to believe, for other reasons, that the ECSC coking coal aids do not confer a countervailable benefit on the manufacture or production of steel. We have no evidence that ECSC-assisted coking coal is sold to ECSC steel companies at prices less than the prices for other freely available coking coal produced in ECSC member countries but not assisted by the ECSC, or for freely available coking coal produced outside ECSC member countries. To the contrary, we have verified information that some coking coal is sold in Europe at prices below the prices of ECSC-assisted coking coal. This indicates that the coking coal subsidies to coal producers are not being passed along, in whole or in part, to steel producers purchasing that coal in arm's length transactions.

Where a subsidized coal producer and a steel producer are related companies, it is reasonable to question whether, in fact, the transfer price for coking coal is established on an arm's length basis. In general, our tests for whether the prices for coking coal charged to a related company were established on an arm's length basis include: (1) Whether the coal producer sold to its related steel producer at the prevailing price, and/or (2) whether the coal producers sold to its related steel producers and all other purchasers of coking coal at the same price.

B. *ECSC Programs Determined Not to Confer Subsidies.*—1. *ECSC Housing Loans for Workers.* Article 54(2) of the Treaty fo Paris authorized the ECSC to provide loans for residential housing for steel workers. In some cases these loan funds are provided directly to steel companies which relend them to their workers. In other cases, they are administered through financial institutions or housing authorities. These loans for the construction or purchase of homes are at highly concessionary one percent interest rates.

The preferential ECSC housing loans provide substantial benefits directly to steel workers. In our preliminary determinations, we assumed that they also indirectly benefit the employer steel companies by relieving them of certain labor wage costs. However, we have been unable to substantiate and verify this assumption. To the contrary, in many of the countries concerned there is a high rate of unemployment, which reduces upward pressure on wages. Moreover, we found no instance in which wage rates varied—depending upon the presence or absence of these mortgage loans to steel workers—either within a steel company or between steel companies. Since we have no firm basis for determining that the wage demands of steel workers would be responsive to the (non)availability of this mortgage subsidy, we conclude that the hypothetical benefits to their employer steel companies are too remote to be considered subsidies to these companies.

2. *ECSC R&D Grants and Loans.* a. Article 55 of the Treaty of Paris provides funding in the form of grants for up to 60 percent of an R&D project's cost. The projects must be for improvements in the production and use of coal and steel. On the ground that these grants are funded exclusively from the ECSC budget, we preliminarily determined that this program does not confer countervailable benefits.

For the reasons discussed above, we have decided to consider ECSC budget-funded programs as countervailable to the extent that the ECSC budget for the year concerned is financed by member state contributions. Nevertheless, because we have evidence that the results of the R&D are made publicly available, we have determined that this program does not confer countervailable benefits.

b. With respect to ECSE R&D loans—also made under Article 55 of the Treaty of Paris—we preliminarily determined that additional information was

necessary: i.e., information as to how widely available the results of research are, and from which source the funds derive. Upon verification, we learned that the results of the research are made publicly available. Therefore, we determne that ECSC R&D loans do not confer countervailable benefits.

II. The European Investment Bank

The European Investment Bank (EIB) was created by the Treaty of Rome establishing the EEC to fund projects that serve regional needs in Europe. Article 130 of the Treaty of Rome authorized the EIB to make loans and guarantee financial projects in all sectors of the economy. These projects include the provision of funds to further the development of low income regions. Funds are drawn from debt instruments floated on world capital markets and from investment earnings. Because EIB loans are designed by charter to serve regional needs, we find them to be countervailable where the interest rate is less than the rate which would have been available commercially from a private lender without government intervention.

The EIB also provides loan guarantees to companies in EC member countries. Again, because this guarantee was available in some but not all regions, it is regarded as a countervailable benefit. These determinations remain unchanged from our treatment of this issue in our preliminary determinations.

III. The European Regional Development Fund

The European Regional Development Fund was established by the EEC to provide funding in the form of low-interest loans for industrial projects designed to correct regional imbalances within the EEC. The fund also awards interest subsidies on EIB loans.

We preliminarily determined that this program is not used by any of the manufacturers, producers or exporters for any of the products from countries under investigation. We confirmed this determination through our verification, so it remains unchanged.

Comments Received from Parties to the Proceeding.—Comment 1: Petitioners argue that the Department did not correctly interpret the term "subsidy" and did not countervail ECSC assistance programs to the extent that funds for these programs were derived from the ECSC budget.

DOC Position: As explained in detail *supra,* the Department has determined that ECSC budget-funded assistance is potentially countervailable to the extent that the ECSC budget for the year concerned is financed by Member State contributions.

Whether or not we found particular ECSC budget-funded assistance to confer a subsidy on the products subject to these investigations depended on other factors as well. For example, we found that the results of ECSC funded research and development projects were made publicly available, and therefore did not consider subsidies.

Comment 2: Petitioners argue that ECSC budget-funded assistance programs confer subsidies on ECSC steel producers despite levy financing of the budget, because the ECSC must borrow massively to supplement the levies.

DOC Position: As indicated in detail *supra,* to the extent that the ECSC budget in a given year is funded by Member State contributions, we consider any assistance funded generally from the budget in that year to be partially countervailable. Also as explained *supra,* to the extent that ECSC loans financed by ECSC borrowings on world capital markets are made to steel companies at preferential interest rates, we believe that they are countervailable.

Comment 3: Petitioners maintain that ECSC budget-funded programs confer subsidies even when financed through levy funding; that the ECSC borrows to finance its programs, and there is no delineation between the programs funded by the levy and the programs funded by debt.

DOC Position: As explained in detail *supra,* we agree that many (though not all ECSC) budget-funded programs confer some countervailable benefit if the assistance was provided in a year in which the ECSC budget was derived partially from Member State contributions. Where it can be shown that ECSC budget-funded assistance derives exclusively from levies and levy-generated funds ultimately derived from steel producers, no countervailable benefit is conferred upon steel producers by the return to them of their own funds. However, for the period of investigation we did not find that any program's funding derived could be shown to derive exclusively from levy financing.

Comment 4: Some petitioners have claimed that ECSC assistance funded by producer levies confers subsidies wherever an individual producer receives assistance in excess of levies paid by that producer.

DOC Position: As explained elsewhere in this Appendix and in Appendix 4, we do not consider ECSC budget-funded programs to confer subsidies on steel producers to the extent such programs are funded by producer levies. Our view is not affected by the degree to which individual producers which have contributed levies do not participate in or receive benefits from these programs. The producers probably should be viewed as pooling their resources, for their mutual benefit, to create and maintain certain programs which are available to all the producers. Over the relatively short period for which we are measuring subsidies, certain producers have more frequent occasion to use certain programs than other producers. In principle, this is not different from other types of cooperative behavior, such as jointly funded risk insurance, under which not all participants will have identical claims although all contribute equal premiums. Accordingly, insofar as producer levies are directly funding the programs, no subsidies can be said to arise from any apparent short-term disparity of benefits received.

Comment 5: Petitioners have challenged our preliminary determinations that benefits received under certain ECSC programs funded by ECSC coal and steel producer levies were not subsidies. They assert that, in reaching such a determination, we have allowed offsets from subsidies in a manner contrary to law.

DOC Position: We disagree with petitioners' characterization of the determination on this issue. To the extent that we have viewed benefits received under ECSC programs as attributable or allocable to producer levies, we find that no gross subsidy exits. No "offset" or reduction in subsidy amount is made, because the recipients of the program benefits are directly funding those benefits themselves and thus the ECSC is not creating a subsidy. This is not analogous to governmental benefits funded by general tax revenues, for the levies in question are—and since the inception of the levy system have been—strictly earmarked for the ECSC budget-funded programs for which they are, in fact, used. In reality, the ECSC acts as no more than the administrator and distributor of levies collected, and does so under such tight restrictions as to preclude the conclusion that the return of levy funds to the producers gives rise to a gross subsidy.

Appendix 4.—General and GATT-Related Issues

- *General Issues*

Comment 1: Petitioners contend that many of the conclusions in our preliminary determinations were erroneous insofar as they found that

particular programs of general applicability and availability within a country do not give rise to domestic subsidies. They assert that subsidies must be found to exist from any governmental programs providing benefits, regardless whether those programs are generally available.

DOC Position: Section 771(5) of the Act, in describing governmental benefits which should be viewed as domestic subsidies under the law, clearly limits such subsidies to those provided "to a specific enterprise of industry, or group of enterprises or industries." We have followed this statutory standard consistently, finding countervailable only the benefits from those programs which are applicable and available only to one company or industry, a limited group of companies or industries, or companies or industries located within a limited region or regions within a country. This standard for domestic subsidies is clearly distinguishable from that for export subsidies, which are countervailable regardless of their availability within the country of exportation. We view the word "specific" in the statutory definition as necessarily modifying both "enterprise or industry" and "group of enterprises or industries". If Congress had intended programs of general applicability to be countervailable, this language would be superfluous and different language easily could and would have been used. All governments operate programs of benefit to all industries, such as internal transportation facilities or generally applicable tax rules. We do not believe that the Congress intended us to countervail such programs. Further, our conclusion is supported by the clear Congressional intent that "subsidy" be given the same meaning as "bounty or grant" under section 303 of the Act. Never in the history of the administration of this law or section 303 of the Act has a generally available program providing benefits to all production of a product, regardless of whether it is exported, been considered to give rise to a subsidy or a bounty or grant. In enacting the Trade Agreements Act of 1979, Congress specifically endorsed that interpretation of section 303. Finally, the fact that the list of subsidies in section 771(5) is not an exclusive one in no way compels the conclusion that domestic benefits of general availability must or can be considered subsidies. Indeed, in view of the statute and its legislative and administrative history, we doubt that we are free to treat such generally available benefits of domestic programs as subsidies; certainly we are not compelled to do so.

Comment 2: Petitioners contend that our preliminary negative determinations regarding critical circumstances were erroneous. They allege that, in determining whether imports were "massive" within the meaning of section 703(e) of the Act, we acted inconsistently with the law and past practice by examining imports in the period subsequent, rather than prior, to initiation of these cases, thereby denying petitioners the ability to provide adequate documentation to support their allegations. They also disagree with our characterization of the import levels as not being massive.

DOC Position: This issue is moot. Under section 703(e) of the Act, in order to determine that critical circumstances exist, we must determine that "(A) the alleged subsidy is inconsistent with the Agreement, and (B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period." Section 355.29(e) of the Commerce Regulations (19 CFR 355.29(e)) on critical circumstances provides, *inter alia*, that we will determine "whether the alleged subsidy is an *export* subsidy inconsistent with the Agreement" (emphasis added). For purposes of this law, then, under existing regulations, a subsidy may be viewed as inconsistent with the Agreement only if it is an export subsidy. Since all of the subsidies determined to exist in the cases in which we are issuing final determinations in these notices are domestic, rather than export, subsidies, we are precluded from determining that critical circumstances exist in any of these cases.

Comment 3: Some respondents claim that our adoption in the preliminary determinations of a number of new methodologies for the ascertainment and calculation of subsidies was procedurally deficient as a matter of law. They assert that these new methodologies conflict with past practice and, therefore, cannot be implemented in any case before rulemaking procedures have been completed, which procedures would have to provide published notice of proposed changes and opportunity to comment.

DOC Position: We do not agree that the methodologies employed in these cases have to be the subject of rulemaking procedures or that such methodologies could not be employed until such procedures have been completed. The adoption of these methodologies is neither rulemaking nor adjudication within the meaning of the Administrative Procedures Act. Some of the methodologies employed cannot be said to be in conflict with any past practice under sections 701 or 303 of the Act, for they address issues and factual situations which, to the best of our knowledge, have not previously been encountered. Others, such as the present value methodology of valuing money over time, do represent a departure from past methods for determining the existence or size of subsidies. However, the prior practice, with which the methodology used in these cases has been alleged to be inconsistent has never been prescribed in the Commerce Regulations or, before that, the Customs Regulations.

Decisions as to the use of such methodologies are not matters requiring rulemaking procedures, but are questions of policy left to the judgment and discretion of the Department and decided on a case-by-case basis, applying the law, as we understand its requirements and intent, to the facts of each case. While the Department could prescribe such methodologies in its regulations, we have not chosen to do so. Unless and until that occurs, no rulemaking procedures can be considered necessary before changing prior methodologies. At the outset of these investigations, respondents may have anticipated that certain prior methodologies would be employed in place of ones actually used, but they have no legal right to the maintenance of such prior practices.

Further, our preliminary determinations and subsequent disclosures to all interested parties fully explained these methodologies and each respondent took advantage of its opportunity to comment upon them, both orally and in writing. We took all of these comments fully into account in reaching our final determinations. As such, each respondent fully participated in the decision-making process to the extent of its legal rights, and cannot properly be viewed as having been denied any such rights. Moreover, there is no substantial evidence in the record in any of these cases which would support a conclusion that the respondent governments, when establishing or administering the programs investigated, relied to their detriment on prior methodologies. Indeed, it would be difficult to conclude that these governments in any way considered the possible consequence under the U.S. countervailing duty law before taking the actions which resulted in

countervailable benefits to the products under investigation.

Comment 4: Some respondents contend that many of the benefits received by the steel companies investigated, such as aids for restructuring, are directly analogous to procedures and benefits common to bankruptcy proceedings. As such, they are consistent with normal commercial considerations and should not be considered subsidies.

DOC Position: No respondent has furnished us any evidence that it has been subject to formal bankruptcy proceedings, or that its restructuring or other procedures actually employed remotely resemble normal bankruptcy procedure in its country. In the absence of any such evidence the contention of respondents is entirely too speculative a basis upon which to base a determination in these cases.

• *Gatt-Related Issues*

Comment 5: The European Communities (EC) assert that in order for a countervailable subsidy to exist under the GATT, there must be a charge on the public account. In support of this contention, the EC cites in particular item (1) of the Illustrative List of Export Subsidies (the List), included as an annex to the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (the Code). Item (1) of the List defines as an export subsidy, "Any other charge on the public account constituting an export subsidy in the sense of Article XVI of the General Agreement."

DOC Position: Item (1) does not limit the definition of subsidy to a charge on the public account, but rather makes clear that such a charge is included in the universe of subsidies which constitute on their face prohibited export subsidies. Items (c) and (d) of the List show that preferential treatment for exports, without regard to a charge on the public account, can also constitute a subsidy on its face. These items define as subsidies:

(c) Internal transport and freight charges on export shipments, provided or mandated by governments, on terms more favorable than for domestic shipments.

(d) The delivery by governments or their agencies of imported or domestic products or services for use in the production of exported goods, on terms or conditions more favorable than for delivery of like or directly competitive products or services for use in the production of goods for domestic consumption, if (in the case of products) such terms or conditions are more favorable than those commercially available on world markets to their exporters.

Item (1), cited by the EC, derives from the original illustrative list of subsidies of 1960, which represented an agreed interpretation of Article XVI:4 of the GATT. However, the department notes that this list also includes items (c) and (d) of the current List. Since the negotiation of Article XVI:4 in the 1950s, there has never been a consensus a on an interpretation such as that advanced by the EC. Rather, it has been generally accepted that the range of activities covered by the term subsidy as used in the GATT is quite broad, including charges on the public account as well as certain activities which do not necessarily involve such a charge.

Comment 6: The EC argues that subsidies other than export subsidies cannot be considered countervailable under the Code unless such subsidies "(a)dversely affect the conditions of normal competition. In the absence of any such distortion, subsidies, other than export subsidies, are recognized as important instruments for the promotion of social and economic policy objectives against which no action is envisaged by the Code." The EC further argues that the Department considered regional aids countervailable "(w)ithout taking into consideration any disadvantages incurred by companies having to operate in economically retarded and remote areas. * * * This approach does not take into account, that under GATT and the Code countervailable subsidies are only those, which adversely affect the conditions of normal competition." In support of this contention, the EC cites Article 11 of the Code, "Subsidies Other Than Export Subsidies."

DOC Position: The language of Article 11 does not prejudice the right of any signatory to the Code to countervail against non-export subsidies. The language of the Article is the result of compromise between the United States and the EC at the time of the negotiation of the Code; the United States proposed to include an illustrative list of domestic subsidies, while the EC position was that such subsidies should not be considered countervailable. The Department notes that, while no list of domestic subsidies was incorporated *per se* in the Code, examples of such subsidies are included in Article 11. In contrast, the position of the EC was not adopted, as no such prohibition regarding the countervailability of domestic subsidies appears in the Code. The fact that certain subsidies are not prohibited by the Code is not relevant to a determination as to whether such subsidies confer a countervailable benefit in a specific case.

In addition, the Department notes that Article 11:3 of the Code states, "(t)he above form of (non-export) subsidies are normally granted either regionally or by sector." Article 11:2 states:

"Signatories recognize, however, that subsidies other than export subsidies * * * may cause or threaten to cause injury to a domestic industry of another signatory or serious prejudice to the interests of another signatory or may nullify or impair benefits accruing to another signatory under the General Agreement, in particular where such subsidies would adversely affect the conditions of normal competition. Signatories shall therefore seek to avoid causing such effects through the use of subsidies. In particular, signatories when drawing up their policies and practices in this field, in addition to evaluating the essential internal objectives to be achieved, shall also weigh, as far as practicable, possible adverse effects on trade. They shall also consider the conditions of world trade the production (e.g. price, capacity utilization, and supply of the product concerned).

While there is no agreed definition of the term "normal competition" in the context of the GATT, the term can reasonably be construed to include comparative advantage, a concept about which little, if any, serious dispute exists among economists. The argument of the EC flows against the logic of comparative advantage. Subsidies used to alter the comparative advantage of certain regions with respect to the production of a certain product or products are by definition distortive of trade and the allocation of resources, and, therefore, must affect normal competition, including competition with producers in the market of the importing country. There is no evidence that the governments of the countries in question, with regard to most of the programs and benefits under consideration, specifically sought to avoid causing injury to the domestic industries of other Code signatories, or even considered possible adverse effects on trade, as required by Article 11:2.

Finally the Department notes that Article 4 of the Code, "Imposition of countervailing duties", makes no distinction between domestic and export subsidies.

Comment 7: In objecting to the methodology used by the Department to calculate the subsidies found to exist by virtue of grants, preferential loans and loan guarantees (*See* Appendix 2,

Methodology), the EC argues that "Article VI of the GATT provides that a countervailing duty may not exceed the amount of subsidy 'determined to have been *granted*'. The use of the word 'granted' rather than 'received' and the absence of any reference to 'value' or 'benefit' indicates clearly that the countervailable amount is the financial contribution of the government rather than the much more nebulous benefit to the recelpient." (Emphasis in the EC brief).

DOC Position: The position of the Department with respect to the need for a specific financial contribution of the government is discussed above. With respect to the calculation of the amount of the subsidy, the Department believes that the use of the word "granted" in Article VI:3 does not control the question of calculation of the amount of a subsidy, but merely refers to the existence of the subsidy. In fact, as the EC itself notes, Footnote 15 to the Code states, "An understanding among signatories should be developed setting out the criteria for the calculation of the amount of subsidy." Were the amount of subsidy always equal to a charge on the public account, such an understanding would be unnecessary.

Article 4:2 of the Code states that "(n)o countervailing duty shall be levied on any imported product in excess of the amount of the subsidy found to exist * * *." The position of the Department is that the subsidy is the benefit received by the producer or exporter. In no way does the language of Article 4 of the Code or Article VI of the GATT mandate a methodology to be used by signatories in the calculation of a subsidy as long as no consensus to the contrary exists (as referred to in Footnote 15). As a matter of general interpretation of the Code and the GATT, the omission of language dealing with a specific issue must be seen as a purposeful decision on the part of the signatories to leave the question open (see Comment 8 and DOC Position, below).

Comment 8: The EC has criticized the Department for making unilateral interpretations of various provisions of the Code, in particular with respect to determinations as to whether certain specific practices are subsidies and with respect to the methodologies employed in calculating the value of a subsidy.

DOC Position: The Department will follow, as far as U.S. law permits, the mandatory provisions of the Code, as well as any interpretations on which a consensus exists among all Code signatories including the United States. However, the Code does *not* require inaction by signatories with regard to areas not clearly covered by the Code or by agreed interpretations of the Code. Such a requirement would be inconsistent with practice under the GATT as it has developed since its inception in 1947. The fact that the Code is silent with respect to whether a specific practice constitutes a subsidy does not mean that no signatory may make a determination with respect to that practice in the course of a proceeding. The fact that the signatories have not agreed on a methodology for the calculation of the amount of a subsidy does not mean that no signatory may adopt a methodology in the absence of such agreement, since the inability to calculate the amount of the subsidy found to exist would clearly frustrate the intent of the Code and the GATT.

Comment 9: The EC objects to the Department's use of average return on investment as a measure of the commercial rasonableness of a government infusion of equity in the absence of a market price for shares. The EC argues that "(i)t follows from the GATT that the decisive criterion is the cost to the Government and therefore the investment should be treated as a long-term loan by the Government and the long-term return should be measured against the rate at which the Government borrowed money to make the investment."

DOC Position: The Code notes in Article 11:3 that possible forms of non-export subsidies include "(g)overnment subscription to, or provision of, equity capital." However, the Code and the GATT are silent on the question of precisely when such activity does constitute a subsidy and, where found, how such a subsidy should be calculated. The position of the EC with respect to this issue turns on defining a subsidy as the cost to the government. As discussed above in the response to Comment 6, the Department rejects this position. In any event, the equity infusions in question were not long-term and had no provisions for repayment. Accordingly, it is not possible to conclude that the decision of the Department is inconsistent with the GATT or the Code (see Appendix 2 for a discussion of the methodology employed by the Department with respect to equity infusions).

Comment 10: The EC avers that "(t)his distinction (between creditworthy and uncreditworthy companies) is a complete innovation and is not provided for anywhere in the GATT. Since that GATT criterion for the determination of a subsidy is the financial contribution of the government, the creditworthiness of the companies is irrelevant."

DOC Position: The fact that the GATT does not address this issue specifically does not preclude consideration of the issue where it arises in the course of a proceeding. As discussed above, the Department does not agree that the only criterion for the determination of the existence of a subsidy under the GATT is the financial contribution of the government. Therefore, the question of the creditworthiness of a borrower is relevant because a loan to a company unable otherwise to obtain credit is a greater benefit to that company than a comparable loan to a company which is able to obtain financing on its own.

Comment 11: The EC argues that the Code must be interpreted in its entirety, and that the various provisions must be considered in relation to each other. In particular, the EC emphasizes that the List prescribes by implication the manner in which subsidies must be determined to exist and must be calculated.

DOC Position: The Department agrees that the Code must be interpreted as a whole. This includes the Code's distinction between subsidies which are prohibited *per se* and subsidies which are prohibited only under certain circumstances. The subsidies which are enumerated in the List are prohibited *per se* under Article 9, and, hence, actionable under "Track II", as provided for under Articles 12, 13, 17 and 18. As its title implies, the List is *illustrative* of the types of practices which constitute grounds for the invocation of Track II dispute settlement procedures.

The list is thus descriptive of *prohibited* practices, not dispositive of the calculation of the value of any subsidy conferred under any particular practice. Thus there is no inconsistency between the Department's calculation of benefits conferred by export subsidies compared with benefits conferred under domestic programs, since the Department employs uniform methodologies without regard to any distinction between the two types of subsidies.

Comment 12: The EC states that "Appendix B (of the Preliminary Determinations) contains a disturbing assertion: 'In the absence of special circumstances, a party receiving a benefit on the production of its merchandise *is not assumed to share a benefit with an unrelated purchaser.*' (47 FR 26307, 26309 (1982) emphasis supplied.) The implication is that the existence of a countervailable subsidy, i.e., 'benefit' can be assumed in certain circumstances * * *." The EC asserts that the Code requires that the elements necessary for the imposition of

countervailing duties be established by positive factual evidence. Further, the EC adds that "(t)he only instance in which Title VII permits a presumption is under section 771(7)(E)(i) * * *."

DOC Position: The Department agrees that determinations as to the existence of a subsidy should be based on verified facts. However, this is possible only insofar as the facts are made available to the Department during the course of a proceeding. As a matter of normal procedure, the Department requests information from all interested parties, including the foreign government involved, in order to establish the facts upon which its determinations may be based. The Department followed this procedure in the instant cases. In those instances where the Department has been forced to make a determination on the basis of incomplete information, the responsibility rests with the interested parties who, despite the requests of the Department, failed to provide such information to the Department in a timely manner.

Where incomplete information has formed the basis of decisions of the Department in particular cases, there is no contravention of the obligations of the Department with respect to the Code or the statute. Article 2 9 of the Code provides:

In cases in which any interested party or signatory refuses access to, or otherwise does not provide, necessary information within a reasonable period or significantly impedes the investigation, preliminary and final findings, affirmative or negative, may be made on the basis of the facts available." Furthermore, Section 776(b) of the Act provides:

"In making their determinations under this title, the administering authority and the Commission shall, whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation, use the best information otherwise available."

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Final Affirmative Countervailing Duty Determination: Carbon Steel Wire Rod From France

AGENCY: International Trade Administration, Commerce.

ACTION: Final Affirmative Countervailing Duty Determination: Carbon Steel Wire Rod from France.

SUMMARY: We have determined that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in France of carbon steel wire rod, as described in the "Scope of the Investigation" section of this notice. However, the estimated net subsidy for Normandie on wire rod is *de minimis*. Therefore, the suspension of liquidation ordered in our preliminary affirmative countervailing duty determination concerning wire rod from Normandie shall be terminated. All estimated countervailing duties shall be refunded and all appropriate bonds shall be released. The estimated net subsidy for Sacilor is indicated under the "Suspension of Liquidation" section of this notice. The U.S. International Trade Commission (ITC) will determine within 45 days of the publication of this notice whether these imports are materially injuring, or threatening to materially injure, a U.S. industry.

EFFECTIVE DATE: September 27, 1982.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Tolerico, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377–4036.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we have determined that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in France of carbon steel wire rod, as described in the "Scope of Investigation" section of this notice. The following programs are found to confer subsidies:

- Preferential financing including equity infusions
- Grants
- Certain labor-related aid
- Research and development

We determine the net subsidy to be the amount indicated for each firm in the "Suspension of Liquidation" section of this notice.

Case History

On February 8, 1982, we received a petition from counsel for Atlantic Steel Corp., Georgetown Steel Corp., Georgetown Texas Steel Corp., Keystone Consolidated, Inc., Korf Industries, Inc., Penn-Dixie Steel Corp., and Raritan River Steel Co., filed on behalf of the U.S. industry producing carbon steel wire rod. The petitioners alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in France of carbon steel wire rod. Counsel for petitioners alleged that "critical circumstances" exist, as defined in section 703(e) of the Act. We found the petitions to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on March 1, 1982, we initiated a countervailing duty investigation (47 FR 5739).

Since France is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the ITC of our initiation. On March 26, 1982, the ITC preliminarily determined that there is a reasonable indication that imports of carbon steel wire rod from France are materially injuring, or threatening to materially injure, a U.S. industry (47 FR 13927). We presented questionnaires concerning the allegations to the Delegation of the Commission of the European Communities and to the government of France in Washington, D.C. On May 7, 1982, we received the responses to the questionnaires. A supplemental response was received on may 25, 1982. On July 8, 1982, we issued our preliminary determination in this investigation (47 FR 30553). This stated that the government of France was providing its manufacturers, producers, or exporters of carbon steel wire rod with benefits which constitute subsidies. The programs preliminarily determined to bestow countervailable benefits were:

- Export credit insurance
- Preferential financing including equity infusions
- Grants
- Regional development incentives
- Certain labor-related aid
- ECSC worker housing loans
- Research and development

Scope of the Investigation

For the purpose of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.02 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured, and valued over 4 cents per pound, as currently provided for in item 607.17 of the *Tariff Schedules of the United States*.

Société des Acieries et Laminoirs de Lorraine ("Sacilor"), Société Métallurgique de Normandie ("Normandie"), and Union Siderurgique du Nord et de l'Est de la France

("Usinor") are the only known producers in France of the subject product exported to the United States.

The period for which we are measuring subsidization is the 1981 calendar year. Sacilor and Normandie, which produced and exported carbon steel wire rod to the United States in 1981, operate by calendar year. Usinor did not export carbon steel wire rod to the United States in 1981, and therefore was not sent a questionnaire.

Analysis of Programs

In their responses, the government of France and the Delegation of the Commission of the European Communities provided data for the applicable periods. Additionally, we received information from Sacilor and Normandie.

Sacilor owns a substantial number of shares in Société Lorraine de Laminage Continu (Sollac), which produces steel products, but does not produce wire rod. Sacilor's capital ownership of Sollac is 64.29 percent.

Sollac, in turn, owns 50 percent of Société Lorraine et Méridionale de Laminage Continu (Solmer), which also produces various steel products but not wire rod.

Benefits to Sacilor as a corporate entity except for loss coverage and debt cancellation are allocated over the value of Sacilor's total steel sales, which include its share of Sollac's and Solmer's production. Benefits to Sacilor for loss coverage and debt cancellation are allocated over total corporate sales.

Mines de Soumont (Soumont) is Normandie's wholly-owned iron-mining facility. Soumont sells its entire iron ore production to Normandie at cost. Soumont, therefore, does not function as an independent, profit-seeking company, but instead exists only to provide an essential raw material to Normandie. Therefore, preferential loans and grants to Soumont constitute countervailable benefits to Normandie, and such benefits are allocated over the total value of Normandie's steel production.

Throughout this notice, general principles and conclusions of law applied by the Department of Commerce to the facts of the current investigation concerning carbon steel wire rod are described in detail in Appendices 2–4, which appear with the notice of "Final Affirmative Countervailing Duty Determination: Carbon Steel Wire Rod from Belgium," in this issue of the **Federal Register.**

Based upon our analysis of the petition, responses to our questionnaires, and our verification and oral and written comments by interested parties, we determine the following:

I. Programs Determined To Confer Subsidies

We have determined that subsidies are being provided under the programs listed below to manufacturers, producers, or exporters in France of carbon steel wire rod.

A. Preferential Financing Including Equity Infusions

Petitioners alleged preferential financing in the form of low-interest loans and loan guarantees, and the conversion of accumulated debt into Loans of Special Characteristics.

A number of organizations of the French government and of the European Communities (EC) have issued loans and/or loan guarantees to the French steel industry. The majority of these loans were provided by the following institutions:

• *Fonds de Développement Economique et Social (FDES)*

Created by the French Parliament in 1955, FDES is a fund which provides loans to businesses and corporations in order to further the French government's economic, social, industrial, and regional development objectives. The fund, which is actually a line item in the French government budget, is approved every year by Parliament.

As FDES is not an organization but rather a budgetary item, it is administered by the Ministry of Finance. Loan applications are filed with the Ministry of Finance, but the decision to issue a loan rests with the FDES Board, which is composed of government ministers and career civil servants whose agencies are involved in economic policy.

A semi-public financial institution, Crédit National, disburses FDES funds to recipients approved by the Ministry of Finance (see discussion on Crédit National below).

FDES loans are always part of a global financial package, as other lenders, such as government credit institutions and public and private banks, participate in the funding of a project (an FDES loan never covers the entire cost of a project). Usually, loans are secured by a mortgage or a pledge. We were advised by the government of France that FDES lending rates were consistently lower than commercial rates.

There is some evidence which suggests that FDES loans are available to all industries and regions. At verification, we requested French government authorities to provide sample FDES loan applications and agreements, and to specify the criteria on which these loans were actually granted. The French government was unwilling to provide this information. In light of this refusal, we cannot conclude that these loans were generally available. Therefore, we consider these loans to confer subsidies within the meaning of the countervailing duty law to the extent that they were provided at preferential, below-market rates.

• *Crédit National (CN)*

Crédit National is a semi-public credit institution with special legal status, which issues medium- and long-term loans to French industry, including the steel industry. Loans funds are raised by offering bonds in the public marketplace. These bonds are guaranteed by the government of France.

Crédit National acted as the conduit through which FDES loans were granted to the steel industry. The French government, either directly or through Crédit National, also guarantees some loans to the steel companies. In addition, Crédit National has participated in bank loans to the steel industry through means such as the provision of rediscount privileges to the banks, which in effect constitute a guarantee.

In most cases, Crédit National acts only as part of a loan syndicate. The terms of any loans Crédit National makes on behalf of the French government are set by the French government. We verified that CN loans to the French steel industry were made with government backing and that Crédit National's operating budget is financed by the French government.

There is some evidence suggesting that CN loans are available to all industries and regions. At verification, we requested French government authorities to arrange a meeting with CN officials, to provide sample loan applications, and to specify the criteria on which these loans were actually granted. Since these requests were refused, we were unable to establish that these loans were not given at the direction of the government of France or that CN loans are generally available. Therefore, we consider these loans to confer subsidies within the meaning of the countervailing duty law, to the extent that they are provided at preferential, below-market rates. Similarly, we find the bank loans in which Crédit National participated to confer subsidies within the meaning of the countervailing duty law to the extent that they were provided at preferential, below-market rates.

• *Caisse des Dépôts et Consignations (CDC)*

CDC is a government institution that invests funds deposited in the Caisses d'Epargne (the French savings banks), pension funds, and insurance company deposits. CDC makes both short- and long-term loans to various industries, including steel. During verification, we requested an interview with CDC from French government officials, in order to determine whether CDC loans were generally available. This request was refused. Therefore, we were unable to establish that CDC loans were not given to the steel industry in particular at the specific direction of the government. In light of the above, we cannot conclude that CDC loans were generally available. Therefore, we consider these loans to confer subsidies within the meaning of the countervailing duty law to the extent that they were provided at preferential, below-market rates.

• *European Coal and Steel Community (ECSC) and European Investment Bank (EIB) Loans and Loan Guarantees*

For the reasons discussed in Appendix 3, ECSC industrial investment loans and guarantees and EIB loans and loan guarantees confer countervailable benefits to the extent that the loan was made at a preferential interest rate, or that the guarantee enabled the loan recipient to obtain a preferential interest rate.

• *Groupement de l'Industrie Sidérurgique (GIS)*

GIS was founded in 1946 as a corporation whose sole shareholders were 45 steel companies. The purpose of GIS was to raise money for capital projects of the steel companies. By floating debt instruments in the public marketplace, GIS raised monies to lend to the companies at a rate equal to the rate being paid on bonds issued to the public, plus operating expenses. Five percent of the funds received were left on deposit with GIS to cover individual steel company defaults. Funds were raised in France, other EC countries, and abroad. GIS bonds are backed by unconditional guarantees of the companies, with each company being liable to the bondholders for the sums loaned to it by GIS. No loans have been issued by GIS since 1978, and no principal from previous loans remained outstanding on the steel companies' books in 1981.

• *Specialized Financial Institutions*

A number of private, cooperative financial institutions emerged after World War II to raise capital for various sectors of French industry. By floating bond issues, these cooperative institutions raised capital and made loans to their member companies, including steel companies. Since 1978, none of these institutions has floated bonds or loaned funds to the steel industry. These institutions include:

—Groupement Interprofessionnel Financier Antipollution (GIFIAP): environmental protection;
—Groupement pour le Financement de la Région de Fos (GIFOS): development of the Fos area near Marseille;
—Groupement des Industries de Matériaux de Construction (GIMAT): construction materials;
—Groupement pour le Financement des Economies d'Energie (GENERCO): energy conservation;
—Groupement d'Equipement pour le Traitement des Minerais de Fer (GETRAFER): processing of iron ore.

Because these are private, cooperative institutions that issued loans at non-preferential rates, we find that those loans issued prior to 1978 with principal still outstanding in 1981 do not confer any countervailable benefits.

Our treatment of loans and loan guarantees provided at preferential rates by FDES, Crédit National, bank syndicates in which Crédit National participated, CDC, the ECSC and the EIB is outlined in sections d (i) and (ii) below. Because loans from the GIS and the other specialized financial institutions were not issued after 1978, we did not find them countervailable except when they were converted into Loans of Special Characteristics ("Prêts à Caractéristiques Spéciales" or PACS), as outlined in section d (iii).

We have discussed preferential financing conferred upon Normandie and Sacilor separately as follows:

1. *Sacilor.* a. *The 1978 Rescue Plan.* By 1978, the French steel industry had been experiencing severe financial difficulties for a number of years. Sacilor was unable to pay its debts. In September 1978, the government of France instituted a major recapitalization and restructuring program for the steel industry, hereinafter referred to as the "Rescue Plan."

A primary financial goal of the restructuring was the reduction of the company's debt service burden. This was accomplished in three ways.

First, the banks refunded a certain amount of interest to Sacilor over a five-year period beginning in 1978. Because these refunds were provided under the government-directed Rescue Plan, and were grants to a specific enterprise, we determine that they confer countervailable benefits. For our treatment of these refunds, refer to section d(iv).

Second, the private holding company Marine-Wendel cancelled a portion of Sacilor's debt. Because this forgiveness of debt was provided at the direction of the government, we determine that it confers a countervailable benefit. For our treatment of this debt, see section d (v).

Third, the loans from Crédit National, FDES, the Caisse des Dépôts et Consignations, the GIS, and the other specialized financial institutions, were also converted into PACS. Marine-Wendel converted a portion of its loans to Sacilor into PACS. The PACS bear an interest rate of 0.1 percent until 1983, when they are scheduled to be renegotiated. Principal repayments are suspended until 1983 or whenever the company returns to profitability, whichever is sooner. In addition to the initial 1978 conversions, PACS were also issued between 1979 and 1981. Under the Rescue Plan, Sacilor services both the PACS and other debt owed to Marine-Wendel, CDC, and the FDES. The French government created two institutions to service the debt, including PACS, owed to the remaining lenders. These Institutions are the Caisse d'Amortissement pour l'Acier (CAPA), and the Groupement des Emprunts Collectifs de la Sidérurgie (GECS).

CAPA was created to service the debt owed to Crédit National, the GIS, and the other specialized financial institutions. CAPA was initially funded by the French government, state-owned institutional investors, and the Caisse Des Dépôts et Consignations. CAPA services the debt through interest payments on PACS, loans from the French Treasury, and borrowings on the financial markets, which are guaranteed by the French government.

The GECS was created because the French government determined that the holders of bonds issued by the GIS and the other specialized financial institutions should be protected from losses. CAPA reimburses the GECS with the funds it has raised as described above. The GECS then makes principal and interest payments to the bondholders.

Because the PACS were created under the government-directed Rescue Plan and are specific to the steel companies, we find that they confer countervailable benefits. Our treatment of these PACS is outlined in section d(iii).

b. *Equity Infusions.* Two equity infusions were made in Sacilor through which the French government became a shareholder in the company. The first

infusion was made in 1979 under the Rescue Plan, when funds were provided in exchange for stock by CDC, the banks, GIS, FDES, and Crédit National. The second infusion was made in 1981, when PACS held by FDES were cancelled in exchange for stock.

Equity participation by the government is not a subsidy *per se*. Petitioners alleged, however, that government infusions of equity into Sacilor were made at a time when these infusions were not consistent with commercial considerations. We conclude that this, in fact, was the case because of the critical financial condition of the company at the time the infusions occurred (as described in the "Creditworthiness Issue" section below). Therefore, a subsidy potentially exists.

Because the providers of the infusions received stock in exchange for cash, we calculated average stock prices for the period preceding the infusions. We then compared the market value of the new stock issued with the actual value to the company of the equity infusion. Since the actual value was greater than the market value, we determine that the equity infusions conferred a countervailable benefit. The difference is considered to be a grant and is allocated over 15 years, the average useful life of capital assets (see grants section in Appendix 2). For our treatment of equity infusions, refer to section d (iv) and (v) below.

c. *Creditworthiness.* Petitioners alleged that Sacilor is uncreditworthy. In our preliminary determination, we found that, for purposes of this investigation, Sacilor became uncreditworthy by the end of 1975. Upon further examination of the relevant data, we determine that, although Sacilor had a deteriorating financial situation through 1977, it was still in a position to obtain credit from private lenders on terms consistent with commercial considerations without government involvement.

By 1978, Sacilor's financial situation had become so critical that the government of France intervened with the Rescue Plan described above, under which most of Sacilor's debt was converted into PACS. Our analysis of Sacilor's financial statements revealed a pattern of significant operating losses each year from 1975 through 1981 (from a low of FF 1.1 billion in 1979 to a high of FF 2.6 billion in 1981). Sacilor has had increasingly high debt/equity ratios in every one of those years. In light of Sacilor's inability by 1978 to raise funds without the French government's heavy involvement in the company, and the continuing deterioration of the company's financial position, we consider Sacilor to have been uncreditworthy since 1978 for the purposes of this investigation.

d. *Calculation of Countervailable Benefits.* Preferential loans and loan guarantees, PACS, and equity infusions have been treated in the following five ways:

i. *Preferential Loans and Loan Guarantees Issued Prior to 1978.* The subsidy rate for any loan and loan guarantee from CDC, FDES, Crédit National, bank syndicates in which Crédit National participated, the ECSC, and the EIB that was made prior to 1978 for which principal was still outstanding in 1981, and which was made at a rate below the commercial benchmark for a comparable loan in the year of issue, is calculated according to the general methodology for loans and loan guarantees outlined in Appendix 2. For France, we used as the commercial benchmark the monthly financial statistics on secondary market yields of private bonds published by the Organization for Economic Cooperation and Development (OECD). For the discount rate, we used the average annual yield of public and semi-public sector bonds on the secondary market as published by the OECD. Using the method outlined in Appendix 2, we computed a subsidy of 0.000 percent ad valorem for Sacilor.

ii. *Preferential Loans and Loan Guarantees Issued Since 1978.* Because we consider Sacilor to have been uncreditworthy since 1978, loans and loan guarantees issued since then by CDC, FDES, Crédit National, bank syndicates in which Crédit National participated, the ECSC, and the EIB, with principal still outstanding during 1981, are treated as loans to a company considered to be uncreditworthy. Using the equity methodology for loans to uncreditworthy companies (see Appendix 2), we compared the national average rate of return on equity in France with the rate realized in 1981 by Sacilor on its investments. To prevent countervailing a higher amount than if the loan had been an outright grant to the company, we compared the 1981 benefit of these loans under the equity methodology used for loans to uncreditworthy companies, with the result under the grant methodology described in Appendix 2. We computed a subsidy of 1.791 percent *ad valorem*.

iii. *Loans and Loan Guarantees Converted into PACS.* The benefits of Sacilor's PACS were calculated using the equity methodology for loans to uncreditworthy companies as described in part (b) above and as outlined in Appendix 2. In calculating the benefit of loans that were converted into PACS, we did not include those PACS that were subsequently cancelled in exchange for stock. These are discussed in section d (v) below. We calculated a subsidy rate of 6.450 percent *ad valorem*.

iv. *Loss Coverage.* Since the cash infusions in exchange for stock and the interest refunds are not tied to capital assets or explicitly earmarked, we consider these funds available to cover cash-based losses.

We assume that when a company running large cash-based losses receives funds, these funds will be used to meet immediate obligations such as wages, materials, and interest expenses, which are items normally expensed in one year. Based on the above, we are expensing the funds in the year in which they were received to cover the losses of the previous year.

We calculated the annual cash losses as explained in Appendix 2, and compared the funds received to the previous year's losses. In making this comparison, we considered interest refunds before the cash infusions in exchange for equity.

For those years in which the amounts received exceeded losses, except 1981, we treated the excess as follows:

- In the case of interest refunds, we treated the excess as a grant and allocated it over 15 years, the average useful life of capital assets;
- In the case of cash infusions made in 1979 in exchange for stock, we calculated average stock prices for the period preceding the infusions (because the providers of the infusions received stock in exchange for cash). We then compared the market value of the new stock issued with the actual value to the company of the equity infusion. As the actual value was greater than the market value, we treated the difference as a grant and allocated it over 15 years, the average useful life of capital assets (see grants section in Appendix 2).

For 1981, the period for which we are measuring subsidization, we treated the entire amount as a grant for loss coverage, and expensed it in the year received.

We calculated the 1981 countervailable benefits, and allocated them over the total value of Sacilor's sales to calculate an *ad valorem* subsidy rate of 0.183 percent.

v. *Cancellation of Debt.* In 1978, pursuant to the government-directed Rescue Plan, Marine-Wendel cancelled part of Sacilor's debt. Because it did not receive anything in return for this

cancellation, we treated the amount cancelled as a grant, and allocated it over 15 years, the average useful life of capital assets (see grants section in Appendix 2).

At the end of 1981, the government of France cancelled PACS owed to it by Sacilor in exchange for additional shares in Sacilor. At that time, the government's share of ownership reached approximately 90 percent. As stated above, Sacilor has been uncreditworthy since 1978. Therefore, it is doubtful that the government's action was consistent with commercial considerations.

Since Sacilor's stock was traded on the Paris Bourse at the time the French government announced its intention to cancel its PACS for equity (see equity section in Appendix 2), we calculated average stock prices for the period immediately preceding the government's action. We then compared the average stock price with the actual value to the company of the government's equity infusion. As the actual value was greater than the market value, we treated the difference as a grant and allocated it over 15 years, the average useful life of capital assets (see grants section in Appendix 2). We then applied the 1981 net benefit over the value of all sales, and computed an *ad valorem* subsidy of 4.845 percent.

2. *Normandie.* The subsidy amounts for loans made by FDES, Crédit National and the ECSC to Normandie, at rates below the commerical benchmark for a comparable loan in the year of issuance and still outstanding in 1981, are calculated according to the methodology outlined in Appendix 2 in the section dealing with preferential loans and loan guarantees for creditworthy companies. We compared what Normandie would have paid in 1981 on a comparable commercial loan with what the company actually paid on preferential loans in that year. To determine what Normandie would have paid on a comparable commercial loan, we used as the commercial benchmark the monthly financial statistics on secondary market yields of private bonds published by the Organization for Economic Cooperation and Development (OECD). For the discount rate we used the average annual yield on the secondary market of public and semi-public sector bonds as published by the OECD. Accordingly, we found a subsidy of 0.283 percent *ad valorem.*

B. Grants

In 1980, the French government authorized a grant to Normandie which was apparently tied to the industrial use of the LBE process converter. Funds were received by Normandie in 1981. Because the amount authorized and received was less than $50 million, we allocated the grant over the average useful life of capital assets as explained in Appendix 2 and allocated the 1981 amount over Normandie's total steel production to calculate an *ad valorem* subsidy of .001 percent.

C. Certain Labor-Related Aid: Sacilor

French corporations have certain statutory and contractual obligations to pay severance to their employees in case of interruption or cessation of empolyment. There are several French government early retirement plans designed to compensate for the effects of large-scale layoffs. The plan designed to cover all industries is the Fonds National de 1'Emploi (FNE). Because of the significant problems faced by the steel industry with respect to restructuring, early retirement and layoff agreements were negotiated between certain steel companies and the labor unions.

These are the Convention de Protection Sociale of June 1977 (CPS), which applies to engineers and executives of the steel industry, and the Convention Générale de Protection Sociale of July 1979 (CGPS), which applies to all other steel industry workers.

Under these special steel agreements, workers laid off between the ages of 55 and 60 must retire. This is the "anticipated cessation of activity" plan which is financed in the same manner as the FNE; that is, by government, employer, and employee contributions to the unemployment fund, and government contributions financed by company payments.

Workers between the ages of 50 and 55 who are laid off fall under the "dispensation of activity" plan. Under this plan, the workers are still under contract to the company but their salaries are paid by the government. While the companies are under no contractual or statutory obligation to pay wages to laid-off workers, they do have contractual and statutory obligations to pay severance to laid-off workers. Since the workers who are laid off at age 50 continue to receive wages, the companies' requiremrnt to pay severance is deferred until the worker reach age 55. The benefit to the steel companies is the difference between the liability accrued in each year for severance pay and the actual expense incurred in each year for severance pay.

We considered this benefit to be a grant to Sacilor. Because the benefit is less than one percent of the total value of 1981 steel production, and is tied to an item normally expensed in one year, we allocated the 1981 benefit over the total value of Sacilor's 1981 steel sales, and calculated a subsidy rate of 0.947 percent *ad valorem.*

D. Research and Development (R&D)

Research and development for the French steel industry is conducted by the Institut de Recherches de la Sidérurgie Française (IRSID). IRSID was established by the French steel companies, which underwrite the major portion of IRSID's budget. However, according to IRSID's 1980 annual report, the French government contributed at least three percent of IRSID's yearly budget, and the ECSC contributed ten percent.

At verification, w were not allowed to meet with IRSID officials and were not provided with a 1981 annual report or any IRSID official documents. For this reason, and because we were told that the results of IRSID research were not released to the public, and that the research is industry specific, we consider that portion of IRSID's budget funded by the government of France to be countervailable. However, we find that R&D funding provided to IRSID by the ECSC is not countervailable, as the results of the ECSC-funded research are made publicly available by the ECSC. To calculate the 1981 countervailable benefit, we are using IRSID's 1980 annual report as the best information available. The French government's share of IRSID's budget is 3 percent. We applied this amount to the total value of 1980 French steel sales, because the benefits of the research were available to all steel companies that are members of IRSID. We calculated a net subsidy for all products and all companies of 0.007 percent *ad valorem.*

II. Programs Determined Not To Be Subsidies

We have determined that subsidies are not being provided under the following programs to manufacturers, producers, or exporters in France of carbon steel wire rod.

A. Export Credit Insurance

The Compagnie Française d'Assurance pour le Commerce Extérieur (COFACE) is a government corporation that provides export insurance to cover commercial, political, exchange rate fluctuation and inflation risks. For our preliminary determination, we reviewed COFACE's 1980 annual report (the most recent report available) and found that, while the company showed an overall profit, its insurance activities operated at a deficit. Revenues

from financial and real estate investments allowed COFACE to offset the operating deficit on insurance. Our preliminary review of the annual reports for 1976–1980 revealed a pattern of yearly operating deficits on insurance activities that were offset by revenues from investments. However, we reviewed the 1981 data and verified that only the political risk program sufffered losses, not the commercial risk program. We also verified that premiums for COFACE's commercial risk insurance program exceeded losses incurred by that program. Consequently, we have determined that COFACE export insurance does not confer a subsidy with respect to exports to the United States.

B. Vocational Training Assistance

We verified that the only vocational training assistance programs utilized by the respondents during 1981 were provided through the European Social Fund (ESF), the Fonds National de l'Emploi (FNE) and the Association de Formation de l'Est (AFOREST), a regional training organization operating under the auspices of the regional Chamber of Commerce and financed by dues from members.

In our preliminary determination, we assumed that these programs were aimed at retraining steelworkers for jobs within the steel industry. However, we verified that the vocational training programs are aimed at retraining workers for jobs other than steel production. For those workers subsequently reemployed in the steel industry, we found that they were reemployed in jobs not related to steel production. Therefore, we have determined that these programs do not confer subsidies under the countervailing duty law.

C. ECSC Worker Housing Loans

For the reasons described in Appendix 3, we reverse our preliminary determination that these loans confer a subsidy on steel companies whose workers receive them, and determine instead that they do not.

D. Certain Labor-Related Aid: Normandie

Normandie received labor assistance in the form of reimbursements from FNE for payments to laid-off workers. Because assistance from FNE is generally available we determine that it does not constitute a countervailable benefit.

E. Research and Development Assistance

Three government organizations provided a small amount of R&D funding to French steel companies included in this investigation:

- Agence Nationale de Valorisation de la Recherche (ANVAR): a public corporation which is designed to support innovation and enhance research;
- Direction Générale de la Recherche Scientifique et Technique (DGRST): a subdivision of the Ministry of Research and Technology; and
- Agence de l'Informatique (ADI): a public corporation which promotes the use of computer technology.

We verified that R&D funding was not awarded on a regional or industry-specific basis, and that research results were made publicly available. Therefore, we have determined that the amounts received through these programs do not confer subsidies within the meaning of the Act.

F. Energy Assistance

The French steel companies involved in this investigation received a few small grants from the Agence pour les Economies d'Energie (AEE). The AEE is a government agency, created in 1974, that provides grants to foster energy efficiency. Grants received from the agency may have to be repaid if target efficiency levels are not met. Early in 1982, the AEE was merged with several other agencies to form the Agence Française pour la Maîtrise de l'Energie (AFME). We verified that these grants were not provided on a regional or industry-specific basis. Therefore, we have determined that the amounts received from AEE by the steel companies included in this investigation do not confer subsidies.

G. Regional Anti-Pollution Agencies

Created by Law No. 64–1245 of 1964, these regional agencies, known generally as "Agences Financières de Bassin," provide incentives for the installation of anti-pollution devices. We believe that these programs are generally available, and do not benefit a specific group of industries. The agencies' operations are funded by dues from industrial users. In return, they award bonuses and loans to combat pollution.

In addition, the dues paid to these agencies by the steel companies involved in this investigation exceeded the amounts that they received. For these reasons, we find that the funds received do not confer subsidies.

H. Assistance to Improve Working Conditions

One of the steel companies involved in this investigation indicated that it had received a small grant from the Agence Nationale pour l'Améloiration des Conditions de Travail (ANACT). ANACT is a public corporation, established in 1973, to promote better working conditions. Because ANACT funds are not granted on a regional or industry-specific basis, we find that the amounts provided do not confer subsidies.

I. Assistance to Coal Suppliers

In our preliminary determination, we found that subsidies to French coal producers did not bestow a countervailable benefit upon the production, manufacture or exportation of French steel.

Between the preliminary determination and this final determination, we analyzed and verified aspects of the French coal subsidy program as it applies to steel. Based upon the verified information in the records of this investigation, we find that this program does not confer a countervailable benefit on French steel producers for the following reasons.

Benefits bestowed upon the manufacturer of an input do not necessarily flow down to the purchaser of that input if the sale is transacted at arm's length. In an arm's length transaction, the sellers generally attempt to maximize their revenue by charging as high a price as the market will bear. Where the price charged in an arm's length transaction for a subsidized input exceeds the market price for that input, we do not believe that any portion of the subsidy flows to the purchasers of the subsidized input. On the other hand, where the price of a subsidized input is lower than the market price, part or all of the subsidy may well be used to allow the subsidized manufacturer to undercut the market price. If so, then part or all of the subsidy does flow to the purchaser of the subsidized input; without at least part of that subsidy the subsidized manufacturer could not undercut the market price, and the purchaser would consequently pay the higher market price to the unsubsidized manufacturers.

These principles apply to French coal sales as follows. We find that the price charged for French coal does not undercut the market price. Absent special circumstances warranting a contrary conclusion, French steel producers apparently do not benefit from French coal subsidies as long as

the price for French coal does not undercut the market price.

Further consideration is warranted, however, for one special circumstance. The government of France directly or indirectly owns all French coal producers and partially owns Sacilor. The issue arises whether transactions between them are conducted on an arm's-length basis. We do not believe that government ownership *per se* confers a subsidy, or that common government ownership of separate companies necessarily precludes arm's-length transactions between them. To determine whether coal sales between government-owned coal and steel producers appear to have been consummated on arm's-length terms, we considered whether the government-owned coal producers sold to the government-owned steel producers at the prevailing market price. We found that French coal producers did charge the prevailing market prices. On this basis, we conclude that coal subsidies were not conferred on steel producers as a result of government ownership.

Regarding the allegation that the French steel industry indirectly benefits from German government assistance provided to the coal industry in the Federal Republic of Germany, we do not consider such assistance to confer a countervailable benefit on the French steel industry for the reasons outlined in Appendix 2.

The ECSC provides various production and marketing grants to ECSC coal and coke producers. However, we do not consider this assistance to confer a countervailable benefit on the French steel industry for the reasons described in Appendix 3.

J. Relocation and Moving Benefits

A number of employees have been relocated from Sacilor, to Solmer's plant at Fos-sur-Mer near Marseilles. The workers' relocation and moving expenses were initially financed by advances from Sacilor to Solmer. The workers were reimbursed with ECSC funds channeled through the Fonds National de l'Emploi (FNE), which were forwarded to Solmer by the workers. Solmer in turn repaid Sacilor.

We have determined that because Solmer does not make the product under investigation this transaction did not benefit the production of wire rod, and is therefore not countervailable with respect to wire rod.

III. Programs Determined Not To Be Used

We have determined that the following programs which were listed in the notice of "Initiation of Countervailing Duty Investigation" are not used by the manufacturers, producers, or exporters in France of carbon steel wire rod.

A. Regional Development Incentives

The government of France provides a series of tax and non-tax regional incentives to French and foreign businesses to establish new, or to expand existing, businesses in certain French regions.

The Délégation à l'Aménagement du Territoire et à l'Action Régionale (DATAR) coordinates the programs of various government agencies and ministries. For incentive purposes, France is divided into four zones. Each zone, or part of a zone, is eligible for different types or levels of assistance. The assistance includes development grants, non-industrial grants, research and development grants, decentralization indemnities, and job training subsidies.

We have no evidence that DATAR provided any benefits to the steel companies involved in this investigation.

B. Special Fund for Industrial Adaption

Petitioners alleged that French steel companies received grants and preferential loans through the Fonds Spécial d'Adaptation Industrielle (FSAI). FSAI was established in 1978 to promote job creation and industrial diversification in the steel, textile, shipbuilding and coal regions of France. We have no evidence that the steel companies included in this investigation received benefits from FSAI.

C. Export Financing

In France, exports may be financed or guaranteed through the Commission Interministérielle des Garanties et du Crédit au Commerce Extérieur and the Banque Française due Commerce Extérieur (BFCE). We have no evidence that the steel companies involved in this investigation availed themselves of any of these programs.

D. European Regional Development Funds (ERDF)

This program is described in Appendix 3. We found no evidence that any company under investigation received ERDF funds.

IV. Petitioners' Comments

Comment 1: Counsel for petitioners argue that a more thorough investigation should be done with respect to Marine-Wendel's forgiveness of debt to Sacilor.

DOC Position: During verification, we requested additional information concerning Marine-Wendel's actions in relation to the debt owed to it by Sacilor. We also reviewed Marine-Wendel's participation in the Rescue Plan. Our determination in regard to Marine-Wendel's actions is included in the "Preferential Financing" section of this notice.

Comment 2: Counsel for petitioners argue that all domestic subsidies in a country should be countervailed, even if they are available to all industries.

DOC Position: See Appendix 4.

Comment 3: Counsel for petitioners argue that the time period to use in determining if critical circumstances exist is the period before the petitions are filed.

DOC Position: See Appendix 4.

Comment 4: Counsel for petitioners argue that for purposes of critical circumstances domestic subsidies should be considered in determining whether there is a subsidy inconsistent with the Agreement.

DOC Position: See Appendix 4.

Comment 5: Counsel for petitioners allege that imports from France were "massive" in the sense of section 703(e) of the Act.

DOC Position: See Appendix 4.

Comment 6: Counsel for petitioners argue that, in our preliminary determination, the use of the same discount rate for creditworthy and uncreditworthy companies understates the present value of the subsidy.

DOC Position: See Appendix 2.

Comment 7: Counsel for petitioners argue that ECSC subsidies to coal benefit French steel companies and are therefore countervailable.

DOC Position: See Appendix 3.

Comment 8: Counsel argues that French government subsidization of coal producers confers subsidies on French steel producers.

DOC Position: For the reasons indicated above in the "Assistance to Coal Suppliers" section, we have determined that subsidies conferred by the French government on coal producers do not pass through to steel producers.

Comment 9: Counsel for petitioners contends that the Department overestimated the value of Sacilor shares received by the Government of France. Lacking the ability to determine a realistic value of this stock, the Department should attribute no value whatsoever to it.

DOC Position: We used Sacilor's stock market value as the best information available to make a reasonable valuation of company shares, as discussed in Appendix 2.

Comment 10: Counsel for petitioners disagrees with our addition of Sollac's

and Solmer's values of production in the calculation of *ad valorem* subsidies.

DOC Position: In our final determination we have used the total value of Sacilor's steel sales, which includes Sacilor's share of Sollac's and Solmer's steel production, for subsidy programs attributable to Sacilor's entire steel production. See Appendix 2.

Comment 11: Counsel for petitioners contends that any control which Sacilor has exercised over Normandie since the initiation of the case should be reflected in this determination.

DOC Position: At the moment, our best information is that Normandie has not yet concluded an arrangement with Sacilor. If a merger does take place between Sacilor and Normandie, however, Normandie will be assessed any wire rod deposit rate applicable to Sacilor. A merger between Normandie and any other company would result in the application of the "All Others" deposit rate to Normandie, which is equal to Sacilor's rate.

Comment 12: Counsel for petitioners asserts that benefits attributable to Sollac and Solmer should be included in the rate for Sacilor because Sollac and Solmer produce billets.

DOC Position: Our best information indicates that Sollac and Solmer do not produce billets.

V. Respondents' Comments

Comment 1: Counsel contend that Crédit National is not a government credit institution, but a private bank subject to normal commercial practices, and that CN loans and loan guarantees are not industry-specific.

DOC Position: We agree, as indicated in the section on preferential financing above, that there is some evidence to suggest that Crédit National loans are available to all industries. However, the government of France would not provide us with the criteria on which the loans were based. We were not allowed to meet with Crédit National officials or to view sample Crédit National,loan applications. Therefore, we were not satisfied that CN loans were not industry-specific, and that they were not subsidies.

With regard to Crédit National's legal status, France's foremost authority in administrative law, Professor André de Laubadère, states in his "Traité Elémentaire de Droit Administratif" (Librairie Générale de Droit et de Jurisprudence, Paris, 1966, vol. 3):

(pp. 439–440)

"Un troisième groupe d'organismes est constitué par les *Instituts spécialisés* que l'on dénomme fréquemment 'auxiliaires' ou encore 'alliés' . . . du Trésor et dont l'intervention est née du fait qu'elle porte sur des secteurs dont la rentabilité n'est pas suffisante pour attirer les crédits bancaires. Mais ces instituts sont eux-mêmes trés divers:

(* * *)

"D'autres sont des *sociétés de droit privé*, mais dotées d'un statut particulier qui les soumet à un contrôle étroit de l'Etat et qui conduit à les appeler généralement *organismes para- ou semi-publics* (Crédit National, etc.)."

(pp. 448–449)

"A côté des établissments publics (* * *), on recontre des institutions financières spécialisées qui jouent un rôle anologue et qui, quoique privées, occupent encore une place dans les institutions de l'Etat-banquier parce qu'elles servant également d'intermédiaires ou relais pour le Trésor; elles reçoivent du reste, en raison de ce rôles, des dotations de l'Etat et comportent, de sa part, des contrôles très particuliers qui les font qualifier d'organismes 'para-publics' ou 'semi-publics'.

"Ce sont notamment le *Crédit National* (* * *).

"Le cas du Crédit National est particulièrement intéressant car il * * * illustre la montée du rôle bancaire de l'Etat.

"(* * *) le *Crédit National* est devenu un instrument de financement de l'industrie par des prêts à long et moyen terme mais il est, à cet égard, un moyen de réaliser une politique de prêts des pouvoirs publics, un relais de l'Etat.

"Il en résulte un caractère complexe de cette institution aussi bien en ce qui concerne sa structure que son rôle:

"En ce qui concerne sa *structure*, le Créit National est une société anonyme de droit privé dont le capital a été souscrit par les principaux établissements de crédit et par les plus importantes entreprises industrielles françaises. Mais l'Etat possède des prérogatives exorbitantes sur son organisation et son fonctionnement: le président du conseil d'administration et les deux directeurs sont nommés par décret; deux des censeurs, chargés des fonctions de surveillance, sont nommés par le ministre des Finances et sont, en fait, le directeur du Trésor et les directeur de la Caisse des Dépôts.

"Quant à son *rôle*, le Crédit National, s'il est une banque, est une banque chargée d'une mission d'intérêt général. Ce trait est accentué par l'importance actuelle du rôle du Créit National comme distributeur de fonds du F.D.E.S. et comme auxiliaire de l'éxécution du Plan. Sans doute, certains prêts sont consentis par le Crédit National sur sa seule décision, lorsqu'ils proviennent de fonds propres; mais d'autres prêts sont consentis soit après avis spontanément demandé au Commissariat du Plan, soit sur décision préalable du Conseil de direction du F.D.E.S.; ces derniers sont ceux qui sont effectués à l'aide des fonds du F.D.E.S. transitant par le Crédit National; ils constitutent la partie la plus importante des opérations de celui-ci."

(Translation)

(pp. 439–440)

"A third group of organizations comprises the *Specialized Institutions*, which are frequently labelled as 'auxiliaries' or 'allies' * * * of the Treasury, and whose intervention was brought about by the fact that it bears on areas the profitability of which is inadequate to attract bank loans. These institutions, however, are themselves very diverse in nature:

(* * *)

"Others are *private corporations* under a special legal status that submits them to tight state control and causes them to be generally referred to as *par- or semi-public organizations* (Crédit National, etc.)."

(pp. 448–449)

"In addition to public entities (* * *), one also encounters specialized financial institutions which play a similar part and which, although they are private, also fit within the framework of the Banker-State because they also serve as intermediaries or relays for the Treasury; besides, they receive, because of this role, funds from the State which entail very particular controls by the State, which causes them to be called 'para-public' or 'semi-public' organizations.

"Among these are Crédit National (* * *).

"The case of Crédit National is particularly interesting as it * * * illustrates the ever-growing role of the State as a banker.

"(* * *) Crédit National has become a financing instrument for industry through medium- and long-term loans, but it is, in this regard, a means for the implementation of the government's lending policy, a relay of the State.

"As a consequence, this institution presents complex characteristics as regards its structure as well as its role: "With respect to its *structure*, Créit National is a private corporation whose capital stock was subscribed by the principal credit institutions and the largest French industrial corporations. The State, however, possesses exorbitant rights of oversight with regard to its organization and activities: its president and both executive directors are appointed by government decree; two of its four censors, which supervise the organization's activities, are appointed by the Minister of Finance and are actually the Director of the Treasury and the Director of the Caisse des Dépôts (et Consignations).

With respect to its *role*, Crédit National * * * is a bank entrusted with a mission of general interest. This is emphasized by Crédit National's role as a conduit for F.D.E.S. funds and as an auxiliary to the implementation of the (Five-Year) Plan. It is true that certain loans are granted by Crédit National on its own, when they are backed by Crédit National's own funds; other loans, however, are granted either after seeking the National Planning Board's opinion, either by a prior decision of the F.D.E.S. executive board; the latter loans are those made with F.D.E.S. money transiting through Crédit National; they constitute the larger part of its operations."

These excerpts demonstrate that although Crédit National is legally a private corporation, it was created by a special law, the majority of its stockholders are state-owned banks and financial institutions, and the

government of France exercises tight control over Crédit National's operations. Further, Crédit National does not make loans under purely commercial considerations and acts as an agent of the government of France.

Comment 2: Counsel argue that FDES loans are not made on a regional basis, and therefore are not countervailable.

DOC Position: As indicated above in the section on preferential financing, there is some evidence to suggest that FDES loans are available to all regions. However, FDES is a government fund administered by the French Treasury. The government of France would not provide us with the criteria on which the loans were based. Therefore, we are not satisfied that FDES loans were not regional and that they did not confer subsidies.

Comment 3: Counsel for Sacilor argues that the Rescue Plan was not instituted by the government of France, but rather was the product of negotiations between Sacilor and its creditors, and that because the Rescue Plan was consistent with rational commercial policies, there were no countervailable benefits from either the PACS or other elements of the Plan.

Counsel contend that the creditors acted reasonably, based on their conclusion that Sacilor would return to profitability as a result of the Rescue Plan.

Counsel for Sacilor further contends that "Sacilor's borrowing capacity, and thence its creditworthiness, was restored" as a result of the Rescue Plan.

DOC Position: We concur that the negotiations that led to the Rescue Plan included Sacilor's creditors. However, this point is immaterial because the result of the negotiations was substantial government intervention in the steel companies' financing, which was the intent of the creditors. Further, normal commercial considerations do not usually involve government intervention to the extent of the Rescue Plan.

With respect to the second argument, the creditors' forecast of return to profitability hinged on the guarantees given by the government of France that the steel companies would be relieved of the responsibility of servicing their debt. Those circumstances are not consistent with commercial considerations.

With regard to the Rescue Plan, we are not in a position to determine its success or failure; however, we do note that Sacilor continued to sustain persistent, heavy losses and show unfavorable financial ratios in succeeding years when loans were made, up to the present time. Therefore, for purposes of this investigation, Sacilor remains uncreditworthy.

Comment 4: Counsel contends that Sacilor is creditworthy because it received loans from both nationalized and private banks through 1980.

Counsel for Sacilor argues that the Department should not have used hindsight in deciding whether the lenders acted in accordance with commercial considerations.

DOC Position: In our preliminary determination, we found Sacilor to have been uncreditworthy since the end of 1975. Upon further examination of the relevant data, we determined that, although Sacilor had a deteriorating financial situation through 1977, it was still in a position to obtain credit from private lenders on terms consistent with commercial considerations without government involvement.

Even though Sacilor received loans from private banks after 1978, most of these loans were given with express government guarantees, and thus are not evidence of the ability of the firm to raise funds on its own, and several were made at the express request of the government to the banks.

Beginning with the 1978 Rescue Plan, there has been an obvious pattern of French government direction of funds into the steel industry. We judge that the funds poured into Sacilor have been the result of French government targeting, and absent that targeting, Sacilor could not have obtained the funds on an arm's length, commercial basis, in view of the heavy persisting losses and the unfavorable financial ratios. Consequently, we determine that Sacilor remained uncreditworthy from 1978 into the period for which subsidies are being measured.

With regard to the hindsight argument, we reiterate that our assessment of the creditworthiness of the companies for any given year is based on conditions *at that time,* and not hindsight (see Appendix 2).

Comment 5: Counsel for Sacilor argues that, when PACS are properly viewed as equity, the debt/equity ratio decreases to an acceptable level, and that PACS are at least as valuable to the creditors as the loans that they replaced.

DOC Position: We consider the PACS to be debt, because they are actually called loans ("*Prêts à* Caractéristiques Spéciales"), bear interest, albeit at a very special rate, and must be repaid when the recipients return to profitability. Accordingly, they should not be included in the equity side of the debt/equity ratio. As discussed earlier, we calculated the benefit of PACS using the equity methodology for loans to uncreditworthy companies outlined in Appendix 2.

Comment 6: Counsel for Sacilor argues that premiums paid over market value of stock are common in takeovers where the objective is to gain control over the company. Counsel also asserts that the French securities market is notoriously inefficient because it is a thin market, and cites four examples of premiums for stock in companies with losses.

DOC Position: We agree that in a commercial takeover by private investors, premiums may be paid over the stock market price. However, in this instance we are not dealing with a commercial undertaking, but rather with a French government nationalization of the steel companies, which were not in a financial condition where a "control premium" would be expected in a commercial context (see Appendix 2).

As described in Petitioner's Comment 9, we used Sacilor's stock market prices as best information available to make a fair valuation of the company's shares, for the reasons described above and in Appendix 2.

Comment 7: Counsel for Sacilor contends that Sollac's and Solmer's benefits should not be aggregated with Sacilor's.

DOC Position: We agree with counsel. Neither Solac nor Solmer produces wire rod and benefits to them are therefore not attributable to Sacilor's wire rod production. However, benefits to Sacilor's total steel production were allocated over total steel sales; benefits to the corporate entity as a whole (e.g., loss coverage) were allocated to Sacilor's total sales. See Appendix 2.

Comment 8: Counsel for Normandie contends that COFACE's commercial risk and political risk insurance programs should be considered separately, as the former operates at a profit and the latter at a loss. Normandie's exports to the United States are insured under the commercial risk program exclusively.

DOC Position: We agree with counsel's argument, and have taken it into account in section II–A of this notice.

Comment 9: Counsel argues that, as Sacilor's obligation to pay severance to laid-off workers is contractual rather than statutory, there can be no subsidy. He also contends that Sacilor's contractual agreement was to serve as a conduit for government largesse.

DOC Position: We determine that the steel companies do have contractual and statutory obligations to pay severance to laid-off workers.

We agree with counsel for Sacilor that the companies have contractual obligations to their workers. We find these contractual obligations to be legally binding.

We agree that the companies serve as conduits for the distribution of certain funds, and we are not countervailing against them in this respect.

Comment 10: Counsel for Sacilor alleges that the interest rates chosen as benchmarks for our preliminary determination often exceeded the official rates. Counsel argues that rates in excess of those published by the OECD are arbitrary.

DOC Position: We are using the rates published by the OECD in this final determination.

Comment 11: Counsel for Sacilor asserts that our preliminary determination treats funds received by Sacilor from FNE and AFOREST as subsidies. Counsel states that the funds received from FNE for relocation and moving expenses and retraining of workers did not benefit in any manner Sacilor. Sacilor was at no time under any legal or contructual obligation to retrain these employees.

DOC Position: We agree that the retraining and relocation of workers did not provide any benefits to Sacilor, for the reasons stated in section II–B and II–J of this notice.

Comment 12: Counsel for respondents assert that the allegedly new methodology used in the preliminary determination should be rejected for failure to follow proper administrative procedures.

DOC Position: See Appendix 4.

Comment 13: Counsel for respondents argue that the methodology used in the preliminary determination to calculate the benefits of loans and equity infusions is incorrect.

DOC Position: Neither counsel for petitioners nor counsel for respondents provided convincing reasons for adopting their suggestions. For further information, see Appendix 2.

Comment 14: Counsel argue that the grants methodology which involves the imputation of a future value designed to reflect the time value of money is a violation of the prohibitions in Article IV, ¶ 3 of the GATT; Article IV, ¶ 2 of the Subsidies Code; and Section 701(a) and Section 703(d)(2) of the Act, against imposing countervailing duties in excess of subsidies.

DOC Position: See Appendix 4.

Comment 15: Counsel argues that no standards have been articulated for determining creditworthiness.

DOC Position: See Appendix 2.

Comment 16: Counsel contends that, because the Rescue Plan is akin to a Chapter XI reorganization proceeding under U.S. bankruptcy law, it is not countervailable.

DOC Position: See Appendix 4.

Comment 17: Counsel for Sacilor argues that the assumption of financing costs is not countervailable. Relying on the illustrative list of domestic subsidies contained in section 771(5)(B) of the Act, he argues that only the assumption of operational costs is countervailable. In addition, he argues that because the accounting definition of "operating costs" does not include interest-related revenues and expenses, we should not countervail the provision by the government of funds which relieve a business of its interest obligations.

DOC Position: We disagree. Any preferential absorption by a government of a cost of doing business—be it wages, materials, taxes on income, or interest expenses—can give rise to a subsidy, as recognized in subsection 771(5)(B)(iv) of the Act. We find that a subsidy to relieve debt expenses is an assumption of a cost of manufacture, production, or distribution within the meaning of subsection 771(5)(B)(iv), and is therefore countervailable. Although subsection 771(5)(B)(iii) of the Act lists as an example of a subsidy "funds * * * to cover operating losses," this illustrative example does not permit us to ignore the language of subsection 771(5)(B)(iv).

Comment 18: Counsel for Sacilor contends that the success of GIS in floating bond issues is proof of the creditworthiness of his client.

DOC Position: In his response to our questionnaire, counsel indicated that GIS has not floated any issues nor made any loans since 1978, in our judgment the year Sacilor became uncreditworthy.

In addition, Sacilor's GIS loans were converted to PACS because Sacilor was unable to repay them under their original terms.

Comment 19: Counsel states that equity subsidies were accepted by Sacilor as a holding company and not tied to any particular division or activity, and therefore should be allocated over total consolidated revenues.

DOC Position: It is the Department's judgment that the 1981 equity subsidies were conversions of loans tied to steel production, and consequently are allocated over total value of steel production. However, 1979 equity subsidies were considered under loss coverage and allocated over total sales.

Comment 20: Counsel maintains that because United States imports from Sacilor have declined, and because no export subsidies were found, critical circumstances should not be found to apply to his client.

DOC Position: For our determination regarding critical circumstances see the section below.

Negative Determination of Critical Circumstances

Petitioners alleged that imports of carbon steel wire rod under investigation present "critical circumstances." Under section 355.29 and 355.33(b) of the Department's regulations, critical circumstances exist when the alleged subsidies include an export subsidy inconsistent with the Agreement, and there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

We have not found any export subsidies in this investigation. Therefore, critical circumstances do not exist in this investigation on carbon steel wire rod from France.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determination. During this verification, we followed normal procedures, including inspection of documents, discussions with government officials and on-site inspection of manufacturers' operations and records.

Administrative Procedures

The Department has afforded interested parties an opprotunity to present oral views in accordance with its regulations (19 CFR 355.35). A public hearing was held on July 12, 1982. In accordance with the Department's regulations (19 CFR 355.34(a)), written views have been received and considered.

Suspension of Liquidation

As explained in this notice, we have determined that no countervailable benefits are being provided to Normandie, because the amount of the estimated net subsidy during the period for which we are measuring subsidization is 0.291 percent *ad valorem*, which is *de minimis*. The suspension of liquidation ordered in our preliminary affirmative countervailing duty determination for Normandie shall be terminated upon publication of this notice. All estimated countervailing duties shall be refunded, and all appropriate bonds shall be released in accordance with § 355.33(g) of the Department of Commerce Regulations (19 CFR 355.33(g)). The suspension of liquidation ordered in our preliminary affirmative countervailing duty

determination for Sacilor shall remain in effect until further notice. The estimated net subsidy is as follows:

Manufacturer/producer/exporter	Ad valorem rate (percent)
Sacilor:	
Carbon Steel Wire Rod	14.223
Normandie:	
Carbon Steel Wire Rod	0.000
All Other Maufacturers/Producers/Exporters:	
Carbon Steel Wire Rod	14.223

We are directing the United States Customs Service to require a cash deposit or bond in the amount indicated above for each entry of the subject merchandise entered on or after the date of publication of this notice in the **Federal Register**. Where the manufacturer is not the exporter, and the manufacturer is known, the rate for that manufacturer shall be used in determining the amount of cash deposit or bond. If the manufacturer is unknown, the rate for all other manufacturers/producers/exporters shall be used.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine within 45 days of the publication of this notice whether these imports are materially injuring, or threatening to materially injure, a U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all securities posted or cash deposited as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, within 7 days of notification by the ITC of that determination, we will issue a countervailing duty order, directing Customs officers to assess countervailing duty on carbon steel wire rod from France entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the net subsidy determined or estimated to exist as a result of the annual review process prescribed by section 751 of the Act. The provision of section 707(a) of the Act will apply to the first directive for assessment.

Dated: September 21, 1982.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

[FR Doc. 82-26459 Filed 9-24-82; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Charges for Certain Cotton Apparel Products From the Philippines

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Deleting charges for infant's cotton playsuits in T.S.U.S.A. Number 383.5047 from the level of restraint established for Category 337 pt. (adult-sized cotton playsuits), produced or manufactured in the Philippines and exported during the agreement year which began on January 1, 1982. This will result in a reduction of 1,958 dozen in imports currently charged to that level. In addition, T.S.U.S.A. Number 383.5047 is being deleted from the coverage of the level for Category 337 pt. (adult-sized cotton playsuits).

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654)).

SUMMARY: Effective on April 1, 1982, T.S.U.S.A. Numbers 383.5047 (infants' cotton playsuits) and 383.5049 (cotton playsuits other than infants' playsuits) were established within Category 337, replacing T.S.U.S.A. Number 383.5050. Infants' cotton playsuits, i.e., T.S.U.S.A. Number 383.5047, are intended to be excluded from the level of restraint established for adult-sized cotton playsuits in Category 337 pt.

EFFECTIVE DATE: September 28, 1982.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On December 18, 1981, there was published in the **Federal Register** (46 FR 61699) a letter dated December 14, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, including Category 337 pt. (adult-sized cotton playsuits), produced or manufactured in the Philippines, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to delete T.S.U.S.A. 383.5047 (infants' cotton playsuits) from the coverage of the level of restraint previously established for Category 337 pt. (adult-sized cotton playsuits). The Commissioner is further directed to deduct 1,958 dozen from charges to the level which have been exported during 1982 and imported during the April–August 30, 1982 period. This amount represents imports charged in T.S.U.S.A. 383.5047.

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

September 24, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 14, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in the Philippines.

Effective on September 28, 1982, you are directed to exclude TSUSA Number 383.5047 from the coverage of the level of restraint established for Category 337 pt., produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1982. This exclusion is in addition to the current exclusion of TSUSA Numbers 383.0335, 383.0830, and 383.5036.

Also effective on September 28, 1982, the amount of 1,958 dozen should be deducted from charges made to the level of restraint established for Category 337 pt. in the directive of December 14, 1981. This reduction accounts for merchandise in T.S.U.S.A. Number 383.5047, exported during the agreement year which began on January 1, 1982 and imported during the period which began on April 1 and extended through August 30, 1982.

The actions taken with respect to the Government of the Republic of the

Philippines and with respect to imports of cotton textile products from the Philippines have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-26656 Filed 9-24-82; 10:48 am]

BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION

Hearing on Smoke Detectors

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of hearing.

SUMMARY: The Commission has scheduled a hearing to explore efforts necessary to promote the increased use and proper maintenance of smoke detectors.

DATE: The hearing will be held at 9:00 a.m. on October 4, 1982.

ADDRESS: The hearing will be held in the third floor conference room at 1111 18th Street, N.W., Washington, D.C.

FOR ADDITIONAL INFORMATION CONTACT: Dr. Elizabeth F. Johnson, Office of Outreach Coordination, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6580.

SUPPLEMENTARY INFORMATION: Fire is a very serious cause of death and injury to consumers in this country. A number of state and local governments, associations, insurance companies, federal agencies, consumer organizations, industry and businesses are working to reduce fires by encouraging the installation of smoke detectors. While a recent survey of the U.S. Fire Administration has found that approximately 60 percent of the homes in the U.S. have smoke detectors, a significant number of homes do not. In addition, proper maintenance of smoke detectors must be assured in homes where they are present.

In order to explore the further efforts that are necessary to promote the increased use and proper maintenance of smoke detectors, the Commission has scheduled a public hearing. It will focus on the following subjects:

1. Current smoke detector technology;
2. Effectiveness of those currently in use;
3. Voluntary standards;
4. State and local codes;
5. Information and education activities.

The Commission staff has already been in contact with some members of the public who plan to participate in the hearing. The morning session will be a "legislative-type" hearing, with presentations by members of the public and questions by the Commissioners and staff. Presentations will be generally limited to five minutes. Any member of the public interested in making a presentation should telephone Dr. Elizabeth Johnson at (301) 492–6580, no later than September 30, 1982. Please be prepared to give her the subject(s) of your presentation, one or more of those listed above.

The afternoon session of the hearing will have a different format, designed to encourage discussion among all Commission and non-Commission participants. This general discussion will be open to all members of the public, whether or not they made a presentation in the morning. While not required, it would be helpful for members of the public who want to participate only in the afternoon session to contact Dr. Johnson.

The hearing will be held in the third floor conference room at 1111 18th Street N.W., Washington, D.C. and will begin at 9:00 a.m.

(Sec. 27(a) of the Consumer Product Safety Act; 15 U.S.C. 2076(a))

Dated: September 23, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82-26649 Filed 9-24-82; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Movement of Military Interchange Railroad Cars

The car reporting provides timely data necessary to manage the movement, distribution and utilization of the Defense Freight Railway Interchange Fleet (DFRIF).

Commercial rail shipping contractors: 37,500 responses; 3,125 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301; telephone (202) 697–1195.

A copy of the information collection proposal may be obtained from David O. Cochran, DAAG–OPI, Room 1D667, Pentagon, Washington, D.C. 20310, telephone (202) 695–5111.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

September 22, 1982.

[FR Doc. 82-26697 Filed 9-24-82; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

A. Johnson & Co.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed consent order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with A. Johnson & Company and provides an opportunity for public comment on the proposed Consent Order.

DATE: Comments by: October 27, 1982.

ADDRESS: Send comments to: Robert J. McKee, Jr., Director, Philadelphia Field Office, ERA, 1421 Cherry Street, Philadelphia, Pennsylvania

FOR FURTHER INFORMATION CONTACT: Robert J. McKee, Jr., Director, Philadelphia Field Office, ERA, 1421 Cherry Street, Philadelphia, Pennsylvania 19102; (215) 597–2862.

Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On September 7, 1982, the ERA executed a proposed Consent Order with A. Johnson & Company ("Johnson") of New York, New York. Under 10 CFR 205.199J(b), a proposed Consent Order which involves the sum of $500,000 or more excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

Johnson, with its home office located in New York, New York, is a firm engaged in the production, refining and sale of crude oil and covered petroleum products, and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212 during the period January 1, 1973 through January 28, 1981 ("the period covered by this Consent Order"). An audit conducted by the ERA included a review of Johnson's records relating to compliance with the Federal petroleum price and allocation regulations during the period January 1, 1973 through January 28, 1981 (the audit period). In its audit the ERA reviewed Johnson's pricing and allocation policies and procedures and the manner in which Johnson applied the Federal petroleum price and allocation regulations. Johnson has cooperated with this audit. Johnson has made its books and records available to the auditors of the DOE and the auditors have examined and reviewed a substantial volume of such materials. DOE believes that Johnson has maintained procedures reasonably adapted to achieve compliance with the federal petroleum price and allocation regulations. DOE has found no evidence that Johnson has committed any willful or intentional violations of the federal petroleum price and allocation regulations for the period covered by this Consent Order.

The ERA and Johnson disagree in several respects concerning Johnson's compliance with the Federal petroleum price and allocation regulations during the audit period. Notwithstanding the ERA's view as to the proper application of the regulations to Johnson's activities, Johnson maintains that it has correctly construed and applied the regulations. The ERA and Johnson each believes that its respective positions on the legal issues underlying their disagreements are meritorious. However, both parties desire to resolve the issues raised by the audit without resort to complex, lengthy and expensive compliance actions and therefore have entered into this Consent Order. The ERA believes that the Consent Order is in public interest because it provides a satisfactory resolution of disputed issues and an appropriate conclusion of the Johnson audit.

The Consent Order addresses all aspects of Johnson's compliance with the Federal petroleum price and allocation regulations during the audit period and, subject to its terms, resolves all issues concerning Johnson's compliance with the Federal petroleum price and allocation regulations during the audit period. In settlement of all disputes with the ERA concerning sales of covered petroleum products during the audit period, Johnson has agreed to issue credit memoranda in the amount of $2,050,000 to stated residual fuel end-users who purchased from Johnson's subsidiary C. H. Sprague & Son Co. during the period of October 1, 1973 through December 31, 1974. The Consent Order contains details on the computation of the amount, duration and terms and conditions of the credit memoranda. The Consent Order also provides details concerning records retention and procedures concerning enforcement of the provisions of the Consent Order.

The Consent Order does not constitute an admission by Johnson nor a finding by the ERA of any violation of the Federal petroleum price and allocation regulations. This notice merely summarizes the Consent Order, and neither limits nor modifies it in any way whatsoever. The provisions of 10 CFR 205.199J, including those regarding the publication of this Notice, are applicable to the Consent Order.

Upon full satisfaction of the terms and conditions of this Consent Order by Johnson, the DOE releases Johnson from any civil claims that the DOE may have arising out of the federal petroleum price and allocation regulations.

Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation "Comments on A. Johnson Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time, on October 27, 1982. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures at 10 CFR 205.9(f).

Issued in Philadelphia on the 15th day of September, 1982.

Robert J. McKee, Jr.,
Director, Philadelphia Field Office, ERA.

[FR Doc. 82-26472 Filed 9-24-82; 8:45 a.m.]
BILLING CODE 6450-01-M

Santa Fe Energy Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Santa Fe Energy Company as a final order of the Department.

EFFECTIVE DATE: September 14, 1982.

FOR FURTHER INFORMATION CONTACT: David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, MO 64106, (Telephone) 816/374-2092.

SUPPLEMENTARY INFORMATION: On July 21, 1982, 47 FR 31600, the ERA published a notice in the **Federal Register** that it had executed a proposed Consent Order with Santa Fe Energy Company on July 2, 1982 which would not become effective sooner than 30 days after publication of that notice. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

The proposed Consent Order involves the resolution of certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations 10 CFR Parts 205, 210, 211, 212 in connection with Santa Fe's transactions involving crude oil sales during the period September 1, 1973 through January 28, 1981.

Pursuant to the proposed Consent Order, Santa Fe Energy Company will pay the sum of $800,000 which includes interest, within thirty (30) days of the effective date of the Consent Order for deposit in the U.S. Treasury as miscellaneous receipts. In addition, Santa Fe agrees to pay the sum of $8,000 in compromise of civil penalties.

Six comments were received. Each objected to the method of distributing the refund contemplated by the proposed Consent Order. Each suggested that the refunds be distributed to the various states.

Because the sales of crude oil were to refiners that were able to pass on the alleged overcharges to subsequent purchasers, ERA was unable to identify specific parties, if any, ultimately injured.

In this case ERA has determined that deposit in the U.S. Treasury is an appropriate remedy under these circumstances. Therefore, the porposed Consent Order was made final and effective without modification on September 14, 1982.

Issued in Kansas City, Missouri on the 14th day of September 1982.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

[FR Doc. 82-25674 Filed 9-24-82, 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Changes to DOE Reporting and Recordkeeping Requirements

Correction

In FR Doc 82-25757, appearing at page 41617, in the issue of Tuesday, September 21, 1982, make the following changes:

On page 41618, in the table, immediately following the entry for the "General Counsel", "GC-790R", insert the following table heading "DOE Information Collections Reinstated".

On page 41618, in the table, immediately following the entry for "Federal Energy Regulatory Commission", "FERC-539", insert the following table heading "DOE Information Collections Extended".

On page 41619, in the table, immediately following the entry for "Federal Energy Regulatory Commission", "ICC-P" insert the following table heading: "DOE Information Collections Discontinued or Allowed to Expire".

On page 41620, immediately following the table add the following:

[FR Doc. 82-25757 Filed 9-20-82 8:45 am]

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[Volume 738]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 21, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
********** PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES **********									
-ASHTOLA PRODUCTION CO				RECEIVED:	09/02/82	JA: PA			
8252453	13674	3711180018		102-2		EDWARD E BEENER GAS UNIT #1	NEW CENTERVILLE	150.0	
-BEREA OIL AND GAS CORPORATION				RECEIVED:	09/02/82	JA: PA			
8252456	14050	3703921500		102-2		M E GRIFFITH #1	WILDCAT	13.0	COLUMBIA GAS TRAN
8252459	14051	3703921500		107-TF		M E GRIFFITH #1	WILDCAT	13.0	COLUMBIA GAS TRAN
8252455	12074	3712330537		102-3		M J WOJTOWICZ #6	ELDRED	10.0	COLUMBIA GAS TRAN
8252458		3712330537		107-TF		M J WOJTOWICZ #6	ELDRED	10.0	COLUMBIA GAS TRAN
8252454	12065	3712330536		102-3		M J WOJTOWICZ UNIT #2	ELDRED	11.0	COLUMBIA GAS TRAN
8252457	12066	3712330536		107-TF		M J WOJTOWICZ UNIT #2	ELDRED	11.0	COLUMBIA GAS TRAN
-CABOT OIL & GAS CORP				RECEIVED:	09/02/82	JA: PA			
8252463	14344	3703920524		108		KEBERT DEVELOPERS INC #33	GREENWOOD	11.6	TENNESSEE GAS PIP
-CARDINAL OIL CO				RECEIVED:	09/02/82	JA: PA			
8252465	14243	3703900000		107-TF		D TYLER #3 81-57 PA PER CRA-21489	CONNEAUT	0.0	COLUMBIA GAS TRAN
8252464	14242	3703900000		107-TF		G LINZ #1 81-68 PA PER CRA-21516	CONNEAUT	0.0	COLUMBIA GAS TRAN
8252466	14244	3703900000		107-TF		M BOYD #1 81-70 PA PER CRA-21483	CONNEAUT	0.0	COLUMBIA GAS TRAN
-CUMBERLAND OIL CORP				RECEIVED:	09/02/82	JA: PA			
8252468	11728	3712330601		103		E HALE #1	SUGAR GROVE	20.0	NATIONAL FUEL GAS
8252470	11729	3712330601		107-TF		E HALE #1	SUGAR GROVE	20.0	NATIONAL FUEL GAS
8252467	11727	3712330127		103		MIDWEST CAMPERS #3	SUGAR GROVE	20.0	NATIONAL FUEL GAS
8252469	11726	3712330127		107-TF		MIDWEST CAMPERS #3	SUGAR GROVE	20.0	NATIONAL FUEL GAS
-DELTA DRILLING CO				RECEIVED:	09/02/82	JA: PA			
8252471	13324	3706300000		103		F OLIVER #1 IND 26593	CHERRYHILL	0.0	COLUMBIA GAS TRAN
-DOC-NCC SERVICE CO				RECEIVED:	09/02/82	JA: PA			
8252472	14306	3712922025		103		LOUIS M BEHANNA 1551-2	EAST HUNTINGDON	30.0	TEXAS EASTERN TRA
-DORAN & ASSOCIATES INC				RECEIVED:	09/02/82	JA: PA			
8252473	14241	3712922002		103		JANICE FRYE #2 K-K-4	UPPER DEVONIAN SANDS	30.0	PEOPLES NATURAL G
-EDWARD & KRIEBEL & JAMES E KRIEBEL				RECEIVED:	09/02/82	JA: PA			
8252480	13673	3706326829		103		CERANKOSKI #6	MARCHAND	21.5	
-ENVIROGAS INC				RECEIVED:	09/02/82	JA: PA			
8252475	13954	3704921584		107-TF		B LEWIS #2	LAKESHORE	18.0	NATIONAL FUEL GAS
8252474	13952	3704921696		107-TF		D BRIGGS #1	WILDCAT	18.0	COLUMBIA GAS TRAN
8252476	13955	3704921678		107-TF		J ZELLO #2	LAKESHORE	18.0	NATIONAL FUEL GAS
-G W AND JEAN F WALTERS				RECEIVED:	09/02/82	JA: PA			
8252898	14250	3703100000		108		BOND PINE TREE 3623	RIMERSBURG	8.2	NATIONAL FUEL GAS
8252895	14247	3703100000		108		BUCKLICK 3199	RIMERSBURG	8.2	NATIONAL FUEL GAS
8252897	14249	3703100000		108		CORNFIELD 3692	RIMERSBURG	8.2	NATIONAL FUEL GAS
8252902	14254	3703100000		108		END OF LINE N 3609	RIMERSBURG	8.2	NATIONAL FUEL GAS
8252906	14258	3703100000		108		END OF LINE S 3863	RIMERSBURG	8.2	NATIONAL FUEL GAS
8252904	14256	3703100000		108		FIRST CREEK-FIDDLER 3576	RIMERSBURG	8.2	NATIONAL FUEL GAS
8252899	14251	3703100000		108		INACCESSABLE 3591	RIMERSBURG	8.2	NATIONAL FUEL GAS
8252896	14248	3703100000		108		MOHNEYS ROCKS 3437	RIMERSBURG	8.2	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252903	14255	3703100000		108		THIRD CREEK-FIDDLER 2008	RIMERSBURG	8.2	NATIONAL FUEL GAS
8252901	14253	3703100000		108		TOP OF HILL 3637	RIMERSBURG	8.2	NATIONAL FUEL GAS
8252900	14252	3703100000		108		TRAILER 3537	RIMERSBURG	8.2	NATIONAL FUEL GAS
8252905	14257	3703100000		108		WATER WELL 3691	RIMERSBURG	8.2	NATIONAL FUEL GAS
-IRA F. BITTINGER				RECEIVED:	09/02/82	JA: PA			
8252462	14305	3700520383		108		ANNA L HARKLEROAD #1	COVANSHANNOCK	1.5	APOLLO GAS CO
8252460	14303	3700520368		108		FREDA Z FARSTER #1	PLUMCREEK	3.0	APOLLO GAS CO
8252461	14304	3706302016		108		GEORGE STITELER #1	EAST MAHONING	2.5	APOLLO GAS CO
-J & J ENTERPRISES INC				RECEIVED:	09/02/82	JA: PA			
8252480	14334	3703321239		102-2		J L BROTHERS #4	BURNSIDE	0.0	CONSOLIDATED GAS
-J G M GAS & OIL INC				RECEIVED:	09/02/82	JA: PA			
8252479	10736	3712126758		103		S(C)HULTZ #1	DONALD S(C)HULTZ	18.0	NATIONAL FUEL GAS
8252478	10735	3712126759		103		S(C)HULTZ #2	DONALD S(C)HULTZ	14.4	NATIONAL FUEL GAS
-JENNIFER PETROLEUMS LTD				RECEIVED:	09/02/82	JA: PA			
8252477	9177	3712328070		107-TF		CHASE #1A	FREEHOLD	60.0	COLUMBIA GAS TRAN
-JOHN E SAUL CORP				RECEIVED:	09/02/82	JA: PA			
8252824	14052	3712921954		103		WOLOSHAN #1 (13.2A)	LOYALHANNA	0.0	PEOPLES NATURAL G
-KALTSAS OIL CO				RECEIVED:	09/02/82	JA: PA			
8252483	14309	3704900000		103		E MARY HENDERSON #2	NORTH EAST FIELD HORN	9.0	COLUMBIA GAS TRAN
8252485	14311	3704900000		107-TF		E MARY HENDERSON #2	NORTH EAST FIELD HORN	9.0	COLUMBIA GAS TRAN
8252481	14307	3704900000		103		JOSEPH R WROBLEWSKI #1	NORTH EAST FIELD HORN	9.0	COLUMBIA GAS TRAN
8252484	14310	3704900000		107-TF		JOSEPH R WROBLEWSKI #1	NORTH EAST FIELD HORN	9.0	COLUMBIA GAS TRAN
8252482	14308	3704900000		103		JOSEPH R WROBLEWSKI #3	NORTH EAST FIELD HORN	10.0	COLUMBIA GAS TRAN
8252486	14312	3704900000		107-TF		JOSEPH R WROBLEWSKI #3	NORTH EAST FIELD HORN	10.0	COLUMBIA GAS TRAN
-KAPPA S T JOINT VENTURE 81				RECEIVED:	09/02/82	JA: PA			
8252487	13956	3706522479		103		GARAFOLA #1	WINSLOW	25.0	NATIONAL FUEL GAS
-MONROE RESOURCES LTD				RECEIVED:	09/02/82	JA: PA			
8252489	13946	3712330552		102-2		MAX MANWARING #2	COLUMBUS	20.0	COLUMBIA GAS TRAN
8252907	13947	3712330552		107-TF		MAX MANWARING #2	COLUMBUS	20.0	COLUMBIA GAS TRAN
-NATIONAL FUEL GAS SUPPLY CORP				RECEIVED:	09/02/82	JA: PA			
8252788	14286	3705300000		108		A & S WOLFE #4873	TIONESTA TOWNSHIP	0.5	GENERAL SYSTEM PU
8252817	14390	3705300000		108		A B KELLY #412	TIONESTA TOWNSHIP	0.9	GENERAL SYSTEM PU
8252607	14079	3706500000		108		A D BURKETT #3958	MCCALMONT TOWNSHIP	2.1	GENERAL SYSTEM PU
8252608	14080	3706500000		108		A D BURKETT #3966	MCCALMONT TOWNSHIP	1.7	GENERAL SYSTEM PU
8252705	14181	3706500000		108		A F HOFFMAN #4146	ROSE TOWNSHIP	0.3	GENERAL SYSTEM PU
8252815	14388	3705300000		108		A GILMORE #405	TIONESTA TOWNSHIP	1.3	GENERAL SYSTEM PU
8252796	14317	3703100000		108		A J PACKARD #763	ASHLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
8252777	14275	3708300000		108		A LINDALOFF #266-P	HAMILTON TOWNSHIP	1.0	GENERAL SYSTEM PU
8252782	14280	3708300000		108		A LINDALOFF #941-P	HAMILTON TOWNSHIP	1.9	GENERAL SYSTEM PU
8252605	14077	3706500000		108		A M WADDING #3686	KNOX TOWNSHIP	1.3	GENERAL SYSTEM PU
8252598	14070	3706500000		108		A W LATHROP #1931	HEATH TOWNSHIP	1.9	GENERAL SYSTEM PU
8252506	13960	3706500000		108		ALBERT BAUR #665	HEATH TOWNSHIP	2.0	GENERAL SYSTEM PU
8252816	14389	3705300000		108		ALFRED GILMORE #411	TIONESTA TOWNSHIP	0.6	GENERAL SYSTEM PU
8252565	14027	3704700000		108		ALLEG NAT FOR #4323	JONES	1.7	GENERAL SYSTEM PU
8252566	14028	3704700000		108		ALLEG NAT FOR #4333	JONES	2.5	GENERAL SYSTEM PU
8252567	14029	3704700000		108		ALLEG NAT FOR #4348	JONES	1.9	GENERAL SYSTEM PU
8252568	14030	3704700000		108		ALLEG NAT FOR 4498	JONES	0.8	GENERAL SYSTEM PU
8252495	13974	3704723747		103		ALLEG NAT FOREST #1-214	HIGHLAND TOWNSHIP	19.0	GENERAL SYSTEM PU
8252673	14149	3705300000		108		ALLEG NAT'L FOREST #4771	JENKS TOWNSHIP	2.5	GENERAL SYSTEM PU
8252671	14147	3705300000		108		ALLEG NAT'L FOREST #4782	JENKS TOWNSHIP	0.8	GENERAL SYSTEM PU
8252669	14145	3705300000		108		ALLEG NAT'L FOREST #4808	JENKS TOWNSHIP	4.1	GENERAL SYSTEM PU
8252747	14224	3705300000		108		ALLEG NAT'L FOREST #4829	JENKS TOWNSHIP	1.4	GENERAL SYSTEM PU
8252672	14148	3705300000		108		ALLEG NAT'L FOREST #4876	JENKS TOWNSHIP	1.4	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252670	14146	3705300000		108		ALLEG NAT'L FOREST #4881	JENKS TOWNSHIP	0.9	GENERAL SYSTEM PU
8252617	14089	3704700000		108		ALLEG NATIONAL PARK #592	SPRING CREEK TOWNSHIP	0.5	GENERAL SYSTEM PU
8252811	14384	3704700000		108		ALLEG NATL FOREST #SC227	SPRING CREEK TOWNSHIP	0.3	GENERAL SYSTEM PU
8252514	13975	3706500000		108		ALLEG RIVER MINING #5919	BEAVER TOWNSHIP	0.2	GENERAL SYSTEM PU
8252701	14177	3704700000		108		ALLEGHENY NATL FOR #4869	SPRING CREEK TOWNSHIP	0.2	GENERAL SYSTEM PU
8252529	13990	3706500000		108		B VERSTINE #3488	WARSAW TOWNSHIP	4.1	GENERAL SYSTEM PU
8252807	14329	3710500000		108		BALDWIN #6159	OSWAYO TOWNSHIP	0.7	GENERAL SYSTEM PU
8252590	14062	3704700000		108		BALETT & CROASMAN #4735	MILLSTONE TOWNSHIP	0.1	GENERAL SYSTEM PU
8252679	14155	3708300000		108		BINGHAM ESTATE #1003	KEATING TOWNSHIP	0.5	GENERAL SYSTEM PU
8252678	14154	3708300000		108		BINGHAM ESTATE #1004	KEATING TOWNSHIP	1.2	GENERAL SYSTEM PU
8252742	14219	3708300000		108		BINGHAM ESTATE #1005	KEATING TOWNSHIP	0.8	GENERAL SYSTEM PU
8252741	14218	3708300000		108		BINGHAM ESTATE #1008	KEATING TOWNSHIP	1.0	GENERAL SYSTEM PU
8252740	14217	3708300000		108		BINGHAM ESTATE #1015	KEATING TOWNSHIP	0.8	GENERAL SYSTEM PU
8252739	14216	3708300000		108		BINGHAM ESTATE #1019	KEATING TOWNSHIP	1.4	GENERAL SYSTEM PU
8252738	14215	3708300000		108		BINGHAM ESTATE #1026	KEATING TOWNSHIP	0.9	GENERAL SYSTEM PU
8252737	14214	3708300000		108		BINGHAM ESTATE #1029	KEATING TOWNSHIP	1.6	GENERAL SYSTEM PU
8252736	14213	3708300000		108		BINGHAM ESTATE #1031	KEATING TOWNSHIP	1.1	GENERAL SYSTEM PU
8252722	14198	3708300000		108		BINGHAM ESTATE #1038	KEATING TOWNSHIP	0.9	GENERAL SYSTEM PU
8252723	14199	3708300000		108		BINGHAM ESTATE #2012	KEATING TOWNSHIP	0.4	GENERAL SYSTEM PU
8252735	14212	3708300000		108		BINGHAM ESTATE #2691	KEATING TOWNSHIP	0.5	GENERAL SYSTEM PU
8252734	14211	3708300000		108		BINGHAM ESTATE #2994	KEATING TOWNSHIP	0.9	GENERAL SYSTEM PU
8252785	14283	3706500000		108		BODDORF FARM #5957	BEAVER TOWNSHIP	0.4	GENERAL SYSTEM PU
8252534	13995	3706500000		108		BOYER #2 #5709	WARSAW TOWNSHIP	2.0	GENERAL SYSTEM PU
8252721	14197	3708300000		108		BUFFALO COAL CO FARM #1177	SERGEANT TOWNSHIP	0.5	GENERAL SYSTEM PU
8252720	14196	3708300000		108		BUFFALO COAL CO FARM #1180	SERGEANT TOWNSHIP	0.5	GENERAL SYSTEM PU
8252727	14203	3708300000		108		BUTTERFIELD #1400	NORWICH TOWNSHIP	0.9	GENERAL SYSTEM PU
8252728	14204	3708300000		108		BUTTERFIELD #1424	NORWICH TOWNSHIP	8.2	GENERAL SYSTEM PU
8252729	14205	3708300000		108		BUTTERFIELD #1432	NORWICH TOWNSHIP	1.6	GENERAL SYSTEM PU
8252730	14206	3708300000		108		BUTTERFIELD #1433	NORWICH TOWNSHIP	0.6	GENERAL SYSTEM PU
8252771	14269	3708300000		108		BUTTERFIELD #1456	SERGEANT TOWNSHIP	3.2	GENERAL SYSTEM PU
8252772	14270	3708300000		108		BUTTERFIELD LANDS #1465	SERGEANT TOWNSHIP	3.5	GENERAL SYSTEM PU
8252692	14168	3708300000		108		BUTTERFIELD LANDS #4420	NORWICH TOWNSHIP	1.5	GENERAL SYSTEM PU
8252693	14169	3708300000		108		BUTTERFIELD LANDS #4464	NORWICH TOWNSHIP	1.5	GENERAL SYSTEM PU
8252732	14208	3708300000		108		BUTTERFIELD TRACT #1503	NORWICH TOWNSHIP	2.4	GENERAL SYSTEM PU
8252733	14209	3708300000		108		BUTTERFIELD TRACT #1564	NORWICH TOWNSHIP	1.4	GENERAL SYSTEM PU
8252755	14232	3706500000		108		BUZZARD & AGNEW #3516	HEATH TOWNSHIP	0.8	GENERAL SYSTEM PU
8252698	14174	3704700000		108		C H MCCAULEY JR #5061	RIDGWAY TOWNSHIP	1.8	GENERAL SYSTEM PU
8252773	14271	3703100000		108		C J KERR #3359	LIMESTONE TOWNSHIP	0.6	GENERAL SYSTEM PU
8252677	14153	3706500000		108		CABLE #5922	PINECREEK TOWNSHIP	0.8	GENERAL SYSTEM PU
8252784	14282	3706500000		108		CALLEN #745	HEATH TOWNSHIP	2.6	GENERAL SYSTEM PU
8252748	14225	3706500000		108		CALVIN RODGERS #393	HEATH TOWNSHIP	1.4	GENERAL SYSTEM PU
8252648	14120	3706500000		108		CALVIN RODGERS #4487	HEATH TOWNSHIP	2.2	GENERAL SYSTEM PU
8252750	14227	3706500000		108		CALVIN RODGERS #571	HEATH TOWNSHIP	0.9	GENERAL SYSTEM PU
8252539	14000	3703100000		108		CAROLINE SHARROW #3530	FARMINGTON TOWNSHIP	1.2	GENERAL SYSTEM PU
8252688	14164	3710500000		108		CHARLES DUKE #6066	OSWAYO TOWNSHIP	1.0	GENERAL SYSTEM PU
8252806	14328	3710500000		108		CHARLES M WYVELL #6155	OSWAYO TOWNSHIP	0.6	GENERAL SYSTEM PU
8252774	14272	3704700000		108		COMMIS OF ELK CO #SC 329	JONES TOWNSHIP	1.6	GENERAL SYSTEM PU
8252775	14273	3704700000		108		COMMIS OF ELK CO #SC 331	JONES TOWNSHIP	3.5	GENERAL SYSTEM PU
8252776	14274	3704700000		108		COMMIS OF ELK CO #SC 336	JONES TOWNSHIP	1.0	GENERAL SYSTEM PU
8252540	14001	3703100000		108		D E MYERS #3083	MILLCREEK TOWNSHIP	0.8	GENERAL SYSTEM PU
8252660	14132	3706500000		108		D K BARNETT #5781	PINECREEK TOWNSHIP	1.4	GENERAL SYSTEM PU
8252580	14042	3706500000		108		DAVID HENDERSON #555	ELDRED TOWNSHIP	2.0	GENERAL SYSTEM PU
8252766	14264	3706500000		108		DAVID M BONNER #3033	ROSE TOWNSHIP	1.6	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252586	14058	3704700000		108		DAVID SCHRUM #2709	MILLSTONE TOWNSHIP	0.6	GENERAL SYSTEM PU
8252592	14064	3704700000		108		DUHRING & WRIGHT #4218	SPRING CREEK TOWNSHIP	1.2	GENERAL SYSTEM PU
8252769	14267	3706500000		108		E C BLOSE #4889	ROSE TOWNSHIP	1.5	GENERAL SYSTEM PU
8252662	14134	3704900006		108		E C MILLER #1597 P	ELK CREEK TOWNSHIP	2.8	GENERAL SYSTEM PU
8252664	14136	3704900000		108		E C MILLER #1608-P	ELK CREEK TOWNSHIP	0.3	GENERAL SYSTEM PU
8252731	14207	3708300000		108		EDWARD A PRICE #1463	NORWICH TOWNSHIP	1.3	GENERAL SYSTEM PU
8252762	14239	3708300000		108		EDWARD A PRICE #1576	NORWICH TOWNSHIP	1.0	GENERAL SYSTEM PU
8252570	14032	3704700000		108		ELIZ J PALMER #1373	HIGHLAND TOWNSHIP	3.3	GENERAL SYSTEM PU
8252789	14287	3712100000		108		ERIES TRACT #385	PINEGROVE TOWNSHIP	0.6	GENERAL SYSTEM PU
8252800	14321	3712100000		108		FINLETTER & BAUM #3653	CRANBERRY TOWNSHIP	0.7	GENERAL SYSTEM PU
8252521	13982	3706500000		108		FRANK TRUMAN #3479	HEATH TOWNSHIP	3.9	GENERAL SYSTEM PU
8252532	13993	3706500000		108		FRAZIER BROS #258	HEATH TOWNSHIP	6.1	GENERAL SYSTEM PU
8252533	13994	3706500000		108		FRAZIER BROTHERS #394	HEATH TOWNSHIP	5.8	GENERAL SYSTEM PU
8252511	13965	3706500000		108		FRAZIER LANDS #3149	HEATH TOWNSHIP	1.2	GENERAL SYSTEM PU
8252690	14166	3708300000		108		FRED D RIFLE #3912	NORWICH TOWNSHIP	1.4	GENERAL SYSTEM PU
8252691	14167	3708300000		108		FRED D RIFLE #3913	NORWICH TOWNSHIP	0.8	GENERAL SYSTEM PU
8252616	14088	3704700000		108		G BROCIUS #579	SPRING CREEK TOWNSHIP	1.2	GENERAL SYSTEM PU
8252491	13969	3704920949		103		G H MCGUIRE 6225	GREENFIELD	0.0	GENERAL SYSTEM PU
8252756	14233	3706500000		108		G W DUNKLE #3513	HEATH TOWNSHIP	2.1	GENERAL SYSTEM PU
8252754	14231	3706500000		108		G W DUNKLE #3538	HEATH TOWNSHIP	3.8	GENERAL SYSTEM PU
8252582	14054	3704700000		108		GATZ & LOEBMAN #1954	MILLSTONE TOWNSHIP	1.2	GENERAL SYSTEM PU
8252581	14053	3704700000		108		GATZ & LOEBMAN #1956	MILLSTONE TOWNSHIP	0.9	GENERAL SYSTEM PU
8252658	14130	3704700000		108		GATZ & LOEBMAN #1983	MILLSTONE TOWNSHIP	2.0	GENERAL SYSTEM PU
8252657	14129	3704700000		108		GATZ & LOEBMAN #2018	MILLSTONE TOWNSHIP	1.6	GENERAL SYSTEM PU
8252588	14060	3704700000		108		GATZ & LOEBMAN #4461	MILLSTONE TOWNSHIP	0.4	GENERAL SYSTEM PU
8252653	14125	3704700000		108		GATZ & LOEBMAN #838	MILLSTONE TOWNSHIP	1.4	GENERAL SYSTEM PU
8252652	14124	3704700000		108		GATZ & LOEBMAN #849	MILLSTONE TOWNSHIP	0.4	GENERAL SYSTEM PU
8252610	14082	3706500000		108		GEO & KATH HYDE #3152	KNOX TOWNSHIP	1.3	GENERAL SYSTEM PU
8252542	14004	3704700000		108		GEORGE WOELFEL #SC73	BENZINGER TOWNSHIP	6.6	GENERAL SYSTEM PU
8252551	14013	3706500000		108		GILBERT #5 #5661	WARSAW TOWNSHIP	6.6	GENERAL SYSTEM PU
8252717	14193	3706500000		108		GILBERT #5727	WARSAW TOWNSHIP	1.9	GENERAL SYSTEM PU
8252535	13996	3706500000		108		GILBERT #5728	WARSAW TOWNSHIP	1.7	GENERAL SYSTEM PU
8252589	14061	3704700000		108		GODFREY PARRETT #4712	MILLSTONE TOWNSHIP	0.6	GENERAL SYSTEM PU
8252643	14115	3704700000		108		GRANT & HORTON #1019-P	RIDGWAY TOWNSHIP	0.6	GENERAL SYSTEM PU
8252642	14114	3704700000		108		GRANT & HORTON #1033-P	RIDGWAY TOWNSHIP	0.8	GENERAL SYSTEM PU
8252641	14113	3704700000		108		GRANT & HORTON #1044-P	RIDGWAY TOWNSHIP	0.7	GENERAL SYSTEM PU
8252647	14119	3708300000		108		GRANT & HORTON #1462-P	HAMILTON TOWNSHIP	0.6	GENERAL SYSTEM PU
8252646	14118	3704700000		108		GRANT & HORTON #774-P	RIDGWAY TOWNSHIP	1.5	GENERAL SYSTEM PU
8252645	14117	3704700000		108		GRANT & HORTON #789-P	RIDGWAY TOWNSHIP	0.8	GENERAL SYSTEM PU
8252760	14237	3706500000		108		H BUGHMAN #3662	POLK TOWNSHIP	1.4	GENERAL SYSTEM PU
8252764	14262	3703100000		108		H C & VERONICA AARON #3352	LIMESTONE TOWNSHIP	1.4	GENERAL SYSTEM PU
8252619	14091	3704700000		108		H H HALLOCK #3755	SPRING CREEK TOWNSHIP	2.6	GENERAL SYSTEM PU
8252620	14092	3704700000		108		H H HALLOCK #3777	SPRING CREEK TOWNSHIP	1.7	GENERAL SYSTEM PU
8252591	14063	3704700000		108		H H HALLOCK #4201	SPRING CREEK TOWNSHIP	0.4	GENERAL SYSTEM PU
8252513	13967	3706500000		108		H H HALLOCK FARM #3155	HEATH TOWNSHIP	4.6	GENERAL SYSTEM PU
8252612	14084	3704700000		108		H J CLYDE #4799	MILLSTONE TOWNSHIP	0.3	GENERAL SYSTEM PU
8252611	14083	3704700000		108		HARRY BARR #4747	MILLSTONE TOWNSHIP	1.8	GENERAL SYSTEM PU
8252544	14006	3704700000		108		HAUL & KAUL #SC219	BENZINGER TOWNSHIP	5.1	GENERAL SYSTEM PU
8252614	14086	3704700000		108		HEETER #5702	MILLSTONE TOWNSHIP	0.9	GENERAL SYSTEM PU
8252650	14122	3704700000		108		HENRY TRUMAN #728	MILLSTONE TOWNSHIP	0.9	GENERAL SYSTEM PU
8252768	14264	3706500000		108		HIRAM ALLSHOUSE #3574	ROSE TOWNSHIP	4.8	GENERAL SYSTEM PU
8252661	14133	3706500000		108		HUMPHREY #5890	PINECREEK TOWNSHIP	0.9	GENERAL SYSTEM PU
8252718	14194	3706500000		108		HUMPHREY #5898	WARSAW TOWNSHIP	1.4	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252663	14135	3704900000		108		J A ROOT #1601-P	ELK CREEK TOWNSHIP	1.6	GENERAL SYSTEM PU
8252781	14279	3708300000		108		J A SCHOFIELD #598-P	HAMILTON TOWNSHIP	0.5	GENERAL SYSTEM PU
8252795	14316	3703100000		108		J B & L R KEEFER FARM #2939	ELK TOWNSHIP	0.8	GENERAL SYSTEM PU
8252601	14073	3706500000		108		J B SMITH #4894	OLIVER TOWNSHIP	3.3	GENERAL SYSTEM PU
8252791	14298	3704700000		108		J DAVIS #4131	HIGHLAND TOWNSHIP	0.9	GENERAL SYSTEM PU
8252792	14313	3712100000		108		J E KEVERLINE #4599	PINEGROVE TOWNSHIP	0.5	GENERAL SYSTEM PU
8252763	14261	3703100000		108		J E REAGHART #3269	CLARION TOWNSHIP	0.9	GENERAL SYSTEM PU
8252666	14138	3704920288		108		J G CHASE #1613-P	CONNEAUT TOWNSHIP	1.3	GENERAL SYSTEM PU
8252818	14332	3712100000		108		J H OSMER #4658	PINEGROVE TOWNSHIP	1.8	GENERAL SYSTEM PU
8252753	14238	3706500000		108		J HARRIGER #2100	HEATH TOWNSHIP	1.6	GENERAL SYSTEM PU
8252809	14331	3712100000		108		J J & M M FISHER #2967	PINEGROVE TOWNSHIP	0.4	GENERAL SYSTEM PU
8252655	14127	3704700000		108		JAMES G BARR #823	MILLSTONE TOWNSHIP	1.9	GENERAL SYSTEM PU
8252631	14103	3706500000		108		JAS SMITH #3631	POLK TOWNSHIP	1.1	GENERAL SYSTEM PU
8252767	14265	3706500000		108		JE&ESTHER J THRUSH #3177	ROSE TOWNSHIP	1.2	GENERAL SYSTEM PU
8252585	14057	3704700000		108		JEROME POWELL #2865	MILLSTONE TOWNSHIP	1.0	GENERAL SYSTEM PU
8252584	14056	3704700000		108		JEROME POWELL #2923	MILLSTONE TOWNSHIP	0.6	GENERAL SYSTEM PU
8252618	14090	3704700000		108		JEROME POWELL #2972	SPRING CREEK TOWNSHIP	0.3	GENERAL SYSTEM PU
8252583	14055	3704700000		108		JEROME POWELL #3182	MILLSTONE TOWNSHIP	0.8	GENERAL SYSTEM PU
8252615	14087	3704700000		108		JEROME POWELL #474	SPRING CREEK TOWNSHIP	0.4	GENERAL SYSTEM PU
8252613	14085	3704700000		108		JEROME POWELL #4807	MILLSTONE TOWNSHIP	0.6	GENERAL SYSTEM PU
8252814	14387	3704700000		108		JERRY CRARY #1085-P	SPRING CREEK TOWNSHIP	0.3	GENERAL SYSTEM PU
8252801	14322	3712300000		108		JERRY CRARY #1202-P	SHEFFIELD TOWNSHIP	1.2	GENERAL SYSTEM PU
8252813	14386	3704700000		108		JERRY CRARY #1241-P	SPRING CREEK TOWNSHIP	1.2	GENERAL SYSTEM PU
8252812	14385	3704700000		108		JERRY CRARY #1251-P	SPRING CREEK TOWNSHIP	0.8	GENERAL SYSTEM PU
8252787	14285	3704700000		108		JERRY CRARY #170-P	HIGHLAND TOWNSHIP	2.4	GENERAL SYSTEM PU
8252556	14018	3706500000		108		JOHN HARRIGER #3514	HEATH TOWNSHIP	4.1	GENERAL SYSTEM PU
8252557	14019	3706500000		108		JOHN HARRIGER FARM #3517	HEATH TOWNSHIP	1.8	GENERAL SYSTEM PU
8252558	14020	3706500000		108		JOHN HARRIGER FARM #3518	HEATH TOWNSHIP	7.1	GENERAL SYSTEM PU
8252697	14173	3704700000		108		JOHN MCCLELLAN #SC380	HORTON TOWNSHIP	3.9	GENERAL SYSTEM PU
8252778	14276	3708300000		108		JOS A SCHOFIELD #349-P	HAMILTON TOWNSHIP	0.7	GENERAL SYSTEM PU
8252499	13496	3708300000		108		JOS A SCHOFIELD #923-P	HAMILTON TOWNSHIP	0.8	GENERAL SYSTEM PU
8252602	14074	3706500000		108		JOS GEIST #4896	OLIVER TOWNSHIP	1.0	GENERAL SYSTEM PU
8252498	13968	3708520186		103		JOSEPH EAGLES #6224	WORTH TOWNSHIP	69.0	GENERAL SYSTEM PU
8252794	14315	3700500000		108		JOSEPH MELLISH #4463	SUGAR CREEK TOWNSHIP	1.4	GENERAL SYSTEM PU
8252793	14220	3712100000		108		KASPER KUGLER #4402	CRANBERRY TOWNSHIP	0.7	GENERAL SYSTEM PU
8252550	14012	3706500000		108		KIEHL #5697	ELDRED TOWNSHIP	0.5	GENERAL SYSTEM PU
8252758	14235	3706500000		108		L C WYNCOOP #4719	HEATH TOWNSHIP	0.6	GENERAL SYSTEM PU
8252509	13963	3706500000		108		L C WYNKOOP FARM #2917	HEATH TOWNSHIP	4.4	GENERAL SYSTEM PU
8252554	14016	3706500000		108		L C WYNKOOP FARM #3498	HEATH TOWNSHIP	3.5	GENERAL SYSTEM PU
8252538	13999	3706500000		108		L C WYNKOOP FARM #3503	HEATH TOWNSHIP	4.7	GENERAL SYSTEM PU
8252555	14017	3706500000		108		L C WYNKOOP FARM #3507	HEATH TOWNSHIP	5.6	GENERAL SYSTEM PU
8252779	14277	3708300000		108		L D WETMORE #534-P	HAMILTON TOWNSHIP	0.6	GENERAL SYSTEM PU
8252780	14278	3708300000		108		L D WETMORE #537-P	HAMILTON TOWNSHIP	1.7	GENERAL SYSTEM PU
8252501	13498	3708300000		108		L D WETMORE #6-P	HAMILTON TOWNSHIP	1.0	GENERAL SYSTEM PU
8252502	13499	3708300000		108		L D WETMORE #7-P	HAMILTON TOWNSHIP	0.5	GENERAL SYSTEM PU
8252640	14112	3706500000		108		L WALTERS #3831	POLK TOWNSHIP	0.8	GENERAL SYSTEM PU
8252519	13980	3706500000		108		LEE B HUMPHREY #5887	SNYDER TOWNSHIP	0.3	GENERAL SYSTEM PU
8252635	14107	3706500000		108		LEONARD WALTERS #3551	POLK TOWNSHIP	2.4	GENERAL SYSTEM PU
8252634	14106	3706500000		108		LEONARD WALTERS #3574	POLK TOWNSHIP	1.8	GENERAL SYSTEM PU
8252599	14071	3706500000		108		LEONARD WALTERS #3808	POLK TOWNSHIP	1.2	GENERAL SYSTEM PU
8252632	14104	3706500000		108		LEONARD WALTERS FARM #3595	POLK TOWNSHIP	2.2	GENERAL SYSTEM PU
8252633	14105	3706500000		108		LEONARD WALTERS SR FARM #3583	POLK TOWNSHIP	1.5	GENERAL SYSTEM PU
8252536	13997	3706500000		108		LEVI THRUSH #4372	WARSAW TOWNSHIP	1.8	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252581	13992	3712100000		108		LLOYD OIL CO FARM #612	ROCKLAND TOWNSHIP	1.0	GENERAL SYSTEM PU
8252503	13957	3703100000		108		LLOYD OIL CO FARM #647	ASHLAND TOWNSHIP	0.3	GENERAL SYSTEM PU
8252790	14288	3712100000		108		LLOYD OIL CO FARM #764	ROCKLAND TOWNSHIP	0.7	GENERAL SYSTEM PU
8252508	13962	3706500000		108		M C TILLOTSON #2881	HEATH TOWNSHIP	4.1	GENERAL SYSTEM PU
8252744	14221	3712100000		108		M J DELEKER #4374	CRANBERRY TOWNSHIP	1.2	GENERAL SYSTEM PU
8252497	13445	3712100000		108		M MATHEWS #4158	PINEGROVE TOWNSHIP	0.7	GENERAL SYSTEM PU
8252504	13958	3703100000		108		M RULOFSON #2738	MILLCREEK TOWNSHIP	0.6	GENERAL SYSTEM PU
8252525	13986	3706500000		108		MARTHA & M WINGARD #3066	WARSAW TOWNSHIP	2.8	GENERAL SYSTEM PU
8252505	13959	3703100000		108		MARVIN RULOFSON #3067	MILLCREEK TOWNSHIP	1.0	GENERAL SYSTEM PU
8252548	14010	3706500000		108		MATHIAS MELZER #563	HEATH TOWNSHIP	7.1	GENERAL SYSTEM PU
8252745	14222	3712100000		108		MAY MONG ET CON #4010	ROCKLAND TOWNSHIP	0.5	GENERAL SYSTEM PU
8252516	13977	3704720410		108		MCKEAN CHEMICAL CO #1521	JONES TOWNSHIP	1.0	GENERAL SYSTEM PU
8252563	14025	3704700000		108		MCKEAN CHEMICAL CO FARM #4251	JONES TOWNSHIP	1.6	GENERAL SYSTEM PU
8252644	14116	3704700000		108		MCKNIGHT FARM #1012-P	HIGHLAND TOWNSHIP	0.5	GENERAL SYSTEM PU
8252659	14131	3706500000		108		MCKNIGHT&TEMPLETON #5771	PINECREEK TOWNSHIP	1.0	GENERAL SYSTEM PU
8252543	14005	3704700000		108		MICHAEL WOLF #SC74	BENZINGER TOWNSHIP	4.7	GENERAL SYSTEM PU
8252668	14140	3706500000		108		MILES WONDERLING #4893	OLIVER TOWNSHIP	1.5	GENERAL SYSTEM PU
8252783	14281	3708300000		108		OSCAR CAROLSON #1364-P	HAMILTON TOWNSHIP	0.3	GENERAL SYSTEM PU
8252726	14202	3708300000		108		OSGOOD & BACKER #2611	KEATING TOWNSHIP	0.6	GENERAL SYSTEM PU
8252675	14151	3706500000		108		P D BULLERS #5823	WARSAW TOWNSHIP	0.9	GENERAL SYSTEM PU
8252711	14187	3708300000		108		P FORD #1010	KEATING TOWNSHIP	0.3	GENERAL SYSTEM PU
8252710	14186	3708300000		108		P FORD #999	KEATING TOWNSHIP	0.5	GENERAL SYSTEM PU
8252625	14097	3706500000		108		PA STATE FOREST #4281	POLK TOWNSHIP	0.3	GENERAL SYSTEM PU
8252621	14093	3706500000		108		PA STATE FOREST #4404	POLK TOWNSHIP	1.5	GENERAL SYSTEM PU
8252630	14102	3706500000		108		PA STATE FOREST #4875	POLK TOWNSHIP	2.1	GENERAL SYSTEM PU
8252494	13973	3706522349		103		PA STATE FOREST #6236	HEATH TOWNSHIP	0.0	GENERAL SYSTEM PU
8252493	13972	3706522348		103		PA STATE FOREST #6237	HEATH TOWNSHIP	0.1	GENERAL SYSTEM PU
8252518	13979	3704720414		108		PA STATE GAME LAND #SC253	SPRING CREEK TOWNSHIP	0.6	GENERAL SYSTEM PU
8252593	14065	3704700000		108		PA STATE GAME LANDS #4239	SPRING CREEK TOWNSHIP	1.3	GENERAL SYSTEM PU
8252594	14066	3704700000		108		PA STATE GAME LANDS #4248	SPRING CREEK TOWNSHIP	2.1	GENERAL SYSTEM PU
8252595	14067	3704700000		108		PA STATE GAME LANDS #4260	SPRING CREEK TOWNSHIP	2.8	GENERAL SYSTEM PU
8252624	14096	3706500000		108		PA STATE GAME LANDS #4375	POLK TOWNSHIP	1.7	GENERAL SYSTEM PU
8252622	14094	3706500000		108		PA STATE GAME LANDS #4397	POLK TOWNSHIP	1.7	GENERAL SYSTEM PU
8252639	14111	3706500000		108		PA STATE GAME LANDS #4427	POLK TOWNSHIP	1.1	GENERAL SYSTEM PU
8252629	14101	3706500000		108		PA STATE GAME LANDS #4499	POLK TOWNSHIP	2.7	GENERAL SYSTEM PU
8252628	14100	3706500000		108		PA STATE GAME LANDS #4513	POLK TOWNSHIP	1.4	GENERAL SYSTEM PU
8252627	14099	3706500000		108		PA STATE GAME LANDS #4540	POLK TOWNSHIP	3.9	GENERAL SYSTEM PU
8252757	14234	3706500000		108		PA STATE GAME LANDS #4648	HEATH TOWNSHIP	4.6	GENERAL SYSTEM PU
8252708	14176	3704700000		108		PA STATE GAME LANDS #4736	SPRING CREEK TOWNSHIP	3.6	GENERAL SYSTEM PU
8252596	14068	3704700000		108		PA STATE GAME LANDS #4744	SPRING CREEK TOWNSHIP	2.6	GENERAL SYSTEM PU
8252597	14069	3704700000		108		PA STATE GAME LANDS #4775	SPRING CREEK	3.2	GENERAL SYSTEM PU
8252704	14180	3704700000		108		PA STATE GAME LANDS #5883	SPRING CREEK TOWNSHIP	0.8	GENERAL SYSTEM PU
8252549	14011	3703100000		108		PA STATE GAME LANDS#4813	MILLCREEK TOWNSHIP	0.3	GENERAL SYSTEM PU
8252636	14108	3706500000		108		PAINE & WALTERS #4249	POLK TOWNSHIP	2.4	GENERAL SYSTEM PU
8252626	14098	3706500000		108		PAINE & WALTERS #4261	POLK TOWNSHIP	1.2	GENERAL SYSTEM PU
8252746	14223	3712100000		108		PARKHURST & BUCHANAN #3706	ROCKLAND TOWNSHIP	0.8	GENERAL SYSTEM PU
8252552	14014	3706500000		108		PEARSALL #2 #5707	WARSAW TOWNSHIP	1.6	GENERAL SYSTEM PU
8252517	13978	3704720447		108		POTTS LANDS #1357	JONES TOWNSHIP	2.4	GENERAL SYSTEM PU
8252578	14040	3704700000		108		POTTS TRACT #1470	JONES TOWNSHIP	3.5	GENERAL SYSTEM PU
8252579	14041	3704700000		108		POTTS TRACT #1473	JONES TOWNSHIP	0.7	GENERAL SYSTEM PU
8252623	14095	3706500000		108		R BUGHMAN #4376	POLK TOWNSHIP	1.3	GENERAL SYSTEM PU
8252793	14314	3700500000		108		R H MCCLATCHEY #4391	WASHINGTON TOWNSHIP	0.8	GENERAL SYSTEM PU
8252724	14200	3708300000		108		R OSGOOD #2042	KEATING TOWNSHIP	0.6	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252665	14137	3704920162		108		R TAYLOR #1611-P	CONNEAUT TOWNSHIP	0.8	GENERAL SYSTEM PU
8252560	14022	3704700000		108		RALPH TRACT FARM #1524	JONES TOWNSHIP	1.2	GENERAL SYSTEM PU
8252682	14158	3710500000		108		RICHARD BALDWIN #6004	OSWAYO TOWNSHIP	0.2	GENERAL SYSTEM PU
8252802	14324	3710500000		108		RICHARD BALDWIN #6082	OSWAYO TOWNSHIP	0.6	GENERAL SYSTEM PU
8252804	14326	3710500000		108		RICHARD BALDWIN #6152	OSWAYO TOWNSHIP	0.5	GENERAL SYSTEM PU
8252805	14327	3710500000		108		RICHARD BALDWIN #6153	OSWAYO TOWNSHIP	0.7	GENERAL SYSTEM PU
8252492	13970	3704920950		103		RICHARD NYGAARD 6226	NORTH EAST	36.0	GENERAL SYSTEM PU
8252694	14170	3704700000		108		RIDGWAY LIGHT & HEAT FARM #5007	SPRING CREEK TOWNSHIP	1.3	GENERAL SYSTEM PU
8252752	14229	3704700000		108		RIDGWAY LIGHT & HEAT FARM #5046	SPRING CREEK TOWNSHIP	1.3	GENERAL SYSTEM PU
8252751	14228	3704700000		108		RIDGWAY LIGHT & HEAT FARM #5050	SPRING CREEK TOWNSHIP	0.9	GENERAL SYSTEM PU
8252703	14179	3704700000		108		RIDGWAY LIGHT & HEAT FARM #5051	SPRING CREEK TOWNSHIP	0.8	GENERAL SYSTEM PU
8252702	14178	3704700000		108		RIDGWAY LIGHT & HEAT FARM #5052	SPRING CREEK TOWNSHIP	1.8	GENERAL SYSTEM PU
8252699	14175	3704700000		108		RIDGWAY LIGHT & HEAT FARM #5053	SPRING CREEK TOWNSHIP	0.9	GENERAL SYSTEM PU
8252725	14201	3708300000		108		ROBERT OSGOOD FARM #2082	KEATING TOWNSHIP	0.7	GENERAL SYSTEM PU
8252638	14110	3706500000		108		RUBEN BAUGHMAN #4431	POLK TOWNSHIP	3.1	GENERAL SYSTEM PU
8252637	14109	3706500000		108		RUBEN BAUGHMAN #4451	POLK TOWNSHIP	2.8	GENERAL SYSTEM PU
8252604	14076	3706500000		108		S B DELP #3552	KNOX TOWNSHIP	1.7	GENERAL SYSTEM PU
8252609	14081	3706500000		108		S L RHOADES #3073	KNOX TOWNSHIP	1.9	GENERAL SYSTEM PU
8252496	13443	3712100000		108		S P MCCALMONT #4028	PINEGROVE TOWNSHIP	1.5	GENERAL SYSTEM PU
8252523	13984	3706500000		108		S P MOORE #2940	WARSAW TOWNSHIP	3.2	GENERAL SYSTEM PU
8252797	14318	3703100000		108		SARAH E TROUTNER #768	ASHLAND TOWNSHIP	0.9	GENERAL SYSTEM PU
8252786	14284	3706500000		108		SARILDA & F BRADEN #4341	BARNETT TOWNSHIP	1.2	GENERAL SYSTEM PU
8252520	13981	3706522197		108		SIMPSON LAND CO #4507	ELDRED TOWNSHIP	0.9	GENERAL SYSTEM PU
8252651	14123	3704700000		108		STAIB & CO ID 601	MILLSTONE TOWNSHIP	0.3	GENERAL SYSTEM PU
8252587	14059	3704700000		108		STAIB & CO #2124	MILLSTONE TOWNSHIP	1.0	GENERAL SYSTEM PU
8252649	14121	3704700000		108		STAIB & CO #741	MILLSTONE TOWNSHIP	0.8	GENERAL SYSTEM PU
8252656	14128	3704700000		108		STAIB & CO #761	MILLSTONE TOWNSHIP	0.9	GENERAL SYSTEM PU
8252654	14126	3704700000		108		STAIB & CO #825	MILLSTONE TOWNSHIP	1.6	GENERAL SYSTEM PU
8252761	14238	3706500000		108		STATE GAME LANDS #5877	SNYDER TOWNSHIP	1.3	GENERAL SYSTEM PU
8252600	14072	3706500000		108		STATE GAME LANDS #5893	SNYDER TOWNSHIP	2.3	GENERAL SYSTEM PU
8252667	14139	3706500000		108		STIGER #4156	MCCALMONT TOWNSHIP	4.0	GENERAL SYSTEM PU
8252719	14195	3706500000		108		SULGER #5845	WARSAW TOWNSHIP	1.2	GENERAL SYSTEM PU
8252712	14188	3706500000		108		SULGER #5865	WARSAW TOWNSHIP	1.8	GENERAL SYSTEM PU
8252674	14150	3706500000		108		SULGER #5912	WARSAW TOWNSHIP	1.8	GENERAL SYSTEM PU
8252676	14152	3706500000		108		SULGER #5931	PINECREEK TOWNSHIP	0.7	GENERAL SYSTEM PU
8252696	14172	3706500000		108		SULGER #5938	WARSAW TOWNSHIP	1.6	GENERAL SYSTEM PU
8252713	14189	3706500000		108		SULGER #5968	WARSAW TOWNSHIP	2.6	GENERAL SYSTEM PU
8252545	14007	3703300000		108		SURE SHOT LAND & GUN #SC378	UNION TOWNSHIP	9.7	GENERAL SYSTEM PU
8252546	14008	3703300000		108		SURE SHOT LAND & GUN #SC379	UNION TOWNSHIP	8.0	GENERAL SYSTEM PU
8252547	14009	3703300000		108		SURE SHOT LAND & GUN #SC381	UNION TOWNSHIP	3.5	GENERAL SYSTEM PU
8252541	14003	3703100000		108		T N BARNSDALL #5608	FARMINGTON TOWNSHIP	1.9	GENERAL SYSTEM PU
8252716	14192	3706500000		108		THERON SATTERLEE #5757	WARSAW TOWNSHIP	1.2	GENERAL SYSTEM PU
8252770	14268	3706500000		108		THOMAS T MILLEN #4890	ROSE TOWNSHIP	2.8	GENERAL SYSTEM PU
8252498	13941	3708300000		108		THOS KEALOR #875-P	WETMORE TOWNSHIP	0.9	GENERAL SYSTEM PU
8252500	13497	3708300000		108		THOS KEELOR #528-P	HAMILTON TOWNSHIP	1.0	GENERAL SYSTEM PU
8252515	13976	3705321725		108		TINDALE & CARSON #2320	HICKORY TOWNSHIP	0.1	GENERAL SYSTEM PU
8252706	14182	3708300000		108		TWILA LARSON #1408-P	HAMILTON TOWNSHIP	0.7	GENERAL SYSTEM PU
8252707	14183	3708300000		108		TWILA LARSON #1409-P	HAMILTON TOWNSHIP	0.2	GENERAL SYSTEM PU
8252606	14078	3706500000		108		V & HIBBARD CO #5949	KNOX TOWNSHIP	1.9	GENERAL SYSTEM PU
8252715	14191	3706500000		108		VASBINDER #5760	WARSAW TOWNSHIP	0.4	GENERAL SYSTEM PU
8252714	14190	3706500000		108		VASBINDER #5761	WARSAW TOWNSHIP	0.9	GENERAL SYSTEM PU
8252522	13983	3706500000		108		VERSTINE & KLINE #2842	WARSAW TOWNSHIP	2.9	GENERAL SYSTEM PU
8252538	13991	3706500000		108		VERSTINE & KLINE #3500	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252539	13992	3706500000		108		VERSTINE & KLINE #3501	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252540	13993	3706500000		108		VERSTINE & KLINE #3502	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252541	13994	3706500000		108		VERSTINE & KLINE #3503	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252542	13995	3706500000		108		VERSTINE & KLINE #3504	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252543	13996	3706500000		108		VERSTINE & KLINE #3505	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252544	13997	3706500000		108		VERSTINE & KLINE #3506	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252545	13998	3706500000		108		VERSTINE & KLINE #3507	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252546	13999	3706500000		108		VERSTINE & KLINE #3508	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252547	14000	3706500000		108		VERSTINE & KLINE #3509	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252548	14001	3706500000		108		VERSTINE & KLINE #3510	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252549	14002	3706500000		108		VERSTINE & KLINE #3511	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252550	14003	3706500000		108		VERSTINE & KLINE #3512	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252551	14004	3706500000		108		VERSTINE & KLINE #3513	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252552	14005	3706500000		108		VERSTINE & KLINE #3514	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252553	14006	3706500000		108		VERSTINE & KLINE #3515	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252554	14007	3706500000		108		VERSTINE & KLINE #3516	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252555	14008	3706500000		108		VERSTINE & KLINE #3517	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252556	14009	3706500000		108		VERSTINE & KLINE #3518	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252557	14010	3706500000		108		VERSTINE & KLINE #3519	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252558	14011	3706500000		108		VERSTINE & KLINE #3520	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252559	14012	3706500000		108		VERSTINE & KLINE #3521	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252560	14013	3706500000		108		VERSTINE & KLINE #3522	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252561	14014	3706500000		108		VERSTINE & KLINE #3523	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252562	14015	3706500000		108		VERSTINE & KLINE #3524	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252563	14016	3706500000		108		VERSTINE & KLINE #3525	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252564	14017	3706500000		108		VERSTINE & KLINE #3526	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252565	14018	3706500000		108		VERSTINE & KLINE #3527	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252566	14019	3706500000		108		VERSTINE & KLINE #3528	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252567	14020	3706500000		108		VERSTINE & KLINE #3529	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252568	14021	3706500000		108		VERSTINE & KLINE #3530	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252569	14022	3706500000		108		VERSTINE & KLINE #3531	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252570	14023	3706500000		108		VERSTINE & KLINE #3532	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252571	14024	3706500000		108		VERSTINE & KLINE #3533	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252572	14025	3706500000		108		VERSTINE & KLINE #3534	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252573	14026	3706500000		108		VERSTINE & KLINE #3535	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252574	14027	3706500000		108		VERSTINE & KLINE #3536	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252575	14028	3706500000		108		VERSTINE & KLINE #3537	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252576	14029	3706500000		108		VERSTINE & KLINE #3538	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252577	14030	3706500000		108		VERSTINE & KLINE #3539	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252578	14031	3706500000		108		VERSTINE & KLINE #3540	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252579	14032	3706500000		108		VERSTINE & KLINE #3541	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252580	14033	3706500000		108		VERSTINE & KLINE #3542	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252581	14034	3706500000		108		VERSTINE & KLINE #3543	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252582	14035	3706500000		108		VERSTINE & KLINE #3544	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252583	14036	3706500000		108		VERSTINE & KLINE #3545	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252584	14037	3706500000		108		VERSTINE & KLINE #3546	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252585	14038	3706500000		108		VERSTINE & KLINE #3547	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252586	14039	3706500000		108		VERSTINE & KLINE #3548	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252587	14040	3706500000		108		VERSTINE & KLINE #3549	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252588	14041	3706500000		108		VERSTINE & KLINE #3550	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252589	14042	3706500000		108		VERSTINE & KLINE #3551	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252590	14043	3706500000		108		VERSTINE & KLINE #3552	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252591	14044	3706500000		108		VERSTINE & KLINE #3553	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252592	14045	3706500000		108		VERSTINE & KLINE #3554	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252593	14046	3706500000		108		VERSTINE & KLINE #3555	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252594	14047	3706500000		108		VERSTINE & KLINE #3556	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252595	14048	3706500000		108		VERSTINE & KLINE #3557	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252596	14049	3706500000		108		VERSTINE & KLINE #3558	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252597	14050	3706500000		108		VERSTINE & KLINE #3559	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252598	14051	3706500000		108		VERSTINE & KLINE #3560	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252599	14052	3706500000		108		VERSTINE & KLINE #3561	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252600	14053	3706500000		108		VERSTINE & KLINE #3562	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252601	14054	3706500000		108		VERSTINE & KLINE #3563	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252602	14055	3706500000		108		VERSTINE & KLINE #3564	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252603	14056	3706500000		108		VERSTINE & KLINE #3565	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252604	14057	3706500000		108		VERSTINE & KLINE #3566	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252605	14058	3706500000		108		VERSTINE & KLINE #3567	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252606	14059	3706500000		108		VERSTINE & KLINE #3568	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252607	14060	3706500000		108		VERSTINE & KLINE #3569	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252608	14061	3706500000		108		VERSTINE & KLINE #3570	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252609	14062	3706500000		108		VERSTINE & KLINE #3571	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252610	14063	3706500000		108		VERSTINE & KLINE #3572	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252611	14064	3706500000		108		VERSTINE & KLINE #3573	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252612	14065	3706500000		108		VERSTINE & KLINE #3574	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252613	14066	3706500000		108		VERSTINE & KLINE #3575	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252614	14067	3706500000		108		VERSTINE & KLINE #3576	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252615	14068	3706500000		108		VERSTINE & KLINE #3577	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252616	14069	3706500000		108		VERSTINE & KLINE #3578	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252617	14070	3706500000		108		VERSTINE & KLINE #3579	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252618	14071	3706500000		108		VERSTINE & KLINE #3580	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252619	14072	3706500000		108		VERSTINE & KLINE #3581	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252620	14073	3706500000		108		VERSTINE & KLINE #3582	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252621	14074	3706500000		108		VERSTINE & KLINE #3583	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252622	14075	3706500000		108		VERSTINE & KLINE #3584	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252623	14076	3706500000		108		VERSTINE & KLINE #3585	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252624	14077	3706500000		108		VERSTINE & KLINE #3586	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252625	14078	3706500000		108		VERSTINE & KLINE #3587	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252626	14079	3706500000		108		VERSTINE & KLINE #3588	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252627	14080	3706500000		108		VERSTINE & KLINE #3589	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252628	14081	3706500000		108		VERSTINE & KLINE #3590	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252629	14082	3706500000		108		VERSTINE & KLINE #3591	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252630	14083	3706500000		108		VERSTINE & KLINE #3592	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252631	14084	3706500000		108		VERSTINE & KLINE #3593	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252632	14085	3706500000		108		VERSTINE & KLINE #3594	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252633	14086	3706500000		108		VERSTINE & KLINE #3595	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252634	14087	3706500000		108		VERSTINE & KLINE #3596	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252635	14088	3706500000		108		VERSTINE & KLINE #3597	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252636	14089	3706500000		108		VERSTINE & KLINE #3598	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252637	14090	3706500000		108		VERSTINE & KLINE #3599	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU
8252638	14091	3706500000		108		VERSTINE & KLINE #3600	WARSAW TOWNSHIP	3.9	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252559	14021	3706900000		108		VERSTINE & KLINE #3520	WARAW TOWNSHIP	1.9	GENERAL SYSTEM PU
8252537	13998	3706500000		108		VERSTINE & KLINE #3547	WARSAW TOWNSHIP	1.0	GENERAL SYSTEM PU
8252524	13985	3706500000		108		VERSTINE & KLINE FARM #3009	WARSAW TOWNSHIP	3.4	GENERAL SYSTEM PU
8252526	13987	3706500000		108		VERSTINE & KLINE FARM #3114	WARSAW TOWNSHIP	5.7	GENERAL SYSTEM PU
8252527	13988	3706500000		108		VERSTINE & KLINE FARM #3463	WARSAW TOWNSHIP	1.2	GENERAL SYSTEM PU
8252528	13989	3706500000		108		VERSTINE & KLINE FARM #3477	WARSAW TOWNSHIP	3.5	GENERAL SYSTEM PU
8252689	14165	3706300000		108		W B KIMBALL #2472	NORWICH TOWNSHIP	1.0	GENERAL SYSTEM PU
8252680	14156	3710500000		108		W B WHEELER #6022	SHARON TOWNSHIP	0.7	GENERAL SYSTEM PU
8252749	14226	3706500000		108		W BRYANT #574	HEATH TOWNSHIP	4.0	GENERAL SYSTEM PU
8252603	14075	3706500000		108		W D KANE #4832	PINECREEK TOWNSHIP	0.8	GENERAL SYSTEM PU
8252507	13961	3706500000		108		W E RANSEL #2818	HEATH TOWNSHIP	1.7	GENERAL SYSTEM PU
8252681	14157	3710500000		108		W F DUBOIS #6003	OSWAYO TOWNSHIP	1.3	GENERAL SYSTEM PU
8252683	14159	3710500000		108		W F DUBOIS #6008	OSWAYO TOWNSHIP	0.3	GENERAL SYSTEM PU
8252684	14160	3710500000		108		W F DUBOIS #6011	OSWAYO TOWNSHIP	0.2	GENERAL SYSTEM PU
8252685	14161	3710500000		108		W F DUBOIS #6012	OSWAYO TOWNSHIP	0.5	GENERAL SYSTEM PU
8252686	14162	3710500000		108		W F DUBOIS #6024	OSWAYO TOWNSHIP	0.7	GENERAL SYSTEM PU
8252808	14330	3710500000		108		W F DUBOIS #6160	OSWAYO TOWNSHIP	0.7	GENERAL SYSTEM PU
8252510	13964	3706500000		108		W G & A E FRAZIER #3099	HEATH TOWNSHIP	2.5	GENERAL SYSTEM PU
8252512	13966	3706500000		108		W G & A E FRAZIER #3150	HEATH TOWNSHIP	1.6	GENERAL SYSTEM PU
8252553	14015	3706500000		108		W G & A E FRAZIER #3490	HEATH TOWNSHIP	2.9	GENERAL SYSTEM PU
8252572	14034	3704700000		108		W M & G H POTTS FARM #1404	JONES TOWNSHIP	3.0	GENERAL SYSTEM PU
8252573	14035	3704700000		108		W M & G H POTTS FARM #1405	JONES TOWNSHIP	2.6	GENERAL SYSTEM PU
8252574	14036	3704700000		108		W M & G H POTTS FARM #1407	JONES TOWNSHIP	2.4	GENERAL SYSTEM PU
8252575	14037	3704700000		108		W M & G H POTTS FARM #1410	JONES TOWNSHIP	0.9	GENERAL SYSTEM PU
8252576	14038	3704700000		108		W M & G H POTTS FARM #1413	JONES TOWNSHIP	0.6	GENERAL SYSTEM PU
8252577	14039	3704700000		108		W M & G H POTTS FARM #1414	JONES TOWNSHIP	3.6	GENERAL SYSTEM PU
8252561	14023	3704700000		108		W M & G H POTTS FARM #3000	JONES TOWNSHIP	0.9	GENERAL SYSTEM PU
8252562	14024	3704700000		108		W M & G H POTTS FARM #3001	JONES TOWNSHIP	1.5	GENERAL SYSTEM PU
8252564	14026	3704700000		108		W M POTTS FARM #4278	JONES TOWNSHIP	2.6	GENERAL SYSTEM PU
8252765	14263	3706500000		108		W V ALLSHOUSE #3029	ROSE TOWNSHIP	1.2	GENERAL SYSTEM PU
8252798	14319	3712300000		108		WEBB MORTON #1068-P	SHEFFIELD TOWNSHIP	5.4	GENERAL SYSTEM PU
8252799	14320	3712300000		108		WEBB MORTON #1225-P	SHEFFIELD TOWNSHIP	1.2	GENERAL SYSTEM PU
8252695	14171	3712300000		108		WEBB MORTON #872-P	SHEFFIELD TOWNSHIP	0.2	GENERAL SYSTEM PU
8252803	14325	3710500000		108		WESTON LUMBER CO #6143	OSWAYO TOWNSHIP	0.7	GENERAL SYSTEM PU
8252708	14184	3708300000		108		WM M & G H POTTS #1412 P	HAMILTON TOWNSHIP	0.6	GENERAL SYSTEM PU
8252571	14033	3704700000		108		WM M & GH POTTS #1402	JONES TOWNSHIP	1.4	GENERAL SYSTEM PU
8252569	14031	3704700000		108		WM M POTTS #4490	JONES TOWNSHIP	1.0	GENERAL SYSTEM PU
8252709	14185	3708300000		108		WM SIMONDS FARM 4558	HAMLIN TOWNSHIP	4.0	GENERAL SYSTEM PU
8252759	14236	3706500000		108		WM TRUMAN FARM #760	POLK TOWNSHIP	2.8	GENERAL SYSTEM PU
8252687	14163	3710500000		108		WM W WESTON #6032	OSWAYO TOWNSHIP	0.3	GENERAL SYSTEM PU
-PHILLIPS PRODUCTION CO				RECEIVED:	09/02/82	JA: PA			
8252819	13945	3703321158		102-2		HAROLD W ASHCRAFT #1	BURNSIDE	25.0	
8252818	13944	3702120134		102-2		HENRY CARPINELLO #1	ELDER	90.0	
8252820	14240	3700522689		103		PAULINE C BRICE #1	WAYNE	35.0	
-PIVOT PETROLEUMS INC				RECEIVED:	09/02/82	JA: PA			
8252821	14375	3712330602		102-2		J ZALIK #1	FREEHOLD	20.0	COLUMBIA GAS TRAN
8252822	14376	3712330602		107-TF		J ZALIK #1	FREEHOLD	20.0	COLUMBIA GAS TRAN
-RED LEAF OIL LTD				RECEIVED:	09/02/82	JA: PA			
8252823	8998	3712327691		107-TF		C BRUNECZ #1	SUGAR GROVE	60.0	COLUMBIA GAS TRAN
-T W PHILLIPS GAS & OIL CO				RECEIVED:	09/02/82	JA: PA			
8252845	14352	3706500000		108		A C BUSH #1	ARMSTRONG	0.6	T W PHILLIPS GAS
8252872	14397	3706321263		108		A L BRAUGHLER #2	GRANT	6.3	T W PHILLIPS GAS
8252832	14047	3706300000		108		A M NORRIS #2	WINSLOW	6.4	T W PHILLIPS GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252833	14048	3706300000		108		A S HAZLETT #2	SOUTH MAHONING	0.1	T W PHILLIPS GAS
8252875	14400	3706321097		108		AMERICAN TRUSTEE & TRANSFER CORP #1	EAST MAHONING	6.1	T W PHILLIPS GAS
8252838	14297	3706500000		108		B F SHAFFER #3	PORTER	1.6	T W PHILLIPS GAS
8252837	14296	3706320299		108		BELLE VAN HORN #1	EAST MAHONING	3.3	T W PHILLIPS GAS
8252868	14393	3706300000		108		BLOSE & STITELER #1	WEST MAHONING	5.8	T W PHILLIPS GAS
8252852	14359	3706300000		108		BYRL JOHNSON #1	CONEMAUGH	2.4	T W PHILLIPS GAS
8252848	14355	3706300000		108		C T BELL #1	CONEMAUGH	1.2	T W PHILLIPS GAS
8252873	14398	3706321955		108		CLYDE A MCMILLEN #2	SOUTH MAHONING	5.6	T W PHILLIPS GAS
8252846	14353	3706500000		108		D M BLOSE #3	PERRY	2.1	T W PHILLIPS GAS
8252831	14046	3706300000		108		DANKS AUL #1	EAST MAHONING	0.5	T W PHILLIPS GAS
8252843	14302	3706321098		108		DANKS AUL #2	EAST MAHONING	2.5	T W PHILLIPS GAS
8252828	11720	3703320493		108		DENNIS SPENCER #1	PENN	1.4	T W PHILLIPS GAS
8252866	14391	3706320223		108		E B BRANDON #1	WASHINGTON	0.9	T W PHILLIPS GAS
8252840	14299	3706500000		108		ELMER MARSH #1	PORTER	2.5	T W PHILLIPS GAS
8252856	14363	3706500000		108		ELMER MARSH #2	PORTER	0.8	T W PHILLIPS GAS
8252847	14354	3706300000		108		F C & L E SHARP #1	PERRY	3.9	T W PHILLIPS GAS
8252859	14366	3706300000		108		F C AND L E SHARP #2	CONEMAUGH	2.0	T W PHILLIPS GAS
8252860	14367	3706300000		108		FEE & TOMB #2	WASHINGTON	2.9	T W PHILLIPS GAS
8252855	14362	3706300000		108		FRED & DOROTHY HUSSER #1	CONEMAUGH	1.8	T W PHILLIPS GAS
8252844	14351	3706300000		108		GEORGE W UNCAPHER #1	ARMSTRONG	1.8	T W PHILLIPS GAS
8252829	14044	3706300000		108		H J THOMPSON #2	EAST MAHONING	1.1	T W PHILLIPS GAS
8252835	14294	3700500000		108		HELVETIA COAL MINING CO #2	PLUMCREEK	0.7	T W PHILLIPS GAS
8252862	14369	3700500000		108		HELVETIA COAL MINING CO #3	PLUMCREEK	2.2	T W PHILLIPS GAS
8252867	14392	3706321386		108		IDA KINSEL #2	NORTH MAHONING	4.8	T W PHILLIPS GAS
8252861	14368	3700500000		108		J H & FLORENCE DUNMIRE #4	PLUMCREEK	2.0	T W PHILLIPS GAS
8252863	14370	3706300000		108		J L JONES #1	WASHINGTON	0.7	T W PHILLIPS GAS
8252864	14371	3706300000		108		J L JONES #2	WASHINGTON	4.0	T W PHILLIPS GAS
8252857	14364	3706300000		108		L J DUNCAN #1	CONEMAUGH	1.4	T W PHILLIPS GAS
8252834	14293	3706300000		108		L J ELKIN #1	WEST MAHONING	2.5	T W PHILLIPS GAS
8252876	14401	3706220302		108		M J BRILHART #1	EAST MAHONING	7.7	T W PHILLIPS GAS
8252849	14356	3706300000		108		MATILDA HABERSTICH #1	WASHINGTON	2.4	T W PHILLIPS GAS
8252850	14357	3706200000		108		MATILDA HABERSTICH #2	CONEMAUGH	0.6	T W PHILLIPS GAS
8252830	14045	3706300000		108		MCELHOES & BUCHANAN #2	RAYNE	1.4	T W PHILLIPS GAS
8252839	14298	3706300000		108		MINSER & STEVENSON #1	WEST MAHONING	2.2	T W PHILLIPS GAS
8252871	14396	3712900000		108		PAUL ALMES #1	BELL	4.6	T W PHILLIPS GAS
8252869	14394	3706320824		108		R J ALLISON #1	CENTER	1.6	T W PHILLIPS GAS
8252842	14301	3706321334		108		ROBERT G GEORGE #2	ARMSTRONG	5.0	T W PHILLIPS GAS
8252841	14300	3706500000		108		ROCHESTER & PITTSBURGH COAL CO #1	YOUNG	1.0	T W PHILLIPS GAS
8252853	14360	3706500000		108		ROCHESTER & PITTSBURGH COAL CO #10	WINSLOW	0.8	T W PHILLIPS GAS
8252836	14295	3706500000		108		ROCHESTER & PITTSBURGH COAL CO #9	WINSLOW	1.4	T W PHILLIPS GAS
8252870	14395	3706300000		108		S T GAUL #2	WEST MAHONING	4.2	T W PHILLIPS GAS
8252851	14358	3706300000		108		S T GAUL #3	WEST MAHONING	2.9	T W PHILLIPS GAS
8252865	14372	3706300000		108		SAMUEL FOOSE #2	NORTH MAHONING	1.5	T W PHILLIPS GAS
8252858	14365	3706300000		108		SEANOR & STREAMS #2	WASHINGTON	0.5	T W PHILLIPS GAS
8252874	14399	3706322214		108		THOMAS BERESNYAK #2	SOUTH MAHONING	7.7	T W PHILLIPS GAS
8252854	14361	3700500000		108		W E REEFER #1	PLUMCREEK	1.4	T W PHILLIPS GAS
-TER-EX INC				RECEIVED:	09/02/82	JA: PA			
8252825	14049	3712922007		103		TER-EX JOHN FORBES	DRY RIDGE	20.0	STANDARD STEEL CO
-TURM OIL INC				RECEIVED:	09/02/82	JA: PA			
8252827	14246	3700522685		103		DANIEL W & VALERIE J SMITH #1	ROSE VALLEY	45.0	PEOPLES NATURAL G
8252826	14245	3700522687		103		SALEM UNITED CHURCH OF CHRIST #1	ROSE VALLEY	46.0	PEOPLES NATURAL G
-US ENERGY DEVELOPMENT CORP				RECEIVED:	09/02/82	JA: PA			
8252877	13948	3712330571		102-2		D P TRISKET #1	COLUMBUS	20.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252882	13949	3712330571		107-TF		D P TRISKET #1	COLUMBUS	20.0	COLUMBIA GAS TRAN
8252879	14144	3712330572		102-2		D TRISKET #2	COLUMBUS	20.0	COLUMBIA GAS TRAN
8252884	14143	3712330572		107-TF		D TRISKET #2	COLUMBUS	20.0	COLUMBIA GAS TRAN
8252880	14291	3712330104		102-2		HUNTLEY #2	COLUMBUS	20.0	COLUMBIA GAS TRAN
8252885	14292	3712330104		107-TF		HUNTLEY #2	COLUMBUS	20.0	COLUMBIA GAS TRAN
8252878	13950	3712330124		102-2		J ZAJAC #1	COLUMBUS	20.0	COLUMBIA GAS TRAN
8252883	13951	3712330124		107-TF		J ZAJAC #1	COLUMBUS	20.0	COLUMBIA GAS TRAN
8252881	14373	3712330103		102-2		L HUNTLEY #1	COLUMBUS	20.0	COLUMBIA GAS TRAN
8252886	14374	3712330103		107-TF		L HUNTLEY #1	COLUMBUS	0.0	COLUMBIA GAS TRAN
-VILLANOVA NATURAL GAS CORP		RECEIVED: 09/02/82 JA: PA					COLUMBUS	20.0	COLUMBIA GAS TRAN
8252892	10819	3712329383		107-TF		J WOODWORTH #1			
8252888	10817	3712329689		102-2		PAUL SUCHAR #1	COLUMBUS	0.0	COLUMBIA GAS TRAN
8252891	10818	3712329689		107-TF		PAUL SUCHAR #1	COLUMBUS	0.0	COLUMBIA GAS TRAN
8252887	10816	3712329384		102-2		SAVKO #1	COLUMBUS	0.0	COLUMBIA GAS TRAN
8252890	10815	3712329384		107-TF		SAVKO #1	COLUMBUS	6.0	COLUMBIA GAS TRAN
8252889	10820	3712329383		102-2		WOODWORTH #1	COLUMBUS	0.0	COLUMBIA GAS TRAN
-WAINOCO OIL & GAS CO		RECEIVED: 09/02/82 JA: PA					COLUMBUS	0.0	COLUMBIA GAS TRAN
8252893	10 886	3703921145		102-2		JAMES E LEWIS #1 (W-114)			
8252894	10887	3703921145		107-TF		JAMES E LEWIS #1 (W-114)	ATHENS (BLOOMFIELD)	21.5	COLUMBIA GAS TRAN
							ATHENS (BLOOMFIELD)	21.5	COLUMBIA GAS TRAN

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MHCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New wall (2.5 mile rule)
102–3: New wall (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–CB: Geopressured brine
107–CB: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper wall
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–26425 Filed 9–24–82; 8:45 am]

BILLING CODE 6717–01–M

[Volume 739]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 21, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-AMINOIL USA INC				RECEIVED:	09/03/82	JA: LA			
8253142	82-0408	1707522807	103			E COCKRELL JR "A" #137	LAKE WASHINGTON	365.0	SOUTHERN NATURAL
-AMOCO PRODUCTION CO				RECEIVED:	09/03/82	JA: LA			
8253019	82-1028	1707720265	107-DP			R BIZETTE #1 18,100 TUSC RA SUI	MOORE - SAMS	3650.0	TEXAS GAS TRANSMI
-BENGAL OIL & GAS INC				RECEIVED:	09/03/82	JA: LA			
8253123	82-3038	1707321849	108			MYHRE #1	MONROE	6.0	UNITED GAS PIPE L
8253122	82-3039	1707321846	108			MYHRE #2	MONROE	3.0	UNITED GAS PIPE L
8253121	82-3040	1707321847	108			MYHRE #3	MONROE	3.0	UNITED GAS PIPE L
8253120	82-3041	1707321848	108			MYHRE #5	MONROE	6.0	UNITED GAS PIPE L
-BLG CO				RECEIVED:	09/03/82	JA: LA			
8253057	82-3058	1711123451	108			READ #1 (SN 177867)	MONROE GAS	0.0	MID LOUISIANA GAS
-CARMET OIL INC				RECEIVED:	09/03/82	JA: LA			
8253143	82-0385	1703121596	103			BOISE SOUTHERN #6	GRAND CANE	0.0	LOUISIANA INTRAST
-CENTENNIAL EXPLORATION INC				RECEIVED:	09/03/82	JA: LA			
8253078	82-3017	1703121644	103			HEADRICK #1	BETHANY LONGSTREET	109.0	ARKANSAS LOUISIAN
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	09/03/82	JA: LA			
8253038	82-2907	1709720570	103			BANK OF THE SUNSET #1	NORTH CANKTON	0.0	LOUISIANA INTRAST
-CONOCO INC				RECEIVED:	09/03/82	JA: LA			
8253158	82-3084	1703920249	103			LUDEAU-HAAS #12	VILLE PLATTE	5.0	LOUISIANA INTRAST
8253157	82-3083	1703920249	103			LUDEAU-HAAS #12 D	VILLE PLATTE	0.0	LOUISIANA INTRAST
-CRYSTAL OIL COMPANY				RECEIVED:	09/03/82	JA: LA			
8253118	82-0381	1701724159	103			CLEMENTS #5	NORTH MISSIONARY LAKE	730.0	ARKANSAS LOUISIAN
8253039	81-2877	1701724159	103			CLEMENTS #5-D	NORTH MISSIONARY LAKE	146.0	ARKANSAS LOUISIAN
8253017	81-2999	1701723386	103			EDGAR #1	GREENWOOD - WASKOM	237.2	UNITED GAS PIPELI
8253001	82-0083	1701521627	103			HAMITER "C" #1	ARKANA	34.7	ARKANSAS LOUISIAN
-D-RAN CONSTRUCTION CO				RECEIVED:	09/03/82	JA: LA			
8253127	82-2888	1707321862	108			FRENCH #1	MONROE GAS	0.0	IMC EXPLORATION C
8253128	82-2889	1707321842	103			HAYGOOD #1	MONROE GAS	0.0	IMC EXPLORATION C
8253172	82-2890	1707321843	103			JONES #1	MONROE GAS	0.0	IMC EXPLORATION C
8253174	82-2893	1707321844	103			JONES #2	MONROE GAS	0.0	IMC EXPLORATION C
8253175	82-2894	1707321838	103			MORRIS #1	MONROE GAS	0.0	IMC EXPLORATION C
8253173	82-2991	1707321863	103			PRATT #4	MONROE	0.0	LOUISIANA GAS SER
8253176	82-2895	1707321860	103			WILLIAMS #1	MONROE GAS	0.0	IMC EXPLORATION C
-ENNEX PRODUCTION COMPANY				RECEIVED:	09/03/82	JA: LA			
8253145	82-1418	1703320104	107-DP			W C WATTS #1	WILDCATE - COMITE	2957.0	
-EXXON CORPORATION				RECEIVED:	09/03/82	JA: LA			
8253013	82-0383	1705721860	103			EXXON FEE B #24 BCP TEX RL SU	BULLY CAMP	50.0	TENNESSEE GAS PIP
8253178	82-2904	1704520741	103			MIAMI CORP K #10	WEEKS ISLAND	100.0	UNITED GAS PIPE L
8253156	82-3090	1710121267	103			MIAMI CORP W #4	BAYOU CARLIN	100.0	TRUNKLINE GAS CO
-FRANK HALE				RECEIVED:	09/03/82	JA: LA			
8253048	82-3178	1701724420	103			TERRY #1 177606	CADDO PINE ISLAND	544.0	ARKANSAS LOUISIAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-FRANKS & PETROFUNDS INC				RECEIVED:	09/03/82	JA: LA			
8253166	82-2329	1701320189		107-PE		DAVIS BROS LBR CO #I-1 U PET SUE	DRISCOLL	245.0	UNITED GAS PIPELI
8253009	82-2330	1701320215		107-PE		WILLIAMS #A-1 U PET SUP	DRISCOLL	177.0	UNITED GAS PIPELI
-GAS RESOURCES INC				RECEIVED:	09/03/82	JA: LA			
8253087	82-3065	1711123367		103		BILL G HALLEY #3	MONROE GAS	33.0	MID LOUISIANA GAS
8253088	82-3066	1711123368		103		BILL G HALLEY #4	MONROE GAS	29.0	MID LOUISIANA GAS
8253161	82-3067	1711123369		103		BILL G HALLEY #5	MONROE GAS	24.0	MID LOUISIANA GAS
8253130	82-3060	1711123479		103		E G MEEKS #1	MONROE GAS	22.0	MID LOUISIANA GAS
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED:	09/03/82	JA: LA			
8253018	82-1579	1705320639		103		CHARLIE BREAUX #3	NORTH WELSH	365.0	UNITED GAS PIPELI
-GEORGE R SCHURMAN				RECEIVED:	09/03/82	JA: LA			
8253155	82-3085	1703121846		103		CALLON AGENT #4	RED RIVER BULL BAYOU	0.0	LOUISIANA INTRAST
8253192	82-0784	1703121718		103		CONTINENTAL CAN COMPANY #2	RED RIVER BULL BAYOU	150.0	LOUISIANA INTRAST
-GETTY OIL CO				RECEIVED:	09/03/82	JA: LA			
8253170	82-2905	1709920942		103		SMEDES BROTHERS #21	ST MARTINVILLE	6.0	CONOCO INC
-GLENDA PETROLEUM CORP				RECEIVED:	09/03/82	JA: LA			
8253055	82-3097	1707321548		108		PENNZOIL 28 #16 S/N 176979	MONROE	11.0	UNITED GAS PIPELI
8253054	82-3098	1707321549		108		PENNZOIL 28 #17 S/N 176980	MONROE	11.0	UNITED GAS PIPELI
8253053	82-3099	1707321559		108		PENNZOIL 28 #18 S/N 176981	MONROE	11.0	UNITED GAS PIPELI
8253052	82-3105	1707321519		108		PENNZOIL 29 #1 S/N 177224	MONROE	11.0	UNITED GAS PIPELI
8253051	82-3106	1707321550		108		PENNZOIL 29 #8 S/N 177225	MONROE	11.0	UNITED GAS PIPELI
8253050	82-3107	1707321562		108		PENNZOIL 29 #9 S/N 176985	MONROE	10.0	UNITED GAS PIPELI
-GREAT SOUTHERN OIL & GAS CO INC				RECEIVED:	09/03/82	JA: LA			
8253012	82-0389	1711321097		103		BROOKSHIRE #2	ABBEVILLE	140.0	LOUISIANA GAS SYS
-GUERNSEY PETROLEUM CORPORATION				RECEIVED:	09/03/82	JA: LA			
8253011	82-0781	1703121744		103		FAIR-LASSETT #2	RED RIVER-BULL BAYOU	36.0	TEXAS EASTERN TRA
8253015	82-0780	1703121743		103		SUTHERLIN #1	BUFFALO BAYOU	36.0	TEXAS EASTERN TRA
-GULF OIL CORPORATION				RECEIVED:	09/03/82	JA: LA			
8253116	82-0415	1707522781		103		#11 S L 195 QQ	LAKE CAMPO	180.0	SOUTHERN NATURAL
8253023	82-0414	1707522848		103		S L 195 QQ #96	WEST BLACK BAY	12.4	SOUTHERN NATURAL
-HADDOX PETROLEUM CORP				RECEIVED:	09/03/82	JA: LA			
8253084	82-3043	1711123379		108		DAY #1	MONROE	7.2	LOUISIANA POWER &
8253119	82-3042	1711123281		108		JOHN S MEDLIN #1	MONROE	6.5	LOUISIANA POWER &
8253076	82-3021	1711123012		108		MANVILLE 748 #1	MONROE	12.9	IMC PIPELINE CO I
8253075	82-3022	1711123013		108		MANVILLE 748 #2	MONROE	14.5	IMC PIPELINE CO I
8253079	82-3010	1711123288		108		MANVILLE 794 #1	MONROE	9.3	IMC PIPELINE CO I
8253068	82-2899	1711122235		108		MOBIL-IP #4	MONROE	20.9	MID LOUISIANA GAS
8253031	82-3044	1711123396		108		U S A #1	MONROE	7.2	IMC PIPELINE CO I
-HENRY GOODRICH D/B/A GOODRICH OIL C				RECEIVED:	09/03/82	JA: LA			
8253029	81-2874	1701521630		103		TOOKE #1	ELM GROVE	180.0	SOUTHWESTERN ELEC
8253171	82-2906	1730120875		103		WRIGHT #1	MIDLAND	365.0	CONOCO INC
-IMC EXPLORATION COMPANY				RECEIVED:	09/03/82	JA: LA			
8253132	82-3051	1707320382		108		RICHLAND PLANTATION #F-229	MONROE	18.0	IMC PIPELINE CO I
-INTERNATIONAL POWER SERVICES				RECEIVED:	09/03/82	JA: LA			
8253163	82-3073	1711120533		108		ANTLEY #1 S/N 147127	MONROE	23.1	IMC PIPELINE CO I
8253164	82-3074	1711120534		108		ANTLEY #2 S/N 147128	MONROE	34.8	IMC PIPELINE CO I
8253179	82-3069	1711120674		108		H W ALLEN EST #1 S/N 149440	MONROE	3.4	IMC PIPELINE CO I
8253108	82-3070	1711120675		108		H W ALLEN EST #2 S/N 149441	MONROE	3.5	IMC PIPELINE CO I
8253089	82-3071	1711120676		108		H W ALLEN EST #3 S/N 149442	MONROE	14.6	IMC PIPELINE CO I
8253162	82-3075	1711120527		108		O D LOVE #1 S/N 147019	MONROE	26.4	IMC PIPELINE CO I
8253160	82-3076	1711120535		108		O D LOVE #2 S/N 147129	MONROE	31.4	IMC PIPELINE CO I
8253159	82-3077	1711120536		108		P M TURNER ESTATE #1 S/N 147130	MONROE	11.8	IMC PIPELINE CO I
8253090	82-3072	1711120776		108		W H TURNER #1 S/N 150727	MONROE	20.6	IMC PIPELINE CO I

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253188	82-3068	1711120526		108		WILLIAMSON #1 S/N 147018	MONROE	15.7	IMC PIPELINE CO I
-JEEMS BAYOU PRODUCTION CORP				RECEIVED:	09/03/82	JA: LA			
8253077	82-3018	1703121134		103		BUFKIN #2	GROGAN	292.0	TENNESSEE GAS PIP
-JOHN D CLAY EXPLORATION INC				RECEIVED:	09/03/82	JA: LA			
8253144	82-0386	1712721076		103		LOUISIANA PACIFIC #1	CROSSROADS	50.0	LOUISIANA INTRAST
-JUSTISS OIL CO INC				RECEIVED:	09/03/82	JA: LA			
8253102	82-0327	1707321809		102-2		A WILDLIFE 5 HOSS RA SUK	MILLHAVEN	366.0	LOUISIANA INTRAST
-KERR-MCGEE CORPORATION				RECEIVED:	09/03/82	JA: LA			
8253103	82-0318	1772520245		103		BRS 20 6100' RB SU S L 2326 NO 45	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
8253035	82-0397	1772620202		103		S L 1227 #2-1	BRETON SOUND BLOCK 32	13.0	SOUTHERN NATURAL
8253129	82-0319	1772620248		103		S L 1227 #1	BRETON SOUND BLOCK 32	328.5	SOUTHERN NATURAL
8253036	82-0398	1772620233		103		S L 2326 #44	BRETON SOUND BLOCK 20	219.0	SOUTHERN NATURAL
-LAMSON/ONSHORE PETROLEUM CORP				RECEIVED:	09/03/82	JA: LA			
8253093	82-2976	1711321184		103		BEATRICE C HARTWELL #1	WEST BUEYDAN	718.0	
-LANKFORD & NANCE				RECEIVED:	09/03/82	JA: LA			
8253085	82-3045	1711122309		108		J W LANKFORD #2	MONROE	14.0	TEXAS GAS TRANSMI
-LYONS PETROLEUM INC				RECEIVED:	09/03/82	JA: LA			
8253111	82-0634	1708120438		103		M B DUPREE #3	REDOAK LAKE	180.0	LOUISIANA INTRAST
-MARATHON OIL COMPANY				RECEIVED:	09/03/82	JA: LA			
8253002	81-2970	1711920280		103		MOC GLEASON #1 CV JRS SU	COTTON VALLEY	206.0	UNITED GAS PIPE L
-MICH-LA OIL & GAS EXPLORATION				RECEIVED:	09/03/82	JA: LA			
8253101	82-0807	1703100000		102-2		CRANFORD #1	GROGAN	720.0	TENNESSEE GAS PIP
-MID LOUISIANA GAS COMPANY				RECEIVED:	09/03/82	JA: LA			
8253094	82-3005	1711123262		108		MLGC FEE GAS #1074	MONROE GAS FIELD	12.8	MID LOUISIANA GAS
8253095	82-3006	1711232630		108		MLGC FEE GAS #1075	MONROE GAS FIELD	21.6	MID LOUISIANA GAS
8253082	82-3007	1706721650		108		MLGC FEE GAS #1077	MONROE GAS FIELD	6.6	MID LOUISIANA GAS
8253081	82-3008	1707321790		108		MLGC FEE GAS #1083	MONROE GAS FIELD	16.9	MID LOUISIANA GAS
8253080	82-3009	1707321792		108		MLGC FEE GAS #1085	MONROE GAS FIELD	4.6	MID LOUISIANA GAS
8253073	82-2956	1711123307		108		MLGC FEE GAS #1089	MONROE GAS	12.3	MID LOUISIANA GAS
8253072	82-2957	1711123293		108		MLGC FEE GAS #1092	MONROE GAS	11.9	MID LOUISIANA GAS
8253188	82-2958	1711123316		108		MLGC FEE GAS #1095	MONROE GAS FIELD	16.8	MID LOUISIANA GAS
8253136	82-2959	1711123375		108		MLGC FEE GAS #1098	MONROE GAS FIELD	16.4	MID LOUISIANA GAS
8253147	82-2960	1711123376		108		MLGC FEE GAS #1099	MONROE GAS FIELD	16.7	MID LOUISIANA GAS
-MIDWAY PRODUCTION CO				RECEIVED:	09/03/82	JA: LA			
8253086	82-3063	1707321836		108		BLM #1	MONROE	1.0	IMC PIPELINE CO I
-MITCHELL ENERGY CORPORATION				RECEIVED:	09/03/82	JA: LA			
8253138	82-2365	1704920181		103		SILAS AULDS #1	CALHOUN	182.0	LOUISIANA GAS PUR
-NEBO OIL CO INC				RECEIVED:	09/03/82	JA: LA			
8253165	82-0535	1704320225		102-2		T H VALLEE #1	COLFAX	225.0	LOUISIANA INTRAST
-PATTERSON RESOURCES INC				RECEIVED:	09/03/82	JA: LA			
8253199	82-2963	1705721908		103		K SUD #1 D J ROBICHAUX	BOURG	400.0	COLUMBIA GAS TRAN
-PELTO OIL CO				RECEIVED:	09/03/82	JA: LA			
8253010	82-2323	1702321764		107-DP		STATE LEASE 9086 #2	BETTY LAKE	2555.0	TEXAS EASTERN TRA
-PENNZOIL PRODUCING COMPANY				RECEIVED:	09/03/82	JA: LA			
8253124	82-3026	1707300034		108		SMITH #10	MONROE	21.0	UNITED GAS PIPE L
-PETERMAN-STURLESE ET AL				RECEIVED:	09/03/82	JA: LA			
8253191	82-0380	1701921014		103		PETERMAN-STURLEE #2 JACK E LAWTON	PINE RIDGE	0.0	CONOCO INC
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	09/03/82	JA: LA			
8253049	82-3162	1711920255		103		BURSON B #1 HOSS B RA SUGG:	ADA	478.0	SOUTHWESTERN ELEC
8253014	82-0412	1772720150		103		SL 2221 ELOI BAY B-#10	ELOI BAY	25.0	SOUTHERN NATURAL
8253190	82-0413	1772720150		103		SL 2221 ELOI BAY B-#10D	ELOI BAY	34.0	SOUTHERN NATURAL
-PRIMOS PRODUCTION CO				RECEIVED:	09/03/82	JA: LA			
8253099	82-2924	1711122949		108		PETRO LEWIS FROST LUMBER #30	MONROE	22.1	PETRO LEWIS FUNDS

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253193	82-0381	1701921015		103		PETERMAN-STURLEE #3 JACK E LAWTON	PINE RIDGE	0.0	CONOCO INC
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	09/03/82	JA: LA			
8253050	82-3163	1711920256		103		BURSON B #2 HOSS B RA SUGG:	ADA	478.0	SOUTHWESTERN ELEC
8253192	82-0382	1701921016		103		PETERMAN-STURLEE #4 JACK E LAWTON	PINE RIDGE	0.0	CONOCO INC
-PRIMOS PRODUCTION CO				RECEIVED:	09/03/82	JA: LA			
8253100	82-2925	1711122950		108		PETRO LEWIS FROST LUMBER #31	MONROE	22.1	PETRO LEWIS FUNDS
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253104	82-0320	1772520246		103		BRS 20 6100' RB SU S L 2326 NO 46	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253105	82-0321	1772520247		103		BRS 20 6100' RB SU S L 2326 NO 47	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253106	82-0322	1772520248		103		BRS 20 6100' RB SU S L 2326 NO 48	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253107	82-0323	1772520249		103		BRS 20 6100' RB SU S L 2326 NO 49	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253108	82-0324	1772520250		103		BRS 20 6100' RB SU S L 2326 NO 50	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253109	82-0325	1772520251		103		BRS 20 6100' RB SU S L 2326 NO 51	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253110	82-0326	1772520252		103		BRS 20 6100' RB SU S L 2326 NO 52	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253111	82-0327	1772520253		103		BRS 20 6100' RB SU S L 2326 NO 53	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253112	82-0328	1772520254		103		BRS 20 6100' RB SU S L 2326 NO 54	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253113	82-0329	1772520255		103		BRS 20 6100' RB SU S L 2326 NO 55	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253114	82-0330	1772520256		103		BRS 20 6100' RB SU S L 2326 NO 56	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253115	82-0331	1772520257		103		BRS 20 6100' RB SU S L 2326 NO 57	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253116	82-0332	1772520258		103		BRS 20 6100' RB SU S L 2326 NO 58	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253117	82-0333	1772520259		103		BRS 20 6100' RB SU S L 2326 NO 59	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253118	82-0334	1772520260		103		BRS 20 6100' RB SU S L 2326 NO 60	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253119	82-0335	1772520261		103		BRS 20 6100' RB SU S L 2326 NO 61	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253120	82-0336	1772520262		103		BRS 20 6100' RB SU S L 2326 NO 62	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253121	82-0337	1772520263		103		BRS 20 6100' RB SU S L 2326 NO 63	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253122	82-0338	1772520264		103		BRS 20 6100' RB SU S L 2326 NO 64	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253123	82-0339	1772520265		103		BRS 20 6100' RB SU S L 2326 NO 65	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253124	82-0340	1772520266		103		BRS 20 6100' RB SU S L 2326 NO 66	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253125	82-0341	1772520267		103		BRS 20 6100' RB SU S L 2326 NO 67	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253126	82-0342	1772520268		103		BRS 20 6100' RB SU S L 2326 NO 68	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253127	82-0343	1772520269		103		BRS 20 6100' RB SU S L 2326 NO 69	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253128	82-0344	1772520270		103		BRS 20 6100' RB SU S L 2326 NO 70	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253129	82-0345	1772520271		103		BRS 20 6100' RB SU S L 2326 NO 71	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253130	82-0346	1772520272		103		BRS 20 6100' RB SU S L 2326 NO 72	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253131	82-0347	1772520273		103		BRS 20 6100' RB SU S L 2326 NO 73	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253132	82-0348	1772520274		103		BRS 20 6100' RB SU S L 2326 NO 74	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253133	82-0349	1772520275		103		BRS 20 6100' RB SU S L 2326 NO 75	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253134	82-0350	1772520276		103		BRS 20 6100' RB SU S L 2326 NO 76	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253135	82-0351	1772520277		103		BRS 20 6100' RB SU S L 2326 NO 77	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253136	82-0352	1772520278		103		BRS 20 6100' RB SU S L 2326 NO 78	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253137	82-0353	1772520279		103		BRS 20 6100' RB SU S L 2326 NO 79	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253138	82-0354	1772520280		103		BRS 20 6100' RB SU S L 2326 NO 80	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253139	82-0355	1772520281		103		BRS 20 6100' RB SU S L 2326 NO 81	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253140	82-0356	1772520282		103		BRS 20 6100' RB SU S L 2326 NO 82	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253141	82-0357	1772520283		103		BRS 20 6100' RB SU S L 2326 NO 83	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253142	82-0358	1772520284		103		BRS 20 6100' RB SU S L 2326 NO 84	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253143	82-0359	1772520285		103		BRS 20 6100' RB SU S L 2326 NO 85	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253144	82-0360	1772520286		103		BRS 20 6100' RB SU S L 2326 NO 86	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253145	82-0361	1772520287		103		BRS 20 6100' RB SU S L 2326 NO 87	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253146	82-0362	1772520288		103		BRS 20 6100' RB SU S L 2326 NO 88	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253147	82-0363	1772520289		103		BRS 20 6100' RB SU S L 2326 NO 89	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253148	82-0364	1772520290		103		BRS 20 6100' RB SU S L 2326 NO 90	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253149	82-0365	1772520291		103		BRS 20 6100' RB SU S L 2326 NO 91	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253150	82-0366	1772520292		103		BRS 20 6100' RB SU S L 2326 NO 92	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253151	82-0367	1772520293		103		BRS 20 6100' RB SU S L 2326 NO 93	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253152	82-0368	1772520294		103		BRS 20 6100' RB SU S L 2326 NO 94	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253153	82-0369	1772520295		103		BRS 20 6100' RB SU S L 2326 NO 95	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253154	82-0370	1772520296		103		BRS 20 6100' RB SU S L 2326 NO 96	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253155	82-0371	1772520297		103		BRS 20 6100' RB SU S L 2326 NO 97	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253156	82-0372	1772520298		103		BRS 20 6100' RB SU S L 2326 NO 98	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253157	82-0373	1772520299		103		BRS 20 6100' RB SU S L 2326 NO 99	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253158	82-0374	1772520300		103		BRS 20 6100' RB SU S L 2326 NO 100	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253159	82-0375	1772520301		103		BRS 20 6100' RB SU S L 2326 NO 101	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253160	82-0376	1772520302		103		BRS 20 6100' RB SU S L 2326 NO 102	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253161	82-0377	1772520303		103		BRS 20 6100' RB SU S L 2326 NO 103	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253162	82-0378	1772520304		103		BRS 20 6100' RB SU S L 2326 NO 104	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253163	82-0379	1772520305		103		BRS 20 6100' RB SU S L 2326 NO 105	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253164	82-0380	1772520306		103		BRS 20 6100' RB SU S L 2326 NO 106	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253165	82-0381	1772520307		103		BRS 20 6100' RB SU S L 2326 NO 107	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253166	82-0382	1772520308		103		BRS 20 6100' RB SU S L 2326 NO 108	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253167	82-0383	1772520309		103		BRS 20 6100' RB SU S L 2326 NO 109	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253168	82-0384	1772520310		103		BRS 20 6100' RB SU S L 2326 NO 110	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253169	82-0385	1772520311		103		BRS 20 6100' RB SU S L 2326 NO 111	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253170	82-0386	1772520312		103		BRS 20 6100' RB SU S L 2326 NO 112	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253171	82-0387	1772520313		103		BRS 20 6100' RB SU S L 2326 NO 113	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253172	82-0388	1772520314		103		BRS 20 6100' RB SU S L 2326 NO 114	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253173	82-0389	1772520315		103		BRS 20 6100' RB SU S L 2326 NO 115	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253174	82-0390	1772520316		103		BRS 20 6100' RB SU S L 2326 NO 116	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253175	82-0391	1772520317		103		BRS 20 6100' RB SU S L 2326 NO 117	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253176	82-0392	1772520318		103		BRS 20 6100' RB SU S L 2326 NO 118	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253177	82-0393	1772520319		103		BRS 20 6100' RB SU S L 2326 NO 119	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253178	82-0394	1772520320		103		BRS 20 6100' RB SU S L 2326 NO 120	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253179	82-0395	1772520321		103		BRS 20 6100' RB SU S L 2326 NO 121	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253180	82-0396	1772520322		103		BRS 20 6100' RB SU S L 2326 NO 122	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253181	82-0397	1772520323		103		BRS 20 6100' RB SU S L 2326 NO 123	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253182	82-0398	1772520324		103		BRS 20 6100' RB SU S L 2326 NO 124	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253183	82-0399	1772520325		103		BRS 20 6100' RB SU S L 2326 NO 125	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253184	82-0400	1772520326		103		BRS 20 6100' RB SU S L 2326 NO 126	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253185	82-0401	1772520327		103		BRS 20 6100' RB SU S L 2326 NO 127	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253186	82-0402	1772520328		103		BRS 20 6100' RB SU S L 2326 NO 128	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253187	82-0403	1772520329		103		BRS 20 6100' RB SU S L 2326 NO 129	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253188	82-0404	1772520330		103		BRS 20 6100' RB SU S L 2326 NO 130	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253189	82-0405	1772520331		103		BRS 20 6100' RB SU S L 2326 NO 131	BRETON SOUND BLOCK 20	1.0	SOUTHERN NATURAL
-PRODUCTION ASSOCIATES INC				RECEIVED:	09/03/82	JA: LA			
8253190	82-0406	1772520332		103		BRS 20 6100' RB SU S L 2326 NO 132	BRETON SOUND BLOCK 20	1.0	SOUTHERN NAT

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253100	82-2923	1711122984		108		PETRO LEWIS FROST LUMBER #48	MONROE	47.1	PETRO LEWIS FUNDS
8253091	82-2974	1711123209		108		PETRO LEWIS UNION POWER #28	MONROE	29.9	PETRO LEWIS FUNDS
8253092	82-2975	1711123270		108		PETRO LEWIS UNION POWER #29	MONROE	29.9	PETRO LEWIS FUNDS
8253183	82-2917	1711122952		108		PETRO-LEWIS - FROST LUMBER #33	MONROE	23.1	PETRO-LEWIS FUNDS
8253187	82-2911	1711123935		108		PETRO-LEWIS CLARK #1	MONROE	59.6	PETRO-LEWIS FUNDS
8253061	82-2937	1711123328		108		PETRO-LEWIS CONS CARBON #3	MONROE	36.3	PETRO-LEWIS FUNDS
8253069	82-2938	1711123197		108		PETRO-LEWIS CONS CARBON #4	MONROE	21.4	PETRO-LEWIS FUNDS
8253060	82-2939	1711122912		108		PETRO-LEWIS FROST LUMBER #23	MONROE	18.8	PETRO-LEWIS FUNDS
8253059	82-2940	1711122917		108		PETRO-LEWIS FROST LUMBER #24	MONROE	37.6	PETRO-LEWIS FUNDS
8253058	82-2941	1711122923		108		PETRO-LEWIS FROST LUMBER #25	MONROE	37.6	PETRO-LEWIS FUNDS
8253137	82-2942	1711122924		108		PETRO-LEWIS FROST LUMBER #26	MONROE	13.5	PETRO-LEWIS FUNDS
8253026	82-2943	1711122936		108		PETRO-LEWIS FROST LUMBER #27	MONROE	31.2	PETRO-LEWIS FUNDS
8253185	82-2944	1711122911		108		PETRO-LEWIS FROST LUMBER #28	MONROE	31.2	PETRO-LEWIS FUNDS
8253041	82-2879	1711122937		108		PETRO-LEWIS FROST LUMBER #29	MONROE	21.8	PETRO-LEWIS FUNDS
8253098	82-2925	1711122950		108		PETRO-LEWIS FROST LUMBER #31	MONROE	22.2	PETRO LEWIS FUNDS
8253193	82-2916	1711122951		108		PETRO-LEWIS FROST LUMBER #32	MONROE	23.1	PETRO-LEWIS FUNDS
8253182	82-2918	1711122953		108		PETRO-LEWIS FROST LUMBER #34	MONROE	23.1	PETRO-LEWIS FUNDS
8253197	82-2912	1711122972		108		PETRO-LEWIS FROST LUMBER #35	MONROE	32.7	PETRO-LEWIS FUNDS
8253196	82-2913	1711122954		108		PETRO-LEWIS FROST LUMBER #36	MONROE	32.7	PETRO-LEWIS FUNDS
8253195	82-2914	1711122964		108		PETRO-LEWIS FROST LUMBER #37	MONROE	32.7	PETRO-LEWIS FUNDS
8253194	82-2915	1711122973		108		PETRO-LEWIS FROST LUMBER #38	MONROE	32.7	PETRO-LEWIS FUNDS
8253148	82-2908	1711122955		108		PETRO-LEWIS FROST LUMBER #39	MONROE	32.7	PETRO-LEWIS FUNDS
8253181	82-2919	1711122976		108		PETRO-LEWIS FROST LUMBER #44	MONROE	39.3	PETRO-LEWIS FUNDS
8253154	82-2920	1711122977		108		PETRO-LEWIS FROST LUMBER #45	MONROE	39.3	PETRO-LEWIS FUNDS
8253152	82-2921	1711122978		108		PETRO-LEWIS FROST LUMBER #46	MONROE	39.3	PETRO-LEWIS FUNDS
8253153	82-2922	1711122983		108		PETRO-LEWIS FROST LUMBER #47	MONROE	47.1	PETRO-LEWIS FUNDS
8253042	82-2880	1711122985		108		PETRO-LEWIS FROST LUMBER #49	MONROE	48.2	PETRO-LEWIS FUNDS
8253043	82-2881	1711122986		108		PETRO-LEWIS FROST LUMBER #50	MONROE	48.2	PETRO-LEWIS FUNDS
8253044	82-2882	1711122965		108		PETRO-LEWIS FROST LUMBER #53	MONROE	10.1	PETRO-LEWIS FUNDS
8253045	82-2883	1711122966		108		PETRO-LEWIS FROST LUMBER #54	MONROE	10.1	PETRO-LEWIS FUNDS
8253046	82-2884	1711123048		108		PETRO-LEWIS FROST LUMBER #57	MONROE	33.2	PETRO-LEWIS FUNDS
8253047	82-2885	1711123049		108		PETRO-LEWIS FROST LUMBER #58	MONROE	33.2	PETRO-LEWIS FUNDS
8253184	82-2945	1711123050		108		PETRO-LEWIS FROST LUMBER #59	MONROE	33.2	PETRO-LEWIS FUNDS
8253151	82-2946	1711123051		108		PETRO-LEWIS FROST LUMBER #60	MONROE	33.2	PETRO-LEWIS FUNDS
8253025	82-2947	1711123052		108		PETRO-LEWIS FROST LUMBER #61	MONROE	33.2	PETRO-LEWIS FUNDS
8253074	82-2948	1711123053		108		PETRO-LEWIS FROST LUMBER #62	MONROE	38.8	PETRO-LEWIS FUNDS
8253024	82-2949	1711123054		108		PETRO-LEWIS FROST LUMBER #63	MONROE	38.8	PETRO-LEWIS FUNDS
8253125	82-2886	1711123255		108		PETRO-LEWIS FROST LUMBER #64	MONROE	31.8	PETRO-LEWIS FUNDS
8253097	82-2926	1711123033		108		PETRO-LEWIS FROST LUMBER #65	MONROE	14.6	PETRO-LEWIS FUNDS
8253096	82-2927	1711123034		108		PETRO-LEWIS FROST LUMBER #66	MONROE	38.8	PETRO LEWIS FUNDS
8253037	82-2876	1711123036		108		PETRO-LEWIS FROST LUMBER #68	MONROE	53.7	PETRO-LEWIS FUNDS
8253038	82-2877	1711123096		108		PETRO-LEWIS FROST LUMBER #69	MONROE	28.1	PETRO-LEWIS FUNDS
8253040	82-2878	1711123097		108		PETRO-LEWIS FROST LUMBER #70	MONROE	28.1	PETRO-LEWIS FUNDS
8253126	82-2887	1711123298		108		PETRO-LEWIS FROST LUMBER #71	MONROE	28.1	PETRO-LEWIS FUNDS
8253134	82-2928	1711123225		108		PETRO-LEWIS FROST LUMBER #72	MONROE	39.7	PETRO-LEWIS FUNDS
8253133	82-2929	1711123123		108		PETRO-LEWIS FROST LUMBER #73	MONROE	29.5	PETRO-LEWIS FUNDS
8253063	82-2930	1711123124		108		PETRO-LEWIS FROST LUMBER #74	MONROE	29.5	PETRO-LEWIS FUNDS
8253062	82-2931	1711123170		108		PETRO-LEWIS FROST LUMBER #75	MONROE	26.6	PETRO-LEWIS FUNDS
8253113	82-2294	1711123395		108		PETRO-LEWIS J J WARD #1	MONROE	7.6	PETRO LEWIS FUNDS
8253112	82-2295	1711123360		108		PETRO-LEWIS LA GAS LANDS #1	MONROE	21.4	PETRO-LEWIS FUNDS
8253149	82-2909	1711123176		108		PETRO-LEWIS M F BROWN ETAL #1	MONROE	40.6	PETRO-LEWIS FUNDS
8253186	82-2910	1711123177		108		PETRO-LEWIS M F BROWN ETAL #2	MONROE	35.9	PETRO-LEWIS FUNDS
8253114	82-2293	1711123144		108		PETRO-LEWIS MARY D WHEELER #3	MONROE	51.7	PETRO-LEWIS FUNDS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253028	82-2296-	1711122938		108		PETRO-LEWIS NOLAN HEIRS #1	MONROE	30.2	PETRO-LEWIS FUNDS
8253168	82-2297	1711122939		108		PETRO-LEWIS UNION POWER #15	MONROE	50.9	PETRO-LEWIS FUNDS
8253032	82-2298	1711122942		108		PETRO-LEWIS UNION POWER #16	MONROE	50.9	PETRO-LEWIS FUNDS
8253167	82-2299	1711122918		108		PETRO-LEWIS UNION POWER #17	MONROE	50.9	PETRO-LEWIS FUNDS
8253065	82-2305	1711122941		108		PETRO-LEWIS UNION POWER #18	MONROE	50.9	PETRO-LEWIS FUNDS
8253066	82-2306	1711123107		108		PETRO-LEWIS UNION POWER #19	MONROE	58.7	PETRO-LEWIS FUNDS
8253064	82-2307	1711123110		108		PETRO-LEWIS UNION POWER #20	MONROE	58.7	PETRO-LEWIS FUNDS
8253200	82-2308	1711123111		108		PETRO-LEWIS UNION POWER #21	MONROE	58.7	PETRO-LEWIS FUNDS
8253198	82-2972	1711122996		108		PETRO-LEWIS UNION POWER #22	MONROE	29.9	PETRO-LEWIS FUNDS
8253169	82-2309	1711122997		108		PETRO-LEWIS UNION POWER #23	MONROE	16.8	PETRO-LEWIS FUNDS
8253083	82-2973	1711123208		108		PETRO-LEWIS UNION POWER #27	MONROE	29.9	PETRO-LEWIS FUNDS
8253118	82-2289	1711123213		108		PETRO-LEWIS UNION POWER #32	MONROE	19.6	PETRO-LEWIS FUNDS
8253033	82-2310	1711123112		108		PETRO-LEWIS UNION POWERS #24	MONROE	58.7	PETRO-LEWIS FUNDS
8253109	82-2290	1711123143		108		PETRO-LEWIS UNION PRALUING #6	MONROE	20.8	PETRO-LEWIS FUNDS
8253006	82-2300	1711122873		108		PETRO-LEWIS UNION PRODUCING #1	MONROE	33.3	PETRO-LEWIS FUNDS
8253007	82-2301	1711122885		108		PETRO-LEWIS UNION PRODUCING #2	MONROE	33.4	PETRO-LEWIS FUNDS
8253008	82-2302	1711123140		108		PETRO-LEWIS UNION PRODUCING #3	MONROE	38.3	PETRO-LEWIS FUNDS
8253067	82-2303	1711123141		108		PETRO-LEWIS UNION PRODUCING #4	MONROE	38.3	PETRO-LEWIS FUNDS
8253027	82-2304	1711123142		108		PETRO-LEWIS UNION PRODUCING #5	MONROE	20.8	PETRO-LEWIS FUNDS
8253115	82-2291	1711122880		108		PETRO-LEWIS V M EDWARDS #1	MONROE	5.3	PETRO-LEWIS FUNDS
-ROBERSON WELL SERVICE				RECEIVED:		09/03/82 JA: LA			
8253131	82-3050	1711123409		108		UNION POWER #2	MONROE	16.0	PETRO LEWIS CORP
8253034	82-3049	1711123560		108		WILLIAMSON #1	MONROE	16.0	PETRO LEWIS CORP
-SAMSON RESOURCES COMPANY				RECEIVED:		09/03/82 JA: LA			
8253056	82-3094	1707321212		103		NEWT MILLS #1	CALHOUN	36.5	TEXAS GAS TRANSMI
-SEVARG COMPANY INC				RECEIVED:		09/03/82 JA: LA			
8253022	82-0761	1705920240		103		GENEVIEVE R DISCHLER #1	NORTH SAVOY	91.0	TEXAS EASTERN TRA
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:		09/03/82 JA: LA			
8253135	82-2951	1701120430		103		A C CHAPPUIS #3	SHOATS CREEK	142.0	TRUNKLINE GAS CO
8253146	82-2962	1703121823		103		FARMER C #15	RED RIVER BULL BAYOU	95.0	LOUISIANA INTRAST
-TENNECO OIL COMPANY				RECEIVED:		09/03/82 JA: LA			
8253085	82-2325	1710922576		107-DP		DENNIS CENAC #15	LAKE BARRE	1000.0	TENNESSEE GAS PIP
-TEXACO INC				RECEIVED:		09/03/82 JA: LA			
8253071	82-2961	1701722848		103		D L GISH #1	CADDO PINE ISLAND	0.0	ARKANSAS LOUISIAN
8253141	82-0373	1710922489		103		DGL U7 #27 VUG	DOG LAKE	893.0	TEXAS GAS TRANSMI
8253107	82-0124	1710922457		103		LB U23 #15 VU 23	LAKE BARRE	270.0	KAISER ALUMINUM &
8253139	82-0378	1708920364		103		LL&E #92 10700 RAB1 SUA	PARADIS	233.0	KAISER ALUMINUM &
8253003	81-2847	1705721818		103		LL&E LEEVILLE #323	LEEVILLE	97.0	KAISER ALUMINUM &
8253008	82-0123	1710922297		103		LP U13 #79 VUM	LAKE PELTO	0.0	KAISER ALUMINUM &
8253004	81-2821	1710922396		103		SL 2995 #1 VUA	BAY ST ELAINE	239.0	KAISER ALUMINUM &
8253117	82-0376	1707522522		103		SL 335 DEU #54 VUA	DELACROIX ISLAND	365.0	UNITED GAS PIPE L
8253140	82-0374	1707522455		103		SL 335 DEU N #56 VUA	DELACROIX ISLAND	111.0	UNITED GAS PIPE L
8253016	82-0661	1770720105		103		SL 340 MOUND POINT #85	MOUND POINT	1314.0	TEXAS GAS TRANSMI
8253177	82-2902	1770720088		103		SL 340 MOUND POINT WELL #66	MOUND POINT	401.2	KAISER ALUMINUM &
8253189	82-0375	1702321137		103		SL 50 #135 EH 84 RA SU	EAST HACKBERRY	11.0	CAJUN ELECTRIC PO
-TEXAS GAS EXPLORATION CORP				RECEIVED:		09/03/82 JA: LA			
8253106	82-0158	1705721826		102-4		M C MCNEIL #6	LAKE ENFERMER	182.5	LOUISIANA INTRAST
8253105	82-0159	1705721826		102-4		M C MCNEIL #6-D	LAKE ENFERMER	73.0	LOUISIANA INTRAST
-TXO PRODUCTION CORP				RECEIVED:		09/03/82 JA: LA			
8253104	82-0272	1701320524		103		BAKER "H" #1	WEST BRYCELAND	0.0	DELHI GAS PIPELIN
8253020	82-0680	1706120298		102-3		COOK "L" #1	WEST SIMSBORO	201.1	DELHI GAS PIPELIN
8253070	82-2965	1706120315		103		DONALD #1	TREMONT	85.1	DELHI GAS PIPELIN
8253021	82-0679	1701320515		103		HAMNER #1	ADA	171.6	DELHI GAS PIPELIN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253018	82-2296-	1711122938		108		PETRO-LEWIS NOLAN HEIRS #1	MONROE	30.2	PETRO-LEWIS FUNDS
8253168	82-2297	1711122939		108		PETRO-LEWIS UNION POWER #15	MONROE	50.9	PETRO-LEWIS FUNDS
8253032	82-2298	1711122942		108		PETRO-LEWIS UNION POWER #16	MONROE	50.9	PETRO-LEWIS FUNDS
8253167	82-2299	1711122918		108		PETRO-LEWIS UNION POWER #17	MONROE	50.9	PETRO-LEWIS FUNDS
8253065	82-2305	1711122941		108		PETRO-LEWIS UNION POWER #18	MONROE	50.9	PETRO-LEWIS FUNDS
8253066	82-2306	1711123107		108		PETRO-LEWIS UNION POWER #19	MONROE	58.7	PETRO-LEWIS FUNDS
8253064	82-2307	1711123110		108		PETRO-LEWIS UNION POWER #20	MONROE	58.7	PETRO-LEWIS FUNDS
8253200	82-2308	1711123111		108		PETRO-LEWIS UNION POWER #21	MONROE	58.7	PETRO-LEWIS FUNDS
8253198	82-2972	1711122996		108		PETRO-LEWIS UNION POWER #22	MONROE	29.9	PETRO-LEWIS FUNDS
8253169	82-2309	1711122997		108		PETRO-LEWIS UNION POWER #23	MONROE	16.8	PETRO-LEWIS FUNDS
8253083	82-2973	1711123208		108		PETRO-LEWIS UNION POWER #27	MONROE	29.9	PETRO-LEWIS FUNDS
8253118	82-2289	1711123213		108		PETRO-LEWIS UNION POWER #32	MONROE	19.6	PETRO-LEWIS FUNDS
8253033	82-2310	1711123112		108		PETRO-LEWIS UNION POWERS #24	MONROE	58.7	PETRO-LEWIS FUNDS
8253109	82-2290	1711123143		108		PETRO-LEWIS UNION PRALUING #6	MONROE	20.8	PETRO-LEWIS FUNDS
8253006	82-2300	1711122873		108		PETRO-LEWIS UNION PRODUCING #1	MONROE	33.3	PETRO-LEWIS FUNDS
8253007	82-2301	1711122885		108		PETRO-LEWIS UNION PRODUCING #2	MONROE	33.4	PETRO-LEWIS FUNDS
8253008	82-2302	1711123140		108		PETRO-LEWIS UNION PRODUCING #3	MONROE	38.3	PETRO-LEWIS FUNDS
8253067	82-2303	1711123141		108		PETRO-LEWIS UNION PRODUCING #4	MONROE	38.3	PETRO-LEWIS FUNDS
8253027	82-2304	1711123142		108		PETRO-LEWIS UNION PRODUCING #5	MONROE	20.8	PETRO-LEWIS FUNDS
8253115	82-2291	1711122880		108		PETRO-LEWIS V M EDWARDS #1	MONROE	5.3	PETRO-LEWIS FUNDS
-ROBERSON WELL SERVICE				RECEIVED:		09/03/82 JA: LA			
8253131	82-3050	1711123409		108		UNION POWER #2	MONROE	16.0	PETRO LEWIS CORP
8253034	82-3049	1711123560		108		WILLIAMSON #1	MONROE	16.0	PETRO LEWIS CORP
-SAMSON RESOURCES COMPANY				RECEIVED:		09/03/82 JA: LA			
8253056	82-3094	1707321212		103		NEWT MILLS #1	CALHOUN	36.5	TEXAS GAS TRANSMI
-SEVARG COMPANY INC				RECEIVED:		09/03/82 JA: LA			
8253022	82-0761	1705920240		103		GENEVIEVE R DISCHLER #1	NORTH SAVOY	91.0	TEXAS EASTERN TRA
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:		09/03/82 JA: LA			
8253135	82-2951	1701120430		103		A C CHAPPUIS #3	SHOATS CREEK	142.0	TRUNKLINE GAS CO
8253146	82-2962	1703121823		103		FARMER C #15	RED RIVER BULL BAYOU	95.0	LOUISIANA INTRAST
-TENNECO OIL COMPANY				RECEIVED:		09/03/82 JA: LA			
8253085	82-2325	1710922576		107-DP		DENNIS CENAC #15	LAKE BARRE	1000.0	TENNESSEE GAS PIP
-TEXACO INC				RECEIVED:		09/03/82 JA: LA			
8253071	82-2961	1701722848		103		D L GISH #1	CADDO PINE ISLAND	0.0	ARKANSAS LOUISIAN
8253141	82-0373	1710922489		103		DGL U7 #27 VUG	DOG LAKE	893.0	TEXAS GAS TRANSMI
8253107	82-0124	1710922457		103		LB U23 #15 VU 23	LAKE BARRE	270.0	KAISER ALUMINUM &
8253139	82-0378	1708920364		103		LL&E #92 10700 RAB1 SUA	PARADIS	233.0	KAISER ALUMINUM &
8253003	81-2847	1705721818		103		LL&E LEEVILLE #323	LEEVILLE	97.0	KAISER ALUMINUM &
8253008	82-0123	1710922297		103		LP U13 #79 VUM	LAKE PELTO	0.0	KAISER ALUMINUM &
8253004	81-2821	1710922396		103		SL 2995 #1 VUA	BAY ST ELAINE	239.0	KAISER ALUMINUM &
8253117	82-0376	1707522522		103		SL 335 DEU #54 VUA	DELACROIX ISLAND	365.0	UNITED GAS PIPE L
8253140	82-0374	1707522455		103		SL 335 DEU N #56 VUA	DELACROIX ISLAND	111.0	UNITED GAS PIPE L
8253016	82-0661	1770720105		103		SL 340 MOUND POINT #85	MOUND POINT	1314.0	TEXAS GAS TRANSMI
8253177	82-2902	1770720088		103		SL 340 MOUND POINT WELL #66	MOUND POINT	401.2	KAISER ALUMINUM &
8253189	82-0375	1702321137		103		SL 50 #135 EH 84 RA SU	EAST HACKBERRY	11.0	CAJUN ELECTRIC PO
-TEXAS GAS EXPLORATION CORP				RECEIVED:		09/03/82 JA: LA			
8253106	82-0158	1705721826		102-4		M C MCNEIL #6	LAKE ENFERMER	182.5	LOUISIANA INTRAST
8253105	82-0159	1705721826		102-4		M C MCNEIL #6-D	LAKE ENFERMER	73.0	LOUISIANA INTRAST
-TXO PRODUCTION CORP				RECEIVED:		09/03/82 JA: LA			
8253104	82-0272	1701320524		103		BAKER "H" #1	WEST BRYCELAND	0.0	DELHI GAS PIPELIN
8253020	82-0680	1706120298		102-3		COOK "L" #1	WEST SIMSBORO	201.1	DELHI GAS PIPELIN
8253070	82-2965	1706120315		103		DONALD #1	TREMONT	85.1	DELHI GAS PIPELIN
8253021	82-0679	1701320515		103		HAMNER #1	ADA	171.6	DELHI GAS PIPELIN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-UNION OIL COMPANY OF CALIF				RECEIVED:	09/03/82	JA: LA			
8253150	82-2964	1772620252	103			S L 3770 #9	BRETON SOUND BLOCK 53	1720.0	TEXAS EASTERN TRA
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-EL PASO NATURAL GAS COMPANY				RECEIVED:	09/01/82	JA: NM			
8252942		3003900300	108-PB			SAN JUAN 28-5 UNIT			
8252943		3004500000	108-PB			SAN JUAN 32-9 UNIT	BLANCO-MESA VERDE	0.0	EL PASO NATURAL G
-HNG OIL COMPANY				RECEIVED:	09/01/82	JA: NM	BLANCO MESA VERDE	0.0	EL PASO NATURAL G
8252945		3001500000	103			OGDEN "B" COM #1			
-MONUMENT RESOURCES				RECEIVED:	09/01/82	JA: NM	MALAGA WEST (ATOKA)	365.0	EL PASO NATURAL G
8252961		3004100000	108			ANDERSON STATE #1			
8252962		3004100000	108			ANDERSON STATE #2	CHAVEROO	2.1	CITIES SERVICE CO
8252960		3004100000	108			ANDERSON STATE #3	CHAVEROO	2.1	CITIES SERVICE CO
8252952		3004100000	108			ANDERSON STATE #4	CHAVEROO	2.1	CITIES SERVICE CO
8252963		3004100000	108			ANDERSON STATE #5	CHAVEROO	2.1	CITIES SERVICE CO
8252953		3004100000	108			ANDERSON STATE #7	CHAVEROO	2.1	CITIES SERVICE CO
8252954		3004100000	108			ANDERSON STATE #8	CHAVEROO	2.1	CITIES SERVICE CO
8252955		3004100000	108			ANDERSON STATE #9	CHAVEROO	2.1	CITIES SERVICE CO
8252958		3004100000	108			KMS #1	CHAVEROO	1.8	CITIES SERVICE CO
8252959		3004100000	108			KMS #2	CHAVEROO	1.8	CITIES SERVICE CO
8252956		3004100000	108			KMS #3	CHAVEROO	1.8	CITIES SERVICE CO
8252957		3004100000	108			KMS #4	CHAVEROO	1.8	CITIES SERVICE CO
8252946		3004100000	108			KMS #5	CHAVEROO	1.8	CITIES SERVICE CO
8252947		3004100000	108			TUCKER HALL #1	CHAVEROO	1.7	CITIES SERVICE CO
8252948		3004100000	108			TUCKER HALL #2	CHAVEROO	1.7	CITIES SERVICE CO
8252949		3004100000	108			TUCKER HALL #3	CHAVEROO	1.7	CITIES SERVICE CO
8252950		3004100000	108			TUCKER HALL #4	CHAVEROO	1.7	CITIES SERVICE CO
8252951		3004100000	108			TUCKER HALL #5	CHAVEROO	1.7	CITIES SERVICE CO
-MONUMENT RESOURCES				RECEIVED:	09/03/82	JA: NM			
8252939		3004100000	108			TUCKER #2	CHAVEROO	1.6	CITIES SERVICE CO
-MTS LTD PARTNERSHIP				RECEIVED:	09/01/82	JA: NM			
8252941		3000561379	102-3			MUDDY COM #1	PECOS SLOPE ABO	54.0	
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	09/01/82	JA: NM			
8252940		3002522747	108			CHEM-STATE #3	TULK (WOLFCAMP)	2.0	WARREN PETROLEUM
8252944		3002527419	103			E VAC GB/SA UNIT TRACT 2416 #003	VACUUM GB/SA	0.2	EL PASO NATURAL G
OKLAHOMA CORPORATION COMMISSION									
-ANADARKO PRODUCTION COMPANY				RECEIVED:	09/01/82	JA: OK			
8252934	15916	3507620453	103			WELLS A 1-6	IRON CHAPEL	18.0	SUN GAS CO
-ANDOVER OIL COMPANY				RECEIVED:	09/01/82	JA: OK			
8252915	15819	3501722150	103			MCCARTHY #6-1		180.0	DELMI GAS PIPELIN
-BURK ROYALTY CO				RECEIVED:	09/01/82	JA: OK			
E252908	15654	3504520915	103			BITTMAN #1	MILDER	180.5	NORTHERN NATURAL
-CHARLES J. RICHARD				RECEIVED:	09/01/82	JA: OK			
8252938	15839	3505320443	103			BRAMLETT #1	RENFROW SOUTH	46.0	CRA INC
-CONOCO INC				RECEIVED:	09/01/82	JA: OK			
8252912	15771	3507300000	103			BETTY TRIPLETT #1	N E DUNLAP	34.7	PHILLIPS PETROLEU
-CONTINENTAL RESOURCES CORP				RECEIVED:	09/01/82	JA: OK			
8252918	15825	3509300000	103			HUTCHINSON #12-1	CAMPBELL	36.8	MICHIGAN-WISCONSI
-DLB ENERGY CORP				RECEIVED:	09/01/82	JA: OK			
8252930	16096	3507323360	103			VIRGINIA #15-16	SOONER TREND	0.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-FRED HARRIS				RECEIVED:	09/01/82	JA: OK
8252911	15769	3511720865		103		HEWITT #6
-GRACE PETROLEUM CORPORATION				RECEIVED:	09/01/82	JA: OK
8252910	15739	3509300000		103		LAW 2-1
-HESTON OIL CO				RECEIVED:	09/01/82	JA: OK
8252935	15902	3501721962		103		BELLMAN 1-1
-HINKLE ENGINEERING INC				RECEIVED:	09/01/82	JA: OK
8252931	16005	3507323297		103		FORMAN #1-29
-INTERNORTH INC				RECEIVED:	09/01/82	JA: OK
8252938	15917	3503920518		103		NEWCOMB 13 #1
-KIRKPATRICK OIL CO				RECEIVED:	09/01/82	JA: OK
8252932	16001	3507323486		103		HUFFMAN #3-30
-L & M EXPLORATION INC				RECEIVED:	09/01/82	JA: OK
8252914	15816	3508320486		103		TOWLE #1-13
-MONSANTO COMPANY				RECEIVED:	09/01/82	JA: OK
8252917	15821	3504321277		103		FOX #3
-OXLEY PETROLEUM CO				RECEIVED:	09/01/82	JA: OK
8252928	16000	3504921660		103		POPE #1
-P-T LTD #1				RECEIVED:	09/01/82	JA: OK
8252936	15901	3504722603		103		HUNTER 13-2
-PETRO-LEWIS CORPORATION				RECEIVED:	09/01/82	JA: OK
8252916	15820	3507323333		103		MERCER 20-2
-SMITH LAND & MINERALS LTD				RECEIVED:	09/01/82	JA: OK
8252909	15738	3505900000		103		DIES #1-2
-SOUTHLAND ROYALTY CO				RECEIVED:	09/01/82	JA: OK
8252927	19304	3509322136		102-4		WOODRING #3-31
-STEVE JERNIGAN INC				RECEIVED:	09/01/82	JA: OK
8252926	20876	3503920540		102-2		MCREYNOLDS #1-28
-SUNRISE EXPLORATION INC				RECEIVED:	09/01/82	JA: OK
8252939	16007	3508700000		103		HESTER 1-1A
-TEXAS AMERICAN OIL CORP				RECEIVED:	09/01/82	JA: OK
8252920	15831	3504722544		103		J R WOODSON #1
8252921	15832	3504722545		103		VANDERWORK #1
-TXO PRODUCTION CORP				RECEIVED:	09/01/82	JA: OK
8252924	20456	3515120363		107-PE		GRAVES "C" #1
8252923	20457	3515100000		107-PE		HULL #1
8252925	20455	3515120336		107-PE		KROB #1
-VULCAN ENERGY CORP				RECEIVED:	09/01/82	JA: OK
8252937	15893	3508320857		103		GEIST #1
-WALKER CORP				RECEIVED:	09/01/82	JA: OK
8252919	15828	3501722003		103		STEGALL 16-1
-WILLIAM J ZUHONE JR				RECEIVED:	09/01/82	JA: OK
8252922	15836	3507121940		103		CLAYBAKER #1
-WOODS PETROLEUM CORPORATION				RECEIVED:	09/01/82	JA: OK
8252913	15778	3510321572		103		MISSISSIPPI CHAT "B" #3
**********						
UTAH DIVISION OF OIL,GAS, & MINING						
**********						
-NATURAL GAS CORPORATION OF CALIF				RECEIVED:	09/01/82	JA: UT
8252964	K-149-1	4304730944		102-2		TRAPP SPRINGS 8-36 STATE
**********						
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, CASPER,WY						
**********						
-MIDLANDS GAS CORPORATION				RECEIVED:	09/01/82	JA: MT 5

FIELD NAME	PROD	PURCHASER
LAUDERDALE	12.0	MID-AMERICA GAS L
CLEO SPRINGS	0.0	PIONEER GAS PRODU
PIEDMONT	0.0	PHILLIPS PETROLEU
SOONER TREND	88.0	
STAFFORD NORTHWEST	500.0	INTERNORTH INC
SOONER TREND	0.0	EXXON CO USA
S E ELK HORN	1.0	EASON OIL CO
	100.0	
SOUTH ANTIOCH	147.0	WARREN PETROLEUM
SOONER TREND	35.0	WELLHEAD ENTERPRI
SOONER TREND	100.0	PARTNERSHIP PROPE
NORTH LOVEDALE	0.0	DELHI GAS PIPELIN
ORION	30.0	PHILLIPS PETROLEU
NE CARPENTER	0.0	DELHI GAS PIPELIN
FLINT CREEK	175.0	
SOONER TREND	219.0	PANHANDLE EASTERN
SOONER TREND	21.9	PANHANDLE EASTERN
N W AVARD	200.0	DELHI GAS PIPELIN
N W AVARD	200.0	DELHI GAS PIPELIN
	204.0	DELHI GAS PIPELIN
SOONER TREND	86.3	AMINOIL USA INC
YUKON	146.0	PHILLIPS PETROLEU
UNNAMED	6.7	CORONADO TRANSMIS
E BILLING	22.0	ARCO OIL & GAS CO
TRAPP SPRINGS	910.0	PACIFIC GAS & ELE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8252969	M523-1	2507121601		108		2531 253331		17.0	KANSAS-NEBRASKA N
-PETROLEUM CORP OF AMERICA				RECEIVED:	09/01/82	JA: MT 5			
8252965	M 428-1	2510521161		108		FEDERAL 1-2706		19.0	KANSAS-NEBRASKA N
-SOUTHLAND ROYALTY CO				RECEIVED:	09/01/82	JA: MT 5			
8252982	M72-2	2507121746		102-2		FEDERAL 1860 #1	BOWDOIN DOME	35.0	KANSAS NEBRASKA N
-BELCO PETROLEUM CORPORATION				RECEIVED:	09/01/82	JA: ND 5			
8252970	ND551-1	3306300893		102-4		SHEEP CREEK FEDERAL 7-32	MISSION CANYON	49.3	KOCH OIL CO
-TENNECO OIL COMPANY				RECEIVED:	09/01/82	JA: ND 5			
8252997	ND97-2	3300700695		102-2		CHILDS U S A 2-28	ELKHORN RANCH	292.0	MONTANA-DAKOTA UT
8252971	ND596-1	3300700680		102-2		CHILDS 1-28	ELKHORN RANCH	127.0	MONTANA-DAKOTA UT
8252996	ND96-2	3300700690		102-2		GRAHAM USA 1-15	BUCKHORN BUTTE	65.0	MONTANA-DAKOTA UT
-AMOCO PRODUCTION CO				RECEIVED:	09/01/82	JA: WY 5			
8252975	W65-2	4900720527		103		WERTZ ABC UNIT #60 (DARWIN)	WERTZ - DARWIN	0.7	NORTHERN GAS CO
8252976	W66-2	4900720527		103		WERTZ ABC UNIT #60 (MADISON)	WERTZ - MADISON	0.7	NORTHERN GAS CO
-ARCO OIL AND GAS COMPANY				RECEIVED:	09/01/82	JA: WY 5			
8252999	W87-2	4901321108		103		ARCO TRIBAL #35	RIVERTON DOME	770.0	MONTANA-DAKOTA UT
-BELCO PETROLEUM CORPORATION				RECEIVED:	09/01/82	JA: WY 5			
8252992	W89-2	4903520593		103		BPMV 1-83	BIG PINEY MESAVERDE U	0.0	NORTHWEST PIPELIN
8252993	W90-2	4903520624		103		C-76--25	C-56 AREA (KMV)	0.0	NORTHWEST PIPELIN
-CHEVRON U S A INC				RECEIVED:	09/01/82	JA: WY 5			
8252981	W71-2	4904120289		107-DP		CHEVRON - AMOCO - FEDERAL 1-4H	WOODRUFF NARROWS	2.2	
-COTTON PETROLEUM CORPORATION				RECEIVED:	09/01/82	JA: WY 5			
8252995	W94-2	4900720495		107-TF		YATES-FEDERAL 28-1	WILDROSE	0.0	CITIES SERVICE GA
-DAVIS OIL COMPANY				RECEIVED:	09/01/82	JA: WY 5			
8252988	W81-2	4900525848		103		MARATHON FED #1	WILDCAT	88.4	MGPC INC
8252973	W63-2	4900526009		103		WILLIAM F TANNER FEDERAL #1	WILDCAT	28.8	PHILLIPS PETROLEU
-EXXON CORPORATION				RECEIVED:	09/01/82	JA: WY 5			
8252991	W88-2	4902320423		107-DP		ROAD HOLLOW UNIT #4	WILDCAT	2387.0	
-FLORIDA GAS EXPLORATION COMPANY				RECEIVED:	09/01/82	JA: WY 5			
8252972	W9-2	4903721721		107-TF		GOODSTEIN FEDERAL #1-35	NITCHIE GULCH	192.0	
-GETTY OIL COMPANY				RECEIVED:	09/01/82	JA: WY 5			
8252994	W91-2	4900520698		108		RECLUSE FEDERAL #1	RECLUSE	9.0	ARCO OIL & GAS CO
8252998	W92-2	4900520697		108		RECLUSE FEDERAL #2	RECLUSE	6.0	ARCO OIL & GAS CO
-MARATHON OIL COMPANY				RECEIVED:	09/01/82	JA: WY 5			
*8252978	W68-2	4902920905		103		BASTON "B" #19 (EMBAR AND TENSLEEP)	OREGON BASIN	7.5	COLORADO INTERSTA
*8252979	W69-2	4902921082		103		CUSTER #36 (EMBAR AND TENSLEEP)	OREGON BASIN	19.6	COLORADO INTERSTA
*8252977	W67-2	4902921024		103		OSTLAND #2 (EMBAR AND TENSLEEP)	OREGON BASIN	5.0	COLORADO INTERSTA
-MARTIN EXPLORATION MGMT CORP				RECEIVED:	09/01/82	JA: WY 5			
8252989	W84-2	4903721951		102-2		FEDERAL #2-8	ROCK RIDGE UNIT	78.0	PANHANDLE EASTERN
-NATURAL GAS CORPORATION OF CALIF				RECEIVED:	09/01/82	JA: WY 5			
8252974	W64-2	4902320459		102-2		FEDERAL 2-19	FONTENELLE	280.0	PACIFIC GAS TRANS
8252990	W85-2	4902320458		103		NGC 41-1 FEDERAL	FONTENELLE	137.0	PACIFIC GAS TRANS
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	09/01/82	JA: WY 5			
8252987	W79-2	4900526296		102-2		THUNDER CREEK FED K #3	SCHOOL CREEK	0.0	PANHANDLE EASTERN
8252983	W75-2	4900526275		102-2		THUNDER CREEK FED O #1	SCHOOL CREEK	52.2	PANHANDLE EASTERN
-SINCLAIR OIL CORPORATION				RECEIVED:	09/01/82	JA: WY 5			
8252986	W78-2	4900720390		102-2		HAMILTON FEDERAL #14-1	BLUE GAP	16.0	COLORADO INTERSTA
-SNYDER OIL CO				RECEIVED:	09/01/82	JA: WY 5			
8252985	W77-2	4900720647		107-TF		CIGE FEDERAL 1A-32-14-92	ROBBERS GULCH	420.0	NORTHWEST PIPELIN
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	09/01/82	JA: WY 5			
8252967	W 486-1	4903721312	D	107-TF		AMOCO FEDERAL #1-26	ECHO SPRINGS	306.0	COLORADO INTERSTA
8252968	W488-1	4900720442	D	107-TF		ECHO SPRINGS FEDERAL #1-34	ECHO SPRINGS	365.0	COLORADO INTERSTA
8252966	W 485-1	4900720440		107-TF		FAIR-FEDERAL #1-6	ECHO SPRINGS	151.0	COLORADO INTERSTA

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TRIGG DRILLING COMPANY INC				RECEIVED: 09/01/82		JA: WY 5			
8252980	W70-2	4901321102		103		TRIBAL TRIGG #1-5	EAST RIVERTON	0.0	MONTANA DAKOTA UT
-WEM JOINT VENTURE				RECEIVED: 09/01/82		JA: WY 5			
8252984	W76-2	4900926375		103		ARCO FEDERAL DALY #1	KITTY FIELD	50.0	ARCO OIL & GAS CO

OTHER PURCHASERS VOLUME NO :739

8252977	CODY GAS CO
8252978	CODY GAS CO
8252979	CODY GAS CO

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MHCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New wall (2.5 mile rule)
102–3: New wall (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–CB: Geopressured brine
107–CB: Coal seams
107–DV: Dovonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper wall
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–26426 Filed 9–24–82; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

National Petroleum Council, Subcommittee on Enhanced Oil Recovery; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Subcommittee on Enhanced Oil Recovery, National Petroleum Council.

Date and Time: Tuesday, October 19, 1982,—10:00 a.m.

Place: The Madison Hotel, Mount Vernon Room, Fifteenth and M Streets, NW., Washington, D.C.

Contact: Gloria Decker, Information Management Systems Branch, U.S. Department of Energy, 1000 Independence Ave., SW., Forrestal Building, Room 4D–024, Washington, D.C. 20585; telephone: 202–252–8890.

Purpose of Committee: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to the development of alternative fuels.

Tentative Agenda:

- Discuss study scope and plan in response to the Secretary of Energy's request to update the National Petroleum Council's 1976 Enhanced Oil Recovery report.
- Discuss and approve organizational structure and function of a coordinating subcommittee and task groups.
- Discuss study schedule and final report format.
- Discuss any other matters pertinent to the overall assignment from the Secretary.
- Public comments.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gloria Decker at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 8:00 a.m. and 4 p.m., Monday through Friday, except federal holidays.

Issued at Washington, DC, on September 22, 1982.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 82–26473 Filed 9–24–82; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders; Period of August 9 Through August 20, 1982

During the period of August 9 through August 20, 1982, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for refund in a Subpart V proceeding.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

With respect to the Proposed Refund Decision any person who wished to file comments should submit comments to the Office of Hearings and Appeals within 30 days of receipt of the proposed decision or the date of publication of this list, whichever is earlier.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

September 20, 1982.

National Helium Corp./Farmland Industries, Inc., Kansas City, Kans., RF3–1; National Helium Corp./Atlantic Richfield Co., Los Angeles, Calif., RF3–3; National Helium Corp./Controller, State of California, Washington, D.C., RF3–2.

Pursuant to 10 CFR Part 205, Subpart V, and in connection with a consent order between the DOE and the National Helium Corporation (NHC), Atlantic Richfield Company (ARCO) filed an Application for Refund. In its Application ARCO requested the entire $10 million paid to an escrow account by NHC, on the ground that ARCO was the only first purchaser of natural gas liquids from NHC during the period covered by the consent order. Farmland Industries, Inc. filed an Application for Refund, requesting a refund in proportion to its NGL purchases from ARCO. The controller of the State of California filed a refund request on behalf of end-users and consumers of NGLs both in California and other states.

In the Proposed Decision, the OHA upheld the principle that refunds made

to direct purchasers or downstream purchasers of petroleum products involved in a consent order must be measured by the extent of the injury which the claimants prove to have experienced as a result of the alleged overcharges. The OHA also stated that such a proof of injury is not necessary for consumers and farmers' cooperatives which will redistribute the refund received to end-users. The OHA compared the prices which NHC charged ARCO for NGL purchases during the consent order period, with national average prices of that period. The OHA found that, except during four quarters of the years 1978 and 1979, the NHC prices were lower than national average prices during the entire consent order period. This comparison indicates the ARCO was probabably injured by NHC's alleged price violations only during the four quarters in which NHC's prices exceeded the national average. On this basis, OHA concluded that ARCO should receive a refund of $387,989, an amount calculated to alleviate any injury which ARCO incurred as a result of the NHC's alleged price violations during the four quarter period.

The OHA found that Farmland, a farmers' cooperative association, is an appropriate conduit for redistributing the NHC Consent Order funds to end-users within that association who purchased NHC products. The OHA granted Farmland 13%, or $1,300,000, of the NHC Consent Order funds, an amount equal in proportion to the percentage of NHC products sold to Farmland through ARCO. The OHA directed Farmland to redistribute the refund monies to its member cooperatives according to their actual purchases. The remaining $8,312,011 of the NHC Consent Order fund will be distributed to the benefit of end-users and consumers. In this regard, the OHA required that the State of California develop procedures for the redistribution of the remaining monies to California and other states affected by NHC's sales during the consent order period.

[FR Doc. 28430 Filed 9-30-82; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Central of Illinois, Inc.*, Sterling, Illinois; to acquire 100 percent of the voting shares or assets of Mount Morris Bancshares, Inc., Mount Morris, Illinois and thereby indirectly acquire Citizens State Bank of Mount Morris, Mount Morris, Illinois. Comments on this application must be received not later than October 21, 1982.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Citizens Ban-Corporation*, Rock Port, Missouri; to acquire 80 percent of the voting shares or assets of the Kingston Bank, Kingston, Missouri and the Farmers Bank of Sheridan, Sheridan, Missouri. Comments on this application must be received not later than October 21, 1982.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Westex Bancorp, Inc.*, Del Rio, Texas; to acquire 100 percent of the voting shares or assets of Sutton County National Bank, Sonora, Texas. Comments on this application must be received not later than October 21, 1982.

Board of Governors of the Federal Reserve System, September 21, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26420 Filed 9-24-82; 8:45 am]
BILLING CODE 6210-01-M

Banco do Brasil S. A.; Application To Establish Corporation To Do Business and To Establish Branches

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as Banco Do Brasil Overseas Corporation, Washington, D.C. Banco Do Brasil Overseas Corporation would operate as a subsidiary of Banco Do Brasil, S.A., Brasilia, Brazil. Banco Do Brasil Overseas Corporation, Washington, D.C., has also applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish branches in Chicago, Illinois; Atlanta, Georgia; Houston and Dallas, Texas. The factors that are considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 21, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 21, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26419 Filed 9-24-82; 8:45 am]
BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or

unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

Correction

1. *Barclays Bank PLC* and *Barclays Bank International, Limited,* both of London, England, (consumer finance; Idaho, Kansas, Michigan, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Texas, and Washington). This notice corrects a previous **Federal Register** document (FR Doc. 82-24699) that was published on page 39721 of the issue for September 9, 1982. The proposed activities would also be conducted from offices located in Corning, New York and Albany, Oregon. The city of Loring should be removed from the New York listing.

b. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *York Bancorp,* York, Pennsylvania (reinsurance activities; Pennsylvania): To engage through its subsidiary, Dickinson Life Insurance Company, in the underwriting, by reinsuring, credit life and credit health and accident insurance related to extensions of credit made by Applicant's subsidiary bank. These activities will be conducted from offices in Phoenix, Arizona serving southeastern Pennsylvania. Comments on this application must be received not later than October 21, 1982.

C. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. **Dominion Bankshares Corporation,** Roanoke, Virginia (trust functions or activities; Virginia): To engage, through a subsidiary known as Dominion Trust Company in the following *de novo* activities: performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company. The aforementioned activities will be conducted from the following four locations: Roanoke, Winchester, Richmond, and Harrisonburg, Virginia. The proposed service area of the four offices will be the following areas of the State of Virginia: Roanoke SMSA, Richmond SMSA; the cities of Covington, Lexington, Buena Vista, Galax, Bedford, Harrisonburg, and Winchester; the counties of Allegheny, Rockbridge, Bedford, Giles, Wythe, Carroll, Grayson, Tazewell, Smyth, Russell, Wise, Rockingham, Augusta, and Frederick. Comments on this application must be received not later than October 20, 1982.

Board of Governors of the Federal Reserve System, September 21, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26418 Filed 9-24-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Forrest Bancshares, Inc.,* Forrest, Illinois; to become a bank holding company by acquiring 80 percent or more of the voting shares of First State Bank of Forrest, Forrest, Illinois. Comments on this application must be received not later than October 21, 1982.

2. *Midwest Financial Group, Inc.,* Peoria, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Commercial National Corporation, Prospect National Bank of Peoria, and University National Bank of Peoria, all of Peoria, Illinois; Champaign Bancorp, Inc., and The First National Bank in Champaign, both of Champaign, Illinois; Illinois National Bancorp, Inc., and The Illinois National Bank of Springfield, both of Springfield, Illinois; and First Trust & Savings Bank of Kankakee, Kankakee, Illinois. Comments on this application must be received not later than October 21, 1982.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Midland BanCor, Inc.,* Lee's Summit, Missouri; to become a bank holding company by acquiring at least 80 percent of the voting shares of Midland Bank, Lee's Summit, Missouri. Comments on this application must be received not later than October 21, 1982.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Harbor Bancorp,* Long Beach, California; to become a bank holding company by acquiring 100 percent of the voting shares of Harbor Bank, Long Beach, California. Comments on this application must be received not later than October 21, 1982.

D. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *W.L.T. Asian Holding Company Ltd.,* Hong Kong, B.C.C.; to become a bank holding company by acquiring 75 percent of the voting shares of Community National Bank and Trust Company of New York, Staten Island, New York. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Comments on this application must be received not later than October 21, 1982.

Board of Governors of the Federal Reserve System, September 21, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26421 Filed 9-24-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the

Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General Antitrust advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Divisions of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
Exxon Corporation's proposed acquisition of certain assets of Tosco Corp.	June 11, 1982.
Baker International Corporation's proposed acquisition of all voting securities of Envirotech Corp.	Feb. 19, 1982.
L'Air Liquide, S.A.'s proposed acquisition of all voting securities of Cardox Corp.	Mar. 30, 1982.
The proposed acquisition of all voting securities of USA Petroleum Corp. and Oasis Petroleum Corp. by a corporation to be formed for purpose of the acquisition.	Mar. 3, 1982.
General Dynamics Corporation's proposed acquisition of all voting Securities of Chrysler Defense, Inc.	Mar. 5, 1982.
Wallace G. Wilkinson's proposed acquisition of certain assets of Occidental Petroleum Corp.	Mar. 24, 1982.
Baker International Corporation's acquisition of certain assets of Arjay Inc.	Mar. 29, 1982.
Rollins Leasing Corporation's proposed acquisition of all voting securities of ABC Truck Rental and Leasing Co.	Mar. 24, 1982.
Consolidated Foods Corporation's proposed acquisition of certain assets of International Telephone and Telegraph Corp.	Mar. 23, 1982.
Carl C. Icahn's proposed acquisition of certain voting securities of Marshall Field & Co.	Mar. 29, 1982.
Barlow Rand Limited's proposed acquisition of all voting securities of Monitor Sugar Co.	Apr. 9, 1982.
Oglethorpe Power Company's proposed acquisition of certain assets of Georgia Power Co.	June 10, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580; (202) 523–3894.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-26494 Filed 9-24-82; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; The Hanna Mining Company

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: The Hanna Mining Company is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all the voting securities of Midland Southwest Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by The Hanna Mining Company. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: September 10, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 311, Federal Trade Commission, Washington, D.C. 20580; (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-26493 Filed 9-24-82; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

Social Services Block Grant Program, Federal Allotments to States for Expenditures for Fiscal Year 1982

AGENCY: Office of Program Coordination and Review, Office of Human Development Services, Department of Health and Human Services.

ACTION: Revised notification of allocation of Title XX—Social Service Block Grant Allotments for Fiscal Year 1982.

SUMMARY: Pub. L. 97–248, Enacted September 3, 1982, among other things, amended Section 1101(a) of the Social Security Act, as amended, (Act) to define the term State when used in Title XX to no longer include American Samoa and the Trust Territory of the Pacific Islands.

The Federal Allotments to States for Social Services under Section 2003 of the Act which were promulgated in Vol. 46, No. 216 of the **Federal Register**, page 55420 on November 9, 1981, included American Samoa and the Trust Territory of the Pacific Islands.

Accordingly, the promulgation contained in such document is rescinded, and the promulgation in Vol. 46, No. 172 of the **Federal Register**, page 44508 on September 4, 1981, is in effect.

EFFECTIVE DATE: October 1, 1981.

Dated: September 16, 1982.

Teresa Hawkes,

Director, Office of Program Coordination and Review.

Approved: September 22, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 82-26487 Filed 9-24-82; 8:45 am]

BILLING CODE 4130-01-M

National Institutes of Health

Allergy, Immunology, and Transplantation Research Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Allergy, Immunology, and Transplantation Research Committee, National Institute of Allergy and Infectious Diseases, on October 28–29, 1982, at the Holiday Inn, Chevy Chase, Maryland. The meeting will be open to the public from 8:30 a.m. to 9:30 a.m. for review of policies and procedures and routine business of the committee. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code, and Section 10(d) of Pub. L. 92–463, the meeting of the Allergy, Immunology, and Transplantation Research Committee will be closed to the public for review, evaluation, and discussion of individual grant applications from 9:30 a.m. until 6:00 p.m. on October 28 and from 8:30 a.m. until adjournment on October 29.

These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A–32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the Committee members as requested.

Dr. Nirmal K. Das, Executive Secretary, Allergy, Immunology and Transplantation Research Committee, NIAID, NIH, Westwood Building, Room 706, Bethesda, Maryland 20205, telephone (301) 496–7966, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Sections 8(b) (4) and (5) of that Circular)

Dated: September 15, 1982.

Betty J. Beveridge,

NIH Committee Management Office.

[FR Doc. 82–26444 filed 9–24–82; 8:45 am]

BILLING CODE 4140–01–M

Animal Resources Review Committee, Subcommittee on Animal Resources; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Subcommittee on Animal Resources, Animal Resources Review Committee, Division of Research Resources, November 4, 1982, Conference Room 4, Building 31, National Institutes of Health, Bethesda, Maryland, 20205.

The meeting will be open to the public on November 4 from approximately 2:00 p.m. to adjournment for a brief staff presentation on the current status of the Animal Resources Program and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 4 from 8:30 a.m. to approximately 2:00 p.m. for the review, discussion and evaluation of individual grant applications submitted to the Laboratory Animal Sciences Program.

These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B13, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Carl E. Miller, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5175, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Laboratory Animal Sciences, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular)

Dated: September 15, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82–26440 Filed 9–24–82; 8:45 am]

BILLING CODE 4140–01–M

Animal Resources Review Committee, Subcommittee on Primate Research Centers; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Subcommittee On Primate Research Centers, Animal Resources Review Committee, Division of Research Resources, on October 20, 1982, in the conference room at the Delta Regional Primate Research Center, Covington, Louisiana 70433.

The meeting will be open to the public from approximately 1:00 p.m., until approximately 2:00 p.m., for a staff presentation on the current status of the Animal Resources Program, and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5 United States Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from approximately 2:00 p.m. until adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B10, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Carl E. Miller, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5175, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Primate Research, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95, because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular)

Dated: September 15, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82–26452 Filed 9–24–82; 8:45 am]

BILLING CODE 4140–01–M

Biotechnology Resources Review Committee; Conference Call Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the conference call meeting of the Biotechnology Resources Review Committee, Division of Research Resources, on October 5, 1982, in Building 31, Room 5B39, National Institutes of Health, Bethesda, Maryland 20205 from approximately 1:00 p.m. until adjournment.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public for the review, discussion, and evaluation of a PROPHET prospectus. The prospectus and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the prospectus, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Chief, Office of Science and Health Reports, Division of Research Resources, Bldg. 31, Rm. 5B–13, National Institutes of Health, Bethesda, Maryland 20205, telephone area code 301 496–5545, will provide summaries of

meetings and rosters of committee members.

Dr. Charles L. Coulter, Executive Secretary, Biotechnology Resources Review Committee, Division of Research Resources, Bldg. 31, Rm. 5B–41, National Institutes of Health, Bethesda, Maryland 20205, telephone area code 301 496–541, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.371, Biotechnology Research, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that circular)

Dated: September 15, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82-26450 Filed 9-24-82; 8:45 am]

BILLING CODE 4140-01-M

Board of Scientific Counselors, NIA; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute on Aging, November 8–10, 1982, to be held at the Gerontology Research Center, Baltimore, Maryland. The meeting will be open to the public from 9:00 a.m. to adjournment on Monday and Tuesday, November 8 and 9, and, from 9:00 a.m. until 1:30 p.m. on Wednesday, Novermber 10. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, United States Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 10, from 1:30 p.m. until adjournment for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, NIA, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, NIA Building 31, Room 2C–05, National Institutes of Health, Bethesda, Maryland 20205, (telephone: 301/496–5898) will provide a summary of the meeting and a roster of committee members. Dr. Richard C. Greulich, Scientific Director, NIA, Gerontology Research Center, Baltimore City Hospitals, Baltimore, Maryland 21224, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular)

Dated: September 20, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82-26443 Filed 9-24-82; 8:45 am]

BILLING CODE 4140-01-M

Clinical Trials Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, October 31, 1982, at the Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20814. On November 1–3, 1982, the meeting will be held at Wilson Hall, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

This meeting will be open to the public on October 31, 1982, from 8:00 p.m. to approximately 9:00 p.m. to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendence by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, United States Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 31 from approximately 9:00 p.m. to recess and will convene again on November 1 beginning at 8:30 a.m. to adjournment on November 3, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Therefore, this meeting is concerned with matters exempt from mandatory disclosure under Section 552b(c)(6) of Title 5, United States Code.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Bethesda, Maryland, 20205, Building 31, Room 4A–21, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Contracts, Clinial Trials and Training Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Bethesda, Maryland 20205, Room 548B, phone (301) 496–7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular)

Dated: September 15, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82-26442 Filed 9-24-82; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Dental Research Programs Advisory Committee, Subcommittee on Dental Caries; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Subcommittee on Dental Caries, National Institute of Dental Research Programs Advisory Committee, November 30–December 1, 1982, in Conference Room 7, Building 31–C, National Institutes of Health, Bethesda, Maryland.

The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. November 30, and from 9:00 a.m. to adjournment December 1, to discuss research progress and ongoing plans and programs of the National Caries Program. Attendance by the public will be limited to space available.

Dr. James P. Carlos, Associate Director, National Caries Program, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 528, Bethesda, MD 20205, (phone 301–496–7239) will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.840, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular)

Dated: September 10, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82-26441 Filed 9-24-82; 8:45 am]

BILLING CODE 4140-01-M

General Research Support Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the General Research Support Review Committee, Division of Research

Resources, November 18–19, 1982 at the National Institutes of Health. The meeting will be held in Conference Room 9, Building 31, 9000 Rockville Pike, Bethesda, Maryland 20205.

This meeting will be open to the public from 9:00 a.m. to approximately 1:30 p.m. on November 18, 1982, to discuss policy matters relating to the Minority Biomedical Research Support Program. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 18, 1982, from approximately 1:30 p.m. to 5:00 p.m. and on November 19, from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications submitted to the Minority Biomedical Research Support Program. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Building 31, Room 5B10, Bethesda, Maryland 20205, telephone (301) 496–5545, will provide summaries of meeting and rosters of committee members. Dr. Sidney A. McNairy, Executive Secretary of the General Research Support Review Committee, Building 31, Room 5B29, Bethesda, Maryland 20205, telephone (301) 496–6743 will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.375, Minority Biomedical Research Support Program, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular)

Dated: September 15, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82-26441 Filed 9-24-82; 8:45 am]

BILLING CODE 4140-01-M

Microbiology and Infectious Diseases Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Advisory Committee, National Institute of Allergy and Infectious Diseases, October 14, 1982, at the National Institutes of Health, Building 31C, Conference Room 9, Bethesda, Maryland 20205.

The meeting will be open to the public from 8:30 a.m. to approximately 9:30 a.m. for discussion of site visit policy; review of policies and procedures; and routine business of the Committee and again from 2:00 p.m. to 4:00 p.m. for discussion of the International Collaboration in Infectious Diseases Research (ICIDR) Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code, and Section 10(d) of Pub. L. 92–463, the meeting of the Committee will be closed to the public for the review, evaluation, and discussion of individual grant applications and contract proposals. It is anticipated that this will occur from 9:30 a.m.until 2:00 p.m.

These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with applications and proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A–32, National Institutes of Health, Bethesda, Marlyand 20205, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the Committee members as required.

Dr. Susan B. Spring, Executive Secretary, Microbiology and Infectious Diseases Advisory Committee, NIAID, NIH, Westwood Building, Room 706, telephone (301) 496–7465, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Sections 8(b)(4) and (5) of that Circular)

Dated: September 15, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82-26440 Filed 9-24-82; 8:45 am]

BILLING CODE 4140-01-M

NIDR Special Grants Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Institute of Dental Research Special Grants Review Committee, November 17–18, 1982, in Conference Room 9, Building 31–C, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public from 9:00 a.m. to 9:30 a.m. November 17, 1982, for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9:30 a.m. November 17 to adjournment November 18 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. H. George Hausch, Executive Secretary, NIDR Special Grants Review Committee, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 504, Bethesda, MD 20205, (telephone 301 496–7658) will provide summaries of meeting, rosters of committee members, and substantive program information.

(Catalog of Federal Domestic Assistance Programs Nos. 13.840—Caries Research, 13.841—Periodontal Diseases Research, 13.842—Craniofacial Anomalies Research, 13.843—Restorative Materials Research, 13.844—Pain Control and Behavioral Studies, 13.845—Dental Research Institutes, 13.878—Soft Tissue Stomatology and Nutrition Research, National Institutes of Health)

(NIH programs are not covered by OMB Circular A95 because they fit the description of "programs not considered appropriate" in section 8(b)(4)and (5) of that Circular)

Dated: September 15, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82-26445 Filed 9-24-82; 8:45 am]

BILLING CODE 4140-01-M

National Advisory Neurological and Communicative Disorders and Stroke Council and the Planning Subcommittee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Neurological and Communicative Disorders and Stroke Council, October 22 and 23, 1982, at 9:00 a.m. in Building 31–C, Conference Room 6, National Institutes of Health, Bethesda, Maryland 20205. In addition, a meeting of the Planning Subcommittee

of the above Council will be held on October 20, 1982, at 1:00 p.m. to approximately 5:30 p.m. and on October 21 from 9:00 a.m. to approximately 5:00 p.m. in Building 31, Room 8A28, National Institutes of Health, Bethesda, Maryland 20205.

The meeting of the full Council will be open to the public from 9:00 a.m. until approximately 11:30 a.m. on October 22, 1982, and from 8:30 a.m. to approximately 9:30 a.m. on October 23, 1982, to discuss administration, management and special reports. The meeting of the Planning Subcommittee will be open from 1:00 p.m. to approximately 5:30 on October 20 and from 9:00 a.m. to approximately 3:00 p.m. on October 21, 1982 to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4), and 552b(c)(6) of Title 5, United States Code and Section 10(d) of Pub. L. 92–463, the Advisory Council meeting will be closed to the public from approximately 11:30 a.m. on October 22, 1982, until the conclusion of the meeting that day, and from 9:30 a.m. until adjournment on October 23, 1982, for review, discussion and evaluation of Research Grant applications and applications for Teacher Investigator Awards, Research Career Development Awards, and Institutional National Research Service Awards. The meeting of the Planning Subcommittee will be closed from approximately 3:00 p.m. to adjournment on October 21, 1982; also for the review, discussion and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Chief, Office of Scientific and Health Reports, Miss Sylvia Shaffer, Building 31, Room 8A06, NIH, NINCDS, Bethesda, Maryland 20205, telephone (301) 496–5751, will furnish summaries of the meeting and rosters of committee members.

Dr. John C. Dalton, Executive Secretary, Federal Building, Room 1016, Bethesda, Maryland 20205, telephone (301) 496–9248, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.851, Communicative Disorders Program; No. 13.852, Neurological Disorders Program; No. 13.853, Stroke and Nervous System Trauma; No. 13.854, Fundamental Neurosciences Program, National Institutes of Health.)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular)

Dated: September 15, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82–26447 Filed 9–24–82; 8:45 am]

BILLING CODE 4140–01–M

National Advisory Research Resources Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Nation Advisory Research Resources Council, Division of Research Resources (DRR), October 12–13, 1982, Conference Room 6, Bldg. 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205.

The meeting will convene in open session on October 12, at 8:45 a.m., for opening remarks by the Director, DRR, greetings from the Director, NIH, a talk on Animal Welfare Issues by Dr. Andrew N. Rowan, Associate Director, Institute for the Study of Animal Problems, Humane Society of the United States, reports by the DRR Program Directors, a budget presentation by the Action Executive Officer, DRR, a report by the Director, DRR, and an update of the DRR Five-Year Plan. The meeting will continue as follows, in open session, from approximately 1:00 p.m. to 3:30 p.m.: Animal Resources Program Work Group, Rm. 9A51; Biomedical Research Support Program Work Group, Rm. 5B03; Biotechnology Resources Program Work Group, Rm. 8A28; General Clinical Research Centers Program Work Group, Rm 2A52; and Minority Biomedical Research Support Program Work Group, Conference Room 6. The meeting will reconvene, in open session, in Conference Room 6, on October 13, from 8:30 a.m. to approximately 10:30 a.m., for a Report on the Legislative Assignment by the Executive Officer, DRR, and Program Work Group reports and recommendations to the full Council for discussion and action. Attendance will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6) Title 5, United States Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 12, from approximately 3:30 p.m. to recess, and on October 13, from approximately 10:30 a.m. to adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Rm. 5B10, Bldg. 31, National Institutes of Health, Bethesda, MD 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the Council members. Dr. James F. O'Donnell, Acting Director, Division of Reserach Resources, Rm. 5B03, Bldg. 31, National Institutes of Health, Bethesda, MD 20205, (301) 496–6023, will furnish substantive program information and will receive any comments pertaining to this announcement.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, Laboratory Animal Sciences and Primate Research; 13.333, Clinical Research; 13.337, Biomedical Research Support; 13.371, Biotechnology Resources; 13.375, Minority Biomedical Research Support, National Institutes of Health)

(NIH Programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular)

Dated: September 15, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82–26448 Filed 9–24–82; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Advisory Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Insititute, November 22–23, 1982, at the National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, Maryland 20205.

This meeting will be open to the public from 9:00 a.m. on November 22 to 5:00 p.m. and approximately 10:30 a.m. on November 23 until adjournment for the discussion of program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code, and Section 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public on November 23 from 8:30 a.m. to approximately 10:30 a.m. for the review, discussion, and evaluation of individual grant applications. These

applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meeting and rosters of the Council members.

Dr. Jerome G. Green, Executive Secretary of the Council, Westwood Building, Room 7A–17, (301) 496–7416, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular)

Dated: September 15, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 82-28448 Filed 9-24-82; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–82–1166]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OBM Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410; telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OBM

Proposal: Annual Housing Survey—SMSA Sample Group BB–2.

Office: Policy Development and Research.

Form No.: AHS–51, AHS–52, AHS–54–L1, AHS–54–L2, AHS–54(Sp), AHS–58(L).

Frequency of Submission: Every 3 or 4 Years.

Affected Public: Households in 13 SMSA's.

Estimated Burden Hours: 32, 980.

Status: Revision.

Contact: Duane T. McGough, HUD, (202) 755–5060 or Robert Neal, OBM, (202) 395–6880.

(Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: September 20, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 82-28491 Filed 9-24-82; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N–82–1167]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410; telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Negotiated FHA Interest Rate Program.
Office: Housing.
Form No.: HUD–9722 and HUD–9723.
Frequency of Submission: On Occasion.
Affected Public: Businesses or Other Institutions (except farms).
Estimated Burden Hours: 25,000.
Status: Extension.
Contact: Arnold H. Diamond, HUD, (202) 426–4325 or Robert Neal, OMB, (202) 395–6880.

(Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: September 9, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Request for Determination of Eligibility as Nonprofit Sponsor and/or Mortgagor.
Office: Housing.
Form No.: FHA–3433.
Frequency of Submission: On Occasion.
Affected Public: Businesses or Other Institutions (except farms).
Estimated Burden Hours: 2,000.
Status: Extension.
Contact: Frank Brown, HUD, (202) 755–5720 or Robert Neal, OMB, (202) 395–6880.

(Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: September 9, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 82-25482 Filed 9-24-82; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Pyramid Lake Paiute Tribe; Plan for the Use and Distribution of Pyramid Lake Paiute Tribe Judgment Funds in Dockets 343–70 and 87–C Before the United States Court of Claims

September 14, 1982.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93–134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use of distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on August 27, 1981, and on December 4, 1981, in satisfaction of the awards granted to the Pyramid Lake Paiute Tribe in United States Court of Claims Dockets 343–70 and 87–C, respectively. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated May 24, 1982, and was received (as recorded in the Congressional Record) by the House of Representatives on May 25, 1982, and by the Senate on June 14, 1982. The plan became effective on August 19, 1982, as provided by section 5 of the 1973 Act.

The plan reads as follows:

"The funds appropriated on August 27, 1981, and on December 4, 1981, in satisfaction of the respective awards in Docket 343–70 and Docket 87–C granted to the Pyramid Lake Paiute Tribe before the United States Court of Claims, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be utilized as herein provided.

Per Capita Payment Aspect

"The Pyramid Lake Paiute Tribe's latest approved membership roll shall be brought current to include all eligible members born on or prior to and living on the effective date of this plan. Subsequent to the preparation and approval of the membership roll, the Secretary of the Interior (hereinafter 'Secretary') shall make a per capita distribution of eighty (80) percent of the funds, in sums as equal as possible, to each tribal enrollee.

"The per capita shares of living competent adults shall be paid directly to them. Shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR Part 4, Subpart D. Shares of legal incompetents shall be handled in accordance with 25 CFR 115.5. Shares of minors shall be handled in accordance with 25 CFR 87.10 (a) and (b)(1) and 115.4.

Programing Aspect

"Twenty (20) percent of the funds, and any amounts remaining after the per capita payment provided above, shall be invested by the Secretary, and the principal and interest and investment income accrued shall be utilized by the tribal governing body, on an annual budgetary basis subject to the approval of the Secretary, for tribal administration and social and economic programs. None of the funds distributed per capita or made available under this plan for programing shall be subject to Federal, State or local income taxes or be considered income or resources under the Social Security Act."

Kenneth Smith,

Assistant Secretary, Indian Affairs.

[FR Doc. 82-25436 Filed 9-24-82; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

Minnesota; Availability of Management Framework Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Availability of the Bureau of Land Management's management framework plan for public lands in Minnesota.

Notice is hereby given that a summary of the Bureau of Land Management's (BLM) Management Framework Plan for BLM-administered lands in Minnesota is now available.

The Management Framework Plan (MFP) for Minnesota considers the management of 1,193 islands, along with upland tracts totaling 45,344 acres.

The MFP includes the decision to transfer 81 islands and one upland tract to the National Park Service. These lands are in Voyageur's National Park and the Lower St. Croix National Scenic Riverway. The plan also includes decisions to consider applications from State and local government agencies for the remaining islands, as well as a small number of the upland tracts presently under BLM jurisdiction. Ten other upland tracts will be offered for public sale, and 129 upland tracts (totaling 33,425 acres) will be retained for use by other Federal agencies as an exchange base. Those lands not identified for exchange will be made available for public sale. Attempts will be made to exchange these lands for local government lands or privately-owned lands lying within the National Forests and Parks in Minnesota.

The State of Minnesota may receive the majority (1,055) of the islands, as well as some upland tracts. The State will include the islands and upland tracts in Wildlife Management Areas, parks, Scientific and Natural Areas, Wild and Scenic Rivers, Boating and Canoeing Rivers, and Public Access Sites. Local governments and agencies that may receive BLM-administered lands are: The Hennepin County Park Reserve District; the City of Shakopee; and Waseca, Aitkin, Blue Earth, and Itasca Counties.

The MFP also calls for the retention of 1,732,665 acres of Federal mineral ownership (FMO) in cases of potentially

valuable minerals, and recommends that BLM continue efforts to gain authority to lease hardrock minerals on the Public Domain. FMO without development potential could be transferred to the surface owner or administrator after a geologic investigation.

Copies of the summary of the MFP are available from the Bureau of Land Management, Duluth Field Office, 125 Federal Building, Duluth, Minnesota 55802. Telephone number: (218) 727–6692, ext. 378.

G. Curtis Jones, Jr.,

Eastern States Director.

[FR Doc. 82-26430 Filed 9-24-82; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-08927]

Idaho; Partial Termination of Proposed Withdrawal and Reservation of Lands

Correction

In FR Doc. 82–24710 appearing on page 39722 in the issue for Thursday, September 9, 1982, third column, the legal description for Meadow Creek Streamside Zone and Recreation Area (unsurveyed) should read as follows:

T. 31 N., R. 9 E.
Sec. 11, NW¼, SW¼, SE¼;
Sec. 14, E½.

BILLING CODE 1505-01-M

Utah; Grazing Management Program for Ashley Creek Planning Area

AGENCY: Bureau of Land Management, Interior

ACTION: Notice of availability of final environmental impact statement.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 and a 1975 Federal Court ruling, the Bureau of Land Management (BLM) has prepared a Final Environmental Impact Statement (EIS) for the Ashley Creek rangeland management program in Duchesne, Uintah, and a small portion of Carbon County.

The Final EIS is an abbreviated edition to be used with the Draft EIS; the EIS examines five alternative management programs: (1) Proposed Action—Multiple Use Recommendation, (2) Livestock Forage Recommendation, (3) No Action—Active Preference, (4) No Change—Average Use, and (5) Wildlife Habitat Recommendation. The objective of the alternatives is to provide land use management on the basis of multiple use long-term sustained yield of the natural resources on 527,974 acres of public land.

The alternatives examine proposed levels of grazing use ranging from 20,684 to 39,306 animal unit (AUMs) for livestock and from 10,454 AUMs short-term use to 20,767 AUMs long-term use for big game. Varying levels of vegetation manipulation and management would accompany the proposed levels of forage use.

Copies of the Final EIS are available from the Vernal District BLM Office at 170 South 500 East, Vernal, Utah 84078, or the Richfield District BLM Office at 150 East 900 North, Richfield, Utah 84701. Public reading copies of the Final EIS will be available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Street NW., Washington, D.C.
Utah State Office, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah

Decisions on the grazing management program will not be made until at least 30 days after the Final EIS is published. Written comments on the Final EIS may be submitted to be considered in the decision-making process during that 30-day period to the Vernal District Manager at the above-mentioned address by November 1, 1982.

Dated: September 1, 1982.

Roland G. Robison,

State Director.

[FR Doc. 82-26416 Filed 9-24-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Colorado River Basin Salinity Control Advisory Council; Public Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463)), announcement is made of a meeting of the Colorado River Basin Salinity Control Advisory Council at 1 p.m. on October 19, 1982, at the Hotel Bahia, 998 West Mission Bay Drive, San Diego, California 92109.

Purpose of Meeting

Council members will be briefed on the status of salinity control activities and receive input for drafting the Council's annual report.

Proposed Agenda

The Bureau of Reclamation, Soil Conservation Service, Bureau of Land Managment, and Environmental Protection Agency will each present a progress report and schedule of activities on salinity control in the Colorado River Basin. The Council will discuss Colorado River Basin Salinity Control activities and the content of its annual report.

Public Participation

The meeting of the Advisory Council is open to the public.

Any member of the public may file a written statement with the Council before, during, or after the meeting in person or by mail. To the extent that time permits, the Council chairman may allow public presentation of oral statements at the meeting.

All communications regarding this meeting, including requests for time to make statements, should be addressed to Mr. Fred T. Krauss, Acting Chief, Colorado River Water Quality Office, Bureau of Reclamation, Engineering and Research Center, P.O. Box 25007, Denver, Colorado 80225.

Dated: September 20, 1982.

Jed D. Christensen,

Acting Commissioner of Reclamation.

[FR Doc. 82-26417 Filed 9-24-82; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Fourth Regular Meeting; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; correction.

SUMMARY: This document corrects a notice publishing the time, place, and provisional agenda for the fourth regular meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora that appeared at pages 34043 through 34048 in the **Federal Register** of Thursday, August 5, 1982, (47 FR 34043). The action is necessary to correct errors made in the original document which omitted certain material.

DATES: The Service will consider information and comments concerning the provisional agenda received by October 31, 1982.

ADDRESSES: Information and Comments should be sent to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240. Information and comments are open to public inspection from 8:00 a.m. to 4:15 p.m. weekdays, except holidays, at the Federal Wildlife Permit Office, located at 1000 North Glebe Road, Room 620, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703/235–2418.

The following corrections are made in FR Doc. 82–21047 which appears at pages 34043 through 34048 in the issue of August 5, 1982.

1. On page 34045 at the bottom of the second column, renumber paragraph 6 as paragraph 7, and insert immediately before paragraph 7 the following paragraph:

6. Trade in African elephant ivory—A draft TEC resolution proposes that all raw and worked ivory weighing 2.2 pounds or less, with the exception of whole tusks, be considered not readily recognizable (hence not controlled by CITES).

2. On page 34045 in the third column, at the end of item 8, add the following paragraph to item 8:

A draft TEC resolution proposes that confiscated Appendix II specimens be disposed of in a manner benefitting enforcement and that steps be taken to avoid the "person responsible" receiving financial or other gain from the disposal; that in the case of live specimens, the "guilty importer and/or airline" meet the costs of confiscation, custody, and return (if appropriate); and that if return costs are not so met, financial assistance from nongovernmental organizations be sought.

Dated: September 17, 1982.

F. Eugene Hester,

Acting Director, Fish and Wildlife Service.

[FR Doc. 82–28471 Filed 9–24–82; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby give that Texoma Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 2950 and 2951, Blocks 148 and 151, Main Pass Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m. 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 10, 1982.

John L. Rankin,

Acting Minerals Manager Gulf of Mexico OCS Region.

[FR Doc. 82–28415 Filed 9–24–82; 8:45 am]

BILLING CODE 4310–21–M

Office of Surface Mining Reclamation and Enforcement

Abandoned Mine Lands Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of availability of findings of no significant impact (FONSI) addressing environmental assessments (EAs) for development of three abandoned mine land projects under the State of Pennsylvania Reclamation Plan.

SUMMARY: OSM has prepard EAs on projects submitted in the Federal Grant Application from the State of Pennsylvania to the Office of Surface Mining.

A FONSI has been made on the three reclamation projects indicated below and included in the grant application developed under Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1231–1234.

ADDRESS: Copies of the EAs and FONSI are available for inspection or may be obtained at the following location between the hours of 8:00 a.m. and 4:00 p.m.: Office of Surface Mining Reclamation and Enforcement, Pennsylvania State Office, 100 Chestnut Street, Suite 300, Harrisburg, Pennsylvania 17101.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Biggi, State Director, Office of Surface Mining, Telephone: (717) 782–4036.

Reclamation projects included in FONSI, location and description:

1. Plymouth Borough—West,
   Plymouth Borough, Luzerne County,
   Backfill an abandoned underground coal mine.
2. Baldwin Borough,
   Baldwin Borough, Allegheny County,
   Perform a number of core drillings to examine the subsurface strata of an abandoned coal mine to determine the extent of the underground workings.
3. Carbondale—Phase I,
   City of Carbondale, Lackawanna County,
   Backfill an abandoned underground coal mine.

Dated: September 21, 1982.

William B. Schmidt,

Director, Office of Surface Mining.

[FR Doc. 82–28470 Filed 9–24–82; 8:45 am]

BILLING CODE 4310–05–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387 (Sub-273)]

Atchison, Topeka and Santa Fe Railway Co.; Exemption for Contract Tariff ICC–ATSF–C–0122 (Grain)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exempton is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278).

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its

own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 20, 1982.

By the Commission, Review Board No. 3, Krock, Joyce and Dowell.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26478 Filed 9-24-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-272)]

Atchison, Topeka and Santa Fe Railway Co.; Exemption for Contract Tariff ICC-ATSF-C-0125 (Grain)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the Federal Register.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275-7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 21, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing (Member Williams not participating).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26479 Filed 9-24-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-269)]

Atchison, Topeka and Santa Fe Railway Co.; Exemption for Contract Tariff ICC-ATSF-C-0052 (Canned Goods)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the Federal Register.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275-7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commision is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 20, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26482 Filed 9-24-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-274)]

Atchison, Topeka and Santa Fe Railway Co.; Exemption for Contract Tariff ICC-ATSF-C-0014, Amendment (Grain via the Ports of Galveston, Houston, Beaumont, and Texas City, TX)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the Federal Register.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275-7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 20, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier (Board Member Parker not participating).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26485 Filed 9-24-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-268)]

Louisville and Nashville Railroad Co.; Exemption for Contract Tariff ICC-LN-C-0037 (Grain via the Ports of Chicago, IL, E. St. Louis, IL, Mt. Vernon, IN, Evansville, IN)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275-7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 21, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing (Member Williams not participating).

Agatha L Mergenovich,

Secretary.

[FR Doc. 82-26469 Filed 9-24-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-271)]

McCloud River Railroad; Exemption for Contract Tariff ICC-MR-C-003 (Lumber)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275-7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 20, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier (Board Member Parker not participating).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26480 Filed 9-24-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-267)]

Missouri Pacific Railroad Co.; Exemption for Contract Tariffs ICC-MP-C-0073, 0081, 0082, 0091, 0092, 0093, 0094, 0095, 0096, 0097, 0098, 0099, 0101, 0102, 0108, 0111, and 0114 (Canned or Preserved Foodstuffs)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariffs may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275-7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 20, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier (Board Member Parker not participating).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26477 Filed 9-24-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-266)]

Missouri Pacific Railroad Co.; Exemption for Contract Tariff ICC-MP-C-0046 (Soda Ash)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 20, 1982.

By the Commission, Review Board No. 3, Krock, Joyce and Dowell.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26484 Filed 9-24-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-270)]

Seaboard Coast Line Railroad Co.; Exemption for Contract Tariff ICC-SCL-C-0041 (Superphosphate)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10105(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 20, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier (Board Member Parker not participating).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26481 Filed 9-24-82; 8:45 am]

BILLING CODE 7035-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier; Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–203

The following applications were filed in region I: Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 134806 (Sub-1–40TA), filed September 13, 1982. Applicant: B–D–R TRANSPORT, INC., Vernon Drive, P.O. Box 1277, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East-West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* Irregular routes: *Personal safety equipment, including respirators, hearing protection devices, eye wear and hard hats, and lenses and frames for glasses,* between Southbridge, MA, on the one hand, and, on the other, San Francisco, CA, under continuing contract(s) with American Optical Co., Southbridge, MA. Supporting shipper: American Optical Co., Box 1979, Southbridge, MA 01550.

MC 97447 (Sub-1–1TA), filed September 15, 1982. Applicant: BRAINERD A. BROWN, 233 Woodlawn Road, Berlin, CT 06037 Representative: John E. Fay, 663 Maple Avenue, Hartford, CT 06114. *General commodities (except classes A and B explosives household goods, and commodities in bulk),* between points in CT, on the one hand, and, on the other, points in MA, RI, and NY. Supporting shipper(s): Jewelers Shipping Association, 125 Carlsbad Street, Cranston, RI; The Stanley Works, 195 Lake Street, New Britain, CT 06050; Keeney Manufacturing Co., Main Street, Newington, CT 06111.

MC 153032 (Sub-1–2TA), filed September 7, 1982. Applicant: ROBERT A. DIEDERICH, JR. d.b.a. DIEDERICH TRUCKING CO., 4058 Walden Avenue, P.O. Box 96, Lancaster, NY 14086. Representative: William J. Hirsch P.C., 64 Niagara Street, Buffalo, NY 14202. *(1) Pet foods, and materials, supplies and equipment used in the manufacture thereof,* from Buffalo, NY, to Windsor Locks and New Haven, CT; Portland and S. Gardiner, ME; Manchester and Keene, NH; Carlstadt and Elizabeth, NJ; Cleveland, Columbus and Akron, OH; Andover E. Bridgewater and Northboro, MA; Pittsburgh, York, and Temple, PA; E. Providence and Cumberland, RI; White River Junction, St. Johnsbury and Brattleboro, VT; and empty pallets on

return; *(2) Scrap paper and waste paper,* from Newark and Somerset, NJ; Scranton, Berwick, Mt. Joy and Norristown, PA; Niles and Columbus, OH; Boston, MA; New Haven, CT; Parkersburg, WV; Detroit, MI; to Buffalo and Niagara Falls, NY; *(3) Jams, jellies, syrups and supplies and equipment used in the manufacture thereof,* from Buffalo, NY, on the one hand, and, on the other, Detroit, MI; Hartford, CT; Baltimore, MD; Providence, RI; Tulsa, OK; Newark NJ; Rymersburg and Philadelphia, PA; Neenah, WI; Cincinnati and Worthington, OH; Champaign and Peoria, IL; Atlanta, GA; and points in FL and MA; *(4) Candy, tobacco, cookies, health and beauty aids, and sundries,* between Buffalo, NY on the one hand and, on the other, points in AR, CO, IL, IN, IA, KY, MA, MN, MO, NJ, NE, OH, OK, PA, SD, TX, TN, WI, and WY. Supporting shipper(s): A & R Pet Food Co., Inc., P.O. Box 186, Buffalo, NY 14240; Ramcol Fibers Inc., 374 Delaware Ave., Buffalo, NY 14202; Henry & Henry, Inc., 1200 Northland Ave., Buffalo, NY 14240; Tzetzo Bros. Inc., 1100 Military Road, Buffalo, NY 14217.

MC 163813 (Sub-1–1TA), filed September 13, 1982. Applicant: ESPOSITO'S WORLDWIDE TRAVEL, 500 Foxon Road, East Haven, CT 06513. Representative: Francis Capone (same as applicant). *Passengers and their baggage, in special and charter operations,* beginning and ending at points in New Haven County, CT and extending to points in MA, NY, NJ, and RI. Supporting shipper: New Haven Ambulance Service, Inc., 90 Goffe Street, New Haven, CT 06511.

MC 163861 (Sub-1–1TA), filed September 15, 1982. Applicant: G & G HAULILNG AND RIGGING, INC., 1068 Sheridan Drive, Tonawanda, NY 14150. Representative: Robert D. Gunderman, P.C., Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. *Iron and steel products, and machinery and equipment,* between points in Erie and Niagara Counties, NY, Chippewa and Macomb Counties, MI and Worcester County, MA, on the one hand, and, on the other, points in AL, CA, FL, IL, IN, LA, MI, MN, MS, PA, SC, TN, VA, and WA. Supporting shipper(s): Blue Giant Equipment Corporation of 310 Creekside Drive, Tonawanda, NY 14150; Gilbralter Steel, 635 South Park Avenue, Buffalo, NY 14240; Morgan Construction Company, 15 Belmont Street, Worcester, MA 01605.

MC 150666 (Sub-1–2TA), filed September 8, 1982. Applicant: ELTON M. HARVEY TRUCKING, INC., 19 Edgeboro Road, East Brunswick, NJ 08816. Representative: Henry J. Capro, Esq., Capro & Hilliard, Esqs., 1585 Morris Avenue, Union, NJ 07083. *Steel generating parts, steel boiler drums, steel boiler headers, and iron and steel articles* between NY, PA, NV, UT, CO, NE, and WY. Applicant intends to tack to present docket. Supporting shipper: Foster Wheeler Energy Corporation, 110 South Orange Ave., Livingston, NJ.

MC 151193 (Sub-1–35TA), filed September 14, 1982. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Avenue, Avenel, NJ 07001. Representative: Michael A. Beam (same as applicant). *Contract carrier:* irregular routes: *Food and related products, and equipment, materials, and supplies used in the manufacture, sale and distribution of such commodities (except in bulk),* between points in FL, MD, NJ, NY, PA, GA and VA, under continuing contract(s) with Tropic Ice, Inc. Supporting shipper: Tropic Ice, Inc., 16330 N.W. 48th Ave., Hialeah, FL 33014.

MC 151193 (Sub-1–34TA) (republication), filed August 23, 1982. Applicant: PAULS TRUCKING CORP., 286 Homestead Avenue, Avenel, NJ 07001. Representative: Michael A. Beam (same as applicant). *Contract carrier:* irregular routes: *Freight normally found in retail, wholesale chain grocery stores, discount department stores and drug stores* from points in IL to points in CO, KS, MO, MN and NB, under continuing contract(s) with Allied Shippers and Receivers Association of Chicago, IL. Supporting shipper: Allied Shippers and Receivers Association, 3333 W. Thirty-Sixth Street, Chicago, IL 60632. Sole purpose of this republication is to amend point of origin to IL instead of FL as previously published.

MC 157563 (Sub-1–1TA), filed September 15, 1982. Applicant: R.P.M.S. TRUCKING, 3 Amherst Road, South Hadley, MA 01075. Representative: Patrick A. Doyle, Esq., 40 Sky Ridge Lane, Springfield, MA 01128. *Food and related products* between MA, ME, VT, NH, CT, RI, NJ, NY, PA, DE, MD, DC, GA, FL and CA. Supporting shipper: David B. Calkins, 112 Hadley Village Road, South Hadley, MA.

MC 162209 (Sub-1–1TA), filed September 14, 1982. Applicant: STERLING TRANSPORT, INC., Hanover Plaza, Morristown, NJ 07960. Representative: William J. Hanlon, Esq. (same as applicant). *Contract carrier:* Irregular routes: *Drugs, medicines and toilet preparations* between the facilities of Carter Wallace, Mercer County, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Carter Wallace, Inc., Cranbury, NJ. Supporting shipper: Carter Wallace, Inc., P.O. Box 1, Cranbury, NJ 08512.

MC 156384 (Sub-1–3TA), filed September 15, 1982. Applicant: TRANSPO, INCORPORATED, 9 Mill Plain Road, Danbury, CT 06810. Representative: Sidney J. Leshin, Esq., 3 East 54th Street, New York, NY 10022. *Contract carrier:* Irregular routes: *Passengers and their baggage,* beginning and ending at New Haven and Litchfield Counties, CT, and extending to all points in the U.S., under continuing contract(s) with Gad About Tour & Travel, Inc., Middlebury, CT. Supporting shipper: Gad About Tour & Travel, Inc., 59 Dorothy Drive, Middlebury, CT 06762.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 154861 (Sub-3–10TA), filed September 14, 1982. Applicant: CAROLINA MOTOR EXPRESS, INC., P.O. Box 550, Forest City, NC 28043. Representative: Eric Meierhoefer, 915 Pennsylvania Building, 425 13th Street, NW., Washington, D.C. 20004. *Transportation equipment, and materials and supplies used in the manufacture and distribution thereof,* between points in Gaston County, NC, and Dillon County, SC, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Wix Corporation, P.O. Box 1967, Gastonia, NC 28052.

MC 140484 (Sub-3–32TA), filed September 14, 1982. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same as applicant). *Carbonated beverages and materials and supplies used in the manufacture and distribution of the aforementioned commodities,* between Detroit, MI; Evansville, IN; Scranton, PA; Morgantown, NC; Miami, FL; St. Louis, MO; Winsboro, LA; and Dallas, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Faygo Beverages, Inc., 1365 Jarvis St., Ferndale, MI 48220.

MC 47171 (Sub-3–17TA), filed September 14, 1982. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). *Contract:* Irregular: *Floor covering, accessories and related articles used in the manufacture and distribution thereof* between points in the U.S. in and east of MI, OH, KY, TN, and AL. Supporting shipper: Orders Tile & Distributing Company, Inc., P.O. Box 17189, Greenville, SC 29602.

MC 163856 (Sub-3–1TA), filed September 15, 1982. Applicant: OLEN BLANKINSHIP d.b.a. BLANKINSHIP TRANSPORTATION, Route 5, Scott Road, Canton, GA 30114. Representative: Clayton R. Byrd, 2870 Briarglen Drive, Doraville, GA 30340. *Contract:* Irregular: *Food and related products,* from Oneonta, AL, Waterloo, IA, Middlesboro, KY, St. Joseph, MO, Fall city, NE, Washington Court House, OH, and Clinton, OK to Atlanta, GA, New Orleans, LA, and San Antonio, TX; from Denver, CO to Hutchinson and Liberal, KS, New Orleans, LA, and San Antonio, TX; and from Waterloo, IA, Lyons, NE, and Fond du Lac, WI to Denver, CO, New Orleans, LA, and San Antonio, TX, under continuing contract with Bar-S foods Co. of Phoenix, AZ. Supporting shipper: Bar-S Foods Co., P.O. Box 29049, Phoenix, AZ 85038.

MC 143956 (Sub-3–27TA), filed September 14, 1982. Applicant: GARDNER TRUCKING CO., INC., P.O. Drawer 493, Walterboro, SC 29488. Representative: Steven W. Gardner, P.O. Box 393, Berne, IN 46711. *Meat and meat products* between points in the U.S., under continuing contract with Mondi, Inc. Supporting shipper: Mondi, Inc., 7368 Woodcroft, Cincinnati, OH 45230.

MC 161634 (Sub-3–4TA), filed September 14, 1982. Applicant: SUNDANCE EXPRESS CORPORATION, 1069 Bankhead Highway, P.O. Box 157, Mableton, GA 30059. Representative: Clayton R. Byrd, 2870 Briarglen Drive, Doraville, GA 30340. *Contract:* Irregular: *Vehicular inner tubes,* from Warrenton, GA, and points in its commercial zone, to Denver, CO, Cocoa Beach, Jacksonville, Miami, Orlando, and Tampa, FL, Shreveport, LA, Detroit and Flint, MI, Batesville and Laurel, MS, Chattanooga, Dyersburg, Memphis, and Nashville, TN, and Houston and Waco, TX, under continuing contract with Warrenton Rubber Company, Division of E. H. Mann, Inc., of Warrenton, GA. Supporting shipper: Warrenton Rubber Company, Divison of E. H. Mann, Inc., 101 Fowler Street, Warrenton, GA 30828.

The following applications were filed in Region 4: Send protests to ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 15735 (Sub-4–27TA), filed August 25, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Household goods* from points in the U.S. to points in Burleigh, Dunn, Mercer, Morton and Oliver Counties, N.D., under a continuing contract with American Natural Gas Coal Gasification Co. Supporting shipper: American Natural Gas Coal Gasification Co., Detroit, MI.

MC 40978 (Sub-4–20TA), filed September 14, 1982. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, 3321 South Business Dr., Sheboygan, WI 53081. Representative: Daniel R. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203. *Furniture and fixtures,* from the facilities of Haskell of Pittsburgh, Inc., at Verona and New Kensington, PA, to point in IA, IL, IN, MI, MN, MO, OH, and WI. Supporting shipper: Haskell of Pittsburgh, Inc., 231 Haskell Lane, Verona, PA, 15147.

MC 110923 (Sub-4–2TA), filed September 13, 1982. Applicant: ALBERT LIVEK, d.b.a. AL LIVEK'S TRUCKING SERVICE, 808 Harrison St., Kewanee, IL 61443. Representatives: Edward D. McNamara, Jr., Leslieann G. Maxey, 907 South Fourth St., Springfield, IL 62703. *Alcoholic beverages* between Milwaukee, WI, on the one hand, and Kewanee, IL, on the other hand. Supporting shipper: C. L. Van de Voorde Distributing, Inc., 337 Tenney St., Kewanee, IL 61443.

MC 146383 (Sub-4–2TA), filed September 13, 1982. Applicant; H. PRUITT TRUCKING, INC., 2333 Wadsworth, Saginaw, MI 48601. Representative: Robert E. McFarland, 2855 Coolidge, Ste. 201A, Troy, MI 48084. *Contract,* irregular: *Petroleum and petroleum products, in bulk, in tank vehicles,* between Flint, MI and the commercial zone thereof, and the facilities of General Motors Corporation located at or near Athens, AL, under a continuing contract(s) with General Motors Corporation. Supporting shipper: General Motors Corporation, 3900 Highland Road, Saginaw, MI 48605.

MC 150277 (Sub-4–1TA), filed September 13, 1982. Applicant: HOWARD McLAIN TRANSPORTATION, INC., 139. S. Bunn Rd., Hillsdale, MI 49242. Representative: James R. Neal, 1200 Bank of Lansing Bldg., Lansing, MI 84933. *Metal and metal products* between various points in MI, on the one hand, and, on the other, points in IL, IN, IA, MO, TX, WI, PA, and NY. Supporting shippers: Hillsdale Tool & Manufacturing Co., 135 E. South St., Hillsdale, MI 49424; Simpson Industries, Inc., 917 Anderson Rd., Litchfield, MI 49252; and Extruded Metals, 302 Ashfield, Belding, MI 48809.

MC 157459 (Sub-4–2TA), filed September 13, 1982. Applicant: LEWIS C. HOWARD, INC., 760 E. Vine St., Kalamazoo, MI 49001. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Contract* irregular: *General commodies (except in bulk, Classes A and B explosives, and household goods as defined by the Commission)* between all points in the U.S. (except AK and HI), under contracts with Clark Equipment Company. Supporting shipper: Clark Equipment Co., P.O. Box 1320, Battle Creek, MI 49016.

MC 162547 (Sub-4–1TA), filed August 23, 1982. Applicant: FLAT RIVER TRANSPORTATION INC., 10871 Montcalm Ave., Greenville, MI 48838. Representative: Thomas E. Bivins, 10871 Montcalm Ave., Greenville, MI 48838. *Contract* irregular: *Beer* between Milwaukee, WI and points in Ionia and Montcalm Counties, MI and between Fulton, NY and points in Ionia and Montcalm Counties, MI and between Perry, GA and points in Ionia and Montcalm Counties, MI. Underlying ETA seeks 120 day authority. Supporting shipper: Paul Drake Dist., 420 State St., Greenville, MI and Lakeland Dist., 875 Fairplanes St., Greenville, MI 48838.

MC 163809 (Sub-4–1TA), filed September 13, 1982. Applicant: DECKER DISTRIBUTING, INC., 211 West Coleman Street, Rice Lake, WI 54865. Representative: Michael J. Collins, Collins, Beatty & Krekeler, SC, 14 West Mifflin Street, Suite 310, P.O. Box 1042, Madison, Wisconsin 53701. *Contract* irregular: *Food and related products* from Bloomer, WI to points in IL, IN, IA, KY, MN, MO and TN under continuing contract(s) with Big Stone, Inc., Chaska, Minnesota. Supporting shipper: Big Stone, Inc., P.O. Box 86, Chaska, MN 55318.

MC 163810 (Sub-4–1TA), filed September , 1982. Applicant: M. A. WOLF, d.b.a. WOLF TRUCKING, 4421 Sherman Road, Slinger, WI 53086. Representative: Michael J. Collins, Collins, Beatty & Krekeler, SC, 14 West Mifflin Street, Suite 310, P.O. Box 1042, Madison, WI 53701. *Contract* irregular: Metal slugs and related articles from Chicago, IL to Schofield, WI under a continuing contract(s) with J. I. Case, C. E. Division, Schofield, WI. Supporting shipper: J. I. Case, 900 Alderson St., Schofield, WI.

MC 119626 (Sub-4–2TA), filed September 16, 1982. Applicant: ILL.-PAC. COAST TRANSPORTATION CO., 1601 Market St., Madison, IL 62060. Representative: E. B. Roling (same). *Pyroxlin plastics and pyroxlin plastic articles,* between Coachella, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Armtec Defense Products, Inc., P.O. Box 848, 85–901 Ave. 53, Coachella, CA 92236.

MC 123765 (Sub-4-6TA), filed September 17, 1982. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 East National Ave., Milwaukee, WI 53204. Representative: William C. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203. *Contract, irregular; such commodities as are dealt in by retail department stores* between points in the Chicago, IL, Commercial Zone, on the one hand, and on the other, points in WI, under continuing contract(s) with J. C. Penney Company, Inc. Supporting shipper: J. C. Penney Company, Inc., 851 Devon Ave., Elk Grove Village, IL 60007.

MC 142258 (Sub-4-2TA), filed September 17, 1982. Applicant: DALE BLAND TRUCKING, INC., R.R. #1, Switz City, In 47465. Representative: Norman R. Garvin, Scopelitis & Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204-3491. *Coke*, from Indianapolis, IN to points in MI, IA, MO, OH, IL, WI, and KY. Supporting shipper: Citizens Gas & Coke Utility, 2950 Prospect Street, Indianapolis, IN 46203.

MC 142310 (Sub-4-13TA), filed September 17, 1982. Applicant: H.O. WOLDING, INC., P.O. Box 56, Nelsonville, WI 54458. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703; (608) 256-7444. (1)(a) *Pulp, paper and related products*,(b) *rubber and plastic products*, (c) *non-wovens and non-woven articles*, and (d) *metal products* from Muskogee, OK to points in IL, IA, MN, MO, and WI; and (2) *materials, equipment, and supplies* (except in bulk) used in the manufacture, conversion, or distribution of commodities listed in Part (1) from points in AL, CT, GA, MA, MD, MI, NC, NJ, NY, PA, SC, VA, WV, and the District of Columbia to Muskogee, OK. Underlying ETA seeks 120 day authority. Supporting shipper: Fort Howard Paper Company, 1919 S. Broadway St., Green Bay, WI 54305.

MC 146062 (Sub-4-4TA), filed September 16, 1982. Applicant: J. C. HAULING CO., P.O. Box 12, Millstadt, IL 62260. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102. *Transporting prestressed concrete products* and materials, equipment and supplies used in the manufacture, distribution and installation thereof, between East St. Louis, IL and Little Rock, AR. Supporting shipper: Prestressed Concrete Slabs, Inc., 2400 McCasland Ave., East St. Louis, IL 62201.

MC 162610 (Sub-4-2TA), filed September 16, 1982. Applicant: JETM DISTRIBUTION SYSTEM, INC., 8424 West 47th St., Lyons, IL 60534. Representative: Daniel C. Sullivan, Sullivan & Associates, Ltd., 180 North Michigan Avenue, Suite 1700, Chicago, IL 60601. *Contract, irregular: Such commodities* as are dealt in or used by refrigerated warehouses, between points in the U.S. (except AK and HI), under continuing contract(s) with U.S. Cold Storage of Lyons, IL. Supporting Shipper: U.S. Cold Storage, 8424 West 47th Street, Lyons, IL 60534.

MC 163794 (Sub-4-1TA), filed September 16, 1982. Applicant: G. G. BARNETT TRANSPORT, INC., 507 York St., Beaver Dam, WI 53916. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *(a) Malt beverages and (b) motor oil* (a) between Memphis, TN and Minneapolis/St. Paul, MN on the one hand and on the other Beaver Dam, WI. Restriction: Restricted to traffic originating or destined to the facilities of Central Wisconsin Distributing, Inc. and (b) between Chicago, IL and points in Dodge, Jefferson, Washington and Waukesha Counties, WI. Restriction: Restricted to traffic originating or destined to the facilities or customers of Klink Oil Co., Inc. Supporting shippers: Central Wisconsin Distributing, Inc., Route 1, Baker Road, Beaver Dam, WI 53916 and Klink Oil Co., Inc., 1231 Wakoka Street, Watertown, WI 53094.

MC 163870 (Sub-4-1TA), filed September 16, 1982. Applicant: LOUIS LANE, INC., 1025 S. 3rd Ave., Wausau, WI 54401. Representative: Nancy J. Johnson, Attorney, 103 East Washington St., Box 218, Crandon, WI 54520. *Paper and paper products* from Wisconsin Rapids, WI to points in the Los Angeles, CA Commercial Zone. Supporting shipper: Kirk Paper Co., 6550 E. Washington Blvd., City of Commerce, CA 90040.

MC 163873 (Sub-4-1TA), filed September 16, 1982. Applicant: TIM'S MOTOR SERVICE, INC., P.O. Box 501, Bensenville, IL 60106. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603; 312/782-8880. *Paper and paper articles* from the facilities of Packaging Corporation of America, Inc., located at or near Burlington, WI, to the facilities of Packaging Corporation of America, Inc., located at or near Chicago, IL. Supporting shipper: Packaging Corporation of America, Inc., 1603 Orrington Ave., Evanston, IL 60204.

MC 163890 (Sub-4-1TA), filed September 17, 1982. Applicant: INDIANA LANDMARK, INC., R.R. #2, Box 10, Silver Lake, IN 46982. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Contract* irregular *Food and related products*, (except commodities in bulk) between points in the U.S. under continuing contracts with V.P.I., Inc/ Stratford Farms. Supporting shipper: V.P.I., Inc./Stratford Farms, P.O. Box 458, Goshen, IN 46526.

MC 163893 (Sub-4-1TA), filed September 17, 1982. Applicant: THOMAS O'BRIEN d.b.a. O'BRIEN TRUCKING, 3207 North Highway O, Wausau, WI 54401. Representative: Michael J. Collins, Collins, Beatty & Krekeler, S.C., 14 West Mifflin Street, Suite 310, P.O. Box 1042, Madison, WI 54401. *Paper, plastic and related articles and materials, equipment and supplies used or useful in the manufacture, sale, or distribution of such commodities* between Rhinelander, WI, on the one hand, and on the other, points in IL, IN, IA, KY, MI, MN, NJ, OH, PA, and TN. Supporting shippers: Daniels Packaging Co., Inc., 14 W. Kemp St., Rhinelander, WI 54501.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, P.O. Box 17150, Fort Worth, TX 76102.

MC 78644 (Sub-5-1TA), filed September 14, 1982. Applicant: COPPES TRANSFER, INC., Box 718, Yarmouth, IA 52660. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Fertilizer and fertilizer materials* between Des Moines, Lee, Clinton, Dubuque, Washington, Henry, Jones and Cedar Counties, IA; LaSalle, Jo Daviess, Whiteside, Hancock, Henry, Peoria, Tazwell, McLean and St. Claire Counties, IL; and Crawford and Dane Counties, WI on the one hand, and, on the other, points in IL, IA, MO, WI, KS, NE and MN. Supporting shippers: Burlington River Terminal, Burlington, IA; Terra Chemicals International, Winfield, IA; Big Bills, Inc., Wyoming, IA; Smith-Douglass Corporation, Streator, IL; Lowden Fertilizer, Lowden, IA; Growmark, Inc., Bloomington, IL.

MC 88368 (Sub-5-16TA), filed September 14, 1982. Applicant: CARTWRIGHT VAN LINES, INC., 11901 Cartwright Avenue, Grandview, MO 64030. Representative: C. Max Stewart (same as applicant). *Such commodities as are used or sold by catalog showrooms, department stores and supermarkets*, between points in the U.S. (except AK and HI) restricted to traffic originating at or destined to facilities of the supporting shippers and their suppliers. Supporting shippers: Ardan, Inc., Des Moines, IA, Modern Merchandising, Inc., Minnetonka, MN,

and Wal-Mart Stores, Inc., Bentonville, AR.

MC 133506 (Sub-5–2TA), filed September 14, 1982. Applicant: J & B TRANSPORTATION CO., INC., P.O. Box 18629, Fort Worth, TX 76118. Representative: William D. White, Jr., 4200 Republic Bank Tower, Dallas, TX 75201. *Sand, gravel and crushed rock, restricted to movement in dump trailers,* between points in AL, AR, CO, GA, KY, LA, MS, MO, NM, NC, OK, SC, TN, TX, VA, and WV. Supporting shippers: Martin Industries, Fort Worth, TX 76140; and Cangelosi Company, Missouri City, TX 77459.

MC 152277 (Sub-5–9TA), filed September 14, 1982. Applicant: LONG MILE RUBBER COMPANY, 155 South Court, Exchange Park, Dallas, TX 75245. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Silica and Plastic Materials (except in bulk)* from Barberton, OH, Memphis, TN, and Lake Charles, LA to Carrollton, TX. Supporting shipper: Harwick Chemical Corporation, 1255 Champion Circle, Carrollton, TX 75006.

MC 158959 (Sub-5–5TA), filed September 14, 1982. Applicant: RINEHART'S MEAT PROCESSING, INC., SR 2, Hollywood Hills, Branson, MO 65616. Representative: Charles J. Fain, 333 Madison Street, Jefferson City, MO 65101. Contract; Irregular. *Meat, meat products, primal cuts of beef, pork and lamb, and packaged meats* between Branson, MO and all points in AR, OK, KS, NE, MO, IA, TN, IL and MS. Supporting shippers: Canadian Valley Meat Co., Oklahoma City, OK; Dubuque Packing Company, Dubuque, IA 52001; Kretschmar Brands, Inc., Pittsburg, KS 66762; Oldhams Farm Sausage Co., Inc., Lees Summit, Mo 64063.

MC 142288 (Sub-5–5TA), filed September 15, 1982. Applicant: HAMILTON TRUCKING COMPANY OF OKLAHOMA, INC., 12012 E. Admiral Place, Tulsa, OK 74116. Representative: Fred Rahal, Jr., Suite 305, Reunion Center, 9 East Fourth Street, Tulsa, OK 74103. Contract, Irregular: *Petroleum Coke,* between points in the U.S., under continuing contract(s) with Martin Marietta Cement, Midwest Division, Tulsa, OK. Supporting shipper: Martin Marietta Cement, Midwest Division, 5350 E. 46th Street, Tulsa, OK 74145.

MC 156255 (Sub-5–1TA), filed September 17, 1982. Applicant: JOHN S. FURDEK, 7809 Goya Street, St. Louis, MO 63139. Representative: Thomas P. Rose, P.O. Box 205, Jefferson City, MO 65102. *Building Materials* from the facilities of Owens-Corning Fiberglas Corporation in Maryland Heights, MO to points in IL and points in KY west of the Tennessee River. Supporting shipper: Owens-Corning Fiberglas Corp. Toledo, OH.

MC 161431 (Sub-6–2TA), filed September 17, 1982. Applicant: JOHN MANGANO d.b.a. C & C TRANSPORT, INC, 1400 Airline Highway, Baton Rouge, LA 70805. Representative: John Mangano (same as above). *Bulk Petroleum Products in tank vehicles* from Calcasieu Parish, LA to points in TX. Supporting shipper: Racetrac Petroleum, Inc., 2625 Cumberland Parkway, N.W., Suite 100, Atlanta, GA 30339.

MC 163570 (Sub-5–2TA), filed September 17, 1982. Applicant: CHARLES R. ALFORD d.b.a. ALFORD TRUCK LINES, P.O. Box 732, Bridge City, TX 77611. Representative: C. W. Ferebee, 3910 FM 1960 West, Suite 106, Houston, TX 77068. *Petroleum products (except commodities in bulk),* between Jefferson County, TX, on the one hand, and points in LA on the other hand. Supporting shippers: D & S Distributors, Inc., Plaquemine, LA; C. J. Matherne, Inc., Houma, LA; Kentwood Oil Co., Inc., Kentwood, LA; Mike M. Marcello Distributors, Inc., Donaldsonville, LA.

MC 163603 (Sub-5–TA), filed September 17, 1982. Applicant: MICHAEL SNITKER d.b.a. SNITKER TRUCKING, P.O. Box 374, Waukon, IA 52172. Representative: Michael Snitker (same as above). *Dairy Products (cheese)* from Portage, WI (AMPI Cheese Plant) to Carson, CA. Supporting shipper: Supremeco Inc., Carson, CA.

MC 163604 (Sub-5–1TA), filed September 17, 1982. Applicant: MIDSTATES EXPRESS, INC., P.O. Box 510, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). *Food and related products* (1) Between points in the Kansas City, KS and Kansas City, MO commercial zone on the one hand, and, on the other points in the United States located in and east of AZ, MT, UT and WY (2) Between Charleston, SC, Galvaston, TX, Gulfport, MS, New Orleans, LA and Tampa, FL on the one hand, and, on the other points in the United States located in and east of AZ, MT, UT and WY (3) Between points in the states of AL, AR, CO, FL, GA, IA, IL, KS, LA, MN, MO, MS, NE, OK, SC, SD, TN, TX and WI. Supporting shippers: Commercial Distribution Center, Inc., Independence, MO; Houlehan, Inc., Kansas City, MO; D. A. Welch, Kansas City, MO.

The following applications were filed in Region 6. Send protests to Interstate Commerce Commission, Region 6, Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 99388 (Sub-6–1TA), filed September 10, 1982. Applicant: ALLTRANS EXPRESS U.S.A., 1335 6th St., San Francisco, CA 94107. Representative: Thomas R. Tuite, (same as applicant). *General Commodities, in ocean containers, having immediately prior or subseqnet movement by water,* (1) Between Los Angeles, Los Angeles Harbor or Long Beach, CA on the one hand; and Oakland, San Francisco, Richmond or Stockton, CA on the other for 270 days. Supporting shippers: Trident Navigation Company, Inc., Agent Yang Ming Lines, 332 Pine St., San Francisco, CA 94104; Pacific Oriental Terminal Company, Pier 27, San Francisco, CA.

Note.—Applicant proposes to serve the Commercial zones of the above named points.

MC 163818 (Sub-6–1TA), filed September 13, 1982. Applicant: C.P.H. TRANSPORT, INC., P.O. Box 950, Florence, OR 97439. Representative: Robert H. Foster, Larry O. Gildea, P.C., 342 East 12th Ave., Eugene, OR 97401. *Forest Products, lumber and wood products,* and *pulp, paper and related products* between points in OR on the one hand and points in CA, ID, NV, UT, and WA on the other for 270 days. Supporting shipper: SeaTerm Services, Inc., P.O. Box 748, North Bend, OR 97459.

MC 42487 (Sub-6–71TA), filed September 13, 1982. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Contract Carrier,* irregular routes: *General commodities,* (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Ingersoll-Rand Company of Piscataway, NJ and its wholly owned subsidiaries, for 270 days. Supporting shipper: Ingersoll-Rand Company, 91 New England Ave., Piscataway, NJ 08854.

MC 163819 (Sub-6–1TA), filed September 13, 1982. Applicant: J & L FARMS, INC., 22239 S. 118th St., Chandler, AZ 85224. Representative: David Robinson and Lewis P. Ames, 2228 West Northern Ave., Suite B201, Phoenix, AZ 85021. *Fertilizer and fertilizer ingredients, feed and feed ingredients, cottonseed cake and meal, hay cubes and pellets in bulk or bags* between points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA and WY, restricted to the transportation of these

commodities in walking floor trailers for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Aztec Feeds, 116 West Broadway, Mesa, AZ 85202; Western Farm Service, 3075 Citrus Circle, Suite 195, Walnut Creek, CA 94596.

MC 163798 (Sub-6–1TA), filed September 10, 1982. Applicant: HUNTSMAN AG. SERVICE, P.O. Box 189, Enterprise, UT 84725. Representative: Nicholas Huntsman (same address as applicant). *Building materials* between points in Los Angeles, Orange, Riverside and San Bernardino counties of CA, to points in UT and NV for 270 days. An underlying, ETA seeks 120 days authority Supporting shipper: There are five (5) supporting shippers. Their statements may be examined at the Regional Office listed.

MC 129031 (Sub-6–1TA), filed September 13, 1982. Applicant: KLAUSNER TRANSPORTATION CO., INC., 101 N. Ave. 18, Los Angeles, CA 90031. Representative: William Davidson, 5501 Pacific Blvd., Suite 200, Huntington Park, CA 90255. *Contract Carrier,* Irregular Routes: *Wearing apparel on hangers,* and such *commodities as are dealt in by retail department* and *retail chain stores;* Between Los Angeles, CA Commercial Zone and points and places in the U.S. for 270 days. Supporting shippers: Transportation Alternatives Company, 615 E. Alondra Blvd., Gardena, CA; Orient GOH Uni-freight Systems, 22560 Lucerne St., Carson, CA.

MC 163789 (Sub-6–1TA), filed September 10, 1982. Applicant: LCI TRUCKING CO., P.O. Box 2177, Upland, CA 91786. Representative: Jim Pitzer, 15 South Grady Way, Suite 321, Renton, WA 98055–3273. (1) *Commodities as may be dealt in or used by wholesale or retail stores;* (2) *General Commodities* (excluding classes A or B explosives and household goods); between points in AK, CA, OR, WA for 270 days. There are 5 supporting shippers. Their statements may be examined at the Regional office shown above.

MC 150255 (Sub-6–4TA), filed September 10, 1982. Applicant: LEPRINO TRANSPORTATION COMPANY, 3740 Shoshone Street, Denver, CO 80211. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202–3357. *Contract carrier,* irregular route: *Alcoholic beverages and liquor,* from St. Louis, MO, Seattle, WA, Phoenix, AZ, La Crosse, WI, Omaha, NE, and Ripon and Long Beach, CA to the facilities of C & C Distributing Company at Denver, CO, under continuing contract(s) with C & C Distributing Company of Denver, CO, for 270 days. Supporting shipper: C & C Distributing Company, 6275 E. 39th Ave., Denver, CO 80216.

MC 730 (Sub-6–19TA), filed September 13, 1982. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO, P.O. Box 8004, Walnut Creek, CA 94596. Representative: Alfred G. Krebs (same as applicant). *Contract,* irregular; *General commodities* (except Class A and B explosives, household goods and commodities in bulk) between points in the U.S. (except AK and HI), under continuing contract(s) with North American Philips Corporation and subsidiaries, for 270 days. Supporting shipper: North American Philips of 100 E. 42nd Street, New York, NY 10017.

MC 163831 (Sub-6–1TA), filed September 13, 1982. Applicant: RAIL-TRAIL CO, 3203 Third Ave., North, Suite 301, Billings, MT 59101. Representative: Mr. Gene Radermacher, 3203 Third Ave., North, Suite 301, Billings, MT. *Contract Carrier:* Irregular Routes: *Freight All Kinds,* (except commodities in bulk, household goods and hazardous materials), having a prior and/or subsequent interstate rail haul Between Billings and Laurel, MT, on the one hand, and all point in MT and WY on the other; Between Fargo, ND, on the one hand, and all points in SD, ND and MN on the other; Between Spokane, WA on the one hand, and all points in WA, ID, OR and MT on the other; Between Denver, CO, on the one hand, and all points in CO, NE and WY on the other, under continuing contract(s) with Burlington Northern Railroad, for 270 days. Supporting shipper: Burlington Northern Railroad, 2100 Executive Tower, 1405 Curtis St., Denver, CO 80202.

MC 54567 (Sub-6–4TA), filed September 13, 1982. Applicant: RELIANCE TRUCK CO., 2500 N. 24th Ave., Phoenix, AZ 85009. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Oil refinery; parts and sections thereof,* from the Conoco Refinery site near Carlton, MN to the Tonkawa Refinery site near Arnett, OK, for 270 days. Supporting shipper: American General Constructors, Inc., P.O. Box 207, Carlton MN 55718.

MC 163830 (Sub-6–1TA), filed September 13, 1982. Applicant: RICO L CORPORATION, P.O. Box 1878, Grants Pass, OR 97526. Representative: Rich Gallagher, P.O. Box 1346, Grants Pass, OR 97526. *Equipment and machinery* from, to or between all points in Curry, Jackson, Klamath, Josephine, Douglas, Deschutes Counties, OR: Del Norte, Siskiyou, Modoc, Humboldt, Shasta, Lassen, Tehama, and Trinity Counties, CA, for 270 days. Supporting shippers: There are eleven shippers. Their statements may be examined at the Regional Office listed above.

MC 151853 (Sub-6–2TA), filed September 13, 1982. Applicant: DONALD L. SHIRLEY, 5242 West Via Camille, Glendale, AZ 85306. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114. *Beer,* from Portland, OR to Indio, CA (and points in their commercial zones), for 270 days. An underlying ETA seeks 120-day authority. Supporting shipper: Sun Gold Distributing Co., 83–012 Ave. 45, Suite F, Indio, CA 92201.

MC 161974 (Sub-6–2TA), filed September 10, 1982. Applicant: TRIDENT TRUCK LINE, INC., P.O. Box 4030, Hayward, CA 94540. Representative: Manuel R. Senna, (same as applicant). *Contract Carrier,* irregular routes: (1) *Food industry equipment and meat packers supplies,* between AZ, CA, NV, OR and WA, under continuing contract with S. Blondheim & Co., Inc.; (2) *electrical switchboards, circuits and components,* between AZ, CA, NV, OR and WA under continuing contract with Industrial Electrical Manufacturing, Inc.; (3) *truck parts and related equipment,* between AZ, CA, NV, OR and WA, under continuing contract with Dana Corporation; and (4) *forgings, marine hardware, turnbuckles, block assemblies, clevises and related articles,* between CA, NV, OR and WA, under continuing contract with Gardiner Manufacturing Co., for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: S. Blondheim & Co. Inc., 2444 Cypress St., Oakland, CA 94643; Dana Corp., 3390 Enterprise Ave., Hayward, CA 94545; Industrial Electric Mfg. Inc., 982 Washington Blvd., Fremont, CA 94539; Gardiner Mfg. Co., 2711 Union St., Oakland, CA 94607.

MC 163832 (Sub-6–1TA), filed September 13, 1982. Applicant: RANDY YTTRI TRUCKING, 9218 Iverson Rd., Snohomish, WA 98290. Representative: James E. Wallingford, P.O. Box 2647, Spokane, WA 99220. *Contract Carrier,* irregular routes transporting *building materials and office and kitchen cabinets and parts thereof* between points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY, for 270 days. Supporting shippers: Cascade Cabinet Company, 21415–87th Ave., SE, Woodinville, WA 98072; and Western Cabinet and Millwork, 15300 Woodinville-Redmond Rd., NE, Woodinville, WA 98072.

MC 163852 (Sub-6–1TA), filed September 15, 1982. Applicant: BRELAND LINES, 2181 North Mt. Vernon Ave., San Bernardino, CA 92411. Representative: Winfred D. Breland (same as applicant). *Passengers and their luggage in charter and special operations,* between points in the counties of San Bernardino, Riverside, Orange, Los Angeles and San Diego, on the one hand, and points within NV, NM, AZ, CO, LA, TX, DC, NE, MO, and IL on the other, for 270 days. Supporting shippers: American Legion Post 710, 2181 W. Highland Ave., San Bernardino, CA 92405; St. Paul A.M.E. Church, 1355 West 21 St., San Bernardino, CA 92411; and Arrowhead Elks Lodge #896, P.O.B. 7026, San Bernardino, CA 92411.

MC 150255 (Sub-6–5TA), filed September 14, 1982. Applicant: LEPRINO TRANSPORTATION COMPANY, 3740 Shoshone St., Denver, CO 80211. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202–3357. *Food and related products,* from the facilities of Cattle King Beef Co. at Denver, CO to all points in the U.S. (except AK and HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Cattle King Beef Co., 5590 High St., Denver, Co 80216.

MC 147066 (Sub-6–4TA), filed September 15, 1982. Applicant: LUCKY THIRTEEN TRUCKING CO., INC.; P.O. Box 3547, Hayward, CA 94540. Representative: William D. Taylor, 100 Pine St., Suite 2550, San Francisco, CA 94111. *Contract carrier,* irregular routes: *products and materials used in the manufacturing of computer tape, computers, electrical equipment, plastic articles and polyester,* between points in AL, AZ, CA, CT, IL, ME, MA, MI MN, NE, NH, NJ, NY, NC, OH, PA, TX, WA and WI, under continuing contract(s) with Memorex Corp., for 270 days. Supporting shipper: Memorex Corporation, 2400 Codensa Ave., Santa Clara, CA 95052.

MC 51574 (Sub-6–1TA), filed September 14, 1982. Applicant: McLAUGHLIN DRAYING CO., 855 Riske Lane, West Sacramento, CA 95691. Representative: Raymond A. Greene, Jr., 100 Pine St., Suite 2550, San Francisco, CA 94111. *Contract Carrier,* irregular routes, *Newsprint,* between San Francisco, Sacramento and Yolo Counties, CA and Washoe County, NV, under continuing contracts with Crofton Paper Co., Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Crofton Paper Co., Inc., 3000 Sand Hill Road, Menlo Park, CA 94025.

MC 148769 (Sub-6–4TA), filed September 15, 1982. Applicant: SHELDON J. GOLDFIN, d.b.a. NEVADA PRODUCE, 2235 Glendale Rd., Sparks, NV 89431. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Insulation board,* from Fernley, NV to points in AZ, CA, CO, ID, MT, NM, OR, UT, WA and WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: RMAX, Inc., P.O. Box 67, Fernley, NV 89408.

MC 143762 (Sub-6–2TA), filed September 14, 1982. Applicant: RIGGS & ALLEN TRANSPORTATION, INC., P.O. Box 182, West Sacramento, CA 95691. Representative: Fred R. Covington, 2150 Franklin St., Suite 554, Oakland, CA 94612. *Contract carrier,* irregular routes: *gypsum wallboard, gypsum wallboard accessories and commodities used* or *useful in the installation and/or manufacture of gypsum wallboard* and *gypsum wallboard accessories,* (except explosives and commodities in bulk) between the plant site of Western Gypsum approximately 22 miles south of Santa Fe, NM on the one hand, and points in AZ, NM, NV, UT, KS, OK, TX, CO and CA on the other hand, under continuing contract with Western Gypsum, Santa Fe, NM, for 270 days. Supporting shipper: Wester Gypsum, POB 2635, Sanata Fe NM 87501.

MC 163667 (Sub-6–1TA), filed September 15, 1982. Applicant: ROWLEY ENTERPRISES, 1419 West 1750 North, Layton, UT 84041. Representative: Arthur W. Rowley (same as applicant). *General commodities* (except classes A &B explosives, household goods, and commodities in bulk), between points in AZ, CA, CO, ID, IL, IA, KS, MT, MO, NE, NV, NM, OK, OR, TX, UT, and WY, for 270 days restricted to shipments originating at or destined to the facilities of: (1) Utah Farm Bureau Service Co, Salt Lake City, UT (2) Insulation-West, Layton, UT and (3) All Seasons Insulation, Ogden, UT. An underlying ETA seeks authority for 120 days. Supporting shippers: Utah Farm Bureau Service Company, 5300 South 360 West, Salt Lake City, UT 84107; Insulation West, 200 North 650 West, Kaysville, UT 84037; and All Seasons Insulation, 1020 West 2800 South, Ogden, UT.

MC 154328 (Sub-6TA), filed September 15, 1982. Applicant: SMOKEY POINT DISTRIBUTING, P.O. Box 189, Arlington, WA 98223. Representative: Matt Berry (same as applicant). *Contract carrier;* irregular routes: *Lumber & building materials,* from points of entry U.S./CD boundary line at Blaine or Lynden, WA and other points in WA to Kansas City, KS, for 270 days. Supporting shipper: Whittall Cedar Sales Ltd., #302 1530 W. 8th Ave., Vancouver, B.C. CD V6J4R8.

MC 148791 (Sub-6–15TA), filed September 15, 1982. Applicant: TRANSPORT-WEST, INC., 2125 N. Redwood Rd., Salt Lake City, UT 84116. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110. *Contract Carrier:* Irregular routes: *Commodities dealt in or used by hardware or variety stores,* between Los Angeles, CA and points in UT, ID, AZ, or WY, for the account of Ace Hardware Corporation, Inc. of Oakbrook, IL for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ace Hardware Corporation, Inc., 2200 Kensington Court, Oakbrook, IL. 60521.

MC 153628 (Sub-6–7TA), filed September 15, 1982. Applicant: JIM LARSEN, d.b.a. WIND RIVER TRUCKING, 215 First Ave., S.W., Park City, MT 59063. Representative: Charles M. Williams, 1600 Sherman St., Suite 665, Denver, CO 80203. *Such commodities as are dealt in or used by manufacturers and distributors of building materials (except in bulk),* between the facilities of Donn Corporation, at or near Westlake and Medina, OH; Red Lion, PA; Baltimore, MD; Lackawanna, NY; Stroud, OK; and Stockton, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. Supporting shipper: Donn Corporation, 1000 Crocker Road, Westlake, OH 44145.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–26478 Filed 9–24–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82–26988, appearing at page 33803 in the issue of Wednesday, August 4, 1982, the words "points in Dallas and Tarrant Counties, TX, and extending to" should be inserted between the fifth and sixth lines of the second column on page 33804. (MC 15681, Sub-1)

BILLING CODE 1505-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY, AGENCY FOR INTERNATIONAL DEVELOPMENT

[Amdt. No. 1]

Bureau for Private Enterprise Function and Authorities; Delegation of Authority

Delegation of Authority 142 is hereby amended as follows:

A new Section is inserted as follows:

Section 6. There is hereby delegated to the Assistant Administrator for Private Enterprise the following additional authorities for projects within the Private Enterprise Bureau's area of exclusive program responsibility:

Such authority as has been heretofore or will hereafter be delegated to any Assistant Administrator to execute and implement loan agreements and amendments thereto and otherwise to implement loan projects.

The authority delegated in this Section shall be exercised in consultation with the Office of the General Counsel and with such other Offices and Bureaus as the Assistant Administrator for Private Enterprise may deem appropriate. Such authority shall be exercised in accordance with applicable regulations, policies and procedures now or hereafter established or modified and promulgated within AID.

The authority delegated in this Section is in addition to any other authorities heretofore delegated to the Assistant Administrator for Private Enterprise. The authority herein delegated includes, but is not limited to, authorities delegated to Assistant Administrators in Delegations of Authority 5, 40, and 133.

Sections 6, 7 and 8 of Delegation of Authority 142 are renumbered accordingly.

This amendment to Delegation of Authority 142 shall be effective immediately.

Except as expressly modified hereby, Delegation of Authority No. 142 remains in full force and effect.

Dated: September 13, 1982.

M. Peter McPherson,

Administrator.

[FR Doc. 82-26414 Filed 9-24-82; 8:45 am]

BILLING CODE 8116-01-M

DEPARTMENT OF JUSTICE

Agency Forms Under Review

September 22, 1982.

OMB has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all the entries grouped into new forms, extensions, or revisions. Each entry contains the following information:

(1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available); (2) The office of the agency issuing this form; (3) The title of the form; (4) The agency form number, if applicable; (5) How often the form must be filled out; (6) Who will be required or asked to report; (7) An estimate of the number of responses; (8) An estimate of the total number of hours needed to fill out the form; (9) An indication of whether Section 3504(H) of Pub. L. 96-511 applies; (10) The name and telephone number of the person or office responsible for OMB review.

Copies of the proposed forms and supporting documents may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the reviewer listed at the end of each entry and to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

Department of Justice

Agency Clearance Officer Larry E. Miesse—202-633-4312

Extension (No Change)

- Immigration and Naturalization Service,

Department of Justice
Affidavit of Witness (in admission for permanent residence)
On occasion
Individuals or households
Alien applicants for permanent residence: 2,600 responses; 432 hours; not applicable under 3504(h).
Andy Uscher—395-4814

- Immigration and Naturalization Service,

Department of Justice
Application for Creation of a Record of Lawful Admission for an Indochina Refugee
Nonrecurring
Individuals or households
Indochina refugees: 10,000 responses; 5,000 responses; not applicable under 3504(h).
Andy Uscher—395-4814

- Immigration and Naturalization Service,

Department of Justice
Application for Transfer of Petition for Naturalization
On occasion
Individuals or households
Resident aliens applying for naturalization: 1,200 responses; 199 hours; not applicable under 3504(h)
Andy Uscher—395-4814

Larry E. Miesse,

Department Clearance Officer, Systems Policy Staff, Office of Information Technology, Justice Management Division, Department of Justice.

[FR Doc. 82-26422 Filed 9-24-82; 8:45 am]

BILLING CODE 4410-10-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[82-55]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of agency report forms under OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and notifying the public that the agency has made the submission. The proposed forms under review are listed below.

Copies of the proposed forms, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be received in writing by (insert 10 days from the date of publication in the **Federal Register**). If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESS: Christine Cabell, NASA Agency Clearance Officer, Code NSM-23, NASA Headquarters, Washington, D.C. 20546. Edward Clarke, Office of Information and Regulatory Affairs, OMB, Room 3208, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Christine Cabell, NASA Agency Clearance Officer, (202) 755-3219.

Reports

Title: Subcontracting Report for Individual Contracts
Type of Request: New
Frequency of Report: Semiannually
Type of Respondent: NASA Contractors
Annual Responses: 180
Annual Reporting Hours: 90
Federal Cost: $500.00
Number of Forms: One

Abstract: This report is used to collect information on subcontract commitments by NASA prime contractors and subcontractors which are required to subcontract with small and disadvantaged business concerns in accordance with the subcontract plans required by the Small Business Act of 1958 as amended by Pub. L. 95–507.

Title: Summary Subcontract Report
Type of Request: New
Frequency of Report: Quarterly
Type of Respondent: NASA Contractors
Annual Responses: 360
Annual Reporting Hours: 180
Federal Cost: $400.00
Number of Forms: one

Abstract: This report is used to collect information on subcontract commitments by NASA prime contractors and subcontractors which are required to subcontract with small and disadvantaged business concerns in accordance with the subcontract plans required by the Small Business Act of 1958 as amended by Pub. L. 95–507.

Title: Application for Patent License
Type of Request: New
Frequency of Report: On occasion
Type of Respondent: Companies in the Business of Manufacturing Products
Annual Responses: 184
Federal Cost: $170,000.00
Number of Forms: None, respondent answers questions in section 1245.207 of 14 CFR Part 1245

Abstract: Pursuant to the NASA Patent License Regulations, applicants for patent licenses must submit specific information in support of the application for license. This regulation specifies the information required to be submitted.

Title: Space Transportation System Request for Flight Assignment
Type of Request: New
Frequency of Report: Applicants complete the form once unless requirements change. Any change in requirements would result in an updated form
Type of Respondent: Satellite Telecommunication and Scientific Firms
Annual Report Hours: 10
Federal Cost: $1,000
Number of Forms: One

Abstract-Needs/Uses: The STS form 100 details the user's Shuttle launch request. This information includes: Payload title, principal contact, requested launch date, payload weight and length, and orbital requirement.

Dated: September 20, 1982.

Walter B. Olstad,

Associate Administrator for Management.

[FR Doc. 82-26423 Filed 9-24-82; 8:45 am]

BILLING CODE 750-01-M

NUCLEAR REGULATORY COMMISSION

[Dockets Nos. 50-289 and 50-320]

GPU Nuclear Corp., et al.; Three Mile Island Nuclear Station, Units Nos. 1 and 2; Exemption

I

GPU Nuclear Corporation (the licensee) and three co-owners are the holders of Facility Operating Licenses Nos. DPR–50 and DPR–73 which authorize the operation of the Three Mile Island Nuclear Station, Units Nos. 1 and 2 (TMI–1 and 2). These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission). The facility comprises two pressurized water reactors at the licensee's site in Dauphin County, Pennsylvania.

II

10 CFR 50.54(q) of the Commission's regulations requires a licensee authorized to operate a nuclear power plant to follow and maintain in effect emergency plans which meet the standards of 10 CFR 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F.1 of Appendix E requires each licensee annually to conduct an emergency preparedness exercise with full participation by the State and local county governments unless the State and all local county governments in the plume exposure pathway Emergency Planning Zone (EPZ) for the licensee's facility have otherwise participated in a full-scale exercise during the annual period (with such participation occurring in conjunction with a full-scale exercise at another nuclear power plant). In this latter case, the licensee is required to conduct an annual exercise with the participation of State and local governments consistent with the provisions of Section IV.F.3 of Appendix E for small scale exercises.

By letter dated July 27, 1982, GPU Nuclear requested an exemption from certain annual exercise requirements of Section IV.F.1.a of Appendix E. Specifically, GPU Nuclear's annual exercise conducted on August 11, 1982 did not include a level of participation of local governments within the plume exposure pathway EPZ for TMI entirely consistent with the requirements of Section IV.F.1.a for full-scale exercises. Rather, the level of participation by the five counties within the plume exposure pathway EPZ for TMI along with the Commonwealth of Pennsylvania was consistent with the provisions of Section IV.F.3 of Appendix E for small-scale exercises. Two of the five counties for TMI, York and Lancaster, and the Commonwealth of Pennsylvania had previously participated on a full-scale basis in the recent annual exercise for the Peach Bottom facility in June 1982. However, the other three counties for TMI, Dauphin, Lebanon and Cumberland, have not participated in a full-scale exercise in 1982 and will not have the opportunity to do so during the balance of the year.

We have reviewed the participation of the Commonwealth of Pennsylvania and the TMI counties in previous exercises within the last 15 months. These exercises were the full-scale exercises conducted at TMI in June 1981, involving the full participation of the Commonwealth and Dauphin, Cumberland, Lancaster and Lebanon Counties, the TMI emergency exercise conducted in September 1981 involving the Commonwealth and York County, the TMI emergency communications exercise in October 1981, involving the Commonwealth and Dauphin, Cumberland, Lancaster, Lebanon and York Counties, and the recent full-scale exercise for the Peach Bottom facility in June 1982 involving the full participation of the Commonwealth and York and Lancaster Counties. This review has shown that these several exercises conducted within the last 15 months have provided suitable tests for the adequacy of offsite emergency preparedness for TMI, and have provided ample opportunity for training and familiarizing emergency response personnel, including those in Dauphin, Lebanon and Cumberland Counties, in their emergency response duties. In addition, the emergency preparedness exercise, conducted on August 11, 1982, involving the Commonwealth and the five counties for TMI served to further test the adequacy of communication links and the understanding of the participating agencies of their emergency response rules. From the scale and frequency of exercises conducted within the last 15 months involving the counties within the plume

exposure pathway EPZ for TMI, we find that the less than full-scale participation of Dauphin, Cumberland and Lebanon Counties in the current annual exercise for TMI will not adversely affect the overall state of emergency preparedness at TMI. For the above reasons, we conclude that the licensee's request for exemption should be granted.

III

Accordingly, the Commission has determined that an exemption in accordance with 10 CFR 50.12 is authorized by law, will not endanger life or property or the common defense and security and is otherwise in the public interest.

The requested exemption from the exercise requirements of 10 CFR Part 50, Appendix E, Section IV.F.1.a involving Dauphin, Lebanon, and Cumberland counties' full-scale participation in the licensee's current annual exercise is hereby granted.

The Commission has determined that this exemption does not authorize a change in effluent types or total amounts nor an increase in power level and will not result in any significant environmental impact. Having made this determination, we have further concluded that the exemption involves an action which is insignificant from the standpoint of environmental impact and, pursuant to 10 CFR 51.5(d)(4), that an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 14th day of September 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenbut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82-26508 Filed 9-24-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-416]

Mississippi Power and Light Co. Middle South Energy, Inc. and South Mississippi Electric Power Association; Issuance of Amendment of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 3 to Facility Operating License No. NPF-13, issued to Mississippi Power and Light Company, Middle South Energy, Inc., and South Mississippi Electric Power Association (the licensees), for Grand Gulf Nuclear Station, Unit No. 1 (the facility) located in Claiborne County, Mississippi. This amendment grants additional one time Technical Specification exceptions for Phase I operation, and changes to the Technical Specifications. The changes to the Technical Specifications relate to Specifications Table 3.6.4-1, Valve E12-F021B Stroke Time; 4.5.1.C.2.a, "Keep Filled" Pressure Alarm Surveillance; Table 3.3.8-2, Containment Spray Initiation Time; and Table 3.8.4.1-1, Molded Case Circuit Breaker Response Time. The amendment is effective as of the date of issuance.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendement will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the two applications for the amendments dated September 13, 1982; (2) Amendment No. 3 to License NPF-13 dated September 20, 1982; and (3) the Commission's evaluation dated September 16, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Hinds Jr. College, George M. McLendon Library, Raymond, Mississippi 39154. A copy of items (1), (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 20th day of September, 1982.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

26509

[FR Doc. 82-26509 Filed 9-24-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District (Cooper Nuclear Station); Modification of Order

January 13, 1981.

I

The Nebraska Public Power District (the licensee) is the holder of Facility Operating License No. DPR-46 which authorizes the licensee to operate the Cooper Nuclear Station at power levels not in excess of 2381 megawatts thermal (rated power). The facility is a boiling water reactor located at the licensee's site in Nemaha County, Nebraska.

II

On January 13, 1981 the Commission issued an Order modifying the license requiring: (1) The licensee to promptly assess the suppression pool hydrodynamic loads in accordance with NEDO-24583-1 and the Acceptance Criteria contained in Appendix A to NUREG-0661; and (2) design and install any plant modifications needed to assure that the facility conforms to the Acceptance Criteria contained in Appendix A to NUREG-0661. The Order, published in the Federal Register on January 28, 1981 (46 FR 9260) required installation of any plant modifications needed to provide compliance with the Acceptance Criteria in Appendix A to NUREG-0661 be completed not later than September 30, 1982, or, if the plant is shutdown on the date, before the resumption of power thereafter.

III

On October 31, 1979, the staff issued an initial version of its acceptance criteria to the affected licensees. These criteria were subsequently revised in February 1980 to reflect acceptable alternative assessment techniques which would enhance the implementation of this proram. Throughout the development of these acceptance criteria, the staff has worked closely with the Mark I Owners Group in order to encourage plant-unique assessments and modifications to be undertaken.

Since the development of these acceptance criteria significant progress has been made and it was the intent of the licensee to meet the date specified in the January 13, 1981 Order. However, as identified in an August 23, 1982 letter, unforeseen difficulties and delays have been encountered related to the following: (1) Installation of piping hangers for the torus attached piping; (2) delivery of specialized cabling for the torus temperature monitoring system;

and (3) installation of relief valve logic system changes (Low-Low Setpoint Logic) that have necessitated revision of the Order date.

All of the major modifications, which are those associated with the torus, vent system, internal structures and safety relief valve piping have been completed except for the installation of the relief valve logic system changes. All of the torus attached piping modifications have also been completed, except for completion of the installation of the remaining 40% of the external pipe hangers. It is estimated that over 95% of the total program effort has already been completed.

The Commission believes that with the modifications already completed most of the intended margins of safety of the containment systems have been achieved. In consideration of the range of modification completion dates presented in SECY–81–678 that was approved by the Commission, the Commission has concluded that the licensee's proposed completion schedule is both responsive and practicable.

The Commission has therefore determined to extend the previously imposed completion dates for needed plant modifications. This extension continues in effect the exemption to General Design Criteria 50 of Appendix A to 10 CFR Part 50 granted on January 13, 1981.

The Commission has determined that good cause exists for the extension of that exemption, that such extension is authorized by law, will not endanger life or property or the common defense and security, and is in the public interest. The Commission has determined that the granting of this extension will not result in any significant environmental impact and that, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environment impact appraisal need not be prepared in connection with this action.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, including Sections 103 and 161i, and the Commission's rules and regulations in 10 CFR Parts 2 and 50, it is ordered that the completion date specified in Section V of the January 13, 1981, "Order for Modification of License and Grant of Extension of Exemption," is hereby changed to read as follows: "Prior to the start of Cycle 9 at the completion of your 1983 refueling outage." The Order of January 13, 1982, except as modified herein, remains in effect in accordance with its terms.

V

The licensee may request a hearing on this Order within 30 days of the date of publication of this Order in the **Federal Register**. A request for hearing shall be submitted to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the request shall also be sent to the Secretary of the Commission and the Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such a hearing shall be whether the completion date specified in Section V of the January 13, 1981, "Order for Modification of License and Grant Extension of exemption," should be changed to "Prior to the Start of Cycle 9 at the completion of your 1983 refueling outage."

This order shall become effective upon expiration of the period within which a hearing may be requested or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

Dated at Bethesda, Maryland this 15th day of September 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82–26510 Filed 9–24–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–272 and 50–311]

Public Service Electric and Gas Co. (Salem Nuclear Generating Station, Units Nos. 1 and 2); Exemption

I

Public Service Electric and Gas Company (the licensee) and three other co-owners are the holders of Facility Operating Licenses Nos. DPR–70 and DPR–75 which authorize operation of the Salem Nuclear Generating Station Units 1 and 2 (Salem or the facilities). These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facilities are pressurized water reactors located at the licensee's site in Salem County, New Jersey.

II

Section III.G.2a of Appendix R to 10 CFR 50 requires that structural steel forming a part of or supporting a fire barrier with a 3-hour rating shall be protected to provide fire resistance equivalent to that requried of the barrier.

The licensee indicated in its March 19, 1981 letter that the walls forming barriers between redundant equipment and/or cables incorporating fire dampers are fire rated for three hours. The fire doors and/or fire dampers that are used for protection of these openings are fire rated for 1½ hours. The licensee has stated that an exemption for the doors and/or dampers is justified since the fire hazard analysis performed for Salem calculated a potential fire duration of less than one hour in all such areas.

Based on our evaluation, we conclude that the fire loading in the vicinity of openings in the affected area is sufficiently low so that protection by the 1½ hour fire door/dampers in the walls is acceptable. Therefore, the licensee's request to be exempted from the requirements to provide a three hour barrier should be granted.

III

Section III.G.3 of Appendix R to 10 CFR Part 50 requires that a fixed fire suppression system be installed in an area, room or zone under consideration for alternative safe shutdown modifications. In the case of Salem, under this provision a fixed fire suppression system would be required in the control room.

The licensee indicated in its March 19, 1981 letter, that the fire protection features currently installed in the control room provide adequate fire fighting capability in the control room and constitute an adequate fixed fire suppression system for the area. However, inasmuch as the term "fixed suppression" has been used to connote sprinklers or gas suppression systems, the licensee has requested an exemption from the requirements of III.G.3 to provide a fixed suppression system.

The licensee's exemption request is based on the following:

—An alternate shutdown system has been provided for the control room. This alternate shutdown system provides remote control capabilities for those systems needed to carry out a reactor shutdown function, maintain hot shutdown, proceed to and maintain cold shutdown, from outside the main control room.

—A fire detection system has been installed in the control room.

—Portable fire extinguishers have been installed inside the control room.

The modifications which the licensee's exemption request is based on are required by Appendix R to 10 CFR Part 50. Therefore, the above modifications alone do not justify an exemption from the requirement to install a fixed fire suppression system in areas where redundant divisions are located. However, the control room is an unique area of the plant that is requried to be continually occupied by the operators. In the event of a fire, manual fire suppression would be effective and prompt. Because the operators provide a continuous fire watch in the control room, a fixed suppression system is not necessary to achieve adequate fire protection in the control room. This is similar to the concept reflected in the staff's acceptance, on a short-term basis, of a continuous fire watch as an alternative to fixed suppression systems when such systems become unavailable per 3.7.10.2 of the Standard Technical Specifications.

Based on our evaluation, we conclude that the licensee's fire protection features for the control room meet the objectives of Section III.G, "Fire Protection of Safe Shutdown Capability," of Appendix R to 10 CFR Part 50, and, therefore, the licensee's request to be exempted from the requirement to provide a fixed fire suppression system in the control room should be granted.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, these exemptions are authorized by law and will not endanger life or property or the common defense and security, are otherwise in the public interest, and are hereby granted.

The Commission has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 16th day of September, 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 82-26511 Filed 9-24-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Facility Operating License No. DPR-54, issued to Sacramento Municipal Utility District, which revised Technical Specifications (TSs) for operation of the Rancho Seco Nuclear Generating Station (the facility) located in Sacramento County, California. This amendment is effective as of the date of issuance.

The amendment modifies surveillance requirements and limiting conditions for operation for the engineered safety feature air filter systems.

The application for the amendment complies with the standrds and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commision's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's application dated May 21, 1975, as revised November 28, 1975, February 9, 1977 and June 21, 1979, (2) Amendment No. 39 to License No. DPR-54, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Business and Municipal department, Sacramento City-County Library, 828 I Street, Sacramento, California. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, , Washington D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 13th day of September 1982.

For The Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-26512 Filed 9-24-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-361]

Southern California Edison Co., et al.; Issuance of Amendment; Facility Operating License No. NPF-10

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 8 to Facility Operating License No. NPF-10, issued to Southern California Edison Company, San Diego Gas and Electric Company, The City of Riverside, California and The City of Anaheim, California (licensees) for the San Onofre Nuclear Generating Station, Unit 2 (the facility) located in San Diego County, California. This amendment is effective as of the date of issuance.

Amendment No. 8 changes the date for operability of the post-accident sampling system from "prior to exceeding five (5) percent power" to "January 1, 1983." Amendment 8 also changes the associated Technical Specifications.

Issuance of this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Southern California Edison Company's letters dated September 11, 14, and 15, 1982, (2) Amendment No. 8 to Facility Operating License No. NPF-10, and (3) the Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the San Clemente Library, 242 Avenida Del Mar, San

Clemente, California 02672. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 17th day of September, 1982.

For the Nuclear Regulatory Commission.

Janis Kerrigan,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 82-26513 Filed 9-24-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-19101 (50-327 and 328)]

Tennessee Valley Authority; Issuance of Materials License, Safety Evaluation Report, Environmental Impact Appraisal, and Negative Declaration for the Onsite Storage of Low-Level Radioactive Waste at the Sequoyah Nuclear Plant

The U.S. Nuclear Regulatory Commission (the Commission) has issued Materials License No. 41-08165-14 to the Tennessee Valley Authority (TVA or licensee) authorizing the receipt, possession, storage and transfer of low-level radioactive waste (LLRW) at its onsite LLRW Storage Facility at the Sequoyah Nuclear Plant (SNP) located in Hamilton County, near Chattanooga, Tennessee. The license authorizes the storage of up to five years of LLRW generated from the operation of the SNP. The license is effective as of the date of issuance and the term of the license is five years.

Application for storage of LLRW at the SNP was made by TVA as an amendment to the facility operating license No. DPR-77. Notice of receipt of the application and offering an opportunity for public participation in connection with the action was published in the **Federal Register** on March 5, 1981 (46 FR 15390). For administrative purposes the application has been reviewed and the license issued pursuant to 10 CFR Part 30 of the Commission's regulations.

The application for amendment to the facility operating license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's Regulations in 10 CFR Chapter 1, which are set forth in the license.

The Commission's Office of Nuclear Materials Safety and Safeguards, Division of Fuel Cycle and Material Safety, has completed its safety and environmental reviews in support of the issuance of Materials License No. 41-08165-14. Two staff documents, the Safety Evaluation Report and the Environmental Impact Appraisal of Low-Level Radioactive Waste Storage at Tennessee Valley Authority Sequoyah Nuclear Plant, have been issued.

The environmental appraisal, "Environmental Impact Appraisal of Low-Level Radioactive Waste Storage at Tennessee Valley Authority Sequoyah Nuclear Plant," was issued in accordance with 10 CFR Part 51. The Environmental Impact Appraisal concluded that the issuance of the proposed license will not significantly affect the quality of the human environment and that there will be no significant environmental impact from the issuance of the proposed license. Based on this appraisal, the Commission therefore concludes that this Negative Declaration is appropriate and an environmental impact statement for this particular license is not warranted.

The Commission's Safety Evaluation Report, dated September 1982, and Environmental Impact Appraisal, dated September 1982, are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the local Public Document Room for TVA's Sequoyah Nuclear Plant at the Chattanooga-Hamilton County Public Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee. A copy of these reports may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Fuel Cycle and Material Safety.

Dated at Silver Spring, Maryland this 17th day of September 1982.

For the Nuclear Regulatory Commission.

Leland C. Rouse,

Chief, Advanced Fuel and Spent Fuel Licensing Branch, Division of Fuel Cycle and Material Safety, NMSS.

[FR Doc. 82-26514 Filed 9-24-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corp.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 72 to Facility Operating License No. DPR-28, issued to Vermont Yankee Nuclear Power Corporation which revised Technical Specifications for operation of the Vermont Yankee Nuclear Power Station (the facility) located near Vernon, Vermont. The amendment is effective as of its date of issuance.

The amendment changes the Technical Specifications to incorporate revised core thermal-hydraulic Limiting Conditions of Operation during the present fuel cycle (Cycle 9).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.d(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 19, 1982 as supplemented September 10, 1982; (2) Amendment No. 72 to License No. DPR-28, and; (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 16th day of September 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-26515 Filed 9-24-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Certificate of Completion

AGENCY: Office of the Federal Inspector for the Alaska Natural Gas Transportation System.

ACTION: Notice of the Federal Inspector's Certification of Completion

for Phase I of the Eastern Leg of the Alaska Natural Gas Transportation System.

Take notice that on September 20, 1982, The Federal Inspector certified that Phase I of the Eastern Leg of the Alaska Natural Gas Transportation System is completed so as to be capable of performing at the certificated throughput of 800 million cubic feet of natural gas per day. This Federal Inspector action was taken pursuant to Order Nos. 31 and 31–B of the Federal Energy Regulatory Commission, which provide that Northern Border Pipeline Company, the owner of the Phase I segment in the U.S., may commence billing under its transportation tariff upon this certification of completion.

This certification of completion is a final agency action under Section 202(a) of Reorganization Plan No. 1 of 1979, 44 FR 33663, and Section 10 of the Alaska Natural Gas Transportation Act, 15 U.S.C. 719h. Copies of the letter containing the certification are available by writing or telephoning: Mr. Richard Berman, Director, Audit and Cost Analysis, Office of the Federal Inspector, ANGTS, Room 2317, Post Office Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20044; (202) 275–1153.

Dated: September 23, 1982.

John T. Rhett,

Federal Inspector.

[FR Doc. 82–26576 Filed 9–24–82; 8:45 am]

BILLING CODE 6119–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19059, File No. SR–OCC–82–12]

Amendment To Proposed Rule Change by the Options Clearing Corporation

September 17, 1982.

The Options Clearing Corporation ("OCC") submitted Amendment No. One to a proposed rule change (SR–OCC–82–12) on September 13, 1982, pursuant to Rule 19b–4 under the Securities Exchange Act of 1934. The Amendment makes several changes to OCC's proposed foreign currency options rules published in Securities Exchange Act Release No. 18886 (July 14, 1982) and the **Federal Register** (47 FR 33349, August 2, 1982).

The Amendment to the proposed rule change would: (i) Permit OCC to release on the date settlement is deemed to have been made margin deposited in respect of foreign currency options; (ii) require receiving clearing member to buy-in foreign currency within two foreign business days after receiving notice from OCC of a failure to deliver, (iii) assess any party failing to deliver interest penalties based upon interest rates in the country of origin of the foreign currency; (iv) reduce the minimum margin amount required to be deposited in respect of foreign currency options to reflect more accurately the volatility of foreign currency options, and (v) alter the exercise settlement procedures to provide for delivery of foreign currency through the facilities of OCC rather than the member-to-member settlement procedure originally proposed.

Specifically, with respect to settlement of exercised options contracts under the Amendment, OCC will establish and maintain a correspondent bank in the country of origin of each foreign currency that is the subject of OCC options. After the receiving clearing member pays the aggregate exercise price to OCC, the delivering clearing member will be required to direct its correspondent bank to deliver foreign currency to OCC's correspondent bank. OCC will then direct its correspondent bank to redeliver the foreign currency to the account of receiving clearing member at the receiving member's correspondent bank.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within twenty-one days from the date of publication in the **Federal Register**. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–OCC–82–12.

Copies of the submission, with accompanying exhibits, and of all written comments will be available for public inspection at the Securities and Exchange Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. Copies of the filing will also be available at the principal office of the above-mentioned self/regulatory organization.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–26433 Filed 9–24–82; 8:45 am]

BILLING CODE 8010–01–M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer, George G. Kundahl—202–272–2700

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Extension

Form N–1Q (17 CFR 274.106)
SEC File No. 270

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1940 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for extension of approval Form N–1Q under the Investment Company Act of 1940 and the Securities Exchange Act of 1934. Form N–1Q is used by management investment companies to report the occurrence during the preceding calendar quarter of any one or more of the twelve events specified by the form.

The potential respondents are all management investment companies registered under the Investment Company Act of 1940.

Submit comments to OMB Desk Officer: Robert Veeder—202–395–4814.

George A. Fitzsimmons,

Secretary.

September 20, 1982.

[FR Doc. 82–26432 Filed 9–24–82; 8:45 am]

BILLING CODE 8010–01–M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

September 20, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Triton Energy Corp., Common Stock, $1 Par Value (File No. 7–6312)

Mitchell Energy & Development Corp., Common Stock, $.10 Par Value (File No. 7–6313)

Petro-Lewis Corp., Common Stock, $1 Par Value (File No. 7–6314)
Heizer Corporation, Common Stock, $.01 Par Value (File No. 7–6315)
Umet Properties Corporation (Delaware—New Holding Company), Common Stock, $1 Par Value (File No. 7–6316)
Dayco Corporation (Michigan), Common Stock, $1 Par Value (File No. 7–6317)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 12, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–26431 Filed 9–24–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19064, (SR–OCC–82–15)]

Options Clearing Corp.; Order Approving Proposed Rule Change

September 20, 1982.

Options Clearing Corporation ("OCC"), on July 6, 1982, submitted a proposed rule change, pursuant to Rule 19b–4 under the Securities Exchange Act of 1934, which allows OCC to eliminate certificates in respect of options contracts. Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 18944, August 9, 1982) and by publication in the **Federal Register** (47 FR 36346, August 19, 1982). No letters of comment were received by the Commission.

Article VI of OCC's By-Laws and Chapter VII of OCC's Rules currently provide for the issuance of physical certificates in respect of options contracts at the request of OCC participants. Certificates may be issued in respect of any option contract included in a long position in a customer's account.[1] A certificate merely evidences a clearing member's position as the holder of one or more options of a specified type (put or call) in a specified option series; it is nonnegotiable and confers no separate legal rights on the holder. Certificated options contracts may only be exercised or closed out upon the surrender of the physical certificate in accordance with OCC's Rules and Procedures.[2] In that regard, OCC's By-Laws and Rules provide that until the certificate is surrendered, any attempt by a clearing member to write a closing options transaction with respect to a corresponding long certificated options position is considered by OCC to be an opening transaction subject to OCC's margin requirements on short positions.[3] Furthermore, while the exercise of an unexpired, certificated option contract must be accompanied by the surrendered certificate,[4] a clearing member may exercise an expiring, certificated options contract without contemporaneously surrendering the certificate. In that situation, OCC's Rules only require that a clearing member surrender the certificate to OCC promptly following exercise;[5] that clearing member, however, must hold OCC harmless against any loss or expense sustained by OCC due to the member's failure to surrender the certificate on expiration.[6]

OCC's proposed rule change would eliminate all provisions in its current By-Laws and Rules providing for, or referring to, options certificates.[7] In addition, the proposed rule change would eliminate language referring to certificates in connection with OCC's various "new products," adopted or proposed.[8] Furthermore, the proposed rule change contains conforming technical amendments to several OCC Rules that relate to certificates.[9]

In its filing, OCC sets forth several reasons supporting the elimination of certificates. OCC states that, when the listed options market was initiated, OCC's originators preferred totally certificateless option trading, but provided for the issuance of certificates on request due to a concern that some States would require institutional investors to maintain physical custody of certificates. However, after contacting the marketing personnel of the options exchanges, staff of the National Association of Insurance Commissioners, attorneys for institutional investors and those OCC clearing members that have requested certificates, OCC now understands that institutional investors do not need and will not request certificates. OCC also failed to locate any State or local regulatory requirements that could preclude eliminating the certificates. Furthermore, the Commission did not receive any comments, including those relating to the existence of such statutory requirements, in response to its formal solicitation of comments in Securities Exchange Act Release No. 18999.

OCC believes that several benefits will accrue to its clearing members when certificates are eliminated. Certificates impose on clearing members administrative burdens and related costs that are greatly out of proportion to the volume of certificates actually issued.[10] For example, clearing members devote significant amounts of computer time and manpower in requesting, auditing, balancing, holding and redeeming certificates on behalf of customers, as well as in posting and monitoring margin on certain closing options transactions pursuant to OCC By-Law VI, Section 15 and OCC Rule 703.

Moreover, OCC incurs significant and disproportionate burdens and related costs. Not only must OCC issue, monitor, audit and redeem certificates, it also must systems test certificate processing whenever changes are made to its clearing system. OCC has indicated that these tests are costly and time consuming.

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[1] OCC Rule 701. To identify the clearing member's customer for whose account the option is purchased, the clearing member inserts its customer's name in the appropriate space on the OCC certificate.

[2] OCC Rule 702.

[3] OCC By-Law, Article VI, Section 15, and OCC Rule 703.

[4] OCC Rule 801(a).

[5] OCC Rule 805(m).

[6] *Id.*

[7] Numerous OCC By-Law and Rule provisions are being amended or rescinded to bring about this result. The OCC By-Law central to certificate issuance, Article VI, Section 6, is being amended, and Chapter VII of OCC's Rules under the By-Law (*i.e.*, OCC Rules 701 through 706) are being rescinded.

[8] *See* OCC By-Laws Articles XII (GNMA Options); XIII (Treasury Securities Options); XIV (CD Options); and XV (foreign Currency Options).

[9] Other OCC Rules that will be technically amended to conform to the proposed rule change include: Rule 101(e), Definition of Certificate; Rule 205, Receipt of Documents; Rule 206, Submission (of documents) to OCC; Rule 401, Report of Matched Trades; Rule 801, Exercise of Options; and Rule 805, Expiration Date Exercise Procedure.

[10] OCC state in its filing that, in 1981, less than .1 percent of all outstanding options contracts were represented by physical certificates.

For the reasons stated below, the Commission believes that OCC has correctly assessed the costs and benefits of issuing certificates in respect of options contracts and the value inherent in eliminating those certificates.

Approval of the proposed rule change should benefit OCC clearing members in several ways. First, the elimination of options certificates will expedite both the close out and the exercise of clearing members' unexpired long options positions. Second, it will obviate the need for additional OCC margin in certain circumstances, allowing members to use those marginable assets for other productive purposes. Third, clearing members will be able to avoid the administrative costs and burdens associated with OCC's certificate program. Finally, the Commission believes that by implementing the proposed rule change, OCC will avoid costly administrative burdens associated with processing options certificates.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authoirty.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-26420 Filed 9-24-82; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity of Hearing

September 20, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Frontier Holdings, Inc. Common Stock, $.50 Par Value (File No. 7-6318)

Norfolk Southern Corporation Common Stock, $1 Par Value (Filed No. 7-6319)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 12, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunitiy for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-26430 Filed 9-24-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region VII Advisory Council; Public Meeting

The Small Business Administration, Region VII located in the geographical area of Kansas City, will hold a public meeting at 9:30 a.m., Wednesday, October 6, 1982, at the Landmark Building, 309 N. Jefferson (1st floor), Springfield, Missouri, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Patrick E. Smythe, District Director, U.S. Small Business Administration, Fourth Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106; (816) 374-5557.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 21, 1982.

[FR Doc. 82-26475 filed 9-24-82; 8:45 am].

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

General Aviation District Office at Santa Monica, Calif., Air Carrier District Office at Los Angeles, Calif.,

Notice is hereby given that on or about October 1, 1982, Air Carrier District Office Number 31 at Los Angeles, California will be redesignated as Flight Standards District Office Number 62. Concurrently, General Aviation District Office Number 6 at Santa Monica, California will be redesignated as Flight Standards District Office Satellite Number 62S. Both offices will remain at their present locations, and services to the general public will continue without interruption. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Los Angeles, CA, on September 16, 1982.

R. L. Devereaux,

Acting Director, Western-Pacific Region.

[FR Doc. 82-26272 Filed 9-24-82; 8:45am]

BILLING CODE 4910-13

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in August 1982. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5. Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
1479-X	DOT-E 1479	Rockwell International Corporation, Canoga Park, CA.	49 CFR 173.315(a)(1)	To authorize use of non-DOT specification cargo tanks for transportation of liquefied fluorine and mixture of liquefied fluorine and liquefied oxygen. (Mode 1.)
1479-X	DOT-E 1479	U.S. Department of Defense, Washington, DC.	49 CFR 173.315(a)(1)	To authorize use of non-DOT specification cargo tanks for transportation of liquefied fluorine and mixture of liquefied fluorine and liquefied oxygen. (Mode 1.)
2136-X	DOT-E 2136	U.S. Department of Defense, Washington, DC.	49 CFR 173.1, 173.3(a), 173.7(a), 174.10, 174.104, 174.3, 174.90(a), 177.801, 177.802.	To authorize shipment of radioactive materials with explosives in Department of Defense containers packaged and loaded by the Department of Defense without carrier inspection. (Modes 1, 2.)
2805-X	DOT-E 2805	Union Carbide Corporation, Danbury, CT.	49 CFR 172.101, 173.315(a)(1)	To become a party to Exemption 2805. (Mode 1.)
3126-X	DOT-E 3126	Hercules, Incorporated, Wilmington, DE.	49 CFR 173.62, 177.821, 177.822(b), 177.835(k).	To authorize packagings not provided for in the Hazardous Materials Regulations, for transportation of Class A explosives. (Mode 1.)
3142-X	DOT-E 3142	U.S. Department of Energy, Washington, DC.	49 CFR 173.24(a)(1)	To authorize shipment of nonflammable compressed gases in DOT Specification 3A1800 or 3A2000 cylinders, from which a controlled flow of gas is released to a leak calibration apparatus. (Modes 1, 2.)
3216-X	DOT-E 3216	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.314(e)	To authorize use of a proposed DOT Specification 110A300W tank car tank, for transportation of certain flammable compressed gases. (Modes 1, 3.)
4108-X	DOT-E 4108	Purity Cylinder Gases, Inc., Grand Rapids, MI.	49 CFR 173.315(a)	To authorize shipment of liquefied argon, nitrogen and oxygen in non-DOT specification cargo tanks. (Mode 1.)
4108-X	DOT-E 4108	Burdett Gas Products Company, Norristown, PA.	49 CFR 173.315(a)	To authorize shipment of liquefied argon, nitrogen and oxygen in non-DOT specification cargo tanks. (Mode 1.)
4453-X	DOT-E 4453	Mergraf Explosives, Inc., Rancho Cordova, CA.	49 CFR 173.114a(h)(3)	To authorize use of a non-DOT specification bulk, hopper-type tank for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixture. (Mode 1.)
4453-P	DOT-E 4453	Kentucky Anfo, Inc., Madisonville, KY	49 CFR 173.114a(h)(3)	To become a party to Exemption 4453. (Mode 1.)
4459-P	DOT-E 4459	Lif-O-Gen Div. of Allied Healthcare Prod., Inc., Cambridge, MD.	49 CFR 173.302(a)(1), 173.304(a)(1), 173.328(a)(2), 173.353(a)(3), 175.3, 178.37.	To become a party to Exemption 4459. (Modes 1, 2, 4.)
4497-X	DOT-E 4497	Red Ball Supply, Inc., Oklahoma City, OK.	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification cargo tanks for transportation of certain nonflammable compressed gases. (Mode 1.)
4717-X	DOT-E 4717	Northern Petrochemical Company, Morris, IL.	49 CFR 172.101, 173.314(e)	To authorize shipment of ethylene or ethane in a non-DOT specification, insulated tank car tank. (Mode 2.)
4734-X	DOT-E 4734	General Electric Company, Waterford, NY.	49 CFR 173.135(a)(9), 173.136(a)(8), 173.260(a)(8).	To authorize use of modified DOT Specification MC-331 cargo tanks for transportation of certain flammable liquids and corrosive materials. (Mode 1.)
5232-X	DOT-E 5232	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.314(c) table	To authorize shipment of certain flammable and nonflammable liquefied compressed gases in AAR Specification 120A300W tank cars, and DOT Specification 105A500W tank cars. (Mode 2.)
6071-X	DOT-E 6071	Walter Kidde & Company Incorporated, Belleville, NJ.	49 CFR 173.304, 173.305, 175.3	To authorize use of non-DOT specification pressure vessels for transportation of nonflammable compressed gases. (Modes 1, 2, 4, 5.)
6080-X	DOT-E 6080	U.S. Department of Energy, Washington, DC.	49 CFR 173.301(d), 173.327(a) 173.337(a)(1).	To authorize use of manifolded cylinders for transportation of a Class A poison. (Mode 1.)
6113-X	DOT-E 6113	Trans Gas, Inc., Lowell, MA	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank for shipment of certain flammable gases. (Mode 1.)
6121-X	DOT-E 6121	E. I. du Pont de Pont Nemours & Company, Inc., Wilmington, DE.	49 CFR 179.220-19(c)	To authorize use of DOT Specification 115A60W1 and 115A60W6 tank car tanks for transportation of a certain flammable liquid. (Mode 2.)
6197-P	DOT-E 6197	Transgas Inc., Lowell, MA	49 CFR 172.101, 173.315(a)(1)	To become a party to Exemption 6197. (Mode 1.)
6205-P	DOT-E6205	Beech Aircraft Corporation, Boulder, CO.	49 CFR 172.101, 173.315(a)(1)	To become a party to Exemption 6205. (Mode 1.)
6231-X	DOT-E 6231	Richmond Lox Equipment Company, Livermore, CA.	49 CFR 172.101, 173.314(c)	To authorize shipment of liquefied flammable gases in non-DOT specification vacuum insulated tank cars. (Mode 2.)
6334-X	DOT-E 6334	Allied Corporation, Morristown, NJ	49 CFR 172.101, 172.594	To authorize use of DOT Specification MC-312 cargo tanks for transportation of an oxidizer. (Mode 1.)
6349-X	DOT-E 6349	Airco Industrial Gases, Murray Hill, NJ	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification portable tanks for shipment of certain flammable and nonflammable gases. (Modes 1, 2, 3.)
6349-X	DOT-E 6349	Union Carbide Corporation, Danbury, CT.	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification portable tanks for shipment of certain flammable and nonflammable gases. (Modes 1, 2, 3.)
6392-X	DOT-E 6392	Stauffer Chemical Company, Westport, CT.	49 CFR 172.101, 173.314(c)	To authorize use of non-DOT specification vacuum insulated tank car tanks for transportation of a liquefied flammable compressed gas. (Mode 2.)
6464-P	DOT-E 6464	Transgas Inc., Lowell, MA	49 CFR 172.101, 173.315(a)	To become a party to Exemption 6464. (Mode 1.)
6472-X	DOT-E 6472	Thiokol Corporation, Odgen, UT	49 CFR 173.91	To authorize use of non-DOT specification polystyrene containers for transportation of certain Class B explosives. (Modes 1, 2, 3.)
6484-X	DOT-E 6484	International Minerals, and Chemical Corporation, Mundelein, IL.	49 CFR 172.101	To authorize transport of mixtures of nitromethane and various solvents in DOT Specification MC-307 or MC-312 tank motor vehicles. (Mode 1.)
6848-X	DOT-E6484	Dow Chemical Company, Midland, MI	49 CFR 172.101	To authorize transport of mixtures of nitromethane and various solvents in DOT Specification MC-307 or MC-312 tank motor vehicles. (Mode 1.)
6538-X	DOT-E6538	Aladdin Industries, Incorporated, Nashville, TN.	49 CFR 173.304(d)(3)(ii), 178.33	To authorize use of a non-DOT specification inside nonrefillable metal container, for transportation of a certain flammable gas. (Modes 1, 3.)
6538-X	DOT-E6538	Wonder Corporation of America, Norwalk, CT.	49 CFR 173.304(d)(3)(ii), 178.33	To authorize use of a non-DOT specification inside nonrefillable metal container, for transportation of a certain flammable gas. (Modes 1,3.)
6611-X	DOT-E6611	Cities Service Company, Tulsa, OK	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification vacuum insulated portable tank, for transportation of a nonflammable gas. (Modes 1, 3.)
6651-X	DOT-E6651	Park Chemical Company, Detroit, MI	49 CFR 173.28(h), 173.28(m)	To authorize one time reuse of the involved single-trip containers, for transportation of certain Class B poisonous solids. (Mode 1.)
6651-X	DOT-E6651	Heatbath Corporation, Chicago, IL	49 CFR 173.28(h), 173.28(m)	To authorize one time reuse of the involved single-trip containers, for transportation of certain Class B poisonous solids. (Mode 1.)
6658-X	DOT-E6658	U.S. Department of Defense, Washington, DC.	49 CFR 173.65	To become a party to Exemption 6658. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6670-X	DOT-E6670	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.301(d), 173.302	To authorize shipment of bromochloromethane in DOT Specification 3A2400, 3AA2400 and 3AAX2400 cylinders. (Mode 1.)
6760-X	DOT-E6760	Terra Chemicals International, Inc., Sioux City, IA.	49 CFR 173.358(a)(13), 173.359(a)(15)	To authorize use of DOT Specification 51 portable tanks equipped with bottom outlet for unloading, for transportation of certain Class B poisonous liquids. (Mode 1.)
6763-X	DOT-E6773	Pool Water Products, Garden Grove, CA.	49 CFR 173.2117(a)(8)	To authorize use of non-DOT specification single-wall, double face corrugated fiberboard boxes, for shipment of certain oxidizers. (Modes 1, 2, 3.)
6890-B	DOT-E6890	Explosive Technology, Inc., Fairfield, CA.	49 CFR 173.100(ee), 175.3	To become a party to Exemption 6890. (Modes 1, 2, 3, 4.)
6929-X	DOT-E6929	U.S. Department of Energy, Washington, DC.	49 CFR 173.88(e)(2)(ii), 173.92(b)	To authorize shipment of a Class B explosive in rocket motors in a propulsion state. (Modes 1, 3.)
6984-B	DOT-E6984	Hercules, Incorporated, Wilmington, DE	49 CFR 173.103(a), 173.66(g), 177.835(g)(2)(i).	To authorize packaging of 1000 or less electric blasting caps in inside pasteboard cartons or tubes, overpacked in an IME Standard 22 container. (Mode 1.)
6984-X	DOT-E6984	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.103(a), 173.66(g), 177.835(g)(2)(i).	To authorize packaging of 1000 or less electric blasting caps in inside pasteboard cartons or tubes, overpacked in an IME Standard 22 container. (Mode 1.)
7024-X	DOT-E 7024	Burlington Industries, Inc., Burlington, NC.	49 CFR 173.249(a)(7)	To authorize transport of an alkaline corrosive liquid in collapsible rubber containers identified as SEALDTAINRS. (Mode 1.)
7076-X	DOT-E 7076	LaMotte Chemical Products Company, Chestertown, MD.	49 CFR 173.266(b)	To authorize packaging not prescribed in the Hazardous Materials Regulations, for transportation of a certain corrosive liquid and flammable liquid. (Modes 1, 2, 3.)
7538-X	DOT-E 7538	Southern Chemical Products Company, Macon, GA.	49 CFR 178.19, Part 178, Subpart F	To authorize manufacture, marking and sale of non-DOT specification reusable rotationally molded polyethylene container, for transportation of corrosive liquids. (Modes 1, 2, 3.)
7640-X	DOT-E 7640	Mauser Packaging Limited, New York, NY.	49 CFR 173.266(a), 178.19	To authorize use of a DOT Specification 34 polyethylene container of 15 gallon capacity for shipment of hydrogen peroxide, 60%. (Modes 1, 2, 3.)
7680-X	DOT-E 7680	Sterling Drug, Inc., New York, NY	49 CFR 173.206a(a)(2)	To authorize shipment of a certain flammable solid in a reusable non-DOT specification stainless steel drum. (Mode 1.)
7744-X	DOT-E 7744	Dow Corning Corporation, Midland, MI	49 CFR 172.101, 173.315(a), 178.337-11(c).	To authorize shipment of liquefied anhydrous hydrogen chloride in DOT Specification MC-331 cargo tanks. (Mode 1.)
7753-X	DOT-E 7753	Stauffer Chemical Company, Westport, CT.	49 CFR 173.190(b)(2)	To authorize shipment of yellow phosphorous in a tight-head 55-gallon DOT Specification 17C drum. (Modes 1, 2, 3.)
7802-X	DOT-E 7802	Bennett Industries, Pacoima, CA	49 CFR 173 Subpart D, 173 Subpart F	To authorize shipment of liquid hazardous materials in non-DOT specification 3.5 or 5 gallon capacity removable head polyethylene drums. (Modes 1, 2, 3.)
7835-P	DOT-E 7835	Ideal Gas Products, Inc., Edison, NJ	49 CFR 177.848, Part 107 Appen. B(1)	To become a party to Exemption 7835. (Mode 1.).
7835-X	DOT-E 7835	Scientific Gas Products, Inc., South Plainfield, NJ.	49 CFR 177.848, Part 107 Appen. B(1)	To authorize transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle. (Mode 1.)
7091-X	DOT-E 7091	Union Pacific Railroad Company, Omaha, NE.	49 CFR Parts 100-177	To renew and to modify paragraph 8(d) pertaining to unattended flag kits. (Mode 1.)
8037-X	DOT-E 8037	Mauser Packaging, Ltd., New York, NY	49 CFR 173.127, 173.184, 178.224	To authorize use of a non-DOT specification fiberboard drum for shipment of wet nitrocellulose. (Modes 1, 2, 3.)
8238-X	DOT-E 8238	ASARCO Incorporated, New York, NY	49 CFR 173.366	To authorize shipment of arsenical flue dust in non-DOT specification reusable bags. (Mode 2.)
8247-X	DOT-E 8247	Container Corporation of America, Wilmington, DE.	49 CFR 173.272(g)	To authorize 5-gallon capacity polyethylene containers for shipment of sulfuric acid. (Modes 1, 2, 3.)
8357-X	DOT-E 8357	Industrial and municipal Engineering, Galva, IL.	49 CFR 173.119(a), (m), 173.245(a), 178.340-7, 49 CFR 173.266(e) 178.342-5, 178.343-5, 178.346(a).	To authorize manufacture, marking and sale of non-DOT Specification cargo tanks complying with DOT Specification MC-307/312 except for bottom outlet valve variation, for shipment of liquid and semi-solid waste material. (Mode 1.)
8361-X	DOT-E 8361	Mobay Chemical Corperation, Kansas City, MO.	49 CFR 173.3(c), 177.864(c)(2), 178.241.	To authorize use of a DOT Specification 44P bag as an overpack for containment of and return of DOT Specification 44D bags of certain Class B poisonous solids damaged in transit. (Modes 1,2.)
8387-X	DOT-E 8387	FMC Corporation, Philandelphia,PA	49 CFR 173.226(e)	To authorize transport of hydrogen peroxide in DOT Specification MC-312 cargo tank aboard cargo vessel. (Mode 3.)
8388-X	DOT-E 8388	B. W. Norton Manufacturing Co., Inc., Oakland, CA.	49 CFR 173 Subpart D, 173 Subpart F, 178.19.	To authorize shipment of liquid hazardous materials in a non-DOT specification five-gallon capacity removable head polyethylene drum. (Modes 1, 2, 3.)
8390-X	DOT-E 8390	Ashland Oil, Inc., Columbus, OH	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A60 fiberboard boxes. (Mode 1.)
8390-P	DOT-E 8390	Mallinckrodt, Inc., Paris, KY	49 CFR 173.272, 178.210, 178.24a	To become a party to Exemption 8390. (Mode 1.)
8395-X	DOT-E 8395	3M Company, St. Paul, MN	49 CFR 173.124(a)(3), 175.3	To authorize shipment of ethylene oxide in inside aluminum cartridges, contents not over 136 grams each, packed in DOT Specification 12B fiberboard boxes. (Modes 1, 2, 3, 4.)
8409-X	DOT-E 8409	ES Science, Division of EM Industries, Inc., Cincinnati, OH.	49 CFR 173.264(a)(1), 178.210	To authorize shipment of hydrofluoric acid solution no greater than 70% strength, in non-DOT specification polyethylene bottles, not exceeding a capacity of 6 liters, packed in DOT Specification 12A fiberboard boxes. (Modes 1, 3.)
8436-X	DOT-E 8436	Pennwalt Corporation, Buffalo, NY	49 CFR 173.119(m), 173.21	To authorize transport of a flammable liquid which is also an organic peroxide, in a DOT Specification MC-331 cargo tank. (Mode 1.)
8437-X	DOT-E 8437	Park Chemical Company, Detroit, MI	49 CFR 173.154, 178.241-4	To authorize shipment of a sodium nitrate mixture in non-DOT specification, nine mil plastic bags of 50 pounds net weight and which are stretch-wrapped 40 bags to a pallet. (Mode 1.)
8439-X	DOT-E 8439	Hydraulic Research Textron, Pacoima, CA.	49 CFR 173.302, 173.304, 175.3, 178.53.	To authorize manufacture, marking and sale of non-DOT specification cylinders complying with DOT Specification 4DS, with certain exceptions, for shipment of various nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
8441-P	DOT-E 8441	GTE Products Corporation, Westborough, MA.	49 CFR 172.101	To become a party to Exemption 8441. (Mode 1.)
8457-P	DOT-E 8457	Duracell U.S.A., Tarrytown, NY	49 CFR Parts 100-177	To become a party to Exemption 8457. (Modes 1, 2, 3, 4, 5.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8456–X	DOT–E 8456	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.31(c) Table 1	To authorize conversion of DOT Specification 105A500W or 112A400W tank cars to a DOT Specification 111A100W2 tank car for transportation of certain corrosive materials and oxidizers. (Mode 2.)
8464–X	DOT–E 8464	Garrett Pneumatic Systems Division, Phoenix, AZ.	49 CFR 173.302(a)	To authorize manufacture, marking and sale of non-DOT specification nonreusable, nonrefillable toroidal pressure vessels, for transportation of nonflammable, nonliquefied gases. (Modes 1, 4, 5.)
8466–X	DOT–E 8466	Atlas Powder Company, Dallas, TX	49 CFR 173.114a	To authorize shipment of RXL481, classed as a blasting agent in specially designed non-DOT specification cargo tanks. (Mode 1.)
8476–X	DOT–E 8476	Warren Petroleum Company, Tulsa, OK	49 CFR 173.315(a)(1), 173.315(c)(1)	To authorize use of a non-vacuum insulated DOT Specification MC–331 cargo tank, for transportation of flammable gases. (Mode 1.)
8498–X	DOT–E 8498	Hunter Drums Limited, Burlington, Ontario.	49 CFR 178.19, Part 173 Subpart D, Part 173 Subpart F.	To authorize methanol classed as a flammable liquid as an additional commodity. (Modes 1, 2, 3.)
8499–X	DOT–E 8499	Hedwin Corporation, Baltimore, MD	49 CFR 173.119, 173.125, 173.154, 173.272, 173.286, 173.346.	To authorize manufacture, marking and sale of DOT Specification 34 polyethylene drums for shipment of certain flammable, corrosive, oxidizers and Poison B liquids. (Modes 1, 2, 3.)
8554–P	DOT–E 8554	Margraf Explosives, Inc., Rancho Cordova, CA.	49 CFR 173.114a, 173.93	To become a party to Exemption 8554. (Mode 1.)
8554–P	DOT–E 8554	Buckley Powder Co., Denver, CO	49 CFR 173.114a, 173.93	To become a party to Exemption 8554. (Mode 1.)
8570–X	DOT–E 8570	Snyder Industries, Inc., Lincoln, NB	49 CFR 173 Subpart F, 173.119, 173.266.	To authorize water as an additional mode of transportation. (Modes 1, 2.)
8650–X	DOT–E 8650	Ethyl Corporation, Baton Rouge, LA	49 CFR 173.354	To authorize a new design portable tank identical to those presently authorized except for use of a single large capacity relief valve in combination with a ruputure disc with no fusible device. (Modes 1, 2, 3.)
8747–P	DOT–E 8747	Rexnord Inc., Commerce City, CO	49 CFR 173.245, 173.249, 175.3	To become a party to Exemption 8747. (Modes 1, 2, 3, 4.)
8853–X	DOT–E 5923	Union Carbide Corporation, Danbury, CT	49 CFR 173.148(a)(4), 173.31(d)(9), 173.314.	To authorize transport of certain gases in DOT Specification 106A500X and 110A500W multi-unit tank-car tanks, allows the substitution of visual inspection for hydrostatic retesting. (Modes 1, 2, 3, 4.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8747–N	DOT–E 8747	Copps Industries, Inc., Menomonee Falls, WI.	49 CFR 173.245, 173.249, 175.3	To authorize shipment of certain alkaline corrosive liquids, n.o.s., in an unlined 28/26 gauge DOT Specification 37c80 steel drum of five gallon capacity. (Modes 1,2,3,4.)
8782–N	DOT–E 8782	Sherwin Williams Company, Cleveland, OH.	49 CFR 173.119(a)(23)	To authorize shipment of various flammable liquids in specially-treated DOT Specification 2E polyethylene bottles of one-gallon capacity, packed no more than four to a non-DOT specification corrugated fiberboard box. (Modes 1, 2.)
8789–N	DOT–E 8789	Cleanweld Products, Inc., Irwindale, CA	49 CFR 173.304, 175.3	To authorize manufacture, marking and sale of non-DOT specification small, low pressure cylinders with certain exceptions, for transportation of flammable gases. (Mode 1.)
8808–N	DOT–E 8808	Monitor Labs, Incorporated, San Diego, CA.	49CFR 173.336	To authorize shipment of limited quantities of nitrogen dioxide in a non-DOT specification container, overpacked in a DOT Specification 15A wooden box. (Mode 4.)
8809–N	DOT–E 8809	Continental Forest Industries, Lombard, IL.	49 CFR 178.225, Part 173	To authorize manufacture, marking and sale non-DOT specification fibre drum overpacks for 15-gal capacity inner polyethylene container, similar to DOT–21P/2U except top head is molded polyolefin polymer secured to drum by wire stiches for shipment of commodities authorized in DOT–21P/2U composite. (Modes 1, 2, 3.)
8812–N	DOT–E 8812	The Protectoseal Company, Bensenville, IL.	49 CFR 173.119, 178.89	To authorize manufacture, marking and sale of non-DOT specification steel drums of 5-gallon capacity and comparable to DOT Specification 6L, for shipment of gasoline and gasohol, classed as flammable liquids. (Mode 1.)
8823–N	DOT–E 8823	International Air Transport, Anchorage, AK.	49 CFR 172.101, 173.119, 175.3	To authorize carriage of fuel, aviation turbine engine, classed as a flammable liquid, in DOT Specification 34 polyethylene drums of 15-gallon capacity, loaded in cargo compartments of helicopters. (Mode 4.)
8831–N	DOT–E 8831	Teledyne Energy Systems, Timonium, MD.	49 CFR 172.400, 173.249, 175.3	To authorize transport of small amount of potassium hydroxide solution, in non-DOT specification containers, overpacked in a strong woden case. (Modes 1, 4.)
8841–N	DOT–E 8841	Valmont Oilfield Products Co., Springer, OK.	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340–7, 178.342–5, 178.343–5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks complying with DOT Specification MC–307/312 except for bottom outlet valve variations for shipment of liquid or semi-solid waste materials. (Mode 1.)
8844–N	DOT–E 8844	Beall, Inc., Billings, MT	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340–7, 178.342–5, 178.343–5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks designed and constructed in full compliance with DOT Specification MC–307 or MC–312 with certain exceptions, for transportation of certain hazardous materials. (Mode 1.)
8860–N	DOT–E 8860	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.31(e), Retest Table 1	T o authorize extended periods in the retest frequency of DOT Specifications 103CW and 103EW tank cars in chlorosulfonic acid and nitric acid service. (Mode 2.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 8816–N	DOT–E 8816	McDonnell Douglas Astronautics Company, St. Louis, MO.	49 CFR 173.53(p)	To authorize shipment of completely assembled liquid and solid fueled missiles in packaging prescribed in 173.57(a). (Mode 1.)
EE 8892–N	DOT–E 8892	Flying Tiger Line, Los Angeles, CA	49 CFR 172.101 column 6(b), 175.30	To authorize transport of a Class A explosive in an aircraft of United States registry. (Mode 4.)

EMERGENCY EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 8907-N	DOT-E 8907	U.S. Department of Defense, Washington, DC.	49 CFR 172.101(6)(b), 175.3, 175.30	To authorize air transport of Class A, B and C explosives that are packed, marked, labeled and loaded in accordance with 49 CFR Part 173 or AFR 71-4. (Mode 4.)

WITHDRAWALS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8353-X	Thiokol Corporation, Huntsville, AL	49 CFR 178.252-2(b)	To authorize an alternate closure device in a DOT Specification 56 portable tank for the transportation of ammonium perchlorate. (Mode 2.)
8705-X	General Electric Company, San Jose, CA	49 CFR 173.395(b)(2), Part 172 Subpart D,E	To authorize shipment of type B quantities of radioactive materials in a certain form contained in other than type B packagings. (Mode 1.)

Denials

8821-N Request by Rocket Research Company, Redmond, WA to authorize shipment of a gas mixture in a non-DOT specification inflator assemply equipped with a burst disk/detonator assembly denied August 30, 1982.

Issued in Washington, DC, on September 17, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-26358 Filed 9-24-82; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 427; Ref: ATF O 1100.77D]

Authority To Affix the Seal of the Department of the Treasury

PURPOSE: This order sets forth delegation of authority to affix the seal of the Department of the Treasury.

CANCELLATION: ATF O 1100.77C, Delegation Order—Authority to Affix the Seal of the Department of the Treasury, dated May 14, 1980, is canceled.

DELEGATION:

a. Pursuant to the authority delegated to the Director, Bureau of Alcohol, Tobacco and Firearms by Treasury Department Order 101-12, dated October 12, 1979, those officials listed below are hereby redelegated authority to affix the seal of the Department of the Treasury in the authentication of originals and copies of books, records, papers, writing, and documents of the Bureau, for all purposes, including the purposes authorized by 28 U.S.C. 1733(b):

(1) Assistant Director (Regulatory Enforcement)
(2) Chief, Trade and Consumer Affairs Division
(3) Chief, Commodity Classification Branch
(4) Chief, Regulations and Procedures Division
(5) Chief, Research and Regulations Branch
(6) Regional Regulatory Administrators
(7) Chief, Investigations Division
(8) Assistant Director (Administration)
(9) Chief, Administrative Programs Division
(10) Chief, Protective Programs and Services Branch
(11) Manager, ATF Distribution Center
(12) Regional Administrative Officers
(13) Assistant Director (Technical and Scientific Services)
(14) Chief, Technical Services Division
(15) Chief, National Firearms Act Branch

b. This authority may not be redelegated.

FOR INFORMATION CONTACT: Robert G. Hardt, Procedures Branch, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20226.

EFFECTIVE DATE: This delegation order becomes effective on September 27, 1982.

Approved: September 10, 1982.

Stephen E. Higgins,

Acting Director.

[FR Doc. 82-26434 Filed 9-24-82; 8:45 am]

BILLING CODE 4810-31-M

Office of the Secretary

[Supplement to Department Circular; Public Debt Series—No. 24-82]

Treasury Notes on September 21, 1982; Series J—1986

September 22, 1982.

The Secretary announced on September 21, 1982, that the interest rate on the notes designated Series J-1986, described in Department Circular—Public Debt Series—No. 24-82 dated September 15, 1982, will be 12¼ percent. Interest on the notes will be payable at the rate of 12¼ percent per annum.

John A. Kilcoyne,

Assistant Fiscal Secretary.

[FR Doc. 82-26468 Filed 9-24-82; 8:45 am]

BILLING CODE 4810-40-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459) and Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), I hereby determine that the objects in four exhibits (included in the lists[1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to agreements between the foreign lenders and the National Gallery of Art, Washington, D.C. The titles of the exhibits and their dates of exhibition at the National Gallery of Art are the following: "Claude Lorrain: A Tercentenary Exhibition" (October 17, 1982 to January 2, 1983); "Braque: The Collages" (October 31, 1982 to January 16, 1983); "David Smith" (November 7,

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

1982 to April 26, 1983); and "Manet and Modern Paris" (December 5, 1982 to March 6, 1983). I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art on or about the periods indicated is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: September 21, 1982.

Charles Z. Wick,

Director.

[FR Doc. 82-26550 Filed 9-24-82; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 187
Monday, September 27, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Tuesday, September 28, 1982.

LOCATION: Third floor hearing room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

NEISS Product Codes

The Commission will consider options related to reducing the product codes used in the National Electronic Injury Surveillance System (NEISS).

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Room 342, 5401 Westbard Avenue, Bethesda, Maryland 20207; telephone (301) 492–6800.

[S–1375–82 Filed 9–23–82; 10:01 am]

BILLING CODE 6355–01–M

2

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Thursday, September 30, 1982.

PLACE: Board room, sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

MATTERS TO BE CONSIDERED:

Request for Waiver of Subordinated Debt Requirements; and Application to Utilize Subordinated Debt Securities to Meet Net Worth Requirements—Santa Barbara Savings and Loan Association, Santa Barbara, California

Application for Bank Membership and Insurance of Accounts—Signal Hill Savings and Loan Association, Signal Hill, California (In Organization)

[No. 62, September 23, 1982]

[S–1374–82 Filed 9–23–82; 9:33 am]

BILLING CODE 6720–01–M

3

FEDERAL HOME LOAN MORTGAGE CORPORATION

TIME AND DATE: 2 p.m., September 30, 1982.

PLACE: Fourth floor conference room 4–G, 1776 G Street, N.W., Washington, D.C.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Scott R. Daugherty.

MATTERS TO BE CONSIDERED: Closed Meeting:

Minutes of August 26, 1982 Board of Directors' Meeting
President's Report
Complete July Financial Statements
Partial August Financial Statements
Minute Entry
Declaration of Regular Quarterly Dividend to Shareholders
Minutes of August 26, 1982 Financing Strategy Meeting
Financial Strategy October 1982
Minute Entry
Hedging Contract Limit Resolution
Maximum Authority for Short-term Debt Resolution
Pre-Sale Long-term Debt Resolution

September 23, 1982.

[S–1377–82 Filed 9–23–82; 2:56 pm]

BILLING CODE 6720–02–M

4

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Friday, October 1, 1982.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: September 23, 1982.

James McAfee,

Associate Secretary of the Board.

[S–1376–82 Filed 9–23–82; 2:56 pm]

BILLING CODE 6210–01–M

5

INTERNATIONAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 41227 September 17, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Thursday, September 30, 1982.

CHANGES IN THE MEETING: Emergency notice cancelling the meeting.

By action jacket CO1–82–02, the United States International Trade Commission, in conformity with 19 CFR 201.37(b), voted to cancel the meeting of Thursday, September 30, 1982, to a date to be determined later.

Commissioners Eckes, Frank, and Haggart determined, by recorded vote, that Commission business requires the change in schedule and affirmed that no earlier announcement of cancellation of the meeting was possible, and directed the issuance of this notice at the earliest practicable time. Commissioner Stern voted to disapprove cancellation of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–1378–82 Filed 9–23–82; 8:45 am]

BILLING CODE 7020–02–M

6

NUCLEAR REGULATORY COMMISSION

DATE: Week of September 27, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Tuesday, September 28:*

2:00 p.m.:
Discussion of TMI–1 Restart—Status of Staff Effort on Psychological Stress (Closed—Exemption 10)

Wednesday, September 29:

3:00 p.m.
Briefing on Quality Assurance (Public Meeting)

Thursday, September 30:

9:30 a.m.:

Discussion and Possible Vote on Full Power Operating License for Susquehanna–1 (Public Meeting)

1:30 p.m.:

Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemption 2 and 6)

4:15 p.m.:

Affirmation/Discussion and Vote (Public Meeting):

a. Final Rule, "Environmental Qualification of Electric Equipment Important to Safety for Nuclear Power Plants" (Tentative)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the date of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Linda Stoloff (202) 634–1410.

Linda Stoloff,

Office of the Secretary.

[S–1373–82 Filed 9–22–82; 4:57 pm]

BILLING CODE 7590–01–M

federal register

Monday
September 27, 1982

Part II

Department of the Interior

Fish and Wildlife Service

Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the late open seasons, hunting hours, hunting areas, and daily bag and possession limits for general waterfowl seasons; special seasons for scaup and goldeneyes; extra scaup and teal in regular seasons; additional sandhill crane seasons in the Central Flyway and in Arizona; coots, gallinules, and snipe in the Pacific Flyway; and additional falconry seasons. Taking of the designated species of migratory birds is prohibited unless open hunting seasons are specifically provided. The rules will permit taking of the designated species during the 1982–83 season within specified periods of time beginning as early as October 1, as has been the case in past years, and benefit the public by opening the seasons which are presently closed.

EFFECTIVE DATE: September 27, 1982.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C., telephone 202–254–3207.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds, to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

On April 19, 1982, the U.S. Fish and Wildlife Service (hereinafter the Service) published for public comment in the **Federal Register** (47 FR 16718) a proposal to amend 50 CFR Part 20, with comment periods ending June 23, July 16, and August 23 (later extended to August 30), 1982, respectively, for the 1982–83 hunting season frameworks proposed for Alaska, Puerto Rico, and the Virgin Islands; other early seasons; and the late seasons. That document dealt with the establishment of hunting seasons, hours, areas, and limits for migratory game birds under §§ 20.101 through 20.107 and 20.109 of Subpart K. On June 15, 1982, the Service published in the **Federal Register** (47 FR 25922) a second document consisting of a supplemental proposed rulemaking dealing with both the early and late season frameworks. On July 12, 1982, the Service published for public comment in the **Federal Register** (47 FR 30162) a third document consisting of a proposed rulemaking dealing specifically with frameworks for early season migratory bird hunting regulations. On July 19, 1982, the Service published in the **Federal Register** (47 FR 31282) a fourth document consisting of final frameworks for Alaska, Puerto Rico, and the Virgin Islands. On August 9, 1982, the Service published a fifth document (47 FR 34498) consisting of a final rulemaking for the early season frameworks for migratory bird hunting regulations from which State wildlife conservation agency officials selected early season hunting dates, hours, areas, and limits for the 1982–83 season. On August 20, 1982, the Service published for public comment in the **Federal Register** (47 FR 36578) a sixth document consisting of a proposed rulemaking dealing specifically with frameworks for late season migratory bird hunting regulations. On August 30, 1982, the Service published in the **Federal Register** (47 FR 38246) a seventh document consisting of a final rule amending Subpart K of 50 CFR 20 to set hunting seasons, hours, areas, and limits for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic Flyway; ducks in September in Florida, Iowa, Kentucky, and Tennessee; sandhill cranes in the Central Flyway and Arizona; sandhill cranes and Canada geese in southwestern Wyoming; migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; and special falconry season. On September 17, 1982, the Service published in the **Federal Register** an eighth document (47 FR 41252) consisting of a final rulemaking for the late season frameworks for migratory game bird hunting regulations from which State wildlife conservation agency officials selected late season hunting dates, hours, areas, and limits for the 1982–83 season. The final rule described here is the ninth in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with amending Subpart K of 50 CFR 20 to set hunting seasons, hours, areas, and limits for species subject to late hunting regulations. These regulations will take effect immediately upon publication.

These regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Nontoxic Shot Regulations

On August 13, 1981, the Service published in the **Federal Register** (46 FR 40879) final rules describing nontoxic shot zones for waterfowl hunting. When eaten by waterfowl, spent lead pellets can have a toxic effect. Nontoxic shot zones reduce availability of lead pellets in selected waterfowl feeding areas.

Amendments to these regulations were published in the **Federal Register** (47 FR 32546; July 28, 1982). These amendments relate to changes in Maine, Massachusetts, Indiana, and Nebraska. Texas, South Dakota, and Colorado have regulations requiring steel shot for waterfowl hunting in areas not included in the Federal regulations published in the **Federal Register** on August 13, 1981 (46 FR 40879). Zones in other States will remain as they were described on August 13, 1981 (46 FR 40879).

Some national wildlife refuges require use of steel shot on hunting areas within their boundaries, and these rules are published with other regulations regarding public use of the refuges (Title 50 CFR Part 32—Hunting).

Waterfowl hunters are advised to become familiar with State and local regulations regarding the use of nontoxic shot for waterfowl hunting.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 24241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. The 1975 FES is now out of print but copies of the environmental assessments are available from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

The Service recently issued a supplement to the environmental assessment titled Proposed Hunting Regulations on Black Ducks, issued in

August 1976. Copies of the supplement are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Endangered Species Act Consideration

Compliance with Section 7 of the Endangered Species Act, insofar as late season regulations frameworks are concerned, was described in the **Federal Register** dated August 30, 1982 (47 FR 38246). As a result of intra-Service Section 7 consultation, Mr. John L. Spinks, Chief, Office of Endangered Species, concluded in a biological opinion dated July 1, 1982:

> Therefore, it is my biological opinion that your action, as proposed, is not likely to jeopardize the continued existence of the above listed species or result in the destruction or adverse modification of the American peregrine falcon, whooping crane, or Everglade kite Critical Habitat.

The Service wishes to reiterate that delays or closures of migratory bird hunting seasons will be considered and invoked when justified, for the protection of endangered species.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species.

The Service's biological opinion resulting from its consultation under Section 7 is considered a public document and is available for public inspection in or available from the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Regulatory Flexibility Act and Executive Order 12291

In the **Federal Register** dated April 19, 1982 (at 47 FR 16722), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Authorship

The primary author of this final rule is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Memorandum of Law

The Service Published its Memorandum of Law, required by Section 4 of Executive Order 12291, in the **Federal Register** dated July 19, 1982 (at 47 FR 31283).

Regulations Promulgation

After analysis of the migratory game bird survey data obtained through investigations conducted by the Service, State conservation agencies, and other sources, and consideration of all comments received on the late season proposals (47 FR 16718), April 19, 1982; 47 FR 25922, June 15, 1982; and 47 FR 36578, August 20, 1982), the Service published in the **Federal Register** on September 17, 1982 (47 FR 41252) final late season frameworks. Copies of the final frameworks were also sent to the officials of the State conservation agencies who were invited to submit recommendations for hunting seasons which complied with the season times and lengths, hours, areas, and limits specified in the frameworks.

The taking of the designated species of migratory birds is prohibited unless open hunting seasons are specifically provided. The following amendments will permit taking of the designated species within specified time periods beginning as early as October 1, as has been the case in past years, and benefit the public by relieving existing restrictions.

The rulemaking process for migratory game bird hunting, must, by its nature, operate under severe time constraints. However, the Service intends that the public be given the greatest possible opportunity to comment on the regulations. Thus, when proposed rulemakings were published on April 19, June 15, and August 20, 1982, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that when the comment period closed time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the States would have insufficient time to select their season dates, shooting hours, hunting areas, and limits; to communicate those selections to the Service; and to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) (Administrative Procedure Act), and these regulations will, therefore, take effect immediately upon publication.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

Dated: September 21, 1982.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

PART 20—MIGRATORY BIRD HUNTING

Accordingly, each State conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State on those species of migratory birds for which open seasons are now to be prescribed, and consideration having been given to all other relevant matters presented, certain sections of Title 50, Chapter I, Subchapter B, Part 20, Subpart K, are hereby amended.

The late hunting season regulations will not be included in the annual codification of Title 50 CFR, Wildlife and Fisheries, inasmuch as most seasons will have terminated by the time that the annual codification is issued.

BILLING CODE 4310-55-M

Section 20.104 is revised to read as follows:

§20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are as follows:

	Rails (Sora & Virginia)	Rails (Clapper & King)	Woodcock	Common Snipe
Daily bag limit.....	25 (1)	See footnote (2).	5	8
Possession limit.....	25 (1)	See footnote (2).	10	16

Shooting Hours: One-half hour before sunrise until sunset daily on all species, except as noted otherwise.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Seasons in the Atlantic Flyway:				
Connecticut.....	Sept. 1-Nov. 6	Sept. 1-Nov. 6	Oct. 16-Dec. 4.	Oct. 16-Dec. 4.
Delaware	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Oct. 18-Oct. 30 & Nov. 15-Jan. 5.	Oct. 18-Oct. 30 & Nov. 15-Jan. 31.
Florida	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Dec. 4-Feb. 6	Nov. 6-Feb. 20.
Georgia.....	Sept. 14-Nov. 22	Sept. 14-Nov. 22	Nov. 20-Jan. 23	Nov. 20-Feb. 28.
Maine	Sept. 1-Nov. 7	Closed.	Oct. 5-Dec. 8	Sept. 1-Dec. 15.
Maryland.....	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Oct. 11-Nov. 26 & Dec. 6-Dec. 23.	Sept. 13-Dec. 28.
Massachusetts	Sept. 1-Nov. 9	Closed.	Oct. 10-Nov. 27(3)	Sept. 1-Dec. 16.
New Hampshire	Closed.	Closed.	Oct. 5-Dec. 8	Oct. 5-Dec. 8.
New Jersey:				
North Zone (4)....	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Oct. 5-Nov. 27	Oct. 2-Nov. 11 & Nov. 15-Jan. 19.
South Zone (4)	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Oct. 28-Dec. 4 & Dec. 18-Dec. 29.	Oct. 2-Nov. 11 & Nov. 15-Jan. 19.
New York:				
Northern Zone (4) including Lake Champlain	Sept. 1-Nov. 9	Closed.	Oct. 5-Dec. 8	Sept. 1-Dec. 2.
Long Island.....	Closed.	Closed.	Oct. 5-Dec. 6	Closed.
Remainder of State.....	Sept. 1-Nov. 9	Closed.	Oct. 5-Dec. 8	Sept. 1-Dec. 2.
North Carolina.....	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Nov. 13-Jan. 15	Nov. 13-Feb. 26.
Pennsylvania	Sept. 1-Nov. 9	Closed.	Oct. 16-Dec. 14	Oct. 16-Dec. 14.
Rhode Island.....	Sept. 16-Nov. 24	Sept. 16-Nov. 24	Oct. 16-Dec. 3 & Dec. 13-Dec. 23.	Sept. 16-Dec. 3 & Dec. 13-Jan. 2.
South Carolina.....	Sept. 14-Oct. 19 & Nov. 1-Dec. 4	Sept. 14-Oct. 19 & Nov. 1-Dec. 4	Nov. 23-Jan. 29	Nov. 13-Feb. 26.
Vermont	Sept. 25-Nov. 28	Closed.	Oct. 5-Nov. 28	Sept. 25-Nov. 28.
Virginia.....	Sept. 11-Nov. 19	Sept. 11-Nov. 19	Nov. 1-Jan. 4	Oct. 16-Jan. 31.
West Virginia	Sept. 6-Nov. 13	Closed.	Oct. 16-Dec. 18	Sept. 6-Dec. 21.
Seasons in the Mississippi Flyway:				
Alabama	Nov. 10-Jan. 16	Nov. 10-Jan. 16	Nov. 27-Jan. 30	Nov. 13-Feb. 27.
Arkansas.....	Sept. 1-Nov. 9	Closed.	Nov. 1-Jan. 4	Nov. 20-Feb. 28.
Illinois.....	Sept. 1-Nov. 9	Closed.	Oct. 1-Dec. 4	Sept. 11-Dec. 26.
Indiana	Sept. 1-Nov. 9	Closed.	Sept. 18-Nov. 21	Sept. 1-Dec. 16.
Iowa (5).....	Sept. 4-Nov. 12	Closed.	Sept. 18-Nov. 21	Sept. 4-Dec. 19.
Kentucky	Nov. 13-Jan. 20	Closed.	Oct. 9-Dec. 5	Oct. 2-Dec. 5.
Louisiana	Sept. 18-Sept. 26 & Nov. 6-Jan. 5.	Sept. 18-Sept. 26 & Nov. 6-Jan. 5.	Dec. 11-Feb. 13	Nov. 6-Feb. 20.
Michigan (6)	Sept. 18-Nov. 14	Closed.	Sept. 18-Nov. 14	Sept. 18-Nov. 14.
Minnesota.....	Sept. 1-Nov. 4	Closed.	Sept. 1-Nov. 4	Sept. 1-Nov. 4.
Mississippi	Oct. 23-Dec. 31	Oct. 23-Dec. 31	Dec. 23-Feb. 27	Nov. 13-Feb. 27.
Missouri	Sept. 1-Nov. 9	Closed.	Oct. 1-Dec. 4	Oct. 1-Dec. 4.
Ohio.....	Sept. 1-Nov. 9	Closed.	Sept. 17-Nov. 20	Sept. 1-Nov. 27 & Dec. 6-Dec. 24.
Tennessee.....	Dec. 9-Jan. 20	Closed.	Oct. 16-Nov. 21 & Feb. 1-Feb. 28.	Nov. 13-Feb. 28.
Wisconsin	Oct. 1 (noon)-Oct. 10 & Oct. 16-Nov. 24	Closed.	Sept. 18-Nov. 21	Oct. 1 (noon)-Oct. 10 & Sept. 16-Nov. 24.
Seasons in the Central Flyway:				
Colorado (7).....	Sept. 1-Nov. 9	Closed.	Closed.	Sept. 1-Nov. 9 & Dec. 11-Jan. 2.
Kansas.....	Sept. 11-Nov. 19	Closed.	Oct. 2-Dec. 5	Sept. 11-Dec. 26.
Montana (7)	Closed.	Closed.	Closed.	Oct. 2-Nov. 30.
Nebraska (8).....	Sept. 1-Nov. 9	Closed.	Sept. 15-Nov. 18	Sept. 1-Dec. 15.
New Mexico (7)	Sept. 11-Nov. 19	Closed.	Closed.	Sept. 11-Dec. 12.
North Dakota.....	Closed.	Closed.	Closed.	Sept. 18-Nov. 28.
Oklahoma	Sept. 1-Nov. 8	Closed.	Nov. 20-Jan. 23	Oct. 23-Feb. 3.
South Dakota (9) ...	Closed.	Closed.	Closed.	Sept. 1-Oct. 31.
Texas.....	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Nov. 27-Jan. 30	Nov. 1-Feb. 13.
Wyoming (7).....	Sept. 25-Dec. 3	Closed.	Closed.	Sept. 25-Jan. 9.
Seasons in the Pacific Flyway:				
Arizona.....	Closed.	Closed.	Closed.	Oct. 9-Nov. 3 & Nov. 15-Jan. 23.
California:				
Northeastern Zone (4)	Closed.	Closed.	Closed.	Oct. 16-Jan. 16.
Colorado River Zone (4)	Closed.	Closed.	Closed.	Oct. 9-Nov. 3 & Nov. 15-Jan. 23.
Remainder of State	Closed.	Closed.	Closed.	Oct. 23-Jan. 23.
Colorado (7).....	Sept. 1-Nov. 9	Closed.	Closed.	Sept. 1-Nov. 9 & Dec. 11-Jan. 2.
Idaho:				
Columbia Basin (4).....	Closed.	Closed.	Closed.	Oct. 2-Jan. 9.
Remainder of State.....	Closed.	Closed.	Closed.	Oct. 2-Jan. 2.
Montana (7)	Closed.	Closed.	Closed.	Oct. 2-Jan. 2.
Nevada:				
Clark County.....	Closed.	Closed.	Closed.	Oct. 23-Jan. 23.
Remainder of State.....	Closed.	Closed.	Closed.	Oct. 9-Jan. 9.
New Mexico (7)	Sept. 11-Nov. 19	Closed.	Closed.	Sept. 11-Dec. 12.
Oregon	Closed.	Closed.	Closed.	Oct. 16-Jan. 16.
Utah (10).....	Closed.	Closed.	Closed.	Oct. 2-Jan. 2.
Washington:				
Eastern Washington (4), (10).....	Closed.	Closed.	Closed.	Oct. 9-Jan. 16.
Western Washington (4), (10).....	Closed.	Closed.	Closed.	Oct. 9-Jan. 9.
Wyoming (7).....	Sept. 25-Dec. 3.	Closed.	Closed.	Sept. 25-Dec. 29.

(1) The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these two species.

(2) In addition to the limits on sora and Virginia rails, in Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, there is a daily bag limit of 10 and possession limit of 20 clapper and king rails, singly or in the aggregate of these two species, except that the season is closed on king rails in New Jersey by State regulation. In Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, there is a daily bag limit of 15 and possession limit of 30 clapper and king rails, singly or in the aggregate of these two species.

(3) Limits are 2 daily and 4 in possession.

(4) For description of zones or management units within a State, see State regulations.

(5) In Iowa, shooting hours are sunrise to sunset. Rail limits are 15 daily and 25 in possession.

(6) In Michigan, in all or portions of the counties of Aranac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola and Wayne, and adjacent Great Lakes and connecting waters, the rail and snipe seasons shall open concurrently with the duck season and run continuously in all areas through November 14. See State regulations.

(7) The Central Flyway portion consists of: Colorado and Wyoming — the area lying east of the Continental Divide; Montana — the area lying east of Hill, Chouteau, Cascade, Meagher, and Park Counties; New Mexico — the area lying east of the Continental Divide but outside the Jicarilla Apache Indian Reservation. The remaining portions of these States are in the Pacific Flyway.

(8) In Nebraska the rail limits are 10 daily and in possession.

(9) In South Dakota, the snipe limits are 8 daily and 16 in possession.

(10) In Utah and Eastern Washington, on the first day, the season opens at 12 noons and in Western Washington, on the first day, the season opens at 8 a.m.

Section 20.105 is amended to read as follows:

§20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) Sea Ducks.

(1) An open season for taking scoter, eider, and oldsquaw ducks is prescribed according to the following table during the period between September 15, 1982, and January 20, 1983, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut; in those coastal waters of New York lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Missogue Point in the Town of Riverhead to Red Cedar Point in the Town of Southampton, including any ocean waters of New York lying south of Long Island; in any waters of the Atlantic Ocean and, in addition, in any tidal waters of any bay which are separated by at least one mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and/or in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia; and provided that any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks.

(2) The daily bag limit is 7 and the possession limit is 14, singly or in the aggregate of these species. During the regular duck season in the Atlantic Flyway, States may set, in addition to the regular limits, a daily bag limit of 7 and a possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

(3) Shooting hours are one-half hour before sunrise until sunset daily.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS.

Seasons in	
Connecticut	Sept. 25–Jan. 8.
Delaware	Sept. 25–Jan. 8.
Georgia	Nov. 24–Jan. 20.
Maine	Oct. 1–Jan. 15.
Maryland	Oct. 6–Jan. 20.
Massachusetts	Oct. 1–Jan. 15.
New Hampshire	Sept. 15–Dec. 30.
New Jersey	Oct. 6–Jan. 20.
New York (Long Island only)	Sept. 23–Jan. 7.
North Carolina	Oct. 6–Jan. 20.
Rhode Island	Oct. 2–Jan. 16.
South Carolina	Oct. 6–Jan. 20.
Virginia	Oct. 6–Jan. 20.

(4) Notwithstanding the provisions of this Part 20 the shooting of crippled waterfowl from a motorboat under power will be permitted in Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Delaware, Virginia, and Maryland in those areas described, delineated, and designated in their respective hunting regulations as being open to sea duck hunting.

(b) Teal. September season:

* * * * *

(c) Gallinules.

Limits in the Atlantic, Mississippi, and Central Flyways:	
Daily bag limit	15
Possession limit	30
Limits in the Pacific Flyway:	
The daily bag and possession limits are 25 gallinules and coots singly or in the aggregate of these two species.	
Shooting hours: One-half hour before sunrise to sunset.	

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

Seasons in the Atlantic Flyway:	
Connecticut	Sept. 1–Nov. 8.
Delaware	Sept. 1–Nov. 9.
Florida (1)	Sept. 1–Nov. 9.
Georgia	Oct. 9–Oct. 12 & Nov. 24–Nov. 28 & Dec. 11–Jan. 29.
Maine	Sept.1–Nov. 7.
Maryland	Sept. 1–Nov. 9.
Massachusetts	Sept. 1–Nov. 9.
New Hampshire	Closed.
New Jersey	Sept. 1–Nov. 9.
New York:	
Long Island	Closed.
Remainder of State	Sept. 1–Nov. 9.
North Carolina	Sept. 1–Nov. 9.
Pennsylvania	Sept. 1–Nov. 9.
Rhode Island	Sept. 16–Nov. 24.
South Carolina	Sept. 14–Oct. 18 & Nov. 1–Dec. 4.
Vermont	Sept. 25–Nov. 28.
Virginia	Oct. 6–Oct. 9 & Nov. 23–Dec. 4 & Dec. 13–Jan. 15.
West Virginia:	
Zone 1	Oct. 1–Oct. 16 & Dec. 13–Jan. 15.
Zone 2	Oct. 1–Oct. 16 & Nov. 1–Dec. 4.

Seasons in the Mississippi Flyway	
Alabama	Nov. 18–Jan. 18.
Arkansas	Nov. 7–Jan. 15.
Illinois	Closed.
Indiana	Sept. 1–Nov. 9.
Iowa	Closed.
Kentucky	Nov. 13–Jan. 28.
Louisiana	Sept. 18–Sept. 26 & Nov. 6–Jan. 5.
Michigan:	
Northern and Middle Zones	Oct. 2–Nov. 2.
Southern Zone	Oct. 16–Nov. 28.
Minnesota	Oct. 2–Nov. 20.
Mississippi	Sept. 11–Sept. 19 & Oct. 23–Dec. 22.
Missouri	Closed.
Ohio	Sept. 1–Nov. 9.
Tennessee	Dec. 2–Jan. 30.
Wisconsin (2)	Oct. 1 (noon)–Oct. 10 & Oct. 16–Nov. 24.

Seasons in the Central Flyway:	
Colorado (3)	Closed.
Kansas	Closed.
Montana (3)	Closed.
Nebraska	Closed.
New Mexico (3)	Oct. 16–Dec. 27.
North Dakota	Closed.
Oklahoma	Sept. 1–Nov. 8.
South Dakota	Closed.
Texas	Sept. 1–Nov. 9.
Wyoming (3)	Closed.

Seasons in the Pacific Flyway:	
Arizona	Oct. 8–Nov. 3 & Nov. 19–Jan. 23.
California:	
Northeastern Zone	Oct. 16–Jan. 16.
Colorado River Zone	Oct. 8–Nov. 3 & Nov. 19–Jan. 23.
Remainder of State	Oct. 23–Jan. 23.
Nevada:	
Clark County	Oct. 23–Jan. 23.
Remainder of State	Oct. 9–Jan. 9.
New Mexico (4)	Oct. 9–Jan. 2.
All other States	Closed.

Note: See footnotes to waterfowl tables for descriptions of zones.

(1) The gallinule season in Florida applies to the common gallinule only. There is no open season on the purple gallinule in Florida.

(2) On the first day the season opens at 12 noon.

(3) Seasons apply to Central Flyway portion of State only.

(4) Season and limits apply to Pacific Flyway portion of State only.

(d) Waterfowl and coots in Atlantic, Mississippi, Central, and Pacific Flyways.

ATLANTIC FLYWAY

Flywaywide Restrictions.

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily except as otherwise restricted.

Wood ducks — No more than 2 wood ducks may be taken daily nor more than 4 wood ducks may be possessed. Exceptions: during duck seasons prior to October 16, 1981, in Georgia, North Carolina, and South Carolina, under conventional regulations, no special restrictions within the regular daily bag and possession limits shall apply to wood ducks; in Virginia, under the point system, the point value of wood ducks shall be 25. The daily bag and possession limit in Vermont and Massachusetts is 1 and 2 birds, respectively.

Hooded mergansers — In States selecting conventional regulations, no more than 1 hooded merganser may be taken daily nor more than 2 hooded mergansers may be possessed.

Canvasbacks and redheads — Except in closed areas, the limit on canvasbacks is 1 daily and 1 in possession. The limit on redheads throughout the flyway is 2 daily, except that in areas open to canvasback harvest the daily bag limit is 2 redheads, or 1 redhead and 1 canvasback. The canvasback possession limit is equal to the daily bag limit. The possession limit on redheads is twice the daily bag limit under conventional regulations. Under the point system, canvasbacks (except in closed areas) count 100 points each and redheads flywaywide count 70 points each. Areas closed to canvasback hunting are:

New York — Upper Niagara River between the Peace Bridge at Buffalo, New York, and the Niagara Falls. All waters of Lake Cayuga.

New Jersey — Those portions of Monmouth County and Ocean County lying east of the Garden State Parkway.

North Carolina — Those portions of the State lying east of U.S. Highway 1.

Maryland and Virginia — The entire State.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS.

The season dates for mergansers and coots are the same as those for ducks in the following tables:

	Season Dates	Limits: Bag	Limits: Possession
Connecticut			
Ducks			
North Zone (1)	Oct. 16–Nov. 3 & Nov. 25–Dec. 25.	4	8
South Zone (1)	Oct. 13–Oct. 16 & Nov. 24–Jan. 8.		
including no more than:			
Black ducks		2	4
Mergansers		5	10
Coots		15	30
Geese:			
North Zone	Oct. 16–Jan. 13.		
South Zone	Oct. 13–Oct. 16 & Nov. 5–Jan. 29.		
Canada		3	6
Snow (including blue)		4	8
Brant		2	4
North Zone	Dec. 17–Jan. 15.		
South Zone	Dec. 22–Jan. 29.		
Delaware			
Ducks	Oct. 4–Oct. 9 & Nov. 1–Nov. 27 & Dec. 16–Jan. 1.	5	10
including no more than:			
Black ducks		1	2
Mergansers		5	10
Coots		15	30
Geese:			
Canada	Nov. 1–Jan. 29.	4	8
Snow (including blue)	Nov. 1–Jan. 29.	4	8
Brant	Dec. 3–Jan. 1.	2	4
Florida			
Ducks, no more than 1 of which may be a species other than teal or wood ducks, and the possession limit will be double the daily bag limit	Sept. 25–Sept. 29.	4	8
Ducks	Nov. 24–Dec. 5 & Dec. 11–Jan. 17.	Point system.	
Coots		15	30
Geese	Closed.	-	-
Georgia			
Ducks	Oct. 9–Oct. 12 (2) & Nov. 24–Nov. 28 & Dec. 11–Jan. 29.	5	10
including no more than:			
Black ducks		1	2
Mergansers		5	10
Coots		15	30
Geese	Closed.	-	-
Brant	Closed.	-	-
Maine			
Ducks		4	8
North Zone (Wildlife Management Units 1–5)	Oct. 1–Nov. 19.		
including no more than:			
Black ducks		1	2
South Zone (Wildlife Management Units 6–8)	Oct. 1–Oct. 16 & Nov. 15–Dec. 12.		
including no more than:			
Black ducks	Oct. 1–Oct. 16.	Closed.	
	Nov. 15–Dec. 12.	2	4
Mergansers		5	10
Coots		15	30
Geese:			
including no more than:			
Canada	Oct. 1–Dec. 9	3	6
Snow (including blue)	Oct. 1–Dec. 29.	4	8
Brant	Oct. 1–Oct. 30.	2	4
Maryland			
Ducks (except canvasbacks):	Oct. 7–Oct. 9 & Nov. 13–Nov. 26 & Dec. 7–Jan. 8.	Point system.	
Canvasbacks	Season closed.		
Coots		15	30
Geese:			
Canada:			
Delmarva Peninsula (3)	Oct. 22–Nov. 26 & Dec. 7–Jan. 29.	3	6
Remainder of State	Oct. 26–Nov. 26 & Dec. 7–Jan. 15.	3	6
Snow (including blue)	Oct. 22–Nov. 26 & Dec. 7–Jan. 29.	4	8
Brant	Dec. 7–Jan. 6.	2	4
Massachusetts			
Ducks			
Inland Zone	Oct. 15–Nov. 13 & Nov. 22–Dec. 11.	5	10
including no more than:			
Black ducks		1	2
Coastal Zone	Oct. 20–Oct. 30 & Nov. 24–Jan. 1.	4	8
including no more than:			
Black ducks		2	4
Mergansers		5	10
Coots		15	30
Geese:			
Inland Zone	Oct. 15–Nov. 13 & Nov. 23–Jan. 1.		
Coastal Zone	Oct. 20–Nov. 6 & Nov. 25–Jan. 15.		
Canada		3	6
Snow (including blue)		4	8
Brant:			
Inland Zone	Closed.		
Coastal Zone	Nov. 25–Dec. 24.	1	4
New Hampshire			
Ducks:		4	8
Inland Zone	Oct. 6–Nov. 24.		
Coastal Zone	Oct. 6–Oct. 17 & Nov. 6–Dec. 13.		
including no more than:			
Black ducks		2	4
Mergansers		5	10
Coots		15	30
Geese:			
Canada	Oct. 6–Dec. 14.	3	6
Snow (including blue)	Oct. 6–Jan. 3.	6	8
Brant:		2	4
Inland Zone	Oct. 6–Nov. 4.		
Coastal Zone	Nov. 6–Dec. 5.		
New Jersey			
Ducks		Point system (5).	
North Zone (4)	Oct. 2–Oct. 30 & Dec. 18–Jan. 7.		
South Zone (4)	Oct. 23–Oct. 30 & Nov. 25–Jan. 8.		
Coastal Zone (4)	Oct. 23–Oct. 30 & Nov. 25–Jan. 8.		
Coots		15	30
Geese:			
Canada			
North Zone	Oct. 2–Nov. 8 & Nov. 25–Jan. 15.	4	8

South Zone	Oct. 9-Oct. 30 & Nov. 25-Jan. 31.		
Coastal Zone	Oct. 2-Oct. 30 & Nov. 25-Jan. 24.		
Snow (including blue)	Oct. 9-Nov. 11 & Nov. 15-Jan. 8.	4	8
Brant	Oct. 23-Oct. 30 & Nov. 25-Dec. 16.	2	4
New York			
Long Island Area:			
Ducks:	Nov. 17-Jan. 5.	4	8
Including no more than:			
Black ducks		2	4
Mergansers		5	10
Coots		15	30
Geese:	Nov. 17-Jan. 31.		
Canada		3	6
Snow (including blue)		4	8
Brant	Dec. 7-Jan. 5.	2	4
Lake Champlain Area:			
Ducks:	Oct. 2 (12)-Oct. 10 & Oct. 16-Nov. 25.	5	10
Including no more than:			
Black ducks		1	2
Wood duck		1	2
Mergansers		5	10
Coots		15	30
Geese:	Oct. 2 (12)-Dec. 10.		
Canada		3	6
Snow (including blue)		4	8
Brant	Oct. 2 (12)-Nov. 31.	2	4
Northeastern Zone (6):			
Ducks:	Oct. 6-Oct. 31 & Nov. 12-Dec. 5.	5	10
Including no more than:			
Black ducks		1	2
Mergansers		5	10
Coots		15	30
Geese:	Oct. 6-Jan. 3.		
Canada		3	6
Snow (including blue)		4	8
Brant	Oct. 20-Nov. 18.	2	4
Southeastern Zone (6):			
Ducks:	Oct. 13-Oct. 24 & Nov. 5-Dec. 12.	5	10
Including no more than:			
Black ducks		1	2
Mergansers		5	10
Coots		15	30
Geese:	Oct. 6-Jan. 3.		
Canada		3	6
Snow (including blue)		4	8
Brant	Oct. 20-Nov. 18.	2	4
West Zone (6):			
Ducks:	Oct. 13-Nov. 18 & Dec. 22-Jan. 3.	5	10
Including no more than:			
Black ducks		1	2
Mergansers		5	10
Coots		15	30
Geese:	Oct. 6-Jan. 3.		
Canada		3	6
Snow (including blue)		4	8
Brant	Oct. 20-Nov. 18.	2	4
North Carolina			
Ducks:	Oct. 1-Oct. 2 (2) & Nov. 25-Nov. 27 & Dec. 7-Jan. 30.	5	10
Including no more than:			
Black ducks		1	2
Mergansers		5	10
Coots		15	30
Geese:			
Canada	Dec. 20-Jan. 31.	1	2
Snow (including blue)	Nov. 3-Jan. 31.	4	8
Brant	Dec. 22-Jan. 20.	2	4
Pennsylvania			
Ducks:		4	8
Including no more than:			
Black ducks		2	4
Wood ducks		2	4
North Zone (7)	Oct. 2 (6)-Nov. 20.		
South Zone (7)	Oct. 16-Nov. 13 & Nov. 24-Dec. 14.		
Northwest Zone (7)	Oct. 9 (8)-Oct. 16 & Oct. 25 (8)-Dec. 4.		
Lake Erie Zone (7)	Oct. 23-Dec. 11.		
Mergansers		5	10
Coots		15	30
Geese:			
Canada		3	6
Snow (including blue)		4	8
Brant		2	4
Rhode Island			
Ducks:	Oct. 7-Oct. 11 & Nov. 24-Jan. 7.	5	10
Including no more than:			
Black ducks		1	2
Wood ducks		2	4
Mergansers		5	10
Coots		15	30
Geese:			
Canada	Oct. 7-Oct. 11 & Nov. 6-Jan. 29.	3	6
Snow (including blue)		4	8
Brant	Dec. 22-Jan. 20.	2	4
South Carolina			
Ducks:	Oct. 7-Oct. 9 (2) & Nov. 24-Nov. 27 & Dec. 9-Jan. 30.	5	10
Including no more than:			
Black duck (11)		1	2
Mottled duck	Closed.	–	–
Mergansers		5	10
Coots		15	30
Geese:			
Anderson, Beaufort, Chester, Colleton, Fairfield, Kershaw, Lancaster, McCormick, Newberry, Oconee, Richland, and Union Counties	Closed.	–	–
Remainder of State			
Canada	Dec. 20-Jan. 31.	1	3
Snow (including blue)	Oct. 7-Oct. 9 & Nov. 24-Nov. 27 & Dec. 9-Jan. 20.	4	8
Brant	Dec. 22-Jan. 20.	2	4
Vermont			
Ducks:	Oct. 2 (12)-Oct. 10 & Oct. 16-Nov. 25.	5	10
Including no more than:			
Black ducks		1	2
Wood ducks		1	2
Mergansers		5	10
Coots		15	30
Geese (13):	Oct. 2 (12)-Dec. 10.		
Canada		3	6
Snow (including blue)		4	8
Brant	Oct. 2 (12)-Oct. 31.	2	4
Virginia			
Ducks (except canvasbacks):	Oct. 6-Oct. 9 & Nov. 23-Dec. 4 & Dec. 13-Jan. 15.	Point system (14).	
Canvasbacks	Season closed.	–	–
Coots		15	30
Geese:			
Canada:			
Back Bay Area (15)	Oct. 6-Oct. 9 & Nov. 23-Dec. 4 & Dec. 13-Jan. 15.	2	4
Delmarva Peninsula Area	Nov. 3-Jan. 31.	4	8
Remainder of State	Nov. 13-Jan. 30.	3	6
Snow (including blue):			
Back Bay Area (16)	Nov. 23-Dec. 4 & Dec. 13-Jan. 15.	4	8
Remainder of State	Nov. 3-Jan. 31.	4	8
Brant	Dec. 17-Jan. 15.	2	4
West Virginia			
Ducks:		4	8
Allegheny Mountain Upland Zone (Zone 2) (17)	Oct. 1-Oct. 16 & Nov. 1-Dec. 4.		
Remainder of State (Zone 1)	Oct. 1-Oct. 16 & Dec. 13-Jan. 15.		
Including no more than:			
Black ducks		2	4
Canvasbacks		1	1
Redheads		1	1
Mergansers		5	10
Coots		15	30
Geese:			
Allegheny Mountain Upland Zone (Zone 2) (17)	Oct. 1-Oct. 16 & Nov. 1-Dec. 4.		

Remainder of State (Zone 1)	Oct. 1-Oct. 16 & Dec. 13-Jan. 15.		
Canada		1	1
Snow (including blue)		4	8
Brant	Closed.	-	-

(1) In Connecticut, the North Zone is that portion of the State north of Interstate 95. The South Zone is that portion of the State south of Interstate 95.

(2) No special daily bag and possession limit restrictions apply to wood ducks in Georgia during October 9-October 12, in South Carolina during October 7-October 9, and in North Carolina during October 1-October 2, and in Virginia during October 6-October 9. In North Carolina the sea duck season is closed during the period October 1 through October 3.

(3) In Maryland, the Delmarva Peninsula includes the counties of Caroline, Cecil, Dorchester, Kent, Queen Annes, Somerset, Talbot, Wicomico, and Worcester.

(4) In New Jersey, the Coastal Zone is that portion of the State seaward of a continuous line beginning at the New York State boundary line in Raritan Bay; then west along the New York boundary line to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with the Garden State Parkway; then south on the Garden State Parkway to the shoreline at Cape May City and continuing to the Delaware boundary in Delaware Bay. The North Zone is that portion of the State west of the Coastal Zone and north of a boundary formed by Route 70, west to the New Jersey Turnpike, north on the turnpike to Route 206, north on Route 206 to Route 1, Trenton, west on Route 1 to the Pennsylvania State boundary in the Delaware River. The South Zone is that portion of the State not within the North Zone or the Coastal Zone.

(5) In New Jersey, the green-winged teal is assigned 25 points.

(6) In New York, the Western Zone is that portion of Upstate New York lying west of a line commencing at the north shore of the Salmon River and its junction with Lake Ontario and extending easterly along the north shore of the Salmon River to its intersection with Interstate Highway 81, then southerly along Interstate Highway 81 to the Pennsylvania border. The Northeastern and Southeastern Zones are bordered on the west by the boundary described above and are separated from each other as follows: starting at the intersection of Interstate Highway 81 and State Route 49 and extending easterly along State Route 49 to its junction with State Route 365 at Rome, then easterly along State Route 365 to its junction with State Route 28 at Trenton; then easterly along State Route 28 to its junction with State Route 29 at Middleville, then easterly along State Route 29 to its intersection with Interstate Highway 87 at Saratoga Springs, then northerly along Interstate Highway 87 to its junction with State Route 9, then northerly along State Route 9 to its junction with State Route 149, then easterly along State Route 149 to its junction with State Route 4 at Fort Ann, then northerly along State Route 4 to its intersection with the New York/Vermont boundary.

(7) In Pennsylvania, the Lake Erie Zone includes the Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula. The North Zone includes that portion of the State north of I-80 from the New Jersey State line west to the junction of State Route 147, then north on State Route 147 to the junction of Route 220, then west and/or south on Route 220 to the junction of I-80, then west on I-80 to its junction with the Allegheny River, and then north along but not including the Allegheny River to the New York border. The Northwest Zone includes that portion of the State bounded on the north by the Lake Erie Zone and the New York line, on the east by and including the Allegheny River, on the south by Interstate Highway I-80, and on the west by the Ohio line. The South Zone is the remaining portion of the State.

(8) In Pennsylvania, on the first day, the waterfowl season in the North, and Northwest Duck Zones opens at 8 a.m.

(9) In Pennsylvania, in Butler, Crawford, Erie, and Mercer Counties, and in the controlled shooting sections of the Pymatuning and Middle Creek Wildlife Management Areas, the Canada goose daily bag limit is 1 and the possession limit is 2.

(10) In Pennsylvania, the Southeastern Zone (for Canada geese only) is that portion of the State lying east and south of a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on U.S. Highway 22 to the New Jersey border.

(11) The season is closed on black ducks in Georgetown, Charleston, and Colleton Counties.

(12) In Vermont and in the Lake Champlain Zone of New York, on opening day, October 2, shooting hours are from 8 a.m. to 4 p.m. During October 3-October 6, the hours are one-half hour before sunrise to 4 p.m. The remaining days are one-half hour before sunrise to sunset.

(13) See State regulations for further limit restrictions for Dead Creek Area, Addison County, Vermont.

(14) In Virginia, the wood duck is assigned 25 points during the October 6-October 9 season.

(15) In Virginia, the Back Bay Area is defined for Canada geese as those portions of the cities of Virginia Beach and Chesapeake lying east of U.S. Highway 17 and Interstate 64.

(16) In Virginia, the Back Bay Area is defined for snow (including blue) geese as the waters of Back Bay and its tributaries and the marshes adjacent thereto, and on the land and marshes between Back Bay and the Atlantic Ocean from Sandbridge to the North Carolina line, and on and along the shore of North Landing River and the marshes adjacent thereto, and on and along the shores of Lake Tecumseh and Red Wing Lake and the marshes adjacent thereto.

(17) In West Virginia the Allegheny Mountain Upland Zone (Zone 2 in State regulations) is contained within the following circumscribed boundaries. The north boundary is the State line adjacent to Pennsylvania and Maryland. The eastern boundary extends south along U.S. Route 220 through Keyser, West Virginia, to the intersection of U.S. Route 50, and follows U.S. Route 50 to the intersection with State Route 93. The boundary follows State Route 93 south to the intersection with State Route 42 and continues south on State Route 42 to Petersburg. At Petersburg, the boundary follows State Route 28 south to Minnehaha Springs, and then follows State Route 39 west to U.S. Route 219 and follows 219 south to the intersection of Interstate 64. The southern boundary follows I-64 west to the intersection with U.S. Route 60, and follows Route 60 west to the intersection of U.S. Route 19. The western boundary follows Route 19 north to the intersection of I-79, and follows I-79 north to the Pennsylvania State line. The Remainder of the State (Zone 1 in State regulations) is that portion outside the above boundaries.

MISSISSIPPI FLYWAY

Shooting hours: One-half hour before sunrise to sunset daily except as otherwise restricted.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS.

The season dates for mergansers and coots are the same as those for ducks in the following tables.

	Season Dates	Limits Bag	Limits Possession
Alabama			
Ducks (1):		Point system.	
North Zone (2)	Dec. 2-Jan. 20.		
South Zone (2)	Nov. 18-Nov. 28 & Dec. 9-Jan. 16.		
Coots		15	30
Geese:		5	10
Barbour, Henry, and Russell Counties	Closed.	-	-
Pickwick, Wilson, and Wheeler Reservoirs west of U.S. Highway 31	Dec. 2-Jan. 20.		
Remainder of State	Nov. 13-Jan. 20.		
Limits include no more than:			
Canada		2	4
White-fronted		2	4
Snow (including blue) and brant		5	10
Arkansas			
Ducks	Nov. 20-Dec. 12 & Dec. 18-Jan. 13.	Point system.	
Coots		15	30
Geese:		5	10
Canada	Closed.	-	-
Other geese	Nov. 13-Jan. 28.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		5	10
Illinois			
Ducks (1):		Point system.	
North Zone (3)	Oct. 13-Dec. 1.		
Central Zone (3)	Oct. 21-Dec. 9.		
South Zone (3)	Oct. 28-Dec. 16.		
Coots		15	30
Geese (4):		5	10
Canada (5)			
North Zone (3)			
Tri-County Area (6)	Nov. 5-Nov. 14.	1	4
Remainder of North Zone	Oct. 13-Nov. 21.	1	4
Central Zone (3)			
Tri-County Area (6)	Nov. 5-Nov. 14.	1	4
Remainder of Central Zone	Nov. 23-Dec. 31.	1	4

South Zone (3)			
Southern Illinois Quota Zone (Alexander, Jackson, Union, and Williamson Counties) (7)	Nov. 6–Dec. 17	2	4
Remainder of South Zone	Nov. 22–Dec. 31.	1	4
Other Geese			
North Zone (3)	Oct. 13–Dec. 1.		
Central Zone (3)	Oct. 21–Dec. 29.		
South Zone (3)			
Southern Illinois Quota Zone (Alexander, Jackson, Union, and Williamson Counties) (7)	Nov. 6–Dec. 17.		
Remainder of South Zone	Oct. 28–Dec. 31.		
Limits include no more than:			
White-fronted geese		2	4
Snow (including blue) and brant		5	10
Indiana			
Ducks		Point system.	
North Zone (8)	Oct. 23–Dec. 11.		
South Zone (8)	Nov. 11–Dec. 30.		
Coots		15	30
Geese		5	10
North Zone	Oct. 23–Dec. 31.		
South Zone:			
Posey County	Dec. 12–Jan. 30.		
Remainder of South Zone	Nov. 12–Jan. 30.		
Limits include no more than:			
Canada		2	4
White-fronted		2	4
Snow (including blue) and brant		5	10
Iowa			
Ducks (1)	Oct. 23–Dec. 6.	Point system.	
Coots		15	30
Geese	Oct. 2–Dec. 10.	5	10
Limits include no more than:			
Canada		2	4
White-fronted		2	4
Snow (including blue) and brant		5	10
Kentucky			
Ducks	Dec. 2–Jan. 20.	Point system.	
Coots		15	30
Geese		5	10
Western Zone (4), (9)	Dec. 12–Jan. 20.		
Remainder of State	Nov. 12–Jan. 20.		
Limits include no more than:			
Canada		2	4
White-fronted		2	4
Snow (including blue) and brant		5	10
Louisiana			
Ducks (1):		Point system.	
East Zone (10)	Nov. 20–Dec. 5 & Dec. 18–Jan. 20.		
West Zone (10)	Nov. 6–Dec. 5 & Dec. 18–Jan. 11.		
Coots		15	30
Geese:			
Canada	Closed.	–	–
Other Geese:		5	10
East Zone (10)	Nov. 20–Dec. 5 & Dec. 18–Feb. 9.		
West Zone (10)	Nov. 6–Dec. 5 & Dec. 18–Jan. 26.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		5	10
Michigan			
Ducks (1):		Point system.	
North Zone (11)	Oct. 2–Nov. 20.		
South Zone (11)	Oct. 10–Nov. 28.		
Coots		15	30
Geese			
Canada			
North Zone (11)			
Baraga, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee, and Ontonagon Counties	Oct. 2–Nov. 18.	2	4
Remainder of North Zone	Oct. 2–Nov. 20.	2	4
South Zone (11)			
Southeastern Goose Management Area (12)	Oct. 16–Nov. 28.	2	4
	Dec. 21–Feb. 15.	3	6
Saginaw County Goose Management Area (12)	Oct. 2–Nov. 28	2	4
Remainder of South Zone	Oct. 16–Nov. 28.	2	4
Other geese			
North Zone (11)	Oct. 2–Nov. 20.		
South Zone (11)	Oct. 16–Nov. 28.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		5	10
Minnesota (13)			
Ducks (1):	Oct. 2–Nov. 28.	5	10
Limits include no more than:			
Mallards (no more than 2 female mallards daily or 4 in possession)		3	6
Black ducks		1	2
Wood ducks		2	4
Canvasbacks (except in closed areas)		1	2
Redheads		1	2
Mergansers		5	10
Limits include no more than:			
Hooded mergansers		1	2
Coots		15	30
Geese		5	10
Lac Qui Parle Quota Zone (5), (12)	Oct. 2–Nov. 28.		
Limits include no more than:			
Canada		1	4
White-fronted		2	4
Snow (including blue) and brant		5	10
Southeastern Zone (12)	Oct. 2–Dec. 10.		
Limits include no more than:			
Canada		2	4
White-fronted		2	4
Snow (including blue) and brant		5	10
Remainder of State	Oct. 2–Nov. 20.		
Limits include no more than:			
Canada		2	4
White-fronted		2	4
Snow (including blue) and brant		5	10
Mississippi			
Ducks	Dec. 11–Dec. 12 & Dec. 15–Jan. 31.	Point system.	
Coots		15	30
Geese		5	10
Canada:			
Sardis Reservoir Area (12)	Nov. 6–Dec. 15.	1	2
Remainder of State	Closed.	–	–
Other geese	Oct. 2–Nov. 3 & Dec. 15–Jan. 20.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		5	10
Missouri			
Ducks (1):		Point system.	
North Zone (14)	Oct. 16–Oct. 20 & Oct. 30–Dec. 13.		
South Zone (14)	Oct. 30–Dec. 13 & Jan. 8–Jan. 12.		
Coots		15	30
Geese (5):		5	10
Canada			
Southeastern Area (east of U.S. Highway 67 and south of Crystal City)	Dec. 2–Jan. 30.	2	4
Swan Lake Zone (5), (12)	Oct. 30–Jan. 7.	See footnote 15.	
Remainder of State	Oct. 30–Dec. 13.	2	4
White-fronted	Oct. 30–Jan. 7.	2	4
Snow (including blue) and brant	Oct. 30–Jan. 7.	5	10
Ohio			
Pymatuning Area (12), (16):	Oct. 9–Oct. 16 & Oct. 25–Dec. 4.	4	8
Ducks:			
Limits include no more than:			
Black ducks		2	4
Wood ducks		2	4
Canvasbacks		1	1
Redheads		2	4
Canvasbacks and redheads combined		2	4
Coots		15	30
Mergansers (except hooded)		5	10
Hooded mergansers		1	2

Geese:	Oct. 16-Dec. 16.		
Limits include no more than:			
Canada		2	6
Snow (including blue)		2	8
Remainder of State:			
Ducks (1):		2	10
North Zone (17)	Oct. 15-Nov. 27 & Dec. 27-Jan. 1.		
South Zone (17)	Oct. 22-Oct. 30 & Nov. 22-Jan. 1.		
Limits include no more than:			
Mallards (no more than 2 female mallards daily or 4 in possession		2	6
Black ducks		1	2
Wood ducks		2	4
Canvasbacks (except in closed areas)		1	2
Redheads		1	2
Coots		15	30
Geese	Oct. 15-Nov. 27 & Dec. 7-Jan. 1.	5	10
Limits include no more than:			
Canada:			
Ashtabula, Auglaize, Erie, Lucas, Marion, Mercer, Ottawa, Sandusky, Trumbull, and Wyandot Counties		1	2
Remainder of State		2	4
White-fronted		2	4
Snow (including blue) and brant		5	10
Tennessee			
Ducks (1)	Dec. 2-Jan. 20.	Point system.	
Coots		15	30
Geese:		5	10
Canada (18):			
Northwest Goose Zone	Dec. 12-Jan. 20.		
Southwest Goose Zone	Closed.	-	-
Remainder of State	Nov. 12-Jan. 20.		
Other geese:			
Northwest Goose Zone	Dec. 12-Jan. 20.		
Remainder of State	Nov. 12-Jan. 20.		
Limits include no more than:			
Canada:			
West of State Highway 13		2	4
Remainder of State		1	2
White-fronted		2	4
Snow (including blue) and brant		5	10
Wisconsin			
Ducks (1)	Oct. 1 (19)-Oct. 10 & Oct. 16-Nov. 24.	Point system (20).	
Coots		15	30
Geese (12):		5	10
Canada:			
Horicon and Central Zones	Oct. 1 (19)-Oct. 10 & Oct. 20-Nov. 18.	1	1
Mississippi River Zone	Oct. 1 (19)-Oct. 10 & Oct. 16-Nov. 24.	1	2
	Nov. 25-Dec. 10.	2	4
Rock Prairie Zone	Oct. 1 (19)-Oct. 6 & Nov. 1-Nov. 24.	1	2
Remainder of State	Oct. 1 (19)-Oct. 6 & Oct. 20-Nov. 12.	1	2
Other geese:			
Mississippi River Zone	Oct. 1 (19)-Oct. 10 & Oct. 16-Dec. 16.		
Remainder of State	Oct. 1 (19)-Oct. 10 & Oct. 16-Nov. 24.		
Limits include no more than:			
White-fronted		2	4
Snow (including blue) and brant		5	10

(i) The areas closed to canvasback hunting are:

Mississippi River — Entire River, both sides, from Alton Dam upstream to Prescott, Wisconsin, at confluence of St. Croix River.

Alabama — Baldwin and Mobile Counties.

Louisiana — Caddo, St. Charles, and St. Mary Parishes; that portion of Ward 1 formerly designated as Ward 6 of St. Martin Parish; and Catahoula Lake in LaSalle and Rapides Parishes.

Michigan — Arenac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola, and Wayne Counties, and those adjacent waters of Saginaw Bay south of a line extending from Point au Gres in Sec. 6, T18N, R7E (Arenac County) to Sand Point in Sec. 11, T17N, R9E (Huron County), the St. Clair River, Lake St. Clair, the Detroit River and Lake Erie, under the jurisdiction of the State of Michigan.

Minnesota — Douglas, Mahnomen, Polk, Pope, and Sibley Counties. Where the county line of any of the above counties crosses any portion of a lake, that entire lake is closed. In addition, all land in Sec. 12, T138N, R31W (i.e., land between Lake Christina and Pelican Lake) is closed.

Ohio — Land and water areas comprising Erie, Ottawa, and Sandusky Counties.

Tennessee — Kentucky Lake lying north of Interstate Highway 40.

Wisconsin — In the Mississippi River Zone, all that portion of Wisconsin west of the Burlington-Northern Railroad in Grant, Crawford, Vernon, LaCrosse, Trempealeau, Buffalo, Pepin, and Pierce Counties. Also, the following lakes and waters, including a strip of land 100 yards wide adjacent to the shorelines thereof: Lake Poygan in Winnebago and Waushara Counties and Lakes Winneconne and Butte des Morts, including the connecting waters thereof, in Winnebago County.

(2) In Alabama, the South Zone consists of Mobile and Baldwin Counties. The North Zone consists of the remainder of Alabama.

(3) In Illinois, the North Zone is that portion of the State north of a line running east from the Iowa border along Illinois Highway 17 to I-74, north along I-74 to I-80, then east along I-80 to the Indiana border. The Central Zone is that portion of the State between the North and South Zone boundaries. The South Zone is that portion of the State south of a line running east from the Missouri border along Illinois Highway 150 to Illinois Highway 4, north along Illinois Highway 4 to Illinois Highway 15, east along Illinois Highway 15 to I-57, north along I-57 to I-70, then east along I-70 to the Indiana border.

(4) Geese taken in Illinois and Missouri and in the Kentucky counties of Ballard, Hickman, Fulton, and Carlisle may not be transported, shipped or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of licensed waterfowl hunters, provided that no hunter shall possess or transport more than the legally-prescribed possession limit of geese. Geese possessed or transported by persons other than the taker must be labeled with the name and address of the taker and the date taken.

(5) Harvests of Canada geese will be limited as follows:
Illinois: Southern Illinois Quota Zone—17,500; Tri-County Area—700; Remainder of State—9,500.
Wisconsin: Statewide—18,000.
Missouri: Swan Lake Zone—20,000.
Minnesota: Lac Qui Parle Zone—5,500.
When it is determined by the Director, U.S. Fish and Wildlife Service, that the quota of Canada geese allotted to the Southern Illinois Quota Zone, the Tri-County Area in southern Illinois, and the Swan Lake Zone in Missouri will have been filled, the season for taking all geese in the Southern Illinois Quota Zone and the season for taking Canada geese in the Tri-County Area in Illinois and the Swan Lake Zone in Missouri will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the date and time of closing.

(6) In Illinois, the Tri-County Area consists of all of Knox County; in Fulton County the townships of Buckhart, Canton, Cass, Deerfield, Fairview, Farmington, Joshua, Orion, Putnam, and that portion of Banner Township bounded on the north by Illinois Route 9 and on the east by U.S. 24; and in Henry County the townships of Alba, Annawan, Atkinson, and Cornwall.

(7) Shooting hours for geese are sunrise until 3 p.m.

(8) In Indiana, the North Zone consists of that portion of the State north of State Highway 18. The South Zone consists of the remainder of Indiana.

(9) In Kentucky, the Western Zone consists of the area west of the following boundary: starting at the Kentucky-Tennessee border at Fulton, Kentucky, extending northerly along the Purchase Parkway to I-24, east on I-24 to U.S. 641; northerly on U.S. 641 to U.S. 60; northeasterly on U.S. 60 to U.S. 41; and then northerly on U.S. 41 to the Kentucky-Indiana border.

(10) In Louisiana, the West Zone is described as follows: that portion of Louisiana west of a boundary beginning at the Arkansas-Louisiana border on Louisiana Highway 3; then south along Louisiana Highway 3 to Bossier City; then east along Interstate 20 to Minden; then south along Louisiana Highway 7 to Ringgold; then east along Louisiana Highway 4 to Jonesboro; then south along U.S. Highway 167 to Lafayette; then southeast along U.S. Highway 90 to Houma; then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass. The East Zone consists of the remainder of Louisiana.

(11) In Michigan, the North Zone is that portion of the State north of a line extending east from the mouth of the Manistee River along the south bank to the U.S. 31 bridge, south on U.S. 31 to East Prouse Road, east on East Prouse Road to Huer Road, north on Huer Road to County 591 in Stronach, east on County 591 to M-55, east on M-55 to M-37, south on M-37 to M-82, east on M-82 to U.S. 131, north on U.S. 131, then east on M-46 to Port Sanilac. The South Zone is the remainder of Michigan.

(12) See State regulations for zone/area descriptions.

(13) In Minnesota, the shooting hours for waterfowl vary as follows: October 2 — 12 noon to 4 p.m.; October 3 through October 22 — 1/2 hour before sunrise to 4 p.m.; and October 23 through December 10 — 1/2 hour before sunrise to sunset.

(14) In Missouri, the North Zone is that portion of the State north of a line running east from the Kansas border along U.S. Highway 54 to U.S. Highway 65, south along U.S. Highway 65 to State Highway 32, east along State Highway 32 to State Highway 72, east along State Highway 72 to State Highway 34, then east along State Highway 34 to the Illinois border. The South Zone is the remainder of the State.

(15) In the Swan Lake Zone of Missouri, through November 21, the Canada goose limits are 1 daily and 4 in possession. After November 21, the limits are 2 daily and 4 in possession.

(16) Shooting hours are 1/2 hour before sunrise to sunset, except on the first day shooting begins at 8 a.m.

(17) In Ohio, the North Zone consists of the counties of Darke, Miami, Clark, Champaign, Union, Delaware, Licking, Muskingum, Guernsey, Harrison, and Jefferson and all counties north thereof. In addition, the North Zone also includes that portion of the Buckeye Lake area in Fairfield and Perry Counties bounded on the west by State Highway 37, on the south by State Highway 204, and on the east by State Highway 13. The South Zone consists of the remainder of the State.

(18) In Tennessee, the Northwest Goose Zone includes Lake, Obion, Weakley, and Carroll Counties, and those portions of Gibson and Dyer Counties north and east of a line formed by State Highways 20 and 104 from the Mississippi River to Trenton and U.S. Highway 45W from Trenton to Humboldt. The Southwest Goose Zone is that portion of Tennessee bounded on the north by State Highways 20 and 104, and on the east by U.S. Highways 45W and 45. The season on Canada geese is also more restrictive or closed in other specific areas. See State regulations.

(19) On the first day the season opens at 12 noon.

(20) In Wisconsin, point values for some species change during the season. See State regulations.

CENTRAL FLYWAY

The Central Flyway consists of Colorado (east of the Continental Divide), Kansas, Montana (east of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nebraska, New Mexico (east of the Continental Divide and outside the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Geese include all species of geese and brant.
Dark Geese include Canada geese, white-fronted geese, and "black" brant.
Light Geese include all other species.

Flyway-wide Restrictions

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily except as otherwise noted.

Mergansers — All mergansers are to be included within the daily bag and possession limits under conventional and point system regulations.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS WITHIN STATES. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS.

The season dates for coots are the same as those for ducks in the following tables:

	Season Dates	Limits: Bag	Limits: Possession
Colorado			
Ducks	Oct. 2–Oct. 17 & Oct. 30–Nov. 28 & Dec. 11–Jan. 16.	Point system.	
Coots		15	30
Geese (1):		2	4
North Central Unit	Oct. 30–Jan. 16.		
South Park Unit	Nov. 6–Dec. 31.		
San Luis Valley Unit	Nov. 6–Dec. 31.		
Arkansas Valley Unit (2)	Nov. 6–Jan. 16.		
Remainder of State in Central Flyway	Nov. 6–Jan. 16.		
Kansas			
Ducks:		Point system.	
High Plains Area	Oct. 9–Dec. 5 & Dec. 11–Jan. 4.		
Low Plains Area	Oct. 16–Oct. 26 & Nov. 6–Dec. 12 & Dec. 25–Jan. 5.		
Coots		15	30
Dark geese (3)		2	4
Canada	Oct. 23–Nov. 28.	2	4
Canada and white-fronted	Oct. 23–Nov. 28.	2	4
Canada and white-fronted	Nov. 29–Jan. 2.	1	2
Light geese	Oct. 23–Jan. 16.	5	10
Montana			
Ducks			
Zone 1 (4)	Oct. 2–Nov. 30 & Dec. 11–Jan. 2.	Point system.	
Zone 2 (4)	Oct. 2–Oct. 24 & Nov. 4–Jan. 2.		
Coots		15	30
Geese:	Oct. 2–Jan. 2.		
Sheridan County		2	4
Remainder of State in Central Flyway		3	6
Nebraska			
Ducks		Point system.	
High Plains Area	Oct. 2–Oct. 10 & Oct. 16–Oct. 17 & Oct. 23–Jan. 2.		
Low Plains Area			
Zones 1 and 2 (4)	Oct. 23–Dec. 21.		
Zones 3 and 4 (4)	Oct. 2–Nov. 30.		
Coots		15	30
Dark geese		2	4
Unit 1 (5)			
Canada	Oct. 9–Nov. 12.	1	2
White-fronted	Oct. 9–Nov. 12.	1	2
Canada	Nov. 13–Dec. 26.	2	4
Canada and white-fronted combined		2	4
Unit 2 (5)			
Canada	Oct. 2–Oct. 3 & Oct. 13–Nov. 21.	2	4
Canada and white-fronted combined		2	4
Canada	Nov. 22–Dec. 21.	1	2
White-fronted		1	2
Unit 3 (5)			
Canada	Oct. 16–Nov. 21.	2	4
Canada and white-fronted combined		2	4
Canada	Nov. 22–Dec. 26.	1	2
White-fronted		1	2
Light Geese	Oct. 2–Dec. 26.	5	10
New Mexico			
Ducks:		Point system.	
Zone 1 (4)	Oct. 19–Jan. 9.		
Zone 2 (4)	Nov. 2–Jan. 23.		
Coots		15	30
Geese:			
In Bernalillo, Sandoval, Sierra, Valencia, and Socorro Counties (6):			
Dark geese	Jan. 15–Jan. 23	1	1
Light geese	Nov. 13–Jan. 5 & Jan. 16–Feb. 13.	5	10
Remainder of State in Central Flyway:			
Dark geese	Oct. 23–Jan. 23.	2	6
Light geese	Nov. 13–Feb. 13.	5	10
North Dakota			
Ducks (7):	Oct. 2–Nov. 28 & Dec. 4–Dec. 5.	5	10
including no more than:			
Female mallards		1	2
Canvasbacks (except in closed area)		1	1
Redheads		1	2
Wood ducks		2	4
Hooded mergansers		1	2
Additional teal	Oct. 2–Oct. 10.	2	4
Coots	Oct. 2–Nov. 28 & Dec. 4–Dec. 5.	15	30
Dark geese (8)	Oct. 2–Nov. 14.	2	4
including no more than:			
Canada	Oct. 2–Oct. 31.	1	2
Light geese	Oct. 2–Dec. 5.	5	10
Oklahoma			
Ducks:		Point system.	
High Plains Area	Oct. 16–Jan. 6.		
Low Plains			
Zone 1 (4)	Oct. 16–Nov. 28 & Dec. 18–Jan. 2.		
Zone 2 (4)	Oct. 30–Nov. 28 & Dec. 18–Jan. 16.		
Coots		15	30
Dark geese (11)		2	4
Unit 1 (9)	Nov. 13–Jan. 23.		
Unit 2 (9)	Oct. 16–Nov. 28 & Dec. 20–Jan. 16.		
Light geese	Oct. 9–Nov. 28 & Dec. 18–Jan. 21.	5	10

South Dakota			
Ducks (7):		Point system.	
High Plains Area	Oct. 2-Nov. 30 & Dec. 18-Jan. 9.		
Low Plains Area			
North Zone (4)	Oct. 2-Nov. 30.		
South Zone (4)	Oct. 23-Dec. 21.		
Coots		15	30
Dark geese			
Missouri River Unit including no more than:	Oct. 2-Dec. 19.	1	4
Canada	Oct. 2-Nov. 12.	1	2
White-fronted	Oct. 2-Dec. 19.	1	2
Remainder of State including no more than:	Oct. 2-Dec. 12.	1	4
Canada		1	1
White-fronted		1	1
Light geese	Oct. 2-Dec. 26.	5	10
Texas			
Ducks (except black-bellied and fulvous whistling (tree) ducks, and masked duck):		Point system.	
High Plains Area	Nov. 2-Jan. 23.		
Remainder of State	Nov. 6-Nov. 28 & Dec. 18-Jan. 23.		
Black-bellied and fulvous whistling (tree) ducks, and masked duck	Closed season.	-	-
Coots		15	30
Geese:			
East of U.S. Highway 81:			
Dark geese	Nov. 6-Dec. 10 & Dec. 18-Jan. 23.	2	4
including no more than:			
Canada		1	2
White-fronted		1	2
Light geese	Nov. 6-Dec. 10 & Dec. 18-Jan. 23.	5	10
West of U.S. Highway 81:			
Geese	Nov. 2-Jan. 23.	5	10
including no more than:			
Dark geese		2	4
Wyoming			
Ducks and coots		Point system (10).	
Zone 1 (4)	Oct. 2-Nov. 28 & Dec. 16-Jan. 9.		
Zone 2 (4)	Oct. 2-Oct. 24 & Nov. 6-Jan. 4.		
Zone 3 (4)	Oct. 2-Nov. 30 & Dec. 11-Jan. 2.		
Zone 4 (4)	Oct. 2-Oct. 24 & Nov. 6-Jan. 4.		
Geese:		2	4
Zone 1 (4)	Oct. 30-Jan. 9.		
Zone 2 (4)	Nov. 13-Jan. 16.		
Zone 3 (4)	Oct. 2-Jan. 2.		
Zone 4 (4)	Oct. 9-Jan. 9.		

(1) Colorado Goose Hunting Units: North Central Unit: That portion of Colorado bounded on the north by the State line; on the east by U.S. Highway 85 to Interstate 76, Interstate 76 to Interstate 25, and Interstate 25 to Interstate 70; on the south by Interstate 70; and on the west by the Continental Divide. South Park Unit: Chaffee, Fremont, Lake, Park, and Teller Counties. Hunting by permit only; limits, 2 geese daily, 2 per season, geese must be tagged. San Luis Valley Unit: Alamosa, Conejos, Costilla, and Rio Grande Counties and those portions of Hinsdale, Mineral, and Saguache Counties east of the Continental Divide. Hunting by permit only; limits, 1 goose daily, 1 per season, goose must be tagged. Arkansas Valley Unit: Bent, Cheyenne, Crowley, Kiowa, Otero, and Pueblo Counties, that portion of Prowers County north of U.S. Highway 50, and that portion of Kit Carson County south of U.S. Highway 24. See State regulations.

(2) Special hunting hours: Nov. 6-Nov. 30, 1/2 hour before sunrise to noon; Dec. 1, 1982-Jan. 16, 1983, 1/2 hour before sunrise to sunset.

(3) In Kansas, the following area surrounding and including the Marais des Cygnes Wildlife Management Area is closed to the taking of dark geese (Canada and white-fronted geese) during the regular dark goose season: That part of Kansas bounded by a line from the Missouri-Kansas boundary west on K-68 to its junction with U.S. 169, then southwest on U.S. 169 to the junction of K-7, then southeast on K-7 to the junction of K-31, then east on K-31 to the junciton of U.S. 69, then north on U.S. 69 to the junciton of -239, then east on K-239 to the Missouri-Kansas boundary, then north on the Missouri-Kansas boundary to its junction with K-68.

(4) Duck season zones are described as follows:
Montana — Zone 1: The counties of Bighorn, Blaine, Carbon, Daniels, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Richland, Roosevelt, Sheridan, Stillwater, Sweetgrass, Valley, Wheatland, and Yellowstone. Zone 2: The counties of Carter, Custer, Dawson, Fallon, Powder River, Prairie, Rosebud, Treasure, and Wibaux.
Nebraska — Zone 1: Keya Paha County east of U.S. Highway 183 and all of Boyd, Knox, Cedar, and Dixon Counties, including the adjacent waters of the Niobrara River. Zone 2: The Low Plains portions of Dawson, Gosper, Frontier, and Furnas Counties and all of Buffalo, Phelps, Harlan, Hall, Kearney, Franklin, Merrick, Hamilton, Platte, Polk, Colfax, Butler, Dodge, Saunders, Douglas, Boone, Nance, Washington, and Wheeler Counties, including the adjacent waters of the Platte River. Zone 3: The Low Plains portions of Brown, Blaine, and Custer Counties and all of Rock, Holt, Loup, Garfield, Valley, Greeley, Sherman, Howard, Antelope, Pierce, Madison, Wayne, Stanton, Cuming, Dakota, Thurston, and Burt Counties. Zone 4: Adams, Webster, Clay, Nuckolls, York, Fillmore, Thayer, Seward, Saline, Jefferson, Lancaster, Gage, Sarpy, Cass, Otoe, Johnson, Nemaha, Pawnee, and Richardson Counties.
New Mexico — Zone 1: That portion of northern New Mexico east of the Continental Divide and the Jicarilla Apache Indian Reservation and north of Interstate Highway 40 and U.S. Highway 64. Zone 2: The remainder of the Central Flyway portion of New Mexico.
Oklahoma — Low Plains: Zone 1 - That portion of northwestern Oklahoma, except the Panhandle, bounded by the following highways: starting at the Texas-Oklahoma border, OK 33 to OK 47, OK 47 to U.S. 183, U.S. 183 to I-40, I-40 to U.S. 177, U.S. 177 to OK 51, OK 51 to I-35, I-35 to U.S. 60, U.S. 60 to U.S. 64, U.S. 64 to OK 132, and OK 132 to the Oklahoma-Kansas state line. Zone 2 - The remainder of the Low Plains portion of Oklahoma.
South Dakota — South Zone: Bon Homme, Charles Mix, Clay, Gregory, Union, and Yankton Counties. North Zone: The remainder of the Low Plains portion of South Dakota.
Wyoming — Zone 1: Sheridan, Johnson, Natrona, Campbell, Crook, Weston, Converse, and Niobrara Counties. Zone 2: Platte, Goshen, and Laramie Counties. Zone 3: Carbon and Albany Counties. Zone 4: Park, Big Horn, Hot Springs, Washakie, and Fremont Counties. These zones also apply to goose seasons.

(5) Nebraska Goose Management Units. Unit 1 is comprised of Boyd, Cedar (west of U.S. Highway 81), Keya Paha (east of U.S. Highway 183), and Knox Counties. Unit 2 is the remainder of Nebraska east of U.S. Highway 183. Unit 3 is the remainder of Nebraska west of U.S. Highway 183. In the Special Sandhills Canada Goose Restoration Area (see State regulations for description), the season is Oct. 30-Nov.30, and the limit is 1 Canada goose per season. Permits and tags required; see State regulations.

(6) See State regulations and other Federal regulations for special restrictions on Bosque del Apache National Wildlife Refuge, for geese.

(7) The areas closed to canvasback hunting are:
North Dakota — That portion lying east of State Highway 3, including all or portions of 27 counties.
South Dakota — All of Marshall County; that portion of Day County east of State Highway 25; that portion of Codington County south of State Highway 20 and west of U.S. Highway 81; that portion of Hamlin County west of U.S. Highway 81; and that portion of Kingsbury County east of State Highway 25 and north of U.S. Highway 14.

(8) The Dark Goose season opening is delayed until October 4 in the area west and south of the following: Starting at South Dakota border where U.S. Highway 281 enters North Dakota, north and west on U.S. Highway 281 to Carrington, then west and north on Highway 200 to the Montana border.

(9) Oklahoma Goose Management Units. Unit 1 is that portion of Oklahoma west of U.S. Highways 77 and 177, the Indian Nation Turnpike, and U.S. Highway 271. Unit 2 is the remainder of Oklahoma.

(10) In Wyoming, coots are assigned 10 points.

PACIFIC FLYWAY

The Pacific Flyway includes the States of Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, those portions of Colorado, Wyoming (including the Great Divide Basin), and New Mexico (including the Jicarilla Apache Indian Reservation) lying west of the Continental Divide, and that portion of Montana including and to the west of Hill, Chouteau, Cascade, Meagher, and Park Counties.

Flywaywide Restrictions

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily.
Aleutian Canada Geese: The season is closed on Aleutian Canada geese throughout the Flyway.
Canvasbacks and Redheads: No more than 1 canvasback or 1 redhead or 1 of each may be taken daily nor more than 4 singly or in the aggregate may be possessed.
Mergansers: All mergansers are to be included within the daily bag and possession limits for other ducks.
Dark Geese and White Geese: Unless otherwise noted, limits for dark geese are for Canada and white-fronted geese, either singly or in the aggregate; and limits for white geese are for lesser snow, including blue, and Ross' geese, either singly or in the aggregate.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATION OF GEOGRAPHICAL AREAS OR ZONES WITHIN STATES. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS.

Season Dates	Limits Bag	Possession
Arizona (1)		
Ducks	Oct. 9-Nov. 3 & Nov. 19-Jan. 23.	7 14
Geese:	Nov. 19-Jan. 23.	6 6
Including no more than:		
Dark (no more than 2 Canada geese)		3 3
White		3 3
Coots and gallinules (singly or in the aggregate)	Same as for ducks.	25 25
Common snipe	Same as for ducks.	8 16
Sandhill cranes (only in Game Management Units 30A, 30B, 31, and 32)	Nov. 12, 13, & 14.	Only by permit; 2 cranes per season.
California		
Ducks:		
Northeastern Zone	Oct. 16-Jan. 16.	7 14
Colorado River Zone	Oct. 9-Nov. 3 & Nov. 19-Jan. 23.	7 14
Remainder of State	Oct. 23-Jan. 23.	7 14
Geese:		
Northeastern Zone:		
1st Period	Oct. 16-Oct. 29.	1 2
2nd Period	Oct. 30-Jan. 16.	4 4
Including no more than:		
Dark		2 2
White		3 3
Colorado River Zone:	Oct. 19-Jan. 23.	6 6
Including no more than:		
Dark (but no more than 2 Canada geese)		3 3
White		3 3
Southern Zone:	Oct. 23-Jan. 23.	6 6
Including no more than:		
Dark (except the open season on Canada geese shall be from Oct. 30, 1982, through Jan. 23, 1983, and Canada geese not exceed 2 in the daily bag and possession limits; but in that portion of District 22 within the Southern Zone, Canada geese may not exceed 1 in daily bag and 2 in possession)		3 3
White		3 3
Balance-of-State Zone:	Nov. 6-Jan. 23.	5 5
Including no more than:		
Dark, except that the season on Canada geese:		2 2
Counties of Del Norte and Humboldt	Closed.	
Sacramento Valley Area (2)	Dec. 18-Jan. 23.	
San Joaquin Valley Area (3)	Nov. 6-Nov. 22.	
Remainder of zone	Nov. 6-Jan. 23.	
White		3 3
Brant	Jan. 15-Feb. 20.	3 3
Coots and gallinules, singly or in the aggregate.	Same as for ducks.	25 25
Common snipe	Same as for ducks.	8 16
Colorado		
Ducks (4)	Oct. 2-Oct. 22 & Nov. 13-Jan. 23.	7 14
Geese (4):		
Brown's Park, Moffat County	Oct. 30-Dec. 12.	1 2
Delta and Montrose Counties	Nov. 6-Jan. 2.	Only by permit; 2 geese per season.
Mesa County	Nov. 20-Jan. 2.	2 2
		Only by permit; 4 geese per season.
Garfield County	Nov. 20-Jan. 2.	Only by permit; 2 2
Dolores, Gunnison, and Montezuma Counties	Closed.	- -
Remainder of State in Pacific Flyway	Oct. 9-Jan. 2.	3 4
Coots (4)	Same as for ducks.	25 25
Common snipe	Sept. 1-Nov. 9 & Dec. 11-Jan. 2.	8 16
Sora and Virginia rails	Sept. 1-Nov. 9.	25 25
Idaho (5)		
Ducks:		
Counties of Adams, Bear Lake, Boise, Bonneville, Butte, Caribou, Clark, Clearwater, Custer, Franklin, Fremont, Idaho, Jefferson, Lemhi, Madison, Oneida, Teton, Valley, and that portion of Blackfoot Reservoir drainage lying within Bingham County	Oct. 2-Jan. 2.	7 14
Remainder of State (6)	Oct. 9-Jan. 9.	7 14
Geese:		
Northern 10 counties (Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone)	Oct. 2-Jan. 2.	3 6
Fremont County within the North Fork of the Snake River drainage above the new Wendell Bridge near Ashton (7)	Oct. 9-Dec. 5.	2 2
Blaine County lying south and east of U.S. Highway 93, and the counties of Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls	Oct. 23-Jan. 2.	2 2
Remainder of State (7)	Oct. 9-Jan. 2.	2 2
Coots	Same as for ducks.	25 25
Common snipe	Same as for ducks.	8 16
Montana		
Ducks	Oct. 2-Jan. 2.	7 14
Geese (8):		
East of the Continental Divide (8)	Oct. 2-Jan. 2.	6 6
Including no more than:		
Dark		3 6
White		3 6
West of the Continental Divide (8)	Oct. 2-Jan. 2.	5 6
Including no more than:		
Dark		2 2
White		3 6
Coots	Same as for ducks.	25 25
Common snipe	Same as for ducks.	8 16
Whistling swans, only in Teton and Cascade Counties	Oct. 2-Jan. 2.	Only by permit; 1 swan per season.
Nevada		
Ducks:		
Clark County	Oct. 23-Jan. 23.	7 14
Remainder of State	Oct. 9-Jan. 9.	7 14
Dark geese:		
Clark County	Nov. 27-Jan. 23.	1 1
Elko County and Ruby Lake National Wildlife Refuge in White Pine County	Oct. 9-Jan. 9.	2 1
White River Valley in Nye County and Pahranagat Valley in Lincoln County	Dec. 22-Jan. 9.	1 1
Remainder of State	Oct. 23-Nov. 13.	1 1
	Nov. 14-Jan. 13.	2 1
White geese:		
Clark County	Nov. 27-Jan. 23.	3 3
Elko County except Ruby Valley	Oct. 9-Jan. 9.	1 1
Ruby Valley in Elko and White Pine Counties, White River Valley in Nye County, and Pahranagat Valley in Lincoln County	Closed.	
Remainder of State	Oct. 23-Jan. 23.	3 3
Coots and gallinules, singly or in the aggregate	Same as for ducks.	25 25
Common snipe	Same as for ducks.	8 16
Whistling swans, only in Churchill County	Oct. 23-Jan. 9.	Only by permit; 1 swan per season.
New Mexico		
Ducks	Oct. 2-Jan. 2.	7 14
Geese:		
North of I-40/U.S. 66	Dec. 18-Dec. 26.	1 goose per season.
South of I-40/U.S. 66	Oct. 2-Dec. 26.	6 6
Including no more than:		
Dark (no more than 2 Canada geese)		1 3
White		3 3
Coots and gallinules (singly or in the aggregate)	Same as for ducks.	25 25
Common snipe	Sept. 11-Dec. 12.	8 16
Virginia and sora rails (singly or in the aggregate)	Sept. 11-Nov. 19.	25 25

Oregon			
Ducks:			
Entire State except Columbia Basin counties (9)	Oct. 16-Jan. 16.	7	14
Columbia Basin counties (9)	Oct. 16-Jan. 23.	7	14
Geese:			
Western Oregon (9)	Oct. 16-Jan. 16.	2	2
Eastern Oregon, except the Columbia Basin counties and Baker, Malheur, Klamath, and Lake Counties	Oct. 16-Jan. 16.	6	6
Including no more than:			
Dark		6	6
White		6	6
Columbia Basin counties (9)	Oct. 16-Jan. 23.	6	6
Including no more than:			
Dark		3	6
Light		6	6
Baker and Malheur Counties	Oct. 16-Jan. 2.	6	2
Klamath and Lake Counties			
Geese: no more than 1 dark goose in the daily bag or 2 dark geese in possession	Oct. 16-Oct. 31.	6	6
Geese:	Nov. 1-Jan. 16.	6	6
Including no more than:			
Dark		1	2
White		6	6
Brant	Jan. 15-Feb. 20.	6	6
Coots	Oct. 16-Jan. 16.	25	25
Common snipe	Oct. 16-Jan. 16.	8	16
Utah			
Ducks (10)	Oct. 2-Jan. 2.	7	14
Geese:			
General Season (11):	Oct. 9-Jan. 2.	5	6
Including no more than:			
Canada geese		2	4
White geese		3	6
Special Seasons:			
Daggett County east of State Highway 44 and 260	Oct. 30-Dec. 12.		
Including no more than:			
Canada geese		1	6
Washington County	Oct. 23-Jan. 16.		
Including no more than:			
Canada geese		2	2
Coots (10)	Same as for ducks.	25	25
Common snipe (10)	Same as for ducks.	6	16
Whistling swans (10)	Oct. 2-Jan. 2.	Only by permit; 1 swan per season.	
Washington			
Ducks (12):			
Eastern Washington	Oct. 9-Jan. 16.	7	14
Western Washington	Oct. 9-Jan. 9.	7	14
Geese (12), (13):			
Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla Walla, and Yakima Counties	Oct. 9-Jan. 16.	6	6
Island, Skagit, and Snohomish Counties	Oct. 9-Jan. 2.	6	6
Whatcom County	Closed.	-	-
Remainder of State	Oct. 9-Jan. 9.	3	6
Brant (14):			
Western Washington except Whatcom County	Dec. 15-Jan. 23.	6	6
Whatcom County and Eastern Washington	Closed.	-	-
Coots (12)	Same as for ducks.	25	25
Common snipe (12)	Same as for ducks.	6	16
Wyoming			
Ducks and coots, singly or in the aggregate	Oct. 2-Jan. 2.	7	14
Geese	Oct. 2-Dec. 19.	3	6
Common snipe	Sept. 25-Dec. 26.	8	16
Sora and Virginia rails, singly or in the aggregate	Sept. 25-Dec. 3.	25	25

(1) The Imperial, Cibola, and Havasu National Wildlife Refuges, Arizona, are open to waterfowl hunting except for posted portions. Ashurst Lake in Game Management Unit 5B is closed to all waterfowl and snipe hunting. Unit 1, Unit 27, that portion of Unit 25B lying east of Highway 273 and all of Units 3A and 3B lying east of Highways 77 and 260 are closed to the taking of Canada geese and its subspecies.

(2) The Sacramento Valley Area is bounded by a line beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes on the Sacramento River, then southerly on the Sacramento River to the Tisdale By-pass; then easterly on the Tisdale By-pass to where it meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45-162 to Glenn; then westerly on State Highway 162 to the point of beginning in Willows.

(3) The San Joaquin Valley Area is bounded by a line beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate 5; then southerly on Interstate 5 to the junction of State Highway 152 in Merced County; then easterly on State Highway 152 to the junction of State Highway 59; then northerly on State Highway 59 to the junction of State Highway 99 at Merced; then northerly and westerly to the point of beginning in Modesto.

(4) Numerous local restrictions and closures. See State regulations.

(5) Waterfowl may not be taken in the Kootenai County Waterfowl Closure-Thompson Lake, Hells Canyon Waterfowl Closure, Mormon Reservoir Waterfowl Closure, Black Canyon Reservoir-Payette River Waterfowl Closure, Ada County Waterfowl Closure, Fort Hall Indian Reservation Closure, and Hagerman Wildlife Management Area. Geese may not be hunted in the Canyon County Goose Closure, Minidoka-Cassia Goose Closure, or Hagerman Valley Goose Closure. See State regulations for descriptions of these areas.

(6) In Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties, no more than 2 wood ducks may be taken daily nor more than 2 may be possessed.

(7) The season on white geese is closed in that portion of Jefferson County lying north of State Highway 33 and east of Interstate Highway 15, and in all of Clark, Fremont, Madison, and Teton Counties.

(8) Exceptions to the general season on geese are the following goose management areas (see State regulations for descriptions of areas): Shooting hours in the Canyon Ferry Goose Zone are from one-half hour before sunrise to 12 noon daily; the goose season in the Flathead Goose Zone is Oct. 2-Nov. 28; the goose season in the Deer Lodge Goose Zone is Oct. 16-Jan. 2; and the season on dark geese in the Benton Lake Goose Zone is Oct. 30-Jan. 2.

(9) Columbia Basin counties are Wasco, Sherman, Gilliam, Morrow, and Umatilla Counties. Western Oregon consists of all counties west of the summit of the Cascades excluding Klamath and Hood River Counties. Those portions of Coos and Curry Counties lying west of U.S. Highway 101 and that portion of Tillamook County lying south of an east-west line passing through the most westerly point of Cape Lookout are closed to all goose hunting.

(10) Shooting hours are from 12 noon through sunset on the first day of the season.

(11) Goose hunting is prohibited within the boundaries of the Desert Lake Waterfowl Management Area in Emery County, Fish Springs National Wildlife Refuge in Juab County, and Ouray National Wildlife Refuge in Uintah County.

(12) In Western Washington the shooting hours are from 8 a.m. through sunset on the opening day, and in Eastern Washington the shooting hours are from 12 noon through sunset the opening day.

(13) Geese may be hunted only on Saturdays, Sundays, and Wednesdays, and on November 11, 25, and 26, and December 25. Geese may be hunted only on Saturdays, Sundays, and Wednesdays, and on November 11, 25, and 26, 1982, and January 10 through 16, 1983, in Adams, Benton, Douglas, Franklin, Grant, Lincoln, and Walla Walla Counties and east of Satus Pass (U.S. Highway 97) in Klickitat County.

(14) Brant may be hunted only on Saturdays, Sundays, and Wednesdays. It shall be unlawful to hunt brant from a moving boat or any free-floating device that is not in a fixed position.

(e) Point system — Ducks, mergansers, and coots. The States selecting the point system bag limits on designated species are listed in the table under §20.105(d).

(1) The point values assigned to the species and sexes are as follows:

Atlantic Flyway

100 points	70 points	10 points	25 points
Canvasback (except where closed)	Female mallard	Pintail	Male mallard and all other species of ducks.
Florida only: Fulvous tree duck.	Black duck	Blue-winged teal	
	Mottled duck	Green-winged teal (2)	
	Wood duck (1)	Shoveler	
	Redhead	Gadwall	
	Hooded merganser.	Wigeon	
		Scaup	
		Sea ducks (3)	
		Mergansers (except hooded).	

(1) In Virginia during October 7 through October 10, the wood duck counts 25 points.

(2) In New Jersey the point value for green-winged teal is 25 by State regulation.

(3) Sea ducks count 10 points each during the point-system season, but during any part of the regular sea duck season falling outside the point-system season, sea duck daily bag and possession limits of 7 and 14, respectively, apply.

Mississippi Flyway (1)

100 points	70 points	10 points	25 points
Canvasback (except where closed)	Female mallard	Pintail	Male mallard and all other species of ducks.
	Black duck	Blue-winged teal	
	Wood duck	Green-winged teal	
	Redhead	Cinnamon teal	
	Hooded merganser.	Wigeon	Scaup (Michigan only)
		Shoveler	
		Gadwall	
		Scaup (except Michigan)	
		Mergansers (except hooded).	

(1) In Wisconsin, point values for some species change during the season. See State regulations. Also, species listed in the 10-category above are assigned 15 points in Wisconsin.

Central Flyway

100 points	70 points	10 points	20 points
Canvasback (except where closed).	Female mallard	Pintail	Male mallard and all other species of ducks.
	Mexican-like duck	Blue-winged teal	
	Wood duck	Green-winged teal	
	Redhead	Cinnamon teal	
	Hooded merganser.	Shoveler	
	Texas only:	Gadwall	
	Mottled duck	Wigeon	
	Black duck	Scaup	
		Merganser (except hooded.	

(1) In Wyoming the coot is assigned 10 points.

Coots have no point value (except in Wyoming) but conventional bag limits of 15 daily and 30 in possession apply.

Pacific Flyway: There is no point system in the Pacific Flyway.

(2) The daily bag limit is reached when the point value of the last bird taken added to the sum of the point values of the other birds already taken during that day reaches or exceeds 100 points. The possession limit is the maximum number of birds of species and sex which could have legally been taken in 3 days. The shooting (including hawking) hours are one-half hour before sunrise until sunset daily unless otherwise indicated.

(f) Scaup only season. A special hunting season for scaup only is prescribed according to the following table in those areas which are described, delineated, and designated in the hunting regulations of the respective States.

Daily bag limit..... 5
Possession limit..... 10
Shooting (including hawking) hours: One-half hour before sunrise to sunset daily.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS WITHIN STATES.

Seasons in the Atlantic Flyway

Connecticut (in South Zone)	Jan. 14–Jan. 29.
Florida	Jan. 16–Jan. 31.
Maryland (in sea duck zone)	Nov. 27–Dec. 6.
Massachusetts	Jan. 8–Jan. 22.
New Jersey	Jan. 7–Jan. 22.
New York:	
Long Island Zone only	Jan. 16–Jan. 31.
Rhode Island	Jan. 15–Jan. 30.
Virginia	Jan. 17–Jan. 31.

Seasons in the Mississippi Flyway

Indiana (Lake Michigan only)	Dec. 13–Dec. 28.
Louisiana	Jan. 21–Jan. 31.
Ohio (North Zone only)	Dec. 16–Dec. 25.
Wisconsin	Nov. 25–Dec. 10.

(g) Extra teal during regular season. Hunting seasons for blue-winged and green-winged teal ducks in the Atlantic Flyway, and blue-winged only in the Central Flyway, are prescribed according to the following table. The daily bag and possession limits specified here are in addition to any other bag and possession limits specified elsewhere.

Daily bag limit..... 2
Possession limit..... 4

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS WITHIN STATES.

Seasons in the Atlantic Flyway

Connecticut:	
North Zone	Oct. 16–Oct. 21.
South Zone	Oct. 13–Oct. 16.
Delaware	Oct. 4–Oct. 9 & Nov. 1–Nov. 3.
Georgia	Oct. 9–Oct. 12.
Maine	Oct. 1–Oct. 9.
Massachusetts:	
Inland Zone	Oct. 15–Oct. 23.
Coastal Zone	Oct. 20–Oct. 28.
New Hampshire	Oct. 6–Oct. 14.
New York:	
Northeastern Zone	Oct. 6–Oct. 14.
Southeastern Zone	Oct. 13–Oct. 21.
Western Zone	Oct. 13–Oct. 21.
Lake Champlain	Oct. 2–Oct. 10.
Long Island	Nov. 17–Nov. 25.
North Carolina	Oct. 1–Oct. 2 & Nov. 25–Nov. 27 & Dec. 7–Dec. 10.
Pennsylvania:	
North Zone	Oct. 2 (1)–Oct. 9.
South Zone	Oct. 16–Oct. 23.
Northwest Zone	Oct. 9 (1)–Oct. 16.
Lake Erie Zone	Oct. 23–Oct. 30.
Rhode Island	Oct. 7–Oct. 11.
South Carolina	Jan. 13–Jan. 20.
Vermont	Oct. 2–Oct. 10.

Seasons in the Mississippi Flyway
None.

Seasons in the Central Flyway

North Dakota	Oct. 2–Oct. 10.

Seasons in the Pacific Flyway
None.

(1) Shooting hours on first day begin at 8 a.m.

(h) Extra scaup during regular season. The following States may take an extra bag limit on scaup of two daily and four in possession during the regular duck hunting season. The daily bag and possession limits specified here are in addition to any other bag and possession limits specified elsewhere.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS WITHIN STATES.

Seasons in the Atlantic Flyway	
Delaware	Oct. 4-Oct. 9 & Nov. 1-Nov. 27 & Dec. 16-Jan. 1.
Georgia	Oct. 9-Oct. 12 & Nov. 24-Nov. 28 & Dec. 11-Jan. 23.
Maine:	
South Zone only	Oct. 1-Oct. 16 & Nov. 15-Dec. 18.
New Hampshire:	
Inland Zone	Oct. 6-Nov. 24.
Coastal Zone	Oct. 6-Oct. 17 & Nov. 6-Dec. 13.
New York:	
Northeastern Zone	Oct. 13-Nov. 18 & Dec. 22-Jan. 3.
Southeastern Zone	Oct. 13-Oct. 24 & Nov. 5-Dec. 12.
Western Zone	Oct. 6-Oct. 31 & Nov. 12-Dec. 5.
North Carolina (1)	Oct. 1-Oct. 2 & Nov. 25-Nov. 27 & Dec. 7-Jan. 20.
Pennsylvania (on waters of Lake Erie & Presque Isle Bay only)	Oct. 23-Dec. 11.
South Carolina (2)	Oct. 7-Oct. 9 & Nov. 24-Nov. 27 & Dec. 9-Jan. 20.
West Virginia:	
Allegheny Mountain Upland Zone (Zone 2)	Oct. 1-Oct. 16 & Nov. 1-Dec. 4.
Remainder of State (Zone 1)	Oct. 1-Oct. 16 & Dec. 13-Jan. 15.

(1) Only in waters east of U.S. Highway 17, except Currituck Sound north of U.S. Highway 158.

(2) Only in waters east of U.S. Highway 17, north of Charleston, and east of the Seaboard Railroad bed south of Charleston.

(i) Special scaup and goldeneye. A special hunting season for scaup and goldeneye is prescribed according to the following table in the Lake Champlain areas which are described, delineated, and designated in the hunting regulations of the respective States. The daily bag limit is 3 scaup or 3 goldeneyes or 3 in the aggregate. The possession limit is 6 scaup or 6 goldeneyes or 6 in the aggregate.

Shooting hours (including hawking) hours: One-half hour before sunrise to sunset daily.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS WITHIN STATES.

Seasons in the Lake Champlain Area Only	
New York	Nov. 26-Dec. 11.
Vermont	Nov. 26-Dec. 11.

Section 20.106 is amended to read as follows:

§20.106 Seasons, limits, and shooting hours for sandhill cranes.

Central Flyway: Subject to the applicable provisions of the preceding sections of this part, open seasons are prescribed for taking sandhill cranes with a daily bag limit of 3 and a possession limit of 6 (3 in New Mexico experimental season area) cranes, and with shooting (including hawking) hours from one-half hour before sunrise until sunset, in the following areas for the dates indicated:

(a) In Colorado (the Central Flyway portion except the San Luis Valley, North Park, and Prewitt Reservoir areas) the inclusive season dates are October 2 through November 28, 1982.

(b) In the New Mexico counties of Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt, and in that portion of Texas west of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, along U.S. Highway 87 (and including all of Howard and Lynn Counties) to U.S. Highway 277 at San Angelo, and along U.S. Highway 277 to the International Toll Bridge in Del Rio, season dates in the New Mexico portion are October 31, 1982, through January 31, 1983, and in the Texas portion, October 30, 1982, through January 30, 1983.

In the New Mexico experimental sandhill crane season hunt areas, the bag and possession limits may not exceed 3 cranes, each of which must be tagged upon taking. In Area 1 (those portions of Dona Ana, Luna, and Sierra Counties west of Interstate Highway 25, north of Interstate Highway 10, east of New Mexico Highways 26 and 27 between Deming and Hillsboro, and south of New Mexico Highway 90), and Area 2 (that portion of Luna County south of Interstate Highway 10), the inclusive season dates are October 30 through November 1, 1982; December 4 through December 6, 1982; and January 15 through January 17, 1983. Each person participating in the experimental season must obtain and have in his possession while hunting, a valid special permit issued by New Mexico.

(c) In Oklahoma (that portion west of I-35), and in that portion of Texas east of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, then along U.S. Highway 87 to San Angelo, and west of a line running north from San Angelo along U.S. Highway 277 to Abilene, along State Highway 351 to Albany, along U.S. Highway 283 to Vernon, and then along U.S. Highway 183 east to the Oklahoma border, season dates in the Oklahoma portion are October 23, 1982, through January 23, 1983, and in the Texas portion, December 4, 1982, through January 30, 1983.

(d) In North Dakota, in Benson, Burleigh, Emmons, Kidder, Logan, McHenry, Pierce, and Stutsman Counties, the inclusive season dates are September 4 through September 12 and in McLean and Sheridan Counties, the inclusive season dates are September 4 through September 19, 1982. In South Dakota, the inclusive season dates are October 2 through November 7, 1982.

(e) In Montana (the Central Flyway portion except that area south of I-90 and west of the Bighorn River), the inclusive season dates are October 2 through November 28, 1982.

(f) In Wyoming, in Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties, the inclusive season dates are September 25 through November 21, 1982.

In the Wyoming experimental sandhill crane-Canada goose hunt areas (Bear River drainage and Star Valley of Lincoln County), hunting is by State permit only with limits of 2 sandhill cranes and 3 Canada geese per season. The inclusive season dates are September 1 through September 14, 1982.

(g) Each hunter participating in the regular sandhill crane hunting season must obtain and carry in his possession while hunting sandhill cranes a Federal sandhill crane hunting permit available without cost from conservation agencies in the States where crane hunting seasons are allowed. The permit must be displayed to an authorized law enforcement official upon request.

Pacific Flyway: In Arizona (within Game Management Units 30A, 30B, 31, and 32), the inclusive season dates are November 13 through 14, 1982. Hunting will be by special permit to be issued by the State. Each permittee may take 2 sandhill cranes per season.

* * * * *

Section 20.107 is revised as follows.

§20.107 Seasons, limits, and shooting hours for whistling swans.

Whistling swans may be taken only by State-issued permit. Permittees may take only one whistling swan per season. Successful permittees must immediately validate their harvest by that method required by State law. Shooting hours are from one-half hour before sunrise to sunset daily. Seasons are:

(a) In Montana, whistling swans may be hunted only in Teton and Cascade Counties and from October 2, 1982, through January 2, 1983;

(b) In Nevada, whistling swans may be hunted only in Churchill County and from October 23, 1982, through January 9, 1983; and

(c) In Utah, whistling swans may be hunted from October 2, 1982, through January 2, 1983.

(d) The appropriate State agency must issue permits, obtain harvest and hunter participation data, and require successful hunters to immediately validate their harvests.

Section 20.109 is revised as follows:

§20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of this part, the areas open to hunting, the respective open seasons (dates inclusive), the hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Daily bag limit	3 singly or in the aggregate.
Possession limit	6 singly or in the aggregate.

These limits apply during both regular hunting seasons and extended falconry seasons.

Hawking hours: One-half hour before sunrise until sunset daily.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS.

Atlantic Flyway	
Florida:	
Mourning doves	Oct. 9-Jan. 16.
Woodcock	Oct. 30-Feb. 13.
Snipe	Nov. 6-Feb. 20.
Rails	Sept. 1-Dec. 14.
Ducks, mergansers, and coots	Oct. 16-Dec. 5 & Dec. 11-Jan. 16.

Maryland	
Mourning doves	Sept. 1-Oct. 12 & Nov. 6-Jan. 9.
Rails and gallinules	Sept. 1-Dec. 16.
Woodcock	Oct. 11-Nov. 26 & Dec. 3-Jan. 31.
Snipe	Sept. 13-Dec. 28.
Sea ducks	Oct. 6-Jan. 20.
Ducks, coots, and mergansers	Oct. 6-Jan. 20.
Canada geese	
Eastern Shore	Oct. 17-Jan. 31.
Remainder of State	Oct. 6-Jan. 20.
Snow geese	Oct. 17-Jan. 31.
Brant	Oct. 6-Jan. 20.
Massachusetts:	
All permitted ducks, mergansers, geese, and coots	Oct. 12-Jan. 15.
Pennsylvania:	
Mourning doves	Sept. 1-Dec. 15.
Woodcock and snipe	Oct. 5-Jan. 8.
Ducks, mergansers, and coots	Oct. 2-Jan. 8.
Virginia:	
Mourning doves	Sept. 20-Dec. 6 & Dec. 20-Dec. 30.
Rails and woodcock	Sept. 20-Dec. 6 & Dec. 18-Dec. 30.
Snipe	Oct. 18-Jan. 31.
Ducks (except scaup) and brant	Oct. 6-Jan. 20.
Canada geese, snow geese, and scaup	Nov. 3-Jan. 31.

Mississippi Flyway

Illinois:	
Mourning doves, rails, and woodcock	Sept. 1-Dec. 16.
Snipe	Sept. 11-Dec. 26.
Teal	Sept. 11-Sept. 19.
Ducks, mergansers, and coots	Oct. 2-Jan. 6.
Iowa:	
Ducks and mergansers	Sept. 23-Oct. 22 & Dec. 7-Jan. 2.
Geese	Dec. 11-Jan. 2.
Kentucky:	
Ducks, mergansers, geese, and coots	Nov. 1-Jan. 20.
Michigan:	
Woodcock and snipe	Sept. 1-Dec. 16.
Ducks, mergansers, and coots	Oct. 2-Jan. 16.
Minnesota:	
Woodcock and snipe	Sept. 1-Dec. 16.
Ducks, mergansers, and coots	Oct. 2-Jan. 16.
Mississippi:	
Mourning doves	Oct. 4-Oct. 15 & Nov. 13-Dec. 7.
Missouri	
Mourning doves	Sept. 1-Dec. 16.
Ducks, mergansers, coots, and geese	Oct. 16-Oct. 20 & Oct. 30-Jan. 20.
Wisconsin	
Rails, woodcock, snipe, and gallinules	Sept. 1-Dec. 16.
Ducks, mergansers, and coots	Oct. 1-Jan. 15.

Central Flyway

Colorado:	
Ducks, mergansers, and coots (Possession is limited to 3 birds)	Oct. 16-Oct. 29.
Montana: (1)	
All permitted migratory birds	Oct. 2-Jan. 16.

[FR Doc. 82-26409 Filed 9-24-82; 8:45 am]

BILLING CODE 4310-55-C

New Mexico	
Daily bag and possession limits in New Mexico are 2 and 4, respectively, singly or in the aggregate of migratory species named below and resident game species.	
Mourning doves, white-winged doves, and band-tailed pigeons	Sept. 1-Nov. 6 & Nov. 20-Dec. 19.
Sandhill cranes only in Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties	Nov. 17-Jan. 31.
Ducks, mergansers, coots, and gallinules	Oct. 16-Jan. 23.
Canada and white-fronted geese	Oct. 16-Jan. 23.
Snow, blue, and Ross' geese	Oct. 30-Feb. 13.
Oklahoma:	
Ducks, mergansers, and coots	Oct. 16-Jan. 21.
Texas	
Mourning doves	Sept. 1-Nov. 30.
White-winged doves, rails, and gallinules	Sept. 1-Dec. 16.
Ducks, geese, and coots	Oct. 16-Jan. 23.
Sandhill cranes	
Zone A	Oct. 30-Jan. 31.
Zone B	Nov. 23-Jan. 31.
Woodcock and snipe	Nov. 1-Feb. 15.
Wyoming	
Ducks, mergansers, geese, and coots	Oct. 2-Jan. 16.

Pacific Flyway

Colorado:	
Ducks, mergansers, and coots (Possession is limited to 3 in the aggregate.)	Oct. 23-Nov. 5.
Idaho:	
Mourning doves only	Sept. 1-Oct. 15.
Ducks, mergansers, coots, and snipe	Oct. 2-Jan. 16.
Montana (1)	
All permitted migratory birds	Oct. 2-Jan. 16.
New Mexico (1)	
Mourning doves, white-winged doves, and band-tailed pigeons	Sept. 1-Nov. 6 & Nov. 20-Dec. 19.
Ducks, coots, and gallinules	Oct. 16-Jan. 16.
Geese	Oct. 16-Jan. 16.
Oregon	
Mourning doves	Oct. 9-Dec. 24.
Snipe	Oct. 2-Jan. 16.
Ducks, geese, and coots	Oct. 9-Jan. 23
Utah	
Ducks and coots	Oct. 2-Jan. 16.
Washington	
Ducks, geese, and coots:	
Western Zone	Oct. 2-Oct. 8 & Jan. 16-Jan. 16.
Eastern Zone	Oct. 2-Oct. 8 & Jan. 16-Jan. 16.
Wyoming	
Mourning doves	Sept. 1-Oct. 15
Rails and snipe	Sept. 25-Dec. 3.
Ducks, coots, and geese	Oct. 2-Jan. 16.

(1) In Montana and New Mexico, the aggregate bag and possession limits of all species are 2 and 4, respectively.

Note: See waterfowl season footnotes for descriptions of zones. For some States, the extended falconry season dates also include general season dates.

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List of Public Laws

Last Listing September 23, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S.J. Res. 250 / Pub. L. 97–262 To provide for resolution of the single outstanding issue in the current railway labor-management dispute, and for other purposes. (September 22, 1982; 96 Stat. 1130) Price: $1.75.

Slip Laws

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97th Congress, 2nd Session, 1982

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There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Pension Benefit Guaranty Corporation

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Presidential Documents

Title 3—

The President

Presidential Determination No. 82-16 of May 27, 1982

Economic Support Fund Assistance for Liberia

Memorandum for the Honorable Alexander M. Haig, Jr., the Secretary of State

By virtue of the authority vested in me by the Foreign Assistance Act of 1961, as amended (the Act), I hereby:

(1) determine under Section 614(a)(1) of the Act that the furnishing of up to $14.9 million in assistance for Liberia under chapter 4 of part II of the Act from funds earmarked under Section 539 of the Act, and without regard to the provisions of Section 539, is important to the security interests of the United States; and

(2) authorize the furnishing of such assistance.

You are requested to report this determination to the Congress immediately in accordance with the requirements of the Act, and none of the assistance provided for herein shall be furnished until after such report has been made.

This determination shall be published in the **Federal Register**.

Ronald Reagan

THE WHITE HOUSE,
Washington, May 27, 1982.

[FR Doc. 82-26814
Filed 9-24-82; 4:31 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 4976 of September 24, 1982

National Sewing Month

By the President of the United States of America

A Proclamation

Tens of millions of Americans sew at home. Their efforts demonstrate the industry, the skill and the self-reliance which are so characteristic of this Nation.

In recognition of the importance of home sewing to our economy the Congress has, by Senate Joint Resolution 205, designated September, 1982, as National Sewing Month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim September, 1982, as National Sewing Month. I call upon the people of the United States to observe this month with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of September, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 82-26852
Filed 9-27-82; 10:48 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 4977 of September 24, 1982

National Cystic Fibrosis Week, 1982

By The President of the United States of America

A Proclamation

In our country today there are approximately 20,000 to 30,000 young people afflicted with cystic fibrosis—a genetic disease that will prevent most of them from reaching full adulthood. Cystic fibrosis is the most common fatal genetic disease that strikes American children; its cause and cure are still a mystery, and its effects pose formidable obstacles to normal activity throughout its victims' brief lives.

In the past twenty-five years, medical research has achieved measurable success in treating the symptoms of cystic fibrosis and in extending the lives of children born with the disease. The promise of further advances and the courage demonstrated each day by the suffering victims spur intensified research efforts.

With continuing attention to the many scientific questions yet to be answered and improved public awareness of the benefits of early diagnosis of this disease, there is good cause for optimism that cystic fibrosis can be overcome. The combined efforts of dedicated researchers and volunteers committed to the challenge of cystic fibrosis are a wellspring of hope for patients and their families, and the millions of Americans who may unknowingly carry the genetic trait that produces cystic fibrosis.

Acknowledging the progress of the last twenty-five years, and recognizing the compelling need to expand on past efforts to combat this fatal disorder, the Congress has, by Senate Joint Resolution 186, designated September 19 through 25, 1982, as National Cystic Fibrosis Week, declaring it as a time to consider the profound impact of the disease and the growing sense of hopefulness for the future of cystic fibrosis victims.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning September 19, 1982, as National Cystic Fibrosis Week and call upon the people of the United States to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of September, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 82-26853
Filed 9-27-82; 10:49 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 4978 of September 24, 1982

Lupus Awareness Week, 1982

By the President of the United States of America

A Proclamation

Systemic lupus erythematosus (lupus) is a serious disorder that can affect many different parts of the body, including the skin, joints, kidneys, heart, central nervous system, and other internal organs. While no one person has all symptoms, and they may occur in varying combinations, there are recognizable patterns of illness that identify patients with lupus.

It is estimated that 500,000 Americans have lupus—most of them young women. Fortunately, because of the progress that has been made in recent years toward better understanding and increased public awareness of the disease, there is more hope for its victims. Although research has yet to find the cure for lupus, the outlook for patients has improved greatly. Through advances in medical research, including better diagnosis and more effective drug treatment and medical management, many patients with lupus can now look forward to living more productive and happier lives. It is my fervent hope that continuing advances in medical research will improve the quality of life for all lupus patients and eventually lead to the prevention and cure of this serious and distressing disease.

By Senate Joint Resolution 183, the Congress of the United States has requested the President to designate the week beginning October 17, 1982, as Lupus Awareness Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 17, 1982, as Lupus Awareness Week, and I call upon the people of the United States to observe this week by learning more about this disease.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of Sept., in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 82-26854
Filed 9-27-82; 10:50 am]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 530

Pay Rates and Systems (General): Effect of General Pay Increases on Special Salary Rates

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is revising the regulation that determines the relationship of a special rate schedule to the pay schedule of the pay system for which the special rate schedule is authorized. Section 303 of Executive Order 11721 requires that each special schedule be reviewed at least annually and adjustments made as warranted by then current labor market and staffing conditions. OPM's regulation provides that, pending the annual review, special rate schedules will be automatically aligned when the regular pay schedule is adjusted. Beginning this year, however, OPM will make all adjustments to special rates effective on the date of the general pay adjustment in October; consequently, it is no longer necessary to align the special rates with the new regular schedule and OPM is revising the regulation governing this alignment.

EFFECTIVE DATE: September 28, 1982.

FOR FURTHER INFORMATION CONTACT: Richard J. Carney, Chief, Allowances and Special Rates Division, (202) 632–8742.

SUPPLEMENTARY INFORMATION: A proposed regulation was published in the Federal Register on August 4, 1982 (47 FR 33713), for a public comment period of 30 days. The Office of Personnel Management received written comments from one agency and two employee organizations.

The Federal agency and one of the employee organization's recommendations concerned the addition of language to the regulation to require that special rate adjustments, where warranted, be effective on the date of the general pay adjustment. While it is OPM's intent to effect warranted adjustments at the same time as the general pay adjustment, to require a same time effective date in the regulation would unduly restrict OPM's ability to make adjustments at times other than the effective date of the general pay adjustment. For example, if in a given year, the President and Congress decide that there will be no general pay adjustment, special rate adjustments could not be effected. For this reason, these recommendations are not being adopted.

The other employee organization questioned OPM's authority to "disconnect" special rate employees from the statutory pay system and deny them the regular pay schedule increase.

Employees covered by special rate schedules are not entitled to the full regular schedule adjustments under the existing regulation; but, instead, an adjustment to the new minimum rate of the new regular schedule. This adjustment was not statutorily required, but was an administrative determination. OPM is changing this administrative determination and eliminating the automatic adjustment. Special rate schedules will now be adjusted, where warranted, effective at the time of the regular schedule adjustment.

I find that good cause exists for waiving the delay of effectiveness usually required by 5 U.S.C. 553(d). The delay of effectiveness is waived because of the program benefits to be gained by effecting this change prior to this October's general pay adjustment.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it applies only to pay systems affecting Federal employees.

List of Subjects in 5 CFR Part 530

Government employees, Wages.

U.S. Office of Personnel Management.
Donald J. Devine,
Director.

PART 530—PAY RATES AND SYSTEMS (GENERAL)

Accordingly, § 530.307 paragraph (a) of 5 CFR is revisd to read as follows:

§ 530.307 Effect of general pay increase on special salary rate schedules.

(a) A general revision of the regular pay schedule of the pay system for which special salary rates are authorized under section 5303 to title 5, United States Code, will have no effect on special salary rate schedules. Special salary rate schedules will be reviewed at least annually and adjusted, if warranted, by the Office of Personnel Management.

* * * * *

(E.O. 11721)

[FR Doc. 82-26552 Filed 9-27-82; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 908, 910, 924, 926, 927, 929, 931, and 932

Expenses and Rates of Assessment for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of the committees functioning under Marketing Orders 908, 910, 924, 927, 929, 931, and 932. Funds to administer these programs are derived from assessments on handlers of the fruits regulated under the orders.

EFFECTIVE DATES: November 1, 1979–October 31, 1980 (§ 908.219); April 1, 1982–March 31, 1983 (§ 924.222, § 926.222); July 1, 1982–June 30, 1983 (§ 927.222, § 931.217); August 1, 1982–July 31, 1983 (§ 910.220); September 1, 1982–December 31, 1983 (§ 932.217); September 1, 1982–August 31, 1983 (§ 929.223).

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's

Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not significantly affect costs for the directly regulated handlers.

These marketing orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). These actions are based upon the recommendations and information submitted by each committee, established under the respective marketing order, and upon other information. It found that the expenses and rates of assessment, as hereinafter provided, will tend to effectuate the declared policy of the Act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking, and good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). Each order requires that the rate of assessment for a particular fiscal period shalll apply to all assessable commodities handled from the beginning of such period. To enable the committees to meet current fiscal obligations, approval of the expenses is necessary without delay. It is necessary to effectuate the declared policy of the Act to make these provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Parts 908–932

Marketing agreements and orders, Oranges (Valencia), Lemons, Prunes, Grapes, Pears, Cranberries, Olives, California, Arizona, Washington, and Oregon.

Sections 908.219 (45 FR 14199) and 924.222 (47 FR 34351) are revised and §§ 910.219, 926.221, 927.221, 929.222, 931.216, and 932.216 are removed and new sections are added as follows (the following sections prescribe annual expenses and assessment rates and will not be published in the annual Code of Federal Regulations):

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA.

Section 908.219 paragraph (a) is revised to read as follows:

§ 908.219 Expenses, rate of assessment and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Valencia Orange Administrative Committee during the period November 1, 1979 through October 31, 1980, will amount to $376, 900.

* * * * *

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Section 910.220 is added to read as follows:

§ 910.220 Expenses and assessment rate.

Expenses of $591,070 by the Lemon Administrative Committee are authorized, and an assessment rate of $0.047 per carton of lemons is established for the fiscal year ending July 31, 1983; and unexpended assessment funds may be carried over from the fiscal year ended July 31, 1982.

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREGON

Section 924.222 is added to read as follows:

§ 924.222 Expenses and assessment rate.

Expenses of $30,549.50 by the Washington-Oregon Fresh Prune Marketing Committee are authorized, and an assessment rate of $2.20 per ton of prunes is established for the fiscal year ending March 31, 1983; and unexpended funds from the fiscal year ended March 31, 1982 shall be carried over as a reserve.

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

Section 926.222 is added to read as follows:

§ 926.222 Expenses and assessment rate.

Expenses of $211,506 by the Industry Committee are authorized, and an assessment rate of $0.11 per 23-pound lug of grapes is established for the fiscal year ending March 31, 1983. Unexpended funds may be carried over as a reserve.

PART 927—BUERRE D'ANJOU, BUERRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BUERRE EASTER, AND BUERRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

Section 927.222 is added to read as follows:

§ 927.222 Expenses and assessment rate.

Expenses of $213,527 by the Control Committee are authorized, and an assessment rate of $0.02 per standard western pear box of pears is established for the fiscal year ending June 30, 1983. Unexpended funds may be carried over as a reserve.

PART 929—CRANBERRIES GROWN IN STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Section 909.223 is added to read as follows:

§ 929.223 Expenses and assessment rate.

Expenses of $92,805 by the Cranberry Marketing Committee are authorized, and an assessment rate of $0.035 per barrel (100 pounds) of cranberries is established for the fiscal year ending August 31, 1983. Unexpended funds may be carried over as a reserve.

PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

Section 931.217 is added to read as follows:

§ 931.217 Expenses and assessment rate.

Expenses of $38,351 by the Northwest Fresh Bartlett Pear Marketing Committee are authorized, and an assessment rate of $0.0125 per standard western pear box of pears is established for the fiscal year ending June 30, 1983. Unexpended funds may be carried over as a reserve.

PART 932—OLIVES GROWN IN CALIFORNIA

Section 932.217 is added to read as follows:

§ 932.217 Expenses and assessment rate.

Expenses of $357,098 by the California Olive Committee are authorized for the period ending December 31, 1983. Unexpended funds may be carried over as a reserve.

(Secs. 1–19, 48 Stat. 31, as amended, 7 U.S.C. 601–674)

Dated: September 22, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-26619 Filed 9-27-82; 8:45 am]

BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

14 CFR Part 302

Rules of Practice in Board Proceedings

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order waiving certain notice requirements.

SUMMARY: The Board in Order 82-9-97 has waived the service requirements of § 302.1705 of its Regulations for the applicant in this proceeding and has extended this waiver to all prospective applicants for charter authority under section 401 of the Federal Aviation Act. Henceforth, charter applicants need only serve the Board and such other additional parties as the Board specifically directs during its processing of the application.

FOR FURTHER INFORMATION CONTACT: Nicholas Lowry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5345.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-9-97 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82-9-97 to that address.

By the Civil Aeronautics Board: September 23, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-26637 Filed 9-27-82; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9123]

Litton Industries, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: The Federal Trade Commission, in accordance with the decision and judgment of the Ninth Circuit Court of Appeals, has deleted references to "test" data from its order issued on January 5, 1981 to Litton Industries, Inc., (46 FR 8445). Among other things, the modified order prohibits respondent from misrepresenting survey results in its advertising of microwave ovens and other consumer products.

DATES: Final order issued Jan. 5, 1981. Modifying order issued Sept. 10, 1982.

FOR FURTHER INFORMATION CONTACT: FTC/GE, Jerold D. Cummins, Washington, D.C. 20580. (202) 523-1928.

SUPPLEMENTARY INFORMATION: In the matter of Litton Industries, Inc., a corporation and Litton Systems, Inc., a corporation. Codification appearing at 46 FR 8445 is modified as follows: Delete the following entries—Subpart—Advertising Falsely or Misleadingly: § 13.265 Tests and investigations. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1762 Tests, purported.

List of Subjects in 16 CFR Part 13

Advertising, Microwave ovens, and Surveys.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46, Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The Modified Order To Cease and Desist is as follows:

Commissioners: James C. Miller III, Chairman; David A. Clanton, Michael Pertschuk, Patricia P. Bailey.

In the matter of Litton Industries, Inc., a corporation, and Litton Systems, Inc., a corporation, Docket No. 9123.

Modified Order To Cease and Desist

Respondents having filed in the United States Court of Appeals for the Ninth Circuit a petition for review of the Commission's order issued herein on January 5, 1981; and the Court having on May 3, 1982, rendered its decision modifying the Commission's order and, as so modified, affirming and enforcing the order; and the time for filing a petition for certiorari having expired and no petition having been filed:

Now, therefore, it is hereby ordered that the aforesaid order to cease and desist be, and it hereby is, modified in accordance with the decision and judgment of the Court of Appeals to read:

Order

I

It is ordered that respondents Litton Industries, Inc., a corporation, Litton Systems, Inc., a corporation, and their successors, assigns, officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising for sale, sale, or distribution of microwave ovens (either for commercial or consumer use), in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do cease and desist from:

1. Representing, directly or by implication, that any commercial microwave oven or consumer microwave oven:

(a) Is able to perform in any respect, or has any characteristic, feature, attribute, or benefit; or

(b) Is superior in any respect to any or all competing products; or

(c) Is recommended, used, chosen, or otherwise preferred in any respect more often than any or all competing products,

unless and only to the extent that respondents possess and rely upon a reasonable basis for such representation at the time of its initial and each subsequent dissemination. Such reasonable basis shall consist of competent and reliable surveys and/or other competent and reliable evidence which substantiates the representation. A competent and reliable survey means one in which persons qualified to do so conduct the survey and evaluate its results in an objective manner, using procedures that insure accurate and reliable results.

2. Failing to maintain accurate records:

(a) Of all materials that were relied upon in disseminating any representation covered by paragraph I(1) of this order, insofar as the text of such representation is prepared, authorized, or approved by any person who is an officer or employee of respondents, or of any division, subdivision or subsidiary of respondents, or by any advertising agency engaged for such purposes by respondents, or by any of its divisions or subsidiaries;

(b) Of all studies, surveys, or demonstrations that contradict any representation made by respondents that is covered by paragraph I(1) of this order.

Such records shall be retained by respondents for three years from the date that the representations to which they pertain are last disseminated, and may be inspected by the staff of the Commission upon reasonable notice.

II

It is further ordered that respondents Litton Industries, Inc., a corporation, Litton Systems, Inc., a corporation, and their successors, assigns, officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising for sale, sale, or distribution of microwave ovens (either for commercial or consumer use) and any other product normally sold to members of the general public for their personal or household use in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do cease and desist from:

1. Misrepresenting in any manner, directly or by implication, the purpose, sample, content, reliability, results or conclusions of any survey.

2. Advertising the results of a survey unless the respondents in such survey are a census or a representative sample of the population referred to in the advertisement, directly or by implication. A representative sample need not be a probability sample so long as when the ad is first disseminated respondents have a reasonable basis to expect the sampling method used would not produce biased results.

3. Representing, directly or by implication, that experts were surveyed, unless reasonable care was taken to insure that the survey respondents possessed sufficient expertise to qualify as respondents for the survey and to answer the survey questions. For purposes of this order, an "expert" is an

individual, group or institution held out as possessing, as a result of experience, study or training, knowledge of a particular subject, which knowledge is superior to that generally acquired by ordinary individuals.

It is further ordered that the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

It is further ordered that the respondents shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered that the respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

By the Commission. Commissioner Bailey did not participate.

Issued: September 10, 1982.

Carol M. Thomas,

Secretary.

[FR Doc. 82-26625 Filed 9-27-82; 8:45 am]
BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket 8909]

Xerox Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying Order.

SUMMARY: This order reopens the proceeding and modifies Paragraph XVII of the Commission's order issued on July 29, 1975 to the Xerox Corporation, (40 FR 42203) by revising the annual notice that Xerox must print in the Official Gazette of the United States Patent and Trademark Office. The modification eliminates the requirement for repitious annual printing of domestic and foreign copier patents available for licensing, and requires that only new patents and deletion of expired patents be published.

DATES: Final Order issued July 29, 1975. Modifying Order issued Sept. 10, 1982.

FOR FURTHER INFORMATION CONTACT: FTC/CC, Elliot Feinberg, Washington, D.C. 20580. (202) 634-4604.

SUPPLEMENTARY INFORMATION: In the Matter of Xerox Corporation, a corporation. Codification appearing at 40 FR 42203 remains unchanged.

List of Subjects in 16 CFR Part 13

Copying equipment, Patents.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The Order Modifying Cease and Desist Order Issued July 29, 1975 is as follows:

Commissioners: James C. Miller III, Chairman; David A. Clanton, Michael Pertschuk, Patricia P. Bailey.

In the matter of Xerox Corporation, a corporation, Docket No. 8909.

Order Modifying Cease and Desist Order Issued July 29, 1975

The Federal Trade Commission having considered respondent Xerox Corporation's petition filed on June 11, 1982, to reopen this matter and to modify the consent order to cease and desist issued by the Commission on July 29, 1975, and having determined that reopening and modification of the order is warranted:

It is ordered that this matter be, and it hereby is reopened and that Paragraph XVII of the Commission's order be and it is hereby modified to read as follows:

XVII

It is further ordered that annually, until the expiration of all future patents, Xerox shall submit for publication in the Official Gazette of the United States Patent and Trademark Office a notice:

(1) Identifying by number, title, date of issue and category of subject matter (to an extent acceptable to the Commission) all United States patents which it is empowered to license, together with all foreign patents based on the patent application from which each United States patent originates, issued since the publication of the last such notice;

(2) Stating that Xerox shall grant licenses under (a) its order patents to make, have made, use and vend office copier products under the terms of this order, and (b) patents required to be licensed pursuant to the terms of Paragraph X of this order, if any;

(3) Stating that (a) a copy of this order, (b) a list of patents licensed to Xerox which are subject to the provisions of Paragraph II and IV(C)(9) of this order, if any, and (c) a list of all patents subject to this order which have been previously published are available from Xerox upon written request; and

(4) Citing the issues of the Official Gazette since 1961 in which previous notices have been published. Until the expiration of all Xerox future patents, Xerox shall send a copy of this order and a complete list of patents subject to this order to each person who inquires as to the availability of a license for office copier products, or to whom Xerox has offered such a license at any time since January 1, 1970.

By the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-26626 Filed 9-27-82; 8:45 am]
BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1000

Revisions to Statement of Organization and Functions

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission is revising its Statement of Organization and Functions to reflect reassignment of responsibilities for public participation and advisory committee management, and abolition of the Interagency Regulatory Liaison Group.

EFFECTIVE DATE: September 28, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207. Telephone (301) 492-6980.

SUPPLEMENTARY INFORMATION: The statement of functions of the Commission's Office of the Secretary, set forth in 16 CFR 1000.16, provides, among other matters, that "It also administers the Commission's public participation activities, including provisions for the financial compensation of participants, and manages activities of the Commission's advisory committees". The Commission has reassigned the public participation function to the Office of Public Affairs. The advisory committee management function for the Commission's remaining committees has been reassigned to the Directorate for Health Sciences. In addition, the Interagency Regulatory Liaison Group, referred to in section 1000.28, has been abolished. Therefore, section 1000.18 as well as section 1000.17, dealing with the Office of Public Affairs and section 1000.28, dealing with the Directorate for Health Sciences, are revised by this rule to reflect these organizational changes.

Since this rule relates solely to internal agency organization and management, the Administrative Procedure Act (APA) (5 U.S.C. 553) does not require the Commission to apply the notice and comment provisions of the APA. Further, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612, and thus is exempt from the provisions of that Act.

List of Subjects in 16 CFR Part 1000

Organization and functions (Government agencies).

Accordingly, Part 1000 of Title 16 of the Code of Federal Regulations is amended as shown.

PART 1000—COMMISSION ORGANIZATION AND FUNCTIONS

1. The authority citation for Part 1000 reads as follows:

Authority: 5 U.S.C. 552(a).

2. Section 1000.17 is revised to read as follows:

§ 1000.17 Office of Public Affairs.

The Office of Public Affairs is responsible for the development, implementation, and evaluation of a comprehensive national public affairs program designed to promote product safety. The Office develops and maintains relations with a wide range of national groups including: Consumer organizations; business groups; trade associations; state and local government organizations; labor organizations; medical, legal, scientific, and other professional associations; national print and broadcast media; and other Federal health, safety, and consumer affairs agencies. It also administers the Commission's public participation activities, including provisions for the financial compensation of participants.

3. Section 1000.18 is revised to read as follows:

§ 1000.18 Office of the Secretary.

The Office of the Secretary prepares the Commission's agenda, schedules and coordinates Commission business at official meetings, and records, issues, and stores the official records of Commission actions. The Office prepares and publishes the Public Calendar under the Commission's Meetings Policy. The Office exercises joint responsibility with the Office of the General Counsel for the interpretation and application of the Privacy Act, Freedom of Information Act, Federal Advisory Committee Act, and the Government in the Sunshine Act, and prepares or coordinates reports required by these acts. It issues Commission decisions, orders, rules, and other official documents, including **Federal Register** notices, for and on behalf of the Commission and controls the use of the Commission seal. The Office supervises and administers the dockets of adjudicative proceedings before the Commission. The Office also supervises and administers the public reading room.

4. Section 1000.28 is revised to read as follows:

§ 1000.28 Directorate for Health Sciences.

The Associate Executive Director for Health Sciences manages the Directorate for Health Sciences, which is responsible for management of the Commission's chronic hazards program, development and evaluation of the scientific content of product safety standards and test methods based on the chemical, biological and medical sciences, and the conduct and evaluation of specific product testing to support general agency regulatory activity. The Directorate provides scientific expertise to the Commission and it develops and evaluates performance criteria, design specifications, and quality control standards for certain consumer products. It conducts and evaluates scientific tests and test methods, participates in the scientific development of product safety standards, and provides advice on proposed standards. It collects scientific and technical data, reviews and evaluates toxicological and chemical hazards, and determines exposure, uptake and metabolism, including indentification of the toxicological and psychological bases which cause some population segments to be at special risk. It performs risk assessments for chemical and physical hazards in consumer products. It performs or monitors research, and conducts studies of the safety of or of improving the safety of consumer products. It provides the Commission's primary source of expertise for implementation of the Poison Prevention Packaging Act. It provides the Commission's expertise on manufacturing practices and quality assurance for chemical consumer products and it provides technical supervision to agency field chemistry laboratories and other chemical or toxicological testing facilities. It provides scientific and technical support to all commission organizations, activities, and programs. The Directorate provides technical liaison with the National Toxicological Program, the National Cancer Institute, the Environmental Protection Agency and other federal programs and organizations concerned with reducing the risks to consumers from exposure to chemical hazards. It also manages activities of the Commission's advisory committees. These committees are the Toxicological Advisory Board and the Chronic Hazard Advisory Panels.

Dated: September 20, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82-26653 Filed 9-27-82; 8:45 am]

BILLING CODE 6355-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC-12678; S7-907]

Adoption of Permanent Exemptions From Certain Provisions of the Investment Company Act of 1940 for Registered Separate Accounts and Other Persons

AGENCY: Securities and Exchange Commission.

ACTION: Final rule adoption and technical rule amendments.

SUMMARY: The Commission is adopting a permanent rule providing registered separate accounts and other persons with exemptive relief from certain provisions of the Investment Company Act of 1940 and the rules thereunder to the extent necessary to permit them to organize new separate accounts and new portfolio investment companies and to engage in certain related transactions in response to Revenue Ruling 81-225. The Commission is also adopting related technical amendments to one of the general rules under the Act.

EFFECTIVE DATE: September 21, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas P. Lemke, Acting Special Counsel (202-272-2061), or Mary K. Crook, Attorney (202-272-3010), Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the adoption, on a permanent basis, of rule 6c-6 [17 CFR 270.6c-6] ("permanent rule" or "rule") under the Investment Company Act of 1940 [15 U.S.C. 80a-1 *et seq.*] ("Act"). The permanent rule is similar to rule 6c-6(T) [17 CFR 270.6c-6(T)], proposed by the Commission and adopted on an interim basis on October 2, 1981 (sometimes referred to herein as the "proposed rule") [1] in response to

[1] Investment Company Act Release No. 11970 (Oct. 2, 1981) [46 FR 49580] ("Release No. 11970"). Persons interested in a more detailed discussion of rule 6c-6(T) should refer to the Commission's prior release.

Revenue Ruling 81–225, 1981–41 I.R.B. (October 13, 1981) ("Revenue Ruling 81–225" or "Revenue Ruling"), although the permanent rule expands somewhat the scope of the exemptive relief provided by the proposed rule. The permanent rule provides registered insurance company separate accounts and other persons with exemptive relief from certain provisions of the Act and rules thereunder to the extent necessary to permit them: (i) to organize a new portfolio company and to substitute the shares of that company for the shares of an existing portfolio company or to make an exchange offer to contractowners whose securities are funded by the existing portfolio company; and (ii) to organize a new separate account and to make an exchange offer to contractowners of the existing separate account.[3] Additionally, the Commission is adopting related technical amendments to rule 0–1(e) [17 CFR 270.0–1(e)] of the General Rules and Regulations under the Act to make applicable to rule 6c–6 the definition of separate account and conditions for availablity of exemptions set forth in rule 0–1(e).

Background

On September 25, 1981, the Internal Revenue Service ("IRS") issued Revenue Ruling 81–225, which discusses the federal income tax status of earnings and gains derived from the shares of open-end investment companies [5] which are used to fund certain variable annuity contracts offered through insurance company separate accounts [4] organized and registered under the Act as unit investment trusts.[5] The IRS concluded that prior to the annuity starting date, the variable annuity contractowner, rather than the insurance company, will be deemed to be the owner of the shares of the open-end investment company for federal income tax purposes—and thus the earnings and gains from the shares are includible in the contractowner's gross income—where the contractowner has "investment control" over the shares and possesses sufficient other incidents of ownership of the shares.

The IRS deemed the contractowner to have "investment control" over the shares of the underlying investment company in those situations where the shares were available for purchase not only by prospective contractowners through their variable annuity contracts but also by other members of the general public. This treatment was appropriate, the IRS stated, because under these circumstances the contractowner's position "is substantially identical to what his or her position would have been" had the shares of the investment company been purchased directly. On the other hand, the IRS deemed the insurance company, rather than the contractowner, to have investment control where the shares of the investment company were not sold directly to the general public and were available for purchase by the public only through the purchase of a annuity contract. Under those circumstances, the IRS stated, the investment company "is nothing more than the alter ego" of the insurance company and the situation is equivalent, for federal income tax purposes, to a direct purchase by the contractowner of the assets of the underlying investment company. The IRS determined to apply the holding of the Revenue Ruling only to payments made into separate accounts after December 31, 1980, and excluded from the holding certain annuity contracts described in sections 403 (a) and (b) or 408(b) of the Internal Revenue Code provided that certain conditions were satisfied.[6]

Shortly after issuance of the Revenue Ruling, the Commission, recognizing that many separate accounts might deem it necessary to modify their operations in response to the Revenue Ruling and that such modifications might require exemptions from various provisions of the Act and rules thereunder, proposed for comment rule 6c–6 and adopted that rule on an interim basis as temporary rule 6c–6(T). The rule provided registered separate accounts and other persons with temporary exemptive relief to the extent necessary to permit them to organize a new portfolio investment company—the shares of which presumably would not be available for purchase other than through an annuity contract—and to substitute the shares of that portfolio investment company for the shares of an existing portfolio company.[7] The purpose of the temporary rule, the Commission explained, was to provide exemptive relief to registered separate accounts and other persons to the extent necessary to permit them to take certain actions to facilitate the continuation of investment plans which might otherwise be disrupted by the impact of the Revenue Ruling.

Discussion

In Investment Company Act Release No. 11970 (October 2, 1981) [46 FR 49500] ("Release No. 11970"), the Commission requested comments generally on proposed rule 6c–6 and specifically on whether any additional or different exemptive relief was necessary or appropriate for inclusion in the proposed rule prior to its adoption on a permanent basis. In response, the Commission received letters from seven commentators. None of the commentators disapproved of the concept underlying the proposal, although three commentators expressed specific objections to one or more provisions of the proposed rule and all seven commentators suggested that the scope of the exemptive relief granted by

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[3] The terms "existing separate account," "new separate account," "existing portfolio company," and "new portfolio company" are defined in paragraph (a) of rule 6c–6. *See* notes 22–26, *infra*.

[5] Section 3 of the Act [15 U.S.C. 80a–3], in relevant part, defines "investment company" as any issuer which is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities. An "open-end company" is defined by section 5(a)(1) of the Act [15 U.S.C. 80a–5(a)(1)] as a management company which is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 4(3) of the Act [15 U.S.C. 80a–4(3)] defines a "management company" as any investment company other than a face-amount certificate company or a unit investment trust.

[4] A "separate account" is defined in section 2(a)(37) of the Act [15 U.S.C. 80a–2(a)(37)] as an account established and maintained by an insurance company pursuant to the laws of any state or other governmental entity of the United States or Canada under which income, gains, or losses, whether or not realized, from the assets of such account are, in accordance with the terms of the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance company. A substantially identical definition of "separate account," as that term is used in various rules under the Act, is contained in rule 0–1(e)(1) under the Act [17 CFR 270.0–1(e)(1)].

[5] A "unit investment trust" is defined by section 4(2) of the Act [15 U.S.C. 80a–4(2)] as an investment company which (1) is organized under a trust indenture, contract of custodianship or agency, or similar instrument, (2) does not have a board of directors, and (3) issues only redeemable securities, each of which represents an undivided interest in a unit of specified voting securities, but does not include a voting trust.

[6] On February 3, 1982, the IRS, in response to problems encountered by issuers of certain annuities attempting to comply with the reporting requirements imposed by the Revenue Ruling, issued Announcement 82–36, 1982–9 I.R.B. (March 1, 1982), which extended the time period for certain filings necessitated by Revenue Ruling 81–225 and, with respect to capital gains, dividends, and unrealized appreciation earned in connection with certain annuity contracts, limited the applicability of the holding of Revenue Ruling 81–225 to such amounts realized or existing after December 31, 1981.

[7] Release No. 11970, *supra*. Previously, the Commission had issued a general statement of policy of its Division of Investment Management concerning the effects and implications of the Revenue Ruling under the federal securities laws which, among other things, recognized that the sponsors of variable annuity separate accounts whose contractowners were affected by the Revenue Ruling might need to modify their methods of operation and that, in this regard, emergency exemptive relief might be appropriate. Investment Company Act Release No. 11960 (Sept. 28, 1981) [46 FR 48240].

the proposed rule should be expanded in various regards. Based on those suggestions and upon its reconsideration of several provisions of the proposed rule, the Commission has determined to adopt a modified version of the rule,[8] as discussed *infra*.[9] The main points raised by the commentators and the aspects of the rule reconsidered by the Commission are discussed below.

1. *Scope of Exemptive Relief.* The proposed rule provided exemptive relief only with respect to the organization of a new portfolio company to fund an existing separate account, where the new portfolio company was designed to minimize the impact of the Revenue Ruling. Several commentators suggested that the proposed rule be expanded to include the relief necessary to permit an insurance company to create a new separate account, either as a new registered investment company or as part of an existing registered investment company, and to allow such new separate account to make an offer to the contractowners of the existing separate account to exchange their securities for securities of the new separate account. These commentators believed that because of ambiguities in the Revenue Ruling, it may be necessary to create not only a new portfolio company but also a new separate account in order to prevent contractowners from being deemed the owners, for Federal income tax purposes, of the securities of the underlying investment company.

In response to these comments, the Commission has expanded the scope of the exemptive relief granted by the rule to include the relief necessary to permit an insurance company to organize a new separate account and to permit that separate account to make an exchange offer to contractowners of the existing separate account. In order to qualify for the exemptive relief, the separate account would have to be substantially identical in all material respects to the existing separate account which is operating pursuant to an effective registration statement and which has secured all necessary exemptive relief.[10] Similarly, the Commission believes that it may be appropriate for such a new separate account to make an exchange offer to contractowners of the existing separate account, provided generally that the offer is made on the basis of the relative net asset values of the securities to be exchanged without the imposition of any fees or charges.[11] The exemptive relief necessary to permit insurance companies to proceed in the manner described above has been added as paragraphs (c) and (k) of the permanent rule. As it did in Release No. 11970, *supra*, however, the Commission emphasizes that it is not expressing any views on the legal or Federal income tax implications, or the appropriateness as a business matter, of engaging in the above described transactions or of any other actions which might be taken by registered separate accounts in response to the Revenue Ruling.[12]

One commentator suggested that the proposed rule be expanded to provide the exemptive relief necessary to permit an existing separate account organized as a unit investment trust to organize a new separate account in the form of a management investment company that would otherwise qualify as a "new portfolio company" under the rule. The Commission has considered this suggestion, but believes that it is appropriate to limit the availability of the rule's exemptive relief to situations where the new separate account, or new portfolio company, is substantially identical in all material respects, including its classification under the Act, to a predecessor entity that had obtained all necessary exemptive relief.[13] Although the Commission has decided not to amend the rule in this regard, it will, of course, entertain applications for exemptive relief necessary to permit an insurance company to proceed in the manner described by the commentator.

2. *Substitution of Securities.* Two commentators objected to the requirement of paragraph (f)(3) of the proposed rule that if securities of a new portfolio company were substituted for securities of an existing portfolio company and the substitution was exempted from section 26(b) of the Act[14] pursuant to paragraph (f)(3), contractowners of the registered separate account who would otherwise have the right to redeem their contracts must be given the right, for a period of at least 30 days, to redeem their contracts without the imposition of any withdrawal charge or contingent deferred sales load (hereinafter the "thirty day requirement"). According to these commentators, the thirty day requirement brings federal securities regulation into conflict with state insurance company regulation because this requirement impairs the surplus of the insurance company. After consideration of this comment the Commission continues to believe that the thirty day requirement is necessary and appropriate, and it has been retained in paragraph (h)(3) of the permanent rule. Because of the involuntary nature, from the contractowner's perspective, of a substitution effected in reliance on the rule, the Commission believes that the imposition of a withdrawal charge or contingent deferred sales load would be inappropriate in a situation where, for example, a contractowner determines to redeem his contract because he believes that a substitution effected in response to the Revenue Ruling has diminished the value of his contract. Moreover, it is unclear whether there is any real possibility that the thirty day requirement would, in fact, impair surplus, and, even assuming the validity of the commentators' claim, the Commission notes that the procedure contemplated in paragraph (h)(3)—that is, a substitution of securities pursuant to section 26(b) of the Act—is not compulsory nor is it the sole means of providing contractowners with an

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[8] On March 18, 1982, the IRS announced Revenue Rulings 82–54 and 82–55, 1982–14 I.R.B. (April 5, 1982), two additional rulings concerning the ownership, for federal income tax purposes, of the shares of an underlying investment company held by an insurance company in connection with certain variable annuity contracts. The Commission does not believe that those rulings affect the appropriateness of adopting rule 6c–6.

[9] Concurrent with its adoption of the permanent rule, the Commission is withdrawing rule 6c–6(T). Of course, any transactions consummated in reliance on rule 6c–6(T) are still valid even if the same transaction would not, pursuant to the permanent rule, be exempted from the Act and the rules thereunder. For example, if a new portfolio company was organized pursuant to rule 6c–6(T), orders of the existing separate account will remain in full force and effect even if the disclosure required by paragraph (b)(4) of the permanent rule is not included in Part II of the existing separate account's Registration Statement under the Securities Act of 1933 (*see* discussion in text accompanying note 19, *infra*), provided that the requirements of paragraph (b) of the temporary rule were satisfied.

[10] The necessary relief would include, for example, the various "start-up" exemptions from sections 26(a) and 27(c)(2) of the Act [15 U.S.C. 80a–26(a) and 80a–27(c)(2)] concerning the payment of fees and charges from the assets of the separate account and custodianship activities.

[11] A more complete discussion of the conditions which must be satisfied by a new separate account desiring to make an exchange offer in reliance upon the rule is set forth in the text accompanying notes 31–33, *infra*.

[12] The Commission also is not expressing any views on the possible effect of Revenue Rulings 82–54 and 82–55 on such transactions or other action.

[13] In the situation described by the commentator, the separate account organized as a management company would require exemptions from sections 26(a) and 27(c)(2) of the Act to permit the withdrawal of the management fee from the assets of the separate account. The existing separate account would not have obtained such relief because, being a unit investment trust, it would not have imposed a management fee.

[14] 15 U.S.C. 80a–26(b). Section 26(b) of the Act provides, in part, that: "It shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved the substitution."

alternative funding medium. Other methods are available, such as an offer of exchange under section 11 of the Act, which would not require the insurance company to permit contract redemptions without the imposition of a withdrawal charge or a contingent deferred sales load.

In this regard, the Commission has determined that it is appropriate to expand the scope of the exemptive relief included in the permanent rule to provide the relief necessary to permit a separate account to make an exchange offer and thereby avoid the thirty day requirement. Accordingly, the Commission, in paragraph (j) of the permanent rule, has included an exemption from section 11 of the Act [15] to the extent necessary to permit an existing separate account to offer its contractowners the right to exchange a security funded by the existing portfolio company for a security of the same separate account funded by a new portfolio company without the terms of that offer having first been submitted to and approved by the Commission, provided that the exchange is made on the basis of the relative net asset values of the securities to be exchanged without the imposition of any fees or charges.[16] Since any such exchange would be voluntary on the part of the contractholder, the Commission believes that under these circumstances the thirty day requirement would be unnecessary. Comparable exemptive relief from section 11 with respect to an exchange offer by a new separate account to the contractowners of an existing separate account has been included in paragraph (k) of the rule, as discussed *infra*.

One commentator suggested that a registered separate account making a substitution of securities after a specified time period, such as, for example, from six months to one year from the issuance date of the Revenue Ruling, should not be required to comply with the thirty day requirement. The Commission believes that the mere passage of time will not alleviate the possibly detrimental impact on contractowners of an involuntary substitution, and, accordingly, no change in this regard has been made in the rule.

Another commentator, arguing that section 26(b) of the Act requires Commission approval of a substitution of securities involving a unit investment trust only where the trust holds securities of a single issuer, recommended that the Commission take the position that the substitution of securities of a new portfolio company for securities of an existing portfolio company, without prior Commission approval, would violate section 26(b) of the Act only where such existing company's securities are the only securities held by the separate account. However, the Commission has determined not to reexamine at this time its position that prior Commission approval is required for a substitition of securities in any subaccount of a registered separate account.

Finally, one commentator urged the Commission to expand its interpretation, as set forth in Release No. 11970, *supra*, of changes that it would not consider "material" for purposes of paragraph (b)(1) of the rule, and suggested several examples.[17] The Commission has examined this comment and believes that solely for the purposes of paragraphs (b)(1) and (c)(1) of rule 6c–6, the following changes, in addition to the change recited in Release No. 11970, *supra*, are not "material": the replacement of the existing portfolio company's investment adviser with the sponsoring insurance company or an affiliated person thereof; the fact that an investment adviser of a new portfolio company has an agreement with a sub-adviser for the new portfolio company, the elimination of any exchange or transfer rights; and the cessation of sales to the public of securities of the existing portfolio investment company other than through the purchase of an annuity contract.

3. *Other Comments.* One commentator interpreted paragraph (c) of the proposed rule and related discussion in Release No. 11970, *supra*, as an assertion by the Commission that any affiliated person of an existing portfolio company who participates in the creation of a new portfolio company is, merely by virtue of such participation, in violation of section 17(d) of the Act and rule 17d–1 thereunder.[18] As the proposing release makes clear, however, the term "organization," as used in the proposed rule, contemplated not merely the creation of a new portfolio company, as indicated by the commentator, but both the creation of such a company and the substitution of the shares of that company for the shares of an existing portfolio company. Furthermore, the Commission did not take the position that such transactions would require exemptive orders in all cases; the Commission merely stated that exemptive relief might be required, depending upon the individual circumstances involved. Accordingly, the relevant terminology has been retained in paragraph (d) of the rule.

The same commentator, believing that the definition of "new portfolio company" in the proposed rule could be interpreted to require that such a company must be one that is created subsequent to the issuance of the Revenue Ruling, also recommended that the Commission clarify in the permanent rule that a pre-existing registered investment company could qualify as a new portfolio company. In response to this comment and in order to clarify the point, the Commission has modified the definition of "new portfolio company" set forth in paragraph (a)(4) of the rule to provide that a new portfolio company shall mean any registered open-end management company the shares of which will be sold to one or more registered separate accounts for the purpose of minimizing the impact of the Revenue Ruling, rather than an investment company "designed" to minimize the impact of that ruling as was provided in paragraph (a)(4) of the proposed rule.

4. *Other Modifications.* Upon reconsideration of several provisions of

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[15] 15 U.S.C 80a–11. Section 11(a) of the Act [15 U.S.C. 80a–11(a)] makes it unlawful for any registered open-end company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end company to exchange his security of such company for a security of the same or another such company on any basis other than the relative net asset values of the securities to be exchanged, unless the terms of the offer have first been approved by the Commission. Section 11(c) of the Act [15 U.S.C. 80a–11(c)] provides, among other things, that an offer of exchange involving a security of a registered unit investment trust is subject to the provisions of section 11(a) irrespective of the basis of the exchange.

[16] Under paragraph (b) of the proposed rule, separate accounts that had previously obtained exemptive orders from section 11 of the Act would have been permitted to make such exchanges without prior Commission approval. Paragraph (j) of the permanent rule will provide exemptive relief for such exchange offers irrespective of whether prior Commission approval has been obtained.

[17] In Release No. 11970, *supra*, the Commission expressed its view that the fact that an insurance company or an affiliated person thereof (rather than the investment adviser to an existing portfolio company) serves as the new portfolio company's investment adviser would not be deemed a material change for purposes of paragraph (b) of the proposed rule.

[18] 15 U.S.C. 80a–17(d) and 17 CFR 270.17d–1. Section 17(d) of the Act and rule 17d–1 thereunder provide, in part, that it shall be unlawful for any affiliated person of or principal underwriter for a registered investment company, or any affiliated person of such a person or principal underwriter, acting as principal to effect any transaction in which such registered company, or a company controlled by such registered company, is a joint or a joint and several participants unless an application regarding such joint enterprise or arrangement has been filed with, and an appropriate order has been granted by, the Commission.

the proposed rule, the Commission has determined to make five modifications in addition to those described above. The first such modification relates to the manner in which certain information must be filed with the Commission in order for an existing separate account to rely on rule 6c–6 and the nature of the information to be provided in that filing. Paragraph (b)(4) of the permanent rule has been modified to require a list of the Investment Company Act release numbers of any Commission orders upon which the existing separate account intends to rely, rather than a description of the new portfolio company as required by the proposed rule; and, that this information, along with the other information required by the proposed rule, be included in Part II of the existing separate account's Registration Statement under the Securities Act of 1933,[19] rather than in a letter to be placed in the Commission's public files as required by the proposed rule. The Commission believes that the former change will facilitate its administration of the permanent rule, while the latter change will reduce compliance costs for separate accounts by eliminating the necessity of preparing and transmitting a separate document to the Commission and will make the required information, which will become part of the Commission's permanent record, more accessible both to the general public and to the Commission's staff. With regard to the latter change, the Commission believes that compliance with paragraph (b)(4) of the rule would not require a special filing by the existing separate account but rather that the required information may be included in the separate account's next post-effective amendment.

The second modification specifies the period of time within which actions in reliance on the rule must be taken. While the proposed rule contained no express limitation on the time period within which actions in reliance thereon must be taken, implicit in that rule is the notion that any actions taken in reliance on the exemptive relief provided therein, because they would be in response to the extraordinary circumstances created by the Revenue Ruling, would be taken within a reasonable time period after the issuance of the Revenue Ruling. In order to clarify any doubt regarding this point, the Commission, in paragraph (1) of the rule, has specified that the exemptive relief provided by the rule with respect to the organization of new portfolio companies and new separate accounts shall be available only to those entities that are registered under the Act prior to September 21, 1983—one year from the effective date of rule 6c–6.[20] This time period also is applicable to the exemptive relief provided to certain related persons with respect to a substitution of securities of a new portfolio company for securities of an existing portfolio company effected in reliance on the rule.

The third modification includes the addition in paragraph (f) of the rule of exemptive relief from section 17(a) of the Act[21] and rule 18f–1[22] to the extent necessary to permit transactions involving the transfer of part of the assets of an existing portfolio company to a new portfolio company. While the proposed rule did not specifically provide the relief necessary to permit an insurance company sponsor to redeem in kind from the existing company only those assets attributable to variable annuity contracts affected by the Revenue Ruling and subsequently to use those assets to purchase the shares of the new portfolio company, it has come to the Commission's attention that at least one insurance company believes that such a transfer is within the spirit of rule 6c–6(T). Since the Commission believes that such a transfer would be an appropriate response to the Revenue Ruling, particularly in light of the fact that this type of transfer would eliminate brokerage commissions and thereby benefit contractowners, it has included in paragraph (f) of the rule explicit relief from section 17(a) which, absent an order pursuant to section 17(b) [15 U.S.C. 80a–17(b)], may prohibit some or all of the transactions attendant upon such a transfer. In addition, the Commission has included in paragraph (f) exemptive relief from rule 18f–1 to the extent necessary to permit existing portfolio companies that have elected pursuant to that rule to pay certain redemptions in cash to revoke that election and make a redemption in kind.

The relief provided by paragraph (f) is conditioned in four respects. First, the transfer must be made without the imposition of any fees or charges. Second, the board of directors of the existing portfolio company must determine that the assets to be transferred are selected in a manner that is fair and reasonable to all shareholders of the company. Third, any securities involved must be valued by the existing portfolio company, for purposes of the transfer, in accordance with its valuation practices for determining net asset value per share. Finally, with respect to rule 18f–1, the existing portfolio company can redeem in kind those of its shares held by the existing separate account only if such a redemption is requested by the separate account.

Fourth, the Commission has deleted from the rule the requirement of paragraph (c)(2) of the proposed rule that determinations by the boards of directors of both the existing and the new portfolio company that any expenses borne by their respective companies in connection with the organization of one or more new portfolio companies are necessary and appropriate and allocated fairly, and the bases upon which these determinations were made, must be recorded in the minute books of the respective companies and disclosed in the existing portfolio company's prospectus. While the Commission believes that these determinations, and the bases upon which they were made, may be material for disclosure purposes and may be appropriate for inclusion in the minute books, the boards of directors of the respective companies are responsible for making these decisions in the context of their individual circumstances.

Finally, the Commission has made a number of technical changes to the proposed rule. For example, the term "existing separate account" has been substituted for "registered separate account" in order to distinguish more clearly such a separate account from a "new separate account" under the rule. Various other non-substantive changes have been made in order to clarify the rule.

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[19] Similar informational requirements have been incorporated into paragraphs (c) and (g) of the permanent rule, relating to reliance by new separate accounts and new portfolio companies on Commission orders granting exemptive relief to existing separate accounts and existing portfolio companies.

[20] Although the exemptive relief provided by the rule will not be available to any such entities registered after September 21, 1983, it will, of course, continue in effect subsequent to that date for entities which registered prior to that date and which relied on the rule.

[21] 15 U.S.C. 80a–17(a). Section 17(a) of the Act provides, in relevant part, that it shall be unlawful for any affiliated person or promoter of or principal underwriter for a registered investment company, or any affiliated person of such person, promoter, or principal underwriter, acting as principal knowingly to sell any security or other property to such registered company or to any company controlled by such registered company, except under certain circumstances, and makes it unlawful for such persons knowingly to purchase from such registered company or from any company controlled by such company, any security or other property.

[22] 17 CFR 270.18f–1. Rule 18f–1 provides an exemption from certain requirements of section 18(f)(1) of the Act [15 U.S.C. 80a–18(f)(1)] for registered open-end investment companies which have the right to redeem in kind. *See* Investment Company Act Release No. 6561 (June 14, 1971) [36 FR 11919].

Final Rulemaking

1. *Rule 6c–6.* Rule 6c–6 provides separate accounts and certain other persons with permanent exemptive relief from various provisions of the Act and rules thereunder to the extent necessary to permit them to: (1) Organize a new portfolio company and to substitute shares of that company for the shares of an existing portfolio company or to make an exchange offer to contractowners whose securities are funded by the existing portfolio company; and (2) organize a new separate account and to make an exchange offer to contractowners of the existing separate account. Paragraph (a) of the rule defines various terms used in the rule.

Paragraph (b) of the rule provides that any existing order of the Commission under the Act, granted to an existing separate account [23] on or before September 25, 1981—the issuance date of the Revenue Ruling—shall remain in full force and effect notwithstanding that the existing separate account invests in one or more new portfolio companies [24] in lieu of, or in addition to, investing in one or more existing portfolio companies [25] provided, generally, that no material changes have occurred in the facts, undertakings, or conditions upon which the order was based and that certain information is included in Part II of the existing separate account's Registration Statement. Paragraph (c) of the rule provides similar relief with respect to any existing order of the Commission under the Act granted to an existing separate account as that order shall apply to the new separate account [26] and the depositor of and principal underwriter for such account.

Paragraph (d) of the rule (paragraph (c) of the proposed rule) provides certain affiliated persons of an existing portfolio company and a new portfolio company with an exemption from section 17(d) of the Act and rule 17d–1 thereunder to the extent necessary to permit them to bear certain expenses in connection with the organization of one or more new portfolio companies. This exemptive relief is conditioned upon any such expenses being necessary and appropriate and allocated in a manner that is fair and reasonable to all of the shareholders of these companies.[27] As noted *supra*, the permanent rule, unlike the proposed rule, does not specifically require that any determinations by the boards of directors of the respective companies with respect to the bearing of these expenses must be included in the companies' minute books and, in the case of the existing separate account, disclosed in its prospectus.

Paragraph (e) of the rule (paragraph (d) of the proposed rule) provides certain affiliated persons of the new or existing separate account, including the sponsoring insurance company, with exemptive relief from section 17(d) and rule 17d–1 thereunder to the extent necessary to permit them to bear any reasonable expenses arising out of the organization of one or more new portfolio companies or the new separate account. Paragraph (f), as discussed *supra*, provides exemptive relief from section 17(a) of the Act and rule 18f–1 of the Act to the extent necessary to permit transactions involving the transfer of part of the assets of an existing portfolio company to a new portfolio company.

Paragraph (g) of the rule (paragraph (e) of the proposed rule) provides a new portfolio company with an exemption from section 2(a)(41) of the Act and rules 2a–4 and 22c–1 under the Act [28] to the extent necessary to permit it to use the same method of valuation for the purpose of pricing its shares for sale, redemption, and repurchase as that used by the existing portfolio company, provided that certain conditions are satisfied. This relief is conditioned, generally, upon the new portfolio company agreeing to all the representations, undertakings, and conditions made or agreed to by the existing portfolio company in connection with any pricing order it has obtained.

Paragraph (h) of the rule (paragraph (f) of the proposed rule) exempts the depositor or trustee of an existing separate account from section 26(b) of the Act to the extent necessary to permit the substitution of securities of the new portfolio company for securities of the existing portfolio company provided that, within thirty days of the substitution, certain conditions are met. First, the existing separate account must notify all contractowners of the substitution of securities [29] and of any determinations of the board of directors of the new portfolio company required to be made by paragraph (d) of the rule. Second, all contractowners must receive a copy of the new portfolio company's prospectus. Finally, the existing separate account must comply with the thirty day requirement, as discussed *supra*.[30]

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[23] An "existing separate account" is defined in paragraph (a)(2) of the rule as a separate account which is, or is a part of, a unit investment trust registered under the Act, and which was engaged in a continuous offering of its securities on September 25, 1981.

[24] A "new portfolio company" is defined in paragraph (a)(4) as a registered open-end management investment company the shares of which will be sold to one or more registered separate accounts for the purpose of minimizing the impact of the Revenue Ruling on contractowners of an existing separate account and which has the same investment objectives, fundamental policies, and voting rights as the existing portfolio company, and has an advisory fee schedule including expenses assumed by the adviser, that is at least as advantageous to the new portfolio company as was the fee schedule of the existing portfolio company.

[25] An "existing portfolio company" is defined in paragraph (a)(3) as a registered open-end management investment company that was engaged in a continuous offering of its securities on September 25, 1981, all or part of whose securities were owned by an existing separate account on that date.

[26] A "new separate account" is defined in paragraph (a)(5) as a separate account which (i) is, or is a part of, a unit investment trust registered under the Act, (ii) is intended to minimize the impact of the Revenue Ruling on the contractowners of an existing separate account, (iii) invests solely in one or more new portfolio companies, (iv) has the same sales loads, depositor, and custodial arrangements as the existing separate account, and (v) has asset charges and administrative and other fees (not including taxes) that correspond only to fees and charges of the existing separate account and are no greater than those corresponding fees and charges.

[27] Expenses of organizing the new portfolio company include, among other things, expenses associated with the redemption of the existing separate account's interests in the existing portfolio company and, if the redemption is in cash, expenses associated with the initial investment of the assets of the new portfolio company.

[28] 15 U.S.C. 80a–2(a)(41) and 17 CFR 270.2a–4 and 270.22c–1. Section 2(a)(41) and rules 2a–4 and 22c–1 specify certain procedures for registered investment companies to follow in pricing their shares for sale, redemption, and repurchase. These procedures, as interpreted in Investment Company Act Release Nos. 5847 (Oct. 21, 1969) [35 FR 19989], 6295 (Dec. 23, 1970) [35 FR 19986], and 9786 (May 31, 1977) [42 FR 28999], require portfolio securities to be valued at current market value and the price per share to be computed to within one-tenth of one percent. On numerous occasions the Commission has granted exemptive relief from this section and these rules in order to permit certain investment companies, subject to certain conditions, to use methods of valuation, such as amortized cost or "penny-rounding," that do not conform to these procedures.

[29] Although paragraph (h) of the rule allows an existing separate account up to thirty days in which to notify contractowners of a substitution of securities, an existing separate account that is otherwise required by the terms of its trust indenture or other agreement to provide such notice within a shorter period of time would still be required to do so. *See* section 26(a)(4)(B) of the Act [15 U.S.C. 80a–26(a)(4)(B)]. However, the Commission has included exemptive relief from this provision in paragraph (i) of the rule to the extent necessary to permit an existing separate account to rely on paragraph (h) of the rule, provided, of course, that applicable state law would permit the separate account to modify its trust indenture or other agreement in such a manner.

[30] *See* discussion in text accompanying note 14, *supra*. Since the elimination of any contingent deferred sales load might be deemed to violate section 22(d) of the Act [15 U.S.C. 80a–22(d)], which prohibits the sale of any security of a registered investment company to the public at a price other than the current public offering price described in the company's prospectus, paragraph (i) of the rule (paragraph (g) of the proposed rule) exempts an existing separate account from section 22(d) to the extent necessary to permit it to comply with paragraph (h) of the rule.

Paragraph (j) of the rule provides that, notwithstanding section 11 of the Act, an existing separate account and certain related persons may make an offer to contractowners to exchange a security funded by an existing portfolio company for a security funded by a new portfolio company without the terms of that offer having first been submitted to and approved by the Commission, provided that the exchange is to be made on the basis of the relative net asset values of the securities being exchanged without the imposition of any fees or charges.

Paragraph (k) and subparagraph (k)(1) of the rule provide similar relief with respect to offers to exchange securities of a new separate account for securities of an existing one, provided, again, that the exchange is to be made on the basis of the relative net asset values of the securities to be exchanged without the imposition of any fees or charges. While this proviso would, of course, prevent a withdrawal charge or contingent deferred sales load from being imposed upon redemption of securities in the existing separate account, paragraph (k)(2) permits a contingent deferred sales load to be imposed upon redemption of securities in the new separate account, to the extent that these securities were transferred from the existing separate account, subject to certain conditions. First, if the computation of the sales load is based on the amount of time the contractowner has been a holder of a security of the new separate account, paragraph (k)(2)(i)(A) provides that a contractowner must be treated as if he was a contractowner of the new separate account as of the date he became a contractowner of the existing separate account.[31] Similarly, if the computation of the contingent deferred sales load is based on the period of time that the contractowner's purchase payments have been invested in the new separate account, paragraph (k)(2)(i)(B) provides that amounts attributable to purchase payments made to the existing separate account must be treated as if they were made to the new separate account as of the date they were made to the existing separate account.[32]

Paragraph (k)(2)(i) is intended to codify Commission orders in this area and is designed to insure that, for purposes of computing a contingent deferred sales load, a contractowner is not adversely affected by an exchange. Second, irrespective of the manner in which the contingent deferred sales load is computed, paragraph (k)(2)(ii) provides that the total sales load must not exceed 9 percent of the sum of the purchase payments made to the new separate account and that portion of the purchase payments made to the existing separate account attributable to the securities exchanged.[33] This second condition is intended to limit the sales load that might be imposed on appreciation in both the existing separate account and the new separate account.

Finally, paragraph (l) as discussed *supra*, specifies that the exemptive relief granted by the rule with respect to the organization of any new separate account or new portfolio company or to certain persons related to those entities, and to any substitution of securities effected in reliance on the rule, is available only to such entities registered or substitutions effected prior to September 21, 1983.

2. *Amendments to rule 0–1(e).* Rule 0–1 of the General Rules and Regulations under the Act defines various terms used in those rules and regulations. Rule 0–1(e) defines the term "separate account" and sets forth the conditions for availability of exemptive relief for separate accounts pursuant to various of those rules. The Commission is amending rule 0–1(e) to include rule 6c–6 as one of the rules listed therein.

Procedural Matters—Rule 0–1(e)

The Commission considers the foregoing amendments to rule 0–1(e) under the Act to be technical, rather than substantive, modifications of that rule. Accordingly, the Commission, pursuant to section 4(b) of the Administrative Procedure Act [5 U.S.C. 553(b)], for good cause, finds that prior notice and comment on the amendments to rule 0–1(e) are unnecessary. In addition, the Commission, pursuant to section 4(d) of the Administrative Procedure Act [5 U.S.C. 553(d)], finds good cause to adopt those amendments, effective immediately, because they are technical in nature.

List of Subjects in Part 270

Investment companies, Reporting requirements, Securities.

Text of Rule 6c–6 and Amendments to Rule 0–1(e)

PART 270—FORMS AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

1. By revising paragraphs (e) introductory text and (e)(2) of § 270.0–1 to read as follows:

§ 270.0–1 Definition of terms used in the rules and regulations.

* * * * *

(e) Definition of separate account and conditions for availability of exemptions under §§ 270.6c–6, 270.14a–2, 270.15a–3, 270.16a–1, 270.22d–3, 270.22e–1, 270.27a–1, 270.27a–2, 270.27a–3, 270.27c–1, and 270.32a–2, of this chapter.

* * * * *

(2) As conditions to the availability of exemptive Rules 6c–6, 14a–2, 15a–3, 16a–1, 22d–3, 22e–1, 27a–1, 27a–2, 27a–3, 27c–1, and 32a–2, the separate account shall be legally segregated, the assets of the separate account shall, at the time during the year that adjustments in the reserves are made, have a value at least equal to the reserves and other contract liabilities with respect to such account, and at all other times, shall have a value approximately equal to or in excess of such reserves and liabilities; and that portion of such assets having a value equal to, or approximately equal to, such reserves and contract liabilities shall not be chargeable with liabilities arising out of any other business which the insurance company may conduct.

* * * * *

§ 270.6c–6(T) [Removed]

2. By removing §270.6c–6(T).

3. By adding § 270.6c–6 to read as follows:

§ 270.6c–6 Exemption for certain registered separate accounts and other persons.

(a) As used in this section,

(1) "Revenue Ruling" shall mean Revenue Ruling 81–225, 1981–41 I.R.B. (October 13, 1981), issued by the Internal Revenue Service on September 25, 1981.

(2) "Existing separate account" shall mean a separate account which is, or is

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[31] Under this paragraph, for example, if the new separate account imposes a contingent deferred sales load on all redemptions made in the first five contract years and does not impose a sales load on redemptions after the fifth contract year, no sales load could be imposed on acquired securities redeemed by a contractowner more than five contract years after he became a contractowner of the existing separate account, even if he became a contractowner of the new separate account less than five contract years prior to redemption.

[32] Under this paragraph, for example, if the new separate account imposes a contingent deferred sales load on all redemptions attributable to purchase payments made to the new separate account within five years of the redemption request, no sales load could be imposed on amounts redeemed by a contractowner from the new separate account that are attributable to purchase payments made to the existing separate account more than five years prior to the redemption, even if the amounts had been invested in the new separate account for fewer than five years.

[33] Of course, for the purpose of this subsection, the amount transferred from the existing separate account to the new separate account in connection with the exchange is not a "purchase payment made to the new separate account."

a part of, a unit investment trust registered under the Act, engaged in a continuous offering of its securities on September 25, 1981.

(3) "Existing portfolio company" shall mean a registered open-end management investment company, engaged in a continuous offering of its securities on September 25, 1981, all or part of whose securities were owned by an existing separate account on September 25, 1981.

(4) "New portfolio company" shall mean any registered open-end management investment company the shares of which will be sold to one or more registered separate accounts for the purpose of minimizing the impact of the Revenue Ruling on the contractowners of an existing separate account, which new portfolio company has the same:

(i) Investment objectives,

(ii) Fundamental policies, and

(iii) Voting rights as the existing portfolio company and has an advisory fee schedule, including expenses assumed by the adviser, that is at least as advantageous to the new portfolio company as was the fee schedule of the existing portfolio company.

(5) "New separate account" shall mean a separate account which

(i) Is, or is a part of, a unit investment trust registered under the Act;

(ii) Is intended to minimize the impact of the Revenue Ruling on the contractowners of an existing separate account;

(iii) Invests solely in one or more new portfolio companies;

(iv) Has the same

(A) Sales loads,

(B) Depositor, and

(C) Custodial arrangements

As the existing separate account; and

(v) Has

(A) Asset charges,

(B) Administrative fees, and

(C) Any other fees and charges (not including taxes) that correspond only to fees of the existing separate account and are no greater than those corresponding fees.

(b) Any order of the Commission under the Act, granted to an existing separate account on or before September 25, 1981, shall remain in full force and effect notwithstanding that the existing separate account invests in one or more new portfolio companies in lieu of, or in addition to, investing in one or more existing portfolio companies; *Provided,* That:

(1) No material changes in the facts upon which the order was based have occurred;

(2) All representations, undertakings, and conditions made or agreed to by the existing separate account, and any other person or persons, other than any existing portfolio company, in connection with the issuance of the order are, and continue to be, applicable to the existing separate account and any such other person or persons, unless modified in accordance with this section;

(3) All representations, undertakings, and conditions made or agreed to by the existing portfolio company in conection with the issuance of the order are made or agreed to by the new portfolio company, unless modified in accordance with this section; and

(4) Part II of the Registration Statement under the Securities Act of 1933 of the existing separate account

(i) Indicates that the existing separate account is relying upon paragraph (b) of this section,

(ii) Lists the Investment Company Act release numbers of any orders upon which the existing separate account intends to rely, and

(iii) Contains a representation that the provisions of this paragraph (b) have been complied with.

(c) Any order of the Commission under the Act, granted to an existing separate account on or before September 25, 1981, shall apply with full force and effect to a new separate account and the depositor of and principal underwriter for the new separate account notwithstanding that the new separate account invests in one or more new portfolio companies; *Provided,* That:

(1) No material changes in the facts upon which the order was based have occurred;

(2) All representations, undertakings, and conditions made or agreed to by the depositor, principal underwriter, and any other person or persons other than the existing separate account or any existing portfolio companies, in connection with the issuance of the order are, and continue to be, applicable to such depositor, principal underwriter, and other person or persons, unless modified in accordance with this section;

(3) All representations, undertakings and conditions made or agreed to by the existing separate account in connection with the issuance of the order are made or agreed to by the new separate account, unless modified in accordance with this section;

(4) All representations, undertakings, and conditions made or agreed to by an existing portfolio company in connection with the issuance of the order are made or agreed to by the new portfolio company, unless modified in accordance with this section; and

(5) Part II of the Registration Statement under the Securities Act of 1933 of the new separate account.

(i) Indicates that the new separate account is relying upon paragraph (c) of this section,

(ii) Lists the Investment Company Act release numbers of any orders upon which the new separate account intends to rely, and

(iii) Contains a representation that the provisions of this paragraph (c) have been complied with.

(d) Any affiliated person or depositor of or principal underwriter for a new or existing separate account or any affiliated person of or principal underwriter for a new or existing portfolio company, and any affiliated person of such persons, principal underwriters, or depositor shall be exempt from section 17(d) of the Act [15 U.S.C 80a–17(d)] and rule 17d–1 thereunder [17 CFR 270.17d–1] to the extent necessary to permit the organization of one or more new portfolio companies; *Provided,* That, any expense borne by the existing portfolio company or the new portfolio company in connection with such organization are necessary and appropriate and are allocated in a manner that is fair and reasonable to all of the shareholders of these companies.

(e) Any affiliated person or depositor of or principal underwriter for a new or existing separate account and any affiliated persons of such a person, principal underwriter, or depositor shall be exempt from section 17(d) of the Act and rule 17d–1 thereunder to the extent necessary to permit such person to bear any reasonable expenses arising out of the organization of one or more new portfolio companies or the new separate account.

(f) Any affiliated persons or depositor of or principal underwriter for a new or existing separate account or any affiliated person of or principal underwriter for a new or existing portfolio company, and any affiliated person of such persons, principal underwriters, or depositor shall be exempt from section 17(a) [15 U.S.C. 80a–17(a)], and any existing portfolio company which has made an election pursuant to rule 18f–1 [17 CFR 270.18f–1] shall be permitted to revoke that election to the extent necessary to permit transactions involving the transfer of assets from the existing portfolio company to a new portfolio company; *Provided,* That:

(1) Such assets are transferred without the imposition of any fees or charges;

(2) The board of directors of the existing portfolio company, including a majority of the directors of the company who are not interested persons of such company, determines that the transfer of assets is fair and reasonable to all shareholders of the company and such determination, and the basis upon which it was made, is recorded in the minute book of the existing portfolio company;

(3) Any securities involved are valued by the existing portfolio company for purposes of the transfer in accordance with its valuation practices for determining net asset value per share; and

(4) With respect to rule 18f–1, the existing separate account requests that the existing portfolio company redeem in kind the shares of the portfolio company held by the separate account.

(g) The new portfolio company shall be exempt from section 2(a)(41)[15 U.S.C. 80a–2(a)(41)] of the Act and rules 2a–4 [17 CFR 270.2a–4] and 22c–1 [17 CFR 270.22c–1] under the Act to the extent necessary to permit it to use the same method of valuation for the purpose of pricing its shares for sale, redemption, and repurchase, as the existing portfolio company; *Provided,* That:

(1) The existing portfolio company had on September 25, 1981, an order of the Commission exempting it, for the purposes of pricing its shares for sale, redemption, and repurchase, from

(i) Section 2(a)(41) of the Act and rules 2a–4 and 22c–1 under the Act to the extent necessary to permit it to use the amortized cost valuation method or

(ii) Rules 2a–4 and 22c–1 under the Act to the extent necessary to permit it to calculate its net asset value per share to the nearest one cent on share values of $1.00;

(2) All representations, undertakings, and conditions made or agreed to by the existing portfolio company in connection with the order are made or agreed to by the new portfolio company unless modified in accordance with this section; and

(3) Part II of the Registration Statement under the Securities Act of 1933 of the new portfolio company

(i) Indicates that the new portfolio company is relying upon paragraph (g) of this section,

(ii) Lists the Investment Company Act release numbers of any orders upon which the new portfolio company intends to rely, and

(iii) Contains a representation that the provisions of paragraph (g) have been complied with.

(h) The depositor or trustee of an existing separate account shall be exempt from section 26(b) of the Act [15 U.S.C. 80a–26(b)] to the extent necessary to permit the substitution of securities of the new portfolio company for securities of the existing portfolio company; *Provided;* That, within thirty days of such substitution:

(1) The existing separate account notifies all contractowners of the substitution of securities and any determinations of the board of directors of the new portfolio company required by paragraph (d) of this section;

(2) The existing separate account delivers a copy of the prospectus of the new portfolio company to all contractowners; and

(3) The existing separate account, concurrently with the notification referred to in paragraph (h)(1) of this section or the delivery of the prospectus of the new portfolio company referred to in paragraph (h)(2) of this section, whichever is later, offers to those contract-owners who would otherwise have surrender rights under their contracts the right, for a period of at least thirty days from the receipt of this offer, to surrender their contracts without the imposition of any withdrawal charge or contingent deferred sales load, and any surrendering contractowner receives the price next determined after the request for surrender is received by the insurance company.

(i) The existing separate account shall be exempt from section 22(d) of the Act [15 U.S.C. 80a–22(d)] to the extent necessary to permit it to comply with paragraph (h) of this section and the principal underwriter for or depositor of the existing separate account shall be exempt from section 26(a)(4)(B) of the Act [15 U.S.C. 80a–26(a)(4)(B)] to the extent necessary to permit them to rely on paragraph (h) of this section.

(j) Notwithstanding section 11 of the Act [15 U.S.C. 80a–11], the existing separate account or any principal underwriter for the existing separate account may make or cause to be made to the contractowners of the existing separate account an offer to exchange a security funded by an existing portfolio company for a security funded by a new portfolio company without the terms of that offer having first been submitted to and approved by the Commission; *Provided,* That the exchange is to be made on the basis of the relative net asset values of the securities to be exchanged without the imposition of any fees or charges.

(k) Notwithstanding section 11 of the Act, the new separate account or any principal underwriter for the new separate account may make or cause to be made an offer to the contractowners of the existing separate account to exchange their securities for securities of the new separate account without the terms of that offer having first been submitted to and approved by the Commission;

Provided, That:

(1) The exchange is to be made on the basis of the relative net asset values of the securities to be exchanged without the imposition of any fees or charges; and

(2) If the new separate account imposes a contingent deferred sales load ("sales load") on the securities to be acquired in the exchange

(i) At the time this sales load is imposed, it is calculated as if

(A) The contractowner had been a contractowner of the new separate account from the date on which he became a contractowner of the existing separate account, in the case of a sales load based on the amount of time the contractowner has been invested in the new separate account, and

(B) Amounts attributable to purchase payments made to the existing separate account had been made to the new separate account on the date on which they were made to the existing separate account, in the case of a sales load based on the amount of time purchase payments have been invested in the new separate account, and

(ii) The total sales load imposed does not exceed 9 percent of the sum of the purchase payments made to the new separate account and that portion of purchase payments made to the existing separate account attributable to the securities exchanged.

(l) Notwithstanding the foregoing, the provisions of this section will be available to a new separate account or new portfolio company, or to any affiliated person or depositor of or principal underwriter for such a new separate account, to any affiliated person of or principal underwriter for such a new portfolio company, to any affiliated person of such persons, depositor, or principal underwriters, or to any substitution of securities effected

in reliance on this section, only if such new separate account or new portfolio company is registered under the Act or such substitution is effected prior to September 21, 1983.

Paperwork Reduction Act

The information collection required by this rule has been cleared by the Office of Management and Budget and given clearance number 3235-0140.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that rule 6c-6 will not have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release.

Statutory Authority

The Commission hereby adopts rule 6c-6 pursuant to the provisions of section 6(c) [15 U.S.C. 80a-6(c)], section 11(a) [15 U.S.C. 80a-11(a)], and section 38(a) [15 U.S.C. 80a-37(a)] of the Act. Further, the Commission hereby amends rule 0-1(e) pursuant to the provisions of section 38(a) [15 U.S.C. 80a-37(a)] of the Act.

By the Commission.

George A. Fitzsimmons,

Secretary.

September 21, 1982.

Regulatory Flexibility Act Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that rule 6c-6 under the Investment Company Act of 1940 ("Act") will not have a significant economic impact on a substantial number of small entities. The reason for this certification is that although the rule may have a significant economic impact on a substantial number of registered insurance company separate accounts, there are no separate accounts likely to be affected by the rule that qualify as "small entities," as that term has been defined by the Commission's rules.

Dated: September 21, 1982.

John S.R. Shad,

Chairman.

[FR Doc. 82-26660 Filed 9-27-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-123 (Colorado-26)]

High-Cost Gas Produced From Tight Formations; Correction

September 22, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule concerning high-cost gas produced from tight formations, Colorado, in Docket No, RM79-76-123 (Colorado-26) that appeared in the **Federal Register** on September 3, 1982 (47 FR 38879). This action corrects an acreage description error.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8511.

The following correction replaces the acreage description in FR Doc. 82-24358, appearing on page 38879. On page 38880, § 271.703(d)(105)(i) should read as follows:

* * * * *

(d) * * *

(i) *Delineation of formation.* The Dakota-Lakota Formation is located in Boulder County, Colorado, in Township 1 North, Range 69 West, 6th P.M., Sections 25 through 36; Township 1 South, Range 69 West, 6th P.M., Sections 3 through 10, 15 through 22, and 27 through 34; Township 1 South, Range 70 West, 6th P.M., Sections 1 through 3, 10 through 15, 22 through 27 and 34 through 36.

* * * * *

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26634 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 282

[Doc. No. RM79-14]

Order of the Director, OPPR of Publication of Incremental Pricing Acquisition Cost Thresholds Under Title II of the NGPA

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Prescribing Incremental Pricing Thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, (202) 357-8500.

Office of the Director, OPPR

Issued: September 22, 1982.

In the matter of publication of prescribed incremental pricing acquisition cost threshold of the NGPA of 1978, Docket No. RM79-14.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of October 1982 is issued by the publication of a price table for the applicable month.

List of Subjects in 18 CFR Part 282

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

	January	February	March	April	May	June	July	August	September	October	November	December
Calendar Year 1980												
Incremental Pricing Threshold	$1.702	$1.728	$1.756	$1.782	$1.776	$1.790	$1.804	$1.810	$1.834	$1.848	$1.863	$1.877
NGPA Section 102 Threshold	2.358	2.381	2.404	2.428	2.453	2.478	2.504	2.532	2.560	2.586	2.614	2.640
NGPA Section 109 Threshold	1.786	1.799	1.812	1.825	1.839	1.853	1.867	1.883	1.899	1.915	1.929	1.943
130% of No. 2 Fuel Oil in New York City Threshold	7.170	7.260	7.410	7.110	7.380	8.040	7.540	7.380	7.400	7.400	7.450	7.880
Calendar Year 1981												
Incremental Pricing Threshold	$1.891	$1.906	$1.925	$1.943	$1.954	$1.967	$1.980	$1.990	$2.000	$2.016	$2.025	$2.041
NGPA Section 102 Threshold	2.667	2.686	2.729	2.761	2.787	2.813	2.840	2.863	2.896	2.909	2.940	2.971
NGPA Section 109 Threshold	1.957	1.975	1.993	2.011	2.024	2.037	2.050	2.080	3.070	2.080	2.096	2.112
130% of No. 2 Fuel Oil in New York City Threshold	7.610	7.760	8.280	8.010	8.510	8.430	9.380	8.280	8.880	8.700	8.880	8.980
Calendar Year 1982												
Incremental Pricing Threshold	$2.057	$2.071	$2.085	$2.099	$2.106	$2.113	$2.120	$2.129	$2.136	$2.148		
NGPA Section 102 Threshold	3.003	3.033	3.063	3.093	3.112	3.132	3.152	3.176	3.200	3.224		
NGPA Section 109 Threshold	2.128	2.143	2.158	2.173	2.180	2.187	2.194	2.204	2.214	2.224		
130% of No. 2 Fuel Oil in New York City Threshold	9.180	9.340	9.470	9.340	9.290	8.000	8.170	8.870	6.080	6.360		

[FR Doc. 82-26544 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74 and 81

[Docket No. 82N-0292]

FD&C Blue No. 1

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is permanently listing FD&C Blue No. 1 for use in externally applied drugs and for general use in cosmetics excluding use in the area of the eye. This action is in response to a petition filed by the Cosmetic, Toiletry, and Fragrance Association, Inc. This rule will remove FD&C Blue No. 1 from the provisional list of color additives.

DATES: Effective October 29, 1982.

Objections by October 28, 1982.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael E. Kashtock, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 6, 1973 (38 FR 21199), FDA announced that a petition (CAP 9C0095) for the permanent listing of FD&C Blue No. 1 as a color additive for use in externally applied drugs and cosmetics, including lipsticks, had been filed by the Cosmetic, Toiletry, and Fragrance Association, Inc. (CTFA), c/o Hazelton Laboratories, Inc., P.O. Box 30, Falls Church, VA 22046 (now 9200 Leesburg Turnpike, Vienna, VA 22180).

The petition was filed under section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376). A subsequent notice published in the Federal Register of March 5, 1976 (41 FR 9584) amended the notice of filing of the petition to include the use of FD&C Blue No. 1 in all types of cosmetics that are subject to ingestion and the additional use of FD&C Blue No. 1 in cosmetics intended for use in the area of the eye (Docket No. 76C-0044).

The color additive FD&C Blue No. 1 is permanently listed for use in food in § 74.101 (21 CFR 74.101) and for use in ingested drugs in § 74.1101 (21 CFR 74.1101) (34 FR 7445; May 6, 1969). FDA permanently listed the color additive for these uses on the basis of available toxicological data from animal feeding studies. The agency found in 1969 that the data, which were derived from feeding studies that conformed to then existing toxicological testing standards, were sufficient to establish the safety of these uses involving ingestion. Because the agency felt that dermal toxicity studies were necessary before it could permanently list FD&C Blue No. 1 for general use in cosmetics and externally applied drugs (both currently listed under 21 CFR Parts 81 and 82), based upon existing toxicological data, FDA decided to continue the provisional listing of the color additive for these uses pending the completion of the dermal studies.

Toxicological Testing of FD&C Blue No. 1

In the Federal Register of September 23, 1976 (41 FR 41360) (Docket No. 76N-0366), FDA stated that it no longer considered existing toxicological studies to be adequate to support the continued provisional listing of several color additives including FD&C Blue No. 1. The agency explained that the studies were deficient in the following respects:

1. Many of the studies were conducted using groups of animals, i.e., control and those fed the color additive, that were too small to permit conclusions to be drawn today on the chronic toxicity or carcinogenic potential of the color additives tested. The small number of animals used does not in and of itself cause this result, but when considered together with the other deficiencies described in this document, does do so. By and large, the studies used 25 animals in each group; today FDA recommends using at least 50 animals per group.

2. In a number of the studies, the number of animals surviving to a meaningful age was inadequate to permit conclusions to be drawn today on the chronic toxicity or carcinogenic potential of the color additives tested.

3. In a number of the studies, an insufficient number of animals was reviewed histologically.

4. In a number of the studies, an insufficient number of tissues was examined in those animals selected for pathology.

5. In a number of the studies, lesions or tumors detected under gross examination were not examined microscopically.

The agency proposed that the continued provisional listing of several color additives, including FD&C Blue No. 1, be conditioned upon at least one petitioner's undertaking new chronic feeding studies for each of these color additives.

Regarding FD&C Blue No. 1, FDA intended that the required chronic studies would provide important evidence upon which to determine whether to list the color additive. Additionally, the agency noted that these studies would serve to replace the generally anticipated and deficient studies that supported the listing regulations then in effect for the color additive.

When the petitioner agreed to sponsor the required chronic toxicity studies for the color additive, FDA postponed the closing date for the provisional listing of FD&C Blue No. 1 to January 31, 1981, in a notice published in the **Federal Register** of February 4, 1977 (42 FR 6992).

FDA later again extended the closing date for completing the chronic toxicity studies and submitting data. In a proposal in the **Federal Register** of November 14, 1980 (45 FR 75226), the agency outlined the reasons for the need to postpone the closing dates for 23 provisionally listed color additives under test, including FD&C Blue No. 1, beyond January 31, 1981. The current closing date for the provisional listing of the color additive is October 30, 1982 (46 FR 18958; March 27, 1981).

Analysis of Data

The agency has completed its evaluation of the color additive petition for FD&C Blue No. 1, including two new chronic toxicity studies in rats and mice. These new studies represent current state-of-the-art toxicological testing. The protocols for these studies have benefitted from knowledge of deficiencies in previously conducted carcinogenesis bioassays and other chronic toxicity studies. The use of large numbers of animals of both sexes, pilot studies to determine maximum tolerated dosages, two control groups (thereby effectively doubling the number of controls), and in utero exposure in one of the two species tested (the rat) significantly increase the power of these tests for detecting dose-related effects. The studies were designed and conducted in full compliance with the good laboratory practice regulations and were subject to FDA inspection while the studies were conducted.

Based on the evaluation of the results of the two new chronic toxicity studies, the agency has determined that FD&C Blue No. 1 is not carcinogenic to Charles River albino rats or Charles River CD–1 mice after lifetime dietary exposures of 2.0 percent and 5.0 percent, respectively. Using appropriate safety factors (see 21 CFR 70.40), the agency has also estimated a maximum acceptable daily intake for humans of approximately 12.0 milligrams per kilogram of body weight per day.

The agency has also completed its evaluation of other animal studies submitted by the petitioner for the purpose of establishing the safety of FD&C Blue No. 1 for use in externally applied drugs and externally applied cosmetics. The data from these studies indicate that, with respect to dermal safety, FD&C Blue No. 1 is nonirritating when applied daily to either intact or abraded skin. Furthermore, FD&C Blue No. 1 was not found to be carcinogenic upon bi-weekly application to the skin of mice over their lifetimes.

During the safety review, the agency considered the possibility that derivatives of benzidine, a known carcinogen, occur in FD&C Blue No. 1 as byproducts of its manufacture. However, the presence of such contaminants can only be postulated. The existing analytical data on this subject and the relevant scientific literature provide no evidence indicating that benzidine or its derivatives have actually been found to be present in samples of FD&C Blue No. 1. Upon careful consideration of this matter, the agency has determined that the postulated presence of benzidine derivatives in FD&C Blue No. 1 is too speculative to require the petitioner to undertake further investigation of the presence of such material, and that the suitability of the color additive for permanent listing may appropriately be determined based upon the animal studies and other data submitted by the petitioner.

The agency has determined that the specifications for FD&C Blue No. 1 in § 74.101(b) are sufficient for the certification of the color additive for the new permanently listed uses, and they are cited by reference in the amended regulations.

The agency concludes that it is necessary to include in the listing regulation for D&C Blue No. 1 a brief description of the manufacturing process to ensure the safety of the color additives. The agency is concerned that the color additives may contain potentially toxic impurities dependent upon the manufacturing process used to produce the color additives. The agency is not able at this time to set specifications that would control the presence of these impurities. The agency has contracted the National Academy of Sciences/National Research Council (NAS/NRC) to develop appropriate specifications for color additives for use in food as part of the Food Chemicals Codex. Similarly, appropriate specifications for color additives for use in drugs and cosmetics will be developed following the general guidelines used by NAS/NRC in its evaluation of color additives used in food. The agency concludes that specifying, through a general description, the manufacturing process in the regulations for these color additives will provide an adequate assurance of safety until suitable specifications can be developed. Production of the color additive by the specified method will assure qualitatively similar batches and thus adequately assure the absence of unanticipated potentially toxic impurities.

The agency is including a description of the manufacturing procedure in § 74.2101(a) and is incorporating it by reference in § 74.1101(a)(1) for externally applied drugs. In the near future, FDA will propose to amend the identity requirements for FD&C Blue No. 1 in § 74.101(a), and by reference, for ingested drugs, to include a description of the manufacturing procedures.

Conclusions

The agency concludes that FD&C Blue No. 1 is safe under the conditions of use set forth below for general use in cosmetics and for use in externally applied drugs, and that certification is necessary for the protection of the public health. The final chronic toxicity study reports, interim reports, reports on dermal testing, and the agency's toxicology evaluations of these studies supporting the safety of the color additive for uses involving ingestion and dermal application are on file at the Dockets Management Branch (address above). They may be reviewed there between 9 a.m. and 4 p.m., Monday through Friday.

FD&C Blue No. 1 Lakes

To simplify the regulations pertaining to the FD&C Blue No. 1 Lake, the agency is removing the specific entry for the FD&C Blue No. 1 Lake from the table in § 81.1(a) (21 CFR 81.1(a)) because it is redundant. The FD&C Blue No. 1 lake previously has been specifically cited as provisionally listed for use in foods in the first entry in the table in § 81.1(a). This specific entry was added to the table when FDA permanently listed the straight color additive for food and ingested drug use (34 FR 11542; July 12, 1969). Before that time, FDA provisionally listed the lakes of

regulated FD&C colors for use in food, drugs, and cosmetics under the entry "Lakes (FD&C)" in the same table in § 81.1(a) (formerly § 8.501(a)). By including the separate entry for the FD&C Blue No. 1 lake in the table, FDA intended to emphasize that while it had permanently listed the straight color additive for food use, the lake was still provisionally listed for that use. Upon the deletion of the separate entry for the FD&C Blue No. 1 lake, the lake use of the color additive will remain provisionally listed under the general entry for FD&C lakes in § 81.1(a). The agency has announced its intention to establish permanent regulations for lakes of color additives and is currently assembling the information that is needed to achieve that end (44 FR 36411; June 22, 1979).

Eye Area Use

FDA notified the petitioner by letters (May 14, 1976, August 15, 1977, and August 4, 1978) of the need for data to support the use of FD&C Blue No. 1 in cosmetics intended for use in the area of the eye. In a fourth letter, dated October 24, 1978, FDA advised the petitioner to consider withdrawing that portion of its petition that sought approval of the use of FD&C Blue No. 1 in cosmetics intended for use in the area of the eye because the required data from eye area studies apparently were not available.

The petitioner has not submitted the required data for eye area use. Therefore, FDA now considers that portion of the petition that was amended by the filing on March 5, 1976 (Docket No. 76C–0044) to include the permanent listing of FD&C Blue No. 1 for eye area use to be withdrawn without prejudice in accordance with the provisions of § 71.4 (21 CFR 71.4). Section 71.4 requires that such requested information be submitted within 180 days after filing of the petition or the petition will be considered withdrawn without prejudice. Use of FD&C Blue No. 1 in the area of the eye has never been covered by provisional listing. Future consideration by FDA of the permanent listing of FD&C Blue No. 1 for eye area use will require the submission of a new color additive petition for that use. The agency's listing of a color additive for general use in cosmetics and for use in externally applied drugs does not encompass eye area use.

The agency has determined pursuant to 21 CFR 25.24(b)(12) and (d)(5) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 74

Color additives, Color additives subject to certification, Cosmetics, Drugs.

21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706(b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376(b), (c), and (d))) and the Transitional Provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 74 and 81 are amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. Part 74 is amended:

a. By revising § 74.1101, to read as follows:

§ 74.1101 FD&C Blue No. 1

(a) *Identity.* (1) For ingested drugs, the color additive FD&C Blue No. 1 shall conform in identity to the requirements of § 74.101(a)(1).

(2) For externally applied drugs, the color additive FD&C Blue No. 1 shall conform in identity to the requirements of § 74.2101(a).

(3) Color additive mixtures for drug use made with FD&C Blue No. 1 may contain only those diluents that are suitable and that are listed in Part 73 of this chapter as safe for use in color additive mixtures for coloring drugs.

(b) *Specifications.* The color additive FD&C Blue No. 1 for use in coloring drugs generally shall conform in specifications to the requirements of § 74.101(b).

(c) *Uses and restrictions.* The color additive FD&C Blue No. 1 may be safely used for coloring drugs generally in amounts consistent with current good manufacturing practice.

(d) *Labeling.* The label of the color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 70.25 of this chapter.

(e) *Certification.* All batches of FD&C Blue No. 1 shall be certified in accordance with regulations in Part 80 of this chapter.

b. By adding new § 74.2101, to read as follows:

§ 74.2101 FD&C Blue No. 1.

(a) *Identity.* The color additive FD&C Blue No. 1 is principally the disodium salt of ethyl[4-[*p*-[ethyl(*m*-sulfobenzyl)amino]-α-(*o*-sulfophenyl)benzylidene]-2,5-cyclohexadien-1-ylidene](*m*-sulfobenzyl)ammonium hydroxide inner salt with smaller amounts of the isomeric disodium salts of ethyl[4-[*p*-[ethyl(*p*-sulfobenzyl)amino]-α-(*o*-sulfophenyl)benzylidene]-2,5-cyclohexadien-1-ylidene](*p*-sulfobenzyl)ammonium hydroxide inner salt and ethyl[4-[*p*-[ethyl(*o*-sulfobenzyl)amino]-α-(*o*-sulfophenyl)benzylidene]-2,5-cyclohexadien-1-ylidene](*o*-sulfobenzyl)ammonium hydroxide inner salt. Additionally, FD&C Blue No. 1 is manufactured by the acid catalyzed condensation of one molecule of sodium 2-formylbenzene-sulfonate with two molecules from a mixture consisting principally of 3-[(ethyl-phenylamino)methyl]benzenesulfonic acid, and smaller amounts of 4-[(ethylphenylamino)methyl] benzenesulfonic acid and 2-[(ethyl-phenylamino)methyl]benzenesulfonic acid to form the leuco base. The leuco base is then oxidized with lead dioxide and acid, or with dichromate and acid to form the dye. The intermediate sodium 2-formylbenzenesulfonate is prepared from 2-chlorobenzaldehyde and sodium sulfite.

(b) *Specifications.* The color additive FD&C Blue No. 1 shall conform in specifications to the requirements of § 74.101(b).

(c) *Uses and restrictions.* FD&C Blue No. 1 may be safely used for coloring cosmetics generally in amounts consistent with current good manufacturing practice.

(d) *Labeling.* The label of the color additive shall conform to the requirements of § 70.25 of this chapter.

(e) *Certification.* All batches of FD&C Blue No. 1 shall be certified in accordance with regulations in Part 80 of this chapter.

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

2. Part 81 is amended:

§ 81.1 [Amended]

a. In § 81.1 *Provisional lists of color additives*, by removing the entry for "FD&C Blue No. 1" from the table in paragraph (a).

§ 81.27 [Amended]

b. In § 81.27 *Conditions of provisional listing*, by removing the entry for "FD&C Blue No. 1" from the table in paragraph (d).

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 28, 1982 file with the Dockets Management Branch (address above) written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provision of the regulation deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of 21 CFR 71.30. If a hearing is requested, the objections shall state the issues for the hearing and shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Three copies of all documents shall be filed and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective October 29, 1982 except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the **Federal Register**.

(Sec. 706(b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376(b), (c), and (d); sec. 203, Pub. L. 86–618, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: September 23, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-26660 Filed 9-27-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 74, 81, and 82

[Docket No. 82N-0307]

D&C Red No. 27 and D&C Red No. 28

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is permanently listing D&C Red No. 27 and D&C Red No. 28 for general use in drugs and cosmetics. This action is in response to a petition filed by the Cosmetic, Toiletry and Fragrance Association. This rule will remove D&C Red No. 27 and D&C Red No. 28 from the provisional list of color additives for general use in drugs and cosmetics.

DATES: Effective October 29, 1982; objections by October 28, 1982.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 6, 1973 (38 FR 21199), FDA announced that a petition (CAP 8C0044) for the permanent listing of D&C Red No. 27 and D&C Red No. 28 as color additives for general use in drugs and cosmetics had been filed by the Toilet Goods Association, Inc. (now the Cosmetic, Toiletry and Fragrance Association (CTFA)), c/o Hazleton Laboratories, Inc., P.O. Box 30, Falls Church, VA 22046 (now 9200 Leesburg Turnpike, Vienna, VA 22180).

The petition was filed under section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376). A later notice (41 FR 9584; March 5, 1976) amended the notice of filing of the petition to include the use of D&C Red No. 27 in cosmetics intended for use in the area of the eye (Docket No. 76C–0044).

Toxicological Testing of D&C Red No. 27 and D&C Red No. 28

The provisional regulations published in the **Federal Register** of February 4, 1977 (42 FR 6992) required new chronic toxicity studies for D&C Red No. 27 and D&C Red No. 28 as a condition of their continued provisional listing for ingested uses. FDA placed these requirements on 31 color additives because the toxicity studies the petitioners had submitted to support the safe use of these color additives were deficient in several respects. FDA described these deficiencies in the **Federal Register** of September 23, 1976 (41 FR 41863) (Docket No. 76N–0366):

1. Many of the studies were conducted using groups of animals, i.e., control and those fed the color additive, that are too small to permit conclusions to be drawn today on the chronic toxicity or carcinogenic potential of the color. The small number of animals used does not, in and of itself, cause this result, but when considered together with the other deficiencies in this listing, does do so. By and large, the studies used 25 animals in each group; today FDA recommends using at least 50 animals per group.

2. In a number of the studies, the number of animals surviving to a meaningful age was inadequate to permit conclusions to be drawn today on the chronic toxicity or carcinogenic potential of the color additives tested.

3. In a number of the studies, an insufficient number of animals was reviewed histologically.

4. In a number of the studies, an insufficient number of tissues was examined in those animals selected for pathology.

5. In a number of the studies, lesions or tumors detected under gross examination were not examined microscopically.

The closing date for the provisional listing of the color additives was postponed until January 31, 1981, for the completion of required chronic toxicity studies. FDA later extended the closing date for completing the chronic toxicity studies and submitting data. In a proposal in the **Federal Register** of November 14, 1980 (45 FR 75226), the agency outlined the reasons for the need to postpone the closing dates for 23 provisionally listed color additives under test, including D&C Red No. 27 and D&C Red No. 28, beyond January 31, 1981. In the **Federal Register** of March 27, 1981 (46 FR 18958), FDA issued the final rule establishing new closing dates for D&C Red No. 27 and D&C Red No. 28 and the other color additives. Therefore, the current closing date for the provisional listing of D&C Red No. 27 and D&C Red No. 28 is October 30, 1982. The provisional listings in § 81.1(b) (21 CFR 81.1(b)) of D&C Red No. 27 and D&C Red No. 28 for use in drugs and cosmetics will be removed when this order becomes effective on October 29, 1982, unless this order is stayed by the timely filing of objections.

Analysis of Data

The agency has completed its evaluation of the color additive petition for D&C Red No. 27 and D&C Red No. 28, including two new chronic toxicity studies in rats and mice. These new long-term chronic studies represent current state-of-the-art toxicological testing. The protocols for these studies have benefited from knowledge of deficiencies in previously conducted carcinogenesis bioassays and other chronic toxicity protocols. The use of large numbers of animals of both sexes, pilot studies to determine maximum tolerated dosages, two control groups (thereby effectively doubling the number of controls), and in utero exposure in one of the two species tested

significantly increases the power of these tests to detect dose-related effects. The studies were designed and conducted in full compliance with the current good laboratory practice regulations and were subject to inspections by FDA officials during their course.

The test material in the recent chronic rat and mouse studies was D&C Red No. 27. Because D&C Red No. 28 is the disodium salt of D&C Red No. 27, the agency considers the two color additives to be toxicologically equivalent. Thus, any safety conclusion drawn from studies of D&C Red No. 27 applies equally to D&C Red No. 28.

Based on the evaluation of the results of the two new chronic toxicity studies, the agency has determined that D&C Red No. 27 and D&C Red No. 28 are not carcinogenic in Charles River Sprague-Dawley CD rats or CD–1 mice after lifetime dietary exposure of 2.0 percent and 1.0 percent, respectively. Using appropriate safety factors (see 21 CFR 70.40), the agency has also estimated a maximum acceptable daily intake for humans—1.25 milligrams per kilogram of body weight per day.

Conclusion on Safety

The agency concludes that D&C Red No. 27 and D&C Red No. 28 are safe under conditions of use set forth below for general use in drugs and cosmetics, and that certification is necessary for the protection of the public health. The final toxicity study reports, interim reports, and the agency's toxicology evaluations of these studies are on file at the Dockets Management Branch (address above) and may be reviewed there between 9 a.m. and 4 p.m., Monday through Friday.

FDA notified the petitioners by letters dated May 14, 1976, August 15, 1977, August 4, 1978, and October 24, 1978, of the need for data to support the use of D&C Red No. 27 in cosmetics intended for use in the area of the eye. In the fourth letter, dated October 24, 1978, FDA advised the petitioner to consider withdrawing that portion of its petition that sought approval of use of D&C Red No. 27 in cosmetics intended for use in the area of the eye because the required data for eye-area studies apparently were not readily available.

The petitioner has not submitted the required data for eye-area use. Therefore, FDA now considers that portion of the petition that was amended by the filing on March 5, 1976 (Docket No. 76C–0044) to include the permanent listing of D&C Red No. 27 for eye-area use to be withdrawn without prejudice in accordance with the provisions of § 71.4 (21 CFR 71.4). Section 71.4 requires that such requested information be submitted within 180 days after filing of the petition, or the petition will be considered withdrawn without prejudice. Use of D&C Red No. 27 in the area of the eye has never been covered by provisional listing. Future consideration by FDA of the permanent listing of D&C Red No. 27 for eye-area use will require the submission of a new color additive petition for that use. The agency's listing of a color additive for general use in drugs and cosmetics does not encompass eye-area use.

The agency is establishing new chemical specifications that identify the color additives more precisely than those specifications currently in Part 82. Also, the chemical names for the two color additives in the new listings under 21 CFR Part 74 are different from the names currently listed under 21 CFR Part 82 and from the Chemical Abstracts designations. The agency has decided to follow the nomenclature commonly used in the chemical literature where these color additives are referred to as fluorescein derivatives.

The agency concludes that it is necessary to include in the listing regulations for D&C Red No. 27 and D&C Red No. 28 a brief description of the manufacturing process to ensure the safety of the color additives. The agency is concerned that the color additives may contain potentially toxic impurities dependent upon the manufacturing process used to produce the color additive. The agency is not able at this time to set specifications that would control the presence of these impurities. The agency has contracted the National Academy of Sciences-National Research Council (NAS/NRC) to develop appropriate specifications for color additives for use in food as part of the Food Chemicals Codex. Similarly, appropriate specifications for color additives for use in drugs and cosmetics will be developed following the general guidelines used by NAS/NRC in its evaluation of color additives used in food. The agency concludes that specifying, through a general description, the manufacturing process in the regulations for these color additives will provide an adequate assurance of safety until suitable specifications can be developed. Production of the color additive by the specified method will assure qualitatively similar batches and thus adequately assure the absence of unanticipated potentially toxic impurities.

The agency has determined under 21 CFR 25.24 (b)(12) and (d)(5) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 74

Color additives, Color additives subject to certification, Cosmetics, Drugs.

21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

21 CFR Part 82

Color additives, Color additives lakes, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec 706 (d), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), and (d))) and the Transitional Provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 74, 81, and 82 are amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. Part 74 is amended:

a. By adding new § 74.1327 to Subpart B, to read as follows:

§ 74.1327 D&C Red No. 27.

(a) *Identity.* (1) The color additive D&C Red No. 27 is principally 2',4',5',7'-tetrabromo-4,5,6,7-tetrachlorofluorescein (CAS Reg. No. 13473-26-2). The color additive is manufactured by brominating 4,5,6,7-tetrachlorofluorescein with elemental bromine. The 4,5,6,7-tetrachlorofluorescein is manufactured by the acid condensation of resorcinol and tetrachlorophthalic acid or its anhydride. The 4,5,6,7-tetrachlorofluorescein is isolated and partially purified prior to bromination.

(2) Color additive mixtures for drug use made with D&C Red No. 27 may contain only those diluents that are suitable and that are listed in Part 73 of this chapter as safe for use in color additive mixtures for coloring drugs.

(b) *Specifications.* D&C Red No. 27 shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by current good manufacturing practice:

Sum of volatile matter (at 135° C) and halides and sulfates (calculated as sodium salts), not more than 10 percent.
Insoluble matter (alkaline solution), not more than 0.5 percent.
Tetrachlorophthalic acid, not more than 1.2 percent.
Brominated resorcinol, not more than 0.4 percent.
2,3,4,5-Tetrachloro-6-(3,5-dibromo-2,4-dihydroxybenzoyl) benzoic acid, not more than 0.7 percent.
2',4',5',7'-Tetrabromo-4,5,6,7-tetrachlorofluorescein, ethyl ester, not more than 2 percent.
Lower halogenated subsidiary colors, not more than 4 percent.
Lead (as Pb), not more than 20 parts per million.
Arsenic (as As), not more than 3 parts per million.
Mercufy (as Hg), not more than 1 part per million.
Total color, not less than 90 percent.

(c) *Uses and restrictions.* R&C Red No. 27 may be safely used for coloring drugs generally in amounts consistent with current good manufacturing practice.

(d) *Labeling.* The label of the color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 70.25 of this chapter.

(e) *Certification.* All batches of D&C Red No. 27 shall be certified in accordance with regulations in Part 80 of this chapter.

b. By adding new § 74.1328 to Subpart B, to read as follows:

§ 74.1328 D&C Red No. 28.

(a) *Identity.* (1) The color additive D&C Red No. 28 is principally the disodium salt of 2',4',5',7'-tetrabromo-4,5,6,7-tetrachlorofluorescein [CAS Reg. No. 18472–87–2] formed by alkaline hydrolysis of the parent tetrabromotetrachlorofluorescein.

(2) Color additive mixtures for drug use made with D&C Red No. 28 may contain only those diluents that are suitable and that are listed in Part 73 of this chapter as safe for use in color additive mixtures for coloring drugs.

(b) *Specifications.* D&C Red No. 28 shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by current good manufacturing practice:

Sum of volatile matter (at 135° C) and halides and sulfates (calculated as sodium salts), not more than 15 percent.
Insoluble matter (alkaline solution), not more than 0.5 percent.
Tetrachlorophthalic acid, not more than 1.2 percent.
Brominated resorcinol, not more than 0.4 percent.
2,3,4,5-Tetrachloro-6-(3,5-dibromo-2,4-dihydroxybenzoyl)benzoic acid, not more than 0.7 percent.
2',4',5',7'-Tetrabromo-4,5,6,7-tetrachlorofluorescein, ethyl ester, not more than 2 percent.
Lower halogenated subsidiary colors, not more than 4 percent.
Lead (as Pb), not more than 20 parts per million.
Arsenic (as As), not more than 3 parts per million.
Mercury (as Hg), not more than 1 part per million.
Total color, not less than 85 percent.

(c) *Uses and restrictions.* D&C Red No. 28 may be safely used for coloring drugs generally in amounts consistent with current good manufacturing practice.

(d) *Labeling.* The label of the color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 70.25 of this chapter.

(e) *Certification.* All batches of D&C Red No. 28 shall be certified in accordance with regulations in Part 80 of this chapter.

c. By adding new § 74.2327 to Subpart C, to read as follows:

§ 74.2327 D&C Red No. 27.

(a) *Identity and specifications.* The color additive D&C Red No. 27 shall conform in identity and specifications to the requirements of § 74.1327 (a)(1) and (b).

(b) *Uses and restrictions.* D&C Red No. 27 may be safely used for coloring cosmetics generally in amounts consistent with current good manufacturing practice.

(c) *Labeling requirements.* The label of the color additive shall conform to the requirements of § 70.25 of this chapter.

(d) *Certification.* All batches of D&C Red No. 27 shall be certified in accordance with regulations in Part 80 of this chapter.

d. By adding new § 74.2328 to Subpart C, to read as follows:

§ 74.2328 D&C Red No. 28.

(a) *Identity and specifications.* The color additive D&C Red No. 28 shall conform in identity and specifications to the requirements of § 74.1328 (a)(1) and (b).

(b) *Uses and restrictions.* D&C Red No. 28 may be safely used for coloring cosmetics generally in amounts consistent with current good manufacturing practice.

(c) *Labeling requirements.* The label of the color additive shall conform to the requirements of § 70.25 of this chapter.

(d) *Certification.* All batches of D&C Red No. 28 shall be certified in accordance with regulations in Part 80 of this chapter.

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

2. Part 81 is amended:

§ 81.1 [Amended]

a. In § 81.1 *Provisional lists of color additives* in paragraph (b) by removing the entries for "D&C Red No. 27" and "D&C Red No. 28".

§ 81.27 [Amended]

b. In § 81.27 *Conditions of provisional listing* in paragraph (d) by removing the entries for "D&C Red No. 27" and "D&C Red No. 28".

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

3. Part 82 is amended:

a. By revising § 82.1327, to read as follows:

§ 82.1327 D&C Red No. 27.

The color additive D&C Red No. 27 shall conform in identity and specifications to the requirements of § 74.1327 (a)(1) and (b) of this chapter.

b. By revising § 82.1328, to read as follows:

§ 82.1328 D&C Red No. 28.

The color additive D&C Red No. 28 shall conform in identity and specifications to the requirements of § 74.1328 (a)(1) and (b) of this chapter.

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 28, 1982 file with the Dockets Management Branch (address above) written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of 21 CFR 71.30. If a hearing is requested, the objections shall state the issues for the hearing and shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event

that a hearing is held. Three copies of all documents shall be filed and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective October 29, 1982 except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the **Federal Register.**

(Sec. 706 (b), (c), and (d), 74 Stat. 399–403 (21 U.S.C. 376 (b), (c), and (d)); sec. 203, Pub. L. 86–618, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: September 23, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–26679 Filed 9–27–82; 8:45 am]

BILLING CODE 4160–01–M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Procedural Rules; Amendment, Clarification, and Restatement; Correction

AGENCY: National Labor Relations Board.

ACTION: Final rule; correction.

SUMMARY: FR Document 82–25270, filed September 14, 1982, and published at 47 FR 40770–40773, September 15, 1982, is hereby corrected by restating rule section 102.69(c) as set forth in that document to reflect changes to that section previously made by FR Document 81–26823, filed September 14, 1981, and published at 46 FR 45922–45924, September 15, 1981, but inadvertently not fully incorporated into the newly published restatement of that rule section. The corrections made are: (1) Section 102.69(c)(1) is corrected to include the word "timely" on the first line of the section, after "If" and before "objections"; (2) the section is corrected to include § 102.69(c)(4), which was omitted from the document; and (3) the reference in the last sentence of the statement of Supplementary Information referring to "three numbered paragraphs" is corrected to read "four numbered paragraphs."

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, 1717 Pennsylvania Avenue, NW., Room 701, Washington, D.C. 20570, Telephone: (202) 254–9430.

Correction of Publication

In FR Document 82–25270, appearing in the Wednesday, September 15, 1982, issue of the **Federal Register**, 47 FR 40770, *et seq.*, make the following changes:

1. Delete all references to § 102.69(c)' having been separated into three parts.

2. § Paragraph (c)(1) § 102.69 should read as follows:

§ 102.69 [Corrected]

* * * * *

(c)(1) If timely objections are filed to the conduct of the election or to conduct affecting the results of the election, or if the challenged ballots are sufficient in number to affect the results of the election, the regional director shall, consistent with the provisions of section 102.69(d), initiate an investigation, as required, of such objections or challenges.

3. Immediately after paragraph (c)(3) of section 102.69 insert the following paragraph (c)(4):

* * * * *

(c) * * *

(4) If the regional director issues a report on objections and challenges, the parties shall have the rights set forth in paragraph (c)(2) of this section and in § 102.69(f); if the regional director issues a decision, the parties shall have the rights set forth in § 102.67 to the extent consistent herewith, including the right to submit documents supporting the request for review or opposition thereto as permitted by § 102.69(g)(3).

Dated, Washington, D.C., September 23, 1982.

By Direction of the Board.

National Labor Relations Board.

John C. Truesdale,

Executive Secretary.

[FR Doc. 82–26657 Filed 9–27–82; 8:45 am]

BILLING CODE 7545–01–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 221 and 231

Oil and Gas Operating Regulations; Operating Regulations for Exploration, Development, and Production

AGENCY: Minerals Management Service, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends the existing operating regulations for oil and gas and for exploration, development, and production of solid minerals other than coal, to facilitate operations for tar sands development under the Combined Hydrocarbon Leasing Act of 1981. The objective is to provide procedures for a wide variety of operational methods with the least regulatory burden.

EFFECTIVE DATE: This regulation is effective October 28, 1982.

ADDRESS: Acting Associate Director, Onshore Minerals Operations, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 656, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT:

Mr. Gerald R. Daniels, (703) 860–7535, (FTS) 928–7535,

Mr. Tom Leshendok, (703) 860–7506, (FTS) 928–7506,

or

Mr. Stephen H. Spector, (703) 860–7969, (FTS) 928–7969.

SUPPLEMENTARY INFORMATION: The proposed rulemaking on Oil and Gas Operating Regulations and Operating Regulations for Exploration, Development, and Production for solid minerals other than coal was published in the **Federal Register** on May 12, 1982 (47 FR 20324), with a 30-day comment period provided. This final rulemaking differs from the proposed rulemaking only in that the ability to prescribe orders and notices relating to tar sands development has been specifically provided for.

Six written comments were received on the proposed rulemaking. These six comments were received from the following sources: four from industry, one from an industry association, and one from a Federal Agency.

The proposed rulemaking included a request for comments on the decision not to promulgate regulations governing tar sands operations as a separate part but rather include tar sands operations under existing 30 CFR Parts 221 and 231. Two commenters were in favor of the decision and two opposed it. Both commenters in opposition stated that, because tar sands development is in an embryonic and economically unproven state, additional support would be derived from separate regulations, which would provide a focal point for tar sands concerns. After due consideration of these expressions of interest, we have decided to implement our original approach for the following reasons: (1) Parts 221 and 231 contain the necessary flexibility to focus on tar sands concerns without adding to the volume of regulations and increasing the overall regulatory burden; (2) all oil and gas leases issued after the passage of the Combined Hydrocarbon Leasing Act of 1981 grant the right to extract tar

sands; and (3) the slight changes introduced in our final rulemaking facilitate the establishment of specific guidelines for tar sands operations, if additional general guidance proves necessary.

Two of the commenters focused on the method of setting royalty rates for tar sands products, stating that the provisions of existing Parts 221 and 231 did not seem adequate to allow due consideration of the factors affecting tar sands development. We feel the existing regulations will allow the Minerals Management Service (MMS) enough flexibility to address the loyalty concerns. The MMS expects to issue necessary guidelines in the near future.

One commenter suggested that because tar sands development may have different environmental impacts than oil and gas development, the MMS should inform potential combined hydrocarbon leaseholders that information beyond that typically requested to evaluate oil and gas operations may be needed. Our reference to an ability to publish orders and notices relating to tar sands development provides a vehicle by which we may request any desired information that is deemed necessary.

The principal authors of this final rulemaking are Mr. Gerald Daniels, Acting Chief, Oil, Gas, and Geothermal Division; Mr. James W. Hager, Office of the Deputy Minerals Manager, Oil Shale, Grand Junction, Colorado; and Mr. Stephen H. Spector, Branch of Technical Services, Oil, Gas, and Geothermal Division, assisted by the Office of the Solicitor.

Executive Order 12291

The Department has determined that this rule is not a major action and does not require the preparation of a regulatory analysis under Executive Order 12291 because the rule will have a positive effect on the development of tar sands and the use of existing procedures will be far less costly to industry than the development of a separate tar sands rule.

Regulatory Flexibility Act

The Department has also certified that this rulemaking will not have a significant economic impact on a substantial number of small entities; thus a small entity flexibility analysis under the Regulatory Flexibility Act (P.L. 96-354) is not required. Although small business entities are not expected to be financially able to participate directly in lease operations, they are expected to participate through contracts for support work to operators and lessees who will be primarily responsible for compliance with the provisions.

National Environmental Policy Act of 1969

It is hereby determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (43 U.S.C. 4332(2)(C)) is required.

Paperwork Reduction Act of 1980

There are no changes in the information collection requirements of the parts of Title 30 amended. All reporting locations, forms, and content are unchanged.

List of Subjects

30 CFR Part 221

Government contracts, Mineral royalties, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 231

Environmental protection, Government contracts, Mineral royalties, Public lands-mineral resources, Mines, Reporting and recordkeeping requirements.

Under the authority of the Act of February 25, 1920 (30 U.S.C. 189), and the Act of November 16, 1981, Pub. L. 97-78 (95 Stat. 1070), Parts 221 and 231, Chapter II, Title 30 of the Code of Federal Regulations are amended as set forth below.

Dated: September 3, 1982.

Garrey E. Carruthers,

Acting Secretary.

PART 221—OIL AND GAS OPERATING REGULATIONS

1. Part 221 is amended by amending the Authority citation to include the following additional citation:

Authority: * * *; and the Combined Hydrocarbon Leasing Act of November 16, 1981 (Pub. L. 97-78, 95 Stat. 1070).

2. Section 221.2 is amended by revising paragraph (p) to read as follows:

§ 221.2 Definitions.

* * * * *

(p) *Oil.* Any nongaseous hydrocarbon substance other than those substances leasable as coal, oil shale, or gilsonite (including all vein-type solid hydrocarbons). For royalty rate consideration in special tar sand areas, any hydrocarbon substance with a gas-free viscosity, at original reservoir temperature, greater than 10,000 centipoise is termed tar sand. Hydrocarbon extraction from tar sand is also governed by the regulation at 30 CFR Part 231 and applicable orders and notices.

PART 231—OPERATING REGULATIONS FOR EXPLORATION, DEVELOPMENT, AND PRODUCTION

3. Part 231 is amended by amending the Authority citation to include the following additional citation:

* * * * *

Authority: * * *; and the Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97-78, 95 Stat. 1070).

4. Section 231.1 is amended by revising paragraph (a) and the cross reference at the end of the section to read as follows:

§ 231.1 Scope and purpose.

(a) The regulations in this part shall govern operations for the discovery, testing, development, mining, and processing of all minerals under leases or permits issued for Federal lands pursuant to the regulations in 43 CFR Group 3500 or Part 3140 and of all minerals (except coal, oil, and gas) on tribal and allotted Indian lands leased pursuant to the regulations in 25 CFR Parts 171, 172, 173, 174, and 176. For operations involving the extraction of hydrocarbon from tar sand or oil shale by in situ methods utilizing boreholes or wells the regulations in 30 CFR Part 221 and applicable orders and notices also apply.

* * * * *

Cross Reference: See Part 211 of this chapter for regulations governing operations under coal permits and leases. See Part 221 of this chapter for regulations governing operations under oil and gas, or combined hydrocarbon leases and operations for the extraction of hydrocarbon from tar sand and oil shale by in situ or other methods utilizing boreholes or wells.

[FR Doc. 82-26642 Filed 9-27-82; 8:45 am]
BILLING CODE 4310-MR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD Regulation 6010.8-R, Amdt. No. 17]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Durable Medical Equipment

AGENCY: Office of the Secretary, DoD.

ACTION: Amendment of final rule.

SUMMARY: This final rule amends DoD Regulation 6010.8–R (32 CFR 199) to remove a restriction under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Basic Program that durable medical equipment may only be rented or obtained under a lease/purchase arrangement, regardless of the cost advantages of outright purchase if lease/purchase is not available or if prolonged rental will be necessary. Amendment to allow outright purchase in cases of prolonged need will permit cost savings for the Government and for beneficiaries, and is consistent with major government and private health benefit plans.

EFFECTIVE DATE: This amendment is effective September 28, 1982.

FOR FURTHER INFORMATION CONTACT: Charles E. Guidice, Policy Branch, OCHAMPUS, telephone (303) 361–8608.

SUPPLEMENTARY INFORMATION: In FR Doc. 77–7834, appearing in the **Federal Register** on April 4, 1977, (42 FR 17972), the Office of the Secretary of Defense published its regulation, DoD 6010.8–R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as Part 199 of this title.

In FR Doc. 82–11596 appearing in the **Federal Register** on April 28, 1982 (47 FR 18149), the Office of the Secretary of Defense published a proposed amendment to rule regarding a revision to the language of the CHAMPUS Regulation to allow outright purchase of durable medical equipment when lease/purchase is not available or prolonged rental is necessary. Public comments were to have been submitted by June 28, 1982.

Other than comments supporting the proposed rulemaking, only three comments were received that proposed changes of the language of the proposed rule.

The first comment recommended that the effective date not be made retroactive to October 1, 1980. This recommendation was accepted. We felt making the recommendation retroactive would cause numerous problems with attempting to backfit eligibility determination. This final rule establishes the effective date as the date of publication.

The second comment suggested deletion of the criterion concerning the usefulness of durable medical equipment to another person in the absence of an illness or injury. This recommendation was accepted and the provision has been deleted.

The third comment suggested that the factors to be considered in the reimbursement process include a statement on the time value of money. This recommendation was accepted and has been added to § 199.10, paragraph (d)(3)(ii)(*b*).

In addition, we have made minor technical changes in § 199.10, paragraph (d), to simplify language for clarity. Section 199.10 paragraph (d)(3)(ii) of this part states that CHAMPUS benefits are payable under the Basic Program for the rental or lease/purchase of durable medical equipment, but does not provide for outright purchase of such equipment even if such purchase would be cost-advantageous to the Government.

The Program has encountered a number of situations where there has been or is expected to be a prolonged period of medical treatment requiring the use of the durable medical equipment, where a lease/purchase arrangement is not possible, or where the equipment is not available for rent.

Following a review of the applicable statute, the Department has concluded that there is no statutory bar to CHAMPUS sharing in the cost of purchase of durable medical equipment when such purchase is more cost-advantageous to the Government or where the equipment cannot be rented.

The amendment does not change the current definition or coverage criteria for durable medical equipment. Instead, it provides an additional alternative for acquisition which offers potential cost savings both to the Government and to beneficiaries.

List of Subjects in 32 CFR Part 199

Health insurance, Military personnel, Handicapped.

Accordingly, 32 CFR, Chapter I, Part 199, is amended to read as follows:

PART 199—IMPLEMENTATION OF THE CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES

1. Section 199.10 is amended by revising paragraph (d)(3)(ii) to read as follows:

§ 199.10 Basic program benefits.

* * * * *

(d) * * *

(3) * * *

(ii) *Durable Medical Equipment—(a) Coverage Criteria.* Durable medical equipment (DME) for the specific use of the beneficiary is covered, provided such equipment meets the following criteria:

(*1*) It must be medically necessary for the treatment of an illness or injury.

(*2*) It must improve the function of a malformed, diseased or injured body part or retard further deterioration of the patient's physical condition.

(*3*) It must be primarily and customarily used to serve a medical purpose, rather than primarily for transportation, comfort or convenience.

Note.—A wheelchair (or Program-approved alternative) is not considered transportation in the sense of paragraph (d)(3)(ii)(*a*)(*4*) of this section. It is qualified as durable medical equipment under paragraph (d)(3)(ii)(*a*)(*2*) of this section above, because by providing basic mobility, it retards further deterioration of the patient's physical condition. Mobility beyond that basic mobility provided by a wheelchair (or a Program-approved alternative) is considered to be primarily transportation.

(*4*) It must withstand repeated use, and will be provided on a one-at-a-time basis only, based on the anticipated lifetime of the specific item of equipment.

(*5*) It must be other than spectacles, eyeglasses, contact lenses or other optical devices and other than hearing aids or other communciation devices.

(*6*) It cannot be beyond the medically appropriate level of performance and quality required under the circumstances (i.e., non-luxury, non-deluxe). However, this criterion is not intended to preclude the special fitting of equipment to accommodate a particular disability, such as fitting a wheelchair for a one-armed individual.

(*7*) It cannot be for a patient in a facility which can provide or ordinarily provides such equipment.

(*8*) It is not available for loan from any local Uniformed Service Medical Treatment Facility.

(*9*) The reasonable charge for the item must be more than $100.

(*b*) *Payment Alternatives.* Generally, CHAMPUS reimbursement for durable medical equipment will be limited to the most cost-advantageous methods to the Government. These methods can include rental, lease/purchase and outright purchase. Factors to be considered in the reimbursement process include the reasonable charge for purchase of the equipment, the reasonable monthly rental charge for the equipment, the estimated duration of medical necessity for the use of the equipment, and the availability of rental equipment. In addition, the cost analysis must include a provision for the time value of money at the rate established quarterly and published in United States Treasury Federal Regulations Manual bulletins and the **Federal Register**. Regardless of the method of reimbursement to be used, all equipment must first meet the coverage criteria in paragraph (d)(3)(ii)(*a*) of this section above.

* * * * *

(10 U.S.C. 1079, 1086; 5 U.S.C. 301)

Dated: September 22, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 82-26686 Filed 9-27-82; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 2203-5]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve changes to the Arizona Department of Health Services (ADHS) rules and regulations for air pollution control submitted by the Director of the ADHS as revisions to the Arizona State Implementation Plan (SIP). These revisions are administrative and retain the previous emission control requirements. EPA reviewed these rules with respect to the Clean Air Act and determined that they should be approved.

DATE: This action is effective November 29, 1982.

ADDRESSES: Copies of the revisions are available for public inspection during normal business hours at the EPA Region 9 office and at the following locations:

Public Information Reference Unit, Environmental Protection Agency, Library, 401 "M" Street SW., Room 2404, Washington, D.C. 20460

Library, Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20460

Arizona Department of Health Services, 1740 West Adams Street, Phoenix, AZ 85007

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Programs Branch, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974-7641.

SUPPLEMENTARY INFORMATION: The ADHS submitted as SIP revisions the following rules on June 3, 1982:

R9-3-101 Definitions
R9-3-219 Air pollution emergency episodes
R9-3-502 Unclassified sources
R9-3-505 Standards of performance for existing cement plants
R9-3-508 Standards of performance for existing asphalt concrete plants
R9-3-511 Standards of performance for existing secondary lead smelters
R9-3-513 Standards of performance for existing iron and steel plants
R9-3-516 Standards of performance for existing coal preparation plants
R9-3-517 Standards of performance for steel plants: existing electric arc furnaces (EAF)
R9-3-518 Standards of performance for existing kraft pulp mills
R9-3-520 Standards of performance for existing lime manufacturing plants
R9-3-521 Standards of performance for existing nonferrous metals industry sources
R9-3-522 Standards of performance for existing gravel or crushed stone processing plants
Appendix 8 Procedures for utilizing the sulfur balance method for determining sulfur emissions

As described below, these rules revisions are administrative and do not significantly impact current emission control requirements.

In rule R9-3-101 a number of definitions have been revised to provide clarification and improve the enforceability of the SIP. Revisions in rule R9-3-219 specify ozone rather than photochemical oxidant as the criteria pollutant. The wording of rules R9-3-502 to R9-3-522 has been adjusted to reflect the change in the names and boundaries of the Arizona Air Quality Control Regions. And, in Appendix 8 the citation for the test method has been updated.

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, EPA is required to approve or disapprove these regulations as SIP revisions. All rules submitted have been evaluated and found to be in accordance with EPA policy and 40 CFR Part 51. EPA's detailed evaluation of the submitted rules is available at the EPA Library in Washington, D.C., and the Region 9 office.

It is the purpose of this notice to approve all the rule revisions listed above and to incorporate them into the Arizona SIP. This is being done without prior proposal because the revisions are noncontroversial, have limited impact, and no comments are anticipated. The public should be advised that this action will be effective 60 days from the date of this Federal Register notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, the approval will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.) The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements.

Incorporation by reference of the State Implementation Plan for the State of Arizona was approved by the Director of the Federal Register on July 1, 1982.

(Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601(a)))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, and Intergovernmental relations.

Dated: September 21, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart D of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

1. Section 52.120, paragraph (c) is amended by adding subparagraph (54)(i)(C) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(54) * * *

(i) * * *

(C) New or amended rules R9-3-101 (Nos. 4 to 6, 9 to 16, 22 to 28, 30 to 33, 36, 38 to 55, 57 to 60, 64 to 67, 70 to 74, 76, 80 to 87, 92 to 97, 100, 102 to 116, 118 to 121, 123 to 128, 130 to 132, 134, 135, 137 to 141, 142 to 145, 147 to 150, and 156 are renumbered only); R9-3-219; R9-3-502 (paragraph A to A.1 and A.2); R9-3-505 (paragraph B to B.1, B.2, B.3, and B.4); R9-3-508 (paragraph B to B.1, B.2, and B.5); R9-3-511 (paragraph A to A.1 and A.2); R9-3-513 (paragraph A to A.1 and A.2); R9-3-516 (paragraph A to A.1 and

A.2); R9–3–517 (paragraph A to A.1); R9–3–518 (paragraph A to A.1 and A.2); R9–3–520 (paragraph A to A.1 and A.2); R9–3–521 (paragraph A to A.1 and A.2); R9–3–522 (paragraph A to A.1 and A.2); and Appendix 8 (Sections A8.3.1 and A8.3.2).

* * * * *

[FR Doc. 82-26061 Filed 9-27-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-8-FRL 2166-5]

Approval and Promulgation of State Implementation Plans; Colorado

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is approving revisions to the Colorado State Implemention Plan (SIP). The revisions establish plans for achieving and maintaining the National Ambient Air Quality Standard (NAAQS) for lead in Denver, Grand Junction, and Pueblo in accordance with Section 110 of the Clean Air Act (the Act). The Governor of Colorado submitted the revisions to the EPA on April 12, 1982, following Public Hearing and adoption by the Colorado Air Quality Control Commission, both on February 25, 1982.

DATES: This action will be effective on November 29, 1982 unless notice is received by October 28, 1982, that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295.

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

The Office of the Federal Register, 110 L. Street NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Paula R. Machlin, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837–6131.

SUPPLEMENTARY INFORMATION: On October 5, 1978, the EPA established an NAAQS for lead in accordance with Section 109 of the Act 43 FR 46246 (1978). Under Section 110 of the Act, each State must submit to EPA a plan to attain and maintain the NAAQS. The Act also directs EPA to review the State plan to determine whether it meets requirements established under Section 110 of the Act. If requirements are met, the EPA can approve the plan. Requirements for an adequate lead SIP are established in the 40 CFR Part 51 Subpart E—Control Strategy for Lead. Based on those requirements, the EPA finds that the subject plan to achieve the lead NAAQS for Colorado is approvable.

Analysis of air quality data collected by the State of Colorado for 1974 through 1979 showed violations of the lead NAAQS in three areas: Denver, Grand Junction, and Pueblo. The EPA hired a consulting firm (ETA Engineering, Inc.) to prepare a technical analysis that identified lead emission sources and predicted future ambient concentrations. The State was expected to prepare the lead SIP based on that technical analysis.

The analysis found that, in Denver and Grand Junction, motor vehicle emissions were largely responsible for the monitored standards violations; in Pueblo, both motor vehicle emissions and lead particulate emissions from the CF&I Steel Mill were responsible for the monitored violations. However, modeling by the contractor showed that each area would meet the lead NAAQS by 1982 at the latest, based on implementation of programs that were already planned. Therefore, no additional control strategies were needed in the SIP to provide attainment. As required under 40 CFR Subpart E, the state has adopted regulations that control lead emissions. Although not described in the subject submittal, the EPA considered these regulations as part of the lead SIP.

In Denver and Grand Junction, the following factors result in the emissions reductions needed to meet the lead NAAQS: the federal program to improve fuel economy, the federal program to decrease the average lead content of gasoline, and an increase in the proportion of catalyst cars (which use unleaded gas) over noncatalyst cars (which use leaded gas) due to normal fleet turnover. In Pueblo, air pollution control equipment installed at CF&I subsequent to the year in which violations were measured reduced lead emissions from the plant substantially. In fact, no violations have been measured since 1974. The emissions reductions at CF&I and those expected from federal programs and fleet turnover achieve the reductions needed to maintain the lead NAAQS.

The EPA has reviewed the technical analysis in the SIP Revision and found that the analysis is appropriate. The SIP was submitted to EPA following Public Hearing as required under 40 CFR Part 52. Consequently, we find that the Colorado lead SIP Revision are approvable.

EPA is today approving these revisions. The public is advised that this action will be effective (60 days). However, if we receive written notice by (30 days) that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw this final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Clean Air Act, petitions for review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 29, 1982. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, and Hydrocarbons, Intergovernmental relations.

This rulemaking is issued under the authority of Section 110 of the Clean Air Act (42 USC 7410).

Dated: August 24, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

Note: Incorporation by reference of the State Implementation Plan for the State of Colorado was approved by the Director of the Federal Register on July 1, 1982

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION

1. Section 52.320 paragraph (c) (27) and (28) are added as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(27) On April 12, 1982, the Governor submitted the plan revisions to show attainment of the lead National Ambient Air Quality Standard.

(28) Regulation Number 7 is part of the plan.

[FR Doc. 82-26575 Filed 9-27-82; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

Department Hearings and Appeals Procedures

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Revocation of regulations.

SUMMARY: Subpart H of this title was issued to prescribe procedures for hearings and appeals under Exec. Order No. 11246, *as amended* by Exec. Order No. 11375. These functions were transferred to the Department of Labor by Exec. Order No. 12086, thus making 43 CFR Part 4, Subpart H, obsolete and requiring its revocation. A proposal to revoke this rule was published for public comment on May 27, 1980 (45 FR 35351). No comments were received. Subpart K of this title was issued to prescribe procedures for hearings and appeals of disenrollment contests for Alaska Natives under the Alaska Native Claims Settlement Act, 43 U.S.C. 1604. The deadline to file disenrollment contests (October 1, 1978) has passed (*see* 25 CFR 43h.15(h)) and all contests have been concluded in the administrative and judicial forums, thus making 43 CFR Part 4, Subpart K, obsolete and requiring its revocation. A proposal to revoke this rule was published for public comment on May 27, 1980 (45 FR 35351). No comments were received.

EFFECTIVE DATE: September 28, 1982.

FOR FURTHER INFORMATION CONTACT: Kathryn Lynn, Attorney-Adviser, Office of Hearings and Appeals, (703) 235-3816.

SUPPLEMENTARY INFORMATION: The Department of the Interior has determined that this document is not a significant rule as defined in Exec. Order No. 12291, and does not require a regulatory analysis under the regulatory Flexibility Act (Pub. L. 96-354). Furthermore, the Department has determined that the revocation of these rules will not adversely affect the human environment within the meaning of the National Environmental Policy Act of 1969, *as amended* (42 U.S.C. 4321-4361 (1976)).

PART 4—DEPARTMENT HEARINGS AND APPEALS PROCEDURES

Subpart H—§§ 4.750-4.792 [Reserved]

Subpart K—§§ 4.1000-4.1011 [Reserved]

Under the authority of the Secretary of the Interior contained in 5 U.S.C. 301, 43 CFR Part 4, Subparts H and K are hereby revoked and reserved.

Dated: August 31, 1982.

Donald Paul Hodel,

Under Secretary.

[FR Doc. 82-26587 Filed 9-27-82; 8:45 am]
BILLING CODE 4310-10-M

Bureau of Land Management

43 CFR Part 2820

[Circular No. 2515]

Roads and Highways; Revocation of Regulations Concerning Roads and Highways

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking revokes the existing regulations concerning the granting of right-of-way to State agencies by the Bureau of Land Management in coordination with the Federal Highway Administration. These regulations are burdensome, counterproductive and are no longer needed. They will be replaced by an interagency agreement between the Department of the Interior and the Department of Transportation as authorized by section 307 of the Federal Land Policy and Management Act.

EFFECTIVE DATE: October 28, 1982.

ADDRESS: Any suggestions or inquiries should be sent to: Director (330), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Leon Kabat, (202) 343-5441.

SUPPLEMENTARY INFORMATION: The proposed rulemaking deleting the existing regulations on Highways and Roads—43 CFR 2820—was published in the **Federal Register** on May 10, 1982 (47 FR 20009). Comments were invited for a 30-day period during which time three comments were received. Two of the comments were from States and the third comment come from a Federal agency. All of the comments have been reviewed and given careful consideration as part of the decisionmaking process on the final rulemaking.

The comments expressed the view that the process now used for granting of rights-of-way under the existing regulations, while it may be burdensome and counterproductive, is understood by those involved in the process and is less burdensome than similar processes used by other Federal agencies under a memorandum of understanding. In responses to the suggestions made in the comments, the Department of the Interior is working with the Department of Transportation in the development of an interagency agreement that will simplify the procedure for granting rights-of-way across Bureau of Land Management lands for State highways and roads. The process will be designed to provide the States with rights-of-way in the least burdensome manner possible, while providing adequate protection for the public lands. The Bureau of Land Management will continue its efforts in working with the States and the Federal Highway Administration to give the quickest possible service on applications for rights-of-way for State highways and roads crossing lands under its jurisdiction.

After careful consideration of the views expressed in the comments, the decision has been made to proceed with the revocation of the regulations in 43 CFR Part 2820 as proposed in the proposed rulemaking and finalized in the final rulemaking.

The principal author of this final rulemaking is Leon Kabat, Division of Rights-of-Way, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

Under the authority of sections 107(d) and 317 of Title 23 of the United States Code (72 Stat. 885, 892 and 916) and section 307 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1737), Group 2800, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is amended as follows:

List of Subjects in 43 CFR Part 2800

Highways and roads, Public lands—rights-of-way.

Dated September 8, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

PART 2820—ROADS AND HIGHWAYS [REMOVED]

1. Part 2820 is removed in its entirety.

[FR Doc. 82-26578 Filed 9-27-82; 8:45 am]

BILLING CODE 4310-84-M

Proposed Rules

Federal Register
Vol. 47, No. 188
Tuesday, September 28, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

Proposed Changes to Sampling Provisions by Kind of Movement

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Grain Inspection Service (FGIS or Service) is proposing to revise the regulations under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*), (Act) to provide that each official sample-lot inspection for grade, factors, or other criteria on (1) domestic cargo shipments (barges) of bulk or sacked grain, (2) export land carrier shipments (railcars and trucks) of bulk or sacked grain, and (3) export cargo shipments of sacked grain be based on official samples obtained from the grain by any sampling method approved by FGIS without a statement being added to the certificate qualifying it as to the sampling method used. Under present regulations, a diverter-type (D/T) mechanical sampler must be used on these kinds of movements after January 1, 1983. Otherwise, a statement will be added to the inspection certificate indicating the samples may not be as representative as those obtained with a D/T mechanical sampler.

DATE: Comments must be submitted on or before October 28, 1982.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management, USDA, FGIS, Room 1636 South Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382–0231. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., (address as above) telephone (202) 382–0231.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1. The action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The effect of the proposed rule is to reduce the extent of regulatory control to which many entities, including some small entities, would be subjected.

Proposed Action

FGIS is proposing to revise § 800.18 and § 800.83 (7 CFR 800.18, 800.83) of the regulations to provide that each official sample-lot inspection for grade, factors, or other criteria on (1) domestic cargo shipments (barges) of bulk or sacked grain, (2) export land carrier shipments (railcars and trucks) of bulk or sacked grain, and (3) export cargo shipments of sacked grain be based on official samples obtained from the grain by any sampling method approved by FGIS without a statement being added to the inspection certificate indicating the samples may not be as representative as those obtained with a D/T mechanical sampler.

The sampling methods currently approved by FGIS are the D/T mechanical sampler, probe, Ellis cup, pelican, and Woodside sampler, when used according to the procedures in instructions. Each certificate issued for an official sample-lot inspection on any domestic shipment of grain and on all export shipments of grain in railcars and trucks currently specifies the sampling method used. If this proposal is adopted, the sampling method would continue to be specified. Under the present regulations, when the D/T mechanical sampler is not used as required after January 1, 1983, the certificate will show the following additional statement: "The lot of grain represented by this certificate was sampled by means of (*type of approved sampling methods*). Samples obtained by this method may not be as representative as those obtained by approved diverter-type mechanical samplers."

The requirements to base official inspection results for domestic barge shipments of grain and export shipments of grain (except bulk export cargo shipments) on official samples obtained with a D/T mechanical sampler was originally scheduled to become effective January 1, 1982, as published in the March 11, 1980, Federal Register (45 FR 15802–15873). FGIS published an emergency final rule on December 1, 1981 (46 FR 58277), delaying the January 1, 1982, effective date for the required use of D/T mechanical samplers to January 1, 1983.

This requirement was enacted because a D/T mechanical sampler, which is designed to sample grain on line (i.e., during a continuous loading or unloading operation), can obtain a more uniform and representative sample from large volumes of grain being loaded at high speed than can the other sampling methods currently approved by FGIS for sampling grain during the loading operation.

Recently, FGIS has received numerous letters from grain merchandising companies and elevator operators who did not submit comments when the requirement was initially proposed. The letters provide information that indicates the requirement to use the D/T mechanical sampler on domestic barge shipments and export railcar and truck shipments does not provide the flexibility needed in the grain marketing system because the D/T mechanical sampler cannot be used for sampling grain at rest in a carrier. The information provided by these companies notes that, since the certificate specifies the sampling method used, there is no need to qualify the certificate with a statement as to the ability of the sampling method to obtain representative samples. After evaluating the information provided and considering the recommendation of the FGIS Advisory Committee to eliminate the requirement, FGIS is publishing this proposal.

Further, the information received indicates the requirement to use the D/T mechanical sampler on domestic barge shipments of bulk and sacked grain may be incompatible with established barge

trading rules and practices. Barges are often loaded well in advance of the bill of lading date because of uncertain weather conditions, the availability of barges, the need to transfer grain from a full warehouse to accept new receipts, and the desire to load several barges over a period of time and ship them together at a later date. The barges are then sampled shortly before the bill of lading date while the grain is at rest in the barge. This is to comply with the barge trading rules, which require the official inspection certificate be dated within 3 calendar days of the bill of lading date. In these cases, the requirement does not provide the industry flexibility to market the barges when desired because the D/T mechanical sampler is practical for sampling grain only at the time the carrier is loaded.

Information recently provided to FGIS also indicates an increase in the use of online "over the bank" barge loading systems, which are essentially a truck dump with a conveyor to the barge. Installation of a D/T mechanical sampler on such loading systems would be difficult and costly or, in some cases, impossible.

The comments received on this regulation when it was proposed stressed the cost of installing and tending the D/T mechanical sampler, the possibility of mechanical breakdowns, the problems with scheduling barges and official inspection personnel, and general satisfaction with other approved sampling methods as reasons for opposing the requirement. The issue of potential incompatibility of the regulation with industry trading rules and practices did not surface at that time.

Questions have also been raised regarding the extent to which the requirement to use D/T mechanical sampler on export shipments in railcars and trucks will provide the flexibility needed in the grain marketing system. Because the volume of grain exported to Canada and Mexico in railcars and trucks has increased substantially in recent years, the requirement to use the D/T mechanical sampler for these kinds of movements may affect the ability of some companies to merchandise grain. Many companies shipping railcars and trucks to Canada and Mexico are small entities, shipping a relatively low volume of grain. The volume each such entity exports is often small compared to the volume shipped in domestic movements. The D/T mechanical sampler is not required for domestic railcar and truck movements, and these companies could be excluded from the export market if required to install D/T mechanical samplers only for this kind of movement. Moreover, each certificate issued for export shipments of grain in railcars and trucks specifies the sampling method used and, under this proposal, would continue to specify the sampling method used.

The requirement to use the D/T mechanical sampler for export cargo shipments of sacked grain should be eliminated if the requirement is eliminated for domestic cargo shipments (barges) of sacked grain, as proposed. While an unqualified inspection certificate would be issued for domestic shipments of sacked grain to an export port location regardless of the method of sampling used, after January 1, 1983, the exporter would be required to unsack the grain, reelevate it, sample it with a D/T mechanical sampler, and resack it to receive an unqualified export inspection certificate. This process would be extremely time consuming and costly. Moreover, current instructions provide that, under certain conditions, official inspection certificates issued for a domestic shipment of sacked grain to an export port location can be exchanged for an unqualified export inspection certificate when the sacks are loaded aboard the export carrier. If the D/T mechancial sampler is required for export cargo shipments of sacked grain but not for domestic shipments of sacked grain, this accepted procedure would, in effect, no longer be available. If this proposal is adopted, this procedure would continue unchanged. Further, under this proposal, unqualified inspection certificates would be issued for export cargo shipments of grain sacked at the export port location, regardless of the method of sampling used.

Under this proposal, export cargo shipments of bulk grain are the only kind of movement that would be required to have official sample-lot inspections based on official samples obtained with a D/T mechanical sampler as a condition for issuing a certificate without a qualifying statement. This requirement has been in effect since May 1, 1976, for bulk cargo shipments of grain exported from the United States and since March 31, 1981, for shipments exported from Canada. It will remain in effect for export cargo shipments of bulk grain because, in view of the large volume of grain in this kind of movement and the speed at which it is loaded, a D/T mechanical sampler can obtain a more uniform and representative sample than can other sampling methods approved by FGIS for sampling grain on line or at rest in the carrier. Moreover, FGIS has no information which would question the propriety of this requirement. If another sampling method is used for an official sample-lot inspection on this kind of movement, the certificate issued will continue to show the following statement: "The lot of grain represented by this certificate was sampled by means of (*type of approved sampling method*). Samples obtained by this method may not be as representative as those obtained by approved diverter-type mechanical samplers."

Although the effect of this proposal is to change the sampling requirement only for (1) domestic cargo shipments (barges) of bulk or sacked grain, (2) export land carrier shipments (railcars and trucks) of bulk or sacked grain, and (3) export cargo shipments of sacked grain, the text of § 800.83 of the regulations would be revised in its entirety by classifying the kinds of movements as bulk export cargo movements, sacked export cargo movements, and other movements, instead of "In," "Out," en route, and "LOCAL" movements, to reflect the revised sampling requirements in a more simplified context. Other appropriate changes have been made in the text so as to accomplish the purpose of this proposal.

Based on the foregoing, the Administrator of FGIS is proposing to revise § 800.18 and § 800.83 to provide that each official sample-lot inspection for grade, factors, or other criteria on (1) domestic cargo shipments (barges) of bulk or sacked grain, (2) export land carrier shipments (railcars and trucks) of bulk or sacked grain, and (3) export cargo shipments of sacked grain be based on official samples obtained from the grain by any sampling method approved by FGIS without the inspection certificate being qualified as to the method of sampling used.

In order to inform grain merchandising companies, elevator operators, and other affected parties of the status of the regulation at the earliest possible date, a 30-day comment period is deemed adequate. All interested persons are encouraged to carefully review this proposal and submit written comments.

Specifically, § 800.18 would be amended by revising subdivision (1) of paragraph (a). Section 800.83 would be amended in its entirety by revising paragraphs (a) through (e) and relettering them as (a) and (b). In addition, § 800.161 would be amended by changing the reference to "§ 800.83(e)" in paragraph (b)(11) to "§ 800.83(a)."

List of Subjects in 7 CFR Part 800

Administrative practices and procedures, Export, and Grain.

PART 800—GENERAL REGULATIONS

Accordingly, it is proposed that § 800.18, § 800.83, and § 800.161 (7 CFR 800.18, 800.83, and § 800.161) of the regulations under the Act be amended as follows:

1. Section 800.18(a)(1) is revised to read:

§ 800.18 Special inspection and weighing requirements for sacked export grain.

(a) *General.* Subject to the provisions of § 800.19, sacked export grain shall be (1) officially inspected based on official samples obtained from the grain by any sampling method approved by the Service and operated in accordance with the instructions, (2) * * *

2. Section 800.83 (a) and (b) are revised to read:

§ 800.83 Sampling provisions by kind of movement.

(a) *Export cargo movements.*—(1) *Bulk grain.* Except as may be approved by the Administrator on a shipment-by-shipment basis in an emergency, each lot inspection for official grade, official factor, or official criteria on an export cargo shipment of bulk grain shall be based on official samples obtained from the grain (i) as the grain is being loaded aboard the final carrier; (ii) after the final elevation of the grain prior to loading and as near to the final loading spout as is physically practicable (except as approved by the Administrator when representive samples can be obtained before the grain reaches the final loading spout); and (iii) by means of a diverter-type mechanical sampler approved by the Service and operated in accordance with instructions. If an approved diverter-type mechanical sampler is not properly installed at an elevator or facility as required, each certificate issued at that elevator or facility for an export cargo shipment of bulk grain shall show the following statement: "The lot of grain represented by this certificate was sampled by means of *(type of approved sampling method).* Samples obtained by this method may not be as representative as those obtained by approved diverter-type mechanical samplers."

(2) *Sacked grain.* Each lot inspection for offical grade, official factor, or official criteria on an export cargo shipment of sacked grain shall be based on official samples obtained from the grain by any sampling method approved by the Service and operated in accordance with the instructions.

(b) *Other movements.* Each lot inspection for offical grade, offical factor, or official criteria on a domestic cargo movement ("In," "Out," or en route barge movement), a movement in a land carrier (any movement in a railcar, truck, trailer, truck/trailer combination, or container), or a "LOCAL" movement of bulk or sacked grain shall be based on official samples obtained from the grain by any sampling method approved by the Service and operated in accordance with the instructions.

* * * * *

§ 800.161 [Amended]

3. Section 800.161 is amended by changing the reference to "§ 800.83(e)" in paragraph 800.161(b)(11) to "§ 800.83(a)."

(Sec. 18, Pub. L. 94-582, 90 Stat. 2884 (7 U.S.C. 87e))

Dated: September 10, 1982.

Kenneth A. Gilles,

Administrator.

[FR Doc. 82-26620 Filed 9-27-82; 8:45 am]

BILLING CODE 3410-EN-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC-12679, File No. S7-944]

Exemption From All Provisions of the Investment Company Act of 1940 for Certain Finance Subsidiaries of United States and Foreign Private Issuers.

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission today is proposing for public comment a comprehensive revision of rule 6c–1 under the Investment Company Act of 1940 that would exempt certain finance subsidiaries of United States and foreign private issuers from all provisions of that Act, subject to certain conditions. The proposed rule would obviate the necessity for such companies to apply for, and the Commission to issue, individual orders of exemption.

DATE: Comments must be received by November 5, 1982.

ADDRESS: Interested persons wishing to submit their views and comments on the proposed rule should file four copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifgh Street NW., Washington, D.C., 20549. All submissions should refer to File No. S7-944 and will be made available for public inspection at the Commission's Public Reference Section, Room 1024, 450 Fifth Street NW., Washington, D.C., 20549.

FOR FURTHER INFORMATION CONTACT: Bruce Mendelsohn, Esq., (202) 272-2048, or Lewis B. Reich, Esq., (202) 272-3017, Investment Company Act Study, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is publishing for public comment a proposed comprehensive revision of rule 6c–1 [17 CFR 270.6c–1] under the Investment Company Act of 1940 (the "Act") [15 U.S.C. 80a–1 *et seq.*]. The proposed revision would exempt from all provisions of the Act, subject to certain conditions, various finance subsidiaries of United States and foreign private issuers.

I. Background

For a variety of tax and other regulatory reasons, corporations in certain circumstances may, rather than issue their own debt securities directly, prefer to borrow funds by guaranteeing debt issued by wholly-owned subsidiaries formed primarily for that purpose.[1]

[1] Among other things, a U.S. corporation planning a Eurobond financing usually will want to make sure that interest payments to holders of the securities are not subject to U.S. withholding tax. While the Commission expresses no opinion as to the tax consequences of any particular arrangement, it appears that U.S. corporations have created domestic finance subsidiaries so that interest payments on their debt obligations purchased by nonresidents may be exempt from U.S. withholding tax. In this regard, section 861 of the Internal Revenue Code provides that U.S. sources are exempt from U.S. withholding on interest paid to non-residents. Thus, a domestic finance subsidiary is a common technique for U.S. corporations wishing to raise capital in the Euromarket for investment in foreign subsidiaries or affiliates.

If a substantial part of the proceeds of a Eurobond financing is to be invested in a U.S. corporation's domestic operations, the finance subsidiary is unlikely to meet the requirements of section 861. In this situation the preferred technique appears to be a foreign finance subsidiary that can relend the proceeds to the U.S. parent or affiliates. Such foreign subsidiaries have been established in countries having tax treaties with the U.S. which provide, among other things, that interest paid on the subsidiaries' debt is exempt from U.S. tax unless the recipient is a U.S. person. *See* Newburg, "Financing in the Euromarket by U.S. Companies: A Survey of the Legal and Regulatory Framework," 33 *The Business Lawyer* 2171 at 2189–2191 and 2194 (July 1978); *See also,* von Clem, "United States Companies Raising Capital Abroad," 3 *Journal of Comparative Corporate Law and Securities Regulation* 320–329 (1981).

In addition, as discussed in greater detail below, a foreign issuer offering debt securities in the U.S. may use a U.S. finance subsidiary so that the

Such finance subsidiaries would, in most cases, be deemed investment companies under section 3(a)(3) of the Act [15 U.S.C. 80a–3(a)(3)], which defines the term to include "any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets . . . on an unconsolidated basis." [2] When the proceeds of its issue of debt are invested in or loaned to the parent or one of the parent's subsidiaries, the finance subsidiary would receive acknowledgements of the investment or evidence of indebtedness that would be considered investment securities under the Act. If these amounted to more than 40% of its total assets, the subsidiary would be required either to register as an investment company [3] or apply for an order of the Commission pursuant to section 6(c) of the Act [15 U.S.C. 80a–6(c)] exempting it from all provisions of the Act.[4]

The Commission, as discussed below, has on several occasions considered the status of such companies under the Act. In March 1966, the Commission adopted rule 6c–1 under the Act [17 CFR 270.6c–1], which exempted from all provisions of the Act, in specified circumstances, U.S. securities organized to finance the foreign operations of U.S. companies by selling the subsidiaries' debt securities to foreign nationals.[5] Such finance subsidiaries had been designed and created to comply with a voluntary cooperation program instituted by the President in February 1965. Their role in that program was to raise capital for the foreign operations of U.S. companies in a manner that would not adversely affect the balance of payments position of the United States.[6] They accomplished this by raising funds in foreign capital markets to finance the foreign operations of their U.S. parents, enabling the parents to refrain from exporting U.S. capital.

As discussed above, the finance subsidiaries fell within the definition of "investment company" in section 3(a) of the Act. However, since, in general, they were investing in and loaning funds only to their parents and affiliates of their parents,[7] it was determined that they were not engaging in the kind of business the Act was intended to regulate. The subsidiaries served merely as conduits for financing the parents' foreign operations. Their debt was fully guaranteed by their parents, and purchasers of the subsidiaries' debt looked to the parents for their assurance of repayment. Thus, upon application to the Commission, such finance subsidiaries routinely had been granted orders pursuant to section 6(c) of the Act exempting them, subject to certain conditions, from all provisions of the Act. The rationale for the exemptions was that as a consequence of the parent company's guarantee and the limited activities of the finance subsidiary, the debt securities of the finance subsidiary were in effect debt of its parent company, and there would have been no issue under the Act had the parent issued its own debt directly.

In March 1968, after processing the applications of 39 such finance subsidiaries [8] and reviewing the reports they had been required to make under their individual orders of exemption, the Commission decided that it was appropriate to codify existing policies and no longer necessary to follow the application procedure. Accordingly, the Commission promulgated rule 6c–1 which included a number of conditions designed to limit narrowly the exemption it granted to the special purpose subsidiaries organized under the President's voluntary cooperation program.

One of those conditions, embodied in paragraph (c)(1) of the rule, requires that, at the time of their issuance, securities of the finance subsidiaries be subject to the Interest Equalization Tax ("I.E.T."). [9] The rule further states in paragraph (c)(2) that upon expiration of the I.E.T., covered finance subsidiaries may issue securities only upon order of the Commission. Since the I.E.T. expired in 1974, finance subsidiaries covered by the rule have been unable to issue securities relying on the rule alone.[10]

II. Discussion

The proposed amendment would

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securities issued would qualify as legal investments under state laws regulating insurance companies and other institutions.

[2] Section 3(a)(3) defines "investment securities" to include all securities except (A) Government securities, (B) securities issued by employees' securities companies, and (C) securities issued by majority-owned subsidiaries of the owner which are not investment companies.

Section 2(a)(36) of the Act defines "security" to include any . . . bond, debenture, evidence of indebtedness, . . . or any . . . receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing. [15 U.S.C. 80a–2(a)(36)].

[3] A domestic finance subsidiary which would be deemed to be an investment company under section 3(a)(3) of the Act is required by section 7(a) [15 U.S.C. 80a–7(a)] to register with the Commission if it proposes, *inter alia*, to "offer for sale, sell, or deliver after sale, by the use of the mails or any means or instrumentality of interstate commerce, any security or any interest in a security". A foreign finance subsidiary which would be deemed to be an investment company under section 3(a)(3) is required by section 7(d) [15 U.S.C. 80a–7(d)] to apply to the Commission for an order permitting the company to register under the Act if it proposes to "make use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, to offer for sale, sell, or deliver after sale, in connection with a public offering, any security of which such company is the issuer."

[4] Section 6(c) of the Act provides that the Commission may, by rules and regulations upon its own motion, or by order upon application, conditionally or unconditionally exempt any person or any class of persons from any provision or provisions of the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act.

[5] *See* Investment Company Act Release Nos. 5186 (December 7, 1967) [32 FR 1788] and 5330 (March 25, 1968) [33 FR 5295].

[6] Rule 6c–1 has its origins in the April 1964, report of the Presidential Task Force on Promoting Increased Foreign Financing for United States Corporate Securities and Increased Foreign Financing for United States Corporations Operating Abroad (the "Fowler Report"). Among other recommendations, the Fowler Report suggested the establishment of programs designed to maximize the use of foreign sources of finance in order to increase the overall positive contribution which U.S.-based international corporations could make to the U.S. balance of payments. It also made specific recommendations for action by the private sector.

[7] A finance subsidiary under rule 6c–1 was required pursuant to paragraph (b)(7) of that rule to invest 90% of its assets in companies that were at least 10% owned by the finance subsidiary's parent. Its remaining assets could only be invested in or loaned to customers and supplies of the parent or of the parent's subsidiaries or affiliates. This provision was intended to ensure that investments in a finance subsidiary were, in fact, being employed predominantly in operations related to the parent company's operations and not in a portfolio of securities issued by companies which the parent did not influence.

[8] *See, e.g.*, W. R. Grace Overseas Development Corporation, Investment Company Act Release Nos. 4397 (November 3, 1965) and 4406 (November 16, 1965) and Atlantic Richfield International Finance Corporation, Investment Company Act Release Nos. 4920 (April 3, 1967) and 4941 (April 28, 1967).

[9] Internal Revenue Code of 1954, ch. 41, sections 4911–4931 Pub. L. 88–563, September 2, 1964. In this context the I.E.T. deterred the purchase of the finance subsidiaries' debt by U.S. nationals or residents by subjecting the interest they received to an excise tax. The I.E.T. was introduced in 1963 in response to concern about increasing outflow of capital from the United States, and was generally designed to make foreign investment unattractive to U.S. investors.

Controls on U.S. investment abroad were removed with the dismantling of the balance of payments program in 1974. Coles, M.H. "Foreign Companies Raising Capital in the United States," 3 *Journal of Corporative Corporate Law and Securities Regulation* 300 (1981) at 300–301, and Newburg, *supra* note 1, at 2184f.

[10] *See, e.g.*, orders of exemption from the provisions of paragraph (c)(2) of the rule granted to General Electric Overseas Capital Corporation, Investment Company Act Release Nos. 8624 (December 27, 1974) and 8649 (January 22, 1975), and Ford International Capital Corporation, Investment Company Act Release Nos. 9943 (September 23, 1977) and 9981 (October 17, 1977).

expand the exemption afforded by rule 6c–1 to cover (in addition to U.S. finance subsidiaries of U.S. corporations selling securities outside the United States) U.S. finance subsidiaries of U.S. corporations selling securities in this country, foreign finance subsidiaries of U.S. corporations, and U.S. finance subsidiaries of foreign corporations, and would also update and revise the rule in certain significant respects.[11]

A. Expansion of the Scope of the Rule

Like the finance subsidiaries exempted by existing rule 6c–1, the types of finance subsidiaries which would be covered by the proposed rule have as their primary purpose the financing of their parent companies' operations. Because of the particular nature of these types of finance subsidiaries, the Commission believes that to require them to file individual applications for exemption would impose an unnecessary burden on the private sector and on the Commission. Based on such considerations and the experience it has had with these types of finance subsidiaries, the Commission is proposing that rule 6c–1 be amended to provide uniform exemptive treatment under the Act for these companies.

1. *Exemption for domestic and foreign finance subsidiaries of U.S. corporations:* Rule 6c–1 as originally adopted exempted only special purpose domestic finance subsidiaries of U.S. companies. The proposed revision would extend the exemption to include both domestic and foreign finance subsidiaries of U.S. corporations since, if operating in compliance with the conditions imposed by the proposed rule, they would not be engaging in the type of investment company business the Act was intended to regulate. Since the adoption of rule 6c–1 the Commission has processed a number of applications for exemption from all provisions of the Act filed by both domestic [12] and foreign [13] finance subsidiaries of U.S. companies that were not of the special purpose type covered by the existing rule.

2. *Exemption for U.S. finance subsidiaries of foreign corporations:* On November 20, 1981, the Commission proposed a new integrated disclosure system for foreign private issuers under the Securities Act of 1933 (the "Securities Act") [15 U.S.C. 77a *et seq.*] and the Securities Exchange Act of 1934 [15 U.S. 78a *et seq.*.] (the "Exchange Act").[14] This system, if adopted, would for the first time make certain foreign issuers eligible to use simplified short-form registration. The Commission believes that these proposals would reduce the burden and expense of public offerings in this country by qualified foreign issuers.

In connection with the foreign integration proposals, public commentators have indicated that in many cases foreign companies would choose to guarantee debt issued by wholly-owned U.S. subsidiaries rather than directly issue their own debt securities in the U.S. finance market. Purchasers of subsidiary's debt would rely on the credit of the parent company as guarantor. It is represented that this arrangement is occasioned by state laws in the United States restricting investments in debt securities of foreign issuers by institutions such as insurance companies. Under such state "legal investment" laws, debt securities of a foreign issuer may not be permissible investments,or the amount regulated institutions can invest in them may be limited.[15] Because participation by such regulated institutions might be important to the success of an offering, it is represented that the debt would be issued by the U.S. subsidiary so that the institutional participation would not be restricted.[16]

The Commission has processed a number of applications for exemption from the Act filed by such finance subsidiaries of foreign private issuers.[17] Commentators, however, have suggested that the necessity of a U.S. subsidiary obtaining an exemptive order by application and the attendant delay in its effecting a public offering of guaranteed debt would substantially

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[11] The proposed amendment would be adopted pursuant to the authority granted to the Commission in sections 6(c) and 38(a) of the Act. Section 6(c) provides that the Commission may, by rules and regulations upon its own motion, or by order upon application, conditionally or unconditionally exempt any person or any class of persons from any provision or provisions of the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act. Section 38(a) confers upon the Commission general rulemaking authority under the Act. The Commission is proposing this rule for public comment now so that it can be considered with minimum delay should the foreign integrated disclosure system be adopted in the near future.

[12] *See, e.g.*, Cortez Capital Corporation, Investment Company Act Release Nos. 12502 (June 23, 1982) and 12559 (July 20, 1982); Prudential Funding Corporation, Investment Company Act Release Nos. 12336 (March 29, 1982) and 12366 (April 27, 1982); Pembroke Capital Corporation, Investment Company Act Release Nos. 10485 (November 17, 1978) and 10522 (December 13, 1978); Mobil Alaska Pipeline Co., Investment Company Act Release Nos. 8657 (January 30, 1975) and 8678 (February 19, 1975). *See also* pending application of Amax International Finance Corporation, File No. 812–5203. Some of these finance subsidiaries were formed to fund specific projects (Cortez, Pembroke, Mobil Alaska) while others were organized to finance a variety of operations of their parents (Amax, Prudential).

[13] *See* Exxon Finance N.V., Investment Company Act Release Nos. 12485 (June 11, 1982) and 12547 (July 14, 1982).

[14] Securities Act Release No. 33–6360 (November 20, 1981) [46 FR 56511].

[15] For example, the New York Insurance Law, which applies to any insurance company authorized to do business in New York, provides that an insurance company may not purchase debt securities of foreign issuers in an aggregate amount that exceeds 1% of its "admitted assets" (New York Insurance Law § 81 (McKinney) 8(b)). In some circumstances, commentators state, the issuer must be organized under the laws of one of the United States, and also must have an earnings history over the previous three to five years in order to qualify as a legal investment.

[16] The Commission is offering no opinion on whether debt securities of such finance subsidiaries would meet any state law requirements regarding permissible investments by regulated institutions.

[17] *See, e.g.*, DSAG Corporation, Investment Company Act Release Nos. 10204 (April 13, 1978) and 10243 (May 17, 1978) (Canadian parent); Baychem Funding Corporation, Investment Company Act Release Nos. 7675 (February 16, 1973) and 7728 (March 19, 1973) (West German parent); BP North American Finance Corporation, Investment Company Act Release Nos. 4332 (August 20, 1965) and 4350 (September 9, 1965) (British parent).

Besides the finance subsidiaries discussed above, the Commission and its staff have considered the status under the Act of another class of wholly-owned subsidiaries of foreign corporations issuing securities guaranteed by their parents. The Commission has granted a number of applications for orders of exemption filed by foreign banks and their U.S. finance subsidiaries that wished to sell commerical paper and other securities in the United States. Banks, as defined in section 2(a)(5) [15 U.S.C. 80a–2(a)(5)] of the Act, are excluded pursuant to section 3(c)(3) [15 U.S.C. 80a–3(c)(3)] of the Act, from the definition of investment company. However, foreign banks do not fall within the section 2(a)(5) definition of a bank, which includes only United States banks. Therefore, because notes that evidence the loans made by the foreign banks (and which constitute the major portion of the banks' assets) would be deemed securities within the meaning of section 2(a)(36) of the Act, foreign banks would be deemed investment companies under sections 3(a)(1) [15 U.S.C. 80a–3(a)(1)] and 3(a)(3) of the Act. Some of these banks proposed to enter U.S. capital markets directly, but others proposed to guarantee securities that they would sell through wholly-owned subsidiaries organized in the United States. Because substantially all of the assets of the banks' finance subsidiaries would be evidence of amounts receivable from the parent bank, the subsidiaries, like their parent banks, would be deemed investment companies under section 3(a)(1) and 3(a)(3) of the Act. These bank subsidiaries have been granted orders of exemption for many of the reasons applicable to the subsidiaries discussed in the text. In essence, the bank subsidiaries merely serve as conduits for the indirect issue of debt by the parent banks. *See, e.g.*, Barclays Bank Limied, Investment Company Act Release No. 11052 (February 15, 1980) and Barclays North American Finance, Inc., Investment Company Act Release No. 11054 (February 27, 1981).

Finance subsidiaries of foreign banks would not be covered by the proposed revision of rule 6c–1. The foreign bank parents, as discussed previously, are deemed investment companies under the Act. Paragraph (a)(1) of the rule would exclude from the rule's coverage finance subsidiaries of investment parents.

reduce the benefits that could otherwise be realized from the proposed integrated disclosure system.[18] In periods of volatile interest and exchange rates, the processing time required might cause a prospective issuer to miss a favorable opportunity for an offering.

3. *Rationale for the Exemptions:* The Commission has granted orders of exemption upon application to the types of finance subsidiaries described above because the Commission believes such types were not intended to be regulated under the Act. The finance subsidiaries that the Commission proposes to exempt by the revision of rule 6c–1 are the same types of companies. All of their equity securities would be owned by non-investment company parents. Neither their structure nor their mode of operation resembles that of a typical investment company. Under the rule, they would not be able to engage in a general program of investment but would serve primarily as conduits for their parents to raise capital. The only securities a subsidiary would publicly offer would be debt guaranteed by the parent.[19] Since the debt would be sold on the basis of the parent's credit, purchasers of the debt would look to the parent for their assurance of repayment despite the interposition of the subsidiary. Absent unusual circumstances, if the parent were to issue the debt directly, no question would arise under the Act.

B. Other Revisions of the Rule

In addition to expanding the scope of the rule as described above, the proposed revision would clarify the definition of finance subsidiary, eliminate a number of restrictions on the activities of covered finance subsidiaries that are included in the present rule because of its narrow exemptive purpose, and require that the parent's guarantee allow the holders of a finance subsidiary's debt securities to proceed directly against the parent in the event of default.

1. *Clarifying the definition of "finance subsidiary":* Paragraph (a)(1) of the proposed revised rule would continue to define a finance subsidiary to be a corporation the outstanding voting securities of which (other than directors' qualifying shares) are owned by a non-investment company parent or subsidiary of a non-investment company parent. However, since the status of the parent under section 3(a)(3) of the Act depends upon the value of the "investment securities" held by the parent and securities issued by majority-owned subsidiaries may be excluded as "investment securities" only if those subsidiaries are not investment companies,[20] the situation could arise where a finance subsidiary could not rely on the rule simply because the value of that finance subsidiary's securities in the parent portfolio caused the parent to be considered an investment company under section 3(a)(3). To avoid that result, the proposed revision would add a clause stating that, for the purpose of the rule, securities of a finance subsidiary held by its parent or another subsidiary of its parent shall not be considered investment securities.

2. *Updating the rule:* The Commission proposes to delete as unnecessary paragraph (c) of the rule 6c–1, which provides that covered finance subsidiaries may issue securities after the expiration of the Interest Equalization Tax only upon order of the Commission.[21]

3. *Sales of debt securities in the United States:* The finance subsidiaries exempted by rule 6c–1 were special purpose funding vehicles designed to assist a national program to improve the United States balance of payments position. In keeping with that special purpose, finance subsidiaries covered by rule 6c–1 were not permitted to sell their debt securities to nationals or residents of the United States or its territories or possessions [17 CFR 270.6c–1(b)(4)]. Since that program is no longer in effect, the proposed amendment would eliminate paragraph (b)(4) of the rule, which expressed that restriction, and thus allow sales of debt securities by covered finance subsidiaries in the United States.[22]

The Commission is proposing to remove this limitation because allowing sales of debt securities in this country would not change the nature of the operations of the covered subsidiaries as financing conduits.

4. *Removing investment restrictions:* The proposed revision would also delete paragraphs (b)(6) and (b)(7) of the existing rule. Paragraph (b)(6) required the special purpose finance subsidiaries to invest at least 80 per cent of their assets, excluding U.S. government securities and cash items, in foreign companies. Paragarph (b)(7) required at least 90 per cent of the assets of the finance subsidiary to be invested in or loaned to companies in which the parent held, directly or indirectly, at least a 10 per cent equity interest, and the remainder of the assets invested in or loaned to suppliers or customers of the parent or its subsidiaries. Paragraph (b)(6) related to the special purpose design of the exemption. Paragraph (b)(7) was intended to restrict narrowly the investment of the finance subsidiaries to the foreign investment objectives of the parent companies that created them.

Paragraphs (b)(6) and (b)(7) by their terms were concerned only with the special purpose finance subsidiaries covered by rule 6c–1. The proposed revision includes requirements that apply more broadly. It requires that the primary purpose of a covered finance subsidiary be the financing of the business operations of the parent company, and prohibits covered finance subsidiaries from dealing or trading in securities, and from holding securities other than those resulting from its primary purpose. Those conditions should be sufficient to ensure that the exemption does not provide a vehicle through which some other type of investment company warranting regulation might evade the Act.

Commentators have represented that a U.S. finance subsidiary of a foreign private issuer may find it necessary to have other, non-financing, operations in order to allow it to meet earnings tests under state legal investment laws. Given the primary purpose test of the proposed rule, as well as other requirements which, among other things, would prohibit the subsidiary from dealing or trading in securities, the Commission

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[18] Notice of an application for exemption from the Act must be published in the Federal Register, and a notice period must expire before the Commission can act on an application.

[19] Any registration statement filed under the Securities Act would contain the same disclosure, including financial statements, regarding the parent/guarantor as would be required for a direct offering of securities by that parent. The parent's guarantee would itself be considered a separate security under section 2(1) of the Securities Act [15 U.S.C. 77(b)(1)] and, therefore, would also require registration.

[20] *See* note 2 *supra*.

[21] The proposed revision also deletes as no longer necessary the time limitation in paragraph (b)(5) of the existing rule, which provides that securities issued by a covered finance subsidiary shall not be convertible or exchangeable for securities of the parent any sooner than six months from the date of issue except where a shorter period of time has been approved by the Secretary of the Treasury or his delegate.

[22] The Commission's staff has taken the position that it would not recommend any action for failure to register under the Securities Act of 1933 securities of U.S. issuers distributed abroad to foreign nationals if the offering was made "under circumstances reasonably designed to preclude distribution of the securities within, or to nationals of, the United States" and was effected "in a manner which will result in the securities coming to rest abroad." (Securities Act Release No. 4708 (July 9, 1964)). This position covered the securities issued by the special purpose finance subsidiaries under rule 6c–1. If securities are offered in the United States, registration under the Securities Act will be required unless some other exemption from registration is available.

does not believe that some degree of non-financing activities should render the proposed exemption unavailable in such circumstances.

5. *Guarantee:* The proposed revision also requires that the parent company's guarantee provide that in the event of a default with respect to a security issued by the finance subsidiary, creditors of the finance subsidiary may proceed directly against the parent company to enforce the guarantee of that security without first proceeding against the finance subsidiary. The rationale underlying the exemption for finance subsidiaries is that the parent company's guarantee and other circumstances make the finance subsidiary's debt effectively the debt of the parent company. In that case, investors in the finance subsidiary's debt, who have relied on the credit of the parent company, ought to be able to proceed directly, if the need arises, against the party on whose credit the securities were marketed, without the intermediate step of proceeding against the finance subsidiary.[23]

6. *Registration of parent:* Paragraph (b)(1) of the existing rule limits the availability of the exemption to subsidiaries of parent companies that are issuers of a class of securities registered under section 12 of the Exchange Act [15 U.S.C. 781], or exempted from such registration pursuant to rule 12g3–2(b) under that Act [15 CFR 240.12g3–2(b)], thereby limiting the availability of the rule to subsidiaries of parent companies which have some form of continuing disclosure obligation under the Exchange Act.[24] The proposed rule revision would delete that condition on the rationale that the issuance of debt securities by a finance subsidiary should be treated as though the debt securities were issued directly by the parent. If the parent would not incur a reporting obligation under the Exchange Act if it issued the debt securities directly, it seems inappropriate to impose such a reporting obligation if the parent chooses to issue debt securities indirectly through a finance subsidiary.

III. Request for Specific Comments

Specific comments are invited on whether the rule should limit the proposed exemption for finance subsidiaries of foreign private issuers to finance subsidiaries of "world class issuers," those that would be eligible to use proposed Form F–3 (as proposed, these would be foreign private issuers that have an equity float of at least $500 million, of which at least $150 million is held by U.S. residents, or that are registering investment grade debt securities).[25] In view of the importance of the parent's guarantee and the fact that the subsidiary would be little more than a conduit for financing, it may be appropriate to restrict the exemption to subsidiaries of foreign companies of a certain size or creditworthiness.

As proposed, the rule would require that a parent company directly and unconditionally guarantee as to principal, interest, and premium the debt securities issued by its finance subsidiary. The proposed revision retains this requirement as it appears in the existing rule. The rationale for the exemption of finance subsidiaries is that they are merely conduits, and their debt is in effect the debt of their parents. In order to provide a self-executing exemption through a rule, the Commission must be assured that the debt of the subsidiary is essentially debt of the parent company. The Commission is, however, aware that there may be other methods of structuring a corporate parent's assurance of the repayment of its finance subsidiary's debt.[26] In our experience, alternative types of guarantees that would not satisfy the requirements of the proposed revision have been utilized in every situation where a finance subsidiary has had more than one parent, and only occasionally elsewhere. The proposed revision therefore, like the existing rule, contemplates the exemption only of finance subsidiaries of a single parent.[27] However, the Commission is willing to consider accommodating multiple-parent finance subsidiaries and alternative guarantee structures that would be consistent with the rationale underlying the exemption. Specific comment is invited on whether and how the proposed rule's guarantee and other provisions might be revised so as to allow alternative methods of guarantee while still assuring that the finance subsidiary's debt would essentially be that of the parent.

Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding the amendments to rule 6c–1 proposed herein. The Analysis notes that the proposed amendments to the exemptive rule will obviate the need for finance subsidiaries to file individual applications for exemption and will make available a more flexible form of financing for the parent companies. The proposed amendments are designed to make the exemptive relief afforded by the rule available to several types of finance subsidiaries.

A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Lewis B. Reich, Esq., Investment Company Act Study, Securities and Exchange Commission, Room 5086, 450 Fifth Street NW., Washington, D.C. 20549.

List of Subjects in Part 270

Investment companies, Reporting requirements, Securities.

Text of Proposal

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

It is proposed to amend Part 270 of Chapter II of Title 17 of the Code of Federal Regulations by revising § 270.6c–1 as follows:

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[23] *See, e.g.*, application of Exxon Finance N.V., as amended (File No. 812–5186), at 5–6.

[24] Companies that are issuers of securities registered under section 12 are subject to the reporting requirements of section 13 and 14 of the Exchange Act and the rules and regulations thereunder; foreign companies that are issuers of securities exempted from registration under rule 12g3–2(b) are subject to the continuing disclosure requirements of paragraph (b)(1) of that rule.

[25] Securities Act Release No. 33–6360, text at footnote 37.

[26] Some of the finance subsidiaries cited in note 12 *supra*, were owned either by two parents (Pembroke Capital) or by a partnership of two or more wholly-owned operating subsidiaries of the parents (Cortex Capital). In such situations, the parents' guarantee of the finance subsidiary's debt securities has often been accomplished indirectly. For example, wholly-owned subsidiaries of different integrated petrochemical producers have formed a joint venture partnership to build a pipeline, and, in turn, the partnership has organized a finance subsidiary. The debt securities held by the finance subsidiary are the debt securities of the joint venture partnership. The wholly-owned subsidiaries guarantee their respective shares of the partnership debt by means of "throughput" and "deficiency" agreements providing (1) that they will provide the completed pipeline with a volume of business sufficient to ensure profitable operation that will enable it to repay its obligation to the finance subsidiary and (2) that in the event the partnership is unable to meet its obligations to the finance subsidiary, each operating subsidiary will be obliged to advance in cash to the partnership its percentage share of the deficiency as an advance payment of future charges for use of the pipeline. The rights and obligations of the partnership would then be pledged to secure the finance subsidiary's debt securities, and held by a trustee for purchasers of those securities. *See also* Sohio/BP note 12 *supra*. Such arrangements would not fall within the exemption provided by the proposed revision of the rule. Nor would an undertaking by the parent that it would cause the finance subsidiary to have, at all times, a consolidated net worth of at least $1.00 (*see* Prudential Funding, *supra* note 12) satisfy the rule's requirement of a guarantee by the parent.

[27] The proposed revision retains in paragraph (a)(1) the language defining a finance subsidiary as a corporation all of whose equity securities are owned by a single parent, or a subsidiary of such a parent.

§ 270.6c–1 Exemption for subsidiaries organized to finance the operations of domestic or foreign companies.

(a) For the purpose of this rule, a "finance subsidiary" shall mean any corporation:

(1) All of whose securities other than debt securities, non-voting preferred stock meeting the requirements of paragraph (b)(2) of this section, or directors' qualifying shares, are owned either by a foreign private issuer (in which case the finance subsidiary must be organized under the laws of the United States or of a State), or by a corporation organized under the laws of the United States or of a State (the "parent company"), or by another subsidiary of such a parent company, provided that neither the parent company nor such other subsidiary is an investment company as defined in section 3(a) of the Act; and

(2) The primary purpose of which is to finance the business operations of the parent company through borrowings or other sale of the finance subsidiary's securities.

(b) A finance subsidiary shall be exempt from all provisions of the Act, *provided that:*

(1) Any debt securities of the finance subsidiary issued to or held by the public are unconditionally guaranteed by the parent company as to payment of principal, interest and premium, if any (except that the securities issued by the finance subsidiary may be subordinated in right or payment to other debt of the parent company);

(2) Any preferred stock of the finance subsidiary issued to or held by the public is unconditionally guaranteed by the parent company as to payment of dividends, payment of the liquidation preference in the event of liquidation, and payments to be made under a sinking fund, if a sinking fund is provided;

(3) The parent company's guarantee provides that in the event of a default with respect to a security issued by the finance subsidiary, legal proceedings may be instituted directly against the parent company to enforce the guarantee of that security without first proceeding against the finance subsidiary;

(4) Any securities of the finance subsidiary which are convertible or exchangeable shall be convertible or exchangeable only for securities of the parent company; and

(5) The finance subsidiary does not deal or trade in securities or hold securities other than securities resulting from its primary purpose.

(c) For the purpose of this rule, securities of a finance subsidiary held by its parent or another subsidiary of its parent shall not be considered investment securities.

(Rule 6c–1 is proposed pursuant to sections 6(c) [15 U.S.C. 80a–6(c)] and 38(a) [15 U.S.C. 80a–37(a)] of the Act]

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–26831 Filed 9–27–82; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM79–76–139 (New Mexico–18)]

18 CFR Part 271

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of New Mexico that the Basin-Dakota Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on November 8, 1982.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on October 7, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

Issued: September 22, 1982.

I. Background

On August 26, 1982, the State of New Mexico Energy and Minerals Department, Oil Conservation Division (New Mexico) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Basin-Dakota Formation located in San Juan County, New Mexico, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether New Mexico's recommendation that the Basin-Dakota Formation be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service (formerly the U.S. Geological Survey) concurs with New Mexico's recommendation. New Mexico's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The Basin-Dakota Formation is defined as that interval including the Graneros, Dakota, and Morrison Formations found below a depth of 7,251 feet as indicated on the Induction-Electrical and Gamma Ray log from the El Paso Natural Gas Gartner No. 9 well. The average depth to the top of the Basin-Dakota is 7,575 feet. The gross thickness of the formation varies from 250 to 300 feet.

New Mexico Order No. R–1670–V, issued on May 22, 1979, authorized infill drilling in the Basin-Dakota Gas Pool. Accordingly, certain portions of the recommended area may be subject to exclusion pursuant to § 271.703(c)(2)(i)(D) of the Commission's regulations.

III. Discussion of Recommendation

New Mexico claims in its submission that evidence gathered through information and testimony presented at a public hearing in Case No. 7608 convened by New Mexico on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

New Mexico further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by New Mexico that the Basin-Dakota Formation, as described in delineated in New Mexico's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., , Washington D.C. 20426, on or before November 8, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-139 (New Mexico-18), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than October 7, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Title 18, Code of Federal Regulations, as set forth below, in the event New Mexico's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d) is revised by adding new subparagraph (139) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(109) through (138) [Reserved]

(139) *Basin-Dakota Formation in New Mexico.* RM79-76-139 (New Mexico-18).

(i) *Delineation of formation.* The Basin-Dakota Formation is located in San Juan County, New Mexico, in Township 32 North, Range 7 West, Sections 7, 8, 9, 16 through 21, and 25 through 36; Township 32 North, Range 8 West, Sections 7 through 36; Township 32 North, Range 9 West, Sections 7 through 36; Township 31 North, Range 8 West, Sections 1 through 31, and 33 through 36; Township 31 North, Range 9 West, Sections 1 through 28, and 29 through 36; Township 30 North, Range 8 West, Sections 1, 2, 6 through 34, and 36; Township 30 North, Range 9 West, Sections 1 through 30, 35 and 36; Township 30 North, Range 10 West, Sections 1 through 18 and 24; Township 29 North, Range 8 West, Sections 1 through 6; Township 29 North, Range 9 West, Sections 1 and 2, NMPM.

(ii) *Depth.* The Basin-Dakota Formation is defined as that interval including the Graneros, Dakota, and Morrison Formations found below a depth of 7,251 feet as indicated on the Induction-Electrical and Gamma Ray log from the El Paso Natural Gas Gartner No. 9 well. The average depth to the top of the Basin-Dakota Formation is 7,575 feet. Gross thickness of the Basin-Dakota Formation ranges from 250 to 300 feet.

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18 CFR Part 271

[Docket No. RM79-76-136 (Utah-5)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendations of the State of Utah that the Dakota Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on November 8, 1982.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on October 7, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

Issued: September 22, 1982.

I. Background

On August 18, 1982, the State of Utah Board of Oil, Gas and Mining (Utah) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Dakota Formation located in Grand and Uintah Counties, Utah, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Utah's recommendation that the Dakota Formation be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service (formerly the U.S. Geological Survey) concurs with Utah's recommendation. Utah's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation underlies certain lands of Grand and Uintah Counties, Utah. The

recommended area contains 1,062,400 acres located in the general area of Townships 11 South through 18 South and Ranges 17 through 26 East, SLM. The Formation is bordered on the east by the Colorado state line and on the west by the Green River.

The vertical limits of the Dakota Formation are defined by the Dakota Silt Formation above and the Morrison Formation below. The average depth to the top of the productive zone is 7,137 feet and the average thickness of the Dakota Formation is approximately 200 feet.

III. Discussion of Recommendation

Utah claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. TGF–104 convened by Utah on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Utah asserts that based on averaging techniques and on cumulative frequency distributions of well production data, 92.5% of wells drilled in the Dakota Formation would not be expected to exceed the maximum allowable production rate set out in the regulations. The Minerals Management Service asserts that based on a review of all the available data submitted by the applicant and information in their own files that the straight arithmetic average of pre-stimulated, stabilized flow rates of wells completed for production in the recommended formation did meet the guidelines. Preliminary Commission staff analysis of the data submitted by Utah indicates that the recommended formation may not satisfy the production guidelines set forth in § 271.703(c)(i)(B) when the straight arithmetic average methodology is used. Comments are specifically requested on the use of averaging methodologies other than the arithmetic average method.

Utah further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Utah that the Dakota Formation, as described and delineated in Utah's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC. 20426, on or before November 8, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–136 (Utah–5), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than October 7, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below, in the event Utah's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICE

Section 271.703(d) is revised by adding new subparagraph (136) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(109) through (135) [Reserved]

(136) *Dakota Formation in Utah.* RM79–136 (Utah–5).

(i) *Delineation of formation.* The Dakota Formation is located in Grand and Uintah Counties, Utah, and is in the general area of Townships 11 South through 18 South and Ranges 17 East through 26 East, SLM. The formation is bordered on the east by the Colorado state line and on the west by the Green River.

(ii) *Depth.* The Dakota Formation's vertical limits are defined by the Dakota Silt Formation above and the Morrison Formation below. The average thickness throughout the proposed area is approximately 200 feet and the average depth to the top of the Dakota Formation is 7,137 feet.

[FR Doc. 82-26548 Filed 9-27-82; 8:45 a.m.]

BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79–76–137 (Utah–6)]

High-Cost Gas Produced from Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This

Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Utah that the Morrison Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on November 8, 1982.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on October 7, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616

Issued September 22, 1982.

I. Background

On August 18, 1982, the State of Utah Board of Oil, Gas and Mining (Utah) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Morrison Formation located in Grand and Uintah Counties, Utah, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Utah's recommendation that the Morrison Formation be designated a tight formation should be adopted. The United States Department of the Interior, Minerals Management Service (formerly the U.S. Geological Survey) concurs with Utah's recommendation. Utah's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation underlines certain lands of Grand and Uintah Counties, Utah. The recommended area contains 1,062,400 acres located in the general areas of Townships 11 South through 18 South and Ranges 17 through 26 East, SLM. The formation is bordered on the east by the Colorado state line and on the West by the Green River.

The vertical limits of the Morrison Formation are defined by the Dakota Formation above and Jurassic Entrada Formation below. The average depth to the top of the productive zone is 7,349 feet. The average thickness of the Morrison Formation is approximately 600 feet.

III. Discussion of Recommendation

Utah claims in its submission that evidence gathered through information and testimony presented at a public hearing in Case No. TGF–104 convened by Utah on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Utah asserts that based on averaging techniques and on cumulative frequency distributions of well production data, 100% of wells drilled in the Morrison Formation would not be expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B). Preliminary Commission staff analysis also indicates that the expected production rate for wells in the recommended formation satisfies the guidelines set out in § 271.703(c)(2)(i)(B) when the arithmetic average methodology is used.

Utah further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Utah that the Morrison Formation, as described and delineated in Utah's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before November 8, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–137 (Utah–6), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than October 7, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below, in the event Utah's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703(d) is revised by adding new subparagraph (137) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(109) through (136) [Reserved]

(137) *Morrison Formation in Utah.* RM79–76–137 (Utah–6).

(i) *Delineation of formation.* The Morrison Formation is located in Grand and Uintah Counties, Utah, and is in the general area of Townships 11 South through 18 South and Ranges 17 East through 26 East, SLM. The formation is bordered on the east by the Colorado state line and on the west by the Green River.

(ii) *Depth.* The Morrison Formation's vertical limits are defined by the Dakota Formation above and the Jurassic Entrada Formation below. The average thickness throughout the proposed area is 600 feet and the average depth to the

top of the Morrison Formation is 7,349 feet.

[FR Doc. 82-26547 Filed 9-27-82; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Regulations No. 4]

Federal Old-Age, Survivors, and Disability Insurance; Withdrawal of Applications of Deceased Claimants

AGENCY: Social Security Administration, HHS.

ACTION: Proposed Rule.

SUMMARY: The Social Security Administration proposes to amend its regulations on withdrawal of applications for benefits. The applications affected are those for old-age benefits that would be reduced because of the worker's age. Currently, even if the worker dies before we take action to pay the first of the reduced old-age benefits for which he or she applied, the widow's or widower's benefits must be reduced because the worker was technically entitled to reduced benefits. The revised regulations would remedy this by permitting the person eligible for widow's or widowers benefits based on the worker's earnings to withdraw the worker's application if the worker died before we certified his or her benefit entitlement to the Treasury Department for payment.

DATES: Your comments will be considered if we receive them no later than November 29, 1982.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3-A-3 Operations Building, 6401 Security Boulevard, Balitmore, Maryland 21235, between 8:00 am and 4:30 pm on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Lawrence V. Dudar, 3-B-4 Operations Building, 6401 Security Boulevard, Balitomre, Maryland 21235 (301) 594-6629.

SUPPLEMENTARY INFORMATION:

Background

Our existing regulations permit one person, under certain conditions, to withdraw another person's application for social security benefits, One existing requirement is that the person whose application is being withdrawn must be alive at the time of withdrawal.

This was a reasonable requirement until Congress amended the law to require reduction of widow's or widower's benefits if the worker was ever entitled to old-age benefits that were reduced because of his or her age (under 65). Since then there have been instances in which the worker died after applying for reduced benefits, and thus the widow's or widower's benefits were subject to reduction, even though the worker died before we certified his or her benefit entitlement to the Treasury Department for payment of any benefits whatsoever. This is because the worker is technically "entitled" to benefits as soon as he or she meets all the requirements for benefits and has filed an application for those benefits.

We do not believe it was the intent of Congress to reduce the widow's or widower's benefits where the worker met the technical requirements for entitlement, including the filing of an application, but then died before we actually certified his or her benefit entitlement to the Treasury Department for payment.

Proposed Change

There is no statutory provision governing withdrawal of an application for benefits. Accordingly, it is left wholly to the discretion of the Secretary of Health and Human Services to establish criteria for a valid withdrawal of an application. Since under the current regulation the existence of a valid application after the death of a worker can harm the survivors, we propose to allow the withdrawal of the application after the worker's death, but only if the worker died before we certified his or her benefit entitlement to the Treasury Department for payment. We would permit the withdrawal by the person eligible for widow's or widower's benefits or by someone else on his or her behalf, with the consent of any other individual who would lose benefits as a result of the withdrawal.

Regulatory Procedures

Executive Order 12291—These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required. We estimate that by the end of the fifth year from the time that this regulation is first implemented, the Federal cost for the payment of the full amount of benefits to survivors affected by the regulation would be approximately $3 million. Any resulting administrative costs would be negligible.

Paperwork Reduction Act—These regulations impose no new reporting/recordkeeping requirements requiring OMB clearance. Our form SSA-521, Request for Withdrawal of Application, has OMB approval under control number 0960-0015.

Regulatory Flexibility Act—We certify that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because they affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

These regulations are issued under the authority of sections 202(j), 205 and 1102 of the Social Security Act, as amended (49 Stat. 623, as amended; 53 Stat. 1362, as amended; 49 Stat. 647, as amended; 42 U.S.C. 402(j), 405, and 1302).

List of subjects in 20 CFR Part 404

Administrative practice and procedure; Death benefits; Disabled; Old-Age, Survivors and Disability Insurance.

Dated: July 21, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: September 8, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

For the reasons stated in the preamble, it is proposed to amend Part 404 of Title 20 of the Code of Federal Regulations as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950-).

In § 404.640, paragraph (c) is redesignated as paragraph (d), and a new paragraph (c) is added, to read as follows:

§ 404.640 Withdrawal of an application.

* * * * *

(c) *Request for withdrawal filed after the claimant's death.* An application may be withdrawn after the claimant's death, regardless of whether we have made a determination on it, if—

(1) The claimant's application was for old-age benefits that would be reduced because of his or her age;

(2) The claimant died before we certified his or her benefit entitlement to the Treasury Department for payment;

(3) A written request for withdrawal is filed at a place described in § 404.614 by or for the person eligible for widow's or widower's benefits based on the claimant's earnings; and

(4) The conditions in paragraphs (b)(2) and (3) of this section are met.

* * * * *

[FR Doc. 82-26651 Filed 9-27-82; 8:45 am]
BILLING CODE 4190-01-M

Food and Drug Administration

21 CFR Part 888

[Docket No. 78N-2830]

Orthopedic Devices; General Provisions and Classification of 77 Devices

Correction

In FR Doc. 82-17576, appearing on page 29052, on Friday, July 2, 1982, make the following corrections:

1. On page 29130, in the third column, in paragraph 448., in the fifth line "12:89-144" should be corrected to read "12:89-114".

2. On page 29131, in the second column, in paragraph 479. in the fifth line "345:357" should be corrected to read "345-357".

3. On page 29132, in the second column, before the line that begins "888.4150" insert "**Subpart E—Orthopedic Surgery Devices**".

4. On page 29134, in the third column, § 888.3220 should read "*Finger joint metal/polymer constrained prosthesis.*"

5. On page 29137, in the second column, § 888.3550(a), in the ninth line from the top "acrew" should read "screw".

6. On page 29138, in the third column, in § 888.3790(b), in the first line "Class II" should be corrected to read "Class III".

BILLING CODE 1505-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2646

Definition of "Building and Construction Industry"

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This advance notice of proposed rulemaking presents for public comment possible options for defining "building and construction industry" and related terms, for the purposes of the special withdrawal rules for that industry contained in the Employee Retirement Income Security Act of 1974, as amended. The definitions for these otherwise undefined terms may be needed to provide guidance to plan sponsors and employers. The effect of this notice is to obtain the views of the public on whether a regulation is needed and on what it might contain.

DATE: Comments must be received on or before November 29, 1982.

ADDRESS: Comments should be addressed to the Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. Written comments will be available for public inspection at the PBGC, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), 2020 K Street, NW., Washington, D.C. 20006; (202) 254-4862. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

Introduction

Under section 4203(a) of Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act, (ERISA), a complete withdrawal from a multiemployer pension plan is generally defined as the permanent cessation of an employer's obligation to contribute under the plan, or the permanent cessation of all covered operations under the plan. Under section 4205, partial withdrawal generally occurs when an employer reduces covered operations by seventy percent, or removes a continuing facility or bargaining unit from the plan while continuing to do the previously covered work at the facility or in the area. Thus, the general rules on complete and partial withdrawal identify those events that normally result in a loss to the plan's contribution base.

However, Congress recognized that cessation of the obligation to contribute by an employer in certain industries does not normally weaken the plan's contribution base. The building and construction industry was identified as one industry in which withdrawals typically do not adversely affect the plan unless an employer continues to do the same work in the same area. In this industry, work is generally on a project-by-project basis, an employer's covered employment may fluctuate drastically, and when a project ends an employer's workers will normally remain in the labor pool available for employment by other contributing employers. Because of these factors, Congress established special withdrawal rules for the construction industry. (Throughout this notice, the terms "building and construction industry" and "construction industry" are used interchangeably.)

The special construction rule applies to a construction employer who is participating in a construction plan. A construction plan is defined as a plan that primarily covers employees in the building and construction industry; an employer is a construction employer if substantially all of the employees for whom the employer has an obligation to contribute under the plan work in the building and construction industry (ERISA section 4203(b)(1)). (For non-construction plans, the special construction rule applies only if a plan amendment is adopted which extends the rule to construction employers within the plan (section 4203(b)(1)(B)(ii).)

Under ERISA section 4203(b)(2), a complete withdrawal occurs only if a construction industry employer ceases to have an obligation to contribute under the plan, and the employer either continues to perform previously covered work in the area of the collective bargaining agreement or resumes such work within five years without renewing the obligation to contribute at the time of resumption. Under section 4208(d)(1), a construction industry employer is liable for a partial withdrawal "only if the employer's obligation to contribute under the plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required".

ERISA does not contain definitions of the critical terms in section 4203(b): "building and construction industry",[1] "substantially all", and "primarily". The purpose of this advance notice of proposed rulemaking is to solicit public comment on whether PBGC should attempt to define these terms by regulation, and, if so, on the possible options for those definitions. After reviewing the comments received pursuant to this notice, PBGC may issue

[1] For legislative history, see Senate Labor and Human Resources Committee, 96th Cong., 2d. Sess., The Multiemployer Pension Plan Amendments Act of 1980: Summary and Analysis of Consideration 14 (Comm. print, April 1980); and H.R. Rep. No. 869, Pt. I, 96th Cong., 2d Sess. 76 (1980).

a proposed regulation containing definitions of some or all of those terms.

Need for Definitions

Many construction contractors contribute to plans in which all covered employers are engaged in construction and in which all participants work only on the site of construction projects. In these cases, it is clear that the building and construction industry special withdrawal rules apply. However, some pension plans are mixed plans that cover both construction and non-construction employers. Some plans also include employers who are involved in both on-site construction work and off-site activities. Because of these variations, without a definition of "building and construction industry", plan sponsors may have difficulty determining—

(1) whether their plans are construction plans;

(2) whether an individual employer is a construction employer; and

(3) when a plan or employer, once so classified, ceases to be eligible for the special rules.

Therefore it may be desirable for PBGC to provide some guidance in this area. The first question, however, is whether PBGC should attempt to develop its own definition of "building and construction" or whether it should, instead, rely on definitions of the term that already exist under other laws.

Definition of "Construction Industry" Under Other Laws

Two Federal labor laws, the National Labor Relations Act, as amended (NLRA), and the Davis-Bacon Act, have specific provisions concerning the building and construction industry. In determining the appropriate scope of "construction" work, both laws emphasize the importance of work actually done at the construction site.

For employers in the building and construction industry, NLRA section 8(e) provides an exception for on-site work from the general prohibition against "hot cargo" clauses, and section 8(f) similarly provides an exception from rules on "prehire" agreements (29 U.S.C. 158 (e) and (f)). These exceptions recognize that, due to the casual and intermittent nature of employment, the hiring practices and collective bargaining relationships in the construction industry are unlike those in many other industries.[3]

Although the NLRA contains no definition of "construction industry", case law does provide some guidance. Under NLRA section 8(f), "building and construction industry" has been interpreted to exclude employers who manufacture and assemble products which are subsequently installed by the employees of *other* employers at the construction site.[4] In a section 8(f) case, the NLRB underscored the importance of actual on-site work to the definition:

"* * * the so-called building and construction concept subsumes *the provision of labor whereby material and constituent parts may be combined on the building site* to form, make, or build a structure." [5]

The Davis-Bacon Act, which covers federally financed and assisted construction projects and requires that construction contractors pay prevailing wages and fringe benefits, also does not define building and construction work. However the Department of Labor, which administers the Davis-Bacon Act, has issued by regulation a comprehensive definition of construction work and related terms. In relevant part, the regulation provides: "The terms 'building' or 'work' generally include construction activity as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work. The terms include without limitation, buildings, structures, and improvements of all types * * * The manufacture or furnishing of materials, articles, supplies, or equipment * * * is not a 'building' or 'work' within the meaning of the regulations in this part *unless conducted in connection with and at the site* of such a building or work * * *".

"The terms 'construction', 'prosecution', 'completion', or 'repair' mean all types of work *done on a particular building or work at the site* thereof * * * including without limitation, altering, remodeling, painting and decorating, the transporting of materials and supplies to or from the building or work by the employees of the construction contractor or construction subcontractor, and the manufacturing or furnishing of materials, articles, supplies or equipment *on the site of the building or work* * * * in the construction or development of the project by persons employed by the contractor or subcontractor * * *".[6] (Emphasis supplied.)

The Department of Labor has also issued an administrative opinion defining the site of work. Under this opinion, the "site of work" is the "physical place" where the "construction * * * will remain when work on it has been completed." [7] The size of the site is usually limited, but in geographically large projects, such as airports or dams, the site may include "(f)abrication plants, 'mobile factories', batch plants, borrow pits, job headquarters, tool yards, etc. * * * provided they are dedicated exclusively or nearly so to performance on the contract and are so located in proximity to the actual construction location that it would be reasonable to include them." [8]

That opinion also indicates that the Davis-Bacon Act wage rate decisions apply only to the contractor's or subcontractor's employees that perform work on the site of the construction project. However, employees who normally work off-site at, for example, a factory or tool yard, but who go to the site to perform activities pursuant to the on-site contract, are covered by the Davis-Bacon Act for the actual time worked on-site.[9]

The Standard Industrial Classification (SIC), which is published by the Office of Management and Budget and is widely used by government and the private sector to classify various types of economic activities, provides additional guidance on the meaning of "construction industry".[9] Under the SIC, the term "construction" includes "new work, additions, alterations and repairs."[10] Three broad types of construction activity are identified under the SIC scheme: (1) building construction by general contractors or operative builders; (2) other construction (*e.g.* streets, bridges, and sewers) by general contractors; and (3) construction by special trade contractors, which includes activities such as plumbing, painting, electrical work and carpentry. However, the installation of prefabricated building equipment and materials, which is "performed as a service incidental to sale" by employees of the manufacturing company, is excluded from the construction classification, and instead classified within the appropriate manufacturing or trade division.[11] Also excluded from the definition is on-site work by a firm which is not primarily engaged in construction activity, but which performs construction work for its own account and with its own employees ("force account construction").[12]

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[3] *Congressional Record*, p. 55767, Apr. 21, 1959.

[4] *NLRB v. W. L. Rives Co.*, 328 F. 2d, 484, 489 (5 Cir. 1964).

[5] *Carpet, Linoleum and Soft Tile Local 1247 (Indio Paint & Rug Center)*, 156 NLRB 961, 969 (1966) (emphasis in orig.).

[6] 29 CFR 5.2 (f) and (g).

[7] Wage and Hour Man. (BNA), 99:1221.

[8] *Id.*

[9] *Id.*

[9] Office of Management and Budget, *Standard Industrial Classification Manual* 10 (1972).

[10] *Id.*, at 48. The Construction Industry Stabilization Committee, which administered wage and price controls for construction that were in effect between March 28, 1971 and May 1, 1974, used the SIC definition of construction to determine which activities were covered under its program.

[11] *Id.*, at 48.

[12] *Id.*

Thus, the SIC definition of construction, like that under the Davis-Bacon Act and the NLRA, focuses on work performed by construction employers on the site of a construction project.

PBGC could adopt a regulation providing that the term "construction industry" would have the same meaning under ERISA as it does under, for example, the Davis-Bacon Act. That approach would have the advantage of using a definition familiar to both government and industry. But is a definition which, in the example given, was developed for wage and hour determinations, wholly suitable for the purposes of the pension insurance system? In addition, if the ERISA definition were linked to that in another law, it would be subject to modification by other agencies and the courts without the involvement of the PBGC. Is that advisable?

On the other hand, PBGC could, after considering the existing definitions, develop its own definition for "construction industry".

Options for a PBGC Definition of Construction Industry

In developing an appropriate PBGC definition for "building and construction industry", three basic issues would need to be addressed—

—What is "construction" work?

—Should the definition be restricted to work actually performed at the site, or should it be broadened to include off-site work?

—If so, what kinds of off-site activities should be included, and under what circumstances?

How should construction work be defined, so as to distinguish it from other industries and other activities, such as manufacturing? In this regard, the previously discussed definitions under other laws provide useful guidance. It is clear under definitions that "construction" includes the actual on-site erection, alteration and repair of a structure, whether it be an office building, a highway, or a sewer system. However there is other work which is performed at the construction site, but not directly linked to the actual erection of a structure. For example, an on-site food concession presumably would not be considered construction. But what about the delivery of needed materials, or the on-site repair of construction machinery? How should the definition treat those kinds of related, on-site support services?

Once the nature of the work is determined, a second basic question involves whether and where to draw a line between on-site and off-site work. In accord with the Davis-Bacon Act, the definition could be limited only to construction work that is actually performed at the site of the project. By restricting the special withdrawal rules to work done on-site, this option may pose the least risk to the insurance system and may also minimize the need for *ad hoc* determinations by the PBGC. However, would this approach be likely to upset existing relationships between plans and employers who have traditionally viewed themselves as being in the construction industry? Moreover, it is appropriate for the definition to exclude activities of an employer that are closely related to its on-site work (*e.g.*, shop fabrication of materials to be installed at the project site) simply because they are not performed at the construction site?

The definition could be broadened to include off-site work to the extent that work supports and employer's on-site activities. For employers who are engaged in both on-site and off-site construction work, this approach would have the advantage of treating an employer's work as an integrated operation. There may also be benefits to plans, since employers with off-site as well as on-site operations may be more likely to join multiemployer plans or increase existing operations under this option, as compared to the first option.

However, broadening the definition to include certain off-site activities could result in added risk to plans and to the PBGC insurance system. Under that approach, the special withdrawal rules would apply, for example, to an employer's off-site fabrication activities when the resulting product is installed on-site by its employees. This might enable the employer to withdraw from the plan for its off-site work, while continuing to do that work in the area of the plan, without incurring liability for a partial withdrawal under section 4208(d). Or an employer could move its off-site work outside the jurisdiction of the collective bargaining agreement and continue to ship materials into the area of the plan for on-site installation (whether by its employees or by others) without incurring liability. Both situations could damage the plan's contribution base. These problems arise from including in the definition of construction, work that is essentially manufacturing in nature. Because this work need not be performed at a particular place, its removal could have the effect of diminishing work in the area of the plan.

Therefore if the definition is to include certain off-site work, PBGC may need to specify the kinds of work that are included, as well as other appropriate restrictions. For example, what requirements, if any, should the rule impose on the relationship between an employer's on-site and off-site work? In line with decisions under the NLRA, the definition could exclude off-site work where the resulting product was actually erected on-site by employees of a different employer. The rule could also require a particular mix of on-site compared to off-site work. Should these or any other requirements be imposed?

Finally, if certain off-site work is to be considered construction work, should the definition include an employer's off-site work when it is covered under a different plan than the employer's on-site work? A potential effect of such a rule could be that a plan, under which no on-site construction work is performed, would qualify as a construction plan. Is this a desirable result?

Tests for Eligibility

In order to be eligible for the special construction rule under ERISA section 4203(b)(1), the plan must "primarily" cover employees in the building and construction industry, and "substantially all" of the employees for whom an employer contributes under the plan must perform construction work.[13] While employers must meet the "substantially all" test in order to be covered by the special rules, a plan that does not "primarily" cover construction employees (and thus is not automatically covered by the special rules) may be amended to apply the special rules to only its qualified construction employers (section 4203(b)(1)(B)(ii). Neither "primarily" nor "substantially all" is defined in ERISA. Should the PBGC define these terms? If so, how should they be defined?

According to *Webster's New Collegiate Dictionary*, "primarily" means "for the most part" or "chiefly", suggesting that something stands in first rank of importance. *Webster's* defines "substantial" as "considerable in quantity" or "significantly large". Should PBGC follow this approach and adopt adjectival definitions of the terms? Would such definitions provide enough precision for purposes of

[13] The special withdrawal rule for the construction industry applies only to the employer's operations covered under a construction industry plan. That is, an employer that does a relatively small amount of construction work compared to its total operations would be, for the purposes of the special rule, a construction employer in a plan to which it contributed only for its construction employees. On the other hand, that same employer would not be a construction employer in another plan to which it contributed only for its nonconstruction operations.

determining the applicability of the construction rules? One effect of this approach would be that these terms would have different meanings in different plans. Is this desirable?

Another approach would be to use quantitative definitions. For example, "primarily" might be defined as "more than 50%", and "substantially all" as "at least 85%".[14] However, is it clear that "substantially all" means something greater than "primarily"? Also, if a quantitative definition is preferred, should a single number or a range of numbers be chosen?

Still a third option would be a combination of the adjectival and quantitative approaches. It can be argued that the terms "primarily" and "substantially all" are not directly comparable; that "primarily" refers to the character of a plan, while "substantially all" indicates a quantity, a numerical amount. Following this reasoning, a percentage test may be appropriate only for the "substantially all" requirement, with "primarily" defined in adjectival terms. Which of these general approaches is most desirable?

In addition, do these definitions need to specify the units of measurement for determining whether a plan and its contributing employers meet the "primarily" and "substantially all" requirements under ERISA section 4203(b)(1)? Various units for measuring construction work are available, including—

1. the percentage of employees performing construction work;
2. the number of hours of construction work done by employees; or
3. the share of total plan contributions attributable to construction work.

Should plans be given the flexibility to select any of the above options? Are there other units of measurement that should be considered?

The last issue in determining whether a plan and its contributing employers meet the section 4203(b)(1) requirements is the period of measurement. That is, must the plan and the employer meet the tests only at the time the issue is raised, *e.g.*, upon the employer's withdrawal, or should the tests take into account the characteristics of the plan and the employer over a longer period of time? For example, should it be necessary that a plan or employer meet the appropriate test for the current plan year and for a specified number of preceding plan years? A longer test period may mean greater stability and certainty for plans and employers. If a longer test period is used, should it be required that the test be met for every year in the test period or for just a certain number of years within the test period?

For an employer, eligibility for the special withdrawal rule is usually relevant only at the time of withdrawal from the plan. For a plan, however, there is a greater need to know on a continuing basis whether it qualifies for the special rule, because, among other reasons, plan status affects the allocation rule under ERISA section 4211 the plan is required to use.[15] Because of this, should PBGC provide that once a plan is classified as a building and construction industry plan, that status would continue until there is a fairly drastic change in plan composition? In other words, should the standards for determining that a plan is no longer a construction industry plan be different from the standards that qualify a plan as a construction plan?

Requests for Comments and Suggestions

PBGC invites comments on the issues discussed in this notice, including specific suggestions on how a regulation might address these issues.

List of Subjects in 29 CFR Part 2646

Employee benefit plans, Pensions, Pension insurance.

Issued at Washington, D.C. on this 21st day of September, 1982.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-26501 Filed 9-27-82; 8:45 am]

BILLING CODE 7708-01-M

[14] It is noted that for purposes of the special trucking industry rule under ERISA section 4203(d), the legislative history of the Multiemployer Act indicates that "substantially all" means "at least 85%". *Congressional Record*, p. H7900, August 26, 1980 (statement by Representative Frank Thompson).

[15] Under section 4211(c)(1), "a plan which primarily covers employees in the building and construction industry" must use the presumptive rule in paragraph (b) of that section for allocating unfunded vested benefits.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[WH-FRL 2161-8]

Construction Grants Program; Policies and Procedures; Proposed Rule

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule, with request for comments.

SUMMARY: The proposed regulation establishes policies and procedures for delegating and overseeing administration of the construction grants program to the States under Section 205(g) of the Clean Water Act, as amended. The delegation agreement is a precondition for a construction management assistance grant under Section 205(g). Grant administration requirements and procedures are contained in the proposed Subpart A of this part. This proposed rule, in conjunction with Subpart A, will revise and replace the current Section 205(g) regulation (Subpart F) contained in this subpart.

DATE: Comments must be received by October 28, 1982.

ADDRESS: Please submit your comments in duplicate to: Central Docket Section (A-130), Docket No. [G-82-04], Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Comments received may be inspected at the Central Docket Section, West Tower Lobby, Gallery Room 1, between 8:15 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Carl Reeverts, Office of Water Program Operations (WH-546), Environmental Protection Agency, Washington, D.C. 20460, (202) 382-5839.

SUPPLEMENTARY INFORMATION: Since the enactment of Section 205(g) of the Clean Water Act in December, 1977, authority to administer the construction grant program has been delegated to 45 States and Territories through the execution of delegation agreements. By the end of fiscal year 1982, States will have assumed over 60 percent of the direct program workload previously undertaken at the Federal level. Thus, the initial delegation program is largely in place.

The requirements for executing and amending State delegation agreements, although streamlined, are basically unchanged and will not affect existing agreements. Changes are limited to removal of outdated and unnecessary provisions, language changes that encourage full State delegation, and the broadening of EPA and State responsibilities related to oversight, evaluation, and planning under delegation.

The proposed regulation clearly reflects the Agency policy to deemphasize procedural review and oversight in favor of overall program management. EPA retains its responsibility for adherence to Federal requirements and progress toward national goals and objectives, but will not intrude on the States' prerogative under delegation to manage the program. Although EPA will continue to

make final determinations for selected non-delegable requirements as required by statute, delegable activities and preliminary decisions for all activities will be the responsibility of the States under full delegation. EPA oversight will be limited to key areas of national and regional concern and will focus on program effectiveness in achieving legislative and policy objectives. In support of the regulation, EPA will propose delegation guidance for Regional and State use in developing delegation management approaches.

Summary of Major Changes

The following table shows the relationship between the current regulation and this revision. Also shown are the portions of the current regulation that are being transferred and included in the proposed Subpart A and other regulations.

Current subpart F	Current title	Revision	
		Proposed subpart J	Proposed other
§ 35.1000	Purpose and scope	35.3000	35.100, 35.300.
35.1005	Policy	35.3005	
35.1010	Application for grant		35.140, Part 30.
35.1015	Eligibility for funding		35.300.
35.1018	Limitations on award		35.310.
35.1020	Grant amount and award		35.115, 35.310.
35.1025	Payment		Part 30.
35.1030	Delegation agreement	35.3010	35.130, 35.310.
35.1030–1	Scope of delegation agreement	35.3015	
35.1030–2	Certification procedures	35.3020	
35.1030–3	Limitation on delegation	35.3015	
35.1030–4	Terms of delegation agreement	35.3010	
35.1030–5	Implementation of the delegation agreement	(1)	
35.1030–6	State assurance	35.3010	
35.1030–7	Determination of competence	35.3010	
35.1030–8	Amendments	35.3010	
35.1030–9	Right of review; appeal	35.3030	
35.1033	Public participation	35.3035	
35.1035	Adherence to budget estimates		Part 30.
35.1040	Program evaluation and reporting	35.3025	35.130, 35.150.
35.1045	Reduction in grant amount		35.150.
35.1050	Disputes	35.3030	Part 30.

[1] Deleted.

As the table illustrates, the proposed regulation retains (in modified form) only the program requirements for the delegation agreement process. All portions of the current Subpart F regulation related to administration of grants under Section 205(g) have been moved to the proposed Subpart A regulation, Financial Assistance for Continuing Environmental Programs (40 CFR Part 35, Subpart A), 47 FR 25912 (June 15, 1982), and to the proposed Part 30 regulation, General Regulation for Assistance Programs (40 CFR Part 30), 47 FR 26564 (June 18, 1982). References related to Section 205(g) reserves, obligations, and reallotments were deleted from the proposed regulation and are provided in detail in Subpart I, Grants for Construction of Treatment Works, 47 FR 20450 (May 12, 1982). These three regulations should be read together with this regulation to understand the substantive and administrative requirements governing the construction grant delegation program.

Delegation Policy

The proposed regulation broadens the delegation policy to include a stronger statement to assure full delegation of all project level activities, including delegation of preliminary determinations for non-delegable requirements (e.g., grant closeouts, payments, and environmental assessments). It also adds a reference to EPA oversight of State performance, based on results-oriented evaluation, to the policy statement. These changes are intended to strengthen State responsibility for all project level decisions, while States work with EPA to attain national program results. (§ 35.3005.)

Delegation Agreement

The proposed regulation consolidates several Subpart F sections and eliminates redundancies and outdated references. One section now contains all the requirements and contents of the initial delegation agreement and future revisions. The basic components of the delegation agreement remain in the regulation, but in a less detailed form. (§ 35.3010.)

Extent of Delegation

The proposed regulation simplifies, clarifies, and updates the scope and authority conveyed by the delegation agreement. The list of delegable activities in the current Subpart F regulation was eliminated and replaced by a general statement related to administering the construction grants program. Also, the explanation of the non-delegable activities was simplified and made less specific. (§ 35.3015.)

Certification Procedures

The proposed regulation revises the current subsection on procedures for certifying construction grant projects, but does not change the existing requirements. A new subsection is provided to specify the conditions which a delegated State must meet in order to have "sufficient authority" under delegation. A definition of "sufficient authority" was necessary to implement Section 219 of the Act (added by the 1981 amendments). Under Section 219, EPA is required to approve or disapprove an application for a construction grant within 45 days, if a State with sufficient authority under delegation certifies the project for award. States will have sufficient authority when they have assumed responsibility for all delegable pre-award requirements contained in the construction grant regulation (40 CFR Part 35, Subpart I, 47 FR 20450 (May 12, 1982)). A list of the specific requirements is included in this section. The definition is objective and non-discretionary and is based totally on the extent of delegation. (§ 35.3020.)

Oversight of State Performance

The proposed regulation in § 35.3025 broadens the scope of performance evaluation beyond that contained in the current § 35.1040 of Subpart F. The current regulation emphasizes compliance with the terms of the delegation agreement, particularly related to the procedures to be followed in carrying out each delegated function. (See § 35.1034–4(a)(7).) The proposed regulation links all oversight activities to a set of program and management objectives, and emphasizes performance in terms of an annual oversight program designed around achievement of priority objectives and results (called performance areas). The specific monitoring and evaluation activities may include any method of oversight, including procedural review as appropriate, but process-related activities should be sharply reduced as delegation reaches the advanced stage.

The development of an annual oversight program, as one of the terms of the delegation agreement (see § 35.3010(c)(7)), is a condition to receiving a construction management assistance grant under Section 205(g). The annual oversight program is the blueprint for the day-to-day monitoring

and evaluation of activities under delegation and is the vehicle that links the various oversight activities to achievement of program and management objectives. It supplements the delegation agreement on an annual basis to reflect the specific needs and requirements of the upcoming fiscal year.

All oversight activities, whether formal or informal, should be conducted with the understanding that the relationship between the Region and the State is that of a partnership. The two are working toward mutually agreed-upon program and management objectives. The purpose is to give feedback to all responsible entities to improve program performance. The oversight program will hold the delegated States accountable for performance against objectives and Agency priorities in the same manner in which Agency management is held accountable, while at the same time allowing considerable flexibility in terms of operating the program.

The proposed regulation does not prescribe what program and management objectives should be included in the oversight program or the specific monitoring and evaluation activities that should be undertaken to assess performance. Rather, it establishes oversight requirements in terms of a process, schedule, and progress against priority objectives. The principal aspects of the annual oversight program are threefold: identification of priority management and program objectives for the upcoming fiscal year, including development of performance measures; negotiation of an annual work plan for each performance area that includes both qualitative and quantitative commitments; and performing an annual on-site performance evaluation, covering performance areas identified in the oversight program. The key for its success is in the design of the oversight program, which ensures that all oversight activities are jointly agreed to between the Region and State, are known in advance, and can be integrated into the day-to-day management of delegation.

The work program required under Subpart A of this part, as a portion of the 205(g) grant application, contains many of the same elements as the annual oversight program (i.e., program commitments) and the delegation agreement (i.e., staffing, delegation schedule, and cost estimates). It is very important that the grant and program process be integrated to avoid duplication of effort. It was agreed in the drafting of the Subpart A and Subpart J regulations (under Part 35) that the delegation agreement and the oversight program would be broader in scope than the grant application and likely to precede the grant application in the planning process. Therefore, the results of the planning under the oversight program (e.g., the priority objectives and negotiated workplan) should be referenced in the 205(g) grant application. At no time should the outputs required under the grant work program be beyond the scope of the negotiated commitments in the oversight program.

Annual guidance on national priorities, performance areas, and resource assumptions for developing the oversight program will be issued each February as part of the Office of Water Operating Guidance and Accountability System. This should provide sufficient time for all Regions and States to develop their annual oversight program and work plan before the beginning of the operating year. (§ 35.3025.)

Review of State Decisions

The proposed regulation strengthens the role of the States under delegation by requiring a grantee or citizen to request the State to review its decision first, before contacting EPA. This emphasizes to all parties the responsibility of the State in project level decisions. It is intended to allow resolution of most issues without EPA involvement. It is not intended to require the State to establish any formal process for resolving disputes. However, the State must set down the reasons for its decision within a reasonable time after the request for review in order for the Regional Administrator to have a record for his review of the disputed action on omission. Failure of the State to address the disputed action or omission in writing in a timely fashion will not preclude Regional Administrator review. This section will not apply to State agency decisions concerning use of State funds for the construction grant program or for any State program managed by the State agency. (§ 35.3030.)

Public Participation

The public participation requirements were streamlined and some of the provisions in the current Subpart F regulation were eliminated. The requirements in the current regulation for States to provide resources to oversee public participation and for a public meeting or workshop to be held, in conjunction with EPA's annual review of State performance under delegation, were removed. The proposed regulation requires EPA and the State to consult informally with interested or affected groups and citizens when developing or amending a delegation agreement. A public meeting rather than the current, more formal public hearing, will be held only if the Regional Administrator or the State agency determines that significant interest exists. This regulation is consistent with the current Part 25 regulation covering public participation (40 CFR Part 25), which provides the minimum requirements for appropriately involving the public in construction grants program delegation. (§ 35.3035.)

Regulation Development

Under Executive Order 12291, EPA is required to determine if this is a major rule. EPA has determined that this is not a major rule. This rule will not have a substantial impact on the Nation's economy or large numbers of individuals or businesses. There will be no major increase in cost or prices for consumers, individuals, industries, and Federal, State, or local government agencies. Additionally, it will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 USC 601). The rule was submitted to the OMB for review as required in E.O 12291.

The reporting provisions that are included in this proposed rule are modeled on the current requirements, which were submitted to and approved by OMB under Section 3504(h) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The approved information collection requests cover the terms of the mutually negotiated delegation agreements, the functional schedules which indicate when States begin performing specific activities, and State reporting of program performance. Associated records are kept by the States as a standard management practice. Any final rule will include an explanation of how the reporting requirements reflect comments from OMB and the public.

(Catalog of Federal Domestic Assistance as number 66.438—Construction Management Assistance Grants)

List of Subjects in 40 CFR Part 35

Air pollution control, Grant programs—environmental protection, Indians, Pesticides and Pests, reporting and recordkeeping requirements, waste treatment and disposal, water pollution control.

Dated: September 21, 1982.

Anne M. Gorsuch,

Administrator.

For the reasons set forth in the preamble, EPA is proposing to amend Part 35 of Title 40, by removing Subpart F and adding a new Subpart J to read as follows:

PART 35—STATE AND LOCAL ASSISTANCE

* * * * *

Subpart J—Construction Grants Program Delegation to States

Sec.

35.3000 Purpose.
35.3005 Policy.
35.3010 Delegation agreement.
35.3015 Extent of delegation.
35.3020 Certification procedures.
35.3025 Oversight of State performance under delegation.
35.3030 Right of review of State decisions.
35.3035 Public participation.

Authority: Sec. 205(g) of the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.*

Subpart J—Construction Grants Program Delegation to States

§ 35.000 Purpose.

This regulation establishes policies and procedures for the development, management, and EPA oversight of State administration of the construction grants program under Section 205(g) of the Clean Water Act, as amended. The delegation agreement between EPA and the State is a precondition for a construction management assistance grant under Section 205(g). Program requirements for grants authorized by Section 205(g) for activities under Sections 402, 404, and 208(b)(4) are provided in Part 130. Administration of all Section 205(g) grants follows the procedures established in Subpart A of this part.

§ 35.3005 Policy.

(a) EPA's policy is to delegate management of the wastewater treatment construction grant program to the maximum extent possible consistent with the objectives of the Act, prudent fiscal management, and EPA's overall national responsibility for the program. EPA encourages States to undertake all project level activities, including preliminary determinations for non-delegable requirements. The objective of delegation is to eliminate duplication of Federal and State effort in the management of the construction grant program, to increase State participation in the construction grant program, and to improve operating efficiency.

(b) Program delegation is to be accomplished through a formal delegation agreement between the Regional Administrator and the State. The delegation agreement will specify the functions which the State will perform and procedures for State certification to EPA.

(c) EPA will oversee the performance of the State under delegation to ensure that progress is being made toward meeting the construction grant program objectives and that State is continuing to employ administrative, fiscal, and program controls to guard against fraud, misuse, and mismanagement of public funds. Oversight will also include review of the State management process to ensure it is efficient, effective, and assures timely State reviews.

§ 35.3010 Delegation agreement.

(a) Before execution of the delegation agreement, the Regional Administrator must determine that the unit of the State agency designated to implement the agreement is capable of carrying out the delegated functions. The Regional Administrator will evaluate all aspects of the unit which directly affect the State's capability to implement the agreement.

(b) In the delegation agreement, the State agency will assure the Regional Administrator that it will execute its responsibilities under the delegation agreement in conformance with all applicable Federal laws and regulations.

(c) The delegation agreement will:

(1) Designate the organizational unit within the State responsible for the implementation of the delegation agreement;

(2) List the functions delegated and functions to be delegated, with a schedule for their assumption by the State;

(3) Identify procedures to be followed and records to be kept by the State and EPA in carrying out each delegated function;

(4) Identify the staffing, hiring, training, and funding necessary to carry out the delegated functions;

(5) Estimate program costs by year for the term of the delegation agreement;

(6) Establish an accounting and audit process, acceptable to the Regional Administrator, to identify and relate State costs to delegated functions; and

(7) Identify the form and content of the program for EPA oversight of State performance consistent with the requirements in § 35.3025 of this Subpart, including the frequency, method, and extent of Regional monitoring and evaluation.

(d) The term of the delegation agreement shall generally be 5 years. However, as subsequent construction management assistance is awarded, the term may be extended to maintain the 5 year period.

(e) The delegation agreement will be revised, as necessary, to reflect significant program or procedural changes, as determined jointly by the Regional Administrator and State agency.

§ 35.3015 Extent of delegation.

(a) Except as provided in paragraph (c) of this section, the Regional Administrator may delegate to the State agency authority to review and certify all construction grant documents required before and after grant award and to perform all construction grant review and management activities necessary to administer the construction grants program.

(b) The Regional Administrator may also delegate to the State agency the authority to act as the manager of waste treatment construction grant projects for small communities. In this capacity, the State agency may serve as the community contracting agent. The State agency may enter into an agreement with another organization within the State capable of performing the service. The terms of the agreement must be approved by the Regional Administrator before its execution.

(c) The Regional Administrator shall retain overall responsibility and exercise direct authority for the construction grant program for the following:

(1) Construction grant assistance awards, grant amendments, and payments;

(2) Projects where an overriding Federal interest requires greater Federal interest or participation;

(3) Final determinations under Federal statutes and Executive Orders (e.g., the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*), other than Sections 201, 203, 204, and 212 of the Clean Water Act;

(4) Final resolution of construction grant audit exceptions; and

(5) Final procurement protest appeal determinations under Part 33, Subpart G, of this subchapter.

§ 35.3020 Certification procedures.

(a) The State will furnish a written certification to the Regional Administrator for each construction grant project application submitted to EPA for award. The certification must state that all Federal requirements, within the scope of authority delegated to the State under the delegation agreement, have been met. This

certification must be supported by documentation specified in the delegation agreement. The documentation must be made available to the Regional Administrator upon request.

(b) States with sufficient authority under Section 219 of the Act to review applications need forward only the EPA Form 5700–32 application with the certification. Sufficient authority exists when States have assumed responsibility under delegation for applicant compliance with all delegable pre-award requirements, as provided for in the following sections of Subpart I of this part: § 35.2030, Facilities planning; § 35.2040(a) and (b), Grant application; § 35.2042, Review of grant applications; and §§ 35.2100, Limitations on award, through and including 35.2127, except for § 35.2101, Advanced treatment reviews for projects valued over $3 Million, § 35.2112, Marine waiver discharge applicants, and § 35.2113, Environmental review (as it applies to final decisions under the National Environmental Policy Act).

§ 35.3025 Oversight of State performance under delegation.

The Regional Administrator will oversee the performance of the State under delegation on a continuing basis, under the annual oversight program developed as a supplement to the delegation agreement at the beginning of each planning year. (§ 35.3010(c)(7)). The purpose of the oversight program is to ensure that both the delegated State and EPA efficiently and effectively execute the fiscal and program responsibilities under the Clean Water Act and related legislation. It does this by facilitating improved State and EPA administration of the program through program monitoring, evaluation, and feedback consistent with EPA and State roles under delegation. The oversight program will include the following components:

(a) *Program objectives and annual performance areas.* The foundation of the oversight program is a list of program and management objectives that describe what results are to be achieved in the program for the State, recognizing the national legislation and unique State requirements. Annually, the priority objectives, or performance areas, for the planning year must be identified and agreed to, through extensive collaboration among the State, the Region, and the National program. The basis for all oversight activities should be this set of agreed-upon multiyear objectives, and the oversight program is to provide the linkage between the objectives and the activities.

(1) For each performance area, the oversight program should specify key measures of performance (both quantitative and qualitative) and enumerate the specific monitoring and evaluation activities and methods to be performed during the operating year to assess performance against the objective.

(2) State oversight programs must include at a minimum the performance areas identified as priority objectives by the Administrator on an annual basis.

(3) The monitoring and evaluation activities in the oversight program should be appropriate to the delegation situation, reflecting phase of delegation, feedback to performance, and other circumstances unique to the Region and State. Oversight activities will shift toward program and performance monitoring and away from procedural reviews as delegation proceeds.

(b) *Annual work plan.* Annually, the Region and delegated State will negotiate a plan for each performance area for the succeeding year, to include expected outputs and program results. The State will manage against this work plan and report on progress in accordance with the annual oversight program and the delegation agreement. EPA will use the work plan to monitor and evaluate the program.

(c) *Annaul on-site performance evaluation.* Review and evaluation of the program will occur at least annually, and cover at a minimum performance against the program and management performance areas identified in the oversight program and the commitments agreed to in the work plan. The evaluation will cover performance of both the EPA and the State in these performance areas. Upon completion of the evaluation, the delegation agreement may be revised to reflect changes resulting from the evaluation.

§ 35.3030 Right of review of State decisions.

(a) Any construction grant applicant, recipient, or interested citizen who has been adversely affected by a State's action or omission must first request review by the State. After the State has made its determination, the adversely affected party may request the Regional Administrator to review the State agency's decision. The State must provide, in writing, within a reasonable time, the basis for its decision regarding the disputed action or omission. A Regional Administrator's decision is final unless appealed in accordance with Part 30 of this subchapter. A State's failure to address the disputed action or omission in a timely fashion will not preclude Regional Administrator review.

(b) Requests for Regional Administrator review must be in writing, adequately state the basis for the request, and include a copy of any written State determination of the review request. The request must be received by the Regional Administrator within 30 days after the State determination of the review request has been revieved by the adversely affected party, or within a reasonable time if the State fails to address the issue(s) raised in writing.

§ 35.3035 Public participation.

(a) Public participation during the development, review, approval, and major revision of the delegation agreement shall be in accordance with the requirements of Section 101(e) of the Act, Part 25 of this chapter, and this subpart.

(b) The Regional Administrator and the State will consult informally with interested or affected groups and citizens during negotiation of the initial delegation agreement, and also during renegotiation, if major amendments or revisions of significant interest to the public, as determined by the Regional Administrator or the State agency, are being made to the delegation agreement. A copy of the draft delegation agreement will be made available to the public before it is executed by EPA. One or more public meetings will be held at least 30 days before EPA executes the delegation agreement, if the Regional Administrator or the State agency determines that significant interest and desire for a public meeting exist.

[FR Doc. 82-26688 Filed 9-27-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 230

[OW-FRL 2218-2]

Guidelines for Specification of Disposal Sites for Dredged or Fill Material

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of denial of requests for extension of comment period.

SUMMARY: On August 23, 1982, EPA issued an Advance Notice of Proposed Rulemaking requesting comments on the guidelines for specification of disposal sites for dredged or fill material under section 404(b)(1) of the Clean Water Act (47 FR 38798). The comment period on this notice expired September 22, 1982. EPA has received a number of requests that this comment period be extended for at least two weeks. EPA is denying these requests, however, because of the

urgency of making clarifying reforms to the section 404 program and, in particular, the section 404(b)(1) guidelines. Of course, any such revisions to the guidelines will be proposed in the Federal Register, and opportunity for public comments on the proposal will be provided.

FOR FURTHER INFORMATION CONTACT: Suzanne Schwartz, Criteria and Standards Division (WH–585), Office of Water, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202–472–3400.

SUPPLEMENTARY INFORMATION: The section 404(b)(1) environmental guidelines were originally promulgated by the Administrator in interim-final form on September 5, 1975, after consultation with the Corps of Engineers (COE). After promulgation of the interim-final guidelines, the Act was substantially amended in 1977. As a result of the 1977 amendments, the guidelines were revised and published in final form on December 24, 1980, simultaneously with proposed revised testing requirements for the guidelines.

In August 1981, the section 404 program was designated for review by the President's Task Force on Regulatory Relief. On May 7, 1982, the Task Force announced a program of administrative reforms to simplify the section 404 program and eliminate unnecessary delays. As part of this process, on August 23, 1982, EPA published in the Federal Register (47 FR 36798) an Advance Notice of Proposed Rulemaking soliciting comments on the environmental guidelines promulgated by EPA under section 404(b)(1) of the Act.

The 404(b)(1) guidelines are a particularly important part of the section 404 program, because they establish the environmental criteria used to evaluate *all* permit applications and proposed general permits for discharges of dredged or fill material. Neither individual nor general permits may be issued by the COE or by a State with an approved section 404 program unless they are consistent with the 404(b)(1) guidelines.

EPA has received a number of requests that the comment period be extended. Requests for a 30 day extension were received from the Utility Water Act Group on September 10, 1982, the Office of Coastal Zone Management on September 13, 1982, the National Wildlife Federation on September 14, 1982, and the National Marine Fisheries Service on September 15, 1982. A request for a 15 day extension was received from the Attorney General of the State of Illinois on September 21, 1982. These requests are being denied because of the urgency of making clarifying changes to the section 404 program and the need to implement aspects of the administrative reforms recommended by the Task Force in an expeditious and consistent manner. Therefore, we must adhere to a tight regulatory agenda which does not allow for extension of the comment period.

However, because this is an advance notice and not yet a formal rulemaking proposal, we can and will consider comments and supporting information received after the end of the comment period to the extent our schedule allows. Such information should be submitted as soon as possible in order for EPA to give it adequate consideration.

In addition, should EPA propose revisions to the section 404(b)(1) guidelines, the Agency will provide opportunity for public comments both in hearings and in writing on any proposed changes to the guidelines. Any comments submitted in response to the advance notice which could not be considered at this time will be considered as part of the record on any proposal to revise the guidelines.

Dated: September 24, 1982.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 82-26704 Filed 9-27-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 653

[Docket No. 2830–171]

Atlantic Herring Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of initial decision to withdraw plan approval, proposed repeal of regulations, and request for comments.

SUMMARY: NOAA announces its initial determination to withdraw Secretarial approval of the Fishery Management Plan for the Atlantic Herring Fishery of the Northwest Atlantic (FMP), and proposes to repeal the regulations implementing the FMP. Comments are requested. Withdrawal of FMP approval is necessitated by serious operational difficulties in implementing the FMP, which no longer meets the national standards of the Magnuson Fishery Conservation and Management Act. The intended effect of the repeal of the regulations is to eliminate Federal management of the Atlantic herring fishery until such time as the New England Fishery Management Council prepares a new management plan which can be approved and implemented.

DATE: Comments must be received on or before November 12, 1982.

ADDRESSES: Comments may be mailed to Frank Grice, Chief, Management Division, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts, 01930. A copy of the regulatory impact review may be obtained from Mr. Grice.

FOR FURTHER INFORMATION CONTACT: Barbara S. Claflin, Herring Plan Coordinator, 617–281–3600, extension 351.

SUPPLEMENTARY INFORMATION: The FMP, developed by the New England Fishery Management Council (Council), was approved in December 1978. It was implemented on March 19, 1979 (44 FR 17186), under the Magnuson Fishery Conservation and Management Act (Magnuson Act). Amendment 1 to the FMP revised the procedure for determining when a quota is reached (44 FR 37616). Amendment 2 extended the optimum yield (OY) and seasonal allocations for the Georges Bank and Gulf of Maine management areas through the 1979–80 fishing year (44 FR 56700).

Amendment 3, the most recent amendment to the FMP, was implemented in August 1980 (45 FR 52810). Amendment 3 expanded the management unit to include the herring fisheries from the shoreline of all States out to the seaward limit of the fishery conservation zone (FCZ). Prior to this amendment, the herring fishery within Maine's boundaries was not part of the management unit, although the herring fisheries within other States' boundaries were included. The redefined management unit was designed to manage the species throughout its range, in order to better fulfill the requirements of national standard 30 of the Magnuson Act (16 U.S.C. 1851(a)(3)). Amendment 3 also increased the Gulf of Maine OY and quotas for age-3-and-older fish (age 3+), and modified the "area/period" allocation system.

The result of these amendments is a quota-based management system that depends on State cooperation for its effectiveness. Section 2.2 of the FMP mandates that "All herring age 3 and older taken from territorial waters of all States are to be deducted from the appropriate area/period allocations." Under terms of section 4.2 of the FMP, "all States are relied upon to enforce the

area/period seasonal allocations by closing directed herring fisheries in their territorial waters when the seasonal catch allocations have been taken."

Shortly after approval and implementation of Amendment 3, problems with the herring management system became apparent. The National Marine Fisheries Service (NMFS) was unable successfully to implement the FMP in conformance with the Magnuson Act during the 1980–81 fishing year. When the area/period seasonal catch allocations (quotas) established by the FMP had been reached during the 1980 summer/fall fishing period, the FCZ was closed as required under the implementing regulations. The States, however, failed to take appropriate action. There was a delayed closure of Massachusetts waters and no closures at all of Maine and New Hampshire waters. Under the FMP, the Gulf of Maine quota for the 1980 summer/fall fishing period was 17,850 mt. Herring landings from the FCZ and State waters totaled 57,131 mt, exceeding the quota by 39,281 mt.

The NMFS recognized the need to address the problems with herring management after the failure of the FMP to restrict landings to the quotas and maintain the specified OY, and the failure to attain any assurances from the States that the necessary level of cooperation would be forthcoming. Under authority of section 305(b) of the Magnuson Act, a hearing was held on May 22, 1981, to receive public comments on the operation and continued implementation of the FMP.

In the agency recommendations that resulted from the hearing, the management problems and their causes were detailed. Since 85 percent of the total 1980–81 herring harvest had been taken from territorial waters, FCZ closures without territorial waters closures were ineffective in maintaining the quotas and achieving OY. Inconsistent management between Maine's territorial waters and the FCZ was also identified as a critical factor. Maine deducted from the quota only age-3+ herring greater than 9 inches in length and caught by mobile gear. The FMP requires that all age-3+ herring caught, regardless of length or capture method, be deducted from the quota.

The lack of State cooperation in providing consistent management resulted in a failure to achieve national standards 1 (to achieve OY) and 3 (to manage the fishery as a unit). In addition, it appeared that harvest levels of age-3+ herring are effectively controlled by year class strength, availability of the resource to the fishery, and market demand, rather than by the quotas. Therefore, the fixed-quota management strategy appears inappropriate for management of Atlantic herring. Accordingly, the FMP is also arguably inconsistent with national standard 6, which provides that conservation and management measures must take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

A letter from the Assistant Administrator for Fisheries, NOAA, to the Council in December 1981 informed the Council that it must clarify and amend various portions of the FMP by July 1, 1982, to resolve management problems and to reconcile the FMP's management measures with NMFS' capability to implement them. The letter also indicated to the Council that, in the absence of action on its part, NOAA/NMFS would take remedial action and either amend the FMP or withdraw plan approval. Although the Council's Herring Oversight Committee has begun to address the problems, the Council did not take significant remedial action by July 1.

NMFS forecasts that, during the 1982 summer/fall fishing period, there will be a larger number of age-3 herring than age-2 herring in the fishery. The fishing patterns of recent years indicate that most of the age-3 herring are likely to be harvested within State boundaries. These stock conditions and harvesting patterns are similar to those that occurred during the 1980 summer/fall fishing period. Therefore, it is likely that quotas will be exceeded, and area/period closures will be necessary. Although NMFS is required by the regulations to close the herring fishery in the FCZ to enforce quotas, Maine and Massachusetts have not guaranteed cooperation in enacting similar closures in territorial waters. As it appears that the implementation problems experienced in the 1980–1981 fishing year will recur, immediate action to withdraw approval of a plan which no longer meets the national standards is required.

Alternatives to withdrawing approval of the FMP include taking no action while waiting for the Council to complete an amendment, or preparing one of several kinds of Secretarial amendment. After careful evaluation of all the alternatives, withdrawal of approval was determined to be the most appropriate alternative. The alternative under which NMFS would take no action and wait for the Council to develop an amendment is not an appropriate response to identified management problems. The Council's amendment, which is barely in outline form at this time, could not be completed, reviewed, and implemented within a year, or possibly longer. In the interim, NMFS would continue to be unable to implement effectively the FMP because of noncooperation from the concerned States.

The alternative of implementing a Secretarial amendment to the FMP is not desirable because NMFS prefers, in this difficult management situation, to implement the Council's policy decisions rather than to impose its own plan. As with the former alternative, a Secretarial amendment could not be implemented in sufficient time to address problems anticipated during the 1982 summer/fall fishery.

Withdrawal of plan approval was selected over other alternatives because approval of the FMP was based upon assumptions and statements that have proven to be erroneous, and because circumstances have changed in the fishery. These assumptions and changed fishery circumstances have rendered the FMP invalid and inoperative since its approval.

Statements and assumptions that have proved to be erroneous are found in section 4.2 of Amendment 3, which concerns the relationships of the FMP to State management. This section describes State actions taken in response to the approval and implementation of the original FMP, and specifies a continuing reliance upon the States to ensure the effectiveness of the FMP. Furthermore, by section 4.2.2, the States of Maine, Massachusetts, and Rhode Island are expected to implement herring management plans that are complementary with the FMP. Section 4.2.1.1 discusses Maine's 1979 herring plan, indicating Maine's quotas are consistent with those established in the FMP, and that the Maine plan is consistent with appropriate State management measures described in section 4.2.2 of the FMP. However, experience has demonstrated the Maine herring plan is not consistent with the FMP, and serious management problems have arisen, in part because of different interpretations of section 4.2.2. A recent attempt by NMFS to provide Maine with a clarified interpretation of this section did not resolve the management problems. In addition, section 4.2.1.3 indicates that the Massachusetts Director of the Division of Marine Fisheries has the authority to close State waters to herring fishing when seasonal allocations for the Gulf of Maine are reached and after notification of FCZ closure is received from the Assistant Administrator for Fisheries. However, use of this authority to close Massachusetts' waters is discretionary,

and is expected to be based primarily on socio-economic considerations and the responses of other States to FCA closures.

In conclusion, experience has shown that section 4.2 of the FMP is clearly in error. When Amendment 3 was approved, there was every reason to expect State cooperation in accordance with this section; events have proven otherwise. The level of State cooperation necessary to carry out the management measures of the FMP has not been, and is not anticipated to be, forthcoming.

Changed circumstances in the fishery also justify withdrawal of FMP approval. The changed circumstances involve (1) the condition of the resource, and (2) the market demand for adult herring products.

The condition of the Atlantic herring resource has improved significantly since the FMP was implemented in 1977. The spawning stock biomass increased from a very low level in 1979 of 131,000 mt to 562,000 mt at the beginning of 1981, according to the most recent assessment. The Council believes that the main objective of the FMP has been achieved—that is, adult stocks have been managed to achieve individual biomass levels at which annual recruitment continues and is stabilized allowing for annual stock increases. Recent stock assessments appear to support this conclusion. However, since the stock appears to be in a healthy condition, restrictive quotas are probably unnecessary, in the short run, for the protection of the resource.

The FMP recognized that market-induced pressures affect harvests of the Gulf of Maine herring stocks. The FMP's quota-based management system was implemented to control harvest levels. During the first years of management under the FMP, the collapse of the herring stocks in the North Sea resulted in a strong export market in Western Europe for herring fillets. The FMP annual quota of 8,000 mt of adult herring prevented the U.S. industry from taking full advantage of this market. As the Gulf of Maine herring stocks inproved and annual quotas increased to 30,000 mt, the industry was able to export at top prices. As noted, the 1980 summer/fall harvest of age-3 + herring exceeded the quota by 39,281 mt. By 1981, herring were again being taken in the North Sea, and the demand for Gulf of Maine herring products was reduced. Only a limited export market for roe herring in Japan was available. The domestic market for fillets and other adult herring products has expanded, resulting in continued but much reduced interest in the fishery. In conclusion, when herring are abundant and available, market pressures, rather than FMP quotas, control the level of harvest.

Withdrawal of approval of this FMP necessitates the repeal of the implementing regulations (50 CFR Part 653). This notice requests comments on withdrawing approval of the FMP and on the proposed repeal of the regulations. Comments may be sent to the address listed above.

Classification

An environmental assessment was prepared to determine whether the proposed action will have a significant impact on the environment. The Assistant Administrator for Fisheries, NOAA, has determined that repealing the regulations will not significantly affect the environment, so that an environmental impact statement is not required under the National Environmental Policy Act of 1969.

A regulatory inpact review (RIR) was prepared. The RIR concludes that harvest levels have not been controlled by the FMP quotas, but rather by the availability of, and market demand for, herring. Repeal of regulations is not expected to affect supply, price, or income in the fishery. The Administrator has determined, after reviewing the information set forth in the RIR, that this action is non-major under E.O. 12291; accordingly, preparation of a regulatory impact analysis is not required.

The General Counsel for the Department of Commerce has certified that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (see discussion in paragraph above).

List of Subjects in 50 CFR 653

Fish, Fisheries, Reporting requirements.

Dated: September 17, 1982.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

PART 653—ATLANTIC HERRING [RESERVED]

50 CFR Part 653 is proposed to be amended as follows:

1. The authority citation for Part 653 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Part 653 is proposed to be revoked and this part number reserved.

[FR Doc. 82-26261 Filed 9-27-82; 8:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 188
Tuesday, September 28, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Meeting

Notice is hereby given in accordance with Section 800.6(d)(3) of the Council's regulations, "Protection of Historic and Cultural Properties".(36 CFR Part 800), that the Advisory Council on Historic Preservation will meet on Tuesday, October 19, 1982, in the Board Room, AIA Headquarters, 1735 New York Avenue NW., Washington, D.C. The meeting will begin at 9:00 a.m. The meeting is open to the public.

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470) to advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol, the Secretaries of the Interior, Agriculture, Housing and Urban Development, Treasury, Transportation; the General Services Administrator; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State Historic Preservation Officers; a Governor, a Mayor, and eight non-Federal members appointed by the President.

The agenda for the meeting includes the following: 9 a.m., Call to Order, Chairman's Welcome, Swearing-In Ceremony, Order of Business, Consideration of Minutes of May 25, 1982, Meeting.

I. Section 106 Cases

A. Council Comment: Anderson Ferry, Cincinnati, Ohio
1. Report of the U.S. Corps of Engineers
2. Report of the State Historic Preservation Officer
3. Executive Director's Report

B. Status Reports
1. Fort Logan Roots, Arkansas
2. Memphis Street Railway Office and Streetcar Complex, Tennessee

C. Panel Report
1. Rincon Point/South Beach Project, San Francisco, California

Luncheon Recess

II. Report of the Executive Director

A. 1984 Budget
B. Council Reauthorization

III. Report of the General Counsel

A. Suspension of Regulations
B. Conflict of Interest Regulations
C. Enterprise Zones

IV. Task Force Reports

A. Regulations Review
B. Federalism and Preservation
C. Tax Study

V. Preservation Planning

A. Resource Protection Planning (RP-3)
B. Relation to Section 106

VI. New Business

Additional information concerning either the meeting agenda or the submission of oral and written statements to the Council is available from the Executive Director, Advisory Council on Historic Preservation, Suite 430, 1522 K Street NW., Washington, D.C. 20005, 202-254-3967.

Dated: September 21, 1982.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 82-26564 Filed 9-27-82; 8:45 am]
BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Commodity Credit—Corporation

1982 Crop Soybean Preliminary Loan and Purchase Rate

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of determination of 1982 crop soybean preliminary loan and purchase rate.

SUMMARY: The purpose of this notice is to announce the preliminary loan and purchase rate for the 1982 soybean crop at $5.02 per bushel. This determination is required to be made by the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981.

EFFECTIVE DATE: August 3, 1982.

FOR FURTHER INFORMATION CONTACT: Orville L. Overboe, Agricultural Economist, Analysis Division, ASCS-USDA, P.O. Box 2415, Washington, D.C. 20013, Telephone (202) 447-4417. Since this is a preliminary determination calculated in accordance with the statutory formula, no Impact Analysis was prepared.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been designated "not major." It was designated "not major" because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local Government agencies, or geographic regions, or (3) significant adverse impacts on competition, employment, investment; productivity, innovation, or the ability of U.S. based enterprises to compete with foreign based enterprises in domestic or export markets.

The title and number of the federal assistance program that this notice applies to are: Title—Commodity Loans and Purchases; Number—10.051 as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Commodity Credit Corporation is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

Section 201(g)(1) of the Agricultural Act of 1949, as amended provides that the price of soybeans for each of the 1982 through 1985 marketing years shall be supported through loans and purchases at a level equal to 75 percent of the simple average price received by farmers for soybeans for each of the preceding five marketing years, excluding the high and low valued years. However, the Secretary cannot establish the support price at less than $5.02 per bushel. If the Secretary determines that the average price producers receive for soybeans in any marketing year is not more than 105

percent of the level of loans and purchases for such marketing year, the support level may be reduced for the next marketing year by the amount which is determined to be necessary to maintain domestic and export markets for soybeans. However, the price support level for loans and purchases cannot be reduced by more than 10 percent in any year nor below $4.50 per bushel.

Section 201(g)(1) also provides that the Secretary must make a preliminary announcement of the level of price support no earlier than 30 days prior to September 1, the beginning of the marketing year, based upon the latest information and statistics then available. The Secretary must make a final announcement of such level as soon as full information and statistics are available on prices for the five years preceding the beginning of the marketing year. The final level of price support must be announced no later than October 1 of the marketing year to which the announcement applies. The final level of support cannot be less than that of the preliminary announcement.

It was essential that this determination be announced as soon as possible so that farmers could make their marketing plans. Accordingly, the preliminary loan and purchase rate for the 1982 crop of soybeans was determined and announced by the Secretary by press release on August 3, 1982. Since the purpose of this notice is to affirm the announcement of the preliminary level of support, it has been determined that no further rulemaking is required with respect to this determination. The basis for the determination is set forth herein.

Determination

The average price received by farmers for soybeans for each of the preceding five years, excluding the high and low valued years, is $6.41 per bushel; 75 percent of which is $4.81. Therefore, the preliminary 1982-crop soybean loan and purchase rate will be $5.02 per bushel, the minimum rate required by law. This determination is based on the following data:

(1) *Season-Average Soybean Prices ($/bu.).*1977, $5.96; 1978, $6.83; 1979, $6.29; 1980, $7.50; 1981, $6.10.

(2) Average of the five years, excluding the low valued year (1977) and the high valued year (1980): ($6.83+$6.29+$6.10)/3=$6.41 per bushel.

(3) Preliminary loan and purchase rate calculation: $6.41×.75=$4.81.

(4) Since the calculated rate of $4.81 per bushel is less than the statutory minimum rate of $5.02 per bushel, the preliminary rate must be established at $5.02 per bushel.

Signed at Washington, D.C. on September 23, 1982.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82-26636 Filed 9-27-82; 8:45 am]

BILLING CODE 3410-05-M

Soil Conservation Service

Crowley's Ridge and Benton Hills RC&D Measure, Missouri

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Crowley's Ridge and Benton Hills RC&D Measure, Scott, Stoddard and Dunklin Counties, Missouri.

FOR FURTHER INFORMATION CONTACT: Paul F. Larson, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, Columbia, Missouri, 65202, telephone 314/875-5214.

SUPPLEMENTARY INFORMATION: The Environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional or national impacts on the environment. As a result of these findings, Paul F. Larson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The Noticed of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Paul F. Larson.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Date: September 16, 1982.

Russell C. Mills,

Assistant State Conservationist—Programs.

[FR Doc. 82-26453 Filed 9-27-82; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket 40534]

Braniff-South American Route Transfer Case; Notice of Prehearing Conference

Notice is hereby given that a Prehearing Conference in the above-titled matter is assigned to be held on October 14, 1982 at 10:00 a.m. (local time), in Hearing Room "A", 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned Chief Administrative Law Judge.

In order to facilitate the conduct of the conference, parties in this proceeding and interested persons filing petitions to intervene are invited to submit on or before October 8, 1982, with one copy served on each party and each prospective party and three copies to the judge, (1) a proposed statement of issues; (2) proposed stipulations; (3) statements of positions, and (4) proposed procedural dates. This submission is in addition to the responses to the Bureau's evidence request which are to be submitted on October 4, 1982 pursuant to the Chief Judge's Order Establishing Initial Procedural Schedule issued concurrently with this Notice.

Dated at Washington, D.C., September 23, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-26639 Filed 9-27-82; 8:45 am]

BILLING CODE 6320-01-M

Braniff-South American Route Transfer Case; Order

AGENCY: Civil Aeronautics Board.

ACTION: Order instituting *Braniff South American Route Transfer Case,* Order 82-9-81, Docket 40534.

SUMMARY: The Board has instituted the *Braniff South American Route Transfer Case,* to consider the applications of Eastern and Pan American/Air Florida for transfer of Braniff's South American routes, and has dismissed the competing certificate applications for some or all of

these routes. The complete text of Order 82–9–81 is available as noted below.

DATES: Order 82–9–81 was adopted September 22, 1982. Petitions for reconsideration are due within 20 days, i.e., on October 12, 1982, and answers to petitions are due within 10 days thereafter, *i.e.*, October 22, 1982.

ADDRESSES: Petitions for reconsideration and answers should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C., in Docket 40534.

FOR FURTHER INFORMATION CONTACT: Joseph Di Bella, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673–5035.

SUPPLEMENTARY INFORMATION: A copy of Order 82–9–81 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82–9–81 to the Distribution Section.

By the Civil Aeronautics Board: September 22, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-26636 Filed 9-27-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82–9–95]

Fitness Determination of Manu'a Air Transport, Inc.; Order To Show Cause.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of commuter air carrier fitness determination—Order 82–9–95, Order to Show Cause

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SUMMARY: The Board is proposing to find that Manu'a Air Transport, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service will conform to applicable safety standards. The complete text of this order is available, as noted below."

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than October 12, 1982, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to Order 82–9–95.

FOR FURTHER INFORMATION CONTACT: Ms. Anne W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673–5088.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–9–95 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82–9–95 to that address.

By the Civil Aeronautics Board: September 23, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-26638 Filed 9-27-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Friend Manufacturing Corporation, P.O. Box A, Gasport, New York 14067, producer of agricultural sprayers and other equipment (accepted August 27, 1982); (2) Anson Incorporated, 100 DuPont Drive, Providence, Rhode Island 02907, producer of jewelry, writing instruments, figurines and metal boxes (accepted August 27, 1982); (3) H. D. MacDonald, Inc., 99 Chestnut Street, North Attleboro, Massachusetts 02760, producer of jewelry (accepted August 30, 1982); (4) Wesley International Corporation, P.O. Box 934, Scottdale, Georgia 30079, producer of pallet trucks and other materials handling equipment (accepted August 31, 1982); (5) Louis Lefkowitz and Brother, Inc., 50 Washington Avenue, Milltown, New Jersey 08850, producer of carrying cases and leather straps, handles, sheaths and grips (accepted September 1, 1982); (6) Dart Industries, Inc., 4913 Crofton Road, Louisville, Kentucky 40207, producer of metal display fixtures and housewares (accepted September 2, 1982); (7) Shintron Company, Inc., 144 Rogers Street, Cambridge, Massachusetts 02142, producer of television equipment (accepted September 7, 1982); (8) Northern Heel Corporation, Six Grove Street, Dover, New Hampshire 03820, producer of shoe heels, baseballs and industrial molds (accepted September 7, 1982); (9) Mary Meyer Manufacturing Company, Inc., Mary Meyer Station, Townshend, Vermont 05353, producer of stuffed toys (accepted September 7, 1982); (10) VoCorp, Inc., 312 Marlboro Street, Keene, New Hampshire 03431, producer of shears (accepted September 7, 1982); (11) Advanced Terminals, Inc., 6700 Thompson Road, N., Syracuse, New York 13211, producer of computer printer equipment (accepted September 7, 1982); (12) Empacadora F.Q., Inc., G.P.O. Box 3558, San Juan, Puerto Rico 00936, processor of meat (accepted September 8, 1982); (13) Neely Manufacturing Company, Inc., State Highway 2 West, Corydon, Iowa 50060, producer of garment bags and ponchos (accepted September 8, 1982); (14) David F. Sklar Laboratories, Inc., Peekskill Hollow Road, Carmel, New York 10512, producer of laboratory equipment and parts (accepted September 9, 1982); (15) Douglas Company, Inc., Krif Road, Keene, New Hampshire 03431, producer of stuffed toys (accepted September 10, 1982); (16) Thomas' Handbags, Inc., 86 Webster Street, Haverhill, Massachusetts 01830, producer of handbags (accepted September 9, 1982); (17) Parco-Parisi Corporation, 91 Hartford Avenue, Providence, Rhode Island 02909, producer of jewelry (accepted September 10, 1982); (18) Harwood Manufacturing Company, 415 Valley Street, Providence, Rhode Island 02908, producer of metal stamped and cast novelties and giftware (accepted September 10, 1982); (19) Vermont Abestos Group, Inc., Stafford Avenue, Morrisville, Vermont 05661, producer of asbestos fiber (accepted September 10, 1982); (20) Ronnie Dress Company, R.D. Number 2, Shickshinny, Pennsylvania 18655, producer of women's dresses (accepted September 10, 1982); (21) Jean Fogel Creations, Inc., 628 Broadway, New York, New York 10012, producer of handbags (accepted September 10, 1982); (22) Jo-Ann Apparel, Inc., Lovell Park, Ebensburg, Pennsylvania 15931, producer of women's dresses (accepted September 13, 1982); (23) United Retail Corporation, 531 Kamoku, PH8, Honolulu, Hawaii 96826, producer of gem stones (accepted September 13, 1982); (24) Hyde Spring and Wire Company, 14341 Schaefer Highway, Detroit, Michigan 48227, producer of springs and other wire products (accepted September 15, 1982); (25) Ellingson Lumber Company, P.O. Box 866, Baker, Oregon 97814, producer of softwood lumber, veneer and panels (accepted September 15, 1982); (26) Signature Office Furniture, Inc., 610 East 61st Street, Los Angeles, California 90001, producer of wood office furniture (accepted September 15, 1982); and (27) Midwest Stoves, Inc., P.O. Box 1704,

Mount Vernon, Illinois 62864, producer of stoves and fireplace inserts (accepted September 16, 1982);

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Charles L. Smith,

Acting Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 82-26561 Filed 9-27-82; 8:45 am]
BILLING CODE 3510-25-M

[Order No. 41–2 (Amendment 1); D.O.O. Reference 10–3, 40–1]

Organization and Function Order; Deputy Under Secretary for International Trade

Effective Date: August 22, 1982.

This order amends ITA Organization and Function Order 41–2 of March 31, 1982 (47 FR 22996) to abolish the Information Systems Staff in the Office of Personnel, reassign its functions to the Special Programs Staff, Office of Personnel, and abolish the Office of Administrative Support to reflect the transfer of its functions to the Office of the Secretary.

1. Part III, Section 2.03e. is deleted.

2. Part III, Section 3.01b. is revised as follows:

"b. The Special Programs Staff also plans and coordinates matters relating to the development of ITA-wide personnel management information systems and procedures, including records and reports; processes personnel actions, ensures proper documentation for legality and propriety and maintains control over the content and disposition of Official Personnel Folders; coordinates with ADP personnel concerning processing and records documentation, improvements, or needs relating to personnel management and administration; provides ADP input necessary to generate SF–113 reports and a variety of statistical, personnel and employee information reports; provides advice and assistance to serviced organizations concerning employment benefits and entitlements, such as health plans and insurance programs; arranges for National Agency checks by the Office of Personnel Management and processes employee security clearance; conducts the ITA security program; provides physical and document security orientation for employees and security briefings; maintains NATO sub-registry for Commerce; controls credentials, building passes and keys; performs the safety function for ITA; and provides paymaster services."

3. Part III, Section 7 is deleted.

The attached organization chart [1] supersedes the chart attached to ITA Organization and Function Order 41–2 of March 31, 1982.

Lionel Olmer,

Under Secretary for International Trade.

[FR Doc. 82-26570 Filed 9-27-82; 8:45 am]
BILLING CODE 3510-25-M

Exemption of Foreign Air Carriers from Customs Duties and Taxes, Nigeria

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of request for comments.

SUMMARY: The Department of Commerce is completing an investigation to determine the extent to which the Government of Nigeria allows substantially reciprocal privileges in exempting aircraft supplies and equipment from import duties and certain internal revenue taxes. Interested parties are invited to submit their views and comments on this investigation.

DATE: Comments must be submitted on or before October 28, 1982.

ADDRESS: Comments may be sent to: Albert N. Alexander, Office of Service Industries, International Trade Administration, Room 1124, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Fred Elliott, 202–377–5071.

SUPPLEMENTARY INFORMATION: Pursuant to a request by Nigeria Airways, Ltd. in 1978 (see 43 FR 32444 of July 27, 1978), the Department of Commerce (the Department) undertook an investigation to determine whether the Government of Nigeria allowed customs and tax exemptions to aircraft of U.S. registry substantially reciprocal to those that the U.S. Government would allow under sections 309 and 317 of the Tariff Act of 1930, as amended (19 U.S.C. 1309 and 1317), and section 4221 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 4221). The Department is now completing its investigation and invites final comments from interested parties.

The above-cited statutes provide exemptions for aircraft of foreign registry from payment of import duties and certain internal revenue taxes on the import or purchase of supplies in the United States for such aircraft in connection with their international commercial operations. "Supplies" as used in this context includes a wide range of articles used by aircraft in international operations including fuel and lubricants, spare parts, consumable supplies, and ground handling and support equipment. These exemptions apply upon a finding by the Secretary of Commerce, or his designee, and communicated to the Department of Treasury, that such country allows, or will allow, "substantially reciprocal privileges" to aircraft of United States registry.

Written comments regarding this review will be maintained in the International Trade Administration, Freedom of Information Records Inspection Facility, Room 4001B, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

Records in this facility may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

[1] Filed as part of the original document.

Dated: September 21, 1982.

Donald V. Earnshaw,

Deputy Assistant Secretary for Export Development.

[FR Doc. 82-26654 Filed 9-27-82; 8:45 am]

BILLING CODE 3510-25-M

Extension of Period for Final Determinations: Certain Steel Products From Belgium, the United Kingdom, France, The Netherlands, Italy, and the Federal Republic of Germany; Carbon Steel Structural Shapes From Luxembourg; and Carbon Steel Plate From Romania

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of extension of period for final determinations.

SUMMARY: The Department of Commerce hereby extends the period for its final determinations with respect to the antidumping investigations of certain steel products from Belgium, the United Kingdom, France, the Netherlands, Italy, and the Federal Republic of Germany; carbon steel structural shapes from Luxembourg; and carbon steel plate from Romania. The final determinations will be made no later than December 29, 1982.

EFFECTIVE DATE: September 28, 1982.

FOR FURTHER INFORMATION CONTACT: David L. Binder, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230 (202) 377-1273.

SUPPLEMENTARY INFORMATION: On August 9, 1982, the Department of Commerce determined preliminarily that certain steel products from Belgium, the United Kingdom, France, Italy, the Federal Republic of Germany, and carbon steel plate from Romania were being sold, or were likely to be sold, at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act). The Department also determined preliminarily that certain steel products from the Netherlands and carbon steel structural shapes from Luxembourg were not being sold, or were not likely to be sold, at less than fair value within the meaning of the Act. We announced our determinations in the Federal Register on August 16, 1982 (47 FR 35646).

In those proceedings where the preliminary determinations were affirmative, exporters who accounted for a significant proportion of exports of the merchandise which are the subject of these investigations have requested that the Department extend the period for final determinations. In those proceedings where the preliminary determinations were negative, the petitioners have requested extensions. These requests are in accordance with sections 735(a)(2) (A) and (B) of the Act (19 U.S.C. 1673d(a)(2) (A) and (B)).

We have determined that additional time is needed in order to ensure that a proper analysis may be completed with regard to these investigations. Accordingly, the period for determinations in these cases is hereby extended. Final determinations will be made not later than December 29, 1982.

Public Comment

As stated in the preliminary determinations (47 FR 35646), public hearings, if requested, were to be held in accordance with § 353.47 of the Commerce Department Regulations. Due to these extensions of the period for final determinations, the hearing dates have also been extended. If requested, we will hold public hearings to afford interested parties an opportunity to comment on the preliminary determinations at the United States Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. The new dates, times, and room numbers follow:

Romania—November 2, 1982, 10 am, Room 3104
United Kingdom—November 2, 1982, 2 pm, Room 3104
The Netherlands—November 3, 1982, 10 am, Room 1851
Italy—November 3, 1982, 2 pm, Room 1851
Luxembourg—November 4, 1982, 10 am, Room 4830
Federal Republic of Germany—November 4, 1982, 2 pm, Room 4830
France—November 5, 1982, 10 am, Room 3104
Belgium—November 5, 1982, 2 pm, Room 3104

As stated in the preliminary determinations (47 FR 35646), all written views were to be filed in accordance with 19 CFR 353.46, within thirty days of publication of the preliminary determination notices at the above address and in at least ten copies. Because of these extensions, written views filed in accordance with 19 CFR 353.46 will be considered if received on or before November 15, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration

September 22, 1982.

[FR Doc. 82-26663 Filed 9-27-82; 8:45 am]

BILLING CODE 3510-25-M

Travel and Tourism Administration

Travel and Tourism Advisory Board; Meeting

On September 17, 1982, notice was given in the Federal Register (47 FR 41153), that the Travel and Tourism Advisory Board would meet on October 7, 1982. Notice is hereby given that the Travel and Tourism Advisory Board meeting will begin at 10:45 am in Room 5859 of the Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Established March 19, 1982, the Travel and Tourism Advisory Board consists of 15 members, representing the major segments of the travel and tourism industry and state tourism interests, and includes one member of a travel labor organization, a consumer advocate, an academician and a financial expert.

Members advise the Secretary of Commerce on matters pertinent to the Department's responsibilities to accomplish the purpose of the National Tourism Policy Act (Pub. L. 97-63), and provide guidance to the Assistant Secretary for tourism Marketing in the preparation of annual marketing plans.

Agenda items are as follows:

I. Call to Order
II. Approval of the Minutes
III. Report
A. In-flight survey
IV. Old Business
A. Status of visa Waiver legislation
B. Customs and Immigration user fees
V. New Business
A. Customs staffing
B. Customs ASSIST program
C. VISIT USA—a promotional program to increase tourism to the United States
D. 1992 World's Fair
E. OMB understanding of the tourism industry
F. Travel industry image
VI. Miscellaneous
VII. Date of next meeting
VII. Adjournment

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements is allowed.

Christine Hathaway, Committee Control Officer, United States Travel and Tourism Administration, Room 1865, U.S. Department of Commerce, Washington, D.C. 20230, (Telephone: 202/377-0139), will respond to public

requests for information about the meeting.

Peter McCoy,

Under Secretary for Travel and Tourism, Department of Commerce.

[FR Doc. 82-26932 Filed 9-27-82; 8:45 am]

BILLING CODE 3510-11-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board.
Date of meeting: Tuesday, 19 October 1982.
Time: 0830-1700 hours (Closed).
Place: The Pentagon, Washington, D.C.
Agenda: The Research Functional Subgroup of the Army Science Board will meet for the purpose of receiving briefings and discussing issues, developments, and opportunities relative to Army research. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-26925 Filed 9-27-82; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board.
Date of meeting: Tuesday, 19 October 1982.
Time: 0830-1630 hours (Closed).
Place: The Pentagon, Washington, D.C.
Agenda: The Army Science Board Functional Subgroup on Systems will meet to receive briefings and hold discussions on Army research, development, and acquisition issues, developments, and opportunities in that specific area. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-26926 Filed 9-27-82; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board.
Dates of meeting: Wednesday, 20 October 1982; Thursday, 21 October 1982.
Times: 0830-1700 hours on 20 October (closed); 0830-1600 hours on 21 October (closed).
Place: The Pentagon, Washington, D.C.
Agenda: The Army Science Board Functional Subgroup on Mobility will meet to receive briefings and hold discussions in that specific area with respect to Army research, development, and acquisition issues, developments, and opportunities. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-26927 Filed 9-27-82; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).
Dates of meeting: Wednesday, 20 October 1982; Thursday, 21 October 1982.
Times: 0830-1700 hours on 20 October (closed); 0830-1600 hours on 21 October (closed).
Place: The Pentagon, Washington, D.C.
Agenda: The Army Science Board Ad Hoc Subgroup on Ballistic Missile Defense will meet to receive subcommittee reports and develop conclusions and recommendations for the final report. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 695-3039 or 697-9703.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-26928 Filed 9-27-82; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board.
Date of meeting: Monday, 25 October 1982.
Time: 0830-1700 hours, 25 October (closed).
Place: The Pentagon, Washington, D.C.
Agenda: The Logistics Functional Subgroup of the Army Science Board will meet for the purpose of receiving briefings and discussing issues, development, and opportunities relative to Army logistics. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 697-9703 or 695-3039.

Helen M. Bowen,

Administrative Officer.

[FR Doc. 82-26929 Filed 9-27-82; 8:45 am]

BILLING CODE 3710-08-M

Department of the Army

United States Army Medical Research and Development Advisory Committee, Subcommittee on Blood Preservation and Substitutes; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Subcommittee meeting:

Name of Committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Blood Preservation and Substitutes.
Date of meeting: 5 November 1982.
Time and place: 0900 hrs, Conference Room AS3102, Letterman Army Institute of Research, Presidio of San Francisco, CA.
Proposed agenda: This meeting will be open to the public from 0900 to 1045 hrs for the administrative review and discussion of the scientific research program of the Blood Preservation and Substitutes Group, Letterman Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), US Code, Title 5 and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 1100 to 1715 hrs for the review, discussion and evaluation

of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Ryan Neville, Assistant Director, Research Contract Management, Letterman Army Institute of Research, Presidio of San Francisco, CA 94129 (415/561-4367), will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield, M.D.,

Colonel, MC, Deputy Commander.

September 15, 1982.

[FR Doc. 82-26622 Filed 9-27-82; 8:45 am]

BILLING CODE 3710-08-M

United States Army Medical Research and Development Advisory Committee, Subcommittee on Medical Defense Against Chemical Agents; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Subcommittee meeting:

Name of committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Medical Defense Against Chemical Agents.

Date of meeting: October 29, 1982.

Time and place: 0830 hrs, Room 14, U.S. Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD.

Proposed agenda: This meeting will be open to the public from 0830 to 0930 hrs for the administrative review and discussion of the scientific research program of the U.S. Army Medical Research Institute of Chemical Defense. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), U.S. Code, Title 5 and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 0930 to 1730 hrs for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Richard Lindstrom, U.S. Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD 21010 (301/671-2833) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield, M.D.,

Colonel, MC, Deputy Commander.

[FR Doc. 82-26621 Filed 9-27-82; 8:45 am]

BILLING CODE 3710-08-M

Intent To Prepare a Revised Draft Environmental Impact Statement for the Continuing Operation and Maintenance Program of Harlan County Lake, Nebr.

AGENCY: Kansas City District, US Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a revised draft statement.

SUMMARY: 1. The Draft Environmental Impact Statement for the continuing operation and maintenance program of Harlan County Lake was circulated for public review on 13 May 1977. Necessary coordination activities with the Bureau of Reclamation, the US Fish and Wildlife Service and other Corps work priorities delayed completion of a final impact statement. A revised draft is now necessary to reflect major changes in project programs and impacts on the environment that have occurred since 1977.

2. Because the project is in operation, the "no action" alternative of no continued maintenance program will not be considered, but options to ongoing management and maintenance programs will be discussed in the revised draft.

3. The revised draft statement will be coordinated with and reviewed by appropriate Federal, State and local agencies and groups including the US Fish and Wildlife Service, Bureau of Reclamation, Soil Conservation Service, Advisory Council on Historic Preservation, Nebraska Game and Parks Commission, local county governments and other groups and individuals. A public meeting concerning project natural resource management activities was held on 21 November 1980. A meeting with project agricultural lessees was also held on 2 March 1981 to discuss project natural resource management alternatives. No other public meetings have been scheduled in conjunction with this revised draft, but any interested agency, organization or individual is invited to comment. Input presented will be considered in the preparation of the revised draft.

4. Environmental concerns analyzed in the revised draft will include the effects of water level fluctuations on project recreation programs, shoreline environments and insect pest populations. The effects of the project land management program in relation to fish and wildlife management, protection of project water, soil and vegetation resources and project agricultural lessees will also be discussed. All environmental consultation and review will be conducted in accordance with the National Environmental Policy Act and other applicable laws and regulations.

5. The revised draft is tentatively scheduled to be available for public review in March 1983.

ADDRESS: Questions concerning the project operation and maintenance program and EIS revision should be directed to Mr. Richard Lenning, Operations Division, Kansas City District, Corps of Engineers, 725 Federal Building, Kansas City, Missouri 64106. Phone: (816) 374-3245 or FTS 758-3245.

Dated: September 21, 1982.

M. D. Jewett,

Acting Chief, Operations Division.

[FR Doc. 82-26560 Filed 9-27-82; 8:45 am]

BILLING CODE 3710-KH-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Permanent Designation of Dredged Material Ocean Disposal Sites at Coos Bay, Oreg.

LEAD AGENCY: U.S. Army Corps of Engineers, Department of Defense.

COOPERATING AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of Intent to prepare a DEIS.

The Corps of Engineers, Portland District, is currently investigating several sites in the vicinity of Coos Bay, Oregon, for designation as dredged material ocean disposal sites. The investigation includes two sites which were designated by the Environmental Protection Agency (EPA) for interim use. These sites have been used for maintenance dredging disposal since 1977.

The following alternatives are being considered at this time:

1. The two existing interim sites.
2. Two new sites near the 35 and 40 fathom contours.
3. A continental slope alternative (deep water).
4. Combinations of the above.

Each of the alternatives will be evaluated for timing of disposal and for material that does and does not meet EPA's ocean dumping exclusion criteria.

The scoping process will formally commence in mid-September 1982, with the issuance of a public notice containing a draft outline of alternatives and potential effects which will be discussed in the DEIS. Federal, State, and local agencies, Indian tribes, and interested organizations and individuals will be asked to comment on the draft outline and to identify significant issues relating to the effects of the alternatives. The DEIS is scheduled for agency and public review in July 1983. The final EIS is scheduled for publication in early 1984.

Address: If you have any questions or need additional information, please contact Steve Stevens, (503) 221-6438 (FTS 423-6438), U.S. Army Corps of Engineers, Natural Resources Branch, P.O. Box 2946, Portland, Oregon 97208.

Dated: September 10, 1982.

R. L. Friedenwald,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 82-26567 Filed 9-27-82; 8:45 am]

BILLING CODE 3710-GC-M

Office of the Secretary

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, November 2, 1982; Tuesday, November 9, 1982; Tuesday, November 16, 1982; Tuesday, November 23, 1982; and Tuesday, November 30, 1982 at 10:00 a.m. in Room 3D321, the Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Public Law 92-392. At this meeting, the committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, the Pentagon, Washington, D.C. 20301.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82-26623 Filed 9-27-82; 8:45 am]

BILLING CODE 3810-01-M

National Defense University Panel of the Board of Visitors for National Defense University and Defense Intelligence School; Notice of Advisory Committee; Meeting

The President of the National Defense University has scheduled a meeting of the National Defense University Panel of the Board of Visitors for National Defense University and Defense Intelligence School on Monday, November 22, 1982, from 0900-1145 and 1330-1600. The meeting will be held in the Hill Conference Center, Theodore Roosevelt Hall (Bldg. 61), Fort Lesley J. McNair, Washington, D.C. The discussions will include progress and plans for the National Defense University and the curricula, faculty, and students of the Industrial College of the Armed Forces, the National War College, and the Armed Forces Staff College. The meeting is open to the public, but the limited space available for observers will be allocated on a first-come, first-served basis. To reserve space, interested persons should write or phone (693-1075), the Assistant to the President, National Defense University, Fort Lesley J. McNair, Washington, D.C. 20319.

September 23, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington, Headquarters Services, Department of Defense.

[FR Doc. 82-26624 Filed 9-27-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Minority Institutions Science Improvement Program

AGENCY: Department of Education.

ACTION: Application notice of Minority Institutions Science Improvement Program (MISIP).

Applications are invited for new grant awards to be made in Fiscal Year 1983 under the Minority Institutions Science Improvement Program (MISIP), administered by the Fund for the Improvement of Postsecondary Education.

The Secretary makes four types of project grant awards under MISIP. Depending on the type of grant, eligible applicants are public and private nonprofit predominantly minority institutions, professional scientific societies, or nonprofit accredited colleges and universities which render a needed service to a group of eligible minority institutions, or which provide in-service training to project directors, scientists, and engineers from eligible institutions.

Authority for this program is contained in section 408A of the General Education Provisions Act, as amended by the Education Amendments of 1980, Pub. L. 96-374.
(20 U.S.C. 1221e-1a)

Closing Dates for Transmittal of Applications. Applications for Institutional, Design, and Cooperative project grants must be mailed or hand-delivered by December 3, 1982. Applications for special project grants must be mailed or hand-delivered by March 4, 1983.

Applications Delivered By Mail. An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.120A, Washington, D.C. 20202.

To establish proof of mailing, an applicant must show one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a mail receipt that is not dated by the U.S. Postal Service as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered By Hand. An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Attention: 84.120A, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Secretary will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications for Institutional, Design, or Cooperative project grants that are hand-delivered will not be accepted after 4:30 p.m. on December 3, 1982. Applications for Special project grants that are hand-delivered will not be accepted after 4:30 p.m. on March 4, 1983.

Program Information. The Secretary supports projects that propose to enhance a minority institution's capacity for developing and maintaining a quality science education program for all of its students and to augment the institution's capability for increasing the flow of underrepresented ethnic minorities into the fields of science and engineering.

The Secretary awards grants in the following categories of projects:

(1) Design project grants to assist minority institutions that do not have their own appropriate resources or personnel to plan and develop long-range science improvement;

(2) Institutional project grants to individual minority institutions to support the implementation of a comprehensive science improvement plan, which may include any combination of activities for improving the preparation of minority students for careers in science and engineering;

(3) Cooperative project grants to assist groups of nonprofit accredited colleges and universities to work together to conduct a science improvement project;

(4) Special project grants for which—

(a) Minority institutions are eligible which support activities that improve quality training in science and engineering or enhance a minority institution's general scientific research capabilities.

(b) All applicants are eligible which support activities that provide a needed service to a group of eligible minority institutions or provide in-service training for project directors, scientists, and engineers from eligible minority institutions.

Available Funds. (a) Approximately $2.8 million is estimated to be available for Institutional and Cooperative project grant awards in Fiscal Year 1983. It is estimated that these funds will support approximately 12 awards. The maximum amount of an Institutional or Cooperative project grant is $300,000 for a 36-month period.

(b) Approximately $0.5 million is estimated to be available for Special project and Design project grant awards in Fiscal Year 1983. It is estimated that these funds will support approximately 10 grant awards for Special and Design projects.

The maximum amount for a Special project grant award is $150,000 for a 24-month project period. The maximum amount for a Design project grant award is $20,000 for a 12-month period.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant, unless the amount is otherwise specified by statute and regulations.

Application forms. Application forms are included in the program information packages that are expected to be ready for mailing in September, 1982. Interested persons may obtain program information packages by writing to the U.S. Department of Education, Office of Postseconday Education, Fund for the Improvement of Postsecondary Education, Attention: 84.120A, 400 Maryland Avenue, SW., (Room 3100, ROB-3), Washington, D.C. 20202.

Applicable Regulations. Regulations applicable to this program include the following:

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77 and 78; and

(2) Regulations governing the Minority Institutions Science Improvement Program (34 CFR Part 637).

Further Information. For further information, contact the U.S. Department of Education, Office of Postsecondary Education, Fund for the Improvement of Postsecondary Education, regarding the Minority Institutions Science Improvement Program. Telephone: (202) 245-8100.

(Catalog of Federal Domestic Assistance No. 84-120A, Minority Institutions Science Improvement Program)

Dated: September 21, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-26029 Filed 9-27-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3042-001]

Arkansas Electric Cooperative Corporation, C & L Electric Cooperative, Inc. and Riceland Electric Cooperative, Inc.; Application for License (Over 5 MW)

September 23, 1982.

Take notice that Arkansas Electric Cooperative Corporation, C & L Electric Cooperative, Inc. and Riceland Electric Cooperative, Inc. (Applicant) filed on June 14, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for construction and operation of a water power project to be known as the Lock and Dam No. 5 Project No. 3042. The project would be located on the Arkansas River near Pine Bluff, in Jefferson County, Arkansas. Corresponding with the Applicant should be directed to: Joe R. Moody, Jr., P.E., Benham-Holway Power Group, 5300 South Yale Avenue, Tulsa, Oklahoma 74135.

Project Description—The proposed project would utilize the existing Lock and Dam No. 5 and the resulting pool and under the jurisdiction of the Corps of Engineers and would consist of: (1) a new reinforced concrete powerhouse, 210 feet wide and 200 feet long, with an enclosed work area 45 by 75 feet on the south side of the powerhouse; (2) four horizontal shaft, bulb turbine/generator units each rated at 9.0 MW; (3) new headrace and tailrace channels; (4) a new 115-kV transmission line four miles long leading to the existing White Bluff Switchyard; and (5) appurtenant mechanical and electrical equipment.

This license application was filed during the term of the Applicant's preliminary permit for Project No. 3042.

Purpose of Project—The average annual generation of 140 million kWh will be utilized by the Applicant in its distribution system.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 9, 1982, either the competing application itself [See 18 CFR

4.33 (a) and (d)] or a notice of intent [See 18 CFR 4.33 (b) and (c)] to file a competing application. Filing of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et. seq. (1981).

Comments, Protests, or Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–28 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 29, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST," or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26606 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL82-18-000]

Cities of Campbell and Thayer, Missouri; Order Granting Intervention, Denying Request for Declaratory Judgment, and Terminating Docket

Issued September 22, 1982.

Before Commissioners: C. M. Butler III, Chairman; Georgiana Sheldon, J. David Hughes and A. G. Sousa. Electric Rates: Complaint; Intervention; *Mobile-Sierra*.

On May 18, 1982, the Cities of Campbell and Thayer, Missouri (Cities) filed a complaint seeking a declaratory judgment that, as to these customers, the Commission was without jurisdiction to accept for filing an Arkansas Power & Light Company (AP&L) unilateral rate increase previously submitted in *Arkansas Power & Light Company*, Docket No. ER81–577–000, and that the rate filing is therefore illegal. Cities contend, in essence, that the contracts for service by AP&L to Cities do not permit unilateral rate filings under the *Mobile-Sierra* doctrine.[1]

Notice of the Cities' request was published in the Federal Register with responses due on or before July 21, 1982. On June 17, 1982, AP&L filed a motion requesting rejection of the Cities' complaint as procedurally defective and barred by *res judicata*. On June 25, 1982, the Cities filed an answer to AP&Ls motion urging the Commission to grant its original request because AP&L had failed to satisfy or answer the Cities' complaint within thirty days as required by the Commission's regulations. On July 21, 1982, AP&L filed a petition to intervene and protest reiterating its position that the complaint should be rejected because it is procedurally defective and because it is barred by principles of *res judicata*. On August 6, 1982, the Cities filed an answer which essentially repeats their earlier arguments.

Discussion

Intially, the Commission finds that participation in this proceeding by AP&L is in the public interest, and, therefore, the petition to intervene will be granted.

On June 30, 1981, AP&L tendered for filing the rate increase at issue here. The Cities petitioned to intervene but did not then raise any *Mobile-Sierra* claims. By order issued August 28, 1982, the Commission accepted the rates for filing and made them effective, subject to refund, following suspension.[2]

On December 30, 1981, the Cities filed a request to modify the Commission's August 28, 1981 suspension order and to reject AP&L's filing under the *Mobile-Sierra* doctrine. The Commission reviewed the contract language and, by order issued March 3, 1982, found that the contract permitted unilateral rate changes.[3] By pleadings filed on April 5, 1982, the Cities sought rehearing of that order. Initially, by order issued May 5, 1982, the Commission denied rehearing for failure to timely file and because the application for rehearing presented no new facts, circumstances, or arguments that would warrant reconsideration.[4] The Cities filed their complaint in the instant docket following the May 5 denial of rehearing.

Subsequently, on June 4, 1982, the Cities filed an application for rehearing of the Commission's May 5, 1982 order. The Commission, noting that when it has issued the May 5 order, it had been unaware of a pleading filed by the Cities on April 5, 1982, agreed to reconsider its earlier orders of March 3, 1982, and May 5, 1982. By order issued July 6, 1982, the Commission found that the Cities should be allowed an opportunity to present extrinsic evidence to explain or interpret the contract terms at issue. Accordingly, the Commission stayed its order of March 3, 1982, pending hearing and decision on the Cities' *Mobile-Sierra* claims.[5]

As a result of the foregoing series of pleadings and orders, the matters raised by the Cities in their complaint have already been considered by the Commission and a suitable forum to hear their *Mobile-Sierra* claims has been provided in Docket No. ER81–577–000. Moreover, the Cities will have the full protection of the refund obligation imposed on AP&L in that docket should they prevail. In view of our decision in Docket No. ER81–577–000 to provide an opportunity for hearing as to the *Mobile-Sierra* question, the Cities' complaint in this docket is moot. Accordingly, we shall deny the request for declaratory relief without prejudice and we need not address the various procedural requests of the Cities and AP&L concerning the validity of the complaint or the answer.

The Commission orders:

(A) The Cities' request in this docket for the Commission to issue a declaratory judgment is hereby denied.

(B) The petition to intervene in this proceeding is hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act.

(C) Docket No. EL82–18–000 is hereby terminated.

(D) The Secretary shall promptly publish this order in the Federal Register.

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[1] *See United Gas Pipeline Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956); *FPC v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

[2] *Arkansas Power & Light Co.*, 18 FERC ¶ 61,126 (1981); rehearing denied 18 FERC ¶ 61,151 (1982).

[3] *Arkansas Power & Light Co.*, 18 FERC ¶ 61,269 (1982).

[4] *Arkansas Power & Light Co.*, 19 FERC ¶ 61,115 (1982).

[5] *Arkansas Power & Light Co.*, 20 FERC ¶ 61,013 (1982).

By the Commission.
Kenneth F. Plumb,
Secretary.
[FR Doc. 82-26607 Filed 9-27-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6602-000]

D. J. Pitman International Corp.; Application for Preliminary Permit

September 23, 1982.

Take notice that D. J. Pitman International Corporation (Applicant) filed on August 17, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6602 to be known as the Macallen Dam Project located on the Lamprey River in Rockingham County, New Hampshire. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Donald J. Pitman, President, D. J. Pitman International Corporation, 7–A Lexington Street, Dover, New Hampshire 03820.

run-of-river project would consist of: (1) the existing Macallen Dam 150 feet long and 27 feet high, owned by Essex Group, Inc.; (2) a reservoir with negligible storage capacity and a water surface elevation of 40 feet m.s.l.; (3) a new 200-foot-long penstock; (4) a new powerhouse with an installed capacity of 750 kW; (5) a 250-foot-long transmission line; and (6) other appurtenances. Applicant estimates an average annual generation of 3,500,000 kWh. Project energy would be sold to the Public Service Company of New Hampshire.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 2 years during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under the permit would be $3,850.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must file with the Commission, on or before December 7, 1982, the competing application itself [see: 18 CFR 4.30 et. seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be filed with the Commission on or before November 26, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or § 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 Fed. Reg. 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 26, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred S. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.
[FR Doc. 82-26604 Filed 9-27-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-509-000]

Esperanza Transmission Co.; Application

September 23, 1982.

Take notice that on August 23, 1982, Esperanza Transmission Company (Applicant), P.O. Box 2447, Corpus Christi, Texas 78403, filed in Docket No. CP82-509-000 an application pursuant to Section 311(a) of the Natural Gas Policy Act of 1978 (NGPA) and Section 284.127 of the Regulations for authorization to transport natural gas through its intrastate facilities on behalf of Natural Gas Pipeline Company of America (NGPL) for more than two years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is an intrastate pipeline company within the meaning of the NGPA and that it owns and operates an intrastate natural gas pipeline system within the State of Texas. Applicant indicates that NGPL has agreed to sell natural gas to Southwestern Electric Power Company (SWEPCO) for use in SWEPCO's Wilkes Plant located in Marion County, Texas. Since NGPL's pipeline system is not connected to SWEPCO's Wilkes Plant, Applicant states it has agreed to transport the gas to the plant on behalf of NGPL. In order to implement the transportation agreement, Applicant and Transok Pipe Line Company (Transok), another intrastate pipeline company, would jointly construct and operate approximately 11 miles of 14-inch pipeline to transport gas from NGPL's system in Marion County, Texas, to SWEPCO's Wilkes Plant, also in Marion County, Texas.

Applicant proposes to transport gas for NFPL on a limited firm basis for a period ending December 31, 1988. Applicant avers that the term of the transportation agreement between NGPL and Applicant is co-extensive with the term of the sales agreement between NGPL and SWEPCO. For such service Applicant would charge NGPL an initial rate of 15.0 cents per million Btu delivered by Applicant to the Wilkes Plant.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 14, 1982, file with the Federal Energy

Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26595 Filed 9-27-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6682-000]

F&T Services Corporation; Application for Preliminary Permit

September 24, 1982.

Take notice that F&T Services Corporation (Applicant) filed on September 8, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for Project No. 6682 to be known as the Columbia Project located on the Ouachita River in Caldwell Parish, Louisiana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. J. B. Lancaster, Jr., F&T Services Corporation, P.O. Box 64884, Baton Rouge, Louisiana 70896.

Project Description—The proposed project would utilize the U.S. Army Corps of Engineers' Columbia Lock and Dam. The project would consist of a powerplant built adjacent to the dam that would include two to five bulb or tube-type turbine/generator having a total rated capacity from 25 to 75 MW. Average annual generation would range up to 385,000,000 kWh. Energy produced at the project would be sold to a local utility.

Proposed Scope of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geologic investigations, coordinate studies with the U.S. Army Corps of Engineers, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under permit would be less $20,000.

Competing Applications—Any desiring to file a competing application for preliminary permit must file with the Commission, on or before January 3, 1983, the competing application intent to file a competing application for preliminary permit will not be accepted filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to file such an application in response to this notice. A notice of intent to file an application for license or exemption must be filed with the Commission on or before December 3, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR § 4.30 et seq. or § 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211, or 385.214, 47 Fed. Reg. 19025–28 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before December 3, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26596 Filed 9-27-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5470-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

September 24, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the North Meadow Creek Project, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 5470 was issued on February 26, 1982, and would have expired on July 31, 1983. The project would have been located on Meadow Creek in Lincoln County, Montana.

Homestake Consulting and Investments, Inc. stated that its preliminary feasibility studies indicate that the project is not economically feasible.

Homestake Consulting and Investments, Inc. filed the request for Project No. 5470 on August 30, 1982, and the surrender of Project No. 5470 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26597 Filed 9-27-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5477-001, Project No. 5480-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permits

September 24, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the Whitetail Creek Project and Pheasant Creek Project, has requested that its preliminary permits be terminated. The preliminary permits for Projects Nos. 5477 and 5480 were issued on February 17, 1982, and April 13, 1982, and would have expired on August 1, 1983, and October 1, 1983, respectively. The projects would have been located

on Whitetail Creek and Pheasant Creek in Lincoln County, Montana.

Homestake Consulting and Investments, Inc. stated that its preliminary feasibility studies indicate that the projects are not economically feasible.

Homestake Consulting and Investments, Inc. filed the requests for Projects Nos. 5477 and 5480 on August 25, 1982, and the surrender of Projects Nos. 5477 and 5480 have been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26696 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-673-000]

Kentucky Utilities Company; Order Accepting for Filing and Suspending Rates, Noting Interventions, Denying Motions for Rejection and Summary Disposition, and Establishing Hearing and Price Squeeze Procedures

Issued September 22, 1982.

Before Commissioners: C. M. Butler III, Chairman; Georgiana Sheldon, J. David Hughes and A. G. Sousa. Electric Rates: Suspension; Intervention; Summary Disposition; Price Squeeze.

On July 23, 1982, Kentucky Utilities Company (KU) tendered for filing a proposed two-step increase in rates for firm and interruptible service to fourteen wholesale customers.[1] The proposed step-one rates would result in an increase in revenues of approximately $4.9 million (5.8%) for the twelve months ending September 30, 1982. The step-two rates would increase revenues by an additional $2.0 million (3.0%). KU requests that, in the event the Commission concludes that the step-two rates should be suspended for a period of more than one day, the alternate step-one rates be made effective on September 22, 1982.[2] It requests that the step-two rates be made effective on September 23, 1982.

Notice of the filing was published in the **Federal Register** with comments due on or before Augsut 23, 1982. On August 23, 1982, a group of Kentucky municipalities (Municipalities)[3] filed a protest, motion to intervene, motion to reject, and motion for summary judgment.[4] The Municipalities request rejection of KU's step-two increase and suspension of its step-one increase for five months or, alternatively, rejection of step-one increase and suspension of the step-two increase for five months. In support of this motion, the Municipalities contend that, except in unusual circumstances, such phased rate increases violate section 205 of the Federal Power Act and represent an effort to nullify the purposes of the suspension policy enunciated in *West Texas Utilities Company*, Docket No. ER82-23-000 (February 26, 1982). They argue that the purpose of that policy is to provide an incentive to utilize to file cost-justified rate increases. If phased rate increases are permitted, according to the Municipalities, a utility has no incentive to file cost-justified step-two rate increases. They urge that the step-two increase has no cost support and should be rejected.

The Municipalities also request summary disposition with respect to (1) a minimum bill provision incorporating a 100% demand ratchet, and (2) a rate schedule provision which provides for a upward adjustment in demand billings where a customer's power factor is less than 90%. In addition, the Municipalities raise a variety of cost of service issues,[5] allege that the proposed rates are unduly discriminatory and will cause a price squeeze, and challenge certain terms and conditions of service as unjust and unreasonable.

Jackson Purchase Electric Cooperative Corporation (Jackson Purchase) also filed a timely protest, motion to intervene, request for summary judgment, or in the alternative, for a five month suspension. Jackson Purchase argues that the stepped increase is an attempt to circumvent the suspension policy of this Commission and should be rejected. In support of its alternative request for a five month suspension, Jackson Purchase contends that a number of adjustments to KU's cost of service study are required.[6] Jackson Purchase also requests summary disposition to require KU to allocate transmission costs on a rolled-in basis.

The City of Paris, Kentucky (Paris) filed a timely protest and motion to intervene. Paris also seeks a maximum suspension, objecting to KU's allocation of cost and rate base items, its requested rate of return, and an increase in capacity deficiency charges. On September 2, 1982, KU filed an answer to the pleadings of the Municipalities, Jackson Purchase, and Paris, in which it responded to all their allegations.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR § 385.214), timely motions to intervene serve to make the Municipalities, Paris, and Jackson Purchase parties to this proceeding absent opposition within 15 days of their pleadings. The Commission also finds that participation in this proceeding by the City of Bardstown, Kentucky is in the public interest and that good cause exists to permit that customer to intervene as part of the Municipal customer class.

We note that the Municipalities and Jackson Purchase have objected to KU's efforts to phase the instant rate increase. However, we find that KU's submittal substantially complies with the Commission's regulations[7] and that the phased filing does not contravene the filing requirements of the Federal Power Act. Therefore, consistent with prior orders permitting such phasing,[8] we shall deny the motions to reject.

As noted, the Municipalities' request summary disposition as to KU's minimum bill provision and power factor charge. We believe, however, that these issues present questions of law or fact which should be resolved on the basis of an evidentiary hearing.[9] Similarly, Jackson Purchase's request for summary disposition regarding KU's allocation methodology also raises questions which should be addressed at hearing. Therefore, summary disposition will be denied.

Our preliminary review of KU's filing and the pleadings indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly

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[1] *See* Attachment A for customers and rate schedule designations.

[2] If the step-two rates are suspended for only one day, the step-one rates are to be deemed withdrawn.

[3] The Cities of Barbourville, Benham, Cordin, Falmouth, Madisonville, and Providence, Kentucky, the Electric Water Plant Board of Frankfort, Kentucky, and Berea College.

[4] On August 30, the Municipalities requested that the City of Bardstown be included as a member of the municipal group and as an intervenor.

[5] These issues include: (1) improper rate design; (2) erroneous demand and energy forecasts; (3) improper demand allocation factors; (4) understated off-system sales in Period II; (5) excessive O&M expenses; (6) excessive rates of return; (7) an improper amortization period for deferred tax reserves; (8) overstated depreciation expense and cash working capital, and (9) an improper income tax calculation.

[6] Jackson Purchase raises several of the cost of service issues addressed by the Municipals, and, in addition, raises the following issues: (1) direct assignment of transmission facilities; (2) allocation of pollution control CWIP to Jackson Purchase.

[7] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971).

[8] *See, e.g., Indiana & Michigan Electric Company*, 20 FERC ¶ 61,079 (1982); *Jersey Central Power and Light Company*, 19 FERC ¶ 61,308 (1982).

[9] We note that these rate schedule provisions have previously been filed by KU and are issues in a pending proceeding in Docket No. ER81-361-000.

discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend them as ordered below.

In *West Texas Utilities Company, supra,* we noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed increase may be unjust and unreasonable but may not generate substantially excessive revenues, as defined in *West Texas.* Our preliminary review indicates that KU's proposed step-one increase may not yield substantially excessive revenues. Under these circumstances, we shall suspend the step-one rates for one day to become effective, subject to refund, on September 23, 1982. With respect to KU's step-two rates, however, preliminary review suggests that the proposed increase may yield substantially excessive revenues. Accordingly, we shall suspend KU's proposed step-two rates for five months, to become effective, subject to refund, on February 22, 1982.

In light of the intervenors' price squeeze allegations, we shall institute price squeeze procedures and phase those procedures in accordance with the Commission's policy and practice established in *Arkansas Power and Light Company,* Docket No. ER79–339 (August 6, 1979).

As a final matter, the Commission observes that KU has utilized full tax normalization with respect to Accelerated Cost Recovery System (ACRS) property. According to our review, it appears that the instant filing reflects a normalization method of accounting for all post-1980 property additions, that KU's cost of service correctly reflects the effects of normalization, and that KU's submittal satisfies the requirements of the Economic Tax Recovery Act of 1981.

The Commission orders:

(A) The motions to reject KU's filing or to summarily resolve issues are hereby denied.

(B) KU's proposed step-one and step-two rates are hereby accepted for filing; the step-one rates are suspended for one day from 60 days after filing, to become effective, subject to refund, on September 23, 1982, and the step-two rates are suspended for five months from sixty days after filing, to become effective, subject to refund, on February 22, 1983.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of KU's rates.

(D) The City of Bardstown, Kentucky's petition to intervene in this proceeding is hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act.

(E) The Commission staff shall serve top sheets in this proceeding on or before October 4, 1982.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The price squeeze portion of this case shall be governed by the procedures set forth in section 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(H) The Secretary shall promptly publish this order in the Federal Register.

Kenneth F. Plumb,
Secretary.

KENTUCKY UTILITIES—DOCKET NO. ER82-673-000

[Rate schedule designations—Phase I Rates]

Designation	Description	Other party
(1) Supplement No. 3 to Supplement No. 3 to Rate Schedule FERC Nos. 125–144 (Supersedes Supplement No. 2 to Supplement No. 3 as supplemented).	WPS–82A(JP)	Jackson Purchase.
(2) Supplement No. 4 to Rate Schedule FERC No. 146 (Supersedes Supplement No. 3 as supplemented)	WPS–82A(M)	Barbourville.
(3) Supplement No. 4 to Rate Schedule FERC No. 147 (Supersedes Supplement No. 3 as supplemented)	WPS–82A(M)	Bardstown.
(4) Supplement No. 4 to Rate Schedule FERC No. 148 (Supersedes Supplement No. 3 as supplemented)	WPS–82A(M)	Bardwell.
(5) Supplement No. 4 to Rate Schedule FERC No. 149 (Supersedes Supplement No. 3 as supplemented)	WPS–82A(M)	Benham.
(6) Supplement No. 4 to Rate Schedule FERC No. 150 (Supersedes Supplement No. 3 as supplemented)	WPS–82A(M)	Corbin.
(7) Supplement No. 4 to Rate Schedule FERC No. 151 (Supersedes Supplement No. 3 as supplemented)	WPS–82A(M)	Falmouth.
(8) Supplement No. 4 to Rate Schedule FERC No. 152 (Supersedes Supplement No. 3 as supplemented)	WPS–82A(M)	Frankfort.
(9) Supplement No. 4 to Rate Schedule FERC Nos. 153–156 (Supersedes Supplement No. 3 as supplemented)	WPS–82(M)	Madisonville.
(10) Supplement No. 4 to Rate Schedule FERC No. 157 (Supersedes Supplement No. 3 as supplemented)	WPS–82(M)	Nicholasville.
(11) Supplement No. 4 to Rate Schedule FERC No. 158 & 159 (Supersedes Supplement No. 3 as supplemented)	WPS–82(M)	Providence.
(12) Supplement No. 3 to Rate Schedule FERC No. 160 (Supersedes Supplement No. 1 as supplemented)	WPS–82(M)	Berea College.
(13) Supplement No. 3 to Rate Schedule FERC No. 161 & 162 (Supersedes Supplement No. 1 as supplemented)	WPS–82(M)	Madisonville.
(14) Supplement No. 3 to Rate Schedule FERC No. 163 (Supersedes Supplement No. 1 as supplemented)	WPS–82(M)	Nicholasville.
(15) Supplement No. 4 to Rate Schedule FERC No. 164 (Supersedes Supplement No. 1 as supplemented)	WPS–82(M)	Old Dominion.
(16) Supplement No. 3 to Rate Schedule FERC No. 165 (Supersedes Supplement No. 1 as supplemented)	WPS–82(M)	Old Dominion.
(17) Supplement No. 8 to Rate Schedule FPC No. 83 (Supersedes Supplement No. 4)	(P1–A)	Paris.
(18) Supplement No. 4 to Supplement No. 3 to Rate Schedule FERC Nos. 124–144 (Supersedes Supplement No. 3 to Supplement No. 3)	WPS–82	Jackson Purchase.
(19) Supplement No. 5 to Rate Schedule FERC No. 16 (Supersedes Supplement No. 4)	WPS–82(M)	Barbourville.
(20) Supplement No. 5 to Rate Schedule FERC No. 147 (Supersedes Supplement No. 4)	WPS–82(M)	Bardstown.
(21) Supplement No. 5 to Rate Schedule FERC No. 148 (Supersedes Supplement No. 4)	WPS–82(M)	Bardwell.
(22) Supplement No. 5 to Rate Schedule FERC No. 149 (Supersedes Supplement No. 4)	WPS–82(M)	Benham.
(23) Supplement No. 5 to Rate Schedule FERC No. 150 (Supersedes Supplement No. 4)	WPS–82(M)	Corbin.
(24) Supplement No. 5 to Rate Schedule FERC No. 151 (Supersedes Supplement No. 4)	WPS–82(M)	Falmouth.
(25) Supplement No. 5 to Rate Schedule FERC No. 152 (Supersedes Supplement No. 4)	WPS–8(M)	Frankfort.
(26) Supplement No. 5 to Rate Schedule FERC Nos. 153–156 (Supersedes Supplement No. 4)	WPS–8(M)	Madisonville.
(27) Supplement No. 5 to Rate Schedule FERC No. 157 (Supersedes Supplement No. 4)	WPS–8(M)	Nicholasville.
(28) Supplement No. 5 to Rate Schedule FERC Nos. 158 & 159 (Supersedes Supplement No. 4)	WPS–8(M)	Providence.
(29) Supplement No. 4 to Rate Schedule FERC No. 160 (Supersedes Supplement No. 3)	WPS–8(M)	Berea College.
(30) Supplement No. 4 to Rate Schedule FERC Nos. 161 & 162 (Supersedes Supplement No. 3)	WPS–8(M)	Madison.

KENTUCKY UTILITIES—DOCKET NO. ER82-673-000—Continued

[Rate schedule designations—Phase I Rates]

Designation	Description	Other party
(31) Supplement No. 4 to Rate Schedule FERC No. 163 (Supersedes Supplement No. 3)	WPS-8(M)	Nicholasville.
(32) Supplement No. 5 to Rate Schedule FERC No. 164 (Supersedes Supplement No. 4)	WPS-8(M)	Old Dominion.
(33) Supplement No. 4 to Rate Schedule FERC No. 164 (Supersedes Supplement No. 4)	WPS-8(M)	Old Dominion.
(34) Supplement No. 7 to Rate Schedule FPC No. 83 (Supersedes Supplement No. 6)	(P2)	Paris.

[FR Doc. 82-26606 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4684-001]

Long Lake Energy Corporation; Application for License (5 NW of Less)

September 23, 1982

Take notice that Long Lake Energy Corporation (Applicant) filed on February 10, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for construction and operation of a water power project to be known as Stillwater/Lock C–4 Dam Project No. 4684. The project would be located on the Hudson River and Champlain canal in Saratoga and Rensselaer Counties, New York, Correspondence with the Applicant should be directed to: Paul J. Elston, 420 Lexington Ave. Suite 320, New York, New York 10170.

Project Description—The proposed project would consist of: (1) the existing Niagara Mohawk Power Corporation Lock 4 Dam, a concrete gravity structure 5 feet high and 800 feet long; (2) a second existing Dam connecting two Islands south of the Lock Dam is 5 feet high and 320 feet long and owned by the New York State Department of Transportation; (3) the existing Lock 4 is owned by the New York State Department of Transportation; (4) a reservoir having, a mean surface elevation of 82.4 feet msl, a surface area of 1500 acres, and a storage capacity of 14,220 acre-feet; (5) a new intake structure; (6) a new power canal 1500 feet long; (7) a new powerhouse having 2 units with a generating capacity of 4.98 MW; (8) a new tailrace 845 feet long with a bottom width of 160 feet; (9) a new switch yard; (10) a new 34.5–kv transmission line 2,500 feet long; (11) a new access road and; (12) appurtement facilities. The Applicant estimates the average annual energy production would be 30,600,000 kW–hrs and estimates that the cost of the project would be $14,685,000. The Applicant also plans to construct a temporary cofferdam to allow for the construction of the power canal and tailrace in the dry.

Purpose of Project—Project energy would be sold to Niagara Mohawk Power Corporation.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issue of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it wil be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must file with the Commission, on or before November 26, 1982, either the competing application itself [See 18 CFR 4.33 (a) and (d)] or a notice of intent [See 18 CFR 4.33(b) and (c)] to file a competing application. Filing of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) of § 4.101 et. seq. (1981).

Comments, Protests, or Petitions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 Fed. Reg. 19025–25 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before November 26 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE "COMPETING APPLICATION","PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26560 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3183–001]

Massachusetts Municipal Wholesale Electric Company and Connecticut Municipal Electric Energy Cooperative; Surrender of Preliminary Permit

September 24, 1982.

Take notice that Massachusetts Municipal Wholesale Electric Company and Connecticut Municipal Electric Energy Cooperative, Permittee for the proposed Warehouse Point Project No. 3183 filed a request on September 10, 1982, that its preliminary permit be terminated. The preliminary permit was issued on July 28, 1981, and would have expired on June 30, 1984. The project would have been located on the Connecticut River, in Hartford County, Connecticut. Permittee indicated that the project would not be economically feasible to develop.

The surrender of the permit is in the public interest. Therefore, the surrender of the preliminary permit for Project No.

3183 is accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26809 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5835-000]

Pennsylvania Hydro-Electric Development Corporation; Application for License (5 NW or Less)

September 23, 1982.

Take notice that Pennsylvania Hydro-Electric Development Corporation (Applicant) filed on December 31, 1981, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Felix Water Power Project No. 5835. This application for license was filed during the term of the Applicant's preliminary permit for Project No. 2803. The project would be located on the Schuylkill River in Berks County, Pennsylvania. Correspondence with the Applicant should be directed to: Mr. Larry Gleeson, President, Pennsylvania Hydro-Electric Development Corporation, Suite 213, Continental Offices, P.O. Box 814, King of Prussia, Pennsylvania 19406.

Project Description—The proposed project would be run-of-the-river and would consist of: (1) the existing Felix Dam, approximately 450 feet long and 24 feet high, constructed of rock-filled timber cribs with spillway crest elevation at 237.5 feet m.s.l.; (2) a reservoir having minimal pondage; (3) an existing navigation lock to be rehabilitated, gated, and used to transport flows to the powerhouse intake structure; (4) a new powerhouse containing a turbine-generator unit having a total rated capacity of 1,500 kW; (5) a tailrace with re-entry to the river approximately 170 feet downstream of the dam; (6) a new transmission line, approximately 1,000 feet long, connecting to existing 13.2-kV lines; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 8,000,000 kWh. Project energy would be sold to the Metropolitan Edison Company. Felix Dam is owned by the Commonwealth of Pennsylvania.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must file with the Commission, on or before November 29, 1982, either the competing application itself [See 18 CFR 4.33(a) and (d)] or a notice of intent [See 18 CFR 4.33(b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et. seq. (1981).

Comments, Protests, or Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 Fed. Reg. (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 29, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26801 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6658-000]

Pioneer Hydro Power, Inc.; Application for Preliminary Permit

September 24, 1982.

Take notice that Pioneer Hydro Power, Inc. (Applicant) filed on August 31, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6658 to be known as the Whale Creek Hydroelectric Project located on Whale Creek, near Estacada, in Clackamas County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Messrs. Carl Rounds and K. Marshal Volpa, 1885 W. Washington Ave., Stayton, Oregon 97383.

Project Description—The proposed project would consist of: (1) a 6-foot-high by 30-foot-long diversion structure; (2) a 13,200-foot-long penstock; (3) a powerhouse to contain one impulse-type, turbine-generating unit with a rated capacity of 1,250 kW; and (4) a 200-foot-long, 12-kV transmission line. The project would be located within the boundaries of the Mt. Hood National Forest. The average annual production is about 7 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the proposed project and to file an FERC license application.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must file with the Commission, on or before December 6, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to file such an application in response to this notice. A notice of intent to file an application for license or exemption must be filed with the Commission on or before December 6, 1982, and should specify the type of application forthcoming. Any application for license

or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR § 4.30 et seq. or § 4.101 et seq. (1981), as appropriate].

Filing of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than February 4, 1983.

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–28 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before December 6, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26603 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3013-001]

Quidnick Reservoir Association; Application for License (5 MW or Less)

September 24, 1982.

Take notice that Quidnick Reservoir Association (Applicant) filed on March 30, 1982, as amended on April 12, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Natick Dam Project No. 3013. The project would be located on the Main Branch-Pawtuxet River in Kent County, Rhode Island. The application was filed during the term of the Applicant's preliminary permit for Project No. 3013. Correspondence with the Applicant should be directed to: Steven Krous, Halliwell Associates, Inc., 865 Waterman Avenue, East Providence, Rhode Island 02914.

Project Description—The proposed project would consist of: (1) the Applicant's existing Natick Dam, 166 feet long and 19 feet high, with provisions for installation of 12-inch high flashboards; (2) a new 75-foot long headrace; (3) a new powerhouse with an installed capacity of 522 kW; (4) a new 50-foot long tailrace; and (5) other appurtenances. Applicant estimates an annual generation of 2,853,504 kWh.

Purpose of Project—Project energy would be sold to Narragansett Electric Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 3, 1982, either the competing application itself [See 18 CFR 4.33 (a) and (d)] or a notice of intent [See 18 CFR 4.33 (b) and (c)] to file a competing application. Filing of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–28 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before December 3, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26603 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6375-000]

Russell Biggs, Sr.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW

September 23, 1982.

Take notice that on May 27, 1982, Russell Biggs, Sr. (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for

exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6375 would be located on Slaughterhouse Gulch-Rock Creek, near Twin Falls, in Twin Falls County, Idaho. Correspondence with the Applicant should be directed to: Mr. Russell Biggs, Sr., Route #5, Box 1905, Twin Falls, Idaho 83301.

Project Description—The proposed project would consist of: (1) a 5-foot-high, 25-foot-long concrete structure; (2) a 1,000-foot-long, 30-inch-diameter penstock; (3) a powerhouse containing two generating units with a total installed capacity of 116 kW; and (4) a 300-foot-long, 12-kV transmission line from the powerhouse to an existing transmission line. The Applicant estimates that the average annual energy production would be 0.50 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments wihin 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives. *"Competing Applications*—Any qualified license applicant desiring to file a competing application must file with the Commission, on or before November 8, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Filing of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 C.F.R. § 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 C.F.R. § 4.33 (a) and (d) (1980).

Comments, Protests, or Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 C.F.R. 385.211 or 385.214, 47 Fed. Reg. 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before November 8, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26004 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6441-000]

South Fork Hydroelectric; Application for Exemption for Small Hydroelectric Power Project of 5 MW or Less Capacity

September 24, 1982.

Take notice that on June 17, 1982, South Fork Hydroelectric Association filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric Project No. 6441 would be located on Kern River in Kern County, California. Correspondence with the Applicant should be directed to: Messrs. Carl G. and William B. Allen, 3435 Wilshire Boulevard, Suite 2320, Los Angles, California 90010.

Project Description—The proposed project would consist of: (1) a proposed 6-feet high, 135-feet long diversion structure; (2) a proposed 84-inch diameter conduit; (3) a proposed powerhouse containing 3 generating units having a total installed capacity of 3,810 kW; (4) a proposed 13.8 kV transmission line; (5) a proposed access road; and (6) appurtenant facilities. A part of the project would be located on lands owned by the U.S. Forest Service. The Applicant estimates the average annual energy output would be 19,692,000 kWh.

Purpose of Project—The power produced would be delivered to local electrical utilities, or to adjacent industrial plants.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Natural Resources are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period that

agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—This application was filed as a competing application to Victor page and LaVerta Page's application for Project No. 4805 filed on October 2, 1981. Public notice of the filing of that application, which has already been given, established the due date for filing competing applications for licenses, exemption, or notices of intent. In accordance with the Commission's regulations, no exemptions, licenses, or notices of intent will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the, Commission's regulations [See: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Comments, Protests, or Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 C.F.R. 385.211 or 385.214, 47 Fed. Reg. 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before November 15, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26606 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-544-000]

Southern Company Services, Inc.; Order Accepting for Filing Unit Power Sales Agreements, Granting Interventions and Waiver of Notice, and Denying Requests for Rejection and Hearing

Issued September 22, 1982.

Before Commissioners: C. M. Butler III, Chairman; Georgiana Sheldon and J. David Hughes. Electric rates: Acceptance; Intervention; Waiver of Notice.

On May 24, 1982, Southern Company Services, Inc. (SCSI), acting on behalf of its affiliates, Alabama Power Company, Gulf Power Company, Georgia Power Company, and Mississippi Power Company, tendered for filing superseding Unit Power Sales Agreements with Jacksonville Electric Authority (JEA) and Florida Power and Light Company (FP&L).[1] The proposed agreements include the same formulary rates as those which were accepted for filing in SCSI's earlier Docket No. ER81–678–000.[2] The proposed amendments differ from the orginally filed unit sales' agreements in that they provide for increases in capacity entitlements, extensions of the terms of the agreements and the inclusion of additional units from which capacity and energy would be sold to JEA and FP&L.[3] SCSI states that the proposed revenues over the twelve-month period ending December 31, 1983, would remain unchanged from the original submittal in Docket No. ER81–678–000 (approximately $152,854,900 for the sales to FP&L and approximately $136,109,800 for the sales to JEA). However, the inclusion of lower cost units is expected to result in lower total capacity charges over the life of the agreements. SCSI proposes an effective date of January 1, 1983, the same date specified for initiation of service under the originally filed unit sales agreements.

Notice of SCSI's filing was issued on June 2, 1982, with responses due by June 16, 1982. On June 16, 1982, Seminole Electric Cooperative, Inc. (Seminole) filed a protest and intervention. Seminole challenges the increased sales to FP&L and requests that the proposed amendments to the SCSIFP&L agreement be rejected to the extent that they "preclude . . . unit power purchases by FP&L from Seminole."[4] Seminole also requests a hearing concerning the lawfulness of the proposed amendments.

Seminole's requests are based on two premises. First, it is alleged that unit sales by Seminole to FP&L would be made at a lower cost than those by SCSI. SCSI's proposed arrangement would allegedly result in higher rates for Seminole, inasmuch as Seminole also purchases power from FP&L. Second, Seminole asserts that FP&L, by failing to purchase unit power from Seminole, will force Seminole to pass along the entire cost of its new generating units to its member cooperatives. This would result in a substantial increase in the cooperatives' rates, thereby hampering their ability to compete with FP&L for retail loads.

On July 1, 1982, SCSI and FP&L separately filed answers to Seminole's protest. FP&L also filed on that date an untimely intervention. In its answer, SCSI states that the Commission should deny Seminole's intervention and dismiss its protest. SCSI contends that Seminole has failed to raise any issue over which the Commission has jurisdiction and that it seeks a remedy the Commission is without authority to grant. SCSI further alleges that Seminole's filing is an abuse of process, on the ground that Seminole's allegations are completely without merit. FP&L makes essentially the same arguments, adding that even if the Commission had authority to negate the

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[1] *See* Attachment A for Rate Schedule designations.

[2] By letter dated March 3, 1982, the Director, Office of Electric Power Regulation, accepted for filing the present formulary rates subject to the same filing and review procedures which were established in Docket No. ER80–58 for similar formulary rates filed by SCSI. In Docket No. ER80–58 the Commission, by letter dated September 14, 1981, accepted for filing a settlement agreement which included formulary rates for interchange service provided to FP&L. Under the settlement agreement, SCSI agreed to file periodic informational schedules of rates determined pursuant to the operation of the formulas with such rates subject to the Commission review and subject to refund pending that review.

[3] Under the original agreements, SCSI would sell amount varying from 660 MW to 1400 MW, between 1983 and 1992, from the following units: Scherer Unit Nos. 1–4 and Daniel Unit Nos. 1 and 2. Under the revised agreements, SCSI would sell amounts varying from 600 MW to 2300 MW, between 1983 and 1995, from the originally designated units as well as Miller Unit Nos. 1–4.

[4] Seminole is constructing two 600 MW coal-fired generating units from which such unit power purchases would be made. Seminole does not challenge the SCSI-JEA agreement.

existing contract and direct FP&L, instead, to contract with Seminole. SCSI's proposal is superior to Seminole's both in terms of economics and reliability. With respect to its intervention, FP&L states that it had no reason to intervene until it was apprised of Seminole's intervention, and that it filed its late intervention as shortly as possible thereafter.

Discussion

The Commission finds that participation in this proceeding by Seminole is in the public interest. Accordingly, its petition to intervene will be granted. The Commission further finds that good cause has been shown by FP&L for its untimely intervention, and that because of the early stage of this proceeding, its intervention will not disrupt the proceeding or burden other parties. Accordingly, its petition to intervene will be granted.

Seminole's request for rejection of SCSI's filing and for a hearing on the lawfulness of the proposed amendments must be denied. Our review indicates that the rates to FP&L are cost justified and should be accepted. Indeed, Seminole does not suggest in its pleading that the rates under SCSI's proposed agreements are unjust and unreasonable on a cost basis. With regard to the allegation that FP&L's rates to Seminole will be excessively increased by FP&L's purchases from SCSI, the gravaman of Seminole's complaint apparently is that FP&L's failure to purchase allegedly less costly power from Seminole is imprudent. We need not pass on the merits of this allegation because this proceeding is not the appropriate forum in which to pursue it. The proper forum for Seminole's complaint is in a rate case in which FP&L proposes to pass on to Seminole the allegedly imprudent costs.

As to Seminole's broad, anticompetitive allegations, they do not appear to state a claim for which there is a remedy under the Federal Power Act. While it appears that Seminole may be in a better position to compete with FP&L if FP&L purchases unit capacity from Seminole, we perceive no duty on FP&L's part, under the Federal Power Act or other applicable statutes, to purchase capacity from Seminole. We shall accordingly deny the request for a hearing since Seminole has raised no material questions of fact or law regarding the lawfulness of Southern Company's sale to FP&L.

SCSI requests waiver of the 120 day notice requirement of section 35.3 of the Commission's regulations (18 CFR 35.3) since it states that advance approval is essential to avoid the necessity of contingency planning for the construction of facilities and the supply of capacity to meet expected demand. We find good cause to grant the waiver as requested,

The Commission orders: (A) Seminole's requests for rejection of SCSI's filing and for a hearing are hereby denied.

(B) SCSI's and FP&L's requests for rejection of Seminole's intervention are hereby denied.

(C) Waiver of the 120 day notice requirement is hereby granted for good cause shown.

(D) SCSI's Amended and Restated Unit Power Sales Agreements with JEA and FP&L are hereby accepted for filing to become effective, without suspension, on January 1, 1983, as requested by SCSI.

(E) The interventions in this proceeding are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* that participation by such intervenors shall be limited to matters set forth in their petitions to intervene; and *provided, further,* that the admission of said intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

SOUTHERN COMPANY SERVICES, INC., DOCKET NO. ER82-544-000; RATE SCHEDULE DESIGNATIONS

Southern Company Services, Inc.	Description	Other party
(1) Rate Schedule FERC No. 57 (Supersedes Rate Schedule FERC No. 52)	Unit Power Sales Agreement	Florida Power & Light Company
(2) Exhibit A to Rate Schedule FERC No. 57	Capacity Entitlements	Do.
(3) Supplement No. 1 to Rate Schedule FERC No. 57	Amendment No. 1	Do.
(4) Supplement No. 2 to Rate Schedule FERC No. 57	Manual	Do.
(5) Supplement No. 3 to Rate Schedule FERC No. 57 (Redesignation of Supplement No. 2 to Rate Schedule FERC No. 52).	Informational Schedules	Do.
(6) Rate Schedule FERC No. 58 (Supersedes Rate Schedule FERC No. 54)	Unit Power Sales Agreement	JEA
(7) Exhibit A to Rate Schedule FERC No. 58	Capacity Entitlements	Do.
(8) Supplement No. 1 to Rate Schedule FERC No. 58	Manual	Do.
(9) Supplement No. 2 to Rate Schedule FERC No. 58 (Redesignation of Supplement No. 2 to Rate Schedule FERC No. 54).	Informational Schedules	Do.

DESCRIPTION: CERTIFICATES OF CONCURRENCE

Filing party	Rate schedule	Supersedes rate schedule	Concurs in	Other party
(10) Alabama Power Company	FERC No. 156	FERC No. 151	(1)–(5)	FPL
(11) Alabama Power Company	FERC No. 157	FERC No. 153	(6)–(9)	JEA
(12) Georgia Power Company	FERC No. 610	FERC No. 605	(1)–(5)	FPL
(13) Georgia Power Company	FERC No. 611	FERC No. 607	(6)–(9)	JEA
(14) Gulf Power Company	FERC No. 74	FERC No. 69	(1)–(5)	FPL
(15) Gulf Power Company	FERC No. 75	FERC No. 71	(6)–(9)	JEA
(16) Mississippi Power Company	FERC No. 133	FERC No. 127	(1)–(5)	FPL
(17) Mississippi Power Company	FERC No. 134	FERC No. 129	(6)–(9)	JEA
(18) Florida Power & Light Company	FERC No. 46	FERC No. 39	(1)–(5)	SCSI

[FR Doc. 82-26609 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Doc. Nos. CP82-125-003 and CP82-125-004, et al.]

Trans—Niagara Pipeline, et al.; Intent To Prepare An Environmental Impact Statement for the Trans-Niagara Import Project and Request for Comments on Environmental Issues and the Scope of Those Issues

September 23, 1982.

In the matter of Trans-Niagara Pipeline, Algonquin Gas Transmission Company, Transcontinental Gas Pipe Line Corporation, ANR Storage Company, Great Lakes Gas Transmission Company, Texas Eastern Transmission Corporation, ANR Michigan Storage Company, Docket Nos. CP82–125–003, CP82–125–004, CP82–119–001, CP82–385–000, CP82–420–000, CP82–428–000, CP82–446–000, and CP82–478–000.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) has determined that approval of the projects proposed in the dockets listed above would constitute a major Federal action significantly affecting the quality of the human environment. Therefore, pursuant to section 2.82(b) of the Commission's rules of Practice and Procedure (18 CFR 2.82(b)), an environmental impact statement (EIS) will be prepared. The draft EIS for the Trans-Niagara Import Project will deal with the facilities proposed in these applications. It will also address alternatives to the proposed project including no action, route deviations, and system design modifications where feasible. In addition, the EIS will present comparative analysis of the Trans-Niagara Import Project as proposed and any other reasonable gas transportation system alternatives, as appropriate.

The applicants are seeking certificates of public convenience and necessity, under section 7(c) of the Natural Gas Act, authorizing construction and operation of a total of 556 miles of pipeline and 176,480 horsepower of compression and transportation and storage service. Transcontinental Gas Pipe Line Company (Transco), Texas Eastern Transmission Corporation (Texas Eastern), and Algonquin Gas Transmission Company (Algonquin) would purchase imported Canadian natural gas from TransCanada Pipelines Limited, Pan-Alberta Gas Ltd., ProGas Limited, Sulpetro Limited, and Union Gas Limited. The gas would be imported from Canada at a point on the international boundary near Niagara Falls, New York, and transported through existing and proposed facilities for sale to customers in the Northeast.[1]

Trans-Niagara Pipeline (Trans-Niagara) proposes, in Docket No. CP82–125–003, to construct 161 miles of 42-inch diameter pipeline, a dual 36-inch diameter pipeline crossing of the Niagara River, and two meter stations in New York and Pennsylvania. In addition, Trans-Niagara proposes to install under Docket No. CP82–125–004 a total of 102,000 horsepower of compression at two new compressor stations in Niagara County, New York, and Clinton County, Pennsylvania.

Under Docket No. CP82–385–000, Transco would construct 230 miles of 10-, 16-, 24-, 36-, and 42-inch diameter pipeline loop in seven segments adjacent to its existing pipeline in Pennsylvania and New Jersey. The applicant would also install a total of 16,350 horsepower of compression at two existing compressor stations in Lycoming and Luzerne Counties, Pennsylvania.

Texas Eastern requests authorization in Docket No. CP82–446–000 to construct 98 miles of 30- and 36-inch diameter pipeline loop in six segments adjacent to its existing pipelines in Pennsylvania.

In Docket No. CP82–119–001, Algonquin proposes to construct 19.2 miles of 30-inch diameter pipeline and 3.9 miles of 36-inch diameter pipeline in New Jersey and New York, respectively. Algonquin further proposes to install a total of 42,130 horsepower of compression, including two new compressor stations, in Morris County, New Jersey, and Putnam County, New York, as well as adding compression at two existing compressor stations in New York and Connecticut. Algonquin would also install four new regulator stations in Massachusetts and a meter station in Connecticut.

Great Lakes Gas Transmission Company proposes in Docket No. CP82–428–000 to construct 20.6 miles of 36-inch diameter pipeline loop in Crawford and Kalkaska Counties, Michigan, and to modify three existing metering stations in Michigan.

ANR Storage Company (Docket No. CP82–420–000) would construct 15.9 miles of 36-inch diameter pipeline adjacent to existing pipeline rights-of-way, two meter stations, and a 4,000-horsepower compressor station in Kalkaska and Grand Traverse Counties, Michigan.

Finally, ANR Michigan Storage Company (Docket No. CP82–478–000) would construct 6.5 miles of 16-inch diameter pipeline and a 12,000-horsepower compressor station. The applicant would also develop and operate the Whitewater 36/36A and Union 8/8A fields for underground storage by rehabilitating a total of 4 existing wells and drilling 19 new wells. All of these facilities would be in Grand Traverse County, Michigan.

To allow sufficient space for construction of the pipelines, construction rights-of-way up to 75 feet wide would be required. After construction, new 20- to 50-foot wide permanent rights-of-way would be maintained.

A copy of this notice and additional technical information about the proposed project have been distributed to Federal, state, and local environmental agencies, parties to the proceeding, and the public. These groups are invited to comment on anticipated environmental problems associated with the proposed projects. Comments will be used by the FERC staff to identify the issues which require in-depth environmental analysis. Comments should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Recommendations that the EIS address specific issues should be supported by detailed rationale or a showing of the need to consider those issues. Written comments should be submitted by October 29, 1982, and reference Docket No. CP82–125–003.

Additional information about the proposals is available from Mr. Kenneth Frye, Project Manager, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, telephone (202) 357–9039.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-26010 Filed 9-27-82; 8:45 am]
BILLING CODE 6717-01-M

[1] Other filings before the Commission related to these applications but which do not propose facility construction are:

1. Algonquin, Texas Eastern, and Transco, Docket No. CP82–46–001 (import);
2. Michigan Consolidated Gas Company, Docket No. CP82–502–000 (transportation, storage, continued exemption of certain facilities);
3. Texas Eastern, Docket Nos. CP82–423–000 (import) and CP82–326–000 (import);
4. Trans-Niagara Pipeline, Docket Nos. CP82–460–000 (presidential permit), CP82–125–005 (extension of import period), and CP82–125–006 (supplement); and
5. Transco, Docket Nos. CP82–125–000 (import), CP82–385–001 (supplement), and CP82–503–000 (storage).

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 22, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-BEREA OIL AND GAS CORPORATION			RECEIVED:	07/20/82		JA: NY			
8253379	3507	3101317068	103			L FORBES UNIT #4A	WILDCAT	12.0	COLUMBIA GAS TRAN
OKLAHOMA CORPORATION COMMISSION									
-A & P DRILLING CO INC			RECEIVED:	09/02/82		JA: OK			
8253318	15727	3508321875	103			RAME #2	CRESCENT LOVELL	0.0	EASON OIL CO
-AMERICAN NAT GAS PROD CO			RECEIVED:	09/03/82		JA: OK			
8253287	15780	3501121614	103			A POPE #1-18	WATONGA TREND	109.5	DELHI GAS PIPELIN
-ARCO OIL AND GAS COMPANY			RECEIVED:	09/03/82		JA: OK			
8253296	17888	3501922472	102-4			RICKEY #1	N W OIL CITY	36.5	LONE STAR GAS CO
-BEK OIL CO INC			RECEIVED:	09/02/82		JA: OK			
8253307	15728	3511326831	103			DAVIS 2-A		255.0	PHILLIPS PETROLEU
-BILL WADLEY & SON DRILLING CO			RECEIVED:	09/03/82		JA: OK			
8253281	15625	3511100000	103			HAYLEY 3-A	WILSON	18.0	PHILLIPS PETROLEU
-CENTRAL CALIFORNIA OIL CO			RECEIVED:	09/03/82		JA: OK			
8253288	15782	3511123205	103			BLUE JAY #1	WEST OKMULGEE	36.5	PHILLIPS PETROLEU
-CHAMPLIN PETROLEUM COMPANY			RECEIVED:	09/02/82		JA: OK			
8253315	15724	3507300000	103			WALKER UNIT #2	SOONER TREND	120.0	PHILLIPS PETROLEU
-CITIES SERVICE COMPANY			RECEIVED:	09/03/82		JA: OK			
8253301	20511	3514920254	107-DP			CHARTER A #1	N W BRAITHWAITE	182.5	
-CLAY MOORE			RECEIVED:	09/02/82		JA: OK			
8253317	15726	3510920555	103			G B SCOTT #1	S E GARDEN	69.0	SUN GAS CO
-CROUCH PETROLEUM COMPANY			RECEIVED:	09/02/82		JA: OK			
8253329	17868	3509120352	102-4			HENDERSON #2	S E CHECOTAH	98.0	COLUMBIA GAS TRAN
8253326	17866	3509120341	102-4			SIZEMORE #3	S E CHECOTAH	130.0	COLUMBIA GAS TRAN
8253328	17867	3509120331	102-4			TACKETT #1-23	S E CHECOTAH	110.0	COLUMBIA GAS TRAN
-CUMMINGS OIL CO			RECEIVED:	09/02/82		JA: OK			
8253322	15705	3508321874	103			CAIN #1-21	W ABELL	0.0	EASON OIL CO
8253321	15704	3508321829	103			REESE-GAMBLE #1-21	W ABELL	0.0	EASON OIL CO
-EL PASO NATURAL GAS COMPANY			RECEIVED:	09/03/82		JA: OK			
8253308	20491	3514920249	107-DP			DERBY #1	BRAITHWAITE N W UPPER	1160.0	EL PASO NATURAL G
-ENSERCH EXPLORATION INC			RECEIVED:	09/03/82		JA: OK			
8253282	15640	3504321207	103			IRENE GAMBREL #1-9	NE PUTNAM	292.0	MOBIL OIL CORP
-EXXON CORPORATION			RECEIVED:	09/02/82		JA: OK			
8253334	15681	3500722148	103			FICKEL-BANK UNIT #2	MOCANE-LAVERNE	307.0	COLORADO INTERSTA
-F C D OIL CORP			RECEIVED:	09/03/82		JA: OK			
8253284	15655	3507323435	103			RIGDON 1-11	SOONER TREND	91.3	EXXON CO USA
8253298	15709	3507323433	103			SCHICK 1-12	SOONER TREND	401.5	PHILLIPS PETROLEU
-GEORGE R BROWN			RECEIVED:	09/02/82		JA: OK			
8253338	18374	3500900000	108-ER			HAM #1	SOUTHWEST MAYFIELD	13.0	ARKANSAS LOUISIAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME		
-HAMILTON BROTHERS OIL CO				RECEIVED:	09/02/82	JA: OK		
8253325	15720	3512120861		103		STRANGE #1-29		
-HUNTON OIL & GAS CORP				RECEIVED:	09/02/82	JA: OK		
8253309	15743	3508320990		103		KATCHER #5		
-INTERNORTH INC				RECEIVED:	09/03/82	JA: OK		
8253283	15652	3500721474		103		MCCLURG #2-1		
-JET OIL COMPANY				RECEIVED:	09/02/82	JA: OK		
8253319	15683	3508321753		103		THEILEN #1		
-L & T OIL & GAS INC				RECEIVED:	09/02/82	JA: OK		
8253320	15700	3511921791		103		EMMONS #1		
-L & T OIL & GAS INC				RECEIVED:	09/03/82	JA: OK		
8253277	15885	3504722802		103		LANG "33" #1		
-LRF CORP				RECEIVED:	09/02/82	JA: OK		
8253316	15725	3506300000		103		HERRING #2		
-MIDCO DRILLING INC				RECEIVED:	09/02/82	JA: OK		
8253335	15682	3507323408		103		SCHROEDER #1		
-O & W OIL CO				RECEIVED:	09/03/82	JA: OK		
8253276	15883	3508121092		103		SCHOOL LAND #1		
-O L SCOTT JR				RECEIVED:	09/03/82	JA: OK		
8253293	15758	3504722428		103		BOLAY #1		
-OKLAHOMA CONVEYANCE CORP				RECEIVED:	09/02/82	JA: OK		
8253332	13411	3507121441		108		A F MAYERS #1-11		
8253331	13410	3507121442		108		A F MAYERS #2-11		
8253333	13412	3507121443		108		MERHOFF #1-12		
-PENNACO RESOURCES CORP				RECEIVED:	09/02/82	JA: OK		
8253323	15706	3508321679		103		WINBURN #6-1		
-PETROMARK EXPLORATION INC				RECEIVED:	09/03/82	JA: OK		
8253303	15240	3507323380		103		CASH 31-1		
-PORTS OF CALL OIL CO				RECEIVED:	09/02/82	JA: OK		
8253327	16296	3510920568		102-4	103	SOUTHERN #7-2		
-PORTS OF CALL OIL CO				RECEIVED:	09/03/82	JA: OK		
8253274	15878	3501722241		103		EBLING #2-1		
-RICKS EXPLORATION CO				RECEIVED:	09/03/82	JA: OK		
8253299	20428	3501521029		107-DP		ZIPSE #1		
-SCHICK ENERGY CORP				RECEIVED:	09/02/82	JA: OK		
*8253311	15730	3509322097		103		DUFFY 5-1		
*8253308	15729	3509322266		103		LYTLE 15-1		
-SOUTHLAND ROYALTY CO				RECEIVED:	09/03/82	JA: OK		
8253297	19297	3509322201		102-4		CALLIE WOODRING #1-29		
8253298	19296	3509322316		102-4		CALLIE WOODRING #2-29		
8253278	16266	3504321413		102-4	103	LEO HURT #2-6		
8253279	16694	3504321398		102-4	103	WOODRING #5-31		
8253280	16695	3509322472		102-4	103	WOODRING #7-31		
-SPECTRA ENERGY CORP				RECEIVED:	09/02/82	JA: OK		
8253312	16883	3500722318		102-4		JONES #1		
-SPELLER OIL CORP				RECEIVED:	09/03/82	JA: OK		
8253286	15779	3507321914		103		GINNY BARTON "35" #1		
-STEVE JERNIGAN INC				RECEIVED:	09/02/82	JA: OK		
8253314	10884	3503920640		102-2		TIPPENS #1-21		
-SUPRON ENERGY CORPORATION				RECEIVED:	09/03/82	JA: OK		
8253291	15756	3509322140		103		BIERIG #1		
8253292	15757	3509322140		103		BIERIG #1		
-SMALA OIL & GAS CORP				RECEIVED:	09/02/82	JA: OK		

FIELD NAME	PROD	PURCHASER
WILDCAT	292.0	
SOUTH CRESCENT	0.0	CONOCO INC
LOGAN	4.6	INTERNORTH INC
ELKHORN	7.0	EASON OIL CO
YALE-QUAY	73.0	
N W BROWN	2.0	
HILLTOP	109.5	ARKANSAS LOUISIAN
NORTHEAST OKARCHE	100.0	PHILLIPS PETROLEU
NW WELLSTON	128.2	SUN OIL CO
S E COVINGTON	28.0	ARCO OIL & GAS CO
PERMEAN BASIN	1.7	CITIES SERVICE GA
PERMEAN BASIN	5.0	CITIES SERVICE GA
PERMEAN BASIN	2.5	CITIES SERVICE GA
MARSHALL 66	125.0	EASON OIL CO
SOONER TREND	75.0	CITIES SERVICE GA
EAST YUKON	186.0	MOBIL OIL CORP
S W YUKON	136.0	PHILLIPS PETROLEU
SOUTHWEST DERDON	469.0	SOUTHERN NATURAL
RINGWOOD	100.0	RINGWOOD GATHERIN
RINGWOOD	30.0	PIONEER GAS PRODU
ORION	55.0	PHILLIPS PETROLEU
ORION	65.0	PHILLIPS PETROLEU
ORION	100.0	PHILLIPS PETROLEU
ORION	50.0	PHILLIPS PETROLEU
ORION	66.0	PHILLIPS PETROLEU
E ELMWOOD	0.0	
SOONER TREND	45.6	CONOCO INC
NE CARPENTER	0.0	DELHI GAS PIPELIN
MISSISSIPIAN	31.5	DELHI GAS PIPELIN
CHESTER	10.0	DELHI GAS PIPELIN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	VOLUME 740 FIELD NAME	PAGE 003 PROD	PURCHASER
8253313	16369	3500721675		102-4	103	ANN RUSSELL #1-A	MOCANE-LAVERNE	2880.0	PANHANDLE EASTERN
-TENNECO OIL COMPANY				RECEIVED:	09/03/82	JA: OK			
8293294	15765	3507323357		103		BOLLMAN #1-30	OKARCHE N	153.0	PHILLIPS PETROLEU
-TEXOMA RESOURCES INC				RECEIVED:	09/03/82	JA: OK			
8253302	13825	3507300000		103		BRAME A #-1-24	SOONER TREND	60.0	CONOCO INC
-TXO PRODUCTION CORP				RECEIVED:	09/02/82	JA: OK			
8253306	15753	3509322370		103		CORNELSEN "A" #1	N W OREENE	230.0	DELHI GAS PIPELIN
8253310	15752	3504321356		103		FUQUA "E" #1	N E SEILING	246.0	DELHI GAS PIPELIN
-TXO PRODUCTION CORP				RECEIVED:	09/03/82	JA: OK			
8253295	15768	3506120482		103		BLANKENSHIP A #1	WILDCAT	418.0	
8253285	15662	3504321374		103		FUQUA "F" #1	S E CETOS	328.0	DELHI GAS PIPELIN
-UNION TEXAS PETROLEUM CORP				RECEIVED:	09/03/82	JA: OK			
8253275	15879	3500320950		103		CORA MARTIN #2	HODGE I	365.0	PANHANDLE EASTERN
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	09/02/82	JA: OK			
8253324	15710	3507323511		103		HENRY 1-5		0.0	CITIES SERVICE CO
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	09/03/82	JA: OK			
8253289	15783	3504521023		103		COMMISSIONER 1-29		0.0	DELHI GAS PIPELIN
8253304	15496	3501121659		103		G F M 1-32		0.0	DELHI GAS PIPELIN
-WESSELY ENERGY CORPORATION				RECEIVED:	09/03/82	JA: OK			
8253273	15723	3504921009		103		WALTERS #1	W MAYSVILLE	19.0	WARREN PETROLEUM

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TEXAS RAILROAD COMMISSION

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-PIONEER PRODUCTION CORPORATION				RECEIVED:	09/07/82	JA: TX			
8253305	F-10-030688	4229500000		108-SA		M W BRDYLES #1 RRC ID 22397	MAMMOTH CREEK NORTH/C	1780.0	NORTHERN NATURAL

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WEST VIRGINIA DEPARTMENT OF MINES

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-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	09/03/82	JA: WV			
8253345		4708505145		102-3		BLANCHE STEWART WN 12682	CLAY	10.0	GENERAL SYSTEM PU
8253344		4701900413		102-2		CHARLESTON NATIONAL BANK WN 12617	FAYETTEVILLE	101.0	GENERAL SYSTEM PU
8253363		4710300658		108		HOGE HEIRS WN-155	MANNINGTON	10.0	GENERAL SYSTEM PU
8253343		4703301419		108		J M THRASH WN-4591	UNION	6.0	GENERAL SYSTEM PU
8253365		4710900043		108		LOUP CREEK COLLIERY CO WN-8860	OCEANA	16.0	GENERAL SYSTEM PU
8253364		4710300665		108		NATHAN CROSS WN-477	MANNINGTON	4.0	GENERAL SYSTEM PU
8253366		4710900753		108		POCAHONTAS LAND CORP 12125	BARKERS RIDGE DISTRIC	6.0	GENERAL SYSTEM PU
-ENERGY DEVELOPMENT CORPORATION				RECEIVED:	09/03/82	JA: WV			
8253341		4704700813		108		EDC #16 MCD #0813	BIG SANDY	15.0	CONSOLIDATED GAS
8253342		4704700815		108		EDC #17 MCD #0815	BIG SANDY	15.0	CONSOLIDATED GAS
-FRANKLIN ADKINS				RECEIVED:	09/03/82	JA: WV			
8253338		4709921716		108		COPLEY #1	LINCOLN	4.6	COLUMBIA GAS TRAN
8253336		4709921710		108		FERGUSON #1	LINCOLN	3.7	COLUMBIA GAS TRAN
8253337		4709921712		108		MAYNARD #1	LINCOLN DISTRICT	4.3	COLUMBIA GAS TRAN
8253339		4709921717		108		STAMPER #1	LINCOLN DISTRICT	2.6	COLUMBIA GAS TRAN
-STONESTREET LANDS CO				RECEIVED:	09/03/82	JA: WV			
8253351		4701501807		103		AL TANNER #1-S-66	ELMIRA	35.0	COLUMBIA GAS TRAN
8253347		4700701568		103		B F HALL #1-S-99	ELMIRA	26.0	COLUMBIA GAS TRAN
8253354		4701501777		103		BALL - HARDMAN #3-S-81	ELMIRA	26.0	COLUMBIA GAS TRAN
8253349		4701501780		103		BALL-HARDMAN #1-S-90	ELMIRA	30.0	COLUMBIA GAS TRAN
8253357		4701303188		103		DANA EARLE #1-S-130	ELMIRA	26.0	COLUMBIA GAS TRAN
8253350		4701501761		103		DARIUS ARNOLD #1-S-98	ELMIRA	32.0	COLUMBIA GAS TRAN
8253361		4701303225		103		DAVID HICKS #1-S-78	ELMIRA	44.0	COLUMBIA GAS TRAN
8253355		4701501778		103		F A ROGERS #1-S-87	ELMIRA	39.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253353		4701501774		103		O A DAWSON #1-S-72	ELMIRA	24.0	COLUMBIA GAS TRAN
8253356		4701501718		103		JIM METHENY #1-S-55	ELMIRA	29.0	COLUMBIA GAS TRAN
8253359		4701303207		103		JOSIE ROSE #1-S-135	ELMIRA	70.0	COLUMBIA GAS TRAN
8253352		4701303206		103		MACE #1-S-111	ELMIRA	44.0	COLUMBIA GAS TRAN
8253346		4701501756		103		S W WILLIAMS #1-S-67	ELMIRA	14.0	COLUMBIA GAS TRAN
8253360		4701303297		103		SHAFFER-STARCHER #1-S-161	ELMIRA	26.0	COLUMBIA GAS TRAN
8253348		4701501808		103		VANDALE - SMITH #1-S-70	ELMIRA	30.0	COLUMBIA GAS TRAN
8253362		4701303190		103		W K DUFFIELD #1-S-133	ELMIRA	26.0	COLUMBIA GAS TRAN
8253358		4701303210		103		WOOD COUNTY REALTY #1-S-79	ELMIRA	30.0	COLUMBIA GAS TRAN
-TWI OIL CO				RECEIVED:	09/03/82	JA: WV			
8253340		4708504763		108		INA BARNARD #1	BEREA	0.0	CARNEGIE NATURAL
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO									
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-CHANCELLOR & RIDGEWAY				RECEIVED:	09/08/82	JA: CO 1			
8253370	CD 0314-82	0510308008		108		FEDERAL 10-1	CATHEDRAL	6.0	MOUNTAIN FUEL RES
-COORS ENERGY CO				RECEIVED:	09/08/82	JA: CO 1			
8253378	CD 0303-82	0507708314		102-2	107-TF	USA 1-17JC	JACKSON CANYON FEDERA	181.8	NORTHWEST PIPELIN
8253376	CD 0301-82	0507708371		102-2	107-TF	USA 1-20JC	JACKSON CANYON FEDERA	416.1	NORTHWEST PIPELIN
8253377	CD 0300-82	0507708393		102-2	107-TF	USA 1-27CM	CHALK MOUNTAIN FEDERA	92.3	NORTHERN NATURAL
-JEROME P MCHUGH				RECEIVED:	09/08/82	JA: CO 1			
8253368	CD 0393-82ER	0506706023		108-PB		UTE #2	IGNACIO BLANCO	0.0	NORTHWEST PIPELIN
-TETON ENERGY CO INC				RECEIVED:	09/08/82	JA: CO 1			
8253371	CD 0321-82	0507708410		102-2		ROAN CREEK FEDERAL 35-3	COON HOLLOW	103.0	NORTHWEST PIPELIN
-BELCO PETROLEUM CORPORATION				RECEIVED:	09/08/82	JA: UT 1			
8253374	UD 0322-82	4304700000		108		CWU #7	CHAPTIA	0.0	MOUNTAIN FUEL SUP
8253375	UD-0323-82	4304700000		108		STAGECOACH #1	STAGECOACH UNIT	0.0	MOUNTAIN FUEL SUP
-C & K PETROLEUM INC				RECEIVED:	09/08/82	JA: UT 1			
8253369	UD 0328-82	4303730714		102-4		SOUTH PINE RIDGE UNIT #7-6	WILDCAT	0.0	
-CONOCO INC				RECEIVED:	09/08/82	JA: UT 1			
8253372	UD 0461-81	4304730962		107-TF		CONOCO KURIP 1 #27	OURAY	110.0	MOUNTAIN FUEL SUP
8253373	UD 0351-81	4304730962		102-3		CONOCO KURIP 1 #27	OURAY	110.0	MOUNTAIN FUEL SUP
-J C THOMPSON				RECEIVED:	09/08/82	JA: UT 1			
8253367	UD 0352-82ER	4301930077		108-ER		WESTWATER UNIT E-5	WESTWATER	0.0	NORTHWEST PIPELIN
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM									
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-AMOCO PRODUCTION CO				RECEIVED:	09/03/82	JA: NM 4			
8253238	NM-1984-81	3004524670		103		FRED FEASEL "H" #1E	BASIN DAKOTA	35.0	SOUTHERN UNION GA
-BEARD OIL COMPANY				RECEIVED:	09/03/82	JA: NM 4			
8253236	NM-084882107	3000561143		102-4	107-TF	FEDERAL #1-25	UNDESIGNATED (ABO)	247.0	TRANSWESTERN PIPE
-BILLY J KNOTT				RECEIVED:	09/03/82	JA: NM 4			
8253247	NM-0523-82	3004509616		108		KELLY #1	BLANCO MESA VERDE	14.4	EL PASO NATURAL G
-CAULKINS OIL COMPANY				RECEIVED:	09/03/82	JA: NM 4			
8253235	NM-1123-82	3003906523		108		BREECH C 241	SOUTH BLANCO PICTURED	14.6	GAS CO OF NEW MEX
8253272	NM-112-82	3003606476		108		BREECH 283	SOUTH BLANCO PICTURED	12.2	GAS CO OF NEW MEX
-CITIES SERVICE COMPANY				RECEIVED:	09/03/82	JA: NM 4			
8253259	NM-0666-82	3001521534		108		LITTLE BOX CANYON #1	BOX CANYON	3.0	EL PASO NATURAL G
-COTTON PETROLEUM CORPORATION				RECEIVED:	09/03/82	JA: NM 4			
8253233	NM-1440-81	3003922218		108		APACHE #29	SOUTH BLANCO	5.0	NORTHWEST PIPELIN
-DOME PETROLEUM CORP				RECEIVED:	09/03/82	JA: NM 4			
8253253	NM 0615-82	3004320449		103		DOME NAVAJO 3-22-7 #1	WILDCAT	16.4	SOUTHWEST GAS COR
-EL PASO EXPLORATION CO				RECEIVED:	09/03/82	JA: NM 4			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253239	NM 0128-82PB	3003907140		108-PB		JICARILLA 119 N #6	TAPACITO-PICTURED CLI	20.0	NORTHWEST PIPELIN
-EL PASO NATURAL GAS COMPANY				RECEIVED:	09/03/82	JA: NM 4			
8253231	NM-1942-81	3003920943		108		CANYON LARGO UNIT #272	BALLARD PICTURED CLIF	22.0	EL PASO NATURAL G
8253269	NM-0682-82	3004520460		108		GRAMBLING #6	BLANCO - PICTURED CLI	20.0	EL PASO NATURAL G
8253242	NM-0125-82PB	3003920719		108-PB		SAN JUAN 27-4 UNIT #70	BASIN-DAKOTA GAS	21.0	EL PASO NATURAL G
8253267	NM-0685-82	3003907189		108		SAN JUAN 28-6 UNIT #40	BLANCO - MESA VERDE	17.0	EL PASO NATURAL G
8253268	NM-0684-82	3003920097		108		SAN JUAN 28-7 UNIT #146	SOUTH BLANCO - PICTUR	16.0	EL PASO NATURAL G
8253249	NM-0508-82	3003921733		108		SAN JUAN 28-7 UNIT #257	BASIN DAKOTA	21.0	EL PASO NATURAL G
8253241	NM-0126-82PB	3003907642		108-PB		SAN JUAN 29-7 UNIT #4	BLANCO - MESA VERDE	18.0	EL PASO NATURAL G
8253240	NM 0127-82PB	3003907793		108-PB		SAN JUAN 30-6 UNIT #11	BLANCO - MESAVERDE	16.0	EL PASO NATURAL G
-ESTORIL PRODUCING CORP				RECEIVED:	09/03/82	JA: NM 4			
8253271	NM-073282107	3000500000		102-2	107-TF	SHEEHAN FEDERAL #3	UNDESIGNATED ABO	547.5	TRANSWESTERN PIPE
-GETTY OIL COMPANY				RECEIVED:	09/03/82	JA: NM 4			
8253262	NM-0667-82	3002527603		102-2		NORTH BILBREY "7" FEDERAL #1	SOUTH SALT LAKE MORRO	273.8	EL PASO NATURAL G
-HIXON DEVELOPMENT COMPANY				RECEIVED:	09/03/82	JA: NM 4			
8253237	NM-1717-81	3004524422		108		IN NI DA PAH #1-R	WAW-FRUITLAND-PC	2.6	HIXON DEVELOPMENT
-INTEGRATED ENERGY INC				RECEIVED:	09/03/82	JA: NM 4			
8253246	NM 0536-82	3004320319		103		DOME RUSTY 20-22-7/1	RUSTY CHACRA EXTENSIO	175.9	SOUTHWEST GAS COR
8253245	NM 0535-82	3004320346		103		NAVAJO 10-22-7/1	WILDCAT	316.1	SOUTHWEST GAS COR
8253244	NM 0534-82	3004320282		103		NAVAJO 21 #1	RUSTY CHACRA EXTENSIO	171.6	SOUTHWEST GAS COR
-JACK GRYNBERG & ASSOCIATES				RECEIVED:	09/03/82	JA: NM 4			
8253217	NM-065182107	3000561302		103	107-TF	GRYNBERG 17 FED COM #1	PECOS SLOPE ABO GAS	0.0	TRANSWESTERN PIPE
-MCCLELLAN OIL CORPORATION				RECEIVED:	09/03/82	JA: NM 4			
8253270	NM-077382107	3000561435		102-2	107-TF	MCCLELLAN DANA FEDERAL #3 NM-35925	WILDCAT (ABO)	98.5	TRANSWESTERN PIPE
-MERRION OIL & GAS CORP				RECEIVED:	09/03/82	JA: NM 4			
8253211	NM-0645-82	3003900000		108		CANYON LARGO UNIT #119	DEVILS FORK GALLUP	6.0	EL PASO NATURAL G
8253208	NM-0644-82	3003900000		108		CANYON LARGO UNIT #126	DEVILS FORK GALLUP	5.0	EL PASO NATURAL G
8253209	NM-0643-82	3003900000		108		CANYON LARGO UNIT #129	DEVILS FORK GALLUP	8.0	EL PASO NATURAL G
8253266	NM-0678-82	3004523886		108		SOUTHLAND #5	WAW FRUITLAND/PICTURE	13.0	EL PASO NATURAL G
-MORRIS R ANTWEIL				RECEIVED:	09/03/82	JA: NM 4			
8253238	NM-1133-81	3002527449		103		TERRA FEDERAL #2	JALMAT YATES (ABO)	0.0	EL PASO NATURAL G
-MTS LIMITED PARTNERSHIP				RECEIVED:	09/03/82	JA: NM 4			
8253218	NM-065882107	3000561193		102-2	107-TF	CAMACK FEDERAL COM #6	PECOS SLOPE ABO	708.0	
8253224	NM-066382107	3000561359		102-2	107-TF	CAMACK FEDERAL COM #8	PECOS SLOPE ABO	376.0	
-MTS LTD PARTNERSHIP				RECEIVED:	09/03/82	JA: NM 4			
8253225	NM-066282107	3000561303		102-2	107-TF	ALKALI FEDERAL #8	UNDESIGNATED ABO	36.0	
8253222	NM-066082107	3000561444		102-2	107-TF	BITTER LAKE FEDERAL COM #1	UNDESIGNATED ABO	297.0	
8253221	NM-066182107	3000561401		102-2	107-TF	CHARLOTTE FEDERAL #2	UNDESIGNATED ABO	365.0	
8253223	NM-065982107	3000561419		102-2	107-TF	SPRING FEDERAL COM #3	UNDESIGNATED ABO	300.0	
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	09/03/82	JA: NM 4			
8253255	NM 0620-82-A	3003922860		108		GAVILAN #1 (GALLUP)	UNDESIGNATED	9.9	NORTHWEST PIPELIN
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	09/03/82	JA: NM 4			
8253250	NM 0618-82-A	3004525081		103		SAN JUAN 32-7 #76 MV	BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
8253251	NM 0618-82-B	3004525081		103		SAN JUAN 32-7 #76 PC	SO LOS PINOS PICTURED	71.0	NORTHWEST PIPELIN
8253254	NM 0619-82	3003922502		103		VALENCIA CANYON #1	UNDESIGNATED PICTURED	0.6	NORTHWEST PIPELIN
-SHELL OIL CO				RECEIVED:	09/03/82	JA: NM 4			
8253234	NM-0614-82	3001500000		108		HENSHAW DEEP UNIT #5Y	HENSHAW WOLFCAMP	10.4	PHILLIPS PETROLEU
-SOUTHLAND ROYALTY CO				RECEIVED:	09/03/82	JA: NM 4			
8253215	NM-0655-82	3003906580		108		ARIZONA JICARILLA "B" #2	SOUTH BLANCO	13.0	GAS CO OF NEW MEX
8253210	NM-0647-82	3004520199		108		BAY MARE #1	BASIN	18.0	EL PASO NATURAL G
8253220	NM-0656-82	3004502048		108		BRUINGTON #2	BLANCO	14.0	SOUTHERN UNION GA
8253219	NM-0657-82	3004520548		108		CRANDELL #5	BLANCO	14.6	SOUTHERN UNION GA
8253204	NM-0635-82	3004573043		108		CRANDELL #7	BLANCO	15.0	SOUTHERN UNION GA

JD VO	JA DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8253207	NM-0636-82	3004523350		108		DALSANT #2
8253214	NM-0648-82	3004511975		108		HUBBARD #2
8253206	NM-0637-82	3004511733		108		WHITLEY #8
-SUPRON ENERGY CORPORATION				RECEIVED:	09/03/82	JA: NM 4
8253261	NM 0669-82	3003921520		108		JICARILLA G 2-R
8253216	NM-0654-82	3003922040		108		JICARILLA J-17
8253263	NM-0671-82	3003922041		108		JICARILLA J-18
8253226	NM-0668-82	3003922042		108		JICARILLA J-19
8253256	NM-0627-82	3003906030		108		LEBOW - 1
8253264	NM-0670-82	3003906126		108		MCCRODEN - 1
8253257	NM-0628-82	3004511999		108		ZACHRY - 17
-TENNECO OIL COMPANY				RECEIVED:	09/03/82	JA: NM 4
8253228	NM-1768-81	3004523800		108		DELHI-TAYLOR #5E
8253227	NM-1765-81	3004523799		108		DELHI-TAYLOR #6E
8253229	NM-1767-81	3004523796		108		DELHI-TAYLOR "D" #1E
8253243	NM-1766-81	3004523797		108		DELHI-TAYLOR "E" #1E
8253205	NM 0633-82	3004525189		103		ROELOFS 4E
8253202	NM 0632-82	3004524930		103		ROELOFS2E
-W A MONCRIEF JR				RECEIVED:	09/03/82	JA: NM 4
8253232	NM 0518-82	3001523970		102-4		BALDRIDGE FEDERAL "COMM" #1
-YATES PETROLEUM CORPORATION				RECEIVED:	09/03/82	JA: NM 4
8253212	NM-065082107	3000561421		102-2	107-TF	COFFMAN "NY" FEDERAL #2
8253213	NM-064982107	3000561410		102-2	107-TF	DORIS "RI" FEDERAL #2
8253258	NM-063082102	3000561420		102-3		FEDERAL "HJ" #3
8253203	NM-063182107	3000561440		102-2	107-TF	FEDERAL "HJ" #5
8253201	NM-062982107	3000561036		102-2	107-TF	HAHN "NH" FEDERAL #3
8253252	NM-061382107	3000561371		102-2	107-TF	TECKLA "MD" FEDERAL #5
8253260	NM-066582107	3000561459		102-2	107-TF	WILLIAMSON "LC" FEDERAL #3
8253265	NM-068082107	3000561422		102-2	107-TF	WILLIAMSON "LC" FEDERAL #4
-MAJESTIC PETROLEUM INC				RECEIVED:	09/03/82	JA: OK 4
8253248	OKA 0517-82	3510121578		103		LASLEY #1 CREEK #487
** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK						
-NADEL & GUSSMAN				RECEIVED:	09/08/82	JA: OK 8
8253380		3511300080		103		REED #3

FIELD NAME	PROD	PURCHASER
BLANCO	19.0	SOUTHERN UNION GA
BASIN/BLANCO	9.0	SOUTHERN UNION GA
SOUTH BLANCO	16.0	SOUTHERN UNION GA
TAPACITO PICTURE CLIF	1.4	GAS CO OF NEW MEX
S BLANCO PICTURE CLIF	2.5	GAS CO OF NEW MEX
S BLANCO PICTURE CLIF	5.5	GAS CO OF NEW MEX
S BLANCO PICTURE CLIF	2.5	GAS CO OF NEW MEX
TAPACITO PICTURE CLIF	5.7	GAS CO OF NEW MEX
TAPACITO PICTURE CLIF	10.9	GAS CO OF NEW MEX
BASIN DAKOTA	1.1	SOUTHERN UNION GA
BASIN DAKOTA	12.0	EL PASO NATURAL G
BASIN DAKOTA	15.0	EL PASO NATURAL G
BASIN DAKOTA	15.0	EL PASO NATURAL G
BASIN DAKOTA	15.0	EL PASO NATURAL G
BASIN DAKOTA	500.0	EL PASO NATURAL G
BASIN DAKOTA	500.0	EL PASO NATURAL G
BALDRIDGE CANYON UNDE	0.0	EL PASO NATURAL G
PECOS SLOPE-ABO GAS	0.0	TRANSWESTERN PIPE
UND ABO	0.0	TRANSWESTERN PIPE
UND ABO	0.0	TRANSWESTERN PIPE
UND ABO	0.0	TRANSWESTERN PIPE
PECOS SLOPE-ABO GAS	0.0	TRANSWESTERN PIPE
PECOS SLOPE-ABO GAS	0.0	TRANSWESTERN PIPE
PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
SHEPPARD	109.5	EL PASO NATURAL G
GILLILAND SOUTH	1.4	PHILLIPS PETROLEU

OTHER PURCHASERS VOLUME NO :740

8253308 RINGWOOD GATHERING CO
8253311 PIONEER GAS PRODUCTS CO

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26611 Filed 9-27-82; 8:45 am]
BILLING CODE 6717-01-C

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 22, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
MONTANA BOARD OF OIL & GAS CONSERVATION									
-AMINOIL USA INC				RECEIVED:	09/07/82	JA: MT			
8253497	11-81-219A	2508321472	103			BIDEGARAY #3	RIDGELAWN	10.0	MONTANA DAKOTA UT
-CHEVRON U S A INC				RECEIVED:	09/07/82	JA: MT			
8253496	10-81-218	2509121278	103			P SOLBERG #7	FLAT LAKE	79.0	
-MIDLANDS GAS CORPORATION				RECEIVED:	09/07/82	JA: MT			
8253493	11-81-220	2507121441	108			COMPTON #1 3178	BOWDOIN	21.0	KANSAS-NEBRASKA N
8253495	1-82-3	2507121268	108			STATE #1 163F	BOWDOIN	8.0	KANSAS-NEBRASKA N
-PATRICK PETROLEUM CORP OF MICHIGAN				RECEIVED:	09/07/82	JA: MT			
8253489	11-81-231	2509121402	102-2			ANDERSON #1-5	NORTH KATY LAKE	16.0	PHILLIPS PETROLEU
8253503	11-81-229	2509121355	102-2			NYBY #1-6	NORTH KATY LAKE	37.0	PHILLIPS PETROLEU
8253500	11-81-227	2509121230	102-2			THUESEN-SORENSON #1	CLEAR LAKE	4.0	PHILLIPS PETROLEU
8253501	11-81-228	2509121363	102-2			TRONSON #1-8	COLORED CANYON	10.0	PHILLIPS PETROLEU
8253498	11-81-230	2508521257	102-2			WIKUM #1-7	ANVIL	70.0	PHILLIPS PETROLEU
-PUMA PETROLEUM CORP				RECEIVED:	09/07/82	JA: MT			
8253504	10-81-217	2508521272	102-2			DETIENNE #1-13	RED BANK	3.0	DOME PETROLEUM CO
8253507	10-81-215	2508521228	102-2			MOROB #1-20	RED BANK	21.6	DOME PETROLEUM CO
8253494	10-81-216	2508521253	102-2			MOROB #2-20	RED BANK	5.4	DOME PETROLEUM CO
-SHELL OIL CO				RECEIVED:	09/07/82	JA: MT			
8253506	11-81-225	2502521188	103			RAILROAD 24X-7	CABIN CREEK	8.7	MONTANA DAKOTA UT
8253499	11-81-226	2502521177	103			UNIT 33-8	CABIN CREEK	7.8	MONTANA DAKOTA UT
-SOUTHLAND ROYALTY CO				RECEIVED:	09/07/82	JA: MT			
8253502	11-81-222	2508521448	102-0			RICHARD MIER #1-30	UNNAMED	92.0	MGPC INC
-TEXACO INC				RECEIVED:	09/07/82	JA: MT			
8253490	11-81-235	2504122166	103			J A PESTER GAS UNIT #1 WELL #1	RUDYARD AREA	140.0	
8253491	11-81-234	2510121979	103			J W ROGERS #1	KEVIN-SUNBURST	29.2	MONTANA POWER CO
8253492	11-81-233	2510121980	103			POTLATCH O & REF NCT-1 WELL #2	PRAIRIE DELL FIELD AR	29.2	MONTANA POWER CO
8253505	11-81-232	2510121986	103			R C STEVEN #1	PRAIRIE DELL FIELD AR	29.2	MONTANA POWER CO
-WILLIAMS EXPLORATION COMPANY				RECEIVED:	09/07/82	JA: MT			
8253488	11-81-224	2509921154	102-2			FEDERAL #1-19	BLACKLEAF FEDERAL UNI	1487.0	
WEST VIRGINIA DEPARTMENT OF MINES									
-ASHLAND EXPLORATION INC				RECEIVED:	09/07/82	JA: WV			
8253515		4703501583	103			ELIZABETH W PERKINS #25-091921	NEW FIELD	21.8	CONSOLIDATED GAS
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	08/30/82	JA: WV			
8253487		4707700195	108			EDWIN WOLFE 12579	LYON DISTRICT	0.8	GENERAL SYSTEM PU
-CONTINENTAL PETROLEUM CO				RECEIVED:	09/07/82	JA: WV			
8253516		4700101662	103			HAROLD ESSIG #1	BELINGTON	24.0	COLUMBIA GAS TRAN
-JAMES F SCOTT				RECEIVED:	09/07/82	JA: WV			
8253517		4701900476	103			NICASTRO HUDDLESTON #2 SW-404	KANAWHA	16.8	ROARING FORK GAS
-PENCO GAS INC				RECEIVED:	09/07/82	JA: WV			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253513		4701501850		103		SWARTZ #13	UNION	9.0	CONSOLIDATED GAS
8253514		4701501851		103		SWARTZ #14	UNION	9.0	CONSOLIDATED GAS
-STONESTREET LANDS CO				RECEIVED:	09/07/82	JA: WV			
8253511		4701501816		103		CHAPMAN #1-S-107	ELMIRA	24.0	COLUMBIA GAS TRAN
8253508		4701501841		103		SPENCER HALL #3-S-43	ELMIRA	20.0	COLUMBIA GAS TRAN
8253512		4701501825		103		SPENCER HALL FEE #1-S-39	ELMIRA	11.0	COLUMBIA GAS TRAN
8253509		4701501835		103		SPENCER HALL-FEE #1-S-47	ELMIRA	10.0	COLUMBIA GAS TRAN
8253510		4701501925		103		THELMA SNODGRASS #1-S-203	ELMIRA	22.0	COLUMBIA GAS TRAN
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WYOMING OIL & GAS CONSERVATION COMMISSION									
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-AMOCO PRODUCTION CO				RECEIVED:	09/07/82	JA: WY			
8253381	NG 30-82	4903721728		107-TF		CHAMPLIN 345 AMOCO "D" #1	ECHO SPRINGS-MESAVERD	122.0	CITIES SERVICE GA
8253480	NG 177-82	4904120214		102-2		CHAMPLIN 358 AMOCO "G" #1	BRUFF - DAKOTA	858.0	CITIES SERVICE GA
8253438	NG 124-82	4903721375		107-RT		CHAMPLIN 452 AMOCO "L" #1	SIBERIA RIDGE - MESAV	29.0	CITIES SERVICE GA
8253390	NG 77-82	4903721257		103		LOST SOLDIER UNIT #108 (DARWIN)	LOST SOLDIER - DARWIN	2.0	NORTHERN GAS CO
8253391	NG 78-82	4903721257		103		LOST SOLDIER UNIT #108 (MADISON)	LOST SOLDIER - MADISO	6.5	NORTHERN GAS CO
8253389	NG 76-82	4903721645		103		LOST SOLDIER UNIT #119 (DARWIN)	LOST SOLDIER - DARWIN	8.4	NORTHERN GAS CO
8253388	NG 75-82	4903721645		103		LOST SOLDIER UNIT #119 (MADISON)	LOST SOLDIER - MADISO	2.4	NORTHERN GAS CO
8253467	NG 162-82	4903721701		103		LOST SOLDIER UNIT #141 PRECAMBRIAN	LOST SOLDIER - PRE CA	2.9	NORTHERN GAS CO
8253387	NG 74-82	4903721539		103		LOST SOLDIER UNIT #143 (DARWIN)	LOST SOLDIER - DARWIN	2.5	NORTHERN GAS CO
8253386	NG 73-82	4903721539		103		LOST SOLDIER UNIT #143 (MADISON)	LOST SOLDIER - MADISO	2.5	NORTHERN GAS CO
8253469	NG 164-82	4903721723		103		LOST SOLDIER UNIT #155 (DARWIN)	LOST SOLDIER - (DARWI	2.8	NORTHERN GAS CO
8253468	NG 163-82	4903721723		103		LOST SOLDIER UNIT #155 (MADISON)	LOST SOLDIER - MADISO	2.8	NORTHERN GAS CO
8253478	NG 165-82	4903721820		103		LOST SOLDIER UNIT #156 (MADISON)	LOST SOLDIER - MADISO	2.5	NORTHERN GAS CO
8253428	NG 122-82	4903721609		102-2		RED DESERT UNIT #3-5 (LEWIS)	WILDCAT - LEWIS	90.0	CITIES SERVICE GA
8253429	NG 123-82	4903721609		107-TF		RED DESERT UNIT #3-5 (MESAVERDE)	WILDCAT - MESAVERDE	16.0	CITIES SERVICE GA
8253471	NG 166-82	4903721356		102-2		SEVEN MILE GULCH #7	SEVEN MILE GULCH - DA	141.6	CITIES SERVICE GA
8253486	NG 72-82	4904120380		107-TF		STATE OF WYOMING "W" #1 (FRONTIER)	BRUFF - FRONTIER	72.0	CITIES SERVICE GA
-CHAMPLIN PETROLEUN COMPANY				RECEIVED:	09/07/82	JA: WY			
8253481	NG 179-82	4903721964		103		CPC 1-25 CHURCH BUTTES	CHURCH BUTTES	150.0	MOUNTAIN FUEL SUP
-CHEVRON U S A INC				RECEIVED:	09/07/82	JA: WY			
8253482	NG 180-82	4904120432		102-4		PRU #33-7A	EAST PAINTER RESERVOI	1095.0	NORTHERN NATURAL
-CHINOOK RESOURCES INC				RECEIVED:	09/07/82	JA: WY			
8253485	NG 183-82	4900921996		102-4		CTT 43-21	SCOTT	10.0	CHINOOK CONSTRUCT
8253484	NG 182-82	4900921951		102-4		SHARYN 21-22	SCOTT	7.2	CHINOOK CONSTRUCT
-CIG EXPLORATION INC				RECEIVED:	09/07/82	JA: WY			
8253395	NG 82-82	4901320895		103		BURL 1-7	MADDEN	178.9	COLORADO INTERSTA
8253396	NG 83-82	4901320966		103		CHEVRON 2-1	MADDEN	514.0	COLORADO INTERSTA
8253394	NG 81-82	4901320906		103		SHELTER 1-19	MADDEN	328.0	COLORADO INTERSTA
-CITIES SERVICE COMPANY				RECEIVED:	09/07/82	JA: WY			
8253420	NG 112-82	4900526247		103		HARTZOG DRAW UNIT TRACT 74 #5306	HARTZOG DRAW UNIT	54.7	PANHANDLE EASTERN
8253393	NG 80-82	4903721628		102-2		STATE "I" #1	STANDARD DRAW	154.0	
-COBRA OIL AND GAS CORPORATION				RECEIVED:	09/07/82	JA: WY			
8253417	NG 108-82	4900921955		103		WINTERHOTE "10" #1	SHAWNEE	73.0	INEXCO GASOLINE P
-COQUINA OIL CORPORATION				RECEIVED:	09/07/82	JA: WY			
8253423	NG 115-82	4901949009		103		COQUINA #1	WILDCAT - UNDESIGNATE	83.9	MOUNTAIN FUEL SUP
-DAVIS OIL COMPANY				RECEIVED:	09/07/82	JA: WY			
8253477	NG 173-82	4900922007		102-2		CONCAMP STATE #1	WILDCAT	156.4	PHILLIPS PETROLEU
8253476	NG 172-82	4900922035		103		DIXIE DEL #1	WILDCAT	10.0	PHILLIPS PETROLEU
8253415	NG 104-82	4900525871		102-2		JACK PUTNAM #1	PAYNE	66.4	BIG HORN FRACTION
8253414	NG 103-82	4900525967		103		NEWTON-BANK #1	DEVELOPMENT	2.0	PHILLIPS PETROLEU
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	09/07/82	JA: WY			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8253426	NG 120-82	4900927184		102-2		ACKERMAN STATE 41-16
8253416	NG 106-82	4900526223		103		HEDGEHOG STATE 1-16
8253427	NG 121-82	4900921841		102-2		WATERS FEE 31-21
-INEXCO OIL COMPANY				RECEIVED:	09/07/82	JA: WY
8253483	NG 181-82	4900921949		102-4		U W #1-10
8253408	NG 96-82	4900922023		102-4		WARREN #1-11
-KEE EXPLORATION INC				RECEIVED:	09/07/82	JA: WY
8253472	NG 167-82	4900526440		103		SHARON 31-11
-KERR-MCGEE CORPORATION				RECEIVED:	09/07/82	JA: WY
8253405	NG 92-82	4900526386		103		LINDSEY #1
-MARATHON OIL COMPANY				RECEIVED:	09/07/82	JA: WY
8253478	NG 175-82	4902320462		107-TF		MAN'S FORK #1-43
-MOBBACHER PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253422	NG 114-82	4902720358		102-2		MILDRED BOWEN #1
-MOUNTAIN FUEL SUPPLY COMPANY				RECEIVED:	09/07/82	JA: WY
8253418	NG 110-82	4904120439		107-TF		CHURCH BUTTES UNIT #33
8253419	NG 111-82	4903520620		102-2		MESA UNIT WELL #2
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	09/07/82	JA: WY
8253413	NG 102-82	4900526022		102-2		MATHESON D #1
8253412	NG 100-82	4900526093		102-2		MATHESON E #1
-RESOURCES INVESTMENT CORPORATION				RECEIVED:	09/07/82	JA: WY
8253392	NG 79-82	4900926331		103		QUILLBACK #3-28
-SNYDER OIL CO				RECEIVED:	09/07/82	JA: WY
8253407	NG 94-82	4900720718		107-TF		GETTY STATE 1C-16-15-92
8253406	NG 93-82	4900720646		107-TF		SUN STATE 1A-16-14-92
-SOUTHLAND ROYALTY CO				RECEIVED:	09/07/82	JA: WY
8253475	NG 170-82	4901920424		102-2		VAN IRVINE #2A
8253473	NG 168-82	4900720730		103		WESTSIDE CANAL UNIT #14
8253474	NG 169-82	4900720730		103		WESTSIDE CANAL UNIT #14
-SUPERIOR OIL CO				RECEIVED:	09/07/82	JA: WY
8253385	NG 66-82	4901306213		108		DELTA #1
-TENNECO OIL COMPANY				RECEIVED:	09/07/82	JA: WY
8253425	NG 119-82	4903721909		102-2		AMOCO-CHAMPLIN 13-23
-TEXACO INC				RECEIVED:	09/07/82	JA: WY
8253421	NG 113-82	4903721783		103		DELANEY RIM UNIT #12
8253411	NG 99-82	4903721969		103		DELANEY RIM UNIT #18
8253410	NG 98-82	4903721968		103		DELANEY RIM UNIT #19
8253409	NG 97-82	4903721866		103		TABLE ROCK UNIT #48
-TEXAS AMERICAN OIL CORP				RECEIVED:	09/07/82	JA: WY
8253466	NG 161-82	4902921062		102-2		MEETEETSE #16-1
8253424	NG 116-82	4902921068		102-2		MEETEETSE #17-1
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253459	NG 154-82	4904521278		102-4		COLLINS #2
8253460	NG 155-82	4904521311		102-4		COLLINS #3
8253461	NG 156-82	4904521389		102-4		COLLINS #4
8253462	NG 157-82	4904521404		102-4		COLLINS #5
8253463	NG 158-82	4904521465		102-4		COLLINS 6
8253464	NG 159-82	4904521466		102-4		COLLINS 7
8253465	NG 160-82	4904521506		102-4		COLLINS 9
8253442	NG 137-82	4904521212		102-4		FINN #10
8253443	NG 138-82	4904521260		102-4		FINN #13
8253444	NG 139-82	4904521308		102-4		FINN #15
8253445	NG 140-82	4904521391		102-4		FINN #16

FIELD NAME	PROD	PURCHASER
WILDCAT	0.0	
PORCUPINE	20.0	PHILLIPS PETROLEU
PHILLIPS CREEK	0.0	
SHAWNEE	60.0	INEXCO GASOLINE P
SHAWNEE	80.0	INEXCO GASOLINE P
S-BAR	50.0	MGPC INC
WILDCAT	25.0	
WILDCAT	150.0	
PRIVATE	120.0	
CHURCH BUTTES	772.0	MOUNTAIN FUEL SUP
WILDCAT	82.0	MOUNTAIN FUEL RES
SCHOOL CREEK	0.0	PANHANDLE EASTERN
SCHOOL CREEK	35.3	PANHANDLE EASTERN
PORCUPINE	180.0	MIGC INC
ROBBERS GULCH	500.0	NORTHWEST PIPELIN
ROBBERS GULCH	440.0	NORTHWEST PIPELIN
HOLLER DRAW	17.0	PHILLIPS PETROLEU
WESTSIDE CANAL UNIT	100.0	MOUNTAIN FUEL SUP
WESTSIDE CANAL UNIT	200.0	MOUNTAIN FUEL SUP
PILOT BUTTE SOUTH	8.3	NORTHERN GAS CO
CAMEL ROCK	206.0	NORTHERN NATURAL
DELANEY RIM UNIT	100.0	COLORADO INTERSTA
DELANEY RIM UNIT	23.3	CHAMPLIN PETROLEU
DELANEY RIM UNIT	23.3	CHAMPLIN PETROLEU
TABLE ROCK	96.9	COLORADO INTERSTA
WILDCAT	2.4	TENNESSEE GAS PIP
WILDCAT	3.1	TENNESSEE GAS PIP
SHURLEY	3.5	M G P C INC
SHURLEY	3.2	M G P C INC
SHURLEY	5.0	M G P C INC
SHURLEY	5.5	M G P C INC
SHURLEY	5.8	M G P C INC
SHURLEY	8.0	M G P C INC
SHURLEY	2.2	M G P C INC
FINN	3.6	M G P C INC
FINN	2.5	M G P C INC
FINN	3.3	M G P C INC
FINN	3.2	M G P C INC

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8253467	NG 162-82	4902921063		102-2		MEETEETSE #18-1
8253468	NG 163-82	4902921064		102-2		MEETEETSE #19-1
8253469	NG 164-82	4902921065		102-2		MEETEETSE #20-1
8253470	NG 165-82	4902921066		102-2		MEETEETSE #21-1
8253471	NG 166-82	4902921067		102-2		MEETEETSE #22-1
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253458	NG 153-82	4904521277		102-4		COLLINS #1
8253457	NG 152-82	4904521276		102-4		COLLINS #10
8253456	NG 151-82	4904521275		102-4		COLLINS #11
8253455	NG 150-82	4904521274		102-4		COLLINS #12
8253454	NG 149-82	4904521273		102-4		COLLINS #13
8253453	NG 148-82	4904521272		102-4		COLLINS #14
8253452	NG 147-82	4904521271		102-4		COLLINS #15
8253451	NG 146-82	4904521270		102-4		COLLINS #16
8253450	NG 145-82	4904521269		102-4		COLLINS #17
8253449	NG 144-82	4904521268		102-4		COLLINS #18
8253448	NG 143-82	4904521267		102-4		COLLINS #19
8253447	NG 142-82	4904521266		102-4		COLLINS #20
8253446	NG 141-82	4904521265		102-4		COLLINS #21
8253441	NG 136-82	4904521211		102-4		FINN #9
8253440	NG 135-82	4904521210		102-4		FINN #8
8253439	NG 134-82	4904521209		102-4		FINN #7
8253438	NG 133-82	4904521208		102-4		FINN #6
8253437	NG 132-82	4904521207		102-4		FINN #5
8253436	NG 131-82	4904521206		102-4		FINN #4
8253435	NG 130-82	4904521205		102-4		FINN #3
8253434	NG 129-82	4904521204		102-4		FINN #2
8253433	NG 128-82	4904521203		102-4		FINN #1
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253432	NG 127-82	4904521202		102-4		FINN #11
8253431	NG 126-82	4904521201		102-4		FINN #12
8253430	NG 125-82	4904521200		102-4		FINN #14
8253429	NG 124-82	4904521199		102-4		FINN #17
8253428	NG 123-82	4904521198		102-4		FINN #18
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253476	NG 171-82	4904521197		102-4		FINN #19
8253477	NG 172-82	4904521196		102-4		FINN #20
8253479	NG 173-82	4904521195		102-4		FINN #21
8253480	NG 174-82	4904521194		102-4		FINN #22
8253481	NG 176-82	4904521193		102-4		FINN #23
8253482	NG 177-82	4904521192		102-4		FINN #24
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253484	NG 182-82	4904521191		102-4		FINN #25
8253485	NG 183-82	4904521190		102-4		FINN #26
8253486	NG 184-82	4904521189		102-4		FINN #27
8253487	NG 185-82	4904521188		102-4		FINN #28
8253488	NG 186-82	4904521187		102-4		FINN #29
8253489	NG 187-82	4904521186		102-4		FINN #30
8253490	NG 188-82	4904521185		102-4		FINN #31
8253491	NG 189-82	4904521184		102-4		FINN #32
8253492	NG 190-82	4904521183		102-4		FINN #33
8253493	NG 191-82	4904521182		102-4		FINN #34
8253494	NG 192-82	4904521181		102-4		FINN #35
8253495	NG 193-82	4904521180		102-4		FINN #36
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253496	NG 194-82	4904521179		102-4		FINN #37
8253497	NG 195-82	4904521178		102-4		FINN #38
8253498	NG 196-82	4904521177		102-4		FINN #39
8253499	NG 197-82	4904521176		102-4		FINN #40
8253500	NG 198-82	4904521175		102-4		FINN #41
8253501	NG 199-82	4904521174		102-4		FINN #42
8253502	NG 200-82	4904521173		102-4		FINN #43
8253503	NG 201-82	4904521172		102-4		FINN #44
8253504	NG 202-82	4904521171		102-4		FINN #45
8253505	NG 203-82	4904521170		102-4		FINN #46
8253506	NG 204-82	4904521169		102-4		FINN #47
8253507	NG 205-82	4904521168		102-4		FINN #48
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253508	NG 206-82	4904521167		102-4		FINN #49
8253509	NG 207-82	4904521166		102-4		FINN #50
8253510	NG 208-82	4904521165		102-4		FINN #51
8253511	NG 209-82	4904521164		102-4		FINN #52
8253512	NG 210-82	4904521163		102-4		FINN #53
8253513	NG 211-82	4904521162		102-4		FINN #54
8253514	NG 212-82	4904521161		102-4		FINN #55
8253515	NG 213-82	4904521160		102-4		FINN #56
8253516	NG 214-82	4904521159		102-4		FINN #57
8253517	NG 215-82	4904521158		102-4		FINN #58
8253518	NG 216-82	4904521157		102-4		FINN #59
8253519	NG 217-82	4904521156		102-4		FINN #60
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253520	NG 218-82	4904521155		102-4		FINN #61
8253521	NG 219-82	4904521154		102-4		FINN #62
8253522	NG 220-82	4904521153		102-4		FINN #63
8253523	NG 221-82	4904521152		102-4		FINN #64
8253524	NG 222-82	4904521151		102-4		FINN #65
8253525	NG 223-82	4904521150		102-4		FINN #66
8253526	NG 224-82	4904521149		102-4		FINN #67
8253527	NG 225-82	4904521148		102-4		FINN #68
8253528	NG 226-82	4904521147		102-4		FINN #69
8253529	NG 227-82	4904521146		102-4		FINN #70
8253530	NG 228-82	4904521145		102-4		FINN #71
8253531	NG 229-82	4904521144		102-4		FINN #72
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253532	NG 230-82	4904521143		102-4		FINN #73
8253533	NG 231-82	4904521142		102-4		FINN #74
8253534	NG 232-82	4904521141		102-4		FINN #75
8253535	NG 233-82	4904521140		102-4		FINN #76
8253536	NG 234-82	4904521139		102-4		FINN #77
8253537	NG 235-82	4904521138		102-4		FINN #78
8253538	NG 236-82	4904521137		102-4		FINN #79
8253539	NG 237-82	4904521136		102-4		FINN #80
8253540	NG 238-82	4904521135		102-4		FINN #81
8253541	NG 239-82	4904521134		102-4		FINN #82
8253542	NG 240-82	4904521133		102-4		FINN #83
8253543	NG 241-82	4904521132		102-4		FINN #84
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253544	NG 242-82	4904521131		102-4		FINN #85
8253545	NG 243-82	4904521130		102-4		FINN #86
8253546	NG 244-82	4904521129		102-4		FINN #87
8253547	NG 245-82	4904521128		102-4		FINN #88
8253548	NG 246-82	4904521127		102-4		FINN #89
8253549	NG 247-82	4904521126		102-4		FINN #90
8253550	NG 248-82	4904521125		102-4		FINN #91
8253551	NG 249-82	4904521124		102-4		FINN #92
8253552	NG 250-82	4904521123		102-4		FINN #93
8253553	NG 251-82	4904521122		102-4		FINN #94
8253554	NG 252-82	4904521121		102-4		FINN #95
8253555	NG 253-82	4904521120		102-4		FINN #96
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253556	NG 254-82	4904521119		102-4		FINN #97
8253557	NG 255-82	4904521118		102-4		FINN #98
8253558	NG 256-82	4904521117		102-4		FINN #99
8253559	NG 257-82	4904521116		102-4		FINN #100
8253560	NG 258-82	4904521115		102-4		FINN #101
8253561	NG 259-82	4904521114		102-4		FINN #102
8253562	NG 260-82	4904521113		102-4		FINN #103
8253563	NG 261-82	4904521112		102-4		FINN #104
8253564	NG 262-82	4904521111		102-4		FINN #105
8253565	NG 263-82	4904521110		102-4		FINN #106
8253566	NG 264-82	4904521109		102-4		FINN #107
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253567	NG 265-82	4904521108		102-4		FINN #108
8253568	NG 266-82	4904521107		102-4		FINN #109
8253569	NG 267-82	4904521106		102-4		FINN #110
8253570	NG 268-82	4904521105		102-4		FINN #111
8253571	NG 269-82	4904521104		102-4		FINN #112
8253572	NG 270-82	4904521103		102-4		FINN #113
8253573	NG 271-82	4904521102		102-4		FINN #114
8253574	NG 272-82	4904521101		102-4		FINN #115
8253575	NG 273-82	4904521100		102-4		FINN #116
8253576	NG 274-82	4904521099		102-4		FINN #117
8253577	NG 275-82	4904521098		102-4		FINN #118
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253578	NG 276-82	4904521097		102-4		FINN #119
8253579	NG 277-82	4904521096		102-4		FINN #120
8253580	NG 278-82	4904521095		102-4		FINN #121
8253581	NG 279-82	4904521094		102-4		FINN #122
8253582	NG 280-82	4904521093		102-4		FINN #123
8253583	NG 281-82	4904521092		102-4		FINN #124
8253584	NG 282-82	4904521091		102-4		FINN #125
8253585	NG 283-82	4904521090		102-4		FINN #126
8253586	NG 284-82	4904521089		102-4		FINN #127
8253587	NG 285-82	4904521088		102-4		FINN #128
8253588	NG 286-82	4904521087		102-4		FINN #129
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253589	NG 287-82	4904521086		102-4		FINN #130
8253590	NG 288-82	4904521085		102-4		FINN #131
8253591	NG 289-82	4904521084		102-4		FINN #132
8253592	NG 290-82	4904521083		102-4		FINN #133
8253593	NG 291-82	4904521082		102-4		FINN #134
8253594	NG 292-82	4904521081		102-4		FINN #135
8253595	NG 293-82	4904521080		102-4		FINN #136
8253596	NG 294-82	4904521079		102-4		FINN #137
8253597	NG 295-82	4904521078		102-4		FINN #138
8253598	NG 296-82	4904521077		102-4		FINN #139
8253599	NG 297-82	4904521076		102-4		FINN #140
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253600	NG 298-82	4904521075		102-4		FINN #141
8253601	NG 299-82	4904521074		102-4		FINN #142
8253602	NG 300-82	4904521073		102-4		FINN #143
8253603	NG 301-82	4904521072		102-4		FINN #144
8253604	NG 302-82	4904521071		102-4		FINN #145
8253605	NG 303-82	4904521070		102-4		FINN #146
8253606	NG 304-82	4904521069		102-4		FINN #147
8253607	NG 305-82	4904521068		102-4		FINN #148
8253608	NG 306-82	4904521067		102-4		FINN #149
8253609	NG 307-82	4904521066		102-4		FINN #150
8253610	NG 308-82	4904521065		102-4		FINN #151
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253611	NG 309-82	4904521064		102-4		FINN #152
8253612	NG 310-82	4904521063		102-4		FINN #153
8253613	NG 311-82	4904521062		102-4		FINN #154
8253614	NG 312-82	4904521061		102-4		FINN #155
8253615	NG 313-82	4904521060		102-4		FINN #156
8253616	NG 314-82	4904521059		102-4		FINN #157
8253617	NG 315-82	4904521058		102-4		FINN #158
8253618	NG 316-82	4904521057		102-4		FINN #159
8253619	NG 317-82	4904521056		102-4		FINN #160
8253620	NG 318-82	4904521055		102-4		FINN #161
8253621	NG 319-82	4904521054		102-4		FINN #162
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253622	NG 320-82	4904521053		102-4		FINN #163
8253623	NG 321-82	4904521052		102-4		FINN #164
8253624	NG 322-82	4904521051		102-4		FINN #165
8253625	NG 323-82	4904521050		102-4		FINN #166
8253626	NG 324-82	4904521049		102-4		FINN #167
8253627	NG 325-82	4904521048		102-4		FINN #168
8253628	NG 326-82	4904521047		102-4		FINN #169
8253629	NG 327-82	4904521046		102-4		FINN #170
8253630	NG 328-82	4904521045		102-4		FINN #171
8253631	NG 329-82	4904521044		102-4		FINN #172
8253632	NG 330-82	4904521043		102-4		FINN #173
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253633	NG 331-82	4904521042		102-4		FINN #174
8253634	NG 332-82	4904521041		102-4		FINN #175
8253635	NG 333-82	4904521040		102-4		FINN #176
8253636	NG 334-82	4904521039		102-4		FINN #177
8253637	NG 335-82	4904521038		102-4		FINN #178
8253638	NG 336-82	4904521037		102-4		FINN #179
8253639	NG 337-82	4904521036		102-4		FINN #180
8253640	NG 338-82	4904521035		102-4		FINN #181
8253641	NG 339-82	4904521034		102-4		FINN #182
8253642	NG 340-82	4904521033		102-4		FINN #183
8253643	NG 341-82	4904521032		102-4		FINN #184
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253644	NG 342-82	4904521031		102-4		FINN #185
8253645	NG 343-82	4904521030		102-4		FINN #186
8253646	NG 344-82	4904521029		102-4		FINN #187
8253647	NG 345-82	4904521028		102-4		FINN #188
8253648	NG 346-82	4904521027		102-4		FINN #189
8253649	NG 347-82	4904521026		102-4		FINN #190
8253650	NG 348-82	4904521025		102-4		FINN #191
8253651	NG 349-82	4904521024		102-4		FINN #192
8253652	NG 350-82	4904521023		102-4		FINN #193
8253653	NG 351-82	4904521022		102-4		FINN #194
8253654	NG 352-82	4904521021		102-4		FINN #195
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253655	NG 353-82	4904521020		102-4		FINN #196
8253656	NG 354-82	4904521019		102-4		FINN #197
8253657	NG 355-82	4904521018		102-4		FINN #198
8253658	NG 356-82	4904521017		102-4		FINN #199
8253659	NG 357-82	4904521016		102-4		FINN #200
8253660	NG 358-82	4904521015		102-4		FINN #201
8253661	NG 359-82	4904521014		102-4		FINN #202
8253662	NG 360-82	4904521013		102-4		FINN #203
8253663	NG 361-82	4904521012		102-4		FINN #204
8253664	NG 362-82	4904521011		102-4		FINN #205
8253665	NG 363-82	4904521010		102-4		FINN #206
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253666	NG 364-82	4904521009		102-4		FINN #207
8253667	NG 365-82	4904521008		102-4		FINN #208
8253668	NG 366-82	4904521007		102-4		FINN #209
8253669	NG 367-82	4904521006		102-4		FINN #210
8253670	NG 368-82	4904521005		102-4		FINN #211
8253671	NG 369-82	4904521004		102-4		FINN #212
8253672	NG 370-82	4904521003		102-4		FINN #213
8253673	NG 371-82	4904521002		102-4		FINN #214
8253674	NG 372-82	4904521001		102-4		FINN #215
8253675	NG 373-82	4904521000		102-4		FINN #216
8253676	NG 374-82	4904520999		102-4		FINN #217
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253677	NG 375-82	4904520998		102-4		FINN #218
8253678	NG 376-82	4904520997		102-4		FINN #219
8253679	NG 377-82	4904520996		102-4		FINN #220
8253680	NG 378-82	4904520995		102-4		FINN #221
8253681	NG 379-82	4904520994		102-4		FINN #222
8253682	NG 380-82	4904520993		102-4		FINN #223
8253683	NG 381-82	4904520992		102-4		FINN #224
8253684	NG 382-82	4904520991		102-4		FINN #225
8253685	NG 383-82	4904520990		102-4		FINN #226
8253686	NG 384-82	4904520989		102-4		FINN #227
8253687	NG 385-82	4904520988		102-4		FINN #228
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253688	NG 386-82	4904520987		102-4		FINN #229
8253689	NG 387-82	4904520986		102-4		FINN #230
8253690	NG 388-82	4904520985		102-4		FINN #231
8253691	NG 389-82	4904520984		102-4		FINN #232
8253692	NG 390-82	4904520983		102-4		FINN #233
8253693	NG 391-82	4904520982		102-4		FINN #234
8253694	NG 392-82	4904520981		102-4		FINN #235
8253695	NG 393-82	4904520980		102-4		FINN #236
8253696	NG 394-82	4904520979		102-4		FINN #237
8253697	NG 395-82	4904520978		102-4		FINN #238
8253698	NG 396-82	4904520977		102-4		FINN #239
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253699	NG 397-82	4904520976		102-4		FINN #240
8253700	NG 398-82	4904520975		102-4		FINN #241
8253701	NG 399-82	4904520974		102-4		FINN #242
8253702	NG 400-82	4904520973		102-4		FINN #243
8253703	NG 401-82	4904520972		102-4		FINN #244
8253704	NG 402-82	4904520971		102-4		FINN #245
8253705	NG 403-82	4904520970		102-4		FINN #246
8253706	NG 404-82	4904520969		102-4		FINN #247
8253707	NG 405-82	4904520968		102-4		FINN #248
8253708	NG 406-82	4904520967		102-4		FINN #249
8253709	NG 407-82	4904520966		102-4		FINN #250
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253710	NG 408-82	4904520965		102-4		FINN #251
8253711	NG 409-82	4904520964		102-4		FINN #252
8253712	NG 410-82	4904520963		102-4		FINN #253
8253713	NG 411-82	4904520962		102-4		FINN #254
8253714	NG 412-82	4904520961		102-4		FINN #255
8253715	NG 413-82	4904520960		102-4		FINN #256
8253716	NG 414-82	4904520959		102-4		FINN #257
8253717	NG 415-82	4904520958		102-4		FINN #258
8253718	NG 416-82	4904520957		102-4		FINN #259
8253719	NG 417-82	4904520956		102-4		FINN #260
8253720	NG 418-82	4904520955		102-4		FINN #261
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253721	NG 419-82	4904520954		102-4		FINN #262
8253722	NG 420-82	4904520953		102-4		FINN #263
8253723	NG 421-82	4904520952		102-4		FINN #264
8253724	NG 422-82	4904520951		102-4		FINN #265
8253725	NG 423-82	4904520950		102-4		FINN #266
8253726	NG 424-82	4904520949		102-4		FINN #267
8253727	NG 425-82	4904520948		102-4		FINN #268
8253728	NG 426-82	4904520947		102-4		FINN #269
8253729	NG 427-82	4904520946		102-4		FINN #270
8253730	NG 428-82	4904520945		102-4		FINN #271
8253731	NG 429-82	4904520944		102-4		FINN #272
-WESTERN PRODUCTION CO				RECEIVED:	09/07/82	JA: WY
8253732	NG 430-82	4904520943		102-4		FINN #273
8253733	NG 431-82	4904520942		102-4		FINN #274
8253734	NG 432-82	4904520941		102-4		FINN #275
8253735	NG 433-82	4904520940		102-4		FINN #276
8253736	NG 434-82	4904520939		102-4		FINN #277
8253737	NG 435-82	4904520938		102-4		FINN #278
8253738	NG 436-82	4904520937		102-4		FINN #279
8253739	NG 437-82	4904520936		102-4		FINN #280
8253740	NG 438-82	4904520935		102-4		FINN #281
8253741	NG 439-82	4904520934		102-4		FINN #282
8253742

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253446	NG 141-82	4904505542		102-4		FINN #3	FINN	2.9	M G P C INC
8253447	NG 142-82	4904520743		102-4		FINN #4	FINN	2.9	M G P C INC
8253439	NG 134-82	4904500000		102-4		FINN #7	FINN	2.3	M G P C INC
8253440	NG 135-82	4904521210		102-4		FINN #8	FINN	1.1	M G P C INC
8253441	NG 136-82	4904521235		102-4		FINN #9	FINN	2.5	M G P C INC
8253451	NG 146-82	4904521451		102-4		GRIEVES #10	FINN	13.1	M G P C INC
8253456	NG 151-82	4904521449		102-4		GRIEVES #11	SHURLEY	4.4	M G P C INC
8253455	NG-150-82	4904521450		102-4		GRIEVES #12	SHURLEY	2.8	M G P C INC
8253452	NG 147-82	4904521540		102-4		GRIEVES #14	FINN	5.2	M G P C INC
8253457	NG 152-82	4904521602		102-4		GRIEVES #15	SHURLEY	8.0	M G P C INC
8253458	NG 153-82	4904521603		102-4		GRIEVES #16	SHURLEY	10.3	M G P C INC
8253453	NG 148-82	4904520741		102-4		GRIEVES #2	SHURLEY	5.1	M G P C INC
8253454	NG 149-82	4904521233		102-4		GRIEVES #3	SHURLEY	4.1	M G P C INC
8253448	NG 143-82	4904521310		102-4		GRIEVES #5	FINN	3.0	M G P C INC
8253449	NG 144-82	4904521329		102-4		GRIEVES #6	FINN	2.0	M G P C INC
8253450	NG 145-82	4904521403		102-4		GRIEVES #9	FINN	5.3	M G P C INC
-WOODS PETROLEUM CORPORATION		RECEIVED: 09/07/82		JA: WY					
8253432	NG 126-82	4900526165		102-4		PINE TREE UNIT #16-44	PINE TREE	1.0	WESTERN GAS PROCE
8253399	NG 86-82	4900526074		103		PINE TREE UNIT #18-29	PINE TREE	285.0	WESTERN GAS PROCE
8253400	NG 87-82	4900526074		102-4		PINE TREE UNIT #18-29	PINE TREE	285.0	WESTERN GAS PROCE
8253431	NG 125-82	4900526372		102-4		PINE TREE UNIT #20-34	PINE TREE	1.0	WESTERN GAS PROCE
8253433	NG 127-82	4900526372		103		PINE TREE UNIT #20-34	PINE TREE	1.0	WESTERN GAS PROCE
8253434	NG 128-82	4900526403		103		PINE TREE UNIT #32-45	PINE TREE	1.0	WESTERN GAS PROCE
8253435	NG 129-82	4900526403		102-4		PINE TREE UNIT #32-45	PINE TREE	1.0	WESTERN GAS PROCE
8253436	NG 130-82	4900526165		103		PINE TREE UNIT 16-44	PINE TREE	1.0	WESTERN GAS PROCE
8253437	NG 131-82	4900525404		102-4		PINE TREE UNIT 17-8	PINE TREE	21.0	WESTERN GAS PROCE
8253438	NG 132-82	4900525404		103		PINE TREE UNIT 17-8	PINE TREE	21.0	WESTERN GAS PROCE
8253397	NG 84-82	4900525927		103		PINE TREE UNIT 18-28	PINE TREE	41.0	WESTERN GAS PROCE
8253398	NG 85-82	4900525927		102-4		PINE TREE UNIT 18-28	PINE TREE	0.0	WESTERN GAS PROCE
8253401	NG-88-82	4900526330		102-4		PINE TREE UNIT 19-32	PINE TREE	280.0	WESTERN PROCESSOR
8253402	NG 89-82	4900526330		103		PINE TREE UNIT 19-32	PINE TREE	280.0	WESTERN PROCESSOR
8253382	NG 36-82	4900525780		102-4		PINE TREE UNIT 32-23	PINE TREE	0.0	WESTERN GAS PROCE
8253384	NG 35-40	4900525877		102-4		PINE TREE UNIT 7-25	PINE TREE	87.0	WESTERN GAS PROCE
8253383	NG 38-82	4900533496		102-4		PINE TREE UNIT 8-1	N PINE TREE	36.0	WESTERN GAS PROCE
8253479	NG 176-82	4903721222		102-2		STEAMBOAT MOUNTAIN UNIT #1	WILDCAT	564.0	NORTHERN NATURAL
8253403	NG 90-82	4900921868		102-4		TAYLOR BELL #12-1	UNNAMED	148.0	PHILLIPS PETROLEU
8253404	NG 91-82	4900921868		103		TAYLOR BELL #12-1	UNNAMED	148.0	PHILLIPS PETROLEU

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26612 Filed 9-27-82; 8:45 am]

BILLING CODE 6717-01-C

FEDERAL MARITIME COMMISSION

[Docket No. 82-36]

Requirements for Filing Currency Adjustment Factors Reflecting Changes in the Exchange Rate of Tariff Currencies; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Docket No. 82–36 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of an environmental impact statement is not required. Docket No. 82–36 involves a proposed rulemaking which is intended to establish a uniform procedure for publishing currency adjustment factors (CAF's) by all common carriers by water via the U.S. foreign commerce and conferences of such carriers, including non-vessel operating common carriers (NVOCC's).

This Finding of No Significant Impact (FONSI) will become final within 20 days of publication of this Notice in the **Federal Register** unless petition for review is filed pursuant to 46 CFR 567.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 82-26682 Filed 9-27-82; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Canadian Cruise Lines (1982) Ltd., Suite 401, 1208 Wharf Street, Victoria, British Columbia V8W 3B9, Canada.

This Certificate expires October 3, 1982.

Dated: September 22, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-26536 Filed 9-27-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Hawkeye Bancorporation,* Des Moines, Iowa, to acquire 100 percent of the voting shares or assets of First National Bank in Lenox, Lenox, Iowa. Comments on this application must be received not later than October 22, 1982.

B. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Atlantic Bancorporation,* Jacksonville, Florida; to acquire 100 percent of the voting shares or assets of Atlantic National Bank of Florida at Orange Park, Orange Park, Florida, a *de novo* bank. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Comments on this application must be received not later than October 22, 1982.

Board of Governors of the Federal Reserve System, September 22, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26534 Filed 9-27-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated for each application.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *First National Boston Corporation,* Boston, Massachusetts (data processing activities; Rhode Island): To engage, through its subsidiary, FBC, Inc., in providing bookkeeping and data processing services for the internal operation of a single named financial institution and storing and processing banking, financial or related data

(including demand deposit, savings, direct and indirect installment loans, commercial loans, mortgages, general ledger and central information accounting) for such financial institution and indirectly for institutions which may enter into a data processing agreement with such institution. These activities would be conducted from an office in Pawtucket, Rhode Island serving the state of Rhode Island. Comments on this application must be received not later than October 20, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Midland Mortgage Corporation,* Detroit, Michigan (mortgage servicing activities; United States): To open a branch office in Orlando, Florida, to perform loan origination and mortgage loan servicing and accounting for Midland Mortgage Corporation throughout the United States. Comments on this application must be received not later than October 19, 1982.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Northwest Bancorporation,* Minneapolis, Minnesota (financing, servicing, leasing activities; Texas, Oklahoma, Louisiana, Arkansas, Missouri, Kansas, Tennessee, New Mexico, Arizona and Alabama): To engage through its subsidiary, Banco Financial Corporation, in making or acquiring loans or other extensions of credit such as would be made by a commercial finance company, involving commercial loans secured by borrower's inventory, accounts receivable, or other assets; servicing such loans for others; and making leases of personal property in accordance with the Board's Regulation Y. These activities would be conducted from an office in Dallas, Texas, serving Texas, Oklahoma, Louisiana, Arkansas, Missouri, Kansas, Tennessee, New Mexico, Arizona and Alabama. Comments on this application must be received not later than October 20, 1982.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation,* San Francisco, California (travelers check activities; Florida): To engage, through its indirect subsidiary, FinanceAmerica Corporation, a Florida corporation, in the activity of selling travelers checks. This activity will be conducted from a *de novo* office located at the Miami International Airport, Miami, Florida, serving the entire State of Florida. Comments on this application must be received not later than October 22, 1982.

Board of Governors of the Federal Reserve System, September 22, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26532 Filed 9-27-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta Georgia 30303:

1. *Britton & Koontz Capital Corporation,* Natchez, Mississippi; to become a bank holding company by acquiring 100 percent of the voting shars of the successor by merger to Britton & Koontz First National Bank, Natchez, Mississippi. Comments on this application must be received not later than October 22, 1982.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. **Eitzen Independents, Inc.,** Eitzen, Minnesota; to become a bank holding company by acquiring 84.4 percent of the voting shares of Eitzen State Bank, Eitzen, Minnesota. Comments on this application must be received not later than October 22, 1982.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Green Mountain Bancorporation, Inc.,* Englewood, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of Green Mountain Bank, Lakewood, Colorado. Comments on this application must be received not later than October 22, 1982.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Community Bancorporation, Inc.,* Bellville, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Bellville, Bellville, Texas. Comments on this application must be received not later than October 22, 1982.

E. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *First Manitowoc Bancorp, Inc.,* Manitowoc, Wisconsin; to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank in Manitowoc, Manitowoc, Wisconsin. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Comments on this application must be received not later than October 22, 1982.

Board of Governors of the Federal Reserve System, September 22, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26533 Filed 9-27-82; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Warranty Rules; Information Collection Requirement

AGENCY: Federal Trade Commission.

ACTION: Application to OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) for clearance of a study intended to evaluate changes which may have occurred since promulgation of the warranty rules. (16 CFR 701; 16 CFR 702; 16 CFR 703.)

SUMMARY: The purpose of this study is to gather information about consumer use, awareness, and understanding of warranties and to examine consumer expectation and experiences regarding product failure and repair performance. Results will be compared to data collected in a 1977 study to examine changes in consumer warranty experience which may have occurred since the warranty rules went into effect.

DATES: Comments on the proposed study must be submitted on or before October 28, 1982.

ADDRESS: Send comments to Ms. Nell Minow, Office of Information and

Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228 Washington, D.C. 20503. Copies of this application may be obtained from: Public Reference Branch, Room 130, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:
For further information contact Thomas J. Maronick, Office of Impact Evaluation, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (202) 724–1877.

Dated: September 22, 1982.

John H. Carley,

General Counsel.

[FR Doc. 82–26628 Filed 9–27–82; 8:45 am]
BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of October.

Alcohol Biomedical Research Review Committee

October 13–15; 9:00 a.m., Embassy Square Hotel, 2000 N Street, N.W., Washington, D.C. 20036.
Open—October 13, 9:00–11:00 a.m.
Closed—Otherwise.
Contact: Harvey P. Stein, Ph.D., Executive Secretary, Alcohol Biomedical Research Review Committee, Parklawn Building, Room 16C–26, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6106.
Purpose: The Alcohol Biomedical Research Review Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.
Agenda: From 9:00–11:00 a.m., October 13, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

* * * * *

Services Improvement Evaluation and Transfer Subcommittee of the Epidemiologic and Services Research Review Committee

October 18–19; 8:30 a.m., Washington Marriott Hotel, 1221 22nd Street, N.W., Washington, D.C. 20037.
Open—October 18, 8:30–9:30 a.m.
Closed—Otherwise.
Contact: Sandra Buckhalter, Parklawn Building, Room 9C–02, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4728.
Purpose: The Services Improvement Evaluation and Transfer Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and training activities in the fields of mental health services research, clinical services research, and evaluation methodology, and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 8:30–9:30 a.m., October 18, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

* * * * *

Basic Psychopharmacology Research Subcommittee of the Basic Psychopharmacology and Neuropsychology Research Review Committee

October 21–22; 9:00 a.m., the Capitol Hill Hotel, 200 C Street, S.E., Washington, D.C. 20003.
Open—October 21, 9:00–10:00 a.m.
Closed—Otherwise.
Contact: Mary Cope, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3944.
Purpose: The Basic Psychopharmacology Research Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research activities in the fields of basic psychopharmacology and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00–10:00 a.m., October 21, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

* * * * *

Clinical Program Projects/Clinical Research Centers Subcommittee of the Treatment Development and Assessment Research Review Committee

October 28; 9:00 a.m., the Georgetown Hotel, 2121 P Street, N.W., Washington, D.C. 20036.
Open—9:00–10:00 a.m.
Closed—Otherwise.
Contact: Pamela J. Mitchell, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367.
Purpose: The Clinical Program Projects/Clinical Research Centers Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of Mental Health Clinical Research Centers, clinical research program projects, and other large-scale multidisciplinary research projects, and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00–10:00 a.m., October 28, the meeting wil be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Psychopharmacological, Biological, and Physical Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee

October 28–29; 9:00 a.m., the Georgetown Hotel, 2121 P Street, N.W., Washington, D.C. 20036.
Open—October 28, 9:00–10:00 a.m.
Closed—Otherwise.
Contact: Pamela J. Mitchell, Parklawn Building, Room 9C–18 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367.
Purpose: The Psychopharmacological, Biological, and Physical Treatments Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and training activities in the fields of development and assessment of psychopharmacological, biological, and physical treatments of mental illness, and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00–10:00 a.m., October 28, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Subcommittee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained as follows: NIAAA: Mrs. Diana Widner, Committee Management Officer, Parklawn Building, Room 16C–18, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4375. NIMH: Ms. Helen W. Garrett, Committee management Officer, Parklawn Building, Room 17C–26, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: September 23, 1982.

Sue Simons,

Committee Management Officer Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 82-26086 Filed 9-27-82; 8:45 am]
BILLING CODE 4160-20-M

Food and Drug Administration

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced.

Peripheral and Central Nervous System Drugs Advisory Committee

Date, time, and place. October 28 and 29, 9 a.m., Conference Rm. D, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, October 28, 9 a.m. to 10 a.m.; open committee discussion, October 28, 10 a.m. to 5 p.m., October 29, 9 a.m. to 5 p.m.; Frederick J. Abramek, National Center for Drugs and Biologics (HFD–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3800.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational drugs proposed for marketing for use in the treatment of neurological disease.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writting, on issues pending before the committee.

Open committee discussion. The committee will discuss orphan products development, phenytoin use in myotonic conditions, Bureau of Drugs advisory system (film), skeletal muscle relaxants, over-the-counter use considerations, and clinical trial design for status epilepticus.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contract person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: September 21, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-26438 Filed 9-27-82; 8:45 am]
BILLING CODE 4160-01-M

[Docket Nos. 77P–0403 et al.]

Availability of Approved Variances for Laser Light Shows

Correction

In FR Doc. 82–22232, at page 35868, in the issue of Tuesday, August 17, 1982, on page 35869, correct the table as follows:

(1) In the 23rd entry under the "Manufacturing Organization" heading correct "Place" to read "Palace" for the "Docket No." 81P–0325.

(2) In the 18th entry under the "Effecture date and termination date"

correct "Sept. 8, 1981," to read "Sept. 28, 1982," for the "Docket No." 81P-0232.

BILLING CODE 1505-01-M

[Docket No. 82N-0096; DESI No. 12152]

Drug Efficacy Study Implementation; Revocation of Exemption for an Effective Reformulated Oral Prescription Drug for Cough, Cold, or Allergy ("Paragraph XIV/Category 15"); Followup Notice and Opportunity for Hearing

Correction

In FR Doc. 82-22197, appearing on page 35870, in the issue of Tuesday, August 17, 1982, correct the number "XIX" in the heading to read "XIV" as above.

BILLING CODE 1505-01-M

Social Security Administration

Refugee Resettlement Program; Formula for Allocation to States of FY 1982 Refugee Social Services Funds

AGENCY: Office of Refugee Resettlement, Social Security Administration, HHS.

ACTION: Final notice.

SUMMARY: This notice sets forth the formula for allocation to States of FY 1982 social services funds under the Refugee Resettlement Program (RRP). The formula yields the allocation of FY 1982 refugee social services funds for each State participating in the RRP.

EFFECTIVE DATE: September 28, 1982.

FOR FURTHER INFORMATION CONTACT: Ellen McGovern, (202) 472-6510.

SUPPLEMENTARY INFORMATION:

Discussion of Comments

Twenty-three comments were received in response to the notice of proposed formula for allocation to States of FY 1982 refugee social service funds which was published in the Federal Register of March 17, 1982 (47 FR 11566). The comments supported the concept of an allocation formula, but generally they disagreed with the basis or methodology of the formula.

The following sections address specific points that commenters raised, together with our responses:

Allocation Formula Methodology

Data Base

Comment: Several comments indicated that the utilization of the Immigration and Naturalization Service (INS) alien registration would underestimate the refugee population since many of the refugees failed to register at a time when INS had no reasonable way to enforce registration. Moreover the commenters said that other problems such as long waiting lines at post offices to get registration forms and scarcity of those forms, as well as existing language barriers of refugees and the inability of post office personnel to assist refugees due to this language barrier, prevented refugee registration.

Response: Based on some reactions to the formula, it appears that there is a misunderstanding about the sources of data being used in the population estimates. ORR's data system has multiple sources, of which the INS alien registration is one. The formula simply describes the process that ORR has used to develop its State population estimates, with the added restriction to persons who entered during the past three fiscal years. The INS annual registration figures are adjusted for underregistration, updated monthly with ORR's arrival data, and adjusted for secondary migration. ORR's arrival data come from the Centers for Disease Control (CDC) of the U.S. Public Health Service, which has records of all Southeast Asian refugees who have arrived in the U.S. since July 1979; the ORR Miami office, which has records on arriving Cuban refugees; and the records of new refugee arrivals from the American Council of Voluntary Agencies (ACVA) and from the nominal rolls prepared by the Intergovernmental Committee for Migration (ICM). In January 1980, out of 289,200 Southeast Asian refugees in the U.S., 253,100 registered with INS, a compliance rate of 87.5 percent. Since the population estimates were initially prepared, we have been able to validate them against the U.S. Census of April 1, 1980, and the refugee child counts collected by the Department of Education in February 1981 and October 1981. We remain confident that ORR's methodology is the best available for generating these estimates.

Comment: Other commenters said that the January 1980 INS alien registration included only some of the boat cases since these people had just begun to arrive in the U.S. Further, the total population of refugees, according to the commenters, has doubled since then so that the January 1980 registration is statistically biased in "unknown" ways.

Response: Although the Department recognizes that the INS alien registration figures have certain limitations, we believe that these data provide the best possible starting point, since no other nationwide data exist which reflect the relocation of refugees after their initial resettlement in the U.S. and which have information on the year of entry. Further, the INS annual registration figures are adjusted for underregistration, updated monthly with ORR's arrival data, and adjusted for secondary migration. Therefore the data do include subsequent boat cases.

Comment: One commenter stated that the formula may be responsive to the needs of recent arrivals for services, but it fails to take into consideration the economic condition in the State as reflected by its rate of unemployment, number of refugee cash assistance recipients, and number of medical assistance recipients. Further, the commenter suggests that serious consideration should be given to the following formula factors: (1) Estimated number of refugees in the State; (2) number of new arrivals in the State; (3) unemployment rate in the State; (4) number of cash assistance recipients in the State; and (5) number of medical assistance recipients in the State.

Response: ORR has considered using factors in addition to the number of refugees in a State. In fact, one of the expected uses of the discretionary funds would be in consideration of unanticipated changes in location of new refugees. We do not believe, however, that the number of cash and medical assistance recipients or the unemployment rate in a State provides a good measure of refugee needs. The number of recipients may reflect widely varying eligibility requirements and payment levels among States, and recently arrived refugees may have equivalent needs for English language training and other basic services without regard to receipt of assistance or a State's unemployment rate.

Comment: Another commenter strongly objected to the assumptions used to develop the formula. The INS registration, according to this commenter, was discontinued because of uneven reporting of aliens around the country. This registration process resulted in underregistration of certain populations. The commenter also said that ORR has access to data on newly arrived refugees provided by the voluntary agencies of the American Council of Voluntary Agencies (ACVA), which provide an accurate count of arriving refugees. Adjustments for secondary migration can be made as indicated in the notice. Then, these population figures can serve as the baseline data for FY 1983, not the new figures developed from the 1981 INS data, according to the commenter.

Response: The Department recognizes that the INS alien registration figures have certain limitations. However, we feel that the data provide the best possible baseline, particularly since no

other comprehensive data base exists that reflects the relocation of refugees after their initial resettlement in the U.S. A comparison of the January 1980 INS registration with the April 1, 1980, U.S. Census count does not support the assertion of uneven reporting. Further, we think that the January 1981 registration, with the addition of subsequent arrivals and adjustments for estimated secondary migration, will provide an appropriate base for population estimates for social service funding to be allocated for FY 1983. Since INS does not currently expect to conduct further annual alien registrations, an alternative proposal, based on available data, will be developed for subsequent years and published in the **Federal Register** for public comment in 1983.

ORR does use the ACVA data on new arrivals of refugees, but at the same time we find this data source inadequate without further verification of population figures with other sources, such as CDC.

ORR's data system uses multiple data sources, including CDC, ICM, and ACVA. Data are updated monthly with refugee arrival information and adjusted for secondary migration.

In constructing the allocation formula, ORR determined that it had to provide a situation in which social service funding would be made available to States on an equitable basis—that is, more closely related to proportionate numbers of recent arrivals. Therefore ORR established the following criteria in recommending the allocation formula for FY 1982: The formula should give major emphasis to the needs of recent arrivals; assure a reasonable amount of continuity of State program levels where needs exist; and be based upon objective information which can actually be obtained or estimated reliably. Hence, the Director believes that the formula will result in allocations related to refugees generally having the greatest need for services (recent arrivals) and will at the same time minimize fluctuations in funding which would result if the allocations were based on changes in numbers of refugees during time periods shorter than three years. Thus the formula is expected to provide greater stability in State planning and programming for refugee services.

Comment: Criteria for the allocation formula, says one commenter, should reflect the same factors as the criteria for placement policy: For example, States might be identified as high impact areas (large concentration of refugee population), medium impact areas (medium concentration of refugee population), or low impact areas (low concentration of refugee population). High impact States (6–8 States) might receive $155.00 per refugee; medium impact (16–18 States), $130.00 per refugee; and low impact (the remaining States), $115.00 per refugee. This would use approximately the same amount as the total allocation amount proposed, according to this commenter. Hence, the formula would take "impact area" into account, and thereby be based more on the needs of refugees than only on the numbers of refugees.

On the other hand, other commenters stated that rural areas and States with only a few refugees have greater needs on a per capita basis. A commenter suggested that ORR consider "rural States" with refugee populations to have special needs and thereby be eligible to receive discretionary funds set aside by ORR for this purpose. Only then can the rural States be considered to be receiving equal consideration with urban States, says the commenter. Another commenter remarked that the formula concept was acceptable, but that a formula based on population assumes that social service costs are relatively equal, no matter where they are provided. The cost of providing these services to smaller groups of refugees scattered throughout a rural State, for example, is higher than the cost of providing services to the same number of refugees concentrated in a larger urban area.

Response: ORR has considered using a State's refugee population ratio (number of refugees as a proportion of the number of State residents). However, based on our consideration of the significance of the impact factor and other such factors, we concluded that these factors were undependable or poor indicators of refugee need.

In recognititon of the needs of States with small refugee populations, which may be widely scattered, ORR has decided to use some of the discretionary funds to assure that every participating State receives funding of at least $50,000. It is thought that this amount will provide the minimal, but necessary, level of funding needed to maintain effective services for a small refugee population.

Comment: Some commenters referred to the "best data available to the Director" language in the notice with respect to adjusting for secondary migration and indicated interest in the identification by ORR of the data sources.

Response: At this time, ORR means by "best data available" the information from its multiple data source system, including data from CDC, ICM, ORR-Miami, and ACVA. Because of the number of inquiries regarding the best available data, we are defining what we mean by "best data available" in Section I of the final notice, below.

Refugees Estimated in The Population

Comment: Several commenters pointed out that the Refugee Act of 1980 specifically removes national origin as an eligibility criterion for the provision of services to refugees. The commenters say that the population groups and statistics cited in the **Federal Register** as Southeast Asian and Cuban refugees (not entrants) reflect only a partial count of the eligible refugee population. Therefore the method of allocating funds for social services for refugees is inconsistent with the legal base under which State governments are required to operate their service delivery to all refugees.

Other commenters stated that currently the majority of refugees are Southeast Asian but in the future other ethnicities might predominate. An allocation formula therefore should remain valid regardless of the shifts in the ethnic composition of refugees.

Response: The population estimates used for the allocation for FY 1982 cover Southeast Asian and Cuban refugees (not entrants) who arrived from October 1, 1978, through September 30, 1981. These are the two principal groups that are served only by the State-administered program.

ORR will modify the refugee population estimates for FY 1983 and thereafter to include all time-eligible refugee groups, to the extent of available data. We now have INS alien registration data for January 1981 for Soviet, East European, Ethiopian, and Afghan refugees, as well as arrival data covering Soviet, East European, African, and Near Eastern refugees who have arrived since 1980. This will enable us to develop estimates covering all refugee groups of significant size.

Secondary Migration

Comment: One commenter said that the development of an acceptable and valid measure of secondary migration is essential to an equitable allocation of funds.

Response: ORR concurs. We have developed the State population estimates on the basis of the best data available for estimating secondary migration.

Comment: According to some commenters, the method used by ORR to estimate and adjust for secondary migration is unclear. The notice of the proposed allocation formula states that

the method is described in detail in ORR's *Report to Congress* of January 1981. However, the commenter says after examination of that document that it describes only how secondary migration during 1979 was developed from the INS alien registration. It does not describe, according to the commenter, how it is applied in subsequent years' estimates or for this special subpopulation; for example, treating 1979 net secondary in-migration to States as a constant number is said to be statistically improper in view of the fact that each year the number of refugees in the U.S. has dramatically increased.

The commenter suggests that the proper statistical approach would be to covnert the number to a proportion of the total refugee population in the U.S. It is reasonable to figure this proportion of secondary migration as of the midpoint of the year being studied rather than at the beginning.

Response: A complete self-contained explanation of the method used to adjust the State population estimates for secondary migration appears in Section III—Basis for Population Estimates—of this final notice.

The suggestion that ORR calculate secondary migration as a proportion of the number of refugees in the country has merit. However, the approach suggested makes the assumption that the propensity to migrate remains constant with length of residence in the U.S., so that an increasing refugee population would be assumed to manifest an increasing number of moves. Evidence available to ORR suggests that, on the contrary, most secondary migration is concentrated in the early period of residence in the U.S. For the purposes of the allocation, it would be necessary to focus only on migration of persons of less than three years' residence. Also, the calculations should be nationality-specific and adjusted for the changing nationality composition of the Southeast Asian refugee population, since available evidence indicates that the direction of secondary migration varies by nationality. In time, we hope to refine our estimation procedures to take all these factors into account. Until that work can be completed, a relatively simple, conservative estimation procedure seems preferable to the method suggested.

Comment: A commenter suggested that ORR consider using CDC statistics on refugee arrivals and secondary migration. The commenter also offered an alternative method to adjust the population figures for secondary migration by using State education agency statistics on non-English-speaking students enrolled in primary and secondary schools whose native language is representative of various refugee populations. These figures could be adjusted by dividing the national numbers into the total refugee arrivals for the pertinent time period to determine a child-to-adult ratio for the appropriate "multiplier" to be applied to each State's school population. This method would yield an estimate of total "eligible" refugee population in each State.

Response: ORR agrees that CDC is the best source of data on Southeast Asian refugee arrivals, and their information has been the basis of our system for more than a year. CDC does not compile statistics on secondary migration. ORR is using the refugee child counts provided by States to the U.S. Department of Education as an independent check on the accuracy of our population estimates. They are not a perfect source, because some States appear to have undercounted their refugee children, and because different nationality groups have significant variation in their average family size. Therefore different multipliers would be needed to compensate for variations in the nationality composition of the States.

Comment: The allocation formula does not consider policy changes that would impact secondary and tertiary migration inflows and outflows, according to one commenter. This is especially important in light of the recent policy change in refugee cash assistance (RCA) eligibility from a refugee's first 36 months in the U.S. to the first 18 months. The commenter stated that States having GA programs (not all of them do) will probably be heavily impacted with refugees from other States that do not have GA.

Response: ORR has incorporated information on secondary migration into its population estimates for the period up to the beginning of FY 1982. Where States have presented convincing evidence of additional secondary migration up to that time, the population estimates have been adjusted accordingly. ORR will incorporate available new information on secondary migration during 1982 into its estimates for FY 1983.

Alternative Methods to the INS Alien Registration

Comment: Some commenters recommended that ORR require CDC to report on all refugees because they feel that the information collected is accurate and dependable. According to one commenter, CDC sends the initial notice of refugee arrivals to the State's Health Department, and then it is verified by local health departments. Hence the information is a fairly reliable headcount of the local refugee population. Local health departments, according to the commenter, not only validate the residency from CDC data, they also provide data on secondary migration. Therefore this is a viable alternative to the INS registration, states the commenter.

Response: All refugees receive a medical examination overseas prior to admission. In addition, refugees arriving from Southeast Asia are met at the ports of entry by CDC health inspectors for an additional health screening. ORR has explored with CDC the possibility of expanding current health screening and data collection functions to all refugees at all ports of entry. Currently, the high cost of such expansion is not thought to be justified by the public health considerations involved. If health screening at ports of entry is expanded in the future to other groups, data collection will expand with it.

State and local health departments vary in their success in locating newly referred refugees and in their ability to report on secondary migration. Therefore the quality of data available from different jurisdictions is variable; the same point can be made with regard to any other data base compiled at the State and local level. The use of a national data base is the fairest method in that it measures all jurisdictions with the same yardstick.

Discretionary Funds

Comment: One commenter thought it was inappropriate to retain 10% of available funds for use for discretionary purposes. This commenter and others indicated that the total funds available for services to refugees are inadequate to meet the needs of the refugee population. Therefore they feel that discretionary funds should not be retained, but allocated to States according to the formula.

Response: ORR believes that it was important to have discretionary funding of at least 10% (of the available 15%) that would be made available to States on the basis of such factors as changed geographic distribution and special needs of particular groups. Also, it was recognized that additional funding under the formula resulting from any adjustments made in population estimates beyond the estimates specified in Sections III and IV might be needed; therefore some of the discretionary funds would be used for

this purpose. The discretionary funds will be used for services to refugees.

Comment: Several commenters remarked that if discretionary funds remain, then those monies should be distributed to augment existing State social service programs for refugees. These funds should not be used for special research or study projects according to these commenters.

Response: The Department agrees with the commenters. The discretionary funding purposes, we believe, were quite clearly outlined in the notice of the proposed formula. The available funding will be used to meet special and unforeseeable needs of States and to carry out special projects intended to contribute to the effectiveness and efficiency of refugee resettlement programs in service delivery and self-sufficiency.

Final Notice:

I. Allocation Formula

The Director of the Office of Refugee Resettlement (ORR) plans to allocate funds available for FY 1982 to States for refugee social services in accordance with the formula specified below.

Each State's allocation consists of that State's proportion of the total funds which the Director determines to be available for this purpose. A State's allocation is determined as follows:

The sum of—

1. (a) The number of refugees in the State who arrived in the U.S. not more than three years prior to the beginning of the fiscal year for which the funds are appropriated, as shown by the latest annual alien registration data from the Immigration and Naturalization Service available at the time the allocation is determined; and

(b) The number of refugees who have arrived in the State subsequent to the date of the annual alien registration data used in (a), above, up to the beginning of the fiscal year, as shown by the best data available to the Director at the time the allocation is determined; with

(c) An adjustment for the secondary migration of refugees who arrived in the U.S. not more than three years prior to the beginning of the fiscal year for which the funds are appropriated;

Divided by—

2. The national total of 1(a) and 1(b) above;

And the result multiplied by—

3. The total amount of funds determined by the Director to be available for this purpose.

The calculation above yields the allocation for each State.

Example: The following presents a computation for a hypothetical State XYZ based on the formula. All population figures are from ORR records or estimated actuals.

- State XYZ refugee population: (10/1/78 to 12/31/79) 14,500 + (1/1/80 to 10/1/81) 5,250 − (secondary migration) 100 = 19,650
- U.S. refugee population: (10/1/78 to 12/31/79) 170,000 + (1/1/80 to 10/1/81) 232,000 = 402,000
- State/U.S. refugee population proportion: 19,650 ÷ 402,000 = .04888
- FY 1982 funds determined by ORR director to be available for this purpose: $57,435,000
- State allocation for refugee support services: $57,435,000 × .04888 = $2,807,423.

The Director believes that the above formula results in allocations related to refugees generally having the greatest need for services (recent arrivals) and at the same time minimizes fluctuations in funding which would result if the allocations were based on changes in numbers of refugees arriving during time periods shorter than three years. Thus the formula provides greater stability in State planning and programming for refugee services.

The population estimates for the allocation of funds in FY 1982 are based on the January 1980 INS alien registration and subsequent arrivals (see section III, below). The last INS annual alien registration was conducted in January 1981, but data from that registration are not yet available. Under amendments to the Immigration and Nationality Act enacted on December 29, 1981 (Pub. L. 97-116), aliens are no longer required to register with INS on an annual basis. We believe that the January 1981 registration provides an appropriate base for population estimates for social service funds to be allocated for FY 1983. An alternative proposal, based on available data, will be developed for subsequent years and published for public comment.

II. Amount for Allocation

ORR expects $67,571,000 to be available for refugee social services in FY 1982.

The Director plans to allocate $57,435,000 (approximately 85%) of this total to States under the formula. The grant awards to each State depend upon the acceptance of each State's proposals for providing services in accordance with existing rules at 45 CFR Part 400.

The remaining funds will be used on a discretionary basis to meet special and unforeseeable needs of State and to carry out special projects intended to contribute to the effectiveness and efficiency of the refugee resettlement program in service delivery and self-support. Discretionary funds will be made available to States on the basis of such factors as changed geographic distribution and special needs of particular refugee groups. Of the remaining 15% of funds, up to 5% will be used for special projects similar to demonstration projects, and the remainder (at least 10%) will be made available to States during the year on a discretionary basis to meet special needs. Some of the discretionary funds are also being used to provide additional funding under the formula resulting from adjustments made in the population estimates which were published with the proposed formula. The special projects will test approaches to particular problems or be designed to develop model programs in refugee service delivery and self-support.

Basis for Population Estimates

The population estimates used for the allocations for FY 1982 cover Southeast Asian and Cuban refugees (not entrants) who arrived from October 1, 1978, through September 30, 1981. These are the two principal groups that are served only by the State-administered program.

The starting point for the population estimates was the Immigration and Naturalization Service (INS) alien registration for January 1980, the last available enumeration of the Southeast Asian population in the United States. Although we recognize that the INS alien registration figures have certain limitations, since not all persons register and since time has passed since the registration took place, we believe that these data provide the best possible starting point since no other nationwide data exist that reflect the relocation of refugees after their initial resettlement in the U.S.

The population base was derived as follows:

The number of Southeast Asians who registered in each State in January 1980 was cross-tabulated by year of entry. The figures were adjusted for underregistration. Entries from January 1980 through September 1981 by State were added. Persons who entered before FY 1979 were subtracted from each State's total. The figures were adjusted for estimated net interstate secondary migration.

ORR estimated the secondary migration of the Southeast Asian refugee population as follows: The data obtained from two consecutive INS alien registrations were adjusted for

estimated underregistration. (As in any census-type operation, some people fail to register.) Arrivals in each State for the year in question were added to the adjusted figures for the base year. These totals—the number of persons expected to register in each State if there were *no* secondary migration—were compared with the actual adjusted registration for the second year. Differences between the expected and the actual totals were attributed to net secondary migration. (This method does not consider deaths or emigration, which are statistically rare among this group, or births, since children born in the United States do not register with INS.)

Because the tabulation of the January 1981 data was incomplete when these estimates were developed, it was not possible to apply this method to measure secondary migration during 1980. Therefore, ORR combined several sources of data to adjust State population estimates for secondary migration through September 30, 1981. Estimates of secondary migration during 1978 and 1979 have been derived by the above method and published in ORR's two previous Reports to Congress. A mean of the two-year pattern during 1978 and 1979 was calculated for each State, and this number was considered to be the historical pattern of secondary migration during one year. That mean number was multiplied by 1.75, since the period during which secondary migration was being estimated was 21 months—from January 1980 through September 1981. The resulting figure was added to each State's total refugee population as estimated by adding new arrivals from January 1980 through September 1981 to the January 1980 INS registration base, as adjusted for underregistration.

During 1980 and 1981, certain new patterns of secondary migration are known to have developed. In particular, the H'mong refugees congregated in certain areas, notably California, Minnesota, and Wisconsin, with smaller concentrations in other States. Estimates of the secondary migration of the H'mong were developed with the assistance of the Lao Family Community, an organization assisting the H'mong. These were validated against the refugee child count compiled by the U.S. Department of Education, in tabulating the number of refugee children in each school district. Therefore, new secondary migration figures accounting for the more recent movements of the H'mong were applied to the State totals.

Finally, a reduction of 1,500 was made in the District of Columbia estimate, and the amount of the reduction was distributed between Virginia and Maryland according to their relative shares of the refugee population. ORR is aware that the number of refugee arrivals apparently destined for the District of Columbia each month is artificially inflated, because many local sponsoring organizations have offices there. Housing is located in the Virginia and Maryland suburbs for most of these refugees.

The population estimation procedure described above pertains to the estimated Southeast Asian population only. To these figures were added the Cuban refugee arrivals, by State, for FY 1979, FY 1980, and FY 1981, as shown by the ORR-Miami records. The Cuban figures were not adjusted for secondary migration since the majority are known to live in Florida and there are no reports of significant net secondary migration among this group.

The population estimates include only Southeast Asian and Cuban refugees, since these are the two principal groups that are served only by the State-administered program.

V. Allocations

The allocations for FY 1982 are as follows:

REFUGEE SOCIAL SERVICES FORMULA CALCULATION: FISCAL YEAR 1982

State	Population base [1] (1)	Formula calculation [2] (2)
Alabama	1,381	$197,388
Alaska	241	(*)
Arizona	2,691	384,629
Arkansas	1,282	183,238
California	131,169	18,748,174
Colorado	5,643	806,562
Connecticut	3,853	550,715
Delaware	151	21,583
District of Columbia	1,151	164,514
Florida	23,917	3,418,491
Georgia	4,641	691,931
Hawaii	4,183	597,882
Idaho	826	118,081
Illinois	16,149	2,308,200
Indiana	2,287	326,864
Iowa	5,496	785,837
Kansas	4,835	691,074
Kentucky	1,148	164,098
Louisiana	5,548	792,964
Maine	710	101,481
Maryland	4,700	671,771
Massachusetts	8,905	1,268,511
Michigan	6,303	900,897
Minnesota	19,007	2,659,525
Mississippi	1,100	157,223
Missouri	3,012	430,510
Montana	686	98,091
Nebraska	1,250	178,662
Nevada	1,425	203,677
New Hampshire	239	34,161
New Jersey	4,226	604,026
New Mexico	2,269	324,311
New York	13,346	1,907,568
North Carolina	3,338	484,252
North Dakota	550	78,600
Ohio	4,711	673,350
Oklahoma	3,855	551,001
Oregon	12,170	1,739,478
Pennsylvania	14,391	2,056,926

REFUGEE SOCIAL SERVICES FORMULA CALCULATION: FISCAL YEAR 1982—Continued

State	Population base [1] (1)	Formula calculation [2] (2)
Rhode Island	4,400	628,892
South Carolina	1,340	191,529
South Dakota	562	80,327
Tennessee	3,300	471,673
Texas	30,662	4,382,554
Utah	5,911	844,958
Vermont	232	33,160
Virginia	10,123	1,446,895
Washington	19,141	2,735,851
West Virginia	332	47,453
Wisconsin	7,442	1,063,606
Wyoming	305	43,594
Guam	135	19,296
Puerto Rico	104	(*)
Virgin Islands	10	(*)
Total:	[4] 402,870	[4] 58,056,005

[1] Indochinese and Cuban refugees who arrived in U.S. October 1, 1978—September 30, 1981.

[2] At $142.93 per capita. This figure is for calculating purposes only; the FY 1982 budget request was based on anticipated numbers of new arrivals, not on 3-year population estimates.

[3] Not currently participating in refugee program.

[4] Total dollars reflect upward adjustments which have been made in allocations to certain States based on evidence resulting in revised population estimates. Sum of population figures is greater than actual total shown because upward revisions in estimates for certain States have not been deducted from other States' estimates.

Paperwork Reduction Act

This notice does not create any reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance No. 13.814 Refugee Assistance State Administered Programs)

Dated: September 20, 1982.

John A. Svahn,

Commissioner of Social Security.

[FR Doc. 82-26486 Filed 9-27-82; 8:45 am]

BILLING CODE 4190-61-M

Public Health Service

Privacy Act of 1974; Notification of New Routine Use

AGENCY: Public Health Service (PHS), HHS.

ACTION: Notification of a new routine use permitting disclosure of information from Privacy Act system of records 09-35-0044, "Health Professions Planning and Evaluation," HHS/HRA/OA.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing notice of a proposal to establish a new routine use permitting disclosure to contractors of information in the Privacy Act system of records 09-35-0044, "Health Professions Planning and Evaluation," HHS/HRA/OA.

DATE: The Health Resources and Services Administration (HRSA) will adopt the new routine use without

further notice on October 28, 1982 unless PHS receives comments which would result in a contrary determination.

ADDRESS: Comments should be addressed to the individual named at the address listed below. Comments received will be available for inspection during office hours, Monday through Friday, in Room 9–22, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Kay Clarey, Privacy Act Coordinator, Room 9–22, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, or call 301–436–7240.

SUPPLEMENTARY INFORMATION: The Health Resources and Services Administration (HRSA), Office of the Administrator (OA), maintains a system of records on health professionals and students in the various health professions to identify problems in the health care training and delivery systems, to plan programs to correct those problems, and to evaluate the effectiveness of the resultant programs. Data collection may be accomplished under contract.

Due to an oversight, a routine use to provide for disclosure to contractors and their staff was not originally published in the system notice. We are now inserting the following routine use to clarify to the public the nature of the data collection process:

Disclosure may be made to HHS contractors and their staff in order to accomplish any of the purposes of the system of records. The recipients are required to protect such records from improper disclosure and to maintain Privacy Act safeguards.

The purpose of adding the new routine use is to permit disclosure of records to HHS contractors and their staff so that they are able to accomplish objectives required by approved contracts. Because the purpose of the system could not be accomplished in the absence of the approved contracts, we believe that disclosure to contractors pursuant to the proposed routine use is compatible with the purpose of the system. Contractors will receive such data only upon approval of the System Manager when appropriate safeguards, required by the terms of the contract, are in place.

The system notice was last published in the **Federal Register** on October 27, 1981 (46 FR 52744–52745). We are republishing the entire notice to incorporated the proposed new routine use, and to update the "Safeguards" and "Contesting Record Procedure" sections of the notice. These last changes are technical in nature and do not require a public comment period.

Dated: September 21, 1982.

Jack Markowitz,

Acting Deputy Assistant Secretary for Health Operations and Director, Office of Management.

09–35–0044

SYSTEM NAME:

Health Professions Planning and Evaluation. HHS/HRA/OA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Health Resources Administration, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

In addition, data are maintained at contractor and field work sites as studies are developed, data collected, and reports written. You may request a list of locations where individually identifiable data are currently located from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Health professionals and students in the various health professions. Physicians, dentists, pharmacists, optometrists, podiatrists, veterinarians, public health personnel, audiologists, speech pathologists, heath care administration personnel, nurses, allied health personnel, medical technologists, and other health personnel may be included.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, health profession, education history, academic grades, employment history, nationality, race, ethnicity, economic background, and sex. The specific data items collected and maintained are determined by the needs of the individual project.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, Section 708 (42 U.S.C. 292h re: Health Professions Data), Section 787 (42 U.S.C. 295g–7 re: Educational Assistance to Individuals from Disadvantaged Backgrounds), Section 798 (42 U.S.C. 295h–7 re: Educational Assistance to Disadvantaged Individuals in Allied Health Training), and Section 820 (42 U.S.C. 196k re: Special Project Grants and Contracts).

PURPOSE(S):

The Health Resources Administration uses various records in this system to identify problems in the health care training and delivery systems, to plan programs to correct those problems, and to evaluate the effectiveness of the resultant programs. The agency assesses the current supply of health professionals and predicts the supply needs of the future. The agency determines nationwide requirements as well as the needs of specific areas.

The agency also collects data on the educational system which supplies health professionals and on specific health education programs. The data are used to develop and test new methods of training and utilizing health professionals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

A record may be disclosed for a research purpose, when the Department:

(a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

(b) Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

(c) Has required the recipient to—(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except—(A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law; and

(d) Has secured a written statement attesting to the recipient's

understanding of, and willingness to abide by these provisions.

Disclosure may be made to HHS contractors and their staff, in order to accomplish any of the purposes of the system of records. The recipients are required to protect such records from improper disclosure and to maintain Privacy Act safeguards.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, magnetic tape, card files, microfilm, microfiche, and disk storage. The needs of each project determine the types actually used.

RETRIEVABILITY:

By name. In some instances an assigned number may be used to retrieve records.

SAFEGUARDS:

Locked building, locked rooms, locked file cabinets, personnel screening, locked computer rooms and computer tape vault, guard service, password protection of automated records, and limited access to only authorized personnel will be used, as considered appropriate by the System Manager for the type of records included in each project. Authorized personnel are generally limited to contractor personnel directly involved in data collection compilation, and analysis. (Safeguards are in accordance with Part 6, ADP Systems Security of the Department's ADP Systems Manual, with Chapter 45–13, Safeguarding Records Contained in Systems of Records, of the Department's General Administration Manual, and with supplementary Chapter PHS.hf: 45–13)

RETENTION AND DISPOSAL:

The contractor removes personal identifiers and destroys the records when they are no longer needed, as appropriate to the specific project. (Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the Records Control Schedule of the Health Resources Administration.) You may obtain a copy of the disposal standard for a particular project by writing to the System Manager.

SYSTEM MANAGER(S) AND ADDRESS:

Contracting Officer, Health Resources Administration, Center Building, Room 9–22, 3700 East-West Highway, Hyattsville, Maryland 29782.

NOTIFICATION PROCEDURE:

To determine if you are the subject of a record, contact the System Manager and provide suitable identification and, if possible, information about the specific project.

RECORD ACCESS PROCEDURE:

To obtain access to your record, contact the System Manager and provide suitable identification, a reasonable description of the record and, if possible, information about the specific project.

CONTESTING RECORD PROCEDURES:

To correct your record, contact the System Manager and provide (a) suitable identification, (b) a reasonable description of the record, (c) the specific information you want corrected, and (d) a precise description of the correction, with supporting justification.

RECORD SOURCE CATEGORIES:

Subject individuals, state and local health departments, other health providers, health professions schools, and health professions associations may provide information depending on the individual project involved.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

[FR Doc. 82-26013 Filed 9-27-82; 8:45 am]
BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 17, 1982. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by October 13, 1982.

Carol D. Shull,
Chief of Registration, National register.

ALABAMA

Mobile County

Theodore vicinity, *Bellingrath Gardens and Home*, S of Theodore off AL 59

ALASKA

Anchorage District

Anchorage, *Wendler Building*, 401 I St.

CALIFORNIA

Alameda County

Berkeley, *State Asylum for the Deaf, Dumb and Blind*, Bounded by Dwight Way, City line, Derby and Warring Sts.

Monterey County

Monterey, *Finch, James W., House*, 410 Monroe St.

DELAWARE

Kent County

Clayton, *Byrd's AME Church*, Smyrna Ave.
Smyrna vicinity, *George Farmhouse*, E. of Smyrna off DE 6
Smyrna vicinity, *Moore House*, 511 W. Mt. Vernon St.
Smyrna vicinity, *Peterson and Mustard's Hermitage Farm*, E. of Smyrna off DE 325
Smyrna vicinity, *Woodlawn*, SE of Smyrna on US 13

IDAHO

Ada County

Meridian, *Neal, Halbert F. and Grace, House*, 101 W. Pine St.

ILLINOIS

Cook County

Chicago, *Hotel Windermere East*, 1642 E. 56th St.

KENTUCKY

Harrison County

Cynthiana, *Cynthiana Commercial District*, Pike St. from Church to Main Sts., and Main St. from Bridge to Pleasant Sts.

LOUISIANA

Franklin Parish

Fort Necessity, *Grayson House*, SE of Fort Necessity on LA 562

Iberia Parish

Lydia, *Oliver Store*, LA 83

LaSalle Parish

Good Pine, *Good Pine Lumber Company Building*, W. Bradford St.

Lafourche Parish

Thibodaux vicinity, *Chatchie Plantation House*, E. of Thibodaux on LA 306

Orleans Parish

New Orleans, *St. James AME Church*, 222 N. Roman St.

Plaquemines Parish

Pointe a la Hache vicinity, *Harlem Plantation House*, W. of Pointe a la Hache on LA 39

St. Landry Parish

Grand Prairie vicinity, *Fontenot, Alexandre, fils House*, S. of Grand Prairie off LA 103

St. Martin Parish

St. Martinville vicinity, *Sandoz House*, W. of St. Martinville on LA 96

Tangipahoa Parish

Arcola, *Arcola Presbyterian Church*, Church St.

MISSISSIPPI

Adams County

Natchez vicinity, *Laurel Hill Plantation*, S of Natchez off US 61

Copiah County

Georgetown vicinity, *Alford-Little House*, S of Georgetown off MS 27

NEBRASKA

Boone County

Raeville *St. Bonaventure Church Complex*, Off NE 14

Pawnee County

Pawnee City, *Hempstead, E. F., House*, 14th & H St.

NEW JERSEY

Cumberland County

Bridgeton, *Bridgeton Historic District*, Roughly bounded by Teddy Pond, NW, SW, and Belmont Aves., Water and Commerce Sts., NJ Central RR, Irving, Walnut, Bank, Penn and Laural Sts. also South Ave. between Pine St. and Garfield Ave.

NORTH DAKOTA

Barnes County

Valley City, *Rudolf Hotel*, Central Ave. and 2nd St.

Burleigh County

Bismarck, *Bismarck Tribune Building*, 222 N. 4th St.
Bismarck, *Patterson, E.G., Building*, 412–414 Main St.
Bismarck, *Remington Block*, 400 E. Main Ave.

Cass County

Casselton, *Casselton Commercial Historic District*, Roughly bounded by Front and 1st St. between 6th and 8th Ave.
Fargo, *Fargo Theatre Building*, 314 Broadway

Emmons County

Linton vicinity, *Goldade, Johannes, House*, SE of Linton off ND 13

Golden Valley County

Sentinel Butte, *Sentinel Butte Public School*, Byron St.

Grand Forks County

Grand Forks, *BPOE Lodge (Downtown Grand Forks MRA)*, 12 N. 4th St.
Grand Forks, *Building at 201 S. 3rd St. (Downtown Grand Forks MRA)*, 201 S. 3rd St.
Grand Forks, *Building at 205 DeMers Ave. (Downtown Grand Forks MRA)*, 205 DeMers Ave.
Grand Forks, *Building at 312 Kittson Ave. (Downtown Grand Forks MRA)*, 312 Kittson Ave.
Grand Forks, *Building at 317 S. 3rd St. (Downtown Grand Forks MRA)*, 317 S. 3rd St.
Grand Forks, *Clifford Annex (Downtown Grand Forks MRA)*, 407–411 DeMers Ave.
Grand Forks, *Dakota Block (Downtown Grand Forks MRA)*, 21 S. 4th St.
Grand Forks, *Dinnie Block (Downtown Grand Forks MRA)*, 109 N. 3rd Ave.
Grand Forks, *Edgar Building (Downtown Grand Forks MRA)*, 314 Kittson Ave.
Grand Forks, *Electric Construction Co. Building (Downtown Grand Forks MRA)*, 16 S. 4th St.
Grand Forks, *Finks and Gokey Block (Downtown Grand Forks MRA)*, 414–420 DeMers Ave.
Grand Forks, *First National Bank (Downtown Grand Forks MRA)*, DeMers Ave.
Grand Forks, *Flatiron Building (Downtown Grand Forks MRA)*, 323 Kittson Ave.
Grand Forks, *Grand Forks City Hall (Downtown Grand Forks MRA)*, 404 N. 2nd Ave.
Grand Forks, *Grand Forks Mercantile Co. (Downtown Grand Forks MRA)*, 124 N. 3rd St.
Grand Forks, *Grand Forks Wollen Mills (Downtown Grand Forks MRA)*, 301 N. 3rd St.
Grand Forks, *Hook and Ladder #1 and Hose Co. #2 (Downtown Grand Forks MRA)*, 215 S. 4th St.
Grand Forks, *Iddings Block (Downtown Grand Forks MRA)*, 9 N. 3rd St.
Grand Forks, *Lyons Garage (Downtown Grand Forks MRA)*, 214–218 N. 4th St.
Grand Forks, *Masonic Temple (Downtown Grand Forks MRA)*, 413–421 Bruce Ave.
Grand Forks, *New Hampshire Apartments (Downtown Grand Forks MRA)*, 105 N. 3rd St.
Grand Forks, *Northern Pacific Depot and Freight House (Downtown Grand Forks MRA)*, 202 N. 3rd St.
Grand Forks, *Odd Fellows Block (Downtown Grand Forks MRA)*, 23–25 S. 4th St.
Grand Forks, *Red River Valley Brick Co. (Downtown Grand Forks MRA)*, 215 S. 3rd St.
Grand Forks, *Roller Office Supply (Downtown Grand Forks MRA)*, 7 N. 3rd St.
Grand Forks, *Speed Printing (Downtown Grand Forks MRA)*, 220 S. 3rd St.
Grand Forks, *St. John's Block (Downtown Grand Forks MRA)*, 2 N. 3rd St.
Grand Forks, *Stratford Building (Downtown Grand Forks MRA)*, 311 DeMers Ave.
Grand Forks, *Telephone Co. Building (Downtown Grand Forks MRA)*, 24 N. 4th St.
Grand Forks, *Viets Hotel (Richardson House) (Downtown Grand Forks MRA)*, 309–311 3rd St. S.
Grand Forks, *Wright Block (Neil's Block) (Downtown Grand Forks MRA)*, 408–412 DeMers Ave.

McHenry County

Velva, *Hotel Berry*, 100 W. Central Ave.

McLean County

Wilton, *Holy Trinity Ukrainian Greek Orthodox Church*, Bismarck Ave. and 6th St.

Ramsey County

Devils Lake, *St. Mary's Academy*, E. 7th St.

Richland County

Galchutt vicinity, *South Wild Rice Church (St. John's Lutheran Church)*, SE of Galchutt at US 81 and CR 6

Stutsman County

Jamestown, *St. James Catholic Church*, 622 1st Ave. South.

Ward County

Minot *Union National Bank and Annex*, 2 N. Main and 7–11 E. Central Ave.

VIRGINIA

Charlottesville (Independent City, *Tonsler, Benjamin, House (Charlottesville MRA)*, 327 6th St.
Richmond (Independent City), *Shockoe Valley and Tobacco Row Historic District*, Roughly bounded by Dock, 15th, Clay, Franklin, and Peach Sts.
Staunton (Independent City), *Augusta County Courthouse*, 1 E. Johnson St.

Fairfax County

Langley, *Langley Fork Historic District*, Jct. of Georgetown Pike and Old Chain Bridge Rd.

Mecklenburg County

Chase City, *Shadow Lawn*, 27 N. Main St.

Spotsylvania County

Chancellor vicinity, *Tubal Furnace Archeological Site*

[FR Doc. 82-26522 Filed 9-27-82; 8:45 am]
BILLING CODE 4310-70-M

Land Management Bureau

[C-24224]

Colorado; Partial Cancellation of Withdrawal Application and Opening of Land

September 20, 1982.

The Bureau of Land Management, Department of the Interior, filed application for protective withdrawal C–24224 on August 3, 1976, which was published August 12, 1976, as FR Doc. 76–23531. This application is hereby cancelled insofar as it affects the following described public land:

New Mexico Principal Meridian

T. 50 N., R. 8 E., sec. 2, lots 3 and 4.

Sixth Principal Meridian

T. 51 N., R. 8 E.,
Sec. 10, lot 1;
Sec. 11, lot 4, S½NW¼, SW¼, and W½SW¼SE¼;
Sec. 12, lots 1, 2, 3, 4, S½N½, E½W½SW¼, E½SW¼, and SE¼;
Sec. 13, NE¼, E½NW¼, E½NW¼NW¼, SW¼NW¼, and S½;
Sec. 14, N½NW¼, SW¼NW¼, and E½SE¼;
Sec. 23, E½E½, W½E½NW¼, and E½W½S E½;
Sec. 24;
Sec. 25, W½;
Sec. 26, E½E½, W½SE¼NW¼, and E½SW¼SE¼;
Sec. 35, S½SW¼NW¼, W½SW¼, and SE¼SW¼.
T. 15 S., R. 77 W.,
Secs. 18 to 20, inclusive, and 29;
Sec. 30, E½, and E½W½;
Sec. 31, E½, and E½E½W½;
Sec. 32.
T. 13 S., R. 78 W.,
Sec. 30, lots 22 to 24, inclusive;
Sec. 31, E½NE¼, and E½E½SE¼;

Sec. 32, SW¼NW¼, and W½SW¼.
T. 14 S., R. 78 W.,
Sec. 4, SW¼SW¼;
Sec. 5, lots 1 and 2, S½NE¼, and N½SE¼;
Sec. 9, NW¼SW¼NE¼, S½SW¼NE¼, N½NW¼, N½SE¼NW¼, SE¼SE¼NW¼, NE¼NE¼SW¼, W½NE¼SE¼, SE¼NE¼SE¼, W½SE¼, and SE¼SE¼;
Sec. 10 SW¼SW¼;
Sec. 14, SW¼;
Sec. 15, NW¼, N½SW¼, NW¼SW¼SW¼, E½SW¼SW¼, SE¼SW¼, and N½SE¼, exclusive of M.S. 16411, M.S. 16831, and M.S. 19032;
Sec. 16, E½NE¼, and NE¼NE¼SE¼, exclusive of M.S. 19032;
Sec. 23, NW¼, and N½SW¼, exclusive of M.S. 11925.
T. 15 S., R. 78 W.,
Sec. 1, lots 2 to 4, inclusive, S½N½, SE¼SW¼, and SE¼;
Sec. 2, SE¼NE¼, and NE¼SE¼;
Sec. 12, NE¼, NE¼NW¼, S½NW¼, E½SE¼, NW¼SW¼, AND SE¼;
Sec. 13, NE¼, E½NW¼, E½SE¼, and NW¼SW¼;
Sec. 24, E½NE¼.
T. 12 S., R. 79 W., sec. 35, E½W½, exclusive of M.S. 20723.
T. 13 S., R. 79 W.,
Sec. 2, lots 2, 3, and E½SE¼;
Sec. 12, SW¼NE¼, N½NW¼, SE¼NW¼, and SE¼;
Sec. 13, NE¼, and W½SE¼;
Sec. 24, W½SE¼;
Sec. 25, NW¼NE¼, SE¼NE¼, and NE¼SE¼.

The area described aggregates approximately 11,878.66 acres.

Therefore, in accordance with the regulations contained in 43 CFR 2310.2–1(c) at 10:00 a.m. on November 1, 1982, the lands described herein shall be relieved of the segregative effect of this application and open to operation of the public land laws generally, including the United States mining laws, subject to any valid existing rights. The lands remain open to mineral leasing.

Any valid application received at or prior to 10:00 a.m. on November 1, 1982 shall be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

Any questions concerning these lands should be directed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Colorado State Office, 1037—20th Street, Denver, Colorado 80202.

Robert D. Dinsmore,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-26873 Filed 9-27-82; 8:45 am]

BILLING CODE 4310-84-M

[C-35774]

Colorado; Classification of Public Lands for State Indemnity Selection

September 17, 1982.

1. Pursuant to Sections 2275 and 2276 of the Revised Statutes, as amended (43 U.S.C. 851, 852), and the provisions granted to the State of Colorado by the Act of March 3, 1875 (18 Stat. 475), the public lands described below are hereby classified for State Indemnity Selection. The State of Colorado has filed an application to acquire the described lands in lieu of certain school lands that were encumbered by other rights or reservations before the State's title could attach. This application was assigned serial number Colorado 35774.

2. The notice of proposed classification of these lands was published in the **Federal Register** of July 7, 1982, Vol. 47, No. 130, pages 29607–29609. The land is being classified as proposed.

3. The lands included in this proposed classification are in Garfield and Mesa counties and are described below. The names of holders of leases, permits, and/or rights-of-way, and the identifying number of each use authorization, as well as other encumbrances on the land were listed in the Notice of Proposed Classification:

Sixth Principal Meridan

Parcel 8 T. 6 S., R. 94 W.,
Sec. 29, SW¼NW¼;
Parcel 9 T. 7 S., R. 95 W.,
Sec. 9, SE¼SE¼;
Sec. 10, SW¼SW¼;
Sec. 15, W½NW¼, NW¼SW¼;
Sec. 16, E½NE¼, and NE¼SE¼.

Ute Principal Meridian

Parcel 12 T. 1N., R. 1 E.,
Sec. 32, E½NE¼, and NE¼SE¼;
Sec. 33, W½NE¼, N½NW¼, and SE¼.
Parcel 13 T. 2 N., R. 3 W.,
Sec. 30, SW¼, and S½SE¼;
Sec. 31, NE¼, N½NW¼, SE¼NW¼, N½SE¼, and SE¼SE¼;
Sec. 32, W½.
Parcel 15 T. 1 S., R. 1 E.,
Sec. 25, SE¼;
Sec. 35, E½;
T. 2 S., R. 1 E.,
Sec. 1, Lots 1, 2, 3, 4, and S½N½;
Sec. 2, Lots 1, 2, and S½NE¼.
T. 1 S., R. 2 E.,
Sec. 19, SE¼;
Sec. 30, Lots 4, E½, SE¼NW¼, and E½SW¼;
Sec. 31, Lots, 1, 2, 3, 4, and E½W½;
T. 2 S., R. 2 E.,
Sec. 6, Lots 3, 4, 5, and SE¼NW¼.

The areas described contain 3,826.06 acres.

4. This classification decision is based on the following disposal criteria set forth in Title 43 Code of Federal Regulations, Part 2400.

Transfer of the lands to the State will help fulfill the Federal Government's common school land grant to the State, and constitutes a public purpose use of the land. Lands found to be valuable for a public purpose use will be considered chiefly valuable for public purposes (43 CFR 2430.2b).

5. Rights-of-way granted by the Bureau of Land Management on the above lands will transfer with the land. Oil and gas leases will remain in effect under the terms and conditions of the lease. State law and Board of Land Commissioners procedures provide for the offering to holders of Bureau of Land Management grazing permits, licenses or leases the first right to lease lands that are transferred to the State.

In the event these lands are clearlisted, the Bureau of Land Management authorized grazing use will terminate at the time title to the land is transferred to the state.

Any cultural resources will be managed by the State. A study has been made of the areas which indicates little potential for mineral exploration for locatable minerals. There are no mining claims recorded with BLM for these lands, nor has any evidence of mining activity been found on the ground.

6. The public lands classified by this notice are shown on maps on file and available for inspection in the Bureau of Land Management District Office, 764 Horizon Drive, Grand Junction, Colorado 81501, Telephone (303) 243–6552.

7. For a period of 30 days from the date of publication in the **Federal Register**, this classification shall be subject to exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2461.3 and 2462.3. Interested parties may submit comments to the Secretary of the Interior, LLM 320, Washington, D.C. 20240.

Bob Moore,

Associate State Director..

[FR Doc. 82-26874 Filed 9-27-82; 8:45 am]

BILLING CODE 4310-4-M

Bureau of Reclamation

Contract Negotiations With Purgatoire River Water Conservancy District, Trinidad Project, Colorado; Intent To Begin Contract Amendment Negotiations of the Repayment Contract and Extension of the Development Period

The Department of the Interior, through the Regional Director, Lower Missouri Region of the Bureau of

Reclamation (Bureau), intends to extend the development period for the Purgatoire River Water Conservancy District (district) under contract No. 7-07-70-W0095 (formerly contract No. 14-06-70-6279) an additional 3 years. Also, the Bureau will initiate negotiations with the district at this time to revise the repayments procedure to ensure that annual repayment installments will provide for repayment of the district's obligation within the authorized 70-year repayment period.

The Trinidad Project, consisting of the multiple-purpose Trinidad Dam and Reservoir, was authorized for construction by the Army Corps of Engineers through the Flood Control Act of 1958 (72 Stat. 297), as amended by the Act of October 27, 1965 (79 Stat. 1073). The Corps of Engineers is responsible for the operation and maintenance of project facilities. The Bureau administers the repayment contract with the district pursuant to Reclamation law.

The project provides flood control, recreation, and supplemental irrigation water. In accordance with the provisions of contract No. 7-07-70-W0095, the district will reimburse the United States for $8,435,600 of the project costs allocated to the irrigation purpose over the term of the contract.

All meetings scheduled by the Bureau with the district for the purpose of discussing terms and conditions of the proposed contract will be open to the general public as observers. Advance notice of meetings shall be furnished to those parties who have provided a written request for same at least 1 week prior to any such meeting. Requests should be addressed to Project Manager, Fryingpan-Arkansas Project Office, Bureau of Reclamation, P.O. Box 515, Pueblo, Colorado 81002.

All written correspondence concerning the proposed contract amendment will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

The public is invited to submit written comments on the form of the proposed contract amendment not later than 30 days after the completed draft is made available to the public. If little or no public interest in these negotiations is evidenced, as gauged by the response to this notice and local new releases or announcements, the availability of the proposed form of contract for public review and comment will not be publicized through the **Federal Register** or other media. The Commissioner of Reclamation will review comments submitted and, based on the number, sources, and nature of the comments, will decide whether to hold a public meeting.

For further information on the contract negotiations, contact the Project Manager at the above address or telephone (303) 544-5277, extension 201.

Dated: September 22, 1982.

Jed D. Christensen,

Acting Commissioner of Reclamation.

[FR Doc. 82-26530 Filed 9-27-82; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-79997. By decision of August 24, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 3 approved the transfer to COAST TO COAST INTERNATIONAL TRANSPORT CORP. of Certificate No. MC-146068 (Sub-Nos. C-12X and 13) issued to CONSOLIDATED CARRIERS INTERNATIONAL TRANSPORT CORPORATION authorizing transportation of (1) *chemicals and related products,* between points in CA, FL, IL, IN, MA, MI, NH, NJ, NY, OH, TN, TX, WV and WY, on the one hand, and on the other points in Mecklenburg County, NC; (2) *metal products,* between Harrisonburg, VA, on the one hand, and on the other, points in Butte County, CA; (3) *motor vehicle parts and accessories,* between (a) Pierce, Mason, King, Grays Harbor and Thurston Counties, WA; (b) Clackamas, Multnomah, Marion, Polk, Yamhill, Columbia and Washington Counties, OR; (c) Pima, Cochise, Graham and Pinal Counties, AZ; (d) Washoe, Lyon, Douglas and Storey Counties, NV; and (e) San Joaquin and Sacramento Counties, CA, on the one hand, and on the other, points in the U.S. (except AK and HI); and (4) (*general commodities* (except classes A and B explosives) between points in AL, GA, NC, SC, TN, and VA on the one hand, and on the other, points in AZ, CA, NV, OR, UT, and WA; and (5) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Bristol County, MA, Florence County, SC, and points in FL, on the one hand, and on the other, points in the US (except AK and HI). Representative: Robert B. Walker, Esq., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. NOTE: This notice corrects the notice published in the **Federal Register**, Vol. 47, No. 176, p. 39909, Friday, September 10, 1982 which contained certain inadvertent errors.

MC-FC-80022. By decision of September 9, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 3 approved the transfer to H. O. Kline Transportation, Inc. of New Castle, DE of Certificate No. MC-84145 (Sub-No. 2F) issued March 12, 1981, to Carpenter's

Motor Freight, Inc., of Wilmington, DE, authorizing the transportation of *general commodities* (with the usual exceptions), between Philadelphia, PA, and points in DE, on the hand, and, on the other, points in DE, MD, NJ, NY, PA, and DC. Applicant's representative is: Joseph W. Weik, Stanley T. Czajkowski, 1807 Market St., P.O. Box 2324, Wilmington, DE 19899.

MC–FC–80023. By decision of September 7, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 3 approved the transfer to QUESADA AUTO TRANSPORT CORPORATION of Laredo, TX of Certificate NO. MC–127185 (Sub-No. 9) issued September 2, 1981 to GATEWAY TRANSFER CO., INC. of Laredo, TX authorizing the transportation over irregular routes, of *transportation equipment* between ports of entry on the international boundary line between the U.S. and Mexico, located at points in TX, on the one hand, and, on the other, points in AZ, CA, GA, IL, NM, NV, OH, MI, MO, PA, TX, and WI Applicant's representative is: James R. Boyd, 1000 Perry Brooks Building, Austin, TX 78701.

MC–FC–80026. By decision of September 9, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to JIM THORPE TRANSPORTATION CO., INC., of Jim Thorpe, PA of Certificates Nos. MC–35321 and MC–34321 (Sub-No. 1F), issued to HENRY S. ERSCHEN, INC., of Walnutport, PA, authorizing the transportation of passengers and their baggage in round-trip, charter operations, (1) in MC–34321, between Palmerton, PA, and points within 5 miles thereof, and poinys in NY, NJ, MD, and DE, and (2) in MC–35321 (Sub-No. 1F), beginning and ending at Aquashicola, Berlinsville, Bowmanstown, Cherryville, Danielsville, Lehighton, Palmerton, Parryville, Slatington, Walnutport, and Weissport, PA, and extending to points in the U.S., (except points in AL, AK, CT, DE, HI, IL, IN, KY, MD, MI, NJ, NY, NC, OH, TN, VA, and DC. Applicants' Representative: Gary M. Miller, 1414 Millard Street, Bethlehem, PA 18018.

Notes.—Transfer holds no authority from this Commission. TA has been sought.

MC–FC–80031. By decision of September 13, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Jerry A. Ammerman of Willmar, MN of Certificate No. MC–5227 (Sub-No. 74)F issued to Eckley Trucking, Inc., of Mead, NE, authorizing: the transportation of general commodities (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S. Applicant's representative: Jerry A. Ammerman, P.O. Box 1335, Wilmar, MN 56201. TA lease is not sought. Transferee is not a carrier.

MC–FC–80032. By decision of September 13, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Common Carriers, Inc., of Ellensburg, WA, of Certificate No. MC–139248 (Sub-No. 6)X which supersedes Sub-No. 4, issued April 22, 1982, to Contract Carriers, Inc., of Ellensburg, WA, authorizing: commodities in bulk between points in Washington, Oregon and Idaho. Applicant's representative: George R. LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055. Phone (206) 228–3807. TA lease is not sought. Transferee is not a carrier.

MC–FC–80041. By decision of September 13, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 3 approved the transfer to Ronald L. Marquardt, Inc., of Certificate No. MC–156283 (Sub-No. 1) issued April 18, 1982 to Ronald L. Marquardt authorizing operations as a common carrier by motor vehicle, over irregular routes, transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) used household goods for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense between points in the United States (except Alaska and Hawaii). Applicant's representative is: Michael J. McCartney, P.O. Box 71, Breckinridge, MN 56520.

MC–FC–80045. By decision of September 14, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to KENNY BERGER, of Dickerson, ND, of Certificate No. MC–153154, issued to K & K TRUCKING, INC., of Dickerson, ND, authorizing the transportation of (1) *lumber wood products, forest products, shingles,* and *gypsum board,* from points in WA, OR, CA, ID, MT, UT, NY, CO, and WY, to points in CA, NV, CO, IL, WI, MI, OH, MO, TX, ND, SD, MN, IA, MT, WY, NE, and KS, (2) *knocked down steel buildings and parts and accessories for knocked down steel buildings,* from Pleasant City, IA, Spanish Fork, UT, and Columbus, NE, to points in ND, SD, MT, and MN, (3) *insulating materials and supplies, and roofing, and roofing materials and supplies,* from points in WY, SD, NE, MN, WI, and IL, to points in ND, (4) *drilling mud, drilling mud additives, and drilling fluids,* (a) from points in KS, OK, MO, TX, UT, CO, and WY to points in ND, SD, MT, and WY and (b) from points in ND to points in WY, and (5) *fabricated casting,* from Arlington, WA, to points in the U.S. Applicants' Representative: Charles E. Johnson, P.O. Box 2056, Bismark, ND 58502.

Notes.—Transferee holds no authority from this Commission. However, he controls transferor through his ownership of all of its outstanding stock. An application for TA has been filed.

MC–FC–80048. By decision of September 17, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board No. 3 approved the transfer to Distron Division of Burger King Corporation, of Miami, FL, Permit No. MC–161043, issued on July 29, 1982, to Distron Transportation Systems, Inc., of Miami, FL, authorizing the transportation of (1) *food and related products,* between points in the United States; (2) *paper and related products and plastic products,* between points in the United States; (3) *animal and vegetable shortening,* between points in the United States; and (4) *such commodities* as are dealt in by wholesale and retail stores, between points in the United States, under continuing contracts with various shippers. Applicants' representative: Michael F. Morrone, 1150 17th Street, NW, Suite 1000, Washington, DC 20036, (202) 457–1124. Transferee is not an ICC carrier.

MC–FC–79890. By decision of August 24, 1982, issued under 49 U.S.C. and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to SHIPPERS TRANSPORTATION, INC., of Eden Prairie, MN, of Certificate No. MC–145743 (Sub-No. 19), issued to T.F.S., INC., of Grand Island, NE, which authorizes the transportation of *general commodities* (except classes A and B explosives) between points in the U.S., on the one hand, and, on the other, points in Adams, Buffalo, and Hall Counties, NE. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106.

MC–FC–80005. By decision of August 31, 1982 issued under 49 U.S.C. 1026 and the transfer rules at 49 C.F.R. 1132 Review Board Number 3 approved the transfer to KEUKA TRANSPORTATION, INC., of Penn Yan, NY, of certain portions of No. MC–

105902 (Subs No. 29X and 31) issued respectively, November 12, 1981, and June 29, 1982, to PENN YAN EXPRESS, INC., of Penn Yan, NY, authorizing the transportation of general commodities (with certain exceptions) over regular and irregular routes between points in described areas of NY, NJ, PA, OH, MD, and IL.

MC-FC-80010. By decision of August 31, 1982 issued under 49 U.S.C. 10924 and the transfer rules at 49 C.F.R. 1132 Review Board Number 3 approved the transfer to DISTRIBUTION IN DIMENSION, INC., of Lakewood, NJ, of License No. MC-153845, issued to MARKO ASSOCIATES, INC. of Lakewood, NJ, authority operations as a broker for the transportation of general commodities (except household goods) between points in the United States.

Note.—Transferee holds no authority from this Commission. TA has not been sought. Applicant's representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123.

MC-FC-80029. By decision of September 9, 1982, issued under 49 U.S.C. 10928 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to LOU SEIDEN, doing business as ROSE TRANSPORTATION CO., of Atlantic City, NJ, of Certificates No. MC-323 and MC-323 (Sub-No. 3), issued March 22, 1950 and December 14, 1972 to KARL SEIDEN, doing business as ROSE TRANSPORTATION CO., of Atlantic City, NJ, authorizing transportation as a motor *common* carrier, transporting (1) *general* commodities over regular routes between Philadelphia, PA and Atlantic City, NJ, over U.S. Hwy 30, serving all intermediate points and the off-route points of Pleasantville, Margate, Vontnor, and Long Port, NJ; (2) *art objects, antiques, uncrated household goods, office furniture,* and *equipment in use* over irregular routes between Atlantic City, NJ and points within a 15 mile radius of Atlantic City on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, New York, Pennsylvania, and the District of Columbia; and (3) *food and foodstuffs* (except in bulk, in tank vehicles) in refrigerated vehicles, from the Kraft Food Division facilities near Fogelsville, PA to points in New Jersey. Representative: Robert B. Linhorn, 3220 PSFS Bldg., 12 South 12th Street, Philadelphia, PA 19107, (215) 922-1400.

MC-FC-80030. By decision of September 9, 1982 issued under 49 U.C.V. 10928 and the transfer rules at 49 C.F.R. 1132 Review Board Number 3 approved the transfer to G & G TRUCKING, INC., of Certificate Nos. MC-147466 November 6, 1980, MC-147466 (Sub-No. 1) August 28, 1981 and MC-147466 (Sub-No. 3) issued December 4, 1981 to HAROLD SPIVEY, doing business as SPIVEY TRUCK LINES of East Dublin, GA, authorizing the transportation (1) under the lead certificate of *newsprint paper, waste newspaper and cores,* from points in Laurens County, GA to points in AL, FL, GA, KY, LA, MS, NC, SC, TN, VA, MD, PA, OK, and KS and of *materials, equipment and supplies used in the manufacture of newsprint paper* (except commodities in bulk), from points in AL, FL, GA, KY, LA, MS, NC, SC, TN, VA, TX, AR, MO, IL, IN, OH, WV, MD, PA, OK and KS to points in Laurens County, GA; (2) under the sub 1 certificate of *coil steel* between points in Butler County, OH, on the one hand, and, on the other, points in Laurens County, GA, and *metal products,* between points in Laurens County, GA, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, KY, MD, MA, MS, NJ, NY, NC, OH, PA, SC, TN, VA, WV, and NH; and (3) under the sub 3 certificate of *wire,* between points in Telfair County, GA, on the one hand, and, on the other, points in AR, OH, NC, SC, IA, AL, OK, KY, IL, TN, MS, TX, VA and WI. Representative: Virgil H. Smith, 74 Highway N Box 245, Tyrone, GA 30290.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26569 Filed 9-27-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 162]

Motor Carriers; Permanent Authority Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of opposing verified statements must be filed with the Commission within 45 days after the date of this Federal Register notice. Applicant may file a verified statement in rebuttal within 60 days. Such pleadings shall comply with 49 CFR 1100.247 (renumbered 1100.251) addressing specifically the issue(s) indicated as the purpose for republication. Special Rule 247 (renumbered 251) was published in the Federal Register of July 3, 1980, at 45 FR 45539.

MC 138841 (Sub-22), (Republication), filed May 18, 1982, published June 4, 1982, and republished this issue. Applicant: BLACK HILLS TRUCKING CO., PO Box 2130, Rapid City, SD 57709. Representative: James W. Olson, PO Box 1552, Rapid City, SD 57701, (605) 342-7090. A decision by the Commission, Review Board No. 2, decided August 31, 1982, served September 17, 1982, finds that applicant is authorized to operate as *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting (1) *general commodities* (except household goods, and classes A and B explosives), between points in South Dakota on and west of U.S. Hwy 83, on the one hand, and, on the other, points in Iowa, Kentucky, Illinois, Minnesota, Colorado, Missouri, Nevada, New Jersey, Wisconsin, New York, California, and Utah, (2) *auto parts,* between Portland, OR, on the one hand, and on the other, points in Campbell County, WY, and Pennington County, SD, and (3) *food and related products,* between points in Carver and Nobles Counties, MN, Buffalo County, NE, and Muscatine and Johnson Counties, IA, on the one hand, and, on the other, points in North Dakota, South Dakota, Nebraska, Montana, Iowa, Illinois, Wisconsin, Missouri, Minnesota, Oregon and California. Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is give notice of the authority granted to include authority between South Dakota points, on the one hand, and, on the other, points in Missouri.

Agatha L. Mergenovich,

Secretary.

[FR Doc.82-26565 Filed 9-27-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions, Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80100.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the

Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries about the following to Team 1, (202) 275–7992.

Volume No. OP1–161

Decided: September 17, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier.

MC 6801 (Sub-13), filed September 7, 1982. Applicant: G. H. HARNUM, INC., 867 Woburn St., Wilmington, MA 01887. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting *machinery and those commodities which because of size or weight require the use of special equipment,* between points in the U.S. (except AK and HI).

MC 104430 (Sub-68) filed September 10, 1982. Applicant: CAPITAL TRANSPORT COMPANY, INC., P.O. Box 408, McComb, MS 39648. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948–8820. Transporting *commodities in bulk,* between points in AL, LA, and MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 106451 (Sub-23) filed September 3, 1982. Applicant: COOK MOTOR LINES, INC., 1016 Triplett Blvd., P.O. Box 370, Akron, OH 44309. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Barbour, Grant, Harrison, Marion, Mineral, Monongalia, Preston, Randolph, Taylor, Tucker and Upshur Counties, WV, and Garrett County, MD, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 119211 (Sub-16) filed September 13, 1982. Applicant: MAU TRUCKING, INC., 90 Jacob's Addition, Ida Grove, IA 51445. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *food and related products,* between points in Buena Vista and Cherokee Counties, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 119441 (Sub-59) filed September 3, 1982. Applicant: BAKER HI–WAY EXPRESS, INC., 555 Commercial Pkwy., P.O. Box 506, Dover, OH 44622. Representative: Richard H. Brandon, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 119600 (Sub-3) filed September 10, 1982. Applicant: HUTTON TRUCKING COMPANY, 192 Gilchrist Rd., Mogadore, OH 44260. Representative: Steve Toth (same address as applicant), (216) 628–9901. Transporting *those commodities* manufactured, processed, or dealt in by rubber manufacturers, between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 134970 (Sub-37), filed September 7, 1982. Applicant: UNZICKER TRUCKING, INC., P.O. Box 35, Highway 24 East, El Paso, IL 61738. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *food and related products, and such commodities* as are dealt in by grocery and drug stores, between points in the U.S. (except AK and HI).

MC 138741 (Sub-136), filed September 10, 1982. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 914 East Highway H, Liberty, MO 64068. Representative: Tom Kretsinger, 20 East Franklin, P.O. Box 258, Liberty, MO 64068, (816)–781–6000. Transporting *general commodities* (except Classes A and B explosives and household goods), between points in AL, AR, CO, GA, IN, IL IA, KS, KY, LA, MI, MN, MO, MS, NE, NC, OH, OK, PA, SC, SD, TN, TX, WV, and WI.

MC 139391 (Sub-13,) filed September 13, 1982. Appliant: G & H TRANSPORTATION CO., INC., P.O. Box 157, Widener, AR 72394. Representative: Frank B. Hand, Jr., 523 South Cameron St., Winchester, VA 22601, (703) 662–0927. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Great Lakes Chemical Corporation, of El Dorado, AR.

MC 144510 (Sub-8), filed September 7, 1982. Applicant: JERRY J. KOBS, INC., 131 Bridge Court, Sergeant Bluff, IA 51054. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402)–397–9900. Transporting *food and related products,* between points in CO, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 145300 (Sub-9), filed September 13, 1982. Applicant: MINUTE MAN TRANSIT, INC., 24 Williams Street, Dedham, MA 02026. Representative: William S. Felmly (same address as applicant), (617) 444–3000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Saxon Industries, Inc., of New York, NY and its divisions: Missisquoi Specialty Board, of New York, NY, Fonda Cup & Container, of Union, NJ, Quality Park Products, and Brown & Bigelow, Inc., Both of St. Paul, MN, Blake, Moffitt & Towne, of Brisbane, CA, The Chukerman Company, of Chicago, IL, Saxon Paper Corp. of Florida, of Miami, FL, Saxon Paper of New England, of Boston, MA, Saxon Paper-New York, of Long Island

City, NY, Saxon Business Products, of Miami Lakes, FL, and The Union Paper Company, of Detroit, MI.

MC 150301 (Sub-24), filed September 8, 1982. Applicant: EQUITY TRANSPORTATION COMPANY, INC., 9744 E. Fulton Rd., Ada, MI 49301. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616)–459–6121. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with (1) Fritz Corporation, of Danbury, CT; (2) Bob Schwermer & Associates, of Arlington Heights; and (3) Roseman Mower Corporation, of Evansville, IL.

MC 150951 (Sub-16), filed September 8, 1982. Applicant: CRANSTON TRUCKING COMPANY, (Division of Cranston Print Works Company), 1361 Cranston Street, Cranston, RI 02920. Representative: Paul M. Overton (same address as applicant), (401) 943–4800. Transporting *textile mill products*, between points in the U.S. under continuing contract(s) with Dimension Sail Cloth, Inc., of Putnam, CT.

MC 151741 (Sub-6), filed September 2, 1982. Applicant: D. E. WILLOUGHBY TRUCKING, 2058W Carr Hill Road, Columbus, IN 47201. Representative: Sue Willoughby (same address as applicant), (1) (812) 372–8493. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Lear Siegler, Inc., and its divisions, namely Seymour Housewares Company, and Beauti-Glide Company), all of Seymour, IN.

MC 151990 (Sub-2), filed September 8, 1982. Applicant: BERTRAND MOLTER, Route 1, P.O. Box 299, Eau Claire, MI 49111. Representative: Daniel O. Hands, 104 S. Michigan Ave., Suite 410, Chicago, IL 60603, (312)–641–1944. Transporting (1) *food and related products;* and (2) *those commodities*, used in the production and distribution of wine, between Chicago, IL, on the one hand, and, on the other, points in Berrien, Oceana and Van Buren Counties, MI.

MC 153590 (Sub-3), filed September 7, 1982. Applicant: BELCOURT OIL COMPANY, INC., P.O. Box 750, Belcourt, ND 58316. Representative: C. Jack Pearce, Suite 1200, 1000 Connecticut Ave. NW., Washington, DC 20036, (202) 785–0048. Transporting *building materials*, between points in the U.S. (except AK and HI), under continuing contract(s) with Idaho Pacific Lumber Company, Inc., of Boise, ID.

MC 154361 (Sub-2), filed August 24, 1982. Applicant: PRETLOW BROS. TRUCKING CO. INC., 121 E. Marshall St., Richmond, VA 23219. Representative: Revardo C. Pretlow (same address as applicant), (804) 798–1437. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Norfolk, VA, points in St. Marys County, MD, and DC.

MC 154861 (Sub-13), filed September 10, 1982. Applicant: CAROLINA MOTOR EXPRESS, INC., P.O. Box 550, Forest City, NC 28043. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Ave. NW., Washington, DC 20005, (202) 737–1030. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 156361 (Sub-4), filed September 8, 1982. Applicant: BIGBEE TRANSPORTATION COMPANY, P.O. Box 3610, American Lane, Greenwich, CT 06836–3610. Representative: Stuart M. Geschwind, (same address as applicant), (203) 552–3242. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Economics Laboratory, Inc., of St. Paul, MN.

MC 157131, filed August 23, 1982. Applicant: REDWOOD COAST TRUCKING, INC., 2210 Samoa Road, Arcata, CA 95521. Representative: Frank N. Blagen (same address as applicant), (707) 443–0857. Transporting *such commodities* as are dealt in or used by a manufacturer of forest products, between points in the U.S. (except AK and HI), under continuing contract(s) with Louisiana-Pacific Corporation, of Portland, OR.

MC 158351 (Sub-4), filed September 7, 1982. Applicant: GRAEBEL VAN LINES, INC., 719 N. Third Ave., Wausau, WI 54401. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20423, (202) 785–0024. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Texico, Inc., of Houston, TX.

MC 158851 (Sub-1), filed September 10, 1982. Applicant: BULL'S EYE EXPRESS, 68 East Rd., Warren Center, PA 18851. Representative: John A. Sykas (same address as applicant), (717) 395–3166. Transporting *food and related products*, between points in NH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159780 Sub-1), filed September 13, 1982. Applicant: R. W. TINNEY, INC., P.O. Box 151, Perrysburg, OH 43551. Representative: John L. Alden, 1300 West Fifth Ave., Columbus, OH 43212, (614) 481–8821. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Miami County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159820 (Sub-1), filed September 10, 1982. Applicant: JOHN S. JERICH, JR., R.D. No. 4, Butler, PA 16001. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201)–836–1144. Transporting *general commodities* (except classes A and B explosives and household goods), between points in NY, OH and PA.

MC 160620, filed September 13, 1982. Applicant: DERREL M. SNOW AND ANNE M. SNOW d.b.a. DERREL SNOW TRUCKING, 504 Highland Ave., Maryville, MO 64468. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515)–244–2329. Transporting *metal products*, (1) between Nodaway County, MO, on the one hand, and, on the other, points in AR, CO, IA, IL, IN, KS, KY, MN, NE, OK, SD, TN, TX and WY; and (2) between St. Joseph, MO, on the one hand, and, on the other, points in CO, IL, KS, OH, OK, TX, WY, and Madison County, NE.

MC 160670, filed September 3, 1982. Applicant: HILL'S ENTERPRISES OF SOUTHWESTERN MICHIGAN, INC., 6447 Niles Rd., St. Joseph, MI 49085. Representative: Nancy J. Amabile, 29691 Red Arrow Highway, Paw Paw, MI 49079, (616)–657–3416. Transporting *auto parts*, between points in IL, IN, MI, MN, NC, NJ, OH, TN and WI, under continuing contract(s) with Auto Specialties Manufacturing Co., of St. Joseph, MI.

MC 162021, filed September 10, 1982. Applicant: TED A. FARNSWORTH AND GRACE M. FARNSWORTH, a Partnership, d.b.a. FAR-WEST CO., P.O. Box 9091, Stockton, CA 95205. Representative: Milton W. Flack, 8484 Wilshire Blvd., Suite 840, Beverly Hills, CA 90211, (213) 655–3573. Transporting (a) *animal feed*, between points in San Joaquin County, CA, on the one hand, and, on the other, points in AZ, NV, OR and WA, and (b) *building and construction materials, equipment and supplies, machinery and lumber and wood products*, between points in CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162090, filed September 3, 1982. Applicant: HIRNING TRUCKING, INC.,

Route 4, Box 311, Dickinson, ND 58601. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502–2056. Transporting (1) *fertilizer,* between points in MN, on the one hand, and, on the other, points in ND and MT, (2) *lumber, lumber products, lumber mill products, forest products and building materials,* between points in WA, OR, ID, MT, CA, CO, WY, UT and SD, on the one hand, and, on the other, points in ND, SD, NE, KS, MO, IL, IN, MI, WI, IA and MN, and (3) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Stark County, ND, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162971, filed September 13, 1982. Applicant: DONALD R. LIND AND NULLET L. SCHNEDIER, a Partnership, d.b.a. D & N TRUCKING, 19472 Yuma Place, Castro Valley, CA 94546. Representative: Ronald C. Chauvel, 100 Pine Street, Suite 2550, San Francisco, CA 94111 (415) 986–1414. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Lucky Stores, Inc., of San Leandro, CA, Hills Brothers Coffee, Inc., of San Francisco, CA, and J & R Warehouses & Service Co., of Hayward, CA.

MC 163510, filed September 9, 1982. Applicant: CHARLIE C. MOORE, JR., d.b.a. MOORE'S EXPRESS, 4101 West Blvd., P.O. Box 19088, Charlotte, NC 28219. Representative: Stanley J. Fridlund (same address as applicant) (704) 399–0399. Transporting *textile mill products,* between points in NC, on the one hand, and, on the other, points in SC.

MC 163710, filed September 7, 1982. Applicant: WESTERN LIQUID TRANSPORT, 2120 Harbor St., Pittsburg, CA 94565. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108 (415) 986–8696. Transporting *chemicals and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Granex Corporation U.S.A., of San Francisco, CA.

MC 163730, filed September 8, 1982. Applicant: HENRY W. MEYERS, Box 207, New Carlisle, IN 46552. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309 (515) 244–2329. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 163731, filed September 8, 1982. Applicant: HOMEQUITY, INC., 249 Danbury Road, Wilton, CT 06897. Representative: Francis W. McInerny, 1000 Sixteenth St., NW., Suite 502, Solar Building, Washington, D.C. 20036, (202) 783–8131. As a *broker,* in arranging for the transportation of *household goods,* between points in the U.S.

MC 163750, filed September 8, 1982. Applicant: LONE STAR INTERNATIONAL HORSE CARRIERS, Route 3, Box 2544A, Magnolia, TX 77355. Representative: Robert J. Birnbaum, 3636 Executive Center Drive, Suite 151, Austin, TX 78731, (512) 346–4800. Transporting *race horses, brood mares, show horses, and polo ponies,* between points in KY, LA, AR, CA, FL, NY, TX, NM, ND, IL and OH.

MC 163760, filed September 7, 1982. Applicant: HOT SPRINGS REFINING COMPANY, Box 112A Star Route, Hot Springs, SD 57747. Representative: T. A. Bonde, (same address as applicant), (605) 745–4162. Transporting (1) *petroleum, natural gas and their products;* (2) *fertilizer;* (3) *salt;* (4) *grain products;* and (5) *anhydrous ammonia,* between points in SD, NE, MN, WY, CO, UT, MT, ND AND KS.

MC 163780, filed September 10, 1982. Applicant: SAND-BAGGERS, INC., 2103 Corydon Pike, New Albany, IN 47150. Representative: Herbert D. Liebman, 403 W. Main Street, P.O. Box 478, Frankfort, KY 40602, (1–502) 675–3493. Transporting *sand,* (1) between points in LaSalle County, IL, on the one hand, and, on the other, points in IN, KY and OH, and (2) between points in IN, KY and OH.

MC 163800, filed September 10, 1982. Applicant: LLOYD CRUM, d.b.a. RACINE ELEVATOR CO., Racine, MN 55967. Representative: James E. Ballenthin, 1016 Conwed Tower, 444 Cedar St., St. Paul, MN 55101, (612) 227–7731. Transporting *metal products,* between points in MN and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163820, filed September 13, 1982. Applicant: NUTTY'S MOVING & STORAGE, INC., 322 Kalorama St., Staunton, VA 24401. Representative: Beverly C. Nutty, (same address as applicant), (703) 886–4451. Transporting *household goods,* between points in VA, WV, MD, NC, SC, GA and DC.

Volume No. OP1–164

Decided: September 21, 1982.

By the Commission, Review Board No. 1, Members Parker, Fortier and Chandler. Member Parker not participating.

MC 99961 (Sub-7), filed September 14, 1982. Applicant: BIG CHIEF TRUCK LINES, INC., P.O. Box 1039, 1331 Hwy 93 Scott, LA 70583. Representative: Ronald Marchand, (same address as applicant), (318) 232–1905. Transporting *oilfield drilling rigs, supplies and waste material,* between points in LA, TX, and MS, on the one hand, and, on the other, points in AR, OK, KS, and CO.

MC 108631 (Sub-25), filed September 15, 1982. Applicant: BOB YOUNG TRUCKING, INC., Schoenersville Rd. at Industrial Drive, Bethlehem, PA 18017. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561–1030. Transporting *metal products,* between points in Bucks County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 108631 (Sub-26), filed September 15, 1982. Applicant: BOB YOUNG TRUCKING, INC., Schoenersville Rd. at Industrial Drive, Bethlehem, PA 18017. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561–1030. Transporting *those commodities* which because of their size or weight require the use of special handling or equipment, between points in Montour County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 119631 (Sub-50), filed September 10, 1982. Applicant: DEIOMA TRUCKING COMPANY, P.O. Box 335, East Sparta, OH 44626. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between New York, NY, Boston, MA, Baltimore, MD, New Orleans, LA, and Philadelphia, PA, and points in Yolo, San Joaquin, Monterey, and Madera Counties, CA, and Castro County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141620 (Sub-2), filed September 16, 1982. Applicant: ROMAN RURAK, 319 Eckford St., Brooklyn, NY 11222. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, (212) 759–3700. Transporting *passengers and their baggage,* in special and charter operations, beginning and ending at New York, NY, and points in NJ, and extending to points in the U.S. (except AK and HI).

MC 141950 (Sub-5), filed September 10, 1982. Applicant: IOWA MINNESOTA EXPRESS, LTD., 2216 5th Avenue, South, Ft. Dodge, IA 50501. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA

50309, (515) 245–4300. Transporting (1) *metal products,* between points in Webster County; IA, on the one hand, and, on the other, points in IN, IL, MN, MO, NE and WI; and (2) *food and related products,* between points in IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141951 (Sub-6), filed September 13, 1982. Applicant: MARY DICK AND HOLLIS DICK, d.b.a. H. O. DICK TRANSFER CO., P.O. Box 307, Bethany, IL 61914. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *food and related products,* (1) between points in IA, IL and IN; and (2) between St. Louis, MO, and points in IA and Milwaukee County, WI, on the one hand, and, on the other, points in AR, IA, IN, IL, KS, KY, GA, MI, MN, MO, NE, ND, OH, PA, SD, TN and WI.

MC 144991 (Sub-5), filed September 14, 1982. Applicant: KINGSWAY TRANSPORTS, INC., 1480 Military Road, Kenmore, NY 14217. Representative: John W. Bryant, 900 Guardian Bldg., Detroit, MI 48226, (313) 963–3750. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Minnetonka, MN, and junction MN Hwy 171 and the MN-ND State line, from Minnetonka over U.S. Hwy 12 to junction Interstate Hwy 35, then over Interstate Hwy 35 to junction U.S. Hwy 53, then over U.S. Hwy 53 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction MN Hwy 11, then over MN Hwy 11 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction MN Hwy 171, then over MN Hwy 171 to the MN-ND State line, and return over the same route, serving all intermediate points.

MC 145120 (Sub-12), filed September 7, 1982. Applicant: HOLMDEL TRUCKING CORPORATION, 18 Hackensack Ave., S. Kearny, NJ 07032. Representative: Edward J. Kiley, 1730 M St., NW., Washington, DC 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between New York, NY, New Orleans, LA, Chicago, IL, Los Angeles, CA, Boston, MA, Houston and Dallas, TX, and points in Middlesex and Union Counties, NJ, and Broward County, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Condition.—Issuance of a certificate in this proceeding is conditioned upon applicant's written request to cancel its permits in MC 145120 and Subs 4, 8X and 9, issued February 22, 1980, July 24, 1980, April 16, 1981, and August 10, 1981, respectively.

MC 146820 (Sub-21), filed September 13, 1982. Applicant: B & G TRUCKING, INC., PO Box 581, Worthington, OH 43085. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215 (614) 228–1541. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Beverage Management, Inc., of Columbus, OH.

MC 148000 (Sub-9), filed September 16, 1982. Applicant: C. H. DREDGE & CO., INC., 918 South 2000 West, Syracuse, UT 84041. Representative: Bruce W. Shand, 311 S. State St., Suite 280, Salt Lake City, UT 84111 (801) 531–1300. Transporting *such commodities* as are dealt in by wholesale and retail grocery supply houses, between those points in and west of WI, IL, MO, TN, AR, and LA (except AK and HI).

MC 151511 (Sub-6), filed September 16, 1982. Applicant: TOM O'CONNOR, d.b.a. KERRY MOTOR SERVICE, 4433 South Halsted Street, Chicago, IL 60609. Representative: Tom O'Connor (same address as applicant) (312) 536–0700. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Chicago, IL, and points in Clark, Floyd and Harrison Counties, IN, and Bullitt, Jefferson and Oldham Counties, KY, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MN, MO, NE, NJ, NY, ND, OH, PA, SD, and WI.

MC 157591 (Sub-1), filed August 10, 1982, previously published in the **Federal Register** on September 1, 1982. Applicant: WALTER M. NICKELS d.b.a. NICKELS FARM, Raymondville, MO 65555. Representative: Walter M. Nickels, (same address as applicant) (417)–457–6477. Transporting *those commodities* dealt in or used by manufacturers of log homes, between points in the U.S. (except AK and HI), under continuing contract(s) with New England Log Homes, Inc., of Houston, MO.

Note.—The purpose of this republication is to indicate the correct name of applicant and the correct domicile of the supporting shipper.

MC 162871, filed September 10, 1982. Applicant: J.B.I., INC., 1717 Omaha Street, Osseo, WI 54758. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, PO Box 5066, Madison, WI 53705–0066 (608) 238–3119. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with West Wisconsin Distributing Co., Inc., and Gusto Distributing, Inc., both of Eau Claire, WI.

MC 163770, filed September 7, 1982. Applicant: R. J. McHONE, d.b.a. R. J. McHONE TRUCKING, Route 1, Box 540, Weaverville, NC 28787. Representative: Ralph McDonald, PO Box 2246, Raleigh, NC 27602 (919) 828–0731. Transporting *coal,* between points in AL, FL, GA, IN, KY, MI, NC, OH, SC, TN and VA.

MC 163811, filed September 13, 1982. Applicant: ROY L. LUCAS AND FRANK L. RYALL, d.b.a. CHATTANOOGA TOURS, 3409 Amber Avenue, Chattanooga, TN 37412. Representative: Frank L. Ryall (Same address as applicant) (615) 757–1600. Transporting *passengers and their baggage* in charter and special operations, between points in Hamilton, Marion and Bradley Counties, TN; Catoosa, Walker, Whitfield and Dade Counties, GA; and Jackson and Dekalb Counties, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Please direct status inquiries about the following to Team 2, (202) 275–7030.

Volume No. OP2–229

Decided: September 17, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier.

MC 5623 (Sub-60), filed September 10, 1982. Applicant: ARROW TRUCKING CO., P.O. Box 7280, Tulsa, OK 74105. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA. 22101, (703) 893–3050. Transporting *Mercer commodities and machinery,* between points in the U.S. (except HI), under continuing contract(s) with Amoco Production Company (U.S.A.), of Chicago, IL, and Sohio Petroleum Co., of Oklahoma City, OK.

MC 87113 (Sub-25), filed September 13, 1982. Applicant: WHEATON VAN LINES, INC., 8010 Castleton Rd., Indianapolis, IN 46250. Representative: Alan F. Wohlstetter, 1700 K St., NW, Washington, DC 20006, 202–833–8884. Transporting *household goods,* between points in the U.S, under continuing contract(s) with National Relocation Services, Inc., of Milwaukee, WI.

MC 107012 (Sub-780), filed September 10, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same as applicant) (219) 429–2234. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. under continuing contract(s) with Pizza Time Theatre, Inc., of Sunnyvale, CA.

MC 121633 (Sub-2), filed September 3, 1982. Applicant: MISSION STEEL CARRIERS, INC., 8815 Mississippi, Houston, TX 77029. Representative:

Mike Cotten, P.O. Box 1148, Austin, TX 78767, 572–472–8800. Transporting (1) *Mercer commodities*, (2) *pipe*, and (3) *those commodities which because of their size or weight require the use of special handling or equipment*, between points in TX. Note: Applicant states that by this application it seeks to convert its Certificate of Registration in MC 121633 Sub-1 to a Certificate of Public convenience and Necessity. Condition: Issuance of a certificate in this proceeding is conditioned upon applicant's written request for the coincidental cancellation of its Certificate of Registration, MC 121633 (Sub-1), issued November 10, 1977.

MC 121673 (Sub-7), filed September 13, 1982. Applicant: WESTERN MOTOR FREIGHT, INC., 1201 South Grand, P.O. Box 94846, Oklahoma City, OK 73143. Representative: C. L. Phillips, Rm. 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106, 405–528–3884. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OK.

MC 146803 (Sub-4), filed September 13, 1982. Applicant: WILLIAMS PAPER COMPANY, INC., 934 North First St., St. Louis, MO 63102. Representative: James A. Williams, (same address as applicant), 314–231–0661. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of food and related products, between points in the U.S., under continuing contract(s) with Phoenix Candy Company, Inc., Division of Beatrice Foods, of Brooklyn, NY.

MC 148183 (Sub-49), filed September 13, 1982. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Pauline E. Myers, Suite 348 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004, 202–737–2188. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 150983 (Sub-2), filed September 13, 1982. Applicant: WALTER BENSON, DBA WALTRANS, 425 W. E., St., Ontario, CA 91762. Representative: Lawrence V. Smart, Jr., 419 NW. 23rd Ave., Portland, OR 97210, (503) 228–3755. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OR, WA, CA, ID, NV, MT, WY, CO, UT, AZ, NM, TX, OK, KS, NE, SD, ND, MN, IA, MO, AR, and LA, under continuing contract(s) with Superior Transportation Systems, Inc., of Wilsonville, OR.

MC 155302 (Sub-2), filed September 14, 1982. Applicant: MACH FARMS, INC., 1020 South Superior St., Antigo, WI 54409. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, 608–273–1003. Transporting *chemicals and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Commerce Industrial Chemical, Inc., of Milwaukee, WI.

MC 163792, filed September 10, 1982. Applicant: MADISON EXPRESS LINES, INC., Airport Industrial Park, Madison, GA 30650. Representative: John W. Greer, III, Suite 925, Healey Bldg., Atlanta, GA 30303, (404) 523–1601. Transporting *packaging products*, and *such commodities* as are dealt in or used in the manufacturing of packaging products, under continuing contract(s) with Malanco South, Inc., of Madison, GA.

MC 163803, filed September 10, 1982. Applicant: C. A. WHITNEY TRUCKING, 1950 Pescadero Dr., Salinas, CA 93906. Representative: Tom Gendreau, (same address as applicant), 408–449–4127. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Monterey, Santa Cruz and San Benito Counties, CA, on the one hand, and, on the other, points in Santa Clara County, CA.

MC 163822, filed September 13, 1982. Applicant: FRED LUCAS, d.b.a. FRED LUCAS TRUCKING, Miller Rd., Rt. 2, Box 432, Monroe, OR 97456. Representative: Fred Lucas, (same as applicant), (503) 847–5443. Transporting *lumber and wood products*, between points in WA, CA and OR.

MC 163823, filed September 13, 1982. Applicant: ALL STOR, INC., R.R. #1, Peosta, IA 52068. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *grain storage bins*, between points in Christian County, Il, on the one hand, and, on the other, points in IA, MN, and WI.

MC 163843, filed September 14, 1982. Applicant: WRITE-WAY TRANSPORTATION, INC., 2531 Connors Bldg., No. 2C, Detroit, MI 48207. Representative: James F. Schouman, 21925 Garrison, Dearborn, MI 48124, 313–561–3548. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MI, OH, IL, IN, WI, PA, WV, NY, NJ, MD, DE, MA, CT, MO, KS, IA, AR, TN, KY, NC, SC, GA, MS, LA, AL, OK and TX.

Volume No. OP2-230

Decided: September 20, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier. Member Parker not participating.

MC 58522 (Sub-17), filed September 10, 1982. Applicant: RIVER TRAILS TRASNSIT LINES, INC., Highway 20, West, Galena, IL 61036. Representative: Richard A. Westley, 4506 Regnet St., Suite 100, Madison, WI 53705–0086, (608) 238–3119. Transporting *passengers and their baggage*, in roundtrip charter and special operations, between points in the U.S. (including AK, but excluding HI), under continuing contract(s) with Tri-State Tours, Inc., of Galena, IL.

MC 98763 (Sub-4), filed September 13, 1982. Applicant: TED PETERS TRUCKING COMPANY, INC., 600 Fourth St., Gustine, GA 95322. Representative: Daniel W. Baker, 100 Pine St., #2550, San Francisco, CA 94111, (415) 986–1414. Transporting *general commodities* (except classes A and B explosives and household goods), between points in CA, OR, NV, AZ, UT, CO, and WA.

MC 147572 (Sub-4), filed September 15, 1982. Applicant: COUNTRY CARRIER CORP., 8206 Park Ave., Allen Park, MI 48101. Representative: Alex J. Miller, 555 South Woodward, Suite 512, Birmingham, MI 48011, 313–647–3350. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Nabisco Brands, Inc., of East Hanover, NJ.

MC 163773, filed September 7, 1982. Applicant: M-TRANSPORTATION SERVICES, 4607 Old Coach Ln., San Antonio, TX 78220. Representative: Viola Derbigny and Morris H. Mosley, Sr., (same address as applicant) (512) 661–4330. As a *broker*, at San Antonio, TX, in interstate or foreign commerce, in arranging for the transportation by motor vehicle of *passengers and their baggage*, between points in TX, on the one hand, and, on the other, points in the U.S.

MC 163853, filed September 13, 1982. Applicant: SILVERMAN COMPANY, 48 Swannanoa River Rd., Asheville, NC 28805. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602, 919–828–0731. Transporting *coal*, between points in AL, FL, GA, IN, KY, MI, NC, OH, SC, TN, and VA.

Volume No. OP2-323

Decided: September 21, 1982.

By the Commission, Review Board Number 2, Members Parker, Chandler, and Fortier. Member Parker not participating.

MC 682 (Sub-39), filed September 17, 1982. Applicant: BURNHAM VAN SERVICE, INC. 5000 Burnham Blvd., Columbus, GA 31907. Representative: David Earl Tinker, 1000 Connecticut Avenue NW., Suite 1112, Washington, DC 20036–5391, (202) 887–5866. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Fairchild Singapore PTE Ltd., of Singapore.

MC 52793 (Sub-111), filed September 16, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312–547–2184. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with The H.K. Ferguson Company, of Cleveland, OH.

MC 52793 (Sub-112), filed September 16, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312–547–2184. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Texaco, Inc., of Houston, TX.

MC 99882 (Sub-5), filed September 13, 1982. Applicant: Y. G. TRUCKING, INC., P.O. Box 157, Oak Hill, OH 45656. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in Mingo County, WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145912 (Sub-7), filed September 16, 1982. Applicant: TRUCK SERVICE, INC., 303 Vance St., Forest City, NC 28043. Representative: Richard M. Tettelbaum, P.O. Box 720434, Atlanta, GA 30328, (404) 256–4320. Transporting *rubber and plastic products and furniture and fixtures*, between points in the U.S. (except AK and HI).

MC 146712 (Sub-4), filed September 17, 1982. Applicant: STEEL CARGO, INC., P.O. Box 81, Sharpsville, IN 46068. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240 317–846–6655. Transporting *metal products*, between St. Paul, MN, on the one hand, and, on the other, points in NC, IN, OH, MI, WI, IL, and IA.

MC 149343 (Sub-3), filed September 16, 1982. Applicant: SOUTHERN PRIDE TRUCKING, INC., P.O. Box 84000, San Diego, CA 92138. Representative: Kenneth E. Dudley, P.O. Box 279, Ottumwa, IA 52501, (515) 682–8154.Transporting (1) *aircraft engines, turbines, parts and accessories, and ground support equipment*, between points in the U.S. (except AK and HI), and (2) *machinery and transportation equipment*, between points in CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 149573 (Sub-11), filed August 6, 1982 (correction), previously published in the **Federal Register** issue of August 24, 1982, and republished this issue. Applicant: NTL, INC., 4721 N. 56th St., P.O. Box 5803, Lincoln, NE 68506. Representative: J. Max Harding (same address as applicant) 402–467–5365.Transporting *such commodities*, as are dealt in or used by manufacturers and distributors of building materials, between points in the U.S. (except AK and HI), under continuing contract(s) with Donn Corporation, of Westlake, OH.

Note.—This republication is to correct the territory description.

MC 153673 (Sub-4), filed September 16, 1982. Applicant: KENTUCKY SPECIALIZED HAULERS, INC., Rte 3, Box 156–A, Hardinsburg, KY 40143. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440, (216) 652–2789. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under a continuing contract(s) with U.S. Dismantling Co., of Brecksville, OH.

MC 160942 (Sub-1), filed September 16, 1982. Applicant: DESTINY PARCEL SERVICE, INC., 525 Friendly Rd., Pontiac, MI 48053. Representative: Eugene C. Ewald, 100 West Long Lake Rd., Suite 102, Bloomfield Hills, MI 48013, (313) 645–9600. Transporting (1) *printed matter*, between points in the Lower Peninsula of MI, and (2) *photographic equipment and supplies*, (a) between Cleveland, OH, on the one hand, and, on the other, points in the Lower Peninsula of MI, and (b) between points in the Lower Peninsula of MI.

MC 162202, filed September 9, 1982. Applicant: D AND C TRUCKING, 862 Alexander St., Livermore, CA 94550. Representative: Cecil M. Galloway (same address as applicant), (415) 449–4089. Transporting (1) *containers and lumber mill products*, between Prineville, OR, San Francisco, Richmond and Oakland, CA, on the one hand, and, on the other, points in CA and OR, under continuing contract(s) with Michiels International, of Redding, CA, and (2) *toys, stuffed animals, wooden plaques, and novelties*, between Richmond, Oakland, and San Francisco, CA, on the one hand, and, on the other, Santa Rosa, CA, and points in Los Angeles County, CA, under continuing contract with Russ Berrie & Company West Incorporated, of Santa Rosa, CA.

MC 162932, filed September 16, 1982. Applicant: A & G CHARTER BUS SERVICE, INC., 3537 South Wabash Ave., Chicago, IL 60653. Representative: Douglas G. Brown, 913 South 6th St., Springfield, IL 62703, 217–753–3925. Transporting *passengers and their baggage*, in roundtrip charter operations, between points in Cook, Du Page, Lake, and Will Counties, IL, on the one hand, and, on the other, points in the U.S.

MC 163772, filed September 7, 1982. Applicant: STIRLING'S PANCAKE HOUSE, INC., d.b.a. STIRLING FOOD SYSTEMS, 372 W. Grant St., Orlando, FL 32806. Representative: A. E. Stirling (same address as applicant), 305–425–2851. Transporting *food and related products*, between Charlotte, NC, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, KY, LA, MD, MA, MS, NJ, NY, NC, OH, PA, RI, SC, TN, VA, and WV.

MC 163862, filed September 16, 1982. Applicant: DAVID & ORILLA CROPP, d.b.a. U & I TRUCKING, P.O. Box 327, Craig, AK 99921. Representative: David Cropp (same address as applicant), 907–755–2992. Transporting (1) *construction and logging machinery, materials, equipment, and supplies*, and (2) *drilling materials, equipment, and supplies*, between points on Prince of Wales and Revillagige do Islands, AK, on the one hand, and, on the other, points in the U.S. (except HI).

MC 163882, filed September 17, 1982. Applicant: SCORPIO BUS TOURS, Box 148, Richboro, PA 18954. Representative: Robert J. Bennett, 160 W. Buttonwood Drive, Churchville, PA 18966, 215–322–4850.Transporting *passengers and their baggage*, beginning and ending at Philadelphia, PA, and points in Bucks County, PA, and extending to Atlantic City, NJ.

Please direct status inquiries about the following to Team 3, (202) 275–5223.

Volume No. OP3–145

Decided: September 17, 1982.

By the Commission, Review Board No. 2. Members Carleton, William, and Ewing.

FF–615, filed September 2, 1982. Applicant: POWERS FREIGHT FORWARDERS, INC., Suite 250, 6425 Powers Ferry Road, Atlanta, GA 30339. Representative: T. Dennis Connally (same address as applicant), (404) 955–8600. As a *freight forwarder* transporting

construction equipment, between points in the U.S. (except AK and HI).

MC 2934 (Sub-123), filed September 7, 1982. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 No. Michigan Rd., Carmel, IN 46032. Representative: W.G. Lowry (same address as applicant), (317) 875–1142. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with General Dynamics Corporation of St. Louis, MO.

MC 16334 (Sub-23), filed September 3, 1982. Applicant: DEBRICK TRUCK LINE COMPANY, P.O. Box 421, Paola, KS 66071. Representative: John T. Pruitt, 9832 Connell, Overland Park, KS 66212, (913) 888–3386. Transporting *chemicals and related products,* between points in IL, KS, LA, and PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 121395 (Sub-2), filed September 8, 1982. Applicant: PMS TRANSPORTATION CO., 110 East Chicago Ave., Westmont, IL 60559. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603, (312) 782–6880. Transporting *pulp, paper, printer matter, plastic, plastic articles, and related products,* between Minneapolis, MN, Chicago and Peoria, IL, St. Louis, MO, and Detroit, MI, and points in Fond du Lac County, WI, Clinton County, IA, and Wayne and Warren Counties, OH, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MN, MO, OH, and WI.

MC 133805 (Sub-70), filed September 7, 1982. Applicant: UNITED CARGO EXPRESS, INC., 5340 Loop 820 S, Fort Worth, TX 76119. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112, (817) 457–0804. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 136635 (Sub-72), filed September 7, 1982. Applicant: WHITEFORD TRUCK LINES, INC., 640 W. Ireland Rd., South Bend, IN 46680. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *building materials,* between points in the U.S. (except AK and HI), under continuing contract(s) with Rose & Walker, Inc. of Bloomington, IN.

MC 141344 (Sub-4), filed September 2, 1982. Applicant: ALLEN TRANSPORT CORPORATION, Route 1, Box 155C, Glen Allen, VA 23060. Representative: Paul D. Collins, 7701 Lakeforest Drive, Richmond, VA 23235, (804) 745–0446. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with (1) Cogenic Energy Systems, Inc. of New York, NY, (2) E.P.I., Inc., of Mechanicsville, VA, (3) International Tubular Products Co. of Ashland, VA, (4) Pillard, Inc., of Richmond, VA, (5) Potts Welding & Boiler Repair Co. of New Castle, DE, (6) Southern Energy, Inc., of Jacksonville, FL, (7) Universal Machinery Co., of New Orleans, LA, and (8) Virginia Tractor Co., Inc., of Richmond, VA.

MC 143915 (Sub-4), filed September 1, 1982. Applicant: KAPTUR ENTERPRISES, LTD., 2250 E. 198th St., Lynwood, IL 60411. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602, (312) 236–5944. Transporting *clay, concrete, glass or stone products,* between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 146985 (Sub-22), filed September 8, 1982. Applicant: MIDWEST EASTERN TRANSPORT, INC., 731 S. Main St., P.O. Box 1614, Elkhart, IN 46515. Representative: Phillip A. Renz, Suite 200, Metro Bldg., Fort Wayne, IN 46802, (219) 423–3595. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with S. R. Tiemouri & Co., Inc. of Cleveland, OH

MC 157965 (Sub-1), filed September 8, 1982. Applicant: GRIGGS TRUCKING, 2340 Farwell Rd., Des Moines, IA 50317. Representative: Kenneth G. Griggs (same address as applicant), (515) 266–1910. Transporting *printed matter, paper and related products,* between points in the U.S. (except AK and HI).

MC 161634 (Sub-1), filed September 7, 1982. Applicant: SUNDANCE EXPRESS CORPORATION, P.O. Box 157, Mableton, GA 30059. Representative: Clayton R. Byrd, 2870 Briarglen Dr., Doraville, GA 30340, (404) 491–1696. Transporting (1) *food and related products,* (2) *printed matter,* (3) *textile mill products* and (4) *rubber and plastic products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Country Home Bakery, Inc. of Bridgeport, CT, I. P. D. Printing & Distributing, Inc. of Chamblee, GA, Walls Industries, Inc. of Cleburne, TX and Warrenton Rubber Company of Warrenton, GA.

MC 162455, filed September 7, 1982. Applicant: CASWELL TRUCKING, INC., Rt. 1, Box 30, St. Charles, IA 50240. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting *such commodities* as are dealt in by grocery houses, between points in IL, IA, MN, MO, NE and SD, on the one hand, and, on the other, points in AR, CT, IL, IN, KS, MA, ME, MI, MN, MO, NE, NJ, NY, OH, OK, PA, RI, SD, TX and WI.

MC 163725 filed September 7, 1982. Applicant: AIRPORT TRANSPORTATION, CO., INC., P.O. Box ATC, Nobleboro, ME 04555. Representative: Robert D. Havenstein, 1 Leeman Hwy, Bath, ME 04530, (207) 443–3029. Transporting *passengers and their baggage,* in special operations, between points in Androscoggin, Cumberland, Lincoln and Sagadahoc Counties, ME and points in MA.

Volume No. OP3–146

Decided: September 20, 1982.

By the Commission, Review Board Number 2, Members Carleton, Williams, and Ewing.

FF 324 (Sub-3), filed September 7, 1982. Applicant: IMPERIAL VAN LINES INTERNATIONAL, INC., 2805 Columbia St., Torrance, CA 90523. Representative: Alan F. Wohlstetter 1700 K St., NW, Suite 301, Washington, DC 20006, (202) 833–8884. As a *freight forwarder,* transporting *general commodities* (except used household goods, unaccompanied baggage, used automobiles, and classes A and B explosives), between points in the U.S.

MC 1515 (Sub-315), filed September 3, 1982. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: J. D. Kimmey (same address as applicant), (602) 248–6588. Over *regular routes,* transporting *passengers and their baggage and express and newspapers,* in the same vehicle with passengers, (1) between junction Wisconsin Hwy 54 and Wisconsin Hwy 13 and junction Wisconsin Hwy 54 and U.S. Hwy 51: From junction Wisconsin Hwy 54 and Wisconsin Hwy 13 over Wisconsin Hwy 54 to junction U.S. Hwy 51 and return over the same route, serving all immediate points, (2) between junction Wisconsin Hwy 13 and Wisconsin Hwy 54 and junction Wisconsin Hwy 13 and Wisconsin Hwy 16: From junction Wisconsin Hwy 13 and Wisconsin Hwy 54 over Wisconsin Hwy 13 to junction Wisconsin Hwy 16 and return over the same route, serving all intermediate points, and (3) between junction Wisconsin Hwy 29 and Wisconsin Hwy 13 and Eau Claire, WI: From junction Wisconsin Hwy 29 and Wisconsin Hwy 13 over Wisconsin Hwy 29 to junction U.S. Hwy 53, then over U.S. Hwy 53 to Eau Claire, WI, and return over the

same route, serving all intermediate points. Applicant intends to tack this authority to its existing authority in MC–1515.

MC 16334 (Sub-24), filed September 7, 1982. Applicant: DEBRICK TRUCK LINE COMPANY, P.O. Box 421, Paola, KS 66071. Representative: John T. Pruitt, 9832 Connell, Overland Park, KS 66212, (913) 888–3386. Transporting *clay, concrete, glass or stone products,* between points in Lake County, IN, Merrimack County, NH, Shelby County, TN, Linn County, KS, Marshall County, WV, Hudson County, NJ, Milam County, TX, Hillsborough County, FL, Mobile County, AL, Muhlenberg County, KY, and Douglas County, OR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 16334 (Sub-25), filed September 9, 1982. Applicant: DEBRICK TRUCK LINE COMPANY, P.O. Box 421, Paola, KS 66071. Representative: John T. Pruitt, 9832 Connell, Overland Park, KS 66212, (913) 888–3386. Transporting *batteries, metal and metal products,* and *rubber and plastic products,* between points in Arapahoe and Denver Counties, CO, on the one hand, and, on the other, points in KS, NE, MO, TX, IL, OK and LA.

MC 17605 (Sub-6), filed September 8, 1982. Applicant: RONALD E. WATSON, d.b.a. R. E. WATSON TRUCKING, Post Office Box 217, Ross, OH 45061. Representative: Stephen L. Oliver, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Champion International of Stamford, CT.

MC 41915 (Sub-49), filed September 9, 1982. Applicant: MILLER'S MOTOR FREIGHT, INC., 1100 Lafayette St., York, PA 17405. Representative: Christian V. Graf, 407 N Front St., Harrisburg, PA 17101, (717) 236–8316. Transporting *food and related products,* between points in York County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 55965 (Sub-4), filed September 7, 1982. Applicant: A.L. & MOORE TRUCKING COMPANY, INC., 5215 Benton Rd., P.O. Box 5006, Bossier City, LA 71111. Representative: Phillip M. Moore (same as applicant), (318) 746–0752. Transporting *(1) Mercer commodities,* (a) between points in LA, AR, AL, MS and OK and (b) between points in LA, AR, AL, MS and OK, on the one hand, and, on the other, points in TX and (2) *pipe, pipe line materials, machinery and equipment,* incidental to and used in connection with the construction, repairing and dismantling of pipe lines, including the stringing of pipe, between points in LA, TX and OK.

MC 62824 (Sub-9), filed September 8, 1982. Applicant: SPARTAN EXPRESS, INC., P.O. Box 1099, Greer, SC 29651. Representative: Roy F. Chason (same address as applicant), (803) 879–4211. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, FL, GA, MS, NC, SC, TN, and VA, on the one hand, and, on the other, points in the U.S.

MC 111274 (Sub-89), filed August 27, 1982. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 351, Morton, IL 61550. Representative: Frederick C. Schmidgall (same address as applicant), (309) 266–9773. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI). Condition: Applicant's permits under MC–111274, issued August 18, 1977, (Sub 11), issued September 26, 1977, (Sub 16), issued March 12, 1979, (Sub 20), issued April 17, 1978, (Sub 24), issued May 18, 1978, (Sub 29), issued November 22, 1978, (Sub 31), issued December 26, 1979, (Sub 33), issued July 24, 1980, (Sub 35), issued July 21, 1980, (Sub 39), issued April 9, 1980, (Sub 40), issued April 9, 1980, (Sub 42), issued October 6, 1980, (Sub 44), issued July 21, 1980, (Sub 45), issued October 6, 1980, (Sub 51), issued July 21, 1980, (Sub 52), issued August 25, 1980, (Sub 53), issued September 26, 1980, (Sub 54), issued July 21, 1980, (Sub 55), issued September 11, 1980, (Sub 60), issued January 12, 1981, (Sub 62), issued January 12, 1981, (Sub 63), issued April 17, 1981, (Sub 64)X, issued March 27, 1981, (Sub 65), issued April 24, 1981, (Sub 66), issued June 3, 1981, (Sub 67)X, issued May 1, 1981, (Sub 68)X, issued May 5, 1981, (Sub 69)X, issued May 29, 1981, (Sub 70)X, issued May 5, 1981, (Sub 71), issued June 23, 1981, (Sub 72), issued June 26, 1981, (Sub 73), issued July 9, 1981, (Sub 74), issued July 9, 1981, (Sub 76), issued June 10, 1982, (Sub 78), issued December 29, 1981, (Sub 79), issued March 18, 1982, (Sub 80), issued March 18, 1982, (Sub 81), issued March 31, 1982, (Sub 82), issued April 29, 1982, (Sub 83), issued May 28, 1982, (Sub 84), issued June 2, 1982, (Sub 85), issued June 28, 1982, (Sub 86), issued June 28, 1982, and (Sub 87), issued July 19, 1982, are revoked.

MC 128205 (Sub-109), filed September 7, 1982. Applicant: BULKMATIC TRANSPORT COMPANY, 12000 South Doty Avenue, Chicago, IL 60628. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave. NW., Suite 800, Washington, DC 20006, (202) 828–5015. Transporting *commodities in bulk,* between points in the U.S. (except AK and HI).

MC 128685 (Sub-44), filed September 3, 1982. Applicant: DIXON BROS., INC., P.O. D. 8, Newcastle, WY 82701. Representative: Jerome Anderson, 100 Transwestern I, Billings, MT 59101, (406) 248–2611. Transporting *building and construction materials,* between points in the U.S. in and west of OH, KY, MO, AR and LA (except AK and HI).

MC 128685 (Sub-45), filed September 7, 1982. Applicant: DIXON BROS., INC., P.O. D. 8, Newcastle, WY 82701. Representative: Jerome Anderson, 100 Transwestern I Bldg., Billings, MT 59101, (406) 248–2611. Transporting *machinery,* and *electrical machinery, equipment or supplies,* between those points in the U.S. in and west of OH, KY, MO, AR, and LA.

MC 139805 (Sub-7), filed September 2, 1982. Applicant: B MOTOR FREIGHT, INC., 3617A Silverside Rd., Wilmington, DE 19803. Representative: Gerald K. Burns, 3308 Englewood Rd., Wilmington, DE 19810, (302) 575–3741. Transporting *building materials,* between points in the U.S. (except AK and HI), under continuing contract(s) with CertainTeed Corporation, of Valley Forge, PA.

MC 143385 (Sub-4), filed September 9, 1982. Applicant: TRANSPORT ROBERT (1973) LTEE, 150 First Ave—C.P.–39, Rougemont, P. Quebec, Canada JOL 1MO. Representative: Robert D. Schuler, 100 West Long Lake Rd.—Suite 102, Bloomfield Hills, MI 48013, (313) 645–9600. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S., under continuing contract(s) with Les Industries P.W.I., Inc., of Richelieu, Quebec, Canada.

MC 146285 (Sub-7), filed September 3, 1982. Applicant: JIM CONNER ENTERPRISES, INC., Rt. 37, S., Benton, IL 62812. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *machinery* and *metal products,* between points in the U.S. (except AK and HI).

MC 146335 (Sub-5), filed September 3, 1982. Applicant: RAIL FLITE TRANSPORTATION, INC., 7718 Stevens Rd., Darien, IL 60559. Representative: Alex J. Miller, 555 S. Woodward Ave., Suite 512, Birmingham, MI 48011, (313) 647–3350. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 158124 (Sub-1), filed September 8, 1982. Applicant: CHARLES D. GOODWIN, INC., P.O. Box 1006, Sanford, NC 27330. Representative: Archie W. Andrews, P.O. Box 1166, Eden, NC 27288, (919) 635–4711. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA, CT, GA, IL, IN, MA, MO, NC, NJ, and NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159194, filed September 8, 1982. Applicant: FRANCES DELIVERY, INC., 1140 Mount Vernon Blvd., Cleveland, OH 44112. Representative: Peter R. Gilbert, 5th Floor, 1000 Potomac St. NW., Washington, DC 20007, (202) 965–7880. Transporting *metal and metal products,* between Cleveland, OH, on the one hand, and, on the other, Perth Amboy, NJ and points in IL, IN, KY, MD, MI, MO, NY, NC, PA, SC, WV, and WI.

MC 159864 (Sub-1), filed September 7, 1982. Applicant: UNITED STAR CORP., 19 Main Street, St. Peters, MO 63376. Representative: W. R. England, III, P.O. Box 456, Jefferson City, MO 65102, (314) 635–7166. Transporting *pulp, paper and related products,* and *printed matter,* between points in St. Charles County, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Texas Stock Tab Co., of Dallas, TX.

MC 162205, filed September 7, 1982. Applicant: J. A. De VOS & SONS, INC., Box 66, Greenbush Rd., North Ferrisburg, VT 05473. Representative: John A. De Vos, Jr. (same address as applicant), (802) 425–3020. Transporting *petroleum, natural gas, and their products,* between points in VT, on the one hand, and, on the other, points in NY and MA, under continuing contract(s) with Wesco Inc., of Burlington, VT.

MC 163254, filed September 7, 1982. Applicant: CORONA TRUCKING CO., INC., 11720 S. Greenstone, Santa Fe Springs, CA 90670. Representative: Ron Adley (same address as applicant), (213) 944–9981. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA, WI, and WY.

MC 163484, filed September 7, 1982. Applicant: NORTHERN TRANSPORT, LTD., P.O. Box 471, West Fargo, ND 58078. Representative: Richard P. Anderson, 2525 S. University Drive, P.O. Box 2561, Fargo, ND 58108, (701) 235–3300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Heine Richels Beverages, Inc., of Wahpeton, ND.

MC 163724, filed September 7, 1982. Applicant: M.F.I. TRANSPORT, INC., 1292 Northdale Blvd., Coon Rapids, MN 55433. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contracts with Merchandising Fixtures, Inc., of Coon Rapids, MN, Lieberman Enterprises, Inc. of Minneapolis, MN, Lieberman Music, of Minneapolis, MN, and Carousel Snack Bars, of Minneapolis, MN.

MC 163734, filed September 8, 1982. Applicant: VER–HU, INC., Main St., P.O. Box 38, Ducktown, TN 37326. Representative: Keith J. Verner (same address as applicant), (615) 496–5721. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Polk County, TN, and Fannin County, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163735, filed September 8, 1982. Applicant: TRYON TRANSFER, INC., Arrowood Industrial Park, P.O. Box 7111, Charlotte, NC 28217. Representative: A. S. Naples (same address as applicant), (704) 588–1363. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Whitfield County, GA, on the one hand, and, on the other, points in AL, GA and TN.

MC 163755, filed September 9, 1982. Applicant: PLEASANT TOURS, INC., Rt. 4, Box 320, Statesville, NC 28677. Representative: W. F. Johnson (same address as applicant), (704) 876–1175. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in NC, and SC, and extending to points in the U.S. (except HI).

Please direct status inquiries about the following to Team 5, (202) 275–7289.

Volume No. OP5–192

Decided: September 15, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC 37918 (Sub-16), filed September 7, 1982. Applicant: DIREST WINTERS TRANSPORT LIMITED, 2 Tipper Rd., Downsview, Ont., CD M3H 5X3. Representative: William J. Hirsch, 64 Niagara St., Buffalo, NY 14202, 716–853–0200. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between ports of entry on the international boundary line between the United States and Canada located in NY, on the one hand, and, on the other, points in Albany County, NY.

MC 128539 (Sub-21), filed September 8, 1982. Applicant: EAGLE TRANSPORT CORPORATION, P.O. Box 4508, 3204 Sunset Ave., Rocky Mount, NC 27801. Representative: Robert J. Corber, 1250 Connecticut Ave. NW., Washington, DC 20036, 202–862–2038. Transporting *petroleum and petroleum products,* between points in VA, NC, SC, and GA.

MC 138569 (Sub-7), filed September 8, 1982. Applicant: BRAITHWAITE TRUCKING, INC., 3819 Sunset Dr., Rapid City, SD 57701. Representative: Thomas J. Simmons, P.O. Box 480, Sioux Falls, SD 57101, 605–339–3629. Transporting *coal,* between points in WY, on the one hand, and, on the other, points in SD.

MC 156779 (Sub-1), filed September 2, 1982. Applicant: PRAIRIE JAYS CHARTER BUS, INC., 1717 Philo Rd., Sunnycrest Mall, Urbana, IL 61801. Representative: Robert J. Brooks, 1828 L St. NW., Suite 1111, Washington, DC 20036, 202–466–3892. Transporting (1) *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, between points in the U.S., and (2) as a *broker* at points in the U.S. in arranging for the transportation of *passengers and their baggage* in the same vehicle with passengers, between points in the U.S.

MC 161569 (Sub-2), filed September 10, 1982. Applicant: TRANSPORT CONTRACTORS, INC., 2206 Frankfort Ave., Louisville, KY 40206. Representative: Taylor O. Cowan III, 6406 Clinton Highway, Knoxville, TN 37912, (615) 938–5001. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Polymer Resources, Ltd., of Stamford, CT.

MC 163669, filed September 1, 1982. Applicant: SUPERIOR TRAFFIC AND TRANSPORTATION SERVICES, INC., 4109 Valley Station Road, Louisville, KY 40272. Representative: Virgil M. Guy (same address as applicant), (502) 937–0905. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, KY, MI, OH, and TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163689, filed September 2, 1982. Applicant: ARKANSAS ALUMINUM ALLOYS, INC., Malvern Road Industrial Park, P.O. Box 1410, Hot Springs, AR 71901. Representative: M. Douglas Wood, 201 W. Broadway, P.O. Box 5600, North Little Rock, AR 72119, (501) 376–3700. Transporting *metal products*, between points in the U.S. (except AK and HI), under continuing contract(s) with A. Tenenbaum, Inc., and Gray Supply Company, both of North Little Rock, AR.

Volume No. OP5–194

Decided: September 16, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 41098 (Sub-84), filed September 8, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St. NW., Washington, DC 20006, (202) 833–8884. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S. under continuing contract(s) with International Business Machines Corporation of Armonk, NY.

MC 105159 (Sub-51), filed September 8, 1982. Applicant: KNUDSEN TRUCKING, INC., 1320 West Main St., Red Wing, MN 55066. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 South 8th Street, Minneapolis, MN 55402, (612) 333–1341. Transporting *building materials*, between points in IA, IL, IN, MI, MN, MO, ND, OH, SD, and WI.

MC 114028 (Sub-47), filed September 8, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION CO., INC., 2010 Kerper Blvd., Dubuque, IA 52001. Representative: Carl E. Munson, 469 Fischer Bldg., P.O. Box 796, Dubuque, IA 52001, (319) 557–1320. Transporting *general commodities*, (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Wm. C. Brown Publishers of Dubuque, IA.

MC 117878 (Sub-22), filed September 7, 1982. Applicant: DWIGHT CHEEK TRUCKING COMPANY, INC., 4831 E. 25th (P.O. Box 31538), Amarillo, TX 79120. Representative: Steven R. Swicegood (same address as applicant), (806) 374–5217. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Swift Independent Packing Company (SIPCO), of Chicago, IL.

MC 123179 (Sub-6), filed September 8, 1982. Applicant: ARROW FREIGHT LINES, INC., 60 Progress Ave., West Springfield, MA 01089. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103, (413) 732–1136. Transporting *such commodities* as are dealt in or used by a manufacturer or distributor of paper and paper products, between points in the U.S. (except AK and HI), under continuing contract(s) with Laurine Packaging Corp.

MC 126198 (Sub-20), filed September 8, 1982. Applicant: MICHAUD TRUCKING, INCORPORATED, 133 Birch Street, Kingsford, MI 49801. Representative: William J. Bolognesi, P.O. Box 705, Iron Mountain, MI 49801, (906) 774–2209. Transporting *malt beverages*, between points in Franklin County, OH, on the one hand, and, on the other, points in Marquette County, MI.

MC 126869 (Sub-6), filed September 8, 1982. Applicant: M&W TRUCKING, INC., P.O. Box 58 Bowdon, GA 30108. Representative: Robert E. Born, 1447 Peachtree St., NE., Suite 508, Atlanta, GA 30309, (404) 892–8020. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AL, GA, MS, NC, SC, and TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 134088 (Sub-1), filed September 10, 1982. Applicant: FORD L. AND MARIE A. WRIGHT, d.b.a., ALL-AMERICAN MOVING & STORAGE, 4340 Highway 51 N. Memphis, TN 38127–3299. Representative: Marshall Kragen, 1919 Pennsylvania Ave., NW., Ste 300, Washington D.C. 20006, 202–466–3778.Transporting *household goods* and *furniture and fixtures*, between points in the U.S. (except AK, HI and VT).

MC 147338 (Sub-4), filed September 9, 1982. Applicant: POWER PACKAGING TRANSPORTATION CORP., 1150 Powis Rd., West Chicago, IL 60185. Representative: Abraham A. Diamond, 29 South LaSalle St., Chicago, IL 60603, 312–236–0548. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI).

MC 147978 (Sub-11), filed September 10, 1982. Applicant: SYSTEM REEFER SERVICE, INC., 4614 Lincoln Ave., Cypress, CA 90630. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown , MD 21740, (301) 797–6060. Transporting (1) *chemicals and related products*, and (2) *plastic products*, between points in OH, on the one hand, and, on the other, points in Los Angeles County, CA.

MC 149119 (Sub-1), filed September 10, 1982. Applicant: OSTERBUR TRUCKING, INC., Box 26, Royal, IL 61871. Representative: Edward D. McNamara, Jr., 907 South Fourth St., Springfield, IL 62703, (217) 529–8476. Transporting *paving asphalt and asphalt cement*, between points in Lake County, IN, on the one hand, and, on the other, points in Edgar, Clark, Vermilion, Douglas, and Champaign Counties, IL, under continuing contract(s) with Danville Asphalt Company, Inc. and University Asphalt Company, Inc., both of Urbana, IL.

MC 153929 (Sub-2), filed September 8, 1982. Applicant: MONROE LEASING COMPANY, INC., 3434 Akron-Cleveland Rd., Cuyahoga Falls, OH 44223. Representative: Michael Spurlock, 275 East State St., Columbus, OH 43215, (614) 228–8575. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, AND TX.

MC 154168 (Sub-1), filed September 8, 1982. Applicant: ARTHUR COLE, d.b.a. A. COLE, 81 Mission St., Montclair, NJ 07042. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between ports in NC, VA, DE, MD, PA, NY, NJ, RI, CT, and MA, on the one hand, and, on the other, points in ME, NH, VT, MA, RI, CT, NY, NJ, OH, PA, MD, DE, VA, WV, NC, SC, GA, and FL.

MC 157109 (Sub-1), filed September 8, 1982. Applicant: SINGER TRANSPORTATION CO., INC., 373 East Main St., Somerville, NJ 08876. Representative: George A. Olson, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 159348 (Sub-1), filed September 8, 1982. Applicant: RBC TRANSPORTATION, INC., Dug Hill Rd., Rt. 2, Huntsville, AL 35804. Representative: William H. Borghesani, Jr. 1150 17th St. NW., Suite 1000, Washington, DC 20036, (202) 457–1122. Transporting (1) *boxes*, between points in the U.S. (except AK and HI), under continuing contract(s) with Mid-South Container Corp., of Augusta, GA and (2) *pulpboard*, between points in the U.S. (except AK and HI), under continuing

contract(s) with J & J-South Central, of Huntsville, AL.

MC 159438 (Sub-1), filed September 9, 1982. Applicant: FREIGHT EXPRESS, INC., 1511 Lakeside-Ave., Cleveland, OH 44115. Representative: Walter L. Stiegele (same address as applicant), (216) 574–2200. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, NY, MA, CT, RI, NJ, PA, MD, DE, VA, WV, NC, SC, GA, FL, AL, MS, TN, KY, IN, IL, MI, MO, WI, and DC.

MC 159968 (Sub-1), filed September 7, 1982. Applicant: BORCULO GARAGE, INC., d.b.a. GRASSMID TRANSPORT, 6410 96th Ave., Zeeland, MI 49464. Representative: D. Richard Black, Jr., 285 James St., P.O. Box 638C, Holland, MI 49423, (616) 399–3400. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Henry House, Inc., of Holland, MI.

MC 160819 (Sub-1), filed September 7, 1982. Applicant: R AND A ENTERPRISES, 1414 LaFayette, Waterloo, IA 50701. Representative: Thomas J. Beener, 67 Wall St., Suite 2510, New York, NY 10005, 212–269–2540. Transporting *meat and meat products,* between points in IA, on the one hand, and, on the other, points in CA, WA, OR, CO, TX, AZ, NV, UT, NM, and NE.

MC 163499, filed September 8, 1982. Applicant: KUBIE COBS & TRUCKING, 1172 South 16 St., Blair, NE 68008. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, (402) 397–7033. Transporting *metal products, machinery, electrical equipment and supplies, rubber and plastic products, and clay, concrete, glass or stone products,* between points in NE and IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163738, filed September 8, 1982. Applicant: NACKAWIC TRANSPORT LTD., Industrial Park, P.O. Box 588, Nackawic, New Brunswick, EOH 1P0 Canada. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101, (207) 773–5651. Transporting *lumber,* between ports of entry on the international boundary line between the United States and Canada at Houlton and Calias, ME, on the one hand, and, on the other, points in Penobscot County, ME, under countinuing contract(s) with Old Town Lumber Company, of Old Town, ME.

MC 163739, filed September 8, 1982. Applicant: FISCHER ENTERPRISES, INC., West Highway 46, P.O. Box 534, Wagner, SD 57380. Representative: Lynn Fischer (same address as applicant), 605–384–5664. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in IL, IN, IA, KS, MI, MN, MO, NE, ND, SD, OH, WI, and WY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163758, filed Setember 8, 1982. Applicant: AY-LEET TRANSPORTATION SERVICE INC., 100–34 Francis Lewis Blvd., Hollis, NY 11429. Representative: Hamilton A. Jones, (same address as applicant), 212–465–2909. Transporting *passengers and their baggage* in the same vehicle with passengers, in motor vehicles not exceeding 15 passengers (excluding the driver), in charter and special operations, beginning and ending at points in NY, and extending to points in the U.S. (except HI).

MC 163759, filed September 9, 1982. Applicant: KING MOVING & STORAGE CO., P.O. Box 729, Cornelius, OR 97113. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210, 503–226–3755. Transporting *Household goods, furniture and fixtures, electrical appliances* and *such commodities* as are dealt in or used by wholesale and retail beauty supply houses, between points in OR, WA, CA, ID, MT, NV, UT, and AZ.

Volume No. OP 5–195

Decided: September 17, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FE–618, filed September 8, 1982. Applicant: AFFILIATED FORWARDERS, INC., 2121 Washington St., Lawton, OK 73502. Representative: Alan F. Wohlstetter, 1700 K St., NW, Suite 301, Washington, DC 20006, (202) 833–8884. As a *freight forwarder* of *used household goods, unaccompanied baggage, and used automobiles,* between points in the U.S. (excluding AK, but including HI).

MC 30139 (Sub-17) filed September 10, 1982. Applicant: HOLMES TRANSPORTATION, INC., 550 Cochituate Road, Framingham, MA 01701. Representative: Joseph M. Klements, 89 State Street, Boston, MA 02109, (617) 523–0800. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Plastican, Inc., of Leominster, MA, Kingston-Warren Corp., of Newfields, NH, Oak Materials Group, Inc., of Franklin, NH, International Paper Company, of Manchester, NH, Prevue Products, Inc., of Manchester, NH, Kennebec Building Supply Co., Inc., of Waterville, ME, Moosehead Manufacturing Company, of Monson, ME, Pride Golf Tee Company, of Guilford, ME, Pride Manufacturing Company, of Guilford, ME, J-VON, Division of Jones and Vining, of Leominster, MA, Inmont Corporation, of Somerville, MA, Natgun Corp., of Wakefield, MA, Mass. Cotton Products, Inc., of Melrose, MA, ITT Surprenant, of Clinton, MA, Axton Cross Company, of Holliston, MA, Webb Converting, Inc., of Framingham, MA, Sarnafil, U.S. Inc., of Canton, MA, and Anchor Electric Company, of Manchester, NH.

MC 104678 (Sub-7) filed August 20, 1982. Applicant: BROWNIE'S SERVICE, INC., 527 Jones Ave., Oak Hill, WV 25901. Representative: Pat R. Hamilton, P.O. Drawer AA, Oak Hill, WV 25901, (304) 469–2991. Transporting *machinery and machinery parts* between points in WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 121818 (Sub-4) filed September 7, 1982. Applicant: REGIONAL STORAGE & TRANSPORT, INC., North Industrial Part, P.O. Box 817, Greenville, NC 27834. Representative: Ralph McDonald, 336 Fayetteville Street Mall, P.O. Box 2246, Raleigh, NC 27602, (919) 828–0731. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NC, on the one hand, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 123808 (Sub-4) filed September 7, 1982. Applicant: GEO. C. POTTERFIELD TRUCKING, INC., 207 County Line Rd., Monroe City, MO 63456. Representative: Randy L. Potterfield, 515 E. Cleveland St., Monroe City, MO 63456, 314–735–4403. Transporting *commodities in bulk,* between points in IA, IL, and MO, on the one hand, and, on the other, points in IA, IL, and MO.

MC 145108 (Sub-66) filed September 7, 1982. Applicant: BULLET EXPRESS, INC., P.O. Box 289, Bay Ridge Station, Brooklyn, NY 11220. Representative: Robert L. Van Buren, Bullet Express, Inc., 5600 First Ave., Brooklyn, NY 11220, (212) 492–7332. Transporting *automotive, air, gas and oil filters* between points in the U.S. (except AK and HI), under continuing contract(s) with Purolator Products, Inc., of Rahway, NJ.

MC 149108 (Sub-2) filed September 9, 1982. Applicant: R. REED TRUCKING, INC., 8383 Croton Rd., Johnstown, OH 43031. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215, (614) 464–4103. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between

Columbus, OH, and points in Muskingum County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *such commodities* as are dealt in or used by manufacturers of food and related products between points in the U.S. (except AK and HI).

Volume No. OP5–197

Decided: September 20, 1982.

By the Commission, review Board No. 3, Members Krock, Joyce, and Dowell.

MC FF 338 (Sub-3) filed September 9, 1982. Applicant: ASTRON FORWARDING COMPANY, 1660 Factor Avenue, San Leandro, CA 94577. Representative: Alan F. Wohlstetter, 1700 K St., NW, Washington, DC 20006, (202) 833–8884. To operate as a freight forwarder, transporting *general commodities* (except used household goods, unaccompanied baggage and used automobiles, and classes A and B explosives), between points in the U.S.

MC 12779 (Sub-1), filed June 14, 1982 (Previously published in (republication) **Federal Register** on June 30, 1982. Applicant: TRAVELOGUE, INC., 420 West Superior Street, Duluth, MN 55802. Representative: David A. Bailly, 500 Park National Bank Bldg., 5353 Wayzata Blvd., Minneapolis, MN 55416, (612) 544–6116. As a *broker* at Duluth, MN, in arranging for the transportation of *passengers and their baggage,* in special and charter operations, beginning and ending at Duluth, MN, and extending to points in the U.S.

Note.—Purpose of republication is to show this is a broker application.

MC 29748 (Sub-5), filed September 13, 1982. Applicant: M.G. CUMBIE, INC., 5011 Ecoff Ave., Chester, VA 23831. Representative: Paul D. Collins, 7761 Lakeforest Drive, Richmond, VA 23235, (804) 745–0446. Transporting (1) *paper and paper products, and chemicals,* between points in the U.S., (except AK and HI), under continuing contract(s) with Manchester Board & Paper Co., of Richmond, VA, (2) *scrap paper, corrugated boxes and scrap metal,* between points in the U.S., (except AK and HI), under continuing contract(s) with Secondary resources of America, Inc., of Richmond, VA, and (3) *scrap paper, corrugated boxes and cellulose insulation,* between points in the U.S., (except AK and HI), under contiuing contract(s) with Goldman Paper Stock Co., Inc., of Richmond, VA.

MC 37958 (Sub-4), filed September 10, 1982. Applicant: TRENTON LAMBERTVILLE BUS LINE, INC., d.b.a., ONKA'S CHARTER SERVICE, Amwell Road, East Millstone, NJ 08873. Representative: Thomas J. Onka, P.O. Box 191, East Millstone, NJ 08873, (201) 873–2750. Over regular routes, transporting *passengers and their baggage* in same vehicle with passengers, (1) between New Brunswick, NJ and Tamiment, PA, serving all intermediate points: from New Brunswick over NJ Hwy 514 to U. S. Hwy 206, then over U. S. Hwy 206 to Interstate Hwy 80 to U.S. Hwy 209, then over U.S. Hwy 209 to Tamiment, PA, and return over the same route; and (2) between Princeton, NJ, and Tamiment, PA, serving all intermediate points: from Princeton over U.S. Hwy 206 to NJ Hwy 31, then over NJ Hwy 31 to U.S. Hwy 46, then over U.S. Hwy 46 to Interstate Hwy 80, then over Interstate Hwy 80 to U.S. Hwy 209, then over U.S. Hwy 209 to Tamiment, PA, and return over the same route.

MC 41098 (Sub-85), filed September 13, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006, 202–833–8884. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Wang Laboratories, Inc. of Lowell, MA.

MC 52869 (Sub-103), filed September 10, 1982. Applicant: NORTHERN TANK LINE, P.O. Box 970, Miles City, MT 59301. Representative: Michael E. Miller, 15 Broadway, Suite 502, Fargo, ND 58102, (701) 235–4487. Transporting *commodities in bulk* between points in MT, ID, WY, CO, ND, SD, MN, NE, IA, IL, WI, UT, OR, WA, and the Upper Peninsula of MI.

MC 116319 (Sub-20), filed September 7, 1982. Applicant: WASHINGTON TRUCKING, INC., P.O. Box 107, Everette, WA 98241. Representative: Art Wright, (same address as applicant), (206) 259–5115. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AK, AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY.

MC 139469 (Sub-1), filed September 7, 1982. Applicant: TRINITY, INC., 102 Pond St., Natick, MA 01760. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting (1) *those commodities which because of their size or weight require the use of special handling or equipment,* (2) *metal products,* and (3) *machinery,* between points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, OH, RI, and VT, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 142119 (Sub-6), filed September 13, 1982. Applicant: COMMERCIAL TRAFFIC SERVICE, INC., 5804 West Ridge Rd., Erie, PA 16506. Representative: John A. Pillar, 1500 Bank Tower 307 Fourth Ave., Pittsburgh, PA 15222, 412–471–3300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in PA, OH, and NY, on the one hand, and, on the other points in the U.S. (except AK and HI).

MC 146728 (Sub-8), filed September 7, 1982. Applicant: GOLDEN BROS., INC., 335 West Irving Park Road, Kewanee, IL 60172. Representative: Abraham A. Diamond, 29 South La Sale St., Chicago, IL 60603, (312) 236–0548. Transporting *metal products and machinery,* between points in the U.S. (except HI).

Note.—The purpose of this application is to convert existing permits into certificates.

MC 148158 (Sub-18), filed September 8, 1982. Applicant: CONTROLLED DELIVERY SERVICE, INC., 17295 E. Railroad Ave., City of Industry, CA 91749. Representative: Robert L. Cope, 1730 M St., NW., Suite 501, Washington, DC 20036, (202) 296–2900. Transporting, *general commodities* (except classes A and B explosives), between points in the U.S.

Note.—The purpose of this application is to convert existing permits into certificates.

MC 155118 (Sub-11), filed September 10, 1982. Applicant:T. D. S. TRANSPORTATION, INC., 1700 S. Wolf Rd., Des Plaines, IL 60018. Representative: Julie L. Roper, (same address as applicant), 312–298–8800. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Freight Distribution Services, Inc., of Los Angeles, CA; Mankato Corporation & Bemis Company of Mankato, MN; J. A. Tucker Co., of Westville, NJ; C. R. Anthony Company of Oklahoma City, OK; National Carrier Service, of Anaheim, CA; Metroplex Foam Molding Company of Mansfield, TX, and Our Own Hardware Company of Burnsville, MN.

MC 153478 (Sub-1), filed September 7, 1982. Applicant: S & W MOTOR SERVICES, INC., 6128 W. 80th Pl., Bridgeview, IL 60459. Representative: Stephen H. Loeb, Suite 4, 2777 Finley Rd., Downers Grove, IL 60515, 312–953–0330. Transporting *general commodities* (except classes A and B explosives,

household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Poly Enviro Lab, Inc. and Formax, Inc. both of Mokena, IL; Joseph Fuller & Co., of Chicago, IL; House of Fabrics of S.C., Inc. of Mauldin, SC, and General Nutrition Corporation of Pittsburgh, PA.

MC 157459 (Sub-2), filed September 14, 1982. Applicant: LEWIS C. HOWARD, INC., 760 E. Vine St., Kalamazoo, MI 49001. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, 616-459-6121. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI) under continuing contract(s) with Clark Equipment Company of Buchanan, MI.

MC 159469 (Sub-1), filed September 8, 1982. Applicant: WILLIAM A. CIMPI, 7156 Eastman Rd., Syracuse, NY 13212. Representative: Martin R. Martino, 333 South Glebe Rd., Arlington, VA 22204, (703) 979-1627. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, NJ, CT, MA, NY, PA, VA, MD, MI, IN, and OH.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26557 Filed 9-27-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 275)]

Rail Carriers; Baltimore and Ohio Railroad Company Exemption for Supplement 2 to Contract Tariff ICC-BO-C-0024 (Soda Ash)

AGENCY: Interstate Commerce Commission

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Decided: September 22, 1982.

By the Commission, Review Board Number 2, Members Carleton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26559 Filed 9-27-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 277)]

Rail Carrier; Burlington Northern Railroad Company Exemption for Contract Tariff ICC-BN-C-0013-A (Soda Ash)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275-7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Decided: September 22, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26560 Filed 9-27-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30022]

Rail Carriers; Chicago and North Western Transportation Co.—Trackage Rights Exemption—Over Duluth, Missabe & Iron Range Railway Co.; Notice of Exemption

September 21, 1982.

Chicago and North Western Transportation Company (CNW) seeks exemption of a trackage rights agreement from the prior approval requirements of 49 U.S.C. 11343, which will allow CNW to operate over a 5.26-mile segment of rail line owned by the Duluth, Missabe and Iron Range Railway Company (DMIR) between Saunders and South Itasca, WI. CNW's request is being treated as a petition seeking exemption under 49 CFR 1111.2(d)(5).

On June 10, 1982, CNW and DMIR signed an agreement granting CNW trackage rights over DMIR's track. The trackage rights is in substitution for a portion of the trackage rights which CNW currently has over a line of the Burlington Northern Railroad Company (BN) between St. Paul, MN and Allouez, WI.[1] The proposed trackage rights will permit CNW to leave BN's track at Saunders and by-pass BN's Allouez Yard and Taconite Facility. CNW indicates that a petition to amend the Commission's decision in Finance Docket No. 29732 to exclude the Allouez segment will be filed with the Commission shortly.[2] BN has agreed to

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[1] These trackage rights were exempted from prior approval in Finance Docket No. 29732, *Chicago and North Western Transportation Company—Exemption Under 49 U.S.C. 10505 From 49 U.S.C. 11343* (not printed), served October 27, 1981.

[2] We note that a petition to amend Finance Docket No. 29732 would be unnecessary. Our exemption of the proposed transaction under 49 CFR 1111.2(d)(5) would include an exemption from

the proposed change. The instant proposal involves only a grant of "bridge" trackage.

The proposed transaction is an exempt transaction pursuant to 49 CFR 1111.2(d)(5). Essentially, it is a joint project between CNW, DMIR, and BN involving relocation of a line of railroad. The relocation will not disrupt any existing service to shippers of communities. Thus, it is an exempt transaction pursuant to 49 CFR 1111.2(d)(5). See *Railroad Consolidation Procedures*, 366 I.C.C. 75, 94 (1982).

As a condition to the use of this exemption, any employees affected by the trackage rights shall be protected pursuant to *Norfolk & Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 650 (1978), as modified by *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980) and any employees affected by CNW'S abandonment will be protected by the conditions embodied in *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26556 Filed 9-27-82; 8:45 am]

BILLING CODE 7035-01-M

[AB 3 (SDM) [1]]

Rail Carriers; Missouri Pacific Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Missouri Pacific RR. Co. and Subsidiaries has filed with the Commission its amended color-coded system diagram map in docket No. AB 3 SDM. The Commission on September 16, 1982, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 3 SDM.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26554 Filed 9-27-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 287 (Sub-No. 276)]

Seaboard Coast Line Railroad Co.; Exemption for Contract Tariff ICC-SCL-C-0039 (Dry and Liquid Phosphate)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions.

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Decided: September 22, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26555 Filed 9-27-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Consent Decree Lodging Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on September 3, 1982 a proposed consent decree in *United States* v. *Port ConAgra, Inc.*, was lodged with the United States District Court for the District of Minnesota. The proposed decree provides for compliance with the Clean Air Act and with the federally approved Minnesota State Implementation Plan for opacity and emission of particulate matter at a grain handling facility located at 3750 Washington Avenue North, Minneapolis, Minnesota. The proposed decree sets forth a schedule for installation of pollution control equipment and for final achievement with opacity and particulate standards no later than July 1, 1982.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *Port ConAgra, Inc.*, D.J. Ref. 90-5-2-1-505.

The proposed decree may be examined at the office of the United States Attorney, District of Minnesota, 234 U.S. Courthouse, 110 South 4th Street, Minneapolis, Minnesota and at the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois. A copy of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section,

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the requirements of 49 USC 10903-1096 of the discontinuance of operations over the Allouez segment, subject to the appropriate labor protective conditions.

[1] AB 3 (SDM) includes all Missouri Pacific Railroad Co. subsidiaries: AB 21 (SDM), Abilene & Southern Railway Company, Chicago Heights Terminal Transfer Company, Doniphan, Kensett and Searcy Railway Company; AB 34, Fort Worth Belt Railway Company, Missouri-Illinois Railroad Company; AB 142 (SDM), New Orleans and Lower Coast Railroad Company, St. Joseph Belt Railway Company AB 22 (SDM), Texas-New Mexico Railway Co.; AB 23, Texas Pacific-Missouri Pacific Terminal Railroad of New Orleans, Union Terminal Railway Company; AB, Weatherford Mineral Wells & Northwestern Railway Company.

Land and Natural Resources Division of the Department of Justice.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 82-26571 Filed 9-27-82; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market with particular emphasis upon its potential impact upon competitive enterprises in the same areas.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of application involving the establishement of branch plants or facilities, the potential effect of such new facilities in other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Richard C. Gilliland, Administrator, U.S. Employment Service, Employment and Training Administration, 601 D Street, N.W., Room 8000—Patrick Henry Building, Washington, D.C. 20213.

Signed at Washigton, D.C., this 23rd day of September 1982.

Robert S. Kenyon,

Director, Office of Program Operations.

Applications received during the week ending September 25, 1982:

Name of applicant and location of enterprise: McBee-Bryant Textiles, Inc., Shelby, Mississippi.

Principal product or activity: Manufacture of mop yarn.

[FR Doc. 82-26543 Filed 9-27-82; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Media Arts Advisory Panel; Meeting Cancellation

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Media Arts Advisory Panel was to be held on September 28, 1982, from 9:00 a.m.–5:00 p.m. in room 1426 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506 is hereby cancelled.

This meeting was to be open to the public on a space available basis. The topic for discussion was to be Year End Reports for Radio Division, Programming in the Arts and Media Arts Division FY 1984 Guideline Discussion.

Further information with reference to this cancelled meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Council and Panel Operations, National Endowment for the Arts.

September 21, 1982.

[FR Doc. 82-26560 Filed 9-27-82; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Subpanel for Social and Developmental Psychology; Notice of Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel for Social and Developmental Psychology, Advisory Panel for Behavioral and Neural Sciences.

Date and time: October 14–15, 1982—9:00 a.m. to 5:00 p.m. each day.

Place: Room 1224, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Jean B. Intermaggio, Program Director, Social and Developmental Psychology, Room 320, National Science Foundation, Washington, D.C. 20550, 202-357-9415.

Purpose of advisory panel: To provide advice and recommendations concerning support for research in Social and Developmental Psychology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 82-26559 Filed 9-27-82; 8:45 am]

BILLING CODE 7555-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council Laboratory Review Panel; Meeting

Notice is hereby given that the Panel named above will meet on October 7, 1982 in Room 10103, New Executive Office Building, 17th St. and Pennsylvania Avenue, N.W.; Washington, D.C. 20500.

The meeting will be from 9:00 a.m. to 4:00 p.m. It will be open to the public from 9:00 a.m. to 11:00 a.m. The Panel will discuss with the representatives of the Department of Energy (DOE) and the Energy Research Advisory Board (ERAB) the management of DOE laboratories and the findings of ERAB's review of DOE laboratories.

The afternoon meeting will be closed to the public. The Panel will be discussing with representatives of the National Aeronautics and Space Administration and the President's Private Sector Survey internal personnel practices along with other matters of a personal nature. The premature disclosure of such information could significantly frustrate the implementation of proposed agency actions. Authority for closing: 5 U.S.C. 552(c)(2); 552(c)(6) and 552(c)(9)(B).

Because of security in the New Executive Office Building, persons wishing to attend the meeting should contact Mrs. Minh-Triet Lethi, Senior Policy Analyst, OSTP, (202) 395–4626 prior to 12:00 noon on October 6. Mrs. Lethi is also available to provide further information regarding the Laboratory Review Panel.

Jerry D. Jennings,

Executive Director, Office of Science and Technology Policy.

September 23, 1982.

[FR Doc. 82-26648 Filed 9-23-82; 4:45 am]

BILLING CODE 3170-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22626A; 70–6771, 70–6775]

Arkansas Power & Light Co. and Southwestern Electric Power Co.; Supplemental Notice Correcting Error in File Number

In the matter of Arkansas Power & Light Co., P.O. Box 551, First National Bank Building, Little Rock, Arkansas 72203, and Southwestern Electric Power Col, P.O. Box 21106, 428 Travis Street, Shreveport, Louisiana 71156.

In the notice issued on September 2, 1982 (HCAR No. 22626) in this proceeding, the captioned file number (70–6775) was incorrect and should have read (70–6771).

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-26650 Filed 9-27-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19033; (File No. SR–NSCC–82–20]

Filing and Immediate Effectiveness of a Proposed Rule Change by the National Securities Clearing Corporation

September 3, 1982.

The National Securities Clearing Corporation ("NSCC") filed a proposed rule change on August 12, 1982, pursuant to Rule 19b–4 under the Securities Exchange Act of 1934, that requires NSCC participants more frequently than in the past to pay NSCC "federal funds" (*i.e.*, same-day funds), rather than "clearing house funds" (*i.e.*, next-day funds), for money differences between the amount of settlement monies due NSCC from a participant on a settlement day and the actual amount paid that settlement day. Under the proposed rule change, the threshold over which federal funds payment is required to be made has been reduced from $500,000 to $100,000. In its filings, NSCC stated that the proposed rule change is designed to effect timely receipt of settlement monies by NSCC.

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 and Rule 13b–4 thereunder. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Publication of the submission is expected to be made in the **Federal Register** during the week of September 6, 1982. Interested persons are invited to submit written data, views and arguments concerning the submission within twenty-one days from the date of publication in the **Federal Register**. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–NSCC–82–20.

Copies of the submission, with accompanying exhibits, and of all written comments will be available for public inspection at the Securities and Exchange Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. Copies of the filing will also be available at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-26637 Filed 9-27-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–19063; File No. SR–OCC–82–18]

Self-Regulatory Organizations; the Options Clearing Corp.; Relating to the Requirement of an Authorization Stamp on Clearing Member Input Documents

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 8, 1982, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Proposed Rule Change

The proposed rule change would require Clearing Members to use a new OCC approved authorization stamp on various input documents. Clearing Members will have their choice of either an OCC-provided authorization stamp or a member-selected stamp in an OCC-approved format. OCC will provide each Clearing Member with two stamps at no charge. Any additional stamps will be provided to Clearing Members at OCC's cost.

II. Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC

has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to aid OCC's staff in authenticating documents submitted by Clearing Members and to minimize the risk that documents containing unauthorized or fraudulent signatures might be accepted by OCC.

The proposed rule change would enhance OCC's capacity to safeguard securities and funds in its custody or control or for which it is responsible by reducing the risk that OCC personnel may inadvertently accept unauthorized or fraudulent documentation. The proposed rule change would also improve OCC's capacity to facilitate the prompt and accurate clearance and settlement of securities transactions by eliminating processing delays caused by the need to verify signatures and reject documents.

(B) Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Comments on the Proposed Rule Change Received from Members, Participants, or Others

Fifteen to twenty Clearing Members were canvassed by telephone with respect to the implementation of the proposed authorization stamp. No negative comments were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before October 19, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-26539 Filed 9-27-82; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

September 22, 1982.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Coleco Industries, Inc.
Common Stock, $1 Par Value (File No. 7-6320)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 14, 1982 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-26536 Filed 9-27-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12677; (812-5245)]

Tucker Anthony Group of Tax Exempt Funds; Filing of an Application for an Order Pursuant to Section 6(c) of the Act for Exemption From Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 Thereunder

September 20, 1982.

Notice is hereby given that Tucker Anthony Group of Tax Exempt Funds ("Applicant"), Three Center Plaza, Boston, Massachusetts 02108, a Massachusetts business trust registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on July 13, 1982, for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the exent necessary to permit Applicant to value its portfolio securities using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "series" money market fund that will offer a means of investing in a professionally-managed portfolio consisting primarily of specified types of short-term securities exempt from federal income tax, with the objective of obtaining as high a level of current income exempt from federal income tax as is consistent with the preservation of capital and liquidity. The application states that Applicant has only one series, but may add other series in the future. Applicant represents that it will invest primarily in a broad range of short-term securities and instruments issued by state and local governments and public authorities including: securities sold by state or municipal governments and public authorities as interim financing in anticipation of tax collections, revenue receipts or bond sales; project notes which are secured by the full faith and credit of the United States; and commitments to purchase the foregoing securities and investments on a "when-issued" basis. Applicant declares that its custodian will set aside, in a separate

account, cash or portfolio securities equal to the amount of Applicant's when-issued commitments. Applicant further states that, for liquidity reasons or for defensive purposes during abnormal market conditions, it may invest in obligations of the United States government, its agencies, instrumentalities or authorities; prime commercial paper; certificates of deposit of domestic banks with assets of $1 billion or more; and repurchase agreements with respect to any securities that Applicant is permitted to own.

Applicant states that a proliferation of tax-exempt mutual funds has significantly increased the demand for short-term tax-exempt instruments and, as a result, available yields on such instruments have declined. At the same time, according to Applicant, certain issuers of tax-exempt instruments have sought to lengthen their terms in order, among other things, to decrease the transaction costs associated with repeated short-term issues. According to the application, in order to induce longer term borrowing relationships, issuers have begun offering higher yields on variable rate or floating rate notes containing a demand feature allowing either party to terminate the obligation within relatively short notice periods. Applicant believes that the acquisition of such variable rate or floating rate demand notes would provide shareholders with a higher tex-exempt return without subjecting them to increased investment risk.

Applicant proposes to acquire, normally in negotiated transactions with the issuers, tax-exempt variable rate or floating rate demand notes having the following features: (1) Each note would have an interest rate determined by a prescribed formula and adjusted at periodic intervals not to exceed one year in the case of a variable rate note or adjusted whenever some set interest rate changes in the case of a floating rate note; (2) Applicant could at any time demand prepayment of the unpaid principal balance plus accrued interest thereon and would be entitiled to prepayment within a prescribed notice period not to exceed seven calendar days; (3) the adjustment feature on a variable rate note will be such that, in the opinion of the board of trustees, whenever a new rate is established it will cause the instrument to have a current market value which approximates its par value; (4) the floating rate feature on a floating rate note will be such that, in the opinion of the board of trustees, it ensures that the market value will always approximate par value; (5) absent an earlier exercise by the Applicant of its prepayment privileges (or exercise of a prepayment privilege by the issuer, if any) the principal and interest under each note would be payable on a date exceeding one year from the date of purchase by Applicant; (6) each note purchased by Applicant would be determined under procedures prescribed by Applicant's board of trustees to present minimal credit risks and would be rated by a major rating service within its two highest rating categories or, if not rated, would be determined by the board of trustees to be comparable to tax-exempt securities which are of "high quality" (i.e., within the two highest ratings assigned by any major rating service). Applicant states that the issuer's obligation to pay principal on its notes would be supported by an irrevocable, unconditional external agreement (normally a bank letter of credit) where necessary to ensure that the notes were of "high quality" (i.e., in all cases where the board of trustees could not determine that a note is of "high quality" without a letter of credit). If such an external agreement is a feature of a note when it is purchased, the note would always be supported by such external agreement unless the rating of the note rose to within the two highest grades without the external agreement. Applicant represents that its board of trustees will reevaluate its variable rate or floating rate demand notes (or the debt securities of the backing banks) not less frequently than quarterly to ensure that they are of high quality. Applicant further represents that it will dispose of any note (by exercising the demand privilege where beneficial) where, due to an adverse change in the issuer's credit, Applicant's board of trustees or any rating service concluded that the note was no longer of "highest quality".

Applicant proposes to acquire variable rate or floating rate demand notes as described above and to consider the maturity of such notes, for purposes of computing its dollar-weighted average portfolio, as: (i) the longer of the period remaining until the principal amount can be recovered through demand or the period remaining until the note's next interest rate adjustment in the case of variable rate demand notes, and (ii) the period remaining until the principal amount can be recovered through demand in the case of floating rate demand notes.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (i) with respect to securities for which market quotations are readily available, the market value of such securities, and (ii) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of security for redemption or of an order to purchase or sell such security.

Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by the board of directors. The Commission has expressed the view that, among other things: (i) Rule 2a-4 under the Act requires that portfolio instruments of money market funds be valued with reference to market factors, and (ii) it would be inconsistent, generally, with the provisions of Rules 2a-4 for a money market fund to value its portfolio instruments on an amortized cost basis. (Investment Company Act Release No. 12206, February 1, 1982; Investment Company Act Release No. 9786, may 31, 1977). In view of the foregoing, Applicant requests an exemption from Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to use the amortized cost method to value its portfolio securities.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditioinally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary to appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisons of the Act.

In support of the relief requested, Applicant submits that use of the amortized cost method of valuing its portfolio securities, including variable rate and floating rate demand notes, subject to the conditions enumerated above, offers its shareholders the conveniences and advantages of a stable purchase and redemption price of $1.00 per share. In so doing, Applicant states, adequate liquidity is maintained while a high income exempt from federal income tax is still obtained. Applicant further states that, absent unusual or extraordinary circumstances, the amortized cost method of valuation will be in the best interests of its shareholders and reflects the fair value of their securities. Applicant represents that it believes that the granting of the requested exemptions by the Commission is appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Applicant expressly consents that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

1. In supervising the Applicant's operations and delegating special responsibilities involving management to the Applicant's investment adviser, Applicant's board of trustees undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of trustees shall be the following:

(a) review by the board of trustees as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the Fund's $1.00 amortized cost price per share exceeds one-half of one percent, a requirement that the board of trustees will promptly consider what action, if any, should be initiated; by it.

(c) Where the board of trustees believes the extent of any deviation from the Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average portfolio maturity of the Applicant; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

(3) Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that the Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity that exceeds 120 days.[2]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above. The Applicant will also record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of meetings of the board of trustees. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments that the board of trustees determines present minimal credit risks, and that are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board of trustees.

6. The Applicant will include as an attachment to each Form N–1Q it files, a statement indicating whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than October 15, 1982, at 5:30 p.m., submit to the Commission, in writing, a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as a matter of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–26540 Filed 9–27–82; 8:45 am]

BILLING CODE 8010–01–M

[1] Applicant states that to fulfill this condition, it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of trustees in the exercise of its discretion to be appropriate indicators of value which may include, among other things: (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] Should the disposition of a portfolio instrument result in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant, in fulfilling this condition, will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonable practicable.

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 10/10–0160]

Alaska Business Investment Corp.; Application for a License to Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant

to Section 107.102 of the Regulations governing small business investment (13 C.F.R. Section 107.102 (1982)), under the name of Alaska Business Investment Corporation, 301 West Northern Lights Boulevard, Anchorage, Alaska 99510, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), [15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and stockholders of the Applicant are as follows:

Donald L. Mellish, 2200 Cliff Court, Anchorage, Alaska, Chairman of the Board of Directors and President
Michael O. Barry, 7611 Evander Drive, Anchorage, Alaska, Vice President-General Manager and Director
Robert P. Gray, Nettleton Drive, Anchorage, Alaska, Secretary and Director
Edward B. Rasmuson, 2101 Otter Street, Anchorage, Alaska, Director and Treasurer
Elmer E. Rasmuson, Box 600, Anchorage, Alaska, Director

The applicant, a Delaware corporation business, will begin operations with $500,000 paid-in capital and paid-in surplus derived from the sale of stock to the National Bank of Alaska.

The applicant will conduct its activities principally in the State of Alaska.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than fifteen (15) days from the date of publication of this Notice, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Anchorage, Alaska.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 22, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-26047 Filed 9-27-82; 8:45 am]

BILLING CODE 8025-01-M

[Licensee No. 02/02-0391]

Cineffects Capital Corp.; Notice of License Surrender

Notice is hereby given that, pursuant to Section 107.105 of the Small Business Administration (SBA) Rules and Regulations governing Small Business Investment Companies (13 C.F.R. 107.105 (1982)), Cineffects Capital Corporation, 115 West 45th Street, New York, New York 10036, incorporated under the laws of the State of New York, has surrendered its License No. 02/02-0391, issued by the SBA on June 11, 1980.

Cineffects Capital Corporation, has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above-cited Regulation, the license of Cineffects Capital Corporation is hereby accepted and it is no longer licensed to operate as a Small Business Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 22, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-26044 Filed 9-27-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0387]

Finevalor Capital Corp.; Notice of License Surrender

Notice is hereby given that, pursuant to Section 107.105 of the Small Business Administration (SBA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1982)), Finevalor Capital Corporation (FCC), 745 Fifth Avenue, New York, New York 10022, incorporated under the laws of the State of New York, has surrendered its License No. 02/02-0387, issued by the SBA on July 1, 1980.

FCC, has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above-cited Regulation, the license of FCC is hereby accepted and it is no longer licensed to operate as a Small Business Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 22, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-26042 Filed 9-27-82; 8:45 am]

BILLING CODE 8025-01-M

Direct Business Loans; Interest Rates

The interest rate on section 7(a) Small Business Administration direct business loans (as amended by Pub. L. 97-35) and the SBA share of immediate participation loans is fourteen and one-half (14½) percent for the fiscal quarter beginning October 1, 1982.

On a quarterly basis, the Small Business Administration also publishes an interest rate called the optional "peg" rate (13 CFR 120.3(b)(2)(iii)). This rate is a weighted average cost of money to the government for maturities similar to the average SBA loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. For the October-December quarter of 1982, this rate will be thirteen and seven-eighths (13⅞) percent.

Dated: September 22, 1982.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 82-26041 Filed 9-27-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan #2064]

Louisiana; Declaration of Disaster Loan Area

Richland and the adjacent Parishes of Franklin and Madison in the State of Louisiana constitute a disaster area as a result of damage caused by heavy rains and flooding which occurred on September 11-12, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 22, 1982, and for economic injury until the close of business on June 22, 1983, at: Small Business Administration, Ford-Fish Building, 1661 Canal Street, 2nd Floor, New Orleans, Louisiana 70113, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	14[illegible]
Homeowners without credit available elsewhere	7[illegible]

	Percent
Businesses with credit available elsewhere	13½
Businesses without credit available elsewhere	8
Businesses (EIDL) without credit available elsewhere	8
Other (non-profit organizations including charitable and religious organizations)	11½

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Public Law 96-302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: September 22, 1982.

Robert A. Turnbull,

Acting Administrator.

[FR Doc. 82-26040 Filed 9-27-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/02-0028]

Nationwide Funding Corp.; Notice of License Surrender

Notice is hereby given that, pursuant to § 107.105 of the Small Business Administration (SBA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1982)), Nationwide Funding Corporation (NFC), 306 Progress Street, P.O. Box 209, Manchester, Connecticut 06040, incorporated under the laws of the State of Connecticut, has surrendered its License No. 01/02-0028, issued by the SBA on June 6, 1961.

NFC, has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, an pursuant to the above-cited Regulation, the license of NFC is hereby accepted and it is no longer licensed to operate as a Small Business Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 22, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-26043 Filed 9-27-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-0011]

Schooner Capital Corp.; Notice of License Surrender

Notice is hereby given that, pursuant to § 107.105 of the Small Business Administration (SBA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1982)), Schooner Capital Corporation, 77 Franklin Street, Boston, Massachusetts 02110, incorporated under the laws of the State of Massachusetts, has surrendered its License No. 01/01-0011, issued by the SBA on June 24, 1968.

Schooner Capital Corporation has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above-cited Regulation, the license of Schooner Capital Corporation is hereby accepted and it is no longer licensed to operate as a Small Business Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: September 22, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-26045 Filed 9-27-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-0302]

Transatlantic Capital Corp.; Notice of Filing of Application for Transfer of Ownership and Control

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the Regulations governing small business investment companies (13 CFR 107.701 (1982)) for Transfer of Ownership and Control of Transatlantic Capital Corporation (Licensee), 24 Federal Street, Boston, Massachusetts 02111, a Federal Licensee under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et seq.*).

Pursuant to an August 1982 agreement between and among the Prince of Liechtenstein Foundation (Foundation), the Bank in Liechtenstein (The Bank), Instoria, Inc. (Instoria), and Providentia Ltd. (Providentia), Instoria and Providentia will each purchase a total of 7,500 shares of the Licensee's stock (50 percent or 15,000 shares) held by Foundation and the Bank.

Instoria and Providentia, Delaware Corporation, are investment companies which have their principal place of business at 20 Exchange Place, New York 1005.

Assuming consummation of the proposed transfer of ownership and control, the management and shareholders will be:

Percent of Ownership

Bayard Henry, 65 Goddard Avenue, Brookline, MA 02146, President & Director, None.

John O. Flender, 28 Arlington Street, Cambridge, MA 02140, Vice President, Treasurer, Asst. Clerk, & Director, None.

William D. Nichols, One Post Office Square, Boston, MA 02109, Clerk, None.

Hans-Adam Liechtenstein, Schloss Vaduz, FL-9490 Vaduz, Liechtenstein, Director, None.

James R. Dempsey, 4061 Ridgeview Circle, N. Arlington, VA 22207, Director, None.

Harvey J. Sarles, 25 Thomas Street, Barrington, R.I. 02860, Director, None.

Richard B. Bailey, 102 Commercial Street, Boston, MA 02109, Director, None.

Roger G. Kennedy, 208 N. Quaker Lane, Alexandria, VA 22304, Director, None.

Christian Norgren, Bank in Liechtenstein, FL-9490 Vaduz, Liechtenstein, Director, None.

The Prince of Liechtenstein Foundation, Schloss Vaduz, FL-9490 Vaduz, Liechtenstein, Stockholder, 50 percent.

Instoria, Inc., 20 Exchange Place, New York, NY 10005, Stockholder, 25 percent.

Providentia, Ltd., 20 Exchange Place, New York, NY 10005, Stockholder, 25 percent.

The Licensee will retain its corporate name and location.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owner and management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed transfer of ownership and control to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 22, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-26046 Filed 9-27-82; 8:45 am]

BILLING CODE 8025-01-M

SELECTIVE SERVICE SYSTEM

Senior Executive Service Performance Review Board; Appointment of Members

Announcement is made of the appointment of the following persons as members of the SES Performance Review Board for the Selective Service System: Raymond F. Wisniewski, Chairman, David A. Cox, and James D. Delk.

The announcement of October 31, 1980 (45 FR 72373) is canceled.

Dated: September 22, 1982.

Thomas K. Turnage,

Director.

[FR Doc. 82-26563 Filed 9-27-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Traffic Alert and Collision Avoidance System (TCAS) Symposium

The Department of Transportation hereby announces a Traffic Alert and Collision Avoidance System (TCAS) Symposium. This 2-day symposium will commence at 10:30 a.m. on October 12, 1982, in the Federal Aviation Administration auditorium, 800 Independence Avenue, SW., Washington, D.C.

The purpose of this meeting is to present recent results from the FAA engineering development and evaluation program and to discuss these results and program plans with symposium attendees. This information exchange is intended to support current activities to develop Minimum Operational Performance Standards for TCAS.

TCAS is intended to satisfy the operational need for an airborne separation assurance service and to ensure compatibility with all elements of the National Airspace System. Its operation does not depend upon the existence of external equipment other than Air Traffic Control Radar Beacon System (ATCRBS) transponders with altitude encoders or Mode S transponders with altitude encoders in other aircraft.

Although the meeting is open to the public (space permitting) a registration fee of $7.00 will be levied to cover handouts and refreshments for the 2-day symposium. A block of rooms has been reserved at the Holiday Inn, 550 C St., SW, for your convenience. The reservations must be made to the hotel directly on 202-479-4000 no later than October 1 on a first come first serve basis.

Further information concerning the symposium may be obtained from the Federal Aviation Administration, Program Engineering and Maintenance Service, TCAS Branch, ARD-240, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202-426-9382.

Dated: September 24, 1982.

Joseph J. Fee,

Symposium Manager, ARD-240.

[FR Doc. 82-26703 Filed 9-27-82; 8:45 am]

BILLING CODE 4910-13-M

VETERANS ADMINISTRATION

Scientific Review and Evaluation Boards for Health Services Research and Development and Rehabilitation Research and Development; Charter Renewals

This is to give notice in accordance with the Federal Advisory Committee Act (Pub. L. 92-463) of October 6, 1972, that charters for the above named committees have been renewed by the Administrator of Veterans' Affairs for a two year period beginning September 7, 1982 through September 7, 1984.

Dated: September 20, 1982.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 82-26541 Filed 9-27-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 188
Tuesday, September 28, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

	Items
Federal Energy Regulatory Commission	1, 2
Federal Home Loan Bank Board	3
Federal Reserve System	4
Interstate Commerce Commission	5

1

September 22, 1982.

FEDERAL ENERGY REGULATORY COMMISSION

TIME AND DATE: September 29, 1982, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357–8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda—757th Meeting, September 29, 1982, Regular Meeting (10 a.m.)

CAP–1. Project No. 6283–000, G & B Water Users
CAP–2. Project No. 6287–000, Rainsong Company
CAP–3. Project No. 5676–003, Lawrence J. McMurtrey
CAP–4. Project No. 6251–000, A & J Construction, Inc.
CAP–5. Project No. 6293–000, Horseshoe Bar Associates, Inc.
CAP–6. Project No. 6295–000, Western Hydro Electric Company
CAP–7. Project No. 5956–000, Potter Instrument Company, Incorporated
CAP–8. Project Nos. 3024–002, 3024–003, 3029–002 and 3029–003, the City of Richmond, Virginia
CAP–9. Project No. 5906–001, North Canal Waterworks
CAP–10. Omitted
CAP–11. Project No. 4864–000, Long Lake Energy Corporation; Project No. 3625–000, Essex County Industrial Development Agency
CAP–12. Project No. 3494–000, Noah Corporation; Project No. 3666–000, Borough of Central City, Pa., Project No. 3961–000, Energenics Systems, Inc.; Project No. 4460–000, Tri-Cities of Arnold, Lower Burrell and New Kensington, Pa. and A. Richard Marcus and Associates; Project No. 4473–000, Town of Harrison, Pa., Project No. 4474–000, Borough of Cheswick, Pa. and Allegheny Valley North Council of Governments.
CAP–13. Project Nos. 2482–000 and 5276–000, Niagara Mohawk Power Corporation
CAP–14. Project No. 3175–000, Alaska Power Authority
CAP–15. Docket No. E–7704–000, the Electric and Water Plant Board of the City of Frankfort, *Kentucky* v. *Kentucky Utilities Company;* Docket No. E–7669–000, Public Service Company of Indiana; Docket No. E–7937–000, Indianapolis Power & Light Company; Docket No. E–8053–000, Kentucky Utilities Company; Docket No. E–8331–000, Kentucky Utilities Company
CAP–16. Docket No. ER82–15–002, Maine Yankee Atomic Power Company
CAP–17. Docket No. E–9563–002 and E–9563–003, U.S. Department of Energy, Bonneville Power Administration
CAP–18. Docket No. ER82–593–001, Pennsylvania Electric Company
CAP–19. Docket No. ER82–483–001, Middle South Service, Inc.
CAP–20. Docket No. ER82–707–000, Interstate Power Company
CAP–21. Docket Nos. ER82–702–000 and ER82–703–000, New England Power Company
CAP–22. Docket No. ER82–347–000, Wisconsin Electric Power Company
CAP–23. Docket Nos. EF79–4011–000 and EF82–4011–000, Southwestern Power Administration
CAP–24. Docket No. E–9565, *Town of Massena, New York* v. *Niagara Mohawk Power Corporation and the Power Authority of the State of New York*
CAP–25. Omitted
CAP–26. Docket No. ER82–410–000, New York State Electric & Gas Corporation
CAP–27. Docket No. ER81–651–000, Northern States Power Company (Minnesota)
CAP–28. Docket No. ER82–200–003, Maine Public Service Company
CAP–29. Docket Nos. ER82–294–000, ER82–295–000 and ER82–318–000, Philadelphia Electric Company
CAP–30. Docket Nos. ER76–532–002 and 003, Pacific Gas & Electric Company
CAP–31. Docket Nos. ER82–481–001 and 002, Arizona Public Service Company
CAP–32. Docket No. ER82–271–000, Pacific Gas & Electric Company
CAP–33. Docket No. ER82–128–000, Mississippi Power & Light Company

Consent Miscellaneous Agenda

CAM–1. Docket No. RM79–76–121 (Colorado-1 Addition), High-Cost Gas Produced From Tight Formations
CAM–2. Docket No. RM79–76–103 (New Mexico-9), High-Cost Gas Produced From Tight Formations
CAM–3. Docket No. RM79–76–080 (Texas-16), High-Cost Gas Produced From Tight Formations
CAM–4. Docket Nos. RA81–68–000 and RA81–73–000 (Consolidated), Kern Oil & Refining Co.
CAM–5. Docket No. RO81–2–000, Sunset Boulevard Car Wash; Docket No. RO81–3–000, Duane Weber d.b.a. Weber's Chevron Service; Docket No. RO81–4–000, Larry Septon d.b.a. Alameda Chevron; Docket No. RO81–6–000, Allen Person d.b.a. Tenth Street Chevron; Docket No. RO81–7–000, Ed Gularte Chevron; Docket No. RO81–8–000, Jim Lutz d.b.a. Petaluma Standard Service; Docket No. RO81–11–000, Benjamin Marshal d.b.a. Ben's Exxon Service; Docket No. RO81–12–000, Bill Wren d.b.a. Bill Wren's Shell; Docket No. RO81–13–000, Don Wallace d.b.a. Wallace Arco Service; Docket No. RO81–14–000, Shamuel Lazar d.b.a. Lazar Super Shell; Docket No. RO81–16–000, Ken Regalia d.b.a. Regalia's Chevron; Docket No. RO81–17–000, Joe Berube and Joe Berube Services; Docket No. RO81–19–000, Frank C. Terrasas d.b.a. Vale Vista Chevron; Docket No. RO81–21–000, Ray's Civic Center Mobil; Docket No. RO81–22–000, Charles Hageman d.b.a. Chuck's Auto Service; Docket No. RO81–23–000, Larry Septon d.b.a. Berryessa Chevron; Docket No. RO81–24–000, Walt Jost d.b.a. Walt's Shell Service; Docket No. RO81–25–000, Robert Walitsch d.b.a. Miraloma Shell; Docket No. RO81–26–000, Dhority's Union 76; Docket No. RO81–28–000, Steve Horner d.b.a. Steve Horner Chevron Service; Docket No. RO81–29–000, Ken Lord d.b.a. Ken's Chevron Service; Docket No. RO81–30–000, Bill Pendergast d.b.a. Bill Pendergast & Son Chevron; Docket No. RO81–31–000, Jack Jung d.b.a. Cutting Shell; Docket No. RO81–32–000, Steve Beagley and Grapevine Texaco; Docket No. RO81–33–000, Starr Fortune Harrington and Starr Union Service; Docket No. RO81–34–000, John Steckman d.b.a. McDowell Exxon; Docket No. RO81–35–000, Arthur Leite d.b.a. Art's Chevron Service; Docket No. RO81–36–000, Hal Abel d.b.a. Hal Abel Chevron; Docket No. RO81–39–000, John Delaveaga's Chevron; Docket No. RO81–40–000, A. J. Ataie d.b.a. Britton Chevron; Docket No. RO81–41–000, Don Pietsch d.b.a. Marina Chevron; Docket No. RO81–42–000, Ralph Mitchell and Ralph Mitchell's Hilltop Chevron
Docket No. RO81–46–000, Walter Macor d.b.a. Walt's Danville Chevron; Docket No. RO81–48–000, Joe Lastra d.b.a. Elwood Chevron Service; Docket No. RO81–49–000, Doug Myers d.b.a. Doug Myers Chevron Service; Docket No. RO81–50–000, Jens Agergaad d.b.a. Santa Maria Chevron; Docket No. RO81–52–000, Tom Van Diepen

d.b.a. Tom's Coffee Tree Chevron; Docket No. RO81–56–000, Albert Torretta d.b.a. Ye Old Pump House; Docket No. RO81–57–000, Bud Dietrich d.b.a. Bud Dietrich's Orinda Shell; Docket No. RO81–58–000, George Cravines d.b.a. Circle Service; Docket No. RO81–70–000, A. J. Atale d.b.a. Sycamore Shell; Docket No. RO81–71–000, Bob Oyster d.b.a. Sharon Heights Shell; Docket No. RO82–1–000, Anthony N. Marrazzo d.b.a. Sherwood Garden Chevron; Docket No. RO82–3–000, Richard Atkinson/John Galbraith d.b.a. Alcatraz Mobil Service; Docket No. RO82–4–000, Ed Mantz d.b.a. A–1 Arco; Docket No. RO82–6–000, Gerald Bushman d.b.a. Gerald Bushman Chevron; Docket No. RO82–7–000, Harvey Miller d.b.a. Harv's Sacramento Car Wash; Docket No. RO82–8–000, Ben Sosbee d.b.a. Ben Sosbee's Chevron Service; Docket No. RO82–9–000, Bill Nelson d.b.a. Nelson's Service Center, Inc.; Docket No. RO82–10–000, Jim Daniels d.b.a. Jim's Texaco Service; Docket No. RO82–11–000, Howard De Rouen d.b.a. Howard De Rouen Shell; Docket No. RO82–12–000, Jerry Bullard d.b.a. Jerry Bullard Chevron; Docket No. RO82–13–000, Don Skilling d.b.a. Don Skilling Chevron Service; Docket No. RO82–14–000, Ed Forrester d.b.a. Ed's Exxon; Docket No. RO82–21–000, Herbert Bailey d.b.a. Aptos Shell; Docket No. RO82–22–000, Ken Betts d.b.a. Bubble Machine; Docket No. RO82–23–000, Bud Adams d.b.a. Bud Exxon Service; Docket No. RO82–24–000, C. J. King d.b.a. C. J. King Chevron; Docket No. RO82–25–000, Charles Salles d.b.a. Charlie's Exxon Service; Docket No. RO82–26–000, Roland K. Aronson d.b.a. Crossroad Texaco; Docket No. RO82–27–000, Demitrius Montalvano d.b.a. Dimitri's Arco; Docket No. RO82–29–000, John J. Hughes, Jr. d.b.a. Hughes Burlingame Shell; Docket No. RO82–30–000, Jerry Anderson d.b.a. Jerry's Shell Service; Docket No. RO82–31–000, Young Kim d.b.a. Kim's Mobil; Docket No. RO82–32–000, V. J. Haavisto d.b.a. Mowry Chevron Service; Docket No. RO82–33–000, Vic Sassikian and Pacifica Shell Service; Docket No. RO82–34–000, Paul Provost d.b.a. Paul Provost Chevron; Docket No. RO82–35–000, Bill Sandusky d.b.a. Sandusky's Service; Docket No. RO82–36–000, Bud Tuite d.b.a. Shelter Creek Chevron; Docket No. RO82–37–000, Charles Arivett d.b.a. Skycrest Shell; Docket No. RO82–38–000, Jim Campbell d.b.a. Suds Machine Chevron Car Wash; Docket No. RO82–39–000, Ed Neiman d.b.a. Union Park Service

CAM–6. Docket No. RO82–44–000, A–1 Exxon; Docket No. RO82–45–000, Concord Chevron Service; Docket No. RO82–46–000, C P Marketing; Docket No. RO82–47–000, East 14th Auto Clinic; Docket No. RO82–48–000, Ed's Auto Service; Docket No. RO82–49–000, Ken Bett's Montclair Chevron; Docket No. RO82–50–000, Ken Bett's Towing Service; Docket No. RO82–52–000, Pacific Manor Shell; Docket No. RO82–53–000, Pinole Valley Chevron; Docket No. RO82–54–000, Redhill Towing Service; Docket No. RO82–58–000, Kent Brooks Chevron; Docket No. RO82–59–000, Steve's Exxon; Docket No. RO82–61–000, Half Moon Bay Exxon; Docket No. RO82–62–000, Lombard Chevron Service; Docket No. RO82–63–000, Chip's Chevron Service; Docket No. RO82–64–000, Lee Kreger's Chevron.

Consent Gas Agenda

CAG–1. Docket No. TA82–2–18–002 (PGA82–2, TPR82–2, AP82–2 and TT82–2), Texas Gas Transmission Corporation;

CAG–2. Docket No. TA82–2–61–002 (PGA82–2 and IPR82–2), West Lake Arthur Corporation;

CAG–3. Docket Nos. RP82–125–001 and RP81–121–000, Tennessee Gas;

CAG–4. Docket No. RP82–117–001, Midwestern Gas Transmission Company;

CAG–5. Docket No. RP82–116–001, Southern Natural Gas Company;

CAG–6. Docket No. RP82–120–000, Columbia Gas Transmission Corporation; Docket No. RP82–119–000, Columbia Gulf Transmission Company

CAG–7. Docket No. TA82–2–29–001 (PGA82–2a), Transcontinental Gas Pipe Line Company

CAG–8. Docket No. TA83–1–7–000 (PGA83–1 and IPR83–1), Southern Natural Gas Company

CAG–9. Omitted

CAG–10. Docket No. TA83–1–25–000 (PGA83–1), Mississippi River Transmission Corporation

CAG–11. Docket No. TA83–1–31–000 (PGA83–1 and IPR83–1), Arkansas Louisiana Gas Company

CAG–12. Docket No. TA83–1–32–000 (PGA83–1 and IPR83–1), Colorado Interstate Gas Company

CAG–13. Docket No. TA83–1–33–000 (PGA83–1 and IPR83–1), El Paso Natural Gas Company

CAG–14. Docket No. TA83–1–34–000 (PGA83–1), Florida Gas Transmission Company

CAG–15. Docket No. TA83–1–36–000 (PGA83–1), Mountain Fuel Supply Company

CAG–16. Docket No. TA83–1–37–000 (PGA83–1, IPR83–1 and DCA83–1), Northwest Pipeline Corporation

CAG–17. Docket No. TA83–1–39–000 (PGA83–1 and IPR83–1), Pacific Interstate Transmission Company

CAG–18. Docket No. TA83–1–41–000 (PGA83–1 and IPR83–1), Southwest Gas Corporation

CAG–19. Docket No. TA83–1–42–000 (PGA83–1 and IPR83–1), Transwestern Pipeline Corporation

CAG–20. Docket No. TA82–2–11–000 (PGA82–2a), United Gas Pipe Line Company

CAG–21. Docket No. RP82–132–000 North Penn Gas Company

CAG–22. Docket No. RP82–131–000 Southwest Gas Corporation

CAG–23. Docket No. RP82–56–002 Northwest Pipeline Corporation

CAG–24. Omitted

CAG–25. Docket No. RP79–12–004 (Reserved Issue) and RP79–12–004 (Extension Issue), El Paso Natural Gas Company

CAG–26. Docket No. RP82–1–000 Michigan Wisconsin Pipe Line Company

CAG–27. Docket Nos. CP70–22–004, RP71–113–000, RP73–102–002

CAG–28. Docket No. SA82–22–000, Houston Pipe Line Company

CAG–29. Docket No. ST82–296–000, Shreveport Interstate Gas Transmission Company

CAG–30. Docket No. ST81–8–001, Consumers Power Company

CAG–31. Docket No. ST81–6–001, Cabot Corporation

CAG–32. Docket No. ST81–43–001, Rocky Mountain Natural Gas Company, Inc.

CAG–33. Docket No. ST80–133–001, Delhi Gas Pipeline Company

CAG–34. Docket No. RI77–28–001, J & J Enterprises, Inc., et al.

CAG–35. Docket No. RI82–2–000, Everett J. Carlson, et al.

CAG–36. Docket No. CI82–303–001, Aminoil USA, Inc.; Docket No. CI82–306–001, Sun Exploration and Production Company; Docket Nos. CI75–475–002 and CI77–411–003, Chevron U.S.A., Inc., et al.; Docket Nos. CI82–286–001 and G–5320–001, Getty Oil Company, et al.; Docket No. CI82–279–001, ARCO Oil & Gas Company, Division of Atlantic Richfield Company; Docket No. CI82–318–001, Amerada Hess Corporation; Docket No. CI82–319–001, Texoma Production Company; Docket No. CI82–327–001 and CI82–328–001, Pogo Producing Company; Docket No. G–14247–001, Sohio Petroleum Company; Docket No. CS71–988–006, Damson Oil Corporation, Damson Resources Corporation, A & E Pipeline Company and Damson Gas Processing Corp. (Damson Oil Corporation, Damson Resources Corporation and A & E Pipeline Company), et al.

CAG–37. Docket No. CP78–124–007, Northern Border Pipeline Company

CAG–38. Docket Nos. CP81–302–003 and CP81–303–006, Natural Gas Pipeline Company of America

CAG–39. Docket No. CP82–24–000, Texas Eastern Transmission Corporation

CAG–40. Docket No. CP81–535–002, Texas Eastern Transmission Corporation

CAG–41. Docket No. CP81–430–000, Kansas-Nebraska Natural Gas Company; Docket No. CP81–432–000, Northern Utilities, Inc.

CAG–42. Docket No. CP82–454–000, United Gas Pipe Line Company

CAG–43. Docket No. CP82–213–000, Panhandle Eastern Pipe Line Company

CAG–44. Docket No. CP82–410–000, Arkansas Louisiana Gas Company a Division of Arkla, Inc.

CAG–45. Docket No. CP82–334–000, Texas Gas Transmission Corporation

CAG–46. Docket No. CP82–455–000, United Gas Pipe Line Company

CAG–47. Docket No. CP82–329–000, Texas Eastern Transmission Corporation

CAG–48. Docket No. CP82–314–000, Alabama-Tennessee Natural Gas Company; Docket No. CP82–330–000, Texas Eastern Transmission Corporation

CAG–49. Docket No. CP82–462–000, Northwest Pipeline Corporation

CAG–50. Docket No. CP81–155–000, *City of Florence, Alabama*, Applicant v. *Tennessee Gas Pipeline Company*, a Division of Tenneco Inc., and *Alabama-Tennessee Natural Gas Company*, Respondents

I. Licensed Project Matters

p–1. Project Nos. 2849–001 and 3295–000, East Columbia Basin Irrigation District, Quincy-Columbia Basin Irrigation District and South Columbia Basin Irrigation District

II. Electric Rate Matters

ER–1. Docket No. QF82–179–000, Hetch Hetchy Water & Power Department
ER–2. Docket No. EF82–2011–000, Bonneville Power Administration
ER–3. Docket No. ER82–576–000, Energy Conversions of America, Inc.
ER–4. Docket Nos. ER80–71–001, 002 and 003, Central Illinois Public Service Company
ER–5. Docket Nos. ER76–828–002, 003, 004, and 005, Nantahala Power & Light Company; Docket Nos. ER78–18–002, 003, 004, and 005, *Town of Highlands, North Carolina, et al.* v. *Nantahala Power & Light Company*
ER–6. Docket Nos. ER79–128–001, ER79–128–002, ER79–128–003, and ER79–128–004, Arizona Public Service Company
ER–7. Docket Nos. ER78–379–000 and ER78–383–000, Indiana & Michigan Electric Company
ER–8. Docket No. ER77–277–002 (Phase II), Pennsylvania Power Company

Miscellaneous Agenda

M–1. Docket No. RM82–4–000, Revision of Monthly Report of Cost and Quality of Fuels for Electric Plants: Form No. 423
M–2. Docket No. RM82– , Compliance With ACRS Transition Provisions of the Economic Recovery Tax Act of 1981
M–3. Reserved
M–4. Reserved
M–5. Docket No. RM81–21–000, Recovery of Alaska Natural Gas Transportation System Charges
M–6. Docket No. GP81–11–000, Mobil Producing Texas & New Mexico, Inc.
M–7. Docket No. RA82–8–000, Little America Refining Company

Gas Agenda

I. Pipeline Rate Matters

RP–1. Omitted
RP–2. Docket Nos. TA82–2–9–002, 003, 004 and 005 (PGA82–2, IPR82–2, DCA82–2 and R&D82–2) Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Docket Nos. RP81–54–000, RP82–12–000 and RP82–1–9–001, Tennessee Gas Pipe Line Company
RP–3. Docket No. RP82–67–000, Natural Gas Pipeline Company of America
RP–4. Docket No. RP82–102–000, Gas Research Institute
RP–5. Docket No. RP78–78–001 (Abandoned Projects), Natural Gas Pipeline Company of America
RP–6. Docket Nos. TA82–2–33–000, 001, 002, 003, 004, 005, 007, 008 and 009 (PGA82–2, IPR82–2, AP82–2 and TT82–2), El Paso Natural Gas Company
RP–7. Docket No. TA82–2–33–000 (PGA82–2c), El Paso Natural Gas Company

II. Producer Matters

CI–1. Docket No. CI75–45, Tenneco Oil Company; Docket No. CI75–59, Placid Oil Company; Docket No. CI75–66, Hunt Petroleum Corporation; Docket No. CI75–67, Hunt Industries; Docket No. CI75–68, Hunt Oil Company; Docket No. CI75–69, Kewanee Oil Company; Docket No. CI75–105, Tenneco Oil Company; Docket Nos. CI75–684 and CI75–107, Shell Oil Company; Docket No. CI75–122, Ashland Oil, Inc., Docket No. CI75–138, Transocean Oil, Inc., Docket No. CP73–339, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Docket Nos. CP75–330 and CP75–19, Trunkline Gas Company; Docket Nos. CP75–23, CP75–119, CP75–120, CP78–121, CP78–229, and CP77–559, Tennessee Gas Pipeline Company, Docket No. CP75–149, Trunkline Gas Company; Docket Nos. CP75–316 and CP75–151, Southern Natural Gas Company; Docket No. CP78–135, Texas Eastern Transmission Corporation; Docket Nos. CP75–153, Southern Natural Gas Company, United Gas Pipe Line Company and Florida Gas Transmission Company; Docket No. CP78–149, United Gas Pipeline Company; Docket No. CP75–163, Southern Natural Gas Company; Docket No. CP75–258, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. and Tenneco Chemicals, Inc.; Docket No. CP75–288, Ammonia Enterprises Pipeline, Inc.; Docket No. CP75–733, Highland Resources; Docket No. CP78–164, Natural Gas Pipeline Company of America and Trunkline Gas Company; Docket No. CP79–387, First Mississippi Corporation
CI–2. Docket No. G–3636–003, Allied Chemical Corporation

III. Pipeline Certificate Matters

CP–1. Docket No. CP81–433–001, Columbia Gas Transmission Corporation
CP–2. (A) Docket No. CP79–80–008, Trailblazer Pipeline Company, Overthrust Pipeline Company and Colorado Interstate Gas Company; (b) Docket No. CP82–450–000, Colorado Interstate Gas Company; (C) Omitted
CP–3. Docket Nos. RP71–29, et al. (Phase I and II) and SA80–4, United Gas Pipe Line Company
CP–4. Docket Nos. CP74–138 and CP74–139, Trunkline LNG Company; Docket No. CP74–140, Trunkline Gas Company; Docket No. CP82–519–000, State of Michigan and Michigan Public Service Commission. Docket No. CP82–517–000, *Association of Businesses Advocating Tariff Equity* v. *Trunkline LNG Company and Trunkline Gas Company*

Kenneth F. Plumb,

Secretary.

[S–1381–82 Filed 9–28–82; 12:08 am]
BILLING CODE 6717–01–M

2

FEDERAL ENERGY REGULATORY COMMISSION

TIME AND DATE: 10:00 a.m., September 30, 1982.

PLACE: 825 North Capitol Street, N.E., Washington, D.C. 20426, Room 9306.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

(1) Docket Nos. IN78–1 and IN79–3, Tenneco, Inc., *et al.*
(2) Docket No. IN80–8, Caddo Pine Island Corporation
(3) Docket No. CI75–201–002, Atlantic Richfield, *et al.*
(4) Civil action or private investigation of producer-owned natural gas processing plants
(5) Docket No. IN80–12, Gas Producing Enterprises, Inc.
(6) Docket No. GP81–33–000, Paul E. Cameron, Jr., Inc.
(7) Docket No. CP75–93 (Remand), Black Marlin Pipeline Cmpany

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357–8400.

Kenneth F. Plumb,

Secretary.

[S–1379–82 Filed 9–28–82; 12:02 pm]
BILLING CODE 6717–01–M

3

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Thursday, September 30, 1982.

PLACE: Board Room, 6th Floor, 1700 G St., N.W., Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

MATTERS TO BE CONSIDERED: Request for Waiver Under Section 407(p)(2) of the National Housing Act.

No. 63, September 24, 1982.

[S–1383–82 Filed 9–24–82; 3:18 pm]
BILLING CODE 6720–01–M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Monday, October 4, 1982.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: September 24, 1982.

James McAfee,

Associate Secretary of the Board.

[S–1382–82 Filed 9–24–82; 2:52 pm]
BILLING CODE 6210–01–M

5 .

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 10 a.m., Tuesday, October 5, 1982.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th Street & Constitution Avenue, N.W., Washington, D.C. 20423.

STATUS: Open Regular Conference.

MATTER TO BE CONSIDERED: Ex Parte No. MC–166—Pricing Practices By Motor Common Carriers of Property Since the Motor Carrier Act of 1980.

CONTACT PERSON FOR MORE INFORMATION: Robert R. Dahlgren, Director, Office of Communications, Telephone: (202) 275–7252.

[S–1380–82 Filed 9–24–82; 12:00 pm]

BILLING CODE 7035–01–M

federal register

Tuesday
September 28, 1982

Part II

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Elimination of Medicare Indirect Subsidy for Private Rooms

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Elimination of Medicare Indirect Subsidy for Private Rooms

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule changes the way Medicare determines the costs of inpatient routine services (bed and board), including costs of private rooms, furnished in hospitals and skilled nursing facilities (SNFs). This change is needed to prevent Medicare from sharing in the added costs of private rooms unless those rooms are used by Medicare beneficiaries and are medically necessary. This regulation implements section 111 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248).

DATES:

Effective date: October 1, 1982. Although this regulation is final, comments may be submitted as described below.

Comment Date: To assure consideration, comments must be mailed by October 28, 1982.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235.

In commenting, please refer to file code BPP–216–FC.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection, beginning approximately three weeks after publication, in Room 309–G of the Department's offices at 200 Independence Ave. S.W., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: William Goeller, (301) 597–1802.

SUPPLEMENTARY INFORMATION:

I. General Background

A. Current Problem

The Medicare program recognizes the reasonable costs of general inpatient routine services furnished by hospitals and skilled nursing facilities (SNFs) as allowable costs. Under the Medicare provider reimbursement regulations at 42 CFR 405.452(d)(7), these costs are reimbursed on an overall average cost per diem basis. That is, the total allowable cost of inpatient general routine services (excluding intensive care type units) is divided by the total number of patient days, including private room patient days, to arrive at an overall average cost per diem applicable to each day of care furnished to Medicare and non-Medicare patients.

Because of the current methodology for determining general inpatient routine service costs includes the higher cost of private rooms, this methodology does not fully implement the provisions of the Medicare law that deal with payment for private rooms furnished to Medicare beneficiaries. These provisions state that Medicare reimbursement for bed and board may not exceed the reasonable cost of semi-private accommodations unless more expensive accommodations are medically necesary.

(Section 1861(v)(2)(A) of the Act (42 U.S.C. 1395x(v)(2)(A))). (Section 111 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248), as described in item B below, directs the Secretary to issue regulations enforcing the requirements of section 1861(v)(2)(A) of the Act). Medicare regulations at 42 CFR 405.116(b) specify that a private room is ordinarily medically necessary only when a patient's condition requires him to be isolated or when an individual (in need of immediate inpatient hospital care but not requiring isolation) is admitted to a hospital which has no semiprivate or ward accommodations, or at a time when such accommodations are occupied.

Also, the statute allows a provider to charge a beneficiary for items and services that are more expensive than those covered by the program when they have been furnished at the beneficiary's request. (Section 1866(a)(2)(B)(i) of the Act (42 U.S.C. 1395cc(a)(2)(B)(i))). Thus, if a Medicare beneficiary requests private room accommodations that are not medically necessary, the provider may bill the beneficiary for the difference between the private room and semi-private room charges.

Since Medicare has included the higher costs of private rooms in determining provider's inpatient per diem routine service cost, the provider who bills the beneficiary the difference in charges between the private and semi-private room accommodations would to some extent receive duplicate payment for the accommodations. This situation results in an unintended subsidy to providers for private room costs.

B. 1982 Legislation

On September 3, 1982, Congress enacted the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248). Section 111 of this Act requires the Secretary to issue regulations limiting Medicare routine cost reimbursement for private rooms that are not medically necessary to the reasonable cost of semi-private accommodations, as determined under section 1861(v)(2) of the Act. The legislation specifies that the Secretary shall not allow as a reasonable cost the estimated amount by which costs for nonmedically necessary private room accommodations used by Medicare beneficiaries exceeds the costs which would have been incurred for semi-private accommodations. The Conference Committee Report on Pub. L. 97–248, does not precisely specify how an estimate of the additional cost of nonmedically necessary private rooms is to be developed (H.R. Rep. No. 97–760, 97th Cong., 2nd Sess. 422f (1982). However, the Senate Finance Committee Report on H.R. 4961, which was considered by the Conference Committee in recommending enactment of Pub. L. 97–248, suggests that this be accomplished by subtracting from a provider's allowable cost the estimated differential cost based on the differential charges for private rooms over semi-private rooms (S. Rep. No. 97–494, vol. 1, 97th Cong., 2nd Sess. 27 (1982). Medicare will continue to pay the private room cost differential for medically necessary private rooms used by program beneficiaries.

Section 111(b) specifies that these final regulations, (whether interim or other basis) must be issued by October 1, 1982. The law further specifies that if the regulations are issued as on interim final basis, the final rule must be published by January 31, 1983.

II. Revision to Regulations

A. General Approach

We are amending the Medicare regulations on cost apportionment (42 CFR 405.452) to revise the methodology for computing reimbursement for inpatient general routine service costs. Under this rule, Medicare's methodology for computing reimbursement for inpatient routine services will specifically provide for including the difference in cost between semi-private and private accommodation in Medicare reimbursement only when private rooms

are furnished to Medicare beneficiaries for medically necessary reasons. In this manner, reimbursement for medically unnecessary private room days used by Medicare beneficiaries will not exceed the reasonable cost of services furnished in semi-private rooms, while the higher cost of medically necessary private rooms actually used by Medicare beneficiaries will be specifically recognized. (Providers are still permitted to collect the private room charge differential from Medicare beneficiaries when private rooms are requested and are not medically necessary.) In addition, under this methodology, Medicare will no longer share in the cost of private rooms used by non-Medicare patients.

In general, this rule requires each provider to determine its total cost of private rooms over semi-private room accommodations furnished to all patients, and to exclude this amount from its total inpatient general routine service costs, as suggested by the Senate Finance Committee report. The provider also is required to calculate its per diem inpatient general routine service cost, and the per diem amount of the private room cost differential.

To determine its allowable cost of inpatient general routine services furnished to Medicare patients, the provider multiplies its per diem inpatient general routine service cost, excluding the private room cost differential, by the number of days of care it furnished Medicare beneficiaries and adds to this the product of its per diem private room cost differential times the number of days of care it furnished Medicare beneficiaries in medically necessary private rooms. For purposes of this calculation, "private rooms" and "semi-private rooms" would include rooms in sub-intensive or intermediate care units that do not qualify for separate reimbursement as intensive care type units under 42 CFR 405.452(d)(10).

The specific methodology for implementing this legislation is described in detail in section II. B. of this preamble. We believe that application of this methodology will implement most effectively the requirements of the Medicare law regarding payment for inpatient general routine services in private rooms furnished by hospitals and SNFs.

B. Methodology for Determining Reimbursement for Inpatient General Routine Service Costs.

We are requiring that hospital and SNF reimbursement for inpatient general routine service costs be determined by applying the methodology that is outlined in the following chart, and is explained in detail in steps 1–3 below.

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1. Average per diem private room cost differential.

a. Average Per Diem Private Room Charge Differential = Average Per Diem Private Room Charge minus Average Per Diem Semi-Private Room Charge

b. Inpatient General Cost/Charge Ratio = Total Inpatient General Routine Costs / Total Inpatient General Routine Charges

c. Average Per Diem Private Room Cost Differential = Average Per Diem Private Room Charge Differential X Inpatient General Routine Cost/Charge Ratio

2. Average cost per diem for inpatient general routine services

a. Total Private Room Cost Differential = Average Per Diem Private Room Cost Differential X Total Private Room Patient Days

b. Total Inpatient General Routine Service Costs Net of the Private Room Cost Differential = Total Inpatient General Routine Service Costs minus Total Private Room Cost Differential

c. Average Cost Per Diem for Inpatient General Routine Services =

Inpatient General Routine Service Costs Net of Total Private Room Cost Differential
Total Patient Days for All Inpatient General Routine Accommodations

3. Medicare inpatient general routine service costs.

(Average Cost Per Diem for Inpatient General Routine Services X All Medicare Inpatient General Routine Days Including Medicare Private Room Days.

+

(Average Per Diem Private Room Cost Differential X Medicare Medically Necessary Private Room Days)

BILLING CODE 4120-01-C

To apply the formulas described in this chart, hospitals and SNFs participating in Medicare will be required to take the following steps:

Step 1a

Determine the average per diem private room charge differential between a private room patient day and semi-private room patient day, by subtracting the average per diem charge for all semi-private room accommodations from the average per diem charge for all private room accommodations. The average per diem charge for private room accommodations would be determined by dividing the total charges for private room accommodations by the total number of days of care furnished in private room accommodations. The average per diem charge for semi-private accommodations would be determined by dividing the total charges for semi-private room accommodations by the total number of days of care furnished in semi-private accommodations.

Step 1b

Determine the inpatient general routine cost/charge ratio by dividing the total inpatient general routine service costs by the total inpatient general routine service charges.

Step 1c

Determine the average per diem private room cost differential by multiplying the average per diem private room charge differential determined in Step 1a by the inpatient general routine cost/charge ratio determined in Step 1b.

Step 2a

Determine the total private room cost differential by multiplying the average per diem private room cost differential determined in Step 1c by the total number of private room patient days.

Step 2b

Determine the total inpatient general routine service costs net of the total private room cost differential by subtracting the total private room cost differential determined in Step 2a from total inpatient general routine service costs.

Step 2c

Determine the average cost per diem for inpatient general routine services by dividing the total inpatient routine service cost, net of the total private room cost differential determined in Step 2b by all inpatient general routine days for all accommodations.

Step 3

Determine the total inpatient general routine service cost applicable to Medicare including the cost of medically necessary private rooms used by Medicare patients. First, the provider multiplies the average cost per diem for inpatient general routine services determined in Step 2c by all Medicare inpatient general routine days, including Medicare private room days regardless of whether or not they were medically necessary. The provider then adds to this amount the private room cost differential applicable to Medicare inpatient general routine days. This is determined by multiplying the average per diem private room cost differential determined in Step 1c by the number of medically necessary private room days of care furnished to Medicare patients.

An example of the calculation of Medicare reimbursement for inpatient general routine service costs using this proposed methodology is presented in section 405.452(e)(2)(iii) of the revised regulations.

This methodology does not distinguish between ward and semi-private accommodations. We believe that it is not necessary to specifically identify the difference in cost between semi-private and ward accommodations because the provider may not collect separate charges from beneficiaries for ward accommodations. (Providers generally do collect separate charges for private rooms.) Furthermore, in light of the small proportion of ward days compared to semi-private and private days, we believe the aggregation of ward days and cost with days and cost of semi-private rooms will have very little effect on overall Medicare reimbursement.

Section 1861(v)(3) of the Social Security Act (42 U.S.C. 1395x(v)(3)) requires that Medicare payments to a provider be reduced if a beneficiary is put in ward accommodations he/she has not requested, if the use of these accommodations is not consistent with the purposes of the Medicare law. This reduction will continue to be made in the same manner under this revised regulation.

Section 103 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248) eliminated use of the inpatient routine nursing salary cost differential in determining Medicare reimbursement for routine service costs. This amendment is effective with respect to cost reporting periods ending after September 30, 1982, but in the case of any cost reporting period beginning before October 1, 1982, any resulting reduction in Medicare payment will be imposed only in proportion to the part of the period which occurs after September 30, 1982. Final regulations implementing this change in the statute will be issued at approximately the same time as this rule. Although these interim final regulations still reference the nursing salary differential, the differential will only be effective as discussed above. (See **Federal Register** publication entitled Elimination of Inpatient Routine Nursing Salary cost differential for more details.)

III. Swing Beds

Section 904 of the Omnibus Reconciliation Act of 1980 added section 1883 to the Social Security Act (42 U.S.C. 1395tt). Under this section (the swing bed provision), certain rural hospitals with fewer than 50 beds may use their inpatient beds to furnish SNF services to Medicare and Medicaid beneficiaries, and intermediate care facility (ICF) services to Medicaid beneficiaries. On July 20, 1982, we published in the **Federal Register** interim final regulations implementing this provision of the law (47 FR 31518). Payment for SNF and ICF services in a swing-bed hospital is made at the average rate per patient day paid for SNF and ICF routine services respectively, during the previous calendar year under the State's Medicaid plan.

Medicare reimbursement for routine hospital services is determined after the amounts attributable to the routine SNF and ICF services provided under the swing-bed approval are subtracted from total general routine service costs. Likewise, in determining the average general routine cost per diem, only those days of hospital patient care (net of SNF and ICF days) are used. Once the costs and days of care for SNF and ICF services are removed, the apportionment methodology for calculating the hospital level average cost per diem described in section II.B. of this preamble applies. The methodology for eliminating noncovered private room costs does not apply to the computation of routine costs applicable to SNF and ICF days of care. That is, private room days used by SNF and ICF patients in a swing-bed setting would not affect reimbursement for these days because the statute specifically provides for the rate of payment for these days.

Certain small rural institutions that maintain distinct-part SNFs and that do not exceed the maximum number of beds could, without obtaining swing-bed approval, opt to compute reimbursement using the swing-bed methodology. That is, the institution would continue to furnish only hospital services in hospital beds and only SNF services in the

distinct-part SNF beds. However, in computing Medicare reimbursement, the hospital would be permitted to combine the costs of the hospital and SNF components and to use the swing-bed reimbursement methodology for payment as if the two components were combined and had a swing-bed approval. In these cases, the hospital is required to use the same methodology for eliminating the private room subsidy as those hospitals that actually have a swing-bed approval.

IV. Impact Analysis

A. Executive Order 12291

The Secretary has determined that these regulations do not meet the criteria for a major rule that are set forth in section 1(b) of Executive Order 12291. That is, the regulations will not have an annual effect on the economy of $100 million or otherwise meet the threshold criteria of the Executive Order.

We do not have an accurate estimate of the Medicare program savings associated with this rule. Actual savings will vary with the difference between provider's charges for semi-private and private rooms and the proportion of non-medically necessary private rooms used by Medicare beneficiaries. Since it is possible that this rule may influence the decisions of providers in determining charges for semi-private and private rooms, we are not able to project definitive program savings, particularly long-term savings. In any event, the amount of savings will not reach the target threshold to be considered a major rule.

However, even if we were to determine that there was an impact of $100 million or more, we would not classify it as a major rule for purposes of the Executive Order. This is because we have determined that Section 111 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248) has occasioned this impact, and not these regulations which merely implement the statutory provision. Therefore, a regulatory impact analysis is not required.

B. Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b) enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that these regulations will not have a significant economic impact on a substantial number of small entities.

The reason for the Secretary's certification is that, as explained in the impact analysis under the Executive Order section, these rules will not have a major dollar impact. Although we do not know exact program savings associated with this revision, we are certain it is less than $100 million. Since the Medicare program will spend approximately $37.5 billion for inpatient services in FY 1983, this reduction will amount to less than .4 percent reduction in Medicare payments nationally. For purposes of the Regulatory Flexibility Act, we have generally considered significant economic impact to be a change which would result in a reduction of 5 percent of a facility's total revenue.

The actual impact of this rule on an individual provider will vary with the proportion of private rooms used by Medicare beneficiaries compared to semi-private rooms used, and with the providers charge differential between private and semi-private rooms. Therefore, we are not able to predict precisely the impact on any individual entity as it is dependent on behavior patterns of providers and beneficiaries. However, nearly all providers will be affected by this proposed rule since the private room cost differential applicable to all patients will be removed from total general routine service costs before the general routine service costs are apportioned to Medicare. Since the less than .4 percent reduction in Medicare payments would be spread among the thousands of providers affected, the impact will not be significant.

However, even if there were a significant effect on a substantial number of small entities, we have determined that this effect is the result of the statutory provision, and not these regulations which merely implement these provisions. Therefore, a regulatory flexibility analysis is not required.

C. Discussion

Although this revision decreases providers' revenue, providers would still be paid their reasonable costs for services. Medicare will continue to pay providers their full reasonable costs of medically necessary private rooms furnished to Medicare patients. Additionally, providers can bill beneficiaries for the incremental charges for private rooms that are not medically necessary but have been furnished at the beneficiary's request.

V. Waiver of Proposed Rulemaking

Section 111(b) of Pub. L. 97–248 specifies that "final regulations (whether on an interim or other basis)" implementing the elimination of private room subsidy shall be issued by October 1, 1982. This provision contemplates that this statutory provision can only be properly implemented by regulations which are issued immediately. Therefore, in our view, publishing a notice of proposed rulemaking would be impractical, unnecessary, and contrary to public interest. We believe that delaying implementation of the statute by the amount of time required for proposed rulemaking would be impractical and contrary to the public interest because the statute does not allow the Secretary the discretion to continue payment for the added costs of private rooms for cost reporting periods beginning on or after October 1, 1982. Moreover, we expect that implementation of the statute will result in budget savings. Any delay in implementation would reduce these savings, and this would be contrary to the public interest of reducing deficit spending. In view of these considerations, we find good cause to waive proposed rulemaking procedures and the usual 30-day delay in effective date.

We will, however, consider any comments on this rule that are mailed by the date specified in the "DATES" section and make any further changes that may be necessary.

VI. Miscellaneous

A. Clearance of Reporting Requirements

This final rule contains information collection requirements that are subject to Office of Management and Budget (OMB) review. As required by section 3504(h) of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), we have submitted a copy of this rule to OMB for review of these information collection requirements.

These requirements are specified at § 405.452(d)(7) and (d)(11) of these regulations. The methodology for eliminating the private room cost differential requires the use of data that are not currently collected by the Medicare cost report (Form HCFA–2552). We assume that hospitals and SNFs presently maintain records on charges for private and semi-private rooms as well as their use by Medicare beneficiaries as part of their private business and accounting practices. Therefore, we do not anticipate that requiring this additional reporting will present a significant burden on providers. We are revising the Medicare cost report to provide for the collection of this additional data.

B. Comments

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, we will consider any comments on this rule that are received by the date specified in the

"DATES" section. If as a result of public comments we conclude that changes in these interim final regulations are needed, we will include these changes in the final regulations described in item B below.

C. Publication of revised final regulations.

Section 111(b) of Pub. L. 97–248 specifically requires the Secretary of HHS to first issue such final regulations (whether on an interim or other basis) before October 1, 1982, as may be needed to eliminate the indirect subsidy of private rooms on a timely basis.

This legislation further requires that if these regulations are promulgated on an interim final basis, the Secretary shall provide an opportunity for public comment and appropriate revision to these regulations, so that they are not on an interim basis later than January 31, 1983.

To comply with these requirements, we are publishing this rule on an interim final basis. As required by the law we will consider all public comments we receive on the rule, determine whether changes in these interim regulations are needed, and publish final regulations implementing section 111 by January 31, 1983.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health Care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

42 CFR Part 405, Subpart D is amended as set forth below:

1. The authority citation for 42 CFR Part 405, Subpart D, is amended to read as follows:

Authority: Secs. 1102, 1814(b), 1833(a), 1861(v), 1871, and 1883, 49 Stat. 647, as amended, 79 Stat. 296, 79 Stat. 302, 79 Stat. 322, 79 Stat. 331; 42 U.S.C. 1302, 1395f(b), 1395l (a), 1395x(v), 1395hh, and 1395tt, unless otherwise noted.

2. 42 CFR 405.452 is amended by reprinting the introductory material of paragraph (b), by revising paragraph (b)(1)(i), by revising the heading of (b)(1)(ii), and by adding a new paragraph (b)(1)(iii) to read as follows:

§ 405.452 Determination of cost of services to beneficiaries.

* * * * *

(b) *Principle for cost reporting periods starting after December 31, 1971.* Total allowable costs of a provider shall be apportioned between program beneficiaries and other patients so that the share borne by the program is based upon actual services received by program beneficiaries. For cost reporting periods starting after December 31, 1971, the methods of apportionment are defined as follows:

(1) *Departmental Method*—(i) *Methodology.* Except as provided in paragraph (b)(1)(ii) of this section with respect to the direct apportionment of malpractice costs, and in paragraph (b)(1)(iii) of this section with respect to the treatment of the private room cost differential for cost reporting periods starting on or after October 1, 1982, the ratio of beneficiary charges to total patient charges for the services of each ancillary department is applied to the cost of the department; to this is added the cost of routine services for program beneficiaries, determined on the basis of a separate average cost per diem for general routine patient care areas as defined in paragraph (d)(7) of this section, taking into account, to the extent pertinent, an inpatient routine nursing salary cost differential (see § 405.420 for definition and application of this differential), and in hospitals, a separate average cost per diem for each intensive care unit, coronary care unit, and other intensive care type inpatient hospital units.

(ii) *Exception: Malpractice insurance.* For cost reporting periods beginning on or after July 1, 1979, costs of malpractice insurance premiums and self-insurance fund contributions must be separately accumulated and directly apportioned to Medicare. The apportionment must be based on the dollar ratio of the provider's Medicare paid malpractice losses to its total paid malpractice losses for the current cost reporting period and the preceding 4-year period. If a provider has no malpractice loss experience for the 5-year period, the costs of malpractice insurance premiums of self-insurance fund contributions must be apportioned to Medicare based on the national ratio of malpractice awards paid to Medicare beneficiaries to malpractice awards paid to all patients. The Health Care Financing Administration will calculate this ratio periodically based on the most recent departmental closed claim study. If a provider pays allowable uninsured malpractice losses incurred by Medicare beneficiaries, either through allowable deductible or coinsurance provisions, or as a result of an award in excess of reasonable coverage limits, or as a governmental provider, such losses and related direct costs must be directly assigned to Medicare for reimbursement.

(iii) *Exception: Indirect cost of private rooms.* For cost reporting periods starting on or after October 1, 1982, the additional cost of furnishing services in private room accommodations is apportioned to Medicare only when these accommodations are furnished to program beneficiaries, and are medically necessary. To determine routine service cost applicable to beneficiaries,

(A) Multiply the average cost per diem (as defined in paragraph (d)(7)(ii) of this section) by the total number of Medicare patient days (including private room days whether or not medically necessary).

(B) Add the product of the average per diem private room cost differential (as defined in paragraph (d)(11) of this section) and the number of medically necessary private room days used by beneficiaries.

(C) The days in paragraphs (b)(iii) (A) and (B) of this section do not include private rooms furnished for SNF type and ICF services under the swing bed provision.

3. 42 CFR 405.452(d) is amended by revising paragraph (7) and adding a new paragraph (11) to read as follows:

* * * * *

(d) *Definitions.* * * *

(7) *Average cost per diem for general routine services*—(i) *Average cost per diem for routine services: for cost reporting periods beginning before October 1, 1982.* The average cost per diem for general routine services for cost reporting periods beginning before October 1, 1982, means the amount computed by dividing the total allowable inpatient cost for routine services (excluding the cost of services provided in intensive care units, coronary care units, and other intensive care type inpatient hospital units as well as nursery costs) by the total number of inpatient days of care (excluding days of care in intensive care units, coronary care units, and other intensive care type inpatient hospital units and newborn days) rendered by the provider in the accounting period.

(ii) *Average cost per diem for general routine services: for cost reporting periods beginning on or after October 1, 1982.* The average cost per diem for

general routine services for cost reporting periods beginning on or after October 1, 1982, subject to the provisions on swing bed hospitals, means the average cost of general routine services net of the private room cost differential. The average cost per diem is computed by the following methodology:

(A) Determine the total private room cost differential by multiplying the average per diem cost differential determined in paragraph (d)(11) of this section by the total number of private room patient days.

(B) Determine the total inpatient general routine service costs net of the total private room cost differential by subtracting the total private room cost differential determined in paragraph (d)(7)(ii)(A) from total inpatient general routine service costs.

(C) Determine the average cost per diem by dividing the total inpatient general routine service cost net of private room cost differential determined in paragraph (d)(7)(ii)(B) by all inpatient general routine days, including total private room days. * * *

(11) *Average per diem private room cost differential.* (i) Average per diem private room cost differential means the difference in the average per diem cost of furnishing routine services in a private room and in a semi-private room. (This differential is not applicable to hospital intensive care type units.)

(ii) To compute the average per diem private room cost differential:

(A) Determine the average per diem private room charge differential by subtracting the average per diem charge for all semi-private room accommodations from the average per diem charge for all private room accommodations. The average per diem charge for private room accommodations is determined by dividing the total charges for private room accommodations by the total number of days of care furnished in private room accommodations. The average per diem charge for semi-private accommodations is determined by dividing the total charges for semi-private room accommodations by the total number of days of care furnished in semi-private accommodations.

(B) Determine the inpatient general routine cost/charge ratio by dividing total inpatient general routine service cost by the total inpatient general routine service charges.

(C) Determine the average per diem private room cost differential by multiplying the average per diem private room charge differential determined in paragraph (d)(11)(ii)(A) by the ratio determined in paragraph (d)(11)(ii)(B).

3. 42 CFR 405.452(e)(2) is amended by adding new paragraph (iii), to read as follows:

* * * * *

(e) *Application.* * * *

(2) *Departmental method.* * * *

(iii) *For cost reporting periods beginning on or after October 1, 1982.* The following illustrates how apportionment based on an average cost per diem for general routine services is determined.

HOSPITAL E

Facts	Private accommodations	Semi-private accommodations	Total
Total charges	$20,000	$175,000	$195,000
Total days	100	1,000	1,100
Programs days	70	400	470
Medically necessary for program beneficiaries	20		20
Total general routine service costs			165,000
Average private room per diem charge ($20,000 private room charges ÷ 100 days			[1]200
Average semi-private room per diem charge ($175,000 semiprivate charge ÷ 1,000 days			[1]175

[1] Per diem.

Average per diem private room cost differential

1. Average per diem private room charge differential ($200 private room per diem—$175, semi-private room per diem), $25.

2. Inpatient general routine cost/charge ratio ($165,000 total costs ÷ $195,000 total charges), 0.8461538.

3. Average per diem private room cost differential ($25 charge differential X .8461538 cost/charge ratio), $21.15.

Average cost per diem for inpatient general routine services

4. Total private room cost differential ($21.15 average per diem cost differential X 100 private room days), $2,115.

5. Total inpatient general routine service costs net of private room cost differential ($165,000 total routine cost—$2,115 private room cost differential), $162,885.

6. Average cost per diem for inpatient general routine services ($162,885 routine cost net of private room cost differential ÷ 1,100 patient days), $148.08.

Medicare general routine service cost

7. Total routine per diem cost applicable to Medicare ($148.08 average cost per diem X 470 Medicare private and semi-private patient days), $69,598.

8. Total private room cost differential applicable to Medicare ($21.15 average per diem private room cost differential X 20 medically necessary private room days), $423.

9. Medicare inpatient general routine service cost ($423 Medicare private room cost differential + $69,598 Medicare cost of general routine inpatient services), $70,021.

(Catalog of Domestic Assistance Program No. 13.773 Medicare—Hospital Insurance)

Dated: September 13, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 17, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-26342 Filed 9-27-82; 8:45 am]

BILLING CODE 4120-03-M

federal register

Tuesday
September 28, 1982

Part III

Department of the Interior

Bureau of Land Management

Recreation and Public Purposes Act Conveyances

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 2740 and 2910

Recreation and Public Purposes Act Conveyances; Amendments to the Recreation and Public Purposes Act Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Recreation and Public Purposes Act, as amended, provides the major avenue through which public land are transferred, by conveyance or lease, to the States or their political subdivisions and to nonprofit corporations and associations. The Act provides procedures for lands transfer for recreational and public purpose uses. This proposed rulemaking would make a number of amendments in the existing regulations to facilitate acquisition of public lands by States, State instrumentalities and subdivisions, including counties and municipalities, for recreational or public purposes. This proposed rulemaking would not affect the procedures as they relate to nonprofit associations.

DATE: Comments by November 29, 1982.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT:
John Mezes, (202) 343–8693
or
Robert C. Bruce, (202) 343–8735.

SUPPLEMENTARY INFORMATION: This proposed rulemaking would make a number of changes in the Bureau of Land Management's policy, as well as the application and procedural requirements, for disposal of public lands for recreation and public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.). All of the changes will facilitate the processing of applications and expedite the application process.

A major change that would be made by the proposed rulemaking involves revision in the system of filing of petition-applications by applicants and the administrative review by the Bureau of Land Management of the applications. The revised system would utilize a notice of realty action decision document as the classification decision required by the Act. Use of the notice of realty action process will provide for consistency with the same procedural system currently used by the Bureau on other types of public lands proposals and applications for land disposal and use authorizations.

Another change would place in the regulations a recommendation that potential applicants discuss acquisition proposals with the Bureau of Land Management in advance of the filing of a formal application. This preapplication process, which has worked well in other land disposal or use situations, would allow the Bureau to outline the type of information and background detail needed from applicants prior to the filing of an application and thereby speed the processing of the application, once it is filed.

Another change would enable immediate conveyance of title to lands to local governments for sanitary landfill purposes. Existing policy requires that lands for landfill purposes be leased for a number of years before title can be conveyed.

The proposed rulemaking would also add a number of miscellaneous changes that are for clarification as well as changes in policy that have been part of Bureau of Land Management administrative practice for years but have not been included in the regulations.

The principal author of this proposed rulemaking is John Mezes, Division of Lands, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The changes made by the proposed rulemaking will expedite the processing of applications for disposal of public lands under the Recreation and Public Purposes Act to governmental and nonprofit entities, both large and small. The effect of the changes will be beneficial to all participants in the program, but will not increase or decrease the overall benefits of the program.

The information collection requirements contained in these amendments to 43 CFR Parts 2740 and 2910 have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3507. The collection of this information will not be required until it has been approved by the Office of Management and Budget.

List of Subjects

43 CFR Part 2740

Intergovernment relations, Public lands—sales, Recreation.

43 CFR Part 2910

Airports, Alaska, Mines, Public lands, Recreation areas, Waste treatment and disposal.

Under the authority of the Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.), and sections 211 and 212 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1721), it is proposed to amend Subparts 2740, 2741 and 2742 of Part 2740 and Subpart 2912 of Part 2910, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

PART 2740—RECREATION AND PUBLIC PURPOSES ACT

1. Section 2740.0–5 is amended by adding a new paragraph (d) to read:

§ 2740.0–5 [Amended].

* * * * *

(d) 'Public purpose' means a use in which the public has an interest affecting the health, safety, morals and welfare of the general public, but does not include uses for habitation, cultivation, trade or manufacturing.

2. Section 2740.0–6 is amended by adding new paragraphs (c), (d) and (e) to read:

§ 2740.0–6 [Amended].

* * * * *

(c) Conveyances of Federally owned and reserved mineral interests under the provisions of section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719) on lands conveyed under the act shall not be made.

(d) Conveyances shall not be made for uses which can be more appropriately authorized under existing authorities other than the act or where the long-term recreation or public purposes use can be authorized without a plan of development or physical development of the lands.

(e) Non-Federal lands that have been acquired through exchange procedures (See 43 CFR Part 2200) and which are public lands may not be transferred

from public ownership by use of the authority in this part. If the lands meet the disposal criteria of public interest determination requirements contained in sections 203 and/or 206 of the Federal Land Policy and Management Act, they may be disposed of under the applicable provisions of that Act.

2. Subpart 2741 is amended by:

a. Inserting a new § 2741.3 to read:

§ 2741.3 Preapplication consultation.

(a) Potential applicants should contact the appropriate District Office of the Bureau of Land Management well in advance of the anticipated submission of an application. Early consultation is needed to familiarize a potential applicant with management responsibilities and terms and conditions which may be required in a lease or patent.

(b) Any information furnished by the applicant in connection with preapplication activity or use, which he/she requests not be disclosed, shall be protected to the extent consistent with the Freedom of Information Act (5 U.S.C. 552).

(c) Dependent upon the magnitude and/or public interest associated with the proposed use, various investigations, studies, analyses, public meetings and negotiations may be required of the applicant prior to the submission of the application. Where a determination is made that studies and analyses are required, the authorized officer shall inform the potential applicant of these requirements.

(d) The potential applicant may be permitted to go upon the public lands to perform casual acts related to data collection necessary for development of an acceptable plan of development as required in § 2741.4(b) of this title. These casual acts include, but are not limited to:

(1) vehicle use on existing roads;

(2) sampling;

(3) surveys required for siting of structures or other improvements; and,

(4) other activities which do not unduly disturb surface resources. If, however, the authorized officer determines that appreciable impacts to surface resources may occur, he/she may require the potential applicant to obtain a land use authorization permit with appropriate terms and conditions under the provision of part 2920 of this title.

§ 2741.3 Redesignated as § 2741.4 and amended.

b. Redesignating § 2741.3 as §2741.4 and amending it by adding a new paragraph (c) to read:

* * * * *

(c) Each application shall be accompanied by a nonrefundable filing fee of $100.

§ 2741.4 Redesignated as § 2741.5 and amended.

c. Redesignated § 2741.4 as § 2741.5 and amending it by:

1. Amending paragraph (f) by removing all after the first sentence; and

2. Revising paragraphs (h) and (i) to read:

* * * * *

(h)(1) A notice of realty action classifying public lands as suitable or unsuitable for sale or lease under the act shall be issued, published and sent to parties of interest by the authorized officer, including but not limited to, adjoining landowners and current or past land users, when a determination is made that such public lands are suitable or unsuitable for sale or lease under the act. The notice shall also segregate the lands from other appropriations, including locations under the mining laws, except as provided in the notice or amendment thereto. If no application is filed within 12 months after the issuance of the notice, the segregation shall be automatically vacated and the public lands returned to their former status.

(2) The notice shall include the use proposed for the public lands and shall specify whether the public lands are to be sold or leased. A notice of realty action is not a specific action implementing a resource management plan or amendment.

(3) The notice of realty action shall be published once in the **Federal Register** and once a week for 3 weeks thereafter in a newspaper of general circulation in the vicinity of the public lands included in the application submitted under the act and the regulations.

"(i) Patents or leases with option to patent may be issued for sanitary landfill purposes. Such requests, however, shall be based on ultimate use of the lands after completion of landfill activities and for uses which comply with the intent of the act and then in accordance with the approved development plan. Where the ultimate use of the lands is proposed to be for non-recreational or non-public purposes, such patent request shall be considered as a proposal to purchase the lands under section 203 of the Federal Land Policy and Management Act. Such sales shall be made at a price not less than their current fair market value at the time of purchase. Procedures covering such sales are contained in part 2710 of this title.;

* * * * *

§ 2741.5 Redesignated as § 2741.6.

e. Redesignated § 2741.5 as § 2741.6;

§ 2741.6 Redesignated as § 2741.7 and amended.

f. Renumbering § 2741.6 as § 2741.7 and amending it by adding to paragraph (d) a sentence to read "Where such reserved minerals are subject to disposition under the provisions of the Mineral Leasing Act of 1920, as amended, and supplemented (30 U.S.C. 181 et seq.), the Materials Act of July 31, 1947, as amended (30 U.S.C. 601 et seq.) and the Geothermal Stream Act of 1970 (30 U.S.C. 1001 et seq.), the regulations contained in Subchapter C of this title shall be utilized.";

§ 2741.7 Redesignated as § 2741.8

g. Redesignated § 2741.7 as § 2741.8; and

§ 2741.8 Redesignated as § 2741.9.

h. Redesignated § 2741.8 as § 2741.9.

3. Subpart 2742 is amended by:

a. Inserting a new § 2741.1 to read:

§ 2742.1 Lands subject to disposition.

Omitted lands and unsurveyed islands may be conveyed to States and their local political subdivisions under the provisions of section 211 of the Federal Land Policy and Management Act (43 U.S.C. 1721).

§§ 2742.1 through 2742.4 Redesignated as §§ 2742.2 through 2742.5.

b. Redesignating existing §§ 2742.1 through 2742.4 as §§ 2742.2 through 2742.5.

PART 2910—LEASES

4. Subpart 2912 is amended by:

a. Amending § 2912.1–1 by adding a new paragraph (h) to read:

§ 2912.1–1 [Amended].

* * * * *

(h) Public lands included in a mining claim upon which a validity determination has not been made may be leased under the provisions of the act. Leases issued under the act shall contain a provision that the lease is subject to all valid existing rights, including mining claims. Acceptance of a lease subject to valid existing rights is the responsiblity of the applicant.;

b. Revising § 2912.4–1 to read:

§ 2912.4–1 Requirement.

Compliance with all applicable regulations and guidelines regarding solid waste management or disposal is required under a lease issued for purposes involving disposal of solid waste.; and

d. Revising § 2912.4–2 to read:

§ 2912.4-2 Procedures.

(a) All new leases shall contain stipulations requiring compliance with existing regulations and guidelines on the subject of solid waste management and disposal. The authorized officer shall require that leases and respective plans of development and management already in existence without such specific stipulations shall be amended to require compliance with the regulations and guidelines on solid waste management and disposal. In all cases, the lease shall stipulate that failure to comply with the regulations and guidelines on solid waste management and disposal shall constitute sufficient grounds for cancellation of the lease.

(b) Lease applications shall include in the plan of development and management a detailed description of the methods and procedures that will be employed to achieve compliance with existing regulations and guidelines on solid waste management and disposal. The regulations and guidelines delineate minimum standards of performance that shall be followed. The recommended methods and procedures in the guidelines are means whereby requirements may be met. Alternate methods and procedures may be used in meeting the requirements when approved by the authorized officer.

Dated: August 30, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-26577 Filed 9-27-82; 8:45 am]

BILLING CODE 4310-84-M

federal register

Tuesday
September 28, 1982

Part IV

Environmental Protection Agency

General Pretreatment Regulations for Existing and New Sources; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 403

[OGC-FRL 2181-2]

General Pretreatment Regulations for Existing and New Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On January 28, 1981, the Environmental Protection Agency promulgated amendments to the General Pretreatment Regulations for Existing and New Sources (46 FR 9404–9460). On March 27, 1981, the effective date of these amendments was indefinitely postponed, in order to enable the Agency to conduct a Regulatory Impact Analysis under Executive Order 12291 (46 FR 19936, April 2, 1981). On January 31, 1982, pursuant to a rulemaking commenced by the Agency on October 13, 1981 (46 FR 50502–50503), all but four of the amendments were put into effect (47 FR 4518, February 1, 1982). On July 8, 1982, the United States Court of Appeals for the Third Circuit issued an opinion finding that the Agency's original indefinite deferral of the amendments to the general pretreatment regulations conrtavened the notice and comment provisions of the Administrative Procedure Act. To remedy this violation, the Court directed the Agency to retroactively reinstate all of the amendments, effective March 30, 1981. By today's notice, the Agency is complying with the Court's order and reinstating all of the amendments as of March 30, 1981.

DATES: The effective date of the amendments to the general pretreatment regulations originally promulgated on January 28, 1981, is March 31, 1981.

FOR FURTHER INFORMATION CONTACT: Bill Diamond, Environmental Protection Agency, Permits Division (EN–336), 401 M Street, S.W., Washington, D.C. 20460, (202) 426–4793.

SUPPLEMENTARY INFORMATION:

I. Background

On June 26, 1978, the Environmental Protection Agency (EPA) promulgated the General Pretreatment Regulations establishing mechanisms and procedures for controlling the introduction of wastes from industry and other non-domestic sources into publicly-owned treatment works (POTWs) (43 FR 27736–27773). Following promulgation, several parties brought actions in Federal court challenging these regulations. On January 28, 1981, pursuant to the terms of a settlement agreement entered into by some of the parties, EPA promulgated amendments to the 1978 regulations (46 FR 9404–9460). These amendments were originally scheduled to take effect on March 13, 1981. Their effective date was temporarily deferred until March 30, 1981 under the President's Memorandum of January 29, 1981 (46 FR 11972, February 12, 1981). On March 27, 1981, EPA indefinitely postponed the amendments' effective date to enable it to conduct a Regulatory Impact Analysis of the general pretreatment program under Executive Order 12291. EPA published a notice in the **Federal Register** to this effect on April 2, 1981 (46 FR 19936).

Subsequent to EPA's indefinite deferral of the effective date of the general pretreatment amendments, a suit was brought by the Natural Resources Defense Council (NRDC) in the United States Court of Appeals for the Third Circuit challenging EPA's deferral of the general pretreatment amendments without notice and comment (*NRDC* v. *EPA*, No. 81–2068). On October 13, 1981, while this suit was pending, EPA announced that it was terminating the indefinite deferral of the amendments, making them effective January 31, 1982 (46 FR 50502). In a separate action also taken on October 13, the Agency initiated a rulemaking and invited public comment on the issue of whether the effective date of all or specific portions of the amendments should be further postponed (46 FR 50503). After evaluating the comments received in response to the October 13 proposal, EPA, on February 1, 1982, announced that it was deferring the effective date of four of the amendments pending further analysis but that the remaining amendments would go into effect (47 FR 4518). The four amendments which continued to be deferred were the combined watestream formula (§ 403.6(e)), the removal credits section (§ 403.7) and the definitions of "pass through" (§ 403(n)) and "interference" (§ 403.3(i)).

On July 8, 1982, the United States Court of Appeals issued its opinion in the NRDC suit, finding that EPA's March 27, 1981 deferral of the amendments to the general pretreatment regulations violated the notice and comment provisions of the Administrative Procedure Act. To remedy this procedural violation, the Court directed EPA to retroactively reinstate all of the amendments as of March 30, 1981, including the four amendments which EPA further deferred on February 1, 1982. At the same time, the court noted that its decision did not "forestall future agency action with regard to the four amendments, provided such action is taken in compliance with the Administrative Procedure Act."

Pursuant to the Court's direction, EPA is hereby reinstating all of the amendments to the general pretreatment regulations, effective March 30, 1981. The Agency is continuing, however, to deliberate on what future steps might be appropriate with respect to these amendments.

One of the amendments which EPA continued to defer on February 1, 1982, but which is being put into effect by today's action is the combined wastestream formula. This formula triggers the three year compliance deadline for integrated facilities under the electroplating pretreatment standards (see, 40 CFR 413.01). As a result of today' action, these facilities will have three years from the combined wastestream formula's March 30, 1981 effective date, or until March 30, 1984, to comply with the electroplating pretreatment standards. Also as a result of today's action, the time allotted for integrated facilities to submit baseline reports (§ 403.12(b)), fundamentally different factors variance requests (§ 403.13) and category determination requests (§403.6) will begin to run. These facilities will have six months from today's date to submit baseline reports and fundamentally different factors variance requests and sixty days from today's date to submit category determination requests.

Today's reinstatement of the amendments to the general pretreatment regulations is being done to rectify past failure to provide notice and comment and is dictated by court order. Thus, there is "good cause" to dispense with notice and comment prior to the reinstatement. See *American Federation of Government Employees, AFL–CIO, v. Block*, 655 F.2d 1153 (D.C. Cir. 1981).

This notice was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection through contacting the person listed in the front of this notice. EPA is presently in the process of completing a regulatory impact analysis of the general pretreatment program, of which these amendments are part.

OMB has approved the following information collection requirements under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* These requirements have been assigned the following control numbers.

Citation	Title	OMB No. 2040-
40 CFR 122.61	Report by Publicly Owned Treatment Works of New or Increased Pollutant Introduction.	0010
40 CFR 403.6	Category Determination Report	0015
40 CFR 403.7	Removal Credit Approval Request.	0020
40 CFR 403.7	Removal Credit Self-Monitoring Report.	0025
40 CFR 403.9	POTW Pretreatment Program Approval Request.	0016
40 CFR 403.10	State Pretreatment Program Approval Request.	0019
40 CFR 403.12	Industrial Self-Monitoring Report.	0024
40 CFR 403.12	POTW Compliance Schedule Work Plan.	0013
40 CFR 403.12	Industrial Pretreaters Compliance Schedule Reports.	0014
40 CFR 403.12	Baseline Monitoring Report	0012
40 CFR 403.12	Industrial Pretreaters Slug Load Notification.	0023
40 CFR 403.12	POTW Maintenance of Monitoring Records.	0022
40 CFR 403.12	Industrial Pretreaters Compliance Attainment Report.	0011
40 CFR 403.13	Fundamentally Different Factors Variance Requests.	0017
40 CFR 403.15	Net/Gross Request Credit for Intake Water Pollution.	0018

List of Subjects in 40 CFR 403

Confidential business information, Reporting and recordkeeping requirement, Waste treatment and disposal, Water pollution control.

Dated: September 21, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-26586 Filed 9-27-82; 8:45 am]

BILLING CODE 6560-50-M

federal register

Tuesday
September 28, 1982

Part V

Department of the Interior

Mineral Management Service

Central and Western Gulf of Mexico Outer Continental Shelf Sales Nos. 81 and 84; Call for Information for Oil and Gas Leasing

4310-84

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Central and Western Gulf of Mexico Outer Continental Shelf
Sales Nos. 81 and 84
Call for Information for Oil and Gas Leasing

Purpose of Call

The purpose of the Call is to assist the Secretary of the Interior in carrying out his responsibilities under the Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331-1343), as amended (92 Stat. 629). Potential bidders are requested to outline broad areas where they believe hydrocarbons may occur or where they have an interest in leasing in the Central and Western Gulf of Mexico. The Secretary is also requesting comments from all interested parties--Federal, State, and local governments, environmental groups, the general public, and potential bidders--on possible environmental effects and use conflicts in the Call area, and on the appropriateness of initial lease terms longer than 5 years and lease tracts larger than 5,760 acres.

Use of Information from Call

Information submitted in response to this Call will be considered in selecting the areas of hydrocarbon potential to be proposed for leasing and analyzed in the environmental impact statement (EIS) as the proposed Federal action. This information will also be used in identifying alternatives to the proposed action. Comments received on possible environmental effects and use conflicts may be used in the analysis of local environmental conditions within the Call area so that the potential effects of oil and gas exploration and development, other than the benefits accruing to the Nation as a result of inventorying and producing oil and gas, can be assessed.

These comments may also be useful in developing special lease terms and conditions designed to assure safe offshore operations. Comments submitted regarding length of lease term and size of lease tract may be used in the assessment of the appropriate initial lease term and appropriate tract size, pursuant to section 8 of the OCS Lands Act, as amended (43 U.S.C. 1337).

Description of Area

The general area of this Call lies between 25°N and 30°N latitude and 88°W and 97°W longitude. The Call area is offshore the States of Mississippi, Alabama, Louisiana, and Texas and extends offshore the seaward boundary of those States to roughly the 3,000 meter isobath. Indications of interest and comments may be considered for any area within the boundaries of the Call. Boundaries of the Call area are shown on the maps at the end of this Call.

The following list identifies the Official Protraction Diagrams and leasing maps included in this Call. The diagrams and maps may be purchased by mail from the Minerals Manager, Minerals Management Service (MMS), Gulf of Mexico OCS Region, P.O. Box 7944, Metairie, Louisiana 70010, or in person at 3301 N. Causeway Blvd., Metairie, Louisiana.

a. Outer Continental Shelf Leasing Maps--South Texas Nos. 1 through 4. This is a set of 7 maps which sells for $5.00.

b. Outer Continental Shelf Leasing Maps--East Texas Nos. 5 through 8. This is a set of 9 maps which sells for $7.00.

c. Outer Continental Shelf Leasing Maps--Louisiana Nos. 1 through 12. This is a set of 23 maps which sells for $17.00.

confidential and will be used as a criterion in determining the area

c. Outer Continental Shelf Leasing Maps--Louisiana Nos. 1 through 12. This is a set of 27 maps which sells for $17.00.

d. Outer Continental Shelf Official Protraction Diagrams. These maps sell for $2.00 each.

NG 14-3 Corpus Christi	NG 15-6 Walker Ridge
NG 14-6 Port Isabel	NG 16-1
NG 15-1 East Breaks	NG 16-4
NG 15-2 Garden Banks	NH 16-4 Mobile
NG 15-3 Green Canyon	NH 16-7 Viosca Knoll
NG 15-4 Alaminos Canyon	NH 15-12 Ewing Bank
NG 15-5 Keathley Canyon	NG 16-10 Mississippi Canyon

Instructions on Call

Indications of interest from potential bidders should be limited to the areas included in the Official Protraction Diagrams and leasing maps as described above. Those indicating interest are requested to do so on a standard Call for Information Map, available free from the Minerals Manager, Gulf of Mexico OCS Region, at the address stated in the second paragraph under "Description of Area"; telephone (504) 837-4720. This map shows the Call area and shows that the entire area as identified by the MMS has potential for the discovery of deposits of oil and gas. Respondents are requested to suggest areas of potential interest within the planning areas. Although individual indications of interest are considered to be privileged and confidential information, the names of persons or entities indicating interest or submitting comments will be of public record.

Respondents are requested to rank areas according to priority of interest (e.g., priority 1, 2, or 3). Priority information by company will be held confidential and will be used as a criterion in determining the area identification. If a company does not choose to assign a priority to its nominations, those areas delineated will be assigned a medium, or priority 2, nomination.

In addition to indications of interest, we are seeking comments from all interested parties about particular geological, environmental, biological, archaeological, socioeconomic conditions or problems, or other information which might bear upon potential leasing and development of particular areas. Comments should preferably address broad areas, but may be restricted to designated blocks of particular concern.

Comments are also being sought from all interested parties on the appropriateness of initial lease periods longer than 5 years, and on the need, if any, for lease tracts larger than 5,760 acres. Such comments should describe why such modifications would be appropriate and identify where modifications should be applied. Those making comments are requested to mark the area on the standard Call for Information Map discussed above.

Indications of interest and comments must be submitted no later than 30 days following publication of this document in the Federal Register in envelopes labeled "Indications of Interest for Leasing in the Outer Continental Shelf Central and Western Gulf" or "Comments on Leasing in the Outer Continental Shelf Central and Western Gulf," as appropriate. They must be submitted to the Minerals Manager, Gulf of Mexico OCS Region, at the address stated in the second paragraph under "Description of Area." A copy should be sent to the Chief, Offshore Resource Evaluation Division, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 643, Reston, Virginia 22091.

Final delineation of the area for competitive bidding will be made only at a later date after compliance with established departmental procedures, all requirements of the National Environmental Policy Act of 1969, and the Outer Continental Shelf Lands Act, as amended.

A final Notice of Sale, detailing areas to be offered for competitive bidding, will be published in the Federal Register indicating the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

AUG 3 1 1982

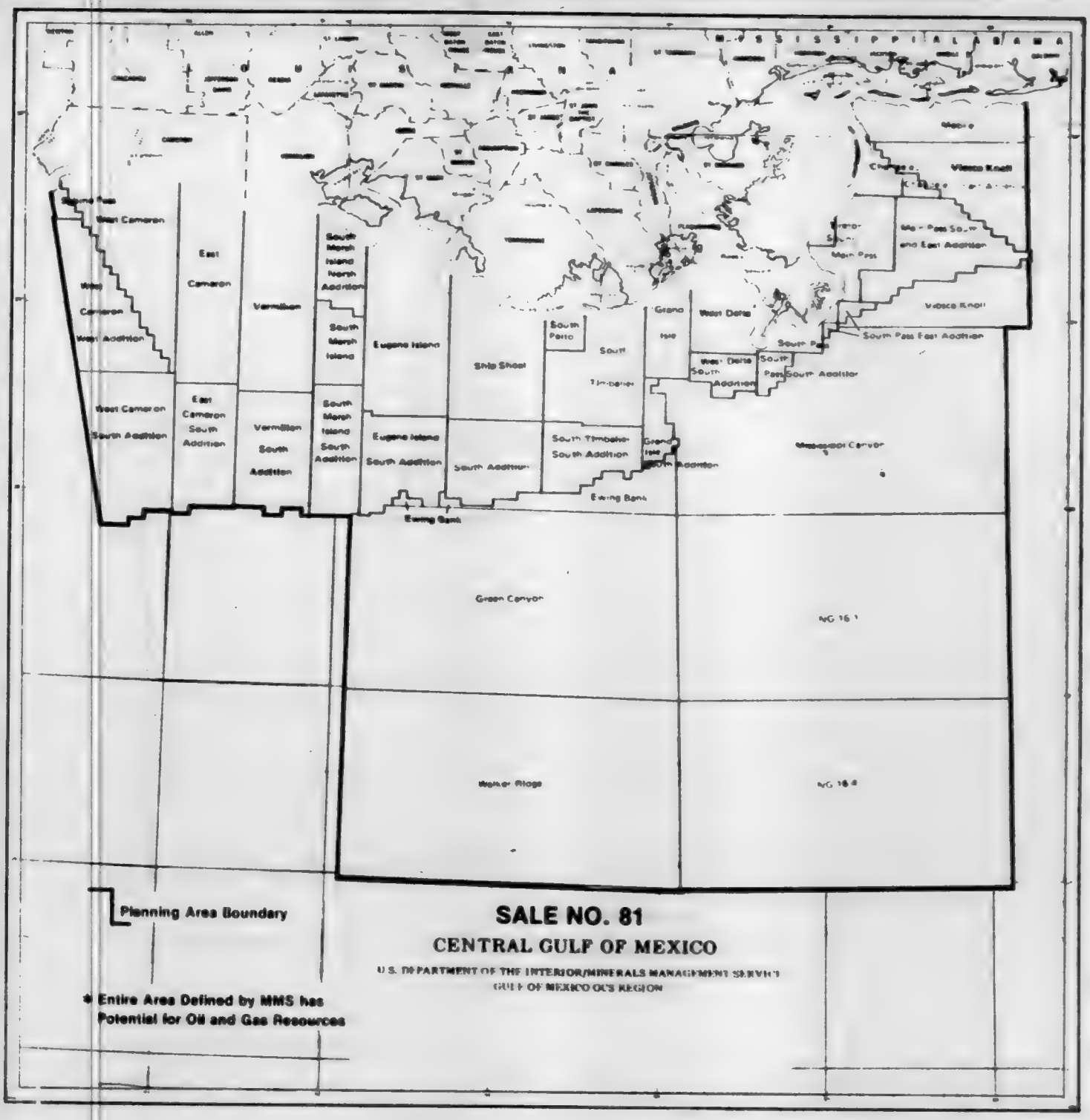
Deputy Director, Minerals Management Service
David C. Russell

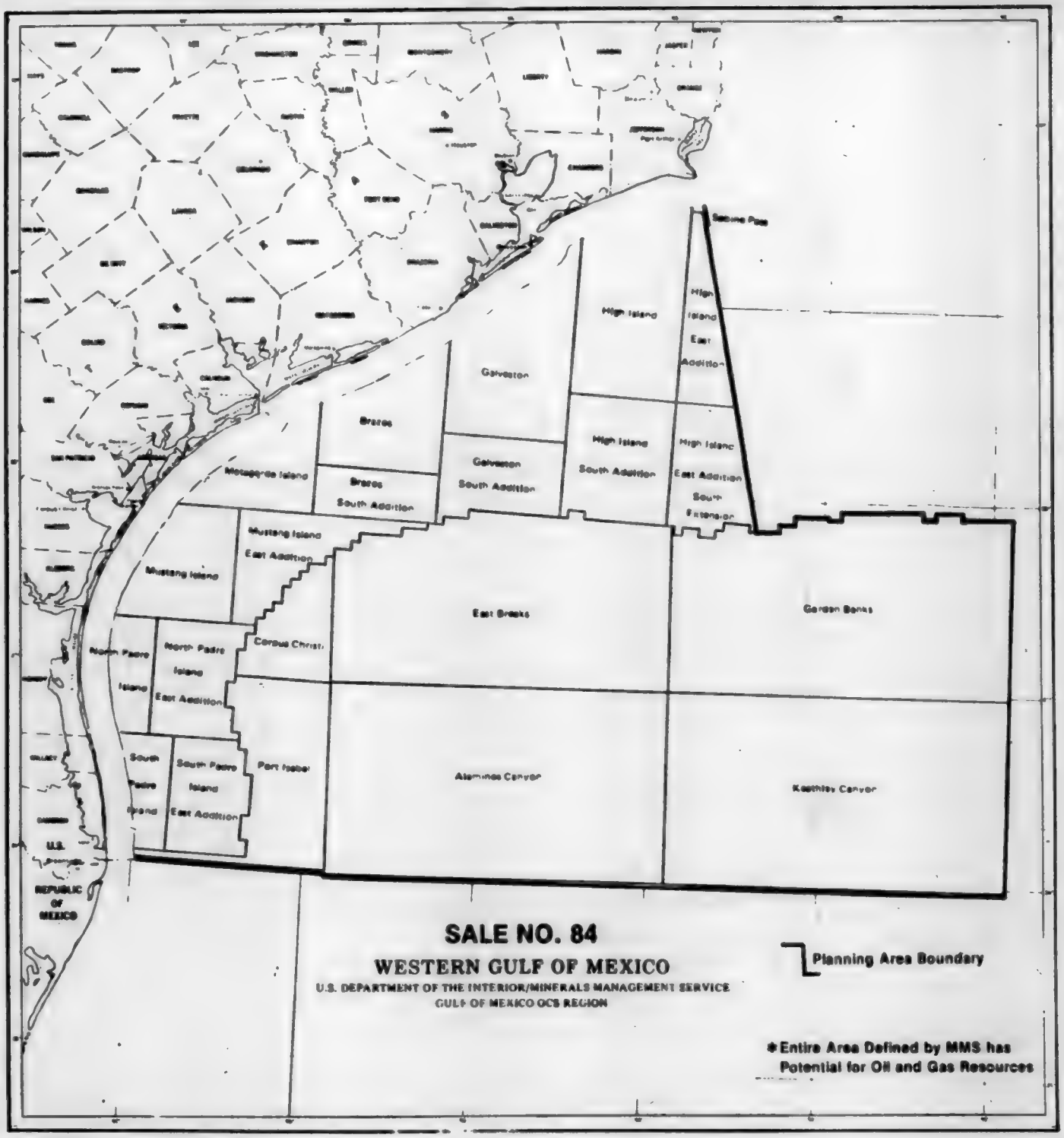
Date: 9/23/82

Approved

Under Secretary of the Interior
Donald Paul Hodel




West Cameron
East Cameron
Vermilion
South Marsh Island North Addition
South Marsh Island
Eugene Island
Ship Shoal
South Pelto
South Timbalier
Grand Isle
West Delta
South Pass
South Pass East Addition
West Cameron South Addition
East Cameron South Addition
Vermilion South Addition
South Marsh Island South Addition
Eugene Island South Addition
South Addition
South Timbalier South Addition
Grand Isle South Addition
West Delta South Addition
South Pass South Addition
Mississippi Canyon
Ewing Bank
Green Canyon
Walker Ridge
Planning Area Boundary
* Entire Area Defined by MMS has Potential for Oil and Gas Resources
SALE NO. 81
CENTRAL GULF OF MEXICO
U.S. DEPARTMENT OF THE INTERIOR/MINERALS MANAGEMENT SERVICE
GULF OF MEXICO OCS REGION



[FR Doc. 82-26660 Filed 9-27-82; 8:45 am]
BILLING CODE 4310-84-C

federal register

Tuesday
September 28, 1982

Part VI

Environmental Protection Agency

General Pretreatment Regulations for New and Existing Sources; Removal Credits

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 403

[WH-FRL-2152-7]

General Pretreatment Regulations for New and Existing Sources—Removal Credits

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On June 26, 1978, the Environmental Protection Agency ("EPA") promulgated General Pretreatment Regulations for Existing and New Sources (43 FR 27736–27773). On January 28, 1981, in settlement of various suits challenging these regulations, EPA promulgated amendments to the 1978 regulations (46 FR 9104–9460). These amendments were originally scheduled to take effect on March 13, 1981. Their effective date was indefinitely postponed, however, to permit EPA to conduct a Regulatory Impact Analysis of the general pretreatment program under Executive Order 12291 (46 FR 19936, April 2, 1981). On January 31, 1982, all but four of the amendments were put into effect (46 FR 50502–50503, October 13, 1981; 47 FR 4518, February 1, 1982). One of the amendments which continued to be deferred was the removal credits section. On July 8, 1982, the United States Court of Appeals for the Third Circuit directed EPA to reinstate all of the amendments to the general pretreatment regulations, including the removal credits section.

EPA is today proposing revisions to the removal credits section of the general pretreatment regulations to make that section simpler and more workable.

DATE: Comments must be submitted on or before November 29, 1982.

ADDRESSES: Comments should be addressed to: Bill Diamond, Environmental Protection Agency, Permits Division (EN–336), Room 3220, 401 M Street, SW, Washington, D.C. 20460, (202) 426–4793.

The record supporting this proposal will be made available for inspection through contacting Bill Diamond.

FOR FURTHER INFORMATION CONTACT: Bill Diamond, Environmental Protection Agency, Permits Division (EN–336), 401 M Street SW, Washington, D.C. 20460, (202) 426–4793.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

On June 26, 1978, the Environmental Protection Agency ("EPA") promulgated general pretreatment regulations which established procedures for controlling the introduction of wastes from industry and other non-domestic sources into publicly owned treatment works [POTWs] (43 FR 27736–27773).

Following the promulgation of the general pretreatment regulations in 1978, several parties brought actions in Federal court challenging various aspects of the regulations. On October 29, 1979, pursuant to the terms of a settlement agreement entered into by some of the parties, EPA published proposed amendments to the general pretreatment regulations. These amendments were finalized on January 28, 1981 (46 FR 9404–9460). On March 27, 1981, EPA indefinitely postponed the effective date of the 1981 amendments in order to enable the Agency to conduct a Regulatory Impact Analysis (RIA) of the general pretreatment program under Executive Order 12291 (46 FR 19936, April 2, 1981). On October 13, 1981, EPA terminated the indefinite postponement of the January 1981 amendments and established January 31, 1982 as their effective date (46 FR 50502). On the same day, EPA invited comment on a proposal that the effective date of the amendments be further postponed (46 FR 50503). Most of the 1981 amendments were allowed to go into effect on January 31, 1982. However, a few of the amendments, including the removal credits provisions, were further postponed (47 FR 4518, February 1, 1982). On July 8, 1982, the United States Court of Appeals for the Third Circuit directed EPA to reinstate, effective March 30, 1981, all of the amendments to the general pretreatment regulations, including the removal credits section.

An important part of the June 1978 general pretreatment regulations and the January 1981 amendments was the section governing removal credits (Section 403.7). That section was designed to implement a 1977 amendment to section 307(b)(1) of the Clean Water Act, which allows a POTW to provide industrial users with a "credit" (in the form of reduced pretreatment requirements) for the toxic pollutants removed by the POTW. Industrial Users which qualify for such a "credit" are allowed to discharge larger quantities of toxic pollutants to the POTW. The removal credits section established the conditions under which POTWs could obtain approval to award removal credits and provided the means by which these removal credits should be determined.

Notwithstanding an attempted streamlining in the January, 1981 amendments, the § 403.7 removal credits section has been criticized as being so burdensome and unwieldy as to discourage POTWs from applying for and obtaining authorization to grant removal credits. EPA is today proposing further modifications to the removal credits section to create clearer and more workable provisions.

EPA does not consider today's proposal to be inconsistent with the Regulatory Impact Analysis process. If, as a result of that analysis, the direction of the pretreatment program changes, the removal credits provision can be changed accordingly.

II. Summary of Modifications

Since today's proposal, as well as previous versions of the removal credits section, are a direct outgrowth of statutory requirements, a brief review of the statutory context is warranted. The statutory authority for removal credits is found in a 1977 amendment to Section 307(b)(1) of the Clean Water Act. That section, as amended, permits a POTW to adjust the pretreatment requirements for sources discharging toxic pollutants into the POTW to reflect the removal of such toxic pollutants by the POTW. The availability of such an adjustment, or credit, is however, subject to a number of conditions. First, and most obviously, there must be some demonstrable removal of the toxic pollutant by the POTW. A second requirement is that the discharge from the POTW "* * * not violate that effluent limitaton or standard which would be applicable to (the toxic pollutant removed by the POTW) if it were discharged by [the industrial source] other than through a [POTW]." A third requirement is that the removal of toxic pollutants by the POTW not cause the POTW to violate sludge use or disposal requirements under section 405 of the Act. A fourth requirement is that the POTW develop a local compliance program.

These statutory requirements establish the essential framework for any removal credits scheme. At a minimum, such a scheme must contain some means of calculating and demonstrating consistent removal, require compliance with applicable sludge requirements, and require development of a local compliance program. In addition, it must establish procedures for obtaining approval to grant removal credits.

The revised credit section proposed today implements this basic plan in a more flexibile manner than the earlier removal credits sections. By far the most

important change is the provision for "national removal rates." The revised section provides that POTWs which have complied with secondary treatment requirements, or are within one year of meeting those requirements, may demonstrate consistent removal by reliance on "national" removal rates developed by EPA, rather than through collecting data on their individual removal performances. Another important change is the liberalization of the removal demonstration requirements for POTWs which have not complied with the secondary treatment limitations, or are not close to complying with those limitations. These POTWs must still demonstrate consistent removal by sampling their actual individual plant performance, as was previously required. However, these sampling requirements have been made more flexible by permitting the POTWs to use historical sampling data and to utilize sampling schemes other than the twelve month sampling scheme generally prescribed. Other important changes are the elimination of the adjustment for combined sewer overflows and the simplication of approval procedures. A detailed description of these changes is provided below.

III. Description of Proposed Requirements

Section 403.7(a) Introduction

This introductory section sets out the "ground rules" under which POTWs can obtain authorization to give removal credits. Paragraph (a)(2) makes it clear that the POTW has complete discretion in deciding whether to award removal credits: A POTW qualifying for removal credits may decline to give removal credits or may award a lower removal credit than it is capable of giving. Paragraph (a)(3) outlines the five prerequisites which must be met before POTWs can obtain authorization to give removal credits. The POTW must (1) submit an application or certification (2) demonstrate consistent removal (3) have an approved local pretreatment program (or qualify for the exception to this requirement) (4) meet all applicable sludge requirements and (5) meet any NPDES permit limitation for toxic pollutants covered by the proposed removal credits. These conditions, as discussed above, are for the most part a direct outgrowth of statutory requirements. Paragraph (a)(3) also warns POTWs that if granting removal credits forces them to incur greater sludge management costs than they would incur in the absence of granting removal credits, EPA will not pay for the additional sludge management costs. Paragraph (a)(4) identifies the basic equation from which one calculates the removal credit. This equation is the same as the one contained in the 1978 regulations and the 1981 amendments.

Section 403.4(b) "Consistent Removal"

One of the most important components of the removal credits program, and the one probably criticized most frequently for rendering the program "unworkable," is the section setting forth requirements for demonstrating consistent removal. An attempt has been made to simplify substantially this process by allowing POTWs which are in compliance with secondary treatment requirements to apply a rate of consistent removal based on EPA data on POTW performance, rather than individual performance data collected by the POTW. The Agency's data were obtained in an analytical survey of forty POTWs with secondary treatment and, in almost every case, consist of six influent and effluent 24 hour composite measurements for each pollutant. Using this data, the Agency has calculated "national removal rates" which may be used by qualifying POTWs to demonstrate consistent removal for specific pollutants. In deriving these national removal rates, the Agency screened the pollutant data from all of the forty POTWs for suitability for estimating percent removal. From the selected data, EPA estimated the removal rate for each pollutant at each POTW by taking the difference of the arithmetic average of the influent and effluent measurements, expressed as a percentage. EPA then constructed a cumulative frequency distribution of the removal rates observed for each pollutant. The Agency selected the twenty-fifth percentile of the removal rate distribution as the national removal rate for that pollutant (expressed in terms of percent removal). In other words, the Agency chose a removal rate which was met by roughly seventy-five percent of the POTWs in the screened data base.

The Agency considered three alternatives in choosing the the removal estimate upon which to base the national removal rates—the twenty-fifth percentile of the removal distribution, the median (or fiftieth) percentile, and the average removal. The Agency's objective was to select a percent removal that would be met by most well designed and operated POTWs achieving the secondary treatment standards. The Agency concluded that the twenty-fifth percentile of the removal distribution for the screened data base satisfies this objective without being so conservative that a few POTWs showing poor removal for a particular pollutant (those at the low end of the removal distribution) would determine the removal rate.

The main consideration in choosing the twenty-fifth percentile is the Agency's belief that the POTWs in the 40 plant data base are well operated and maintained so that, as a group, these POTWs are likely to achieve better reductions than the population of all POTWs meeting the secondary limitations. If this is the case, a percent reduction achieved by roughly seventy-five percent of the 40 plants would correspond to a reduction achieved by a somewhat smaller percentage (for example, fifty or sixty percent) of the POTW population eligible for the national rates and would therefore be closer to the median performance of the total eligible population. Another, less important consideration in choosing the twenty-fifth percentile is that in most cases the removal distribution tends to have more dispersion below the neighborhood of the twenty-fifth percentile, while removals above the twenty-fifth percentile are grouped within a somewhat narrower range. That is, removals above the area of the twenty-fifth percentile (the majority of removal estimates in the distribution) tend to be consistently high, while removals below the twenty-fifth percentile are less consistent and cover a wide range of removals in the lower end of the distribution. Thus, in most cases, the neighborhood of the twenty-fifth percentile tends to be a convenient "break" point in the distribution. This "break" point is, of course, a general diagrammatic quality of the removal distributions rather than a precise mathematical characteristic.

The Agency recognizes, however, that there are arguments which militate in favor of using the average or median removal instead of the twenty-fifth percentile. The basic issue is how well the available data approximate the distribution of removals in the eligible population. While the Agency believes the sample population performs somewhat better with respect to metals removal than the population of eligible POTW's, the actual distributions are unknown. Therefore, the question of how well the sample population performs relative to the population of eligible POTW's can not be answered with certainty. If the sample distributions are assumed to approximate closely the population distributions, there is no need to select a removal estimate that compensates for an assumed discrepancy, as is the case

with the twenty-fifth percentile. In this case, a removal estimate based on the average or median of the sample distribution would provide a reasonable value for the national removal rate. Further, the national removal rates represent the maximum allowable credits (unless the POTW individually samples its removal rate). The POTW has the discretion to grant its industrial dischargers lower credits or none at all, based on local control needs.

The table below provides the removal rates that would be obtained using the different removal distribution estimates. The Agency solicits comments on the relative merits or accuracy of these alternatives for determining the allowable level of removal credits. Also, the Agency solicits data on pollutant removal at POTWs to supplement the Agency's data base. (A more detailed description of the data and methodology for determining national removal rates can be found in a background report, "Determining National Removal Credits for Selected Metals at POTWs").

NATIONAL REMOVAL RATES BASED ON DIFFERENT REMOVAL DISTRIBUTION ESTIMATES

	25th percentile (percent)	50th Percentile (percent)	Average (percent)
Cadmium	38	81	85
Chromium	95	78	89
Copper	59	82	75
Cyanide	52	61	59
Lead	48	70	63
Nickel	15	33	24
Silver	66	78	78
Zinc	66	78	70
Total regulated metals	62	71	68

Since the data supporting the national removal rates reflects the performance of well-operated POTWs meeting secondary treatment (and is only valid for this class of facilities) the availability of the national removal rates is being restricted to POTWs which have been in "compliance" with the secondary treatment limitations for BOD and suspended solids found at 40 CFR 133.102(a) and (b) for the six months preceding their application for removal credits. "Compliance" is defined in § 403.7 (b)(1)(i) to mean that the POTW has not exceeded the maximum 30 day average for BOD and suspended solids found at §133.102(a)(1) and (b)(1) by more than 25% in any one month. The Agency is employing this definition so that POTWs will not be disqualified from using the national rates for violations of the secondary treatment standards which are either minor or non-recurring in nature. Recent amendments to the Clean Water Act may well affect the secondary treatment limitations found at 40 CFR 133.102(a) and (b). Should the Agency relax these limitations, it may be necessary to restrict the availability of the national rates to POTWs which are in compliance with the current, more restrictive, secondary treatment limitations, since the rates are only reflective of the removal performance of POTWs meeting the current secondary limitations. Once final secondary treatment limits for trickling filters and waste stabilization ponds are promulgated, the Agency will review the available data to determine if national removal credits for the relaxed effluent limits are possible.

Under paragraph (b)(1)(ii), POTWs which have not yet complied with the secondary treatment limitations but are approaching compliance can provisionally qualify for the national rates if they can show that they will be in compliance within one year. If the Approval Authority elects, it can extend this interim qualification to POTWs which will be in compliance no later than the date the industrial users benefitting from the removal credits are required to comply with their categorical pretreatment standards, as long as the POTW is subject to a compliance schedule which requires compliance by this date. EPA estimates that, under the above provisions, more than 45 percent of all POTWs will be able to qualify for the national removal rates.

EPA attempted to construct national removal rates for POTWs achieving less than secondary treatment, but unfortunately encountered anomalous data which rendered generalization of treatment performance difficult. Consequently, POTWs which do not qualify for the national removal rates must demonstrate consistent removal through reliance on their individual plant performance in accordance with the provisions of paragraph (b)(2). In addition, POTWs which want to give a credit for a pollutant not covered by the national removal rates or want to give a bigger credit than the national rates allow must demonstrate consistent removal under the provisions of paragraph (b)(2). These provisions require generally that the POTW collect twelve influent and effluent samples at approximately equal intervals throughout one full year, analyze these samples for the appropriate pollutants and calculate consistent removal accordingly. These provisions resemble their counterparts in the 1981 amendments. Nevertheless, they do contain a number of features which should make demonstration of actual consistent removal easier and more flexible. First, the proposal explicitly provides that upon concurrence of the Approval Authority, the POTW may use historical data as either a substitute for or a supplement to the twelve samples collected or use a different sample collection scheme than the one prescribed. The only express condition with respect to the use of historical data or alternative sampling design is that the data be representative of the POTW's performance and operating conditions. Second, rather than prescribe rigorously the manner in which the samples are to be collected, as was done in the 1981 amendments, the proposal describes these sampling procedures in the Appendix as guidance. Third, the proposal contains a slightly different means for calculating consistent removal. Instead of taking the average of the lowest fifty percent of measured removals as was done in the 1981 amendments, the proposal calculates consistent removal as the difference between the average influent and effluent concentrations in all the sample data. This method, which does not exclude sample observations, is believed to provide a more reliable estimate of the actual removal achieved than the method employed in the 1981 amendments.

It is, of course, important to the accuracy of the consistent removal calculation that all sample data be used if possible. Problems arise, however, where the pollutant is not measurable in influent and effluent samples. Where the pollutant is not measurable in any influent samples (even though known to be discharged by industrial users into the sewer system), paragraph (b)(2)(iv)(B) of the proposal provides, like the 1981 amendments version, that the sample data not be used. In such event, the POTW may calculate removal using either historical data or data from treatability studies from similar POTWs, upon concurrence of the Approval Authority. If the pollutant is measurable in at least some influent or effluent samples, but not in all, paragraph (b)(2)(iv)(C) provides that the sample data may be used at the discretion of the POTW upon approval by the Approval Authority. In such event, influent and effluent observations below the level of detectability should be set equal to the level of detectability.

Ordinarily, removal credits will be sought for pollutants which are being discharged currently in measurable concentrations into the POTW. Occasionally, however, a new or modified facility will want a removal credit for a pollutant which is not being discharged at measurable concentrations into the POTW from any

facility. If the POTW qualifies for the applicable national removal rates, this poses no problem because the POTW can simply utilize the national rate in calculating the removal credit. If the POTW does not qualify for or wish to use the national rates, however, a problem arises because the POTW is obviously incapable of demonstrating actual removal prior to the discharge of the pollutant into the POTW treatment system. Accordingly, the proposal provides at paragraph (b)(3) that consistent removal may be provisionally demonstrated using data from treatability studies, provided that consistent removal is demonstrated in the conventional manner within eighteen months of the commencement of the discharge.

Compensation for Overflow

To ensure that the POTW's calculation of consistent removal accurately reflected the actual removal achieved, the 1981 amendments provided that the POTW must either take steps to contain overflow or adjust its consisent removal rate to account for overflow. Today's proposal dispenses with these overflow compensation requirements because, in the Agency's view, the overflow adjustment makes a negligible difference in the final removal credit.

In 1978, the Agency surveyed 15 POTWs to determine the impact of combined sewer overflow. The study analyzed runoff characteristics in the drain basins for 10 of the 15 POTWs to determine the magnitude of a rainfall event that would trigger a sewer overflow. Relying on frequency modeling of the rainfall characteristics of the 10 sites, the report found that combined sewers will overflow an average 7.3% of the time.

One can estimate the maximum impact which this overflow will have on the removal credit by making the very conservative assumption that there is no treatment of pollutants by the POTW during this 7.3% period and adjusting the removal credit downward to account for this lack of treatment. After this adjustment is performed, it becomes apparent that combined sewer overflow does not measurably affect the final removal credit.

For example, assume that the POTW's actual removal rate for the toxic pollutant lead were 50%, or approximately what is specified in the national removal rate. To adjust this 50% removal rate to account for the 7.3% period during which no removal is taking place, this 50% should be multiplied by .927 (since the 50% removal is only occurring 92.7 percent of the time). Performing this calculation, the adjusted rate equals 46.35%. The best comparison of the effect this difference in removal will have on the ultimate revised discharge limit is provided by calculating the revised discharge limit with both the adjusted and unadjusted rates using the equation found at § 403.7(a)(4):

$$y = \frac{x}{1-r}$$

(where y equals the revised discharge limit, x equals the pollutant discharge limit under the applicable categorical pretreatment standard, and r equals the removal rate). If the categorical pretreatment limitation on lead were 1.0 mg/1. the revised discharge limit using the removal rate unadjusted for combined sewer overflow would be 2.0 mg/1. Using the adjusted rate, the revised discharge limit would be 1.86 mg/1. The Agency believes the environmental consequences of such differences are insignificant and do not warrant performing the overflow compensation calculation, especially given the fact that the conservative assumptions employed in calculating the difference tend to considerably overstate what the actual difference would be. In actuality, one would expect at a minimum, that some treatment would occur during an overflow event, and that actual overall removal would thus be greater than assumed in the above calculations.

Section 403.7(a)(3)(iii) and (c) Local Pretreatment Program Requirement and Exception Thereto

Paragraphs (a)(3)(iii) and (c) of the proposal are for the most part similar to their counterparts in the 1981 general pretreatment amendments. Paragraph (a)(3)(iii) provides that a POTW must develop a local pretreatment program as a prerequisite to obtaining removal credit authorization unless development of such a program is not required by Part 403. Paragraph (c) creates an exception to this requirement, which allows POTWs to award removal credits pending approval or development of a pretreatment program if two conditions are met. First, all industrial users who wish to conditionally receive a removal credit must supply the POTW with the information required in § 403.12(b)(1)–(7) (except for new or modified industrial users not currently discharging pollutants, who must only submit the information required in § 403.12(b)(1)–(6)). The agency is requiring submission of this information because it will be of great value in helping a POTW decide whether to award removal credits and, under § 403.12(b), would eventually have to be submitted by the industrial users anyway. Second, the POTW must submit an application for pretreatment program approval meeting the requirements of §§ 403.8 and 403.9 in a timely manner, not to exceed the time limitation set forth in the POTW's NPDES permit or July 1, 1983, where no permit deadline exists.

Section 403.7(a)(3)(iv) Compliance With Sludge Requirements

The revised removal credits section, like the 1981 amendments, provides that the POTW must be in compliance with local, State and federal sludge requirements which apply to the sludge management method employed by the POTW. The POTW must remain in compliance after granting removal credits. The following table summarizes the EPA regulations which potentially apply, at present, to sludge disposal.

MAJOR FEDERAL REGULATIONS RELATING TO SEWAGE SLUDGE DISPOSAL

Sludge disposal	Regulation	Date of promulgation authority
1. Landspreading:		
a. Food-chain application.	40 CFR Part 257.	9/78 RCRA/ CWA.
b. Non-food chain application.	40 CFR Part 257.	9/78 RCRA/ CWA.
2. Land disposal:		
a. Solid wastes (nonhazardous).	40 CFR Part 257	9/78 RCRA/ CWA.
b. Hazardous wastes	40 CFR Parts 260 et seq.	5/80 RCRA.
c. PCB's disposal	40 CFR Part 761.	5/79 TSCA.
3. Incineration:		
a. New stationary sources of air emissions.	40 CFR Part 60	10/75 CAA.
b. Hazardous pollutants.	40 CFR Part 61	10/75 CAA.
c. Hazardous wastes	40 CFR Parts 260 et seq.	5/80, 1/81 RCRA.
d. PCB's disposal	40 CFR Part 761.	5/79 TSCA.
4. Ocean dumping	40 CFR Part 220 et seq.	1/77 MPRSA.

Key:
RCRA = Resource Conservation and Recovery Act.
CWA = Clean Water Act.
TSCA = Toxic Substances Control Act.
CAA = Clean Air Act.
MPRSA = Marine Protection, Research, and Sanctuaries Act.

Only rarely will sewage sludge be considered a hazardous waste subject to the requirements of 40 CFR Part 260, et seq. or exhibit a sufficiently high concentration of PCB's to become subject to the requirements of 40 CFR Part 761. EPA anticipates, therefore, that POTWs applying for removal credits will usually only be subject to the landspreading and land application requirements of 40 CFR Part 257 or, if they incinerate their sludge, with the requirements of 40 CFR Parts 60 and 61 or if they dump their sludge in the ocean, with the requirements of 40 CFR Part 220

et seq. (in addition to state and local requirements).

The section contains a new provision designed to accommodate POTWs which are not presently in compliance with sludge requirements applicable to their chosen sludge disposal practice but will be in compliance when the industrial user(s) seeking a removal credit installs the technology needed to comply with their categorical pretreatment standard(s). This provision is intended to benefit industrial users who, unable to get a removal credit now, could get a removal credit after they installed the technology necessary to meet the full pretreatment standard—i.e. possibly too late to be of benefit to them. A POTW which can demonstrate that it will be in compliance with its sludge requirements when the industrial user(s) meets the applicable pretreatment standard (as modified by the removal credit) will be deemed to have satisfied the sludge requirements provision.

Section 403.7(a)(3)(v) Compliance with Toxic Pollutant Limitations

As an additional prerequisite to removal credit authorization, the proposal requires the POTW to be in compliance with any NPDES limitations on toxic pollutants covered by the proposed removal credit and remain in compliance after giving removal credits. This requirement, it should be stressed, applies only to toxic pollutant limitations which are actually contained in the POTW's permit and only to those toxic pollutants which are covered by the removal credits. Violation of a permit limitation for cadmium does not, for instance, disqualify the POTW from granting removal credits for lead.

The requirement can be satisfied in a manner analogous to that provided in § 403.7(a)(3)(iv), if the POTW can demonstrate that it will be in compliance with its toxic pollutant limitations when industrial users are required to comply with their categorical pretreatment standards as modified by the removal credit. An example will illustrate how this demonstration of "future" compliance with the NPDES toxic limitations can be made. Assume that a POTW has an influent concentration of cadmium of 24 μg/1 and an effluent concentration of 12 μg/1 and is therefore presently out of compliance with the 10 μg/1 limitation for cadmium in its permit. Assume further that 75% of the influent concentration of cadmium (18 μg/1) is coming from industrial dischargers presently subject to a categorical pretreatment standard which requires 90 percent removal of the cadmium. In this hypothesized situation, the industrial dischargers would be entitled to a fifty percent credit (since the POTW is actually removing 50 percent of the cadmium in its influent) were it not for the fact the POTW is out of compliance with the cadmium limit in its permit. However, the POTW can show that once the industrial dischargers comply with the categorical pretreatment standard (as modified by the 50 percent removal credit) the industrial dischargers will be removing 40 percent of their contribution of cadmium to the POTW or approximately 7 μg/1 of the influent. This 7 μg/1 reduction in the influent concentration will cause the influent concentration of cadmium to drop to 17 μg/1 and the effluent concentration to 8.5 μg/1. Consequently, the POTW can show that once the industrial dischargers comply with the pretreatment standard as modified by the removal credit, it will be in compliance with its NPDES permit limitation for cadmium.

Section 403.7(a)(3)(i) and 403.7(d) Application for Removal Credit Authorization

The proposal substantially simplifies the requirements governing application for removal credit authorization. POTWs which qualify for national removal rates automatically receive authorization to grant credits upon submission to the Approval Authority of a written certification that they are now in compliance with the secondary treatment limitations, applicable sludge requirements and applicable NPDES limits for toxic pollutants and have developed a local pretreatment program or qualify for the exception to this requirement. They must also certify that the granting of removal credits will not interfere with their chosen method of sludge management or their ability to meet any toxic pollutant limits in their permit. The Agency believes that such POTWs need not be subjected to the full scale approval process because, unlike POTWs which base consistent removal on actual removal achieved or seek interim qualification for the national removal rates, there is little which needs to be reviewed.

POTWs which demonstrate consistent removal through reliance on actual removal or seek interim qualification for the national removal rates must still submit an application and receive approval from the Approval Authority. The provisions governing such applications, however, are considerably more streamlined than their counterparts in the 1981 amendments. Basically all that has to be submitted is a list of the pollutants for which removal credits are sought; data demonstrating actual consistent removal or, alternatively, data demonstrating interim qualification for the national removal rates; the proposed new limits; a certification that the POTW has an approved local pretreatment program or qualifies for the exception to this requirement; a description of the POTW's current method of managing its sludge; and a certification that the POTW is in compliance with applicable sludge requirements and toxic pollutant limits and will not fall out of compliance as a result of granting removal credits. In contrast with the 1981 amendments, which restricted the submission of applications to certain times, the revised section provides that POTWs can submit applications at any time. The Approval Authority is required to review the OPTW's application in accordance with the procedures in § 403.11, which provide it with 90 days from public notice of the application to complete review unless a public hearing is held or the public comment period extended, in which case the Approval Authority may have up to another 90 days.

Section 403.7(e) Continuation and Withdrawal of Authorization

The proposal contains a new provision which states that once a POTW has received authorization to give removal credits for a pollutant regulated in a categorical pretreatment standard, the POTW may automatically extend that removal credit to the same pollutant when regulated in other categorical standards unless granting the removal credit will cause the POTW to violate its sludge requirements or applicable toxic pollutant limitations. This provision makes explicit what was never expressly stated in the January 1981 amendments— namely, that once removal credit authorization is received for a particular pollutant, the POTW may, without re-application, give the same credit for that pollutant when regulated in other categorical standards. The POTW may, of course, elect not to extend the removal credit for a particular pollutant to other categorical standards, but if it so chooses, it must notify EPA.

In other respects, this section is basically the same as its counterpart in the 1981 amendments. As a condition of continued authorization to give removal credits, the POTW must continue to comply with all the requirements of paragraph (a)(3). Compliance with these requirements may be examined by the Approval Authority at any time but, at the very least, upon reissuance of the

NPDES permit. The penalty for failure to comply with the paragraph (a)(3) requirements is withdrawal or modification of the removal credits. Before this can happen, however, the POTW must be notified of the reasons for the withdrawal or modification and given an opportunity to bring itself into compliance.

An exception exists for POTWs which fail to comply with consistent removal requirements of paragraph (b), either by falling out of compliance with the secondary treatment limimtations, failing to achieve compliance with these limitations by the requisite time, or failing to maintain actual consistent removal. Because these consistent removal requirements are considered to be the most essential to the integrity of the removal credits scheme, the section spells out in somewhat greater detail what happens in the event of non-compliance. Basically, the section provides that, in the event of such non-compliance, the POTW must notify the Approval Authority, must return to compliance within six months, and must satisfy the Approval Authority that the problem is not likely to recur. If, at the end of this six month period, the POTW has not returned to compliance or satisfied the Approval Authority that the problem is non-recurring in nature, the Approval Authority must revoke to modify the removal credits. The Approval Authority can, however, extend the time for compliance for up to one year if the POTW demonstrates good faith efforts to return to compliance.

Because POTWs who utilize the national removal rates are already monitoring for compliance with the secondary treatment limitations, the section requires monitoring only of those POTW's who demonstrate consistent removal by reliance on their individual performance under paragraph(b)(2). These POTW's must continue to monitor and report on their removal capabilities no less than once per year.

For POTWs demonstrating consistent removal through reliance upon actual removal, the section further requires that the documented removal be made an enforceable condition of the POTWs NPDES permit.

Miscellaneous

A number of sections of the general pretreatment regulations reference the removal credits section. These references have either been eliminated or changed to conform to the new removal credits section.

V. Economic Benefits of Removal Credits

EPA believes that the revised removal credits scheme will simplify the granting of removal credits. This in turn will benefit industrial users subject to categorical standards. Some measure of the extent to which industrial users can benefit from removal credits can be gained by looking at electroplaters.

Survey data collected from the electroplating industry in 1978 reveals that 19.7% of the captive facilities which would have to install additional treatment to meet the electroplating standards can meet those standards without installing additional treatment if removal credits based on the national removal rates are granted. An additional percentage of captive facilities, which have not yet installed any treatment technology, may be able to install in-plant controls or less expensive treatment systems.

A similar picture is presented for job shops. EPA estimates that 12% of these facilities could meet the electroplating standards without installing any additional treatment if removal credits based on the national removal rates were granted. Other facilities may be able to meet the standards with alternative, less expensive technologies.

The cost savings to the electroplating industry resulting from removal credits based on the national removal rates could be substantial. Based on EPA's 1979 cost projections for the industry, the captive facilities which could avoid any treatment as a result of removal credits could save approximately $223,000,000 in capital costs and $84,000,000 in annual costs. The job shops which could avoid installing additional treatment as a result of removal credits could in turn, save an estimated $22,500,000 in capital costs and $7,500,000 in annual costs. These figures do not, of course, account for facilities which will be able to install less expensive treatment systems because of removal credits.

Regulatory Impact Analysis/Regulatory Flexibility Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposed regulation is not major because it simplifies existing requirements and will have the ultimate effect of reducing pollution control costs.

This notice was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, EPA must prepare a Regulatory Flexibility Analysis for all regulations that have a significant impact on a substantial number of small entities. EPA has determined, for the reasons specified above, that this proposal does not have a significant adverse impact on small entities.

Paperwork Reduction

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* (the Act), the reporting of recordkeeping provisions that are included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under section 3504(h) of the Act. Any final rule will include an explanation of how the reporting or recordkeeping provisions contained therein respond to any comments by OMB and the public.

Lists of Subjects in 40 CFR Part 403

Confidential business information, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: September 21, 1982.

Anne M. Gorsuch,

Administrator.

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

For the reasons set out in the preamble, EPA proposes to amend 40 CFR Part 403 as follows:

1. The authority citation for 40 CFR Part 403 is as follows:

Authority: Sec. 54(c)(2) of the Clean Water Act of 1977 (Pub. L. 95–217), sections 204(b)(1)(C), 208(b)(2)(C)(iii), 301(b)(1)(A)–(ii), 301(b)(2)(A)(ii), 301(b)(2)(C), 301(h)(5), 301(i)(2), 304(e), 304(g), 307, 308, 309, 402(b), 405, and 501(a) of the Federal Water Pollution Control Act (Pub. L. 92–500), as amended by the Clean Water Act of 1977.

2. 40 CFR 403.7 is revised to read as follows:

§ 403.7 Removal credits.

(a) *Introduction.*—(1) *Definitions.* For the purpose of this section:

(i) "Removal" means a reduction in the amount of a pollutant in the POTW's effluent or alteration of the nature of a pollutant during treatment at the POTW. The reduction or alteration can be obtained by physical, chemical or biological means and may be the result of specifically designed POTW capabilities or may be incidental to the operation of the treatment system. Removal as used in this subpart shall

not mean dilution of a pollutant in the POTW.

(ii) "Sludge Requirements" shall mean the following statutory provisions and regulations or permits issued thereunder [or more stringent State or local regulations]: section 405 of the Clean Water Act; the Solid Waste Disposal Act [SWDA] (including Title II, more commonly referred to as the Resource Conservation Recovery Act (RCRA) and State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of SWDA); the Clean Air Act; and the Toxic Substances Control Act. (iii) "Toxic Pollutant" shall mean any of the designated pollutants on the list developed pursuant to section 307(a) of the Act and found at 40 CFR 401.15.

(2) *General.* Any POTW receiving wastes from an Industrial User to which a categorical Pretreatment Standard applies may, at its discretion and subject to the conditions of this section, revise the discharge limits specified in the categorical Pretreatment Standard to reflect removal of Toxic or other regulated pollutants by the POTW. In keeping with this discretion, the POTW may award less of a removal credit than it is capable of awarding under this section. Removal credits may be given for indicator or surrogate pollutants regulated in a categorical Pretreatment Standard if the categorical Pretreatment Standard so specifies.

(3) *Conditions for Authorization to give removal credits.* A POTW is authorized to give removal credits only if the following conditions are met:

(i) *Application or Certification.* The POTW applies for, and receives, authorization from the Approval Authority to give a removal credit in accordance with the requirements and procedures specified in paragraph (d) of this section; *Provided, however,* That a POTW which is in compliance with the secondary treatment limitations identified in paragraph (b)(1) of this section and elects to demonstrate consistent removal through use of the national removal rates available under that paragraph, shall automatically receive authorization upon submission to the Approval Authority of a written certification that it is in compliance with the secondary treatment limitations, sludge requirements, and NPDES permit limitations for toxic pollutants identified in paragraph (a)(3)(iv) and (v) of this section, has developed a local pretreatment program or qualifies for the exception to this requirement, and that the granting of removal credits will not interfere with its chosen method of sludge management or cause it to violate its sludge requirements or toxic pollutant limits.

(ii) *Consistent removal determination.* The POTW demonstrates and continues to achieve consistent removal of the pollutant in accordance with paragraph (b) of this section.

(iii) *POTW local pretreatment program.* The POTW has an approved pretreatment program in accordance with and to the extent required by Part 403; provided, however, a POTW which does not have an approved pretreatment program may, pending approval of or development of such a program, conditionally give credits as provided in paragraph (c) of this section.

(iv) *Sludge requirements.* The POTW is in compliance with the local, state and federal Sludge Requirements which apply to the sludge management method chosen by the POTW and will remain in compliance after giving removal credits to its Industrial Users. Alternatively, the POTW can demonstrate to the Approval Authority that even though it is not presently in compliance with applicable Sludge Requirements, it will be in compliance when the Industrial User(s) to whom the removal credit would apply is required to meet its categorical pretreatment standard as modified by the removal credit. If granting removal credits forces a POTW to incur greater sludge management costs than would be incurred in the absence of granting removal credits, the additional sludge management costs will not be eligible for EPA grant assistance.

(v) *NPDES permit limitations.* The POTW is in compliance with any limitations in its NPDES permit for Toxic Pollutants covered by the proposed removal credits and will remain in compliance after giving removal credits to its Industrial Users. Alternatively, the POTW can demonstrate to the Approval Authority that even though it is not presently in compliance with applicable Toxic Pollutant limitations in its NPDES permit, it will be in compliance when the Industrial User(s) to whom the removal credit would apply is required to meet its categorical pretreatment standard, as modified by the removal credit provision.

(4) *Calculation of revised discharge limits.* Revised discharge limits for a specific pollutant shall be derived by use of the following formula

$$y = \frac{x}{1-r}$$

where:

x = pollutant discharge limit specified in the applicable categorical Pretreatment Standard

r = POTW's Consistent Removal rate for that pollutant as established under paragraph (b) of this section (percentage removal expressed as a proportion, i.e., a number between 0 and 1)

y = revised discharge limit for the specified pollutant (expressed in same units as x).

(b) *Consistent Removal.* A POTW may demonstrate consistent removal by meeting the requirements of paragraph (b)(1), (b)(2) or (b)(3) below.

(1) *National Removal Rates.* (i) A POTW that is in compliance with the secondary treatment limitations for BOD and suspended solids set forth in 40 CFR 133.102 (a) and (b) for the six months preceeding application for removal credits may use the following removal rates, known as national removal rates, to demonstrate consistent removal. "Compliance" for the purposes of this section shall mean that the POTW does not exceed the maximum 30 day average limitations for BOD or suspended solids set forth in 40 CFR 133.102 (a) and (b) by more than 25% in any one month. These rates ("r" in the equation at paragraph (a)(4) of this section) are expressed in terms of the percent reduction of the influent pollutant concentration. As a condition of continuing to use the national removal rates, the POTW must maintain compliance with the secondary treatment limitations.

Toxic pollutant	National removal rate
Chromium	65
Copper	58
Nickel	19
Zinc	65
Cadmium	39
Lead	43
Silver	85
Total regulated metals (Cr+Cu+Ni+Zn)	62
Cyanide	52

(ii) *Interim Qualifications for National Removal Rates.* (A) A POTW not achieving the requirements of 40 CFR 133.102(a) and (b) for BOD and suspended solids may qualify for use of the national removal rates specified above if it can show that it will be in compliance within 1 year after it applies for removal credit authorization. Alternatively, the Approval Authority may, at its discretion, allow such a POTW to qualify for the national removal rates if the POTW is subject to a compliance schedule which requires compliance with the requirements of 40 CFR 133.102(a) and (b) no later than the date the Industrial User(s) to whom the removal credits apply is required to

comply with its categorical Pretreatment Standard(s), as modified by the removal credit.

(2) *Actual Removal.* A POTW which does not qualify for or choose to use the national removal rates may demonstrate consistent removal through reliance upon actual removal. In order to demonstrate actual consistent removal, the POTW shall, for each pollutent with respect to which removal credit authorization is sought, collect influent and effluent data and calculate consistent removal in accordance with the following requirements. The POTW must continue to maintain this consistent removal as a condition of retaining removal credit authorization.

(i) *Number of samples.* At least twelve samples of influent and effluent shall be taken at approximately equal intervals throughout one full year. Upon concurrence of the Approval Authority, a POTW may utilize an historical data base either in lieu of or as a supplement to these twelve samples. In order to be approved, the historical data base must be representative of the yearly and seasonal conditions to which the POTW is subject and be representative of the POTW's performance for at least one year. As an alternative to the above, a POTW, upon concurrence of the Approval Authority, may utilize an alternative sampling design, as long as the alternative design provides for samples to be taken at times which are representative of the POTW's normal operating conditions and the different seasonal conditions to which the POTW is subject.

(ii) *Method of Sampling.* The POTW must use the composite sampling method unless the grab sampling method is more appropriate. A description of these methods and suggestions on when each method should be used are included in Appendix A as guidance.

(iii) *Method of Analysis for Pollutants.* The POTW shall analyze the samples for pollutants in accordance with the analytical techniques prescribed in 40 CFR Part 136. If 40 CFR Part 136 does not contain analytical techniques for the pollutant in question, or if the Approval Authority determines that Part 136 analytical techniques are inappropriate, the analysis shall be performed using validated analytical methods or any other applicable analytical procedures approved by the Approval Authority, including procedures suggested by the POTW.

(iv) *Calculation of Consistent Removal.* The consistent removal for a specific pollutant ("r" in the equation at paragraph (a)(4) of this section) shall be the difference between the average concentrations of the pollutant in the influent of the POTW, denoted by I, and the average concentrations of the pollutant in the effluent of the POTW, denoted by E, divided by the average concentrations of the pollutant in the influent, denoted by I, as follows:

$$r = \frac{I-E}{I}$$

The average concentrations of the pollutant in the influent and effluent shall be calculated by taking the arithmetic average of all influent and effluent data, respectively. In calculating consistent removal, all sample data must be used, unless the pollutant is only measurable in some of the influent and effluent samples. If the pollutant is only measurable in some of the influent and effluent samples, the following exceptions apply:

(A) *Definitions.* For purposes of these paragraphs, "measurable" refers to the ability of the analytical method to quantify as well as identify the presence of the pollutant in question. "Limit of detectability" refers to the lowest limit at which the analytical method can quantify the pollutant in question.

(B) *Pollutant not measurable in any influent samples.* If a pollutant is not measurable in any of the influent samples, the sample data may not be used to calculate consistent removal for that pollutant. In such event, the POTW may utilize historical data as provided in paragraph (b)(2)(i) of this section to calculate consistent removal. Alternatively, upon the concurrence of the Approval Authority, the POTW may utilize data from treatability studies or demonstrated removal at other treatment facilities where the quality and quantity of the influent are similar.

(C) *Pollutant measurable in some, but not all, influent and effluent samples.* If a pollutant is measurable in some, but not all, influent and effluent samples (including the situation where it is not measurable in any effluent samples) the sample data may be used at the discretion of the POTW and upon approval by the Approval Authority in calculating consistent removal. If such data is used to calculate consistent removal, influent and effluent observations below the limit of detectability should be assigned a value equal to the limit of detectability.

(3) *Pollutants Not Currently Being Discharged.* For pollutants which are not being discharged currently (new or modified facilities, or production changes) the POTW may apply for authorization to give removal credits prior to the initial discharge of the pollutant. Consistent removal shall be based provisionally on data from treatability studies, demonstrated removal at other treatment facilities where the quality and quantity of influent are similar, or on the national removal rates if the requirements of (b)(1) of this section are met. Within 18 months after the commencement of discharge of the pollutants in question, consistent removal must be demonstrated pursuant to the requirements of this section, unless consistent removal has been based on the national removal rates.

(c) *Exception to POTW Pretreatment Program Requirement.* A POTW required to develop a local pretreatment program by § 403.8 may conditionally give removal credits pending approval of or development of such a program in accordance with the following terms and conditions:

(1) All Industrial Users who are currently subject to a categorical Pretreatment Standard and who wish conditionally to receive a removal credit must submit to the POTW the information required in § 403.12(b)(1)–(7), pertaining to the categorical Pretreatment Standard as modified by the removal credit. The Industrial User shall indicate what additional technology, if any, will be needed to comply with the categorical Pretreatment Standard as modified by the removal credit;

(2) The POTW must submit to the Approval Authority an application for pretreatment program approval meeting the requirements of §§ 403.8 and 403.9 in a timely manner, not to exceed the time limitation set forth in a compliance schedule for development of a pretreatment program included in the POTW's NPDES permit or July 1, 1983, where no permit deadline exists.

(d) POTW application for authorization to give removal credits and Approval Authority Review.—(1) *Who must apply.* Any POTW that wants to give a removal credit must apply for authorization from the Approval Authority except those POTWs which qualify for national removal rates and are permitted to submit a certification under paragraph (a)(3)(i) of this section.

(2) *To whom application made.* An application for authorization to give removal credits (or modify existing ones) shall be submitted by the POTW to the Approval Authority.

(3) *When to apply.* A POTW may apply for authorization to give or modify removal credits at any time.

(4) *Contents of the Application.* An application for authorization to give removal credits must be supported by the following information:

(i) *List of pollutants.* A list of pollutants for which removal credits are proposed.

(ii) *Consistent Removal Data.* If paragraph (b)(2) of this section is the basis for demonstration of Consistent Removal, the data required by that section. If paragraph (b)(1)(ii) or (b)(3) of this section is the basis for demonstration of Consistent Removal, data demonstrating that the conditions for use of those sections are met.

(iii) *Calculation of revised discharge limits.* Proposed revised discharge limits for each affected subcategory of Industrial Users calculated in accordance with paragraph of (a)(4) of this section.

(iv) *Local Pretreatment Program Certification.* A certification that the POTW has an approved local pretreatment program or qualifies for the exception to this requirement found at paragraph (c) of this section.

(v) *Sludge Management Certification.* A specific description of the POTW's current methods of using or disposing of its sludge and a certification that the POTW is in compliance with the sludge requirements identified in paragraph (a)(3)(iv) of this section and that granting removal credits will not interfere with the POTW's chosen sludge disposal option or cause the POTW to fall out of compliance with the sludge requirements.

(iv) *NPDES Permit Limit Certification.* A certification that the POTW is in compliance with the NPDES permit limits for toxic pollutants identified in paragraph (a)(3)(v) of this section and that granting removal credits will not cause the POTW to fall out of compliance with these limits.

(5) *Approval Authority Review.* The Approval Authority shall review the POTW's application for authorization to give or modify removal credits in accordance with the procedures of § 403.11 and shall, in no event (as specified in § 403.11) have more than 180 days from public notice of an application to complete review.

(6) *EPA review of state removal credit approvals.* Where the NPDES state has an approved pretreatment program, the Regional Administrator may agree in the Memorandum of Agreement under 40 CFR 123.6 to waive the right to review and object to submissions for authority to grant removal credits. Such an agreement shall not restrict the Regional Administrator's right to comment upon or object to permits issued to POTW's except to the extent 40 CFR 123.(6)(e) allows such restriction.

(7) Nothing in these regulations precludes an Industrial User or other interested party from assisting the POTW in preparing and presenting the information necessary to apply for authorization to give removal credits.

(e) *Continuation and withdrawal of authorization*—(1) *Effect of authorization.* Once a POTW has received authorization to grant removal credits for a particular pollutant regulated in a categorical Pretreatment Standard it may automatically extend that removal credit to the same pollutant when it is regulated in other categorical standards, unless granting the removal credit will cause the POTW to violate the sludge requirements identified in (a)(3)(iv) of this section or the NPDES permit limits for toxic pollutants identified in (a)(3)(v). If a POTW elects to limit the applicability of a removal credit for a particular pollutant to certain categorical Pretreatment Standards, it must notify the Approval Authority and identify the industrial subcategories to which the removal credit applies.

(2) *Inclusion in POTW permit.* Once authority to give removal credits is granted to POTWs who demonstrate consistent removal through reliance upon actual removal as provided in paragraph (b)(2) of this section, the consistent removal documented by the POTW shall be included in POTW's NPDES Permit upon the earliest reissuance or modification (at or following Program approval) and shall become an enforceable requirement of the POTW's NPDES permit.

(3) *Compliance monitoring.* Following authorization to give removal credits, POTW's who demonstrate consistent removal by meeting the requirements of paragraph (b)(2) of this section shall continue to monitor and report on (at such intervals as may be specified by the Approval Authority but in no case less than once per year) the POTW's removal capabilities.

(4) *Modification or withdrawal of removal credits.* In order for revised categorical Pretreatment Standards to continue in effect, the POTW must meet the conditions specified in paragraphs (a)–(c) of this section. Compliance with these conditions may be examined by the Approval Authority whenever it elects and must, at the very least, be examined whenever the POTW's NPDES Permit is reissued. Except in the case of non-compliance with the conditions of paragraph (b) of this section (which is discussed below), if the Approval Authority determines, on the basis of compliance monitoring reports or other information available to it that the conditions specified in paragraphs (a)–(c) of this section are not being met, it must notify the POTW. If appropriate corrective action is not taken within a reasonable time, the Approval Authority shall either withdraw the removal credits or require modifications of those credits; provided however, such withdrawal or modification may only take place after the Approval Authority has provided the POTW and all Industrial Users to whom removal credits have been granted, the reasons for such withdrawal or modification.

If the POTW falls out of compliance with the conditions of paragraph (b) (by failing to comply with the secondary treatment limitations under (b)(l)(i), failing to achieve the deadline for compliance with the secondary treatment limitations under (b)(l)(ii), or failing to maintain actual consistent removal under (b)(2)) the POTW must immediately notify the Approval Authority, return to compliance within six months, and satisfy the Approval Authority that the problem is non-recurring in nature. If, at the end of the six months, the POTW is still not in compliance or has not satisfied the Approval Authority that the problem is non-recurring in nature, the Approval Authority must either withdraw the credits or require modifications of those credits, as appropriate; provided however, upon a demonstration of good faith efforts by the POTW to return to compliance, the Approval Authority may extend the deadline of compliance to one year. The Approval Authority may impose conditions on the POTW to ensure the return to compliance.

In the event removal credits are either withdrawn or modified, all affected Industrial Users must be notified by the POTW. These Industrial Users shall be subject to the modified removal credits or the discharge limits prescribed in the applicable categorical Pretreatment Standards, as appropriate, and shall achieve compliance with such limits within 18 months from the date of withdrawal or modification.

(f) *Removal credits in State-run pretreatment programs under § 403.10(e).* Where an NPDES State with an approved pretreatment program elects to implement a local pretreatment program in lieu of requiring the POTW to develop such a program (as provided in § 403.10(e)), the POTW will not be required to develop a pretreatment program as a precondition to obtaining authorization to give removal credits. The POTW will, however, be required to comply with the other conditions of paragraph (a)(3) of this section.

Appendix A—Sampling Procedures

I. Composite Method

A. It is recommended that influent and effluent operational data be obtained through 24-hour flow-proportional composite samples. Sampling may be done manually or automatically, and discretely or continuously. If discrete sampling is employed, at least 12 aliquots should be composited. Discrete sampling may be flow-proportioned either by varying the time interval between each aliquot or the volume of each aliquot. All composites should be flow-proportional to either the stream flow at the time of collection of the influent aliquot or to the total influent flow since the previous influent aliquot. Volatile pollutant aliquots must be combined in the laboratory immediately before analysis.

B. Effluent sample collection need not be delayed to compensate for hydraulic detention unless the POTW elects to include detention time compensation or unless the Approval Authority requires detention time compensation. The Approval Authority may require that each effluent sample be taken approximately one detention time later than the corresponding influent sample when failure to do so would result in an unrepresentative portrayal of actual POTW operation. The detention period should be based on a 24-hour average daily flow value. The average daily flow should in turn be based on the average of the daily flows during the same month of the previous year.

II. Grab Method

If composite sampling is not an appropriate technique, grab samples should be taken to obtain influent and effluent operational data. A grab sample is an individual sample collected over a period of time not exceeding 15 minutes. The collection of influent grab samples should preceed the collection of effluent samples by approximately one detention period except that where the detention period is greater than 24 hours such staggering of the sample collection may not be necessary or appropriate. The detention period should be based on a 24-hour average daily flow value. The average daily flow should in turn be based upon the average of the daily flows during the same month of the previous year. Grab sampling should be employed where the pollutants being evaluated are those, such as cyanide and phenol, which may not be held for an extended period because of biological, chemical or physical interaction which take place after sample collection and affect the results.

3. 40 CFR 403.6(a)(2)(ii) is revised to read as follows:

§ 403.6 National Pretreatment Standards: Categorical Standards.

* * * * *

(2) * * *

(i) * * *

(ii) Citing evidence and reasons why a particular subcategory is applicable and why others are not applicable. Each such statement shall contain an oath stating that the facts contained therein are true on the basis of the applicant's personal knowledge or to the best of his information and belief.

4. 40 CFR 403.8(a) is revised to read as follows:

§ 403.8 POTW pretreatment programs: development by POTW.

(a) POTW's required to develop a pretreatment program. Any POTW (or combination of POTW's operated by the same authority) with a total design flow greater than 5 million gallons per day (mgd) and receiving from Industrial Users pollutants which Pass Through or Interfere with the operation of the POTW or are otherwise subject to Pretreatment Standards will be required to establish a POTW Pretreatment Program unless the NPDES State exercises its option to assume local responsibilities as provided for in § 403.10(e). The Regional Administrator or Director may require that a POTW with a design flow of 5 mgd or less develop a POTW Pretreatment Program if he or she finds that the nature or volume of the industrial influent, treatment process upsets, violations of POTW effluent limitations, contamination of municipal sludge, or other circumstances warrant in order to prevent Interference with the POTW or Pass Through.

* * * * *

5. 40 CFR 403.11 is revised to read as follows:

§ 403.11 Approval Procedures for POTW Pretreatment Programs and POTW Granting of Removal Credits.

The following procedures shall be adopted in approving or denying requests for approval of POTW Pretreatment Programs and applications for revomal credit authorization:

(a) *Deadlihe for review of submission.* The Approval Authority shall have 90 days from the date of public notice of any Submission complying with the requirements of § 403.9(b) and, where removal credit authorization is sought, with §§ 403.7(d) and 403.9(d), to review the Submission. The Approval Authority shall review the Submission to determine compliance with the requirements of § 403.8 (b) and (f), and, where removal credit authorization is sought, with § 403.7. The Approval Authority may have up to an additional 90 days to complete the evaluation of the Submission if the public comment period provided for in paragraph (b)(1)(ii) of this section is extended beyond 30 days or if a public hearing is held as provided for in paragraph (b)(2) of this section. In no event, however, shall the time for evaluation of the Submission exceed a total of 180 days from the date of public notice of a Submission meeting the requirements of § 403.9(b) and, in the case of a removal credit application, §§ 403.7(d) and 403.9(d).

(b) *Public notice and opportunity for hearing.* Upon receipt of a Submission the Approval Authority shall commence its review. Within 5 days after making a determination that a Submission meets the requirements of § 403.9(b), and, where removal credit authorization is sought, §§ 403.7(d) and 403.9(d), the Approval Authority shall:

* * * * *

(3) (Removed)

* * * * *

§ 403.12 [Amended]

6. 40 CFR 403.12 is amended by removing paragraphs (i) and (j) and renumbering the remaining paragraphs accordingly.

[FR Doc.82 26566 Filed 9-27-82 8:45 am]
BILLING CODE 6560-50-M

federal register

Tuesday
September 28, 1982

Part VII

Environmental Protection Agency

Approval and Promulgation of Implementation Plans; Revision of the Virginia State Plan

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. AW038VA; A-3-FRL 2204-4]

Approval and Promulgation of Implementation Plans Approval of Revision of the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of a revision to the Virginia State Implementation Plan of amendments to the Virginia Air Pollution Control Regulations submitted by the Commonwealth of Virginia. This approval is based upon the Commonwealth's request to amend its regulation concerning open burning. This revision allows open burning of landclearing debris under certain conditions at local landfills.

DATES: This action will be effective on November 29, 1982 unless notice is received by October 28, 1982, that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Mr. James E. Sydnor of the EPA, Region III address shown below. Copies of the materials submitted by the Commonwealth may be examined during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs & Energy Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106. Attn.: Patricia Sheridan (3AW11)

Virginia State Air Pollution Control Board, Room 801, Ninth Street Office Building, Richmond, VA 23219. Attn.: Mr. John M. Daniel, Jr.

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Office of the Federal Register, 1100 L Street, SW., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: Lillie R. Ellerbe (3AW13) 215/597-8170 at the EPA, Region III address indicated above.

SUPPLEMENTARY INFORMATION: On May 28, 1982, the Commonwealth of Virginia (Commonwealth) submitted to the Environmental Protection Agency (EPA) a revision to its State Implementation Plan (SIP). This revision consists of amendments to Virginia's existing Regulations for the Control and Abatement of Air Pollution, Part IV, Emission Standards for Open Burning (RULE EX-1), Section 4.11.

The Commonwealth has provided proof that, after adequate public notice on July 6, 1981, a public hearing was held on September 8, 1981, in Richmond, Virginia with regard to the revision. Notices were published and hearings were also held in each of Virginia's six other Air Quality Control Regions: Abingdon, Roanoke, Lynchburg, Fredericksburg, Virginia Beach, and Annandale. There was no opposition to the revision at the public hearings.

The amendment to Section 4.11 will add certain conditions under which open burning may be conducted at local landfills, and applies to existing sources except those in Air Quality Control Region 7 of Virginia. Open burning under the new provisions of Section 4.11 will be allowed provided that the source demonstrates compliance with all provisions in Section 4.11 as well as those of Section 4.10 in that the open burning must be attended at all times and all reasonable efforts must be employed to minimize the amount of material that is burned.

Provisions of the amendment will also allow open burning for disposal of refuse on the site of a local sanitary landfill, or another area operated under the authority of the locality, provided that a permit has been obtained from the Executive Director of the Virginia State Air Pollution Control Board.

No materials may be burned in violation of the State's Department of Health rules and regulations. Compliance with the visible emissions standard of 20% and any other appropriate air pollution standard will be determined by testing in accordance with existing rules and regulations.

EPA has reviewed the information submitted by the Commonwealth and the Administrator is today approving this SIP revision. The public is advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days from today that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will withdraw the final action and begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Conclusion: The Administrator's decision to approve the proposed revisions was based on a determination that the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

As a result of EPA's decision to approve this revision to the Virginia Implementation Plan, 40 CFR 52.2420 (Identification of Plan) is being revised as shown below.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days of today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(42 U.S.C. 7401-7642)

Date: September 21, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the Commonwealth of Virginia was approved by the Director of the Federal Register on July 1, 1982.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS.

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

In § 52.2420, paragraph (c)(71) is added to read:

§ 52.2420 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

(71) Amendments to Part IV, Emission Standards for Open Burning (RULE EX-1), Section 4.11 to the Virginia Regulations for the Control and Abatement of Air Pollution, submitted on May 28, 1982 by the Commonwealth of Virginia.

[FR Doc. 82-26606 Filed 9-27-82; 8:45 am]

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Federal Register
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Wednesday, September 29, 1982

Presidential Documents

Title 3—

The President

Proclamation 4979 of September 27, 1982

Thanksgiving Day, 1982

By the President of the United States of America

A Proclamation

Two hundred years ago, the Congress of the United States issued a Thanksgiving Proclamation stating that it was "the indispensable duty of all nations" to offer both praise and supplication to God. Above all other nations of the world, America has been especially blessed and should give special thanks. We have bountiful harvests, abundant freedoms, and a strong, compassionate people.

I have always believed that this annointed land was set apart in an uncommon way, that a divine plan placed this great continent here between the oceans to be found by people from every corner of the Earth who had a special love of faith and freedom. Our pioneers asked that He would work His will in our daily lives so America would be a land of morality, fairness, and freedom.

Today we have more to be thankful for than our pilgrim mothers and fathers who huddled on the edge of the New World that first Thanksgiving Day could ever dream. We should be grateful not only for our blessings, but for the courage and strength of our ancestors which enable us to enjoy the lives we do today.

Let us reaffirm through prayers and actions our thankfulness for America's bounty and heritage.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim Thursday, November 25, 1982, as a National Day of Thanksgiving and I call upon all of our citizens to set aside that day for appropriate expressions of thanksgiving.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th. day of Sept. in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 82-26995
Filed 9-27-82; 4:13 pm]
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Rules and Regulations

Federal Register
Vol. 47, No. 189
Wednesday, September 29, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. 82-338]

Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.
ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. These amendments establish commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to an returning from the place at which an employee of Plant Protection and Quarantine performs overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lanier, Assistant Director, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 643, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8247.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final action has been reviewed under Executive Order 12291, and has been determined to be exempt from those requirements. Nicholas E. Bedessem, Special Assistant to the Administrator, made this determination because commuted traveltime allowances are strictly a function of where the APHIS employee lives in relation to the place overtime or holiday duty is performed. As employees are transferred or change their residence or as the place of inspection changes, the number of hours of commuted traveltime allowed may change. These amendments merely reflect such changes and serve to notify the public of the new allowed hours.

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

List of Subjects in 7 CFR Part 354

Agricultural commodities, Exports, Government employees, Imports, Plants (Agriculture), quarantine, Transportation.

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORT

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Plant Protection and Quarantine, by 7 CFR 354.1 of the regulations concerning overtime services relating to imports and exports, the administrative instructions appearing at 7 CFR 354.2, as amended, January 5, September 28, December 18, 1979, March 21, July 11, and October 10, 1980; January 7, April 17, June 19, and November 2, 1981; and March 31, 1982, (44 FR 1364, 55791, and 74791; 45 FR 18367, 46785, and 67268; 46 FR 1661, 22354, 32006 and 54323; and 47 FR 13503) prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty are further amended by adding or removing (in appropriate alphabetical sequence) the information as shown below:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

(In hours)

Location covered	Served from—	Metropolitan area: Within	Metropolitan area: Outside
Remove:			
Arkansas:			
Undesignated ports	Conway		4

COMMUTED TRAVELTIME ALLOWANCES—Continued

(In hours)

Location covered	Served from—	Metropolitan area: Within	Metropolitan area: Outside
District of Columbia:			
Washington, DC, Metropolitan area (including Arlington, Alexandria, and Dulles International Airport, VA; Andrews AFB, MD; and Washington Navy Yard).		2	
Maryland:			
Andrews AFB	Fredericksburg, VA.		3
Undesignated ports	Andrews AFB, Dover, DE, or Dulles International Airport, VA.		3
Remove:			
Tennessee:			
Undesignated ports	Knoxville		4
Virginia:			
Quantico MCAS	Andrews AFB, MD, or Dulles International Airport.		3
Undesignated ports	Andrews AFB, MD, Dulles International Airport, Newport News, or Norfolk.		3
Add:			
Arkansas:			
Undesignated ports	Conway		3
District of Columbia:			
Washington, DC, Metropolitan area (including Arlington, Alexandria, VA; and Andrews AFB, MD; and Washington Navy Yard).	Andrews AFB, MD.	2	
Do	Beltsville, MD.	2	
Do	Dulles International Airport, VA.	2½	
Maryland:			
Andrews AFB		2	
Do	Beltsville	2	
Do	Dulles International Airport, VA.	2½	

COMMUTED TRAVELTIME ALLOWANCES—Continued

(In hours)

Location covered	Served from—	Metropolitan area	
		Within	Outside
Undesignated ports...	Dover, DE, or Dulles International Airport, VA.	.....	3
• • • • •			
Tennessee:			
Undesignated ports...	Knoxville	.....	3
• • • • •			
Virginia:			
Alexandria or Arlington.	Andrews AFB, MD.	2	.....
Do	Dulles International Airport.	2½	.....
Do	Beltsville, MD.	2	.....
Dulles International Airport.	.....	2	.....
Do	Beltsville, MD.	2½	.....
Quantico MCAS	Dulles International Airport.	.....	3
Do	Fredericksburg.	1½	.....
Undesignated ports...	Dulles International Airport, Newport News, and Norfolk.	.....	3
• • • • •			

(64 Stat. 561 (7 U.S.C. 2260))

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Done at Washington, D.C., this 24th day of September 1982.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82-26907 Filed 9-28-82; 8:45 am]

BILLING CODE 3410-34-M

Federal Grain Inspection Service

7 CFR Part 800

Exemption From Inspection and Weighing Requirements for Grain Shipped to Canada and Mexico

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS or Service) is adopting as final, with clarification, the interim final rule which revised its regulations for official inspection and Class X weighing requirements by providing for the exemption from official inspection and Class X weighing requirements all grain exported from the United States to Canada or Mexico by rail or truck. This final action is intended to promote the trading of grain between the United States and Canada and Mexico, while protecting the interests of producers, merchandisers, warehousemen, processors, and consumers of grain. This action will not affect the right of U.S. sellers or Canadian and Mexican buyers to obtain official inspection or weighing, when desired. The proposal of March 31, 1982 (47 FR 13700), proposing to reinstate the limited 15,000 metric ton exemption from official inspection is withdrawn.

EFFECTIVE DATE: October 29, 1982.

FOR FURTHER INFORMATION CONTACT: Lewis Labakken, Jr., Regulations and Directives Management, USDA, FGIS, Room 1636 South Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382-0231.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512-1. The action has been classified as nonmajor, because it does not meet the criteria for a major regulation established in the order.

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because its effect is to limit the applicability of certain official inspection and weighing requirements to which many small entities would otherwise be subject.

This final rule becomes effective 30 days after publication in the **Federal Register.**

The U.S. Grain Standards Act (7 U.S.C. 71 *et seq.*) (Act) provides for the mandatory official inspection and official weighing of grain shipped in export from the United States. This requirement may be waived under certain circumstances.

Section 800.19(a) of the regulations, published at 45 FR 15816 on March 11, 1980, provided that official inspection and Class X weighing requirements for grain exported from the United States applied to all exporters and individual elevator operators who exported 15,000 metric tons or more of grain during the preceding calendar year or who have exported 15,000 metric tons or more during the current calendar year. The 15,000 metric ton exemption was considered adequate to give economic relief from inspection and weighing requirements to small exporters without impairing the objectives of the Act.

By an interim final rule published at 46 FR 32859, June 25, 1981, § 800.19(a) was revised to include a provision (§ 800.19(a)(4)) that exempted from the official inspection and Class X weighing requirements, all grain shipped by rail or by truck to Canada or Mexico. Its purpose was to reduce a burden on trading of grain between the United States and Canada and Mexico, without affecting the right of U.S. sellers or Canadian or Mexican buyers to obtain official inspection or weighing, if so desired. Comments were requested on the interim final rule.

Based on written comments received and other comments from the trade, it appeared that not all grain exporters, individual elevator operators, foreign buyers, and other interested parties were in agreement as to whether the provisions of the interim final rule exempting all grain shipped by rail or truck to Canada or Mexico from the official inspection requirements of the Act should remain in effect. Some commentors were concerned that if the grain was not officially inspected there could be no appeal or reinspection services, and consideration should be given to providing official inspection requirements for export rail and truck shipments more consistent with the water carrier requirements which require official inspection.

All commentors supported the exemption from Class X weighing requirements for all grain shipped by rail or truck to Canada and Mexico.

In view of the overall comments received from industry representatives, it was proposed on March 31, 1982, that § 800.19(a) be revised to eliminate that exemption so that the requirement for official inspection of export grain would be applicable to all grain exported by those exporters and individual elevator operators who exported 15,000 metric tons or more of grain shipped by rail or truck to Canada or Mexico during the preceding calendar year or who have exported 15,000 metric tons or more during the current calendar year. Comments were requested on the proposed rule published at 47 FR 13700.

Written comments on the proposed rule were received from five organizations representing a cross section of the grain industry including farmers. Four of those five organizations opposed the proposal. They indicated

that the interim exemption is working well and needs no modification. These commentors further stated that reinstatement for inspection of the limited 15,000 metric ton exemption will: (1) Discourage and hinder exports; (2) cause delays and increase red tape; (3) require additional monitoring from FGIS personnel; and (4) increase the expense of exports and increase costs. The fifth organization made no comment on how the exemption is working but stated that "* * * we do not oppose its implementation." This commentor requested that FGIS clarify that official services will be provided by official inspection agencies if requested and that to be eligible for such service and to obtain official certificates the facility's applicable inspection or weighing equipment must meet FGIS specifications.

Therefore, based upon all information available to FGIS, FGIS is withdrawing the changes proposed in a notice published March 31, 1982, 47 FR 13700, and adopting as final, with clarification, the interim final rule published at 46 FR 32859, July 25, 1981, because it has determined that: (1) The interim final rule is reducing a burden on the trading of grain between the United States and Canada and Mexico without affecting the right of U.S. sellers or Canadian and Mexican buyers to obtain official inspection or weighing, if so desired; (2) small exporters are satisfied with the exemption provisions and oppose changes; and (3) no complaints regarding quality or quantity of grain have been received by the Service from any interested party under the exemption provisions of the interim rule.

For clarification purposes, the following is added to § 800.19(a)(4): "If requested, subject to the conditions for obtaining official services in § 800.46, official services will be provided by the official agency or where applicable, the field office assigned to perform official functions where the grain will be offered for official services."

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Exports, Grain.

PART 800—GENERAL REGULATIONS

Accordingly, subparagraph (4) which was added to paragraph (a) of 7 CFR 800.19 by the interim rule of July 25, 1981, 46 FR 32859, is revised to read and made final, as follows:

§ 800.19 Exemptions and waivers of the official inspection and Class X weighing requirements.

(a) *Exemptions.* * * *

(4) *Grain shipped by rail or truck to Canada or Mexico.* Official inspection and Class X weighing requirements shall not apply to grain that is shipped by rail or by truck from the United States to Canada or to Mexico. If requested, subject to the conditions for obtaining official services in § 800.46, official services will be provided by the official agency or where applicable, the field office assigned to perform official functions, where the grain will be offered for official services.

* * * * *

(Sec. 6, Pub. L. 94–582, 90 Stat. 2869; (7 U.S.C. 77))

Dated: September 10, 1982.

Kenneth A. Gilles,

Administrator.

[FR Doc. 82-26706 Filed 9-28-82; 8:45 am]

BILLING CODE 3410-EW-M

Agricultural Marketing Service

7 CFR Part 910

Lemons Grown in California and Arizona; Amendment to Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends rules and regulations issued under the marketing order to temporarily change from eight to four the minimum number of successive weeks during which picks are interrupted by District 2 handlers, before they may apply for a new prorate base, for the remainder of the 1982–83 season. Such action recognizes crop conditions and the current and prospective marketing situation for lemons.

EFFECTIVE DATE: September 24, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This final rule changes from eight to four the minimum number of successive weeks during which picks are interrupted by District 2 handlers, before they may apply for a new prorate base. Under provisions of the marketing order, District 2 handlers who become eligible for a new prorate base may also apply for accelerated averaging of weekly picks and upward adjustments to receive additional allotment. Under the order a handler's weekly prorate is established on the basis of average weekly picks (quantities harvested and delivered to a packinghouse) during a prior period. The 1982–83 crop is estimated at 54.3 million cartons compared with the five year average (1977–78 to 1981–82) of 50.3 million cartons. The committee reports that additional flexibility is needed to successfully market the crop. The amendment would afford handlers the opportunity to receive adjusted allotment to handle lemons from the 1982–83 crop on an accelerated basis. A similar rule was authorized for use during the latter part of the 1981–82 season.

This final rule is authorized by § 910.53(h), which provides that the number of weeks specified in § 910.53(f)(2) may be changed through informal rulemaking.

It is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this final rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that the time intervening between the date when information upon which this final rule is based became available and the time when this final rule must become effective in order to effectuate the declared policy of the act is insufficient. This final rule relieves regulations on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make this final rule effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Therefore, § 910.153(e)(2) in 7 CFR Part 910, Subpart—Lemon Administrative Committee Rules and Regulations, is amended by adding the following language at the end of the last sentence in paragraph (e)(2).

§ 910.153 Prorate bases and allotments.

* * * * *

(e) * * *

(2) * * * Notwithstanding the provisions of this section any District 2 handler whose picks are interrupted for 4 successive weeks or more during the fiscal year ending July 31, 1983, may apply for a new prorate base, for accelerated averaging of weekly picks, and for upward adjustments as provided herein.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 24, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-26627 Filed 9-28-82; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1924

Planning and Performing Construction and Other Development

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations for planning and performing construction and other development by adopting the Housing and Urban Development (HUD) Minimum Property Standards (MPS) which were in effect on September 1, 1982. The amendment merely clarifies which MPS has been adopted by FmHA. The clarification is needed to retain accepted technical standards for minimum acceptable design, materials, and construction methods used in the development of structures financed by the Agency. The intended effect of the action is to provide adequate security to the Government's interest and to retain standardization of sound construction practices.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Frank Colon, Deputy Director, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5347, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250, telephone (202) 382–1474.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291, and has been determined to be exempt from these requirements. It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since the purpose of the change involves a clarification of an existing regulation with no substantive or procedural change and publication for comment is unnecessary.

The FmHA programs or projects which are affected by this final rule are subject to state or local clearinghouse review in the manner delineated in Subpart H of Part 1901 of this Chapter.

This change will affect the following domestic assistance programs:

CATALOG OF FEDERAL DOMESTIC ASSISTANCE REFERENCE LIST

CFDA No.	Program title
10.405	Farm Labor Housing Loans and Grants.
10.407	Farm Ownership Loans.
10.410	Low to Moderate Income Housing Loans (Rural Housing Loans—Section 502—Insured).
10.415	Rural Rental Housing Loans.

This document has been reviewed in accordance with 7 CFR, Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

List of Subjects in 7 CFR Part 1924

Agriculture, Claims, Construction complaints, Construction defects, Construction management, Construction and repair, Energy conservation, Government contracts, Housing, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing, Suspension and debarment procedures.

In October 1971, FmHA officially adopted the HUD–MPS for its single family and rural rental programs. Since then, the standards have been periodically updated by HUD and on August 6, 1982, HUD published in the **Federal Register** a final rule amending the HUD–MPS. The amendment which will be effective on September 24, 1982, removed the bulk of criteria relating to marketability and livability and all other criteria that do not bear directly on health, life safety, legislative requirements, or durability. The amendment comes as a result of HUD's previous considerations and the most recent recommendations of the President's Commission on Housing that HUD, VA and FmHA ". . . should phase out their use of the Single Family and Multifamily Minimum Property Standards . . .". Implementation of this change would have more adverse effects on FmHA than on the other two agencies because FmHA direct loans require first-hand control of the development being financed as opposed to HUD/VA financing by insuring and guaranteeing loans made by other mortgagees. Furthermore, FmHA makes loans to finance 100 percent of the cost of the purchase or development of housing to low- and moderate-income applicants who cannot obtain credit from other sources. The financing is based on the statutory requirement that the recipient will graduate to other sources of credit when the recipient has accrued enough equity on the property and has improved his or her economic condition to the extent that the recipient can meet terms and conditions of available credit in the area. Marketability and livability standards must be considered at the time of purchase or development, to adequately protect both, the applicant and the Government's interest and facilitate compliance with the graduation requirement.

In view of the HUD's amendment and the limited time now available to replace the HUD–MPS with definite rules and regulations which meet the state of the art requirements or construction and other development, FmHA is retaining the HUD–MPS version that was in effect on September 1, 1982, rather than making any change at the present time. FmHA will complete new rules and regulations within 6 months from the date of this publication.

PART 1924—CONSTRUCTION AND REPAIR

Therefore, § 1924.4(l) of Subpart A, Part 1924, Chapter XVIII of Title 7, Code

of Federal Regulations is revised to read as follows:

§ 1924.4 Definitions.

* * * * *

(l) *Minimum property standards.* The Department of Housing and Urban Development (HUD) Minimum Property Standards (MPS) in effect on September 1, 1982, have been adopted by the FmHA for housing financed with RH, RRH, RCH, LH, and FO loans. The MPS, available in all FmHA offices, supplements this Subpart with the technical requirements for minimum acceptable design, materials, and construction methods.

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: September 23, 1982.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 82-26673 Filed 9-24-82; 3:50 pm]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 79

[Docket 82-073]

Scrapie in Sheep; Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Tulsa County in Oklahoma from areas quarantined because of the existence of vectors of scrapie. Surveillance activity indicates that vectors of scrapie no longer exist in the area quarantined.

EFFECTIVE DATE: September 23, 1982.

FOR FURTHER INFORMATION CONTACT: J. R. Pitcher, Chief Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Federal Building, Room 738, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8231.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This final action has been reviewed in conformance with Executive Order 12291, and has been determined to be not a "major rule." The Department has determined that this rule will have an annual effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291 and the Department has waived the requirements of Secretary's Memorandum 1512-1.

Dr. E. C. Sharman, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, has determined that the emergency nature of this final rule warrants publication without opportunity for public comment. This amendment relieves certain restrictions no longer deemed necessary to prevent the spread of scrapie, and must be made effective immediately to be of maximum benefit to affected persons.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it removes the quarantine imposed due to the existence of vectors of scrapie concerning only one premises, and that premises is not owned by a small entity.

Background

On January 25, 1980, a document was published in the Federal Register (45 FR 6083) which quarantined a portion of Tulsa County in Oklahoma because of the existence of vectors of scrapie. That action was taken because of the presence of the quarantined premises of a sheep which had been exposed to scrapie. The exposed sheep is now dead, and did not exhibit any signs of scrapie. Thus, it could not have transmitted scrapie to any other animal. Therefore, this amendment releases the premises from quarantine, and the restrictions pertaining to the interstate movement of sheep from quarantined areas, as contained in 9 CFR Part 79, as amended, will no longer apply to the released area.

List of Subjects in 9 CFR Part 79

Animal diseases, Quarantine, Sheep, Transportation, Scrapie.

PART 79—SCRAPIE IN SHEEP

Accordingly, Part 79, Title 9, Code of Federal Regulations, is hereby amended in the following respect:

§ 79.2 [Amended]

1. In § 79.2(a)(1), the following premises is removed: Duane Smith, Route 1, Box 332A, Bixby, Tulsa County, Oklahoma, S½ of the SW¼ of the NW¼ of Sec. 32, T. 17 N., R. 14 E.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

Done at Washington, D.C., this 23rd day of September 1982.

Norvan L. Meyer,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-26942 Filed 9-28-82; 8:45 am]

BILLING CODE 3410-34-M

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 CFR Part 1204

[Docket No. D-0028]

Payment of Finder's Fees to Bona Fide Brokers; Interpretative Ruling

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Interpretive ruling.

SUMMARY: Effective December 31, 1980, the Depository Institutions Deregulation Committee ("Committee") adopted the finders' fee regulation (12 CFR 1204.110) which defined as interest a fee paid by a depository institution to a third party who introduced a depositor to the institution. That regulation was adopted in response to concern with widespread use of finders' fees to circumvent interest rate ceilings by passing finders' fees through to the depositors. The Committee has received questions as to whether the regulation applies to the payment of a fee to a *bona fide* broker for the placement of deposits with a depository institution. At its September 17, 1982 meeting, the Committee determined that fees may be paid to *bona fide* brokers and not be included as interest under conditions that ensure

that no part of the finders' fee is paid to depositors.

EFFECTIVE DATE: September 17, 1982.

FOR FURTHER INFORMATION CONTACT: Elaine Boutilier, Attorney-Advisor, Department of the Treasury (202) 566-8737; Rebecca Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202) 377-6446; Alan Priest, Attorney, Office of the Comptroller of the Currency (202) 447-1880; F. Douglas Birdzell, Counsel, or Joseph A. DiNuzzo, Attorney, Federal Deposit Insurance Corporation (202) 389-4147; or Paul S. Pilecki, Senior Attorney, Board of Governors of the Federal Reserve System (202) 452-3281.

SUPPLEMENTARY INFORMATION:

List of Subjects in 12 CFR Part 1204

Banks, banking.

PART 1204—INTEREST ON DEPOSITS

Pursuant to its authority under Title II of the Depository Institutions Deregulation and Monetary Control Act of 1980 (94 Stat. 142; 12 U.S.C. 3501 *et seq.*), to prescribe rules governing the payment of interest and dividends on deposits of Federally insured commerical banks, savings and loan associations, and mutual savings banks, the Committee amends, effective September 17, 1982, Part 1204—Interest on Deposits (12 CFR Part 1204) by adding a new § 1204.202 to read as follows:

§ 1204.202 Payment of fees to bona fide brokers.

(a) Under § 1204.110 of the Committee's rules, any fee paid by a depository institution to a person who introduces a depositor to the institution must be paid in cash when paid for a deposit subject to rate ceilings and generally will be regarded as a payment of interest for purposes of compliance with rate ceilings. This rule was adopted effective December 31, 1980, in order to prevent the circumvention of rate ceilings that could occur if a "finders' fee" is passed on to the depositor.

(b) The Committee has received several inquiries as to whether depository institutions are required to pay fees in cash to brokers that solicit deposits on behalf of the institution and to regard such payments as interest. The Committee previously found the finders' fee regulation inapplicable to All-Savers Certificates and to a specific person who acted as a broker of demand deposits. The Committee has determined that finders' fees may be paid to *bona fide* brokers of time and demand deposits without regarding such payments as interest for purposes of deposit interest rate ceilings. Accordingly, a fee to a broker will not be regarded as a payment of interest if: (1) The fee is paid to a *bona fide* broker, which is a person who is principally engaged in the business of acting as a broker or dealer in regard to deposits, securities or money market instruments; (2) the relationship between the broker and depository institution is memorialized in a written agreement, a copy of which is retained by the depository institution and made available to examiners; and (3) an officer of the broker certifies that no portion of the fee paid to the broker is directly or indirectly passed on to the depositor, and a copy of the certification is given to the depository institution to be retained on file with the agreement.

By order of the Committee, September 24, 1982.

Gordon Eastburn,

Policy Director.

[FR Doc. 82-26645 Filed 9-28-82; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 4

[Docket No. RM82-2-000]

Case-by-Case Exemption From All or Part of Part 1 of the Federal Power Act for Small Hydroelectric Power Projects With an Installed Capacity of 5 Megawatts or Less

Issued September 27, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction.

SUMMARY: This document corrects unintentional errors in the amendatory language and one paragraph of the final rule amending the definition of "small hydroelectric power project," published on September 1, 1982 (47 FR 38506, 38512).

FOR FURTHER INFORMATION CONTACT: Fredric D. Chanania, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8033.

Kenneth F. Plumb,

Secretary.

Accordingly, the Federal Energy Regulatory Commission is correcting the amendatory language and for the convenience of the reader, republishing the introductory text of 18 CFR 4.102(l) appearing in FR Doc. 82-24057 on page 38512, third column, as follows:

A. The amendatory language should read:

2. In § 4.102, paragraph (a), the introductory text in paragraph (l), and paragraph (l)(2) are revised to read as follows:

§ 4.102 [Corrected]

B. The introductory text in § 4.102(l) should read:

* * * * *

(l) "Small hydroelectric power project" means any project in which capacity will be installed or increased after the date of notice of exemption or application under this subpart, which will have a total installed capacity of not more than 5 megawatts, and which:

(1) * * *

C. The text of § 4.102(l)(2) is not republished.

[FR Doc. 82-26615 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Parts 101, 104, 125, 201, 204, and 225

[Docket No. RM81-4-000; Order No. 258]

Revisions to the Uniform Systems of Accounts and Regulations Governing the Preservation of Records

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is revising its regulations governing the retention of records by public utilities, licensees and natural gas companies. The Commission is explicitly defining the information to be included in continuing plant inventory records, establishing a procedure for ensuring the integrity of computer output microfilm records, clarifying the description of three categories of retained records, updating the rules relating to microfilm records, and shortening some periods of records retention. These revisions are part of the Commission's effort to reduce reporting burdens.

DATE: The revisions are effective October 29, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Malloy, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8033.

(Issued September 13, 1982; errata issued September 22, 1982.)

I. Introduction

In the matter of revisions to the Uniform Systems of Accounts and the Regulations Governing the Preservation of Records, Docket No. RM81–4–000. Before Commissioners: C. M. Butler III, Chairman; J. David Hughes and A. G. Sousa.

The Federal Energy Regulatory Commission (Commission) is revising its regulations governing the retention of records by electric public utilities and licensees (Parts 101, 104, and 125), and natural gas companies (Parts 201, 204, and 225). These revisions amend the Commission's regulations in light of technological change and Commission experience over the last decade. Specifically, the Commission is explicitly defining the information to be included in continuing plant inventory records, establishing a procedure for ensuring the integrity of computer output microfilm records, clarifying the description of three categories of retained records, updating the Commission's rules relating to microfilm records, and shortening some periods of records retention. These revisions are part of the Commission's ongoing program to review its reporting and recordkeeping requirements and to reduce unnecessary burdens by eliminating or amending recordkeeping requirements that are not necessary to the performance of the Commission's regulatory responsibilities.

II. Background

Both the Federal Power Act (Section 301, 16 U.S.C. 825(a) (1976)) and the Natural Gas Act (Section 8, 15 U.S.C. 717g(a) (1976)) require regulated companies to keep such records as the Commission may prescribe "as necessary or appropriate for purposes of administration" of these acts.[1] One of the Commission's most important functions under these acts is ensuring that rates charged by regulated companies for certain transactions are "just and reasonable." Most of the records the Commission requires to be retained and their retention periods are to provide an adequate base of information to make decisions ensuring that proper rates are charged.

The Commission's regulations which provide the length of time that public utilities, licensees, and natural gas companies must retain certain records and how those records are to be maintained were last amended in 1972. Since then there have been technological advances in the field of records retention and almost a decade of experience. For these reasons, the Commission proposed a rule which would update some of these regulations.[2]

The proposal focused on two major changes to the Commission's record retention regulations. First, it proposed that, for the first time, the regulations include an explicit definition of the items to be kept for continuing plant records. Second, it proposed a procedure for authenticating certain microfilm records.

In addition to these major proposals, a series of minor proposals were made to shorten the length of retention of certain records, update the regulations in light of new technology, provide cross-references, and clarify the existing requirement that unaccepted bids and certain clearance logs are to be retained.

In response to this proposal, the Commission received written comments from eighty-five respondents. These included four trade associations, sixty-four electric utilities, twelve gas companies, and five companies that provide various services to electric and natural gas companies.

In light of the comments, the Commission is modifying its two major proposals and making various modifications to the minor proposals to provide regulations that impose the minimum burden on regulated companies while ensuring that adequate records are kept for Commission purposes. In addition, the final rule reflects other changes. Some have been adopted as a result of suggestions made by commenters. Others are technical and conforming changes that, while not in the proposal, will result in regulations that are more readily understandable.

In issuing this final rule, the Commission has been guided by three factors. These are as follows: the statutory and regulatory purposes of record retention requirements, the impact of the Commission's action on state regulatory agencies, and the burden imposed on industry by records retention regulations. Based on the comments received, the Commission believes that the new regulations will not have an adverse impact on state regulatory functions. Moreover, the burden imposed on regulated companies by these changes in record retention regulations should be minimal. In this final rule the Commission has decreased the burden of the current regulations by shortening the retention periods for certain records. The Commission has also decreased the burden that would have been imposed by the proposed rule by modifying both the procedures for authenticating certain microfilm records and the definition of continuing plant records.

III. Discussion

A. Information Required in Continuing Plant Inventory Records

The Commission requires regulated companies to keep records relating to any property used in the regulated business of the company. Theses records are called continuing plant inventory records (CPIR). The Commission uses CPIR to prove the physical existence and location of property, to identify costs of units to ensure accurate accounting when a unit is retired, and to provide mortality information for use in depreciation studies.

CPIR was never explicitly defined. As a result, various companies requested that the Commission specify the content of CPIR. The Commission therefore proposed a definition of CPIR which included the following information for both retirement units and mass property:

(1) The name of the item and the manufacturer's code number, or, if built by the utility, engineering studies and details of the materials used;

(2) The location of the unit of property and the department responsible for it;

(3) The date an item was acquired or transferred to plant-in-service;

(4) The cost of the item;

(5) Estimates of the item's service life and salvage value;

(6) Details of depreciation accounting for the item, such as monthly and yearly percentage rates and actual dollar deductions, all additions, modifications and retirements, accumulated depreciation amounts, and information as to whether depreciation is calculated on a unit or group basis; and

(7) The asset control account to which plant costs are charged.

Commenters generally argued that complying with many of these requirements would be duplicative, burdensome, impractical, expensive, and of little use to the company or the Commission. Specifically, commenters argued that it was unduly burdensome to keep detailed information on "mass property," that is low cost property used

[1] Section 402(a)(2) of the Department of Energy Organization Act transfers these Federal Power Act and Natural Gas Act responsibilities from the Federal Power Commission to the Federal Energy Regulatory Commission. 42 U.S.C. 7172(a)(2) (Supp. IV 1980).

[2] Notice of Proposed Rulemaking, Proposed Rulemaking to amend Regulations to Govern the Preservation of Records of Public Utilities, Licensees, and Natural Gas Companies, Docket No. RM81–4, issued November 13, 1980, 45 FR 76076 (November 20, 1980). The Commission intends in the near future to further evaluate its record retention requirements by a separate rulemaking.

in large quantities, such as telephone poles, or gas and electric meters.

The Commission's final rule defining CPIR is substantially less burdensome than that which was proposed, particularly as to mass property. Most importantly, the final rule differentiates between mass property and retirement units, and requires less detailed information to be kept for mass property. In addition, the final rule reflects several other changes. First, the Commission has not adopted the proposed requirement that regulated companies retain the manufacturer's code number for purchased property and engineering studies and details of materials used for utility-built property. Instead, the Commission has substituted a requirement that only a description of the property be kept. Second, the Commission has not adopted the proposed requirement that the name of the department responsible for the property be retained. Third, the final rule requires only that the year mass property was placed in service be kept. Fourth, the final rule does not adopt the proposed requirement that estimates of service life, salvage value, and details of depreciation accounting be stated. Fifth, the final rule changes the term "asset control account" to "plant control account." The term "asset" includes "plant" but it also includes other types of assets which are not related to "plant". This change makes the terminology more precise and avoids confusion.

Lastly, the definition of CPIR is placed in the definitional sections of the applicable parts of the Uniform Systems of Accounts. The proposed rule would have placed this definition in the part of the Commission's regulations which lists the records to be retained and their retention periods. By putting the definition of CPIR in the definitional sections of the Uniform Systems of Accounts, the final rule keeps related definitions together and reduces the potential for confusion.

B. Authentication of Computer Output Microfilm

Under current regulations, all microfilm records must include a certification statement at the beginning of the record and a dated notation at the end of the record.[3] Since a microfilm record is a copy of a paper record, the Commission developed these requirements to ensure the integrity of the microfilm copying process.

[3] This statement includes the title of the record series, the date prepared, and the name of the official responsible for validating the data in the microfilm. 18 CFR 125.2(e)(1) and 225.2(e)(1)(1981).

Computer technology has developed a process called Computer Output Microfilm (COM), in which computer data can be printed directly on microfilm instead of on paper. COM is thus an original record, not a copy of an original record. Accordingly, the same authentication requirements for microfilm are not necessary for COM. However, since this is a new technology for creating and retaining records, the Commission proposed a procedure for authenticating COM which included a certification statement.

Commenters stated that any certification or other authentication of COM should not be necessary because no certification is required for original records that are the product of computer output paper. Additionally, commenters were concerned that the proposed standard procedures for COM would be burdensome and expensive to implement, albeit less expensive than current regulations for microfilm.

The final rule does not adopt the proposed certification procedures. Instead, it requires that companies develop and follow their own operating procedures and that these procedures be standardized and operate to ensure the integrity of the COM records. To ensure this result, the final rule adds a requirement that the procedures include the name of the responsible official. This will give companies flexibility while guaranteeing the integrity of records needed by the Commission. The Commission believes that this requirement is justified by the newness of the technology, until more experience in dealing with records developed as COM is gained.

C. Changes Relating to Microfilm Records

The final rule makes four changes in the Commission's regulations relating to microfilm records. First, the Commission has for information purposes only, updated its regulations to refer to the most recent standards of the Amereican National Standard Institute (ANSI) and had provided for the automatic acceptance of any future revisions of the ANSI standards. The Commission proposed updating the regulations for preservation of microfilm to refer to the 1976 ANSI standard. Based on the comments, the final rule expands on the proposal by referring to ANSI's more recent standards (1979 and 1981) and automatically accepts for reference future revisions to ANSI's standards when those standards are accepted by the National Archives.

Second, at the request of one commenter, the Commission has included a category for "updateable microforms." "Updateable microforms" are temporary records reproduced in reduced size which permit replacement of individual frames on the record without replacing the entire record. The new regulations require that these microform records must have a life expectancy at least as long as the retention period for the paper records copied onto the microform.

Third, the Commission adopted the proposal that supplemental information and information that had to be photographed more than once could be attached at the end of a microfilm record series instead of the beginning if the viewer is advised at the beginning of the series of the location of the problem frames and the location of the substituted information. Under the new rule, regulated companies now have the option of attaching supplemental or rephotographed information to the end of a microfilm record series as an alternative to the present requirement that such information be attached to the beginning of the series.[4]

Finally, a technical change has been made to the rule that forbids the cutting of microfilm. This was done because current regulations implicitly recognize that a company may cut a roll of film into individual strips to create "jacketed microfiche", that is, to display these strips on microfiche sheets. To clear up this inconsistency, the Commission is amending its regulations to explicitly allow a roll of film to be cut for purposes of creating a jacketed microfiche.

D. Clarifications to Three Categories of Records

The final rule makes three clarifications to the current regulations governing record retention. First, the Commission adopts the proposal that electric utilities and licensees keep clearance logs with station and system generation reports. These records indicate when certain equipment is in service. Clearance logs have always been considered a type of system generation report, but inquiries from some companies indicate that the Commission should make this fact more explicit. Because of commenters' concern over the burden of recording the details to keep "supporting data" with

[4] These rules do not prohibit correcting film during the filming process. During filming, companies may arrange the record as they wish provided that the microform record series "commence and end with a statement as to the nature and arrangement of the records reproduced." 18 CFR 125.2 and 225.2 (1981). After filming is completed, however, the roll of film may not be cut except to create jacketed microfiche. Any new film images must be added to the beginning or the end of the microform record series.

the clearance logs, as was originally proposed, the Commission has dropped this requirement from the final rule. As long as the clearance log clearly indicates the time of operation of the equipment and has the initials of the company official making the entry, it will be sufficient for the Commission's purposes.

Second, the rule clarifies that all bids, including unaccepted bids, are to be kept. It does so by specifically referring to unaccepted bids and proposals. Based on comments to the proposal, the rule also allows, as an alternative, the keeping of summaries of unaccepted bids and proposals.

While not part of the proposal, a third clarification has been made to the terminology relating to retention of depreciation records under Item 39. This item was titled "Records of accumulated provisions for depreciation and depletion of utility plant." The final rule changes this to "Records of accumulated provisions for depreciation and depletion of utility plant and supporting computation of expense." In addition, one of the types of records that are part of Item 39 was called "Records supporting computation of depreciation and depletion expense of utility plant, including such data as life and salvage studies." The final rule changes this to "Records reflecting the service life of property and the percentage of salvage and cost of removal for property retired from each account for depreciable utility plant." These changes are changes of terminology and not of substance; they are made to reflect more accurately current practice.

E. Cross-references to regulations implementing recent statutes

The Commission proposed adding a cross-reference to the requirement that electric utilities retain certain cost-of-service reports required by Commission regulations under the Public Utility Regulatory Policies Act (PURPA). The final rule adopts this proposal. Because this provision is for cross-reference purposes only, companies are not required to keep duplicate files.

To provide additional guidance, another statutory cross-reference has been included in this final rule. The regulations relating to natural gas companies have been amended to include a cross-reference to the Commission's rule requiring the retention of offers to continue certain contractual arrangements under the Natual Gas Policy Act. This provision, like the PURPA cross-reference, is for cross-reference purposes only; companies are not, therefore, required to keep duplicate files.[8]

F. Changes in length of retention periods

The final rule makes changes in two different record retention periods. First, the Commission has adopted the proposed change that certain nuclear production records (Records and prints of changes made to the plant as described in the Final Safety Analysis Report) be retained by electric utilities and licensees for ten years after the plant is retired, instead of the life of the corporation. The term "life of the corporation" was to imprecise and probably resulted in the retention of records long after they are of use to the Commission. Commenters supported this change.

Second, under current regulations the Commission requires that certain depreciation records (Item 39 records) be kept for twenty-five years. The Commission proposed adding a footnote to these records which would cross-refer to a requirement that any part of these records relating to life and mortality data be kept for the life of the corporation. Commenters objected to adding the footnote cross-reference because they believed that it is not necessary to keep life and mortality data for the life of the corporation. The Commission agrees that the "life of the corporation" requirement is too imprecise. The Commission is therefore adding the footnoted cross-reference but is changing the retention period requirement to twenty-five years or ten years after plant is retired, whichever is longer.[9]

IV. Public Proceedings and Effective Date

As discussed above, notice and comment has been provided in this rulemaking in accordance with 5 U.S.C. 553(b) except for a few technical and conforming changes for which the Commission finds that no prior notice is necessary. Accordingly, this final rule is effective thirty days after publication in the Federal Register.

(Natural Gas Act, 15 U.S.C. 717–717w (1976); Federal Power Act, 16 U.S.C. 792–828c (1976); Department of Energy Organization Act, 42 U.S.C. 7107–7352 (Supp. IV 1980); E.O. 12009, 42 FR 46,267 (September 15, 1977))

List of Subjects

18 CFR Parts 101 and 104

Electric power, Electric utilities, Uniform system of accounts.

18 CFR Part 125

Electric power, Electric utilities.

18 CFR Parts 201 and 204

Natural gas, Uniform system of accounts.

18 CFR Part 225

Natural gas.

In consideration of the foregoing, the Commission amends Parts 101, 104, 125, 201, 204, and 225, of Title 18 of the Code of Federal Regulations, as set forth below, to be effective thirty days after publication in the Federal Register.

By the Commission.

Lois D. Cashell,

Acting Secretary.

PARTS 101, 104, 201 AND 204 [AMENDED]

1. Part 101 of Subchapter C is amended in the section entitled "Definitions" by redesignating definitions 8 through 35 to be definitions 9 through 36, respectively.

2. Part 104 of Subchapter C is amended in the section entitled "Definitions" by redesignating definitions 8 through 34 to be definitions 9 through 35, respectively.

3. Part 201 of Subchapter F is amended in the section entitled "Definitions" by redesignating definitions 8 through 36 to be definitions 9 through 37, respectively.

4. Part 204 of Subchapter F is amended in the section entitled "Definitions" by redesignating definitions 8 through 30 to be definitions 9 through 31, respectively.

5. Parts 101 and 104 of Subchapter C and Parts 201 and 204 of Subchapter F are further amended in their respective sections entitled "Definitions" by adding a new definition 8 to read as follows:

Definitions

When used in this system of accounts:

* * * * *

8. "Continuing Plant Inventory Record" means company plant records

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[8] In the notice of proposed rulemaking in this docket the Commission also proposed a cross-reference to reporting and recordkeeping requirements required under Part 276 of the Commission regulations. The Commission, on July 15, 1982, issued a notice of proposed rulemaking proposing to eliminate Part 276's reporting requirements and to move the recordkeeping requirements to Part 271 of the Commission's regulations. Elimination of Reporting Requirements for Sales of Natural Gas under Sections 105, 106(b), and 109 of the Natural Gas Policy Act of 1978, Docket No. RM82–36, issued July 15, 1982, 47 FR 31,562 (July 21, 1982). The Commission has decided not to include cross-references to these regulations at this time, since the regulations may be changed in the RM82–36 rulemaking.

[9] Commenters also suggested that the retention period for station and system generation reports and clearance logs be shortened from 25 years to six years. While the Commission believes that this suggestion may have some merit, this change is not included in the final rule because of uncertainties on the impact this change would have on some aspects of the Commission's hydroelectric program.

for retirement units and mass property that provide, as either a single record, or in separate records readily obtainable by references made in a single record, the following information:

A. For each retirement unit:

(1) the name or description of the unit, or both;

(2) the location of the unit;

(3) the date the unit was placed in service;

(4) the cost of the unit as set forth in Plant Instructions 2 and 3 of this Part; and

(5) the plant control account to which the cost of the unit is charged; and

B. For each category of mass property;

(1) a general description of the property and quantity;

(2) the quantity placed in service by vintage year;

(3) the average cost as set forth in Plant Instructions 2 and 3 of this Part; and

(4) the plant control account to which the costs are charged.

PART 125—PRESERVATION OF RECORDS OF PUBLIC UTILITIES AND LICENSEES

PART 225—PRESERVATION OF RECORDS OF NATURAL GAS COMPANIES

§§ 125.2 and 225.2 [Amended]

6. Section 125.2 and § 225.2 are amended in paragraph (d)(3), respectively, by revising item number 3 in Figure 1 to read as follows:

FIGURE 1.—RECORD MEDIA

Record media/form	Media expected life	Comments and standards
1. * * *		
2. * * *		
3. Microforms:		
a. Microfilm, including Computer Output Microfilm (COM), microfiche jackets, and aperture cards.	....do	Assumes processing to standards and storage in a controlled environment with a temperature and humidity range of 60–80 degrees F. and 40–50% respectively. (Ref. American National Standards Institute (ANSI) standards PH 5.4—1970, PH 1.41—1976, PH 1.28—1979, PH 1.43—1981, or most current standards as accepted by the National Archives for use by federal agencies. See 41 CFR. 101–11.5)
b. Updatable type	Dependant on use of Media	For temporary records not requiring archival permanency so long as the microform or film selected has a life expectancy equal to, or greater than, the retention period for that record. Same storage conditions as for microfilm.
c. Metallic recording data strips.	Archival permanency	Same storage conditions as for microfilm.

7. Section 125.2 is further amended by redesignating paragraphs (e)(1)(ii) and (e)(1)(iii) as (e)(1)(iii) and (e)(1)(iv), respectively.

8. Section 125.2 is further amended by revising paragraphs (e)(1)(i) and (ii), (e)(2)(ii), (j), and (n)(5), and adding (e)(1)(ii) to read as follows:

§ 125.2 General instructions.

* * * * *

(e) *Microform and tape certification.*

(1) As the initial recording media—

(i) Except as provided in paragraph (e)(1)(ii) of this section each microform record series:

(A) shall contain, at the beginning, a microform introduction stating the title of the record series, the date prepared, the name of the official responsible for validating or confirming the data contained therein; and

(B) shall be closed with a clear and standard microform notation indicating the completion of the series and the date.

(ii) If the microform record series is a product of Computer Output Microfilm (COM), the certification required under paragraph (e)(1)(i) of this section is not required if:

(A) the series is prepared in accordance with written standard procedures developed by the company that ensure the integrity of record series which are the product of COM; and

(B) such procedures include the name of the official responsible for validating or confirming the data contained in the record series and confirming that a particular COM record series was produced in accordance with the standard procedures.

(iii) * * *

(iv) * * *

(2) Conversion from other media—

(i) * * *

(ii) Each microform record series shall commence and end with a statement as to the nature and arrangement of the records reproduced, and the date. Rolls of film shall not be cut except to produce jacketed microfiche. Supplemental or retaken film, whether of misplaced or omitted documents or of portions of microform found to be defective, shall be attached to the beginning of the microform record series. However, if a retrieval system using such methods as, for example, image count indexing or "blipping" is used, the supplemental or retaken film may be attached at the end of the series, if provisions at the beginning of the series advise the viewer of the location of the problem frames and the location of the supplemental or retaken frames. If supplemental or retaken film of misplaced or omitted documents, or of portions of microform found to be defective, are attached to the microform record series, the certificate described in paragraph (e)(1)(i) of this section shall cover the supplemental or retaken film and shall state the reasons for the attachment.

(iii) * * *

* * * * *

(j) *Schedule of records and periods of retention.* The schedule of records, § 125.3, shows the period of time that designated records shall be preserved. However, records related to plant shall be retained a minimum of 25 years unless accounting adjustments resulting from reclassification and original cost studies have been approved by the regulatory commission having jurisdiction, and either (1) continuing plant inventory records are maintained (see Definition No. 8, "Continuing Plant Inventory Records", Parts 101 and 104 of this Subchapter), or (2) unitization of construction costs appear in work orders, except that those relating to the construction of licensed projects, or additions or betterments thereto for which the Commission has not determined the actual legitimate original cost are to be retained until such cost has been determined. Additionally, all records which affect the determination of amortization reserves related to licensed projects shall be retained until Commission determination and final adjudication is made.

* * * * *

(n) *Schedule of notes.*

* * * * * *

(5) Life or mortality study data for depreciation purposes shall be retained for 25 years or for 10 years after plant is retired, whichever is longer.

9. Section 125.3 is amended in the "Schedule of Records and Periods of Retention" following the Table of Contents of that section by the following: revising the description and retention period of item 22.1(e); revising item 22.2 (a) and (e); revising item 39; revising item 40(b); and amending item 65 by adding a new sub-item (d); all to read as follows:

§ 125.3 Schedule of records and periods of retention.

* * * * *

SCHEDULE OF RECORDS AND PERIODS OF RETENTION

Description	Retention period
22.1 Production—Electric (less nuclear):	
(a) Station and system generation reports and clearance logs	25 years. See § 125.2(j).
22.2 Production—Nuclear:	
(a) Records of normal plant operation, including power levels and periods of operation at each power level	6 years/operating charts for the first year's operation will be stored for 10 years after plant is retired.
(e) Records and prints of changes made to the plant as described in the Final Safety Analysis Report	10 years after plant is retired.
39. Records of accumulated provisions for depreciation and depletion of utility plant and supporting computation of expense:	
(a) Detailed records or analysis sheets segregating the accumulated depreciation according to functional classification of plant	25 years.
(b) Records reflecting the service life of property and the percentage of salvage and cost of removal for property retired from each account for depreciable utility plant.	Do.[1]
PURCHASES AND STORES	
40. Procurements:	
(b) Supporting documents including accepted and unaccepted bids or proposals (summaries of unaccepted bids or proposals may be kept in lieu of originals) evidencing all relevant elements of the procurement.	6 years. See § 125.2(j).
65. Reports to Federal and State regulatory commissions:	
(d) Cost of service reports filed under section 133 of the Public Utility Regulatory Policies Act (PURPA). (See 18 CFR Part 290.)	5 years.

10. Section 225.2 is further amended by renumbering paragraphs (e)(1)(ii) and (e)(1)(iii) as (e)(1)(iii) and (e)(1)(iv), respectively.

11. Section 225.2 is further amended by revising paragraphs (e)(1) (i) and (ii), (e)(2)(ii), (j), and (n)(5), and adding (e)(1)(ii) to read as follows:

§ 225.2 General instructions.

* * * * *

(e) *Microform and tape certification.*

(1) As the initial recording media—

(i) Except as provided in paragraph (e)(1)(ii) of this section, each microform record series:

(A) shall contain, at the beginning, a microform introduction stating the title of the record series, the date prepared, the name of the official responsible for validating or confirming the data contained therein; and

(B) shall be closed with a clear and standard microform notation indicating the completion of the series and the date.

(ii) If the microform record series is a product of Computer Output Microfilm (COM), the certification required under paragraph (e)(1)(i) of this section is not required if:

(A) the series is prepared in accordance with written standard procedures developed by the company that ensure the integrity of record series which are the product of COM; and

(B) such procedures include the name of the official responsible for validating or confirming the data contained in the record series and confirming that a particular COM record series was produced in accordance with the standard procedures.

(iii) * * *

(iv) * * *

(2) Conversion from other media—

(i) * * *

(ii) Each microform record series shall commence and end with a statement as to the nature and arrangement of the records reproduced, and the date. Rolls of film shall not be cut except to produce jacketed microfiche. Supplemental or retaken film, whether of misplaced or omitted documents or of portions of microform found to be defective, shall be attached to the beginning of the microform record series. However, if a retrieval system using such methods as, for example, image count indexing or "blipping" is used, the supplemental or retaken film may be attached at the end of the series if provisions at the beginning of the series advise the viewer of the location of the problem frames and the location of the supplemental or retaken frames. If supplemental or retaken film of misplaced or omitted documents, or of portions of microform found to be defective, are attached to the microform record series, the certificate described in paragraph (e)(1)(i) of this section shall cover the supplemental or retaken film and shall state the reasons for the attachment.

(iii) * * *

* * * * *

(j) *Schedule of records and periods of retention.* The schedule of records, § 225.3, shows the period of time that designated records shall be preserved. However, records related to plant shall be retained a minimum of 25 years unless accounting adjustments resulting from reclassification and original cost studies have been approved by the regulatory commission having jurisdiction, and either (1) continuing plant inventory records are maintained (see Definition No. 8, "Continuing Plant Inventory Records," Parts 201 and 204 of this Subchapter), or (2) unitization of construction costs appear in work orders.

* * * * *

(n) *Schedule of notes.*

* * * * *

(5) Life or mortality study data for depreciation purposes shall be retained for 25 years or for 10 years after plant is retired, whichever is longer.

12. Section 225.3 is amended in the "Schedule of Records and Periods of Retention" following the Table of Contents of that section by the following: revising item 39; revising item 40(b); and amending item 65 by adding a new sub-item (d); all to read as follows:

§ 225.3 Schedule of records and periods of retention.

* * * * *

SCHEDULE OF RECORDS AND PERIODS OF RETENTION

Description	Retention period
39. Records of accumulated provisions for depreciation and depletion of utility plant and supporting computation of expense:	
(a) Detailed records or analysis sheets segregating the accumulated depreciation according to functional classification of plant	25 years.
(b) Records reflecting the service life of property and the percentage of salvage and costs of removal for property retired from each account for depreciable utility plant.	Do.[4]
PURCHASES AND STORES	
40. Procurements:	
(b) Supporting documents including accepted and unaccepted bids or proposals (summaries of unaccepted bids and proposals may be kept in lieu of originals) evidencing all relevant elements of the procurement.	6 years. See § 225.2(j).
65. Reports or Records required by Federal and State regulatory commissions:	
(d) Records required to be retained under section 277.210 of this chapter, relating to the Natural Gas Policy Act of 1978	Not specified by regulation.

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BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 111

[T.D. 82-161]

Customhouse Broker Licenses

AGENCY: Customs Service. Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to the licensing procedure for customhouse brokers to eliminate the requirement that Customs conduct another investigation each time a broker, previously licensed to transact business (after investigation) in one or more Customs districts, applies for a license in an additional district. This action will reduce delays in processing broker applications and costs to both brokers and Customs.

EFFECTIVE DATE: October 29, 1982.

FOR FURTHER INFORMATION CONTACT: James F. Bartley, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

SUPPLEMENTARY INFORMATION:

Background

A customhouse broker ("broker") is a person who is licensed by the Customs Service ("Customs") to transact Customs business on behalf of importers and other persons. The regulations governing the licensing of brokers, and their duties and responsibilities, are found in Part 111, Customs Regulations (19 CFR Part 111).

Under § 111.19, Customs Regulations (19 CFR 111.19), a broker's license authorizes the transaction of Customs business only in the district for which issued. If a licensed broker desires to obtain a license for an additional district, an application must be filed with the district director of the district for which a license is desired, and Customs conducts an investigation to determine if the applicant is prepared and qualified to furnish efficient service in the additional district.

The requirement for another investigation of an applicant desiring to obtain a license for an additional district delays the processing of the application. Furthermore, Customs incurs the additional expense of conducting an investigation each time a broker applies for a license in a new district.

Accordingly, a notice of proposed rulemaking was published in the **Federal Register** on January 13, 1982 (47 FR 1396), requesting public comment on a proposal to eliminate the requirement that Customs conduct another investigation each time a broker previously licensed to transact business (after investigation) in one or more Customs districts, applies for a license in an additional district.

It was proposd that instead of another investigation each time a broker applies for a license in an additional district, the district director of the district where the application is filed could immediately notify the district director of the district in which the applicant is licensed and request his comments as to the applicant's qualifications in providing efficient service to importers and in complying with the duties and responsibilities of a broker. The district director in the district in which the applicant is licensed would submit his comments and recommendations timely to the district director making the request. The district director of the district where the application is filed then would forward the recommendations of the other district director, his recommendations for action on the application, and the application to Customs Headquarters for a determination as to whether to issue the license in the new district.

This change in procedure was proposed to expedite the processing of applications for a license in additional districts, and thus minimize the cost to the applicant of maintaining qualified employees and an office in the new district pending action on his application to be licensed in that district. In addition, Customs would save the costs of conducting what usually is found to be an unnecessary investigation.

Analysis of Comments

Twenty six comments were received in response to the notice of proposed rulemaking. Twenty-three responses favored the proposed revision. Two commenters were opposed and indicated the regulations, as proposed, favored larger brokerage firms. A third commenter offered objections to the amendments eliminating mandatory investigation of additional district license applicants.

A number of individual responses, while approving generally of the proposal, in addition favored other regulatory amendments beyond the scope of the proposed rulemaking. These included the elimination of all requirements for licensing in additional districts, a provisional license effective for 90 days, a performance bond for brokers, a preliminary determination that a broker applicant will satisfy licensing requirements for the establishment and staffing of an office in the additional district within a 30-day period, a post audit requirement that a broker licensed under the proposal continued to meet the licensing requirements, and a reduction of the licensing fee (determined in accordance with 31 U.S.C. 483a). In addition, several commenters, while favoring the proposal, expressed concern that the

rigor of the license application process should not be lessened and that the "screening process" may be abated.

A commenter recommended that additional amendments be made to include (1) the required submission and filing of a copy of the license application for an additional Customs district with the district director(s) in the district(s) where the applicant is licensed, and (2) a specific 20-day period within which the district director(s) where an applicant is licensed be required to submit his comments and recommendation to the district director where the license and application is made. The commenter noted that suggested change (1) would serve as a preliminary notice to a district director that a broker in his district has applied for a license in another district, and that a review of the broker's performance and operations, or other related matters, should be promptly initiated.

Customs believes this suggestion has merit because it is likely to expedite further the licensing procedure. However, in an effort to avoid the unintentional imposition of a paperwork burden on all brokers, the suggestion has been adopted—not as a Customs requirement, but as a voluntary action a broker may wish to perform to facilitate processing of an application.

Customs does not favor suggestion (2) as, during the course of a district director's review of a broker's peformance in his district, objections may be filed to the application following the posting of the notice of the license application. Furthermore, unresolved audit, penalties, financial and investigative matters may also be under review and require conclusion before the expiration of any specified period.

One commenter opposed the proposed amendments because of the insufficiency of the data that may be developed by a district director, rather than by Customs Office of Investigations, and suggested, as an alternative, that the license application format (Customs Form 3124) be amended to accommodate essential data. The investigating special agent, the commenter suggests, has been heretofore the sole source of advice concerning an applicant's financial status and office staffing in determination of its qualifications to render efficient service in an additional Customs district. It should be noted that the amendment adopted provides for a full investigation by Customs special agents if the Commissioner deems it necessary.

While the amendments do impose additional responsibilities on district directors in processing licensing applications, Customs believes that district offices are qualified to make on-site examination of offices to determine the capabilities of employees to manage or staff offices within their districts. Further, district directors, in conjunction with entry control sections and financial management offices, can adjudge if an applicant is meeting its current financial obligations. Therefore, Customs does not believe it is necessary at this time to amend the license application format to reflect the changes provided in this rulemaking.

A broker licensed in a large number of districts expressed concern that sizeable brokerage firms would still experience delay and difficulty in obtaining prompt licensing action due to the required submission of comments from the district directors where such firms are licensed and transact Customs business. In such cases, the commenter suggested limiting the solicitation of comments by the district director where a license application is made to a "reference" Customs district. The broker suggested that comments received from a district director where a broker was last licensed, should be regarded as more relevant and current, and representative of the qualifications of the broker to render efficient service in his district.

Customs believes that the license qualifications of a single entity are subject to review and to limit the solicitation of comments to any one of several districts where an applicant is licensed, may result in Customs not being able to give full consideration to recent activities in another district (whether adverse or not) reflecting on the applicant's meeting its duties and obligations as a broker.

After consideration of the comments received and further review of the matter, it has been determined to adopt the proposal, with the single modification noted above.

Executive Order 12291

Because this document will not result in a regulation which would be a "major rule" as defined by section 1(b) of E.O. 12291, a regulatory impact analysis and review as prescribed by section 3 of the E.O. is not required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal.

It is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendments will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 111

Administrative practice and procedure, Brokers, Licensing.

Amendments to the Regulations

Part 111, Customs Regulations (19 CFR Part 111), is amended as set forth below:

PART 111—CUSTOMHOUSE BROKERS

1. Section 111.14 (a) and (b), Customs Regulations (19 CFR 111.14(a), (b)) are revised to read as follows:

§ 111.14 Investigation of the applicant.

(a) *Individual license.* If the applicant passes the examination, the district director shall refer the application to the special agent in charge for an investigation and report.

(b) *Partnership, association, or corporation license.* The district director shall immediately refer an initial application for a partnership, association, or corporation license to the special agent in charge for investigation and report.

* * * * *

2. Section 111.19(a), Customs Regulations (19 CFR 111.19(a)), is revised to read as follows:

§ 111.19 Licenses for additional districts.

A license authorizes the transaction of Customs business only in the district for which issued. Licenses for additional districts may be obtained by:

(a) Filing with the district director of the district for which a license is desired the application prescribed in § 111.12(a). The applicant may submit a copy of the application for the additional district to the district director in each Customs district where licensed indicating the license number and date of issuance. Upon receipt of the application, the district director of the district for which a license is desired shall follow the procedure set forth in §§ 111.12(b) and 111.14;

* * * * *

3. Section 111.19(c), Customs Regulations (19 CFR 111.19(c)), is amended by removing the words "upon investigation" from the first sentence of that section.

4. New paragraphs (d) and (e) are added to § 111.19, Customs Regulations (19 CFR 111.19), to read as follows:

§ 111.19 Licenses for additional districts.

* * * * *

(d) *Recommendation and return of the application by the district director.* Upon receipt of the application, the district director shall immediately notify the district director in each other district in which the applicant is licensed and request comments as to the applicant's qualifications in rendering valuable service to importers and as to the applicant's compliance with the duties and responsibilities of a broker in the other district. The district director in the other district shall timely submit his comments and recommendation to the district director making the request. The district director where the application is made shall forward to the Commissioner (1) a recommendation for action on the application, (2) the recommendation of each other district director, and (3) the original of the application. The district director's recommendation of approval or disapproval of the application shall indicate if an individual applicant resides or has an established office in the additional district or, in the case of a partnership, association, or corporation application, if the requirements of § 111.11 (b) or (c) have been met.

(e) *Investigation.* The Commissioner may require an investigation to be conducted if additional facts are deemed necessary to pass upon the application.

(R.S. 251, as amended, sections 624, 641, 46 Stat. 759, as amended (19 U.S.C. 66, 1624, 1641))

William von Raab,

Commissioner of Customs.

Approved: September 10, 1982.

Robert E. Powis,

Acting Assistant Secretary of the Treasury.

[FR Doc. 82-26644 Filed 9-28-82; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

26 CFR Part 1

[T.D. 7837]

Income Tax; Taxable Years Beginning After December 31, 1953; Treatment of Losses on Small Business Stock

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document restates and clarifies a formula relating to the computation of the amount received for designated stock by a small business corporation. This formula was prescribed in final regulations implementing provisions of the Revenue Act of 1978 and the Technical Corrections Act of 1979 which were published in the **Federal Register** for June 2, 1981 (46 FR 29465) as T.D. 7779.

DATE: The amendments to the regulations are effective with respect to stock issued before and after November 6, 1978, and apply , in general, to taxable years beginning after December 31, 1978. The amendments to the regulations also apply, in certain cases, to taxable years including November 6, 1978.

FOR FURTHER INFORMATION CONTACT: Susan K. Thompson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3294).

SUPPLEMENTARY INFORMATION: On June 2, 1981, the **Federal Register** published as T.D. 7779 amendments to the Income Tax Regulations (26 CFR Part 1) and to the Temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974 (26 CFR Part 11) under sections 414, 1244, and 1563 of the Internal Revenue Code of 1954 (46 FR 29465). The amendments conformed the regulations to section 345 of the Revenue Act of 1978 (92 Stat. 2763) and to section 103(a)(9) of the Technical Corrections Act of 1979 (94 Stat. 194), and also made certain clarifying changes. After the publication of these amendments, comments seeking a clarification of § 1.1244(c)-2(b)(2) of the amendments were received. This section of the amendments appeared at pages 29466 and 29470 in the **Federal Register** of Tuesday, June 2, 1981 (46 FR 29466, 29470).

Section 1.1244(c)-2(b)(2) relates to the requirement that a small business corporation designate as section 1244 stock certain shares of post-November 1978 common stock issued in the transitional year. For purposes of § 1.1244(c)-2(b)(2), the term "transitional year" is defined as the first taxable year in which capital receipts of the corporation exceeded $1,000,000. In computing the amount that may be received for designated stock in the transitional year, a small business corporation is directed by § 1.1244(c)-2(b)(2) to subtract from $1,000,000 amounts received (i) in exchange for stock in years prior to the transitional year; (ii) as contributions to capital in the transitional year or in years prior to that year; and (iii) as paid-in surplus in the transitional year or in years prior to that year. Thus, amounts received for stock in the transitional year are excluded from the computation, while contributions to capital and paid-in surplus accumulated during the transitional year are included under the formula. This yields an inconsistent result where, for example, stock is issued for an amount equal to par value in the transitional year and the amount received is excluded from the computation, in contrast with the economically parallel situation where stock is issued at a price in excess of par value, if any, and part or all of the consideration received for shares is allocated to paid-in surplus. The existing rule also penalizes the small business corporation by requiring the amount of a contribution to capital received in the transitional year to be tallied against the corporation computing the amount of stock issued in the transitional year which may be designated as section 1244 stock.

In order to achieve an equitable result in such situations, and to adhere consistently to the concept of the transitional year as the unit of measurement for capital receipts, the formula set forth in § 1.1244(c)-2(b)(2) is revised by this Treasury decision to exclude from the computation of the amount received for designated stock those contributions to capital and paid-in surplus received in the transitional year, as well as amounts received for stock in the transitional year.

Evaluation of the effectiveness of this regulation will be based on comments received from offices within the Treasury and Internal Revenue Service, other governmental agencies, and the public. These regulations will impose no new reporting or recordkeeping requirements.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for interpretative regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Non-Application of Executive Order 12291

The Treasury Department has determined that this final regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

List of Subjects in 26 CFR Part 1

Income taxes, Capital gains and losses, Recapture.

Drafting Information

The principal author of this regulation is Susan K. Thompson of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulations, both substantively and stylistically.

Adoption of Amendments to the Regulations

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Accordingly, 26 CFR Part 1 is amended as follows:

Section 1.1244(c)–2(b) is amended by revising subparagraph (2)(i) and *Example (3)* of subparagraph (4) and by adding a new *Example (6)* to subparagraph (4) to read as follows:

§ 1.1244(c)–2 Small business corporation defined.

* * * * *

(b) *Post-November 1978 stock.* * * *

(2) *Requirement of designation in event $1,000,000 limitation exceeded.* (i) If capital receipts exceed $1,000,000, the corporation shall designate as section 1244 stock certain shares of post-November 1978 common stock issued for money or other property in the transitional year. For purposes of this paragraph, the term "transitional year" means the first taxable year in which capital receipts exceed $1,000,000 and in which the corporation issues stock. This designation shall be made in accordance with the rules of subdivision (iii) of this paragraph (b)(2). The amount received for designated stock shall not exceed $1,000,000, less amounts received (i) in exchange for stock in years prior to the transitional year; (ii) as contributions to capital in years prior to the transitional year; and (iii) as paid-in surplus in years prior to the transitional year. * * *

(4) *Examples.* * * *

Example (3). On December 1, 1980, Corporation Y issues common stock to shareholder A in exchange for $500,000 in cash. On August 1, 1981, Corporation Y issues common stock to shareholder B in exchange for property having an adjusted basis to Corporation Y of $500,000. On December 1, 1981, B transfers a tract of land having a basis in B's hands of $250,000 to Corporation Y as a contribution to capital. Under section 362(a)(2) of the Code, Corporation Y takes a basis of $250,000 in the tract of land. Corporation Y is a calendar year corporation. On February 15, 1982, it designates all of shareholder B's stock as section 1244 stock by entering the numbers of the qualifying certificates on the corporation's records. The designation made by Corporation Y is effective because it identifies which shares of its stock qualify for section 1244 treatment, was made in writing before the 15th day of the 3rd month following the close of the transitional year (1981), and because the amount received for designated stock does not exceed $1,000,000, less amounts received (i) in exchange for stock in years prior to the transitional year; (ii) as contributions to capital in years prior to the transitional year; and (iii) as paid-in surplus in years prior to the transitional year. Nevertheless, in the event of B's sale of his stock at a loss, the increase in basis attributable to his December, 1981, contribution to capital will be treated as allocable to stock that is not section 1244 stock under § 1.1244(d)–2.

* * * * *

Example (6). Corporation V comes into existence on July 1, 1982. On that date it issues 10 shares of voting common stock to shareholder A in exchange for $500,000 and 5 shares of voting common stock to shareholder B in exchange for $250,000, designating the shares issued to both A and B as section 1244 stock. On September 15, 1982, Corporation V receives a contribution to capital from shareholders A and B having a basis in their hands of $225,000. On February 1, 1983, Corporation V issues one share of stock to shareholder C in exchange for $50,000. Corporation V may designate one-half of the share issued to shareholder C as section 1244 stock under § 1.1244(c)–2 (b)(2). In 1982 the corporation received $750,000 for stock ($500,000) from A and $250,000 from B) and $225,000 as a capital contribution, totaling $975,000 in capital receipts. The receipt of $50,000 from shareholder C in exchange for stock in 1983 causes capital receipts to exceed $1,000,000 and 1983 thus becomes Corporation V's transitional year. Corporation V may receive only $25,000 for designated stock in 1983 under the rule set forth in § 1.1244 (c)–2 (b)(2)(i), which states that the amount received for designated stock shall not exceed $1,000,000, less amounts received (i) in exchange for stock in years prior to the transitional year ($750,000 from A and B), (ii) as contributions to capital in years prior to the transitional year ($225,000), and (iii) as paid-in surplus in years prior to the transitional year ($0). Thus, one-half of C's share (representing the receipt of $25,000) may be designated as section 1244 stock by Corporation V. In the event of the sale of A's stock or B's stock at a loss, the increase in basis attributable to their contribution to capital will be treated as allocable to stock that is not section 1244 stock under § 1.1244(d)–2.

Because this Treasury decision will not be detrimental to any taxpayer, it is found unnecessary to issue this Treasury decision with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of this section.

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: September 7, 1982.

John E. Chapoton,
Assistant Secretary of the Treasury.

[FR Doc. 82-26440 Filed 9-28-82; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 884

Opportunity to Amend State/Tribal Reclamation Plans To Include Provision for Emergency Reclamation Activities

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of opportunity to amend Reclamation Plans.

SUMMARY: The purpose of this notice is to inform the States and Tribes that they may amend their reclamation plans for purposes of undertaking emergency reclamation programs. Under Section 410 of the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95–87), the Secretary of the Interior is authorized to expend monies for the emergency restoration, reclamation, abatement, control, or prevention of adverse effects of coal mining practices on eligible lands. OSM is currently considering delegating certain emergency reclamation responsibilities to the States and Tribes. States/Tribes wishing to undertake an emergency reclamation program funded by the Office of Surface Mining as an approved component of the Reclamation Plan, may seek approval for such a program by amending the State/Tribal Reclamation Plan in accordance with 30 CFR 884.15.

ADDRESS: Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, Room 5401, 1100 L Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Dr. Phyllis Thompson, Chief, Branch of Fund Management, Program Operations and Inspection, at the address above, Telephone: (202) 343–7944.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land

reclamation program for the purposes of restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal for the specified purpose of financing Federal, State and Indian reclamation activities. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977 and for which there is no continuing reclamation responsibility under State or Federal law.

Title IV provides that if the Secretary determines that a State/Tribe has developed and submitted a program for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of Title IV, the Secretary may aprove the program and grant to the State/Tribe exclusive responsibility and authority to implement the approved program.

As part of the reclamation program, Section 410 of the SMCRA provides the Secretary authority to expend monies for the emergency restoration, reclamation, abatement, control or prevention of the adverse effects of coal mining practices on eligible lands. If the Secretary makes a finding of fact that (1) an emergency exists constituting a danger to the public health, safety or general welfare; and (2) no other person or agency will act expeditiously to restore, reclaim, abate, control or prevent the adverse effects of coal mining practices, then the Secretary, his agents, employees and contractors have the right to restore, reclaim, abate, control or prevent the adverse effects. An emergency, as defined in 30 CFR 870.5, means: "a sudden danger or impairment that presents a high probability of substantial physical harm to the health, safety, or general welfare of people before the danger can be abated under normal program operation procedures."

OSM is proposing to delegate States and Tribes the authority to undertake emergency reclamation projects on behalf of the Secretary of the Interior. For a State or Tribe to undertake an emergency reclamation program as part of its Reclamation Plan, the State/Tribe would have to amend its Reclamation Plan and demonstrate that it has the statutory authority to undertake emergencies, the technical capability to design and supervise the emergency work, and the administrative machinery to quickly respond to emergencies either directly or through contractors. Further, the finding of fact described in Section 410 would be made by a representative of the Secretary who must be able to show that emergency projects to be funded meet the definition of "emergency" under 30 CFR 870.5, i.e., the problem must be life-threatening, have occurred suddenly (or pose the threat of occurring suddenly) and require immediate action. Finally, the scope of work undertaken to reduce the emergency would be established by the Secretary's representative and it must not exceed that necessary to stabilize the life-threatening situation and should allow remaining reclamation work to be undertaken later as a lower priority project.

States/Tribes wishing to undertake an emergency reclamation program funded through the grant process should seek OSM approval for necessary modification of their Reclamation Plan. Those States/Tribes which obtain an approved modification of their Reclamation Plans will have an account added to their grant which would be available only upon project-by-project approval by the Secretary through the finding of fact described above. The initial size of the individual accounts would be based on the history of OSM emergency project expenditures on behalf of the States/Tribes. Emergency financing would be derived from the Secretary's discretionary funds.

OSM will provide technical support as requested to assist in developing the capabilities of States/Tribes to investigate, design, oversee, and implement abatement procedures. Additionally, OSM's Field Offices will have and make available supplemental instructions for establishing a State/Tribe-administered emergency reclamation program. The Field Office also should be contacted if you have any general questions regarding this matter. Regulations for amending a State Plan are found in 30 CFR 884.15.

OSM will continue to administer a Federal emergency reclamation program for all eligible States and Tribes which choose not to participate in State/Tribe-administered Federal reclamation programs. If a State/Tribe does amend its plan to enable it to conduct emergency reclamation activities, all emergency projects within the State/Reservation will be funded out of the monies approved in its revised annual grant.

Dated: September 17, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-26827 Filed 9-28-82; 8:45 am]

BILLING CODE 4310-05-M

VETERANS ADMINISTRATION

38 CFR Part 21

Promotion of Development of On-The Job Training for Veterans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: These regulations state VA (Veterans Administration) policy concerning promotion of the development of on-the-job training for veterans under the GI Bill. Although the VA has promoted the development of these programs, no mention of this was included in the Code of Federal Regulations. The law now requires that the policy be made regulatory. These regulations will carry out the requirement of the law.

EFFECTIVE DATE: October 1, 1980.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202-389-2092).

SUPPLEMENTARY INFORMATION: On February 19, 1982 a proposal to amend 38 CFR Part 21 to implement some of the provisions of the Veterans' Rehabilitation and Education Amendments of 1980 was published in the **Federal Register** on pages 7460 and 7461.

Interested people were given 30 days to submit comments, suggestions, or objections. The Veterans Administration received 194 letters and post cards, two from officials of State approving agencies, five from officials of unions and joint apprenticeship committees, one from an apprenticeship association and the remainder from individuals. Nearly all the letters contained objections.

The comments were directed toward § 21.4261. There were no comments on § 21.4262.

Three writers provided similar comments. One thought the VA should not write apprenticeships; one thought it should not develop them; and the third stated it should not supervise them.

This regulation states that the VA will promote the development of apprenticeships. It does not allow, and the VA does not wish to write apprenticeships or develop them. The VA will not supervise them except in States where the VA is acting as the State approving agency. To make this clear the heading of each amended paragraph and the language of the last

subparagraph of each amended paragraph are changed from the proposal to show that the paragraph deals only with promotion rather than with promotion and development.

There were 189 writers who stated that if the VA promoted the development of apprenticeships, it would waste government funds by duplicating the efforts of the Bureau of Apprenticeship and Training.

The VA has no desire to duplicate the efforts of the employees of the Department of Labor. The original proposal called for the VA to coordinate efforts with the Department of Labor. This provision was designed to avoid duplication of effort. Since this apparently was not clear to a large number of readers, language has been added to the final regulation to make clear that the VA will not duplicate the work done by the Department of Labor.

There were 186 writers who claimed that there were enough apprenticeships approved for veterans' training and that more apprenticeships were unnecessary. They suggested that the proposal be withdrawn. The VA does not agree with this suggestion.

The VA is required by law to promote the development of apprenticeships and other on-the-job training. Furthermore a freeze on approved apprenticeships would mean that veterans who wished to be apprentices in new or expanding industries would be unable to train under the GI Bill. This would defeat the purpose of the program.

An official of a State approving agency stated that it was the responsibility of his State approving agency to promote the development of apprenticeships. He stated that the proposed regulation did not take this into account.

The VA desires to cooperate with State approving agencies. Consequently, the final regulations require the VA to coordinate its efforts with any State approving agency which chooses to promote the development of apprenticeships.

One writer suggested that the proposal be withdrawn because he believes that the VA has no authority to promote and develop apprenticeships. As stated earlier, the VA does not desire to develop apprenticeships. The agency does have legal authority to promote their development. The pertinent part of 38 U.S.C. 1772(d) states, "* * * the Administrator (of Veterans' Affairs) shall actively promote the development of programs of training on the job (including programs of apprenticeship) for the purpose of sections 1777 and 1787 of this title * * *" Clearly, the VA has the legal authority to promulgate these regulations.

Two people writing thought the approval of apprenticeships was satisfactory, and that further promotion of development of apprenticeships is unnecessary. As stated previously, the VA is required to promote their development. The agency believes that promotion is valuable in furthering the purposes of the program. Therefore, the agency has decided not to accept the suggestion.

The changes contained in these final regulations are required by statute, and simply incorporate into the regulations the Veterans Administration's longstanding policy and practice.

They, therefore, do not come within the definition of a major rule under Executive Order 12291.

The Administrator of Veterans' Affairs hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. Sections 601 through 612. Pursuant to 5 U.S.C. 605(b), these proposed rules are therefore exempt from the regulatory analysis requirements of sections 603 and 604. The reason for this certification is that the regulations are required by law and merely state longstanding VA policy and practice. They will not of themselves have any significant direct impact on small entities (i.e. small businesses, small private and nonprofit organizations and small governmental jurisdictions).

The Catalog of Federal Domestic Assistance number for the program affected by these regulations is 64.111.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

The proposed amendments to §§ 21.4261 and 21.4262 are changed as indicated above. They are deemed proper, and are hereby approved.

Approved: September 13, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration is amending 38 CFR Part 21 as follows:

1. In § 21.4261, paragraph (d) is added as follows:

§ 21.4261 Apprentice courses.

* * * * *

(d) *Promotion.* As funding permits, Veterans Administration employees will promote the development of apprenticeships. They will—

(1) Visit employers and joint apprenticeship committees,

(2) Coordinate their efforts with activities of any State approving agencies that may choose to promote the development of apprenticeships, and

(3) Avoid duplicating the efforts of others by coordinating their promotional efforts with similar activities of the Department of Labor and State employment security agencies as provided by written agreements covering these activities, including utilization of disabled veterans' outreach program specialists.

(38 U.S.C. 1772(d))

2. In § 21.4262, paragraph (d) is added as follows:

§ 21.4262 Other training on-the-job courses.

* * * * *

(d) *Promotion.* As funding permits, Veterans Administration employees will promote the development of on-the-job training courses. They will—

(1) Visit employers,

(2) Coordinate their efforts with activities of any State approving agencies that may choose to promote the development of on-the-job training courses, and

(3) Avoid duplicating the efforts of others by coordinating their promotional efforts with similar activities of the Department of Labor and State employment security agencies as provided by written agreements covering these activities, including utilization of disabled veterans' outreach program specialists.

(38 U.S.C. 1772(d))

[FR Doc. 82-26796 Filed 9-28-82; 8:45 am]

BILLING CODE 8320-01-M

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38 CFR Part 21

Veterans Education; Surviving Spouse's Delimiting Date, Approval Requirements for Nonaccredited Courses

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The following regulatory provisions implement those provisions of the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981 which affect people receiving educational

assistance under chapters 34, 35 and 36, title 38, United States Code. These amendments liberalize the method used in determining the last date a surviving spouse may receive dependents' educational assistance, and liberalize the approval requirements for nonaccredited courses.

EFFECTIVE DATE: In keeping with Pub. L. 97–66, these regulations are effective October 17, 1981.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202–389–2092).

SUPPLEMENTARY INFORMATION: On pages 19380 and 19381 of the **Federal Register** of May 5, 1982 there was published a notice of intent to amend Part 21 to implement those provisions of the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981 which affect people receiving educational assistance under chapters 34, 35 and 36, title 38, United States Code.

Interested people were given 30 days in which to submit comments, suggestions or objections regarding the proposals. The VA (Veterans Administration) received three letters, all from State approving agencies. All letters addressed the proposed change to § 21.4255. There were no comments on either § 21.3046 or § 21.4254.

All three writers objected to what they saw as an attempt by the VA to implement an approval criterion without involving the State approving agencies. They suggested that the Director of a VA field station be permitted to waive the pro rata refund criterion only when the appropriate State approving agency has recommended such a waiver.

The VA does not think it has the legal authority to give to State approving agencies, in effect, a veto over waivers of the pro rata refund approval criterion. However, the agency recognizes the importance of State approving agencies in the approval process, and has changed the amended § 21.4255 accordingly.

The law (38 U.S.C. 1776(d)) gives the Administrator of Veterans' Affairs the authority to waive the pro rata refund approval criterion. The Administrator is permitted by 38 U.S.C. 212(a) to delegate his authority to act or render decisions only to officers and employees of the Veterans Administration. If the Director of a VA field station could authorize waivers only upon recommendation of a State approving agency, this would have the effect of the Administrator's delegating his authority to make negative decisions to State approving agencies. Since this would violate the law, the VA is unable to accept the suggestion of the letter writers.

However, the VA recognizes the importance of involving the State approving agencies in this process. Hence, the final regulation requires schools to apply for a waiver through the State approving agency, and permits the State approving agency to make recommendations which, however, are not binding upon the Director of the VA field station.

The VA has determined that these regulations contain no major rules as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. They will not result in any major increases in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. These regulations are exempt under 5 U.S.C. 601–612. These regulations are exempt under 5 U.S.C. 605(b) from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. There are several reasons for this certification.

The amendment to § 21.3046 will regulate recipients of dependents' educational assistance. It will have no significant impact on small entities, i.e. small businesses, small private and non-profit organizations, and small governmental jurisdictions.

There are 26 publicly supported, degree-granting colleges and universities which are candidates for accreditation by a regional accrediting association. They may possibly be affected by the amendments to §§ 21.4254 and 21.4255. Of these only one is supported by a governmental jurisdiction small enough to be a small entity according to the RFA. This is not a substantial number. The amendments to these sections will have no significant impact on other types of small entities such as small businesses and small private and nonprofit organizations.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

(Catalog of Federal Domestic Assistance numbers for the programs affected by these regulations are 64.111, 64.117 and 64.120)

The amendments to §§ 21.3046, 21.4254 and 21.4255 are deemed proper and are hereby approved.

Approved: September 13, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration is amending 38 CFR Part 21 as follows:

1. In § 1.3046, paragraph (b) is revised to read as follows:

§ 21.3046 Periods of eligibility; spouses and surviving spouses.

* * * * *

(b) *Surviving spouses.* (1) If the Veterans Administration determines before December 1, 1968 that the veteran died of a service-connected disability, the beginning date of the 10-year period is December 1, 1968.

(2) If the veteran's death occurred before December 1, 1968, but the Veterans Administration does not determine that the veteran died of a service-connected disability until after November 30, 1968, the beginning date of the 10-year period is the date on which the Veterans Administration determines that the veteran died of a service-connected disability.

(3) If the veteran's death occurred before December 1, 1968 while a total, service-connected disability evaluated as permanent in nature was in existence, the beginning date of the 10-year period is December 1, 1968.

(4) If the veteran's death occurred after November 30, 1968, the beginning date of the 10-year period is:

(i) The date of death of the veteran who dies while a total, service-connected disability evaluated as permanent in nature was in existence, or

(ii) The date on which the Veterans Administration determines that the veteran died of a service-connected disability. (38 U.S.C. 1712(b); Pub. L. 97–66, 95 Stat. 1026)

* * * * *

2. In § 21.4254, paragraph (c)(13) is revised as follows:

§ 21.4254 Nonaccredited courses.

* * * * *

(c) *Approval criteria.* * * *

(13) The school either: (i) Has and maintains a policy for the pro rata refund of the unused portion of tuition, fees and charges if the veteran or eligible person fails to enter the course or withdraws or is discontinued from it before completion, or

(ii) Has obtained a waiver of this requirement. See § 21.4255. (38 U.S.C. 1776; Pub. L. 97–66, 95 Stat. 1026)

* * * * *

3. Section 21.4255 is revised as follows:

§ 21.4255 Refund policy; nonaccredited courses.

(a) *Acceptable refund policy.* A refund policy meets the requirements of § 21.4254(c)(13), if it provides that the amount charged for tuition, fees, and other charges for a portion of the course does not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to the total length. The school may make provision for refund within the following limitations:

(1) *Registration fee.* An established registration fee in an amount not to exceed $10 need not be subject to proration. Where the established registration fee is more than $10, the amount in excess of $10 will be subject to proration.

(2) *Breakage fee.* Where the school has a breakage fee, it may provide for the retention of only the exact amount of the breakage, with the remaining part, if any, to be refunded.

(3) *Consumable instructional supplies.* Where the school makes a separate charge for consumable instructional supplies, as distinguished from laboratory fees, the exact amount of the charges for supplies consumed may be retained but any remaining part must be refunded.

(4) *Books, supplies and equipment.* (i) A veteran or eligible person may retain or dispose of books, supplies and equipment at his or her discretion when:

(A) He or she purchased them from a bookstore or other source, and

(B) Their cost is separate and independent from the charge made by the school for tuition and fees.

(ii) The school will make a refund in full for the amount of the charge for unissued books, supplies and equipment when:

(A) The school furnishes the books, supplies and equipment.

(B) The school includes their cost in the total charge payable to the school for the course.

(C) The veteran or eligible person withdraws or is discontinued before completing the course.

(iii) The veteran or eligible person may dispose of issued items at his or her discretion even if they were included in the total charges payable to the school for the course.

(5) *Tuition and other charges.* Where the school either has or adopts an established policy for the refund of the unused portion of tuition, fees, and other charges subject to proration, which is more favorable to the veteran or eligible person than the approximate pro rata basis as provided in this paragraph, such established policy will be applicable. Otherwise, the school may charge a sum which does not vary more than 10 percent from the exact pro rata protion of such tuition, fees, and other charges that the length of the completed portion of the course bears to its total length. The exact proration will be determined on the ratio of the number of days of instruction completed by the student to the total number of instructional days in the course.

(6) *Prompt refund.* In the event that the veteran, spouse, surviving spouse or child fails to enter the course or withdraws or is discontinued therefrom at any time prior to completion of the course, the unused portion of the tuition, fees and other charges paid by the individual shall be refunded promptly. Any institution which fails to forward any refund due within 40 days after such a change in status, shall be deemed, prima facie, to have failed to make a prompt refund, as required by this paragraph.

(b) *Waiver.* (1) An educational institution may apply through the appropriate State approving agency to the Director of the VA field station of jurisdiction for a waiver of the requirements of paragraph (a) of this section as they apply to a veteran or eligible person. The State approving agency shall forward the application to the Director along with its recommendations. The Director shall consider the recommendations and shall grant a waiver only when he or she finds that the educational institution:

(i) Is a college, university, or similar institution offering post-secondary level academic instruction leading to an associate or higher degree;

(ii) Is operated by an agency of a State or a unit of local government;

(iii) If operated by an agency of a State, is located within that State;

(iv) If operated by a unit of local government, is located within the boundaries of the area over which that unit has taxing jurisdiction;

(v) Is a candidate for accreditation by a regional accrediting agency; and

(vi) Charges the veteran or eligible person no more than $120 per quarter, $180 per semester or $360 per school year in tuition, fees and other charges for the course.

(2) If an educational institution disagrees with a decision of a Director of a VA field station, it may ask that the Director, Education Service review the decision. In reviewing the decision the Director must consider the evidence of record. He or she may not grant a waiver unless all the criteria of paragraph (b)(1) of this section are met.

(38 U.S.C. 1776(d); Pub. L. 97–66, 95 Stat. 1026)

[FR Doc. 82-26797 Filed 9-28-82; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2210-6]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: EPA announces final rulemaking on revisions to the Illinois State Implementation Plan (SIP) for Sulfur Dioxide (SO_2). The revision pertains to SO_2 emission limits for solid fuel combustion sources within major metropolitan areas (MMAs) other than Chicago, Peoria and St. Louis (Illinois portion).

EPA's action is based upon a SIP revision request which was submitted by the State.

EFFECTIVE DATE: This final rulemaking becomes effective on October 29, 1982.

ADDRESSES: Copies of this revision to the Illinois SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Randolph O. Cano, (312) 886–6035 before visiting the Region V Office).

Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20480.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air Programs Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois (312) 886–6035)

SUPPLEMENTARY INFORMATION: On July 29, 1981, the State submitted a May 8, 1981 Illinois Pollution Control Board (IPCB) Final Order (R78–14) as a proposed revision to the Illinois SIP. This final Order repeals Rule 204(c)(1)(D) and amends Rule 204(h) to delete reference to Rule 204(c)(1)(D). Rule 204(c)(1)(D) was incorporated into the Illinois SIP on May 3, 1972 (37 FR 10862) as IPCB Rule 204(c)(1)(B)(ii). This action also incorporated Rule 204(h).

Rule 204(c)(1)(D) requires existing solid fuel combustion sources within MMA's other than the Chicago, Peoria and St. Louis (Illinois portion) MMA's to meet a 1.8 lbs SO_2/MMBTU emission limit, if any Illinois Environmental Protection Agency (IEPA) monitor with the MMA records an annual arithmetic average sulfur dioxide level greater than 60 ug/M^3 (0.02 ppm) for any year ending prior to May 30, 1976 or 45 ug/M^3 (0.015 ppm) for any year ending after May 30, 1976.

Rule 204(h) contains a compliance date for Rule 204(c)(1)(D) of three years from the date upon which the IPCB promulgates an Order of Compliance under the provisions of Rule 204(c)(1)(D). Rule 204(c)(1)(D) was promulgated in order to protect a 60 ug/M^3 annual average secondary National Ambient Air Quality Standard (NAAQS); this standard was subsequently withdrawn.

At the IPCB hearings, the following facts were presented in support of the deletion of these rules. Rule 204(c)(1)(D) has never been implemented since it was promulgated in April 1972. This rule was designed to protect a NAAQS which no longer exists. IEPA, in the event of a potential SO_2 problem in any MMA, could bring about necessary changes more expeditiously without resorting to the use of this rule since this rule requires at least three years to produce a new emission limit.

On July 16, 1982 (47 FR 31011), EPA proposed to approve the deletion of these rules from the Illinois SIP since they are not necessary to assure the attainment and maintenance of the SO_2 NAAQS. The public was invited to comment on this proposed SIP revision. No public comments were received. EPA, therefore, approves the deletion of this rule from the Illinois SIP.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Note—Incorporation by reference of the State Implementation Plan for the State of Illinois was approved by the Director of the Federal Register on July 1, 1982.

(Secs. 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: September 10, 1982.

Valdas V. Adamkus,

Regional Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

Subpart O—Illinois

1. Section 57.720 is amended by adding paragraph (c)(37) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(37) On July 29, 1982, the State submitted a revision to the Illinois State Implementation Plan in the form of a May 28, 1981, Illinois Pollution Control Board (IPCB) Final Opinion of the Board (R78–17). This Final Opinion deletes Rule 204(c)(1)(D) and the reference to it in Rule 204(h) from the IPCB Air Pollution Control Regulations.

[FR Doc. 82-26600 Filed 9-28-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[A–5–FRL–2206–5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On April 27 and 29, 1982, the State of Indiana submitted source specific emission limitations as revisions to the Total Suspended Particulate (TSP) and Volatile Organic Compound (VOC) portions of its State Implementation Plan (SIP). The source specific emission limitations are contained as a portion of the operating permits for 10 companies: Huntingburg Wood Products, Jasper Desk Company, Jasper Office Furniture Company, Arist-O-Kraft Company, Mohr Construction Company, Dana Corporation, Allis Chalmers Corporation, McGee Refining Corporation, Hesco Industries and Clark Oil and Refining Corporation. EPA has reviewed these source specific emission limitations, has determined that they are more stringent than the present SIP, and has determined that they will contribute to the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). Therefore, EPA is approving these source specific emission limitations.

DATES: This action is effective November 29, 1982 unless notice is received by October 29, 1982 that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of this revision to the Indiana SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at the following addresses:

U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206

Written comments on this action should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section (5AP–11), U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Anne Ernstein (312) 886–6036.

SUPPLEMENTARY INFORMATION: On April 27, 1982 the State of Indiana submitted source specific revisions to its SIP contained in operating permits for the following facilities:

1. Huntingburg Wood Products—Huntingburg
2. Jasper Desk Company—Jasper
3. Jasper Office Furniture—Jasper
4. Arist-O-Kraft—Jasper
5. Mohr Construction Company—Kokomo
6. Dana Corporation—Hagerstown

7. Allis Chalmers Corporation—LaPorte

On April 29, 1982, the State submitted similar source specific emission limits in the form of operating permits for the following facilities:

1. Kerr McGee Refining Corporation—Clermont
2. Hesco Industries, Incorporated—Charlestown
3. Clark Oil and Refining Corporation—Clermont

The permits contain source specific emission limits in addition to requiring compliance with all other general regulations within the State regulations that may be applicable to these facilities. EPA has in the past or will in the future rulemake on the general regulations contained in these permits and is not rulemaking on these regulations today. EPA is approving the following source specific emission limits contained in the permits:

Facility	Operation	Pollutant	Limitation total emissions [1]	Attainment status designation
Huntingburg Wood Products Company	Wood working processes (sawdust)	TSP	2.5 lbs/hr and 2.4 tons/yr	Nonattainment.
	coal/wood fired boiler	do	2.3 lbs/hr and 7 MMBTU/hr	Do.
Jasper Desk Company	Wood working processes (sawdust)	do	3.3 lbs/hr and 3.9 tons/yr	Do.
	2 boilers (1 wood and 1 oil)	do	8.0 lbs/hr	Do.
Jasper Office Furniture Company, Plant 1	Wood working processes (sawdust)	do	0.8 lbs/hr	Do.
	coal/wood fired boiler	do	11 lbs/hr	Do.
Jasper Office Furniture Company, Plant 2	Wood working processes (sawdust)	do	5 tons/yr	Do.
	coal/wood fired boiler	do	14 lbs/hr and 5 tons/yr	Do.
Ariet-O-Kraft	Wood working processes (sawdust)	do	0.8 lbs/hr and 1 ton/yr	Do.
Mohr Construction Company, Plant No. 3167	Asphalt batching plant	do	50.8 lbs/hr	Do.
Dana Corporation	Grinding boring processes	do	2.56 lbs/hr and 7.96 tons/yr	Unclassifiable.
Allis Chalmers Corporation	Surface coating operations	do	42 tons/yr	Attainment.
	Cleaning, polishing and shot blasting facilities.	do	0.3 lbs/hr and 1 ton/yr	Do.
Kerr McGee Refining Corporation	Petroleum loading and storage facility.	VOC (Ozone)	10 lbs/hr and 40 tons/yr	Attainment/unclassifiable.
Hesco Industries, Incorporated	Surface coating (wood furniture)	do	70 lbs/hr and 70 tons/yr	Nonattainment for Ozone with Dec. 31, 1987 attainment date.
Clark Oil and Refining Corporation	Petroleum loading and storage facility.	do	15 lbs/hr and 50 tons/yr	Attainment/unclassifiable.

[1] The emission limits in this table which EPA is approving today are in addition to those limits contained in the EPA approved SIP.

As can be seen, several of these facilities are located in areas designated for the pollutant in question as nonattainment (40 CFR 81.315). Part D of the Clean Air Act requires the State to submit plans for these areas to attain the primary NAAQS by 1982. (Under certain conditions the attainment date for ozone and carbon monoxide nonattainment areas can be extended until no later than 1987.) One of the requirements of Part D is that reasonably available control technologly (RACT) must be required in all areas not attaining the NAAQS.

For TSP the State did submit such plans and EPA conditionally approved them as meeting the Part D requirements, including RACT, in the nonattainment areas where the above TSP facilities are located. (July 16, 1982, 47 FR 30972). The TSP emission limits which EPA is approving today are in addition to those Part D RACT limits EPA approved on July 16, 1982 and, therefore, should contribute to the attainment and maintenance of the TSP NAAQS in the affected areas.

The current status of the Indiana Part D ozone plan is as follows. With the exception of regulations limiting VOC emissions, EPA approved on February 11, 1982 the ozone plan for several counties in Indiana, including Clark (Hesco Industries), as meeting the requirements of Part D of the Clean Air Act (47 FR 6274). EPA proposed on March 15, 1982 to conditionally approve Indiana's VOC RACT I [1] regulation (1979 APC 15) as meeting the initial VOC RACT requirements of Part D (47 FR 11042). The State recodified 1979 APC 15 as 325 IAC Article 8. The recodification, but not the regulation, was approved by EPA on July 16, 1982, 47 FR 30972. EPA proposed to conditionally approve an expanded version of 325 IAC Article 8, which includes the RACT II [1] emission limits, on May 14, 1982 (47 FR 20824). EPA plans to take final action on both of the VOC RACT regulations in future **Federal Register** notices. Until such time as EPA takes action on either 1979 APC 15 or 325 IAC Article 8, the SIP VOC emission limitation regulation remains SIP rule APC 15, as promulgated by the State in 1972 and approved by EPA on May 14, 1973 (38 FR 12698).

In addition to requiring controls in nonattainment areas such as Clark County, Indiana's VOC RACT I regulation requires RACT controls on petroleum loading and storage facilities in the attainment County of Hendricks (Kerr McGee and Clark Oil). However, this regulation does exempt wood furniture surface coating sources of less than 100 tons/yr, such as Hesco Industries, from control. This exemption is consistent with EPA's current policy which does not require wood furniture surface coating operations of less than 100 tons/yr in Indiana to have now or in the future emission controls (August 11, 1982 memorandum on Review of 1982 Ozone and Carbon Monoxide SIP's from Darryl Tyler, Acting Director of Control Programs Development Division). Therefore, even though an emission limit is not required under current EPA policy, because limits were requested by the States, EPA is approving emission limitations today for Hesco Industries. These emission limits are essentially status quo caps.

The source specific VOC emission limits EPA is approving today are in addition to any emission limits and control techniques contained in the State enforceable 325 IAC Article 8 and those contained in the EPA approved SIP. EPA's approval of the State's source specific emission limits for these sources today will impose overall caps in tons/yr and lbs/hr to the emissions currently allowed.

For both TSP and VOC sources, the limitations EPA is approving today are not inconsistent with the RACT level of control required by Part D. The implementation of these additional emission limits above the Part D requirements should contribute to attaining and maintaining the NAAQS in the areas where the sources are located.

Because EPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become

[1] RACT I regulation are applicable to VOC sources for which control technique guidelines (CTGs) were published by January 1978. RACT II regulations are applicable to VOC sources for which CTGs were published between January 1978 and January 1979.

effective on November 29, 1982. However, if we receive notice by October 29, 1982 that someone wishes to submit critical comments, then EPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities. Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2))

List of Subject in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Note.—Incorporation by reference of the State Implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1982.

(Secs. 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: September 21, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart P—Indiana

1. Section 52.770 is amended by adding new paragraph (c)(38).

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(38) On April 27, 1982, Indiana submitted source specific TSP emission limits for Huntingburg Wood Products, Jasper Desk Company, Jasper Office Furniture Company, Arist-O-Kraft Company, Mohr Construction Company, Dana Corporation, and Allis Chalmers Corporation. On April 29, 1982, Indiana submitted source specific VOC emission limits for McGee Refining Corporation, Hesco Industries, and Clark Oil and Refining Corporation.

* * * * *

[FR Doc. 82-26630 Filed 9-28-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 60 and 61

[A-7-FRL 2217-1]

New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); Delegation of Authority to Lincoln/Lancaster County Health Department (Nebraska)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The EPA is today amending 40 CFR 60.4 and 61.04, Address, to reflect a delegation of authority to Nebraska's Lincoln/Lancaster County Health Department for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS).

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Steve A. Kovac, Air Branch, U.S. EPA, Region VII, 324 East 11th Street, Kansas City, Missouri 64106; 816/374-6525; FTS 758-6525.

SUPPLEMENTARY INFORMATION: The Nebraska Department of Environmental Control has subdelegated authority to implement and enforce the federal NSPS regulations for 32 stationary source categories and national emission standards for four hazardous air pollutants to the Lincoln/Lancaster County Health Department. The amended 40 CFR 60.4(b)(CC) and 61.04(b)(CC) adds the address of the county health department to which all reports, requests, applications, submittals, and communications to the Administrator, as required by 40 CFR Parts 60 and 61, must also be addressed.

List of Subjects

40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc.

40 CFR Part 61

Air pollution control, Asbestos, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional burdens are imposed upon the parties affected.

The delegation which influenced this amendment was effective on August 5, 1982, and it serves no purpose to delay technical change of this address in the Code of Federal Regulations. This rulemaking is effective immediately, and is issued under the authority of Section 111 of the Clean Air Act, as amended, 42 U.S.C. 7412.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Dated: September 14, 1982.

William W. Rice,

Acting Regional Administrator, Region VII.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

In § 60.4, paragraph (b)(CC) is amended by adding the following address after the existing address:

§ 60.4 Address.

* * * * *

(b) * * *

(CC) * * *

Lincoln-Lancaster County Health Department, Division of Environmental Health, 2200 St. Marys Avenue, Lincoln, Nebraska 68502.

* * * * *

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Part 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

In § 61.04, paragraph (b)(CC) is amended by adding the following address after the existing address:

§ 61.04 Address.

* * * * *

(b) * * *

(CC) * * *

Lincoln-Lancaster County Health Department, Division of Environmental

Health, 2200 St. Marys Avenue, Lincoln, Nebraska 68502.

* * * * *

[FR Doc. 82-26668 Filed 9-28-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 81

[A-5-FRL-2204-7]

Designation of Areas of Air Quality Planning Purposes; Attainment Status Designations; Michigan

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: EPA is today approving a change to the redesignation for a portion of Midland County, from non-attainment to attainment designation relative to the sulfur dioxide (SO_2) National Ambient Air Quality Standard (NAAQS). This revision to the Michigan State Implementation Plan (SIP) is based on a request from the State to redesignate this area.

DATE: This action is effective October 29, 1982.

ADDRESSES: Copies of the redesignation request and the supporting technical information are available at the following addresses:

Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48917.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6037.

On July 2, 1982 (47 FR 28968) EPA proposed approval of a redesignation for a portion of Midland County, from nonattainment to attainment relative to the SO_2 NAAQS as a revision to the Michigan SIP. No comments were received.

A portion of Midland County, Michigan (36 square miles surrounding the Dow Chemical plant) was designated as a nonattainment area for the primary SO_2 NAAQS in the March 3, 1978 (43 FR 8964), Federal Register. This nonattainment designation was based on the fact that the Dow Chemical Midland plant operated a Supplementary Control System (SCS), in contravention to Section 123 of the Act, in order to attain the SO_2 NAAQS. Dow Chemical's Midland plant is the major source of SO_2 emissions in Midland County.

On May 6, 1980 (45 FR 29790), EPA approved Michigan's SO_2 control strategy required by Part D of the Act for Midland County. The strategy requires Dow Chemical to comply with the one percent sulfur content limitation contained in Michigan's Rule 336.1401. In that notice, EPA approved the Midland County strategy stating that the available information demonstrated that enforcement of those regulations will protect the ambient air quality in Midland County.

On September 28, 1981, the U.S. District Court for the Eastern District of Michigan in the case of the U.S.A. vs Dow Chemical Company, signed a consent decree which, among other items, committed Dow to comply with the requirements of R336.1401 by September 1, 1981.

On December 21, 1981, the State of Michigan requested that EPA designate Midland County as attainment for SO_2. Michigan indicated that, as of September 1, 1981, the Dow Chemical Company is no longer operating an SCS and that Dow Chemical is now burning compliance fuel (one percent sulfur content). This switch to a lower sulfur content fuel has resulted in a significant reduction in sulfur dioxide emissions in the Midland area.

EPA reviewed Michigan's request to redesignate a portion of Midland County from primary non-attainment to attainment for SO_2 and today is approving the State's request. As noted in EPA's rulemaking of May 6, 1980, EPA believes that Dow's compliance with the 1 percent sulfur limit in R336.1401 will assure attainment of the SO_2 NAAQS in Midland County. Therefore, EPA is approving the redesignation of Midland County as attainment for SO_2 based on Michigan's certification that Dow has been in compliance with R336.1401 since September 1, 1981.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator on January 27, 1981 (46 FR 8709) certified that approvals of SIPs under sections 110 and 172 of the Clean Air Act would not have a significant economic impact on a substantial number of small entities. Because this final action approves a State action taken pursuant to sections 110 and 172 of the Clean Air Act, it falls within this certification. Further, it imposes no new requirements beyond those which the State has already imposed.

This regulation was exempted from review by the Office of Management and Budget under Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before May 24, 1982. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce those requirements.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Secs. 110 and 107, Clean Air Act (42 U.S.C. 7407))

Dated: September 21, 1982.

Anne M. Gorsuch,
Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Section 81.323 of Part 81 of Chapter 1, Title 40, Code of Federal Regulations is amended. In the table for "Michigan—SO_2", the entry for a portion of Midland County should be revised to read as follows:

§ 81.323 Michigan.

Michigan—SO_2

Designated area	Does not meet primary standards	Does not met secondary standards	Cannot be classified	Better than national standards
	•	•	•	•	•
AQCR 122				
1. Midland County, R2E, T13N, sections 1–6, R2E, T13N, sections 1–6, R2E, T14N, sections 7–36.				X.

[FR Doc. 82-26760 Filed 9-28-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 0000/R452 PH-FRL 2214-5]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Certain Pesticide Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerance levels for the pesticide chemicals malathion; *O,O*-diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate; methyl 3-[(dimethoxphosphinyl) oxy] butenoate, alpha and beta isomers; dioxathion; ethion; 2-chloro-1-(2,4-dichorophenyl) vinyl diethyl phosphate; and phosalone in or on certain raw commodities and to revise certain commodity descriptions. These regulations would provide conformity between U.S. tolerances and tolerances established for the above pesticide chemicals by the Codex Alimentarius Commission.

EFFECTIVE DATE: Effective on October 29, 1982.

ADDRESS: Written objections may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Room 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Pesticide chemical	PM	Telephone
Malathion: Methyl 3-[(dimethoxy-phosphinyl)oxy]bu-tenoate, alpha and beta isomers: Ethion	William Miller—PM16.	(703-557-2600)
Dioxathion: 2-Chloro-1-(2,4-dichlorophenyl) vinyl diethyl phosphate: *O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate.	George LaRocca—PM15.	(703-557-2400)
Phosalone	Jay Ellen-berger—PM12.	(703-557-2386)

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of May 26, 1982 (47 FR 22962) which announced that the United States proposed to adjust current U.S. tolerances for certain pesticide chemicals to conform with the tolerances set by the Codex Alimentarius Commission (CAC). The purpose of the CAC is, in general, to protect consumer health and ensure fair practices in the food trade while fostering the movement of agricultural products across international boundaries. A primary concern of the CAC is the development of international food standards, including tolerances for pesticide residues in food.

As the last step of the Codex process, countries are asked to accept the tolerances established by CAC. Before acceptance of a CAC tolerance by the United States, it must be determined that the tolerance fully complies with the requirements of the Federal Food, Drug, and Cosmetic Act, and a regulation must have been promulgated. The May 26, 1982 notice of proposed regulations for tolerances appeared to satisfy these criteria.

FMC Corporation has commented regarding the proposal to increase the tolerances for ethion (§ 180.173) on cattle meat, meat byproducts, and pears. FMC stated that the increased tolerances will unnecessarily impact on the percent of acceptable daily intake (ADI) utilized and that the theoretical maximum residues contribution (TMRC) would be inflated by a factor of 3.33 in the case of cattle, meat (fat basis); by a factor of 1.33 in the case of cattle, meat byproducts; and by a factor of 2.0 in the case of pears.

The Agency does not consider that revising the cattle meat tolerance of 0.75 ppm (whole product basis) to 2.5 ppm cattle meat, fat basis to be a substantial increase. The Agency's TMRC calculations for fat, meat, and meat byproducts of cattle for ethion are already based on a 2.5 ppm tolerance level. Therefore, the proposed tolerance increases for meat and meat byproducts do not have any impact on the ADI. The proposed tolerance increase for pears results in an incremental increase of less than 0.5 percent of the TMRC and a 0.64 percent increase in the utilization of the ADI. The increase from 1 to 2 ppm for pears may be higher than necessary for U.S. good agricultural practices. However, EPA believes that in cases where international trade in commodities is of concern, we must also consider international good agricultural practices as is done in the Codex Alimentarius procedures.

The proposed increased tolerances for ethion are reasonable and supportable and are therefore established in § 180.173.

No other comments were received in response to this notice of proposed rulemaking.

Accordingly, EPA, based on consideration given the data published by the CAC and other relevant material, has concluded that the residues expected to result from the use of these insecticides in or on the commodities will not pose a hazard when used in accordance with the label directions, and that the CAC tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, withing 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(d), 68 Stat. 514 (21 U.S.C 346a(e))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Raw agricultural commodities, Pesticides and pests.

Dated: September 10, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR Part 180 is amended to read as follows:

1. Section 180.111 is amended by revising the established tolerance for broccoli (Pre-H) to read as follows:

§ 180.111 Malathion; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Broccoli (Pre-H)	8.0
* * * * *	

2. Section 180.153 is revised to read as follows:

§ 180.153 O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate; tolerances for residues.

Tolerances are established for residues of the insecticide O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl)

phosphorothioate in or on the following raw agricultural commodities:

Commodities	Parts per million
Alfalfa, fresh	40.0
Alfalfa, hay	10.0
Almonds	0.5
Almonds, hulls	3.0
Apples	0.5
Apricots	0.5
Bananas (NMT 0.1 ppm shall be present in the pulp after peel is removed)	0.2
Beans, forage	25.0
Beans, hay	10.0
Beans, guar	0.1
Beans, guar, forage	0.1
Beans, lima	0.5
Beans, snap	0.5
Beets, roots	0.75
Beets, sugar, roots	0.5
Beets, sugar, tops	10.0
Beets, tops	0.7
Birdsfoot trefoil	40.0
Birdsfoot trefoil, hay	10.0
Blackberries	0.5
Blueberries	0.5
Boysenberries	0.5
Broccoli	0.7
Brussels sprouts	0.7
Cabbage	0.7
Carrots	0.75
Cattle, fat (pre-s appl)	0.7
Cattle, meat (fat basis) (pre-s appl)	0.7
Cattle, mbyp (fat basis) (pre-s appl)	0.7
Cauliflower	0.7
Celery	0.7
Cherries	0.75
Citrus	0.7
Clover (fresh)	40.0
Clover, hay	10.0
Coffee beans	0.2
Collards	0.7
Corn, forage	40.0
Corn (inc sweet K + CWHR)	0.7
Cottonseed	0.2
Cowpeas	0.1
Cowpeas, forage	0.1
Cranberries	0.5
Cucumbers	0.75
Dandelions	0.7
Dewberries	0.5
Endive (escarole)	0.7
Figs	0.5
Filberts	0.5
Grapes	0.75
Grass (NMT 40 ppm shall remain 24 hours after appl)	90.0
Grass, hay	10.0
Hops	0.75
Kale	0.7
Kiwi fruit	0.75
Lespedeza	1.0
Lettuce	0.7
Loganberries	0.75
Melons	0.75
Mushrooms	0.75
Mustard greens	0.7
Nectarines	0.5
Olives	1.0
Onions	0.75
Parsley	0.75
Parsnips	0.5
Peaches	0.7
Peanuts	0.75
Peanuts, forage	40.0
Peanuts, hay	10.0
Peanuts, hulls	10.0
Pears	0.5
Peavine hay	10.0
Peavines	25.0
Peas with pods (determined on peas after removing any shell present when marketed)	0.5
Pecans	0.5
Peppers	0.5
Pineapples	0.5
Pineapples, forage	40.0
Plums (fresh prunes)	0.5
Potatoes	0.1
Potatoes, sweet	0.1
Radishes	0.5
Raspberries	0.5
Rutabagas	0.75
Sheep, fat (pre-s appl)	0.7
Sheep, meat (fat basis) (pre-s appl)	0.7
Sheep, mbyp (fat basis) (pre-s appl)	0.7
Sorghum, forage	10.0
Sorghum, grain	0.75
Soybeans	0.1
Soybeans, forage	0.1
Spinach	0.7
Squash, summer	0.5
Squash, winter	0.75
Strawberries	0.5
Sugarcane	0.75
Swiss chard	0.7
Tomatoes	0.75
Turnips, roots	0.5
Turnips, tops	0.75
Walnuts	0.5
Watercress	0.7

3. Section 180.157 is revised to read as follows:

§ 180.157 Methyl 3-[(dimethoxyphosphinyl)oxy]butenoate, alpha and beta isomers; tolerances for residues.

Tolerances are established for residues of the insecticide methyl 3-[(dimethoxyphosphinyl)oxy]butenoate, alpha and beta isomers, in or on the following raw agricultural commodities:

Commodities	Parts per million
Alfalfa	1.0
Apples	0.5
Artichokes	1.0
Beans	0.25
Beets, garden (incl. tops)	1.0
Birdsfoot trefoil, forage	1.0
Birdsfoot trefoil, hay	1.0
Broccoli	1.0
Brussel sprouts	1.0
Cabbage	1.0
Carrots	0.25
Cauliflower	1.0
Celery	1.0
Cherries	1.0
Citrus	0.2
Clover	1.0
Collards	1.0
Corn, field, forage	1.0
Corn, grain, field	0.25
Corn, pop, forage	1.0
Corn, pop, grain	0.25
Corn, sweet (K+CWHR)	0.25
Corn, sweet, forage	1.0
Cucumbers	0.2
Eggplant	0.25
Grapes	0.5
Kale	1.0
Lettuce	0.5
Melons (incl. cantaloupes, honeydew melon, and muskmelon, determined on the edible portion with rind removed)	0.5
Mustard greens	1.0
Okra	0.25
Onions (green)	0.25
Parsley	1.0
Peaches	1.0
Pears	0.5
Peas	0.25
Peavines	1.0
Peppers	0.25
Plums	1.0
Potatoes	0.25
Raspberries	1.0
Sorghum, forage	1.0
Sorghum, grain	1.0
Spinach	1.0
Squash, summer	0.25
Strawberries	1.0
Tomatoes	0.2
Turnips	0.25
Turnips, tops	1.0
Walnuts (determined on the nut meats with shell removed)	0.25
Watermelon	0.5

4. Section 180.171 is amended by revising the established tolerance for stone fruits to read as follows:

§ 180.171 Dioxathion; tolerances for residues.

* * * * * *

Commodities	Parts per million
* * * * *	
Stone fruits	0.1(N)
* * * * *	

5. Section 180.173 is revised to read as follows:

§ 180.173 Ethion; tolerances for residues.

Tolerances are established for residues of the insecticide ethion (*O,O,O',O'*-tetraethyl *S,S'*-methylene bisphosphorodithioate) including its oxygen analog (*S*-[[(diethoxyphosphinothioyl)thio] methyl] *O,O*-diethyl phosphorothioate) in or on the following raw agricultural commodities:

Commodities	Parts per million
Almonds	0.1
Almond, hulls	5.0
Apples	2.0
Apricots	0.1
Beans	1.0
Cattle, fat	2.5
Cattle, meat (fat basis)	2.5
Cattle, mbyp	1.0
Cherries	0.1
Chestnuts	0.1
Citrus fruits	2.0
Corn, fodder	14.0
Corn, forage	14.0
Corn, grain	0.1
Cottonseed	0.5
Cucumbers	0.5
Eggs	0.2
Eggplants	1.0
Filberts	0.1
Goats, fat	0.2
Goats, meat	0.2
Goats, mbyp	0.2
Grapes	2.0
Hogs, fat	0.2
Hogs, meat	0.2
Hogs, mbyp	0.2
Horses, fat	0.2
Horses, meat	0.2
Horses, mbyp	0.2
Melons	2.0
Milk fat (reflecting [N] residues in milk)	0.5
Nectarines	1.0
Onions	1.0
Peaches	1.0
Pears	2.0
Pecans	0.1
Peppers	1.0
Pimentos	1.0
Plums (fresh prunes)	2.0
Poultry, fat	0.2
Poultry, meat	0.2
Poultry, mbyp	0.2
Sheep, fat	0.2

Commodities	Parts per million
Sheep, meat	0.2
Sheep, mbyp	0.2
Sorghum, forage	2.0
Sorghum, grain	2.0
Squash, summer	0.5
Strawberries	2.0
Tomatoes	2.0
Walnuts	0.1

6. Section 180.263 is revised to read as follows:

§ 180.263 Phosalone; tolerances for residues.

Tolerances are established for residues of the insecticide phosalone (*S*-(6-chloro-3-(mercaptomethyl)-2-benzoxazolinone)*O,O,*-diethyl phosphorodithioate) in or on the following raw agricultural commodities:

Commodities	Parts per million
Almond, hulls	50.0
Apples	10.0
Apricots	15.0
Artichokes	25.0
Cattle, fat	0.25
Cattle, meat	0.25
Cattle, mbyp	0.25
Cherries	15.0
Citrus fruits	3.0
Goats, fat	0.25
Goats, meat	0.25
Goats, mbyp	0.25
Grapes	10.0
Hogs, fat	0.25
Hogs, meat	0.25
Hogs, mbyp	0.25
Horses, fat	0.25
Horses, meat	0.25
Horses, mbyp	0.25
Nectarines	15.0
Nuts	0.1
Peaches	15.0
Pears	10.0
Plums (fresh prunes)	15.0
Potatoes	0.1
	(N)
Sheep, fat	0.25
Sheep, meat	0.25
Sheep, mbyp	0.25

7. Section 180.322 is revised to read as follows:

§ 180.322 2-Chloro-1-(2,4-dichlorophenyl) vinyl diethyl phosphate; tolerances for residues.

Tolerances are established for residues of the insecticide 2-chloro-1-(2,4-dichlorophenyl) vinyl diethyl phosphate in or on the following raw agricultural commodities:

Commodities	Parts per million
Cattle, fat	0.2
Eggs	0.005
Goats, fat	0.005
Hogs, fat	0.005
Horses, fat	0.005
Milk, fat (on a fat basis)	0.2
Poultry, fat	0.005
Sheep, fat	0.2

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BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2F2602/R459; PH-FRL 2216-5]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Chlorothalonil

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the fungicide chlorothalonil in or on certain raw agricultural commodities. This regulation to establish the maximum permissible levels for residues of the fungicide in or on the commodities was requested by Diamond Shamrock Corp.

EFFECTIVE DATE: Effective on September 29, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3706, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of January 13, 1982 (45 FR 1408) that Diamond Shamrock Corp., 1100 Superior Ave., Cleveland, OH 44114, had submitted a pesticide petition (PP 2F2602) to EPA. This petition proposed that tolerances be established for the combined residues of the fungicide chlorothalonil (2,4,5,6-tetrachloroisophthalonitrile) and its metabolite (4-hydroxy-2,5,6-trichloroisophthalonitrile) in or on the raw agricultural commodities stone fruits (apricots, cherries (sweet and sour)), damsons, nectarines, pawpaws, peaches, plums, and prunes) at 0.2 part per million (ppm). The petition was subsequently amended to list the individual commodities apricots at 0.5 ppm; cherries (sweet and sour) at 0.5 ppm; nectarines at 0.5 ppm; peaches at 0.5 ppm; plums at 0.2 ppm; and prunes at 0.2 ppm.

No comments were received in response to the notice of filing. An adequate analytical method for determining residues of chlorothalonil and its metabolite is available, gas chromatography with an electron capture detector, for enforcement purposes.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data on technical chlorothalonil considered in support of the tolerances included a 2-year dog feeding study with a no-observed-effect level (NOEL) of 60 ppm; a 2-year rat feeding study with a NOEL of 60 ppm with no oncogenic effects; a 3-generation rat reproduction study with a NOEL of 15,000 ppm (reproduction) and 1,500 ppm (lactation); a rabbit teratogenicity study with a NOEL of 62.5 mg/kg (HDT); five mutagenicity studies as follows: cell transformation in newborn rats, negative; mammalian cell gene point mutation, negative; Ames test, negative; in vitro mammalian point mutation, negative; and DNA repair, negative (except, it may interface with DNA repair in TA-1538 cells); and a rat oncogenicity study—NCI, carcinogenic in male and female Osborne-Medel rats, but not on $B_6C_3F_1$ mice at 10,126 ppm (HDT).

Deficiencies have been alleged in the report of the NCI study; however, the present tolerance regulation is based on the assumption that the NCI study is valid. In an Incremental Risk Assessment of the carcinogenic and chronic effects, the analysis showed that, based on the theoretical exposure associated with this tolerance, the carcinogenic upper limits of risk are about 1 in 10—7.

The toxicology data on the metabolite considered in support of the tolerances included a 90-day dog feeding study with a NOEL of less than 50 ppm; a rabbit teratogenicity study with a terata NOEL of greater than 5 mg/kg (HDT); and four mutagenicity studies as follows: a host-mediated assay in the mouse, negative; in vivo cytogenic in the mouse, negative; dominant lethal in the mouse, negative but a significant increase in early deaths at week 3 of mating (spermatid stage) was noted at 6.5 mg/kg/day; and dominant lethal in the rat, negative at 8 mg/kg/day for 5 days. Based on the dog feeding study, the NOEL is 60 ppm or 1.5 milligrams (mg)/kilogram (kg) of body weight (bw). Using a 100-fold safety factor, the acceptable daily intake (ADI) is 0.0150 mg/kg/of body weight/day and the maximum permissible intake (MPI) is 0.90 mg/day for a 60 kg. person. These tolerances utilize a maximum of 0.009% of the ADI; published and proposed tolerances utilize 86.99% of the ADI.

The pesticide is considered useful for the purpose for which the tolerances are

sought. As the proposed uses do not involve any items normally used for livestock feed, there is no expectation of secondary residues in meat, milk, poultry and eggs. It is concluded that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after the date of publication of this notice in the **Federal Register**, file a written objection with the Hearing Clerk EPA at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

EFFECTIVE DATE: Effective on: September 29, 1982.

(Sec. 408(d)(2), 68 Stat. 512, (21 U.S.C. 346a(d)(2))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Raw agricultural commodities, Pesticides and pests.

Dated: September 17, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.275 is amended by adding and alphabetically inserting the below named commodities to read as follows:

§ 180.275 Chlorothalonil; tolerances for residues.

* * * * *

Commodities	Parts per million
Apricots	0.5
Cherries (sweet and sour)	0.5
Nectarines	0.5
Peaches	0.5
Plums	0.2
Prunes	0.2

[FR Doc. 82-26504 Filed 9-28-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6339

[NEV-051745]

Nevada; Partial Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes Secretarial Orders dated January 31, 1903, October 6, 1931 and October 28, 1953 as they affect 194.31 acres of land withdrawn for the Colorado River Storage Project. This land is within the Lake Mead National Recreation Area and thus will remain closed to surface entry and mining. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, 702–784–5703.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Orders dated January 31, 1903, October 16, 1931, and October 28, 1953 which withdrew certain lands for use by the Bureau of Reclamation for the Colorado River Storage Project are hereby revoked insofar as they affect the following described land:

Mount Diablo Meridian

T. 32 S., R. 66 E.,
Sec. 12, lots 5, 6, 9, 10, 11, 12, excepting a strip of land 300 feet in width landward from the existing bank of the Colorado River.

The area described aggregates approximately 194.31 acres in Clark County, Nevada.

The above described land lies within the Lake Mead National Recreation Area and will remain closed to operation of the public land laws and the mining laws. The land has been and will remain open to mineral leasing.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Nevada State Office, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

September 20, 1982.

[FR Doc. 82-26504 Filed 9-28-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6340

[F-034788]

Alaska; Partial Revocation of Executive Order No. 8847, as Amended; Modification of Public Land Order No. 5187; and Classification of Land for Conveyance to Cook Inlet Region, Inc.

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes Executive Order No. 8847, as amended, modifies Public Land Order 5187, and classifies and considers as withdrawn certain lands for conveyance to Cook Inlet Region, Inc., under the Alaska Native Claims Settlement Act.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Beau McClure 202–343–6511 or Robert D. Arnold, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior, by Sec. 17(d)(1) of the Alaska Native Claims Settlement Act (ANCSA), 85 Stat. 688, 708 (43 U.S.C. 1616(d)(1)), and pursuant to Sec. 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; (43 U.S.C. 1714), it is ordered as follows:

1. Executive Order No. 8847 of August 8, 1941, as amended, which withdrew lands for use of the Department of the Army as an aerial bombing and gunnery range, is hereby revoked in part, as to the lands described below:

Fairbanks Meridian, Alaska

T. 1 S., R. 1 W.
Portion of NW¼, Sec. 24, further described as:
Beginning at the NW corner of said Section 24, said corner being on the boundary line of that certain easement dated 5 Nov 64 granted

by the United States of America to the State of Alaska for a highway right-of-way, Project No. F-062-4(16) SR-2 Fairbanks SE; thence on said line, through a 2,715.00 foot radius curve to the right (whose center point bears S. 00°03'15" E.) having a central angle of 35°, an arc distaince of 1,658.38 feet; thence S. 54°56'45" E. a distance of 299.54 feet; thence leaving said boundary line and continuing S. 54°56'45" E. a distance of 200.00 feet, more or less, to the east line of said W½ of the NE¼ of the NW¼; thence south on said line a distance of 300.00 feet, more or less, to the most southerly boundary line of said highway easement; said line being common to the south right-of-way line of the Old Richardson Highway; thence on said common line, N. 81°47'29" W. a distance of 1,700.00 feet, more or less, to a point being the terminus of said common line, said point being S. 81°47'29" E. a distance of 278.37 feet from the west line of said Section 24; thence continuing on the said right-of-way line of the Old Richardson Highway N. 81°47'29" W. a distance of 278.37 feet to said west line of Section 24; thence leaving said right-of-way line and on said west line N. 00°03'15" W. a distance of 795.00 feet, more or less, to said point of beginning, and containing a total of approximately 31.73 acres.

2. Subject to valid existing rights, the lands described in paragraph 1, excluding lots 10, 11, 15, and 16 which aggregate approximately 4.59 acres and are no longer under Federal jurisdiction, are classified as suitable for conveyance to Cook Inlet Region, Inc., in accordance with paragraph I.C.(2) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified August 31, 1976, and Sec. 12(b)(6) of the act of January 2, 1976 (89 Stat. 1151).

3. Public Land Order No. 5187 of March 15, 1972, which withdrew lands in military reservations for the protection of the public interest under Section 17(d)(1) of the ANCSA is hereby revoked so far as it relates to the lands in paragraph 1 of this order.

4. Subject to valid existing rights, the lands described in paragraph 2 are hereby withdrawn from all forms of appropriation under the public land laws, including selections by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. 181-287.

5. Prior to any conveyance of the lands described in paragraph 2, the lands shall be subject to administration by the Secretary of the Interior under applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by this order. Applications for leases under the Mineral Leasing Act, as amended, 30 U.S.C. 181-287, will be rejected until this order is modified or the lands are appropriately classified to permit mineral leasing.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

September 20, 1982.

[FR Doc. 82-26806 Filed 9-28-82; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6420]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule list communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287-0270, 500 C Street Southwest, Donohoe Building—Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the Federal Register.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elasped since identification of the community as having flood prone areas, as shown on the Federal Emergency Management Agency's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A-95.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood

insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

List of Subject in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date
Arizona: Pinal	Apache Junction, city of	040120B	Dec. 20, 1979, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	June 10, 1980	Sept. 30, 1982.
Arkansas: Johnson	Clarksville, city of	050112B	June 26, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Nov. 30, 1973, Aug. 6, 1976.	Do.
Alaska: Bristol Bay Division	Dillingham, city of	020041B	Aug. 7, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	May 31, 1974, Dec. 12, 1975.	Do.
California:					
Humboldt	Blue Lake, city of	060436A	July 2, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Jan. 17, 1975	Do.
Orange	Costa Mesa, city of	060216C	June 25, 1971, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	July 2, 1976, June 27, 1978, May 17, 1974.	Do.
Do	Garden Grove, city of	060220B	Jan. 19, 1973, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	May 7, 1976, June 14, 1974.	Do.
Contra Costa	Hercules, city of	060434	July 25, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Mar. 26, 1976, Oct. 22, 1976.	Do.
Orange	Westminster, city of	060237D	Sept. 6, 1974, emergency; Aug. 8, 1978, regular; Sept. 30, 1982, suspended.	Nov. 5, 1977, Aug. 8, 1978.	Do.
Colorado:					
Rio Grande	Del Norte, town of	080154B	Aug. 9, 1974, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	June 4, 1976	Do.
Chaffee	Salida, city of	080031B	June 16, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	May 3, 1974, Jan. 30, 1976.	Do.
Florida:					
Palm Beach	Delray Beach, city of	125102C	Oct. 16, 1970, emergency; Apr. 9, 1971, regular; Sept. 30, 1982, suspended.	July 16, 1976, Mar. 9, 1978.	Do.
Do	Highland Beach, town of	125111C	Sept. 11, 1970, emergency; Oct. 16, 1970, regular; Sept. 30, 1982, suspended.	Oct. 17, 1970, July 1, 1974, Jan. 9, 1976, Jan. 26, 1979.	Do.
Brevard	Indialantic, town of	125115D	Oct. 29, 1971, emergency; Aug. 18, 1972, regular; Sept. 30, 1982, suspended.	Aug. 18, 1972, July 1, 1974, May 7, 1976.	Do.
Do	Malabar, town of	120024C	Aug. 28, 1974, emergency; Sept. 28, 1979, regular; Sept. 30, 1982, suspended.	Mar. 1, 1974, Dec. 19, 1975, Sept. 28, 1979.	Do.
Palm Beach	Tequesta, village of	120228C	Dec. 4, 1970, emergency; June 11, 1971, regular; Sept. 30, 1982, suspended.	June 11, 1971, July 1, 1974, Oct. 8, 1976, Jan. 5, 1979.	Do.
Indiana: Huntingdon	Warren, town of	180095B	Feb. 19, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Nov. 23, 1973, Apr. 30, 1976.	Do.
Minnesota:					
Roseau	Greenbush, city of	270413B	Apr. 15, 1974, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	May 3, 1974, Aug. 6, 1976.	Do.
Marshall	Grygla, city of	270269A	May 24, 1974, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Aug. 8, 1975	Do.
Montana: Beaverhead	Unincorporated areas	300001A	Mar. 14, 1977 emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Sept. 30, 1982	Do.
New Jersey:					
Hudson	North Bergen, township of	340225C	Dec. 5, 1974; emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	June 28, 1974, Oct. 31, 1975, Aug. 13, 1976.	Do.
Somerset	South Bound Brook, borough of	340445A	Feb. 12, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Oct. 22, 1976	Do.
New York:					
Orange	Cornwall, town of	360611B	Apr. 15, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Mar. 28, 1974, May 28, 1976.	Do.
Do	Crawford, town of	361250A	Oct. 1, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Nov. 15, 1974	Do.
Ulster	Gardiner, town of	360856B	June 28, 1974, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	May 31, 1974, July 30, 1976.	Do.
Oneida	Marshall, town of	360534B	July 17, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Aug. 2, 1974, July 9, 1976.	Do.
Cayuga	Moravia, village of	360118B	July 18, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	May 3, 1974, July 2, 1976.	Do.
Ulster	New Paltz, town of	361544C	June 27, 1974, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	May 17, 1974, Jan. 2, 1976, Aug. 6, 1976.	Do.
North Dakota: Stutsman	Spiritwood Lake City, city of	380315B	Nov. 1, 1976, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Mar. 20, 1979	Do.
Oregon: Washington	Unincorporated areas	410238B	Apr. 10, 1973, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Jan. 24, 1975, Sept. 13, 1977.	Do.
Pennsylvania: York	Dillsburg, borough of	420919B	Sept. 16, 1975, emergency; Sept. 28, 1979, regular; Sept. 30, 1982, suspended.	Mar. 19, 1976, Sept. 28, 1979.	Do.
Tennessee:					
Washington	Jonesboro, town of	470188B	Jan. 16, 1974, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Feb. 1, 1974, Oct. 22, 1976.	Do.
Sullivan	Unincorporated areas	470181B	Mar. 6, 1979, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Dec. 30, 1977	Do.
Washington	Unincorporated areas	470268B	Oct. 16, 1978, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Mar. 25, 1977	Do.
Texas: Randall	Canyon, city of	480533C	Aug. 30, 1974, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Apr. 30, 1976, Oct. 22, 1976.	Do.

—Continued

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date
Illinois: Scott	Naples, village of	706098	Mar. 6, 1974, emergency; May 17, 1982, regular; Oct. 1, 1982, suspended.	Apr. 2, 1976, Jan. 6, 1974.	Do.
Minnesota: Winona	Stockton, city of	270532C	May 30, 1975, emergency; Aug. 2, 1982, regular; Oct. 2, 1982, suspended.	Aug. 23, 1974, Oct. 24, 1975, Sept. 22, 1978.	Do.
Michigan: Kalamazoo	Ross, township of	260021A	July 24, 1975, emergency; Mar. 15, 1982, regular; Oct. 6, 1982, suspended.	Mar. 15, 1982	Do.
Virginia: Loudoun	Leesburg, town of	510018B	Mar. 21, 1975, emergency; Sept. 30, 1982, regular; Sept. 30, 1982, suspended.	Aug. 30, 1974, Sept. 12, 1975.	Do.

[1]Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: September 20, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-26500 Filed 9-28-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[Gen. Docket No. 81-462; RM-3738; RM-3789; FCC 82-407]

Amendment To Reclassify Coin-Operated Electronic Games From Class B to Class A Computing Devices

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to two petitions from manufacturers this Report and Order reclassifies coin-operated electronic games as Class A (commercial) computing devices instead of the past Class B (residential) classification under Part 15 Subpart J. Under the computing device requirements adopted to control interference from digital electronic equipment, Class B requirements are more stringent than Class A requirements. In addition to placing coin-operated games under Class A, this Order changed the equipment authorization required for these games from certification by the FCC to verification by the manufacturer.

DATE: Effective October 18, 1982.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Sydney P. Bradfield, Office of Science and Technology, RF Devices Branch, Washington, DC 20554, (202) 653–8247, Room 8302.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 15

Communication equipment, Computer technology, Labelling, Radio, Reporting requirements.

Report and Order

Adopted: September 1, 1982.

Released: September 9, 1982.

1. The Commission adopted a Notice of Proposed Rule Making (NPRM) [1] in the above captioned proceeding in response to two petitions from manufacturers of coin-operated electronic games.[2] The NPRM requested comments on a proposal to amend Subpart J of Part 15 of the FCC Rules to reclassify coin-operated video and arcade electronic games from Class B computing devices to Class A computing devices. It also proposed to change the equipment authorization requirement for coin-op games from certification by the Commission to verification by the manufacturer.

2. Comments and reply comments were received October 5, 1981 and October 20, 1981, respectively. The comments, with one minor exception, favored adoption of the Commission's proposal. On the basis of the record in this proceeding and for the reasons stated herein, the Commission has reclassified coin-op games as Class A computing devices subject to verification by the manufacturer. The rules become mandatory for coin-op games manufactured after December 1, 1982. The adopted rules are attached in the Appendix.

Background

3. In 1979, the Commission adopted new rules to control the interference potential of digital electronic equipment (defined as computing devices) to radio communications.[3] These rules established two classes of computing devices: Class B for equipment which is marketed for use in a residential environment; and, Class A for equipment marketed for use in a commercial environment. The rules established limits on conducted and radiated emissions for each class of equipment. Since equipment used in a residential environment has a higher interference potential, Class B limits are 3 times more restrictive than Class A limits.[4]

4. The rules also require that computing devices must be tested and verified for compliance by the manufacturer. Personal computers, associated peripherals and coin-operated electronic games must be certificated by the Commission. Certification is a more burdensome requirement because the manufacturer must wait until a grant of certification has been issued by the Commission, before the device can legally be marketed (See 47 CFR Subparts I and J).[5]

5. Notwithstanding the fact that coin-op games are played in retail establishments where Class A limits would normally be considered sufficient to protect radio communications, the Commission classified all electronic games, including coin-op games, as

[1] Notice of Proposed Rulemaking in Gen. Docket 81-462 adopted July 16, 1981 and released August 27, 1981 (FCC 81-320; 46 FR 44793, September 8, 1981).

[2] RM-3738 filed by Williams Electronics Inc. on August 7, 1980. RM-3789 filed by Atari Inc. on October 24, 1980.

[3] 47 CFR Part 15 Subpart J adopted by *First Report and Order* in Docket 20780 (44 FR 59530; October 16, 1979) and revised by *Order Granting in Part Reconsideration* in Docket 20780 (45 FR 24154; April 9, 1980).

[4] Computing equipment in a commercial environment is further away from susceptible receivers as compared with equipment in residential areas in closer proximity to receivers. Because the emission level decreases with distance, the limits can be higher for Class A equipment and thereby afford the same interference protection. See the *First Report and Order* in Docket 20780 for a more extensive explanation and a complete derivation of the emission limits for computing devices.

[5] Both certification and verification require the manufacturer to measure the emissions from the equipment. Under certification, this data is submitted to the Commission for review. Marketing is prohibited until the Commission has issued a Grant of Equipment Authorization. Under verification, no submission to the Commission is required and the equipment may be marketed as soon as the manufacturer determines that his equipment complies.

Class B computing devices subject to certification by the Commission. The tighter requirements for games were considered necessary in 1979 for the reasons stated in the First Report and Order in Docket 20780. The two primary reasons are:

(1) Expected proliferation and distribution of games, which made them a greater risk to radio communications.

(2) Coin-op games were identified as a source of interference to the Highway Patrol communications at a frequency of 42 MHz in several western states.

6. The compliance date for personal computers and coin-op games was set for January 1, 1981.[6] In late 1980, before certification became mandatory on January 1, 1981, Williams and Atari petitioned the Commission to reclassify coin-op games as Class A computing devices subject only to verification. Subsequently, several coin-op manufacturers filed petitions requesting the Commission to stay the January 1, 1981 compliance date for coin-op games pending resolution of the two above mentioned petitions. The Commission stayed the date until October 1, 1981 in an Order adopted October 4, 1980.[7] It subsequently stayed the date again in the NPRM until final action in this proceeding. During this stay, coin-op games have been subject to the general non-interference requirement of § 15.3 and interim labelling requirement which is intended to warn about possible interference. Coin-operated games, however, do not have to meet emission requirements at present.

Commission Proposal

7. In response to the petitions filed by Atari and Williams, the Commission in this proceeding proposed to reclassify coin-op games as Class A computing devices subject only to verification. This proposal was based on the industry's contentions that technology of the games has changed since 1974 [8] and that the more liberal Class A limits and verification would be adequate to protect communications (See paragraphs 6–11 of the NPRM in this proceeding). These claims were supported in part by measurements made by Atari with the aid of the Oregon and Nevada Highway Patrols. Both police departments claim they are satisfied after the tests that the Class A limits would be sufficient to protect their radio communications.

8. Comments on this proposal were received from the electronic game industry manufacturers and the Association of Maximum Service Telecasters (AMST). In support of the Commission's proposal the game industry repeated the same basic arguments made in the rulemaking petitions and associated comments. The industry arguments are summarized as follows:

(a) Coin-op games should be classified as Class A computing devices, since vendor games are played in commercial establishments and have the same characteristics as other Class A computing devices.

(b) Class B limits are thought to be overly restrictive and unnecessarily costly to the industry.

(c) The price, size, weight and coin box of vendor games do not make these games suitable for marketing to consumers for use in the home.

(d) Certification is perceived as an unduly burdensome requirement because of the frequent and sudden changes of games on the market. It is felt that potential delays in obtaining certification from the Commission would interrupt the game market. Verification by the manufacturer is considered to be sufficient.

9. AMST is the only commenter in this proceeding outside of the coin-op game industry. AMST does not specifically object to reclassifying coin-op games which are marketed to commercial users. However, AMST requests that coin-op games sold to consumers be required to meet Class B emission limits. In response to these comments, the coin-op game industry states that AMST's support of reclassification for coin-op games marketed only for commercial purposes is consistent with the current industry practice of marketing coin-op games for commercial use. Since marketing is directed to commercial establishments, AMST's recommendation for Class B compliance of coin-op games sold to consumers is considered irrelevant by the industry. According to the industry, it is impossible for manufacturers to separate out those few units which might later wind up in the home. Again the industry stresses that cost ($1500 to $2500), weight (approximately 175 lbs.), size (about 5 feet by 2.5 feet and 6 feet high), and the use of a coin-box mechanism tends to make these games unsuitable for the home market.

10. As for the compliance schedule, Bally recommends that compliance be mandatory 90 days after date of final action in this proceeding for new product lines first started into production by that date and on October 1, 1983 for all other product lines. This would be similar to the existing staggered compliance schedule found in the Rules for computing equipment subject to verification except that compliance has been mandatory since October 1, 1981 for equipment first started in production after that date.

Interference Generated by Coin-Op Games

11. After adoption of the proposal to reclassify coin-op games, six recent cases of interference generated by coin-op games came to our attention. Due to the importance of these interference cases to this proceeding, the Chief Scientist, under delegated authority, extended the deadlines for comments in an Order released December 24, 1981 to give interested parties an opportunity to comment. The interference reports are summarized in the Order which extended the comment period in this proceeding.[9] Most of the cases involve interference to land mobile radio communication services including public safety, police and ambulance radio communications. In addition to the interference cases put in the record for comment, we have had three new reports of interference from coin-op games to police and fire department radio communications and one case involving interference to an amateur radio station.

12. In response to these reports, the coin-op game industry filed consolidated comments reflecting the views of the manufacturers of coin-op games.[10] The manufacturers researched the six interference cases and submitted the results of their investigations with comments. The industry notes that as many as twenty to thirty additional interference problems were handled by manufacturers and distributors during 1981. These recent isolated instances of interference, according to the industry, should not alter the Commission's proposal to reclassify coin-op games as Class A computing devices.

13. The industry maintains that these interference cases do not show that

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[6] In respect to computing equipment subject to verification, there are two dates of compliance depending upon when the equipment was first produced: October 1, 1981 for equipment first produced after that date and October 1, 1983 for equipment first produced before October 1, 1981. See Order Granting in Part Reconsideration in Docket 20780 at paragraphs 19–22.

[7] *Order Staying the January 1, 1981 Compliance Date for Coin Operated Electronic Games* adopted December 4, 1980 (FCC 80–708).

[8] According to industry, technological advances in electronic games involving the use of microprocessors have significantly reduced emission levels thus mitigating the interference that was reported in 1974–76.

[9] *Order Extending Comment Period* in Gen. Docket 81–462 adopted December 24, 1981 and released December 29, 1981 (47 FR 836, January 7, 1982).

[10] *Further Comments of Atari et al.* filed January 18, 1982.

Class A standards on coin-op games would be inadequate for protecting licensed radio communications. It is stressed that during the pendency of this proceeding coin-op games have not had to comply with any radiation limits. The manufacturers claimed to have determined that the games involved in the interference complaints exceeded the Class A radiation limits. They state that tests on prototype of these games indicated emissions as high as 10 times Class A limits on harmonics of the games' clock frequency. In FCC Laboratory tests of four coin-op games one of which happened to be a model of a game reported to be causing interference, it was also observed that this particular model exceeded the Class A limits.[11] The industry asserts that if these games had complied with Class A limits interference would not have been likely to result.

14. More importantly, the industry asserts that there are too few cases of interference for the Commission to make a positive determination that tighter control of coin-op games is actually required to protect radio communications. It particularly points to the fact that there is no evidence to demonstrate that the Class A limit is inadequate for protecting radio communication from coin-op game interference.

15. Concluding, the industry states that severe hardships in terms of added costs, reduced game capability and delayed game introductions would be experienced by the industry and ultimately the public if compliance with Class B limits and certification is required. According to the industry, these burdens are not in the public interest since compliance with Class A requirements will minimize interference.

Commission Response

16. The Commission in FCC Docket 20780 has already determined that emission control standards are necessary for coin-op games. The recently reported interference cases reaffirm that conclusion. The central issue in this proceeding is whether the more liberal emission limit for a Class A computing device and verification of the game by the manufacturer are sufficient to protect radio communications. Unfortunately, there is no simple way to answer the question of sufficiency of the Class A limits at this time. This type of question can only be answered when we have more experience in evaluating the effectiveness of the Class A and Class B limits.

17. The proposal is adopted for the following reasons:

(a) The limited technical data available to us suggest that the Class A limits may be sufficient to protect communication receivers in the majority of locations that games are operated. More experience with the Class A limits is needed to make a more accurate determination of its adequacy.

(b) To arrest the developing interference problems, we believe it is important to implement some minimal emission control standards as soon as possible. Immediate implementation of the Class A limits should satisfy this need for minimal standards.

(c) Relaxing the degree of compliance will reduce the burden on industry and promote the Commission's objective to reduce overly burdensome rules while at the same time protect radio communications. If it is later determined that the Class A limits are not protecting communications, the Commission will immediately start a new proceeding to impose the more restrictive Class B and certification requirement.

18. Since we have received harmful interference complaints and are continuing to receive reports of harmful interference generated by coin-op games, we are hereby setting an earlier mandatory date of compliance for coin-op games than for other Class A computing devices. Notwithstanding the existing verification schedule for Class A equipment recommended in modified form by the industry for coin-op games (see paragraph 10), the Commission reserved the authority to require compliance prior to the Class A mandatory effective date if harmful interference is caused to radio communications.[12] Accordingly, in order to minimize harmful interference problems and to provide a reasonable time frame for manufacturers to verify their products, all coin-op games manufactured after December 1, 1982 shall be verified as complying with Class A standards prior to marketing.

19. To insure that the Class A limits are adequate and that a manufacturer does in fact verify compliance of its game, the Commission will be closely monitoring this situation for the next year or so. The Commission's Authorization and Standards Division of the Office of Science and Technology will be requesting manufacturers to ship a sample game to the FCC Laboratory in Columbia, Maryland for spot checking.

20. With respect to concern of AMST about second hand coin-op games finding their way into a home, we do not expect this to be a problem for the following reasons. First, smaller and more versatile video games are readily available to consumers from retail outlets. Second, the use of coin-op games will in all likelihood have limited use in the home because most vendor games are limited to one game only; whereas, home games have flexibility in the number of games and software that can be used. Finally, it does not appear reasonable to impose Class B and certification on all coin-op games in the event a few of the games are in fact sold second hand to private users.

Pre-Compliant Operation

21. The Commission recently adopted an Order to relax § 2.806 of the marketing rules to allow operation of computing equipment in some instances prior to compliance.[13] This Order deferred to this proceeding consideration of the issue of pre-compliant operation of coin-op games at the user's premises.

22. As amended, § 2.806 allows any computing device including coin-op games to be operated prior to a determination of compliance for purposes of compliance testing, demonstrations at trade shows, and evaluation of performance and customer acceptability at the manufacturer's facilities. In addition, the Commission amended § 2.806 to allow the added privilege of pre-compliant operation at the user's site for a Class A computing device which cannot be determined as acceptable to the customer at the manufacturer's premises because of size or unique capability. In general, this exemption (§ 2.806(d)) will *not* apply to games. Several manufacturers of coin-op games, in their filings in Gen. Docket 81-463, requested this additional privilege of pre-compliant operation at the user's premises (arcades in this case) for coin-op games so that customer reaction to a new game could be measured prior to full scale production.

23. Section 2.806 permits limited pre-compliant operation for testing and evaluation purposes in the development of any product. However, the Commission is reluctant to permit general pre-compliant marketing and operation of coin-op games at the user's premises. We do not believe that adequate control can be maintained over interference potential of such a device. More importantly, pre-compliant operation does not appear to be

[11] FCC Lab Project No. 83-341, file number 31000/EQU/4-0, dated February 5, 1982.

[12] 47 CFR 15.814(d).

[13] Gen. Docket 81-463: In the matter of Amendment of § 2.806 to permit operation of computing equipment prior to certification or verification. Report and Order adopted March 11, 1982, released March 22, 1982 (FCC 82-119); 47 FR 13809, April 1, 1982.

necessary since coin-op games will now be subject to verification by the manufacturer. By changing the equipment authorization to verification, the speed with which a manufacturer can place a new game on the market is left solely to the discretion of the manufacturer and depends only on how fast the manufacturer finds it feasible to verify his new game.

Final Regulatory Analysis

24. Pursuant to 5 U.S.C. 601 et seq. an Initial Regulatory Flexibility Analysis was incorporated in paragraph 17 of the Notice of Proposed Rulemaking. In paragraph 25 of this Notice, written comments on this Analysis were solicited with the same filing deadlines as comments on the rest of the Notice. No comments in response to this request were received.

I. Need for and objective of rule

25. The Commission is relaxing the regulations governing coin-op games from Class B to Class A computing device standards so that manufacturers are not unnecessarily burdened. These Class A requirements are necessary as a minimum requirement to protect against harmful interference generated by coin-op games.

II. Summary of issues raised in comments on Initial Analysis

26. No comments were received specifically concerned with the Initial Regulatory Flexibility Analysis in the Notice in this proceeding. Since these rules do not impose any new reporting or record keeping requirement and actually decrease the administrative burdens on manufacturers under the verification program of equipment authorization in lieu of certification, there is no deleterious economic effect on manufacturers of coin-op games whether a small business or large. In fact, the effects will be beneficial.

III. Significant alternatives

27. The regulations amended herein respond to petitions from the coin-op game industry seeking relief by reclassification under the less stringent Class A requirements of the computing device rules. This relief is granted.

Ordering Clauses

28. Pursuant to the above and under the authority of Sections 4(i), 302 and 303(r) of the Communications Act of 1934, as amended, Part 15 is amended as set out in the Appendix of this Order.

29. It is ordered that this amendment shall become effective October 18, 1982.

30. It is further ordered that this proceeding is terminated.

31. For further information contact Mr. Sydney Bradfield, Office of Science and Technology, phone 202-653-8247.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 15—RADIO FREQUENCY DEVICES

Part 15 is amended as follows:

§ 15.4 [Amended]

1. Section 15.4(p) is amended by removing the example of "electronic games" in the second sentence.

2. Section 15.814 is amended by adding a new paragraph (f) to read as follows:

§ 15.814 Class A computing device: verification requirement.

* * * * *

(f) Notwithstanding paragraphs (a) and (b) of this section, coin-operated electronic games manufactured after December 1, 1982 shall be verified for compliance with the requirements for a Class A computing device prior to marketing pursuant to Subpart I of Part 2 of this chapter.

§ 15.834 [Amended]

3. Section 15.834 is amended by removing the phrase "(including coin-operated games)" in paragraph (a)(1).

[FR Doc. 82-26699 Filed 9-28-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 15

[Gen. Docket No. 80-439; FCC 82-406]

Amendment to Clarify Which Electronic Games Are Exempted From Commission Certification

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order further clarifies which categories of electronic toy games are subject to FCC approval, and which need only be tested by the manufacturer, with regard to compliance with radio emissions limits. It responds to a petition filed by Texas Instruments, Inc. requesting reconsidertion of the Report & Order in the docket. This action effectively allows most electronic toy games to be self-approved by the manufacturer.

DATE: Effective October 18, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mr. Julius P. Knapp, Office of Science and Technology, RF Devices Branch, Washington, DC 20554, (202) 653-8247, Room 8302.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 15

Communications equipment, Computer technology, Labelling, Radio, Reporting requirements.

Memorandum Opinion and Order

Adopted: September 1, 1982.
Released: September 9, 1982.

1. A *Report and Order* in this proceeding was adopted March 11, 1981 and released March 24, 1981.[1] Texas Instruments, Inc. (TI) filed a timely petition for reconsideration of the *Report and Order*. The Toy Manufacturers of America, Inc. (TMA), a trade association, filed comments supporting the TI petition. Milton Bradley Co. submitted a letter dated June 17, 1981 also supporting the TI petition. No other comments or reply comments were received.

Background

2. Electronic games which employ digital circuitry are subject to the Commission regulations for computing devices in Part 15 Subpart J. These rules are designed to control the interference potential of computing devices to TV and radio communications. The computing device rules were adopted in September 1979 by a *First Report and Order* in Docket 20780.[2] Revisions were made in March 1980 by *Order Granting in Part Reconsideration* in Docket 20780.[3] The regulations were instituted after the Commission received numerous reports of interferenoe caused by a variety of devices having in common the use of digital electronics. Lengthy study and technical analysis were conducted before the rules were adopted to determine appropriate interference protection requirements.

3. The regulations adopted in 1979 included a rule § 15.834 that required all electronic games to meet the Class B[4]

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[1] Report and Order in General Docket 80-439, adopted March 11, 1981, released March 24, 1981, 46 FR 19478, March 31, 1981

[2] *First Report and Order* in Docket 20780, adopted September 18, 1979, released October 11, 1979, 79 FCC 2d 28 (1979); 44 FR 59530, October 16, 1979.

[3] *Order Granting in Part Reconsideration* in Docket 20780, adopted March 27, 1980, released April 9, 1980, 79 FCC 2d 67 (1980); 45 FR 24154, April 9, 1980.

[4] The definitions of Class A and Class B computing devices are given in § 15.4(o) and (p) of

computing device emissions limits and be FCC certificated.[5] On reconsideration in 1980, § 15.834 was amended, narrowing the scope of the game certification requirement. The amended § 15.834 required certification for ". . . electronic games, including video coin-operated games, but excluding self-contained, hand-held games that do not use a TV receiver for display."[6] Hand-held games remained subject to manufacturer verification of compliance with Class B limits. (The Class B limits apply irrespective of which authorization procedure is to be used.)

4. Arguing that "hand-held" is too vague (e.g. how big is hand-held?), TMA petitioned the Commission to delete the exemption from certification based on "hand-held" and adopt a new exemption based on the game's clock frequency and/or input power. In the *Report and Order* in the instant proceeding, the Commission amended § 15.834 to exempt an electronic game from certification if it met the following conditions: (1) The game is self contained; (2) the game does not use a TV receiver as a display device; and (3) the game has a clock frequency below 495 kHz.

TI Petition for Reconsideration

5. TI, in its petition, requests reconsideration on two points. First, TI urges that the clock frequency dividing line be shifted from 495 kHz to 1.5 MHz. Second, TI requests that the certification deadline be delayed for those games which remain subject to certification.

6. Several factors weigh in TI's request for shift of the clock frequency dividing line. Current generation toy electronic games employ P–MOS and N–MOS technology.[7] (Only a few games now on the market employ a clock frequency above 495 kHz.) However, according to TI, the trend over the next 2 to 5 years will be to move away from P–MOS and N–MOS technology and move towards C–MOS and other technologies that exhibit higher clock frequencies but consume less power. Emissions thus can be expected to fall on higher frequencies but the levels will be lower. In studying the problem, TI contemplated proposing a certification/verification dividing line based upon a device's clock frequency and power. TI concluded that such a dividing line is impractical due to the difficulty in identifying and measuring the power that contributes directly to the interference signal. As a next best alternative, TI performed a theoretical analysis to evaluate whether the clock frequency dividing line might nevertheless be raised above 495 kHz without unduly increasing the risk of interference. The analysis indicates that the line of demarcation could safely be raised to 1.5 MHz.

7. As to the need to allow more time for certification, TI presents the following argument. Because of the manner in which § 15.834 was revised, it effectively required certification retroactively for all games having a clock frequency above 495 kHz that were produced since January 1, 1981.[8] TI submits that the record does not support the advancement of compliance dates for the class of games. The date for compliance with the certification requirements should be extended to October 1, 1981 for products first placed into production after that date, and to October 1, 1983 for all others. This was the compliance schedule before the rule was amended and only verification was required. TI goes on to explain that the marketing cycle for toy games is keyed around the Christmas selling season and that any marketing delays incurred as a result of the certification process may result in serious hardships to the toy manufacturers. Therefore, it is especially important to allow an adequate period of time for manufacturers to obtain certification.

8. Both TMA and Milton Bradley strongly support the TI petition for reconsideration. They affirm that the information and arguments presented by TI are accurate and correct.

Discussion

9. The petitioner's proposal to require certification for games with a clock frequency greater than 1.5 MHz as opposed to 495 kHz, is a short term and incomplete solution to the matter at hand. The parties commenting in this proceeding generally agree that clock frequency alone does not determine the potential for interference; the emissive character also depends on such factors as circuit layout, accessories, and power of the interfering signal. If there is a simple set of technical characteristics which could be used to distinguish between games which should be certificated and those which need only be verified, it is not readily apparent. Moreover, the selection of an arbitrary technical characteristic such as clock frequency to determine whether a game is subject to certification or verification will apparently result in the need to regularly reexamine and revise the requirement as technology progresses.

10. TI's theoretical analysis showing that game clock frequency may be raised from 495 kHz to 1.5 MHz without potentially increasing the interference risk, assumes that all other factors are effectively held constant. We do not find fault in the analysis itself, but as explained in the previous paragraph, the assumption that other factors besides clock frequency will be constant or similar from one game to the next is not representative of what occurs in actual practice. That is, the combination of factors which affect the emissions characteristics are likely to vary from one game to the next.

11. We have reviewed the record in Docket 20780 (the proceeding which originally set forth the requirements for electronic games) and the record in the instant proceeding, and nowhere has it been shown that games with clock frequencies above a certain point possess characteristics which warrant the Commission's attention in the way of certification. In light of this and the other circumstances discussed above, we have elected to revise and relax § 15.834 beyond what TI has requested. Toy electronic games intended for home use will be subject to manufacturer verification of compliance regardless of clock frequency. We should point out that a game which uses a TV receiver for display is governed by the Class I TV device rules in Part 15 Subpart H and is currently subject to FCC type approval.[9] As for games intended for use in commercial environments (e.g. coin

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Part 15 of the Rules. A Class A computing device is equipment intended for use in commercial, industrial or business environments. Equipment intended for use in residential environments is termed Class B. The technical requirements for Class A devices are less strict than the Class B, due to a lower potential for interference.

[5] The verification and certification equipment authorization procedures are set forth in Part 2 Subpart J. Verification calls for the manufacturer to perform tests to determine compliance. Submission of results to the FCC is not required. Certification requires the submission of an application with test results and other documents to the Commission for review and approval. Equipment authorization is a prerequisite to legal marketing, pursuant to Subpart I of Part 2.

[6] See *Reconsideration* in Docket 20780 (reference footnote 3 above), Appendix B, § 15.834(a)(1).

[7] The terms P–MOS, N–MOS and C–MOS refer to various methods used for construction of digital integrated circuits. MOS stands for metal oxide semiconductor. The prefixes P or N refer to the type of doping of the substrate. The prefix C refers to complimentary type architecture (using P and N type doping).

[8] See § 15.834 paragraphs (a) and (d).

[9] The computing device requirements do not apply where a device is subject to emanation requirements elsewhere in the rules. See § 15.4(n). A number of changes are contemplated for the rules in Part 15 Subpart H. See the Notice of Proposed Rule Making in Docket 79–244 adopted September 18, 1979, 44 FR 59670, October 16, 1979. The type approval requirement was proposed to be relaxed to certification.

operated games), this matter is being addressed in a separate proceeding.[10]

12. The Commission has had occasion to measure emissions from small electronic games that were designed to meet Class B emissions limits—some with clock frequencies well above 495 kHz.[11] The games were found in our tests to meet the limits. It is apparent from this that manufacturers are not having particular difficulty in conforming to the requirements and possess adequate knowledge of the measurement procedures to be utilized. Based on the compliance record of the devices we've tested, and the responsible actions demonstrated by manufacturers in our contacts with them thus far,[12] we believe that toy game manufacturers will test and verify their games as the rules require.

13. We believe that the added burden imposed by certification is not warranted for the type of devices which are the subject to this proceeding, and it appears that vertification will provide an adequate safeguard against these devices causing interference. The confusion that arose previously surrounding the authorization requirements for games should be alleviated by the reclassification of coin-operated games from Class B to Class A [13] because there no longer is a need to distinguish between Class B games subject to certification as opposed to verification.

14. As a result of the action we are taking, the petitioner's concern about extenaion of the certification compliance date is no longer an issue since there are no longer any games subject to certification. As for the verification schedule, instead of the tiered verification compliance schedule in § 15.834, we have decided to set a single compliance deadline of October 1, 1983 for vertification of electronic toy games (except coin-operated games). This is the same cut off date as that imposed for most other computing devices,[14] and the toy manufacturers supported this deadline in their comments. Manufacturers are encouraged to verify compliance in advance of October 1, 1983 if at all possible. No further action is required for those devices which were certificated or verified before the instant docket was finalized.

Summary/Ordering Clause

15. In light of the TI petition for reconsideration and other facts surrounding this matter, we have reconsidered the basic issue raised in the proposal in this docket: The merits or deficiencies of certificating certain games and verifying others according to the game's clock frequency. We are now convinced that placing games into the certification or vertification categories according to clock frequency is inappropriate. We have decided therefore to place the subject electronic games in the vertification category, regardless of clock frequency. The emissions limits for the devices in question have not been changed.

16. Pursuant to authority in Sections 4(i), 302, And 303(r) of the Communications Act of 1934, as amended, it is ordered that effective October 18, 1982 § 15.834 is amended as set out in the Appendix to this Order.

17. In view of the action adopted herein, the specific changes requested in the TI petition for reconsideration are made moot.

18. For further information about this Order, contact Mr. Julius P. Knapp, Office of Science and Technology, Federal Communications Commission, Washington, D.C. 20554, phone 202–653–5247.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission,

William J. Tricarico,

Secretary.

Appendix

PART 15—RADIO FREQUENCY DEVICES

1. The current text of § 15.834(a)(1) is removed and this paragraph is reserved.

2. The current text of § 15.834(d) is revised to read as follows:

§ 15.834 Class B computing device: Compliance requirement.

* * * * *

(d) The first production compliance date of paragraph (b) of this section may be disregarded for electronic games. All Class B electronic games manufactured after October 1, 1983 must be verified for compliance with Class B requirements.

(Note.—For games that utilize a TV receiver for display see Part 15 Subpart H.)

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[FR Doc. 82-26701 Filed 9-28-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Parts 15 and 73

[Gen. Docket No. 78–391]

Improvements to UHF Television Reception; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects typographical errors in the Commission's Report and Order in General Docket 78–391, Improvements to UHF Television Reception (47 FR 35975, August 18, 1982).

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip B. Gieseler, 653–5940.

SUPPLEMENTARY INFORMATION:

Released: September 9, 1982.

The following typographical corrections are made concerning the Report and Order in General Docket 78–391, FCC 82–333, released August 6, 1982 (47 FR 35975, August 18, 1982). These corrections are being made in the rule changes that accompany the Report and Order.

§ 15.63 [Corrected]

1. In § 15.63, paragraph (c)(2) is corrected to read "The average of the measurements shall not exceed 350 microvolts per meter." (47 FR 35989, column 1.)

§ 15.65 [Corrected]

2. In § 15.65, paragraph (c) is corrected to read "* * * tuning aids of the same type and comparable capability and quality shall be provided for the UHF portion of that receiver." (47 FR 35989, column 2.)

3. In the second listed rule change to Part 73, in the list of rules in which the number 83 is replaced by the number 69,

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[10] A Notice of Proposed Rule Making in Gen. Docket 81–462 to change the classification of coin-operated games from Class B to Class A was adopted by the Commission on July 16, 1981, released August 27, 1981, FCC 81–320, 46 FR 44793, September 8, 1981. This proposal was in response to a petition filed by coin-operated game manufacturers, saying that Class A limits offer adequate interference protection for this type of game. The proposed rule revision, if adopted, would permit compliance with Class A limits and require verification instead of certification.

[11] Shortly after the computing device rules were adopted, some manufacturers filed for certification of their hand-held games, and some units were examined at the FCC Laboratory. The applications were returned as unnecessary. See Public Notice released May 7, 1980 mimeo no. 31366. After the Report and Order was issued in the instant proceeding, applications for certification of games with clock frequency over 495 kHz were filed with the FCC Laboratory, along with samples.

[12] During the pendency of this proceeding, several manufacturers have applied for and obtained certification of their devices. In some instances waivers were requested to allow additional time to obtain certification. Waivers were issued to Texas Instruments, Milton Bradley Co., and Mattel Electronics by letters dated April 28, 1981, May 29, 1981 and June 9, 1981, respectively, FCC file no. 31030/EQU/4–3–7–1, by Chief Scientist under delegated authority.

[13] See footnote 10, above.

[14] See Sections 15.814 and 15.834 of the FCC Rules.

the following changes are made. (47 FR 35990, column 1.)

A. "73.687(a)(3) (two changes)" is changed to read "73.687(a)(3)."

B. "73.687(a)(b)" is changed to read "73.687(a)(6)."

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-26001 Filed 9-28-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 68

Editorial Amendment of the Commission's Rules To Correct a Typographical Error; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects an editorial amendment to the Commission's rules on the connection of terminal equipment to the telephone network that appeared on page 10219 of the **Federal Register** on Wednesday, March 10, 1982, (47 FR 10219). The action is necessary to correct the date of a cited publication.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: William H. von Alven, Common Carrier Bureau, (202) 634–1833.

SUPPLEMENTARY INFORMATION:

Released: September 7, 1982.

The following correction of a typographical error is made in regard to an editorial amendment made to § 68.314(e)(1) of the Commission's rules, 47 FR 10219, published March 10, 1982.

The date shown for the Electronics Industries Association (EIA) Standard RS–464 as being December 1969 is incorrect; it should be December 1979.

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

[FR Doc. 82-26012 Filed 9-28-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

Oversight of the Radio and TV Broadcast Rules; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: In the *Order* regarding oversight of the radio and TV broadcast rules, published in the **Federal Register** on September 13, 1982 at 47 FR 40170, there is an error in the text of Item 2 of the Appendix (§ 73.561 Operating schedule; time sharing). It is changed to read correctly.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steve Crane, Broadcast Bureau, (202) 632–5414.

SUPPLEMENTARY INFORMATION:

Released: September 21, 1982.

In the above captioned *Order*, BC 32014, released August 31, 1982 and published in the **Federal Register** on September 13, 1982 at 47 FR 40170, § 73.561, Operating schedule; time sharing (Item 2 of the Appendix) is incorrectly stated in that five asterisks which should follow paragraph (b) of the rule were inadvertently eliminated. It is corrected to read:

§ 73.561 Operating schedule; time sharing.

(a) All noncommercial educational FM stations will be licensed for unlimited time operation except those stations operating under a time sharing arrangement. (See § 73.1715). All noncommercial educational FM stations are required to operate at least 36 hours per week, consisting of at least 5 hours of operation per day on at least 6 days of the week; however, stations licensed to educational institutions are not required to operate on Saturday or Sunday or to observe the minimum operating requirements during those days designated on the official school calendar as vacation or recess periods.

(b) All noncommercial educational FM stations, including those meeting the requirements of paragraph (a) of this section, but will be required to share use of the frequency upon the grant of an appropriate application proposing such share time arrangement. Such applications shall set forth the intent to share time and shall be filed in the same manner as are applications for new stations. They may be filed at any time, but in cases where the parties are unable to agree on time sharing, action on the application will be taken only in connection with the renewal of application for the existing station. In order to be considered for this purpose, such an application to share time must be filed no later than the deadline for filing applications in conflict with the renewal application of the existing licensee.

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Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-26709 Filed 9-28-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 90

Private Land Mobile Radio Services; Amendment To Clarify Practices and Procedures

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Managing Director, through delegated authority, adopted an editorial change to § 90.421 that added a new paragraph (k) which clearly permits licensees of communications systems in the Private Land Mobile Services to install assigned frequencies at locations where they will obtain assistance in emergency situations involving imminent safety to life or property. This action is taken so that a frequency may be installed at fixed locations without waiver to do so from the Commission. Planning to obtain assistance for emergency situation can be planned for routinely.

DATE: Effective August 27, 1982.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Charles F. Turner, Private Radio Bureau, Washington, D.C. 20554 (202) 632–6497.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Administrative practices and procedures, Public safety radio services, Land transportation radio services, Industrial radio services, Special emergency radio services.

Order

Adopted: August 20, 1982.

Released: August 27, 1982.

1. The Commission is editorially amending its rules to clarify that its practices and procedures permit frequencies assigned to licensees in the Private Land Mobile Radio Services to be installed in the facilities of those who assist the licensee in emergencies and with whom the licensee must communicate in situations involving imminent safety to life or property.

2. Recently questions have been raised as to whether the above described practice is permissible. The Commission is, therefore, taking this action to assure that there is no misunderstanding on this point. The Commission's Rules already provide that any authorized station may communicate without restriction as to type, service, of licensee when the communications involved relate directly to the imminent safety-of-life or property. Clarifying this rule, therefore,

assures there will be no further misunderstanding on this point.

3. Accordingly, the Private Land Mobile Radio Service Rules are amended to reflect that a licensee may install its assigned frequency(s) in any facility with whom the licensee must communicate in situations directly related to the imminent safety of life and property. In all cases where such arrangements are made, the licensee is responsible for taking the necessary precaution to assure the facilities are only used in accordance with our Rules and Regulations.

4. Since this rule is both a general statement of policy and a rule of agency procedure and practice, and because it promotes the general public safety and well being, we conclude, pursuant to 5 U.S.C. and 553 (b) and (d), that notice and public procedure thereon is unnecessary, and the rule change should become effective immediately.

5. Accordingly, it is ordered, effective August 27, 1982, that Part 90 of the Rules and Regulations is amended as set out in the Attached Appendix.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 104, 303)

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

Part 90 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

Section 90.421 is amended by the addition of paragraph (k) as follows:

§ 90.421 Operation of mobile units in vehicles not under the control of the licensee.

* * * * * *

(k) In addition to the above, frequencies assigned to licensees in the Private Land Mobile Radio Services may be installed in the facilities of those who assist the licensee in emergencies and with whom the licensee must communicate in situations involving imminent safety to life or property.

[FR Doc. 82-26702 Filed 9-28-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 97

[PR Docket No. 81-699; RM-3788; FCC 82-413]

Use of Additional Digital Codes in the Amateur Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: The Commission is authorizing the use of digital codes, other than those specifically defined in the Rules, by amateur radio stations operating on frequencies above 50 MHz. Amateur radio operators have demonstrated a growing interest in experimentation with such codes and communications systems based upon them (e.g. Packet Switching Systems). The broad deregulation being ordered in this proceeding will eliminate many constraints on the use of digital codes for experimentation and communication. Other related regulations regarding digital communications are also being relaxed.

DATES: Effective October 28, 1982.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Steve Lett, Private Radio Bureau, Special Services Division, (202) 632-4964

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Radio.

Report and Order

(Proceeding Terminated)

Adopted: September 14, 1982.

Released: September 21, 1982.

1. On October 1, 1981 the Commission adopted a Notice of Proposed Rule Making [1] in the above-captioned matter proposing to allow amateur radio stations to use digital codes, other than those specified by the Commission, on amateur radio frequencies above 50 MHz. That Notice was in response to a petition for rule making, RM-3788 submitted by the American Radio Relay League, Incorporated (ARRL), which seeks amendment of the Amateur Radio Service Rules (Part 97) to provide for the use of any digital encoding technique in the amateur radio frequency bands above 50 MHz. Currently, the Rules only permit the use of the International Telegraphic Alphabet Number 2 (Raudot code) and the American Standard Code for Information Interchange (ASCII code). The comment period for the Notice ended January 15, 1982 and the reply comment period ended February 15, 1982.

2. In its Notice of Proposed Rule Making, the Commission specifically proposed to permit the transmission of digital codes, other than those defined in the Rules, on all amateur radio frequencies above 50 MHz, with the exception of those frequencies designated for A1 emissions only (50.0-50.1 MHz and 144.0-144.1 MHz). It was also proposed to limit communications using such codes to those between points within areas regulated by the FCC (domestic operation). Requirements that a station licensee include a description of the unspecified digital code in the station records and that the licensee, upon direction of the Commission, cease or restrict the use of the code, or maintain a record of coded communications, were also included in the proposal. In related areas, the Notice proposed to raise the maximum sending speed for ASCII coded communications from 1200 baud to approximately 19.6 kilobaud on amateur radio frequencies between 50 and 225 MHz; but it was also proposed to specify this higher speed, as well as all other sending speeds, in terms of "bits per second." The proposal included bandwidth specifications for transmissions of ASCII coded communications between 50 and 225 MHz, and for all transmissions of communications using unspecified digital codes. Finally the Commission proposed to allow the use of A1 emissions for the transmission of ASCII coded communications on frequencies between 3.5 and 28 MHz.

3. Virtually all of the comments on the Notice support the Commission's proposal, however many suggest minor modifications. John A. Carroll, in his comments, quotes the following portion of the Commission's Notice: "We believe that other unspecified digital coding techniques may also lend themselves to digital voice, facsimile, and television communications. As such uses are not currently prohibited by the rules, the Commission does not see a need to restrict these uses for the unspecified digital codes." John A. Carroll's comments goes on to state that certain of these uses have "* * * enormous potential for improved communication, especially relay communication * * *" and that "* * * it would be well to add a few extra words (to the final rules) so that there is no doubt (this) intent." Since the Commission desires to set forth the rules in the clearest possible manner and also desires to foster experimentation in the Amateur Radio Service, we are including such additional language in the final rules.

4. With regard to our proposal that communications using unspecified digital codes be limited to domestic operation only, the ARRL, petitioner in RM-3788, states in its comments, "There is at present a great deal of interest in linking together packet repeaters between Canada and the United States. The League would suggest that the final rules for additional digital codes provide that, should the governments of, for

[1] 46 FR 50093, October 10, 1981.

example, Canada and the United States specifically so agree, VHF or UHF digital communications across national borders shall be permitted." The Commission recognizes the potential desirability of such intercommunication and accordingly the final rules have been fashioned in such a way as to not preclude the use of unspecified digital codes across borders of consenting countries.

5. Several commenters express concern that the proposed rules allowing the Engineers-in-Charge (EICs) of field facilities to restrict the use of unspecified digital codes, or require maintenance of a record of the communications, might be imposed indiscriminately or without due consideration of the burden involved. The comments of the ARRL state, "While the need for this available sanction is manifest * * * the practicality of compliance with such a sanction is of some concern. Conversion of a digitized image or voice transmission or the contents of a computer memory into plain language may be dificult to accomplish." The ARRL also expresses concern that "* * * the potential requirement that an amateur maintain a record * * * of all coded transmissions from the station with which communication is established may be burdensome in certain cases." John A. Carroll's comments state that "* * * high speed digital communication could rapidly generate a large amount of communicated information, which, by Amateur standards, would be prohibitively costly to file." His comments also state that "(t)his is not to suggest that the provision shouldn't be there; (it would be) an important contribution to effective enforcement * * * (but) it would be desirable to indicate how this authority is intended to be used."

6. The Commission is sympathetic to these concerns and we are including language in the final rules which states that the authority being granted to the EICs to limit unspecified coding, or require maintenance of a record, may only be invoked when "* * * necessary * * * to assure compliance with the rules. * * *" We are also deleting from the final rules the proposal that the EICs be authorized to require the recording of communications from a station with which communications are established using unspecified digital codes.

7. Also with regard to the authority the Commission proposed granting the EICs, the comments of Paul Newland state, "The proposal * * * is well reasoned and more than fair * * * (however it) doesn't include any recourse for the amateur who has been directed to cease (unspecifically coded) transmissions permanently. I would like to see a hearing (or some other process) as a next step in resolving * * * a shut-down order." In fact, the appeal process which applies to virtually all Commission actions will also apply to this delegation of authority to the EICs. An amateur operator aggrieved by invocation of that authority may file an application for review or a petition for reconsideration of the action.[3]

8. The sentiment of the comments is unanimously against the Commission's proposal to replace the term "baud" in the rules limiting sending speeds, with the term "bits per second." Representative of this sentiment are the comments of Robert J. Carpenter which state, "If two bits are coded into a single time element (four level coding) the number of 'bits per second' is twice the number of 'bauds,' but the bandwidth occupied has not increased. I feel certain that the Commission intends to control the characteristic which relates to occupied bandwidth (bauds) * * *" Indeed, the Commission's interest is in maintaining spectrum efficiency through limitations on bandwidth. And since we do not want to close off "* * * a prime area of legitimate technical interest and experimentation by amateurs * * *"[3] we are going to continue to specify maximum sending speeds with the term "baud" so that amateur operators can utilize multi-level coding without incurring a sending speed penalty. We are adding a sending speed definition to the rules to make the Commission's intent in this area clear.

9. Several comments express a desire for the Commission to allow sending speeds greater than those proposed in the Notice for ASCII coded communications in the VHF[4] and higher frequency bands. Those comments also request a commensurate increase in the bandwidth authorized for unspecified digital codes. The comments of Paul Newland suggest that techniques such as *"Time-Division Multiplex (TDM)"* could be used so that "* * * more users could benefit by allowing digital transmissions to occupy a bandwidth greater than the Commission had initially planned to allocate." The Amateur Radio Research and Development Corporation (AMRAD) states in its comments that "(t)he highest permissible ASCII sending speed and bandwidth should be raised to 56 kilobits per second and 100 kHz respectively in the 220.5 to 221.9 MHz subband to permit packet switching network operations in that subband." The reply comments of the ARRL state, "The League shares the concerns of Messrs. Ranaldo (for AMRAD) and Newland, and suggests that the Commission increase permissible bandwidths for digital transmissions at and above 220 MHz."

10. The Commission appreciates the desire of the amateur community to experiment and operate with state-of-the-art digital technology. Therefore, in order to avoid hampering these endeavors we are authorizing greater ASCII sending speeds and the use of wider bandwidths for unspecified coded transmissions. We are authorizing a sending speed as great as 56 kilobaud and a bandwidth as great as 100 kHz in accordance with the request of AMRAD; however, in order to permit the greatest flexibility in spectrum utilization, we are going to permit this speed and bandwidth on all frequencies above 220 MHz rather than limiting them to the frequencies between 220.5 and 221.9 MHz. Furthermore, the final rules will allow the use of any bandwidth on frequencies above 1215 MHz rather than imposing a limitation as was proposed in the Notice. The Commission is also not adopting the bandwidth restriction proposed for transmissions of ASCII coded communications on frequencies between 50 and 225 MHz, using sending speeds between 1200 and 19600 bits per second. Instead we will allow a maximum sending speed on the frequencies between 50 and 220 MHz of 19.6 kilobaud without a bandwidth restriction. The maximum speed of 56 kilobaud will apply to the frequencies between 220 and 225 MHz as discussed earlier. We are raising the permissible bandwidth for transmissions of unspecifically coded communications between 50 and 220 MHz from 16 kHz to 20 kHz in order to fit more closely our desire to equate these emissions with the ones currently used in those bands.

11. The Commission is also including some other minor changes in the final rules regarding sending speed and bandwidth. We are revising our bandwidth definition to eliminate certain ambiguities in the definition we proposed in the Notice. We wish to emphasize that this definition does not imply, nor do we intend to require, that amateur radio operators continuously monitor their emission bandwidth while using the digital codes which subject the station transmissions to bandwidth

[3] See §§ 1.106 and 1.115 of the Commission's Rules; also Section 5, paragraph (d)(4), and Section 405 of the Communications Act of 1934, as amended.

[3] Comments of the American Radio Relay League, Incorporated.

[4] The Very High Frequencies (VHF) are those between 30 and 300 MHz.

limitations. We only require that operators comply with the bandwidth requirements. Operators may determine compliance through electronic, mathematical or any other means they deem sufficient. We are also eliminating the requirement that stations using the Baudot code maintain the sending speed within certain tolerances. Currently, the sending speed must be maintained within 5 words per minute of the standard speeds (60, 67, 75 or 100 words per minute). However, that requirement no longer serves any regulatory purpose since electronic rather than electro-mechanical teleprinter equipment is now commonly used and the newer equipment is less sensitive to variations in sending speed.

12. As another minor change, the Commission is authorizing the use of A1 emissions for ASCII coded communications on all frequencies where F1 emissions are permitted. We had proposed to limit the use of A1 emissions for ASCII coding to the frequencies below 28 MHz, however we can find no reason not to permit this additional mode in the bands above 28 MHz as well. A small amendment to the rules regarding operator privileges is being added to preclude the use of ASCII coded communications by Novice class and Technician class operators using frequencies below 28.2 MHz. This represents no change in privileges for these operators.

13. Finally, with regard to the authorization of unspecified digital codes, concern was expressed in the Commission's Notice that such an authorization could affect ". . . our ability to monitor coded transmissions for content, as well as the ability of the amateur community to monitor transmissions from individual stations for the purpose of self-enforcement." In response to this concern the comments of the ARRL state the following:

> The League is sympathetic to, and generally shares the Commission's reservations about any reduction in the Commission's ability to monitor coded transmissions for content, or the amateur's ability to monitor for purposes of self-enforcement. A combination of several factors should be sufficient to minimize the potential for abuse, however. First, the primarily local nature of communications on the VHF and UHF frequencies involved should limit the potential ability of unscrupulous business users to utilize the amateur bands to transmit data of a commercial nature, circumventing existing common carriers. Second, the vigor with which amateurs protect their allocated frequency bands against unauthorized interlopers, together with well-polished direction finding techniques, will in most cases result in investigation by amateurs of the source of repeated unusual or suspicious digital transmissions. The requirement of open identification procedures is a significant litmus for distinguishing legitimate amateur use from unlawful misuse of amateur frequencies. Finally, the provisions of proposed Rules Section 97.69(c)(3) permit the Commission to take immediate action against a station suspected of unlawful misuse of the amateur bands via unspecified digital codes by ordering the cessation of the use of such codes. The above factors, together with the traditionally superlative level of rule compliance by amateurs, should be sufficient to offset the League's concern and that of the Commission with respect to potential misuse of digital codes.

We have considered this matter at great length. In balancing our objectives of encouraging new technologies against assuring our enforcement capability, it must be recognized that there is an incompatibility between authorizing experimentation with "exotic" technologies and the employment of channel monitoring as an enforcement tool. Our ability to verify that the content of messages complies with our rule requirements will be hindered by the broad relaxation of regulatory constraints that we are ordering in this proceeding. However, the Commission finds itself in agreement with the ARRL that special provisions we are including in the final rules, as well as existing provisions that identification be made in plain English or the international Morse code, should, when combined with the zealous effort of the amateur community to protect their allocated frequency bands, provide adequate protection against unauthorized operation in the service.

14. Accordingly, it is ordered that effective October 28, 1982, Part 97 of the Commission's Rules and Regulations, 47 CFR Part 97, is amended as set forth in the attached Appendix. It is further ordered that to the extent specified herein, RM-3788 is granted, and in all other respects it is denied. It is further ordered that this proceeding is terminated. This action is taken pursuant to authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended. In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511, December 11, 1980), the Commission will forward a copy of the final rules herein promulgated to the Associate Director for Information and Regulatory Affairs of the Office of Management and Budget. Further information on this matter may be obtained by contacting: Steve Lett, (202) 632-4964, Private Radio Bureau, Federal Communications Commission, Washington, DC 20554.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 97—AMATEUR RADIO SERVICE

Part 97 of the Commission's Rules and Regulations, 47 CFR Part 97, is amended as follows:

1. In § 97.7, paragraph (e) is revised to read as follows:

§ 97.7 Privileges of operator licenses.

* * * * *

(e) *Novice Class.* Radiotelegraphy in the frequency bands 3700–3750 kHz, 7100–7150 kHz (7050–7075 kHz when the terrestrial station location is not within Region 2), 21,100–21,200 kHz, and 28,100–28,200 kHz, using only type A1 emission and using only the international Morse code.

2. Section 97.69 is revised to read as follows:

§ 97.69 Digital communications.

Subject to the special conditions contained in paragraphs (a), (b) and (c) of this section, an amateur radio communication may include digital codes which represent alphanumeric characters, analogue measurements or other information. These digitial codes may be used for such communications as (but not limited to) radio teleprinter, voice, facsimile, television, communications to control amateur radio stations, models and other objects, transference of computer programs or direct computer-to-computer communications, and communications in various types of data networks (including so-called "packet switching" systems); provided that such digital codes are not intended to obscure the meaning of, but are only to facilitate, the communications, and further provided that such operation is carried out in accordance with other regulations set forth in this part. (For purposes of this section, the sending speed (signaling rate), in baud, is defined as the reciprocal of the shortest (signaling) time interval (in seconds) that occurs during a transmission, where each time interval is the period between changes of transmitter state (including changes in emission amplitude, frequency, phase, or combination of these, as authorized).)

(a) Use of the International Telegraphic Alphabet No. 2 (Baudot code) is subject to the following requirements:

(1) Transmission shall consist of a single channel, five unit (start-stop) teleprinter code conforming to the International Telegraphic Alphabet No.

2 with respect to all letters and numerals (including the slant sign or fraction bar); however, in the "figures" positions not utilized for numerals, special signals may be employed for the remote control of receiving printers, or for other purposes indicated in this section.

(2) The sending speed shall not exceed 100 words per minute (75 baud).

(3) When frequency (or phase) shift keying (type F1 emission) is utilized, the deviation from the mark signal to the space signal, or from the space signal to the mark signal, shall be less than 900 hertz.

(4) When audio frequency shift keying (type A2 or F2 emissions) is utilized, the highest fundamental modulating frequency shall not exceed 3000 hertz, and the difference between the modulating audio frequency for the mark signal and that for the space signal shall be less than 900 hertz.

(b) Use of the American Standard Code for Information Interchange (ASCII) is subject to the following requirements:

(1) The code shall conform to the American Standard Code for Information Interchange as defined in American National Standards Institute (ANSI) Standard X3.4–1968.

(2) F1 emission shall be utilized on those frequencies between 3.5 and 29 MHz where its use is permitted; and the sending speed shall not exceed 300 baud.

(3) F1, F2 and A2 emissions may be utilized on those frequencies above 28 MHz where their use is permitted; and the sending speed shall not exceed the following:

(i) 1200 baud on frequencies between 28 and 50 MHz;

(ii) 19.6 kilobaud on frequencies between 50 and 220 MHz;

(iii) 56 kilobaud on frequencies above 220 MHz.

(4) A1 emission may be used for ASCII where F1 is permitted; and the sending speed shall not exceed that specified for other ASCII coded emissions on the same frequency.

(c) In addition to the above provisions, the use of any digital code is permitted on amateur frequencies above 50 MHz, except those on which only A1 emission is permitted, subject to the following requirements:

(1) Communications using such digital codes are authorized for domestic operation only (communications between points within areas where radio services are regulated by the U.S. Federal Communications Commission), except when special arrangements have been made between the United States and the administration of any other country concerned.

(2) The bandwidth of an emission from a station using such digital codes shall not exceed the following (where for this purpose the bandwidth is defined as the width of the frequency band, outside of which the mean power of any emission is attenuated by at least 26 decibels below the mean power of the total emission; a 3 kHz sampling bandwidth being used by the FCC in making this determination):

(i) 20 kHz on frequencies between 50 and 220 MHz;

(ii) 100 kHz on frequencies between 220 and 1215 MHz;

(iii) On frequencies above 1215 MHz any bandwidth may be used provided that the emission is in accordance with § 97.63(b) and § 97.73(c).

(3) A description of the digital code and the modulation technique shall be included in the station log during all periods of use and shall be provided to the Commission on request.

(4) When deemed necessary by an Engineer-in-Charge of a Commission field facility to assure compliance with the rules of this part, a station licensee shall:

(i) Cease the transmission of digital codes authorized under this paragraph.

(ii) Restrict the transmission of digital codes authorized under this paragraph to the extent instructed.

(iii) Maintain a record, convertible to the original information (voice, text, image, etc.), of all coded communications transmitted under authority of this paragraph.

[FR Doc. 82-26602 Filed 9-28-82; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Eleventh Revised S.O. No. 1474, Amdt. No. 3]

Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 3 To Eleventh Revised Service Order No. 1474.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96–254, this order authorizes various railroads to provide interim service over the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie), Trustee, and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 11:59 p.m., September 30, 1982, and continuing in effect until 11:59 p.m., December 31, 1982, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–1559.

SUPPLEMENTARY INFORMATION:

Decided: September 23, 1982.

Upon further consideration of Eleventh Revised Service Order No. 1474 (47 FR 13529, 22963 and 32723), and good cause appearing therefor:

§ 1033.1474 [Amended]

It is ordered, that § 1033.1474 *Various railroads authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, debtor (Richard B. Ogilvie, trustee),* Eleventh Revised Service Order No. 1474 is amended by substituting the following paragraph (n) for paragraph (n) thereof:

(n) *Expiration date.* The provisions of this order are extended for an additional ninety (90) days, and shall expire at 11:59 p.m., December 31, 1982, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11.59 p.m., September 30, 1982.

(49 U.S.C. 10304–10305 and Sec. 122, Pub. L. 96–254)

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien. J. Warrent McFarland not participating.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-26603 Filed 9-28-82; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 189
Wednesday, September 29, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

Exemption From Inspection and Weighing Requirements for Grain Shipped to Canada and Mexico

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

Cross Reference: For a document regarding exemption from inspection and weighing requirements for grain shipped to Canada and Mexico withdrawing changes proposed on March 31, 1982 (47 FR 13700) and adopting the interim rule of June 25, 1981 (46 FR 32859) as final, See FR Doc. 82-26706 in the Rules section of this issue. Refer to the Table of Contents for the appropriate citation.

BILLING CODE 3410-EN-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 95

[Docket No. PRM-95-1]

Modification of Classification Guide for Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking submitted by General Atomic Company.

SUMMARY: The Nuclear Regulatory Commission is hereby denying a petition for rulemaking submitted by the General Atomic Company (GAC) in a letter to the Secretary of the Commission dated May 19, 1981. The petition requested that the Commission amend its regulation relating to the classification guidance provided by sub-topic 112 of Appendix A, "Classification Guide for Safeguards Information," to 10 CFR Part 95 to change the CONFIDENTIAL-National Security Information (CNSI) classification category to unclassified (U) or to delete sub-topic 112 from Appendix A.

FOR FURTHER INFORMATION CONTACT: Raymond J. Brady, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 427-4472.

SUPPLEMENTARY INFORMATION: On March 5, 1980, the Nuclear Regulatory Commission published, as a final rule, 10 CFR Part 95, "Security Facility Approval and Safeguarding of National Security Information and Restricted Data" (45 FR 14483). On August 4, 1981, the NRC published for comment a petition for rulemaking by the General Atomic Company (GAC) that requested a change to or deletion of subtopic 112 of Appendix A to Part 95 (46 FR 39610). No public comments were received on the GAC petition.

Appendix A to Part 95, which is the "NRC Classification Guide for Safeguards Information," provides security classification guidance for safeguarding information about certain nuclear material or facilities. Sub-topic 112 of Appendix A requires the classification of "Total quantities at any given time of SSNM by designated vault and vault-type storage areas." GAC in their petition requested that either the classification of sub-topic 112 type information be changed from classified CONFIDENTIAL-National Security Information (CNSI) to unclassified (U) or that sub-topic 112 be removed from Appendix A.

The NRC in reviewing and evaluating GAC's petition has concluded that sub-topic 112 of Appendix A provides for proper classification guidance to ensure that information of this type is protected to minimize or prevent acts of theft or diversion of formula quantities of SSNM, and information that could enhance the credibility or frequency of threats made against nuclear facilities. The NRC does not agree with the GAC contention that: (1) There is only a remote possibility that an adversary would base his or her action upon the availability of specific data about a vault's momentary contents; and (2) the general availability of unclassified information * * * makes the time dependent vault total a secondary factor in attack planning by would be adversaries." Specifically, since: (1) An adversary may base his or her actions on the vault's momentary contents, if the action contemplated was intended to enhance the credibility of a nuclear threat, and (2) a vault can always be expected to be a principal target for an adversary and knowing the quantity of material contained therein, may make it a more attractive target.

Incidents such as theft and threats can cause identifiable damage to the national security and therefore, information that could assist an adversary in planning such actions must be protected. Sub-topic 112, when standing alone, may appear unduly restrictive and unnecessary; however, the correlation of this sub-topic with sub-topics of Section 200 (e.g. 212, 221, 222, 224, 261, 262, 263 and 264), provide assurance that information related to the physical protection of formula quantities of SSNM that could cause damage to the national security is protected.

The NRC has expended a considerable amount of resources studying and evaluating this concern both prior to and after receipt of the GAC petition and after careful review and consideration has concluded that the classification guidance provided by sub-topic 112 shall not be deleted from Appendix A. The NRC bases this position on the fact that the information classified by subtopic 112 is information that could facilitate carrying out a successful: (1) Theft or diversion of formula quantities of nonself-protecting strategic special nuclear Material (SSNM), or (2) sabotage mission against any facility or activity involving formula quantities of nonself-protecting SSNM.

This denial is being issued by the Executive Director for Operations based on authority delegated to him by the Commission.

Dated at Bethesda, Maryland, this 26 day of August, 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-26041 Filed 9-28-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

10 CFR Part 599

[Docket No. ERA-R-80-41]

Withdrawal of Proposed Rule Concerning Standby Procedures for Emergency Purchases and Emergency Allocation of Natural Gas During a Declared Emergency

AGENCY: Energy Department (DOE).

ACTION: Withdrawal of proposed rule.

SUMMARY: The Department of Energy (DOE) gives notice that it is withdrawing the regulations it proposed on December 1, 1980 (45 FR 81011, December 8, 1980) to implement Section 302 and 303 of the Natural Gas Policy Act of 1978 and Section 607 of the Public Utility Regulatory Policies Act of 1978. The standby procedures would have addressed emergency natural gas purchases, emergency natural gas allocations, and emergency prohibitions on the burning installations. DOE has determined that the proposed regulations are unnecessary at this time and should be withdrawn.

FOR FURTHER INFORMATION CONTACT:

Lana Ekimoff, Department of Energy, Office of Energy Contingency Planning, Room GH-060, 1000 Independence Ave. SW., Washington, D.C. 20585, (202) 252-4000

Michael Skinker, Department of Energy Office of General Counsel, Room 6E-042, 1000 Independence Ave. SW., Washington, D.C. 20585, (202) 252-6667

SUPPLEMENTARY INFORMATION: Section 301 and 303 of the Natural Gas Policy Act of 1978 (NGPA, Pub. L. 95-621) provide that the President may authorize emergency purchases of natural gas and allocate certain natural gas supplies when he declares that a natural gas supply emergency exists. Section 607 of the Public Utility Regulatory Policies Act of 1978 (PURPS, Pub. L. 95-617) provides authority for the President to prohibit the burning of natural gas by an electric powerplant or major fuel-buring installation during such a declared natural gas supply emergency. The emergency authorities of Section 302 and 303 of the NGPA and Section 607 of the PURPA have been delegated by the President to the Secretary of Energy. The President, however, retains the sole authority to declare, extend, or terminate a natural gas supply emergency.

On December 1, 1980, DOE issued a Notice of Proposed Rulemaking Regarding Standby Procedures for Emergency Purchases and Emergency Allocation of Natural Gas During a Declared Emergency to implement NGPA Sections 302 and 303 and PURPA Section 607 (Docket No. ERA-R-80-41, 45 FR 81011, December 8, 1980). A public hearing was held on January 13, 1981, and written comments were due by February 6, 1981. The comments filed in this proceeding are available for inspection in the Public Reading Room of the Department of Energy, 1000 Independence Ave. SW., Washington, D.C. 20585.

Over the last several months the Department has reevaluated the need for finalizing these proposed regulations. Based on changes in the Federal emergency preparedness policy since the regulations were proposed and other reasons noted below, we have determined that these regulations are unnecessary at this time and the proposed should be withdrawn.

Sections 302 and 303 of the NGPA were designed, *inter alia,* to remove jurisidictional impediments to the purchase and transportation of natural gas between the interstate and intrastate markets during a declared natural gas supply emergency. Non-emergency mechanisms, however, are now in place to facilitiate the purchase and transportation of surplus gas between markets and, consequently, lessen the likelihood a natural gas supply emergency may occur. These non-emergency mechanisms have been implemented and are being administered by the Federal Energy Regulatory Commission under the authority of Sections 311 and 312 of the NGPA and the Natural Gas Act.

Another important consideration in our decision to withdraw the proposed regulations is the fact that DOE may exercise the NGPA and PURPA emergency purchase, allocation and prohibition authorities by order as well as by regulation. In this regard, during the declared natural gas emergency in the winter of 1976-1977 the Federal government effectively exercised similar emergency natural gas purchase authorities under the Emergency Natural Gas Act of 1977 by order rather than regulation. We believe that the statutory provisions of Section 302 and 303 of the NGPA and Section 607 of the PURPA are clear on their face and should provide ample notice to the public as to the scope of and basis for any orders which might be required during a future natural gas supply emergency. However, should it be determined in any future emergency that a rule would be of assistance to the industry and general public, such a regulation could be developed and issued on an expedited basis.

Therefore, for the reasons stated above, DOE believes that a regulation is not needed at this time and the proposed rule is hereby withdrawn.

Dated: September 23, 1982.

R. D. Furiga,

Deputy Assistant Secretary, Environmental Protection, Safety and Emergency Preparedness.

[FR Doc. 82-26678 Filed 9-28-82; 8:45 am]

BILLING CODE 6450-01-M

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Loan Participations Between Federal Land Banks and Production Credit Associations

AGENCY: Farm Credit Administration.

ACTION: Notice of Intent.

SUMMARY: The Farm Credit Administration ("FCA") hereby publishes definitive guidelines relating to loan participations among Federal land banks ("FLBs") and production credit associations ("PCAs") of the Farm Credit System ("System") as specifically authorized by various provisions of the Farm Credit Act Amendments of 1980 (Pub. L. 96-592) ("1980 Amendments").

Due to the complexity of the issues involved, the FCA has deferred issuing regulations regarding the exercise of loan participation authorities by System institutions in order to allow sufficient study of the options available for implementation. A System task force was established in 1981 to identify loan participation opportunities provided by the 1980 Amendments. The task force issued its report in mid-1982. In view of the interest by System institutions in loan participations, the FCA has issued these definitive guidelines for the conduct of such activities by FLBs and PCAs.

It is anticipated that after an interim period during which System institutions gain experience with loan participations, the FCA will propose regulations relative to the exercise by System institutions of loan participation authorities conferred under the 1980 Amendments. Recommendations of the System task force and all public comments received on the guidelines will be evaluated and considered in connection with that rulemaking action.

DATE: Written comments must be received on or before November 29, 1982.

ADDRESSES: Comments or suggestions should be submitted in writing to Donald E. Wilkinson, Governor, Farm

Credit Administration, Washington, DC 20578. Copies of all communications received will be available for inspection by interested persons in the Office of Director, Congressional and Public Affairs Division, Office of Administration, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: Larry H. Bacon, Deputy Governor, Office of Administration, 490 L'Enfant Plaza, SW., Washington, DC 20578, (202–755–2161).

SUPPLEMENTARY INFORMATION: Loan participations among FLBs and PCAs have the potential for improving the quality of credit services offered by System institutions. Such loan participations can be a tool for better accommodating the needs of young farmers and other credit worthy applicants/borrowers who require specialized loan financing and loan servicing arrangements.

In recognition of the usefulness of loan participations, the FCA hereby authorizes, pursuant to §§ 1.4(6) and (12), 2.12(13), and 4.18 of the Farm Credit Act of 1971, as amended ("Act"), loan participations between FLBs and PCAs subject to the conditions and guidelines set forth below. This authorization, unless otherwise amended, is effective for the interim period between the date of this notice of intent and issuance of final regulations regarding loan participations. It is anticipated that such final rules will be in place during 1983. This authorization does not extend to any other type of loan participation arrangements between System institutions that operate under different titles of the Act nor does it limit any previously authorized loan participation agreements.

General Guidelines

Only loan participation arrangements between FLBs and PCAs designed to accomplish at least one of the following goals are authorized by this memorandum: (1) To facilitate the sharing of credit expertise on specific loans; and (2) to provide loan servicing arrangements that are advantageous to FLBs or PCAs in accommodating borrowers who have special needs.

District boards desiring to implement a coordinated program consistent with the following guidelines shall effect such policy approvals and modify existing policies as necessary. These policies shall be submitted to FCA for approval prior to the implementation of the program in the district.

FLBs and PCAs entering into loan participation agreements authorized by these guidelines shall comply with the following guidelines. Federal intermediate credit banks ("FICBs") shall exercise supervisory authority over PCAs where indicated to ensure observance of these guidelines.

1. Any FLB or PCA shall have the option to accept or reject any loan participation.

2. PCAs shall enter into loan participation agreements only upon receiving prior approval of their supervising FICB. The FICB shall evaluate, in addition to the overall terms of each proposed loan participation, the capacity of the association to properly administer the loan in accordance with the loan participation agreement and any other factors relating to the ability of the PCA to carry out the terms of the agreement within the guidelines of this notice of intent.

3. FLBs and PCAs shall only enter into loan participation agreements on loans financing operations wholly located within the chartered territories of both participating institutions or on loans financing operations that both institutions can finance pursuant to FCA Regulation § 614.4070.

4. FLBs desiring to utilize differential interest rates to the borrower for the purpose of blending the FLB and PCA interest rates or for other reasons shall submit policies to FCA in accordance with FCA regulation § 614.4280. PCAs shall obtain approvals for differential interest rates to the borrower from the supervising FICB.

5. The amount of any loan retained or purchased by an individual bank or association shall be subject to any prior approval requirements for that bank or association and shall be in accordance with 12 CFR Part 614, Subpart J, of FCA Regulations.

6. No FLB or PCA shall have loan participations authorized by this memorandum that exceed in the aggregate 15 percent of its loan volume.

Loan Participation Agreement Guidelines

Borrower eligibility, membership, loan term, loan amount, loan security, and the requirement for the purchase of stock or participation certificates by the borrower shall be determined in accordance with statutory and regulatory provisions under which the institution that originates the loan operates. All other terms shall be as to the agreement of the participating institutions. Each agreement, as a whole, shall ensure an equitable financial and operational arrangement for the borrower and participating institutions.

All loan participation agreements shall include provisions that define the duties and responsibilities of both the originating and participant institutions consistent with good business practices. At a minimum, loan participation agreements shall:

1. Identify the particular loan or loans of the borrower to be covered by the agreement;
2. Provide for disbursement and repayment of loan funds;
3. Provide for sharing, dividing, or assigning collateral;
4. Provide a loan service plan;
5. Provide collection procedures;
6. Provide authorization and conditions for action in the event of borrower distress and default;
7. Provide for the sharing of loss;
8. Provide for capitalization requirements between participating institutions;
9. Set forth conditions for acceptance and termination of the agreement; and
10. Provide for arbitration of controversies and/or disagreements between parties arising under the agreement.

In addition, loan participation agreements shall contain any other applicable terms necessary to administer the loan and safeguard the interests of System institutions. Equity investments between institutions shall be in the form of participation certificates.

List of Subjects in 12 CFR Ch. VI

Agriculture, Banks, banking.

(Secs. 5.9, 5.12, Pub. L. 92–181, 85 Stat. 619, 620, 621, 12 U.S.C. 2243, 2246 and 2252)

Donald E. Wilkinson,

Governor.

FR Doc. 82–26675 Filed 9–28–82; 8:45 am]

BILLING CODE 6705–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 216

[DoD Directive 1322.13]

Identification of Institutions of Higher Learning That Bar Recruiting Personnel From Their Premises

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule updates the implementation of the provisions of section 806 of the DoD Authorization Act for 1973. This law provides that no funds appropriated for Department of Defense may be used at any institution of higher learning that bars recruiting personnel from their premises. This proposed rule establishes

responsibilities and provides specific guidance and procedures to all heads of DoD Components and DoD commanders for identifying institutions of higher learning that bar recruiting personnel from their premises and establishes reporting requirements.

DATE: Written comments must be received by November 29, 1982.

ADDRESS: Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (Military Personnel & Force Management) (Accession Policy), the Pentagon, Room 2B269, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald G. Liveris, 202-697-9269.

SUPPLEMENTARY INFORMATION: In FR Doc. 70-3899 appearing in the Federal Register on February 10, 1970 (41 FR 5821), the Office of the Secretary of Defense (OSD) published a final rule establishing DoD policies and procedures with respect to identifying institutions of higher learning that bar recruiting personnel from their premises. The OSD proposes to revise these policies to clarify the procedure for acting in such cases and to establish certain reporting requirements.

List of Subjects in 32 CFR Part 216

Armed Forces, Colleges and universities, Recruiting personnel.

Accordingly, it is proposed to revise Chapter 1, 32 CFR Part 216, to read as follows:

PART 216—IDENTIFICATION OF INSTITUTIONS OF HIGHER LEARNING THAT BAR RECRUITING PERSONNEL FROM THEIR PREMISES

Sec.

216.1 Reissuance and Purpose.
216.2 Applicability.
216.3 Policy.
216.4 Responsibilities.
216.5 Procedures.
216.6 Information Requirements.
Enclosure 1—Prototype Letter of Inquiry.

Authority: Pub. L. 92-436, 606(a), 1973.

§ 216.1 Reissuance and purpose.

This part is reissued, ——— and establishes procedures to identify and take action in accordance with Pub. L. No. 92-436 ——— with respect to institutions of higher learning that bar recruiting personnel from their premises.

§ 216.2 Applicability.

This part —— applies to the Office of the Secretary of Defense, the Military Departments, the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to as "DoD Components"). The term "Military Service," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

§ 216.3 Policy.

(a) Under Pub. L. No. 92-436, ——— funds appropriated for the Department of Defense may not be used at any institution of higher learning if the Secretary of Defense or his designee determines that recruiting personnel of any Military Service are barred by policy from the premises of the institution. If recruiting personnel are barred from the premises of a subordinate element of an institution by the policy of such subordinate element, and the policy does not effectively bar recruiting at other subordinate elements, the prohibition on use of funds applies only to the elements in which recruiting is effectively barred.

(b) A determination that military recruiting personnel are barred by policy from the premises of an institution will be made when military personnel cannot obtain permission to recruit on the premises of the institution, except when the institution:

(1) Excludes all employers from recruiting on the premises of the institution.

(2) Permits employers to recruit on the premises of the institution only in response to an expression of student interest, and the institution:

(i) Provides the Military Services with the same opportunities to inform the students of military recruiting activities as are available to other employers;

(ii) Certifies that an insufficient number of students have expressed an interest to warrant accommodating military recruiters, applying the same criteria that are applicable to other employers;

(iii) Does not base such action upon the policies or practices of the Department of Defense or any DoD Component;

(3) Has been unable to schedule military recruiting visits in the past academic year, but agrees to schedule military visits on the premises of the institution in the coming academic year; or

(4) Otherwise establishes reasonable restrictions on the time and place of recruiting activities that are generally applicable to all employers and are not based on the policies or practices of the Department of Defense or any DoD Component.

(c) Under Pub. L. No. 92-436, the ——— prohibition on use of funds may be waived if the Secretary of the Military Department certifies to the Congress in writing that a specific course of instruction is not available at any other institution of higher learning and furnishes to the Congress the reasons why such course of instruction is of vital importance to the security of the United States.

(d) Under Pub. L. No. 92-436, the ——— prohibition on use of research and development (R&D) funds may be waived if the Secretary of Defense, or his designee, determines that the expenditure is a continuation or a renewal of a previous program with the institution that is likely to make a significant contribution to the defense effort.

§ 216.4 Responsibilities.

(a) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (ASD(MRA&L))* shall:

(1) Determine whether recruiting personnel have been barred by policy from the premises of an institution of higher learning.

(2) Disseminate to DoD Components the names of institutions of higher learning that are subject to the prohibition on use of funds.

(b) The *Under Secretary of Defense for Research and Engineering (USD (R&E))* shall exercise the authority to waive the prohibition on use of R&D funds under § 216.3(d). ——— Such waivers shall be reported promptly to ASD (MRA&L).

(c) The *Secretaries of the Military Departments shall:*

(1) Submit semi-annual reports to the ASD(MRA&L) under § 216.6(a) ——— with respect to institutions of higher learning that bar recruiting personnel from the premises of the institution.

(2) Determine whether to waive the prohibition on use of funds under §216.3(c).

(3) Submit the semi-annual reports required from Heads of DoD Components under § 216.6(b).

(d) The *Heads of DoD Components* shall submit semi-annual reports on actions related to the prohibition on use of funds under § 216.6(b).

§ 216.5 Procedures.

(a) Recruiters will continue to observe the traditional policy of the Department of Defense to accommodate an institution's preferences as to times and places for scheduling on-campus recruiting.

(b) The procedures in this part —— are intended for use with respect to institutions of higher learning visited for recruiting purposes. It is not intended that a survey of institutions of higher

learning be undertaken, or that other contact be initiated, for purposes of this part. —— Initiation of action under this Part —— will be limited to experiences obtained as a result of attempts to schedule or conduct normal recruiting visits and on any further information related to such recruiting endeavors.

(c) The following procedures shall be used by the Military Departments to determine whether recruiting personnel are barred by policy from the premises of an institution of higher learning.

(1) An inquiry as to the policy of the institution with respect to military recruiting shall be initiated when an official of the institution informs the Military Service, verbally or in writing, that the policy of the institution is not to permit recruiting by the Military Service, or when repeated requests to schedule recruiting visits are unsuccessful. An inquiry need not be initiated when the Military Service concerned has otherwise determined that recruiting personnel are not barred by policy under § 216.3(b)(1) through (4).

(2) The inquiry will consist solely of official contact with officers of the institution who are responsible for recruiting or placement activities, or their superiors.

(3) As an initial step, the Military Service will obtain written confirmation of the refusal to permit recruiting by the Military Service. If written confirmation cannot be obtained, verbal policy statements attributed to an appropriate official of the institution shall be used.

(4) Based upon the initial inquiry, written clarification of the institution's present policy shall be sought by a letter of inquiry to the head of the institution from the headquarters level of the Recruiting Service (or a higher official if so designated by the Secretary concerned). The prototype letter of inquiry at Enclosure 1 should be followed to the maximum extent possible.

(5) Under procedures established by the Secretary concerned, a determination will be made as to whether military recruiting personnel are being barred by the policy of the institution from the premises of the institution. The determination will be based on the responses to the letter or inquiry and on such other evidence obtained in accordance with this part as may be appropriate, consistent with the guidance in § 216.3.

(6) If it is determined that one or more of the provisions of §216.3(b)(1) through (4), are applicable, the action shall be terminated.

(7) The Secretary concerned shall submit a report for each military service to the ASD(MRA&L) and the USD(R&E) each January 31st and June 30th.

(i) The report shall list each institution of higher learning that is recommended for inclusion on the list of institutions subject to the prohibition on use of funds. Full documentation, including the basis for the listing, shall be furnished for each institution named, including the institution's formal response to the letter of inquiry.

(ii) Repetitive listing of institutions subject to the prohibition at the time of the report is not required.

(iii) Each institution which has been granted a waiver by the Secretary concerned under § 216.3(c), shall be listed in a separate portion of the report. A copy of the transmittal to Congress shall be included.

(iv) The USD(R&E) shall inform the ASD(MRA&L) promptly when the waiver provisions are invoked for research and development funds under § 216.3(d), with respect to any institution listed on the Military Department's report. Negative reports from the USD(R&E) are not required.

(d) Not later than 30 days after receipt of the reports from the Military Departments, the ASD(MRA&L) shall provide each institution listed by the Military Department under paragraph (c)(7)(i) of this section, with the following information:

(1) The portions of the Military Department's report that pertain to the institution, including the supporting documentation.

(2) Notice that the prohibition on use of funds under Pub. L. No. 92–436 and this part will be invoked within 60 days of the date of the letter unless the institution provides sufficient information to enable the ASD(MRA&L) to determine that the institution will permit recruiting by the Military Services during the coming academic year or that the provisions of § 216.3(b)(1) through (4), are otherwise applicable. A reasonable extension of time, not to exceed 30 days, may be granted at the request of the institution.

(3) Notice that communications concerning the waiver provisions based upon the availability of a specific course of instruction (§ 216.3(c)) or expenditure of research and development funds (§ 216.3(d)) should be submitted to the ASD(MRA&L) for transmittal to the appropriate official.

(e) When the response of the institution has been received, or if no response is received by the suspense date, the ASD(MRA&L) shall determine whether the institution shall be prohibited from receiving funds as provided in § 216.3. The determination shall be transmitted promptly to the institution and to all DoD Components. If the USD(R&E) has invoked the waiver provisions with respect to research and development funds under § 216.3(d), that fact shall be noted. If the prohibition on use of funds extends only to subordinate elements of an institution, only those elements that are subject to the prohibition shall be listed.

(f) On a semi-annual basis, but not later than November 30th and April 30th of each year, the ASD(MRA&L) shall transmit to the heads of DoD Components a cumulative list of all institutions currently subject to the prohibition on use of funds under § 216.3.

(1) An institution may be removed from the list under the following circumstances:

(i) When the institution provides information to the ASD(MRA&L) to permit a determination that the institution is willing to schedule recruiting by the Military Services on the premises of the institution in the coming academic year, or that § 216.3(b)(1) through (4), are otherwise applicable.

(ii) When the Secretary of a Military Department invokes the waiver provisions of § 216.3(c).

(2) If the USD(R&E) invokes the waiver provisions of § 216.3(d), permit the use of research and development funds at an institution on the list, that fact will be noted, but the institution will not be removed from the list solely on that basis.

(3) An institution may be added to the list only in accordance with this section. If the Secretary of a Military Department proposes to withdraw a waiver previously granted under § 216.3(c), the Secretary shall notify the institution of that fact and shall initiate an inquiry under this section to determine whether the institution intends to continue barring military recruiters by policy from the premises of the institution. If it is determined that such a bar is in effect, the matter shall be processed by the Secretary under the Military Department and the ASD(MRA&L) under this section.

§ 216.6 Information requirements.

(a) The semi-annual reports from the Secretaries of the Military Departments as to recommendations of institutions for inclusion on the list of institutions prohibited from receiving funds shall be submitted on January 31 and June 30 of each year. The reporting requirement has been assigned Report Control Symbol DD–M(SA) 1386.

(b) On January 31 and June 30 of each year, the Heads of DoD Components shall submit a list of all actions in which

an institution listed by the ASD(MRA&L) under § 216.5 (e) and (f), has been subjected to a termination of funding or other disqualification from eligibility to receive funds on the basis of this Directive. The reporting requirements has been assigned Report Control Symbol DD————.

————.

September 24, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

Prototype Letter of Inquiry

Dr. John Doe.
President, ———— *University*
Washington, D.C.

Dear Mr. Doe: Section 606 of Pub. L. No. 92-436, the Department of Defense Authorization Act for 1973, prohibits use of DoD appropriations at any institution of higher learning which by policy bars military recruiting personnel from the premises of the institution. It further provides that the Secretaries of the Military Departments shall furnish the Secretary of Defense the names of any institutions of higher learning which the Secretaries determine on such dates are affected by the prohibitions contained in this section on barring recruiting personnel from the premises or property of any such institution.

Funds for tuition assistance, research, development, test and evaluation for the Armed Forces are included in this Act. The applicable section of Pub. L. No. 92-436 is attached for your information.

In order to enable the (Service) Recruiting Command to provide authoritative information for use in complying with the requirements of this law, I would appreciate clarification of the current policy of your institution in regard to on-campus military recruiting. (Recite information previously received concerning the institution's policy or intentions in regard to on-campus recruiting, recite record of unsuccessful efforts to schedule recruiting visits, recite other facts or points of departure, as appropriate.).

Specifically, I would appreciate answers to the following questions:

Is it the present policy of ———— University to bar military recruiting personnel from its premises or property?

Does ———— University intend to permit military recruiting on campus in the near future and is is now able to schedule a date for a recruiting visit?

What is the policy of ———— University with respect to the visits of civilian employers (public or private) to the campus for the purpose of recruiting college students?

In order to comply with the reporting requirements of the law, it will be necessary to receive the answers to these questions, together with any clarifying information that will be helpful, no later than —— days from the date of this letter.

I earnestly solicit your cooperation in this matter and trust it will be possible for the (Service) to schedule a recruiting visit in the near future at a mutually agreed upon time and place.

Sincerely,

[FR Doc. 82-26606 Filed 9-28-82; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL 2213-4]

Proposed Revision of the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This notice proposes the approval of alternative emission reduction plans (bubbles) for boilers at three sources in Pennsylvania. These bubbles allow for more economical operation of the boilers with no degradation of air quality. The Pennsylvania Department of Environmental Resources requested the approval of these bubbles in a letter of June 8, 1982.

DATE: Comments must be submitted on or before October 29, 1982.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following locations:

U.S. EPA, Air Programs and Energy Branch, 6th and Walnut Streets, Curtis Building, Philadelphia, PA 19106, ATTN: Gregory Ham (3AW11)

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120, ATTN: Gary L. Triplett

All comments on the proposed revision submitted on or before October 29, 1982 will be considered and should be sent to: Mr. Glenn Hanson, Chief, Pennsylvania Section (3AW11), Air & Waste Management Division, U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory D. Ham at the address listed for Mr. Glenn Hanson above, or at (215) 597-2745.

SUPPLEMENTARY INFORMATION: The proposed changes to the Pennsylvania State Implementation Plan (SIP) were submitted by Secretary Peter S. Duncan, DER, on June 8, 1982. A public hearing on these bubbles was held on June 17, 1982. DER and EPA are holding concurrent public comment periods on these bubbles. Provided that no significant changes are made or that no comments are submitted which would significantly affect the approvability of these bubbles, EPA is proposing to approve these when they are finalized by DER.

The bubbles involve several boilers at each of three plants in Pennsylvania. At each plant, one or two boilers will burn natural gas to offset higher emissions of sulfur dioxide from the remaining boilers. No net increases in emissions will occur at any plant. In addition, the emission points are located close together and the emissions increases will occur at sources with equal or higher effective plume heights. Therefore, no modeling was required for any of these bubbles. The following paragraphs discuss each bubble and the source-specific regulation for that bubble.

The bubble for Scott Paper Company in Chester, Pa., allows for the burning of higher sulfur fuel in two boilers while burning natural gas in the remaining two boilers. Compliance will be determined by averaging the emissions from all four boilers. The limitations are 0.53 lbs. $SO_2/10^6$ Btu heat input on an hourly average not to be exceeded, and 3.2 lbs. $SO_2/10^6$ Btu heat input as a maximum not to be exceeded at any time. These limits are in § 128.17 of Pennsylvania's Air Resources Regulations, which also prohibits the use of No. 6 commercial fuel oil with sulfur content in excess of 3.0% by weight. Previous regulations prohibitions use of No. 6 fuel oil in excess of 0.5% sulfur by weight.

Section 128.18 as proposed allows Arbogast & Bastian, Inc., of Allentown, Pa., to burn natural gas in one boiler while burning higher sulfur fuel in the two remaining boilers. This section sets an hourly average for all boilers not to exceed 1.75 lbs. $SO_2/10^6$ Btu heat input prior to August 1, 1982, and 1.57 lbs. $SO_2/10^6$ Btu heat input after August 1, 1982. Sulfur content in the No. 6 commercial fuel oil is limited to 2.5% by weight before August 1, 1982 and 2.25% after that date. Previous regulations limited sulfur content in No. 6 fuel oil to 2.0% before August 1, 1982 and 1.5% after the date.

The third bubble applies to J. H. Thompson, Inc., in Kennett Square, Pennsylvania. An hourly average of 1.0 lbs. $SO_2/10^6$ Btu heat input applies to all three boilers, with a maximum not to be exceeded at any time of 3.1 lbs. $SO_2/10^6$ Btu heat input. Natural gas will be burned in one boiler to offset higher sulfur fuel in the remaining two boilers.

The sulfur content of the No. 6 commercial fuel oil is limited to 3.0% by weight. These limits are set forth in

§ 128.19 of Pennsylvania's Air Resources Regulations. Previous regulations prohibited use of No. 6 fuel oil with greater than 1.0% sulfur by weight.

EPA has revised these proposed bubbles according to the proposed Emissions Trading Policy of April 7, 1982 (47 FR 15076), and is today proposing approval of these bubbles.

The public is invited to submit, to the address stated above, comments on whether the proposed changes should be approved as a SIP revision. The Administrator's decision to approve or disapprove the proposed revision will be based in part on the comments received.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(42 U.S.C. 7401–7642)

Dated: August 30, 1982.

W. T. Wisniewski,

Acting Regional Administrator.

[FR Doc. 82-26798 Filed 9-28-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 123

[W-4-FRL 2216-1]

Mississippi's Application to Administer National Pollutant Discharge Elimination System (NPDES) Program for Federal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of application.

SUMMARY: The State of Mississippi has submitted a request to the Environmental Protection Agency for approval to expand its National Pollutant Discharge Elimination System (NPDES) permit program to include Federal facilities. According to the State's proposal, the Federal facilities program would be transferred from EPA Administration to the State of Mississippi Department of Natural Resources, Bureau of Pollution Control. This notice provides for a comment period on Mississippi's request. Under EPA regulations the Administrator shall approve or disapprove this request after taking into consideration all comments received.

DATES: Comments must be received on or before October 29, 1982.

Interested persons may also request a public hearing on the State's request. If there is a significant public interest expressed in the comments, EPA will schedule such a hearing. In the event EPA determines to hold a public hearing, prior notice of the date, time and location of such hearing will be given. All requests for a public hearing on the request must be submitted on or before October 29, 1982.

ADDRESSES: Comments should be addressed to: U.S. EPA, Region IV Office, 345 Courtland Street, Atlanta, Georgia, 30365, Attention: Water Management Division.

FOR FURTHER INFORMATION CONTACT: Arthur G. Linton, U.S. EPA, Region IV Office, 345 Courtland Street, Atlanta, Georgia, 30365, (404) 881–3776.

SUPPLEMENTARY INFORMATION: On October 18, 1972, Congress passed the Federal Water Pollution Control Act Amendments of 1972, (33 U.S.C. 1251–1376, Supp. 1973; hereinafter "the Act"). This legislation established the NPDES permit program under which the Administrator of the United States Environmental Protection Agency (U.S. EPA) or an approved State may issue permits to municipal, industrial, and agricultural entities to control the discharge of pollutants into navigable water.

On May 1, 1974, when Mississippi's NPDES program was approved, the Act prohibited State regulation of Federal faciltities (33 U.S.C. 1323(a)), and EPA retained responsibility over these facilities. The 1977 amendments to the Act removed this bar to full State regulation of all potential sources of water pollution within its boundaries.

The Mississippi Department of Natural Resources, Bureau of Pollution Control, has requested authority to issue permits to Federal facilities and has submitted a signed statement from the Mississippi Attorney General that the Mississippi Department of Natural Resources, Bureau of Pollution Control, has the necessary authority.

The Administrator's decision to approve or disapprove the proposed expansion will be based on the comments received and on a determination of whether the proposed program expansion meets the requirements of the Clean Water Act and 40 CFR Part 123.

Proposed conditions of transfer:

1. The NPDES permits issued by the EPA to Federal facilities located in Mississippi may be reissued by the State prior to their current expiration date in accordance with the Mississippi Air and Water Pollution Control Act, as amended.

2. This transfer does not grant the permittee or any other party the right to contest or appeal any terms and conditions of the EPA-issued permits.

3. Terms and conditions of the existing permits remain in effect and they will not be affected by this transfer.

The Mississippi submission may be reviewed from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays, by the public at the Mississippi Department of Natural Resources, Bureau of Pollution Control at 2380 Highway 80 West, Southport Mall, P.O. 10385, Jackson, MS 39209 and at the EPA office in Atlanta at the address appearing at the beginning of this Notice. Copies of the submittal may also be obtained (at a cost of 20 cents a page) at the EPA office in Atlanta by contacting Ms. Earline Hanson.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Please bring the foregoing to the attention of persons you know would be interested.

Dated: August 25, 1982.

Charles Jeter,

Regional Administrator, Region IV.

[FR Doc. 82-26599 Filed 9-28-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[OPP-300067; PH-FRL 2215-7]

Secondary Alkyl (C_{11}–C_{15}) Poly (Oxyethylene) Acetate, Sodium Salt; Proposed Exemptions From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The notice proposes that secondary alkyl (C_{11}–C_{15}) poly (oxyethylene) acetate, sodium salt be exempted from the requirement of a tolerance when used as inert ingredient in pesticide formulations. This proposed regulation was requested by Sandoz, Colors and Chemicals.

DATE: Written comments must be received on or before October 29, 1982.

ADDRESS: Written comments to: Process Coordination Branch (TS–767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Peter Gray (703–557–7700) at the above address.

SUPPLEMENTARY INFORMATION: At the request of the Sandoz, Colors and Chemicals the Administrator proposes to amend 40 CFR 180.1001 (c) and (e) by establishing exemptions from the requirement of a tolerance for secondary alkyl (C_{11}–C_{15}) poly (oxyethylene) acetate, sodium salt; the ethylene oxide content averages 5 moles.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific basis used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient: Secondary alkyl (C_{11}–C_{15}) poly (oxyethylene) acetate, sodium salt; the ethylene oxide content averages 5 moles.

Name and address of requestor: Sandoz, Colors and Chemicals, Charlotte, North Carolina.

Basis for approval: There are numerous clearances under 180.1001(c) of very closely related surfactant. The most closely related surfactant that is cleared in paragraph (c) is "tridecyl poly (oxyethylene) acetate, sodium salt," and is a linear fatty acid adduct of polyoxyethylene.

The new moiety is the same except that the alkyl portion consists of secondary fatty acids and covers the range (C_{11}–C_{15}). Secondary and tertiary alcohols and acids make up portions of cleared surfactants such as sodium isobutylnaphthalene sulfonate and poly(oxyethylene) (2–50 moles) dinonyl phenol.

Overall, the Agency concludes that the toxicity of the subject surfactant will not be greater than that of related and previously exempted materials.

Based on the above information, and review of its use, it has been found that, when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains this inert ingredient, may request within 30 days after publication of this notice in the **Federal Register** that this rulemeking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, "[OPP–300067]". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Process Coordination Branch at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated: September 17, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.1001 be amended by adding and alphabetically inserting the inert ingredient secondary alkyl (C_{11}–C_{15}) poly (oxyethylene) acetate, sodium salt to the tables in paragraphs (c) and (e) to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * * * *		
Secondary alkyl (C_{11}–C_{15}) poly (oxyethylene) acetate, sodium salt; the ethylene oxide content averages 5 moles.		Surfactant.
* * * * * * *		

(e) * * *

Inert ingredients	Limits	Uses
* * * * * * *		
Secondary alkyl (C_{11}–C_{15}) poly (oxyethylene) acetate, sodium salt; the ethylene oxide content averages 5 moles.		Surfactant.
* * * * * * *		

[FR Doc. 82-26436 Filed 9-28-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 0E2341/P242; PH–FRL 2214–8]

Ethoprop Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the pesticide ethoprop in or on the raw agricultural commodity mushrooms. The proposed amendment to establish a maximum permissible level for residues

of ethoprop in or on the commodity was submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments must be received on or before October 29, 1982.

ADDRESS: Written comments to: Donal R. Stubbs, Emergency Response Section, Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donal Stubbs, (703–557–1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 0E2341 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of Pennsylvania.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the pesticide ethoprop (*O*-ethyl *S,S*-dipropyl phosphorodithioate) in or on the raw agricultural commodity mushrooms at 0.02 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance included: two 90-day feeding studies (rat and dog) with no-observed-effect levels (NOEL's) for cholinesterase inhibition of 0.3 ppm and 10.0 ppm, respectively; an acute inhalation study in the rat using technical ethoprop with an LC_{50} for 4 hours of exposure at 0.123 milligrams (mg)/liter; an acute delayed neurotoxicity study in adult hens with no signs of delayed neurotoxicity when dosed at levels above the acute oral LD_{50} (9.9 mg/kilogram (kg)).

The acceptable daily intake (ADI), based on the 90-day rat feeding study (NOEL of 0.015 mg/kg/day), and using a 200-fold safety factor, is calculated to be 0.000075 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.0045 mg/day. The current action will increase the TMRC by 0.0001 mg/day and will utilize an additional 0.2 percent of the ADI. The tolerance that will be established by this proposed rule is considered to pose a negligible incremental dietary risk since dietary exposure will not be significantly increased.

The nature of the residues is adequately understood and an adequate analytical method, gas-chromatography using a flame photometric detector, is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR Part 180 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, "[PP 0E2341/P242]". All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: September 16, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.262 be revised by reformatting into alphabetical order and by adding and alphabetically inserting the raw agricultural commodity mushrooms to read as follows:

§ 180.262 Ethoprop; tolerances for residues.

Tolerances are established for residues of the nematocide and insecticide ethoprop (*O*-ethyl *S,S*-dipropyl phosphorodithioate) in or on the following raw agricultural commodities:

Commodities	Parts per million
Bananas	0.02 (N)
Beans, lima	0.02 (N)
Beans, lima, forage	0.02 (N)
Beans, snap	0.02 (N)
Beans, snap, forage	0.02 (N)
Cabbage	0.02 (N)
Corn, fodder	0.02 (N)
Corn, forage	0.02 (N)
Corn, fresh (inc. sweet K+CWHR)	0.02 (N)
Corn, grain	0.02 (N)
Cucumbers	0.02 (N)
Mushrooms	0.02
Peanuts	0.02 (N)
Peanuts, hay	0.02 (N)
Pineapples, fodder	0.02 (N)
Pineapples, forage	0.02 (N)
Potatoes	0.02 (N)
Soybeans, forage	0.02 (N)
Soybeans, hay	0.02 (N)
Sugarcane	0.02 (N)
Sugarcane, fodder	0.02 (N)
Sugarcane, forage	0.02 (N)
Sweet potatoes	0.02 (N)

[FR Doc. 82-26482 Filed 9-27-82; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

Office of Plans, Programs, and Financial Management

41 CFR Part 101–41

Facsimile Signature on Standard Form 1113

AGENCY: General Services Administration.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the regulations to permit carriers to use facsimile signatures of its certifying officials on the "Payee's Certificate" of the Public Voucher for Transportation Charges, Standard Form (SF) 1113, without the requirement that such signatures be initialed by duly authorized persons. The intent of this proposal is to reduce the time and cost to the carriers and to facilitate carrier preparation of SF 1113.

DATE: Comments must be received by October 29, 1982.

ADDRESS: Written comments should be sent to General Services Administration (BWCPR), Chester A. Arthur Building, Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Reports and Procedures Branch, Office of Transportation Audit (202–275–0664).

SUPPLEMENTARY INFORMATION: Based upon a carrier's inquiry to this office, GSA reviewed the current regulations that require an authorized person to initial a facsimile signature of SF 1113, (see FPMR 101–41.214–5(c) and 101–41.310–2(c)). The use of a facsimile signature in the certification space is adequate if authorized by the certifying official. It also assumes a personal examination and familiarization with the facts contained in the document. Accountability for certification therefore remains with the individual so designated in the signature block.

GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least cost to society.

List of Subjects in 41 CFR Part 101–41

Air carriers, Accounting, Claims, Freight, Freight forwarders, Government property management, Maritime carriers, Moving of household goods, Passenger services, Railroads, Transportation.

PART 101–41—TRANSPORTATION DOCUMENTATION AND AUDIT

It is proposed to amend 41 CFR Part 101–41 as follows:

Subpart 101–41.2 Passenger Transportation Services Furnished for the Account of the United States

1. Section 101–41.214–5(c) is revised as follows:

§ 101–41.214–5 Preparation of carrier billing form.

* * * * *

(c) The carrier shall complete the "Payee's Certificate" section of the voucher. Carriers may use a machine-typed name of the carrier's certifying official provided the machine-typed name is initialed by a duly authorized person, or carriers may use a facsimile signature of the carrier's certifying official, as authorized by that official. The carrier shall complete the tear-off portion of the SF 1113 and shall not substitute a memorandum copy (SF 1113–A) for the tear-off portion.

* * * * *

2. Section 101–41.310–2(c) is revised as follows:

§ 101–41.310–2 Preparation of carrier billing form.

* * * * *

(c) Carriers may use a machine-typed name of the carrier's certifying official in the "Payee's Certificate" section of the voucher provided the machine-typed name is initialed by a duly authorized person, or carriers may use a facsimile signature of the carrier's certifying official as authorized by that official.

* * * * *

(31 U.S.C. 244 and 40 U.S.C. 486(c)).

Dated: September 10, 1982.

Raymond A. Fontaine,

Assistant Administrator of General Services.

[FR Doc. 82–26606 Filed 9–28–82; 8:45 am]

BILLING CODE 6820–AM–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82–538; RM–3983]

Hours of Operation of Daytime-Only AM Broadcast Stations; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a typographical error made concerning the FCC number assigned to this action regarding hours of operation of Daytime-Only AM Broadcast Stations.

FOR FURTHER INFORMATION CONTACT: Louis C. Stephens, Broadcast Bureau, (202) 632–7792 or Wilson LaFollette, Broadcast Bureau, (202) 632–0660.

SUPPLEMENTARY INFORMATION:

In the Matter of Hours of Operation of Daytime-Only AM Broadcast Stations, BC Docket No. 82–538 RM–3983; (9–3–82; 47 FR 38937).

Released: September 21, 1982.

On August 4, 1982, the Commission adopted a Notice of Inquiry and Notice of Proposed Rule Making (released August 19, 1982) in the above-captioned proceeding. Inadvertently, the assigned FCC number was misstated as 82–570. The correct FCC number is *82–370.*

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82–26613 Filed 9–28–82; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 47, No. 189
Wednesday, September 29, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Meeting

Notice is hereby given in accordance with § 800.6(d)(3) of the regulations of the Advisory Council on Historic Preservation, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that the Council will meet on October 19, 1982, to consider the proposed construction of a barge unloading/loading facility at Ohio River Mile 477.3 in Hamilton County, Ohio. It has been determined that this undertaking, for which the Corps of Engineers has issued a permit, will adversely affect Anderson's Ferry, a property included in the National Register of Historic Places.

Pursuant to § 800.6(d)(2) of the Council's regulations, the Chairman of the Council decided on September 20, 1982, that the Council should consider this project in accordance with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470f, as amended).

The Council was established by the National Historic Preservation Act to advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Secretary of the Interior, the Architect of the Capitol, the Secretary of Agriculture, and the heads of four other Federal agencies appointed by the President, one Governor and one mayor appointed by the President, the President of the National Conference of State Historic Preservation Officers, the Chairman of the National Trust for Historic Preservation, and seven private citizens appointed by the President.

The Council will meet at 9 a.m. in the Board Room of the American Institute of Architects, 1735 New York Avenue, NW., Washington, D.C.

The Council will consider written and oral statements from concerned parties. Written statements should be submitted to the Executive Director of the Council by October 12, 1982. Persons wishing to make oral statements should notify the Executive Director by October 15, 1982. Additional information concerning the meeting or the submission of statements is available from the Executive Director, Advisory Council on Historic Preservation, Suite 430, 1522 K Street NW., Washington, D.C. 20005 (202–254–3967).

Dated: September 23, 1982.

Frank L. Suman,

Acting Executive Director.

[FR Doc. 82-26674 Filed 9-28-82; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

September 24, 1982 .

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of P.L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper, Statistical Clearance Officer (202) 447–6201

New

• Farmers Home Administration
7 CFR 1945-D, Emergency Loan Policies, Procedures
FmHA 1940–38, 1945–22
On occasion
State on local government, farms, businesses: 283,150 responses; 157,710 hours; not applicable under 3504(h)
James E. Vollmer (202) 382–1647.

• Food and Nutrition Service
Special Distribution of Surplus Commodities (Sec. 1114, P.L. 97–98)
• On Occasion, monthly
• Individuals, state and local governments, businesses: 2,451 responses; 3,236 hours; not applicable under 3504(h)
• Donald McCreary (703) 756–3660
Rural Electrification Administration
Financial Forecast—Electric Distributor Systems
REA Forms 325 a–k
On occasion
Businesses or other institutions: 500 responses; 10,000 hours; not applicable under 3504(h)
• Carl Anderson (202) 382–1008

Extension

• Food and Nutrition Service
• Food Stamp Accountability Report
• FNS–250
• Monthly
• State or local governments: 59,088 responses; 177,264 hours; not applicable under 3504(h)
• David Rathbun (703) 756–3431
• Forest Service
• Collection and Analysis of Timber Purchaser's Cost and Sales Data Annually
• Buinesses or other institutions: 150 responses; 1,200 hours; not applicable under 3504(h)
Ted Yarosh (703) 475–3755

Richard J. Schrimper,

Statistical Clearance Officer.

[FR Doc. 82-26660 Filed 9-28-82; 8:45 am]

BILLING CODE 3410-01-M

Office of the Secretary

Section 22 Import Fees; Determination of Quarterly Import Fees On Sugar

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) requires the Secretary of Agriculture to determine on a quarterly basis the amount of the fees which shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) under the authority of Section 22 of the Agricultural Adjustment Act of 1033, as amended. This notice announces those determinations for the fourth calendar quarter of 1982.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: William F. Doering, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250 (202–447–6723).

SUPPLEMENTARY INFORMATION: By Presidential Proclamation No. 4940, dated May 5, 1982, Headnote 4 of Part 3 of the TSUS was amended to provide that quarterly adjusted fees shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15). Paragraph (c)(ii) of Headnote 4 provides that the quarterly adjusted fee for item 956.15 shall be the amount by which the average of the adjusted daily spot (domestic) price quotations for raw sugar for the 20 consecutive market days immediately preceding the 20th day of the month preceding the calendar quarter during which the fee shall be applicable (as reported by the New York Coffee, Sugar, and Cocoa Exchange), expressed in United States cents per pound, in bulk, is less than the market stabilization price. The market stabilization price for the fourth calendar quarter of 1982 is 20.73 cents per pound. However, whenever the average of the daily spot price quotations for 10 consecutive market days within any calendar quarter: (1) Exceeds the market stabilization price by more than one cent, the fee then in effect shall be decreased by one cent; or (2) is less than the market stabilization price by more than one cent, the fee then in effect shall be increased by one cent. Paragraph (c)(i) of Headnote 4 further provides that the quarterly adjusted fee for items 956.05 and 957.15 shall be the amount of the fee for item 956.15 plus one cent.

The average of the adjusted daily spot (domestic) price quotations for raw sugar for the applicable period prior to the fourth calendar quarter of 1982 has been calculated to be 21.0017 cents per pound. This results in a fee of 0.00 cent per pound for item 956.15, since the adjusted average spot price is greater than 20.73 cents. Accordingly, the fee for items 956.05 and 957.15 for the fourth calendar quarter of 1982 is 1.00 cent per pound.

Headnote 4(c) requires the Secretary of Agriculture to determine and announce the amount of the quarterly fees no later than the 25th day of the month preceding the calendar quarter during which the fees shall be applicable. The Secretary is also required to certify the amounts of such fees to the Secretary of the Treasury and file notice thereof with the **Federal Register** prior to the beginning of the calendar quarter during which the fees shall be applicable. This notice is therefore being issued in order to comply with the requirements of Headnote 4(c).

Notice

Notice is hereby given that, in accordance with the requirements of Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States, it is determined that the quarterly adjusted fees for raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) for the fourth calendar quarter of 1982 shall be as follows:

Item	Fee (cent per pound)
956.05	1.00
956.15	0.00
957.15	1.00

The amounts of such fees have been certified to the Secretary of the Treasury in accordance with paragraph (c)(iv) of Headnote 4.

Signed at Washington, D.C. on September 24, 1982.

Richard E. Lyng,

Acting Secretary of Agriculture.

[FR Doc. 82-26705 Filed 9-24-82; 2:28 pm]

BILLING CODE 3410-10-M

CIVIL AERONAUTICS BOARD

[Docket 40747]

Emerald Air, Inc. d.b.a. Emerald Airlines; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-titled proceeding will be held on October 13, 1982, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., September 24, 1982.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 82-26825 Filed 9-28-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40350]

North Pacific Airlines Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-titled matter is assigned to be held on October 14, 1982, at 2:00 p.m. (local time), in Room 1012, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

In order to facilitate the conduct of the conference, parties are instructed to submit on or before October 1, 1982, one copy to each party and prospective party and six copies to the Judge of (1) a proposed statement of issues; (2) proposed stipulations; (3) proposed requests for additional information and evidence; (4) statements of positions; and (5) proposed procedural dates.

Dated at Washington, D.C., September 23, 1982.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 82-26826 Filed 9-28-82; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Pennsylvania Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory Committee to the Commission will convene at 1:30p, and will end at 4:30p, on October 20, 1982, at the Harrisburg Federal Building and Courthouse, 228 Walnut Street, Harrisburg, Pennsylvania 17108. The purpose of this meeting is to continue business and discussion of ideas for projects on plant shutdowns, and State and local governments' responses to violence and extremism.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Joseph Fisher, 35 South Fourth Street, Philadelphia PA 19106, (215) 351–0776; or the Mid-Atlantic Regional Office, 2120 L Street, N.W., Washington DC 20036, (202) 254–6717.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-26700 Filed 9-28-82; 8:45 am]

BILLING CODE 6335-01-M

California Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the California Advisory Committee to the Commission will convene at 7:00p and will end at 9:00p, on October 19, 1982, at the home of Stanley Fleishman, 2100 North Spalding, Apt. 505N, Beverly Hills, California 90210. The purpose of this meeting is to discuss regulations pertaining to handicapped citizens.

Persons desiring additional information or planning a presentation to the Committee, should contact the chairperson, Mr. Maurice B. Mitchell, 1518 Alameda Padre Sierra, Santa Barbara, CA 93103, (805) 969–1563; or the Western Regional Office, 3660 Wilshire Boulevard, Suite 810, Los Angeles CA 90010, (213) 798–3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, September 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-26701 Filed 9-28-82; 8:45 am]

BILLING CODE 6335-01-M

Illinois Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 10:00a, and will end at 3:00p, on October 15, 1982, at the Prophets of God, Eighteenth and Union Streets, Chicago, Illinois, 60654. The purpose of this meeting is to report on the National State Advisory Committee Chairpersons' Conference held September 13–14, 1982 in Washington, D.C., and discuss issues of concern to the Hispanic community.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Thomas Pugh, 500 West Melbourne Avenue, Peoria, Illinois, 61604, (309) 686–3121 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 21, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-26750 Filed 9-28-82; 8:45 am]

BILLING CODE 6335-01-M

Indiana Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will convene at 7:00p and will end at 10:00p, on October 21, 1982, at the City County Building, 1 Maine Street, Ft. Wayne, Indiana 46802. The purpose of this meeting is to approve previous SAC minutes, receive a report from staff on status of past and present projects, discuss possible conference in Gary concerning racial hate groups, and new business.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. Joseph J. Russell, 4165 Gran Haven Drive, Bloomington, Indiana 47401, (812) 337–9632; or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7371.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-26736 Filed 9-28-82; 8:45 am]

BILLING CODE 6335-01-M

Louisiana Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Louisiana Advisory Committee to the Commission will convene at 7:00p and will end at 9:00p, on October 28, 1982, at the Warwick Hotel, 1315 Gravier Street, New Orleans, Louisiana 70112. The purpose of this meeting is to plan future programs.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. Louis C. Pendleton, 1514 Gary, Shreveport, Louisiana 71103, (318) 424–1297; or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio TX 78204, (512) 730–5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, September 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-26737 Filed 9-28-82; 8:45 am]

BILLING CODE 6335-01-M

Minnesota Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Minnesota Advisory Committee to the Commission will convene at 9:00 a.m. and will end at 12 Noon, on October 16, 1982, at the Martin Luther King Multi-Service Center, 270 Kent Street, St. Paul, Minnesota 55102. The purpose of this meeting is the orientation of new members, planning new projects and followup on police task force.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mrs. Ruth A. Myers, 1006 East Second Street, Apt. #1, Duluth, Minnesota 55805, (218) 724–0954; or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, IL 60604, (312) 343–7371.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, September 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-26738 Filed 9-28-82; 8:45 am]

BILLING CODE 6335-01-M

Ohio Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Ohio Advisory Committee to the Commission will convene at 10:00a and will end at 3:00p, on October 23, 1982, at the Stouffer's Cincinnati Towers, 141 West Sixth Street, Cincinnati, Ohio 45202. The

purpose of this meeting is to report on and adopt project on Hispanics in Northwest Ohio, received an update on Cincinnati's Police Community Relations Program and set meeting dates for FY 83.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chair-Designate, Mrs. Marian A. Spencer, 940 Lexington Avenue, Cincinnati, Ohio 45229, (513) 221–5656; or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7371.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, September 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-26754 Filed 9-28-82; 8:45 am]

BILLING CODE 6335-01-M

Vermont Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission will convene at 7:00p, and will end at 9:00p, on November 4, 1982, at the Holiday Inn, in the Club Room, White River Junction, Vermont 05001. The purpose of this meeting is to discuss the progress of the Information Kit on Stereotyping and Prejudice, distribution of the Sexual Harassment Information Kit for Employers and the report on Franco-Americans.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Philip H. Hoff, 192 College Street, Hoff, Wilson and Powell, Burlington, Vermont 05401, (802) 658–4300 or the New England Regional Office, 55 Summer Street, Boston, Massachusetts 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 21, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-26760 Filed 9-28-82; 8:45 am]

BILLING CODE 6335-01-M

West Virginia Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the West Virginia Advisory Committee to the Commission will convene at 1:00p and will end at 3:00p, on October 28, 1982, at 215 Professional Building, 1036 Quarrier Street, Conference Room (Human Rights Commission), Charleston, West Virginia 25301. The purpose of this meeting is to plan activities for the fiscal year.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Donald L. Pitts, 416 South Fayette, Beckley, West Virginia 25801, (304) 252–5309; or the Mid-Atlantic Regional Office, 2120 L Street, NW., Washington, DC 20036, (202) 254–6717.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, September 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-26759 Filed 9-28-82; 8:45 am]

BILLING CODE 6335-01-M

Wisconsin Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wisconsin Advisory Committee to the Commission will convene at 7:00p and will end at 9:00p, on October 20, 1982, at the Madison Inn, 601 Langdon Street, Madison, Wisconsin 73703. The purpose of this meeting is to review draft of Vocational Education Statement and Business Incentive report, also to discuss future projects.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Herbert Hill, 2127 Van Hise Avenue, Madison, Wisconsin 53705, (608) 263–2330; or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353–7371.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, September 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-26758 Filed 9-28-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-479-063]

Animal Glue and Inedible Gelatin from Yugoslavia; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On June 30, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on animal glue and inedible gelatin from Yugoslavia. The review covered the one know exporter of this merchandise to the United States and the time period December 1, 1980 through November 30, 1981. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. We received no comments.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Betty H. Laxague or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–3601).

SUPPLEMENTARY INFORMATION:

Background

On December 22, 1977, an antidumping finding with respect to animal glue and inedible gelatin from Yugoslavia was published in the **Federal Register** as Treasury Decision 78–4 (42 FR 64116–7). On June 30, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47–FR 28443–4) the preliminary results of its administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of animal glue and inedible gelatin, of which there are two principal types, hide glue and bone glue. Animal glue is an organic colloid of protein derivation. There is no significant difference between animal glue and inedible gelatin. Animal glues are odorless, dry, hard, hornlike material. They are used as general purpose adhesives in industries producing

abrasives, paper containers, book and magazine bindings, and leather goods. They are also used as sizing agents and as colloids in emulsions and cleaning compounds. Animal glue and inedible gelatin are currently classifiable under items 455.4000 and 455.4200 of the Tariff Schedules of the United States Annotated (TSUSA).

The review covers the only known exporter of Yugoslavian animal glue and inedible gelatin to the United States, Kemija-Impex, and the period December 1, 1980 through November 30, 1981.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Therefore, the final results of our review are the same as those presented in the preliminary results of review. There were no known shipments to the United States during the period and there are no known unliquidated entries.

As provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 9.7 percent, based on the margin on the firm's last known shipments, shall be required on all shipments of Yugoslavian animal glue and inedible gelatin entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of December 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration

September 23, 1982.

[FR Doc. 82-26610 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

[A-583-023]

Clear Sheet Glass from Taiwan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On March 1, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on clear sheet glass from Taiwan. The review covered three of the four known exporters of this merchandise to the United States and the period August 1, 1980 through July 31, 1981.

Interested parties were given an opportunity to submit oral or written comments on these preliminary results. At the request of the petitioner, we held a public hearing on March 26, 1982.

After analysis of the comments received, the Department has made no adjustments to the dumping margins published in the preliminary results.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3601).

SUPPLEMENTARY INFORMATION:

Background

On August 21, 1971, a dumping finding with respect to clear sheet glass from Taiwan was published in the **Federal Register** as Treasury Decision 71-226 (36 FR 16508). On March 1, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 8607) the preliminary results of its administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

The imports covered by the review are shipments of clear sheet glass, currently classifiable under items 542.3120 through 542.4835 of the Tariff Schedules of the United States Annotated (TSUSA). The review covers the three known Taiwanese exporters of clear sheet glass to the United States, Hsinchu Glass Works, Inc., Taiwan Glass Corporation, and Yotak Trading Company, Ltd., and the period August 1, 1980 through July 31, 1981. We will cover the only known third-country reseller, Israeli International Trade Company, Ltd., in a subsequent review.

Analysis of Comments Received

Interested parties were invited to comment on the preliminary results. The petitioner, PPG Industries, Inc. ("PPG"), requested a hearing which was conducted by the Department on March 26, 1982.

(1) *Comment:* PPG claimed that our acceptance without independent review, for use in assessment and establishing cash deposit rates, of Treasury's master list determinations of dumping margins violated the congressional intent that the antidumping laws be vigorously enforced.

Position: For the two firms which did not export during the period of review, we used their appraisement instructions for the most recent period in which they had shipments. It is our policy not to review the correctness of such master lists. As we stated at the hearing, "Where errors can be shown, or even potential error, we have re-evaluated Treasury calculations, but for us to go back and redo everything that Treasury had done would jeopardize our ability to administer the law effectively." This issue is currently being litigated in the Court of International Trade in the case of *PPG Industries, Inc.* v. *United States*, No. 81-9-01273. In this case, however, since PPG alleged discrepancies between Treasury's master list and the applicable response, we reviewed the petitioner's example against the response and master list and are satisfied that there are no discrepancies.

(2) *Comment:* PPG argued that we should further investigate the likely home market price in Taiwan to determine the best available information for foreign market value in the case of Yotak. PPG suggested that we either obtain the home market prices of the other Taiwanese manufacturers of the merchandise during this period or that we apply an inflation factor to the last known foreign market values for Yotak.

Position: Yotak Trading Company was non-responsive to our questionnaire prior to the preliminary review publication. Yotak has since responded, but the response was untimely and inadequate. We examined PPG's latter suggested approach and found no evidence that the margins would be higher than the 7% master list rate if actual price information was available. Since we had no information from Yotak, we compared Yotak's actual prices to the U.S. (as evidenced from Customs Form 6432) with the last known foreign market value for Yotak adjusted for inflation and found a margin less than 7%.

Therefore, we continue to adhere to our rule for non-responsive firms; that is, we used as best information available the higher of the most recent rates for other firms.

Final Results of the Review

After analysis of the comments received, the final results of our review

are the same as those presented in our preliminary results of review, and we determine that the following weighted-average margins exist:

Manufacturer and exporter	Time period	Margin (percent)
Hsinchu Glass Works, Inc.	Aug. 1, 1980 to July 31, 1981	[1]7.0
Taiwan Glass Corp.	Aug. 1, 1980 to July 31, 1981	[1]1.6
Yotek Trading Co., Ltd.	Aug. 1, 1980 to July 31, 1981	7.0

[1] No shipments during the period.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the time period involved. The Department will issue assessment instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the above margins for each firm shall be required on all shipments of Taiwanese clear sheet glass from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For any shipment from a new exporter not covered in this administrative review, unrelated to any of the covered firms, a cash deposit shall be required at the highest rate for responding firms with shipments during the most recent period in which shipments occurred. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of August 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary, Import Administration

September 22, 1982.

[FR Doc. 82-26614 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

[A-588-056]

Impression Fabric of Man-Made Fiber from Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on impression fabric of man-made fiber from Japan. The review covers the four known exporters of this merchandise to the United States currently covered by the finding and varying time periods through April 30, 1981. The review indicates the existence of dumping margins in particular periods for certain exporters.

As a result of this review, the Department has preliminarily determined to assess dumping duties for one exporter equal to the calculated differences between United States price and foreign market value on each of its shipments during the period of review. The three other firms provided inadequate responses, and for these firms the Department has used the best information available. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia McClenahan or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–5255).

SUPPLEMENTARY INFORMATION:

Background

On April 22, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 17319) the final results of its first administrative review of the antidumping finding on impression fabric of man-made fiber from Japan (43 FR 22344, May 25, 1978) and announced its intent to conduct the next administrative review as soon as possible in 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has not conducted that administrative review. The substantive provisions of the Antidumping Act of 1921 ("the 1921 Act") and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by the review are shipments of impression fabric of man-made fiber ("impression fabric"), currently classifiable under item numbers 338.5001, 338.5002, and 347.6020 of the Tariff Schedules of the United States Annotated (TSUSA). The review covers the four known exporters of impression fabric to the U.S. currently covered by the finding and varying time periods through April 30, 1981. Nissei Sangyo Co., Ltd. ("Sangyo") provided an adequate response. Three other firms, Nissei Co., Ltd. ("Nissei"), Mitsui and Co., Ltd. ("Mitsui"), and Marubeni Corporation ("Marubeni"), provided inadequate responses. For these non-responsive firms we used the best information available. The best information available for Nissei is its most recent rate, since it is higher than the rate for the responding firm in the current period. For Mitsui and Marubeni the best information available is the fair value rate, since it is higher than the rate for the responding firm in the current period.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act or section 203 of the 1921 Act, because the merchandise was sold to unrelated purchasers prior to its importation into the United States. Purchase price was based on the packed, delivered price from the Japanese firm's U.S. affiliate to unrelated purchasers in the United States. Where applicable, adjustments were made for U.S. duty, U.S. and foreign inland freight, shipping charges, ocean freight, and insurance. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act or section 205 of the 1921 Act. The foreign market value was based on the packed delivered price and was adjusted, where applicable, for inland freight, interest, discounts, and packing cost differences. We made adjustments for differences in technical service, warranty, and direct selling expenses, and for differences in the merchandise, in accordance with §§ 353.15 and 353.16 of the Commerce Regulations and §§ 153.10 and 153.11 of the Customs Regulations. Claims for differences in other selling expenses were not considered directly related to the sales in question and, therefore, were disallowed. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Exporter	Time period	Margin (percent)
Nissei Sangyo Co., Ltd.	May 25, 1978 to Apr. 30, 1981	5.76
Nissei Company Ltd.	May 1, 1980 to Apr. 30, 1981	10.12
Mitsui & Co., Ltd.	Sept. 1, 1977 to Apr. 30, 1981	7.5
Marubeni Corp	May 25, 1978 to Apr. 30, 1981	7.5

Nichibo Co., Ltd. has consistently stated that all existing contracts and sales to its U.S. customers are of fabric of 100% pure silk. The Department has no information that the firm has ever shipped merchandise covered by this finding. The Department therefore preliminarily has decided not to include this company in this or future section 751 reviews unless it begins shipping Japanese impression fabric of man-made fiber to the United States.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administration protective order must be made no later than 5 days after the date of publication. The Department will publish, the final results of this administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue assessment instructions on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the margins above shall be required on all shipments of impression fabric of man-made fiber from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 23, 1982.

[FR Doc. 82-26617 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

[A-122-004]

Steel Reinforcing Bars from Canada; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on steel reinforcing bars from Canada. The review covers the only manufacturer covered by the finding, Western Canada Steel Limited, for the period January 1, 1980 through March 31, 1981, and the two other possible exporters of reinforcing bars made by Western Canada Steel for varying periods through March 31, 1981.

Two of the firms did not respond to the Department's questionnaire and the third firm's response was inadequate. The Department intends to use the best information available, which is the most recent rate for Western Canada Steel, for assessment and estimated antidumping duty deposits. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Al Jemmott or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5255).

SUPPLEMENTARY INFORMATION:

Background

On February 4, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 5252-53) the final results of its first administrative review of the antidumping finding on steel reinforcing bars from Canada (29 FR 5341-42, April 21, 1964) and announced its intent to conduct the next administrative review by the end of April 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review. The substantive provisions of the Antidumping Act of 1921 ("the 1921 Act") and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by the review are shipments of steel reinforcing bars, currently classifiable under items 606.7900 and 606.8100 of the Tariff Schedules of the United States Annotated (TSUSA), manufactured by Western Canada Steel Limited. The review covers the period January 1, 1980 through March 31, 1981 for Western Canada Steel Limited, and varying periods through March 31, 1981 for the two other possible exporters to the U.S. of reinforcing bars manufactured by Western Canada Steel, Russelsteel Limited and Rhodes Vaughn Reinforcing Limited. Two of the firms, Western Canada Steel and Rhodes Vaughn, did not respond to the Department's questionnaire and Russelsteel's response was inadequate. Therefore, the Department used the best information available, which is the rate determined for Western Canada Steel in our last administrative review.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist:

Manufacturer and exporter	Time period	Margin (percent)
Western Canada Steel Ltd.	Jan. 1, 80 to Mar. 31, 1981	5.40
Western Canada Steel/Rhodes Vaughn Reinforcing Ltd.	Apr. 21, 64 to Mar. 31, 1981	5.40
Western Canada Steel/ Russelsteel Ltd.	Apr. 1, 77 to Mar 31, 1981	5.40

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made within 5 days of the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess,

dumping duties on all appropriate entries with purchase dates during the time periods involved. The Department will issue assessment instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the margins stated above shall be required on all shipments of Canadian steel reinforcing bars manufactured by Western Canada Steel Limited entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 22, 1982.

[FR Doc. 82-26615 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

Numerically Controlled Machine Tool Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Numerically Controlled Machine Tool Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to numerically controlled machine tool or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: October 26, 1982, at 10:00 a.m. The meeting will take place at the Main Commerce Building, Room 5230, 14th Street and Constitution Ave., NW., Washington, D.C.

AGENDA:

General Session

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Approval of minutes of the June 30, 1982 meeting.

(4) Discussion of International Machine Tool Show—82.

(5) Discussion of robots.

(6) New Business.

Executive Session

(7) Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

PUBLIC PARTICIPATION: The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202–377–4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mrs. Margaret A. Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: September 22, 1982.

John K. Boidock,

Director, Office of Export Administration.

[FR Doc. 82-26730 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Investigation; Steel Rails From France

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether steel rails from France are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether there is a reasonable indication that imports of steel rails from France are materially injuring, or are threatening to materially injure, a United States industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before October 18, 1982, and we will make ours on or before February 10, 1983.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: David L. Binder, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–2438.

SUPPLEMENTARY INFORMATION:

Petition

On September 3, 1982 we received a petition filed by counsel on behalf of CF&I Steel Corporation, a United States producer of steel rails. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports from France of steel rails are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on steel rails and have found that it meets these requirements.

Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether steel rails from France are being, or are likely to be, sold in the United States at less than fair value. If the investigation proceeds normally, we will make our preliminary determination by Feburary 10, 1983.

Scope of the Investigation

For purposes of this investigation, the term "Steel Rails" covers hot-rolled carbon steel rails and hot-rolled alloy steel rails, whether or not punched, weighing not less than eight pounds per yard, with cross-sectional shapes intended for carrying wheel loads in railroad, railway and crane runway applications, as currently provided for in items 610.2010, 610.2020 and 610.2100 of the *Tariff Schedules of the United States Annotated.*

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided that the ITC confirms it will not disclose such information either publicly or under and administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by October 18, 1982 whether there is a reasonable indication that imports of steel rails from France are materially injuring, or are threatening to materially injure, a United States industry. If its determination is negative, this investigation will terminate; othewise, the investigation will proceed according to statutory procedures.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 23, 1982.

[FR Doc. 82-26738 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Investigation; Steel Rails From the Federal Republic of Germany

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: On the basis of a petition filed with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether steel rails from the Federal Republic of Germany are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether there is a reasonable indication that imports of steel rails from the Federal Republic of Germany are materially injuring, or are threatening to materially injure, a United States industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before October 18, 1982, and we will make ours on or before February 10, 1983.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: David L. Binder, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-1779.

SUPPLEMENTARY INFORMATION:

Petition

On September 3, 1982, we received a petition filed by counsel on behalf of CF&I Steel Corporation, a United States producer of steel rails. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports from the Federal Republic of Germany of steel rails are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act) and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on steel rails and have found that it meets these requirements.

Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether steel rails from the Federal Republic of Germany are being, or are likely to be, sold in the United States at less than fair value. If the investigation proceeds normally, we will make our preliminary determination by February 10, 1983.

Scope of the Investigation

For purposes of this investigation, the term "steel rails" covers hot-rolled carbon steel rails and hot-rolled alloy steel rails, whether or not punched, weighing not less than eight pounds per yard, with cross-sectional shapes intended for carrying wheel loads in railroad, railway and crane runway applications, as currently provided for in items 610.2010, 610.2020 and 610.2100 of the *Tariff Schedules of the United States Annotated.*

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided that the ITC confirms it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by October 18, 1982 whether there is a reasonable indication that imports of steel rails from the Federal Republic of Germany are materially injuring, or are threatening to materially injure, a United States industry. If its determination is negative, this investigation will terminate; otherwise, the investigation will proceed according to statutory procedures.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 23, 1982.

[FR Doc. 82-26739 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Investigation; Steel Rails From the United Kingdom

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: On the basis of a petition filed with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether steel rails from the United Kingdom are being, or are likely to be, sold in the United States at less than fair

value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether there is a reasonable indication that imports of steel rails from the United Kingdom are materially injuring, or are threatening to materially injure, a United States industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before October 18, 1982, and we will make ours on or before February 10, 1983.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: David L. Binder, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–1779.

SUPPLEMENTARY INFORMATION:

Petition

On September 3, 1982, we received a petition filed by counsel on behalf of CF&I Steel Corporation, a United States producer of steel rails. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports from the United Kingdom of steel rails are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act) and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on steel rails and have found that it meets these requirements.

Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether steel rails from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value. If the investigation proceeds normally, we will make our preliminary determination by February 10, 1983.

Scope of the Investigation

For purposes of this investigation, the term "steel rails" covers hot-rolled carbon steel rails and hot-rolled alloy steel rails, whether or not punched, weighing not less than eight pounds per yard, with cross-sectional shapes intended for carrying wheel loads in railroad, railway and crane runway applications, as currently provided for in items 610.2010, 610.2020 and 610.2100 of the *Tariff Schedules of the United States Annotated.*

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided that the ITC confirms it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy (for Policy) to the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by October 18, 1982 whether there is a reasonable indication that imports of steel rails from the United Kingdom are materially injuring, or are threatening to materially injure, a United States industry. If its determination is negative, this investigation will terminate; otherwise, the investigation will proceed according to statutory procedures.

Judith Hippler Bello,

Deputy for Policy to the Deputy Assistant Secretary for Import Administration.

September 23, 1982.

[FR Doc. 82-26737 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Steel Rails From the Federal Republic of Germany

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: On the basis of a petition filed with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in the Federal Republic of Germany of steel rails receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of steel rails are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before October 18, 1982, and we will make ours on or before November 29, 1982.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202) 377–3003.

SUPPLEMENTARY INFORMATION:

Petition

On September 3, 1982 we received a petition from counsel for CF&I Steel Corporation on behalf of the U.S. industry producing steel rails. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in the Federal Republic of Germany of steel rails receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) (the "Act") and that imports of steel rails are materially injuring, or threatening to materially injure, a U.S. industry.

The Federal Republic of Germany is a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, title VII of the Act applies to this investigation.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegatons. We have examined the petition on steel rails and we have found that the petition meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers or exporters in the Federal Republic of Germany of steel rails received benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigation proceeds normally, we will make our preliminary determination by November 29, 1982.

Scope of the Investigation

The product covered by this investigation is steel rails. For purposes of this investigation, the term "steel

rails" covers hot-rolled carbon steel rails and hot-rolled alloy steel rails, whether or not punched, weighing not less than eight pounds per yard, with cross-sectional shapes intended for carrying wheel loads in railroad, railway and crane runway applications, as currently provided for in items 610.2010, 610.2020 and 610.2100 of the *Tariff Schedules of the United States Annotated.*

Allegations of Subsidies

The petition alleges that producers, manufacturers, or exporters in the Federal Republic of Germany receive the following benefits that constitute subsidies:

- Indirect subsidies to the rail industry through government aid for the purchase of steel rails by the government-owned railway.

The petition also alleges that producers, manufacturers, or exporters in the Federal Republic of Germany of steel rails benefit from the following European Communities subsidies:

- Indirect subsidies to the rail industry through the provision of infrastructure aid to the German railway for the purchase of steel rails.

Therefore, we will investigate both German government and European Communities programs, as applicable. We consider the allegation that the rail industry receives indirect subsidies from the purchase of rails by the government owned railroad to be a novel issue. Government procurement, without more, does not constitute a subsidy. The inclusion of this allegation does not imply that we consider this program to be a subsidy to rail producers. We will examine that issue during the course of the investigation.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by October 18, 1982 whether there is a reasonable indication that imports of steel rails from the Federal Republic of Germany are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, this investigation will terminate; otherwise, it will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 23, 1982.

[FR Doc. 82-26741 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Steel Rails From France

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: On the basis of a petition filed with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in France of steel rails receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of steel rails are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before October 18, 1982, and we will make ours on or before November 29, 1982.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, (202) 377-3003.

SUPPLEMENTARY INFORMATION:

Petition

On September 3, 1982 we received a petition from counsel for CF&I Steel Corporation on behalf of the U.S. industry producing steel rails. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in France of steel rails receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) (the "Act") and that imports of steel rails are materially injuring, or threatening to materially injure, a U.S. industry.

France is a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, title VII of the Act applies to this investigation.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on steel rails and we have found that the petition meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers or exporters in France of steel rails receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigation proceeds normally, we will make our preliminary determination by November 29, 1982.

Scope of the Investigation

The product covered by this investigation is steel rails. For purposes of this investigation, the term "Steel Rails" covers hot-rolled carbon steel rails and hot-rolled alloy steel rails, whether or not punched, weighing not less than eight pounds per yard, with cross-sectional shapes intended for carrying wheel loads in railroad, railway and crane runway applications, as currently provided for in items 610.2010, 610.2020 and 610.2100 of the *Tariff Schedules of the United States Annotated.*

Allegations of Subsidies

The petition alleges that producers, manufacturers, or exporters in France receive the following benefits from the government of France that constitute subsidies:

- Preferential financing including equity infusions
- Certain labor-related aid
- Research and development aid
- Indirect subsidies to the rail producing industry through government aid for the purchase of steel rails by the government-owned railway

The petition also alleges that producers, manufacturers, or exporters in France of steel rails benefit from the following European Communities subsidies:

- European Coal and Steel Community and European Investment Bank loans, loan guarantees and interest rebates
- Indirect subsidies to the rail industry through the provision of infrastructure

aid to the French railway for the purchase of steel rails

Therefore, we will investigate both French government and European Communities programs, as applicable. We consider the allegation that the rail industry receives indirect subsidies from the purchase of rails by the government owned railroad to be a novel issue. Government procurement, without more, does not constitute a subsidy. The inclusion of this allegation does not imply that we consider this program to be a subsidy to rail producers. We will examine this issue during the course of the investigation.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by October 18, 1982 whether there is a reasonable indication that imports of steel rails from France are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, this investigation will terminate; otherwise, it will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 23, 1982.

[FR Doc. 82-26742 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Steel Rails From the United Kingdom

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: On the basis of a petition filed with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in the United Kingdom of steel rails receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of steel rails are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before October 18, 1982, and we will make ours on or before November 29, 1982.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, (202) 377-3003.

SUPPLEMENTARY INFORMATION:

Petition

On September 3, 1982 we received a petition from counsel for CF&I Steel Corporation on behalf of the U.S. industry producing steel rails. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in the United Kingdom of steel rails receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) (the "Act") and that imports of steel rails are materially injuring, or threatening to materially injure, a U.S. industry.

The United Kingdom is a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, title VII of the Act applies to this investigation.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on steel rails and we have found that the petition meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in the United Kingdom of steel rails receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigation proceeds normally, we will make our preliminary determination by November 29, 1982.

Scope of the Investigation

The product covered by this investigation is steel rails. For purposes of this investigation, the term "steel rails" covers hot-rolled carbon steel rails and hot-rolled alloy steel rails, whether or not punched, weighing not less than eight pounds per yard, with cross-sectional shapes intended for carrying wheel loads in railroad, railway and crane runway applications, as currently provided for in items 610.2010, 610.2020 and 610.2100 of the *Tariff Schedules of the United States Annotated.*

Allegations of Subsidies

The petition alleges that producers, manufacturers, or exporters in the United Kingdom receive the following benefits from the government of the United Kingdom that constitute subsidies:

- Public dividend capital and new capital
- National Loans Funds loans and loan conversions
- Regional development grants
- Iron & Steel Industry Training Board grants
- Preferential railroad transportation rates
- Indirect subsidies to the rail industry through the purchase of steel rails by the government owned railway.

The petition also alleges that producers, manufacturers, or exporters in the United Kingdom of steel rails benefit from the following European Communities subsidies:

- Industrial investment loans from the European Coal and Steel Community (ECSC)
- Loans from the European Investment Bank (EIB)
- Indirect subsidies to the rail industry through the provision of infrastructure aid to the British railway for the purchase of steel rails.

Therefore, we will investigate both British government and European Communities programs, as applicable. We consider the allegation that the rail industry receives indirect subsidies from the purchase of rails by the government-owned railroad to be a novel issue. Government procurement, without more, does not constitute a subsidy. The inclusion of this allegation does not imply that we consider this program to be a subsidy to rail producers. We will examine that issue during the course of the investigation.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to

provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy (for Policy) to the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by October 18, 1982 whether there is a reasonable indication that imports of steel rails from the United Kingdom are materially injuring, or threatening to materially injure, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed to conclusion.

Judith Hippler Bello,

Deputy for Policy to the Deputy Assistant Secretary for Import Administration.

September 23, 1982.

[FR Doc. 82-26743 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Countervailing Duty Investigation; Steel Rails From Luxembourg

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: On the basis of a petition filed with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Luxembourg of steel rails receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. Interntional Trade Commission (ITC) of this action so that it may determine whether imports of steel rails are materially injuring, or threatening to materially injure, a U.S. industry. If the investigation proceeds normally, the ITC, will make its preliminary determination on or before October 18, 1982, and we will make ours on or before November 29, 1982.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, (202) 377-3003.

SUPPLEMENTARY INFORMATION:

Petition

On September 3, 1982 we received a petition from counsel for CF&I Steel Corporation on behalf of the U.S. industry producing steel rails. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that producers, manufacturers, or exporters in Luxembourg of steel rails receive subsidies within the meaning of section 771(5) of the Tariff Act of 1930, as amended (19 U.S.C. 1677(5)) (the "Act") and that imports of steel rails are materially injuring, or threatening to materially injure, a U.S. industry.

Luxembourg is a "country under the Agreement" within the meaning of section 701(b) of the Act; therefore, title VII of the Act applies to this investigation.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether a petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting these allegations. We have examined the petition on steel rails and we have found that the petition meets these requirements.

Therefore, in accordance with section 702(c) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers or exporters in Luxembourg of steel rails receive benefits that constitute subsidies within the meaning of section 771(5) of the Act. If our investigation proceeds normally, we will make our preliminary determination by November 29, 1982.

Scope of the Investigation

The product covered by this investigation is steel rails. For purposes of this investigation, the term "Steel Rails" covers hot-rolled carbon steel rails and hot-rolled alloy steel rails, whether or not punched, weighing not less than eight pounds per yard, with cross-sectional shapes intended for carrying wheel loads in railroad, railway and crane runway applications, as currently provided for in items 610.2010, 610.2020 and 610.2100 of the *Tariff Schedules of the United States Annotated.*

Allegations of Subsidies

The petition alleges that producers, manufacturers, or exporters in Luxembourg receive the following benefits from the government of Luxembourg that consititute subsidies:

- Capital grants
- Labor-related aid
- Indirect subsidies to the rail industry through government aid for the purchase of steel rails by the government owned railways

The petition also alleges that producers, manufacturers, or exporters of Luxembourg of steel rails benefit from the following European Communities subsidies:

- Interest rebates
- Indirect subsidies to the rail industry through the provision of infrastructure aid to the Luxembourg railway for the purchase of steel rails

Therefore, we will investigate both Luxembourg government and European Communities programs, as applicable. We consider the allegation that the rail industry receives indirect subsidies from the purchase of rails by the government owned railroad to be a novel issue. Government procurement, without more, does not constitute a subsidy. The inclusion of this allegation does not imply that we consider this program to be a subsidy to rail producers. We will examine that issue during the course of the investigation.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by October 18, 1982 whether there is a reasonable indication that imports of steel rails from Luxembourg are materially injuring, or threatening to materially injure, a U.S. industry. If its determinations are negative, this investigation will terminate; otherwise, it will proceed to conclusion.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 23, 1982.

[FR Doc. 82-26740 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Extension of Closing Date for Applications

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice of Extension of Closing Date for Applications.

SUMMARY: The Minority Business Development Agency (MBDA) announced on August 26, 1982 (47 FR 37604) that it is soliciting applications for a cooperative agreement under its Indian Business Development Center (Project I.D. Number 08-10-82025-01) program to operate a pilot project for a twelve (12) month period.

This notice is to extend the closing date for submission of applications to October 15, 1982.

CLOSING DATE: October 15, 1982—Closing date for submitting applications.

ADDRESS: Dallas Regional Office, Minority Business Development Agency, 1100 Commerce Street, Room 7B19, Dallas, Texas 75242.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Williams at (214) 767-8001.

Ruben Porras,

Deputy Regional Director.

[FR Doc. 82-26032 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-21-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Level for Certain Cotton Apparel Products from Macau

September 24, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing by the application of swing and carryforward, the level of restraint established for women's, girls', and infants' woven cotton blouses in Category 341 from 80,094 dozen to 90,507 dozen, produced or manufactured in Macau and exported during the agreement year which began on January 1, 1982.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 20, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5920), and May 13, 1982 (47 FR 20654)).

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, as amended, between the Governments of the United States and Portugal, concerning textile and apparel products produced or manufactured in Macau, provides, among other things, for percentage increases in certain specific ceilings during an agreement year (swing) and for the borrowing of yardage from the succeeding year's level (carryforward) with the amount used being deducted from the level in the succeeding year. Pursuant to the terms of the bilateral agreement, the level of restraint for Category 341 is being adjusted for the twelve-month period which began on January 1, 1982.

EFFECTIVE DATE: September 30, 1982.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202377-4212).

SUPPLEMENTARY INFORMATION: On December 14, 1981, there was published in the **Federal Register** (46 FR 60872) a letter dated December 9, 1981, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, including Category 341, produced or manufactured in Macau, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the level of restraint previously established for cotton textile products in Category 341 to the designated amount.

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

September 24, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: On December 9, 1981, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982 of cotton, wool, and man-made fiber textile products, produced or manufactured in Macau, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, as amended, Between the Governments of the United States and Portugal; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on September 30, 1982 and for the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 341, produced or manufactured in Macau, in excess of 90,507 dozen.[2]

The actions taken with respect to the Government of Portugal and with respect to imports of cotton textile products from Macau have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-26795 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

Adjusting the Import Restraint Level for Certain Wool Apparel Products from Malaysia

September 24, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Adjusting the level of restraint established for wool sweaters in Category 445/446, produced or manufactured in Malaysia and exported during the agreement year which began on January 1, 1982 by the application of 1,489 dozen of carryforward and the reduction of 1,474 dozen of carryforward

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, as amended, between the Governments of the United States and Portugal, which provide, in part, that: (1) within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The level of restraint has not been adjusted to reflect any imports after December 31, 1981.

used in 1981. The level will be increased to 22,506 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654)).

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of May 17 and June 8, 1978, as amended, between the Governments of the United States and Malaysia, provides, among other things, for the borrowing of designated percentages of yardage from the succeeding year's level (carryforward) with the amount used being deducted from the level in the succeeding year. In accordance with the terms of the bilateral agreement, carryforward in the amount of 1,489 dozen is being applied to the level of restraint for wool textile products in Category 445/446, and 1,474 dozen in carryforward used in 1981 in being deducted, resulting in a net increase in the 1982 level to 22,506 dozen.

EFFECTIVE DATE: September 24, 1982.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On December 18, 1981, there was published in the **Federal Register** (46 FR 61690) a letter dated December 14, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, including Category 445/446, produced or manufactured in Malaysia and exported to the United States during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. In accordance with the terms of the bilateral agreement, the United States Government is adjusting the level of restraint for wool textile products in Category 445/446 increasing it to 22,506 dozen during the agreement year which began on January 1, 1982. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the level to the designated amount.

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

September 24, 1982

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 14, 1981 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in Malaysia.

Effective on September 24, 1982, paragraph 1 of the directive of December 14, 1981 is amended to include an adjusted level of restraint for wool textile products in Category 445/446 of 22,506 dozen.[1]

The action taken with respect to the Government of Malaysia and with respect to imports of wool textile products from Malaysia has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-26794 Filed 9-28-82; 8:45 am]

BILLING CODE 3510-25-M

[1] The level of restraint has not been adjusted for an imports after December 31, 1981.

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) For a Proposed Flood Control Project on Sowashee Creek in Meridian, Mississippi

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a DEIS.

SUMMARY: 1. The proposed action is to provide flood damage reduction for the City of Meridian, Mississippi. This locale is currently undergoing rapid development in areas which include the flood plain areas of Sowashee Creek. The extensive flood damages which have been previously experienced indicate that a feasible flood control study could be developed for Sowashee Creek.

2. Alternatives: Several flood control alternatives are being developed for the Sowashee Creek area. The DEIS will include an evaluation of the environmental, social, economic, and engineering impacts associated with each alternative plan. The following alternatives are being considered:

a. Snagging and clearing in various reaches of Sowashee Creek.

b. Channel and overbank modification of various lengths of Sowashee Creek.

c. Flood retention structures.

d. Evacuation of the flood plain of Sowashee Creek.

e. Levee constructon and/or modification.

f. Flood proofing of structures within the flood plain of Sowashee Creek.

3. Scoping Process:

a. The scoping process as outlined by the Council on Environmental Quality in the November 29, 1978 **Federal Register**, National Environmental Policy Act Regulations, will be utilized to involve Federal, State, and local agencies, and other interested persons in the preparation of the DEIS. Identification of significant issues to be addressed in the DEIS will be determined through the scoping process. The views and concerns of agencies and individuals will be obtained through personal, telephone, and mail contracts as well as public workshops in lieu of a formal scoping meeting.

b. Coordination with the US Fish and Wildlife Service as required by the Fish and Wildlife Coordination Act and the Endangered Species Act is being undertaken. Coordination as required by other laws will also be conducted.

4. DEIS Preparation: It is estimated that the DEIS will be available to the public in February 1983.

5. Address: Questions about the proposed action can be answered by: Ms. Càrol Gorbics, US Army Engineer District, Mobile, ATTN: SAMPD–ES, PO Box 2288, Mobile, Alabama 36628.

Dated: September 20, 1982.

Patrick J. Kelly,

Colonel, CE District Engineer.

[FR Doc. 82-26805 Filed 9-28-82; 8:45 am]

BILLING CODE 3710-CR-M

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of

information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

New

DIS Courtesy Letter

The Defense Investigative Service (DIS) uses the Courtesy Letter Program to determine if each DIS Investigator is performing his/her duties in an ethical and professional manner. Responses are sought, on a voluntary basis, from individuals interviewed by DIS Investigators. Information obtained identifies potential problem areas or shortcomings of an individual investigator which through additional investigation may lead to administrative or discplinary action.

Individuals interviewed by DIS: 12,000 responses; 1,200 hours.

Forward comments to Edward Springer, OMB Desk Office, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DoD Clearance Officer, OASD(C) DIRMS, IRAD, Room 1A658 Pentagon, Washington, D.C. 20301, telephone, (202) 697–1195.

A copy of the information proposal may be obtained from Thomas G. Vanalek, DIS Program Management Division, Room 5631, 1900 Half Street S.W., Washington, D.C. 20324, telephone (202) 693–1735.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

September 24, 1982.

[FR Doc. 82-26661 Filed 9-28-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 82–09–NG]

Natural Gas Imports; Northern Natural Gas Co., Division of InterNorth, Inc., Application To Amend Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of petition to amend authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of the receipt on July 16, 1982, of the application of Northern Natural Gas Company, Division of InterNorth, Inc., (Northern) to amend its existing ERA authorization to import Canadian natural gas purchased from Consolidated Natural Gas Limited (Consolidated) at a point near Emerson, Manitoba. Northern requests an increase in its authorized maximum daily volumes from 200,000 Mcf per day to 300,000 per day, less any volumes it imports under a related Federal Energy Regulatory Commission (FERC) authorization at Monchy, Saskatchewan. Northern does not request an increase in the currently authorized total annual volume of 73,000,000 Mcf per year or any other change to its existing authorization.

The petition is filed with ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–54. Protests or petitions to intervene are invited.

DATES: Protests or petitions to intervene are to be filed no later than 4:30 p.m. on October 14, 1982.

FOR FURTHER INFORMATION CONTACT:

P. J. Fleming (Natural Gas Branch, Oil and Gas Imports, Office of Fuels Programs), Economic Regulatory Administration, 12th & Pennsylvania Avenue, N.W., Room 6144, RG–631, Washington, D.C. 20461, 202–633–9296

Sue D. Sheriden (Office of General Counsel, Natural Gas and Mineral Leasing), Department of Energy, Forrestal Building, Room 6E–042, Washington, D.C. 20585, 202–252–6667

SUPPLEMENTARY INFORMATION: On August 29, 1980, the ERA issued DOE/ERA Opinion and Order No. 19 (ERA Docket No. 79–24–NG) authorizing Northern to import from Canada up to 200,000 Mcf of natural gas per day and up to 73,000,000 Mcf of natural gas per year through facilities near Emerson, Manitoba, for the period November 1, 1980, through October 1, 1981. For the period November 1, 1981, through October 31, 1987, Northern was authorized to import up to 200,000 Mcf per day and up to 73,000,000 Mcf per year at the point near Emerson, Manitoba, less any volumes Northern elects to import at Monchy, Saskatchewan under a separate order issued by the FERC on June 27, 1980 (Docket No. CP80–22), pursuant to the FERC's authority under DOE Delegation Order No. 0204–8 (42 FR 61491, December 5, 1977)). The pipeline facilities at Monchy are related to the Northern Border Pipeline Company (Northern Border) segment of the Alaska Natural Gas Transportation System (ANGTS).

Northern states that, because of a temporary supply surplus, it has reduced its takes of Canadian gas during the 1982 summer months and thus will likely be under its contract minimums for the current contract year. In order to enable it to take during the upcoming heating season the volumes for which deficiency payments have been made, Northern requests an increase in its maximum daily import authorization at Emerson from 200,000 Mcf per day to 300,000 Mcf per day, less any volumes it imports at Monchy. Northern does not request an increase in its currently authorized total annual volume of 73,000,000 Mcf per year. Northern states that these arrangements do not require any additional facilities.

Northern indicates that its supplier, Consolidated, has made a corresponding request of the National Energy Board of Canada to increase the daily volumes it is authorized to export on a best efforts basis at Emerson. Northern has also requested the FERC to increase its daily maximum authorization at Monchy from 100,000 Mcf to 200,000 Mcf per day (Docket No. CP80–22–004).

Northern asserts that the authorization requested is "in the public interest" since it will enable it to take, on a best efforts basis, increased volumes during the winter months. Thus, Northern states the increase in maximum daily volumes at Emerson will enable it to fulfill its minimum purchase obligation under the Consolidated contract in a manner which will best satisfy Northern's system requirements.

Other Information

Any person wishing to become a party to the proceeding, and thus to participate as a party in any conference or hearing which might be convened, must file a petition to intervene. In view of Northern's request that it be authorized to import the increased volumes during the 1982–83 winter heating season, the ERA is shortening the comment and intervention period to 15 days from the date this noticie is published. Any person may file a protest with respect to Northern's petition. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the petition.

All protests and petitions to intervene must meet the requirements that were specified by the regulations that were in effect on October 1, 1977, in 18 CFR 1.8 and 1.10. They should be filed with the Natural Gas Branch, Economic Regulatory Administration, Room 6144, RG–631, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461. All protests and petitions to intervene must be filed no later than 4:30 p.m. October 14, 1982.

A hearing will not be held unless a motion is made by a party or person seeking intervention and granted by the ERA, or if the ERA on its own motion believes that a hearing is necessary or required. A person filing a motion must demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, the ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of Northern's petition is available for inspection and copying in the Natural Gas Branch Docket Room, located in Room 6144, 12th and Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on September 23, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-26670 Filed 9-28-82; 8:45 am]

BILLING CODE 6450-01-M

W. R. Hughey Operating Co.; Notice of Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with W. R. Hughey Operating Company (Hughey) and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order.

DATE: Comments by: October 29, 1982.

ADDRESS: Send comments to: James O. Neet, Jr., Chief Counsel, Economic Regulatory Administration, Dallas Office, 1341 West Mockingbird, 201W, Dallas, Texas 75347.

FOR FURTHER INFORMATION CONTACT: James O. Neet, Jr., Chief Counsel, Economic Regulatory Administration, Dallas Office, 1341 West Mockingbird, 201W, Dallas, Texas 75247, 214/767–7536. Copies of the Consent Orders may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On September 10, 1982, the ERA executed a proposed Consent Order with W. R. Hughey Operating Company of Tyler, Texas. Under 10 CFR § 205.199J(b), a proposed Consent Order which involves the sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

W. R. Hughey Operating Company, with its home office located in Tyler, Texas, is a firm engaged in the business of producing and selling crude oil, and subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212 during the period covered by this Consent Order. To resolve certain potential civil liability arising out of the Mandatory Petroleum Price Regulations and related regulations, 10 C.F.R., Parts 205, 210, 211, 212, in connection with Hughey's transactions involving crude oil during the period September 1, 1973 through September 30, 1980 ("the period covered by this Consent Order"), the ERA and W. R. Hughey Operating Company entered into this Consent Order. The ERA had alleged that during the period covered by this Consent Order, the W. R. Hughey Operating Company produced and sold domestic crude oil at prices in excess of the applicable ceiling prices. Hughey denied these allegations, but determined that this Consent Order was an equitable resolution of these allegations which avoided the disruption of its orderly business functions and the expense and inconvenience of protracted and complex litigation.

II. Refunds and Civil Penalty

Disposition of Refunds

Under this Consent Order, W. R. Hughey Operating Company will pay the sum of $595,000 as follows: Hughey shall deliver a certified check for $145,000 thirty (30) days after the effective date of this Consent Order, and certified checks each in the amount of $150,000 no later than January 1, 1983; April 1, 1983; and July 1, 1983. These sums shall be deposited as miscellaneous receipts in the United States Treasury. Hughey shall pay interest on any past due installments at the rate of 18% per annum until paid.

B. Civil Penalty

In addition, W. R. Hughey Operating Company agrees to pay the sum of $5,000 in compromise of civil penalties relating to the above-described transactions during the period covered by this Consent Order.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on W. R. Hughey Operating Company Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time, on October 29, 1982. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 20th day of September, 1982.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 82-26677 Filed 9-28-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TA83-1-20-000]

Algonquin Gas Transmission Co.; Tariff Filing Under Purchased Feedstock Adjustment Clause

September 23, 1982.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on September 16, 1982, tendered for filing 17th Revised Sheet No. 10–A and Second Revised Sheet No. 20–H.2 pursuant to its Rate Schedule SNG–1 Purchased Feedstock Adjustment Clause ("PFAC"), as contained in its FERC Gas Tariff, First Revised Volume No. 1, reducing the applicable rate by 83.47¢ per MMBtu reflecting a lower cost of feedstock for the 1982–83 season. The adjustments are filed to be effective as of October 16, 1982.

Take notice that Algonquin Gas also requested permission to defer the filing of the post audit cost of service study due at this time within respect to the 1981–82 SNG delivery season. Algonquin Gas stated that such relief was granted

last year with respect to the 1980–81 post audit report, on the grounds that applicable rate-making principles were at issue in Algonquin Gas' rate case in Docket No. RP80–72, and that similar relief is appropriate for the 1981–82 report because Docket No. RP80–72 is pending before the Commission for decision at this time.

Algonquin Gas notes that a copy of this filing is being served upon all affected parties and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 4, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-26720 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-700-000]

Bangor Hydro-Electric Co.; Order Accepting for Filing and Suspending Rates, Noting Interventions, Denying Motions for Summary Disposition, and Establishing Procedures

Issued: September 24, 1982.

On July 30, 1982, Bangor Hydro-Electric Company (Bangor Hydro) tendered for filing a wholesale rate increase applicable to five customers.[1] Based on a calendar 1981 test year, the proposed rates would increase jurisdictional revenues by approximately $199,300 (12.3%).[2] Bangor Hydro requests an effective date of October 1, 1982.

Notice of the instant filing was published in the **Federal Register** with comments due on or before August 27, 1982. A timely motion to intervene was filed jointly by Eastern Maine Electric Cooperative, Inc. (Eastern Maine) and the Lubec Water and Electric District (Lubec). In addition, a timely notice of intervention was filed by the Maine Public Utilities Commission.

The intervenors request a five-month suspension of Bangor Hydro's rates on the basis of various cost of service and rate of return issues.[3] In addition, they request that the Commission grant summary disposition with respect to two issues: (1) The inclusion of short-term debt in capital structure; and (2) inclusion of a late payment charge in the company's rate schedule.

On September 9, 1982, Bangor Hydro filed an answer to the motion of Eastern Maine and Lubec. While not opposing their motion to intervene, Bangor Hydro contends that the request for a five month suspension and the motions for summary disposition should be denied. Bangor Hydro disputes the intervenors' cost of service allegations. With respect to the motions for summary disposition, the company alleges that: (1) the short-term debt included in its capital structure is a revolving line of credit and that the Commission denied a motion for summary disposition under similar circumstances in *Gulf States Utilities Co.*, Docket No. ER82–375–000 (July 9, 1982); and (2) the company' proposed late payment charge is cost-justified.

Discussion

The timely notice of intervention filed by the Maine Public Service Commission is sufficient, pursuant to Rule 214(a)(2) of the Commission's Rules of Practice and Procedure (18 CFR § 385.214), to make it a party to this proceeding. Under Rule 214(c)(1), the joint motion of Eastern Maine and Lubec serves to make them parties to the proceeding, absent opposition within 15 days of their pleading.

With respect to the motions for summary disposition, we believe that the issues raise questions of law or fact most appropriately resolved following an evidentiary hearing. We shall therefore deny summary disposition as to both issues.

In view of the matters raised by Eastern Maine and Lubec and our preliminary review, we find that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. We shall therefore accept Bangor Hydro's rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82–23–000 (February 26, 1982), we noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed increase may be unjust and unreasonable but may not produce susbtantially excessive revenues, as defined in *West Texas*. Because our review suggests that the proposed increase may not yield excessive revenues, we shall suspend Bangor Hydro's proposed rates for one day, to become effective on October 2, 1982, subject to refund.

The Commission orders:

(A) Bangor Hydro's proposed rates, are hereby accepted for filing and suspended for 1 day, to become effective on October 2, 1982, subject to refund.

(B) The motions of Eastern Maine and Lubec for summary disposition are denied.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I], a public hearing shall be held concerning the justness and reasonableness of Bangor Hydro's rates.

(D) The Commission staff shall serve top sheets in this proceeding on or before October 12, 1982.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C 20426. The presiding administrative law judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,
Secretary.

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[1] *See* Attachment A for rate schedule designations and affected customers.

[2] Bangor Hydro submitted an abbreviated filing pursuant to 18 CFR 35.13(a)(2)(i)(A).

[3] The issues include: an adjustment to operating expenses for certain increases in purchased power; the level of and amortization period for regulatory expenses; the level of fuel stocks and materials and supplies reflected in rate base; the treatment of deferred tax deficiencies; a cost of service adjustment for increased wages; and the requested rate of return on common equity.

Attachment A.—Bangor Hydro-Electric Company, Docket No. ER82-700-000; Rate Schedule Designations

Designation and Other parties

Supplement No. 9 to Rate Schedule FPC No. 1 (Supersedes Supplement No. 8)—Stonington and Deer Isle Power & Light Company
Supplement No. 9 to Rate Schedule FPC No. 4 (Supersedes Supplement No. 8)—Lubec Water & Electric District
Supplement No. 9 to Rate Schedule FPC No. 5 (Supersedes Supplement No. 8)—Union River Cooperative, Inc.
Supplement No. 9 to Rate Schedule FPC No. 7 (Supersedes Supplement No. 8)—Eastern Maine Electric Cooperative, Inc.
Supplement No. 7 to Rate Schedule FERC No. 27 (Supersedes Supplement No. 6)—Swans Island Electric Cooperative, Inc.

[FR Doc. 82-26779 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-704-000]

Central Louisiana Electric Co.; Order Accepting for Filing and Suspending Rates, Denying Motion To Reject, Granting Motion for Summary Disposition, Noting Intervention, and Establishing Procedures

Issued: September 23, 1982.

On July 30, 1982, Central Louisiana Electric Company (CLECO) tendered for filing increased rates for transmission of power by CLECO to Cajun Electric Power Cooperative's (Cajun) member cooperatives.[1] The proposed rates would increase revenues by approximately $2,100,000 (55%) based on the calendar year 1982 test period. CLECO requests that its proposed rates become effective on September 28, 1982.

Notice of the filing was published in the **Federal Register** with comments due on or before August 27, 1982. Cajun filed a timely protest and motion to intervene. In addition, Cajun moves for rejection of the filing or the issuance of a deficiency letter. If the filing is not rejected, Cajun seeks a maximum suspension and summary disposition with respect to CLECO's inclusion in its cost of service of contributions to the Electric Power Research Institute (EPRI).

In support of its motion to reject the filing, Cajun states that CLECO has substantially understated the revenues to be received from Cajun under the proposed rates inasmuch as CLECO has not included revenues attributable to off-system transmission of "excess power" available to Cajun under unit power purchase commitments. Cajun asserts that failure to file the correct revenue data taints the accuracy of other statements and renders the Period I data so unreliable as to justify rejecting the filing. In addition, according to Cajun, the failure to properly reflect these revenues results in a substantial overstatement of the rate increase needed by CLECO to compensate for its transmission service to Cajun. In further support of its motion, Cajun states that CLECO's submittal fails to comply substantially with the Commission's regulations in that many of the statements filed by CLECO do not contain information required by section 35.13(h). As grounds for a five month suspension, Cajun contends that the rate proposed by CLECO is substantially excessive based on an overstated allocation of distribution costs to Cajun, an excessive rate of return on common equity, and imporper recognition of revenues associated with Cajun's "excess power" delivered outside of CLECO's system.

CLECO responded to Cajun's motion on September 13, 1982. The company denies Cajun's claim that its filing is deficient and states that Cajun's adjustments to CLECO's costs which purport to show that CLECO's rates should be suspended for five months are in error.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), Cajun's motion to intervene serves to make it a party to this proceeding absent opposition within 15 days of its pleading.

We agree with Cajun that summary disposition is warranted with respect to the EPRI issue. We have consistently found that such contributions should not be recovered through wholesale rates.[2] This matter has been resolved with sufficient clarity and in sufficiently generic terms to render further litigation inappropriate. While we shall grant summary disposition, we shall not require immediate refiling by CLECO in view of the relatively small revenue effect of this item. Furthermore, we shall deny Cajun's motion to reject the filing inasmuch as our review indicates that, in other respects, the submittal substantially complies with our regulations.[3]

Our preliminary review of the instant filing and Cajun's pleading indicates that the rates proposed by CLECO have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend their operation as ordered below.

In *West Texas Utilities Company*, Docket No. ER82-23-000, 18 FERC ¶ 61,189 (1982), we noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed increase may be unjust and unreasonable but may not generate substantially excessive revenues, as defined in *West Texas*. Contrary to Cajun's contentions, our examination suggests that the proposed transmission rates may not yield substantially excessive revenues. Accordingly, we shall suspend the rates for one day from sixty days after filing, to become effective on September 29, 1982, subject to refund.

As a final matter, the Commission notes that CLECO has utilized full tax normalization with respect to Accelerated Cost Recovery System (ACRS) property. According to our review, it appears that the instant filing reflects a normalization method of accounting for all post-1980 property additions, that CLECO's cost of service correctly reflects the effects of normalization, and that the submittal satisfies the requirements of the Economic Tax Recovery Act of 1981.

The Commission orders:

(A) The motion to reject CLECO's filing or to issue a deficiency letter is hereby denied.

(B) CLECO's cost of service inclusion of contributions to EPRI is summarily rejected. The company shall reflect this determination in its compliance cost of service at the conclusion of this proceeding.

(C) CLECO's proposed rates are hereby accepted for filing and suspended for one day to become effective, subject to refund, on September 29, 1982.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections

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[1] Designated as: *Central Louisiana Electric Company* Supplement No. 1 to Supplement No. 2 to Supplement No. 3 to Rate Schedule FPC No. 21.

[2] *E.g., Central Maine Power Company*, 18 FERC ¶ 61,126 (1982); *Public Service Company of New Mexico*, 17 FERC ¶ 61,123 (1981); *Northern States Power Company (Wisconsin)*, 17 FERC ¶ 61,019 (1981).

[3] *See Municipal Light Boards of Reading and Wakefield, Massachusetts v. FPC*, 450 F.2d 1341 (D.C. Cir. 1971).

205 and 206 thereof and pursuant to the Commission's Rules and Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of CLECO's rates.

(E) The Commission staff shall serve top sheets in this proceeding on or before October 11, 1982.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26727 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. TC82-61-000 & RM79-15]

Colorado Interstate Gas Co.; Proposed Changes in FERC Gas Tariff

September 24, 1982.

Take notice that Colorado Interstate Gas Company (CIG), on September 17, 1982, tendered for filing Third Revised Sheet No. 61H, superseding Second Revised Sheet No. 61H, to its FERC Gas Tariff, Original Volume No. 1. CIG states that the purpose of this filing is to comply with Order No. 145 issued in Docket No. RM79-15 by updating its index of Entitlements. An effective date of November 1, 1982, is requested for the revised tariff sheet.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 12, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10.) All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this Application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26730 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. EL82-16-000]

Commonwealth Edison Co.; Order Denying Petition for Emergency Relief, Instituting Investigation, Establishing Procedures, and Consolidating Dockets

Issued: September 23, 1982.

On May 10, 1982, six muncicipal customers [1] (Cities) of Commonwealth Edison Company (Commonwealth) filed a petition for emergency relief and request for investigation.[2] The Cities allege that Commonwealth is recovering excessive costs through its fuel adjustment clause based on imprudent fuel purchase practices associated with its Collins generating station. These contentions are based on comparisons between fuel costs for the Collins station and another oil-fired unit at Commonwealth's Ridgeland station. Cities also refer to a *Moody's 1981 Nationwide Survey* as demonstrating that fuel costs at the Collins station are above regional averages. No further data or testimony have been filed by the Cities in support of their allegations.

The Cities have cited an order of the Illinois Commerce Commission, issued April 21, 1982, in which the Illinois Commission instituted an investigation into Commonwealth's fuel procurement practices at its Collins plant and directed Commonwealth, in the interim, to hold its retail fuel adjustment charge constant at its level on April 21, 1982. In the instant proceeding, the Cities ask that this Commission also initiate an investigation into Commonwealth's fuel procurement policies and order Commonwealth not to increase its fuel adjustment charge to its wholesale customers beyond the amount of Commonwealth's fuel adjustment charge to its retail customers. Absent such relief, the Cities suggest that a price squeeze may result.

Commonwealth filed an answer to Cities' petition on June 9, 1982. In its answer, Commonwealth states that it believes its fuel procurement practices have at all times been reasonable and prudent. Commonwealth also contends that this Commission could order a freeze in Commonwealth's fuel clause charge only after a finding, based upon the results of a hearing, that the charge is unjust and unreasonable. In addition, Commonwealth urges that the relief sought by the Cities would be inequitable because Commonwealth's wholesale fuel adjustment clause, in contrast to its retail fuel adjustment clause, does not provide a matching mechanism for deferred recovery of prior undercollections of fuel expenses. Thus, Commonwealth contends that a freeze of its wholesale fuel clause charge would result in a permanent failure to recover wholesale fuel costs, regardless of whether any impropriety in Commonwealth's fuel procurement practices is ever established.

Commonwealth further asserts that any impropriety that may be established can be adequately redressed through refunds in Commonwealth's ongoing rate case in Docket No. ER82-146-000. In order to avoid unnecessary duplication, however, Commonwealth urges that the Commission defer action on the Cities' petition, pending completion of the ongoing investigation into Commonwealth's fuel procurement practices by the Illinois Commission.

Discussion

The Cities' petition for an order freezing Commonwealth's wholesale fuel adjustment charge must be denied. Their request necessarily raises the issue of whether Commonwealth's fuel procurement practices have been

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[1] The Cities of Batavia, Geneva, Naperville, Rochelle, Rock Falls and St. Charles, Illinois.

[2] Notice of the petition was issued on May 20, 1982, with responses due by June 25, 1982. On May 25, 1982, the Village of Winnetka, Illinois filed an answer in support of the Cities' petition without raising any new issues.

prudent. This is a factual issue requiring a fully-developed record as a predicate for an informed Commission decision. Cities' petition does not present sufficient uncontroverted evidence for the Commission to act without further development of the record. Pending such a determination, we agree with Commonwealth that it would be inequitable, particularly on the basis of the limited information provided thus far, to compel the company to forego revenues which may later be found to have been appropriate. This is true notwithstanding the Cities' vague allegations with respect to price squeeze ramifications resulting from the State commission's treatment of fuel costs for retail purposes.

We note that all aspects of Commonwealth's presently effective rates, including revenues attributable to fuel adjustment charges, are currently open to investigation in Docket No. ER82-146-000. In addition, the refund protection available in that docket will adequately protect the interests of all affected customers, including the Cities. In view of the pendency of that proceeding, it appears unnecessary to establish a separate hearing for purposes of pursuing the issue of Commonwealth's fuel procurement practices. Therefore, we shall consolidate Docket Nos. ER82-146-000 and EL82-16-000 and expand the scope of the pending proceeding to include as an issue the question of Commonwealth's prudence in its fuel procurement policies for the Collins station as well as the question of the scope of appropriate relief.

Commonwealth's suggestion that this Commission defer action on the Cities' petition pending action by the Illinois Commerce Commission on its investigation will be rejected at this time. We recognize that overlapping issues of fact may be involved in the consideration of Commonwealth's fuel procurement practices for retail and wholesale ratemaking purposes. Nevertheless, we are not persuaded that it would necessarily be appropriate to defer action where an issue germane to Commonwealth's currently pending wholesale rate increase proposal has been legitimately raised. It is not, however, our intention to preclude the presiding judge from determining on the basis of additional information that deferral of this issue is appropriate and will not engender unnecessary delay. Neither do we desire to cause unnecessary duplication of effort or resources. Thus, we encourage the presiding judge to evaluate the possibility of minimizing such duplication by permitting complete discovery of materials already provided in the context of the State commission proceeding, incorporation of pertinent materials by reference, or other appropriate procedures.

The Commission orders:

(A) Cities' petition for emergency relief is hereby denied.

(B) Docket No. EL82-16-000 is hereby consolidated with Docket No. ER82-146-000 for purposes of hearing and decision and the scope of the pending hearing is expanded to include the issues addressed in this order.

(C) The administrative law judge designated to preside in Docket No. ER82-146-000 shall determine the most appropriate procedures for consideration of the matters presented in the consolidated proceeding.

(D) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26729 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-801-000]

Commonwealth Electric Co.; Filing

September 24, 1982.

Take notice that on September 17, 1982, Commonwealth Electric Company (Commonwealth) tendered for filing a proposed change in rate under Supplement No. 7 to its currently effective Rate Schedule FERC No. 34.

Commonwealth states that said change in rate under Supplement No. 7 ("23 KV Wheeling Rate") to Commonwealth's Rate Schedule FERC No. 34 has been computed according to the provisions of Section 6(b) of its Rate Schedule FERC No. 34. Commonwealth further states that such change is proposed to become effective January 1, 1981, thereby superseding the 23 KV Wheeling Rate in effect during calendar 1980.

Commonwealth requests an effective date of January 1, 1981, and therefore requests waiver of the Commision's notice requirements.

Copies of this filing have been served upon Boston Edison Company and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before October 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26781 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-802-000]

Commonwealth Electric Co.; Filing

September 24, 1982.

Take notice that on September 17, 1982, Commonwealth Electric Company (Commonwealth) tendered for filing a proposed change in rate under its currently effective Rate Schedule FERC No. 34.

Commonwealth states that said change in rate under Commonwealth's Rate schedule FERC No. 34 has been computed according to the provisions of Section 6(b) of its Rate Sechedule FERC No. 34. Commonwealth further states that such change is proposed to become effective January 1, 1982, thereby superseding the 23 KV Wheeling Rate in effect during calendar 1981.

Commonwealth requests an effective date of January 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have ben served upon the Boston Edison Company and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26702 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-683-000]

Connecticut Light and Power Co.; Order Accepting for Filing and Suspending Contract Revisions, Granting Waiver, Noting Interventions, and Establishing Procedures

Issued: September 23, 1982.

On July 26, 1982, Connecticut Light and Power Company (CL&P) tendered for filing revisions to 13 unit sales contracts [1] between CL&P and the Connecticut Municipal Electric Energy Cooperative (CMEEC).[2] The unit sales contracts are part of a restructured electric service relationship described in a Memorandum of Understanding dated September 15, 1980.[3] The unit contracts designate CMEEC's entitlements in capacity of various generating units of the Northeast Utilities Companies.

In the 1980 Memorandum of Understanding, the parties agreed that the amount of CMEEC's capacity entitlements would be adjusted, at the option of CMEEC, to recognize (1) increased loads experienced by Norwich as a result of a new Phelps Dodge factory, and (2) increased loads experienced by Jewett City as a result of the transfer of retail industrial customers from CP&L to Jewett City. The parties established a formula for calculating the adjustments which is set forth in Attachment B (sections C, D, and E) to the Memorandum of Understanding. The parties further agreed that final adjustments would be computed on or about May 1, 1982, and be made effective as of July 1, 1982.

CL&P states that the instant revisions provide solely for changes in the size of CMEEC's entitlements in the units, and do not affect the charges, terms, or conditions incorporated in the unit sales contracts. In order to implement the parties' agreement that the revisions would become effective as of July 1, 1982, CL&P requests waiver of the notice requirements.

Notice of the filing was published in the **Federal Register** with comments due on or before August 23, 1982. CMEEC filed a timely intervention and a protest.

In its pleading, CMEEC agrees that the adjustments proposed by CL&P should be made effective as of July 1, 1982, and supports CL&P's request for waiver of notice; however, CMEEC reserves its right to seek further adjustments to the amounts and allocation of its entitlements and appropriate compensation if it is successful.[4] CMEEC contends that CL&P has made two technical errors in calculating the adjustment to reflect the new Phelps Dodge plant.[5] First, CMEEC states that CL&P improperly calculated the Phelps Dodge factory peak load, so that the total amount of the adjustment is understated. Second, CMEEC asserts that CL&P improperly allocated additional capacity, so that CMEEC is allocated less additional capacity in nuclear and hydroelectric units than is appropriate under the unit contracts. CMEEC states that discussions between the parties in an effort to resolve their differences have reached an impasse. Therefore, CMEEC requests that the Commission initiate a hearing to resolve the dispute.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), CMEEC's timely intervention serves to make it a party to this proceeding absent opposition within fifteen days of its pleading.

Upon consideration of CL&P's filing and CMEEC's pleading, we find that the proper calculation of adjustments to CMEEC's capacity entitlements under the unit contracts presents questions of law and fact which should be determined on the basis of an evidentiary hearing. Accordingly, we are unable to conclude that the proposed contract revisions are just and reasonable and we find that they may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. We shall therefore accept the proposed revisions for filing and suspend their operation as ordered below.

The contractual amendments at issue relate only to the stated entitlements in unit capacity and do not seek to effect any direct rate change. Inasmuch as the Memorandum of Understanding anticipated a July 1, 1982 effective date for revised entitlements and CMEEC has expressed its concurrence in this effective date as well as in the waiver of notice, we find that good cause exists to grant the request for waiver of notice. Accordingly, we shall suspend CL&P's proposed contract revisions to become effective, subject to further adjustment, on July 1, 1982.

The Commission orders:

(A) CL&P's request for waiver of the notice requirements is hereby granted.

(B) CL&P's proposed contract revisions are hereby accepted for filing and are suspended to become effective on July 1, 1982, subject to further adjustment and other remedies which may be found to be appropriate under the Federal Power Act.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of CL&P's contract revisions and any appropriate remedies if capacity entitlements are further adjusted.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately thirty (30) days after the issuance of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

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[1] *See* Attachment A for rate schedule designations.

[2] CMEEC is a municipal joint action agency which is authorized to finance, acquire, and construct generating resources and to implement power supply contracts on behalf of its participants, the Cities of Groton and Norwich and the Borough of Jewett City. CMEEC originally entered into 12 contracts with CL&P and one contract with the Hartford Electric Light Company (HELCO). CL&P and HELCO, both subsidiaries, of Northeast Utilities, were merged on June 30, 1982. Thus, CL&P and CMEEC are the only remaining parties to the contracts.

[3] The Memorandum of Understanding was filed with the Commission on October 31, 1980, and accepted for filing by letter order of December 29, 1980, in Docket Nos. ER81-79-000 and ER81-80-000.

[4] CL&P has agreed that CMEEC's acceptance of the adjustments filed in this proceeding does not constitute agreement by CMEEC that the adjustments are final.

[5] CMEEC states that the parties agree on the adjustment to provide for increased retail loads to Jewett City.

Connecticut Light and Power Company Rate Schedule Designations; Docket No. ER82-683-000

Designations and Decriptions

Connecticut Light and Power Company

(1) Supplement No. 3 to Rate Schedule FERC No. 221—First Revised Sheet No. 5—Vermont Yankee Nuclear Plant
(2) Supplement No. 3 to Rate Schedule FERC No. 222—First Revised Sheet No. 5—Yankee Atomic Nuclear Plant
(3) Supplement No. 3 to Rate Schedule FERC No. 223—First Revised Sheet No. 5—Main Yankee Nuclear Plant
(4) Supplement No. 3 to Rate Schedule FERC No. 224—First Revised Sheet Nos. 5 and 6—Norwalk Harbor Units Nos. 1, 2, 3
(5) Supplement No. 3 to Rate Schedule FERC No. 225—First Revised Sheet No. 5—Connecticut Yankee Nuclear Plant
(6) Supplement No. 3 to Rate Schedule FERC No. 226—First Revised Sheet Nos. 5 and 6—Montville Units Nos. 5, 6, 10, 11
(7) Supplement No. 3 to Rate Schedule FERC No. 227—First Revised Sheet No. 6—Devon Units Nos. 7, 8, 9
(8) Supplement No. 3 to Rate Schedule FERC No. 228—First Revised Sheet No. 6—Millstone Point Units Nos. 1, 2,
(9) Supplement No. 3 to Rate Schedule FERC No. 229—First Revised Sheet Nos. 8 and 9—Northfield Mountain Units Nos. 1, 2, 3, 4
(10) Supplement No. 3 to Rate Schedule FERC No. 230—First Revised Sheet Nos. 7 and 8—Tunnel Units Nos. 1, 2,
(11) Supplement No. 3 to Rate Schedule FERC No. 231—First Revised Sheet Nos. 8 and 9—Bulls Bridge Unit Nos. 1, 2, 3, 4, 5, 6
(12) Supplement No. 3 to Rate Schedule FERC No. 232—First Revised Sheet Nos. 7 and 8—Shepaug Unit No. 1,
(13) Supplement No. 3 to Rate Schedule FERC No. 256—First Revised Sheet Nos. x5 and 6—Middletown Units Nos. 1, 2, 3, 4, 10

[FR Doc. 82-26728 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ES82-74-000]

Consumers Power Co.; Application

September 24, 1982.

Take notice that Consumers Power Company (Applicant) on September 13, 1982, filed an Application for authority to issue securities under Section 204 of the Federal Power Act. Consumers Power intends to enter into a Construction Financing Agreement with a special purpose corporation for the purpose of financing a Nuclear Training Center and other items of property. The Company proposes to enter into a Credit Agreement with the Toronto-Dominion Bank, Chicago Agency. Pursuant to the Credit Agreement, Toronto-Dominion will accept a note from the Company which in aggregate amount will not exceed $40,000,000. The commitment will be available to the Company until 364 days from the date of execution and delivery of the Construction Financing Agreement.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR § 385.211 or 385.214). All such petitions or protests should be filed on or before October 12, 1982. A copy of this filing is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-26729 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA82-2-23-001]

Eastern Shore Natural Gas Co.; Tariff Filing

September 24, 1982.

Take notice that on September 13, 1982, Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, identified as follows:

Proposed Tariff Sheets to Original Volume No. 1

Substitute Twenty-First Revised Sheet No. 5
Substitute Twenty-First Revised Sheet No. 6
Substitute Twenty-First Revised Sheet No. 7
Substitute Sixth Revised Sheet No. 10
Substitute Twenty-First Revised Sheet No. 11
Substitute Twenty-First Revised Sheet No. 12
Second Revised Sheet No. 245
Second Revised Sheet No. 248
Third Revised Sheet No. 252

Eastern Shore states that these tariff sheets, which are proposed to be effective September 1, 1982, reflect a change in the effective dates of Eastern Shore's semi-annual Purchased Gas Adjustment (PGA) and Demand Charge Adjustment (DCA) filing from the currently scheduled effective dates of March 1 and September 1 of each year to May 1 and November 1 of each year. Eastern Shore also requests authority to (1) "track" Transco's rates effective September 1, 1982 as proposed in their substitute tariff filing dated September 2, 1982 (Docket No. TA82-2-29-001) and (2) allow Eastern Shore's deferred account surcharge, demand charge unit adjustment and transportation surcharge that became effective on March 1, 1982 to remain in effect for an additional two months.

The Company states that copies of the filing are being mailed to each of its jurisdictional customers and Interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to be come a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-26784 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-792-000]

Empire District Electric Co.; Filing

September 23, 1982.

Take notice that on September 10, 1982, the Empire District Electric Company (EDE) tendered for filing a proposed Agreement for Interchange of Power and Interconnected Operation between EDE and the Associated Electric Cooperative, Inc. (AEC).

EDE states that the proposed contract provides for interconnected operation between EDE and AEC which will be of mutual advantage to the parties by allowing them to purchase and sell or exchange electric power and energy from one system to the other.

EDE further states that this agreement shall replace the agreement entered into on the 19th of March, 1969 and all amendments thereto.

Significant changes are the addition of the Strafford and Wanda interconnections and addition of the RE, SE, SP and UP Schedules.

Copies of the filing were served upon the Missouri Public Service Commission and Associated Electric Cooperative, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make proptestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26730 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-793-000]

Florida Power & Light Co.; Filing

September 23, 1982.

Take notice that Florida Power & Light Company (FP&L) tendered for filing on September 13, 1982, the following tariff sheets as part of its FERC Electric Tariff, First Revised Volume No. 1 applicable to 8 municipal customers and 7 rural electric cooperatives: Sheet Nos. 5 and 5a, Sheet Nos. 6 and 6a, Sheet Nos. 7, 7a and 7b, Reserved for Future Use Sheet No. 8, Sheet Nos. 9 and 9a, and Reserved for Future Use Sheet No. 11.

FP&L also tendered for filing certain tariff sheets containing a revised cover sheet, revisions to the terms and conditions of service under the tariff and a revised index of customers and delivery points.

FP&L also tendered for filing Proposed Amendment No. 3 to the November 19, 1979 Agreement to Provide Specified Firm Power Electric Service between Florida Power & Light Company and Seminole Electric Cooperative, Inc.

FP&L also tendered for filing proposed Amendment No. 1 to the November 19, 1979 Agreement for Alterations to Delivery Points and Service Voltage for Delivery of Electric Power and Energy between FP&L and Lee County Electric Cooperative, Inc.

FP&L proposes to place the revised tariff sheets and amendments containing the first phase of a proposed rate increase into effect on November 12, 1982, sixty days after the date of filing. FP&L proposes that the second phase of the rate increase take effect on November 3, 1982, sixty-one days after filing.

FP&L states that the proposed rates would increase revenues from wholesale sales by approximately $36 million for the 12 month period ending December 31, 1983. The first phase of the proposed rates would increase revenues from wholesale sales by approximately $23.2 million over the same period.

According to FP&L appropriate portions of this filing have been served upon FP&L's wholesale customers and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26717 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-701-000]

Florida Power Corp.; Order Accepting for Filing and Suspending Rates, Granting Summary Disposition in Part, Noting Interventions, and Establishing Hearing and Price Squeeze Procedures

Issued: September 24, 1982.

On July 30 1982, Florida Power Corporation (FPC) filed a proposed two-phase wholesale rate increase for full requirements, partial requirements, and transmission service.[1] The phase-one rates would increase revenues by approximately $11.1 million (5.6 percent) for the calendar year 1982 test period. The proposed phase-two rates would result in an additional increase in revenues of about $21.4 million, based on the inclusion of costs associated with the company's 640 MW coal-fired Crystal River No. 4 generating unit. FPC requests that the phase-one rates become effective on September 28, 1982. The company originally requested that the phase-two rates become effective upon the date of commercial operation of Crystal River Unit No. 4 although, as discussed below, FPC has since asked that the Commission defer both a filing date and an effective date for the phase-two rates. The company states that Unit No. 4 is expected to become operational on December 31, 1982.

Notice of FPC's filing was published in the **Federal Register**, with comments due on or before August 26, 1982. Timely motions to intervene have been filed by the Seminole Electric Cooperative, a group of FPC's municipal customers identifying themselves as Florida Cities,[2] and Reedy Creek Utilities Company. Reedy Creek has not raised any specific substantive issues.

The Florida Cities argue at length that FPC's attempt to file a phased increase should be rejected, that the two-phase increase should be viewed in its entirety, and that both phases should be suspended for five months. They further request summary disposition with respect to several matters asserting that the company's positions are unsupported, contrary to past experience, or otherwise inappropriate. In particular, the Florida Cities contend that: (1) FPC's proposed demand allocators deviate from historical experience without explanation, and that a minimal increase, if any, would be supportable based on an allocation using actual Period I demands; (2) FPC has improperly inflated rates by including cost of service "adjustments" to "correct" for the fact that this Commission or its predecessor have precluded rate base inclusion of CWIP or tax normalization in prior periods, contrary to retail regulatory practice; and (3) while Crystal River Unit No. 4 will be in service, at most, for the final month of the test period, FPC's phase-two rate base includes that unit on an annualized basis although other adjustments necessary for proper synchronization have not been made. In addition, the Florida Cities raise a number of specific cost of service and rate design issues, contend that the proposed transmission rates are excessive, allege price squeeze, and urge consideration of the price squeeze claim for suspension purposes.

Seminole, and its member systems served by FPC,[3] request rejection of the

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[1] *See* Attachment A for rate schedule designations and affected customers.

[2] The Cities of Alachua, Bartow, Bushnell, Chattahoochee, Fort Meade, Leesburg, Mount Dora, Newberry, Ocala, Quincy, Williston, and the Sebring Utilities Commission seek to intervene with respect to the entire rate filing. The remaining Cities, Tallahassee, Lakeland, and Kissimmee, receive only transmission service and have intervened only for purposes of testing the validity of FPC's proposed transmission rate.

[3] The member systems include: Talquin Electric Cooperative, Tri-County Electric Cooperative, Suwannee Valley Electric Cooperative, Clay Electric Cooperative, Glades Electric Cooperative, Peace River Electric Cooperative, Withlacoochee River Electric Cooperative, Sumter Electric Cooperative, and Central Florida Electric Cooperative.

phase-two rate increase or a determination that the filing is deficient. Alternatively, they request a maximum suspension of both phases and the initiation of phased price squeeze proceedings. Seminole objects to FPC's annualization of Crystal River No. 4, contending that other offsetting cost of service adjustments are necessary and that the company's failure to observe the test year regulations warrants rejection of the phase-two rates or deferral of a filing date pending receipt of additional data. Seminole objects to FPC's stated capital structure, addresses the cost of capital issue (and the implications of rate of return and the tax allowance for suspension purposes), and challenges the weighted debt cost used by FPC for interest synchronization. In addition, Seminole raises issues concerning cash working capital, the absence of a load adjustment to the cost of service, spent nuclear fuel disposal costs, nuclear decommissioning costs, "inappropriately labeled" pollution control CWIP, purchased power expense and revenue credits, recovery of abandoned project costs, tax normalization, and the appropriate costs attributable to Crystal River No. 4.

On September 8, 1982, FPC responded to the interventions and protests. After having evaluated the pleadings and its submittal, FPC has acceded to several adjustments in response to the motions for summary disposition. Specifically, the company has agreed to modify its phase-one cost of service and rates to: (1) Eliminate Accumulated Deferred Investment Tax Credits (ADITC) from its capital structure; (2) amortize spent nuclear fuel disposal costs over a ten year period rather than five years;[4] (3) correct for an inadvertent failure to reflect a deduction for nuclear fuel in process in the tax calculation; and (4) correct for an error in calculating unfunded income tax liability. FPC states that the combined effect of these items is to reduce required revenues by $2,529,000; following issuance of the Commission's order in this docket, FPC has agreed to file reduced phase-one rates reflecting these adjustments. FPC, however, denies the remaining allegations of the intervenors with respect to the phase-one increase.

Concerning the phase-two rates, FPC states that it is in the process of reviewing its submittal to determine whether all necessary adjustments have been made to synchronize the annualization of Crystal River No. 4. In order to allow sufficient time for a thorough analysis, the company has asked that the Commission temporarily withhold both a filing date and an effective date for the phase-two increase. When the review is complete, FPC will make a supplemental filing (more than 60 days before the proposed effective date) and renew a request for an effective date. FPC indicates that this approach is preferable to outright rejection of the phase-two rates inasmuch as it will preserve the company's ability to utilize a 1982 test period for both wholesale and retail rate purposes.

[4] We note that the reasonableness of FPC's disposal cost estimates remains as an issue to be addressed at hearing.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the Florida Cities', Seminole's, and Reedy Creek's unopposed motions to intervene serve to make them parties to this proceeding.

In view of FPC's voluntary request to defer a filing date for its phase-two rate increase, we need not address the intervenors' motions with respect to rejection, suspension, or summary disposition insofar as applicable to that portion of FPC's submittal. To the extent appropriate, these requests may be renewed at such time as FPC tenders revised phase-two rates or a subsequent request to implement the originally filed rates.

As noted, FPC has agreed to modify four aspects of its phase-one cost of service and to submit appropriately reduced rates. This voluntary accession moots two requests for summary disposition but leaves a number of issues remaining. While FPC denies that summary disposition is warranted as to the inclusion in rate base of nuclear radwaste-related CWIP at its Crystal River Unit No. 3, we find that Commission precedent supports summary disposition. In our order of August 5, 1982, in *Pennsylvania Electric Company*, Docket No. ER82–593–000, we reiterated our position that nuclear radwaste systems must be excluded from rate base inasmuch as these systems do not qualify as pollution control CWIP within the scope of section 2.16(a) of the regulations.[5] Thus, in revising its rates to reflect the items which FPC has agreed to amend, the company shall also reflect summary disposition by excluding nuclear radwaste-related CWIP from rate base. Having considered the remaining requests for summary disposition, we conclude that they present questions of law or fact more appropriately resolved on the basis of an evidentiary hearing.

Consistent with FPC's request, we shall withhold a filing date for the phase-two increase and permit the company to make a supplemental filing at an appropriate time. With respect to the phase-one rates, our preliminary review of FPC's submittal and the pleadings indicates that the rates have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. We shall therefore accept FPC's phase-one rates for filing, as modified by summary disposition and voluntary accession, and we shall suspend those rates as ordered below.

In *West Texas Utilities Company*, Docket No. ER82–23–000 (February 26, 1982), we noted that rate filings would ordinarily be suspended for one day where our preliminary review indicates that the proposed rates may be unjust and unreasonable, but may not produce substantially excessive revenues, as defined in *West Texas*. Our preliminary examination of the phase-one rates suggests that they may not yield excessive revenues. Accordingly, we shall suspend FPC's phase-one rates for one day from sixty days after filing, to become effective on September 29, 1982, subject to refund.[6]

In accordance with the policy and procedures established in *Arkansas Power & Light Company*, Docket No. ER79–339 (August 6, 1979), we shall phase the price squeeze issue raised by the intervenors.

As a final matter, the Commission notes that FPC has utilized full tax normalization with respect to Accelerated Cost Recovery System (ACRS) property. According to our review, it appears that the instant filing reflects a normalization method of accounting for all post-1980 property additions, that FPC's cost of service correctly reflects the effects of normalization, and that FPC's submittal satisfies the requirements of the Economic Tax Recovery Act of 1981.

The Commission orders:

(A) A filing date for FPC's proposed phase-two rates is hereby deferred pending a supplemental filing by FPC. The motions to reject FPC's phase-two

[5] *See Jersey Central Power and Light Company*, Docket No. ER82–426–000, 19 FERC 61,208 (May 26, 1982). *See also Louisiana Power and Light Company*, Opinion No. 110, 14 FERC 61,075 (January 28, 1981).

[6] In response to the Florida Cities' suggestion that we consider the price squeeze allegations in our suspension determination, we note that we have stated consistently that, in the absence of extraordinary circumstances, unproved price squeeze claims will not serve as an independent factor in considering an appropriate suspension period. No such extraordinary circumstances are presented here.

rates or to find the filing deficient are denied without prejudice as moot.

(B) FPC's rate base inclusion of nuclear radwaste systems is summarily rejected. Within fifteen (15) days of the date of this order, the company shall file revised cost statements and rates reflecting this summary disposition as well as the four voluntary adjustments identified in the body of this order. In all other respects, the motions for summary disposition are hereby denied.

(C) FPC's proposed phase-one rate increase is hereby accepted for filing and suspended for one day from sixty days after filing, to become effective on September 29, 1982, subject to refund.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of FPC's rates.

(E) The Commission staff shall serve top sheets in this proceeding within ten (10) days of FPC's submittal in compliance with paragraph (B) above.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Commission hereby orders the initiation of price squeeze proceedings and further orders that this docket be phased so that the price squeeze proceedings begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding administrative law judge may order a departure from this schedule for good cause shown. The price squeeze claim shall be governed by section 2.17 of the Commission's regulations as it may be modified prior to the commencement of the price squeeze phase of the instant docket.

(H) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A

Florida Power Corporation, Docket No. ER82-701-000

Dated: Undated.
Filed: July 30, 1982.
Other Parties: (1) & (2) The Cities of Alachua, Bartow, Bushnell, Chattahoochee, Fort Meade, Lake Helen, Leesburg, Mount Dora, Newberry, Ocala, Quincy, Sebring, and Williston; The Seminole Electric Cooperative, Inc. and The Orlando Utilities Commission.

Phase I Rates

Designations. FPC Electric Tariff, First Revised Volume No. 1.

(1) *Full Requirements (FR) and Transmission:*

Sheet No.—Supersedes

7th Revised Sheet No. 3—6th Revised Sheet No. 3
7th Revised Sheet No. 4—6th Revised Sheet No. 4
7th Revised Sheet No. 23—6th Revised Sheet No. 23
8th Revised Sheet No. 24—7th Revised Sheet No. 24
1st Revised Sheet No. 4A—Original Sheet No. 4A
4th Revised Sheet No. 36—3th Revised Sheet No. 36
4th Revised Sheet No. 37—3th Revised Sheet No. 37

(2) *Partial Requirements (PR) and Transmission:*

7th Revised Sheet No. 41—6th Revised Sheet No. 41
7th Revised Sheet No. 42—6th Revised Sheet No. 42
6th Revised Sheet No. 43—5th Revised Sheet No. 43
Original Sheet No. 43A

(3) Other Party: Reedy Creek Utility Company, Inc. Supplement No. 9 to Rate Schedule FPC No. 74. (Supersedes Supplement No. 8.)

(4) Other Party: City of Wauchula. Supplement No. 9 to Rate Schedule FPC No. 77. (Supersedes Supplement No. 8.)

Phase II Rates

FPC Electric Tariff, First Revised Volume No. 1.

(1) *Full Requirements (FR) and Transmission:*

Sheet No.—Supersedes

8th Revised Sheet No. 3—7th Revised Sheet No. 3
8th Revised Sheet No. 23—7th Revised Sheet No. 23
9th Revised Sheet No. 24—8th Revised Sheet No. 24

(1) *Partial Requirements (PR) and Transmission:*

Sheet No.—Supersedes

8th Revised Sheet No. 41—7th Revised Sheet No. 41

(3) Other Party: Reedy Creek Utility Company, Inc. Supplement No. 10 (Page 1) to Rate Schedule FPC No. 74. (Supersedes Page 1 to Supplement No. 9.)

(4) Other Party: City of Wauchula. Supplement No. 10 (Page 1) to Rate Schedule FPC No. 77. (Supersedes Page 1 to Supplement No. 9.)

[FR Doc. 82-26785 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-798-000]

Florida Public Utilities Co.; Filing

September 23, 1982.

The filing Company submits the following:

Take notice that on September 16, 1982, Florida Public Utilities Company (FPU) tendered for filing proposed changes in its FERC Electric Tariff. FPU states that the proposed changes would increase revenues from jurisdictional sales and service by $71,224 annually, based on the 12-month period ending June 30, 1982.

FPU further states that the proposed tariff changes are applicable to its wholesale sales and service to the City of Blountstown, Florida, which is the company's only jurisdictional customer. The company states that it purchases power from Gulf Power Company at the latter's Altha Substation, part of which is used in its distribution operations in its Marianna, Florida division and part of which is resold at wholesale to Blountstown. FPU indicates that the purpose of its tariff changes is to pass through to Blountstown the effect on its purchases at the Altha Substation of Gulf Power Company's increase in rates, pending in Docket No. ER82-689-000.

FPU requests an effective date of October 1, 1982.

Copies of this filing were served upon the City of Blountstown and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 395.211, 385.214). All such motions or protests should be filed on or before October 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26716 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-689-000]

Gulf Power Co.; Order Accepting for Filing and Suspending Rates, Denying Motion to Reject, Noting Interventions, and Establishing Hearing Procedures

Issued: September 24, 1982.

On July 27, 1982, Gulf Power Company (GPC) tendered for filing increased rates for firm power service to two distribution cooperative customers [1] and Florida Public Utilities Company (FPU).[2] The proposed rates would increase revenues by approximately $1.3 million (7.3%) during the calendar year 1983 test period. GPC requests an effective date of October 1, 1982.

Notice of the filing was published in the Federal Register with responses due on or before August 23, 1982. Alabama Electric Cooperative (AEC), on behalf of its member distribution cooperatives, filed a timely intervention as well as a protest and motion to reject or (to the extent not rejected) to suspend for five months. As grounds for rejection, AEC maintains that the company has failed to satisfy the filing requirements of section 35.13 of the Commission's regulations relating to cost data in support of the stated test period fuel stock balances.[3] In support of a maximum suspension, AEC raises a number of cost of service issues including excessive rate of return, improper demand/energy tilt in rate design, and failure to amortize regulatory expense for a period of time greater than one year. AEC further contends that the single rate schedule proposed by GPC for the cooperative customers and FPU unlawfully discriminates against the cooperative customers by requiring them to pay more than their properly allocated share of the cost of service.

FPU also filed a timely intervention. Although FPU raises no specific substantive issues in its pleading, it states that, as an affected customer, it has an interest in this proceeding which cannot be adequately represented by other parties.

Subsequently, GPC filed a timely response denying that rejection of the filing is warranted, addressing the substantive issues raised by the intervenors, and asserting that a one day suspension is appropriate. While GPC does not oppose the cooperative customers' or FPU's participation as intervenors in this proceeding, it does challenge the sufficiency of AEC's interests as a separate intervening party. On September 13, 1982, GPC filed a supplemental response which raises an additional argument in support of a one day suspension.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the unopposed motions to intervene serve to make FPU and the cooperative customers parties to this proceeding. Notwithstanding GPC's opposition to AEC's separate participation as an intervening party, we find that AEC has stated sufficient grounds to warrant intervention as a representative of its cooperative members and a potential competitor of GPC. We further note that AEC has been granted intervenor status in a number of prior GPC rate cases. Accordingly, the Commission will grant AEC's motion to intervene.

Despite AEC's contentions, we find that GPC's submittal substantially complies with the Commission's filing regulations;[4] we shall therefore deny the request by AEC to reject GPC's submittal.

Our preliminary review of the instant filing and the pleadings indicates that the rates proposed by GPC have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend their operation as ordered below.

In *West Texas Utilities Company*, Docket No ER 82-23-000, 18 FERC ¶61,189 (February 26, 1982), we explained that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed rates may be unjust and unreasonable but may not generate substantially excessive revenues, as defined in *West Texas*. In the instant proceeding, however, our examination suggests that the proposed rates may produce substantially excessive revenues. Therefore, consistent with *West Texas*, we shall suspend GPC's proposed rates for five months to become effective, subject to refund, on March 1, 1983.

GPC has requested that the Commission issue an order approving the use of tax normalization with respect to Accelerated Cost Recovery System (ACRS) property in order to satisfy the requirements of the Economic Tax Recovery Act of 1981 (ERTA). According to our review, it appears that the instant filing reflects a normalization method of accounting for post-1980 property additions, that GPC's cost of service correctly reflects the effects of normalization, and that GPC's submittal meets the requirements of ERTA.

The Commission notes that GPC's cost of service indicates that the earned rate of return for service to the cooperative customers is significantly different from the earned rate of return for service to FPU. Nonetheless, the company has proposed that a single rate be applied to all three customers. We recognize that GPC has historically utilized a single rate for these customers. However, in view of the difference with respect to the earned rate of return, the reasonableness of continuing a single rate structure for firm power service is an issue which should be addressed at hearing.

The Commission orders: (A) AEC's motion to reject is hereby denied.

(B) GPC's submittal is hereby accepted for filing and suspended for five months from the proposed effective date, to become effective, subject to refund, on March 1, 1983.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I], a public hearing shall be held concerning the justness and reasonableness of GPC's rates.

(D) AEC's motion to intervene is hereby granted pursuant to the Commission's Rules of Practice and Procedure.

(E) The Commission staff shall serve top sheets in this proceeding on or before October 11, 1982.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding

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[1] The affected cooperatives are Choctawhatchee Electric Cooperative and West Florida Electric Cooperative Association.

[2] *See* Attachment A for rate schedule designations.

[3] AEC contends that Statements BG, BH, and BI are seriously incomplete and fail to properly match Period II test year fuel revenues and fuel expenses. Also, with respect to Statement AL, AEC asserts that there is no indication of the number of days' supply represented by the fuel stock, or the data necessary to make this calculation.

[4] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971).

to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washigton, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commissions Rules of Practice and Procedure.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A

Gulf Power Company, Docket No. ER82-609-000, Rate Schedule Designations

FERC Electric Tariff, Second Revised Volume No. 1

Designation:
Third Revised Sheet No. 4 (supersedes Second Revised Sheet No. 4)
Third Revised Sheet No. 8 (supersedes Second Revised Sheet No. 8)
Third Revised Sheet No. 9 (supersedes Second Revised Sheet No. 9)

Tariff Customers:

Florida Public Utilities Company
Choctawhatchee Electric Cooperative
West Florida Electric Cooperative Association

[FR Doc. 82-26786 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-600-000]

Kansas Power and Light Co.; Filing

September 24, 1982.

Take notice that on September 16, 1982, Kansas Power and Light Company (KPL) tendered for filing a newly executed renewal contract dated August 24, 1982 with the City of Seneca, Kansas for wholesale service to that community. KPL states that this contract permits the City of Seneca to receive service under rate schedule WSM-61 which succeeds their current rate schedule MWH-63 designated FERC No. 126. KPL further states that the proposed changes would increase revenues from sales by $348,655.20 based on the projected 12 month period ending October 31, 1983.

KPL requests an effective date of November 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon the City of Seneca and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26787 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RA82-30-000]

MGPC, Inc.; Filing of Petition

September 24, 1982.

Take notice that MGPC, Inc. on September 1, 1982, filed a Petition for Review under 42 U.S.C. 7194(b) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a motion to intervene. However, any such person wishing to be a participant must file a notice of participation on or before October 8, 1982, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a motion to intervene by October 8, 1982, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.1005(c)).

A notice of participation or motion to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through the Office of General Counsel, the Assistant General counsel for Regulatory Litigation, Department of Energy, Room 6H-025, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26788 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA83-1-47-000]

MIGC, Inc.; Purchased Gas Adjustment Clause

September 23, 1982.

Take notice that on September 16, 1982 MIGC, Inc. tendered for filing copies of Twenty-Fifth Revised Sheet No. 32 and Second Revised Sheet No. 32A to its FERC Gas Tariff Original Volume No. 1, as required under the Commission's Rules and Regulations under the Natural Gas Act.

MIGC's Twenty-Fifth Revised Sheet No. 32 and Second Revised Sheet No. 32-A provide for a Purchased Gas Adjustment rate increase of 47.12¢ per MMBtu, effective November 1, 1982, in order to: (1) Provide for a current gas cost adjustment to permit MIGC to reflect the higher cost of gas purchases which it is currently incurring (Table II), (2) provide for an adjustment to MIGC's Unrecovered Purchased Gas Cost Account as of July 31, 1981 and July 31, 1982 (Table III), (3) to recover a carrying surcharge as permitted under FERC Order No. 47 (Table VI) as set forth in MIGC's First Revised Sheet No. 31-A and (4) to set forth projected incremental pricing surcharges to become effective November 1, 1982 (Second Revised Sheet No. 32-A).

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before October 1, 1982. Protests will be considered to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for the public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26731 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-776-000]

Montana Power Co.; Filing

September 23, 1982.

Take notice that the Montana Power Company (Montana) on September 13, 1982, tendered for filing a Residential Purchase and Sale Agreement (Agreement) with the United States of America Department of Energy, acting by and through Bonneville Power Administration (BPA). Montana states that this Agreement provides for the sale of firm power by Montana to BPA at Montana's Average System Cost. In return, BPA is required to sell an equivalent amount of power back to Montana at a rate determined pursuant to Section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act.

Montana indicates that estimates of jurisidictional transactions and revenues that will occur under this Agreement cannot be determined due to variances which may occur as a result of weather conditions, changes in the number of customers and changes in the levels of usage by Montana's customers.

An effective date of August 27, 1982, is proposed and waiver of the Commission's requirements is therefore requested.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intevene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26719 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-775-000]

Montana Power Co.; Filing

September 23, 1982.

Take notice that Montana Power Company (Montana) on September 13, 1982, tendered for filing in accordance with the Commission's regulations a letter agreement between City of Tacoma (Tacoma) and Montana. Montana states that this letter agreement is for storage of energy in Montana's reservoirs with right of first refusal for Montana to acquire this energy if Tacoma elects not to have the storage energy returned.

Montana indicates that it will receive revenues from jurisdictional transactions under the proposed Letter Agreement.

Montana proposes an effective date of July 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 7, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26720 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-803-000]

New York State Electric & Gas Corp.; Filing

September 24, 1982.

Take notice that New York State Electric & Gas Corporation (NYSEG) on September 17, 1982, tendered for filing proposed changes in its FPC Rate Schedule 36 and FERC Rate Schedule 84 under which the Company supplies firm transmission wheeling service to the Power Authority of the State of New York (PASNY) for the benefit of Allegheny Electric Cooperative, Inc.; and American Municipal Power—Ohio, Inc., respectively. The proposed changes would increase revenues from contract service by $841,008 based on the 12 month period ending December 31, 1981.

NYSEG proposes an effective date of November 16, 1982.

The rate filed for by NYSEG is $2.28 per month per contract kilowatt. The proposed changes are necessary to cover all expenses associated with this transmission service and to provide NYSEG an adequate rate of return.

Copies of the filing were served upon PASNY, the Public Service Commission of the State of New York, Allegheny Electric Cooperative, Inc., American Municipal Power—Ohio, Inc. and the City of Cleveland, Ohio.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26729 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-799-000]

Niagara Mohawk Power Corp.; Filing

September 23, 1982.

Take notice that on September 16, 1982, Niagara Mohawk Power Corporation (Niagara) tendered for filing a rate schedule pursuant to a "Stipulation of Settlement" agreement between Niagara and the Town of Massena (Massena) dated July 29, 1982.

Niagara states that the "Stipulation of Settlement" agreement established Niagara's right to a rate that provides just and reasonable compensation for reserving additional transmission capacity to permit Massena's unrestricted use of each of two delivery points to meet its requirements.

Copies of this filing were served upon the Massena Electric Department, Public Service Commission of the State of New York and the Power Authority of the State of New York.

Any person desiring protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26721 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-677-000]

Oklahoma Gas & Electric Co., et al.; Order Accepting Letter Agreements for Filing, Granting Waiver of Notice Requirements, and Noting Interventions

Issued: September 23, 1982.

In the matter of Oklahoma Gas & Electric Company, Docket No. ER82-677-000; Middle South Services, Inc., Docket No. ER82-678-000; Middle South Services, Inc., Docket No. ER82-679-000; Oklahoma Gas & Electric Company, Docket No. ER82-680-000; Public Service Company of Oklahoma, Docket No. ER82-681-000; and Gulf States Utilities Company, Docket No. ER82-682-000.

On July 28, 1982, the South Central Electric Companies (SCEC) [1] tendered for filing in Docket Nos. ER82-677-000 through ER82-682-000 letter agreements which reflect a changed component in the formula used to derive facilities charges under the parties' existing diversity exchange agreements.[2] These agreements provide for pro rata payments by the SCEC members of fixed costs associated with jointly constructed and operated transmission facilities. Specifically, the facilities are used to implement an exchange of diversity capacity between the Tennessee Valley Authority (TVA) and the SCEC members. While allocation of diversity entitlements among the SCEC members has varied from year to year, the total available capacity has remained at 1,500 MW. However, the SCEC members assert that the capacity which TVA will make available pursuant to this exchange has now been reduced below 1,500 MW. Thus, the letter agreements filed in these dockets modify the allocation of charges among the SCEC members to reflect this reduction in TVA entitlements. The SCEC members note that the lower transmission facilities charges result in rate reductions and request waiver of the notice requirements so that the changes may be made effective as of November 15, 1981, the beginning of the current year for exchanges between TVA and the SCEC members.

Notices of these filings were published in the **Federal Register** with responses due on or before August 23, 1982. The City of Lafayette, Louisiana (Lafayette) filed a timely intervention in Docket No. ER82-682-000. Lafayette states that it is a transmission customer of two SCEC members involved in that docket, Gulf States Utilities Company (Gulf States) and Central Louisiana Electric Company (CLECO). According to Lafayette, the submittals may increase Gulf States' and CLECO's costs thereby precipitating an increase in their transmission rates to Lafayatte. Lafayette requests that, absent cost justification for the changes proposed by the instant filings or an opportunity to participate in the SCEC agreements, the proposed changes should be suspended and set for investigation.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), Lafayette's timely intervention serves to make it a party, absent opposition within fifteen days of its pleading.

We shall, however, deny Lafayette's requests to convene a hearing and to suspend the proposed changes in Docket No. ER82-682-000, because we find the arguments underlying these requests to be unpersuasive. Lafayette contends that the filing in that docket does not contain cost justification for the proposed changes. However, as stated in that rate filing, the changes proposed will result in a reduction in rates to CLECO and Gulf States.[3] Our review of the submittal confirms this; we find that the changes proposed in each of these dockets will result in a rate reduction. The proposed changes were properly submitted pursuant to § 35.13(a)(2)(ii) and paragraphs (b) and (c) of that section which do not require full cost justification. We therefore find that the filings are in substantial compliance with our regulations.[4]

Lafayette also states as a "preferred alternative" that its interests would be satisfied if it were allowed to participate in the underlying interchange agreements. However, the question of Lafayette's desired participation in such agreements is totally extraneous to the issues presented in the instant dockets. We perceive no justification for withholding approval of the proposed rate reductions based on Lafayette's desire to utilize these dockets as a vehicle for obtaining new services.

As noted previously, we have determined that the proposed changes will result in a reduction in rates. Based on our review, we conclude that acceptance of the submittals is in the public interest. We further find that good cause exists to grant the requested waivers of the notice requirements and to make the changes proposed in Docket Nos. ER82-677-000 through ER82-682-000 effective as of November 15, 1981.

The Commission orders: (A) Waiver of the notice requirements is hereby granted and the rate changes filed by the SCEC members in Docket Nos. ER82-677-000 through ER82-682-000 are hereby accepted for filing to become effective as of November 15, 1981, without suspension.

(B) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Rate Schedule Designations

Filed: July 28, 1982.

Docket No. ER82-677-000

(1) *Oklahoma Gas & Electric Company,* Supplement No. 9 to Supplement No. 8 to Rate Schedule FERC No. 116 (Redesignation from Rate Schedule FPC No. 21A) (Service Schedule—E).

(2) *Arkansas Power & Light Company,* Supplement No. 14 to Rate Schedule FPC No. 19 (Concurs in (1) Above).

Docket No. ER82-678-000

(3) *Arkansas Power & Light Company,* Supplement No. 7 to Supplement No. 6 to Rate Schedule FPC No. 14 (Service Schedule—E).

(4) *Empire District Electric Company,* Supplement No. 9 to Rate Schedule FPC No. 45 (Concurs in (3) Above).

Docket No. ER82-679-000

(5) *Arkansas Power & Light Company,* Supplement No. 10 to Supplement No. 5 to Rate Schedule FPC No. 20 (Service Schedule—E).

(6) *Southwestern Electric Power Company,* Supplement No. 17 to Rate Schedule FPC No. 47 (Concurs in (5) Above).

Docket No. ER82-680-000

(7) *Oklahoma Gas & Electric Company,* Supplement No. 7 to Supplement No. 6 to Rate Schedule FPC No. 32 (Service Schedule—E).

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[1] Arkansas Power & Light Company, Central Louisian Electric Company, Empire District Electric Company, Gulf States Utilities Company, Kansas Gas & Electric Company, Louisiana Power & Light Company, Mississippi Power & Light Company, Oklahoma Gas and Electric Company, Public Service Company of Oklahoma, and Southwestern Electric Power Company.

[2] *See* Attachment A for rate schedule designations.

[3] *See* July 28, 1982 filing by Gulf States in Docket No. ER82-682-000, at 3.

[4] *See, Municipal Light Board of Reading and Wakefield, Massachusetts* v. *FPC,* 450 F.2d 13141 (D.C. Cir. 1971).

(8) *Kansas Gas & Electric Company,* Supplement No. 14 to Rate Schedule FPC No. 75 (Concurs in (7) Above).

Docket No. ER82-681-000

(9) *Public Service Company of Oklahoma,* Supplement No. 19 to Suppplement No. 7 to Rate Schedule FPC No. 118 (Service Schedule—E).

(10) *Southwestern Electric Power Company,* Supplement No. 23 to Rate Schedule FPC No. 28 (Concurs in (9) Above).

Docket No. ER82-682-000

(11) *Gulf States Utilities Company* Supplement No. 8 to Supplement No. 10 to Rate Schedule FPC No. 82 (Service Schedule—E).

(12) *Central Louisiana Electric Company, Inc.,* Supplement No. 25 to Rate Schedule FPC No. 3 (Concurs in (11) Above).

(13) *Louisiana Power & Light Company,* Supplement No. 26 to Rate Schedule FPC No. 16 (Concurs in (11) Above).

[FR Doc. 82-26732 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-28-000]

Panhandle Eastern Pipe Line Co.; Change in Tariff

September 23, 1982.

Take notice that on Sept. 16, 1982 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

Forty-Fourth Revised Sheet No. 3–A
Twenty-First Revised Sheet No. 3–B

An effective date of November 1, 1982 is proposed.

Panhandle states that these revised tariff sheets reflect a PGA Rate Adjustment calculated in accordance with Section 18 of the General Terms and Conditions which reflects an increase from its pipeline supplier, Trunkline Gas Company, which increase is being filed concurrently herewith. The proposed effective date of these revised tariff sheets is November 1, 1982. Panhandle states that the rate increase being filed by Trunkline reflects purchases by Trunkline from a new supplier, Trunkline LNG Company (LNG Company). LNG Company has advised Trunkline that its facilities are completed and will be capable of delivering gas in the near future, in advance of November 1, 1982, the proposed effective date of this instant PGA rate change, and that volumes of regasified LNG will be delivered to Trunkline before such effective date.

The deliveries by LNG Company to Trunkline will be pusuant to LNG Company's Rate Schedule PLNG–1 of its FERC Gas Tariff, Original Volume No. 1, which rate schedule was the subject of the Commission's order dated July 31, 1981 in LNG Company's Docket No. RP81–85–000. The Commission's order of July 31, 1981 accepted for filing, subject to refund, certain tariff sheets filed by LNG Company in that proceeding, and stated that they would become effective one day after the date of "initial delivery", which is the first day on which quantities of regasified LNG are delivered to Trunkline. LNG Company's importation of LNG from Algeria is pursuant to Commission authorization granted in Docket No. CP74–138, *et al.,* and the pricing of this supply is pursuant to the price provisions approved by the Commission in that proceeding, and does not reflect any revisions in such price clause.

Panhandle further states that it respectfully requests waiver of § 154.38(d)(4)(iv) of the Commission's regulations which limits the filing of PGA rate adjustments to semi-annually. As the Commission is aware Panhandle's normal PGA rate adjustments are effective on March 1 and September 1 of each year. Such waiver is appropriate because of the magnitude of the carrying costs involved if Panhandle were not allowed to reflect these additional costs in its rates, which costs are associated with the implementation of this important source of supply to its pipeline supplier, and the resulting further increase in rates to its customers because of the delay in implementing this "special" PGA rate adjustment. Without such waiver Panhandle estimates that its Deferred Purchased Gas Cost Account would increase substantially between the commencement of deliveries from LNG Company to Trunkline and its next scheduled PGA rate adjustment on March 1, 1983. This increase in the Deferred Account would generate substantial carrying charges which would ultimately be borne by its customers. These additional carrying charges can be avoided by implementing the PGA rate adjustment as proposed herein by Panhandle.

Panhandle states that supporting computation sheets are enclosed and copies of this letter and enclosures are being served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before Oct. 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must filed a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26734 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-796-000]

Puget Sound Power & Light Co.; Filing

September 23, 1982.

Take notice that on September 13, 1982, Puget Sound Power & Light Company (Puget) tendered for filing an energy exchange agreement with Pacific Gas & Electric Company (PG&E).

Puget states that under the terms and conditions of the agreement, Puget and PG&E will exchange energy made available by Puget to PG&E from April through September for energy made available by PG&E to Puget from October through March.

Puget requests an effective date of May 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Pacific Gas & Electric Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before October 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26722 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-448-000, etc.]

Puget Sound Power & Light Co., et al.; Order Accepting for Filing and Suspending Rates and Noting Interventions

Issued: September 23, 1982.

In the matter of Puget Sound Power & Light Company, Portland General Electric Company, Pacific Power & Light Company and Idaho Power Company, Docket Nos. ER82-448-000, ER82-462-000, ER82-471-000, ER82-473-000, ER82-533-000, ER82-539-000, ER82-549-000, ER82-568-000, ER82-578-000, ER82-618-000, ER82-662-000, ER82-661-000, ER82-671-000 and ER82-688-000.

Pursuant to § 35.13a(5)(i) of the Commission's regulations, Puget Sound Power & Light Company, Portland General Electric Company, Pacific Power & Light Company, and Idaho Power Company (the Companies) have filed Average System Cost (ASC) rates [1] in the above mentioned dockets. The ASC rates filed by the Companies reflect Bonneville Power Administration's (BPA) adjustments to certain initial ASC rate proposals which were accepted for filing prior to completion of BPA's review and report [2] and changes in ASC rates to reflect an approved increase in the utility's retail rates. In each of the instant submittals, the filing utility has contested certain aspects of BPA's ASC calculation. The contested issues generally reflect the use of the different functionalization procedures by the utilities and BPA under the ASC methodology. The controversy in the submittals centers on whether the appropriate functionalization procedure—or sufficient data to support that procedure—has been used for a specific cost category.

Notices of the filings were issued with an opportunity for comments, protests or interventions. In each docket a group of BPA's industrial customers (DSIs) and BPA filed petitions to intervene. The petitions raised no substantive issues, but requested that DSIs and BPA be made parties to any proceedings.

In addition, in Docket No. ER82-448-000, the Public Power Council (PPC) [3] filed a petition to intervene stating that its principal objection concerned Puget's intent to include the Washington Public Utility Tax in its ASC calculations.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the motions to intervene by the DSIs, BPA and Public Power Council serve to make them parties to this proceding because there has been no oppostion within 15 days of the intervenors' filing of pleadings.

We find that BPA's determinations are in substantial compliance with the ASC methodology established by the Interim Rules. The cost of service impact of each of the contested issues for an ASC determination is minimal.

We note that the ASC rates are interim in nature pending final action by the Commission in Docket No. RM81-41. Because the ASC rates are consistent with the Commission's November 24, 1981 order in Docket Nos. ER81-778-000, *et al.*, concerning other ASC rates filings, we shall accept the submittal for filing below to become effective, subject to refund or further adjustment, and subject to the outcome of the Commission's final order in Docket No. RM81-41. In accordance with the Interim Rule, the ASC rate would become effective on the date an exchange agreement was negotiated or on the date an increase in the utility's retail rates for the specific jurisdiction became effective.

In light of the fact that the objections concern interpretations of the functionalization procedures under the current ASC methodology and that the ASC methodology is interim in nature, we believe that it would be premature to consider arguments on the ASC methodology until a final rule is issued. Furthermore, we note that all parties had the opportunity to file comments on the proposed rule in Docket No. RM81-41. In addition, the ASC rates will be collected subject to refund pending approval of a final rule; therefore, the parties are protected should changes in the methodology be ordered. We shall accept the instant submittals for filing without prejudice to the parties' right to raise, after issuance of the final rule in Docket No. RM81-41, those issues which they believe have not been resolved by the final rule.

We also note that the Interim Rule procedures provide only for oral argument on contested issues if the Commission so decides. At the time the final rule is issued, the Commission can address the procedures for resolving disputed ASC rate determinations.

Until a final rule is approved in Docket No. RM81-41, the filings of ASC rate determinations shall be afforded the same treatment as in the instant dockets, *e.g.*, the ASC rates established by the BPA will be accepted for filing subject to the outcome of the final rule in Docket No. RM81-41. Such established rates, however, will be subject to refund or further adjustment.

Regarding Public Power Council's intervention, we note that Puget's transmittal letter stated that the company intended to contest BPA's exclusion of the Washington Public Utility Tax from the ASC determination; however, no further comments were filed by Puget. Staff also notes that comments concerning the appropriate treatment of the Washington Public Utility Tax were filed by the parties in response to the notice issued in Docket No. RM81-41.

The Commission orders:

(A) The Companies' ASC rates are hereby accepted for filing and suspended to become effective, as shown on Attachment A, subject to refund or further adjustment. The ASC rates are also subject to the outcome of the Commission's final order in Docket No. RM81-41.

(B) The acceptance for filing shall be without prejudice to the parties' right to raise, after issuance of the final rule in Docket No. RM81-41, those issues which they believe have not been resolved by the final rule.

(C) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

[1] See Attachment A for rate schedule designations.

[2] By order dated November 24, 1981, in Docket Nos. ER81-778-000, *et al.*, the Commission waived that portion of the Interim Rule that would require the concurrent filing of a utility's ASC rate proposal, BPA's report and any required adjustment; accepted for filing the initial ASC rate proposals of several utilities; and suspended the rates to become effective October 1, 1981, subject to refund or other adjustment and subject to the Commission's final rule on the ASC methodology in Docket No. RM81-41. Such action was taken because BPA had not completed its review of the ASC rate proposals prior to the commencement of exchanges between BPA and the utilities.

[3] The Public Power Council represents 110 consumer-owned utility systems in Idaho, Oregon, Washington, Montana, Nevada, Utah, California and Wyoming.

Attachment A.—Rate Schedule Designations

The BPA determined ASC rates in the indicated dockets are designated as supplements to the Filing Utility/Bonneville Power Administration Service Agreement under the Pacific Northwest Electric Power Planning and Conservation Act FERC Electric Tariff, Original Volume No. 1 as indicated below:

Docket No.	Filing utility	Jurisdiction	Supp No.—suppp. No. 3	Supersedes supp. No. to supp. No. 3	Effective date
ER82-448-000	Puget	Washington	2	1	10/1/81
ER82-462-000	Portland	Oregon	2	1	10/1/81
ER82-479-000	Pacific	Idaho	5	1	10/1/81
		Montana	6	2	10/1/81
		Oregon	7	3	10/1/81
		Washington	8	4	10/1/81
ER82-471-000	Pacific	Oregon	9	8	11/8/81
ER82-533-000	Pacific	Washington	10	8	12/24/81
ER82-539-000	Portland	Oregon	3	2	1/1/82
ER82-576-000	Pacific	Montana	11	6	1/18/82
ER82-616-000	Idaho	Idaho	5	1	12/2/81
		Nevada	6	2	12/2/81
ER82-622-000	Idaho	Idaho	7	5	12/2/81
ER82-661-000	Idaho	Oregon	8	3	1/1/82
ER82-671-000	Pacific	Idaho	12	5	3/5/82
ER82-666-000	Pacific	Idaho	13	12	3/13/82

[FR Doc. 82-26733 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-794-000]

Sierra Pacific Power Co.; Filing

September 23, 1982.

Take notice that on September 7, 1982, Sierra Pacific Power Company (Sierra Pacific) tendered for filing its first energy charge revision to reflect increases in Sierra's purchased power fixed costs associated with Utah Power and Light Company (Utah) purchases.

Sierra Pacific states that on August 11, 1982 Utah increased its demand charge applicable to Sierra's purchases to $17.81/KW compared to $9.89/KW included in the present base purchased power cost of $.00912 per KWHR applicable to Sierra's present resale rates R-1 and R.2. This results in an increase of $.00346 per KWH, which increases the present energy charge of $0.02993 per KWH to $0.03339 per KWH.

Sierra Pacific requests an effective date of August 11, 1982.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-26723 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. FR82-105-000]

Sierra Pacific Power Co.; Refund Compliance Report

September 24, 1982.

Take notice that on September 14, 1982, Sierra Pacific Power Company filed a refund compliance report pursuant to the Commission's order issued on August 2, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 13, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-26730 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-795-000]

Southern California Edison Co.; Filing

September 23, 1982.

Take notice that on September 13, 1982, Southern California Edison Company (Edison) tendered for filing as an initial rate schedule, an Agreement dated August 19, 1982, with Imperial Irrigation District (IID). The Agreement is entitled "Salton Sea Geothermal Project Power Purchase and Sales Agreement between Imperial Irrigation District and Southern California Edison Company".

Edison states that the Agreement, in relevant part, sets forth the terms and conditions under which Edison will deliver to IID, and IID will pay Edison for energy generated by Edison's Salton Sea Geothermal Project which is excess to the Project's requirements until such time as the parties find other arrangements for disposition of the Net Energy generated by the Project.

Edison requests an effective date of July 20, 1982, and therefore requests waiver of the Commission's notice requirement.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Imperial Irrigation District.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-26734 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. QF82-204-000]

Texaco U.S.A., Application for Commission Certification of Qualifying Status of a Cogeneration Facility

September 24, 1982.

On August 19, 1982, Texaco U.S. 1111 Rusk Street, Houston, Texas 77002, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility is being constructed at a petroleum refinery in Wilmington, California. The primary energy source of the facility is refinery gas. The electric power production capacity of the facility is 60 megawatts. Approximately 276,000 lbs./hr of 225 psig, 450° steam will be

produced in waste heat recovery boilers. Installation of the facility began in May 1981. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26791 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-30-000]

Trunkline Gas Co.; Change in Tariff

September 23, 1982.

Take notice that on September 16, 1982 Trunkline Gas Company (Trunkline) tendered for filing Forty-First Revised Sheet No. 3-A to its FERC Gas Tariff, Original Volume No. 1. Trunkline submits that these revised tariff sheets reflect a PGA Rate Adjustment in accordance with Section 18 of the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 1 and Section 154.38 of the Federal Energy Regulatory Commission's (Commission) regulations. Trunkline states that this PGA Rate Adjustment reflects purchases from a new supplier, Trunkline LNG Company (LNG Company). An effective date of November 1, 1982 is proposed.

LNG Company has advised Trunkline that its facilities are completed and will be capable of delivering gas in the near future, in advance of November 1, 1982, the proposed effective date of the instant PGA rate change, and that volumes of regasified LNG will be delivered to Trunkline before such effective date.

The deliveries by LNG Company to Trunkline will be pursuant to LNG Company's Rate Schedule PLNG-1 of its FERC Gas Tariff, Original Volume No. 1, which rate schedule was the subject of the Commission's order dated July 31, 1981 in LNG Company's Docket No. RP81-85-000. The Commission's order of July 31, 1981 accepted for filing, subject to refund, certain tariff sheets filed by LNG Company in that proceeding, and stated that they would become effective one day after the date of "initial delivery", which is the first day on which quantities of regasified LNG are delivered to Trunkline.

It should be emphasized that LNG Company's importation of LNG from Algeria is pursuant to Commission authorization granted in Docket No. CP74-138 *et al.*, and the pricing of this supply is pursuant to the price provisions approved by the Commission in that proceeding, and does not reflect any revision in such price clause.

Trunkline respectfully requests waiver of § 154.38(d)(4)(iv) of the Commission's regulations, which limits the filing of PGA rate adjustments to semi-annually. As the Commission is aware Trunkline's normal PGA rate adjustments are effective on March 1 and September 1 of each year. Such waiver is appropriate because of the magnitude of the carrying costs involved in the implementation of the new source of supply. If Trunkline were not allowed to reflect these additional costs in its rates, on November 1, as requested, by implementing this "special" PGA rate adjustment not only would there be a severe hardship upon Trunkline in providing the funds for the new supply for an extended period, but also there would be unnecessary burdens on the jurisdictional customer resulting from carrying charges on the deferred account. Without such waiver Trunkline's Deferred Purchased Gas Cost Account would increase by a substantial amount between the commencement of delivery from LNG Company and its next scheduled PGA rate adjustment on March 1, 1983. This increase in the Deferred Account would generate additional carrying charges which would ultimately be borne by its customers. These additional carrying charges can be avoided by implementing the PGA rate adjustment as proposed herein by Trunkline.

Trunkline states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before Oct. 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26735 Filed 9-28-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-213-000]

Wehran Energy Corp.—Holtsville; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 24, 1982.

On September 2, 1982, Wehran Energy Corp., 666 East Main Street, Middletown, New York 10940, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The biomass small power production facility will be located at the Holtsville Landfill, in Brookhaven, New York. The electric power production capacity of the facility will be 500 kilowatts. The primary energy source to the facility will be biomass in the form of biomethane gas obtained from a sanitary landfill. The facility will not use any natural gas, oil or coal. There are no other small power production facilities owned by the Applicant within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-25795 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. QF82-214-000]

Wehran Energy Corp.—Horseblock; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 24, 1982.

On September 2, 1982, Wehran Energy Corp., 666 East Main Street, Middletown, New York 10940, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The biomass small power production facility will be located at the Horseblock Road Landfill in Brookhaven, New York. The electric power production capacity of the facility will be 500 kilowatts. The primary energy source to the facility will be biomass in the form of biomethane gas obtained from a sanitary landfill. The facility will not use any natural gas, oil or coal. There are no other small power production facilities owned by the Applicant within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commisison, 825 North Capitol Street, NE., Washington, D.C. 20426, in acordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-25796 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. QF82-213-000]

Wehran Energy Corp.—Pelham Bay; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 24, 1982.

On September 2, 1982, Wehran Energy Corp., 666 East Main Street, Middletown, New Yor, 10940, filed with the Federal Energy Regulatory Commission (Commission) an applciation for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The biomass small power production facility will be located at Pelham Bay in the Bronx, New York. The electric power production capacity of the facility will be 500 kilowatts. The primary energy source to the facility will be biomass in the form of biomethane gas obtained from a sanitary landfill. The facility will not use any natural gas, oil or coal. There are no other small power production facilities owned by the Applicant within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed witin 30 days after the date of publication of this notice and must be served on the applicant. Protest will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervent. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-25797 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-708-000]

West Texas Utilities Co.; Order Accepting for Filing and Suspending Rates, Denying Motions for Rejection or Summary Disposition, Noting Interventions, and Initiating Hearing, Price Squeeze and CWIP Procedures

Issued: September 24, 1982.

On August 2, 1982, West Texas Utilities Company (WTU) tendered for filing a two-phase rate for service to Texas-New Mexico Power Company (TNP), two partial requirements customers, and fifteen customers served under its Electric Tariff.[1] The Step A rates would provide for an increase in revenues of approximately $1.6 million (2.3%) for the calendar year 1983 test period. The Step B rates would further increase revenues by about $480,000. Although proposing effective dates of October 1, 1982, and October 2, 1982, for the Step A and B rates, respectively, in accordance with the terms of a settlement in *West Texas Utilities Company*, Docket No. ER82-29-000, WTU requests that the rates be suspended to become effective on January 1, 1983. In the event that the Step B rates are allowed to become effective on January 1, 1983, the Step A rates are to be deemed withdrawn.

In addition, WTU has filed alternative rates reflecting the inclusion in rate base of construction work in progress. WTU seeks an evidentiary hearing pursuant to § 2.16 of the Commission's regulations in order to prospectively implement the CWIP-based rates.[2] WTU also asks that the hearing in this docket include as an issue to be litigated the company's request for waiver of section 35.14 of the Commission's regulations so as to allow WTU to collect through its fuel adjustment clause all amounts paid for purchases of power and energy from cogenerators and small power producers.

Notice of WTU's filing was published in the **Federal Register** with responses due on or before August 30, 1982. TNP filed a timely motion to intervene and a request for a declaratory ruling. TNP objects to WTU's rolled-in transmission allocation and seeks a Commission ruling that the rates for service to TNP should reflect an appropriate credit for transmission expenses incurred by TNP for WTU's benefit.

WTU's Cooperative and Municipal Wholesale Customers (Customers) also filed a timely protest and intervention.[3] In addition to raising a number of cost of service issues and seeking maximum suspension of both the Step A and Step B rates, the Customers seek rejection of WTU's phased rate increase and

[1] *See* Attachment A for customers and rate schedule designations.

[2] The alternative rates represent an increase in test period revenues of approximately $4.2 million or 5.8%.

[3] Under Rule 215 of the Commission's Rules of Practice and Procedure, the Customers filed an amendment to their protest and intervention to include one section which had been omitted inadvertently.

rejection of the request to include CWIP in rate base. As to WTU's request for CWIP relief, the Customers ask in the alternative that the matter not be set for hearing until the Commission adopts a final rule in its pending CWIP rulemaking proceeding. The Customers also ask that price squeeze procedures be initiated.

WTU filed a timely answer to TNP's motion to intervene and request for a declaratory ruling. WTU does not oppose intervention but asks that TNP's request for a declaratory ruling be denied and that the issue, instead, be considered at hearing.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure, the timely motions to intervene serve to make TNP and the Customers parties to this proceeding absent opposition within 15 days of their respective motions.

We note that the Customers have objected to WTU's efforts to phase the instant rate increase. Here, WTU has submitted both rates concurrently and, consistent with prior orders permitting such phasing, we shall deny the Customers' motion to reject WTU's filing. [4]

We shall also deny the Customers' motion to reject WTU's CWIP application. In a number of recent cases in which applications to include CWIP in rate base would otherwise be summarily dismissed on the basis of current standards, we have instead, phased consideration of the CWIP issue to follow our pending rulemaking in Docket No. RM81-38-000, in order to preserve the *status quo ante*. [5] In view of WTU's request to place its proposed CWIP-based rates into effect prospectively only after a hearing under section 2.16 of the regulations, we conclude that this approach is appropriate in the instant case as well.

The remaining issues, including WTU's requested waiver of the Commission's fuel adjustment clause regulations and TNP's requested credit for certain transmission expenses, present questions of law or fact which should be resolved on the basis of an evidentiary hearing. At this time, we decline to entertain TNP's request for a declaratory ruling.

Our preliminary review of the instant filing and pleadings indicates that the rates proposed by WTU have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the Step A and B rates for filing and suspend their operation as ordered below.

In *West Texas Utilities Company*, Docket No. ER82-23-000 (February 26, 1982) we explained that where our preliminary examination indicates that proposed rates may be unjust and unreasonable, but may not be substantially excessive, as defined in *West Texas*, we would generally impose a nominal suspension. In the instant proceeding, our examination suggests that the Step A rate increase may not yield excessive revenues. In accordance with the terms of WTU's settlement agreement in Docket No ER82-23-000 and its request with respect to suspension of the Step A rates in this docket, we shall therefore suspend the Step A rates to become effective, subject to refund, on January 1, 1983. As to the Step B rate increase, however, our examination indicates that these rates may produce substantially excessive revenues. Accordingly, consistent with *West Texas*, we shall suspend the proposed Step B rates for five months, to become effective on March 2, 1983, subject to refund.

In addition, in accordance with the Commission's policy and practice established in *Arkansas Power and Light Company*, Docket No. ER79-339 (August 6, 1979), we shall phase the price squeeze issue raised by the Customers.

The Commission orders:

(A) The Customers' motions for rejection or summary disposition are hereby denied as discussed in the body of this order.

(B) WTU's proposed Step A rates are hereby accepted for filing and suspended to become effective, subject to refund, on January 1, 1983. WTU's proposed Step B rates are hereby accepted for filing and suspended for five months from sixty days after filing, to become effective, subject to refund, on March 2, 1983.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of WTU's rates.

(D) The Commission staff shall serve top sheets in this proceeding on or before October 11, 1982.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of topsheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Such conference shall be held for purposes of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The hearing on the inclusion of CWIP in rate base shall be phased as discussed in the body of this order to follow final Commission action in Docket No. RM81-38-000.

(G) The Commission hereby orders initiation of price squeeze proceedings and further orders that this case be phased so that the price squeeze proceedings begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding administrative law judge may order a departure from this schedule for good cause. The price squeeze claim shall be governed by § 2.17 of the Commission's regulations as it may be modified prior to the commencement of the price squeeze phase of the instant proceeding.

(H) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A—West Texas Utilities Company, Docket No. ER82-708-000; Rate Schedule Designation

Designation and Description

(1) Fifth Revised Sheet Nos. 4 through 7 under FERC Electric Tariff Original Volume No. 1 (Supersedes Fourth Revised sheet Nos. 4 through 7)—Tariff Customers (Step I, TR-1 Rates Excluding Full-CWIP)

(2) Sixth Revised Sheet Nos. 4 through 7 under FERC Electric Tariff Original Volume No. 1 (Supersedes (1) above)—Tariff Customers (Step II, TR-1 Rates Excluding Full-CWIP)

(3) Supplement No. 8 to Rate Schedule FPC No. 39 (Supersedes Supplement No. 7)—Texas-New Mexico Power Company (Step I, TNP-2 Rates Excluding Full-CWIP)

(4) Supplement No. 9 to Rate Schedule FPC No. 39 (Supersedes (3) above)—Texas-New

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[4] *See, e.g., Indiana & Michigan Electric Company*, 20 FERC ¶ 61,079 (1982); *Jersey Central Power and Light Company*, 19 FERC ¶ 61,208 (1982).

[5] *See, e.g., Oklahoma Gas & Electric Company*, 18 FERC ¶ 61,287 (1982).

Mexico Power Company (Step II, TNP-2 Rates Excluding Full-CWIP)
(5) Supplement No. 3 to Rate Schedule FERC No. 40 (Redesignation of Supplement No. 1 to Supplement No. 1)—City of Coleman, Texas (Letter agreement dated June 5, 1980 Filed in Docket No. ER80-489-000)
(6) Supplement No. 4 to Rate Schedule FERC No. 40 (Supersedes Supplement No. 1)—City of Coleman, Texas (Step I, COB-2 Rates Excluding Full-CWIP)
(7) Supplement No. 5 to Rate Schedule FERC No. 40 (Supersedes (6) above)—City of Coleman Texas (Step II, COB-2 Rates Excluding Full-CWIP)
(8) Supplement No. 3 to Rate Schedule FERC No. 42 (Redesignation of Supplement No. 1 to Supplement No. 1)—City of Brady, Texas (Letter Agreement dated May 22, 1980, Filed in Docket No. ER80-489-000)
(9) Supplement No. 4 to Rate Schedule FERC No. 42 (Supersedes Supplement No. 1)—City of Brady, Texas (Step I, COB-2 Rates Excluding Full-CWIP)
(10) Supplement No. 5 to Rate Schedule FERC No. 42 (Supersedes (9) above)—City of Brady, Texas (Step II, COB-2 Rates Excluding Full-CWIP)

[FR Doc. 82-26777 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-807-000]

Western Massachusetts Electric Co.; Filing

September 24, 1982.

Take notice that on September 20, 1982, the Western Massachusetts Electric Company (WMECO) tendered for filing a proposed Purchase Agreement with Respect to Doreen and Woodland Road Gas Turbine Units (Purchase Agreement) dated April 11, 1982 between WMECO and Vermont Electric Generation and Transmission Cooperative, Inc. (VEG&T).

WMECO states that the Purchase Agreement provides for a sale to VEG&T of a specific percentage of capacity and associated energy from two gas turbine generating units during the period from April 11, 1982 to August 31, 1982.

WMECO further states that the Capacity Charge for the proposed service was determined on a cost of service basis at the time that the sale was made and was determined in accordance with Appendix C and Exhibits thereto of the Purchase Agreement. The Variable Maintenance Charge is derived from historical costs and the Additional Maintenance Charge is twice the Variable Maintenance Charge, based on manufacturer's recommendations.

WMECO requests an effective date of April 11, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon VEG&T.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before October 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-26778 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-797-000]

Wisconsin Power and Light Co.; Filing

September 23, 1982.

Take notice that on September 14, 1982, Wisconsin Power and Light Company (WPL) tendered for filing amendments to its existing wholesale power contract dated August 16, 1982 between the City of Wisconsin Dells ("Municipality") and WPL. WPL states that this filing is for the purpose of modifying the current agreement between the parties to add an additional delivery point for energy and power to the Municipality. The current contract was previously designated FERC Rate Schedule 125 by the Commission.

WPL requests an effective date of August 16, 1982 and respectfully prays that a waiver of Commission notice requirements be granted. WPL states that a copy of the amendments and the filing have been provided to the Municipality and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 7, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-26725 Filed 9-28-82; 8:45 am]
BILLING CODE 6717-01-M

Office of the Secretary

[Docket No. EP-40-82-1]

Energy Emergency Preparedness

AGENCY: Office of Environmental Protection, Safety, and Emergency Preparedness, DOE.

ACTION: Notice of inquiry and request for public comments.

SUMMARY: On August 3, 1982, the President signed into law the Energy Emergency Preparedness Act of 1982 (EEPA, the Act) (Pub. L. 97-229) (42 U.S.C. 6202-6245). The Act, among other provisions, adopts a series of amendments to certain available legal authorities related to the International Energy Program, the Strategic Petroleum Reserve, and other energy emergency preparedness programs. It further prescribes a variety of actions, study efforts, and reports to be pursued in implementing specified energy emergency planning and preparedness efforts. The Department of Energy invites interested persons and organizations to submit written comments and other material to the Department for its consideration in complying with the requirements of the EEPA.

DATES: Seven (7) copies of written comments and other materials should be submitted to DOE by 5:00 p.m. on the following dates to ensure their consideration:

1. *November 5, 1982:* EEPA, to be cited at 42 U.S.C. 6234 note, 6245 note (SPR Drawdown Plan and Report), other general comments;
2. *December 3, 1982:* EEPA, to be cited at 42 U.S.C. 6262 (Comprehensive Energy Emergency Response Procedures); and to be cited at 42 U.S.C. 6245 note (Regional Reserve Report, Strategic Alcohol Fuel Reserve Report);
3. *January 28, 1983:* EEPA, to be cited at 42 U.S.C. 6245 note (Petroleum Supply Interruption Impact Analysis).

ADDRESSES: Comments should be addressed to William A. Vaughan, Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness, Department of Energy, Forrestal Building, Room 4G-064, (Mail

Stop EP-1), 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:
Ronald L. Winkler, U.S. Department of Energy, Deputy Assistant Secretary for Energy Emergencies, Forrestal Building, Room 3G-072 (Mail Stop EP-40), 1000 Independence Avenue, S.W., Washington, D.C. 20585; (202) 252-2443.

SUPPLEMENTARY INFORMATION:

I. Summary of EEPA Requirements

Section 2, International Energy Program Amendments. Section 2 amends section 252 of the Energy Policy and Conservation Act (EPCA) (42 U.S.C. 6272(j)) to extend from August 1, 1982, to December 31, 1983, the limited antitrust defense for U.S. oil company participation in the International Energy Program (IEP). Section 2 also imposes limits on the use of EPCA section 252, as well as EPCA section 251, which provides authority to mandate certain actions by United States companies in order to fulfill U.S. obligations under the IEP. As amended, EPCA section 251 essentially prohibits the Federal Government from ordering U.S. oil companies to participate in any oil sharing activities prior to activation of the IEP emergency sharing system. The amended EPCA section 252 effectively provides that the limited antitrust defense would not apply to any actions taken by U.S. oil companies in response to so-called "subcrisis" supply disruptions—disruptions that are less than the 7 percent shortfall necessary to activate the IEP emergency sharing system.

Section 3, Energy Emergency Preparedness. This section of the Act amends Title II of the EPCA by adding a new section 272(a) which requires that the President submit to the Congress by November 15, 1982, a memorandum of law prepared by the Attorney General, in consultation with the Secretary of Energy, describing the nature and extent of the authorities available to the President under existing law to respond to severe energy supply interruptions or other substantial reductions in the amount of petroleum products available to the United States. Included among the subjects to be covered are:

—U.S. activities in support of the IEP, including the National Emergency Sharing Organization, emergency sharing systems, and the supply right project;
—U.S. activities being pursued with respect to energy emergency preparedness obligations under the North Atlantic Treaty Organization;
—Development and use of the Strategic Petroleum Reserve (SPR);
—Government incentives to encourage private petroleum product stocks;
—Reactivation of the Executive Manpower Reserves: Emergency Electric Power Reserve, Emergency Petroleum and Gas Reserve, and the Emergency Solid Fuels Reserve;
—Energy emergency response management in coordination with State and local governments;
—Emergency public information activities.

In each of the above areas, the memorandum of law must distinguish among (1) situations involving limited or general war, international tensions that threaten national security, and other Presidentially-declared emergencies; (2) events resulting in activation of the IEP; and (3) less severe events or situations.

A new EPCA section 272(b) requires the President to submit to the Congress by December 31, 1982, comprehensive energy emergency response procedures describing the various options the President would consider to implement the authorities described in the memorandum of law noted above to respond to severe energy supply disruptions.

Finally, section 3 adds a new section 272(c) to the EPCA which states that the new amendments to the EPCA neither confer additional authority upon the President, nor limit his authority under any provision of law, in responding to energy supply emergencies. Additionally, this subsection states that the new EPCA amendments do not in any fashion preempt State laws or programs already in effect or which would become effective after enactment of the EEPA.

Section 4, Strategic Petroleum Reserve (SPR) Amendments. Section 4 of the Act, amending section 160(c) of the EPCA and related provisions, deals with the fill and drawdown of the SPR. It establishes 300,000 barrels per day as the minimum required average annual rate of fill for the SPR until the quantity of crude oil stored is at least 500 million barrels, to the extent funds are available, unless the President transmits to Congress his finding, for good cause, that compliance with this rate would not be in the national interest. In that case, the minimum required fill rate would be 220,000 barrels per day, subject to the availability of appropriations. A new section 160(c)(1)(D) of the EPCA would provide that if funds are available in a fiscal year to achieve a higher than 220,000 barrel per day average annual fill rate, then the minimum required fill rate must be "the highest practicable fill rate achievable." Interim facilities (e.g., steel tanks or floating storage) could be used to store oil in excess of that for which permanent SPR facilities are available. Up to 10 percent of amounts obligated each fiscal year could be used for interim storage facilities that year, or carried over to the next fiscal year.

After the 500 million barrel SPR storage level has been reached, the EEPA requires the President to seek to undertake such petroleum acquisition, transportation, and injection activities as will assure that the SPR is filled at a rate of 300,000 barrels per day until it reaches a storage level of 750 million barrels.

Section 4(c) of the EEPA requires that the President transmit to the Congress by December 1, 1982, a new Strategic Petroleum Reserve "Drawdown" (i.e., Distribution) Plan. The current SPR Distribution Plan became effective November 15, 1979, following Congressional review. The Plan would take effect on the date it is transmitted to the Congress, without Congressional review.

Section 5, Continuation of Petroleum Product Information Collection. This section amends Part A, Title V, of the EPCA to require the Administrator of DOE's Energy Information Administration to collect petroleum product information on a State-by-State basis. This includes the collection of such information on the pricing, supply, and distribution of petroleum products by product category at the wholesale and retail levels, as was being collected on September 1, 1981, by the Energy Information Administration.

Section 6, Reports to Congress on Petroleum Supply Interruptions. This section requires the submission to the Congress of a number of reports related to emergency preparedness programs and policies.

Section 6(a) of the EEPA requires the Secretary of Energy to submit within one year of the enactment of EEPA, an analysis of the impact on the domestic economy and on consumers in the United States of reliance on market allocation and pricing during any substantial reduction in the amount of petroleum products available to the United States. The analysis must include an assessment of equity and efficiency considerations; distinguish between the impacts on various categories of business and on households of different income levels; specify the nature and administration of monetary and fiscal policies that would be followed (including emergency tax cuts, emergency block grants, and emergency supplements to income maintenance programs); and describe the likely impact on the distribution of petroleum

products of State and local laws and regulations (including emergency authorities) affecting the distribution of petroleum products. The analysis also must include projections of the effects on the price of motor gasoline, home heating oil, and diesel fuel, and on Federal tax revenues, Federal royalty receipts, and State and local tax revenues.

Section 6(b) requires the President to submit by December 1, 1982, a Strategic Petroleum Reserve (SPR) Drawdown and Distribution Report to accompany the SPR Drawdown Plan required under section 4.

Section 6(c) requires submission to Congress by December 31, 1982, of an analysis of the economic benefits and costs of establishing Regional Petroleum Reserves. The analysis is to include an assessment of the ability to transport petroleum products to refiners, distributors, and end users; the comparative costs of creating Regional Petroleum Reserves as compared to the costs of continuing current plans for the Strategic Petroleum reserve; and a list of potential sites for the Regional Petroleum Reserves.

Finally, section 6(d) requires the Secretary of Energy, in consultation with the Secretary of Agriculture, to transmit to the Congress by December 31, 1982, a study of the potential for establishing a Strategic Alcohol Fuel Reserve.

II. Written Comment Procedures

You are invited to participate in the development of the Department of Energy's response to the EEPA requirements by submitting views, reports, analyses or other materials to the Department. Comments should be submitted to the address indicated in the **"ADDRESSES"** section of this notice and should be identified on the outside envelope and on documents submitted with the designation "Energy Emergency Preparedness, Docket No. EP–40–82–1." Seven (7) copies, if possible, should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between 8:00 a.m. and 4:00 p.m., Monday through Friday. Comments should be received by the **"DATES"** section of this notice in, order to ensure consideration.

Pursuant to the provisions of 10 CFR 1004.11, if you are submitting material which you believe to be confidential and exempt by law from public disclosure, you should submit one complete copy of the document, and six copies from which the material claimed to be confidential has been deleted. DOE reserves the right to determine the confidential status of the material and to treat it according to that determination.

Issued in Washington, D.C., September 27, 1982.

James B. Edwards,

Secretary of Energy.

[FR Doc. 82–27022 Filed 9–28–82; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–31058; pH–FRL 2216–6]

Certain Companies; Applications To Register Pesticide Products Involving a Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register or amend registration of pecticide products involving a changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comments by October 29, 1982.

ADDRESS: Written comments, identified by the document control number [OPP–31058] and the file or registration number, should be submitted to the manager (PM) cited at the address below: Product Manager (PM), Registration Division (TS–767C, Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: The product manager at the telephone number cited.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register, or amend registration of, pesticide products involving changed use pattern pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of applications does not imply a decision by the Agency on the applications.

Applications Received

1. File Symbol: 7969–EUP–RI. Applicant: BASF Wyandotte Corp., 100 Cherry Hill Road, Parsippany, NJ 07054. Product name: Campogran B Seed Treatment Fungicide. Fungicide. Active ingredient: *N*-cyclohexyl-*N*-methoxy-2,5-dimethyl-3-furancarboxamide 50.9%. Proposed classification/Use: None proposed. To include in its presently registered use the use as a seed treatment for cottonseed. Type registration: Conditional. (Product Manager (PM) 21-Henry Jacoby, (703–557–1900)).

2. File Symbol: 39398–RU. Applicant: Sumitomo Chemical Co., Ltd. c/o Dr. Eugene J. Gerberg, 1330 Dillion Heights Ave., Baltimore, MD 21228. Product name: Sumithion NP EC. Insecticide. Active ingredients: *O,O*-dimethyl *O*-(3-methyl-4-nitrophenyl) phosphorothioate 50% and 1-(cyclohexane-1,2-dicarboximido)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate 5%. Proposed classification/Use: General. To include in its presently registered non-aquatic use the aquatic use in drainage where mosquitoes breed. Type registration: Conditional. (PM 16-William Miller, (703–557–2600)).

3. EPA Registration No.: 10182–38. Applicant: ICI Americas, Inc., Wilmington, DE 19897. Product name: Talon-G. Rodenticide. Active ingredient: 3-[3-(4'-bromo-[1,1'-biphenyl]-4-yl)-1,2,3,4-tetrahydro-l-naphalenyl]-4-hydroxy-2*H*-benzopyran-2-one 0.005%. Proposed classification/Use: General. To include in its presently registerd use for control of mice and rats the use on ground squirrels in and around buildings. (PM 16-William Miller, (703–557–2600)).

Notice of approval or denial of an application to register, or amend registration of, a persticide product will be announced in the **Federal Register**. Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decesion may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the sepcified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to insure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of the FIFRA, as amended)

Dated: September 21, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-26562 Filed 9-28-82; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30221; PH-FRL 2215-6]

Certain Companies; Applications To Register Pesticide Products Containing New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comments by October 29, 1982.

ADDRESS: Written comments, identified by the document control number [OPP-30221] and the file or registration number, should be submitted to the product manager (PM) cited at the address below: Registration Division (TS-767C, Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: The product manager at the telephone number cited.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Applications Received

1. File Symbol: 47159-R. Applicant: Ralph R. Grams, MD, 2025 NW 24th St., Gainesville, FL 32605. Product name: Compound X. Anti-foulant. Active ingredients: 4S-(4 alpha, 4a alpha, 5a alpha, 6 beta, 12a alpha)]-4-(dimethylamino)-1,4,4a,5,5a,6,11,12,-octahydro-3,6,10,12,12a,-pentahydroxy-6-methyl-1,11-dioxo-2-naphthacenecarboxamide 50%. Proposed classification/Use: For general use as an additive to oil-based paint to deter attachment of barnacles on vessels. (Product Manager (PM) 23—Richard Mountfort, (703-557-1830)).

2. File Symbol: 42943-I. Applicant: Sherex Chemical Co., Inc., 577 Frantz Road., PO Box 646, Dublin, OH 43017. Product name: Arosurf MSF. Insecticide. Active ingredients: Poly(oxy-1,2-ethanediyl), alpha-isooctadecyl-w-hydroxy 100%. Proposed classification/Use: For general use for control of mosquito larvae and pupae. (PM 16-William Miller, (703-557-2600)).

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: September 17, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-26454 Filed 9-28-82; 8:45 am]

BILLING CODE 6560-50-M

[OPP-66095; PH-FRL 2212-7]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the name of firms requesting voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

EFFECTIVE DATE: October 29, 1982.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lela Sykes, Process Coordination Branch (TS-767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 706, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7406).

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

Registration No.	Product name	Registrant	Date registered
279-2190	Tedion 1.0 Bidrin 1.0 EC	FMC Corporation, 2000 Market St., Philadelphia, PA 19103	Mar. 1, 1965.
401-3	Common Sense Rat and Mouse Bait	Mrs. Betty Fernbach, Common Sense Mfg. Co. Inc., 721 Lafayette Ave., Buffalo, NY 14222.	July 1, 1969.
401-4	Common Sense Residual Spray	do	July 16, 1970.
401-5	Common Sense Fog or Spray	do	May 22, 1970.
401-6	Common Sense Rat Preparation #2	do	Feb. 25, 1970.
401-10	Common Sense Drione 79700 Insecticide	do	June 24, 1970.
401-12	Common Sense Household Insect Spray Conc	do	July 17, 1970.
477-266	Famrite 0-20-20 with Boron Fertilizer with Simazine	Central Chemical Corp., 49 North Jonathan St., Hagerstown, MD 21740	Nov. 2, 1971.
539-191	Sears Termite Killer and Control	Sears, Roebuck and Company, Sears Tower, Chicago, IL 60684	Mar. 29, 1965.
2568-19	Regatta Yacht Paint Vinyltex 57 White Antifouling	John-Baltimore Copper Paint Co., 840 Key Highway, Baltimore, MD 21230.	July 6, 1964.
2568-21	Regatta Yacht Paint Vinyltex 52 Green Antifouling	do	July 6, 1964.
2568-33	Regatta Yacht Paint Vinyltex 56 Golden Yellow Antifouling	do	Aug. 13, 1965
2568-38	Regatta Yacht Paint Vinyltex 60 Black Antifouling	do	July 28, 1972.
2568-50	Regatta 3021 Baltoguard Red	do	May 13, 1974.
2568-51	Regatta 3022 Baltoguard Blue	do	May 13, 1974.

Registration No.	Product name	Registrant	Date registered
2586-52	Regatta 3023 Bakoguard Green Antifouling	do	May 13, 1974.
11655-2	Sampson Penta Wood—Treat	Sampson Paint Mfg. Co., Inc., P.O. Box 6625, Richmond, VA 23230	Mar. 19, 1974.
11655-3	20 Percent Copper Naphthenate Solution	do	July 17, 1975.

The Agency has agreed that such cancellation shall be effective October 29, 1982 unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this section.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for 1 year after the effective date of cancellation, whichever is earlier, provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Production of these products as pecticide formulations after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP–66095]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in the Document Control Office, Room E–107, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973 89 Stat. (751, 7 U.S.C. 136))

Dated: September 15, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82–30233 Filed 9–28–82; 8:45 am]

BILLING CODE 6560–50–M

[PF–291; PH–FRL 2217–3]

Certain Companies; Pesticide, Food, and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide, food, and feed additive petitions relating to establishment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities, and food and feed items.

ADDRESS: Written comments to the Product Manager cited in each petition at the address given below:

Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be submitted while the petitions are pending before the agency. The comments are to be identified by the document control number "[PF–291]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide, food, and feed additive petitions relating to the establishment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities, food and feed items in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

FAP 1H5309. Interregional Research Project No. 4, New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903. Proposes amending 21 CFR 193.140 by establishing a regulation permitting residues of the insecticide 2,2-dichlorovinyl dimethyl phosphate in or on the processed agricultural commodity dried figs at 0.5 part per million (ppm), resulting from application to the growing crop. (Donald R. Stubbs, 703–557–1192).

FAP 8H5181. Interregional Research Project No. 4. Proposes amending 21 CFR 561.289 by establishing a regulation permitting residues of the defoliant, desiccant, and herbicide paraquat (1,1'-dimethyl-4,4'-bipyridinium ion) derived from application of either the bis(methyl sulfate) or the dichloride salt (both calculated as the cation) in or on spearmint hay at 3.0 ppm when present therein as a result of the application to growing peppermint and spearmint. (Donald R. Stubbs, 703–557–1192).

PP 7E1941. ICI Americas Inc., Concord Pike and New Murphy Road, Wilmington, DE 19897. Proposes amending 40 CFR Part 180 by establishing tolerances for the residues of the fungicide 5-butyl-2-(ethylamino)-4-hydroxy-6-methylpyrimidine in or on the raw agricultural commodity cantaloupe melons at 0.1 ppm. Proposed analytical method for determining residues is gas chromatography using a nitrogen detector. (PM 21, Henry Jacoby, 703–557–1900).

PP 2F2732. Ciba-Geigy Corporation, P.O. Box 18300, Greensboro, NC 27419. Proposes amending 40 CFR Part 180 by establishing tolerances for the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-N-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, each expressed as metalaxyl in or on the raw agricultural commodity squash at 1.0 ppm. Proposed analytical method for determining residues is gas chromatography with an alkali flame ionization detector. (PM 21, Henry Jacoby, 703–557–1900).

FAP 2H5359. Stauffer Chemical Company, 1200 S. 47th St., Richmond, CA 94804. Proposes amending 21 CFR Part 561 by establishing a regulation permitting residues of the insecticide *O*-ethyl *S*-phenyl ethylphosphonodithioate including its oxygen analog *S*-ethyl *S*-phenyl ethylphosphonothioate on the commodity potato waste (peels) at 3.0 ppm. (PM 16, William Miller, 703–557–2600).

PP 2F2716. Stauffer Chemical Company. Proposes amending 40 CFR 180.221 by increasing the established tolerances for the combined residues of the insecticide *O*-ethyl *S*-phenyl ethylphosphonothioate including its oxygen analog *S*-ethyl *S*-phenyl ethylphosphonodithioate in or on the raw agricultural commodity potatoes from 0.1 ppm to 0.2 ppm. The present 0.1 ppm on root crop vegetables would thus be revised to read root crop vegetables (except potatoes). Proposed analytical method for determining residues is gas-liquid chromatography using a phosphorous-specific detector. (PM 16 William Miller, 703–557–2600).

PP 2E2736. Merck and Company, P.O. Box 2000, Rahway, NJ 07065. Proposes amending 40 CFR 180.242 by establishing tolerances for the residues of the fungicide thiabendazole (2-(4-thiazolyl) benzimidazole) in or on the raw agricultural commodities cantaloupes, at 12.0 ppm, strawberries, at 5.0 ppm, and tomatoes at 0.5 ppm. Proposes analytical method for determining residues is by spectrophotofluorometrical analysis. (PM 21, Henry Jacoby, 703–557–1900).

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136)); (Sec. 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348)))

Dated: September 22, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-26938 Filed 9-28-82; 8:45 am]

BILLING CODE 6560-50-M

[A-8-FRL 2216-8]

Preliminary Approval of Use of Nonguideline Air Quality Model in Specific Pending PSD Permit Actions in North Dakota

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to approve North Dakota's request to use a Nonguideline air quality model in evaluating four specific pending PSD permit applications.

SUMMARY: This notice announces EPA's preliminary determination that a Nonguideline medium-range (50–200 Kilometers) computer dispersion model (MESOPUFF) is appropriate for use by the State of North Dakota in evaluating the air quality impacts of four specific sources proposed for construction under the Prevention of Significant Deterioration provisions of the Clean Air Act. Although the State has provided substantial opportunities for public comment on this Nonguideline model and EPA is not required to provide additional opportunity for comment, EPA has decided, as a matter of policy, to invite additional comment prior to making a final determination.

DATE: Comments due October 29, 1982.

ADDRESSES: Written comments should be addressed (preferably in duplicate) to:

Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295

Copies of the materials submitted by the State are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Bill Bernardo, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837–6131

SUPPLEMENTARY INFORMATION:

Background

The State of North Dakota has adopted regulations for the Prevention of Significant Deterioration of Air Quality (PSD) in accordance with Part C of the Clean Air Act (Act) 42 U.S.C. 7471–7479. North Dakota's PSD permitting program has been approved by EPA and the State Department of Health (Department) has responsibility for acting on PSD permit applications for new major stationary sources and major modification wishing to construct in the State. *See* 40 CFR 52.1829. Although the Department has authority to issue PSD permits, EPA retains the authority and responsibility for approving air quality models used in evaluating PSD permit applications 42 U.S.C. 7475(e)(3)(D) and 7620.

In accordance with Sections 165(e)(3)(D) and 320 of the Act, EPA has specified models to be used in conducting air quality impact analyses for PSD sources. *See* "Guideline on Air Quality Models" (OAQPS 1.2–080, EPA, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, April 1978). If a Guideline model is inappropriate for use in a specific PSD permit action, the Act authorizes modification or substitution of another model. In cases where a State has assumed responsibility for the PSD program, any Nonguideline model must be subject to public comment in accordance with the public participation procedures of the approved State regulations. In addition, written approval of the EPA Administrator must be obtained for any such change. 40 CFR 51.24(l)(1) (iii) and (iv). EPA makes case-by-case decisions regarding Nonguideline model approval and normally issues a decision based on the State permit proceedings record.

The Department has requested EPA approval of a Nonguideline model which has been used to evaluate air quality impacts of four sources proposed for construction and subject to the PSD requirements, including Amoco Production Company, Basin Electric Power Cooperative, The Nokota Company, and Warren Petroleum Company. EPA is today announcing its preliminary determination that the Nonguideline model is appropriate for use by the Department in evaluating the pending PSD applications.

A brief chronology of events leading to this proposed approval of the use of a Nonguideline air quality model in North Dakota follows. The Department, having been delegated the authority to process PSD permit applications in 1977, began evaluating the air quality impacts of proposed new sources and modifications using dispersion models recommended in EPA's "Guideline on Air Quality Models". The principal Guideline model used to predict cummulative multiple source impacts from sources scattered over the State was the RAM-rural (RAMR) Guassian model. RAMR was the best model in the Guideline for use when considering large source-receptor distances even though the EPA stated a maximum useful range for reliable predictions of this model, and all Guassian steady state models, of not greater than 50 km.

In 1978, the Department used RAMR to predict that the 24-hour SO_2 Class I increment at the Theodore Roosevelt National Park (TRNP) South Unit has been consumed by new or modified sources east of the TRNP. New and potential PSD permit applicants, many of whom were farther than 50 km from TRNP, were faced with not receiving permits or demonstrating that emissions from their facility together with emissions from the other already permitted sources would not exceed the PSD increments. Thus, applicants, along with the Department, began searching for and evaluating Nonguideline medium-scale (about 50 to 200 km) transport and dispersion models, of which there are none recommended in the Guideline. These efforts resulted in a total of seven separate medium range (meso-scale) models being proposed for use by potential PSD permit applicants and the Department. Models were received by the Department about the same time that the corresponding PSD permit applications were received from the proposed facilities.

In 1979, the Department began an evaluation of the models following procedures mentioned in the PSD regulation and the Guideline on Air Quality Models. The evaluation consisted primarily of sensitivity studies and use of the "Workbook for Comparison of Air Quality Models", EPA–450/2–78–028b. Results and conclusions from these analyses are contained in "The Selection of a

Computer Modeling Procedure for the Simulation of Mesoscale Ground Level Air Quality Concentrations," North Dakota State Department of Health, June 1981. The Department's completed evaluation of the proposed mesoscale dispersion models was distributed for public comment in July 1981. A public hearing held jointly by EPA, Region VIII and the Department to receive oral and written comment on procedures proposed for use by the Department was convened on September 1–3, 1981. After substantial debate on all of the models and careful consideration of comments received, several suggested changes to the preferred models were made and the Department determined that both the MESOPUFF and Regional Transport Model (RTM) computer dispersion models were most appropriate for use in North Dakota where source receptor distances are greater than 50 km.

Description of Model

MESOPUFF is a dispersion model that tracks a puff of effluent from the source to a downwind receptor. It uses various mechanisms to estimate the decay rate of SO_2. However, MESOPUFF will not determine the products (e.g., acidity, particles) of that decay.

When compared against Gaussian models of the conventional type and the other models proposed for use in North Dakota, MESOPUFF was found to be one of the two most appropriate models. MESOPUFF was found to be appropriate because it operates with a complete meteorological processor, its output more closely corresponds to the plume behavior of EPA recommended models, it received the best ranking in the workbook comparison, it is readily available, and an unbiased third party review by Stanford Research Institute International stated MESOPUFF is the most scientifically sound model for use in North Dakota's situation.

RTM has not been used by the Department to make regulatory decisions because computer programming of changes recommended during the hearing process has not yet been completed.

EPA's Preliminary Determination

At the 1981 State public hearing, EPA stated that it did not intend to make any general determination regarding the appropriateness of any Nonguideline models for use by the State in any PSD permit decision. Rather, EPA indicated that Section 165(e)(3)(D) of the Act authorizes case-by-case approval of Nonguideline models in response to requests related to specific PSD permit actions. On August 27, 1982, the Department requested EPA approval for use of the MESOPUFF model in evaluating the air quality impacts from four proposed PSD sources. The Department has issued public notices of its proposal to grant the pending PSD permit requests and has scheduled public hearings for September 29 through October 6, 1982.

EPA is soliciting public comment on its preliminary determination to approve the Department's request to use the Nonguideline MESOPUFF model in evaluating the air quality impact of the four proposed sources (i.e., Amoco Production Company, Basin Electric Power Cooperative, The Nokota Company, and Warren Petroleum Company) under the PSD provisions of the Act. EPA believes that the Guideline models are not appropriate for use in estimating medium-range transport of pollutants from the proposed sources and, for the same reasons cited by the Department, EPA believes the MESOPUFF model is appropriate for use in evaluating the impacts of the specific proposed sources.

EPA is not required by the Act nor applicable regulations to provide this additional opportunity for public comments in addition to that provided by the State prior to making case-by-case decisions regarding approval of Nonguideline models. In cases, such as here, where the State has been delegated PSD permitting authority, the requirement in Section 165(e)(3)(D) of the Act is satisfied if the State provides for public comment and a hearing on any Nonguideline model in accordance with the applicable State regulations regarding public participation in PSD permit action. See 40 CFR 51.24(l)(1)(iii).

Nonetheless, EPA has decided to invite public comments on its preliminary determination to approve this Nonguideline model for use in evaluating the four pending PSD permit requests. The Nonguideline MESOPUFF model, as modified by the Department for use in determinations such as these, represents a rather innovative approach to modeling medium-range transport of pollutants. In addition, because of the predicted impact of these proposed sources on Class I areas,[1] there has been considerable public interest in the Department's proposed permit decisions and the modeling approach. Therefore, EPA believes it is advisable to provide this opportunity for public comment. Any comments received related to the appropriateness of this Nonguideline model for use in evaluating the air quality impacts of these four, specific, proposed sources will be considered by EPA prior to making a final determination regarding approval of this model for use in each pending PSD permit action. EPA will, of course, also consider any comments or other information received during the scheduled State proceedings on these PSD permit applications.

Any final approval issued by EPA will be limited to use of the Nonguideline model in the specific PSD permit action(s) at issue. EPA's preliminary determination, and any final determination, that this Nonguideline model is appropriate for use in evaluating the air quality impacts of these four proposed sources should in no way be construed as a determination by EPA that this model is appropriate for use in othe regulatory contexts or in any subsequent PSD permit decisions made by the Department. EPA intends to continue to make case-by-case decisions regarding use of this or any Nonguideline model.

This notice is exempt from the requirements of Executive Order 12291.

(Secs. 165 and 301(a)(1) of the Clean Air Act (42 U.S.C. 7475 and 7601(a)(1)))

Dated: September 10, 1982.

Robert C. Dupray,

Acting Regional Administrator.

[FR Doc. 82-26689 Filed 9-28-82; 8:45 am]

BILLING CODE 6560-50-M

[1] The model predicts that the Class I SO_2 increments at Theodore Roosevelt National Park and Lostwood National Wildlife Refuge are currently being exceeded and that exceedances will continue if these sources are constructed. Under Section 164(d)(2)(C) of the Act, these new sources may only be permitted if there will be no adverse impact on air quality related values in the affected Class I areas. The PSD applicants have requested a certification of no adverse impact from the Federal Land Manager. See 47 FR 30222 and 47 FR 37907.

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 82–635, File No. BPCT–820108KE et al.]

Madison Independent Television, Inc. et al.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: September 7, 1982.

Released: September 10, 1982.

In re applications of Madison Independent Television, Inc., Madison, Wisconsin, BC Docket No. 82–635, File No. BPCT–820108KE; Center City Broadcasting, Inc., Madison, Wisconsin, BC Docket No. 82–636, File No. BPCT–820312KG; Channel 47, Inc., Madison, Wisconsin, BC Docket No. 82–637, File No. BPCT–820315KF; tvUSA/Madison, Ltd., Madison, Wisconsin, BC Docket

No. 82-638, File No. BPCT-820315KH; Madison Family Television, Ltd., Madison, Wisconsin, BC Docket No. 82-639, File No. BPCT-820315KL; for construction permit for a new television station.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it: (a) The above-captioned mutually exclusive applications of Madison Independent Television, Inc. (Madison Independent), Center City Broadcating, Inc. (CCB), Channel 47, Inc. (Channel 47), tvUSA/Madison, Ltd. (tvUSA), and Madison Family Television, Ltd., (Madison Family), for a new commercial television station to operate on Channel 47, Madison, Wisconsin; (b) a petition to deny filed by CCB against Channel 47; [1] and (c) related pleadings.

2. Since we have not received determinations from the Federal Aviation Administration that Madison Independent's, CCB's, and Channel 47's proposed tower heights and locations would not constitute a hazard to air navigation, an issue regarding this matter will be specified.

3. Madison Independent proposes to operate from a tower 746 feet above ground. Section 1.1305(a)(2) of the Rules considers a tower in excess of 300 feet above ground to be a major action within the meaning of the National Environmental Policy Act, and § 1.1311 requires the submission of an environmental narrative statement from applicants proposing such major actions. The narrative statement included in Madison Independent's application does not fully address the matters set forth in § 1.1311, e.g., extensive surface feature changes resulting from construction, a complete description of facilities site, communications with local authorities and possible local controversy. Consequently, Madison Independent will be required to submit a complete environmental narrative statement to the Administrative Law Judge within 30 days of the mailing of this Order.

4. TvUSA proposes to operate from a tower 1,072 feet above ground. The tower location proposed by tvUSA is located near four existing television towers ranging in distance from 1.1 to 2.4 miles from the proposed tvUSA site. In its application, tvUSA contends that its proposed tower location is within a "de facto" antenna farm. As a result, tvUSA believes the construction of its tower to be a minor action within the meaning of the National Environmental Policy Act and has not submitted a complete environmental narrative with its application. The tower location proposed by tvUSA does not comply with the Commission's policy regarding "de facto" antenna farms. Accordingly, tvUSA will be required to submit a complete environmental narrative statement to the Administrative Law Judge within 30 days of the mailing of this Order.

[1] Such a petition is, in essence, a pre-designation petition to specify issues. Since such petitions are no longer permitted, they will be dismissed. *Processing of Contested Broadcasting Applications*, 72 FCC 2d 202 (1979). In any event, the petition to deny was, in effect, mooted by a petition for leave to amend filed by Channel 47 which satisfied the questions raised in CCB's petition to deny.

Conclusion and Order

5. The applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, however, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, That the petition to deny filed by Center City Broadcasting, Inc., is dismissed.

7. It is further ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Madison Independent Television, Inc., Center City Broadcasting, Inc., and Channel 47, Inc., whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

9. It is further ordered, That Madison Independent TV, Inc. and tvUSA/Madison, Ltd., shall submit an environmental narrative statement fully addressing the matters set out in § 1.1311 of the Commission's Rules, as supplements to their applications to the Administrative Law Judge, within 30 days of the mailing of this Order.

10. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issue specified in this Order.

11. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-26691 Filed 9-28-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82-641, File No. BPH-810603AG et al.]

Radio Jonesboro, Inc. et. al.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: September 7, 1982.

Released: September 16, 1982.

In re applications of Radio Jonesboro, Inc., Jonesboro, Arkansas, Req: 100.1 MHz Channel 261A, 3 kW (H&V), 225 feet, BC Docket No. 82-641, File No. BPH-810603AG; Becmar Communications, Inc., Jonesboro, Arkansas, Req: 100.1 MHz, Channel 261A, 3 kW (H&V), 300 feet, BC Docket No. 82-642, Filed No. BPH-810624AD; MSB Communications Corp., Jonesboro, Arkansas, Req: 100.1 MHz, Channel 261A, 3 kW (H&V), 300 feet, BC Docket No. 82-643, File No. BPH-811027AC; Larry A. Wood, Jonesboro, Arkansas, Req: 100.1 MHz, Channel 261A, 3 kW (H&V), 300 feet, BC Docket No. 82-644, File No. BPH-811027AE; Whispering Sounds, Inc., Jonesboro, Arkansas, Req: 100.1 MHz, Channel 261A, 3 kW (H&V), 300 feet, BC Docket No. 82-645, File No. BPH-811028AL; Wesley Godfrey, Jr & A.T. Moore d/b/a CLB of Arkansas, Jonesboro, Arkansas, Req: 100.1 MHz, Channel 261A, 3 kW (H&V), 300 feet, BC Docket No. 82-646, File No. BPH-811028AM; Hearing Designation Order.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Radio Jonesboro, Inc., Becmar Communications, Inc. (hereafter

Becmar), MSB Communications Corporation, Larry A. Wood, Whispering Sounds, Inc., and Wesley Godfrey, Jr. and A.T. Moore d/b/a CLB of Arkansas (hereafter CLB) for a new FM broadcast station at Jonesboro, Arkansas.

2. The material submitted in the application does not demonstrate Becmar's financial qualifications. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicant will be given 30 days from the date of mailing of this order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82-378.

3. Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. We have no evidence that Becmar or CLB published the required notice. To remedy this deficiency, they must publish local notice, if they have not already done so, and so inform the presiding Administrative Law Judge.

4. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applicants are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That Becmar Communications, Inc. shall submit a financial certification in the form required by Section III, F.C.C. Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

8. It is further ordered, That Becmar Communications, Inc. and Wesley Godfrey, Jr. and A. T. Moore d/b/a CLB of Arkansas shall inform the presiding Administrative Law Judge as to whether they have complied with the public notice requirements of § 73.3580(f) of the Commission's Rules.

9. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

10. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

Appendix

11. The Commission has not yet received Federal Aviation Administration clearance for the antenna tower proposed by the below listed applicant. Accordingly, it is further ordered, That the following issue is specified:

1. To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower height and location proposed by CLB.

12. It is further Ordered, That the Federal Aviation Administration is made a party to the proceeding with respect to the air hazard issue only.

[FR Doc. 82-26802 Filed 9-28-82; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group Definitions and Rules Subcommittee Meetings

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of meetings of the Telecommunications Industry Advisory Group (TIAG) Definitions and Rules Subcommittee scheduled to meet on Tuesday, October 12, 1982, and Tuesday, October 26, 1982. Both meetings will be open to the public. The October 12th meeting will be held at 9:30 a.m. in the offices of MCI Telecommunications Corporation (1st Floor Meeting Room) at 1133 19th Street, NW., Washington, D.C. The agenda is as follows:

I. General Administrative Matters.
II. Review of Minutes of Previous Meeting.
III. Discussion of Individual Assignments.
IV. Other Business.
V. Presentation of Oral Statements.
VI. Adjournment.

The October 26th meeting will be held at 9:30 a.m. in Suite 1735 at the Ernst & Whinney offices located at 1201 Pacific Avenue, Tacoma, Washington. The agenda is as follows:

I. General Administrative Matters.
II. Review of Minutes of Previous Meeting.
III. Discussion of Individual Assignments.
IV. Other Business.
V. Presentation of Oral Statements.
VI. Adjournment.

With prior approval of Subcommittee Chairman John Utzinger, oral statements, while not favored or encouraged may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Utzinger (203/965-2830) at least five days prior to the meeting date.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-26805 Filed 9-28-82; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group Expense Accounts Subcommittee Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub.

L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's (TIAG) Expense Accounts Subcommittee scheduled to meet on Wednesday, October 13, 1982. The meeting will be held at 9:30 a.m. in Conference Room B, (10th Floor) of the AT&T offices located at 1120 20th Street, NW., Washington, D.C. and will be open to the public. The agenda is as follows:

I. General Administrative Matters.
II. Discussion of Expense Subcommittee Directions.
III. Discussion of Assignments.
IV. Other Business.
V. Presentation of Oral Statements.
VI. Adjournment.

With prior approval of Subcommittee Chairman John Howes, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Howes (212/393–4029) at least five days prior to the meeting date.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82–26666 Filed 9–28–82; 8:45 am]

BILLING CODE 6712–01–M

[CC Docket No. 82–647; File No. 22806–CD–P–(1)–82 etc.]

Westside Communications of Tampa, Inc. and Howard A. Maddox, Inc., d.b.a. Constant Communication; Order Designating Applications for Hearing

Adopted September 15, 1982; Related September 20, 1982.

In re applications of Westside Communications of Tampa, Inc., CC Docket No. 82–647, File No. 22806–CD–P–(1)–82, For a construction permit to add a new location to operate on frequency 158.70 MHz for Station KLF659 in the Domestic Public Land Mobile Radio Service (DPLMRS) at Wauchula, Florida; Howard A Maddox, Inc., d.b.a. Constant Communications CC Docket No. 82–648, File No. 21839–CD–P–(1)–81, For a construction permit for a new station to operate on frequency 158.70 MHz in the DFLMRS at Sebring, Florida, and CC Docket No. 82–649, File No. 23392–CD–P–(02)–62; For a construction permit for a new base station to operate on frequency 158.70 MHz at Wauchula, Florida, and a control station of frequency 72.9 MHz in the DPLMRS AT Sebring, Florida; Designating applications for consolidated hearing on stated issues.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, are the captioned applications of Westside Communications of Tampa, Inc. (Westside) and Howard A. Maddox, Inc., d.b.a. Constant Communications (CC). Westside proposes to add another location for Station KLF659 to operate on frequency 158.70 at Wauchula, Florida. CC proposes to build new stations to operate on frequency 158.70 MHz at Sebring and Wauchula, Florida. CC also proposes to build a control station at Sebring, Florida, to operate on frequency 72.9 MHz.

2. The proposal of Westside and CC to use frequency 158.70 MHz in the same geographical area are electrically mutually exclusive; therefore, a comparative hearing will be held to determine which applicant would better serve the public interest. The CC proposal to construct a control station on frequency 72.9 MHz is not mutually exclusive with any other pending application.

3. We find both applicants to be legally, technically, and otherwise qualified to construct and operate the proposed facilities.

4. Accordingly, it is ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the application of Westside Communications of Tampa, Inc., File No. 22806–CD–P–(1)–82 and the application of Howard A. Maddox, Inc., d.b.a. Constant Communications, File Nos. 21839–CD–P–(1)–81 and 23392–CD–P–(02)–82 to operate on frequency 158.70 MHz are designated for hearing in a consolidated proceeding upon the following issues:

(a) to determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) to determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free area within the 43 dBu contours,[1] based upon the standards set forth in Section 22.504(a) of the Commission's Rules,[2] and to determine and compare the relative demand for the proposed services in said areas; and

(c) to determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, conveience, and necessity.

5. It is further Ordered, that the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

6. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to the proceeding.

7. It is further ordered, that the applicants shall file written notices of appearances under § 1.221 of the Commission's Rules within 20 days of the release date of this Order.

8. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

William F. Adler,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 82–26662 Filed 9–28–82; 8:45 am]

BILLING CODE 6712–01–M

[1] For the purposes of this proceeding, the interference-free area is defined as the area within the 43 dBu contour as calculated from § 22.504, in which the ratio of desired-to-undesired signal is equal to or greater than R in FCC Report No. R–6404, equation B.

[2] Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 43 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in one-way communications service on frequencies in the 150 MHz band. Propagation data set forth in § 22.504(b) are the proper bases for establishing the location of service contours F(50,50) for the facilities involved in this proceeding. (The applicants should consult with the Bureau counsel with the goal of reaching joint technical exhibits.)

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed

agreement. Comments shall discuss with particularly allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T–3685–1.

Filing party: Mr. Richard L. Landes, Deputy City Attorney, Office of the City Attorney of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No. T–3685–1 between the City of Long Beach (Port) and Maersk Line Pacific, Ltd. (Maersk), modifies the basic agreement which provides for the nonexclusive preferential assignment to Maersk of premises at Berths 228–229, Pier G, Long Beach, California, to be used by Maersk for the operation of a marine terminal. Agreement No. T–3685–1 provides for improvements at the premises, primarily the adding of reefer outlets. As compensation, Maersk shall pay to Port for use of the improvements, 126 monthly payments as provided for in the agreement. The agreement shall become effective upon Commission approval, or on January 1, 1983, whichever is later.

Agreement No.: T–4069.

Filing party: Mr. Milton A. Mowat, Manager, Traffic and Regulatory Affairs, Port of Portland, Box 3529, Portland, Oregon 97208.

Summary: Agreement No. T–4069, between the Port of Portland (Port) and Orgeon Terminal Company (OTC), provides that OTC will operate the Port's container freight station at Terminal 6 for a term of 3 years. Port will pay OTC a management fee of $2,000.00 per month and other costs/charges as specified under the labor union contracts which are involved in this arrangement.

Agreement No.: T–4070.

Filing party: Samuel B. Nemirow, Esquire, Hill, Betts & Nash, 1220 Nineteenth Street, N.W., Suite 302, Washington, D.C. 20036.

Summary: Agreement No. T–4070 between the San Francisco Port Commission (Port) and Crescent Wharf and Warehouse Company (Crescent) provides that Crescent will perform terminal operating and cargo solicitation services within Piers 94 and 96 at the Port of San Francisco. The facility will include 4-container gantry cranes and 1-heavy-lift barge crane. Crescent will promote the use of the facility. As compensation the Port shall pay to Crescent 25 percent of the Tariff Revenue collected by the Port in the preceding month during the term of the agreement. If the Tariff Revenue in any year exceeds 3-million dollars, the Port shall also pay to Crecent 25 percent of the excess. The term of the agreement starts the first day of the month following approval by the Commission and shall run for a period of 5 years, with an extension option of an additional 5-year period.

Agreement No.: 8090–23.

Filing party: Robert A Hazel, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 8090–23 amends Article 20 of the basic agreement of the Mediterranean North Pacific Coast Freight Conference for the purpose of incorporating general arbitration procedures to cover disputes which do not fall within the jurisdiction of the Enforcement Authority.

Agreement No.: 8260–23.

Filing party: Robert A. Hazel, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 8260–23 amends the Mediterranean/U.S.A. Great Lakes Westbound Freight Conference by adding a new Article 14 to the basic agreement which requires (1) each member to deposit with the Secretary a bank guarantee in the amount of $10,000 (U.S.) as security for the fulfillment of obligations under the Agreement, and (2) a vote of four-fifths of the members entitled to vote to alter the amount of such guarantee.

Agreement No.: 9938–4.

Filing party: Neal M. Mayer, Esq., Hoppel, Mayer & Coleman, 1000 Connecticut Avenue, N.W., Washington, D.C. 20036.

Summary: Agreement No. 9938–4 amends the basic agreement between Companhia de Navegacao Lloyd Brasileiro and Companhia de Navegacao Maritima Netumar, which authorizes the parties to divide the Brazilian flag portion of any pooling agreements that may exist in the trade between ports of the River Plate and Belem, Brazil, and ports on the East Coast of the United and Canada, and, optionally, Great Lakes ports. The purpose of the amendment is to extend the December 31, 1982 expiration date of the agreement to December 31, 1986.

Agreement No.: 10159–11.

Filing party: Dominick J. Manfredi, Chairman, American West African Freight Conference, 50 Broadway, New York, New York 10004.

Summary: Agreement No. 10159–11 modifies the Lagos/Apapa Berth Services Rationalization Agreement, which permits the member lines to rationalize their berth services at Lagos/Apapa, Nigeria. The purpose of the modification is to increase the amount of the security deposit, strengthen procedures for collection of assessments and to permit the adoption of amendments to the Agreement upon a vote of unanimity less one.

Agreement No.: 10436–1.

Filing party: David F. Anderson, Associate General Counsel, Matson Navigation Company, P.O. Box 3033, San Francisco, California 94119.

Summary: Agreement No. 10436–1 amends the basic transshipment agreement between United States Lines, Inc. and Matson Navigation Company, Inc. to add Panama as a destination for eastbound shipments from Honolulu, Hawaii.

Agreement No.: 10459.

Filing party: John M. Ridlon, Esquire, Sea-Land Industries, Inc., P.O. Box 800, Iselin, N.J. 08830.

Summary: Agreement No. 10459, between Sea-Land Service, Inc. (Sea-Land) and American President Lines, Ltd. (APL), proposes a joint feeder vessel service between Taiwan and the Philippines, in connection with each party's individual transpacific linehaul services. APL will dedicate a vessel for this feeder service that will be modified to suit the needs of both parties, with Sea-Land paying the costs for modifying and subsequent retrofitting. The parties will agree on the scheduling of the feeder vessel, and each will be entitled to 50 percent of its capacity. Sea-Land will pay APL a daily rental per container space, plus 50 percent of certain expenses. The agreement proposes a 5-year term.

By Order of the Federal Maritime Commission.

Dated: September 24, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-26776 Filed 9-28-82; 8:45 am]

BILLING CODE 6730-01-M

Kawasaki Kisen Kaisha, Ltd. and Foss Alaska Line, Inc.; Notice of Cancellation of Agreement

Filing party: L. L. Curtis, District Manager, "K" Line-Kerr Corporation, Seafirst Fifth Avenue Plaza, 800–5th Avenue, Suite 3550, Seattle, Washington 98104.

Summary: On September 3, 1982, the Commission received notice from the agent for "K" Line to cancel Agreement

No. 10124 between Kawasaki Kisen Kaisha, Ltd., and Foss Alaska Line, Inc. Therefore, Agreement No. 10124 has been terminated effective September 3, 1982, the date the notice was received by the Commission.

Dated: September 24, 1982.

Robert G. Drew,

Director, Bureau of Agreements.

[FR Doc. 82-26775 Filed 9-28-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

September 23, 1982.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appears below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3829)

OMB Reviewer—Richard Sheppard—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880).

Request for Implementation of a Temporary Survey To Be Conducted on Two Occasions

1. Report title: Report of Loans to, and Deposits of, U.S. Nonbank Residents at the Non-U.S. Offices of Foreign Banks with U.S. Offices.
Agency form number: FR 3022
Frequency: Twice
Reporters: U.S. branches and agencies of foreign bank families
SIC Code: 605
Small businesses are not affected.
General description of report: approximately 384 responses; approximately 3,840 hours needed to complete the form; average response time of 10 hours; respondent's obligation to reply is voluntary (12 U.S.C. §§ 248(a) and 353 *et seq.*); a pledge of confidentiality is promised; cost to the Federal Government is approximately $7,500; cost to the public is approximately $76,800; 2 forms submitted for approval; the report is not being reviewed under Section 3504(h) of Pub. L. 96-511.

These data will provide an indication of the volume of transactions between U.S. nonbank residents and the non-U.S offices of foreign banks with U.S. offices. This information will be used by the Federal Reserve in interpreting U.S. monetary and credit aggregates.

Board of Governors of the Federal Reserve System, September 23, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26669 Filed 9-28-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-82-662]

San Francisco, Calif.; Designation

AGENCY: Housing and Urban Development Department.

ACTION: Designation of Acting Regional Administrator and Acting Deputy Regional Administrator; Order of Succession.

SUMMARY: The Regional Administrator, Region IX, is updating the designation of officials who may serve as Acting Regional Administrator and Acting Deputy Regional Administrator for the San Francisco Regional Office, Region IX, during the absence, disability or vacancy in the position of the Regional Administrator and Deputy Regional Administrator.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Beverly G. Agee, Regional Counsel, Department of Housing and Urban Development, Region IX, 450 Golden Gate Avenue, Box 36003, San Francisco, California 94102.

Designation of Acting Regional Administrator, Region IX, San Francisco

The officers appointed to the following listed positions in Region IX (San Francisco) are hereby designated to serve as Acting Regional Administrator, Region IX, San Francisco, during the absence, disability or vacancy in the position of the Regional Administrator with all the powers, functions, and duties redelegated or assigned to the Regional Administrator: *Provided,*

That no officer is authorized to serve as Acting Regional Administrator unless all other officers whose title precede his or hers in this designation are unable to act by reason of absence, disability or vacancy in said listed position:

1. Deputy Regional Administrator.
2. Director, Office of Regional Community Planning & Development.
3. Director, Office of Regional Housing.
4. Director, Office of Regional Administration.

Designation of Acting Deputy Regional Administrator, Region IX, San Francisco

The officers appointed to the following listed positions in Region IX (San Francisco) are hereby designated to serve as Acting Deputy Regional Administrator, Region IX, San Francisco, during the absence, disability or vacancy in the position of the Deputy Regional Administrator with all the powers, functions, and duties redelegated or assigned to the Deputy Regional Administrator: *Provided,* That no officer is authorized to serve as Acting Deputy Regional Administrator unless all other officers whose titles precede his or hers in this designation are unable to act by reason of absence,

disability or vacancy in said position. *Provided, further,* That in the absence, disability or vacancy in the position of both the Regional Administrator and Deputy Regional Administrator, if any of the officers listed below are serving as Deputy Regional Administrator by virtue of the designation published concurrently herewith, the next officer in the order listed below shall serve as Acting Deputy Regional Administrator:

1. Director, Office of Regional Community Planning & Development.
2. Director, Office of Regional Housing.
3. Director, Office of Regional Administration.

These designations supersede and cancel the designation of Acting Regional Administrator and Acting Deputy Regional Administrator published on August 18, 1980 (45 FR 54870–71) and effective on June 20, 1980, and any supplemental designations, published or unpublished, that may be in effect prior to the date of this document.

(Delegation effective May 4, 1962, 27 FR 4319; Interim Order II, 31 FR 815, January 21, 1966)

Bill J. Sloan,

Regional Administrator, Region IX, San Francisco.

[FR Doc. 82-26611 Filed 9-28-82; 8:45 am]

BILLING CODE 4210-01-M

Office of the Secretary

[Docket No. N-82-1170]

Submission of Proposed Information Collections to OMB

AGENCY: Housing and Urban Development Department.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposals by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S.Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Oficer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Application for HUD-Insured Mortgages—Verification of Employment, Verification of Deposit
Office: Housing
Form No.: HUD–92900, HUD–92004F, HUD–92004G
Frequency of submission: On Occasion
Affected Public: Individuals or Households Seeking Mortgage Loans
Estimated burden hours: 220,000
Status: Extension
Contact: John Coonts, HUD, (202) 755–6720; Robert Neal, OMB, (202) 395–6880

(Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: September 20, 1962.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Survey of Market Absorption of New Apartment Buildings
Office: Policy Development and Research
Form No.: None
Frequency of submission: Monthly
Affected public: Builders, Managers or Landlords of Residential Apartments
Estimated burden hours: 3,640
Status: Revision
Contact: Connie Casey, HUD, (202) 755–5060; Robert Neal, OMB, (202) 395–6880

(Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: September 20, 1962.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 82-26609 Filed 9-28-82; 8:45 am]

BILLING CODE 4210-01-M

Office of Environment and Energy

[Docket No. NI-102]

Intended Environmental Impact Statement, Puerto Rico

The Department of Housing and Urban Development's Caribbean Area Office, gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for the following project as described in the appendix to this Notice: El Coqui Community, San Juan, Puerto Rico. This notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Each Notice shall be effective for one year. If one year after the publication of a Notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, D.C., September 23, 1982.

Francis G. Haas,

Deputy Director, Office of Environment and Energy.

Appendix

EIS on the El Coqui Community

The Department of Housing and Urban Development's Caribbean Area Office intends to prepare an Environmental Impact Statement on the project described below and solicits information and comments for consideration in the EIS.

Description

The Coqui Project is located on the Cupey Ward, Municipality of San Juan. It is located on State Road No. 176, at km. 4.6. The site is one of the largest tracts of undeveloped land neighboring the highly populated metropolitan area. It represents one of the few areas for growth of San Juan and it falls in the center of the areas classified "Transition Zone" in a 1982 land use plan prepared by the Puerto Rico Planning Board, and approved on March 31, 1982.

The site comprises 377 cuerdas (366,1492 acres) and is characterized by rolling hills with elevations ranging from 40 meters (148 feet) to 130 meters (425 feet) above mean sea level. The project is bounded by the North with Los Guanos Creek, by the South with State Road PR-176 and Las Curias Creek, by the East with State Road PR-176 and a few private farms, and by the West with the Piedras River.

The proposed development consists of 3,500 units and two small supporting commercial facilities utilizing a total of approximately 262 cuerdas. The proposed land use will consist of different types of housing, consisting of condominium clustered garden apartments and row-houses constituting a medium density residential and some areas for single family houses with two small supporting commercial areas. The medium density parcels consist of approximately 143.5 cuerdas divided in tracts of land averaging approximately from 5 to 25 cuerdas, each tract with a proposed density of approximately twenty (20) units per cuerda for a total of 3,140 units. The low density area consists of 90 cuerdas divided in four (4) major tracts of land averaging approximately 20 cuerdas each with a proposed development density of approximately 4 units per cuerda for a total of 360 units.

Need

The Caribbean Area Office determined to prepare an EIS due to the large-scale nature of the project. Estimated date for completion of the Draft EIS is December 15, 1982. A copy of the Draft will be published in Spanish and will be available for inspection at the Caribbean Area Office.

Alternative

Alternatives to be considered are: accept project as proposed, consider changes to size and design and no project.

Scoping

The Caribbean Area Office plans to hold a scoping meeting with concerned Federal Agencies, local agencies and the general public. Responses to this Notice will be used to help determine significant environmental issues, identify agencies, groups, and individuals that will participate in the EIS process. The scoping meeting will be held: 10:00 a.m., October 19, 1982, Room 415-A, Degetau Federal Building, Hato Rey, Puerto Rico.

Comments: All interested parties comments should address the environmental impacts of the proposed project and all such comments will be considered when preparing the Draft and shall become part of the project's environmental file.

These comments should be mailed or delivered to HUD at the following address on or before November 19, 1982. Jose R. Febres-Silva, Area Manager, U.S. Department of Housing and Urban Development, U.S. Courthouse and Federal Building, Carlos Chardon Avenue, Room 428, Hato Rey, Puerto Rico 00918.

[FR Doc. 82-26810 Filed 9-28-82; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-14941-A]

Alaska Native Claims Selection

On November 19, 1974, Stony River Ltd., for the Native village of Stony River, filed selection application F-14941-A, as amended, under the provisions of Section 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1611 (1976) (ANCSA), for the surface estate of certain lands in the vicinity of Stony River.

On April 25, 1977, in accordance with the Title 10, Chapter 05, Secs. 396 and 399 of the Alaska Business Corporation Act, and as authorized by 43 U.S.C. 1627, Georgetown Incorporated, a domestic corporation, merged with Aniak Limited, Chuathbaluk Company, Kipchaughpuk Limited, Lower Kalskag Incorporated, Napamute Limited, Red Devil Incorporated, Sleetmute Limited, Stony River Ltd., and Upper Kalskag Incorporated, all domestic corporations, into Georgetown Incorporated, which consolidated individual village interests into one single constituent corporation whose name was changed to The Kuskokwim Corporation. The surviving corporation, The Kuskokwim Corporation, is entitled to all rights, privileges, and benefits of the Alaska Native Claims Settlement Act.

As to the lands described below, selection application F-14941-A, as amended, is properly filed, and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 64,849 acres, is considered proper for acquisition by The Kuskokwim Corporation (for the village of Stony River) and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA.

Seward Meridian, Alaska (Surveyed)

T. 21 N., R. 38 W.,
- Sec. 3, excluding Native allotment F-16498;
- Secs. 4, 5, 8 and 9;
- Secs. 10 and 16;
- Sec. 17, excluding Native allotment F-16487 Parcel A;
- Secs. 19 and 24, inclusive;
- Sec. 30, excluding Native allotments F-12552 Parcel A and F-16497;
- Sec. 31, excluding Native allotment F-16497.

Containing approximately 8,352 acres.

T. 22 N., R. 38 W.,
- Secs. 16, 21, 22 and 28;
- Secs. 29, 32 and 33;
- Secs. 34 and 35, excluding Native allotment F-12552 Parcel B;
- Sec. 36.

Containing approximately 5,514 acres.

T. 18 N., R. 39 W.,
- Sec. 6;
- Sec. 7, excluding Native allotment F-16489;
- Sec. 8.

Containing approximately 1,437 acres.

T. 19 N., R. 39 W.,
- Sec. 31.

Containing approximately 618 acres.

T. 20 N., R. 39 W.,
- Sec. 2;
- Sec. 3, excluding Native allotment F-16487 Parcel B;
- Sec. 4, excluding Native allotments F-16496 Parcel A and F-17030;
- Secs. 5 to 10, inclusive;
- Sec. 18.

Containing approximately 5,215 acres.

T. 18 N., R. 40 W.,
- Sec. 1.

Containing approximately 570 acres.

T. 19 N., R. 40 W.,
- Secs. 5 and 6, excluding Native allotment F-16490 Parcel B;
- Sec. 7, excluding Native allotment F-16488 Parcel A;
- Secs. 8 and 17;
- Sec. 20, excluding Native allotment F-16492 Parcel C;
- Secs. 27 and 28;
- Sec. 29, excluding Native allotment F-16492 Parcel C;
- Secs. 34, 35 and 36.

Containing approximately 6,708 acres.

T. 20 N., R. 40 W.,
- Secs. 1 to 14, inclusive;

Sec. 15, excluding Native allotment F–029710;
Secs. 16 to 21, inclusive;
Sec. 22, excluding Native allotment F–029710;
Secs. 23 to 28, inclusive;
Secs. 29 and 30, excluding U.S. Survey No. 4490;
Sec. 31, excluding U.S. Survey No. 4309, U.S. Survey No. 4490 and Native allotments F–16490 Parcel B, F–16492 Parcel B and F–029355;
Sec. 32, excluding U.S. Survey No. 4309, U.S. Survey No. 4490 and Native allotments F–16490 Parcel B and F–029355;
Secs. 33 to 36, inclusive.
Containing approximately 20,490 acres.

T. 19 N., R. 41 W.,
Secs. 3 to 8, inclusive;
Sec. 18.
Containing approximately 3,540 acres.

T. 20 N., R. 41 W.,
Secs. 3 and 10;
Secs. 15 to 22, inclusive;
Sec. 25, excluding Native allotment F–16496 Parcel B;
Sec. 26, excluding native allotments F–16494 Parcel B, F–16495, F–17032 and F–029364;
Secs. 27 to 34, inclusive.
Containing approximately 11,407 acres.

T. 19 N., R. 42 W.,
Sec. 13, excluding Native allotment F–16493.
Containing approximately 358 acres.

T. 20 N., R. 42 W.,
Sec. 36.
Containing approximately 640 acres.
Aggregating approximately 64,849 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. The following named water bodies, together with any unnamed water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–14941–EE:

Kuskokwim River
Stony River
Swift River
Tatlawiksuk River
Moose Creek
Stony River Cutoff

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are pending a determination under Sec. 3(e) of ANCSA; or lands were previously rejected by decision. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(f); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14941–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25-Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATV's) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed for a one (1) acre site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 5 C4) A one (1) acre site easement upland of the ordinary high water mark in Sec. 18, T. 20 N., R. 39 W., Seward Meridian, on the left bank of the Kuskokwim River. The uses allowed are those listed above for a one (1) acre site easement.

b. (EIN 5a C4) An easement twenty-five (25) feet in width for a proposed access trail from site EIN 5 C4 on the Kuskokwim River in Sec. 18, T. 20 N., R. 39 W., Seward Meridian, southeasterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

c. (EIN 7 C4) A one (1) acre site easement upland of the ordinary high water mark in Sec. 17, T. 21 N., R. 38 W., Seward Meridian, on the right bank of the Kuskokwim River at the mouth of an unnamed stream. The uses allowed are those listed above for a one (1) acre site easement.

d. (EIN 7a C4) An easement twenty-five (25) feet in width for a proposed access trail from site EIN 7 C4 located in Sec. 17, T. 21 N., R. 38 W., Seward Meridian, westerly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the unsurveyed lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b)(2) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(c), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

The Kuskokwim Corporation (for the village of Stony River) is entitled to conveyance of 69,120 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 64,849 acres. The remaining entitlement of approximately 4,271 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to the Kuskokwim Corporation (for the village

of Stony River), and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native Village shall be subject to the consent of The Kuskokwim Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Drums.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 29, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

The Kuskokwim Corporation, 429 D Street, Suite 307, Anchorage, Alaska 99501.

Calista Corportion, 516 Denali Street, Anchorage, Alaska 99501.

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7-005, Anchorage, Alaska 99510.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-26786 Filed 9-28-82; 8:45 am]

BILLING CODE 4310-84-M

[F-19328-A, F-19328-B]

Alaska Native Claims Selection

On December 3, 1974, and December 9, 1974, Evansville, Inc., for the Native village of Evansville (Bettles Field), filed selection applications F-19328-A and F-19328-B, respectively, under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), as amended, for the surface estate of certain lands in the vicinity of Evansville.

The Native village of Evansville was not listed in Sec. 11(b)(1) of ANCSA. However, on July 20, 1972, Public Land Order 5242 withdrew T. 24 N., Rs. 19 and 20 W.; T. 25 N., Rs. 16 through 19 W.; and T. 26 N., Rs. 17 through 19 W., Fairbanks Meridian, pending determination of eligibility.

On July 23, 1973, the village filed an application for determination of eligibility as an unlisted village, naming T. 24 N., R. 18 W., Fairbanks Meridian, as the location of the village. This filing constitutes a withdrawal for the remaining lands in the vicinity of Evansville pursuant to Departmental regulation 43 CFR 2651.2.

On November 25, 1974, a Certificate of Eligibility was issued certifying the Native village of Bettles Field (Evansville) eligible for land benefits pursuant to Sec. 11(b)(3) of ANCSA.

As to the lands described below, the applications are properly filed and meet the requirements of ANCSA, as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 65,208 acres, is considered proper for acquisition by Evansville, Inc., and is hereby approved for conveyance pursuant to sec. 14(a) of ANCSA.

Fairbanks Meridian, Alaska (Surveyed)

R. 24 N., R. 17 W.
Secs. 25 to 36, inclusive.
Containing 7,595.04 acres.

T. 25 N., R. 17 W.
Secs. 1 to 5, inclusive;
Sec. 7, excluding Native allotment F-16325;
Secs. 8, 9, 10, and 16;
Secs. 17 and 18, excluding Native allotment F-16325;
Secs. 19, 20, 29, and 30.
Containing approximately 9,469 acres.

T. 24 N., R. 18 W.
Secs. 1 to 6 inclusive;
Secs. 7 and 8, excluding Quitclaim Deed dated June 1, 1966;
Secs. 9 to 16, inclusive;
Sec. 17, excluding Alaska Native Claims Settlement Act Sec. 3(e) application F-80210, and Quitclaim Deed dated June 1, 1966;
Sec. 18, excluding Alaska Native Claims Settlement Act Sec. 3(e) applications F-80211 and F-80210, and Quitclaim Deed dated June 1, 1966;
Sec. 19, excluding Alaska Native Claims Settlement Act Sec. 3(e) application F-80211;
Secs. 20 to 36, inclusive.
Containing approximately 21,533 acres.

T. 25 N., R. 18 W.
Secs. 12, 13, and 19;
Secs. 23 to 26, inclusive;
Sec. 27, excluding Native allotment F-17746 Parcel A;
Secs. 30 to 33, inclusive;
Sec. 34, excluding Native allotment F-17746 Parcel A;
Secs. 35 and 36.
Containing approximately 6,946 acres.

T. 24 N., R. 19 W.
Secs. 1 to 4, inclusive;
Secs. 9 to 15, inclusive;
Sec. 16, excluding Native allotments F-17648 and F-14352;
Sec. 17, excluding Native allotment F-14352;
Secs. 18 and 19;
Secs. 20 and 21, excluding Native allotment F-14352;
Secs. 22 and 23;
Sec. 24, excluding Alaska Native Claims Settlement Act Sec. 3(e) application F-80211;
Secs. 28 to 33, inclusive.
Containing approximately 15,105 acres.

T. 23 N., R. 20 W.
Secs. 1 and 12.
Containing 1,280 acres.

T. 24 N., R. 20 W.
Secs. 13 and 24.
Containing 1,280 acres.
Aggregating approximately 65,208 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the

ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–19328–EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for the following reasons: Lands are no longer under Federal jurisdiction, land are under applications pending further adjudication, or lands are pending a determination under Sec. 3(e) of ANCSA. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States.

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)), as amended; and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–19328–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail —The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATV's) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail —The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snow-mobile, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, and four-wheel drive vehicles.

One Acre Site —The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 1 C3, C5, D9, L) An easement fifty (50) feet in width for an existing access trail from Evansville in Sec. 8, T. 24 N., R. 18 W., Fairbanks Meridian, northwesterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement, except vehicles over 3,000 lbs. gross vehicle weight will be limited to winter use only.

b. (EIN 2 C1, C5, D9) An easement twenty-five (25) feet in width for an existing and proposed access trail from Evansville in Sec. 8, T. 24 N., R. 18 W., Fairbanks Meridian, southwesterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. Vehicle use will be limited to winter only.

c. (EIN 4 C3, C5, L) An easement fifty (50) feet in width for an existing access trail from Evansville in Sec. 8, T. 24 N., R. 18 W., Fairbanks Meridian, southeasterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

d. (EIN 6 C3, C5, L) An easement twenty-five (25) feet in width for a proposed access trail from Sec. 36, T. 24 N., R. 19 W., Fairanks Meridian, southeasterly to public lands in Sec. 6, T. 23 N., R. 18 W., Fairbanks Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 19 C5, D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 10, T. 24 N., R. 19 W., Fairbanks Meridian, at the confluence of the John River and Koyukuk River, on the right bank of the Koyukuk River and the right bank of the John River. The uses allowed are those listed above for a one (1) acre site.

f. (EIN 37 C5) An easement twenty-five (25) feet in width for a proposed access trail from trail EIN 4 C3, C5, L in Sec. 29, T. 24 N., R. 17 W., Fairbanks Meridian, southwesterly to public lands. The uses allowed are those lister above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), as amended, that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

A special use permit, YF–5–82, was issued to U.S. Geological Survey by U.S. Fish and Wildlife Service authorizing the use of helicopters within the Kanuti National Wildlife Refuge. As this permit expires October 1, 1982, this conveyance document will not be made subject to the permit.

Evansville, Inc., is entitled to conveyance of 69,120 acres of land selected pursuant to Sec. 12(a) of ANCSA, as amended. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 65,208 acres. The remaining entitlement of approximately 3,912 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Doyon, Limited, when the surface estate is conveyed to Evansville, Inc., and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop, or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village of Evansville shall be subject to the consent of Evansville, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43, Code of Federal Regulations (CFR), Part 4,

Subpart E, as revised. However, pursuant to Public Law 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 29, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Evansville, Inc., Evansville, Alaska 99725
Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701
State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-26707 Filed 9-28-82; 8:45 am]
BILLING CODE 4310-84-M

[F–14863–A, F–14863–B]

Alaska Native Claims Selection

On October 1, 1974, and December 16, 1974, Hee-yea-lingde Corporation filed selection applications F–14863–A and F–14863–B, respectively, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANSCA), as amended, for the surface estate of certain lands in the vicinity of Grayling.

As to the lands described below, the applications are properly filed and meet the requirements of ANSCA, as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 84,112 acres, is considered proper for acquisition by Hee-yea-lingde Corporation, and is hereby approved for conveyance pursuant to Sec. 14(a) of ANSCA.

U.S. Survey No. 4258, Alaska, situated on the right bank of the Yukon River approximately one mile south of Grayling, Alaska.
Containing 40.21 acres.

Kateel River Meridian, Alaska (Surveyed)

T. 29 S., R. 6 W.
Sec. 2.
Containing 562.16 acres.
T. 29 S., R. 7 W.
Secs. 3 to 6, inclusive.
Containing 2,249.38 acres.

Seward Meridian, Alaska (Surveyed)

T. 34 N., R. 55 W.
Sec. 31.
Containing 595.43 acres.
T. 33 N., R. 56 W.
Secs. 1 to 5, inclusive;
Sec. 6, excluding Native allotments F–15478 Parcel B, F–027928, Parcel B, F–15476 Parcel D, and F–14996 Parcel B;
Secs. 13, 14, and 15;
Sec. 16, excluding Native allotment F–13004;
Secs. 21 to 28, inclusive;
Secs. 32 to 36, inclusive.
Containing approximately 14,184 acres.
T. 34 N., R. 56 W.
Sec. 31, excluding Native allotment F–15478 Parcel B;
Secs. 32 to 36, inclusive.
Containing approximately 2,868 acres.
T. 32 N., R. 57 W.
Secs. 1 to 36, inclusive.
Containing approximately 21,701 acres.
T. 33 N., R. 57 W.
Sec. 1, excluding Native allotment F–14996 Parcel B;
Secs. 2 to 7, inclusive;
Sec. 8, excluding Native allotment F–13862;
Secs. 9 to 21, inclusive;
Secs. 22 and 23, excluding U.S. Survey No. 6588 and Native allotments, F–548 and F–385 Parcel B;
Secs. 24 and 25;
Sec. 26, excluding U.S. Survey No. 6588 and native allotments F–548 and F–385 Parcel A;
Sec. 27, excluding U.S. Survey No. 5384, U.S. Survey No. 6588, U.S. Survey No. 4226, and Native allotments F–548, F–027929 Parcel B, and F–385 Parcel A;
Sec. 28, excluding Native allotments F–14996 Parcel A and F–13863 Parcel B;
Secs. 29 to 33, inclusive;
Sec. 34, excluding U.S. Survey No. 4226, U.S. Survey No. 4268 (Alaska Native Claims Settlement Act Sec. 3(e) application AA–18103), and Native allotments F–030465 and F–15279 Parcel B;
Secs. 35 and 36.
Containing approximately 20,466 acres.
T. 34 N., R. 57 W.
Secs. 34, 35, and 36.
Containing 1,821.12 acres.
T. 32 N., R. 58 W.
Sec. 1, excluding U.S. Survey No. 4122, U.S. Survey No. 4258, U.S. Survey No. 4226, and Native allotments F–15279 Parcel B and F–030465;
Secs. 2 to 34, inclusive;
Secs. 35 and 36, excluding U.S. Survey No. 6609 (Native allotment F–15789 Parcel B).
Containing approximately 19,825 acres.
Aggregating approximately 84,072 acres.
Total aggregated acreage, approximately 84,112 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–14863–EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; or lands are pending a determination under Sec. 3(e) of ANCSA. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above

shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)), as amended; and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14863–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

a. (EIN 8 D1) An easement, twenty-five (25) feet in width, for an existing access trail from Grayling in Sec. 34, T. 33 N., R. 57 W., and Sec. 1, T. 32 N., R. 58 W., Seward Meridian, southeasterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

b. (EIN 34a C5) An easement, twenty-five (25) feet in width, for a proposed access trail from H Street at the north townsite boundary of Grayling in Sec. 27, T. 33 N., R. 57 W., Seward Meridian, westerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement,and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Airport Lease, F–998, located in U.S. Survey No. 4258, within T. 32 N., R. 58 W., Seward Meridian, Alaska, issued to the State of Alaska, Division of Aviation, under the provisions of the act of May 24, 1928 (49 U.S.C. 211–214), as amended; and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), as amended, that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Hee-yea-lingde Corporation is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 84,112 acres. The remaining entitlement of approximately 8,048 acres will be conveyed at a later date.

Pursuant of Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Doyon, Limited when the surface estate is conveyed to Hee-yea-lingde Corporation, and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop, or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village of Grayling shall be subject to the consent of Hee-yea-lingde Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office; Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 20 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 29, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 702 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Hee-yea-lingde Corporation, Grayling, Alaska 99590

Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-26790 Filed 9-28-82; 8:45 am]

BILLING CODE 4310-84-M

[F–14897–A, F–14897–B, and F–14897–C]

Alaska Native Claims Selection

On October 8, 1974, and December 4, 1974, Seth-de-ya-ah Corporation filed selection applications F–14897–A, F–14897–B, and F–14897–C, all as amended, under the provision of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611) (1976) (ANCSA) as amended for the surface estate of certain lands in the vicinity of Minto.

As to the lands described below, the village selection applications, as amended, are properly filed and meet

the requirements of ANCSA, as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, as amended, aggregating approximately 108,398 acres, is considered proper for acquisition by Seth-de-ya-ah Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA.

U.S. Survey No. 4450B, Alaska, located on the north shore of an unnamed lake on Minto Flats approximately 21 miles north of Minto, Alaska, that portion lying within protracted Sec. 8, T. 4 N., R. 8 W., Fairbanks Meridian.

Containing approximately 20 acres.

U.S. Survey No. 4451A, Alaska, located on the left bank of the Tolovana River approximately 12 miles northwest of Minto, Alaska, that portion lying within protracted Secs. 26 and 27, T. 3 N., R. 9 W., Fairbanks Meridian.

Containing approximately 76 acres.

U.S. Survey No. 5606, Alaska, located on the north shore of an island in an unnamed lake at the northern limits of Minto Flats approximately 21 miles north of Minto, Alaska.

Containing 0.29 acres.

Aggregating approximately 96 acres.

Fairbanks Meridian, Alaska (Surveyed)

T. 3 N., R. 7 W.

Those portions of Tract A more particularly described as (protracted):
Secs. 4 to 7, inclusive;
Secs. 8 and 9, excluding Native allotment F-027064;
Sec. 17, excluding Native allotments F-17168 Parcel A and F-027064;
Sec. 18;
Sec. 19, excluding U.S. Survey No. 4137A (Native allotment F-027069 Parcel 1) and Native allotment F-027119 Parcel D;
Sec. 20, excluding U.S. Survey No. 4137A (Native allotment F-027069 Parcel 1) and Native allotment F-16277 Parcel B.

Containing approximately 5,853 acres.

T. 3 N., R. 8 W.

Those portions of surveyed township more particularly described as (protracted):
Sec. 2;
Sec. 3, excluding Native allotment F-15471 Parcel A;
Sec. 4;
Secs. 11, 12, 13, and 24.

Containing approximately 4,300 acres.

T. 4 N., R. 8 W.

Those portions of Tract A more particularly described as (protracted):
Sec. 7;
Sec. 8, excluding U.S. Survey No. 4450B and U.S. Survey No. 5606;
Sec. 9;
Sec. 10, excluding U.S. Survey No. 4455C;
Secs. 17 to 21, inclusive;
Secs. 28, 29, and 32;
Secs. 33 and 34, excluding Native allotment F-15471 Parcel A.

Containing approximately 7,363 acres.

T. 3 N., R. 9 W.

Those portions of Tract A more particularly described as (protracted):
Sec. 2, excluding U.S. Survey No. 4460A (Native allotment F-034705 Tract 1);
Sec. 3, excluding Native allotment F-18786;
Sec. 4, excluding Native allotments F-027062 Parcel C, F-027122 Parcel D, and F-18786;
Secs. 5 and 6;
Sec. 7, excluding Native allotment F-13524;
Sec. 8;
Sec. 9, excluding U.S. Survey No. 4467B (Native allotment F-034712 Parcel B);
Sec. 10;
Sec. 11, excluding U.S. Survey No. 4220B (Native allotment F-027062 Parcel B) and U.S. Survey No. 4449A;
Sec. 12, excluding U.S. Survey No. 4220B (Native allotment F-027062 Parcel B);
Sec. 13, excluding U.S. Survey No. 4220B (Native allotment F-027062 Parcel B) and U.S. Survey No. 4455B;
Sec. 14, excluding U.S. Survey No. 4220B (Native allotment F-027062 Parcel B), U.S. Survey No. 4455B, U.S. Survey No. 4449A, and U.S. Survey No. 4449B;
Secs. 15 to 20, inclusive;
Sec. 21, excluding U.S. Survey No. 4462A (Native allotment F-034707 Tract 1);
Sec. 22, excluding U.S. Survey No. 4454 (Native allotment F-034696 Parcel 1) and U.S. Survey No. 4462A (Native allotment F-034707 Tract 1);
Sec. 23, excluding U.S. Survey No. 4454 (Native allotment F-034696 Parcel 1);
Sec. 24;
Sec. 26, excluding U.S. Survey No. 4451A;
Sec. 27, excluding U.S. Survey No. 4451A, U.S. Survey No. 4454 (Native allotment F-034696 Parcel 1), and U.S. Survey No. 4462A (Native allotment F-034707 Tract 1);
Sec. 28, excluding U.S. Survey No. 4462A (Native allotment F-034707 Tract 1);
Sec. 29;
Sec. 30, excluding U.S. Survey No. 4453C and U.S. Survey No. 4457B (Native allotment F-034702 Tract 2);
Secs. 31 and 32.

Containing approximately 17,458 acres.

T. 4 N., R. 9 W.

Tract A, excluding:
U.S. Survey No. 4220A (Native allotment F-027062 Parcel 1), U.S. Survey No. 4444A (Native allotment F-027061 Parcel A), U.S. Survey No. 4455D, U.S. Survey No. 4469, U.S. Survey No. 5014, and Native allotments F-034697 Parcel D, F-034714 Parcel A and Tract 2, F-14538, F-16317 and F-18786.

Containing approximately 20,035 acres.

T. 5 N., R. 9 W.

Those portions of surveyed township more particularly described as (protracted):
Secs. 19 and 30

Containing approximately 1,272 acres.

T. 3 N., R. 10 W.

Those portions of Tract A more particularly described as (protracted):
Sec. 11, excluding U.S. Survey No. 4462B (Native allotment F-034707 Parcel 2);
Sec. 12, excluding U.S. Survey No. 4184, U.S. Survey No. 4462B (Native allotment F-034707 Parcel 2), and Native allotments F-13524 and F-027066;
Secs. 13 and 14.

Containing approximately 2,315 acres.

T. 4 N., R. 10 W.

Those portions of surveyed township more particularly described as (protracted):
Sec. 2;
Secs. 11 to 14, inclusive;
Sec. 24.

Containing approximately 3,840 acres.

Fairbanks Meridian, Alaska (Unsurveyed)

T. 6 N., R. 7 W.
Secs. 1 to 4, inclusive;
Secs. 9 to 16, inclusive;
Sec. 17, excluding those lands within Material Site right-of-way F-025506;
Secs. 18 to 24, inclusive;
Secs. 27, 28, and 29;
Sec. 30, excluding those lands within Material Site right-of-way F-025509;
Secs. 31 to 34, inclusive.

Containing approximately 17,836 acres.

T. 6 N., R. 9 W.
Secs. 1 to 36, inclusive.

Containing approximately 22,926 acres.

T. 5 N., R. 10 W.
Sec. 25;
Sec. 26, excluding those lands within Material Site right-of-way F-025521;
Secs. 31 and 32, excluding those lands within Material Site right-of-way F-025524;
Sec. 33, excluding those lands within Material Site right-of-way F-025522;
Sec. 34;
Sec. 35, excluding those lands within Material Site right-of-way F-025521;
Sec. 36.

Containing approximately 5,104 acres.

Aggregating approximately 108,302 acres.

Total aggregated acreage, approximately 108,398 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F-14897-ER.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be non-navigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for the following reasons: Lands are no longer under Federal jurisdiction, lands are under

applications pending further adjudication, or lands are within material site rights-of-way that have not had a validity determination made on them. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)), as amended; and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement map attached to this document, a copy of which will be found in case file F–14897–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, and four-wheel drive vehicles.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed for a one (1) acre site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 21 D1, L) An easement sixty (60) feet in width for an existing road from the Elliott Highway beginning in Sec. 6, T. 5 N., R. 8 W., Fairbanks Meridian, northerly, then westerly to public land and resources. The uses allowed are those listed for a sixty (60) foot wide road easement.

b. (EIN 21a C4, C5, E) An easement fifty (50) feet in width for a proposed access trail from road easement EIN 21 D1, L in Sec. 1, T. 6 N., R. 9 W., Fairbanks Meridian, northerly to public land and resources. The uses allowed are those listed for a fifty (50) foot wide trail easement.

c. (EIN 21f C4) A one (1) acre site easement adjacent to road easement EIN 21 D1, L in Sec. 1, T. 6 N., R. 9 W., Fairbanks Meridian. The uses allowed are those listed for a one (1) acre site.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat, or supplemental plat, of survey confirming the boundary description and acreage of lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6 (g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), as amended, that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section;

4. Airport lease, F–21416, located in protracted Secs. 22, 27, and 28, T. 4 N., R. 9 W., Fairbanks Meridian, issued to the State of Alaska, Department of Transportation and Public Facilities, under the provisions of the act of May 24, 1928, as amended (49 U.S.C. 211–214);

5. A right-of-way, F–19404, located in protracted Secs. 18, 19, 20, 21, 27, and 28, T. 4 N., R. 9 W., Fairbanks Meridian; protracted Secs. 2, 11, 13, and 14, T. 4 N., R. 10 W., Fairbanks Meridian; and Secs. 35 and 36, T. 5 N., R. 10 W., Fairbanks Meridian, for a Federal Aid Highway. Act of August 27, 1958 (23 U.S.C. 317); and

6. Any right-of-way interest in the Elliott Highway (FAS Route No. 680) transferred to the State of Alaska by the quitclaim deed dated June 30, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Public Law 86–70 (73 Stat. 141) as to Secs. 2, 9, 10, 11, 16, 17, 19, 20, and 30, T. 6 N., R. 7 W.; protracted Sec. 19, T. 5 N., R. 9 W. and Secs. 25, 26, 31, 32, 33, 34, and 35, T. 5 N., R. 10 W., Fairbanks Meridian.

School site lease, F–24226, as amended, located within U.S. Survey No. 4469, U.S. Survey No. 4455D, and protracted Secs. 22 and 27, T. 4 N., R. 9 W., Fairbanks Meridian, Alaska, was granted to the State of Alaska, pursuant to and subject to the terms and conditions of Sec. 302 of the Federal Land Policy and Management Act of 1976, Pub. L. 94–579 of October 21, 1976 (90 Stat. 2743) and the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. Sec. 1622(i)). According to the terms of the lease, it is to terminate upon conveyance of title of said lands out of United States ownership. That portion of the lease outside of U.S. Survey No. 4469 and U.S. Survey No. 4455D will terminate upon conveyance of those lands approved for conveyance in this decision.

Seth-de-ya-ah Corporation is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 108,398 acres. The remaining entitlement of approximately 6,802 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Doyon, Limited when the surface estate is conveyed to Seth-de-ya-ah Corporation, and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop, or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village of Minto shall be subject to the consent of Seth-de-ya-ah Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land

Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 29, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510
Seth-de-ya-ah Corporation, P.O. Box 849, Fairbanks, Alaska 99701
Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-26769 Filed 9-28-82; 8:45 am]
BILLING CODE 4310-84-M

[F-14880-A]

Alaska Native Claims Selection

On November 18, 1974, Georgetown Incorporated, for the Native village of Georgetown, filed selection application F–14880–A, as amended, under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1611 (1976) (ANCSA), for the surface estate of certain lands in the vicinity of Georgetown.

On April 25, 1977, in accordance with Title 10, Chapter 05, Secs. 396 and 399 of the Alaska Business Corporation Act, and as authorized by 43 U.S.C. 1627, Georgetown Incorporated, a domestic corporation, merged with Aniak Limited, Chuathbaluk Company, Kipchaughpuk Limited, Lower Kalskag Incorporated, Napamute Limited, Red Devil Incorporated, Sleetmute Limited, Stony River Ltd., amd Upper Kalskag Incorporated, all domestic corporations, into Georgetown Incorporated, which consolidated individual village interests into one single constituent corporation whose name was changed to The Kuskokwim Corporation. The surviving corporation, The Kuskokwim Corporation, is entitled to all rights, privileges, and benefits of the Alaska Native Claims Settlement Act.

As to the lands described below, selection application F–14880–A, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 62,128 acres, is considered proper for acquisition by The Kuskokwim Corporation (for the village of Georgetown) and is hereby approved for conveyance pursuant to Sec. 14(a) of ANSA:

Seward Meridian, Alaska (Surveyed)

T. 22 N., R. 44 W.,
Secs. 5, 6 and 7;
Sec. 18, excluding Native allotment F–18017;
Sec. 19.
Containing approximately 3,048 acres.
T. 23 N., R. 44 W.,
Sec. 31.
Containing approximately 617 acres.
T. 22 N., R. 45 W.,
Secs. 1 to 12, inclusive;
Sec. 13, excluding Native allotment F–18017;
Sec. 14, excluding Native allotment F–991 Parcel B;
Secs. 15 to 22, inclusive;
Sec. 23, excluding Native allotment F–991 Parcel B;
Sec. 24.
Containing approximately 15,123 acres.
T. 23 N., R. 45 W.,
Secs. 20 and 21;
Secs. 28 to 33, inclusive.
Containing approximately 5,073 acres.
T. 20 N., R. 46 W.,
Secs. 2, 3 and 4;
Secs. 7 to 10, inclusive;
Sec. 11, excluding Native allotment F–13973 Parcel B;
Secs. 12, 13 and 14;
Secs. 17, 19 and 20;
Sec. 24.
Containing approximately 8,575 acres.
T. 21 N., R. 46 W.,
Secs. 1, 2 and 3;
Secs. 5 to 20, inclusive;
Sec. 21, excluding Native allotment F–9876;
Sec. 22, excluding Native allotment F–14566 Parcel A;
Secs. 23 to 36, inclusive.
Containing approximately 20,770 acres.
T. 22 N., R. 46 W.,
Secs. 1;
Secs. 12 to 16, inclusive;
Secs. 31, 32 and 34.
Containing approximately 5,662 acres.
T. 23 N., R. 46 W.,
Sec. 36.
Containing approximately 640 acres.
T. 21 N., R. 47 W.,
Secs. 23 to 27, inclusive.
Containing approximately 2,620 acres.
Aggregating approximately 62,128 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. The following named water bodies, together with any unnamed water bodies, are identified on the attached navigability maps, the original of which will be found in easement case file F–14880–EE.

Kuskokwim River
George River
East Fork George River

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are pending a determination under Sec. 3(e) of ANCSA; or lands were previously rejected by decision.

Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for

conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(f); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14880–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATVs) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all terrain vehicles, track vehicles and four-wheel drive vehicles.

One Acre Site—The uses allowed on a one (1) acre site easement are: vehicle parking (e.g., aircraft, boats, ATVs, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 3 C3) An easement fifty (50) feet in width for an existing access trail from public land in Sec. 25, T. 22 N., R. 45 W., Seward Meridian, northwesterly along the South Fork George River, thence northeasterly paralleling the East Fork George River to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

b. (EIN 4 D1) A one (1) acre site easement upland of the ordinary high water mark in Sec. 26, T. 21 N., R. 46 W., Seward Meridian, on the right bank of the Kuskokwim River at the mouth of California Creek. The uses allowed are those listed above for a one (1) acre site easement.

c. (EIN 4a D1) An easement twenty-five (25) feet in width for a proposed access trail from site EIN 4 in Sec. 26, T. 21 N., R. 46 W., Seward Meridian, northeasterly, paralleling the left bank of California Creek to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

d. (EIN 7 C4) A one (1) acre site easement upland of the ordinary high water mark in Sec. 10, T. 20 N., R. 46 W., Seward Meridian, on the left bank of the Kuskokwim River. The uses allowed are those listed above for a one (1) acre site easement.

e. (EIN 7a C4) An easement fifty (50) feet in width for a proposed access trail from site EIN 7 C4 in Sec. 10, T. 20 N., R. 46 W., Seward Meridian, southwesterly to public land. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

f. (EIN 10 C4) Rangel BillA one (1) acre site easement, upland of the ordinary high water mark, in Sec. 20, T. 21 N., R. 46 W., Seward Meridian, on the right bank of the Kuskokwim River at the mouth of Steamboat Creek. The uses allowed are those listed above for a one (1) acre site easement.

g. (EIN 10a C4) An easement twenty-five (25) feet in width for a proposed access trail from site EIN 10 C4 located in Sec. 20, T. 21 N., R. 46 W., Seward Meridian, on the Kuskokwim River, northwesterly, paralleling Steamboat Creek to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

h. (EIN 11 C4) A one (1) acre site easement upland of the ordinary high water mark, in Sec. 1, T. 22 N., R. 46 W., Seward Meridian, on the right bank of the George River. The uses allowed are those listed above for a one (1) acre site easement.

i. (EIN 11a C4) An easement twenty-five (25) feet in width for a proposed access trail from site EIN 11 in Sec. 1, T. 22 N., R. 46 W., Seward Meridian, northwesterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by anly lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b)(2) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(c), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

The Kuskokwim Corporation (for the village of Georgetown) is entitled to conveyance of 69,120 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 62,128 acres. The remaining entitlement of approximately 6,992 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to The Kuskokwim Corporation (for the village of Georgetown), and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native Village shall be subject to the consent of The Kuskokwim Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in The Tundra Drums.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances, (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 29, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If the appeal is taken, the parties to be served with a copy of the notice of appeal are:

The Kuskokwim Corporation, 429 D Street, Suite 307, Anchorage, Alaska 99501

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-26770 Filed 9-28-82; 8:45 am]

BILLING CODE 4310-84-M

[F-19155-13]

Alaska Native Claims Selection

On April 2, 1975, Doyon, Limited, filed selection application F-19155-13, as amended, under the provisions of Sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611(c) (1976)) (ANCSA), as amended, for the surface and subsurface estates of certain lands withdrawn pursuant to Sec. 11(a) for the Native village of Evansville.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of ANCSA, as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 12(c) of ANCSA, as amended, aggregating approximately 100,875 acres, are considered proper for acquisition by Doyon, Limited, and are hereby approved for conveyance pursuant to Sec. 14(e) of ANCSA.

Fairbanks Meridian, Alaska (Surveyed)

T. 26 N., R. 16 W.
Secs. 1 to 36, inclusive.
Containing approximately 21,979 acres.

T. 26 N., R. 17 W.
Secs. 1 to 25, inclusive;
Secs. 26 and 27, excluding Native allotment F-14353;
Secs. 28 to 33, inclusive;
Secs. 34 and 35, excluding Native allotment F-14355;
Sec. 36.
Containing approximately 22,528 acres.

T. 25 N., R. 17 W.
Sec. 6;
Secs. 11 to 15, inclusive;
Secs. 21 to 28, inclusive;
Secs. 31 to 36, inclusive;
Containing 12,706.40 acres.

T. 22 N., R. 18 W.
Secs. 1 to 36, inclusive.
Containing approximately 22,665 acres.

T. 26 N., R. 18 W.
Secs. 1 to 36, inclusive.
Containing approximately 22,658 acres.

T. 23 N., R. 19 W.
Secs. 1 to 18, inclusive;
Sec. 19, excluding Native allotment F-17950;
Secs. 20 to 36, inclusive.
Containing approximately 21,750 acres.

T. 25 N., R. 19 W.
Secs. 1 to 23, inclusive;
Sec. 24, excluding Native allotment F-17746 Parcel B;
Secs. 25 to 36 inclusive.
Containing approximately 22,091 acres.

T. 22 N., R. 20 W.
Secs. 1 to 36, inclusive.
Containing 22,919.28 acres.

T. 24 N., R. 20 W.
Secs. 1 to 12, inclusive;
Secs. 14 to 23, inclusive;
Secs. 25 to 36, inclusive.
Containing 21,478.24 acres.
Aggregating approximately 100,875 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identifed on the attached navigability maps, the original of which will be found in easement case file F-21779-13.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be non-navigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for the following reason: Lands are under applications pending further adjudication. These exclusions do not constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservation to the United States:

Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616 (b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-21779-13, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATV's) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, and four-wheel drive vehicles.

One Acre Site—The uses allowed for a one (1) acre site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 1 C3, C5, D3, L) An easement fifty (50) feet in width for an existing access trail from Evansville in Sec. 8, T. 24 N., R. 16 W., Fairbanks Meridian, northwesterly to public lands. The uses

allowed are those listed above for a fifty (50) foot wide trail easement, except vehicles over 3,000 lbs. gross vehicle weight will be limited to winter use only.

b. (EIN 2 C1, C5, D9) An easement twenty-five (25) feet in width for an existing and proposed access trail from Evansville in Sec. 8, T. 24 N., R. 18 W., Fairbanks Meridian, southwesterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. Vehicle use will be limited to winter only.

c. (EIN 4 C3, C5, L) An easement fifty (5) feet in width for an existing access trail from Evansville in Sec. 8, T. 24 N., R. 18 W., Fairbanks Meridian, southeasterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

d. (EIN 9 L) An easement twenty-five (25) feet in width for a proposed access trail from site easement EIN 9a C4 on the John River in Sec. 34, T. 25 N., R. 19 W., Fairbanks Meridian, southerly to isolated public land in Secs. 5, 6, 7, and 8, T. 24 N., R. 19 W., Fairbanks Meridian; thence northwesterly to isolated public land in T. 25 N., R. 20 W., Fairbanks Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 9a C4) An easement for a one (1) acre site easement upland of the ordinary high water mark in Sec. 34, T. 25 N., R. 19 W., Fairbanks Meridian, on the right bank of the John River. The uses allowed are those listed above for a one (1) acre site easement.

f. (EIN 22 C5) An easement twenty-five (25) feet in width for a proposed access trail from public lands in Sec. 6, T. 22 N., R. 19 W., Fairbanks Meridian, northwesterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

g. (EIN 23 C5) An easement twenty-five (25) feet in width for a proposed access trail from public lands in Sec. 1, T. 22 N., R. 19 W., Fairbanks Meridian, northeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

h. (EIN 34 C5) An easement fifty (50) feet in width for a proposed access trail from trail EIN 1 C3, C5, D9, L in Sec. 6, T. 25 N., R. 18 W., Fairbanks Meridian, northwesterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted; and

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

A special use permit, YF–5–82, was issued to U.S. Geological Survey by the U.S. Fish and Wildlife Service authorizing the use of helicopters within the Kanuti National Wildlife Refuge. As this permit expires October 1, 1982, this conveyance document will not be made subject to the permit.

To date, approximately 4,230,348 acres of land, selected pursuant to Sec. 12(c) of ANCSA, as amended, have been approved for conveyance to Doyon, Limited.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 29, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Mangement, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the requlations governing such appeals. Further information on the manner of and requirement for filing an appeal may be obtained from the Bureau Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510

Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–26771 Filed 9–28–82 8:45 am]

BILLING CODE 4310–84–M

[F–14888–A]

Alaska Native Claims Selection

On November 18, 1974, Lower Kalskag, Incorporated, for the Native village of Lower Kalskag, filed selection application F–14888–A, as amended, under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1611 (1976) (ANCSA), for the surface estate of certain lands in the vicinity of Lower Kalskag, Alaska.

Lower Kalskag, Incorporated in application F–14888–A excluded several bodies of water. Because certain of those water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn by Sec. 11(a)(1) of ANCSA and available for selection by the village pursuant to Sec. 12(a) of ANCSA. Section 12(a) and 43 CFR 2651.4 (b) and (c) provide that a village corporation must, to the extent necessary to obtain its entitlement, select all available lands

within the township or townships within which the village is located, and that additional lands selection shall be compact and *in Whole Sections*. The regulations also provide that the area selected will not be considered to be reasonably compact if it excludes other lands available for selection within its exterior boundaries. For these reasons, the water bodies which were improperly excluded in application F–14888–A are considered selected by Lower Kalskag, Incorporated.

On April 25, 1977, in accordance with Title 10, Chapter 05, Secs. 396 and 399 of the Alaska Business Corporation Act, and as authorized by 43 U.S.C. 1627, Georgetown Inc., a domestic corporation, merged with Aniak Limited, Chuathbaluk Company, Kipchaughpuk Limited, Lower Kalskag Incorporated, Napamute Limited, Red Devil Incorporated, Sleetmute Limited, Stony River Ltd., and Upper Kalskag, Incorporated, all domestic corporations, into Georgetown Incorporated, which consolidated individual village interests into one single constituent corporation whose name was changed to The Kuskokwim Corporation. The surviving corporation, The Kuskokwim Corporation, is entitled to all rights, privileges, and benefits of the Alaska Native Claims Settlement Act.

As to the lands described below, selection application F–14888–A, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 84,596 acres, is considered proper for acquisition by The Kuskokwim Corporation (for the village of Lower Kalskag), and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska (Surveyed)

T. 14 N., R. 61 W.
Secs. 1 and 2;
Sec. 11, excluding Native allotments F–15679 and F–15680;
Sec. 12, excluding Native allotment F–15680;
Secs. 13 and 14;
Sec. 23, excluding Native allotment F–17303 Parcel A;
Sec. 24.
Containing approximately 4,915 acres.

T. 15 N., R. 61 W.
Sec. 1, excluding Native allotments F–17005 and F–17228 Parcel C;
Secs. 2 to 6, inclusive;
Secs. 11 and 12;
Sec. 13, excluding Native allotment F–16650;
Secs. 14 and 23;
Sec. 24, excluding Native allotment F–16650;
Secs. 25, 26, 35 and 36.
Containing approximately 10,009 acres.

T. 16 N., R. 61 W.
Secs. 30 to 36, inclusive.
Containing approximately 4,413 acres.

T. 16 N., R. 62 W.
Sec. 1;
Sec. 2, excluding U.S. Survey No. 4409 (ANCSA Sec. 3(e) application AA–44542), U.S. Survey No. 4414, Native allotments F–029263 and F–16349;
Sec. 3, excluding U.S. Survey No. 4409 (ANCSA Sec. 3(e) application AA–44552), U.S. Survey No. 4414, and Native allotment F–029309;
Sec. 4, excluding Native allotment F–17376;
Secs. 5 and 6;
Secs. 7 and 8, excluding Native allotments F–16350, F–17003 Parcel A, and F–17283 Parcel B;
Sec. 9;
Sec. 10, excluding Native allotment F–16019 Parcel B and F–16536 Parcel A;
Sec. 11, excluding Native allotments F–029259 Parcel B, F–16349, F–17004 Parcel A, and F–17380 Parcel B;
Secs. 12 to 14, inclusive;
Sec. 15, excluding Native allotments F–16533 Parcel A, F–16536 Parcel A, F–16538 Parcel A, and F–17001 Parcel A;
Sec. 16, excluding Native allotments F–9546 Parcel B and F–16533 Parcel A;
Sec. 17, excluding Native allotments F–16350 and F–16353;
Sec. 18, excluding Native allotments F–16350 and F–17283 Parcel B;
Sec. 19, excluding Native allotment F–16537 Parcel B;
Sec. 20, excluding Native allotments F–16537 Parcel B and F–17379 Parcel A;
Secs. 21 to 28, inclusive;
Sec. 29, excluding Native allotment F–17379 Parcel A;
Secs. 30 and 31, excluding Native allotment F–17384 Parcel B;
Secs. 32 to 36, inclusive.
Containing approximately 17,791 acres.

T. 14 N., R. 63 W.
Sec. 4;
Sec. 5, excluding Native allotment F–17372;
Secs. 6 to 9, inclusive;
Secs. 16 to 20, inclusive;
Sec. 21, excluding Native allotment F–17228 Parcel B.
Containing approximately 5,775 acres.

T. 15 N., R. 63 W.
Sec. 1;
Sec. 2, excluding Native allotments F–16352 Parcel A and F–17228 Parcel A;
Sec. 3, excluding Native allotments F–16534 Parcel A and F–17226 Parcel A;
Secs. 4 to 7, inclusive;
Secs. 8 and 9, excluding Native allotment F–17226 Parcel B;
Secs. 16 to 21, inclusive;
Secs. 28 to 31, inclusive;
Sec. 32 excluding Native allotment F–17372;
Sec. 33.
Containing approximately 10,514 acres.

T. 16 N., R. 63 W.
Secs. 1 and 2;
Sec. 3 and 4, excluding Native allotment F–16536 Parcel B;
Secs. 9 to 16, inclusive;
Secs. 20 to 24, inclusive;
Sec. 25, excluding Native allotment F–16535 Parcel B;
Sec. 26, excluding Native allotment F–17503 Parcel A;
Secs. 27 to 33, inclusive;
Sec. 34, excluding Native allotments F–16534 Parcel A and F–17226 Parcel A;
Sec. 35;
Sec. 36, excluding Native allotment F–16535 Parcel B;
Containing approximately 16,753 acres.

T. 15 N., R. 64 W.
Secs. 1, 12 and 13;
Secs. 24, 25 and 36.
Containing approximately 3,525 acres.

T. 16 N., R. 64 W.
Secs. 25 and 36.
Containing approximately 1,280 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 14 N., R. 60 W.
Sec. 7;
Sec. 8, excluding Native allotment F–17001 Parcel B;
Sec. 9;
Secs. 16 to 21 inclusive.
Containing approximately 5,340 acres.

T.15 N., R. 60 W.
Sec. 3, excluding Native allotments F–029275 Parcel D and F–015996;
Sec 4, excluding Native allotments F–015996, F–16534, Parcel B, F–16854 and F–17003 Parcel B;
Sec. 5, excluding Native allotment F–16022 Parcel A;
Sec. 6, excluding Native allotment F–15845 Parcel B.
Containing approximately 1,884 acres.

T. 16 N., R. 60 W.
Sec. 31, excluding Native allotment F–15652;
Secs. 32, 33, and 34, inclusive.
Containing approximately 2,397 acres.
Aggregating approximately 84,596 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. The following named water bodies, together with any unnamed water bodies, are identified on the attached navigability maps, the original of which will be found in case file F–14888–EE.

The Kuskikwim River
Mud Creek
Whitefish Lake
Israthorak Creek

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are pending a determination under Sec. 3(e) of ANCSA; or lands were previously rejected by decision. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so states.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 6113(f); and

Pursuant to Sec. 17(b) of the Alaska Native Claims Setlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14888–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

(EIN 7 D9) An easement twenty-five (25) in width for an existing access trail from the village of Aniak southwesterly to the village of Tuluksak. The uses allowed are those listed for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat, or supplemental plat, of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b)(2) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as in now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(c), that the grantee hereunder convey those portions, if any, of the lands herinabove granted, as are prescribed in said section.

The Kuskokwim Corporation (for the village of Lower Kalskag) is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 84,596 acres. The remaining entitlement of approximately 7,564 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to The Kuskokwim Corporation, (for the village of Lower Kalskag), and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native Village shall be subject to the consent of The Kuskokwim Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in The Tundra Drums

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage,Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 29, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

The Kuskokwim Corporation, 429 D Street, Room 307, Anchorage, Alaska 99501

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-26771 Filed 9-28-82; 8:45 am]

BILLING CODE 4310-84-M

[F-14926-A]

Alaska Native Claims Selection

On November 18, 1974, the Chuathbaluk Company, for the Native village of Russian Mission (Kuskokwim), filed selection application F-14926-A, as amended, under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1611 (1976) (ANCSA), for the surface estate of certain lands in the vicinity of Russian Mission.

On April 25, 1977, in accordance with Title 10, Chapter 05, Secs. 396 and 399 of the Alaska Business Corporation Act, and as authorized by 43 U.S.C. 1627, Georgetown, Incorporated, a domestic corporation, merged with Aniak Limited, Chuathbaluk Company, Kipchaughpuk Limited, Lower Kalskag Incorporated, Napamute Limited, Red Devil Incorporated, Sleetmute Limited, Stony River Ltd., and Upper Kalskag Incorporated, all domestic corporations, into Georgetown Incorporated, and formed a new corporation which consolidated individual village interests into one single constituent corporation whose name was changed to The Kuskokwim Corporation. The surviving corporation, The Kuskokwim Corporation, is entitled to all rights, privileges, and benefits of the Alaska Native Claims Settlement Act.

As to the lands described below, selection application F-14926-A, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA aggregating approximately 81,656 acres, is considered proper for acquisition by The Kuskokwim Corporation (for the village of Russian Mission), and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA.

Seward Meridian, Alaska (Unsurveyed)

T. 18 N., R. 53 W.
Secs. 5, 8, 17 and 19;
Secs. 20, 30 and 31.
Containing approximately 4,440 acres.

T. 19 N., R. 53 W.
Secs. 21, 28, 32 and 33.
Containing approximately 2,560 acres.

T. 17 N., R. 54 W.
Secs. 2 and 3, excluding Native allotment F-17814;
Secs. 4, 5 and 6;
Sec. 7, excluding Native allotment F-16090;
Secs. 8 to 12, inclusive;
Secs. 14 to 19, inclusive;
Sec. 21.
Containing approximately 9,542 acres.

T. 18 N., R. 54 W.
Secs. 4 to 9, inclusive;
Secs. 17 to 20, inclusive;
Secs. 24 to 35, inclusive.
Containing approximately 13,963 acres.

T. 19 N., R. 54 W.
Secs. 31, 32 and 33.
Containing approximately 1,696 acres.

T. 17 N., 55 W.
Secs. 1 to 7 inclusive;
Sec. 8, excluding U.S. Survey No. 6450 and Native allotment F-16088.
Sec. 9, excluding U.S. Survey No. 872 U.S. Survey No. 6450, and Native allotment F-16088;
Sec. 10, excluding U.S. Survey No. 872;
Sec. 11, excluding Native allotment F-029275 Parcel C;
Secs. 12 and 13, excluding Native allotment F-16087;
Sec. 14, excluding Native allotment F-029275 Parcel C;
Sec. 15, excluding U.S. Survey No. 872, U.S. Survey No. 6435, and Native allotment F-15668;
Sec. 16, excluding U.S. Survey No. 872, U.S. Survey No. 6435, U.S. Survey No. 6450, Native allotments F-16088 and F-15668;
Sec. 17, excluding U.S. Survey No. 6450 and Native allotment F-16088;
Sec. 18 to 36, inclusive.
Containing approximately 20,305 acres.

T. 18 N., R. 55 W.
Secs. 1, 2, 6 and 7;
Secs. 11 to 36, inclusive.
Containing approximately 19,103 acres.

T. 19 N., R. 55 W.
Secs. 6, 7, 18 and 19;
Secs. 30, 31, 34 and 35.
Containing approximately 4,960 acres.

T. 17 N., R. 56 W.
Sec. 1, excluding Native allotment F-16089;
Sec. 2, excluding Native allotment F-18203;
Secs. 11 and 12.
Containing approximately 1,745 acres.

T. 18 N., R. 56 W.
Sec. 24, 25 and 26;
Sec. 35, excluding Native allotment F-18203;
Sec. 36.
Containing approximately 3,120 acres.
Aggregating approximately 81,656 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce.

The following named water bodies, together with any unnamed water bodies, are identified on the attached navigability maps, the original of which will be found in case file F-14926-EE:

Kuskokwim River
Owhat River
Doestock Creek

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are pending a determination under Sec. 3(e) of ANCSA; or lands were previously rejected by decision. Lands within U.S. surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(f); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b), the following public easements referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14926-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation.

The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed on a one (1) acre site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

a. (EIN 2b C4, C5) An easement twenty-five (25) feet in width for a

proposed access trail from public land in Sec. 8, T. 18 N., R. 55 W., Seward Meridian, westerly to public land in Sec. 12, T. 18 N., R. 56 W., Seward Meridian. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

b. (EIN 10 C4, C5) An easement twenty-five (25) feet in width for a proposed access trail from public land in Sec. 29, T. 18 N., R. 53 W., Seward Meridian, northwesterly along Suter Creek to public land in Sec. 18, T. 18 N., R. 53 W., Seward Meridian. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

c. (EIN 11 C4 C5) A one (1) acre site easement upland of the ordinary high water mark in the NW¼, Sec. 16, T. 17 N., R. 54 W., Seward Meridian, on the left bank of the Kuskokwim River. The uses allowed are those listed for a one (1) acre site easement.

d. (EIN 11a C4, C5) An easement twenty-five (25) feet in width for a proposed access trail from site EIN 11 C4, C5 in the NW¼, Sec. 16, T. 17 N., R. 54 W., Seward Meridian, southeasterly to public land. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the unsurveyed lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b)(2) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Airport lease, AA–8094 Tracts I and II, containing approximately 107 acres, located in Secs. 3, 4 and 10, T. 17 N., R. 55 W., Seward Meridian, Alaska, issued to the State of Alaska, Department of Transportation and Public Facilities, under the provisions of the Act of May 24, 1928 (45 Stat. 728–729; 49 U.S.C. 211–214); and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(c), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

The Kuskokwim Corporation (for the village of Russian Mission) is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is 81,656 acres. The remaining entitlement of approximately 10,504 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to The Kuskokwim Corporation (for the village of Russian Mission), and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village shall be subject to the consent of The Kuskokwim Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in The Tundra Drums.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final adminstrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 29, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

The Kuskokwim Corporation, 429 D Street, Suite 307, Anchorage, Alaska 99501

Calista Corporation, 416 Denali Street, Anchorage, Alaska 99501

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–26773 Filed 9–28–82 8:45 am]

BILLING CODE 4310–84–M

[F–19155–4]

Alaska Native Claims Selection

On April 2, 1975, Doyon, Limited, filed selection application F–19155–4, as amended, under the provisions of sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611(c) (1976)) (ANCSA), as amended, for the surface and subsurface estates of certain lands withdrawn pursuant to Sec. 11(a)(1) for the Native village of Birch Creek. The application excluded the following water bodies as being navigable:

Chloya Lake in Secs. 12, 13, and 24, T. 16 N., R. 8 E., Fairbanks Meridian;

Hat Lie Lake in Secs. 14, 15, 22, 23, 26, and 27 T. 16 N., R. 10 E., Fairbanks Meridian;

Unnamed lakes in Secs. 18, 19, 29, and 30, T. 16 N., R. 10 E., Fairbanks Meridian.

As these are considered nonnavigable and as Sec. 12(c)(3) of ANCSA and Departmental regulation 43 CFR

2652.3(c) require the region to select all available lands within the townships, the beds of these water bodies are considered selected.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of ANCSA, as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leadings to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 12(c) of ANCSA, as amended, aggregrating approximately 201,748 acres, are considered proper for acquisition by Doyon, Limited, and are hereby approved for conveyance pursuant to Sec. 14(e) of ANCSA, as amended:

Fairbanks Meridian, Alaska (Unsurveyed)

T. 17 N., R. 7 E.
Sec. 1;
Sec. 2, excluding Native allotment F–12114 Parcel A;
Sec. 3, excluding Native allotment F–035044 Parcel C;
Sec. 4;
Sec. 5, excluding Native allotment F–035044 Parcel D;
Secs. 6 and 7;
Sec. 8, excluding Native allotment F–035044 Parcel D
Sec. 9;
Sec. 10, excluding Native allotment F–12114 Parcel B;
Sec. 11, excluding Native allotment F–12114 Parcels A and B;
Secs. 12 to 24, inclusive;
Secs. 25, and 26, excluding Native allotment F–18824;
Secs. 27 to 34, inclusive;
Secs. 35, and 36, excluding Native allotment F–18824.
Containing approximately 21,856 acres.

T. 19 N., R. 7 E.
Sec. 1;
Sec. 2, excluding Native allotment F–13446 Parcel A;
Secs. 3 to 36, inclusive.
Containing approximately 22,588 acres.

T. 16 N., R. 8 E.
Secs. 1, excluding Native allotment F–14716 Parcel C, F–17740 Parcel C, and F–14720;
Sec. 2 to 11, inclusive;
Sec. 12, excluding Native allotments F–14811 Parcel B and F–14720;
Sec. 13, excluding Native allotment F–14776 Parcel C;
Secs. 14 to 20, inclusive;
Sec. 21, excluding Native allotments F–14716 Parcel A, F–14776 Parcel A, and F–17740 Parcel A;
Sec. 22, excluding Native allotment F–14716 Parcel A;
Secs. 23 to 26, inclusive;
Sec. 27, excluding Native allotment F–17752;
Secs. 28 to 36, inclusive.
Containing approximately 21,582 acres.

T. 18 N., R. 8 E.
Secs. 1 to 36, inclusive.
Containing approximately 22,677 acres.

T. 15 N., R. 9 E.
Secs. 1 to 36, inclusive.
Containing approximately 22, 845 acres.

T. 16 N., R. 10 E.
Secs. 1 to 25, inclusive;
Sec. 26, excluding Native allotment F–16839;
Sec. 27, excluding Native allotment F–16038;
Secs. 28 and 29;
Sec. 30, excluding Native allotments F–12003 Parcel B and F–14728;
Sec. 31, excluding Native allotment F–14728;
Secs. 32 to 36, inclusive.
Containing approximately 22,247 acres.

T. 18 N., R. 10 E.
Secs. 1 to 7, inclusive;
Sec. 8, excluding Native allotments F–13706 and F–13076;
Sec. 9, excluding Native allotment F–13705;
Secs. 10 to 15, inclusive;
Secs. 16 and 17, excluding Native allotments F–13705 and F–14776 Parcel B;
Secs. 18 to 36, inclusive.
Containing approximately 22,477 acres.

T. 15 N., R. 11 E.
Secs. 1 to 4, inclusive;
Sec. 5, excluding Native allotment F–12001 Parcel B;
Secs. 6 to 36, inclusive.
Containing approximately 22,775 acres.

T. 17 N., R. 11 E.
Secs. 1 to 28, inclusive;
Sec. 29, excluding Native allotment F–15500 Parcel B;
Secs. 30 to 36, inclusive.
Containing approximately 22,701 acres.
Aggregating approximately 201,748 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–21779–4.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded because they are under applications pending further adjudication. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservation to the United States:

Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–21779–4, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATV's) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed for a one (1) acre site easement are: vehicle parking (e.g., aircraft, boats, ATV's snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

a. (EIN 4 C5, M) A one (1) acre site easement upland of the ordinary high water mark on the right bank of Lower Mouth Birch Creek, in Sec. 12, T. 17 N., R. 7 E., Fairbanks Meridian. The uses allowed are those listed above for a one (1) acre site.

b. (EIN 8 C5) A one (1) acre site easement upland of the ordinary high water mark on the right bank of Upper Mouth Birch Creek, in Secs. 4 and 5, T. 18 N., R. 8 E., Fairbanks Meridian. The uses allowed are those listed above for a one (1) acre site.

c. (EIN 14 C5, M) A one (1) acre site easement upland of the ordinary high water mark on the right bank of Beaver Creek, in Sec. 24, T. 17 N., R. 7 E., Fairbanks Meridian. The uses allowed are those listed above for a one (1) acre site.

d. (EIN 21 M) An easement for an existing access trail twenty-five (25) feet in width from the north townsite boundary of Birch Creek in Secs. 27 and 28, T. 17 N., R. 9 E., Fairbanks Meridian, northerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 22 C5) An easement for a proposed access trail twenty-five (25) feet in width from trail EIN 3 C3, C5, D1, D9 in Sec. 35, T. 19 N., R. 10 E.,

Fairbanks Meridian, easterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

f. (EIN 34 E) An easement for a proposed access trail twenty-five (25) feet in width from public lands in Sec. 1, T. 15 N., R. 10 E., Fairbanks Meridian, northeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

g. (EIN 35 E) An easement for a proposed access trail twenty-five (25) feet in width from public lands in Sec. 6, T. 18 N., R. 9 E., Fairbanks Meridian, northwesterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

h. (EIN 36 E) An easement for a proposed access trail twenty-five (25) feet in width from public lands in Sec. 31, T. 18 N., R. 9 E., Fairbanks Meridian, southwesterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

i. (EIN 37 E) An easement for a proposed access trail twenty-five (25) feet in width from public lands in Sec. 1, T. 17 N., R. 10 E., Fairbanks Meridian, northeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

j. (EIN 38 C5) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 4 C5, M on the right bank of Lower Mouth Birch Creek in Sec. 12, T. 17 N., R. 7 E., Fairbanks Meridian, northerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

k. (EIN 39 E) An easement for a proposed access trail twenty-five (25) feet in width from public lands in Sec. 36, T. 18 N., R. 11 E., Fairbanks Meridian, southeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted; and

2. Valid exisiting rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

To date, approximately 4,432,096 acres of land, selected pursuant to Sec. 12(c) of ANCSA, as amended, have been approved for conveyance to Doyon, Limited.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 29, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Managment, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is:

Doyon, Limited, Land Department,
Doyon Building, 201 First Avenue,
Fairbanks, Alaska 99701

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-26774 Filed 9-28-82; 8:45 am]
BILLING CODE 4310-84-M

Susanville District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 94–579 (FLPMA) that a meeting of the Susanville District Grazing Advisory Board will be held on November 9 and 10, 1982.

The meeting will begin at 9:00 a.m. at the Ravendale Fire Station of the Bureau of Land Management, Ravendale, California. The meeting will include a 2-day tour of the Cal-Neva Planning Unit with an evening meeting which will include the following items:

1. Accounting of Wild Hourse Adoption Fee Money
2. Wilderness Update
3. BLM/FS Boundary Adjustment
4. Challis Stewardship Meeting
5. Public Lands Council Meeting
6. Unauthorized Grazing Use
7. Secret Witness Program
8. Privatation Report
9. Massacre Mtn/High Rock Allotment Update.

The evening meeting is open to the public. Interested persons may make oral statements to the Board between 6:00 p.m. and 7:00 p.m. on November 9th, or file a written statement for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 1090, Susanville, California 96130–1090, by November 1, 1982. Depending upon the number of persons wishing to make oral statements, a per person list limit may be established.

Summary minutes of the Board Meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: September 21, 1982.

Ben F. Collins,

Acting District Manager.

[FR Doc. 82-26001 Filed 9-28-82; 8:45 am]

BILLING CODE 4310-84-M

[ES 30660, Survey Group 167]

Florida; Filing of Plat of Survey

1. On January 28, 1981, the plat representing the dependent resurvey of a portion of the subdivisional lines designed to restore the corners in their true original locations; a reestablishment of a portion of the record meander line; an extension survey to include lands omitted from the original survey in Sections 15, 22 and 27; and the survey of the meanders of a portion of East Bay, Pine Island and Little Pine Island, T. 5 S., R. 12 W., Tallahassee Meridian, Florida, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m. on December 28, 1982.

The lots shown below describe the lands omitted from the original survey.

Tallahassee Meridian, Florida

T. 5 S., R. 12 W.,
Sec. 15, Lot 1;
Sec. 22, Lots 5, 6, 7, 8, 9, 10, 11, and 12;
Sec. 27, Lots 8 and 9.

2. The character of the lands described above is similar in all respects to that of the adjacent surveyed and patented lands. The terrain in the area of the omitted lands is nearly level, ranging from 1 to 10 feet above sea level. The drainage in this area is fair to poor depending upon the elevation of the land. Timber consists of slash pine, cabbage palmetto, live oak, yaupon, cedar, and bay. Undergrowth consists of Spanish bayonet, sea myrtle, cabbage palmetto, scrub oak, and vines, with native grasses in the open areas. Many old stumps were found on the omitted lands. The soil is primarily sand and sandy loam with a mixture of shell.

3. The lands described above were found to be over 50 percent upland in character with the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). They are, therefore, held to be public land.

4. All inquiries relating to these lands should be sent to the Chief, Division of Lands and Minerals Operations, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 (90 days from date of publication).

Jeff O. Holdren,

Chief, Division of Lands and Minerals Operations.

[FR Doc. 82-26004 Filed 9-28-82; 8:45 am]

BILLING CODE 4310-84-M

Intent To Prepare an Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Department of the Interior, Bureau of Land Management, Ukiah District Office, California, is giving notice that a joint environmental impact statement and environmental impact report will be prepared by Engineering-Science of Berkeley, California, for the Homestake Mining Company's McLaughlin Gold Mine Project.

FOR FURTHER INFORMATION CONTACT: William L. Larramendy, Clear Lake Resource Area Manager, Bureau of Land Management, Ukiah District Office, P.O. Box 940, 555 Leslie Street, Ukiah, California 954832, telephone (707) 462-3873.

SUPPLEMENTARY INFORMATION: In accordance with 43 CFR Part 3809, Homestake Mining Company submitted a Plan of Operations on September 1, 1982, for a gold mine on private and public lands near Knoxville, California. The plan involves an open pit mine, milling facility, tailings pond, waste rock disposal area, slurry pipelines, utility corridors, and roadways.

It has been determined that an environmental impact statement is necessary to comply with the National Environmental Policy Act (NEPA) and that an environmental impact report is necessary to comply with the California Environmental Quality Act (CEQA). The counties of Lake, Napa, and Yolo and the Bureau of Land Management have selected Engineering-Science of Berkeley to prepare the joint EIS/EIR for the McLaughlin Project. Napa County is the lead agency for CEQA and the BLM is the lead for NEPA.

Approximately 20 regulatory agencies have been notified of the project and have participated in the analysis of the baseline data prepared by D'Appolonia Consulting Engineers, Inc. Some of the more critical issues that have been identified are water quality degradation, impacts to public services, and impacts to existing uses of the land. Additional scoping meetings will be held to further identify issues and alternatives to the various facets of the project. Dates and times of the meetings will be published in local newspapers and sent to interested individuals. Those with comments or those who want to be placed on a mailing list should contact the Ukiah District Office, the planning departments of the various counties, or Project Coordinator James Goodfellow, 1195 Third Street, Room 210, Napa, California 94558, telephone (707) 253-4416.

Dated: September 21, 1982.

Van W. Manning,

District Manager.

[FR Doc. 82-26006 Filed 9-28-82; 8:45 am]

BILLING CODE 4310-84-M

Wind Energy Resource Competitive Rights-of-Way Sale, San Gorgonio Pass, Riverside County, Calif.

Notice is hereby given that Windfarms, Ltd., is not a qualified bidder for the Whitewater Floodplain 14 parcel identified in the Notice of Wind Energy Resource Competitive Rights-of-Way Sale published in the September 10, 1982 edition of the **Federal Register**.

For further information, contract Walt Holmes at the California State Office, Division of Operations, Room E-2805, 2800 Cottage Way, Sacramento, California 95825 or call (916) 484-4431.

Dated: September 21, 1982.

Ron Hofman,

Acting State Director, Bureau of Land Management.

[FR Doc. 82-26003 Filed 9-28-82; 8:45 am]

BILLING CODE 4310-84-M

[N-36739, et al]

Nevada; Notice of Realty Action; Sale of Public Land

September 20, 1982.

Public Law 96-586, enacted December 23, 1980, authorizes and directs the sale of certain public lands in and around Las Vegas, Nevada. The following described lands have been determined to be suitable for sale utilizing competitive procedures, at not less than fair market value:

Parcel No.	Legal description	Acres
	T. 21 S., R. 60 E., MDM	
	Section 4	
82-139	Lot 13	5.83
82-140	Lots 22, 23, and 35	15.86
82-141	Lot 39	5.26
82-142	Lot 57	5.19
82-143	Lots 69 and 70	10.61
82-144	Lot 84	5.18

Parcel No.	Legal description	Acres
82-145	Lots 87 and 88	10.37
82-146	Lot 90	5.21
82-147	Lot 92	5.29
82-148	Lot 93	5.24
82-149	Lot 95	5.26
	Section 13	
82-150	NW¼NW¼NE¼NW¼, NE¼NE¼NW¼NW¼	5.0
82-151	NE¼NW¼NW¼NW¼	2.5
82-152	W½SW¼SW¼NW¼, NW¼NW¼NW¼SW¼	7.5
	Section 14	
82-153	W½SE¼NE¼SW¼	5.0
82-154	W½NE¼SE¼SW¼	5.0
	Section 24	
82-155	W½W½NE¼NW¼, E½NE¼NW¼NW¼	15.0
82-156	W½NE¼SW¼NW¼, NW¼SW¼NW¼, W½SW¼SW¼NW¼	20.0
	Section 25	
82-157	E½SW¼SE¼SE¼, W½SE¼SE¼SE¼	10.0
	T. 21 S., R. 61 E., MDM	
	Section 19	
82-158	E½NE¼NW¼	5.0
82-159	NW¼NW¼NE¼NW¼	2.5
82-160	NE¼SE¼SW¼NW¼	2.5
	Section 30	
82-161	E½NW¼NW¼NE¼	5.0
82-162	N½SW¼NW¼NE¼	5.0
	T. 22 S., R. 61 E., MDM	
	Section 4	
82-163	Lot 48	2.5
	Section 5	
82-164	Lot 133	2.5
	T. 21 S., R. 61 E., MDM	
	Section 36	
82-165	E½NW¼NE¼NW¼	1.25
82-166	E½SW¼NW¼NE¼NW¼	1.25
82-167	E½NE¼SW¼NE¼NW¼	1.25
82-168	W½NE¼SW¼NE¼NW¼	1.25
82-169	E½NW¼SW¼NE¼NW¼	1.25
82-170	E½SE¼SW¼NE¼NW¼	1.25
82-171	W½SW¼SE¼NE¼NW¼	1.25
	T. 21 S., R. 62 E., MDM	
	Section 29	
82-172	W½SW¼SW¼	20.0
82-173	E½SW¼SE¼SW¼, W½SE¼SE¼SW¼	10.0
Total acres		227.99

Parcel numbers coincide with the last two digits of Bureau assigned serial numbers N–36739 through N–36773; Parcel 82–1(39) is N–367(39), Parcel 82–173 is N–36773.

These parcels, situated in the sourthern portion of the Las Vegas Valley, have potential for urban-suburban, commercial and industrial development.

Transfer of the land from Federal ownership will facilitate local land use planning and enhance its compatibility with adjoining private land uses. At least 212.68 acres of the land herein described will be offered for sale initially at a public auction to be held on November 16, 1982 in Las Vegas. The parcels not sold at the auction will be available at a later date for purchase "over-the-counter" on a first come-first served basis at the Bureau of Land Management's Las Vegas District Office, 4765 Vegas Drive, Las Vegas, Nevada. Prior to issuance of patent, the purchaser will also have an opportunity to buy the locatable and saleable mineral interests in accordance with 43 CFR 2720.

General terms and conditions of the sale are:

1. The land will be sold subject to all valid existing rights such as power transmission and telephone line easements and federally issued oil and gas leases.

2. The land will be sold subject to reservations for streets, roads and public utilities, both existing and proposed, in accordance with Clark County plans.

3. All land that is sold will be subject to applicable Clark County ordinances.

The land will be offered at an auction utilizing oral bidding procedures. The highest oral bid will establish the purchaser. Adjoining landowners have no preference rights. Specific information regarding the time and site of the auction, and bidding procedures will be published in a sale brochure and made available to the public at least three weeks prior to the sale. Both methods of sale will require a non-refundable deposit of at least 20 percent of the purchase price at the time of the sale. The remainder shall be due within 30 days of the sale. Personal or certified checks, money orders, and cash are acceptable forms of payment. Only U.S. citizens and legally chartered U.S. corporations are eligible to purchase these lands.

For period of 45 days from the date this notice is published in the Federal Register, interested person may submit comments regarding this sale to the State Director (N–943), P.O. Box 12000, Reno, NV 89520.

William J. Malencik,

Chief, Division of Operations.

[FR Doc. 82-[illegible] Filed 9-28-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf, Chevron U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 1192, Block 41, South Marsh Island Area, Offshore Louisiana.

The purpose fo this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing pactices and procedures under which the Minerals Management Service makes information contained in Development and Production Plan available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised §250.34 of Title 30 of the Code of Federal Regulations.

Dated: September 22, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-[illegible] Filed 9-28-82; 8:45 am]

BILLING CODE 4310-01-M

National Park Service

Shenandoah National Park; General Management Plan Availability of Draft Development Concept Plan and Notice of Meeting

AGENCY: Shenandoah National Park, National Park Service, Interior.

ACTION: Notice of availability of Draft General Management Plan Development

Concept Plan and Notice of Public Review Period and Public Meetings.

SUMMARY: The Draft General Management Plan/Development Concept Plan for this national park in Virginia is now available for public review. The draft plan outlines a program for land protection, natural and cultural resource protection, visitor use and interpretation, general development for the next 10 to 15 years and administration of the park.

The Public Review Period is from October 15 to December 20, 1982. Copies of the Draft Plan/Development Concept Plan or its Summary may be obtained at park headquarters, Shenandoah National Park, Route 211, Luray, Virginia 22835; at Virginia State Library, Richmond, Virginia; at the county clerk's office at Warren, Albemarle, Rockingham, Madison, Greene, Page, Augusta, Rappahannock and Nelson counties; at the city clerk's office at Charlottesville, Staunton and Waynesboro, Virginia; at public libraries in Warren, Albemarle, Rockingham, Madison, Greene, Page, Augusta and Rappahannock counties; at the Mid-Atlantic Regional Office, 143 S. Third Street, Philadelphia, Pennsylvania 19106; and at the National Park Service Public Affairs Office, Room 3045, Main Interior Building, Washington, D.C. 20240.

Eight public meetings will be held to discuss plan recommendations and to receive public comment. Members of the NPS planning team and park staff will be available at each meeting to answer questions and discuss mutual concerns relating to the plan. The public meeting dates and location are:

Dates	Times	Open house locations
Monday, Nov. 8, 1982	3:30 to 5 p.m., 7 to 9 p.m.	Warren County, Samuels Public Library, Front Royal, Va.
Tuesday, Nov. 9, 1982	3:30 to 5 p.m., 7 to 9 p.m.	Albemarle County, County Office Building (previously Lane High School), Charlottesville, Va.
Wednesday, Nov. 10, 1982	3:30 to 5 p.m., 7 to 9 p.m.	Rockingham County, Elkton Intermediate School, Elkton, Va.
Thursday, Nov. 11, 1982	3:30 to 5 p.m., 7 to 9 p.m.	Madison County, Madison Fire Department, Madison, Va.
Monday, Nov. 15, 1982	3:30 to 5 p.m., 7 to 9 p.m.	Greene County, Interim County Office Building, Stanardsville, Va.
Tuesday, Nov. 16, 1982	3:30 to 5 p.m., 7 to 9 p.m.	Page County, Shenandoah National Park Headquarters, U.S. 211 east of Luray, Va.
Wednesday, Nov. 17, 1982	3:30 to 5 p.m., 7 to 9 p.m.	Augusta County, Waynesboro Fire Department, Waynesboro, Va.
Thursday, Nov. 18, 1982	3:30 to 5 p.m., 7 to 9 p.m.	Rappahannock County, Rappahannock Elementary School, U.S. 211 between Sperryville and Washington, Va.

Written comments are encouraged and should be forwarded to the Shenandoah Planning Team, Denver Service Center (TNE), National Park Service, 755 Parfet Street, P.O. Box 25287, Denver, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: Robert R. Jacobsen, Superintendent, Shenandoah National Park, Route 211, Luray, Virginia 22835; telephone (703) 999–2243.

Dated: September 20, 1982.

Homer L. Rouse,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 82–26572 Filed 9–28–82; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349,* 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: September 23, 1982.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

MC–F–14750, filed September 2, 1982. INTERSTATE MOTOR FREIGHT

SYSTEM (110 Ionia Avenue, N.W., P.O. Box 2389, Grand Rapids, MI)—CONTINUANCE IN CONTROL—INTERSTATE SYSTEM STEEL DIVISION, INC. (P.O. Box 412, Murrysville, PA 15668). Representative: Michael P. Zell, 110 Ionia Avenue, N.W., Suite 7000, Grand Rapids, MI. Interstate Motor seeks authority to continue in control of Interstate System upon institution by the latter of operations in interstate or foreign commerce as a motor carrier. Interstate System was granted authority under MC–160439 to transport *lumber and wood products, chemicals and related products, plastic products, clay, concrete, glass or stone products, metal products, machinery,* and *snow vehicles,* between points in the United States (except AK and HI).

[FR Doc. 82-26683 Filed 9-28-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 298]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: September 22, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Williams, and Higgins.

Agatha L. Mergenovich,

Secretary.

MC 78177 (Sub-5)X, filed September 16, 1982. Applicant: O'BRIEN MOVERS, INC., 155 Highland Ave., Watertown, MA 02172. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181. Sub 4: (1) Broaden household goods to "household goods, furniture and fixtures"; and (2) change Malden, MA and points within 10 miles of Malden to Essex, Middlesex, Norfolk and Suffolk Counties, MA.

MC 135046 (Sub-27)X, filed July 30, 1982, previously noticed in the **Federal Register** of September 14, 1982, and republished as follows: Applicant: ARLINGTON J. WILLIAMS, INC., 1398 S. DuPont Hwy., Smyrna, DE 19977. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. As is pertinent here, applicant seeks to remove restrictions (1) in its Sub-No. 12 certificate to broaden the territorial description from Mechanicsburg, PA, to Beaver and Cumberland Counties, PA, and (2) in its Permit No. MC–113024 (Sub-Nos. 29, 66, and 150) to broaden the territorial descriptions to between points in the United States (except AK and HI), under continuing contract(s) with a named shipper. The purpose of this republication is to reflect applicant's original requests and to request comments from interested parties.

MC 139405 (Sub-3)X, filed September 2, 1982. Applicant: FRITZ MENSINGER, d.b.a. MENSINGER TRUCKING, 1430 Powers, Lewiston, ID 83501. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. Lead and Sub-2 certificates (acquired in MC–FC–77463): (A) broaden to "food and related products" from bananas and/or exempt agricultural commodities, moving in mixed loads with bananas, both Subs; (B) remove the restriction limiting service to the transportation of shipments destined to named facilities, lead; (C) substitute "all ports of entry on the United States-Canada boundary line in Washington" in lieu of ports of entry near Northport, WA, lead; (D) broaden to (1) county-wide authority: Los Angeles and Orange Counties, CA (Long Beach and Wilmington); Missoula and Flathead Counties, MT (Missoula and Kalispell); Umatilla County, OR (Pendleton); and Nez Perce County, ID (Lewiston), Sub 2; and (2) radial authority, both Subs.

MC 144468 (Sub-1)X, filed September 13, 1982. Applicant: KEVIN A. SMITH, d.b.a., AUTO TRANSPORT, 141 Sperry Rd., Bethany, CT 06525. Representative: Milo J. Altschuler, P.O. Box 903, Seymour, CT 06483. Broaden to "Transportation Equipment" from antique and classic automobiles, in truckaway service.

MC 145179 (Sub-8)X, filed September 20, 1982. Applicant: J & J CONTRACT CARRIER, INC., 60 South State St. Indianapolis, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Sub-5 permit; (1) broaden salt, in packages to "food and related products", and (2) expand territorial authority to between points in the United States, under continuing contract(s) with named shippers.

MC 147514 (Sub-4)X, filed September 13, 1982. Applicant: L. E. MATCHETT TRUCKING, LTD., 503 47th Street East, Saskatoon, Saskatchewan, Canada S7K 5B5. Representative: Thomas J. Van Osdel, 15 Broadway, Suite 502, Fargo, ND 58102. Sub 2F certificate: broaden from (1) dry fertilizer and fertilizer ingredients, in bulk, to "chemicals and related products" and (2) animal feed, poultry feed and animal and poultry feed ingredients, in bulk, to "food and related products and farm products".

[FR Doc. 82-26682 Filed 9-28-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority; Decisions

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80100.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from

applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries about the following to Team 1, (202) 275–7992.

Volume No. OP1–160

Decided: September 17, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 163801, filed September 10, 1982. Applicant: R. E. WOODY, d.b.a. WOODY BROTHERS, P.O. Box G; Ridgeway, MO 64481. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105, (816) 221–1464. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Volume No. OP1–163

Decided: September 21, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier. Member Parker not participating.

MC 151530 (Sub-1), filed September 2, 1982. Applicant: AMERICAN BACKHAULERS, CORPORATION, 407 South Dearborn St., Room 985, Chicago, IL 60605. Representative: Paul Loeb (same address as applicant), (312) 427–0092. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163351 (Sub-1), filed September 15, 1982. Applicant: MATHEWS MOVING AND STORAGE, INC., 1202 Carr Street, Palatka, FL 32077. Representative: Roger W. Mathews (same address as applicant), (904) 325–7578. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

MC 163821, filed September 13, 1982. Applicant: ALL POINTS TRANSPORTATION SERVICE, P.O. Box 24550, Denver, CO 80224. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, NW, Suite 1200, Washington, DC 20036, (202) 785–0024. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163851, filed September 15, 1982. Applicant: B. A. RUSSELL AND THOMAS L. MILES, JR., d.b.a. U.S.A. MOTOR CARRIER BROKERAGE, 1009 South Gloucester, Irving, TX 75062. Representative: Wayland Little, 617 Medina Dr., Lewisville, TX 75067, (214) 436–8493. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163871, filed September 16, 1982. Applicant: THOMAS J. VAN SANDT, d.b.a. DEEP SOUTH FREIGHT BROKER, 1201 Bankhead Highway, West, Birmingham, AL 35204. Representative: Fred H. Daly, Suite 475, 2550 M St. NW., Washington, DC 20037, (202) 293–3204. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP1–165

Decided: September 23, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier. Member Candler not participating.

MC 109331 (Sub-7,) filed September 9, 1982. Applicant: NILSON VAN & STORAGE, 6913 North Main St., Columbia, SC 29230. Representative: David Earl Tinker, 1000 Connecticut Ave., N.W., Suite 1112, Washington, D.C. 20036–5391, (202)–887–5868. (1) As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI); and (2) transporting, (a) for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), between points in the U.S. (except AK and HI); (b) *used household goods* for the account of the U.S. Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI); and (c) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 163840, filed September 13, 1982. Applicant: B. C. BURKE, PO Box, 152, Plainfield, IN 46168. Representative: B. C. Burke (same address as applicant), (1) (317) 839–7202. Transporting *food and other edible products and by products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Please direct Status inquiries about the following to Team 2 (202) 275–7030.

Volume No. OP2–231

By the Commission, Review Board No. 1, Members Parker, Candler and Fortier. Member Parker not participating.

MC 160612 (Sub-2,) filed September 15, 1982. Applicant: SCHEALL DRIVEAWAY SYSTEM, INC., 9465 West Colfax Ave., Suite 100, Lakewood, CO 80215. Representative: C. Jack

Pearce, 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20036, 202–785–0048. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163793, filed September 10, 1982. Applicant: RIGHT-ON FREIGHT FORWARDING CORP., 376 Duncan Ave., Jersey City, NJ 07306. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. As a *broker of general commodities* (except household goods) between points in the U.S. (except AK and HI).

MC 163842, filed September 14, 1982. Applicant; LARRY L. LEITER, 2264 Villa St., Rio Rico, AZ 86521. Representative: Larry L. Leiter (same address as applicant), (602) 281–8279. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP2–233

Decided: September 21, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier. Member Parker not participating.

MC 163862 (Sub-1), filed September 16, 1982. Applicant: DAVID & ORILLA CROPP d.b.a. U & I TRUCKING, P.O. Box 327—3rd St., Craig, AK 99921. Representative: David Cropp (same address as applicant) 907–755–2992. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (including AK, but excluding HI).

Volume No. OP2–235

Decided: September 22, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 153673 (Sub-5), filed September 17, 1982. Applicant: KENTUCKY SPECIALIZED HAULERS, INC., Rte 3, Box 156–A, Hardingsburg, KY 40143. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440, (216) 652–2789. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 163752, filed September 8, 1982. Applicant: TOTAL TRANSPORTATION CORPORATION, 429 Moon & Clinton Road, Coraopolis, PA 15108. Representative: Elmer S. Beatty, Jr. (same as applicant), (412) 262–2201. As a broker of *general commodities* (except household goods), between points in the U.S., (including AK and HI).

Please direct status inquiries about the following to Team 4 (202) 275–7669.

Volume No. OP4–341

Decided: September 23, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 163807, filed September 7, 1982. Applicant: DON BYBEE AND SONS, INC., 145 E. Main St., Hyrum, UT 84319. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 163836, filed September 13, 1982. Applicant: RON CORNELL, d.b.a. RON CORNELL TRUCKING CO., Box 374, Derby Canyon, Peshastin, WA 98847. Representative: Ron Cornell (same address as applicant), (509) 548–5982. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (including AK, but excluding HI).

Volume No. OP4–344

Decided: September 23, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 97257 (Sub-6), filed September 7, 1982. Applicant: MIDLAND TRANSPORT, INC., 56 East 25th St., Chicago, Heights, IL 60411. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602, (312) 236–5944. Transporting *general commodities*, between Dillsburg, Gifford, Penfield, Potomac, Armstrong, Covel, and Stanford, IL, on the one hand, and, on the other, points in U.S. CONDITIONS: (1) Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423, and (2) The certificate to be issued to the extent it authorizes the transportation classes A and B explosives, shall be limited in point of time to a period expiring 5 years from its date of issue.

Please direct status inquiries about the following to Team 5 (202) 275–7289.

Volume No. OP5–183

Decided: September 15, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 163589, filed August 27, 1982. Applicant: BLUE STAR TRADING CO., INC., 12290 S.W. Main, Tigard, OR 97223. Representative: Robert Wright (Same address as applicant) (503) 684–3451. To operate as a *broker* of *general commodities* (except household goods) between points in the U.S. (except AK and HI).

Volume No. OP5–196

Decided: September 17, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 163628, filed August 30, 1982. Applicant: DEAN WILLIAMSON, d.b.a. D & D TRUCKING, Rt. 1, Box 99, El Dorado Springs, MO 64744. Representative: Dean Williamson (same address as applicant) (417) 876 2093. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 163769, filed September 9, 1982. Applicant: ANDRE J. ROY, 495 Rimmon St., Manchester, NH 03102. Representative: Andre J. Roy (same address as applicant), (603) 668–2545. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle, in such vehicle, between points in the U.S. (except HI).

MC 163808, filed September 13, 1982. Applicant: BEN WISSEMAN, d.b.a. BEN WISSEMAN TRUCKING, P.O. Box 942, 3307 Independence Hwy NW, Albany, OR 97321. Representative: Ben Wisseman (same address as applicant), (503) 928–7498. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs),

agricultural limestone and fertilizers, and other soil conditioners, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP5-109

Decided: September 21, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 151223 (Sub-3), filed September 13, 1982. Applicant: P & M TRUCKING, INC., 740 Iowa Street, Norman, OK 73069. Representative: Michael H. Lennox, 5501 N. Triple XXX Road, Choctaw, OK 73020, (405) 399-5128. Transporting, for or on behalf of the United Stated Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 163749, filed September 8, 1982. Applicant: GUARDIAN STORAGE, INC., Old Washington Road, Waldorf, MD 20601. Representative: James J. Fratino, P.O. Box 82, Edgewater, MD 21037, (301) 261-7227. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

MC 163768, filed September 9, 1982. Applicant: VERNON WILSON, d.b.a. WILSON TRUCKING CO., Rte. 1, Campbell, MO 63938. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 332-4718. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle, in such vehicle, between points in the U.S. (except AK and HI).

MC 163846, filed September 13, 1982. Applicant: T.J. POWER & CO., d.b.a., TEXAS DISPATCH, 2240 E. Union Bower Rd., Irving, TX 75061. Representative: Patrick H. Power (same address as applicant), 214-438-6722. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163769, filed September 10, 1982. Applicant: CARTERET TRANSPORTATION SERVICE, INC., 1000 Blair Road, Carteret, NJ 07008. Representative: Arnold L. Burke, 180 North LaSalle Street, Room 3520, Chicago, IL 60601, (312) 332-5106. To operate as a *broker* of *general commodities* (except household goods) between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-26884 Filed 9-28-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only so long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as confering only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries about the following to Team 1, (202) 275-7992.

Volume No. OP1-166

Decided: September 23, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier. Member Chandler not participating.

MC 720 (Sub-80), filed September 16, 1982. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, WI 53963. Representative: Charles L. Redel, 212 Exchange Bldg., La Crosse, WI 54601, (608)-784-5880. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI.)

MC 2900 (Sub-11), filed September 13, 1982. Applicant: LANDGREBE MOTOR TRANSPORT, INC., Highway 130 West, P.O. Box 32, Valparaiso, IN 46383. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204, (317) 638-1301. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between those points in IN and IL, on, north and east of a line beginning at the IN-OH State line and extending along Interstate Hwy 70 to junction Interstate Hwy 57, then along Interstate Hwy 57 to Chicago, IL.

MC 19201 (Sub-146), filed September 8, 1982. Applicant: PENNSYLVANIA TRUCK LINES, INC., 900 E. Lancaster Ave., Wynnewood, PA 19096. Representative: James V. Fleming, III (same address as applicant), (215) 645-1416. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CT, DE, IL, IN, KY, MD, MA, MI, MO, NJ, NY, OH, PA, RI, VA, WV, and DC, on the one hand,

and, on the other, points in the U.S. (except AK and HI).

MC 123310 (Sub-26), filed September 13, 1982. Applicant: DOUG ANDRUS DISTRIBUTING, INC., 1820 W. Broadway, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701, (208)–343–3071. Transporting (1) *coal, chemicals and minerals,* between points in AZ, CA, CO, ID, MT, NE, NJ, NM, OR, UT, WA and WY; (2) *building materials and lumber and wood products,* between points in NV, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NE, NV, NM, OR, UT, WA and WY; and (3) *petroleum and petroleum products and those commodities* dealt in or used by automotive service stations, between points in ID, on the one hand, and, on the other, points in OR, CA, UT and WA.

MC 143280 (Sub-34), filed September 16, 1982. Applicant: SAFE TRANSPORTATION COMPANY, 9955 West 69th St., Eden Prairie, MN 55344. Representative: Robert P. Sack, P.O. Box 21–307, Eagan, MD 55121, (612) 452–8770. Transporting *food and related products,* between points in DuPage, Will, Kane, Kendall and Cook Counties, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152990 (Sub-1), filed September 14, 1982. Applicant: R. J. GUERRERA, INC., 100 Kissewqug Rd., Middlebury, CT 06762. Representative: Edward J. Kiley, 1730 M St. NW., Washington, DC 20036, (202) 296–2900. Transporting (1) *instruments and photographic goods;* (2) *metal and metal products;* (3) *rubber and plastic products;* (3) *chemicals and related products;* (4) *petroleum and petroleum products;* and (5) *commodities in bulk,* between points in the U.S. in and east of WI, IL, KY, TN, AR and TX.

MC 158651 (Sub-3), filed September 7, 1982. Applicant: GRAEBEL VAN LINES, INC., 719 N. Third Ave., Wausau, WI 54401. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods,* between points in the U.S., under continuing contract(s) with E. I. duPont deNemours Company, of Wilmington, DE. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343 or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 1, Room 2379.

MC 159780, filed September 8, 1982. Applicant: R. W. TINNEY, INC., P.O. Box 151, Perrysburg, OH 43551. Representative: John L. Alden, 1396 West Fifth Avenue, Columbus, OH 43212, (614) 481–8821. Transporting *general commodities* (except classes A and B explosives and household goods), between Toledo, OH, on the one hand, and on the other, points in the U.S. (except AK and HI).

MC 161560, filed September 16, 1982. Applicant: SMART-WAY TRUCKIN', INC., 5129 N.W. 114th St., Grimes, IA 50111. Representative: Alex J. Miller, 555 South Woodward, Suite 512, Birmingham, MI 48011, (313) 647–3350. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Alliance Shippers, Inc., of West New York, NJ. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343 or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 1, Room 2379.

MC 163841, filed September 13, 1982. Applicant: TRAILWAYS MOVING & STORAGE CO., INC., 900 Atlantic Ave., Brooklyn, NY 11238. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods,* between points in NY, on the one hand, and, on the other, points in ME, VT, NH, DE, MA, RI, CT, NY, PA, OH, NJ, MD, VA, WV, NC, SC, GA, AL, TN, FL, and DC.

MC 163860, September 16, 1982. Applicant: CHARTER BUS SERVICE, INC., 6539 E. Virginia Beach Blvd., Norfolk, VA 23502. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301)–840–8565. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter and special operations, beginning and ending at points in VA, and extending to points in the U.S. (including AK but excluding HI).

Please direct status inquiries about the following to team #2, (202) 275–7030.

Volume No. OP2–234

Decided: September 22, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

MC 146343 (Sub-20), filed September 16, 1982. Applicant: SOUTHERN EXPRESS CORPORATION, 505 South Ocean Blvd., Pompano Beach, FL 33062. Representative: Warren V. Picillo, Jr., 2 Sawyer Drive, Coventry, RI 02816, 401–822–0878. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Cooley, Inc., of Pawtucket, RI.

MC 146773 (Sub-5), filed September 16, 1982. Applicant: CON–EX, INC., Cove St., Manchester, NH 03101. Representative: Peter Vetrone (same address as applicant), 603–669–6977. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 148863 (Sub-4), filed September 17, 1982. Applicant: LONG SHOT EXPRESS, INC., 1 Hackensack Ave., South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, 201–234–0301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between New York, NY, and points in NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151753 (Sub-6), filed September 17, 1982. Applicant: M. W. CYCLE HAULER, INC., 11909 Santa Fe Dr., Lenexa, KS 66215. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612, 913–233–9629. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of paper and paper products, between Aurora, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163872, filed September 16, 1982. Applicant: BERT TRUCKING, INC., 82 Roosevelt Ave., Belleville, NJ 07109. Representative: Henryka Smigiel (same address as applicant), 201–751–7813. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

Please direct status inquiries about the following to Team 3, (202) 275–5223.

Volume No. OP3–148

Decided: September 22, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

MC 10345 (Sub-105), filed September 8, 1982. Applicant: C & J COMMERCIAL DRIVEAWAY, INC., 2400 West St. Joseph Street, Lansing, MI 48901.

Representative: John R. Sims, Jr., 915 Pennsylvania Bldg. 425–13th Street NW., Washington, DC 20004, (202) 737–1030. Transporting *motor vehicles*, between points in the U.S. (except AK and HI).

MC 67234 (Sub-57), filed September 9, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Memorex Corporation, of Santa Clara, CA.

MC 117685 (Sub-8), filed September 13, 1982. Applicant: CONSOLIDATED TRUCK SERVICE, INC., 1 Scout Ave., South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 119765 (Sub-102), filed September 10, 1982. Applicant: EIGHT WAY XPRESS, INC., 10855 W. Dodge Rd., Omaha, NE 68154. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. Transporting *plastic products*, between points in Polk County, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 120934 (Sub-2), filed September 9, 1982. Applicant: CAPE COD EXPRESS, INC., 58 W. Grove St., Middleboro, MA 02346. Representative: George C. O'Brien, 342 Wild Harbor Rd., No. Falmouth, MA 02556, (617) 593–9345. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MA and RI.

MC 141914 (Sub-109), filed September 10, 1982. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same address as applicant), (918) 783–5121. Transporting *animal feed*, between points in CA, IA, MO and VA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 157964 (Sub-1), filed September 10, 1982. Applicant: MALCOLM WEBSTER AND DOROTHY WEBSTER, d.b.a. WEBSTER EXPRESS, P.O. Box 212, Camdenton, MO 65020. Representative: Stephen G. Newman, 312 E. Capitol Ave., Jefferson City, MO 65101, (314) 635–7166. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MO.

MC 160544, filed September 10, 1982. Applicant: STEVEN H. BARNES AND LEA M. BARNES, d.b.a. BARNES DISTRIBUTING AND TRUCKING, 403 N. Castlecrest Ct., Elko, NV 89801. Representative: Steven H. Barnes (same address as applicant), (702) 738–8225. Transporting *Mercer commodities*, between points in AZ, CA, CO, ID, MT, NV, NM, ND, OR, SD, TX, UT, WA, and WY, under continuing contract(s) with NL Baroid/NL Industries, Inc., of Houston, TX.

MC 163575, filed September 7, 1982. Applicant: FLY NEVADA, d.b.a GORUM ASSOCIATES, INC., 1000 Beck Drive, Reno, NV 89509. Representative: Mike Pavlakis, Box 846, Carson City, NV 89702, (702) 882–0202. Transporting *passengers and their baggage*, in special and charter operations, between Reno, NV and Carson City, NV.

MC 163684, filed September 9, 1982. Applicant: ESCHENBACH & RODGERS TRUCKING, INC., d.b.a. E & R TRUCKING, INC., 175–177 South Main Street, Plains, PA 18705. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (771) 233–5731. Transporting *general commodities* (except household goods, commodities in bulk and classes A and B explosives), between points in Luzerne, Columbia and Lackawanna Counties, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163705, filed September 8, 1982. Applicant: WEAVER TRANSPORT, INC., Route 2, Box 181, Woodbury, TN 37190. Representative: J. Greg Hardeman, 618 United Southern Bank Building, Nashville, TN 37219, (615) 244–8100. Transporting *food and related products*, between Nashville, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Cumberland Creamery, Inc., of Nashville, TN.

MC 163715, filed September 9, 1982. Applicant: JOSEPH P. CARRARA & SONS, INC., North Clarendon, VT 05759. Representative: Neil D. Breslin, 11 N. Pearl St., Albany, NY 12207, (518) 434–1136. Transporting *salt*, between points in Washington County, NY, on the one hand, and, on the other, points in VT, under continuing contract(s) with International Salt Company, a part of Akzona, Inc., of Clark Summit, PA.

MC 163775, filed September 9, 1982. Applicant: COASTAL SERVICE EXPRESS, INC., P.O. Box 12471, Pensacola, FL 32573. Representative: Randall L. Lee, 900 South "E" Street, Apt. 257, Pensacola, FL 32501, (904) 432–9200. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in GA, FL, AL, MS, LA, and TX.

MC 163784, filed September 10, 1982. Applicant: SCURLOCK'S TRAVEL & TOURS, P.O. Box 424, Pittsboro, NC 27312. Representative: Robert L. Scurlock (same address as applicant), (919) 542–2293. As a *broker* at Pittsboro, NC, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, between points in NC, on the one hand, and, on the other, points in the U.S.

MC 163804, filed Septemer 10, 1982. Applicant: LOUISVILLE CARTAGE COMPANY, INC., 4505 Camp Ground Road, P.O. Box 18009, Louisville, KY 40216. Representative: Herbert D. Liebman, 403 West Main Street, P.O. Box 478, Frankfort, KY 40602, (502) 875–3493. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in KY, IN, TN, and OH.

MC 163805, filed September 10, 1982. Applicant: WAYLON DISTRIBUTION CORP., 4754 Route 414, North Rose, NY 14516. Representative: Carl L. Steiner, 29 South LaSalle Street, Chicago, IL 60603, (312) 236–9375. Transporting *food and related products*, between points in the U.S. in and east of MN, IA, KS, OK and TX.

Please direct status inquiries about the following to Team 4 (202) 275–7669.

Volume No. OP4–339

Decided: September 21, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF–617, filed September 7, 1982. Applicant: ARGONAUT INTERNATIONAL CARRIER, INC., 744 Peach Ave., Sunnyvale, CA 94087. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006, (202) 833–8884. As a *freight forwarder*, in connection with the transportation of (a) *used household goods*, and *unaccompanied baggage*, and (b) *used automobiles*, between points in the U.S.

MC 42487 (Sub-1062), filed September 10, 1982. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208, (505) 226–4692. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with General Mills, Inc. of Minneapolis, MN, and its

wholly owned subsidiaries General Mills Restaurant Group, Inc. of Orlando, FL, General Mills Fashion Group, Inc. of Minneapolis, MN, General Mills Products Corp. of Minneapolis, MN, LeeWards Creative Crafts, Inc. of Elgin, IL, Casa Gallardo, Inc. of St. Louis, MO, Dunbar of Berne, IN, Eddie Bauer, Inc. of Redmond, WA, Foot-Joy, Inc. of Brockton, MA, H. E. Harris & Co., Inc. of Boston, MA, Louise's Home Style Ravioli Co. of Malden, MA, Pioneer Products, Inc. of Ocala, FL, Saluto Foods Corp. of Benton Harbor, MI, Ship' n Shore Products Corp. of Aston, PA, The Talbots, Inc. of Hingham, MA, Trans World Seafood, Inc. of New York, NY, Wallpapers, Inc. of Oakland, CA, Wallpapers To Go, Inc. of Hayward, CA, and York Steak House System, Inc. of Columbus, OH.

MC 61396 (Sub-406), filed September 7, 1982. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Schultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *commodities in bulk*, between points in Allamakee County, IA, and Marathon and Buffalo Counties, WI, on the one hand, and on the other, Minneapolis, MN.

MC 99017 (Sub-3), filed September 10, 1982. Applicant: HUGHES CARTAGE CO., INC., 6105 W. Howard St., Niles, IL 60648. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting (1) *general commodities*, between points within a 50 mile radius of Chicago, IL, on the one hand, and, on the other, points in IL, and (2) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington and Waukesha Counties, WI, Boone, Bureau, Cook, De Kalb, Du Page, Ford, Grundy, Iroquois, Kane, Kankakee, Kendall, Lake, La Salle, Lee, Livingston, McHenry, Marshall, Ogle, Putnam, Stephenson, Will and Winnebago Counties, IL, and Jasper, Lake, La Porte, Newton, Porter, Pulaski, St. Joseph and Starke Counties, IN.

Condition—Issuance of a certificate in this proceeding is conditioned upon prior or coincidental cancellation, at applicant's written request, of Certificate of Registration No. MC–99017 Sub 2.

MC 108076 (Sub-179), filed September 8, 1982. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Ave., Knoxville, TN 37917. Representative: H. E. Miller, Jr., 6606 Madison Pike, Madison, AL 35758, (205) 772–0611. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 119757 (Sub-1), filed September 10, 1982. Applicant: HOME OIL & GAS CORP. d.b.a. MISSOURI TRANSPORTS, 915 Atchison, St. Joseph, MO 64503. Representative: Tom B. Kretsinger, P.O. Box 258, Liberty, MO 64068, (816) 781–6000. Transporting *petroleum and petroleum products*, between points in MO and KS.

MC 114737 (Sub-9), filed September 8, 1982. Applicant: O & A TEX PACK EXPRESS, INC., 1313 Ave. E, Lubbock, TX 79401. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408, (806) 763–9555. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), (1) Between Clovis and Albuquerque, NM: From Clovis over U.S. Hwy 60 to Encino, then over U.S. Hwy 285 to Clines Corners, then over Interstate Hwy 40 to Albuquerque, and return over the same route; (2) Between Albuquerque and Clovis, NM: From Albuquerque over Interstate Hwy 25 to Santa Fe, then over Interstate Hwy 25 to Santo Domingo, then over U.S. Hwy 285 to Clines Corners, then over Interstate Hwy 40 to Santa Rosa, then over U.S. Hwy 84 to Clovis, and return over the same route; (3) Between El Paso, TX and Albuquerque, NM over Interstate Hwy 25. Service authorized for off-route operation: points in Sierra, Socorro, Bernalillo, Sandoval, Santa Fe, Torrance and Guadalup Counties, NM.

Note.—Applicant states it intends to tack the authority herein with its presently authorized operations.

MC 120717 (Sub-1), filed September 7, 1982. Applicant: HAMMEL'S EXPRESS, INC., 27th & A.V.R.R., Pittsburgh, PA 15222. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in DE, MD, NJ, NY, PA, and DC.

Condition.—Person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(A) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 4, Room 2410.

MC 126716 (Sub-18), filed August 17, 1982, previously noticed in the Federal Register issue of September 13, 1982, and republished in this issue. Applicant: WALT'S DRIVE-A-Way SERVICE, INC., 1103 E. Franklin St., Evansville, IN 47711. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., Indianapolis, IN 46204, (317) 639–4511. Transporting *such commodities* as are dealt in by manufactures of glass and glass products, between points in Vanderburgh county, IN, on the one hand, and, on the other those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

Note.—The purpose of this republication is to correctly state the territorial description.

MC 133966 (Sub-63), filed September 7, 1982. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, PA 18707. Representative: Joseph A. Keating Jr., 121 S. Main St., Taylor, PA 18517, (717) 344–3030. Transporting *such commodities* as are dealt in or used by department stores, between points in the U.S. (except AK and HI).

MC 139586 (Sub-4), filed September 8, 1982. Applicant: NICKAS TRUCKING, INC., 685 East 9th North, Price, UT 84501. Representative: Harry D. Pugsley, 940 Donner Way #370, Salt Lake City, UT 84108, (801) 531–0322. Transporting *coal*, between points in UT, ID, NV, AZ, CO, and CA.

MC 142857 (Sub-10), filed September 10, 1982. Applicant: MCC TRANSPORTATION CO., INC., Route 2, Box 107–B, Hope, AR 71801. Representative: Mark J. Andrews, Suite 1100, 1660 L St., NW, Washington, DC 20036, (202) 452–7438. Transporting *malt beverages*, between points in the U.S., under continuing contract(s) with Adolph Coors Co., of Golden, CO.

MC 143627 (Sub-8), filed September 7, 1982. Applicant: FITZSIMMONS TRUCKING, INC., R.R. 2, P.O. Box 128, County Rd. 4 South, Waseca, MN 56093. Representative: Robert D. Gisvold, 1000 TCT Tower, 121 South 8th St., Minneapolis, MN 55402. Transporting *printed matter*, and *paper and paper products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Time, Inc., of Chicago, IL.

MC 143776 (Sub-61), filed September 9, 1982. Applicant C.D.B. INCORPORATED, 155 Spaulding Ave., S.E., Grand Rapids, MI 49506. Representative: C. Michael Tubbs (same address as applicant), (800) 253–9527. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Rand McNally and Company, of Skokie, IL.

MC 144237 (Sub-1), filed September 9, 1982. Applicant: EUGENE T. FALBO, d.b.a. MOUNTAIN VIEW TOURWAYS, R. D. #6, Box 401, Latrobe, PA 15650. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, (412) 471–3300. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, between points in Westmoreland County, PA, on the one hand, and, on the other, points in the U.S.

MC 145797 (Sub-17), filed September 9, 1982. Applicant: NANCY TRANSPORTATION, INC., 111 Hilltown Village Center, Chesterfield, MO 63017. Representative: R. Thomas Grasso (same address as applicant), (314) 532–7035. Transporting *food and related products*, between St. Louis, MO, and points in Denver County, CO; Harris County, TX; Los Angeles County, CA; Madison County, IN; Orleans Parish, LA; and Union County, NJ, on the one hand, and, on the other, points in AR, CA, CO, FL, IL, IN, IA, KS, KY, MO, NJ, OK, TX, WA, and WI.

MC 149267 (Sub-4), filed September 7, 1982. Applicant: SUPER TRUCK LINES, INC., P.O. Box 1585, Hot Springs, AR 71909. Representative: Fredrick S. Wetzel III, P.O. Box 5606, N. Little Rock, AR 72119, (501) 376–3700. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 162066, filed September 3, 1982. Applicant: HUMPHREY SERVICES, INC., 206 Western Hills Dr., Madison, AL 35756. Representative: Doris R. Humphrey (same address as applicant), (205) 837–6818. Transporting *chemicals, farm products, machinery and transportation equipment*, between points in the U.S. (except AK and HI).

MC 163658, filed September 9, 1982. Applicant: NEWAY-LOVE DISTRIBUTION, INC., 533 E. Beltline SE., Grand Rapids, MI 49506. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *floor covering materials*, between points in GA, SC, NC, PA, TN, AL, MI, IL, IN, WI, and OH.

MC 163737, filed September 10, 1982. Applicant: FAIRFIELD TRUCKING, INC., 421 Tuttle Pky., Westfield, NJ 07090. Representative: Arthur Liberstein, 888 Seventh Ave., New York, NY 10106, (212) 757–6025. Transporting general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Fanny Farmer Candy Shops, Inc. of Bedford, MA.

MC 163746, filed September 7, 1982. Applicant: McELMURRY SERVICE TRANSPORT CORP., P.O. Box 410, 233 Divine Hwy., Portland, MI 48875. Representative: Scott L. McElmurry, P.O. Box 202, 4748 W. Barnes Rd., Mason, MI 48854, (517) 628–3522. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Dart Container Corp., of Mason, MI, Leola, PA, Lithonia, GA, N. Aurora, IL, Corona, CA, Waxahachie, TX, Horse Cave, KY and Plant City, FL, and Formed Products, Inc., of Leola, PA and N. Aurora, IL.

MC 163747, filed September 7, 1982. Applicant: BUTLER LEONARD TRUCKING, INC., Box 100, Bison, SD 57620. Representative: Thomas J. Simmons, P.O. Box 480, Sioux Falls, SD 57101, (605) 339–3629. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Adams, Bowman, and Hettinger Counties, ND, and Harding and Perkins Counties, SD, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163756, filed September 8, 1982. Applicant: ENERGY TRANSPORT, INC., P.O. Box 602, Storm Lake, IA 50588. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting (1) *alcohol*, between points in Buena Vista and Muscatine Counties, IA, on the one hand, and, on the other, points in AL, AR, CO, GA, IL, IN, KS, MI, MN, MS, MO, NE, OH, OK, SD, VA, and WI, (2) *fertilizer*, between points in IA, MN, NE, and SD, and (3) *petroleum products*, between points in Dickinson, Lyon and Woodbury Counties, IA, on the one hand, and, on the other, points in MN.

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Decided: September 23, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

W–536 (Sub-3), filed September 9, 1982. Applicant: RIVERWAY BARGE CO., 7703 Normandale Rd., Suite 110, Minneapolis, MN 55435. Representative: William F. King, Suite 304, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, Va 22312, (703) 750–1112. To operate as a *common carrier*, by water, by non-self-propelled vessels with the use of separate towing vessels in the transportation of *general commodities*, and by towing vessels in the performance of *general towage*, between points and ports along (1) the Coosa, Cumberland, Green, Missouri, Red, Black, Ouachita, Tennessee, Alabama, Black Warrior, Tombigbee, White and Yazoo Rivers, and (2) the tributaries of the rivers specified in (1) above.

Note.—This application contemplates operations which should result in decreased energy consumption in comparison with existing energy consumption in the affected area. To the extent traffic will be diverted from existing transportation modes, greater energy efficiencies may be obtained without disruption to existing patterns of energy distribution or to development of energy resources. The application is, in all respects, consistent with prevailing goals and objectives of the National Energy Policy.

MC 107107 (Sub-498), filed September 13, 1982. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 N.W. 42nd Ave., Opa Locka, FL 33054. Representative: Sidney Alterman (same address as applicant), (305) 688–3571. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) between those points in the U.S. in and west of ND, SD, NE, KS, OK and TX, on the one hand, and, on the other, those points in the U.S. and east of ND, SD, NE, KS, OK, and TX, and (2) Between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 42487 (Sub-1063), filed September 13, 1982. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208, (503) 226–4892. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Ingersoll-Rand Company, of Piscataway, NJ and its wholly-owned subsidiaries.

MC 124027 (Sub-20), filed September 9, 1982. Applicant: MIDWEST BULK, INC., 901 Lyndale Ave., Neenah, WI 54956. Representative: Frank M. Coyne, 25 W. Main St., Madison, WI, 53703, (608) 255–1386. Transporting *coke*, between Toledo, OH and points in WI.

MC 136807 (Sub-8), filed September 1, 1982. Applicant: INTERNATIONAL CARRIERS, INC., 7701 W. Jefferson, Detroit, MI 48209. Representative: Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167, (313) 349–3980. Transporting *general commodities* (except classes A and B explosives and household goods), between points in MI and NY, on the one hand, and on the other, points in NY, PA, NJ, MA, DE, MD, OH, MI, IN, IL, WI, MN, CT, and MO.

MC 140257 (Sub-4), filed August 26, 1982. Applicant: BENNETT & SONS TRANSPORT, LTD., 47 Bothwell Crescent, Regina, Saskatchewan, Canada S4R 5Y7. Representative: Richard P. Anderson, 2525 S. University Dr., P.O. Box 2581, Fargo, ND 58108, (701) 235–3300. Transporting (1) *metal and metal products,* and (2) *chemicals and related products,* between ports of entry on the International Boundary line between the U.S. and Canada at points in ND and MT, on the one hand, and, on the other, points in CO, ID, KS, MT, NE, ND, OK, SD, TX, UT, and WY.

MC 142628 (Sub-2), filed September 13, 1982. Applicant: BINGHAM LEASING CORPORATION, Hwy 45 North, Box 466, Booneville, MS 38829. Representative: John Davidson, 111 Hwy 72 West, Box 1456, Cornith, MS 38834, (601) 287–5452. Transporting *elevators, conveyors and iron and steel articles,* between points in Lee County, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 144956 (Sub-10), filed August 30, 1982. Applicant: TRANS-MUTUAL TRUCK LINES LTD., 4427A—72nd Ave. SE, Calgary, Alberta, Canada T2C 2C1. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402, (612) 339–4546. Transporting *lumber and wood products,* between points in WA and OR, on the one hand, and, on the other, ports of entry on the International Boundary line between the U.S. and Canada, at points in WA, ID and MT.

MC 146886 (Sub-8), filed September 13, 1982. Applicant: CONLAN TRUCK LINES, INC., P.O. Box 710, Milwaukee, WI 53201–0710. Representative: Richard A. Westley, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IL, IN, IA, KS, MI, MN, MO, MT, NE, ND, SD, WI and WY,

MC 148647 (Sub-33), filed September 10, 1982. Applicant: HI-CUBE CONTRACT CARRIER CORP., 5501 W 79th St., Burbank, IL 60459. Representative: Arnold L. Burke, 180 N LaSalle St., Rm 3520, Chicago, IL 60601, (312) 332–5106. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Nabisco Brands, Inc. of New York, NY.

MC 148647 (Sub-34), filed September 10, 1982. Applicant: HI-CUBE CONTRACT CARRIER CORP., 5501 W. 79th St., Burbank, IL 60459. Representative: Arnold L. Burke, 180 N LaSalle St., Rm 3520, Chicago, IL 60601, (312) 332–5106. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with PVO International, Inc. of St. Louis, MO.

MC 148857 (Sub-5), filed September 10, 1982. Applicant: CHILD TRUCK LINE, INC., P.O. Box 995, Chowchilla, CA 93610. Representative: Eugene Q. Carmody, 15523 Sedgeman St., San Leandro, CA 94579, (415) 357–6236. Transporting *general commodities,* (except classes A and B explosives, and household goods), between points in the U.S., (except AK and HI).

MC 149147 (Sub-2), filed September 13, 1982. Applicant: DECKERT TRANSPORT, INC., 12223 E. 4th Place, Tulsa, OK 74128. Representative: Jack R. Anderson, Suite 305 Reunion Center, 9 E. 4th St., Tulsa, OK 74103, (918) 583–9000. Transporting *foodstuffs,* (1) between points in AZ, CA, CO, FL, ID, LA, MT, NM, OR, TX, UT, WA, and WY, on the one hand, and, on the other, points in OK, and (2) between points in Seward County, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159646 (Sub-1), filed September 13, 1982. Applicant: ENERGY TRUCKING, INC., 4100 S. 500 W., Salt Lake City, UT 84105. Representative: Franklin L. Slaugh, 8522 S. 1300 E.-Ste. D–203, Sandy, UT 84070, (801) 566–4675. Transporting (1) *transportation equipment,* between points in UT, on the one hand, and, on the other, points in AR, AZ, CA, CO, IA, ID, IL, KS, MO, MT, NE, ND, NM, NV, OK, OR, SD, TX, WA, and WY, (2) *rubber and plastic products,* between points in CA, CO, OR, and UT, on the one hand, and, on the other, points in AZ, NM, NV, ID, WA, and WY, (3) *ores, minerals and mill products,* between points in AZ, CO, NM, NV, and UT, on the one hand, and, on the other, those points in the U.S. in and west of ND, SD, NE, KS, OK, TX, and LA, and (4) *metal and metal products, machinery, and building materials,* between CA, CO, ID, MT, OK, TX, WA, and WY.

MC 161976, filed September 13, 1982. Applicant: LORA L. DALLUM, d.b.a. DALLUM TRUCKING, 1020 W 100th Place, Northglenn, CO 80221. Representative: Lora L. Dallum (same address as applicant), (303) 452–2055. Transporting *building materials and metal products,* between points in CO, on the one hand, and, on the other, points in AZ, CA, NM, NV, UT, and WY, under continuing contract(s) with Dry Wall Supply, Inc., of Denver, CO, and Pioneer Steel & Tube Dist., Inc. of Henderson, CO.

MC 163817, filed September 13, 1982. Applicant: JERRY D. GRISSOM, d.b.a. D&D FREIGHT COMPANY, 914 Waverly Ave., Muscle Shoals, AL 35660. Representative: Jerry D. Grissom (same address as applicant), (205) 381–5850. Transporting *magnesium oxide and related products,* between points in AL, AR, CT, GA, IL, IN, KY, MD, MI, MO, NC, OH, PA, SC, and TN.

MC 163828, filed September 13, 1982. Applicant: MAHONING ENERGY CO., 10900 South Ave., North Lima, OH 44452. Representative: Lewis S. Witherspoon, 2455 N. Star Rd., Columbus, OH 43221, (614) 486–0446. Transporting *bulk commodities,* between points in the U.S. (except AK and HI), under continuing contract(s) with East Fairfield Coal Co., of North Lima, OH.

MC 163827, filed September 13, 1982. Applicant: BEST-WAY CARRIERS, INC., 476 Hartford Pike, Shrewsbury, MA 01545. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836–1144. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) between points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VT, OH, IN, IL, MI, VA, WV, and DC, and (2) between points named in (1) above, on the one hand, and, on the other, points in GA, NC, SC, FL, WI, MO, MN, TX, CA, and OR.

MC 163837, filed September 13, 1982. Applicant: AMERICAN TRAILS STAGE LINE & TOUR CO., INC., 1006 East Orangefair Lane, Anaheim, CA 92801. Representative: William N. McCormick, P.O. Box 1844, Orange, CA 92668–0844, (714) 738–5485. Transporting *passengers and their baggage,* in round-trip charter operations, beginning and ending at points in Los Angeles, Orange, and San Diego Counties, CA, and extending to points in the U.S. (AK and HI).

MC 163846, filed September 13, 1982. Applicant: MALO, INC., d.b.a. CHARTER BUS SERVICE, 1630 Westwood Ave., Cincinnati, OH 45214. Representative: Norman A. Murdock, 4037 Glenway Ave., Cincinnati, OH 45205, (513) 251–1247. Transporting *passengers and their baggage,* in charter operations, between points in OH, KY, IN, WV, PA, TN, and MI.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26666 Filed 9-28-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-204

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 163620 (Sub-II–1TA), filed September 13, 1982. Applicant: HARRY T. BROOKS, SR., Rt. 1, Box 166–J, Cascade, VA 24069. Representative: David W. Erdman, P.O.B. 37378, Charlotte, NC 28237. Contract, irregular: *furniture, furniture parts and items related to the manufacturing of furniture* between points in NC, VA, MD, WV, OH, PA, IN, IL, NH, MA, CT, ME, VT, RI, NJ, NY, DE, MI, SC, GA, FL, KY and TN under continuing contract(s) with La-Z-Boy Chair Co. An underlying ETA seeks 120 days authority. Supporting shipper(s): La-Z-Boy Chair Co., 901 N. Douglas St., Florence, SC 29501.

MC 163815 (Sub-II–1TA), filed September 13, 1982. Applicant: HERCULES TRUCKING, INC., 1300 Morrical Blvd., Findlay, OH 45840. Representative: Stephen H. Loeb, Suite 4, 2777 Finley Road, Downers Grove, IL 60515. *Contract, Irregular: Rubber and related products, and materials, equipment and supplies used in the production thereof,* between Findlay, OH, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX under contract with Hercules Tire & Rubber Company for 270 days. Supporting shipper: Hercules Tire & Rubber Company, 1300 Morrical Blvd., Findlay, OH 45840.

MC 161246 (Sub-II–2TA), filed September 15, 1982. Applicant: KENTON CRATE & PALLET COMPANY, INC., 18 Betty St., Milford, DE 19963. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005. *Building materials, and materials and supplies used in the manufacture and distribution of building materials,* between points in DE, MD, VA, PA and NJ, under continuing contract(s) with Master Lumber & Supply, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Master Lumber & Supply, Inc., P.O. B. 205, Milford, DE 19963.

MC 107012 (Sub-II–237–TA), filed September 13, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Margaret S. Vegeler, (same as applicant). Contract, irregular: *General commodities* (except household goods, classes A and B explosives, and commodities in bulk) between points in the U.S., under continuing contract(s) with Diasonics, Inc., of Milpitas, CA for 270 days. Supporting shipper: Diasonics, Inc., 1545 Barber Lane, Milpitas, CA 95035.

MC 109448 (Sub-II–23–TA), filed September 13, 1982. Applicant: PARKER TRANSFER CO., P.O. Box 256, Elyria, OH 44036. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Plastic products,* except in bulk, from points in Licking County, OH to points in MI, IL, IN, KY, WV, PA, and NY for 270 days. Supporting shipper: Sewell Plastics, Inc., Route #79, Hebron, OH 43055.

MC 163814 (Sub-II–1TA), filed September 13, 1982. Applicant: PITT EXPRESS SYSTEM, INC., 115 McLaughlin Run Rd. P.O.B. 12372, Pittsburgh, PA 15231. Representative: John D. Gamble, III, (same address as applicant). *General commodities (except classes A & B explosives, household goods as defined by the Commission and commodities in bulk)* between points in DE, DC, MD, NJ, OH, PA, NY and WV, for 270 days. Supporting shipper(s): Gullick Dobson Inc., 603 Parkway View Dr, Pittsburgh, PA Chem Central, P.O.B. 15597, Pittsburgh, PA American Hospital Supply, 171 Thornhill Dr, Warrendale, PA Bearings & Transmission Inc., 930 Glenwood Ave., Ambridge, PA.

MC 163645 (Sub-II–TA), filed September 13, 1982. Applicant: PLASTIPAK PACKAGING, INC., 18015 St. Rt. 65, Jackson Center, OH 45334. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017. *General commodities,* except classes A & B explosives, household goods and bulk commodities, between points in the U.S., except AK and HI for 270 days. Restricted to movements originating at or destined to facilities used by Beatrice Foods Co. and its divisions and subsidiaries. An underlying eta seeks 120 days authority. Supporting shipper: Beatrice Foods Co., Two N. LaSalle St., Chicago, IL 60602.

MC 153918 (Sub-II–TA), filed September 13, 1982. Applicant: TRANSPORTATION & CONSOLIDATION CENTERS, INC., P.O. Box 1524, Harrisburg, PA 17105. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. Contract, irregular; *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in CA, CT, DE, DC, IL, IN, KY, ME, MD, MA, MI, MO, NH, NJ, OH, PA, RI, VA, VT, WV and WI, under continuing contract with TCC Inc., Middletown, PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): TCC INC., Harrisburg International Airport, Bldg. 33, Middletown, PA 17057.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26665 Filed 9-28-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. F387 (Sub-279)]

Union Pacific Railroad Co., Exemption for Contract Tariff ICC-UP-C-0104 (Sugar Beets)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the

notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 23, 1982.

By the Commission, Review Board number 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26687 Filed 9-28-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-278)]

Consolidated Rail Corp., Exemption for Contract Tariff ICC–CR–C–0170 (Sheet Steel and Pipe)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 23, 1982.

By the Commission, Review Board Number 2, Members Carleton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26688 Filed 9-28-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-117]

Certain Automotive Visors; Termination of Two Respondents Based on a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Termination of investigation as to respondents Toyota Motor Sales Co., Ltd. of Japan and Toyota Motor Sales, U.S.A., Inc., on the basis of a settlement agreement.

SUMMARY: On May 13, 1982, complainant Prince Corporation (Prince), Toyota Motor Sales Co., Ltd. (TMS), Toyota Motor Sales, U.S.A., Inc. (TMS–USA), of California, and the Commission investigative attorney filed a joint motion to terminate the above-captioned investigation with respect to TMS and TMS–USA on the basis of a settlement agreement entered into between Prince, TMS, and TMS–USA. On June 8, 1982, the presiding officer recommended that the joint motion be granted. A **Federal Register** notice was published on July 21, 1982, seeking comments from interested members of the public and other government agencies on the proposed termination of these respondents (47 FR 31631). No comments were received. On September 21, 1982, the Commission granted the joint motion and terminated the investigation as to respondents TMS and TMS–USA on the basis of the settlement agreement.

SUPPLEMENTARY INFORMATION: The Commission is conducting investigation No. 337–TA–117 to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation and sale of certain automotive visors, which are alleged to infringe certain claims of U.S. Letters Patent Nos. 3,928,470 and 4,227,241, owned by complainant Prince. The alleged effect or tendency of these unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

Copies of any nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Jane Albrecht, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1627.

Issued: September 22, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-26692 Filed 9-28-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-130]

Certain Braiding Machines; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint and its amendments were filed with the U.S. International Trade Commission on August 18, 1982, and September 10 and September 13, 1982, respectively, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of New England Butt Co., Division of Wanskuck Co., 304 Pearl St., Providence, Rhode Island 02907. The amended complaint (hereinafter the complaint) alleges unfair methods of competition and unfair acts in the importation of certain braiding machines into the United States, or in their sale, by reason of alleged common-

law trademark infringement, false designation of origin, and passing off. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation, conduct expedited temporary relief proceedings, issue temporary exclusion and cease and desist orders, and, after a full investigation, issue permanent exclusion and cease and desist orders.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on September 24, 1982, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain braiding machines into the United States, or in their sale, by reason of alleged common-law-trademark infringement, false designation of origin, and passing off, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

New England Butt Co., Division of Wanskuck Co., 304 Pearl St., Providence, Rhode Island 02907

(b) The respondents are the following company and individual, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Kokubun Inc., Nakajimacho, Hamamatsu, Japan

Mr. George Sabula, Box 163–A, McEntire Road, Route 1, Tryon, North Carolina 28782

(c) Patricia Ray, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 126, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer. The Commission notes that complainant has requested that the administrative law judge schedule a hearing to be completed within a short period after institution of the investigation and issue an initial determination as to whether there is a reason to believe there is a violation of section 337 within thirty (30) days after the close of the hearing on temporary relief. In light of this request and the allegagtions contained in the complaint, the Commission requests that the presiding officer give expeditious consideration to the request for temporary relief. Pursuant to § 210.30(c) of the Commission's rules, discovery should be allowed in connection with the temporary relief phase of the investigation only to the extent necessary to weigh the standards that are applicable in determining whether temporary relief should be granted.

Responses conforming to the requirements of § 210.21(b) of the Commission's rules (19 CFR 210.21(b)) must be submitted by each named respondent. Such responses will be considered by the Commission if received not later than twenty (20) days after the date of service of the complaint.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein or appended thereto, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0176.

FOR FURTHER INFORMATION CONTACT: Patricia Ray, Esq., Unfair Import Investigations Division, Room 126, U.S. International Trade Commission, telephone 202–523–1088.

Issued: September 24, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–26833 Filed 9–28–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–113]

Certain Log Splitting Pivoted Lever Axes; Proposed Termination of Investigation Based on Settlement Agreement and Request for Public Comments

AGENCY: International Trade Commission.

ACTION: Request for public comments on the proposed termination of the above-captioned investigation based on a settlement agreement.

SUMMARY: Notice is hereby given that joint motions have been filed to terminate the above-captioned investigation with respect to all respondents on the basis of a settlement agreement executed by the complainant, Chopper Industries, Inc. (Chopper), and respondent Alltrade, Inc. (Alltrade). Before taking final action on the motions, the Commission requests that interested members of the public submit written comments on the proposed termination of the investigation based on the settlement agreement.

DATES: In order to be considered, comments must be received within 30 days of publication of this notice in the **Federal Register**. Comments should conform with § 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8), and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Sheila Landers, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0421.

SUPPLEMENTARY INFORMATION: this investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain log splitting pivoted lever axes. Notice of the institution of the investigation was published in the **Federal Register** of January 6, 1982 (47 FR 3668).

On July 28, 1982, the complainant, respondent Alltrade, and the Commission investigative attorney filed a joint motion (Motion 113–31) to terminate the investigation with respect to respondent Alltrade pursuant to § 210.51(c) of the Commission's Rules of Practice and Procedure on the basis of a settlement agreement executed by the complainant and respondent Alltrade. The complainant, respondent Alltrade, and the Commission investigative attorney also filed a joint motion

(Motion 113–32) pursuant to § 210.51(a) to terminate the investigation with respect to the two other respondents in the investigation, Taiwan Tool Corp., a/k/a Taiwan Tool Co. (Taiwan Tool) and Formosa Forges Corp. (Formosa).

On August 6, 1982, the presiding officer recommended that both Motion 113–31 and Motion 113–32 be granted.

The settlement agreement

The settlement agreement between complainant Chopper and respondent Alltrade concerns both this proceeding and concurrent Federal district court litigation in California. The settlement agreement provides as a basis for termination that Chopper and Alltrade release each other and their respective suppliers, customers or transferees from any and all claims relating to the "manufacture, use or sale" of their existing axes, including all claims arising out of this investigation and the district court litigation. Specifically, Chopper agrees not to sue Alltrade, its suppliers, or customers for patent infringement by reason of the manufacture, use or sale of log splitting devices having "lever members with pivot points disposed on the centerline of the device" (Par. 6.1). Alltrade similarly agrees not to sue Cjopper, its suppliers, or customers for patent infringement by reason of the manufacture, use, or sale of log-splitting devices having "lever members with pivot points which are laterally offset from the centerline of the device." (Par. 6.2).

Each party further agrees not to "manufacture, ship into, or sell in the United States or Canada" axes "identical to or substantially similar" to those of each other that are currently marketed. Chopper and Alltrade also agree to cease and desist from "comparative advertising" with respect to the alleged safety and/or quality of each other's products and to destroy all such existing comparative advertising materials. In the case of any claim or controversy arising from this agreement, the parties provide that such differences shall be settled in accordance with the commercial arbitration rules of the American Arbitration Association.

The complete text of the settlement agreement is available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) at the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

Issued: September 22, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-26629 Filed 9-28-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–89]

Certain Molded-in Sandwich Panel Inserts and Methods for Their Installation; Issuance of Exclusion Order and Cease and Desist Order

AGENCY: International Trade Commission.

ACTION: Issuance of exclusion order and cease and desist order.

SUPPLEMENTARY INFORMATION: On September 8, 1982, the Commission modified its original remedy determination in the above-captioned investigation. The Commission modified its original action to provide for (1) a general exclusion order prohibiting the importation of infringing inserts for the remaining life of U.S. Letters Patent 3,282,015; and (2) a cease and desist order directed to The Young Engineers, Inc., prohibiting it from selling imported inserts acquired subsequent to institution of the investigation where such sales would contribute to or induce the infringement of U.S. Letters Patent Nos. 3,271,498 and/or 3,392,225. On September 16, 1982, the Commission ordered the above relief.

Notice of consideration of this modification was published in the **Federal Register** on August 9, 1982 (47 FR 34473).

The Commission Action and Order, the Commission Opinion in support thereof, and all other nonconfidential documents on the record of the investigation are available for public inspection during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 161, Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Jane Albrecht, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1627.

Issued: September 17, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-26634 Filed 9-28-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731–TA–87 (Final)]

Certain Seamless Steel Pipes and Tubes From Japan

AGENCY: International Trade Commission.

ACTION: Institution of a final antidumping duty investigation.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigation No. 731–TA–87 (Final) to determine, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of seamless heat-resisting steel pipes and tubes,[1] provided for in items 610.5209, 610.5229, and 610.5234 of the Tariff Schedules of the United States Annotated (TSUSA), and seamless stainless steel pipes and tubes,[1] provided for in TSUSA items 610.5205, 610.5228, and 610.5230, which are allegedly sold, or are likely to be sold, at less than fair value.

EFFECTIVE DATE: August 25, 1982.

FOR FURTHER INFORMATION CONTACT: Abigail Eltzroth, Office of Investigations U.S. International Trade Commission; telephone 202–523–0289.

SUPPLEMENTARY INFORMATION:

Background.—On January 20, 1982, a petition was filed with the Commission and the U.S. Department of Commerce by counsel for Babcock & Wilcox Co. alleging that an industry in the United States is materially injured and is threatened with material injury by reason of imports from Japan of seamless heat-resisting steel pipes and tubes and seamless stainless steel pipes and tubes, which are allegedly sold at less than fair value. On March 2, 1982, the Commission determined that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of imports of such merchandise. On August 25, 1982, Commerce issued a preliminary determination that such merchandise is being sold, or is likely to be sold at less than fair value. Accordingly, the Commission is instituting a final antidumping investigation. The investigation will be subject to the provisions of part 207 of the Commission's Rules of Practice and

[1] Excluding oil and gas well casing and tubing, oil and gas field drill pipes, and oil and gas line pipes which are manufactured according to API standards.

Procedure (19 CFR Part 207 (1981), as amended by 47 FR 6190 (Feb. 10, 1982)), and particularly subpart B thereof.

Written submissions.—Any person may submit to the Commission on or before November 10, 1982, a written statement of information pertinent to the subject matter of the investigation. A signed original and fourteen copies of such statements must be submitted. In the event that confidential treatment of the document is requested under § 201.6, at least one additional copy shall be filed in which the confidential business information shall have been deleted and which shall have been marked "nonconfidential" or "public inspection".

Any business information which a submitter desires the Commission to treat as confidential shall be submitted in conformance with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6 (1981)). Each sheet of information for which confidential treatment is desired must be clearly marked at the top "Confidential Business Data". All written submissions, except for confidential business data, will be available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

A staff report containing preliminary findings of facts will be made available to all interested parties on October 19, 1982.

Service of documents.—The Secretary will compile a service list from the record of the preliminary investigation and the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 13791 (April 1, 1982)), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirement set forth in § 201.16(b) of the rules (19 CFR 201.16(b)) as amended by 47 FR 6190 (Feb. 10, 1982).

In addition to the foregoing, each document filed with the Commission in the course of the investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Public hearing. The Commission will hold a public hearing in connection with this investigation on November 3, 1982, in the Hearing Room of the U.S. International Trade Commission Building, beginning at 10 a.m. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on October 18, 1982. Persons desiring to appear at the hearing and make oral presentations may file a prehearing brief and should attend a prehearing conference to be held at 10 a.m., on October 20, in Room 117 of the U.S. International Trade Commission Building. Prehearing briefs must be filed on or before October 29, 1982.

Testimony at the public hearing is governed by § 207.23 of the Commission's Rules of Practice and Procedure (19 CFR 207.23), as amended by 47 FR 6191 (Feb. 10, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to new information. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with rule 207.22 (19 CFR 207.22) as amended by 47 FR 6191 (Feb. 10, 1982). Posthearing briefs will also be accepted within a time specified at the hearing.

For further information concerning the conduct of the investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and B (19 CFR Part 207 (1981)), as amended by 47 FR 6190 (Feb. 10, 1982, and part 201, subparts A through E (19 CFR Part 201 (1981)), as amended by 47 FR 6188 (Feb. 10, 1982) and 47 FR 13791 (April 1, (1982).

This notice is published pursuant to section 207.12 of the Commission's Rules of Practice and Procedure (19 CFR 207.12 (1981)).

Issued: September 21, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-26626 Filed 9-28-82; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-131]

Certain Variable Character Display Devices; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice if hereby given that a complaint was filed with the U.S. International Trade Commission on August 26, 1982, and amended on September 10, 1982, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of the Staver Company, Inc., 41–51 N. Saxon Avenue, Bay Shore, New York 11706. The complaint alleges unfair methods of competition and unfair acts in the importation of certain variable character display devices ("display devices") into the United States, or in their sale, by reason of alleged infringement by said display devices of the claims of U.S. Letters Patent 4,117,478 and the claim of U.S. Patent Des. 249,985. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated in the United States.

The complainant requests the Commission to institute an investigation and, after a full investigation, to issue an exclusion order, prohibiting importation of the above-mentioned articles into the United States for the life of each patent in issue, or a permanent cease and desist order.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on September 21, 1982, Ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain variable character display devices into the United States, or in their sale, by reason of the alleged infringement by said display devices of the claims of U.S. Letters Patent 4,117,478 and the claim of U.S. Patent Des. 249,985, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

The Staver Company, Inc., 41–51 N. Saxon Avenue, Bay Shore, New York 11706

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to reserved:

Ferranti-Packard Ltd., c/o Ferranti Transformer Division, Martin & Middle Road, P.O. Box 372, Dunkirk, New York 14048
Ferranti-Packard, Ltd., 600 Ambler Drive, Mississauga, Ontario L4W 2P1 Canada
Identicon, 1 Kenwood Circle, Franklin, Massachusetts 02038

(c) Jeffrey Neeley, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 132, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0176.

FOR FURTHER INFORMATION CONTACT: Jeffrey Neeley, Esq., Unfair Import Investigations Division, Room 132, U.S. International Trade Commission, telephone 202–523–0115.

Issued: September 21, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-26936 Filed 9-28-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-131]

Certain Variable Character Display Devices; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: September 22, 1982.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 82-26931 Filed 9-28-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-101 (Preliminary)]

Greige Polyester/Cotton Printcloth From The People's Republic of China

Determination

On the basis of the record [1] developed in investigation No. 731–TA–101 (Preliminary), the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of greige polyester/cotton printcloth as provided for in items 326.26 through 326.40 of the Tariff Schedules of the United States, with statistical suffixes 32 and 92 from the People's Republic of China (China) which are allegedly being sold at less than fair value (LTFV).

Background

On August 5, 1982, the American Textile Manufacturers Institute and eight member companies filed a petition with the U.S. International Trade Commission and the U.S. Department of Commerce alleging that an industry in the United States is materially injured and is threatened with material injury be reason of imports of greige polyester/cotton printcloth as provided for in items 326.26 through 326.40 of the Tariff Schedules of the United States, with statistical suffixes 32 and 92 from China which are allegedly being sold at LTFV. Accordingly, effective August 5, 1982, the Commission instituted a preliminary investigation under section 733(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of the importation of such merchandise into the United States.

Notice of the institution of the Commission's investigation and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on August 13, 1982 (47 FR 35365). The conference was held in Washington, D.C. on August 27, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of the Commission

Introduction

After considering the record in this investigation, we determine, pursuant to section 731 of the Tariff Act of 1930, that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of greige polyester/cotton printcloth of chief value cotton from the People's Republic of China which are allegedly being sold at less than fair value.[2]

Standards for Determination

In making a determination as to whether there is material injury, the Commission is required to consider, in addition to other factors it considers relevant: (1) The volume of imports; (2) the effect of imports on domestic prices for like products; and (3) the impact of imports on the domestic industry.[3]

The "threat of material injury" standard "is intended to permit import relief under the countervailing duty and antidumping laws before actual injury occurs." [4] In determining whether an industry in the United States is threatened with material injury, the Commission is required to consider "any economic factors it considers relevant" [5]

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[1] The "record" is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (47 FR 6190, Feb. 10, 1982).

[2] Commissioner Frank notes that the statute and legislative history require the Commission in its preliminary determinations in both antidumping and countervailing duty investigations to exercise only a low threshold test based upon the best information available to it at the time of such determination which reasonably indicates that an industry in the United States could possibly be suffering injury, threat thereof or material retardation. H.R. Rep. No. 96–317, 96th Cong., 1st Sess. 52 (1979).

[3] 19 U.S.C. 1677(7)(B).

[4] S. Rep. No. 249, 96th Cong., 1 st Sess. 88 (1979); H. Rep. No. 317, 96th Cong., 1st Sess. 47 (1979).

[5] S. Rep. No. 249, *supra* n. 2, at 88.

in light of the conditions of trade and competition and the nature of the particular industry in each case.[6] Findings of a reasonable indication of threat of material injury must be based on a showing that the likelihood of harm is real and imminent, and not on mere supposition, speculation, or conjecture.[7]

In previous investigations the Commission has considered, among other factors: (1) The rate of increases of subsidized or dumped imports into the U.S. market, (2) the capacity in the exporting country to generate exports, and (3) the availability of other export markets.[8]

The Domestic Industry

The industry in an antidumping investigation is defined as the domestic producers of the product which is like that being imported. Specifically, the statute provides:

> The term "industry" means the domestic producers as a whole of a like proudct or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.[9]

"Like product," in turn, is defined as:

> A product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.[10]

The imported article which is subject to this investigation is greige [11] (unbleached and uncolored) printcloth fabric other than 80 x 80 type in chief value of cotton, containing polyester (hereinafter "printcloth"), and provided for in items 326.26 through 326.40 of the TSUS, with statistical suffixes 32 and 92.[12]

Printcloth is a staple "bread and butter" textile fabric that has a wide variety of applications in the manufacture of apparel, including pocketing and lining materials, and household uses such as curtains, bedspreads, and quilts.[13] Both the imports under investigation and domestic printcloth are sold in the same constructions and widths.

Printcloth is to a large extent a fungible item. However, the quality of printcloth fabric can vary depending upon the quality of the raw materials used, the blending of the raw materials, the alignment of the fibers in the yarn, and the number of flaws in the fabric created during the weaving process. The petitioners maintain that the imported product from China is of good, if not excellent, quality and that it is used interchangeably with the domestic product.[14] The respondents maintain that printcloth from China is of lesser quality than domestically-made goods for some applications.[15] However, all but one of the purchaser responses on this issue confirmed that the quality of polyester/cotton printcloth from China was as good, if not better, than much domestically-produced cloth.[16] We conclude that the domestic product "like" the imports of printcloth under investigation is printcloth made of a blend of polyester and cotton containing 50 percent or more of cotton.[17] Therefore, the "industry" consists of the domestic producers of this product.[18]

Condition of the Domestic Industry

Although the overall condition of the domestic industry appears to be relatively favorable at this time, there are indications that it is weakening, and that it will continue to do so.

Apparent domestic consumption of the printcloth under investigation increased steadily by 7 percent between 1979 and 1980, and by 20 percent between 1980 and 1981.[19] Despite this trend, U.S. production increased by only 4 percent between 1979 and 1980,[20] and then declined by 5 percent between 1980 and 1981.[21] Thus the domestic industry's share of the domestic market decreased from 95 percent in 1979 to 93 percent in 1980 and to 74 percent in 1981.[22] Apparent domestic consumption decreased by 7 percent in January–July 1982 compared with the corresponding period of 1981.[23] Domestic production continued its decline by 4 percent during this period compared with the corresponding period of 1981.[24]

U.S. producers' domestic shipments followed the same general trend as production, increasing from 1979 to 1980 by 4 percent, then declining by 1 percent in 1981, with a continued decline of 1.8 percent in January–July of 1982 compared with January–July of 1981.[25] The capacity utilization rate increased from 62.2 percent in 1979 to 67.5 percent in 1980, dropped back to 64.4 percent in 1981, and increased to 66.0 percent in January–July 1982 compared with 65.5 percent in the corresponding period of 1981.[26]

U.S. producers' end-of-period inventories have increased from 17 million square yards in 1979 to 21 million square yards in 1981,[27] and to 32 million square yards as of the end of July 1982, almost double the levels at the end of July 1981.[28] The number of production and related workers has declined steadily by 22 percent from 1979 to 1981, then increased slightly by 4 percent in January–June 1982 compared with the corresponding period of 1981.[29] More significantly, the number of hours worked declined steadily throughouth the period by 13 percent from 1979 to 1981, and by 17 percent in January–June 1982 compared with the corresponding period in 1981.[30]

Profit-and-loss information submitted to the Commission shows a relatively profitable industry through 1981. The ratio of net sales to operating income declined from 9.7 percent in 1979 to 6.6 percent in 1980 then increased to 10.9 percent in 1981.[31] However, in January–June 1982, the ratio of net sales to

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[6] *Id.* at 89.

[7] S. Rep. No. 96–249, 96th Cong., 1st Sess. 88–89 (1979); S. Rep. No. 1298, 93rd Cong., 2d Sess. 180 (1974); Alberta Gas Chemicals, Inc. v. United States, 515 F. Supp. 780, 790 (Ct. Int'l Trade 1981).

[8] 19 CFR 207.26(d).

[9] Section 771(4) of the Tariff Act of 1930 (19 U.S.C. 1771(4)).

[10] Section 771(10) of the Tariff Act of 1930 (19 U.S.C. 1771(10)).

[11] "Greige" is pronounced "gray". It is derived from the French word "beige," which means natural. Therefore, it refers to cloth that has not been subject to further processing, such as printing, dyeing, or bleaching.

[12] For the full definition of printcloth as provided in the TSUS, see Report at A–2. For purposes of this investigation, domestic polyester/cotton printcloth that contains 50 percent or more of cotton is considered to be the equivalent to polyester/cotton printcloth "of chief value cotton." Report at A–6.

[13] Transcript of Conference (Tr.) at 112 (Mr. Goodwin, Huafang Trading Co.) and 38 (Mr. Greenwald).

[14] Tr. at 66 (Mr. Eisen).

[15] Mr. Goodwin, President of Huafang, testified at the conference that imports of polyester/cotton printcloth from China are not broadly regarded as acceptable for dyeing or bleaching. Tr. at 115. However, these applications constitute a relatively small portion of the market for this product.

[16] Report at A–30,A–31 (Purchasers 1, 3, 4 and 5) *Cf.* Purchaser 8.

[17] *See* n. 11 *supra.*

[18] The names of the individual producers of this product are found in the Report at A–7.

[19] Report at A–22 (Table 11).

[20] *Id.*

[21] *Id.*

[22] Overall domestic capacity utilization in 1980 was 67.5 percent and in 1981 was 64.4 percent. Report at A–10 (Table 2). Thus, it appears that imports gained market share in 1980 and 1981 at the expense of the domestic industry, and not because the domestic industry lacked the capacity to meet demand.

[23] Report at A–22.

[24] *Id.* at A–9 (Table 1).

[25] *Id.* at A–12 (Table 3).

[26] Report at A–10 (Table 2). The capacity utilization rate for January–July 1982 increased because capacity dropped at a faster rate than production. *Id.* and *Id.* at A–9 (Table 1). These rates as developed in this preliminary investigation are well below the 80–85 percent rate which the domestic industry asserts is its breakeven rate. Tr. at 70.

[27] *Id.* at A–14 (Table 5).

[28] *Id.*

[29] *Id.* at A–14 (Table 6).

[30] *Id.*

[31] *Id.*at A–10 (Table 2).

operating income dropped to its 1980 level of 6.6 percent.[32]

The current financial experience of domestic producers in large part reflects shipments under long-term contracts entered into during 1981 at prices significantly higher than current market prices. Since 1981, it appears that orders have decreased substantially, and that the impact of this decrease has not yet manifested itself.[33] Information provided by the domestic producers indicates that unfilled orders for January–March 1982 and for April–June 1982 are lower than for any other two succeeding quarters since 1979. In addition, the weighted average price of domestically produced printcloth has fallen steadily from a high of 58.5 cents per linear yard in January–March 1981 to 46.5 cents per linear yard in April–June 1982, the lowest price for the entire period under investigation.[34] On the basis of indications of decreasing orders, coupled with increasing inventory and falling prices, it appears that the domestic industry will soon manifest more substantial indications of material injury than are presently apparent.

Threat of Material Injury by Reason of Alleged LTFV Imports

Volume of Imports

Imports of printcloth from China have increased substantially during the period under investigation, both in absolute and relative terms. Imports of printcloth from China increased from 228,000 square yards in 1979 to 11 million square yards in 1980, an increase of 48 times the 1979 level.[35] In 1981, imports from China again increased to 57 million square yards.[36] In January–July 1982, imports from China continued to increase to 38 million square yards compared with 33 million square yards in the corresponding period of 1981.[37] The ratio of imports from China to apparent domestic consumption increased from less than 0.5 percent in 1979 to almost 11 percent in 1981, and continued to make inroads into the U.S. market in January–July 1982, rising to 13.6 percent, compared with 10.6 percent in January–July 1981.[38]

Effect of Imports on Domestic Prices

Domestic printcloth is sold both by long-term contract and by spot sales, although long-term contracts are preferred by most producers. Importers sell both by long-term contract and by spot sales as well. Prices for both long-term contracts and spot sales are negotiated on a transaction-by-transaction basis. Pricing in the printcloth market is very competitive, and a difference of less than one cent per linear yard can result in a lost sale.[39]

Booking price information [40] on 48" 78 x 54 50/50 printcloth indicates that from July of 1980 [41] through June of 1981 printcloth from China was underselling the domestic product by margins ranging from 1.6 percent to 11.5 percent.[42] In the last two quarters of 1981, the price of the printcloth from China was priced slightly higher than the domestic product.[43] In January–June 1982, underselling of the domestic printcloth by the imported product is again in evidence with margins of 5.4 and 1.7 in the first and second quarters respectively.[44]

Booking price information on 51" 73 x 52 50/50 printcloth indicates a similar pattern of underselling, although the margins of underselling are higher, particularly in the fourth quarter of 1980, which is the first quarter for which importers reported prices.[45] This underselling continued at a rate of 16.4 percent in the fourth quarter of 1980 to 4.3 percent in the third quarter of 1981.[46] In October–December 1981 and January–March 1982, the imported product was overselling the imported product.[47] In April–June of 1982, the most recent quarter for which we have pricing information a margin of underselling of 6.4 percent is again in evidence.[48]

Given the ratio of imports from China to apparent domestic consumption, we have determined that this underselling was clearly a factor in the steady decline in the domestic producers' weighted average prices from the second quarter of 1981 to the present. The information available at the present time indicates that the volume of imports from China entering the market at prices substantially lower than the domestic product contributed to the decline in domestic producers' prices. The impact of such underselling appears particularly pronounced in January–June of 1982, when consumption was declining.

In addition, we have confirmed that the lower price of the imported printcloth resulted in lost sales accounting for 1.6 million square yards.[49] In addition, purchasers have indicated that they have been offered or have purchased greige, polyester/cotton printcloth from China at prices below those of the domestic producers.[50] Thus, there is a reasonable indication that the printcloth from China has been underselling the domestic product, resulting in price suppression, price depression and lost sales.

Furthermore, importers responding to questionnaires have reported a substantial build-up of inventories. Inventories at the end of June 1982 increased eight times over those at the end of June 1981, totaling between 5 and 10 million square yards, and equaling a significant percent of the imports for January–July 1982.[51] Moreover, substantial shipments which have already been contracted for and which are scheduled for delivery later in this year have not yet entered into the United States.[52]

Information on the Chinese printcloth industry and its ability to increase exports to the United States or other markets is limited. However, China, as part of its current overall economic development plan, is emphasizing the development of export-oriented light industry as a means of earning foreign ecchange, and has taken a number of actions to promote the expansion of exports.[53] Textile products are expected to be one of the key product areas in China's efforts to achieve growth in exports.[54] In addition, the United States is a major market for textile exports from China.[55] Furthermore, recent import

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[32] *Id.* Although producers generally have reported favorable profit and loss experiencies, at least one producer has reported operating losses and net losses for January–June 1982. Tr. at 58; Report at A–22 and A–25.

[33] Report at A–25; Petition appendix 11; Tr. at 51, 58 and 52.

[34] This price information refers to the prices for 48" 73 x 52 printcloth. The prices for 51" 73 x 52 printcloth followed a similar trend. See Report at A–28 (Table 14) and A–29 (Table 15).

[35] *Id.* at A–21 (Table 10).

[36] *Id.* Commissioner Frank notes that, while imports from all sources other than China declined by 40 percent during this period compared to the corresponding period of 1981, imports from China increased by 3 percent. *Id.* at A–21 (Table 10).

[37] *Id.*

[38] *Id.* at A–22 (Table 11).

[39] Report at A–23.

[40] Booking prices more accurately reflect price competition in this industry than shipping prices. For a full discussion, see Report at A–24—A–25.

[41] The earliest price information on imports reported to the Commission began as of this date.

[42] *Id.* at A–26 (Table 12).

[43] *Id.*

[44] *Id.*

[45] *Id.* at A–28 (Table 14).

[46] *Id.*

[47] *Id.*

[48] *Id.*

[49] *Id.* at A–31. As previously noted, there are indications that unfilled orders for the first two quarters of 1982 are lower than in any other two succeeding quarters since 1979. *See* n. 32 *supra.*

[50] *Id.*

[51] Report at A–19. The actual figures are confidential information.

[52] Based on confidential information submitted by respondents.

[53] *Id.*

[54] *See Emerging Textile-Exporting Countries,* Report on Inv. 332–126 (USITC Pub. 1273) (August 1982) A–70.

[55] *Id.* A–67. Commissioners Frank and Haggart note that the EC, another of China's major export

volumes demonstrate the ability of China to direct large volumes of its printcloth to the U.S. market in a short period of time.[56]

Therefore, we conclude that there is a reasonable indication that imports of greige polyester/cotton printcloth from China threaten the domestic industry with material injury and that the likelihood of harm to the industry is real and imminent.

Issued: September 2, 1982.

markets, has a bilateral agreement with China restricting the imports of broadwoven fabrics, including the print cloth under investigation, to a growth rate of less than 1 percent annually for the period 1980–83. *See* 22 *O.J. Eur. Comm. (No. L 345) 28 (1979).*

[56] In 1980, the United States and People's Republic of China signed a bilateral textile agreement that did not establish specific limits on the imports under investigation, but provided for consultations in the case of market disruption. *See* Agreements Relating to Trade in Cotton, Wool, and Man-Made Fiber Textiles and Textile Products Between the Government of the United States of America and the government of the People's Republic of China, Sept. 17, 1980, T.I.A.S. No. 9620.

On October 18, 1961, the United States called for consultations regarding imports of printcloth. On July 28, 1982, the United States and the PRC agreed to amend the bilateral agreement to impose alimit of 167 million square yards on imports of both all cotton and polyester/cotton printcloth which are exported from China to the United States between January 19, 1982, and December 31, 1982. *See* The United States and the People's Republic of China Amend Bilateral Textile Agreement (U.S. Department of State Press Release, July 28, 1982). The quota ceiling for 1982 is close to the amount of printcloth imported during 1981. At the same time, consumption has decreased in 1982 compared to 1981 levels. In addition, the quota ceiling includes imports other than those under investigation. Therefore, it does not appear at this time that the quota will necessarily limit increases in the total numbers of future imports of the product under investigation.

Chairman Eckes and Commissioners Frank and Haggart refer generally to their views regarding the relationship between quotas and determinations in title VII cases. See Views of Commissioners Eckes, Frank and Haggart in Sugar from the European Community, Inv. No. 104–TAA–7 (USITC Pub. 1247) (May 1982).

Commissioner Stern distinguishes the present case from that of *sugar from the European Community*. In the latter an International Sugar Agreement (ISA) quota was in effect for the product before the Commission, and at issue was how to treat that quota when analyzing threat. In the present case, the arrangement between the PRC and the United States provides for a combined quantitative limit on all printcloth, rather than on the specific imports subject to this investigation. It leaves China free to alter the distribution of the overall quota between all-cotton and polyester/cotton printcloth. Only polyester/cotton printcloth of chief value cotton is the subject of this investigation. Therefore, the quota does not in this case eliminate imports of polyester/cotton of chief value cotton as a potential source of injury to the U.S. industry. Other factors discussed above indicate that China is likely to increase its presence in the U.S. market for polyester/cotton printcloth of chief value cotton.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-26033 Filed 9-28-82; 8:45 am]

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Report to the President on Investigation No. TA–201–46; Tubeless-Tire Valves

September 20, 1982.

Determination

On the basis of the information developed in the course of investigation No. TA–201–46, the Commission [1] determined that tubeless-tire valves provided for in items 692.32 and 692.33 of the Tariff Schedules of the United States (TSUS), are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

Background

The Commission instituted the present investigation, No. TA–201–46, on April 29, 1982, following the receipt, on April 16, 1982, of a petition for import relief filed by three U.S. manufacturers of tubeless-tire valves. The investigation was instituted pursuant to section 201(b) of the Trade Act of 1974 (19 U.S.C. 2251(b)(1)) in order to determine whether tubeless-tire valves provided for in items 692.32 and 692.33 of the TSUS are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

Notice of the institution of the Commission's investigation and of a public hearing was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C. and by publishing the notice in the **Federal Register** of May 5, 1982 (47 FR 19492).

A public hearing in this investigation was held in the hearing room of the U.S. International Trade Commission Building in Washington, D.C., on Wednesday, July 14, 1982. All interested parties were afforded an opportunity to be present, to present evidence, and to be heard.[2]

[1] Commissioners Calhoun and Frank not participating.

[2] A transcript of the hearing and copies of briefs submitted by interested parties in connection with the investigation were attached to the original report sent to the President. Copies are available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.

This report is being furnished to the President in accordance with section 201(d)(1) of the Trade Act. The information in the report was obtained from fieldwork and interviews by members of the Commission's staff, and from other Federal agencies, responses to Commission questionnaires, information presented at the public hearing, briefs submitted by interested parties, the Commission's files, and other sources.

Views of Chairman Alfred Eckes, Commissioners Paula Stern and Veronica Haggart

On the basis of the information obtained in this investigation, we have determined that tubeless tire valves provided for in items 692.32 and 692.33 of the Tariff Schedules of the United States are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

In order to make an affirmative determination in an investigation under section 201 of the Trade Act of 1974, the Commission must find that three criteria are satisfied:

(1) There are increased imports (either actual or relative to domestic production) of an article into the United States;

(2) The domestic industry producing an article like or directly competitive with the imported article is being seriously injured, or threatened with serious injury; and

(3) Such increased imports of an article are a substantial cause of serious injury, or threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Domestic Industry

Before discussing the statutory criteria, it is first necessary to determine what is "the domestic industry" which may be suffering the requisite injury. The Trade Act of 1974 states that the domestic industry consists of the domestic producers of "an article like or directly competitive with the imported article." The Senate Finance Committee Report defines "like" articles as those which are "substantially identical in inherent or intrinsic characteristics (i.e.,

materials from which made, appearance, quality, texture, etc.)." [3]

The imported articles which are the subject of this investigation are tubeless tire valves (TTVs) for use with tubeless tires on passenger-automobile and light-truck wheels. Two types of TTVs, snap-in and clamp-on, suitable for passenger-automobiles and light-truck tires have been imported into the United States.[4] Both types of valves are inserted into a hole on the rim of the wheel and are designed to control the flow of air into and out of the tire. Both types incorporate two basic components—a spring-activated plunger (core) and a metal tube (stem) in which the plunger is encased. When depressed, the plunger allows the transmission of air in either direction through the valve.[5]

The domestically produced clamp-on and snap-in valves [6] are made from the same material and have the same components and appearnce as imported valves. That is, they are substantially identical to imported valves in inherent or intrinsic characteristics.

We have concluded that, for the purposes of this investigation, the domestic industry consists of producers of snap-in and clamp-on tubeless tire valves.[7] [8]

Imports in Increased Quantities

The first of the three criteria for an affirmative determination is that the imported articles are being imported in "increased quantities." [9] The statute provides that imports are in increased quantities when the increase is in actual or absolute terms, or when the increase is "relative to domestic production." [10]

U.S. imports of TTVs increased minimally, 1.4 percent, from 1977 to 1981, reaching a peak in 1979 and declining thereafter.[11] [12] This downward trend continued through the first 4 months of 1982. There have been no imports of clamp-on valves in 1980 or January–April 1982 and imports of that type valve were negligible in 1981.[13]

The ratio of imported TTVs to total U.S. production of TTVs increased irregularly from 1977 to 1981, peaking in 1980. In 1981 the ratio was the same as in 1979 but was up by 1.6 percent from the ratio in 1977.[14]

Because imports increased over the past 5 years, although minimally, we will consider whether the remaining statutory criteria have been met.

Serious Injury

The second criterion for an affirmative determination is that the domestic industry be seriously injured or threatened with serious injury.[15] While the statute does not define the term "serious injury," it directs the Commission to consider certain economic factors in its analysis of the injury issue and to take into account all economic factors which it considers relevant. These include, but are not limited to, significant unemployment or underemployment within the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and the significant idling of productive facilities in the industry.[16]

As with increased imports, the data on injury only marginally satisfies the statutory crieteria.[17] Serious injury is evident in the declines in the economic indicators between 1977 and 1980 and, since that time, particularly in the continued decline in industry profitability. But the tentative nature of the showing of serious injury is apparent. In 1981 nearly all economic indicators recovered substantially from the 1980 low point. Throughout the entire period of this invetigation capacity has been growing.

From 1977 through 1980 domestic production fell from 170 million units to 127 million units;[18] shipments dropped from 162 million units to 124 million units [19] and employment of production and related workers fell from 467 workers to 337 workers.[20] [21] In 1981, however, each of these indicators showed a substantial increase over the 1980 level. Production rose to 143 million units, shipments to 141 million units and employment to 414 workers.[22] Domestic shipments to the replacement market recovered to roughly the same level as in 1977, 1978 and 1979.[23]

The financial data for U.S. producers of TTVs shows a steady decline for the entire period of this investigation. Operating income dropped from a profit of $1.4 million in 1977 to a loss of $.7 million in 1981.[24] Operating income as a percent of net sales dropped from 7.1 percent in 1977 to a loss of 3.3 percent in 1981. The 1982 data show a further deterioration. In 1980 and 1981, four of the five reporting firms showed losses on their TTV operations and during January–April 1982, all five firms reported losses.[25]

Despite the industry's deteriorating profitability, producers have been increasing capacity. Capacity rose from 219 million units in 1977 to 269 million units in 1981. In 1979 Schrader opened a new plant, substantially increasing that company's capacity. In 1980 Eaton substantially increased its capacity, and in 1981 Nylo-Flex increased its capacity. * * * [26] [27]

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[3] S. Rep. No. 1298, 93d Cong., 2d Sess. 121–122 (1974).

[4] Petitioner has argued that investigation should be based on a two-industry approach based on market destination: The original equipment manufacturer market (OEM) and the replacement market. The OEM market (U.S. auto companies) is served exclusively by U.S. producers. The replacement market (establishment such as retail tire and service centers, gasoline stations, and auto repair shops) is served by both foreign and domestic producers.

The TTVs produced for both these markets are virtually identical and are produced in the same establishments and on the same production lines. The only distinction is in the final packaging of the valves. Therefore, the Commission considers the OEM and replacement markets as one industry for the purpose of this investigation.

Commissioners Stern and Haggart note that this definition of industry does not preclude an analysis of developments in each market in considering the causation issue.

[5] Confidential Report, p. A–3.

[6] Snap-in valves constitute nearly all of domestic production and consumption.

[7] Imports of clamp-on valves have been negligible or nil since 1980.

[8] There are characteristics that distinguish clamp-on valves from snap-in valves, see Report at A–3, which might arguably support a finding that there are two domestic industries. Such a finding, however, would have no significant impact on our analysis since there have been virtually no imports of the clamp-on variety since 1979, and it constituted a miniscule portion of domestic production (less than 1.61 percent) and consumption (*** percent) in 1981.

[9] Sec. 201(b)(1), 19 U.S.C. 2251(b)(1).

[10] Sec. 201(b)(2)(C), 19 U.S.C. 2251(b)(2)(C).

[11] Nearly all the imports were supplied by just one manufacturer in West Germany so the import data are confidential and therefore may be discussed in general terms.

[12] Commissioner Haggart notes that imports reached a higher level in 1981 than any other year except the peak year of 1979. Confidential Report, p. A–14.

[13] Confidential Report, pp. A–13—A–15.

[14] Confidential Report, p. A–13.

[15] Sec. 201(b)(1). 19 U.S.C. 2251(b)(1)

[16] Sec. 201(b)(2)(A). 19 U.S.C. 2251(b)(2)(A)

[17] Commissioner Stern, having found no substantial causal link between the imports and the condition of the U.S. industry, has assumed for the sake of argument that the statutory criteria of increased imports and serious injury have been met.

[18] Confidential Report, p. A–13—A–19.

[19] Confidential Report, p. A–21—A–25.

[20] Capacity utilization also dropped dramatically during the period, from 75.7 percent to 46.1 percent. This drop, however, must be evaluated in light of the substantial increase in capacity during the same period.

[21] Confidential Report, p. A–33.

[22] For the first four months of 1982 each of these indicators declined somewhat. We note, however, that shipments to the replacement market continued to increase during this period.

[23] Imports compete only in the replacement market.

[24] The 1979 data is for four firms which account for 93 percent of U.S. production; the 1980 data is for five firms which account for 94 percent of U.S. production.

[25] Confidential Report, p. A–40.

[26] Confidential Report, p. A–19.

[27] Commissioner Haggart has assumed for the sake of argument that the statutory criterion of serious injury has been met in this particular case but does not make an affirmative determination since she finds that increased imports are not a substantial cause of any injury that is being suffered.

Substantial Cause of Serious Injury

The statute requires that for an affirmative finding imports must be a "substantial cause of serious injury, or threat thereof."[28] The term "substantial cause" is defined in the statute as "a cause which is important and not less than any other cause."[29] Thus, for increased imports to be a substantial cause of injury, they must pass a dual test. They must be an "important" cause of injury and a cause "not less than any other cause" of injury.[30]

The statute directs the Commission, in determining substantial cause, to take into account all economic factors which it considers relevant, including but not limited to, an increase in imports, either actual or relative to domestic production, and a decline in the proportion of the domestic market supplied by domestic producers.

We find that the imports under consideration here do not meet either of the two statutory causation requirements. They are neither an "important" cause of serious injury to the domestic TTV industry nor a cause "not less than any other cause."

As previously noted, imports of TTVs have barely increased over the last five years and as a percent of production they have remained essentially steady since 1979.[31] From 1977 to 1981 the import to production ratio rose only 1.8 percentage points, while the market share of U.S. producers declined but less than 2 percent.

The injury sustained by the tubeless tire valve industry can best be explained by two developments:[32] The 1980 decline in consumption of TTVs in the replacement market; and increased domestic competition from OEM producers[33] in the replacement market due to the decline in OEM consumption. These two causes are more important causes of injury to the TTV industry than increasing imports.

In 1980, apparent consumption in the replacement market dropped by 17 percent from the 1979 level.[34] Testimony at the hearing attributed the 1980 decline primarily to the increasing popularity of radial tires, which have a longer lifespan than other tires; the substantial drop in automobile usage (miles driven) in that year; and the trend toward smaller cars which, because of their lighter weight, tend to reduce tire wear.[35] The precipitous drop in demand in the replacement market in 1980 is an important explanation of the particularly sharp drop in the economic indicators for this industry in 1980.[36]

The serious decline in sales of new automobiles in the past few years has resulted in a concomitant decline in demand by original equipment manufacturers for TTVs. The OEM share of U.S. TTV consumption fell steadily from about 45 percent by quantity in 1977 to about 35 percent in 1981. Shipments to the OEM market declined nearly 31 percent between 1977 and 1981. Unlike the situation in the replacement market, shipments to the OEM market increased only slightly in 1981, and in January–April 1982, they again declined from the corresponding period in 1981.[37]

At the same time that demand was declining in the replacement market, the largest U.S. producers of TTVs (Bridgeport, Eaton and Schrader) intensified their efforts to sell in that market to offset their declining OEM sales. The increased competition in the replacement market resulted in a decline in the market share of small firms and also of imports.[38] Data available to the Commission show that increased shipments to the replacement market by two of the large domestic producers had a greater effect on the smaller producers than did imports.[39]

Analysis of data from questionnaires show that from 1979, the peak year for sales of both domestic and imported valves, to 1981, shipments to the replacement market by the larger domestic producers rose two percent while inports declined 18 percent and shipments by the smaller producers declined 16 percent. From 1980–1981, total shipments to the replacement market by the three largest firms increased by an average of 22 percent, while imports increased by three percent, and shipments by the smaller firms in that market increased by two percent.[40]

In sum, the decline in consumption since 1979 and the increased competition in the replacement market between U.S. producers far outweighed the imports as causes of injury to the domestic TTVs industry.

Substantial Cause of Threat of Serious Injury

The Senate Finance Committee Report states that: "[T]he threat of serious injury exists when serious injury, although not yet existing, is clearly imminent if import trends continue unabated."[41]

Imports have been decreasing since 1979, and evidence received by the Commission indicates that exports to the United States from West Germany, traditionally the principal supplier of imported TTV, are not likely to increase significantly in the near future.

The State Department has reported that Turkish production and exports may increase greatly and all of Turkish production is likely to be exported to the United States.[42] Actual imports from Turkey to date have been well below State Department predictions, and no firm commitments to increase production for export to the United States have been disclosed. It would be conjectural to assume that serious injury is clearly imminent as a result of increased imports from Turkey.

Issued: September 20, 1982.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-26630 Filed 9-28-82; 8:45 am]
BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Bonus Awards Schedule for Senior Executive Service (SES)

AGENCY: Justice Department.

ACTION: Notice of SES Bonus Awards Schedule.

Pursuant to the Civil Service Reform Act, 5 U.S.C. 5384, permitting the award of bonuses to Senior Executive Service personnel, the Department of Justice hereby announces its intention to make such bonus awards on or about October 8, 1982.

For further information contact:

Mr. Warren Oser, Director, Personnel Staff, Justice Management Division, Department of Justice, Washington, D.C. 20530. Telephone: 633–3221.

Harry H. Flickinger,

Executive Secretary, Senior Executive Resources Board.

[FR Doc. 82-26667 Filed 9-28-82; 8:45 am]
BILLING CODE 4410-01-M

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[28] Sec. 201(b)(1), 19 U.S.C. 2251(b)(1).
[29] Sec. 201(b)(4), 19 U.S.C. 2251(b)(4).
[30] S. Rep. No. 1298, 93d Cong., 2d Sess. 120 (1974).
[31] Confidential Report, p. A–17.
[32] Injury caused by the OEM market decline cannot be attributed to imports since imports do not compete in that market.
[33] Only the largest U.S. TTV manufacturers serve the OEM market.
[34] The import/production ratio in the market increased only 0.2 percent from 1979–1980.
[35] Confidential Report, p. A–84. Hearing Transcript p. 112.
[36] Replacement market consumption recovered in 1981 but remained about 5 percent below the 1979 peak.
[37] Confidential Report, pp. A–84–A–30.
[38] Confidential Report, p. A–86.
[39] Confidential Report, p. A–85.
[40] Confidential Report, p. A–23.
[41] S. Rep. No. 1298, 93d Cong., 2d Sess. 121 (1974).
[42] Confidential Report, p. A–10.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82-56)]

NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Informal Advisory Subcommittee on Space Electronics.

DATE AND TIME: October 18, 1982, 2 p.m. to 5 p.m.; October 19, 1982, 8:30 a.m. to 5:30 p.m.

ADDRESS: Lyndon B. Johnson Space Center, Room 152, Building 16, Houston, TX.

FOR FURTHER INFORMATION CONTACT: Mr. Lee Holcomb, National Aeronautics and Space Administration, Code RTC-6, Washington, D.C. 20546 (202/775-2364).

SUPPLEMENTARY INFORMATION: This Informal Advisory Subcommittee on Space Electronics was established to review and make recommendations on NASA research and technology programs and plans in space electronics which include microelectronics devices, sensors, information systems, automation, and guidance and control technology. The Subcommittee, chaired by Dr. Raj Reddy, is comprised of 11 members. The meeting will be open to the public up to the seating capacity of the room (approximately 35 persons, including the Subcommittee members and participants).

TYPE OF MEETING: Open.

Agenda

October 18, 1982

2 p.m.—Subcommittee Business.
3 p.m.—Computer Science Memorandum of Understanding and Program Overview.
5 p.m.—Adjourn.

October 19, 1982

8:30 a.m.—Computer Operations and Data Systems.
4 p.m.—Custom Large Scale Integration.
5:30 p.m.—Adjourn.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

September 22, 1982.

[FR Doc. 82-26860 Filed 9-28-82; 8:45 am]

BILLING CODE 7510-01-M

[Notice (82-57)]

NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Ad Hoc Informal Advisory Subcommittee on Computer Sciences.

DATE AND TIME: October 20, 1982, 1 p.m. to 5 p.m.; October 21, 1982, 8:30 a.m. to 5 p.m.

ADDRESS: Lyndon B. Johnson Space Center, Room 169, Building 1, Houston, TX.

FOR FURTHER INFORMATION CONTACT: Mr. Lee B. Holcomb, National Aeronautics and Space Administration, Code RTC-6, Washington, DC 20546 (202/755-2364).

SUPPLEMENTARY INFORMATION: This Ad Hoc Informal Advisory Subcommittee was formed to make a technical review of the Office of Aeronautics and Space Technology (OAST) 1983 Computer Science Research Program. The Subcommittee, chaired by Dr. Raj Reddy, is comprised of 10 members. The meeting will be open to the public up to the seating capacity of the room (approximately 25 persons, including the Subcommittee members and participants).

TYPE OF MEETING: Open.

Agenda

October 20, 1982

1 p.m.—Subcommittee Charter.
1:30 p.m.—Review 1983 OAST Computer Science Research Program.
5 p.m.—Adjourn.

October 21, 1982

8:30 a.m.—Continue Review of 1983 Computer Science Research Program.
5 p.m.—Adjourn.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

September 22, 1982.

[FR Doc. 82-26861 Filed 9-28-82; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on October 7-9, 1982, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the **Federal Register** on August 25, 1982.

The agenda for the subject meeting will be as follows:

Thursday, October 7, 1982

8:30 A.M.-8:45 A.M.: Opening Session (Open)

The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

8:45 A.M.-12:45 P.M.: WPPSS Nuclear Plant Unit 2 (Open)

The ACRS Members will hear the report of its subcommittee and consultants who are present regarding the request for an Operating License for this unit. Representatives of the NRC Staff and the applicant will also make presentations and respond to questions regarding this matter. Portions of this session will be closed as necessary to discuss Proprietary Information and safeguards information applicable to this project.

1:45 P.M.-3:45 P.M.: Human Factors Integrated Program Plan (Open)

The Committee will hear the report of its subcommittee regarding the proposed NRC plan for an integrated human factors program.

Members of the NRC Staff will make presentations and respond to questions regarding this matter.

3:45 P.M.-4:45 P.M.: Future ACRS Activities (Open)

The Members will discuss anticipated subcommittee activities and proposed activities of the full Committee.

4:45 P.M.-5:30 P.M.: ACRS Subcommittee Activities (Open)

The Committee will hear and discuss the reports of designated subcommittees regarding safety related matters including proposed NRC requirements for staffing at Nuclear Power Plants (10 CFR Part 50) and other matters related to nuclear power plant operations.

Friday, October 8, 1982

8:30 A.M.-11:30 A.M.: Reactor Pressure Vessel Thermal Shock (Open)

The Members will hear the report of the ACRS subcommittee and consultants who are present regarding the NRC proposed plan of action to resolve the concerns associated with repressurization of reactor

pressure vessels following an overcooling transient.
Members of the NRC Staff will make presentations and respond to questions regarding this matter.
Representatives of the nuclear industry will participate as appropriate.
Portions of this session will be closed as necessary to discuss Proprietary Information related to this matter.

11:30 A.M.–12:15 P.M.: ACRS Subcommittee Activities (Open)

The Members will hear and discuss the reports of designated ACRS subcommittees regarding safety related matters including the reliability of D.C. power supplies, ongoing work regarding complete loss of electrical power, and the controlinstrumentation systems for the CRBR.

1:15 P.M.–3:15 P.M.: Emergency Core Cooling Systems (Open)

The ACRS Members will hear the report of its subcommittee regarding the impact of small break LOCAs on natural circulation in systems using once-through steam generators and proposed changes in 10 CFR 50, Appendix K, ECCS Evaluation Models.
Members of the NRC Staff and the nuclear industry will participate as appropriate.
Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

3:15 P.M.–5:30 P.M.: ACRS Reports to NRC (Open)

The Committee Members will discuss proposed ACRS reports to the NRC regarding items considered during this meeting.
Portions of this session will be closed as necessary to consider Proprietary Information applicable to the matters being discussed.

Saturday, October 9, 1982

8:30 A.M.–12:00 Noon: ACRS Reports to NRC (Open)

The Members will discuss proposed reports to the NRC regarding matters considered during this meeting.
Portions of this session will be closed as necessary to consider Proprietary Information applicable to the matters being discussed.

12:00 Noon–12:30 P.M.: Activities of ACRS Members (Open)

Proposed activities of ACRS Members will be discussed.
Portions of this session will be closed as necessary to discuss information, the release of which would represent a clearly unwarranted invasion of personal privacy and to discuss matters which relate solely to internal personnel rules and practices.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on September 30, 1981 (46 FR 47903). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information (5 U.S.C. 552b(c)(4)), and matters which relate solely to the internal personnel rules and practices of the agency (5 U.S.C. 552b(c)(2)), and safeguards information (5 U.S.C. 552b(c)(3)), and information, the release of which would represent a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M. EDT.

Dated: September 24, 1982.

John C. Hoyle,

Advisory Committee Management.

[FR Doc. 82–26847 Filed 9–28–82; 8:45 am]
BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Anticipated Transients Without SCRAM; Rescheduled Meeting

The ACRS Subcommittee Meeting on Anticipated Transients Without SCRAM (ATWS) scheduled for October 1, 1982, Room 1046, at 1717 H Street, NW, Washington, DC has been *rescheduled for October 22, 1982.*

All other items regarding this meeting remain the same as announced in the Federal Register published Wednesday, September 15, 1982 (47 FR 40738).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: September 23, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–26848 Filed 9–28–82; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 50–364]

Alabama Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 17 to Facility Operating License No. NPF–8 issued to Alabama Power Company (the licensee), which revised Technical Specifications for operation of the Joseph M. Farley Nuclear Plant, Unit No. 2 (the facility) located in Houston County, Alabama. The amendment is effective as of the date of issuance.

The amendment extends for one-time only the visual surveillance interval for inaccessible hydraulic snubbers until the refueling outage scheduled to begin on October 22, 1982.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for

amendment dated August 2, 1982. (2) Amendment No. 17 to License No. NPF–8, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 22nd day of September, 1982.

For the Nuclear Regulatory Commission,

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82–26617 Filed 9–28–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–313]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 69 to Facility Operating License No. DPR–51, issued to Arkansas Power and Light Company (the licensee), which revised the Technical Specifications (TSs) for operation of Arkansas Nuclear One, Unit No. 1 (ANO–1) located in Pope County, Arkansas. The amendment is effective as of the date of issuance.

The amendment revised the TSs to require chlorine detection and protection capability for the control room.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's application for amendment dated July 14, 1982, as supplemented August 24, 1982, (2) Amendment No. 69 to License No. DPR–51, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. and at the Arkansas Tech University, Russellville, Arkansas. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 21st day of September 1982

For the Nuclear Regulatory Commission,

John F. Stolz,

Chief, Operating Reactors Branch #4, Division of Licensing.

[FR Doc. 82–26618 Filed 9–28–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–317 and 318]

Baltimore Gas & Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 75 and 56 to Facility Operating Licenses Nos. DPR–53 and DPR–69, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Units Nos. 1 and 2. The amendments are effective as of the date of issuance.

These amendments correct typographical errors involving inservice inspection and valve testing; allow start up of the reactors with one or more inoperable but isolated power operated relief valves; incorporate numerical values of containment leakage rates and incorporate by reference the latest applicable version of Regulatory Guide 1.33.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated August 2, 1982, (2) Amendment Nos. 75 and 56 to License Nos. DPR–53 and DPR–69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Docment Room, 1717 H Street, NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission. Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 20th day of September 1982.

For the Nuclear Regulatory Commission,

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82–26619 Filed 9–28–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–317 and 318]

Baltimore Gas & Electric Co., Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 76 and 57 to Facility Operating Licenses Nos. DPR–53 and DPR–69, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Units Nos. 1 and 2. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications to allow continued operation of Unit 1 for up to 21 days with one control room air conditioning unit inoperable during the October 1982 Unit 2 refueling outage. In addition, the comparable wording in the Unit 2 TS has been deleted since its applicability terminated on July 21, 1982.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the

license amendments. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendment dated August 26, 1982, (2) Amendments Nos. 76 and 57 to License Nos. DPR–53 and DPR–69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 21st day of September, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 82-26820 Filed 9-28-82; 8:45 am]

BILLING CODE 7590-01-M

Amended Subagreement 2 Between the Washington State Energy Facility Site Evaluation Council and the United States Nuclear Regulatory Commission for a Protocol for the Conduct of Joint Hearings on the Skagit Nuclear Power Project, Units 1 and 2

A memorandum of Understanding between the NRC and the State of Washington, signed on September 6, 1978 was published September 27, 1978 (43 FR 43774 ff). Subagreement 2 to that MOU was originally published August 17, 1981 (46 FR 41646 ff).

The Amendment to Subagreement 2 published below describes the cooperative regulatory policy being implemented by the NRC and the State of Washington with respect to protocol for the conduct of joint hearings for Skagit Nuclear Power Project, Units 1 and 2.

This amendment is requested by the State because of a recent change in State law. Previously, regulatory and administrative agencie of State government were able to use hearing examiners (administrative law judges) in the conduct of contested case hearings. Effective the first of July 1982, this is no longer the case. The legislature has created a new Office of Administrative Hearings which is to independently conduct such hearings for an agency and return a recommended decision to the agency. The other option available under this recent change is for the agency to conduct the hearing itself, dispensing with the services of a hearing examiner.

The Washington State Energy Facility Site Evaluation Council has advised NRC that they feel they cannot turn their responsibilities over to an independent agency. Therefore, they have elected to handle their own hearings with the Chairman or a Council member designated by the Chairman actually presiding. This action necessitates the amendments to Subagreement 2.

FOR FURTHER INFORMATION CONTACT: Frank Young, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 492–9879.

Dated at Bethesda, Maryland this 21st day of September 1982.

For the Nuclear Regulatory Commission,

G. Wayne Kerr,

Director, Office of State Programs

[FR Doc. 82-26822 Filed 9-28-82; 8:45 am]

BILLING CODE 7590-01-M

Documents containing reporting or recordkeeping requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: New

2. The title of the information collection: Mark I Containment Program and NUREG–0661, "Mark I Containment Long Term Program"

3. The form number if applicable: Not Applicable

4. How often the collection is required: Nonrecurring

5. Who will be required or asked to report: BWR Operating Power Reactor Licensees and Applicants with Mark I Containments.

6. An estimate of the number of responses: 16

7. An estimate of the total number of hours needed to complete the requirement or request: 16,000

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not Applicable.

9. Abstract: NRC has issued Orders requiring BWR licensees with Mark I containments to make modifications to restore intended safety margins. The NRC is evaluating the licensees plant unique analyses to determine their acceptability against NUREG–0661. To complete the review additional information related to deviations from NUREG–0661 and issues part of the Mark I program but not specifically addressed in NUREG–0661 will have to be provided.

Copies of the submittal may be inspected or obtained for a fee from NRC Public Document Room, 1717 H Street, NW. Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer, Gwendolyn W. Pla, (202) 395–6880.

NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 23rd day of September 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 82-26821 Filed 9-28-82; 8:45 am]

BILLING CODE 7590-01-M

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

Meeting

Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committees Act, that the twenty-fifth meeting of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research will be held in the Auditorium of The Medical Society of the District of Columbia, 2007 Eye Street NW., Washington, D.C. from 9:00 a.m. to 5:00 p.m. on Friday, October 8, 1982 and from 8:30 a.m. to 5:00 p.m. on Saturday, October 9, 1982.

The meeting will be open to the public, subject to limitations of available space. The agenda will include, among other things, Commission review of a draft report on the ethical and legal implications of genetic screening and counseling, and a draft report on decisions to forego life-sustaining treatment.

During Friday afternoon at approximately 1:30 p.m., and Saturday afternoon, at approximately 1:00 p.m., fifteen minutes will be devoted to comments from the floor on the subject of any of the agenda items, limited to three minutes per comment. Written suggestions and comments will be accepted for the record from those who are unable to speak because of the constraints of time and from those unable to attend the meeting.

Records shall be kept on all Commission proceedings and will be available for public inspection at the Commission office, located in Suite 555, 2000 K Street NW., Washington, D.C. 20006.

For further information, contact Andrew Burness, Public Information Officer, at (202) 653–6051.

Alexander M. Capron,

Executive Director.

[FR Doc. 82-26667 Filed 9-28-82; 8:45 am]

BILLING CODE 8025-AV-M

SMALL BUSINESS ADMINISTRATION

[License No. 06/06–0241]

Aspen Financial Corp.; License Surrender of Aspen Financial Corporation

Notice is hereby given that Aspen Financial Corporation (AFC), 333 North Belt, Suite 660, Houston, Texas 77060, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). AFC was licensed by the Small Business Administration on March 10, 1961.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender of the license was accepted on September 3, 1982, and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 22, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-26710 Filed 9-28-82; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 05/05–0171]

First Indiana Equity Group, Inc.; Application for License To Operate as a Small Business Investment Company (SBIC)

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1982)), under the name of First Indiana Equity Group, Inc., 20 North Meridian Street, Indianapolis, Indiana 46204, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*) and the Rules and Regulations promulgated thereunder.

The officers, directors and 10 percent of more shareholders of the Applicant are as follows:

Name and Address, Title and Relationship and Percent of Ownership

Thomas R. Creasser, II, 3228 East Tenth Street, Indianapolis, Indiana 46201; Chairman, Board of Directors, 0

L. Gene Tanner, 20 N. Meridian Street, Indianapolis, Indiana 46204; President and Director, 0

Russell Breeden, III, 20 N. Meridian Street, Indianapolis, Indiana 46204; Vice President, 0

Larry R. Smith, 3228 East Tenth Street, Indianapolis, Indiana 46201; Secretary-Treasurer and Director, 0

Raffensperger, Hughes & Co., Inc., 20 North Meridian Street, Indianapolis, Indiana 46204; General Manager, 10.0

Eastside Community Investments, Inc., 3228 East Tenth Street, Indianapolis, Indiana 46201; Shareholder, 90.0

Raffensperger, Hughes & Co., Inc. (Raffensperger), 20 N Meridian Street, Indianapolis, Indiana 46204, is an investment banking firm that has conducted business from this location for approximately thirty years. Raffensperger will conduct the day to day operations of the Applicant.

Eastside Community Investments, Inc. (ECI), is a not-for-profit, non-partisan community development corporation founded in 1976 to promote the economic revitalization of the near eastside of Indianapolis, an area also known as Highland-Brookside. ECI represents 33 citizen groups and has grown from a staff of one in 1976 to twenty-two in 1981. It administered a budget of $25,000 in 1976 and has a budget of more than $4 million in 1981.

The Applicant proposes to begin operations with private capital of $1,000,000 derived from the sale of 900 shares of common stock to ECI, and 100 shares of common stock to Raffensperger.

The Applicant will conduct its operations in the State of Indiana.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness in accord with the Act and Regulations

Notice is hereby given that any person may (not later than 15 days from the publications of this Notice) submit written comments on the proposed company to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Indianapolis, Indiana.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: September 23, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-26748 Filed 9-28-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02–0452]

N.P.D. Capital, Inc.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1982)), under the name of N.P.D. Capital, Inc. (Applicant), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of Delaware, and it will commence operations with proposed capitalization of $1,010,000.

The Applicant will have its place of business at 375 Park Avenue, New York, New York 10152, and it intends to conduct operations primarily in the State of New York, and the Northeastern Region of the United States. Applicant intends to furnish small business concerns with equity capital and long-term loans including equity features to enable them to grow and expand their operations.

The officers, directors and proposed one hundred percent (100%) stockholder of the Applicant will be:

National Patent Development Corporation—Parent 100%, 375 Park Avenue, New York, New York 10152

Jerome I. Feldman—Chairman, Director, Brooks Bend Farm, Hunterbrook Road, Yorkstown Heights, New York 10598
Irwin S. Friedman—President, General Manager, 400 East 56th Street, New York, New York 10022
Martin M. Pollak—Vice President, Director, 16 Springwood Patch, Laurel Hollow, New York 11791
Allen D. Frisch—Vice President, Finance, 30 Wagonwheel Lane, Dix Hills, New York 11746
David A. Rapaport—Vice President, Legal Secretary, Director, 26 Navajo Road, E. Brunswick, New Jersey 08816

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operation of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice in the **Federal Register**, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communication should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 23, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-26753 Filed 9-28-82; 8:45 am]
BILLING CODE 8025-01-M

[License No. 06/06-0184]

TSM Corp.; Filing of Application for Approval of a Conflict of Interest Transaction Between Associates

Notice is hereby given, pursuant to § 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1982)), by the Small Business Administration (SBA) of a conflict of Interest transaction between TSM Corp. (TSM), 444 Executive Center Blvd., Suite 237, El Paso, Texas 79902, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 et seq.), and an Associate.

TSM was licensed by SBA on November 16, 1976. Mr. Martin Silva is a shareholder, officer and director of Silva Enterprises, Inc. In addition, Mr. Silva is a Director of the Licensee. As a result of this equity interest, Silva Enterprises, Inc. is deemed to be an Associate of TSM as defined by § 107.3(b) of the SBA Rules and Regulations.

TSM proposes to make a $100,000 loan to Silva Enterprises, Inc., an Associate of TSM as defined by § 107.3(c) of the Regulations.

Notice is hereby given that any person may, not later than ten (10) days from the date of this notice, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in El Paso, Texas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 23, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-26749 Filed 9-28-82; 8:45 am]
BILLING CODE 8025-01-M

[License No. 04/04-5156]

Verde Capital Corp.; Filing of Application for Transfer of Control of a Licensed Small Business Investment Company (SBIC)

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to § 107.701 of the SBA Regulations (13 CFR 107.701(1982)), for the transfer of control of Verde Capital Corporation (Licensee), 6701 Sunset Drive, Suite 104, South Miami, Florida 33143, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act).

The Licensee is currently owned, 50 percent each, by Messrs. Steven J. Green and Max Homberger. It is proposed that Mr. Green sell his shares to Mr. Homberger making the latter the sole shareholder of the Licensee. There will be no change in the officers and directors; Mr. Green will remain a director.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed transferee, and the probability of successful operations under his control, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit to SBA, in writing, comments on the transfer of control. Any such communications should be addressed to the Deputy Associate Administrator for Investment, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Miami, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 22, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-26751 Filed 9-28-82; 8:45 am]
BILLING CODE 8025-01-M

[Application No. 04/04-5219]

Venture Group, Inc.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application for a license to operate as a small business investment company (SBIC) under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. *661 et seq.)*, and the Rules and Regulations promulgated thereunder, has been filed by Venture Group, Inc., 5433 Buffalo Avenue, Jacksonville, Florida 32208, pursuant to § 107.102 of the Regulations governing SBICs (13 CFR 107.102 (1982)).

The proposed officers, directors and sole shareholder of the Applicant are as follows:

Ellis W. Hitzing, 5637 Buffalo Avenue, Jacksonville, FL 32208; President, Director, sole shareholder.
Albert G. Hitzing, 7778 Los Palmas Way, Jacksonville, FL 32216; Vice President, Director.
Kenneth C. Caplan, 8922 Heavenside Drive, Jacksonville, FL 32217; Secretary/Treasurer, Director.

There will be three classes of stock authorized: 1,000 shares of Common Stock with a par value of $1.00 per share; 500 shares of Preferred Stock—Series A, par value $500.00 per share; and 7,500 shares of a special class or classes with a par value of $1.00 per share. Initially only 1,000 shares of Common Stock will be issued with a resultant paid in capital and paid-in surplus of $500,000.

The applicant will conduct its operations principally in the State of Florida.

As an SBIC under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and

conducting the activities contemplated under the Act, which are to provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns to persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may (not later than 15 days from the publication of this Notice) submit written comments on the proposed company to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Jacksonville, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: September 22, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-26752 Filed 9-28-82; 8:45 am]

BILLING CODE 8025-01-M

Region II—Advisory Council; Public Meeting

The Small Business Administration Region II Advisory Council, located in the geographical area of Hato Rey, Puerto Rico, will hold a public meeting at 9:30 a.m., Wednesday, October 6, 1982, at room 601, Federal Building, Carlos Chardon Avenue, Hato Rey, Puerto Rico, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Wilfred Benitez Robles, District Director, U.S. Small Business Administration, Federico Degetau Federal Building, Room 691, Carlos Chardon Avenue, Hato Rey, Puerto Rico 00918 (809) 753-4003.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 23, 1982.

[FR Doc. 82-26745 Filed 9-28-82; 8:45 am]

BILLING CODE 8025-01-M

Region IV—Advisory Council; Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Jackson, will hold a public meeting at 9:00 a.m., Wednesday, October 6, 1982, at the Holiday Inn, Admiral's Room, Highway 90 and Pratt Avenue, Gulfport, Mississippi, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mike Shelton, Acting District Director, U.S. Small Business Administration, 322 Federal Building, 100 West Capitol Street, Jackson, Mississippi 39269 (601) 960-4363.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 23, 1982.

[FR Doc. 82-26744 Filed 9-28-82; 8:45 am]

BILLING CODE 8025-01-M

Region VII—Advisory Council; Public Meeting

The Small Business Administration Region VII Advisory Council, located in the geographical area of Cedar Rapids, will hold a public meeting at 10:00 a.m., Thursday, October 7, 1982, at the Small Business Administration, District Office Conference Room, 373 Collins Road, N.E., Cedar Rapids, Iowa 52402 to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call J. Harold Sears, District Director, U.S. Small Business Administration, 373 Collins Road, N.E., Cedar Rapids, Iowa 52402, (319) 399-2571.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 23, 1982.

[FR Doc. 82-26746 Filed 9-28-82; 8:45 am]

BILLING CODE 8025-01-M

Region VIII—Advisory Council; Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Salt Lake, will hold a public meeting at 9:00 a.m., Friday, October 15, 1982, at the Utah First Bank, 2 S. Main Street, Salt Lake, Utah, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call R. Kent Moon, District Director, U.S. Small Business Administration, 125 South State Street, Salt Lake City, Utah 84138 (801) 524-5800.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 23, 1982.

[FR Doc. 82-26747 Filed 9-28-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 424]

Commerce in Explosives; List of Explosives Materials; Correction

In FR Doc. 82-25480 appearing on page 40974, in the issue of Thursday, September 16, 1982, make the following correction. On page 40974, second column, in the line beginning "Accordingly, the following is the 1981" should read: "Accordingly, the following is the 1982".

Signed: September 23, 1982.

Stephen E. Higgins,

Acting Director.

[FR Doc. 82-26707 Filed 9-28-82; 8:45 am]

BILLING CODE 4810-31-M

Fiscal Service

[Dept. Circ. 570, 1982 Rev., Supp. No. 8]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $315,000 has been established for the company.

Name of Company: National Excess Insurance Company.

Business Address: 4400 MacArthur Blvd., Newport Beach, California 92660.

State of Incorporation: California.

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1982 Revision, at page 28879 to reflect this addition. Copies of the circular, when issued, may be

obtained from the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: September 17, 1982.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 82-26800 Filed 9-28-82; 8:45 am]
BILLING CODE 4810-35-M

VETERANS ADMINISTRATION

Construction Projects at Medical Centers and National Cemeteries; Finding of No Significant Impact

The Veterans Administration (VA) has determined that potential environmental impacts will be minimal from development of the following projects:

Bath, New York
*Construction of Fire Lane
Huntington, West Virginia
*Warehouse Addition Building 2
Indianapolis, Indiana
Expand Outpatient Clinic
Jackson, Mississippi
*Construct Warehouse
Kansas City, Kansas
Animal Research Facility
Lake City, Florida
Outpatient Clinical Addition
Loma Linda, California
60-Bed Nursing Home Care Unit
Lyons, New Jersey
*Replace Sewage Treatment Plant
Oklahoma City, Oklahoma
Pedestrian Bridge
Providence, Rhode Island
60-Bed Nursing Home Care Unit
Sepulveda, California
Underground Water Reservoir
White City National Cemetery, Oregon
*Administration Service Building
White City National Cemetery, Oregon
*New Entrance and Roadway

An * designates projects for which compliance with Section 106, Historic Preservation Act of 1966 will be necessary.

Development of the projects will have minor temporary impacts on the human and natural environments affecting open space, air quality, noise levels, solid waste, water quality or visual impacts during the construction period of the project. During the construction and operation, the VA will adhere to all applicable Federal, State, and local environmental regulations.

Mitigation of the projects impacts on the environment include appropriate erosion, noise, dust, and fume control during constrtuction as delineated in the Veterans Administration Standard Specifications, Environmental Protection Section.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity, as defined by the Council on Environmental Quality (Title 40 CFR 1508.27).

The Environmental Assessments have been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based on the information presented in each document. The assessments have been placed for public examination at the Veterans Administration, Washington, D.C. Person wishing to examine a copy of an assessment may do so at the following office: Veterans Administration Central Office, Room 423, 811 Vermont Avenue, NW., Washington, D.C. 20420, Telephone No. 202–389–3316. Questions or requests for single copies should be directed to Mr. Willard Sitler, P.E., Director, Environmental Affairs Staff (005B), at the above address.

Dated: September 22, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 82-26823 Filed 9-28-82; 8:45 am]
BILLING CODE 8320-01-M

Performance Review Boards; List of Members

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: Under the provisions of 5 U.S.C. 4314(c)(4), notice is hereby given of the names of the members of the Performance Review Boards in the Veterans Administration. This notice revises the entire list of members published in the **Federal Register**, 47 FR 124 and 125, dated January 4, 1982.

EFFECTIVE DATE: September 23, 1982.

FOR FURTHER INFORMATION CONTACT: K. Joyce Edwards, Office of Personnel and Labor Relations (05A3), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420 (202–389–3423).

The Members of the VA's Performance Review Boards Are:

VA Performance Review Board

Chairperson

Dennis M. Kenneally, Associate Deputy Administrator for Administration

Members

James F. Hoobler, Associate Deputy Administrator for Planning and Finance
O. Fielding Cochran, Associate Deputy Administrator for Congressional and Public Affairs
Dominick Onorato, Associate Deputy Administrator for Information Resources Management
William F. Sullivan, Associate Deputy Administrator for Logistics
Donald L. Custis, M.D., Chief Medical Director
Dorothy L. Starbuck, Chief Benefits Director
Paul T. Bannai, Chief Memorial Affairs Director
John P. Murphy, General Counsel
Kenneth E. Eaton, Chairman, Board of Veterans Appeals
Jack J. Sharkey, Assistant Deputy Administrator for Data Management and Telecommunications
Conrad Hoffman, Assistant Deputy Administrator for Budget and Finance
Joseph Mancias, Jr., Assistant Deputy Administrator for Public and Consumer Affairs
Raymond S. Blunt, Assistant Deputy Administrator for Program Planning and Evaluation
William A. Salmond, Assistant Deputy Administrator for Construction
Michael Rudd, Assistant Deputy Administrator for Personnel and Labor Relations
Clyde C. Cook, Assistant Deputy Administrator for Procurement and Supply
Robert W. Schultz, Assistant Deputy Administrator for Reports and Statistics
Renald P. Morani, Assistant Inspector General for Policy Planning and Resources

Department of Medicine and Surgery Performance Review Board

Chairperson

D. Earl Brown, Jr., M.D., Associated Deputy Chief Medical Director

Members

James A. Christian, Executive Assistant to Chief Medical Director
Carl L. Stephenson, Executive Assistant to Deputy Chief Medical Director
Francis E. Conrad, M.D., Deputy Associate Deputy Chief Medical Director for Operations
Stanley B. Kahane, M.D., Deputy Associate Deputy Chief Medical Director for Program Management
Charles V. Yarbrough, Director, Management Support Staff
James T. Krajeck, Director, Northeastern Region
Charles R. Paulk, Director, Mid-Atlantic Region
Donald B. Thompson, Director, Southeastern Region

Albert Zamberlan, Director, Great Lakes Region
Thomas P. Mullon, Director, Midwestern Region
John J. Peters, Director, Western Region

Department of Veterans Benefits Performance Review Board

Chairperson

John W. Hagan, Jr., Deputy Chief Benefits Director

Members

David M. Walls, Field Director, Eastern Region
John W. Rue, Field Director, Central Region
John P. Travers, Field Director, Western Region
Max R. Woodall, Director, Compensation and Pension Service
Edward D. Green, Director, Veterans Assistance Service
Robert M. O'Toole, Director, Loan Guaranty Service
Stephen L. Lemons, Director, Vocational Rehabilitation and Counseling Service
Charles L. Dollarhide, Director, Education Service
Donald M. Twitty, Director, Budget Staff
Fredrick A. Schatz, Director, Administrative Service

Dated: September 23, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 82-26517 Filed 9-28-82; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 189
Wednesday, September 29, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, October 8, 1982.

PLACE: 2033 K Street, NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1366–82 Filed 9–27–82; 11:44 am]
BILLING CODE 6351–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, October 4, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for consent to merge and establish three branches:

Mechanics and Farmers Savings Bank of Bridgeport, Bridgeport, Connecticut, for consent to merge, under its charter and title, with New Canaan Savings Bank, New Canaan, Connecticut, and for consent to establish the three offices of new Canaan Savings Bank as branches of the resultant bank.

Sun Bank of Tampa Bay, Tampa, Florida, for consent to merge with Brandon State Bank, Brandon, Florida, under the charter of Sun Bank of Tampa Bay and with the title "Sun Bank/Hillsborough," and for consent to establish the three offices of Brandon State Bank as branches of the resultant bank.

Request for exemption pursuant to section 348.6(b)(2) of the Corporation's rules and regulations entitled "Management Official Interlocks":

McAllen State Bank, McAllen, Texas.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,407—The Greenwich Savings Bank, New York, New York

Memorandum and Resolution re: Banco de Ahorro de Puerto Rico, San Juan (Hato Rey), Puerto Rico and Banco Economias, San German, Puerto Rico

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: September 27, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1368–82 Filed 9–27–82; 3:35 pm]
BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, October 4, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Notes.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Request for consent to capitalize the value of the core deposit intangible acquired in a merger transaction:

The Hibernia Bank, San Francisco, California, in connection with its merger with Security National Bank, Walnut Creek, California.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC

Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation at (202) 389-4425.

Dated: September 27, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1389-82 Filed 9-27-82; 3:35 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:37 a.m. on Friday, September 24, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) accept the bid of American Savings Bank, New York City (Manhattan), New York, for an assisted merger with United Mutual Savings Bank, New York City (Manhattan), New York; (2) approve the application of American Savings Bank for consent to merge, under its charter and title, with United Mutual Savings Bank and to establish the main office and 12 branches of United Mutual Savings Bank as branches of American Savings Bank; and (3) provide financial assistance to American Savings Bank, pursuant to section 13(e) of the Federal Deposit Insurance Act, in order to facilitate the merger and prevent the probable failure of United Mutual Savings Bank.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: September 24, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1390-82 Filed 9-27-82; 3:36 pm]

BILLING CODE 6714-01-M

5

INTERNATIONAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 41228, September 17, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., Wednesday, September 29, 1982.

CHANGES IN THE MEETING: Emergency action to close a portion of the meeting originally announced as open to the public.

Pursuant to the specific exemptions of 5 U.S.C. 552b(c)(4) and in conformity with 19 CFR 201.36(b)(4), Commissioners Eckes, Stern, Frank, and Haggart voted by action jacket SE-82-11 to hold a portion of the discussion with respect to item No. 5 (Investigation 731-TA-102 (Preliminary) (Certain Radio Paging and Alerting Devices from Japan)—briefing and vote) in closed session.

Commissioners Eckes, Stern, Frank, and Haggart determined, pursuant to 19 CFR 201.37(b) that Commission business requires the change in the determination of the Commission to open or close this portion of the meeting and directed the issuance of this notice at the earliest practicable time.

PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-1391-82 Filed 9-27-82; 3:50 pm]

BILLING CODE 7020-02-M

6

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-82-23]

TIME AND DATE: 9 a.m., Tuesday, October 5, 1982.

PLACE: Board Room, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: The first six items will be open to the public. The seventh item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Railroad Accident Report:* Collision of a Southeastern Pennsylvania Transportation Authority Commuter Train with a Gasoline Truck, Southhampton, Pennsylvania, January 2, 1982, and proposed recommendation letters.

2. *Highway Accident Report:* Collision of Long Island Commuter Train No. 4602A and a Ford Van, Herricks Road Crossing, Mineola, N.Y., March 14, 1982, and proposed recommendation letters.

3. *Marine Summary Reports.*

4. *Marine Summary Reports.*

5. *Proposed revision* to system for Board review of aviation briefs of accidents.

6. *Recommendation* to the Conrail Corporation and the New Jersey Department of Transportation resulting from railroad accident at Fair Lawn, New Jersey, July 7, 1982.

7. *Order Denying Reconsideration:* Administrator v. Daiker, Dkt. SE-5247; disposition of the Administrator's petition for reconsideration.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382-6525.

September 24, 1982.

[S-1394-82 Filed 9-24-82; 4:24 pm]

BILLING CODE 4910-58-M

7

POSTAL SERVICE

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold meetings at 3:30 p.m. on Monday, October 4, in Riverside, Connecticut, and at 8:30 a.m. on Tuesday, October 5, 1982, in Room 1513, 15th floor, Church Street Station, 90 Church Street, New York, New York. As indicated in the following paragraphs, the October 4 meeting is closed to public observation. The October 5 meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meetings should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245-4632.

At its meeting on September 10, 1982, the Board voted to close to public observation its meeting scheduled for October 4, 1982.

One portion of the meeting to be closed will consist of further consideration of the July 9, 1982, decision of the U.S. Court of Appeals for the Second Circuit in *Time, Inc. et al.* v. *United States Postal Service* concerning the most recent general ratemaking proceeding. Another portion of the Board meeting to be closed will consist of a discussion of Postal Service strategic planning.

Agenda

Monday Afternoon Session (Closed)

1. Further consideration of Court Decision on Rates.
2. Strategic Planning.

Tuesday Morning Session (Open)

1. Minutes of the Previous Meeting.
2. Remarks of the Postmaster General.

(In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. Nothing that requires a decision by the Board is brought up under this item.)

3. Report by the Chairman of the Committee on Electronic Communications.
(Mr. Sullivan will report on the current status of E–COM.)

4. Report by the Chairman of the Committee on Corporate Responsibility.
(Mr. Jenkins will report on the current status of the EEO/Affirmative Action contractual study initiated by the Board at its January 1982 meeting.)

5. Review of Capital Investment Program.
(Annually, the Board considers approval of Postal Service capital investment plans, in accordance with section 3.4(f) of the Bylaws. Mr. Biglin, Senior Assistant Postmaster General, Administration Group, will present the Postal Service's capital investment program.)

6. Report on Disposal of Surplus Property.
(The Board will be briefed on the Postal Service's property disposal program. Mr. Biglin will present a report on the results of the program.)

7. Proposed Filing with Postal Rate Commission on Size and Weight Limits.
(Pursuant to Pub. L. 97–242 (August 24, 1982), which amended the Postal Reorganization Act (39 U.S.C. 3682) so as to provide that size and weight limitations for mail matter (whether or not it is letter mail) may be established in the same manner as prescribed for changes in mail classification, the Board will consider authorizing the Postal Service to request the Postal Rate Commission to recommend a decision on changes in the size and weight limitations prescribed by subsections (a) and (b) of 39 U.S.C. 3682 as in effect prior to the August 24 Amendment. Mr. Finch will present management's proposal for the Board's approval.)

8. Regional Postmaster General Report.
(Mr. Mulligan, Regional Postmaster General, and Mr. Shuman, District Manager/Postmaster, New York, will report to the Board on postal conditions in the Northeast Region and in New York City.)

9. Status of Revenue Forgone Appropriations.
(The Board will review the current status of FY 1983 appropriations legislation so that the Governors may consider possible action under 39 U.S.C. 3627 to adjust the rates charged for preferred categories of mail if there were to be a failure of appropriations. Mr. Finch will report on this matter.)

Louis A. Cox,
Secretary.

[S–1365–82 Filed 9–24–82; 5:12 pm]
BILLING CODE 7710–12–M

8

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

Note.—This is a change for an announcement that was already published on September 3, 1982 on page 39057 of the **Federal Register**. Please note that the only change is of the Room No. from Rm. 304 to Rm. 311.

DATE: Thursday, September 23, 1982.

TIME: 10 a.m.–1 p.m.

PLACE: Cannon House Office Building, Room 311.

PURPOSE: General meeting to discuss FY 82 and FY 83 Budget.

FOR FURTHER INFORMATION CONTACT: Richard T. Jerue, Chief Executive Officer (202) 472–9023.

This meeting was called by the Commission Chairman, Mr. David R. Jones.

Submitted for addendum on 16th day of September.

Richard T. Jerue,
Chief Executive Director.

[S–1367–82 Filed 9–27–82; 1:17 pm]
BILLING CODE 6820–BC–M

federal register

Wednesday
September 29, 1982

Part II

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Schedule of Limits on Skilled Nursing Facility Inpatient Routine Service Costs

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicare Program; Schedule of Limits on Skilled Nursing Facility Inpatient Routine Service Costs

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice with comment period.

SUMMARY: This notice sets forth a schedule of limits on skilled nursing facility (SNF) inpatient routine service costs that may be reimbursed under Medicare for cost reporting periods beginning on or after October 1, 1982. We are revising the limits to take into account more recent data and the effects of inflation, and to implement sections 102 and 103 of Pub. L. 92–248, the Tax Equity and Fiscal Responsibility Act of 1982. This schedule replaces the current schedule that was published in the **Federal Register** on September 30, 1981 (46 FR 48026).

EFFECTIVE DATE: October 1, 1982. Although this notice is being published in final, we will accept any comments on the provisions of the notice. Comments should be received by November 29, 1982.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235. In commenting, please refer to file code BPP–213–FNC.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in Room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Carl Slutter, 301–594–9344.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1861(v)(i) of the Social Security Act (42 U.S.C. 1395x(v)(1)) authorizes the Secretary to set prospective limits on allowable costs incurred by a provider of services that will be reimbursed under Medicare, based on estimates of the costs necessary in the efficient delivery of needed health services. Implementing regulations appear at 42 CFR 405.460.

Under this authority we have published limits on SNF per diem inpatient routine service costs annually since 1979. On September 30, 1981, we published in the **Federal Register** (46 FR 48026) a schedule of limits applicable to cost reporting periods beginning on or after October 1, 1981. These limits are applied to adjusted SNF per diem inpatient routine service costs, and are set at 112 percent of the average per diem labor-related and nonlabor costs of each comparison group. The schedule set forth below replaces the September 30 schedule.

In developing the limits contained in this schedule, we have made certain changes from the methodology used for the September 30, 1981 schedule. These changes are discussed below.

II. Major Provisions

The new schedule of limits provides for:

1. Limits on SNF per diem inpatient routine service cost, adjusted by the exclusion of capital-related costs. Capital-related costs include interest, depreciation, insurance, rent, and fixed asset related costs that are normally included in the depreciation accounts on the cost reporting from (HCFA–2552) used for Medicare reimbursement purposes. Inpatient routine service costs in the data base have also been adjusted to reflect the elimination of the inpatient routine nursing salary costs differential for cost reporting periods subject to the limits.

2. A classification system based on whether a SNF is located within a Standard Metropolitan Statistical Area (SMSA). In New England, New England County Metropolitan Areas (NECMAs) are used to determine urban location.

3. Use of actual SNF routine service per diem cost data from Medicare cost reports to device the limits.

4. A market basket index (see Appendix I) that we developed to reflect changes in the prices of goods and services purchased by SNFs. This market basket is used to adjust the SNF cost data to reflect cost increases occurring between the cost reporting periods represented in the data collection to the midpoints of the cost reporting periods to which the limits would apply.

5. A wage index (see Tables II and III) that we developed from hospital wage and employment data obtained from the Bureau of Labor Statistics (BLS). We use this index to adjust for the differing levels of labor-related costs among the areas in which SNFs are located. The change in our methodology for calculating the wage index is described later in this notice.

6. A cost-of-living adjustment to the nonlabor component of the limits for SNFs located in Alaska, Hawaii and Puerto Rico.

7. Use of a single schedule of limits for hospital-based and freestanding SNFs. This change in methodology is described later in this notice.

8. Limits set at 112 percent of the mean labor-related costs and of the mean nonlabor costs of each group.

9. A revised schedule of per diem dollar limits that reflects the methodology described above.

III. Summary of Changes in Methodology

The revised schedule of limits incorporates the following changes in the methodology used to determine the current limits:

A. Statutory Changes

1. *Use of a single schedule of limits for hospital-based and freestanding SNFs.* All previous SNF cost limit schedules have included separate limits for hospital-based and freestanding SNFs. We established separate limits for the two types of SNFs because of concerns raised by hospital-based SNFs that they incurred higher costs due to circumstances beyond their control. These circumstances include the required Medicare methodology for the allocation of overhead costs, and differences in the intensity of care between the two types of SNFs.

On September 3, 1982, Congress enacted Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982. Section 102 of the law eliminates separate limits for hospital-based and freestanding SNFs for cost reporting periods beginning on or after October 1, 1982. The statute does, however, provide for adjustments, as appropriate, to be made in the limit applied to hospital-based facilities. The conference agreement expressed the intention that HCFA would, where warranted, recognize legitimate cost differences resulting from such factors as a more complex case-mix or the effects of Medicare cost allocation requirements. (See H.R. Rep. No. 97–760, 97th Cong., 2nd Sess., 423 (1982).)

We have allowed in this notice an "add-on" adjustment to account for certain higher costs of hospital-based SNFs that are attributable to the Medicare allocation procedures. We developed this "add-on" adjustment based on a study of the cost attributable

to general service (overhead) cost centers in 2330 freestanding and 392 hospital-based SNFs which compared the cost of general services in each type of facility. The study covered all SNFs for which our data base contained complete cost allocation data from the Medicare cost report, form HCFA–2552 (approximately 80 percent of all cost reports in our data base). We determined that, in some cases, the required Medicare cost allocation process can result in hospital administrative and general (A&G) overhead costs (for example, non patient telephone, data processing, purchasing, receiving, stores, admitting, cashiering, accounts receivable, and collections) being stepped down to the SNF cost center in greater proportion than the cost center's use of those services. This results from the use of accumulated cost as a statistical allocation basis. Because certain overhead expenses (including A&G) are frequently assigned to the SNF cost center on the hospital cost report before costs from the A&G cost center are allocated, use of this basis of allocation in this instance overstates the SNF cost center's consumption of A&G services from the hospital.

The "add-on" adjustment we are providing is specifically related to the allocation of costs in the administrative and general cost center. This has been accomplished by determining the dollar difference between hospital-based and freestanding SNFs in SMSA and non-SMSA locations in average A&G per diem cost allocated directly to the inpatient routine SNF cost center. The resulting dollar amount will be added to the freestanding limit to determine the limit for a hospital-based SNF. After examining the expenses that constitute the great bulk of the cost differences between hospital-based and freestanding facilities, we have concluded that, apart from the A&G cost center, the allocation procedures are not the chief contributor to the cost difference between the two types of facilities. We note that hospitals and SNFs, regardless of type, use the same cost reports and rules of allocation.

We recognize that hospital-based SNFs have also consistently claimed that they treat sicker patients than those in freestanding SNFs and are delivering more intense care. They contend that this factor contributes to their having higher costs than do freestanding SNFs. Comments from a small number of these SNFs received during development of earlier schedules of limits suggest that this may be true in specific cases. However, there has been a relative lack of information from which to draw generalizations on this issue, particularly with respect to how much of the cost difference may relate to intensity of care.

In the effort to gather more information in this area, we are conducting a limited study through the University of Colorado Health Sciences Center of variations in intensity of care and their effect on cost. The research, which is expected to provide a method for objectivity measuring interfacility variations in intensity of care and patient care needs, should answer the following questions:

1. To what extent do the higher costs of hospital-based SNFs in the sample population appear to result from the provision of more intense care required by the special needs of patients; and

2. Is the development of a research design to study this issue on a national scale feasible?

We do not anticipate that the Colorado study will fully explain how patient mix differences affect Medicare costs. Because the sample of facilities and patients used in the research includes all Colorado nursing homes, both skilled and intermediate care, the findings from the Colorado study will not be directly applicable to Medicare SNF services. Moreover, any final conclusions that are expected to be reached will have to await resolution of such questions as the effect on cost of variations in percentage occupancy and variations in the mix of skill levels in nursing staffs, questions which are beyond the scope of the current study. Nevertheless, the measures of case-mix and intensity of care under development should provide the basis for broader analysis in this area. The researchers conducting the study are in the process of testing and refining a number of the criteria used in the study design. However, the information, which we currently have, is too limited in scope to justify our creating an additional adjustment to the cost limits to reflect variations in patient mix. We point out that exceptions to the cost limits can be granted under 42 CFR 405.460(f) where a SNF's costs are shown to be the result of atypical services needed to meet the special needs of patients treated. Hospital-based SNFs can request an exception under these provisions for higher costs associated with the furnishing of atypical service.

2. *Elimination of inpatient routine nursing salary cost differential.* Under the Medicare regulations (42 CFR 405.430) published in July 1969 and amended in 1981, we have recognized a per diem rate above the facility's average costs for all patients for inpatient routine nursing care furnished to aged Medicare patients. (The differential is also applied to pediatric and maternity patients, who also are assumed to require a greater amount of routine nursing services than other patients.) This is called the "nursing salary cost differential." The differential is not an add-on to the total routine nursing salary costs incurred by a provider, but rather a reallocation of the actual routine nursing salary costs between aged, pediatric and maternity patients, on the one hand, and all other classes of patients on the other. It presumes that, on the average, aged, pediatric and maternity patients receive more routine nursing services than do other patients.

The effect of the nursing differential is that the Medicare program recognizes a higher than average routine per diem cost for aged, pediatric and maternity patients and a lower than average per diem cost for all other classes of patients. (Disabled Medicare beneficiaries are counted in the "all other" category unless they are also pediatric or maternity patients, and the lower than average per diem is applicable to that class of patient.)

The total impact of the differential on a particular facility's Medicare reimbursment will vary depending on the provider's patient mix. If all of the provider's patients were aged, pediatric and maternity, no differential would be applicable.

We presently recognize a nursing salary differential equal to 8.5 percent of the provider's average per diem nursing salary costs for SNFs. However, section 103 of Pub. L. 97–248, amended section 1861(v)(1)(J) of the Social Security Act to state that "regulations may not provide for any inpatient routine salary cost differential as a reimbursable cost for hospitals and skilled nursing facilities." According to its terms, section 103 is effective for all cost reporting periods subject to the cost limits contained in this notice. Therefore, the limits properly would not recognize any nursing salary cost differential.

We will be publishing a separate regulation reflecting the provisions of section 103. However, section 103 has also necessitated an adjustment of the cost limits because all of our current cost report data incorporates the

inpatient routine nursing salary differential in Medicare costs. We have adjusted the SNF data to exclude the differential and the cost limits set forth below reflect this adjustment. Because the majority of days of care in a SNF are aged days, the effect of the adjustment on the limit is not significant

B. Technical Change

Use of a combined wage index. As discussed earlier, we have changed the methodology used to compute the limits to include a combined wage index. This change is purely technical and, as discussed further below, has no effect on the amount of the limit for any SNF.

In developing and applying the 1979, 1980 and 1981 cost limit schedules, we used a hospital wage index to account for differences in the level of labor-related costs among the areas in which SNFs are located. To develop this wage index, we first calculated the national average wage for hospital workers in urban (SMSA or NECMA) areas, and a separate national average wage for hospital workers in non-urban (i.e., non-SMSA and non-NECMA) areas. We then divided the average wage for each urban and non-urban area by the appropriate national average (urban or non-urban). This calculation resulted in a separate index value for each urban area that reflected the wage level for that area relative to the national average of all urban areas. The calculation also resulted in an index value for each non-urban area that reflected the wage level for that area relative to the national average for all non-urban areas. We call this type of index, which relates the average wage for each individual area to separate urban or non-urban national averages, a "split" index.

Because the wage index we used to calculate the current limits is a split index, there are some cases in which the index value for an urban area is lower than the value for an adjacent non-urban area. The use of the split index has caused concern and confusion among SNFs in urban areas. To avoid further confusion on this point, we have, in developing the revised limits, used a "combined" wage index that relates the average area wages for both urban and non-urban areas to a single national average wage for all areas. Although the change from a split to a combined wage index has no effect on either the accuracy or the dollar amount of any SNF's limit, we believe use of a combined index will permit direct comparison of the index values for urban and rural areas, and thus make it easier for SNFs to understand how the wage index values for their areas were computed. The following example demonstrates that the final result using a split wage index, as compared to a combined wage index, is identical.

Example

(1) *Split wage index* = .8824: labor share = $44.33; labor deflated costs: $44.33 ÷ .8824 = $50.24; mean labor deflated costs = $45.85; area labor share limit: $45.85 × .8824 = *$40.46.*

(2) *Combined wage index* = .9694: labor share = $44.33; labor deflated costs: $44.33 ÷ .9694 = $44.80; mean labor deflated costs = $40.89; area labor share limit: $40.89 × .9694 = *$40.46.*

The following hypothetical sample array is the source of the data used in this example. The split and combined wage index used in the hypothetical sample array were derived as shown below.

HYPOTHETICAL SAMPLE

Area	Average monthly hospital wage	Split wage index	Combined wage index
1	$900	0.7059	0.7916
2	1,050	.8235	.9235
3	1,125	.8824	.9894
4	1,500	1.1765	1.3193
5	1,800	1.4118	1.5831
Total	$6,375		

Urban or rural nat'l avg. monthly hospital wage =

$$\frac{\text{Total urban or rural avg. monthly hospital wage}}{\text{Number urban or rural areas}} = \frac{\$6375}{5} = \$1,275$$

Combined nat'l ave. monthly hospital wage =

$$\frac{\text{Total urban avg. monthly hosp. wages plus Total rural Avg. Monthly hospital Wages}^{1}}{\text{Number urban areas plus number rural areas}} = \frac{\$6,375 + \$4,990^{1}}{10} = \$1,137$$

[1]Total Rural Average Monthly Hospital Wages are computed from average monthly hospital wages for five rural areas.

Example:

(1) Computation of split wage index

Area 1 average monthly hospital wage = $900; urban or rural nat'l. avg. monthly hospital wage = $1,275; area 1 split wage index: $900 ÷ $1,275 = .7059.

(2) Computation of combined wage index

Area 1 average monthly hospital wage = $900; combined national average monthly hosp. wage = $1,137; area 1 combined wage index: $900 ÷ $1,137 = .7916.

HYPOTHETICAL SAMPLE ARRAY

1	2	3		4	
Area	Labor share 80.32	Wage index: Split	Wage index: Combined	Labor deflated cost[1] using split wage index	Using combined wage index
1	80.10	0.7059	0.7916	56.91	60.86
2	37.50	.8235	.9235	45.54	40.81
3	44.33	.8824	.9894	50.24	44.80
4	51.32	1.1765	1.3193	43.62	38.90
5	46.65	1.4118	1.5831	33.04	29.47
Mean labor deflated arrayed costs =				$45.85	$40.89

[1]Col. 2 divided by corresponding value in col. 3.

5	6		7		8	
Area	Wage index: Split	Wage index: Combined	Mean labor deflated cost: Split wage index	Mean labor deflated cost: Combined wage index	Area limit (labor share)[1]: Split wage index	Area limit (labor share)[1]: Combined wage index
1	0.7059	0.7916	45.85	40.89	32.57	32.57
2	.8235	.9235	45.85	40.89	37.76	37.76
3	.8824	.9894	45.85	40.89	40.46	40.46
4	1.1765	1.3193	45.85	40.89	53.94	53.94
5	1.4118	1.5831	45.85	40.89	64.73	64.73

[1]Col. 7 multiplied by appropriate value in col. 6.

In developing the wage index for the limits, we have also used approximate, rather than actual, index values for 40 areas. (These approximate values are identified by asterisks in Tables II and III). We have done this because BLS, which supplies the data on wages and numbers of employees that we use to calculate the wage index, has informed us that its confidentiality requirements prohibit it from disclosing actual data for areas that include fewer than three reporting units. (A reporting unit need not be a single hospital. Reporting unit is defined by BLS as the smallest unit for which data are recorded on the employer's contribution report. For example, two facilities in the same area owned by one employer could appear as one reporting unit.) To make it possible to calculate limits for these areas, we have asked the BLS to identify the areas having wage index values numerically closest to, but not less than, the areas for which it cannot supply actual data. In the case of each area for which actual data are unavailable, we have substituted the wage index value identified by BLS as being closest to the actual value. We believe that the use of approximate rather than actual values for these areas will not affect the accuracy of the limits significantly, and will assure that no SNF's limit is reduced because actual data for its area are unavailable.

We have also, in developing the wage index used for the limits, excluded data

for Federal government hospitals. Because these hospitals typically use national pay scales, the amounts they pay their employees do not necessarily reflect area wage levels. They also do not normally participate in the Medicare program and, therefore, excluding these data is appropriate, We have included wage indexes in Table II for those newly designated SMSAs and NECMAs that were classified as such as a result of the 1980 census. (See appendix II for listing of newly designated SMSAs and NECMAs.) In addition, we now have wage indexes for Puerto Rico.This means that cost limits can now be applied to SNFs in Puerto Rico for the first time. (See Tables II and III.)

IV. Summary of Retained Methodology

1. *Separate group limits for labor-related and nonlabor components of per diem routine service costs.* As in the current schedule, we have retained separate group limits for the labor-related and nonlabor components of per diem routine service cost. We calculate these separate limits by first obtaining actual SNF per diem inpatient routine service cost data for each freestanding SNF. Next, to make the data reflect current conditions more accurately, we adjust the data from the midpoints of the cost reporting periods represented in the data collection to the midpoint of the initial cost reporting period to which the limits would apply. We than separate each freestanding SNF's per diem cost into labor-related and nonlabor portions, and divide the labor-related portion by the wage index for the SNF's location (see item 2 below). We then compute separate group means for the labor-related and nonlabor components, and multiply each group mean by 112 percent. For each group, the resulting amounts are shown in Table I.

2. *Adjustment of SNF cost data by wage index.* We are again using a hospital industry wage index to account for area wage differences. Use of the hospital industry index is necessary since there are not industry-specific data available on SNF wages. Because hospitals and SNFs generally compete in essentially the same labor market for employees, we believe an index based on geographic variations in hospital wages provides an accurate measure of geographic variations in wages paid by SNFs.

We developed the wage index from hospital wage data obtained from BLS. The data used are those for the "hospital industry", a standard BLS reporting category. The wage index we used for the revised limits is based on data for calendar year 1980, which are the latest available data. Data for 1981 will not be available until late in 1982.

We have been advised by the BLS that the wage index values for some areas are based on estimated 1980 data and may beed to be revised based on actual data that were not available when we computed the wage index values shown in Tables II and III.

If we receive additional 1980 data that require further changes in any wage index after the indexes for this final schedule have been calculated, we will notify the Medicare intermediaries of the corrected index and will direct them to recalculate the limits for the affected SNFs.

3. *Use of SNF market basket.* We have continued to base the cost limits on reported costs, adjusted for actual and projected cost increases by applying the SNF market basket index. The values used in deriving the index are contained in Appendix I below.

The market basket comprises the most commonly used categories of SNF routine service expenses. The categories we are using are based primarily on those used by the National Center for Health Statistics in its National Nursing Home Surveys.

The categories of expenses are weighted according to the estimated proportion of SNF routine service costs attributable to each category. The weights for all major categories of SNF costs are based on the National Nursing Home Surveys for 1972 and 1976. These are the most current and comprehensive sources of national data on the distribution of costs in SNFs. (The second column of the index table specifies the weights used for each category.)

In developing the market basket index, we obtained historical and projected rates of increase in the prices of goods and services in each category. The market basket index table, in the third and fourth columns, identifies the price variables used and the source of the forecast for calendar years 1980 through 1984.

The market basket index also provides for adjustments to be made in the limits if our forecasts of economic trends prove erroneous. If the final rate of increase in the market basket index for a year exceeds the estimated rate of increase by at least .3 of 1 percentage point, we will advise the Medicare intermediaries to use the actual rate to adjust each SNF's limit retroactively at final settlement of the SNF's cost report.

4. *Application of the hospital wage index to employee benefits, health service costs, costs of business services, and other miscellaneous expenses.* In developing the current schedule, we applied the wage index discussed above to five categories of labor-related costs: wages, employee benefits, health service costs, business service costs, and other miscellaneous costs. We have retained this method in developing this revised schedule of limits. The proportion of adjusted routine service costs we adjust by the wage index is 80.22 percent.

For purposes of applying the wage index, employee benefits include such items as FICA tax, health insurance, life insurance, facility contributions to employee retirement funds, and all other compensation that the SNF records in the "employee health and welfare" cost center on its Medicare cost report. (The Medicare Provider Reimbursement Manual, HCFA-Pub. 15–I, Chapter 4, and the instructions to the HCFA cost reporting forms, HCFA-Pub. 15–II) describe the types of costs that are to be recorded in that cost center.)

Health service costs are a category used by the National Nursing Home Survey conducted in 1977 by the Office of Health Research, Statistics and Technology, National Center for Health Statistics of the Public Health Service. They include the costs of routine services that are purchased under arrangement from outside sources.

Business services costs include costs of banking, contract laundry, telephone, and other services SNFs purchase at retail from outside suppliers.

Other miscellaneous costs include various types of routine operating costs not allocated to any other category of the market basket.

Thus, we will apply the wage index to the total portion of cost (80.22 percent) attributable to wages, fringe benefits, health service costs, business service costs, and other miscellaneous expenses rather than to the wage portion (61.26 percent) only. We are continuing this method because our analysis of the data we used to develop the hospital limits shows that area variations in routine per diem costs in these additional categories are closely related to area variations in prevailing wage levels. We believe that applying the wage index to the other categories of labor-related costs specified above, rather than to wages only, results in individual limits that are more equitable and more appropriate to each SNFs actual market environment.

5. *Limits set at 112 percent of mean.* We are maintaining the revised limits of 112 percent of the average labor-related and average non-labor costs of each group.

6. *Cost-of-living adjustment for Alaska, Hawaii, and Puerto Rico.* To avoid disadvantaging SNFs located in

Alaska and Hawaii, we are continuing to provide a cost-of-living adjustment for these States. In addition, since the cost limits can now be applied to SNFs in Puerto Rico, we are providing a cost-of-living adjustment for that area. This is an adjustment of the nonlabor component of the limit that applies to these areas, based on the amount of the most recently determined cost-of-living differentials developed by the Office of Personnel Management. Since we adjust the labor-related component by the applicable wage index, this cost-of-living adjustment applies only to the nonlabor component.

V. Impact Analyses

We have determined that this final notice is not likely to result in an annual economic impact of more than $100 million or more, or meet other threshold criteria of section 1(b) of Executive Order 12291. It is estimated that setting the limits at 112 percent of the mean and using a single schedule of limits for hospital-based and freestanding facilities will result in Medicare program savings over and above savings under the present rule of $20 million in FY 83, $53 million in FY 84, $62 million in FY 85, $69 million in FY 86, and $77 million in FY 87. The notice is therefore not a "major rule" as defined in Executive Order 12291, and a Regulatory Impact Analysis is not required.

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires a Regulatory Flexibility Analysis for all rules determined to have a significant economic impact on a substantial number of small entities. The analysis must contain the following information:

- A description of the reasons why the agency is considering taking action;
- A statement of the objectives and legal basis for the proposed rule;
- A description and an estimate of the number of small entities that would be affected by the proposed rule;
- A description of the projected reporting, recordkeeping or other compliance requirements of the proposed rule;
- An identification of any other rules that may duplicate, overlap or conflict with the proposed rule; and
- A description of any significant alternatives considered.

This notice requires such an analysis because it would, as discussed below, significantly impact a substantial number of nursing care facilities.

The following analysis, together with the remainder of this notice is presented to meet the requirements of the Regulatory Flexibility Act.

Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) authorizes the Secretary to set prospective limits on the costs that are reimbursed under Medicare, based on estimates of the costs necessary in the efficient delivery of needed health services. This provision of the Act is implemented under regulations set forth at 42 CFR 405.460. Section 102 of the Tax Equity and Fiscal Responsibility Act of 1982 amended the provision to require SNF cost limits based on the cost of freestanding facilities.

We have published schedules of limits on SNF per diem inpatient routine service costs annually since 1979. On September 30, 1981, we published in the **Federal Register** an annual update of the SNF limits applicable to cost reporting periods beginning on or after October 1, 1981.

This revised notice replaces the current schedule and applies to SNF inpatient routine service costs for cost reporting periods beginning on or after October 1, 1982.

In computing the revised limits, we adjusted errors in classifying capital-related costs found on the cost reports, we excluded all capital-related costs, we eliminated separate limits for hospital-based and freestanding SNFs as required by section 102 of Pub. L. 97–248, and we eliminated the effect of the inpatient routine nursing salary differential as required by section 103 of the same law. We will use the limits set forth below which reflect these changes in methodology, because we believe they will be more effective than the current limits in preventing payment for costs due to operating inefficiency.

We have 3,492 SNFs in our data base, 30.0 percent of which will exceed the limits. While most SNFs are considered to be small entities, cost reports indicate 1179 of the SNFs in the data base have less than 100 beds. Of these smallest providers, 308 (26.1 pecent) would exceed the limit. By comparison, we expect 740 (or 32.0 percent) of the 2312 SNFs with more than 100 beds will exceed these limits. Therefore, we do not expect the limits will impact a greater number of small entities.

We believe much of the impact of these revised cost limits can be reduced by more efficient operation. That is, affected SNFs can greatly reduce impact by initiating management improvements to reduce costs to levels which the majority of SNFs are now able to meet.

VI. Waiver of Proposed Notice and 30-day Delay in Effective Date

We have developed the revised limits set forth below by using the same basic methododdology that we used to develop the current SNF cost limits which were published on September 30, 1981. The methodology used to develop the September 30, 1981 limits had previously been published in a proposed notice for public comment (see 45 FR 41292). These comments, and our responses to them, are described in the final notice of SNF cost limits published September 45, 1980 (45 FR 58699).

We have described above in detail the changes to the methodology used to develop the limits. The changes eliminating separate limits for hospital-based and freestanding SNFs and eliminating the inpatient routine nursing salary cost differential were made to implement the provisions of Pub. L. 92–248, and are not discretionary. This change to a combined wage index is purely techncial and was made to eliminate confusion over the manner in which the limits are derived and the wage index adjustment applied. This change, as explained earlier, does not affect the amount of any SNF's limit.

Because the remaining methodology used for the revised schedule has previously been published for public comment, we do not believe it would be either necessary, useful or in the public interest to request comment on that methodology again. Therefore, we find good cause to waive publication of a proposed notice and publish this notice of revised limits in final form.

In the past, we generally have attempted to allow a 30-day period between the date of publication of each cost limit schedule and the effective date of the schedule. Since prompt publication of the limits would be in the public interest, in order to meet the effective date established by law, there is good cause to waive the customary 30-day delay between publication of new limits and their effective date, and apply them beginning on or after October 1, 1982.

VII. Methodology for Determining Per Diem Routine Service Cost Limit

Development of Published Limits

1. *Data.* We have developed the limits by using actual freestanding SNF inpatient routine service cost data, less capital-related costs allocated to general inpatient routine services, obtained from Worksheet D–1 of the latest Medicare cost reports available as of November 15, 1981. We have adjusted the data from Worksheet D–1 to exclude the inpatient routine nursing salary cost differential.

We adjusted these data using the market basket index discussed above, to project costs from the cost reporting periods in the data base to the midpoint of the first cost reporting period to

which the limits will apply. The annual percentage increases in the market basket over the previous year that we used for this projection are: 1979, 9.4; 1980, 10.1; 1981, 9.8; 1982, 6.9[1]; 1983, 6.9[1]; 1984, 7.0.[1]

The projected rate of increase in the market basket will be adjusted to the actual inflation rate if the actual rate of increase is at least .3 of 1 percentage point above the estimated rate. Should this occur, we will notify the Medicare intermediaries of the actual rate of increase and advise them to adjust each SNF cost limit at the time of final settlement.

2. *Use of Wage Index to Adjust Cost Data.* We divided each freestanding SNF's adjusted per diem routine service costs into labor-related and nonlabor portions. We determined the labor-related portion by multiplying each freestanding SNF's adjusted per diem routine service cost by 80.22 percent, which is the labor-related portion of cost from the market basket. We then divided the labor-related portion of each freestanding SNF's per diem cost by the wage index applicable to the SNF's location (see Tables II and III) to arrive at an adjusted labor-related portion of routine cost.

3. *Group Means.* We calculated separate means of labor-related and nonlabor adjusted routine service costs for each freestanding SNF group established in accordance with the SNF's SMSA/NECMA or non-SMSA/non-NECMA location.

4. *Components of Limit.* For each freestanding SNF group, we multiplied the mean labor-related and mean nonlabor costs by 112 percent (see Table I).

Adjustment of Published Limits

1. *Adjustment of Labor-Related Component by Wage Index.* To arrive at a labor-adjusted limit for each SNF, we multiply the labor-related component of the limit for the SNF's group by the wage index developed from wage levels for hospital workers in the area in which the SNF is located. (See Tables II and III) The adjusted limit that applies to an SNF will be the sum of the nonlabor component, plus the adjusted labor-related component, unless the SNF qualifies for the cost reporting year adjustment discussed in item 2 below.

Example—Calculation of Adjusted Limit for a Freestanding SNF Located in Dallas, Texas

Labor-Related Component, $39.13 (published in Table I); Non-Labor Component, $10.77 (published in Table I); SMSA Wage Index, 1.0222 (published in Table II).

COMPUTATION OF ADJUSTED LIMIT

Labor-related component	$39.13
Wage index	× 1.0222
Labor component	$40.00
Nonlabor component	+ 10.77
Adjusted limit	$50.77

Example—Calculation of Adjusted Limit for a Hospital-based SNF Located in Williamsport, Pennsylvania

Labor-Related Component, $39.13 (published in table I); Non-Labor Component, $10.77 (published in table I); Hospital-based SNF "add-on", $4.37 (published in table I); SMSA Wage Index, .9890 (published in table II).

COMPUTATION OF ADJUSTED LIMIT

Labor-related component	$39.13
Wage index	× .9890
Adjusted labor component	$38.70
Non-Labor component	10.77
Hospital-based SNF "add-on"	+ 4.37
Adjusted limit	$53.84

2. *Adjustment for Cost Reporting Year.* If an SNF has cost reporting period beginning after October 1, 1982, the intermediary will increase the limit that would otherwise apply to the SNF by the factor from Table IV that corresponds to the month and year in which the cost reporting period begins. Each factor represents the monthly increase that we derived by dividing the projected annual increase in the market basket by twelve. This adjustment is needed to account for price increases that occur after the date on which the limits are effective.

Example—SNF A has a cost reporting period that begins July 1, 1983

The otherwise applicable limit for the SNF is $53.84.

COMPUTATION OF REVISED SNF LIMIT

Individual SNF adjusted limit	$53.84
Adjustment factor from table IV	× 1.05225
Revised Limit	$56.65

If an SNF uses a cost reporting period that is not 12 months in duration, a special adjustment factor must be calculated. This results from the fact that projections are computed to the midpoint of a cost reporting period and the adjustment factors in Table IV are based on an assumed 12-month reporting period. For cost reporting periods of other than 12 months, the calculation must be done for the midpoint of the specific cost reporting period. The SNF's intermediary will obtain this adjustment factor from HCFA.

VII. Schedule of Limits

Under the authority of section 1861(v) of the Social Security Act, the following group per diem limits apply to the adjusted SNF inpatient routine service costs reimbursed under Medicare for cost reporting periods beginning on or after October 1, 1982. Medicare fiscal intermediaries will compute the adjusted limits for SNFs using the methodology set forth in this notice, and will notify each SNF of its applicable limit. These limits, as adjusted by the wage indexes in Tables II & III, and the cost reporting year adjustment factors in Table IV, will remain in effect until replaced by a revised schedule of limits published in final in a notice in the **Federal Register.**

TABLE I.—SNF GROUP LIMITS

Location	Labor related component	Nonlabor component[1]
SMSA	$39.13	$10.77
Non-SMSA	$41.53	9.34
Hospital-based SNF "add-on":		
SMSA		4.37
Non-SMSA		1.82

[1] The non-labor portion of the limits for SNFs located in States of Alaska and Hawaii and the commonwealth of Puerto Rico will be increased by the following cost-of-living adjustments:

	Factor
Alaska:	
Anchorage	1.225
All others	1.25
Hawaii (islands):	
Oahu	1.175
Kauai	1.175
Molokai	1.175
Maui and Lanai	1.175
Hawaii	1.10
Puerto Rico	1.075

TABLE II.—WAGE INDEX FOR URBAN AREAS

SMSA area	Wage index
Abilene, TX	0.8366
Akron, OH	1.0087
Albany, GA	[illegible]8712
Albany-Schenectady-Troy, NY	.9645
Albuquerque, NM	1.0380
Alexandria, LA	.9619
Allentown-Bethlehem-Easton, PA-NJ	1.0506
Altoona, PA	1.0468
Amarillo, TX	.9448
Anaheim-Santa Ana-Garden Grove, CA	1.2053
Anchorage, AK	1.5892
Anderson, IN	.9850
Anderson, SC	.8712
Ann Arbor, MI	1.2969
Anniston, AL	.8662
Appleton-Oshkosh, WI	.9620
Arecibo, PR	.8461
Asheville, NC	1.0033
Athens, GA	.9811
Atlanta, GA	.9418
Atlantic City, NJ	1.0417
Augusta, GA-SC	.9462
Austin, TX	1.0156
Bakersfield, CA	1.1813

[1] Forecasted increase.

TABLE II.—WAGE INDEX FOR URBAN AREAS—Continued

SMSA area	Wage index
Baltimore, MD	1.1352
Bangor, ME	.9421
Baton Rouge, LA	.9906
Battle Creek, MI	1.0266
Bay City, MI	[1]1.0658
Beaumont-Port Arthur-Orange, TX	.9407
Bellingham, WA	[1].9181
Benton Harbor, MI	.8839
Billings, MT	[1].9762
Biloxi-Gulfport, MS	.8379
Binghamton, NY–PA	.9463
Birmingham, AL	1.0023
Bismarck, ND	.8430
Bloomington-Normal, IL	.9168
Bloomington, IN	[1].9100
Boise City, ID	1.0585
Boston-Lowell-Brockton-Lawrence-Haverhill, MA–NH	[1]1.1387
Bradenton, FL	[1].9296
Bremerton, WA	.8995
Bridgeport-Stamford-Norwalk-Danbury, CT	1.1904
Brownsville-Harlingen-San Benito, TX	.9764
Bryan-College Station, TX	.8228
Buffalo, NY	.9939
Burlington, NC	.8785
Burlington, VT	1.0554
Caguas, PR	.8007
Canton, OH	.9637
Casper, WY	[1]1.0638
Cedar Rapids, IA	[1].9418
Champaign-Urbana-Rantoul, IL	1.0359
Charleston, SC	1.0333
Charleston, WV	1.0869
Charlotte-Gastonia, NC	.9767
Charlottesville, VA	1.0664
Chattanooga, TN–GA	.9985
Chicago, IL	1.2013
Chico, CA	1.0813
Cincinnati, OH–KY–IN	1.0959
Clarksville-Hopkinsville, TN–KY	.8519
Cleveland, OH	1.2149
Colorado Springs, CO	1.0890
Columbia, MO	1.1961
Columbia, SC	.9674
Columbus, GA–AL	.9195
Columbus, OH	1.0803
Corpus Christi, TX	.9782
Cumberland, MD–WV	.9221
Dallas-Fort Worth, TX	1.0222
Danville, VA	[1].8960
Davenport-Rock Island-Moline, IA–IL	.9804
Dayton, OH	1.1240
Daytona Beach, FL	.9804
Decatur, IL	[1]1.0023
Denver-Boulder, CO	1.1952
Des Moines, IA	1.0597
Detroit, MI	1.2516
Dubuque, IA	.8660
Duluth-Superior, MN–WI	.9252
Eau Claire, WI	.9102
El Paso, TX	.8755
Elkhart, IN	[1].9100
Elmira, NY	1.0249
Enid, OK	.9247
Erie, PA	.9804
Eugene-Springfield, OR	.9554
Evansville, IN–KY	1.0438
Fargo-Moorhead, ND–MN	1.0057
Fayetteville, NC	[1].8018
Fayetteville-Springdale, AR	.8155
Flint, MI	1.1849
Florence, AL	.8223
Florence, SC	.8445
Fort Collins, CO	.9121
Fort Lauderdale-Hollywood, FL	1.0830
Fort Myers, FL	.9369
Fort Smith, AR–OK	.9316
Fort Walton Beach, FL	[1].7921
Fort Wayne, IN	.9222
Fresno, CA	1.2345
Gadsden, AL	.9316

TABLE II.—WAGE INDEX FOR URBAN AREAS—Continued

SMSA area	Wage index
Gainesville, FL	.9496
Galveston-Texas City, TX	1.0940
Gary-Hammond-East Chicago, IN	1.1438
Glens Falls, NY	.9078
Grand Forks, ND–MN	.8120
Grand Rapids, MI	.9905
Great Falls, MT	[1].9406
Greeley, CO	[1]1.0158
Green Bay, WI	1.0100
Greensboro-Winston-Salem-High Point, NC	.9483
Greenville-Spartenburg, SC	.9802
Hagerstown, MD	1.0411
Hamilton-Middleton, OH	1.0706
Harrisburg, PA	1.0606
Hartford-New Britain-Bristol, CT	1.1760
Hickory, NC	.9509
Honolulu, HI	1.1867
Houston,TX	1.1222
Huntington-Ashland, WV–KY–OH	.9534
Huntsville, AL	.8827
Indianapolis, IN	1.0551
Iowa City, IA	1.1812
Jackson, MI	[1]1.0561
Jackson, MS	.9192
Jacksonville, FL	.9777
Jacksonville, NC	[1].9059
Janesville-Beloit, WI	.8912
Jersey City, NJ	1.1350
Johnson City-Kingsport-Bristol, TN–VA	.9275
Johnstown, PA	1.0542
Joplin, MO	.8965
Kalamazoo-Portage, MI	1.2181
Kankakee, IL	.9784
Kansas City, MO–KS	.9846
Kenosha, WI	[1]1.1136
Killeen-Temple, TX	.9185
Knoxville, TN	.9087
Kokomo, IN	1.0083
LaCrosse, WI	[1].9406
Lafayette, LA	1.0077
Lafayette-West Lafayette, IN	.9257
Lake Charles, LA	.9204
Lakeland-Winter Haven, FL	.8993
Lancaster, PA	1.0762
Lansing-East Lansing, MI	1.0718
Laredo, TX	.8631
Las Cruses, NM	[1].7733
Las Vegas, NV	1.2134
Lawrence, KS	[1].9678
Lawton, OK	[1].9619
Lewiston-Auburn, ME	[1].8879
Lexington-Fayette, KY	.9328
Lima, OH	1.0392
Lincoln, NE	.9347
Little Rock-North Little Rock, AR	1.0469
Long Branch-Asbury Park, NJ	1.0276
Longview, TX	.8757
Lorain-Elyria, OH	1.0438
Los Angeles-Long Beach, CA	1.3174
Louisville, KY–IN	1.0632
Lubbock, TX	.9036
Lynchburg, VA	.8747
Macon, GA	.9431
Madison, WI	1.0454
Manchester-Nashua, NH	[1].9762
Mansfield, OH	.9059
Mayaquez, PR	.5902
McAllen-Pharr-Edinburg, TX	.8289
Medford, OR	.9967
Melbourne-Titusville-Cocoa, FL	.9852
Memphis, TN–AR–MS	1.0594
Miami, FL	1.1523
Midland, TX	[1]1.0057
Milwaukee, WI	1.0561
Minneapolis-St. Paul, MN–WI	1.0099
Mobile, AL	.9490
Modesto, CA	1.0548
Monroe, LA	.9324
Montgomery, AL	.9885
Muncie, IN	[1].9595
Muskegon-Muskegon Heights, MI	.9606

TABLE II.—WAGE INDEX FOR URBAN AREAS—Continued

SMSA area	Wage index
Nashville-Davidson, TN	1.0498
Nassau-Suffolk, NY	1.2886
New Bedford-Fall River, MA	.9922
New Brunswick-Perth Amboy-Sayreville, NJ	1.0618
New Haven-Westhaven-Waterbury-Meriden, CT	1.0904
New London-Norwich, CT	1.0930
New Orleans, LA	.9842
New York, NY–NJ	1.3979
Newark, NJ	1.2061
Newark, OH	[1].9595
Newburgh-Middletown, NY	1.0483
Newport News-Hampton, VA	.9259
Norfolk-Virginia Beach-Portsmouth, VA–NC	1.0327
Northeast, PA	1.0447
Ocala, FL	[1].9418
Odessa, TX	[1].8295
Oklahoma City, OK	1.0161
Olympia, WA	[1]1.0540
Omaha, NE–IA	.9859
Orlando, FL	.9890
Owensboro, KY	[1].8803
Oxnard-Simi Valley-Ventura, CA	1.4050
Panama City, FL	[1].8856
Parkersburg-Marietta, WV–OH	1.0064
Pascagoula-Moss Point, MS	[1]1.1283
Paterson-Clifton-Passaic, NJ	1.0820
Pensacola, FL	.9238
Peoria, IL	1.1136
Petersburg-Hopewell, VA	.9327
Philadelphia, PA–NJ	1.1941
Phoenix, AZ	1.1383
Pine Bluff, AR	[1].7832
Pittsburgh, PA	1.1494
Pittsfield, MA	1.0335
Ponce, PR	.7832
Portland, ME	1.0113
Portland, OR–WA	1.1208
Portsmouth-Dover-Rochester, NH–ME	.8540
Poughkeepsie, NY	1.1148
Providence-Warwick-Pawtucket, RI	1.0384
Provo-Orem, UT	.9408
Pueblo, CO	1.0459
Racine, WI	.9967
Raleigh-Durham, NC	1.0364
Reading, PA	1.0092
Redding, CA	1.0671
Reno, NV	[1]1.3337
Richland-Kennewick, WA	.9678
Richmond, VA	.9370
Riverside-San Bernadino-Ontario, CA	1.2201
Roanoke, VA	.9948
Rochester, NM	1.0438
Rochester, NY	1.0571
Rockford, IL	1.0550
Rock Hill, SC	.9181
Sacramento, CA	1.2130
Saginaw, MI	1.1289
St. Cloud, MN	.8638
St. Joseph, MO	1.0264
St. Louis, MO–IL	1.0367
Salem, OR	1.0634
Salinas-Seaside-Monterey, CA	1.2317
Salisbury-Concord, NC	1.0402
Salt Lake City-Ogden, UT	.9370
San Angelo, TX	[1].9762
San Antonio, TX	.9521
San Diego, CA	1.2314
San Francisco-Oakland, CA	1.3337
San Jose, CA	1.2264
San Juan, PR	.4809
Santa Barbara-Santa Maria-Lompoc, CA	1.1107
Santa Cruz, CA	1.1223
Santa Rosa, CA	1.1330
Sarasota, FL	1.0096
Savannah, GA	.9740
Seattle-Everett, WA	1.0487
Sharon, PA	1.0046
Sheboygan, WI	.9920
Sherman-Denison, TX	.8679
Shreveport, LA	1.0540
Sioux City, IA–NE	.9975

TABLE II.—WAGE INDEX FOR URBAN AREAS—Continued

SMSA area	Wage index
Sioux Falls, SD	.8742
South Bend, IN	.9157
Spokane, WA	1.1020
Springfield, IL	1.1235
Springfield, MO	.9078
Springfield, OH	1.0412
Springfield-Chicopee-Holyoke, MA	1.0298
State College, PA	[1]1.1383
Steubenville-Weirton, OH-WV	.8825
Stockton, CA	1.3469
Syracuse, NY	1.5182
Tacoma, WA	1.0720
Tallahasse, FL	[1].9462
Tampa, FL-St. Petersburg, FL	1.0068
Terre Haute, IN	.8856
Texarkana,TX-Texarkana, AR	1.1761
Toledo, OH-MI	1.1421
Topeka, KS	1.0783
Trenton, NJ	1.0906
Tucson, AZ	1.0495
Tulsa, OK	1.0220
Tuscaloosa, AL	1.0384
Tyler, TX	.9893
Utica-Rome, NY	.9977
Vallejo-Fairfield-Napa, CA	1.6758
Victoria, TX	.9508
Vineland-Millville-Bridgeton, NJ	1.0070
Visalia-Tulare-Porterville, CA	1.4467
Waco, TX	.8347
Washington, DC-MD-VA	1.1908
Waterloo-Cedar Falls, IA	.8884
Wausau, WI	1.0566
West Palm Beach-Boca Raton, FL	.9821
Wheeling, WV-OH	.9953
Wichita, KS	1.0412
Wichita Falls, TX	.8579
Williamsport, PA	.9890
Wilmington, DE-NJ-MD	1.1092
Wilmington, NC	.9005
Worcester-Fitchburg-Leominster, MA	.9943
Yakima, WA	.9582
York, PA	1.0110
Youngstown-Warren, OH	1.1351
Yuba City, CA	1.1263

[1]Approximate value for area.

TABLE III—WAGE INDEX FOR RURAL AREAS

Non-SMSA area	Wage index
Alabama	.8167
Alaska	1.4136
Arizona	.9100
Arkansas	.7921
California	1.0982
Colorado	.8515
Connecticut	1.0658
Delaware	.9406
Florida	.9059
Georgia	.8586
Hawaii	1.2552
Idaho	.8661
Illinois	.8965
Indiana	.8826
Iowa	.8296
Kansas	.8205
Kentucky	.8506
Louisiana	.8515
Maine	.8960
Maryland	.9926
Massachusetts	1.0870
Michigan	1.0471
Minnesota	.8264
Mississippi	.8118
Missouri	.8479
Montana	.8603
Nebraska	.7845
Nevada	.9741
New Hampshire	1.0452
New Jersey	.9559
New Mexico	.9235
New York	.9070
North Carolina	.8610
North Dakota	.8203
Ohio	.9305
Oklahoma	.8625
Oregon	.9566
Pennsylvania	1.0428
Puerto Rico	.6438
Rhode Island	1.0028
South Carolina	.8184
South Dakota	.7753
Tennessee	.7987
Texas	.8149
Utah	.8006
Vermont	.8808

TABLE III—WAGE INDEX FOR RURAL AREAS—Continued

Non-SMSA area	Wage index
Virginia	.9454
Washington	.9453
West Virginia	.9296
Wisconsin	.9291
Wyoming	.9782

[1] Approximate value for area.

TABLE IV.—COST REPORTING YEAR ADJUSTMENT FACTORS[1]

	The adjustment factor is [2]—
If a SNF cost reporting period begins:	
Nov. 1, 1982	1.00575
Dec. 1, 1982	1.01150
Jan. 1, 1983	1.01725
Feb. 1, 1983	1.02300
Mar. 1, 1983	1.02875
Apr. 1, 1983	1.03475
May 1, 1983	1.04050
June 1, 1983	1.04642
July 1, 1983	1.05225
Aug. 1, 1983	1.05808
Sept. 1, 1983	1.06392

[1] Based on projected market basket inflation rates of 6.9 percent and 7.0 percent for 1983 and 1984 respectively. These adjustment factors are subject to change based on later estimates of cost increases.

If, for any reason, we do not publish a new schedule of limits to be effective on October 1, 1983, or do not announce other changes in the current schedule by that date, the current limits will continue in effect, with the adjustment factor increased by .00583 (.583 percent) per month, until a new schedule of limits or other provision is issued.

Appendix I.—Derivation of "Market Basket" Index for SNF Routine Service Costs

Category of costs	Relative [1] importance 1980	Forecaster [2] percent changes (1980–84)	Price variable used
Payroll expenses	61.26	DRI–CFS	Percentage changes in average hourly earnings of employees in nursing and personal care facility. (SIC 805) Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Employment and Earnings* (monthly) Table C–2.
Food	9.71	DRI–MM	Processed foods and feeds component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.
		DRI–MM	Food and beverage component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 22.
Employee benefits	7.92	DRI–MM	Supplements to wages and salaries per worker in nonagricultural establishments. For supplement to wages. Source: U.S. Dept. of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, Table 1.11 For total employment. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Employment and Earnings* (monthly), Table B–4.
Fuel and other utilities	5.26	DRI–MM	A. Implicit price deflator-consumption of fuel oil and coal (derived from fuel oil component of Consumer Price Index). Source: U.S. Dept. of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, (*monthly*) *Table 7.11.*
		DRI–MM	B. Implicit price deflator-consumer of electricity (derived from electricity component of Consumer Price Index). Source: U.S. Dept. of Commerce, Bureau of Economic Analysis.
		DRI–MM	C. Implicit price deflator for natural gas (derived from utility (piped) gas component of Consumer Price Index). Source: Same as electricity above.
		DRI–CFS	D. Water and sewage maintenance component of the Consumer Price Index.
Miscellaneous	4.97	DRI–MM	Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23. All Item Consumer Price Index, all urban.
Other business services	4.87	DRI–MM	Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23. Services component of Consumer Price Index, all urban.
Supplies	3.40	DRI–MM	Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23. All Item Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.

Category of costs	Relative [1] importance 1980	Forecaster [2] percent changes (1980–84)	Price variable used
Drugs	1.40	DRI–CFS	Pharmaceutical preparations, ethical component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Producer Prices and Price Indexes*, (monthly), Table 6.
Health services	1.21	DRI–CFS	Physician services component of Consumer Price Index for all urban consumers. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.

[1] The basic weights for all major categories of skilled nursing home costs were obtained from the DHEW-National Center for Health Statistics (NCHS) National Nursing Home Surveys (NNHS) for 1972 and 1976 for homes certified for participation in the Medicare program. See *Nursing Home Costs 1972, United States: National Home Survey, August 1973–April 1974, DHEW, NCHS: National Nursing Home Survey: 1977 Summary for the United States, Vital and Health Statistics, Series 13, Number 43.*

A Laspeyres price index was constructed using 1977 weights and price variables indicated in this table. In calendar year 1977 each "price" variable has an index value of 100.0. The relative routine service cost weights change each period in accordance with price changes for each price variable. Cost categories with relatively higher "price" increases get relatively higher cost weights and vice versa.

[2] DRI–CFS refers to Data Resources, Inc., Cost Forecasting Service (CFS 823), 1750 K Street, N.W., Washington, D.C. 20006.

[3] DRI–MM refers to Data Resources, Inc., Trendlong 782, 29 Hartwell Avenue, Lexington, Massachusetts 02173.

Appendix II—SMSA/NECMA Constituent Counties

Areas No Longer Qualifying as SMSAs:

SMSA area	Constituent counties
Rapid City, SD	Meade Pennsylvania

Areas Qualifying for Recognition as New SMSAs

SMSA area	Constituent counties
Anderson, SC	Anderson.
Arecibo, PR	Arecibo Municipio, Camuy Municipio, Hatillo Municipio.
Athens, GA	Clarke, Jackson, Madison, Oconee.
Bellingham, WA	Whatcom.
Benton Harbor, MI	Berrien.
Bremerton, WA	Kitsap.
Casper, WY	Natrona.
Charlottesville, VA	Albemarle, Fluvanna, Greene, Charlottesville City.
Chico, CA	Butte.
Cumberland, MD–WV	Allegany (MD), Mineral (WV).
Danville, VA	Pittsylvania, Danville City.
Florence, SC	Florence.
Fort Walton Beach, FL	Okaloosa.
Glens Falls, NY	Warren, Washington.
Hagerstown, MD	Washington
Hickory, NC	Alexander, Catawba.
Jacksonville, NC	Onslow.
Joplin, MO	Jasper, Newton.
Medford, OR	Jackson.
Newark, OH	Licking.
Newburgh-Middletown, NY	Orange.
Ocala, FL	Marion.
Olympia, WA	Thurston.
Redding, CA	Shasta.
Rock Hill, SC	York.
Salisbury-Concord, NC	Cabarrus, Rowan.
Sharon, PA	Mercer.
Sheboygan, WI	Sheboygan.
State College, PA	Centre.
Victoria, TX	Victoria.

Areas Qualifying for Recognition as New SMSAs—Continued

SMSA area	Constituent counties
Visalia, Tulare-Porterville, CA	Tulare.
Wausau, WI	Marathon.
Yuba City, CA	Sutter, Yuba.

New NECMAs

NECMA	Constituent counties
Bangor, ME	Penobscot.
Burlington, VT	Chittenden.
Portsmouth-Dover-Rochester, NH-ME	Rockingham (NH), Strafford (NH), York (ME).

Revised NECMA Definitions

NECMA	Constituent counties
Boston-Lowell-Brockton-Lawrence-Haverhill, MA	Essex (MA), Middlesex (MA), Norfolk (MA), Suffolk (MA), Plymouth (MA).
Hartford-New Britain-Bristol, CT	Hartford, Middlesex, Tolland.
Manchester-Nashua, NH	Hillsborough.
Portland, ME	Cumberland, Sagadahoc.
Providence-Warwick-Pawtucket, RI	Bristol, Kent, Providence, Washington.

(Secs. 1102, 1814(b), 1861(v)(1), 1866(a) and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a) and 1395hh)

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 22, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-26679 Filed 9-28-82; 8:45 am]

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federal register

Wednesday
September 29, 1982

Part III

Department of Health and Human Services

Health Care Financing Administration

Medicare and Medicaid Programs; Schedule of Limits on Home Health Agency Costs Per Visit

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicare and Medicaid Programs; Schedule of Limits on Home Health Agency Costs Per Visit

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice with comment period.

SUMMARY: This notice sets forth a schedule of limits on home health agency (HHA) costs that may be reimbursed under the Medicare program. We are revising the limits to take into account more recent data and the effects of inflation, and to implement section 105 of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982. Limits are established by type of service and are expressed as costs per visit. Although we have established separate limits by type of service, we are applying them to each home health agency as a single "aggregate" limit, based on the agency's number of visits for each type of service. This schedule applies to HHA costs for the entire cost reporting period which begins on or after September 3, 1982. It replaces the current schedule that was published in the **Federal Register** on September 30, 1981 (46 FR 48020).

EFFECTIVE DATE: September 3, 1982. Although this notice is being published in final, we will accept comments, particularly on the discussions on the areas we specify in the preamble, as described below. Comments should be received by November 29, 1982.

ADDRESS: Address comments in writing to: Administrator, Department of Health and Human Services, Health Care Financing Administration, P.O. Box 17073, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to BPP–189–FNC.

Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309–G of the Department's office at 200 Independence Ave, SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION, CONTACT: Carl Slutter, 301–594–9344.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) authorizes the Secretary to set prospective limits on allowable costs incurred by a provider of services that will be reimbursed under Medicare, based on estimates of the costs necessary in the efficient delivery of needed health services. The limits may be applied to direct or indirect overall costs or to the costs incurred for specific items or services furnished by the provider. This provision of the statute is implemented under regulations at 42 CFR 405.460.

Under this authority we have published limits on home health agency per visit costs annually since 1979. On June 30, 1981, we published in the **Federal Register** (46 FR 33645) a schedule of limits applicable to cost reporting periods beginning on or after July 1, 1981. These limits contained provisions related to (1) A classification system based on whether a HHA is provider-based or freestanding, and whether the HHA is located within a Standard Metropolitan Statistical Area (SMSA), a New England County Metropolitan Area NECMA), or a non-SMSA; (2) a "market basket" index developed from the price of goods and services purchased by HHAs; (3) adjustments to the limits by an area wage index developed from hospital wages; (4) a cost of living adjustment for HHAs in Alaska and Hawaii; (5) limits set at the 80th percentile; (6) calculation of per visit limits by type of service; and (7) application of the limits to each HHA in the aggregate.

On September 30, 1981, we published a special revision of the limits that replaced the June 30 schedule (see 46 FR 48020). This special revision implemented section 2144 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), which required that the level of the limits be set at the 75th percentile of unweighted per visit costs, rather than the 80th percentile. We used the same methodology in developing the September 30 revision as that used in the June 30 schedule.

On September 3, 1982 the Congress enacted Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982. Section 105 of this law eliminates separate limits for hospital-based and freestanding HHAs for cost reporting periods beginning on or after the date of enactment of the law. We are eliminating separate limits with cost reporting periods beginning on or after September 3, 1982. The Conference Committee report accompanying the statute (see H.R. No. 97–760, 97th Cong., 2nd Sess., 423 (1982)) does, however, provide for adjustments, as appropriate, that recognize legitimate cost differences in hospital-based facilities resulting from such factors as the effects of Medicare cost allocation requirements.

II. Provisions Of The Notice

This revised schedule uses essentially the same methodology as that used in the current schedule. Changes in the methodology, indicated in items 1 and 3, are explained in the next section. The new schedule of limits is based on the following provisions.

1. A classification system based on whether an HHA is located within a SMSA, a NECMA, or a non-SMSA/non-NECMA area. We have eliminated separate limits for provider-based and freestanding agencies, which have been classified separately in previous notices, and, instead, have set a single limit for all HHAs as required by section 105 of Pub. L. 97–248 (see discussion under section III. A.1 below). This single limit will be based on the par visit costs of freestanding agencies. We provide for an adjustment of the freestanding HHA limit to take into account the effect of required Medicare administrative and general (A&G) cost allocation on the hospital-based agency.

2. A market basket index, developed from the price of goods and services purchased by HHAs, that we use to account for the impact of changing wage and price levels on HHA costs. The market basket was first introduced effective July 1, 1980, and is used to adjust HHA cost data from July 1, 1980 to the midpoint of the cost reporting periods to which the limits will apply. The effect on inflation before use of the market basket is accounted for by actuarial estimates of the rate of increase in home health reimbursement.

3. Wage index, developed from hospital wages, used to adjust the labor-related portion of the limits and the A&G add-on to reflect differing wage levels among the areas in which HHAs are located. The employee wage portion of the market basket index (63.99 percent), plus a factor representing a proportionate share of contract services (4.72 percent) are used to determine the wage component (68.71 percent) of all home health agency per visit costs used to set the limits. This updates the present wage component of 69.28 percent.

4. A cost of living adjustment applied to the non-wage portion of the limit for HHAs in Alaska, Hawaii, Puerto Rico and the Virgin Islands.

5. Limits set at the 75th percentile.

6. Calculation of per visit limits by type of service.

7. Application of the limits in the aggregate after the provider's actual costs are reduced by (i) the amount of individual items of cost that are found to be excessive under Medicare principles of provider reimbursement and (ii) reimbursable costs that are not included in the limitation amount.

III. Summary Of Changes To Methodology

A. Statutory Changes

1. *A single schedule of limits for provider-based and freestanding HHAs.*

Beginning with the schedule of limits published on June 5, 1980 (45 FR 38014), we adopted separate limits for provider-based and freestanding agencies to recognize the higher costs incurred by provider-based HHAs due to Medicare cost reporting requirements (see 42 CFR 405.453) beyond their control. Section 105 of Pub. L. 97–248 requires the Secretary to establish a single schedule of HHA limits based on the cost experience of freestanding agencies. The revised schedule of limits set forth below reflects this change in methodology.

2. *Use of an add-on adjustment for hospital-based HHAs.*

The Conference Committee Report accompanying Pub. L. 97–248 (see H.R. Rep. No. 97–760, 97th Cong., 2nd Sess., 423 (1982)) directs the Secretary to make necessary adjustments to the limits for hospital-based HHAs to recognize "legitimitate cost differences in hospital-based facilities resulting from such factors * * * as the effects of Medicare cost allocation requirements." Therefore, we have developed an "add-on adjustment" to the freestanding limit for hospital-based HHAs to account for the higher reported costs associated with Medicare hospital cost-finding requirements.

Program instructions require hospital-based agencies to use the step-down method of cost finding which allocates a share of overhead expenses from the parent facility to the home care department. In order to determine the appropriate add-on amount, we examined the relationship between these indirect costs and the direct visit costs incurred by the hospital-based HHA. The data used in this study were extracted from worksheet B of the hospital cost report (HCFA–2552) from a sample of 285 hospitals with home care departments. This study confirmed an earlier finding that approximately 26 percent of the total cost reported by hospital-based agencies is attributable to overhead costs which are allocated from the hospital to the HHA under Medicare cost reporting requirements.

To determine the extent to which these overhead costs should be recognized, we isolated individual cost components that contribute to the higher per visit costs reported by hospital-based HHAs, and analyzed the statistical bases used to allocate these costs. As part of this process, we computed the average amount of administrative and general costs represented in the hospital overhead and compared it to the average amount of other indirect costs that are stepped down into the home care department from other costs centers (for example, depreciation, employee health and welfare). We determined that half of the 26 percent overhead cost differential results from the step-down of administrative and general (A&G) costs (approximately 13 percent), whereas the remaining 13 percent is spread across all other cost centers.

The functions of the A&G cost center are directed toward overall management and control of the hospital and contain a variety of activities which do not convert easily to quantitative measurement. Therefore, costs are allocated from the parent institution on the basis of accumulated costs and, as a result, the hospital-based HHA receives a substantial amount of hospital administrative and general costs that are not directly commensurate with the volume or value of service received from the hospital. Although these costs are reimbursable as allowable hospital costs, they are essentially added costs that must be reported by, but are not actually incurred by, the home health agency.

We also made this type of comparison for the other costs that are distributed to the home health cost center, such as housekeeping, operation of plant and medical records considering both the type of expense and basis for allocation. We have concluded, that with few exceptions (e.g., medical education), the other types of expenses are analogous to those of freestanding agencies and, the statistical bases for allocating these other costs are appropriate to the type of expense (e.g., square feet, time spent). Therefore, no adjustment has been made for those hospital overhead costs which are similar to those of freestanding agencies. In unusual circumstances, a hospital-based agency may request an exception to the limits under 42 CFR 405.460(f)(2) for legitimate expenses that are not similar to those of freestanding agencies. However, the fact that the costs are higher than those incurred by freestanding agencies is not a basis for an exception.

In accordance with congressional intent, we have developed an add-on adjustment to account for the higher administrative and general costs incurred by the hospital-based agency due to Medicare cost allocation requirements. The add-on amount has been calculated by determining the median cost of each discipline for hospital-based agencies and computing 13 percent of that amount. The resulting dollar amount, with the wage portion of that amount adjusted by the appropriate wage index, will be added to each freestanding limit to determine the discipline limit for hospital-based agencies. Table II shows the appropriate add-on amounts. The example following Table II shows how a hospital-based agency's limit will be determined.

For cost limit purposes, an agency will be considered to be hospital-based if it is a part of a hospital that is required to file a HCFA-2552 cost report (see PRM, HFCA Pub. 15. section 2326.2) and meets the requirements specified in the notice published June 5, 1980 in the **Federal Register** (45 FR 38014).

The Conference Committee report (see H.R. Rep. No. 97–760, 97th Cong., 2nd Sess., 423 (1982)) accompanying Pub. L. 97–248 does not direct the Secretary to make adjustments to the limits for rehabilitation agency-based or skilled nursing facility-based HHAs. Further, the data are insufficient to determine accurately whether, and to what extent, differences in cost exist between these agencies and freestanding facilities. Thus, the new limits for rehabilitation agency-based and/or skilled nursing facility-based HHAs will remain at the same level as for freestanding agencies. These agencies may also request an exception to the limits under 42 CFR 405.460 for legitimate costs that are not similar to those of freestanding agencies and result from the application of cost finding rules.

B. Non-Statutory Changes

1. *Separate treatment of labor-related and non-labor components of per visit costs.*

In the notice published on September 30, 1981, we established, for each HHA comparison group, a single basic limit for each type of service set at the 75th percentile of the array.

Under that schedule, we divided a constant percentage (69.28 percent) of each HHA's cost by the wage index to arrive at the adjusted wage portion used in deriving the cost limits. We then applied the cost reporting year adjustment, if applicable, to the HHA's wage adjusted limits to determine the limits by type of service for each HHA.

The adjusted wage portion and the non-wage portion were recombined for each HHA before the limit amount was established. The adjustment of the wage portion by the wage index, in effect, increases or decreases the ratio of wage costs to non-wage costs in the cost limit groupings, depending on whether the average wage index value is greater or less than 1. As a result, combining the costs prior to setting the limits and then using a constant percentage as the wage share of the limit can overstate or understate the actual wage and non-wage costs in each group. This produces limited amounts which can give too much weight to either the wage or non-wage component. This effect is avoided if we compute separate percentiles for wage and non-wage costs and recombine these portions after the level of limits is set.

Under the revised method, we obtained actual HHA per visit cost data for each agency and increased those data by the actual and projected increases in the HHA market basket. We then separated each HHA's per visit costs into wage and non-wage portions, and divided the wage portion by the wage index for the agency's location in order to standardize for the effect of wage differences. The non-wage and wage adjusted portions of per visit costs are not recombined prior to determining cost per visit limits for each group as was done in deriving the current limits. Separate percentiles are computed for the wage and non-wage components of per visit costs. For each comparison group, the resulting amounts are shown in Table I. Since this represents a change from the current system, we invite public comment on this revision.

2. *Computation of wage index used to adjust HHA cost data.* The wage indexes used in this schedule are based on updated wage data for the year 1980. They were developed from data supplied by the Bureau of Labor Statistics (BLS) for the hospital group, a standard BLS reporting category.

The wage indexes used in previous schedules were developed by computing separate national average hospital wages for urban and rural areas. To develop the urban index, we computed the national SMSA (or NECMA) average hospital wage and divide this average into the average hospital wage for each SMSA (NECMA). For non-SMSA areas, we computed the national non-SMSA average hospital wage and divided this average into the average hospital wage for all non-SMSA counties in a State. The results of these calculations were expressed as index numbers which were used to adjust the wage portion of the group limits.

Use of the separate wage index computation for urban and rural areas has caused some misunderstanding among HHAs in the past because some rural areas had higher wage indexes than adjacent urban areas. The anomaly in the wage indexes resulted from the use of two different national averages—one for urban areas and one for rural areas as bases for calculating the index. For purposes of this revised schedule of limits, we are using a combined wage index that is based on a single national average wage. This revised index measures every area against the same standard, and overcomes the confusion created by the split wage index. We believe a wage index based on a single national average that compares all areas to a common norm will be easier to understand and to administer. This change results in corresponding urban and rural indexes having the same relative dollar value and allows for direct comparison of index numbers across urban and rural areas. To develop the combined wage index, we computed the national average hospital wage for all areas (SMSAs, NECMAs and non-SMSAs) and divided this average into the average hospital wage for each area. The result of this calculation is expressed as an index number for each area which is used to adjust the wage portion of the group limits.

This change has no effect on the limits which will be applied to any area. Under the methodology used to compute the limits, wage costs are deflated (divided) by the applicable wage index prior to determining the 75th percentile. When the limit is applied to an individual agency, the 75th percentile is then multiplied by the area wage index to determine the actual wage portion of the limit. The following example demonstrates that the final result of the computation is identical.

Example:

(1) *Split wage index*=.7059; wage share=$42.77; wage deflated cost: $42.77÷.7059=$60.5893; 75th percentile of all wage deflated costs=$57.64; Area wage share limit: $57.64×.7059=*$40.69*.

(2) *Combined wage index*=.7916; wage share=$42.77; wage deflated cost: $42.77÷.7916=$54.0298; 75th percentile of all wage deflated costs=$51.40; area wage share limit: $51.40×.7916=*$40.69*.

The following hypothetical sample array is the source of the data used in this example. The split and combined wage indexes used in the hypothetical sample array were derived as shown below.

SAMPLE DATA

[Can be urban or rural]

Area	Average monthly hospital wage	Split wage index	Combined wage index
1	$600	0.7059	0.7916
2	700	.8235	.9235
3	750	.8824	.9894
4	1,000	1.1765	1.3193
5	1,200	1.4118	1.5831
Total	4,250		

Urban or rural national average monthly hospital wage=

$$\frac{\text{Total urban or rural average monthly hospital wages}}{\text{Number urban or rural areas}} = \frac{4,250}{5} = \$850$$

Combined national average monthly hospital wage=

$$\frac{\text{Total urban average monthly hospital wages + total rural average monthly hospital wages}}{\text{Number urban areas + number rural areas}} = \frac{4,250+3,325}{10} = \$758$$

Example:

(1) Computation of Split Wage Index

Area 1 average monthly hospital wage=$600.00; urban or rural national average monthly hospital wage=$850.00; area 1 split wage index: $600.00÷$850.00=.7059

(2) Computation of Combined Wage Index

Area 1 average monthly hospital wage=$600.00; combined national average monthly hospital wage=$758.00; area 1 combined wage index: $600.00÷$758.00=.7916.

SAMPLE ARRAY

1	2	3		4	
Area	Wage share $$.71	Wage index		Wage-deflated cost[1]	
		Split	Combined	Using split wage index	Using combined wage index
1	42.77	0.7059	0.7916	60.5893	54.0298
2	46.66	.8235	.9235	56.6606	50.5252
3	29.55	.8824	.9894	33.4882	29.8668
4	34.21	1.1765	1.3193	29.0775	25.9304
5	31.10	1.4118	1.5831	22.0286	19.6450
75th percentile of the Wage deflated arrayed costs=				$57.64	$51.40

[1] Col. 2 divided by corresponding value in col. 3.

5	6		7		8	
Area	Wage index		75th percentile wage deflated cost		Area limit (wage share [1])	
	Split	Combined	Split wage index	Combined wage index	Split wage index	Combined wage index
1	0.7059	0.7916	$57.64	$51.40	$40.69	40.69
2	.8235	.9235	57.64	51.40	47.47	47.47
3	.8824	.9894	57.64	51.40	50.86	50.86
4	1.1765	1.3193	57.64	51.40	67.81	67.81
5	1.4118	1.5831	57.64	51.40	81.37	81.37

[1] Col. 7 multiplied by appropriate value in col. 6.

Constraints inherent in the use of the BLS data prevented derivation of a wage index applicable to Guam and the Virgin Islands, and none are included in the list of indices. However, a wage-index value of 1 will be assumed for applying the limits in these areas until an actual value can be computed, effectively making no adjustment relative to the national average.

The data we used to develop the hospital wage index were supplied by BLS, and are the most reliable data available. All hospitals were required under the State unemployment compensation laws to report these data. If we discover that we, or BLS, have made any error that results in incorrect wage indexes for any area, and will notify the Medicare intermediaries of the corrected index and will direct them to recalculate the limits for those affected providers. However, BLS has advised us that they are unable to correct any inaccuracies in the wage index that may result from a hospital's failure to report the required wage data.

3. *Inclusion of wage indexes for newly designated SMSAs.*

Under the current cost limits system, providers are classified as either urban or rural. With few exceptions, urban locales consist of those counties which comprise either an SMSA or NECMA as defined by the Office of Management and Budget (OMB), Executive Office of the President. Rural areas consist of those counties within a State that lie outside an SMSA or NECMA. The wage index for each urban area (SMSA/NECMA) is based on the combined BLS records for all counties within the SMSA/NECMA. Similarly, the wage index for each rural area is derived from the aggregated BLS data for all non-SMSA/NECMA counties in each State.

On June 19, 1981, OMB announced the designation of new SMSAs and NECMAs based on the results of the 1980 Census. Certain revisions in metropolitan classification were also announced. In developing the revised limits, we have incorporated wage indexes for OMB's newly designed metropolitan locales as well as indexes for existing SMSAs and NECMAs that have been redefined. We have included in Appendix I a listing of the newly designated metropolitan locales and the revised NECMAs.

4. *Inclusion of wage indexes for Puerto Rico.*

In the past, BLS has not collected wage data from hospitals located in Puerto Rico. Therefore, derivation of a wage index specific to that area was not possible. Recent refinements in the BLS system now permit computation of actual wage values for Puerto Rico. These wage indexes were used in development of the limits and are included in Tables III A and III B.

IV. Summary of Retained Methodology

In addition to the changes discussed earlier, we have retained the following provisions:

1. *Classification system.*

We have eliminated separate limits for provider-based and freestanding HHAs, as required by section 105 of Pub. L. 97–248 and discussed above. However, we have retained an urban/rural distinction of agencies as an element of the classification system.

2. *Limits set at the 75th percentile.*

We have maintained the basic service limit at the 75th percentile. Each HHA's individual limits will be increased or decreased by application of the wage index as described in item 2 of the methodology section of this notice.

3. *Use of HHA market basket index.*

In the initial schedule of home health agency limits published June 1, 1979 (44 FR 31814), we obtained the inflation adjustment factors from actuarial projections of change in HHA interim reimbursement rates. Because we believe the cost of goods and services purchased to provide home health care is a more accurate measure of inflation, we developed a market basket price index specifically related to the home health industry. For a more detailed explanation of the HHA market basket, including weights and categories, see the notice published June 30, 1981 (46 FR 33645).

We have developed the revised limits in the same manner as the current limits. They are based on reported costs, adjusted for actual and projected cost increases, using factors developed from actual historical increases in home health reimbursement. The costs are adjusted to reflect historical increases occurring between each provider's cost reporting period reflected in our data base and June 30, 1980. We then apply the HHA market basket index beginning July 1, 1980.

In developing the market basket index, we obtained historical and projected rates of increase in the resource prices for each category. The price variables and the source of the forecast for calendar years 1980 through 1984 are identified in the third and fourth columns of the updated market basket included in this notice.

In applying the market basket index, we also provide for adjustments to be made in the limits if our forecast of economic trends proves to be erroneous. We will adjust the projected rate of increase in the market basket index to actual, if the actual rate of increase is more than 3/10 of 1 percentage point above the estimated rate. We will advise the Medicare intermediaries to use the actual rate of increase to adjust each HHA's limits at the time of final settlement.

HOME HEALTH AGENCY INPUT "PRICE" INDEX: COST CATEGORIES, WEIGHTS, FORECASTERS AND PRICE VARIABLE USED

Cost categories	Relative importance 1980 [1]	Forecaster percent changes (1981-84) [2]	Price variable used
Wages and salaries	63.09	DRI–CFS	Percentage chagne in average hourly earnings of hospital industry workers (SIC806). Source: U.S. Dept. of Labor, Bureau of Labor Statistics, Employment and Earnings (monthly) Table C–2.
Employee benefits	5.43	DRI–MM	Percentage change in supplements to wages and salaries per worker in non-agricultural establishments. Source: U.S. Dept. of Commerce, Bureau of Economic Analysis Survey of Current Business (monthly) Table 7.
Transporation	5.18	DRI–CFS	Transportation component of the Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.
Office costs	2.95	DRI–MM	Services component of Consumer PRICE Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.
Rent	1.26	HCFA–HHS	*Projection*
Nontental space occupancy costs.	1.50	DRI–MM	Weighted average of fuel and other utilities using relative weights derived from market basket for hospital routine operating costs. Source: HHS–HCFA, National Hospital Input Price Index.[3]
Medical nursing supplies and rental equipment.	2.59	HCFA–HHS	After 1977: non-prescription medical equipment and supplies component of the Consumer Price Index. Prior to 1978: medical care commodities component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.
Miscellaneous	7.25	DRI–MM	Consumer Price Index for all items, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review*, Table 23.
Contract services	6.87	DRI–MM	Weighted mean of price variables for items 1 through 8 above.
Total [4]	100.0	HCFA–HHS	

[1] Relative cost weights vor 1976 were derived from special studies by the Health Care Financing Administration using primarily data from HCFA medicare cost reports and data from the Council of Home Health Agencies and Community Health Services. A laspeyres price index was constructed using 1976 weights and "price" variables indicated in this table. In calendar year 1976 each "price" variable has an index value of 100.00. The relative cost weights change overtime in accordance with "price" changes for each "price" variable. Cost categories with relatively higher "price" increases get relatively higher cost weights and vice versa.

[2] DRI–MM refers to Data Resources, Inc., Marcro Model, 29 Hartwell Avenue, Lexington, Massachusetts 02173, Forecast Trendlong 0182, DRI–CFS refers to Data Resources, Inc., Cost Forecaster Service, 1750 K Street, N.W., Washington, D.C. 20006, (Forecast: CFS821)

[3] See Freeland, Mark S., Gerard Anderson and Carol Ellen Schendler, "National Hospital Input Price Index", *Health Care Financing Review*, Summer 1979, pp. 37–61.

[4] May not sum to 100.00 due to rounding.

4. *Application of the wage index to employee wages and a proportionate share of contract services.*

In this revised schedule,we are retaining an adjustment to the wage component of the limit which includes wages and salaries, plus an estimated percentage of contract service costs. These percentages are calculated by adding an estimated wage percentage of contract service costs (4.72 percent) to the wage and salary weight shown in the market basket (63.99 percent). The proportion of cost to be adjusted by the wage index is now 68.71 percent. This is a change from the 69.28 percent used in the current notice and is due to use of updated market basket weights.

Use of cost-of-living adjustment for Alaska, Hawaii, Puerto Rico and the Virgin Islands.

To avoid disadvantaging HHAs located in Alaska, Hawaii, Puerto Rico and the Virgin Islands, we are providing a cost-of-living adjustment for these areas. This adjustment is the same as the provision included in the current schedule, except that it now applies to HHAs located in Puerto Rico and the Virgin Islands. In keeping with current practice, the non-wage component of the limits applicable to Alaska, Hawaii, Puerto Rico and the Virgin Islands will be adjusted by the amount of the Office of Personnel Management cost-of-living differential for those areas. We adjust the wage component by the appropriate wage index; therefore, this adjustment applies only to the non-wage component.

6. *Application of limits in the aggregate.*

We are aware of the congressional concern to improve reimbursement methodology and to make the HHA cost limits more precise. The conference report (H.R. Report No. 97–208, 97th Cong., 1 Sess. 949, (1981)) which accompanied the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) "urges the Secretary, as soon as feasible" to apply limits by type of service. We agree that conversion to limits by type of service would be an improvement over the aggregate methodology currently used because it would be a more accurate measure of efficiency. However, the feasibility of converting to per visit limits is dependent on development of a data base using a single method of cost finding and cost apportionment. We published a final rule requiring HHAs to use a single method of cost finding and cost apportionment for cost reporting periods beginning on or after October 1, 1980 (45 FR 57126, August 27, 1980). Unlike the data now available which are derived from multiple cost reporting methods, data based on a single cost reporting system will be consistent for all agencies and types of services, and will permit direct cost comparisons between various types of agencies. We anticipate that the complete data base, using the new cost report, will be available about mid-1983. Therefore, we will delay application of the limits by type of service until such time as we have the data from the new cost reports.

V. Application of Limits to State Medicaid Rates

Methods of reimbursement for home health agencies under Medicaid are determined by the individual State agencies. There is no existing regulatory requirement that Medicare cost limits be applied to payment rates for HHA services under Medicaid. Therefore, Medicare cost limits for HHAs will apply only to Medicaid payments in those States that choose to incorporate the limits into their plans for payment for home health services.

VI. Impact Analyses

Executive Order 12291

We have determined that the revised schedule of limits set forth in this notice will not result in an annual economic impact of $100 million or more. This notice will also not meet other criteria of the order

This final notice sets forth limits on HHA costs per visit that are intended to implement section 105 of Pub. L. 97–248 and to prevent Medicare reimbursement for costs not related to patient care or due to operating inefficiencies. Implementation of these limits would result in Medicare savings of $16 million in fiscal year 1983, compared to the retention of earlier limits set at the 80th percentile and using separate schedules for hospital-based facilities. Furthermore, all but $2 million of the fiscal year 1983 savings is due to the percentile reduction established in law and hence not the "result" of this notice.

Accordingly, we find no evidence that would require a regulatory impact analysis.

Regulatory Flexibility Act

The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act, (Pub. L. 96–354), that the revised schedule of limits set forth in this notice will not have a significant economic impact on a substantial number of small entities.

As stated above, only $2 million of the $16 million incremental savings estimated for FY 83 can be attributed to the elimination of the separate schedule of limits for hospital-based facilities. Continuation of separate limits for hospital-based home health agencies would have resulted in limits higher than those now established for these agencies. Consequently, the hospital-based agencies will be the only ones affected by this policy change.

The savings are projected from a data base of 1771 participating home health agencies that includes 186 hosptial-based agencies, of which 74 are expected to exceed the proposed limits. The $2 million savings attributed to the single limit proposal is derived from the estimated dollar impact on the 74 hospital-based providers adjusted to reflect 1983 expenditures for all hospital-based agencies. We believe that this effect, which averages about $10,000 per affected provider, does not result in a significant impact on these providers when compared to average revenues of $20 million expected to be received by hospitals in FY 83. This impact averages less than one-tenth of one percent of revenues. Moreover, these institutions can take steps to reduce their costs to levels which other institutions now meet. Additionally, an exception may be granted under section 1861(v)(1)(A) of the Social Security Act, implemented by regulations at 42 CFR 405.460(f), for hospital-based agencies whose reimbursement is unfairly restricted by the limits. Accordingly, a regulatory flexibility analysis is not required.

VII. Waiver of Proposed Notice and 30-Day Delay in Effective Date

As we indicated earlier, we have used the same methodology to develop the revised limits that was used to develop the current schedule published September 30, 1981. The methodology used to develop the September 30, 1981 limits had previously been published for public comment (see 45 FR 10450). In developing those limits, we considered all comments received.

Because the main features of the methodology used in this revised schedule were previously published for public comment, we believe that it would be impracticable and unnecessary to again request public comment. To do so would be contrary to the public interest. Therefore, we find good cause to waive publication of a proposed notice. However, we are allowing a 60-day comment period on areas of the methodology that have been revised.

In the past, we generally have attempted to allow a 30-day period between the date of publication of each cost limit schedule and the effective date of the schedule. In this case, it would be impracticable and contrary to the public interest to do so because the effective date of the statutory changes is the date of enactment of Pub. L. 97–248. Since prompt publication of the results of these changes in the limits would be in the public interest, we find good cause to waive the customary 30-day delay between publication of new limits and their effective date, and apply them to HHAs effective September 3, 1982.

VIII. Methodology for Determining Cost Per Visit Limits

1. *Data.* We determined the revised limits by using actual cost per visit data obtained from the latest Medicare cost reports for periods ending on or before June 30, 1981. We adjusted the data to reflect cost increases occurring between the cost reporting periods contained in our data base and March 31, 1983 (the midpoint of the first cost reporting period to which the limits will apply), using factors developed from actual historical increases in home health reimbursement (prior to July 1, 1980) and market basket factors (beginning July 1, 1980). The annual percentage increases used to compute the per visit costs are:

Calendar year	Percent increase
1978	[1]8.7
1979	[1]7.2
1980 (1/1/80–6/30/80)	[1]4.0
1980 (market basket, 7/1/80–12/31/80)	[2]11.7
1981 (market basket)	[2]12.1
1982 (market basket)	[2]9.6
1983 (market basket)	[2]8.9
1984 (market basket)	[2]7.8

[1] Actuarial estimates subject to change based on later estimates of cost increases.
[2] Final rate.
[3] Forecasted increases.

The projected rate of increase in the market basket index will be adjusted to the actual inflation rate if the actual rate of increase is more than 3/10 of 1 percentage point above the estimated rate. We will notify the Medicare intermediaries of the actual rate of increase and advise them to adjust each home health agency's cost limit at time of final settlement.

2. *Deflation by Wage Index.* After adjustment by the market basket, we divide each HHA's adjusted per visit costs into wage and non-wage portions. We determine the wage portion of costs (68.71 percent) by using the 63.99 percent employee wage and benefit factor derived from the market basket weight, plus 4.72 percent representing a proportionate share of the market basket weight for contract services. We then divide the wage portion of per visit costs by the wage index applicable to the HHA's location to arrive at an adjusted wage cost.

The current hospital wage index was developed from data for the year 1980 supplied by the Bureau of Labor Statistics (BLS) for the "hospital industry", a standard BLS reporting category.

3. *Basic Service Limit.* A basic service limit equal to the 75th percentile of the wage and non-wage portions is calculated for each type of service, derived from the per visit costs of freestanding HHAs. Separate determinations of percentile for the non-wage and wage portions are necessary since the wage index adjustment discussed above changes the ratio of wage to non-wage costs.

4. *Computing the Adjusted Limit.* To arrive at the wage adjusted limit applied to each service furnished by a HHA, the Medicare fiscal intermediary multiplies the wage limit component for the comparison group by the appropriate wage index. (See Tables IIIA and IIIB.)

The adjusted limit that will apply to a HHA is the sum of the non-wage component plus the adjusted wage component.

Example—Calculation of Adjusted Occupational Therapy:
Limit [1]
Non-Wage Component—$16.19
Wage Component—$32.44
Wage Index—1.0694

Computation of Adjusted Limit [1]

Wage Component—$32.44
× Wage Index—1.0694
Adjusted Wage Component—$34.60
+ Non-wage Component—$16.19
Adjusted Limit for Occupational Therapy—$50.68

5. *Adjustment for Reporting Year.* If a HHA has a cost reporting period beginning on or after November 1, 1982, the adjusted per visit limit for each service will be revised upward by a factor from Table IV that corresponds to the month and year in which the cost

[1] Includes three months of inflation to reflect cost reporting period beginning January 1, 1983. Limit in Table I multiplied by factor of 1.0173 from Table IV.

reporting period begins. Each factor represents the monthly increase that we derived by dividing the projected annual increase in the market basket index by 12, and is used to account for inflation in costs that will occur after the date on which the limits became effective.

Example—HHA A's cost reporting period begins January 1, 1983. The wage adjusted per visit limit for occupational therapy for A's group is $50.01.

Computation of Revised Limit for Occupational Therapy

Adjusted Per Visit Limit—$50.01
Adjustment Factor from Table IV—1.0173
1.0173×$50.01=$50.88

In this example, the revised adjusted per visit limit for occupational therapy applicable to A for the cost reporting period beginning January 1, 1983, is $50.88 per visit.

If a HHA uses a cost reporting period that is not 12 months in duration, a special calculation of the adjustment factor must be made. This results from the fact that projections are computed to the midpoint of a cost reporting period and the factor of .575 is based on an assumed 12-month reporting period. For cost reporting periods other than 12 months, the calculation must be done specifically for the midpoint of the cost reporting period. The HHA's intermediary will obtain this adjustment factor from HCFA.

6. *Adjustment for Hospital-Based Agencies.* If a HHA participates in the Medicare program as part of a hospital that is required to file a HCFA–2552 cost report (see PRM (HCFA Pub–15) § 2326.2), and meets the requirements specified in the notice published June 5, 1980 in the **Federal Register** (45 FR 38014), the HHA will be considered to be a hospital-based agency. Therefore, the HHA will be entitled to an adjustment of the per visit limit to account for higher administrative and general costs resulting from the Medicare cost allocation requirements. The intermediary will compute the adjusted cost limit as described in the example following Table II.

IX. Schedule of Limits

The schedule of limits set forth below applies to the 12-month cost reporting period beginning on or after September 3, 1982, and remains in effect until superseded. The fiscal intermediary will compute the adjusted limits using the wage index published in Tables IIIA and IIIB and notify each HHA of its applicable limits.

The HHA costs that are subject to the limits include the cost of medical supplies routinely furnished in conjunction with patient care. Medical supplies that are not routinely furnished in conjunction with patient care visits and are directly identifiable services to an individual patient (i.e., medical supplies for which a separate charge is made, in addition to the per visit charge) are excluded from the per visit cost if: (1) The common and established practice of comparable HHAs in the area is to charge separately for the items; (2) the HHA follows a consistent charging practice for Medicare and non-Medicare patients receiving the item; (3) generally, the item is not frequently furnished to patients; (4) the item is directly identifiable to an individual patient and its costs can be identified and accumulated in a separate cost center; and (5) the item is furnished at the direction of the patient's physician and is specifically identified in the plan of treatment. This explanation of non-routine medical supplies is consistent with instructions for reporting the cost of these supplies on the revised HHA cost report, forms HCFA–1728 and HCFA–2552K. The reasonable cost of medical appliances and supplies that are not routinely furnished in conjunction with patient care visits will be reimbursed without regard to the schedule of limits.

The fiscal intermediary determines the limit for each home health agency by multiplying the number of Medicare visits for each type of service furnished by the provider by the respective per visit cost limit. The sum of these amounts is compared to the home health agency's total allowable cost.

Example: Home Health Agency A, a freestanding agency located in Charlottesville, Virginia made 6,000 skilled nursing, 1,000 physical therapy and 3,000 home health aide covered visits to Medicare beneficiaries during its 12-month cost reporting period beginning January 1, 1983.

The aggregate cost limit would be determined as follows:

Type of visit	Visits	Non-wage portion [1]	Adjusted wage portion 1.06941 [1]	Adjusted limit	
Skilled nursing	6,000	16.08	35.56	51.64	$309,840
Physical therapy	1,000	15.73	34.14	49.87	49,870
Home health aide	3,000	12.75	26.86	39.60	118,800
Aggregate cost limit					478,510

[1] Limits include three months of inflation to reflect a cost reporting period beginning January 1, 1983.

Before the limits are applied at cost settlement, the provider's actual costs will be reduced by the amount of individual items of cost (e.g., administrative compensation, contract services) that are found to be excessive under Medicare principles of provider reimbursement. In this regard, the fiscal intermediaries will review the various reported costs against such screens as the cost guidelines for physical therapy under arrangements (see 42 CFR 405.432) and against the limitation on costs that are substantially out of line with those of comparable agencies (see 42 CFR 405.451). The provider's cost will also be reduced by the amount of reimbursable costs that are not included in the limitation amount (e.g., medical appliances).

TABLE I.—PER VISIT LIMITS FOR HOME HEALTH AGENCIES [1]

Type of visit	Limit	Wage portion (68.71%)	Non-wage portion (31.29%)
SMSA (NECMA) Location			
Skilled nursing care	48.50	32.69	15.81
Physical therapy	46.84	31.38	15.46
Speech pathology	47.56	31.89	15.67
Occupational therapy	47.80	31.89	15.91
Medical social services	57.86	38.80	19.06
Home Health aide	37.21	24.66	12.53
Non-SMSA Location			
Skilled nursing care	54.74	39.09	15.65
Physical therapy	54.85	38.98	15.87
Speech pathology	57.98	41.22	16.76
Occupational therapy	56.25	39.56	16.69
Medical social services	53.41	37.48	15.93
Home health aide	40.09	28.65	11.44

[1] Non-labor component of limits for HHAs located in Alaska, Hawaii, Puerto Rico and the Virgin Islands will be increased by multiplying them by the following cost-of-living adjustment factors:

Location	Adjustment factor
Alaska:	
Anchorage	1.225
All other localities	1.250
Hawaii:	
Oahu	1.175
Kauai	1.175
Maui and Lani	1.175
Molokai	1.175
Hawaii (Island)	1.10
Puerto Rico	1.075
Virgin Islands:	
St. Croix	1.125
St. Thomas and St. John	1.125

TABLE II.—ADD-ON AMOUNTS FOR HOSPITAL-BASED HOME HEALTH AGENCIES

	A and G add-on	Wage portion (68.71%)	Non-wage portion (31.29%)
SMSA (NECMA) Location			
Skilled nursing care	$6.49	$4.31	$2.18
Physical therapy	6.42	4.27	2.15
Speech pathology	6.36	4.21	2.15
Occupational therapy	6.51	4.31	2.20
Medical social services	6.64	4.35	2.29
Home health aide	6.37	4.22	2.15
Non-SMSA Location			
Skilled nursing care	$6.68	$4.74	$1.94
Physical therapy	6.47	4.59	1.88
Speech pathology	6.83	4.80	2.03
Occupational therapy	6.11	4.20	1.91
Medical social services	6.78	5.01	1.77

TABLE II.—ADD-ON AMOUNTS FOR HOSPITAL-BASED HOME HEALTH AGENCIES—Continued

	A and G add-on	Wage portion (68.71%)	Non-wage portion (31.29%)
Home health aide	6.45	4.62	1.83

Example

A hospital-based agency in New York City has a wage index of 1.3979. It provides the following services:

Skilled Nursing (SN)—1,527 Visits
Physical Therapy (PT)—1,286 Visits
Home Health Aides (HHA)—1,391 Visits

The aggregate limit for that agency is calculated as follows:

	Limit [1]		Add-on [1]	
	Wage portion	Non-wage portion	Wage portion	Non-wage portion
SN	$33.26	$16.08	$4.36	$2.22
PT	31.12	15.73	4.34	2.19
HHA	25.11	12.75	4.29	2.19

[1] Includes three months of inflation to reflect a cost reporting period beginning January 1, 1983.

Calculation of Limit

To calculate the limit multiply the wage portion by the wage index and add the non-wage portion:

SN—($33.26)×1.3979=$46.49+$16.08=$62.57
PT—($31.92)×1.3979=$44.62+$15.73=$60.35
HHA—($25.11)×1.3979=$35.10+$ 12.75= $47.85

Calculation of A & G Add-On Amount

To calculate the A & G add-on amount, multiply the wage portion by the wage index and add the non-wage portion:

SN—($4.38)×1.3979=$6.12+$2.22=$8.34
PT—($4.34)×1.3979=$6.07+$2.19=$8.26
HHA—($4.29)×1.3979=$6.00+$2.19=$8.19

Computation of Aggregate Limit

The limit and the A & G add-on for each discipline are totaled and multiplied by the number of visits for that discipline. These results are added to determine the aggregate limit:

	Limit	A&G Add-on	Total	Visits	Allowable costs
SN	$62.57	8.34	$70.91	1,527	$108,280
PT	60.35	8.26	68.61	1,286	88,232
HHA	47.85	8.19	56.04	1,391	77,952
Aggregate limit					$274,464

TABLE IIIA.—WAGE INDEX FOR URBAN AREAS

SMSA area	Wage index
Abilene, TX	0.8360
Akron, OH	1.0997
Albany, GA	[1].8712
Albany-Schenectady-Troy, NY	.9645
Albuquerque, NM	1.0380
Alexandria, LA	.9619
Allentown-Bethlehem-Easton, PA-NJ	1.0506
Altoona, PA	1.0463
Amarillo, TX	.9449
Anaheim-Santa Ana-Garden Grove, CA	1.2853
Anchorage, AK	1.5982
Anderson, IN	.9650
Anderson, SC	.8712
Ann Arbor, MI	1.2883
Anniston, AL	.8882
Appleton-Oshkosh, WI	.9620
Arecibo, PR	.5481
Asheville, NC	1.0033
Athens, GA	.8811
Atlanta, GA	.9418
Atlantic City, NJ	1.0417
Augusta, GA-SC	.9452
Austin, TX	1.0158
Bakersfield, CA	1.1613
Baltimore, MD	1.1352
Bangor, ME	.9421
Baton Rouge, LA	.9906
Battle Creek, MI	1.0066
Bay City, MI	[1]1.0656
Beaumont-Port Arthur-Orange, TX	.9407
Bellingham, WA	[1].9161
Benton Harbor, MI	.8639
Billings, MT	[1].9762
Biloxi-Gulfport, MS	.8379
Binghamton, NY-PA	.9463
Birmingham, AL	1.0023
Bismarck, ND	.8430
Bloomington-Normal, IL	.9166
Bloomington, IN	[1].9100
Boise City, ID	1.0585
Boston-Lowell-Brockton-Lawrence-Haverhill, MA-NH	1.1367
Bradenton, FL	[1].9296
Bremerton, WA	.8993
Bridgeport-Stamford-Norwalk-Danbury, CT	1.1904
Brownsville-Harlingen-San Benito, TX	.9764
Bryan-College Station, TX	.8228
Buffalo, NY	.9939
Burlington, NC	.8785
Burlington, VT	[1].9554
Caguas, PR	.6007
Canton, OH	.9637
Casper, WY	[1]1.0632
Cedar Rapids, IA	[1].9418
Champaign-Urbana-Rantoul, IL	1.0359
Charleston, SC	1.0333
Charleston, WV	1.0860
Charlotte-Gastonia, NC	.9767
Charlottesville, VA	1.0694
Chattanooga, TN-GA	.9985
Chicago, IL	1.2013
Chico, CA	1.0513
Cincinnati, OH-KY-IN	1.0959
Clarksville-Hopkinsville, TN-KY	.8519
Cleveland, OH	1.2149
Colorado Springs, CO	1.0890
Columbia, MO	1.1981
Columbia, SC	.9874
Columbus, GA-AL	.9195
Columbus, OH	1.0603
Corpus Christi, TX	.9762
Cumberland, MD-WV	.9221
Dallas-Fort Worth, TX	1.0222
Danville, VA	[1].8950
Davenport-Rock Island-Moline, IA-IL	.9804
Dayton, OH	1.1240
Daytona Beach, FL	.8804
Decatur, IL	[1]1.0023
Denver-Boulder, CO	1.1952
Des Moines, IA	1.0597
Detroit, MI	1.2516
Dubuque, IA	.9685
Duluth-Superior, MN-WI	.9252
Eau Claire, WI	.9102
El Paso, TX	.8765
Elkhart, IN	[1].9100
Elmira, NY	1.0249
Enid, OK	.9247
Erie, PA	.9804
Eugene-Springfield, OR	.9554
Evansville, IN-KY	1.0436

TABLE IIIA.—WAGE INDEX FOR URBAN AREAS—Continued

SMSA area	Wage index
Fargo-Moorhead, ND-MN	1.0057
Fayetteville, NC	[1].8618
Fayetteville-Springdale, AR	.8155
Flint, MI	1.1849
Florence, AL	.8223
Florence, SC	.8445
Fort Collins, CO	.9121
Fort Lauderdale-Hollywood, FL	1.0830
Fort Myers, FL	.9389
Fort Smith, AR-OK	.9318
Fort Walton Beach, FL	[1].7921
Fort Wayne, IN	.9222
Fresno, CA	1.2545
Gadsden, AL	.8016
Gainesville, FL	.9496
Galveston-Texas City, TX	1.0940
Gary-Hammond-East Chicago, IN	1.1458
Glens Falls, NY	.9078
Grand Forks, ND-MN	.8120
Grand Rapids, MI	.9905
Great Falls, MT	[1].9406
Greeley, CO	[1]1.0158
Green Bay, WI	1.0100
Greensboro-Winston-Salem-High Point, NC	.9463
Greenville-Spartanburg, SC	.9802
Hagerstown, MD	1.0411
Hamilton-Middletown, OH	1.0706
Harrisburg, PA	1.0606
Hartford-New Britain-Bristol, CT	1.1760
Hickory, NC	.8509
Honolulu, HI	1.1867
Houston, TX	1.1222
Huntington-Ashland, WV-KY-OH	.9534
Huntsville, AL	.8627
Indianapolis, IN	1.0551
Iowa City, IA	1.1812
Jackson, MI	[1]1.0561
Jackson, MS	.9192
Jacksonville, FL	.9777
Jacksonville, NC	[1].8058
Janesville-Beloit, WI	.8913
Jersey City, NJ	1.1350
Johnson City-Kingsport-Bristol, TN-VA	.8975
Johnstown, PA	1.0642
Joplin, MO	.8965
Kalamazoo-Portage, MI	1.2181
Kankakee, IL	.9764
Kansas City, MO-KS	.9646
Kenosha, WI	[1]1.1136
Killeen-Temple, TX	.9185
Knoxville, TN	.9067
Kokomo, IN	1.0083
LaCrosse, WI	[1].9400
Lafayette, LA	1.0077
Lafayette-West Lafayette, IN	.9257
Lake Charles, LA	.9814
Lakeland-Winter Haven, FL	.8993
Lancaster, PA	1.0762
Lansing-East Lansing, MI	1.0718
Laredo, TX	.8631
Las Cruces, NM	[1].7733
Las Vegas, NV	1.2134
Lawrence, KS	[1].9678
Lawton, OK	[1].9619
Lewiston-Auburn, ME	[1].8879
Lexington-Fayette, KY	.9326
Lima, OH	1.0592
Lincoln, NE	.9347
Little Rock-North Little Rock, AR	1.0469
Long Branch-Asbury Park, NJ	1.0278
Longview, TX	.8757
Lorain-Elyria, OH	1.0436
Los Angeles-Long Beach, CA	1.3174
Louisville, KY-IN	1.0632
Lubbock, TX	.9036
Lynchburg, VA	.8747
Macon, GA	.9431
Madison, WI	1.0454
Manchester-Nashua, NH	[1].9762
Mansfield, OH	.9059
Mayaques, PR	.5902
McAllen-Pharr-Edinburg, TX	.8269
Medford, OR	.9967
Melbourne-Titusville-Cocoa, FL	.9652
Memphis, TN-AR-MS	1.0584
Miami, FL	1.1623
Midland, TX	[1]1.0057
Milwaukee, WI	1.0561
Minneapolis-St. Paul, MN-WI	1.0099
Mobile, AL	.9490

TABLE IIIA.—WAGE INDEX FOR URBAN AREAS—Continued

SMSA area	Wage index
Modesto, CA	1.0548
Monroe, LA	.9324
Montgomery, AL	.9885
Muncie, IN	1.0595
Muskegon-Muskegon Heights, MI	.9808
Nashville-Davidson, TN	1.0496
Nassau-Suffolk, NY	1.2580
New Bedford-Fall River, MA	.9922
New Brunswick-Perth Amboy-Sayreville, NJ	1.0518
New Haven-Westhaven-Waterbury-Meriden, CT	1.1604
New London-Norwich, CT	1.0800
New Orleans, LA	.9842
New York, NY-NJ	1.3979
Newark, NJ	1.2061
Newark, OH	1.0596
Newburgh-Middletown, NY	1.0483
Newport News-Hampton, VA	.9259
Norfolk-Virginia Beach-Portsmouth, VA-NC	1.0527
Northeast, Pennsylvania	1.0447
Ocala, FL	.9418
Odessa, TX	1.0256
Oklahoma City, OK	1.0161
Olympia, WA	[1] 1.0540
Omaha, NE-IA	.9859
Orlando, FL	.9890
Owensboro, KY	.8803
Oxnard-Simi Valley-Ventura, CA	1.4050
Panama City, FL	.8858
Parkersburg-Marietta, WV-OH	1.1054
Pascagoula-Moss Point, MS	[1] 1.1283
Paterson-Clifton-Passaic, NJ	1.0859
Pensacola, FL	.9236
Peoria, IL	1.1136
Petersburg-Hopewell, VA	.9327
Philadelphia, PA-NJ	1.1941
Phoenix, AZ	1.1383
Pine Bluff, AR	.7832
Pittsburgh, PA	1.1494
Pittsfield, MA	1.0335
Ponce, PR	.7832
Portland, ME	1.0113
Portland, OR-WA	1.1208
Portsmouth-Dover-Rochester, NH-ME	.8549
Poughkeepsie, NY	1.1148
Providence-Warwick-Pawtucket, RI	1.0384
Provo-Orem, UT	.9406
Pueblo, CO	1.0859
Racine, WI	.8987
Raleigh-Durham, NC	1.0304
Reading, PA	1.0092
Redding, CA	1.0671
Reno, NV	[1] 1.3337
Richland-Kennewick, WA	.9678
Richmond, VA	.9379
Riverside-San Bernadino-Ontario, CA	1.2201
Roanoke, VA	.9948
Rochester, MN	1.0436
Rochester, NY	1.0571
Rockford, IL	1.0550
Rock Hill, SC	.9181
Sacramento, CA	1.2130
Saginaw, MI	1.1289
St. Cloud, MN	.9036
St. Joseph, MO	1.0264
St. Louis, MO-IL	1.0367
Salem, OR	1.0634
Salinas-Seaside-Monterey, CA	1.2317
Salisbury-Concord, NC	1.0402
Salt Lake City-Ogden, UT	.9970
San Angelo, TX	.8521
San Antonio, TX	.9590
San Diego, CA	1.2334
San Francisco-Oakland, CA	1.3337
San Jose, CA	1.3264
San Juan, PR	.8506
Santa Barbara-Santa Maria-Lompoc, CA	1.1107
Santa Cruz, CA	1.1223
Santa Rosa, CA	1.4336
Sarasota, FL	1.0006
Savannah, GA	.9740
Seattle-Everett, WA	1.0487
Sharon, PA	1.0046
Sheboygan, WI	.8920
Sherman-Denison, TX	.9879
Shreveport, LA	1.0540
Sioux City, IA-NE	.9978
Sioux Falls, SD	.9243
South Bend, IN	.9157
Spokane, WA	1.1020
Springfield, IL	1.1235

TABLE IIIA.—WAGE INDEX FOR URBAN AREAS—Continued

SMSA area	Wage index
Springfield, MO	.9079
Springfield, OH	1.0412
Springfield-Chicopee-Holyoke, MA	1.0290
State College, PA	[1] 1.1383
Steubenville-Weirton, OH-WV	.9905
Stockton, CA	1.3456
Syracuse, NY	1.5182
Tacoma, WA	1.0720
Tallahassee, FL	1.9462
Tampa, FL-St. Petersburg, FL	1.0096
Terre Haute, IN	.8836
Texarkana-TX-Texarkana, AR	1.1761
Toledo, OH-MI	1.1421
Topeka, KS	1.0783
Trenton, NJ	1.0905
Tucson, AZ	1.0495
Tulsa, OK	1.0220
Tuscaloosa, AL	1.0384
Tyler, TX	.9693
Utica-Rome, NY	.9977
Vallejo-Fairfield-Napa, CA	1.0758
Victoria, TX	.8606
Vineland-Millville-Bridgeton, NJ	1.0070
Visalia-Tulare-Porterville, CA	1.4467
Waco, TX	.8347
Washington, DC-MD-VA	1.1906
Waterloo-Cedar Falls, IA	.8884
Wausau, WI	[1] .9566
West Palm Beach-Boca Raton, FL	.9821
Wheeling, WV-OH	.9053
Wichita, KS	1.0412
Wichita Falls, TX	.8576
Williamsport, PA	.8690
Wilmington, DE-NJ-MD	1.1092
Wilmington, NC	.9005
Worcester-Fitchburg-Leominster, MA	.9949
Yakima, WA	.9882
York, PA	1.0110
Youngstown-Warren, OH	1.1351
Yuba City, CA	1.1263

[1] Approximate value for area.

TABLE IIIB.—WAGE INDEX FOR RURAL AREAS

Non-SMSA area	Wage index
Alabama	0.8167
Alaska	1.4316
Arizona	.9100
Arkansas	.7921
California	1.0662
Colorado	.8515
Connecticut	1.0658
Delaware	.9406
Florida	.9059
Georgia	.8586
Hawaii	1.2652
Idaho	.8991
Illinois	.8955
Indiana	.8826
Iowa	.8290
Kansas	.8205
Kentucky	.8506
Louisiana	.8515
Maine	.8950
Maryland	.9928
Massachusetts	1.0670
Michigan	1.0471
Minnesota	.8264
Mississippi	.8118
Missouri	.8479
Montana	.8803
Nebraska	.7245
Nevada	.9741
New Hampshire	1.0452
New Jersey	.9559
New Mexico	.9235
New York	.9070
North Carolina	.8810
North Dakota	.8203
Ohio	.9305
Oklahoma	.8525
Oregon	.9566
Pennsylvania	1.0428
Puerto Rico	.5436
Rhode Island	[illegible]
South Carolina	.8184

TABLE IIIB.—WAGE INDEX FOR RURAL AREAS—Continued

Non-SMSA area	Wage index
South Dakota	.7733
Tennessee	.7987
Texas	.8149
Utah	.8006
Vermont	.8606
Virginia	.8464
Washington	.9453
West Virginia	.8296
Wisconsin	.8291
Wyoming	.9782

[1] Approximate value for area.

TABLE IV.—COST REPORTING YEAR ADJUSTMENT FACTORS[1]

	The adjustment factor is—
If the HHA cost reporting period begins—	
Nov. 1, 1982	1.0058
Dec. 1, 1982	1.0115
Jan. 1, 1983	1.0173
Feb. 1, 1983	1.0236
Mar. 1, 1983	1.0300
Apr. 1, 1983	1.0363
May 1, 1983	1.0426
June 1, 1983	1.0490
July 1, 1983	1.0553
Aug. 1, 1983	1.0616
Sept. 1, 1983	1.0679
Oct. 1, 1983	1.0743
Nov. 1, 1983	1.0806
Dec. 1, 1983	1.0869
Jan. 1, 1984	1.0933

[1] Based on projected market basket inflation rates of 6.9 percent for 1983 and 7.6 percent for 1984. These adjustment factors are subject to change based on later estimates of cost increases.

If, for any reason, we do not publish a new schedule of limits to be effective on July 1, 1983, or do not announce other changes in the current schedule by that date, the current limits will continue in effect with the adjustment factor increased by .00633 (corresponding to .633 percent) per month, until a new schedule of limits or other provision is issued. (For convenience, adjustment factors are computed and displayed in Table IV for July 1, 1983 to January 1, 1984.) The adjustment factor of .00633 is based on a projected market basket inflation rate of 7.6 percent for 1984.

Appendix I—MSA/NECMA Constituent Counties

AREAS NO LONGER QUALIFYING AS SMSAS

SMSA area	Constituent counties
Rapid City, SD	Meade. Pennington.

AREAS QUALIFYING FOR RECOGNITION AS NEW SMSAS

SMSA area	Constituent counties
Anderson, SC	Anderson
Arecibo, PR	Arecibo Municipio. Camuy Municipio. Hatillo Municipio.

AREAS QUALIFYING FOR RECOGNITION AS NEW SMSAS—Continued

SMSA area	Constituent counties
Athens, GA	Clarke.
	Jackson.
	Madison.
	Oconee.
Bellingham, WA	Whatcom.
Benton Harbor, MI	Berrien.
Bremerton, WA	Kitsap.
Casper, WY	Natrona.
Charlottesville, VA	Albemarle.
	Fluvanna.
	Greene
	Charlottesville City.
Chico, CA	Butte.
Cumberland, MD–WV	Allegany (MD).
	Mineral (WV).
Danville, VA	Pittsylvania.
	Danville City.
Florence, SC	Florence.
Fort Walton Beach, FL	Okaloosa.
Glens Falls, NY	Warren.
	Washington.
Hagerstown, MD	Washington.
Hickory, NC	Alexander.
	Catawba.
Jacksonville, NC	Onslow.
Joplin, MO	Jasper.
	Newton.
Medford, OR	Jackson.
Newark, OH	Licking.
Newburgh-Middletown, NY	Orange
Ocala, FL	Marion.
Olympia, WA	Thurston.
Redding, CA	Shasta.
Rock Hill, SC	York.
Salisbury-Concord, NC	Cabarrus.
	Rowan
Sharon, PA	Mercer.
Sheboygan, WI	Sheboygan.
State College, PA	Centre.
Victoria, TX	Victoria.
Visalia-Tulare-Porterville, CA	Tulare
Wausau, WI	Marathon.
Yuba City, CA	Sutter.
	Yuba.

NEW NECMAS

Necma	Constituent counties
Bangor, ME	Penobscot.
Burlington, VT	Chittenden.
Portsmouth-Dover-Rochester, NH–ME.	Rockingham (NH)
	Strafford (NH).
	York (ME)

REVISED NECMA DEFINITIONS

Necma	Constituent counties
Boston-Lowell-Brockton-Lawrence-Haverhill, MA.	Essex (MA).
	Middlesex (MA).
	Norfolk (MA).
	Suffolk (MA).
	Plymouth (MA).
Hartford-New Britain-Bristol, CT.	Hartford.
	Middlesex.
	Tolland.
Manchester-Nashua, NH	Hillsborough.
Portland, ME	Cumberland.
	Sagadahoc.
Providence-Warwick-Pawtucket, RI.	Bristol.
	Kent.
	Providence.
	Washington.

(Secs. 1102, 1814(b), 1861(v)(1), 1866(a), and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a) and 1395hh)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: September 22, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 22, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-26580 Filed 9-28-82; 8:45 am]

BILLING CODE 4120-03-M

federal register

Wednesday
September 29, 1982

Part IV

Interstate Commerce Commission

Implementation of the Bus Regulatory Reform Act of 1982

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. MC-163]

Procedures for Providing Notice of Specified Applications Through an ICC Register in Lieu of "Federal Register" Notice

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 28, of the Bus Regulatory Reform Act of 1982, allows the Commission to adopt, after a rulemaking, a special procedure for providing interested persons reasonable notice of motor and water carrier, freight forwarder and broker entry applications, restriction removal applications and agricultural cooperative notices. Our proposal also includes motor and water carrier temporary operating rights and transfer applications under 49 U.S.C. 10926. In this proceeding the Commission announces its intent to expand the Daily Press Release Summary which has been offered to subscribers since April, 1982, to include such notices and to rename the expanded publication the *Interstate Commerce Commission Register (ICC Register).* The Commission publication will provide all interested persons the same information currently provided through notice in the **Federal Register** at a significant cost savings to the Federal Government.

The *ICC Register* will also include notices of exemption of motor carriers of property from merger, consolidation, and acquisition of control provisions of 49 U.S.C. 11343, 11344 and 11345a, which is a new procedure proposed in Ex Parte No. 400 (Sub-1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343,* which is being published concurrently with this notice.

DATE: Comments should be submitted by October 29, 1982.

ADDRESS: An original and, if possible, 15 copies of comments should be sent to: Ex Parte MC-163, Room 2203, Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Kathleen M. King, 202-275-0956; or Darlene Proctor, 202-275-7233.

SUPPLEMENTARY INFORMATION: Under the Administrative Procedure Act (APA), adjudicatory proceedings, including permanent authority applications, must be conducted "on the record." This means that notice to interested persons must be given, but the APA does not prescribe any particular form of notice. Therefore, there was no statutory requirement that notice of applications be published specifically in the **Federal Register**. The Motor Carrier Act of 1980, however, specifically called for publication in the **Federal Register**. Section 28, of the Bus Regulatory Act of 1982, Public Law No. 97-261 amends 49 U.S.C. 10322(b)(3) by eliminating the specific requirement that notice of motor and water carrier, freight forwarder and broker applications be published in the **Federal Register**. This legislative change allows the Commission, after a rulemaking proceeding, to establish special procedures for providing interested persons reasonable notice of applications to provide transportation as a motor or water contract carrier, freight forwarder, or broker, or applications to remove operating restrictions.[1]

The Commission has had a long standing practice of publishing notices in the **Federal Register**. Originally, **Federal Register** publication was the most cost effective way to provide notice of application to the public. Now agencies publishing notices in the **Federal Register** must pay, from their appropriated funds, the cost of publication. Those costs have recently been increased to $408 per published page. The Commission is the largest single user of the **Federal Register**, consuming about 6.5 percent of its printed pages annually. The Commission has estimated that the cost of **Federal Register** publication for motor carrier applications will be over $1 million in fiscal year 1982. At present, more than 75 percent of all motor carrier applications published in the **Federal Register** are unopposed, which indicates that they are of no interest to any person other than the applicant.

The Commission believes that it can provide the same information currently provided through notice in the **Federal Register** to all interested persons at a significant cost savings to the Federal government by printing an in-house daily publication and mailing it to subscribers. We estimate that more than $1 million will be saved in fiscal year 1983, if we adopt this proposal.

Accordingly, the Commission proposes to publish certain application notices in its Daily Press Release Summary which has been offered to subscribers since April 5, 1982. See *Publication of Commission Press Release Summary* (47 FR 12885, March 25, 1982). We propose to expand the current publication by including notice of permanent motor and water common and contract, freight forwarder and broker applications; temporary motor and water carrier common and contract applications; agricultural cooperative notices; restriction removal applications and applications to transfer certificates and permits under 49 U.S.C. 10926 in the expanded Commission publication. The expanded publication will be renamed the Interstate Commerce Commission Register *(ICC Register)*. The same application caption summary which now appears in the **Federal Register** will be published instead in the *ICC Register.*

In addition we propose to include in the *ICC Register* notices of exemption of motor carriers of property from merger, consolidation, and acquisition of control provisions of 49 U.S.C. 11343, 11344, and 11345a, which is a new procedure proposed in Ex Parte No. 400 (Sub-1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343,* which is being published concurrently with this notice.

We believe that our publication will meet notice requirements of the APA and the Constitutional due process requirement. Notice which is adequate, *i.e.,* which satisfies the requirements of due process, must be such that the parties are informed that proceedings have been instituted and the notice must contain information sufficient to allow preparation and presentation of objections. *Mullane* v. *Central Hanover Bank & Trust Co.,* 339 U.S. 306, 314 (1950). See also *Memphis Light, Gas & Water Division* v. *Craft,* 436 U.S. 1, 13-15 (1978); *North Alambama Express, Inc.* v. *United States,* 585 F.2d 783, 786-87, 789 (5th Cir. 1978). Under the APA, 5 U.S.C. 554(b), notice must be timely, inform the parties of the time, place, and nature of the hearing, inform the parties of the legal authority and jurisdiction under which the hearing is to be held, and the matters of fact and law to be asserted. Adequate notice depends on the circumstances of each particular

[1] The text of the new subsection 49 U.S.C. 10328(b)(2) reads as follows: The Commission may adopt, after a rulemaking proceeding in accordance with the provisions of section 553 of title 5, a special procedure for providing interested parties reasonable notice of applications to provide transportation as motor or water common or contract carrier or freight forwarder, or to be a broker for transportation, under sections 10922, 10923, 10924, and 10928 of this title, or applications for removal of operating restrictions under section 10922 of this title. The special procedure may consist of printing and distributing to subscribers an independent publication to provide notice of such applications, if the Commission finds, as a result of its rulemaking proceeding, that such method providing notice would not be unduy burdensome to the public.

situation. *Mullane, supra,* 339 U.S. at 314.

It should also be noted that the cost the ICC has incurred in **Federal Register** notices of applications is a factor to be considered. The Supreme Court has observed in *Mathews* v. *Eldridge,* 424 U.S. 319, 348 (1976):

> Financial cost alone is not a controlling weight in determining whether due process requires a particular procedural safeguard prior to some administrative decision. But the Government's interest, and hence that of the public, in conserving scarce fiscal and administrative resources is a factor that must be weighed.

The notices which will appear in the *ICC Register* will contain exactly the same information as the current **Federal Register** notices. We believe our proposal will provide legally sufficient notice to all interested persons.

We also believe it would be more convenient for the public if several other motor carrier applications also appear in the *ICC Register.* Specifically, we are planning to include temporary motor carrier and water carrier operating authority applications under 49 U.S.C. 10928 and 10929. These applications are not governed by the APA. Notices of transfers under 49 U.S.C. 10926 will also be included. Most of these applications are unopposed and of interest only to the seller and purchaser involved.

At this time, our proposal only affects the types of applications for entry, transfer, exemption, or restriction removal described above. All other notices of applications such as rail merger and railroad abandonment notices, which can impact states, local communities and shippers, will continue to apear in the **Federal Register. Federal Register** publication of notices of intercorporate hauling is statutorily mandated and these notices will still be published in the **Federal Register** on Fridays. Our proposal will have no effect on our notices of proposed and final rulemakings. Those documents will continue to be published in the **Federal Register.** However, we would like the public to suggest additional types of non-rail cases or applications which could be published in the proposed *ICC Register* rather that the **Federal Register.** Also we would like to receive comments from the public as to whether there are rail filings for which there is no statutory **Federal Register** publication requirement, which could be included in the proposed *ICC Register.*

It is now necessary for interested persons to subscribe to the **Federal Register,** if they want to obtain notice of pending applications. The current cost of a **Federal Register** subscription is $300 per year. The subscription price for the Commission's Press Release Summary is $160 for a one year's subscription. The actual cost for producing a year's subscription to the expanded *ICC Register* is estimated to be $245. Accordingly, the annual subscription price should be no more than $245. We would like the public to comment on what they believe is an appropriate subscription fee. The public should consider whether an annual fee of $245 would be unduly burdensome. They should also consider whether the user should bear the full cost of production, or whether the ICC should subsidize the publication so that a lower subscription fee will be charged.

The Commission will mail copies of the new Register to all subscribers daily. Subscribers who want to pick up their copies at the Commission, as some current subscribers now do, will be able to do so.

We will make the *ICC Register* available to non-subscribers for inspection by maintaining file copies of the publication at the Commission's Washington, DC headquarters. Inspection copies of the *ICC Register* will be distributed to our ICC regional offices in Boston, Philadelphia, Atlanta, Chicago, Fort Worth, and San Francisco and all our field offices. This should make our publication easily accessible to non-subscribers. Individual issues can be obtained from the Commission's Washington Headquarters.

The Press Release Summary now lists all decisions that the Commission issues on a daily basis. Interested persons can review the *ICC Register* and order individual copies of decisions from the Commission. The same information respecting decisions and rulemakings now published in the **Federal Register** will be available by an alternative means.

Consequently, we do not believe that this proposed method of providing notices to interested persons will be unduly burdensome on the public. It will provide all the same information to the public as the **Federal Register** does now at less cost to the subscriber and the public. Since the ICC publication lists all decisions the Commission issues, the public can order the full text of any particular rulemaking notice or decision desired from the ICC. It will not be necessary for an individual who is interested only in motor carrier applications to subscribe to both publications.

If this proposal is adopted, we will make the necessary reference changes to involved regulations which refer to the **Federal Register.**

We anticipate that the *ICC Register* will be available probably in November 1982. The Commission will announce in a future notice the actual subscription price and when subscriptions will be taken for the *ICC Register.*

In summary, we believe that this proposed method of providing notice to the parties will not be unduly burdensome to the public and it will satisfy the notice provisions of the APA. In addition to the cost savings involved, the elimination of **Federal Register** publication of motor carrier application notices could lessen considerably the time required to decide such cases and make it easier for us to meet statutory deadlines. We estimate that the elimination of notice in the **Federal Register** will save at least a week in processing some application proceedings. This decrease in processing time will benefit all applicants.

We have analyzed our proposal under the criteria of the Regulatory Flexibility Act. We believe that the Commission publication will be as easily accessible to small entities as the **Federal Register.** The change involves only motor carrier, water carrier, freight forwarder and broker entry applications, agricultural cooperative notices, and restriction removal applications. Other proceedings of interest to small entities will continue to appear in the **Federal Register.** Consequently, the Commission certifies that this procedure, when implemented will not have a significant economic impact on a substantial number of small entities.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

List of Subjects in 49 CFR Chapter X

Administrative practice and procedures, Motor carriers.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

(49 U.S.C. 10328(b) and 5 U.S.C. 553)

Decided: September 9, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26700 Filed 9-28-82; 8:45 am]

BILLING CODE 7535-01-M

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49 CFR Part 1331

[Ex Parte No. 297 (Sub-6)]

Bus Rate Bureau Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 10 of the Bus Regulatory Reform Act of 1982

establishes new guidelines for bus industry rate bureaus. In general, section 10 applies 49 U.S.C. 10706(b), formerly applicable only to motor common carriers of property, to the passenger bus industry. In addition, certain specific new provisions are applicable only to motor carriers of passengers. It adds three new subsections defining the scope of antitrust immunity for passenger motor carriers. In this proceeding the Commission will interpret and implement these provisions. The new statutory provisions will be effective 60 days from the date of enactment. New or amended agreements must be filed within 120 days of the effective date of this legislation. Existing agreements may remain in effect during the transition period, but the new legislative reforms must be complied with during the transition period, except where the statute provides other time limits. Comments on the interpretations and proposed conditions are invited. Final standards will then be set.

DATES: Comments are due October 29, 1982.

ADDRESS: Send an original and, if possible, 15 copies of comments to: Ex Parte No. 297 (Sub-6), Office of Proceedings, Room 5340, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Douglas Galloway (202) 275–7278; or Tom Smerdon (202) 275–7277.

SUPPLEMENTARY INFORMATION: The Bus Regulatory Reform Act of 1982 (Bus Act), establishes new guidelines for bus industry rate bureaus [1] and limits the scope of antitrust immunity. Prior to the Act, passenger bus carriers were authorized under a Commission approved agreement [2] jointly to discuss, initiate, and maintain rates for transportation of passengers and express. Thus, the antitrust laws did not apply to bus carriers when acting in conformity with their collective ratemaking agreement. 49 U.S.C. 10706(c). This immunity will be permitted to continue in a limited manner under the revised guidelines enacted in the Motor Carrier Act of 1980 (Pub. L. 96–296) and now extended to passenger carriers by section 10 of the Bus Act. The instant proceeding will adopt binding norms to implement the statutory provisions. To the extent existing rate bureau regulations (49 CFR Part 1331) remain relevant, their application to bus bureaus will be continued.

Under the new statute, bus industry rate bureaus may be granted antitrust immunity for collective determination of rates, rules, and practices provided that the agreements under which they function have been approved by the Commission. Approval of an agreement is contingent upon compliance with statutory requirements and the standards adopted by the Commission. Section 10(f) requires that new or amended agreements must be submitted to the Commission for approval within 120 days of the effective date of the statute (i.e., 180 days from enactment). A transition period is provided during which existing rate bureau agreements may remain in effect until new agreements are finally disposed of by the Commission. During this transition period when the new or amended agreement is being prepared, submitted to, and considered by the Commission, the Bureau must comply with the new legislation, as well as any standards we promulgate.

Section 10 of the Bus Act applies 49 U.S.C. 10706(b) to the bus industry. In addition, certain specific new provisions are set forth which are applicable solely to buses.[3]

Section 10706(b) is largely derived from the Motor Carrier Act, *supra*. Section 14 of the Motor Carrier Act imposed specific restrictions to limit the permissible scope of collective ratemaking. Congress restricted voting on collective proposals to those carriers that have authority to participate in the transportation, totally barred bureau protests of any motor carrier rate proposal, limited discussion of general rate increases to industry average costs, imposed strict limits on bureau handling of independent action proposals, required open bureau meetings, and prohibited any discussion of or voting on single-line rates after January 1, 1984. Rules implementing section 14 were adopted in Ex Parte No. 297 (Sub-No. 5), *Motor Carrier Rate Bureaus—Implementation of Pub. L. 96–296.*[4]

As noted above, section 10 of the Bus Act largely applies the rate bureau requirements of the Motor Carrier Act to passenger carriers and was intended to limit the scope of antitrust immunity accordingly. S. Rep. 97–411, *supra* at 21. Given this factor as well as the extensive record developed in implementing the rate bureau section of the Motor Carrier Act (see f.n. 4, *supra*), we are proposing the standards and procedures developed in Ex Parte No. 297 (Sub-5) where the statutory provisions are the same for both motor carriers of property and passengers. Of course, where the specific provisions of the Bus Act differ (see f.n. 3, *supra*), we are proposing new standards.

Our conclusions in this respect are only tentative. Differences between the motor carrier of property and motor carrier of passenger industries, or any other persuasive reasons, may warrant departure from these standards. We welcome specific comments on these matters.

The major findings in Ex Parte No. 297 (Sub-5), and the corresponding subsections of 49 U.S.C. 10706 and our rate bureau decisions are indicated below. See 364 I.C.C. at 467–501 for a full discussion of the standards we are proposing and the reasons for them.[5]

1. Rate bureau agreements must provide each carrier the absolute right of independent action. This must include the right to decide whether or when an independent action, or rate within the zone of freedom, will be docketed.[6] In the absence of explicit instructions from the independent actor, the bureau may not docket the item until the proposal has been filed with the Commission. There may be no bureau discussion of

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[1] One distinguishing charactristic of the Nation's intercity bus industry is that there is only one industry rate bureau, the National Bus Traffic Association, Inc. (NBTA). S. Rep. No. 97–411, 97th Cong., 2d Sess. 5 (1982).

[2] The original agreement was approved in Section 5a Application No. 9, *National Bus Traffic Assn.—Agreement*, 278 I.C.C. 147 (1950). A subsequent investigation of the agreement was terminated in Ex Parte No. 297 (Sub-No. 4), *Modified Terms and Conditions For Approval of Collective Rate Agreements Under 49 U.S.C. 10706 (b)*, served August 21, 1980. Presently pending for approval are certain amendments submitted in compliance with the decision in Ex Parte No. 297, *Rate Bureau Investigation*, 349 I.C.C. 811 (1975) and 351 I.C.C. 437 (1976). Our consideration of these matters has been rendered moot by the new legislation. Bureaus must file their new or amended agreements in conformity with the Bus Act within 120 days of the effective date of the Act.

[3] These specific provisions are found at 49 U.S.C. 10706(b)(3)(E), (b)(3)(F) and (b)(5).

[4] This proceeding was instituted on August 1, 1980 (45 FR 55734, August 21, 1980). The Commission's final decision setting standards for motor carrier rate bureau activity was issued December 19, 1980, 364 I.C.C. 464 (45 FR 252, December 31, 1980). A decision granting reconsideration in part, with certain clarifications was issued April 29, 1981, 364 I.C.C. 921. The final rules are presently in effect pending judicial review by the United States Court of Appeals for the Fifth Circuit in No. 80–7674, *American Trucking Association, Inc.*, v. *I.C.C.*

[5] See also the Commission's decison at 364 I.C.C. 921, 933 granting reconsideration in part and offering certain clarifications. For example, the 30-percent quorum requirement was made applicable for committee as well as general meetings.

[6] Docketing is the ministerial procedure of entering in writing a proposed action in the files of the bureau and providing notice of it to all interested persons upon its receipt by the bureau and prior to its filing with the Commission. *Id.* at 480.

the independent action prior to the effective date of the tariff item. General increases and decreases and broad tariff restructuring are not subject to these notice and consent requirements. The Bureau may cancel or change a rate established by independent action only for the purposes of tariff simplification, removal of discrimination, or elimination of obsolete items. The bureau must have the written permission of the independent actor to do so. (49 U.S.C. 10706 (b)(B)(3)(ii), (b)(3)(C)). See 364 I.C.C. at 467–78.

2. Rate bureau employees and employee committees are restricted from initiating a tariff proposal or determining whether to adopt, reject, or otherwise dispose of proposals. Upon request, they may provide the proponent of a rate change with expert analysis and technical assistance. Any advice concerning an independent action proposal shall remain confidential. (49 U.S.C. 10706 (b)(3)(B)(iv) and (b)(3)(E).) *Id.* at 478–81.

3. Upon request, bureaus will promptly divulge the name of the proponent of a tariff matter and the vote cast by any member on any proposal. Bureaus will provide detailed and timely public notice of meetings and their agenda. Discussion or voting on rate-related matters will not be permitted unless the meeting is reasonably noticed. Any person requesting admittance to a meeting at which rates or rules are being discussed shall be admitted immediately. Note taking and sound recording by attendees are permissible, provided the conduct of the meeting is not disrupted. If mail voting and telephonic communications are employed, they cannot be used to circumvent rate bureau restrictions. If there are abuses, we will investigate the matter. (49 U.S.C. 10706(b)(3)(B)(v).) *Id.* at 481–3.

4. Any carrier voting for another must possess a written proxy. The proxy must be dated and contain the grantor's signature, the specific items for which the vote is released, directions on voting, and certification of authority. A copy of the proxy and the written certification of authority executed by the proxy holder for the grantor will be made part of the voting record and ballot. Proxies may not be accepted for the purpose of certifying permission to cancel any item established by independent action which the carrier represented by proxy either initiated or joined. A proxy may be revoked at any time, either by subsequent written verification or by the member carrier appearing at a meeting and voting on its own behalf. (49 U.S.C. 10706 (b)(3)(B)(vi).) *Id.* at 484–5.

5. The quorum for holding meetings of the organization or a committee is 30 percent of the membership. (49 U.S.C. 10706(b)(3)(F).)[7] *Id.* at 923. We solicit comments on whether a quorum of the committee may vote on rates applicable to the full bureau membership. Further, would it be impractical to require that a given percentage of the full bureau be required to vote on rate changes subject to antitrust immunity? Our concern stems from the fact that there is only one bureau for the entire industry and the rate committee could be dominated by the two largest carriers. We also request comments on how our concerns about mail voting will be affected by these matters.

6. The bureaus are required to maintain detailed minutes of all meetings where tariff items are discussed. The bureaus will be subject to withdrawal of their immunity for serious continuing violations of Commission standards, and individual tariff publications will be subject to rejection, suspension, or investigation for improprieties in the rate bureau process. (49 U.S.C. 10706(b)(3)(E)[8] and 49 CFR 1253.20.) *Id.* at 481–83.

7. The identification and description requirements for member carriers must be complied with. (49 U.S.C. 10706(b)(3)(A).) *Id.* at 467.

8. Rate bureaus shall not file a protest or complaint with the Commission. (49 U.S.C. 10706(b)(3)(B)(iii).) *Id.* at 478.

9. Rate bureaus shall make a final disposition of a rate or rule by the 120th day after the proposal is docketed, except that if unusual circumstances require, the organization may extend such period, subject to review by the Commission. If the 120th day falls on a Saturday, Sunday, or public holiday, the final day for disposition will be the next working day. (49 U.S.C. 10706 (b)(3)(B)(vii).) *Id.* at 486.

10. There can be no discussion of or voting on rates proposed under the zone of rate freedom. (49 U.S.C. 10706(b)(3)(C).) *Id.* at 494.

As noted above, section 10 adds three new subsections further defining the scope of antitrust immunity for the bus industry. For the most part, they are self-executing and should be reflected in amended agreements. To the extent interpretation is necessary, the following discussion sets forth our proposals.

Under new 49 U.S.C. 10706(b)(3)(E), except for areas discussed below,[9] no collective ratemaking agreement approved for motor carriers of passengers may provide for discussion of or voting on single-line rates on or after January 1, 1983. The definition of a "single-line rate" provided in 49 U.S.C. 10706(b)(1), as amended by the Bus Act, is a "rate, charge, or allowance proposed by a single motor common carrier that is applicable over its line and for which the transportation can be provided by that carrier." As in the case of single-line rates and independent actions for motor carriers of property, bus rate bureaus must give each passenger carrier the absolute right to decide whether or when a single-line rate will be docketed. Our reasons are the same as discussed with regard to motor carriers of property. See 364 I.C.C. at 488–491.

This procedure enforces the Bus and Motor Carrier Acts' absolute protection of the right of bureau members to establish rates independently, without bureau interference. It also affirms the Commission's long-standing prohibition of mandatory bureau procedures for advance notice of single-line rates and independent actions. Clearly, advance docket notice to competitors of single-line rate changes should not be allowed to circumvent the statutory ban on collective action. Therefore, the bus bureau agreement with regard to single-line rates shall be modified to permit carriers to prohibit docketing in advance of filing or to direct the timing of the docketing. Discussion of and voting on these proposals are prohibted after January 1, 1983, and the agreement shall also prohibit inclusion of single-line and joint-line rates in one proposal after January 1, 1983.

The statute also requires that, with the same exceptions, on or after January 1, 1984, no agreement approved for motor carriers of passengers may provide for discussion of or voting on any joint rate. 49 U.S.C. 10706(b)(3)(E). We note that the Senate Report [10] states that the Department of Justice, in its comments on the proposed legislation, emphasized that no antitrust immunity is needed for the discussions between direct connectors and that this is true "even when carriers that offer competing single-line services between the same two points also establish a joint-line rate for service between those same points * * *." On that basis, the Senate Committee concluded it was not necessary to exempt from operation of

[7] Redesignated as (b)(3)(H) under the new legislation.
[8] Redesignated as (b)(3)(G) under the new legislation.
[9] See 49 U.S.C. 10706(b)(3)(E) (i) and (ii).
[10] S. Rep. 97–411, *supra* at 22 (1982).

the antitrust laws collective action on joint-rates where all the carriers involved form a part of a particular route.

Excepted from these prohibitions against collective consideration of single-line and joint-line rates are the following activities: (a) General rate increases and decreases, (b) broad changes in tariff structure; (c) changes in promotional or innovative fares (49 U.S.C. 10706(b)(3)(E)(i)); (d) the ministerial functions of publishing tariffs, filing independent actions, and providing support services for members; and (e) changes in rules or regulations which are of at least substantially general application throughout the area in which the changes will apply (49 U.S.C. 10706(b)(3)(E)(ii)). *See* also 364 I.C.C. at 497.

In considering general increases and decreases, carriers are specifically prohibited from discussing individual markets or particular single-line or joint-line rates. Permissible discussion under this subsection is limited to industry average carrier costs and intermodal competitive factors. For example, carriers could discuss Amtrak pricing practices, airline rates, and the cost of private automotive travel. S. Rep. 97–411, *supra* at 22. We emphasize that these exceptions may not be used to circumvent other statutory restrictions, particularly the protection for independent action and the ban on collective setting of single-line and joint-line rates effective in 1983 and 1984, respectively.

The statute also directs the Commission to define general rate increases, and decreases, broad changes in tariff structure, and promotional or innovative fares.

General rate increases and decreases: The definition of a general rate increase used in Ex Parte No. 297 (Sub-5), 364 I.C.C. at 491 is "a proposed general adjustment of substantially all the rates published in a rate bureau's tariff or tariffs." This is the standard we propose to apply in this proceeding, as well. However, we note that in Ex Parte No. MC–82 (Sub-1), *Procedures in Motor Carrier Revenue Proceedings—Intercity Bus Industry*, 357 I.C.C. 35 (1977), bus industry general increases were characterized as proposed changes in fares and charges where the proposal would result in an increase of $1 million or more in the annual operating revenues on the traffic affected by the proposal. This definition is presently codified at 49 CFR 1104.20(a). Comments on this or other alternatives are welcome.

We view our proposed definition of a general increase as appropriate for interstate rates. However, a separate definition of general increase may be necessary to implement Section 17 of the Bus Act which adds a new subsection (e) to 49 U.S.C. 11501 to provide procedures for preempting State decisions involving rates and related practices, including interstate and intrastate general rate procedures. Because States cannot grant antitrust immunity, intrastate increases are rarely proposed by more than one carrier. A separate rulemaking pertaining to section 17, Ex Parte No. MC–160, *Procedures for Review of Intrastate Bus Rates*, addresses the issue of intrastate general rate increases.

Broad changes in tariff structures: Ex Parte No. 297 (Sub-5), 364 I.C.C. at 493–4, cited a colloquy in the Congressional Record which discussed changes in tariff structure and is applicable in principle to this proceeding. The discussion indicates that a change in tariff structure covered by the exception to termination of antitrust immunity must be broad in scope and nature; may affect both single- and joint-line rates over a large geographical area; may involve multiple commodities, rates, rate scales, origins and destinations; and may include both increases and reductions in rates. See 126 Cong. Rec. H5411 (daily ed. June 19, 1980) (remarks of Rep. Boner).

In certain instances, there may be some overlap between a general rate increase or decrease and a broad change in tariff structure. A general rate increase or decrease is an "across-the-board" increase or decrease of a given percentage proposed by a group of carriers, affecting all or substantially all their rates, while a rate restructuring changes some fares relative to others. Thus, a proposal that affects most of a carrier's (or group of carriers') rates, but in a non-uniform way (*i.e.*, it increases or decreases some rates more than others) may be both a general rate increase or decrease and a rate restructuring, and would retain antitrust immunity. As emphasized earlier, these exceptions may not be used to evade other statutory restrictions.

Promotional or innovative fare change: Continued antitrust immunity for such rates is intended by Congress to stimulate the introduction of new fares that will increase or encourage ridership. The distinction between these two types of fare changes is not always clear, since both involve departures from standard tariff rates. The Senate Report notes only that innovative and promotional fares "are below standard fares, benefit the traveling public, and should be encouraged." S. Rep. at 22.

We propose to define "innovative fare" as any type of fare or fare level that has never been previously offered. See 364 I.C.C. at 473. This also conforms to the common dictionary definition that characterizes innovative as "new" or "novel."

Promotional fares generally have three characteristics: (1) Limited duration, (2) attractive price or level of service quality, and (3) some added feature in addition to those normally offered. Some promotions, for example unlimited mileage fares or senior citizen discounts, could have unlimited duration. Thus, the first condition may not be required in all instances. Comments are requested on whether an expiration date serves the public interest. Further, criteria (2) and (3) may overlap. Comments are requested on these proposals, as well.

As noted above, it appears that Congress anticipated that antitrust immunity would be used to lower fares or encourage service levels that would increase bus ridership. Accordingly, we propose that any action increasing fares, without concomitant services enhancement, not be considered "innovative" or "promotional," and antitrust immunity would not, thus, be available. We request comments on this proposal.

Subsection (b)(3)(E)(i) specifically subjects the three exceptions to the end of antitrust immunity just discussed to "such notice requirements as the Commission may specify by regulation * * *." In implementing the Motor Carrier Act we interpreted a similar requirement to mean advance notification to shipper subscribers via a notice in the bureau's docket bulletin. We required that the notice be issued at least 15 days before the proposal is filed with the Commission, in order to facilitate shipper comment on pending rate proposals. We propose to adopt the same requirements here.

Finally, new subsection (b)(3)(F) eliminates antitrust immunity for collective ratemaking for rates applicable to charter and to special operations. The restriction against joint consideration of rates applicable to charter and special operations apparently resulted from Congressional recognition that most of these operations involve few, if any, interline movements. The provision is self-executing, and should pose the industry little difficulty since NBTA has not collectively considered rates for charter or special service for several years.[11]

[11] *Deregulation of the Intercity Bus Industry: Hearing on H.R. 3663 Before the Sub-comm. on*

Section 10(f) of the Bus Act grants rate bureaus which received pre-Bus Act approval for their agreements interim antitrust immunity. These agreements may continue in effect until new or amended agreements are finally disposed of by the Commission *if*: (1) New or amended agreements are submitted to the Commission for approval within 120 days of the effective date of the Act and (2) the bureaus comply with 49 U.S.C. 10706 and the standards and requirements ultimately issued in this proceeding during the period new or amended agreements are being prepared, submitted to, and considered by the Commission. If these conditions are met, existing antitrust immunity will continue until the Commission reaches a final decision on the amended agreements.

The Commission will reach a decision in this proceeding within a short time after comments are received. The new or amended agreements must be submitted to the Commission within 120 days of the effective date of the Bus Act, and delay in issuing our final standards could adversely affect preparation of the new agreements.

The provisions of 5 U.S.C. 603 require that the Commission also examine the impact of proposed standards on small businesses and small organizations. Our proposed standards may benefit these smaller entities by granting them greater freedom to set rates independently. Moreover, the Bus Act allows carriers to use the rate bureau process to establish innovative or promotional fares. Both of these provisions will benefit individuals, and groups of, passengers, as well as carriers. On the other hand, we recognize that these procedures can also be employed by larger carriers to the detriment of smaller ones. Nevertheless, this is a statutorily-mandated proceeding, and the overall purpose of the Bus Act is to establish a new regulatory scheme that will assure a viable intercity bus industry and benefit both small and large carriers, as well as passengers. In framing these standards, we have attempted to minimize the burdens on small entities consistent with Congressional intent. Otherwise, we anticipate no significant economic impact on small entities as a result of these proposed standards.

This proposal should not significantly affect the quality of the human environment or conservation of energy resources.

Comments may be filed on any of the matters discussed above, including environment or energy considerations, and regulatory impact issues. Many of our proposed standards are the same as the final standards adopted for motor carriers. We reiterate our call for comments delineating differences between the motor carrier of property and of passenger industries. Should the differences, or any other factors so justify, we shall make the appropriate changes in the final standards and procedures. Although actual proposed rules are not set forth here, we intend to issue rules under 49 CFR Part 1331 following consideration of the comments.

Surface Transportation of the Senate Comm. on Commerce, Science and Transportation, 97th Cong., 2d Sess. 135, 144 (1982).

List of Subjects in 49 CFR Part 1331

Buses, Freight forwarders, Maritime carriers, Motor carriers, Pipelines, Railroads.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Andre was absent and did not participate.

(Sec. 10, Bus Regulatory Reform Act of 1982, 49 U.S.C. 10321, 49 U.S.C. 10706, and 5 U.S.C. 553)

Decided: September 23, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26710 Filed 9-28-82; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1137

[Ex Parte No. MC-142 (Sub-3)]

Removal of Restrictions From Authorities of Motor Carriers of Passengers, Intermediate Points

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 7 of the Bus Regulatory Reform Act of 1982, which amends 49 U.S.C. 10922(h), requires the Commission to process expeditiously applications of passenger carriers seeking to remove restrictions in outstanding certificates that limit interstate service to intermediate points along certificated routes. The proposed procedures must be effective on (60 days from the date of enactment of the Bus Regulatory Reform Act of 1982.) Adoption of the proposed rules is expected to promote competition, result in fuel and cost savings and improved operating efficiency, and aid in providing and maintaining passenger service to small communities.

DATE: Comments are due October 19, 1982.

ADDRESS: The original and, if possible, 15 copies of comments should be sent to: Ex Parte No. MC-142 (Sub-3), Room 2139, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Elaine Dobbins (202) 275-6272, or Howell I. Sporn (202) 275-7691

SUPPLEMENTARY INFORMATION:

The Congressional Mandate

Section 7 of the Bus Regulatory Reform Act of 1982 (the Act), amends Subtitle IV of Title 49, United States Code 10922(h),[1] by adding new paragraphs 10922 (i)(3) and (i)(4) which read as follows:

(i)(3) On the effective date of the Bus Regulatory Reform Act of 1982, a certificate to provide interstate transportation of passengers issued under this section shall be deemed to authroize (but not require)—

(A) Round-trip operations where only one-way authority exists; and

(B) Special and charter transportation from all points in a political subdivision of a State in any case in which special and charter transportation authority is limited to one or more points of origin in such political subdivision.

(4) Upon request of the holder of a certificate, the Commission shall within 90 days remove any operating restriction imposed on the certificate in order to authorize interstate transportation or service to intermediate points on any route covered by the certificate unless the Commission finds, on the basis of evidence presented by a person objecting to the removal of such an operating restriction, that the resulting interstate transportation directly competes with a commuter bus operation and it will have a significant adverse effect on commuter bus service in the area in which the competing service will be performed.

The Act directs the Commission to reduce regulation and to promote competition in the bus industry. It also affords bus companies new tools to compete vigorously among themselves and with other common carrier modes, and eliminates regulatory restraints on the effective use of those tools. Sections 10922(i) (3) and (4) are among those new tools. As in the motor freight industry, Congress found that motor carriers of passengers are unduly burdened with route restrictions that hamper their ability to serve the public interest. The removal of burdensome restrictions from bus certificates would also enable several of the goals of the National Transportation Policy (as set forth in Section 5 of the Act) to be better realized. Report of the Senate Committee on Commerce, Science and

[1] Section 10922(h) is redesignated section 10922(i) by Section 6(b) of the Act.

Transportation on H.R. 3663, S. Rept. No. 97–411, 97th Cong., 2nd Sess. 20 (1982) (Senate Report).

Express package authority is not expressly mentioned in Section 7. However, the Act grants carriers holding operating certificates permissive authority to transport express packages (newspapers, express mail, passengers baggage, etc.,) in the same vehicle with passengers. Senate Report, p. 19. Accordingly, previous limitations against the transportation of express packages in interstate commerce to service points authorized in existing interstate certificates are, upon the effective date of the Act, automatically eliminated. The authority thus granted is, however, permissive.

49 U.S.C. 10922(i)(3) is self-executing, and automatically converts existing restricted authorities to permit round-trip operations and expanded special and charter operations. Section 10922(i)(4) requires the Commission to implement procedures for the removal of intermediate point restrictions from authorities of motor carriers of passengers, and Congress gave the Commission significant discretion in developing such procedures. The procedures implementing a similar section (Section 6) of the Motor Carrier Act of 1980, as promulgated in Ex Parte No. MC–142 (Sub-1), *Removal of Restrictions from Authorities of Motor Carriers of Property*, 132 M.C.C. 374 (1980), (45 FR 86747, December 31, 1980), were, in our view, widely accepted and successfully used enabling the Commission to handle expeditiously over 5,000 applications. Consequently, we propose to implement Section 10922(i)(4) by amending the earlier adopted restriction removal rules, contained at 49 CFR Part 1137, to include motor carriers of passengers.

Comments from interested parties are invited on every aspect of the proposed rules. As required by the Act, the Commission intends to conclude this rulemaking and adopt final rules within 60 days. This necessitates making the rules effective on less than 30 days notice. Further, we are providing a 20-day comment period, rather than the usual 30 days, in order to allow as much time as practicable, in keeping with the requirements of due process, to consider fully the positions of all interested parties before adopting final rules. We do not contemplate extending the time for filing comments.

Proposed Procedures for Processing Applications

Section 10922 (i)(4) gives the Commission 90 days to remove intermediate point restrictions from certificates of motor carriers of passengers. Congress intended Section 7 to create simple, expedited procedures for removing operating restrictions from existing bus certificates.

Generally, allowing 10 days for Federal Register publication or other official means of publication of applications the Commission may institute by rulemaking under Section 28 of the Bus Regulatory Reform Act of 1982, 25 days for comments, and 55 days for Commission disposition will be sufficient time for adequate treatment of such applications. We also propose that review on appeal will be discretionary (as opposed to an appeal the Commission's general appeal regulations contained at 49 CFR 1100.98, and appeal procedures applicable to restriction removal rules (49 CFR 1137.14(c))).

We propose that applications follow the caption summary format set forth at 49 CFR 1137.10(b)(6). It is essential that applicants include an accurate explanation of the routes over which transportation of passengers is authorized by an interstate certificate, and the restrictions against service to intermediate points they seek removed. For example, a caption summary could state that, "The application seeks to modify Sub-Nos. 1–5 by eliminating the intermediate point restrictions to authorize service at intermediate points on interstate routes A, B, and C authorizing service between Miami, FL, and New York, NY." Due to the length of many regular route certificates, it is particularly important that applicants prepare a proposed draft of the authority with the restrictions removed as required by 49 CFR 1137.10(b)(4).

We also intend to permit and encourage passenger carriers to reform a number of outstanding certificates in one application proceeding. This practice saved the motor freight industry millions of dollars in filing fees, and enabled the Commission to reduce its regulatory role sooner than expected. We note that § 1137.10(d) of the restriction removal rules promulgated in Ex Parte No. MC–142 (Sub-1), *supra*, requires applicants to combine "reasonably related" requests for modification. In the final rules, we intend to provide guidance as to what type of requests will be considered "reasonably related" in the passenger area. Comments on this issue would be particularly helpful.

The Rules Proposed

The proposed procedures do not require extensive changes in the restriction removal rules. Many existing rules have general applicability and can be readily applied to section 10922(i)(4) applications. However, some rule changes are needed. We invite comments on whether a need exists for additional changes.

Each application will be determined individually on the basis of comments received. The Act provides certain criteria that motor carriers of passengers must meet in order to protest a request to remove an operating restriction under section 10922(i)(4) of the Act.[2] The burden of proof is on the protestant to show that the proposed interstate transportation service would directly compete with a commuter bus operation and that it would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed.[3] Weighing the competing factors in evaluating "significant adverse effect" is difficult. Comments on this issue are welcome.

In sum, we propose: (1) To add a paragraph to 49 CFR 1137.1 of Subpart A making the restriction removal procedures available to motor carriers of passengers to the extent they seek interstate intermediate point authority; (2) to amend § 1137.2 to limit the applicability of rules to passenger authorities issued pursuant to applications filed before the effective date of the Act; (3) to amend §§ 1137.3 and 1137.12 to define who may protest, and on what basis, a section 10922(i)(4) application; and (4) to add a new Subpart D containing guidelines applicable to section 10922(i)(4) applications.[4]

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[2] Section 10922(c)(7) provides that no motor common carrier of passengers may protest an application to provide transportation filed under this subsection or a request to remove an operating restriction under section 10922(i)(4) of this title unless—

(A)(i) It possesses authority to handle, in whole or in part, the traffic for which authority is applied;

(ii) It is willing and able to provide service that meets the reasonable needs of the traveling public; and

(iii) It has performed service within the scope of the application during the previous 12-month period or has, actively in good faith, solicited service within the scope of the application during such period;

(B) It has pending before the Commission an application filed prior in time to the application being considered for substantially the same traffic; or

(C) The Commission grants leave to intervene upon a showing of other interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

[3] The Senate Report (at 16) notes that a carrier can be found to compete directly with a commuter bus operation even if the service to be authorized does not have all the characteristics of commuter bus operations.

[4] We also note that proposed changes are set forth in the appendix of 49 CFR 1137 and in § 1137.20 of Subpart C to reflect recent Commission action bringing freight forwarders within the ambit

Environmental and Energy Considerations

It does not appear that adoption of the proposed rules, amending 49 CFR Part 1137, will have any significant impact on the quality of the human environment. However, we anticipate that they will improve carrier operating efficiency and promote competition, with a resulting beneficial impact on the bus industry and the public. Comments on these issues are welcome.

Regulatory Flexibility Analysis

The proposed rules provide expedited procedures to enable motor passenger carriers to remove operating restrictions from their interstate certificates in order to provide interstate transportation or service to intermediate points. They will not have a significant economic impact upon a substantial number of small entities, but they could have a modest, beneficial, economic impact upon an unascertainable number of carriers, counties, townships, towns, and villages. Small carriers, by serving intermediate points, will be able to improve their operating efficiency. They also should find it easier to experiment with new services, and as many of them specialize in serving small communities, this, in turn, should lead to an increase in the amount of service offered to such communities. At the same time, the rules recognize the legislative concerns for protecting commuter bus services, by providing opportunity for consideration of the competitive impact of restriction removal on such services. We welcome comments on this matter.

List of Subjects in 49 CFR Part 1137

Buses, Motor carriers, Freight forwarders, Restrictions, Restriction removal proceedures.

Summary

We propose to amend title 49, Part 1137, of the Code of Federal Regulations as described in the appendix to this notice.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Decided: August 31, 1982.

(49 U.S.C. 10321 and 10922(i) and 5 U.S.C. 553)

Agatha L. Mergenovich,
Secretary.

Appendix—Proposed Revisions to 49 CFR Part 1137

Title 49 CFR Part 1137 would be revised to read as follows:

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of the restriction removal rules. Ex Parte No. MC-142 (Sub-2), *Freight Forwarder Restrictions*, published at 47 FR 31281 (July 19, 1982).

1. The heading of Part 1137 would be revised to read as follows:

PART 1137—REMOVAL OF RESTRICTIONS FROM AUTHORITIES OF MOTOR CARRIERS OF PROPERTY, MOTOR CARRIERS OF PASSENGERS AND FREIGHT FORWARDERS

2. Section 1137.1 of Subpart A would be amended by designating the introductory text as paragraph (a), by redesignating paragraphs (a)–(e) as subparagraphs (1)–(5), and by adding a new paragraph (b) to read as follows:

§ 1137.1 Purpose.

* * * * *

(b) These regulations govern applications filed by motor carriers of passengers seeking to remove operating restrictions from their certificates in order to authorize interstate transportation or service to intermediate points on any route covered by the certificate. These regulations implement 49 U.S.C. 10922(h)(1)(B), 10922(h)(2), 10922(h)(i)(3), and 10922(h)(i)(4).

* * * * *

3. Section 1137.2 of Subpart A would be revised to read as follows:

§ 1137.2 Applicability of rules.

Applications may be filed under these rules to remove restrictions or to broaden authority in certificates and permits issued pursuant to applications filed before December 28, 1980. Motor carriers of passengers may file applications under these rules to remove intermediate point restrictions in certificates issued pursuant to applications filed before (the effective date of the Bus Regulatory Reform Act of 1982).

4. Section 1137.3 of Subpart A would be amended by adding a new paragraph (c), to read as follows:

§ 1137.3 Definitions.

* * * * *

(c) *Commuter Bus Operations.* "Commuter bus operations" means short-haul regularly scheduled passenger service provided by motor vehicle in metropolitan and suburban areas, whether within or across the geographical boundaries of a State, and utilized primarily by passengers using reduced fare, multiple-ride, or commutation tickets during morning and evening peak period operations.

5. Paragraph (c) of § 1137.10 would be amended by revising the heading to read as follows:

§ 1137.10 Form and content of application.

* * * * *

(c) *Information that shall accompany the application of a motor carrier of property or freight forwarder.* * * *

* * * * *

6. Section 1137.12 would be revised to read as follows:

§ 1137.12 Participation of interested persons.

Comments (an original and one copy) shall be filed with the Commission within 25 days of the date of publication in the **Federal Register** or other official means of publication by rulemaking under Section 28 of the Bus Regulatory Reform Act of 1982. The envelope containing the comments and the comments shall be clearly marked "RESTRICTION REMOVAL COMMENTS."

(a) Comments on applications filed by motor carriers of property and freight forwarders. Any interested person may comment on the applicant's proposal. Comments shall be directed to either:

(1) The merits of the particular proposal, or

(2) Whether the proposal should properly be considered under these rules.

(b) No motor common carrier of passengers may protest an application to remove an operating restriction under 49 U.S.C. 10922(i)(4) unless:

(1)(i) It possesses authority to handle, in whole or in part, the traffic for which authority is applied;

(ii) It is willing and able to provide service that meets the reasonable needs of the traveling public; and

(iii) It has performed service within the scope of the application during the previous 12-month period or has, actively in good faith, solicited service within the scope of the application during such period;

(2) It has pending before the Commission an application filed prior in time to the application being considered for substantially the same traffic; or

(3) The Commission grants leave to intervene upon a showing of other interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

(c) Protests for motor carriers of passengers shall be directed to:

(1) Whether the proposed interstate transportation directly competes with a commuter bus operation; and

(2) Whether the resulting interstate transportation would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed.

7. The first sentence of § 1137.20 of Subpart C would be revised to read as follows:

§ 1137.20 Scope of this subpart.

This subpart contains guidelines designed to assist applicants in filing applications for the removal of operating restrictions in authorities of motor carriers of property and freight forwarders. * * *

8. Part 1137 would be amended by adding a new Subpart D to read as follows:

Subpart D—Guidelines for Determination of Applications—Passenger Carriers

§ 1137.30 Scope of this subpart.

This subpart describes guidelines to be used by motor carriers of passengers seeking to remove intermediate point restrictions.

§ 1137.31 Intermediate point service.

Certificates which authorize interstate regular route passenger service and preculde interstate service at intermediate points on the carrier's service routes, either by way of a specific restriction against performing such service or by limiting intermediate point service at specific points, are considered unduly restrictive. Use of these procedures is appropriate for seeking authority to perform interstate service at all intermediate points along a motor carrier of passenger's existing interstate regular routes. Applications for such authority will be denied only if the Commission finds that the resulting interstate transportation directly competes with a commuter bus operation and will have a significant adverse effect on commuter bus service in the area in which the competing service will be performed.

9. The table of contents to Part 1137 would be amended to include a new Subpart D and to revise the authority citation to read as follows:

Subpart D—Guidelines for Determining Applications—Passenger Carriers

Sec.
1137.30 Scope of this subpart.
1137.31 Intermediate point service.

Authority: 49 U.S.C. 10321 and 10922[h](l); 5 U.S.C. 553.

[FR Doc. 82-26711 Filed 9-28-82; 8:45 am]
BILLING CODE 7035-01-M

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49 CFR Part 1100

[Ex Parte No. MC-160]

Procedures for Review of Intrastate Bus Rates

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rules.

SUMMARY: Section 17 of the Bus Regulatory Reform Act of 1982 directs the Commission to establish procedures for processing petitions which seek review of State regulation of intrastate rates. The proposed regulations implement this mandate.

DATES: Comments are due October 19, 1982. Because of the time constraints in the Bus Act, no extensions shall be granted. Final rules may be made effective on less than 30 days' notice.

ADDRESSES: Send an original and, if possible, 15 copies of comments to: Ex Parte No. MC-160, Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275-7278; or Tom Smerdon (202) 275-7277

SUPPLEMENTARY INFORMATION: Section 17 of the Bus Regulatory Reform Act of 1982 (Bus Act) amended 49 U.S.C. 11501 by adding, among other things, a new subsection (e) which vests the Commission with jurisdiction to prescribe increased rates, as well as rules or practices (rate) applicable to intrastate transportation (including freight such as package express) provided by a motor carrier of passengers (bus) subject to our regulation. Before we can assert jurisdiction, however, two conditions must be satisfied. First, a carrier must initially request permission to establish a rate from the relevant State authority responsible for regulating intrastate rates, and the State authority must either deny the request, in whole or in part, or not act finally, on the request in whole or in part, within 120 days.[1] Second, the Commission must find that the assailed intrastate rate causes unreasonable discrimination against, or imposes an unreasonable burden on, interstate commerce.

The Bus Act delineates four situations in which an intrastate rate is rebuttably presumed to impose an unreasonable burden on interstate commerce: (1) The rate is less than the rate levied by the carrier for comparable interstate bus transportation; (2) it does not exceed the variable costs [2] of providing the service; (3) it was not subject to final action by the State authority within 120 days; or (4) the most recent intrastate bus general rate increase is less than the most recent interstate general rate increase.[3] 49 U.S.C. 11501(e)(2) (A) and (B). With regard to the last presumption, we may look to any reasonable period of time to find a disparity. See S. Rep. No. 97-411, 97th Cong., 2d Sess. 28 (1982).

Under new 49 U.S.C. 11501(e)(3)(A), a carrier may seek Commission review of a State's denial of, or inaction on, a request to increase rates. A proceeding is begun by the carrier filing an application for precription of a rate. At that time, the carrier must certify that it has notified the State authority having jurisdiction over the rate, the State governor, as well as any other interested persons which the Commission, by regulation, may specify. We must take final action no later than 60 days after the application is filed.

There are two exceptions to the Commission's preemptive jurisdiction over intrastate rates. First, States retain full authority over carriers owned or controlled by the State or a local government. Second, States have exclusive ratemaking jurisdiction over solely intrastate carriers. Senate Report, *supra* at 27-28. *See* also 49 U.S.C. 11501 (e)(4) and (e)(1).

Section 11501(e)(3)(B) requires the Commission to establish, by regulation, procedures for processing the petitions of carriers who have been unable to establish desired intrastate rate levels because of State action or inaction. This proceeding is instituted to establish those procedures.

The legislative history of Section 17 in the Senate Report, *supra* at 28, reveals that Congress envisions that the States would continue to be primary regulators of increases proposed for intrastate rates,[4] and the Commission would serve

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[1] The Commission will not assert jurisdiction over any case pending before the relevant State authority before the effective date of the Bus Act, because there does not appear to be a clear legislative intent for the new law to apply.

[2] We will not attempt to define variable costs or to develop a cost methdology in this proceeding. These are not required by statute and would require a lengthy and controversial process without commensurate returns. Carriers will submit their calculations of revenue/variable cost ratios with a full explanation of how the calculations were derived (including supporting documentation), what assumptions were made, what and how common costs are allocated, and so on. Anyone filing a protest may challenge the figures, assumptions, allocations, or other aspect of the carrier's calculation, as not complying with generally accepted accountings (or costing) principles, or on any other relevant ground.

[3] Intrastate general increases, unlike interstate ones, are usually not taken collectively by all involved carriers. Instead, for State purposes, a general increase often involves an individual carrier adjusting substantially all its rates. Comments are invited on this matter, and specific examples would be helpful to assist us in developing the most appropriate rule to implement this presumption.

[4] The States no longer regulate reductions of intrastate rates applicable over authorized interstate routes. Senate Report, *supra*, at 29, 49 U.S.C. 11501(e)(5). The only vestigial regulation of these reductions is that the Commission may remedy through the complaint process situations where a reduction constitutes a predatory practice. 49 U.S.C. 11501(e)(6).

primarily as an appellate reviewer of State regulation.[5] Through the rebuttable presumptions discussed above, Congress established certain specific standards to guide our review of State action (or inaction) once our jurisdiction attaches. There is no basis for us to conclude that the specific presumptions are exclusive. We have full authority to implement Congressional intent through other presumptions or standards. In this regard, for example, Congress gave the Commission wide discretion in the procedural implementation of the new preemption provisions. This seems to manifest an intent that, where necessary, we would fill in the broad legislative outline in a manner which would best implement the statute. As indicated below, there may be areas where presumptions which are substantive in effect but procedural in actuality are necessary. In addition, by virtue of its imposition of a 60-day time limit, Congress mandated that our work be completed expeditiously. Finally, Congress shaped the scope of review by statutory language making "a full hearing" unnecessary. Instead, the Act specifically provides only that we decide these cases in accordance with the procedures we are directed to establish. 49 U.S.C. 11501(f)(2).

Since this process is appellate in nature, subject to short deadlines, and to be accomplished with less than a full hearing, Congress apparently did not intend that our review would be *de novo*. Obviously the starting point of our analysis should be the State record. However, there may be instances where that record is incomplete or other reasons exist for accepting new evidence.

The aggrieved carrier may apply for prescription of rates by filing a petition for review. It will be required to submit its entire case at this time. This should include a copy of the entire State record.

Only the Governor, the State, and any parties of record who participated at the State level may, as a matter of right, participate as respondents to a carrier's petition for review. The participation of these parties will ensure a complete and accurate record.

All others must seek leave to intervene on a showing of good cause why an appearance was not entered in the State proceeding, but is appropriate in this proceeding. Petitions to intervene must also contain all argument on which petitioners rely. We also seek comments on the feasibility of allowing interested individuals to file informal comments. Written arguments of the parties should specify, on the one hand, why a State decision or inaction unreasonably burdens interstate commerce, or, on the other hand, why a State decision or inaction is reasonable.

Within the framework outlined above, it is clear that, for a carrier to represent its interests effectively, it must make every effort to include necessary evidentiary showings at the State level required by any of the statutory presumptions on which it may rely at the Federal level. In short, it must build a proper record for review. This will ensure that the State's authority is not being improperly circumvented. It is possible, however, that existing State standards and procedures may preclude carriers from establishing fully the evidentiary showing necessary for that carrier to sustain to its burden on review (with regard to presumptions 1, 2, and 4).[6] One option, as discussed above, is to allow, as much as possible, presentation of any relevant new evidence. another remedy we may consider for the final rules would be to presume that the assailed rate constitutes an unreasonable burden on interstate commerce, since it was established pursuant to standards and procedures, which are inconsistent with the Bus Act. The statutory presumptions could be interpreted as constituting the minima which the States must follow in regulating intrastate rates, and thus a failure to accommodate these procedurally could be construed as a refusal to regulate in harmony with the Bus Act. In this regard, Section 5 of the Bus Act amended the national transportation policy in certain respects which are particularly relevant here. New 49 U.S.C. 10101(a)(3) states, as pertinent, that it is national policy in regulating bus transportation:

> (B) To provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this subtitle; and (C) to ensure that Federal reform initiatives * * * are not nullified by State regulatory actions.

In discussing these new provisions, the Senate Report, *supra* at 14, states:

> Further, the consideration of State regulatory actions and procedures recognizes the significant burdens on regulatory actions and procedures resulting from numerous regulatory decisions. The inclusion of specific policy goals for motor carriers of passengers in the transportation policy and the specific preemption of burdensome State regulation contained in other sections of this act are clearly intended as a recognition that the other goals of the national transportation policy with respect to motor carriers of passengers can only be achieved by a rational and less burdensome system of governmental regulation.

We particularly invite comment on the need for and the propriety of these procedural presumptions.

Where a State has failed to act on a carrier's request for permission to establish a rate within 120 days, the carrier must submit a verified statement to this efect in its petition for review. In this instance, a State could successfully rebut the carrier's allegations through submission of a certified copy of a decision issued before the expiration of the 120 days.

The decisional deadline in the legislation dictates the adoption of procedures geared towards swift accumulation of the required materials. Response time subtracts from the 60 days allowed for review. Consequently, we propose that replies be filed 15 days after the filing of the carrier's petition. Rebuttal by the carrier seems unnecessary and contrary to normal appellate procedures. However, we seek comments on this issue. Rebuttal to petitions to intervene will be allowed, as stated earlier, since the carrier would not have had the opportunity to reply to the positions of these parties in the State proceeding.

Under 49 U.S.C. 11501(e)(3)(A), the carrier must notify the Governor, the State agency, and "such other interested persons as the Commission may specify by regulation." Besides the Governor and the State agency, we propose that the carrier be responsible for notification and service of its petition for review (but not a copy of the record before the State agency) upon all parties of record who participated at the State level. Parties of record include only those who made a formal appearance before the State agency.

PART 1100—GENERAL RULES OF PRACTICE

We propose to add a new § 1100.220 to Title 49, Part 1100 to read as follows:

§ 1100.220 Processing of petitions for review of intrastate bus rate regulation filed under 49 U.S.C. 11501.

(a) *Petitions governed by these rules.* These rules govern the handling of petitions which seek review under 49 U.S.C. 11501 of State rate regulation of

[5] In actuality, the process outlined by Congress is broader in scope than traditional appellate review by courts. The Commission is directed to prescribe an intrastate rate, rule, or practice to remedy unreasonable discrimination against, or undue burden on, interstate commerce. Remand to the State agency to correct its decision is apparently beyond the intent of Congress.

[6] The problem could be particularly acute in two instances. First, where the issue is cost related, States may not include the same elements in variable costs that we do. Second, where the issue is comparable interstate transportation, States may not make comparisons with interstate rates in their cases. In these instances, State procedures might not permit the development of a proper record.

interstate bus carriers providing intrastate service.

(b) *Commission jurisdiction.* If an interstate bus carrier has requested a proper State authority for permission to establish an increased intrastate rate, rule, or parctice and the request has been denied (in whole or in part) or the State authority has not taken final action (in whole or in part) on the request by the 120th day after the request is made, then that carrier may apply by petition to the Commission for review of the State action (or inaction).

(c) *Information to be submitted by petitioner.* A carrier's petition for review shall include: (1) A cover sheet indicating the statutory authority (49 U.S.C. 11501) under which the filing is authorized and that a decision shall be made within 60 days; (2) a copy of the entire State record, if available, and other evidence the carrier deems relevant to the petition (and, if the basis for the carrier's petition is State inaction, the carrier shall also submit a statement of counsel or a verified statement by a competent witness indicating that the State has not acted by the 120th day following receipt of the carrier's request); (3) written argument detailing the reasons that the State action (or inaction) should be reviewed: (4) certification that the State Governor, State authority which denied, or failed to take action on, the carrier's request, and all parties of record in the State proceeding have been served with a copy of the petition; and (5) the name(s) and address(es) of petitioner's representative(s) on whom service of a reply and of the Commission's decision can be made.

(d) *Notification Procedures.* No later than the date on which a carrier files its petition for review, it shall serve copies of its entire petition on the State Governor, the State authority which denied, or failed to act on, the carrier's request, and on all parties of record in the proceeding at the State level. See, in addition, 49 CFR 1100.20.

(e) *Where pleadings are sent; copies.* The original and 12 copies of the petition and reply shall be sent to the Interstate Commerce Commission, Office of the Secretary, Washington, D.C. 20423. Only two copies of the State record need be furnished for the Commission's use. Copies of the State record need not be furnished to the Governor, State agency, or other parties of record.

(f) *Who may oppose a petition; deadlines.* A reply to a petition may be filed as a matter of right by the Governor, the State authority which denied, or failed to act on, the carrier's request, or by any party of record in the State proceeding. These parties shall have 15 days from the filing of the carrier's petition in which to file a response with the Commission. All others wishing to participate shall file a petition for leave to intervene. The petition shall be filed within 15 days from the filing of the carrier's petition. See, in addition, 49 CFR 1100.20.

(g) *Contents of the reply.* Replies and petitions to intervene shall include: (1) Written argument detailing the reasons the State's action was reasonable; (2) certification that a copy has been served on the petitioner's representatives(s). Replies and petitions may contain evidence submitted in response to carrier's submission of new evidence. Petitions to intervene shall also include a statement of good cause why an appearance was not entered in the State proceeding and why an appearance is appropriate in this proceeding.

(h) *Rebuttal by the carrier.* The carrier shall not file rebuttal, except in response to a petition to intervene. Rebuttal to intervention petitions shall be filed within 10 days of the filing of the petitions.

Conclusions

The Commission will reach a decision in this proceeding within a short time after comments are received. Final rules may be made effective on less than the normal 30 day's notice. 5 U.S.C. 553(d). The statute becomes effective 60 days after enactment, and any delay in making final rules effective could deprive carriers of taking full advantage of the rules at the earliest possible date. Good cause exists for making final rules effective concurrently with **Federal Register** publication or on abbreviated notice. 5 U.S.C. 553(d)(3).

This action does not appear to affect significantly the quality of the human environment or conservation of energy resources. The provisions of 5 U.S.C. 603 also require that the Commission examine the impact of proposed rulemakings on small business and small organizations. The effects on small entities who are carriers of passengers would be largely positive, since the new law gives them additional recourse in attempting to increase revenues. To a small extent, the effect of our rules could be adverse because of the minor litigation expenses associated with the evidentiary and service requirements. Nevertheless, this is a statutorily-mandated procedure, and the overall purpose of the statute is to improve the financial condition of the industry, including both small and large companies. In framing these rules, we have attempted to minimize the burdens on small entities consistent with Congressional intent. Otherwise, we anticipate no significant economic impact of small entities as a result of these proposed regulations.

Comments may be filed on any matters discussed above, including making the final rules effective on publication or on abbreviated notice, environmental or energy considerations, and regulatory impact issues.

List of Subjects in 49 CFR Part 1100

Administrative practice and procedure, Buses, Intergovernmental relations.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

(49 U.S.C. 11501(e)(3)(B) and 5 U.S.C. 553)

Decided: September 10, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26712 Filed 9-28-82; 8:45 am]
BILLING CODE 7035-01-M

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49 CFR Part 1043

[Ex Parte No. MC-5 (Sub-4)]

Passenger Broker Surety Bonds or Insurance

AGENCY: Interstate Commerce Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Bus Regulatory Reform Act of 1982 exempted brokers of passenger transportation by motor vehicle from Commission regulation. The Commission retains, however, discretion to impose requirements for bonds and/or insurance if it determines that security requirements are needed to protect passengers and carriers dealing with brokers. The Commission requests comments on whether a need for passenger and motor carrier protection exists, and whether, if such a need exists, it can be met by an exercise of the discretionary bonding/insurance authority.

Since an exercise of the discretionary authority may affect small entities, their participation in this proceeding is particularly solicited.

DATES: Comments must be received on or before October 29, 1982.

ADDRESS: Comments should be addressed to: Ex Parte No. MC-5 (Sub-4), Office of Compliance and Consumer Assistance, Room 7115, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Ray G. Atherton, Jr. (202) 275-7844; Patricia M. Schulze (202) 275-7841.

SUPPLEMENTARY INFORMATION: Before the enactment of the Bus Regulatory Reform Act of 1982, passenger brokers were required to file a security of the type prescribed by the Commission, and the Commission could only issue a broker license if the prescribed security had been filed. The stated purpose of the security filing under the statute was "to ensure that the transportation for which a broker arranges is provided" (49 U.S.C. 10927(b)). The Commission originally adopted a bonding requirement in the amount of $5,000. The amount was increased to $10,000 in 1979 [1] but the regulation was stayed and did not become effective.[2]

The Bus Act of 1982 exempted passsenger brokers from regulation but conferred on the Commission discretion to impose requirements for bonds or insurance or both as the Commission determines are needed to protect passengers and carriers dealing with such brokers (49 U.S.C. 10924(f)).

The amended statute vests jurisdiction in the Commission to adopt bonding and/or insurance requirements to protect passengers and carriers. While there is no express limitation of authority to the transportation aspect of the broker's activities like the statute prior to its amendment, the legislative history is clear that *less* regulation of brokers is intended.[3] Accordingly, should we decide that bonding and/or insurance requirements are warranted, such requirements will be limited, as in the past, to the transportation aspects of the broker's activities.

The Bus Act reflects an intent to minimize Federal regulation in this area. To determine whether the Commission's authority to impose a security requirement should be exercised, it is necessary to identify the potential harm which passengers and carriers could experience absent such a requirement. Proponents of security requirements should present evidence addressing abuses they believe are likely to occur, and why they see a need for the requirement.

We are obligated to balance the costs and benefits of a security requirement. We must determine whether passengers and carriers can protect themselves adequately without our intervention, and whether a form of security will be continued voluntarily, as a matter of business practice. We are concerned, and seek comment on whether the cost of bonding or insurance would pose an entry barrier to prospective brokers.

Furthermore, a decision to continue a security requirement should be based on a finding that it will, in fact, remedy identified problems. In this regard, we question the level of security that would be necessary. Raising the dollar amount above that now required would appear to be inconsistent with minimizing regulation.

We also seek comments on the relative attributes and cost of bond vis-a-vis insurance, and whether filing at the Commission of proof of security (if found necessary) should be required.

Congress had provided a 60-day delay of the effective date of this change in the law. Should an insurance or bonding requirement not be adopted within this period, the existing rule (49 CFR 1043.4(b)) will be void as a matter of law. Accordingly, if the Commission decides to implement a security requirement, interim rules may be necessary.

Regulatory Flexibility

Since no regulations are proposed at this time, it is premature to conduct an Initial Regulatory Flexibility Analysis as contemplated by the Regulatory Flexibility Act (5 U.S.C. 601). The Commission does, however, seek information to determine whether and to what extent small entities would experience a significant economic impact as a consequence of exercising jurisdiction over passenger brokers.

Lists of Subjects in 49 CFR Part 1043

Insurance, Motor carriers, Surety bonds, Passenger bonds.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

(49 U.S.C. 10924(f) and 5 U.S.C. 533)

Decided: September 10, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26714 Filed 9-28-82; 8:45 am]

BILLING CODE 7035-01-M

[1] Ex Parte No. MC-96 (Sub-2), *Passenger Brokers Entry Control.*

[2] A stay was issued by the D.C. Circuit Court of Appeals but was subsequently lifted and the rules affirmed. On its own motion the Commission then stayed the effectiveness of the rules because of the pendency of the Bus Act. *National Tour Brokers Assn.* v. *ICC and U.S., No. 80-1073; 49 CFR 1043.4(b); 44 FR 70175; 45 FR 12796.*

[3] The House bill would have authorized entry based on fitness and continued in effect the present requirement for filing of security under 49 U.S.C. 10927(b). In contrast, the Senate provision adopted by the Committee of Conference and incorporated in the final bill *exempts* passenger motor carrier brokers from regulation except that the ICC retains *discretion* to impose requirements for bonds or insurance.

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49 CFR Parts 1130 and 1002

[Ex Parte No. MC-161]

Preemption of State Regulation of Regular-Route Exit; Motor Passenger Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 16 of the Bus Regulatory Reform Act of 1982, codified at 49 U.S.C. 10935, provides statutory authority for the Commission to preempt State regulation of exist from regular-route passenger services in certain circumstances. The rules proposed here would establish procedures for the expeditious processing and consideration of petitions filed under section 10935, The new procedures must be effective on (60 days from enactment of the Act). The proposed rules are expected to allow motor passenger carriers to operate more efficiently by allowing discontinuance of unprofitable services.

DATE: Comments are due October 19, 1982.

ADDRESSES: The original and, if possible, 15 copies of comments should be sent to: Ex Parte No. MC-161, Room 2139, Office of Proceedings, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: James L. Brown (202) 275-7898; or Howell I. Sporn (202) 275-7691.

SUPPLEMENTARY INFORMATION: .

The New Legislation

Section 16 of the Bus Regulatory Reform Act of 1982 (the Act) added a new Section 10935 to Chapter 109 of Title 49 of the United States Code. In addition, the National Transportation Policy at (49 U.S.C. 10101(a)(3)) was amended to declare it to be Government policy:

(3) in regulating transportation by motor carriers of passengers (A) to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this subtitle; (B) to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this subtitle; and (C) to ensure that Federal reform initiatives enacted by the Bus Regulatory Reform Act of 1982 are not nullified by State regulatory actions.

Enactment of 10935 reflected Congress' determination that State regulation of exit from regular-route motor passenger

services (where both interstate and intrastate services are provided over the same routes) has created, in many instances, a burden on interstate commerce. Report of the Senate Committee on Commerce, Science and Transportation on H.R. 3663, May 20, 1982 (S. Rep. No. 97–411, 97th Cong., 2nd Sess.) (Senate Report) p. 25.

Section 10935 applies to any motor passenger carrier transportation between two points along a carrier's interstate route within a state regardless of the origin or destination of the bus. As long as the two points form some part of a carrier's existing ICC regular route interstate operating authority, intrastate service between those points falls within the Commission's jurisdiction under this Section of the new Act.

Section 10935 sets forth conditions which must be met before the Commission may exercise this preemption power: (1) The carrier must hold both interstate and intrastate authority to provide the service involved; (2) the carrier must be seeking either to discontinue all service over the route involved or to reduce the level of that service to less than one trip per weekday; (3) the carrier must already have requested permission to discontinue or reduce this service from the appropriate State regulatory body; (4) the State body must have either denied all or part of this request or failed to act on the request within 120 days; (5) if the request involves discontinuance of the service, the carrier must also seek revocation of its pertinent interstate authority; and (6) the carrier may not be owned or controlled by a State or local government.[1]

Many of the procedural aspects of processing discontinuance petitions are also spelled out in the law. For example, the law requires notification of certain State and local governmental bodies; the petition must be granted if no objections are filed within 20 days; a response by the carrier is required within 15 days after any objection is filed; and the Commission must complete processing of the petition and enter a final decision within 90 days after the petition is filed. Indeed, this 90-day statutory deadline is a significant constraint on these regulations, and most of the features of the rules we are proposing are designed to ensure that a final decision can be entered within that time limit, yet still allow full notice to interested persons and a fair opportunity to be heard and to present evidence.

As a substantive matter, the bill provides one set of standards for permitting discontinuance in protested cases involving authority granted before August 1, 1982, and another set of standards for cases involving bona fide new authority granted thereafter.

In cases which involve routes for which the interstate authority was granted on or before August 1, 1982, opponents of the discontinuance bear the burden of proving that the discontinuance or reduction is not consistent with the public interest or that continuing the transportation will not constitute an unreasonable burden on interstate commerce. In making a finding in such proceedings, the Commission must accord great weight to the extent to which revenues on the route are less than the variable costs of the service, and the carrier has the burden of proving the amount of the revenues and the variable costs.

On the other hand, where new interstate authority was granted after August 1, 1982, opponents of the discontinuance bear the burden of proving that continuing the transportation will not constitute an unreasonable burden on interstate commerce. This standard, however, is defined by the statute as meaning that the discontinuance or reduction is not consistent with the public interest and the revenues from the service are not less than the variable costs of providing the service. The net effect of these two standards is that the discontinuance of service over bona fide new routes will be easier than over old routes.

The Act requires the Commission to conclude this rulemaking and adopt final rules within 60 days. This necessitates making the rules effective on less than 30 days' notice. Further, we are providing a 20-day comment period, rather than the usual 30 days, in order to allow as much time as practicable, in keeping with the requirements of due process, to consider fully the positions of all interested parties before adopting final rules. We do not contemplate extending the time for filing comments.

Background

The concept of regulation of exit from regular-route motor passenger services is comparatively new to this Commission. The Commission does not now have any procedural rules governing the discontinuance of interstate services, except for the requirement of 49 CFR 1063.6(b) that notice be given of regular-route schedule changes. The Commission never required carriers to obtain permission to discontinue regular-route services, and the certificates held by most regular-route motor passenger carriers include numerous "dormant routes" (that is, authorized routes over which no scheduled services are actually provided). Thus, while the Commission has exercised very little regulatory control over discontinuance, the States generally exercised relatively strict control. Typically, a carrier's regular-route operations serve both interstate and intrastate passengers at the same time. This meant that a passenger carrier seeking to abandon an unprofitable interstate route could still be forced to serve the similarly unprofitable intrastate portion of the route if the State denied the carrier's request for discontinuance of the route. Faced with this situation, a carrier might be forced to maintain service over the interstate route to minimize overall losses even though it would place a burden on the carrier's interstate service as a whole. See H. Rep. 97–334, 97th Cong. 1st Sess. p. 42. The new exit provisions are intended to resolve this problem.

Accordingly, section 10935(e)(3) requires a carrier to apply for and receive authority to discontinue its *interstate* transportation over the invovled routes in order to be granted permission to discontinue *intrastate* transportation. The proposed rules, therefore, require a carrier seeking permission to discontinue intrastate service to include in its petition a corresponding request for revocation of the pertinent portions of its interstate certificates.

As briefly described above, section 10935 directs the Commission to approve carriers' requests to discontinue or substantially reduce such intrastate services, unless objecting parties carry one of two specified burdens of proof. This burden of proof will depend upon whether the interstate authority corresponding to the intrastate service in question was granted before or after August 1, 1982. As noted earlier, Congress has established a situation where the discontinuance of service over new routes is to be easier than over old routes. We propose to calculate the date that authority for a route is granted as the date on which the carrier's interstate certificate of public convenience and necessity was issued.

The statute requires us to consider the "variable costs" of operating the services involved, regardless of the date authority to operate was granted. We do not propose to define "variable costs." Rather, the proposed rules require the parties to present calculations of the

[1] In addition, section 10935(h) prohibits State regulation of the discontinuance of services begun under the "fitness only" standard of 49 U.S.C. 10922(c)(4). These services, accordingly, do not fall under the rules proposed here.

variable costs of operating these services, together with an explanation of how the costs were calculated, including assumptions underlying the calculations. Likewise, we will not define "reasonable pricing practices," but will require carriers to offer a description of the pricing practices applicable on the affected route. This will allow these terms to be more specifically defined on a case-by-case basis, with parties opposing the discontinuance submitting evidence supporting any allegation that the carrier's pricing practices are not reasonable. We believe these proposals to be consistent with the congressional intent to provide for easier discontinuance, less regulation generally, and faster procedures, and with Congress' decision to generally place the burden on parties opposing discontinuance. We recognize that opponents may not possess specific information about a carrier's costs or pricing practices. Therefore, we will grant reasonable discovery requests (pursuant to our rules at 49 CFR 1100.55), so long as such requests are made within 5 days of the filing of the petition, and ask for information relevant only to the affected route. Carriers must respond in a timely fashion. If they fail to do so, we may assume that the cost and pricing allegations of the opponents are correct. We request comments from the parties on these proposals.

Section 10935(g) spells out precisely the other factors we must consider in each case: the national transportation policy, the availability of operating subsidies or financial assistance, and the availability of alternate transportation services. No extended discussion of these factors is necessary at this time. However, in considering the availability of operating subsidies or financial assistance to provide the transportation to be discontinued or reduced, there is an implicit relationship to the authority given to the Commission to order continuation of the service for as long as 165 days after the filing of the petition. The Senate Report indicates (at p. 27) that the purpose of this provision is to allow time in which arrangements for operating subsidies or financial assistance can be worked out or for reasonable alternatives services to be arranged. We propose to order continuation of service only if we are notified that a subsidy or assistance offer has been made, and it appears to be both responsible and reasonably likely to induce the carrier to continue the service voluntarily, or if the evidence shows that this time period is needed to allow another carrier to take over the operation of the involved service. The mere offer of an operating subsidy or financial assistance—no matter how responsible or substantial—does not automatically change the decision on the petition. If the party opposing the discontinuance does not sustain the burden of proof established in the statute, we must grant the petition to discontinue or reduce the service: we can, if the circumstances warrant, delay the effective date of the discontinuance until 165 days after the filing of the petition, but continuation of service beyond that is strictly voluntary for the carrier.

As to the procedural aspects of the proposed rules, the 90 day time limit for deciding these cases necessitates rather strict procedural burdens for all parties. Obviously, it does not allow time for oral hearings or for protracted responsive pleadings. Accordingly, we have included in the rules statements of the primary issues each party should address in pleadings filed in these cases. Our purpose in doing this is two-fold: It will help to ensure that appropriate evidence will be available to allow a reasoned decision on the merits of each case; and it will provide assistance to those parties who may not be familiar with procedures before the Commission in understanding the issues and circumstances surrounding each petition.

In many respects, these rules parallel procedures already employed for removal of restrictions from the operating authorities of motor carriers of property. (See 49 CFR Part 1137, as promulgated in Ex Parte No. MC–142 (Sub-1), *Removal of Restrictions, Motor Car. of Property*, 132 M.C.C. 374 (1980)). In *Removal of Restrictions, Motor Car. of Property*, 132 M.C.C. 114, at 116–117 (1980), we had concluded that the applicable statutory provisions (49 U.S.C. 10922(h)(2)) did not require that an opportunity be provided for oral hearings, or for a conventional adversary licensing proceeding. A similar conclusion is mandated in this situation. These rules provide appropriate, simplified, and expedited procedures, under which interested parties and carriers have a reasonable opportunity to present their positions, and through which the Commission can reach reasoned decisions within the mandated time limit.

The Proposed Rules

The proposed rules allow us to process petitions within the statutory deadline. We have considered proposing a procedure whereby the Commission's consideration of these petitions would be essentially an appellate process, based on the record made before the State body. We note, however, that the statute does not contemplate this procedure and, indeed, speaks instead of "evidence" to be presented by parties objecting to the petition before this Commission. Further, we are concerned that difficulties would arise if the record in the State proceeding were not complete by the 120-day deadline for State action, either through deficiencies in State procedures, or through the recalcitrance of a carrier which might prefer to await the invocation of the preemptive Federal jurisdiction. Our rules permit the States to have a full and fair opportunity to participate in these cases, through their own proceedings before petitions are filed with us, and through the opportunity to challenge and to respond to any additional evidence petitioning carriers may submit to us.

The statute clearly intends that States be permitted a meaningful opportunity to consider these issues in the first instance. Although the procedures we propose provide for presentation of evidence before this Commission by interested parties, we view this as a means to ensure the completeness of the record and full notice to opposing parties of the issues involved.

We see no need to publish notices of these petitions in the **Federal Register**. Each petition will cover operations in only one State, and thus will not be of nationwide impact. Also, the statute specifically provides for notice to pertinent State and local officials and governmental bodies, and this appears to be the most appropriate means of assuring effective notice to potentially interested persons. We propose that the only additional persons who should be notified by the petitioning carrier, are those who were parties of record in the State proceeding. In those few past instances where the Commission has considered requests for revocation of regular-route passenger authority, it has been our practice (on a case-by-case basis) to require the posting of notices in affected stations and on buses serving affected routes, as well as publication of notices in local newspapers. We are not of the opinion now that these requirements would be helpful. Since local governments will receive notice directly, State procedures are liable to have caused interested parties to have received actual notice already, and the statutory time limits make the more cumbersome process of posting and publication inappropriate. We request comments on this issue.

We propose that the form of the notice be a complete copy of the petition itself. The short time available for an objection to be filed does not realistically permit

an interested party to obtain a copy of the petition from the carrier *after* a summary notice is provided. We seek comments on whether a deadline should be imposed on the filing of petitions after the State body issues its final decision.

Petitions and objections must be in the form of verified statements setting forth all of the evidence the party intends to present in the case. There is not time for successive responsive pleadings and additional evidence to be considered fairly by the Commission. Our proposed rules include a statement of the primary issues each party should address in its pleading. This helps the potential parties to participate meaningfully and to know what they are expected to show in order to meet the statutory burden of proof.

The statute requires the carrier to provide each person who files an objection to the petition a copy of the subsidy estimates and financial data which are described in section 10935(e)(4). We anticipate a significant number of the people who may object to these petitions to be individual passengers to whom this information would have little applicability. In some cases, certainly, it is possible that a large number of individuals may submit substantially identical comments through an organized campaign. Clearly, thos could cause a significant burden on the carrier in reproducing and mailing a large number of copies of such information. We invite comments and suggestions as to whether we should create an alternative category of "informal comments" whereby interested persons could submit their views without becoming formal parties to the proceeding. Persons submitting informal comments could thus be relieved of the procedural burdens applicable to formal objections, while still having a forum in which to present their views; and the carriers could be spared the expense of providing extensive material which these persons might not be interested in receiving.

Energy and Environment

It does not appear that the adoption of the proposed rules will have any significant impact on the quality of the human environment. However, we anticipate the rules will enable carriers to improve operating efficiency and reduce mileage for regular-route motor passenger carriers, thus contributing to the conservation of energy resources. We invite comment with respect to these issues.

Regulatory Flexibility Analysis

The proposed rules are intended to provide individuals, small businesses, and local governments the greatest possible help in developing evidence to meet the burden of proof established in the statute. The statute clearly affects both small carriers and the small communities they serve, and it is our intention in proposing these rules to make it possible for them to participate meaningfully in these cases without legal representation, if they so desire. To this end, the proposed rules provide step-by-step instructions for presenting evidence relevant to the proceeding. Further, we believe the rules will have a beneficial impact on many carriers who are now operating routes that are not economically justified. Therefore, we do not expect that the proposed rules will have a significant adverse economic impact upon a substantial number of small entities. We welcome comments on this issue.

List of Subjects

49 CFR Part 1130

Administrative practice and procedure, Buses, Intergovernmental relations.

49 CFR Part 1002

Freedom of information.

We propose:

1. To amend title 49 of the Code of Federal Regulations by the addition of a new Part 1130 as described in the Appendix to this notice.

2. To amend 49 CFR 1002.2(d) to include a provision setting the filing fee for applications filed under the procedures proposed in the appendix at $350.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

(49 U.S.C. 10321 and 10935 and 5 U.S.C. 553)

Decided: September 10, 1982.

Agatha L. Mergenovich,

Secretary.

Appendix

Title 49 of the CFR would be amended by adding a new Part 1130 to read as follows:

PART 1130—RULES GOVERNING DISCONTINUING BUS TRANSPORTATION IN ONE STATE

Subpart A—How To Petition for Permission To Discontinue or Reduce Bus Service in One State

Sec.

1130.1 Requests governed by these rules.
1130.2 General procedure.
1130.3 Starting the petition process.
1130.4 Information to be submitted by petitioning carriers.
1130.5 The petitioning carriers verified statement.
1130.6 Where to send the petition.
1130.7 Rebuttal.
1130.8 Commission review of the petition.
1130.9 Continuation of service.
1130.10 Withdrawal of petition.
1130.11 Administrative finality and appeals.

Subpart B—How To Object To Discontinuation or Reduction of Bus Service in One State

1130.20 Filing an objection.
1130.21 Contents of the objection.
1130.22 Evidence.
1130.23 Where to send the objection.
1130.24 Obtaining a copy of the petition.
1130.25 Offers of subsidies.
1130.26 Withdrawal of objections.

Subpart C—General Rules Governing the Petition Process

1130.30 Contacting another party.
1130.31 Serving copies of pleadings; the certificate of service.
1130.32 Copies.
1130.33 Requests for extensions of time.
1130.34 Verification of statements.

Authority: 49 U.S.C. 10321 and 10935; 5 U.S.C. 553.

Subpart A—How To Petition for Permission To Discontinue or Reduce Bus Service in One State

§ 1130.1 Requests governed by these rules.

(a) These rules govern petitions by motor common carriers for permission to discontinue providing regular-route passenger transportation over any route to any points in a State, or to reduce the level of service over such route to less than one trip per day (excluding Saturdays and Sundays).

(b) To use these rules, the carrier must:

(1) Hold both interstate authority and intrastate authority over the routes involved;

(2) Have requested permission from the appropriate State regulatory body for the proposed discontinuance or reduction in service (and the State body has either failed to take final action on the request within 120 days or has denied all or part of the request); and

(3) Not be owned or controlled by a State or local government.

(c) Each petition may cover services in only one State. If a carrier intends to discontinue or reduce service on a route which crosses one or more State lines, and permission under these rules is needed for two more of these States, then a separate petition must be filed for each State.

§ 1130.2 General procedures.

The Commission must take final action on these petitions within 90 days after they are filed. Accordingly, it is not possible to conduct oral hearings on these petitions. These petitions will be considered on the basis of the written record, consisting of the carrier's petition (and the materials filed with the petition), the objections of interested persons, and the carrier's rebuttal.

§ 1130.3 Starting the petition process.

There is no application form for these petitions. A carrier wishing to use these rules must comply with the notice requirements described in §1130.6 and submit the information described in §§ 1130.4 and 1130.5. The filing fee is $350.

§ 1130.4 Information to be submitted by petitioning carriers.

The petitioning carrier must file the following information:

(a) Beginning on the first page of the petition, the following information must appear:

(1) Identification Caption—(This information must be shown prominently and concisely, because it is the only means of identifying the petition and other pleadings which relate to it):

(i) The carrier's lead ICC docket number;

(ii) The carrier's name;

(iii) The carrier's mailing address;

(iv) The words "Exit Petition:", followed by the name of the State affected by the petition; and

(v) The endpoints of the route or routes over which the carrier proposes to discontinue or reduce service.

Examples:

No. MC–149076, U.S. Bus, Inc., P.O. Box O, Laurel, MD 20810. Exit Petition: Maryland Between Hyattsville and Baltimore, MD.

No. MC–132985, John Doe, d.b.a. Doe Bus Lines, 1776 Main St., Pittsburgh, PA 15222. Exit Petition: Ohio Between Conneaut and Cleveland, OH.

(2) Name, address, and telephone number of the carrier's representative.

(3) Identity and qualifications of the carrier's witness, who signs the verified statement.

(b) Request for permission to discontinue or reduce service, including a concise summary of what the carrier is asking permission to do, *and* if the carrier proposes to discontinue service, a written request for the revocation of the pertinent portions of the carrier's interstate Certificate(s) of Public Convenience and Necessity;

(c) Certification that the petitioning carrier is not owned or controlled by a State or local government;

(d) Verified statement giving the information described in § 1130.5;

(e) A copy of the pertinent portions (including the date of issuance) of the carrier's interstate Certificate(s) of Public Convenience and Necessity, which authorize the regular-route passenger services which the carrier proposes to discontinue or reduce;

(f) A copy of the pertinent portions of the authority issued by the appropriate State body, which authorize the same services;

(g) A copy of the decision or decisions (if any) by the appropriate State body denying the proposed discontinuance or reduction in service; and

(h) Certification that copies of the petition and all the accompanying materials described in this paragraph have been served on (1) the Governor of the State in which the transportation is provided, (2) the State body having jurisdiction over granting discontinuances of transportation and reductions in levels of service by motor common carriers of passengers, (3) local governments (both counties and municipalities) having jurisdiction over areas which would be affected if such petition is granted, and (4) each party of record to any State proceedings involving the proposed discontinuance or reduction in service.

§ 1130.5 The petitioning carrier's verified statement.

The carrier's verified statement must contain all of the evidence it intends to submit concerning at least the following issues:

(a) Description of the carrier's pertinent present operations and the way the proposed discontinuance or reduction in service will change these operations;

(b) Identification of the date on which the request was made to the appropriate State body for permission to discontinue or reduce the involved service and the dates of any actions the State body may have taken on that request, and any description of the proceedings conducted by the State body which the carrier believes to be relevant to the petition;

(c) Calculation of the interstate and intrastate passenger and package express revenues (specifying the time period involved) which accrue directly from the services which would be discontinued or reduced (but *not* including revenues which the carrier expects to retain in connection with other services which it will still operate), with an explanation of how the revenues were calculated and of any assumptions underlying the calculations;

(d) Description of the rates and pricing practices applicable to the affected service;

(e) Calculation of the variable cost of operating the affected service, with an explanation of how the costs were calculated, and of any assumptions underlying the calculation;

(f) Description of any present operating subsidies or financial assistance applicable to the affected service, and of any proposals or discussions with respect to operating subsidies or financial assistance which have occurred during the year preceding the filing of the petition;

(g) Description of any other public transportation facilities known by the carrier to be available for passenger service at the points on the route affected by the proposed discontinuance or reduction in service; and

(h) Any additional evidence or legal argument the carrier believes to be relevant to the petition.

§ 1130.6 Where to send the petition.

(a) Copies of the petition and all of the accompanying materials described in § 1130.4, must be sent or delivered to (1) the Governor of the State in which the transportation is provided, (2) the State body having jurisdiction over granting discontinuances of transportation and reductions in levels of service by motor common carriers of passengers, (3) local governments (both counties and municipalities) having jurisdiction over areas which would be affected if the petition is granted, (4) each party of record to any State proceedings involving the proposed discontinuance or reduction in service, and (5) the Principal Attorney, Section of Operating Rights, Room 2343, Interstate Commerce Commission, Washington, DC 20423. This delivery must be undertaken concurrently with that to the Commission.

(b) The original and one copy of the petition and accompanying materials shall be sent to the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

§ 1130.7 Rebuttal.

(a) Within 20 days after the petition is filed with the Commission, interested persons may file objections to the petition, and must send a copy of these objections to the carrier. Within 15 days after the filing of any objection, the carrier must furnish to the Commission and to each person who has filed an objection,

(A) an estimate of the annual subsidy required, if any, to continue the involved service, and (B) traffic, revenue, and other data necessary to determine the amount of annual financial assistance, if any, which would be required to continue the service.

(b) At the same time, the carrier may file a rebuttal to the objections. Copies of any rebuttal must be sent or delivered to each person who has filed an objection at the same time as the information described in paragraph (a) of this section.

§ 1130.8 Commission review of the petition.

(a) If a petition is incomplete, or if the carrier has not substantially complied with these rules, the Commission may reject or dismiss the petition at any time before the statutory deadline for final action.

(b) If no objections are received by the Commission within 20 days after the petition is filed, and if it is determined that the petition is complete and properly filed in accordance wth these rules, the Commission will grant the permission sought and revoke the pertinent portions (if any) of the carrier's interstate Certificate of Public Convenience and Necessity. The decision taking this action will be entered at the end of the 20-day period but will not be served until clerical processing is completed. The effective date of the revocation will be 30 days after the decision is served.

(c) If timely formal objections are filed, the Commission will consider the evidence on the basis of the written record, consisting of the petition (including the accompanying materials), the objections, and the rebuttal.

§ 1130.9 Continuation of service.

The Commission may order the carrier to continue the operation of the affected service for 165 days after the petition is filed, even if the permission to discontinue or reduce the service is otherwise granted, but before it has become effective, if an offer of subsidy or financial assistance has been made, which appears to be both responsible and reasonably likely to induce the carrier to continue the service voluntarily, or if the evidence shows that this time period is needed to allow another carrier to take over the operation of the service.

§ 1130.10 Withdrawal of petition.

If the carrier wishes to withdraw its petition, it may do so by requesting in writing that the petition be dismissed. The request shall be directed to the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, and shall include the identification caption described in paragraph (a) of § 1130.5.

§ 1130.11 Administrative finality and appeals.

(a) A decision disposing of a petition is a final action of the Commission. Appeal is discretionary and will be granted only upon a showing of extraordinary circumstances. The appellate procedure to be followed is that set forth at 49 CFR 1100.98. Any party seeking review should specify the "extraordinary circumstances" warranting review which are involved in the proceeding.

(b) In the event of a procedural defect (such as the loss of a properly filed objection or the failure of the carrier to serve its petition on all the required persons), the Commission will entertain a petition to vacate a decision which grants the permission sought on the grounds that no objection has been filed.

Subpart B—How To Object to Discontinuation or Reduction of Bus Service in One State

§ 1130.20 Filing an objection.

(a) An objection must be filed (received by the Commission) within 20 days after the carrier files its petition. A copy of the objection must also be sent or delivered to the petitioning carrier.

(b) If an objection is not filed within this time limit, the right to participate in the proceeding is waived.

§ 1130.21 Contents of the objection.

(a) Beginning on the first page of the objection, the following information must appear:

(1) In order to identify properly the petition toward which the objection is directed, copy the identification caption set forth at the beginning of the carrier's petition (as described in paragraph (a) of § 1130.4).

(2) Name and address of the person filing the objection, and the name and address of the legal representative (if any) of the party in this proceeding.

(3) Name and address of the witness signing the objection (if different from paragraph (a)(2) of this section) and an explanation of why the witness is qualified to speak on behalf of the objecting party.

(b) An objection must be verified.

(c) An objection may be rejected if it is not in substantial compliance with these rules.

§ 1130.22 Evidence.

The objection should contain all of the evidence upon which the objecting party intends to rely, including at least the following issues:

(a) Description of any relevant operating subsidies or financial assistance known to have been offered to the petitioning carrier to support the service involved, including the amount of the subsidy or assistance that is available and the financial qualifications of the person making the offer of subsidy or assistance;

(b) Description of the adverse impact the proposed discontinuance or reduction in service would have on the public interest, including passengers traveling to or from the affected points or over the affected routes, or on the communities served, or on others;

(c) Analysis of the interstate and intrastate revenues derived from the service, the pricing practices applied to the service, and the variable costs of operating the service; and

(d) Any additional evidence or legal argument relevant to the petition.

§ 1130.23 Where to send the objection.

(a) An original and one copy of the objection must be sent to the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423. An additional copy of the objection must be sent to the Principal Attorney, Section of Operating Rights, Room 2343, Interstate Commerce Commission, Washington, D.C. 20423.

(b) At the same time that the objection is filed with the Commission, a copy must be sent or delivered to the petitioning carrier (and to its representative, if one is listed), in the same (or a more expeditious) manner that the objection is sent or delivered to the Commission.

§ 1130.24 Obtaining a copy of the petition.

A copy of the petition will be available for inspection at the Commission's offices in Washington, D.C. In addition, the carrier is required to serve a copy of the petition on the affected State and local governments, and copies of the petition may be available from them.

§ 1130.25 Offers of subsidies.

Any financially responsible person who intends to offer an operating subsidy or financial assistance to the carrier to enable it to continue providing the service which is proposed to be discontinued or reduced, must notify the Commission and the carrier within 50 days after the petition is filed. This notification must indicate the amount of the subsidy or assistance being offered and demonstrate the financial responsibility of the person making the

offer. An offer of operating subsidy or financial assistance does not require the Commission to deny the discontinuance or reduction of service, but it will form the basis for the Commission's decision whether or not to order continuation of the service until 165 days after the filing of the petition.

§ 1130.28 Withdrawal of objections.

If a party wishes to withdraw its objection, it shall inform the Commission and the carrier in writing.

Subpart C—General Rules Governing the Petition Process

§ 1130.30 Contacting another party.

When a person wishes to contact another party or serve a pleading on that party, it shall do so through the party's representative (if any).

§ 1130.31 Serving copies of pleadings; the certificate of service.

(a) Because of the short statutory time limits applicable to these petitions, service of pleadings on other parties must be done as expeditiously as possible. Therefore, where these rules require service of a pleading on another party, every effort must be made to ensure that the other party receives that pleading no later than the day it is due to be filed with the Commission.

(b) Each pleading shall contain a statement (certificate of service) that the pleading has been mailed or delivered to the other party in accordance with the requirements of paragraph (a) of this section.

(c) All pleadings mailed to the Commission in Washington, D.C., should be addressed to the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

§ 1130.32 Copies.

All pleadings filed with the Commission shall include an originial and one copy. An additional copy of each pleading shall be sent to the Principal Attorney, Section of Operating Rights, Room 2343, Interstate Commerce Commission, Washington, D.C. 20423.

§ 1130.33 Request for extensions of time.

The time limits applicable to these case are established by statute. Therefore, granting requests for extension of time is not contemplated.

§ 1130.34 Verification of statements.

All statements must be verified by the person signing the statement, as follows:

I, ————————, verify under penalty of perjury under the laws of the United States of America, that the information in this statement is true and correct. Further, I certify that I am qualified and authorized to file this statement. (See 18 U.S.C. 1001 and 18 U.S.C. 1621 for penalties.)

(Signature and Date)

PART 1002—FEES

In § 1002.2(d), item (50) would be added to Part IV: Other Proceedings to read as follows:

§ 1002.2 Filing Fees

* * * * *

(d) * * *

(50) A petition to discontinue transportation in one State	350

[FR Doc. 82-26715 Filed 9-28-82; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1104

[Ex Parte No. MC-82 (Sub-1)]

Provisions for Foreseeable Future Costs

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 9 of the Bus Regulatory Reform Act of 1982 authorized procedures allowing for the recovery of estimated or foreseeable future costs. The Commission is proposing it permit the intercity bus industry to recover foreseeable future costs in their general increase filings. Under the proposed procedures foreseeable and estimated future costs will be allowed to be recovered in six (6) month intervals. In addition, comments are requested on procedures to include future costs in individual carrier rate filings.

DATES: Comments on the proposal are due October 19, 1982. Due to time constraints, the final rules adopted in this proceeding may be made effective on less than thirty days notice.

ADDRESS: An original and 15 copies of comments should be submitted to: Bureau of Accounts, Section of Cost Development, Room 3311, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

William T. Bono (202) 275–7354, Bureau of Accounts; or

Paul R. Meder (202) 275–7457, Bureau of Accounts.

SUPPLEMENTARY INFORMATION:

Foreseeable Future Costs

Prior to the passage of the Bus Regulatory Reform Act of 1982 (Act), the Commission's rules governing general rate increases permitted motor carriers of passengers (bus industry) to recoup only provable increased costs that were incurred previously and/or anticipated on the date of a particular filing. See 49 CFR 1104.20–1104.26, and Schedules A through G detailing information to be submitted in general revenue proceedings. The Act allows the bus industry to "* * * cover the costs of inflation by taking into consideration estimated or foreseeable future costs."[1] However, the Act does not designate the time periods for projecting estimated or foreseeable future costs.

In compliance with the provisions of the Act, we propose to permit the bus industry to recover additional and reasonable estimated or foreseeable future cost increases that will be experienced during a six (6) month period following the effective date of any general increase filing. For example, general fare and rate increase proposals set to become effective on July 1 can include, along with previously incurred cost increases, reasonable estimated or foreseeable future cost increases for the period July 1 through December 31. This provision will have the advantage of reducing regulatory lag and is consistent with the future time period adopted for the motor carriers of property resulting from the 1980 Motor Carrier Act. See Future Costs and Requirements for Additional Data, 365 ICC 410 (1981), as modified by decision served March 11, 1982.

Additionally, if the proponent of a general increase includes in its request future cost increases covering the future time period, and then files another general increase during the six month projection period, proponent will be required to establish that the second increase sought has not been previously recovered in the first general increase filing.

Methodology

Future costs will be divided into two categories, namely: (1) Wage and wage related increases and (2) non-labor expense increases. Wage and wage related cost increases are generally scheduled with some occurring simultaneously with the effective date of a general increase filing and others occurring at various times subsequent to the effective date. Non-labor cost changes are incurred on an irregular and unscheduled basis. Therefore, future cost estimates will be separated between these two categories. Moreover, fuel and fuel tax expense

[1] S. Rept. 97–411, 97th Cong., 2d sess., 21 (1982).

increases will be treated in the non-labor unscheduled expense category.

A. Scheduled Wage and Wage Related Increases

To be consistent with the proposed six (6) month future cost time period, the full impact of those wage and wage related expenses which coincide or start simultaneously with the effective date of the general increase will be allowed in the projected pro-forma future expense level. The impact from wage contracts which become effective subsequent to the effecteve date of the proposed general increase and within the six (6) month period will be treated on an "as incurred" basis. Since these wage and wage related costs may increase be varying amounts on varying dates it will be necessary for the bus industry to determine the impact wage increases will have on total expenses. The bus industry will be permitted to rely on any reasonable forecasting methodology.

Table 1 below provides a simple illustration of how the computation of the total impact of the wage increases can be applied. This illustration assumes that there will be six separate contracts or increases. Each contactual wage increase amounts to 10 percent. Each contract covers employee groups which bear a differing expense relationship to total expenses and occur on different dates between July 1 and December 31. The impact of the wage and wage related expense increase may be calculated as follows:

TABLE 1

[In percent]

Effective date of Wage Inc.	Rate of increase	×	Portion of total expenses	=	Impact to total expense	×	Portion of 6 month period in affect	=	Impact on total expense
July 1	10		15		1.5		100		1.50
Aug. 1	10		10		1.0		⅚ or 83.3		.83
Sept. 1	10		5		.5		⅔ or 66.7		.33
Oct. 1	10		10		1.0		½ or 50.0		.50
Nov. 1	10		15		1.5		⅓ or 33.3		.50
Dec. 1	10		10		1.0		⅙ or 16.6		.17
									3.83

Total (6 individual wage increases applicable to 65 percent of total expenses = 3.83% future expense increase labor).

The application of the wage and wage related increases need not be developed in the manner indicated above but the resulting impact from the methodology used cannot exceed the impact developed on the basis of the methodology used in the example.

B. Unscheduled Non-labor Expense Increases

Unscheduled Non-labor cost increases will be allowed on the basis of one-half of the estimated increase in expenses at the end of the 6 month future period. For example, if the estimated future unscheduled cost increase for the period is 10 percent, a cost increase of 5 percent will be allowed over the 6 month period. Materialization of the remaining increase can be recovered in the next general increase filing. This approach will permit a reasonable recovery of short-run non-scheduled expense increases and assumes a single cost increase over the entire six month future period equivalent to the steadily rising costs in unscheduled non-labor expense increases. This approach will also minimize the impact resulting from over projections by allowing advance passthroughs of anticipated unscheduled costs.

C. Expense Forecasting

The Commission will accept estimates based on any reasonable methodology used to provide future labor and non-labor expense increases. However, the burden of proof as to the reasonableness of the methodology or methodologies rests with the proponent and must be adequately supported.

D. Additional Reporting Requirements

Chapter X of Title 49 Part 1104 Subpart B (Revenue Need) Schedule C Parts I, II and III will be expanded to include, for all carriers, revenue/expense comparisons for all future cost estimates. The impact of these changes shall be shown separately for system and issue traffic and shall be in addition to the presently required revenue/expense comparisons. Data reflecting future cost estimates shall be identified as such.

Section 10701(e) allows for the inclusion of future costs in individual rate filings as well as industry-wide general rate increases. Since the standards for consideration of the reasonableness of individual carrier rates now includes consideration of future costs, we request comments on how the Commission can most efficiently implement and encourage the use of this provision.

List of Subjects in 49 CFR Part 1104

Buses, Freight, Motor carriers.

Adoption of these provisions will not significantly affect the quality of the human environment or energy consumption. Pursuant to 5 U.S.C. 605(b), we certify that these procedures will not have a significant economic impact on a substantial number of small entities. However, comments applicable to these mater are also invited.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

(Sec. 9, Bus Regulatory Reform Act of 1982)

Dated: September 10, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26710 Filed 9-28-82; 8:45]

BILLING CODE 7035-01-M

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49 CFR Parts 1045B, 1046, 1100, and 1130a

[Ex Parte No. 55 (Sub-56)]

Applications for Operating Authority; Motor Passenger Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rules.

SUMMARY: Sections 6 and 13 of the Bus Regulatory Reform Act of 1982 ("the Act") which amend, respectively, 49 U.S.C. 10922 and 10923, allow applicants to obtain motor common or contract passenger operating authority from the Commission upon satisfying a "fit, willing, and able" test. The legislation also introduces a new "public interest" entry test. Section 6 further amends the Act to allow preemption of State regulations which prevent a motor common carrier of passengers from performing operations entirely in one State over regular routes authorized in interstate transportation. This rulemaking proceeding (1) discusses the entry provisions of the Act, and (2) proposes rules for applying for new passenger authority and for opposing applications. The new procedures must be effective 60 days from enactment of the Act.

DATE: Comments are due October 19, 1982.

ADDRESS: An original and 15 copies, if possible, should be sent to: Ex Parte No. 55 (Sub-56), Room 2139, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20433.

FOR FURTHER INFORMATION CONTACT:
Marc Lerner (Interstate entry), 202–275–7150;
Barbara Reideler (Intrastate entry), 202–275–7992; or
Howell I. Sporn, 202–275–7691.

SUPPLEMENTARY INFORMATION:

Background

Congress enacted the Bus Regulatory Reform act of 1982 ("the Act") to reduce government regulation of the bus industry, promote competition, and, at the same time, make available more responsive service to the traveling and shipping public.

Congress stated that the purpose of the liberalized entry provisions of the bill is "* * * to significantly reduce entry barriers for all forms of intercity bus service and to permit existing bus companies to expand their services and to provide more efficient interstate and intrastate services." Report of the Senate Committee on Commerce, Science, and Transportation on H.R. 3663, S. Rep. No. 411, 97th Cong., 2nd Sess., at 15 (1982) (Senate Report). Congress concluded that the new legislation will lead to increased carrier flexibility, experimentation with new services, opportunities for expansion, reduced paperwork and costs, improved equipment use and operational and energy efficiency, a greater variety of service and price options, and better service to the traveling and shipping public. *Id.* at 10–20. Congress determined that to achieve the broad reforms mandated by the Act, regulatory restraints at both the Federal and State levels must be removed to afford bus companies the opportunity to compete vigorously.

Comments are requested on the proposed rules and the issues discussed in this notice. As the Act requires that final rules be in place within 60 days, these rules must be effective on less than 30 days notice. Because of this, we are able to provide only a 20-day comment period, rather than the usual 30 days, to allow as much time as practicable to consider all the comments before adopting final rules. We do not contemplate extending the time for filing comments.

Interstate Authority

Statutory Highlights

Section 6 of the Act adds a new subsection (c) to section 10922 of Title 49, United Stated States Code, to govern applications for authority to operate as motor common carriers of passengers. Applications for interstate authority are governed by subsection (c)(1), which reads as follows:

(A) A certificate shall be issued by the Commission to a person authorizing that person to provide regular-route transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers and a certificate shall be issued to a recipient of governmental financial assistance for the purchase or operation of buses, or to an operator for such a recipient, authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers, if the Commission finds that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized is not consistent with the public interest.

(B) For all applications for authority except those under clause (A) of this paragraph, the Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers if the Commission finds that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission.

Three types of service are exceptions to requests under (c)(1)(A) and are statutorily determined to be in the public interest. Section 10922(c)(4) eliminates the requirement that the Commission make public interest findings for the following "fitness only" proposals:

(A) Interstate transportation service to any community not regularly served by a motor common carrier of passengers * * *

(B) Interstate transportation service which will be a substitute for discontinued rail or commercial-air passenger service to a community if such discontinuance results in such community not having any rail and commercial-air passenger service and if such application is filed within 180 days after such discontinuance becomes effective; and

(C) Interstate transportation service to any community with respect to which the only motor common carrier of passengers providing interstate transportation service to such community applies for authority to discontinue providing such interstate service under section 10925(b) of this subchapter or applies for permission to reduce its level of intrastate service to such community under section 10935 of this subchapter.

Section 13 of the Act amends 49 U.S.C. 10923(b)(2) to make "fit, willing, and able" the sole entry test for passenger contracts carriers as well.

Section 14 of the Act amends 49 U.S.C. 10924 to exempt passenger brokers from licensing regulation. New subsection (f) gives the Commission permissive authority to impose requirements for bonds or insurance or both to the extent it determines such requirements are needed to protect passengers and carriers dealing with brokers. The Commission is considering this issue in Ex Parte No. MC–5 (Sub-4), *Passenger Broker Surety Bond.* All interested persons are encouraged to participate in that proceeding.

Applicant's burden of proof

An applicant's evidentiary burden is significantly reduced by the Act and grants of authority are presumed to be consistent with the public interest. Every applicant for motor common or contract authority has the burden of demonstrating only that it is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with pertinent statutory requirements and Commission regulations. "Fit, willing, and able" is specifically defined in sections 10922(c)(6) and 10923(b)(2) as safety fitness and proof of insurance pursuant to the minimum financial responsibility requirements of section 18 of the Act. Pursuant to that section, the Secretary of Transportation is directed to establish minimal levels of public liability and property damage insurance; regulations will be forthcoming. In defining the phrase "fit, willing, and able," the Senate Report stresses that safety and insurance are "* * * the only factors appropriate for the government to evaluate in making fitness determinations" and that it "* * * does not intend for the ICC to place additional barriers to entry by a restrictive interpretation of fitness requirements and applicant's abilities to meet them, or to attempt to substitute regulatory processes and bureaucratic judgement for normal business judgments * * *" *Id.* at 18.

Protestant's burden of proof

Under the new legislation, a protestant's evidentiary burden differs according to, and is defined by, the type of passenger service proposed by the applicant. Where an applicant seeks regular-route authority or is subsidized by the government (or is an operator for a recipient of government financial assistance), section 10922(c)(1)(A) requires opposing carriers, once an applicant has satisfied its burden, to provide sufficient evidence to negate the presumption that the proposal is consistent with the public interest (public interest applications).

The "public interest" test represents a quantum step in eliminating obstacles to applicant motor passenger carriers obtaining desired operating authority. Indeed, even the House Report, *supra* at 29, which envisioned slightly more regulation than either the Senate Report, *supra*, or the Conference Report (See Cong. Rec. H6691–692 (August 19, 1982)), recognized that the new entry standard is more relaxed than the standard of entry for carriers of property under the Motor Carrier Act of 1980. The House Report states:

> It should also be noted that under this bill entry will be easier than it is for motor common carriers of property under the Motor Carrier Act of 1980. Unlike applicants for authority to transport property, those who seek to transport passengers will not be required to come forward with any evidence of public need or demand for the proposed service by prospective users. The Committee is convinced that grants of operating authority should not be governed by how adept applicants and their attorneys are in collecting signatures from the public. Thus, the new entry standard, in effect, assumes that a proposed new bus service will be used by the traveling public. Applicants would not be prohibited, however, from submitting evidence of persons who would use the service proposed but this would no longer be required.

Section 10922(c)(3) directs the Commission to consider certain factors, to the extent applicable, in reaching its "public interest" determination. They are:

> (A) The transportation policy of section 10101(a) of this title;
>
> (B) The value of competition to the traveling and shipping public;
>
> (C) The effect of issuance of the certificate on motor carrier of passenger service to small communities; and
>
> (D) Whether issuance of the certificate would impair the ability of any other motor common carrier of passengers to provide a substantial portion of the regular-route passenger service which such carrier provides over its entire regular-route system. Diversion of revenue or traffic from a motor common carrier of passengers in and of itself shall not be sufficient to support a finding that issuance of the certificate would impair the ability of the carrier to provide a substantial portion of the regular-route passenger service which the carrier provides over its entire regular route scheduled system.

Regarding the fourth factor, (D), the Senate Report, observes that to meet this impairment test a protestant would be required to establish that granting the application would jeopardize its ability to continue operating over a substantial portion of its "entire regular route system" (defined to include the routes of the company's subsidiaries and affiliates). *Id.* at 17.

In addition to these four statutory factors, the Commission is directed by Congress to consider whether there has been a reduction in service along the route proposed to be served by the applicant, and to accord substantial weight to evidence of a significant reduction in service. *Id.* Congress also emphasizes that the paramount consideration in reaching a public interest determination is the benefit to be derived by the public and not the protection of existing carriers. *Id.* at 16.

Persons opposing "fitness-only" applications filed under sections 10922(c)(1)(B) and 10922(c)(4) can do so only on grounds that the applicant is not fit or does not fall within the fitness only category. Applications for contract carrier passenger authority under section 10923(b)(2) also may be opposed only on these limited grounds.

Application Procedures

Introduction

All applications for interstate authority fall under the statutorily mandated time limits of 49 U.S.C. 10322. The new legislative provisions do not require major revision of the Commission regulations at 49 CFR 1100.251 and 1100.252 under which all applications for property and passenger motor carrier authority are currently filed and processed. However, for a number of reasons, we propose to adopt new and separate rules to implement the provisions of the Act rather than make use of the current rules.

Separate rules for motor passenger and motor property applicants will emphasize that the rules are products of two separate acts. A separate set of rules for motor passenger applications will facilitate the administrative burden of handling these matters. The proposed new regulations are set forth in Appendix B and are designated 49 CFR 1100.253 and 1100.254.

Almost all motor passenger applications will continue to be handled under the modified procedure, although oral hearing provisions are included. An applicant is to continue to submit its entire application package upon filing. Appellate procedures will continue to be governed by the provisions at 49 CFR 1100.98.

How To Apply for Operating Authority

Application Form OP–1. All passenger applicants will continue to submit a completed OP–1 application form. That form will be altered slightly, however, as a consequence of the new legislation. To reflect the new types of applications for interstate operating authority created by the Act, new headings "(b). Passenger Fitness-Only Applications" and "(c). Passenger Public Interest Applications" will be added to the form under current Part III. The current fitness-only section will be redesignated "(a). Property Fitness-Only Applications". As with the current fitness-only applications, applicants will be required to check the box(es) corresponding to their particular proposal. The revised form is set forth in Appendix D.

Service proposal and caption summary. All applicants will continue to submit a caption summary describing the authority sought. The Commission authorizes motor common carrier transportation of passengers only over a regular route and between specified places, except to the extent the carrier is authorized to provide special or charter transportation. The Act adds new subsections 10922(j)(2) (A) and (C) to allow an interstate carrier to transport special or charter passengers and regular-route passengers in the same vehicle if (1) it holds separate authority to provide each type of service, and (2) the mixing will not interfere with the common carrier obligation. New section 10922(j)(3) permits a carrier with charter rights to transport more than one charter group in the same vehicle at the same time, subject to Commission regulation.

Section 10922(e)(4) requires that certificates to transport passengers be deemed to include permissive authority to handle newspapers, baggage, express packages, or mail in the same motor vehicle with passengers, or baggage of passengers in a separate vehicle. Accordingly, common carrier applicants will no longer have to request specific commodity authority. A request for authority to transport "passengers" will meet all of applicant's authority needs. Contract carrier applications are not affected by these provisions and requests will remain in their current form.

Specific provisions of the legislation address the problem of burdensome operating restrictions on existing certificates. Section 10922(i)(3) states that a certificate to transport passengrs "* * * shall be deemed to authorize (but not require)—(A) round-trip operations where only one-way authority exists. * * *" Section 10922(i)(3) also provides at (B) that certifiates shall be deemed to authorize, but not require, special and charter transportation from all points in a political subdivision of a State in any case where the authority provided for in this section is limited to one or more points of origin. Section 10922(c)(9) states that authority to provide special or charter transportation includes

authority to provide such transportation as round-trip service. These provisions are self-executing and require neither initiation by carriers, nor administrative action by the Commission. Further, these statutory provisions plainly indicate a legislative intention that we no longer should issue certificates with such restrictions. Consequently, unless there is good reason shown for not doing so, we will require applicants to request round-trip authority and special or charter authority from all points in a political subdivision of a State rather than from specific points.

Section 10922(i)(4) directs the Commission, upon a carrier's request, to remove intermediate point restrictions from existing regular-route certificates to authorize interstate transportation service to all intermediate pints on any route covered by the certificate. This will be implemented in Ex Parte No. MC–142 (Sub-3), *Restriction Removal Procedures—Motor Passenger Carriers—Intermediate Points,* published concurrently with this notice. To prevent future authorities from being subject to the same restrictions, we propose to prohibit intermediate point restrictions in regular-route authorities. Service over regular-routes is to be authorized to all intermediate points, as well as to those off-route points specifically sought by applicants. Finally, the entry provisions of this legislation reflect an intent to relax regulation and eliminate unnecessary barriers to competition. Towards this end, we encourage applicants to frame their requests for authority (both "fitness-only" and "public intrest") in broad terms, as opposed to the fragmented, limited applications common in the past.

The House Report (H. Rep. No. 97–334, 97th Cong., 1st Sess. at 32) directs that we consider the possiblility of inserting intermediate point restrictions in fitness only grants of regular route interstate operating authority for rural communities pursuant to 49 U.S.C. 10922(c)(4)(A) in order to prevent applicants from using this application procedure as a ruse to obtain regular route authority to serve major cities as intermediate points. We have considered the use of such restrictions and we believe that such restrictions would be inappropriate.[1] First, they would be contrary to the spirit of the Act which is to allow motor passenger carriers freely to provide service and to stimulate the market place through increased competition. Second, it would discriminate against new entrants which would rceive permanently restricted authority while similarly situated existing carriers would be eligible to have restrictions removed from their certificates. Third, it is unnecessary to prevent misuse of the fitness only provisions, because we have the power to dismiss any application under this provision not made in good faith. Finally, it would be destructive of the goal of the fitness only provision itself, which is to encourage carriers to provide service to isolated rural communities.

If the intermediate point restrictions were imposed, it is doubtful that many carriers would be interested in serving rural communities if they could not also supplement their revenues with fares from the larger intermediate points. For these reasons, we intend not to place any intermediate point restrictions in "fitness only" grants to serve rural communities pursuant to 49 U.S.C. 10922(c)(4)(A).

Applicant's verified statement. Because a motor passenger applicant need only establish that it is fit, willing, and able to acquire authority, its verified statement will now be shorter. To satisfy its burden of proof, we propose that the applicant certify that it is in compliance with DOT safety regulations or, if a new entrant, certify that it has access to, is familiar with, and will comply with, relevant DOT safety regulations. Before beginning operations, an applicant will be required, as now, to comply with relevant statutory insurance requirements to satisfy the insurance aspect of the new fitness standard.

Applications to perform any of the three categories of service under section 10922(c)(4) must contain specific information to qualify for the type of service proposed in a manner similar to that required under § 1100.251(h) of our rules for motor property applicants.

Applicants will be required to include a brief description of the service they will perform if the application is granted to demonstrate that the proposed service is properly described and conforms with the definition for the service.

Notice. We propose that each applicant continue to submit a caption summary with its application which contains a concise, accurate, and complete description of the scope of its proposed operations suitable for publication in the **Federal Register.** Section 28 of the Act allows the Commission to adopt, after a rulemaking, a special procedure for providing interested parties reasonable notice of entry applications, rather than requiring use of the **Federal Register.** Accordingly, any reference to publication in the **Federal Register** in this notice and proposed rules should also be read to include any other means of publication of applications the Commission may adopt pursuant to section 28. Section 10328(b)(1) has been modified to eliminate the statutory requirement that notice of filing of new applications be provided to state regulatory commissions of the States in which the applicant proposes to operate.

Reply. If the application is opposed, the applicant may want to file a reply statement. In fitness-only applications, the reply should only rebut a protestant's claims that applicant is unfit to perform the service or that it does not qualify for fitness-only treatment. In public interest applications, however, where protestants can also argue that the proposal is not consistent with the public interest, the applicant may also want to address that issue.

How to oppose requests for authority

A carrier opposing a request for motor passenger authority must first establish that it meets the protest standards in section 10922(c)(7). Intervention is also allowed under subparagraph (C) on the ground of safety fitness. Motor contract carriers of passengers are prohibited under section 10922(c)(8) from protesting applications of motor common carriers of passengers.

As previously discussed, protestants in "fitness only" applications may only introduce evidence establishing that the applicant is unfit or cannot qualify for the type of service proposed; public interest protestants may also argue that the proposal is not consistent with the public interest.

Intrastate Authority

Statutory Highlights

Section 6 of the Act provides at subsection (c)(2) of 49 U.S.C. 10922, as follows:

(2)(A) The Commission shall issue a certificate to a person authorizing that person to provide regular-route transportation entirely in one State as a motor common carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier has authority on the effective date of the Bus Regulatory Reform Act of 1982 to provide interstate transportation of passengers if the

[1] We do not believe we are obligated to impose restrictions by virtue of the essentially hortatory language of the House Report which has not reiterated in either the Senate Report or the Report of the Committee on Conference. As indicated, we have considered the use of such restrictions and have rejected resort to imposition of intermediate point restrictions for the reasons set forth.

Commission finds that the person is fit, willing, and able to provide the intrastate transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized would directly compete with a commuter bus operation and it would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed.

(B) The Commission shall issue a certificate to a person authorizing that person to provide regular-route transportation entirely in one State as a motor common carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier has been granted authority or will be granted authority after the effective date of the Bus Regulatory Reform Act of 1982 to provide interstate transportation of passengers if the Commission finds that the person is fit, willing, and able to provide the intrastate transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized is not consistent with the public interest.

Congress determined that restrictive State entry policies which deny carriers performing operations under interstate rights the authority to pick up and discharge passengers traveling between intrastate points over the interstate routes result in an unreasonable burden on interstate commerce. *Id.* at 9. As a result, these provisions govern, for the first time, applications for intrastate operating rights by motor common carriers for authority to provide transportation entirely in one State. Amendments to section 10101(a)(3) recognize that the national transportation policy with respect to passenger carriers can be achieved by a rational and less burdensome system of State regulation. The Commission is directed to: cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this subtitle; provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this subtitle; and ensure that Federal reform initiatives contained in this Act are not nullified by State regulatory actions.

Sections 10922(c)(2) (A) and (B) allow the Commission to issue certificates for regular-route transportation of passengers performed entirely in one State by a motor common carrier also on the basis of a "fitness-only" showing by the applicant, unless protestants satisfy their respective burdens of proof. Sections 10922(c)(2) (A) and (B) applies to any motor passenger carrier transportation between two points along a carrier's interstate route within a state regardless of the origin or destination of the bus. As long as the two points form some part of a carrier's existing ICC regular route interstate operating authority, intrastate service between those points falls within the Commission's jurisdiction under this Section of the new Act. Section 10922(c)(2)(H) specifies that these provisions do not apply to regular-route transportation of passengers provided entirely in one State which is in the nature of special operations. The mixing of regular route passengers and charter or special operations passengers in the same vehicle, which is permitted interstate carriers under section 10922(j)(2)(A), is disallowed in intrastate transportation by subsection (j)(2)(B), unless the carrier has the appropriate State authority and the State permits such mixing.

Finally, section 10922(c)(2)(C) prohibits the regulation by local, State, or Federal authorities of the pickup and delivery of express packages, newspapers, or mail within the commerical zone of a city by a carrier authorized by this Commission to serve that city in regular-route service service as a common carrier of passengers, if the shipment has had or will have a prior or subsequent movement by bus in intrastate commerce. The provision allows immediate entry for interstate carriers to provide pick-up and delivery express service within the commercial zone of each city they serve. *Id.* at 10.

Application Procedures

Introduction

Section 10922(c)(2)(G) requires the Commission to take final action on applications filed under section 10922(c)(2)(A) within 90 days. The 90-day time limit for acting on such applications requires that they be processed under a simple and expedited procedure. The proposed procedure is set forth at 49 CFR 1130a in Appendix C. Applications filed under the provisions of subsection (c)(2)(B), however, are subject to the normal deadlines for Commission action in licensing proceedings and will be governed by the procedures proposed at 49 CFR 1100.253 and 1100.254 set forth in Appendix B.

Form of request. Decisions on applications under sections 10922(c)(2) (A) and (B) will be made on case-by-case basis. We propose that all requests for intrastate authority be submitted on application Form OP-1. The proposed revisions to Form OP-1, which are described in Appendix D, include provisions for intrastate passenger applications.

Service proposal and docketing procedure. No intrastate operating right can be authorized by the Commission except over regular routes that the applicant is authorized to serve in interstate commerce. An applicant seeking authority to provide intrastate service must describe the desired authority in terms of the regular service routes described in the underlying interstate authority. The authority to be granted should be described together with the underlying interstate service authorization. Issuance of a separate certificate is impractical and creates ambiguities in interpreting a carrier's regular-route operating rights. An application for intrastate authority shall be assigned the next available sub-number under applicant's docket. Any underlying interstate authority upon which the applicant may be relying in that proceeding would be superseded by the certificate to be issued upon a grant of the application. That certificate would embrace the newly authorized intrastate rights and any underlying interstate authority. Comments on any practical difficulties with this approach are encouraged.

Consolidation of authorities. We propose to permit the consolidation of more than one authority in a single application if the underlying authorities are "reasonably related." We invite comments on which authorities should be considered reasonably related.

Service description. Intrastate authority will be issued on the service routes over which an applicant is authorized to provide interstate transportation of passengers and may not exceed the underlying routes upon which the application is based. An applicant may propose intrastate authority over the interstate route without regard to its ability to conduct intrastate operations over any portion of the route under State authority or an applicant may propose merely to fill gaps in existing State operating authority. Intrastate operations will be authorized to include service at all intermediate points on the underlying route, or any portion of the route, upon which the application is base. An applicant's service request should correspond to the entire route described in the underlying interstate authority, or to a portion of the route, without intermediate point restrictions. This comports with the statute and congressional concern that the Commission assure opportunities for

new service and promote competition and maximum equipment use.

Applicant's verified statement. In addition to establishing its fitness, an applicant must show either that it possesses authority to provide interstate regular-route transportation over the routes on which it proposes to perform intrastate regular-route service or that it has been, or will be, granted that authority. Whether an applicant holds the underlying interstate authority on the effective date of the Act determines the statutory provision under which the application is to be filed and the information to be submitted. Intrastate authority can be granted only if applicant holds or has been granted the underlying interstate authority. An applicant should also submit a proposed redraft of the underlying authorities. The draft certificate would include the service description contained in each of the underlying interstate authorities and the modifications to reflect the proposed intrastate operations.

Notice. Each applicant would be required to submit with its application a caption summary suitable for publication in the **Federal Register**, which contains a summary of the underlying interstate authority or authorities and a description of the proposed operations. As with interstate applications, we do not intend to require applicants to notify State regulatory commissions of their applications because of the change to section 10328.

Applications for Intrastate Authority under 10922(c)(2)(B)

Proposed procedure. Applicants filing intrastate authority requests under these provisions will be granted authority if they establish their fitness and that they have been granted the underlying interstate authority after the effective date of the Act, unless a protestant establishes that the transportation to be authorized is not consistent with the public interest. The "public interest" standard is the same test required of protestants of interstate regular route applications filed under section 10922(b)(1)(A), except in those "fitness-only" interstate applications at section 10922(c)(4). We propose that intrastate applications be governed by the procedures proposed for handling interstate regular-route applications to ensure equitable and uniform disposition.

A uniform application procedure will allow applicant to seek both interstate and intrastate authority in the same application. To establish that it is requesting intrastate authority on a route over which interstate authority has been granted after the effective date of the Act, an applicant would have to submit a copy of an appropriate existing interstate right upon which it is relying, a description of an appropriate pending interstate application, or a request for the underlying interstate rights simultaneously in the same application in which it seeks the intrastate rights. A denial of a pending or concurrently filed request for interstate authority would result in the denial of the intrastate request. Applications in which an applicant requests both the interstate regular-route authority and the corresponding intrastate authority will provide the applicant with the ability to compete effectively and efficiently in accordance with the Congressional mandate. We propose to adopt the rules in Appendix B to implement the provisions of subsection (c)(2)(B).

Proposed rules. Applicants including those applying concurrently for the underlying interstate regular-route authority, will submit a request on application Form OP-1 by checking the appropriate boxes reserved for applications filed under this subsection. These applications are listed in Form OP-1 under the heading at part (c) for passenger "public interest" applications.

The rules proposed in Appendix B at 49 CFR 1100.253 and 1100.254 to govern all applications for interstate authority as motor carriers of passengers include applications under subsection (c)(2)(B). In addition to providing certain standard information in the verified statement, and applicant is to submit information specifically described at 49 CFR 1100.253(f)(9). Qualifying protestants are to submit the factual evidence required of "public interest" protestants under 49 CFR 1100.254(f).

Applications for Intrastate Authority Under 10922(c)(2)(A)

Proposed Procedure. A qualifying applicant who files under these provisions will be granted authority unless a protestant demonstrates that the intrastate service would directly compete with a commuter bus operation and would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed. The entry provisions under subsection (c)(2)(A) and the restriction removal provisions at section 10922(i)(4) of the Act provide for the removal of regulatory restrictions from an existing regular route over which a carrier has been performing operations on or before the effective date of the Act to allow full use of an entire route. The "commuter bus operations" test imposed on protestants is the same evidentiary burden as that imposed on opponents to restriction removal requests under section 10922(i)(4). Also, the Commission is required to take final action within 90 days after the filing of a request in both areas.

Accordingly, we propose to adopt a procedure similar to that proposed in Ex Parte No. MC-142 (Sub-3), *Supra*, (which modifies the earlier adopted rule contained at 49 CFR 1137) to handle restriction removal requests under the new Act. The restriction removal procedure has been used successfully by the Commission to process many requests under the Motor Carrier Act of 1980. The proposed rules at 49 CFR 1130a set forth in Appendix C modify the procedure to conform with the statutory requirements applicable to applications filed under section 10922(c)(2)(A). Carriers seeking intrastate authority under (c)(2)(A) are likely also to be seeking removal of intermediate point restrictions from their existing certificates. A uniform process for these actions would ease the financial and administrative burdens of the parties and greatly ease the processing of these requests.

The 90-day time limit make it impossible for the Commission to provide for a full-scale adversary proceeding. We propose to issue a decision accompanied by a certificate authorizing the operations granted. This will allow commencement of intrastate service upon the effective date of a decision and upon compliance with certain insurance and other requirements, unless the decision is stayed by the Commission. Such a decision will be considered a final action of the Commission, subject to review at the Commission's discretion (as opposed to an "appeal of right"). Appeals would be governed by the "exceptional circumstances" standard and otherwise by 49 CFR 100.98.

Proposed rules. Applicant would be required to submit a request for authority under section 10922(c)(2)(A) on Form OP-1, which is further revised at Appendix D to include these applications. Applicants are to check the service box under the heading at part (d) entitled "90-Day Intrastate Application" and also mark the envelope accordingly to ensure prompt attention. A separate verified statement must contain the information listed at 49 CFR 1130a.3(b).

Given the 90-day time limitation, we propose that the Commission generally publish notice of the application in the **Federal Register** within 10 days of its filing. It is particulary important that the caption summary submitted by an applicant concisely and accurately describe the full scope of the proposed intrastate operations in a form suitable

for publication. The time limits do not allow for supplementation or correction of the caption summary, so an application which does not contain an appropriately described summary would be rejected.

If an applicant establishes a prima facie showing and meets the evidentiary burden required under section 10922(c)(2)(A), a certificate will be issued unles a qualifying protestant satisfies the "commuter bus operations" test. The burden of proof is on the protestant to demonstrate that the intrastate service proposed would directly compete with a commuter bus operation and would have a significant adverse effect on all commuter bus service in the area in which the competing service will be performed. Comments are encouraged on weighing the competing factors in evaluating "significant adverse effect."

Issuance and Authority

In order to mesh procedures for administrative review with the procedures governing the issuance of certificates or permits under the Act, authority will be issued (a) only after the 20-day filing period for petitions for discretionary review to the full Commission has expired and no such petition is filed, or (b) if a petition is timely filed, only after the full Commission issues its decision. These procedures are employed by the Commission to govern the issuance of operating rights under the Motor Carrier Act of 1980.

Energy and Environmental Considerations

This proposed action does not appear to affect significantly the quality of the human environment or conservation of energy resources. However, we anticipate that their adoption will improve carrier operating efficiency and reduce mileage, with a resulting beneficial impact on the conservation of energy resources. Comments on these issues are welcome.

Regulatory Flexibility Statement

The proposed application rules will provide an expedited procedure to enable moter passenger carriers to obtain interstate and intrastate operating authority. They will not have a significant economic impact upon a substantial number of small entities. The rules could also have a modest, though beneficial, economic impact upon an unascertainable number of carriers, counties, townships, towns, and villages.

Small carriers will be able to enter new routes or service areas. Eased entry, concurrent with the Act's liberalized exit policies and increased freedom to adjust schedules, fares, and rates, will make it easier for small carriers who do not have extensive financial resources to experiment with new services and in new markets without undertaking long-term commitments at substantial cost and economic risk. By being able to acquire intrastate authority to complement interstate service, these carriers will have an additional means available to improve operational and energy efficiency. The increased competition that should result from eased entry ultimately will benefit small communities and the public by making available efficient service at the lowest rates consistent with the quality of service that consumers prefer.

List of Subjects

49 CFR Part 1045B

Administrative practice and procedure, Brokers, Buses, Motor carriers.

49 CFR Part 1046

Brokers, Buses, Motor carriers, Reporting requirements.

49 CFR Part 1100

Administrative practice and procedure.

49 CFR Part 1130a

Administrative practice and procedure, Motor passenger carrier intrastate licensing.

Summary

We propose to adopt the rules set forth in Appendix A, to amend Title 49, Parts, 1045B, 1046, 1100 and to add Part 1130a of the Code of Federal Regulations and the proposed changes in Application Form OP–1 listed in Appendix B.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

(49 U.S.C. 10321 and 10922, and 5 U.S.C. 553)

Decided: September 10, 1982.

Agatha L. Mergenovich,

Secretary.

Appendix A

Title 49, Code of Federal Regulations Parts 1045B, 1046, and 1100 are proposed to be amended as follows:

PART 1045B—PASSENGER BROKER LICENSING [REMOVED]

1. Part 1045B, Passenger Broker Licensing, would be removed.

PART 1046—BROKERS OF PASSENGER TRANSPORTATION [REMOVED]

2. Part 1046, Brokers of Passenger Transportation, would be removed.

PART 1100—GENERAL RULES OF PRACTICE

3. The heading of § 1100.251 would be revised to read as follows:

§ 1100.251 How to apply for operating authority (except motor passenger).

4. In paragraph (a)(1), the words "passengers or" would be removed.

5. In paragraph (c)(2), the reference to "§ 1100.253i" would be revised to read "1100.255(i)."

6. In the Key for Regular Applications in paragraph (f), items (2), (4), and (5) would be removed and item (3) would be redesignated as item (2) and items (6)–(9) would be redesignated as items (3)–(6).

7. In Information To Be Submitted in paragraph (f) the reference to "except 5" in item (5) would be removed, item (9) would be removed and items (10)–(12) would be redesignated as items (9)–(11).

8. In paragraph (h), item (1) under Key for Fitness Only Applications would be revised to read as follows:

* * * * *

(h) * * *

(1) Motor carrier of property applications.

* * * * *

9. Paragraph (s)(3) would be removed and paragraphs (s)(4)–(6) would be redesignated as (s)(3)–(5).

10. The heading of §1100.252 would be revised to read as follows:

§ 1100.252 How to oppose request for authority (except motor passenger).

§ 1100.253 [Redesignated as § 1100.255 and amended]

11. In paragraph (g), the reference to "§ 1100.253(i)" would be revised to read "§ 1100.255(i)."

12. Section 1100.253 would be redesignated at § 1100.255.

13. In paragraph (e)(3), the reference "and § 1100.253(k)" would be added to follow the reference to "§ 1100.253(m)."

14. In paragraph (i), the reference "and § 1100.253" would be added to follow the reference to § 1100.251.

Appendix B

1. A new §1100.253 would be added to read as follows:

Title 49 Code of Federal Regulations, Part 1100 is proposed to be amended as follows:

§ 1100.253 How to apply for operating authority—motor passenger.

(a) *Applications governed by these rules.* These rules govern the handling of applications for permanent operating authority of the following types:

(1) Applications for certificates and permits to operate as a motor common or contract carrier of passengers in interstate or foreign commerce.

(2) Applications for certificates under 49 U.S.C. 10922(c)(2)(B) to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant has been granted or will be granted interstate authority after the effective date of the Bus Regulatory Reform Act of 1982 ("the Act").

Note.— Applications for certificates under 49 U.S.C. 10922(c)(2)(A) to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant already holds interstate authority as of the effective date of the Act are governed by the provisions at 49 CFR 1130a.

(b) *Types of proof required for applications for operating authority to perform motor carrier transportation of passengers.* All types of authority to transport passengers by motor vehicle can be obtained by an applicant showing only that it is fit, willing, and able to provide the transportation to be authorized and to comply with the law and Commission regulations. Fit, willing, and able means safety fitness and proof of insurance pursuant to the minimum financial responsibility requirements of section 18 of the Act.

(1) "Fitness-only" applications. Certain types of applications require only the finding that the applicant is fit, willing, and able. These applications can be opposed only on the grounds that applicant is not fit or does not fall into a fitness-only category of service under the Act. These applications are:

(i) Motor common carrier of passengers charter transportation.

(ii) Motor common carrier of passengers special transportation.

(iii) Motor common carrier of passengers authority to serve any community not regularly served by a certificated motor common carrier of passengers.

(iv) Motor common carrier of passengers authority to provide service as direct substitute for complete abandonment or discontinuance of all rail or commercial-air passenger service in a community.

(v) Motor common carrier of passengers transportation to any community where the only interstate motor common carrier of passengers has applied to discontinue such interstate service or to reduce intrastate service to less than one trip per day (excluding Saturdays and Sundays).

(vi) Motor contract carrier of passengers transportation.

(2) "Public interest" applications. Certain types of applications require the finding that applicant is fit, willing, and able, and when protested that the transportation to be authorized is consistent with the public interest. In addition to the grounds listed in (b)(1) above, a protestant may oppose the application on the grounds that a grant of the application will not be consistent with the public interest. These applications are:

(i) Motor common carrier of passengers transportation provided by an applicant receiving governmental financial assistance for the purchase or operation of buses, or by an applicant that is an operator for such a recipient, except to perform a service described in paragraphs (b)(1), (iii), (iv), or (v) of this section.

(ii) Motor common carrier transportation of passengers over regular routes in interstate or foreign commerce, except to perform a service described in paragraphs (b)(1), (iii), (iv), or (v) of this section.

(iii) Motor common carrier transportation of passengers over regular routes in intrastate commerce filed under 49 U.S.C. 10922(c)(2)(B).

(c) *Procedures used generally*—(1) Modified procedure. Almost all cases are handled under the modified procedure. The applicant and protestants send statements made under oath (verified statements) to each other and to the ICC. There are no personal appearances or formal hearings.

(2) Oral hearings. Oral hearings are used infrequently. Either an applicant or a protestant may request oral hearing at any time during the proceeding. The rules governing requests for oral hearings are set forth at § 1100.255(i).

(d) *Starting the application process:* Form OP–1.

(1) All applicants shall use Form OP–1.

(2) Obtain the form at Commission regional and field offices, or call any of the following headquarters offices: Publications (202–275–7833), Ombudsman (202–275–7863), or Small Business Assistance (202–275–7597).

(e) *Information to be submitted by applicants.*

(1) A completed OP–1 form, except for the appendix.

(2) A caption summary describing the authority sought.

(3) A separate verified statement from the applicant, as described in paragraph (f) of this section.

(f) *Applicant's verified statement.* Applicant shall file the information described in this paragraph. The information shall be provided in separately numbered paragraphs.

(1) Legal name and domicile of applicant.

(2) Name of witness presenting evidence and why this person is qualified to speak for applicant (*e.g.*, position with applicant and experience).

(3) Authority requested in this application (caption summary description).

(4) A brief description of the service that will be provided if this application is granted.

(5) Safety evidence: Motor passenger carriers holding ICC authority shall indicate that they are in compliance with DOT safety regulations. New entrants shall state the following:

I certify that I have access to and am familiar with all applicable regulations of the U.S. Dept. of Transportation relating to the safe operation of commercial vehicles and the safe transportation of hazardous materials, and I will comply with these regulations.

Note to applicants.—These regulations are found in Title 49 of the Code of Federal Regulations, Parts 171 to 179 and Parts 390 to 399. Information concerning safety and hazardous materials regulations may be obtained by calling 202–426–1700 or 202–426–1726.

(6) Application under § 1100.253(b)(1)(iii): If the application is to serve a "community not regularly served," describe the location of the community and the Interstate or other major highways which serve the community. If known, state the last date of service from other carriers and their identity, and the subsequent dates when service was requested from these carriers.

(7) Application under § 1100.253(b)(1)(iv): If the application is for transportation services as a substitute for discontinued rail or commercial-air passenger service, give the location of the points sought to be served; certify that rail or commercial-air service, or both, was offered at the points for which authority is sought; and certify that all rail and commercial-air service has been discontinued, and give the effective date of the latest discontinuance. The application must be filed within 180 days after the latest discontinuance becomes effective.

(8) Application under § 1100.253(b)(1)(v): If the application is to provide transportation to any community where the only interstate motor common carrier of passengers seeks to discontinue such interstate

service or to reduce intrastate service to less than one trip per day (excluding Saturdays and Sundays), certify that the community has only one interstate appropriate reference to, existing carrier's application to the Commission for discontinuance or reduction.

(9) Application under § 1100.253(b)(2)(iii): If the application is for a certificate to provide regular-route transportation entirely in one State under the provisions of 49 U.S.C. 10922(c)(2)(B), submit a copy of each of the authorities granted after the effective date of the Act which authorizes the transportation of passengers in interstate commerce on the regular routes over which the proposed intrastate transportation is to be provided, or refer to pending applications for such authority, and submit a proposed redraft of the certificate to be issued upon a grant of the application.

Note.—The proposed redraft should include the regular-route service description contained in each of the underlying interstate authorities, numbered separately by sub-number, and a description of the intrastate operations to be authorized. Applicant should submit sufficient information under paragraph (4) of this paragraph for the Commission to determine readily the precise portions of the existing service routes over which applicant proposes to obtain intrastate authority. Applicant must request the underlying interstate transportation in the same application as the request for intrastate authority if applicant has not already been granted interstate authority and does not have pending an application for interstate authority. No draft of a proposed certificate would be submitted with such applications. A denial or rejection of the underlying interstate proposal would require the rejection of the request to provide intrastate transportation.

(10) Any oral hearing request (optional). Verification: Separate verification of this statement is not necessary. Applicant understands that the oath in the application form applies to this statement.

(g) *Where to send the application.* (1) The original and one copy shall be sent to the Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423, with the proper application fee. Make checks payable to the Interstate Commerce Commission.

(2) One copy of the application shall be sent to the ICC regional office in which applicant is domiciled.

(h) *Commission review of the application.* (1) ICC staff will review the application for correctness, completeness, and for adequacy of the evidence.

(i) Minor errors will be corrected without notification to the applicant.

(ii) Materially incomplete applications will be rejected without prejudice to refiling. Applications that are in substantial compliance with these rules will be accepted.

(iii) An employee review board will decide whether there is adequate evidence so that the full scope of the authority applicant seeks may be published in the **Federal Register**. If there is not, the application will be rejected in a letter. An applicant may appeal rejections made under paragraphs (h)(1)(ii) and (h)(1)(iii) of this section. See § 1100.253(r). If an applicant chooses to resubmit the application, it shall refer to its prior application by docket number and give the ICC fee number stamped on the canceled check so as to avoid a second fee being assessed. If no appeal or resubmittal is made, the fee will not be refunded. The date of refiling will be considered the date of the application.

(2) The caption summary will be published in the **Federal Register** to give notice to the public in case anyone wishes to oppose the application. The application will be published in the form of a grant of authority.

(3) If the **Federal Register** publication does not properly describe the authority being sought because of ministerial error, applicant shall inform the ICC's Section of Operating Rights as soon as possible. Where notification is received within 10 days of the publication, ministerial errors will be corrected and the notice will be republished. Notification after 10 days will result in republication only at the Commission's discretion, and may result in an application being rejected without prejudice to refiling.

(i) *Changing the request for authority or filing supplementary evidence after the application is filed.* (1) An applicant may not supplement evidence once the application is filed (unless directed to do so by the Commission).

(2) Amendments to the application are not permitted.

(j) *After publication in the Federal Register.* (1) Interested persons have 45 days to file protests. See § 1100.254.

(2) If no one opposes the application, the grant published in the **Federal Register** will become effective.

(3) If no one opposes an application for an extension of authority, the grant published in the **Federal Register** will be made effective by issuance of a certificate or permit that will be effective when applicant meets compliance requirements outlined in the certificate or permit. If no one opposes an application for initial authority, the grant published in the **Federal Register** will be made effective by a Commission notice outlining compliance requirements which must be met before applicant can receive a certificate or permit and commence the proposed service.

(k) *Furnishing a copy of the application package to interested persons.* Applicant is required to furnish a copy of the application package to interested persons after publication. A request for the package must be made in writing to applicant and must contain a check or money order for $10, payable to applicant. Applicant need not supply copies to any person not sending the appropriate payment. Applicant is required to mail the copy within 3 days of the receipt of the request being received. Non-compliance with this rule may result in dismissal of the application.

(l) *Opposed applications.* If the application is opposed, opposing parties are required to send a copy of their protest to the applicant.

(m) *Filing a reply statement.* (1) If the application is opposed, applicant may file a reply statement. This statement is due at the Commission within 60 days of the **Federal Register** publication.

(2) The reply statement need not be notarized or verified. Applicant understands that the oath in the application form applies to all evidence submitted in the application. Separate legal argument by counsel need not be notarized or verified.

(n) *After all statements are submitted.* (1) When the proceeding is handled under modified procedure, the next notification to the parties will be the service of the initial decision.

(2) If the proceeding is handled by oral hearing, parties will receive a notice to this effect.

(o) *Application withdrawal.* If applicant wishes to withdraw an application, it shall request dismissal in writing.

(p) *Caption summary.* (1) The caption summary, which shall accompany all applications, shall be in the form prescribed by the Commission. Commission field and regional offices and the Small Business Assistance Office (202–275–7597) offer assistance in preparing correct caption summaries, or examples may be found in the daily **Federal Register**.

(2) Applications for motor common carrier transportation of passengers over regular routes in intrastate commerce filed under 49 U.S.C. 10922(c)(2)(B). Where an applicant holds an underlying, interstate regular-route grant of authority to provide transportation on routes over which applicant proposes to provide intrastate transportation, or has

pending an application for such authority, the caption summary should provide a brief summary of the authorized or pending interstate authority and a description of the intrastate transportation to be authorized. Where applicant is relying upon more than one underlying interstate grant of authority, each authority or pending application shall be summarized, and the proposed intrastate service shall be described, in separately numbered paragraphs, by specific sub-number.

(q) *Compliance.* An applicant must comply with the following requirements before beginning operations under a certificate or permit: 49 CFRA Part 1043 (Insurance), Part 1044 (Designation of Process Agent), and Part 1306 (Tariffs).

(r) *Appeals.* (1) If a review board or other decisional body rejects an application, applicant has a right of appeal. The appeal must be filed at the Commission within 10 days of the date of the letter of rejection.

(2) If the appeal is successful and the filing is found to be proper, the application shall be deemed to have been properly filed as of the decision date on the appeal.

2. A new § 1100.254 would be added to read as follows:

§ 1100.254 How to oppose requests for authority—motor passenger.

(a) *Definitions.* A person wishing to oppose an application governed by the procedures in 49 CFR 1100.253 for permanent authority to operate as a motor carrier of passengers may file a protest. A person filing a valid protest becomes a protestant.

(b) *Time for filing.* A protest shall be filed (received at the Commission) within 45 days after notice of the application appears in the **Federal Register.** A copy of the protest shall be sent to applicant at the same time. Failure to timely file a protest waives further participation in the proceeding.

(c) *Contents of the protest.* (1) All information upon which the protestant plans to rely must be put into the protest.

(2) A protest must be verified, as follows:

I, ————, verify under penalty of perjury under the laws of the United States of America, that the information above is true and correct. Further, I certify that I am qualified and authorized to file this protest. (*See* 18 U.S.C. 1001 and 18 U.S.C. 1621 for penalties.)

———————————

(Signature and date).

(3) A protest not in substantial compliance with these rules will be rejected.

(4) A protestant files two separate types of evidence. Protestants shall submit qualifications evidence in the format in paragraph (d) of this section and factual evidence, according to the guidelines in paragraph (e) or (f) of this section.

(d) *Qualifications format.* This information shall be submitted in separately numbered paragraphs:

(1) Docket number of application being opposed.

(2) Name and domicile of protestant, including lead docket number, if any.

(3) Name and address of protestant's representative.

(4) Name and address of witness presenting the evidence, and why qualified to speak for protesting party.

(5) Description of the extent to which the person seeking to protest possesses authority to handle the traffic for which authority is applied, is willing and able to provide service that meets the reasonable needs of the traveling public, and has either performed service within the scope of the application during the 12-month period before the application was filed or has actively in good faith solicited service within the scope of the application during that period, or

(6) Description of any application which the protestant has pending before the Commission which was filed before applicant's application and which covers substantially the same traffic, or

(7) Description of any other legitimate interest not contrary to the transportation policy set forth in 49 U.S.C. 10101(a), or of any right to intervene under a statute. A person seeking to qualify under this paragraph shall describe in detail the circumstances which warrant its participation and how they are consistent with 49 U.S.C. 10101(a). The Commission may permit such person to intervene if it shows that a proceeding is novel or of first impression, is of industry-wide importance, or has significant economic impact beyond the impact on protestant itself. Any carrier may protest under this paragraph on the grounds of safety fitness.

Note.—A motor contract carrier of passengers may not protest an application to provide transportation as a motor common carrier of passengers.

(e) *Factual evidence format for fitness-only applications:* Scope. The types of applications listed in § 1100.253(b)(1) may be protested only on the grounds listed here.

(1) Evidence that applicant cannot meet the statutory fitness criteria.

(2) Evidence that the application does not properly fall within one of the statutorily described categories.

Note.—If the Commission finds that the application does not properly fall within one of the categories, the application shall be dismissed without prejudice to the filing of an application for authority under other criteria.

(3) Legal argument (optional).

(4) Verification.

(5) Certificate of service.

(6) Request for oral hearing (optional).

(f) *Factual evidence format for public interest applications:* Scope. The types of applications listed in § 1100.253(b)(2) may be protested only on the grounds listed here.

(1) Evidence that a grant of the application would not be consistent with the public interest. Four factors are to be considered, to the extent applicable, in determining whether authorization would be consistent with the public interest.

(i) The transportation policy of section 10101(a) of this title,

(ii) The value of competition to the traveling and shipping public,

(iii) The effect of issuance of the certificate on motor carrier of passenger service to small communities; and

(iv) Whether issuance of the certificate would impair the ability of any other motor common carrier of passengers to provide a substantial portion of the regular-route passenger service which such carrier provides over its entire regular-route system. Diversion of revenue or traffic from a motor common carrier of passengers in and of itself shall not be sufficient to support a finding that issuance of the certificate would impair the ability of the carrier to provide a substantial portion of the regular-route passenger service which the carrier provides over its entire regular-route scheduled system. The routes and services of affiliates and subsidiaries of protestant shall be considered part of a protestant's system.

(2) Evidence that applicant cannot meet the statutory fitness criteria.

(3) Legal argument (optional).

(4) Verification.

(5) Certificate of service.

(6) Request for oral hearing (optional).

(g) *Requests for oral hearing by a protestant.* The Commission will handle application proceedings under § 1100.253 using the modified procedure, if possible. *See* § 1100.255(i). Protestants shall file requests for oral hearing with their protests.

(h) *To whom the protest is sent.* (1) An original and one copy of the protest shall be sent to the Office of the Secretary, ICC, Washington, DC 20423. The docket number of the proceeding shall be placed conspicuously on the top of the first page of the protest.

(2) Concurrent with the filing in paragraph (h)(1) of this section, a copy shall be sent to applicant.

(i) *Obtaining a copy of the application.* (1) A copy of the application is available for inspection at the Commission's offices in Washington, DC, or the regional office of applicant's domicile. (2) In addition, applicant is required to send a copy to interested persons upon payment of a $10.00 charge. *See* § 1100.253(k).

(j) *Withdrawal.* A protestant wishing to withdraw from a proceeding shall inform the Commission and the applicant in writing.

Appendix C

Title 49 of Code of Federal Regulations is proposed to be amended as follows:

A new part 1130a would be added to read as follows:

PART 1130a—RULES GOVERNING THE ISSUANCE OF A CERTIFICATE TO PROVIDE REGULAR-ROUTE TRANSPORTATION OF PASSENGERS ENTIRELY IN ONE STATE UNDER 49 U.S.C. 10922(c)(2)(A)

Sec.

1130a.1 Controlling legislation.
1130a.2 Definitions.
1130a.3 Filing of applications.
1130a.4 Processing of applications.
1130a.5 Decision.
1130a.6 Compliance.

Authority: 49 U.S.C. 10321 and 10922; 5 U.S.C. 553.

§ 1130a.1 Controlling legislation.

(a) *Applicability of rules.* A motor common carrier of passengers establishing that it has authority on the effective date of the Bus Regulatory Reform Act of 1982 ("the Act") to provide interstate transportation of passengers on a route over which the carrier now proposes to provide regular-route transportation entirely in one state will be granted a certificate to provide the intrastate transportation if the Commission finds that the carrier is fit, willing, and able to provide the intrastate transportation and to comply with Commission rules and regulations, unless the Commission finds, on the basis of evidence presented by a person objecting to the issuance of the certificate, that the transportation to be authorized would directly compete with a commuter bus operation and would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed.

Note.—Applications for certificates under 49 U.S.C. 10922(c)(2)(B) to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant is granted interstate authority after the effective date of the Act are governed by the provisions at 49 CFR 1100.253 and 1100.254.

(b) *Time limits.* The Commission will take final action upon an application filed under 49 U.S.C. 10922(c)(2)(A) for authority to provide transportation entirely in one State not later than 90 days after the date the application is filed with the Commission.

§ 1130a.2 Definitions.

Commuter bus service or operation means short-haul, regularly scheduled passenger service provided by motor vehicle in metropolitan and suburban areas, whether within or across the geographical boundaries of a State, and used primarily by passengers using reduced fare, multiple-ride, or commutation tickets during morning and evening peak periods of operation.

§ 1130a.3 Filing of applications.

(a) *Form and filing.* (1) An applicant is to file a completed application Form OP–1. Applicant is to check the service box provided under the heading at part (d) entitled "90-DAY INTRASTATE APPLICATION."

(2) The form may be obtained at Commission regional and field offices, or by calling the Office of the Secretary at 202–275–7833.

(3) The signed original and one copy of the application and all required documents described in paragraphs (b), (c), (d), and (e) of this section shall be sent to the Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423, with the proper application fee to be submitted with the Form OP–1. Make checks payable to the Interstate Commerce Commission.

(4) One copy of the application shall be sent to the ICC regional office in which applicant is domiciled.

(b) *Verified statement.* Applicant shall file the information described below in a separate statement attached to the application and in separately numbered paragraphs:

(1) Legal name and domicile of applicant, and the docket number assigned by the Commission to the applicant's authorities.

(2) Name of witness presenting evidence and why this person is qualified to speak for applicant.

(3) Brief description of the proposed redraft of the certificate to assist the Commission in determining the portions of the existing service routes over which applicant proposes to obtain intrastate authority.

(4) Safety evidence. Applicants should state that they are in compliance with DOT safety regulations.

Note to Applicants.— These regulations are found in Title 49, Code of Federal Regulations, Parts 171 to 179 and Parts 390 to 399. Information concerning safety and hazardous materials regulations may be obtained by calling this toll-free number: 800–424–0158.

(c) A copy of the interstate authority or authorities issued on or before the effective date of the Act authorizing the regular routes over which applicant seeks to obtain intrastate authority.

(d) A proposed redraft of the authority or authorities upon which the application is based showing broadened authority including the proposed intrastate service. The redraft shall be in the same format as the original authority. It should include the regular route service description contained in each underlying authority, numbered separately by sub-number, and modifications indicating the intrastate operating rights to be authorized. Applicant should submit sufficient information under subpart (3) of the application for the Commission to determine readily the precise portions of the existing service routes over which applicant proposes to obtain intrastate authority.

(e) A caption summary (an original and one copy) of the intrastate authority requested, suitable for publication in the **Federal Register.** The caption summary shall include an accurate summary of the intrastate, regular-route authority that applicant seeks to obtain and of the underlying service routes described in the existing interstate certificate. The summary should indicate existing authorities, by sub-numbers, which would be superseded by issuance of a certificate upon a grant of the application.

(f) Consolidation of authorities. Applicants may combine requests for intrastate authority in a single application relying on more than one interstate authority if the underlying authorities are reasonably related. In applications based on more than one authority, the requests shall be clearly marked and segregated according to each certificate, and each request shall comply with the requirements set forth in § 1130a.3. Failure to comply may result in a rejection of the application.

(g) Repeat applications. A certificate can be modified under these rules more than one time. However, an application shall not be filed under these rules before a preceding application to obtain the same intrastate authority has been processed by the Commission.

§ 1130a.4 Processing of applications.

(a) Notice to interested persons. (1) Notice to the public of the filing of an application under these rules will be given by the Commission through publication of a caption summary in the **Federal Register.**

(2) A copy of the application is available for inspection at the Office of the Secretary, ICC, Washington, DC 20423, and the regional office of applicant's domicile.

(b) Filing of protests. A person wishing to oppose an application may file a protest. The protest must contain the information required by this paragraph. Protests shall be filed (received at the Commission) within 25 days after notice of the application appears in the **Federal Register.** An original and one copy of the protest shall be sent to the Office of the Secretary, ICC, Washington, DC 20423. The docket number of the proceeding shall be placed on the top of the first page. A copy of the protest shall be sent to applicant at the same time. Failure to timely file a protest waives further participation in the proceeding.

(c) Furnishing a copy of the application package to interested persons. Applicant is required to furnish a copy of the application package to interested persons after publication. The request must be in writing and must contain a check or money order for $10, payable to applicant. Applicant need not supply copies to any person not sending the appropriate payment. Applicant is required to mail the copy within 3 days of receipt of the request. Non-compliance with this section by applicant may result in dismissal of the application.

(d) Contents of the protest. All information upon which the protestant plans to rely should be put into the protest. The comments and the envelope shall be clearly marked in a corner as follows: "90-Day Intrastate Application." A protest not in substantial compliance with these rules will be rejected. A motor contract carrier of passengers may not protest an application to provide transportation as a motor common carrier of property. A protestant shall submit qualifications evidence and factual evidence, as described below.

(1) Docket number of application being opposed.

(2) Name and domicile of protestant, including lead docket number, if any.

(3) Name and address of protestant's representative.

(4) Name and address of witness presenting the evidence, and why qualified to speak for protesting party.

(5) Qualifications evidence. (i) Description of the extent to which the person seeking to protest possesses authority to handle the traffic for which authority is applied, is willing and able to provide service that meets the reasonable needs of the traveling public, and has either performed service within the scope of the application during the 12-month period before the application was filed or has actively in good faith solicited service within the scope of the application during that period; or

(ii) Description of any application which the prospective protestant has pending before the Commission which was filed before applicant's application and which covers substantially the same traffic; or

(iii) Description of any other legitimate interest not contrary to the transportation policy set forth in 49 U.S.C. 10101(a), or of any right to intervene under a statute. A person seeking to qualify under this paragraph shall describe in detail the circumstances which warrant its participation and how they are consistent with 49 U.S.C. 10101(a). Under this subparagraph, any carrier may protest on the grounds of safety fitness.

(6) Factual evidence to establish that the intrastate service would directly compete with a commuter bus operation, and that the direct competition would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed.

(i) A summary, description, or copy of the specific commuter authorities in conflict with that sought in the application, if pertinent.

(ii) Information to demonstrate: that the proposed service is directly competitive with a commuter bus service, that the proposed service will adversely affect commuter bus service in a significant manner, and the degree to which all commuter bus services in the area where the competing service would be performed would be adversely effected.

(7) Factual evidence that applicant is not fit, willing, or able under the statutory fitness criteria.

(8) Legal argument (optional).

(9) Verification, as follows:

I, ——— ——— verify under penalty of perjury under the laws of the United States of America, that the information above is true and correct. Further, I certify that I am qualified and authorized to file this protest. (*See* 18 U.S.C. 10101 and 18 U.S.C. 1621 for penalties.)

———————————

(Signature and date).

§ 1130a.5 Decision.

(a) Basis. Applications will be decided solely on the basis of the application and the protests that are received. There will not be an opportunity for oral hearing nor for submission of any other evidence under modified procedure.

(b) The Commission's decision. (1) Notice of applications will be published in the **Federal Register** in the form of tentative decisions granting the authority requested. If no protests are filed, the application will stand granted, without any further public notice, at the conclusion of the 25-day protest period, unless the Commission, prior to that time, stays the effectiveness of the tentative decision.

(2) If protests are filed, a final decision will be reached by the Commission before the expiration of the 90-day time period for final action.

(c) Administrative finality and appeals. A decision disposing of an application subject to these rules is a final action of the Commission. Any party seeking review should specify the "extraordinary circumstances" involved in the proceeding which would require the Commission to reopen the proceeding. Review of such an action on appeal is discretionary and is otherwise governed by the Commission's appeal regulations at 49 CFR 1100.98.

§ 1130a.6 Compliance.

(a) A reformed certificate will be issued upon a grant of an application. Prior to the beginning operations under the newly issued authority, compliance must be made with the following statutory and regulatory requirements: 49 CFR Parts 1043, 1044, and 1306.

Appendix D

Application Form OP–1 is revised as follows:

At page 2, move three lines below heading "Fitness-Only Applications" to top of page.

Change heading to "(a). Property Fitness-Only Applications" and insert entire section below the top three lines.

Number each of the types of service under (a). as (1) through (7).

After section (a). add:

(b). Passenger Fitness-Only Applications

[ ] (1) Motor common carrier of passengers charter transportation.

[ ] (2) Motor common carrier of passengers special transportation.

[ ] (3) Motor common carrier of passengers authority to serve any community not regularly served by a certificated motor common carrier of passengers.

[ ] (4) Motor common carrier of passengers authority to provide service as a direct substitute for the complete abandonment or discontinuance of all rail or commercial-air passenger service in a community.

[ ] (5) Motor common carrier of passengers transportation to any community where the only interstate motor common carrier of passengers has applied to discontinue such interstate service or to reduce intrastate service to less than one trip per day (excluding Saturdays and Sundays).

[ ] (6) Motor contract carrier of passengers transportation.

(c) Passenger Public Interest Applications

[ ] (1) Motor common carrier of passengers transportation provided by an applicant receiving governmental financial assistance for the purchase or operation of buses, or by an applicant that is an operator for such a recipient, except to perform a service described in (b)(3), (4), or (5) above.

[ ] (2) Motor common carrier transportation of passengers over regular routes in interstate or foreign commerce, except to perform a service described in (b)(3), (4), or (5) above.

[ ] (3) Motor common carrier transportation of passengers over regular routes in intrastate commerce filed under 49 U.S.C. 10922(c)(2)(B) on a route over which applicant has been granted authority or will be granted authority in interstate commerce after the effective date of the Bus Regulatory Reform Act of 1982.

Note.—An applicant which has not been granted or does not have pending an application for the underlying interstate, regular-route authority over which the intrastate operations are to be performed may file a request for such intrastate authority only if the underlying interstate, regular-route transportation is requested also in this application.

(d) 90-Day Intrastate Passenger Application

[ ] Motor common carrier transportation of passengers over regular routes in intrastate commerce filed under 49 U.S.C. 10922(c)(2)(A) on a route over which applicant already has authority as of the effective date of the Bus Regulatory Reform Act of 1982.

Note.—Applicant shall clearly mark the envelope containing the application and the upper right-hand corner of the front page of this application: "90-Day Intrastate Passenger Application."

[FR Doc. 82-26704 Filed 9-28-82; 8:45 am]
BILLING CODE 7035-01-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 400 (Sub-1)]

Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed procedures.

SUMMARY: The Commission is proposing procedures for handling individual petitions for exemption filed by motor carriers of property under 49 U.S.C. 11343, in light of the Bus Regulatory Reform Act of 1982, Pub. L. 97–261, enacted September 20, 1982. This legislation amends 49 U.S.C. 11343 to provide that the Commission may exempt motor carriers of property from the merger, consolidation, and acquisition of control provisions of sections 11343, 11344, and 11345a if the transaction meets criteria like those applied to all rail carriers in 49 U.S.C. 10505. Under the proposed procedures, the Commission will generally issue a final decision based solely on the petition.

DATES: Comments must be submitted by October 19, 1982.

ADDRESSES: Send comments (an original plus 10 copies) to: Interstate Commerce Commission, Section of Finance, Room 5349, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245, or Gloria E. Blazsik (202) 275–0948.

SUPPLEMENTARY INFORMATION: Section 21(b) of the Bus Regulatory Reform Act of 1982, Pub. L. 97–261, enacted September 20, 1982 (Bus Act), authorizes the Commission to exempt merger, consolidation, and acquisition of control transactions involving motor carriers of property from the pertinent provisions of 49 U.S.C. 11343, 11344, and 11345a. The Commission may exempt a person, class of persons, transaction, or class of transactions if we find that examination of the transaction is not necessary to carry out the national transportation policy of 49 U.S.C. 10101 and either that the transaction is of limited scope or that examination is not needed to protect shippers from the abuse of market power. The Commission may revoke an exemption if we find that review of the transaction is necessary to carry out the national transportation policy of section 10101, or if it is necessary to review and address the effects on adversely affected employees. Section 21(b) also requires that at least 60 days before any exempt transaction may take effect, a carrier intending to participate in the transaction must file with the Commission a notice of its intention to do so. We must prescribe the information to be included in the notice, and ensure that the public is given notice of the transaction.[1]

The Staggers Rail Act of 1980 (Pub. L. No. 96–448, 94 Stat. 1895, October 14, 1980) (Staggers Act) amended 49 U.S.C. 10505 by granting the Commission broad authority to exempt rail transactions of all kinds from regulation, and by eliminating the requirement that a proceeding be held in all rail exemption matters. The legislative history of the Staggers Act indicated that Congress, in eliminating this requirement, intended to give the Commission wide-ranging flexibility in rail exemption matters. In Ex Parte No 400, Modification of Procedure For Handling Exemptions Filed Under 49 U.S.C. Section 10505 (not printed), served December 29, 1980 (45 FR 85180 December 24, 1980), we announced new procedures for handling petitions for exemption under section 10505 in light of the Staggers Act. There, we adopted rules under which the Commission would make an initial decision to grant the exemption as long as the petition did not indicate that the proposed exemption could potentially have a significant adverse impact or the impact was not readily ascertainable from the petition. We also eliminated notice and comment procedures and provided that a final decision, based solely on the petition for exemption, be issued. In our opinion, Congress intends to give the Commission similar flexibility in the motor exemption area. Accordingly, the procedures proposed here generally follow those established in Ex Parte No. 400, *supra*.

As we did in Ex Parte No. 400, we will not require initial notice and comment in most cases. Pursuant to section 21(b) of the Bus Act, the petition seeking an exemption under 49 U.S.C. 11343(e)(1) will be considered a notice of intent. The petition shall contain at least the following: (1) The names of all the parties involved; (2) the nature and scope of the transaction; and (3) the representatives of the parties to be contacted concerning the proposal. Upon receipt of the petition, we will publish a notice of the transaction in the *ICC Register*, a new Commission publication announced in Ex Parte MC–163 *Procedures For Providing Notice of Specified Applications Through an ICC Register in Lieu of Federal Register Notice*, which is being served currently with this decision. An initial determination will then be made as to whether the transaction requires regulation: if the Commission finds that prior Commission approval of the transaction is (1) not necessary to carry out the transportation policy of section 10101 and (2) either (A) the transaction is of limited scope or (B) regulation is not needed to protect shippers from the abuse of market power, notice of a final decision on the exemption proposal will be published in the *ICC Register* which is proposed to be established in Ex Parte No. MC–163, published concurrently with this notice. This will generally be effective 30 days from publication, as long as this date is no sooner than 60 days after the petition seeking exemption was filed.

This procedure provides an opportunity for anyone, including employees objecting to the decision, to file petitions seeking reconsideration. These petitions must be filed within 20 days of the date of publication. The filing of the petition will not automatically stay the effectiveness of the decision. Nonetheless, the Commission may, on its own motion or on petition, stay the effective date while considering any petitions. Petitions to stay must be filed within 10 days of the date of publication. These are similar to the time frames established in Ex Parte No. 400. We will process all petitions for exemption expeditiously to meet statutory requirements.

In extraordinary circumstances, the Commission may determine that a decision on a particular exemption petition should become effective either immediately upon *ICC Register* publication or in less than 30 days after publication, but this effective date will not be less than the required 60 day period. In such circumstances, the decision will specify the time period for filing petitions to reopen.

In cases where the impact of the proposed exemption is not readily ascertainable from the petition, or where it appears that employees may be adversely affected, we may exercise our discretion to seek notice and comment instead of making an initial determination.

These procedures will enable us to expedite decisions in the motor exemption area without depriving interested persons of an opportunity to state their views. While our procedures do not involve the issuance of new regulations, comments from the public on these procedures will be useful.

[1] Should additional rules be required for exemption of a class of persons or a class of transactions, the matter will be addressed in a separate proceeding. In any event, as specified in the statute, no exempt transaction may take effect on less than 60 days' notice.

This action will not affect significantly the quality of the human environment or conservation of energy resources.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Simmons was absent and did not participate.

(49 U.S.C. 11343 and 5 U.S.C. 553)

Decided: September 15, 1982.

Agatha L. Mergenovich,

Secretary.

Appendix

Procedures For Filing Exemptions Pursuant To 49 U.S.C. 11343(e)

A motor carrier of property intending to file a petition seeking exemption from the requirements of 49 U.S.C. 11343 regarding a merger, consolidation, and acquisition of control transaction must file with the Commission an exemption petition. The petition shall contain at least the following: (1) The name of all the parties involved; (2) the nature and scope of the transaction; and (3) the representatives of the parties to be contacted concerning the proposal. When the petition is filed, notice of it will be published in the *ICC Register*, and processed by the Commission. An initial determination will then be made as to whether regulation of the transaction is (1) necessary to carry out the transportation policy of 49 U.S.C. 10101; and (2) either (A) whether the transaction or service is of limited scope, or (B) whether regulation is needed to protect shippers from the abuse of market power.

If the determination is made that regulation is not necessary, a summary of the final decision will be published in the *ICC Register*, generally to be made effective 30 days from the date of publication, but in no instance less than 60 days after the petition was filed.

[FR Doc. 82-26713 Filed 9-28-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 55 (Sub-43D)]

Certification of Canadian or Mexican Ownership or Control of Applicants for Motor Common or Contract Carrier Authority

AGENCY: Interstate Commerce Commission.

ACTION: Temporary procedure.

SUMMARY: The Commission is temporarily modifying its procedures for applying for motor carrier operating authority to comply with the congressional prohibition against issuing operating authority to certain applicants set forth in the Bus Regulatory Reform Act of 1982. As long as the moratorium is in effect all applicants in motor carrier operating rights, finance, and restriction removal proceedings must make certifications with respect to domicile in Canada or Mexico, or ownership or control by persons of Canada or Mexico as part of verified statements accompanying their applications. Failure to make a required certification will result in rejection of the application.

EFFECTIVE DATE: September 29, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph B. O'Malley, Jr. (202) 275-7928, or Howell I. Sporn (202) 275-7691.

SUPPLEMENTARY INFORMATION: Section 6 of the Bus Regulatory Reform Act of 1982 prohibits the Commission from issuing a certificate to a motor common carrier, or a permit to any motor contract carrrier domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country for a period of 2 years after the effective date of the Act. The President may extend this moratorium if a contiguous foreign country or any political subdivision thereof substantially prohibits grants of authority to persons from the United States to provide for-hire transportation therein. The President may also end or modify the terms of the moratorium if he should determine that it would be in the national interest to do so. The legislative history indicates that the purview of the measure extends to all operating right finance, and restriction removal proceedings.

In accordance with the terms of the moratorium the President has determined that a partial suspension thereof with respect to Canada is in the national interest. Effective September 21, 1982, applications by Canadian domiciled, owned, or controlled motor carriers for motor carrier merger, consolidation, acquisition of control, temporary authority, emergency temporary authority, or for permanent authority involving the interstate transportation of traffic moving entirely within the United States (that is not in foreign commerce), are excepted, at least temporarily, from the coverage of the moratorium. The Commission may also grant other types of authority in accordance with appropriate statutory provisions after giving great weight to the national transportation policy (particularly the mandates to promote "economical and efficient transportation" and "to encourage sound economic conditions among carriers"). The President also determined that no modification of the moratorium is warranted with respect to Mexico.

Our present procedures do not require applicant motor carriers to identify the nationality of those persons who own or control these carriers. In some cases domicile identification likewise may not be required. Accordingly, to comply with the requirements of the new Act we must modify our procedures temporarily.

After consideration of various options, we have decided on a method that we believe places the least burden on motor carrier applicants, but at the same time insures that the Commission will receive the information necessary to comply with the moratorium. All motor carrier applicants will be required, as part of verified statements accompanying their applications, to make certain certifications regarding their domicile, ownership, or control. One of two alternative certifications set forth below must be employed, the choice depending on the circumstances applicable to a particular carrier.

The first form should be used by applicants having no domiciliary, ownership, or control relationship with either Mexico or Canada, and should be in the following form:

> I certify that the applicant in this proceeding is not domiciled in any country contiguous to the United States. Moreover, the applicant is not owned by or controlled by persons of any such country.

The alternative form should be used by applicants unable to make the above-described certification. These carriers must also certify that they have neither Mexican domicile, ownership, nor control. In addition, they must certify the nature of any such domicile, ownership, or control relationship involving Canada. Details need not be furnished at this stage. The certification must be in the following form:

> I certify that the applicant in this proceeding is not domiciled in Mexico. Moreover, the applicant is not owned by, or controlled by persons of that Country. Applicant is domiciled in Canada (or controlled by or owned by persons of that country).

One of these two forms of certification must appear on the first page of the verified statement immediately following the name and address of the applicant. Failure to include the certification will result in rejection of the application. The Commission will determine the applicability of the moratorium to the authority sought. A person desiring to challenge an applicant's representation of domicile, ownership, or control may do so as part of a pleading filed in accordance with the provisions of 49 CFR 1100.241 or 1100.252, 49 CFR Part 1132, or 49 CFR Part 1137.

Because this temporary procedural change is merely a change in agency procedure or practice, we believe that notice to the public and opportunity to comment prior to adoption of the

temporary procedure is not required. 5 U.S.C. 553(b)(3)(A). In addition, notice and comment would be both impracticable and unnecessary. 5 U.S.C. 553(b)(3)(B). The moratorium becomes effective upon enactment and it is necessary that the Commission take immediate steps toward implementation. The mandate of the new statutory provision is clear and leaves no discretion in the Commission. In our procedures we have attempted to track its language and intent as closely as possible without placing an undue burden on motor carrier applicants. The uncertain duration of the moratorium also militates against any lengthy consideration of public input into our decision. For the above reasons, we find that there is good cause to dispense with notice and comment procedures. Similarly, there is good cause under 5 U.S.C. 553(d)(3) for making the procedure effective on less than 30 days notice. Congress has determined that the moratorium should become immediately effective and thus the public interest requires the agency to act immediately or the intent of Congress will be frustrated.

This action will not have any significant impact on the quality of the human environment or conservation of energy resources.

The provisions of 5 U.S.C. 603 require that the Commission examine the impact of our action on small businesses and small organizations. We can perceive no significant economic impact on small entities as a result of this temporary procedure.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

(49 U.S.C. 10321, and 10922 (1), and 5 U.S.C. 553)

Decided: September 27, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26873 Filed 9-28-82; 8:45 am]

BILLING CODE 7035-01-M

federal register

Wednesday
September 29, 1982

Part V

Office of Management and Budget

Budget Deferral

OFFICE OF MANAGEMENT AND BUDGET

Budget Deferral

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report a new deferral of $6,500,000 for the Department of Commerce and a revision to an existing deferral increasing the amount deferred by $1,250,000 for the United States Information Agency (formerly the International Communication Agency).

The details of the deferrals are contained in the attached reports.

Ronald Reagan.

The White House,
September 23, 1982.

BILLING CODE 3110-01-M

COMMUNICATION FROM THE PRESIDENT OF THE UNITED STATES
(In thousands of dollars)

Deferral No: D82-253

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral #	Item	Budget Authority
	Department of Commerce	
	Science and Technical Research	
D82-253	Scientific and technical research and services	6,500
	Other Independent Agencies	
	United States Information Agency	
D82-249A	Salaries and expenses (special foreign currency program)	1,950
	Total, deferrals	8,450

SUMMARY OF SPECIAL MESSAGES
FOR FY 1982
(in thousands of dollars)

	Rescissions	Deferrals
Eighteenth special message		
New items	---	6,500
Change to amount previously submitted	---	1,250
Effect of eighteenth special message	---	7,750
Previous special messages	7,734,461	8,207,547
Total amount proposed in special messages	7,734,461	8,215,297 1/

1/ This amount represents budget authority except for $20,922 thousand in one general revenue sharing deferral of outlays only (D82-23A).

Deferral No: D82-253

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. 97-161): $117,922,000
Bureau: Science and Technical Research	Other budgetary resources: 5,835,585
Appropriation title & symbol: Scientific and Technical Research and Services 13X0500	Total budgetary resources: 123,657,585
	Amount to be deferred: Part of year: ___ Entire year: 6,500,000
OMB identification code: 13-0500-0-1-376	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ___
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ___ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ___

Justification: This deferral action reflects the Department of Commerce's decision to do a comprehensive study on the feasibility of establishing a Department-wide scientific computer center to provide for a large-scale scientifically oriented computer capability. This computer facility, recommended in GAO Report #GAO/CED 82-81, would improve service at lower costs to its users. The study is planned for completion by December 31, 1982. This deferral action preserves $6.5 million for the balance of FY 1982 and is taken under the provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effects: This action will delay the purchase of the National Bureau of Standards (NBS) computer. However, if the planned study results in a central computer facility for the Department of Commerce, the savings resulting from the consolidation will more than offset the time delay in procuring the NBS computer.

Outlay Effect: This deferral action will have no effect on FY 1982 outlays.

D82-249A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Publication 93-344

This report revises Deferral No. D82-249, transmitted to the Congress on June 2, 1982.

The amount deferred for the Salaries and expenses (special foreign currency program) account is $1,950,000, an increase of $1,250,000 over the amount previously reported as deferred. This increase is a result of additional budgetary resources realized from recoveries of prior year obligations, additional reimbursements, and savings resulting from foreign exchange rate changes.

[FR Doc. 82-26816 Filed 9-28-82; 8:45 am]
BILLING CODE 3110-01-C

Deferral No: D82-249A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: United States Information Agency *1/	New budget authority (P.L. 97-161) $ 9,800,000
Bureau:	Other budgetary resources 2,769,243*
Appropriation title & symbol: Salaries and expenses, (special foreign currency program) 67X0205	Total budgetary resources 12,569,243*
	Amount to be deferred: Part of year ____ Entire year 1,950,000*
OMB identification code: 67-0205-0-1-154	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification:* The United States Information Agency (USIA) is authorized to carry out international communication, cultural and education exchange programs. The "Salaries and expenses (Special Foreign Currency Program)" account is used to pay USIA local program expenses in U.S.-owned foreign currencies in those countries where the Department of Treasury determines that the supply of local currency is in excess of the normal requirement of the U.S. Government. In fiscal year 1982, the "excess currency" countries are Burma, Guinea, India, and Pakistan.

The amounts available under this appropriation exceed 1982 program requirements due to a higher unobligated balance carryover than originally estimated. Also, additional budgetary resources have been realized from recoveries of prior year obligations, increased reimbursements, and savings resulting from exchange rate changes. The excess funds are being reserved for contingencies under provisions of the Antideficiency Act (31 U.S.C. 665) and will be used for program needs in succeeding years.

Estimated Effects: None. The amount deferred could not be obligated before fiscal year 1983.

Outlay Effect: There is no outlay effect from this deferral, because the funds would not be obligated if made available.

* Revised from previous report.
1/ Formerly the International Communication Agency.

federal register

Wednesday
September 29, 1982

Part VI

Environmental Protection Agency

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Policy Statement on Revocation of Tolerances for Cancelled Pesticides

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-00145; PH-FRL 2157-3]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Policy Statement on Revocation of Tolerances for Cancelled Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule related notice.

SUMMARY: The purpose of this policy is to describe when and how tolerances will be revoked and action levels substituted for certain pesticide chemicals for which registered uses have been cancelled or which may be cancelled in the future, and what factors will be considered in setting action levels.

FOR FURTHER INFORMATION CONTACT: Mary Waller, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716E, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: This notice sets forth a policy regarding the revocation of formal tolerances for cancelled pesticides and, where necessary, the establishment of action levels for these pesticides. The Food and Drug Administration (FDA), and the Agricultural Marketing Service (AMS) and Food Safety and Inspection Service (FSIS) of the U.S. Department of Agriculture have reviewed and agreed with the policy statement.

The purpose of this policy is to provide a mechanism for establishing action levels in the place of formal tolerances for persistent pesticides which may be cancelled in the future, as well as a mechanism for replacing formal tolerances with action levels for residues of certain persistent pesticides which were subject to past EPA cancellation actions.

Pesticides which were cancelled under FIFRA without the revocation of the corresponding tolerances include: DDT and TDE in 1972 (37 FR 13369), aldrin/dieldrin in 1975 (39 FR 37246) and BHC in 1978 (43 FR 31432). The tolerances were not revoked because the pesticides in question were persistent in the environment, and hence residues were expected to be present in raw agricultural commodities, processed foods and feeds for a significant time period.

The mechanism announced in this notice will allow the replacement of formal tolerances with action levels for persistent pesticides which degrade very slowly in the environment and thus may continue to occur in the food for many years after the legal application of the pesticide has ceased. The agencies are concerned that having formal tolerances remaining in effect for cancelled pesticides may serve to condone use of these pesticides in this country and/or in or on commodities imported from foreign countries. The agencies believe that steps should be taken to replace such tolerances with action levels that cover only unavoidable residue levels of cancelled pesticides in or on raw agricultural commodities, and processed foods and feeds.

This notice discusses the rationale for replacing formal tolerances with action levels for certain cancelled pesticides. This notice also details the criteria that will normally be used in determining appropriate action levels and the mechanisms which will be utilized to replace such tolerances with action levels, both for pesticides which were previously cancelled and for pesticides which will be the subject of future cancellation actions.

I. Pesticide Regulation Under FIFRA

The Environmental Protection Agency has the authority under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), 7 U.S.C. 136, *et seq.*, to regulate the use of pesticide chemicals in the United States. The Act requires that all pesticides which are sold and distributed in the United States must be registered in accordance with the statutory standard for registration set forth in FIFRA. That standard requires, among other things, that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment" (FIFRA, section 3(c)(5)). Under section 6 of FIFRA, the Administrator may cancel the registration of a use of a pesticide or modify the terms and conditions of registration whenever she determines that the use of the pesticide no longer satisfies the statutory standard for registration.

II. Establishment of Tolerances for Use Under FFDCA

For a pesticide to be sold and used in the production of a crop or an animal, generally the pesticide must not only be registered for the particular use under FIFRA, but also must have a tolerance (maximum allowable limit of pesticide residue) or an exemption from a tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 301, *et seq.*) for each individual crop or for the meat of animals on which it will be used or may be present because of another approved use. The FFDCA authorizes the establishment of tolerances and exemptions from tolerances for residues of pesticide chemicals in or on raw agricultural commodities, and the promulgation of food additive regulations for pesticide residues in processed food.

Under section 408 of the FFDCA, a registrant or applicant can file a petition proposing issuance of a formal tolerance or an exemption from such a tolerance for residues of a pesticide chemical in or on raw agricultural commodities or the agency can initiate a tolerance regulation on its own or at the request of any interested person. An agency proposal is published in the **Federal Register** with a complete discussion of the residue and toxicology data which were reviewed by the agency. For a registrant-proposed tolerance, a very brief notice of filing is published in the **Federal Register** within 30 days of filing, and the data base which was reviewed is detailed in the final tolerance rule. A 30-day comment period is provided during which a request for an advisory committee review of the proposed tolerance may be submitted. If the agency does not receive a request for an advisory committee review within the 30-day comment period, the final tolerance regulation can be published at the end of the comment period. Where a request for an advisory committee review is submitted, the agency can publish a final regulation after receipt of the advisory committee review. A hearing on a final tolerance rule can be requested within 30 days of publication of the final rule. Section 409 provides similar procedures for the establishment of tolerances for residues of pesticide chemicals in or on processed foods at the request of any person or by agency action.

In 1970, pursuant to Reorganization Plan No. 3 of 1970, 84 Stat. 3086, the authority for establishing pesticide chemical tolerances and exemptions from tolerances under the FFDCA was transferred from the Food and Drug Administration to the Administrator of EPA. The FDA, however, retained the authority to enforce these tolerances, and to implement seizure actions and regulatory sanctions against raw agricultural commodities or processed foods, other than meat, poultry and products thereof, and egg products in certain circumstances, which are found to be in violation of the adulteration provisions of the FFDCA. In the exercise of this enforcement authority, FDA

conducts a nationwide monitoring program in which representative food samples are analyzed for residues of pesticide chemicals. The surveillance of meat, poultry, and products thereof, for pesticide residues is carried out by the Food Safety and Inspection Service and the surveillance of egg products for pesticide residues is carried out by the Agricultural Marketing Service under the authority granted by the Federal Meat Inspection Act (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (21 U.S.C. 451, *et seq.*), and the Egg Products Inspection Act (21 U.S.C. 1031, *et seq.*). The FSIS, and AMS are authorized to take enforcement action against meat, poultry, products thereof, and egg products which are found to be adulterated in contravention of the provisions of the above-mentioned Acts.

III. Establishment of Action Levels

Food sometimes contains pesticide chemical residues not because of purposeful, direct application, but rather because the pesticide persists in the environment and subsequently contaminates the food. Thus, the presence of the residue in the food cannot be prevented or removed by good agricultural or manufacturing practice. Consequently, residues of pesticides may be present long after cancellation has occurred. In the absence of a tolerance, FDA, FSIS, and AMS rely on an action level recommended by the EPA in determining whether the pesticide chemical is present at levels which make it unsafe and whether regulatory action should be taken. This level is then applied by the FDA, FSIS, and AMS in their regulatory programs.

In determining what action level should be used, the criteria of section 406 of the FFDCA are followed; that is, the level must be sufficient to protect the public health, while also taking into account the extent to which the contaminant is unavoidable. These criteria and the procedures for setting action levels are set forth in FDA's regulations for poisonous or deleterious substances in food (21 CFR Part 109), which were published in the **Federal Register** of Friday, September 30, 1977 (42 FR 52814).

IV. Rationale for Replacing Tolerances With Action Levels

When a pesticide's registration for a food or feed use is cancelled because of concern about the safety of the pesticide, the associated tolerance for use or food additive regulation is no longer justified and logically should be revoked. The tolerance revocation should discourage misuse, i.e., the illegal application of a cancelled pesticide, as well as discourage persons in other countries from exporting to the United States food bearing residues of pesticides which can no longer be legally used in the United States because of safety reasons. For pesticides which degrade rapidly in the environment, particularly in the soil, revoking the tolerance should cause no problem because any pesticide residues remaining from applications prior to the cancellation action would not be expected to be present at detectable levels. However, for pesticides which persist in the environment, i.e., which take long periods of time to degrade, crops may contain detectable residues of these pesticides, perhaps even at or near the tolerance levels, for many years after the application of the cancelled pesticide has ceased. Similarly, the meat of animals fed crops containing such residues may also contain such residues. If the formal tolerances for persistent pesticides were revoked and no other action were taken, land to which the cancelled pesticides have been applied could be unavailable for crop use for many years to come. Therefore, in order to avoid unfairly penalizing food producers whose commodities may still contain unavoidable residues of persistent pesticides which can no longer be legally applied, the agencies have agreed to establish action levels to replace formal tolerances that will be revoked. The action levels will be reviewed periodically and lowered as the chemicals dissipate from the environment.

V. Factors Considered in Setting Acton Levels

EPA has developed certain factors which will be considered during its deliberations on recommending action levels. These same factors will be used to lower the action levels as subsequent data, reviewed periodically, indicate that these chemicals are still present in foods at declining levels. The factors to be considered during action level review are as follows:

1. *Limit of action level.* Action levels will be set limiting the quantity of a pesticide in or on food commodities to the extent necessary to protect the public health. In determining the quantity of pesticide that can be tolerated in or on food or feed commodities, consideration will be given to the extent to which the pesticide cannot be avoided in the production of such commodities. Consideration will also be given to other ways in which the consumer may be affected by the same pesticide or other poisonous or deleterious substances.

2. *Review of surveillance data.* Surveillance data on pesticide residues collected by (a) FDA for food or feed crops, dairy products, and eggs, (b) FSIS for meat and poultry, and (c) AMS for egg products or any other monitoring data available will be reviewed by EPA to determine the current anticipated unavoidable residue levels for a cancelled pesticide. EPA will also review available toxicology data to determine if these residue levels would be unsafe. It is conceivable that, for a given pesticide, no residue level would be acceptable because of the health risk and the agency would be obliged to conclude that the tolerance should be revoked with the concurrent establishment of an action level no higher than the accepted chemical limit of detection.

3. *Crop grouping assessments.* Action levels will be set on crop groups rather than on individual crops, whenever possible, in accordance with the crop groupings listed in 40 CFR 180.34 and the proposed crop grouping scheme as published in the **Federal Register** of May 13, 1982 (47 FR 20635).

4. *Codex review.* Consideration will be given to harmonizing EPA-recommended action levels with those pesticide residue limits recommended by the Codex Alimentarious Commission (Codex). Codex is an international organization set up under the auspices of the Food and Agricultural Organization of the United Nations and the World Health Organization. One of Codex's functions is to develop and recommend tolerances on an international basis. A Codex maximum residue limit (MRL) corresponds in basis and effect to EPA tolerance levels and a Codex extraneous residue limit (ERL) usually corresponds in basis and effect to action levels used by FDA, FSIS, and AMS for unavoidable residues in foods.

VI. Procedure for Converting Tolerances to Action Levels for Pesticides Which Were Previously Cancelled

A **Federal Register** notice will be published setting forth a proposal by EPA to revoke the tolerance involved and stating the reasons for this action. The procedures which must be followed for issuing a regulation repealing a tolerance are set forth in section 408(d), (e), (f), and (g) of the FFDCA for raw agricultural commodities and section 409(d), (e), (f), and (g) of that Act for processed foods. Procedural regulations pertaining to these provisions of the FFDCA are found in 40 CFR 180.7, *et seq.* Once a tolerance revocation becomes effective, an action level will,

where appropriate, be used by FDA, FSIS, and AMS.

VII. Procedure for Converting Tolerances to Action Levels for Pesticides Which Will Be Cancelled in the Future

In the future, when a notice of intent to cancel the pesticide is published, a proposed tolerance revocation notice issued by EPA will be published and simultaneously, if possible, a notice proposing the establishment of an action level will also be published. EPA may request surveillance information from FDA, FSIS, and AMS about pesticide residue levels in food or feed crops, dairy products, eggs and egg products, meat, and poultry in the following situations: (1) Prior to a final cancellation action when concerns have been raised that the use of the pesticide may produce unreasonable adverse effects on the environment; or (2) after the final cancellation action, as applicable. EPA will evaluate these data in light of the toxicological concerns, and recommend to FDA, FSIS, and/or AMS as soon as possible, appropriate action levels to replace the current formal tolerances in accordance with the criteria and procedures set forth in this notice. This mechanism will allow any affected parties to request advisory committee review of the proposed tolerance revocation action during the same 30-day time period provided for hearing requests on the cancellation action.

In the event that a request for submission of the proposed tolerance revocation to an advisory committee is submitted for a tolerance established under section 408 of FFDCA, the advisory committee review will take place prior to the completion of administrative hearings on the cancellation action. By statute, the advisory committee must submit its report and recommendations within 90 days of receipt of the referral; thus, in all likelihood, the advisory committee review will be completed before the beginning of the testimony phase of the cancellation hearing. Whether or not an advisory committee referral is requested, a final tolerance revocation notice will not be published in the **Federal Register** until the administrative conclusion of a cancellation action. The regulation revoking the tolerance is effective upon publication and until such time as it is modified, e.g., by a subsequent regulation issued after a public hearing. In a situation where the cancellation action allows the sale and/or use of existing stocks for a finite time period, the final tolerance revocation notice will not be issued until the expiration of the time period during which these existing stocks could be legally sold and/or used or until the time when residues will not result from the legal use of the pesticide.

In addition to the determination at the end of a cancellation hearing under FIFRA, section 6(b)(1) or 6(b)(2), that some or all the uses of a pesticide are cancelled, a cancellation action can be concluded by the voluntary cancellation of a pesticide by a registrant or failure to request a hearing following the issuance of a notice of intent to cancel under section 6(b)(1). It is anticipated that in the case of cancellation actions that do not follow an administrative hearing, a request for advisory committee review will occur rarely and that, in most cases, the final tolerance revocation notice will be issued shortly after the expiration of the 60-day comment period on the proposed notice of revocation.

For the revocation of food additive regulations under section 409 of the FFDCA, the proposed revocation notice will be published at the same time the notice of intent to cancel the pesticide is published. A notice proposing the establishment of an action level will be published simultaneously, if possible, with the revocation notice. Since section 409 of the FFDCA does not provide a procedure for submission to an advisory committee of proposed food or feed regulation revocations, a final order may be published if no objections are received within 60 days after the publication of the proposed order. The EPA will not promulgate a final revocation notice for publication until the administrative conclusion of a cancellation action. A 30-day period is provided for hearing requests on the final revocation order.

This revocation is effective upon publication in the **Federal Register**; the Administrator may, however, stay the effectiveness of the order if a hearing request is received in response to the revocation notice.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agriculture commodities, Pesticides and pests.

Dated: April 12, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

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H.R. 1710 / Pub. L. 97–283 To authorize the use of the frank for official mail sent by the Law Revision Counsel of the House of Representatives. (September 24, 1982; 96 Stat. 1132) Price: $1.75.

S. 2582 / Pub. L. 97–284 To amend the Act to establish a Permanent Committee for the Oliver Wendell Holmes Devise, and for other purposes. (September 24, 1982; 96 Stat. 1133) Price: $1.75.

S.J. Res. 186 / Pub. L. 97–285 To authorize and request the President to designate the week of September 19 through 25, 1982, as "National Cystic Fibrosis Week". (September 24, 1982; 96 Stat. 1134) Price: $1.75.

S.J. Res. 205 / Pub. L. 97–286 To designate (September 1982 as "National Sewing Month". (September 24, 1982; 96 Stat. 1135) Price: $1.75.

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 27, 28, and 61

Cotton and Cottonseed; Revision in Fees

AGENCY: Agricultural Marketing Service.

ACTION: Final rulemaking.

SUMMARY: The proposed rulemaking of July 16, 1982 (47 FR 30995), to revise fees due to the increased costs of providing cotton classing, cotton linters grading and related services, and supervision of cottonseed grading, is made final.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Loyd R. Frazier, Chief, Marketing Services Branch, Cotton Division, AMS, USDA, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This action has been reviewed under the USDA procedure established in accordance with Executive Order 12291 of February 17, 1981 and has been classified "non-major" as it does not meet the criteria contained therein for major regulatory actions. William T. Manley, Deputy Administrator for Marketing Programs Operations, has determined that this action will not have a significant impact on a substantial number of small business entities because (i) use of the services is voluntary; and (ii) further, if there is any impact, the Secretary is required by statute to make the services available and to recover the costs of the services from the users of the services. This final rule becomes effective on October 1, 1982, less than 30 days after the publication date, because current revenue does not cover the cost of providing the service at this time and since all of these services are directly related to the marketing of cotton, it is desirable that all fee increases have a uniform effective date of October 1, 1982, the beginning of Fiscal Year 1983. Accordingly, under the administrative provisions of 5 U.S.C. 533, good cause is shown for making this action effective October 1, 1982.

The United States Cotton Standards Act (7 U.S.C. 51–65), United States Cotton Futures Act (7 U.S.C. 15b), and Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) authorize the Secretary of Agriculture to provide cotton classing, cotton linters grading and related services and supervision of cottonseed grading to the public on a fee basis. The Secretary is further directed to set such fees for these services as will allow USDA to recover the costs of providing the services.

The services provided include cotton classing, cotton linters grading and cottonseed grading supervision. Due to increases of USDDA costs in providing these services since the last adjustment in fees on October 1, 1981 (46 FR 48111–48113), an average increase in fees of about 5 percent was published in a notice of proposed rulemaking on July 16, 1982 (47 FR 30995). No comments were received during the 60-day comment period and the proposed amendments are adopted without change.

Many factors are considered in calculating the cost of providing services. Increases in personnel costs have had the most significant impact on these costs. Federal salaries have increased 4.8 percent since October 1, 1981. Some increases in expenditures for rent, utilities, and communications have also occurred during that period.

These increases, along with increased costs for supplies and materials, are responsible for an overall increase in the costs of providing services of approximately 5 percent.

List of Subjects

7 CFR Part 27

Classification, Cotton, Micronaire, Samples.

7 CFR Part 28

Cotton linters, Grades, Staples.

7 CFR Part 61

Cottonseed, Chemists, and Grades.

Therefore the following regulatory sections are amended as follows:

PART 27—COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION

1. Section 27.80 is amended by revising paragraphs (a), (b), (d), (e), (f), (g), and (h) to read as follows:

§ 27.80 Fees; classification, micronaire, and supervision.

For services rendered by the Cotton Division pursuant to this subpart, whether the cotton involved is tenderable or not, the person requesting the services shall pay fees as follows:

(a) Initial classification and certification—95 cents per bale.

(b) Review classification and certification—$1.15 per bale.

* * * * * *

(d) Combination service—$2.10 per bale. (Initial classification, review classification, and Micronaire determination covered by the same request and only the review classification and Micronaire determination results certified on cotton class certificates.)

(e) Supervision, by a supervisor of cotton inspection, of the inspection, weighing, or sampling of cotton when any two or more of these operations are performed together—$1.15 per bale.

(f) Supervision, by a supervisor of cotton inspection, of the inspection, weighing, or sampling of cotton when any one of these operations is performed individually—$1.15 per bale.

(g) Supervision, by a supervisor of cotton inspection, of transfers of cotton to a different delivery point, including issuance of new cotton class certificates in substitution for prior certificates)—$2.20 per bale.

(h) Supervision, by a supervisor of cotton inspection, of transfers of cotton to a different warehouse at the same delivery point, including issuance of new cotton class certificates in substitution for prior certificates)—$1.50 per bale.

(90 Stat. 1841–1846; (7 U.S.C. 15b))

PART 28—COTTON CLASSING, TESTING, AND STANDARDS

2. Section 28.116 is amended by revising paragraph (a) to read as follows:

§ 28.116 Amounts of fees for classification; exemption.

(a) For the classification of any cotton or samples, the person requesting the services shall pay a fee, as follows, subject to the additional fee provided in paragraph (c) of this Section:

(1) Grade, staple, and micronaire reading—$1.05 per sample.

(2) Grade and staple only—90 cents per sample.

(3) Grade only or staple only—65 cents per sample.

(4) Micronaire reading only—20 cents per sample.

* * * * *

3. Sections 28.117, 28.120, 28.122, 28.148, and 28.149 are revised to read as follows:

§ 28.117 Fee for new memorandum or certificate.

For each new memorandum or certificate issued in substitution for a prior memorandum or certificate at the request of the holder, thereof, on account of the breaking or splitting of the lot of cotton covered thereby or otherwise for his business convenience, the person requesting such substitution shall pay a fee of $1.90 per sheet.

§ 28.120 Expenses to be borne by party requesting classification.

For any samples submitted for Form A or Form D determinations, the expenses of inspection and sampling, the preparation of the samples, and the delivery of such samples to the classification room or other place specifically designated for the purpose by the Director shall be borne by the party requesting the classification. For samples submitted for Form C determinations, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of $14.65 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

§ 28.122 Fee for practical classing examination.

The fee for the complete practical classing examination for cotton or cotton linters shall be $95. Any applicant who passes both parts of the examination may be issued a certificate indicating this accomplishment. Any person who passes one part of the examination, either grade or staple, and fails to pass the other part, may be reexamined for that part that was failed. The fee for this partial reexamination is $52.

§ 28.148 Fees and costs; classification: reviews; other.

The fee for the classification, comparison, or review of linters with respect to grade, staple, and character or any of these qualities shall be at the rate of 95 cents for each bale or sample involved. The provisions of §§ 28.115 through 28.126 relating to other fees and costs shall, so far as applicable apply to services performed with respect to linters.

§ 28.149 Fees and costs; Form C determination.

For samples submitted for Form C determination, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of $14.65 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

(Sec. 10, 42 Stat. 1519; 7 U.S.C. 61, unless otherwise noted)

4. Section 28.184 is revised to read as follows:

§ 28.184 Cotton linters; general.

Requests for the classification or comparison of cotton linters pursuant to this subpart and the samples involved shall be submitted to the Cotton Division. All samples classed shall be on the basis of the official cotton linters standards of the United States. The fee for classification or comparison and the issuance of a memorandum showing the results of such classification or comparison shall be 95 cents per sample.

(Sec. 205, 60 stat. 1090, as amended; 7 U.S.C. 1624)

PART 61—COTTONSEED SOLD OR OFFERED FOR SALE FOR CRUSHING PURPOSES (INSPECTION SAMPLING AND CERTIFICATION)

5. Sections 61.43, 61.44, 61.45, and 61.46 are revised to read as follows:

§ 61.43 Fee for sampler's license.

In the examination of an applicant for a license to sample and certificate official samples of cottonseed the fee shall be $15, but no additional charge shall be made for the issuance of a license. For each renewal of a sampler's license the fee shall be $13.

§ 61.44 Fee for chemist's license.

For the examination of an applicant for a license as a chemist to analyze and certificate the grade of cottonseed the fee shall be $300, but no additional charge shall be made for the issuance of a license. For each renewal of a chemist's license the fee shall be $100.

§ 61.45 Fee for certificates to be paid by licensee to Service.

To cover in part the cost of administering the regulations in this part each licensed cottonseed chemist shall pay to the Service $1.15 for each certificate of the grade of cottonseed issued by him. Upon receipt of a statement from the Service each month showing the number of certificates issued by the licensee, such licensee will forward the appropriate remittance in the form of a check, draft, or money order payable to the "Agricultural Marketing Service, USDA."

§ 61.46 Fees for the review of grading of cottonseed.

For the review of the grading of any lot of cottonseed, the fee shall be $39. Remittance to cover such fee, in the form of a check, draft, or money order payable to the "Agricultural Marketing Service, USDA" shall accompany each application for review. Of each such fee collected, $13 shall be disbursed to each of the two licensed chemists designated to make reanalysis of such seed.

(Secs. 203 and 205, 60 Stat. 1087 and 1090, as amended; 7 U.S.C. 1622–1624)

Dated: September 27, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-26969 Filed 9-29-82; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 981

Handling of Almonds Grown in California; Salable, Reserve, and Export Percentages for the 1982–83 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes salable, reserve, and export percentages of 98 percent, 2 percent, and 0 percent, respectively, for marketable California almonds received by handlers during the 1982–83 crop year, which began July 1, 1982. This action is taken under the marketing order for almonds grown in California and is designed to encourage the development of almond butter and

school lunch outlets as viable long-term markets for almonds.

EFFECTIVE DATES: July 1, 1982, through June 30, 1983.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified a "nonmajor" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it will result in only minimal costs being incurred by the regulated 29 handlers.

It is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553). The marketing order for California almonds requires that the salable, reserve, and export percentages established for a particular crop year apply to all marketable almonds received by handlers from the beginning of that year. The 1982–83 crop year began July 1, 1982, and handlers are now receiving new crop almonds.

Notice of this action was published in the August 27, 1982, issue of the **Federal Register** (47 FR 37911), and interested persons were afforded an opportunity to submit written comments. One comment was received.

The authority to establish salable, reserve, and export percentages is pursuant to § 981.47 of the marketing agreement and Order No. 981, both as amended (7 CFR Part 981), regulating the handling of almonds grown in California and hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The percentages were unanimously recommended by the Almond Board of California, hereinafter referred to as the "Board", which works with the USDA in administering the order.

Pursuant to §§ 981.47 and 981.49 of the order, the Board based its recommendation for salable, reserve, and export percentages of 98 percent, 2 percent, and 0 percent, respectively, on estimates of marketable supply and combined domestic and export trade demand for the current crop year. The Board's marketable supply estimate of 340 million pounds is based upon its 1982 crop estimate of 365 million pounds minus and estimated weight loss of 25 million pounds. The weight loss is expected from the removal of inedible kernels by handlers and losses during manufacturing.

Trade demand is estimated at 360 million pounds—140 million pounds for domestic needs and 220 million pounds for export needs. An inventory adjustment is made to account for supplies of almonds carried in from the 1981–82 marketing year and for supplies deemed desirable to be carried out on June 30, 1983, for early season shipments during the 1983–84 crop year until the 1983 crop is available for market. After adjusting for inventory, the salable supply is calculated at 333.2 million pounds, the quantity of almonds from the 1982 estimated marketable production necessary for trade demand needs. The salable percentage of 98 percent is established to meet those needs.

The remaining two percent (6.8 million pounds) of the 1982 marketable production must be withheld by handlers to meet their reserve obligations. These almonds will be available to develop outlets noncompetitive with normal domestic and export outlets. The development of such outlets is a long-term necessity for the industry because of anticipated larger crops. The Board plans to use the reserve to develop a market for almond butter and has presented an industry-wide project. The Board's objective is to develop a permanent consumer demand for almond butter and related products that, in time, will absorb a large quantity of almonds. To insure success with this project, the Board believes that initially it is necessary to keep almond butter competitive with peanut butter, which currently dominates the market. In addition, the Board plans to promote the use of almonds in school lunch programs with the objective of encouraging school authorities to buy almonds for those programs on a regular basis. Reserve almonds could also be disposed of in other eligible noncompetitive outlets authorized by the order.

The order permits the Board to include normal export requirements with domestic requirements in its estimate of trade demand when recommending the establishment of salable, reserve, and export percentages for any crop year. For the 1982–83 crop year, estimated exports are included in trade demand, thereby making export a salable outlet rather than a reserve outlet. Because of this action, no portion of the reserve will be eligible for export to normal outlets. Thus, an export percentage of 0 is established.

A complete tabulation of the estimates and calculations used by the Board in arriving at its recommendation is as follows:

MARKETING POLICY ESTIMATES—1982 CROP

[Kernel weight basis]

	Million pounds	Percent
Estimated production:		
1. 1982 crop	365.0	
2. Loss and exempt—6.85%	25.0	
3. Marketable supply	340.0	
Estimated trade shipments:		
4. Domestic	140.0	
5. Export	220.0	
6. Total	360.0	
Inventory adjustment:		
7. Carryin July 1, 1982	161.0	
8. Estimated carryover June 30, 1983	134.2	
9. Adjustment	(26.8)	
Salable/reserve:		
10. Salable supply (6 plus 9)	333.2	
11. Reserve supply (3 minus 10)	6.8	
12. Salable percent (10÷3×100)		98.0
13. Reserve percent (100% minus 12)		2.0

The commenter expressed opposition to the establishment of a reserve percentage, stating that the reserve would limit almond sales to normal markets and, thereby, increase the price of almonds to consumers. The commenter further stated that the increase in price would, in turn, encourage an inefficient expansion of almond acreage. The comment is denied for the reasons contained in the succeeding paragraph.

While the two percent reserve will limit the supply of almonds available to normal markets to a small extent, it is not expected to have any effect on grower and consumer prices in 1982–83. Moreover, there appears to be no correlation between the establishment of reserve percentages and the rapid increase in almond acreage in recent years. During the 1973–74 crop year through 1981–82 crop year period, reserve percentages were established for only two years: A 3.2 percent reserve in 1976–77 and a 25 percent reserve in 1981–82. Both of these reserves were subsequently revoked because market needs dictated this. Nonetheless, total bearing and non-bearing almond acreage increased from 281,528 acres to 407,706 acres during that period.

List of Subjects in 7 CFR Part 981

Marketing agreements and orders, Almonds, California.

Therefore, after consideration of all relevant matter presented, including that in the notice, the Board's recommendation, the comment received, and other available information, it is further found that the establishment of salable, reserve, and export

percentages, as hereinafter set forth, will tend to effectuate the declared policy of the act.

The marketing percentages are as follows: (This subpart will not appear in the Code of Federal Regulations).

PART 981—ALMONDS GROWN IN CALIFORNIA

Subpart—Salable, Reserve, and Export Percentages

Section 981.231 is added as follows:

§ 981.231 Salable, reserve, and export percentages for almonds during the crop year beginning July 1, 1982.

The salable, reserve, and export percentages during the crop year beginning July 1, 1982, shall be 98 percent, 2 percent, and 0 percent, respectively.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 24, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82-26666 Filed 9-29-82; 8:45 am]
BILLING CODE 3410-02-M

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7 CFR Part 1004

Milk in the Middle Atlantic Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends for October and November 1982 provisions of the Middle Atlantic order which relate to the percentage of milk not needed for fluid (bottling) use which may be moved directly from farms to manufacturing plants and still be priced under the order. The suspension makes inoperative the 30 percent limit on the percentage of a handler's producer milk which may be diverted to nonpool plants during the months of September through February. The suspension is in response to a request for emergency action made at a public hearing held on August 24, 1982, in Philadelphia, Pennsylvania, to consider proposed amendments that would increase diversion allowances under the order. This action would enable producers who have been regularly associated with the fluid milk market to continue to have their milk pooled and priced under the order pending completion of proceedings on the proposed order amendments that were considered at the hearing.

EFFECTIVE DATE: September 30, 1982.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6273.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Hearing: Issued August 4, 1982; published August 10, 1982 (47 FR 34573).

This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

This action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers who supply milk for the area will have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Middle Atlantic marketing area.

It is hereby found and determined that for the months of October and November 1982 the following provision of the order does not tend to effectuate the declared policy of the Act:

In § 1004.12, all of paragraph (d) except the introductory text.

Statement of Consideration

This action, based on evidence received at a public hearing held on August 24, 1982, at Philadelphia, Pennsylvania, is requested by Inter-State Milk Producers' Cooperative, a cooperative association which is a handler under the order. It suspends for October and November 1982 the limit on the amount of producer milk which a handler may divert directly from farms to nonpool plants. Currently, a handler may divert to nonpool plants not more than 18 days' production of each producer or, in the alternative, 30 percent of the volume of the handler's total producer milk receipts during the months of September through February.

At the hearing, a proposed amendment was considered that would increase from 30 percent to 40 percent the allowable percentage of a handler's producer milk receipts that may be diverted to nonpool plants. The proponent cooperative, which markets the milk of a substantial number of producers pooled on the Middle Atlantic market, testified that the amendment is necessary to maintain the pool status of its members, who historically have been associated with the market. Proponent requested that the present diversion limits be suspended pending completion of the hearing proceeding.

The basis for the cooperative's request for suspension and proposed amendment is a change from pool status to nonpool status, because of a change in ownership, of a reserve milk processing plant which has been associated with the market for a long time. The plant is located at Belleville, Pennsylvania, and has been a regular outlet for a significant proportion of the market's reserve milk supply handled by proponent cooperative. The cooperative spokesman testified that the change in pool status of the Belleville plant will require that deliveries to the plant be received on a diverted basis in order that producer milk long associated with the market v ill remain pooled. The witness also pointed to continuing trends of increased milk production and declining Class I use as conditions which increase the necessity of diverting Order 4 producer milk to nonpool plants. The additional volume of diversions of producer milk to nonpool plants which Inter-State projected would be required as a result of this combination of factors would be in excess of the 30 percent limit under the order. According to data submitted by proponent at the hearing, actual deliveries by Inter-State to nonpool plants and to the Belleville plant during the months of September through November 1981 exceeded 30 percent of the total producer milk handled by the cooperative.

Representatives of two other cooperative associations marketing milk pooled under the Middle Atlantic order expressed support for the proposed amendments and for the requested suspension. No opposition to either proposal was expressed at the hearing or in post-hearing briefs. The only post-hearing brief received on this issue was filed by proponent, and supported their position taken at the hearing.

Without emergency suspension action, the proponent cooperative would find it necessary to engage in inefficient and costly movements of surplus milk first to pool plants and then to nonpool plants solely for purposes of qualifying producers who otherwise would be excluded from the marketwide pool. Whether or not diversion limits should be increased on a permanent basis by amendment is a matter to be determined after the hearing record and posthearing briefs have been fully reviewed. In the interim, suspension through November is warranted, as it will tend to assure orderly marketing pending the outcome of the hearing proceeding.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that substantial quantities of milk of producers who regularly supply the market otherwise could be excluded from the marketwide pool, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) The marketing problems that provide the basis for this suspension action were fully reviewed at a public hearing held on August 24, 1982, where all interested parties had the opportunity to be heard on proposals to increase the limits on diversions of producer milk to nonpool plants and to suspend those limits pending the outcome of the hearing proceeding.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1004

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions of the order (§ 1004.12, all of paragraph (d) except the introductory text) are hereby suspended for the months of October and November 1982.

Effective date: September 30, 1982.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Signed at Washington, D.C. on September 27, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-26661 Filed 9-29-82; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 1006, 1012, 1013, 1033, 1036, 1040, 1124, 1125, 1133, 1135, and 1139

[Docket Nos. AO-356-A16, et al.]

Milk in the Upper Florida and Certain Other Marketing Areas; Order Amending Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

7 CFR Part	Marketing Area	AO Numbers
1006	Upper Florida	AO-356-A16
1012	Tampa Bay	AO-347-A21
1013	Southeastern Florida	AO-286-A28
1033	Ohio Valley	AO-166-A51
1036	Eastern Ohio-Western Pennsylvania	AO-179-A45
1040	Southern Michigan	AO-225-A34
1124	Oregon-Washington	AO-368-A11
1125	Puget Sound, Washington	AO-326-A29-RO1
1133	Inland Empire	AO-275-A32-RO1
1135	Southwestern Idaho-Eastern Oregon	AO-380-A2
1139	Lake Mead	AO-374-A7

SUMMARY: This action establishes a new procedure for announcing Class II prices under the milk orders involved in this proceeding. A tentative Class II price for a particular month would be announced by the 15th day of the preceding month. The final Class II price would be announced by the 5th day after the month and would reflect, if applicable, the use of the Class II (or Minnesota-Wisconsin) price for that month as a "floor" under the Class II price. The amendments are based on industry proposals considered at a public hearing held on February 3, 1982.

EFFECTIVE DATE: November 1, 1982.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202–447–7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued January 4, 1982, published January 7, 1982 (47 FR 814).

Recommended Decision: Issued June 18, 1982 published June 24, 1982 (47 FR 27342)

Final Decision: Issued August 17, 1982, published August 25, 1982 (47 FR 37178).

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are made with respect to each of the aforesaid orders:

(a) *Findings upon the basis of the hearing record.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the aforesaid marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

B. *Determinations:* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within each of the specified marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending each of the specified orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders as hereby amended;

(3) The issuance of the order, amending the orders (except the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area), is approved or favored by at least two-thirds of the producers, as defined under the terms of each of the orders, who during the determined representative period were engaged in the production of milk for sale within the respective areas; and

(4) The issuance of the order, amending the order, regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area is approved or favored by at least two-thirds of the producers, as defined under the terms of the order, who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the Eastern Ohio-Western Pennsylvania marketing area.

List of Subjects in 7 CFR Parts 1006, 1012, 1013, 1033, 1036, 1040, 1124, 1125, 1133, 1135, and 1139

Milk marketing orders, Milk, Dairy products.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the orders, as amended, and as hereby amended, as follows:

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

1. A new § 1006.19 is added to read as follows:

§ 1006.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1006.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1006.50(b) is revised to read as follows:

§ 1006.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1006.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the basic formula price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the basic formula price for the month plus 15 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1006.51 and add 15 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1006.51a.

3. A new § 1006.51a is added to read as follows:

§ 1006.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1006.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1006.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighing factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1006.53 is revised to read as follows:

§ 1006.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1006.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

1. A new § 1012.19 is added to read as follows:

§ 1012.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1012.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpont of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1012.50(b) is revised to read as follows:

§ 1012.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1012.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the basic formula price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the basic formula price for the month plus 15 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1012.51 and add 15 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1012.51a.

3. A new § 1012.51a is added to read as follows:

§ 1012.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1012.50 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1012.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Progam for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1012.53 is revised to read as follows:

§ 1012.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1012.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

1. A new § 1013.19 is added to read as follows:

§ 1013.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1013.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each

Monday through Friday except national holidays.

2. Section 1013.50(b) is revised to read as follows:

§ 1013.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1013.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the basic formula price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the basic formula price for the month plus 15 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1013.51 and add 15 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1013.51a.

* * * * *

3. A new § 1013.51a is added to read as follows:

§ 1013.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1013.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1013.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1013.53 is revised to read as follows:

§ 1013.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1013.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1033—MILK IN THE OHIO VALLEY MARKETING AREA

1. A new § 1033.21 is added to read as follows:

§ 1033.21 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1033.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average,

for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday, except national holidays.

2. Section 1033.27(k) is revised to read as follows:

§ 1033.27 Additional duties of the market administrator.

* * * * *

(k) Publicly announce on or before:

(1) The 5th day of each month:

(i) The Class I price for the following month;

(ii) The final Class II price for the preceding month, except that the Class II price announced for the first month during which this paragraph is effective shall be the price specified in the proviso in § 1033.51(b);

(iii) The Class III price for the preceding month; and

(iv) The butterfat differential for the preceding month;

(2) The 12th day of each month, the uniform price for the preceding month; and

(3) The 15th day of each month, the tentative Class II price for the following month.

* * * * *

3. Section 1033.51(b) is revised to read as follows:

§ 1033.51 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the proceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1033.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the basic formula price for the month plus 10 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1033.50 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1033.51a.

* * * * *

4. A new § 1033.51a is added to read as follows:

§ 1033.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1033.50 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1033.21 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

1. A new § 1036.20 is added to read as follows:

§ 1036.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1036.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1036.50(b) is revised to read as follows:

§ 1036.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1036.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the basic formula price for the month plus 10 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1036.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1036.51a.

* * * * *

3. A new § 1036.51a is added to read as follows:

§ 1036.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to paragraph (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1036.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factors used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the

yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1036.53 is revised to read as follows:

§ 1036.53 Announcement of class prices.

The market administrator shall announces publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1036.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1040—MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

1. A new § 1040.21 is added to read as follows:

§ 1040.21 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1040.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1040.50(b) is revised to read as follows:

§ 1040.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1040.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the Class III price for the month plus 15 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to §1040.51 and add 15 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1040.51a.

* * * * *

3. A new § 1040.51a is added to read as follows:

§ 1040.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1040.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed using price data determined pursuant to § 1040.21 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the

butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1040.53 is revised to read as follows:

§ 1040.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1040.50(b): And on or before the 15th day of each month the tentative Class II price for the following month.

PART 1124—MILK IN THE OREGON-WASHINGTON MARKETING AREA

1. A new § 1124.20 is added to read as follows:

§ 1124.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1124.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previoulsy reported. A work-day is each Monday through Friday except national holidays.

2. Section 1124.22(i) is revised to read as follows:

§ 1124.22 Additional duties of the market administrator.

* * * * *

(i) Publicly announce on or before:

(1) The 5th day of each month:

(i) The Class I price for the following month;

(ii) The Class I butterfat differential for the current month;

(iii) The Class III price for the preceding month;

(iv) The Class II and Class III butterfat differentials for the preceding month; and

(v) The final Class II price for the preceding month, except that the Class II price announced for the first month during which this paragraph is effective shall be the price specified in the proviso in § 1124.51(b);

(2) The 14th day of each month, the uniform prices and the producer butterfat differential, both for the preceding month; and

(3) The 15th day of each month, the tentative Class II price for the following month;

* * * * *

3. Section 1124.51(b) is revised to read as follows:

§ 1124.51 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1124.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price. If the Class III price for the month is computed pursuant to paragraph (c) (1) through (3) of this section, the final Class II price shall be reduced by the amount that the Class III price is less than the basic formula price to the extent such reduction does not cause the Class II price to be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the Class III price for the month plus 25 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1124.50 and add 25 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1124.51a.

* * * * *

4. A new § 1124.51a is added to read as follows:

§ 1124.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1124.50 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross value per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1124.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month, and separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

PART 1125—MILK IN THE PUGET SOUND, WASHINGTON MARKETING AREA

1. A new § 1125.19 is added to read as follows:

§ 1125.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1125.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1125.50(b) is revised to read as follows:

§ 1125.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price. If the Class III price for the month is computed pursuant to paragraph (c)(1) through (3) of this section, the final Class II price shall be reduced by the amount that the Class III price is less than the basic formula price to the extent such reduction does not cause the Class II price to be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the Class III price for the month plus 25 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1125.51 and add 25 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1125.51a.

* * * * *

3. A new § 1125.51a is added to read as follows:

§ 1125.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1125.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1125.19 and field factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese:

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section § 1125.53 is revised to read as follows:

§ 1125.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1125.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1133—MILK IN THE INLAND EMPIRE MARKETING AREA

1. A new § 1133.19 is added to read as follows:

§ 1133.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1133.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1133.50(b) is revised to read as follows:

§ 1133.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price. If the Class III price for the month is computed pursuant to paragraph (c) (1) through (3) of this section, the final Class II price shall be reduced by the amount that the Class III price is less than the basic formula price to the extent such reduction does not cause the Class II price to be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the Class III price for the month plus 25 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1133.51 and add 25 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1133.51a.

* * * * *

3. A new § 1133.51a is added to read as follows:

§ 1133.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1133.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1133.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to

determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1133.53 is revised to read as follows:

§ 1133.53 Announcement of class prices and handler butterfat differentials.

The market administrator shall announce publicly on or before:

(a) The 5th day of each month:

(1) The Class I price for the following month;

(2) The Class I butterfat differential for the current month;

(3) The Class III price for the preceding month;

(4) The Class II and Class III butterfat differential for the preceding month; and

(5) The final Class II price for the preceding month, except that the Class II price announced for the first month during which this paragraph is effective shall be the price specified in the proviso in § 1133.50(b);

(b) The 15th day of each month, the tentative Class II price for the following month.

PART 1135—MILK IN THE SOUTHWESTERN IDAHO-EASTERN OREGON MARKETING AREA

1. A new § 1135.19 is added to read as follows:

§ 1135.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1135.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1135.50(b) is revised to read as follows:

§ 1135.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1135.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the basic formula price for the month plus 10 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1135.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1135.51a.

* * * * *

3. A new § 1135.51a is added to read as follows:

§ 1135.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1135.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1135.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1135.53 is revised to read as follows:

§ 1135.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1135.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1139—MILK IN THE LAKE MEAD MARKETING AREA

1. A new § 1139.19 is added to read as follows:

§ 1139.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1139.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) or high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1139.50(b) is revised to read as follows:

§ 1139.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1139.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price: *Provided,* That for the first

month this paragraph is effective the Class II price shall be the basic formula price for the month plus 15 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1139.51 and add 15 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1139.51a.

* * * * *

3. A new § 1139.51a is added to read as follows:

§ 1139.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1139.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1139.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1139.53 is revised to read as follows:

§ 1139.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1139.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

(Secs 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective Date: November 1, 1982.

Signed at Washington, D.C. on: September 27, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-26942 Filed 9-29-82; 8:45 am]

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7 CFR Parts 1137, 1134 and 1136

[Docket Nos. AO-326-A21, AO-301-A17, AO-309-A23, AO-326-A21-RO1, AO-301-A17-RO1 and AO-309-A23-RO1]

Milk in the Eastern Colorado, Western Colorado and Great Basin Marketing Areas; Order Amending Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action adopts in each of the three milk marketing orders the uniform classification and order format provisions that were incorporated in a large number of other milk orders in 1974, including a 10-cent Class II differential and the use of a single butterfat differential. It also establishes a new procedure for announcing Class II prices in each of the 3 orders. In the Eastern Colorado milk order only, it would permit a handler to consider all his distributing plants as a single unit for purposes of meeting the pooling standards. The amendments are based on industry proposals considered at a public hearing held on February 2, 1982.

EFFECTIVE DATE: November 1, 1982.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notices of Hearing: Issued January 4, 1982; published January 7, 1982 (47 FR 778 and 814).

Recommended Decisions: Issued June 18, 1982; published June 24, 1982 (47 FR 27299 and 27342).

Final Decisions: Issued August 17, 1982; published August 25, 1982 (47 FR 37178 and 37203).

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of

the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are made with respect to each of the aforesaid orders:

(a) *Findings upon the basis of the hearing record.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the aforesaid marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

B. *Determinations:* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Section 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within each of the specified marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending each of the specified orders, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders as hereby amended; and

(3) The issuance of the order, amending the orders, is approved or favored by at least two-thirds of the producers, as defined under the terms of each of the orders, who during the determined representative period were engaged in the production of milk for sale within the respective marketing areas.

List of Subjects in 7 CFR Parts 1137, 1134 and 1136

Milk marketing orders, Milk, Dairy products.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in each of the aforesaid marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the orders, as amended, and as hereby amended, as follows:

In Title 7 of the Code of the Federal Regulations, Parts 1137, 1134 and 1136 are revised to read as follows:

PART 1137—MILK IN THE EASTERN COLORADO MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

Sec.
1137.1 General provisions.

Definitions

1137.2 Eastern Colorado marketing area.
1137.3 Route disposition.
1137.4 [Reserved]
1137.5 [Reserved]
1137.6 [Reserved]
1137.7 Pool plant.
1137.8 Nonpool plant.
1137.9 Handler.
1137.10 Producer-handler.
1137.11 [Reserved]
1137.12 Producer.
1137.13 Producer milk.
1137.14 Other source milk.
1137.15 Fluid milk product.
1137.16 Fluid cream product.
1137.17 Filled milk.
1137.18 Cooperative association.
1137.19 Product prices.

Handler Reports

1137.30 Reports of receipts and utilization.
1137.31 Payroll reports.
1137.32 Other reports.

Classification of Milk

1137.40 Classes of utilization.
1137.41 Shrinkage.
1137.42 Classification of transfers and diversions.
1137.43 General classification rules.
1137.44 Classification of producers milk.
1137.45 Market administrator's reports and announcements concerning classification.

Class Prices

1137.50 Class prices.
1137.51 Basic formula price.
1137.51a Basic Class II formula price.
1137.52 Plant location adjustments for handlers.
1137.53 Announcement of class prices.
1137.54 Equivalent price.

Uniform Price

1137.60 Handlers value of milk for computing uniform price.
1137.61 Computation of uniform price.
1137.62 Announcement of uniform price and butterfat differential.

Payments for Milk

1137.70 Producer-settlement fund.
1137.71 Payments to the producer-settlement fund.
1137.72 Payments from the producer-settlement fund.
1137.73 Payments to producers and to cooperative associations.
1137.74 Butterfat differential.
1137.75 Plant location adjustments for producers and on nonpool milk.
1137.76 Payments by a handler operating a partially regulated distributing plant.
1137.77 Adjustment of accounts.
1137.78 Charges on overdue accounts.

Administrative Assessment and Marketing Service Deduction

1137.85 Assessment for order administration.
1137.86 Deduction for marketing services.

Authority: Secs 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).

General Provisions

§ 1137.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

Definitions

§ 1137.2 Eastern Colorado marketing area.

"Eastern Colorado marketing area" hereinafter called the "marketing area" means all the territory within the perimetric boundaries of the counties listed below, including all territory (municipal, State, or Federal) installations, institutions and other establishments:

Colorado Counties

Adams, Arapahoe, Boulder, Cheyenne, Clear Creek, Crowley, Custer, Denver, Douglas, Elbert, El Paso, Gilpin, Huerfano, Jefferson, Kiowa, Kit Carson, Las Animas, Larimer, Lincoln, Logan, Morgan, Otero, Park, Phillips, Pueblo, Sedgwick, Teller, Washington, Weld, Yuma.

Kansas Counties

Cheyenne, Logan, Sherman, Wallace.

§ 1137.3 Route disposition.

"Route disposition" means any delivery to retail or wholesale outlets (including a delivery by a vendor or a sale from a plant or plant store) of any

fluid milk product classified as Class I milk, other than a delivery to a pool plant or a nonpool plant: *Provided,* That packaged fluid milk products, except filled milk, that are transferred to a distributing plant from a plant with route disposition in the marketing area, and which are classified as Class I under § 1137.40(a), shall be considered as a route disposition from the transferor plant, rather than from the transferee plant, for the single purpose of qualifying it as a pool distributing plant under § 1137.7(a)(1).

§§ 1137.4—1137.6 [Reserved]

§ 1137.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) Any plant, hereinafter referred to as a "distributing pool plant", in which during the month fluid milk products are processed or packaged and from which:

(1) An amount equal to 50 percent or more of the total receipts of Grade A milk (except receipts from distributing pool plants) is disposed of as route disposition, except filled milk. A unit consisting of two or more distributing plants operated by a handler shall be considered as one distrubuting plant for the purpose of meeting the requirements of this subparagraph if each plant separately meets the requirements of paragraph (a)(2) of this section and the handler notifies the market administrator in writing before the first day of the month that the plants should be considered as a unit. The unit shall continue from month to month thereafter without further notification. If, however, there is any change in the composition of the unit, the handler shall notify the market administrator in writing on or before the first day of the month such change is to be made; and

(2) Ten percent or more of such receipts, or 12,000 pounds per day, whichever is less, are disposed of as route disposition, except filled milk, in the marketing area.

(b) Any plant, hereinafter referred to as a "supply pool plant" from which during the month 50 percent of its dairy farm supply of Grade A milk is moved to distributing pool plant(s) as fluid milk products, except filled milk. Any supply plant which has qualified as a pool plant in each of the months of September through February shall be a pool plant in each of the following months of March through August unless written request for nonpool status for any such month(s) is furnished in advance to the market administrator. A plant withdrawn from supply pool plant status may not be reinstated for any subsequent month of March through August unless it fulfills the shipping requirements of this paragraph for such month.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(3) A plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in this marketing area than in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(4) Any distributing plant from which there is less than an average of 300 pounds of route disposition per day, except filled milk, in the marketing area during the month.

§ 1137.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant which is neither an other order plant nor a producer-handler plant from which fluid milk products are moved during the month to a pool plant.

§ 1137.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to the milk of its member producers which it causes to be diverted for its account pursuant to § 1137.12;

(c) A cooperative association with respect to the milk of its member producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association, if the cooperative association notifies the market administrator and the operator of the pool plant to whom the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it elects to be the handler for all such milk. Such milk shall be deemed to have been received by such cooperative association at the location of the pool plant to which delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1137.7(c).

§ 1137.10 Producer-handler.

(a) "Producer-handler" means any person who operates a dairy farm and a milk processing plant from which there is route disposition in the marketing area and who:

(1) Receives no fluid milk products during the month from dairy farmers;

(2) Receives no fluid milk products during the month from any other source except by transfer from a pool plant; and

(3) Receives no other source milk for reconstitution into fluid milk products.

(b) Such person must provide proof satisfactory to the market administrator that the care and management of all the dairy animals and other resources necessary to produce the volume of fluid milk products (excluding transfers from pool plants) and the operation of the processing and distribution business is the personal enterprise of and at the personal risk of such person.

§ 1137.11 [Reserved]

§ 1137.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk eligible for distribution as Grade A milk in compliance with the fluid milk product requirements of a duly constituted health authority, whose milk is received

at a pool plant or diverted to a nonpool plant that is not a producer-handler plant within the limits set forth in paragraph (a)(1) and (2) of this section:

(1) A cooperative association may divert for its account the milk of any member-producer from whom at least three deliveries of milk are received during the month at a distributing pool plant. The total quantity of milk so diverted may not exceed 30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of its member producer milk received at distributing pool plants during the month. Diversions in excess of such percentages shall not be considered producer milk, and the diverting cooperative shall specify the dairy farmers whose milk is ineligible as producer milk. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed such a request in writing with the market administrator on or before the first day of the month the agreement is effective. This request shall specify the basis for assigning over-diverted milk to the producer members of each cooperative according to a method approved by the market administrator.

(2) A handler in his capacity as the operator of a distributing pool plant may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section, from whom at least three deliveries of milk are received during the month at his distributing pool plant. The total quantity of milk so diverted may not exceed 30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of the milk received at such distributing pool plant during the month from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section. Diversions in excess of such percentages shall not be considered producer milk, and the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk.

(3) For the purposes of the requirements of § 1137.7, milk diverted for the account of the operator of a distributing pool plant, except an operator which is also a cooperative association diverting milk in the same month pursuant to paragraph (a)(1) of this section, shall be included in the receipts of the pool plant from which diverted.

(4) For purposes of location adjustments pursuant to §§ 1137.52 and 1137.75, milk diverted to a nonpool plant shall be considered to have been received at the location of the nonpool plant to which diverted.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1137.44(a)(8)(iii) and the corresponding step of § 1137.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1137.13 Producer milk.

"Producer milk" means all skim milk and butterfat in milk produced by a producer.

(a) With respect to receipts at a pool plant for which the handler operating such plant is to be responsible pursuant to § 1137.60:

(1) Received directly from such producer; and

(2) Diverted from such pool plant to a nonpool plant for the account of the operator of the pool plant, subject to the limitations and conditions provided in § 1137.12;

(b) With respect to the additional receipts of a cooperative association:

(1) For which the cooperative association is the handler pursuant to § 1137.9(b), subject to the limitations and conditions provided in § 1137.12; and

(2) For which the cooperative association is the handler pursuant to § 1137.9(c).

§ 1137.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1137.40(b)(1) from any source other than producers, handlers described in § 1137.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1137.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1137.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1137.40(b)(1)) for which the handler fails to establish a disposition.

§ 1137.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1137.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1137.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1137.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of

February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members; and

(c) To be engaged in making collective sales, or marketing milk or its products for its members.

§ 1137.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1137.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

Handler Reports

§ 1137.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1137.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1137.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1137.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1137.31 Payroll reports.

(a) On or before the 23rd day after the end of each month, each handler described in § 1137.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1137.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1137.32 Other reports.

(a) On or before the seventh day after the end of each month, each handler described in § 1137.9 (a) and (b) who diverted milk to nonpool plants shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(1) The name of the plant to which diverted;

(2) The name of the individual dairy farmers so diverted;

(3) The pounds of skim milk and butterfat from each dairy farmer contained in the milk so diverted; and

(4) The number of days milk of the dairy farmer was received at a pool plant of the diverting order.

(b) In addition to the reports required pursuant to §§ 1137.30 and 1137.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

Classification of Milk

§ 1137.40 Classes of utilization.

Except as provided in § 1137.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1137.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1137.15; and

(6) In shrinkage assigned pursuant to § 1137.41(a) to the receipts specified in § 1137.41(a)(2) and in shrinkage specified in § 1137.41 (b) and (c).

§ 1137.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1137.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph in amounts equal to 50 times the maximum amount that may be computed pursuant to paragraph (b) (1) through (6) of this section; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1137.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1137.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank

samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1137.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Except as provided in paragraph (e) of this section, skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1137.44(a)(12) and the corresponding step of § 1137.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1137.44(a)(7) or the corresponding step of § 1137.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1137.44(a) (11) or (12) or the corresponding steps of § 1137.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1137.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, tranfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1137.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

(e) *Transfers by a cooperative association to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1137.9(c) and from a pool plant operated by a cooperative association to another handler's pool plant shall be classified pursuant to § 1137.44 pro rata with producer milk received at the transferee-plant and the value thereof at the class prices shall be included in his value of milk pursuant to § 1137.60.

§ 1137.43 General classification rules.

In determining the classification of producer milk pursuant to § 1137.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1137.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1137.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1137.40, 1137.41, and 1137.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1137.9 (b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1137.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1137.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1137.9(a) for each of his pool plants separately the classification of producer milk and milk subject to the provisions of § 1137.42(e) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1137.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1137.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1137.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1137.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1137.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated top Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not

subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk subject to the provisions of § 1137.42(e), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from another order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1137.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received. For purposes of this subtraction at a pool plant operated by a cooperative association, skim milk in fluid milk products transferred to the pool plant of another handler shall be added to the remaining pounds of skim milk in each class pro rata to the market average utilization announced pursuant to § 1137.45(a):

(*i*) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler] by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1137.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler). For purposes of such computation at a pool plant of a cooperative association, the pounds remaining shall include any remainder of the quantity added pursuant to paragraph (a)(11) of this section;.

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to §1137.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk subject to the provisions of § 1137.42(e), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk subject to the provisions of § 1137.42(e) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1137.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1137.44(a)(12) and the corresponding step of § 1137.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from another order plant, the class to which such receipts are allocated pursuant to § 1137.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant, the class to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such association to each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in acccordance with the total utilization of producer milk by such handler.

Class Prices

§ 1137.50 Class prices.

Subject to the provisions of § 1137.52, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.30.

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1137.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the basic formula price for the month plus 10 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1137.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1137.51a.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1137.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1137.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1137.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1137.19 and yield factors in effect

under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

§ 1137.52 Plant location adjustments for handlers.

(a) For milk received from producers and from handlers described in § 1137.9(c) at a pool plant, or diverted to a nonpool plant, located more than 50 miles by shortest highway distance as measured by the market administrator, from the plant to the nearest County Courthouse located in Denver, Colo.; Pueblo, Colo.; or Colorado Springs, Colo., and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1137.50(a) shall be reduced by 10 cents if such plant is located more than 50 miles but not more than 75 miles from such courthouse, and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 75 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1137.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1137.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1137.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

§ 1137.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1137.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1137.9(b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk subject to the provisions of § 1137.42(e) that were classified in each class pursuant to §§ 1137.43(a) and 1137.44(c) by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1137.44(a)(14) and the corresponding step of § 1137.44(b) by the respective class prices, as adjusted by the butterfat differential specified in 1137.74, that are applicable at the location of the pool plant;

(c) Add the following:

(1) The the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(9) and the corresponding step of § 1137.44(b); and

(2) The the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1137.44(a)(9) and the corresponding step of § 1137.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III after the computations pursuant to § 1137.44(a)(12) and the corresponding step of § 1137.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section;

(d) Add the amount obtained from multiplying the difference between the

Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(7)(i) through (iv) and the corresponding step of § 1137.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(7)(v) and (vi) and the corresponding step of § 1137.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(11) and the corresponding step of § 1137.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1137.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1137.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1137.60 for all handlers who filed the reports prescribed by § 1137.30 for the month and who made the payments pursuant to §§ 1137.71 and 1137.73 for the preceding month;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1137.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1137.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" per hundredweight of producer milk of 3.5 percent butterfat content delivered to plants at which no location adjustment is applicable.

§ 1137.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1137.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1137.71, 1137.76, and 1137.77, subject to the provision of § 1137.78 and out of which he shall make all payments pursuant to §§ 1137.72 and 1137.77: *Provided,* That any payments due to any handler shall be offset by any payments due from such handler.

§ 1137.71 Payments to the producer-settlement fund.

(a) On or before the 14th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1137.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1137.75, of such handler's receipts of producer milk and milk subject to the provisions of § 1137.42(e). In the case of a cooperative association which is a handler, less the amount due from other handlers pursuant to § 1137.73(c), exclusive of differential butterfat values; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1137.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1137.72 Payments from the producer-settlement fund.

On or before the 15th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1137.71(a)(2) exceeds the amount computed pursuant to § 1137.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1137.73 Payments to producers and to cooperative associations.

Except as provided in paragraphs (b) and (c) of this section, each handler except a cooperative association shall make payment as specified in paragraph (a) of this section to each producer from whom milk is received:

(a)(1) On or before the last day of each month, to each producer who had not discontinued shipping milk to such handler before the 18th day of the month, a partial payment with respect to milk received during the first 15 days of the month at the Class III price for the preceding month.

(2) On or before the 18th day after the end of each month, for milk received during such month, an amount computed at not less than the uniform price per

hundredweight pursuant to § 1137.61, as adjusted by the butterfat differential specified in § 1137.74 and location adjustments specified in § 1137.75, plus or minus adjustments for errors made in previous payments to such producers and less:

(i) Payments made pursuant to paragraph (a)(1) of this section;

(ii) Deductions for marketing services pursuant to § 1137.86; and

(iii) Proper deductions authorized in writing by such producer: *Provided,* That if by such date such handler has not received full payment for such delivery period pursuant to § 1137.72 he may reduce his total payment to all producers uniformly by not more than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator.

(b) (1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association each handler shall pay to the cooperative association on or before the second day prior to the date of payment to producers in lieu of payments pursuant to paragraph (a) of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(c) For milk received from a pool plant operated by a cooperative association or from a cooperative association that is a handler pursuant to § 1137.9(c), each handler shall on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) A final settlement equal to the value of such milk at the uniform price pursuant to § 1137.61, as adjusted pursuant to §§ 1137.74 and 1137.75, less payment made pursuant to paragraph (c)(1) of this section.

(d) In making the payments to producers pursuant to paragraphs (a)(2) and (b) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show for each month:

(1) The month and identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount, or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

§ 1137.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1137.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price to be paid for milk received at a pool plant from producers, in bulk from pool plants operated by cooperative associations, and from handlers described in § 1137.9(c) may be reduced by the amount of the location adjustment applicable at the location of the pool plant at which such milk was first physically received from producers, and the uniform price for producer milk diverted to a nonpool plant shall be reduced according to the location of such nonpool plant, each at the rates set forth in § 1137.52; and

(b) For the purposes of computations pursuant to §§ 1137.71 and 1173.72 the uniform price shall be adjusted at the rates set forth in § 1137.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

§ 1137.76 Payments by the handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to § 1137.30(b) and 1137.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not another order plant to the extent that the equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3)

of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1137.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1137.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1137.60 for such handler shall include, in lieu of the value of other source milk specified in § 1137.60(f) less the value of such other source milk specified in § 1137.71(a)(2)(ii), a value of milk determined pursuant to § 1137.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1137.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ 1137.30(b) and 1137.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1137.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1137.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1137.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1137.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or other verification discloses errors resulting in moneys due a producer, a cooperative association, or the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

§ 1137.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1137.71 or 1137.77 relative to payments to the producer settlement fund shall be increased one-half of 1 percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

Administrative Assessment and Marketing Service Deduction

§ 1137.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including milk subject to the provisions of § 1137.42(e) but excluding such milk in the case of a cooperative association which is a handler of milk subject to the provisions of § 1137.42(e)) and such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1137.44(a) (7) and (11) and the corresponding steps of § 1137.44(b), except such other source milk that is excluded from the computations pursuant to § 1137.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant during the month that exceeds the skim milk and butterfat subtracted pursuant to § 1137.76(a)(2).

§ 1137.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of his own production) pursuant to § 1137.73, shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 14th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the

deduction specified in paragraph (a) of this section, such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members, and on or before the 16th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction was computed from each producer.

PART 1134—MILK IN THE WESTERN COLORADO MARKETING AREA

Subpart—Order Regulating Handling

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Authority: Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).

General Provisions

§ 1134.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

Definitions

§ 1134.2 Western Colorado marketing area.

"Western Colorado marketing area", hereinafter called the "marketing area", means all the territory within the outer boundaries of the following counties in the State of Colorado:

Delta, Garfield, Mesa, Montrose.

§ 1134.3 Route disposition.

"Route disposition" means any delivery to retail or wholesale outlets (including a delivery by a vendor or a sale from a plant or plant store) of any fluid milk product classified as Class I milk, other than a delivery to a pool plant or a delivery in bulk to a nonpool plant.

§ 1134.4 [Reserved].

§ 1134.5 Distributing plant.

"Distributing plant" means any plant at which fluid milk products are pasteurized or packaged and from which there is route disposition of Grade A fluid milk products in the marketing area.

§ 1134.6 Supply plant.

"Supply plant" means any plant at which Grade A milk is received from dairy farmers and from which fluid milk products are moved to a pool distributing plant.

§ 1134.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) Any plant, hereinafter referred to as a "distributing pool plant", in which during the month fluid milk products are processed or packaged and from which:

(1) An amount equal to 50 percent or more of the total receipts of Grade A milk (except receipts from distributing pool plants) is disposed of as route disposition, except filled milk; and

(2) Ten percent or more of such receipts, or 2,000 pounds per day, whichever is less, are disposed of as route disposition, except filled milk, in the marketing area.

(b) Any plant, hereinafter referred to as a "supply pool plant" from which during the month 50 percent of its dairy farm supply of Grade A milk is moved in the form of fluid milk products, except filled milk, to distributing pool plants. Any supply plant which has qualified as a pool plant in each of the months of September through February shall be a pool plant in each of the following months of March through August, unless written request for nonpool status for any such month(s) is furnished in advance to the market administrator. A plant withdrawn from supply pool plant status may not be reinstated for any of the following months of March through August unless it fulfills the shipping requirements of this paragraph for such month(s).

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) Any distributing plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to paragraph (a) of this section and there is more route disposition (except filled milk) in this marketing area than in the marketing area defined under such other order;

(3) Any plant qualified pursuant to paragraph (b) of this section for any portion of March through August, inclusive, that the milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act; and

(4) Any distributing plant from which there is less than an average of 200 pounds of route disposition per day, except filled milk, in the marketing area during the month.

§ 1134.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant.

The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which fluid milk products are moved during the month to a pool plant.

§ 1134.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to the milk of its member producers which it causes to be diverted for its account pursuant to § 1134.12;

(c) A cooperative association with respect to milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by the association or by a hauler under contract to the association;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1134.7(c); and

(g) A vendor (any person who does not operate a plant described in paragraph (a), (d), (e) or (f) of this section but who engages in the business of receiving fluid milk products for resale and distributes to retail and wholesale outlets, via a mobile delivery vehicle, packaged fluid milk products received from such a plant).

§ 1134.10 Producer-handler.

"Producer-handler" means any person who is an individual, partnership or corporation and who meets all the following conditions:

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in accordance with the conditions set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is his sole risk and under his complete and exclusive management and control;

(2) Each such farm is owned or operated by him, at his sole risk, and under his complete and exclusive management and control; and

(3) Only he and no other person (except a member of his immediate family, or a stockholder in the case of a corporate farm) employed on such farm(s) own, fully or partially, either the cows producing the milk on the farm or the farm on which it is produced;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and from which thee is route disposition during the month in the marketing area: *Provided,* That:

(1) No fluid milk products are received at such plant or by him at any other location except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) From pool plants or other order plants in an amount that is not in excess of the lesser of 5,000 pounds or 5 percent of his Class I sales during the month;

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive or otherwise handle fluid milk products for any other person; and

(3) For the purpose of this section, all fluid milk products disposed of as route disposition or at stores operated by him or by any person (including the operator of a plant, or a vendor) who controls or is controlled by him (e.g., as an interlocking stockholder) or in which he (including, in the case of a corporation, any stockholder therein) has a financial interest, shall be considered as having been received at his plant; and the utilization for such plant shall include all such route and store dispositions; and

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

§ 1134.11 [Reserved]

§ 1134.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the inspection requirements for fluid consumption of a duly constituted health authority, whose milk is received at a pool plant or diverted to a nonpool plant that is not a producer-handler plant within the limits set forth in paragraph (a)(1) and (2) of this section:

(1) A cooperative association may divert for its account the milk of any member-producer from whom not less than 3 days' production was received during the month at a distributing pool plant. The total quantity of milk so diverted may not exceed 60 percent in the months of March, April, May, June, July, and August and 30 percent in other months of its member-producer milk received at pool plants during the month. Diversions in excess of such percentages shall not be considered producer milk, and the diverting cooperative shall specify the dairy farmers whose milk is ineligible as producer milk. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed a request in writing with the market administrator on or before the first day of the month the agreement is effective. Such request shall specify the basis for assigning overdiverted milk to the producer-members of each cooperative association, at a time and in a manner approved by the market administrator.

(2) A handler may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section, from whom not less than 3 days' production was received during the month at the pool plant. The total quantity of milk so diverted may not exceed 60 percent in the months of March, April, May, June, July, and August and 30 percent in other months of the milk received at such distributing pool plant during the month from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section. Diversions in excess of such percentages shall not be considered producer milk, and the diverting handler, at a time and in a manner approved by the market administrator, shall specify the dairy farmers whose milk is ineligible as producer milk.

(3) For the purpose of the requirements of § 1134.7, milk diverted for the account of the operator of a distributing pool plant, except an operator who is also a cooperative association diverting milk in the same month pursuant to paragraph (a)(1) of this section, shall be included in the receipts of the pool plant from which diverted.

(4) For purpose of location adjustments pursuant to §§ 1134.52 and 1134.75, milk diverted to a nonpool plant shall be considered to have been

received at the location of the pool plant from which diverted.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1134.44(a)(8)(iii) and the corresponding step of § 1134.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1134.13 Producer milk.

"Producer milk" means all skim milk and butterfat in milk produced by a producer.

(a) With respect to receipts at a pool plant for which the handler operating such plant is to be responsible pursuant to § 1134.60:

(1) Received directly from such producer; and

(2) Diverted from such pool plant to a nonpool plant for the account of the operator of the pool plant, subject to the limitations and conditions provided in § 1134.12;

(b) With respect to the additional receipts of a cooperative association:

(1) For which the cooperative association is the handler pursuant to § 1134.9(b), subject to the limitations and conditions provided in § 1134.12; and

(2) For which the cooperative association is the handler pursuant to § 1134.9(c). If the milk received at a pool plant from a handler described in § 1134.9(c) is purchased on a basis other than farm weights, the amount by which the total farm weights of such milk exceed the weights on which the pool plant's purchases are based shall be producer milk received by the handler described in § 1134.9(c) at the location of the pool plant.

§ 1134.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1134.40(b)(1) from any source other than producers, handlers described in § 1134.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1134.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1134.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1134.40(b)(1)) for which the handler fails to establish a disposition.

§ 1134.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1134.16 Fluid cream product.'

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent of more butterfat, with or without the addition of other ingredients.

§ 1134.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1134.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of, or marketing milk or its products for its members; and (c) Has its entire activities under the control of its members.

§ 1134.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1134.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed

by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, detemine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Divisions, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

Handler Reports

§ 1134.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1134.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1134.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1134.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1134.31 Payroll reports.

(a) On or before the 23rd day after the end of each month, each handler described in § 1134.9(a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1134.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1134.32 Other reports.

(a) On or before the seventh day after the end of each month, each handler described in § 1134.9(a) and (b) who diverted milk to nonpool plants shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(1) The name of the plant to which diverted;

(2) The name of the individual dairy farmers so diverted;

(3) The pounds of skim milk and butterfat from each dairy farmer contained in the milk so diverted; and

(4) The number of days milk of the dairy farmer was received at a pool plant of the diverting order.

(b) In addition to the reports required pursuant to §§ 1134.30 and 1134.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

Classification of Milk

§ 1134.40 Classes of utilization.

Except as provided in § 1134.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1134.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1134.15; and

(6) In shrinkage assigned pursuant to § 1134.41(a) to the receipts specified in § 1134.41(a)(2) and in shrinkage specified in § 1134.41 (b) and (c).

§ 1134.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1134.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section, the maximum pounds computed pursuant to such paragraph divided by 0.02; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1134.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the slim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the slim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1134.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determine from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1134.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Except as provided in paragraph (e) of this section, skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The slim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1134.44(a)(12) and the corresponding step of § 1134.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1134.44(a)(7) or the corresponding step of § 1134.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1134.44(a) (11) or (12) or the corresponding steps of § 1134.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in

the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1134.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1134.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

(e) *Transfers by a cooperative association to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1134.9(c) and from a pool plant operated by a cooperative association to another handler's pool plant shall be classified pursuant to § 1134.44 pro rata with producer milk received at the transferee-plant and the value thereof at the class prices shall be included in his value of milk pursuant to § 1134.60.

§ 1134.43 General classification rules.

In determining the classification of producer milk pursuant to § 1134.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1134.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1134.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1134.40, 1134.41, and 1134.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1134.9 (b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1134.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1134.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1134.9(a) for each of his pool plants separately the classification of producer milk and milk subject to the provisions of § 1134.42(e) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1134.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1134.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1134.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1134.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1134.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii)(*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk subject to the provisions of § 1134.42(e), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from another order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1134.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1134.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraphs (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1134.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk subject to the provisions of § 1134.42(e), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk subject to the provisions of § 1134.42(e) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph

(a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1134.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1134.44(a)(12) and the corresponding step of § 1134.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1134.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant, the class to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such association to each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1134.50 Class prices.

Subject to the provisions of § 1134.52, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.00.

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1134.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the basic formula price for the month plus 10 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1134.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1134.51a.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1134.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1134.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1134.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1134.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

§ 1134.52 Plant location adjustments for handlers.

(a) For milk received from producers and from handlers described in § 1134.9(c) at a pool plant, located more than 100 miles by shortest highway distance as measured by the market administrator, from the courthouse in Grand Junction, Colorado, and which is classified as Class I milk or assigned Class I location adjustment credit under paragraph (b) of this section, the price computed pursuant to § 1134.50(a) shall be reduced by 15 cents if such plant is located more than 100 miles but not more than 110 miles from such courthouse, and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1134.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1134.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1134.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

§ 1134.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1134.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1134.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk subject to the provisions of § 1134.42(e) that were classified in each class pursuant to §§ 1134.43(a) and 1134.44(c) by the applicable class prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1134.44(a)(14) and the corresponding step of § 1134.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1134.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1134.44(a)(9) and the corresponding step of § 1134.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1134.44(a)(7) (i) through (iv) and the corresponding step of § 1134.44(b), excluding receipts of bulk fluid cream products from another order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1134.44(a)(7) (v) and (vi) and the corresponding step of § 1134.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated suppy plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1134.44(a)(11) and the corresponding step of § 1134.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from mulitplying the difference between the Class I price applicable at the location of the pool plant and the Class III price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1134.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1134.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1134.60 for all handlers who filed the reports prescribed in § 1134.30 for the month and who made the payments pursuant to §§ 1134.71 and 1134.73 for the preceding month;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1134.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1134.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1134.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1134.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1134.71, 1134.76, and 1134.77, subject to the provision of § 1134.78 and out of which he shall make all payments pursuant to §§ 1134.72 and 1134.77: *Provided,* That any payments due to any handler shall be offset by any payments due from such handler.

§ 1134.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1134.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1134.75, of such handler's receipts of producer milk and milk subject to the provisions of § 1134.42(e). In the case of a cooperative association which is a handler, less the amount due from other handlers pursuant to § 1134.73(a), exclusive of differential butterfat values; and

(ii) The value at the uniform price applicable at the location of the plant from which received (not to be less than the Class III price) of other source milk for which a value is computed pursuant to § 1134.60(f).

(b) On or before the 25th day after the end of the month each person who operated an order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable to the location of the other order plant (but not to be less than the Class III price) and the Class III price.

(c) Each vendor shall pay the market administrator on or before the 25th day after the end of the month at the difference between the value of the skim milk and butterfat in fluid milk products received from a producer-handler during the month at the Class I price applicable at the location of the producer-handler's plant (but not less than the Class III price) and its value at the Class III price subject to the following conditions:

(1) The quantities of skim and butterfat milk products on which payment shall be made pursuant to this section shall not exceed the vendor's Class I disposition in the marketing during the month; and

(2) This section shall not apply to a vendor whose total Class I disposition is obtained from a producer-handler, or whose total receipts and disposition of fluid milk products are considered as a part of the receipts and disposition of the producer-handler pursuant to § 1134.10(b)(3).

§ 1134.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1134.71(a)(2) exceeds the amount computed pursuant to § 1134.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as funds are available.

§ 1134.73 Payments to producers and to cooperative associations.

Except as provided in paragraph (c) of this section, each handler shall make payment to each producer from whom milk is received as follows:

(a) Not later than the last day of the month, to each producer from whom he received milk during the first 18 days of the month, a partial payment for the milk received during the first 15 days of the month, at the Class III price for the preceding month.

(b) Not later than the 16th day of the month, for milk received during the preceding month, an amount computed at not less than the uniform price, per hundredweight, pursuant to § 1134.61, as adjusted by the butterfat differential specified in § 1134.74, location adjustment specified in § 1134.75 and adjustments for errors made in previous payments minus:

(1) Payments made pursuant to paragraph (a) of this section;

(2) Deductions for marketing services pursuant to § 1134.86; and

(3) Deductions approved by the market administrator and authorized in writing by the producer. If the handler has not received full payment for the delivery period from the market administrator pursuant to § 1134.72, he may reduce his total payments to all producers uniformly by the amount owing to him by the market administrator. The handler shall, however, complete all payments not later than the 16th day of the month following receipt of the balance from the market administrator.

(c)(1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk, and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim by the cooperative association, each handler shall pay to the cooperative association on or before the second day preceding the dates set out in paragraphs (a) and (b) of this section an amount equal to the sum of the individual payments otherwise payable to the producer members of such organization. This payment shall be made for all milk of such producer certified by the cooperative association as a member, beginning the first day of the month following receipt of the certification and ending the last day of the month next preceding the date on which a written notice from the cooperative association terminating the membership was received.

(2) A copy of the request for payment, promise to reimburse, and certified list of members, shall be filed simultaneously with the market administrator. He may verify the information by auditing the records of the cooperative association. Exceptions to the accuracy of the membership certification, by a producer or by a handler, shall be made in writing to the market administrator for his determination.

(d) In making the payments to producers under paragraphs (b) and (c) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk, a supporting statement which shall show for each month:

(1) The month and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required under this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

(e) For milk received from a pool plant operated by a cooperative association or from a handler described in § 1134.9(c), each handler shall on or before the second day prior to the date payments are due individual producers, pay such cooperative association for milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) A final settlement equal to the value of such milk at the uniform price, as adjusted pursuant to §§ 1134.74 and 1134.75, less payment made pursuant to paragraph (e)(1) of this section.

§ 1134.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1134.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price to be paid for milk received at a pool plant from producers, in bulk from a pool plant operated by a cooperative association, and from a handler described in § 1134.9(c) may be reduced by the amount of the location adjustment applicable at the location of the pool plant at which such milk was first physically received from producers, and the uniform price for producer milk diverted to a nonpool plant shall be reduced according to the location of the pool plant from which diverted, each at the rates set forth in § 1134.52; and

(b) For purposes of computations pursuant to §§ 1134.71 and 1134.72 the uniform price shall be adjusted at the rates set forth in § 1134.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

§ 1134.76 Payments by a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to § 1134.30(b) and § 1134.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1134.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1134.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1134.60 for such handler shall include, in lieu of the value of other source milk specified in § 1134.60(f) less the value of such other source milk specified in § 1134.71(a)(2)(ii), a value of milk determined pursuant to § 1134.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1134.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ 1134.30(b) and 1134.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all

skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1134.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1134.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1134.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1134.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or other verification discloses errors resulting in moneys due a producer or the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

§ 1134.78 Charges on overdue accounts.

The unpaid obligation of a handler pursuant to §§ 1134.71, 1134.76, 1134.77, 1134.85 and 1134.86 shall be increased 1 percent for each month or portion thereof beginning with the third day following the date by which such obligation was payable: *Provided,* That:

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously made pursuant to this section; and

(b) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

Administrative Assessment and Marketing Service Deduction

§ 1134.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 13th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including milk subject to the provisions of § 1134.42(e) but excluding such milk in the case of a cooperative association which is a handler of milk subject to the provisions of § 1134.42(e)) and such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1134.44(a) (7) and (11) and the corresponding steps of § 1134.44(b), except such other source milk that is excluded from the computations pursuant to § 1134.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant during the month that exceeds the skim milk and butterfat subtracted pursuant to § 1134.76(a)(2).

§ 1134.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of his own production) pursuant to § 1134.73, shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 13th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association.

(b) For producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members, and on or before the 14th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deductions from each producer was computed.

PART 1136—MILK IN THE GREAT BASIN MARKETING AREA

Subpart—Order Regulating Handling

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Authority.—Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).

General Provisions

§ 1136.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made part of this order.

Definitions

§ 1136.2 Great Basin marketing area.

"Great Basin marketing area" hereinafter called the "marketing area" means all the territory, including all government reservations and installations and all municipalities, within the places listed below:

Utah Counties

Box Elder, Cache (city of Logan only), Carbon, Daggett, Davis, Duchesne, Emery, Grand, Juab, Millard, Morgan, Salt Lake, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Weber.

Nevada Counties

Elko, White Pine.

Wyoming Counties

Uinta (town of Evanston only).

Idaho Counties

Bannock, Bear Lake, Bingham, Bonneville, Franklin, Jefferson, Madison.

§ 1136.3 Route disposition.

"Route disposition" means any disposition of fluid milk products (including through a vendor or disposition from a plant or plant store) classified as Class I milk, except in bulk form to fluid milk plants and except Class II and Class III milk disposition to plants which are not fluid milk plants.

§ 1136.4 [Reserved]

§ 1136.5 Fluid milk plant.

"Fluid milk plant" means a plant:

(a) In which milk or milk products (including filled milk) are processed or packaged and from which there is route disposition during the month in the marketing area, or

(b) In which milk is received or processed and from which milk or skim milk is shipped during the month to a plant described in paragraph (a) of this section.

§ 1136.6 [Reserved]

§ 1136.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A fluid milk plant from which not less than 50 percent in any month of September through February, not less than 45 percent in any month of March and April, and not less than 40 percent in any month of May through August of the fluid milk products, except filled milk, approved by a duly constituted health authority for fluid consumption that are physically received at such plant (excluding milk received at such plant from other order plants or dairy farms which is classified in Class III under this order and which is subject to the pricing and pooling provisions of another order issued pursuant to the Act) or diverted therefrom as producer milk to a nonpool plant pursuant to § 1136.13 are disposed of as route disposition, and not less than 15 percent of such receipts are disposed of as route disposition in the marketing area.

(1) For the purpose of determining the qualification pursuant to this paragraph of a fluid milk plant pursuant to § 1136.5(a) operated by a cooperative association, producer milk which such cooperative association causes to be delivered to the pool plant of another handler or diverted therefrom shall be included with receipts of producer milk at such cooperative's plant and the quantity of such milk assigned to Class I pursuant to § 1136.45(d) shall be included as route disposition from such cooperative's plant;

(i) If such a cooperative association operates more than one fluid milk plant as defined in § 1136.5(a), such producer milk and Class I milk shall be included in the computation for whichever plant the cooperative association requests in writing to the market administrator; and

(ii) If no such written request is made, such producer milk and Class I milk shall be prorated among the plants; and

(2) If a handler operates more than one fluid milk plant, the combined receipts and fluid milk products disposition, except filled milk, of any such plants may be used as the basis for qualifying the respective plants pursuant to the preceding computations specified in this paragraph if a handler in writing so requests the market administrator.

(b) A fluid milk plant from which during the month fluid milk products, except filled milk, equal to not less than 50 percent of the total of receipts at the plant from dairy farmers meeting the inspection requirements described in § 1136.12, milk diverted pursuant to § 1136.13 by the handler operating the plant and other fluid milk products, except filled milk, qualified for distribution for fluid consumption received at the plant are shipped to a plant described in paragraph (a) of this section: *Provided,* That a plant which so qualifies in each of the months of August through January as a pool plant shall be a pool plant in each of the following months of February through July unless the operator requests in written notice to the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such notice and thereafter until the plant qualifies as a pool plant on the basis of shipments.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant; and

(3) Any plant described in paragraph (c)(3) (i) or (ii) of this section shall be exempt from paragraph (a) or (b) of this section, unless the Secretary determines otherwise, if it would be fully regulated subject to the classification and pooling provisions of another order issued pursuant to the Act if not so subject to this part:

(i) Any plant from which there is less route disposition, except filled milk, in the Great Basin marketing area than in the marketing area regulated pursuant to such other order if not so subject to this part; or

(ii) Any plant during the months of February through July which qualifies as a pool plant only pursuant to the proviso of paragraph (b) of this section.

§ 1136.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as

defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a fluid milk plant that is neither an other order plant, a producer-handler plant, nor an exempt plant from which there is route disposition in consumer-type packages or dispenser units (other than to a pool plant) in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant which is neither an other order plant, a producer-handler plant nor an exempt plant from which fluid milk products qualified for fluid consumption are shipped during the month to a pool plant.

(e) "Exempt plant" means a governmental agency, Brigham Young University or any approved plant from which the total route disposition is to individuals or institutions for charitable purposes and is without remuneration from such individuals or institutions.

§ 1136.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to the milk of its member producers which it causes to be diverted for its account pursuant to § 1136.13;

(c) A cooperative association with respect to the milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association, if the cooperative association notifies the market administrator and the handler to whom the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it wishes to be the handler for the milk. In this case the milk is received from producers by the cooperative association;

(d) Any person who operates a partially regulated distributing plant; and

(e) Any other person who operates a fluid milk plant described in § 1136.5(a).

§ 1136.10 Producer-handler.

"Producer-handler" means any person who is an individual, partnership or corporation and who meets all the following conditions:

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in accordance with the conditions set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is his sole risk and under his complete and exclusive management and control;

(2) Each such farm is owned or operated by him, at his sole risk, and under his complete and exclusive management and control; and

(3) Only he and no other person (except a member of his immediate family or a stockholder in the case of a corporate farm) employed on such farm(s) own, fully or partially, either the cows producing the milk on the farm or the farm on which it is produced;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and from which there is route disposition during the month in the marketing area: *Provided,* That:

(1) No fluid milk products are received at such plant or by him at any other location except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) From pool plants or other order plants in an amount that is not in excess of the larger of 3,000 pounds, or 5 percent of his Class I sales, during the month;

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive, or otherwise handle fluid milk products for any other person; and

(3) For the purpose of this section, all fluid milk products disposed of as route disposition or at stores operated by him or by any person (including the operator of a plant, or a vendor) who controls or is controlled by him (e.g., as an interlocking stockholder) or in which he (including, in the case of a corporation, any stockholder therein) has a financial interest, shall be considered as having been received at his plant; and the utilization for such plant shall include all such route and store dispositions; and

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

§ 1136.11 [Reserved]

§ 1136.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means a dairy farmer who produces milk in compliance with the inspection requirements of a duly constituted health authority for fluid consumption (as used in this subpart, compliance with inspection requirements shall include production of milk acceptable for fluid consumption of agencies of the United States Government located in the marketing area) which milk is delivered to a pool plant during the month or diverted to a nonpool plant within the limits set forth in § 1136.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1136.44(a)(8)(iii) and the corresponding step of § 1136.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1136.13 Producer milk.

"Producer milk" means only that skim milk and butterfat contained in milk from producers (in an amount determined by weights and measurements for individual producers, as taken at the farm in the case of milk moved from the farm in a tank truck) which is:

(a) Received from the producers at a pool plant but not including milk received from a handler described in § 1136.9(c);

(b) Received by a handler described in § 1136.9(c); or

(c) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant or an exempt plant, subject to the following conditions:

(1) Such milk shall be deemed to have been received by the diverting handler at the location of the plant to which diverted;

(2) Not less than 6 days' production of the producer whose milk is diverted is physically received at a pool plant;

(3) A cooperative association may divert for its account only the milk of member producers: *Provided,* That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at all pool plants from member producers in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;

(4) The operator of a pool plant other than a cooperative association may divert for his account only the milk of producers who are not members of a cooperative association: *Provided,* That the total quantity of milk so diverted

that exceeds 25 percent of the milk physically received at such plant from producers who are not members of a cooperative association in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;

(5) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to paragraph (c) (3) and (4) of this section. If the handler fails to make such designation, no milk diverted by him shall be producer milk; and

(6) Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their members if each association has filed such a request in writing with the market administrator on or before the 1st day of the month the agreement is effective. The request shall specify the basis for assigning over-diverted milk to the producer members of each cooperative association according to a method approved by the market administrator.

§ 1136.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(1) Receipts of fluid milk products and bulk products specified in § 1136.40(b)(1) from any source other than producers, handlers described in § 1136.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1136.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1136.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with other product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1136.40(b)(1)) for which the handler fails to establish a disposition.

§ 1136.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1136.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent of more butterfat, with or without the addition of other ingredients.

§ 1136.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1136.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales, or marketing milk or its products for its members; and

(c) To have its entire activities under the control of its members.

§ 1136.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1136.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey

powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

Handler Reports

§ 1136.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1136.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1136.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1136.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1136.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1136.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1136.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1136.32 Other reports.

In addition to the reports required pursuant to §§ 1136.30 and 1136.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

Classification of Milk

§ 1136.40 Classes of utilization.

Except as provided in § 1136.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1136.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1136.15; and

(6) In shrinkage assigned pursuant to § 1136.41(a) to the receipts specified in § 1136.41(a)(2) and in shrinkage specified in § 1136.41 (b) and (c).

§ 1136.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1136.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1136.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1136.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1136.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1136.44(a)(12) and the corresponding step of § 1136.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1136.44(a)(7) or the corresponding step of § 1136.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1136.44(a) (11) or (12) or the corresponding steps of § 1136.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1136.40.

(c) *Transfers to producer-handlers and to exempt plants.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order or an exempt plant shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant or an exempt plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1136.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator derterminines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

(e) *Transfers by a handler described in § 1136.9(c) to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1136.9(c) to another handler's pool plant shall be classified pursuant to § 1136.44 pro rata with producer milk received at the transferee-plant and the value thereof at the class prices shall be included in his value of milk pursuant to § 1136.60.

§ 1136.43 General classification rules.

In determining the classification of producer milk pursuant to § 1136.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1136.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1136.9(b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1136.40, 1136.41, and 1136.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1136.9(b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1136.9(b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1136.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1136.9(a) for each of his pool plants separately the classification of producer milk and milk received from a handler described in § 1136.9(c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1136.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1136.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1136.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1136.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1136.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order or from an exempt plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1136.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1136.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph

exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from another order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1136.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1136.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk received from a handler described in § 1136.9(c), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk received from a handler described in § 1136.9(c) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1136.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1136.44(a)(12) and the corresponding step of § 1136.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1136.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant, the class to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such association to each handler receiving such milk. For the

purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1136.50 Class prices.

Subject to the provisions of § 1136.52, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.90.

(b) *Class II price* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1136.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price: *Provided,* That for the first month this paragraph is effective the Class II price shall be the basic formula price for the month plus 10 cents.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1136.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1136.51a.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1136.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1136.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1136.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section.

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1136.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

§ 1136.52 Plant location adjustments for handlers.

(a) For milk which is received from producers at a pool plant, or is diverted therefrom, or is delivered by a handler described in § 1136.9(c) to a pool plant and which is assigned to Class I milk, subject to the limitations pursuant to paragraph (b) of this section, the price computed pursuant to § 1136.50(a) shall be reduced as follows:

Distance (miles)	Rate per hundred-weight (cents)
150 but not more than 160	22.0
For each additional 10 miles or fraction thereof in excess of 160	1.5

Such distance to be the shortest hard-surfaced highway distance as determined by the market administrator from the plant to the County Courthouse of Salt Lake County, Utah;

(b) In applying such credits to transfers of fluid milk products between pool plants, a Class I location adjustment credit for the transferor-plant shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) From the pounds of skim milk remaining in Class I at the transferee-plant after the computations are made pursuant to § 1136.44(a)(12) subtract the pounds of skim milk in receipts of milk at the transferee-plant from producers and handlers described in § 1136.9(c);

(2) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts of fluid

milk products from other pool plants, first to the transferor-plants at which no location adjustment applies and then in sequence beginning with the plant at which the least location adjustment applies;

(3) Compute the total amount of location adjustment credits to be assigned to transferor-plant pursuant to paragraph (b)(2) of this section by the applicable adjustment rate for each such plant, and add the resulting amounts;

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(3) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1136.42(a), in sequence beginning with the plant at which the least location adjustment applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable location adjustment rate for such plant. If the aggregate of this computation for all plants having the same location adjustment rate exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers received from such plants; and

(5) Class I location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b)(1) through (4) of this section.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1136.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month, except that the Class II price announced for the first month during which this section is effective shall be the price specified in the proviso in § 1136.50(b); and on or before the 15th day of each month the tentative Class II price for the following month.

§ 1136.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1136.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1136.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk received from a handler described in § 1136.9(c) that were classified in each class pursuant to §§ 1136.43(a) and 1136.44(c) by the applicable class prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1136.44(a)(14) and the corresponding step of § 1136.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1136.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1136.44(a)(9) and the corresponding step of § 1136.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1136.44(a)(7) (i) through (iv) and the corresponding step of § 1136.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1136.44(a)(7) (v) and (vi) and the corresponding step of § 1136.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1136.44(a)(11) and the corresponding step of § 1136.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1136.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1136.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1136.60 for all handlers who filed the reports prescribed by § 1136.30 for the month and who made the payments pursuant to § 1136.71 for the preceding month;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1136.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1136.60(f); and

(e) Subtract not less than 5 cents nor more than 6 cents per hundredweight. The result shall be known as the uniform price.

§ 1136.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1136.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1136.71, 1136.76, and 1136.77, subject to the provision of § 1136.78 and out of which he shall make all payments pursuant to §§ 1136.72 and 1136.77: *Provided,* That any payments due to any handler shall be offset by any payments due from such handler.

§ 1136.71 Payments to the producer-settlement fund.

(a) On or before the 14th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1136.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1136.75, of such handler's receipts of producer milk and milk received from a handler described in § 1136.9(c). In the case of a cooperative association which is a handler, less the amount due from other handlers pursuant to § 1136.73(d), exclusive of differential butterfat values; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1136.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1136.72 Payments from the producer-settlement fund.

On or before the 15th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1136.71(a)(2) exceeds the amount computed pursuant to § 1136.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1136.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraphs (b), (d), or (e) of this section, each handler shall make payment to each producer from whom milk is received as follows:

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month, at not less than 1.2 times the Class III price for the preceding month; and

(2) On or before the 17th day of the following month, for producer milk received during the month, at not less than the uniform price pursuant to § 1136.61 adjusted by the butterfat differential specified in § 1136.74 and location adjustment specified in § 1136.75, subject to the following adjustments:

(i) Less deductions for marketing services pursuant to § 1136.86;

(ii) Less the payment made pursuant to paragraph (a)(1) of this section;

(iii) Plus or minus adjustments for errors made in previous payments to such producer and proper deductions authorized in writing by such producer; and

(iv) If by the date specified, such handler has not received full payment from the market administrator pursuant to § 1136.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) In the case of a cooperative association which is authorized by its members to collect payment for their milk and which has requested such payment from any handler in writing and has so notified the market administrator, payment for milk received during the month by such handler(s) from producer-members of such association shall be accomplished as follows:

(1) On or before the third day prior to the last day of each month such handler shall pay to such cooperative association not less than 1.2 times the Class III price for the preceding month for the hundredweight of such milk received during the first 15 days of the month; and

(2) On or before the 16th day of the following month such handler shall pay to such cooperative association the sum of the payments computed at the appropriate uniform price with respect to deliveries by producer-members of such association to handlers from whom payments have been requested, less the amounts of payments made to such association pursuant to paragraph (b)(1) of this section, and less the amount retained by handlers as authorized deductions.

(c) Each handler who received milk from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association and to the market administrator on or before the 7th day of the following month, as follows:

(1) The total pounds of milk received during the month, and if requested, the pounds received from each member-producer;

(2) The amount of payment made pursuant to paragraph (b)(1) of this section and the quantity of milk to which such payment applied; and

(3) The amount or rate and nature of any proper deductions authorized to be made from payments.

(d) Each handler shall pay a cooperative association for milk received by him from such cooperative in its capacity as a handler described in § 1136.9(c) as follows:

(1) On or before the second day prior to the last day of each month, for milk received during the first 15 days of the month an amount per hundredweight not less than 1.2 times the Class III price for the preceding month; and

(2) On or before the 15th day of the following month for milk received during the month, not less than the value of such milk at the applicable uniform price, less payment made pursuant to paragraph (d)(1) of this section.

(e) Each handler shall pay a cooperative association for milk

received by him from a pool plant operated by such association as follows:

(1) On or before the second day prior to the end of each month, for milk received during the first 15 days of the month an amount per hundredweight not less then 1.2 times the Class III price for the preceding month; and

(2) On or before the 15th day of the following month for milk received during the month, not less than an amount computed by multiplying the minimum prices for milk in each class subject to the applicable location adjustment provided in § 1136.52 and the butterfat differential provided by § 1136.74, by the hundredweight of milk in each class pursuant to § 1136.44, such amount to be reduced in the amount of the payment made pursuant to paragraph (e)(1) of this section.

§ 1136.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1136.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price to be paid for milk received at a pool plant shall be reduced according to the location of the pool plant, at the rates set forth in § 1136.52; and

(b) For purposes of computations pursuant to §§ 1136.71 and 1136.72 the uniform price shall be adjusted at the rates set forth in § 1136.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

§ 1136.76 Payments by a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to § 1136.30(b) and § 1136.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1136.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant:

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1136.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1136.60 for such handler shall include, in lieu of the value of other source milk specified in § 1136.60(f) less the value of such other source milk specified in § 1136.71(a)(2)(ii), a value of milk determined pursuant to § 1136.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1136.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ 1136.30(b) and 1136.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1136.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1136.74, for milk received at the plant during the month that would have been producer

milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1136.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1136.77 Adjustment of accounts.

Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in moneys due (a) the market administrator from a handler; (b) a handler from the market administrator; or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 1136.78 Charges on overdue accounts.

The unpaid obligation of a handler pursuant to §§ 1136.71, 1136.76, 1136.77 and 1136.85, shall be increased 1 percent for each month or portion thereof beginning with the third day following the date by which such obligation was payable: *Provided,* That:

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously made pursuant to this section; and

(b) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

Administrative Assessment and Marketing Service Deduction

§ 1136.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including milk received from a handler described in § 1136.9(c) but excluding in the case of a cooperative association which is a handler pursuant to § 1136.9(c), milk which was received at the pool plant of another handler) and such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1136.44(a) (7) and (11) and the corresponding steps of § 1136.44(b), except such other source milk that is excluded from the computations pursuant to § 1136.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant during the month that exceeds the skim milk and butterfat subtracted pursuant to § 1136.76(a)(2).

§ 1136.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk pursuant to § 1136.73, (other than milk of his own production) shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 14th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members. On or before the 15th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction was computed from each producer.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: November 1, 1982.

Signed at Washington, D.C., on September 27, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-26954 Filed 9-29-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-ASW-61; Amdt. 39-4467]

Airworthiness Directives; Boeing Vertol Model 234 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires initial and repetitive inspections and replacement as necessary of the main rotor hubs on Boeing Vertol Model 234 series helicopters. The AD is prompted by a report of a structural fatigue crack in a main rotor hub which could result in failure of the rotor hub and subsequent loss of control of the helicopter.

DATE: Effective: October 15, 1982.

Compliance required within the next 60 hours after the effective date of this AD unless already accomplished for all main rotor hubs with more than 700 hours' time in service.

ADDRESSES: The applicable service information may be obtained from Boeing Airplane Company, Vertol Division, Boeing Center, P.O. Box 16858, Philadelphia, Pennsylvania 19142. These documents may be examined at the office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106, or at the Rules Docket in Room 916, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Joseph R. Chrastil, ANE–172, New York Aircraft Certification Office, Federal Aviation Administration, 181 South Franklin Avenue, Valley Stream, New York 11581, telephone No. 212 995–2842.

SUPPLEMENTARY INFORMATION: There have been reports of structural fatigue cracks in the splined area of two forward main rotor hubs on two Boeing Vertol Model 234 helicopters which could have caused rotor hub failure and subsequent loss of the helicopters. Total time in service for the cracked hubs was

at 1027 and 1429 hours. Since this condition is likely to exist or develop on other helicopters of the same type design, an Airworthiness Directive is being issued which requires inspection of the main rotor hubs for cracks and replacement as necessary on Boeing Vertol Model 234 series helicopters.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

There are no U.S. registered aircraft affected. However, in support of the U.S. Type Certificate, the FAA is issuing this AD.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

Boeing Airplane Company, Vertol Division: Applies to Boeing Vertol Model 234 series helicopters certificated in all categories equipped with main rotor hubs, PN's 114R2050–17, –18, –23, and–24. Compliance is required as indicated unless already accomplished.

To inspect the main rotor hubs for cracks, within the next 60 hours' time in service from the effective date of this AD, or before the accumulation of 700 hours' time in service on the main rotor hubs, whichever comes later, accomplish the following:

(a) Remove the hub retaining nut and washer and inspect for a height difference between the top of the shaft spline up to the rotor hub upper surface. The hub upper surface must be a minimum of 0.015 inches above the rotor shaft spline.

(b) Remove the rotor hubs from the aircraft and conduct an eddy current inspection for cracks on the bottom surface of the hub from the splines to a distance one inch out from the splines. Inspect the lower hub surface described above and the splined area from the lower surface upward for 1.75 inches using dye penetrant.

(c) Ensure that the washer between the main rotor shaft nut and main rotor hub is installed and torque the main rotor hub nut to the manufacturer's specifications as shown in the Boeing Vertol 234 Maintenance Manual.

(d) After the initial inspections of paragraphs (a), (b) and (c), repeat the main rotor hub inspections of paragraphs (b) and (c) in intervals not to exceed 125 hours' additional time in service from the last inspection.

(e) Remove from service hubs having cracks and replace with a serviceable part prior to further flight.

(f) Boeing Vertol Service Bulletin Number 234–65–1026 applies to these inspections.

(g) An equivalent method of compliance with this AD may be approved by the Manager, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York 11581.

This amendment becomes effective October 15, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation that is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

This rule is a final order of the Administrator. Under Section 1006(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas on September 17, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-26973 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-CEF-4-AD; Amendment 39-4458]

Airworthiness Directives; British Aerospace Model HP 137 Jetstream MK 1 and Series 200 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to British Aerospace Model HP 137 Jetstream Mk 1 and Series 200 airplanes which requires visual inspection and non-destructive testing (NDT) of the main landing gear (MLG) attachment fittings and supporting atructure for loose bolts and fatigue cracks. Loose bolts have been found at the MLG hinge fitting attach points and cracks have been detected in the hinge fitting and its support angle. These conditions if not detected and corrected, may reduce the structural integrity of the MLG and allow fuel leakage.

EFFECTIVE DATE: October 7, 1982.

Compliance: As prescribed in the body of the AD.

ADDRESSES: British Aerospace Jetstream Service Bulletins 7/5 dated 31 March 1982 and 7/8 dated 7 May 1982, with Revision 1 dated 20 May 1982, applicable to this AD may be obtained from British Aerospace Public Limited Company, Aircraft Group, Scottish Division, Prestwick Airport, Scotland KA9 2RW. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: C. Christie, Manager, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belguim, or P. Cormaci, Manager, Foreign FAR 23 Section, ACE–109, Central Region, FAA 601 E. 12th Street, Kansas City, MO 64106, telephone (816) 374–6932.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority (CAA) of the United Kingdom has notified the FAA of certain adverse service on British Aerospace Model HP 137 Jetstream MK 1 and Series 200 airplanes. Specifically, there have been several occurrences where the bolts which secure the MLG hinge fitting to the mainplane auxiliary and rear spars at wing station 110, have become loose and caused fuel leakage. In extreme cases of looseness, the holes in the hinge fitting and wing structure have become elongated with a consequent reduction in the strength of the attachment of the hinge fitting. In addition, cracks have developed in the company's fatigue test specimen aircraft at the MLG hinge fitting support angle and the MLG hinge fitting at the auxiliary spar web. If either condition is allowed to go unrepaired, it could compromise the structural integrity of the aircraft. Also, the fuel leakage accompanying the loose bolts may create a fire hazard. The manufacturer has made available in its Service Bulletins 7/5 and 7/8 Revision 1, instructions for inspection and if necessary, repair or replacement of the MLG hinge fitting, support angles and attach bolts. The CAA has made these inspections and repair or replacement mandatory by service bulletin.

The FAA has determined that the above described unsafe conditions may exist in other airplanes of the same type design. Accordingly, an AD is being issued requiring inspection and repair of British Aerospace Model HP 137 Jetstream MK 1 and Series 200 airplane MLG hinge fittings and attach points per

British Aerospace Service Bulletins 7/5 and 7/8 Revision 1.

Since an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aircraft, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR Section 39.13) is amended by adding the following new AD.

British Aerospace: Applies to Model HP 137 Jetstream MK 1 and Series 200 airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent fuel leakage and detect hinge fitting support angle fatigue cracks:

(a) Within the next 50 landings, after the effective date of this AD:

(1) Inspect the MLG hinge fitting and attachment bolts in accordance with British Aerospace Service Bulletin No. 7/5 dated 31 March 1982.

(2) If the inspection accomplished in accordance with paragraph (a)(1) of this AD reveals no unsatisfactory conditions per the criteria in the service bulletin, return the aircraft to service and thereafter repeat the inspections specified in paragraph (a)(1) of this AD at intervals not exceeding 200 landings.

(3) If the inspection accomplished in accordance with paragraph (a)(1) of this AD reveals unsatisfactory conditions in accordance with the criteria in the service bulletin, prior to further flight perform repairs in accordance with instructions contained in the service bulletin and within the next 200 landings incorporate British Aerospace Modification No. 5174.

(4) The inspections required by paragraphs (a)(1) and (a)(2) of this AD may be discontinued upon incorporation of British Aerospace Modification No. 5174.

(b) Prior to the accumulation of 4000 landings or on airplanes already having 4000 landings within the next 50 landings after the effective date of this AD:

(1) Using a strong light and 8 power lens, visually inspect the MLG hinge fitting support angles for cracks in accordance with British Aerospace Bulletin No. 7/8 dated 7 May 1982, as revised by Revision 1 dated 20 May 1982, paragraphs 3.2 and 3.3.

(2) If no cracks are found, return the aircraft to service and thereafter repeat the inspection required by paragraph (b)(1) of this AD at intervals not exceeding 200 landings.

(3) If cracks are found emanating from either end of the support angle, but which have propagated no further than the tooling holes, return the aircraft to service and thereafter repeat the inspection required by paragraph (b)(1) of this AD at intervals not exceeding 200 landings.

(4) If cracks are found extending beyond the tooling hole, prior to further flight, replace the support angle with a serviceable support angle of the same part number.

(5) The inspections required by paragraph (b)(1) of this AD may be discontinued until the replacement angle has accumulated 4000 landings.

(c) Prior to the accumulation of 4000 landings or on airplanes already having 4000 landings, within the next 50 landings after the effective date of this AD:

(1) Using a strong light and 8 power lens, visually inspect the MLG hinge fitting at the auxiliary spar web for cracks in accordance with British Aerospace Service Bulletin No. 7/8 dated 7 May 1982, as revised by Revision 1 dated 20 May 1982, paragraphs 3.2 and 3.7.

(2) If no cracks are found, return the aircraft to service and within the next 25 landings, conduct the inspection required by paragraph (d) of this AD.

(3) If crack indications are found, confirm these indications and if required, prior to further flight replace the MLG hinge fitting in accordance with paragraph (d) of this AD.

(d) Conduct an NDT inspection of the MLG hinge fitting per British Aerospace Service Bulletin No. 7/8 dated 7 May 1982, as revised by Revision 1 dated 20 May 1982, paragraphs 3.10 through 3.12.

(1) If cracks are found, prior to further flight, replace the MLG hinge fitting with a new fitting of the same part number.

(2) If no cracks are found, return the aircraft to service and repeat the NDT inspection at intervals not to exceed 200 landings.

(3) Inspections required by paragraph (c) and (d) of this AD are not required on new fittings until they have accumulated 4000 landings.

(e) If the actual number of landings is unknown for the purpose of complying with this AD, one landing may be substituted for each 1/2 flight hour unless the operator substantiates a different flight hours to landings ratio. This substantiation may be submitted to and approved by an FAA Maintenance Inspector.

(f) A special flight permit may be issued in accordance with FAR 21.197 to operate the airplane to a location where the requirements of this AD may be accomplished.

(g) An equivalent method of compliance with this AD may be used if approved by the Manager, Area Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussles, Belgium.

This amendment becomes effective on October 7, 1982.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(a)); sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "Addresses" at the location identified.

This is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review by only the Courts of Appeals of the United States or the United States Court of Appeals of the District of Columbia.

Issued in Kansas City, Missouri on September 20, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-26690 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Airworthiness Docket No. 82-ASW-57, Amendment 39-4486]

Airworthiness Directives; Societe National Industrielle Aerospatiale Model AS-350 and AS-355 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) requiring initial and repetitive inspection, and removal from service after 1,200 hours' total time in service, of the tail rotor drive shaft bearings on Aerospatiale Model AS-350 and AS-355 series helicopters. The AD is needed to prevent failure of a bearing which has resulted in failure of the drive shaft. Failure of the drive shaft may cause loss of directional control of the helicopter.

DATE: Effective October 15, 1982.

Compliance required as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support.

Copies of the service bulletins are contained in the rules docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591 and at the Office of the Regional Counsel,

Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: C. Christie, Manager, Aircraft Certification Staff, Europe, Africa, and Middle East Office, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone: 513–38–30., or Samuel E. Brodie, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone: (817) 624–4911, extension 502.

SUPPLEMENTARY INFORMATION: There have been reports of four accidents possibly caused by loss of directional control due to failure or seizure of tail rotor drive shaft bearings and resulting failure of the drive shaft on Aerospatiale Model AS–350 helicopters. Societe Nationale Industrielle Aerospatiale provides corrective measures applicable to both the AS–350 and AS–355, in Service Bulletin Nos. 05.08 and 05.02 respectively, both dated May 27, 1982. The French Airworthiness Authority has also issued French airworthiness directives specifying compliance with both Aerospatiale service bulletins due to the similarity of design and application of the same bearing part numbers on both helicopter models. Since this condition is likely to exist or develop on other helicopters of the same type design, an airworthiness directive is being issued which requires initial and repetitive inspections of the tail rotor drive shaft bearings and removal of the bearings on attaining 1,200 hours' total time in service.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Approximately 344 aircraft could be affected by the requirements of this AD for an estimated impact of approximately $66,000 or $191 per aircraft.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Societe Nationale Industrielle Aerospatiale: Applies to model AS–350 and model AS–355 series helicopters certified in all categories.

Compliance is required as indicated, unless already accomplished.

To prevent possible failure or seizure of tail rotor drive shaft bearings (part numbers SKF 6007–2RS1MT47CA/AS704A33.651.010.) accomplish the following:

(a) Within the next 50 hours' time in service after the effective date of this AD, inspect the perpendicularity of each bearing relative to the tail rotor drive shaft in accordance with paragraph 1(C)(1)(a) and figure 1 of Societe Nationale Industrielle Aerospatiale Service Bulletin No. 05.08 for the model AS–350 helicopter, and Service Bulletin No. 05.02 for the model AS–355 helicopter, both dated May 27, 1982, (hereinafter referred to as the applicable service bulletin), or an FAA approved equivalent method.

Note.—Except for helicopter model applicability, the provisions of Service Bulletin Nos. 05.08 and 05.02 are identical.

(1) When perpendicularity of the bearing relative to the shaft is within runout indication of less than 0.2 mm (.008 in.), inspect the bearing in accordance with paragraph 1(C)(2) of the applicable service bulletin.

(2) When perpendicularity of the bearing relative to the shaft gives a runout indication of 0.2 mm (.008 in.) or more, and the bearing time in service does not exceed 300 hours, inspect the bearing in accordance with paragraph 1(C)(2) of the applicable service bulletin and replace the rubber sleeve with a serviceable sleeve.

(3) When perpendicularity of the bearing relative to the shaft gives a runout indication of 0.2 mm (.008 in.) or more and the bearing has more than 300 hours' time in service, remove the bearing and rubber sleeve from service and install a serviceable sleeve and bearing.

(b) Accomplish paragraph 1(C)(2) of the applicable service bulletin at intervals not to exceed 300 hours' time in service from the last inspection.

(c) For bearings with less than 1,100 hours' time in service on the effective date of this AD, remove the rubber sleeves and bearings from service and install serviceable sleeves and bearings, before or upon achieving 1,200 hours' time in service.

(d) For bearings with 1,100 hours' or more time in service on the effective date of this AD, remove the rubber sleeves and bearings from service and install serviceable sleeves and bearings within 100 hours' time in service after the effective date of this AD.

(e) When the tail rotor drive shaft rear section is disassembled in accomplishing the requirements of this AD, install the drive shaft in accordance with paragraph 1(C)(3) of the applicable service bulletin. When a bearing is replaced, the bearing perpendicularity relative to the tail rotor drive shaft must provide an out-of-round indication of 0.15 mm (.006 in.) or less when examined in accordance with paragraph 1(C)(1)(a) of the applicable service bulletin.

(f) Equivalent means of compliance must be approved by the Manager, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Office, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, or the Manager, Aircraft Certification Division, ASW–100, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

This amendment becomes effective October 15, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation that is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "For Further Information Contact."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1486(a)), it is subject to review by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, on September 17, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82–26659 Filed 9–29–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 82–ANE–22]

Amendment to Description of Mansfield, Massachusetts Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends the Mansfield, Massachusetts 700-foot transition area to provide additional controlled airspace to protect aircraft executing the Non-Directional Beacon (NDB) Runway 32 original Standard Instrument Approach Procedure (SIAP) at Mansfield Municipal Airport, Mansfield, Massachusetts.

DATE: October 30, 1982

FOR FURTHER INFORMATION CONTACT: David Hurley, Manager, Operations, Procedures and Airspace Branch, ANE–530, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington,

Massachusetts 01803, Telephone: (617) 273–7285.

SUPPLEMENTARY INFORMATION:

History

On Thursday, June 24, 1982, a Notice of Proposed Rulemaking was published in the **Federal Register** (47 FR 27373) stating the FAA proposed to amend the 700-foot transition area so as to provide airspace protection for aircraft executing the NDB Runway 32 original SIAP at Mansfield Municipal Airport, Mansfield, Massachusetts. Interested persons were invited to participate in this rulemaking process by submitting written comments on the proposal to the FAA. No objections were received.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) by revising the 700-foot transition area at Mansfield Municipal Airport, Mansfield Massachusetts, as follows:

Mansfield, Massachusetts

Delete: "excluding that portion that coincides with the Boston, Massachusetts transition area."

After "to the VOR" insert: "and within 3 miles each side of the 312° bearing from the Mansfield NDB extending from the 5-mile radius area to 8.5 miles southeast of the Mansfield NDB excluding those portions that coincide with the Boston and Taunton, Massachusetts transition area."

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61, Federal Aviation Regulations (14 CFR 11.61))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore it is certified that this (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal and; (4) rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Massachusetts, on September 20, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-26561 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 23344; Amdt. No. 1226]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and effficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO–730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR/VOR/DME SIAPs identified as follows:

** * * Effective November 11, 1982*

Monroeville, AL—Monroe County, VOR/DME Rwy 3, Original
Monroeville, AL—Monroe County, VOR Rwy 3, Amdt. 6
Monroeville, AL—Monroe County, VOR/DME Rwy 21, Original
Monroeville, AL—Monroe County, VOR Rwy 21, Amdt. 6
Almyra, AR—Almyra Muni, VOR/DME–A, Amdt. 4
McGehee, AR—McGehee Muni, VOR/DME–A, Amdt. 2
Kalamazoo, MI—Kalamazoo Muni, VOR Rwy 17, Amdt. 13
Kalamazoo, MI—Kalamazoo Muni, VOR Rwy 23, Amdt. 14
Kalamazoo, MI—Kalamazoo Muni, VOR Rwy 35, Amdt. 13
Fishers Island, NY—Elizabeth Field, VOR–A, Amdt. 4
Ithaca, NY—Tompkins County, VOR Rwy 14, Amdt. 11
Bloomsburg, PA—Bloomsburg Muni, VOR Rwy 8, Amdt. 2
Victoria, TX—Victoria Regional, VOR Rwy 12L, Amdt. 9
Victoria, TX—Victoria Regional, VOR/DME Rwy 30R, Amdt. 1
Chincoteague, VA—NASA Wallops Flight Center, VOR/DME or TACAN Rwy 10, Amdt. 1
Chincoteague, VA—NASA Wallops Flight Center, VOR or TACAN Rwy 17, Amdt. 4
Richland, WA—Richland, VOR Rwy 25, Amdt. 5
Richland, WA—Richland, VOR/DME–A Amdt. 4

** * * Effective October 28, 1982*

Lewiston, ID—Lewiston-Nez Perce County, VOR Rwy 8, Amdt. 5
Lewiston, ID—Lewiston-Nez Perce County, VOR Rwy 28, Amdt. 12
Goodland, KS—Renner Fld (Goodland Muni), VOR Rwy 30, Amdt. 4
Goodland, KS—Renner Fld (Goodland Muni), VOR/DME Rwy 30, Amdt. 2
Fargo, ND—Hector Field, VOR Rwy 35, Amdt. 10
Douglas, WY—Converse County, VOR–A, Original

** * * Effective September 23, 1982*

Anoka, MN—Gateway North Industrial, VOR Rwy 34, Amdt. 3
Buffalo, MN—Buffalo Muni, VOR–B, Amdt. 2
Minneapolis, MN—Anoka County-Blaine Airport (Janes Field), VOR Rwy 8, Amdt. 9
Minneapolis, MN—Crystal, VOR–A, Amdt. 8
Minneapolis, MN—Anoka County-Blaine Airport (Janes Field), VOR/DME Rwy 26, Amdt. 2

** * * Effective September 8, 1982*

Mt. Pocono, PA—Pocono Mountains Muni, VOR Rwy 13, Amdt. 3

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

** * * Effective November 11, 1982*

Richland, WA—Richland, LOC Rwy 19, Amdt. 4

** * * Effective October 28, 1982*

Goodland, KS—Renner Fld (Goodland Muni), LOC Rwy 30, Amdt. 3
Wichita, KS—Wichita Mid-Continent, LOC BC Rwy 1L, Amdt. 1, cancelled
St. Louis, MO—Lambert-St. Louis Intl, LOC Rwy 12L, Original, cancelled
St. Louis, MO—Lambert-St. Louis Intl, LDA/DME–A, Original
Fargo, ND—Hector Field, LOC BC Rwy 17, Amdt. 9, cancelled

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

** * * Effective November 25, 1982*

Phillipsburg, KS—Phillipsburg Muni, NDB Rwy 31, Amdt. 5
Clinton, MO—Clinton Memorial, NDB Rwy 4, Amdt. 3
Clinton, MO—Clinton Memorial, NDB Rwy 22, Amdt. 4
Trenton, MO—Trenton Muni, NDB Rwy 17, Amdt. 4
Trenton, MO—Trenton Muni, NDB Rwy 35, Amdt. 6

** * * Effective November 11, 1982*

Magnolia, AR—Magnolia Muni, NDB Rwy 35, Amdt. 2
Americus, GA—Souther Field, NDB Rwy 22, Amdt. 7
Lamar, MO—Lamar Muni, NDB Rwy 3, Original
Cushing, OK—Cushing Muni, NDB Rwy 35, Amdt. 2
Houston, TX—Houston Intercontinental, NDB Rwy 26, Original
Richland, WA—Richland, NDB Rwy 19, Amdt. 4
Waukesha, WI—Waukesha County, NDB Rwy 10, Amdt. 8, cancelled

** * * Effective October 28, 1982*

Goodland, KS—Renner Fld (Goodland Muni), NDB Rwy 30, Amdt. 3
Fargo, ND—Hector Field, NDB Rwy 17, Amdt. 11

** * * Effective September 20, 1982*

Monroe, LA—Monroe Regional, NDB Rwy 4, Amdt. 13
Reading, PA—Reading Municipal Gen Carl A. Spaatz Field, NDB Rwy 36, Amdt. 20

** * * Effective September 14, 1982*

Charlottesville, VA—Charlottesville-Albemarle, NDB Rwy 3, Amdt. 12

Note.—The FAA published an amendment in Docket No. 23318, Amdt. No. 1225 to Part 97 of the Federal Aviation Regulations (Vol 47, FR No. 182, Page 41354; dated September 20, 1982) under Section 97.27 effective October 28, ,1982, which is hereby amended as follows: San Antonio, TX San Antonio Intl, NDB Rwy 3, Amdt 35; NDB Rwy 12R, Amdt 19; NDB Rwy 30L Amdt 8 are rescinded.

Note.—The FAA published an amendment in Docket No. 23318, Amdt. No. 1225 to Part 97 of the Federal Aviation Regulations (Vol 47, FR No. 182, Page 41354; dated September 20, 1982) under section 97.27 effective October 20, 1982, which is hereby amended as follows: Lumberton, NC Lumberton Muni, NDB Rwy 13, Amdt 5, change effective date to October 28, 1982.

4. By amending § 97.29 ILS–MLS SIAPs identified as follows:

** * * Effective November 11, 1982*

Bemidji, MN—Bemidji-Beltrami Co., MLS Rwy 31 (Interim), Amdt. 3, cancelled
Ithaca, NY—Tompkins County, ILS Rwy 32, Amdt. 2
Massena, NY—Richards Field, ILS Rwy 5, Amdt. 1
Charlotte, NC—Douglas Muni, ILS Rwy 36L, Amdt. 4
Victoria, TX—Victoria Regional, ILS Rwy 12L, Amdt. 4

** * * Effective October 28, 1982*

Lewiston, ID—Lewiston-Nez Perce County, ILS Rwy 28, Amdt. 9
Wichita, KS—Wichita Mid Continent, ILS Rwy 1L, Original
Wichita, KS—Wichita Mid Continent, ILS Rwy 19R, Amdt. 1
St. Louis, MO—Lambert-St. Louis Intl, ILS Rwy 30R, Amdt. 2
Fargo, ND—Hector Field, ILS Rwy 17, Original
Fargo, ND—Hector Field, ILS Rwy 35, Amdt. 20

** * * Effective September 20, 1982*

Reading, PA—Reading Municipal Gen. Carl A. Spaatz Field, ILS Rwy 36, Amdt. 25

** * * Effective September 14, 1982*

Charlottesville, VA—Charlottesville-Albemarle, ILS Rwy 3, Amdt. 8

Note.—The FAA published an amendment in Docket No. 23318, Amdt. No. 1225 to part 97 of the Federal Aviation Regulations (Vol 47, FR No. 182, Page 41354; dated September 20, 1982) under Section 97.29 effective

October 28, 1982, which is hereby amended as follows: San Antonio, TX, San Antonio Intl, ILS Rwy 3, Amdt. 12, ILS Rwy 12R, Amdt. 9; ILS Rwy 30L Amdt. 6 are rescinded.

5. By amending § 97.31 RADAR SIAPs identified as follows:

** * * Effective November 11, 1982*

Tulsa, OK—Richard Lloyd Jones, Jr., RADAR-1, Original

** * * Effective October 28, 1982*

Fargo, ND—Hector Field, RADAR-1, Amdt. 5

6. By amending § 97.33 RNAV SIAPs identified as follows:

** * * Effective October 28, 1982*

Wichita, KS—Wichita Mid-Continent, RNAV Rwy 1L, Amdt. 3
Wichita, KS—Wichita Mid-Continent, RNAV Rwy 19R, Amdt. 3
Fargo, ND—Hector Field, RNAV Rwy 13, Amdt. 4

** * * Effective September 20, 1982*

Reading, PA—Reading Municipal Gen Carl A. Spaatz Field, RNAV Rwy 13, Amdt. 4
Reading, PA—Reading Municipal Gen Carl A. Spaatz Field, RNAV Rwy 18, Amdt. 4

** * * Effective September 14, 1982*

Charlottesville, VA—Charlottesville-Albemarle, RNAV Rwy 3, Amdt. 2

Note.—The FAA published an amendment in Docket No. 23277, Amdt. No. 1224 to Part 97 of the Federal Aviation Regulations (Vol 47, FR No. 173, Page 39147; dated September 7, 1982) under section 97.33 effective October 28, 1982, which is hereby amended as follows: Grand Ledge, MI, Abrams Muni, RNAV Rwy 27, Orig Cancelled.

(Secs. 30, 7 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980.

Issued in Washington, D.C. on September 24, 1982.

John M. Howard,

Manager, Aircraft Programs Division.

[FR Doc. 82-26990 Filed 9-29-82; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

23 CFR Part 656

Carpool and Vanpool Projects

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The Federal Highway Administration (FHWA) is revising existing carpool and vanpool procedures to reflect changes required by the Surface Transportation Assistance Act of 1978. The revised rule contains the basic criteria for determining whether carpool and vanpool (ridesharing) projects are eligible for Federal-aid funding under 23 U.S.C. 146.

EFFECTIVE DATE: November 8, 1982.

FOR FURTHER INFORMATION CONTACT: Barbara Reichart, Office of Highway Planning, 202-426-0210, or Hugh T. O'Reilly, Office of the Chief Counsel, 202-426-0781, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: This rule amends the FHWA's existing carpool and vanpool regulation (23 CFR 656) as required by section 126 of the Surface Transportation Assistance Act of 1978 (STAA) (Pub. L. 95-599, 92 Stat. 2689). The STAA changes the Federal share for carpool and vanpool projects from 90 percent to 75 percent; permits the use of Federal-aid secondary system funds for such projects; changes these projects from demonstration projects to regular Federal-aid highway projects; and declares that special efforts should be made to promote commuter modes of transportation that conserve energy, reduce pollution and reduce traffic congestion. This rule does not concern grants and loans made pursuant to subsections (e) and (f) of section 126 of the STAA.

A notice of proposed rulemaking (NPRM) was published in the **Federal Register** (44 FR 70753) on December 10, 1979, requesting comments on proposed revisions to the carpool and vanpool regulation.

This rule was previously published on January 8, 1981, at 46 FR 2298. On January 29, 1981, a memorandum was issued by the President which, among other things, directed executive agencies to postpone for 60 days the effective dates of regulations which had been issued but were scheduled to become effective during that 60-day period. The Department of Transportation on February 4, 1981, pursuant to the President's memorandum, postponed the effective dates of all Department of Transportation regulations covered by the President's directive until March 31, 1981. The postponement afforded the government the opportunity to review each of these regulations. Based upon that review, the FHWA withdrew the regulation, 23 CFR 656, Carpool and Vanpool Projects, published at 46 FR 2298, January 8, 1981, to reassess this rule as well as the agency's overall implementation of this program in light of Executive Order 12291, issued by the President on February 17, 1981.

Based upon this review and assessment, the FHWA has determined that the regulatory process is the appropriate mechanism to implement the legislative and executive requirements for administering Federal-aid carpool and vanpool projects. The intent of this action is to provide clarity and uniformity of Federal policy and formal acknowledgement of Federal interest to support State initiatives in this area.

The rule itself is a product of recognized formal participation between FHWA, States, and other interested parties which gives the rule legitimacy and acceptance and establishes program consistency on such key issues as eligibility and project content.

Administering Federal-aid carpool and vanpool projects through this rule will improve cost effectiveness. First, it will save administrative time at all levels from local to Federal Government by clearly defining the basic program outline. Second, by uniformly articulating eligibility and project content, Federal-aid funds will be used more consistently of the legislatively intended purposes. In addition, this rule is a condensation of program experience with previous rules, combining into one shorter rule (four sections versus the previous seven) the basic guidance from previous rules, the changes required by new law, and policies developed from experience to date. Further, this rule is not a major action within the meaning of Executive Order 12291 nor is it a significant action within the meaning of the DOT Regulatory Policies and Procedures. The rule merely implements policies set forth in the STAA; it will not increase spending.

Therefore, having completed the assessment required by Executive Order (E.O.) 12291 and having determined that this rule is a necessary and desirable mechanism by which to administer Federal-aid carpool and vanpool projects, the FHWA has determined to proceed with issuance of this final rule. Inasmuch as this rule is substantially identical to the version which was

previously the subject of public comment, and no legislative changes have occurred in the interim, it is not anticipated that additional notice and opportunity to comment would result in the receipt of useful information.

Discussion of Comments

Thirty-three letters were submitted to the public docket (No. 79–28) in response to the NPRM. The FHWA carefully reviewed all comments received. As many comments as possible have been incorporated into this final rule. The purpose of this preamble is to explain our actions regarding the most significant comments as well as to present our approach and policies regarding the Federal-aid role in ridesharing transportation.

The FHWA recognizes that all ridesharing efforts, regardless of the purpose of the trips involved, help to conserve energy, reduce pollution, and reduce traffic congestion. However, the work or commute trip is the most adaptable trip purpose for ridesharing arrangements, accounting as it does for some 40 percent of all home-based trips taken by automobile. The commute trip is specifically addressed in the national policy statement in the STAA. The FHWA continues this emphasis for ridesharing projects as such projects contribute to better transportation system management, especially during peak travel periods where street and highway physical capacity is often constrained. This policy emphasis is not meant to inhibit State and local officials from implementing Federal-aid ridesharing projects that address other trip purposes where such projects are consistent with local needs and the policy objectives stated in § 656.3 of this rule.

Several comments were received regarding the size of vans which can be purchased with Federal-aid funds. Based on a review of these comments and the assessment made under E.O. 12291, the allowable passenger capacity in § 656.5(c)(3)(i) has been changed from 8 to 15 passengers to 7 to 15 passengers to accommodate smaller sized vans and other vehicles available in the marketplace and to be consistent with certain State motor vehicle code definitions that use the 7 passenger number criterion. Section 656.5(c)(3)(ii) requires that provision be made for repayment of the acquisition cost of the van, but also specifies two situations in which repayment may not be required where the van is used as a marketing device.

Many commenters objected to the lowering of the Federal matching ratio from 90 percent to 75 percent for Federal-aid ridesharing projects. This change was legislatively mandated by Congress in Section 126(b) of the STAA. The STAA repealed the Emergency Highway Energy Conservation Act of 1974 under which ridesharing projects were funded on a demonstration basis with a 90 percent Federal share. The STAA removed the demonstration status and incorporated ridesharing projects into the regular Federal-aid highway program, which limits the Federal share of the project cost to 75 percent (except as provided under Section 120 of Title 23 U.S.C., for certain public land States).

Under the authority of 23 U.S.C. 146(b), the FHWA has determined that arrangements made by the State for contributed essential project-related work by local agencies and private organizations may be included in the total project costs and used as the non-Federal match when approved and authorized in accordance with regular Federal-aid procedures. The cost of such work must be properly valued, supportable and verifiable in order for inclusion as an eligible project cost. Private employers are particularly encouraged to commit their resources as described above in order to contribute to areawide ridesharing efforts. Contributions from vendors who provide supplies or services as a cost to the project should reduce the burden some States or local areas may face in providing the required States' pro-rata share of the project costs. However, in no case can Federal reimbursement exceed the amount of funds actually expended on eligible work by the State or political subdivisions thereof. The foregoing procedure is implemented in a new § 656.7.

Section 656.5(c)(5) indicates that Federal-aid funds will participate in the initial or renewal costs of leasing parking spaces or the acquisition of easements or restrictions to provide preferential parking for carpools. Where a reduction in the overall number of vehicles using the designated portion of a commercial parking facility can be demonstrated, that reduction may be used in computing the lease or acquisition cost for the project. However, the regulation does not permit the cost to be computed on the basis of a reduction of the per-vehicle user charge for parking in the designated area.

Another issue raised involved the use of Federal-aid Interstate (FAI) funds for ridesharing projects. This issue had two general aspects. The first was the comment offered by many that FHWA should allow FAI funds to participate in the costs to construct exclusive (not served by existing or planned transit) carpool and vanpool fringe parking facilities not located within the existing FAI right-of-way. At the present time, FHWA has authority under 23 U.S.C. 146(a) to use Federal-aid urban (FAUS), primary (FAP) and secondary (FAS) system funds for such carpool and vanpool fringe parking facilities. Federal-aid Interstate construction funds can *only* participate in fringe parking facilities that are associated with an approved high occupancy vehicle (HOV) lane(s) for which costs were included in the 1981 Interstate Cost Estimate. Federal-aid Interstate 4R funds can be used to construct fringe parking facilities serving an Interstate route that are not otherwise eligible for Interstate construction funds provided such facilities serve public mass transportation.

It should be emphasized that other regular construction projects such as constructing high occupancy vehicle (HOV) lanes and facilities and multimodal fringe parking facilities can be funded with all categories of Federal-aid funds including FAI funds.

The second aspect of FAI funding involved numerous suggestions that these funds be eligible to participate in the administrative costs of ridesharing programs. Currently, 23 U.S.C. 146(a) specifically authorizes the use of FAUS, FAP, and FAS funds for such purposes. The FHWA believes that these three classes of funds are sufficient to support ridesharing projects and strongly encourages State and local officials to give priority to ridesharing projects in the annual programs of projects prepared by the States.

Another concern raised by commenters is the language in § 656.5(a) that ridesharing projects "must serve a Federal-aid system" and be financed with the appropriate class of eligible funds, "depending on the system served." This is merely a restatement of FHWA policy that Federal-aid funds should be used for projects that will improve the people-moving efficiency of the overall Federal-aid system, and that the class of funds used should depend on the system benefited by the expenditure. In projects involving physical facilities, such as providing a bus and carpool lane, the class of Federal-aid funds to use is usually obvious. With respect to other ridesharing projects such as promotion and matching programs or van acquisition, which by their nature cannot be limited to a specific physical facility, State and local officials must decide which Federal-aid system will receive the primary benefit and use that

class of funds for the project. Splitting or prorating of costs among different system funds for a nonconstruction ridesharing project that serves a geographic area is neither required nor encouraged.

Many commenters suggested that the requirement in § 656.5(b) that Federal-aid carpool and vanpool projects not have "an adverse effect on any mass transportation system" be deleted. This restriction is specifically included in the authorizing legislation (STAA) and therefore cannot be administratively deleted. In considering this legislation, the congressional conferees addressed the "adverse effect" issue in their Conference Report [1] and stated that an adverse effect had to be an "appreciable adverse impact," more than a *de minimis* effect. The FHWA believes that the intent of this requirement is consistent with the policy and practice followed by Federal-aid ridesharing projects since 1974, i.e., ridesharing projects are intended to complement public transportation and accommodate travel demands that transit cannot conveniently accommodate on a cost-effective basis. Carpools and vanpools are viewed as integral parts of a balanced transportation system that complement and enhance the efforts of public and private transit services to broaden the alternatives to the single-occupancy automobile. Ridesharing operations are particularly complementary for low-density and suburb-to-suburb trips not efficiently served by fixed-route, radial transit services and where adequate peak-period transit service is not available. In many cases, carpooling and vanpooling activities help to identify potential transit expansion markets and for many commuters serve as the first step in shared riding, preparing them to become transit riders as service expands.

The FHWA believes that through the State-administered Federal-aid program, institutional processes are in place that ensure coordination of transportation planning and project funding and protection against appreciable adverse impacts. At the local level, the metropolitan planning organization, comprised of local elected officials and with representation of other agencies, including transit operators, provides an additional mechanism to ensure that urban ridesharing projects do not have a substantial adverse effect on urban area transit service. It should be noted that several transit agencies currently use Federal-aid funds to support ridesharing projects to complement their existing transit service. The FHWA welcomes these ridesharing program partners and strongly encourages other transit operators to support ridesharing projects.

[1] H.R. Rep. No. 95-1797, 95th Cong., 2d Sess. 98 [1978].

Other Considerations

The FHWA believes the sponsoring role the Federal Government is taking with respect to ridesharing is creating an organizational commitment within the transportation profession and between leaders in both the public and private sectors to implement and expand ridesharing opportunities. Public officials and private employers are increasingly regarding ridesharing as an effective tool of community and economic development, harnessing the efficient use of private vehicles to serve the public interest.

The FHWA's primary involvement is to provide a safe and adequate physical network of streets and highways, including funding of ridesharing incentives, to hasten the removal of legal and regulatory barriers that inhibit the growth of ridesharing and to provide information, technical assistance, and encouragement to accelerate and enhance ridesharing.

Ridesharing as a practice has grown rapidly beyond its carpool origins and is still evolving as a concept. This rule addresses the use of Federal-aid highway funds to help support and carry out carpool and vanpool projects, the backbone of the ridesharing concept.

The FHWA has determined that this document contains neither a major rule under Exective Order 12291 nor a significant regulation under DOT regulatory policies and procedures.

A regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Barbara Reichart of the program office at the address specified above. For the reasons provided earlier in this preamble, under the criteria of the Regulatory Flexibility Act, it is certified that this rule will not have a significant economic impact on a substantial number of small entities.

(Catalog of Federal Domestic Assistance Program Number 20.205 Highway Research, Planning, and Construction. The Provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

List of Subjects in 23 CFR Part 656

Carpools, Grant programs—transportation, Parking, Ridesharing.

In consideration of the foregoing, Chapter 1 of Title 23, Code of Federal Regulations, Part 656 is revised to read as set forth below.

Issued on: September 22, 1982.

Ray Barnhart,

Federal Highway Administrator, Federal Highway Administration.

PART 656—CARPOOL AND VANPOOL PROJECTS

Sec.
656.1 Purpose.
656.3 Policy.
656.5 Eligibility.
656.7 Determination of an exception.

Authority: 23 U.S.C. 146 and 315; § 126 of the Surface Transportation Assistance Act of 1978, Pub. L. 95-599, 92 Stat. 2689; 49 CFR 1.48(b).

§ 656.1 Purpose.

The purpose of this regulation is to prescribe policies and general procedures for administering a program of ridesharing projects using Federal-aid primary, secondary, and urban system funds.

§ 656.3 Policy.

Section 126(d) of the Surface Transportation Assistance Act of 1978 declares that special effort should be made to promote commuter modes of transportation which conserve energy, reduce pollution, and reduce traffic congestion.

§ 656.5 Eligibility.

(a) Projects which promote ridesharing programs need not be located on but must serve a Federal-aid system to be eligible for Federal-aid primary, secondary, or urban system funds depending on the system served. The Federal share payable will be in accordance with the provisions of 23 U.S.C. 120. Except for paragraph (c)(3) of this section, for all purposes of this regulation the term "carpool" includes "vanpool."

(b) Projects shall not be approved under this regulation if they will have an adverse effect on any mass transportation system.

(c) The following types of projects and work are considered eligible under this program:

(1) Systems, whether manual or computerized, for locating potential participants in carpools and informing them of the oppportunities for participation. Eligible costs for such systems may include costs of use or rental of computer hardware, costs of software, and installation costs (including both labor and other related items).

(2) Specialized procedures to provide carpooling opportunities to elderly or handicapped persons.

(3) The costs of acquiring vanpool vehicles and actual financial losses that occur when the operation of any vanpool is aborted before the scheduled termination date for the reason, concurred in by the State, that its continuation is no longer productive. The cost of acquiring a vanpool vehicle is eligible under the following conditions:

(i) The vanpool vehicle is a four-wheeled vehicle manufactured for use on public highways for transportation of 7–15 passengers (no passenger cars which do not meet the 7–15 criteria and no buses); and

(ii) Provision is made for repayment of the acquisition cost to the project within the passenger-service life of the vehicle. Repayment may be accomplished through the charging of a reasonable user fee based on an estimated number of riders per vehicle and the cost of reasonable vehicle depreciation, operation, and maintenance. Repayment is not required under the following conditions:

(A) When vehicles are purchased as demonstrator vans for use as a marketing device. Vehicles procured for this purpose should be used to promote the vanpool concept among employees, employers, and other groups by allowing potential riders and sponsors to examine commuter vans; or

(B) When vehicles are purchased for use on a trial commuting basis to enable people to experience vanpooling first hand. The trial period must be limited to a maximum of 2 months. That part of the user fee normally collected to cover the capital or ownership cost of the van would be eligible for reimbursement as a promotional cost during the limited trial period. As with established vanpool service, all vehicle operating costs must be borne by the user(s) during the trial period.

(4) Work necessary to designate existing highway lanes as preferential carpool lanes or bus and carpool lanes. Eligible work may include preliminary engineering to determine traffic flow and design criteria, signing, pavement markings, traffic control devices, and minor physical modifications to permit the use of designated lanes as preferential carpool lanes or bus and carpool lanes. Such improvements on any public road may be approved if such projects facilitate more efficient use of any Federal-aid highway. Eligible costs may also include costs of initial inspection or monitoring of use, including special equipment, to ensure that the high occupancy vehicle (HOV) lanes designation is effective and that the project is fully developed and operating properly. While no fixed time limit is being arbitrarily prescribed for the inspection and monitoring period, it is intended that this activity be conducted as soon as possible to evaluate the effectiveness of the project and does not extend indefinitely nor become a part of routine facility operations.

(5) Signing of and modifications to existing facilities to provide preferential parking for carpools inside or outside the central business district. Eligible costs may include trail blazers, on-site signs designating highway interchange areas or other existing publicly or privately owned facilities as preferential parking for carpool participants, and initial or renewal costs for leasing parking space or acquisition or easements or restrictions, as, for example, at shopping centers and public or private parking facilities. The lease or acquisition cost may be computed on the demonstrated reduction in the overall number of vehicles using the designated portion of a commercial facility, but not on a reduction of the per-vehicle user charge for parking.

(6) Construction of carpool parking facilities outside the central business district. Eligible costs may include acquisition of land and normal construction activities, including installation of lighting and fencing, trail blazers, on-site signing, and passenger shelters. Such facilities need not be located in conjunction with any existing or planned mass transportation service, but should be designed so that the facility could accommodate mass transportation in the event such service may be developed. Except for the requirement of the availability of mass/public transportation facilities, fringe parking construction under this section shall be subject to the provisions of 23 CFR 810.106.

(7) Reasonable public information and promotion expenses, including personnel costs, incurred in connection with any of the other eligible items mentioned herein.

§ 656.7 Determination of an exception.

(a) The FHWA has determined under provisions of 23 U.S.C. 146(b) that an exceptional situation exists in regard to the funding of carpools so as to allow the State to contribute as its share of the non-Federal match essential project-related work and services performed by local agencies and private organizations when approved and authorized in accordance with regular Federal-aid procedures. The cost of such work must be properly valued, supportable and verifiable in order for inclusion as an eligible project cost. Examples of such contributed work and services include: public service announcements, computer services, and project-related staff time for administration by employees of public and private organizations.

(b) This determination is based on: (1) The nature of carpool projects to provide a variety of services to the public; (2) the fact that carpool projects are labor intensive and require professional and specialized technical skills; (3) the extensive use of joint public and private endeavors; and (4) the fact that project costs involve the acquisition of capital equipment as opposed to construction of fixed items.

(c) This exception is limited to carpool projects and therefore is not applicable to other Federal-aid projects. The exception does not affect or replace the standard Federal-aid funding procedures or real property acquisition procedures and requirements, Part 712, The Acquisition Function.

[FR Doc. 82-26906 Filed 9-29-82; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF EDUCATION

34 CFR Parts 537, 667, and 764

Removal of Miscellaneous Regulations

AGENCY: Education Department.

ACTION: Final regulations.

SUMMARY: The Secretary amends Title 34 of the Code of Federal Regulations (CFR) by removing certain obsolete parts. These regulations are no longer needed for the reasons described in this document. The Secretary takes this action to eliminate unnecessary regulations.

EFFECTIVE DATE: Part 667 is removed effective October 1, 1982. Parts 537 and 764 are removed effective September 30, 1982.

FOR FURTHER INFORMATION CONTACT: A. Neal Shedd, Director, Division of Regulations Management, 400 Maryland Avenue, SW., (Room 2129, FOB–6), Washington, D.C. 20202. Telephone: (202) 245–7091.

SUPPLEMENTARY INFORMATION: Under Executive Order 12291, effective February 17, 1981, the Department of Education (ED) is reviewing, and, where possible, eliminating unnecessary regulations. After reviewing the ED regulations listed in this document, we have determined that they are now obsolete. The purpose of this document is to remove these regulations from Title 34 of the CFR.

We are removing the following parts:

Part 537—Indochina Refugee Children Assistance Program. These regulations are obsolete because legislation authorizing this program was repealed by the Consolidated Refugee Education Assistance Act, Pub. L. 97–35, Title V, Section 542(2).

Part 667—The International Understanding Program. These regulations are obsolete because legislation authorizing this program was repealed effective October 1, 1982, by the Education Consolidation and Improvement Act of 1981, Pub. L. 97–35, Title V, Section 587(a)(1).

Part 764—Secretary's Discretionary Program. These regulations are obsolete because they have been superseded by the Education Consolidation and Improvement Act of 1981, Pub. L. 97–35, enacted August 13, 1981.

Grants previously awarded by ED under these regulations remain subject to the regulations in effect at the time the grants were made.

The publication of this document as a proposed rule for public comment is unnecessary because it concerns only the removal of obsolete regulations from the CFR.

List of Subjects

34 CFR Part 537

Education, Elementary and secondary education, Indochina, Refugees.

34 CFR Part 667

Colleges and universities, Cultural exchange programs, Education, Educational study programs, Grant programs—education.

34 CFR Part 764

Education, Educational research, Elementary and secondary education, Grant programs—education.

Dated: September 24, 1982.

(Catalog of Federal Domestic Assistance Numbers 84.066; 84.066; 84.122)

T. H. Bell,

Secretary of Education.

Title 34 of the Code of Federal Regulations is amended as follows:

PART 537—INDOCHINA REFUGEE CHILDREN ASSISTANCE PROGRAM [REMOVED]

1. Part 537 is removed.

PART 667—THE INTERNATIONAL UNDERSTANDING PROGRAM [REMOVED]

2. Part 667 is removed.

PART 764—SECRETARY'S DISCRETIONARY PROGRAM [REMOVED]

3. Part 764 is removed.

[FR Doc. 82-27019 Filed 9-29-82; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 219

National Forest System Land and Resource Management Planning

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: In March 1981, the Presidential Task Force on Regulatory Relief identified as a high priority for review the rule which guides land and resource management planning in the National Forest System. As a result of that review, the Department of Agriculture is issuing final revised regulations. These rules require an integration of planning for National Forests and Grasslands, including the planning for timber, range, fish and wildlife, water, wilderness, and recreation resources, together with resource protection activities, such as fire management, and the use of other resources, such as minerals.

EFFECTIVE DATE: November 1, 1982.

ADDRESSES: Comments or questions on these final rules may be addressed to: Chief, Forest Service, USDA, P.O. Box 2417 (1920), Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Charles R. Hartgraves, Director, Land Management Planning, 202/447–6697.

SUPPLEMENTARY INFORMATION: The Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA) (88 Stat. 476, et seq.), as amended by the National Forest Management Act of 1976 (NFMA) (90 Stat. 2949, et seq.; 16 U.S.C. 1601–1614), specifies that an interdisciplinary approach will be used in land and resource management planning for the National Forest System and that there will be a periodic review of the planning process, followed by any necessary amendments to keep it current with statutory requirements. These statutes also provide for the establishment and revision of national, regional, and local resource goals and objectives based on a periodic assessment of the future supply and demand of renewable resources from public and private forest and range lands. Achievement of these goals and objectives is the purpose of the planning process provided in these regulations. These acts also require public participation in the development, review, and revision of land and resource management plans and the coordination of such plans with State and local units of government and other Federal agencies.

These regulations apply to all land and resource management plans developed hereafter for the National Forest System. By October 1985, plans required by these regulations should be developed for all National Forest System lands.

Introduction

In March 1981, the Presidential Task Force on Regulatory Relief identified as a high priority for review the rule which guides land and resource management planning on the National Forest System. As a result of this review, the Secretary proposed changes in the existing rule to streamline the land management planning process and better direct the process towards the desired result of maximizing net public benefits from National Forest System lands. The proposed rule was published on pages 7678–7696 of the Federal Register of February 22, 1982.

Analysis of Public Comment

The proposed revision of the planning regulations generated substantial public interest. In response, the Department extended the public comment period from April 23, 1982, until July 6, 1982, and announced a meeting of a panel of consultants (consisting of members of the former Committee of Scientists), June 30–July 2, to discuss and consider major topics emerging from comments on the proposed rule (47 FR 24346). The meeting was open to the public. Many of the revisions to the final rule reflect the recommendations of the panel.

A total of 2,020 responses were received on the proposed rules. Of the responses received, 88 percent were from individual citizens; 2 percent from government agencies; 1 percent from industry; and 5 percent from environmental groups. In addition, inquiries from members of Congress were received.

The majority of the comments were general in nature, addressing broad issues. About 8 percent of the responses contained substantive recommendations for particular sections of the regulations.

Most respondents viewed the proposed revisions as much more than "streamlining." When viewed as a whole, the revisions represented to most of those who wrote, an "upsetting" of a carefully developed balance between

environmental and industrial interests. While some respondents acknowledged that the revisions represented some improvements, e.g., organizational changes, most felt that the substantive changes favored commodity output at the expense of multiple-use management. Language that had been deleted as "unnecessary" apparently had great symbolic meaning to many people. The concern, in short, was that, in the Department's desire to expedite planning and shorten the existing regulations, the basic purpose of the Forest and Rangeland Renewable Resources Planning Act and the National Forest Management Act of 1976, may have been compromised.

In addition, numerous reviewers stated that there is presently no basis (such as completed plans) on which to evaluate any possible shortcomings of the existing regulations. Approximately 60 percent of respondents specifically requested that the Forest Service implement the existing regulations and not "change direction in mid-stream."

A few respondents supported the decision to revise the regulation, agreeing that they resulted in improved clarity and procedures. Some felt the proposed changes were necessary and that the Forest Service revisions were consistent with Executive Order 12291.

The greatest interest was expressed in § 219.13 Forest Planning Integration Requirements. The majority of the comments related to the revisions of provisions on departure from the nondeclining yield timber harvest policy and to wildlife. Public participation was also a subject which received a great deal of attention.

All suggestions and comments have been reviewed, analyzed, and considered in preparation of the regulations.

Responses are available for review at the office of Land Management Planning, Forest Service, U.S. Department of Agriculture, 14th and Independence Avenue SW., Room 4021, South Building, Washington, D.C. 20013. The following summarizes the major comments and suggestions received on the proposed revision of 36 CFR Part 219 and the Department's response to these comments in the final rule. Comments are keyed to the section numbers and headings of the proposed rule document.

Section 219.1 Purpose

Summary of Major Comments: Many respondents strongly objected to the deletion of the 14 planning principles on the basis that these are important statements of policy which serve as philosophical guides for managing the National Forest System. There was a general uneasiness that the National Forests would no longer be considered ecosystems. Respondents viewed the principles as emphasizing the intent of the Congress in enacting the 1976 Act—that management of the National Forests consider all resources—both marketable and nonmarketable.

Many felt the newly introduced term, "net public benefits," threatened overemphasis on development of marketable resources. It was argued that "maximization of net public benefits" is a misleading term and open to several interpretations.

There were several respondents who stated that the maximization of net public benefits and economic efficiency should be the driving force behind forest planning. However, even some of these comments called for a more quantitative definition of net public benefits.

Response: In the final rule, the 14 planning principles have been reinstated, and the relationship between achieving multiple-use goals and maximizing net public benefits has been restated more clearly. The meaning and use of the term "net public benefits" was misinterpreted by many reviewers as being largely synonymous with "present net value," even though the definitions in § 219.3 clearly indicate that such is not the case. Net public benefits include all outputs and effects. The concept includes both positive and negative values that cannot be quantitatively valued and therefore require the decisionmaker to subjectively balance such benefits or costs with each other and with those that can be quantified. The goal of "maximizing net public benefits" restates direction given to Gifford Pinchot by the Secretary of Agriculture upon the establishment of the Forest Service. That direction was, in part, "* * * where conflicting interests must be reconciled the question will always be decided from the standpoint of the greatest good of the greatest number in the long run. * * *" This goal, expressed in either form, is fully consistent with the language and intent of the Multiple Use-Sustained Yield Act. The definition of net public benefits in § 219.3 has been changed to more clearly describe the concept intended.

Section 219.2 Scope and Applicability

There were very few comments on this section. For clarification, specific language has been added concerning special area authorities.

Section 219.3 Definitions and Terminology

Summary of Major Comments: Removal of the term "integrated pest management" in the proposed rule was interpreted by many as elimination of the concept itself. The perceived omission of the technical concept of integrated pest management as the operating principle for dealing with insects and other pest problems was seen as an error on the part of the Forest Service.

Some respondents viewed the maximization of net public benefits and economic efficiency as rightfully being the driving force behind forest planning and as central to Forest Service management objectives and planning. However, some felt that the definition lacked substance and was ambiguous. It was requested that the reference to qualitative measures be removed and a more quantitative definition be developed. Some asked for a definition of both qualitative and quantitative criteria. Some recommended a much clearer and precise definition be developed, based on accepted economic principles, which would include specific criteria for using the measure.

As a decision criteria, some said maximizing net public benefits represented replacement of congressional intent with an Executive branch criterion and would, therefore, be inappropriate. Some said the vague definition would make evaluation of alternatives difficult. Some felt that the process proposed for maximizing net public benefits in forest planning violates the multiple use mandate by exalting the values attributable to commodity resources while largely ignoring values of resources not easily priced. Several respondents pointed out that as defined "maximization of net public benefits" is indeterminate and is, therefore, not a good criterion for evaluating alternatives.

The proposed regulations defined "multiple use" as the management of all renewable surface resources in the National Forest System. Therefore, it was recommended that the "multiple use" definition be revised to reflect the one in the Federal Land Policy and Management Act of 1976, which includes both renewable and nonrenewable resources. Some recommended that the definitions in § 219.3 be expanded to include both renewable and nonrenewable resources. It was suggested nonrenewable resources should include crude oil, natural gas, geothermal resources, carbon dioxide, and other nonrenewable minerals.

Several respondents suggested changes in the published definitions of such terms as "cost efficiency," "biological growth potential," "even-

aged system," "silvicultural systems," "present net value," "real dollar value," "receipt shares," "corridor," "diversity," "goods and services." Several others suggested definitions be included for previously undefined terms, such as "management area," "economic impacts," and "demand."

Response: The Department reexamined the "Definitions" section in light of public comment and a number of changes have been incorporated in the final rule.

1. All suggested changes and additions that seemed to clarify the intended meanings were adopted.

2. Definitions were added for "forest land," "planning period," "planning horizon," and "integrated pest managment."

3. The following terms were redefined to improve clarity: "management concern," and "net public benefits." In the final rule, "net public benefits" has been redefined to more clearly reflect the intent to consider both tangible and intangible benefits and costs and to more clearly identify the term as a concept rather than as a quantitative index that can be objectively applied.

4. Minor changes in wording were made to the following terms: "allowable sale quantity," "sale schedule," "timber production."

5. The term "public participation activities" was dropped from the definition section and included with text in § 219.6, because it was not truly a definition but rather a listing of activities included.

6. The terms "even-aged system" and "uneven-aged system" were changed to "even-aged management" and "uneven-aged management," and those terms, as well as "silvicultural system," were redefined to bring them into agreement with the terminology jointly accepted by the Society of American Foresters and the Forest Service.

7. Requests to define additional terms which are used in the sense of their standard dictionary meanings have not been honored in the final rule.

8. The final rule retains the current definition for "multiple use" since it is a direct quote from the Multiple Use-Sustained Yield Act that directs Forest Service management of the National Forest System.

Section 219.4 Planning Levels

Summary of Major Comments: Most of the comments received on this section related to the regional planning level.

Some stated that the existing language in this section is superior to that of the proposed rule, as it requires planning that meets clearly delineated objectives, with provisions for controlled changes in objectives if the planning analysis shows changes are needed. The proposed language, they felt, promoted planning without objectives.

Many of the comments stated that the regional plan should do more than provide guidance for resolving regional issues; it should actively resolve regional public issues and management concerns and give specific direction to National Forests.

Some thought the regional plan should do more than convey direction and information. Since the regional plan is not required by statute, some reviewers stated that the revision process presented an opportunity to more broadly develop the regional plan's purpose.

It was also suggested that regional plans be eliminated and the functions now assigned regional planning be accomplished through another mechanism.

There were numerous comments that the proposed revision promoted "top-down" planning. Some said the proposals violate congressional intent to emphasize planning based on local information. They argued that the existing regulations require an evaluation of national targets, while the proposed regulations would not allow the Forest Supervisor the option to request adjustments based on local supply and demand, community stability, or potential environmental effects.

Response: In revising this section and §§ 219.8 and 219.9 of the final rule, the Forest Service considered the following factors:

1. The flexibility each Region has to match up the forest plans with the firm program targets established for the Region by the RPA Program is quite limited. Regional planning is essentially program planning rather than land management planning.

2. The process outlined by NFMA for forest planning implies a much broader decision base and different types of decisions than is necessary for regional planning. Efforts to use the same process for regional planning show that at best it is an inefficient use of planning resources and risks misleading the public into expecting more from the regional plans than either could or should be delivered. Therefore, the regional planning process was tailored to more closely portray the kinds of decisions and the flow of information pertinent to that level. The changes made in regional planning in the final rule also ensure close integration of the land and resource management planning process with the RPA Program development.

3. The structure and relationships of multi-level planning must recognize the different roles appropriate to each planning level. The Forest Service has started work on the 1985 RPA Program update. The analysis for this update is to be based in part on data generated in the forest planning process, and it will constitute the development phase of the next round of regional planning. This process is an iterative one, both during each round of planning, and between rounds. In this manner each Forest's capabilities and needs are reflected in the National RPA Program. There should be no misunderstanding, however, of the preeminent role of the President's Statement or Policy and the RPA Program upon which the statement is based. That role is firmly established by the Renewable Resources Planning Act.

As a result of comments received, and in consideration of the foregoing factors, the name of the regional planning document has been changed to Regional Guide to more clearly reflect the intent of that document. Statements have been added to both the regional and forest planning subsections that provide for adjustment of the resource objective tentatively assigned to each unit, and the Chief has been identified as having approval responsibility for the Regional Guides. Editorial changes were made to clarify intent and to remove some material that duplicated requirements treated in later sections.

The suggestion that the regional plan be made a more comprehensive document that would resolve all regional issues and concerns has not been incorporated in the final rule. The most urgent need and primary utility of a regional document at this time and in the context of NFMA planning is to facilitate development of forest plans. Direction necessary to resolve regional issues or concerns that do not directly affect forest planning can more properly be addressed through the normal Forest Service directive system.

Section 219.5 Interdisciplinary Approach

Summary of Major Comments: Identification of the interdisciplinary planning team's functions and personal attributes was broadly viewed as necessary to the effectiveness of the team effort.

The proposed regulations were seen as moving away from true interdisciplinary planning because the responsible official would be allowed to use whatever "combination of Forest Service staff" needed to achieve an interdisciplinary approach. In contrast, some felt the regulations should require certain specific disciplines and

qualifications. Concern was also expressed that expertise about subsurface resources should be required in the interdisciplinary process, that, for example, a geologist should be added to the team. Some requested that economists be included on the interdisciplinary team because of increased economic attention. Minority opinion was received that § 219.5 was too specific. This view was based on the belief that planning needs vary among Forests and, therefore, more general direction would be more effective.

Overall, though, it was the general consensus of reviewers that the proposed revisions weakened the regulations and moved away from multiple-use planning.

Response: To respond to the majority of comments, most of the language of the current regulations is being retained in the final regulations. Minor editorial changes were made for clarity.

Section 219.6 Public Participation

Summary of Major Comments: About 45 percent of the respondents addressed this section. The majority opinion held that public participation would become more difficult under the proposed revisions.

The proposed changes in public participation were generally seen as weakening public involvement in the total planning process and resulting in less frequent and less effective public participation.

Also, the proposed regulations were viewed by many as a premise for allowing planners to arbitrarily withhold requested information by claiming the request to be "unreasonably" burdensome.

To many, the cumulative changes in the public participation provision gave the appearance of undermining the public participation process. The specific requirements of the existing regulations had been seen by many reviewers as standards for public participation activities.

General response to the newly proposed 30- and 60-day limitations for public participation activities was favorable. However, the specifics of how the public would be notified of activities (for example, in the **Federal Register**) was requested.

Some people felt the proposed changes in this section were, in general very good.

Response: In the final rule, the Department has honored the majority of requests by reinstating most of the language of the current regulations and eliminating § 219.6(d) of the proposed rule. Subsection 219.6(f) of the current regulations has been deleted because that subsection was essentially redundant. A new subsection § 219.6(k) which was codified at § 219.7(d) of the February 22 proposed rule has been added. This move was made because § 219.7 is focused on coordination of planning efforts of other public agencies as opposed to participation by individuals.

Section 219.7 Coordination With Other Public Planning Efforts

Summary of Major Comments: Some felt the proposed revisions weakened the regulations through vague wording, although they admitted that a coordinated effort fully meeting the intent of the original regulations would still be possible.

Some suggested that the concept of coordination with public agencies and Indian tribes should be carried clearly throughout other sections of the regulations, specifically including States and other affected entities.

Some felt the regulations should specificallly outline the types of information to be included in public announcements. Some felt that other specific requirements, such as the requirement to maintain lists of affected or interested individuals and groups, should be reinstated.

A minority view stated that the revisions and deletions were appropriate in streamlining and simplifying regulations. Those of this view felt no substantive changes in process would result.

Some respondents suggested deleting the qualifying phrase "to the extent practical" and reinstating without qualification the requirement to coordinate planning activities with adjacent and intermingled landowners. Others thought this requirement should be expanded further to include (1) holders of major rights-of-way; (2) all holders of grazing permits; (3) land and mineral owners of property which may be affected; and (4) "lessees" as well as landowners.

In general, most respondents preferred the existing language.

There was concern expressed regarding the Government's trust obligations to protect Indian treaty resources within, or affected by management of, National Forest areas. It was suggested that coordination procedures must comply not only with National Environmental Protection Act (NEPA) provisions but also with the Federal trust responsibility to Indian tribes.

Response: In the final rule, § 219.7(d) was moved to § 219.6(k) as previously indicated and a new § 219.7(d) on meeting with officials of State and Indian tribal governments and other Federal agencies has been added to address many or the concerns expressed by respondents. § 219.8(j) of the current regulations that deals with monitoring and evaluation of effects on and by adjacent public landowners has been retained in the final rule as § 219.7(f).

Section 219.8 Regional Planning Procedure

Summary of Major Comments: The reorganization of this section into two sections (Regional Guide Content and Regional Planning Procedures) seemed to be favorably received.

Several responses indicated that regional planning should provide standards and guidelines for regional issue resolution as required by the existing regulations rather than simply providing guidance for resolution. Some felt this rewording would promote uncoordinated issue resolution and a disregard for the cumulative impacts of the resolution process, and, in general, did not provide enough emphasis on resolving issues at the regional level.

Several suggested that limiting the scope of the Regional Guide Environmental Impact Statement (EIS) to proposed standards and guidelines falls short of NEPA requirements. Under NEPA, an EIS must be prepared for all major federal actions significantly affecting the environment; many of the policy choices made in regional planning,they said, involve such action.

Several requested that the regulations require that EIS's be prepared which incorporate detailed analysis of costs/benefits for a full range of program distribution alternatives as well as an analysis of all standards and guidelines necessary to resolve regional issues an concerns.

The proposed change to make the administrative appeals procedures applicable to regional planning was generally supported. One group stressed that any appeals process written into the regulations should reflect the relative magnitude of impacts caused by appealed plans on the appellants. Another emphasized that the decision to disapprove a plan should also be subject to appeal, as well as other decisions made during the planning process.

There was a recommendation that only those who participated with written comments or other public participation programs and who have an interest which could be adversely affected by a decision be permitted to appeal an administrative decision on plans.

It was also suggested this section give emphasis to the importance of providing

for energy and minerals management in forest planning.

Response: The reasons for limiting the scope of regional guides at this time are set forth in the discussion of § 219.4 Planning Levels. In the final rule, the scope of the EIS has been limited to standards and guidelines because those are the only elements of the regional guides that could significantly affect the environment. The tentative resource target distribution is not binding on the Forests but merely provides one set of targets that must be considered. As shown in § 219.12(f)–(j), a number of other sets of targets must be analyzed, any one of which can be selected. Any other planning guidance not reflected in standards and guidelines would have no predictable effect on the environment, but would simply add additional procedural direction.

The normal appeal process has not been limited as suggested by some respondents because there seems no valid reason for deviating from the standard practice. Disapprovals and process decisions are not appealable because they are not final. Until the plan is approved, all other decisions are tentative.

Minerals management has not been emphasized in these regulations because the parent statute under which they are written deals with renewable resources, and management of those renewable resources is the primary role of the Department of Agriculture. Other Departments have responsibility for minerals management. The Department recognizes the need for coordinating management of the two types of resources, and provision for coordination of minerals management with renewable resources management has been provided in § 219.22.

The principal change made in § 219.8 is the renaming of the document produced as a "guide", rather than a "plan." The description of the guide was modified to more precisely define its role.

The section dealing with responsibilities was rewritten to improve clarity and to add the responsibilities of the interdisciplinary team.

§ 219.8(h) of the proposed rule has been deleted since it added little to the basic public participation requirements of § 219.6.

A few additional editorial changes have been made to achieve brevity and clarity of expression.

Section 219.9 Regional Plan Content

Summary of Major Comments: Although regional planning received less discussion than other sections, several problems were identified by respondents.

For example, the proposed Regional Plan Content revisions (§ 219.9) were noted for the absence of a clear presentation of the purpose for regional planning. In view of some, the deletion of the 17 management concerns from the existing § 219.10 Regional Planning Actions was seen as undesirable and in need of reinstatement.

Some of the more significant concerns expressed were that the existing regulations require a distribution of regional objectives to each National Forest, while the proposed revisions require a display of each forest planning area's tentative resource objectives from the current RPA Program. To some reviewers this change appears to weaken the required ties between the RPA Program and the forest plan.

Again, some reviewers recommended addressing nonrenewable, as well as renewable resources. They proposed including specific language providing for mineral resource exploration, development, and transportation.

It was suggested that the Regional Plan Content be expanded to include an assessment of resource supply and demand and an analysis of community dependence of National Forest resources.

Attention was drawn to the provision for establishing guidelines for setting the maximum size of openings in even-aged management (§ 219.9(a)(4)(ii)). Some stated this provision could be interpreted as authorizing the Regional Forester to establish arbitrary limits on the size of openings. Therefore, it was felt that size limitations should not be prescribed because they are arbitrary and could not be professionally defended.

Some reviewers suggested that the existing section on monitoring (§ 219.9(i)) be retained because it is more specific with respect to monitoring and evaluation of regional planning procedures.

There were several recommendations for specific inclusion of the designation of utility corridors in forest planning. In addition, some thought greater emphasis should be given to future Forest Service access needs as well as to the location of subsequent rights-of-way grants in the corridor designation process.

With respect to content of the regional plan, it was suggested that recognition of the Forest Service responsibility to Indian resources and concerns should be given in this section.

Some of the respondents stated § 219.9 should be rewritten to strengthen planning and coordination processes with the States.

Some suggested that the Regional Plan Content section also be modified to include reference to requirements for surface and drinking water protection under the Clean Water Act and Safe Drinking Water Act.

§ 219.9 was viewed as giving nontimber consumptive use (fish, wildlife, recreation) a minor role, therefore, violating the Multiple Use-Sustained Yield Act. In addition, some stated the proposed regulations do not assure that cultural resources will be adequately and consistently protected on all National Forests.

A number of respondents protested deletion of the requirements to develop regional standards and guidelines for minimum biological potential for suitable lands and standards and guidelines for the state of vegetation when an opening ceases to be an opening.

Response: The final rule does not retain the 17 management concerns presently listed under § 219.10. The Department continues to believe that these are better suited to the Forest Service Manual.

Many of these suggestions are proposals to increase the scope of the regional guides. The discussion in § 219.4 summarizes the reasons for narrowly defining that scope. In brief these are: (1) until forest plans are completed there is little information on which to base regional direction beyond that of the 1980 RPA Program; (2) the forests should not be unnecessarily constrained as they examine a broad range of opportunities; (3) some of the requested additions can and will be covered as part of the ongoing development of the 1985 RPA Program update; and (4) limited available planning resources have dictated that the regional guides concentrate on providing that direction needed by the Forests as they develop their forest plans.

Establishment of guidelines for size limitations for openings is a specific requirement of NFMA, Section 6(g)(3)(F)(iv), which may not be disregarded.

Specific requirements for monitoring have not been added because the narrowed scope of the regional guide makes some of the requirements of the current rule inappropriate and specific requirements are considered to be more appropriate to the Forest Service Manual.

The specifics of utility corridor planning are the proper subject of the standards and guidelines required by § 219.9(4)(iv) and the forest plans. Such

specifics are not considered appropriate for these regulations.

The question of recognition of and coordination with Indian resources and concerns as well as other public agencies is considered to be adequately treated in § 219.7, and, therefore, has not been addressed in § 219.9.

Reference to the requirements of the Clean Water Act and the Safe Drinking Water Act has been included in § 219.23, rather than § 219.9 as suggested.

The concern about over-emphasis on timber stems from the fact that three of the five specifically required standards and guidelines deal with timber. This is a direct reflection of the fact that the NFMA devotes a disproportionate share of its specific requirements to the timber resource. In both cases this is because the timber activities affect all the resources so strongly. The regulations do provide for any other standards and guidelines that are needed.

Regulations covering cultural resources were covered in § 219.13(l) which is redesignated § 219.24 in the final rule. § 219.9(b) as given in the February 22 proposed rule has been incorporated into § 219.8(a). A new § 219.9(b) has been added to emphasize the fact that existing regional standards and guidelines present in the directive system remain in effect until altered. Standards for minimum biological growth potential, and the duration of openings are addressed in §§ 219.14 and 219.17 in the final rule and are discussed at those sections.

A few other editorial changes were made for clarity.

Section 219.10 Forest Planning—General Procedures

Summary of Major Comments: The proposed paragraph (e) on plan implementation was apparently unclear and confusing and, therefore, generated a great deal of comment concerning the authority of the Forest Service to change proposed scheduling according to available funding.

Paragraph (f) was viewed as authorizing amendments without the need for an environmental impact statement unless the Forest Service determines the amendment is "significant." Also, the proposed changes did not state how the public should be notified when insignificant changes in the plan are to be implemented.

Proposed changes in paragraph (g) on revisions would have allowed forest plans to "ordinarily be revised on a 10-year cycle or at least every 15 years." This was interpreted by many as allowing the life of a forest plan to extend up to 15 years without revision, raising several questions, such as how this time period relates to the RPA cycle.

In addition, there were a few comments on appeals of the Regional Forester's decision to approve a forest plan. Several stated that the proposed rules do not provide the same clear procedure for appeals that are in the existing rules.

Response: The implementation section has been rewritten to clarify the original intent and to state, as this section does in the existing rules, when it is necessary to prepare an environmental impact statement.

The final rule on amendments has not been changed because, as previously stated, the NEPA criteria for determining the need for an EIS have not been abrogated. The responsible officer always must make that decision.

The Department added the 15-year revision cycle because it is the time required by the NFMA. It should be noted that 10 years is "ordinarily" when revisions will occur and the 15-year cycle is required by statute (16 U.S.C. 1604(f)(5)). The final rule preserves the requirement for a review every 5 years to determine if revision is appropriate. Therefore, the provision is not changed in the final rules.

The final rule makes no substantive changes in the proposed rule concerning appeals. The new rule is significantly less restrictive than is the current rule and brings forest plans under the provisions of the standard appeals regulations, which are themselves in the process of revision. Specific procedures are spelled out in detail in 36 CFR Part 211, which is as readily accessible as are these regulations.

Section 219.11 Forest Plan Content

Summary of Major Comments: This section received very little comment. However, a few respondents stated that some important informational requirements were deleted such as the issues and management concerns and names and qualifications of the Interdisciplinary Team members.

Response: The issues and concerns are used as part of the NEPA required scoping process and are listed in the environmental impact statement rather than in the forest plan. Similarly, the environmental impact statement requires a list of preparers with their qualifications. Duplication of that information in the plan is unnecessary.

Section 219.12 Forest Planning Process

Summary of Major Comments: Several respondents felt that the proposed regulations in general ignored subsurface resources and, therefore, that reference to subsurface resources should be made throughout this section, e.g., in paragraphs (b) identification of purpose and need; (c) planning criteria; (d) inventory data and information collection; and (g) estimated effects of alternatives.

There were some comments on planning criteria (§ 219.12(c)). The emphasis seemed to be on the need for providing specificity rather than general statements. For instance, some stated that criteria are critical to both guiding the analysis and to openly identifying measures against which alternatives will be evaluated; the regulations should provide specific criteria to be used in the planning process rather than simply stating that criteria will be developed. It was suggested that this would include concise criteria statements designed to assess how well an alternative plan achieves the stated objective of maximizing net public benefits. Criteria, some felt, should be based on sound and accepted economic principles.

Some expressed concern that reference to guidelines for economic analysis is being deleted in the proposed revisions. Two other criteria were suggested to be added to the list in § 219.12(c): The President's Statement of Policy for RPA, and information on supply and demand.

Several urged strengthening the wording in paragraph (c)—"specific criteria may be derived from various sources" by changing "may" to "shall."

The majority of comments centered around the analysis of the management situation (§ 219.12(e)) and the formulation and comparison of alternatives (§ 219.12 (f) and (h)).

Some people suggested that the proposed revisions to Analysis of the Management Situation (AMS) provision should be completely struck in favor of the existing regulations; that the existing regulations correctly require a supply/demand analysis for all resources using the best available techniques to the extent possible.

A respondent suggested that the purpose of the AMS needs amplification. It was suggested that the regulations should state that "the primary purpose of this analysis is to identify resource production potentials, examine present net value opportunity costs of balancing conflicting resources," thereby providing a basis for formulating a range of reasonable alternatives.

Some characterized the revision of the section on formulation of alternatives as eliminating very basic and sound requirements that each alternative be achievable and that each provide for the elimination of reforestation backlogs.

Several respondents stated that the function of developing alternatives is to address the range of public concerns and issues, not to explore different ways of "maximizing" the exploitation of the Forest's resources. In addition, the existing regulations were viewed as more flexible than the proposed regulations.

Several reviewers stated that the starting point for formulating alternatives should not be maximization of present net value; to start only with commodity outputs is to skew the analysis in favor of such outputs. They felt the proposed provisions for evaluating alternatives placed too much stress on dollars and cents values and that the proper criterion is the full range of values.

One group stated that the term "costs" in § 219.12(f)(5) should be more clearly defined to segregate between opportunity costs and fiscal costs.

Some felt that there is insufficient discussion of resource tradeoffs in the proposed regulations and that § 219.12(g) could be used to correct this perceived deficiency.

One group of respondents stated that it is essential that the environmental costs to achieve amenity outputs be displayed and evaluated for determination of present net value. These comments reflected the belief that an alternative that achieves maximum present net value must be displayed as a benchmark providing the basic foundation from which the final plan is determined.

There were many comments that stated the Forest Service would no longer be required to identify a preferred alternative at the draft EIS stage.

In the evaluation of alternatives, one group stated that although forest plans will be required only to compare present net value, they will be required to identify the alternative which comes closest to maximizing net public benefits. They stated that alternatives which maximize both present net value and public net benefits should be identified. Further, it was recommended that all alternatives should be evaluated against the present net value and public net benefits benchmarks with the results prominently displayed in the EIS.

It was recommended that § 219.12(h) be expanded to include several additional factors for evaluating and comparing alternatives—county receipts, community stability, and supply of goods and services relative to local demand.

Another respondent suggested strengthening of paragraph (h) to include the statement from Executive Order 12291, "The alternative involving the least net cost to society shall be chosen."

Others also viewed these revisions as increased emphasis on commodity aspects and, therefore, an unfair analysis.

Still another reviewer saw this section as a well-constructed provision and an excellent approach to determining output potential and maximum net benefits.

Many people felt the proposed revisions weakened the monitoring and evaluation requirements. Several requested that the existing language be retained.

It was stated by some that paragraph (k)(2) on monitoring and evaluation lacks clarity. It should be rewritten to show that the effects of managememt prescriptions are documented in the monitoring process.

Response: References to subsurface resources have not been added because this section covers the general process requirements without specific reference to any resources.

The suggestions for more specificity in defining criteria were carefully considered, but the wide range of issues, concerns, and opportunities that exist across 122 widely dispersed National Forests make specific criteria formulated at the national level extremely difficult to develop and probably inappropriate.

The President's Statement of Policy is considered to be the executive portion of the RPA Program, and hence is included in the generic expression "RPA."

§ 219.12(e), (f) and (h) have been further revised in the final rule to address many of the concerns raised by reviewers and to clarify the intent, which is to insure the most complete analysis of ways to combine opportunities with needs. Members of the original Committee of Scientists were very helpful in suggesting some of these revisions.

One purpose of the analysis of the management situation is to establish the range of feasible alternatives. § 219.12(f) requires that alternatives considered in detail lie within that range. But a requirement that all alternatives must appear to be budgetarily achievable, or that all should provide for elimination of backlogs would mean that the decisionmaker, the public, and the Congress would not be aware of all opportunities or the cost and benefits of eliminating the backlog.

Alternatives are formulated to address the items set forth in the last sentence of § 219.12(b) of both the current and proposed revision of the regulations, i.e., "* * * the major public issues, managememt concerns, and use and development opportunities * * *." Different ways of maximizing the use of forest resources address some management concerns and development opportunities, and in many cases they are also public issues. Therefore, the formulation of alternatives should address maximizing use of various resources, consistent with the protection of other resources and other objectives. However, the goal for formulation of alternatives is not to "maximize" exploitation of the forest's resources, as was inferred by several respondents. Rather, a primary goal is to permit maximization of net public benefits. See the response to comments in § 219.1 for elaboration on this point.

The perceived flexibility of the current regulations is related to imprecise requirements that have led to some confusion on the part of the planning teams. The proposed and final rule attempts to eliminate that confusion.

The final rule preserves in § 219.12(g), a provision that specifically requires estimation of environmental effects, but recognizes that many environmental effects cannot be monetarily evaluated for use in present net value calculations.

The belief that the DEIS would not have to identify a preferred alternative is a misconception that needs addressing. The proposed regulations required this identification in §§ 219.10(b) and 219.12(h). The final regulations continue this requirement in §§ 219.10(b) and 219.12(i).

County receipts, community stability, and supply/demand relationships all represent components of the categories of effects identified in § 219.12(h), and are discussed in more detail in the economic and social analysis guidelines required by current § 219.5(c)(6). These have been issued as Chapter 1970 of the Forest Service Manual.

"Least net cost to society" is simply a negative form of saying "maximize net public benefits."

Section 219.12(k) of the final rule, dealing with monitoring, has been revised and expanded to bring it much closer to the language of the current regulations and to improve the clarity.

Section 219.13 Forest Planning-Resource Integration Requirements

Almost 65 percent of the respondents referred to this section of the proposed rule. In the final rule this section has been recodified and the material previously included in § 219.13 is now found in § 219.13 through § 219.26. This change was made to facilitate references, improve clarity, and make particular subject matter easier to

locate. Because of the volume of comments on this section, they have been grouped by sub-section.

Section 219.13(b) Timber Resource Land Suitability (§ 219.14 in Final Rule)

Summary of Major Comments: The existing regulations were viewed by many as protective of lands that are fragile and less productive by requiring that the biological growth standard used to define commercial timberland be considered on a regional basis. The proposed regulations set the standard nationally at 20 cubic feet/acre/year. Many respondents believe this would result in more timber being harvested on lands where regeneration is less likely to occur. There were comments that lands with a biological growth potential of less than 50 cubic feet/acre/year are not economically or physically suitable for timber management.

Another group stated the use of an arbitrarily set biological growth standard should be deleted and allow all stands of timber to be considered for management based on their contribution to net public benefits.

Many opposed the requirement of § 219.13(b)(1)(ii), that unmanaged natural stands should be used as the basis for growth estimates because this conflicts with what is perceived to be the legislative intent of the National Forest Management Act to consider intensive management in defining capable and suitable land.

The concept of determining which lands are "necessary" for timber production as an element of suitability was strongly objectionable to some.

Some suggested that the evaluation of lands necessary for timber production should be made in terms of meeting the timber objective of the alternative being studied.

The proposed revisions eliminated reference to the delineation of "available, capable, and technically suitable" land. Some reviewers felt that elimination of these three categories of suitable land will "mislead the public into believing that *all* land classified not suitable is erosive, cannot be regenerated, and is unproductive." These reviewers felt that it would be desirable to restore the concept of delineating and identifying for the public the lands that are not available, capable, and technically suitable.

Response: After a great deal of discussion with the members of the original Committee of Scientists as well as within the Department, it was concluded that the economic suitability test called for by the Act could only be made on a site-specific basis, and that 20 cubic feet per acre, per year or any other national, or even regional, standard could not be professionally supported.

Therefore, reference to a particular growth standard was dropped in the final rule. As now stated, the economic suitability test is defined in § 219.14 (c) and (d) and depends upon the objectives of the particular alternative that is selected and approved as the preferred. Each alternative could have a different area of suitable land.

In the final rule, the term "necessary" for timber production has been changed to "appropriate" for timber production, and the cost effectiveness criteria has been changed slightly to clarify its meaning.

The Department sees nothing in the proposed rule that would lead one to assume that all unsuitable land was erosive or unproductive. To avoid the confusion of maintaining three separate categories of land, the final rule keeps only the "suitable" category.

Section 219.13(c) Timber Resource Management Practices (§ 219.15 in Final Rule)

Summary of Major Comments: It was pointed out that this section referred to any vegetation management practice and therefore, was misnamed.

Response: In the final rule, it is retitled "Vegetation Management Practices."

Section 219.13(d) Timber Resource Sale Schedule (§ 219.15 in Final Rule)

Summary of Major Comments: Among the most controversial issues of the proposed revisions were the changes in the section dealing with departure.

The proposed regulations would have deleted the requirement that departures be approved by the Chief; respondents generally perceived this change to mean that departures could become the "rule rather than the exception." However, some agreed that timber sale scheduling including departures, should properly be determined by the Regional Forester, not the Chief; and the proposed deletion was viewed as a commendable change.

Many saw a greater potential for departures under the proposed revisions. As they interpreted the proposed revision, a departure schedule could conceivably be drawn up for *any* forest plan alternative, and departure schedules could be implemented as funding became available, without public review or EIS.

A fourth "trigger" to require examination of departure alternatives was included in the proposed revision (that is, whenever it is reasonable to expect that net public benefits would increase); this proposal generated much response. Many viewed the new departure criteria as a totally unacceptable principle for management of the National Forests. It was seen as a violation of NFMA.

One group recommended that the entire section be rewritten in a manner that does not cast departure alternatives as the "rare" exception. They stated that the nondeclining yield harvest policy is an extremely inflexible constraint in forest management. This group suggested that the regulations be written to require the Forest Supervisor to provide justification for imposing nondeclining yield rather than justification for allowing a departure.

Several respondents supported the proposed revisions related to culmination of mean annual increment (CMAI), stating that the change is appropriate under the statute. Some questioned the limitations to "natural stands."

Conversely, others thought the proposed change represented a radical departure from present policy. These reviewers stated that since intensively managed stands of timber reach culmination many years after natural stands, this would reduce rotation ages by 50–100 percent or more. They interpret NFMA as, therefore, being violated, as it requires that stands, not forest types, reach culmination before harvesting.

Still another view maintained that the rotation age should be determined by financial and multiple use consideration through the planning process rather than being constrained by culmination of mean annual increment. Therefore, it was suggested that this portion be amended to allow the analysis of rotation ages and factors other than CMAI in cases where greater net public benefits may result.

Some stated that the existing regulations provide flexibility to lengthen the rotation for purposes other than timber. In their view, the proposed regulations would provide a minimum legal determination of maturity and would remove the existing flexibility "in favor of greater harvest by calculating a shorter rotation age."

Response: The final rule retains language granting approval authority for all forest plans to the Regional Forester. The concern that a departure schedule could be implemented in response to budget changes reflects a misunderstanding of the sale schedule which actually sets the allowable sale volume by decade. Departures refer only to a decadal decline from the previous decade, while adjustments of sale volumes in response to actual

appropriations are made on an annual basis. These annual adjustments are subject to the requirement of § 219.14(h)(3) of the proposed rule, (§ 219.27(c)(2) of the final rule), that the average annual sale volume for the decade must not exceed the allowable sale quantity. § 219.10(e) has been expanded in the final rule to eliminate the concern expressed.

The proposal to require justification of nondeclining yield would clearly be a violation of NFMA.

In the final rule the Department has responded to the public's concern by deleting the provision that consideration should be given to departing from nondeclining yield whenever it is reasonable to expect that net public benefits would increase. The language of NFMA concerning achieving overall multiple use objectives has been substituted.

In response to concerns over rotation ages, the Department has, in the final rule, changed § 219.13(d)(ii)(C), (§ 219.16(a)(2)(iii) in the final rule), to require that culmination of mean annual increment be based on the management intensity and utilization standards expected to be used. Also, net public benefit was dropped from proposed language in this section and replaced with the terminology "overall multiple use objectives."

Other minor changes are made in this section to conform to changes made concerning the regional guide.

Section 219.13(e) Wilderness (§ 219.17 in Final Rule)

Summary of Major Comments: The proposed revisions would require that only roadless areas of 5,000 acres or more be considered for wilderness designation. Many respondents objected to an acreage limitation for wilderness consideration. Some stated that the restrictions (if in fact the 5,000-acre became required) should not apply to evaluation of areas adjacent to existing wilderness areas and wilderness study areas.

Others expressed concern with a "continuing study" of Forest Service lands for possible wilderness designation; suggestions were made that continued consideration for wilderness should be limited to areas already recommended for wilderness and areas designated for further planning.

Several supported the proposal to limit the size of areas to be evaluated for wilderness.

Many stated that the NFMA does not establish an arbitrary acreage limitation for wilderness, nor does the Wilderness Act justify the proposed change; therefore, the limitation would violate the law.

A few stated if nonwilderness roadless areas were to be reviewed in plan revisions, the current wilderness should also be reviewed.

Exception was taken by several reviewers to inclusion of the word "essentially" in the phrase that such lands will be evaluated if they are "* * * currently essentially roadless." The word "essentially" should be deleted because the process pertains only to roadless areas, and the area can only be either roaded or unroaded.

Still others pointed out that the 5,000-acre limitation is inappropriate for the Eastern United States where only small enclaves of undisturbed land remain.

Response: In response to these comments, reference to a 5,000-acre minimum has been deleted. The requirement to review roadless areas for possible wilderness recommendation represents the Department's response to an important current public issue. While there is nothing to prevent a forest from analyzing the effects of existing wilderness areas on the total forest program (and most forests will do so as part of the analysis of the management situation), alternatives that would require redesignation of existing wilderness are not required. The term "essentially roadless" remains in the final rule because a road is difficult to define at the margin between trail and road.

Section 219.13(f) Wilderness Management (§ 219.18 in Final Rule)

Summary of Major Comments: It was proposed that since limited action or development is permitted within wilderness areas under certain circumstances, these activities should be included in the planning criteria in subsection (f) Wilderness Management.

In addition, some reviewers felt that subsection (f) should clarify the Forest Service's understanding of existing rights of lessees that constitute "valid existing rights" after December 31, 1983.

Further, a few reviewers strongly recommended the inclusion of a new subsection stating that stipulations for oil and gas leases will be developed on a standard of reparable vs. irreparable harm.

Response: Upon careful consideration of these comments, the Department has concluded that the language in the proposed rule which repeats that of the existing regulations is adequate and no changes have been made in the final rule. The additions requested by respondents seem more appropriate for the Forest Service Manual.

Section 219.13(g) Fish and Wildlife Resource (§ 219.19 in Final Rule)

Summary of Major Comments: A great deal of the public comments concerned § 219.13(g), Fish and Wildlife Resource. Only a very few supported the proposed revision. Generally, the proposed revision was viewed as weakening the fish and wildlife section.

The proposed regulation eliminated the requirement that habitat of certain species be "maintained and improved." To many respondents, this deletion would allow substantial reductions in fish and wildlife populations.

In the discussion of desired future condition of fish and wildlife populations and habitat, substitution of the term "where practical" for the original terminology "where technically feasible" was viewed as a lowering of standards.

There was opposition regarding replacing the term "management indicator species" with "selected species." The term "selected species" is seen by some as less scientific.

In contrast, some viewed the revisions relating to indicator species as probably beneficial. This view was based on the fact that the regulations would no longer require just maintenance and improvement of habitat but would allow for flexibility in providing for maintenance of the species or habitat.

Response: In response to these concerns, the panel of consultants asked Dr. William Webb to work with the Forest Service to develop satisfactory language. Language incorporating many of his suggestions has been included in this final rule. The final rule maintains the requirement for species viability, continues the concept of management indicator species, and stipulates that maintenance and improvement goals must be consistent with other resource goals.

Section 219.13(h) Grazing Resource (§ 219.20 in Final Rule)

Summary of Major Comments: Grazing was not addressed very often by the public. However, it was suggested that this subsection convey the fundamental concept that livestock grazing encompasses more than forage for livestock; that it also provides an important source of food and fiber for the Nation. A change was also suggested to reflect livestock grazing as a management tool to help improve habitat for wildlife, reduce fire hazard, improve watersheds, and enhance soil resources.

A few saw the grazing provision as being weakened by the proposed changes.

Response: It is the Department's belief that regulations are not the proper place for justifying programs. The only changes in the final rule are to improve clarity.

Section 219.13(i) Recreation Resource (§ 219.21 in Final Rule)

No comments were received and no significant changes were made in this section. The opening sentence was modified to clarify that the degree of recreation opportunity provided for in a forest plan must be consistent with needs and demands for all major resources. The resource integration requirements in existing § 219.12(i)(1)–(7), (retained in the final rule as § 219.21(a)–(g)) and elsewhere in the regulations dictate this clarification.

Section 219.13(j) Mineral Resource (§ 219.22 in Final Rule)

Summary of Major Comments: Some reviewers expressed disappointment that the proposed rules lacked understanding of mineral occurrence and the importance of minerals to the economy and national security.

Several suggested inclusion of "geology and energy" in titling the subsection to conform to the proposed changes.

It was suggested that the subsection be strengthened to respond to the Administration's emphasis to expedite the orderly development of mineral and energy resources.

Response: See the Department's comments on the treatment of mineral resources under Regional Planning (§ 219.8). There have been no significant changes in the comparable section of the final rule.

Section 219.13(k) Water and Soil Resource (§ 219.23 in Final Rule)

Summary of Major Comments: Some requested that the original existing language in § 219.13(k), Water and Soil Resource, be reinstated.

Others requested a requirement to identify man-made developments planned for the National Forest be added to the rule.

Response: It is not believed necessary to add a water resource developments identification requirement because Forest Service planned installations would have to be included as part of any overall plan, and developments planned by other agencies would be surfaced during compliance with § 219.7 and addressed appropriately in the plan. There are no changes in this section in the final rule.

Section 219.13(l) Cultural Resource (§ 219.24 in Final Rule)

Summary of Major Comments: Several reviewers requested the addition of two items—protection of historic and cultural resources from forest management practices, including timber harvesting, pesticides, and road construction, and protection of the sacredness of native American sacred sites.

Response: Language has been added to the final rule to strengthen protection of cultural resources.

Section 219.13(m) Research Natural Areas (§ 219.25 in Final Rule)

Summary of Major Comments: Several respondents said that they felt that the proposed regulations emphasized a national network as opposed to a regional or State network. They recommended that Research Natural Areas (RNA's) should be selected to be of value regionally as well as filling national needs.

At least one reviewer expressed disappointment that no regulatory provision was made for other kinds of special areas; such as geologic, botanic, and paleontologic. Because they are not specifically provided for, it was felt they are being overlooked.

Several suggested that transportation should be treated as a resource and suggested inclusion of a new provision labeled "natural corridors" or "transmission corridor resource."

Response: A purpose of establishing a national network of RNA's is to prioritize the Nation's allocation of such areas. There should be little question that areas important to the national network would also be important regionally. The final rule preserves the language of the proposed rule.

The Department believes that consideration of other special types of areas can be adequately addressed in the Forest Service Manual.

In the context of NFMA, transportation is a facility rather than a resource and is adequately covered in §§ 219.9(a)(4)(iv) and 219.27(a)(9).

A new § 219.26 consisting of the first part of the section on diversity that was in § 219.14(g) of the proposed rule has been moved to this portion of the regulations because it deals with procedural integration requirements, rather than management requirements.

Section 219.14 Management Requirements

In the final rule, this section is recoded § 219.27, and it has been reorganized to improve clarity.

Summary of Major Comments: With respect to management prescriptions, several reviewers suggested that energy and mineral exploration should be provided for.

Much of the controversy in this section centered around "when timber stand openings cease to be openings." Several said prescribing forest practices nationally is professionally unacceptable. Some stated the decision might best be left to the regional or forest plan, based on the following reasons—visual quality, other multiple-use objections, and production of timber. Others suggested a minimum height should be obtained before classifying a stand as "established," because loose interpretation will allow adjacent clearcutting before soil and water conditions have stabilized.

Some felt defining the standard in regulations is a positive change, but the definition of when openings are no longer considered openings was still ambiguous.

With respect to diversity, some stated the proposed rules dilute the value and intent of the NFMA and that reductions in diversity of plant and animal communities are inappropriate. Many felt that the proposed revisions, although appearing to be minor word changes, represent a change in management philosophy "designed to weaken management controls for resource protection and enhancement."

The proposed § 219.14(h)(2) was viewed by many as easing the way for development of roadless areas. The proposed language was viewed by some as requiring timber sales to be planned on all lands that are considered suitable for timber management, a requirement they feel is clearly in violation of the Multiple Use-Sustained Yield Act of 1960.

The proposed revision requiring that "technology and knowledge exist" to adequately restock within 5 years after final harvest before cutting could occur was viewed by some reviewers as a violation of the original intent of the Congress. The existing language was, therefore, thought preferable.

Others strongly recommended that additional time be allowed for restocking under natural methods which reflects true time requirements on the ground.

Many of the respondents expressed concern over what is perceived as an omission of integrated pest management as an operating principle for dealing with insects and pest problems. Many requested the existing language should be maintained and strengthened to encourage nonchemical solutions to insect problems.

Response: The necessary coordination for energy and mineral exploration is provided for in both the final and proposed rule. See comment on this subject under § 219.4.

The Department's position on duration of openings is that the characteristics needed for an opening depend upon the specific objectives for a given area, and they would vary with such things as wildlife species present, terrain, existing visual characteristics of the area as a whole, watershed conditions, etc. The proposed and final rules establish, *as a minimum,* that an opening remains an opening until a new stand is established, and regional guides establish guidelines for determining variations to this minimum. Additional opening guidelines to satisfy the needs for resources other than timber may be established locally depending upon multiple-use objectives.

To respond to the concern about diversity, the word "only" has been added to the clause "* * * reductions * * * may be prescribed *only* where needed * * *" in § 219.27(g).

While the intent of § 219.14(h)(2) was to plan to harvest a volume equal to the volume of growth on all suitable lands, it was never contemplated that individual sales would actually be located in the forest planning process. The proposed language is not necessary to achieve the desired result, however, and it is deleted in the final rule.

The language change from the existing regulations to the proposed concerning ability to regenerate a stand is simply a more precise wording for the concept conveyed by "* * * can be adequately restocked * * *," i.e., the "* * * technology and knowledge exists to adequately restock. * * *" Because of the increased precision, the final rule retains the language of the proposed rule.

Section 219.27(a)(3) of the final rule has been reworded to respond to suggestions on integrated pest management. Additionally, the definition of integrated pest management has been restored to § 219.3. A third addition in the final rule dealing with pest management is a new § 219.27(c)(7) requiring coordination of silvicultural practices with the needs of pest management.

Section 219.14(i) on monitoring and evaluation has been moved and recodified to § 219.12(k)(5) in the final rule.

Section 219.15 Research

There were no comments on this section. The only change in the final rule is recodification to § 219.28.

Section 219.16 Transition Period

Summary of Major Comments: There was some objection expressed to the provision which would allow a forest plan to become effective before the regional plan (guide) is approved. Permitting forest plans to become effective before the regional plan (guide) is a carryover from the current regulations and is necessary to prevent unacceptable delays in forest planning.

Several suggested the regulations allowing the Mount St. Helens Land Management Plan appeared to preempt congressional action which could provide more thorough protection.

Response: This section was recodified to § 219.29. The provision for Mount St. Helens is necessary to permit the independent development of the Mount St. Helens Land Management Plan. The timing of the development of the plan in relation to imminent congressional action is such as to make it extremely unlikely that any action could occur that would preempt Congress.

Section 219.29(b) has been added to permit phasing in those forest plans and regional guides that have already been completed through the DEIS stage or beyond, so that it is not mandatory during the current round of planning to subject then to new requirements resulting from amendment of these regulations.

Conclusion

The public response to the proposed rule demonstrated a strong interest in management of the National Forests and was very helpful in developing the final rule. The assistance of the members of the former Committee of Scientists was particularly valuable especially in sections on analysis of the management situation and the formulation and evaluation of alternatives. The final rule is responsive to the preponderance of comments, but as is always the case, all suggestions could not be incorporated. The major changes between the final rule and the proposed rule result from decisions to retain much more of the language of the current regulations than originally proposed. Specifically, the final rule:

—Retains the 14 planning principles from the current regulations;

—Clarifies the relationship between multiple use, net public benefits, and present net value;

—Redefines six terms and adds four new ones to improve readability and understanding;

—Retains provisions for adjusting assigned resource objectives;

—Retains most of the language from the current regulations dealing with public participation process and the interdisciplinary team;

—Deletes the proposal to permit denial of public participation if it would be reasonably burdensome;

—Strengthens public planning coordination requirements;

—Renames the regional plan as a regional guide and clarifies the intent of that document;

—Clarifies the authority of the Forest Supervisor to make adjustments in the plan as a result of differences between planned and appropriated budgets and specifies when these differences may require an EIS;

—Extensively revises the sections dealing with analysis of the management situation and formulation and evaluation of alternatives;

—Revises monitoring requirements to bring them closer to the language of the current regulations;

—Removes entirely all reference to a minimum growth standard, leaving to each forest the evaluation of economic suitability;

—Deletes increasing net public benefit as a trigger for consideration of departures from nondeclining yield or harvesting prior to culmination of mean annual increment;

—Changes the determination of culmination of mean annual increment from that for natural stands to that which would occur under the management intensity and utilization standards expected to be used;

—Eliminates the 5,000-acre minimum for wilderness consideration;

—Revises the section on wildlife and fish;

—Strengthens protection of cultural resources;

—Strengthens the requirement for maintaining diversity of plant and animal species;

—Retains the term "integrated pest management" and strengthens the description of that concept and its use;

—Reorganizes and recodifies the section on Resource Intergration Requirements to simplify citations to these sections and to assist readers in more readily locating specific resource requirements; and,

—In general, seeks to improve readability of the regulations through use of simpler terms and improved sentence structure, reorganization and more precise word choice.

In addition to resolving most of the concerns expressed by the respondents, the final rule integrates achievement of the goals of regulatory relief with the goal of refining the National Forest land and resource management planning process to simplify and clarify the

procedures and, thereby, enhance the quality and utility of planning.

Finding of No Significant Environmental Impact

An environmental assessment and report addressing the impacts of the proposed regulation and the need for preparing an environmental impact statement was printed as Appendix A with the proposed rule in the **Federal Register**, Volume 47, No. 35 (February 22, 1982). The changes reflected in the final rule are primarily reinstatement of provisions contained in the existing regulations promulgated on September 17, 1979. The potential effects of these provisions were analyzed and displayed in the environmental impact statement published in the **Federal Register**, Volume 44, No. 181 (September 17, 1979), to which the environmental assessment for the revisions of the regulations is tiered. A review of other changes from the proposed regulations in the final version indicates no potential for significant effect on the physical and biological components of the human environment. The changes are editorial or apply to planning procedure. Any direct and specific impacts on the environment will be analyzed and displayed in environmental impact statements prepared for forest plans and regional guides.

Based on the above reasons and the environmental assessment prepared for the proposed regulations, which is herein incorporated by reference, it is hereby determined that revision of these regulations is not a major federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement in addition to the one already prepared for the regulations promulgated September 17, 1979, will not be prepared.

Regulatory Impact

The Assistant Secretary for Natural Resources and Environment has determined that the regulations in their present form are considered "major" as defined in Executive Order 12291. However, for the reasons explained in the notice of proposed rulemaking, published in the **Federal Register**, Volume 47, No. 35 (February 22, 1982), the Office of Management and Budget has waived the requirement to carry out a regulatory impact analysis.

The Assistant Secretary for Natural Resources and Environment has determined that this regulation is clearly within authority delegated by law and consistent with congressional intent. This determination is supported by the following Memorandum of Law prepared by the Office of the General Counsel, United States Department of Agriculture:

Memorandum of Law

Legal Authority for Revised National Forest System Land and Resource Management Planning Regulations, 36 CFR Part 219

The revision of the National Forest System Land and Resource Management Planning Regulations, codified in 36 CFR Part 219, is clearly within the authority of the Department of Agriculture, and consistent with congressional intent. Section 6(g) of the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1604(g)) (hereafter, RPA), explicitly requires the Secretary of Agriculture to issue regulations that set out the process for the development and revision of land management plans for units of the National Forest System, and regulations that establish management planning standards and guidelines described in the Act. Section 15 of the same statute (16 U.S.C. 1613) directs the Secretary to promulgate such regulations as he deems necessary and desirable to carry out the provisions of the Act.

The final regulations to implement the above RPA requirements, presently codified in 36 CFR Part 219, were published in the **Federal Register**, Volume 44, No. 181 on September 17, 1979. All of the regulations are directly related to the land and resource management planning process for National Forest System units, to standards and guidelines for that planning, to national level planning required by Sections 3 and 4 of RPA (16 U.S.C. 1601–1602), or to regional level planning which the Secretary determined to be desirable to coordinate national level and forest level planning. The current revision clarifies and streamlines the planning regulations, without deleting any of the provisions required by Section 6(g) of RPA, or adding requirements not within the promulgating authority given to the Secretary by Section 15 of the statute.

A review of the RPA and its legislative history indicates that Congress, in enacting the statute and amendments thereto, intended to create a flexible framework for environmentally sound, economically efficient, and productive multiple-use and sustained-yield management of the National Forest System. A review of the revised regulations indicates full consistency with this intent.

The Assistant Secretary for Natural Resources and Environment has also determined that the factual conclusions upon which this regulation is based have substantial support in the agency record, viewed as a whole, with full attention to public comments in general, and the comments of persons directly affected by the rule in particular.

Small Entity Impact

The Assistant Secretary for Natural Resources and Environment has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed rule imposes no direct or indirect costs on small entities. It requires no paperwork or recordkeeping; it does not affect the competitive position of small entities in relation to large entities; it does not affect the ability of a small entity to stay in the market; and it does not require that small entities obtain professional assistance to meet regulatory requirements.

List of Subjects in 36 CFR Part 219

National forests; Environmental impact statement; Timber; Fish and wildlife; Water resources; Range management; and Recreation.

Therefore, for the reasons set forth in the preamble, Part 219—Planning, Subpart A—National Forest System Land and Resource Management Planning, Title 36 of the Code of Federal Regulations is revised as follows:

1. The Table of Contents for 36 CFR Part 219—Planning, Subpart A—National Forest System Land and Resource Management Planning, is revised to read as follows:

PART 219—PLANNING

Sec.

219.1 Purpose and principles.
219.2 Scope and applicability.
219.3 Definitions and terminology.
219.4 Planning levels.
219.5 Interdisciplinary approach.
219.6 Public participation.
219.7 Coordination with other public planning efforts.
219.8 Regional planning—general procedure.
219.9 Regional guide content.
219.10 Forest planning—general procedure.
219.11 Forest plan content.
219.12 Forest plan process.
219.13 Forest planning—resource integration requirements.
219.14 Timber resource land suitability.
219.15 Vegetation management practices.
219.16 Timber resource sale schedule.
219.17 Wilderness designation.
219.18 Wilderness management.
219.19 Fish and wildlife resource.
219.20 Grazing resource.
219.21 Recreation resource.
219.22 Mineral resource.
219.23 Water and soil resource.
219.24 Cultural and historic resource.

Sec.
219.25 Research natural areas.
219.26 Diversity.
219.27 Management requirements.
219.28 Research.
219.29 Transition period.

Authority. Secs. 6 and 15, 90 Stat. 2949, 2952, 2958 (16 U.S.C. 1604, 1613); and 5 U.S.C. 301.

2. 36 CFR Part 219, Subpart A—National Forest System Land and Resource Management Planning, is revised to read as follows:

§ 219.1 Purpose and principles.

(a) The regulations in this subpart set forth a process for developing, adopting, and revising land and resource management plans for the National Forest System as required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (hereafter, "RPA"). These regulations prescribe how land and resource management planning is to be conducted on National Forest System lands. The resulting plans shall provide for multiple use and sustained yield of goods and services from the National Forest System in a way that maximizes long term net public benefits in an environmentally sound manner.

(b) Plans guide all natural resource management activities and establish management standards and guidelines for the National Forest System. They determine resource management practices, levels of resource production and management, and the availability and suitability of lands for resource management. Regional and forest planning will be based on the following principles:

(1) Establishment of goals and objectives for multiple-use and sustained-yield management of renewable resources without impairment of the productivity of the land;

(2) Consideration of the relative values of all renewable resources, including the relationship of nonrenewable resources, such as minerals, to renewable resources;

(3) Recognition that the National Forests are ecosystems and their management for goods and services requires an awareness and consideration of the interrelationships among plants, animals, soil, water, air, and other environmental factors within such ecosystems;

(4) Protection and, where appropriate, improvement of the quality of renewable resources;

(5) Preservation of important historic, cultural, and natural aspects of our national heritage;

(6) Protection and preservation of the inherent right of freedom of American Indians to believe, express, and exercise their traditional religions;

(7) Provisions for the safe use and enjoyment of the forest resources by the public;

(8) Protection, through ecologically compatible means, of all forest and rangeland resources from depredations by forest and rangeland pests;

(9) Coordination with the land and resource planning efforts of other Federal agencies, State and local governments, and Indian tribes;

(10) Use of a systematic, interdisciplinary approach to ensure coordination and integration of planning activities for multiple-use management;

(11) Early and frequent public participation;

(12) Establishment of quantitative and qualitative standards and guidelines for land and resource planning and management;

(13) Management of National Forest System lands in a manner that is sensitive to economic efficiency; and

(14) Responsiveness to changing conditions of land and other resources and to changing social and economic demands of the American people.

§ 219.2 Scope and applicability.

The regulations in this subpart apply to the National Forest System, which includes special areas, such as wilderness, wild and scenic rivers, national recreation areas, and national trails. Whenever the special area authorities require additional planning, the planning process under this subpart shall be subject to those authorities.

(a) Unless inconsistent with special area authorities, requirements for additional planning for special areas shall be met through plans required under this subpart.

(b) If, in a particular case, special area authorities require the preparation of a separate special area plan, the direction in any such plan may be incorporated without modification in plans prepared under this subpart.

§ 219.3 Definitions and terminology.

For purposes of this subpart the following terms, respectively, shall mean:

Allowable sale quantity: The quantity of timber that may be sold from the area of suitable land covered by the forest plan for a time period specified by the plan. This quantity is usually expressed on an annual basis as the "average annual allowable sale quantity."

Base sale schedule: A timber sale schedule formulated on the basis that the quantity of timber planned for sale and harvest for any future decade is equal to or greater than the planned sale and harvest for the preceding decade, and this planned sale and harvest for any decade is not greater than the long-term sustained yield capacity.

Biological growth potential: The average net growth attainable in a fully stocked natural forest stand.

Capability: The potential of an area of land to produce resources, supply goods and services, and allow resource uses under an assumed set of management practices and at a given level of management intensity. Capability depends upon current conditions and site conditions such as climate, slope, landform, soils, and geology, as well as the application of management practices, such as silviculture or protection from fire, insects, and disease.

Corridor: A linear strip of land identified for the present or future location of transportation or utility rights-of-way within its boundaries.

Cost efficiency: The usefulness of specified inputs (costs) to produce specified outputs (benefits). In measuring cost efficiency, some outputs, including environmental, economic, or social impacts, are not assigned monetary values but are achieved at specified levels in the least cost manner. Cost efficiency is usually measured using present net value, although use of benefit-cost ratios and rates-of-return may be appropriate.

Diversity: The distribution and abundance of different plant and animal communities and species within the area covered by a land and resource management plan.

Even-aged management: The application of a combination of actions that results in the creation of stands in which trees of essentially the same age grow together. Managed even-aged forests are characterized by a distribution of stands of varying ages (and, therefore, tree sizes) throughout the forest area. The difference in age between trees forming the main canopy level of a stand usually does not exceed 20 percent of the age of the stand at harvest rotation age. Regeneration in a particular stand is obtained during a short period at or near the time that a stand has reached the desired age or size for regeneration and is harvested. Clearcut, shelterwood, or seed tree cutting methods produce even-aged stands.

Forest land: Land at least 10 percent occupied by forest trees of any size or formerly having had such tree cover and not currently developed for non-forest use. Lands developed for non-forest use include areas for crops, improved pasture, residential, or administrative

areas, improved roads of any width, and adjoining road clearing and powerline clearing of any width.

Goal: A concise statement that describes a desired condition to be achieved sometime in the future. It is normally expressed in broad, general terms and is timeless in that it has no specific date by which it is to be completed. Goal statements form the principal basis from which objectives are developed.

Goods and services: The various outputs, including on-site uses, produced from forest and rangeland resources.

Integrated pest management: A process for selecting strategies to regulate forest pests in which all aspects of a pest-host system are studied and weighed. The information considered in selecting appropriate strategies includes the impact of the unregulated pest population on various resources values, alternative regulatory tactics and strategies, and benefit/cost estimates for these alternative strategies. Regulatory strategies are based on sound silvicultural practices and ecology of the pest-host system and consist of a combination of tactics such as timber stand improvement plus selective use of pesticides. A basic principle in the choice of strategy is that it be ecologically compatible or acceptable.

Long-term sustained-yield timber capacity: The highest uniform wood yield from lands being managed for timber production that may be sustained under a specified management intensity consistent with multiple-use objectives.

Management concern: An issue, problem, or a condition which constrains the range of management practices identified by the Forest Service in the planning process.

Management direction: A statement of multiple-use and other goals and objectives, the associated management prescriptions, and standards and guidelines for attaining them.

Management intensity: A management practice or combination of management practices and associated costs designed to obtain different levels of goods and services.

Management practice: A specific activity, measure, course of action, or treatment.

Management prescription: Management practices and intensity selected and scheduled for application on a specific area to attain multiple-use and other goals and objectives.

Multiple use: The management of all the various renewable surface resources of the National Forest System so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some lands will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

Net public benefits: An expression used to signify the overall long-term value to the nation of all outputs and positive effects (benefits) less all associated inputs and negative effects (costs) whether they can be quantitatively valued or not. Net public benefits are measured by both quantitative and qualitative criteria rather than a single measure or index. The maximization of net public benefits to be derived from management of units of the National Forest System is consistent with the principles of multiple use and sustained yield.

Objective: A concise, time-specific statement of measurable planned results that respond to pre-established goals. An objective forms the basis for further planning to define the precise steps to be taken and the resources to be used in achieving identified goals.

Planning area: The area of the National Forest System covered by a regional guide or forest plan.

Planning period: One decade. The time interval within the planning horizon that is used to show incremental changes in yields, costs, effects, and benefits.

Planning horizon: The overall time period considered in the planning process that spans all activities covered in the analysis or plan and all future conditions and effects of proposed actions which would influence the planning decisions.

Present net value: The difference between the discounted value (benefits) of all outputs to which monetary values or established market prices are assigned and the total discounted costs of managing the planning area.

Public issue: A subject or question of widespread public interest relating to management of the National Forest System.

Real dollar value: A monetary value which compensates for the effects of inflation.

Receipt shares: The portion of receipts derived from Forest Service resource management that is distributed to State and county governments, such as the Forest Service 25 percent fund payments.

Responsible line officer: The Forest Service employee who has the authority to select and/or carry out a specific planning action.

Sale schedule: The quantity of timber planned for sale by time period from an area of suitable land covered by a forest plan. The first period, usually a decade, of the selected sale schedule provides the allowable sale quantity. Future periods are shown to establish that long-term sustained yield will be achieved and maintained.

Silvicultural system: A management process whereby forests are tended, harvested, and replaced, resulting in a forest of distinctive form. Systems are classified according to the method of carrying out the fellings that remove the mature crop and provide for regeneration and according to the type of forest thereby produced.

Suitability: The appropriateness of applying certain resource management practices to a particular area of land, as determined by an analysis of the economic and environmental consequences and the alternative uses foregone. A unit of land may be suitable for a variety of individual or combined management practices.

Sustained-yield of products and services: The achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the National Forest System without impairment of the productivity of the land.

Timber production: The purposeful growing, tending, harvesting, and regeneration of regulated crops of trees to be cut into logs, bolts, or other round sections for industrial or consumer use. For purposes of this subpart, the term "timber production" does not include production of fuelwood.

Uneven-aged management: The application of a combination of actions needed to simultaneously maintain continuous high-forest cover, recurring regeneration of desirable species, and the orderly growth and development of trees through a range of diameter or age classes to provide a sustained yield of forest products. Cutting is usually regulated by specifying the number or proportion of trees of particular sizes to retain within each area, thereby maintaining a planned distribution of size classes. Cutting methods that develop and maintain uneven-aged

stands are single-tree selection and group selection.

§ 219.4 Planning levels.

(a) *General guideline.* Planning requires a continuous flow of information and management direction among the three Forest Service administrative levels: national, regional, and forest. Management direction shall: (1) Include requirements for analysis to determine programs that maximize net public benefits, consistent with locally derived information about production capabilities; (2) reflect production capabilities, conditions and circumstances observed at all levels; and (3) become increasingly specific as planning progresses from the national to the forest level. In this structure, regional planning is a principal process for conveying management direction from the national level to the forest level and for conveying information from forest level to the national level. The planning process is essentially iterative in that the information from the forest level flows up to the national level where in turn information in the RPA Program flows back to the forest level.

(b) *Planning levels and relationships.*—(1) *National.* The Chief of the Forest Service, shall develop the Renewable Resource Assessment and Program (hereafter, "RPA Assessment and RPA Program") according to Sections 3 and 4 of the RPA.

(i) *RPA Assessment.* The RPA Assessment shall include analysis of present and anticipated uses, demand for, and supply of the renewable resources of forest, range, and other associated lands with consideration of, and an emphasis on, pertinent supply, demand, and price relationship trends; an inventory of present and potential renewable resources and an evaluation of opportunities for improving their yield of tangible and intangible goods and services, together with estimates of investment costs and direct and indirect returns to the Federal Government; a description of Forest Service programs and responsibilities in research, cooperative programs, and management of the National Forest System; and analysis of important policy issues and consideration of laws, regulations, and other factors expected to influence and affect significantly the use, ownership, and management of forest, range, and other associated lands. The RPA Assessment shall be based on the future capabilities of forest and rangelands and shall include information generated during the regional, forest, and other planning processes.

(ii) *RPA Program.* The RPA Progam shall consider the costs of supply and the relative values of both market and nonmarket outputs. The alternatives considered shall include national renewable resource goals and quantified objectives for resource outputs and other benefits and shall be designed to represent a range of expenditure levels sufficient to demonstrate full opportunities for management. A portion of each national objective developed in the RPA Program shall be distributed to each region and be incorporated into each regional guide. Resource objectives shall be tentatively selected for each forest planning area. In formulating the objectives for each region and forest planning area, local supply capabilities and market conditions will be considered.

(2) *Regional.* Each Regional Forester shall develop a regional guide. Regional guides shall establish regional standards and guidelines as required by § 219.9(a). Consistent with resource capabilities, regional guides shall reflect goals and objectives of the RPA Program. For planning purposes, the regional guides shall display tentative resource objectives for each Forest from the RPA Program. Regional guides shall also provide for general coordination of National Forest System, State and Private Forestry (S&PF), and Research programs. The Chief shall approve the regional guide. The Regional Forester may request adjustment of assigned regional objectives. Any adjustment shall require the approval of the Chief, Forest Service.

(3) *Forest.* Each Forest Supervisor shall develop a forest plan for administrative units of the National Forest System. One forest plan may be prepared for all lands for which a Forest Supervisor has responsibility; or separate forest plans may be prepared for each National Forest, or combination of National Forests, within the jurisdiction of a single Forest Supervisor. A single forest plan may be prepared for the enitre Tongass National Forest. These forest plans shall constitute the land and resource management plans as required under Sections 6 and 13 of the RPA. A range of resource objectives shall be formulated as alternatives and evaluated, including at least one alternative which responds to and incorporates the tentative RPA Program resource objectives displayed in the regional guide. Based on this evaluation, the Forest Supervisor shall recommend objectives for incorporation into the forest plan to the Regional Forester. The Regional Forester shall approve the forest plan. This approval may incorporate adjustment of the tentative RPA Program resource objectives displayed in the regional guide.

§ 219.5 Interdisciplinary approach.

(a) A team representing several disciplines shall be used for regional and forest planning to insure coordinated planning of the various resources. Through interactions among its members, the team shall integrate knowledge of the physical, biological, economic and social sciences, and the environmental design arts in the planning process. The team shall consider problems collectively, rather than separating them along disciplinary lines. Team functions include, but are not limited to—

(1) Assessing the problems and resource use and development opportunities associated with providing goods and services;

(2) Obtaining the public's views about possible decisions;

(3) Implementing the planning coordination activities within the Forest Service and with local, State and other Federal agencies;

(4) Developing a broad range of alternatives which identify the benefits and costs of land and resource management according to the planning process described in this subpart.

(5) Developing the land and resource management plan and associated environmental impact statement required pursuant to the planning process;

(6) Presenting to the responsible line officer an integrated perspective on land and resource management planning; and

(7) Establishing the standards and requirements by which planning and management activities will be monitored and evaluated.

(b) In appointing team members, the responsible line officer shall determine and consider the qualifications of each team member on the basis of the complexity of the issues and concerns to be addressed through the plan. The team shall collectively represent diverse specialized areas of professional and technical knowledge applicable to the planning area, and the team members shall have recognized relevant expertise and experience in professional, investigative, scientific, or other responsible work in specialty areas which they collectively represent. The team may consist of whatever combination of Forest Service staff and other Federal government personnel is necessary to achieve an interdisciplinary approach. The team is encouraged to consult other persons when required specialized knowledge does not exist within the team itself. In

addition to technical knowledge in one or more resource specialties, members should possess other attributes which enhance the interdisciplinary process. As a minimum, these attributes should include—

(1) An ability to solve complex problems;

(2) Skills in communication and group interaction;

(3) Basic understanding of land and natural resource planning concepts, processes, and analysis techniques; and

(4) The ability to conceptualize planning problems and feasible solutions.

§ 219.6 Public participation.

(a) Because the land and resource management planning process determines how the lands of the National Forest System are to be managed, the public is encouraged to participate throughout the planning process. The intent of public participation is to—

(1) Broaden the information base upon which land and resource management planning decisions are made;

(2) Ensure that the Forest Service understands the needs, concerns, and values of the public;

(3) Inform the public of Forest Service land and resource planning activities; and

(4) Provide the public with an understanding of Forest Service programs and proposed actions.

(b) Provide participation in the preparation of environmental impact statements for planning begins with the publication of a notice of intent in the **Federal Register**. Public involvement in the preparation of draft and final environmental impact statements shall conform to the requirements of the National Environmental Policy Act and associated implementing regulations and Forest Service Manual and Handbook guidance (hereafter, "NEPA procedures"). Public comments shall be analyzed according to NEPA procedures.

(c) Public participation activities, as deemed appropriate by the responsible line officer, shall be used early and often throughout the development of plans. Formal public participation activities will begin with a notice to the news media and other sources which includes, as appropriate, the following information:

(1) A description of the proposed planning action;

(2) A description and map of the geographic area affected;

(3) The issues expected to be discussed;

(4) The kind, extent, and method(s) of public participation to be used;

(5) The times, dates, and locations scheduled or anticipated, for public meetings;

(6) The name, title, address, and telephone number of the Forest Service official who may be contacted for further information; and

(7) The location and availability of documents relevant to planning process.

(d) Public participation activities should be appropriate to the area and people involved. Means of notification should be appropriate to the level of planning. Public participation activities may include, but are not limited to, requests for written comments, meetings, conferences, seminars, workshops, tours, and similar events designed to foster public review and comment. The Forest Service shall state the objectives of each participation activity to assure that the public understands what type of information is needed and how this information relates to the planning process.

(e) Public comments shall be considered individually and by type of group and organization to determine common areas of concern and geographic distribution. The result of this analysis should be evaluated to determine the variety and intensity of viewpoints about ongoing and proposed planning and management standards and guidelines.

(f) All scheduled public participation activities shall be documented by a summary of the principal issues discussed, comments made, and a register of participants.

(g) At least 30 days' public notice shall be given for public participation activities associated with the development of regional guides and forest plans. Any notice requesting written comments on regional planning shall allow at least 60 calendar days for response. A similar request on forest planning shall allow at least 30 calendar days for response. Draft regional guides and forest plans and environmental impact statements shall be available for public comment for a least 3 months. See also §§ 219.8(c) and 219.10(b).

(h) The responsible line officer shall attend, or provide for adequate representation at, public participation activities.

(i) Copies of approved guides and plans shall be available for public review as follows:

(1) The RPA Assessment and the RPA Program shall be available at national headquarters, The Northeastern Area State and Private Forestry Office, and all Regional offices, Research Stations, Forest Supervisors' offices, and District Rangers' offices;

(2) The regional guides shall be available at national headquarters, the issuing regional office and regional offices of contiguous regions, each Forest Supervisor's office of forests within and contiguous to the issuing region, and each District Ranger's office in the region;

(3) The forest plan shall be available at the regional office for the forest, the Forest Supervisor's office, Forest Supervisors' offices contiguous to the forest, District Rangers' offices within the forest, and at least one additional location, to be determined by the Forest Supervisor, which shall offer convenient access to the public.

These documents may be made available at other locations convenient to the public.

(j) Documents considered in the development of plans shall be available at the office where the plans were developed.

(k) Forest planning activities should be coordinated to the extent practicable with owners of lands that are intermingled with, or dependent for access upon, National Forest System lands. The results of this coordination shall be included in the environmental impact statement for the plan as part of the review required in § 219.7(c). The responsible line officer may individually notify these owners of forest planning activities where it is determined that notice provided for the general public is not likely to reach the affected landowners.

(l) Fees for reproducing requested documents shall be charged according to the Secretary of Agriculture's Fee Schedule (7 CFR Part 1, Subpart A, Appendix A).

§ 219.7 Coordination with other public planning efforts.

(a) The responsible line officer shall coordinate regional and forest planning with the equivalent and related planning efforts of other Federal agencies, State and local governments, and Indian tribes.

(b) The responsible line officer shall give notice of the preparation of a land and resource management plan, along with a general schedule of anticipated planning actions, to the State Clearinghouse for circulation among State agencies as specified in OMB Circular A–95. The same notice shall be mailed to all Tribal or Alaska Native leaders whose tribal lands or treaty rights are expected to be impacted and to the heads of units of government for the counties involved. These notices

shall be issued simultaneously with the publication of the notice of intent to prepare an environmental impact statement required by NEPA procedures (40 CFR 1501.7).

(c) The responsible line officer shall review the planning and land use policies of other Federal agencies, State and local governments, and Indian tribes. The results of this review shall be displayed in the environmental impact statement for the plan (40 CFR 1502.16(c), 1506.2). The review shall include—

(1) Consideration of the objectives of other Federal, State and local governments, and Indians tribes, as expressed in their plans and policies;

(2) An assessment of the interrelated impacts of these plans and policies;

(3) A determination of how each Forest Service plan should deal with the impacts identified; and,

(4) Where conflicts with Forest Service planning are identified, consideration of alternatives for their resolution.

(d) In developing land and resource management plans, the responsible line officer shall meet with the designated State official (or designee) and representatives of other Federal agencies, local governments, and Indian tribal governments at the beginning of the planning process to develop procedures for coordination. As a minimum, such conferences shall also be held after public issues and management concerns have been identified and prior to recommending the preferred alternative. Such conferences may be held in conjunction with other public participation activities, if the opportunity for government officials to participate in the planning process is not thereby reduced.

(e) In developing the forest plan, the responsible line officer shall seek input from other Federal, State and local governments, and universities to help resolve management concerns in the planning process and to identify areas where additional research is needed. This input should be included in the discussion of the research needs of the designated forest planning area.

(f) A program of monitoring and evaluation shall be conducted that includes consideration of the effects of National Forest management on land, resources, and communities adjacent to or near the National Forest being planned and the effects upon National Forest management of activities on nearby lands managed by other Federal or other government agencies or under the jurisdiction of local governments.

§ 219.6 Regional planning procedure.

(a) *Regional guide.* A regional guide shall be developed for each administratively designated Forest Service region. Regional guides shall reflect general coordination of National Forest System, State and Private Forestry, and Research programs. Regional guides shall provide standards and guidelines for addressing major issues and management concerns which need to be considered at the regional level to facilitate forest planning. Public participation and coordination, the current RPA Program and Assessment, and the existing forest and resource plans shall be used as sources of information in meeting this requirement. Data and information requirements established nationally will be followed in structuring and maintaining required data.

(b) *Responsibilities.*—(1) *Chief, Forest Service.* The Chief shall establish agency-wide policy for regional planning and approve all regional guides.

(2) *Regional Forester.* The Regional Forester has overall responsibility for preparing and implementing the regional guide and for preparing the environmental impact statement for proposed standards and guidelines in the regional guide. The Regional Forester appoints and supervises the interdisciplinary team.

(3) *Interdisciplinary Team.* The team, under the direction of the Regional Forester, implements the public participation and coordination activities required by § 219.6 and § 219.7. The team shall continue to function even though membership may change and shall monitor and evaluate planning results and recommend amendments. The team shall develop a regional guide in compliance with NEPA procedures.

(c) *Public review.* A draft and final environmental impact statement shall be prepared for the proposed standards and guidelines in the regional guide according to NEPA procedures. To the extent feasible, a single process shall be used to meet planning and NEPA requirements. The draft statement shall identify a preferred alternative. Beginning on the date of publication of the notice of availability of the draft environmental impact statement in the **Federal Register,** the statement and the proposed guide shall be available for public comment for at least 3 months at convenient locations in the vicinity of the lands covered by the guide. During this period, and in accordance with the provisions in § 219.6, the Regional Forester or his designee shall publicize and hold public participation activities as deemed necessary for adequate public input.

(d) *Guide approval.* The Chief shall review the proposed guide and the final environmental impact statement and either approve or disapprove the guide.

(1) *Approval.* The Chief shall prepare a concise public record of decision which documents approval and accompanies the regional guide and the final environmental impact statement. The record or decision shall be prepared according to NEPA procedures (40 CFR 1505.2). The approved regional guide shall not become effective until at least 30 days after publication of the notice of availability of the final environmental impact statement in the **Federal Register.**

(2) *Disapproval.* The Chief shall return the regional guide and final environmental impact statement to the Regional Forester with a written statement of the reasons for disapproval. The Chief may also specify a course of action to be undertaken by the Regional Forester in order to remedy deficiencies, errors, or omissions in the regional guide or environmental impact statement.

(e) *Public appeal of approval decisions.* The provisions of 36 CFR 211, Subpart B apply to any administrative appeal of the Chief's decision to approve a regional guide. Decisions to disapprove a guide and other decisions made during the regional planning process prior to issuance of a record of decision approving the guide are not subject to administrative appeal.

(f) *Amendment.* The Regional Forester may amend the regional guide. The Regional Forester shall determine whether the proposed amendment would result in a significant change in the guide. If the change resulting from the proposed amendment is determined to be significant, the Regional Forester shall follow the same procedure for amendment as that required for development and approval of a regional guide. If the change resulting from the amendment is determined not to be significant for the purposes of the planning process, the Regional Forester may implement the amendment following appropriate public notification and satisfactory completion of NEPA procedures.

(g) *Planning records.* The Regional Forester shall develop and maintain planning records that document decisions and activities that result from the process of developing a regional guide and the accomplishment of legal and administrative planning requirements. These records include at least the draft environmental impact statement, final environmental impact statement, regional guide, record of

decision, a work plan to guide and manage planning, the procedures used in completing each action, and the results of these actions.

§ 219.9 Regional guide content.

(a) The regional guide shall contain—

(1) A summary of the analysis of the regional management situation, including a brief description of the existing management situation and the major issues and management concerns which need to be addressed at the regional level to facilitate forest planning;

(2) A description of management direction including programs, goals, and objectives;

(3) A display of tentative resource objectives for each forest planning area from the current RPA Program;

(4) New or significantly changed regional management standards and guidelines necessary to address major regional issues and management concerns identified in paragraph (a)(1) of this section;

(5) Specific standards and guidelines for the following—

(i) Prescribing appropriate harvest cutting methods to be used within the region according to geographic areas, forest types, or other suitable classifications;

(ii) Establishing the maximum size, dispersal, and size variation of tree openings created by even-aged management, and the state of vegetation that will be reached before a cut-over area is no longer considered an opening, using factors enumerated in § 219.27(d);

(iii) Defining the management intensities and utilization standards to be used in determining harvest levels for the region;

(iv) Designating transportation corridors and associated direction for forest planning, such as management requirements for corridors, transmission lines, pipelines, and water canals. (The designation of corridors is not to preclude the granting of separate rights-of-way over, upon, under, or through the Federal lands where the authorized line officer determines that confinement to a corridor is not appropriate.) (43 U.S.C. 1768, 36 CFR 251.56); and

(v) Identifying in forest plans significant current and potential air pollution emissions from management activities and from other sources in and around the forest planning area and identifying measures needed to coordinate air quality control with appropriate air quality regulation agencies.

(6) A description of the monitoring and evaluation necessary to determine and report achievements and effects of the guide.

(7) A description of measures to achieve coordination of National Forest System, State and Private Forestry, and Research programs.

(b) Existing regional standards and guidelines that are part of the Forest Service directives system, and that are not altered or superseded in the course of complying with § 219.9(a)(4), shall remain in effect.

§ 219.10 Forest planning—general procedure.

(a) *Responsibilities.*—(1) *Regional Forester.* The Regional Forester shall establish regional policy for forest planning and approve all forest plans in the region.

(2) *Forest Supervisor.* The Forest Supervisor has overall responsibility for the preparation and implementation of the forest plan and preparation of the environmental impact statement for the forest plan. The Forest Supervisor appoints and supervises the interdisciplinary team.

(3) *Interdisciplinary team.* The team, under the direction of the Forest Supervisor, implements the public participation and coordination activities required by § 219.6 and § 219.7. The team shall continue to function even though membership may change and shall monitor and evaluate planning results and recommend revisions and amendments. The interdisciplinary team shall develop a forest plan and environmental impact statement using the process established in § 219.12 and paragraph (b) below.

(b) *Public review of plan and environmental impact statement.* A draft and final environmental impact statement shall be prepared for the proposed plan according to NEPA procedures. The draft environmental impact statement shall identify a preferred alternative. To comply with 16 U.S.C. 1604(d), the draft environmental impact statement and proposed plan shall be available for public comment for at least 3 months, at convenient locations in the vicinity of the lands covered by the plan, beginning on the date of the publication of the notice of availability in the Federal Register. During this period, and in accordance with the provisions in § 219.6, the Forest Supervisor shall publicize and hold public participation activities as deemed necessary to obtain adequate public input.

(c) *Plan approval.* The Regional Forester shall review the proposed plan and the final environmental impact statement and either approve or disapprove the plan.

(1) *Approval.* The Regional Forester shall prepare a concise public record of decision which documents approval and accompanies the plan and final environmental impact statement. The record of decision shall be prepared according to NEPA procedures (40 CFR 1505.2). The approved plan shall not become effective until at least 30 days after publication of the notice of availability of the final environmental impact statement in the Federal Register, to comply with 16 U.S.C. 1604(d) and 1604(j).

(2) *Disapproval.* The Regional Forester shall return the plan and final environmental impact statement to the Forest Supervisor with a written statement of the reasons for disapproval. The Regional Forester may also specify a course of action to be undertaken by the Forest Supervisor in order to remedy deficiencies, errors, or omissions in the plan or environmental impact statement.

(d) *Public appeal of approval decision.* The provisions of 36 CFR Part 211, Subpart B apply to any administrative appeal of the Regional Forester's decision to approve a forest plan. Decisions to disapprove a plan and other decisions made during the forest planning process prior to the issuance of a record of decision approving the plan are not subject to administrative appeal.

(e) *Plan implementation.* As soon as practicable after approval of the plan, the Forest Supervisor shall ensure that, subject to valid existing rights, all outstanding and future permits, contracts, cooperative agreements, and other instruments for occupancy and use of affected lands are consistant with the plan. Subsequent administrative activities affecting such lands, including budget proposals, shall be based on the plan. The Forest Supervisor may change proposed implementation schedules to reflect differences between proposed annual budgets and appropriated funds. Such scheduled changes shall be considered an amendment to the forest plan, but shall not be considered a significant amendment, or require the preparation of an environmental impact statement, unless the changes significantly alter the long-term relationship between levels of multiple-use goods and services projected under planned budget proposals as compared to those projected under actual appropriations.

(f) *Amendment.* The Forest Supervisor may amend the forest plan. Based on an analysis of the objectives, guidelines, and other contents of the forest plan, the Forest Supervisor shall determine whether a proposed amendment would

result in a significant change in the plan. If the change resulting from the proposed amendment is determined to be significant, the Forest Supervisor shall follow the same procedure as that required for development and approval of a forest plan. If the change resulting from the amendment is determined not to be significant for the purposes of the planning process, the Forest Supervisor may implement the amendment following appropriate public notification and satisfactory completion of NEPA procedures.

(g) *Revision.* A forest plan shall ordinarily be revised on a 10-year cycle or at least every 15 years. It also may be revised whenever the Forest Supervisor determines that conditions or demands in the area covered by the plan have changed significantly or when changes in RPA policies, goals, or objectives would have a significant effect on forest level programs. In the monitoring and evaluation process, the interdisciplinary team may recommend a revision of the forest plan at any time. Revisions are not effective until considered and approved in accordance with the requirements for the development and approval of a forest plan. The Forest Supervisor shall review the conditions on the land covered by the plan at least every 5 years to determine whether conditions or demands of the public have change significantly.

(h) *Planning records.* The Forest Supervisor and interdisciplinary team shall develop and maintain planning records that document the decisions and activities that result from the process of developing a forest plan. Records that support analytical conclusions made and alternatives considered by the team and approved by the Forest Supervisor throughout the planning process shall be maintained. Such supporting records provide the basis for the development of the forest plan and associated documents required by NEPA procedures.

§ 219.11 Forest plan content.

The forest plan shall contain the following:

(a) A brief summary of the analysis of the management situation, including demand and supply conditions for resource commodities and services, production potentials, and use and development opportunities;

(b) Forest multiple-use goals and objectives that include a description of the desired future condition of the forest or grassland and an identification of the quantities of goods and services that are expected to be produced or provided during the RPA planning periods;

(c) Multiple-use prescriptions and associated standards and guidelines for each management area including proposed and probable management practices such as the planned timber sale program; and

(d) Monitoring and evaluation requirements that will provide a basis for a periodic determination and evaluation of the effects of management practices.

§ 219.12 Forest planning—process.

(a) *General requirements.* The preparation, revision, or significant amendment of a forest plan shall comply with the requirements established in this section. The planning process includes at least those actions set forth in paragraphs (b) through (k) of the section. Some actions may occur simultaneously, and it may be necessary to repeat an action as additional information becomes available. The environmental impact statement for each forest plan shall be prepared according to NEPA procedures. To the extent feasible, a single process shall be used to meet planning and NEPA requirements.

(b) *Identification of purpose and need.* The interdisciplinary team shall identify and evaluate public issues, management concerns, and resource use and development opportunities, including those identified throughout the planning process during public participation activities and coordination with other Federal agencies, State and local governments, and Indian tribes. The Forest Supervisor shall determine the major public issues, management concerns, and resource use and development opportunities to be addressed in the planning process.

(c) *Planning criteria.* Criteria shall be prepared to guide the planning process. Criteria apply to collection and use of inventory data and information, analysis of the management situation, and the design, formulation, and evaluation of alternatives. Criteria designed to achieve the objective of maximizing net public benefits shall be included. Specific criteria may be derived from—

(1) Laws, Executive Orders, regulations, and agency policy as set forth in the Forest Service Manual;

(2) Goals and objectives in the RPA Program and regional guides;

(3) Recommendations and assumptions developed from public issues, management concerns, and resource use and development opportunities;

(4) The plans and programs of other Federal agencies, State and local governments, and Indian tribes;

(5) Ecological, technical, and economic factors; and

(6) The resource integration and management requirements in §§ 219.13 through 219.27.

(d) *Inventory data and information collection.* Each Forest Supervisor shall obtain and keep current inventory data appropriate for planning and managing the resources under his or her administrative jurisdiction. The Supervisor will assure that the interdisciplinary team has access to the best available data. This may require that special inventories or studies be prepared. The interdisciplinary team shall collect, assemble, and use data, maps, graphic material, and explanatory aids, of a kind, character, and quality, and to the detail appropriate for the management decisions to be made. Data and information needs may vary as planning problems develop from identification of public issues, management concerns, and resource use and development opportunities. Data shall be stored for ready retrieval and comparison and periodically shall be evaluated for accuracy and effectiveness. The interdisciplinary team will use common data definitions and standards established by the Chief of the Forest Service to assure uniformity of information between all planning levels. As information is recorded, it shall be applied in any subsequent planning process. Information developed according to common data definitions and standards shall be used in the preparation of the 1990, and subsequent RPA Assessments and RPA Programs.

(e) *Analysis of the management situation.* The analysis of the management situation is a determination of the ability of the planning area covered by the forest plan to supply goods and services in response to society's demands. The primary purpose of this analysis is to provide a basis for formulating a broad range of reasonable alternatives. The analysis may examine the capability of the unit to supply outputs both with and without legal and other requirements. As a minimum, the analysis of the management situation shall include the following:

(1) Benchmark analyses to define the range within which alternatives can be constructed. Budgets shall not be a constraint. The following benchmark analyses shall be consistent with the minimum applicable management requirements of § 219.27 and shall define at least—

(i) The minimum level of management which would be needed to maintain and protect the unit as part of the National Forest System together with associated costs and benefits;

(ii) The maximum physical and biological production potentials of significant individual goods and services together with associated costs and benefits;

(iii) Monetary benchmarks which estimate the maximum present net value of those resources having an established market value or an assigned value;

(A) For forest planning areas with major resource outputs that have an established market price, monetary benchmarks shall include an estimate of the mix of resource uses, combined with a schedule of outputs and costs, which will maximize the present net value of those major outputs that have an established market price;

(B) For all forest planning areas, monetary benchmarks shall include an estimate of the mix of resource uses, combined with a schedule of outputs and costs, which will maximize the present net value of those major outputs that have an established market price or are assigned a monetary value;

(C) For forest planning areas with a significant timber resource, estimates for paragraphs (e)(1)(iii) (A) and (B) of this section shall be developed both with and without meeting the requirements for compliance with a base sale schedule of timber harvest, as described in § 219.16(a)(1), and with and without scheduling the harvest of even-aged stands generally at or beyond culmination of mean annual increment of growth, as described in § 219.16(a)(2)(iii).

(D) Estimates for paragraphs (e)(1)(iii) (A) and (B) of this section shall be developed both with and without other constraints when needed to address major public issues, management concerns, or resource opportunities identified during the planning process.

(2) The current level of goods and services provided by the unit and the most likely amount of goods and services expected to be provided in the future if current management direction continues; this will be the same analysis as that required by § 219.12(f)(5).

(3) Projections of demand using best available techniques, with both price and nonprice information. To the extent practical, demand will be assessed as price-quantity relationships.

(4) A determination of the potential to resolve public issues and management concerns.

(5) Based on consideration of data and findings developed in paragraphs (e)(1)–(4), a determination of the need to establish or change management direction.

(f) *Formulation of alternatives.* The interdisciplinary team shall formulate a broad range of reasonable alternatives according to NEPA procedures. The primary goal in formulating alternatives, besides complying with NEPA procedures, is to provide an adequate basis for identifying the alternative that comes nearest to maximizing net public benefits, consistent with the resource integration and management requirements of §§ 219.13 through 219.27.

(1) Alternatives shall be distributed between the minimum resource potential and the maximum resource potential to reflect to the extent practicable the full range of major commodity and environmental resource uses and values that could be produced from the forest. Alternatives shall reflect a range of resource outputs and expenditure levels.

(2) Alternatives shall be formulated to facilitate analysis of opportunity costs and of resource use and environmental trade-offs among alternatives and between benchmarks and alternatives.

(3) Alternatives shall be formulated to facilitate evaluation of the effects on present net value, benefits, and costs of achieving various outputs and values that are not assigned monetary values, but that are provided at specified levels.

(4) Alternatives shall provide different ways to address and respond to the major public issues, management concerns, and resource opportunities identified during the planning process.

(5) Reasonable alternatives which may require a change in existing law or policy to implement shall be formulated if necessary to address a major public issue, management concern, or resource opportunity identified during the planning process (40 CFR 1501.7, 1502.14(c)).

(6) At least one alternative shall be developed which responds to and incorporates the RPA Program tentative resource objectives for each forest displayed in the regional guide.

(7) At least one alternative shall reflect the current level of goods and services provided by the unit and the most likely amount of goods and services expected to be provided in the future if current management direction continues. Pursuant to NEPA procedures, this alternative shall be deemed the "no action" alternative.

(8) Each alternative shall represent to the extent practicable the most cost efficient combination of management prescriptions examined that can meet the objectives established in the alternative.

(9) Each alternative shall state at least—

(i) The condition and uses that will result from long-term application of the alternative;

(ii) The goods and services to be produced, the timing and flow of these resource outputs together with associated costs and benefits;

(iii) Resource management standards and guidelines; and

(iv) The purposes of the management direction proposed.

(g) *Estimated effects of alternatives.* The physical, biological, economic, and social effects of implementing each alternative considered in detail shall be estimated and compared according to NEPA procedures. These effects include those described in NEPA procedures (40 CFR 1502.14 and 1502.16) and at least the following:

(1) The expected outputs for the planning periods, including appropriate marketable goods and services, as well as nonmarket items, such as recreation and wilderness use, wildlife and fish, protection and enhancement of soil, water, and air, and preservation of aesthetic and cultural resource values;

(2) The relationship of expected outputs to the RPA Program tentative resource objectives for the forest displayed in the current regional guide;

(3) Direct and indirect benefits and costs, analyzed in sufficient detail to estimate—

(i) the expected real-dollar costs (discounted when appropriate), including investment, administrative, and operating costs of the agency and all other public and private costs required to manage the forest up to the point where the outputs are valued and the environmental consequences are realized;

(ii) the expected real-dollar value (discounted when appropriate) of all outputs attributable to each alternative to the extent that monetary values can be assigned to nonmarket goods and services, using quantitative and qualitative criteria when monetary values may not reasonably be assigned;

(iii) the economic effects of alternatives, including impacts on present net value, total receipts to the Federal Government, direct benefits to users that are not measured in receipts to the Federal Government, receipt shares to State and local governments, income, and employment in affected areas; and

(iv) the monetary opportunity costs (changes in present net value) associated with those management standards and resource outputs in each alternative that were not assigned monetary values but were provided at specified levels, compared with the maximum present net value benchmarks developed in § 219.12(e)(1)(iii).

(4) The significant resource tradeoffs and opportunity costs associated with achieving alternative resource objectives.

(h) *Evaluation of alternatives:* Using planning criteria, the interdisciplinary team shall evaluate the significant physical, biological, economic, and social effects of each management alternative that is considered in detail. The evaluation shall include a comparative analysis of the aggregate effects of the management alternatives and shall compare present net value, social and economic impacts, outputs of goods and services, and overall protection and enhancement of environmental resources.

(i) *Preferred alternative recommendation.* The Forest Supervisor shall review the interdisciplinary team's evaluation and shall recommend to the Regional Forester a preferred alternative to be identified in the draft environmental impact statement and displayed as the proposed plan.

(j) *Plan approval.* The Regional Forester shall review the proposed plan and final environmental impact statement and either approve or disapprove the plan in accordance with § 219.10(c). The record of decision for approval of a plan shall include, in addition to the requirements of NEPA procedures (40 CFR 1505.2), a summarized comparison of the selected alternative with:

(1) Any other alternative considered which is environmentally preferable to the selected alternative; and

(2) Any other alternative considered which comes nearer to maximizing present net value.

(k) *Monitoring and evaluation.* At intervals established in the plan, implementation shall be evaluated on a sample basis to determine how well objectives have been met and how closely management standards and guidelines have been applied. Based upon this evaluation, the interdisciplinary team shall recommend to the Forest Supervisor such changes in management direction, revisions, or amendments to the forest plan as are deemed necessary. Monitoring requirements identified in the forest plan shall provide for—

(1) A quantitative estimate of performance comparing outputs and services with those projected by the forest plan;

(2) Documentation of the measured prescriptions and effects, including significant changes in productivity of the land; and

(3) Documentation of costs associated with carrying out the planned management prescriptions as compared with costs estimated in the forest plan.

(4) A description of the following monitoring activities:

(i) The actions, effects, or resources to be measured, and the frequency of measurements;

(ii) Expected precision and reliability of the monitoring process; and

(iii) The time when evaluation will be reported.

(5) A determination of compliance with the following standards:

(i) Lands are adequately restocked as specified in the forest plan;

(ii) Lands identified as not suited for timber production are examined at least every 10 years to determine if they have become suited; and that, if determined suited, such lands are returned to timber production;

(iii) Maximum size limits for harvest areas are evaluated to determine whether such size limits should be continued; and

(iv) Destructive insects and disease organisms do not increase to potentially damaging levels following management activities.

§ 219.13 Forest planning—resource integration requirements.

The minimum requirements for integrating individual forest resource planning into the forest plan are established in §§ 219.14 through 219.26 of this subpart. For the purposes of meeting the requirements of § 219.12(c), additional planning criteria may be found in the guidelines for managing specific resources set forth in the Forest Service Manual and Handbooks.

§ 219.14 Timber resource land suitability.

During the forest planning process, lands which are not suited for timber production shall be identified in accordance with the criteria in paragraphs (a) through (d) of this section.

(a) During the analysis of the management situation, data on all National Forest System lands within the planning area shall be reviewed, and those lands within any one of the categories described in paragraphs (a)(1) through (4) of this section shall be identified as not suited for timber production—

(1) The land is not forest land as defined in § 219.3.

(2) Technology is not available to ensure timber production from the land without irreversible resource damage to soils productivity, or watershed conditions.

(3) There is not reasonable assurance that such lands can be adequately restocked as provided in § 219.27(c)(3).

(4) The land has been withdrawn from timber production by an Act of Congress, the Secretary of Agriculture or the Chief of the Forest Service.

(b) Forest lands other than those that have been identified as not suited for timber production in paragraph (a) of this section shall be further reviewed and assessed prior to formulation of alternatives to determine the costs and benefits for a range of management intensities for timber production. For the purpose of analysis, the planning area shall be stratified into categories of land with similar management costs and returns. The stratification should consider appropriate factors that influence the costs and returns such as physical and biological conditions of the site and transportation requirements. This analysis shall identify the management intensity for timber production for each category of land which results in the largest excess of discounted benefits less discounted costs and shall compare the direct costs of growing and harvesting trees, including capital expenditures required for timber production, to the anticipated receipts to the government, in accordance with § 219.12 and paragraphs(b)(1) through (b)(3) of this section.

(1) Direct benefits are expressed as expected gross receipts to the government. Such receipts shall be based upon expected stumpage prices and payments-in-kind from timber harvest considering future supply and demand situation for timber and upon timber production goals of the regional guide.

(2) Direct costs include the anticipated investments, maintenance, operating, management, and planning costs attributable to timber production activities, including mitigation measures necessitated by the impacts of timber production.

(3) In addition to long-term yield, the financial analysis must consider costs and returns of managing the existing timber inventory.

(c) During formulation and evaluation of each alternative as required in § 219.12 (f) and (g), combinations of resource management prescriptions shall be defined to meet management objectives for the various multiple uses including outdoor recreation, timber, watershed, range, wildlife and fish, and wilderness. The formulation and evaluation of each alternative shall consider the costs and benefits of alternative management intensities for timber production as identified pursuant to paragraph (b) of this section in accordance with § 219.12(f). Lands shall

be tentatively identified as not appropriate for timber production to meet objectives of the alternative being considered if—

(1) Based upon a consideration of multiple-use objectives for the alternative, the land is proposed for resource uses that preclude timber production, such as wilderness;

(2) Other management objectives for the alternative limit timber production activities to the point where management requirements set forth in § 219.27 cannot be met; or

(3) The lands are not cost-efficient, over the planning horizon, in meeting forest objectives, which include timber production.

(d) Lands identified as not suited for timber production in paragraph (a) of this section and lands tentatively identified as not appropriate for timber production in paragraph (c) of this section shall be designated as not suited for timber production in the preferred alternative. Designation in the plan of lands not suited for timber production shall be reviewed at least every 10 years. Such lands may be reviewed and redesignated as suited for timber production due to changed conditions at any time, according to the criteria in paragraphs (a) and (c) of this section, and according to the procedures for amendment or revision of the forest plan in §§219.10 (f) and (g).

§ 219.15 Vegetation management practices.

When vegetation is altered by management, the methods, timing, and intensity of the practices determine the level of benefits that can be obtained from the affected resources. The vegetation management practices chosen for each vegetation type and circumstance shall be defined in the forest plan with applicable standards and guidelines and the reasons for the choices. Where more than one vegetation management practice will be used in a vegetation type, the conditions under which each will be used shall be based upon thorough reviews of technical and scientific literature and practical experience, with appropriate evaluation of this knowledge for relevance to the specific vegetation and site conditions. On National Forest System land, the vegetation management practice chosen shall comply with the management requirements in § 219.27(b).

§ 219.16 Timber resource sale schedule.

In a forest plan, the selected forest management alternative includes a sale schedule which provides the allowable sale quantity. The sale schedule of each alternative, including those which depart from base sale schedules, shall be formulated in compliance with § 219.12(f) and paragraphs (a) and (b) of this section.

(a) Alternatives shall be formulated that include determinations of the quantity of the timber that may be sold during each decade. These quantity determinations shall be based on the principle of sustained yield and shall meet the management requirements in § 219.27. For each alternative, the determination shall include a calculation of the long-term sustained-yield capacity and the base sale schedule and, when appropriate, a calculation of timber sale alternatives that may depart from the base sale schedule as provided in paragraphs (a)(1) through (a)(3) of this section.

(1) For the base sale schedules, the planned sale for any future decade shall be equal to, or greater than, the planned sale for the preceding decade, provided that the planned sale is not greater than the long-term sustained-yield capacity consistent with the management objectives of the alternative.

(2) The determinations of the appropriate long-term sustained-yield capacities, base sale schedules, and departure alternatives to the base sale schedules shall be made on the basis of the guidelines which follow:

(i) For the long-term sustained-yield capacities and the base sale schedules, assume intensities of management and degree of timber utilization consistent with the goals, assumptions, and requirements contained in, or used in, the preparation of the current RPA Program and regional guide. For the base sale schedule, the management and utilization assumptions shall reflect the projected changes in practices for the four decades contained in, or used in, the preparation of the current RPA Program and regional guide. Beyond the fourth decade, the assumptions shall reflect those projected for the fourth decade of the current RPA Program, unless there is a basis for a different assumption;

(ii) For alternatives with sale schedules which depart from the corresponding base sale schedule, assume an appropriate management intensity;

(iii) In accordance with the established standards, assure that all even-aged stands scheduled to be harvested during the planning period will generally have reached the culmination of mean annual increment of growth. Mean annual increment shall be based on expected growth, according to management intensities and utilization standards assumed in paragraphs (a)(2) (i) and (ii) of this section and on forest type and site quality. Mean annual increment shall be expressed in cubic measure. Alternatives which incorporate exceptions to these standards shall be evaluated if it is reasonable to expect that overall multiple use objectives would be better attained. Alternatives which incorporate exceptions to these standards are permitted for the use of sound silvicultural practices, such as thinning or other stand improvement measures; for salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack; for cutting for experimental and research purposes; or for removing particular species of trees, after consideration has been given to the multiple uses of the area being planned and after completion of the public participation process applicable to the preparation of a forest plan; and

(iv) Each sale schedule shall provide for a forest structure that will enable perpetual timber harvest which meets the principle of sustained-yield and multiple-use objectives of the alternative.

(3) Alternatives with sale schedules which depart from the principles of paragraph (1) above and which will lead to better attaining the overall objectives of multiple-use management shall be evaluated when any of the following conditions are indicated:

(i) None of the other alternatives considered provides a sale schedule that achieves the assigned goals of the RPA Program as provided in § 219.4(b);

(ii) High mortality losses from any cause can be significantly reduced or prevented or forest age-class distribution can be improved, thereby facilitating future sustained-yield management; or

(iii) Implementation of the corresponding base sale schedule would cause a substantial adverse impact upon a community in the economic area in which the forest is located.

(iv) It is reasonable to expect that overall multiple-use objectives would otherwise be better attained.

(b) The sale schedule of the management alternative selected in accordance with § 219.12 provides the allowable sale quantity for the first plan period.

§ 219.17 Wilderness designation.

(a) Lands revised for wilderness designation under the review and evaluation of roadless areas conducted by the Secretary of Agriculture, but not

designated as wilderness or not designated for further planning, and lands whose designation as primitive areas has been terminated shall be managed for uses other than wilderness in accordance with this subpart. No such area shall be considered for designation as wilderness until a revision of the forest plan under § 219.10(g).

(b) When revising the forest plan, roadless areas of public lands within and adjacent to the forest shall be evaluated and considered for recommendation as potential wilderness areas, as provided in paragraphs (b)(1) and (b)(2) of this section.

(1) During analysis of the management situation, the following areas shall be designated for evaluation:

(i) All previously inventoried wilderness resources not yet designated, if they are currently essentially roadless;

(ii) Areas contiguous to existing wilderness, primitive areas, or administratively proposed wildernesses, regardless of which agency has jurisdiction for the wilderness or proposed wilderness;

(iii) Areas that are contiguous to roadless and undeveloped areas in other Federal ownership that have identified wilderness potential; and

(iv) Areas designated by Congress for wilderness study, administrative proposals pending before Congress, and other legislative proposals pending which have been endorsed by the President.

(2) Each area designated for evaluation under paragraph (b)(1) of this section shall be evaluated with public participation. The evaluation criteria shall include as a minimum—

(i) The values of the area as wilderness;

(ii) The values foregone and effects on management of adjacent lands as a consequence of wilderness designation;

(iii) Feasibility of management as wilderness, in respect to size, nonconforming use, land ownership patterns, and existing contractual agreements or statutory rights;

(iv) Proximity to other designated wilderness and relative contribution to the National Wilderness Preservation System; and

(v) The anticipated long-term changes in plant and animal species diversity, including the diversity of natural plant and animal communities of the forest planning area and the effects of such changes on the values for which wilderness areas were created.

§ 219.18 Wilderness management.

Forest planning shall provide direction for the management of designated wilderness and primitive areas in accordance with the provisions of 36 CFR Part 293. In particular, plans shall—

(a) Provide for limiting and distributing visitor use of specific areas in accord with periodic estimates of the maximum levels of use that allow natural processes to operate freely and that do not impair the values for which wilderness areas were created; and

(b) Evaluate the extent to which wildfire, insect, and disease control measures may be desirable for protection of either the wilderness or adjacent areas and provide for such measures when appropriate.

§ 219.19 Fish and wildlife resource.

Fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area. For planning purposes, a viable population shall be regarded as one which has the estimated numbers and distribution of reproductive individuals to insure its continued existence is well distributed in the planning area. In order to insure that viable populations will be maintained, habitat must be provided to support, at least, a minimum number of reproductive individuals and that habitat must be well distributed so that those individuals can interact with others in the planning area.

(a) Each alternative shall establish objectives for the maintenance and improvement of habitat for management indicator species selected under paragraph (g)(1) of this section, to the degree consistent with overall multiple use objectives of the alternative. To meet this goal, management planning for the fish and wildlife resource shall meet the requirements set forth in paragraphs (a)(1) through (a)(7) of this section.

(1) In order to estimate the effects of each alternative on fish and wildlife populations, certain vertebrate and/or invertebrate species present in the area shall be identified and selected as management indicator species and the reasons for their selection will be stated. These species shall be selected because their population changes are believed to indicate the effects of management activities. In the selection of management indicator species, the following categories shall be represented where appropriate: Endangered and threatened plant and animal species identified on State and Federal lists for the planning area; species with special habitat needs that may be influenced significantly by planned management programs; species commonly hunted, fished, or trapped; non-game species of special interest; and additional plant or animal species selected because their population changes are believed to indicate the effects of management activities on other species of selected major biological communities or on water quality. On the basis of available scientific information, the interdisciplinary team shall estimate the effects of changes in vegetation type, timber age classes, community composition, rotation age, and year-long suitability of habitat related to mobility of management indicator species. Where appropriate, measures to mitigate adverse effects shall be prescribed.

(2) Planning alternatives shall be stated and evaluated in terms of both amount and quality of habitat and of animal population trends of the management indicator species.

(3) Biologists from State fish and wildlife agencies and other Federal agencies shall be consulted in order to coordinate planning for fish and wildlife, including opportunities for the reintroduction of extirpated species.

(4) Access and dispersal problems of hunting, fishing, and other visitor uses shall be considered.

(5) The effects of pest and fire management on fish and wildlife populations shall be considered.

(6) Population trends of the management indicator species will be monitored and relationships to habitat changes determined. This monitoring will be done in cooperation with State fish and wildlife agencies, to the extent practicable.

(7) Habitat determined to be critical for threatened and endangered species shall be identified, and measures shall be prescribed to prevent the destruction or adverse modification of such habitat. Objectives shall be determined for threatened and endangered species that shall provide for, where possible, their removal from listing as threatened and endangered species through appropriate conservation measures, including the designation of special areas to meet the protection and management needs of such species.

§ 219.20 Grazing resource.

In forest planning, the suitability and potential capability of National Forest System lands for producing forage for grazing animals and for providing habitat for management indicator species shall be determined as provided in paragraphs (a) and (b) of this section. Lands so identified shall be managed in accordance with direction established in forest plans.

(a) Lands suitable for grazing and browsing shall be identified and their

condition and trend shall be determined. The present and potential supply of forage for livestock, wild and free-roaming horses and burros, and the capability of these lands to produce suitable food and cover for selected wildlife species shall be estimated. The use of forage by grazing and browsing animals will be estimated. Lands in less than satisfactory condition shall be identified and appropriate action planned for their restoration.

(b) Alternative range management prescriptions shall consider grazing systems and the facilities necessary to implement them; land treatment and vegetation manipulation practices; and evaluation of pest problems; possible conflict or beneficial interactions among livestock, wild free-roaming horses and burros and wild animal populations, and methods of regulating these; direction for rehabilitation of ranges in unsatisfactory condition; and comparative cost efficiency of the prescriptions.

§ 219.21 Recreation resource.

To the degree consistent with needs and demands for all major resources, a broad spectrum of forest and rangeland related outdoor recreation opportunities shall be provided for in each alternative. Planning activities to achieve this shall be in accordance with national and regional direction and procedural requirements of paragraphs (a) through (g) of this section.

(a) Forest planning shall identify—

(1) The physical and biological characteristics that make land suitable for recreation opportunities;

(2) The recreational preferences of user groups and the settings needed to provide quality recreation opportunities; and

(3) Recreation opportunities on the National Forest System lands.

(b) The supply of developed recreational facilities in the area of National Forest influence shall be appraised for adequacy to meet present and future demands.

(c) Planning altenatives shall include consideration of establishment of physical facilities, regulation of use, and recreation opportunities responsive to current and anticipated user demands.

(d) In formulation and analysis of alternatives as specified in § 219.12 (f) and (g), interactions among recreation opportunities and other multiple uses shall be examined. This examination shall consider the impacts of the proposed recreation activities on other uses and values and the impacts of other uses and activities associated with them on recreation opportunities, activities, and quality of experience.

(e) Formulation and evaluation of alternatives under paragraphs (c) and (d) of this section shall be coordinated to the extent feasible with present and proposed recreation activities of local and State land use or outdoor recreation plans, particularly the State Comprehensive Outdoor Recreation Plan, and recreation opportunities already present and available on other public and private lands, with the aim of reducing duplication in meeting recreation demands.

(f) The visual resource shall be inventoried and evaluated as an integrated part of evaluating alternatives in the forest panning process, addressing both the landscape's visual attractiveness and the public's visual expectation. Management prescriptions for definitive land areas of the forest shall include visual quality objectives.

(g) Off-road vehicle use shall be planned and implemented to protect land and other resources, promote public safety, and minimize comflicts with other uses of the National Forest System lands. Forest planning shall evaluate the potential effects of vehicle use off roads and, on the basis of the requirements of 36 CFR Part 295 of this chapter, classify areas and trails of National Forest System lands as to whether or not off-road vehicle use may be permitted.

§ 219.22 Mineral resource.

Mineral exploration and development in the planning area shall be considered in the management of renewable resources. The following shall be recognized to the extent practicable in forest planning:

(a) Active mines within the area of land covered by the forest plan;

(b) Outstanding or reserved mineral rights;

(c) The probable occurrence of various minerals, including locatable, leasable, and common variety;

(d) The potential for future mineral development and potential need for withdrawal of areas from development;

(e) Access requirements for mineral exploration and development; and

(f) The probable effect of renewable resource prescriptions and management direction on mineral resources and activities, including exploration and development.

§ 219.23 Water and soil resource.

Forest planning shall provide for—

(a) General estimates of current water uses, both consumptive and non-consumptive, including instream flow requirements within the area of land covered by the forest plan;

(b) Identification of significant existing impoundments, transmission facilities, wells, and other man-made developments on the area of land covered by the forest plan;

(c) Estimation of the probable occurrence of various levels of water volumes, including extreme events which would have a major impact on the planning area;

(d) Compliance with requirements of the Clean Water Act, the Safe Drinking Water Act, and all substantive and procedural requirements of Federal, State, and local governmental bodies with respect to the provision of public water systems and the disposal of waste water;

(e) Evaluation of existing or potential watershed conditions that will influence soil productivity, water yield, water pollution, or hazardous events; and

(f) Adoption of measures, as directed in applicable Executive orders, to minimize risk of flood loss, to restore and preserve floodplain values, and to protect wetlands.

§ 219.24 Cultural and historic resources.

Forest planning shall provide for the identification, protection, interpretation, and management of significant cultural resources on National Forest System lands. Planning of the resource shall be governed by the requirements of Federal laws pertaining to historic preservation, and guided by paragraphs (a)(1) through (a)(3) of this section.

(a) Forest planning shall—

(1) Provide an overview of known data relevant to history, ethnography, and prehistory of the area under consideration, including known cultural resource sites;

(2) Identify areas requiring more intensive inventory;

(3) Provide for evaluation and identification of appropriate sites for the National Register of Historic Places;

(4) Provide for establishing measures for the protection of significant cultural resources from vandalism and other human depredation, and natural destruction;

(5) Identify the need for maintenance of historic sites on, or eligible for inclusion in, the National Register of Historic Places; and

(6) Identify opportunities for interpretation of cultural resources for the education and enjoyment of the American public.

(b) In the formulation and analysis of alternatives, interactions among cultural resources and other multiple uses shall be examined. This examination shall consider impacts of the management of cultural resources on other uses and

activities and impacts of other uses and activities on cultural resource management.

(c) Formulation and evaluation of alternatives shall be coordinated to the extent feasible with the State cultural resource plan and planning activities of the State Historic Preservation Office and State Archaeologist and with other State and Federal agencies.

§ 219.25 Research natural areas.

Forest planning shall provide for the establishment of Research Natural Areas (RNA's). Planning shall make provision for the identification of examples of important forest, shrubland, grassland, alpine, aquatic, and geologic types that have special or unique characteristics of scientific interest and importance and that are needed to complete the national network of RNA's. Biotic, aquatic, and geologic types needed for the network shall be identified using a list provided by the Chief of the Forest Service. Authority to establish RNA's is delegated to the Chief at 7 CFR 2.60(a) and 36 CFR 251.23. Recommendations for establishment of areas shall be made to the Chief through the planning process.

§ 219.26 Diversity.

Forest planning shall provide for diversity of plant and animal communities and tree species consistent with the overall multiple-use objectives of the planning area. Such diversity shall be considered throughout the planning process. Inventories shall include quantitative data making possible the evaluation of diversity in terms of its prior and present condition. For each planning alternative, the interdisciplinary team shall consider how diversity will be affected by various mixes of resource outputs and uses, including proposed management practices. (Refer to § 219.27(g).)

§ 219.27 Management requirements.

The minimum specific management requirements to be met in accomplishing goals and objectives for the National Forest System are set forth in this section. These requirements guide the development, analysis, approval, implementation, monitoring and evaluation of forest plans.

(a) *Resource protection.* All management prescriptions shall—

(1) Conserve soil and water resources and not allow significant or permanent impairment of the productivity of the land;

(2) Consistent with the relative resource values involved, minimize serious or long-lasting hazards from flood, wind, wildfire, erosion, or other natural physical forces unless these are specifically excepted, as in wilderness;

(3) Consistent with the relative resource values involved, prevent or reduce serious, long lasting hazards and damage from pest organisms, utilizing principles of integrated pest management. Under this approach all aspects of a pest-host system should be weighed to determine situation-specific prescriptions which may utilize a combination of techniques including, as appropriate, natural controls, harvesting, use of resistant species, maintenance of diversity, removal of damaged trees, and judicious use of pesticides. The basic principle in the choice of strategy is that, in the long term, it be ecologically acceptable and compatible with the forest ecosystem and the multiple use objectives of the plan;

(4) Protect streams, streambanks, shorelines, lakes, wetlands, and other bodies of water as provided under paragraphs (d) and (e) of this section;

(5) Provide for and maintain diversity of plant and animal communities to meet overall multiple-use objectives, as provided in paragraph (g) of this section;

(6) Provide for adequate fish and wildlife habitat to maintain viable populations of existing native vertebrate species and provide that habitat for species chosen under § 219.19 is maintained and improved to the degree consistent with multiple-use objectives established in the plan;

(7) Be assessed prior to project implementation for potential physical, biological, aesthetic, cultural, engineering, and economic impacts and for consistency with multiple uses planned for the general area;

(8) Include measures for preventing the destruction or adverse modification of critical habitat for threatened and endangered species;

(9) Provide that existing significant transportation and utility corridors and other significant right-of-ways that are capable and likely to be needed to accommodate the facility or use from an additional compatible right-of-way be designated as a right-of-way corridor. Subsequent right-of-way grants will, to the extent practicable, and as determined by the responsible line officer, use designated corridors;

(10) Ensure that any roads constructed through contracts, permits, or leases are designed according to standards appropriate to the planned uses, considering safety, cost of transportation, and effects upon lands and resources;

(11) Provide that all roads are planned and designed to re-establish vegetative cover on the disturbed area within a reasonable period of time, not to exceed 10 years after the termination of a contract, lease or permit, unless the road is determined necessary as a permanent addition to the National Forest Transportation System; and

(12) Be consistent with maintaining air quality at a level that is adequate for the protection and use of National Forest System resources and that meets or exceeds applicable Federal, State and/or local standards or regulations.

(b) *Vegetative manipulation.* Management prescriptions that involve vegetative manipulation of tree cover for any purpose shall—

(1) Be best suited to the multiple-use goals established for the area with potential environmental, biological, cultural resource, aesthetic, engineering, and economic impacts, as stated in the regional guides and forest plans, being considered in this determination;

(2) Assure that lands can be adequately restocked as provided in paragraph (c)(3) of this section, except where pernament openings are created for wildlife habitat improvement, vistas, recreation uses and similar practices;

(3) Not be chosen primarily because they will give the greatest dollar return or the greatest output of timber, although these factors shall be considered;

(4) Be chosen after considering potential effects on residual trees and adjacent stands;

(5) Avoid permanent impairment of site productivity and ensure conservation of soil and water resources;

(6) Provide the desired effects on water quantity and quality, wildlife and fish habitat, regeneration of desired tree species, forage production, recreation uses, aesthetic values, and other resource yields; and

(7) Be practical in terms of transportation and harvesting requirements, and total costs of preparation, logging, and administration.

(c) *Silvicultural practices.* The following management requirements apply to timber harvest and cultural treatments:

(1) No timber harvesting shall occur on lands classified as not suited for timber production pursuant to § 219.14 except for salvage sales, sales necessary to protect other multiple-use values or activities that meet other objectives on such lands if the forest plan establishes that such actions are appropriate. These lands shall continue to be treated for reforestation purposes if necessary to achieve the multiple-use objectives of the plan.

(2) The selected sale schedule provides the allowable sale quantity for the first planning period. Within the planning period, the volume of timber to be sold in any one year may exceed the average annual allowable sale quantity so long as the total amount sold for the planning period does not exceed the allowable sale quantity. Nothing in this paragraph prohibits salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger of insect or disease attack and where such harvests are consistent with silvicultural and environmental standards. Such timber may either substitute for timber that would otherwise be sold under the plan or, if not feasible, be sold over and above the planned volume.

(3) When trees are cut to achieve timber production objectives, the cuttings shall be made in such a way as to assure that the technology and knowledge exists to adequately restock the lands within 5 years after final harvest. Research and experience shall be the basis for determining whether the harvest and regeneration practices planned can be expected to result in adequate restocking. Adequate restocking means that the cut area will contain the minimum number, size, distribution, and species composition of regeneration as specified in regional silvicultural guides for each forest type. Five years after final harvest means 5 years after clearcutting, 5 years after final overstory removal in shelterwood cutting, 5 years after the seed tree removal cut in seed tree cutting, or 5 years after selection cutting.

(4) Cultural treatments such as thinning, weeding, and other partial cutting may be included in the forest plan where they are intended to increase the rate of growth of remaining trees, favor commercially valuable tree species, favor species or age classes which are most valuable for wildlife, or achieve other multiple-use objectives.

(5) Harvest levels based on intensified management practices shall be decreased no later than the end of each planning period if such practices cannot be completed substantially as planned.

(6) Timber harvest cuts designed to regenerate an even-aged stand of timber shall be carried out in a manner consistent with the protection of soil, watershed, fish and wildlife, recreation, and aesthetic resources, and the regeneration of the timber resource.

(7) Timber harvest and other silvicultural treatments shall be used to prevent potentially damaging population increases of forest pest organisms. Silvicultural treatments shall not be applied where such treatments would make stands susceptible to pest-caused damage levels inconsistent with management objectives.

(d) *Even-aged management.* When openings are created in the forest by the application of even-aged silviculture, the following management requirements apply:

(1) Openings shall be located to achieve the desired combination of multiple-use objectives. The blocks or strips cut shall be shaped and blended with the natural terrain, to the extent practicable, to achieve aesthetic, wildlife habitat, or other objectives established in the plan. Regional guides shall provide guidance on dispersion of openings in relation to topography, climate, geography, local land use patterns, forest types or other factors. As a minimum, openings in forest stands are no longer considered openings once a new forest is established. Forest plans may set forth variations to this minimum based on site-specific requirements for achieving multiple-use objectives. Regional guides shall provide guidance for determining variations to this minimum in the forest plan, based on requirements for watershed, wildlife habitat; scenery or other resource protection needs, or other factors.

(2) Individual cut blocks, patches, or strips shall conform to the maximum size limits for areas to be cut in one harvest operation established by the regional guide according to geographic areas and forest types. This limit may be less than, but will not exceed, 60 acres for the Douglas-fir forest type of California, Oregon, and Washington; 80 acres for the southern yellow pine types of Alabama, Arkansas, Georgia, Florida, Louisiana, Mississippi, North Carolina, South Carolina, Oklahoma, and Texas; 100 acres for the hemlock-sitka spruce forest type of coastal Alaska; and 40 acres for all other forest types except as provided in paragraphs (d)(2) (i) through (iii) of this section:

(i) Cut openings larger than those specified may be permitted where larger units will produce a more desirable combination of net public benefits. Such exceptions shall be provided for in regional guides. The following factors shall be considered in evaluating harvest cuts of various sizes and shapes to determine size limits by geographic areas and forest types: Topography; relationship of units to other natural or artificial openings and proximity of units; coordination and consistency with adjacent forests and regions; effect on water quality and quantity; visual absorption capability; effect on wildlife and fish habitat; regeneration requirements for desirable tree species based upon the latest research findings; transportation and harvesting system requirements; environmental and forest pest hazards to regeneration, residual trees, and surrounding stands; and the relative total costs of preparation and administration, transportation requirements, harvesting, site preparation, planting, stocking control, and future stand tending of harvest cuts of various sizes and shapes. Specification for exceptions shall include the particular conditions under which the larger size is permitted and shall set a new maximum size permitted under those conditions.

(ii) Size limits exceeding those established in paragraphs (d)(2) and (d)(2)(i) of this section are permitted on an individual timber sale basis after 60 days' public notice and review by the Regional Forester.

(iii) The established limit shall not apply to the size of areas harvested as a result of natural catastrophic condition such as fire, insect and disease attack, or windstorm.

(e) *Riparian areas.* Special attention shall be given to land and vegetation for approximately 100 feet from the edges of all perennial streams, lakes, and other bodies of water. This area shall correspond to at least the recognizable area dominated by the riparian vegetation. No management practices causing detrimental changes in water temperature or chemical composition, blockages of water courses, or deposits of sediment shall be permitted within these areas which seriously and adversely affect water conditions or fish habitat. Topography, vegetation type, soil, climatic conditions, management objectives, and other factors shall be considered in determining what mangement practices may be performed within these areas or the constraints to be placed upon their performance.

(f) *Soil and water.* Conservation of soil and water resources involves the analysis, protection, enhancement, treatment, and evaluation of soil and water resources and their responses under management and shall be guided by instructions in official technical handbooks. These handbooks must show specific ways to avoid or mitigate damage, and maintain or enhance productivity on specific sites. These handbooks may be regional in scope or, where feasible, specific to physiographic or climatic provinces.

(g) *Diversity.* Management prescriptions, where appropriate and to the extent practicable, shall preserve and enhance the diversity of plant and animal communities, including endemic and desirable naturalized plant and

animal species, so that it is at least as great as that which would be expected in a natural forest and the diversity of tree species similar to that existing in the planning area. Reductions in diversity of plant and animal communities and tree species from that which would be expected in a natural forest, or from that similar to the existing diversity in the planning area, may be prescribed only where needed to meet overall multiple-use objectives. Planned type conversion shall be justified by an analysis showing biological, economic, social, and environmental design consequences, and the relation of such conversions to the process of natural change.

§ 219.28 Research.

(a) Research needs for management of the National Forest System shall be identified during planning and periodically reviewed during evaluation of implemented plans. Particular attention should be given to research needs identified during the monitoring and evaluation described in § 219.12(k). These identified needs shall be included in formulating overall research programs and plans which involve private as well as public forest and rangelands.

(b) Research needed to support or improve management of the National Forest System shall be established and budgeted at the research station and national levels. Priorities for this portion of the Forest Service Research Program shall be based upon the information gathered at all planning levels of the National Forest System.

(c) An annual report shall be prepared at the national level with assistance from Regions and Stations which shall include, but not be limited to, a description of the status of major research programs which address National Forest System needs for Research, significant findings, and how this information is to be or has recently been applied.

§ 219.29 Transition period.

(a) Until a forest planning area of the National Forest System is managed under a forest plan developed pursuant to this subpart and approved by the Regional Forester, the land may continue to be managed under existing land use and resource plans. As soon as practicable, existing plans shall be amended or revised to incorporate standards and guidelines in this subpart. Pending approval of a forest plan, existing plans may be amended or revised to include management requirements not inconsistent with the provisions of the RPA and these regulations.

(b) Requirements of amendments to this subpart shall be incorporated in forest plans and regional guides through the ongoing planning process. Planning process steps already completed need not be repeated.

(1) If, prior to the effective date of an amendment to this subpart, a forest plan either has been approved in final form or released in draft form for public review, the plan need not be modified to incorporate requirements of such amendment, until the next scheduled revision of the forest plan;

(2) If, prior to the effective date of an amendment to this subpart, a regional guide either has been approved in final form or released in draft form for public review, the guide need not be modified to incorporate the requirements of such amendment, until a significant amendment to the guide is made for reasons other than incorporating requirements of amendments to this subpart.

(c) A forest plan may become effective prior to the development and approval of its related regional guide, provided that the forest plan is reviewed upon regional guide approval, and if necessary, amended to comply with regional management direction. If such an amendment is significant, it shall be accomplished pursuant to the requirements for the development of a forest plan as set forth in this subpart.

(d) As a result of the eruption of Mount St. Helens, a land management plan for the Mount St. Helens area shall be prepared substantially in accordance with the following procedures:

(1) Notwithstanding any other provisions in this subpart, the area included in the Mount St. Helens land management plan will not be subject to planning activities for the first generation Gifford Pinchot National Forest Plan unless the Regional Forester for the Pacific Northwest Region determines that additional planning activities are desirable.

(2) Lands which were inventoried as roadless and designated for nonwilderness uses in the Roadless Area Review and Evaluation (RARE II) shall be managed for uses other than wilderness. Except for a small part of the Mount Margaret roadless area (B 6071), the Mount St. Helens land management plan shall not consider wilderness designation for these lands.

(3) Lands which were inventoried as roadless and designated as further planning in the Roadless Area Review and Evaluation (RARE II) shall be evaluated in the Mount St. Helens land management plan and shall be managed in accordance with that plan.

Dated: September 27, 1982.

Douglas W. MacCleery,

Deputy Assistant Secretary For Natural Resources and Environment.

[FR Doc. 82-26698 Filed 9-29-82; 8:45 am]

BILLING CODE 3410-11-M

VETERANS ADMINISTRATION

38 CFR Part 36

Decrease in Maximum Permissible Interest Rates on Guaranteed Mobile Home Loans, and Home and Condominium Loans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is decreasing the maximum interest rates on guaranteed mobile home unit loans, lot loans, and combination mobile home unit and lot loans. In addition, the maximum interest rate applicable to home and condominium loans is also decreased. These decreases in interest rates are possible because of recent improvements in the availability of funds in various credit markets. The decrease in the interest rates will allow eligible veterans to obtain loans at a lower monthly cost.

EFFECTIVE DATE: September 24, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202-389-3042).

SUPPLEMENTARY INFORMATION: The Administrator is required by section 1819(f), title 38, United States Code, to establish maximum interest rates for mobile home loans guaranteed by the VA as he finds the mobile home loan capital markets demand. Recent market indicators—including the prime rate, the general decrease in interest rates charged on conventional mobile home loans, and the decrease of other short-term and long-term interest rates—have shown that the mobile home capital markets have improved. It is now possible to decrease the interest rates on mobile home unit loans, lot loans, and combination mobile home unit and lot loans while still assuring an adequate supply of funds from lenders and investors to make these types of VA loans.

The Administrator is also required by section 1803(c), title 38, United States Code, to establish maximum interest rates for home and condominium loans. Market indicators similarly favor a

reduction in the maximum interest rate for this type of loan. The lower interest rate should assist more veterans in the purchase of homes and condominiums because of the decrease in the monthly loan payments for principal and interest.

The Administrator's statutory authority to establish interest rates has been delegated by 38 CFR 2.6(b)(3) to the Chief Benefits Director, Deputy Chief Benefits Director, or person authorized to act for them.

Regulatory Flexibility Act/Executive Order 12291

For the reasons discussed in the May 7, 1981 **Federal Register** (46 FR 25443), it has previously been determined that final regulations of this type which change the maximum interest rates for loans guaranteed, insured, or made pursuant to chapter 37 of title 38, United States Code, are not subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

These regulatory amendments have also been reviewed under the provisions of Executive Order 12291. The VA finds that they are not "major rules" as defined in that Order. The existing process of informal consultation among representatives within the Executive Office of the President, OMB, the VA and the Department of Housing and Urban Development has been determined to be adequate to satisfy the intent of this Executive Order for this category of regulations. This alternative consultation process permits timely rate adjustments with minimal risk of premature disclosure. In summary, this consultation process will fulfill the intent of the Executive Order while still permitting compliance with statutory responsibilities for timely rate adjustments and a stable flow of mortgage credit at rates consistent with the market.

These final regulations come within exceptions to the general VA policy of prior publication of proposed rules as contained in 38 CFR 1.12. The publication of notice of a regulatory change in the VA maximum interest rates for VA guaranteed, insured or direct loans would deny veterans the benefit of lower interest rates pending the final rule publication date which would necessarily be more than 30 days after publication in proposed form. Accordingly, it has been determined that publication of proposed regulations prior to publication of final regulations is impracticable, unnecessary, and contrary to the public interest.

(Catalog of Federal Domestic Assistance Program numbers 64.113, 64.114, and 64.119)

These regulations are adopted under authority granted to the Administrator by sections 210(c), 1803(c)(1), 1811(d)(1) and 1819 (f) and (g) of title 38, United States Code and delegated to the undersigned by 38 CFR 2.6(b)(3). The regulations are clearly within that statutory authority and are consistent with Congressional intent.

These decreases are accomplished by amending §§ 36.4212a (1), (2), and (3), and 36.4311(a), and 36.4503(a), title 38, Code of Federal Regulations.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing, Loan programs—housing and community development, Mobile homes, Veterans.

Approved: September 23, 1982.

By direction of the Administrator.

John W. Hagan, Jr.,

Deputy Chief Benefits Director.

PART 36—LOAN GUARANTY

The Veterans Administration is amending 38 CFR Part 36 as follows:

1. In § 36.4212, paragraph (a) is revised as follows:

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed or insured pursuant to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to the respective effective date: (38 U.S.C. 1819(f))

(1) Effective September 24, 1982, 15½ percent simple interest per annum for a loan which finances the purchase of a mobile home unit only.

(2) Effective September 24, 1982, 15 percent simple interest per annum for a loan which finances the purchase of a lot only and the cost of necessary site preparation, if any.

(3) Effective September 24, 1982, 15 percent simple interest per annum for a loan which will finance the simultaneous acquisition of a mobile home and a lot and/or the site preparation necessary to make a lot acceptable as the site for the mobile home.

* * * * *

2. In § 36.4311, paragraph (a) is revised as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 13½ per centum per annum, effective September 24, 1982, the interest rate on any home or condominium loan guaranteed or insured wholly or in part on or after such date may not exceed 13½ per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

* * * * *

3. In § 36.4503, paragraph (a) is revised as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1980, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $27,500. This limitation shall not preclude the making of advances, otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Except as to home improvement loans, loans made by the Veterans Administration shall bear interest at the rate of 13½ percent per annum. Loans solely for the purpose of energy conservation improvements or other alterations, improvements or repairs shall bear interest at the rate of 14½ percent per annum. (38 U.S.C. 1811(d) (1) and (2)(A))

* * * * *

[FR Doc. 82-26984 Filed 9-29-82; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-2212-1]

Guam and Hawaii State Implementation Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This notice announces EPA's approval, under Section 110 of the Clean Air Act, of a variance granted by the State of Hawaii regarding opacity requirements. In addition, this notice incorporates into the Guam State Implementation Plan (SIP) minor changes to the effective date of certain regulations.

EFFECTIVE DATE: November 29, 1982.

ADDRESSES: Copies of these revisions are available for public inspection during normal business hours at the EPA Region 9 Office and the following locations:

State of Hawaii, Department of Health, P.O. Box 3378, Honolulu, HI 96801

Guam Environmental Protection Agency, P.O. Box 2999, Agana, Guam 96910
Public Information Reference Unit, Room 2404, EPA Library (PM–213), 401 M Street, SW., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Telephone: (45) 974–7641

SUPPLEMENTARY INFORMATION: On April 6, 1982, the Governor of Hawaii submitted, as an SIP revision, a variance from Hawaii Public Health Regulations Chapter 43, Air Pollution Control. Specifically, the variance issued by the Hawaii Department of Health (HDOH) approves a request by the McBryde Sugar Company for exemption of its processing mill at Eleele, Kauai, Hawaii from the 40% opacity requirement of Section 8(a)(1) of Chapter 43. The variance covers the period of installation, testing and modification of a wet scrubber, and expires on May 31, 1983. The variance allows up to 60% opacity from existing boilers. EPA has evaluated the HDOH's SIP revision and has determined that the variance will not endanger public health as the net emissions impact is negligible. EPA therefore, approves the HDOH's opacity variance as part of the Hawaii SIP.

On January 6, 1982, the Guam Environmental Protection Agency submitted as a SIP revision amendments to Chapter 18 of its Standards and Regulations. Chapter 18, *Appeals Procedures, Circumvention, Severability, and Effective Date,* was renumbered and is now Chapter 17. In addition, the effective dates of certain regulations were extended to December 1981. These revisions are approved in today's notice.

It is the purpose of this notice to approve all the rule revisions listed above and to incorporate them into the Guam and Hawaii SIPs. EPA's approval of the above revisions to the Guam and Hawaii SIPs is being done without prior proposal because the revisions are not controversial. The public should be advised that this approval action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received by EPA within 30 days that someone wishes to submit adverse or critical comments, the approval action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (see 46 FR 8709). The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 29, 1982. This action may not be challenged later in proceedings to enforce its requirements.

Note.—Incorporation by reference of the State Implementation plans for Guam and Hawaii was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental Relations.

(Secs. 110 and 310(a), Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a))

Dated: September 21, 1982.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subparts M and AAA of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations are amended as follows:

Subpart M—Hawaii

1. Section 52.620 is amended by adding paragraph (c)(14) as follows:

§ 52.620 Identification of plan.

* * * * *

(c) * * *

(14) A variance of the Hawaii Public Health Regulations, Chapter 43, Section 8(b)(1) submitted on April 6, 1982, by the Governor.

* * * * *

Subpart AAA—Guam

2. Section 52.2670 is amended by adding paragraph (c)(4) as follows:

§ 52.2670 Identification of plan.

* * * * *

(c) * * *

(4) Amendments to the Guam Air Pollution Control Standards and Regulations submitted on January 6, 1982 by the Governor's designee.

(i) Chapter 17—Appeals Procedures, Circumvention, Severability, and Effective Date.

* * * * *

[FR Doc. 82–26660 Filed 9–29–82; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 52

[A–5–FRL–2217–8]

Approval and Promulgation of Implementation Plans; Illinois; Correction

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: This notice corrects a citation appearing in the final rulemaking approving the satisfaction of approval conditions for the Illinois Particulate and Ozone Control Strategies. This final rulemaking was published in the June 21, 1982 **Federal Register** (47 FR 26619).

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6035.

SUPPLEMENTARY INFORMATION: On page 26620 of the June 21, 1982 **Federal Register** in the second column in the codification under the heading: Subpart O Illinois the paragraphs cited for addition into § 52.720(c) were incorrectly numbered.

In particular it was published in the codification that: "Section 52.720(c) is amended by adding paragraphs (33) and (34) to read as follows:." The correct numbers of the paragraphs to be added are (39) and (40) and these additions to § 52.720(c) should read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(39) On October 1, 1981, the State submitted a report in satisfaction of the Total Suspended Particulate Control Strategy approval condition in which the State agreed to conduct an analysis of the potential air quality impact from storage piles with uncontrolled emissions of less than 50 tons per year, to submit the results of any analysis to EPA, to submit any necessary regulations to the Illinois Pollution Control Board, and promulgate and submit any necessary regulations to EPA. This report concluded that no further regulations were needed.

(40) EPA Study Volatile Organic Compound Emissions from Solvent Cleaning Operations in the State of

Illinois (EPA 905/4–80–008) was prepared to satisfy the Ozone Control Strategy approval condition in which the State agreed to conduct a study to demonstrate that the three pound per hour, 15 pound per day exemption for solvent metal cleaners contained in Rule 205(k) represents RACT, to submit the results of the study to EPA, to submit the necessary regulations to the Illinois Pollution Control Board and promulgate and submit any necessary regulations to EPA. The State reviewed this report and in a February 11, 1981, letter to EPA noted their agreement with the findings of the report and indicated that because there was no need for further regulations, this condition is satisfied.

* * * * *

Dated: September 20, 1982.

Alan Levin,

Acting Regional Administrator.

[FR Doc. 82–26079 Filed 9–29–82; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Parts 60 and 61

[A–9–FRL 2217–2]

Delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS); States of Arizona, California, and Nevada and Territory of Guam

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of delegation.

SUMMARY: The EPA hereby places the public on notice of its delegation of New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) to various State and local air pollution control agencies in Region 9. This action is necessary to bring the NSPS and NESHAPS program delegations up to date with recent EPA promulgations and amendments of NSPS and NESHAPS categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift primary program responsibility for the affected NSPS and NESHAPS source categories from EPA to State and local governments.

DATES: The regulations are amended to reflect these delegations effective September 27, 1982.

The delegations are effective on the dates listed in the Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A–3–1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974–8236, FTS 454–8236.

SUPPLEMENTARY INFORMATION: The following state and local air pollution control agencies have requested authority for delegation or redelegation of certain NSPS and NESHAPS source categories. Delegation or redelegations of authority were granted to the following agencies and are effective as listed below:

Bay Area Air Quality Management District

Effective Date: July 19, 1982.

New Delegation

NESHAPS	40 CFR part 61 subpart
Vinyl Chloride	F.

Redelegation

NESHAPS	40 CFR part 61 subpart
Beryllium	C.
Beryllium Rocket Motor Firing	D.

Del Norte County Air Pollution Control District (APCD)

Effective Date: September 6, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Electric Utility Steam Generators	Da.
Petroleum Storage Vessels	Ka.
Glass Manufacturing Plants	CC.
Stationary Gas Turbines	GG.
Automobile & Light-Duty Truck Surface Coating Operations	MM.
Ammonium Sulfate	PP.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.

Redelegation

NSPS	40 CFR part 60 subpart
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Secondary Brass & Bronze Ingot Production Plants	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: West process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and steel Plants (Electric Arc Furnaces)	AA.
Kraft Pulp Mills	BB.
Grain Elevators	DD.
Lime Manufacturing Plants	HH.

NESHAPS	40 CFR part 61 subpart
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F.

Fresno County APCD

Effective Date: June 21, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Kraft Pulp Mills	BB.
Grain Elevators	DD.
Lime Manufacturing plants	HH.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.
Vinyl Chloride	F.

Great Basin Unified APCD

Effective Date: August 16, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
Iron and Steel Plants (Electric Arc Furnaces)	AA.

Humboldt County APCD

Effective Date: September 6, 1982.

Redelegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Electric Utility Steam Generators	Da.
Petroleum Storage Vessels	Ka.
Glass Manufacturing Plants	CC.
Stationary Gas Turbines	GG.
Automobile & Light-Duty Truck Surface Coating Operations.	MM.
Ammonium Sulfate	PP.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.

Redelegation

NSPS	40 CFR part 60 subpart
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Secondary Brass & Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel Plants (Electric Arc Furnaces)	AA.
Kraft Pulp Mills	BB.
Grain Elevators	DD.
Lime Manufacturing Plants	HH.

NESHAPS	40 CFR part 61 subpart
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F.

Kern County APCD

Effective Date: July 19, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.

Redelegation

NSPS	40 CFR part 60 subpart
Fossil-Fuel Fired Steam Generators	D.
Electric Utility Steam Generators	Da.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Petroleum Storage Vessels	Ka.
Secondary Lead Smelters	L.
Secondary Brass & Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel Plants (Electric Arc Furnaces)	AA.
Kraft Pulp Mills	BB.
Glass Manufacturing Plants	CC.
Grain Eelvators	DD.
Stationary Gas Turbines	GG.
Lime Manufacturing Plants	HH.
Automobile and Light-Duty Truck Surface Coating.	MM.
Ammonium Sulfate Manufacturing	PP.

NESHAPS	40 CFR part 61 subpart
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F.

Kings County APCD

Effective Date: August 16, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
Kraft Pulp Mills	BB.
Grain Elevators	DD.
Lime Manufacturing Plants	HH.

Lake County APCD

Effective Date: August 16, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Secondary Brass & Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W
Phosphate Fertilizer Industry: Granular Triple Superphosphate	II
Iron and Steel Plants (Electric Arc Furnaces)	AA.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.

Madera County APCD

Effective Date: September 6, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel Plants (Elecric Arc Furnaces)	AA.
Kraft Pulp Mills	BB.
Grain Elevators	DD.
Lime Manufacturing Plants	HH.

NESHAPS	40 CFR part 61 subpart
Vinyl Chloride	F.

Redelegation

NESHAPS	40 CFR part 61 subpart
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.

Mendocino County APCD

Effective Date: September 6, 1982.

Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Electric Utility Steam Generators	Da.
Petroleum Storage Vessels	Ka.
Kraft Pulp Mills	BB.
Glass Manufacturing Plants	CC.
Grain Elevators	DD.
Stationary Gas Turbines	GG.
Lime Manufacturing Plants	HH.
Automobile & Light-Duty Truck Surface Coating Operations	MM.
Ammonium Sulphate	PP.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.

Redelegation

NSPS	40 CFR part 60 subpart
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Secondary Brass & Bronze Ingot Production Plants	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel Plants (Electric Arc Furnaces)	AA.

NESHAPS	40 CFR part 61 subpart
Asbestos	E.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F.

Northern Sonoma Country APCD

Effective Date: September 6, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Electric Utility Steam Generators	Da.
Petroleum Storage Vessels	Ka.
Kraft Pulp Mills	BB.
Glass Manufacturing Plants	CC.
Stationary Gas Turbines	GG.
Lime Manufacturing Plants	HH.
Automobile & Light-Duty Truck Surface Coating Operations	MM.
Ammonium Sulfate	PP.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.
Vinyl Chloride	F.

Redelegation

NSPS	40 CFR part 60 subpart
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Secondary Brass and Bronze Ingot Production Plants	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel Plants (Electric Arc Furnaces)	AA.

NESHAPS	40 CFR part 61 subpart
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.

Monterey Bay Unified APCD

Effective Date: June 21, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.

Redelegation

NSPS	40 CFR part 60 subpart
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Asphalt Concrete Plants	I.
Storage Vessels for Petroleum Liquids	K.
Sewage Treatment Plants	O.

NESHAPS	40 CFR part 61 subpart
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.

Sacramento County APCD

Effective Date: September 27, 1982.

New Delegation

NESHAPS	40 CFR part 61 subpart
Mercury	E.

San Bernardino County APCD

Effective Date: September 6, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Secondary Brass and Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X.
Coal Preparation Plants	Y.
Iron and Steel Plants (Electric Arc Furnaces)	AA.

NESHAPS	40 CFR part 61 subpart
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F.

San Joaquin County APCD

Effective Date: September 6, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Electric Utility Steam Generators	Da.
Petroleum Storage Vessels	Ka.
Glass Manufacturing Plants	CC.
Grain Elevators	DD.
Stationary Gas Turbines	GG.
Automobile and Light-Duty Truck Surface Coating Operations.	MM.
Ammonium Sulfate	PP.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.

Redelegation

NSPS	40 CFR part 61 subpart
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Secondary Brass and Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel Plants (Electric Arc Furnaces)	AA.
Kraft Pulp Mills	BB.
Lime Manufacturing Plants	HH.

NESHAPS	40 CFR part 61 subpart
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F.

San Luis Obispo APCD

Effective Date: September 6, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Fossil-Fuel Fired Steam Generators	D.
Electric Utility Steam Generators	Da.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	Ka.
Secondary Lead Smelters	L.
Secondary Brass and Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel Plants (Electric Arc Furnaces)	AA.
Kraft Pulp Mills	BB.
Glass Manufacturing Plants	CC.
Grain Elevators	DD.
Stationary Gas Turbines	GG.
Lime Manufacturing Plants	HH.
Automobile and Light-Duty Truck Surface Coating Operations.	MM.
Ammonium Sulfate	PP.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F.

Santa Barbara APCD

Effective Date: June 21, 1982.

New Delegation

NESHAPS	40 CFR part 61 subpart
Asbestos	B.

Shasta County APCD

Effective Date: August 16, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
Kraft Pulp Mills	BB.
Grain Elevators	DD.
Lime Manufacturing Plants	HH.

NESHAPS	40 CFR part 61 subpart
Vinyl Chloride	F.

Trinity County APCD

Effective Date: September 6, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Electric Utility Steam Generators	Da.
Petroleum Storage Vessels	Ka.
Kraft Pulp Mills	BB.
Glass Manufacturing Plants	CC.
Grain Elevators	DD.
Stationary Gas Turbines	GG.
Lime Manufacturing Plants	HH.
Automobile and Light-Duty Truck Surface Coating Operations.	MM.
Ammonium Sulfate	PP.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.

Redelegation

NSPS	40 CFR part 60 subpart
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Secondary Brass and Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel Plants (Electric Arc Furnaces)	AA.

NESHAPS	40 CFR part 61 subpart
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F.

Tulare County APCD

Effective Date:

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Electric Utility Steam Generators	Da.
Petroleum Storage Vessels	Ka.
Glass Manufacturing Plants	CC.
Stationary Gas Turbines	GG.
Lime Manufacturing Plants	HH.
Lead-Acid Battery Manufacturing Plants	KK.
Automobile & Light-Duty Truck Surface Coating Operations.	MM.
Phosphate Rock Plants	NN.
Ammonium Sulfate	PP.

Redelegation

NSPS	40 CFR part 60 subpart
Fossil-Fuel Fired Steam Generators	D.
Incinerators	E.
Portland Cement Plants	F.
Nitric Acid Plants	G.
Sulfuric Acid Plants	H.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.
Secondary Lead Smelters	L.
Secondary Brass & Bronze Ingot Production Plants.	M.
Iron and Steel Plants (BOPF)	N.
Sewage Treatment Plants	O.
Primary Copper Smelters	P.
Primary Zinc Smelters	Q.
Primary Lead Smelters	R.
Primary Aluminum Reduction Plants	S.
Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	T.
Phosphate Fertilizer Industry: Superphosphoric Acid Plants	U.
Phosphate Fertilizer Industry: Diammonium Phosphate Plants	V.
Phosphate Fertilizer Industry: Triple Superphosphate Plants	W.
Phosphate Fertilizer Industry: Granular Triple Superphosphate	X.
Coal Preparation Plants	Y.
Ferroalloy Production Facilities	Z.
Iron and Steel plants (Electric Arc Furnaces)	AA.
Kraft Pulp Mills	BB.
Grain Elevators	DD.

NESHAPS	40 CFR part 61 subpart
General Provisions	A.
Asbestos	B.
Beryllium	C.
Beryllium Rocket Motor Firing	D.
Mercury	E.
Vinyl Chloride	F.

Territory of Guam

Effective Date: June 21, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
General Provisions	A.
Fossil-Fuel Fired Steam Generators	D.
Portland Cement Plants	F.
Asphalt Concrete Plants	I.
Petroleum Refineries	J.
Storage Vessels for Petroleum Liquids	K.

State of Nevada

Effective Date: July 19, 1982.

New Delegation

NSPS	40 CFR part 60 subpart
Lead-Acid Battery Manufacturing Plants	KK.
Phosphate Rock Plants	NN.

Pursuant to NSPS and NESHAPS regulations, sources are required to submit all required reports to the state or local agency that has jurisdiction over the source, and to EPA.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

(Secs. 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*))

List of Subjects

40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc.

40 CFR Part 61

Air pollution control, Asbestos, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

Dated: September 17, 1982.

Sonia F. Crow,

Regional Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Subparts A of Parts 60 and 61 of Chapter I, Title 40 of the Code of Federal Regulations are amended as follows:

Subpart A—General Provisions

1. Sections 60.4(b)(D) and 61.04(b)(D) are each amended by adding the address of the State of Arizona to read as follows:

§§ 60.4 Address and 61.04 Address.

* * * * *

(b) * * *

(D) Arizona: Arizona Department of Health Services, 1740 West Adams Street, Phoenix, Arizona 85007.

* * * * *

2. Sections 60.4(b)(F) and 61.04(b)(F) are each amended by revising the addresses of the following Air Pollution Control Districts to read as follows:

§§ 60.4 Address and 61.04 Address.

* * * * *

(b) * * *

(F) * * *

Fresno County Air Pollution Control District, 1221 Fulton Mall, Fresno, CA 93721.

Great Basin Unified Air Pollution Control District, 157 Short Street, Suite 6, Bishop, CA 93514.

Kern County Air Pollution Control District, 1601 H Street, Suite 250, Bakersfield, CA 93301.

Monterey Bay Unified Air Pollution Control, 1164 Monroe Street, Suite 10, Salinas, CA 93906.

Santa Barbara County Air Pollution Control District, 315 Camino del Rimedio, Santa Barbara, CA 93110.

* * * * * *

3. Section 60.4(b) is amended by adding subparagraph (AAA) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(AAA) Territory of Guam: Guam Environmental Protection Agency, Post Office Box 2999, Agana, Guam 96910.

* * * * *

[FR Doc. 82-26607 Filed 9-29-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[A-7-FRL-2209-7]

Designation of Areas for Air Quality; Planning Purposes; Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA today takes final action to redesignate the City of Dubuque, Iowa, from nonattainment to attainment with respect to the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO_2). A nonattainment designation means that air pollution levels are too high and an air pollution control plan must be developed. This redesignation means that air quality in Dubuque has improved so that further SO_2 control measures need not be required.

EFFECTIVE DATE: November 1, 1982.

ADDRESSES: Copies of the redesignation requests and supporting materials are available at the following addresses:

Environmental Protection Agency, Region VII, Air Programs Branch, 324 East 11th Street, Kansas City, Missouri 64106

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Daniel J. Wheeler, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106, at 816-374-3791.

SUPPLEMENTARY INFORMATION: On December 22, 1980, the Iowa Department of Environmental Quality (IDEQ) submitted a request to redesignate the attainment status of two areas in Iowa. The state had determined that Dubuque exceeded the NAAQS for carbon monoxide (CO) and should be redesignated from attainment to nonattainment for CO, that Dubuque no longer exceeded the NAAQS for SO_2 and should be redesignated from nonattainment to attainment for SO_2, and that particulate monitoring data in Keokuk no longer supported the secondary nonattainment designation and it should be changed to unclassifiable for total suspended particulate (TSP).

EPA proposed to approve these requests on April 3, 1981 (46 FR 20235), and received no public comments on the proposal. On October 5, 1981 (46 FR 48929), EPA redesignated Dubuque for CO and Keokuk for TSP but deferred action on Dubuque for SO_2.

EPA designation criteria require 24 months of valid SO_2 monitoring without a violation for an area to be designated as attainment for SO_2. The Dubuque area has not had a violation of the SO_2 standard for over 4 years but final action was deferred because of the air quality simulation modeling study the state then had underway. The purpose of the delay was to see if the results of the modeling study would indicate areas of violation at points other than monitoring sites.

The modeling study was intended as support for new statewide SO_2 limits. The state proposed to adopt new limits, based on the modeling, earlier this year but the rulemaking has been terminated without final action. Because a new rulemaking will require reproposal and new public hearings, it will be a substantial period of time before the new rules and modeling study are submitted. Therefore, EPA finds it is unreasonable to wait any longer for the modeling results and that further delay in redesignating Dubuque should not be allowed. When the modeling study is submitted, EPA will evaluate the results and determine if any new actions are appropriate.

In summary, air quality monitoring data shows that the sulfur dioxide standards have not been exceeded in Dubuque in more than 2 years, therefore the area meets the criteria to be reclassified from nonattainment to attainment. Therefore, the City of Dubuque is redesignated to attainment with respect to SO_2.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, and Wilderness areas.

(Secs. 107 and 301 of the Clean Air Act (42 U.S.C. 7407 and 7601))

Dated: September 21, 1982.

Anne M. Gorsuch,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

§ 81.316 [Amended]

In § 81.316, the table "Iowa-SO_2" is amended by removing the line beginning "Julien Township," by removing the line beginning "Remainder of Dubuque County," by revising "Remainder of State" to read "Entire State" and by removing the footnote.

[FR Doc. 82-26971 Filed 9-29-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

41 CFR Part 14H-1

Procurement Responsibility and Authority

July 30, 1982.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Revocation.

SUMMARY: Interior Procurement Regulation System § 14-1.404 and Interior Procurement Memorandum (IPM82-5) of January 29, 1982 were issued to implement the Contracting Officers' Warrant System for the selection, designation, and termination of designation of Contracting Officers. Therefore §§ 14H-1.451, 14H-1.451-2, and 14H-1.451-6 of Part 14H-1, Title 41 of the Code of Federal Regulations, are no longer necessary and are hereby revoked.

EFFECTIVE DATE: September 30, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. Peter A. Campanelli, Department of the Interior, Bureau of Indian Affairs, Washington, D.C 20245, telephone number (202) 343-5125.

SUPPLEMENTARY INFORMATION: This document is issued in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. The primary author of this document is Dr. Peter A. Campanelli, Department of the Interior, Bureau of Indian Affairs, Washington, D.C. 20245, telephone number (202) 343-5125.

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the criteria established by the Regulatory Flexibility Act.

Lists of Subjects in 41 CFR Part 14H-1

Government procurements.

PART 14H-1—GENERAL

§§ 14H-1.451, 14H-1.451-2 and 14H-1.451-6 [Revoked and Reserved]

Under the authority of the Secretary of the Interior contained in 41 CFR 1-1.4, §§ 14H-1.451, 14H-1.451-2, and 14H-1.451-6 of Part 14H-1, Title 41 of the Code of Federal Regulations are hereby revoked and reserved.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-26950 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-02

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 2, 56, 59, 61, 62, and 65

Technical Corrections

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This document corrects errors in regulations of FEMA appearing in Title 44. This document corrects errors, changes addresses and makes technical corrections which have no substantive effect in the FEMA regulations.

DATE: Rule is effective September 30, 1982.

FOR FURTHER INFORMATION CONTACT: William L. Harding, Office of General Counsel, 287-0377.

SUPPLEMENTARY INFORMATION: Accordingly, Chapter 1 of Title 44 is amended as follows:

PART 2—ORGANIZATION, FUNCTIONS AND DELEGATIONS OF AUTHORITY

1. Section 2.61(j) (1) and (2) and revised to read:

§ 2.61 Associate Director, State and Local Programs and Support (SLPS).

* * * * *

(j) * * *

(1) Authority under subsections 201 (a) and (b) of the Act except that the authority to delegate civil defense responsibilities to the departments and agencies is reserved;

(2) Those under subsections 201 (c) and (d);

* * * * *

PART 56—STANDARD REINSURANCE CONTRACT

§ 56.40 [Amended]

2. Section 56.40 is amended by removing "1725 I Street, NW" and "20472".

PART 59—GENERAL PROVISIONS

§ 59.1 [Amended]

3. Section 59.1, term "Agency" is amended by removing "1725 I Street, N.W., Washington, D.C. 20472".

PART 61—INSURANCE COVERAGE AND RATES

§ 61.12 [Amended]

4. Section 61.12(c) is amended by removing "1725 I Street, N.W." and "20472".

§ 61.15 [Amended]

5. Section 61.15 is amended by removing "1725 I Street, N.W." and "20472".

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

§ 62.22 [Amended]

6. Section 62.22(o) is amended by changing "42 U.S.C. 4053" to "42 U.S.C. 4072".

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

7. Section 65.5(b) is revised to read as follows:

§ 65.5 Requirement to submit new technical data.

* * * * *

(b) The technical and scientific information indicating changes in base flood elevations shall be submitted to Engineering Branch, Natural Hazards Division, Office of Natural and Technological Hazards, Federal Emergency Management Agency, Washington, D.C.

Dated: September 22, 1982.

George Jett,

General Counsel.

[FR Doc. 82-26967 Filed 9-29-82; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Parts 16, 74, and 96

Block Grant Programs; Correction

AGENCY: Health and Human Services Department (HHS).

ACTION: Final rules, correction.

SUMMARY: On July 6, 1982 the Department published in the Federal Register final rules implementing the seven of the block grant programs established by the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). 47 FR 29472. This document contains technical corrections that address inadvertent deletions and errors in wording, spelling and punctuation found in those rules.

DATE: The rules were effective July 6, 1982.

FOR FURTHER INFORMATION CONTACT: Robert Raymond, Director for Intergovernmental Policy, Office of Planning and Evaluation, Room 443–D, Hubert Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, (202) 245–7316.

SUPPLEMENTARY INFORMATION:

Accordingly, the Department of Health and Human Services is correcting FR Doc. 82–18247 appearing on pages 29472–29493 in the issue of July 6, 1982 as follows:

PART 96—BLOCK GRANTS

1. On page 29487, column 1, § 96.3, in line 6 "Pub. L. 96511" is corrected to read "Pub. L. 96–511".

2. On page 29487, column 2, § 96.11, in the last line "fund." is corrected to read "funds.".

3. On page 29487, column 3, § 96.14(a), the heading *"Obligations."* is corrected to read *"Obligation."*.

4. On page 29487, column 3, § 96.15, in line 9, "director" is corrected to read "Director".

5. On page 29488, column 3, § 96.43(b), in line 10, "[insert date 45 days after publication]" is corrected to read "August 20, 1982".

6. On page 29489, column 3, § 96.50(b), lines 11–13, "human Development Services. Complaints with respect to the low-income energy program" is corrected to read "Human Development Services. Complaints with respect to the low-income home energy assistance program".

7. On page 29490, column 1, § 96.50(b), in the last sentence "if" is corrected to read "it".

8. On page 29490, column 1, § 96.50(e), line 9, "stautory" is corrected to read "statutory".

9. On page 29491, column 3, § 96.71, lines 1–2, "Section 2005 (42 U.S.C. 1397d(a)(2) and (a)(5))(a)(2) and (a)(5)" is corrected to read "Section 2005(a)(2) and (a)(5) (42 U.S.C. 1397d(a)(2) and (a)(5))"; and on line 21 the semicolon is changed to a comma.

10. On page 29492, column 1, § 96.82, line 3, the comma is removed after the word "Act" and a comma is added after the parenthentical citation.

11. On page 29492, column 2, § 96.101, line 2, "the" is added after "of"; on line 17 "is due whether the center meets the requirements for receiving" is added after "response".

Dated: September 23, 1982.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 82–26966 Filed 9–29–82; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 107, 171, 172, 173, 174, 175, 177, 178 and 179

[Docket No. HM–56; Amdt. Nos. 107–10, 171–66, 172–74, 173–158, 174–41, 175–23, 177–55, 178–72, 179–31]

Hazardous Materials Regulations; Miscellaneous Amendments

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: The purpose of these amendments to the Hazardous Materials Regulations is to change or delete certain incorrect references, to correct certain editorial errors, and to make minor regulatory changes which will not impose any restrictions on persons affected by these regulations.

EFFECTIVE DATE: September 30, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas G. Allan, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426–2075.

SUPPLEMENTARY INFORMATION: With consolidation of the Hazardous Materials Regulations (HMR) into Title 49 of the Code of Federal Regulations and subsequent amendments thereto, numerous discrepancies have surfaced in the printing of Title 49. These discrepancies include incorrect references, inadvertent omissions of phrases within sections, and punctuation errors. In addition, functional responsibilities relating to certain approvals have been transferred from the Materials Transportation Bureau's (MTB) Office of Operations and Enforcement (OOE) to its Office of Hazardous Materials Regulation (OHMR) and the affected sections are amended to note this. Finally, in response to inquiries which MTB has received concerning the clarity of particular requirements specified in the HMR, changes are made which should reduce uncertainties as to their meaning.

Since these amendments do not impose additional requirements, public notice has not been provided and these amendments are effective without delay. The MTB has determined that this rule, as promulgated, is not a "major rule" under the terms of Executive Order 12291 and DOT implementing procedures (44 FR 11034). A final regulatory evaluation and environmental assessment is not available in the Docket as these amendments are merely clerical in their effect. Based on limited information available concerning size and nature of entities likely to be affected by this amendment, I certify that this amendment will not, as promulgated, have a significant economic impact on a substantial number of small entities.

Docket HM–56 is closed upon issuance of this final rule.

The following is a brief summary on the changes in each Part:

Part 107

Changes reflect the proper title of the Associate Director for HMR in the following sections: § 107.119(b)(c), and (d), § 107.121.

In § 107.373, the word "employer" is changed to read "employee" to reflect the proper relationship to OHMR and OOE.

Part 171

In § 171.16, paragraph (b) is changed to specify the name of the new office to which written incident reports are to be addressed.

In §§ 171.19 and 171.20, corrections are made to reflect the correct title of the Associate Director for HMR.

Part 172

In § 172.101, the Hazardous Materials Table (HMT) is changed by adding and revising entries as follows:

"Allethrin" is amended by changing the identification number in column (3A) from NA2909 to NA2902.

"Barrel, empty", "Gas cylinder, empty," "Tank car, empty *(previously used for a hazardous material)*", "Tank car, empty *(previously used for a Poison A material)*", "Tank, portable empty" and "Tank truck, empty" are changed to appear in italics rather than Roman type.

"Electrolyte (acid) battery fluid" is amended by adding the letter "E" in column (1) and setting the reportable quantity value in italics.

"High explosive" is changed to reflect the correct packaging reference in column (5)(a).

"Hydrogen fluoride" is amended to indicate its proper identification number in column (3A) as UN 1052.

"Infectious substance, human, n.o.s.", inadvertently omitted in a recent republication of the HMT, is added to the table.

"Nitrogen peroxide, liquid" and "Nitrogen tetroxide, liquid" are amended to reflect their additional status as a hazardous substance, since these names are synonymous with "nitrogen dioxide, liquid."

"Phenylenediamine, meta or para, solid" is amended to reflect its correct spelling.

In § 172.200, paragraph (c) is removed since it no longer contains timely information.

In § 172.203, paragraphs (i)(2)(iii), (j)(1), and (k)(3)(iii) are removed since they no longer contain timely information.

In § 172.301, paragraph (c)(3) is removed since it no longer contains timely information.

In § 172.302, paragraph (c) is removed since it no longer contains timely information.

In § 172.336, paragraph (c)(8) is removed since it no longer contains timely information.

In § 172.407, paragraph (d)(5) is removed since it no longer contains timely information.

Part 173

In § 173.55, the antiquated term "dangerous articles" is changed to "hazardous materials."

In § 173.114a, paragraph (j) is removed since it no longer contains timely information.

In § 173.115, Note 1 following paragraph (a)(1)(ii) is removed since it no longer contains timely information.

The following sections are amended to remove the specific reference to intermodal portable tanks (IM–101 and IM–102) since their use is already authorized through other paragraphs in the same sections: § 173.125(a)(8), § 173.128(a)(5), § 173.129(a)(3), § 173.131(a)(3), § 173.132(a)(4), § 173.144(a)(4), § 173.147(a)(2).

In § 173.292, paragraph (a)(2) has the specific reference to MC 303, MC 304, MC 306, MC 307, MC 310, MC 311, and MC 312 tank motor vehicles removed since their use is already authorized through paragraph (a)(1).

In § 173.302, paragraph (c) is changed by having the formulas which appear in Note 1 and Note 2 rewritten to show their correct algebraic expression.

In § 173.331, paragraph (a)(1) is amended by correcting the quantity limit to read "5 cubic centimeters." It was incorrectly entered as 6 cubic centimeters when the HMR were consolidated in Docket No. HM–112 (41 FR 15972, April 15, 1976).

In § 173.334, paragraph (a)(1) has specification 4B240 added to the list of cylinders. It was inadvertently omitted when the HMR were consolidated in Docket No. HM–112 (41 FR 15972, April 15, 1976).

In § 173.353, paragraph (a)(3) is revised to include requirements for valve protection which were adopted under Docket HM–139C (45 FR 46419, July 10, 1980) but inadvertently omitted in a later revision of this paragraph under Docket HM–166C (45 FR 59887, September 11, 1980); and footnote 1 to paragraph (a)(3), omitted in the most recent edition of the CFR, is added.

In § 173.357, paragraph (b)(1) is revised to include requirements for valve protection which were adopted under Docket HM–139C (45 FR 46419, July 10, 1980) but inadvertently omitted in a later revision of this paragraph under Docket HM–166C (45 FR 59887, September 11, 1980).

In § 173.359, paragraphs (a), (a)(13), and (c) are revised by having the suffix "n.o.s." removed from the entries "organic phosphate compound mixtures, n.o.s." and "organic phosphorus compound mixtures, n.o.s." to make these descriptions compatible with those which appear in the Hazardous Materials Table.

In § 173.392, paragraph (d)(2)(ii) is amended by replacing obsolete cargo tank specification section references with the current section number.

In § 173.1090, paragraph (d)(5) is removed since it no longer contains timely information.

Throughout Part 173, changes are made to indicate the transfer of certain functional responsibilities from the Associate Director for OE to the Associate Director for HMR.

The following sections are amended to remove the phrase "because of the present emergency and" since the state of emergency no longer exists: § 173.28(g) Note 1, § 173.119(b)(3) Note 1; and (b)(4) Note 1, § 173.190(b)(3)(i) Note 1, § 173.346(a)(8).

Part 174

In § 174.25, paragraph (a)(2) is amended to add a line item to the Table for the hazard class "Blasting agent"; and paragraph (c) is revised to indicate that billings must communicate the presence of the reportable quantity of a hazardous substance, when appropriate.

In § 174.61, paragraph (b) is changed to reflect the transfer of a functional responsibility from the Associate Director for OE to the Associate Director for HMR.

Part 175

In § 175.25, paragraph (b) is removed since it no long contains timely information.

In § 175.45, paragraph (c) is changed to reflect the name of the new office in MTB to which written incident reports are to be addressed.

In § 175.701, paragraph (c) is amended to reflect the transfer of a functional responsibility from the Associate Director for Operations and Enforcement to the Associate Director for HMR; and paragraph (c)(2) is changed, for the sake of clarity, by removing the word "laterally."

Part 177

In § 177.835, paragraph (g) is amended to specify that detonators may not be transported on the "same" motor vehicle with any Class A or Class B explosive (except detonators). The word "same" was inadvertently dropped in the 1980 and 1981 editions of Title 49.

Changes are made to indicate the transfer of certain functional responsibilities from the Associate Director of OE to the Associate Director for HMR in the following sections: § 177.821(f), § 177.838(g), § 177.848 note 5.

Part 178

Section 178.65–14 is amended by removing the note following paragraph (b)(8) since it no longer contains timely information.

In § 178.68–10, paragraph (a)(2) is amended to reflect the correct cross-reference for physical tests of tensile strength of the material.

Throughout Part 178, changes are made to indicate the transfer of certain functional responsibilities from the Associate Director for OE to the Associate Director for HMR.

Throughout Part 178, changes are made to remove the phrase "because of the present emergency and" since the state of emergency no longer exists.

Part 179

In § 179.202–16, paragraph (b) is changed to permit specification 103AW and 111A60W2 tank cars, which have been coated or lined with a material suitable to resist corrosion, for the carriage of monochloroacetic acid, anhydrous, when shipped as a liquid, as indicated in § 173.294(b).

In § 179.500–4, paragraph (b) is amended by having the divisor 2.0 in the formula $S = U/2.0$ changed to 3.0 to reflect the correct factor of safety.

List of Subjects

49 CFR Part 107

Hazardous materials transportation.

49 CFR Part 171

Hazardous materials transportation.

49 CFR Part 172

Hazardous materials transportation.

49 CFR Part 173

Hazardous materials transportation.

49 CFR Part 174

Hazardous materials transportation, Railroad safety.

49 CFR Part 175

Hazardous materials transportation, Air carriers.

49 CFR Part 177

Hazardous materials transportation, Motor carriers.

49 CFR Part 178

Hazardous materials transportation, Packaging and containers.

49 CFR Part 179

Hazardous materials transportation, Railroad safety.

In consideration of the foregoing, 49 CFR Parts 107, 171 through 175, and 177 through 179 are amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

§ 107.119 [Amended]

1. In § 107.119, paragraphs (b), (c), and (d) are amended by removing the words "of OE."

§ 107.121 [Amended]

2. Section 107.121 is amended by removing the words "of OE."

§ 107.373 [Amended]

2a. Section 107.373 is amended by removing the word "employer" and inserting, in its place, the word "employee."

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

§ 171.16 [Amended]

3. In § 171.16, paragraph (b) is amended by removing the words "Chief, Information Systems Division, Transportation Programs Bureau" and inserting, in their place, "Information Systems Manager, Materials Transportation Bureau."

§ 171.19 [Amended]

4. Section 171.19 is amended by removing the words "Associate Director for OE" and inserting, in their place, the words "Associate Director for HMR."

§ 171.20 [Amended]

5. In § 171.20, paragraphs (a) and (c) are amended by removing the words "Associate Director for OE"; and inserting in their place, the words "Associate Director for HMR"; and paragraph (b) is amended by removing the words "Associate Director for Operations and Enforcement" and inserting, in their place, the words "Associate Director for Hazardous Materials Regulation."

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

6. In § 172.101, the Hazardous Materials Table is amended as follows:

§ 172.101 Hazardous materials table.

(1)	(2)	(3)	(3)	(4)	(5)		(6)		(7)		
					Packaging		Maximum net quantity in one package		Water shipments		
- /E/A/W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Exceptions (a)	Specific requirements (b)	Passenger carrying aircraft or railcar (a)	Cargo only aircraft (b)	Cargo vessel (a)	Passenger vessel (b)	Other requirements (c)
	Additions										
	Infectious substances, human, n.o.s., *See* Etiologic Agent, n.o.s..		UN2814								
	Revisions										
A	Allethrin	ORM–A	NA2902	None	173.505	173.510	No limit	No limit			
	Barrel, empty. See Drum, empty.										
E	Electrolyte (acid) battery fluid (*not over 47% acid*) (*RQ 1000/454*). *See* Battery fluid, acid.										
	Gas cylinder, empty. See Cylinder, empty.										
	High explosive	Class A explosive		Explosive A	173.65	173.61 173.87	Forbidden	Forbidden	6	6	
E	Hydrogen fluoride (*RQ–5000/2270*).	Corrosive material	UN1052	Corrosive	None	173.264	Forbidden	110 pounds.	1	5	Segregation same as for nonflammable gases.
E	Nitrogen peroxide, liquid (*RQ–1000/454*).	Poison A	NA1067	Poison gas and oxidizer.	None	173.336	Forbidden	Forbidden	1	5	Segregation same as for nonflammable gases. Stow away from organic materials.

(1)	(2)	(3)	(3)	(4)	(5)		(6)		(7)		
					Packaging		Maximum net quantity in one package		Water shipments		
+/E/A/W	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Exceptions	Specific requirements	Passenger carrying aircraft or railcar	Cargo only aircraft	Cargo vessel	Passenger vessel	Other requirements
E	Nitrogen tetroxide, liquid (*RQ–1000/454*).	Poison A	NA1067	Poison gas and oxidizer.	None (a)	173.336 (b)	Forbidden [a]	Forbidden [b]	1 (a)	5 (b)	Segregation same as for nonflammable gases. Stow away from organic materials [c]
A	Phenylenediamine, meta or para, solid.	ORM–A	UN1673	None	173.505	173.510	No limit	No limit			
	Tank car, empty (previously used for a hazardous material). See 173.29.										
	Tank car, empty (previously used for a Poison A material). See 172.510 and 173.29.										
	Tank, portable, empty (previously used for a hazardous material). See 172.510, 172.514 and 173.29.										
—	*Tank truck, empty. See 172.510, 172.514 and 173.29.*										

§ 172.200 [Amended]

7. In § 172.200, paragraph (c) is removed.

§ 172.203 [Amended]

8. In § 172.203, paragraph (i)(2)(iii), (j)(1), and (k)(3)(iii) are removed.

§ 172.301 [Amended]

9. In § 172.301, paragraph (c)(3) is removed.

§ 172.302 [Amended]

10. In § 172.302, paragraph (c) is removed.

§ 172.336 [Amended]

11. In § 172.336, paragraph (c)(8) is removed.

§ 172.407 [Amended]

11a. In § 172.407, paragraph (d)(5) is removed.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

§ 173.21 [Amended]

11b. In § 173.21, paragraphs (b)(2) and (e) are amended by removing the words "Operations and Enforcement" and inserting, in their place, the words "Hazardous Materials Regulation."

§ 173.55 [Amended]

12. In §173.55, paragraph (a) is amended by removing the words "dangerous articles" in both instances and inserting, in their place, the words "hazardous materials."

§ 173.114a [Amended]

13. In § 173.114a, paragraph (d) is amended by removing the words "Operations and Enforcement (OE)" and inserting, in their place, the words "Hazardous Materials Regulation (HMR)"; and paragraph (j) is removed.

§ 173.115 [Amended]

14. In § 173.115, Note 1 following paragraph (a)(1)(ii) is removed.

§ 173.125 [Amended]

15. In § 173.125, paragraph (a)(8) is removed.

§ 173.128 [Amended]

16. In § 173.128, paragraph (a)(5) is removed.

§ 173.129 [Amended]

17. In § 173.129, paragraph (a)(3) is removed.

§ 173.131 [Amended]

18. In § 173.131, paragraph (a)(3) is removed.

§ 173.132 [Amended]

19. In § 173.132, paragraph (a)(4) is removed.

§ 173.144 [Amended]

20. In § 173.144, paragraph (a)(4) is removed.

§ 173.147 [Amended]

21. In § 173.147, paragraph (a)(2) is removed.

22. In § 173.292, paragraph (a)(2) is revised to read as follows:

§173.292 Hexamethylene diamine solution.

(a) * * *

(2) Specifications MC 300, MC 301, MC 302 or MC 305. Tank motor vehicles.

* * * * *

§ 173.300a [Amended]

22a. In § 173.300a, paragraphs (b)(1) and (e) are amended by removing the words "Operations and Enforcement" and inserting, in their place, the words "Hazardous Materials Regulation."

§ 173.300b [Amended]

22b. In §173.300b, paragraph (b)(1) is amended by removing the words, "Operations and Enforcement" and inserting, in their place, the words "Hazaradous Materials Regulation."

§ 173.302 [Amended]

23. In § 173.302, paragraph (c)(3) is amended by removing from Note 1 and Note 2 the formulas:

"$EE=PKV\times D^3/(D^2-d^2)$", and
"$S=P((1.3D^2+0.4d^2)/D^2-d^2))$ and inserting, in their respective place, the formulas:
"$EE=(PKVD^3)/(D^2-d^2)$", and
"$S=(P(1.3D^2+0.4d^2))/(D^2-d^2)$".

§ 173.331 [Amended]

24. In § 173.331, paragraph (a)(1) is amended by removing the number "6" as it appears in the first sentence and inserting, in its place, the number "5".

§ 173.334 [Amended]

25. In § 173.334, paragraph (a)(1) is amended by adding specification "4B240" to the listing of other authorized cylinders.

25a. In §173.353, paragraph (a)(3) is revised, and footnote 1 is added to read as follows:

§ 173.353 Methyl bromide and methyl bromide mixtures.

(a) * * *

(3) Specification 3A225, 3AA225, 3B225, 3E1800, 4A225[1], 4B225, 4BA225, or 4BW225, (§§ 178.36, 178.37, 178.38, 178.42, 178.49, 178.50, 178.51, 178.61 of this subchapter). Metal cylinders. Values and other closing devices must be protected to prevent damage in transit by equipping the cylinder with valve protection required by §173.301(g). Cylinders having a wall thickness of less than 0.08-inch must be packed in boxes or crates (See § 173.25).

* * * * *

26. In § 173.357, paragraph (b)(1) is revised to read as follows:

§ 173.357 Chloropicrin and chloropicrin mixtures containing no compressed gas or poison A liquid.

* * * * *

(b) * * *

(1) Specification 3A, 3AA, 3B, 3C[1], 3D[1], 3E, 4A[1], 4B, 4BA, 4BW, or 4C[1] (§§ 178.36, 178.37, 178.38, 178.40, 178.41, 178.42, 178.49, 178.50, 178.51, 178.52, 178.61 of this subchapter). Metal cylinders. Valves and other closing devises must be protected to prevent damage in transit by equipping the cylinders with valve protection required by §173.301(g) of this subchapter. A cylinder closed by means of a solid plug may have the closure protected by a metal collar. Cylinders having a wall thickness of less than 0.08 inch must be packaged in boxes or crates. Each cylinder having a water capacity over 275 pounds must have a minimum design pressure of 225 p.s.i.g., unless the specification requires a higher minimum design pressure.

* * * * *

§ 173.359 [Amended]

27. In § 173.359, paragraphs (a), (a)(13), and (c) are amended by removing the suffix "n.o.s." each time it appears as a part of the materials description.

[1] Use of existing cylinders authorized, but new construction not authorized.

§ 173.392 [Amended]

28. In § 173.392, paragraph (d)(2)(ii) is amended by removing the parenthetical section references "§ 178.330, § 178.331" and inserting, in their place, "§ 178.340".

§ 173.1090 [Amended]

29. In § 173.1090, paragraph (d)(5) is removed.

PART 173 [AMENDED]

30. In addition to the amendments set forth above, Part 173 is amended by removing the words "Asssociate Director for OE" and inserting, in their place, the words "Associate Director for HMR" in the following places:

§ 173.24(c)(1)(ii)
§ 173.31 (footnote (i))
§ 173.32(b)(3)
§ 173.34(g)(4)(ii); (i); (i)(4)(i); (1); (1)(2); and (1)(3)
§ 173.53(h) and (h)(1)
§ 173.65(h)
§ 173.88(g)
§ 173.94(b)
§ 173.100(r); (r)(11); (u); (x); (y); (aa); and (ee)
§ 173.114a(d)(2); (d)(4); and (e)
§ 173.119(b)(3) Note 1
§ 173.120(c)
§ 173.124(a)(1); and (a)(2)
§ 173.197a
§ 173.245(a)(25)
§ 173.252(g)(1)
§ 173.258(a)(3)
§ 173.260(g)
§ 173.266(f)(2)
§ 173.272(i)(18)
§ 173.300(b)(1)
§ 173.300a(c); (d); (e); (g); (h); and (i)
§ 173.300b(c); (d); (e); (f); (g)
§ 173.300c(a); and (b)
§ 173.305(c)(1)
§ 173.306(d)(1)
§ 173.315(i)(12)
§ 173.332(d)
§ 173.336(a)(4)
§ 173.366(a)(3)
§ 173.370(a)(13)
§ 173.385(b); and (c)

30a. In addition to the amendments set forth above, Part 173 is amended by removing the words "because of the present emergency and" from the following sections:

§ 173.28(g) Note 1
§ 173.119(b)(3) Note 1; and (b)(4) Note 1
§ 173.190(b)(3)(i) Note 1
§ 173.346(a)(8)

PART 174—CARRIAGE BY RAIL

31. In § 174.25, the table in paragraph (a)(2) is amended by inserting the line entry "Blasting agent—Do—Do" in the appropriate columns and immediately below "Explosives, Class C—Placarded DANGEROUS—Do"; and paragraph (c) is revised by adding a new sentence at the end of the paragraph to read as follows:

§ 174.25 Additional information on waybills, switching orders and other billings.

* * * * *

(c) * * * For an empty tank car that last contained a hazardous substance and still contains a reportable quantity, the letters "RQ" shall be entered on the billing either before or after the basic description.

* * * * *

32. In § 174.61, paragraph (b) is amended by removing the words "Associate Director for OE" and inserting, in their place, the words "Associate Director for HMR."

PART 175—CARRIAGE BY AIRCRAFT

§ 175.25 [Amended]

33. In § 175.25, paragraph (b) is removed.

§ 175.45 [Amended]

34. In § 175.45, paragraph (c) is amended by removing the words "Office of Hazardous Materials Regulations" and inserting, in their place, "Information Systems Manager."

§ 175.701 [Amended]

35. In § 175.701, paragraph (c) is amended by removing the words "Operations and Enforcement" and inserting, in their place, the letters "HMR"; and paragraph (c)(2) is amended by removing the word "laterally."

PART 177—CARRIAGE BY PUBLIC HIGHWAY

§ 177.835 [Amended]

35a. In § 177.835, paragraph (g) is amended by adding the word "same" immediately prior to the word "motor" in the second sentence.

PART 177 [AMENDED]

36. Part 177 is amended by removing the words "Associate Director for OE" and inserting, in their place, the words "Associate Director for HMR" in the following places:

§ 177.821(f)
§ 177.836(g)
§ 177.848 Note 5

PART 178—SHIPPING CONTAINER SPECIFICATIONS

§ 178.65–14 [Amended]

37. Section 178.65–14 is amended by removing the "Note" which follows paragraph (b)(8); and paragraph (d) is amended by removing the words "Operations and Enforcement" and inserting, in their place, the words "Hazardous Materials Regulation."

§ 178.68–10 [Amended]

38. In § 178.68–10, paragraph (a)(2) is amended by removing the section reference "178.63–15" and inserting, in its place, "178.68–15."

PART 178 [AMENDED]

39. In addition to the amendments set forth above, Part 178 is amended by removing the words "Associate Director for OE" and inserting, in their place, the words "Associate Director for HMR" in the following places:

§ 178.5–8(f)
§ 178.6–8(a)(2)
§ 178.8–10(f)
§ 178.13–2(a)
§ 178.13–5(a)(2)
§ 178.14–3(a)
§ 178.14–7(a)(2)
§ 178.14–8(f)
§ 178.19–6(a)(3)
§ 178.21–2(b)(2)
§ 178.24–5(a)(2)
§ 178.27–2(c)(2)
§ 178.33–9(a)(2)
§ 178.33a–9(a)(2)
§ 178.35–3(b)(2)
§ 178.35a–2(c)(2)
§ 178.36–3
§ 178.37–3
§ 178.38–3
§ 178.39–3
§ 178.42–3
§ 178.44–3
§ 178.45–3
§ 178.47–3
§ 178.50–3
§ 178.51–3
§ 178.53–3
§ 178.54–3
§ 178.55–3
§ 178.56–3
§ 178.57–3
§ 178.58–3
§ 178.59–3(a)
§ 178.60–3(a)
§ 178.61–3
§ 178.65–3 (a), (b) and (c)
§ 178.68–3
§ 178.80–11(a)(2)
§ 178.80–14(a)
§ 178.81–11(a)(2)
§ 178.81–14(a)
§ 178.82–11(a)(2)
§ 178.82–14(a)
§ 178.83–11(a)(2)
§ 178.83–14(a)
§ 178.88–10(a)(2)
§ 178.88–13(a)
§ 178.89–5(c)
§ 178.89–9(a)(2)
§ 178.89–12(a)
§ 178.90–10(a)(2)
§ 178.90–13(a)
§ 178.92–9(a)
§ 178.92–12(a)(2)
§ 178.96–9(a)(2)
§ 178.96–12(a)
§ 178.99–9(a)(2)
§ 178.99–12(a)
§ 178.100–9(a)(2)
§ 178.102–4(a)(2)
§ 178.103–6(a)(3)
§ 178.107–9(a)(2)
§ 178.107–12(a)
§ 178.109–7(a)
§ 178.109–9(a)(2)
§ 178.109–12(a)
§ 178.115–10(a)(2)
§ 178.115–13(a)
§ 178.116–10(a)(2)
§ 178.116–13(a)
§ 178.117–11(a)(2)
§ 178.117–14(a)
§ 178.118–10(a)(2)
§ 178.118–13(a)
§ 178.130–6(a)(2)
§ 178.131–6(a)(3)
§ 178.132–7(a)
§ 178.132–9(a)(3)
§ 178.133–6(a)(2)
§ 178.134–4(a)(2)
§ 178.135–6(a)(3)
§ 178.141–7(a)(2)
§ 178.146–15(a)(2)
§ 178.147–15(a)(2)
§ 178.148–5(a)(2)
§ 178.149–7(a)(2)
§ 178.150–7(a)(3)
§ 178.156–12(a)(2)
§ 178.165–13(b)
§ 178.168–18(d)
§ 178.169–18(d)
§ 178.170–17(d)
§ 178.171–17(d)
§ 178.172–19(b)
§ 178.176–6(b)
§ 178.177–6(b)
§ 178.181–11(b)
§ 178.182–4(a)(2)
§ 178.185–19(b)
§ 178.185–22(c)(2)
§ 178.186–19(b)
§ 178.187–5(b)
§ 178.190–9(a)(2)
§ 178.191–6(a)(2)
§ 178.193–6(a)(2)
§ 178.194–6(b)
§ 178.196–15(a)(2)
§ 178.197–14(a)(2)
§ 178.198–4(a)(2)
§ 178.205–18(a)(2)
§ 178.206–18(a)(2)
§ 178.207–18(a)(2)
§ 178.208–12(a)(2)
§ 178.209–13(a)(2)
§ 178.209–14(a)
§ 178.210–12(a)(2)
§ 178.211–3(a)(1)(v)
§ 178.211–6(a)(2)
§ 178.212–6(a)(2)
§ 178.214–8(a)
§ 178.214–17(a)(2)
§ 178.214–18(a)
§ 178.218–10(a)(2)
§ 178.218–11(a)
§ 178.219–13(a)(2)
§ 178.219–14(a)
§ 178.244–4(a)(2)
§ 178.225–3 (a)(1)(ii) and (a)(2)(ii)
§ 178.226–4(a)(2)
§ 178.230–8(a)(2)
§ 178.233–9(a)(2)
§ 178.234–9(a)(2)
§ 178.236–7(b)
§ 178.237–7(b)
§ 178.238–7(b)
§ 178.239–7(b)
§ 178.240–10(a)(2)
§ 178.241–5(b)
§ 178.245–7(a)
§ 178.255–8(a)
§ 178.256–15(a)

39a. In addition to the amendments set forth above, Part 178 is amended by removing the letters "OHMR" and inserting, in their place, the letters "HMR" in the following places:

§ 178.35–20(a)(3)
§ 178.37–20(a)(3)
§ 178.38–20(a)(2)
§ 178.39–19(a)(2)
§ 178.42–14(a)(2)
§ 178.44–23(a)(2)
§ 178.47–21(a)(2)
§ 178.50–19(a)(2)
§ 178.51–19(a)(2)
§ 178.53–18(a)(2)
§ 178.54–20(a)(2)
§ 178.55–20(a)(2)
§ 178.56–19(a)(2)
§ 178.57–20(a)(2)
§ 178.58–21(a)(2)
§ 178.59–16(a)(2)
§ 178.60–22(a)(2)
§ 178.61–20(a)(2)
§ 178.68–19(a)(2)

39b. In addition to the amendments set forth above, Part 178 is amended by removing the words "because of the present emergency and" from the following sections:

§ 178.156–7(a)(2) Note 1; and (a)(3) Footnotes 1 and 2
§ 178.156–12(a)(3) Note 1
§ 178.165–12(a) Note 1
§ 178.196–7(a) Note 1
§ 178.196–11(a) Note 1
§ 178.230–3(a) Note 1

PART 179—SPECIFICATIONS FOR TANK CARS

§ 179.202–16 [Amended]

40. In § 179.202–16, paragraph (b) is amended by inserting the words "or be" immediately prior to the word "provided."

§ 179.500–4 [Amended]

41. In § 179.500–4, paragraph (b) is amended by removing the formula "S=U/2.0" and inserting in its place "S=U/3.0."

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A. to Part 1)

Issued in Washington, D.C., on September 24, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82-26872 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 577

[Docket No. 80–17; Notice 2]

Denial of Petitions for Reconsideration

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petitions for reconsideration of a final rule.

SUMMARY: This notice denies petitions for reconsideration of an amendment to the agency's defect and noncompliance notification regulation. The amendment added the agency's Auto Safety Hot Line telephone number to the procedure set forth in defect and noncompliance notification letters for consumers to contact the agency. Petitioners contended that the amendments should have been preceded by a proposal and request for comments. The agency concludes that the amendment was a technical amendment which clarified a minor procedural aspect of the notification regulation and which has negligibly affected regulated parties. The agency notes further that the inclusion of the Hot Line in notification letters will improve the agency's efficiency in monitoring recalls and identifying problems regarding them.

FOR FURTHER INFORMATION CONTACT: Mr. James Murray, Office of Defects Investigation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–2840).

SUPPLEMENTARY INFORMATION: On January 22, 1981 (46 FR 6971), the agency published a final rule requiring the inclusion of the agency's Auto Safety Hot Line telephone number in defect and noncompliance letters. The purpose of that amendment to 49 CFR Part 577, *Defect and Noncompliance Notification,* was to elaborate upon the means which Congress intended consumers to have in order to inform the agency about problems involving the recall of defective or noncomplying motor vehicles and motor vehicle equipment. The agency made the amendment without notice and opportunity for comment, because the agency determined the amendment to be a minor technical clarification of Part 577 with little impact on the manufacturers.

In response to that notice, the agency received several petitions for reconsideration of the amendment. The petitions were submitted by manufacturers, an individual, and the Motor Vehicle Manufacturers Association (MVMA).

The petitioners first argued that the amendment was improperly processed under rulemaking procedures and should therefore be retracted. The agency disagrees. The Administrative Procedure Act (APA) permits rulemaking without notice and comment when the action is interpretive, involves agency procedure or when the agency finds for good cause that notice and comment are unnecessary. The agency believes that elements of all these exceptions were involved in the amendment in question. The APA recognizes the appropriateness of allowing shortened procedures for minor technical amendments that clarify, facilitate, or update a minor provision of a standard or regulation. To undertake a full rulemaking proceeding in these instances is a waste of agency resources.

Since June 28, 1977, the defect and noncompliance regulation has required manufacturers to include the agency's name and address in defect and noncompliance letters. This requirement was adopted in compliance with the Motor Vehicle and Schoolbus Safety

Amendments of 1974. Public Law 93-492, 88 Stat. 1470. As a result of those amendments, section 153(a)(6) of the National Traffic and Motor Vehicle Safety Act of 1966, as amended, requires that defect and noncompliance letters contain

> a description of the *procedure* to be followed by the recipient of the notification in informing the Secretary whenever a manufacturer, distributor, or dealer fails or is unable to remedy without charge such defect or failure to comply.

15 U.S.C. 1413(a)(6) [emphasis added].

Upon further consideration of section 153(a)(6) in late 1980, the agency interpreted the procedure mandated by Congress for contacting it as being intended to include not only the agency's address, but also its telephone number. A telephone number is typically an integral part of the information given by goverment agencies, corporations and other entities regarding the procedure for contacting them. Accordingly, in January 1981, the agency amended Part 577 to require manufacturers to include the agency's Auto Hot Line as part of the procedure for recipients of notification letters to contact the agency. Since the amendment merely required the addition of a 10-digit number to notification letters, the agency concluded that the effects of the amendment on the manufacturer were minor.

A second argument advanced by the petitioners is that the effects of the Hot Line amendment on manufacturers would not be minor, and therefore the amendment could not be made under the APA exception for minor, technical amendments. The petitioners suggested that the inclusion of the Hot Line would result in a proliferation of telephone calls from notification letter recipients to NHTSA to manufacturers to dealers.

The agency disagrees with the petitioners' contentions regarding impact. Petitioners do not even attempt to argue that the amendment has more than a negligible direct impact on manufacturers. Instead, they seek to argue that the amendment will, through an extended chain of events, have an indirect impact on them. The suggestion that the amendment will lead to a substantial increase in the communications from consumers to NHTSA to manufacturers is both speculative and improbable.

Neither the recall experience before nor since the Hot Line amendment furnishes any support for the proposition advanced by the petitioners. The manufacturer, not the agency, has been and continues to be the typical first point of contact by consumers with questions about notification letters. Most consumers prefer to deal directly with the manufacturers when any problem first arises regarding a recall campaign. The agency is typically contacted subsequently only if the recall problems are perceived by the consumers to remain unsolved. It is precisely in those circumstances that the agency should be contacted so that it can meet its responsibilities to ensure the implementation of the recall and remedy provisions of the Vehicle Safety Act. There is no indication, however, that the addition of the Hot Line number to the agency's address in notification letters has led to any significant increase in these contacts with the agency. Indeed, in the past, the Hot Line has had the effect of screening out large numbers of information requests and complaints which might have been based on misunderstandings relating to recalls. Thus, those calls never reached the manufacturers.

Further, those instances in which consumers do contact the agency have previously been taken into account. When Part 577 was amended to include the agency's address, NHTSA considered the impacts of those contacts on the agency and any resultant impact on the manufacturers. The agency has no basis for assuming that the degree of impact on manufacturers will increase as a result of the Hot Line amendment.

Petitioners also contended that the agency would be required to hire additional staff to answer the Hot Line as a result of this amendment. The agency has no plans to hire any additional personnel as a result of this amendment and does not anticipate a substantial increase in the number of Hot Line calls. Thus, the amendment will not be burdensome to NHTSA. In fact, the amendment was an agency procedural rule facilitating efficiency since it will allow the agency to handle more complaints or requests from the public by telephone. It is simpler for the agency to supply information by telephone rather than by processing letters from the public and sending written responses. The agency's response by telephone will be quicker and better tailored to the specific request as revealed through the telephone discussion. Moreover, the agency believes that the addition of the number will be beneficial to manufacturers since it will allow the agency to filter public communications that only seek information about recall campaigns, rather than to register complaints with manufacturers. With the addition of the number, the agency will likely receive many requests for information that the manufacturers would have otherwise gotten. Therefore, any increase in calls resulting from the Hot Line number will likely be informational and would not result in any increased impact on manufacturers.

For the reasons stated above, the agency reiterates its conclusion that the amendment in question (§ 577.5) was a minor, technical rule that had no significant impact on the regulatory structure of Part 577, and that the rights of petitioners were not significantly changed by the regulation. Therefore, the agency believes that there was good cause for concluding that notice and comment were unnecessary prior to issuance of this rule. Accordingly, the petitions for reconsideration are hereby denied.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1391, 1407); delegation of authority at 49 CFR 1.50)

Issued on September 22, 1982.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 82-26618 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1002

Change in Insurance Billing Cycle

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission is changing its procedure for billing the insurance companies which submit certificates of insurance and surety bonds covering motor carriers, freight forwarders and brokers from an annual billing to a monthly billing. Under the new system, receipted copies of all certificates of insurance or surety bonds accepted for filing by the Commission will be returned to the insurer at the close of the month with a statement of charges. To permit monthly billing by the Commission, the language 49 CFR 1002.2 is amended. There is no change in the fees assessed. This change will permit insurers to verify the charges assessed and reduce paperwork and recordkeeping for both the Commission and the insurers.

EFFECTIVE DATE: November 1, 1982.

FOR FURTHER INFORMATION CONTACT: Edward C. Fernandez, (202) 275-7591.

SUPPLEMENTARY INFORMATION: In the past, the Commission has assessed an annual qualification service fee for

insurer, surety, or self-insurer accepted certificates of insurance or surety bonds based on a formula of $10 per accepted certificate or surety bond, with a minimum annual fee of $50. Once yearly each insurer has been furnished a listing of accepted filings and an annual statement of charges. The Commission has also been returning actual copies of these filings to the insurers, twice monthly by letter.

In order to simplify the procedure for both the insurers and the Commission, new procedures are being adopted which will return copies of certificates of insurance and surety bonds to the insurers at the close of each month with a monthly statement of filing charges. This change will permit insurers to verify the charges assessed and reduce paperwork and recordkeeping for both the Commission and the insurers.

List of Subjects in 49 CFR Part 1002

Freedom of Information, Administrative practice and procedures, Common carriers.

PART 1002—FEES

Accordingly, 49 CFR Part 1002 is amended to reflect the change in billing procedures as follows:

§ 1002.2 [Amended]

In § 1002.2 paragraph (d), item (39) and footnote number (3) under PART IV: OTHER PROCEEDINGS, are amended by revising the word "annual" to read "monthly."

This is not a major Federal action significantly affecting the quality of the human environment or the conservation of energy resources.

We find that this procedural change in our rules will not have an adverse or substantial effect on small entities, insurance companies, or regulated carriers. The monthly billings sent to the insurance companies will not increase the amount paid by the companies, only their record keeping methods will be affected. We believe that the revised procedure, which provides for monthly verification of charges will be beneficial to those record keeping efforts.

Moreover, notice and public comment are unnecessary since the change involved is minor and concerns a matter in which the public is not particularly interested.

(49 U.S.C. 10321; 5 U.S.C. 559; 5 U.S.C. 553 (b)(A) and (b)(B))

By the Commission, Reese H. Taylor, Jr., Chairman.

Dated: September 20, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-27017 Filed 9-29-82; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Rock Island and Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Forty-First Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96–254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 11:59 p.m., September 30, 1982, and continuing in effect until 11:59 p.m., January 31, 1983, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–1559.

SUPPLEMENTARY INFORMATION:

Decided: September 24, 1982.

Upon further consideration of Forty-first Revised Service Order No. 1473 (47 FR 32426), and with respect to this amendment, the Board recognizes that certain revisions to the order have been requested and that other matters related to this order are before the Board for consideration. However, in order not to adversely affect shippers and the unaffected carriers and due to the shortness of time, all revisions are being considered subsequent to this amendment and good cause appearing therefor:

§ 1033.1473 [Amended]

It is ordered, § 1033.1473 Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor, (William M. Gibbons, Trustee) Forty-first Revised Service Order No. 1473 is amended by substituting the following paragraph (n) for paragraph (n) thereof:

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

Effective date. This order shall become effective at 11:59 p.m., September 30, 1982.

This action is taken under authority of 49 U.S.C. 10304–10305 and Section 122, Pub. L. 96–254.

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms to that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard and John H. O'Brien. J. Warren McFarland not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26965 Filed 9-29-82; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 190
Thursday, September 30, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

12 CFR Part 220

[Docket No. R-0423]

Regulation T; Credit by Brokers and Dealers; Private Mortgage Pass-Through Securities as OTC Margin Bonds

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is proposing for public comment an amendment to Regulation T that will specify the characteristics of "private" mortgage pass-through securities (i.e., not guaranteed by agencies of the United States government) that may be used as collateral for margin credit at securities brokerage firms. The existing definition of "OTC margin bond" in Regulation T will be expanded to cover these instruments. At present, any "OTC margin bond" is eligible for credit on a "good faith" basis. The proposed criteria for inclusion of a private mortgage pass-through security in the definition of "OTC margin bond" differ from the criteria in the existing definition because of the nature of the mortgage pass-through security. Unlike a typical corporate bond, the principal balance of this security declines each month as mortgages backing the security are amortized or prepaid. The proposed criteria, therefore, will require (1) an original issue of $25,000,000 (rather than an outstanding principal amount at the time credit is extended) that may be sold in separate series, (2) current filings with the Securities and Exchange Commission, and (3) the passing through of mortgage interest and principal payments by the servicing agent according to the terms of the offering. The Board specifically requests comment as to whether the $25,000,000 minimum initial size is an appropriate criterion to establish adequate marketability of the security for margin account purposes. In addition, the Board requests views as to the likelihood that a broker would liquidate these securities to meet margin calls when there are other types of securities in the customer's account with that broker.

DATE: Comments should be received on or before October 29, 1982.

ADDRESS: Comments, which should refer to Docket No. R-0423, may be mailed to the Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, D.C. 20551 or delivered to Room B-2223 between 8:45 a.m. and 5:14 p.m. Comments received may also be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: Laura Homer or Robert Lord, Division of Banking Supervision and Regulation (202) 452-2781 or David Seiders, Division of Research and Statistics, (202) 452-2694, at the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

Initial Regulatory Flexibility Analysis:

The Board believes there will be no significant economic impact on a substantial number of small entities if this proposed rule is adopted.

List of Subjects in 12 CFR Part 220

Banks, banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Reporting requirements, Securities.

PART 220—CREDIT BY BROKERS AND DEALERS

Pursuant to sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and w), the Board proposes to amend Regulation T (12 CFR 220) by revising § 220.2(i) as set forth below:

§ 220.2 Definitions.

* * * * *

(i) The term "OTC margin bond" means (1) a debt security not traded on a national securities exchange which meets all of the following requirements:

(i) At the time of the extension of credit, a principal amount of not less than $25,000,000 of the issue is outstanding.

(ii) The issue was registered under section 5 of the Securities Act of 1933 and the issuer either files periodic reports pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 or is an insurance company which meets all of the conditions specified in section 12(g)(2)(G) of the Act.

(iii) At the time of the extension of credit, the creditor has a reasonable basis for believing that the issuer is not in default on interest or principal payments; or

(2) A private mortgage pass-through security (not guaranteed by an agency of the U.S. government) meeting all of the following requirements:

(i) An aggregate principal amount of not less than $25,000,000 (which may be issued in series) was issued pursuant to a registration statement filed with the Securities and Exchange Commission under section 5 of the Securities Act of 1933.

(ii) Current reports relating to the issue have been filed with the Securities and Exchange Commission.

(iii) At the time of the credit extension, the creditor has a reasonable basis for believing that mortgage interest and principal payments are being passed through and that the servicing agent is meeting all the obligations required under the terms of the offering.

By order of the Board of Governors of the Federal Reserve System, September 22, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-26606 Filed 9-29-82; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 82-ASW-58]

Airworthiness Directives; Bell Helicopter Model 206L and 206L-1

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) which would require inspection of the float inflation valve assembly on all Bell Model 206L and 206L-1 series helicopters equipped with an emergency flotation system to determine if the piston pin is installed correctly. The proposed AD is needed to prevent

failure of the emergency flotation system (i.e., failure of the float bags to inflate). Failure of the bags to inflate would result in loss of the helicopter in the event of ditching.

DATE: Comments must be received on or before November 8, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Office of the Regional Counsel, Attention: Docket No. 82–ASW–58, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

A copy of the service information may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106. A copy of the service information may be obtained from Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT:
J. R. Bannister, Helicopter Certification Branch, ASW–170, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 624–4911, extension 521.

SUPPLEMENTARY INFORMATION:
Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Office of the Regional Counsel, Southwest Region Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

In a recent report of a flight over water, a Model 206L–1 developed loss of engine power. The pilot autorotated toward the water, actuating the emergency flotation equipment as the helicopter approached the water. The emergency floatation pneumatic system valve failed to actuate and allow inflation of the float bags. On landing in the water, the helicopter rotated to an inverted position, floating partly submerged, allowing the nitrogen cylinder to be salvaged and returned to Bell Helicopter Textron, Inc., for investigation.

Examination of the valve assembly revealed that the squib charge had fired. Further investigation revealed that the shear head release piston pin had been incorrectly installed and was wedged in the machines groove of the shear head. The binding of the piston pin in the machined groove prevented released of the shear head and release of the nitrogen gas to inflate the float bags. Bell Helicopter Textron, Inc., Technical Bulletin No. 206L–81–21 was issued to accomplish the inspection of the shear pin for correct installation in relation to the shear head. To assure that the valve assemblies are inspected for proper assembly within the next 150 flight hours, the FAA is proposing to adopt a new AD for all Bell Model 206L and 206L–1 series helicopters equipped with emergency flotation equipment kits P/N 206–706–067–1, –3, –5, –101, and 206–706–210–101 and –103.

Approximately 270 helicopters may have the shear head release piston pin installed incorrectly. The cost impact for the inspection is approximately $185.50 for each helicopter, and $50,085 for the fleet.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety,

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Bell Helicopter Textron, Inc.: Applies to all model 206L and 206–1 helicopters certificated in all categories that are equipped with emergency flotation equipment kits P/N 206–706–067–1, –3, –5, –101, and 206–706–210–101, and –103.

Compliance is required within 150 hours' time in service after the effective date of this AD unless already accomplished in accordance with Service Bulletin 206L–81–21.

To determine whether the shear heads in the float inflation valve assembly have been damaged by incorrect installation, accomplish the following:

a. Disconnect the battery.

Note.—Do not disconnect electrical connector to the squib valve on the inflation valve at the cylinder assembly.

b. Remove the nitrogen gas from inflation cylinder, carefully bleeding off the gas through the Schrader inlet valve.

Caution

DO NOT ATTEMPT TO REMOVE THE SHEAR HEAD PISTON PIN PRIOR TO REMOVAL OF THE NITROGEN GAS FROM THE CYLINDER.

c. Carefully remove the shear head release piston pin. Visually inspect the pin, as removed, to determine if the position of the flat machined side of the piston pin faces the inlet end of the shear head machined groove (Ref. Figure 1, Bell Helicopter Textron Service Bulletin 206L–81–21, dated May 7, 1981).

d. If the shear head release piston pin has been installed by rotating the pin 90 to 180 degrees, placing the round side of the pin against the inlet side of the shear head inlet groove, the pin has been incorrectly installed.

e. If the shear head release piston pin is found installed incorrectly, remove the shear head from the valve body and discard. Install a new shear head and "O" rings. On installation, thread shear head into the valve body and torque to 20 foot-pounds, *prior to installing the shear head release piston pin.* Reinstall piston pin as described in paragraph f.

f. If the shear head release piston pin is found correctly installed, place "O" ring in groove of piston pin and install piston pin part way into body with flat side on end of piston pin facing inlet port. Rotate piston pin 90 degrees and lightly push piston pin down into valve body until it bottoms out. While pushing on piston pin, rotate piston pin 90 degrees in the opposite direction. Piston pin should drop deeper into body. Flat side of piston pin must engage groove in shear head, with flat side facing inlet port.

g. Refill cylinder with nitrogen. Check for leaks. Connect battery, and refer to appropriate service instruction.

Note

X-ray Inspection (Alternate Method)

Where X-ray equipment is available, inspection of the valve assembly may be accomplished by use of X-ray pictures. Reference Figure 2, Bell Helicopter Textron Service Bulletin 206L–81–21 dated May 7, 1981 or FAA approved equivalent for examples of correct and incorrect piston pin installation in the valve assembly. This eliminates the need to bleed off the nitrogen and to disassemble the valve assembly.

Caution

DISCONNECT AND REMOVE THE SQUIB FROM THE VALVE ASSEMBLY PRIOR TO USE OF X-RAY.

h. Equivalent means of compliance with the AD may be approved by the Manager, Aircraft Certification Division, Southwest Region, Fort Worth, Texas.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Note.—The FAA has determined that this document involves a proposed regulation which is not major under Executive Order 12291 or significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

It is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities since it involves only 270 helicopters at a cost of $185.50 per helicopter. A draft regulatory evaluation has been prepared and has been placed in the public docket. A copy of it may be obtained by contacting the person identified under the caption **FOR FURTHER INFORMATION CONTACT.**

Issued in Fort Worth, Texas, on September 16, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-26801 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-72-AD]

Airworthiness Directives: Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes an Airworthiness Directive (AD) that would require revision of the limitations section in the FAA approved Boeing Model 747 Airplane Flight Manual (AFM) and installation on the pilots' forward panel of low engine fan rotor rpm N_1 warning indication for each engine. The revision to the AFM would clarify operation of the thermal anti-icing procedure, the need to maintain the specified minimum N_1 during icing conditions, and expand the definition of icing conditions. Activation of the low N_1 indication would warn the flight crew of operation at a lower N_1 than required for icing conditions. Engine operation below this minimum rpm has caused multiple engine flameout and engine damage during certain airplane operations in icing conditions. The minimum N_1 warning and AFM information is needed to insure engines are not operated below a safe level during icing conditions.

DATES: Comments must be received on or before December 3, 1982.

ADDRESSES: Send comments to FAA Northwest Mountain Region, Office of the Regional Counsel, Attention: Docket No. 82-NM-72, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. The applicable Service Bulletin (S/B 747-77-2060) may be obtained from the Boeing Company, P.O. Box 3707, Seattle, Washington 98124, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT:

Kanji K. Patel, Propulsion Branch, ANM-140S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington telephone: (206) 767-2520

Mailing address: Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available both before and after the closing date in the rules docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the rules docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82-NM-72-AD, 17900 Pacific Highway South, C68966, Seattle, Washington, 98168.

Discussion

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Boeing Model 747 series airplanes. Since the introduction of the Model 747 airplane into service, five operators have reported multiple engine flameout incidents or lack of response to throttle movement due to engine icing. The latest incident which occurred on April 3, 1982, involved flameout of all four engines. Following this incident, Boeing issued an Operations Manual Bulletin, OMB 82-2, dated April 31, 1982; and General Electric issued Operations Engineering Bulletin No. 507, dated May 10, 1982. These bulletins re-emphasized the importance of adhering to the engine anti-ice procedures and operational requirements published in the FAA approved Airplane Flight Manual and the specific Airlines Operations Manuals. This action was only considered an interim solution until a more comprehensive solution, based on the understanding of the lack of power and/or flameout, could be developed.

A review of conditions at the time of these incidents shows that each occurred during idle descent from a cruising altitude and penetrating icing conditions with engines at idle power. In certain cases, significant engine damage occurred, requiring engien replacement. Investigation of the reported incidents by the engine and airframe manufacturers has revealed that the cause of engine lack of response to throttle movement and/or flameout was ice accumulation on unheated engine internal aerodynamic surfaces while operating at low N_1 rotor speed. Ice protection for the Pratt & Whitney JT9D, General Electric CF6 and Rolls Royce RB211 engines is provided as follows:

1. Pratt and Whitney JT9D engines are certified with the engine core inlet guide vanes and nacelle (inlet cowl) anti-icing system.

2. General Electric CF6 engines are certified with the nacelle (inlet cowl) anti-icing system only.

3. Rolls Royce RB211-524B2/C2 engines are certified with the nacelle (inlet cowl and spinner) anti-icing system while RB211-524D4 is certified with inlet cowl anti-ice system only.

Additional protection of unheated engine surfaces is provided by heat-of-compression through the engine compressors by maintaining higher-than-idle engine rpm's. Therefore, at low idle power during icing conditions, accumulation of ice on engine aerodynamic surfaces may occur. The buildup of ice causes aerodynamic instability of the engine which may result in surging of compressors and shedding of ice from the surfaces causing engine damage. Once the ice accumulation has occurred, advancing throttles to clear the engines aggravates the situation by dislodging more ice which blocks the airflow passages to the compressors causing complete compressor stall and engine flameout or requires a precautionary engine shutdown.

To provide thermal anti-icing protection during icing conditions, the AFM Normal Procedures Section instructs the flight crew to operate the engines at a minimum of 45% N_1 rpm below 10,000 feet and 50% N_1 above 10,000 feet altitude. In spite of the AFM procedures, experience has shown that procedural requirements for operations in icing conditions have not provided adequate protection. Therefore, to

protect engines from ice buildup and thereby prevent multiple engine flameout on the Model 747 series airplanes, the FAA is proposing an Airworthiness Directive (AD) to require an engine anti-ice system operating limitation in the FAA approved Airplane Flight Manual, and installation of an indicating system to warn the flight crew when any engine is being operated below the minimum safe rpm with the engine or nacelle anti-ice system "ON."

After a careful review of the proposed Airworthiness Directive (AD) it has been estimated that a total of 160 airplanes will be affected by this AD, it will take less than 100 man hours per airplane to accomplish the proposed modification and AFM revisions, and the average labor cost will be $35 per man hour. Necessary modification components are estimated at less than $5,500 per airplane. Based on these estiamtes, the total cost impact of this AD will be $9,000 per airplane for a total cost of $1,440,000 to operators of U.S. registered airplanes. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Boeing: Applies to Boeing Model 747 Series Airplanes certificated in all categories. To prevent engine flameout or damage due to accumulation of ice on unheated engine surfaces, accomplish the following:

A. Within 90 days from the effective date of the AD, unless already accomplished, revise the FAA approved Airplane Flight Manual CERTIFICATE LIMITATIONS SECTION by adding: *"ENGINE ANTI-ICE SYSTEM."* The use of continuous ignition is required in icing conditions.

When penetrating or operating in Icing Conditions, maintain a minimum of 50% N_1 rpm at 10,000 feet and above, and 45% N_1 rpm below 10,000 feet except as required for landing.

Nacelle anti-ice must be ON during all ground and flight operations when Icing Conditions exist or are anticipated, except during climb and cruise when the temperature is below −40°C SAT. Nacelle anti-ice must be on prior to and during descent in all icing conditions, including temperatures below −40°C SAT.

Note.—*Icing Conditions*—Icing Conditions exist when the OAT on the ground or TAT inflight is 10°C (50°F) or below and visible moisture in any form is present (such as clouds, fog with visibility of one mile or less, rain, snow, sleet, ice crystals) or standing water, slush, ice, or snow is present on the ramps, taxiways, or runways."

B. Within one year from the effective date of this AD, unless already accomplished, provide N_1 indication that will warn the flight crew that the nacelle/engine anti-icing is "ON" and N_1 is less than 45% below 10,000 feet or is less than 50% N_1 above 10,000 feet altitude.

Note.—Boeing is planning to release Service Bulletin 747–77–2060 in January 1983. This Service Bulletin will describe the installation of a Low N_1 RPM warning system.

C. Alternate means of compliance with the AD which provide an equivalent level of safety may be used when approved by the Manager, Seattle Area Aircraft Certification Office, FAA Building, Boeing Field, Seattle, Washington, 98108.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble the FAA has determined that this document involves a proposed regulation that is not major under the provisions of Executive Order 12291. It has been further determined that this proposed regulation is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft regulatory evaluation for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption **"FOR FURTHER INFORMATION CONTACT."** In addition, it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities since it involves few, if any, small entities.

Issued in Seattle, Washington on September 20, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 82–26857 Filed 9–29–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–ANE–17]

Airworthiness Directives; Detroit Diesel Allison, Model 250–C20, –C20B, –C20C(T63–A–720), –B17, –B17B, and –B17C Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) superseding AD 77–18–03. The new AD requires inspecting and replacing slotted third stage turbine wheels installed in Detroit Diesel Allison (DDA) Model 250–C20, –C20B, –C20C(T63–A–720), –B17, –B17BN, and –B17C engines and restricts the N1 and N2 operating ranges. The proposed Ad is needed to prevent possible partial blade and/or shroud separation of slotted third stage turbine wheels.

DATES: Comments must be received on or before October 30, 1982.

ADDRESSES: Send comments on the proposed AD in duplicate to: Federal Aviation Administration, Office of Regional Counsel, Attn: Rules Docket No. 82–ANE–17, 12 New England Executive Park, Burlington, Massachusetts 01803.

The applicable service bulletins may be obtained from: Detroit Diesel Allison, Division of General Motors Corporation, Indianapolis, Indiana 46206.

A copy of the service bulletin[1] is contained in the Rules Docket at the above FAA address:

FOR FURTHER INFORMATION CONTACT: Mr. Royace Prather, Chicago Aircraft Certification Office, ACE–140C, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7132.

SUPPLEMENTARY INFORMATION: The FAA has determined that slotted third stage turbine wheels, whether full or center slot, crimped or uncrimped, have encountered partial blade and/or shroud separation before reaching their scheduled life limit of 4,550 operating hours. This partial blade and/or shroud separation can result in loss of engine power. Detroit Diesel Allison (DDA) issued Commercial Engine Alert Bulletin CEB–A–1174/1146 on April 20, 1981, which requires inspecting and replacing slotted third stage turbine wheels per a phase-down schedule. Additionally, CEB–A–1174/1146 requires that all slotted third stage wheels not be operated between 90 percent and 98 percent N2 (including autorotation and flight idle) except during transients, while maintaining safe flight practices, and restricts engine N1 speeds during ground operation. Compliance to date with the N1/N2 operating restrictions, reduced life limits and required inspections has significantly reduced the occurrence of partial blade and/or shroud separations. However, an AD is being proposed to require mandatory compliance with CEB–A–1174/1146 to preclude the possibility of engine power loss resulting from operating slotted third stage turbine wheels to their life limit and to preclude operations in the restricted N1/N2 ranges.

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[1] Bulletin filed as part of original document.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire.

Information on the economic, environmental, and energy impact that might result because of adoption of the proposed rule is requested. Communications should identify the regulatory docket number and be submitted in duplicate to the New England Regional Office address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of the proposed AD will be filed in the Rules Docket.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, and Safety.

The Proposed Amendment

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

Detroit Diesel Allison: Applies to all Model 250–C20, –C20B, –C20C(T63–A–720), B17,–B17B, and –B17C engines equipped with the following slotted third stage turbine wheels:

Part No.	Type of shroud
6867113	Full slot.
6868633	Full slot.
6896863	Crimped full slot.
6898551	Center slot.
6898567	Center slot.
6898733	Center slot.
6898743	Center slot.
6898753	Center slot.
6898763	Center slot.
6899823	Crimped full slot.
6899384	Crimped full slot.
6899405	Crimped Center slot.
6899415	Crimped Center slot.
6899416	Crimped Center slot.
6899417	Crimped Center slot.
6899418	Crimped Center slot.
6899419	Crimped center slot.

Accomplish the following to prevent possible engine power loss resulting from partial blade and/or shroud separation of slotted third stage turbine wheels:

1. Compliance required, as indicated, unless already accomplished:

a. Remove, inspect, reintroduce into service where applicable, and ultimately retire affected turbine wheels in compliance with the schedule and instructions provided in Detroit Diesel Allison Commercial Engine Alert Bulletin CEB–A–1174/1146, Revision 2 dated September 15, 1982, or later FAA approved revisions.

2. Compliance required within 60 days after the effective date of this AD, unless already accomplished:

a. Placards, markings, or flight manual changes shall be provided to flight crews to avoid sustained operation of all affected engines between 90 and 98 percent N2, except during transients, while maintaining safe flight practices. This restriction also applies to autorotation practice and engine idle during engine-out simulation on multiengine aircraft.

b. During all ground operation of affected turbine wheels installed in 250–C20, –C20B, –C20C(T63–A–720) engines, the engine N1 speed must be maintained at ground idle, except during transient operation, when performing required operational checks, or in high or gusty wind conditions, or where safety would be adversely affected. Placards, markings, or flight manual changes shall be used to advise flight crews of the ground operating restriction.

c. During all ground operation of affected turbine wheels installed in 250–B17, –B17B, –B17C engines, the engine N2 speed must be maintained below 90 percent N2 r.p.m., except during transient operation, when performing required operational checks, or in high or gusty wind conditions, or where safety would be adversely affected. Placards, markings, or flight manual changes shall be used to advise flight crews of the ground operating restriction.

Upon request of the operator, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Chicago Aircraft Certification Office, FAA, Central Region. The manufacturer's specifications and procedures identified and described in this directive are available upon request to Detroit Allison, Division of General Motors Corporation, Indianapolis, Indiana 46206. These documents may also be examined at the New England Regional Office, 12 New England Executive Park, Burlington, Massachusetts 01803. A historical file on this AD is maintained by the FAA at the New England Regional Office.

This proposed AD will supersede Amendment 39–3011, 42 FR 43969, AD 77–18–03.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034: February 26, 1979). It is certified that the final rule will not, at promulgation, have a significant economic impact on a substantial number of small entities because the cost of the action is less than $5,000 per engine which is nominal compared to the overall cost of the aircraft involved or the cost of rebuilding the entire engine if the correction is not made in time.

A draft regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing to: FAA, Office of Regional Counsel, Attn: Rules Docket No. 82–ANE–17, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts on September 20, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82–26856 Filed 9–29–82; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

Benchmark Survey of U.S. Direct Investment Abroad—1982

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Proposed rule.

SUMMARY: Written public comments are solicited on the following proposed rule change which provides for the conduct of a statistical survey, the BE–10, Benchmark Survey of U.S. Direct Investment Abroad—1982, as required by the International Investment Survey Act of 1976.

DATE: Written comments must be received by BEA on or before November 29, 1982.

ADDRESS: Written comments should be addressed to the U.S. Department of Commerce Bureau of Economic Analysis, International Investment Division (BE–50), Washington, D.C. 20230. All comments in response to this notice will be available for public inspection from 8:00 to 4:00 p.m. in room 608, 1401 K Street NW., Washington, D.C.

Draft report forms for carrying out the survey have been prepared and are available from BEA. All requests for copies of the draft forms must be in writing to the above address; telephone requests will not be accepted.

FOR FURTHER INFORMATION CONTACT: George R. Kruer, Chief, International Investment Division, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, D.C. 20230, (202) 523–0657. (Do not call to request draft forms; such requests must be in writing as prescribed above.)

SUPPLEMENTARY INFORMATION: The International Investment Survey Act of 1976, 22 U.S.C. 3101–3108, requires that a benchmark survey of U.S. direct investment abroad be conducted

covering 1982. The last such survey covered 1977.

The draft report forms are similar in content to those utilized for the 1977 BE–10 survey, although a sizable number of items have been dropped and a number of items have been added. The major changes are: (1) The threshold reporting level for individual foreign affiliates is being increased to $3,000,000 from the $500,000 level used in 1977. This will significantly reduce the reporting burden for respondents. (2) In the 1977 survey, a BE–10B BANK was not required for indirectly owned foreign bank affiliates. Under the rules as proposed for the 1982 survey, a BE–10B BANK report will be required for foreign bank affiliates that are more than 50 percent indirectly owned. (3) Reports may be made for a business enterprise's fiscal year rather than for a calendar year. (4) The list of industry codes has been expanded slightly to include more codes for service industries.

The change in the definition of "U.S. Reporter" is for clarification purposes only and is not intended to change the scope of the definition.

The Bureau of Economic Analysis has determined that these proposed rule changes are not "major" under Executive Order 12291. The public use burden will be undertaken within the Department of Commerce proposed FY 1983 Information Collection Budget ceiling.

Regulatory Flexibility Act—The provisions of the Regulatory Flexibility Act relating to preparation of an initial regulatory flexibility analysis are not applicable to these proposed rule changes because they will not have a significant economic impact on a substantial number of small entities. The increase in the exemption level will eliminate reporting for most small businesses.

Accordingly, the General Counsel, Department of Commerce, has certified under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that these proposed rule changes will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 15 CFR Part 806

Economic statistics, Foreign investment in the United States, Penalties, Reporting requirements, United States investments abroad.

Part 806 is therefore modified as set forth below.

George Jaszi,

Director, Bureau of Economic Analysis.

15 CFR Part 806 is amended as follows:

Authority: 5 U.S.C. 301, 22 U.S.C. 3101–3108, and Executive Order 11961.

In § 806.14(a), the present paragraph (2) is revised to read as follows:

§ 806.14 U.S Direct Investment Abroad.

(a) *Specific definitions.* * * *

(2) "U.S. Reporter" means the U.S. person which has direct investment in a foreign business enterprise, including a branch. If the U.S. person is an incorporated business enterprise, the U.S. Reporter is the fully consolidated U.S. domestic enterprise consisting of (i) the U.S. corporation whose voting securities are not owned more than 50 percent by another U.S. corporation, and (ii) proceeding down each ownership chain from that U.S. corporation, any U.S. corporation (including Domestic International Sales Corporations) whose voting securities are more than 50 percent owned by the U.S. corporation above it.

* * * * *

2. Section 806.16 is revised to read as follows:

§ 806.16 Rules and regulations for BE–10, Benchmark Survey of U.S. Direct Investment Abroad—1982.

A BE–10, Benchmark Survey of U.S. Direct Investment Abroad, will be conducted covering 1982. All legal authorities, provisions, definitions, and requirements contained in §§ 806.1 through 806.13, 806.14(a), (b), (c), (d) and (g)(2) are applicable to this Survey. Specific additional rules and regulations for the BE–10 Survey concerning who must report and forms required are given below.

(a) *Basic requirement*—BE–10 report is required from every U.S. person having a foreign affiliate—that is, every U.S. person having direct or indirect ownership or control of at least 10 per centum of the voting stock of an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise—at any time during the year ending December 31, 1982, or, if the U.S. person is a business enterprise, at any time during its 1982 fiscal year. A business enterprise's 1982 fiscal year is the enterprise's financial reporting year that has an ending date in calendar year 1982. For a person that does not have a financial reporting year, or does not have a financial reporting year ending in calendar year 1982, its 1982 fiscal year is deemed to be the same as calendar year 1982. Reports are required even though the foreign business enterprise may have been established, acquired, seized, liquidated, sold, expropriated, or inactivated during the reporting period.

(b) *Form BE–10A (Report for U.S. Reporter).*—(1) *Filing*—A completed Form BE–10A is required from each U.S. Reporter (see definition). Exception: When a U.S. business enterprise owns a foreign affiliate and the U.S. business enterprise is owned more than 50 per centum by a U.S. individual, the report should be filed by, and Form BE–10A should be for, the business enterprise rather than the individual. Direct transactions or positions, if any, with the foreign affiliate by the individual must be included in the U.S. business enterprise's report.

(2) *Partial exemption when all foreign affiliates are exempt*—When the U.S. Reporter has foreign affiliates, but all are exempt from filing Form BE–10B, then only item 1 of Form BE–10A, and Form BE–10A Supplement, which lists exempt foreign affiliates, must be completed and filed.

(3) *Partial exemption based on type of reporter*—U.S. Reporters which are religious, charitable, or other nonprofit organziations and individuals who directly own a foreign affiliate, are required to file a Form BE–10A, but are exempt from completing Part II, Financial and Operating Data of U.S. Reporter, of the form.

(c) *Form BE–10B (Report for Foreign Affiliate).*

(1) *Filing*—A U.S. person is required to file one Form BE–10B for each foreign affiliate which is not exempt pursuant to paragraph (c)(2) of this section. (Under those limited conditions where foreign affiliates may be consolidated, the consolidated entity is considered to be one foreign affiliate.) To determine whether, for purposes of reporting, a given foreign business enterprise is considered as its foreign affiliate, a U.S. person should sum its percentages of voting ownership through all limes, or chains of ownership, direct and indirect. If the resulting sum is at least 10 percent, then the enterprise is the U.S. person's foreign affiliate and, unless otherwise exempt, must be reported. In the case of a line of indirect ownership, the U.S. person's percentage ownership in a given foreign business enterprise should be computed as its direct ownership percentage in the first foreign business enterprise in the chain, multiplied by that first enterprise's direct ownership percentage in the second enterprise in the chain, multiplied by the second enterprise's direct ownership percentage in the third enterprise in the chain, multiplied by the corresponding percentages for all other intervening enterprises in the chain, multiplied by the last intervening enterprise's direct ownership percentage in the given

foreign business enterprise. To illustrate, suppose that the U.S. person owned 50 percent of foreign business enterprise A directly, and that A owned 75 percent of foreign business enterprise B that, in turn, owned 80 percent of foreign business enterprise C. Then the U.S. person's percentage of indirect ownership of B would be 37.5 percent (the product of the first two percentages), its indirect ownership of C would be 30 percent (the product of all three percentages), and B and C (as well as A) would be considered the U.S. person's foreign affiliates.

(2)(i) *Total exemption*—A Form BE–10B need not be filed if the foreign affiliate's total assets, sales or gross operating revenues excluding sales taxes, and net income after income taxes, are each (all three are) less than $3,000,000.00 (positive or negative), and the foreign affiliate does not own another foreign affiliate for which a Form BE–10B must be filed. If the latter condition is not met, then Form BE–10B must be filed for the foreign affiliate holding the equity interest regardless of the value of its assets, sales or income. That is, all affiliates upward in a chain of ownership must be reported.

(ii) An affiliate's receivables due from its parent may not be netted against total assets when applying the exemption criteria.

(3) *Number of Form's BE–10B required*—If two or more U.S. Reporters jointly own a foreign affiliate, directly or indirectly, each U.S. Reporter must submit a Form BE–10B for the affiliate. The U.S. Reporter having the highest percentage ownership (direct or indirect combined) in the foreign affiliate must file a Form BE–10B in which only Part I, and Part III, if there is direct ownership, positions, or transactions, have been completed. If the percentage of ownership is the same, the U.S. Reporters must decide among themselves which one will submit the complete report.

(4) *Foreign affiliate consolidation*—In cases where the recordkeeping system of the foreign affiliates makes it impossible or extremely difficult to file a separate report for each foreign affiliate, a U.S. Reporter may consolidate affiliates in the same country when the following conditions apply:

(i) The affiliates are in the same BEA 3-digit industry, as defined in the *Direct Investment Industry and Foreign Trade Classifications Booklet;* or

(ii) The affiliates are integral parts of the same business operation. For example, if German affiliate A manufactures tires and a majority of its sales are to German affiliate B which produces autos, then affiliates A and B may be consolidated.

In all other situations, the U.S. Reporter should call this office at (202) 523–0632 for guidance. Under no circumstances may a U.S. Reporter consolidate foreign affiliates in different countries.

(d) *Relationship between Forms BE–10A and BE–10B.* The term "U.S. Reporter" as defined means the fully consolidated U.S. domestic enterprise; therefore, on Form BE–10B, when data on trade and financial relationships between the U.S. Reporter and the foreign affiliate are requested, the data must reflect the foreign affiliate's relationship with the entire U.S. enterprise, not merely with one division or part.

(e) *Specialized report forms for banks*—Specialized report forms have been adopted for banks, that is, for business enterprises over 50 percent of whose total revenues are generated by activities classified in BEA industry code 600, because much of the information on banks foreign activities which is requested on the standard forms is already being reported to other agencies of the Federal Government. The specialized report forms are designed to yield only such additional information as is deemed necessary. Use of specialized Forms BE–10A BANK and BE–10B BANK rather than the standard forms is at the discretion of BEA; in situations where their possible use is not clear-cut, permission must be secured from BEA in advance of filing.

(1) A specialized report form—BE–10A BANK—has been developed for reporting by a U.S. Reporter which is a bank or a bank holding company. It is not to be used by a U.S. Reporter which may technically be classified as a bank holding company because of an interest in a banking activity, but which has over 50 percent of its revenues generated by non-bank activities (Activities of subsidiaries which may not be banks but which provide support to the parent company, such as real estate subsidiaries set up to hold the office building occupied by the parent company, are considered bank activities.)

(2) A specialized report form—BE–10B BANK—has also been developed for reporting of a foreign affiliate which is a bank and in which the U.S. Reporter holds a direct ownership interest, or an indirect interest of more than 50.0 percent. Incorporated foreign bank affiliates in which the U.S. Reporter holds a direct equity interest, or an indirect equity interest of more than 50.0 percent, must be separately reported. All branch banks of the U.S. Reporter in a given foreign country must be consolidated on one Form BE–10B Bank even if it is the Reporter's practice to report data for these branches separately on Federal Reserve Form FR105f or on Comptroller of the Currency Form CC7610–09.

(3) A foreign bank affiliate of the U.S. Reporter in which the U.S. Reporter holds an indirect ownership interest of 50.0 percent or less may be treated as an exempt foreign affiliate and need not be separately reported on Form BE–10B Bank, but must be listed on Form BE–10A Supplement.

(4) A U.S. reporter which is a bank, but which has a nonbank foreign affiliate, must file a Form BE–10A Bank for itself and a standard Form BE–10B for the nonbank foreign affiliate.

(5) A U.S. reporter which is not a bank, but which has a bank foreign affiliate, must file a standard Form BE–10A Bank for itself and a Form BE–10B Bank for the bank foreign affiliate.

(6) Banks located on U.S. military bases abroad and servicing base personnel are not considered "foreign" and a Form BE–10B Bank should *not* be filed for them.

(7) The specialized report forms, where their use is permitted, stand in place of the standard forms, and the regulations and instructions should be so construed.

(f) *Due date*—BE–10 reports containing both Form BE–10A and Form(s) BE–10B are due on the following dates:

May 31, 1983—U.S. Reporter required to file less than 20 Forms BE–10B
June 30, 1983—U.S. Reporter required to file from 20 to 99 Forms BE–10B
July 31, 1983—U.S. Reporter required to file 100 or more Forms BE–10B

(g) Inquiries concerning the BE–10 Survey should be directed to: U.S. Department of Commerce, Bureau of Economic Analysis (BE–50,SSB), Washington, D.C. 20230, phone 202–523–0632.

[FR Doc. 82–27880 Filed 9–29–82; 8:45 am]
BILLING CODE 3510–06–M

DEPARTMENT OF STATE

22 CFR Part 51

[Docket No. 178]

Validity Period of Passports; Passport Fees; Passport Execution Fee

AGENCY: State Department.

ACTION: Proposed rule.

SUMMARY: The Department proposes to double the validity period of passports to 10 years for adults 18 years and over, and to set the validity period at 5 years

for minors under 18 years. The Department further proposes to set at $35.00 the fee collected for issuance of passports having a validity or potential validity period of 10 years and to set at $20.00 the fee for passports having a validity or potential validity period of 5 years. These amendments, which represent only the second increase in passport fees since 1932, are necessary in order to comply with the cost recovery requirements of 31 U.S.C. 483a and to implement the provisions of Pub. L. 97-241 of 1982 which amend Sections 214 and 217a of Title 22, United States Code. The Department also proposes to increase the fee for the execution of a passport application and the related fee for the examination of a passport application executed before a foreign official to $7.00. Until adopted in final form, current regulations remain in effect.

DATE: Comments must be received by November 29, 1982.

ADDRESS: Send comments to the Office of Citizenship Appeals and Legal Assistance, Passport Services, Bureau of Consular Affairs, Department of State, Washington, D.C. 20520, ATTN: PPT/C, room 5813.

FOR FURTHER INFORMATION CONTACT: William B. Wharton on (202) 632-0801.

SUPPLEMENTARY INFORMATION: Currently, all passports issued are valid for a period of 5 years unless limited by the Secretary of State to a shorter period of time. As amended by Pub. L. 97-241, 22 U.S.C. 217a now provides that passports issued subsequent to the effective date of the amendment shall be valid for a period of 10 years from the date of issuance except where limited by the Secretary to a shorter period. Such limitations may be made in an individual case, or on a general basis pursuant to regulation. As amended, the regulations would provide that all regular passports issued to persons 18 years old and above would be valid or potentially valid for 10 years. Those passports issued to persons under 18 years of age would be valid or potentially valid for 5 years. Diplomatic, Official and other passports for which no fee is collected also would be valid or potentially valid for 5 years.

Passports issued to persons under the age of 18 will be valid for a period of 5 years. A minor does not need to participate in his own passport application until the age of 13 years, and does not attain full legal competence until the age of 18 years. By statute (8 U.S.C. 1101(a) (30)) a passport attests not only to the bearer's nationality but also to his identity. Persons under the age of 18 years go through very rapid changes in physical appearance. Setting the validity period of 5 years for minors will ensure that the passport serves the purpose for which it was designed. It will also ensure the continued orderly administration of the regulations governing the issuance and denial of passports to minor children.

Public Law 97-241 also amends the provisions of 22 U.S.C. 214 by delegating to the Secretary the authority to establish by regulation the fee which must be collected for the issuance of a passport. That fee has remained unchanged since 1968, at which time it was established at $10.00. The purpose of the passport fee is to recover the costs of issuance of passports to United States citizens and consular services rendered to them abroad. The present passport fee does not meet those costs. Therefore, the Secretary has determined that it is necessary to increase the fee of a passport issued for 5 years to $20.00, and to establish the fee for a passport issued for 10 years at $35.00.

The execution fee is designed to cover the cost of the execution of the passport application by the personal appearance of the applicant. The Secretary has determined that it is necessary to increase this fee from $5.00 to $7.00. The associated fee for examination of a passport application executed before a foreign official will also be raised from $5.00 to $7.00.

In accordance with 5 U.S.C. 605(b), the Secretary of State certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This rule is not a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects in 22 CFR Part 51

Administrative practice and procedure, Passports and visas.

PART 51—PASSPORTS

Accordingly, it is proposed to amend Title 22, Code of Federal Regulations, Part 51, as set forth below:

1. Section 51.4 of Part 51, Chapter I is amended by revising paragraphs (b) and (e) and by adding paragraph (f) to read as follows:

§ 51.4 Validity of passports.

* * * * *

(b) *Period of validity of a regular passport.* A regular passport issued on or after —— to an applicant 18 years of age or older is valid for 10 years from date of issue unless limited by the Secretary to a shorter period. A regular passport issued on or after —— to an applicant under the age of 18 years is valid for 5 years from date of issue unless limited by the Secretary to a shorter period. An outstanding passport issued before —— remains valid for 5 years from date of issue unless limited by the Secretary to a shorter period.

* * * * *

(e) *Period of a Regular Passport issued for no fee:* A regular passport for which payment of the fee has been excused is valid for a period of 5 years from the date of issue unless limited by the Secretary to a shorter period.

(f) *Limitation and extension of validity.* The validity period period of any passport may be limited by the Secretary to less than the normal validity period. Applications for extension of passports limited to less than the normal full validity period must be made in writing and must be submitted, with the passport, to a passport issuing Office. In no event may a passport be extended beyond the normal periods of validity prescribed for such passport by paragraphs (b) through (e) of this section.

2. Section 51.61 of Part 51, Chapter I is revised to read as follows:

§ 51.61 Statutory fees.

(a) *Passport fee.* The fee for a U.S. passport is (1) $35.00 when the passport issued will be valid or potentially valid for a period of 10 years from date of issue; or (2) $20.00 when the passport issued will be valid or potentially valid for a period of 5 years from date of issue; and (3) the passport fee shall be paid by all applicants except as provided by § 51.63(a).

(b) *Execution fee.* Except as provided in § 51.63(b), the fee for execution of an application for a U.S. passport is $7.00, which shall be remitted to the U.S. Treasury when an application is executed before a Federal official, but which may be collected and retained by any State official before whom an application is executed. The execution fee shall be paid only when an application must be executed under oath or affirmation as prescribed by § 51.21(a).

(Sec. 1, 44 Stat. 887; Sec. 1, 41 Stat. 750; Sec. 2, 44 Stat. 887; Sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 214, 217a, 2658); E.O. 11295, 36 FR 10603; 3 CFR 1966-70 Comp. p. 507)

Dated: September 10, 1982.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 82-26901 Filed 9-29-82; 8:45 am]

BILLING CODE 4710-06-M

22 CFR Part 22

[Docket No. SD-179]

Passport Fees

AGENCY: State Department.

ACTION: Proposed rule.

SUMMARY: The Department proposes amending its regulations to set at $35.00 the fee collected for issuance of passports having a validity or potential validity period of 10 years and to increase the fee of passports having a validity or potential validity period of 5 years to $20.00. These amendments are necessary in order to implement the provision of Pub. L. 97-241 of 1982 which amends Section 214 of Title 22, United States Code. The Department further proposes to increase the fee collected for execution of a passport application and the associated fee for examination of a passport application executed before a foreign official to $7.00. Until adopted in final form, current regulations remain in effect.

In accordance with 5 U.S.C. 605(b), the Secretary of State certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The rule is not a major rule within the meaning of Section 1(b) of E.O. 12291.

DATES: Comments must be received by November 29, 1982.

ADDRESS: Send comments to the Office of Citizenship Appeals and Legal Assistance, Passport Services, Bureau of Consular Affairs, Department of State, Washington, D.C. 20520, ATTN: PPT/C room 5813.

FOR FURTHER INFORMATION CONTACT: William B. Wharton on (202) 632-0801.

SUPPLEMENTARY INFORMATION: Public Law 97-241 amends the provisions of 22 U.S.C. 214 by delegating to the Secretary the authority to establish by regulation the fee which must be collected for the issuance of a passport. That fee has remained unchanged since 1968, at which time it was established at $10.00. The purpose of the passport fee is to recover the costs of issuance of passports to United States citizens and consular services rendered to them abroad. The present passport fee does not meet those costs. Therefore, the Secretary has determined that it is necessary to increase the fee of a passport issued for 5 years to $20.00, and to establish the fee for a passport issued for 10 years at $35.00.

The execution fee is designed to cover the cost of the personal appearance of the applicant to execute the passport application. The Secretary has determined that it is necessary to increase this fee, and the related fee for examination of a passport application executed before a foreign official, from $5.00 to $7.00.

In accordance with 5 U.S.C. 605(b), the Secretary of State certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The rule is not a major rule within the meaning of Section 1(b) of E.O. 12291.

List of Subjects in 22 CFR Part 22

Foreign service.

PART 22— SCHEDULE OF FEES FOR CONSULAR SERVICES— DEPARTMENT OF STATE AND FOREIGN SERVICE

Accordingly, it is proposed to amend Title 22, Code of Federal Regulations, Part 22, as set forth below:

Section 22.1 of Part 22, Chapter I is amended by revising 1-4 to read as follows:

§22.1 Schedule of fees.

Passport and citizenship services Item No	Fee
1. Execution of application for passport	$7.00
2. Examination of passport application executed before a foreign official	7.00
3. Issuance of 10 year validity passport (22 U.S.C. 214)	35.00
4. Issuance of 5 year validity passport (22 U.S.C. 214)	20.00
. . . . .	

(Sec. 1, 44 Stat. 887; Sec. 1, 41 Stat. 750; Sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 214, 2658); E.O. 11295, 36 FR 10603; 3 CFR 1966-70 Comp., p. 507)

Dated: September 10, 1982.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 82-26902 Filed 9-29-82; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 1

[FHWA Docket No. 82-13]

Limitation on Federal Participation— Attorney Fees Awarded Against a State

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend regulations concerning limitations on the participation of Federal funds in costs incurred by States to provide that Federal-aid highway funds may not participate in payments of attorney fees paid by a State to an opposing party in litigation. This amendment would clarify FHWA policy with regard to Federal participation in attorney fees and would implement current statutory and administrative restrictions on such participation.

DATE: Comments must be received on or before November 29, 1982.

ADDRESS: Comments should be sent to FHWA Docket No. 82-13, Federal Highway Administration, HCC-10, Room 4205, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Reid Alsop, Office of the Chief Counsel, 202-426-0800, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Current FHWA regulations at § 710.304(b)(3) provide that FHWA may not participate in "a property owner's attorney fees * * * or similar costs which are paid by the SHD [State Highway Department] in connection with acquisition of rights-of-way" except in the limited situations set forth in section 304 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4654). This prohibition applies "whether or not costs are included in court judgments or awarded as court costs in litigated cases." This reflects both a longstanding FHWA policy against participating in attorney fees that may be paid by a State to an opposing party in litigation, and the requirements of Office of Management and Budget (OMB) Circular A-87.

The absence of any other FHWA regulation that discusses FHWA participation in attorney fees paid to an opposing party is due to the lack, until recently, of any claims or requests for participation in such costs.

The proposed amendment would prohibit Federal-aid highway funds from participating in any payment or award of attorney fees to a party in litigation against a State, except as provided in § 710.304(b)(3). This would extend the prohibition concerning payments of attorney fees in eminent domain proceedings, contained in § 710.304(b)(3), to all State litigation.

including cases where a State and the FHWA are co-defendants, and would eliminate any ambiguity that might exist concerning FHWA participation in such costs. This extension would clarify and promulgate current FHWA policy. It is considered necessary because there is some indication that increasingly States are being asked to pay for an opposing party's attorney fees.

The proposed rule is considered to be a reasonable limitation on the expenditure of Federal-aid highway funds and is similar to numerous other such limitations contained in FHWA regulations. Such limitations have been upheld by the courts on several occasions, most notably in "People of the State of California v. U.S.," 547 F. 2d 1388, 1390 (9th Cir. 1977). See Also "People of the State of California v. U.S.," 551 F. 2d 843 (Ct. Cl. 1977); "State of Nebraska Department of Roads v. Tiemann," 510 F. 2d 446 (8th Cir. 1975); "Michigan State Highway Commission v. Coleman," Civ. No. 78–581 (W.D. Mich. 1978); "Commonwealth v. Connor," 248 F. Supp. 656 (D. Mass.) aff'd 366 F. 2d 778 (1st Cir. 1966); and "Louisiana Department of Highways v. U.S.," 604 F. 2d 1339, (Ct. Cl. 1979).

The award of attorney fees against the Federal government is governed by 28 U.S.C. 2412. Prior to the amendment of § 2412, by the Equal Access to Justice Act (Title II of Pub. L. 96–481), it provided that attorney fees could not be awarded against the Federal government unless expressly provided by statute. Section 2412, as amended, now provides for the recovery of attorney fees against the Federal government in proceedings "pending on or commenced on or after October 1, 1981".

However, 28 U.S.C. 2412 clearly does not require that Federal grant statutes, such as those governing the Federal-aid highway program in 23 U.S.C., be revised or interpreted to provide that a State's costs attributable to an opposing party's attorney fees be included as part of a project's cost for purposes of Federal participation.

Congress has specifically addressed the question of the liability of the United States for attorney fees in § 2412. As amended it appears that its provisions can render the FHWA and other Federal agencies directly liable for attorney fees after October 1, 1981.

Since Congress had enacted specific legislation governing the Federal government's liability for attorney fees, we do not believe that the longstanding Federal and FHWA policy against including an opposing party's attorney fees in project costs should be reversed. Such a reversal would allow Federal participation in such fees indirectly, as a project cost, conflict with policies designed to insure cost effective and efficient project management, and intrude in an area in which Congress has already acted.

Moreover, OMB Circular A–87, which establishes principles and standards applicable to Federal grants and contracts with State and local governments, provides, in paragraph B16 of Attachment B, that legal expenses for the prosecution of claims against the Federal Government are not allowable grant costs, and hence are not eligible for Federal participation. The proposed amendment would implement this provision of the OMB Circular.

Under certain circumstances FHWA may participate in attorney fees paid by a State to defend itself. These are set forth in 23 CFR 140, Subpart E, and 23 CFR 712.408 and are not affected by this proposed change.

The FHWA has determined that this document contains neither a major proposal under Executive Order 12291 nor a significant proposal under DOT regulatory procedures. The economic impacts of this action would be minimal. Although certain project related costs incurred by State highway departments would not be eligible for Federal participation, the amount of grant money available to the States would not be diminished in any way. Accordingly, under the criteria of the Regulatory Flexibility Act, it is certified that this action, if promulgated, will not have a significant economic impact on a substantial number of small entities. For the foregoing reasons, a full regulatory evaluation of this proposal is not required.

PART 1—GENERAL

In consideration of the foregoing, it is proposed that 23 CFR 1.9(a) be amended by adding a third sentence at the end thereof to read as follows:

§ 1.9 Limitation on Federal participation.

(a) * * * Except as provided in § 710.304(b)(3) of this chapter, Federal-aid funds shall not participate in any award or payment of attorney fees paid by a State to an opposing party in litigation.

* * * * *

(23 U.S.C. 101, 315; 49 CFR 1.48(b))

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

List of Subjects in 23 CFR Part 1

Administrative practice and procedure, Attorney fees, Grant programs—transportation, Highway and roads.

Issued on: September 22, 1982.

Ray Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 82–27021 Filed 9–29–82; 8:45 am]

BILLING CODE 4910–22–M

SELECTIVE SERVICE SYSTEM

32 CFR Parts 1656 and 1660

Selective Service Regulations; Alternative Service

AGENCY: Selective Service System.

ACTION: Proposed rule.

SUMMARY: Procedures to implement the program of alternative service under section 6(j) of the Military Selective Service Act (50 U.S.C. App. 456(j)) are revised to assure greater fairness and efficiency in its administration.

DATES: Comment Date: Written comments received on or before October 30, 1982 will be considered. Effective date: Subject to the comments received the amendments are proposed to become effective upon publication in the **Federal Register** of a final rule not earlier than November 1, 1982.

ADDRESS: Written comment to: Selective Service System, Attn: General Counsel, Washington, D.C. 20435.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, D.C. 20435 Phone: (202) 724–1167.

SUPPLEMENTARY INFORMATION: These amendments to Selective Service Regulations are published pursuant to section 13(b) of the Military Selective Service Act (50 U.S.C. App. 463(b)). These Regulations implement section 6(j) of the Military Selective Service Act (50 U.S.C. App. 456(j)). This proposal replaces the proposal appearing at 47 FR 24599 (June 7, 1982).

Various sections of 32 CFR Chapter XVI will be revised in separate rule making to bring them in consonance with this proposed rule.

The Proposed Concept of Alternative Service (46 FR 6998, January 22, 1981) has no stature and should not be considered in interpreting this proposal.

Interested persons are invited to submit written comments on the proposed regulations. All written comments filed in response to this notice of proposed rulemaking will be

available for public inspection in the office of the General Counsel from 9:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

As required by Executive Order 12291, I have determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), I have determined that these regulations do not have significant economic impact on a substantial number of small entities.

List of Subjects in 32 CFR Part 1656

Armed Forces, Draft, Conscientious objection.

Dated: September 27, 1982.

Thomas K. Turnage,

Director.

PART 1660 [REMOVED]

32 CFR Part 1660, Alternate Service, is removed.

32 CFR Part 1656 is added to read as follows:

PART 1656—ALTERNATIVE SERVICE

Sec.

1656.1 Purpose; definitions.
1656.2 Order to perform alternative service.
1656.3 Responsibility for administration.
1656.4 Alternative Service Office: Jurisdiction and authority.
1656.5 Employment development
1656.6 Prohibited job assignments.
1656.7 Review of job assignments—Civilian Review Board.
1656.8 Employer responsibilities.
1656.9 Employment agreements.
1656.10 Alternative service worker's responsibilities.
1656.11 Job placement.
1656.12 Job performance standards and sanctions.
1656.13 Reassignment.
1656.14 Postponement of reporting date.
1656.15 Suspension of order to perform alternative service because of hardship to dependents.
1656.16 Early release—grounds and procedures.
1656.17 Administrative complaint process.
1656.18 Computation of creditable time.
1656.19 Completion of alternative service.
1656.20 Expenses for emergency medical care.

Authority: Sec. 6(j) Military Selective Service Act; 50 U.S.C. Appendix 456(j).

§ 1656.1 Purpose; definitions.

(a) The provisions of this part govern the administration of registrants in Class 1–W and the Alternative Service Program.

(b) The definitions of this paragraph shall apply in the interpretation of the provisions of this part:

(1) *Alternative Service (AS).* Civilian work performed in lieu of military service by a registrant who has been classified in Class 1–W.

(2) *Alternative Service Office (ASO).* An office to administer the Alternative Service Program in a specified geographical area.

(3) *Alternative Service Office Manager (ASOM).* The head of the ASO.

(4) *Alternative Service Work.* Civilian work which the Director deems appropriate and which contributes to the maintenance of the national health, safety or interest.

(5) *Alternative Service Worker (ASW).* A registrant ordered to perform alternative service (Class 1–W).

(6) *Civilian Review Board.* A board to hear appeals by ASWs on certain job assignments and reassignments.

(7) *Creditable Time.* Time that is counted toward an ASW's fulfillment of his alternative service obligation.

(8) *Director.* The Director of Selective Service, unless used with a modifier.

(9) *Employer.* Any institution, firm, agency or corporation engaged in lawful activity in the United States, its territories or possessions or the commonwealth of Puerto Rico that has been approved by Selective Service to employ ASWs.

(10) *Job Bank.* A current inventory of alternative service job opeinings.

(11) *Job Matching.* A comparison of the ASW's work experience, education, training, special skills, and work preferences with the requirements of the positions in the job bank.

(12) *Job Placement.* Assignment of the ASW to alternative service work.

(13) *Open placement.* The assignment of ASWs without employer interview to employers who have agreed to employ all ASWs assigned to them up to an agreed number.

§ 1656.2 Order to perform alternative service.

The local board of jurisdiction shall order any registrant who has been classified in Class 1–O–Q to perform alternative service at a time and place to be specified by the Director.

§ 1656.3 Responsibility for administration.

(a) The Director in the administration of the Alternative Service Program shall establish and implement appropriate procedures to:

(1) Assure that the program complies with the Selective Service Law;

(2) Provide information to ASWs about their rights and duties;

(3) Find civilian work for ASWs;

(4) Place ASWs in jobs approved for alternative service;

(5) Monitor the work performance of ASWs placed in the program;

(6) Order reassignment and authorize job separation as necessary;

(7) Issue certificates of completion;

(8) Specify the location of Alternative Service Offices;

(9) Specify the geographical area in which the ASOs shall have jurisdiction over ASWs;

(10) Refer to Department of Justice, when appropriate, any ASW who fails to perform satisfactorily his alternative service;

(11) Perform all other functions necessary for the administration of the Alternative Service Program; and

(12) Delegate any of his authority to such office, agent or person as he may designate and provide as appropriate for the subdelegation of such authority.

(b) The region Director shall be responsible for the administration and operation of the Alternative Service Program in his Region as prescribed by the Director.

(c) The State Director shall perform duties for the administration and operation of the Alternative Service Program in his State as prescribed by the Director.

(d) The ASOM shall perform duties for the administration and operation of the Alternative Service Program as prescribed by the Director.

(1) The ASO shall be an office of record that is responsible for the administration and operation of the Alternative Service Program in its assigned geographical area of jurisdiction.

(2) The staff of each ASO shall consist of as many compensated employees as shall be authorized by the Director.

(e) The manager of an area office shall perform duties for Alternative Service as prescribed by the Director.

§ 1656.4 Alternative Service Office: Jurisdiction and authority.

(a) Jurisdiction over the ASW will be transferred from the area office immediately after his classification in Class 1–W to the ASO that administers the Alternative Service Program in the area in which he is assigned to perform alternative service.

(b) The ASO shall:

(1) Evaluate and approve jobs and employers for Alternative Service;

(2) Issue such orders as are required to schedule the ASW for job placement;

(3) Issue such orders as are required to schedule the ASW for job interviews;

(4) Order the ASW to report for alternative service work;

(5) Monitor the ASW's job performance;

(6) Issue a certificate of satisfactory completion of the ASW's Alternative Service obligation;

(7) Return the ASW to the jurisdiction of the area office from which he was directed to perform Alternative Serivce; and

(8) Perform such other actions as necessary to administer the Alternative Service Program.

§ 1656.5 Employment development.

(a) The Director will determine which civilian employment programs or activities contribute to the maintenance of the national health, safety or interest and are appropriate for Alternative Service work.

(b) The Director may establish priorities in the assignment of ASWs to types of Alternative Service work.

(c) An organization desiring to employ ASWs to perform Alternative Service is encouraged to submit a request in writing to the Director or an ASOM for approval. Such requests will be considered at any time.

(d) Selective Service shall negotiate employment agreements with the objective of obtaining an adequate number of agreements to assure the timely placement of all ASWs. Participating employers will provide prospective job listings to Selective Service.

(e) Selective Service shall also negotiate employment agreements with eligible employers wherein the employer will agree to hire a specified number of ASWs for open placement positions.

(f) An ASW may seek his own alternative service work by identifying a job with an employer he believes would be eligible for Alternative Service and by having the employer advise the ASO in writing that he desires to employ the ASW. The acceptability and priority of the job so identified will be evaluated as all others considered for ASW assignment.

§ 1656.6 Prohibited job assignments.

No ASW will be assigned to work:

(a) In such jobs as the manufacture or transportation of military ammunition, aircraft, equipment, vehicles or weapons;

(b) In an activity that is illegal under the laws of the United States or a state or a municipality at the place that it is performed;

(c) Outside of the United States, its territories or possessions.

§ 1656.7 Review of job assignments—Civilian Review Board.

Any ASW who believes that his job assignment violates the provisions of § 1656.6 of this part may appeal to an Alternative Service Civilian Review Board for the district in which his assigned work is to be performed. If the Civilian Review Board finds that the assignment violates subsection 1656.6 of this part, it shall so advise the ASO that issued the assignment order, and the ASO then shall reassign the ASW. The decision of the Civilian Review Board is final unless the Director otherwise directs. Pending disposition of his appeal by the Civilian Review Board, the ASW may continue to work or he may stop working and not earn creditable time.

§ 1656.8 Employer responsibilities.

Employers participating in the Alternative Service Program are responsible for:

(a) Complying with the employment agreement with Selective Service;

(b) Providing a clear statement of duties, responsibilities, compensation and employee benefits to the ASW;

(c) Providing full-time employment for ASWs;

(d) Providing adequate supervision of ASWs in his employ; and

(e) Providing nondiscriminatory treatment of ASWs in his employ.

§ 1656.9 Employment agreements.

(a) *Nature of Agreement.* Before any ASW is placed with an employer, Selective Service and the employer shall enter into an employment agreement that specifies their respective duties and responsibilities under the Alternative Service Program.

(b) *Restrictions on Selective Service.* The Selective Service System shall not act in any controversy involving ASW's wages, hours and working conditions except to the extent any of these subjects is specifically covered in the employment agreement between Selective Service and the employer.

(c) *Investigating and Negotiating.* Whenever there is evidence that an employer appears to be violating the employment agreement, Selective Service will investigate the matter. If the investigation produces substantial evidence of violations of the employment agreement, Selective Service may negotiate a resolution of the matter with the employer within the terms of the employment agreement.

(d) *Termination of Employment Agreement.* If a resolution of a dispute cannot be reached by negotiation within a reasonable time, the Selective Service System shall terminate the employment agreement and shall reassign the ASW.

§ 1656.10 Alternative service worker's responsibilities.

(a) A registrant classified in Class 1-W is required to comply with all orders issued under this part.

(b) A registrant classified in Class 1-W is liable to perform 24 months of creditable time toward completion of Alternative Service.

§ 1656.11 Job placement.

(a) Selective Service will maintain a job bank for the exclusive purpose of placing ASWs in alternative service jobs.

(b) Information supplied by the ASW about his skills and preferences will be considered by Selective Service in making job interview referrals and in making assignments of ASWs to jobs.

(c) When an ASW is hired, the ASO will issue a Job Placement Order specifying the employer, the time, date and place to report for his alternaitve service work.

(d) The ASO will normally place the ASW in an alternative service job within 30 days after classification in Class 1-W.

§ 1656.12 Job performance standards and sanctions.

(a) *Standard of Performance.* An ASW is responsible for adhering to the standards of conduct, attitude, appearance and performance demanded by the employer of his other employees in similar jobs. If there are no other employees, the standards shall conform to those that are reasonable and customary in a similar job.

(b) *Failure to Perform.* An ASW will be deemed to have failed to perform satisfactorily whenever:

(1) He refuses to comply with an order of the Director issued under this part;

(2) He refuses employment by an approved employer who agrees to hire him;

(3) His employer terminates the ASW's employment because his conduct, attitude, appearance or performance violates reasonable employer standards; or

(4) He quits or leaves his job without reasonable justification.

(c) *Sanctions for ASW's Failure to Perform.* (1) The sanctions for failure to meet his Alternative Service obligation are job reassignment, loss of creditable time during such period and referral to the Department of Justice for failure to comply with the Military Selective Service Act.

(2) Prior to invoking any of the sanctions discussed herein, the ASO will conduct a review as prescribed in § 1656.17 of all allegations that an ASW

has failed to perform pursuant to any of the provisions of § 1656.12(b).

§ 1656.13 Reassignment.

(a) *Grounds for reassignment.* Each of the following conditions may be the basis for job reassignments:

(1) An ASW experiences a change in his mental or physical condition which renders him unfit or unable to continue performing satisfactorily in his assigned job;

(2) An ASW's dependents incur a hardship which is not so severe as to justify a supension of the Order to Perform Alternative Service under § 1656.15;

(3) The employer ceases to operate an approved program or activity;

(4) The employer fails to comply with the terms and conditions of the employment agreement;

(5) Continual and severe differences between the employer and ASW remain unresolved; or

(6) The Director determines that reassignment is justified.

(b) *Who May Request Reassignment.* Any ASW may request reassignment to another job. An employer may request job reassignment of an ASW who is in his employ.

(c) *Method for Obtaining a Reassignment.* All requests for reassignment must be in writing with the reasons specified. The request may be filed with the ASO of jurisdiction at any time during an ASW's alternative service employment. An ASW must continue in his assigned job, if available, until the request for reassignment is approved.

(d) It is the responsibility of the ASW to notify the ASO promptly in writing of any grounds which could be a reason for his reassignment.

§ 1656.14 Postponement of reporting date.

(a) *General.* The reporting date in any of the following orders may be postponed in accord with this section.

(1) Report for Job Placement;

(2) Report for a Job Interview;

(3) Report to an Employer to Commence Employment.

(b) *Requests for Postponement.* A request for postponement of a reporting date specified in an order listed in paragraph (a) of this section must be made in writing and filed prior to the reporting date with the office which issued the order. Such requests must include a statement of the nature of the emergency and the expected period of its duration.

(c) *Grounds for Postponement.* An ASW may, upon presentation of the appropriate facts in his request, be granted a postponement based on one or more of the following conditions:

(1) The death of a member of his immediate family;

(2) An extreme emergency involving a member of his immediate family;

(3) His serious illness or injury; or

(4) An emergency condition directly affecting him which is beyond his control.

(d) *Basis for Considering Request.* The ASW's eligibility for a postponement shall be determined by the office of jurisdiction based upon official documents and other written information contained in his file. Oral statements made by the ASW or made by another person in support of the ASW shall be reduced to writing and placed in the ASW's file.

(e) *Duration of Postponement.* The initial postponement shall not exceed 60 days from the reporting date in the order. When necessary, the Director may grant one further postponement, but the total postponement period shall not exceed 90 days from the reporting date in the order involved.

(f) *Termination of Postponement.* (1) A postponement may be terminated by the Director for cause upon no less than ten days written notice to the ASW.

(2) Any postponement shall be terminated when the basis for the postponement has ceased to exist.

(3) It is the responsibility of the ASW promptly to notify in writing the office that granted the postponement whenever the basis for which his postponement was granted ceases to exist.

(g) *Effect of Postponement.* A postponement of the reporting date in an order shall not render the order invalid, but shall only serve to postpone the date on which the ASW is to report. The ASW shall report at the expiration or termination of the postponement.

(h) *Religious Holiday.* The Director may authorize a delay of reporting under any of the orders specified for an ASW whose date to report conflicts with a religious holiday historically observed by a recognized church, religious sect or religious organization of which he is a member. Any ASW so delayed shall report on the next business day following the religious holiday.

§ 1656.15 Suspension of Order To Perform Alternative Service Because of Hardship to Dependents.

(a) Whenever, after an ASW has begun work, a condition develops that results in hardship to his dependent as contemplated by § 1630.30(a) of this chapter which cannot be alleviated by his reassignment under § 1656.13(a) of this part, the ASW may request a suspension of Order to Perform Alternative Service. If the local board that ordered the ASW to report for Alternative Service determines he would be entitled to classification in Class 3–A, assuming that the ASW were eligible to file a claim for that class, further compliance with his order shall be suspended for a period not to exceed 365 days, as the local board specifies. Extensions of not more than 365 days each may be granted by the local board so long as the hardship continues until the ASW's liability for training and service under the Military Selective Service Act terminates.

(b) An ASW may file a request for the suspension of his Order to Perform Alternative Service with the ASO. This request must be in writing, state as clearly as possible the basis for the request, and be signed and dated by the ASW. The ASW must continue working in his assigned job until his request for the suspension of his Order to Perform Alternative Service has been approved.

(c) Local boards shall follow the procedures established in Part 1648 of this chapter to the extent they are applicable in considering a request for the suspension of an Order to Perform Alternative Service.

§ 1656.16 Early release—grounds and procedures.

(a) *General Rule of Service Completion.* An ASW will not be released from alternative service prior to completion of 24 months of creditable service.

(b) *Reasons for Early Release.* The Director may authorize the early release of an ASW whenever the ASO determines that the ASW:

(1) Has failed to meet the performance standards of available alternative service employment because of physical, mental or moral reasons;

(2) No longer meets the physical, mental or moral standards that are required for retention in the Armed Forces based on a physical or mental examination at a MEPS or other designated location;

(3) Is planning to return to school and has been accepted by such school and scheduled to enter within 30 days prior to the scheduled completion of his alternative service obligation;

(4) Has been accepted for employment and that such employment will not be available if he remains in alternative service the full 24 months. Such early release shall not occur more than 30 days before the scheduled completion of his alternative service obligation; or

(5) Has enlisted in or has been inducted into the Armed Forces of the United States.

§ 1656.17 Administrative complaint process.

(a) Whenever the ASOM learns that the ASW may have failed to perform satisfactorily his work (see § 1656.12(b)) or he receives a complaint by an employer or an ASW involving the ASW's work other than matters described in §§ 1656.6 and 1656.9(b) of this part, he shall take necessary action to:

(1) Interview, as appropriate, all parties concerned to obtain information relevant to the problems or complaints;

(2) Place a written summary of each interview in the ASW's file;

(3) Inform the persons interviewed that they may prepare and submit to him within ten days after the interview their personal written statements concerning the problem;

(4) Place such statements in the ASW's file; and

(5) Resolve the matter.

(b) The employer or ASW may seek a review of the decision under § 1656.17(a)(5) of this section. Such request must be filed in writing with the ASO, for action at the next higher level, within ten days after the date the notice of the decision is transmitted to the ASW and employer.

§ 1656.18 Computation of creditable time.

(a) Creditable time starts when the ASW begins work pursuant to an Order To Perform Alternative Service or 30 days after the issuance of such order, whichever occurs first. Creditable time will accumulate except for periods of:

(1) Work of less than 35 hours a week or an employer's full-time work week whichever is greater;

(2) Leaves of absence in a calendar year of more than 5 days in the aggregate granted by the employer to the ASW to attend to his personal affairs unless such absence is approved by the ASOM;

(3) Time during which an ASW fails or neglects to perform satisfactorily his assigned Alternative Service;

(4) Time during which the ASOM determines that work of the ASW is unsatisfactory because of his failure to comply with reasonable requirements of his employer;

(5) Time during which the ASW is not employed in an approved job because of his own fault; or

(6) Time during which the ASW is in a postponement period or his Order to Perform Alternative Service has been suspended.

(b) Creditable time will be awarded for periods of travel, job placement and job interviews performed under orders issued by Selective Service. Creditable time may be awarded for up to 10 work days of leave per year.

§ 1656.19 Completion of alternative service.

Upon completion of 24 months of creditable time served in alternative service or when released early in accordance with § 1656.16(b)(3) or (4):

(a) The ASW shall be released from the Alternative Service Program; and

(b) The Director shall issue to the ASW a Certificate of Completion and the registrant shall be reclassified in Class 4–W in accordance with § 1630.47 of this chapter.

§ 1656.20 Expenses for emergency medical care.

(a) Claims for payment of actual and reasonable expenses for emergency medical care, including hospitalization, of ASWs who suffer illness or injury, and the transportation and burial of the remains of ASWs who suffer death as a direct result of such illness or injury will be paid in accordance with the provisions of this section.

(b) The term "emergency medical care, including hospitalization", as used in this section, means such medical care or hospitalization that normally must be rendered promptly after occurrence of the illness or injury necessitating such treatment. Discharge by a physician or facility subsequent to such medical care or hospitalization shall terminate the period of emergency.

(c) Claims will be considered only for expenses:

(1) For which only the ASW is liable and for which there is no legal liability for his reimbursement except in accord with the provisions of this section; and

(2) That are incurred as a result of illness or injury that occurs while the ASW is acting in accord with orders of Selective Service to engage in travel or perform work for his Alternative Service employer.

(d) No claim shall be allowed in any case in which the Director determines that the injury, illness, or death occurred because of the negligence or misconduct of the ASW.

(e) No claim shall be paid unless it is presented to the Director within one year after the date on which the expense was incurred.

(f) Cost of emergency medical care including hospitalization greater than usual and customary fees for service established by the Social Security Administration, will *prima facie* be considered unreasonable. Payment for burial expenses shall not exceed the maximum that the Administrator of Veteran's Affairs may pay under the provisions of 38 U.S.C. 902(a) in any one case.

(g) Payment of claims when allowed shall be made only directly to the ASW or his estate unless written authorization of the ASW or the personal representative of his estate has been received to pay another person.

[FR Doc. 82-26867 Filed 9-29-82; 8:45 am]
BILLING CODE 6015-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-10-FRL 2186-6]

Approval and Promulgation of State Implementation Plans; Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this Notice is to present the results of EPA's review of the 1982 Vancouver, Washington, ozone (O_3) State Implementation Plan (SIP) revision. This SIP revision was developed in accordance with the provisions of Part D of the 1977 Clean Air Act, as amended, which requires plans for O_3 nonattainment areas with approved attainment date extensions to be submitted by July 1, 1982.

In today's action, EPA is proposing to approve the Vancouver SIP revision which was submitted by the Governor of Washington to EPA on July 16, 1982. EPA is requesting public comments on its proposed actions for a period of 30 days.

DATE: Comments must be received on or before November 1, 1982.

ADDRESSES: Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

Copies of the materials submitted to EPA may be examined during normal business hours at:

Central Docket Section, (10A–82–10) West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20400

Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101

State of Washington, Department of Ecology, 4224 Sixth Avenue, SE., Lacey, WA 98503.

FOR FURTHER INFORMATION CONTACT: Richard F. White, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101. Telephone No. (206) 442–4016, FTS: 399–4016.

SUPPLEMENTARY INFORMATION:

I. Introduction

Today's **Federal Register** action was processed in parallel with action on the State and local level to adopt and submit a revision to the currently approved SIP. This process enabled EPA to comment on the SIP in the early stages of SIP development and should reduce the need for the State to make changes in the SIP after State adoption. It also allows EPA to carry out its administrative rulemaking process concurrent with that of the State so that final EPA action can be completed shortly after the State submits its adopted SIP.

II. Background

The Clean Air Act Amendments of 1977 require States to submit plans to demonstrate how they will attain and maintain compliance with National Ambient Air Quality Standards for those areas designated as nonattainment. The Act further requires these plans to demonstrate compliance with primary standards no later than December 31, 1982. Provisions for an extenstion until December 31, 1987 are available for O_3 SIPs if the State can demonstrate that despite implementation of all reasonably available control measures the December 31, 1982 attainment date cannot be met.

The State of Washington department of Ecology (DOE) submitted an initial SIP revision for the Vancouver O_3 nonattainment area in June 1979. DOE requested EPA to extend the attainment date for the O_3 standard in this area beyond 1982, but no later than 1987. EPA approved the extension request and conditionally approved the initial plan revision on June 5, 1980 (45 FR 37821). EPA gave final approval to this intial plan revision on September 14, 1981 (46 FR 45607) after the conditions had been fulfilled.

The SIP revision subject to proposal today is the second phase of the 1979 SIP. It implements some measures and contains commitments to implement others described in the 1979 SIP. Since June of 1979 the Clark County Regional Planning Council (CCRPC) and the Southwest Air Pollution Control Authority (SWAPCA) have been updating the emission inventories for stationary and mobile sources of volatile organic compounds (VOC), refining the air quality modeling, holding additional public hearings and meetings with their advisory and policy making committees, narrowing down the number of transportation control measures (TCMs) and, finally, obtaining commitments from the local governmental jurisdictions to implement the selected TCMs. As a result of these activities, a draft SIP revision was prepared and submitted to EPA and DOE in April 1982. The SIP revision was adopted by CCRPC at a pubic hearing held April 28, 1982, and forwarded to DOE on May 3, 1982. DOE held another public hearing on June 10, 1982, adopted the SIP revision on June 22, 1982 and forwarded it to EPA for approval on July 16, 1982.

III. Plan Review

The general requirements for O_3 SIPs were described in the **Federal Register** published on January 22, 1981 (46 FR 7182). EPA reviewed the Vancouver O_3 SIP revision in accordance with those requirements and developed a technical support document which describes EPA's conclusions regarding each SIP requirement. The technical support document describes the elements of the adopted SIP revision, their location in the SIP and EPA's conclusions regarding approvability. The following discussion will briefly describe the SIP revision in terms of the major review points and indicate what action EPA Proposes.

A. *Technical Data and Modeling Results.* The Vancouver O_3 SIP revision was developed using a baseline design concentration of 0.146 parts per million (ppm). This design value was derived from data collected over the past three years.

The strategy for attaining the O_3 standard (i.e., bringing air quality levels from the design concentration of 0.146 ppm to the standard of 0.12 ppm) centers around reducing emissions of VOC, one of the major precursors to the formation of O_3. To determine the reduction needed for attainment, the "city specific Empirical Kinetic Modeling Approach" model was utilized. Based on this analysis, a 26 percent reduction in VOC emissions is required for attainment. Implementing the Vancouver stationary and mobile source control measures described below in combination with the measures being implemented in the Portland area, the required emission reduction is expected to be achieved by the end of 1987.

B. *Control Measures.* 1. *Stationary Sources.* Stationary source controls for VOC in the Vancouver nonattainment area are embodied in the DOE Washington Administrative Code (WAC) 173–490, which is enforced by the Southwest Air Pollution Control Authority (SWAPCA). DOE regulations, adopted in 1979 and 1980 to satisfy guidance published in the EPA Control Techniques Guidelines (CTG) for Groups I and II VOC categories, were approved as SIP revisions on September 14, 1981 (46 FR 45607) and April 14, 1982 (47 FR 16018). Under separate action, EPA is approving revisions to the State stationary source controls for VOC which were submitted on July 16, 1982. This action will satisfy the remaining requirements called for in the April 14, 1982 (47 FR 16018) notice. State regulations for Group III VOC sources will be developed and adopted in accordance with schedules published on June 5, 1980 (45 FR 37821). There are no other non-CTG sources emitting more than 100 tons per year. Additionally, new or modified major sources of VOC's will be required to obtain an emission offset in order to construct in Vancouver.

2. *Mobile Sources.* Measures for controlling VOC emissions from mobile sources include the Federal Motor Vehicle Emission Control Program and regional TCMs. The regional TCMs that have been committed to include improved public transit, programs to encourage employer rideshare and expanded park-and-ride facilities. The SIP describes each TCM in detail including funding commitments from implementing agencies and projected emission reductions.

The implementation of an inspection and maintenance program is not being required in Vancouver since the existing program in Portland, in operation since 1975, already meets Reasonably Available Control Technology (RACT) as defined for the entire Portland/Vancouver nonattainment area. Justification for this finding is contained in the technical support document for this action. The finding is based, in part, on the existence of an operating inspection and maintenance program with a demonstrated capability to achieve emission reductions equivalent to RACT.

C. *Other Major Elements.* 1. *Reasonable Further Progress.* Reasonable further progress (RFP) will be assessed in terms of the expected reductions described for the nonattainment area and the actual implementation of control measures. The plan includes a TCM monitoring procedure whereby the CCRPC will prepare an annual report identifying growth of new major and minor VOC sources, updating the emission inventory, identifying emission reductions and relating annual ambient

air quality to attainment status. The CCRPC will then use this report in combination with air quality data to assess RFP toward meeting air quality standards. If it is determined that RFP is not being maintained, a contingency plan contained in the SIP revision will be implemented to account for the shortfall.

2. *Basic Transportation Needs.* The SIP revision discusses "basic transportation needs" in relation to the selection of reasonably available control measures and their effect on public mobility. The control measures selected emphasize the local commitment to reduce VOC emissions and improve public transportation facilities.

3. *Conformity.* The conformity analysis procedure developed for the Portland, Oregon, portion of the nonattainment area to meet EPA requirements has been adopted by the CCRPC and is part of the submitted SIP revision. Regardless of the initial conformity finding of various plans and programs, individual projects still must comply with all provisions and requirements of the SIP.

4. *Public and Elected Official Participation.* Participation in the SIP revision development process extended to a wide range of public and elected officials. The Air Quality Advisory Task Force representing Federal, State and local government officials, citizens groups and industry groups met monthly to identify air quality impacts and trade offs between control measures for stationary and transportation sources. Socio-economic impacts, land use and energy usage were also considered. The Task Force developed recommendations on reasonably available transportation control measures, which were approved by the lead agency's Board of Directors. After a public hearing the completed Vancouver SIP revision was adopted on April 28, 1982 and forwarded to DOE for inclusion in the Washington SIP. The final SIP revision was submitted to EPA on July 16, 1982.

IV. Proposed EPA Action

EPA is proposing to approve the O_3 attainment plan revision which was submitted by DOE pursuant to Part D requirements. The proposed approval includes the extension of the attainment date for O_3 to December 31, 1987.

Interested parties are invited to comment on all aspects of this proposed approval of the Washington SIP. Comments should be submitted, preferably in triplicate, to the address listed in the front of this Notice. Public comments postmarked by November 1, 1982 will be considered in any final action EPA takes on this proposal.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant impact on a substantial number of small entities (46 FR 8709 (January 27, 1981)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Secs. 110, 172, Clean Air Act (42 U.S.C. 7410(b) and 7502))

Dated: August 6, 1982.

Robert S. Burd,

Regional Administrator.

[FR Doc. 82-26998 Filed 9-29-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Depreciation; Useful Life Guidelines

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend Medicare regulations to clarify which useful life guidelines providers of health care services may use to determine the useful life of a depreciable asset for Medicare reimbursement purposes. Current regulations state that providers must utilize HHS useful life guidelines or, if none have been published by HHS, the American Hospital Association (AHA) useful life guidelines of 1973 or IRS guidelines. We are proposing to eliminate the reference to IRS guidelines because those previously acceptable for Medicare purposes are outdated and have been made obsolete by the IRS or by statutory change. We would also delete the specific reference to the 1973 AHA guidelines. In addition, we intend this amendment to clarify that certain tax legislation on accelerated depreciation, recently passed by Congress, does not apply to the Medicare program.

DATES: To assure consideration, comments should be mailed by November 29, 1982.

ADDRESS: Please address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235.

In commenting, please refer to file code BPP-125-P. If you prefer, you may deliver your comments to Room 309-G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection, as they are received, beginning approximately three weeks from today, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

FOR FURTHER INFORMATION CONTACT: Bernard Patashnik, 301-597-1335.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program (title XVIII of the Social Security Act), hospitals, skilled nursing facilities and home health agencies furnish medically necessary inpatient, outpatient or home health services to eligible beneficiaries. These institutions or organizations, known as providers of health care services, are reimbursed by Medicare for the covered services they provide to beneficiaries, based on the lesser of the reasonable costs or customary charges for providing the services. In determining reasonable costs, HCFA takes into account only costs that are necessary and proper expenses in providing health care services.

Current requirements

Current Medicare regulations (42 CFR 405.415(a)) provide that an appropriate allowance for depreciation on buildings and equipment used by providers in furnishing patient care is an allowable cost. The regulations further provide that depreciation is a proration of the costs of depreciable assets over the estimated useful lives of the assets. The useful life of an asset is defined as the normal operating or service life of the asset to the provider (42 CFR 405.415(b)(7)). Thus, the useful life of an asset is an estimate of how long a provider can use the asset in the production of health care services. Generally, we require that assets be depreciated to salvage value. These concepts are consistent with contemporary accounting theory, which defines depreciation as a systematic and rational method of allocating costs to periods in which benefits are received.

In projecting the useful life of an asset, a provider may consider factors

such as normal wear and tear, obsolescence due to normal economic and technological changes, climatic and other local conditions, and the provider's policies regarding repair and replacement. Various guidelines are available to aid the provider in estimating useful lives. Some guidelines provide an item-by-item breakdown of useful lives, and others give recommendations for classes of assets.

Current regulations (42 CFR 405.415(b)(7)(i)) require that providers use guidelines established by the Secretary. The regulations further state that, if there are no such guidelines, the guidelines published by the American Hospital Association (AHA) in its 1973 edition of "Chart of Accounts for Hospitals" or Internal Revenue Service (IRS) guidelines must be used. Alternatively, the regulations permit a provider to select a useful life not contained in the AHA or IRS guidelines. In this case, however, the useful life must nonetheless be based on the asset's operating or service life to the provider, and we require providers to furnish the Medicare fiscal intermediary with convincing reasons and supporting documentation to justify its selection, and to obtain the intermediary's approval.

AHA guidelines

The AHA's "Chart of Accounts for Hospitals" contains general accounting data and information which may be used by hospitals in establishing a uniform system for classification of accounts in the hospital field. The document also contains guidelines for estimating useful lives of depreciable assets. Those guidelines are periodically updated by the AHA and were last revised in 1978.

As noted above, current regulations state that providers may use the 1973 AHA useful life guidelines. In the proposed regulations, we would change the reference to state that providers may continue to use the edition of AHA guidelines as specified in HCFA Medicare program manuals.

Providers routinely receive manual changes through their intermediaries and would thereby be notified if we update the reference to acceptable AHA guidelines.

IRS guidelines

Use of IRS useful life guidelines by providers is not widespread. We estimate that fewer than ten percent of all providers currently rely on them. We have permitted providers to use IRS guidelines because the IRS concept of an asset's useful life, for the most part, has been consistent with that of the Medicare program. However, IRS guidelines have been changed over the years and have included various options not acceptable for Medicare reimbursement purposes because they did not constitute an acceptable method for estimating an asset's useful life. For example, we specifically prohibit, in Medicare program manuals but not in regulations, the use of the Asset Depreciation Range System (ADRS) which sets forth class lives for broad classes of assets and designates upper and lower limits from which a life may be selected for depreciation purposes. We determined that ADRS was unacceptable because the depreciation period may be significantly shorter than the actual useful life of the asset. Moreover, the IRS guidelines that were acceptable to HCFA in the past are now outdated (for instance, *Bulletin F, Estimated Useful Lives and Depreciation Rates* and *Revenue Procedure 62–21*). In addition, recent changes to the tax law virtually eliminate the concept of a useful life based on the utility of the asset. For these reasons, this proposal would remove from the regulations the option allowing providers to select IRS useful life guidelines for estimating the useful lives of newly acquired assets. However, because previously acceptable IRS guidelines have been based on the utility of an asset, and because this proposal would permit the use of guidelines other than AHA guidelines subject to the approval of the intermediary, providers that are currently using those IRS guidelines for existing assets would continue to be permitted to do so.

New legislation

The new legislation (section 201 of Pub. L. 97–34, the Economic Recovery Tax Act of 1981) established an accelerated cost recovery system (ACRS) for writing off the costs of assets for tax purposes. This provision is designed to encourage investments by business and industry in new assets as a means of stimulating the national economy. It allows all assets to be depreciated for tax purposes over much shorter periods of time than may be done under previously existing tax laws. For example, ACRS permits real property such as buildings to be depreciated over 15 years. This contrasts with existing depreciation rules, approved for use in the Medicare program, that prescribe useful lives of buildings as 30, 40 or even 50 years.

Congress specifically provided in section 203(e) of Pub. L. 97–34 that the Secretary of HHS is not required to apply any provision of the Internal Revenue Code of 1954, as amended, in calculating depreciation for the purpose of determining any cost under a program administered by HHS, unless required by law to do so.

The new tax reduction legislation does not repeal or amend any provisions of the Medicare statute or reimbursement principles established as part of the Medicare program. However, in departing from the concept of a useful life based on the utility of the asset for depreciation, the application of ACRS to the Medicare program would have a severe adverse impact on the program by resulting in significantly accelerated reimbursement having no reasonable connection to the efficient delivery of patient care. We believe that reduction of the amount of time over which assets may be depreciated to reduce tax liabilities should not be applied to accelerate the reimbursement of costs for patient care under Medicare.

The Medicare program is intended to finance quality health care to eligible individuals, with reimbursement to providers of the reasonable cost of furnishing that care, as required by section 1861(v)(1) of the Social Security Act. We believe that application of the ACRS would be at variance with that requirement and with current efforts to contain the rising costs of health care. Consequently, we do not think it is either intended or appropriate for the Medicare program to be included in general with business and industry in the use of ACRS to stimulate the economy.

II. Changes in the regulations

We are proposing to delete the specific reference to the AHA 1973 "Chart of Accounts for Hospitals" and the general reference to IRS guidelines contained in 42 CFR 405.415 (b)(7)(i). In place of the reference to specific AHA guidelines, we would state that the acceptable edition of AHA guidelines is specified in HCFA manuals. Thus, providers would be able to use guidelines established by HCFA or, in their absence, approved AHA guidelines or an alternative guideline approved by their intermediary for determining useful lives of assets.

The first proposed change would eliminate the need to update the reference in the regulations to AHA guidelines. The second change would ensure that any existing tax depreciation methods (for example, ADRS or ACRS), or any new methods developed in the future, which do not provide for depreciation based on the asset's useful life are not used by

providers for Medicare reimbursement purposes.

The use of ACRS for tax purposes, where it applies in business and industry, is mandatory and prospective for assets acquired on or after January 1, 1981. Thus, the proposed regulations would not remove an option previously allowed to providers. Rather, we would be prohibiting the use of new tax legislation for Medicare reimbursement purposes. Therefore, we do not believe that this change in the regulations will result in any disadvantage to providers. To be consistent with the effective date of the ACRS provisions of Pub. L. 97–34, we would make the final regulations resulting from this proposed rule effective on January 1, 1981.

It is important to emphasize here that providers will continue to have the right to request approval from their intermediaries to use a particular set of guidelines different from the approved AHA guidelines. As noted above, any useful life guideline proposed for use by a provider must be based on the utility of the asset to the provider, and the provider must submit documentation to the intermediary to justify the selection.

III. Impact Analyses

A. Executive Order 12291

The Secretary has determined that this proposed rule does not meet the criteria for a "major rule," as defined by section 1(b) of Executive Order 12291.

While the proposed regulations would implement a change in Medicare policy regarding the use of IRS guidelines in determining useful lives of assets, the effect on providers and intermediaries would be minimal. Few providers currently use the guidelines. Moreover, providers currently using previously acceptable IRS guidelines for Medicare depreciation purposes would be able to continue for existing assets.

In addition, providers will retain the right, with respect to newly acquired assets, to seek approval of useful lives other than those set out in approved AHA guidelines. On the other hand, the change in policy would help to avoid possible increased costs to the Medicare program because of inadvertent application of IRS accelerated depreciation methods or guidelines in Medicare depreciation determinations.

B. Regulatory Flexibility Act

The Secretary certifies, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

Many providers of health care services qualify as small businesses. However, the proposed change in policy concerning the IRS useful life guidelines would not have a significant economic effect because few providers currently use those guidelines. Furthermore, for newly acquired assets, providers could seek the approval of their intermediaries to use guidelines that are as advantageous to the providers as the previously acceptable IRS guidelines.

IV. Reponses to Comments

Because of the large number of comments we receive from the public, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to them in the preamble to that rule.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart D—Principles of Reimbursement for Provider Costs and for Services by Hospital-Based Physicians

The authority citation for Subpart D reads as follows:

Authority: Secs. 1102, 1814(b), 1833(a), 1861(v), and 1871, 49 Stat. 647, as amended. 79 Stat. 296, 79 Stat. 302, 79 Stat. 322, 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq., unless otherwise noted.

42 CFR 405.415 is amended by reprinting the introductory language in paragraph (b)(7) and by revising paragraph (b)(7)(i) to read as follows:

§ 405.415 Depreciation: Allowance for depreciation based on asset costs.

* * * * *

(b) *Definitions.* * * *

(7) *Useful life.* The estimated useful life of a depreciable asset is its normal operating or service life to the provider, subject to the provisions in paragraph (b)(7)(i) of this section. Factors to be considered in determining useful life include normal wear and tear; obsolescence due to normal economic and technological changes; climatic and other local conditions; and the provider's policy for repairs and replacement.

(i) *Initial selection of useful life.* In selecting a proper useful life for computing depreciation under the Medicare program, providers must use the useful life guidelines published by HCFA. If HCFA has not published applicable useful life guidelines, providers must use—

(A) The edition of the American Hospital Association useful life guidelines, as specified in HCFA Medicare program manuals; or

(B) A different useful life specifically requested by the provider and approved by the intermediary. A different useful life may be approved by the intermediary if the provider's request is properly supported by acceptable factors that affect the determination of useful life. However, such factors as an expected early sale, retirement, demolition or abandonment of an asset, or termination of the provider from the Medicare program may not be used.

* * * * *

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare-Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: June 30, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved August 24, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82–27026 Filed 9–29–82; 8:45 am]

BILLING CODE 4120–03–M

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42 CFR Parts 431, 434, 435, and 447

Medicaid Program; Contracts with Health Maintenance Organizations and Prepaid Health Plans

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rules.

SUMMARY: These proposed amendments would—

(1) Make it possible for Medicaid agencies to contract on a risk basis with health maintenance organizations (HMOs) other than those that meet all the requirements for a Federally qualified HMO;

(2) Ease requirements that limit the proportion of HMO enrollees that may be persons eligible for Medicare or Medicaid; and

(3) Permit States to continue to provide Medicaid, for a period of up to 6

months from the date of enrollment in a Federally qualified HMO, even if the enrollee loses Medicaid eligibility before the end of that period.

These regulations are necessary to implement section 2178 of the Omnibus Budget Reconciliation Act of 1981. They also include changes made as part of regulatory reform. The intent is to encourage and enable Medicaid agencies to make greater use of HMOs and other prepaid health plans (PHPs) to provide cost-effective health care to Medicaid recipients.

In addition, as part of our regulatory reform effort, we are eliminating several existing regulatory requirements and simplifying others to provide greater flexibility for States in contracting with prepaid health care organizations.

DATE: In order to ensure consideration, comments should be mailed by November 29, 1982.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235.

In commenting, please refer to BPP–504–P. If you prefer you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132 East High Rise, 6325 Security Boulevard, Baltimore, Md. 21207.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication in Room 309–G of the Department's office at 200 Independence Ave., SW., Washington, D.C., 20201 on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Bernard Truffer, (301) 597–1369.

SUPPLEMENTARY INFORMATION: Current Medcaid regulations at 42 CFR Part 431, Subpart L, contain a number of requirements applicable to State contracts with HMOs and other types of prepaid health plans (PHPs). Statutory amendments made by the Omnibus Budget Reconciliation Act of 1981 require changes in the regulations. In addition, the HCFA Task Force on Regulatory Reform has reviewed certain of the requirements and determined that they can be either eliminated or modified to provide greater opportunity for States to use these organizations as a cost-effective means of furnishing services.

Before the 1981 amendments, section 1903(m) of the Social Security Act allowed Federal financial participation (FFP) in State expenditures under a risk-basis contract for comprehensive medical services only if the contract was with an HMO or with certain other entities (specified in section 1903(m)(2)(B)) that had received grants under the Public Health Service Act or the Appalachian Regional Development Act or had contracts with Medicaid agencies before enactment of the HMO provisions. Section 1903(m) defined HMO as an organization that furnished certain specified services and met the requirements of sections 1301(b) and (c) of the Public Health Service (PHS) Act regarding form of organization and manner of furnishing services. As a condition of payment to an HMO, Section 1903(m) required that: (1) The Secretary determine that the organization meets the HMO definition; and (2) the HMO comply with a specified composition of enrollment standard (see below the discussion of "Composition of Enrollment"). The entities specified in section 1903(m)(2)(B) are exempted from these two conditions, and are described in the regulations as PHPs that qualify for risk contracts.

The law does not define "risk basis", but uses it in the same sense as "prepaid capitation basis". Section 431.502 of the regulations defines "risk" as the chance that the contractor's cost of furnishing the services may exceed the reimbursement, that is, the capitation or premium payments determined at the start of a contract period. Although the law does not define "nonrisk", we have interpreted the term to mean that a Medicaid agency may make retroactive adjustments at the end of a contract period so that the contractor is reimbursed for costs actually incurred. The upper limits for State agency payments under risk contracts are different from the upper limits for nonrisk contracts. (See below discussion of "Payments Limits".)

Changes Based on Statutory Amendments

The changes made by section 2178 of Pub. L. 97–35, and the corresponding changes we propose to make in the regulations are discussed below:

Definition of HMO

Section 2178 of Pub. L. 97–35 broadens the definition of HMO to permit FFP for comprehensive services furnished, under a risk contract, not only by organizations that meet the requirements of sections 1301(b) and (c) of the PHS Act (hereafter referred to as Federally qualified HMOs), but also for services furnished by other entities that—

1. Make their services available to Medicaid enrollees to the same extent they are available from other sources to nonenrolled Medicaid recipients in the area; and

2. Make provision (satisfactory to the State) against the risk of insolvency and assure that Medicaid recipients will not be responsible for the HMO's debts if it does become bankrupt.

We propose to amend the regulations to provide that, if a State plan provides for risk-basis contracts with other than Federally qualified HMOs, it must include the State's definition of HMO, and to require that, under the State definition, the HMO must meet at least the two statutory requirements listed above (§ 434.20(c)). The State may impose additional requirements it finds necessary. Since section 1903(m)(1)(B) of the Act still requires the Secretary to determine whether an organization is an HMO, § 434.71(b) would require the HCFA Regional Administrator to certify that contractors meet the State definition of HMO.

Composition of Enrollment

Previous law specified that Medicare and Medicaid beneficiaries must constitute less than 50 percent of the enrollees of an HMO and provided for a temporary waiver of that requirement (up to 3 years) for HMOs entering the program.

Section 2178 of Pub. L. 97–35 raised from 50 percent to 75 percent the maximum proportion of an HMO's enrollees that may be persons entitled to Medicare or Medicaid and retained the temporary waiver of that upper limit for new HMOs. In addition, it authorized waiver or modification of the limit for public HMOs if there are special circumstances that justify this and if the HMO is making reasonable efforts to enroll non-beneficiaries. The provision recognizes that HMOs run by State, county, or municipal hospitals or health departments may find it difficult to meet the 75 percent limitation because they serve primarily the beneficiaries of public programs.

Corresponding amendment would be made in §§ 434.26(b) and (c).

Contract Requirements

The section 2178 amendments to section 1903(m) of the Act make clear that the contract between a Medicaid agency and the HMO must provide for the following:

1. The capitation fee is determined on an actuarially sound basis.

2. The Secretary and the State may inspect and audit the financial records

of the contractor and any subcontractors.

3. In enrolling Medicaid recipients, the HMO will not discriminate on the basis of the individual's health status or need for health care services.

4. A Medicaid enrollee may terminate enrollment at any time without cause, and is informed of this right when he or she enrolls.

5. Either the State of the HMO pays promptly for emergency services furnished by a source other than the HMO.

These provisions would be implemented by several sections of Subpart C of Part 434.

Extended Medicaid Eligibility

One factor that has kept States from making greater use of HMOs is the adminstrative difficulties caused by fluctuations in Medicaid eligibility. Since beneficiaries may have frequent changes in income, they may go on and off the rolls several times during a relatively short period. This causes problems for both the State and the HMO. The State's system for making capitation payments to the HMO may not always be tied closely enough to the eligibility process to ensure that the payments stop when eligibility ends. Thus, the State may make three or four payments for a person not currently eligible. The fluctuations also make it impossible for the HMO to be certain of the amounts it will receive, in capitation fees, for a particular period.

Section 2178 of Pub. L. 97–35 amended section 1902(e) of the Act to provide States the option of continuing Medicaid, for a period of up to 6 months from date of enrollment in a Federally qualified HMO, even if the enrollee loses Medicaid eligibility before the end of that period. This should help to resolve the administrative problems for both States and HMOs and facilitate use of HMOs in Medicaid.

This option would be set forth in new §§ 435.212 and 435.326.

Regulatory Reform Changes

The changes made as part of our regulatory reform effort are intended to simplify the regulations and provide States greater flexibility in using HMOs and PHPs as sources of Medicaid services.

1. *Elimination of certain requirements.* The current Medicaid regulations repeat some of the requirements contained in the PHS Act, which are applied by the Public Health Service in determining whether an organization is a Federally qualified HMO. Because the repetition is unnecessary with respect to these HMOs and because we are not imposing these requirements for State-defined HMOs, we propose to eliminate them from the regulations. These include, for example, requirements for feasibility and planning studies (current § 431.541), certain enrollment provisions (§§ 431.527(a) and 431.528(a)), and emergency service provisions (§ 431.532(a)).

In addition to the PHS requirements, the regulations now contain certain other requirements not specified by statute. We believe these can be eliminated, without decreasing accessibility or quality of services, in order to permit States greater freedom in determining the types of contracts they wish to have. For this purpose, we propose to delete the requirements for specifying in contracts certain risk, savings apportionment, and reinsurance provisions (§§ 431.524–431.526); a requirement that the contractor provide information on health care to each enrollee to help improve his or her health status (§ 431.536), and a provision for contractor distribution of general information about its services (§ 431.545). We believe these are the types of requirements best handled by each State both in the overall context of its health care delivery system, and with respect to the particular needs of each contract situation.

2. *HMO nonrisk contracts.* The regulations provide that Medicaid agencies may enter into nonrisk contracts (as well as risk contracts) with Federally qualified HMOs (§ 434.20(b)). Existing regulations do not allow States to enter into nonrisk contracts with HMOs. They allow such contracts only with PHPs. Since this restriction is not required by the statute, we believe that States should have the flexibility to enter into nonrisk, as well as risk, contracts with HMOs.

3. *Payment limits.* Current regulations (§ 447.361) state that total capitation payments made by the agency may not exceed what it would pay for the same group of services on a fee-for-service basis, or what other third party payers are paying for comparable services under comparable circumstances. We would revise § 447.361—

- To make clear that it applies only to risk contracts; and
- To delete the reference to what other third party payers are paying.

We have concluded that the third party payer language is redundant and confusing because, in most cases, third party payment rates are indirectly incorporated in the fee-for-service rates. We would also add a new § 447.362 to provide that, for nonrisk contracts, the agency payments may take into account the cost of administrative services (such as quality assurance or securing payment from liable third parties) that are performed by the contractor, but would have to be performed by the Medicaid agency itself if it paid on a fee-for-service basis.

The regulatory reform changes apply to contracts with all PHPs, not just HMOs, and we have extended to PHPs the statutory provision that raises to 75 percent the limitation on the composition of enrollment. We are continuing our review of the requirements applicable to risk and nonrisk contracts with PHPs to determine whether all of them need to be retained. If we determine some can be eliminated, we will publish an additional notice of proposed rulemaking. However, we do not want to delay implementation of the options provided by the statutory amendments, pending completion of that review. For that reason, these proposed regulations contain the existing requirements not yet reviewed as well as the changes discussed above.

In summary, the proposed changes would increase flexibility and thus encourage States to make greater use of HMOs and other prepayment plans to furnish Medicaid services. The additional options would make it possible for Medicaid agencies to:

- Enter into risk contracts with State-defined HMOs (as well as Federally qualified HMOs, and certain other prepayment plans specified in the Medicaid statute).
- Enter into nonrisk contracts with Federally qualified HMOs, as well as with State-defined HMOs and other prepayment plans.
- Continue to provide Medicaid, for a period of up to 6 months from the date of enrollment, to a Medicaid enrollee of a Federally qualified HMO, even if the enrollee loses Medicaid eligibility before the end of the specified period.

We are also reorganizing all of the material on contracts now in Subpart L of 42 CFR Part 431 and relocating it in a new Part 434. This includes rules on contracts made by a State Medicaid agency with other entities, as well as those with HMOs and PHPs. No substantive changes other than those described above are being made at this time.

Response to Comments

Because we receive large numbers of comments, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to them in the preamble to that rule.

Impact Analysis

Executive Order 12291

Executive Order 12291 requires us to prepare a regulatory analysis for any rule that is likely to result in an annual effect on the economy of $100 milion or more; a major increase in costs or prices for consumers, individual industries, government agencies, or geographical regions; or significant adverse effects on business or employment.

We have determined that these regulations will not have a significant economic impact. The elimination of requirements that are duplicative or unnecessary may permit some administrative economies, and more extensive use of risk-basis contracts with HMOs and PHPs would tend to reduce program costs.

Regulatory Flexibility Act of 1980 (Pub. L. 96–354)

This Act requires us to prepare and publish a regulatory flexibility analysis for any regulations that will have a significant economic impact on a substantial number of small entities. There are currently approximately 36 State contracts with HMOs serving 187,000 beneficiaries, and 18 PHP contracts serving 94,600 beneficiaries. The changes made by these regulations will not affect participating entities except to reduce some requirements. To the extent that State Medicaid agencies take advantage of their new options, additional; HMOs and PHPs, both large and small, will have opportunity to participate in the program. Since we have no way of knowing how many will become participants, we have no basis for an anaylsis.

Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) requires Federal agencies to seek the approval of the Executive Office of Management and Budget (EOMB) for any regulations that contain reporting and recordkeeping requirements that are subject to the statute.

In compliance with Pub. L. 96–511, we have requested EOMB approval of the following sections of these regulations which require the collection of information:

Sec.
434.6 General requirements for all contracts and subcontracts.
434.10 Contracts with fiscal agents.
434.12 Contracts with nonmedical institutions.
434.14 Contracts with health insuring organizations.
434.20 Basic rules.
434.23 Capitation fees.
434.25 Coverage and enrollment.
434.27 Termination of enrollment.
434.32 Grievance procedures.
434.53 Periodic medical audits.

List of Subjects

42 CFR Part 431

Administrative practice and procedure, Contracts (Agreements), Fair hearings, Federal financial participation (FFP), Grant-in-Aid program—health, Health facilities, Health maintenance organizations (HMO), Indians, Information (Disclosure), Medicaid, Mental health center, Prepaid health plans, Privacy, Quality control, Reporting requirements.

42 CFR Part 434

Contracts, Federal financial participation (FFP), Health Maintenance Organizations (HMO), Prepaid Health Plans (PHPs).

42 CFR Part 435

Aid to Families with Dependent Children, Aliens, Categorically needy, Contracts (Agreements—State Plan), Eligibility, Grant-in-Aid program—health, Health facilities, Medicaid, Medically needy, Reporting requirements, Spending-down, Supplemental security income (SSI).

42 CFR Part 447

Accounting, Clinics, Contracts (Agreements), Copayments, Drugs, Grant-in-Aid program—health, Health facilities, Health professions, Hospitals, Medicaid, Nursing homes, Payments for services: general, Payments: timely claims, Reimbursement, Rural areas.

REDESIGNATION TABLE FOR PART 431, SUBPART L

Part 431 section	Part 434 section
431.501	434.1.
431.502	434.2.
431.503	434.6(a).
431.504	434.6(b).
431.510	434.10.
431.511	434.12.
431.512	434.14.
431.520(a)	434.20(a).
431.520(b)	434.20(d)(2).
431.521	434.2.
431.522 Removed because of changes in the law.	
431.523	434.23.
431.524–431.526 Deleted to provide greater flexibility.	
431.527(a) Deleted as duplicative of Public Health Service requirements.	
431.527(b)	434.25.
431.528(a) Deleted as duplicative of Public Health Service requirements.	
431.528(b) & (c)	434.20.
431.529 Deleted as duplicative of § 434.6.	
431.530	434.27.
431.531	434.29.
431.532(a) Deleted as duplicative of Public Health Service requirements.	
431.532(b)	434.30.
431.533	434.32.
431.534	434.34.
431.535	434.36.

REDESIGNATION TABLE FOR PART 431, SUBPART L—Continued

Part 431 section	Part 434 section
431.536 Deleted to provide greater flexibility.	
431.537 Deleted as duplicative of 434.6.	
431.540	434.50.
431.541 Deleted as duplicative of Public Health Service requirements.	
431.542	434.52.
431.543	434.53.
431.544	434.55.
431.545 Deleted to provide greater flexibility.	
431.546	434.57.
431.547	434.59.
431.548	434.61.
431.549	434.63.
431.550(a)	434.65.
431.550(b)	434.22.
431.555–431.560 Deleted as duplicative of 431.520–431.526.	
431.565	434.23(b).
431.568–431.589 Deleted as duplicative of 431.527–431.550.	
431.591(a) and (b)	434.70.
431.591(c)	434.78.
431.592	434.72.
431.593	434.71.
431.594	434.74.
431.595	434.75.
431.596	434.76.
431.597 Deleted as unnecessary, given the reorganization and revision of these regulations.	

42 CFR Chapter IV is amended as set forth below:

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

The authority citation for Part 431 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

A. Part 431 is amended by removing and reserving Subpart L and amending the table of contents to reflect that change:

Subparts G–L—[Reserved]

B. The content of Subpart L of Part 431 is revised and redesignated as a new Part 434, to read as follows:

PART 434—CONTRACTS

Subpart A—General Provisions

Sec.
434.1 Basis and scope.
434.2 Definitions.
434.4 State plan requirement.
434.6 General requirements for all contracts and subcontracts.

Subpart B—Contracts with Fiscal Agents, Nonmedical Institutions, and Health Insuring Organizations

434.10 Contracts with fiscal agents.
434.12 Contracts with nonmedical institutions.
434.14 Contracts with health insuring organizations.

Subpart C—Contracts with HMOs and PHPs:

General Requirements

Sec.
434.20 Basic rules.

Additional requirements for Certain Risk Contracts

434.21 Contracts that must meet additional requirements.
434.23 Capitation fees.
434.25 Coverage and enrollment.
434.26 Composition of enrollment.
434.27 Termination of enrollment.
434.29 Choice of health professional.
434.30 Emergency medical services.
434.32 Grievance procedures.
434.34 Quality assurance system.
434.36 Marketing.
434.38 Inspection and audit of HMO's financial records.

Subpart D—Contracts with HMOs and PHPs: Medicaid Agency Responsibilities

434.50 Proof of capability.
434.52 Furnishing of required services.
434.53 Periodic medical audits.
434.55 Approval of marketing plans, procedures, and materials.
434.57 Limit on payment to other providers.
434.59 Continued service to recipients whose enrollment is terminated.
434.61 Computation of capitation fees.
434.63 Monitoring procedures.
434.65 Services included in the State plan not covered by the contract.

Subpart E—Federal Financial Participation

434.70 Condition for FFP: Status of contract.
434.71 Condition for FFP: Prior approval.
434.72 Effect of final determination that a provisional status HMO is not an HMO.
434.74 Costs under risk-basis contracts.
434.75 Costs under no-risk contracts.
434.76 Costs under fiscal agent contracts.
434.78 Right to reconsideration of disallowance of.

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

Subpart A—General Provisions

§ 434.1 Basis and scope.

(a) *Basis.* This part is based on sections 1902(a)(4) and 1903(m) of the Act. Section 1902(a)(4) requires that the State plan provide for methods of administration that the Secretary finds necessary for proper and efficient operation of the plan. Section 1903(m)(1)(A) of the Act defines an HMO as an entity that meets the requirements of the Public Health Service (PHS) Act to be a Federally qualified HMO, or meets two specified requirements pertaining to accessibility of services and fiscal solvency. Section 1903(m)(2)(A) limits risk-basis contracts for specified health services to entities that meet the HMO definition of section 1903(m)(1)(A) and sets forth certain enrollment and other requirements that these contracts must meet as a condition for FFP. Section 1903(m)(2)(B) exempts, from the limitations of section 1903(m)(2)(A), certain specified prepayment plans that are not HMOs.

(b) *Scope.* This part sets forth the requirements for contracts with certain organizations for furnishing Medicaid services or processing or paying Medicaid claims.

§ 434.2 Definitions.

As used in this part, unless the context indicates otherwise—

"*Contractor*" means any of the following entities that contract with the Medicaid agency, under the terms of this subpart, to process claims, or to pay for or provide medical services, under a State plan in return for a payment:

(a) A fiscal agent.

(b) A health care project grant center.

(c) A private nonmedical institution.

(d) A health insuring organization.

(e) A health maintenance organization.

(f) A prepaid health plan.

"*Enrolled recipient*" means an individual who is eligible for Medicaid and who enters into an agreement to receive services from a health maintenance organization or prepaid health plan that contracts with the agency under this part.

"*Federally qualified HMO*" means an HMO that has been determined by the Public Health Service (PHS) to be a qualified HMO under section 1310(d) of the PHS Act.

"*Fiscal agent*" means an entity that processes or pays vendor claims for the agency.

"*Health care projects grant center*" means an entity that—

(a) Is supported in whole or in part by Federal project grant financial assistance; and

(b) Provides or arranges for medical services to recipients.

"*Health insuring organization*" means an entity that—

(a) Pays for medical services provided to recipients in exchange for a premium or subscription charge paid by the agency; and

(b) Assumes an underwriting risk.

"*Health maintenance organization (HMO)*" means a public or private organization organized under State law that—

(a) Is a Federally qualified HMO; or

(b) Meets the State plan's definition of an HMO.

"*Capitation fee*" means the fee the agency pays periodically to a contractor for each recipient enrolled under a contract for the provision of medical services under the State plan, whether or not the recipient receives the services during the period covered by the fee.

"*Prepaid health plan (PHP)*" means an entity that provides medical services under contract with the Medicaid agency to enrolled recipients, on the basis of prepaid capitation fees but does not qualify as an HMO.

"*Private nonmedical institution*" means an entity that—

(a) Provides medical care through contracts or other arrangements with medical providers;

(b) Is reimbursed through prepaid capitation payments from the agency;

(c) Does not assume an underwriting risk; and

(d) Is not, as a matter of regular business, a prepaid health insuring organization or community health care center. Examples of private nonmedical institutions are child-care institutions and maternity homes.

"*Provisional status HMO*" means an HMO that the State agency has determined is a provisional status Federally qualified HMO because more than 90 days have elapsed since the HMO applied to the PHS for Federal qualification and the PHS has not made a final determination. The provisional status continues until the PHS makes the final determination or the contract with the Medicaid agency is terminated, whichever occurs first.

"*Risk*" or "*underwriting risk*" means a significant chance that a contractor may incur a loss—

because the cost of providing services may exceed the capitation fees paid by the agency to the contractor during the contract period.

§ 434.4 State plan requirement.

If the State plan provides for contracts of the types covered by this part, the plan must also provide for meeting the applicable requirements of this part.

§ 434.6 General requirements for all contracts and subcontracts.

(a) *Contracts.* All contracts under this part must—

(1) Be in writing;

(2) Specify the contract period;

(3) Specify the functions of the contractor;

(4) Identify the population covered by the contract;

(5) Specify any procedures for enrollment or reenrollment of the covered population;

(6) Specify the amount, duration, and scope of medical services to be provided or paid for;

(7) Provide that the agency and HHS may evaluate through inspection or other means, the quality, appropriateness and timeliness of services performed under the contract;

(8) Provide that the agency and HHS may audit and inspect any of the contractor's records that pertain to services performed and determination of amounts payable under the contract;

(9) Specify procedures and criteria for extending the contract;

(10) Specify procedures and criteria for renegotiating the contract;

(11) Specify procedures and criteria for terminating the contract, including a requirement that the contractor promptly supply all information necessary for the reimbursement of any outstanding Medicaid claims;

(12) Provide that the contractor maintains an appropriate record system for services to enrolled recipients;

(13) Provide that the records referred to in paragraph (a)(12) of this section are retained in accordance with the record retention requirements of 45 CFR Part 74;

(14) Provide that the contractor safeguards information about recipients as required by Part 431, Subpart F of this chapter;

(15) Specify any activities to be performed by the contractor that are related to third party liability requirements in Part 433, Subpart D, of this chapter;

(16) Specify which functions may be subcontracted; and

(17) Provide that any subcontracts meet the requirements of paragraph (b) of this section.

(b) *Subcontracts.* All subcontrcts must—

(1) Be in writing; and

(2) Fulfill the requirements of this part that are appropriate to the service or activity delegated under the subcontract.

(c) *Continued responsibility of contractor.* No subcontract terminates the legal responsibility of the contractor to the agency to assure that all activities under the contract are carried out.

Subpart B—Contracts With Fiscal Agents, Nonmedical Institutions, and Health Insuring Organizations

§ 434.10 Contracts with fiscal agents.

Contracts with fiscal agents must—

(a) Meet the requirements of § 434.6;

(b) Include termination procedures that require the contractors to supply promptly all material necessary for continued operation of payment and related systems. This material includes—

(1) Computer programs;

(2) Data files;

(3) User and operation manuals, and other documentation;

(4) System and program documentation; and

(5) Training programs for Medicaid agency staff, their agents or designated representatives in the operation and maintenance of the system;

(c) Offer to the State one or both of the following options, if the fiscal agent or the fiscal agent's subcontractor has a proprietary right to material specified in paragraph (b) of this section:

(1) Purchasing the material; or

(2) Purchasing the use of the material through leasing or other means;

(d) State the amount to be paid to the contractor for performing the functions under the contract;

(e) State the basis for the amount to be paid to the contractor;

(f) State when payment is to be made to the contractor; and

(g) State that payment to providers will be made in accordance with Part 447 of this chapter.

§ 434.12 Contracts with private nonmedical institutions.

Contracts with private nonmedical institutions must—

(a) Meet the requirements of § 434.6;

(b) Specify a capitation fee based on the cost of the services provided, in accordance with the reimbursement requirements prescribed in Part 447 of this chapter; and

(c) Specify when the capitation fee must be paid.

§ 434.14 Contracts with health insuring organizations.

(a) Contracts with health insuring organizations must—

(1) Meet the requirements of § 434.6;

(2) Specify that the capitation fee will not exceed the limits set forth under Part 447 of this chapter;

(3) Specify that, except as permitted under paragraph (b) of this section, the capitation fee paid on behalf of each recipient may not be renegotiated—

(i) During the contract period if the contract is for 1 year or less; or

(ii) More often than annually if the contract period is for more than 1 year;

(4) Specify that the capitation fee will not include any amount for recoupment of any losses suffered by the contractor for risks assumed under the same contract or a prior contract with the agency;

(5) Specify that the contractor assumes at least part of the underwriting risk and:

(i) If the contractor assumes the full underwriting risk, specify that payment of the capitation fees to the contractor during the contract period will constitute full payment by the agency for the cost of medical services provided under the contract; and

(ii) If the contractor assumes less than the full underwriting risk, specify how the risk is apportioned between the agency and the contractor;

(6) Specify whether the contractor returns to the agency part of any savings remaining after allowable costs are deducted from the capitation fees and, if savings are returned, the apportionment between the agency and the contractor;

(7) Specify the extent, if any, to which the contractor may obtain reinsurance of a portion of the underwriting risk;

(8) Specify the acutarial basis for computation of the capitation fee.

(b) The capitation fee may be renegotiated more often than annually for recipients who are not enrolled at the time of renegotiation or if the renegotiation is required by changes in Federal or State law.

Subpart C—Contracts With HMOs and PHPs: Contract Requirements

General Requirements

§ 434.20 Basic rules.

(a) *Entities eligible for risk contracts for services specified in § 434.21.* A Medicaid agency may enter into a risk contract, for the services specified in § 434.21, only with an entity that—

(1) Is a Federally qualified HMO, including a provisional status Federally qualified HMO;

(2) Meets the State plan's definition of an HMO, as specified in paragraph (c) of this section; or

(3) Is one of several entities identified in section 1903(m)(2)(B) (i), (ii) and (iii) of the Act, and considered as PHPs.

(b) *Entities eligible for other kinds of contracts.* A Medicaid agency may enter into a nonrisk contract, or a risk contract for services other than those specified in § 434.21, with any of the entities identified in paragraph (a) of this section, or with any other PHP.

(c) *State plan definition of HMO.* If the plan provides for risk contracts with entities that are not Federally qualified HMOs, for the services specified in § 434.21, the plan must include a State definition of an HMO. Under the definition, the HMO must meet at least the following requirements:

(1) Be organized primarily for the purpose of providing health care services.

(2) Make the services it provides to its Medicaid enrollees as accessible to them (in terms of timeliness, amount, duration, and scope) as those services are to nonenrolled Medicaid recipients within the area served by the HMO.

(3) Make provision, satisfactory to the Medicaid agency, against the risk of insolvency, and assure that Medicaid enrollees will not be liable for the

HMO's debts if it does become insolvent.

(d) *Services that may be covered.* A contract with an HMO or a PHP may cover services to enrolled recipients that are not provided under the plan to nonenrolled recipients as permitted under § 440.250(g) of this chapter.

(e) *Requirements for all contracts.* For all contracts with HMOs or PHPs—

(1) The contract must meet the requirements of § 434.6; and

(2) The Medicaid agency must carry out the responsibilities specified in Subpart D of this part.

Additional Requirements for Certain Risk Contracts

§ 434.21 Contracts that must meet additional requirements.

Unless otherwise indicated, the additional requirements set forth in §§ 434.23 through 434.38 must be met—

(a) In all non-risk contracts; and

(b) In risk contracts for furnishing inpatient hospital services and any of the following services, or any three or more of the following services or groups of services:

(1) Outpatient hospital services and rural health clinic services.

(2) Other laboratory and X-ray services.

(3) Skilled nursing facility (SNF) services, early and periodic screening, diagnosis and treatment (EPSDT), and family planning.

(4) Physicians' services.

(5) Home health services.

§ 434.23 Capitation fees.

The contract must specify—

(a) The actuarial basis for computation of the capitation fees; and

(b) That the capitation fees and any other payments provided for in the contract do not exceed the payment limits set forth in §§ 447.361 and 447.362 of this chapter.

§ 434.25 Coverage and enrollment.

(a) Contracts with HMOs and PHPs must—

(1) Specify the period during which enrollment may be open;

(2) Provide that the HMO or PHP will accept individuals who are eligible to be covered under the contract—

(i) In the order in which they apply;

(ii) Without restrictions, unless authorized by the Regional Administrator; and

(iii) Up to the limits set in the contract; and

(3) Provide that enrollment is voluntary.

(b) Contracts with HMOs must also provide that the HMO will not discriminate, against individuals eligible to be covered under contract, on the basis of health status or need for health services.

§ 434.26 Composition of enrollment.

(a) *Basic rule.* Except as provided in paragraphs (b) and (c) of this section, the contract must provide that Medicare beneficiaries and Medicaid recipients constitute less than 75 percent of the total enrollment of the HMO or PHP.

(b) *Exceptions: HMOs.*—(1) *Waiver for New HOMs.* The requirement of paragraph (a) of this section may be waived for up to three years from the date the Regional Administrator determines the entity to be an HMO (as provided in § 434.71) if the HMO submits annual reports demonstrating, to the Regional Administrator's satisfaction, that it is making continuous efforts and progress towards achieving compliance with paragraph (a) of this section.

(2) *Waiver for HMOs that are public entities.* The Regional Administrator may approve waiver or modification of the requirement of paragraph (a) of this section, for an HMO that is owned or operated by a State, county, or municipal health department or hospital, if—

(i) There are special circumstances that justify modification or waiver; and

(ii) The HMO has made and continues to make reasonable efforts to enroll individuals who are not eligible for Medicare or Medicaid.

(c) *Exception: Waiver for PHPs.* The Medicaid agency may waive the requirement of paragraph (a) of this section for a PHP that requests waiver and shows good cause.

§ 434.27 Termination of enrollment.

The contract must specify—

(a) The reasons for which the HMO or PHP may terminate a recipient's enrollment;

(b) That the HMO or PHP will not terminate enrollment because of the recipient's health status or need for health care services;

(c) That each termination by the HMO or PHP will be submitted for approval by the agency;

(d) That an HMO enrollee may terminate enrollment at any time, effective no later than the first day of the second month after the month in which he or she requests termination; and

(e) That the HMO will inform each recipient, at the time of enrollment, of the right to terminate enrollment.

§ 434.29 Choice of health professional.

The contract must allow each enrolled recipient to choose his health professional in the HMO or the PHP to the extent possible and appropriate.

§ 434.30 Emergency medical services.

If the contract covers emergency medical services, it must—

(a) Provide that all covered emergency services are available 24 hours a day and 7 days a week, either in the contractor's own facilities or through arrangements, approved by the agency, with other providers; and

(b) Specify whether it is the contractor, or the agency, that will make prompt payment for covered emergency services that are furnished by providers with which the HMO or PHP does not have arrangements if—

(1) Those services were needed because of an unforeseen illness or condition;

(2) Use of the contractor's facilities (or the facilities of providers with whom the contractor has arrangements) would have endangered the recipient's health or caused him severe pain and discomfort.

§ 434.32 Grievance procedure.

The contract must provide for an internal grievance procedure that—

(a) Is approved in writing by the agency;

(b) Provides for prompt resolution; and

(c) Assures the participation of individuals with authority to require corrective action.

§ 434.34 Quality assurance system.

The contract must provide for an internal quality assurance system that:

(a) Is consistent with the utilization control requirements of Part 456 of this chapter;

(b) Provides for review by appropriate health professionals of the process followed in providing health services;

(c) Provides for systematic data collection of performance and patient results;

(d) Provides for interpretation of this data to the practioners; and

(e) Provides for making needed changes.

§ 434.36 Marketing.

The contract must provide that the HMO or PHP submits marketing plans, procedures, and materials to the agency for approval before using the plans.

§ 434.38 Inspection and audit of HMO's financial records.

A risk contract with an HMO must provide that the agency and the Department may inspect and audit any financial records of the HMO or its subcontractors, relating to the HMO's

capacity to bear the risk of potential financial losses.

Subpart D—Contracts with HMOs and PHPs: Medicaid Agency Responsibilities

§ 434.50 Proof of HMO or PHP capability.

The agency must obtain from each contractor proof of—

(a) Financial responsibility, including proof of adequate protection against insolvency; and

(b) The contractor's ability to provide the services under the contract efficiently, effectively, and economically.

§ 434.52 Furnishing of required services.

The agency must obtain assurances from each contractor that—

(a) It furnishes the health services required by enrolled recipients as promptly as is appropriate; and

(b) The services meet the agency's quality standards.

§ 434.53 Periodic medical audits.

(a) The agency must establish a system of periodic medical audits to insure that each contractor furnishes quality and accessible health care to enrolled recipients.

(b) The system of periodic medical audits must—

(1) Provide for audits conducted at least once a year for each contractor;

(2) Identify and collect management data for use by medical audit personnel; and

(3) Provide that the data includes—

(i) Reasons for enrollment and termination; and

(ii) Use of services.

§ 434.55 Approval of marketing plans, procedures, and materials.

(a) The agency must provide for a system for approval of the marketing plans, procedures, and materials submitted by the contractor under § 434.36.

(b) The requirements for approval must be in writing.

(c) The system must provide that the contractor not engage in marketing practices that mislead, confuse, or defraud either recipients or the agency.

§ 434.57 Limit payment to other providers.

The agency must ensure that, except as specified in § 434.30(b) for emergency services, payment for services covered by the contract and furnished to an enrolled recipient is made only to the contractor, not to any other provider.

§ 434.59 Continued service to recipients whose enrollment is terminated.

The agency must arrange for Medicaid services without delay for any recipient whose enrollment is terminated, unless it is terminated because of ineligibility for Medicaid.

§ 434.61 Computation of capitation fees.

The agency must determine that the actuarial basis for computing the capitation fees and any other payments provided for in the contract is sound.

§ 434.63 Monitoring procedures.

The agency must have procedures to—

(a) Monitor enrollment and termination practices; and

(b) Insure proper implementation of the contractor's grievance procedures.

§ 434.65 Services included in the State plan not covered by the contract.

If the contract does not cover all services available under the plan, the agency must arrange for services not included to be available and accessible. This may be done by having the contractor refer enrolled recipients to other providers or by some other means.

Subpart E—Federal Financial Participation

§ 434.70 Condition for FFP: Status of contract.

(a) FFP is available in expenditures for payments to contractors only for the periods that the contract—

(1) Meets the requirements of this part;

(2) Meets the appropriate requirements of 45 CFR Part 74; and

(3) Is in effect.

(b) HCFA may withhold FFP for any period during which—

(1) The State fails to meet the State plan requirements of this part; or

(2) Either party to a contract substantially fails to carry out the terms of the contract.

§ 434.71 Condition for FFP: Prior approval.

(a) FFP is not available in expenditures made under any contract exceeding $100,000 unless, before the execution of the contract, the Regional Administrator has approved in writing the expenditures that can reasonably be expected to be made during the contract period.

(b) FFP is not available in expenditures under an HMO contract unless the agency secured prior written notice from the Regional Administrator, indicating that the contractor meets the definition of an HMO.

§ 434.72 Effect of a final determination that a provisional status HMO is not an HMO.

(a) FFP is available in expenditures for payments to a provisional status HMO until the Public Health Service reaches a final determination that it is not a Federally qualified HMO.

(b) The Public Health Service's determination that the entity with provisional status is not an HMO is not considered final until—

(1) All administrative, but not judicial, appeal procedures are exhausted; or

(2) The time for requesting administrative review has lapsed without a request from the HMO.

§ 434.74 Costs under risk-basis contracts.

Under each contract in which the contractor assumes an underwriting risk, the total amount paid by the agency for carrying out the provisions of the contract is a medical assistance cost.

§ 434.75 Costs under no-risk contracts.

Under each contract in which the contractor assumes no underwriting risk—

(a) The amount paid by the agency for furnishing medical services to eligible recipients is a medical assistance cost; and

(b) The amount paid by the agency for the contractor's performance of other functions is an administrative cost.

§ 434.76 Costs under fiscal agent contracts.

Under each contract with a fiscal agent—

(a) The amount paid to the provider of medical services is a medical assistance cost; and

(b) The amount paid to the contractor for performing the agreed-upon functions is an administrative cost.

§ 434.78 Right to reconsideration of disallowance.

A Medicaid agency dissatisfied with a disallowance of FFP under this subpart may request and will be granted reconsideration in accordance with 45 CFR Part 16.

PART 435—ELIGIBILITY IN THE STATES AND DISTRICT OF COLUMBIA

The authority citation for Part 435 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302) unless otherwise noted.

Subpart A—Introduction, Definitions, and General Provisions

C. Section 435.3 is amended by reprinting the title and lead-in clause and adding, in numerical order, a new statutory citation of 1902(e)(2), to read as follows:

§ 435.3 Basis.

This part implements the following sections of the Act, which state eligibility requirements and standards.

* * * * *

1902(e)(2) Minimum eligibility period for recipient enrolled in an HMO.

Subpart C—Options for Coverage as Categorically Needy

D. Subpart C of Part 435 is amended by adding a new §435.212 to read as follows:

§ 435.212 Individuals who would be ineligible if they were not enrolled in an HMO.

The agency may provide that a recipient who is enrolled in a Federally qualified HMO (under a risk contract as specified in § 434.20(a)(1) of this chapter) and who becomes ineligible for Medicaid is deemed to continue to be eligible—

(a) For a period specified by the agency, ending no later than 6 months from the date of enrollment; but

(b) Only for benefits provided to him or her as an HMO enrollee.

Subpart D—Optional Coverage of the Medically Needy

E. Subpart D of Part 435 is amended by adding a new § 435.326 to read as follows:

§ 435.326 Individuals who would be ineligible if they were not enrolled in an HMO.

If the agency provides Medicaid to the categorically needy under § 435.212, it may provide Medicaid under the same rules to medically needy recipients who are enrolled in a Federally qualified HMO.

PART 447—PAYMENTS FOR SERVICES

The authority citation for Part 447 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

F. Part 447 is amended by revising § 447.361, reprinting the undesignated heading immediately before it, and adding a new § 447.362, to read as follows:

Prepaid Capitation Plans

§ 447.361 Upper limits of payment: Risk contract.

Under a risk contract, Medicaid payments to the contractor, for a defined scope of services to be furnished to a defined number of recipients, may not exceed the cost to the agency of providing those same services on a fee-for-service basis.

§ 447.362 Upper limits of payment: Nonrisk contract.

Under a nonrisk contract, Medicaid payments to the contractor may not exceed—

What Medicaid would have paid, on a fee-for-service basis, for the services actually furnished to recipients; plus

(b) The net savings of administrative costs the Medicaid agency achieves by contracting with the plan instead of purchasing the services on a fee-for-service basis.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance program)

Dated: July 7, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: August 20, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-27024 Filed 9-29-82; 8:45 am]

BILLING CODE 4120-03-M

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42 CFR Parts 435 and 436

Medicaid Program; State Residency Requirements

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: We are proposing amendments to the Medicaid regulations that govern State residency requirements for Medicaid eligibility. Specifically, we would revise the residency rule used for residents receiving out-of-State care, and the policy pertaining to medical documentation when an individual is incapable of acknowledging intent to reside. These proposed rules are part of the Department's regulatory reform efforts that are designed to clarify regulations, delete unnecessary or burdensome requirements, and provide maximum flexibility to States while promoting patient health and safety.

DATES: To assure consideration, comments should be submitted by November 29, 1982.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17076, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High Rise 6325 Security Boulevard, Baltimore, Maryland 21207.

In commenting, please refer to file code BPP–512–P.

Comments will be available for public inspection, as they are received, beginning approximately three weeks from today, in Room 309–G of the Department's office at 200 Independence Ave., SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Marinos Svolos, (301) 594–9050.

SUPPLEMENTARY INFORMATION:

I. Background

The Medicaid program (title XIX of the Social Security Act) provides medical assistance to certain categories of individuals with low income. The program is jointly funded by the State and Federal governments, but is administered by the States. Generally, persons are determined to be eligible for Medicaid under a combination of State and Federal requirements. One requirement relates to State residency. Under section 1902(b)(3) of the Social Security Act, a State may not impose a residency requirement that excludes any individual who resides in the State. Moreover, under section 1902(a)(16) of the Act, States are obligated to furnish medical assistance to eligible individuals who are residents of the State but who are absent from the State.

The current regulations concerning residency (for the various States, the District of Columbia and the Northern Mariana Islands, 42 CFR 435.403; and for Guam, Puerto Rico, and the Virgin Islands, 42 CFR 436.403) were issued on July 17, 1979 and became effective October 15, 1979. The regulations were issued because prior regulations did not address a variety of situations that arise in residency determinations, and were not being interpreted uniformly by the States. Hence, the current regulations are intended to achieve more uniform application of rules on residency and to insure that no eligible individual is denied Medicaid because a State does not recognize him or her as a resident. In addition, the regulations are designed to protect States with adequate medical facilities against the costs of caring for an influx of individuals from States that provide less adequate institutional care.

Despite the clarification provided by the current regulations, States still encounter problems determining residency in situations where an eligible resident receives out-of-State care. This problem is particularly notable with respect to institutionalized individuals because of the expensive cost of care. Members of Congress, States and

recipient representatives have requested that we further clarify the current regulations to allow States to utilize interstate agreements for cases of disputed residency, and for other administrative purposes.

II. Provisions of the Regulations

Generally, we would revise 42 CFR 435.403 and 436.403 to clarify what constitutes State placement of an individual in a medical institution and the policy pertaining to medical documentation for incapability of indicating intent. Technical changes to update cross references and other information would also be made. The simplification of these regulations and revisions to the requirements are part of the Department's regulatory reform efforts.

The current regulations (§§ 435.403(a) and 436.403(a)) state that the agency must provide Medicaid to "otherwise eligible" residents of the State. The phrase was intended to apply to resident individuals who are absent from the State. Therefore, we would amend the regulations to clearly state that the agency must furnish Medicaid to State residents who are absent from the State. A cross reference would be added to inform States of the conditions under which they are responsible for paying for out-of-State care.

We would add a new paragraph to define the term "institution" for State residency purposes. The term would have the same meaning as that provided in 42 CFR 435.1009 for purposes of determining the conditions under which Federal financial participation (FFP) is available for persons in public institutions.

One widespread problem with these regulations concerns findings of incompetency. Documentation of competency acceptable to one State may not be acceptable to another State. Since a finding of incompetency has an impact on establishing the State of residence (especially for the institutionalized), States would have difficulty in resolving a disputed case of residency requiring evaluation of the individual's intent to reside in a State if they cannot agree whether or not an individual is incompetent. Therefore, we would revise the current regulations to allow only medical documentation from a physician, psychologist, or other person licensed by the State in the field of medical retardation to serve as evidence that an individual is incapable of acknowledging intent to reside. This revision would decrease instances of disagreements between States concerning acceptable documentation and would help resolve cases of disputed residency. It also would eliminate the possibility of documentation by a nonprofessional that may not be valid.

States have identified two problems concerning State placement of individuals in mental institutions. First, under current regulations it is unclear which State has the authority to make a placement. Second, it is unclear what actions constitute State placement. Under current regulations, if a State arranges for placement in a facility in another State, the State making the placement is the individual's State of residence, irrespective of the individual's indicated intent or ability to indicate intent. The current regulations were written in this manner so there would be no question of responsibility for payment of care. Although most States favor this approach, they would like the regulations to be more specific as to what constitutes "State placement." Since most States want to retain the "State placement" rule so long as it is clarified, we are proposing to revise the regulations to meet the State's needs without requiring interstate agreements. The proposal defines State placement, and identifies certain agencies as acting for the State. In addition, we believe that Medicaid recipients and their families would also benefit from this revision because they would be assisted by States in obtaining placements.

We would also revise the regulations to make the State of residence for an institutionalized individual who is under 21 or became incompetent before age 21, the State in which the parents or legal guardian lived at the time of placement or the parents' or legal guardians' current State of residence, if the individual is institutionalized in that State. Under the current regulations (§§ 435.403(g)(3), 436.403(f)(3)), the State of residence of these individuals is that of the parents or legal guardian (or if the parents reside in separate States, the parent that applies for Medicaid). However, in some cases, institutionalized individuals do not live in the parents' State. Hardship situations have arisen where an individual who has lived in a particular institution all his life is determined to be a resident of another State because the parents moved. As a result, the institutionalized individual is taken from a familiar environment and placed in a new institution in the parents' State of residence. Since such a move can be detrimental to the individual, guardianship appointments are frequently sought by institutional personnel if parents do not live in the State and do not wish to move the individual, or when the parents' State of residence does not offer the needed services. In addition, some States have objected to being responsible for reimbursement for services provided to individuals in institutions in other States. The proposed revision (§§ 435.403(h)(3), 436.403(g)(3)) would alleviate these problems by adopting a more flexible policy under which residency would not always be based on the parents' or guardians' current State of residence. This revision would also ease administrative burden on States because the State would not have to make a new residency determination as required under current regulations when a parent moves to another State.

Sections 435.403(h)(4) and 436.403(g)(4) would be revised to state that individuals under age 21 who are married or who have been emancipated from parental control under State law are also residents of the State in which they are institutionalized.

Last, we would revise the regulations to allow States the option to use interstate agreements for administrative purposes in other than cases of disputed residency. Some States have entered into reciprocal agreements whereby each State agrees to treat the other State's residents as residents of their own. For example, Georgia will recognize any California resident who is in a Georgia institution as a Georgia resident and California reciprocates. This type of agreement was not contemplated by the current regulation since these are not cases of disputed residency but of States' reciprocal agreements for the purpose of administrative ease. To facilitate administration of the program and to provide maximum State flexibility, we would make a technical change to the regulations to allow States the option of using interstate agreements for purposes of facilitating administration of the program as well as for purposes of resolving residency disputes.

III. Impact Analyses

A. Executive Order 12291

The Secretary has determined that the proposed regulations do not meet the criteria for a "major rule" as defined by section 1(b) of Executive Order 12291. That is, the proposed regulations will not—

- Have an annual effect on the economy of $100 million or more;
- Result in a major increase in costs or prices for consumers, any industries, any government agencies, or any geographic regions; or

• Have significant adverse effects on competition; employment, investment, productivity, innovation; or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

Since we are proposing to clarify provisions already in effect, there would be no change in the current Medicaid expenditures with respect to the affected individuals. We believe that the total annual administrative costs to the Federal and State governments resulting from the regulations would be minor.

B. Regulatory Flexibility Act

The Secretary certifies, under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96-354) that the proposed regulations will not have a significant economic impact on a substantial number of small businesses, non-profit entities or small local governments.

As defined by the Regulatory Flexibility Act, the term "small entities" includes "small governmental jurisdictions". The latter term is defined as local governments (cities, counties, towns, townships, villages, school districts, or other special districts) with a population of less than fifty thousand persons. State governments are not included in this definition.

As explained previously, these proposed regulations would clarify the definitions of State residency and incompetency, and would make technical changes to requirements for State placement. Although we are uncertain of the number of institutions or beneficiaries that might be affected by these regulations, we do not believe that the number will be substantial nor the effect economically significant. We intend that these revisions have only an advantageous effect on the State agencies.

IV. Response to Comments

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and respond to them in the preamble to that rule.

List of Subjects

42 CFR Part 435

Aid to Families with Dependent Children, Aliens, Categorically needy, Contracts (agreements—State plan), Eligibility, Grant-in-Aid program—health, Health facilities, Medicaid, Medically needy, Reporting requirements, Spend-down, Supplemental security income (SSI).

42 CFR Part 436

Aid to Families with Dependent Children, Aliens, Contracts (agreements), Eligibility, Grant-in-Aid program—health, Guam, Health facilities, Medicaid, Puerto Rico, Supplemental security income (SSI), Virgin Islands.

42 CFR Parts 435 and 436 are amended as set forth below:

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA AND THE NORTHERN MARIANA ISLANDS

The authority citation for Part 435 reads as follows:

Authority.—Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

1. Section 435.403 is revised to read as follows:

§ 435.403 State residence.

(a) *Requirement.* The agency must provide Medicaid to eligible residents of the State, including residents who are absent from the State. The conditions under which payment for services is provided to out-of-State residents are set forth in § 431.52 of this chapter.

(b) *Definition.* For purposes of this section—"Institution" has the same meaning as "Institution" and "Medical institution", as defined in § 435.1009 of this chapter, and for purposes of State placement, the term also includes foster care homes providing food, shelter and supportive services to one or more persons unrelated to the proprietor.

(c) *Incapability of indicating intent.* For purposes of this section, an individual is considered in capable of indicating intent if the individual—

(1) Has an I.Q. of 49 or less or has a mental age of 7 or less, based on tests acceptable to the mental retardation agency in the State;

(2) Is judged legally incompetent; or

(3) Is found incapable of indicating intent based on medical documentation obtained from a physician, psychologist, or other person licensed by the State in the field of mental retardation.

(d) *Who is a State resident.* A resident of a State is any individual who:

(1) Meets the conditions in paragraphs (e) through (h) of this section; or

(2) Meets the criteria specified in an interstate agreement under paragraph (j) of this section.

(e) *Placement by States in an out-of-State institution.* Any agency of the State, including an entity under contract with the State for such purposes, that arranges for an individual to be placed in an institution located in another State, is recognized as acting on behalf of the State in making a placement. The State making the placement is considered as the individual's State of residence, irrespective of the individual's indicated intent or ability to indicate intent.

(f) *Individuals receiving a State supplementary payment (SSP).* For any individual who is receiving an SSP, the State of residence is the State paying the SSP.

(g) *Non-institutionalized individual.* (1) For any non-institutionalized individual under age 21 whose Medicaid eligibility is based on blindness or disability, the State of residence is the State in which the individual is living.

(2) For any other non-institutionalized individual under age 21, the State of residence is determined in accordance with 45 CFR 233.40, the rules governing residence under the AFDC program.

(3) For any non-institutionalized individual over age 21, the State of residence is the State where the individual is—

(i) Living with the intention to remain there permanently or for an indefinite period (or if incapable of stating intent, where the individual is living); or

(ii) Living and which the individual entered with a job commitment or seeking employment (whether or not currently employed).

(h) *Institutionalized individuals.* (1) Under both paragraphs (h) (2) and (3) of this section the State where the institution is located is the individual's State of residence unless that State determines that the individual is a resident of another State, by applying the rules under paragraphs (h) (2) and (3).

(2) For any institutionalized individual who became incapable of indicating intent at or after age 21, the State of residence is the State in which the individual is physically present, except where another State makes a placement.

(3) For any institutionalized individual who is under age 21, or who is age 21 or older, and became incapable of indicating intent before age 21, the State of residence is—

(i) The parents' or legal guardian's State of residence at the time of placement; or

(ii) The parents' or legal guardian's current State of residence, if the individual is institutionalized in that State.

(4) For any other institutionalized individual age 21 or older, and individuals under 21 who are emancipated from their parents or who are married, the State of residence is the

State where the individual is living with the intention to remain there permanently or for an indefinite period.

(i) *Specific prohibitions.* (1) The agency may not deny Medicaid eligibility because an individual has not resided in the State for a specified period.

(2) The agency may not deny Medicaid eligibility to an individual in an institution, who satisfies the residency rules set forth in this section, on the ground that the individual did not establish residence in the State before entering the institution.

(3) The agency may not deny or terminate a resident's Medicaid eligibility because of that person's temporary absence from the State if the person intends to return when the purpose of the absence has been accomplished, unless another State has determined that the person is a resident there for purposes of Medicaid.

(j) *Interstate agreements.* A State may have a written agreement with another State setting forth rules and procedures resolving cases of disputed residency. These agreements may establish criteria other than those specified in paragraph (c) through (h) of this section, but must not include criteria that result in loss of residency in both States or that are prohibited by paragraph (i) of this section. The agreements must contain a procedure for providing Medicaid to individuals pending resolution of the case. States may use interstate agreements for purposes other than cases of disputed residency to facilitate administration of the program.

(k) *Continued Medicaid for institutionalized recipients.* If, on June 23, 1982, an agency is providing Medicaid to an institutionalized recipient who, as a result of this section, would be considered a resident of a different State—

(1) The agency must continue to provide Medicaid to that recipient until June 23, 1983 unless it makes arrangements with another State of residence to provide Medicaid at an earlier date; and

(2) Those arrangements must not include provisions prohibited by paragraph (i) of this section.

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

The authority citation for Part 436 reads as follows:

Authority:—Section 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

2. Section 436.403 is revised to read as follows:

§ 436.403 State residence.

(a) *Requirement.* The agency must provide Medicaid to eligible residents of the State, including residents who are absent from the State. The conditions under which payment for services is provided to out-of-State residents are set forth in § 431.52 of this chapter.

(b) *Definition.* For purposes of this section—"Institution" has the same meaning as "Institution" and "Medical institution", as defined in § 435.1009 of this chapter, and for purposes of State placement, the term also includes foster care homes providing food, shelter and supportive services to one or more persons unrelated to the proprietor.

(c) *Incapability of indicating intent.* For purposes of this section, an individual is considered incapable of indicating intent if the individual—

(1) Has an I.Q. of 49 or less or has a mental age of 7 or less, based on tests acceptable to the mental retardation agency in the State;

(2) Is judged legally incompetent; or

(3) Is found incapable of indicating intent based on medical documentation obtained from a physician, psychologist, or other person licensed by the State in the field of mental retardation.

(d) *Who is a State resident.* A resident of a State is any individual who:

(1) Meets the conditions in paragraphs (e) through (g) of this section; or

(2) Meets the criteria specified in an interstate agreement under paragraph (i) of this section.

(e) *Placement by States in an out-of-State institution.* Any agency of the State, including an entity under contract with the State for such purposes, that arranges for an individual to be placed in an institution located in another State, is recognized as acting on behalf of the State in making a placement. The State making the placement is the individual's State of residence, irrespective of the individual's indicated intent or ability to indicate intent.

(f) *Non-institutionalized individuals.* (1) For any non-institutionalized individual under age 21, the State of residence is determined in accordance with 45 CFR 233.40, the rules governing residence under the AFDC program.

(2) For any other individual over age 21, the State of residence is the State where the individual is—

(i) Living with the intention to remain there permanently or for an indefinite period (or if incapable of stating intent, where the individual is living); or

(ii) Living and which the individual entered with a job commitment or seeking employment (whether or not currently employed).

(g) *Institutionalized individuals.* (1) Under both paragraphs (g) (2) and (3) of this section, the State where the institution is located is the individual's State of residence unless that State determines that the individual is a resident of another State, by applying the rules under paragraphs (g) (2) and (3).

(2) For an institutionalized individual who became incapable of indicating intent at or after age 21, the State of residence is the State in which the individual is physically present, except where another State makes a placement.

(3) For any institutionalized individual who is under age 21, or who is age 21 or older, and became incapable of indicating intent before age 21, the State of residence is—

(i) The parents' or legal guardian's State of residence at the time of placement; or

(ii) The parents' or legal guardian's current State of residence, if the individual is institutionalized in that State.

(4) For any other institutionalized individual age 21 or older, and individuals under 21 who are emancipated from their parents or who are married, the State of residence is the State where the individual is living with the intention to remain there permanently or for an indefinite period.

(h) *Specific prohibitions.* (1) The agency may not deny Medicaid eligibility because an individual has not resided in the State for a specified period.

(2) The agency may not deny Medicaid eligibility to an individual in an institution, who satisfies the residency rules set forth in this section, on the grounds that the individual did not establish residence in the State before entering the institution.

(3) The agency may not deny or terminate a resident's Medicaid eligibility because of that person's temporary absence from the State if the person intends to return when the purpose of the absence has been accomplished, unless another State has determined that the person is a resident there for purposes of Medicaid.

(i) *Interstate agreements.* A State may have a written agreement with another State setting forth rules and procedures resolving cases of disputed residency. These agreements may establish criteria other than those specified in paragraphs (c) through (g) this section, but most not include criteria that result in loss of residency in both States or that are prohibited by paragraph (h) of this section. The agreements must contain a procedure for providing Medicaid to individuals pending resolution of the case. States may use interstate

agreements for purposes other than cases of disputed residency to facilitate administration of the program.

(j) *Continued Medicaid for institutionalized recipients.* If, on June 23, 1982, an agency is providing Medicaid to an institutionalized recipient who, as a result of this section, would be considered a resident of a different State—

(1) The agency must continue to provide Medicaid to that recipient until June 23, 1983 unless it makes arrangements with another State of residence to provide Medicaid at an earlier date; and

(2) Those arrangements must not include provisions prohibited by paragraph (h) of this section.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance)

Dated: July 16, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 3, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-27025 Filed 9-29-82; 8:45 am]

BILLING CODE 4120-03-M

Office of the Secretary

45 CFR Part 5b

Privacy Act; Exempt Record System

AGENCY: Department of Health and Human Services.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Inspector General of the Department of Health and Human Services is, by separate **Federal Register** notice, proposing to establish a new system of records entitled "Civil and Administrative Investigative Files of the Inspector General, HHS/OS/OIG". The Department intends to exempt this system from certain provisions of the Privacy Act, 5 U.S.C. 552a. The proposed exemption is authorized by subsection (k)(2) of the Privacy Act, which applies to investigative materials compiled for law enforcement purposes. The Office of Inspector General (OIG) is authorized to gather information for civil and administrative law enforcement purposes under Pub. L. 94-505, establishing the HHS Office of Inspector General, and section 1128A of the Social Security Act, authorizing civil money penalties for the filing of false claims in certain health care financing programs. In order to maintain the integrity of the OIG investigative process and to assure that the OIG will be able to obtain access to complete and accurate information, the Department proposes to exempt this system, under subsection (k)(2), from the notification, access, correction and amendment provisions of the Privacy Act. The Department is requesting public comments on the proposed exemption.

DATES: Comments are due on or before November 1, 1982.

ADDRESS: Comments should be addressed to Richard McGowan, Public Affairs Officer, Office of Inspector General, Department of Health and Human Services, Room 5267 North Building, 330 Independence Avenue, SW., Washington, D.C. 20201. Comments received will be available for inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Richard McGowan, Public Affairs Officer, Office of Inspector General, Department of Health and Human Services, at the above address or call (202) 472-3142.

SUPPLEMENTARY INFORMATION: The Office of Inspector General is expanding its responsibilities in the area of civil and administrative investigations involving DHHS programs and operations. This requires the establishment of a records system to document the investigations which will be conducted by the OIG or other investigative agencies; to improve the tracking of reviews conducted because of allegations and complaints received by DHHS or other agencies concerning DHHS programs, or current or former HHS personnel; to improve the reporting of the results of civil and administrative investigations to other components of the Department for their use in operating and evaluating their programs; and to assist in civil and administrative proceedings, including proceedings under section 1128A of the Social Security Act (establishing civil monetary penalties in the Medicare, Medicaid, and Maternal and Child Health programs).

This system will contain sensitive investigative records, the release of which could impede on-going investigations, violate the privacy rights of individuals other than the subjects of the investigations, reveal the identities of confidential sources, or otherwise impair the ability of the Office of Inspector General to conduct civil and administrative investigations. For these reasons, the Department proposes to exempt this system, under subsection (k)(2) of the Privacy Act, from the notification, access, correction and amendment provisions of the Privacy Act.

The proposed exemption does not meet the standards set forth in Executive Order 12291 for classification as a major rule, and no regulatory analysis statement is required.

The Secretary certifies that the proposed exemption will not have a significant impact on any substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354.

List of Subjects in 45 CFR Part 5b

Privacy.

For the reasons set out in the preamble it is proposed that the Department's Privacy Act Regulations, Part 5b of 45 CFR Subtitle A, be amended as follows:

PART 5b—PRIVACY ACT REGULATIONS

1. By adding paragraph (b)(2)(ii)(D) as follows:

§ 5b.11 Exemptions.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(D) Civil and Administrative Investigative Files of the Inspector General, HHS/OS/OIG.

(5 U.S.C. 552a)

Dated: September 10, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-26975 Filed 9-29-82; 8:45 am]

BILLING CODE 4150-04-M

Notices

Federal Register
Vol. 47, No. 190
Thursday, September 30, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Information Collection Request Under Review

This notice sets forth certain information about an information collection proposal by ACTION, the national volunteer agency.

Background:

Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents [request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents] may be obtained from the agency clearance officer.

Information About This Proposed Collection:

Agency Clearance Officer—Richard D. English—202–254–8501.

Agency Address: ACTION, 806 Connecticut Ave., NW., Washington, D.C. 20525.

Title of Form: The President's Volunteer ACTION Awards.

Office of ACTION Issuing Proposal: Office of Policy and Planning.

Agency Official to Contact for Further Information: Mark Blitz, Assistant Director.

Type of Request: New.

Frequency of Collection: Annually.

General Description of Respondents: Individuals or Groups involved in private or federally sponsored volunteer activities.

Estimated Number of Responses: 2,500.

Estimated Hours for All Respondents to Complete Form: 2,500.

Respondent's Obligation to Reply: Voluntary.

This is not a collection proposal under Section 3504 (h) of the Paperwork Reduction Act. Person responsible for OMB Review: James L. Thomas, 202–395–6880.

Richard D. English,

Deputy Assistant Director, ACTION.

[FR Doc. 82–27015 Filed 9–29–82; 8:45 am]

BILLING CODE 6050–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Advisory Committee on Foreign Animal and Poultry Diseases Meeting; Correction

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of a meeting of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases: Correction.

SUMMARY: The purpose of this document is to give notice that the meeting of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases announced in the **Federal Register** issue of Friday, September 3, 1982, appearing on page 38955 (FR Doc. 82–24395) is extended by one day to October 14, 1982.

PLACE, DATE, AND TIME OF MEETING: FR Doc. 82–24395 appearing on page 38955 in the issue of Friday, September 3, 1982 inadvertently announced that the meeting would be held on October 13, 1982, instead of stating the meeting would be held on October 13, 1982, and October 14, 1982. The meeting will take place in Room 743A Federal Building, United States Department of Agriculture, Hyattsville, Maryland 20783, October 13, 1982 from 9:00 a.m. to 4:00 p.m. and October 14, 1982 from 9:00 a.m. to 2:00 p.m.

FOR FURTHER INFORMATION CONTACT: Dr. Harless McDaniel, Chief Staff Officer, Technical Support, APHIS, VS, Federal Building, Room 757, Hyattsville, Maryland 20783, 301–436–8087.

Harry C. Mussman,

Administrator.

[FR Doc. 82–27004 Filed 9–29–82; 8:45 am]

BILLING CODE 3410–34–M

Office of Rural Development Policy

National Advisory Council on Rural Development, Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–163), notice is hereby given of a meeting of the National Advisory Council on Rural Development. The meeting will be held on October 12–14, 1982, at the Lakeway Inn, 101 Lakeway Drive, Village of Lakeway, Austin, Texas 78734. The Council will convene at 1:00 p.m. on October 12th.

The purpose of the meeting will be to make final proposals and recommendations on a national rural development strategy.

The meeting will be open to the public as space allows. In order to provide opportunity for the public to comment on the work of the Council, written statements will be received 2 weeks prior to and 2 weeks following the meeting. Due to the press of business, however, public participation will be limited to written statements. Views and comments will be addressed in writing, and, when deemed appropriate by the Cochairman, may be addressed orally at the next meeting of the Council.

Written comments, both prior to and following the meeting, should be addressed to: Mr. Willard (Bill) Phillips, Jr., Director, Office of Rural Development Policy, Room 4128–S, United States Department of Agriculture, 12th and Independence SW., Washington, D.C 20250, (202) 382–0044.

Dated: September 24, 1982.

Willard (Bill) Phillips,

Director, Office of Rural Development Policy.

[FR Doc. 82–26905 Filed 9–29–82; 8:45 am]

BILLING CODE 3410–07–M

Office of Director for Science and Education

Animal Health Science Research Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972, Pub. L. 92–463, Science and Education announces the following meeting:

Name: Animal Health Science Research Advisory Board.
Date: November 2–3, 1982.
Time: 8:30 a.m.
Place: Room 104–A, Administration Building, U.S. Department of Agriculture, 14th and Independence Avenue, SW., Washington, D.C. 20250.
TYPE OF MEETING: Open to the public. Persons may participate in the meeting as time and space permit.
COMMENTS: The public may file written comments before or after the meeting with the contact person below.
PURPOSE: The Board will consult with and advise the Secretary of Agriculture on implementing animal health and disease research programs. Recommendations will be made also on priorities of research in these programs.
BOARD NAMES AND AGENDA: Available from contact person below.
CONTACT PERSON: Earl J. Splitter, Executive Secretary, Animal Health Science Research Advisory Board, Cooperative State Research Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–5007.

Done at Washington, D.C., this 13th day of September 1982.

T. B. Kinney, Jr.,
Acting Assistant Secretary, Science and Education.

[FR Doc. 82-26904 Filed 9-29-82; 8:45 am]
BILLING CODE 3410-03-M

Office of the Secretary

Detrrmination of the Market Stabilization Price for Sugar for Fiscal Year 1983

AGENCY: Agriculture Department.
ACTION: Notice.

SUMMARY: This notice sets forth the market stabilization price for sugar for the period October 1, 1982–September 30, 1983. The market stabilization price was announced as 20.73 cents per pound on September 1, 1982 by the Secretary of Agriculture.

EFFECTIVE DATE: October 1, 1982
FOR FURTHER INFORMATION CONTACT: James Truran, Telephone: (202) 447–2916.

SUPPLEMENTARY INFORMATION: Presidential Proclamation 4940 of May 5, 1982 (47 FR 19657) established a market stabilization price for sugar for May 11, 1982–September 30, 1982 of 19.88 cents. The market stabilization price is the sum of (1) the price support level for the applicable fiscal year expressed in cents per pound of raw cane sugar; (2) adjusted average transportation costs; (3) interest cost, if applicable; and (4) 0.2 cent. The adjusted average transportation costs are the weighted average costs of handling and transporting domestically produced raw cane sugar from Hawaii to gulf and Atlantic Coast ports, as determined by the Secretary. Interest costs shall be the amount of interest, as determined or estimated by the Secretary, that would be required to be paid by a recipient of a price support loan for raw cane sugar upon repayment at full maturity. Interest costs are only applicable if a price support loan recipient is not required to pay interest upon forfeiture of the loan collateral.

The proclamation also requires the Secretary of Agriculture to announce the market stabilization price applicable to each subsequent fiscal year no later than 30 days prior to the beginning of the fiscal year for which such market stabilization price is applicable. The Secretary made this announcement on September 1, 1982.

The proposed rule for the price support loan program for sugar was published in the **Federal Register** July 29, 1982. Comments on the proposed rule were received through August 25. The comments received have been considered and the Secretary of Agriculture has determined that the applicable loan rate expressed in cents per pound for raw cane sugar shall be 17.0 cents per pound. Furthermore, it has been determined that a loan recipient will not be required to pay interest upon forfeiture of the loan collateral.

Accordingly, after appropriate review, it has been determined that the market stabilization price for fiscal year 1983 shall be 20.73 cents per pound. This consists of the 17.0 cent loan rate; adjusted average transportation costs of 2.66 cents; an interest cost of 0.87 cent; and 0.2 cent per pound. The transportation factor represents data for the most recent year with complete data available, 1981, adjusted to 1983 by applying a projected increase in the Producer Price Index for finished goods over this time. The interest factor is based on an estimated average interest rate of 10.25 percent over the year, and a six month loan maturity period.

Notice

Notice is hereby given that in conformity with the provisions of paragraph c of Headnote 4 of part 3 of the Appendix to the Tariff Schedules of the United States, the market stabilization price for sugar for fiscal year 1983 has been determined to be 20.73 cents per pound.

Dated: September 27, 1982.
John R. Block,
Secretary of Agriculture.

[FR Doc. 82-27005 Filed 9-29-82; 8:45 am]
BILLING CODE 3410-10-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee of the American Economic Association; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, as amended by Pub. L. 94–409), notice is hereby given that the Census Advisory Committee of the American Economic Association will convene on October 22, 1982, at 9:15 a.m. in Room 2424, Federal Building 3 at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee of the American Economic Association advises the Director, Bureau of the Census, on technical matters, accuracy levels, and conceptual problems concerning the economic censuses; reviews major aspects of the Bureau's programs; and advises on the role of analysis within the Bureau and the need for providing data in more detail.

The Committee is composed of 15 members of the American Economic Association.

The agenda for the meeting, which is scheduled to adjourn at 3:45 p.m., is: (1) Introductory remarks by the Director, Bureau of the Census, including staff changes and major budget program developments; (2) election of chairperson-elect; (3) income imputation processing; (4) concurrent seasonal adjustment; (5) gross labor force flows date; (6) industrial data for economic analysis; (7) status report on inventory improvement project; (8) update on 1990 census; (9) Committee recommendations; and (10) plans and date for the next meeting.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statement must be submittee in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Mr. Thomas L. Mesenbourg, Bureau of the

Census, Room 2102C, Federal Building 4, Suitland, Maryland. (Mail address: Washington, D.C. 20233). Telephone (303) 763–7800.

Dated: September 27, 1982.

Bruce Chapman,

Director, Bureau of the Census.

[FR Doc. 82-26933 Filed 9-29-82; 8:45 am]

BILLING CODE 3510-07-M

Foreign-Trade Zone Board

[Order No. 196]

Approval for Expansion of Foreign-Trade Zone No. 54, Clinton County, New York, Adjacent to the Champlain-Rouses Point Customs Port of Entry

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Clinton County Area Development Corporation on behalf of Clinton County, New York, Grantee of Foreign-Trade Zone No. 54, has applied to the Board for authority to expand its general-purpose zone located in Plattsburgh and Champlain, New York, to include 101 acres at the Clinton County Air Industrial Park in Plattsburgh, adjacent to the Champlain-Rouses Point Customs port of entry;

Whereas, the application was accepted for filing on September 25, 1981, and notice inviting public comment was given in the **Federal Register** on October 9, 1981 (46 FR 50091);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to provide zone services to new tenants whose operations cannot be accommodated within existing zone space; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed September 25, 1981. The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C. this 23rd day of September 1982.

Malcolm Baldrige,

Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82-26888 Filed 9-29-82; 8:45 am]

BILLING CODE 3510-25-M

[Order No. 197]

Approval for Expansion of Foreign-Trade Zone No. 51, Duluth, Minnesota, Within the Duluth Customs Port of Entry

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Seaway Port Authority of Duluth, Grantee of Foreign-Trade Zone No. 51, has applied to the Board for authority to expand its general-purpose zone located in Duluth's marine terminal area, to include a 29-acre site at the Airpark Industrial Park adjacent to Duluth International Airport, within the Duluth Customs port of entry;

Whereas, the application was accepted for filing on December 2, 1981, and notice inviting public comment was given in the **Federal Register** on December 10, 1981 (46 FR 60485);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to provide zone services to new tenants whose operations cannot be accommodated within existing zone space; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed December 2, 1981. The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C. this 23rd day of September 1982.

Malcolm Baldrige,

Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82-26889 Filed 9-29-82; 8:45 am]

BILLING CODE 3510-25-M

[Order No. 198]

Approval for Expansion of Foreign-Trade Zone No. 64, Jacksonville, Florida, Within the Jacksonville Customs Port of Entry

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Jacksonville Port Authority, Grantee of Foreign-Trade Zone No. 64, has applied to the Board for authority to expand its general-purpose zone adjacent to Jacksonville International Airport, to include an existing warehouse located at 2001 North Ellis Road, Jacksonville, within the Jacksonville Customs port of entry;

Whereas, the application was accepted for filing on January 12, 1982, and notice inviting public comment was given in the **Federal Register** on January 20, 1982 (47 FR 2897);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the temporary site is necessary to provide zone services for the Jacksonville area until permanent facilities are developed; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed January 12, 1982. The Grantee shall notify the Executive Secretary of the Board for approval prior

to the commencement of any manufacturing operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C. this 23rd day of September 1982.

Malcolm Baldrige,

Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82-26870 Filed 9-29-82; 8:45 am]

BILLING CODE 3510-25-M

[Order No. 199]

Approval for Expansion of Foreign-Trade Zone No. 57, Mecklenburg County, North Carolina, Within the Charlotte Customs Port of Entry

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the North Carolina Department of Commerce, Grantee of Foreign-Trade Zone No. 57, has applied to the Board for authority to expand its general-purpose zone located on 5 acres in Mecklenburg County to include a nearby industrial park covering 85 acres in the Arrowood industrial development, within the Charlotte Customs port of entry;

Whereas, the application was accepted for filing on February 18, 1982, and notice inviting public comment was given in the **Federal Register** on February 26, 1982 (47 FR 8392);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to provide zone services to new tenants whose operations cannot be accommodated within existing zone space; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed February 18, 1982. The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C. this 23rd day of September 1982.

Malcolm Baldrige,

Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 82-26871 Filed 9-29-82; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue N.W., Washington, D.C. 20230.

Docket No. 82–00244. Applicant: The University of Texas at Dallas, Biology Program, Box 688, Richardson, TX 75080. Instrument: Electron Microscope, Model EM 10CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: See Notice on page 32180 in the **Federal Register** of July 26, 1982. Application received by Commissioner of Customs: June 17, 1982.

Docket No. 82–00245. Applicant: The Johns Hopkins Hospital, 600 North Wolfe Street, Baltimore, MD 21205. Instrument: Electron Microscope, Model JEM–100S and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: See Notice on page 32181 in the **Federal Register** of July 26, 1982. Instrument Ordered: June 3, 1982.

Docket No. 82–00247. Applicant: University of Wisconsin-Madison, Materials Science Center, 1115 Engineering Research Building, 1500 Johnson Drive, Madison, WI 53706. Instrument: Scanning Transmission Electron Microscope, Model JEM 200CX. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: See Notice on page 33527 in the **Federal Register** of August 3, 1982. Instrument ordered: April 21, 1982.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. Reasons: Each foreign instrument to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each instrument establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each instrument described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign instruments to which the foregoing applications relate, for such purposes as these instruments are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-26866 Filed 9-29-82; 8:45 am]

BILLING CODE 3510-25-M

Michigan Molecular Institute; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15

CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82-00001. Applicant: Michigan Molecular Institute, 1910 West St., Andrews Road, Midland, MI 48640. Instrument: Nuclear Magnetic Resonance Spectrometer, Model WM-360 and Accompanying Accessories. Manufacturer: Bruker-Physik AG, West Germany. Intended use of instrument: See Notice on page 56633 in the **Federal Register** of November 18, 1981.

Comments: Comments dated December 21, 1981 had been received from the Intermagnetics General Corporation (IGC) reflecting the statement (in answer to Question 9 of the application form) that there are no domestic manufacturers of 8.5T magnets. IGC claims it has produced a number of NMR quality magnet systems including a 9T system delivered to Cornell University and a 14.1T system delivered to Carnegie Mellon University. IGC believes that a combination of a Nicolet spectrometer and IGC magnet system would, in fact, provide a capability similar to that of the Bruker system ultimately purchased. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used was being manufactured in the United States at the time the foreign instrument was ordered (December 22, 1980). Reasons: The foreign instrument provides a decoupler suitable for performing the cross relaxation experiment which requires the capability of switching both the irradiation frequency and power level so that the labile proton resonance and the water resonance are alternately irradiated for short time periods and at different power levels in the period prior to the sampling pulse. We are advised by the Department of Health and Human Services (DHHS) in its memorandum dated June 17, 1982 that the capability of the foreign instrument described above is pertinent to the applicant's intended uses and the most closely comparable domestic instrument, the Nicolet Model 360, did not offer the cross relaxation capability at the time of purchase. For these reasons, we find the Nicolet Model 360 was not of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument is intended to be used at the time the foreign-instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as the foreign instrument is intended to be used which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-26867 Filed 9-29-82; 8:45 am]

BILLING CODE 3510-25-M

New York State Police Crime Laboratory; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00196. Applicant: New York State Police Crime Laboratory, Building No. 22, State Campus, Albany, New York 12226. Article: Video Spectral Comparator and Accessory. Manufacturer: Foster & Freeman Ltd., United Kingdom. Intended use of instrument: See Notice on page 27389 in the **Federal Register** of June 24, 1982.

Comments: No comments have been received with respect to this application. Decision: Application denied. Because the instrument possesses no scientific value for the purposes for which it is intended, a prima facie case is not presented upon which to base a finding of scientific equivalency. Reasons: To qualify for duty-free entry under item 851.60, an applicant must show that it intends to use the foreign instrument in either scientific research or formal science-oriented education. Item 851.60 and the preceding superior heading read as follows:

Articles entered for the use of any non-profit institution, whether public or private, established for educational or scientific purposes:

851.60 Instruments and apparatus, if no instrument or apparatus *of equivalent scientific value for the purposes for which the instrument or apparatus is intended to be used* is being manufactured in the United States (emphasis added, see headnote 6 to this part).

Thus, Congress clearly presumed that an instrument must have at least some "scientific value for the purposes for which the instrument or apparatus is intended to be used" to be eligible for duty-free entry under item 851.60. Unless an applicant actually intends that the instrument will be used either in scientific research or science-oriented education, the required scientific equivalency determination would be meaningless.

Thus, in order to make the determination of scientific equivalency, it is clear that some scientific use for the foreign instrument, whether educational or research, must be intended. Although the foreign instrument falls within the tariff items eligible for duty-free entry consideration, it is intended to be used in the Police Laboratory in the detection of alterations, erasers, substitutions in evidential material, in the deciphering of charred documents, and in viewing obliberated text. In connection with this use the scientific consultants at the National Bureau of Standards (NBS) advise in a memorandum dated August 11, 1982, that the foreign instrument does not qualify for duty-free entry under Pub. L. 89-651 [Item 851.60, TSUS] because the application does not relate to any scientific or educational purposes. In view of the intended use of the instrument, and the above stated requirements of Pub. L. 89-651, the Department cannot make the finding on scientific equivalency upon which duty-free entry must be conditioned. Therefore, the application is denied.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Program Staff.

[FR Doc. 82-26864 Filed 9-29-82; 8:45 am]

BILLING CODE 3510-25-M

Stanford University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15

CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 81-00213. Applicant: Stanford University, 851 Welch Road, Palo Alto, CA 94304. Article: Tritium Meter with Accessories. Manufacturer: Hughes Whitlock, Ltd., United Kingdom. Intended use of instrument: See Notice on page 31467 in the **Federal Register** of June 16, 1982.

Comments: No comments have been received with respect to this application. Decision: Application denied. Because the instrument possesses no scientific value for the purposes for which it is intended, a prima facie case is not presented upon which to base a finding of scientific equivalency. Reasons: To qualify for duty-free entry under item 851.60, an applicant must show that it intends to use the foreign instrument in either scientific research or formal science-oriented education. Item 851.60 and the preceding superior heading read as follows:

Articles entered for the use of any non-profit institution, whether public or private, established for educational or scientific purposes:

851.60 Instruments and apparatus, if no instrument or apparatus of equivalent scientific value for the purposes for which the instrument or apparatus is intended to be used is being manufactured in the United States (see headnote 6 to this part).

Thus, Congress clearly presumed that an instrument must have at least some "scientific value for the purposes for which the instrument or apparatus is intended to be used" to be eligible for duty-free entry under item 851.60. Unless an applicant actually intends that the instrument will be used either in scientific research or science-oriented education, the required scientific equivalency determination would be meaningless.

Thus, in order to make the determination of scientific equivalency, it is clear that some scientific use for the foreign instrument, whether educational or research, must be intended. Although the foreign instrument falls within the tariff items eligible for duty-free entry consideration, it is intended to be used to conduct assays for radioactive contamination resulting from the use of radioactive biochemicals in research and teaching laboratories throughout the applicant University. It is not being used for a specific experiment or to obtain scientific knowledge (e.g., on the effects of radiation) but it is support equipment or a safety device, not unlike a badge that measures exposure to radiation, or an alarm system triggerd by radiation. In connection with this use our scientific consultants at the National Bureau of Standards (NBS) advise in their memorandum dated October 8, 1981 that the foreign instrument does not qualify for duty-free entry under Pub. L. 89-651 [Item 851.60, TSUS] for the apparent intended use. In view of the intended use of the instrument, and the above stated requirements of Pub. L. 89-651, the Department cannot make the finding on scientific equivalency upon which duty-free entry must be conditioned. Therefore, the application is denied.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-26863 9-29-82; 8:45 am]

BILLING CODE 3510-25-M

University of Tennessee Center for the Health Sciences; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 82-00202. Applicant: University of Tennessee Center for the Health Sciences, Charles B. Stout, Mass Spectrometry Laboratory, 800 Madison Avenue, Memphis, Tennessee 38163. Instrument: FAB11NF FAB-GG Field Ion Source. Manufacturer: Ion Tech, United Kingdom. Intended use of instrument: See Notice on page 27389 in the **Federal Register** of June 24, 1982.

Comments: No comments have been received with respect to this application. Decision: application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (November 11, 1981). Reasons: The foreign instrument provides the capability to volatilize and ionize compounds of low volatility and high molecular weight. The Department of Health and Human Services advises in its memorandum dated August 5, 1982 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-26866 Filed 9-29-82; 8:45 am]

BILLING CODE 3510-25-M

[Case No. 636]

Digital Resources, Ltd.; Order Temporarily Denying Export Privileges

In the matter of: Alan C. T. Simmons, Keasen Farm, St. Ive Liskard, Cornwall, England, d.b.a. Digital Resources, Ltd., 34th Pezikow Syntagmatos 17, Pireas, Greece.

The Department of Commerce (the "Department"), pursuant to the provisions of § 388.19 of the Export Administration Regulations (15 CFR Part 368, *et. seq.* (1981)) (the "Regulations"), has petitioned the Hearing Commissioner for an order temporarily denying all export privileges to Alan C. T. Simmons, doing business as Digital Resources, Ltd. ("Simmons-DRL").

The Department states that Simmons-DRL is under investigation by the Department's Office of Export Enforcement. The Department states further that its investigation gives it reason to believe: (i) That Simmons-DRL has engaged in a scheme to procure United States-origin goods for use in, for, or by the Soviet Union; (ii) that, in carrying out certain transactions, Simmons-DRL has reexported U.S.-origin commodities contrary to the Regulations; and (iii) that Simmons-DRL may attempt future reexports contrary to the Regulations unless appropriate action is taken to preclude such attempts.

Based upon the showing made by the Department, I find that an order

temporarily denying all export privileges to Simmons-DRL is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401, *et seq.* (Supp. III 1979)), and the Regulations and to permit completion of the Department's investigation.

Anyone who is now or may in the future be dealing with the above-named respondent in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provisions set forth in Paragraph IV below.

Accordingly, it is hereby Ordered:

I. All outstanding validated export licenses in which respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondent, its successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to a validated export license application, (b) in the preparation or filing of any export license application or reexport authorization, or of any document to be submitted therewith, (c) in the obtaining of using of any validated or general export license or other export control document, (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent, but also to its agents and employees and to any successor. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondent or related party, or whereby the respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for the respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(b) of the Regulations, the respondent may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 6716, 14th and Constitution Avenue, NW., Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner at the earliest convenient date. In accordance with the provisions of § 388.22 of the Regulations, the respondent or any related party may appeal to the Assistant Secretary for Trade Administration, U.S. Department of Commerce, Room 3898–B, 14th and Constitution Avenue, NW., Washington, D.C. 20230, and order temporarily denying export privileges.

VI. This order is effective immediately. It remains in effect until the final disposition of any administrative or judicial proceeding or proceedings initiated against the respondent as a result of the ongoing investigation. A copy of this order and Parts 387 and 388 of the Regulations shall be served upon the respondent.

Dated: September 24, 1982.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 82–26662 Filed 9–30–82; 8:45 am]

BILLING CODE 3510–25–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1982; Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and deletions from procurement list.

SUMMARY: This action adds to and deletes from Procurement List 1982 services to be provided by and commodities to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: September 30, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On June 11, 1982, May 21, 1982, and July 23, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (47 FR 25399, 47 FR 22141, and 47 FR 31915 and 31916) of proposed additions to and deletions from Procurement List 1982, November 12, 1981 (46 FR 55740).

Additions

After consideration of the revelant matter presented, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following services are hereby added to Procurement List 1982:

SIC 7349

Janitorial/Custodial, DCASR Building B–05, Lockheed Complex, 805 Walker Street, DCASR Building B–05, AF Plant 6, 612 Tinker Street, Marietta, Georgia

SIC 7349

Janitorial Service, Bureau of Land Management, Salem District Office, 1717 Fabry Road, S.E., Salem, Oregon

Deletions

After consideration of the relevant matter presented, the Committee has

determined that the commodities and service listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities and service are hereby deleted from Procurement List 1982:

Class 1430

Circuit Card Assembly, 1430–00–471–5375, 1430–00–403–5787

Class 1440

Circuit Card Assembly, 1440–00–454–8574

Class 6920

Circuit Card Assembly, 6920–00–482–8335

SIC 7399

Assembly of General Mechanic's Tool Kit, (5180–00–177–7033), GSA Depot, Kansas City, Missouri

C. W. Fletcher,

Executive Director.

[FR Doc. 82–26977 Filed 9–29–82; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1982; Correction of Proposed Additions

In FR Doc. 82–25664, published September 17, 1982 (47 FR 41154), the NSN for the item under Scarf, Branch of Service, Camouflage is corrected to read 8455–01–078–0745.

C. W. Fletcher,

Executive Director.

[FR Doc. 82–26978 Filed 9–29–82; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1982; Proposed Additions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1982 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 3, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATION:

This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1982, November 12, 1981 (46 FR 55740):

Class 8115

Box, Shipping Wood,
8115–00–935–5887, 8115–00–935–6518,
8115–00–935–6525,
8115–00–935–6528,
8115–00–935–6530

Class 8415

Sock, Extreme Cold Weather, 8415–01–057–3503

SIC 0782

Grounds Maintenance, Vancouver Army Barracks, Vancouver, Washington

SIC 7349

Janitorial Service, John E. Moss Building, 650 Capital Mall, Sacramento, California
Janitorial Service, Federal Building, 1130 "O" Street, Fresno, California
Janitorial/Custodial (Laundry), National Defense University, Health Fitness, Ft. NcNair, Washington, D.C.
Janitorial Service, Federal Records Center, 380 Trapelo Road, Waltham, Massachusetts
Janitorial Service, Federal Building and Courthouse, 228 Walnut Street, Harrisburg, Pennsylvania
Janitorial Service, Federal Building, 431 Crawford Street, Portsmouth, Virginia
Janitorial Service, Marine Corps Development and Education Command Buildings: 3035, 2034, 3400, 3098, and 2079, Quantico, Virginia

SIC 7349

Janitorial Service, U.S. Post Office and Courthouse, 10th and Main Streets, Richmond, Virginia
Janitorial Services, Survival School Buildings 1212, 1228, 1324, 1334, 1342, and 1207, Fairchild AFB, Washington
Janitorial Service, Federal Building, 502 6th Street, Post Office and Courthouse, 5th Avenue and 9th Street
O. I., 720 Sixth Avenue, Steiner Building, 233–37 4th Avenue, Hampton Warehouse, 25th and Suyan Avenue, Huntington, West Virginia

C. W. Fletcher,

Executive Director.

[FR Doc. 82–26976 Filed 9–29–82; 8:45 am]

BILLING CODE 6820–33–M

COMMODITY FUTURES TRADING COMMISSION

Minneapolis Grain Exchange Proposed White Wheat Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Minneapolis Grain Exchange ("MGE") has applied for designation as a contract market in white wheat. The Commission has determined that the terms and conditions of the proposed white wheat futures contract are of major economic significance and that, accordingly, making available the proposed contract for public inspection and comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before November 29, 1982.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the Minneapolis Grain Exchange white wheat futures contract.

FOR FURTHER INFORMATION CONTACT: Robert Clark, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C., (202) 254–7303.

A copy of the terms and conditions of the MGE proposed white wheat futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the MGE in support of its application for contract market designation in white wheat may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for inspection of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the

terms and conditions of the proposed futures contracts, or with respect to other materials submitted by the MGE in support of its application, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by November 29, 1982. Such comment letters will be publicly available except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C. on September 27, 1982.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-26869 Filed 9-29-82; 8:45 am]
BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Deactivation of the Titan II Missile System; Finding of No Significant Impact

The United States Air Force has completed its environmental impact analysis process and has issued the following finding of no significant impact (FONSI):

Section 1.0 *Introduction.*

The Air Force is proposing to deactivate the Titan II Missile Weapons System. The missile, its support equipment, and materiel, together with the system's operating, maintenance and logistic support personnel will be removed from the three operational bases. Training activities will terminate. Logistic and administrative support functions will also cease. Real estate and real property structures associated with the Titan II system will be disposed of or reassigned as separate actions from this decision.

Section 2.0 *Description of Proposed Action.*

The proposed action is to deactivate 52 operational missile sites: 18 at Davis-Monthan AFB, Arizona; 17 at McConnell AFB, Kansas; and 17 at Little Rock AFB, Arkansas. Missile site deactivation will include removal of warhead/reentry vehicle and transport to disposition points, off-loading of propellants and transport to storage/disposition points, removal of the booster (missile) and transport to storage for possible reuse as a space vehicle, and equipment removal with disposition through the established procedures of the Air Force Supply System and Defense Property Disposal System.

The project is considered in four phases:

I. Missile site deactivation.

II. Transport of items to disposition points.

III. Disposition of items.

IV. Deactivation of training and support bases.

Section 3.0 *Alternatives.*

3.1 The alternatives to the proposed action include several schedule alternatives including delayed deactivation, partial deactivation, prolonged deactivation, accelerated deactivation and the no-action alternative. Only the no-action alternative differs in the impact on the biophysical environment; all other alternatives are, in effect, scheduling alternatives. The factors in choosing among these alternatives are primarily management economy and logistic capability.

3.2 The no-action alternative means retention of a portion of the ICBM force that does not meet the changing strategy and guidance for strategic weapon systems in the late 1980's as well as newer systems which will eventually replace it.

Section 4.0 *Summary of Environmental Impacts.*

4.1 Phase I Impacts.

4.1.1 Atmospherics: The impact of the proposed action on air quality will be negligible. Vehicle-generated emissions and dust compose the greatest contribution. Small amounts of propellant vapors usually generated during propellant transfer may result in localized temporary exceedance of air quality standards for these substances. These are normal to existing operations and will have insignificant impact on the biophysical environment. Severe spills or propellant losses which would have a detectable effect on the biota are very unlikely for the entire program schedule, based on a record of two major accidents in 20 years, and the resulting safety measures introduced to prevent recurrence of these type accidents.

4.1.2 Hydrology: The impact of the proposed action on the hydrology will be positive. Water consumption at the missile sites will be greatly reduced in caretaker status. No planned action will result in discharges to the ground or surface waters. Unlikely worst case accidents resulting in spilled products reaching sensitive waters would be improbable.

4.1.3 Biology: Operations associated with missile site deactivation will have no impact on threatened or endangered species. No plant or animal life in those categories have been found near the missile sites. Transient birds and mammals would tend to avoid the area of human activity.

4.1.4 Aesthetics: No permanent changes to visual aesthetics would be associated with the planned action.

4.1.5 Demography and Economics: Demographic changes will occur in the vicinity of the Titan II operational bases as a result of Air Force manpower reductions. These are insignificant in the larger population areas of Tuscon, Arizona, and Wichita, Kansas. The city of Jacksonville, Arkansas will experience more of an impact on its population, school enrollment, and employment because of its smaller population. The regional impact on Pulaski County Arkansas will be minor, however.

4.1.6 Land Use: No immediate land use impacts will be caused by conversion of the sites to caretaker status.

4.1.7 Cultural Resources: No effect.

4.2.6 Local Transportation: Air Force vehicle usage of local roads will increase in the short term and decrease in the long term. Both will have insignificant effects.

4.1.9 Noise: Insignificant vehicle and equipment noise usually associated with a construction site will occur.

4.2 Phase II Impacts.

4.2.1 Atmospherics: Transport of missile and missile site components will have insignificant vehicle emission impacts. The unlikely event of a propellant spill could have severe local impacts, but the probability of a spill is low. The estimated probability of a major or minor propellant spill is less than one in fifty thousand per shipment.

4.2.2 Hydrology: The planned action will have no environmental effect on hydrology. The unlikely event of an accident induced propellant spill multiplied by the low probability of such a spill occurring within reach of a sensitive body of water make this risk insignificant.

4.2.3 Biology: The planned action will have no effect on biological species, except in the unlikely event of an accident-induced propellant spill. The improbability of a spill, compounded with the improbability of threatened or endangered species being within the spill affected area, results in a negligible impact. A greater danger exists to human populations in the event of a propellant spill during transport. Although the probability of experiencing a spill during the deactivation is very low, the consequences of any spill could be serious. However, the propellants would require eventual movement in any alternative including the no-action alternative. If it were feasible to neutralize these chemicals in place, similar amounts of new propellants

would require cross country transport to support space programs. Rail shipment of propellants would probably be less safe in the long run. The safety record and experience of the Air Force contracted propellant carriers is significantly better than the average highway carrier. The use of a highway carrier reduces the number of transfer operations compared with rail transport and also provides a full-time knowledgeable monitor of the load in the person of the driver. Response measures disseminated by the Air Force in coordination with the Federal Emergency Management Agency would considerably mitigate impacts of a spill. Anticipated impacts, combined with the probability of events, are considered insignificant.

4.2 Aesthetics, demographics, land use and cultural resources are unaffected in this phase of the deactivation.

4.2.5 Local transportation will have negligible impact. Most shipments will be on well established routes which are normally used to transport identical materials in support of Titan II operations.

4.2.6 Noise will be at the usual levels associated with the modes of transport.

4.3 Phase III Impacts.

4.3.1 Atmospherics and Hydrology: The impacts to air and water quality of this phase would be nearly identical to Phase I and are considered insignificant.

4.3.2 Biology: Planned operations should have no effect on threatened or endangered species.

4.3.3 Demography, land use, cultural resources, aesthetics, local transportation and noise will not be affected by the proposed action.

4.3.4 Economics: Reuse of Titan II propellants and components will result in an economic savings to the government. Increased operations at the disposition points should produce negligible increases in employment.

4.3.5 Rocky Mountain Arsenal: Although discussed in the Environmental Assessment, Rocky Mountain Arsenal is no longer being considered as a disposition point for Titan II propellants.

4.4 Phase IV Impacts.

4.4.1 There are no impacts on the biophysical environment from discontinuing Titan II logistic support and training activities.

4.4.2 Demographics: Decreases in employment associated with discontinuing support and training activities will be minor, as will all associated socioeconomic effects.

5.0 Changes to Manpower Reduction Numbers.

5.1 Just prior to the publication date of the environmental assessment, manpower reduction numbers at the operational bases were changed from 3420 to 4244 as shown on page 20 of the Environmental Assessment. This increase is for military positions, and about evenly distributed among the three bases. This change is not of a magnitude which should generate reanalysis or cause significant changes in the effects as presented in the assessment.

6.0 Conclusions.

6.1 The environmental assessment supports a conclusion that the proposed action will have little or no effect on the biophysical environment except in the event of a major propellant-spill accident. Missile Site (Phase I) spill accident impacts as a result of the proposed action are considered insignificant based on the record of only two severe propellant spills in twenty years of operation, extensive procedural and equipment modifications by the Air Force to prevent recurrence and/or mitigate the severity of these type accidents, and the relative isolation of the missile sites. Over the road transport (Phase II) propellant spill accidents have the potential for significant biophysical impact but the low probability of any accident involving any spill make the risk insignificant. The probability of a vehicle accident which could result in a major or minor spill is approximately one in fifty thousand per propellant shipment, and the probability of a major spill with significant impact is a fraction of that (only one spill of hazardous material is known to have occurred in the 80,000,000 carrier transport miles). Based on the probability of a severe propellant spill, the risk is considered insignificant. Propellant operations in Phase III (disposition) would be similar to Phase I in biophysical effect and risk and is also considered insignificant.

6.2 The socioeconomic impacts of the proposed action are minor and primarily associated with movement of military personnel.

Copies of the Environmental Assessment for the Proposed Deactivation of the Titan II Missile System and the FONSI are available from Headquarters Strategic Air Command/DEV, Offutt Air Force Base, Nebraska 68113. For further information, contact Capt. Pat Quinn, (402) 294–5854.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82–26906 Filed 9–29–82; 8:45 am]

BILLING CODE 3910–01–M

Corps of Engineers; Department of the Army

Intent To Prepare a Draft Environmental Impact Statement; Albeni Falls Dam, Seattle District

AGENCY: Army Corps of Engineers, Seattle District, DOD.

ACTION: Notice of intent to prepare a draft environmental impact statement (DEIS) for an operating project known as Albeni Falls Dam, which is on the Pend Oreille River in northern Idaho.

Summary

a. *The Existing Project.* Albeni Falls Dam was constructed in 1951 and 1952 and is part of the Columbia River power system. The project was authorized to regulate Pend Oreille Lake for flood control, navigation, fish and wildlife conservation, recreation, and power generation. Under existing operation, the lake is held at elevation 2,062.5 feet above sea level in the summer. Lake level drawdown generally begins at about Labor Day, reaching a minimum level of about 2,051 feet by about 20 November. Refill of the lake to elevation 2,062.5 feet is usually accomplished by about 1 July. Pend Oreille Lake is one of the largest and deepest lakes in the western United States. It supports a major sport fishery, large populations of waterfowl, and significant winter bald eagle and summer osprey populations. Vegetated wetlands along the shores of the lake offer important nesting and feeding habitat to a wide variety of birds and mammals. Recreation and tourism associated with the lake and its resources are major contributors to the economic base of the region. Since no environmental documentation was prepared prior to the project's construction, the DEIS is intended to provide an assessment of environmental impacts of the present operation of the project and to compare and contrast these impacts with the potential impacts of alternative project operations.

b. *Alternatives.* The DEIS will discuss three alternatives to the existing lake operation: an alternative that enhances recreation, one that enhances hydropower production, and one that enhances fish and wildlife resources. The recreation alternative would have the latest drawdown (1 October), the highest winter elevation (2,060 feet), and probably the earliest refill (as early as 1 June). The hydropower alternative would have the earliest drawdown (1 September or before), a low winter level of 2,051 feet, and probably latest refill (as late as 15 July). The hydropower alternative would increase at site and

Columbia River system hydropower production. The fish and wildlife alternative would be similar to the recreation alternative except the winter lake level would be lower (2,056 feet). The fish and wildlife alternative would have slightly beneficial impacts to recreation, fish, and wildlife compared to the existing condition. The Corps of Engineers does not propose to change the operating mode of the Albeni Falls Dam project.

c. *Public Involvement and Review.* The DEIS will receive wide distribution among all interested and affected Federal, state, and local agencies; Indian tribes; and other private organizations and parties.

d. *Significant Issues.* The following issues will be analyzed in depth in the DEIS:

(1) What impact would the three alternatives and the existing operation have on migrating and resident waterfowl, bald eagles, osprey, and aquatic mammals?

(2) What impact would increased or decreased lake level fluctuations have on lake boating access, lake moorage, and tourism?

(3) What impact would the alternatives have on hydropower production?

(4) What impact would the alternatives have on lake fish populations (particularly kokanee) and fishing?

(5) What impact would the alternatives have on archeologic resources around the lake shoreline?

e. *Availability of DEIS.* The DEIS is presently scheduled to become available to the public in November 1982.

f. *Address.* Information about the DEIS can be obtained by contacting: Mr. Tom Bonde, Environmental Resources Section, Department of the Army, Seattle District, Corps of Engineers, Post Office Box C–3755, Seattle, Washington 98124, Telephone (206) 764–3625, (FTS) 399–3625.

Dated: September 22, 1982.

Norman C. Hintz,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 82–26934 Filed 9–29–82; 8:45 am]

BILLING CODE 3710–GB–M

Intent To Prepare a Draft Environmental Impact Statement; Great Salt Lake, Davis County, Utah

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS) on a Department of Army permit application by Davis County Planning Commission to discharge fill material in wetlands adjacent to Farmington Bay of the Great Salt Lake, Davis County, Utah. A permit is required under Section 404 of the Clean Water Act (33 U.S.C. 1344).

SUMMARY: Davis County proposes to fill wetlands adjacent to Farmington Bay for development of an industrial complex. The property is owned in separate parcels by various individuals and corporations. Approximately 687 acres of wetlands would be filled including saline flats, saline meadows, fresh wet meadows, and deep water marsh. All fill material placed in wetlands would consist of clean earth and gravel. Davis County also proposes construction of two main roads through wetlands to service the industrial areas. These roads would be constructed with a pervious rock base to minimize changes in the flow of ground water.

The alternatives being considered at this time are:

1. Proposed development as requested by the applicant.
2. Proposed development with other schemes of mitigation.
3. Scaled-down development.
4. Development located in upland areas.
5. No action.

Concurrently with this notice, the Sacramento District is issuing a public notice to initiate the scoping process. The public notice is being sent to all known interested parties, requesting that the reviewers provide comments on the topical scope, alternatives, and major issues to be discussed in the EIS. If, after review of the comments, it is determined that additional public input is needed, public scoping meetings will be held.

The significant issues which have been identified to date and which will be analyzed in the EIS are:

1. The need for the project.
2. Social and economic effects.
3. Wetland effects.
4. Water quality effects.
5. Flood plain effects.
6. Wildlife effects.
7. Hydrologic effects.
8. Cultural resources effects.
9. Cumulative effects.

Questions concerning the proposed action and EIS should be directed to Mr. Tom Coe, Regulatory Section, U.S. Army Corps of Engineers, 650 Capitol Mall, Sacramento, California 95814, telephone (916) 440–2541 (FTS–448–2541).

Arthur E. Williams,

Colonel, CE, District Engineer.

[FR Doc. 82–26935 Filed 9–29–82; 8:45 am]

BILLING CODE 3710–GH–M

DEPARTMENT OF ENERGY

National Petroleum Council, Coordinating Subcommittee of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Coordinating Subcommittee of the Committee on Enhanced Oil Recovery will meet in October 1982. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Coordinating Subcommittee meeting follows:

The Coordinating Subcommittee will hold its first meeting on Tuesday, October 19, 1982, in the Conference Room of the National Petroleum Council, 1625 K Street, NW., Washington, D.C., starting immediately after the adjournment of the 10:00 a.m. meeting of the National Petroleum Council Committee on Enhanced Oil Recovery.

The Tentative agenda for the Coordinating Subcommittee meeting follows:

1. Review the scope, organization, and timetable of the study from the NPC Committee on Enhanced Oil Recovery.
2. Discuss membership of proposed task groups for the study.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas, Shale and Coal Liquids, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading

Room, Room 1E-190, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on September 23, 1982.

Donald L. Bauer,

Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 82-26999 Filed 9-29-82; 8:45 am]

BILLING CODE 6450-01-M

Voluntary Agreement and Plan of Action to Implement the International Energy Program; Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272), the following meeting notices are provided:

I. A meeting of Subcommittee A of the Industry Advisory Board (IAB) of the International Energy Agency (IEA) will be held on October 6, 1982, at the offices of Standard Oil Company of California, 575 Market Street, San Francisco, California, beginning at 9:30 a.m.

The agenda for the meeting is as follows:

1. Opening remarks.
2. Current oil market and stock developments, IEA/SOM (82)42; IEA Secretariat's August Assessment, IEA/SEQ (82) 32.
3. Quarterly Oil Forecast, IEA/SEQ (82) 27.
4. Oil contingency plans.
5. Allocation System Test-4 (AST-4) matters.
6. Industry Supply Advisory Group staffing.
7. Future work program and meeting schedule.

II. A meeting of Subcommittee C of the IAB of the IEA will be held on October 7, 1982, at the offices of Standard Oil Company of California, 575 Market Street, San Francisco, California, beginning at 9:30 a.m.

The agenda for the meeting is as follows:

1. Opening remarks.
2. IEA Dispute Settlement Centre, including:
   A. Report of the Director;
   B. Schedule of fees and expenses; and
   C. Status of consents to arbitration.
3. Status of U.S. statutory antitrust defense, including:
   A. Legislation; and
   B. Plan of Action.
4. Status of application for legal clearance under the Treaty of Rome.
5. Legal clearances for AST-4.
6. Availability of contract breach defense, including:
   A. Status of defenses in participating countries; and
   B. Effect of choice of law clause.
7. Future work program.

III. A meeting of the IAB of the IEA will be held on October 8, 1982, at the offices of Standard Oil Company of California, 575 Market Street, San Francisco, California, beginning at 9:00 a.m.

The agenda for the meeting is as follows:

1. Opening remarks; adoption of the agenda; approval of Record Notes of June 18, 1982, IAB meeting.
2. Correspondence and communications with Reporting Companies, including distribution of documents.
3. Oil contingency plans.
4. Report of Subcommittee A on documents:
   A. August Assessment—IEA/SEQ(82)32; and
   B. Quarterly Oil Forecast—IEA/SEQ(82)27.
5. Report of Subcommittee C on its October 7, 1982, meeting.
6. Progress report from AST-4 Design Group.
7. Staffing of committees.
8. Next IAB meeting.

As permitted by 10 CFR 209.32, the usual 7-day notice period has been shortened because unanticipated procedural delays prevented processing in sufficient time to provide such notice.

As provided in section 252(c)91)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Issued in Washington, D.C., September 28, 1982.

Craig S. Bamberger,

Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 82-27104 Filed 9-29-82; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 82-13-LNG]

Distrigas Corp.; Application To Amend Authorization To Import Liquefied Natural Gas From Algeria

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Application to Amend Authorization to Import Liquefied Natural Gas from Algeria.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on August 27, 1982, of the application of Distrigas Corporation (Distrigas) to amend its existing authorization to import liquefied natural gas (LNG) from Algeria. Currently, Distrigas is authorized to import 1,900,000 cubic meters (43.5 million MMBtu) of LNG per year from Algeria. Distrigas is requesting ERA to amend the current import authorization by approving the terms of Amendment No. 1 (Amendment) to the Agreement for the Sale and Purchase of Liquefied Natural Gas of April 13, 1976 (Supply Agreement) between Distrigas and Sonatrach, the Algerian national energy company. The Amendment, dated July 31, 1982, reflects the renegotiation by both signatories of several provisions of the Supply Agreement related to, among other things, the base price, the F.O.B. price, the escalator clause, and Distrigas's take-or-pay obligation

The application is filed with ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-54. Protests or petitions to intervene are invited.

DATE: Protests or petitions to intervene are to be filed no later than 4:30 p.m., November 1, 1982.

FOR FURTHER INFORMATION CONTACT:

R. T. Gehring (Natural Gas Branch, Oil and Gas Imports Division), Economic Regulatory Administration, 12th & Pennsylvania Avenue, NW., Room 6144, RG-631, Washington, D.C. 20461, (202) 633-9296

Michael T. Skinker (Office of General Counsel, Natural Gas and Mineral Leasing), 1000 Independence Avenue, SW., Forrestal Building, Room 6E-042,

Washington, D.C. 20585, (202) 252–6667

SUPPLEMENTARY INFORMATION: In an ERA order issued on December 31, 1977, in ERA Docket No. 77–011–LNG (FPC Docket Nos. CP77–216, CP77–217 and CP77–218), Distrigas was authorized to import LNG from Algeria at Everett, Massachusetts, for sale to its affiliate, Distrigas of Massachusetts Corporation (DOMAC), under the Supply Agreement. DOMAC transfers the LNG to storage tanks prior to sale and delivery to its eleven distribution company customers in New England, New York, and New Jersey, which use the LNG primarily for peak-shaving and high priority service. Distrigas was authorized to purchase a total of up to 43.5 million MMBtu of LNG per year for a period of twenty (20) consecutive years from the date of the first regular delivery of LNG in 1978.

The Supply Agreement expires in 1998 and provides that Distrigas and Sonatrach may meet for the purpose of reviewing the LNG sales price every four years commencing in 1980. Pursuant to this provision, the parties commenced negotiations in 1980, and have entered into the Amendment which reflects the agreed upon changes to the Supply Agreement. The principal provisions of the Amendment, as described by Distrigas in its application, are:

(1) An increase in the current base price from $1.30 to $4.44 per MMBtu, resulting in an increase in the current F.O.B. price from approximately $3.92 to $4.44 per MMBtu;

(2) A quarterly adjustment of the F.O.B. price based upon an average price for six different crude oils;

(3) A reduction in the number of cargoes that Distrigas is obligated to take or otherwise pay for from 17 to 14 cargoes annually;

(4) A modification of the delivery schedule to provide that delivery of the LNG cargoes more closely coincide with the requirements for LNG of DOMAC's customers (nine cargoes will be delivered in the winter and five cargoes in the summer);

(5) An option, exercisable at the sole discretion of Distrigas, to receive up to three additional ships in any one contract year through 1985. From and after 1986, its option is reduced to two ships annually;

(6) A change in the method of calculating the Btu content of the LNG sold by Sonatrach, resulting in a price reduction of approximately 5 cents per MMBtu;

(7) Establishment of provisions to minimize demurrage;

(8) Postponement of the next contract review by two years until January 1988; and

(9) A surcharge designed to give effect to the new F.O.B. price from and after the date of filing of this application.

No change in the current authorized volumes is sought by this application.

The C.I.F. price paid by Distrigas under the Supply Agreement is adjusted periodically in accordance with formulas set forth in the Supply Agreement which specify the method of recalculating both the F.O.B. price (commodity component) for the gas and the cost of transportation (transportation component), the sum of which comprises the total C.I.F. price. Except for a one-time change in the calculation period from a calendar year to a twelve-month period commencing April 1983, the Amendment does not change the formula used to compute the transportation component of the total price. It does, however, change the formula used to compute the commodity component.

Under the authorized formula, the current F.O.B. price is adjusted semiannually using a base price of $1.30 per MMBtu indexed to changes in the prices of No. 2 and No. 6 fuel oils from their July 1975 levels. This adjustment is made as a percentage (50%) of the changes in the prices of No. 2 and No. 6 fuel oil as compared to a base period price. The adjustment under the Amendment is made on a dollar-for-dollar basis, not a percentage basis. The old formula resulted in an F.O.B. price of $3.9172 per MMBtu as of July 1, 1982. The Amendment increases the base price to $4.44 per MMBtu and results in a new F.O.B. price that would currently be $4.44 per MMBtu. The F.O.B. price under the amendment is subject to a quarterly adjustment based upon an escalator formula in which $4.44 per MMBtu is the base price and the adjustment is based on the arithmetic average of the daily prices of a basket of six different crude oils; expressed in dollars per MMBtu. The six crude oils are: Arabian Light (Saudi Arabia); Sahara Blend (Algeria); Bonny Light (Nigeria); Isthmus (Mexico); Minas (Indonesia); and Tia Juana (Venezuela). This quarterly adjustment will reflect the difference between the revised average price of the crude oils at the time of adjustment and a dollar base figure of $5.879572 per MMBtu, which represents the arithmetic average price per MMBtu for these selected crude oils during the second quarter of 1982. The price adjustment may be upward or downward.

The Amendment, including the new F.O.B. sales price, is effective August 3, 1982. Since no deliveries of LNG are anticipated during the month of August 1982, the amended price will not be applicable to any sales until the September cargo is received, on or about September 22, 1982. In order to give effect to the new price from the date of the filing of the application until final approval, the Amendment provides for a surcharge to be assessed by Sonatrach after ERA approval of the Amendment. The method of calculation of the surcharge is set forth in a separate letter dated July 31, 1982, submitted as part of the application.

Distrigas states that the Amendment is not inconsistent with the public interest for the following reasons:

(1) Distrigas asserts that since substantial capital investments have been made in facilities by both DOMAC and its customers, significant adverse economic impact would result from ERA's failure to approve the application.

(2) There continues to be a need for the service provided, as the LNG is used for peak-shaving purposes in the market area involved which includes Massachusetts, Connecticut, Rhode Island, New York, and New Jersey. Distrigas states that it has under preparation a study of its customers' need for this LNG. This study will be submitted to ERA in the near future and will then be made a part of the record and available to the public.

(3) The amended C.I.F. price represents only a ten percent increase and compares favorably with the delivered price of LNG in recent contracts with European buyers and in other U.S. markets. Further, Distrigas asserts that the operation of the surcharge with respect to the price was an important element in the overall negotiations in which Distrigas was able to obtain substantial concessions, such as the more favorable scheduling of cargoes, the reduction of Distrigas's take-or-pay obligation, the delay of the date of the next quadrennial review, a reduction in demurrage payments, and a different method of measuring the Btu content of the LNG, resulting in a price reduction of about 5 cents per Btu.

(4) The Amendment provides for a quarterly adjustment in price based on the average dollar value of a basket of crude oils. Distrigas asserts that this methodology is not without precedent and that because of the choice of heavy

crude oils, it will tend to favor Distrigas in the calculation of future price adjustments. Additionally, the use of decreased crude oil prices, as well as increased prices for determining the adjusted price, is designed to reflect energy market conditions.

(5) Distrigas asserts that the source and security of supply is unaffected by the Amendment, because the volumes will not change and will be supplied from the same source. Distrigas further asserts that no regional or national overdependence will result from these imports, because the volumes are relatively small in relation to the total requirements of the ultimate end-users. Distrigas states that the security of supply has been satisfactory over many years, even under adverse conditions, and that Sonatrach has satisfied fully the supply requirements of Distrigas since the implementation of the expanded program in 1978. Distrigas asserts that Sonatrach has ample incentive to continue performance under the Supply Agreement, because of Algeria's declining oil revenues resulting from a decline in oil production.

It is, thus, anticipated that gas exports will become the main source of foreign currency for Algeria.

(6) Distrigas asserts that the Amendment will have no significant adverse effect upon the United States balance of payments because the volume of gas imported by Distrigas is only a small part of the total volume of natural gas imported into the United States each year and the increase in price reflected in the Amendment is small. Distrigas further states that this LNG offsets, in part, the need for the purchase of other high priced supplemental supplies from other foreign sources.

(7) Distrigas asserts that because of the relatively small amount of LNG imported by Distrigas and its use as a supplemental fuel, it will have virtually no impact on either long-term or short-term domestic natural gas production.

(8) Distrigas notes that its customer, DOMAC, sells only the LNG imported by Distrigas, and has no other source of gas. Distrigas states that the price of the LNG paid by Distrigas is passed through directly to DOMAC which, in turn, passes through the cost to its customers. Thus, there is no subsidization or rolling-in of LNG costs with other purchased gas costs, but a direct flow-through of costs to customers.

(9) Distrigas also asserts that the Amendment between Sonatrach and Distrigas will not require the construction of any new facilities on behalf of Distrigas or DOMAC.

Procedures

Any person wishing to become a party to the proceeding, and thus to participate in any conference or hearing which might be convened, must file a petition to intervene. Any person may file a protest with respect to this application. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the application.

All protests and petitions to intervene must meet the requirements that were specified by the regulations that were in effect on October 1, 1977 (the establishment of DOE), in 18 CFR 1.8 and 1.10. They should be filed with the Natual Gas Branch, Economic Regulatory Administration, Room 6144, RG–631, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461. All protests and petitions to intervene must be filed no later than 4:30 p.m., November 1, 1982.

A hearing will not be held unless a motion for a hearing is made by a party or person seeking intervention and granted by ERA, or if ERA on its own motion believes that a hearing is necessary or required. A person filing a motion for hearing must demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of Distrigas' application is available for inspection and copying in the Natural Gas Branch Docket Room, located in Room 6144, 12th & Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on September 24, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82–27002 Filed 9–29–82; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Coal Distribution Report; Request for Comments on Extension of Form EIA–6

AGENCY: Energy Information Administration, DOE.

ACTION: Request for comments on extension of Form EIA–6.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) plans to extend the quarterly Coal Distribution Report and invites comments on the survey and content of the form.

DATES: Written comments must be submitted within 30 days of the publication of this notice.

ADDRESSES: Send comments to Harriet M. Tarver at the address listed immediately below.

FOR FURTHER INFORMATION CONTACT: To obtain additional information or copies of the EIA–6, contact Ms. Harriet M. Tarver, EI–521, Coal Division, Energy Information Administration, Department of Energy, MS: 2F–021, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–9723.

SUPPLEMENTARY INFORMATION:

I. Background
II. Coal Distribution Report, Form EIA–6
III. Request for Comments

I. Background

The EIA announces plans to extend the collection of coal distribution data on the Coal distribution Report (Form EIA–6). The EIA–6 is designed to provide volume data for coal distribution by mode of transportation and consumer catagory. The EIA–6 is a mandatory form collected under authority of the Federal Energy Administration (FEA) Act of 1974 (P.L. 93–275) and the Powerplant and Industrial Fuel Act of 1978 (P.L. 95–620), which is filed quarterly by all companies in the 50 States and the District of Columbia that distributed more than 50,000 tons of coal during the past year. These companies include coal mining companies and wholesale and retail coal dealers.

II. Coal Distribution Report, EIA–6

A sample of the Form EIA–6 and the instructions follow.

III. Request for Comments

EIA invites the public to comment on the form within 30 days of the publication of this notice. The following general guidelines are provided to assist in the preparation of responses.

A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarifying?

B. Can the data be submitted using the definitions included in the instructions?

C. Can the data be submitted in accordance with the response time specified in the instructions?

D. How many hours, including time for computation, preparation and administrative review, will it take your company to complete and submit a quarterly form?

E. What is the cost of completing a quarterly form, including the direct and indirect costs associated with this data collection? Direct costs should include all one-time and recurring costs, such as development, assembly, equipment, ADP and other administrative costs directly attributable to providing this information.

F. How can this form be improved?

Comments provided on the Form EIA–6 will be included in EIA's submission to the Office of Management and Budget and will become a matter of public record.

Issued in Washington, D.C.

Dated: September 21, 1982.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

BILLING CODE 5450-01-M

Energy Information Administration
Coal Distribution Report

U.S. Department of Energy

This report is being collected under the mandatory authorities vested in the U.S. Department of Energy under the Federal Energy Administration Act of 1974 (P.L. 93-275) and the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95-620). Late filing, failure to file, or failure otherwise to comply with these instructions may result in criminal fines, civil penalties and other sanctions as provided by section 13 (i) of P.L. 93-275. For provisions concerning the confidentiality of information submitted on this form, see Section IX of the instructions.

Form Approved
O.M.B. No. 1905-0005
Approval Expires 4/30/83

I. RESPONDENT IDENTIFICATION

If the above name and address label is incorrect, please make changes in the space provided at the right.

If you have nothing to report, please indicate this in the Remarks (Part VII), sign the Certification (Part X) and return the form.

Please read the instructions before completing this form.

Report all coal quantities in short tons (2,000 lbs.) to the nearest whole ton. If exact figures are not available, estimate the quantities and indicate the estimated data by placing (est) in front of the reported data item.

Blanks will be interpreted as zeros; therefore it is not necessary to enter "not applicable (NA)," or dashes or zeros where you have no data to report.

If a data item reported herein includes a revision to the same data item as previously reported which results in a net minus quantity, indicate this by enclosing the reported quantity in parentheses ( ).

After entering your data, please check its consistency using the equations given in Part VI to ensure that your data submission can be processed.

If you desire a copy of the publication, "Coal Distribution", Quarterly, please check here. ☐

A. Coal Producing District
Enter the number for the coal producing district covered in this report as described in table 1 of the instructions. ☐☐

A SEPARATE FORM EIA-6 MUST BE SUBMITTED FOR EACH COAL PRODUCING DISTRICT IN WHICH COAL WAS MINED.

B. Name(s) and Address(es) of Parent Company(ies): See VI D2. of the instructions for the definition of Parent Company before completing this section. (If additional space is needed, use a separate sheet of paper.)

Name of Parent Company	Address (Street, City, State, Zip)

II. MINE ORIGIN OF COAL

A. Coal Produced at Your Company's Mines during the Quarter:
The quantity of coal reported here must reflect the condition of the coal (i.e., raw, crushed, screened or mechanically cleaned) as of its sale, distribution or placement into stocks. Exclude refuse. For each of your company's mines located in this coal producing district, enter the name of the producing company (if different than responding company), the name and location of the mine and the quantity of coal produced during the reporting quarter. (If additional space is needed, use a separate sheet of paper.)

Name of Mine	Name of Producing Company (if different than responding company)	Mine Location (County)	Mine Location (State)	Quantity Produced (short tons)
Total coal produced in this District at your company's mines during the quarter excluding refuse.				

B. Coal Purchased from Other Companies during the quarter which was produced in this District:
The quantity of coal reported here must reflect the condition of the coal (i.e., raw, crushed, screened or mechanically cleaned) as of its purchase.

Report here the quantity of coal purchased from other companies during the reporting quarter which was produced in this coal producing district. Enter for each company, the company name and address, the name(s) of the mining operations from which the coal originated and the quantity of coal purchased. (If additional space is needed, use a separate sheet of paper.)

Name of Company	Address (Street, City, State, Zip)	Name of Producing Mine(s)	Quantity Purchased (short tons)
Total coal purchased from other companies during the quarter which was produced in this District excluding refuse.			
C. Total Coal Produced or Purchased during the quarter which was mined in this district. *(Sum of totals in Sections A and B.)* →			

III. DISTRIBUTION WHERE THE CONSUMER IS KNOWN

Report here the distribution during the reporting quarter of that portion of the coal reported in Part II.C. plus any coal distributed from stocks located in this coal producing district for which you know the consumer. **Please read Parts VI. A, B, and C of the instructions before completing Part III** so that the consumer categories, methods of transportation and other uses will be correctly identified. Please note that mining (column 4 of the consumer categories) does not include coal mining. Coal used at your company's mining operations must be reported in Part III C Line 37499. Report Shipments of Coal to Tidewater Piers or Coastal Ports for Overseas Exports (except Canada and Mexico) on Line 34802 of Part III D.

A. Shipments by Rail

Destination	Quantity Distributed by Consumer Categories (Short Tons)						
	Electric Utilities (1)	Coke Plants (2)	Manufacturing (except Coke Plants) (3)	Agriculture, Mining, and Construction (4)	Residential/ Commercial (5)	Total (6)	
U.S.							
Alabama							31001
Alaska							31002
Arizona							31004
Arkansas							31005
California							31006
Colorado							31008
Connecticut							31009
Delaware							31010
District of Columbia							31011
Florida							31012
Georgia							31013
Idaho							31016
Illinois							31017
Indiana							31018
Iowa							31019
Kansas							31020
Kentucky							31021
Louisiana							31022
Maine							31023
Maryland							31024
Massachusetts							31025
Michigan							31026
Minnesota							31027
Mississippi							31028
Missouri							31029
Montana							31030
Nebraska							31031
Nevada							31032
New Hampshire							31033
New Jersey							31034
New Mexico							31035
New York							31036
North Carolina							31037
North Dakota							31038
Ohio							31039
Oklahoma							31040
Oregon							31041
Pennsylvania							31042
Rhode Island							31044
South Carolina							31045
South Dakota							31046
Tennessee							31047
Texas							31048
Utah							31049
Vermont							31050
Virginia							31051
Washington							31053
West Virginia							31054
Wisconsin							31055
Wyoming							31056
Canada							31122
Mexico							31201
Total rail shipments							31199

B. Shipments Via River — I.D. No.

Page 3 of 6 pages

Destination U.S. (list by state)	Quantity Distributed by Consumer Categories (Short Tons) Electric Utilities (1)	Coke Plants (2)	Manufacturing (except Coke Plants) (3)	Agriculture, Mining, and Construction (4)	Residential/ Commercial (5)	Total (6)	
Total shipments via river							33200
Indicate how coal was delivered to the river:					Quantity in short tons delivered by— Rail		33201
					Truck		33202

C. Shipments Via Great Lakes — Consumption

Destination U.S.							
Illinois							33011
Indiana							33012
Michigan							33013
Minnesota							33014
New York							33015
North Dakota							33016
Ohio							33017
Pennsylvania							33018
South Dakota							33019
Wisconsin							33020
Canada							33122
Total shipments via Great Lakes							33300
Indicate how coal was delivered to the Great Lakes:					Quantity in short tons delivered by— Rail		33301
					Truck		33302
					River		33303

D. Shipments Via Tidewater Piers and Coastal Ports

Destination U.S. (list by state)						
Canada						34122
Mexico						34201
Overseas exports (except Canada and Mexico)						34302
Total shipments via tidewater piers and coastal ports						34400
Indicate how coal was delivered to the tidewater piers and coastal ports:					Quantity in short tons delivered by— Rail	34401
					Truck	34402
					River	34403

Page 4 of 6 pages

E. Shipments Via Truck

Destination	Quantity Distributed by Consumer Categories (Short Tons)					
U.S. *(list by state)*	Electric Utilities (1)	Coke Plants (2)	Manufacturing (except Coke Plants) (3)	Agriculture, Mining, and Construction (4)	Residential/ Commercial (5)	Total (6)
Canada						
Total shipments via truck						

F. Shipments Via Tramway/Conveyor or Slurry Pipeline *(list by state of destination)*

1. Shipments via tramway/conveyor						
Total shipments via tramway/conveyor						
2. Shipments via slurry pipeline						
Total shipments via slurry pipeline						
Total shipments via tramway/ conveyor and slurry pipeline						

G. Other Uses	Total Quantity Distributed (Short Tons)
Railroad fuel	
Vessel/ship fuel	
Coal gasification/liquefaction	
Coal used at your company's mines	
Coal sold to employees	

H. Sales of Coal to Other Coal Distribution Companies where you know and reported the consumer

Enter below the name(s) and address(es) of coal distribution companies who purchased any of your coal that was reported in Part III, A-G. For each company, identify the quantity of coal purchased from you during the reporting quarter and indicate where this coal was reported in Part III of the form. (If additional space is needed, use a separate sheet of paper.)

Company that Purchased Your Coal		Quantity Purchased (Short Tons)	Indicate Where This Tonnage is Reported in Part III:		
Name	Address *(Street, City, State, Zip)*		Section	State	Consumer Category
Total quantity of coal purchased by other coal distribution companies that was reported in Part III, Sections A-G					

Page 5 of 6 pages

IV. DISTRIBUTION WHERE THE CONSUMER IS UNKNOWN I.D. No.

Enter below the name(s) and address(es) of coal distribution companies who purchased any of your company's coal during the reporting quarter where the consumer is unknown to you. For each company, identify the quantity of coal purchased from you during the reporting quarter. (If additional space is needed, use a separate sheet of paper.) **Report coal exported overseas in Part III D on line 34802.**

Coal Company that Purchased Your Coal		
Name	Address *(Street, City, State, Zip)*	Quantity Purchased (Short Tons)

Total quantity of your coal purchased by other coal distribution companies where the consumer is unknown.

V. STOCKS

	Quantity (Short Tons)
A. Coal produced in this district which was held in stocks by your company at the start of the reporting quarter *(exclude refuse)*.	
B. Coal produced in this district which was held in stocks by your company at the end of the reporting quarter *(exclude refuse)*.	

VI. DATA CONSISTENCY CHECKS

The following equations should be used to check the consistency of your data:

A. Stock Equation: Line code 51999 (current quarter) = Line code 52999 (previous quarter).

B. Balance Equation: Line codes (current quarter) 51999 + 21999 + 22999 = Line codes (current quarter) 31199 + 32299 + 33399 + 34499 + 35599 + 36699 + 37199 + 37299 + 37399 + 37499 + 37599 + 40999 + 52999.

If these equations are not satisfied it means that your data are inconsistent and some data elements are missing from your report (such as stocks) or entered incorrectly. These equations must be satisfied before your data can be processed by EIA.

VII. REMARKS

VIII. POINT OF CONTACT

Enter the name, title, and telephone number of your company representative who can answer questions regarding the information provided on this form.

Name	Title	Area Code & Office Telephone No.
		( ) - -

IX. DISCLOSURE STATEMENT

Please read Part IX of the instructions before completing this section.

A. Information requested on this form is confidential and if released will cause substantial competitive injury . . . . . ☐ Yes ☐ No

B. Written substantial justification is attached . . . . . ☐ Yes ☐ No

C. Written substantial justification previously attached . . . . . ☐ Yes ☐ No

X. CERTIFICATION

This part of the form must be completed by the company official empowered to certify that the information provided on this form is true and accurate. Print or type the certifying official's name and title. The certifying official must sign and date the certification.

I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge.

Name _____ Title _____

Signature _____ Date _____

TITLE 18, USC 1001 makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

GPO 887-607

Energy Information Administration
Instructions for Form EIA-6–
Coal Distribution Report

U.S. Department of Energy

I. Purpose

Form EIA-6 is designed to provide volume data for coal distribution by mode of transportation and consumer category. The data collected will be used in the compilation of aggregated statistical reports, for coal related analyses and policy studies, and for monitoring the effects of mandated coal programs. This form is a mandatory reporting requirement under the Federal Energy Administration (FEA) Act of 1974 (P.L. 93-275) and the Powerplant and Industrial Fuel Use Act of 1978 (P.L. 95-620).

II. Who Shall Submit

All companies in the 50 States and the District of Columbia that owned or purchased and distributed in excess of 50,000 tons of coal during the year defined by the current reporting quarter and the previous three reporting quarters. These companies include coal mining companies, wholesale coal dealers (including brokers), and retail coal dealers Companies that take custody (physical possession) of the coal and transport but never own or purchase the coal or companies that only negotiate the sales of coal but never own or purchase the coal need not report. Retain the copy marked "File Copy" for your records.

III. Where to Submit

Companies shall return completed EIA-6 forms to.

Energy Information Administration, EI-34
Mail Station: BG-086, FORSTL
U.S. Department of Energy
Washington, D.C. 20585

Request for further information, additional forms and instructions, an extension of the reporting deadline or copies of the report "Coal Distribution, Quarterly" may be directed to the address above or by telephone to (202) 252-6886.

IV. When to Submit

Form EIA-6 shall be submitted no later than thirty (30) working days after the close of each report quarter. The reporting quarters are: January 1- March 31, April 1 - June 30, July 1 - September 30, and October 1 - December 31.

V. Sanctions

The timely submission of Form EIA-6 by a company required to report is a mandatory requirement. Late filing, failure to file, or failure otherwise to comply with these instructions may result in criminal fines, civil penalties and other sanctions as provided by Section 13 (i) of the FEA Act of 1974 (P.L. 93-275).

VI. Definitions

A. Consumer Categories

1. **Electric Utilities**– All privately owned companies and all publicly owned agencies engaged in the production of electric power for public use. Publicly owned agencies include the following: Municipal electric utilities; Federal power projects, such as the Tennessee Valley Authority (TVA); and rural electrification cooperatives, power districts, and State power projects.
2. **Coke Plants**– All plants where coal is carbonized for the manufacture of coke in slot or beehive ovens. Report only coal that is carbonized to produce coke. Shipments of coal to coke plants for use in space heating or electric power generation should be included with "Manufacturing (except Coke Plants)." Do not report coal used to produce form coke. Include coal used for form coke with "Manufacturing (except Coke Plants)."
3. **Manufacturing (except Coke Plants)**– Those industrial users/plants, not including coke plants, that are engaged in the mechanical or chemical transformation of materials or substances into new (i.e., finished or semifinished) products.
4. **Agriculture, Mining, and Construction**– Companies engaged in agriculture, mining (other than coal mining), or construction industries.
5. **Residential/Commercial**– Housing units; wholesale and retail businesses (except coal wholesale dealers); health institutions (hospitals); social and educational institutions (schools and universities); and Federal, State, and local governments (military installations, prisons, office buildings, etc.). Exclude shipments to Federal power projects, such as TVA; rural electrification cooperatives, power districts, and State power projects; these are to be included in consumer category 1 (Electric Utilities).

B. Methods of Transportation to Consumers

1. **Rail**– Shipments of coal moved to consumers by rail (private or public/commercial). Included is coal hauled to or away from a railroad siding by truck
2. **River**– Shipments of coal moved to consumers via river by barge. Not included are shipments to Great Lakes Coal Loading Docks or Tidewater Piers or Coastal Ports.
3. **Great Lakes**– Shipments of coal moved to consumers via the Great Lakes. These shipments are moved via the Great Lakes Coal Loading Docks which are identified by name and location as follows:

   Superior Midwest Energy Terminal, Superior, Wisconsin
   Bessemer & Lake Erie Coal Storage & Transfer Facility, Conneaut, Ohio
   B&O Railroad Coal Loading Dock, Lorain, Ohio
   C&O Railroad Presque Isle Docks, Toledo, Ohio
   Lakefront Dock & Railroad Terminal Company Coal Loading Dock, Toledo, Ohio
   N&W Sandusky Coal Pier No. 3, Sandusky, Ohio
   ConRail Coal Transfer Facilities, Ashtabula, Ohio
   Rail to Water Transfer Corp. Dock, Chicago, Illinois

4. **Tidewater Piers and Coastal Ports**–Shipments of coal moved to Tidewater Piers and Coastal Ports for further shipments to consumers via coastal water or ocean. The Tidewater Piers are identified by name and location as follows:

   B&O Curtis Bay Coal Piers, Baltimore, Maryland
   C&O Coal Piers Nos. 14 & 15, Newport News, Virginia
   N&W Lamberts Point Coal Piers Nos. 5 & 6, Norfolk, Virginia
   Alabama State Docks Bulk Handling Plant, Mobile, Alabama
   Alabama State Docks/McDuffie Terminals, Mobile, Alabama
   Canton Coal Pier, Baltimore Harbor on Chesapeake Bay
   Greenwich Coal Pier, Greenwich Point, Philadelphia, Pa. on Delaware River
   Port Richmond Pier, Pier 18–Port Richmond, Philadelphia, Pa. on Delaware River
   Galveston Regional Coal Distribution Center, Pelican Island, Galveston, Texas
   International Marine Terminals/Plaquemines Parish Terminal, Mile 57 AHP–Mississippi River, Approx. 30 miles South of New Orleans
   Energy Terminals of Houston, Inc., a Subsidiary of Soros Associates, Houston, Texas

The Coastal Ports include those located at Charleston, S.C., New York, N.Y., San Diego, Ca., Los Angeles, Ca., Seattle, Wa.

Instructions for Form EIA-6—Coal Distribution Report—Continued

5. Truck— Shipments of coal moved to consumers by truck. Not included is coal hauled to or away from a railroad siding by truck.
6. Tramway, Conveyor, or Slurry Pipeline— Shipments moved to consumers by tramway, conveyor, or slurry pipeline.

C. Other Uses
1. Railroad fuel— Shipments of coal to railroad companies to be used as fuel (engine, powerhouse, etc.)
2. Vessel/Ship fuel— Shipments of coal to be used as vessel/ship fuel.
3. Coal gasification/liquefaction— Conversion of coal to gaseous (low to medium BTU gas) or liquid (such as synthetic crude oil and methanol) hydrocarbons.
4. Coal used at your company's mines— Coal consumed at your company's mines in this district during the reporting quarter.
5. Coal sold to employees— coal sold to employees during the reporting quarter.

D. Miscellaneous
1. Coal Producing Districts— See definitions of Coal Producing Districts in table 1 of the instructions.
2. Parent Company— A company which solely or jointly owns the reporting company and which is not itself a subsidiary of or owned by another company.

VII. General Instructions

A separate report shall be submitted for each coal producing district in which the coal was mined. Complete all data items on the form applicable to your operation. All figures should be rounded to the nearest whole number. Report all tonnage in short tons (2,000 pounds). Blanks will be interpreted as zeroes; therefore it is not necessary to enter "not applicable (NA)" or dashes or zeroes where you have no data to report.

VIII. Specific Instructions

How to report the methods of transporting coal to a consumer:

A. If the shipment involved only one method of transportation from the point of origin to the consumer, report the shipment in the section for that method of transportation.

B. If the shipment involved more than one method of transportation from the point of origin to the consumer, use the following guidelines in reporting the method of transportation:

1. If water transportation was involved, regardless of other methods of transportation also involved, report the method of transportation as one of the three types of water shipments, i.e., river, Great Lakes, or Tidewater Piers and Coastal Ports. In addition, specify how the shipment(s) was(were) delivered to the river (rail or truck), Great Lakes (rail, truck, or river) or Tidewater Piers or Coastal Ports (i.e., by rail truck or river).
2. If rail and truck are involved and no water transportation was involved, then report the method of transportation as rail.
3. Truck is to be reported as the method of transportation to the consumer only if the coal was shipped directly to the consumer by truck.

IX. Disclosure Information

The information contained on form EIA-6 may be (i) information which is exempt from disclosure to the public under the exemption for trade secrets and confidential commercial information specified in the Freedom of Information Act (FOIA) [5 U.S.C. 552 (b) (4)] or (ii) prohibited from public release by 18 U.S.C. 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the person submitting the information must make a showing satisfactory to the Department concerning its confidential nature.

Therefore, you should state briefly and specifically (on an element by element basis if possible), in a letter accompanying your submission of the form, why you consider the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential by your company and the industry, and the type of competitive harm that would result to your company from disclosure of the information. In accordance with the provisions of 10 C.F.R. 1004.11 of DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure.

If DOE does not receive a request for exemption from you, it will assume that you do not object to public disclosure of any information submitted on this form by your company. A new written justification need not be submitted each time a form EIA-6 is submitted if—

a) your views concerning information items identified by you as privileged or confidential have not changed and
b) a written justification setting forth your views in this regard was previously submitted.

By statutory authority DOE must provide this information, when requested, to the Congress or any committee of Congress and the General Accounting Office.

Instructions
Page 3

Table 1. Definition of Coal Producing Districts

District 1
Maryland—All mines in the State.
Pennsylvania—
All mines in the following counties:

Bedford	Centre	Forest	McKean
Blair	Clarion	Fulton	Mifflin
Bradford	Clearfield	Huntingdon	Potter
Cambria	Clinton	Jefferson	Somerset
Cameron	Elk	Lycoming	Tioga

Selected mines in the following counties:
Armstrong County (part)—All mines east of the Allegheny River, and those mines served by the Pittsburgh & Shawmut Railroad located on the west bank of the river.
Fayette County (part)—All mines located on and east of the line of Indian Creek Valley branch of the Baltimore & Ohio Railroad.
Indiana County (part)—All mines not served by the Saltsburg branch of the CONSOLIDATED RAIL CORPORATION.
Westmoreland County (part)—All mines served by the CONSOLIDATED RAIL CORPORATION from Torrance, east.

West Virginia—All mines in the following counties:
Grant Mineral Tucker

District 2
Pennsylvania—
All mines in the following counties:

Allegheny	Butler	Lawrence	Venango
Beaver	Green	Mercer	Washington

Selected mines in the following counties:
Armstrong County (part)—All mines west of the Allegheny River except those mines served by the Pittsburgh & Shawmut Railroad.
Fayette County (part)—All mines except those on and east of the line of Indian Creek Valley branch of the Baltimore & Ohio Railroad.
Indiana County (part)—All mines served by the Saltsburg branch of the CONSOLIDATED RAIL CORPORATION.
Westmoreland County (part)—All mines except those served by the CONSOLIDATED RAIL CORPORATION from Torrance, east.

District 3
West Virginia—
All mines in the following counties:

Barbour	Jackson	Randolph	Webster
Braxton	Lewis	Ritchie	Wetzel
Calhoun	Marion	Roane	Wirt
Doddridge	Monongalia	Taylor	Wood
Gilmer	Pleasants	Tyler	
Harrison	Preston	Upshur	

Selected mines in the following county:
Nicholas County (part)—All mines served by or north of the Baltimore & Ohio Railroad.

District 4. Ohio—All mines in the State.

District 5. Michigan—All mines in the State.

District 6
West Virginia—All mines in the following counties:
Brooke Hancock Marshall Ohio

District 7
Virginia—
All mines in the following counties:
Montgomery Pulaski Wythe Giles Craig
Selected mines in the following counties:
Buchanan County (part)—All mines in that portion of the county served by the Richlands-Jewell Ridge branch of the Norfolk & Western Railroad and in that portion on the headwaters of Dismal Creek east of Lynn Camp Creek (a tributary of Dismal Creek).
Tazewell County (part)—All mines in those portions of the county served by the Dry Fork branch to Cedar Bluff and from Bluestone Junction to Boissevain branch of the Norfolk & Western Railroad and Richlands-Jewell Ridge branch of the Norfolk & Western Railroad.
West Virginia—
All mines in the following counties:
Greenbrier Mercer Monroe Pocahontas Summers
Selected mines in the following counties:
Fayette County (part)—All mines east of Gauley River and all mines served by the Gauley River branch of the Chesapeake & Ohio Railroad and mines served by the Norfolk & Western Railroad.
McDowell County (part)—All mines in that portion of the county served by the Dry Fork branch of the Norfolk & Western Railroad and east thereof.
Raleigh County (part)—All mines except those on the Coal River branch of the Chesapeake & Ohio Railroad and north thereof.
Wyoming County (part)—All mines in that portion served by the Guyandot branch of the Norfolk & Western Railroad lying east of the mouth of Skin Fork of Guyandot River and in that portion served by the Virginia division main line of the Norfolk & Western Railroad.

District 8
Kentucky—All mines in the following counties in eastern Kentucky:

Bell	Greenup	Lawrence	Morgan
Boyd	Harlan	Lee	Owsley
Breathitt	Jackson	Leslie	Perry
Carter	Johnson	Letcher	Pike
Clay	Knott	McCreary	Rockcastle
Elliott	Knox	Magoffin	Wayne
Floyd	Laurel	Martin	Whitley

North Carolina—All mines in the State.
Tennessee—All mines in the following counties:

Anderson	Claiborne	Fentress	Overton	Scott
Campbell	Cumberland	Morgan	Roane	

District 8—*Continued*
Virginia—
All mines in the following counties:
Dickinson Lee Russell Scott Wise
Selected mines in the following counties:
Buchanan County (part)—All mines in the county, except in that portion on the headwaters of Dismal Creek, east of Lynn Camp Creek (a tributary of Dismal Creek) and in that portion served by the Richlands-Jewell Ridge branch of the Norfolk & Western Railroad.
Tazewell County (part)—All mines in the county except in those portions served by the Dry Fork branch of the Norfolk & Western Railroad and branch from Bluestone Junction to Boissevain of Norfolk & Western Railroad and Richlands-Jewell Ridge branch of the Norfolk & Western Railroad.
West Virginia—
All mines in the following counties:

Boone	Clay	Lincoln	Mason	Putnam
Cabell	Kanawha	Logan	Mingo	Wayne

Selected mines in the following counties:
Fayette County (part)—All mines west of the Gauley River except mines served by the Gauley River branch of the Chesapeake & Ohio Railroad.
McDowell County (part)—All mines west of and not served by the Dry Fork branch of the Norfolk & Western Railroad.
Nicholas County (part)—All mines in that part of the county south of and not served by the Baltimore & Ohio Railroad.
Raleigh County (part)—All mines on the Coal River branch of the Chesapeake & Ohio Railroad and north thereof.
Wyoming County (part)—All mines in that portion served by the Guyandot branch of the Norfolk & Western Railroad and lying west of the mouth of Skin Fork of Guyandot River.

District 9
Kentucky—All mines in the following counties in western Kentucky:

Butler	Hancock	McLean	Todd
Christian	Henderson	Muhlenberg	Union
Crittenden	Hopkins	Ohio	Warren
Daviess	Logan	Simpson	Webster

District 10. Illinois—All mines in the State.

District 11. Indiana—All mines in the State.

District 12. Iowa—All mines in the State.

District 13
Alabama—All mines in the State.
Georgia—All mines in the State.
Tennessee—All mines in the following counties:

Bledsoe	Hamilton	McMinn	Sequatchie	Warren
Grundy	Marion	Rhea	Van Buren	White

District 14
Arkansas—All mines in the State.
Oklahoma—All mines in the following counties:
Haskell Le Flore Sequoyah

District 15
Kansas—All mines in the State.
Missouri—All mines in the State.
Oklahoma—All mines in the following counties:

Coal	Latimer	Okmulgee	Rogers	Wagoner
Craig	Muskogee	Pittsburg	Tulsa	

Texas—All mines in the State.

District 16
Colorado—All mines in the following counties:

Adams	Boulder	Elbert	Jackson	Larimer
Arapahoe	Douglas	El Paso	Jefferson	Weld

District 17
Colorado—All mines except those included in District 16.
New Mexico—All mines except those included in District 18.

District 18
Arizona—All mines in the State.
California—All mines in the State.
New Mexico—All mines in the following counties:

Grant	McKinley	Sandoval	San Miguel	Socorro
Lincoln	Rio Arriba	San Juan	Santa Fe	

District 19
Idaho—All mines in the State.
Wyoming—All mines in the State.

District 20. Utah—All mines in the State.

District 21
North Dakota—All mines in the State.
South Dakota—All mines in the State.

District 22. Montana—All mines in the State.

District 23
Alaska—All mines in the State.
Oregon—All mines in the State.
Washington—All mines in the State.

District 24. (Pennsylvania Anthracite)
Pennsylvania—
All mines in the following counties: Carbon, Columbia, Dauphin, Lackawanna, Lebanon, Luzerne, Northumberland, Schuylkill, Sullivan, Susquehanna.

[FR Doc. 82-26974 Filed 9-29-82; 8:45 am]
BILLING CODE 6450-01-C

Federal Energy Regulatory Commission

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-AMERICAN PETROFINA COMPANY OF TEXAS				RECEIVED:	09/09/82	JA: TX			
8253563	F-86-045206	4240131139		103	107-TF	ESSIE ROSS #1	HENDERSON N (COTTON V	280.0	UNITED GAS PIPE L
-AMOCO PRODUCTION CO				RECEIVED:	09/09/82	JA: TX			
8253766	F-88-053789	4213533590		103		DAVID FASKEN BH #1	FASKEN E (WOLFCAMP)	13.9	AMOCO PRODUCTION
8253767	F-86-053790	4240131331		102-4	107-TF	VIRGINIA A GANDY GAS UNIT #1	HENDERSON N (COTTON V	350.0	VALERO TRANSMISSI
-ANDERSON PETROLEUM INC				RECEIVED:	09/09/82	JA: TX			
8253543	F-7C-042873	4243532501		103	107-TF	MARY GAYLE DAVIS 4-31	SAWYER (CANYON)	35.0	BUTTON COUNTY PIP
-ANDRESS PETROLEUM INC				RECEIVED:	09/09/82	JA: TX			
8253779	F-82-054051	4239131551		102-4		J WELDER ET AL #8	DEVIL'S RUN (6600)	8.0	TENNESSEE GAS PIP
-ATAPCO				RECEIVED:	09/09/82	JA: TX			
8253664	F-89-051723	4249732098		103		EAST UNIT #18-1 #16204	ALVORD SOUTH (CADDO C	2.1	MITCHELL ENERGY C
-B D K PRODUCTION CO INC				RECEIVED:	09/09/82	JA: TX			
8253653	F-82-050900	4229700000		103		GOEBEL GAS UNIT #2	GOEBEL	0.0	TRANSCONTINENTAL
-BAR-MAR OIL LTD				RECEIVED:	09/09/82	JA: TX			
8253697	F-84-052543	4240931565		103		WINSAUER #1-A	NORTH MATHIS (2800)	44.0	UNITED GAS PIPE L
-BARNHART CO				RECEIVED:	09/09/82	JA: TX			
8253758	F-83-053634	4215731328		102-2		PARKER MINERALS	KATY SOUTH (FIRST WIL	730.0	HOUSTON PIPE LINE
-BEN HOGAN				RECEIVED:	09/09/82	JA: TX			
8253625	F-78-050156	4209530915		103		GOLDIE HODGES #4	MITTIE (MARBLE FALLS)	37.5	SOUTHWESTERN GAS
8253626	F-78-050157	4209530885		103		HEATHINGTON UNIT #4	MITTIE (MARBLE FALLS)	36.0	SOUTHWESTERN GAS
-BILL FORNEY INC				RECEIVED:	09/09/82	JA: TX			
8253553	F-82-044283	4229732411		102-4	103	BROOKS HODGES #1 RRC ID #06045	HOUDMAN (PETTUS "C")	5.0	TRANSCONTINENTAL
-BLAIR ENERGY JOINT VENTURE				RECEIVED:	09/09/82	JA: TX			
8253622	F-88-050183	4231732457		103		AMOCO-WALKER #1	SPRABERRY	22.0	ADOBE OIL & GAS C
-BURK ROYALTY CO				RECEIVED:	09/09/82	JA: TX			
8253782	F-89-052677	4223342720		103		O SHEPPARD #1	BOONSVILLE (BEND CONG	109.5	
-CA-TEX PETROLEUM INC				RECEIVED:	09/09/82	JA: TX			
8253642	F-89-050507	4200900000		102-2		MARSHALL A #2	ARCHER COUNTY REGULAR	0.0	MID-STATE GAS COR
-CASHCO OIL CO				RECEIVED:	09/09/82	JA: TX			
8253536	F-83-039161	4218500000		102-4		CHANEY #1	HILL (BUDA)	0.0	LONE STAR GAS CO
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	09/09/82	JA: TX			
8253788	F-88-054058	4243131123		103		D L GLASS #6	CONGER SW (PENN)	0.0	INTERNORTH INC
8253549	F-83-043028	4205100000		102-2	103	EDWIN ZGABAY #4	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-CHISHOLM OIL INVESTMENTS				RECEIVED:	09/09/82	JA: TX			
8253782	F-81-054077	4217731315		102-2		SCOTTY #1	PEACH CREEK (AUSTIN C	0.0	TIPPERARY CORP
-CIRCLE SEVEN PRODUCTION CO				RECEIVED:	09/09/82	JA: TX			
8253784	F-89-054085	4249932269		103		KIRK #1	BOONESVILLE (BEND CON	0.0	NATURAL GAS PIPEL
-CLARION RESOURCES INC				RECEIVED:	09/09/82	JA: TX			
8253525	F-78-028522	4214300000		102-4	103	CARAWAY-LOVE #8 86675	LIBERTY OAK (BIG SALI	10.0	NORTHERN GAS PROD
-CLEAR FORK GAS CO				RECEIVED:	09/09/82	JA: TX			
8253637	F-78-050383	4244731913		102-2		DAVID BELLAH #3	THROCKMORTON COUNTY R	0.0	LONE STAR GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-CONO RESOURCES INC						RECEIVED: 09/09/82 JA: TX
8253596	F-02-848933	4228531584		103	107-TF	RAINOSEK #1
-COMINCO AMERICAN INC						RECEIVED: 09/09/82 JA: TX
8253734	F-10-853270	4234130483		108		CLUCK #1
-CPC EXPLORATION INC						RECEIVED: 09/09/82 JA: TX
8253548	F-03-845817	4214931159		102-2		PETERS-HAMFF UNIT #1 LEASE NO
-D & B PETROLEUM INC						RECEIVED: 09/09/82 JA: TX
*8253685	F-10-849251	4248358978		103		SIDNEY #1
-DALCO PETROLEUM U S LTD						RECEIVED: 09/09/82 JA: TX
8253686	F-06-849359	4240151098		102-4	103	E R STRONG #1 PERMIT #103587
8253606	F-06-849359	4240131098		107-TF		E R STRONG #1 PERMIT #103587
8253557	F-06-844773	4210330485		103	107-TF	J H RACHFORD #1 RRC ID #097213
-DAMSON OIL CORPORATION						RECEIVED: 09/09/82 JA: TX
8253654	F-02-850936	4202531395		102-4		RIGGLE-WENDTLAND #1
-DANIEL OIL COMPANY						RECEIVED: 09/09/82 JA: TX
8253579	F-03-847967	4232100080		102-4		PIERCE ESTATE #1
-DELTA DRILLING CO						RECEIVED: 09/09/82 JA: TX
8253744	F-7C-853494	4210500080		103		DEAN "C" #2
8253754	F-7C-853628	4210500080		103	107-TF	ROY HENDERSON "27" #2
-DIAMOND SHAMROCK CORPORATION						RECEIVED: 09/09/82 JA: TX
8253619	F-10-850011	4221131396		103		COLEMAN-GRAHAM #3
8253613	F-10-849638	4221100080		103		J B LINDLEY #3
8253757	F-10-853649	4229531081		103		JOHN R MASSELL "A" A14 #2
8253756	F-10-853646	4235731244		103		S L BRILLHART 823 #3
8253568	F-10-845858	4239330861		103		SUSAN B KAUFMAN #6-81
8253663	F-10-851665	4221100080		103		WAYNE CLEVELAND "C" #5-118
-DORCHESTER GAS PRODUCING CO						RECEIVED: 09/09/82 JA: TX
8253559	F-10-844948	4206500080		108-ER		PAN A #1 (024378)
8253561	F-10-844950	4206500080		108-SA		POWERS #1 (024383)
8253560	F-10-844949	4217900080		108-SA		WILSON-HART #1
-EASON OIL COMPANY						RECEIVED: 09/09/82 JA: TX
8253713	F-03-852845	4224500080		102-2		C B PONTIOUS #1
-ENSERCH EXPLORATION INC						RECEIVED: 09/09/82 JA: TX
8253544	F-06-848262	4228530847		103		DEE KNOX UN 1 #4
8253743	F-02-853471	4212300080		107-PE		E F ANGERSTEIN #1
8253629	F-7C-850245	4213730775		103	107-TF	G D WALLACE 24 #3
8253624	F-7C-850149	4213700080		103	107-TF	G D WALLACE 25 #2
8253617	F-05-849778	4221300080		103		T M MAGERS #2-C
8253633	F-7C-850345	4213700080		103	107-TF	WALLACE 23 #3
-EXXON CORPORATION						RECEIVED: 09/09/82 JA: TX
8253771	F-08-853851	4249531475		103		BROWN ALTMAN B #31
8253748	F-08-853545	4237110798		108		C E MCINTYRE #1
8253727	F-7C-853128	4250332080		103		CYNTHIA MALONE "C" #2
8253696	F-08-852532	4200332914		103		FULLERTON CLEARFORK UNIT #2417
8253623	F-08-850117	4210332669		103		J C TUBB A/C 1 #255L
*8253671	F-03-851936	4215731170		103		J M P DAVIS EST #62-U
8253658	F-03-851581	4247330546		103		KATY GAS FIELD UNIT #2 W-58
8253772	F-04-853980	4242731520		103		MARCOS JUAREZ 7 (10052)
8253677	F-08-852174	4208333069		103		MEANS/SAN ANDRES/UNIT 2428
8253765	F-04-853754	4226131644		103		MRS S K EAST 127-F (10053)
8253717	F-04-852899	4226130661		102-4		MRS S K EAST 129-F (099761)
8253639	F-06-850444	4236500080		108		THOMAS & WOOD #1
-FARGO TRADING CO INC						RECEIVED: 09/09/82 JA: TX

FIELD NAME	PROD	PURCHASER
WORD NORTH (EDWARDS)	0.0	
TEXAS HUGOTON (BROWN	0.0	DIAMOND SHAMROCK
GIDDINGS (BUDA) AUSTI	188.0	PHILLIPS PETROLEU
PANHANDLE EAST	0.0	WARREN PETROLEUM
CHURCH HILL (COTTON V	150.0	ARKANSAS LOUISIAN
CHURCH HILL (COTTON V	150.0	ARKANSAS LOUISIAN
WILLOW SPRINGS (COTTO	300.0	EASTEX GAS TRANSM
RIGGLE-WENDTLAND (135	50.0	VALERO TRANSMISSI
BAY PRAIRIE SOUTH (FR	0.0	DOW CHEMICAL CO
OZONA SW (STRAWN)	0.0	INTERNORTH INC
OZONA (CANYON) FLD	0.0	INTERNORTH INC
CANADIAN SE	0.0	NORTHERN NATURAL
CANADIAN SE	0.0	NORTHERN NATURAL
BRADFORD	224.0	
KIOWA CREEK	64.0	
MENDOTA NW	56.0	
BIG TIMER CREEK	0.0	INTERNORTH INC
WEST PANHANDLE	0.0	INTERNORTH INC
WEST PANHANDLE	0.0	INTER NORTH INC
WEST PANHANDLE	0.0	INTER NORTH INC
(PROPOSED) PORT ACRES	285.0	WINNIE PIPELINE C
WHELAN	638.0	TEXAS EASTERN TRA
COOK SOUTH	324.0	HOUSTON PIPE LINE
SAWYER	0.0	LONE STAR GAS CO
SAWYER	0.0	LONE STAR GAS CO
OPELIKA (RODESSA)	0.0	LONE STAR GAS CO
SAWYER	65.0	LONE STAR GAS CO
EMPEROR EAST (CLEARFO	171.0	WESTAR TRANSMISSI
OATES N E (DEVONIAN)	22.0	INTERNORTH INC
CALVIN (DEAN)	76.0	EL PASO NATURAL G
FULLERTON	15.0	PHILLIPS PETROLEU
SAND HILLS (TUBB)	75.0	EL PASO NATURAL G
THOMPSON SOUTH (4400	18.0	ARMCO STEEL CORP
KATY (WILCOX SPARKS S	219.0	HOUSTON PIPELINE
KELSEY-DEEP (ZONE 15-	18.0	TRUNKLINE GAS CO
MEANS	15.0	PHILLIPS PETROLEU
RIIA (10-M)	18.0	NATURAL GAS PIPEL
RIIA (6-F11)	738.0	NATURAL GAS PIPEL
CARTHAGE	0.0	TEXAS EASTERN TRA

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253731	F-84-053181	4208700000		102-4		STATE TRACT 261 #1	BLIND PASS	74.2	CHANNEL INDUSTRIE
-FEAGAN ENERGY INC				RECEIVED: 09/09/82 JA: TX					
8253668	F-7C-051824	4241331201		103	107-TF	C M WHITTEN #1	ELDORADO N (CANYON -A	0.0	INTERNORTH INC
-FEDERAL ENERGY DEVELOPMENT CO				RECEIVED: 09/09/82 JA: TX					
8253611	F-89-049680	4223734174		103		JAMESON #2	WORTHINGTON (CONGLOME	120.0	SOUTHWEST GAS PIP
-FISHER-WEBB INC				RECEIVED: 09/09/82 JA: TX					
8253582	F-7B-048896	4244132003		103		GROVES #2	LAKE ABILENE (4000')	15.0	FORT CHADBOURNE C
8253615	F-7B-049753	4244100000		103		JAMES WILLIAMS #1 (RE-ENTRY)	TAYLOR COUNTY REGULAR	20.0	UNION TEXAS PETRO
-FLORIDA GAS EXPLORATION COMPANY				RECEIVED: 09/09/82 JA: TX					
8253562	F-7C-045282	4248532503		102-4		FLORENCE 28 #2	PHYLLIS SONORA	67.0	
8253641	F-88-050504	4222732631		103		STELLA PETTY 32 #2	FLOSAC	0.0	ODESSA NATURAL CO
-FORBASE - TRAVERSE				RECEIVED: 09/09/82 JA: TX					
8253698	F-89-052608	4223700000		102-4		ADRIANCE #1	ANTELOPE SE (MARBLE F	912.5	LONE STAR GAS CO
8253722	F-89-052974	4223700000		103		JOHNSON RITCHIE #1	SHABAY (CONGLOMERATE)	1058.5	LONE STAR GAS CO
-FOREST OIL CORPORATION				RECEIVED: 09/09/82 JA: TX					
8253504	F-84-048215	4247933189		102-2	107-TF	VAQUILLAS RANCH CO LTD #14	GATO CREEK (9800')	882.0	UNITED TEXAS TRAN
-FRANK CASS				RECEIVED: 09/09/82 JA: TX					
8253720	F-7C-052947	4243531993		103	107-TF	ALLISON-MIERS 7301	SAWYER (CANYON)	216.0	EL PASO NATURAL G
-GALAXY OIL COMPANY				RECEIVED: 09/09/82 JA: TX					
8253571	F-83-046420	4204103610		102-2		WILLIS G RITCHIE 42 041 03610	BRYAN (AUSTIN CHALK)	150.0	PRODUCERS GAS CO
-GEAR PETROLEUM CO INC				RECEIVED: 09/09/82 JA: TX					
8253739	F-81-053366	4217731130		102-4		MOORE-TEALER #1	PEACH CREEK (AUSTIN C	48.0	VALERO TRANSMISSI
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED: 09/09/82 JA: TX					
8253694	F-84-052487	4213100000		108-ER		J F WELDERHEIRS B #3	LOMA NOVIA N E	0.0	TENNESSEE GAS PIP
-GENERAL OPERATING COMPANY				RECEIVED: 09/09/82 JA: TX					
8253581	F-10-048028	4223700000		103		RUTH BAILEY #1	JACK COUNTY REGULAR	4.0	LONE STAR GAS CO
-GENESIS PETROLEUM CORP				RECEIVED: 09/09/82 JA: TX					
8253778	F-83-054037	4232100000		102-4		STATE TRACT 181 #1 (UNASSIGNED)	MATAGORDA BAY BLK 181	146.0	LONE STAR GAS CO
-GEOSOUTHERN ENERGY CORP				RECEIVED: 09/09/82 JA: TX					
8253738	F-83-053382	4205100000		102-2		DANIELLE #1	GIDDINGS (AUSTIN CHAL	0.0	
8253628	F-83-050212	4205132137		102-2	103	MARSHA #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
8253627	F-83-050210	4205132117		102-2	103	SHELLY #1	GIDDINGS (AUSTIN CHAL	0.0	
-GETTY OIL COMPANY				RECEIVED: 09/09/82 JA: TX					
8253576	F-10-047384	4239330869		103		EARP A #1-A	N E RED DEER (UPPER M	358.0	EL PASO NATURAL G
8253555	F-85-044574	4216100000		102-2	107-TF	J R FERGUSON ESTATE #1	SOUTH WINKLER	0.0	
8253632	F-83-050320	4204100000		102-2		S T YEAGER #1	KURTEN (WOODBINE)	110.0	FERGUSON CROSSING
8253591	F-83-048738	4205100000		102-2		SEALY SMITH #5	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
8253618	F-83-049924	4205100000		102-2		SETTEGAST OPERATIONS #2	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
8253634	F-88-050355	4247532236		107-DP		UNIVERSITY 43-28 #1-L	MERIDIAN SOUTH (ELLEN	1497.0	INTRATEX GAS CO
8253635	F-88050356	4247532234		107-DP		UNIVERSITY 43-28 #1-U	MERIDIAN SOUTH (FUSSE	3869.0	INTRATEX GAS CO
8253564	F-84-05414	4247900000		102-4	107-TF	VAQUILLAS RANCH #3	EL GATO (LOWER WILCOX	125.0	TRANSCONTINENTAL
8253565	F-84-045416	4247900000		102-4	107-TF	VAQUILLAS RANCH #4	EL GATO (WILCOX-LOBO)	0.0	TRANSCONTINENTAL
8253578	F-86-046089	4236500000		103	107-TF	WERNER-HULL #3	CARTHAGE (COTTON VALL	458.0	DELMI GAS PIPELIN
8253737	F-86-053363	4236500000		103	107-TF	WHITFIELD UNIT #3	CARTHAGE (COTTON VALL	0.0	UNITED GAS PIPELI
-GLENN PETROLEUM CORP				RECEIVED: 09/09/82 JA: TX					
8253556	F-82-044640	4229732414		102-4		W N SKAGGS #1 (N/A)	MAXINE E (HART)	58.0	DELMI GAS PIPELIN
-GOLDKING PRODUCTION COMPANY				RECEIVED: 09/09/82 JA: TX					
8253589	F-83-048512	4232131113		102-4		CATHERINE SHIRA #1	SHEPHERDS MOTT (13,78	1848.0	HOUSTON PIPELINE
-GUADALUPE EXPLORATION CORP				RECEIVED: 09/09/82 JA: TX					
8253597	F-10-049815	4208730158		103		BRUTON "B" #1	PANHANDLE EAST	10.6	EL PASO NATURAL G
8253573	F-10-046507	4208700000		108		BRUTON B #1	PANHANDLE	10.6	EL PASO NATURAL G
-GULF OIL CORPORATION				RECEIVED: 09/09/82 JA: TX					
8253764	F-84-053724	4250531118		107-TF		G B VERGARA #4	J C MARTIN (LOBO)	148.0	TENNESSEE GAS PIP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8253547	F-09-842945	4218130784		102-4		H BLOUNT #1
8253684	F-10-852313	4229531005		103		HAROLD PEERY #4-766
8253718	F-10-852900	4221131421		103		ISAACS-SIMPSON #3-214
8253538	F-09-841568	4218130686		102-4		JIM HALLIBURTON #1
8253650	F-09-850789	4218130868		102-4		R W KLAS #1
8253620	F-09-850858	4218130846		102-4		ROBERT H JOHNSON #1
8253675	F-09-851953	4218130863		102-4		ROBERT J TATE #2
8253751	F-04-853590	4250531139		103	107-TF	S URIBE WELL NO 6
8253752	F-04-853592	4250531140		103	107-TF	S URIBE WELL NO 7
8253682	F-06-852233	4218338524		102-4	107-TF	T G WILLIAMS UNIT #1
-H L BROWN JR				RECEIVED:	09/09/82	JA: TX
8253690	F-08-852399	4238130265		102-4		RED BLUFF 12 096751
-HEYDRICK PETROLEUM CO				RECEIVED:	09/09/82	JA: TX
8253657	F-09-851288	4207730391		102-4		A VEITENHEIMER #1-B RRC#19988
-HNG OIL COMPANY				RECEIVED:	09/09/82	JA: TX
8253788	F-7C-854188	4243500800		103	107-TF	FRIESS B #3
-HOWELL DRILLING INC				RECEIVED:	09/09/82	JA: TX
8253783	F-02-852498	4228500008		102-4		G H GERDES JR GAS UNIT #1
-HUFO OILS				RECEIVED:	09/09/82	JA: TX
8253609	F-10-849509	4254130751		103		BRENT 60-1
8253610	F-10-849510	4254130768		103		BRENT 60-2
8253614	F-10-849689	4254130656		103		BRENT 61-2
-HUGHES & HUGHES OIL AND GAS				RECEIVED:	09/09/82	JA: TX
8253768	F-04-853682	4235531592		102-4		JOHN MORRIS "A" - 1
8253792	F-04-854188	4247933292		102-4	107-TF	LINCOLN ESTATE #3
-HUMBLE EXPLORATION CO INC				RECEIVED:	09/09/82	JA: TX
8253529	F-01-852827	4217730684		102-2	103	ROSETTA #1 - 66706
-HUNT OIL COMPANY				RECEIVED:	09/09/82	JA: TX
8253789	F-08-854119	4238130328		107-DP		GLENN B BRUNSON "17" #1
-HYDUEST ENERGY INC				RECEIVED:	09/09/82	JA: TX
8253688	F-83-849151	4248132282		102-4		HENDERSON #1
-INDEPENDENT EXPLORATION CO				RECEIVED:	09/09/82	JA: TX
8253662	F-83-851614	4224831551		102-4		GILL (NO ID # ASSIGNED)
8253785	F-81-854089	4250731128		102-4		HUBERT #2C
8253786	F-81-854090	4250731128		102-4		HUBERT #27
8253742	F-78-853427	4236332539		102-4		JONES #2
-INWOOD EXPLORATION INC				RECEIVED:	09/09/82	JA: TX
8253749	F-78-853548	4256732233		102-4		JACKSON #1
-J B DAVIS PIPE CO INC				RECEIVED:	09/09/82	JA: TX
8253531	F-78-836224	4236300000		103		RIEBE #2 ID #93003
-J M HUBER CORPORATION				RECEIVED:	09/09/82	JA: TX
8253695	F-10-852514	4223531214		103		PERKY #17
-JACKSON EXPLORATION INC				RECEIVED:	09/09/82	JA: TX
8253738	F-7C-853365	4246330859		102-4	103	INGHAM "6" #1
-JOHN L COX				RECEIVED:	09/09/82	JA: TX
8253539	F-7C-841786	4246131805		103		BARNET #1 RRC #NA
8253551	F-7C-843624	4246131793		103		GRESHAM #1 RRC 009393
8253552	F-7C-843785	4246131842		103		NEAL "20-B" #2 RRC NA
8253608	F-7C-849469	4223588880		103		ROCKER B "86" #4-X RRC #86138
-JOYCE & MILTY INC				RECEIVED:	09/09/82	JA: TX
8253554	F-83-844448	4236130359		102-4		R P SINGLETON #1
-KAISER OIL (US) LTD				RECEIVED:	09/09/82	JA: TX
8253566	F-85-845654	4234931781		103	107-TF	HOWARD PARKER #1

FIELD NAME	PROD	PURCHASER
N E SOUTHWAYD	4.0	LONE STAR GAS CO
PEERY CLEVELAND	30.0	TRANSWESTERN PIPE
CANADIAN 6 E	120.0	PIONEER NATURAL G
N E SOUTHWAYD	3.0	LONE STAR GAS CO
N E SOUTHWAYD	329.0	LONE STAR GAS CO
N E SOUTHWAYD	188.0	LONE STAR GAS CO
N E SOUTHWAYD	5.0	LONE STAR GAS CO
J C MARTIN (LOBO)	699.0	TENNESSEE GAS PIP
J C MARTIN (LOBO)	739.0	TENNESSEE GAS PIP
LANSING N	365.0	TEXAS EASTERN TRA
RED BLUFF (WOLFCAMP)	1.0	EL PASO NATURAL G
ARROWHEAD (CADDO)	1.5	FABADAU ENERGY CO
SAWYER (CANYON)	511.0	INTRATEX GAS CO
JANSKY	0.0	VALERO TRANSMISSI
BRENT (PANHANDLE MOOR	0.0	PANHANDLE EASTERN
BRENT (PANHANDLE MOOR	0.0	PANHANDLE EASTERN
BRENT (PANHANDLE MOOR	0.0	PANHANDLE EASTERN
MINNIE ROCK W (7888)	548.0	DELHI GAS PIPELIN
LINCOLN (LOBO V) 7950	183.0	HOUSTON PIPE LINE
PEACH CREEK (AUSTIN C	63.2	VALERO TRANSMISSI
PINAL DOME (LOWER WOL	1080.0	
HENDERSON (MIOCENE 25	110.0	TRUNKLINE GAS CO
WILDCAT (NEW FIELD DE	19.4	MINNIE PIPELINE C
PRYOR EAST (OLMOS)	0.0	VALERO TRANSMISSI
PRYOR EAST (SAN MIGUE	0.0	VALERO TRANSMISSI
SCATTER (BEND)	18.3	SOUTHWESTERN GAS
DOUGLAS (BIG SALINE)	387.0	INTRASTATE GATHER
BRAZOS (STRAWN)	21.5	LONE STAR GAS CO
PANHANDLE	3.0	COLORADO INTERSTA
MESA GRANDE (DEVONIAN	60.0	LINK SYSTEMS INC
BENEDUM (FUSSELMAN)	20.0	UNION TEXAS PETRO
SPRABERRY (TREND AREA	18.0	UNION TEXAS PETRO
SPRABERRY (TREND AREA	18.0	MOBIL PRODUCING T
SPRABERRY (TREND AREA	18.0	EL PASO NATURAL G
WORTHAM (HACKBERRY)	0.0	SEAGULL PIPELINE
ROUND PRAIRIE (HAYNES	450.0	DELHI GAS PIPELIN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	09/09/82	JA: TX			
8253580	F-10-848007	4221100000		102-2	103	L L JONES #1-16	ALLISON PARKS	580.0	PALO DURO PIPELIN
8253524	F-10-820838	4242100000		108-SA		WALTER LASLEY "A"	TEXAS HUGOTON FIELD	13.0	PHILLIPS PETROLEU
-KERR-MCGEE CORPORATION				RECEIVED:	09/09/82	JA: TX			
8253652	F-10-850875	4221131325		103		MARY JONES #6	HEMPHILL (DOUGLAS)	476.0	PIONEER NATURAL G
-KILLAM & HURD LTD				RECEIVED:	09/09/82	JA: TX			
8253607	F-04-849397	4247933202		102-4	107-TF	BRUNI MINERAL "B" #2	JUANITA (LOBO)	0.0	HOUSTON PIPELINE
8253724	F-04-853019	4247900000		102-4	107-TF	KILLAM & HURD FEE WELL # 3-1569	JUANITA (LOBO)	0.0	UNITED TEXAS TRAN
-LADD PETROLEUM CORPORATION				RECEIVED:	09/09/82	JA: TX			
8253567	F-08-845698	4237133325		107-DP		GOMEZ SOUTH UNIT #2-A	GOMEZ (DEVONIAN - FUS	521.4	NORTHERN NATURAL
-LMG RESOURCES INC				RECEIVED:	09/09/82	JA: TX			
8253598	F-08-849858	4210332808		103		UNIVERSITY "48-A" #2	MCELROY	9.8	PHILLIPS PETROLEU
-M BRAD BENNETT				RECEIVED:	09/09/82	JA: TX			
8253701	F-08-852645	4247532557		102-4	103	CROUCH #1	COLLIE (DELAWARE)	91.2	INTRATEX GAS CO
-MARSHALL EXPLORATION INC				RECEIVED:	09/09/82	JA: TX			
8253681	F-06-849178	4220330858		103		FRANK RESCH #1	GOOCH (TRAVIS PEAK)	180.0	TEXAS EASTERN TRA
-MCCLYMOND BROTHERS				RECEIVED:	09/09/82	JA: TX			
8253729	F-78-853171	4242933816		103		MISS SARAH 098318	LAKESIDE (CONGL 3960'	0.0	WARREN PETROLEUM
-MCFARLANE OIL CO INC				RECEIVED:	09/09/82	JA: TX			
8253590	F-05-848729	4216130681		103	107-TF	M E WHITE #1	MIMMS CREEK (BOSSIER)	8.0	DELHI GAS PIPELIN
-MCGOLDRICK OIL COMPANY				RECEIVED:	09/09/82	JA: TX			
8253708	F-06-852625	4240131253		102-2	107-TF	STELLA PITNER GAS UNIT #1 WELL #1	CYRIL (COTTON VALLEY)	400.0	UNITED GAS PIPELI
-NEWBOURNE OIL COMPANY				RECEIVED:	09/09/82	JA: TX			
8253726	F-10-853113	4229531157		103		BURCHFIEL "B" #2 RRC ID #	MAMMOTH CREEK NORTH (	164.0	INTERNORTH INC
-NGP OIL CORP				RECEIVED:	09/09/82	JA: TX			
8253768	F-78-853796	4235300000		108		SEARS #3-30	LAKE SWEETWATER (STRA	33.0	
8253841	F-7C-841830	4238300080		103		UNIVERSITY "18-A" #1	SPRABERRY (TREND AREA	0.0	J L DAVIS
-NILES PRODUCTION CO				RECEIVED:	09/09/82	JA: TX			
8253651	F-09-850866	4208300080		102-4		M P HOEFLE "F" #1	ANTELOPE S E (MARBLE	8.8	SOUTHWESTERN GAS
-NINERAL DEVELOPMENT CO LTD #3				RECEIVED:	09/09/82	JA: TX			
8253705	F-03-852745	4228131188		103		SUPERIOR HOMES UNIT #1	ALDINE-YEGUA "MOORE #	275.0	HOUSTON PIPE LINE
-NITCHELL ENERGY CORPORATION				RECEIVED:	09/09/82	JA: TX			
8253781	F-09-854865	4249732377		103		ANNA WOODY #2	BOONSVILLE (BEND CONG	367.0	NATURAL GAS PIPEL
8253678	F-09-852201	4249700000		108		BERNICE PEEK #2 #44005	BOONSVILLE (BEND CONG	18.7	NATURAL GAS PIPEL
8253746	F-78-853516	4236732274		103		C L CAVNESS #5	RENO (CONGL)	11.5	NATURAL GAS PIPEL
8253572	F-09-846449	4249700000		108		C P SMITH B #2 49254	BOONSVILLE (BEND CONG	18.0	NATURAL GAS PIPEL
8253520	F-09-884894	4249700008		108-ER		CARL C KAKER #1	BOONSVILLE BEND CONG	1.4	NATURAL GAS PIPEL
8253577	F-09-847771	4249700000		108		CORA TAYLOR #1 ID #28833	BOONSVILLE (BEND CONG	11.8	NATURAL GAS PIPEL
8253681	F-09-852211	4249700000		108		E G GASPERSON #1 #28654	BOONSVILLE (BEND CONG	13.8	NATURAL GAS PIPEL
8253688	F-09-852284	4249700000		108		EARL MOONEY #1 #28745	BOONSVILLE (BEND CONG	12.6	NATURAL GAS PIPEL
8253522	F-09-817853	4249700000		108-ER		FLAVIS GREER #2 (17350)	MORRIS	15.8	NATURAL GAS PIPEL
8253546	F-78-842362	4236700000		108		G D WILEY #1 91453	CARTER CREEK (BEND)	6.8	SOUTHWESTERN GAS
8253518	F-09-884837	4249700000		108-ER		G W RAMSEY #1	BOONSVILLE (ATOKA CON	11.6	NATURAL GAS PIPEL
8253604	F-09-849183	4249700000		108		H D JENNINGS #1 #42449	BOONSVILLE (BEND CONG	13.3	NATURAL GAS PIPEL
8253545	F-09-842358	4249700000		108		J C CHAMPION #3 90440	BOONSVILLE (BEND CONG	12.8	NATURAL GAS PIPEL
8253683	F-09-849182	4236700000		108		L E SMITH #1 35937	BOONSVILLE (BEND CONG	12.6	NATURAL GAS PIPEL
8253682	F-09-849181	4223700000		108		LINDSEY RANCH #3 18906	KRAMBERGER (ATOKA CON	13.8	SOUTHWESTERN GAS
8253679	F-78-852203	4236700000		108		N G WATKINS #1 #74683	LAKE MIN WELLS (4000	14.0	NATURAL GAS PIPEL
8253519	F-09-884846	4249700000		108-ER		R T MIZE #1 28743	BOONSVILLE BEND CONG	20.1	NATURAL GAS PIPEL
-NOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED:	09/09/82	JA: TX			
8253644	F-06-850576	4287330444		102-4		BARRON GAS UNIT #1	PERCY WHEELER (TRAVIS	24.6	
8253643	F-10-850522	4221131285		102-4		LESTER B URSCHEL #21	WILDCAT	8.0	
-NR OIL CO				RECEIVED:	09/09/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8253728	F-08-053165	4249500000		103		UNIVERSITY "A" #1 #25636
-NORTHRIDGE OIL CO				RECEIVED:	09/09/82	JA: TX
8253730	F-09-053177	4249732399		103		MERRIOTT #1
-OTIS ENERGY INC				RECEIVED:	09/09/82	JA: TX
8253689	F-7B-052386	4213300000		102-2		R W KINDEL #1
8253688	F-7B-052384	4213300000		102-2		R W KINDEL #2
8253687	F-7B-052383	4213300000		103		RICE #1
-PALO PETROLEUM INC				RECEIVED:	09/09/82	JA: TX
8253673	F-7C-051946	4238332188		103		UNIVERSITY 11-BLK 12 #1
8253672	F-7C-051941	4238332187		103		UNIVERSITY 12-BLK 12 #2
8253674	F-7C-051949	4238332186		103		UNIVERSITY 12-BLK12 #1
8253583	F-7C-048181	4238332088		103		VESTER HUGHES A #1
-PANHANDLE PRODUCING COMPANY				RECEIVED:	09/09/82	JA: TX
8253558	F-7B-044906	4244100000		103		BLAND #1
-PAUL F BARNHART				RECEIVED:	09/09/82	JA: TX
8253636	F-03-050370	4215731167		102-4	103	BARNHART CO E D WILMONT UNIT #1
-PEND OREILLE OIL & GAS CO				RECEIVED:	09/09/82	JA: TX
8253621	F-04-050865	4229732521		102-4		STATE TRACT # 26 WELL #1
-PENINSULA RESOURCES CORPORATION				RECEIVED:	09/09/82	JA: TX
8253578	F-04-047912	4227331628		102-4		WILSON RAY UNIT #1-C
-PENNZOIL PRODUCING COMPANY				RECEIVED:	09/09/82	JA: TX
8253532	F-04-03637	4221500997		108-ER		MONTGOMERY UNIT NO 2-H
-PHARAOH & ASSOCIATES INC				RECEIVED:	09/09/82	JA: TX
8253548	F-03-041792	4205100000		102-2	103	ALVIN HEIN #3
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	09/09/82	JA: TX
8253542	F-10-041949	4223300000		108		INGERTON E #1
8253763	F-10-053705	4234100000		108		LASATER A #1
8253574	F-09-047034	4249732031		103		MUNICIPAL #6
8253758	F-10-053568	4223300000		108		POOL R L #2
-PIONEER PRODUCTION CORPORATION				RECEIVED:	09/09/82	JA: TX
8253527	F-10-031966	4229500000		108-ER		FAGG UNIT #1-L (30697)
8253521	F-10-007076	4229500000		108-ER		IMKE UNIT #1 33134
8253523	F-10-010974	4229500000		108-ER		L M DRAPER #1 RRC ID #22398
-PRICE DRILLING & EXPLORATION CO				RECEIVED:	09/09/82	JA: TX
8253537	F-04-041831	4227932140		102-4		VAQUILLAS RANCH #1-267
-PRODECO EXPLORATIONINC				RECEIVED:	09/09/82	JA: TX
8253769	F-03-053802	4204130726		102-2		PULTS UNIT II #1
-PRODUCTION LEASE SERVICE INC				RECEIVED:	09/09/82	JA: TX
8253777	F-7C-054036	4248332554		103	107	TF WEST - ANDERSON #1
-R K B ENGINEERING INC				RECEIVED:	09/09/82	JA: TX
8253599	F-08-049150	4237133672		103		IOWA REALTY TRUST
-RAIDER OIL CORP				RECEIVED:	09/09/82	JA: TX
8253648	F-09-050478	4287732447		102-4		S C MATLOCK #1 RRC ID #21657
-RETARCO INC				RECEIVED:	09/09/82	JA: TX
8253736	F-03-03329	4214930972		102-2		E A ARNIM #1
8253721	F-03-052964	4214931006		102-2		EDWIN ZIMMERHANZEL #1
-RIDGE OIL CO				RECEIVED:	09/09/82	JA: TX
8253685	F-09-052317	4250335678		102-4	103	SABINE ROYALTY CO #1
-RUST OIL CORP				RECEIVED:	09/09/82	JA: TX
8253588	F-7B-048391	4225300000		103		ODELL FREEMAN #1
8253586	F-7B-048389	4225300000		103		ODELL FREEMAN #2
8253585	F-7B-048388	4225300000		102-4		ODELL FREEMAN #2A
8253587	F-7B-048390	4225300000		103		ODELL FREEMAN "A" #1

FIELD NAME	PROD	PURCHASER
WAR-WINK (DELAWARE SD	7.0	PHILLIPS PETROLEU
BOONSVILLE (BEND CONG	365.0	TEXAS UTILITIES F
EASTLAND COUNTY REGUL	0.0	ODESSA NATURAL CO
EASTLAND COUNTY REGUL	0.0	ODESSA NATURAL CO
EASTLAND COUNTY REGUL	0.0	ODESSA NATURAL CO
SPRABERRY (TREND AREA	0.0	
SPRABERRY (TREND AREA	0.0	
SPRABERRY (TREND AREA	0.0	
SPRABERRY (TREND AREA	0.0	EL PASO NATURAL G
BLAIR NORTH (ELLENBUR	0.0	LONE STAR GAS CO
KATY SOUTH FIELD	730.0	HOUSTON PIPE LINE
PORTLAND S (MORRIS) F	457.0	HOUSTON PIPE LINE
MAY S (7550 PROPOSED)	365.0	TEXAS EASTERN TRA
SAN CARLOS (FF-18)	15.0	TRUNKLINE GAS CO
CALDWELL (AUSTIN CHAL	0.0	CLAJON GAS CO
TEXAS HUGOTON	0.0	EL PASO NATURAL G
PANHANDLE-WEST	0.0	EL PASO NATURAL G
BOONSVILLE BEND CONGL	150.0	LONE STAR GAS PRO
PANHANDLE-WEST	0.0	EL PASO NATURAL G
MAMMOTH CREEK	0.0	INTERNORTH INC
NORTH MAMMOTH CREEK	12.0	NORTHERN NATURAL
NORTH MAMMOTH CREEK	1.7	NORTHERN NATURAL
CAROLINA-TEX S W (194	36.0	VALERO TRANSMISSI
KURTEN (WOODBINE)	0.0	PRODUCER'S GAS CO
INTERSTATE (CANYON)	46.0	PRODUCER'S GAS CO
PECOS VALLEY SOUTH (D	0.0	PERRY PIPELINE CO
DILLARD SOUTHEAST ATO	257.0	TEXAS UTILITIES F
GIDDINGS (BUDA)	3.7	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	80.3	PHILLIPS PETROLEU
JEAN SOUTH (CONGL 430	115.0	EAGLE-THRIFTWAY G
NOODLEKIRK (ELLENBURG	3.0	PALO DURO PIPELIN
NOODLEKIRK (ELLENBURG	3.0	PALO DURO PIPELIN
JAY (STRAWN)	78.0	PALO DURO PIPELIN
NOODLEKIRK (ELLENBURG	18.0	PALO DURO PIPELIN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-SAGE ENERGY CO				RECEIVED:	09/09/82	JA: TX			
8253649	F-03-050708	4205100080		102-2		BIRCH CREEK "K" #1 RRC# 15727	GIDDINGS (AUSTIN CHAL	144.0	PHILLIPS PETROLEU
8253648	F-03-050704	4205100000		102-2		BIRCH CREEK "L" UNIT #1 RRC #15731	GIDDINGS (AUSTIN CHAL	225.0	PHILLIPS PETROLEU
8253704	F-03-052721	4205100000		102-2		WOMBLE #1 RRC #15730	GIDDINGS (AUSTIN CHAL	19.4	PHILLIPS PETROLEU
-SANDSTONE PETROLEUM CO				RECEIVED:	09/09/82	JA: TX			
8253644	F-10-050566	4206530932		103		DEAL #1	PANHANDLE	0.0	PANHANDLE EASTERN
8253645	F-10-050567	4206530951		103		DEAL #2	PANHANDLE	0.0	PANHANDLE EASTERN
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:	09/09/82	JA: TX			
8253762	F-03-053686	4220731225		102-2	103	ROADRUNNER #3	GIDDINGS (AUSTIN CHAL	365.0	PERRY PIPELINE CO
-SAXON OIL COMPANY				RECEIVED:	09/09/82	JA: TX			
8253791	F-08-054170	4251700000		103		GARNER #1	BREEDLOVE EAST (SPRAB	0.0	PHILLIPS PETROLEU
8253741	F-7C-053420	4246100000		103		MANKS "B" #2	SPRABERRY (TREND AREA	0.0	MOBIL PRODUCING T
-SCANDRILL CO				RECEIVED:	09/09/82	JA: TX			
8253530	F-09-033308	4223733422		102-4	103	KINDER #1	SCANROCK CONGLOMERATE	148.3	TEXAS UTILITIES F
-SHELL OIL CO				RECEIVED:	09/09/82	JA: TX			
8253666	F-04-051747	4221531218		102-4		BRIGHT & SCHIFF HAMNAN GAS UNIT #3	MONTE CHRISTO (WKSBG-	458.0	VALERO INTERSTATE
*8253715	F-8A-052873	4250131934		103		DENVER UNIT #4439 GC (GAS CAP)	WASSON	91.3	SHELL OIL CO
*8253716	F-8A-052874	4250131950		103		DENVER UNIT #5517 GC (GAS CAP)	WASSON	91.3	SHELL OIL CO
*8253774	F-8A-053972	4250132052		103		DENVER UNIT #5816	WASSON	8.8	SHELL OIL CO
*8253775	F-8A-053973	4250132102		103		DENVER UNIT #5817	WASSON	37.2	SHELL OIL CO
*8253732	F-8A-053182	4216532065		103		DENVER UNIT #8425	WASSON	36.5	SHELL OIL CO
8253638	F-08-050445	4247500000		108		SEALY SMITH FDN #147	MONAHANS (CLEAR FORK)	8.5	EL PASO NATURAL G
8253535	F-10-050718	4229500080		108-ER		SHELL WHEAT #3-764	KIOWA CREEK	8.8	PHILLIPS PETROLEU
-SNOW PETROLEUM INC				RECEIVED:	09/09/82	JA: TX			
8253699	F-7B-052614	4213332924		102-4		HUNT #8-1	DESDEMONA N (CONGL)	17.0	NORTHERN GAS PROD
-SOUTHLAND ROYALTY CO				RECEIVED:	09/09/82	JA: TX			
8253753	F-7B-053598	4208332024		103		NOVICE 8022	NOVICE UNIT	380.0	LONE STAR GAS CO
-SPINDLETOP OIL & GAS CO				RECEIVED:	09/09/82	JA: TX			
8253693	F-7B-052416	4236732151		102-4		COPELAND #1	WHISKEY FLAT (LOWER A	15.0	SOUTHWESTERN GAS
8253692	F-7B-052415	4236732142		102-4		FITZWILLIAM #1	WHISKEY FLAT (LOWER A	90.0	SOUTHWESTERN GAS
8253691	F-7B-052414	4236732129		102-4		WILSON-HARRIS #1	WHISKEY FLAT (LOWER A	45.0	SOUTHWESTERN GAS
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	09/09/82	JA: TX			
8253798	F-04-054152	4242731684		103		BARRERA STATE #1	LA COPITA (4900)	38.0	
8253776	F-04-053991	4242731597		103		C L GUZMAN #2	GARCIA	98.0	
8253745	F-04-053507	4204730989		102-4		D J SULLIVAN #12L	FLOWELLA/VICKSBURG 4	742.0	
8253770	F-06-053808	4236531261		103	107-TF	FRED KYLE UNIT #3	CARTHAGE	671.0	DELHI GAS PIPELIN
8253759	F-04-053681	4242731572		102-4		I V MONTALVO "A" #18L	SUN NORTH	299.0	
8253740	F-10-053413	4223530828		103		KIRK GAS UNIT #2	LIPS WEST (CLEVELAND)	891.0	INTERNORTH INC
8253786	F-10-052777	4248330868		107-DP		R N BYERS #1	WILDCAT	0.0	PALO DURO PIPE LI
-T M QUIGLEY				RECEIVED:	09/09/82	JA: TX			
8253761	F-04-053684	4242730396		102-4		M SAMANO #3	YTURRIA (FRIO C-1) FI	36.0	SUN EXPLORATION A
-TARINA OIL CO				RECEIVED:	09/09/82	JA: TX			
8253569	F-81-046869	4228300000		108-ER		C N COOKE C #1 8217773	COOKE	0.0	TRANSCONTINENTAL
-TAYLOR OPERATING COMPANY				RECEIVED:	09/09/82	JA: TX			
8253723	F-09-053806	4223700000		103		HOLLISTER-RITCHIE #1	SHABAY (CONGLOMERATE)	167.9	LONE STAR GAS CO
-TED MCCANN & ASSOCIATES INC				RECEIVED:	09/09/82	JA: TX			
8253773	F-7C-053912	4243532693		103	107-TF	JOHN D FIELDS #1-48	SAWYER (CANYON)	286.0	EL PASO NATURAL G
-TENNECO OIL COMPANY				RECEIVED:	09/09/82	JA: TX			
8253738	F-04-053269	4221531169		103	107-TF	A A MCALLEN #10	MCALLEN RANCH	837.0	CHANNEL INDUSTRIE
8253558	F-8A-043115	4205330663		103		PHILLIPS CLAYTON JOHNSON 2-8	LUCKPOT (FUSSELMAN)	8.8	GETTY OIL CO
-TERRA RESOURCES INC				RECEIVED:	09/09/82	JA: TX			
8253683	F-04-052267	4213135506		102-4		FROST NATIONAL BANK & TRUST #2	RANCHO SOLO (BRUNI)	561.0	VALERO TRANSMISSI
-TEXACO INC				RECEIVED:	09/09/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8253656	F-84-851187	4224731394		102-4		A K EAST 824
8253714	F-88-852855	4210931577		102-4		CULBERSON "AC" FEE #1
8253783	F-8A-854884	4250132878		103		ROBERTS UNIT #3536
-TEXAS OIL & GAS CORP				RECEIVED:	09/09/82	JA: TX
8253595	F-84-848894	4226130397		102-4		ERCK #4
8253667	F-18-851771	4229530523		108-ER		SCHULTZ "C" #1
-THROCKMORTON GAS SYSTEMS				RECEIVED:	09/09/82	JA: TX
8253533	F-78-836897	4244731985		102-2		RICHARDS #1-A
8253834	F-78-837148	4244731164		102-4		W L RICHARDS #3-B 74215
-TRAVELERS OIL CO				RECEIVED:	09/09/82	JA: TX
8253707	F-18-852783	4217930593		108		CHRIS #1 84264
8253708	F-18-852784	4217900888		108		CHRIS #2 84264
8253709	F-18-852785	4217910592		108		GINNY #1 84265
8253710	F-18-852786	4217900888		108		GINNY #2 84265
8253711	F-18-852788	4217900888		108		HEIDI #2 84196
8253712	F-18-852790	4217900888		108		TIMMY #1 84577
-TRINITY RESOURCES INC				RECEIVED:	09/09/82	JA: TX
8253665	F-82-851737	4223931724		102-4	103	JOHN C DUGGER
-TXO PRODUCTION CORP				RECEIVED:	09/09/82	JA: TX
8253593	F-84-848809	4250531475		102-4		GUERRA N-1
8253616	F-82-849769	4229732842		102-4		ROARK G U A-1
8253669	F-85-851852	4216100880		103	107-TF	TEAGUE G U #1-3
8253630	F-83-850277	4208931845		102-4		YOUENS GAS UNIT WELL #2
8253612	F-82-849627	4229732187		102-4		ZAMZOW A-1
-U S OPERATING INC				RECEIVED:	09/09/82	JA: TX
8253647	F-83-850644	4228731853		102-2		ALFREDA UNIT #1 RRC ID N/A
8253594	F-83-848873	4205131913		102-2		HAZEL #1 RRC ID N/A
-UNION OIL COMPANY OF CALIF				RECEIVED:	09/09/82	JA: TX
8253659	F-83-851439	4214931121		102-2		T W COOPER #1
-UNION TEXAS PETROLEUM				RECEIVED:	09/09/82	JA: TX
8253686	F-7C-852369	4210533794		103	107-TF	MONTGOMERY 2 #2
-VAN OIL CORP				RECEIVED:	09/09/82	JA: TX
8253758	F-78-853658	4213300888		102-4		J S BROWN #1
-VOLVO PETROLEUM INC				RECEIVED:	09/09/82	JA: TX
8253692	F-83-848773	4233930501		102-4		FRIENDSWOOD DEVELOPMENT #1
-W M LAUGHLIN				RECEIVED:	09/09/82	JA: TX
8253575	F-84-847332	4224931455		102-4		A MENDOZA #2
-WAINOCO OIL & GAS CO				RECEIVED:	09/09/82	JA: TX
8253676	F-85-852118	4216130688		102-4	107-TF	MARSTERS #1
-WAY OIL CO				RECEIVED:	09/09/82	JA: TX
8253661	F-78-851546	4236332815		102-2		WALTER #1 ID-APPLIED FOR
-WAYNAR W BUCHANAN				RECEIVED:	09/09/82	JA: TX
8253660	F-18-851516	4229531128		103		LAUGHAN #1
-WCS PETROLEUM INC				RECEIVED:	09/09/82	JA: TX
8253707	F-83-854896	4238731247		102-2		COLENE GAEKE #1
-WESTCHASE PETROLEUM CORP				RECEIVED:	09/09/82	JA: TX
8253719	F-82-852944	4246931853		103		DENTLER #1
-WILLIAM PERLMAN				RECEIVED:	09/09/82	JA: TX
8253536	F-7C-828699	4243532397		102-4	103	DAN CAUTHORN 134-2 91478
-WINN EXPLORATION/DULCE CO				RECEIVED:	09/09/82	JA: TX
8253655	F-81-851076	4250700000		102-4		PRYOR RANCH 58
-WJC ENGINEERING & MANAGEMENT				RECEIVED:	09/09/82	JA: TX
8253725	F-78-853047	4213333181		102-2		ALDERMAN #1

FIELD NAME	PROD	PURCHASER
BLACK DIAMOND EAST	14.0	VALERO TRANSMISSI
GERALDINE	3.0	EL PASO NATURAL G
MASSON	0.0	SHELL OIL CO
MCGILL (7900')	58.0	FLORIDA GAS TRANS
MAMMOTH CREEK NORTH (	0.0	TRANSWESTERN PIPE
THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
RICHARDS RANCH /1830/	0.0	WARREN PETROLEUM
PANHANDLE GRAY COUNTY	0.0	
PANHANDLE GRAY COUNTY	0.0	
PANHANDLE GRAY COUNTY	0.0	
PANHANDLE GRAY COUNTY	0.0	
PANHANDLE GRAY COUNTY	0.0	
PANHANDLE GRAY COUNTY	0.0	
WILDCAT	164.0	
LOPENO S W (WILCOX 73	0.0	DELHI GAS PIPELIN
OAKVILLE (WILCOX 9700	0.0	DELHI GAS PIPELIN
TEAGUE S (COTTON VALL	0.0	
CECIL NOBLE (7600')	0.0	TENNESSEE GAS PIP
RAY POINT N (LULING)	0.0	UNITED GAS PIPELI
GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
GIDDINGS	123.0	CLAJON GAS CO
OZONA (CANYON SAND)	857.0	INTERNORTH INC
FAIR (MARBLE FALLS LO	361.0	NORTHERN GAS PROD
FRIENDSWOOD DEVELOPME	368.0	ENDEVCO NATURAL G
ASOG	185.0	VALERO ENERGY COR
STEWARDS MILL NE (CVL	738.0	LONE STAR GAS CO
PALO PINTO S W (STRAW	118.0	SOUTHWESTERN GAS
LIPSCOMB (MORROW)	638.0	TRANSWESTERN PIPE
GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
SCHROEDER (FRIO 3100'	231.0	TEXAS UTILITIES F
NORTH CAUTHORN (STRAW	0.0	EL PASO NATURAL G
WINN-DULCE	0.0	VALERO TRANSMISSI
EASTLAND COUNTY REGUL	54.7	NORTHERN GAS PROD

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-WOOD MCSHANE & THAMS				RECEIVED:	09/09/82	JA: TX			
8253747	F-08-853542	4200333172		103		LITTMAN #104 RRC #26861	LITTMAN (SAN ANDRES)	73.0	GETTY OIL CO
-WOODS PETROLEUM CORPORATION				RECEIVED:	09/09/82	JA: TX			
8253670	F-8A-851859	4207931513		102-4	103	RJR RANCH #5-2	BONANZA (SAN ANDRES)	5.0	WARREN PETROLEUM
-WORLDWIDE ENERGY CORPORATION				RECEIVED:	09/09/82	JA: TX			
8253528	F-86-832277	4242330430		102-4		DENMAN #A-4	SUNSHINE (RODESSA)	0.0	SEMCO GAS INC
-ZONERGY INC				RECEIVED:	09/09/82	JA: TX			
8253631	F-81-858378	4217731312		102-2		NIXON #4	PEACH CREEK (BUDA)	0.0	TIPPERARY CORP

CORRECTIONS TO PREVIOUS NOTICES/REVISIONS TO PRIOR DETERMINATIONS

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C: Correction to prior Fed. Register notice
81-06162	OK	Hay Petroleum	Suthers #1	329	12-12-80	C: 102-2 & 103 Approved
82-05629	OH	Nedco Inc	Walter Ullman #5	550	12-14-81	C: 107-DV Approved; not 107-TF
82-11630	OK	Kaiser-Francis Oil Co	Spurlin #1	579	01-22-82	C: 102-4 & 103 Approved
82-23740	TX	Hanley Co	University 2-36A(09201) #1	628	04-13-82	C: 103 Approved; not 108
82-24545	WV	Industrial Gas Asso.	James No. 3 DOD-2362	631	04-14-82	C: Well Name
82-35007	NM	Yates Petroleum Corp	Sparrow "SP" ST #1	672	06-28-82	C: 102-2 & 107-TF Approved
82-35032	NM	Yates Petroleum Corp	Rook "RK" St #4	672	06-28-82	C: 102-2 & 107-TF Approved
82-35676	NM	Yates Petroleum Corp	Grynberg "LZ" ST #3	673	06-28-82	C: 102-2 & 107-TF Approved
82-35677	NM	Yates Petroleum Corp	Margaret "RQ" St #2	673	06-28-82	C: 102-2 & 107-TF Approved
82-37136[illegible](NM)		ARCO Oil & Gas	Justis Federal #3-Y	678	07-06-82	C: Approved by MMS(NM)
82-37473	TX	Morrow Resources Inc	Matthews #3	679	07-06-82	C: 102-2 & 103 Approved; not 107-TF
82-39243	TX	Mitchell Energy Corp	B. E. Baker "B" #1-T	686	07-14-82	C: 103 Approved; not 102-4
82-39450	NM	Yates Petroleum Corp	Snakeweed "SD" St #1	687	07-14-82	C: 102-2 & 107-TF Approved
82-41068	PA	Envirogas Inc	H. Stetson #1	693	07-26-82	C: 107-TF Approved; not 103
82-41091	PA	Quartinmont Glass Co	David #2	693	07-26-82	C: Well Name
82-41092	PA	Quertinmont Glass Co	David No. 1	693	07-26-82	C: Well Name
82-41104	PA	Wainoco Oil & Gas Co	Wayne L Bancroft No 1	693	07-26-82	C: 107-TF Approved; not 107-DP
82-41809	LA	Transco Oil Corp	Bel No. 1	696	08-13-82	C: 102-4 & 103 Approved
82-42232	TX	Ray M Eubank	Black-Clark #1-C	698	08-14-82	C: 102-4 Approved, not 103
82-42309	TX	Mobil Prdg Tx & NM Inc	LaGloria Gas Unit 42	698	08-14-82	C: 108 Approved; not 108-SA
82-42310	TX	Mobil Prdg Tx & NM Inc	Church of Brethren #6	698	08-14-82	C: 108 Approved; not 108-SA
82-42420	TX	Mobil Prdg Tx & NM Inc	W. D. Johnson "L" #2	698	08-14-82	C: Well Name
82-42643	NM	Yates Petroleum Corp	Skink "SK" St #3	699	08-04-82	C: 102-2 & 107-TF Approved
82-42689	OK	R. J. Walker Oil Co Inc	Hartz #1	699	08-04-82	C: 102-4 & 103 Approved
82-43147	LA	Primos Production Co	Petro Lewis Union Pwr. #34	701	08-04-82	C: Well Name
82-43441	TX	Maralo Inc	University "6" #7	702	08-13-82	C: Well Name
82-43547	OK	Chase Exploration Corp	Kahle #1-10	703	08-13-82	C: 108 Denied
82-43597[illegible](CO)		Cosaka Resources(USA)Ltd	Federal #1-35-4-104	703	08-13-82	C: 102-2 & 107-TF Approved
82-43636	PA	Envirogas Inc	J. Hall #1	703	08-13-82	C: 103 & 107-TF Approved
82-43942	OK	R W Moncrief Inc	Brownen #1-15	705	08-17-82	C: Well Name
82-43959	OK	Dean Clark	Avers-Manor #1-17	705	08-17-82	C: Well Name
82-44192	TX	Henderson Clay Prods Inc	Glen Williams Est GU #1	706	08-24-82	C: 102-3 & 107-TF Approved; not 107-DP
82-44522[illegible](NM)		Wallen Production Co	Wallen 19 Federal #1 NM	707	08-17-82	C: 103 Approved; not 102-4
82-44581[illegible](CO)		Federal Resources Dev Co	Federal M-21-3-101-S	707	08-24-82	C: Well Name

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C	Correction to prior Fed. Register notice
82-45310	OK	Phillips Petroleum Co	Black A "1	711	08-26-82	C:	108-ER Approved
82-45361	PA	Northwest Natural Gas	Austin F Conley #2	711	08-26-82	C:	Well Name
82-45529	TX	Hunt Petroleum Corp	Ledbetter #1	712	08-26-82	C:	107-DP Approved; not 107-TF
82-45559	TX	Sierra Production Co	Josephine Chesnut #3	712	08-26-82	C:	Well Name
82-45701	TX	Judy Oil Company	Lloyd A B #3	712	08-26-82	C:	Well Name
82-45729	PA	Envirogas Inc	H Hamrick #2	713	08-26-82	C:	107-TF Approved, not 107-DP
82-46118	PA	Wm C Wood	J E Shaffer Well	713	08-26-82	C:	107-PE Approved; not 107-TF
82-46616	PA	American Petroel Inc	Campbell #1	716	09-01-82	C:	107-DV Approved; not 107
82-47136	PA	National Fuel Supply	A E Bren Et Con #786	718	09-01-82	C	Well Name
82-47358	WV	Hydrocarbon Ener Inc	R Lyons #1(HS-2)	719	09-01-82	C:	Well Name
82-47496	TX	Sage Energy Company	Birch Creek D #2	720	09-08-82	C:	Well Name
82-47497	TX	Sage Energy Company	Birch Creek H #1	720	09-08-82	C:	Well Name
82-47498	TX	Sage Energy Company	Birch Creek E No 1	720	09-08-82	C	Well Name
82-47521	TX	Carter Energy Corp	Etta Dobbins #3	720	09-08-82	C:	Well Name
82-47565	TX	HNG Oil Company	Vanderstucken "49" #5	720	09-08-82	C:	103 and 107-TF Approved
82-47824	KS	Kansas Petroleum Inc	Meis #1	721	09-08-82	C:	Well Name
82-47843	KS	Osborn Heirs Company	Walkenshaw #1	721	09-08-82	C:	Well Name
82-47844	KS	Osborn Heirs Company	Rohlman #1	721	09-08-82	C:	Well Name
82-48248	TX	R F Madera	Mackiser No 3	723	09-08-82	C:	Well Name

OTHER PURCHASERS VOLUME NO :742

8253605 HIGH PLAINS NATURAL GAS CO
8253671 E I DUPONT DE*NEMOURS & CO INC
8253715 COLTEXO CORP
8253716 COLTEXO CORP
8253732 COLTEXO CORP
8253774 COLTEXO CORP
8253775 COLTEXO CORP

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 295.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–CB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-27014 Filed 9-29-82; 8:45 am]
BILLING CODE 6717-01-M

[Volume 743]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 27, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-A E C OIL & GAS INC				RECEIVED:	09/09/82	JA: TX			
8253893	F-7B-055118	4242933250		102-2		J N CRUDGINGTON #5 RRC L8 #17970	REID-MCLENNAN (MISS)	15.0	PETROLEUM CORP OF
-AARDOLIE OIL CO				RECEIVED:	09/09/82	JA: TX			
8253935	F-09-055416	4223700888		103		AAMY #1	DEWEBER (CONGLOMERATE	90.0	TEXAS UTILITIES F
8253936	F-09-055418	4223700000		103		CORDELL-KELLY #1	DEWEBER (CONGLOMERATE	30.0	TEXAS UTILITIES F
-ALMAC OIL CO				RECEIVED:	09/09/82	JA: TX			
8254103	F-10-055922	4217900000		103		BIG BULL #1 (ID# 05120)	PANHANDLE GRAY	40.0	CABOT PIPELINE CO
8254104	F-10-055923	4217900888		103		BIG BULL #2 (ID#05120)	PANHANDLE GRAY	40.0	CABOT PIPELINE CO
-AMERADA HESS CORPORATION				RECEIVED:	09/09/82	JA: TX			
8254146	F-7C-056055	4238300000		108		G L ALDWELL #4502	SPRABERRY TREND	3.7	EL PASO NATURAL G
8254145	F-7C-056054	4238300000		108		G L ALDWELL #4603	SPRABERRY TREND	4.5	EL PASO NATURAL G
-AMMEX PETROLEUM INC				RECEIVED:	09/09/82	JA: TX			
8253809	F-03-054371	4214931336		102-2	103	LUTHERHILL UNIT #1	GIDDINGS (EDWARDS GAS	576.0	CLAJON GAS CO
-AMOCO PRODUCTION CO				RECEIVED:	09/09/82	JA: TX			
8253927	F-06-055352	4220330907		102-4	107-TF	C A HYATT GAS UNIT #1	BLOCKER (COTTON VALLE	200.0	UNITED GAS PIPELI
8253928	F-06-055353	4220330923		102-4	107-TF	THOMPSON GAS UNIT "B" #1	BLOCKER (COTTON VALLE	250.0	UNITED GAS PIPELI
-APC OPERATING PARTNERSHIP				RECEIVED:	09/09/82	JA: TX			
8253997	F-09-055700	4207732637		103		SARAH MAXEY WELL #6 RRC #21514	BUCK M (BRYSON)	23.0	FASADAU ENERGY CO
-ARCO OIL AND GAS COMPANY				RECEIVED:	09/09/82	JA: TX			
8253921	F-8A-055277	4216532564		103		ASHENHURST "D" #2	EAST SEMINOLE (SAN AN	5.8	PHILLIPS PETROLEU
8253848	F-10-054760	4217900000		108		H M DAVIS #4	PANHANDLE GRAY COUNTY	14.8	PHILLIPS PETROLEU
8253819	F-08-054506	4208332634		103		UNIVERSITY 11 SEC 23 #2	GOLDSMITH M (SAN ANDR	19.0	PHILLIPS PETROLEU
*8253918	F-8A-055273	4250131986		103		WILLARD UNIT #13-C	WASSON	3.6	SHELL OIL CO COLT
*8253915	F-8A-055269	4250131990		103		WILLARD UNIT #15-C	WASSON	9.8	SHELL OIL COMPANY
*8253916	F-8A-055271	4250132016		103		WILLARD UNIT #25-D	WASSON	10.8	SHELL OIL CO
*8253914	F-8A-055268	4250131989		103		WILLARD UNIT #27-C	WASSON	2.8	SHELL OIL CO
*8253920	F-8A-055275	4250132008		103		WILLARD UNIT #44-C	WASSON	35.8	SHELL OIL CO
*8253919	F-8A-055274	4250132014		103		WILLARD UNIT #59-C	WASSON	64.8	SHELL OIL CO
*8253917	F-8A-055272	4250132004		103		WILLARD UNIT #79-C	WASSON	21.0	SHELL OIL CO
8253849	F-10-054761	4217900000		108		WORLEY-RENOLDS #10	PANHANDLE GRAY COUNTY	3.7	PHILLIPS PETROLEU
-ARKLA EXPLORATION COMPANY				RECEIVED:	09/09/82	JA: TX			
8253952	F-06-055561	4218330511		103		THOMAS #1	WILLOW SPRINGS (TRAVI	300.0	ARKANSAS LOUISIAN
-ARROW PETROLEUM CO				RECEIVED:	09/09/82	JA: TX			
8254010	F-01-055744	4216331964		103		COVEY CHAPEL (07331) #1	PEARSALL (AUSTIN CHAL	25.0	TGP INC
8254011	F-01-055745	4216332172		103		J B BROOKS #1	PEARSALL (AUSTIN CHAL	10.0	TGP INC
-B & B FARM INDUSTRIES INC				RECEIVED:	09/09/82	JA: TX			
8253828	F-10-054540	4248331006		102-4		BAILEY "E" #1	THORNDIKE (HUNTON)	600.0	WESTAR TRANSMISSI
8254182	F-10-056180	4248331015		102-4		KELTON #2 (05068)	MILLS RANCH (GRANITE	600.0	MISSISSIPPI RIVER
-B & L OPERATING CO				RECEIVED:	09/09/82	JA: TX			
8254171	F-7B-056105	4213333938		102-4		MIDKIFF #1 (18556)	MIDKIFF (ADAMS BRANCH	7.0	ODESSA NATURAL CO
8254172	F-7B-056106	4213333999		102-4		MIDKIFF #3 (18556)	MIDKIFF (ADAMS BRANCH	11.0	ODESSA NATURAL CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8254178	F-7B-056104	4213334001		102-4		MIDKIFF #5 (18556)	MIDKIFF (ADAMS BRANCH	11.0	ODESSA NATURAL CO
8254169	F-7B-056103	4213334002		102-4		MIDKIFF #6 (18556)	MIDKIFF (ADAMS BRANCH	9.0	ODESSA NATURAL CO
8254168	F-7B-056102	4213333997		102-4		MIDKIFF #9 (18556)	MIDKIFF (ADAMS BRANCH	11.0	ODESSA NATURAL CO
-BECKER & G/O INTERNATIONAL INC				RECEIVED:	09/09/82	JA: TX			
8254081	F-04-055706	4227331583		103		INEZ M KOWALSKI UNIT #2 - 09949	KINGSVILLE (OAKVILLE)	15.0	TEXAS EASTERN TRA
-BETTIS BOYLE & STOVALL				RECEIVED:	09/09/82	JA: TX			
8253793	F-7B-054185	4225332137		103		EASON #1 OIL LSE #18249	RAVEN CREEK (CANYON S	37.0	CONOCO INC
-BONRAY ENERGY CORP				RECEIVED:	09/09/82	JA: TX			
8253827	F-08-054537	4222732643		103		READ 28-1	COAHOMA N (MISS)	49.3	PHILLIPS PETROLEU
8253826	F-08-054536	4222732662		103		SHIVE 29-1	COAHOMA N (MISS)	65.2	PHILLIPS PETROLEU
8253854	F-7C-054809	4238332083		103		TEXAS UNIVERSITY -.ICC	BIG LAKE N (FUSSELMAN	436.0	INTRATEX GAS CO
-BOW VALLEY PETROLEUM INC				RECEIVED:	09/09/82	JA: TX			
8253844	F-03-054706	4231330316		103		BLANKENSHIP #1	NORTH ZULCH	48.0	LONE STAR GAS CO
-BRECKENRIDGE SALVAGE & SUPPLY				RECEIVED:	09/09/82	JA: TX			
8253987	F-7B-055227	4242900000		108		A L VIERTEL #2 36532	MCCREA (STRAWN LO)	18.5	PETROLEUM CORP OF
-BROCK PETROLEUM CORP				RECEIVED:	09/09/82	JA: TX			
8253955	F-01-055569	4217731293		102-2		PLOEGER-GONZALES UNIT #3	PEACH CREEK (BUDA)	50.0	VALERO TRANSMISSI
-BTA OIL PRODUCERS				RECEIVED:	09/09/82	JA: TX			
8254084	F-8A-055729	4211531645		103		WINFORD #3	WELCH SE (SPRABERRY)	4.4	PHILLIPS PETROLEU
-BURNETT OIL CO INC				RECEIVED:	09/09/82	JA: TX			
8254068	F-03-055872	4233930487		102-4		HENRY LAWRENCE #1	MISS ANNE (WILCOX)	46.0	TEJAS GAS CORP
-BURNS PETROLEUM				RECEIVED:	09/09/82	JA: TX			
8253988	F-09-055185	4223700000		102-4		BURNS #1	CRUM (MARBLE FALLS)	20.0	SOUTHWESTERN GAS
8253981	F-09-055188	4207732080		103		CHILDS "A" #2	CLAY COUNTY REGULAR	25.0	FAGADAU ENERGY CO
-C F LAWRENCE & ASSOC INC				RECEIVED:	09/09/82	JA: TX			
8253983	F-7C-055185	4210500000		102-4		SHANNON "D" #1	BRALAU (QUEEN UPPER)	0.0	EL PASO NATURAL G
8253982	F-7C-055026	4210500000		108		TODD "B" #1 75501	DONNAN (SAN ANDRES)	11.7	APACHE GAS CORP
8253883	F-7C-055027	4210500000		108		TODD "F" #1 77447	HOWARD DRAW (GRAYBURG	6.5	APACHE GAS CORP
8253884	F-7C-055028	4210500000		108		TODD "H" #1 78120	TODLAW (QUEEN)	14.7	APACHE GAS CORP
8253885	F-7C-055029	4210500000		108		TODD "I" #1 78348	HOWARD DRAW (GRAYBURG	3.3	APACHE GAS CORP
8253886	F-7C-055030	4210500000		108		TODD "J" #1 80857	HOWARD DRAW (GRAYBURG	3.9	APACHE GAS CORP
-C R SPROUL				RECEIVED:	09/09/82	JA: TX			
8254184	F-7C-056189	4241331232		103		JS WR & RH WHITTEN #1	ELDORADO NORTH (CANYO	79.2	
-CALIX CORP				RECEIVED:	09/09/82	JA: TX			
8253949	F-01-055541	4217700000		102-4		DUBOSE #1 (67773)	PEACH CREEK (AUSTIN C	30.0	VALERO TRANSMISSI
8253948	F-01-055539	4217700000		102-4		DUBOSE #2 (67773)	PEACH CREEK (AUSTIN C	48.0	VALERO TRANSMISSI
8253975	F-01-055614	4217731194		102-4		SLOAN #1 ID 08135	PEACH CREEK (AUSTIN C	45.0	VALERO TRANSMISSI
-CHAMPLIN EXPLORATION INC				RECEIVED:	09/09/82	JA: TX			
8254165	F-03-056094	4214931281		102-2		#1 WILLIE (RRC ID #15354)	GIDDINGS (AUSTIN CHAL	85.0	PHILLIPS PETROLEU
8254020	F-03-055778	4228731079		102-2		GERDES C #2 (RRC ID#12519)	GIDDINGS (AUSTIN CHAL	308.0	PERRY PIPELINE CO
8254019	F-03-055777	4214930339		102-2		HULDA EPHRAIM #2 (RRC ID#12238)	GIDDINGS (AUSTIN CHAL	2.4	PHILLIPS PETROLEU
8254164	F-03-056093	4228730923		102-2		MARY BLACKBURN HARRELL #4 (097567)	GIDDINGS (AUSTIN CHAL	158.0	PHILLIPS PETROLEU
8254021	F-03-055779	4214930386		102-2		MITSCHKE #1 (RRC ID#12647)	GIDDINGS (BUDA)	150.0	RESERVE GAS SYSTE
-CIRCLE SEVEN PRODUCTION CO				RECEIVED:	09/09/82	JA: TX			
8253881	F-09-055824	4249732372		103		CARUTHERS/COFFEE #1	BOONESVILLE (BEND CON	0.0	LONE STAR GAS CO
-CITIES SERVICE COMPANY				RECEIVED:	09/09/82	JA: TX			
8254087	F-03-055736	4214930656		102-2		CHERRY "A" #1 (13365)	GIDDINGS (AUSTIN CHAL	45.8	PHILLIPS PETROLEU
8253858	F-08-054836	4238931247		103		LAYDEN-A #1	COLLIE (DELAWARE)	20.0	INTRATEX GAS CO
8254150	F-08-056060	4238931247		103		LAYDEN-A #2	COLLIE (DELAWARE)	43.0	INTRATEX GAS CO
8253972	F-03-055603	4214930534		102-2		RODGERS "A" #1 OIL UNIT (12985)	GIDDINGS (AUSTIN CHAL	85.0	PHILLIPS PETROLEU
8254152	F-8A-056062	4216532298		103		W SEMINOLE SAN ANDRES UNIT #1309	SEMINOLE WEST	21.0	CITIES SERVICE CO
8254148	F-08-056058	4213533946		103		WEST GOLDSMITH UNIT #5120	GOLDSMITH W (CLEARFOR	27.0	SHELL OIL CO
8254149	F-08-056059	4213533909		103		WEST GOLDSMITH UNIT #5121	GOLDSMITH W (CLEARFOR	29.0	SHELL OIL CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8254151	F-8A-856061	4216531982		103		WEST SEMINOLE SAN ANDRES UNIT #713	SEMINOLE WEST	13.8	CITIES SERVICE CO
-COCKRELL CORPORATION				RECEIVED:	09/09/82	JA: TX			
8253937	F-82-855439	4212331188		103		CHARLES E GARRETT #1	GARRETT	100.0	VALERO TRANSMISSI
-COLA PETROLEUM INC				RECEIVED:	09/09/82	JA: TX			
8254188	F-7C-856144	4238331715		103		ELLA "114" #1	CALVIN (DEAN)	22.0	UNION TEXAS PETRO
-COLORADO INTERSTATE GAS CO				RECEIVED:	09/09/82	JA: TX			
8254088	F-10-855785	4237930159		108		BIVINS 64R	PANHANDLE WEST (RED C	0.0	COLORADO INTERSTA
-COLUMBIA GAS DEVELOPMENT CORP				RECEIVED:	09/09/82	JA: TX			
8254042	F-03-855808	4205132251		102-2		RAYMOND ZGABAY #4	GIDDINGS (AUSTIN CHAL	30.0	FERGUSON CROSSING
-CONOCO INC				RECEIVED:	09/09/82	JA: TX			
8254036	F-01-855800	4232331659		103		N J CHITTIM #A-25	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254024	F-01-855787	4232331667		103		N J CHITTIM #B-6	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254025	F-01-855788	4232331658		103		N J CHITTIM #C-11	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254023	F-01-855786	4232331657		103		N J CHITTIM #C-12	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254035	F-01-855799	4232331656		103		N J CHITTIM #H-2	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254033	F-01-855797	4232331655		103		N J CHITTIM #H-3	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254034	F-01-855798	4232331654		103		N J CHITTIM #H-4	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254028	F-01-855792	4232331671		103		N J CHITTIM #3908	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254032	F-01-855796	4232331672		103		N J CHITTIM #3909	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254030	F-01-855794	4232331386		103		N J CHITTIM #443	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254031	F-01-855795	4232331387		103		N J CHITTIM #444	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254027	F-01-855790	4232331388		103		N J CHITTIM #445	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254026	F-01-855789	4232331670		103		N J CHITTIM #7215	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254029	F-01-855793	4232331668		103		N J CHITTIM #7216	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254037	F-01-855801	4232331666		103		N J CHITTIM #9916	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254120	F-10-855986	4206500880		108		POLING #1	WEST PANHANDLE	12.8	CITIES SERVICE GA
8253882	F-08-854273	4230130344		103	107-DP	W D JOHNSON "2" #1	CENTRAL PINAL DOME (W	146.4	TRANSCONTINENTAL
-COOK JOHN R				RECEIVED:	09/09/82	JA: TX			
8253986	F-7B-855226	4242900080		108		M E CARPER #1 40535	TRAMMELL (CADDO)	12.8	PETROLEUM CORP OF
8253985	F-7B-855225	4242900000		108		R Q CURRY #1 040540	TRAMMELL (CADDO)	5.1	PETROLEUM CORP OF
-COTTON PETROLEUM CORPORATION				RECEIVED:	09/09/82	JA: TX			
8253894	F-08-855139	4231732256		103		STEWART-ALLAR #1	SPRAYBERRY (TA) DEAN	8.0	PHILLIPS PETROLEU
-DALLAS SUNBELT OIL & GAS INC				RECEIVED:	09/09/82	JA: TX			
8254077	F-7B-855884	4213333503		103		CARVER "B" #3 (18178)	EASTLAND COUNTY REGUL	7.0	LONE STAR GAS CO
8254076	F-7B-855883	4213333502		103		CARVER "B" #4 (18178)	EASTLAND COUNTY REGUL	5.0	LONE STAR GAS CO
8254075	F-7B-855882	4213333588		102-4		KIRK #4 (17497)	RANGER NW (MARBLE FAL	22.0	LONE STAR GAS CO
8254074	F-7B-855881	4213333587		102-4		KIRK #5 (17497)	RANGER NW (MARBLE FAL	73.0	LONE STAR GAS CO
8254073	F-7B-855880	4213333586		102-4		KIRK #6 (17497)	RANGER NW (MARBLE FAL	48.0	LONE STAR GAS CO
-DAMSON OIL CORPORATION				RECEIVED:	09/09/82	JA: TX			
8253805	F-82-854319	4223931681		102-4		CLARENCE BULLER #1	BULLER (10000 SAND)	480.0	VALERO TRANSMISSI
8253815	F-06-854447	4240131580		103	107-TF	KANGERGA GAS UNIT 1 WELL #2	OAK HILL/COTTON VALLE	300.0	DELHI GAS PIPELIN
8253813	F-06-854432	4240100000		103	107-TF	LINVILLE BENNETT UNIT 1 WELL #4	OAK HILL (COTTON VALL	300.0	DELHI GAS PIPELIN
-DAN LANKFORD				RECEIVED:	09/09/82	JA: TX			
8254018	F-09-855774	4250332948		103		CORA MCMURTRY #19107	BUNGER BRIDGE (CONGL)	45.0	LONE STAR GAS CO
-DELTA DRILLING CO				RECEIVED:	09/09/82	JA: TX			
8253812	F-7C-854426	4210500000		103	107-TF	ROY HENDERSON #2	OZONA CANYON	0.0	INTER NORTH INC
-DELTA OIL & GAS CO				RECEIVED:	09/09/82	JA: TX			
8253950	F-7B-855559	4242933178		103		REMINGTON HEIRS #1	CADDO (DUFFER)	0.0	LONE STAR GAS CO
-DEPCO INC				RECEIVED:	09/09/82	JA: TX			
8254179	F-8A-856137	4216532360		103		NORA F COLTHARP #4	ROBERTSON	4.0	PHILLIPS PETROLEU
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	09/09/82	JA: TX			
8253995	F-08-855697	4223300080		108		E B JOHNSON "A" #1	WEST PANHANDLE	9.0	INTERNORTH INC
-DISCOVERY OPERATING INC				RECEIVED:	09/09/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8254152	F-8A-856062	4216531983		103		WEST SEMINOLE SAN ANDRES UNIT #714	SEMINOLE WEST	13.8	CITIES SERVICE CO
-COCKRELL CORPORATION				RECEIVED:	09/09/82	JA: TX			
8254187	F-7C-856143	4238331714		103		ELLA "114" #2	CALVIN (DEAN)	22.0	UNION TEXAS PETRO
-COLORADO INTERSTATE GAS CO				RECEIVED:	09/09/82	JA: TX			
8254089	F-10-855786	4237930160		108		BIVINS 65R	PANHANDLE WEST (RED C	0.0	COLORADO INTERSTA
-COLUMBIA GAS DEVELOPMENT CORP				RECEIVED:	09/09/82	JA: TX			
8254041	F-03-855807	4205132250		102-2		RAYMOND ZGABAY #3	GIDDINGS (AUSTIN CHAL	30.0	FERGUSON CROSSING
-CONOCO INC				RECEIVED:	09/09/82	JA: TX			
8254039	F-01-855802	4232331660		103		N J CHITTIM #A-26	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254040	F-01-855803	4232331661		103		N J CHITTIM #A-27	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254038	F-01-855804	4232331662		103		N J CHITTIM #A-28	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254021	F-01-855784	4232331663		103		N J CHITTIM #B-7	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254022	F-01-855785	4232331664		103		N J CHITTIM #B-8	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254020	F-01-855783	4232331665		103		N J CHITTIM #B-9	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254019	F-01-855782	4232331669		103		N J CHITTIM #B-10	SACATOSA (SAN MIGUEL	0.7	VALERO TRANSMISSI
8254121	F-10-855987	4206500881		108		POLING #2	WEST PANHANDLE	12.8	CITIES SERVICE GA
8253883	F-08-854274	4230130345		103	107-DP	W D JOHNSON "2" #2	CENTRAL PINAL DOME (W	146.4	TRANSCONTINENTAL
-COOK JOHN R				RECEIVED:	09/09/82	JA: TX			
8253987	F-7B-855227	4242900081		108		M E CARPER #2 40535	TRAMMELL (CADDO)	12.8	PETROLEUM CORP OF
8253984	F-7B-855224	4242900000		108		R Q CURRY #2 040540	TRAMMELL (CADDO)	5.1	PETROLEUM CORP OF
-COTTON PETROLEUM CORPORATION				RECEIVED:	09/09/82	JA: TX			
8253893	F-08-855138	4231732255		103		STEWART-ALLAR #2	SPRAYBERRY (TA) DEAN	8.0	PHILLIPS PETROLEU
-DALLAS SUNBELT OIL & GAS INC				RECEIVED:	09/09/82	JA: TX			
8254072	F-7B-855879	4213333585		103		CARVER "B" #5 (18178)	EASTLAND COUNTY REGUL	7.0	LONE STAR GAS CO
8254071	F-7B-855878	4213333584		103		CARVER "B" #6 (18178)	EASTLAND COUNTY REGUL	5.0	LONE STAR GAS CO
8254070	F-7B-855877	4213333583		102-4		KIRK #7 (17497)	RANGER NW (MARBLE FAL	22.0	LONE STAR GAS CO
8254069	F-7B-855876	4213333582		102-4		KIRK #8 (17497)	RANGER NW (MARBLE FAL	73.0	LONE STAR GAS CO
8254068	F-7B-855875	4213333581		102-4		KIRK #9 (17497)	RANGER NW (MARBLE FAL	48.0	LONE STAR GAS CO
-DAMSON OIL CORPORATION				RECEIVED:	09/09/82	JA: TX			
8253804	F-82-854318	4223931680		102-4		CLARENCE BULLER #2	BULLER (10000 SAND)	480.0	VALERO TRANSMISSI
8253814	F-06-854446	4240131579		103	107-TF	KANGERGA GAS UNIT 1 WELL #3	OAK HILL/COTTON VALLE	300.0	DELHI GAS PIPELIN
8253811	F-06-854431	4240100000		103	107-TF	LINVILLE BENNETT UNIT 1 WELL #5	OAK HILL (COTTON VALL	300.0	DELHI GAS PIPELIN
-DAN LANKFORD				RECEIVED:	09/09/82	JA: TX			
8254017	F-09-855773	4250332947		103		CORA MCMURTRY #19108	BUNGER BRIDGE (CONGL)	45.0	LONE STAR GAS CO
-DELTA DRILLING CO				RECEIVED:	09/09/82	JA: TX			
8253810	F-7C-854425	4210500000		103	107-TF	ROY HENDERSON #3	OZONA CANYON	0.0	INTER NORTH INC
-DELTA OIL & GAS CO				RECEIVED:	09/09/82	JA: TX			
8253949	F-7B-855558	4242933177		103		REMINGTON HEIRS #2	CADDO (DUFFER)	0.0	LONE STAR GAS CO
-DEPCO INC				RECEIVED:	09/09/82	JA: TX			
8254178	F-8A-856136	4216532359		103		NORA F COLTHARP #3	ROBERTSON	4.0	PHILLIPS PETROLEU
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	09/09/82	JA: TX			
8253994	F-08-855696	4223300080		108		E B JOHNSON "A" #2	WEST PANHANDLE	9.0	INTERNORTH INC
-DISCOVERY OPERATING INC				RECEIVED:	09/09/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8254161	F-08-056005	4243931040		103		WINDERLY #1	SPRABERRY (TREND AREA	27.0	PHILLIPS PETROLEU
-DORCHESTER EXPLORATION INC				RECEIVED:	09/09/82	JA: TX			
*8253929	F-08-055507	4243131139		103		F CONGER 19 #5	WAM (FUSSELMAN)	158.0	VALERO TRANSMISSI
*8253939	F-08-055501	4243131081		103		WESTBROOK 29 #5	CONGER (PENN)	431.0	VALERO TRANSMISSI
-DUVAL PRODUCTION INC				RECEIVED:	09/09/82	JA: TX			
8254147	F-04-056056	4215100000		102-4		SULO-PETERS #6	PETERS N	169.0	VALERO TRANSMISSI
-ECHO PRODUCTION INC				RECEIVED:	09/09/82	JA: TX			
8254185	F-09-056260	4249732071		103		J H CARR 100305	BOONESVILLE (BEND CON	72.0	LONE STAR GAS CO
-EL PASO NATURAL GAS COMPANY				RECEIVED:	09/09/82	JA: TX			
8254178	F-10-056124	4217954747		108		HUDGINS #3-C	PANHANDLE EAST	16.8	EL PASO NATURAL G
8254174	F-10-056120	4208726188		108		MILEUR #1	PANHANDLE EAST	17.7	EL PASO NATURAL G
8254176	F-10-056122	4208726215		108		NICHOLSON D #1	PANHANDLE EAST	19.5	EL PASO NATURAL G
8254175	F-7C-056121	4241352932		108		SHEEN A #1 FIELD SALE	FORT MCKAVITT (CANYON	21.0	EL PASO NATURAL G
8254177	F-10-056123	4208726320		108		WISCHKAEMPER F #1	PANHANDLE EAST	16.8	EL PASO NATURAL G
-EXXCEL PRODUCTION CO				RECEIVED:	09/09/82	JA: TX			
8254167	F-10-056101	4217931169		103		FELIX #1 (ID #05118)	PANHANDLE GRAY	100.0	CABOT PIPELINE CO
-EXXON CORPORATION				RECEIVED:	09/09/82	JA: TX			
8253814	F-02-054434	4229700000		103		CHARLES L MCCASLIN #20	RANIRENA SW (YEGUA S	198.0	NATURAL GAS PIPEL
8253879	F-08-055013	4200333086		103		ELIZABETH ARMSTRONG #6	MEANS SOUTH (WOLFCAMP	3.0	PHILLIPS PETROLEU
8253808	F-08-054356	4200333178		103		FULLERTON CLEARFORK UNIT #2709	FULLERTON	15.0	PHILLIPS PETROLEU
8253924	F-08-055324	4200333188		103		FULLERTON CLEARFORK UNIT #4623	FULLERTON	15.0	PHILLIPS PETROLEU
8253925	F-08-055325	4200333187		103		FULLERTON CLEARFORK UNIT 4617	FULLERTON	15.0	PHILLIPS PETROLEU
8253923	F-08-055323	4200333191		103		FULLERTON CLEARFORK UNIT 4719	FULLERTON	15.0	PHILLIPS PETROLEU
8253856	F-03-054813	4207131248		103		GALVESTON BAY STATE "A" #185	RED FISH REEF (FB A-1	400.0	HOUSTON PIPELINE
8253873	F-08-055001	4210332897		103		J C TUBB A/C 1 #263L	SAND HILLS	18.0	EL PASO NATURAL G
8253874	F-08-055002	4210332897		103		J C TUBB A/C 1 #263U	SAND HILLS (MCKNIGHT)	167.0	EL PASO NATURAL G
8253836	F-08-054653	4210332827		103		J C TUBB A/C 2 #264L	SAND HILLS (TUBB)	5.0	EL PASO NATURAL G
8253875	F-08-055003	4210332828		103		J C TUBB A/C 2 #267L	SAND HILLS (TUBB)	28.0	EL PASO NATURAL G
8253876	F-08-055004	4210332828		103		J C TUBB A/C 2 #267U	SAND HILLS (MCKNIGHT)	16.0	EL PASO NATURAL G
8253897	F-08-055177	4210300000		108		J E PARKER A/C 4 #88	THREE BAR (YATES)	12.0	INTERNORTH INC
8253898	F-08-055178	4210300000		108		J E PARKER A/C 6 #28	THREE BAR (YATES)	12.0	INTERNORTH INC
8253820	F-06-054507	4236531252		103	107-TF	J S SHOLSTON #3	CARTHAGE (COTTON VALL	550.0	TEJAS GAS CORP
8254041	F-04-055807	4226100000		108		JOHN G KENEDY JR B 34-D (011894)	MAY SOUTH/B BASAL 4/	3.7	NATURAL GAS PIPEL
*8254108	F-04-055958	4255531797		103		K R EAST LAURELES 6-46-D (099829)	LAGUNA LARGA (8-1 IV)	650.0	ARMCO STEEL CORP
8253877	F-04-055010	4204731060		102-4		MCGILL BROS 481 (ID PENDING)	KELSEY SE (29-D N)	33.0	TRUNKLINE GAS CO
8253926	F-08-055326	4200333103		103		MEANS/SAN ANDRES/UNIT #3256	MEANS	15.0	PHILLIPS PETROLEU
8254039	F-04-055805	4224700000		108		MIGUEL JUAREZ TF (89851)	KELSEY SOUTH /19-H N/	18.7	TRUNKLINE GAS CO
8253855	F-04-054818	4224731127		102-4		MRS A M K BASS 44 (ID PENDING)	KELSEY DEEP (ZONE 20-	350.0	TRUNKLINE GAS CO
8254038	F-04-055802	4226100000		108		MRS ALICE K EAST B 1 (82403)	SAN ROMAN 8-D E	14.0	TENNESSEE GAS PIP
*8254110	F-04-055952	4226130468		102-4		MRS S K EAST 99-D (099842)	RITA NE (H-72)	365.0	ARMCO STEEL CORP
*8254109	F-04-055951	4204730859		102-4		RJK JR TR ZACH PAST ST 9-F (09643)	VISORAS (8-56 VIII)	66.0	ARMCO STEEL CORP
8253878	F-04-055011	4213135141		102-4		S LUNDELL GAS UNIT #1 WELL #2	LUNDELL S (1850)	73.0	TENNESSEE GAS PIP
*8254111	F-04-055965	4204730965		102-4		SANTA FE RANCH "B" 73 (099567)	LOPEZ RANCH (VICKSBUR	116.0	ARMCO STEEL CORP
*8254112	F-04-055967	4204730988		102-4		SANTA FE RANCH "B" 74 (099845)	LOPEZ RANCH (VICKSBUR	131.4	ARMCO STEEL CORP
8254121	F-04-055989	4226130683		102-4		SARITA FIELD OIL&GAS 171 (100033)	SARITA (1-6,E)	193.0	NATURAL GAS PIPEL
*8254002	F-03-055707	4203900000		103		W A MOLLER "B" A/C 3 #11R	DANBURY DOME (5655 SA	24.0	ARMCO STEEL CORP
-FAIRCHILD PETROLEUM CORP				RECEIVED:	09/09/82	JA: TX			
8253858	F-7B-054779	4215100000		103		J P TURNER #1	SYLVESTOR (8OEN)	18.0	CONOCO INC
-FANCON OIL INC				RECEIVED:	09/09/82	JA: TX			
8253947	F-03-055534	4231330360		103		V WOOD #1 RRC #15422	MADISONVILLE N E (DEX	120.0	LONE STAR GAS CO
-FORTUNE PRODUCTION CO				RECEIVED:	09/09/82	JA: TX			
8253889	F-7C-055099	4245100000		102-4 103		WOOD #2	WOOD (STRAWN LOWER)	384.4	PRODUCER'S GAS CO
-GETTY OIL COMPANY				RECEIVED:	09/09/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8254187	F-82-855947	4228500000		108		BENBOW "A" #1
8254173	F-86-856113	4236500000		108		WERNER "K" #1
-BRO-TEX				RECEIVED:	09/09/82	JA: TX
8253823	F-78-85420	4204932975		102-4		T F BRANDT #1 (099909)
8253824	F-78-854521	4204933026		102-4		T F BRANDT #2 (099910)
-GULF OIL	CORPORATION			RECEIVED:	09/09/82	JA: TX
8254086	F-78-855904	4222100000		108		BRATTEN RANCH #3
8254100	F-78-855918	4222100000		108		BRATTEN RANCH #5
8254088	F-78-855906	4222100000		108		BRATTEN RANCH #7
8254142	F-08-856049	4213521454		108		C A GOLDSMITH #1869
8254143	F-08-856050	4213530314		108		C A GOLDSMITH #1256
8254140	F-08-856047	4213530343		108		C A GOLDSMITH #1283
8254139	F-08-856046	4213501049		108		C A GOLDSMITH #671
8254144	F-08-856051	4213501069		108		C A GOLDSMITH #691
8254138	F-08-856045	4213530110		108		C A GOLDSMITH ET AL #1187
8254141	F-08-856048	4213530391		108		C A GOLDSMITH ET AL #5608
8254101	F-78-855919	4222100000		108		C L CAMPBELL #2
8253930	F-03-855399	4224531279		103		C W BURRELL #48
8254090	F-78-855908	4222100000		108		D NELSON #1
8254089	F-78-855907	4222100000		108		F WEST #6
8254136	F-08-856043	4247532600		103		HUTCHINGS STOCK ASSN #1080
8254089	F-08-855742	4247532580		103		HUTCHINGS STOCK ASSN #1085
8253934	F-08-855411	4247532612		103		HUTCHINGS STOCK ASSN #1160
8253871	F-08-854998	4247502471		108		HUTCHINGS STOCK ASSN #468
8253870	F-08-854988	4247530065		108		HUTCHINGS STOCK ASSN #804
8253869	F-08-854986	4247530411		108		HUTCHINGS STOCK ASSN #944
8254087	F-78-855905	4222100000		108		J B MARTIN #1
8254098	F-78-855916	4222100000		108		K M FAULKNER #1
8254137	F-08-856044	4249531489		103		KEYSTONE CATTLE CO #358
8253933	F-08-855410	4249531413		103		KEYSTONE HOLT UNIT #9341
8254091	F-78-855909	4222100000		108		OLLIE GARDNER #1
8254097	F-78-855915	4222100000		108		OTIS ROLLINS #1
8253842	F-10-854683	4229531006		103		PEARL WHEAT #2-765
8254096	F-78-855914	4222100000		108		R U ANDERSON GAS UNIT #1
8254102	F-78-855920	4222100000		108		T H NIX #2
*8254095	F-08-855913	4210332682		103		W N WADDELL #1219
*8254085	F-08-855903	4210332854		103		W N WADDELL #1230
*8254094	F-08-855912	4210332861		103		W N WADDELL #1232
-GUPTON GAS CO				RECEIVED:	09/09/82	JA: TX
8254166	F-78-856097	4236700000		108		WALKER CAMPBELL #1 (71024)
-H-R OIL CO				RECEIVED:	09/09/82	JA: TX
8254126	F-03-856819	4248131803		102-4	103	ELMER P REDWINE ESTATE 098104
-HARRISON INTERESTS LTD				RECEIVED:	09/09/82	JA: TX
8253857	F-7C-854834	4210534019		103	107-TF	J S PIERCE "A" #3
-HILLTOP DRILLING & PROD CO INC				RECEIVED:	09/09/82	JA: TX
8253913	F-78-855254	4236332734		103		GUY MONTGOMERY (1)
-HLH PETROLEUM CORP				RECEIVED:	09/09/82	JA: TX
8253895	F-78-855140	4225332230		103		MCCOLLUM #1-18
-HNG OIL COMPANY				RECEIVED:	09/09/82	JA: TX
8253908	F-82-855228	4217500800		103		ETTA TERRELL A #13 06255
-HOMABY BAY PETROLEUM CORP				RECEIVED:	09/09/82	JA: TX
8253838	F-04-854568	4226130535		103		STATE OF TEXAS TRACT 284-3
-HUNT OIL COMPANY				RECEIVED:	09/09/82	JA: TX

FIELD NAME	PROD	PURCHASER
BENBOW (WILCOX 8100)	3.0	TEJAS GAS CORP
CARTHAGE (PALUXY)	18.0	TEXAS GAS TRANSMI
BRANDT (FRY)	188.0	ODESSA NATURAL CO
BRANDT (FRY)	375.0	ODESSA NATURAL CO
BRATTEN (STRAWN)	12.4	LONE STAR GAS CO
BRATTEN (STRAWN)	5.0	LONE STAR GAS CO
BRATTEN (STRAWN)	10.0	LONE STAR GAS CO
GOLDSMITH (5600')	2.0	PHILLIPS PETROLEU
GOLDSMITH (5600')	2.0	PHILLIPS PETROLEU
GOLDSMITH (5600')	1.0	PHILLIPS PETROLEU
GOLDSMITH (5600')	2.0	PHILLIPS PETROLEU
GOLDSMITH (5600')	3.0	PHILLIPS PETROLEU
GOLDSMITH (5600')	2.0	PHILLIPS PETROLEU
GOLDSMITH (5600')	1.0	PHILLIPS PETROLEU
MCINTOSH (STRAWN)	10.0	LONE STAR GAS CO
FANNETT	81.0	TEXAS EASTERN TRA
MCINTOSH (STRAWN)	5.0	LONE STAR GAS CO
MCINTOSH (STRAWN)	10.0	LONE STAR GAS CO
WARD-ESTES NORTH	31.0	CABOT CORP
WARD-ESTES NORTH	55.0	CABOT CORP
WAGON WHEEL (PENN)	210.0	CABOT CORP
WARD-ESTES NORTH	1.0	CABOT CORP
WARD-ESTES NORTH	1.0	CABOT CORP
WARD-ESTES NORTH	1.0	CABOT CORP
BRAZOS EAST (STRAWN)	10.0	LONE STAR GAS CO
LIPAN (STRAWN)	11.7	LONE STAR GAS CO
KEYSTONE (COLBY)	98.0	CABOT CORP
KEYSTONE (HOLT)	189.0	CABOT CORP
MCINTOSH (STRAWN)	3.0	LONE STAR GAS CO
OTIS ROLLINS (MARBLE	7.0	LONE STAR GAS CO
PEERY CLEVELAND	34.0	TRANSWESTERN PIPE
LIPAN (STRAWN)	3.0	LONE STAR GAS CO
MCINTOSH (STRAWN)	6.0	LONE STAR GAS CO
SAND HILLS (JUDKINS)	38.7	
SAND HILLS (JUDKINS)	38.6	
SAND HILLS (JUDKINS)	29.5	
TINTOP (ATOKA) FIELD	28.0	SOUTHWESTERN GAS
ALLEN (5500)	8.0	TENNESSEE GAS PIP
OZONA (CANYON SAND)	450.0	INTRATEX GAS CO
PALO PINTO COUNTY CO	24.0	MEL GAS INC OF TE
NOODLE NW (CANYON SD	55.0	CONOCO INC
TERRELL POINT	0.0	TRUNKLINE GAS CO
POTRERO LOPENA (HARGI	550.0	TEJAS GAS CORP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253818	F-84-854377	42702301 66		102-4		STATE LEASE 74581 #1	BLOCK 772 (FRIO MIDDL	2500.0	TENNGASCO GAS GAT
8253983	F-7C-855631	4246131886		102-4		V T AMACKER 77 #3	AMACKER-TIPPETT SW (W	146.0	EL PASO NATURAL G
-INVESTEX INC				RECEIVED:	09/09/82	JA: TX			
8254008	F-89-855737	4207700008		102-4		TALLY A #3	TALLY (CONGLOMERATE)	267.0	TEXAS UTILITIES F
-J M HUBER CORPORATION				RECEIVED:	09/09/82	JA: TX			
8254129	F-10-856025	4206500000		108		BURNETT "R" #20	WEST PANHANDLE	2.0	COLORADO INTERSTA
8254064	F-10-855853	4223331337		103		MAGNOLIA HERRING #25	PANHANDLE	37.0	COLORADO INTERSTA
-J-AN PROPERTIES INC				RECEIVED:	09/09/82	JA: TX			
8253985	F-10-855639	4217930728		108		WILSON (092587) #1	WEST PANHANDLE	4.0	EL PASO NATURAL G
-JACKSON EXPLORATION INC				RECEIVED:	09/09/82	JA: TX			
8253806	F-7C-854329	4244330268		102-4	103	INGHAM "A" #1	MESA GRANDE (DEVONIAN	140.0	LINK SYSTEMS INC
8253807	F-7C-854330	4244330268		102-4	103	INGHAM "A" #1	INGHAM-WHITE (DEVONIA	175.0	LINK SYSTEMS INC
8253843	F-7C-854688	4210533685		102-4	103	P C PERNER #3	DUDLEY EAST (DEVONIAN	140.0	LINK SYSTEMS INC
8253859	F-7C-854842	4244330272		102-4	103	RUTH WHITE "B" #1	MESA GRANDE (DEVONIAN	100.0	LINK SYSTEMS INC
-JAMES K ANDERSON INC				RECEIVED:	09/09/82	JA: TX			
8254062	F-7C-855844	4239932355		102-4		DAVENPORT "E" #2	MYRNA LYNN (FRY SAND)	72.0	UNION TEXAS PETRO
-JERRY E WYLIE OIL DRILLING COMPANY				RECEIVED:	09/09/82	JA: TX			
8253977	F-7B-855624	4242933286		102-4		ECHOLS #2 (118528)	TULLOS (DUFFER 4060)	115.0	LONE STAR GAS CO
8253976	F-7B-855623	4242935226		102-4		ECHOLS #3 (118528)	TULLOS (DUFFER 4060)	179.0	LONE STAR GAS CO
-K L M OIL & GAS INC				RECEIVED:	09/09/82	JA: TX			
8253846	F-7B-854738	4204933143		102-4		TABER RANCH #101 (100424)	KAY (CADDO)	152.0	ODESSA NATURAL CO
-KEITH D GRAHAM				RECEIVED:	09/09/82	JA: TX			
8254049	F-83-855815	4204130708		102-2		BEAL UNIT #1 #15398	GIDDINGS (AUSTIN CHAL	151.5	CLAJON GAS CO
-KEYSTONE OIL CO INC				RECEIVED:	09/09/82	JA: TX			
8253808	F-7B-854249	4213333452		102-4		MOORE #1	EASTLAND W (RANGER)	212.0	ODESSA NATURAL CO
-KIRKWOOD & CO				RECEIVED:	09/09/82	JA: TX			
8253931	F-82-855484	4202531834		103		D W HANCOCK #4-A	CLAREVILLE (HOCKLEY 4	28.3	ESPERANZA TRANSMI
-L & M OIL CO				RECEIVED:	09/09/82	JA: TX			
8253954	F-89-855866	4249700000		108		MCINTYRE #1 (029163)	BOONESVILLE (BEND CON	12.0	LONE STAR GAS CO
-LAYTON ENTERPRISES INC				RECEIVED:	09/09/82	JA: TX			
8254153	F-8A-856069	42079315 29		103		REED WRIGHT #A-15	LEVELLAND	8.9	CITIES SERVICE CO
-LEEPER OIL EXPLORATION & PRODUCTION				RECEIVED:	09/09/82	JA: TX			
8253822	F-88-854519	4222732597		103		W R SATTERWHITE #1	BIG SPRING FUSSELMAN	18.3	GETTY OIL CO
-LOUISIANA CRUDE OIL & GAS CO INC				RECEIVED:	09/09/82	JA: TX			
8253795	F-7B-854191	4213332375		108		HOWELL CURRY #2	EASTLAND COUNTY REGUL	17.9	SOUTHWESTERN GAS
-MARALO INC				RECEIVED:	09/09/82	JA: TX			
8254163	F-85-856090	4239530261		102-4	103	ALCOA #1	BREMOND S (TRAVIS PEA	40.3	TEXAS UTILITIES F
-MCFARLANE OIL CO INC				RECEIVED:	09/09/82	JA: TX			
8253887	F-82-855035	4246931828		103		PICKERING & BUHLER #28	PLACEDO	0.0	TENNECO CHEMICALS
-MCZ INC				RECEIVED:	09/09/82	JA: TX			
8254067	F-83-855878	4204100000		102-2		M E WATSON OIL UNIT #1-U	KURTEN (WOODBINE)	55.0	FERGUSON CROSSING
-MELBOURNE OIL COMPANY				RECEIVED:	09/09/82	JA: TX			
8254017	F-10-855771	4235731243		103		MCGIBBON UNIT #1 RRC #05038	PERRYTON (MORROW BASA	4.8	PHILLIPS PETROLEU
8253883	F-10-854276	4229531173		102-4	103	SCHULTZ "716" #3 RRC ID # N/A	SKUNK CREEK (MEPLER)	5.0	TRANSWESTERN PIPE
-MIDWAY OIL CORP				RECEIVED:	09/09/82	JA: TX			
8254185	F-83-855932	4205131566		102-4		BETANCOURT #1	CALDWELL	8.8	CLAJON GAS CO
-MITCHELL ENERGY CORPORATION				RECEIVED:	09/09/82	JA: TX			
8253833	F-7C-854624	4245130981		102-4	103	MCWHORTER 218 #2 - L	K W B (STRAWN)	62.0	ESPERANZA PIPELIN
8253863	F-89-854929	4249732082		103		WAGGONER (MAYNARD) #24	BOONSVILLE (BEND CONG	99.9	NATURAL GAS PIPEL
-MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED:	09/09/82	JA: TX			
8253993	F-8A-855695	4207931555		103		NORTH CENTRAL LEVELLAND UNIT #354	LEVELLAND	4.7	AMOCO PRODUCTION
-MONSANTO COMPANY				RECEIVED:	09/09/82	JA: TX			
8253796	F-88-854201	4222700000		108		HUTTO "A" #1	HUTTO SOUTH (WOLFCAMP	0.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253797	F-08-854282	4222708008		108		HUTTO "A" #2	HUTTO SOUTH (WOLFCAMP	0.0	PHILLIPS PETROLEU
8254022	F-08-855788	4208333213		103		UNIVERSITY"B" 14-19 #4	SHAFTER LAKE (SAN AND	7.0	
8254096	F-08-855831	4208333210		103		UNIVERSITY"B" 14-19 #6	SHAFTER LAKE (SAN AND	10.0	
-MORGAN				RECEIVED:	09/09/82	JA: TX			
8253987	F-10-855876	4248300987		103		EDNA #1 899270	PANHANDLE EAST	0.0	EL PASO NATURAL G
-NATIONAL PETROLEUM CORP				RECEIVED:	09/09/82	JA: TX			
8254118	F-08-855903	4237100000		103		EATON #14	PECOS VALLEY (HIGH GR	16.4	EL PASO NATURAL G
8254117	F-08-855902	4237100000		103		EATON #15	PECOS VALLEY (HIGH GR	20.1	EL PASO NATURAL G
-NIELSON ENTERPRISES INC				RECEIVED:	09/09/82	JA: TX			
8254162	F-06-856069	4220336504		108		MATTIE LEE KNOX #1	WHELAN (COTTON VALLEY	6.0	ARKANSAS-LOUISIAN
-NORTH RIDGE CORP				RECEIVED:	09/09/82	JA: TX			
8253863	F-78-854880	4213333821		102-4	103	W W CRABB #1	RANGER NW (MARBLE FAL	3.0	PRISM ENTERPRISES
-NORTHERN NATURAL GAS PRODUCING CO				RECEIVED:	09/09/82	JA: TX			
8253837	F-10-854658	4217900000		108-SA		BRADFORD #1	PANHANDLE WEST	15.2	INTERNORTH INC
-O ? L ENERGY INC				RECEIVED:	09/09/82	JA: TX			
8253986	F-7C-855659	4245130941		103		DOUGLAS #2	SSR (CANYON UPPER)	300.0	EL PASO HYDROCARB
-OMNI OPERATING CO				RECEIVED:	09/09/82	JA: TX			
8253825	F-84-854831	4227331660		103		KING RANCH TRUSTEE #A-2	KINGSVILLE MIO 2130'	0.0	TEXAS EASTERN TRA
-OYTCO OIL INC				RECEIVED:	09/09/82	JA: TX			
8254106	F-10-855946	4223331431		103		HERRING-NIVENS #11	PANHANDLE HUTCHINSON	150.4	PANHANDLE PRODUCI
8253973	F-10-855612	4223331124		103		JATEN 13 - 1	PANHANDLE HUTCHINSON	73.0	PHILLIPS PETROLEU
8254057	F-10-855834	4223331142		103		JATEN 13 - 2	PANHANDLE HUTCHINSON	182.5	PHILLIPS PETROLEU
-PARE PETROLEUM INC				RECEIVED:	09/09/82	JA: TX			
8253801	F-83-854868	4208931283		102-2		LEHRER #3 - 15614	N W GARWOOD	45.0	HYDROCARBON GATHE
-PAUL R MAYO				RECEIVED:	09/09/82	JA: TX			
8253829	F-78-854552	4241734394		102-4		L B DAVIS #2	WILDCAT	131.0	LONE STAR GAS CO
-PETROLEUM ACQUISITIONS CORP				RECEIVED:	09/09/82	JA: TX			
8254083	F-06-855898	4220300000		108		L D BROWN #1	GOOCH	10.0	EAST TEXAS INDUST
8254084	F-06-855899	4220300000		108		WILLIAM H LANE #2	GOOCH	10.0	EAST TEXAS INDUST
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	09/09/82	JA: TX			
8254135	F-08-856036	4213502428		108		ABELL #3	ANDECTOR (ELLENBURGER	18.0	EL PASO NATURAL G
8253868	F-10-854882	4229500000		108		DUKE E #1	KIOWA CREEK	0.0	PANHANDLE EASTERN
8253892	F-08-855105	4213533876		103		EMBAR #54	GOLDSMITH N (SAN ANDR	92.0	EL PASO NATURAL G
8254132	F-08-856037	4213504354		108		SS ANDECTOR SL-84L	GOLDSMITH (CLEARFORK)	4.0	EL PASO NATURAL G
8254015	F-10-855762	4235700000		108		HERNDON GH #1		0.0	INTERNORTH INC
8253891	F-70-855103	4246101365		103		NORTH PENBROOK SPRABERRY S-0403913	SPRABERRY (TREND AREA	11.0	INTERNORTH INC
8254133	F-08-856038	4237131811		108		ROBERTA L #1	BELDING (YATES)	3.0	
8254131	F-08-856036	4213533899		103		SOUTH COWDEN UNIT #2-20	COWDEN (SOUTH)	19.0	ODESSA NATURAL CO
8253994	F-08-855696	4208333141		103		TEXAS UNIVERSITY #5	FUHRMAN MASCHO	1.0	
-PINTO PETROLEUM INC				RECEIVED:	09/09/82	JA: TX			
8253904	F-78-855215	4213333936		102-4		HAL B PAGE "B" #3	PAGE (LAKE SAND)	57.0	LONE STAR GAS CO
-POLK & PATTON INC				RECEIVED:	09/09/82	JA: TX			
8253847	F-87-854748	4223700000		102-4		HAWTHORNE "OIL" #1-L	HAWTHORNE (MARBLE FAL	44.5	LONE STAR GAS CO
-PRAIRIE PRODUCING CO				RECEIVED:	09/09/82	JA: TX			
8254127	F-83-856020	4207131228		102-4		JOHN L EPLER #1 098412	FIS RIDGE N (8140) FI	300.0	AMOCO GAS CO
-PRODECO EXPLORATIONINC				RECEIVED:	09/09/82	JA: TX			
8253798	F-83-854220	4204130697		102-2		BERT WHEELER #4-T	KURTEN (BUDA)	42.2	FERGUSON CROSSING
8253928	F-83-855381	4204130697		102-2		BERT WHEELER 4-C	KURTEN (WOODBINE)	56.3	PRODUCER'S GAS CO
-PYRO ENERGY CORP				RECEIVED:	09/09/82	JA: TX			
8253782	F-7C-855288	4243532661		103	107-TF	KEENE #101-2	ALDWELL RANCH (CANYON	0.0	VALERO TRANSMISSI
-RAY HERRING				RECEIVED:	09/09/82	JA: TX			
8253880	F-78-855017	4242932641		102-4		KEITH #1	DEANN (CONGLOMERATE F	126.0	WARREN PETROLEUM
-REEF OIL CORP				RECEIVED:	09/09/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253799	F-78-854231	4208308080		102-4		JAMES CALK #1	CALK (GARDNER)	78.0	UNION TEXAS PETRO
-RK PETROLEUM CORP				RECEIVED:	09/09/82	JA: TX			
8254134	F-88-856039	4231732525		103		CASTLE 2-X WELL #27052	SPRABERRY (TREND AREA	76.6	INTERNORTH INC
-ROBERT E BYRNE				RECEIVED:	09/09/82	JA: TX			
8253794	F-78-854198	4213333581		103		JOHNSON "A" #1	EASTLAND COUNTY REGUL	10.0	LONE STAR GAS CO
-SAGE ENERGY CO				RECEIVED:	09/09/82	JA: TX			
8253912	F-7C-855247	4238308080		103		GULF STATE 15-G #2 RRC #09483	FARMER (SAN ANDRES)	1.4	INTERNORTH INC
8253918	F-7C-855244	4238308080		103		UNIVERSITY 4-A #10 RRC #07703	FARMER (SAN ANDRES)	4.8	INTERNORTH INC
8253835	F-7C-854639	4238308080		103		UNIVERSITY 4-A #7 RRC #07703	FARMER (SAN ANDRES)	1.6	INTERNORTH INC
8253834	F-7C-854638	4238308080		103		UNIVERSITY 4-A #8 RRC #07703	FARMER (SAN ANDRES)	2.7	INTERNORTH INC
8253911	F-7C-855245	4238308080		103		UNIVERSITY 4-A #9 RRC #07703	FARMER (SAN ANDRES)	2.9	INTERNORTH INC
8253909	F-7C-855243	4238308080		103		UNIVERSITY 8-C #2 RRC #09384	FARMER (SAN ANDRES)	1.8	INTERNORTH INC
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:	09/09/82	JA: TX			
8253804	F-83-854304	4228731201		103		NEWTON #2	GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
8253938	F-83-855491	4228731248		103		ROY UNIT #1	GIDDINGS (BUDA)	36.5	PERRY PIPELINE CO
-SAXON OIL COMPANY				RECEIVED:	09/09/82	JA: TX			
8254158	F-81-856882	4216331532		103		BAIN #1	PEARSALL (AUSTIN CHAL	54.8	ESPERANZA TRANSMI
8254160	F-81-856884	4216331557		103		BAIN #3	PEARSALL (AUSTIN CHAL	36.5	ESPERANZA TRANSMI
8254159	F-81-856883	4216331531		103		HEISER #1	PEARSALL (AUSTIN CHAL	80.3	ESPERANZA TRANSMI
8254157	F-81-856881	4216330880		103		KINCAID #1	PEARSALL (AUSTIN CHAL	52.2	ESPERANZA TRANSMI
8254156	F-81-856880	4216331508		103		KINCAID #2	PEARSALL (AUSTIN CHAL	40.1	ESPERANZA TRANSMI
8254155	F-81-856879	4216331509		103		KING #1	PEARSALL (AUSTIN CHAL	6.6	ESPERANZA TRANSMI
8254154	F-81-856878	4216331552		103		KING #2	PEARSALL (AUSTIN CHAL	82.2	ESPERANZA TRANSMI
-SCARTH OIL & GAS CO				RECEIVED:	09/09/82	JA: TX			
8254865	F-10-855868	4229530521		108		PIPER 601-1	BRADFORD (CLEVELAND)	17.9	TRANSWESTERN PIPE
8254866	F-10-855861	4229530611		108		PIPER 601-2	BRADFORD (CLEVELAND)	21.5	TRANSWESTERN PIPE
-SERVICE DRILLING CO				RECEIVED:	09/09/82	JA: TX			
8253861	F-10-854884	4206531148		103		ARNOLD "A" #4	PANHANDLE CARSON BROW	20.0	GETTY OIL CO
-SIDWELL OIL & GAS INC				RECEIVED:	09/09/82	JA: TX			
8254878	F-10-855874	4208700000		108		BETENBOUGH #3	PANHANDLE EAST	0.0	ASHLAND CHEMICAL
8254872	F-10-855876	4208700000		108		KAUFFMAN #1	HANSFORD (LOWER MORRO	0.0	PANHANDLE EASTERN
8254871	F-10-855875	4208700000		108		LAYCOCK #14	PANHANDLE EAST	0.0	ASHLAND CHEMICAL
8254869	F-10-855873	4208700000		108		LAYCOCK #19	PANHANDLE EAST	0.0	ASHLAND CHEMICAL
-SNOW OIL CO				RECEIVED:	09/09/82	JA: TX			
8253865	F-78-854947	4213333868		102-4		KINCAID-NORTH #1	REBECCA (MARBLE FALLS	44.0	LONE STAR GAS CO
8253864	F-78-854945	4213333581		102-4		RR #1 (182343)	CISCO (CONGL 3600)	106.0	ENSERCH EXPLORATI
-SONIO PETROLEUM CO				RECEIVED:	09/09/82	JA: TX			
8253996	F-7C-855699	4238332114		103		E G CAUBLE "K" #6	CALVIN (DEAN)	6.2	EL PASO NATURAL G
-SPARKMAN PRODUCING CO				RECEIVED:	09/09/82	JA: TX			
8253817	F-84-854475	4224931413		102-4		L T BURNS #2	WILDCAT	288.0	
-SPINDLETOP OIL & GAS CO				RECEIVED:	09/09/82	JA: TX			
8253951	F-78-855568	4236732187		102-4		B MURRAY #1	DICEY S (STRAWN)	36.0	EMPIRE PIPELINE C
-STAHL PETROLEUM CO				RECEIVED:	09/09/82	JA: TX			
8254016	F-10-855768	4217930983		103		SAYE #1	EAST PANHANDLE	0.0	PHILLIPS PETROLEU
8254062	F-10-855895	4217930880		108		WEBB "E" #1	EAST PANHANDLE	0.0	PHILLIPS PETROLEU
-STEARNS OPERATING CO				RECEIVED:	09/09/82	JA: TX			
8253982	F-78-855630	4204932411		103		GLADYS NICHOLS #2 ID #98218	BROWN CO REG (MARBLE	109.0	SIOUX PIPE LINE C
8253981	F-78-855629	4204932184		103		GLADYS NICHOLS "A" #1 ID #84144	BROWN CO REG (MARBLE	16.0	SIOUX PIPE LINE C
8253980	F-78-855628	4204932289		103		GLADYS NICHOLS "A" #2 ID #16128	BROWN COUNTY REGULAR	4.0	SIOUX PIPE LINE C
8253979	F-78-855627	4204932389		103		GLADYS NICHOLS "A" #3 ID #16128	BROWN COUNTY REGULAR	18.0	SIOUX PIPE LINE C
8253978	F-78-855626	4204932842		103		HENRY M FORD #1	BROWN CO REG (MARBLE	108.0	SIOUX PIPELINE CO
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	09/09/82	JA: TX			
8253976	F-81-855594	4212732358		103		BIG WELLS (SAN MIGUEL) UNIT #712	BIG WELLS (SAN MIGUEL	5.0	HOUSTON PIPELINE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253971	F-8A-855597	4221900000		108		CENTRAL LEVELLAND UNIT #157	LEVELLAND	2.0	AMOCO PRODUCTION
8253957	F-8A-855575	4221900000		108		CENTRAL LEVELLAND UNIT #226	LEVELLAND	0.5	AMOCO PRODUCTION
8253969	F-88-855593	4213500000		108		FOSTER JOHNSON UNIT #3-1	FOSTER	1.5	ODESSA NATURAL CO
8253832	F-84-854612	4242731572		102-4		I V MONTALVO "A" #18U	SUN NORTH	118.0	
8253841	F-84-854671	4242700000		108		J P HALL STATE #16	RINCON NORTH	18.0	TRANSCONTINENTAL
*8253967	F-8A-855589	4207931496		103		LEAGUE 91 PROJECT #4-10	SLAUGHTER	12.0	AMOCO PRODUCTION
*8253966	F-8A-855588	4207931499		103		LEAGUE 91 PROJECT #4-13	SLAUGHTER	7.0	AMOCO PRODUCTION
8253962	F-88-855584	4213500000		108		NORTH LAWSON UNIT #10-4	LAWSON (SAN ANDRES)	0.8	PHILLIPS PETROLEU
8253958	F-88-855580	4213500000		108		NORTH LAWSON UNIT #14-18	LAWSON (SAN ANDRES)	0.5	PHILLIPS PETROLEU
8253960	F-88-855582	4213500000		108		NORTH LAWSON UNIT #6-3	LAWSON (SAN ANDRES)	0.7	PHILLIPS PETROLEU
8253959	F-88-855581	4213500000		108		NORTH LAWSON UNIT #6-5	LAWSON (SAN ANDRES)	0.5	PHILLIPS PETROLEU
8253961	F-88-855583	4213500000		108		PAUL MOSS UNIT #149	COWDEN SOUTH	0.4	ODESSA NATURAL CO
8253963	F-88-855585	4213500000		108		PAUL MOSS UNIT #182	COWDEN SOUTH	0.6	ODESSA NATURAL CO
8253965	F-88-855587	4213500000		108		PAUL MOSS UNIT #184	COWDEN SOUTH	0.5	ODESSA NATURAL CO
8253956	F-88-855574	4213500000		108		PAUL MOSS UNIT #41	COWDEN SOUTH	0.3	ODESSA NATURAL CO
8253964	F-8A-855586	4221900000		108		SOUTHEAST LEVELLAND UNIT #238	LEVELLAND	3.0	AMOCO PRODUCTION
8253968	F-8A-855591	4250132153		103		WASSON NORTH CLEARFORK UNIT #89	WASSON NE (CLEAR FORK	11.0	SHELL OIL CO
-SUN-KEY OIL CO INC				RECEIVED:	09/09/82	JA: TX			
8254116	F-7B-855978	4214330546		102-4		GLADIS PARR #1 (086212)	BYRNES (DUFFER)	292.0	NORTHERN GAS PROD
-TENNECO OIL COMPANY				RECEIVED:	09/09/82	JA: TX			
8253984	F-8A-855634	4244531858		103		PRENTICE (6700 CLEARFORK) UNIT #207	PRENTICE (6700')	0.0	AMOCO PRODUCTION
8254181	F-8A-856178	4250131941		103		PRENTICE (6700' CLEARFORK) #718	PRENTICE (6700' CLEAR	0.0	AMOCO PRODUCTION
8254183	F-8A-856182	4244531849		103		PRENTICE CLEARFORK UNIT #208	PRENTICE (6700)	0.0	AMOCO PRODUCTION
-TERRELL OPERATING CO				RECEIVED:	09/09/82	JA: TX			
8254054	F-7B-855823	4215131272		103		CHARLES M SCOTT #1 #17387	NOODLE NW (CANYON SAN	8.1	TEXAS UTILITIES F
8254051	F-7B-855820	4215131467		103		ESTHER WILLINGHAM #18114	ROYSTON (CANYON)	4.2	TEXAS UTILITIES F
8254055	F-7B-855824	4215131497		103		REVIS ROBERTSON (EAST) #3 (18467)	KEELER WIMBERLY (CANY	33.3	PALO DURO PIPELIN
8254050	F-7B-855819	4215131124		103		ROBERTA S FORD #1 #16534	NOODLE NW (CANYON SAN	8.8	TEXAS UTILITIES F
8254052	F-7B-855821	4215131192		103		ROBERTA S FORD "A" #1 RRC#16733	NOODLE NW (CANYON SAN	3.5	TEXAS UTILITIES F
8254053	F-7B-855822	4215131473		103		ROBERTA S FORD "B" #1 RRC #18322	NOODLE NW (CANYON SAN	12.2	TEXAS UTILITIES F
-TEXACO INC				RECEIVED:	09/09/82	JA: TX			
8254096	F-1B-855731	4217900000		108		G M SAUNDERS NCT-3 #45	PANHANDLE GRAY COUNTY	0.5	COLTEXO CORP
8254095	F-1B-855730	4217900000		108		G M SAUNDERS NCT-3 #46	PANHANDLE GRAY COUNTY	0.5	COLTEXO CORP
8253864	F-8A-854948	4221933591		103		MONTGOMERY ESTATE DAVIES NCT-2 #89	LEVELLAND	87.0	AMOCO PRODUCTION
8253867	F-8A-854951	4216532564		103		ROBERTSON UNIT #47	ROBERTSON N (CLEARFOR	16.0	PHILLIPS PETROLEU
-TEXAS CRUDE INC				RECEIVED:	09/09/82	JA: TX			
8254059	F-8A-855840	4221900000		103		CADDELL #1-11	LINKER (CLEAR FORK)	16.0	
8254060	F-8A-855841	4221900000		103		COOK #1-12	LINKER (CLEAR FORK)	13.0	
-TEXAS EASTERN TRANSMISSION CORP				RECEIVED:	09/09/82	JA: TX			
8254040	F-86-855886	4240100147		108		CARTHAGE UNIT 4 #1	CARTHAGE (PETTIT LOWE	0.0	TEXAS EASTERN TRA
-TEXAS GENERAL PETROLEUM CORP				RECEIVED:	09/09/82	JA: TX			
8253899	F-81-855183	4217731149		102-2		BILLY WINKENWERDER #1	PEACH CREEK (AUSTIN C	88.0	VALERO TRANSMISSI
8253932	F-86-855405	4200530186		103		OWENS-ILLINOIS #1	PLATT FIELD (LOWER PE	26.0	TEXAS EASTERN TRA
-TEXLAND-RECTOR & SCHUMACHER				RECEIVED:	09/09/82	JA: TX			
8254128	F-8A-856823	4221933438		103		J J STALLINGS #2	LEVELLAND	1.0	AMOCO PRODUCTION
-TEXOMA EXPLORATION INC				RECEIVED:	09/09/82	JA: TX			
8253896	F-85-855145	4229330578		103		KENNEDY #1 099215	GROESBECK (WOODBINE)	54.0	TEXAS UTILITIES F
-TEXONA OIL MANAGEMENT INC				RECEIVED:	09/09/82	JA: TX			
8253970	F-83-855613	4232500000		102-4		OSCAR KOENIG #5	LANDON W (NAVARRO)	0.0	VALERO TRANSMISSI
-THOMAS-POWELL ROYALTY INC				RECEIVED:	09/09/82	JA: TX			
8254043	F-7C-855809	4239932399		102-4		CURNUTTE #2 (09152)	WINGATE NW (GARDNER)	28.0	UNION TEXAS PETRO
8254048	F-7C-855814	4239931936		102-4		L B HENSLEY #2 (09314)	WINGATE NW (GRAY)	33.0	UNION TEXAS PETRO
8254044	F-7C-855810	4239931943		102-4		MIKESKA #2 (08628)	WINGATE NW (GRAY)	48.0	UNION TEXAS PETRO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8254845	F-7C-055811	4239931797		102-4		PHILLIPS #3 (08370)	WINGATE NW (GRAY)	51.0	UNION TEXAS PETRO
8254135	F-7C-056041	4239932285		102-4		SCHULTZ #1 (09340)	WINGATE NW (CAPPS)	27.0	UNION TEXAS PETRO
8254847	F-7C-055813	4239931940		102-4		VICK # (08683)	WINGATE NW (GRAY)	42.0	UNION TEXAS PETRO
8254863	F-7C-055858	4239931691		102-4		VICK #1-1 (09365)	WINGATE NW (GARDNER)	72.0	UNION TEXAS PETRO
8254846	F-7C-055812	4239931939		102-4		VICK #2 (08683)	WINGATE NW (GREY)	24.0	UNION TEXAS PETRO
-THOMPSON J CLEO & JAMES CLEO JR				RECEIVED:	09/09/82	JA: TX			
8253946	F-7C-055526	4210534030		102-4		CLAYTON "B" #1	ADDIE (PENN) A#3	300.0	PHILLIPS PETROLEU
8253831	F-7C-054574	4210533991		103	107-TF	UNIVERSITY 30-3 #1	OZONA (CANYON SAND)	60.0	PHILLIPS PETROLEU
-THOMSON-MONTEITH				RECEIVED:	09/09/82	JA: TX			
8253848	F-08-054665	4232931058		103		WINDHAM 24 WELL #1	PARKS SPRABERRY	0.7	MOBIL PROD TEXAS
8253839	F-08-054664	4232931060		103		WINDHAM 24 WELL #2	PARKS (SPRABERRY)	0.7	MOBIL PRODUCING T
8253838	F-08-054663	4232931064		103		WINDHAM 24 WELL #3	PARKS WOLFCAMP 9335'	3.5	MOBIL PRODUCING T
-THROCKMORTON GAS SYSTEMS				RECEIVED:	09/09/82	JA: TX			
8253818	F-7B-054496	4244732586		102-2		KEETER #2	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
8253811	F-7B-054380	4244700800		102-2		RICHARDS "A" #16	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
8253852	F-7B-054788	4244733005		102-2		SULLIVAN #11	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
8253851	F-7B-054787	4244733002		102-2		SULLIVAN #15	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
-TOM BROWN INC				RECEIVED:	09/09/82	JA: TX			
8253942	F-08-055512	4231732462		103		WOODY A #1-32	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
8253941	F-08-055511	4231732462		103		WOODY B #1-37	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
8253940	F-08-055510	4231732462		103		WOODY C #1-31	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-TOMMY LITTLEPAGE				RECEIVED:	09/09/82	JA: TX			
8253821	F-09-054518	4250300000		103		MCGEE #19152	YOUNG COUNTY REGULAR	10.0	GAS ASSOCIATED SY
-TONK VALLEY PRODUCTION CO				RECEIVED:	09/09/82	JA: TX			
8254114	F-7B-055974	4213333199		102-4		HUNT #H-1 (17789)	DESDEMONA N (CONGL)	1.0	NORTHERN GAS PROD
8254115	F-7B-055975	4213332798		102-4		L DILLINDER #C-1 (16802)	DESDEMONA N (CONGL)	11.0	NORTHERN GAS PROD
8254113	F-7B-055973	4213332922		102-4		ROBERTSON #D-1 (17798)	DESDEMONA N (CONGL)	1.0	NORTHERN GAS PROD
-UNION TEXAS PETROLEUM				RECEIVED:	09/09/82	JA: TX			
8253872	F-7C-054993	4223531905		103		SUGG "2" #1	ANDREW A (CANYON)	113.2	CRA INC -
-UNITED CO				RECEIVED:	09/09/82	JA: TX			
8254078	F-8A-055891	4207930915		108		ROBERTA WRIGHT #1 079427	LEVELLAND (SAN ANDRES	14.7	EL PASO NATURAL G
8254081	F-8A-055894	4207930493		108		SEABOARD WRIGHT #17 062163	LEVELLAND (SAN ANDRES	15.6	EL PASO NATURAL G
8254080	F-8A-055893	4207930491		108		SEABOARD WRIGHT #18 071354	LEVELLAND (SAN ANDRES	13.4	EL PASO NATURAL G
8254079	F-8A-055892	4207930912		108		STUART P WRIGHT #1 078229	LEVELLAND (SAN ANDRES	2.4	EL PASO NATURAL G
-VERNON DAVENPORT PROD CO				RECEIVED:	09/09/82	JA: TX			
8253845	F-1B-054732	4248300000		108		BLACKKETTER #1	EAST PANHANDLE	11.5	EL PASO NATURAL G
-W L LINDEMANN DRILLING CO				RECEIVED:	09/09/82	JA: TX			
8253862	F-09-054927	4207732589		102-4	103	N H STARNES #1	TALLY (CONGLOMERATE)	0.0	TEXAS UTILITIES F
8253953	F-09-055564	4207732510		102-4	103	N H STARNES #2	TALLY (CONGLOMERATE)	0.0	TEXAS UTILITIES F
-W W WEST				RECEIVED:	09/09/82	JA: TX			
8254003	F-7B-055728	4239930567		108		JAMES A NEAL	BURT-OGEN MABEE	0.0	VALERO TRANSMISSI
8254013	F-7B-055747	4208331667		108		JAMES A NEAL #2	BURT-OGEN-MABEE	0.0	VALERO TRANSMISSI
8254012	F-7B-055746	4239931416		103		JAMES A NEAL #3	BURT-OGEN-MABEE	0.0	VALERO TRANSMISSI
8254014	F-7B-055748	4233931323		103		JAMES A NEAL #5	BURT-OGEN-MABEE	0.0	VALERO TRANSMISSI
-WAGNER & BROWN				RECEIVED:	09/09/82	JA: TX			
8254061	F-08-055843	4243131149		103		BARBEE #2-6	CONGER (PENN).	41.6	TEXAS UTILITIES C
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	09/09/82	JA: TX			
8254093	F-7B-055911	4242900000		108		R S TAYLOR #1	NECESSITY (MARBLE FAL	0.0	LONE STAR GAS CO
8254092	F-7B-055910	4242900000		108		R S TAYLOR #2	STEPHENS COUNTY REG (	6.4	LONE STAR GAS CO
8254099	F-08-055917	4210332688		103		STATE "EF" #26	DUNE	2.2	EL PASO NATURAL G
-WAYNE HARPER				RECEIVED:	09/09/82	JA: TX			
8253943	F-09-055517	4209731797		103		JOE DILLARD #6	SIVELLS BEND	28.0	
8253944	F-09-055521	4209731862		103		WILLIAM HOWELL "B" #4	SIVELLS BEND	28.0	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8253945	F-09-055524	4209731619		103		WM HOWELL "A" #1	SIVELLS BEND	23.0	
-WELCOME WELL SERVICE & BOYKIN BROS				RECEIVED:	09/09/82	JA: TX			
8253998	F-78-055702	4213333300		102-4		CAIN #1 (18090)	CARBON (MARBLE FALLS)	12.0	NORTHERN GAS PROD
8253999	F-78-055703	4213333352		102-4		CAIN #2 (18090)	CARBON (MARBLE FALLS)	10.0	NORTHERN GAS PROD
-WES-MOR DRILLING INC				RECEIVED:	09/09/82	JA: TX			
8254119	F-78-055984	4242933265		103		KENNEDY #2 RRC ID #099947	STEPHENS COUNTY REGUL	161.7	SUN GAS TRANSMISS
8253890	F-09-055180	4250334564		103		WEAVER #2 RRC ID #20932	YOUNG COUNTY REGULAR	84.0	J H TAYLOR GAS CO
-WES-TEX DRILLING COMPANY				RECEIVED:	09/09/82	JA: TX			
8254058	F-78-055836	4235331254		103		J M MCLAUGHLIN #5	ADAIR CREEK (COOK SAN	0.0	SUN GAS CO
-WHITLEY & YOCHAM OIL CO				RECEIVED:	09/09/82	JA: TX			
8253868	F-7C-054957	4238332129		103		SCOTT "B" 4	JOHN SCOTT (GRAYBURG)	2.2	NEW ENERGY CO
-WILMAN INVESTMENTS INC				RECEIVED:	09/09/82	JA: TX			
8254122	F-10-056084	4286531086		103		MOBIL FEE (61) (05025) #1	PANHANDLE CARSON COUN	21.0	GETTY OIL CO
-WILLIAM E HENDON JR				RECEIVED:	09/09/82	JA: TX			
8253992	F-08-055686	4249531404		103		MITCHELL "20" #1	HALLEY SOUTH (PENN)	55.0	AMOCO PRODUCTION
8253991	F-08-055685	4249531592		103		MITCHELL "21" #2	HALLEY SOUTH (PENN)	20.0	AMOCO PRODUCTION
8253988	F-08-055677	4249531326		103		MITCHELL "25" #1	HALLEY SOUTH (ATOKA)	41.0	AMOCO PRODUCTION
8253989	F-08-055683	4249531246		103		SEALY-SMITH FOUNDATION "31" #2	PALADIN (PENN)	26.0	AMOCO PRODUCTION
8253990	F-08-055684	4249531253		103		SIMPSON #1	PALADIN (PENN)	7.0	AMOCO PRODUCTION
-WILLIAM M SIEBEL				RECEIVED:	09/09/82	JA: TX			
8253888	F-09-055044	4207732636		102-4		VEITH #22259	DEER CREEK *ISRAEL 50	51.0	FAGADAU ENERGY CO
-WORLDWIDE ENERGY CORPORATION				RECEIVED:	09/09/82	JA: TX			
8253816	F-06-054451	4242336564		102-4		HOUSTON HEIRS #1	SUNSHINE	0.0	SEMCO GAS INC
-3 M OIL INC				RECEIVED:	09/09/82	JA: TX			
8254124	F-10-056006	4217931092		103		ARKIE-BILL (05033) #1	PANHANDLE GRAY COUNTY	118.0	CABOT PIPELINE CO
8254123	F-10-056005	4217931096		103		ARKIE-BILL "A" (05045) #3	PANHANDLE GRAY COUNTY	104.0	CABOT PIPELINE CO
8254125	F-10-056007	4217931081		103		TIEMAN ESTATE (04933) #2	PANHANDLE GRAY COUNTY	114.0	CABOT PIPELINE CO

OTHER PURCHASERS VOLUME NO :743

8253914	COLTEXO CORP
8253915	COLTEXO CORP
8253916	COLTEXO CORP
8253917	COLTEXO CORP
8253918	COLTEXO CORP
8253919	COLTEXO CORP
8253920	COLTEXO CORP
8253929	TEXAS UTILITIES FUEL CO
8253939	TEXAS UTILITIES FUEL CO
8253966	EL PASO NATURAL GAS CO
8253967	EL PASO NATURAL GAS CO
8254002	E I DUPONT DENEMOURS & CO INC
8254085	EL PASO NATURAL GAS CO
8254094	EL PASO NATURAL GAS CO
8254095	EL PASO NATURAL GAS CO
8254108	E I DUPONT DENEMOURS & CO INC
8254109	E I DUPONT DE-NEMOURS & CO INC
8254110	E I DUPONT DE-NEMOURS & CO INC
8254111	E I DUPONT DE-NEMOURS & CO INC
8254112	E I DUPONT DE-NEMOURS & CO INC

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-27013 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-35-000]

American Resources Management Corp.; Petition for Adjustment

Issued: September 24, 1982.

On September 15, 1982, American Resources Management Corporation (ARMC) filed with the Federal Energy Regulatory Commission (Commission) a petition for an adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. §§ 3301–3432 (Supp. IV 1980) and Subpart K of the Commission's Rules of Practice and Procedure, 18 CFR 385.1101–.1117 (1982).

ARMC seeks a waiver of § 273.204(c)(1) of the Commission's regulations, which requires a 45-day waiting period between the date a well category determination becomes final and the date the producer is allowed to retroactively collect the NGPA rate for which a well has qualified. ARMC alleges that the 45-day waiting period required by the Commission's regulations causes it to suffer special hardship and inequity. ARMC alleges that in the 45 days after NGPA section 107(c)(5) tight sands well category determinations for five wells become final, it will pay $14,335.93 in interest, at 18 percent, on unpaid accounts due. The NGPA determinations became final on September 19, 1982. The 45-day period ends November 3, 1982. ARMC therefore requests a waiver of § 273.204(c)(1) so it may begin collecting a tight sands price for its gas and pay its creditors.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure, Order No. 225, issued April 28, 1982, effective August 26, 1982 (47 FR. 19014, May 3, 1982).

Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-27010 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2600-001 and 2600-002]

Bangor Hydro-Electric Co.; Amended Notice of Application for New License and Amendment of License [1]

September 24, 1982.

Take notice that Bangor Hydro-Electric Company (Applicant) filed on August 4, 1982, and application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the West Enfield Project No. 2600. The project would be located on the Pensobscot River in W. Enfield and Howland, Penobscot County, Maine. Correspondence with the Applicant should be directed to: Robert S. Briggs, Vice President, Bangor Hydro-Electric Company, 33 State Street, Bangor, Maine 04401.

Project Description —The W. Enfield project presently consists of: (1) a dam on the Penobscot River about 980 feet long and about 20 feet high in three sections, (a) a rock-filled timber crib, topped by four-foot flashboards, and containing a 10-foot log sluice and a 30-foot raft sluice, (b) a concrete gated section, and (c) a granite masonry gate-house structure with 13 concrete gates, 7x7.5 feet together with a auxillary earth dam (Runaround) located on the west bank of Merrill Brook about 200 feet long and 15 feet high containing three steel gates controlling diversions to the Piscataquis River, (2) a reservoir at normal elevation 154.75 feet about 7.3 miles long with an area of about 1,050 acreas; (3) a canal from the gate-house on the left bank to the powerhouse forebay about 1,390 feet long and varying from 100 to 240 feet wide; (4) a concrete-brick powerhouse in two sections containing (a) a 1,400-kw generating unit and (b) two 1,200-kw generating units, (5) and outdoor substation with three step-up 2.3–46 kV transformers aggregating 5,000 kVa capacity, (6) a substation with a step-up 2.3–12.5/7.2 kV transformer with 4,500 kVa capacity, for local distribution, and (7) appurtenant facilities:

Applicant requests that the license for the W. Enfield Project be amended by changing the expiration date of the license from December 31, 1987, to coincide with the date of issuance of a new 50 year license for the redevelopment and continued operation of the W. Enfield Project.

Applicant proposes under the new license: (1) To install a new powerhouse containing 5 new turbine-generators with a total rated capacity of 13 MW and new gate house within the power canal and located approximately 800 feet downstream of the existing power canal inlet gate structure (The existing gate structure and powerhouse would be removed); (2) to increase the hydraulic capacity to the existing canal and rehabilitate the existing canal embankment/training wall to accommodate an inlet flow to and outlet flow from the new powerhouse of up to 9,000 cfs; (3) to increase the normal water surface elevation of the reservoir by 9 inches to 155.5 feet m.s.l. by installing new flashboards with a total height of 5.6 feet (4) to install two new fishways to insure adequate passage to anadromous fishes; (5) to construct a new 800-foot-long, 46-kV transmission line. The redeveloped project would generate an additional 52,700,000 Kwh annually. Energy produced at the project would be utilized within the Applicants distribution system.

Project No. 2600 would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act. The Applicant has calculated that the estimated net investment in the project would amount to $2,294,491 as of December 31, 1981. The Applicant's estimated severance damages as of December 31, 1981, would amount to $100,000.

Competing Applications —Anyone desiring to file a competing application must submit to the Commission, on or before *March 9, 1983,* a competing application. [See 18 CFR § 4.33(d)(e) and 18 CFR part 16 (1981)].

Comments, Protests, or Motions To Intervene —Anyone may file comments, a protests, or a motion to intervene in accordance with the requirements of the Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 Fed. Reg. 19025–28 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before November 29, 1982.

Filing and Service of Responsive Documents —Any filings must bear in

[1] This notice supersedes the previously published notices of September 23 and September 30, 1982; 47 FR (39229) (September 7, 1982)

all capital letters the title "COMMENTS", "COMPETING APPLICATION", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C 22426. An additional copy must be sent to: Fred E. Springer, Chief, Application Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any competing application or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-27011 Filed 9-29-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP68-5-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Petition To Amend

September 27, 1982.

Take notice that on September 17, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Petitioner) 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP68-5-000 a petition to amend the order issued December 11, 1967,[1] in Docket No. CP68-5 as amended, pursuant to Section 7(c) of the Natural Gas Act to eliminate the requirement that there would be no additional reduction in the heating value of the gas stream downstream from Bushton, Kansas as a result of the extraction of ethane, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it presently is authorized to deliver up to approximately 962,400 Mcf of gas per day to Northern Gas Products Company (NGP) for the extraction of propane, butanes, natural gasoline and ethane at NGP's Bushton complex. The natural gas delivered to the Bushton complex is produced principally from the Hugoton Field and Anadarko Basin producing areas. Petitioner states that the Hugoton Field gas is low in Btu and high in nitrogen content, whereas the Anadarko Basin gas has a higher Btu and a lower nitrogen content.

Petitioner asserts that under the Btu equivalency constraint of the December 11, 1967, order, the ethane plant cannot operate independently from the helium plant. It is explained that the helium plant must be operated whenever ethane is extracted at the ethane plant from the natural gas stream entering this plant because nitrogen and helium (inerts) are extracted from such volumes at this helium plant in order to maintain the heating content of the gas downstream of the Bushton complex in accordance with the December 11, 1967, order. To provide sufficient rejection of nitrogen to assure that there would be no additional reduction in the heating value of the gas stream as it emerges from Petitioner's Bushton, Kansas compressor station, requires that at least 380,000 Mcf per day of Hugoton Field quality gas flow through the Helium Plant, it is claimed. It is further maintained that flow rates below 380,000 Mcf per day through the Helium Plant would thwart the delicate design balance of the helium plant and thereby create high risks, physical damages and operating unknowns, which have necessitated a shutdown of the helium plant.

Petitioner alleges that since late March 1982, the flow of Hugoton Field gas has averaged approximately 200,000 Mcf per day, and that this volume contains insufficient inerts to permit ethane extraction in accordance with the present Commission order. Petitioner states that since the helium plant is the sole mechanism used to reject inerts, to maintain the heating content of the gas downstream of Petitioner's Bushton, Kansas compressor station, the ethane plant cannot be operated in compliance with December 11, 1967, order.

It is asserted that removal of the heating value balancing requirement would enable the ethane plant to operate independently of flows of Hugoton Field quality gas through the helium plant. To provide for the removal of the heating value balancing requirement, Petitioner and NGP have entered into an agreement dated August 27, 1982, which provides, *inter alia*, it is said, that NGP agrees that its extraction of ethane from the natural gas stream delivered by Petitioner would not cause, at any time the weighted average of the gross heating value of the natural gas being delivered to Petitioner's principal market area in the composite of Petitioner's main transmission lines downstream of Petitioner's Bushton compressor station to be less than Petitioner's tariff requirements as approved by the Commission, it is stated.

Petitioner asserts that as part of its general rate increase filing with the Commission in Docket No. RP82-71, it proposed, *inter alia*, (1) to adjust the commodity portions of the gas bills for its Market Area Sales to reflect the Btu content of gas delivered, and (2) to lower the Btu minimum of its gas to 950. Petitioner would effectuate the proposed tariff provisions, subject to refund, on October 27, 1982. Petitioner requests that the order amending the certificate become effective on October 27, 1982. It is stated that implementation of the revised tariff provisions would result in a billing procedure whereby Petitioner's customers would be charged on the basis of heating value received.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 12, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-27012 Filed 9-29-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-804-000]

American Electric Power Service Corp.; Filing

September 24, 1982.

Take notice that American Electric Power Service Corporation (AEP) on September 17, 1982, tendered for filing on behalf of its affiliate Indiana & Michigan Electric Company (I&ME) Modification No. 14 dated July 15, 1982 to the Interconnection Agreement dated (July 20, 1956 between Commonwealth Edison Company (Commonwealth) and I&ME, I&ME's Rate Schedule FERC No. 20, and Commonwealth's Rate Schedule FERC No. 2

AEP states that Section 1 of this Agreement modernizes the Billing and Payment Article of the Interconnection Agreement, while Sections 2 and 3 provide for an increase in the demand rate for Short Term Power and Limited Term Power to $1.25/KW-week and $6.50/kW-month respectively when I&ME is the supplying party. Commonwealth's demand rates will remain at their previous level of $1.05/

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

kW-week and $5.50/kW-month for Short Term Power and Limited Term Power respectively. Section 4 of this Agreement revises the Compensation section of the Emergency Service Schedule. The changes made in these service schedules in this Agreement are to comply with the Commission's Order 84 and to substantially conform with the terms and conditions in other Service Schedules previously filed by AEP and have been accepted for filing by the Commission.

AEP requests an effective date of October 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Commonwealth Edison Company, ther Public Service Commission of Indiana, the Michigan Public Service Commission, and the Illinois Commerce Commission.

Any person desiring to be heard or to protect said filing should file a motion to intervene or protect with the Federal Energy Regualtory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions of protests should be filed on or before October 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26875 Filed 9-29-82; 8:45am]

BILLING CODE 6717-01-M

[Docket No. ER82-805-000]

American Electric Power Service Corp.; Filing

September 24, 1982.

Take notice that American Electric Power Service Corporation (AEP) on September 20, 1982, tendered for filing on behalf of its affiliate Ohio Power Company (OPCO) Modification No. 10 dated July 1, 1982 to the Facilities and Operating Agreement dated May 1, 1967 between Dayton Power & Light Company (Dayton) and OPCO, OPCO's Rate Schedule FERC No. 36 and Dayton Rate Schedule FERC No. 31.

AEP states that Section 1 of this Agreement modernizes the Billing and Payment article of the facilities and Operating Agreement. Sections 2 and 3 of this Agreement update the Emergency Service and the Interchange Power Service Schedules. Sections 4 and 5 provide for an increase in the capacity demand rate for Short Term and Limited Term Power to $1.25 per kilowatt per week and $6.50 per kilowatt per month respectively and increases Dayton's Short Term and Limited Term Power transmission demand rate to $0.24 per kilowatt per week and $1.00 per kilowatt per month respectively. The Short Term Power Service Schedule has been revised to include a provision to allow for the sale of Short Term Power on a daily basis. The changes made in these Service Schedules in this Agreement to comply with the Commission's Order 84 and to substantially conform with the terms and conditions in other Service Schedules previously filed by AEP and which have been accepted for filing by the Commission. This Agreement is proposed to become effective October 1, 1982.

AEP requests an effective date of October 1, 1982, and therefore request waiver of the Commission's notice requirements.

Copies of this filing were served upon the Dayton Power & Light Company and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26876 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-808-000]

Bangor Hydro-Electric Co.; Filing

September 24, 1982.

Take notice that on September 20, 1982, Bangor Hydro-Electric Company (Bangor) tendered for filing a Sales Agreement (Agreement) made as of August 18, 1982 between Bangor and Fitchburg Gas and Electric Light Company (Fitchburg) for the sale of unit power by Bangor to Fitchburg.

Bangor states that the Agreement provides for a unit sale of 10,000 kilowatts from Bangor's entitlement in the Mystic Unit No. 7, owned and operated by the Boston Edison Company (Boston), to Fitchburg. Bangor has such entitlement under contract for the proposed term of the Agreement from Boston. Such contract has been accepted for filing as Boston's Rate Schedule FPC No. 106. The Agreement provides that Fitchburg pay for the capacity at the rate of $58 per kilowatt per year and for their pro-rate share of the actual energy costs.

Bangor requests an effective date of August 18, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon Fitchburg.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26877 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-526-000]

Columbia Gas Transmission Corp.; Application

September 24, 1982.

Take notice that on September 9, 1982, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP82-526-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of 48 interconnecting tap facilities to provide additional points of delivery to existing wholesale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the following new points of delivery for the following wholesale customers:

(1) Columbia Gas of Kentucky, Inc.: 8 taps for residential service—estimated annual usage of 1,200 Mcf.

(2) Columbia Gas of Ohio, Inc.: 20 taps for residential service; 1 tap for commercial service; 1 tap for combined residential and industrial service; 2 taps for industrial service—estimated annual usage of 14,070 Mcf.

(3) Columbia Gas of Pennsylvania, Inc.: 1 tap for commercial service—estimated annual usage of 1,370 Mcf.

(4) Columbia Gas of West Virginia, Inc.: 13 taps for residential service; 1 tap for industrial service—estimated annual usage of 7,955 Mcf.

(5) The Dayton Power and Light Company: 1 tap for residential service—estimated annual usage of 150 Mcf.

Applicant estimates that the total cost of the interconnections proposed herein is $14,480 to be financed through internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26878 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST82-409-000]

Louisiana Gas Intrastate, Inc. of Shreveport; Application

September 24, 1982.

Take notice that on August 13, 1982, Louisiana Gas Intrastate Inc. of Shreveport (Applicant), 890 Dresser Tower, Houston, Texas 77002 filed in Docket No. ST82-409-000 an application pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA) and Section 284.123(b)(2) of the Regulations for approval of the the rates and charges to be assessed by Applicant for transportation services to be provided for Texas Gas Transmission Company (Texas Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is an intrastate natural gas pipeline within the meaning of Louisiana law with approximately 200 miles of pipeline located in Bienville, Claiborne, Jackson, Lincoln, Natchitoches, Ouachita, Union and Webster Parishes, Louisiana. Through a transportation agreement entered into with its sister corporation, Louisiana Gas Purchasing Corporation, Applicant states its system is operated as a totally integrated pipeline facility.

Pursuant to an agreement between Applicant and Texas Gas dated July 15, 1982, Applicant has agreed to transport up to 12,500 million Btu's of natural gas per day for Texas Gas. For such service Applicant would charge Texas Gas a rate of 25.75 cents per million Btu. Applicant asserts that the proposed rates are fair and equitable and not in excess of an amount which is reasonably comparable to the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation service within the meaning of Section 311(a)(2)(B)(i) of the NGPA. Applicant further asserts that the rates are necessary reasonably to compensate Applicant for expenses incurred in connection with the transportation service and to provide Applicant with the opportunity to earn a reasonable profit on such services. Applicant also asserts that the proposed rate is equal to the rate approved by the Commission by operation of Section 284.123(b)(2)(ii) of the Commission's Regulations in Docket Nos. ST82-7 and ST82-8.

Applicant indicates that the local authorization necessary to provide the transportation services for an interstate pipeline has already been obtained from the appropriate Louisiana officials.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26879 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-494-000]

Natural Gas Pipeline Company of America; Application

September 24, 1982.

Take notice that on August 17, 1982, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82-494-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain gas purchase facilities located in the Pita S. E. Field, Kleberg County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated Applicant seeks to abandon a 3-inch measuring facility, 28,417 feet of 4-inch pipeline and other appurtenant facilities which connect the State Tract 172 Well No. 1, in Laguna Madre Area, Kleberg County, Texas to the pipeline facilities of Florida Gas Transmission Company. Applicant states that there are no remaining salvable recoverable gas reserves that can be produced from the State Tract 172 Well No. 1 which was plugged and abandoned on December 15, 1981.

It is further stated that Applicant would remove all salvable facilities and retain them in stock until needed for reuse at another location. Applicant

asserts that abandonment of the facilities would not cause any termination of service to any customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26880 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-505-000]

Natural Gas Pipeline Company of America; Application

September 24, 1982.

Take notice that on August 24, 1982, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82-505-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company (referred to collectively as Columbia) and the construction and operation of certain pipeline, a tap and meter station, and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has contracted to transport a daily demand quantity of 56,500 million Btu's of natural gas on a firm basis, and up to 14,125 million Btu's of overrun gas, on a best efforts basis, for Columbia from the terminus of the Trailblazer System in Gage County, Nebraska for redelivery at the proposed interconnection between Applicant and Columbia at Pecan Lake, in Cameron Parish, Louisiana.

Applicant proposes initially to charge Columbia a monthly transportation demand charge of $7.78 times the demand quantity. Columbia would also pay Applicant a monthly charge of 25.60 cents per million Btu for overrun gas delivered at Applicant's receipt point.

Applicant further proposes that if the facilities proposed in the instant docket are certificated before Applicant's applications at Docket Nos. CP82-293-000 and CP82-355-000, Applicant requests authorization to construct and operate 3.66 miles of 36-inch diameter pipeline loop on Applicant's Louisiana Line extending eastward from the east end of the 37.38 mile pipeline loop certificated in Docket No. CP82-50-000 to permit the firm redelivery of 56,500 million Btu's per day to Columbia. Applicant also proposes to construct one 12-inch tap and a meter station with one 12-inch meter run at the Pecan Lake redelivery point in Cameron Parish, Louisiana, a valve and regulator at Station 302, and appurtenant facilities.

It is estimated that the cost of the proposed Louisiana Line facilities would be $3,648,150 which cost would be financed initially by funds on hand, issuance of commercial paper, use of existing bank lines of credit or other interim financing arrangements as may be negotiated. Permanent financing subsequently would be undertaken as part of Applicant's overall long term financing program.

As an alternate proposal, Applicant states that if its application at Docket No. CP82-293 is approved before the present application, Applicant would propose to construct and operate 5.05 miles of 36-inch diameter pipeline loop on its Louisiana Line extending eastward from the east end of the 8.16-mile pipeline loop certificated in Docket No. CP82-293-000, one 12-inch meter run at Pecan Lake and appurtenant facilities. It is stated that the estimated cost of this alternate proposal would be $4,275,371, which cost would be financed in the same manner as is described for the first proposal for the Lousiana Line facilities.

The proposed service and facilities, it is stated, would provide transportation of Columbia's Rocky Mountain gas supplies from the terminus of the Trailblazer System in Gage County, Nebraska, for redelivery of the proposed interconnections at Pecan Lake, Cameron Parish, Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be necessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26881 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-809-000]

Niagara Mohawk Power Corp.; Filing

September 24, 1982.

Take notice that Niagara Mohawk Power Corporation (Niagara), on September 20, 1982, tendered for filing as a rate schedule, an agreement between Niagara and Rochester Gas and Electric Corporation (Rochester) dated August 23, 1982.

Niagara presently has on file an agreement with Rochester dated July 3, 1980 and amended June 8, 1981. This agreement is for the transmission of Rochester's share of the Oswego #6 generation unit over Niagara's transmission system to Rochester.

The August 23, 1982 agreement contained in this filing revises the transmission rate for transmitting Oswego Unit #6 power and from the Oswego Unit #6 generating station to Rochester as provided for in the terms of the original agreement.

Niagara requests waiver of the Commission's notice requirements in order to allow an effective date of July 1, 1982.

Copies of this filing were served upon Rochester and the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before October 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26882 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-810-000]

Portland General Electric Co.; Filing

September 24, 1982.

Take notice that on September 20, 1982, Portland General Electric Company (PGE) tendered for filing the written report regarding Average System Cost (ASC) prepared by the Bonneville Power Administration (BPA), the BPA's Average System cost determination and PGE's Appendix 1, Schedule 5. This determination was made on August 30, 1982.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26883 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-508-000]

Quivira Gas Co.; Application

September 24, 1982.

Take notice that on August 20, 1982, Quivira Gas Company (Applicant), P.O. Box 2256, Wichita, Kansas 67201, filed in Docket No. CP82-508-000 an application pursuant to Section 311(a) of the Natural Gas Policy Act of 1978 (NGPA) and Section 284.127 of the Commission's Regulations for authorization to provide an intrastate transportation service for Tennessee Gas Transmission Company, a Division of Tenneco, Inc. (Tennessee) for a term of ten years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is a Kansas corporation which owns and operates intrastate natural gas pipeline systems in five states, including Mississippi. Applicant avers Tennessee has purchased natural gas from producers in Jefferson Davis and Marion Counties, Mississippi, and that Applicant owns and operates all pipeline facilities necessary to transport Tennessee's gas to connections in those counties to the intrastate pipeline system of Mississippi Fuel Company (MFC). Applicant states that its pipeline system consists of a nine mile 6-inch pipeline which connects three wells in the Vintage Field with MFC's line in Jefferson Davis County and nineteen miles of 4-inch and 6-inch pipeline which connects fifteen wells in Newsom, East Morgantown and South Morgantown Fields to MFC's line in Marion County. Applicant indicates that MFC would redeliver equal quantities of gas to an interconnection on Tennessee's line in eastern Mississippi.

Pursuant to Section 311(a)(2) of the NGPA, Applicant proposes to transport up to 20,950 Mcf of natural gas per day for a term up to and not exceeding ten years. The estimated total volumes of gas to be transported would be 32,600,000 Mcf for the ten year term. For such service Applicant proposes to charge Tennessee a transportation rate of $0.120 per Mcf of natural gas delivered for Tennessee's account to MFC. Applicant further states that this rate would be adjusted at annual intervals to reflect actual increases in taxes, operating, and maintenance costs to Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1982 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26884 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-806-000]

San Diego Gas & Electric Co.; Filing

September 24, 1982.

Take notice that on September 20, 1982, San Diego Gas & Electric Company (SDG&E) tendered for filing as an initial rate schedule an Economy Energy Agreement and Schedule Outage Assistance Agreement between SDG&E and Plains Electric Generation and Transmission Cooperative, Inc. (Plains), dated August 4, 1982.

SDG&E requests an effective date of August 4, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before October 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26885 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-1969-000]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Petition To Amend

September 24, 1982.

Take notice that on August 18, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. G-1969-000 a petition to amend the order [1] issued in Docket No. G-1969 pursuant to Section 7(c) of the Natural Gas Act so as to reduce the maximum daily quantity of natural gas Petitioner is authorized to transport on behalf of Iroquois Gas Corporation (Iroquois), to add two delivery points in Erie County, New York, and to reflect Natural Fuel Gas Supply Corporation's (Natural Fuel) acquisition by merger of certain properties of Iroquois, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that in Docket No. G-1969 it currently is authorized to transport on a firm basis for Iroquois and its affiliates, Pennsylvania Gas Company (PGC) and United Natural Gas Company (UNGC) up to 49,728 Mcf of natural gas per day under Petitioner's transportation Rate Schedule T-1 of its FERC Gas Pipeline Tariff. It is further stated that National Fuel Gas Supply Corporation (National Fuel) received authorization in Docket No. CP73-294 to acquire by merger, effective July 10, 1974, certain natural gas transmission, storage, and production properties of Iroquois.

Petitioner maintains that production has declined from the properties which are the source of the natural gas authorized to be transported by Applicant in Docket No. G-1969. Therefore, at National Fuel's request, Petitioner proposes to substitute National Fuel for Iroquois, PGC, and UNGC and to reduce the quantity of natural gas Petitioner is authorized to transport hereunder from 49,728 Mcf per day to 30,000 Mcf per day. In addition, Petitioner proposes to establish two new delivery points at existing interconnections between Petitioner's and National Fuel's pipelines in Erie County, New York.

Petitioner indicates that it would charge National Fuel a transportation rate based on a demand charge equal to the aggregate of $8.84 multiplied by the maximum daily volume and a volume charge equal to 56.24 cents per Mcf of gas delivered. Petitioner also indicates that there are provisions for a minimum monthly bill.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26886 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-75-000]

Texas-New Mexico Power Co; Application

September 24, 1982.

Take notice that on September 16, 1982, Texas-New Mexico Power Company (Applicant) filed an application wih the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking authority to negotiate for the placement of not more than $25,000,000 of first Mortgage Bonds, 450,000 shares of Common Stock, par value of $10 per share, and 80,000 shares of Cumulative Preferred Stock, $100 par value.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26887 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-481-000]

Transcontinental Gas Pipe Line Corp.; Application

September 24, 1982.

Take notice that on August 11, 1982, Tancscontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82-481-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity to make an off-system sale of up to 200,000 dt equivalent of natural gas per day to Bridgeline Gas Distribution Company (Bridgeline) and to construct and operate pipeline taps and related facilities required to deliver such gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant maintains that a temporary surplus of gas has been caused by unexpected high rates of deliverability of offshore wells from which Applicant purchases gas and because of competition from alternate fuels. In order to reduce its substantial take-or-pay obligations Applicant proposes to make the off-system sale for a term of two years and to abandon such sale at the end of the two-year term.

Specifically, Applicant proposes to deliver gas for the account of Bridgeline at three points. Applicant states that it has a lateral (Lucy) which connects its Southeast Louisiana Gathering System (SELGS) with Texaco Inc.'s (Texaco) Paradis Gasoline Plant in St. Charles Parish, Louisiana (Paradis). Texaco currently sells and delivers up to 25,000 Mcf of natural gas per day from Paradis to Applicant. As part of the proposed off-system sale, instead of delivering such gas to Applicant, Texaco would deliver the gas to Riverway Gas Pipline

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was

Company (Riverway) on behalf of Applicant for the account of Bridgeline. Riverway then would redeliver the gas to Bridgeline. Up to 20,000 dt of natural gas per day would be delivered by Applicant to Riverway for the account of Bridgeline by reversing the flow in the Lucy lateral. An existing check valve would be removed at the interconnection of the SELGS and the Lucy lateral and Riverway would construct a pipeline which would connect with Applicant's facilities at Applicant's existing meter station in Paradis. Applicant would use the existing meter station to measure the gas to be sold at this delivery point but it would install bypass piping in the meter station yard in order to connect with Riverway's pipeline. The remainder of the gas subject to this application would be delivered to Riverway for the account of Bridgeline at a proposed interconnection between the SELGS and Riverway's existing line which crosses the SELGS in Ascension Parish, Louisiana. To accomplish such interconnection, Applicant would need to install two taps in the SELGS. Riverway would construct the necessary pipeline and meter station to complete the interconnection. The estimated cost of the proposed facilities is $108,115.

Applicant proposes that the price to be paid by Bridgeline for gas sold be set each month at the greater of the then current Section 102 rate of the Natural Gas Policy Act of 1978 or Applicant's then average cost of purchased gas included in its most recent Purchase Gas Adjustment filing. Applicant asserts that this price is necessary to enable it to compete in the current market and that none of its off-system sales purchasers are interested in sales priced at a rate equivalent to that charged under Applicant's principal jurisdictional rate schedule at an assumed 100 percent load factor, as the Commission has done in the past.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26866 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-M

[Docket No. CP82-484-000]

Transwestern Pipeline Co.; Application

September 24, 1982.

Take notice that on August 13, 1982, Transwestern Pipeline Company (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP82-484-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Texas Eastern Transmission Corporation (TETCO), and the construction and operation of certain facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that TETCO has agreed to purchase quantities of Canadian natural gas from Nortwest Pipeline Company (Northwest). The agreement provides for the sale by Northwest of up to 300,000 dt equivalent of natural gas per day on a firm basis and an additional 25,000 dt equivalent of natural gas per day subject to Northwest's overall system suppy being sufficient to meet Northwest's existing customers firm contract obligations. The term of the agreement is for a period continuing through October 31, 1989, and would be extended from year to year thereafter subject to Northwest's continuing ability to receive sufficient volumes of natural gas from Westcoast Tranmission Company, Ltd. To implement the purchase, Applicant and TETCO entered into a general partnership agreement under the name of Continental Divide Pipeline Company (Continental Divide). In order to effectuate receipt of said quantities of natural gas by TETCO, Applicant and TETCO have entered into a transportation agreement.

Specifically, Applicant proposes to transport for TETCO, on a firm basis, 162,000 dt equivalent of natural gas per day and such additional quantities in excess of 162,500 dt equivalent as Applicant in its sole discretion determines it is able to transport, less actual fuel usage. It is stated that Applicant would receive 162,500 dt equivalent of gas per day from Continental Divide at the proposed point of interconnection between Continental Divide and Applicant located at Applicant's compressor station No. 5 in McKinley County, New Mexcio, and transport and redeliver equal quantities of a firm basis, less the actual fuel usage of its compressors at the point of delivery, to Valero Transmission Company (Valero), for the account of TETCO, at a point of interconnection between the systems of Applicant and Valero in Pecos County, Texas. The agreement provides that, when requested, Applicant would endeavor to transport a quantity of gas in excess of the contract quantity but that the ability of Applicant to transport such excess gas would be determined exclusively by Applicant.

It is stated that the agreement further provides that the transportation service would be for a primary term of 15 years from the date of initial delivery and from year to year thereafter until terminated by either party by prior written notice of not less than 2 years. It is stated that Applicant would charge TETCO a monthly facility charge of $249,623.00 and a commodity charge of 6.48¢ per dt equivalent of gas delivered.

In order to effectuate the transportation, Applicant proposes to construct a new compressor station consisting of 2 compressors of up to 4,000 horsepower each, and a new metering and regulating station. It is stated that the facilities would be located at the point of interconnection between Applicant and Valero in Pecos County, Texas. Applicant asserts that the additional compression is necessary to effectuate the transfer of natural gas from its system to Valero and that it would not increase the capacity of Applicant's West Texas Lateral pipeline. It is stated that the maximum

capacity at the point of interconnection between Applicant and Valero would be approximately 300,000 Mcf of gas per day.

The total cost for the proposed facilities is estimated at $8,396,000 to be financed from funds on hand and/or from borrowings under Applicant's revolving credit agreements which may later be replaced with long-term financing.

Applicant submits that the proposed transportation service would provide TETCO with the most efficient and cost-effective method of receiving the quantities of firm gas supplies which TETCO has purchased from Northwest and that the construction of the proposed compression and metering facilities is necessary in order to effectuate Applicant's transportation service for TETCO.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26889 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-811-000]

Upper Peninsula Power Co.; Filing

September 24, 1982.

Take notice that on September 20, 1982, Upper Peninsula Power Company (Upper Peninsula) tendered for filing Addendum B between Upper Peninsula and the Ontonagon County Rural Electrification Association dated September 16, 1982. Upper Peninsula states that the Federal Energy Regulatory Commission's designated rate schedule for this contract is FERC No. 15.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-26890 Filed 9-29-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-487-000]

Williston Basin Interstate Pipeline Co. and Montana-Dakota Utilities Co.; Application

September 24, 1982.

Take notice that on August 16, 1982, Williston Basin Interstate Pipeline Company (Williston Basin), 400 North Fourth Street, Bismarck, North Dakota 58501, and Montana-Dakota Utilities Co. (MDU), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP82-487-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Williston Basin to acquire and operate certain natural gas transmission facilities by which it will transport gas in the states of North Dakota, South Dakota, Montana, and Wyoming, and provide various sales, exchange, storage, and transportation services and for permission and approval authorizing MDU to abandon those facilities and services for which Williston Basin seeks certificate authorization to acquire, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that MDU commenced operations as an electric utility in 1924. MDU indicates that it initially entered the natural gas business to supply boiler fuel to its electric generating plants. Over the years, however, MDU submits that it has developed an extensive interstate pipeline and distribution system that serves consumers in the states of North Dakota, South Dakota, Wyoming, and Montana.

MDU maintains that traditionally its investment in new electric facilities was greater than investment in new gas facilities; however, MDU asserts that gas plant additions have exceeded electric investment in six of the last ten years. Between the pipeline and distribution segments of the gas business, MDU claims that capital requirements for the pipeline segment are increasing more rapidly. The application shows distribution between pipeline and distribution investments for capital construction requirements as follows:

	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981
Pipeline	$4,789,000	$3,860,000	$3,161,000	$4,243,000	$6,536,000	$4,852,000	$5,291,000	$8,795,000	$13,167,000	$21,233,000
Distribution	4,396,000	3,059,000	3,186,000	3,082,000	3,769,000	2,575,000	2,675,000	4,475,000	5,478,000	5,807,000

MDU expects this trend of increased pipeline investment to continue. In addition, MDU claims that earnings for its gas operations kept pace with the earings on its electric operations until 1977, when earnings on the gas

operations became inadequate to allow MDU to earn a fair return on its gas investment.

MDU states that in order to attract the capital necessary to continue to construct new gas supply facilities, earnings on its gas operations would have to improve greatly. It is asserted that earnings have not been higher than 1.29 percent on equity in any of the past five years. MDU avers that its gas operations can no longer depend on earnings generated by the electric operations of its business to attract sufficient capital for future gas construction because of increased electric utility construction requirements.

It is maintained that since the existing corporate structure is unable to generate sufficient earnings to finance new pipeline investment, MDU intends to restructure its operations so that its jurisdictional interstate facilities fall within a corporate entity regulated by the Commission. MDU proposes that its local distribution operations be maintained as they currently exist and that all of its jurisdictional facilities, services, and sales be concentrated within a separate transmission company, Williston Basin.

Williston Basin proposes to acquire all of MDU's pipeline facilities, land rights, and existing gas supply, transportation and sales operations in the states of North Dakota, South Dakota, Montana, and Wyoming. Williston Basin states that it would continue all sales, exchange, storage, and transportation services currently rendered by MDU. In addition, Williston Basin seeks authorization to make sales-for-resale of natural gas to MDU. The sales and deliveries would be made at existing city gate, field line, main line, and farm tap delivery points. Williston Basin states that it would sell the gas to MDU under its proposed Rate Schedules G–1, G–2, I–1, and I–2 and that Rate Schedules G–1 and I–1 would be similar to MDU's Rate Schedules G–1 and I–1. Proposed Rate Schedules G–2 and I–2 would cover service east of Bismarck, North Dakota. Further it is stated that initial rates would be based on the cost of service, cost allocations, and rate design proposed by MDU in its currently pending rate case in Docket No. RP82–84. Applicants indicate that assuming an October 1, 1982, start-up date, the principal proposed rates, exclusive of surcharges, would be as follows:

Customer	Rate schedule	Rate (cents per 1,000 ft.³)
MDU, Wyoming Gas Co., Byron Gas Service.	G–1	333.869
MDU	G–2	365.617
Wyoming Gas Co., Cody Gas Co.	PR–1	333.869
MDU, Wyoming Gas Co	I–1	330.869
MDU	I–2	362.617
Frontier Gas Storage Co	X–4	231.494
Colorado Interstate Gas Co	X–5	[1]421.481 [2]400.275
MIGC, Inc	X–6	[3]359.527 [4]29.660

[1] With storage.
[2] Without storage.
[3] Sale.
[4] Transportation.

Applicants state that Williston Basin would acquire MDU upon receipt of authorization from the Commission and upon receipt of a ruling from the Internal Revenue Service that the proposed acquisition would not be a taxable event. The purchase price would reflect the net depreciated book value of the assets as of the date of closing, less certain liabilities, plus all transaction expenses. It is shown that if the closing date were October 1, 1982, the estimated purchase price would be approximately $120,000,000. The application indicates that Williston Basin would finance the acquisition by issuing to MDU a combination of its common and preferred stock and several purchase money mortgages, whose total value would equal the purchase price.

Applicants further propose that MDU be granted abandonment authorization, for all of its currently authorized jurisdictional services and facilities, concurrently with the authorization sought by Williston Basin.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–26691 Filed 9–29–82; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of August 23 Through August 27, 1982

During the week of August 23 through August 27, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Remedial Orders

Savage Gas Company, 8/27/82, HRO–0007, HRD–0025

The Economic Regulatory Administration (ERA) filed a Motion for Leave to Withdraw a Proposed Remedial Order which the agency had issued to Savage Gas Company. The ERA argued that the motion should be granted because the PRO did not accurately reflect the agency's present position. Savage did not object. In these circumstances, the DOE determined that good cause existed for granting ERA's motion. Accordingly, the DOE granted ERA's Motion to Withdraw the PRO issued to Savage without prejudice to the issuance of a new PRO or other enforcement action.

Stanco Petroleum, Inc., 8/25/82, DRO–0021, Crude Oil

Stanco Petroleum, Inc. objected to a Proposed Remedial Order (PRO) which the Central Enforcement District of the Economic Regulatory Administration (ERA) issued to the firm on April 4, 1979. In the PRO, the ERA alleged that Stanco had violated DOE pricing regulations pertaining to first sales of crude oil by improperly certifying production from

four of its properties as stripper well crude oil. Stanco contended that the ERA had erred in its calculation of average daily production from the four properties by excluding certain producing wells in its determination of the numbers of wells on the properties. After considering Stanco's objections, the DOE affirmed the findings of the PRO with respect to three of the four properties. The PRO's allegations concerning the fourth property, however, were rescinded with respect to two of the three stripper well qualifying periods at issue. Important issues considered in this Decision include: (i) Whether Stanco's destruction of company records precluded its introducing related evidence, (ii) whether the DOE was compelled to rescind the PRO due to delay between the date on which an evidentiary hearing was held and the issuance of a final remedial order, and (iii) the type of showing required for a crude oil producer to controvert information contained in its reports to a state regulatory authority.

Request For Exception

C. R. Mullis Oil and Heating Co., Inc., 8/23/82, BEE–1641

C. R. Mullis Oil and Heating Co., Inc. filed an Application for Exception from the reporting requirements of Form EIA–9A, the "No. 2 Distillate Price Monitoring Report." The applicant alleged that compliance with the reporting requirements of the Form EIA–9A would cause it to experience a serious hardship and a gross inequity. In considering the request, the DOE found that the firm had demonstrated that the reporting requirements resulted in a gross inequity which would seriously impede Mullis' business operation in the absence of exception relief. Accordingly, C. R. Mullis Oil and Heating Co., Inc. was excused entirely from the requirement that it submit Form EIA–9A to the DOE.

Motions for Discovery

Walter J. Scott & Benjamin J. Agajanian, HRD–0070, HRH–0070; William J. Scott, HRD–0071, HRH–0071; Walter J. Scott, d.b.a. Scott Oil Co., 8/27/82, HRD–0072, HRH–0072

Walter J. Scott & Benjamin J. Agajanian, William J. Scott, and Walter J. Scott, d.b.a. Scott Oil Co. filed Motions for Discovery and Evidentiary Hearing in connection with Proposed Remedial Orders issued to the firms on June 4, 1982. In a consolidated Decision and Order issued to the firms on August 27, 1982, the DOE found that the Motions failed to meet the requirements set forth in 10 C.F.R. §§ 205.198 and 205.199. In regard to the discovery requests, the DOE found that the firms failed to set forth the reasons why the particular discovery was necessary to obtain relevant and material evidence, and explain why such discovery was necessary to obtain relevant and material evidence, and explain why such discovery would not unduly delay the proceedings. It was also determined that the firms' Motions for Evidentiary Hearing failed to identify which disputed issues of fact they sought to address in the hearings. Nor did they explain why the testimony of witnesses would be necessary or even relevant to the issues in dispute. In an attempt to obtain all the information necessary in order to resolve the issues involved in the underlying Proposed Remedial Orders, the Decision permits the firms to submit further documentary evidence in support of the contentions set forth in their Statements of Objections.

Refund Application

Pennzoil Company/System Fuels, Inc., 8/26/82, RF10–30

On March 10, 1982, the Office of Hearings and Appeals issued a Decision and Order implementing special refund procedures with respect to a $3 million fund obtained by the DOE through a consent order with Pennzoil Company. *See Office of Special Counsel (Pennzoil),* 9 DOE ¶ 82,545 (1982). The March 10 Decision stated that the DOE would accept applications for refund filed by purchasers of Pennzoil's covered products during the period March 6, 1973 through December 31, 1980. The August 26 Decision addresses the request for refund filed by System Fuels, Inc. (SFI) on behalf of its related four electric utility operating companies that are regulated by state utility regulatory agencies. In considering SFI's claim for refund, the DOE determined that the firm was eligible for a portion of the Pennzoil consent order funds and that the refund should be paid directly to its operating companies in proportion to the percentage of each operating company's share of fuel oil purchased from SFI. Accordingly, the DOE concluded that SFI's application be granted.

Tenneco Oil Co./Mid-Continent Systems, Inc., 8/23/82, RF7–70

Mid-Continent Systems, Inc. (MCS) filed an Application for Refund pursuant to 10 C.F.R. § 205.283 for a portion of the fund obtained by the DOE through a consent order entered into with the Tenneco Oil Company. MCS is an independent reseller-retailer of petroleum products that purchased motor gasoline and diesel fuel from Tenneco during the period covered by the consent order. In analyzing the MCS application, the DOE found that MCS had a great deal of discretion in determining how much product it purchased from Tenneco, because MCS had many suppliers in addition to Tenneco and because Tenneco only furnished a small proportion of MCS's total motor gasoline and diesel fuel supplies. The DOE thus determined that MCS should only be permitted refunds for purchases it made from Tenneco at prices above market average prices during months in which it banked costs. Accordingly, the DOE concluded that MCS was entitled to a refund of $4,190 plus .065804 percent of the accrued interest in the Tenneco escrow account.

Tenneco Oil Company/Midway Enterprises, Inc., 8/23/82, RF7–43

Midway Enterprises (Midway) filed an Application for Refund seeking a portion of a fund obtained by the DOE through a consent order entered into by the agency and the Tenneco Oil Company. In considering its application, the DOE found that Midway had not submitted the required information demonstrating that it maintained banks of unrecovered product costs during the period covered by the consent order. The DOE also found that Midway had not submitted any evidence to substantiate its claim for a refund based upon alleged allocation violations by Tenneco. However, the DOE found that Midway had satisfied the requirements set forth in the *Tenneco* Decision that would allow it to receive a refund at the threshold level of 600,000 gallons annually per covered product. Accordingly, Midway's Application for Refund was granted in part.

Application For Refund

Tenneco Oil Co./Research Fuels, Inc., 8/27/82, RF7–56

Research Fuels, Inc. filed an Application for Refund in which it sought a portion of the settlement fund obtained by the DOE through a consent order entered into by the agency and Tenneco Oil Company. In its Application, RFI stated that Tenneco failed to supply RFI with its motor gasoline allocation during 1979. RFI alleged that it had suffered considerable injury due to lost profits from the motor gasoline that it was unable to market and due to the closing of ten of RFI's outlets. The DOE determined that RFI's claim was meritorious but that the firm's calculations of its inury were somewhat excessive. After examining the equitable factors in the case, the DOE concluded that RFI should be allotted $193,509.31 from the settlement fund along with a portion of the interest that had accrued on the fund.

Dismissals

The following submissions were dismissed without prejudice:

Name and Case No.

Ginsburg, Feldman, Weil, & Bress, HES–0035, HER–0035
Intercontinental Oil Co., BER–0109

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 111, New Post Office Building, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system.

Dated: September 23, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 82–27001 Filed 9–29–82; 8:45 am]
BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of August 30 Through September 3, 1982,

During the week of August 30 through September 3, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following

summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. There are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: September 23, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Appeal

State of Maryland, 8/30/82, HEA-0005

The State of Maryland filed an Appeal from a decision issued by the Philadelphia Support Office of the DOE. In that decision, the DOE denied Maryland's request for authorization to use funds allocated to the State for energy conservation grants for local governments and public care institutions to defray administrative costs related to energy conservation programs for schools and hospitals. In considering the Appeal, the DOE found that Maryland did not claim, nor did it present arguments to support a claim, that the decision of the Philadelphia Support Office was erroneous in fact or law, or that it was arbitary or capricious. Accordingly, the Appeal was denied.

Request for Exception

Placid Refining Co., 8/30/82, BEE-1270

On July 3, 1980, Placid Refining Company filed with the Office of Hearings and Appeals an Application for Exception. In that Application, the firm requested that its small refiner bias entitlements for the period June 1979 through September 1979 be recalculated on a refinery-by-refinery basis, instead of a firm-wide basis. The firm stated that although the amended SRB provision, effective June 1, 1979, required the refinery-by-refinery calculation for SRB benefits, the ERA treated the firm's two refineries as one in calculating the firm's SRB benefits prior to October 1979, because the capacity certification for one of the firm's refineries was not completed. The OHA found that prior to the amendment of the SRB provision, Placid had filed an Application for Exception, in which it requested a separate calculation of the SRB benefits for its newly built refinery. Placid subsequently withdrew that request only because the firm believed that the ERA's adoption of the refinery-by-refinery calculation would have alleviated the adverse impact from which the firm sought relief, and therefore made its request moot. The OHA reasoned that since the new calculation method was not applied to Placid before its newly constructed refinery was certified, the regulatory effect was not removed, and Placid's pevious exception relief should be reconsidered. The OHA concluded that the reduction in Placid's SRB benefits due to the use of the firm-wide calculation method represented a gross inequity experienced by Placid. The OHA therefore granted the firm's exception request.

Motions for Discovery

Gary Energy Corporation, 9/3/82, BRD-1344; BRH-1344

Gary Energy Corporation filed Motions for Discovery and Evidentiary Hearing in connection with its Statement of Objections to a Proposed Remedial Order issued to the firm on November 12, 1980. In its Motions, the firm sought the production of certain DOE documents and the presentation of oral testimony of certain Gary employees and present and former DOE officials. In considering these requests, the DOE rejected Gary's arguments (1) that discovery was necessary to explore the DOE's contemporaneous constructions of regulations governing the pricing of condensate; (2) that discovery was warranted to verify Gary's claim that it relied upon erroneous advice of DOE employees; and (3) that an evidentiary hearing was warranted to establish the feasibility of allocating Gary's condensate production to the individual leases from which it was derived. On the basis of these considerations, Gary's Motions for Discovery and Evidentiary Hearing were denied.

Gulf Oil Corporation, 8/30/82, HRD-0050

Gulf Oil Corporation filed a Motion to compel Answers to Deferred Interrogatories in connection with its objections to a Proposed Remedial Order (PRO) issued to it by the Office of Special Consel for Compliance (OSC) on May 1, 1979. In that motion, Gulf sought to compel OSC to respond to discovery requests Gulf had filed on August 7, 1979, the consideration of which had been deferred pursuant to stipulations between the parties. The great majority of the deferred interrogatories sought further contemporaneous construction or administrative record discovery of the type Gulf was granted in *Atlantic Richfield Co.*, 5 DOE ¶82,521 (*Acro I*). The DOE concluded that these interrogatories should be denied because they either sought discovery denied in *Arco I*, or to the extent they sought discovery granted in *Arco I*, OSC had already produced responsive documents to Gulf or had claimed them to be privileged and interrogatory-specific responses were not required. A second category of deferred interrogatories asked OSC to identify agency personnel who drafted, edited, and approved certain portions of the regulations and rulings pertinent to the Gulf PRO proceeding. These requests were denied on the grounds they sought irrelevant information. A third category of deferred interrogatories sought information on matters not discussed in the *Arco I* decision. The interrogatories in this category which were determined to seek relevant information were granted. The final group of deferred interrogatories were a series of interrogatories OSC had agreed to answer, to which OSC was ordered to respond by a specific date. Accordingly, the Gulf motion was granted in part.

Keystone Fuel Oil Company, 9/2/82, BRD-1166; BRH-1166

Keystone Fuel Oil Company filed a Motion for Discovery and a Motion for Evidentiary Hearing in conjunction with an enforcement proceeding pending against the firm involving alleged overcharges in the sale of No. 2 fuel oil. In its Motion for Discovery, the firm sought information related to (1) prior audits of the firm conducted by predecessor agenices of the DOE; (2) investigations conducted by those agencies (3) congressional hearings wherein legislators allegedly pressured DOE officials into bringing the enforcement proceeding against the firm; (4) the ERA's modification of the PRO to effect a substitution of the declarant "primarily knowledgeable" about the facts of the case; and (5) the ERA's use of particular computer-printed material in calculating the firm's May 15, 1973 selling price. In its Motion for Evidentiary Hearing, Keystone asserted that a hearing should be held with regard to (1) the audit performed by the ERA and past agencies; (2) the facts surrounding the barge-lot sale of No. 2 fuel oil to customers that Keystone claims should be treated as ultimate consumers which form a separate class of purchaser pursuant to 6 C.F.R § 150.361(a)(2) and 10 C.F.R. § 212.111(a)(2); and (3) the firm's contentions of bias and harassment on the part of agency officials. The DOE granted limited discovery with regard to the calculation of the firm's May 15, 1973 cost of product in inventory but denied the remaining discovery requests, predominantly because of lack of relevance. The requests for an evidentiary hearing were also denied in some instances because of lack of relevance but also in large part because of the firm's failure to specify alternative findings pursuant to 10 C.F.R. § 205.199(b).

Interlocutory Order

Crown Central Petroleum Corporation, 9/2/82, HRZ-0077

Crown Central Petroleum Corporation (Crown) filed a Motion to Compel Discovery and the Office of Special Counsel for Compliance (OSC) filed a Motion in Limine with the Office of Hearings and Appeals. Both motions related to Crown's objections to a Proposed Remedial Order OSC issued to the firm on August 31, 1978.

In its Motion to Compel, Crown contended that OSC had failed to comply with the discovery order in *Crown Central Petroleum Corp.*, 9 DOE ¶ 84,020 (1982). The DOE determined that OSC had failed to provide a complete response to one of Crown's interrogatories that OSC had been ordered to answer, but that its response was not otherwise defective. Accordingly, the Crown motion was granted in part.

In its Motion in Limine, OSC requested issuance of an order striking from the record each reference in Crown's pleading to consent orders between the DOE and other firms and precluding Crown from making any further references to such consent orders. The DOE determined that OSC would not be prejudiced by the retention of material in the administrative record dealing with consent

orders. Accordingly, the OSC motion was denied.

Dismissals

The following submissions were dismissed without prejudice:

Name and Case No.

Brown, George R. DRO–0266
Johnny Paxton, HFA–0077
Simon Oil Co., BRO–1429.

[FR Doc. 82–27000 Filed 9–29–82; 8:45 am]
BILLING CODE 6450–01–M

Southwestern Power Administration

Proposed System Power Rates; Opportunities for Public Review and Comment

AGENCY: Southwestern Power Administration (SWPA), DOE.

ACTION: Notice of Proposed System Power Rates and Opportunities for Public Review and Comment.

SUMMARY: The Administrator, SWPA, has made a current power repayment study and a revised power repayment study showing the need for a $24,734,000 increase in annual revenues to meet cost recovery criteria for the integrated system projects. He has also developed proposed system rate schedules, supported by a rate design study, to recover the required revenues. The proposed rates would increase annual revenues 37.9 percent, from $65,204,600 to $89,938,600. Opportunities will be presented for the customers and other interested persons to receive copies of the studies, to participate in a public information forum and a public comment forum, and to submit written comments. Following review of the oral and written comments and other information received, the Assistant Secretary for Conservation and Renewable Energy will announce a decision on the proposed rates and transmit the rate studies in support of the proposed rates to the Federal Energy Regulatory Commission (FERC) for final confirmation and approval. The FERC will allow the public an opportunity to comment on the proposed rates before making a final decision.

DATES: The Public Information Forum will be held October 26, 1982, in Tulsa, Oklahoma. The Public Comment Forum will be held December 1, 1982, in Tulsa, Oklahoma. Written comments on the proposed rates are due on or before December 29, 1982.

ADDRESSES: Five copies of the written comments should be submitted to the Administrator, Southwestern Power Administration, U.S. Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101. Five copies should also be submitted to the Assistant Secretary for Conservation and Renewable Energy, U.S. Department of Energy, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. The public forums will be at 9:30 a.m., in the Aaronson Auditorium, City County Library, 400 Civic Center, Tulsa, Oklahoma.

FOR FURTHER INFORMATION CONTACT:

Mr. Walter M. Bowers, Chief, Division of Power Marketing, Southwestern Power Administration, Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101, (918) 581–7529.

Mr. John J. DiNucci, Office of Power Marketing Coordination, Conservation and Renewable Energy, Department of Energy, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461, (202) 633–8380.

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy was created by an Act of the U.S. Congress, Department of Energy Organization Act, Pub. L. 95–91, dated August 4, 1977, and SWPA's power marketing activities were transferred from the Department of the Interior to the Department of Energy, effective October 1, 1977.

SWPA markets power from 22 multiple-purpose reservior projects with power facilities constructed and operated by the U.S. Corps of Engineers. By 1984, one additional project presently under construction (Clarence Cannon) will be completed, bringing the total to 23 projects with 2.1 million kilowatts of power for which SWPA will have marketing responsibility. These projects are located in the States of Arkansas, Missouri, Oklahoma, and Texas. SWPA's marketing area includes these States plus Kansas and Louisiana.

One project (Sam Rayburn) is isolated hydraulically and electrically from SWPA's transmission system and is marketed under a contract through which the customer purchases the entire power output of the project at the dam. A separate power repayment study is prepared for the project which has a special rate that does not affect this proposal. The 22 projects to which the proposed rate schedules apply are interconnected through SWPA's transmission system and exchange agreements with other utilities.

Following departmental guidelines, the Administrator, SWPA, prepared a current power repayment study using the existing rates for the intergrated system projects. This study shows that the legal requirement to repay the power investment with interest is not being met. A revised power repayment study was then made which shows that additional annual revenues of $24,734,000 (a 37.9 percent increase) are needed. A rate design study has also been completed which allocates the revenue requirement to the various system rate schedules for recovery. Copies of the power repayment studies and rate design study will be mailed to SWPA's customers and others who have expressed an interest. The proposed increase would change annual revenues produced by the integrated system projects from $65,204,600 to $89,938,600, and satisfy the present financial criteria for repayment of the projects within the required number of years. Below is a comparison of the existing rates and proposed rates:

BILLING CODE 6450–01–M

Rate Schedule P-3

	Existing	Proposed	
		Before Cannon	After Cannon
Capacity:	@ 138-161 kV $1.40/kW/mo.	$2.18/kW/mo.	$2.22/kW/mo.
	@ 69 kV + .20 kW/mo.	+ .20/kW/mo.	+ .20/kW/mo.
	@ Load Center or less than 69 kV + .55/kW/mo.	+ .70/kW/mo.	+ .70/kW/mo.
Energy:	$.0035 for first 1200 kWh/kW/yr. $.007 for kWh in excess of first 1200 kWh/kW/yr.	All energy $.0035/kWh + Actual purchased energy costs recovered directly from customers. The determination of each customer's share of such costs shall be made on a proportionate basis weighted in accordance with the number of kWh used per kW and recognizing higher load factor loads are responsible for a greater share of the need for purchased energy.	
	$.0035/kWh of Supplemental Peaking Energy	$.0035/kWh of Supplemental Peaking Energy	

Rate Schedule F-2

	Existing	Proposed	
		Before Cannon	After Cannon
Capacity:	@ 138-161 kV $1.40/kW/mo.	$2.18/kW/mo.	$2.22/kW/mo.
	@ 69 kV + .20/kW/mo.	+ .20/kW/mo.	+ .20/kW/mo.
	@ Load Center or less than 69 kV + .55/kW/mo.	+ .70/kW/mo.	+ .70/kW/mo.
Energy:	$.0035 for first 100 kWh/kW/mo. of Firm Billing Demand $.007 for next 340 kWh/kW/mo. of Firm Billing Demand $.014 for energy in excess of first 440 kWh/kW/mo. of Firm Billing Demand	All energy $.0035/kWh + Actual purchased energy costs recovered directly from customers. The determination of each customer's share of such costs shall be made on a proportionate basis weighted in accordance with the number of kWh used per kW and recognizing higher load factor loads are responsible for a greater share of the need for purchased energy.	

Rate Schedule F-3

	Existing	Proposed	
		Before Cannon	After Cannon
Capacity:	$1.95/kW/mo. of Billing Demand	$2.88/kW/mo.	$2.92/kW/mo.
Energy:	$.0035 per kWh for federally-generated firm energy + Actual cost of thermal-generated energy purchased from the company specifically for the customer.	All federally-generated firm energy $.0035/kWh + Actual cost of thermal-generated energy purchased from the company specifically for the customer + Actual purchased energy costs to support the federally-generated energy recovered directly from customers. The determination of each customer's share of such costs shall be made on a proportionate basis weighted in accordance with the number of kWh used per kW and recognizing higher load factor loads are responsible for a greater share of the need for purchased energy.	

Rate Schedule EE-2

	Existing	Proposed
Energy:	$.003/kWh	$.0035/kWh

Rate Schedule IC-2

	Existing	Proposed
Capacity:	$.05/kW/day of Interruptible Billing Demand	$.075/kW/day of Interruptible Billing Demand
Energy:	$.0035/kWh	$.0035/kWh

BILLING CODE 6450-01-C

A Public Information Forum will be held October 26, 1982, in the Aaronson Auditorium, City County Library, 400 Civic Center, Tulsa, Oklahoma, at 9:30 a.m., to explain to the public the proposed rates and supporting studies. Questions may be submitted from interested persons. The forum will be conducted by a chairman who will be responsible for orderly forum procedure. Questions raised at the forum concerning the rates and studies will be answered, to the extent possible, at the forum. Questions not answered at the forum will be answered in writing, except that questions that involve voluminous data contained in SWPA's records may best be answered by consultation and review of pertinent records at SWPA's offices.

A Public Comment Forum will be held December 1, 1982, at the same time and location established for the Public Information Forum. At the Public Comment Forum, interested persons may submit written comments or make oral presentations of their views and comments. The forum will be conducted by a chairman who will be responsible for orderly procedure. SWPA's representatives will be present, and they and the chairman may ask questions of the speakers. Persons interested in speaking should submit a request to the Administrator, SWPA, at least three (3) days before the forum so that a list of speakers can be developed. The chairman may allow others to speak if time permits.

A transcript of each forum will be made. Copies of the transcripts may be obtained from the transcribing service. Copies of all documents introduced will be available from SWPA upon request for a fee. Written comments on the proposed rates are due on or before December 29, 1982. Five copies of the written comments should be submitted to the Administrator, Southwestern Power Administration, U.S. Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101. Five copies should also be submitted to the Assistant Secretary for Conservation and Renewable Energy, U.S. Department of Energy, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Following review of the oral and written comments and the information gathered in the course of the proceedings, the Assistant Secretary for Conservation and Renewable Energy will announce a decision on the proposed rates and transmit the rate studies in support of the proposed rates to the FERC for final confirmation and approval. The FERC will allow the public an opportunity to make written comments on the proposal before making a final decision.

Issued in Tulsa, Oklahoma, September 24, 1982.

Richard B. Risk, Jr.,

Administrator.

[FR Doc. 82-27000 Filed 9-29-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS 140017; TSH-FRL 2218-8]

American Management Systems, Inc. and Versar, Inc.; Transfer of Data to Contractor and Subcontractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has contracted with American Management Systems, Inc. (AMS), (primary contractor) and Versar, Inc., (subcontractor) to review and analyze information reported under section 8(b) of the Toxic Substances Control Act (TSCA) for purposes of predicting potential exposures to toxic substances. Some of the materials which AMS and Versar, Inc., will review will contain confidential business information.

DATE: The transfer of data submitted under the Act and claimed to be confidential will occur no sooner than 10 working days after publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-509, 401 M St. SW., Washington, D.C. 20460, Toll-free: (800-424-9065). In Washington, D.C.: (554-1404).

SUPPLEMENTARY INFORMATION: EPA will be evaluating the potential and magnitude of possible exposures to toxic substances. To accomplish this, EPA will require the assistance of outside experts. It has selected American Management Systems, Inc. (AMS), of Arlington, Virginia and Versar, Inc. (Versar), of Springfield, Virginia to perform analyses of the information which may be helpful to EPA in this evaluation. (Contract No. 68-01-5146).

AMS and Versar will examine the information obtained from the Inventory of Chemical Substances (section 8(b) of TSCA) to identify possible exposure situations. Pursuant to 40 CFR 2.306(j), EPA has determined that it will need to disclose confidential business information to AMS and Versar. If any information is claimed to be confidential, reports prepared by AMS and Versar dealing with this confidential business information will be treated as confidential. After evaluating the information obtained, AMS and Versar will return the information and any reports they prepare to EPA.

Under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information Security Manual," AMS and Versar will be authorized to have access to this information. EPA has approved Versar's security plan and has conducted the required inspection of Versar facilities and found them to be in compliance for the control and security of TSCA confidential business information. AMS will have access to confidential business information only at EPA facilities.

Since AMS and Versar will review information claimed to be confidential, EPA is publishing this notice to inform all submitters of information listed under section 8(b) of TSCA that this contractor and subcontractor will have access to confidential business information from EPA.

Pursuant to the EPA manual "Contractor Requirements for the Control and Security of TSCA Confidential Business Information," AMS and Versar are legally required to safeguard this information form any unauthorized disclosure. AMS and Versar personnel will be required to sign a nondisclosure agreement and be briefed on appropriate security procedures before they are permitted access to such information.

Dated: September 8, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82-26958 Filed 9-29-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59102, TSH-FRL 2218-6]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which

must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of four applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: October 15, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–59102]" and the specific TME number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E–401, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David Dull, Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TMEs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107.

TME 82–51

Close of Review Period. November 3, 1982.
Importer. Confidential.
Chemical. (G) Substituted alkyl cyclic amine.
Use/Import. (G) Plastic additive. Import range: 1 yr-4,000 lbs.
Toxicity Data. Acute oral: >5,000 mg/kg.
Exposure. Manufacture and processing: dermal and inhalation, 10–12 workers; use: maximum of 18 workers could have dermal or inhalation exposure.
Environmental Release/Disposal. No data submitted.

TME 82–52

Close of Review Period. November 4, 1982.
Manufacturer. Confidential.
Chemical. (G) Polyester from an alkanedioic acid, carbomonocyclic anhydride and substituted alkane diols.
Use/Production. (G) Open use that will release more than 50 but less than 500 kg to the environment. Prod. range: 1 yr: 1,000–4,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal and eye, a total of 27 workers, up to 6 hrs/da, up to 3 da/yr; processing: a maximum of 15 workers may have dermal and eye irritation, up to 4 hrs/da, up to 4 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10–100 kg/yr to land. Disposal by incineration and approved landfill.

TME 82–53

Close of Review Period. November 4, 1982.
Manufacturer. Confidential.
Chemcial. (G) Halogenated ketone.
Use/Production. (G) Ingredient for composite product. Prod. range: Confidential.
Toxicity Data. Acute oral: Low toxicity; Eye irritation: Mild to slight irritant; Ames Test: Not mutagenic; Skin sensitization: Slight irritation.
Exposure. Manufacture and processing; dermal and inhalation.
Environmental Release/Disposal. Release to air. Disposal by landfill.

TME 82–54

Close of Review Period. November 4, 1982.
Manufacturer. Confidential.
Chemical. (G) Halogenated hydrocarbon.
Use/Production. (G) Ingredient for composite product. Prod. range: Confidential.
Toxicity Data. Acute oral: Low toxicity; Eye irritation: Persistent irritant; Ames Test: Not mutagenic; Skin sensitization: Not an irritant.
Exposure. Manufacture and processing: dermal and inhalation.
Environmental Release/Disposal. Release to air. Disposal by landfill.

Dated: September 23, 1982.

V. Paul Fuschini,

Acting Director, Management Support Division.

[FR Doc. 82–26963 Filed 9–29–82; 8:45 am]
BILLING CODE 6560–50–M

[OPTS–51433; TSH–FRL 2218–5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of fifteen PMNs and provides a summary of each.

DATES: CLOSE OF REVIEW PERIOD:

PMN 82–675, 82–676, 82–677, & 82–678—December 15, 1982
PMN 82–679 & 82–680—December 18, 1982
PMN 82–681, 82–682, 82–683, 82–684, 82–685, 82–686, 82–687 & 82–688—December 19, 1982
PMN 82–689—December 20, 1982

Written comments by:

PMN 82–675, 82–676, 82–677 & 82–678—November 15, 1982
PMN 82–679 & 82–680—November 18, 1982
PMN 82–681, 82–682, 82–683, 82–684, 82–685, 82–686, 82–687 & 82–688—November 19, 1982
PMN 82–689—November 20, 1982

ADDRESS: Written comments, identified by the document control number "[OPTS–51433]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M ST., SW., Washington, DC 20460 (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107.

PMN 82–675

Manufacturer. Uniroyal, Inc.
Chemical. (G) Isocyanate terminated polyester-ether polyurethane prepolymer.
Use/Production. (S) Molded goods applications. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 8 hrs/da, up to 100 da/yr.
Environmental Release/Disposal. No release. Disposal by approved landfill.

PMN 82-676

Importer. Confidential.
Chemical. (G) Heterocyclic, aromatic methane.
Use/Import. (S) Pigment additive. Import range: 150–5,000 kg/yr.
Toxicity Data. Acute oral: >5 g/kg; Acute dermal: 700–2,000 mg/kg; Skin irritation: Non-irritant; Eye irritation: Non-irritant.
Exposure. Processing: dermal and inhalation.
Environmental Release/Disposal. No data submitted.

PMN 82-677

Importer. Confidential.
Chemical. (G) Chromium complex of a substituted phenolazophenylpyrazolone.
Use/Import. (S) Leather and paper dye. Import range: Confidential.
Toxicity Data. Acute oral: >5 g/kg; Skin irritation: Non-irritant; Eye irritation: Moderate irritant.
Exposure. Processing, use and disposal: dermal, a total of 6 workers, up to 2 hrs/da, up to 100 da/yr.
Environmental Release/Disposal. 10–100 kg/yr released to water. Disposal by publicly owned treatment works (POTW), incineration and approval landfill.

PMN 82-678

Importer. Confidential
Chemical. (G) Chlorinated aromatic azo anthraquinone pigment.
Use/Import. (S) Pigment for coatings. Import range: 2,400–64,000 kg/yr.
Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal; >2,000 mg/kg; Skin irritation: Non-irritant; Eye irritation: Non-irritant; Inhalation LC_{50}: >21.2 mg/1; Ames Test: Non-mutagenic.
Exposure. Processing and use: dermal and inhalation.
Environmental Release/Disposal. No data submitted.

PMN 82-679

Importer. Confidential.
Chemical. (G) Chlorinated aromatic azo pigment.
Use/Import. (S) Pigment for coatings. Import range: 2,400–64,000 kg/yr.
Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2,000 mg/kg; Skin irritation: Non-irritant; Eye irritation: Non-irritant; Ames Test: Non-mutagenic.
Exposure. Processing and use: dermal and inhalation.
Environmental Release/Disposal. No data submitted.

PMN 82-680

Importer. Confidential.
Chemical. (S) 2-propenoic acid, 2-hydroxyethyl ester, polymer with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, -hydro-w-hydroxypoly(oxy-1,2-ethanediyl), 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethycyclohexane and 2 oxepanone.
Use/Import. (G) Ingredient in coating formulations. Prod. range: Confidential.
Toxicity Data. Skin irritation: Severe irritant.
Exposure. Manufacture and processing: dermal, a total of 4 workers, up to 12 hrs/batch.
Environmental Release/Disposal. Disposal by incineration and landfill.

PMN 82-681

Importer. Confidential.
Chemical. (G) Chromium complex of a sulfonaphthylazophenylpyrazolone.
Use/Import. (S) Industrial dye for leather and paper. Import range: Confidential.
Toxicity Data. Skin irritation: Non-irritant; Eye irritation: Moderate irritant; Biodegradation (Static test, metric method): 50–100%.
Exposure. Processing, use and disposal: dermal, a total of 6 workers, up to 2 hrs/da, up to 100 da/yr.
Environmental Release/Disposal. Up to 50 kg/yr maximum released to water 2 hrs/da, 100 da/yr. Disposal by POTW, incineration and approved landfill.

PMN 82-682

Importer. Confidential.
Chemical. (G) Polyester from an alkanedioic acid, carbomonocyclic anhydride and substituted alkane diols.
Use/Import. (G) Open use. Prod. range: 10,000–50,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and use: dermal, inhalation and eye, a total of 139 workers, up to 8 hrs/da, up to 200 da/yr.
Environmental Release/Disposal. Less than 10 kg/hr released to air and water with more than 10,000 kg/yr to land. Disposal by incineration.

PMN 82-683

Manufacturer. Confidential.
Chemical. (G) Halogenated ketone.
Use/Production. (G) Ingredient for composite product. Prod. range: Confidential.
Toxicity Data. Acute oral: 3,400 mg/kg; Skin irritation: Slight irritant; Eye irritation: Slight irritant; Ames Test: Non-mutagenic.
Exposure. Manufacture and processing: dermal and inhalation.
Environmental Release/Disposal. Release to air. Disposal by approved landfill.

PMN 82-684

Manufacturer. Confidential.
Chemical. (G) Halogenate hydrocarbon.
Use/Production. (G) Ingredient for composite product. Prod. range: Confidential.
Toxicity Data. Acute oral: 7,500 mg/kg; Skin irritation: Non-irritant; Eye irritation: Moderate irritant; Ames Test: Non-mutagenic.
Exposure. Manufacture: dermal and inhalation.
Environmental Release/Disposal. Release to air. Disposal by approved landfill.

PMN 82-685

Manufacturer. Ansul Specialty.
Chemical. (G) Diethylene glycol ether.
Use/Production. (S) Inert solvent for chemical reactions. Prod. range: Confidential.
Toxicity Data. Acute oral: 5,000 mg/kg; Acute dermal: 7.07 ml/kg; Skin irritation: Not a primary irritant; Eye irritation: Not a primary irritant; Ames Test: Non-mutagenic.
Exposure. Manufacture: dermal and inhalation, a total of 11 workers, up to 4 hrs/da, up to 50 da/yr.
Environmental Release/Disposal. 100–1,000 kg/yr released to water and land. Disposal by POTW.

PMN 82-686

Manufacturer. Confidential.
Chemical. (G) Disubstituted-1-naphthol.
Use/Production. (G) Minor constituent in an article for commercial and consumer use. Prod. range: 100–200 kg/yr.
Toxicity Data. Acute oral: >3,000 mg/kg; Acute dermal: & 1,000 mg/kg; Skin irritation: Slight irritant; Eye irritation: Non-irritant; Skin sensitization: Moderate; Acute aquatic effects LC_{50}: >0.9 mg/L; Secondary waste treatment compatibility: >0.125 mg/L.
Exposure. Manufacture and processing: dermal and inhalation, a total of 10 workers, up to 2 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. No release. Disposal by biological treatment system, incineration and landfill.

PMN 82-687

Manufacturer. The Kendall Company.
Chemical. (G) Methacrylate copolymer.
Use/Production. (S) General purpose adhesive tapes. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and use: dermal and inhalation, a total of 11 workers, up to 8 hrs/da, up to 50 da/yr.
Environmental Release/Disposal. No release.

PMN 82-688

Manufacturer. The Kendall Company.

Chemical. (G) Acrylate copolymer solution.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Skin irritation: Slight irritant.

Exposure. Manufacture, processing and use: a total of 11 workers, up to 8 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. No release.

PMN 82-689

Manufacturer. Exxon Chemical Americas.

Chemical. (G) Alkyl amino ethoxy ethanol.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: 1.7130 g/kg; Skin irritation: Severe irritant; Eye irritation: Severe irritant; Ames Test: Non-mutagenic

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

Dated: September 23, 1982.

V. Paul Fuschini,

Acting Director, Management Support Division.

[FR Doc. 82-26982 Filed 9-29-82; 8:45 am]
BILLING CODE 6560-50-M

[SWH-FRL 2216-2]

Hazardous Waste Management System; Infectious Waste Management

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability of information manual.

SUMMARY: The Environmental Protection Agency (EPA) announces the availability of an information manual entitled "Draft Manual for Infectious Waste Management." This manual identifies those infectious wastes which the Agency believes require special management, and presents a number of environmentally acceptable techniques for packaging, transport, treatment, storage, and disposal of infectious waste. EPA is publishing the manual because the Agency has received many requests for guidance on infectious waste management over the past several years, and because the Agency has sought and accumulated much information on infectious waste management since publishing a proposed rule in the **Federal Register** on December 18, 1978. EPA welcomes comments on the usefulness of this document, and any suggestions for changes or revisions.

DATES: The Agency will accept public comment on the information manual until April 6, 1982.

ADDRESSES: The information manual, "Draft Manual for Infectious Waste Management," GPO stock number 055-000-00273-1, is available from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 783-3238. The manual is immediately available for reading in all EPA libraries and in the EPA docket at the address listed below.

Comments on the manual are welcome and may be mailed to the Docket Clerk, (Docket No. 3001/3004, Infectious Waste Management), Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Comments received by EPA may be inspected in Room S-269, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., from 9:00 a.m. to 4:00 p.m. Monday through Friday, except on legal holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, at (800) 424-9346 (toll free), or at (202) 382-3000. For technical information contact Claire Welty at (202) 755-9187 or (202) 382-4806.

Dated: September 17, 1982.

Rita M. Lavelle,

Assistant Administrator for Solid Waste and Emergency Response.

[FR Doc. 82-26984 Filed 9-29-82; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-53041; TSH-FRL 2217-5]

Premanufacture Notices; Monthly Status Report for August 1982

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** at the beginning of each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for August 1982.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E-106 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments are to be identified with the document control number "[OPTS-53041]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street, SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-208, 401 M Street, SW., Washington, DC 20460, (202-382-3746).

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during August; (b) PMNs received previously and still under review at the end of August; (c) PMNs for which the notice review period has ended during August; (d) chemical substances for which EPA has received a notice of commencement to manufacture during August; and (e) PMNs for which the review period has been suspended. Therefore, the August 1982 PMN Status Report is being published.

Dated: September 22, 1982.

V. Paul Fuschini,

Acting Director, Management Support Division.

Premanufacture Notices Monthly Status Report, August 1982

I. 110 Premanufacture Notices Received During the Month

PMN No.	Identity and generic name	FR citation	Expiration date
82-156	Methyl-[trifluoromethyl-poly-(oxy-difluoromethylene)-poly-[oxy-2-(trifluoromethyl)-trifluoroethylene]oxy]-difluoromethyl carboxylate.	47 FR 39241 (9/7/82)	Nov. 21, 1982.
82-157	Trifluoromethyl-poly-(oxydifluoro-methylene)-poly-[oxy-2-(trifluoromethyl)-trifluoro-ethylene]oxy-difluoromethyl carboxylic acid.	47 FR 39241 (9/7/82)	Do.

I. 110 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
82-158	2-(trifluoromethyl-poly-(oxy-difluoro-methylene)-poly-[oxy-2-(trifluoromethyl)-tri-fluoro-ethylene]oxy}2,2 difluoroethanol.	47 FR 39241 (9/7/82)	Do.
82-159	*Aryl*-[*aryl*-oxycarbonyl difluoromethyl-poly-(oxy-difluoromethylene)-poly-(oxydifluoromethylene)-poly-(oxytetrafluoro ethylene) oxy]-difluoro-methyl carboxylate.	47 FR 39242 (9/7/82)	Do.
82-160	Methyl[methyloxycarbonyl difluoromethyl-poly-(oxydifluoromethylene)-poly-(oxy tetrafluoro ethylene)oxy]-difluoromethyl carboxylate.	47 FR 39242 (9/7/82)	Do.
82-161	2-(cyano difluoromethyl-poly-(oxydifluoro-methylene)-poly-(oxytetrafluoroethylene)-oxy] 2,2-difluoroacetonitrile.	47 FR 39242 (9/7/82)	Do.
82-162	2-[2,2-difluorohydroxyethyl-poly-(oxy-difluoro-methylene)-poly-(oxy trifluoroethylene) oxy]-2, 2-di-fluoroethanol.	47 FR 39242 (9/7/82)	Do.
82-163	2-[2, 2-difluoroaminoethyl-poly-(oxydifluoro-methylene)-poly-(oxytetrafluoroethylene)oxy] 2,2-di-fluoro-ethylamine.	47 FR 39242 (9/7/82)	Do.
82-164	2-{1-[N-m-isocyanato-O-(p)-tolyl)carbamyl] 2,2-difluoroethyl-poly-(oxydifluoroethylene)-poly-tetra-fluoro-ethylene)oxy)2,2-difluoroethyl-N-(m-isocyanato-o-(p)-tolyl)-carbamate.	47 FR 39242 (9/7/82)	Do.
82-165	1[isocyanato-2,2-difluoroethyl-poly-oxydifluoro-methylene)-poly-(oxytetrafluoroethylene)oxy]-2,2-difluoroethyl isocyanate.	47 FR 39242 (9/7/82)	Do.
82-535	Generic name: Modified polymer of styrene and substituted alkyl methacrylates	47 FR 35333 (8/13/82)	Oct. 31, 1982.
82-539	Generic name: Terephthalate polyester transe-sterification product with dialkylene glycols and glycerine.	47 FR 35333 (8/13/82)	Do.
82-540	Polymer of butyl 2-methyl-2-propenoate, ethenyl benzene, N-[(2-methylproproxy)methyl]-2-propen-amide.	47 FR 35333 (8/13/82)	Do.
82-541	Generic name: Fumarated rosin ester	47 FR 35333 (8/13/82)	Nov. 1, 1982.
82-542	Generic name: Citric acid ester	47 FR 35333 (8/13/82)	Do.
82-543	Generic name: Maleic acid ester	47 FR 35333 (8/13/82)	Do.
82-544	Generic name: Benzoic acid ester	47 FR 35333 (8/13/82)	Do.
82-545	Polymer of hexane, 1,6-diisocyanato-, hopolymer, 2-butanone, oxime	47 FR 35333 (8/13/82)	Do.
82-546	Void		Do.
82-547	Generic name: Modified polymer of styrene and substituted alkyl methacrylates	47 FR 35333 (8/13/82)	Do.
82-548	Generic name: Organometallic coupling agent	47 FR 35333 (8/13/82)	Do.
82-549	Void		
82-550	Generic name: Sulfoaryl disazo substituted naphthalenesulfonic acid salt	47 FR 35333 (8/13/82)	Do.
82-551	Generic name: Sulfoaryl disazo substituted naphthalenesulfonic acid salt	47 FR 35334 (8/13/82)	Do.
82-552	Generic name: Sulfoaryl disazo substituted naphthalenesulfonic acid salt	47 FR 35334 (8/13/82)	Do.
82-553	Generic name: Sulfoaryl disazo substituted naphthalenesulfonic acid salt	47 FR 35334 (8/13/82)	Do.
82-554	Generic name: Sulfoaryl disazo substituted naphthalenesulfonic acid salt	47 FR 35334 (8/13/82)	Do.
82-555	Generic name: Sulfoaryl disazo substituted naphthalenesulfonic acid salt	47 FR 35334 (8/13/82)	Do.
82-556	Generic name: Sulfoaryl disazo substituted naphthalenesulfonic acid salt	47 FR 35334 (8/13/82)	Do.
82-557	Generic name: Acetamidodimethylsiloxane	47 FR 35334 (8/13/82)	Nov. 2, 1982.
82-558	Generic name: Acetamidodimethylsiloxane	47 FR 35334 (8/13/82)	Do.
82-559	Generic name: Disubstituted benzene	47 FR 35334 (8/13/82)	Do.
82-560	Generic name: Polymer of the homopolymer of hexane, 1,6-diisocyanato-, substituted alkyl alkanoates and a benzene derivative.	47 FR 35334 (8/13/82)	Do.
82-561	Generic name: Substituted unsaturated polycyclic alcohol	47 FR 35334 (8/13/82)	Do.
82-562	Generic name: 1-Naphthalenesulfonic acid, ((((triazin)amino)disulfo)azo)-, trisodium salt	47 FR 36469 (8/20/82)	Nov. 3, 1982.
82-563	Ethyllithium	47 FR 36469 (8/20/82)	Nov. 7, 1982.
82-564	Generic name: Aliphatic polyol oligocrylate oligopropionate	47 FR 36469 (8/20/82)	Do.
82-565	Generic name: Alkenyl alkanoate ester	47 FR 36469 (8/20/82)	Nov. 8, 1982.
82-566	Generic name: Heteromonocycle, substituted	47 FR 36469 (8/20/82)	Nov. 9, 1982.
82-567	Generic name: Heteromonocycle, substituted	47 FR 36469 (8/20/82)	Do.
82-568	Generic name: Chromophore substituted poly(oxy-alkylene)	47 FR 36469 (8/20/82)	Do.
82-569	Generic name: Epoxidized hydroxystearic acid	47 FR 36469 (8/20/82)	Do.
82-570	Generic name: Amino acid modified polyester	47 FR 37954 (8/27/82)	Nov. 10, 1982.
82-571	Generic name: Orthophthalic anhydride modified unsaturated polyester resin	47 FR 37954 (8/27/82)	Nov. 13, 1982.
82-572	Generic name: Organophosphorous compound	47 FR 37954 (8/27/82)	Do.
82-573	Generic name: Pentasubstituted pentanamide salt	47 FR 37954 (8/27/82)	Do.
82-574	Generic name: Glycol ester of fatty acids	47 FR 37954 (8/27/82)	Nov.14, 1982.
82-575	Void		
82-576	Generic name: Unsaturated polyester	47 FR 37954 (8/27/82)	Do.
82-577	Generic name: Unsaturated polyester	47 FR 37954 (8/27/82)	Do.
82-578	Generic name: Unsaturated polyester	47 FR 37954 (8/27/82)	Do.
82-579	Generic name: Unsaturated polyester	47 FR 37954 (8/27/82)	Do.
82-580	Generic name: Salt of sulfosuccinic diester	47 FR 37954 (8/27/82)	Do.
82-581	Generic name: N-alkyl-1,3-diamine propane salts of mixed mono and dialkyl hydrogen phosphate	47 FR 37954 (8/27/82)	Do.
82-582	Generic name: N-alkyl-1,3-diamine propane salts of mixed mono and dialkyl hydrogen phosphate	47 FR 37955 (8/27/82)	Do.
82-583	Generic name: N-alkyl-1,3-diamine propane salts of mixed mono and dialkyl hydrogen phosphate	47 FR 37955 (8/27/82)	Do.
82-584	Dimethyl ester of 4,4'-(hydroxymethylene)bis-1,2-benzenedicarboxylic acid	47 FR 39242 (9/7/82)	Nov. 17, 1982.
82-585	Polymer of dimethyl ester of 4,4'-(hydroxymethylene)bis-1,2-benzenedicarboxylic acid with 4,4'-methylenedianiline.	47 FR 39242 (9/7/82)	Do.
82-586	Generic name: Ethyl ester of tertiary butyl carbomonocyclic acid	47 FR 39242 (9/7/82)	Do.
82-587	Generic name: Alkylbenzenesulfonic acid compound with dialkyl fatty amine	47 FR 39242 (9/7/82)	Do.
82-588	4-(1,1-dimethylethyl)pyridine	47 FR 39242 (9/7/82)	Do.
82-589	Generic name: Cresol novolac modified methacrylic epoxy ester	47 FR 39242 (9/7/82)	Nov. 20, 1982.
82-590	Generic name: Fatty acid esters of monohydric alcohol	47 FR 39242 (9/7/82)	Nov. 21, 1982.
82-591	Generic name: Fatty acid esters of monohydric alcohol	47 FR 39243 (9/7/82)	Do.
82-592	Generic name: Polyester polymer	47 FR 39243 (9/7/82)	Do.
82-593	Generic name: Polyester polymer	47 FR 39243 (9/7/82)	Do.
82-594	Generic name: Polymer of alkyl and substitutedalkyl acrylates	47 FR 39243 (9/7/82)	Do.
82-595	Generic name: Di(substitutedalkyl)dimethyl-ammonium salt	47 FR 39243 (9/7/82)	Do.
82-596	Generic name: Di(substitutedalkyl)dimethyl-ammonium salt	47 FR 39243 (9/7/82)	Do.
82-597	Vinyl acetate-N-methylolacrylamide copolymer	47 FR 39243 (9/7/82)	Nov. 22, 1982.
82-598	Ethyl acrylate homopolymer	47 FR 39243 (9/7/82)	Do.
82-599	Vinyl acetate-ethyl acrylate-N methylol acrylamide polymer	47 FR 39243 (9/7/82)	Do.
82-600	Butyl acrylate-vinyl acetate copolymer	47 FR 39243 (9/7/82)	Do.
82-601	Ethyl acrylate-methyl methacrylate copolymer	47 FR 39243 (9/7/82)	Do.
82-602	Generic name: Mixed glycol oligoesters of mixed dicarboxylic acids	47 FR 39243 (9/7/82)	Do.
82-603	Generic name: Mixed glycol oligoesters of aromatic diocarboxylic acid	47 FR 39243 (9/7/82)	Do.
82-604	Generic name: Monoureido silane ester	47 FR 39244 (9/7/82)	Do.
82-605	Generic name: Thiadiazole derivative	47 FR 39244 (9/7/82)	Do.
82-606	Ethyl-{trifluoromethyl-poly-(oxy difluoromethylene)-poly-[oxy-2-trifluoromethyl-trifluoromethyl-trifluorpethylene]oxy}-difluoromethyl carboxylate.	47 FR 39244 (9/7/82)	Nov. 23, 1982.

I. 110 Premanufacture Notices Received During the Month—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
82-607	Isopropyl-[trifluoromethyl-poly-(oxydifluoromethylene)-poly-[oxy-2-trifluoromethyl)-trifluoroethylene]oxy] difluoromethyl carboxylate.	47 FR 39244 (9/7/82)	Do.
82-608	Ethyl[ethyl oxycarbonyl difluoromethyl-poly-(oxydifluoromethylene)-poly-(oxytetrafluoroethylene)-oxy]difluoromethyl carboxylate.	47 FR 39244 (9/7/82)	Do.
82-609	Isopropyl[methyl oxycarbonyl difluoromethyl-poly-(oxydifluoromethylene)-poly-(oxytetrafluoro-ethylene)oxy]difluoromethyl carboxylate.	47 FR 39244 (9/7/82)	Do.
82-610	2-[2,20-difluorohydroxyethyl-poly-(oxydifluoromethylene)-poly-(oxytrifluoroethylene)oxy]-2,2-difluoro-irthanol.	47 FR 39244 (9/7/82)	Do.
82-611	2-[2,2-difluorohydroxyethyl-poly-(oxydifluoromethylene)-poly-(oxytrifluoroethylene)oxy]-2,2-difluro-ethanol.	47 FR 39244 (9/7/82)	Do.
82-612	Mixed C_9-C_{11} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 25°-35°.	47 FR 39244 (9/7/82)	Do.
82-613	Mixed C_9-C_{11} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 35°-50°.	47 FR 39244 (9/7/82)	Do.
82-614	Mixed C_9-C_{11} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 50°-60°.	47 FR 39244 (9/7/82)	Do.
82-615	Mixed C_9-C_{11} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 60°-75°.	47 FR 39244 (9/7/82)	Do.
82-616	Mixed C_9-C_{11} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 75°-90°.	47 FR 39245 (9/7/82)	Do.
82-617	Mixed C_9-C_{11} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 90°-105°.	47 FR 39245 (9/7/82)	Do.
82-618	Mixed C_9-C_{11} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 105°-120°.	47 FR 39245 (9/7/82)	Do.
82-619	Mixed C_9-C_{11} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 120°-140°.	47 FR 39245 (9/7/82)	Do.
82-620	Mixed C_9-C_{11} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 140°-165°.	47 FR 39245 (9/7/82)	Do.
82-621	Mixed C_9-C_{11} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 165°-180°.	47 FR 39245 (9/7/82)	Do.
82-622	Mixed C_9-C_{11} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 180°-190°.	47 FR 39245 (9/7/82)	Do.
82-623	Mixed C_9-C_{11} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 190°-200°.	47 FR 39245 (9/7/82)	Do.
82-624	Mixed C_9-C_{11} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 200°-220°.	47 FR 39245 (9/7/82)	Do.
82-625	Mixed C_9-C_{11} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 220°-235°.	47 FR 39246 (9/7/82)	Do.
82-626	Mixed C_9-C_{11} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 235°-255°.	47 FR 39246 (9/7/82)	Do.
82-627	Generic name: Modified polyester	47 FR 39884 (9/10/82)	Do.
82-628	Generic name: Polyacrylate	47 FR 39885 (9/10/82)	Do.
82-629	Dimethyl hydantoin, formaldehyde, toluene sulfonamide condensation product	47 FR 39885 (9/10/82)	Do.
82-630	Generic name: Unsaturated alkyl fatty amine	47 FR 39885 (9/10/82)	Do.
82-631	Generic name: Unsaturated amine adduct	47 FR 39885 (9/10/82)	Do.
82-632	Generic name: Fatty secondary amide	47 FR 39885 (9/10/82)	Do.
82-633	Generic name: Fatty secondary amide	47 FR 39885 (9/10/82)	Do.
82-634	Generic name: Fatty secondary amide	47 FR 39885 (9/10/82)	Do.
82-635	Generic name: Alkyl acid esters	47 FR 39885 (9/10/82)	Do.
82-636	Generic name: Alkyl ester	47 FR 39885 (9/10/82)	Do.
82-637	Generic name: Stearyl methacrylate copolymer	47 FR 39885 (9/10/82)	Do.
82-638	Ethanol 2,2'-[sulfonyl bis(4,1-phenyleneoxy)]bis	47 FR 39885 (9/10/82)	Do.
82-639	Generic name: Polyacrylate copolymer	47 FR 39885 (9/10/82)	Do.
82-640	Generic name: Amino modified polyester	47 FR 39885 (9/10/82)	Do.

II. 56 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.	Identity/generic name	FR citation	Expiration date
82-479	Generic name: Heteropolycyclic(dihydroxyheteropolycycle)	47 FR 30104 (7/12/82)	Sept. 29, 1982.
82-480	Generic name: Polyol polyacrylate	47 FR 30104 (7/12/82)	Do.
82-481	Generic name: Blocked urethane polymer	47 FR 31063 (7/16/82)	Sept. 30, 1982.
82-482	Generic name: Acetal of polyvinyl alcohol	47 FR 31063 (7/16/82)	Oct. 4, 1982.
82-483	Generic name: Polymer of acrylic acid and acrylic esters	47 FR 31063 (7/16/82)	Do.
82-484	Generic name: Phosphorodithioic acid, dialkyl ester amine salt	47 FR 31063 (7/16/82)	Do.
82-485	Generic name: Chlorotriazine modified copper phthalocyanine sodium salt	47 FR 31063 (7/16/82)	Do.
82-486	Generic name: Alkyl phosphate ester	47 FR 31063 (7/16/82)	Oct. 5, 1982.
82-487	Generic name: Copolymer of an alkenoic acid derivative, substituted and unsubstituted vinyl aromatic compounds and a substituted alkene.	47 FR 31063 (7/16/82)	Do.
82-488	Found to be invalid		
82-489	Generic name: Sulfurized di-carboxylic polyglycol ester	47 FR 31957 (7/23/82)	October 10, 1982.
82-490	Found to be on the inventory		
82-491	Generic name: Polyester polymer	47 FR 31957 (7/23/82)	Do.
82-492	Generic name: Substituted dithoic acid salt	47 FR 31957 (7/23/82)	Oct. 11, 1982.
82-493	Generic name: Tetrasubstituad benzisoxazole	47 FR 31957 (7/23/82)	Do.
82-494	Generic name: 2,2-dimethyl-1,3-propanediol, polymer with 1,6-hexanediol, 1,3-dihydro-1,3-dioxo-5-isobenzofurancarboxylic acid, 1,3-benzenedicarboxylic acid, 1,4-benzenecarboxylic acid and 1,6-hexanedioic acid.	47 FR 33234 (7/30/82)	Oct. 14, 1982.
82-495	Generic name: Substituted naphthalene	47 FR 33234 (7/30/82)	Do.
82-496	Generic name: Rosin ester resin	47 FR 33235 (7/30/82)	Do.
82-497	Generic name: Rosin ester resin	47 FR 33235 (7/30/82)	Do.
82-498	Generic name: Rosin ester resin	47 FR 33235 (7/30/82)	Do.
82-499	Generic name: Rosin ester resin	47 FR 33235 (7/30/82)	Do.
82-500	Generic name: Alkyl cycloalkanol alkanoate	47 FR 33235 (7/30/82)	Do.
82-501	Generic name: Sustituted pentenedioate	47 FR 33235 (7/30/82)	Do.
82-502	Generic name: Substituted diazo compound	47 FR 33236 (7/30/82)	Oct. 17, 1982.
82-503	Generic name: Water base vinyl acrylic copolymer	47 FR 33236 (7/30/82)	Do.
		47 FR 33236 (7/30/82)	Do.

II. 56 Premanufacture Notices Received Previously and Still Under Review at the End of the Month—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
82-504	Polymer of 2-methyl-2-propenoic acid, 1-dodecyl ester; 2-methyl-2-propenoic acid, methyl ester; 2-methyl-2-propenoic acid, 1-butyl ester.	47 FR 33235 (7/30/82)	Oct. 18, 1982.
82-505	4,4'-bis-(2,6-dimethylphenol)sulfone	47 FR 33235 (7/30/82)	Do.
82-506	Generic name: alkoxy ester of N-methylacetamide	47 FR 33235 (7/30/82)	Do.
82-507	Generic name: Substituted isothiocyanate	47 FR 33235 (7/30/82)	Do.
82-508	Generic name: Bis alkoxylated aluminum acetoacetic ester chelate	47 FR 33235 (7/30/82)	Oct. 19, 1982.
82-509	Generic name: Alkane diol	47 FR 33235 (7/30/82)	Do.
82-510	Generic name: Polyether urethane	47 FR 33236 (7/30/82)	Do.
82-511	Found to be on the Inventory		
82-512	Generic name: Phenyl derivative of an ethyl methacrylate	47 FR 33236 (7/30/82)	Do.
82-513	Generic name: Alkyl diol, toluene diisocyanate, alkene ester, adipic acid resin	47 FR 33236 (7/30/82)	Do.
82-514	Generic name: Substituted cycloaliphatic hydroxyalkyl ether ester	47 FR 33236 (7/30/82)	Do.
82-515	Generic name: Acrylate ester of acrylic polymer	47 FR 33236 (7/30/82)	Do.
82-516	Generic name: Aromatic amine derivative	47 FR 33236 (7/30/82)	Do.
82-517	Generic name: Polysulfide polymer with formal and alcohol moiety	47 FR 34187 (8/6/82)	Oct. 20, 1982.
82-518	Generic name: Metal complex substituted aromatic	47 FR 34187 (8/6/82)	Do.
82-519	2-(6-chloro-2-benzothiazolylazo)-5-[N-(2-cyano-ethyl)-N-(n-pentyl)amino]-acetanilide	47 FR 34187 (8/6/82)	Do.
82-520	2-(3-hydroxy-2-quinolinyl)-2,3-dihydro-1,3-dioxo-1H-indene-5-carboxylic acid methyl (ethyl) ester	47 FR 34187 (8/6/82)	Do.
82-521	4-(2,6-dichloro-4-nitrophenylazo)-[N-(2-cyano-ethyl)-N-(2-phenoxyethyl)amino]benzene	47 FR 34187 (8/6/82)	Do.
82-522	Generic name: Diureido silane ester	47 FR 34188 (8/6/82)	Oct. 24, 1982.
82-523	Generic name: Polyaryl sulfone ether	47 FR 34188 (8/6/82)	Do.
82-524	Generic name: Salt of polyhydroxy stearic acid and polyethyleneimine	47 FR 34188 (8/6/82)	Do.
82-525	Generic name: Polyester modified epoxy resin	47 FR 34188 (8/6/82)	Do.
82-526	Generic name: Polyester modified epoxy resin	47 FR 34188 (8/6/82)	Do.
82-527	Generic name: Titanium (4+) mixed alcohol complex	47 FR 34188 (8/6/82)	Do.
82-528	Generic name: Polymer of aromatic aldehyde and phenolic compound	47 FR 34188 (8/6/82)	Do.
82-529	Generic name: Aliphatic acid ester salt	47 FR 34188 (8/6/82)	Do.
82-530	Generic name: Acidic aliphatic ester	47 FR 34188 (8/6/82)	Do.
82-531	Generic name: Organophosphorus compound	47 FR 34188 (8/6/82)	Do.
82-532	Generic name: Organophosohorus compound	47 FR 34188 (8/6/82)	Oct. 25, 1982.
82-533	Generic name: Polyhydroxylated diisocyanate	47 FR 34188 (8/6/82)	Do.
82-534	Generic name: Polyether-urethane	47 FR 34188 (8/6/82)	Do.
82-535	Generic name: Modified phenol formaldehyde substituted alkylamine	47 FR 34189 (8/6/82)	Do.
82-536	Generic name: Alkyl ester of polyethylene glycol	47 FR 35332 (8/13/82)	Oct. 27, 1982.
82-537	Generic name: Amine/amine salt of dicarboxylic acid	47 FR 35333 (8/13/82)	Do.

III. 85 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory.)

PMN No.	Identity/generic name	FR citation	Expiration date
82-323	Generic name: t/alkyl peroxyester	47 FR 20853 (5/14/82)	Aug. 1, 1982.
82-324	Generic name: phenoxy ester resin	47 FR 20853 (5/14/82)	Do.
82-325	Generic name: Acrylic resin	47 FR 20853 (5/14/82)	Do.
82-326	Generic name: Substituted pyridine	47 FR 20853 (5/14/82)	Do.
82-327	Generic name: Hydroxy, amine-substituted anthraquinone	47 FR 20853 (5/14/82)	Aug. 2, 1982.
82-328	Generic name: Modified amine	47 FR 20853 (5/14/82)	Do.
82-329	Generic name: Poly[(aminoalkylamino)alkylene oxide]	47 FR 20853 (5/14/82)	Do.
82-330	Generic name: poly(vinyl acrylate)	47 FR 20853 (5/14/82)	Aug. 3, 1982.
82-331	Generic name: Nitrophenyl amide	47 FR 20853 (5/14/82)	Do.
82-332	Generic name: Aminophenyl amide	47 FR 20853 (5/14/82)	Do.
82-333	Generic name: Polyacrylate	47 FR 20853 (5/14/82)	Do.
82-334	Generic name: 5-chloro-4-nitro-2-substituted aryloxydimethylaniline	47 FR 20853 (5/14/82)	Aug. 4, 1982.
82-335	Generic name: 5-chloro-2-substituted aryloxy-aniline	47 FR 20853 (5/14/82)	Do.
82-336	Generic name: 2-chloro-4(N,N-dimethylamino)-5-substituted aryloxydiazonium tetrafluroborate	47 FR 20854 (5/14/82)	Do.
82-337	Generic name: 5-chloro-2-substituted aryloxy-dimethylaniline	47 FR 20854 (5/14/82)	Do.
82-338	Generic name: Disubstituted triazolidine	47 FR 20854 (5/14/82)	Do.
82-339	Generic name: Disubstituted triazolidine salt	47 FR 20854 (5/14/82)	Do.
82-340	Generic name: Complex quaternary ammonium chloride	47 FR 22214 (5/21/82)	Aug. 5, 1982.
82-341	Generic name: Unsaturated hydrocarbons modified rosin	47 FR 22214 (5/21/82)	Do.
82-342	Generic name: Unsaturated hydrocarbons modified rosin	47 FR 22214 (5/21/82)	Do.
82-343	Generic name: Unsaturated hydrocarbons modified rosin	47 FR 22214 (5/21/82)	Do.
82-344	Generic name: Unsaturated hydrocarbons modified rosin	47 FR 22214 (5/21/82)	Do.
82-345	Generic name: Polyhalo alkoxyaryl nitrile	47 FR 22214 (5/21/82)	Aug. 8, 1982.
82-346	Generic name: Reaction product of a substituted benzene, formaldehyde and inorganic acid	47 FR 22214 (5/21/82)	Aug. 9, 1982.
82-347	Generic name: Polyurethane of a diisocyanate and a substituted alkanediol	47 FR 22214 (5/21/82)	Do.
82-348	Generic name: Urea/carbamate elastomer	47 FR 22214 (5/21/82)	Do.
82-349	Generic name: Polycyclic sulfonic acid salt	47 FR 22215 (5/21/82)	Aug. 10, 1982.
82-350	Generic name: Titanium (4) mixed alcohol complex	47 FR 22215 (5/21/82)	Do.
82-351	Generic name: Titanium (4) mixed alcohol complex	47 FR 22215 (5/21/82)	Do.
82-352	Generic name: Naphthalenedisulfonic acid, [[(aminosulfohydroxy naphthalenyl]azo]-, tri-sodium salt.	47 FR 22215 (5/21/82)	Do.
82-353	Generic name: Substituted phenyl-pyrimidine	47 FR 22215 (5/21/82)	Aug. 11, 1982.
82-354	Generic name: Substituted phenyl-pyrimidine	47 FR 22215 (5/21/82)	Do.
82-355	Generic name: Substituted phenyl-pyrimidin bicyclic azo heterocyclic merocyanine	47 FR 22215 (5/21/82)	Do.
82-356	Generic name: Polymer of 1,4-benzenedicarboxylic acid dimethyl ester; dihydroxyalkane; 1,6-hexanediol; alpha hydro-omega hydroxy poly (oxy-1,4-butanediyl).	47 FR 22215 (5/21/82)	Do.
82-357	Generic name: 2,5-diisopropoxy-4-morpholino benzene diazonium aryl sulfonic acid salt	47 FR 23552 (5/28/82)	Aug. 12, 1982.
82-358	Generic name: Modified phenoxy-S resin	47 FR 23552 (5/28/82)	Do.
82-359	Generic name: Polyester resin	47 FR 23552 (5/28/82)	Do.
82-360	Generic name: Trisubstituted benzisoxazole	47 FR 23553 (5/28/82)	Do.
82-361	Generic name: Tetrasubstituted benzene	47 FR 23553 (5/28/82)	Do.
82-362	Generic name: Substituted benzamide	47 FR 23553 (5/28/82)	Do.
82-363	Generic name: Polyoxypropylene ester acyl caprolactam	47 FR 23553 (5/28/82)	Aug. 15, 1982.
82-364	Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy)	47 FR 23553 (5/28/82)	Do.
82-365	Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy)	47 FR 23553 (5/28/82)	Do.
82-366	Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy)	47 FR 23553 (5/28/82)	Do.
82-367	Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy)	47 FR 23553 (5/28/82)	Do.

III. 85 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory.)—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
82-368	Generic name: Alkenyl alkyl siloxane alkoxy terminated	47 FR 23553 (5/28/82)	Aug. 16, 1982.
82-369	Generic name: Benzenedicarboxylic acid saturated mixed glycols copolyester	47 FR 23553 (5/28/82)	Do.
82-370	Generic name: Benzenedicarboxylic acid saturated mixed glycols copolyester	47 FR 23553 (5/28/82)	Do.
82-371	Generic name: Disubstituted alkane	47 FR 23553 (5/28/82)	Do.
82-372	Generic name: ((Substituted phenyl)azo)-Dihydro-hydroxy-alkyl-oxo-pyridinecarbonitrile	47 FR 23554 (5/28/82)	Do.
82-373	Generic name: Poly(ester-urethane)	47 FR 23554 (5/28/82)	Aug. 17, 1982.
82-374	Generic name: Alkyl thiadiazole	47 FR 23554 (5/28/82)	Do.
82-375	Formaldehyde polymer with 2-furanmethanol and methyloxirane capped	47 FR 23554 (5/28/82)	Aug. 18, 1982.
82-376	Polymer of trimethylol propane, 1,6 hexanediol, neopentyl glycol, trimellitic anhydride, adipic acid, and isophthalic acid.	47 FR 23554 (5/28/82)	Do.
82-377	Generic name: Hybrid urethane	47 FR 23554 (5/28/82)	Do.
82-378	Generic name: Hybrid urethane	47 FR 23554 (5/28/82)	Do.
82-379	Generic name: Tetrasubstituted benzisoxazole	47 FR 23554 (5/28/82)	Do.
82-380	Generic name: Disubstituted benzoxazole	47 FR 23554 (5/28/82)	Do.
82-381	Generic name: Tetrasubstituted benzisoxazole	47 FR 25400 (6/11/82)	Do.
82-382	Generic name: Polymer of alkenoic acid alkyl esters, 2-propenoic acid, and 2-propenoic acid, 2-methyl.	47 FR 25400 (6/11/82)	Aug. 19, 1982
82-383	Generic name: Brominated xylenol	47 FR 25400 (6/11/82)	Aug. 22, 1982.
82-384	Generic name: Bis[bromo xylenol]sulfide	47 FR 25400 (6/11/82)	Do.
82-385	Generic name: Bis[xylenol]sulfide	47 FR 25400 (6/11/82)	Do.
82-386	Generic name: Metal complex of disazo aromatic acids, sodium salt	47 FR 25400 (6/11/82)	Aug. 23, 1982.
82-387	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters	47 FR 25401 (6/11/82)	Do.
82-388	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters, zinc salt	47 FR 25401 (6/11/82)	Do.
82-389	Reaction product of [[(phosphonomethyl]imino] bis-[6,1-hexanediyl-nitrilobis(methylene)] tetrakis-phosphonic acid (2,2' oxybisethanol, reaction products with ammonia; morpholine derivatives, mpx2mq].	47 FR 25401 (6/11/82)	Do.
82-390	Polymer of styrene, 2-propenoic acid, 1,1-dimethylethyl ester of 2-propenoic acid, 2-ethylhexyl ester of 2 propenoic acid, and 2-hydroxy propyl acrylate.	47 FR 25401 (6/11/82)	Do.
82-391	Invalid		
82-392	Generic name: Hydroxy ethyl ester substituted polybis imide of pyromellitic dianhydride	47 FR 25401 (6/11/82)	Aug. 25, 1982.
82-393	Amines, N-(3-aminopropyl)-N-talloalkyltri-methylenedibis-(3-aminopropyl)-N-tallowamine	47 FR 25401 (6/11/82)	Do.
82-394	Generic name: Modified polyurethane from diisocyanate, substituted alkanol and a substituted alkane diol.	47 FR 25401 (6/11/82)	Do.
82-395	Generic name: Polymer of a vegetable oil derivative, alkane diols and a carbomonocyclic anhydride.	47 FR 25401 (6/11/82)	Do.
82-396	Generic name: Substituted oxirane reacted with polyalkylene glycol	47 FR 25401 (6/11/82)	Do.
82-397	Generic name: Tetrasubstituted benzisoxazole	47 FR 25402 (6/11/82)	Aug. 26, 1982.
82-398	Generic name: A mixture of benzamide, N-((substituted naphthyl)azo)phenyl-(substituted amino-hydroxy-sulfonaphthyl)azo) and benzamide, N-((substituted naphthyl)azo)phenyl-((substituted amino-hydroxy-sulfonaphthyl)azo, compounded with organic acids.	47 FR 25402 (6/11/82)	Do.
82-399	C[illegible]-alkyl mercaptoacetates reaction products with dichlorodioctylstannane and trichloro-octystannane.	47 FR 25402 (6/11/82)	Do.
82-402	Generic name: Styrene-diene-substituted alkene copolymer	47 FR 254402 (6/11/82)	Aug. 30, 1982.
82-403	Ethyl acrylate-methyl acrylate copolymer	47 FR 25402 (6/11/82)	Aug. 31, 1982.
82-404	Ethyl acrylate-methyl methacrylate copolymer	47 FR 25402 (6/11/82)	Do.
82-405	Ethyl acrylate-methyl acrylate-methyl methacrylate copolymer	47 FR 25402 (6/11/82)	Do.
82-406	Ethyl acrylate-methyl acrylate copolymer	47 FR 25403 (6/11/82)	Do.
82-407	Vinyl acetate homopolymer	47 FR 25403 (6/11/82)	Do.
82-408	Generic name: Tetra tosylate porphine	47 FR 25403 (6/11/82)	Do.
82-410	Generic name: Substituted heterocycle, amine salt	47 FR 25403 (6/11/82)	Do.
82-411	Generic name: Mixed metal hydroxide	47 FR 25403 (6/11/82)	Do.

IV. 32 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture

PMN No.	Chemical identification	FR citation	Date of commencement
80-110	Generic name: 2-((2-(methylsubstituted)ethyl-oxycarbonyl)substituted) phenyl, disulfo, di-heteropolycyclic heteropolycycle.	45 FR 42018 (6/23/80)	June 2, 1982.
80-111	Generic name: 2-((2-(methylsubstituted)ethyl-oxycarbonyl) substituted) phenyl, disulfo, di-heteropolycyclic heteropolycycle.	45 FR 42018 (6/23/80)	May 24, 1982.
80-112	Generic name: 2-((2-(methylsubstituted)ethyl-oxycarbonyl) substituted) phenyl, diheteropolycyclic heteropolycycle.	45 FR 42018 (6/23/80)	Apr. 29, 1982.
80-113	Generic name: 2-((2-(methylsubstituted)phenyl), diheteropolycyclic heteropolycycle	45 FR 42018 (6/23/80)	Mar. 9, 1982.
80-114	Generic name: (Dioxo heteropolycyclic), diheteropolycyclic heteropolycycle	45 FR 42018 (6/23/80)	Mar. 18, 1982.
80-115	Generic name: (Dioxoheteropolycyclic), diheteropolycyclic heteropolycycle	45 FR 42018 (6/23/80)	Feb. 2, 1982.
80-116	Generic name: (2-substitutedphenyl), diheteropolycyclic heteropolycycle	45 FR 42018 (6/23/80)	July 28, 1982.
81-218	Adipic acid-dipropylene glycol-linseed oil fatty acid-trimellitic anhydride-trimethylol propane	46 FR 29526 (6/2/81)	Aug. 3, 1982.
81-418	Generic name: Nitropolyhaloalkylbenzenepoly-amine	46 FR 45898 (9/16/81)	Aug. 23, 1982.
81-437	Generic name: Polynitro Polyhalo alkyl aniline	46 FR 47003 (9/23/81)	Aug. 9, 1982.
82-68	Generic name: Polymer of diphenylmethane diiso-cyanate and hydroxy alkyl ethers	47 FR 6365 (2/11/82)	July 21, 1982.
82-145	Generic name: Modified polyester polyurethane from substituted alkanediols acid and a diisocyanate.	47 FR 10074 (3/9/82)	July 22, 1982.
82-209	Generic name: Polymer from disubstituted monocycle and disubstituted alkanes	47 FR 13038 (3/26/82)	July 23, 1982.
82-223	Generic name: Polyester-urethane	47 FR 14218 (4/2/82)	Oct. 1, 1982.
82-245	Generic name: Modified polyurethane	47 FR 16403 (4/16/82)	July 1, 1982.
82-246	Generic name: Barium sulfonated red	47 FR 16403 (4/16/82)	July 8, 1982.
82-271	Generic name: Acid blocked amine	47 FR 16405 (4/16/82)	August 1982.
82-273	*m*-chlorophenylphenylsulfide	47 FR 16405 (4/16/82)	Do.
82-301	Generic name: Neutralized polymer of styrene, alkyl acrylates and substituted alkyl methacrylates	47 FR 18653 (4/30/82)	Aug. 19, 1982.
82-304	Generic name: Quaternary amine functional polyether urethane modified polyglycidyl	47 FR 18654 (4/30/82)	Oct. 1, 1982.
82-309	Generic name: Cationic substituted acid amide	47 FR 19782 (5/7/82)	Aug. 9, 1982.
82-310	Generic name: Cationic substituted acid amide polymer	47 FR 19782 (5/7/82)	Do.
82-311	Generic name: Unsaturated alkyl amino alkyl dioxane	47 FR 19782 (5/7/82)	July 25, 1982.
82-312	Generic name: Dihaloethylacetate	47 FR 19782 (5/7/82)	Do.
82-313	Acetamide, 2, 2-dichloro-N-(1,3-dioxian-2-ylmethyl)-N-2-propenyl	47 FR 19782 (5/7/82)	Do.
82-321	Generic name: Polyester random copolymer	47 FR 19783 (5/7/82)	Aug. 1, 1982.
82-322	Generic name: Styrene acrylate copolymer	47 FR [illegible] (5/14/82)	Sept. 1, 1982.

IV. 32 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture—Continued

PMN No.	Chemical identification	FR citation	Date of commencement
82-343	Generic name: Polyacrylate	47 FR 20853 (5/14/82)	Aug. 3, 1982.
82-348	Generic name: Urea/carbamate elastomer	47 FR 22214 (5/21/82)	Aug. 9, 1982.
82-349	Generic name: Polycyclic sulfonic acid salt	47 FR 22215 (5/21/82)	Aug. 23, 1982.
82-392	Generic name: Hydroxy ethyl ester substituted poly bis imide of pyromellitic dianhydride	47 FR 25401 (6/11/82)	Aug. 27, 1982.
82-396	Generic name: Substituted oxirane reacted with polyalkylene glycol	47 FR 25401 (6/11/82)	Sept. 6, 1982.

V. 19 Premanufacture Notices for Which the Review Period Has Been Suspended

PMN No.	Identity/generic name	FR citation	Date suspended
80-137	Benzeneamine, 4,4'-methylene bis [*N*-(1-methybutylidene)	45 FR 48243 (7/18/80)	Sept. 22, 1980.
80-138	Benzeneamine, 4,4'-methylene bis [*N*-(1-methybutylidene)	45 FR 48243 (7/18/80)	Do.
80-146	Phosphorodithioic acid *O,O'*-di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters, zinc salt.	45 FR 49153 (7/23/80)	Sept 17, 1980.
80-147	Phosphorodithioic acid *O,O'* -di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters	45 FR 49153 (7/23/80)	Do.
80-264	Generic name: Benzeneamine, [*N*-(1-methylhexylidene)-*N*-(1-methyl butylidene)-4,4'-methylene bis]	45 FR 73127 (11/4/80)	Dec. 24, 1980.
81-534	2,3-epoxycyclohexanone	46 FR 53522 (10/29/81)	Nov. 2, 1981.
81-558	4-hydroxy-3-(5-(2-hydroxysulfonyloxy) ethylsulfonyl)-2-methoxyphenylazo)-7-succinylamino-2-naphthalenesulfonic acid disodium salt.	46 FR 55146 (11/6/81)	Jan. 27, 1982.
81-561	4-[4-[2-(hydroxysulfonyoxy)ethylsulfonyl]-5-methyl-2-methoxyphenylazo]-3-methyl-1-(3-sulfophenyl)-5-pyrazolone disodium salt.	46 FR 55146 (11/6/81)	Do.
81-860	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxy-sulfonyloxy)ethylsulfonyl)phenylazo)-1-naphthalene sulfonic acid disodium salt.	47 FR 1021 (1/8/82)	Mar. 28, 1982.
81-861	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxy-sulfonyloxy)ethylsulfonyl)phenylazo)-6-(3-sulfophenyl)amino-2-naphthalenesulfonic acid trisodium salt.	47 FR 1021 (1/8/82)	Do.
82-23	Generic name: Polyhalogenated aromatic alkylated hydrocarbon	47 FR 3595 (1/26/82)	May 12, 1982.
82-59	Generic name: Aromatic disazo dye	47 FR 5330 (2/4/82)	Apr. 20, 1982.
82-60	Generic name: Zinc, O,O-bis alkylphosphoro dithioate	47 FR 5932 (2/9/82)	Apr. 15, 1982.
82-387	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters	47 FR 25410 (6/11/82)	July 30, 1982.
82-388	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters, zinc salt	47 FR 25401 (6/11/82)	Do.
82-400	Potassium N,N-bis(hydroxyethyl) cocamine oxide phosphate	47 FR 25402 (6/11/82)	Aug. 20, through Sept. 4, 1982.
82-401	Generic name: Polyvinyl starch (6/11/82)	47 FR 25402	Aug. 19, 1982.
82-409	Potassium N,N-bis(hydroxyethyl) tallow amine oxide phosphate	47 FR 25403 (6/11/82)	Aug. 20, through Sept. 4, 1982.
82-432	Reaction mixture containing: isobornyl acetylacetate, isobornyl acetate and ethylacetylacetate	47 FR 27610 (6/25/82)	July 2, 1982.

[FR Doc. 82-26961 Filed 9-29-82; 8:45 am]

BILLING CODE 6560-50-M

[WH-FRL 2204-5]

State and Local Assistance; Grants for Construction of Treatment Works

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Reallotment.

SUMMARY: This notice sets forth the distribution of construction grant funds subject to reallotment after September 30, 1981, under section 205 of the Clean Water Act, 33 U.S.C. 1285. These funds include unobligated fiscal year (FY) 1979 and 1980 allotments, recovered prior year funds, which were available but unobligated during fiscal year 1981, and unobligated FY 1978 funds inadvertently reallotted to the District of Columbia. This notice also explains the procedure by which the reallotment distribution was determined.

Section 205(d) of the Clean Water Act (the Act) requires that funds allotted for FY 1978 and beyond which are not obligated by the end of the initial allotment availability period "* * * shall be immediately reallotted by the Administrator * * * *". Through promulgation of this notice the public is notified of the additional amounts available to the other States for grants for the construction of municipal wastewater treatment facilities. Under section 205(d), these funds are available for obligation until September 30, 1983.

(a) Of the $4.2 billion appropriated by Pub. L. 95-392 for fiscal year 1979, $21,035,394 remained unobligated as of September 30, 1981 and thereby became available for reallotment.

(b) $3.4 billion was appropriated by Pub. L. 96-103 for fiscal year 1980. Of the $2.52 billion remaining after rescission of $0.88 billion, $17,518,325 remained unobligated as of September 30, 1981 and thereby became subject to reallotment.

(c) In making the reallotment of fiscal year 1978 funds (45 FR 83497, December 19, 1980), the $223,087 unobligated balance of the District of Columbia's fiscal year 1978 allotment was inadvertently not included. Those funds were subsequently reserved for reallotment as of September 30, 1981.

(d) $82,800 in recovered fiscal year 1978 supplemental funds and $28,760 in recovered fiscal year 1973-76 contract authority funds were also available for reallotment.

EFFECTIVE DATE: September 30, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Albert L. Pelmoter, Chief, Program Policy Branch, Municipal Construction Division (WH-547), Office of Water Program Operations, (202) 426-8820.

SUPPLEMENTARY INFORMATION:

Background

Sums allotted to a State under section 205 of the Act remain available for obligation for one year after the close of the fiscal year for which the funds were appropriated (§ 35.910-2(b)). Funds not obligated at the end of the period of availability are reallotted to the States which fully obligated their allotments. Ordinarily, only fiscal year 1980 unobligated funds would be available for reallottment at this time. However, section 7 of Pub. L. 96-483 extended the availability of fiscal year 1979 funds from September 30, 1980 to September 30, 1981. Consequently, unobligated funds from both years were available for reallotment after September 30, 1981. Also available were $223,087 in fiscal

year 1978 funds which were not obligated by the District of Columbia by September 30, 1979. These funds were inadvertently not included in a previous reallotment process (45 FR 83497, December 19, 1980). An adjustment was also needed to correct the District's inadvertent participation in the reallotment of fiscal year 1978 Ohio funds.

"Recoveries" made between the dates of the fiscal year 1979 and 1981 allotments were also subject to reallotment after September 30, 1981. Recoveries are deobligated funds which were issued or reissued in a prior fiscal year, and are treated in the same manner as the most recent allotment—in this case 1980 (§ 35.910–2(c)).

At the close of the fiscal years 1979 and 1980 allotment period (September 30, 1981), 22 States and territories had not obligated $21,035,394 of their fiscal year 1979 allotments and 16 States and territories had not obligated $17,518,325 of their fiscal year 1980 allotments. Five States and territories did not obligate $82,800 of their recovered fiscal year 1978 supplemental allotments; eight did not reobligate $28,760 of fiscal year 1973–76 contract authority recoveries before the September 30, 1981 deadline.

Issues

Reserves

Several issues had to be resolved before the reallotment could be made. Among these was the manner in which innovative and alternative (I/A) technology and rural alternative systems funding reserves would be handled. Section 205(i) of the Act required each State to set aside from its annual allotment a specific percentage to increase the Federal share of grant awards from 75 percent to 85 percent of the eligible cost of projects employing I/A technology. The reserves, of which a minimum of ½ of one percent was to be set aside for innovative technololgy, were two percent in fiscal years 1979 and 1980 and three percent in 1981 (35.915–1(b)). Under section 205(h) of the Act, the reserve for rural alternative systems (35.915–1(e)) was 4 percent in fiscal years 1979 and 1980. Two alternatives were investigated in reallotting the reserves: (a) Treat all the funds in a State's unobligated balance (for either fiscal year) as a lump sum, including the unobligated reserves or (b) treat each unobligated reserve as though it were a separate allotment and thus preserve it for I/A or rural alternative projects. It was concluded that the Act requires that any funds not obligated by a State by the end of the allotment period be reallotted as a lump sum regardless of the reserve(s) to which the funds had been assigned.

Further, consideration was given to whether any of the funds should be assigned to current reserves after reallotment. Since the Act requires reserves (including State Management Assistance under section 205(g)) to be based on an annual appropriation, and the reallotted funds would be in addition to the statutory amount, it was concluded that reallotted funds are not assignable to reserves.

Court Ordered Set Asides

Another issue involved funds not obligated by the September 30, 1981 deadline because they were included in court ordered set asides. In several States, State or Federal courts had ordered that certain amounts be set aside for specific projects to be funded after the end of the fiscal year. Since these set asides could only be used for the projects designated by the courts, the court ordered set asides were treated as obligated funds.

Recoveries

Although section 35.910–2 provides that recovered funds "* * * shall be treated in the same manner as the most recent allotment before deobligation", it was necessary to decide whether to treat recoveries which became available for reallottment after September 30, 1981, and unobligated fiscal year 1980 funds which became available for reallotment at the same time, as one sum or as two separate accounts. If they were treated as one account, States which had obligated all their 1980 funds but had not reobligated all their 1978 and 1973–76 recoveries would not have qualified to receive reallotted funds from States which did not obligate all their 1980 funds. Several EPA Regional Offices stated that they did not expect the amounts to be combined for reallotment purposes, so they did not track the 1978 and prior year recoveries closely enough to assure that these funds would be fully obligated. As a result, several States which obligated all of their 1980 funds were left with unobligated recoveries.

Because of this confusion, each account was reallotted separately this year. In the future, recoveries and balances from the allotment to which the recoveries are added will be treated together. Consequently, States with unobligated balances in any account will not qualify for reallotment.

Reconciliation of Records

Efforts to reconcile discrepancies between EPA Headquarters' and Regional Offices' financial records as well as an examination of the timeliness of the issuance of allowances for deobligated funds by EPA considerably delayed the reallotment process. These matters were resolved through extensive discussions among the States, EPA Regional Offices and EPA Headquarters. The basic criterion used was: A State should not be penalized for an error or lack of timeliness by EPA. It was also concluded that in determining when deobligated funds are subject to reallotment, the date to be used is the date the deobligated funds are reissued by the EPA Comptroller to the EPA Regional Administrator.

Northern Mariana Islands

Pub. L. 95–348 (1978) contains a provision preserving funds appropriated for use by the Northern Mariana Islands. Section 3(a)(2) provides that any funds made available to the Northern Mariana Islands by the Congress after March 24, 1976 "* * * are hereby authorized to remain available until expended." Accordingly, construction grant funds allotted to the Northern Mariana Islands which remain unobligated at the close of the period of availability prescribed by section 205(d) of the Act are not subject to reallotment. The Northern Mariana Islands does not participate in the reallotment of those funds which its unobligated balances would have been a part, however.

Correction of Previous Reallotment

Two States—Ohio and the District of Columbia—did not fully obligate their 1978 allotments. Ohio's unobligated balance of 1978 funds was realloted to the other States, including the District of Columbia. The District should not have been included among the States receiving realloted funds because it had an unobligated balance of 1978 funds in the amount of $223,087. This oversight has been corrected by realloting the $223,087 among all the States and territories except Ohio and the District. Also realloted was the $118,190 the District received in realloted 1978 Ohio funds. The $118,190 was transferred from the District's 1980 unobligated balance, since the realloted 1978 Ohio funds were treated as 1980 funds. The effect of this correction is put all States in the same position they would have been in had the 1978 reallotment been accomplished properly.

Reallotment Procedure

As a result of the above considerations, five pools of funds were reallotted among the States which had fully obligated their funds in each category. The five pools were:

(1) Fiscal year 1980 allotment;

(2) Fiscal year 1979 allotment;

(3) Fiscal year 1978 supplemental allotment;

(4) Fiscal year 1973–76 contract authority;

(5) District of Columbia unobligated 1978 balance, including 1978 Ohio funds inadvertently reallotted to the District.

To distribute the funds in each pool in accordance with the requirements of sections 205(g) and 205(e) of the Act, the following procedure was used:

1. Applicable percentages (35.910–8(a)) to reflect the absence of States which had not fully obligated the funds in a pool were computed and applied to the amount available for reallotment from that pool.

2. Since section 205(e) of the Act requires that no State shall receive less than one-half of one percent of an allotment, 0.5 percent of the amount to be reallotted from each pool was computed and the States whose allotments were less than this amount had their shares raised to the 0.5 percent level. By so doing, the reallotment total was increased by the amount required to bring those States up to 0.5 percent "floor". Since supplemental funds are not provided, a recomputation was necessary so that, in raising those States to the 0.5 percent minimum, the overall total would not exceed the amount available for reallotment.

Results of Reallotment

The following table lists the States which did not fully obligate funds and the amounts subject to reallotment:

TABLE 1

	D.C. (1978)	1973–76	1978	1979	1980	Total
Alaska				$1,236,740	$492,175	$1,728,915
Arkansas					46,166	46,166
Colorado					27,896	27,896
Connecticut				225,704		225,704
Delaware				881,105		881,105
District of Columbia	$341,277			12,974,318	12,307,263	25,622,858
Hawaii				164,182	83,985	248,167
Iowa					24,135	24,135
Kansas				129,001		129,001
Louisiana				26,163	487,943	514,106
Maryland				147,365	292,755	440,120
Missouri		520,329	557,029			77,358
Nebraska			8,378			8,378
New Hampshire				218,326		218,326
North Dakota		2,561	7,832	197,121	221,259	428,773
Ohio				583,247	2,276,230	2,859,477
Oregon				274,240		274,240
Pennsylvania				1,695,782		1,695,782
South Dakota				121,297		121,297
Utah		5,870				5,870
Washington				317,934	3,054	320,988
West Virginia				1,013,967		1,013,967
Guam				15,408	31,625	48,033
Puerto Rico				733,034	1,183,139	1,916,173
Virgin Islands			9,561	20,588		30,149
American Samoa				51,028	26,102	77,130
Trust Territories of Pacific Islands				28,634	14,746	43,380
Northern Mariana Islands				[1] 11,406	[1] 5,847	17,253
Total	341,277	28,760	82,900	21,035,394	17,518,325	39,006,556
Rounded prior to distribution	341,200	28,700	82,900	21,035,300	17,518,300	39,006,300

[1] Not subject to reallotment.

The $39,006,556 from Table 1 is reallotted as follows:

TABLE 2

	D.C. (1978)	1973–76	1978	1979	1980	Total
Alabama	$4,600	$400	$1,100	$385,000	$273,000	$644,100
Alaska	1,800	100	400			2,300
Arizona	2,800	200	700	220,400	194,900	418,000
Arkansas	2,700	200	600	213,000		217,000
California	25,700	2,300	6,700	2,298,600	1,690,300	3,967,500
Colorado	3,300	300	800	261,100		265,500
Connecticut	4,000	300	900		235,400	240,600
Delaware	1,800	200	400		106,300	108,700
District of Columbia		200	400			600
Florida	13,900	1,100	3,300	1,099,300	815,600	1,924,200
Georgia	7,000	600	1,500	551,900	412,600	973,600
Hawaii	2,900	200	700			3,800
Idaho	1,800	100	400	142,100	106,300	250,700
Illinois	18,800	1,500	4,400	1,476,100	1,104,200	2,605,000
Indiana	10,000	800	2,300	795,600	588,400	1,396,100
Iowa	4,700	400	1,100	368,100		374,300
Kansas	3,200	300	800		187,100	191,400
Kentucky	5,300	400	1,200	415,400	310,700	733,000
Louisiana	4,600	400	1,100			6,100
Maine	2,700	200	600	213,000	159,300	375,800
Maryland	10,000	800	2,400			13,200
Massachusetts	10,700	900	2,500	839,500	628,000	1,481,600
Michigan	14,900	1,200	3,500	1,173,900	878,100	2,071,600
Minnesota	6,600	600	1,600	531,200	397,300	937,300
Mississippi	3,500	300	800	274,500	205,300	484,400
Missouri	9,000			709,200	530,500	1,248,700
Montana	1,800	100	400	142,100	106,300	250,700
Nebraska	2,000	200		156,400	117,000	275,600

TABLE 2—Continued

	D.C. (1978)	1973–75	1976	1979	1980	Total
Nevada	1,800	100	400	142,100	106,300	250,700
New Hampshire	3,200	300	800		187,300	191,600
New Jersey	12,900	1,100	3,000	1,015,000	759,200	1,791,200
New Mexico	1,800	100	400	142,100	106,300	250,700
New York	38,400	3,150	9,000	3,018,300	2,257,700	5,326,500
North Carolina	7,200	600	1,700	562,900	421,100	993,500
North Dakota	1,800					1,800
Ohio		1,900	5,500			7,400
Oklahoma	3,300	300	800	283,700	197,200	485,300
Oregon	4,700	400	1,100		275,800	282,000
Pennsylvania	15,800	1,300	3,700		927,200	946,000
Rhode Island	1,900	200	400	149,300	111,600	263,400
South Carolina	4,200	300	1,000	334,400	250,100	590,000
South Dakota	1,800	100	400		106,300	108,600
Tennessee	5,600	500	1,300	440,100	329,200	776,700
Texas	15,800	1,300	3,700	1,240,000	927,500	2,188,300
Utah	1,800		400	142,100	106,300	250,600
Vermont	1,800	200	400	142,100	106,300	250,800
Virginia	7,100	600	1,700	557,100	416,700	983,200
Washington	6,400	500	1,500			8,400
West Virginia	6,500	500	1,500		380,600	389,100
Wisconsin	7,000	800	1,700	554,200	414,600	978,100
Wyoming	1,800	100	400	142,100	106,300	250,700
Guam	380		100			480
Puerto Rico	4,200	300	1,000			5,500
Virgin Islands	100				8,000	8,100
American Samoa	256		100			356
Trust Territories of Pacific Islands	620		100			720
Northern Mariana Islands						
Total	[1]341,456	28,700	82,800	21,035,300	17,518,300	39,006,556

[1] Individual reallotments rounded to $100 except for Guam, American Samoa and Trust Territories, which received the $256 difference between the true total ($39,006,556) and the rounded total ($39,006,300).

These funds have been available for obligation since July 7, 1982, when advices of allowance were issued by the Comptroller to the Regional Administrators. Under section 205(d) of the Act, the funds will remain available for obligation until September 30, 1983.

Dated: September 20, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-26669 Filed 9-29-82; 8:45 am]

BILLING CODE 6560-50-M

[PH-FRL 2217-4; OPP-240022]

State Registration of Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) from 47 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register.**

DATE: The last entry for each item is the date the State registration of that product became effective.

FOR FURTHER INFORMATION CONTACT: Mary Waller, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716E, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7700).

SUPPLEMENTARY INFORMATION: The registrations listed below were received by EPA between January 1, 1982 and April 30, 1982. Receipts by EPA of state registrations will be published periodically. Except as indicated by (CUP) in four of the registrations listed below, there is no changed use pattern involved in any of these registrations.

Alabama

EPA SLN No. AL 82 0001. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lexone Weed Killer, to be used on soybeans to control sicklepods. February 8, 1982.

EPA SLN No. AL 82 0002. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lexone #4 Weed Killer, to be used on soybeans to control sicklepods. February 8, 1982.

EPA SLN No. AL 82 0003. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lexone DF Weed Killer, to be used on soybeans to control sicklepods. February 8, 1982.

EPA SLN No. AL 82 0004. Vertac Chemical Corp. Registration is for Vertac Premerge 3, to be used on peanuts to control Florida beggarweed and sicklepods. February 25, 1982.

EPA SLN No. AL 82 0005. B and W Quality Growers, Inc. Registration is for D.Z.N. Diazinon 50W, to be used on watercress to control cylamen mites. March 16, 1982.

EPA SLN No. AL 82 0006. Mobay Chemical Corp. Registration if for Monitor 4, to be used on cotton to control aphids and thrips (early season), fleahoppers, whiteflies, beet armyworms, cabbage loopers, mites, aphids, and thrips (mid to late season). March 16, 1982.

EPA SLN No. AL 82 0008. Dow Chemical USA. Registration is for Dowfume-100, to be used on soybeans to control lance, spiral, sting, and moderate infestations of cyst and root-knot nematodes. April 14, 1982.

EPA SLN No. AL 82 0009. Dow Chemical USA. Registration is for Dowfume-90, to be used on soybeans to control lance, spiral, sting, and moderate infestations of cyst and root-knot nematodes. April 14, 1982.

EPA SLN No. AL 82 0010. Dow Chemical USA. Registration is for

Dowfume-85, to be used on soybeans to control lance, spiral, sting, and moderate infestations of cyst and root-knot nematodes. April 14, 1982.

EPA SLN No. AL 82 0011. Mobay Chemical Corp. Registration is for Nemacur 15% GR, to be used on soybeans to control nematodes. April 19, 1982.

EPA SLN No. AL 82 0012. Mobay Chemical Corp. Registration is for Nemacur-3, to be used on soybeans to control nematodes. April 19, 1982.

EPA SLN No. AL 82 0013. Great Lakes Chemical Corp. Registration is for Soilbrom-90 to be used on peanuts to control nematodes in sandy soil. April 22, 1982.

EPA SLN No. AL 82 0014. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on grain sorghum to control chinch bugs. April 22, 1982.

EPA SLN No. AL 82 0015. Dow Chemical USA. Registration is for Lorsban 15G, to be used on soybeans to control larvae of lesser cornstalk borers. April 22, 1982.

EPA SLN No. AL 82 0016. ICI Americas Inc. Registration is for Ambush 4E EC, to be used on cotton to control the boll weevil, tobacco budworm, cabbage looper, bollworm, lygus bug, cotton aphid, and whitefly. April 23, 1982.

EPA SLN No. AL 82 0017. American Cyanamid Co. Registration is for Cythion Insecticide-Malathion ULV Concentrate Insecticide, to be used as a ground control of adult mosquitoes. April 23, 1982.

EPA SLN No. AL 82 0018. FMC Corp. Registration is for Furadan 10 GR-Insecticide-Nematicide to be used on soybeans to control nematodes (root-knot, cyst, stunt, ring, sting, spiral, lesion, lance, dagger, and stubby root). April 23, 1982.

EPA SLN No. AL 82 0019. FMC Corp. Registration is for Furadan 15 GR-Insecticide-Nematicide, to be used on soybeans to control nematodes (root-knot, cyst, stunt, ring, sting, spiral, lesion, lance, dagger, and stubby root). April 23, 1982.

Arizona

EPA SLN No. AZ 82 0001. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lannate Insecticide, to be used on beet tops, collards, kale, mustard greens, parsley, Swiss chard, and turnip greens (tops) to control beet armyworms, cabbage loopers, imported cabbage worms, and diamondbacked moths. January 27, 1982.

EPA SLN No. AZ 82 0002. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lannate L Insecticide, to be used on beet tops, collards, kale, mustard greens, parsley, Swiss chard, and turnip greens (tops) to control beet armyworms, cabbage loopers, imported cabbage worms, and diamondbacked moths. January 27, 1982.

EPA SLN No. AZ 82 0003. Bruce Church, Inc. Registration is for Prefar 4-E, to be used on bulb onions and garlic to control annual broadleaf weeds, lambsquarters, purslane, palmer's amaranth, annual grasses, jungle rice, watergrass, sprangletop, and canary grass. January 27, 1982.

EPA SLN No. AZ 82 0004. Vertac Chemical Corp. Registration is for Vertac Selective Weed Killer, to be used on onions to control newly emerged London rocket, lambsquarters, mustard, and shepherd's purse. February 3, 1982.

EPA SLN No. AZ 82 0005. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lannate Insecticide, to be used on endive and escarole to control beet armyworms. April 27, 1982.

EPA SLN No. AZ 82 0006. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lannate Insecticide, to be used on endive and escarole to control certain insects. April 27, 1982.

EPA SLN No. AZ 82 0007. BASF Wyandotte Corp. Registration is for Basalin Herbicide, to be used on cotton to control grasses and broadleaf weeds. March 31, 1982.

Arkansas

EPA SLN No. AR 82 0001. Burroughs Wellcome Co. Registration is for Wellcome Insecticide Ear Tags, to be used on dairy and beef cattle and calves to control horn flies, face flies, Gulf Coast Ticks, spinose ear ticks, stable flies, and house flies. January 27, 1982.

EPA SLN No. AR 82 0002. Dow Chemical USA. Registration is for Dowfume-100, Dowfume-90, and Dowfume-85, to be used on soybeans at planting to control nematodes including lance, root-knot, spiral, and sting. January 27, 1982.

EPA SLN No. AR 82 0003. Dow Chemical USA. Registration is for N-Serve 24E Nitrogen Stabilizer, to be used on rice to control the nitrification process of rice. January 27, 1982.

EPA SLN No. AR 82 0004. Dow Chemical USA. Registration is for N-Serve 24 Nitrogen Stabilizer, to be used on rice to control the nitrification process of rice. January 27, 1982.

EPA SLN No. AR 82 0005. Mobay Chemical Corp. Registration is for Oftanol 5% GR to be used on turf grasses to control insects. March 9, 1982.

EPA SLN No. AR 82 0006. FMC Corp. Registration is for Furadan 4 FL, to be used on soybeans to control nematodes and Mexican bean beetles. March 9, 1982.

EPA SLN No. AR 82 0007. FMC Corp. Registration is for Furadan 10 GR, to be used on soybeans to control nematodes. March 9, 1982.

EPA SLN No. AR 82 0008. Chevron Chemical Co. Registration is for Bolero 8 EC, to be used on rice to control annual grasses and aquatic weeds. March 9, 1982

EPA SLN No. AR 82 0009. BFC Chemicals, Inc. Registration is for Attac 8, to be used on soybeans to control sicklepods. March 24, 1982.

EPA SLN No. AR 82 0010. Red Panther Chemical Co. Registration is for Red Panther Ethylene Dibromide 90, to be used on soybeans to control nematodes including lance, root-knot, spiral, and sting. March 24, 1982.

EPA SLN No. AR 82 0011. Great Lakes Chemical Corp. Registration is for Soilbrom-90, Soilbrom-90EC, and Soilbrom-100, to be used on soybeans to control nematodes including lance, root-knot, spiral, and sting. March 24, 1982.

EPA SLN No. AR 82 0012. Bell Laboratories, Inc. Registration is for P.C.Q. Rat and Mouse Bait, to be used on orchards and groves to control meadow and pine mice and voles. March 24, 1982.

California

EPA SLN No. CA 82 0001. Modoc County Department of Agriculture. Registration is for Sevin Bait 5% (Insecticide), to be used on grapes to control cutworms and grasshoppers; on sorgum to control cutworms and armyworms; on ornamental plants to control grass pests and earwigs; on turf to control grasshoppers; on rangeland to control cutworms, sowbugs, and crickets. January 27, 1982

EPA SLN No. CA 82 0002. Kern County Department of Agriculture. Registration is for Diaznion 14G, to be used on almond orchard floors to control ants. January 15, 1982.

EPA SLN No. CA 82 0003. Olin Corp. Registration is for Terrazole 4 lb. Emulsifiable, to be used on strawberries to control soil-borne diseases. January 15, 1982

EPA SLN No. CA 82 0004. Ciba-Geigy Corp. Registration is for Supracide 2E, to be used on citrus to control California red scale. February 1, 1982.

EPA SLN No. CA 82 0005. Stoller Chemical Co., Inc. Registration is for That Flowable Sulfur, to be used on sugar beets to control powdery mildew. January 27, 1982.

EPA SLN No. CA 82 0006. Stoller Chemical Co., Inc. Registration is for That Big 8 FL Sulfur, to be used on sugar

beets to control powdery mildew. January 27, 1982.

EPA SLN No. CA 82 0007. American Cyanamid Co. Registration is for Cythion Insecticide-Malathion ULV Concentrate Insecticide, to be used on oranges, lemons, grapefruit, limes, tangelos, tangerines, kumquats, and ornamental citrus to control the Mediterranean fruit fly. January 28, 1982.

EPA SLN No. CA 82 0008. American Cyanamid Co. Registration is for Cythion 8E Insecticide, to be used on citrus to control the Mediterranean fruit fly. January 28, 1982.

EPA SLN No. CA 82 0009. Degesch America, Inc. Registration is for Degesch Phostoxin New Coated Tablets-R, to be used on orchards and other non-croplands to control ground squirrels. February 1, 1982.

EPA SLN No. CA 82 0010. Joe Terry Farms. Registration is for Mesurol 75% WP, to be used on peppers grown for seed production to repel birds. February 19, 1982.

EPA SLN No. CA 82 0011. Mobay Chemical Corp. Registration is for Nemacur 3, to be used on non-bearing citrus, deciduous fruit and nut trees, vineyards, and commercial tree and vine nurseries to control nematodes. February 19, 1982.

EPA SLN No. CA 82 0012. Mobay Chemical Corp. Registration is for Nemacur 15% GR, to be used on non-bearing citrus, deciduous fruit and nut trees, vineyards, and commercial tree and vine nurseries to control nematodes. February 19, 1982.

EPA SLN No. CA 82 0013. Helena Chemical Co. Registration is for Omni Supreme Spray (Insecticide-Miticide), to be used on pears, almonds, apricots, peaches, cheerries, nectarines, prunes, and plums to control insects. March 31, 1982.

EPA SLN No. CA 82 0014. Occidental Chemical Co. Registration is for Super 94 Oil, to be used on lemons, grapefruit, and navel and Valencia oranges to control black scale, also brown, red, purple, and yellow, and different kinds of mites. April 5, 1982.

EPA SLN No. CA 82 0016. Monterey County Department of Agriculture. Registration is for Tenoran 50 WP, to be used on onions to control annual weeds. April 9, 1982.

EPA SLN No. CA 82 0017. Santa Clara County Department of Agriculture. Registration is for Rodent Bait Block Chloropacinone Treated Grain/Paraffin (0.005 percent), to be used as a bait block to control Norway rats, roof rats, muskrats, and wood rats. April 13, 1982.

EPA SLN No. CA 82 0018. Santa Clara County Department of Agriculture. Registration is for Rodent Bait Block Diphacinone Treated Grain/Paraffin (0.005 percent), to be used as a bait block to control Norway rats, roof rats, muskrats, and wood rats. April 13, 1982.

EPA SLN No. CA 82 0019. San Benito County Agricultural Commissioner. Registratioin is for Rodent Bait Diphacinone Treated Grain (0.005 percent), to be used to control rodents. April 19, 1982.

EPA SLN No. CA 82 0022. Modoc County Department of Agriculture. Registration is for pocket Gopher Bait Strychnine Treated Grain (2.63%), to be used to control gophers April 19, 1982..

EPA SLN No. CA 82 0023. Modoc County Department of Agriculture. Registration is for Rodent Bait Zinc Phosphide Treated Grain (1.0%), to be used to control rodents. April 19, 1982.

EPA SLN No. CA 82 0024. Ciba-Geigy Corp. Registration is for Ridomil 2E Fungicide, to be used on strawberries to control *Phytophthora cactorum* in nurseries only. April 23, 1982.

EPA SLN No. CA 82 0025. Archem Corp. Registration is for Parapel, to be used on home lawns and yards to control ground squirrels and pocket gophers. April 23, 1982.

EPA SLN No. CA 0028. Rhone-Poulenc Inc. Registration is for Asulox Herbicide, to be used on reforestation areas of red fir, white fir, Jeffrey pine, ponderosa pine, and sugar pine to control western bracken. April 28, 1982.

Connecticut

EPA SLN No. CT 0001. O.M. Scott and Sons. Registration is for Progrow Ornamental Herbicide II, to be used to control weeds in container and field grown ornamentals. January 28, 1982.

EPA SLN No. CT 0002. Shell Chemical Co. Registration is for Bladex 80W Herbicide, to be used on corn to control weeds, grasses, and broadleaf weeds. March 12, 1982.

EPA SLN No. CT 0003. Shell Chemical Co. Registration is for Bladex 4L Herbicide, to be used on corn to control weeds, grasses, and broadleaf weeds. March 12, 1982.

EPA SLN No. CT 82 0004. FMC Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control flea beetles, northern corn rootworms, and nematodes. March 26, 1982.

EPA SLN No. CT 82 0005. FMC Corp. Registration is for Furadan 4 FL, to be used on sweet corn to control the European corn borer. March 26, 1982.

Delaware

EPA SLN No. DE 82 0001. O.M. Scott and Sons. Registration is for Proturf Insecticide 4, to be used on turf grass to control insects. January 12, 1982.

EPA SLN No. DE 82 0002. Rohm and Haas Co. Registration is for Blazer 2S Herbicide, to be used on soybeans to control major weeds, morning glories, cockleburs, and pigweeds. February 8, 1982.

EPA SLN No. DE 82 0003. Bell Laboratories, Inc. Registration is for P.C.O. Rat and Mouse Bait, to be used on orchards and groves to control meadow and pine mice, and voles (*Microtus* spp). March 10, 1982.

EPA SLN No. DE 82 0004. FMC Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control flea beetles, northern corn rootworms, and nematodes. March 12, 1982.

EPA SLN No. DE 82 0005. FMC Corp. Registration is for Furadan 4 FL, to be used on sweet corn to control the European corn borer. March 12, 1982.

EPA SLN No. DE 82 0006. E. I. du Pont de Nemours and Co. Registration is for Du Pont Sinbar Weed Killer, to be used on alfalfa to control weeds. March 30, 1982.

EPA SLN No. DE 82 0007. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on alfalfa to control weeds between cuttings. April 30, 1982.

Florida

EPA SLN No. FL 82 0001. Kocide Chemical Corp. Registration is for Koplex, to to used on flowing rivers, streams, and canals to control *Hydrilla verticillata*. February 15, 1982.

EPA SLN No. FL 82 0002. Polk County Environmental Services. Registration is for Dowpon M, to be used on drainage ditches to control cattails and perennial grasses. February 15, 1982.

EPA SLN No. FL 82 0003. Ciba-Geigy Corp. Registration is for Evik 80W, to be used on Florida grapefruit and oranges to control guineagrass, broadleaf panicum, and signalgrass. February 15, 1982.

EPA SLN No. FL 82 0004. Pasco Products Co. Registration is for Suncoast Weed Control plus Lawn Fertilizer, to be used on St. Augustine type lawns, centipedegrass, and zoysiagrass only, to control weeds. February 15, 1982.

EPA SLN No. FL 82 0005. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control white grub larvae. February 16, 1982.

EPA SLN No. FL 82 0006. Pasco Products Co. Registration is for Suncoast Weed Control plus Lawn Fertilizer, to be used on Bahia type lawns to control weeds. February 16, 1982.

EPA SLN No. FL 82 0007. Pasco Products Co. Registration is for P.O.C. Weed Control plus Lawn Fertilizer, to be

used on Bahia type lawns to control broadleaf weeds. February 16, 1982.

EPA SLN No. FL 82 0008. Pasco Products Co. Registration is for P.P.C. Weed Control plus Lawn Fertilizer, to be used on St. Augustine type lawns to control weeds. February 16, 1982.

EPA SLN No. FL 82 0009. Dow Chemical USA. Registration is for Dowfume-100, Dowfume-90, and Dowfume-85, to be used on soybeans at planting to control nematodes including lance, root-knot, spiral, and sting. February 19, 1982.

EPA SLN No. FL 82 0010. Great Lakes Chemical Corp. Registration is for Brom-O-Gas (2%), Brom-O-Gas (1%), Brom-O-Gas (.25%), Terr-O-Gas 98, and Brom-O-Gas (2%), to be used for eggplants, muskmelons, broccoli, cauliflower, and peppers as a preplant treatment in soil. February 19, 1982.

EPA SLN No. FL 82 0011. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on Bahia grass pastures to kill emerged little barley. February 19, 1982.

EPA SLN No. FL 82 0012. Burroughs Wellcome Co. Registration is for Atroban WP, to be used on horse, beef, dairy, swine, sheep, and poultry premises to control house flies, stable flies, and *Fannia* spp. February 19, 1982.

EPA SLN No. FL 82 0013. Chevron Chemical Co. Registration is for Monitor 4 Spray, to be used on Boston, bibb, romaine, and leaf lettuce to control aphids, cabbage loopers, diamondback moth larvae, granulate cutworms, and leafminers. March 9, 1982.

EPA SLN No. FL 82 0014. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lannate Insecticide, to be used on radishes to control beet armyworm. March 9, 1982.

EPA SLN No. FL 82 0015. E. I. du Pont de Nemours and Co. Registration is for Du Pont Lannate L Insecticide, to be used on radishes to control armyworms. March 9, 1982.

EPA SLN No. FL 82 0016. FMC Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control wireworms, lesser cornstalk borers, corn stalk weevils, and corn earworms. March 9, 1982.

EPA SLN No. FL 82 0018. Florida Department of Natural Resources. Registration is for Weeder 64, to be used on ponds, lakes, rivers, drainage and flood control canals, ditches, reservoirs, and bayous to control Eurasian watermilfoil. March 19, 1982.

EPA SLN No. FL 82 0019. Red Panther Chemical Co. Registration is for Red Panther Ethylene Dibromide 90, to be used on soybeans to control nematodes including lance, root-knot, spiral, and sting. March 25, 1982.

EPA SLN No. FL 82 0020. Soil Chemicals Corp. Registration is for Pic Brom 33, to be used on peppers to control *Verticillium* wilt, nematodes, and weeds. March 26, 1982.

EPA SLN No. FL 82 0021. Mineral Research and Development Corp. Registration is for Copper-Count-N, to be used on limes to control greasy spot, and on mangoes and avocados to control anthracnose. April 5, 1982.

EPA SLN No. FL 82 0022. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control wireworms, lesser cornstalk borers, cornstalk weevils, corn earworms in whorls, and banded cucumber beetles. April 28, 1982.

Georgia

EPA SLN No. GA 82 0001. Helena Chemical Co. Registration is for Helena Dimethoate 267 Systemic Insecticide, to be used on pecans to control aphids, mites, leafhoppers, and leafminers. January 15, 1982.

EPA SLN No. GA 82 0002. Ameribrom, Inc. Registration is for Edabrom 85, to be used on soybeans to control root knot, lesion, lance, soybean cyst, sting, and spiral nematodes. February 22, 1982

EPA SLN No. GA 82 0003. Philips Roxane, Inc. Registration is for Overtime Long Lasting Livestock and Premise Spray, to be used on horse, beef, dairy, swine, pet, and poultry premises to control house flies, face flies, stable flies and false stable flies. March 11, 1982.

EPA SLN No. GA 82 0004. O.M. Scott and Sons Co. Registration is for Progrow Ornamental Herbicide II, to be used on container- and field-grown ornamentals to control weeds. January 27, 1982.

EPA SLN No. GA 82 0005. Olin Corp. Registration is for Terraclor 2N EC, to be used on peanuts to control southern blight. April 12, 1982.

EPA SLN No. GA 82 0006. Chevron Chemical Co. Registration is for Orthene Tobacco Insect Spray, to be used on tobacco to control insects. March 9, 1982.

EPA SLN No. GA 82 0007. Dow Chemical USA. Registration is for Dowfune W–85, Dowfune W–90, and Dowfune W–100, to be used on peanuts as in an-plant application to control nematodes including root-knot. April 9, 1982.

EPA SLN No. GA 82 0009. ICI Americas Inc. Registration is for Ambush 4 Insecticide Oil Concentrate, to be used on cotton to control the boll weevil, tobacco budworm, cabbage looper, bollworm, lygus bug, cotton aphid, and whitefly. April 20, 1982.

EPA SLN No. GA 82 0011. Helena Chemical Co. Registration is for Helena MSMA, to be used on cotton as a postemergent application to control weeds. April 27, 1982.

EPA SLN No. GA 82 0012. Helena Chemical Co. Registration is for Liquid DSMA, to be used on cotton to control weeds. April 27, 1982.

Idaho

EPA SLN No. ID 82 0002. Velsicol Chemical Corp. Registration is for Ramik Brown Rodenticide, to be used on small grains to control meadow voles. January 29, 1982.

EPA SLN No. ID 82 0003. U.S. Fish and Wildlife Service. Registration is for Zinc Phosphide Rodenticide for Controlling Jack Rabbits, to be used on haystacks and field borders to control black-tailed jackrabbits. February 23, 1982.

EPA SLN No. ID 82 0004. Wilbur-Ellis Co. Registration is for Red-Top Contact Weedkiller, to be used on forestry as a brush desiccant. February 25, 1982.

EPA SLN No. ID 82 0005. Sandoz Inc. Registration is for Solicam 80WP, to be used on cherries, plums, prunes, peaches, and non-bearing apple and pear trees to control various grasses and broadleaf weeds. February 22, 1982.

EPA SLN No. ID 82 0007. Elanco Products Co. Registration is for Treflan EC, to be used on radishes grown for seed to control weeds. March 30, 1982.

EPA SLN No. ID 82 0008. Elanco Products Co. Registration is for Treflan MT.F., to be used on radishes grown for seed to control weeds. March 30, 1982.

EPA SLN No. ID 82 0009. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control white grub larvae, hyperodes weevils, billbugs, chinch bugs, and sod webworm larvae. April 16, 1982.

EPA SLN No. ID 82 0010. Mobay Chemical Corp. Registration is for Sencor DF/Sencor Sprayule, to be used on lentils and dry field peas to control broadleaf weeds. April 28, 1982.

Illinois

EPA SLN No. IL 82 0001. Stauffer Chemical Co. Registration is for Eradicane 6.7–E Selective Herbicide, to be used on corn (field, silage, and sweet) for wild proso millet suppression. January 4, 1982.

EPA SLN No. IL 82 0002. FMC Corp. Registration is for Furadan 4F Insecticide, to be used on alfalfa to control potato leafhoppers, pill bugs, crickets, and grasshoppers. January 4, 1982.

EPA SLN No. IL 82 0003. Mobay Chemical Corp. Registration is for Nemacur 3 to be used on deciduous fruit trees (apple, peach, and cherry) to

control lesion and dagger nematodes. January 22, 1982.

EPA SLN No. IL 82 0004. Union Carbide Agricultural Products Co., Inc. Registration is for Temik 15% GR Aldicarb Pesticide, to be used on soybeans at planting to control nematodes. April 9, 1982.

Indiana

EPA SLN No. IN 82 0001. Petrolite Corp. Registration is for X-Cide 133 Industrial Bactericide, to be used in gas storage and transmission systems as an industrial bactericide. February 3, 1982.

EPA SLN No. IN 82 0002. Burroughs Wellcome Co. Registration is for Wellcome Insecticide Ear Tags, to be used on dairy and beef cattle and calves to control horn flies, face flies, Gulf Coast ticks, and spinose ear ticks. February 3, 1982.

EPA SLN No. IN 82 0003. State Chemist, Department of Biochemistry, Purdue University. Registration is for Proturf Insecticide 4, to be used on fairway and putting green turf to control white grubs. February 3, 1982.

EPA SLN No. IN 82 0004. E.I. du Pont de Nemours and Co. Registration is for Du Pont Vydate L Insecticide/Nematicide, to be used on cucurbits to control nematodes. February 24, 1982.

EPA SLN No. IN 82 0005. Vertac Chemical Corp. Registration is for Premerge 3 Dinitro Amine Herbicide, to be used on field corn as a possible enhancement of grain yields. February 24, 1982.

EPA SLN No. IN 82 0006. Thompson-Hayward Chemical Co. Registration is for PCO Lindane E-1, to be used on existing structures to control wood-infesting beetles, *Lyctidae, Anobiidae,* and *Cerambycidae.* March 17, 1982.

EPA SLN No. IN 82 0007. Residex Corp. Registration is for Residex Lindane 20% Emulsifiable, to be used on homes, barns, and other existing structures (wood) to control beetles. March 17, 1982.

EPA SLN No. IN 82 0008. Rohm and Haas Co. Registration is for Goal 2E Herbicide, to be used on peppermint and spearmint fields to control weeds. March 17, 1982.

EPA SLN No. IN 82 0011. Rohm and Haas Co. Registration is for Blazer 2S Herbicide, to be used on soybeans for postemergence weed control. April 22, 1982.

Iowa

EPA SLN No. IA 82 0001. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on lawn and turf to control insects. February 26, 1982.

Kansas

EPA SLN No. KS 82 0001. Monsanto Co. Registration is for Roundup, to be used on grain sorghum to control weeds. March 22, 1982.

EPA SLN No. KS 82 0002. Shell Chemical Co. Registration is for Bladex 80W Herbicide, to be used on field corn or grain sorghum to control weeds. April 1, 1982.

EPA SLN No. KS 82 0003. Rohm and Haas Co. Registration is for Blazer 2S Herbicide, to used on soybeans to control weeds. April 5, 1982.

EPA SLN No. KS 82 0004. Platte Chemical Co. Registration is for Clean Crop Formulation 60 4# Amine 2,4-D, to be used on pastures, rangeland, and non-croplands to control musk thistles. April 15, 1982.

EPA SLN No. KS 82 0005. Bell Laboratories, Inc. Registration is for P.C.Q. Rat and Mouse Bait, to be used in orchards and groves to control meadow and pine mice. April 22, 1982.

EPA SLN No. KS 82 0006. Mobay Chemical Corp. Registration is for Amaze 20% GR, to be used on corn (field, sweet, and pop) to control nematodes. April 22, 1982.

Louisiana

EPA SLN No. LA 82 0001. Dow Chemical USA. Registration is for Dowfume W-100 Full Strength Soil Fumigant to be used on soybeans at planting or in preplant application to control nematodes including lance, lesion, root-knot, spiral, and sting. February 2, 1982.

EPA SLN No. LA 82 0002. Dow Chemical USA. Registration is for Dowfume W-90 High Strength Soil Fumigant, to be used on soybeans at planting or in preplant application to control nematodes including lance, lesion, root-knot, spiral, and sting. February 2, 1982.

EPA SLN No. LA 82 0003. Dow Chemical USA. Registration is for Dowfume W-85 High Strength Soil Fumigant, to be used on soybeans at planting or in preplant application to control nematodes including lance, lesion, root-knot, spiral, and sting. February 2, 1982.

EPA SLN No. LA 82 0004. Louisiana Department of Agriculture. Registration is for Progrow Ornamental Herbicide II, to be used on container and field grown ornamentals to control weeds. February 9, 1982.

EPA SLN No. LA 82 0005. Chevron Chemical Co. Registration is for Bolero 8 EC, to be used on seedling rice to control weeds. March 12, 1982.

EPA SLN No. LA 82 0006. Cotton States Chemical Co., Inc. Registration is for Ketokil No. 52, be used on cotton to control boll worms and boll weevils. March 19, 1982.

EPA SLN No. LA 82 0007. ICI Amercias Inc. Registration is for Ambush 4E EC, to be used on cotton to control boll weevils, tobacco budworms, cabbage loopers, bollworms, lygus bugs, cotton aphids, and whiteflies. March 19, 1982.

EPA SLN No. LA 82 0008. American Cyanamid Co. Registration is for Cythion Insecticide-Malathion ULV Concentrate, to be used on cotton to control boll weevils. March 19, 1982.

EPA SLN No. LA 82 0009. Stauffer Chemical Co. Registration is for Ordram 10-G, to be used on rice for suppression of sprangletop and barnyardgrass, post-flood and post-emergence application. March 19, 1982.

EPA SLN No. LA 82 0010. Union Carbide Agricultural Products Co., Inc. Registration is for Temik 15G Aldicarb Pesticide, to be used on sugarcane (stubble or ratoon cane) to control nematodes. March 24, 1982.

EPA SLN No. LA 82 0011. FMC Corp. Registration is for Furadan 10 GR, to be used on soybeans to control nematodes. April 6, 1982.

EPA SLN No. LA 82 0012. FMC Corp. Registration is for Furadan 4 FL, to be used on soybeans to control nematodes. April 6, 1982.

EPA SLN No. LA 82 0013. Philips Roxane, Inc. Registration is for Bioceutic Overtime L/P Long Acting Livestock and Premise Insecticide, to be used on livestock and poultry as an insecticide. April 26, 1982.

EPA SLN No. LA 82 0014. Philips Roxane, Inc. Registration is for Anchor Permectrin Long Lasting Livestock and Premise Spray, to be used on livestock and poultry as an insecticide. April 26, 1982.

EPA SLN No. LA 82 0015. Citrus Lands of Louisiana, Inc. Registration is for Roundup, to be used in pastures to control weeds. April 27, 1982.

Maine

EPA SLN No. ME 82 0001. Vertac Chemical Corp. Registration is for Vertac General Weed Killer, to be used for preharvest desiccation of potato vines. February 10, 1982.

EPA SLN No. ME 82 0002. Dow Chemical USA. Registration is for Garlon 3A Herbicide, to be used on industrial sites, non-crop areas, and at forest preparation sites to control woody plants and broadleaf weeds. April 16, 1982.

EPA SLN No. ME 82 0003. Dow Chemical USA. Registration is for Garlon 4 Herbicide, to be used on

industrial sites, non-crop areas, and at forest preparation sites to control woody plants and broadleaf weeds. April 16, 1982.

EPA SLN No. ME 82 0004. Hopkins Agricultural Chemical Co. Registration is for Hopkins Quintar 5F, to be used on apples to control scab. April 16, 1982.

EPA SLN No. ME 82 0005. Chevron Chemical Co. Registration is for Orthene-Specialty Concentrate, to be used for the suppression of larval populations of spruce budworm. April 16, 1982.

Maryland

EPA SLN No. MD 82 0001. Monsanto Co. Registration is for Roundup, to be used on apple orchards to control annual and perennial weeds. Janary 26, 1982.

EPA SLN No. MD 82 0002. O.M. Scott and Sons Co. Registration is for Proturf Insecticide 4, to be used on cool season grasses only to control sod webworms, chinch bugs, mole crickets, and hyperodes weevils. January 29, 1982.

EPA SLN No. MD 82 0003. Mobay Chemical Corp. Registration is for Nemacur-Dasanit 2+4 Spray Concentrate, to be used on tobacco to control root-knot nematodes and wireworms. March 15, 1982,

EPA SLN No. MD 82 0004. Rhom and Haas Co. Registration is for Blazer 2S Herbicide, to be used on soybeans for post-emergence weed control. March 15, 1982.

EPA SLN No. MD 82 0005. Mobay Chemical Corp. Registration is for Nemacur 3, to be used on tobacco to control nematodes and wireworms. March 15, 1982.

EPA SLN No. MD 82 0006. B and W Quality Growers, Inc. Registration is for D.Z.N. Diazinon 50W, to be used on watercress to control cyclamen mites. March 15, 1982.

EPA SLN No. MD 82 0007. FMC Corp. Registration is for Furadan 4 FL, to be used on sweet corn to control European corn borers. April 26, 1982.

EPA SLN No. MD 82 0008. FMC Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control flea beetles, northern corn rootworms, and nematodes. April 26, 1982.

EPA SLN No. MD 82 0009. E.I. du Pont de Nemours and Co. Registration is for Du Pont Sinbar Weed Killer, to be used on alfalfa to control certain weeds. April 26, 1982.

Michigan

EPA SLN No. MI 82 0001. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on non-bearing peach, nectarine, apple, apricot, cherry, and plum trees to control nematodes. January 19, 1982.

EPA SLN No. MI 82 0002. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on non-bearing peach, nectarine, apple, apricot, cherry, and plum trees to control nematodes. January 19, 1982.

EPA SLN No. MI 82 0003. Michigan Department of Agriculture. Registration is for Progrow Ornamental Herbicide II, to be used on container and field grown ornamentals to control weeds. Janary 19, 1982.

EPA SLN No. MI 82 0004. Michigan Department of Agriculture. Registration is for Proturf Insecticide 4, to be used on cool season grasses only to control sod webworms, chinch bugs, mole crickets, and hyperodes weevils. February 3, 1982.

EPA SLN No. MI 82 0005. E.I. du Pont de Nemours and Co. Registration is for Du Pont Benlate Fungicide, to be used on grapes to control the eutypa dieback. February 9, 1982.

EPA SLN No. MI 82 0006. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on field corn to control corn rootworm larvae at cultivation. February 16, 1982.

EPA SLN No. MI 82 0007. Olin Corp. Registration is for Terraclor 75% WP, to be used on beans (snap and dry) to prevent white mold. February 16, 1982.

EPA SLN No. MI 82 0008. Dow Chemical USA. Registration is for Lorsban 15G GR Insecticide, to be used on onions (dry bulb) to control onion maggots April 21, 1982.

EPA SLN No. MI 82 0009. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on onions (dry bulb) to control onion maggots. April 21, 1982.

EPA SLN No. MI 82 0010. FMC Corp. Registration is for Furadan 4F Insecticide, to be used on sweet corn to control the corn earworm and European corn borer. April 21, 1982.

EPA SLN No. MI 82 0011. FMC Corp. Registration is for Furadan 10G Insecticide/Nematicide, to be used on sweet corn to control flea beetles, corn rootworms, and nematodes. April 21, 1982.

EPA SLN No. MI 82 0012. Union Carbide Agricultural Products Co., Inc. Registration is for Temick 15G Aldicarb Pesticide, to be used on dry beans at planting to control seedcorn maggots. April 21, 1982.

EPA SLN No. MI 82 0013. FMC Corp. Registration is for Furadan 10G-Insecticide/Nematicide to be used on cucurbits (cucumbers, melons, squash, and pumpkins) to control nematodes and cucumber beetles. April 22, 1982.

EPA SLN No. MI 82 0014. Miller Chemical and Fertilizer Corp. Registration is for Pratt Oxamyl 10% GR, to be used on potatoes to control root lesion and northern root-knot nematodes, and on carrots to control northern root-knot nematodes. April 23, 1982.

Minnesota

EPA SLN No. MM 82 0001. Clarke Outdoor Spraying Co. Registration is for 1% Skeeter Abate, to be used on marsh lands, margins of streams, and intertidal zones of sandy beaches to control mosquito and midge larvae. February 12, 1982.

EPA SLN No. MN 82 0002. Dow Chemical USA. Registration is for Tordon 22K Herbicide, to be used on rangelands, permanent grass pastures, spring barley and oats, and spring and winter wheat to control broadleaf weeds. February 12, 1982.

EPA SLN No. MN 82 0003. Dow Chemical USA. Registration is for Tordon 2K Pellets Herbicide, to be used on rangeland, forests, and permanent grass pastures to control susceptible broadleaf weeds and woody plants. February 12, 1982.

EPA SLN No. MN 82 0004. Agsco, Inc. Registration is for Agsco Blitex 80 MN, to be used on beans (dry) to control rust. March 11, 1982.

EPA SLN No. MN 82 0005. FMC Corp. Registration is for Furadan 10 GR, to be used on sugar beets to control sugar beet root maggots. April 8, 1982.

EPA SLN No. MN 82 0006. FMC Corp. Registration is for Furadan 4 FL, to be used on pure seeded alfalfa to control lesion nematodes and *Pratylenchus penetrans*. April 8, 1982.

EPA SLN No. MN 82 0007. Philips Roxane, Inc. Registration is for Golden Sun Secticide-10, to be used as a livestock and poultry long-lasting barn and premise fly spray. April 8, 1982.

Mississippi

EPA SLN No. MS 82 0001. FMC Corp. Registration is for Furadan 4 FL, to be used on soybeans to control nematodes and Mexican bean beetles. February 10, 1982.

EPA SLN No. MS 82 0002. FMC Corp. Registration is for Furadan 10 GR, to be used on soybeans to control nematodes at planting time. Febraury 10, 1982.

EPA SLN No. MS 82 0003. Olin Corp. Registration is for Magnum Agricultural Chlorinator, to be used on sweet potatoes to reduce the spread of bacterial wilt and root rot. February 17, 1982.

EPA SLN No. MS 82 0004. Chevron Chemical Co. Registration is for Bolero 8

EC, to be used on rice to control annual grasses and aquatic weeds, March 24, 1982.

EPA SLN No. MS 82 0005. Red Panther Chemical Co. Registration is for Red Panther Ethylene Dibromide 90, to be used on soybeans to control nematodes including lance, root-knot, spiral, and sting. April 2, 1982.

EPA SLN No. MS 82 0006. Union Carbide Agricultural Products Co., Inc. Registration is for Temik 15% GR Aldicarb Pesticide, to be used on soybeans to control nematodes. April 2, 1982.

EPA SLN No. MS 82 0007. Dow Chemical USA. Registration is for N-Serve 24E Nitrogen Stabilizer, to be used on rice to control the nitrification process on rice. April 5, 1982.

EPA SLN No. MS 82 0008. Dow Chemical USA. Registration is for N-Serve 24 Nitrogen Stabilizer, to be used on rice to control the nitrification process on rice. April 5, 1982.

EPA SLN No. MS 82 0009. ICI Americas Inc. Registration is for Ambush 4E–EC, to be used on cotton to control boll weevils, tobacco budworms, cabbage loopers, bollworms, lygus bugs, cotton aphids, and whiteflies. April 2, 1982.

EPA SLN No. MS 82 0010. Dow Chemical USA. Registration is for Dowfume W–85, to be used as an at-plant application on cotton to control nematodes. April 2, 1982.

EPA SLN No. MS 82 0011. Dow Chemical USA. Registration is for Dowfume W–90, to be used as an at-plant application on cotton to control nematodes. April 2, 1982.

EPA SLN No. MS 82 0012. Dow Chemical USA. Registration is for Dowfume W–100, to be used on cotton to control nematodes. April 2, 1982.

EPA SLN No. MS 82 0014. Dow Chemical USA. Registration is for Dowfume W–90, to be used as an at-plant application on peanuts to control nematodes. April 2, 1982.

EPA SLN No. MS 82 0015. Dow Chemical USA. Registration is for Dowfume W–100, to be used as an at-plant application on peanuts to control nematodes. April 2, 1982.

Missouri

EPA SLN No. MO 82 0001. O. M. Scott and Sons Co. Registration is for Proturf Insecticide 4, to be used on cool season grasses only to control sod webworms, chinch bugs, mole crickets, and hyperodes weevils. January 7, 1982.

EPA SLN No. MO 82 0002. Fairfield American Corp. Registration is for Permanone Tick Repellent, to be used on outer clothing to control ticks, chiggers, and mosquitoes. (CUP). January 11, 1982.

EPA SLN No. MO 82 0003. Philips Roxane, Inc. Registration is for Golden Sun Fly-Ban Concentrate, to be used as a livestock and poultry long-lasting barn and premise fly spray. February 1, 1982.

EPA SLN No. MO 82 0004. Dow Chemical USA. Registration is for Dowfume W–100 Full Strength Soil Fumigant, to be used on soybeans to control nematodes including lance, lesion, root-knot, spiral, and sting. February 10, 1982.

EPA SLN No. MO 82 0005. Dow Chemical USA. Registration is for Dowfume W–80 High-Strength Soil Fumigant, to be used on soybeans to control nematodes including lance, lesion, root-knot, spiral, and sting. February 10, 1982.

EPA SLN No. MO 82 0006. Dow Chemical USA. Registration is for Dowfume W–85 High Strength Soil Fumigant, to be used on soybeans to control nematodes including lance, lesion, root-knot, spiral, and sting. February 10, 1982.

EPA SLN No. MO 82 0007. Vertac Chemical Corp. Registration is for Vertac Premerge 3 Dinitro-Amine Herbicide, to be used on many crops, including peas, beans, and soybeans, to control broadleaf weeds. April 25, 1982.

EPA SLN No. MO 82 0009. Rohm and Haas Co. Registration is for Dithane M–22 Special, to be used on field grown tobacco to control blue mold. March 25, 1982.

EPA SLN No. MO 82 0010. Rohm and Haas Co. Registration is for Dithane M–45, to be used on field grown tobacco to control blue mold. March 25, 1982.

EPA SLN No. MO 82 0011. Rohm and Haas Co. Registration is for Dithane Z–78, to be used on field grown tobacco to control blue mold. March 25, 1982.

EPA SLN No. MO 82 0012. FMC Corp. Registration is for Furadan 4 FL, to be used on soybeans to control nematodes and Mexican bean beetles (larvae). March 29, 1982.

EPA SLN No. MO 82 0013. FMC Corp. Registration is for Furadan 10 GR, to be used on soybeans to control nematodes and Mexican bean beetles. March 29, 1982.

EPA SLN No. MO 82 0014. Monsanto Co. Registration is for Roundup, to be used on grain sorghum to control certain weeds. April 5, 1982.

Montana

EPA SLN No. MT 82 0001. The Upjohn Co. Registration is for Botran 75W Fungicide, to control *Botrytis* disease in container, bare root, and greenhouse-grown conifer nursery stock. February 25, 1982.

EPA SLN No. MT 82 0002. Union Carbide Agricultural Products Co., Inc. Registration is for Brominal Broadleaf Herbicide, to be used on wheat and barley to control weeds. March 9, 1982.

EPA SLN No. MT 82 0003. Dow Chemical USA. Registration is for Dowpon M Grass Killer, to be used on Christmas trees to control grass. March 12, 1982.

EPA SLN No. MT 82 0004. Chevron Chemical Co. Registration is for Orthene Forest Spray, to be used on range and pasture grass and wheat to control grasshoppers. March 25, 1982.

EPA SLN No. MT 82 0005. Mobay Chemical Corp. Registration is for Sencor 4, to be used on lentils to control common lambsquarters, wild mustard, field pennycress (fan weed), common chickweed, henbit, and shepherd's purse. April 6, 1982.

EPA SLN No. MT 82 0006. Mobay Chemical Corp. Registration is for Sencor 50% WP, to be used on lentils to control common lambsquarters, wild mustard, field pennycress (fan weed), common chickweed, henbit, and shepherd's purse. April 6, 1982.

EPA SLN No. MT 82 0007. Mobay Chemical Corp. Registration is for Sencor DF/Sencor Sprayule, to be used on lentils to control common lambsquarters, wild mustard, field pennycress (fan weed), common chickweed, henbit, and shepherd's purse. April 6, 1982.

Nebraska

EPA SLN No. NE 82 0001. Dow Chemical USA. Registration is for Lorsban 15G GR Insecticide, to be used on field corn and popcorn to control European corn borers. February 1, 1982.

EPA SLN No. NE 82 0002. Shell Oil Co. Registration is for Bladex Herbicide, to be used on corn to control grasses and broadleaf weeds. March 17, 1982.

EPA SLN No. NE 82 0003. Shell Chemical Co. Registration is for Bladex Herbicide, to be used on corn to control grasses and broadleaf weeds. March 16, 1982.

EPA SLN No. NE 82 0004. Philips Roxane, Inc. Registration is for Golden Sun Insecticide-10, to be used as a barn and premise fly spray for beef cattle, dairy cattle, horses, sheep, swine, pets, and poultry. March 17, 1982.

EPA SLN No. NE 82 0005. Shell Chemical Co. Registration is for Shell Bladex 80W, to be used on corn to control grasses and broadleaf weeds. March 17, 1982.

EPA SLN No. NE 82 0006. Shell Chemical Co. Registration is for Shell Bladex 4L, to be used on corn to control grasses and broadleaf weeds. March 17, 1982.

EPA SLN No. NE 82 0007. Burroughs Wellcome Co. Registration is for Wellcome Insecticide Ear Tag, to be used on dairy and beef cattle and calves to control horn flies, face flies, Gulf Coast ticks, and spinose ear ticks. March 17, 1982.

EPA SLN No. NE 82 0008. Shell Chemical Co. Registration is for Shell Bladex 80W, to be used on field corn or grain sorghum to control weeds. March 17, 1982.

EPA SLN No. NE 82 0009. Monsanto Co. Registration is for Roundup Herbicide, to be used on sorghum (milo) to control weeds. March 17, 1982.

EPA SLN No. NE 82 0012. Mobay Chemical Corp. Registration is for Amaze 20% GR, to be used on corn (field, sweet, and pop) to control nematodes. March 17, 1982.

Nevada

EPA SLN No. NV 82 0001. J. R. Simplot Co. Registration is for Sim-Tec 0.50-Potato Seed Treater, to be used on potatoes to control *Fusarium* decay. January 7, 1982.

EPA SLN No. NV 82 0008. FMC Corp. Registration is for Diazinon 3 Dust, to be used on household pests to control resistant and non-resistant cockroaches, ants, silverfish, carpet beetles, spiders, and scorpions. April 14, 1982.

New Hampshire

EPA SLN No. NH 82 0001. Hopkins Agricultural Chemical Co. Registration is for Hopkins Quintar 5F, to be used on apples to control scab. February 24, 1982.

EPA SLN No. NH 82 0002. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control white grub larvae. March 30, 1982.

New Jersey

EPA SLN No. NJ 82 0001. O. M. Scott and Sons Co. Registration is for Proturf Insecticide 4, to be used on cool season grasses only to control sod webworms, chinch bugs, mole crickets, and hyperodes weevils. January 28, 1982.

EPA SLN No. NJ 82 0002. FMC Corp. Registration is for Furadan 4 Fl, to be used on sweet corn to control European corn borers. March 9, 1982.

EPA SLN No. NJ 82 0003. FMC Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control flea beetles, northern corn rootworms, and menematodes. March 9, 1982.

EPA SLN No. NJ 82 0004. Chevron Chemical Co. Registration is for Orthocide 50 Wettable and Orthocide 80 Wettable, to be used on blueberries to control anthracnose fruit rot and *Botrytis* gray mold. March 29 1982.

EPA SLN No. NJ 82 0005. Ciba-Geigy Corp. Registration is for Supracide 2E Insecticide-Miticide, to be used as a prebloom application on apples to control San Jose scale and rosy apple aphids. April 13, 1982.

EPA SLN No. NJ 82 0006. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on onions to control maggots (dry bulb). April 16, 1982.

EPA SLN No. NJ 82 0007. Dow Chemical USA. Registration is for Lorsban 15G GR Insecticide, to be used on onions to control maggots, (dry bulb). April 16, 1982.

New Mexico

EPA SLN No. NM 82 0001. T.H. Agriculture and Nutrition Co., Inc. Registration is for DED-Weed Sulvamine, to be used on pasture, rangeland, and non-crop fallow land to control weeds. February 15, 1982.

EPA SLN No. NM 82 0002. Dow Chemical USA. Registration is for Grazon PC Herbicide, to be used on rangeland and permanent grass pastures to control broadleaf weeds. February 23, 1982.

EPA SLN No. NM 82 0003. Dow Chemical USA. Registration is for Grazon P+D Herbicide, to be used on rangeland and permanent grass pastures to control weeds. February 23, 1982.

EPA SLN No. NM 82 0004. Pennwalt Corp. Registration is for Penncap-M Insecticide, to be used on wheat to control armyworms, greenbugs, grasshoppers, leafhoppers, and aphids. January 25, 1982.

EPA SLN No. NM 82 0005. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on alfalfa to control tansy mustard. February 16, 1982.

EPA SLN No. NM 82 0006. Bell Laboratories, Inc. Registration is for P.C.Q. Rat and Mouse Bait, to be used in orchards and groves to control pine and meadow mice. March 25, 1982.

EPA SLN No. NM 82 0007. ICI Americas Inc. Registration is for Ambush 4E–EC, to be used on cotton to control bollworms, budworms, pink bollworms, lygus bugs, cabbage loopers, cotton leaf perforators, boll weevils, cotton fleahoppers, whiteflies, and cotton aphids. March 9, 1982.

EPA SLN No. NM 82 0008. Mobay Chemical Corp. Registration is for Monitor 4 to be used on peppers to control green peach aphids, leafminers, thrips, and flea beetles. March 22, 1982.

EPA SLN No. NM 82 0009. Mobay Chemical Corp. Registration is for Guthion 2 FL, to be used on alfalfa to control alfalfa weevils, leafhoppers, mites, Egyptian alfalfa weevils, alfalfa plant bugs, fleahoppers, grasshoppers, lygus bugs, and spittlebugs. April 7, 1982.

EPA SLN No. NM 82 00010. Monsanto Co. Registration is for Roundup, to be used on grain sorghum to control weeds. March 29, 1982.

EPA SLN No. NM 82 00011. Mobay Chemical Corp. Registration is for Bayleton 50% WP, to be used on nonbearing apple trees to control powdery mildew. April 14, 1982.

EPA SLN No. NM 82 00013. ICI Americas Inc. Registration is for Gramoxone Paraguat Herbicide, to be used on alfalfa to control tansy mustard. April 30, 1982.

New York

EPA SLN No. NY 82 0001. Ciba-Geigy Corp. Registration is for Evik 80W Herbicide, to be used on potatoes for vine desiccation. March 5, 1982.

EPA SLN No. NY 82 0002. Burroughs Wellcome Co. Registration is for atroban Cattle Ear Tags, to be used on dairy and beef cattle and calves to control horn flies, face flies, Gulf Coast ticks, spinose ear ticks, stable flies, and houseflies. March 22, 1982.

EPA SLN No. NY 82 0003. T–Tex Corp. Registration is for Gardstar, to be used on beef cattle, calves, and on dairy cattle including lactating dairy cattle to control horn flies, face flies, Gulf Coast ticks, spinose ear ticks, stable flies, and houseflies. March 22, 1982.

EPA SLN No. NY 82 0004. O.M. Scott and Sons Co. Registration is for Proturf Insecticide 4, to be used on golf course fairways and putting greens to control insects. March 24, 1982.

EPA SLN No. NY 82 0005. FMC Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control flea beetles, northern corn rootworms, and nematodes. April 7, 1982.

EPA SLN No. NY 82 0006. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on onions (dry bulb) to control maggots. April 16, 1982.

EPA SLN No. NY 82 0007. Dow Chemical USA. Registration is for Lorsban 15G GR Insecticide, to be used on onions (dry bulb) to control maggots. April 16, 1982.

EPA SLN No. NY 82 0008. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control insects. April 23, 1982.

North Carolina

EPA SLN No. NC 82 0001. North Carolina Department of Agriculture. Registration is for Progrow Ornamental Herbicide II, to be used on container and field-grown ornamentals to control

grassy weeds and broadleaf weeds. February 9, 1982.

EPA SLN No. NC 82 0002. Dow Chemical USA. Registration is for Dowfume-100, Dowfume-90, and Dowfume-85, to be used on soybeans to control certain nematodes including root-knot, lesion, sting, lance, and dagger. February 15, 1982.

EPA SLN No. NC 82 0003. Ameribrom, Inc. Registration is for Edabrom 85, to be used on soybeans to control certain nematodes. February 23, 1982.

EPA SLN No. NC 82 0004. Vertac Chemical Corp. Registration is for Vertac Premerge 3 Dinitro Amine Herbicide, to be used on peanuts to control broadleaf weeds. March 5, 1982.

EPA SLN No. NC 82 0005. Hess and Clark, Inc. Registration is for Insectrin EC, to be used on livestock premises to control flies. March 5, 1982.

EPA SLN No. NC 82 0006. Chevron Chemical Co. Registration is for Orthene Tobacco Insect Spray, to be used on tobacco to control flea beetles. March 19, 1982.

EPA SLN No. NC 82 0007. Union Carbide Agriculture Products Co., Inc. Registration is for Ethrel Plus Sevin Tank Mixture, to be used for thinning spur "Delicious" apples. March 19, 1982.

EPA SLN No. NC 82 0008. Union Carbide Agricultural Products, Co., Inc. Registration is for Temik 15G GR Aldicarb Pesticide, to be used on tobacco (flue-cured only) to control aphids and flea beetles. March 24, 1982.

EPA SLN No. NC 82 0009. Uniroyal Inc. Registration is for Royal MH–30, to be used on flue-cured tobacco as a sucker control. April 22, 1982.

EPA SLN No. NC 82 0010. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide (+2,4-D), to be used on corn and fallow land to control witchweed and grassy weeds. April 26, 1982.

EPA SLN No. NC 82 0011. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lannate Insecticide, to be used on eggplants to control *Heliothis* spp. April 26, 1982.

EPA SLN No. NC 82 0012. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lannate L Insecticide, to be used on eggplants to control corn earworms and beet armyworms. April 26, 1982.

EPA SLN No. NC 82 0013. Mobay Chemical Corp. Registration is for Guthion 2 FL, to be used on cotton to control boll weevils. April 27, 1982.

North Dakota

EPA SLN No. ND 82 0001. U.S. Fish and Wildlife Service. Registration is for strychnine alkaloid, to be used on waterfowl nesting habitats on federally owned lands to control Franklin ground squirrels. January 25, 1982.

EPA SLN No. ND 82 0002. FMC Corp. Registration is for Furadan 10 GR, to be used on sugar beets to control sugar beet root maggots. February 19, 1982.

EPA SLN No. ND 82 0003. Union Carbide Agricultural Products Co., Inc. Registration is for Brominal Broadleaf Herbicide, to be used on wheat and barley to control broadleaf weeds. March 1, 1982.

EPA SLN No. ND 82 0004. Chevron Chemical Co. Registration is for Ortho Paraquat CL, to be used on no-till sunflowers to control broadleaf weeds and grasses. March 8, 1982.

EPA SLN No. ND 82 0005. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on sugar beets to control sugar beet root maggots. March 30, 1982.

EPA SLN No. ND 82 0006. Merck and Co., Inc. Registration is for Mertect 340–F, to be used on sugar beets to control *Cercospora* leaf spot. April 14, 1982.

EPA SLN No. ND 82 0007. ICI Americas Inc. Registration is for gramoxone Paraquat Herbicide, to be used on no-till sunflowers to control emerged annual broadleaf weeds and grasses. April 27, 1982.

EPA SLN No. NO 82 0008. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on sunflowers, oilseed varieties, for desiccation of sunflower plants and broadleaf weeds and grasses to facilitate harvesting. April 27, 1982.

Ohio

EPA SLN No. OH 82 0001. Cities Service Co. Registration is for Citco Copper Sulfate Powdered Instant Bluestone, to be used on apples to control fire blight. January 14, 1982.

EPA SLN No. OH 82 0002. Cities Service Co. Registration is for Citco Copper Sulfate Snow Crystals, to be used on apples to control fire blight. January 14, 1982.

EPA SLN No. OH 82 0003. O. M. Scott and Sons Co. Registration is for Proturf Insecticide 4, to be used on turf grass to control insects. January 19, 1982.

EPA SLN No. OH 82 0004. Ciba-Geigy Corp. Registration is for Ridomil 2E Fungicide to be used on nonbearing apple trees to control collar rot. January 21, 1982.

EPA SLN No. OH 82 0005. Burroughs Wellcome Co. Registration is for Wellcome Insecticide Ear Tags, to be used on dairy and beef cattle and calves to control horn flies, face flies, Gulf Coast ticks, and spinose ear ticks. February 9, 1982.

EPA SLN No. OH 82 0006. Pfizer Inc. Registration is for Mycoshield Brand of Agricultural Terramycin, to be used on pears to control fire blight, and on peaches to control bacterial spot. March 30, 1982.

EPA SLN No. OH 82 0007. FMC Corp. Registration is for Furadan 10G-Inserticide/Nematicide, to be used on cucurbits (cucumbers, melons, squash, and pumpkins) to control nematodes and cucumber beetles. April 6, 1982.

EPA SLN No. OH 82 0008. FMC Corp. Registration is for Furadan 10G-Insecticide/Nematicide, to be used on sweet corn to control flea beetles, corn rootworms, and nematodes. April 8, 1982.

EPA SLN No. OH 82 0009. FMC Corp. Registration is for Furadan 4F Insecticide, to be used on sweet corn to control corn earworms and European corn borers. April 8, 1982.

EPA SLN No. OH 82 0010. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on alfalfa between cuttings to control weeds. April 28, 1982.

EPA SLN No. OH 82 0011. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on no-till sunflowers to control broadleaf weeds and grasses. April 28, 1982.

Oklahoma

EPA SLN No. OK 82 0001. Philips Roxane, Inc. Registration is for Bioceutic Overtime L/P Long Acting Livestock and Premise Insecticide, to be used as a livestock and poultry barn and premise fly spray. February 8, 1982.

EPA SLN No. OK 82 0002. Philips Roxane, Inc. Registration is for Anchor Permectrin 10 percent EC II Long Lasting Livestock and Primise Spray, to be used as a livestock and poultry barn and premise fly spray. February 8, 1982.

EPA SLN No. OK 82 0003. Mobay Chemical Corp. Registration is for Furadan 4 FL, to be used on alfalfa to control spotted alfalfa aphids. January 5, 1982.

EPA SLN No. OK 82 0004. Dow Chemical USA. Registration is for Grazon PC Herbicide, to be used on range and permanent pasture to control weeds. February 26, 1982.

EPA SLN No. OK 82 0005. Dow Chemical USA. Registrations for Grazon P+D Herbicide, to be used on range and permanent pasture to control weeds. Febrauary 26, 1982.

EPA SLN No. OK 82 0006. Fairfield American Corp. Registration is for Permanone Tick Repellent, to be used on outer clothing to control ticks, chiggers and mosquitoes. (CUP). February 26, 1982.

EPA SLN No. OK 82 0007. ICI Americans Inc. Registration is for Ambush 4E, to be used on cotton to control insects. March 17, 1982.

EPA SLN No. OK 82 0008. T.H. Agriculture and Nutrition Co., Inc. Registration is for Ded–Weed Sulvamine, to be used on wheat, barley, and rye to control broadleaf weeds. March 18, 1982.

EPA SLN No. OK 82 0009. Rohm and Haas Co. Registration is for Blazer 2S Herbicide, to be used on soybeans for post-emergence weed control. March 22, 1982.

EPA SLN No. OK 82 0010. Monsanto Co. Registration is for Roundup, to be used on sorghum to control weeds. April 14, 1982.

EPA SLN No. OK 82 0011. FMC Corp. Registration is for Furadan 10GR, to be used on soybeans to control nematodes at planting time. April 14, 1982.

EPA SLN No. OK 82 0011. FMC Corp. Registration is for Furadan 4FL, to be used on soybeans to control nematodes at planting time. April 14, 1982.

EPA SLN No. OK 82 0013. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control white grub larvae. April 21, 1982.

EPA SLN No. OK 82 0014. Sandoz, Inc. Registration is for Solicam 80WP, to be used on non-bearing pecan trees to control weeds and grass. April 22, 1982.

EPA SLN No. OK 82 0015. Dow Chemical USA. Registration is for Butoxy Propyl Ester No. 1, to be used on rangeland and non-crop sites to control broadleaf weeds and woody plants. April 30, 1982.

Oregon

EPA SLN No. OR 82 0001. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on non-bearing grapevines to control cutworms. January 5, 1982.

EPA SLN No. OR 82 0002. J. R. Simplot Co. Registration is for Sim-Tic 0.50-Potato Seed Treater, to be used on potatoes as a seed treater. January 5, 1983.

EPA SLN No. OR 82 0003. Univar. Registration is for Namco Chloropicrin, to be used on utility poles, piles, and timbers in bridges to control wood-decaying fungi and wood-boring insects in the interiors of structural wood products. January 29, 1982.

EPA SLN No. OR 82 0004. O. M Scott and Sons. Registration is for Progrow Ornamental Herbicide II, to be used on container- and field-grown ornamentals for pre-emergence control of weeds. February 3, 1982.

EPA SLN No. OR 82 0005. Union Carbide Agricultural Products Co. Registration is for Weedone 170, to be used for control of mixed susceptible brush species for conifer release (other than pine). February 23, 1982.

EPA SLN No. OR 82 0006. Wilbur-Ellis Co. Registration is for Red-Top dimethoate 2.67 EC, to be used on grass grown for seed to control mites. March 9, 1982.

EPA SLN No. OR 82 0007. Wilbur-Ellis Co. Registration is for Red-Top dimethoate, to be used on grass grown for seed to control mites. March 9, 1982.

EPA SLN No. OR 82 0008. Rohm and Haas Co. Registration is for Dithane M-45FL, to be used on onions (dry bulb) to control onion smut. March 9, 1982.

EPA SLN No. OR 82 0009. Rohm and Haas Co. Registration is for Dithane M-45, to be used on onions (dry bulb) to control onion smut. March 9, 1982.

EPA SLN No. OR 82 0010. Rohm and Haas Co. Registration is for Dithane M-45FL M, to be used on onions (dry bulb) to control onion smut. March 9, 1982.

EPA SLN No. OR 82 0011. Elanco Products Co. Registration is for Treflan Mt.F., to be used on radishes grown for seed to control weeds. March 9, 1982.

EPA SLN No. OR 82 0012. Elanco Products Co. Registration is for Treflan EC, to be used on radishes grown for seed to control weeds. March 9, 1982.

EPA SLN No. OR 82 0013. Union Carbide Agricultural Products Co., Inc. Registration is for Brominal Broadleaf Herbicide, to be used on wheat and barley to control weeds. March 23, 1982.

EPA SLN No. OR 82 0014. Dexol Industries. Registration is for Dexol Diazinon Insect Spray (contains 25% Diazinon), to be used on lawns to control European crane flies. March 23, 1982.

EPA SLN No. OR 82 0015. Mobay Chemical Corp. Registration is for Sencor 50% WP, to be used on lentils to control broadweeds, common lambsquarters, wild mustard, field pennycress (fan weed), common chickweed, henbit, and shepherd's purse. March 24, 1982.

EPA SLN No. OR 82 0016. Mobay Chemical Corp. Registration is for Sencor DF/Sencor Sprayule, to be used on lentils to control broadleaf weeds. March 24, 1982.

EPA SLN No. OR 82 0017. Mobay Chemical Corp. Registration is for Sencor 4, to be used on lentils to control broadleaf weeds. March 24, 1982.

EPA SLN No. OR 82 0018. E. I. du Pont de Nemours and Co. Registration is for Du Pont Vydate L Insecticide/Nematicide to be used on pears to control the European red mite, pear rust mite, McDaniel mite, and two-spotted spider mite. March 29, 1982.

EPA SLN No. OR 82 0019. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on onions to control maggots. April 16, 1982.

EPA SLN No. OR 82 0020. Dow Chemical USA. Registration is for Lorsban 15G GR Insecticide, to be used on onions to control maggots. April 16, 1982.

EPA SLN No. OR 82 0021. EM Industries, Inc. Registration is for Funginex 18.2% EC, to be used on cranberries to control cotton balls caused by *Monilinia oxycocci*. March 29, 1982.

EPA SLN No. OR 82 0022. Vertac Chemical Corp. Registration is for Vertac Dinitro Weed Killer 5, to be used on potato vines for preharvest desiccation. April 5, 1982.

EPA SLN No. OR 82 0023. Vertac Chemical Corp. Registration is for Vertac Dinitro Weed Killer 5, to be used on alfalfa, clover, and trefoil grown for seed, for preharvest desiccation. April 5, 1982.

EPA SLN No. OR 82 0024. Vertac Chemical Corp. Registration is for Vertac General Weed Killer, to be used on potato vines for preharvest desiccation. April 5, 1982.

EPA SLN No. OR 82 0025. Vertac Chemical Corp. Registration is for Vertac General Weed Killer, to be used on alfalfa, clover, and trefoil grown for seed for preharvest desiccation. April 5, 1982.

EPA SLN No. OR 82 0026. T.H. Agriculture and Nutrition Co., Inc. Registration is for De-Fend E–267 Insecticide, to be used on ornamental shade and nursery trees to control aphids, borers, and other insects. April 8, 1982.

EPA SLN No. OR 82 0027. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on garlic as a pre-emergence treatment. April 19, 1982.

EPA SLN No. OR 82 0028. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on winter wheat only, for volunteer rye and downy brome suppression. April 19, 1982.

EPA SLN No. OR 82 0029. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on pasture reseeding west of the Cascade Mountains to control broadleaf weeds and grasses. April 19, 1982.

EPA SLN No. OR 82 0030. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on alfalfa and clover for desiccation of ryegrass, bluegrass,

cheatgrass, dog fennel, chickweed, and tansy mustard. April 19, 1982.

EPA SLN No. OR 82 0031. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide-Sencor Sprayule, to be used on wheat-fallow-wheat rotation to control weeds. April 19, 1982.

EPA SLN No. OR 82 0032. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide-Sencor WP, to be used on wheat-fallow-wheat rotation to control weeds. April 19, 1982.

EPA SLN No. OR 82 0033. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide-Sencor 4 FL, to be used on wheat-fallow-wheat rotation to control weeds. April 19, 1982.

EPA SLN No. OR 82 0034. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide-Sencor 50W, to be used on alfalfa to control bluegrass, chickweed, henbit, downy brome, cheat, Japanese brome, rescue grass, and shepherd's purse. April 19, 1982.

EPA SLN No. OR 82 0035. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide-Sencor Sprayule, to be used on alfalfa to control bluegrass, chickweed, henbit, downy brome, cheat, Japanese brome, rescue grass, and shepherd's purse. April 19, 1982.

EPA SLN No. OR 82 0036. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide-Sencor 4 FL, to be used on alfalfa to control weeds. April 19, 1982.

EPA SLN No. OR 82 0037. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide to be used on potatoes after planting as a pre-emergence treatment. April 19, 1982.

EPA SLN No. OR 82 0038. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide-Chem-Hoe 135, to be used on wheat to control weeds. April 19, 1982.

EPA SLN No. OR 82 0039. T.H. Agriculture and Nutrition Co., Inc. Registration is for De-Fend E-267 Insecticide, to be used on grass seed crops to control aphids, thrips, and plant bugs. April 19, 1982.

EPA SLN No. OR 82 0040. FMC Corp. Registration is for Dimethoate 267, to be used on cherries to control cherry fruit flies. April 22, 1982.

Pennsylvania

EPA SLN No. PA 82 0001. Philips Roxane, Inc. Registration is for Biocentic Overtime L/P Long Acting Livestock and Premise Insecticide, to be used on livestock and poultry and their premises to control house flies, face flies, and other manure-breeding flies. January 13, 1982.

EPA SLN No. PA 82 0002. Philips Roxane, Inc. Registration is for Anchor Permectrin 10% EC II Long Lasting Livestock and Premise Spray, to be used on livestock and poultry and their premises to control house flies, face flies, and other manure-breeding flies. January 13, 1982.

EPA SLN No. PA 82 0003. Shell Chemical Co. Registration is for Nudrin 1.8 Methomyl Insecticide Solution, to be used on watercress to control diamondbacks, moths, and cabbage loopers. January 25, 1982.

EPA SLN No. PA 82 0004. Dow Chemical USA. Registration is for Lorsban 4E Insecticide, to be used on tobacco to control larvae of cutworms, flea beetles, root maggots, and wireworms. February 9, 1982.

EPA SLN No. PA 82 0005. Dow Chemical USA. Registration is for Lorsban 15G GR, to be used on tobacco to control larvae of cutworms, flea beetles, root maggots, and wireworms. February 9, 1982.

EPA SLN No. PA 82 0006. Shell Chemical Co. Registration is for Vaponite 2 Emulsifiable Insecticide, to be used on mushroom houses to control phorid flies. February 17, 1982.

EPA SLN No. PA 82 0007. Burroughs Wellcome Co. Registration is for Atroban Cattle Ear Tags, to be used on beef and dairy cattle to repeal flies, face flies, and ticks. March 17, 1982.

EPA SLN No. PA 82 0008. Y-Tex Corp. Registration is for Insecticide Tag for Dairy and Beef Cattle, to be used as ear tags to control horn flies, face flies, Gulf Coast ticks, and spinose ear ticks. March 17, 1982.

EPA SLN No. PA 82 0009. O.M. Scott and Sons. Registration is for Proturf Insecticide 4, to be used on cool season grasses to control white grubs, sod webworms, chinch bugs, mole crickets, and hyperodes weevils. March 26, 1982.

EPA SLN No. PA 82 0010. FMC Corp. Registration is for Furadan 4 FL, to be used on sweet corn to control European corn borers. March 28, 1982.

EPA SLN No. PA 82 0011. FMC Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control various pests. March 28, 1982.

EPA SLN No. PA 82 0012. Vertac Chemical Corp. Registration is for Vertac General Weed Killer, to be used for potato vine desiccation. March 31, 1982.

EPA SLN No. PA 82 0013. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on dormant alfalfa to control weeds and grass. April 28, 1982.

EPA SLN No. PA 82 0014. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on alfalfa between cuttings to control weeds. April 28, 1982.

EPA SLN No. PA 82 0015. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on oats as a preplant and pre-emergence treatment. April 28, 1982.

Puerto Rico

EPA SLN No. PR 81 0008. Monsanto Co. Registration is for Roundup, to be used on plantains and bananas to control weeds. December 15, 1981.

EPA SLN No. PR 81 0009. Union Carbide Agricultural Products Co., Inc. Registration is for Temik 10G Aldicarb Pesticide, to be used on bananas and plantains to control nematodes. December 15, 1981.

EPA SLN No. PR 82 0001. Chevron Chemical Co. Registration is for Monitor 4 Spray, to be used on melons to control the rindworm complex (cabbage looper, tabacco budworm, and granulate cutworm), and melonworms, pickleworms, and leaf miners. March 4, 1982.

Rhode Island

EPA SLN No. RI 82 0001. Rhode Island Division of Agriculture. Registration is for Proturf Insecticide 4, to be used on turf grasses to control insects. January 17, 1982.

South Carolina

EPA SLN No. SC 82 0001. Ameribrom, Inc. Registration is for Edabrom 85, to be used on soybeans to control nematodes. January 5, 1982.

EPA SLN No. SC 82 0002. Helena Chemical Co. Registration is for Hel-Fire, to be used on tomato crops as an aid to the desiccation of tomato crop residue. January 26, 1982.

EPA SLN No. SC 82 0003. The O.M. Scott and Sons Co. Registration is for Progrow Ornamental Herbicide II, to be used on container- and field-grown ornamentals to control weeds. February 3, 1982.

EPA SLN No. SC 82 0004. Great Lakes Chemical Corp. Registration is for Soilbrom-90, to be used on Bermudagrass (ornamental turf) to control sting, lance, and ring nematodes, and mole crickets and white grubs. February 26, 1982.

EPA SLN No. SC 82 0008. Fairfield American Corp. Registration is for Permonone Tick Repellent, to be used on outer clothing to control ticks, chiggers, and mosquitoes. April 30, 1982.

EPA SLN No. SC 82 0009. Dow Chemical U.S.A. Registration is for Lorsban 4E Insecticide, to be used on tobacco to control cutworms. April 30, 1982.

EPA SLN No. SC 82 0010. Dow Chemical U.S.A. Registration is for Lorsban 15G GR, to be used on tobacco to control cutworms. April 30, 1982.

EPA SLN No. SC 82 0011. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide-2,4-D, to be used on corn to control witchweed. April 30, 1982.

South Dakota

EPA SLN No. SD 82 0001. Dow Chemical U.S.A. Registration is for Lorsban 15 G GR Insecticide, to be used on field corn and popcorn to control European corn borers. February 19, 1982.

EPA SLN No. SD 82 0002. Mobay Chemical Corp. Registration is for Oftanol 5 percent GR, to be used on turf grasses to control white grub larvae. February 19, 1982.

EPA SLN No. SD 82 0003. Degesch America, Inc. Registration is for Degesch Phostoxin New Coated Tablets-R, to be used as a burrowing rodent control to control black-tailed prairie dogs. February 19, 1982.

EPA SLN No. SD 82 0004. Philips Roxane, Inc. Registration is for Golden Sun Secticide-10, to be used on livestock and poultry to control house flies, face flies, stable flies, and false stable flies. April 20, 1982.

Tennessee

EPA SLN No. TN 82 0001. FMC Corp. Registration is for Furadan 10 GR, to be used on young pine plantations and pines grown for Christmas trees to control Nantucket pine tip moths. January 4, 1982.

EPA SLN No. TN 82 0002. The O.M. Scott and Sons Co. Registration is for Progrow Ornamental Herbicide II, to be used on container- and field-grown ornamentals to control weeds. January 22, 1982.

EPA SLN No. TN 82 0003. Burroughs Wellcome Co. Registration is for Atroban Cattle Ear Tags, to be used on dairy and beef cattle and calves to control horn flies, face flies, spinose ear ticks, stable flies and house flies. January 25, 1982.

EPA SLN No. TN 82 0004. Y-Tex Corp. Registration is for Insecticide Tag for Dairy and Beef Cattle, to be used as an ear tag to control horn flies, face flies, Gulf Coast ticks, spinose ear ticks, stable flies, and house flies on beef cattle including calves, and on dairy cattle including lactating dairy cattle. January 25, 1982.

EPA SLN No. TN 82 0005. Fairfield American Corp. Registration is for Permanone Tick Repellent, to be used on outer clothing to control ticks, chiggers, and mosquitoes. (CUP). February 2, 1982.

EPA SLN No. TN 82 0006. FMC Corp. Registration is for Furadan 10 GR, to be used on soybeans to control nematodes. February 24, 1982.

EPA SLN No. TN 82 0007. FMC Corp. Registration is for Furadan 4 FL, to be used on soybeans to control nematodes. February 24, 1982.

EPA SLN No. TN 82 0008. Dow Chemical USA. Registration is for Dowfume W–85 High-Strength Soil Fumigant, to be used on soybeans to control nematodes including lance, lesion, root-knot, spiral, and sting. February 26, 1982.

EPA SLN No. TN 82 0009. Dow Chemical USA. Registration is for Dowfume W–60 High-Strength Soil Fumigant, to be used on soybeans to control nematodes including lance, lesion, root-knot, spiral, and sting. February 26, 1982.

EPA SLN No. TN 82 0010. Dow Chemical Co. Registration is for Dowfume W–100 Full Strength Soil Fumigant, to be used on soybeans to control nematodes including lance, lesion, root-knot, spiral, and sting. February 26, 1982.

EPA SLN No. TN 82 0011. Chevron Chemical Co. Registration is for Orthene Tobacco Insect Spray, to be used on tobacco transplants to control flea beetles. March 1, 1982.

Texas

EPA SLN No. TX 82 0001. Sandoz, Inc. Registration is for Solicam 80 WP Herbicide, to be used on peach and plum orchards to control weeds and grasses. January 15, 1982.

EPA SLN No. TX 82 0002. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control white grub larvae. February 2, 1982.

EPA SLN No. TX 82 0003. FMC Corp. Registration is for Furadan 10 GR, to be used on sunflowers grown for seed to control stem weevils. February 3, 1982.

EPA SLN No. TX 82 0004. O.M. Scott and Sons Co. Registration is for Progrow Ornamental Herbicide II, to be used on container- and field-grown ornamentals to control weeds. February 4, 1982.

EPA SLN No. TX 82 0005. E.I. du Pont de Nemours and Co. Registration is for Du Pont Vydate L Insecticide/ Nematicide to be used on cotton to control boll weevils and cotton fleahoppers. February 5, 1982.

EPA SLN No. TX 82 0006. Dow Chemical USA. Registration is for Grazon PC Herbicide, to be used on rangeland and permanent grass pastures to control broadleaf annual and perennial weeds. February 10, 1982.

EPA SLN No. TX 82 0007. Dow Chemical USA. Registration is for Grazon P+D Herbicide, to be used on rangeland and permanent grass pastures to control broadleaf annual and perennial weeds. February 10, 1982.

EPA SLN No. TX 82 0008. Penick Corp. Registration is for SBP–1382 4.22 MF Mineral Oil Spray, to be used as an aerial application to control mosquitoes. February 24, 1982.

EPA SLN No. TX 82 0009. Merck and Co., Inc. Registration is for Arbotect S, to be used on live oak trees to control oak decline. February 24, 1982.

EPA SLN No. TX 82 0010. Chevron Chemical Co. Registration is for Bolero 6 EC, to be used on dry-seeded rice to control weeds. February 25, 1982.

EPA SLN No. TX 82 0011. T.H. Agriculture and Nutrition Co., Inc. Registration is for Ded-Weed Sulvamine, to be used on wheat (fall or spring sown), barley, and rye to control weeds. March 18, 1982.

EPA SLN No. TX 82 0012. Mobay Chemical Corp. Registration is for Furadan 10 GR, to be used on sunflowers grown for seed production to control stem weevils. March 29, 1982.

EPA SLN No. TX 82 0013. Fairfield American Corp. Registration is for Permanone Tick Repellent, for use on clothing to repel ticks, chiggers, and mosquitoes. (CUP). April 2, 1982.

EPA SLN No. TX 82 0014. Dow Chemical USA. Registration is for Butoxy Propyl Ester Mix No. 1, to be used on rangeland and non-crop sites to control broadleaf weeds and woody plants. April 2, 1982.

EPA SLN No. TX 82 0015. Pennwalt Corp. Registration is for Knox Out 2FM Insecticide, to be used on lawns and other recreation areas to control fire ants. April 2, 1982.

EPA SLN No. TX 82 0016. ICI Americas Inc. Registration is for Ambush 4E–EC, to be used on cotton to control boll weevils, tobacco budworms, cabbage loopers, bollworms, lygus bugs, cotton aphids, and whiteflies. April 6, 1982.

EPA SLN No. TX 82 0017. Mobay Chemical Corp. Registration is for Monitor 4, to be used on peppers to control green peach aphids, leafminers, thrips, and flea beetles. April 6, 1982.

EPA SLN No. TX 82 0018. Shell Chemical Co. Registration is for Azodrin 5 Water Miscible Insecticide, to be used on tomatoes to control aphids, leafminers, cabbage loopers, and tomato fruitworms. April 8, 1982.

EPA SLN No. TX 82 0019. Rohm and Haas Co. Registration is for Dithane M–45, to be used on wheat to control wheat rust. April 8, 1982.

Utah

EPA SLN No. UT 82 0001. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control white grub larvae. February 19, 1982.

EPA SLN No. UT 82 0002. Union Carbide Agricultural Products Co., Inc. Registration is for Brominal Broadleaf Herbicide, to be used on wheat and barley to control broadleaf weeds. February 22, 1982.

EPA SLN No. UT 82 0003. Bell Laboratories, Inc. Registration is for P.C.Q. Rat and Mouse Bait, to be used on orchards and groves to control meadow and pine mice, and voles (*Microtus* spp). March 5, 1982.

EPA SLN No. UT 82 0004. Clarke Outdoor Spraying Co. Registration is for 2% GR Larvicide, to be used on mosquitoes to control larvae. March 23, 1982.

Vermont

EPA SLN No. VT 82 0001. FMC Corp. Registration is for Zinc Phosphide Mouse Bait 200, to be used on sugar maple orchards to control red squirrels, chipmunks, and mice. January 11, 1982.

EPA SLN No. VT 82 0002. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control white grub larvae (such as Japanese beetle, black turf grass *Ataenius*, and chafers). March 11, 1982.

Virginia

EPA SLN No. VA 82 0001. Virginia Department of Agriculture and Consumer Service. Registration is for Proturf Insecticide 4, to be used on turf grasses to control white grubs (cool season grasses only), sod webworm, chinch bugs, mole crickets, and hyperodes weevils. January 4, 1982.

EPA SLN No. VA 82 0002. International Two Thousand, Inc. Registration is for Mr. Rat Guard II Pellets, to be used on orchards to control pine and meadow voles. January 7, 1982.

EPA SLN No. VA 82 0003. Ameribrom, Inc. Registration is for Edabrom 85, to be used on soybeans at plant or preplant to control nematodes. February 3, 1982.

EPA SLN No. VA 82 0004. E.I. du Pont de Nemours and Co. Registration is for Du Pont Lannate L Insecticide and Lannate, to be used on small grains to control cereal leaf beetles and aphids. February 22, 1982.

EPA SLN No. VA 82 0005. Dow Chemical USA. Registration is for Dowfume W–90 Soil Fumigant, to be used on peanuts at plant to control root-knot, lesion, sting, and ring nematodes. February 22, 1982.

EPA SLN No. VA 82 0006. Dow Chemical USA. Registration is for Dowfume W–80 High-Strength Soil Fumigant, to be used on soybeans at plant or preplant to control nematodes. February 22, 1982.

EPA SLN No. VA 82 0007. Vertac Chemical Corp. Registration is for Vertac Premerge 3 Dinitro Amine Herbicide, to be used on peanuts to control newly emerged broadleaf weeds such as Florida beggarweed, ragweed, sicklepod, and *Sclerotinia* blight. February 23, 1982.

EPA SLN No. VA 82 0009. FMC Corp. Registration is for Furadan 10 GR, to be used on sweet corn to control flea beetles. March 8, 1982.

EPA SLN No. VA 82 0010. FMC Corp. Registration is for Furadan 4 FL, to be used on sweet corn to control the European corn borer. March 8, 1982.

EPA SLN No. VA 82 0011. American Cyanamid Co. Registration is for Cythion Insecticide, to control adult mosquitoes. March 22, 1982.

EPA SLN No. VA 82 0012. American Cyanamid Co. Registration is for Malathion ULV Concentrate Insecticide, to control adult mosquitoes. March 22, 1982.

EPA SLN No. VA 82 0013. Union Carbide Agricultural Products Co., Inc. Registration is for Temik 15G GR Aldicarb Pesticide, to be used on tobacco (flue-cured only) to control aphids and flea beetles. March 25, 1982.

EPA SLN No. VA 82 0014. Mobay Chemical Corp. Registration is for Dasanit+Di-Syston 4–2 Spray Concentrate, to be used on tobacco to control aphids, flea beetles, wireworms, and nematodes. March 31, 1982.

EPA SLN No. VA 82 0015. Bell Laboratories, Inc. Registration is for P.C.Q. Rat and Mouse Bait, to be used on orchards and groves to control pine and meadow voles. March 31, 1982.

EPA SLN No. VA 82 0016. Health-Chemical Corp. Registration is for Hercon Luretape with Disparlure, to be used on gypsy moths for suppression through mating disruption. April 6, 1982.

EPA SLN No. VA 82 0017. FMC Corp. Registration is for Furadan 4 FL, to be used on soybeans to control the Mexican bean beetle. April 16, 1982.

EPA SLN No. VA 82 0018. Morton-Norwich Products. Registration is for No-Pest Strip Insecticide II, to be used in cocoa bean warehouses to control cocoa bean moths. April 16, 1982.

EPA SLN No. VA 82 0019. ICI Americas Inc. Registration is for Gramoxone Paraquat Herbicide, to be used on alfalfa as a post-harvest weed control. April 23, 1982.

Washington

EPA SLN No. WA 82 0001. Union Carbide. Registration is for Weedone 170, to be used on forest land to control broadleaf weeds. February 23, 1982.

EPA SLN No. WA 82 0004. Diamond Shamrock Corp. Registration is for Dacthal W–75 Herbicide, to be used on radishes grown for seed to control weeds. March 12, 1982.

EPA SLN No. WA 82 0005. Van Waters and Rogers. Registration is for Namco Lindane–20%, to be used on wood to control investing beetles. March 12, 1982.

EPA SLN No. WA 82 0006. Vertac Chemical Corp. Registration is for Vertac General Weed Killer, to be used for desiccation of potato vines. March 16, 1982.

EPA SLN No. WA 82 0007. Vertac Chemical Corp. Registration is for Vertac General Weed Killer, to be used for preharvest desiccation of alfalfa, clover, and trefoil grown for seeds. March 16, 1982.

EPA SLN No. WA 82 0008. Vertac Chemical Corp. Registration is for Vertac Dinitro Weed Killer, to be used for potato vine desiccation. March 16, 1982.

EPA SLN No. WA 82 0009. Vertac Chemical Corp. Registration is for Vertac Dinitro Weed Killer, to be used for preharvest desiccation of alfalfa, clover, and trefoil grown for seeds. March 16, 1982.

EPA SLN No. WA 82 0010. The Chas. H. Lilly Co. Registration is for Lilly/Miller 5% Diazinon GR, to be used on turf grasses to control the European crane fly. March 12, 1982.

EPA SLN No. WA 82 0011. Elanco Products Co. Registration is for Treflan EC, to be used on radishes grown for seed to control weeds. March 18, 1982.

EPA SLN No. WA 82 0012. Elanco Products Co. Registration is for Treflan MT.F., to be used on radishes grown for seed to control weeds. March 18, 1982.

EPA SLN No. WA 82 0013. Dexol Industries. Registration is for Dexol Diazinon Insect Spray Contains 25% Diazinon, to be used on turf grasses to control European crane flies. March 24, 1982.

EPA SLN No. WA 82 0014. Mobay Chemical Corp. Registration is for Sencor 50% WP, to be used on lentils to control common lambsquarters, wild mustard, field pennycress (fan weed), common chickweed, henbit, and shepherd's purse. April 12, 1982.

EPA SLN No. WA 82 0015. Mobay Chemical Corp. Registration is for Sencor 4, to be used on lentils to control common lambsquarters, wild mustard,

field pennycress (fan weed), common chickweed, henbit, and shepherd's purse. April 12, 1982.

EPA SLN No. WA 82 0016. Mobay Chemical Corp. Registration is for Sencor Sprayule, to be used on lentils to control common lambsquarters, wild mustard, field pennycress (fan weed), common chickweed, henbit, and shepherd's purse. April 12, 1982.

EPA SLN No. WA 82 0017. Mobay Chemical Corp. Registration is for Sencor DF, to be used on lentils to control lambsquarters, wild mustard, field pennycress (fan weed), common chickweed, henbit, and shepherd's purse. April 12, 1982.

EPA SLN No. WA 82 0018. EM Industries, Inc. Registration is for Funginex 18.2% EC, to be used on cranberries to control cotton ball caused by *Monilinia oxycocci*. April 15, 1982.

EPA SLN No. WA 82 0019. Platte Chemical Co. Registration is for Clean Crop Dursban ½ G Insecticide, to be used on home lawns, turf, and ornamental turf areas to control European crane fly larvae (maggots). April 15, 1982.

EPA SLN No. WA 82 0020. Platte Chemical Co. Registration is for Clean Crop Dursban 2.5G Insecticide, to be used on home lawns, turf, and ornamental turf areas to control European crane fly larvae (maggots). April 15, 1982.

EPA SLN No. WA 82 0021. Platte Chemical Co. Registration is for Clean Crop Diazinon 5 Lawn and Garden, to be used on home lawns, turf, and ornamental turf areas to control European crane fly larvae (maggots). April 15, 1982.

EPA SLN No. WA 82 0022. Platte Chemical Co. Registration is for Clean Crop Diazinon 25 Lawn and Garden, to be used on home lawns, turf, and ornamental turf areas to control European crane fly larvae (maggots). April 15, 1982.

EPA SLN No. WA 82 0023. T. H. Agriculture and Nutrition Co., Inc. Registration is for DE-Fent E–267 Insecticide, to be used on ornamental shade and nursery trees to control aphids, borers, and other insects listed on the label. April 16, 1982.

EPA SLN No. WA 82 0024. FMC Corp. Registration is for Polyram 80 WP, to be used on potatoes to control early blight. April 15, 1982.

West Virginia

EPA SLN No. WV 82 0001. O. M. Scott and Sons. Registration is for Proturf Insecticide 4, to be used on cool season grasses only to control sod webworms, chinch bugs, mole crickets, and hyperodes weevils. January 28, 1982.

Wyoming

EPA SLN No. WY 82 0001 Bell Laboratories, Inc. Registration is for ZP Rodent Bait AG, to be used as rodent bait to control prairie dogs (blacktailed, and whitetailed). January 11, 1982

EPA SLN No. WY 82 0002. Mobay Chemical Corp. Registration is for Oftanol 5% GR, to be used on turf grasses to control white grub larvae. February 16, 1982.

EPA SLN No. WY 82 0003. Union Carbide Agricultural Products Co., Inc. Registration is for Brominal Broadleaf Herbicide, to be used on irrigated oats, wheat, and barley to control fiddleneck, wild buckwheat, fanweed, Kochia, Russian thistle, and other susceptible broadleaf weeds. February 18, 1982.

(Sec. 24, as amended 92 Stat. 835; (7 U.S.C. 136))

Dated: September 22, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-26972 Filed 9-29-82; 8:45 am]

BILLING CODE 6560-50-M

[AAA–FRL 2218–4]

EPA Master List of Debarred and Suspended Persons

AGENCY: Environmental Protection Agency.

ACTION: EPA Master List of Debarred and Suspended Persons.

SUMMARY: 40 CFR 32.400 requires the Director, Grants Administration Division, to publish in the **Federal Register** each calendar quarter, the names of, and other information concerning, those individuals and firms debarred or suspended from participation in EPA assisted programs. Assistance recipients and contractors under an EPA award may not initiate new business with these firms or individuals on any EPA funded activity during the period of suspension, debarment or voluntary exclusion.

DATE: This list is current as of September 24, 1982.

FOR FURTHER INFORMATION CONTACT: Robert F. Meunier (202) 382–5291 or the EPA Office of Regional Counsel in your region.

September 24, 1982.

Harvey G. Pippen, Jr.,

Director,

Grants Administration Division.

EPA MASTER LIST OF DEBARRED AND SUSPENDED FIRMS AND INDIVIDUALS

Name	File No.	Status [1]	From	To	Authority	Other agency
Ashland-Warren, Inc. (Tennessee)	82-0401	D	Sept. 22, 1982	May 6, 1958	§ 32.200(a), § 32.200(e)	FHwA.
Carpenter, Frank	82-0403	S	Sept. 23, 1982	Open	§ 32.200(a), § 32.200(b)	
Crowder Construction Company, Inc. (North Caroline)	82-0402	S	do	do	§ 32.200(a), § 32.200(b)	
Crowder, Otis	82-0403	S	do	do	§ 32.200(a), § 32.200(b)	
Dickerson Group, Inc. (North Carolina)	82-0400	S	do	do	§ 32.200(b)	
Herbert G. Whyte Associates, Inc. (Indiana)	82-0501	S	Sept. 17, 1982	do	§ 32.200(b), § 32.200(e)	
Whyte, Herbert G	82-0501	S	do	do	§ 32.200(b), § 32.200(e)	

[1] S = Suspended. D = Debarred. (State of Incorporation)

VOLUNTARY EXCLUSIONS

Name	File No.	From—	To—

[FR Doc. 82-26967 Filed 9-29-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-652-DR]

Indiana; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Indiana (FEMA-652-DR), dated March 20, 1982, and related determinations.

DATED: September 17, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

NOTICE: The notice of a major disaster for the State of Indiana dated March 20, 1982, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrohpe declared a major disaster by the President in his declaration of March 20, 1982: The City of Plymouth in Marshall County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.300, Disaster Assistance)

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 82-26907 Filed 9-29-82; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-668-DR]

Tennessee; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice of the Presidential declaration of a major disaster for the State of Tennessee (FEMA-668-DR), dated September 22, 1982, and related determinations.

DATED: September 22, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

Notice: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of September 22, 1982, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Tennessee resulting from severe storms and flooding beginning on September 12, 1982, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Tennessee.

In order to provide Federal assistance, you are herby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Federal assistance provided under Pub. L 93-288 will be limited to Individual Assistance.

The time period prescribed for the inplementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under the Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Paul E. Hall of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Tennessee to have been affected adversely by this declared major disaster:

Gibson County for Individual Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 82-26908 Filed 9-29-82; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Mid-Citco Incorported,* Chicago, Illinois; to acquire 100 percent of the voting shares of the successor by merger to First National Bank of Morton Grove, Morton Grove, Illinois. Comments on this application must be received not later than October 25, 1982.

2. *The Marion National Corporation,* Marion, Indiana; to retain 1,183 shares or 0.85 percent of the voting shares of American Bank & Trust Company, Marion, Indiana. Comments on this application must be received not later than October 25, 1982.

B. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary), Washington, D.C. 20501:

1. *First City Bancorporation of Texas, Inc.,* Houston, Texas; to acquire 100 percent of the voting shares or assets of The Graham National Bank, Graham, Texas, and Graham National Bancorporation, Graham, Texas. This application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank of Dallas. Comments on this application must be received not later than October 22, 1982.

Board of Governors of the Federal Reserve System, September 24, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26863 Filed 9-29-82; 8:45 am]

BILLING CODE 6210-01-M

BankAmerica International; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

BankAmerica International, San Francisco, California, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the

Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish a branch in the Miami International Airport, Miami, Florida. BankAmerica International operates as a subsidiary of Bank of America National Trust and Savings Association, San Francisco, California.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 22, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 23, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26943 Filed 9-29-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; de Proposed novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve bank not later than the date indicated for each application.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; Washington): To open a *de novo* office of its subsidiary, Citicorp Washington Financial Center, Inc., located in Tukwila, Washington. The activities in which the *de novo* office proposes to engage are as follows: the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or nonresidential real estate and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The service area of the office would be comprised of the State of Washington. Comments on this application must be received not later than October 25, 1982.

2. *Manufacturers Hanover Corporation,* New York, New York, (commercial finance activities; United States): To engage through a *de novo* indirect subsidiary, Finance One Commercial Corporation, to be located in Trevose, Pennsylvania, in the activities of making, acquiring, and servicing commercial loans and other extensions of credit, such as could be made, acquired or serviced by a commercial finance company under state law. Such activities would include, but not be limited to, engaging in commercial and business financing of all types, and making loans secured by residential real estate to individuals for business purposes. These activities would be conducted from an office located in Trevose, Pennsylvania, serving the entire United States. Comments on this application must be received not later than October 25, 1982.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Ranier Bancorporation,* Seattle, Washington (finance and insurance activities; Texas): To engage through its subsidiary, Ranier Mortgage Company, in making or acquiring for its own account or for the account of others, loans or other extensions of credit; and acting as an agent or broker for credit life, disability, property and casualty insurance that is directly related to its extensions of credit. These activities will be conducted from an office in Houson,Texas, serving the entire State of Texas. Comments on this application must be received not later than October 25, 1982.

Board of Governors of the Federal Reserve System, September 24, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26949 Filed 9-29-82; 8:45 am]

BILLING CODE 6210-01-M

Citicorp; Correction

This document corrects a previous **Federal Register** document (FR Doc. 82-25265) that was published on page 40486 of the issue for Tuesday, September 14, 1982. By notice published in the **Federal Register** on Thursday, July 15, 1982 (47 FR 30872), the Board determined not to add to the list of activities determined to be closely related to banking managing or controlling banks (12 CFR 225.4(a)) of the activity of engaging as a futures commission merchant in the execution and clearance on major commodity exchanges of futures contracts covering bullion, foreign exchange, U.S. Government securities, and money market instruments. Nevertheless, the Board has determined by individual order that such activities are closely related to banking. The Board will continue to proceed with applications in this area on a case-by-case basis.

Board of Governors of the Federal Reserve System, September 23, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26944 Filed 9-29-82; 8:45 am]

BILLING CODE 6210-01-M

First Security National Corp.; Acquisition of Bank

First Security National Corporation, Houston, Texas, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with The Graham National Bank, Graham, Texas, and Graham National Bancorporation, Graham, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 22, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 23, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26945 Filed 9-29-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Bank of Delaware Corporation,* Wilmington, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Delaware, Wilmington, Delaware. Comments on this application must be received not later than October 25, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Addison Bancshares, Inc.,* Addison, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to First Security Bank, Addison, Illinois. Comments on this application must be received not later than October 22, 1982.

2. *Beecher Bancorp, Inc.,* Beecher, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of Farmers State Bank of Beecher, Beecher, Illinois. Comments on this application must be received not later than October 25, 1982.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Nelson Bancorp, Inc.,* Chaplin, Kentucky; to become a bank holding company by acquiring 80 percent of the voting shares of Peoples State Bank, Chaplin, Kentucky. Comments on this application must be received not later than October 25, 1982.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First State Bancshares of Yoakum, Inc.,* Yoakum, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of First State Bank, Yoakum, Texas. Comments on this application must be received not later than October 25, 1982.

2. *United Bancorp., Inc.,* Victoria, Texas; to become a bank holding company by acquiring 80 percent or more of the voting shares of Unitedbank-Victoria, Victoria, Texas. Comments on this application must be received not later than October 25, 1982.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Torrey Pines Group,* Solana Beach, California; to become a bank holding company by acquiring 100 percent of the voting shares of Torrey Pines Bank, Solana Beach, California. Comments on this application must be received not later than October 25, 1982.

F. **Board of Governors of the Federal Reserve System,** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Valbanque Corporation* and its wholly-owned subsidiary, Banco Holdings, Ltd., both of Hato Rey, Puerto Rico; to become a bank holding company by acquiring at least 25 percent of the voting shares of the The First Women's Bank, New York, New York. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Comments on this application must be received not later than October 25, 1982.

2. *ABC Bancorporation, Inc.,* Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Austin Bank of Chicago, Chicago, Illinois. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Comments on this application must be received not later than October 25, 1982.

Board of Governors of the Federal Reserve System, September 24, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26952 Filed 9-29-82; 8:45 am]

BILLING CODE 6210-01-M

PNC Financial Corp.; Acquisition of Banks

PNC Financial Corp., Pittsburgh, Pennsylvania, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to be the successor corporation of the consolidation of Pittsburgh National Corporation, Pittsburgh, Pennsylvania and Provident National Corporation, Philadelphia, Pennsylvania, and thereby indirectly acquired Pittsburgh National Bank, Jeannette, Pennsylvania, Provident National Bank, Bryn Mawr, Pennsylvania, and Provident of Delaware Bank, N.A., Wilmington, Delaware.

PNC Financial Corp., Pittsburgh, Pennsylvania, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire five percent (or more) of the voting shares of Central Penn National Corporation, Bala Cynwyd, Pennsylvania and Southeast National Bancshares of Pennsylvania, Malvern, Pennsylvania. The factors that are considered in acting on these applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

PNC Financial Corp., Pittsburgh, Pennsylvania, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Kissell Company, Pittsburgh National Discount Corporation, PINACO, Inc., Pittsburgh National Leasing Corporation, Pittsburgh National Life Insurance Company, Provident National Investment Corporation, and Provident National Financial Corporation.

Applicant states that the proposed subsidiaries would perform the

activities of originating, selling, and servicing mortgages; financing; leasing of personal property; and the sale and underwriting of credit-related insurance. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

PNC Financial Corp., Pittsburgh, Pennsylvania, has also given notice that it will do business indirectly under section 25(a) of the Federal Reserve Act by acquiring indirectly the shares of three Edge corporation subsidiaries, Pittsburgh International Bank, New York, New York and Los Angeles, California, and Provident International Corporation, Philadelphia, Pennsylvania.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 22, 1982.

Board of Governors of the Federal Reserve System, September 23, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26064 Filed 9-29-82; 8:45 am]

BILLING CODE 6210-01-M

SafraCorp; Acquisition of Bank Shares by Bank Holding Companies

SafraCorp, Miami, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of SafraBank II, N.A., Pompano Beach, Florida, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

SafraCorp, Miami, Florida, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in the activities of making acquiring and servicing loans and other extensions of credit for its own account or for the account of others. These activities would be performed from offices of Applicant's subsidiary in Miami, Florida, and the geographic area to be served is the State of Florida. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than October 22, 1982.

Board of Governors of the Federal Reserve System, September 24, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26046 Filed 9-29-82; 8:45 am]

BILLING CODE 6210-01-M

Skandinaviska Enskilda Banken; Correction

This document corrects a previous **Federal Register** document (FR Doc.-82-23931) published at page 38634 of the issue for Wednesday, September 1, 1982. The notice stated that the activities proposed by Skandinaviska Enskilda Banken have been specified in § 225.4(a) of Regulation Y as permissible for bank holding companies. In fact, the Board has not added the proposed activities of an investment company organized under Acticle XII of New York State Banking Law to the list of activities determined to be closely related to managing or controlling banks (12 CFR 225.4(a). Nevertheless, the Board has determined by individual order that such activities are closely related to banking. At this time, the Board will proceed with applications in this area on a case-by-case basis.

Board of Governors of the Federal Reserve System, September 24, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-26047 Filed 9-29-82; 8:45 am]

BILLING CODE 6210-01-M

Consumer Advisory Council; Meeting of Consumer Advisory Council

The Consumer Advisory Council will meet on Wednesday, October 27, and Thursday, October 28. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building. The October 27 session is expected to begin at 1:15 p.m. and to continue until 5:00 p.m. The October 28 session is expected to begin 9:00 a.m. and to conclude at 3:00 p.m., with a lunch break from 1:00 to 2:00 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets in Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under the Consumer Credit Protection Act and on other matters on which the Board seeks its advice. Time permitting, the Council will consider the following topics:

1. *Status Reports on Ongoing Surveys.* Status reports on the scope and focus of a survey of household finances that the Board and other agencies plan to conduct next year, working through the Survey Research Center of the University of Michigan and on the Board's survey of depository institutions, to gather data on the incremental compliance costs/benefits of Regulations E, B, and Z.

2. *Section 340 Fair Housing Lending Study.* A discussion of the findings of a study prepared for the Federal Financial Institutions Examination Council on the feasibility and desirability of establishing a unified data collection and analysis system for enforcing fair housing lending laws and regulations, implementing the Community Reinvestment Act, and satisfying the

public disclosure requirements of the Home Mortgage Disclosure Act.

3. *The Provision of Financial Services in the 1980s.* Council presentations about developments shaping the future of the consumer financial services industry, and a staff presentation on the status of legislative proposals to reform the financial regulatory structure.

4. *Advertising of Individual Retirement Accounts (IRAs).* A discussion of a report to be presented by the Ad Hoc IRA Advertising Committee.

5. *New Thrusts in Consumer Education.* A discussion of the changing educational needs of consumers.

6. *Remarks by Departing Council Members.* Council members whose terms expire at year-end will discuss their experience on the Council and suggestions for its future operation.

7. *Regulatory Update.* A status report on recent Board regulatory actions in the area of consumer financial services.

Other matters previously considered by the Council or initiated by Council members also may be discussed.

Persons wishing to submit to the Council their views regarding any of the above topices may do so by sending written statements to Ms. Kay Oliver, Secretary, Consumer Advisory Council, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Comments must be received no later than close of business Friday, October 22, and must be of a quality suitable for reproduction.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452–3204.

Board of Governors of the Federal Reserve System, September 24, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-26948 Filed 9-29-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Application Announcement for Health Careers Opportunity Program Grants

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1983 Health Careers Opportunity Program (HCOP) grants are now being accepted under the authority of section 787 of the Public Health Service Act.

Section 787 authorizes the Secretary to make grants to schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, podiatry, and allied health and other public or private nonprofit health or educational entities to carry out programs which assist individuals from disadvantaged backgrounds to enter and graduate from health professions schools. The assistance authorized by this section includes identification and recruitment, remedial education, counseling, and advice on financial aid.

For this program, an "individual from a disadvantaged background" means an individual who (a) comes from an environment that has inhibited the individual from obtaining the knowledge, skills, and abilities required to enroll in and graduate from a health professions school, or from a program providing education or training in an allied health profession, or (b) comes from a family with an annual income below a level based on low income thresholds according to family size, published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in all health professions programs, 42 CFR 57.1804(b)(2).

The following income figures determine what constitutes a low income family for purpose of these Health Careers Opportunity Program grants for Fiscal year 1983:

Size of parents' family [1]	Income level [2]
1	$6,100
2	7,900
3	9,400
4	12,100
5	14,300
6	16,000

[1] Includes only dependents listed on Federal income tax forms.

[2] Adjusted gross income for calendar year 1981, rounded to $100.

Fiscal year 1983 materials are being made available without final action on an appropriation for this program. The amount of money available for competitive applications is based on a $17.24 million appropriation request for Fiscal Year 1983.

Based on projected commitments for currently active projects requiring continued support, an estimated $1,400,000 will be available for competitive HCOP awards in Fiscal Year 1983. This amount may be changed by final action on the Fiscal Year 1983 appropriation.

At least 80 percent of the funds appropriated in any fiscal year must be obligated for grants or contracts to institutions of higher education. Also, no more than five percent of the funds appropriated in any fiscal year can be awarded to projects having information dissemination as their primary purpose.

The program regulations which are located at Title 42 of the Code of Federal Regulations, Part 57, Subpart S, continue to govern the award of grants although minor portions have been superseded by current legislation (Pub. L. 97–35). Because only limited funding is expected to be available for competitive awards in Fiscal Year 1983, funding preferences will not apply for Fiscal Year 1983 competitive awards.

Requests for grant application materials and questions regarding grants policy should be directed to: Grants Management Officer (D18), Bureau of Health Professions, Health Resources and Services Administration, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–7418.

To obtain specific information regarding the programmatic aspects of this grant program, direct inquiries to: Mr. Arthur Testoff, Chief, Program Coordination Branch, Division of Disadvantaged Assistance, Bureau of Health Professions, Health Resources and Services Administration, Center Building, Room 10–50, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–7230.

To be considered for Fiscal Year 1983 funding, applications must be received by the Grants Management Officer, Bureau of Health Professions, postmarked no later than December 10, 1982. Materials postmarked after that date will not be included in the review process.

This program is listed at 13.822 in the *Catalog of Federal Domestic Assistance.* Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the procedures in Office of Management and Budget Circular No. A–95.

Dated: September 21, 1982.

Robert Graham,

Administrator.

[FR Doc. 82-26939 Filed 9-29-82; 8:45 am]

BILLING CODE 4160-15-M

Office of Human Development Services

Revised Federal Allotments to States for Social Services Expenditures Pursuant to the Title XX—Social Services Block Grant Act; Promulgation for Fiscal Year 1983

AGENCY: Office of Program Coordination and Review, Office of Human Development Services, Department of Health and Human Services.

ACTION: Revised Notification of Allocation of Title XX—Social Services Block Grant Allotments for Fiscal Year 1983.

SUMMARY: Public Law 97–248, enacted September 3, 1982, among other things, amended Sec. 1101(a) of the Social Security Act, as amended, (Act) to define the term State when used in Title XX to no longer include American Samoa and the Trust Territory of the Pacific Islands.

The Federal allotments to States for social services under Section 2003 of the Act which were promulgated in Vol. 46, No. 229 of the **Federal Register** page 58186 on November 30, 1981, included American Samoa and the Trust Territory of the Pacific Islands.

Accordingly, the promulgation contained in such document is rescinded and the promulgation, as revised, is set forth in this issuance.

FOR FURTHER INFORMATION CONTACT: HDS Regional Administrators.

SUPPLEMENTAL INFORMATION: Section 2003 of the Social Security Act authorizes $2.45 billion for Fiscal Year 1983 and provides that it be allocated as follows:

(1) Puerto Rico, Guam, the Virgin Islands, and the Northern Marianas Islands each receive an amount which bears the same ratio to $2.45 billion as its allocation for Fiscal Year 1981 bore to $2.9 billion;

(2) The remainder of the $2.45 billion is allotted to each State in the same proportion as that State's population is to the population of all States, based upon the most recent data available from the Department of Commerce.

For Fiscal Year 1983, the allotments are based upon the Bureau of Census 1980 Decennial Census.

The allotments to the States published here are based upon the authorization set forth in Section 2003 of the Social Security Act and are contingent upon Congressional Appropriations Actions for the Fiscal Year. If the Congress enacts and the President approves an amount different from the authorization, the allotments would be adjusted proportionately.

EFFECTIVE DATE: These allotments shall be effective October 1, 1982.

FY 1983 Revised Federal Allotments to States for Social Services—Title XX Block Grants

Block grants	
Total	$2,450,000,000
Alabama	41,643,292
Alaska	4,902,652
Arizona	29,236,521
Arkansas	24,589,657
California	254,596,882
Colorado	31,075,905
Connecticut	33,431,607
Delaware	6,400,195
District of Columbia	5,862,730
Florida	104,769,579
Georgia	58,774,228
Guam	422,414
Hawaii	10,380,148
Idaho	10,154,259
Illinois	122,819,205
Indiana	59,053,900
Iowa	31,334,064
Kansas	25,417,917
Kentucky	39,360,023
Louisiana	45,220,674
Maine	12,101,209
Maryland	45,349,953
Massachusetts	61,710,788
Michigan	99,564,880
Minnesota	43,854,782
Mississippi	27,117,485
Missouri	52,890,351
Montana	8,465,466
Nebraska	16,667,910
Nevada	4,594,548
New Hampshire	9,906,656
New Jersey	79,211,825
New Mexico	13,983,619
New York	188,854,158
North Carolina	63,184,446
North Dakota	7,024,060
Northern Marianas	84,483
Ohio	116,198,337
Oklahoma	32,535,807
Oregon	28,322,208
Pennsylvania	127,648,932
Puerto Rico	12,672,414
Rhode Island	10,186,529
South Carolina	33,549,930
South Dakota	7,422,975
Tennessee	49,383,690
Texas	153,045,336
Utah	15,715,437
Vermont	5,496,036
Virgin Islands	422,414
Virginia	57,504,948
Washington	44,424,883
West Virginia	20,875,429
Wisconsin	50,609,946
Wyoming	5,066,373

Dated: September 24, 1982.

Michio Suzuki,

Acting Director, Office of Program Coordination and Review.

Approved: September 27, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 82-27023 Filed 9-29-82; 8:45 am]

BILLING CODE 4130-01-M

Public Health Service

Advisory Committees; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of October 1982:

Name: Health Services Developmental Grants Review Subcommittee

Date and time: October 14–15, 1982, 8:30 a.m.

Place: Washington Circle Inn, Rock Creek Room, 2430 Pennsylvania Avenue NW., Washington, D.C.

Open October 14, 8:30 a.m.–9:30 a.m.

Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.

Agenda: The open session of the meeting on October 14, 1982 will be devoted to a business meeting covering administrative matters and reports. During the closed sessions the Subcommittee will be reviewing research grant applications relating to the delivery, organization and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92–463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Ms. Elinor Walker, National Center for Health Services Research, OASH, Room 7–50A, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436–6920.

* * * * *

Name: Health Services Research Review Subcommittee

Date and time: October 20–21, 1982, 8:30 a.m.

Place: Gramercy Inn, South Scott Room, 1616 Rhode Island Avenue, NW., Washington, D.C. 20036

Open October 20, 8:30 a.m.–9:30 a.m.

Closed for remainder of meeting.

Purpose: The objectives of the Subcommittee is to advise the Secretary and make recommendation to the Director, National Center for Health Services Research, concerning the scientific and technical merit review of health services research grant applications involving primarily the analysis and use of economic, statistical, and other theoretical approaches which examine problems associated with the delivery of health services.

Agenda: The open session of the meeting on October 20, 1982 will be devoted to a business meeting covering administrative matters and reports. During the closed session, the Subcommittee will be reviewing research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92–463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Anthony Pollitt, Ph.D., National Center for Health Services Research, OASH, Room 7–50A,

Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436-6920.

* * * * *

Name: Health Care Technology Study Section
Date and time: October 28–29, 1982, 8:30 a.m.
Place: Auditorium, Francis A. Countway Library of Medicine, Harvard Medical School, 10 Shattuck Street, Boston, Massachusetts 02115
Open October 28, 8:30 a.m. to 10:00 a.m.
Closed for remainder of meeting.
Purpose: The Committee is charged with the initial review of health research grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research (NCHSR).
Agenda: The open session of the meeting on October 28 will include a presentation by the Acting Director, NCHSR, and a business meeting covering administrative matters and reports. The closed portion of the meeting will be utilized in a review of health services research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research, OASH, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436-6920.

Agenda items are subject to change as priorities dictate.

Dated: September 24, 1982.

Harold Margulies,

Acting Deputy Assistant Secretary for Health Research, Statistics, and Technology.

[FR Doc. 82-26663 Filed 9-29-82; 8:45 am]
BILLING CODE 4160-17-M

Office of the Secretary

Privacy Act; Report on New System

AGENCY: Department of Health and Human Services.

ACTION: Notification of report on new system, "Civil and Administrative investigative files of the Inspector General, HHS/OS/OIG".

SUMMARY: The Department of Health and Human Services proposes to establish a new system of records entitled "Civil and Administrative Investigative Files of the Inspector General, HHS/OS/OIG", under the Privacy Act, 5 U.S.C. 552a. The Office of Inspector General (OIG) is authorized to gather information for civil and administrative law enforcement purposes under Pub. L. 94-505, establishing the HHS Office of Inspector General, and section 1128A of the Social Security Act, authorizing civil money penalties for the filing of false claims in certain health care financing programs. The Department is requesting public comments on the routine uses in the system.

DATES: The Department has sent new systems reports to the Congress and OMB on September 23, 1982. Comments on the proposed routine uses must be received by November 1, 1982. The provisions of the systems notice will be operational 60 days from the date submitted to OMB.

ADDRESS: Comments should be addressed to Richard McGowan, Public Affairs Officer, Office of Inspector general, Department of Health and Human Services, Room 5267 North Building, 330 Independence Avenue, SW., Washington, D.C. 20201. Comments received will be available for inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Richard McGowan, Public Affairs Officer, Office of Inspector General, Department of Health and Human Services, at the above address or call (202) 472-3142.

SUPPLEMENTARY INFORMATION: The Office of Inspector General is expanding its responsibilities in the area of civil and administrative investigations involving DHHS programs and operations. This requires the establishment of a records system to document the investigations which will be conducted by the OIG or other investigative agencies; to improve the tracking of reviews conducted because of allegations and complaints received by DHHS or other agencies concerning DHHS programs, or current or former HHS personnel; to impove the reporting of the results of civil and administrative investigations to other components of the Department for their use in the operation and evaluation of their programs; and to assist in civil and administrative proceedings, including proceedings under section 1128A of the Social Security Act (establishing civil monetary penalties in the Medicare, Medicaid, and Maternal and Child health programs). The minimum amount of data on individuals will be maintained, consistent with generally accepted auditing and investigative standards.

The Office of Inspector General adheres to all appropriate security provisions and safeguards over the data. Access is strictly controlled.

The routine use disclosures provided for in the notice are necessary to accomplish the criminal, civil and administrative investigative purposes of the system of records as described above or are compatible with the collection of data for investigative purposes. Disclosures will also be made in accordance with other disclosure provisions of the Privacy Act (5 U.S.C. 552a(b)).

Dated: September 23, 1982.

R. P. Kusserow,

Inspector General.

09-90-0100

SYSTEM NAME:

Civil and Administrative Investigative Files of the Inspector General.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the Inspector General, Department of Health and Human Services, 330 Independence Avenue, SW., Washington, D.C. 20201.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HHS employees and former employees; HHS grantees; contractors, sub-contractors and their employees; employees of state agencies and Medicare carriers and intermediaries; Medicare and Medicaid providers; recipients under programs administered or funded by the Department; and others doing business with the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

Civil and administrative investigative records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 94-505; section 1128A of the Social Security Act.

PURPOSE(S):

Pursuant to Pub. L. 94-505, this system is maintained for the purpose of conducting and documenting civil and administrative investigations conducted by OIG or other investigative agencies regarding HHS programs and operations, documenting the results of OIG reviews of allegations and complaints received concerning HHS programs, HHS personnel or former personnel, aiding in administrative proceedings or civil suits brought against the subjects of OIG investigations, maintaining a record of the activities which were the subject of civil and administrative investigations, reporting the results of civil and administrative investigations to other departmental components for their use in evaluating their programs and in imposition of civil or administrative

sanctions, and acting as a repository and source for information necessary to fulfill the reporting requirements of 42 U.S.C. 3524. This system is also maintained for the purpose of conducting and documenting the results of reviews, including computer matches, which identify individuals who are not entitled to benefits under programs financed by the Department, whether administered by federal, state or local government agencies, or who are delinquent on loan payments due under federally funded programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used as follows:

(1) In the event that this system of records maintained by this Agency to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, foreign, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto where such responsibility rests outside of OIG.

(2) Disclosures may be made to federal, state, or local agencies where disclosure is necessary in order to obtain records relevant and necessary to a civil or administrative investigation of the Office of Inspector General.

(3) Disclosures may be made to a federal agency where records in this system of records pertain to an applicant for employment, or to a current employee of that agency where the records are relevant and necessary to an agency decision with regard to the hiring or retention of an employee or disciplinary or other administrative action concerning an employee.

Disclosures may be made to a federal agency in response to its request in connection with the issuance of a security clearance, the award of a contract, or the issuance of a license, grant, or other benefit by the requesting agency to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

(4) Disclosures may be made to the Office of Personnel Management or the Merit Systems Protection Board (including the Office of the Special Council) of information relevant and necessary to carrying out their functions.

(5) Disclosures may be made to third party contacts where the party contacted may have information needed to establish or verify information relevant and necessary to a civil or administrative investigation by the OIG or in preparation for proceedings pursuant to section 1128A of the Social Security Act, and "Civil Money Penalties".

(6) Disclosures may be made to federal, state, and local agencies, or to other entities administrating federally funded programs where necessary to take action based on an OIG investigation or audit which identifies individuals not entitled to program benefits or individuals delinquent on loan payments under federally funded programs.

(7) Disclosures may be made when the Department contemplates that it will contract with private firms for the purpose of collating, analyzing, aggregating or otherwise refining records. Disclosures will also be made to independent auditors who by contract carry out audits on behalf of the Department. Such contractors will be required to maintain Privacy Act safeguards with respect to such records.

(8) Where federal agencies having the power to subpoena other federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department will make such records available.

(9) In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

(10) In event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems necessary to the Department of Justice to enable that Department to present an effective defense.

(11) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

STORAGE:

The records, which take the form of index cards, investigative reports, printed material, computer tape files, computer-generated printouts and other audit and investigative workpapers are stored in (1) secured areas, (2) locked rooms, and/or (3) locked cabinets.

RETRIEVABILITY:

Records are retrieved by manual or computer search of alphabetical or numerical indices or cross-indices.

SAFEGUARDS:

Direct access is restricted to authorized staff members of the OIG; access within HHS is limited to the Secretary, Under Secretary, and other officials and employees on a need-to-know basis. All computer files are safeguarded as described under *Storage* and in accordance with the provisions of the National Bureau of Standards Federal Information Processing Standards 41, and HHS Information Processing Standards, HHS ADP Systems Manual, Part 6, "ADP Systems Security". We protect all computer tapes by the use of passwords to prohibit unauthorized access.

RETENTION AND DISPOSAL:

Investigative files are retained for 6 years after completion of the investigation and/or actions based thereon. Index and cross-reference cards are retained permanently. In instances of computer matching of files, only those records which meet predetermined criteria for investigation are maintained. All records which do not meet these criteria are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General/Deputy Inspector General, Room 5250, North Building, U.S. Department of Health and Human Services, 330 Independence Avenue, S.W., Washington, D.C. 20201.

NOTIFICATION PROCEDURE:

Exempt. However, consideration will be given requests addressed to the system manager. For general inquiries, include the name and date of birth of the individual.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requestors should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Exempt. However, consideration will be given requests addressed to the

systems manager. Requests for correction should reasonably identify the record and specify the information to be contested, the corrective action sought and the reasons for the correction with supporting justification.

RECORD SOURCE CATEGORIES:

Department and other federal, state and local government records; interviews of witnesses; documents and other material furnished by non-governmental sources. Sources may include confidential sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Exempt from certain provisions of the Act under 5 U.S.C. 552a(k)(2). Pursuant to 45 CFR 5b.11(b)(2)(ii)(D), this system is exempt from the following subsections of the Act: (c)(3), (d)(1)–(4), and (e)(4) (G) and (H).

[FR Doc. 82-26974 Filed 9-29-82; 8:45 am]
BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Pueblo de Cochiti Reservation, N. Mex., Ordinance Amending the Pueblo de Cochiti; Liquor Ordinance of 1966

September 14, 1982.

This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that the following Ordinance amending the Pueblo de Cochiti Liquor Ordinance which was published in the **Federal Register** on September 13, 1966, relating to the application of the Federal Indian Liquor Laws on the Pueblo de Cochiti Reservation, New Mexico, was duly adopted on May 26, 1981 by the Council of the Pueblo de Cochiti which has jurisdiction over the area of Indian country included in the ordinance, reading as follows:

Kenneth Smith,

Assistant Secretary—Indian Affairs.

Amended Ordinance

This amended ordinance duly enacted this 26th day of May, 1981, by the Council of the Pueblo of Cochiti, the duly authorized and recognized governing body of the Pueblo de Cochiti, an Indian Tribe having accepted the provisions of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984, 25 U.S.C., Sec. 578).

Whereas, the Act of Congress of August 15, 1953 (67 Stat. 586) empowers Indian Tribes having appropriate jurisdiction to enact an Ordinance legalizing the introduction, sale and possession of intoxicating beverages within any area of Indian Country coming within the jurisdiction of such tribe; and

Whereas, the Council of the Pueblo de Cochiti has heretofore, on May 22, 1966, enacted an ordinance legalizing the introduction, sale and possession of intoxicating beverages within the Indian country subject to the jurisdiction of the Pueblo de Cochiti, which ordinance was certified by the Secretary of the Interior and published in the **Federal Register** on September 13, 1966, as required by Federal law; and

Whereas, the Tenth Circuit Court of Appeals, in the case of *United States of America* v. *State of New Mexico, et al.*, has ruled that the State of New Mexico has no jurisdiction to require the State licensing of liquor outlets located on Indian reservations; and

Whereas, the Pueblo of Cochiti Council has determined that the said ordinance of May 22, 1966, must be amended to conform with the standards set forth in the said decision of the Tenth Circuit Court of Appeals, and authorizing the Pueblo of Cochiti council to issue licenses and to adopt regulations for the licensing of liquor outlets on the Pueblo of Cochiti reservation.

Whereas, the original of this instrument has been lost or mislaid and this instrument is executed and signed as a duplicate original of the Amended Ordinance enacted the 26th day of May, 1981.

Now, therefore, be it ordained and enacted as follows:

Section 1: The introduction, sale and possession of intoxicating beverages shall be lawful within the Indian country under the jurisdiction of the Pueblo de Cochiti, subject, however, to the following provisions: (a) Except as set forth in (b) of this Section, and to the extent required by Federal law, such introduction, sale and possession is in conformity with the laws of the State of New Mexico; (b) No license from the State of New Mexico or any department, agency of political subdivision, thereof shall be required to operate an establishment for the sale or dispensing of alcoholic beverages within the Indian country subject to the jurisdiction of the Pueblo de Cochiti, provided, however, that nothing in this ordinance shall affect the validity of the present liquor dispenser's license No. 148 from the State of New Mexico held by the Pueblo de Cochiti; (c) the sale of intoxicating beverages within such Indian country by any person other than the Pueblo de Cochiti shall be pursuant to license and regulations issued by the Pueblo de Cochiti Council.

Section 2: The Pueblo de Cochiti Council is hereby vested with full power and authority to adopt regulations pursuant to and consistent with this ordinance.

Section 3: Any laws, resolutions or ordinances of the Pueblo de Cochiti in conflict with the provisions of this Ordinance are hereby repealed. Specifically, the said Ordinance of May 22, 1966 is hereby amended to conform to this Ordinance.

Section 4: In the event any provision of this Ordinance is held to be invalid, or the application of this Ordinance or any provision thereof to any person or circumstances is held to be invalid, the remaining provision for the application of this Ordinance or any provision thereof to other persons or circumstances shall not be affected by such invalidity and to such extent, the terms and provisions of this Ordinance are declared to be severable.

Section 5: The Ordinance shall be effective upon its certification by the Secretary of the Interior and its publication in the **Federal Register.**

Duly ordained, enacted and adopted this 26th day of May, 1981.

Attest:

Marcus Z. Chalari,
Secretary.
Isaac P. Henero,
Governor.
Arnold Herrara,
Lt. Governor.
Joseph C. Benado,
Member of Council.
Tom Herrera,
Member of Council.
Michael Suina,
Member of Council.
Joe A. Romero,
Member of Council.
Marcello Suina,
Member of Council.

[FR Doc. 82-26925 Filed 9-29-82; 8:45 am]
BILLING CODE 4310-02-M

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

September 15, 1982.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the American Indian Council of Mariposa County, c/o Mr. Les James, P.O. Box 273, El Portal, California 95318, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on April 24, 1982. The petition was forwarded and signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) formerly 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as

other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20242.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-26924 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-02-M

Selection, Designation, Development, and Termination of Designation of Contracting Officers

July 30, 1982.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: General Notice.

SUMMARY: The Bureau of Indian Affairs of the Department of the Interior gives notice that §§ 14H–1.451, 14H–1.451–2, and 14H–1.451–6 that govern the selection, designation, development, and termination of designation of Contracting Officers under 41 CFR Part 14H–1 have been revoked. (See 47 FR 26950 published in the rules section of this issue. Check the Table of Contents for the page citation).

Henceforth, acquisition authority and responsibility shall be governed by the Interior Procurement Regulation System (41 CFR 14–1.404), Interior Procurement Memorandum (IPM 82–5) dated January 29, 1982, and 19 BIAM Supplement 1.

FOR FURTHER INFORMATION CONTACT: Dr. Peter A. Campanelli, Department of the Interior, Bureau of Indian Affairs, Washington, D.C. 20245, telephone number (202) 343–5125.

SUPPLEMENTARY INFORMATION: This notice is published under the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. Title 41 CFR Part 14H–1, §§ 1.451, 1.451–2, and 1.451–6 vested acquisition authority and responsibility for the Bureau of Indian Affairs in organizational titles and positions. The implementation of the Contracting Officers' Warrant System requires the selection, designation, certification, and maintenance of Contracting Officers based on their meeting experience, training, and performance requirements. Contracting Officers will be selected and appointed in compliance with the Interior Procurement Regulation System (41 CFR 14–1.404), Interior Procurement Memorandum (IPM 82–5) dated January 29, 1982, and 19 BIAM Supplement 1.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82-26931 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[AA-6986-A, AA-6986-C]

Alaska Native Claims Selection

On December 12 and 16, 1974, Cape Fox Corporation for the Native village of Saxman, filed selection applications AA–6986–A and AA–6986–C respectively, as amended, under the provisions of Section 16(b) of the Alaska Native Claims Settlement Act of December 18, 1971, as amended, 43 U.S.C. 1601, 1615(b) (1976) (ANCSA), for the surface estate of certain lands located in the Tongass National Forest in the vicinity of Saxman and Ketchikan.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act of December 18, 1971 and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Section 16(b) of ANSCA, aggregating approximately 1,605 acres, is considered proper for acquisition by Cape Fox Corporation and is hereby approved for conveyance pursuant to Sec. 14(b) of ANCSA:

The unpatented portions of Mineral Survey No. 2226, Whipple Creek No. 1 and Whipple Creek No. 2.

Containing 4.22 acres.

Copper River Meridian, Alaska (Partially Surveyed)

T. 74 S., R. 90 E.,
Sec. 8, S½SE¼;
Sec. 9, S½SW¼;
Sec. 16, S½;
Sec. 17, NE¼, E½NW¼, S½;
Sec. 19, E½ excluding U.S. Survey No. 3648, U.S. Survey No. 3766, U.S. Survey No. 3703, U.S. Survey No. 2803, U.S. Survey No. 2804 and Mineral Survey No. 2226;
Sec. 20, NE¼NE¼, W½NE¼, NW¼;
Sec. 21, N½NW¼.

Containing approximately 1,601 acres.
Aggregating approximately 1,605 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(f).

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act.

There are no inland water bodies considered to be navigable within the above-described lands.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Section 6(g) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. Ch. 2, Section 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b)(2) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 22(k) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1621(k), that, until December 18, 1983, the portion of the above-described lands located within the boundaries of a national forest shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands;

4. Requirements of sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(c), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Cape Fox Corporation is entitled to conveyance of 23,040 acres of land selected pursuant to Section 16(b) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 19,387 acres. The remaining entitlement of approximately 3,653 acres will be conveyed at a later date.

Pursuant to Section 14(f) of ANCSA and Departmental regulation 43 CFR

2652.4, conveyance of the subsurface estate of the lands described above shall be issued to Sealaska Corporation when the surface estate is conveyed to Cape Fox Corporation, and shall be subject to the same conditions as the surface conveyance, except for those provisions under Section 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village shall be subject to the consent of Cape Fox Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Ketchikan daily news.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Public Law 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until November 1, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7-..5, Anchorage, Alaska 99510

Cape Fox Corporation, P.O. Box 8558, Ketchikan, Alaska 99901

Sealaska Corporation, One Sealaska Plaza, Suite 400, Juneau, Alaska 99801.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-26962 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

[F-14840-A, F-14840-B]

Alaska Native Claims Selection

On Octover 22, 1974, Tihteet', Inc., for the Native village of Birch Creek, filed selection application F-14840-A and on December 16, 1974, filed selection application F-14880-B, as amended, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 [43 U.S.C. 1601, 1611 (1976)) (ANCSA), as amended, for the surface estate of certain lands in the vicinity of Birch Creek, Alaska.

Tihteet' Aii, Inc., in its application, excluded the following bodies of water as being navigable:

Twin Island Lake located in Secs. 13, 14, 15, 22, 23, 24, and 26, T. 16 N., R. 9 E., Fairbanks Meridian;

Chloya Lake located in Secs. 6, 7, 8 17, 18, 19, and 20, T. 16 N., R. 9 E., Fairbanks Meridian;

Unnamed lake in Secs. 7, 17, 18, 19, and 20, T. 17 N., R. 9 E., Fairbanks Meridian;

Unnamed lake in Secs. 15, 16, 21, and 22, T. 16 N., R. 9 E., Fairbanks Meridian; and

Unnamed lake in Secs. 8, 9, 10, 15, 16, and 17, N., R. 8 E., Fairbanks Meridian.

Because these water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn under Sec. 11(a)(1) and available for selection by the village pursuant to Section 12(a) of ANCSA.

Section 12(a) of ANCSA and Departmental regulation 43 CFR 2651.4(b) and (c) provide that the village corporation shall select all available lands within the township or townships within which the village is located. The regulations also provide that the area selected will not be considered to be reasonably compact if it excludes other lands available for selection within its exterior boundaries.

For these reasons the water bodies which were improperly excluded in the applications of Tihteet' Aii, Inc., are considered selected.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of ANCSA, as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Section 12(a) of ANCSA, as amended, aggregating approximately 64,230 acres, is considered proper for acquisition by Tihteet' Aii, Inc., and is hereby approved for conveyance pursuant to Section 14(a) of ANCSA:

Fairbanks Meridian, Alaska (Unsurveyed)

T. 17 N., R. 8 E.,
Secs 7 to 36, inclusive.
Containing approximately 18,408 acres.

T. 16 N., R. 9 E.,
Sec. 1, excluding Native allotments F-12005 and F-17136;
Sec. 2, excluding Native allotment F-12005;
Secs. 3 and 4;
Sec. 5, excluding Native allotment F-14715;
Sec. 6, excluding Native allotment F-14726;
Sec. 7, excluding Native allotments F-14714 and F-14726;
Sec. 8, excluding Native allotments F-13836, F-14714, and F-14715;
Secs. 9, 10, and 11;
Sec. 12, excluding Native allotments F-023054 Parcel C and F-17136;
Sec. 13, excluding Native allotment F-023054 Parcel C;
Secs. 14, 15, and 16;
Sec. 17, excluding Native allotment F-13836;
Sec. 18, excluding Native allotments F-14716 Parcel B and F-17740 Parcel B;
Secs. 19, 20, and 21;
Sec. 22, excluding Native allotment F-12006;
Sec. 23, excluding Native allotment F-023054 Parcel B;
Sec. 24;
Sec. 25, excluding Native allotment F-14726
Secs. 26 and 27.
Containing approximately 15,829 acres.

T. 17 N., R. 9 E.,
Secs. 1 to 25, inclusive;
Sec. 26, excluding Native allotment F-12003 Parcel A;
Secs. 27 and 28, excluding U.S. Survey No. 4481 and those lands within Airport lease F-21745;
Secs. 29 to 32, inclusive;
Sec. 33, excluding U.S. Survey No. 4481 andd Native allotments F-023054 Parcel A;
Sec. 34, excluding U.S. Survey No. 4481;
Secs. 35 and 36.

Containing approximately 22,597 acres.
T. 17 N., R. 10 E.,
Secs. 25 to 36, inclusive.
Containing approximately 7,316 acres.
Aggregating approximately 64,230 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–14840–EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for the following reasons: Lands are no longer under Federal jurisdiction or lands are under applications pending further adjudication. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)), as amended; and

2. Pursuant to Section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14840–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATV's) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed for a one (1) acre site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

a. (EIN 1 C4, C5, M) A one (1) acre site easement upland of the ordinary high water mark on the right bank of Lower Mouth Birch Creek, in Sec. 25, T. 17 N., R. 10 E., Fairbanks Meridian. The uses allowed are those listed above for a one (1) acre site.

b. (EIN 3 C5, M) A one (1) acre site easement upland of the ordinary high water mark on the left bank of Lower Mouth Birch Creek, in Sec. 34, T. 17 N., R. 8 E., Fairbanks Meridian. The uses allowed are those listed above for a one (1) acre site.

c. (EIN 12 C5, M) A one (1) acre site easement upland of the ordinary high water mark on the right bank of Beaver Creek, in Sec. 33, T. 17 N., R. 8 E., Fairbanks Meridian. The uses allowed are those listed above for a one (1) acre site.

d. (EIN 21 M) An easement for an existing access trail twenty-five (25) feet in width from the village of Birch Creek in Secs. 33 and 34, T. 17 N., R. 9 E., Fairbanks Meridian, northerly to public lands and on to Ft. Yukon. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 26 C5) An easement for an existing access trail twenty-five (25) feet in width from Beaver Creek in Sec. 33, T. 17 N., R. 8 E., Fairbanks Meridian, easterly to Lower Mouth Birch Creek. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

f. (EIN 32 E) An easement for a proposed access trail twenty-five (25) feet in width from trail EIN 21 M in Sec. 36,T. 18 N., R. 9 E., Fairbanks Meridian, southeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Section 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Section 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. The following third-party interest, identified by the U.S. Department of the Interior, Fish and Wildlife Service, as provided by Section 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(g)):

A granted road right-of-way permit, R–45–YF (formerly F–33840) issued to the State of Alaska, Department of Transportation and Public Facilities, to use and occupy certain lands on the Yukon Flats National Wildlife Refuge, for the purpose of maintenance of a public road from the village of Birch Creek to the Birch Creek Airport, located in Secs. 27 and 28, T. 17 N., R. 9 E., Fairbanks Meridian; and

4. Requirements of Section 14(c) of the Alaska Native claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), as amended, that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Tihteet' Aii, Inc., is entitled to conveyance of 69,120 acres of land selected pursuant to Section 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 64,230 acres. The remaining entitlement of approximately 4,890 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Doyon, Limited, when the surface estate is conveyed to Tihteet' Aii, Inc., and shall be subject to the same conditions as the surface conveyance, except for those provisions under Section 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village of Birch Creek shall be subject to the consent of Tihteet' Aii, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Fedral Register** and once a week,

for four (4) consecutive weeks, in the Tundra Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until November 1, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Tihteet' Ali, Inc., Birch Creek Village, via Fort Yukon, Alaska 99740.

Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-26993 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

California Desert District; Harper Dry Lake Area of Critical Environmental Concern (ACEC)

AGENCY: Bureau of Land Management, Interior.

ACTION: Partial closure of ACEC to vehicle use.

SUMMARY: The closure is being implemented to protect significant and sensitive wildlife values from inadvertent damage caused by vehicle use. The authorities for the management plans vehicle closure are 43 CFR 8000.0–6, 8340, 8341, 8342, and 8364, the Federal Land Policy and Management Act of 1976, the National Environmental Policy Act of 1969, and the Sikes Act of 1974. The area affected by this designation is the Harper Dry Lake ACEC. The ACEC contains approximately 480 acres of BLM managed public lands in San Bernardino County. The designation is a result of a management plan for the ACEC which included public involvement. The ACEC Management Plan was developed following the guidelines established for the area in the California Desert Conservation Area Plan.

DATE: Effective September 15, 1982.

ADDRESS: Send inquiries to Area Manager, Barstow Resource Area, 831 Barstow Road, Barstow, California 92311. The ACEC Management Plan and public comments received will be available at the above address from 8 a.m. to 4:15 p.m. on regular working days. For further information contact Theodore Rado at the above address or (714) 256–3595. Under the authority provided in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Executive Order 11644 (Use of Off-Road Vehicles on Public Lands), and the Sikes Act of 1974.

Vehicle Use

Vehicle use within the ACEC will not be permitted within 100 yards of marsh habitat. The area will be clearly signed. Vehicle use within remaining portions of the ACEC will be restricted to designated routes or to landsailing activities. A map showing the closed area is available for review at the Barstow Resource Area Office, 831 Barstow Road, Barstow, California. Copies of the map are available upon request from the same office.

The purpose of these regulations is to minimize conflicts between vehicle use and protection and enhancement of wildlife values. The public lands within the ACEC will remain open to other resources uses not in conflict with the objectives of the ACEC Management Plan. Administrative access by vehicle into areas closed to vehicle access for BLM personnel, BLM contractors, licensees, permittees, lessees, and other federal, state, and county employees is allowed when on official duty and when cleared beforehand by the authorized officer.

Dated: September 20, 1982.

Gerald E. Hillier,

District Manager.

[FR Doc. 82-26914 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

California Desert District; Salt Creek Hills Area of Critical Environmental Concern (ACEC)

AGENCY: Bureau of Land Management, Interior.

ACTION: Partial closure of ACEC to vehicle use.

SUMMARY: The closure is being implemented to protect significant and sensitive wildlife values from inadvertent damage caused by vehicle use. The authorities for the management plans vehicle closure are 43 CFR 8000.0–6, 8340, 8341, 8342, and 8364, the Federal Land Policy and Management Act of 1976, the National Environmental Policy Act of 1969, and the Sikes Act of 1974. The area affected by this designation is the Salt Creek Hills ACEC. The ACEC contains approximately 2,000 acres of BLM managed public lands in northeastern San Bernardino County. The designation is a result of a management plan for the ACEC which included public involvement. The ACEC Management Plan was developed following the guidelines established for the area in the California Desert Conservation Area Plan.

DATE: Effective September 15, 1982.

ADDRESS: Send inquiries to Area Manager, Barstow Resource Area, 831 Barstow Road, Barstow, California 92311. The ACEC Management Plan and public comments received will be available at the above address from 8:00 A.M. to 4:15 P.M. on regular working days.Q02

FOR FURTHER INFORMATION CONTACT: Theodore Rado at the above address or (714) 256–3595.

Under the authority provided in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Executive Order 11644 (Use of Off-Road Vehicles on Public Lands), and the Sikes Act of 1974.

Vehicle Use

Vehicle use within the ACEC will be restricted to a single existing route which provides access from State Highway 127. Vehicles will not be allowed in remaining areas. The area will be clearly signed. A map showing the ACEC boundary and single designated vehicle route is available for review at the Barstow Resource Area Office, 831 Barstow Road, Barstow, California. Copies of the map are available upon request from the same office.

The purpose of these regulations is to minimize conflicts between vehicle use in the area and protection and enhancement of wildlife values. The public lands within the ACEC will remain open to other resources uses not in conflict with the objectives of the ACEC Management Plan.

Administrative access by vehicle into areas closed to vehicle access for BLM personnel, BLM contractors, licensees, permittees, lesses, and other federal, state, and county employees is allowed when on official duty and when cleared beforehand by the authorized officer.

Dated: September 21, 1982.

Wesley T. Chambers,

Acting District Manager.

[FR Doc. 82-26915 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

Montana and North Dakota; Availability of Supplemental Material to the Draft Environmental Impact Statement for Coal Leasing in the Fort Union Coal Region and Extension of Review Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In the **Federal Register** Notice of August 6, 1982, Vol. 47, No. 73, pages 34201–34202, a notice was given of the availability of the Draft Environmental Impact Statement (DEIS) for coal leasing in the Fort Union Coal Region. Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management (BLM), the Department of the Interior, has prepared supplemental material for the DEIS evaluating the air quality effects of coal development in the Fort Union Coal Region. This material has been prepared to provide public information resulting from contractual study results of air quality modeling in the study area. Copies have been provided to all reviewers of the subject DEIS. Because of this additional material the DEIS review date is also being extended to enable reviewers to comment on both the DEIS and the Air Quality Report.

DATES: Written comments on the air quality supplemental report and the Deis will be accepted up to and including October 19, 1982.

ADDRESSES: Written comments on the DEIS and Air Quality Report are to be addressed to, and copies of the document may be obtained from, Lloyd Emmons, Fort Union Coal Project Staff, Bureau of Land Management, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107. The draft EIS and Air Quality Report are available for inspection at the following locations:

Montana State Office Public Room, Bureau of Land Management, 222 North 32nd Street, Billings, Montana 59107

Dickinson District Office, Gate City Savings & Loan Building, 204 Sims Street, P.O. Box 1229, Dickinson, North Dakota 58601

Miles City District, Bureau of Land Management, West of Miles City on Garry Owen Road, P.O. Box 940, Miles City, Montana 59301

Office of Public Affairs, Bureau of Land Management, 18th & C Streets, NW., Washington, D.C. 20240

Dated: September 24, 1982.

Robert F. Burford,

Director, Bureau of Land Management.

I Concur:

Bruce Blanchard,

Director Office of Environmental Policy Review, Department of the Interior.

[FR Doc. 82-26919 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

Winnemucca District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Winnemucca District Grazing Board will be held on November 18, 1982. The meeting will begin at 10:00 A.M. in the conference room of the Bureau of Land Management Office at 705 East Fourth Street, Winnemucca, Nevada.

The agenda for the meeting will include:

1. Water rights policy.
2. Annual Work Plan Fiscal Year 1983.
3. Update on Wild Horse/Burro Program.
4. CRMP update.
5. Wilderness EIS update.
6. Direction on use of 8100 funds.
7. Grazing Management Policy—MIC Categories. Discussion of final selective management criteria (MIC), and resultant Allotment Categories.
8. Management Framework Plan Step III.
9. Public Statements.
10. Grazing Fee Study.
11. Arrangement for next meeting and discussion of agenda items.

The meeting is open to the public. Interested persons may make oral statements to the Board between 1:00 and 2:00 P.M. on November 18, 1982 or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, 705 East Fourth Street, Winnemucca, Nevada 89445, by November 5, 1982. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: September 21, 1982.

Frank C. Shields,

District Manager for State Director, Nevada.

[FR Doc. 82-26916 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

Idaho; Realty Action

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of realty action, I–18928, parcel No. 1 and parcel No. 2, modified competitive sale of public lands in Owyhee County, Idaho. The sale will be held at the Boise District Office, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705, at 1:00 p.m. on Wednesday, December 8, 1982. Parcel No. 1 will be sold first. Immediately thereafter Parcel No. 2 will be sold.

SUMMARY: The following-described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at no less than the fair market value of $9,500 for Parcel No. 1 and $1,550 for Parcel No. 2.

Boise Meridian, Idaho

Parcel No. 1–T. 6 S., R. 5 W.,
Sec. 20, SW¼SW¼SE¼SW¼;
Sec. 28, SE¼SW¼NW¼NW¼, SW¼SW¼NE¼, S½SE¼NE¼NW¼, NW¼NW¼SE¼;
Sec. 29, NE¼SW¼NE¼, E½NW¼SW¼NE¼, SE¼NE¼NE¼SE¼.

47.5 acres.

Parcel No. 2–T. 6 S., R. 6 W.,
Sec. 13: N½NW¼NW¼SW¼, N½SE¼NW¼NW¼SW¼.

6.25 acres.

The land will be sold at public auction by modified competitive bidding.

Walter E. Morgan, Jordan Valley, Oregon 97910, the adjoining landowner of Parcel No. 1, will be the designated bidder to have a preference right to purchase Parcel No. 1 by meeting the highest bid. Such preference right is offered because Mr. Morgan is the historical user, has improvements on the land that are critical to the operation of his ranch.

Terry Warn, Jordan Valley, Oregon 97910, the adjoining landowner of Parcel No. 2, will be the designated bidder to have a preference right to purchase Parcel No. 2 at the highest bid. Such preference right is offered because Mr. Warn is the historical user, and has irrigated hay ground and irrigation ditches on the land that are an integral part of this operation.

The land has not been used for, and is not required for any Federal purpose. The location and physical characteristics of the parcels make it difficult and uneconomical to manage as public land. Disposal would not have any significant effect on resource values and would best serve the public interest.

A patent for the land, when issued, will be subject to the following conditions:

1. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals will be reserved to the United States as required by Section 209(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719.

3. All valid existing rights and reservations of record.

Walter E. Morgan is the owner of the following valuable permanent improvements on the lands offered for sale, Parcel No. 1. If any person, other than Walter E. Morgan is the successful bidder on the lands being offered for sale, that person will be required to reimburse Walter E. Morgan for value of the improvements and furnish proof thereof to the Boise District Manager before conveyance may be made: barn and corrals.

Bidding Information and Instructions

Bidder Qualifications: The Federal Land Policy and Management Act requires that bidders must be citizens of the United States, 18 years of age or over, or, in the case of a corporation, be subject to the laws of any state or the United States. Bids may be made by a principal (the one desiring to purchase the land) or his duly qualified agent.

Bid Standards: No bid will be accepted for less than the appraised fair market value of $9,500 for Parcel No. 1 and $1,550 for Parcel No. 2. Bids must be for all the land.

Method of Bidding: Bids may be made either by mail or personally at the sale. Bids sent by mail will only be considered if received at the Boise District Office, 3948 Development Avenue, Boise, Idaho 83705, prior to 4:30 p.m. on December 7, 1982. Bids sent by mail must be in sealed envelopes accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid. Applicants bidding on more than one parcel shall submit bids in separate envelopes with the parcel numbers on the outside of the envelope. All sealed envelopes must be marked in the lower left-hand corner, "Sealed Bid, Public Land Sale I–18928, Parcel No. 1 or Parcel No. 2. Sale to be December 8, 1982." If two or more valid sealed bids in the same amount are received and they are the high bid, the determination of which is to be considered the highest bid shall be by a drawing. The drawing, if required, shall be held immediately following the opening of the bids. The highest qualifying sealed bid shall then be announced.

Oral bids will be received immediately after all sealed bids have been opened and the highest sealed bid is announced. The highest sealed bid will be the base for oral bids. All oral bids must be in increments of not less than $20.00. Sealed bidders present at the sale may also make oral bids. The highest bid price, either sealed or oral, will establish the sale price.

Modified Bidding: For a period of 30 days following the date of sale, Walter E. Morgan, Parcel No. 1, and Terry Warn, Parcel No. 2 will have a preference right to purchase the land by meeting the highest bid. If they meet the highest bid, the land will be sold to them, and the other low bids will be returned. Refusal or failure by the designated bidder to meet the highest bid shall constitute a loss of preference rights, and the land will be sold to the highest bidder.

Final Details: Once a high bid is accepted, the successful bidder shall submit the balance of the full bid price within the time designated by the authorized officer. Failure to submit the required balance within the period of time allowed will result in cancellation of the sale, and the bid deposit will be forfeited. If the high bid is accepted, the full bid price is paid, and the required citizenship or corporate qualifications are met, title to the lands will be conveyed by a patent.

Further Information/Inquiries: Detailed information concerning this sale, including the planning documents and Environmental Assessment, is available for review in the Boise District Office at the address indicated above. For a period of 45 days from the date of this notice, interested parties may submit comments to the Boise District Manager. Any adverse comments will be evaluated by the Idaho State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: September 22, 1982.

Martin J. Zimmer,

Boise District Manager.

[FR Doc. 82-26920 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

Idaho; Realty Action

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of realty action, I–18929, parcel No. 3 and parcel No. 4, competitive sale of public lands in Owyhee County, Idaho.

SUMMARY: The following-described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at no less than the fair market value of $750 for Parcel No. 3 and $1,900 for Parcel No. 4:

Boise Meridian, Idaho

Parcel No. 3–T. 6 S., R. 6 W.,
Sec. 13, NW¼NE¼NW¼SW¼.

2.5 acres.

Parcel No. 4–T. 6 S., R. 6 W.,
Sec. 13, SW¼NW¼NW¼SW¼, W½SW¼NW¼SW¼

7.5 acres.

The land, which will be sold at public auction by competitive bidding, has not been used, and is not required for any Federal purpose. It does not complement BLM programs, and the location and physical characteristics of the parcels, along with the private ownership of adjoining lands, make it difficult and uneconomical to manage as public land. Disposal would not have any significant effect on resource values and would best serve the public interest.

A patent for the land, when issued, will be subject to the following conditions:

1. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals will be reserved to the United States as required by Section 209(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719.

3. All valid existing rights and reservations of record.

The sale will be held at the Boise District Office, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705, 10:00 a.m., on Wednesday, December 8, 1982. Parcel No. 3 will be sold first. Immendiately thereafter Parcel No. 4 will be sold.

Bidding Information and Instructions

Bidder Qualifications: The Federal Land Policy and Management Act requires that bidders must be citizens of the United States, 18 years of age or over, or, in the case of a corporation, be subject to the laws of any state or the United States. Bids may be made by a principal (the one desiring to purchase the land) or his duly qualified agent.

Bid Standards: No bid will be accepted for less than the appraised fair market value of $750 for Parcel No. 3 and $1,900 for Parcel No. 4. Bids must be for all of the land.

Method of Bidding: Bids may be made either by mail or personally at the sale. Bids sent by mail will only be considered if received at the Boise District Office, 3948 Development Avenue, Boise, Idaho 83705, prior to 4:30 p.m. on December 7, 1982. Bids sent by mail must be in sealed envelopes accompained by a certified check, postal money order, bank draft, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid. Applicants bidding on more than one parcel shall submit bids in separate envelopes with the parcel number on the outside of the envelope. All sealed envelopes must be marked in the lower left-hand corner, "Sealed Bid, Public Land Sale I–18929, Parcel No. 3 or Parcel No. 4. Sale to be December 8, 1982." If two or more valid sealed bids in the same amount are received and they are the high bid, the determination of which is to be considered the highest bid shall be by a drawing. The drawing, if required, shall be held immediately following the opening of the bids. The highest qualifying sealed bid shall then be announced.

Oral bids will be received immediately after all sealed bids have been opened and the highest sealed bid is announced. The highest sealed bid will be the base for oral bids. All oral bids must be made in increments of not less than $20.00. Sealed bidders present at the sale may also make oral bids. The highest bid price, either sealed or oral, will establish the sale price. If the highest bid is an oral bid, the successful bidder will be required to pay immediately one-fifth of the high bid price by cash, personal check, money order, bank draft, or any combination of these.

Final Details: The successful high bidder, whether it is by sealed or oral bid, will be required to submit full payment for the balance of the bid within 30 days from the date of the sale. Failure to submit such payment within the 30-day period shall result in cancellation of the sale, and the bid deposit shall be forfeited. All unsuccessful sealed bids will be returned within 30 days from the sale date. If no bids for the land, either sealed or oral, are received on the sale date, the sale will be adjourned until the next Wednesday at the same hour and place and continued on each succeeding Wednesday until the lands are sold as specified in this notice or the sale is otherwise terminated.

Further Information/Inquiries: Detailed information concerning this sale, including the planning documents and Environmental Assessment, is available for review in the Boise District Office at the address indicated above. For a period of 45 days from the date of this notice, interested parties may submit comments to the Boise District Manager. Any adverse comments will be evaluated by the Idaho State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: September 22, 1982.

Martin J. Zimmer,

Boise District Manager.

[FR Doc. 82-26921 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

Montana; Redelegation of Authority

September 20, 1982.

AGENCY: Bureau of Land Management, Interior.

ACTION: Redelegation of authority.

SUMMARY: Section 1.1(a)(2) of Bureau Order No. 701 dated July 23, 1964, as amended by notice published at 45 FR 6177 on Friday, January 24, 1980, (FR Doc. 80-2428 filed 1/24/80; 8:35 a.m.) authorizes the Bureau of Land Management State Directors the opportunity to redelegate the authority to grant, renew, modify, reassign or revoke rights-of-way under Title I, Section 28 of the Mineral Leasing Act of 1920, as amended, and under the Federal Land Policy and Management Act of 1976 to Bureau of Land Management District and Area Managers. That authority is hereby redelegated to the Butte District Manager. This notice has no other effect on the provisions of FR Doc. 80-2428.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107

Michael J. Penfold,

State Director, Montana.

[FR Doc. 82-26437 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

[N-017324, et al. and N-33501, et al.]

Nevada; Realty Action, Sale of Public Land

September 20, 1982.

This Notice of Realty Action supercedes the Notices of July 2, 1981 and June 14, 1982 for the following purposes: (1) To eliminate certain parcels from further consideration for public sale, (2) to modify the method in which certain parcels will be offered for public sale and (3) modify the bidding procedures applicable to the sale of those lands offered on a competitive basis and establish the minimum bid at not less than fair market value utilizing an appraisal.

The following described parcels, originally identified in the June 14, 1982 Notice to be offered on a non-competitive basis to small tract applicants, are hereby eliminated from further consideration for public sale due to conflicts with proposed plans for an expressway:

Parcel No.	Serial No.	Legal description	Acres
		T. 20 S., R. 60 E., MDM Section 27	
82-56		NE¼SW¼NE¼SW¼	1.5
82-57		W½SW¼NE¼SW¼	5.0
82-58	Nev-033109	SE¼SW¼NE¼SW¼	2.5
82-59		E½SE¼NE¼SW¼	5.0
82-60	Nev-024040	NW¼SE¼NE¼SW¼	2.5
82-61		SW¼SE¼NE¼SW¼	2.5
82-64	Nev-033557	SE¼NW¼NW¼SW¼	2.5
82-65		E½SW¼NW¼SW¼	5.0
82-66	Nev-029543	NW¼SW¼NW¼SW¼	2.5
82-67		SW¼SW¼NW¼SW¼	2.5
82-68		NE¼SE¼NW¼SW¼	2.5
82-69		W½SE¼NW¼SW¼	5.0

Parcel No.	Serial No.	Legal description	Acres
82-70		SE¼SE¼NW¼SW¼	2.5
82-94		NW¼SW¼NE¼SE¼	2.5
82-95	Nev-031921; Nev-031859	SW¼SW¼NE¼SE¼	2.5
82-104		NE¼SW¼NW¼SE¼	2.5
82-105		NW¼SW¼NW¼SE¼	2.5
82-106		SW¼SW¼NW¼SE¼	2.5
82-107		SE¼SW¼NW¼SE¼	2.5
82-108	Nev-032037	NE¼SE¼NW¼SE¼	2.5
82-109		NW¼SE¼NW¼SE¼	2.5
82-110		SW¼SE¼NW¼SE¼	2.5
82-111		SE¼SE¼NW¼SE¼	2.5
82-112	Nev-030508	NE¼NE¼SW¼SE¼	2.5
82-113		NW¼NE¼SW¼SE¼	2.5
82-114		SW¼NE¼SW¼SE¼	2.5
82-115		SE¼NE¼SW¼SE¼	2.5
82-116		NE¼NW¼SW¼SE¼	2.5
82-117		NW¼NW¼SW¼SE¼	2.5
82-125	Nev-030265	NW¼SE¼SW¼SE¼	2.5
82-126	Nev-024832	SW¼SE¼SW¼SE¼	2.5
82-128	Nev-024823	NW¼NW¼SE¼SE¼	2.5
82-129		SW¼NW¼SE¼SE¼	2.5
		Section 26	
82-132	Nev-028871	E½SW¼NE¼SE¼	5.0
82-133	Nev-027841	W½SE¼NE¼SE¼	5.0
82-134		E½SE¼NE¼SE¼	5.0
		Total acres 107.5	

The following described parcels, which were originally identified in the July 2, 1981 Notice to be offered on a competitive basis to the general public, are hereby identified to be offered on a non-competitive basis to small tract applicants in lieu of the above described tracts that are in conflict with the proposed expressway. Sale will be at not less than fair market value in accordance with Pub. L. 96–586 and Section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1713).

Parcel No.	Legal description	Acres
	T.20 S., R. 60 E., MDM Section 4	
81-01	NE¼NE¼SW¼SW¼	2.5
81-02	NW¼NW¼SW¼SW¼	2.5
81-03	SE¼NW¼SW¼SW¼	2.5
81-04	SE¼SW¼SW¼SW¼	2.5
81-05	NW¼NE¼SE¼SW¼	2.5
	Section 9	
81-07	N½NW¼NE¼NE¼	5.0
81-08	SW¼NE¼NE¼NE¼; SE¼NW¼NE¼NE¼	5.0
81-09	E½SE¼NE¼NE¼	5.0
81-10	E½SW¼NE¼NE¼	5.0
81-11	SE¼SE¼NW¼NE¼	2.5
81-12	SW¼NE¼NW¼NE¼	2.5
81-13	E½NW¼NW¼NE¼	5.0
81-14	NE¼NE¼NE¼NW¼	2.5
81-16	SW¼SE¼NE¼NW¼	2.5
81-17	N½SW¼NE¼NW¼	5.0
81-18	SW¼NW¼NE¼NW¼; SE¼NE¼NW¼NW¼	5.0
81-20	NW¼SE¼NE¼NE¼	2.5
81-23	NW¼NE¼SW¼NW¼	2.5
81-29	SW¼NE¼SE¼NW¼	2.5
81-31	NW¼NW¼SW¼NE¼	2.5
81-32	SW¼NE¼SW¼NE¼	2.5
81-34	NE¼SE¼SW¼NE¼	2.5
81-44	NE¼NE¼NW¼SW¼	2.5
81-46	NW¼SE¼NW¼SW¼	2.5
81-48	SW¼SW¼NW¼SW¼	2.5
81-50	NW¼NW¼SE¼SW¼	2.5
81-52	NW¼SE¼SW¼SW¼	2.5
81-54	SE¼SE¼SW¼SW¼	2.5
81-56	SW¼SE¼SE¼SW¼	2.5
81-62	NW¼SW¼SE¼SE¼	2.5
81-63	SE¼SE¼SW¼SE¼	2.5
	Section 10	
81-64	NE¼NE¼NW¼NW¼	2.5
81-66	SW¼NW¼NW¼NW¼	2.5
81-69	SE¼NE¼SW¼NW¼	2.5
81-72	NE¼NE¼NW¼SW¼	2.5
81-73	SW¼NW¼NW¼SW¼	2.5
	Total acres 107.5	

The above parcels not purchased by small tract applicants will be offered to the general public on a competitive bidding basis at a later date.

The following described parcels, which were originally identified in the July 2, 1981 Notice to be offered on a competitive bidding basis to the general public, are hereby eliminated from further consideration for public sale due to conflicts with proposed plans for an expressway:

Parcel No.	Legal description	Acres
	T. 20 S., R. 60 E., MDM Section 26	
81-60	E½NE¼NW¼	20.0
81-61	E½NW¼NE¼NW¼	5.0
81-62	W½W¼NE¼NW¼; E½NW¼NW¼; E½W½NW¼NW¼	40.0
	Total acres	65.0

The following described parcels, which were originally identified in the July 2, 1981 Notice to be offered on a competitive bidding basis to the general public, remain identified for sale on a competitive basis pursuant to Pub. L. 96–586, under revised sale procedures at not less than fair market value utilizing an appraisal:

Parcel No.	Legal description	Acres
	T. 20 S., R. 60 E., MDM Section 5	
81-15	SW¼NW¼NE¼; W½SE¼NW¼NE¼; E½SE¼NE¼NW¼	20.0
81-19	NE¼NE¼NW¼NW¼	5.0
81-21	NW¼NW¼NW¼; N½SW¼NW¼NW¼	15.0
81-22	S½SE¼NW¼NW¼	5.0
81-24	W½NW¼SW¼NW¼	5.0
81-25	N½SW¼SW¼NW¼	5.0
81-26	S½NE¼SW¼NW¼; SE¼SW¼NW¼	15.0
81-27	W½NW¼SE¼NW¼	5.0
81-28	SE¼NW¼SE¼NW¼; NE¼SW¼SE¼NW¼	5.0
81-30	NE¼SE¼SE¼NW¼; SE¼NE¼SE¼NW¼	5.0
81-33	N½SW¼SW¼NE¼	5.0
81-35	SE¼NE¼SE¼NE¼; NE¼SE¼SE¼NE¼	5.0
81-36	S½SE¼SE¼NE¼	5.0
81-37	E½NE¼NE¼SE¼; N½NE¼SE¼NE¼SE¼; SW¼NE¼SE¼NE¼SE¼; SW¼NE¼NE¼SE¼; NW¼SE¼NE¼SE¼	11.875
81-39	SE¼SW¼SW¼NE¼; SW¼SE¼SW¼NE¼	5.0
81-40	NE¼NW¼SE¼; W½SE¼NW¼SE¼; E½W½NW¼SE¼	25.0
81-41	SW¼NW¼NW¼SE¼; NW¼SW¼NW¼SE¼	5.0
81-42	NE¼NE¼SW¼; N½SE¼NE¼SW¼	15.0
81-43	S½SW¼SE¼NW¼	5.0
81-45	S½NW¼NE¼SW¼; SE¼NE¼NW¼SW¼; SW¼NE¼SW¼; E½SE¼NW¼SW¼	22.5
81-47	S½NW¼NW¼SW¼; N½SW¼NW¼SW¼	10.0
81-49	NW¼NE¼SW¼SW¼; NE¼NW¼SW¼SW¼	5.0
81-51	S½NW¼SW¼SW¼; SW¼SW¼SW¼	15.0
81-53	SE¼NE¼SW¼SW¼; NE¼SE¼SW¼SW¼; S½NW¼SE¼SW¼; N½SW¼SE¼SW¼	15.0
81-55	NE¼SE¼SW¼; N½SE¼SE¼SW¼; W½NW¼SW¼SE¼; NW¼SW¼SW¼SE¼	22.5
81-57	E½SW¼SW¼SE¼	5.0
81-58	S½NE¼SW¼SE¼; N½SE¼SW¼SE¼	10.0
81-59	NE¼NE¼SW¼SE¼; NW¼NW¼SE¼SE¼	5.0
81-60	SE¼SW¼NE¼SE¼; SW¼SE¼NE¼SE¼	5.0
81-61	S½NE¼SE¼SE¼; SE¼NW¼SE¼SE¼; E½SW¼SE¼SE¼; N½SE¼SE¼SE¼; SW¼SE¼SE¼SE¼; W½SE¼SE¼SE¼; SE¼SE¼SE¼SE¼SE¼	21.875
	Section 10	
81-65	W½NE¼NW¼NW¼; E½NW¼NW¼NW¼	10.0
81-67	S½SW¼NW¼NW¼	5.0
81-68	S½SE¼NW¼NW¼; N½NE¼SW¼NW¼	10.0
81-70	SW¼NW¼SW¼NW¼; NW¼SW¼SW¼NW¼	5.0
81-71	SE¼SW¼NW¼	10.0
81-74	NW¼SE¼NW¼SW¼	2.5
	Section 28	
81-75	W½NE¼NE¼NE¼; E½NW¼NE¼NE¼	10.0
81-76	SE¼NE¼NE¼	10.0
81-77	W½SW¼NE¼NE¼	5.0
81-78	E½NW¼NE¼	20.0
81-79	NW¼NW¼NE¼	10.0
81-84	W½SW¼NW¼NW¼	5.0
81-85	W½NW¼SW¼NW¼	5.0
81-86	NE¼SW¼NW¼; NW¼SE¼NW¼	25.0
81-88	E½NE¼SE¼NW¼	5.0
81-89	SE¼SE¼NW¼	10.0
81-90	W½SW¼SE¼NW¼	5.0
81-91	SW¼SW¼NW¼; W½SE¼SW¼NW¼	15.0
	Section 3	
81-99	Lots 25, 46–49, 57–59	43.11
81-100	Lot 78	5.34
81-101	Lot 114	5.35
	Total acres	520.05

The competitive parcels will be offered at an auction utilizing oral bidding procedures. The highest oral bid will establish the purchaser. Adjoining land owners have no preference rights. Specific information regarding the time and the site of the auction, and bidding procedures will be published in a sale brochure and made available to the public at least three weeks prior to the sale. Any parcels not sold at the auction will be available at a later date for purchase "over-the-counter" on a first-come first-served basis at the Bureau of Land Management's Las Vegas District Office, 4765 Vegas Drive, Las Vegas, Nevada.

All lands offered in this notice are situated in the northwest quadrant of the Las Vegas Valley, having potential for urban-suburban development. Transfer of the land from Federal ownership will facilitate local land use planning and enhance its compatibility with adjoining private land uses. Prior to issuance of patent, the purchaser will

also have an opportunity to buy the locatable and saleable mineral interests in accordance with 43 CFR Part 2720.

Parcel numbers for those parcels offered for sale coincide with the last digit(s) of Bureau assigned serial numbers N–33501 through N–33601; Parcel 81–01 is N–33501, Parcel 81–101 is N–33601. Thirteen numbers are missing from the sequence. This resulted from the reconfiguration of various parcels, removal of three parcels and disposition of land in the original sale.

General terms and conditions of the sale are:

1. The land will be sold subject to all valid existing rights such as power transmission and telephone line easements and federally issued oil and gas leases.

2. The land will be sold subject to reservations for streets, roads and public utilities, both existing and proposed, in accordance with Clark County plans.

3. All land that is sold will be subject to applicable Clark County ordinances.

Purchasers will be required to pay a non-refundable deposit of at least twenty percent of the purchase price at the time of the sale. The remainder shall be due within thirty days of the sale. Personal or certified checks, money orders, and cash will be acceptable forms of payment. Only U.S. citizens and legally charted U.S. corporations are eligible to purchase these lands.

For a period of 45 days from the date this notice is published in the **Federal Register**, interested persons may submit comments regarding the sale to the State Director (N–943), P.O. Box 12000, Reno, NV 89520.

Wm. J. Malencik,

Chief, Division of Operations.

[FR Doc. 82-26923 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Realty Action Modified, Competitive Sale of Public Lands in Johnson County

September 16, 1982

The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713, at no less than fair market value:

Sixth Principal Meridian

T. 51 N., R. 82 W.,

Section 30, lots 8 and 9.

The area described contains 48.66 acres.

The appraised value is $34,000.00.

The public land sale will be held on Friday, December 3, 1982, at the Buffalo Resource Area Office of the Bureau of Land Management, 300 Spruce Street, Buffalo, Wyoming. Registration of bidders will begin at 10:30 a.m. and the sale will commence at 11:00 a.m.

The land will be offered for sale by sealed and oral bid utilizing modified bidding procedures. John D. Hall, the owner of the surrounding private land, is the proposed designated bidder and will be offered the right to meet the high bid. Refusal or failure to meet the highest bid will constitute a waiver of such bidding provisions.

The land is an isolated tract with no legal access, is completely surrounded by private land owned by John D. Hall, and is within one-half mile of his ranch headquarters. Use of the lands is presently being authorized to John D. Hall by a grazing lease, agricultural lease, and a road right-of-way; he and his family have been historical users of the land.

The land has homesite/subdivision potential because of its topography, close proximity to Buffalo, Wyoming (approximately five miles), and proximity to county road (although approximately ½-mile of privately owned land must be crossed).

The land is difficult and uneconomic to manage as part of the public land system. The proposed sale is consistent with the Bureau's Planning System.

Sale of the land shall be subject to:

1. reservation of (right-of-way for ditches and canals to the United States pursuant to 43 U.S.C. 945;

2. reservation of mineral deposits in the land so patented, and to it, or persons authorized by it, the right to prospect, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Department of Interior may prescribe:

3. all valid existing rights and reservations of record.

Detailed information concerning the sale, including the planning documents, official correspondence with respect to case history, mineral report, and report, land environmental assessment is available for review at the Bureau of Land Management, Buffalo Resource Area, 300 Spruce Street, P.O. Box 670, Buffalo, Wyoming 82834.

Bidding information and instructions

Bidder Qualifications: The Federal Land Policy and Management Act requires that the bidders be U.S. citizens or, in the case of a corporation, subject to the laws of any state or the U.S. A state, state instrumentality, or political subdivision submitting a bid must be authorized to hold property. Any other entity submitting a bid must be legally capable of conveying and holding lands or interests therein under the laws of the State of Wyoming.

Bids must be made by the principal or his agent.

Bid Standards: No bid will be accepted for less than the appraised value of $34,000.00 and bids must include all of the land identified in this sale notice.

Method of Bidding: Sealed bids must be either mailed or delivered to the Bureau of Land Management, Buffalo Resource Area Office, 300 Spruce Street, P.O. Box 670, Buffalo, Wyoming 82834. Bids delivered or sent by mail will be considered only if received at the Buffalo Resource Area Office, prior to 4:00 p.m. the day before the sale. Each sealed bid must be in a sealed envelope and must be accompanied by a certified check, postal money order, bank draft or cashier's check, made payable to the Bureau of Land Management, for not less than one-fifth of the amount bid. The sealed bid envelope must be marked in the lower left-hand corner of the front of the envelope with the words "Public Land Sale W–80910, December 3, 1982—sealed bid". The highest sealed bid on the parcel will determine the base of the oral bidding conducted the day of the sale. If two or more envelopes are received containing the highest valid bids of the same amount, a determination of which is to be considered, the highest bid will be by drawing. The highest qualifying sealed bid will be publicly declared on the day of the sale and oral bids will then be invited. A paticipant in the sale must submit a sealed bid to be eligible to take part in the oral bidding.

Modified Bidding: After oral bids, if any are received, the highest apparent bidder will be declared. If the highest apparent bid is not held by John D. Hall, he will be allowed 30 days from the date of the sale to match the high bid and, if he does so, will be declared successful bidder. If he does not meet the high bid within the time frames given above, the highest apparent bidder will be designated successful bidder.

Final Details: The successful bidder shall submit the remainder of the full bid price within 30 days from the date of the sale. Failure to submit the full bid price within 30 days shall result in cancellation of the sale of the parcel and the deposit shall be forfeited and disposed of as other receipts of sale. All bids will be either returned, accepted, or rejected in writing within 60 days from the sale date.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Bureau of Land Management, Casper District Office, 951

Rancho Road, Casper, Wyoming 82601. Any adverse comments will be evaluated by the district manager who may vacate or modify this realty action and issue a final determination. In absence of any action by the district manager, this realty action will become a final determination.

Paul W. Arrasmith,

District Manager.

[FR Doc. 82-26922 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

[C-2495]

Colorado; Correction of Notice of Proposed Withdrawal and Reservation of Lands

September 23, 1982.

In FR Doc. 67-14665, appearing on page 18116 in the issue of Tuesday, December 19, 1967, please make the following correction:

(1) Under T. 1 S., R. 77 W., sec. 35, "E½SE¼", should have read "E½SW¼".

Robert D. Dinsmore,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-26916 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

[U-42887]

Utah; Proposed Continuation of Withdrawal

The Bureau of Land Management, U.S. Department of Interior, propose to continue in its entirety, for a 20 year period, the existing withdrawal described below, pursuant to Sec. 204 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2751) (43 U.S.C. 1714). The withdrawal was established by Public Land Order No. 852, of July 1, 1952, for an Automobile Racing and Testing Grounds.

Salt Lake Meridian, Utah

T. 2 N., R. 16 W.,
Sec. 31, all.
T. 1 N., R. 17 W.,
Sec. 19, all;
Sec. 20, all;
Sec. 21, all;
Sec. 22, SW¼;
Sec. 27, W½E½, W½;
Sec. 28, all;
Sec. 29, all;
Sec. 30, all;
Sec. 31, all;
Sec. 33, all;
Sec. 34, W½E½, W½.
T. 1 N., R. 18 W.,
Sec. 24, SE¼SE¼;
Sec. 25, E½.
T. 1 S., R. 17 W.,
Sec. 4, lots 2, 3, 4, S½NW¼, W½SW¼;
Sec. 5, all;
Sec. 6, all;
Sec. 7, N½NE¼;
Sec. 8, N½NW¼.

Aggregating 8,927.41 acres.

On or before December 30, 1982, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public hearing is affored in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned before December 30, 1982. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. Public hearings are scheduled and conducted in accordance with BLM Manual section 2351.16B.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the lands are dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the lands is provided for, and an agreement is reached on the concurrent management of the lands and their resources. He will also prepare a report for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination of the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, University Club Building, 136 East, South Temple, Salt Lake City, Utah 84111.

Dated: September 24, 1982.

Darrell Bares,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-26917 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

[OR 12]

Oregon; Partial Termination of Classification for Multiple Use Management

1. By order of the Oregon State Director, Bureau of Land Management, which was published in the **Federal Register** on January 27, 1967 (32 FR 1001), approximately 89,708 acres of public lands under the jurisdiction of the Bureau of Land Management were classified for multiple use management pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411-18) and the regulations in 43 CFR Part 2460. The lands are located in Deschutes and Lake Counties, Oregon.

2. Pursuant to 43 CFR 2461.5(c)(2), the classification is terminated except for the lands described in paragraph 3, upon publication of this notice in the **Federal Register.**

3. The following described lands remain classified for multiple use management and continue to be segregated from location for obsidian and chalcedony minerals under the general mining laws:

Willamette Meridian

T. 23 S., R. 22 E.,
Sec. 13;
Sec. 14, N½, SW¼,N½SE¼, and SE¼SE¼;
Sec. 15;
Sec. 17, E½, SE¼NW¼, and SW¼;
Sec. 18, Lots 1, 2, W½NE¼, SE¼NE¼, E½W½, and SE¼;
Sec. 19, E½ and E½SW¼;
Secs. 20 to 22, inclusive;
Sec. 23, E½NE¼, SW¼NE¼, W½, and SE¼;
Sec. 24, N½, NE¼SW¼, S½SW¼, and SE¼;
Secs. 25 to 31, inclusive;
Sec. 32, N½, SW¼, and NW¼SE¼;
Sec. 33;
Sec. 34, N½NE¼, SW¼NE¼, W½, and W½SE¼;
Sec. 35, E½, and N½NW¼.
T. 24 S., R. 22 E.,
Secs. 1 and 12.
T. 23 S., R. 23 E.,
Sec. 17;
Sec. 18, Lots 1, 2, 3, 4, NE¼, E½W½, N½SE¼, and SW¼SE¼;
Sec. 19, 20, and 28 to 32, inclusive.
T. 24 S., 23 E.,
Secs. 5 to 8, inclusive.

The area described aggregates 22,546.43 acres in Lake County, Oregon.

4. At 9:30 a.m., on November 8, 1982, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands involved will be open to operation of the public land laws generally. All valid applications received at or prior to 9:30 a.m., on November 8, 1982, shall be considered as simultaneously filed at

that time. Those received thereafter shall be considered in the order of filing.

5. At 9:30 a.m., on November 8, 1982, the following described lands will be open to location for obsidian and chalcedony minerals under the United States mining laws:

Willamette Meridian

T. 23 S., R. 22 E.,
Secs. 1 to 6, inclusive;
Sec. 7, Lots 1, 2, 3, 4, NE¼, and E½W½;
Secs. 8 to 12, inclusive.
T. 23 S., R. 23 E.,
Secs. 1 to 13, inclusive;
Sec. 14, N½, N½S½, SE¼SW¼, and S½SE¼;
Sec. 15.

The area described aggregates 15,337.27 acres in Lake County, Oregon.

6. Subject to the provisions of existing withdrawals, and except as provided in paragraphs 3 and 5, the lands have been and continue to be open to operation of the mining laws and mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: September 24, 1982.

Phillip C. Hamilton,

Acting State Director.

[FR Doc. 82-26690 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-84-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Officer of Management and Budget reviewing official, Mr. Richard Otis, at 202-393-7340.

Title: 30 CFR 780 Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan.

Bureau Form Number: None.

Frequency: Once every five years.

Description of Respondents: Coal Mine Operators.

Annual Responses: 56,671.

Annual Burden Hours: 999,722.

Bureau clearance officer: Darlene Grose, 202-343-5447.

Dated: August 30, 1982.

Ann L. Chapman,

Acting Assistant Director, Management and Budget.

[FR Doc. 82-26691 Filed 9-29-82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Proposals for Collection of Information Under the Paperwork Reduction Act

The following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) are being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Office, Carroll Stearns (202) 275-7077. Comments regarding these information collections should be addressed to Carroll Stearns, Interstate Commerce Commission, Room 6217, 12th and Constitution, NW., Washington, D.C. 20423 and to Donald Arbuckle, Office of Management and Budget, Room 3228 NEOB, Washington, D.C. 20503, (202) 395-7313.

Type of Clearance: New
Bureau/Office: Office of Proceedings
Title of Form: Special Application for Authority to Sell Securities Without Competitive Bidding
OMB Form No.: None
Agency Form No.: OP-F-210
Frequency: On Occasion
Respondents: Privately Owned Rail Carriers
No. of Respondents: 15
Total Burden Hours: 225
Type of Clearance: New
Bureau/Office: Office of Proceedings
Title of Form: Certificate of Notification Under 49 U.S.C. 11301(c)(1) Issuance of Short Term Notes
OMB Form No.: None
Agency Form No.: OP-F-230
Frequency: On Occasion
Respondent: Privately Owned Regulated Carriers
No. of Respondents: 95
Total Burden Hours: 285
Type of Clearance: New
Bureau/Office: Office of Proceedings
Title of Form: Issuance of Securities or Assumption of Obligations
OMB Form No.: None
Agency Form No.: OP-F-240
Frequency: On Occasion
Respondents: Privately Owned Regulated Carriers
No. of Respondents: 400
Total Burden Hours: 2,000

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26694 Filed 9-29-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

Correction

In FR Doc. 82-22929 appearing on page 36722 in the issue of Monday, August 23, 1982, make the following correction:

On page 36726, in the paragraph for MC 162574 (Sub-4-2TA), International Investments Corp., d.b.a. Universal Trucking, five lines from the top of the second column, "From points in * * *" should have read "Lumber and lumber products from points in * * *".

BILLING CODE 1505-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before

the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

MC–FC–79950. By decision of 8–5–82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Trans West Systems, Inc., of Pocatello, ID, of the operating rights issued to Cotant Truck Lines, Inc., of Chubbuck, ID, in Certificate No. MC–150770 (Sub-no. 2), authorizing the transportation of (1) automotive parts and accessories, between points in ID, on the one hand, and, on the other, points in AZ, CA, NV, UT, OR, and WA, and (2) such commodities as are dealt in by grocery stores and food business houses, between points in ID and UT, on the one hand, and, on the other, points in CA, OR, WA, ID, and UT; and in Permit No. MC–150770 (Sub-No. 1F), authorizing the transportation of general commodities (except classes A and B explosives, and household goods as defined by the Commission) between points in the U.S., under continuing contract(s) with Kraft, Inc., of Chicago, IL. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701. TA has not been sought.

Notes.—Transferee holds Certificate Nos. MC–160403 (Sub-No. 1) and MC–160403 (Sub-No. 2).

MC–FC–79954. By decision of September 21, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 aproved the transfer to ATLANTIC DISTRIBUTION SYSTEMS, INC., of Atlanta, GA, of Certificates Nos. MC–134030 (Sub-No. 1) and MC–134030 (Sub-No. 2F), issued to ATLANTIC MOVING & STORAGE, INC., of Atlanta, GA, authorizing in Sub-No. 1 the transportation of used household goods between points in Cobb, Clayton, DeKalb, Fulton, and Gwinnett Counties, GA, on the one hand, and, on the other, points in GA, restricted (1) to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and (2) to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic; and in Sub-No. 2F the transportation of household goods, as defined by the Commission, between points in GA, FL, and TX on the one hand, and, on the other, points in GA, FL, TX, LA, NC, SC, AL, MS, KY, TN, AR, and OK. Representative: Robert J. Gallagher, 1000 Connecticut Avenue N.W., Suite 1200, Washington, DC 20036.

Notes.—Transfeer holds no authority From this Commission, TA has not been sought.

MC–FC–80037. By decision of September 15, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR. 1132, Review Board Number 3 approved the transfer to WATSON & BROWN ENTERPRISES, INC., d.b.a. WATSON TRUCKING, of San Diego CA, of Permit No. MC–148875 Sub 2F, issued to KELLY H. WATSON ENTERPRISES, INC., d.b.a. WATSON TRUCKING of San Diego, CA, games and toys, between points in the U.S., under contract with Gremlin Industries, of San Diego, CA. Representative: Brock Watson, 8477 Aero Drive, San Diego, CA 92123.

MC–FC–80025. By decision of September 16, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to James P. Anderson Trucking, Inc., of Hawarden, IA of Certificate No. MC–140411 (Sub-No. 1) issued to Heuertz Trucking, Inc., of LeMars, IA authorizing over irregular routes, transporting ores and minerals, between points in IA, NE, MN, and SD. Representative: D. Douglas Titus, 340 Insurance Exchange Bldg., Sioux City, IA 51101.

MC–FC–80033. By decision of September 14, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to D & R TRUCKING, INC., of Casper, WY, of Certificate No. MC–145565 (Sub-No. 4) X issued to C.D. BRESHEARS, doing business as J & B SERVICES, of Casper, WY, authorizing: *Mercer* Commodities, between points in Natrona County, WY, on the one hand, and, on the other, points in ND, UT, CO, MT, and ID. Representative: Herbert F. McCulla, P.O. Box 471, Casper, WY 82601.

MC–FC–80043. By decision of September 14, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to GEORGE A. GRATHWOHL of Fairfield, OH of Certificate No. MC–47710 issued to G.J.R., Inc., of Cincinnati, OH, authorizing *coal and coke and such commodities as are transported in dump trucks*, between Cincinnati, Ohio, on the one hand, and, on the other, Aurora, IN, points in that part of Ohio within 40 miles of Cincinnati, and points in those parts of Boone, Kenton, and Campbell Counties, KY, within 10 miles of the Ohio River, from Cincinnati, Ohio, to points in Wayne, Henry, Union, Fayette, Rush, Franklin, Decatur, Dearborn (except Aurora), Ohio, Ripley, Switzerland, and Jefferson Counties, IN. Representative: Lewis S. Witherspoon, 2455 North Star Road, Columbus, Ohio 43221.

Note.—Transferee is not a carrier. TA lease is not sought.

MC–FC–80044. By a decision of September 16, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to Gains's Express, Inc., of Holden, MA of Certificates No. MC–55665 and MC–55665 (Sub-No. 1) issued, to Gains's Express, Inc., of Jefferson, MA, authorizing general commodities, with exceptions, over regular and irregular routes, between specified points in MA. Transferee's representative: Carl Emmett Baylis, 370 Main Street, Worcester, MA 01608. Transferor's representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181.

MC–FC–80053, by decision of September 20, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3, approved the transfer to JAMES N. ALLEN, INC., of New Bethlehem, PA, of Certificate No. MC–148140 issued March 9, 1981, to JAMES N. ALLEN, of Distant PA, authorizing the transportation of (1) *coal*, in bulk, in dump vehicles, from points in Armstrong, Butler, Clarion, Clearfield, Elk, Forest, Indiana, Jefferson, and Venango Counties, PA, to points in CT, DE, MD, MI, NJ, NY, OH, VA, and WV, (2) *salt*, in bulk, in dump vehicles, from Watkins Glen, NY, and Whitemarsh, MD, to points in PA on and west of US Hwy 11, and (3) *calcium chloride*, in bulk in dump vehicles, from Ludington and Midland, MI, and Solvay, NY, to points in PA. Representative: James N. Allen, President, 308 Leasure Way, Bethlehem, PA 18242. Transferee is a carrier. T/A not sought.

MC–FC–80054. By decision of September 20, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3

approved the transfer to David C. Weston Farms d/b/a Weston Trucking, Inc., of Tremonton, UT, of Certificate No. MC–157575 (Sub-No. 1) issued April 19, 1982, and Permit No. MC–157575 issued February 8, 1982, to Sandarosa Trucking (a corporation) of Logan, UT, authorizing transportation (1) as a motor common carrier, transporting *metal products,* between points in Box Elder County, UT, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, WA and WY, and (2) as a motor *contract* carrier transporting *building and construction materials* and *metal products* between points in the United States under continuing contract(s) with Imperial Wholesale Supply, Inc., of Salt Lake City, UT, and Tom Nichols Construction Company, Inc., of Burley, ID, respectively. Representative: David C. Weston, 267 West Main, Tremonton, UT 84337.

MC–FC–80056 by decision of September 20, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to Ray Evarts, doing business as of EXPRESSLY LTL of Certificate No. MC–155691 issued July 6, 1982 to Adrian Darkow; doing business as Expressly LTL authorizing the transportation over irregular routes of *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Anchorage, AK, on the one hand, and, on the other, points in the Third Judicial District of AK. Applicants representative: J. Glen Cassity, 211 West Cook Avenue, Anchorage, AK 99501.

MC–FC–80059 by decision of September 20, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132 Review Board Number 3 approved the transfer to G&H MOTOR FREIGHT LINES, INC. OF GREENFIELD, IA of Certificate No. MC–48603 (Sub-Nos. 1, 2 and 3) issued March 10, January 30 and July 17, 1981, respectively to JERRY SIMPSON d/b/a THORTON TRANSFER, of Griswold, IA authorizing the transportation of (1) *general commodities* with exception over regular and irregular routes between Omaha, NE and named points in Western Iowa and (2) such commodities having a prior or subsequent movement by rail between points in IA, NE, and MO. Transferee holds authority in MC–110581. Applicants representative: James F. Cosby, James F. Cosby & Associates, 7363 Pacific St., Suite 210B, Omaha, NE 68114. No T/A has been filed.

[FR Doc. 82–26902 Filed 9–29–82; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries about the following to Team 2, (202) 275–7030.

Volume No. OP 2–236

Decided: September 23, 1982.

By the Commission. Review Board No. 1, Members Parker, Chandler, and Fortier. Member Chandler not participating.

MC 1222 (Sub-57), filed September 20, 1982. Applicant: THE REINHARDT TRANSFER COMPANY, 1410 10th St., Portsmouth, OH 45662. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602, 502–223–8244. Transporting *chemicals and related products, rubber and plastic products, and metal products,* between points in Will County, IL, Mason County, MI, and Hancock, Licking, and Lawrence Counties, OH, on the one hand, and, on the other, points in DE, MD, NJ, and DC.

Note.—Applicant may tack this authority with its existing regular route authority.

MC 67403 (Sub-15), filed July 22, 1982 (Correction), previously published in the **Federal Register** issue of August 10, 1982, and republished, as corrected, this issue. Applicant: BROES TRUCKING COMPANY, INC., Interstate Highway 295 & Dominick Lane, Paulsboro, NJ 08066. Representative: Robert F. Blomquist, 499 Cooper Landing Rd., Cherry Hill, NJ 08002, 609–667–6000. Transporting (1) *metal products,* (2) *commodities which because of their size or weight require the use of special handling or equipment,* (3) *machinery and parts,* (4) *lumber and wood products,* and (5) *building materials,* between points in NY, NJ, PA, CT, MA, RI, DE, VA, MD, WV, OH, VT, NH, NC, ME, and DC.

Note.—This republication is to correct the commodity description.

MC 109593 (Sub-22), filed September 20, 1982. Applicant: H. R. HILL, INC., P.O. Box 875, 2007 West Shawnee, Muskogee, OK 74401. Representative: Jack R. Anderson, Suite 305—Reunion Center, 9 East 4th St., Tulsa, OK 74103, 918–583–9000. Transporting *general commodities* (except classes A and B explosives, household goods, and

commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Midland Glass Co., Inc., of Cliffwood, NJ.

MC 148153 (Sub-5), filed September 20, 1982. Applicant: WALBON & COMPANY, INC., 3242 Highway 8, Minneapolis, MN 55418. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, 612–927–8855. Transporting *alcoholic beverages,* between Savannah, GA, Charleston, SC, and Mobile, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163163 (Sub-1), filed September 20, 1982. Applicant: EAGLE BUS, INC., 805 Avenue "C", Bayonne, NJ 07002. Representative: Edward F. Bowes, 7 Becker Farm Rd, P.O. Box "Y", Roseland, NJ 07068, 201–992–2200. Transporting *passengers and their baggage,* in special and charter operations, between points in the U.S. (except AK and HI), under continuing contract(s) with Eagle Tours, Inc., of Bayonne, NJ.

MC 163912, filed September 20, 1982. Applicant: RECORD TRANSPORT, INC., 2065 E. Ross St., Vernon, CA 90058. Representative: William W. Johnston (same address as applicant), 213–231–9141. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA.

Volume No. OP2–238

Decided: September 24, 1982.

By the Commision, Review Board No. 1, Members Parker, Chandler and Fortier. Member Chandler not participating.

MC 87113 (Sub-26), filed September 13, 1982. Applicant: WHEATON VAN LINES, INC., 8010 Castleton Rd., Indianapolis, IN 46250. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006, (202) 833–8884. Transporting *household goods,* between points in the U.S., under continuing contract(s) with Pabst Brewing Company, of Milwaukee, WI.

MC 139063 (Sub-16), filed September 7, 1982. Applicant: BUILDING SYSTEMS TRANSPORTATION, INC., P.O. Box 142, Washington Court House, OH 43160. Representative: Marshall Kragen, 1919 Pennsylvania Ave, NW., Suite 300, Washington, DC 20006 (202)466–3778. Transporting *(1) rubber and plastic products, (2) pulp, paper, and paper products, (3) lumber and wood products, (4) metal and metal products, and (5) clay, concrete, glass, or stone products,* between points in the U.S. (except AK and HI).

MC 162023 (Sub-2), filed August 20, 1982. Applicant: FREDERICK TRANSPORT (U.S.), INC., 4000 49th Ave., Moline, IL 61625. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW., Washington, DC 20005, (202)783–3525. Transporting *paper and printed matter,* between points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must file an application, under 49 U.S.C. § 11343(a), to the Secretary's office. In order to expedite issuance of any authority, please submit proof of filing of the application for common control to Team 2, Room 2379.

Please direct status inquiries about the following the Team 4 (202) 275–7669.

Volume No. OP4–343

Decided: September 23, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

MC 45736 (Sub-66), filed September 13, 1982. Applicant: GUIGNARD FREIGHT LINES, INC., P.O. Box 26067, Charlotte, NC 28213. Representative: Charles Ephraim, 406 World Center Bldg., 918 16th St., NW., Washington, DC 20006 (202) 833–1170. Transporting *general commodities* (except classes A and B explosives and household goods), (1) between points in IL, IN, MI, MS, and (2) between points in IL, IN, MI, and MS, on the one hand, and, on the other, points in AL, DE, FL, GA, KY, MD, NC, NJ, OH, PA, SC, TN, VA, WV, and DC.

MC 136746 (Sub-5), filed September 13, 1982. Applicant: CONSOLIDATED PARCEL SERVICE, INC., 2058 Concourse Drive, St. Louis, MO 63141. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102 (314) 421–0845. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL and MO, on the one hand, and, on the other, points in AR, IL, IN, IA, KS, KY, MI, MO, NE, OH, OK, and TN.

MC 143956 (Sub-34), filed September 10, 1982. Applicant: GARDNER TRUCKING CO., INC., P.O. Drawer 493, Walterboro, SC 29488. Representative: Steven W. Gardner, (same address as applicant) (803) 549–2026. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Mondi, Inc., of Cincinnati, OH.

MC 145726 (Sub-15), filed September 13, 1982. Applicant: G. P. THOMPSON ENTERPRISES, INC., P.O. Box 146, Midway, AL 36053. Representative: Terry P. Wilson, 428 S. Lawrence St., Montgomery, AL 36104, (205) 262–2756. Transporting *such commodities* as are dealt in by grocery and food business houses, between points in the U.S. (except AK and HI).

MC 150277 (Sub-2), filed September 15, 1982. Applicant: HOWARD McLAIN TRANSPORTATION, INC., 139 S. Bunn Rd., Hillsdale, MI 49242. Representative: James R. Neal, 1200 Bank of Lansing Bldg., Lansing, MI 48933, (517) 482–2400. Transporting (1) *metal and metal products,* (2) *chemicals and chemical products,* and (3) *food and related products,* between those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX.

MC 150756 (Sub-7), filed September 13, 1982. Applicant: GUTHMILLER TRUCKING, INC., P.O. Box 206 (30700 Dyer St.), Union City, CA 94587. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *containers, container closures, filters and plastic products,* between points in AZ, CA, CO, ID, KS, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY.

MC 154047 (Sub-1), filed September 15, 1982. Applicant: C & S EXPRESS, INC., 4907 St. Rt. 39, Crestline, OH 44827. Representative: Richard H. Brandon, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160767 (Sub-6), filed September 8, 1982. Applicant: LADD TRANSPORTATION, INC., #1 Plaza Ctr., Box HP 3, High Point, NC 27261. Representative: Beverly C. Davis, (same address as applicant) (919) 889–0333. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Simmons USA, of Atlanta, GA.

MC 163677, filed September 8, 1982. Applicant: HENRY S. STEFANIK, d.b.a. NORTHSIDE TRUCKING CO., Morgan Ave., Westfield, MA 01085. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 781–8205. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Digital Equipment Corporation, of Maynard, MA.

MC 163727, filed September 8, 1982. Applicant: TED BAILEY AND KAREN BAILEY, d.b.a. BAILEY'S BUS SERVICE,

2650 N. Nine Mound Rd., Verona, WI 53593. Representative: Patrick H. Smyth, 105 W. Madison St., Suite 1008, Chicago, IL 60602, (312) 263–2397. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter operations, beginning and ending at points in Dane, Sauk, Iowa, Green, Rock, Jefferson, and Richland Counties, WI, and extending to points in the U.S. (except HI).

MC 163806, filed September 10, 1982. Applicant: GREAT COASTAL CARRIERS, INC., P.O Box 699, Laurel, DE 19956. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth St., NW, Washington, DC 20005, (202) 296–5188. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI).

MC 163816, filed September 13, 1982. Applicant: AMERICAN INTERNATIONAL TRANSPORT, INC., 600 Absecon Blvd., Atlantic City, NJ 08401. Representative: Alan R. Squires, 818 Widener Bldg., 1339 Chestnut St., Philadelphia, PA 19107, (215) 564–3660. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter operations, beginning and ending at points in NJ, and extending to points in the U.S. (except HI).

MC 163847, filed September 13, 1982. Applicant: BOOMERANG EXPRESS, INC., P.O. Box 188, Colfax, NC 27235. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2818. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Fulton and Montgomery Counties, NY, Washington County, PA, Rockingham County, NC, Orange County, CA, and points in NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) (a) *lumber and wood products,* and (b) *pulp, paper and related products,* between points in Guilford and Davidson Counties, NC, on the one hand, and, on the other, points in TX, and those in the U.S., in and east of MN, IA, MO, AR, and LA, (3) *rubber and plastic products,* between points in Randolph County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (4) *furniture and fixtures,* between points in Guilford County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Please direct status inquiries about the following to teams (202) 275–7289.

Volume No. OP3-198

Decided: September 21, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 41098 (Sub-86), filed September 13, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K Street N.W., Washington, DC 20006, (202) 833–8884. Transporting *general commodities* (except commodities in bulk, household goods and classes A and B explosives) between points in the U.S., under continuing contract(s) with Singer Career Systems of Rochester, NY.

MC 97398 (Sub-2), filed September 13, 1982. Applicant: BEGLEY TRUCKING, INC., 4550 Richmond St., Philadelphia, PA 19137. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966, (215) 357–7220. Transporting *chemicals and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Betz Laboratories, Inc. of Trevose, PA, and its subsidiaries, Betz Paper Chemicals, Inc., Betz Entec, Inc., and Betz Process Chemicals, Inc.

MC 109448 (Sub-45), filed September 13, 1982. Applicant: PARKER TRANSFER COMPANY, 1539 Lowell St., P.O. Box 256, Elyria, OH 44036. Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215, (614) 228–1541. Transporting (1) *such commodities* as are dealt in or used by manufacturers and distributors of Heating and air conditioning units, between points in Effinghan County, IL, Frederick County, MD, and Middlesex County, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI, and (2) *transportation equipment,* between points in Erie County, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 130669 (Sub-2), filed September 15, 1982. Applicant: Donald J. Sweeney, d.b.a. D.J.S. ENTERPRISES, INC., R.F.D. #2, New Road, Goffstown, NH 03045. Representative: Donald J. Sweeney, 155 Baker St., Manchester, NH 03103, (603) 669–0728. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in ME, NH, MA, RI, VT, and CT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146888 (Sub-11), filed September 13, 1982. Applicant: GLASS CONTAINER TRANSPORT, INC., Route 1, Box 271, Ridgeway, SC 29130. Representative: Archie B. Culbreth, Suite 570, 2200 Century Parkway, Atlanta, GA 30345, (404) 321–1765.

[redacted] (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 121639 (Sub-2), filed September 10, 1982. Applicant: J. M. MARC TRANSPORTATION, INC., 7 Ladik St., Piermont, NY 10968. Representative: Bruce J. Robbins, 18 East 48th St., New York, NY 10017, (212) 755–0400. Transporting *pulp, paper, and related products,* between points in the U.S. (except AK and HI).

Note.—This application is a conversion from contract to common carrier authority.

MC 152589 (Sub-2), filed September 15, 1982. Applicant: SOUTHERN CARRIERS, INC., P.O. Box 631, Galena Park, TX 77547. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255–6279. Transporting *general commodities* (except classes A and B explosives), between Galveston and Houston, TX, and points in Dallas and Tarrant Counties, TX, on the one hand, and, on the other, points in AR, CO, LA, KS, MO, and NM.

MC 162148 (Sub-1), filed September 14, 1982. Applicant: YOUR MAN TOURS, INC., 8831 Aviation Blvd., Inglewood, CA 90301. Representative: Joseph J. Weisenfeld, Suite 1850, One Biscayne Tower, Miami, FL 33131, (305) 374–5600. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Los Angeles, Orange, Santa Barbara, Ventura, San Bernardino, Riverside and San Diego Counties, CA, and extending to points in CO, UT, NV, and AZ.

MC 162378, filed September 13, 1982. Applicant: J. W. LINDSEY, d.b.a. J'S PIGGY BACK SERVICE, Fort Worth, TX 76101. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, 817–332–4718. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Tarrant and Dallas Counties, TX, on the one hand, and, on the other, points in Ellis, Denton, Johnson, Hood, Parker, Palo Pinto, Jack, Erath, Wise, Clay, Wichita, Montague, Cooke, Grayson, Fannin, Lamar, Hopkins, Hunt, Collin, Young, Stephens, Kaufman, Van Zandt, Rains, Wood, Smith, Cherokee, Henderson, Navarro, Eastland, Somervell, Comanche, Bosque, Hill, Freestone, Anderson, Limestone, McLennan, Coryell, Hamilton, Archer, Delta, and Rockwall Counties, TX.

MC 163329, filed September 13, 1982. Applicant: [redacted] 500 W. Wayne St., Celina, OH 45822.

Representative: John M. Summerly (same address as applicant), (419) 586–2351. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Aqua Leisure, Inc., of Avon, MA, Aaron Rents, Inc., d/b/a Mactavish Furniture Industries, of Quincy, FL, Totsy Mfg. Co., Inc., of Holyoke, MA, and Columbia Manufacturing Co., of Westfield, MA.

MC 163839, filed September 14, 1982. Applicant: R. W. DELANEY CONSTRUCTION COMPANY, P.O. Box 264, Natchez, MS 39120. Representative: Randy Irvin (same address as applicant), (601) 442-0352. Transporting *Mercer commodities*, between points in AL, AR, FL, GA, LA, MS, OK, TN, and TX.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26686 Filed 9-29-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP4–342]

Motor Carriers; Republications of Grants of Operating Rights; Authority Prior to Certification; Decision Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register**.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall address specifically the issue(s) indicated as the purpose for republication. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

Please direct status inquiries to Team Four at (202) 275–7669.

MC 144757 (Sub-21) (republication), filed May 21, 1982; published in the **Federal Register** issue of June 23, 1982; and republished this issue. Applicant: Dakota Pacific Transport, Inc., 3104 East St. Patrick, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701, Phone: (605) 343–4036. In a decision by the Commission, Review Board Number 1, decided August 31, 1982, and finds that performance by applicant: To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* between Arnaudville, Bryant, Bushville, Cecelia, Coteau Holmes, Gondron, Grant Point, Isle Labbe, Jefferson Island, Loreauville, New Iberia Connection, Oubre, Parks, Patin, Pecaniere, Summerall, Ulysse, Vida, and Walet, LA; Fairfax and Tarkio, MO; Buckley and Enumclaw, WA; Huntley and Ragan, NE; Bender, Breckenridge, Eddy, Erie, Grainville, Hunter, Lamont, Middleton, Peckham, Salt Fork Steen, and Simpson, OK; Weir City, KS; Bartlett, Cartago, Coso, Inyokern, Linnie, Little Lake, Olancha, and Sykes, CA; Corral and Hill City, ID; Cipsco Park, Carbon Lake, Leo Rock and Sand Ridge, IL; Viola, KS; Edgar, Johnson, Keuka, Newby and Oak Crest, FL; Pactolus, Stokes and Whitchard, NC; Ehrhardt, SC; Dundee, Lake Hamilton and Waverly, FL; Greenwood, Loyal and Spokeville, WI; Oakdale, NM; Pencilwood, CA; Berwick, OH; Mt. Hope, NJ; Buchanan, Carlton, Cochranton and Utica, PA; Dimeling, Madera, and Lilly, PA; Lansdown, NJ; Aqueduct, NY; Alexandria, Atlasburg, and St. Clair, PA; Kentmere, DE; La Otto and Huntertown, IN; Picatinny Arsenal, and Hudson, NJ; Whitehall, OH; Levans Mill, and Hepburnville, PA; Randolph, MA; Hughesville and Warren Glen, NJ; Gadsden, IN; Newton Highlands, MA; Toms River, NJ; East View, Elmsford, and Woodbine, NY; Cadiz , Grants, McVittys and Patterson, OH; Bowersville, Little Virginia, and New Providence, PA; Milton, DE; Olivers, San Pierre, Rupel, Tefft, Toto and Wheatfield, IN; Colon, Concord, Haires, Homer, Spring Arbor, Union City and Tekonsha, MI; Merchantville, Pavonia, Branchport, East Longbranch and Ft. Monmouth, NJ; Frankfort, Harbor, Ilion, McConnellsville, Pittsford, Cheming Junction, Elmira Heights and Horseheads, NY; Coleman, Columbiana Mine, Lisbon, De Cliff, Hepburn, Swan Creek, W. Marion, and N. Cherokee, OH; Ironsides, Glasgow and Irvona, PA; Ludlow, MA; Heilwood, PA; Honeoye Falls and Lima, NY; Ft. George G. Meade, MD; Charlottesville, Cumberland, Gem and Greenfield, IN; Garrettsville, Hiram, Leavittsburg, Phalanx, Amsterdam, Ann Mine, Bergholz, Hopedale, Industrial Mine, K & R 1 Mine, Mechanicstown, Piney Fork and Route 43 Washer, OH; Durbin, Aylesworth, Hebron, Kouts, Le Roy, North Judson and Winamac, IN; Bayard and Fairhope, OH; Betzwood, Port Indian, and Spring Mill, PA; Harding, Ontario, and Harrods, OH; Malden, NJ; Greason, Lees Cross Roads, Longsdorf, Newville, and Eclipse, PA; Arlington Siding, Fishkill Plains and Manchester Bridge, NY; Centerville and Germantown, IN; Eldorado, New Paris and Stillwater, OH; Clintondale, East Walden and Modena, NY; Amo, Clayton, Coatesville and Plainfield, IN; Cornwall, PA; Hightstown, NJ; Covington, Hillsboro, Range Road and Waynetown, IN; Mt. Carmel, PA; Birmingham, Ft. Dix and Penberton, NJ; Cunningham, Milton, and Semora, NC; Baskerville, Boydton, Buffalo Jct., Finchley, Mayo, Nelson, Union Level and Virgilina, VA; Carthage and Key West, MN; and Lake Kapowsin, WA, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), will serve a useful public purpose responsive to a public demand or need. Applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements. NOTE: To the extent that the certificate granted here authorizes the transportation of Classes A and B explosives, it will expire 5 years fom the date it is issued and Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423.

Note.—The purpose of this republication is to include "used household goods" in the commodity description.

MC 158286 (Sub-8) (republication), filed April 15, 1982; published in the **Federal Register** issue of May 21, 1982; and republished this issue. Applicant: M. T. TRUCK LINE INC., 4947 W. 173rd St., Country Club Hills, IL 60477. Representative: James C. Hardman, Suite 2108, 33 North La Salle St., Chicago, IL 60602, Phone: (312) 236–5944. In a decision by the Commission, Review Board Number 3, decided August 6, 1982, and finds that performance by applicants a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: *general commodities* between Plainfield, Cartersburg, Clayton, Amo, Coatesville, and Fillmore, IN, on the one hand, and, on the other, points in the United States; will serve a useful public purpose responsive to a public demand or need. Applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements. Conditions: (1) The certificate to be issued in this proceeding, to the extent it authorizes the transportation of classes A and B explosives, shall be limited in point of time to a period expiring five (5) years

from the date of issuance and (2) Applicant must also certify to the Commission, prior to instituting the operations, that all rail service has actually terminated at the involved points. To accomplish this applicant will be required to send an affidavit marked "Certification of Rail Service Termination" to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423.

Note.—The purpose of this republication is to include "classes A and B explosives, household goods and commodities in bulk, and service to Alaska and Hawaii".

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26883 Filed 9-29-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-280)]

Western Pacific Railroad Co.; Exemption for Contract Tariff ICC-WP-C-0031 (Canned Goods, Dried Fruit, Beverage Preparations)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due by October 15, 1982.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278

or

Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: September 24, 1982.

By the Commission, Review Board Number 2, Members Carleton, Williams, and Ewing.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-26886 Filed 9-29-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Information for Prospective Lenders; Housing Guaranty Program

I. Introduction

The Housing Guaranty (HG) Program is financed by private capital and is administered by the U.S. Agency for International Development (A.I.D.). The HG Program promotes basic shelter and related services for low-income families throughout the developing world and is an integral component of A.I.D. assistance. The HG Program has been responsible for more than $1.6 billion in loans for housing and community and urban improvement projects in forty developing nations over the past twenty years.

The HG loans are financed by private U.S. lenders and are secured by a full faith and credit U.S. government guaranty. Authority for the guaranty is provided in Sections 221–223 of the Foreign Assistance Act of 1961, as amended (the "Act"). A.I.D. levies an initial charge of one percent (1%) of the amount of the loan, plus a guaranty fee of one-half of one percent (1%) of the unpaid principal balance of the loan per annum for the life of the loan, using this income to cover operating expenses and provide a reserve against claims.

This notice describes the Housing Guaranty Program and explains how private U.S. lenders may participate in the program.

II. Lender Eligibility

A. Definition

The terms "lender" and "investor" are used interchangeably by A.I.D. Section 238(c) of the Act defines "eligible investors" as:

(1) United States citizens;

(2) Corporations, partnerships, or other associations including nonprofit associations, created under the laws of the United States or any state or territory thereof and substantially beneficially owned by United States citizens; and

(3) Foreign corporations, partnerships, or other associations wholly owned by one or more such United States citizens, corporations, partnerships, or other associations: Provided, however, that the eligibility of such foreign corporations shall be determined without regard to any shares, in aggregate less than 5 percent of the total issued and subscribed share capital, held by other than the United States owners.

B. Procedures

It is the responsibility of a lender to determine whether or not it qualifies as an "eligible investor" under the Act. A.I.D. will not prequalify a lender. At A.I.D.'s option, a final determination of eligibility may be made with respect to a specific lender upon the issuance of a guaranty. A lender may request a final determination after submitting evidence of eligibility and stating its intent to hold the guaranteed notes for the life of the loan for investment purposes only.

III. Eligible Projects and Project Preparation

Projects accepted for HG loans are generally developed by foreign governments or institutions working in conjuction with A.I.D.'s overseas missions. To qualify, the projects must be designed to provide housing, infrastructure or improved community services to urban families whose annual income is below the median income levels in the areas where the projects are located. A.I.D.'s goals in development are far broader than planned physical construction alone. HG projects will generally include components in support of these goals, such as technical assistance in the development of improved national housing policies, or for the improvement of the country's financial institutions.

HG projects presently being financed:

Slum upgrading: Includes the provision of water, sewerage, and electricty; and may also include roads, health clinics, schools, and building materials for self-help home improvements;

Sites and services: Includes the necessary clearing or grading of vacant land; division and assignment of lots; construction of commón-use facilities;

Core housing: Sites and services program with the addition of a rudimentary housing shell on each lot, to be improved or added to by the owner;

Low-cost housing units: Housing built for sale; and,

Institution building: Refers to the support provided by A.I.D. to local housing institutions through financing primary and secondary mortgage markets.

There are three phases in the development of a specific housing guaranty project: project planning and design; formal A.I.D. project authorization; and project implementation. Lenders do not become involved in these three phases. Once the terms and conditions of a project have been agreed upon, and a project implementation agreement has been signed by the borrowing county and A.I.D., describing the project to be financed and the mutual obligations of the parties, thereafter, the borrower begins the lender selection process.

Contracts customarily required:

(1) Loan Agreement between the borrower and the lender stating the terms of the loan.

(2) Contract of Guaranty between A.I.D. and the lender stating the terms of the U.S. guaranty.

(3) Host Country Guaranty between A.I.D. and the government of the borrowing country providing for an indemnity to A.I.D. in the event of a default, whenever A.I.D. has had to make payments to the lender on behalf of the borrower.

(4) Paying the Transfer Agency Agreement between The Riggs National Bank of Washington, D.C. ("Riggs") and the borrower for servicing of the loan—this is a standard form used in all HG transactions.

(5) Primissory notes issued by the borrower and endorsed with an A.I.D. guaranty legend.

IV. Lender Selection

There are two approved methods for lender selection by a borrower, unless otherwise agreed to by A.I.D.: (1) Competitive negotiation and (2) non-competitive negotiation.

A. Competitive Negotiation

A.I.D. requires that the lending opportunities be advertised and that the borrowers solicit and give fair consideration to all bids received. A.I.D. will publish a notice of each investment opportunity in the **Federal Register** and will also send copies of the notice to firms on the A.I.D. mailing list.

Notices of a prospective investment opportunity will describe the borrowing and will state the closing day and hour by which all bids must be received. The notices will also establish a time period during which the bids must remain open.

Since the notices are based upon information supplied by the borrower, it may at times be necessary for a lender to obtain additional information directly from the borrower before entering a bid. Direct contract between lenders and borrowers is encouraged by A.I.D.

B. Non-competitive Negotiation

A borrower may select a lender through a non-competitive negotiation process after obtaining the written consent of the Director or the Deputy Director of the Office of Housing and Urban Development. Such consent is discretionary and will be made only after A.I.D. has determined that the use of A.I.D. non-competitive procedures will be in the best interest of the borrower and of A.I.D. This consent may be for a specific project or for all projects within a stated time period.

A.I.D. may impose conditions for its approval of a non-competitive lender selection process including a condition that notices of the transactions be published.

A.I.D. reserves the right to approve the interest rate and other terms and conditions under both procedures for lender selection.

V. Loan Terms and Conditions

There is no standard form for a Loan Agreement or a promissory note. It is the lender's reponsibility to draft such agreements, and then present them to A.I.D. for approval. However, certain terms or limitations are required in each loan agreement. These terms and limitations are described below.

A. Paying and Transfer Agency.

A.I.D. has appointed The Riggs National Bank of Washington, D.C. to be the Paying and Transfer Agent to service the loans. The costs of Riggs' services are paid by the borrower and are usually deducted from the first disbursement. Riggs' fees are dependent upon the number of noteholders, and therefore it is important that borrowers and lenders familiarize themselves with the fee schedule. A copy of the standard agreement to be entered into by each borrower and Riggs is available upon request from A.I.D.

B. Maximum Interest Rates.

The maximum rate of interest that can be charged borrowers, exclusive of reasonable service and commitment charges, is one percent (1%) above the maximum rate periodically set by the Department of Housing and Urban Development for insured mortgages on multi-family dwellings. Service and commitment charges in excess of one percent (1%) of the principal amount of the loan are included in the calculation of the interest rate charged the borrowers.

Both fixed rate and floating rate loans have been approved by A.I.D. in recent months. Information on the current maximum interest rate may be obtained by telephoning the Office of Housing and Urban Development (202) 632–0637 or the FHA (202) 755–5284.

C. Terms and Amortization. Other limitations, including grace periods and methods of amortization may be contained in specific project authorizations. A.I.D. encourages borrowers and lenders to agree upon terms that are in their best interests.

D. Prepayment. Prepayment rights are negotiated by the borrower and the lender. However, A.I.D. may insist that the borrower be permitted to prepay, in whole or in part, without penalty, in order to protect certain A.I.D. interests, and the loan agreements must reflect this right.

E. Fees and Other Charges. Lenders may charge reasonable fees. A.I.D. requests that lenders estimate their legal fees and other costs and include them in a single fee to be collected from the loan amount. As noted in paragraph B above, fees in excess of one percent (1%) of the loan will be viewed as a presumptive attempt to increase the yield to the lender and will be factored over the life of the loan to determine if the maximum interest rate has been exceeded.

VI. The A.I.D. Guaranty

After a loan agreement has been signed, A.I.D. will sign a Contract of Guaranty. The A.I.D. guaranty will be evidenced by a guaranty legend on each note, by manual or facsimile signature, indicating that the repayment of the note is guaranteed by the full faith and credit of the United States Government.

It is A.I.D.'s policy to avoid putting lenders through a formal claims process, although this policy is subject to change without notice. Riggs, as fiscal agent, is required to notify A.I.D. in the event of non-payment by the borrower on the due date. A.I.D. and Riggs will trace the payment. If no payment is made to the lender by the tenth (10th) calendar day after the due date, A.I.D. may deem that a constructive claim has been made by the lender. A.I.D. will transfer the required amount to Riggs from the Reserve Fund, and will instruct Riggs to make the payment to the lender from the transferred funds. A.I.D. will then be subrogated to the lender's rights against the borrower.

Additional terms and limitations to be contained in each Contract of Guaranty are:

Finders or Agents Fees. Unless A.I.D. otherwise agrees, lenders are requested

not to pay finders' or agents' fees to persons within the borrowing country.

Partial Payment. A.I.D. retains the right to make installment payments on behalf of a borrower thus preventing a default on a loan.

Records and Reporting: A.I.D. requires reporting by lenders and access to records of the lender concerning the loan made to the borrower, and guaranteed by A.I.D.

The following A.I.D. Office of Housing and Urban Development officials are authorized to execute Contracts of Guaranty to evidence A.I.D.'s guaranty by signing a guaranty on each individual note by manual or facsimile signature:

Director
Deputy Director
Assistant Director for Operations
Assistant Director for Program Support
Assistant Director for Financial Affairs

VIII. Other Considerations

A. Eligibility of the Notes

The guaranteed notes are legal investments for practically all types of institutional investors. Savings and loan associations may invest up to one percent (1%) of their total assets in securities guaranteed under the Act. An investor should consult with its legal counsel on this matter before purchasing a note.

B. Tax Status

Interest received on the notes is deemed to be foreign source income under the Internal Revenue Code and is subject to Federal income tax. No stamp tax, duty or other levy of any nature whatsoever imposed by or in the country of the borrower or any taxing authority therein is payable on account of the HG loan transactions, or the transfer of any note, nor may such tax be withheld from the payment of interest or principal on any note.

C. Amendments

This publication and the procedures outlined herein may be amended by the Director of the Office of Housing and Urban Development. For further information, or if you wish to be placed on the mailing list for notices on investment opportunities, please contact the Director, Office of Housing and Urban Development, Room 625, SA/12, Agency for International Development, Washington, D.C. 20523, Telephone: (202) 632–9637.

Dated: September 13, 1982.

Fredrik A. Haneen,

Deputy Director, Office of Housing and Urban Development.

[FR Doc. 82-26913 Filed 9-29-82; 8:45 am]

BILLING CODE 4710-02-M

NATIONAL CAPITAL PLANNING COMMISSION

Establishment of Agency SES Performance Review Board and Names of Board Members

Section 4314(c) of Title 5, U.S.C. (as amended by the Civil Service Reform Act of 1978) requires that each agency establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Boards (PRB) to review, evaluate and make a final recommendation on performance appraisals assigned to individual members of the agency's Senior Executive Service. The PRB established for the National Capital Planning Commission also makes recommendations to the agency head regarding SES Performance awards, ranks and bonuses. Section 4314(c)(4) requires that notice of appointment of Performance Review Board members be published in the **Federal Register.**

The following persons have been appointed to serve as members of the Performance Review Board for the National Capital Planning Commission: Reginald W. Griffith, Donald F. Bozarth, Robert E. Gresham, Armen Tashdinian, Richard Petrocci.

For further information regarding SES Performance Review Board contact: Malcolm L. Trevor, Special Assistant to the Executive Director for Administration, National Capital Planning Commission, 1325 G Street, N.W., Suite 1003, Washington, D.C. 20576.

Dated: September 28, 1982.

Daniel H. Shear,

Secretary to the Commission.

[FR Doc. 82-27090 Filed 9-29-82; 8:45 am]

BILLING CODE 7520-01-M

NATIONAL COMMISSION ON SOCIAL SECURITY REFORM

National Commission on Social Security Reform; Meeting

AGENCY: National Commission on Social Security Reform.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forth-coming meeting of the National Commission on Social Security Reform. This notice also describes the functions of the Commission. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: October 18, 1982, 2:00 p.m. to 6:00 p.m.

ADDRESS: Room 5110, Dirksen Senate Office Building, Washington, DC 20510.

FOR FURTHER INFORMATION CONTACT: Robert J. Myers, Executive Director, 736 Jackson Place NW., Washington, DC 20503; Telephone (202) 395–5132.

SUPPLEMENTARY INFORMATION: The National Commission on Social Security Reform is established by Executive Order No. 12335 dated December 16, 1981 to provide appropriate recommendations to the Secretary of Health and Human Services, the President, and the Congress on long-term reforms to put Social Security back on a sound financial footing.

The meeting of the Commission is open to the public. The proposed agenda includes:

Social Security financing; short and long term.

Such new business as the Chairman or the membership may put before the Commission.

Records are kept of all Commission proceedings, and are available for public inspection at the office of The Executive Director, National Commission on Social Security Reform, 736 Jackson Place NW., Washington, DC 20503.

Robert J. Myers,

Executive Director.

[FR Doc. 82-27018 Filed 9-29-82; 8:45 am]

BILLING CODE 3115-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Astronomical Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Astronomical Sciences
Date and Time: October 18, 1982 9 a.m.–5 p.m.; October 19, 1982 9 a.m.–4 p.m.
Type of Meeting: Open.
Place: Room 338, National Science Foundation, 1800 G St., NW., Washington, D.C.
Contact Person: Dr. Laura P. Bautz, Director, Division of Astronomical Sciences, Room

615, National Science Foundation, Washington, D.C. 20550.
Summary Minutes: May be obtained from the contact person at the above address.
Purpose of Committee: To provide advice and recommendations concerning research programs, proposals, and projects in NSF-funded astronomy with the objective of achieving the highest quality forefront research for the funds allocated. To provide advice and recommendations concerning short range and long range plans in astronomy, including a recommendation of relative priorities.

Monday, October 18

Agenda:
9 a.m.–5 p.m.: Introduction, Status of FY 83 Budget and other Items, FY 84 Outlook, Long Range Priorities, Relation Between Ground- and Space-based Astronomy.

Tuesday, October 19

9 a.m.–4 p.m.: AURA Study of Reorganization, Presentation of the Astronomical Instrumentation and Development Program, Continued Discussion of Topics from Previous Day, Concerns of Committee.

M. Rebecca Winkler,

Committee Management Coordinator.

September 27, 1982.

[FR Doc. 82-26911 Filed 9-30-82; 8:45 am]

BILLING CODE 7555-01-M

National Science Board; Commission on Precollege Education in Mathematics, Science and Technology; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: National Science Board Commission on Precollege Education in Mathematics, Science and Technology.
Date and Time: October 19, 1982; 9 a.m.–5 p.m.
Place: National Science Foundation, 1800 G Street, NW., Room 540 (Board Room), Washington, D.C. 20550.
Type of Meeting: Open.
Contact Person: Dr. Richard S. Nicholson, Executive Director, Commission on Precollege Education in Mathematics, Science and Technology, Room 527, National Science Foundation, Washington, D.C. 20550.
Summary Minutes: Contact Dr. Richard S. Nicholson at the above address.
Purpose of Commission Meeting and Agenda: The four Task Groups, established at the July 9–10 meeting, will present preliminary findings to the full Commission which will provde guidance to the Groups for the continuance of Phase II activities.

M. Rebecca Winkler,

Committee Management Coordinator.

September 29, 1982.

[FR Doc. 82-26910 Filed 9-30-82; 8:45 am]

BILLING CODE 7555-01-M

Subpanel on Molecular Biology, Group B, of the Advisory Panel for the Division of Physiology, Cellular, and Molecular Biology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meetings:

Name: Subpanel on Molecular Biology, Group B, of the Advisory Panel for Physiology, Cellular and Molecular Biology.
Date and Time: Oct. 18 and 19, 1982, 9:00 a.m. to 5:00 p.m. each day.
Place: Room 1224, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.
Type of Meeting: Closed.
Contact Person: Dr. Huber R. Warner, Program Director, Biochemistry Program, Room 329, National Science Foundation, Washington, D.C. 20550.
Purpose of Subpanel: To provide advice and recommendations concerning support for research in Molecular Biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are with exemptions (4) and (6) of 6 U.S.C. 552(c), Government in the Sunshine Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. R. Winkler,

Committee Management Coordinator.

September 27, 1982.

[FR Doc. 82-26909 Filed 9-29-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Systems of Records; Annual Publication

AGENCY: Nuclear Regulatory Commission.

ACTION: Notices of Systems of Records, Annual Publication.

SUMMARY: The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires each Federal agency to publish annually in the Federal Register a notice of the existence and character of their systems of records notices that contain personal data information. The Act also requires that the information contained in each system of records be maintained in a manner that is timely, relevant, and up-to-date. This notice clarifies and updates the NRC Systems of Records. This compilation includes 38 Systems of Records as well as the Prefatory Statement of General Routine Uses.

FOR FURTHER INFORMATION CONTACT:

Kostantina K. Pappas, Freedom of Information/Privacy Act Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–8133.

NRC Systems of Records

1. Appointment and Promotion Certificate Records—NRC
2. Biographical Information Records—NRC
3. Byproduct Material License Records—NRC
4. Conflict of Interest Files—NRC
5. Contracts Records Files—NRC
6. Development and Advancement for Regulatory Employees (DARE) Records—NRC
7. Division of Technical Information and Document Control Workload Assignment and Production Records—NRC
8. Employee Appeals, Grievances and Complaints Records—NRC
9. Equal Employment Opportunity Records Files—NRC
10. Freedom of Information Act (FOIA) and Privacy Act (PA) Requests Records—NRC
11. General Personnel Records (Official Personnel Folder and Related Records)—NRC
12. Government Motor Vehicle Operators License Files—NRC
13. Incentive Awards Files—NRC
14. Employee Alcoholism and Drug Abuse Program Files—NRC
15. National Standards Committee Membership Files—NRC
16. Facility Operator Licensees Record Files (10 CFR Part 55)—NRC
17. Occupational Injuries and Illness Records—NRC
18. Office of Inspector and Auditor Index File and Associated Records—NRC
19. Official Personnel Training Records Files—NRC
20. Official Travel Records—NRC
21. Payroll Accounting Records—NRC
22. Personnel Performance Appraisals—NRC
23. Personnel Research and Test Validation Records—NRC
24. Property and Supply System (PASS)—NRC
25. Oral History Program—NRC
26. [Revoked]
27. Radiation Exposure Information and Reports System (REIRS) Files—NRC
28. Recruiting, Examining and Placement Records—NRC
29. Document Control System—NRC
30. Manpower System (MPS) Records—NRC
31. Correspondence and Records Branch, Office of the Secretary—NRC
32. Source and Special Nuclear Material License Records—NRC
33. Special Inquiry File—NRC

34. Advisory Committee on Reactor Safeguards (ACRS) Correspondence Index and Associated Records—NRC
35. [Revoked]
36. Employee Locator Records Files—NRC
37. Information Security Files and Associated Records—NRC
38. Mailing Lists—NCR
39. Personnel Security Files and Associated Records—NCR
40. Facility Security Support Files and Associated Records—NCR

These systems of records are those systems maintained by the Nuclear Regulary Commission which contain personal information about individuals, and from which such information can be retrieved by reference to an individual identified.

The notice for each system of records states the name and location of the record system, the authority for and manner of its operation, the categories of individuals which it covers, the types of records which it contains, the sources of information in those records, and the proposed "routine uses" of each system of records. Each notice also includes the business address of the NRC official who will inform interested persons of the procedures whereby they may gain access to and correct records pertaining to themselves.

One of the purposes of the Privacy Act, as stated in Section 2(b)(4), is to provide certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies to "* * * disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, that information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information." The NRC intends to follow these principles in transferring information to another agency or individual as a "routine use," including assurance that the information is relevant for the purposes for which it is transferred.

Prefatory Statement of General Routine Uses

The following routine uses apply to each system of records notice set forth below which specifically references this Prefatory Statement.

1. In the event that a system of records maintained by the NRC to carry out its functions indicates a violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rules or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. A record from this system of records may be disclosed, as a routine use, to a Federal, state, local or foreign agency, if necessary, to obtain information relevant to an NRC decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. A record from this system of records may be disclosed, as a routine use, to a Federal, state, local or foreign agency in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system of records may be disclosed, as a routine use, in the course of discovery and in presenting evidence to a court, magistrate, administrative tribunal, or grand jury, including disclosures to opposing counsel in the course of settlement negotiations.

5. Disclosure may be made, as a routine use, to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

6. A record from this system of records may be disclosed, as a routine use, to an NRC contractor on a "need to know" basis for a purpose within the scope of the pertinent NRC contract. Such access will be granted to an NRC contractor by a system manager only after satisfactory justification has been provided to the system manager.

NRC-1

SYETEM NAME:

Appointment and Promotion Certificate Records—NRC.

SYSTEM LOCATION:

Primary system—For Headquartrs personnel, Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

For Regional personnel, at each of the Regional Offices listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Candidates for employment and NRC employees who are being considered for promotion and reassignment.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains vacancy announcements, applications for vacancies, selection certificates, the results of reference checks on employees, performance appraisals, and related records. The records pertain to specific announced vacancies which have been posted in accordance with the NRC Vacancy Announcement System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 5 U.S.C. 1302 (1976);
b. 42 U.S.C. 2201(d) (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To prepare reports for the Office of Personnel Management and/or Merit Systems Protection Board;

b. By the Office of Personnel Management and/or Merit Systems Protection Board to resolve complaints and grievances regarding employment and promotion selection;

c. For audit and review by the Office of Personnel Management and/or Merit Systems Protection Board;

d. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders in the Division of Organization & Personnel, Bethesda, MD or the NRC Regional Offices, I–IV, or the NRC Warehouse.

RETRIEVABILITY:

Information is accessed by vacancy announcement number, and by name within the individual vacancy announcement folders.

SAFEGUARDS:

Maintained in locked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained for 2 years from date of selection, then personal records destroyed by shredding; nonpersonal records are destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Staffing Section, Staffing & Position Evaluation Branch, Division of Organization & Personnel, Office of Administration, NRC, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, NRC, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, individual's current and previous supervisors, references, general personnel records (Official Personnal Folders and related records), and other Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-2

SYSTEM NAME:

Biographical Information Records—NRC.

SYSTEM LOCATION:

Office of Public Affairs, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commissioners, members of the Atomic Safety and Licensing Board and Appeal Board Panels, and senior NRC staff members.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to education and training, employment history, and other general biographical data relating to the Commissioners, members of the Atomic Safety and Licensing Board and Appeal Board Panels, and senior NRC staff members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2241, 5841, 5843(a), 5844(a), 5845(a), and 5849 (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information to the press;

b. To provide information to other persons and agencies requesting this information; and

c. For the routine uses specified in paragraph numbers 5 and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in file folders.

RETRIEVABILITY:

Records are accessed by name.

SAFEGUARDS:

Maintained in unlocked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained until updated or association with NRC is discontinued, then destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Public Affairs, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by each individual and approved for use by the individual involved.

NRC-3

SYSTEM NAME:

Byproduct Material License Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Fuel Cycle and Material Safety, Office of Nuclear Material Safety and Safeguards, NRC, 7915 Eastern Avenue, Silver Spring, Maryland.

Duplicate system—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Part 2; and the NIH Computer facility, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants and licensees (active and inactive) for byproduct material licenses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information contained in this system reflects data supplied by applicants and licensees and developed by the NRC staff in the license review and authorization process with respect to the possession and use of byproduct material. System component records developed and maintained by the NRC staff also include summary and index type data promoting quick access to and breakout of such information as:

a. Alphabetical listings of active and inactive licenses and applicants for licenses arranged by state and by a master listing;

b. Cross indexes of names to assigned license numbers;

c. Dates of license issuance and expiration; and

d. Geographic location of licensees by state and town.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201(o) (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide records to state health departments for their information and use;

b. To provide information to Federal, state and local health officials, and other persons in the event of incident or exposure, for purposes of their information, investigation and protection of public health and safety; and

c. For any of the routine uses specified in the Prefatory Statement.

In addition, certain of the information provided in this category is routinely placed in the NRC's Public Document Room.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper, index cards, computer tapes and printouts, microfilm and mag cards.

RETRIEVABILITY:

System data is indexed by licensee/applicant name within state; alphabetically by licensee name within license expiration time periods; by assigned license number in juxtaposition with licensee name.

SAFEGUARDS:

Maintained in unlocked file cabinet under visual control of file supervisor. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are continuously changed or amended as new information is developed or individual licenses are cancelled or terminated; license files are transferred to Federal Records Center in Suitland, Maryland, when they become inactive or terminated. Obsolete data, except for record copy maintained at Federal Records Center, is destroyed quarterly through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Fuel Cycle and Material Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Data supplied by applicants and licensees and developed by NRC technical staff.

NRC–4

SYSTEM NAME

Conflict of Interest Files—NRC.

SYSTEM LOCATION:

Primary system—Office of the General Counsel, NRC, 1717 H Street, NW, Washington, DC.

Duplicate systems—duplicate systems exist, in whole or in part, at the location listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are employees, special employees and consultants of NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to:

a. General biographical data (i.e., name, birthdate, home address, position title, home and business telephones, citizenship, educational history, employment history, professional society memberships, honors, fellowships received, publications, licenses, and special qualifications);

b. Financial status (i.e., nature of financial interests and in whose name held, creditors, character of indebtedness, interest in real property, monthly U.S. Civil Service Annuity, and status as Uniformed Services Retired Officer);

c. Certifications by employees that they and members of their families are in compliance with the Commission's stock ownership regulations;

d. Requests for approval of outside employment by NRC employees and NRC responses thereto;

e. Determination (i.e., no conflict or apparent conflict of interest, questions requiring resolution, steps taken toward resolution); and

f. Information pertaining to appointment (i.e., proposed period of NRC service, estimated number of days of NRC employment during period of service, proposed pay, clearance status, description of services to be performed and explanation of need for the services, justification for propsed pay, description of expenses to be reimbursed and dollar limitation, and description of government-owned property to be in possession of appointee).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 18 U.S.C. 201 (1976);
b. Executive Order 11222, May 8, 1965;
c. 10 CFR 0.735–29; 10 CFR 0.735–40.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide the Department of Justice, Office of Personnel Management, and/or Merit Systems Protection Board with information concerning an employee in instances where this office has reason to believe a Federal law may have been violated or where this office desires the advice of the Department, Office or Board concerning potential violations of Federal law;

b. For any of the routine uses specified in the prefatory statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in file folders.

RETRIEVABILITY:

Records are accessed by name.

SAFEGUARDS:

Maintained in locked file cabinets.

RETENTION AND DISPOSAL:

Retained in office file for 2 years after employee leaves position in which statement is required, or for 2 years after separation, whichever is earlier, then forwarded to the Federal Records Center, Suitland, Maryland.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies or is derived from information he or she supplied, or comes from the office to which the individual is to be assigned.

NRC–5

SYSTEM NAME:

Contracts Records Files—NRC

SYSTEM LOCATION:

Primary system—Division of Contracts, NRC, 4550 Montgomery Avenue, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are employed as NRC consultants or contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain personal information (such as technical qualifications, education, rates of pay, employment history) of contractors and their employees, and other contracting records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2051, 2201, and 5845(1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information to Department of Health and Human Services, Defense Contract Audit Agency, General Accounting Office, and other Federal agencies for audits and reviews; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Accessed by contract number and purchase order number, cross-referenced with the name of the consultant, contractor, or vendor.

SAFEGUARDS:

Maintained in unlocked conserver files. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Contracts greater than $10,000 are destroyed 6 years and 6 months after final payment; $10,000 or less—3 years after final payment. Records are destroyed through regular trash disposal system, except for confidential business (proprietary) information which is destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Contracts, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal confidential business (proprietary) information.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the contractor or potential contractor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1) and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-6

SYSTEM NAME:

Development and Advancement for Regulatory Employees (DARE) Records—NRC.

SYSTEM LOCATION:

Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who desire to enhance their training and experience qualifications for movement into administrative, paraprofessional and professional ranks.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains personnel qualification statements, job descriptions, self-evaluation forms, examination results, supervisory evaluation forms, performance appraisals, DARE counselors' reports, training guides, course plans, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 42 U.S.C. 2000e and 5871 (1976);

b. Executive Order 11478, August 8, 1969.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To prepare reports for transmittal to the Office of Personnel Management and/or Merit Systems Protection Board;

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF THE RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Information accessed by name.

SAFEGUARDS:

Records are maintained in locked desk drawer and access is limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

Active records retained indefinitely. Inactive records are sent to the National Personnel Records Center within 30 days of the date of the employee's separation from the Federal service and records of non-selected applicants retained up to 1 year, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

DARE Program Coordinator, Division of Organization and Personnel, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source. Testing material may not be disclosed to the extent such disclosure would compromise the testing process.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, individual's current and previous supervisors within and outside NRC, and the DARE counselors and program coordinator.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5) and (6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-7

SYSTEM NAME:

Division of Technical Information and Document Control Workload Assignment and Production Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Technical Information and Document Control, Office of Administration, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Part 1.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees assigned to word processing and printing/reproduction and graphic units.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain, under employee name, listings of work assignments and individual production records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 21, 22, 24, 49, 54, and 66a(1976); 42 U.S.C. 2201(1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

Information in these records may be used by the Division of Technical Information and Document Control for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper and log sheets.

RETRIEVABILITY:

Indexed by employee name within period reports.

SAFEGUARDS:

Files relating to comparative employee production and analysis thereof are maintained in locked cabinets. Budgetary and staffing projection data maintained in locked and unlocked equipment. All files are under immediate control of supervisory staff.

RETENTION AND DISPOSAL:

Records are retained in office files for 2 years, and then destroyed by regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Technical Information and Document Control, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individual employees, supervisory assignment and analysis records.

NRC-8

SYSTEM NAME:

Employee Appeals, Grievances and Compliants Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

Duplicate system—duplicate systems exist, in whole or in part, at locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for NRC employment, current and former NRC employees, and annuitants who have filed complaints or initiated grievance or appeal proceedings as a result of a determination made by the NRC, Office of Personnel Management and/or Merit Systems Protection Board, or a Board or other entity established to adjudicate such grievances and appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes all documents related to grievances, arbitrations, negative determinations regarding within-grade salary increases and exit interviews. It contains information relating to determinations affecting indivduals made by the NRC Office of Personnel Management and/or Merit Systems Protection Board. The records consist of the initial appeal or complaint, letters or notices to the individual, record of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimony of witnesses, investigative reports, instructions to an NRC office or division concerning action to be taken to comply with decisions, and related correspondence, opinions, and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201(d) (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To furnish information to the Office of Personnel Management and/or Merit Systems Protection Board pursuant to applicable requirements relative to grievances and appeals;

b. To provide appropriate data to union representatives and third parties in connection with grievances, arbitration actions and appeals. Third parties may include the Federal Service Impasses Panel and Federal Labor Relations Authority; and

c. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders, binders, and index cards.

RETRIEVABILITY:

These records are indexed by the names of the individuals on whom they are maintained.

SAFEGUARDS:

Maintained in locked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained 3 years after case is closed, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Labor Management and Employee Relations Branch, Division of Organization and Personnel, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains, NRC, Office of Personnel Management and/or Merit Systems Protection Board officials; affidavits or statements from employees, union representatives, or other persons; testimony of witnesses; and official documents relating to the appeal, grievance or complaint; Official Personnel Folder; and other Federal agencies.

NRC-9

SYSTEM NAME:

Equal Employment Opportunity Records Files—NRC.

SYSTEM LOCATION:

Office of Small and Disadvantaged Business Utilization and Civil Rights, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for NRC employment and current and former NRC employees who have filed a complaint of discrimination with the Office of Small and Disadvantaged Business Utilization and Civil Rights.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system or records contains copies of written reports by counselors; the investigative file; documentation of withdrawn, cancelled, rejected and/or adjusted discrimination complaints; complainant's name, title and grade; kind of discrimination alleged; description of action, decision, or condition giving rise to the complaint; description of remedial action; description of disciplinary action, if any; and copy of the letter of proposed disposition of the complaint and right to a hearing; and record of appeals examiner's finding, analysis, and recommended decision.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 42 U.S.C. 2000e and 5891(1976);

b. Executive Orders 11246, September 24, 1965; 11375, October 13, 1967; and 11478, August 8, 1969.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To furnish information relative to EEO matters to the Equal Employment Opportunity Commission, the Office of Personnel Management and/or Merit Systems Protection Board in accordance with applicable requirements; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, binders, index cards, and on computer tapes (minority code only).

RETRIEVABILITY:

Accessed by name.

SAFEGUARDS:

Maintained in locked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Small and Disadvantaged Business Utilization and Civil Rights, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, counselors, NRC, the Office of Equal Employment Opportunity Commission, the Office of Personnel Management and/or Merit Systems Protection Board officials, affidavits or statements from employees, testimony of witnesses, and official documents relating to the complaints.

SYSTEMS EXEMPTED FOR CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552(c)(3); (d); (e)(4) (G), (H), and (I); and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-10

SYSTEM NAME:

Freedom of Information Act (FOIA) and Privacy Act (PA) Requests Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Rules and Records, Office of Administration, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2, and at the Contractor Site, 7101 Wisconsin Avenue, Suite 1400, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have made FOIA or PA requests for NRC records.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains a copy of the letter from the requester, the NRC response, and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552 and 552a(1976); 42 U.S.C. 2201(1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. If an appeal or Court suit is filed with respect to any records denied;

b. For preparation of annual reports required by 5 U.S.C. 552 and 5 U.S.C. 552a; and

c. For any of the routine uses specified in the Prefatory Statement.

Most of the FOIA records are placed in the NRC Public Document Room and made available to the public.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Accessed by chronologically assigned number and individual's name.

Safeguards:

Privacy Act records are maintained in locked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access. Copies of most of the FOIA records are publicly available in the NRC Public Document Room.

RETENTION AND DISPOSAL:

Retained 2 years from date of reply if request is granted, 5 years if denied, and 4 years if appealed. Except for classified, proprietary, and other sensitive information which is destroyed by shredding, records are disposed of through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Requests are made by individuals or other requesters. The response to the request is based upon information contained in NRC records.

NRC-11

SYSTEM NAME:

General Personnel Records (Official Personnel Folder and Related Records)—NRC.

SYSTEM LOCATION:

Primary system—For Headquarters personnel, Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland. For Regional personnel, at each of the Regional Offices listed in Addendum I, Part 2.

Duplicate systems—Duplicate systems exist, in whole or in part at the locations listed in Addendum I, Parts 1 and 2 and at the (NIH) National Institutes of Health computer facility, Bethesda, Maryland. The duplicate systems maintained in a particular office, division, or branch may contain information of specific applicability to employees in that organization in addition to that information contained in the primary system.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current NRC employees, and those formerly employed by the NRC (death, resignation, retirement, and separation).

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain Personal Qualifications Statement (SF-171) and related documents such as information about an individual's birth date, social security account number, veteran preference status, tenure, physical handicaps, past and present salaries, grades, position titles, training, test performances, minority group designator, life insurance, health benefits, beneficiaries, academic letters of recommendation, probationary period appraisals, and awards. This system also contains: notification of personnel action, SF-50, and documents supporting the action taken; letters of commendation and reprimand; documentation of charges and decisions on charges; medical records related to initial appointment; notices of reductions-in-force; and locator files. Some duplicate records may contain office-specific applications, personnel qualification statements (SF-171), resumes and conflict of interest correspondence, and other related personnel records in addition to those contained in the primary system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 5 U.S.C. 7901; 21 U.S.C. 1180; and 42 U.S.C. 2201(d) and 4581(1976);

b. Executive Order 10581, September 15, 1954.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the Office of Personnel Management and/or Merit Systems Protection Board for making a decision when an NRC employee or former NRC employee questions the validity of a specific document in an individual's record;

b. To provide information to a prospective employer of a Government employee. Upon transfer of the employee to another Federal agency, the information is transferred to such agency;

c. To update the Office of Personnel Management systems concerning the Central Personnel Data File (CPDF), the Executive Inventory File and security investigations index hires, and to update adverse actions and terminations records of the Merit Systems Protection Board;

d. To provide statistical reports to Congress, agencies, and the public on characteristics of the Federal work force;

e. To provide information to the Office of Personnel Management and/or Merit Systems Protection Board for review and audit pruposes;

f. To provide members of the public with names, position titles, grades, salaries, appointments (temporary or permanent), and duty stations of employees;

g. Medical records may be used for providing information to the Public Health Service in connection with Health Maintenance Examinations and to other Federal agencies responsble for Federal benefit programs administered by the Department of Labor (Office of Workmen's Compensation Programs) and the Office of Personnel Management; and

h. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, magnetic tape, disk, punched cards and microfilm.

RETRIEVABILITY:

Records are indexed by any combination of name, birth date, social security account number, or identification number.

SAFEGUARDS:

OPFs are maintained in lockable cabinets; related documents may be in unlocked file cabinets and electromechanical file organizer. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

The Official Personnel Folder is sent to the next Federal employing office if the employee transfers, or to the National Personnel Records Center within 30 days of the date of the employee's separation from the Federal service. Some records such as letters of reprimand, indebtedness, and vouchers are maintained for two years, or destroyed by shredding when an individual resigns, transfers, or is separated from the Federal service. Cooperative Eduation Program documentation other than that in the OPF is retained until the employee leaves the program. SF-7, "Service Record Card," is retained indefinitely after separation or transfer.

SYSTEM MANAGER(S) AND ADDRESS:

For, Cooperative Education Program employees, Chief, Personnel Resources and Employment Program Branch, Division of Organization and Personnel, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. For all others, Chief, Staffing Section, Staffing and Position Evaluation Branch, Division of Organization and Personnel, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source. Testing material may not be disclosed to the extent that disclosure would compromise the testing process.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records come from the individual to whom it applies, is derived from information supplied by that individual, or is provided by agency officials, other Federal agencies, universities, or persons, including references, private and Federal physicians, and medical institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k) (5) and (6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4), (G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-12

SYSTEM NAME:

Government Motor Vehicle Operators License Files—NRC.

SYSTEM LOCATION:

Primary system—Building and Operations Support Branch, Division of Facilities and Operations Support, Office of Administration, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole, or in part, at the locations listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC Headquarters and Regional Office employees licensed to drive government vehicles.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain identifying data on individuals, including but not limited to name, social security account number, hair color, and sex.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 40 U.S.C. 491 (1976);

b. Executive Order 10579, December 1, 1954.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on index cards and on paper in file folders.

RETRIEVABILITY:

Indexed alphabetically by employee name.

SAFEGUARDS:

Maintained in locked file cabinets under control of supervisors. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained for 3 years or until cancellation of individual license, whichever comes first, then destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Building and Operations Branch, Division of Facilities and Operations Support, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individuals on whom the record is maintained and medical examiners.

NRC-13

SYSTEM NAME:

Incentive Awards Files—NRC.

SYSTEM LOCATION:

Primary system—Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who merit special recognition for achievements either within or outside the employee's job responsibilities and for length of service to the Government. Awards include both NRC awards and awards of other agencies and organizations for which NRC employees are eligible.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains employee's name, title, grade, and salary; justification to support recommendation and authorization for cash award; actions by approving officials; record of individuals receiving awards; suggestions and evaluations of suggestions; citation to be used; and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4501–4506, 5336 (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the Office of Personnel Management and/or Merit Systems Protection Board to process and approve nominations or awards;

b. By the Office of the Attorney General and the President of the United States in reviewing recommended awards;

c. To make reports to the Office of Personnel Management and/or Merit Systems Protection Board;

d. By other government agencies to recommend whether suggestions should be adopted in instances where the suggestion made by an NRC employee affects the functions or responsibilities of the agencies; and

e. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders.

RETRIEVABILITY:

Information is accessed by name.

SAFEGUARDS:

Maintained in unlocked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RENTENTION AND DISPOSAL:

Retained for 2 years, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Labor Management and Employee Relations Branch, Division of Organization and Personnel, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Supervisors of employees, individuals submitting suggestions, Division of Organization and Personnel staff, Office of Personnel Management, Merit Systems Protection Board, other Federal agencies, and Official Personnel Folders.

NRC-14

SYSTEM NAME:

Employee Alcoholism and Drug Abuse Program Files—NRC.

SYSTEM LOCATION:

Office of Administration, U.S. Nuclear Regulatory Commission, 7735 Old Georgetown Road, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees and/or family members who have been counselled by or referred to the Manager of the Employee Alcoholism and Drug Abuse Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records of NRC employees and/or their families who have been referred to the manager of the Employee Alcoholism and Drug Abuse Program for counselling, and the results of any counselling which may have taken place. The records contain information as to the nature of each individual's problem, progress, and subsequent treatment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

21 U.S.C. 1180 (1972); 42 U.S.C. 4561 (1970).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For statistical reporting purposes; and

b. Any disclosure of information pertaining to an individual will be made in compliance with the Confidentiality of Alcohol and Drug Abuse Patient Records regulation, 42 CFR Part 2, as authorized by 21 U.S.C. 1175 and 42 U.S.C. 4582, as amended.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained on paper in file folders.

RETRIEVABILITY:

Information accessed by name of the individual counselled.

SAFEGUARDS:

Files are maintained in a safe under the immediate control of the Manager of the Employee Alcoholism and Drug Abuse Program.

RETENTION AND DISPOSAL:

Retained for 3 years after successful completion of treatment or other termination of contact, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Employee Alcoholism and Drug Abuse Program, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information compiled by the Manager of the Employee Alcoholism and Drug Abuse Program during the course of counselling with an NRC employee and/or members of the employee's family.

NRC-15

SYSTEM NAME:

National Standards Committee Membership Files—NRC.

SYSTEM LOCATION:

Primary system—Office of Nuclear Regulatory Research, NRC, 7915 Eastern Avenue, Silver Spring, Maryland.

Duplicate systems—Duplicate systems exist, in whole or in part, at the National Institutes of Health Computer Facility, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who are serving on committees, subcommittees, working groups, etc., that are developing nuclear standards.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is a comprehensive record of NRC personnel on the nuclear standards committees and contains members' names, the names of the committees to which they belong, and the names of the NRC offices in which the members work.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201(b)(1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used:

a. To provide information to persons or agencies requesting this information, including but not limited to: (1) Persons using the NRC Public Document Room, and (2) the Nuclear Standards Management Center, Oak Ridge National Laboratory (ORNL), Oak Ridge, Tennessee; and

b. For the routine use specified in paragraph number 5 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are maintained on lists and computer tape and disk.

RETRIEVABILITY:

Records are indexed by the individual's name, by individual's office or region and by the committee title.

SAFEGUARDS:

Maintained in unlocked file cabinet.

RETENTION AND DISPOSAL:

Updated when information is out of date. The information is retained until the person is no longer a member of the committee or no longer an NRC employee, whichever occurs first. Computer tape and disk are destroyed by computer deletion, and lists are destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies or from his/her supervisor.

NRC-16

SYSTEM NAME:

Facility Operator Licensees Record Files (10 CFR Part 55)—NRC.

SYSTEM LOCATION:

Primary system—Operator Licensing Branch, Division of Human Factors Safety, Office of Nuclear Reactor Regulation, NRC, 4550 Montgomery Avenue, Bethesda, Maryland, or appropriate Regional Office.

Duplicate systems—duplicate systems exist, in whole or in part, at the Contractor Site, 7101 Wisconsin Avenue, Suite 1400, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals licensed pursuant to 10 CFR Part 55, new applicants whose applications are being processed, and individuals whose licenses have expired.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to the application for a license, certification of competency, certification of medical history and results of medical examination and related correspondence, operator examination and examination results and license or denial letter.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2137 and 2201(i)(1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To determine if the individual meets the requirements of 10 CFR Part 55 to take an examination or to be issued an operator's license;

b. To provide researchers with information for statistical evaluations related to selections, training and examination of facility operators;

c. To provide for examination and testing material and obtain results from contractors;

d. To provide facility management with sufficient information to enroll the individuals in the licensed operator requalification program; and

e. For any of the routine uses specified in the Prefatory Statement, except paragraph number 3.

In addition, information related to the application, certification of competency, and license or denial letter will routinely be made available in the NRC's Public Document Room.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained on index cards, paper in file folders, and microfiche.

RETRIEVABILITY:

Records are accessed by name and docket number.

SAFEGUARDS:

Maintained in file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Reactor Operator Licensees Records:

a. Medical information: retained for 4 years after the individual's license expires, then destroyed;

b. Examination and examination results: retained for 2 years after the issuance of a license or denial letter. A summary report is retained until 4 years after the individual's license expires;

c. Other information: destroyed when it becomes 2 years old; and

d. Docket information: destroyed 4 years after an individual's latest license expires.

Records are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Operator Licensing Branch, Division of Human Factors Safety, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or appropriate Regional Administrator.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555 or Regional Administrator.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual applying for a license, the facility manager, a licensed physician, members of the Operator Licensing Branch, and contractor personnel.

NRC-17

SYSTEM NAME:

Occupational Injuries and Illness Records—NRC.

SYSTEM LOCATION:

Primary system—For Headquarters personnel, Building and Operations Branch, Division of Facilities and Operations Support, Office of Administration, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

For Regional Personnel, at each of the Regional Offices listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who report an occupational injury or illness.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain descriptions of injury or illness, treatment, and disposition.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 29 U.S.C. 657(c)(1976);

b. Executive Order 12196, February 1980.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the NRC Safety Officer and/or Branch supervisor to prepare periodic statistical reports on employees' health and injury status and health and safety hazards in NRC physical structures, all for transmission to an review by the Department of Labor;

b. For transmittal to the Secretary of Labor or an authorized representative in accordance with duly promulgated regulations;

c. For transmittal to the Office of Personnel Management and/or Merit Systems Protection Board as required to support individual claims; and

d. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders.

RETRIEVABILITY:

Indexed by assigned employee case number or name under report category.

SAFEGUARDS:

Maintained in locked file cabinet under visual control of section employees. Access to and use of these

records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained for 5 years after date of report, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

NRC Public Health Unit, NRC Headquarters and Regional Office feeder reports and forms with original information largely supplied by employees concerned.

NRC-16

SYSTEM NAME:

Office of Inspector and Auditor Index File and Associated Records—NRC.

SYSTEM LOCATION:

Office of Inspector and Auditor, NRC, 4340 East-West Highway, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals referred to in potential or actual cases and matters of concern to the Office of Inspector and Auditor and correspondents on subjects directed or referred to the Office of Inspector and Auditor.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of an alphabetical index file bearing individual names. The index provides access to associated records which are arranged by subject matter, title, or identifying number(s) and/or letter(s). The system incorporates the records of all Office of Inspector and Auditor correspondence, cases, matters, memoranda, and materials, including but not limtied to audit reports, investigative reports, inspection reports, correspondence to and from the Office of Inspector and Auditor, memoranda, legal papers, evidence, exhibits, audit data, investigative date, and work papers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2035(c), 2201(c), and 5841(f)(1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. A record in the system of records may be disclosed as a routine use to a Federal, state, local or foreign agency or to an individual or organization if the disclosure is reasonably necessary to elicit information or to obtain the cooperation of a witness or an informant;

b. A record in the system of records relating to a case or matter falling within the purview of the Office of Inspector and Auditor that has been referred for audit, inspection or investigation may be disclosed as a routine use to the referring agency, group, organization or individual to notify such agency, group, organization or individual of the status of the case or matter or of any decisions or determinations that have been made;

c. A record in the system of records relating to an individual held in custody pending arraignment, trial, or sentence, or after conviction, may be disclosed as a routine use to a Federal, state, local or foreign prison, probation, parole or pardon authority, to any agency or individual concerned with the maintenance, transportation, or release of such an individual;

d. A record in the system of records relating to a case or matter may be disclosed as a routine use to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States;

e. A record in the system of records may be disclosed as a routine use to a Federal, state, local or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

f. A record in the system of records in the nature of an audit, inspection or investigation report relating to the integrity and efficiency of the Commission operation and management may be disseminated outside the Commission as part of the Commission's responsibility to inform the Congress and the public about Commission operations; and

g. A record in the system of records may be disclosed for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information contained in this system is stored manually on index cards and in file jackets.

RETRIEVABILITY:

Information is retrieved from index cards by the name of the individual and from the jackets by number(s) and/or letter(s) assigned and appearing on the index card.

SAFEGUARDS:

The index is maintained in unlocked file cabinets and the associated records are located in lockable metal filing cabinets or safes. All records are under visual control and available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Retained 10 years in NRC storage from the time the case is closed, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Inspector and Auditor, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Information classified pursuant to Executive Order 12356 will not be disclosed. Information received in confidence will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from sources including, but not limited, to NRC officers and employees, Federal, state, local, and foreign agencies, and other persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a (k)(1), (k)(2), (k)(5), and (k)(6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-19

SYSTEM NAME:

Official Personnel Training Records Files—NRC.

SYSTEM LOCATION:

Primary system—Management Development and Training Staff, Office of Administration, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for or were selected for either NRC or other government/non-government training courses or programs, including the NRC Senior Executive Service Candidate Development Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to the individual's educational background, work experience, performance appraisals, and training courses, including applications for training, training requests, authorizations for training, course grades, evaluations and other related personnel information and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 5 U.S.C. 4103 (1976), 3396 (October 13, 1978), and 4311 et seq. (1978);

b. Executive Order 11348, April 20, 1967, as amended by Executive Order 12107, December 28, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Information may be extracted from the records and made available to the Office of Personnel Management, other Federal, state and local government agencies; and educational institutions for use in training programs related to NRC employees; and

b. Information in these records may be disclosed for the routine uses specified in paragraph numbers 5 and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained on paper in file folders; being converted to maintenance within personnel computer storage system.

RETRIEVABILITY:

Information is accessed by name.

SAFEGUARDS:

Maintained in locked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained for 5 years, or until no longer needed, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Management Development and Training Staff, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information is provided by the individual to whom it applies, the employee's supervisor, and training groups, agencies, or educational institutions.

NRC-20

SYSTEM NAME:

Official Travel Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Accounting and Finance, Office of Resource Management, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2; and at the NIH computer facility, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, prospective NRC employees, consultants, and invitational travelers for NRC programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain Request and Authorization for Official Travel forms and Travel Vouchers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 5 U.S.C. 5701 (1976); 31 U.S.C. 21, 22, 24, 49, 54, 66a, and 952 (1976);

b. Federal Travel Regulations, Federal Property Management Regulations, 41 CFR Part 101–71.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For transmittal to the U.S. Treasury for payment;

b. For transmittal to the Department of State or an embassy for passports or visas;

c. For quarterly report to the General Services Administration of individuals approved for first class travel; and

d. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders, on disks, and on magnetic tape.

RETRIEVABILITY:

Records are accessed by name, social security account number, authorization number, estimated travel start day, authorization process day, voucher process day, and voucher payment schedule number.

SAFEGUARDS:

Maintained in locked file cabinets in same room as users. For ADP records, a key word, initials, and NRC Office of Resource Management's account number must be known in order to retrieve information.

RETENTION AND DISPOSAL:

Retained for 5 years, then destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Accounting and Finance, Office of Resource Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information is provided by the individual, the organizational component approving the travel, outside transportation agents and rate books for cost information.

NRC–21

SYSTEM NAME:

Payroll Accounting Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Accounting and Finance, Office of Resource Management, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, special Government employees, and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Pay, leave, and allowance histories.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 21, 22, 24, 49, 54, 66a, and 952 (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For transmittal of data to U.S. Treasury to effect issuance of paychecks to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes;

b. For reporting tax withholding to Internal Revenue Services and appropriate state and local taxing authorities;

c. For FICA deductions to the Social Security Administration;

d. For dues deductions to labor unions;

e. For withholdings for health insurance to the insurance carriers and the Office of Personnel Management;

f. For charity contribution deductions to agents of charitable institutions;

g. For annual W–2 statements to taxing authorities and the individual;

h. For transmittal to the Office of Management and Budget for review of budget requests;

i. For withholding and reporting of retirement, reemployed annuitants and life insurance information to the Office of Personnel Management;

j. For transmittal of information to state agencies for unemployment purposes; and

k. For any f the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, microfiche, magnetic tape, and disks.

RETRIEVABILITY:

Accessed by name and social security account number.

SAFEGUARDS:

File folders, microfiche, tape, and disks, including backup data, are maintained in secured locked rooms after working hours. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

File folders are retained for 3 years after transfer or separation of employee, then destroyed by shredding. ADP information is retained on disks for 1 year, transferred to and retained on magnetic tape for 3 years, then the tape is erased.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Accounting and Finance, Office of Resource Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information is provided by the individual and the Division of Organization and Personnel.

NRC–22

SYSTEM NAME:

Personnel Performance Appraisals—NRC: Part A, GG–18 employees and below, hourly wage employees, scientific and technical schedule employees, administratively determined rate employees; Part B, Senior Executive Service and equivalent employees.

SYSTEM LOCATION:

Primary system: Part A: For Headquarters personnel, Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland. Part B: Chairman, Performance Review Board, 7735 Old Georgetown Road, Bethesda, Maryland. For regional personnel, at each of the Regional Offices listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This sytem of records contains performance appraisals and other related records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4301, et seq. and 42 U.S.C. 2201(d)(1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained on paper in folders.

RETRIEVABILITY:

Records are accessed by name.

SAFEGUARDS:

Maintained in lockable file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Part A: Records are normally retained for 3 years. Part B: Retained for 5 years, or until the fifth annual appraisal is completed, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Part A: Chief, Staffing Section, Staffing & Position Evaluation Branch, Division of Organization & Personnel, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Part B: Chairman, Performance Review Board, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure" for each part.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure" for each part.

RECORD SOURCE CATEGORIES:

Part A: Individual to whom record pertains and employee's supervisors.

Part B: Individual to whom record pertains and employee's supervisors; any documents and sources used to develop critical elements and performance standards for that senior Executive Service position.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1) and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d)(e)(1), (e)(4) (G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-23

SYSTEM NAME:

Personnel Research and Test Validation Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

Duplicate system—duplicate system exists, in whole or in part, at the Department of Energy computer facility, Germantown, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees and applicants for NRC employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include education and employment history, test scores, responses to test items and questionnaires, interview data and ratings of supervisors regarding the individuals to whom the records pertain. Data are collected on a project basis and are used for the construction, analysis and validation or written tests; for research on personnel measurement and selection methods and techniques, and research on personnel management practices such as performance evaluation or productivity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201(d)(1976) and 44 U.S.C. 3101(1970).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To exchange among the NRC, Office of Personnel Management, Merit Systems Protection Board, and other Federal agencies for personnel research purposes and used to aid in identifying employees included in research studies that extend over a period of time; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, on punched cards, computer tape, and computer storage

RETRIEVABILITY:

Records are maintained by project. Personnel information can be retrieved by name or personal identifier.

SAFEGUARDS:

Records are kept in locked files and access is limited to staff.

RETENTION AND DISPOSAL:

Retained for 3 years, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Management and Policy Branch, Division of Organization and Personnel, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some records contain information received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source. Testing material may not be disclosed to the extent such disclosure would compromise the testing process.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individual Federal employees or applicants, supervisors, assessment center assessors, Office of Personnel Management, or NRC personnel files and records, and other Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-24

SYSTEM NAME:

Property and Supply System (PASS)—NRC.

SYSTEM LOCATION:

Property Management Section, Property and Supply Branch, Division of Facilities and Operations Support, Office of Administration, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, consultants, and contrators who have custody of items of personal property, including major items of equipment (e.g., office furnishings, automobiles, etc.) and items of sensitive property (e.g., cameras, portable calculators, and cassette recorders).

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information about the equipment (type, make, model, serial number, etc.); and information about the custodians of the equipment (social security account number, office, and office location).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 66a(a)(3)(1976) and 40 U.S.C. 483 (b) and (c), 487(a)(1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information to maintain inventory of equipment;

b. To provide information for clearances of employees who separate from the NRC; and

c. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained on NRC forms and magnetic tape systems, with history and audit files.

RETRIEVABILITY:

Accessed by social security account number, office, and office location.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained for 3 years after an individual's responsibility for the assigned equipment terminates;

destroyed by regular trash disposal system or deleted from the data bank.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Property and Supply Branch, Division of Facilities and Operations Support, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from NRC forms signed by the individuals having custody of the items, or from reports and memoranda received by the Division of Facilities and Operations Support.

NRC-25

SYSTEM NAME:

Oral History Program—NRC.

SYSTEM LOCATION:

Office of the Secretary of the Commission, NRC, 1717 H Street, NW, Washington, DC 20555.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, former employees, and other individuals who volunteer to be interviewed for purpose of providing information for a history of the nuclear regulatory program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of interviews on magnetic tape, and transcribed scripts of the interviews.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2161b, 541(a)(1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For incorporation in a future publication on the history of the nuclear regulatory program; and

b. To provide information to historians and other researchers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained on magnetic tape and transcripts.

RETRIEVABILITY:

Information is accessed by the name of the interviewee.

SAFEGUARDS:

Maintained in locked file cabinet. Access to and use of these records are limited to those authorized by the Historian or a designee.

RETENTION AND DISPOSAL:

Transcripts are retained indefinitely. Tapes are normally retained until they are transcribed; some may be retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

NRC Historian, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from interviews granted on a voluntary basis to the Historian and his/her staff.

NRC-26
[Revoked]

NRC-27

SYSTEM NAME:

Radiation Exposure Information and Reports System (REIRS) Files—NRC.

SYSTEM LOCATION:

Primary system—Union carbide Corporation, Industrial and Personnel Management Department, Computer Science Division, P.O. Box P, Oak Ridge, Tennessee 37830.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals monitored for radiation exposure while employed by or visiting or temporarily assigned to certain NRC licensed facilities; individuals who are exposed to radiation or radioactive materials in incidents required to be reported pursuant to 10 CFR 20.403 and 20.405 by all NRC licensees; individuals who may have been exposed to radiation or radioactive materials off-site from a facility, plant installation, or other place of use of licensed materials, or in unrestricted areas, as a result of an incident involving byproduct, source, or special nuclear material; as then required by NAVMED P-5055, Radiation Health Protection Manual, monitored individuals terminating their service with the Navy prior to 1977; and monitored employees of all the registrants of the State of Illinois prior to 1979.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to individual's name, sex, social security account number, date of birth, job category, period of employment, place and period date of exposure; name, address, and license number of individual's employer; licensee name and number reporting the incident; radiation doses or estimates of exposure received during this period, type of radiation, part(s) or organ(s) exposed, and nuclide(s) involved. Some reports will indicate whether the individual is a contractor or a utility employee. Between January 1972 and May 1974, the following information was also recorded for individuals over-exposed to radiation: sex, training experience, regular occupation of the exposed individuals; device or method used to determine dose(s); brief statement describing the incident and the causes; corrective actions taken; status of exposed individual (i.e., medical treatment); type, age, and manufacturer of malfunctioning equipment; and cumulative dose prior to incident.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, and 2201(o) (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide data to other Federal and state agencies involved in monitoring and/or evaluating radiation exposure received by individuals as enumerated in the paragraph "Categories of individuals covered by the system;" and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR ETORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are computerized and maintained on magnetic tape, maintained in log books, and filed as either a computer printout or original paper document.

RETRIEVABILITY:

Records are accessed by individual name, social security account number, and by licensee name or number.

SAFEGUARDS:

Information maintained at the Computing Technology Center is accessible only to the division of Data Automation and Management Information, Office of Resource Magagement. Reports kept by the Division of Data Automation and Management Information are in file cabinets and bookcases in a secured building. A log is maintained of both telephone and written requests for information.

RETENTION AND DISPOSAL:

a. Original paper document—retained 2 years, destroyed by shredding;

b. Magnetic tape—retained permanently at Computing Technology Center;

c. Log books—retained indefinitely, no names;

d. Computer printouts—periodically updated, destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Data Automation and Management Information, Office of Resource Management, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the monitored worker, visitors, worker's employer, or the person in charge of the facility to which has been assigned.

NRC-28

SYSTEM NAME:

Recruiting, Examining and Placement Records–NRC.

SYSTEM LOCATION:

Primary system—For Headquarters personnel, Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland. For Regional personnel, at each of the Regional offices listed in Addendum I, Part 2.

Dupicate system—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied for Federal employment with the NRC under general announcement provisions.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain general application information relating to the education, training, employment history, earnings, past performance, criminal convictions, if any, written achievement tests, honors, awards, or fellowships, military service, veteran preference status, birth place, birth date, social security account number, and home address of persons who have applied for Federal employment with the NRC (SF–171, resumes and similar documents).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 161(d), Atomic Energy Act of 1954, 42 U.S.C. 2201(d) (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To furnish information to agencies relative to transfer or consideration of employment; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are maintained primarily on forms, list, and index cards in file folders. Also, certain data is maintained on magnetic tapes, disks, and punch cards.

RETRIEVABILITY:

Records are indexed by name and an identification number assigned to each individual.

SAFEGUARDS:

Maintained in unlicked file cabinet. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Register of Eligible Applications retained for 1 year from date of application or until no longer needed, then destroyed;

b. Index cards—retained from date application is placed in the review system, then destroyed when no longer needed; and

c. Other related recruitment and placement documents—destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Recruitment Branch, Division of Organization and Personnel, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosures would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as 'Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual, to whom it applies or is derived from information supplied by that individual, with the exception of reports from medical personnel on physical qualifications, results of examinations, preemployment evaluation data furnished by references and educational institutions whose names were supplied by applicant, and information from other Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4), (G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-29

SYSTEM NAME:

Document Control System—NRC.

SYSTEM LOCATION:

Primary system—Document Management Branch, Office of Administration, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2; the NRC Public Document Room (PDR), 1717 H Street, NW, Washington, DC; the NRC Local Public Document Rooms (LPDRs); and at the Contractor Site, 7101 Wisconsin Avenue, Suite 1400, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC staff, contractors, subcontractors, licensees, Congressional offices, and other correspondents with the NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents both received by and originated by the NRC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 5841 (1976) and 44 U.S.C. 3101 (1970).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To refer, where appropriate, inquiries to Federal agencies or persons for their reply or action;

b. To provide information to persons or agencies requesting this information, including provision of Daily Accession Lists in the NRC PDR & LPDRs;

c. To prepare a monthly "Title List of Documents Made Publicly Available";

d. To serve as the NRC's official records for documents placed on the system; and

e. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on microfiche, disks, tapes, and paper in file folders. Proprietary and sensitive documents are maintained in secured facilities.

RETRIEVABILITY:

Accessed by name (author or recipient), corporate source, title of document, subject matter, or other identifying document or control number.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Information not exempt from disclosure under the Freedom of Information Act (FOIA) will be publicly available in the NRC PDR and LPDRs.

RETENTION AND DISPOSAL:

Retention is for an indefinite period.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Technical Information and Document Control, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Information which is classified or otherwise exempt from public disclosure under the FOIA will not be disclosed.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the correspondence to and from the NRC, contractors, and NRC employees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H) and (I), and (f). This exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–30

SYSTEM NAME:

Manpower System (MPS) Records—NRC.

SYSTEM LOCATION:

Primary system—NIH computer facility, c/o Division of Data Automation and Management Information, Office of Resource Management, NRC, 735 Old Georgetown Road, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All NRC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to number of regular and nonregular hours worked, the nature of the work, and workload projections.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 42 U.S.C. 2201(p) (1976);

b. Executive Order 9397, November 22, 1943.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. As a project management tool in various management records throughout the NRC; and

b. For the routine uses specified in paragraph numbers 5 and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in computer files, computer records, on tapes, disks, cards, and microfiche.

RETRIEVABILITY:

Accessed by social security account number, project, program, or activity numbers; docket number, TACS, or PPSAS numbers.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained indefinitely in computer files.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Data Automation and Management Information, Office of Resource Management, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it pertains.

NRC-31

SYSTEM NAME:

Correspondence and Records Branch, Office of the Secretary—NRC.

SYSTEM LOCATION:

Office of the Secretary, Correspondence and Records Branch, NRC, 1717 H Street, NW., Washington, D.C. 20555.

Duplicate system—Duplicate system exists, in whole or in part, at the Contractor Site, 7101 Wisconsin Avenue, Suite 1400, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The majority of records in this system consist of internal NRC memoranda between NRC employees and the Chairman, a Commissioner, or the Secretary in the ordinary course of carrying out the official business of the NRC. Records also include correspondence from Members of Congress and their staffs including constituent referrals, and White House correspondence referred to the NRC for response. Correspondence may identify an individual's social security account number, date of birth, address, and employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information concerning all subjects which directly or indirectly relate to the fulfillment of NRC's statutory mandate. Records include information dealing with the policy, legal, administrative, and adjudicatory functions of the NRC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 5841 (1976) and 44 U.S.C. 3101 (1970).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Most records are accessed by subject matter headings and are not individually identifiable. Access to some correspondence by individual name is available through correspondence control documents.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Classified materials are maintained in approved safes, and unclassified records are maintained in rolling file equipment.

RETENTION AND DISPOSAL:

Retained indefinetely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Correspondence and Records Branch, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information is classified pursuant to Executive Order 12356 and will not be disclosed.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from communications to the Commission and responses thereto.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-32

SYSTEM NAME:

Source and Special Nuclear Material License Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Fuel Cycle and Material Safety, Office of Nuclear Material Safety and Safeguards, NRC, 7915 Eastern Avenue, Silver Spring, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2, and the NIH computer facility, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for and licensees under Source and Special Nuclear Materials licensing programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information contained in this system reflects data supplied by applicants and licensees and developed by the NRC staff in the license review and authorization process with respect to the possession and use of source and special nuclear material. System component records developed and maintained by the NRC staff also include summary and cross-indexing type data promoting quick access to and breakout of such license information as:

a. Alphabetical listing of active and inactive licenses and applicants for licenses arranged by state and by a master listing;

b. Cross indexes of names to assigned license numbers;

c. Dates of license issuance and expiration; and

d. Geographic location of licensees by state and town.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2073, 2093, 2095, 2201 (b), (i) and (o) (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide records to state health departments for their information and use;

b. To provide information to other Federal, state, and local health officials in the event of incident or exposure, for purposes of their information, investigation, and protection of public health and safety;

c. To provide the Department of Energy with information concerning special nuclear material licenses for purposes of control-related transfers and safeguards accountability; and

d. For any of the routine uses specified in the Prefatory Statement.

Certain of the information provided in this category is routinely placed in the NRC Public Document Room.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper, index cards, logs, microfilm, and mag cards.

RETRIEVABILITY:

Indexed by applicant and licensee name in juxtaposition with assigned license number.

SAFEGUARDS:

Maintained in unlocked shelving units under control of supervisory personnel.

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are continuously computer updated as new information is developed or individual licenses are cancelled or terminated; license files are transferred annually to the NRC warehouse when they become inactive or are terminated, and retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Fuel Cycle and Material Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Forms and information submitted by applicants and licensees; information developed by NRC personnel from such forms and information.

NRC-33

SYSTEM NAME:

Special Inquiry File NRC.

SYSTEM LOCATION:

Primary system—Special Inquiry Group, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate system—duplicate system exists, in whole or in part, at the Contractor Site, 7101 Wisconsin Avenue, Suite 1400, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals possessing information regarding or having knowledge of matters of potential or actual concern to the Commission in connection with the investigation of an accident or incident at a nuclear power plant or other nuclear facility, or an incident involving nuclear materials.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of an alphabetical index file bearing individual names. The index provides access to associated records which are arranged by subject matter, title, or identifying number(s) and/or letter(s). The system incorporates the records of all Commission correspondence, memoranda, audit reports and data, interviews, questionnaires, legal papers, exhibits, investigative reports and data, and other material relating to or developed as a result of the inquiry, study, or investigation of an accident or incident.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201(c), (i) and (o) (1976); 5841(f)(1974).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information relating to an item which has been referred to the Commission or Special Inquiry Group for investigation by an agency, group, organization, or individual may be disclosed as a routine use to notify the referring agency, group, organization, or individual of the status of the matter or of any decision or determination that has been made;

b. To disclose a record as a routine use to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States;

c. To provide records relating to the integrity and efficiency of the Commission's operations and management may be disseminated outside the Commission as part of the Commission's responsibility to inform the Congress and the public about Commission operations; and

d. For any of the routine uses specified in paragraph numbers 1, 2, 4, 5, and 6 of the prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on microfiche, disks, tapes, and paper in file folders. Documents are maintained in secured vault facilities.

RETRIEVABILITY:

Accessed by name (author or recipient), corporate source, title of document, subject matter, or other identifying document or control number.

SAFEGUARDS:

These records are located in lockable metal filing cabinets or safes in a secured facility and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Retained and destroyed in accordance with approved records disposal schedules for the various types of records involved.

SYSTEM MANAGER(S) AND ADDRESS:

Records Manager, Special Inquiry Group, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Information classified pursuant to Executive Order 12356 will not be disclosed. Information received in confidence will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from sources including, but not limited to, NRC officers and employees; Federal, state, local, and foreign agencies; NRC licensees; nuclear reactor vendors and architectural engineering firms; other organizations or persons knowledgeable about the incident or activity under investigation; and relevant NRC records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a (k)(1), (k)(2), and (k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d)(e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-34

SYSTEM NAME:

Advisory Committee on Reactor Safeguards (ACRS) Correspondence Index and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Advisory Committee on Reactor Safeguards, NRC, 1717 H Street, NW, Washington, DC.

Duplicate system—duplicate system exists, in whole or in part, at the NIH computer facility, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons providing information to or requesting information from the ACRS.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to incoming requests and correspondence from individuals and replies thereto and a listing of technical information by authors' names.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1970).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Indexing is maintained on computer tapes and disks and individual materials are located in ACRS files.

RETRIEVABILITY:

Indexed by one or more of the following categories: author and addressee's name, subject title using the Key Word Out of Context (KWOC) index and issuing organization or agency.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Technical Information Branch, Advisory Committee on Reactor Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Records contain information prepared by private individuals or organizations, government agencies and their contractors, companies, and other groups such as the American National Standards Institute (ANSI)

NRC-35 [Revoked]

NRC-36

SYSTEM NAME:

Employee Locator Records Files—NRC.

SYSTEM LOCATION:

Primary system—Telecommunications Branch, Division of Facilities and Operations Support, Office of Administration, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to name, address (home and business), telephone numbers (home and business), organization, persons to be notified in case of emergency and other related records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1970).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used for the routine use specified in paragraph number 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on index cards.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in controlled access room under 24-hour visual control of NRC operators. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained until 6 months after association with NRC is discontinued, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Telecommunications Branch, Division of Facilities and Operations Support, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, general personnel records, and other related records.

NRC-37

SYSTEM NAME:

Information Security Files and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Security, Office of Administration, NRC, 7915 Eastern Avenue, Silver Spring, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2; and at the NIH computer facility, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including present or former NRC employees, contractors, consultants and licensees; other government agency personnel; and other cleared persons.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include information regarding:

a. Personnel who are authorized access to specified levels, categories and types of information, the approving authority, and related documents; and

b. Individuals who originate classified documents as well as identifying information about the document.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 42 U.S.C. 2165 and 2201(i) (1976);

b. Executive Order 12356, April 2, 1982.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system may be used:

a. To provide information relating to the control of classified information and material to the Information Security Oversight Office, Department of Defense, Department of Energy

(computer input) and other government agencies; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained primarily in file folders, on magnetic tape, disk packs, and index cards.

RETRIEVABILITY:

Indexed and accessible by name and/or assigned number.

SAFEGUARDS:

Maintained in locked buildings, containers, or security areas under guard and/or alarm protection, as appropriate.

RETENTION AND DISPOSAL:

a. Classified documents, administrative correspondence, document receipts, destruction certificates, classified document inventories, and related records—retained 2 years, then destroyed by shredding;

b. Top Secret Accounting and Control files—registers: retained 5 years after documents shown on form are downgraded, transferred, or destroyed; accompanying forms: retained until related document is downgraded, transferred, or destroyed. Destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information is classified pursuant to Executive Order 12356 and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Persons, including NRC employees, contractors, consultants, and licensees as well as information furnished by other government agencies or their contractors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1) and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of NRC regulations.

NRC-38

SYSTEM NAME:

Mailing Lists—NRC.

SYSTEM LOCATION:

Primary System—Contractor Site, 7300 Pearl Street, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals with an interest in receiving information from the NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Mailing lists include primarily the individual's name and address. Some lists also include title, occupation, and institutional affiliation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1970).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For distribution of documents to persons and organizations listed on the mailing lists; and

b. For the routine use specified in paragraph number 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETIREVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in card files, index cards, address plates, magnetic cards, punch cards, cassettes and magnetic tape.

RETRIEVABILITY:

Filed alphabetically by company name and then individual name, where possible.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Documents requesting changes retained 3 months, destroyed through regular trash disposal system; lists retained until cancelled or revised, destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Technical Information and Document Control, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

NRC licensees and individuals expressing an interest in NRC activities and publications.

NRC-39

SYSTEM NAME:

Personnel Security Files and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Security, Office of Administration, NRC, 7915 Eastern Avenue, Silver Spring, Maryland.

Duplicate systems—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2; the Department of Energy, Administration and Century XXI Buildings, Germantown, Maryland; and the NIH computer facility, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including NRC employees, employment applicants, consultants, contractors, and licensees; other government agency personnel (e.g., General Services Administration personnel); other persons who have been considered for a personnel clearance; aliens who visit at NRC's facilities; and actual or suspected violators of laws administered by NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Include information relating to personnel, including name, address, date and place of birth, social security account number, citizenship, residence history, employment history, foreign travel, education, personal references, organizational membership and security clearance history. These records also contain copies of investigative reports from other agencies (primarily from the Office of Personnel Management or the Federal Bureau of Investigation),

summaries of investigative reports, results of Federal agency indices checks, reports of personnel security interviews, clearance actions information (e.g., grants and terminations), violations of laws, reports of security infractions, "Request for Visit or Access Approval" (Form NRC–277), and other related personnel security processing documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 42 U.S.C. 2165 and 2201(i) (1976);
b. Executive Order 12356, April 2, 1982;
c. Executive Order 10865, February 20, 1960;
d. Executive Order 10450, April 27, 1953.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used by the Division of Security and on a need-to-know basis by appropriate NRC officials, Personnel Security Board Members or Personnel Security Review Board Members, Office of Personnel Management, Federal Bureau of Investigation, and other Federal agencies:

a. To determine clearance eligibility;
b. To certify clearances;
c. To maintain the NRC personnel security program; and
d. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained primarily in file folders, on magnetic tape, disk packs, and index cards.

RETRIEVABILITY:

Indexed and accessible by name, social security account number, or case file number of a combination thereof.

SAFEGUARDS:

File folders and computer printouts are maintained in security or controlled areas under guard and/or alarm protection as appropriate.

RETENTION AND DISPOSAL:

a. Personnel security clearance files—retained 5 years after date of last action, then transferred for more permanent storage and may be destroyed by shredding 20 years after date of last action;

b. Request for Visit or Access Approval—Maximum security areas: retained 5 years after final entry or after date of document as appropriate; other areas: retained 2 years after final entry or after date of document; destroyed by shredding; and

c. Other security clearance administration files—retained 2 years after final entry or after date of document; destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information is classified pursuant to Executive Order 12356 and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Persons including NRC applicants, employees, contractors, consultants, licensees, and visitors as well as information furnished by other government agencies or their contractors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a (k)(1), (k)(2), and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 55a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC–40

SYSTEM NAME:

Facility Security Support Files and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Security, Office of Administration, NRC, 7915 Eastern Avenue, Silver Spring, Maryland.

Duplicate systems—duplicate systems exist, in whole or part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including present or former NRC employees, consultants, contractors, and licensees; other government agency personnel; and actual and suspected violators of laws relating to the NRC's activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include information regarding NRC, NRC contractor, and NRC licensee facilities, security programs and associated records; individuals visiting NRC facilities; NRC employees and NRC related identification files maintained for access purposes; actual or suspected violations of laws of security interest administered by NRC, including copies of investigative reports from other government agencies; records of individuals' firearms qualification scores including the accountability of firearms; and other documents relating to the safeguards of National Security Information (NSI) and Restricted Data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 42 U.S.C. 2165 and 2201 (j), (k), and (p) (1976);
b. Executive Order 12356, April 2, 1982.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system may be used:

a. To provide licensees and contractors with the information necessary to maintain an adequate security program; and
b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on related forms.

RETRIEVABILITY:

Indexed and accessible by name, facility, badge number, identification card number, chronologically, or a combination thereof.

SAFEGUARDS:

Maintained in security containers or security areas under guard and/or alarm protection, as appropriate.

RETENTION AND DISPOSAL:

a. Survey and inspection files and records pertaining to NRC, NRC contractors, and NRC licensees, facilities security programs—Government-owned facilities: retained 3 years, or until discontinuance of facility, whichever is sooner; privately owned facilities: retained 4 years or until security cognizance is terminated,

whichever is sooner; destroyed by shredding or pulping;

b. Facility visitor records—Maximum security areas: retained 5 years after final entry or after date of documents, as appropriate; other areas: retained 2 years after date of document; destroyed by shredding or pulping;

c. NRC employee and NRC-related identification files—retained 2 years following employee's termination; destroyed by shredding or pulping;

d. Security interest violation and investigative report files—retained indefinitely;

e. Firearms qualification scores and accountability—retained 2 years from date of document; destroyed by shredding or pulping; and

f. Other documents relating to NSI and Restricted Data safeguards and other security and protective service files—retained 2 years from date of document; destroyed by shredding or pulping.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information is classified pursuant to Executive Order 12356 and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Persons including NRC employees, contractors, consultants, licensees, and visitors as well as information furnished by other government agencies or their contractors.

SYSTEMS EXEMPT FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5) and (6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

Addendum I—List of U.S. Nuclear Regulatory Commission Locations

Part 1—NRC Headquarters Offices

a. Willste Building, 7915 Eastern Avenue, Silver Spring, Maryland.

b. East-West Towers Building, 4340 East-West Highway, Bethesda, Maryland.

c. East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

d. Landow Building, 7910 Woodmont Avenue, Bethesda, Maryland.

e. Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland.

f. Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland.

g. Nicholson Lane Building, 5650 Nicholson Lane, Rockville, Maryland.

h. Matomic Building, 1717 H Street, NW, Washington, DC

i. Air Rights III Building, 4550 Montgomery Avenue, Bethesda, Maryland.

Part 2—NRC Regional Offices

a. NRC Region I, 631 Park Avenue, King of Prussia, Pennsylvania 19406.

b. NRC Region II, 101 Marietta Street, Suite 3100, Atlanta, Georgia 30303.

c. NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

d. NRC Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011.

e. NRC Region IV Uranium Recovery Field Office, 730 Simms Street, P.O. Box 25325, Denver, CO 80225.

f. NRC Region V, 1450 Maria Lane, Suite 210, Walnut Creek, California 94596.

Dated at Bethesda this 27th day of September 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-26694 Filed 9-29-82; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Docket No. A82-16; Order No. 447]

Tomnolen, Mississippi (39770); Marjorie T. Fox, et al., Petitioners; Notice and Order of Filing of Appeal

September 27, 1982.

On September 20, 1982, the Commission received an appeal letter from Mrs. Marjorie T. Fox and others (hereinafter "Petitioners"), concerning the United States Postal Service's decision to close the Tomnolen, Mississippi, post office. The appeal letter cites several adverse effects which the closing would have on the community and on postal services. The appeal letter appears to request the review provided for by section 404(b) of the Postal Reorganization Act [39 U.S.C. 404(b)][1]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to "ensure that such persons will have an opportunity to present their views."[2] The petition requests that the decision to close the Tomnolen post office be reconsidered:

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal service be insured to residents of both urban and rural communities.[3]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. The effect on the community is also a mandatory consideration under section 404(b)(2)(A) of the Act.

The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the closing of post offices.[4]

Upon preliminary inspection, this case appears to involve the following issues of law:

1. Whether the Postal Service's actions are consistent with the statutory requirement that the Postal Service provide a maximum degree of effective and regular postal services to rural areas, communities and small towns where post offices are not self-sustaining [39 U.S.C. 404(b)(2)(C)].

2. Whether the Postal Service adequately considered the effect on the community in accordance with 39 U.S.C. 404(b)(2)(A).

Other issues of law may become apparent when the Commission has had the opportunity to examine further the determination made by the Postal Service. The determination may be found to resolve adequately one or more of the issues involved in the case.

In view of the above, and in the interest of expediting this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on one or more of the issues described above and/

[1] 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310-11. Our rules of practice governing these cases appear at 39 CFR 3001.110 *et seq.*

[2] 39 U.S.C. 404(b)(1)

[3] 39 U.S.C. 101(b).

[4] 42 FR 59070-85 (November 17, 1977). The Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will make the request therefor by order, specifying the issues to be addressed.

When such a request is issued, the memorandum shall be filed within 20 days of the issuance, and a copy of the memorandum shall be served on the Petitioners by the Service.

In briefing the case or in filing any motion to dismiss for want of prosecurtion, in appropriate circumstances the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in section 404(b) cases,[5] and none is being appointed. The Commission orders:

(A) The appeal letters from Marjorie T. Fox and other users of the Tomnolen post office be accepted as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)]

(B) T he Secretary of the Commission shall publish this Notice and Order in the Federal Register.

By the Commission.

Cyril J. Pittack,

Acting Secretary.

September 20, 1982—Filing of Petition
September 27, 1982—Notice and Order of Filing of Appeal
October 5, 1982—Filing of Record by Postal Service [*see* 39 CFR 3001.113(a)].
October 11, 1982—Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
October 20, 1982—Petitioners' Initial Brief [*see* 39 CFR 3001.115(a)].
November 4, 1982—Postal Service Answering Brief [*see* 39 CFR 3001.115(b)].
November 19, 1982—(1) Petitioners' Reply Brief should petitioners choose to file one [*see* 39 CFR 3001.115(c)]. (2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument.
January 19, 1983—Expiration of 120 day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 82-27016 Filed 9-29-82; 8:45 am]
BILLING CODE 7715-01-M

[5] In the Matter of Greenhorn, S.C., Route #1, Docket No. A78-1 (May 11, 1978).

SMALL BUSINESS ADMINISTRATION

Region VIII Advisory Council; Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Sioux Falls, South Dakota, will hold a public meeting on Tuesday, October 5, 1982, from 9:00 a.m. to 3:00 p.m., at the Community Room, First National Bank in Sioux Falls, 100 South Phillips, Sioux Falls, South Dakota 57102, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Chester B. Leedom, District Director, U.S. Small Business Administration, Suite 101, Security Building, 101 South Main, Sioux Falls, South Dakota 57102, 605/336-2980, Ext. 231.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 27, 1982.

[FR Doc. 82-27008 Filed 9-29-82; 8:45 am]
BILLING CODE 8025-01-M

Region VIII Advisory Council; Meeting

The U.S. Small Business Administration Region VIII Advisory Council, located in the geographical area of Salt Lake City will hold a public meeting at 9:00 a.m. on Tuesday, October 15, 1982, at the Utah First Bank, 2 South Main Street, Salt Lake City, Utah, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call R. Kent Moon, District Director, U.S. Small Business Administration, 125 South State Street, Salt Lake City, Utah, (801) 524-5800.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 27, 1982.

[FR Doc. 82-27009 Filed 9-29-82; 8:45 am]
BILLING CODE 8025-01-M

Region X Advisory Council; Meeting

The Small Business Administration Region X Advisory Council, located in the geographical area of Boise, Idaho, will hold a public meeting at 9:30 a.m., Monday, October 18, 1982, at the Owyhee Plaza "Gold Room", 1109 Main Street, Boise, Idaho, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Verne A. Leighton, District Director, U.S. Small Business Administration, 1005 Main Street, Boise, Idaho, (208) 334-1096.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 27, 1982.

[FR Doc. 82-27007 Filed 9-29-82; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 825]

Participation of Private-Sector Representatives on U.S. Delegations

As announced in Public Notice No. 655 (44 FR 17846), March 23, 1979, the Department is submitting its April, May, June, July, & August 1982 list of U.S. accredited Delegations which included private-sector representatives.

Publication of this list is required by Article III (c) (5) of the guidelines published in the Federal Register on March 23, 1979.

H. D. Shishkin,

Deputy Director, Office of International Conferences.

September 9, 1982.

United States Delegation to the Eleventh Session of the Third United Nations Law of the Sea Conference, New York, March 8 to April 30, 1982

Representatives

The Honorable James L. Malone (Chairman of Delegation), Special Representative of the President for the Law of the Sea Conference
Harry R. Marshall, Jr. (Senior Vice Chairman of Delegation), Deputy Assistant Secretary, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Leigh S. Ratiner (Counselor to the Chairman), Dickstein, Shapiro and Morin, Washington, D.C.
Otho E. Eskin (Vice Chairman of Delegation), Bureau of Oceans and International Environmental and Scientifc Affairs, Department of State
Thomas A. Clingan, Jr. (Vice Chairman of Delegation), Professor of Law, University of Miami
Davis Robinson (Vice Chairman of Delegation), Legal Adviser, Department of State

Deputy Representatives

Lance Antrim, Policy Division, Department of Commerce
Douglas Bandow, Special Assistant to the President, White House
Lewis Cohen, Bureau of Economic and Business Affairs, Department of State
Donald Crafts, Office of Raw Materials and Ocean Policy, Department of the Treasury
James B. Ellis, Commander, USCG, Secretarial Representative to the Law of

the Sea Conference, Department of Transportation
Bruce Harlow, Rear Admiral, USN, Acting Representative to the Law of the Sea Conference for the Department of Defense
Alex Holser, Office of the Assistant Secretary for Energy, Department of the Interior
Mary Ann Mason, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Elizabeth Verville, Office of the Legal Adviser, Department of State

Senior Advisers

Elliot L. Richardson, Public Chairman of the Advisory Committee on the Law of the Sea Conference
Bernard H. Oxman, Professor of Law, University of Miami

Advisers

Steven Asher, Office of the Legal Adviser, Department of State
Robert C. Blumberg, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Milton Drucker, Bureau of Economic and Business Affairs, Department of State
Andrew Durham, Commander, USN, JCS Maritime Division, Department of Defense
Richard Haddad, Office of the Secretary of Defense, Department of Defense
Robert Keating, Adviser, Department of Defense
John Lockwood, Commander, USCG, United States Mission to the United Nations
Charles Meacham, Office of the Governor, Alaska
Sally A. Meese, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Julie L. Reardon, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
William L. Schachte, Jr., Commander, USN, Office of the Secretary, Department of Defense

Experts

Gordon L. Becker, Exxon Corporation, New York, New York
Homer Blair, ITEK Corporation, Lexington, Massachusetts
Marne Dubs, Kennecott Corporation, Stamford, Connecticut
William J. Coffey, Sea Lands Service, Inc., Edison, New Jersey
Robert B. Krueger, Nossman, Kruegar and Marsh, Los Angeles, California
Max K. Morris, Rear Admiral (Retired), Thalassa Research, Inc., Jacksonville, Florida
John A. Redding, Continental Illinois National Bank, Chicago, Illinois
Lee J. Weddig, National Fisheries Institute, Washington, D.C.
George Witney, Brumberg, Graves, Donohue and Raymond, New York, New York
Anita Yurchyshyn, Chairman, Marine Environment Program, Sierra Club, Boston, Massachusetts

United States Delegation to the International Tin Council, London, April 19–23, 1982

Representative

Gregory Christopolous, Office of the U.S. Trade Representative, Executive Office of the President

Alternate Representatives

William Sugg, Office of Commodity Policy, Department of Commerce
David Wilson, Industrial and Strategic Materials Division, Bureau of Economic and Business Affairs, Department of State

Adviser

Paul Pilkauskas, United States Embassy, London

Private Sector Advisers

Gerald Houck, American Iron and Steel Institute, Washington, D.C.
Malcolm W. Owings, Vice President, Continental Can Company, Chicago, Illinois

United States Delegation to the 19th Meeting of the North Atlantic Systems Planning Group of the International Civil Aviation Organization (ICAO) Paris, April 19–30, 1982

Representative

John Matt, Office of International Aviation, Federal Aviation Administration

Advisers

Allen C. Busch, Technical Center, Federal Aviation Administration, Atlantic City, New Jersey
Nicholas M. Craddock, Air Traffic Service, Federal Aviation Administration
Jerald Davis, Office of Flight Operations, Federal Aviation Administration
Howard Rubenstein, Air Traffic Service, Federal Aviation Administration, New York, New York

Private Sector Advisers

Richard Covell, Aeronautical Radio Incorporated, Annapolis, Maryland

United States Delegation to the Commission for Climatology and Applications of Meteorology (CCAM), World Meteorological Organization (WMO), Washington, D.C., April 19–30, 1982

Principal Delegate

James L. Rasmussen, Director, Climate Analysis Center, National Meteorological Center, National Weather Service, National Oceanic and Atmospheric Administration, Department of Commerce

Alternate Principal Delegate

Frank T. Quinlan, Chief, Climatological Analysis Division, National Climatic Center, National Oceanic and Atmospheric Administration, Asheville, North Caroline

Delegates

Patrick J. Breitling, Air Weather Service, United States Air Force, Scott Air Force Base, Illinois
Alan D. Hecht, National Climate Program, National Oceanic and Atmospheric Administration, Department of Commerce
William T. Sommers, Forest Fire and Atmospheric Sciences Research, Forest Service, Department of Agriculture
Edward V. Tiernan, Environmental Data and Information Service, National Oceanic and Atmospheric Administration, Department of Commerce

Private Sector Adviser

Bernard Dethier, Department of Agronomy, Atmospheric Sciences, Cornell University, Ithaca, New York

United States Delegation to the 9th Session of the Administrative and Legal Committee, 25th Session of the Consultative Committee and the 5th Extraordinary Session of the Council of the International Union for the Protection of New Varieties of Plants (UPOVP) Geneva, April 28–29, 1982

Representative

Stanley D. Schlosser, Office of Legislation and International Affairs, Patent and Trademark Office, Department of Commerce

Private Sector Adviser

Leo Donahue, National Association of Plant Patent Owners, Washington, D.C.

United States Delegation to the Eighth Session of the Group of Experts on Standardization, Economic Commission for Europe (ECE), Geneva, April 26–30, 1982

Representative

Stanley I. Warshaw, Director, Office of Engineering Standards, National Bureau of Standards, Department of Commerce

Adviser

Allen J. Farrar, Legal Adviser, National Bureau of Standards, Department of Commerce

Private Sector Adviser

Donald Fleckenstein, American National Standards Institute, New York, New York

United States Delegation to the Fifteenth Session of the Subcommittee on Standards of Training and Watchkeeping, Intergovernmental Maritime Consultative Organization, London, April 28–30, 1981

Representative

Richard A. Sutherland, Captain, USCG, Chief, Merchant Vessel Personnel Division, United States Coast Guard, Department of Transportation

Alternate Representative

John J. Hartke, III, Chief, Great Lakes Pilotage Branch, United States Coast Guard, Department of Transportation

Adviser

Arthur W. Friedberg, Director, Office of Maritime Labor and Training, Maritime Administration, Department of Commerce

Private Sector Advisers

John Fay, Seafarers International Union of North America, AFL–CIO, New York, New York
Paul M. Hammer, American Institute of Merchant Shipping, Washington, D.C.

William A. Mayberry, Captain, USCG (Ret.), Offshore Maritime Services Association, New Orleans, Louisiana
William L. Rich, Jr., International Organization of Masters, Mates and Pilots, AFL-CIO, New York, New York

United States Delegation to the Executive Board, International Coffee Organization, London, May 4–14, 1982

Representative

Rollinde Prager, Office of the U.S. Trade Representative, Executive Office of the President

Alternate Representative

Paul Pilkauskas, United States Embassy, London

Advisors

Ralph Ives, Office of International Resources, Department of Commerce
James Woolwine, Office of Tropical Products, Bureau of Economic and Business Affairs, Department of State

Private Sector Advisors

John Buckley, The Nestle Company, White Plains, New York
Kenneth Dunnivant, The Folger Coffee Company, Cincinnati, Ohio

United States Delegation to the Meeting of Working Parties 1, 2, and 4 of Study Group VIII, International Telegraph and Telephone Consultative Committee (CCITT), International Telecommunication Union (ITU), Geneva, May 5–14, 1982

Representative

Neil Seitz, National Telecommunications and Information Administration, U.S. Department of Commerce, Boulder, Colorado

Private Sector Advisers

Marshall Cain, National Communications System, Arlington, Virginia
Claude C. Kleckner, American Telephone and Telegraph, Basking Ridge, New Jersey

United States Delegation to the 19th Session of the Subcommittee on Bulk Chemicals, Intergovernmental Maritime Consultative Organization (IMCO), London, May 10–14, 1982

Representative

Frits Wybenga, Cargo and Hazardous Materials Division, United States Coast Guard, Department of Transportation

Alternate Representative

Emmanuel P. Pfersich, Cargo and Hazardous Materials Division, United States Coast Guard, Department of Transportation

Advisers

John W. Gormanson, LCDR, Cargo and Hazardous Materials Division, United States Coast Guard, Department of Transportation
John F. McGowan, LCDR, Merchant Marine Technical Division, United States Coast Guard, Department of Transportation
Michael D. Morrissette, Cargo and Hazardous Materials Division, United States Coast Guard, Department of Transportation

Private Sector Advisers

Robert H. Conn, Jr., American Institute of Merchant Shipping, Washington, D.C.
Frederick R. Adamchak, Marathon Oil Company, Findlay, Ohio

United States Delegation to the United Nations Environmental Program Session of Special Character, Nairobi, May 10–18, 1982

Representatives

The Honorable James L. Buckley, Under Secretary of State for Security Assistance, Science and Technology, Department of State
The Honorable Anne M. Gorsuch, Administrator Environmental Protection Agency
The Honorable A. Alan Hill, Chairman, Council on Environmental Quality

Alternate Representative

The Honorable William C. Harrop, Ambassador, United States Embassy, Nairobi

Senior Adviser

The Honorable G. Ray Arnett, Assistant Secretary of the Interior for Fish and Wildlife and Parks, Department of the Interior

Advisers

Gordon S. Brown, Director, Office of Technical Specialized Agencies, Bureau of International Organization Affairs, Department of State
Paul Cahill, Director, Office of Federal Activities, Environmental Protection Agency
Jacques J. Gorlin, Senior Adviser to the Administrator, Agency for International Development
Bill L. Long, Deputy Director, Office of Environment and Health, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Coleman J. Nee, U.S. Permanent Representative to UNEP, United States Embassy, Nairobi

Private Sector Advisers

Archibald E. Hanson, Jr., Hanson Enterprises, Inc., Paso Robles, California
Russell E. Train, President, World Wildlife Fund, Washington, D.C.

United States Delegation to the Committee on the Challenges of Modern Society (CCMS), North Atlantic Treaty Organization (NATO), Brussels, May 11–12, 1982

Representative

The Honorable George A. Keyworth, II, Science Adviser to the President and Director, Office of Science and Technology Policy, Executive Office of the President

Alternate Representative

The Honorable W. Tapley Bennett, Jr., Permanent Representative of the United States to the North Atlantic Council

Senior Adviser

John Marcum, Assistant Director, Office of Science and Technology Policy, Executive Office of the President

Advisers

Margaret E. Brown, U.S. Coordinator for NATO/CCMS Activities, Environmental Protection Agency
Tudor Davies, Director, Environmental Research Laboratory, Environmental Protection Agency, Narragansett, Rhode Island
William R. Gemma, Associate Administrator for International Health Affairs, Health Services Administration, Department of Health and Human Services
Stephen Klemp, CCMS Officer, Bureau of European Affairs, Department of State
Harry M. Montgomery, Jr., Economic Advisor, U.S. Mission to NATO
Richard F. Walsh, Director, Office of Economics and Public Investment, Department of Transportation
Patricia A. Woodring, CCMS Officer, U.S. Mission to NATO, Brussels

Private Sector Adviser

James Curtis Mack, Santa Monica, California

United States Delegation to the Intergovernmental Group on Bananas, 8th Session Food and Agriculture Organization (FAO) Rome, May 17–21, 1982

Representative

James Woolwine, Tropical Products Division, Bureau of Economic and Business Affairs, Department of State

Alternate Representative

Avram E. Guroff, Office of FAO Affairs, United States Embassy, Rome

Private Sector Advisers

Samuel Gordon, President, Del Monte Banana Company, Miami
Floyd F. Hedlund, Consultant, Washington, D.C.

United States Delegation to the First Meeting of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) Hobart, Tasmania, May 25–June 11, 1982

Representative

R. Tucker Scully, Director, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Advisers

Robert Hofman, Senior Scientific Adviser, Marine Mammal Commission
Mary M. McLeod, Office of the Legal Adviser, Department of State
Alan Ryan, Office of International Fisheries Affairs, National Marine Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce

Private sector Adviser

William Y. Brown, Environmental Defense Fund, Washington, D.C.

United States Delegation to the Meeting of Study Group III of the International Telegraphic and Telephone Consultative Committee (CCITT) International Telecommunication Union (ITU) Geneva, June 7–23, 1982

Representative

Earl S. Barbely, Federal Communications Commission, Washington, D.C.

Private Sector Members

John C. Cahill, TRT Telecommunications Corp., Washington, D.C.
John H. Klotsche, RCA Globcom, New York, New York
Wendell E. Lind, AT&T, Somerset, New Jersey
Dennis Mitrano, ComSat, Washington, D.C.
John J. O'Boyle, ITT Worldcom, New York, New York
Phillip C. Onstad, Control Data Corporation, Greenwich, Connecticut
Denis W. O' Shea, IBM, Armonk, New York
Louis P. Peterec, Western Union International, New York, New York
Beverly Sincavage, GTE Telent, Vienna, Virginia
Frederick W. Voege, Western Union Telegraph Co., New York, New York
Kathleen White, Citibank Corporation, New York, New York

United States Delegation to the Special Meeting on Antarctic Mineral Resources, Wellington, New Zealand, June 11–25, 1982

Representative

R. Tucker Scully, Director, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Advisers

John Behrendt, United States Geological Survey, Denver, Colorado
Michael Danaher, Office of the Legal Adviser, Department of State
John Dugger, International Affairs, Department of Energy
Douglas Hengel, Office of Marine and Polar Minerals, Bureau of Economic and Business Affairs, Department of State
Robert Hofman, Scientific Program Director, Marine Mammal Commission
Thomas Laughlin; Office of Policy and Planning, National Oceanic and Atmospheric Administration, Department of Commerce

Private Sector Advisers

Lee Kimball, Citizens for Ocean Law, Washington, D.C.
Robert Rutford, President, University of Texas, Dallas, Texas

United States Delegation to the Committee on Commodity Problems, Intergovernmental Group on Hard Fibers, Food and Agriculture Organization (FAO), Rome, June 14–18, 1982

Representative

Michael D. Metelits, Office of FAO Affairs, United States Embassy, Rome

Private Sector Adviser

Loyal W. Leitgen, Manager Twine Department, Universal Cooperatives, Inc., Minneapolis, Minnesota

United States Delegation to the United Nations Advisory Committee on International Youth Year (Second Session), Vienna, June 14–23, 1982

Representative

James D. Phillips, Director, Office of Communications and UNESCO Affairs, Bureau of International Organization Affairs, Department of State

Alternate Representative

Carol A. Colloton, U.S. Mission to UNIDO, Vienna

Private Sector Adviser

Dr. Roy Godson, National Strategy Information Center, Inc., Washington, D.C.

United States Delegation to the International Coffee Organization Council, London, June 14–25, 1982

Representative

Rollinde Prager, Office of the U.S. Trade Representative, Executive Office of the President

Alternative Representative

Paul Pilkauskas, United States Embassy, London

Advisers

Ralph Ives, Office of International Resources, Department of Commerce
Irving Williamson, Office of the U.S. Trade Representative, Executive Office of the President
James Woolwine, Tropical Products Division, Bureau of Economic and Business Affairs, Department of State

Private Sector Advisers (June 14–19)

George E. Boecklin, President, National Coffee Association, New York, New York
Alfred Hufman, Douwe-Ecoberts Superior Company, Bensenville, Illinois
Paul J. Keating, Director, General Foods Corporation, New York, New York
Marvin H. Schur, President, J. Aron & Company, New York, New York

Private Sector Advisers (June 21–25)

John C. Buckley, The Nestle Company, White Plains, New York
John Heuman, Dino-Mor Foods, Inc., Chicago, Illinois
Andrew Schultz, Schultz & Company, New York, New York
H. Grady Tiller, Coca-Cola Company, Foods Division, Houston, Texas

Consumer Adviser

Joanna Moss, Public Interest Economics Foundation, Berkeley, California

United States Delegation to the 29th Session of the Subcommittee on Ship Design and Equipment Intergovernmental Maritime Organization (IMO), London, June 28–July 2, 1982

Representative

Richard L. Brown, Captain, USCG, Deputy Chief, Office of Marine Environment and Systems, United States Coast Guard, Department of Transportation

Alternative Representative

A. E. Henn, Captain, USCG, Chief, Marine Technical and Hazardous Materials Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation

Advisors

James C. Card, Commander, USCG, Marine Technical and Hazardous Materials Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation
John C. Maxham, Commander, USCG, Marine Technical and Hazardous Materials Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation

Private Sector Advisors

Harris Knecht, Manager, Marine Systems, Zapata Offshore, Houston, Texas
William A. Mayberry, Captain, USCG (Ret.), Executive Director, Offshore Marine Service Association, New Orleans, Louisiana

United States Delegation to the International Wheat Council and Food Aid Committee, London, June 28–July 2, 1982

1. International Wheat Council, June 28–30:

Representative

James V. Parker, Grain and Feed Division, Foreign Agricultural Service, Department of Agriculture

Alternate Representative

Donald F. Hart, Office of Food Policy and Programs, Bureau of Economic and Business Affairs, Department of State

Advisors

Frank C. Coolidge, Assistant Agricultural Attache, United States Embassy, London
Turner Oyloe, Agricultural Counsellor, United States Embassy, London

Private Sector Advisor

Timothy Ovsat, U.S. Wheat Associates, Washington, D.C.

2. Food Aid Committee, July 1–2:

Representative

Donald F. Hart, Office of Food Policy and Programs, Bureau of Economic and Business Affairs, Department of State

Alternate Representative

Michael Goldman, Food Program Division, Bureau of Economic and Business Affairs, Department of State

James V. Parker, Grain and Feed Division, Foreign Agricultural Service, Department of Agriculture

Advisors

Frank C. Coolidge, Assistant Agricultural Attache, United States Embassy, London
Turner Oyloe, Agricultural Counsellor, United States Embassy, London

United States Delegation to the International Whaling Commission (IWC) and Associated Meetings 34th Annual Meeting Brighton, England, July 12–24, 1982

Representative

The Honorable, John R. Byrne, U.S. Commissioner, Administrator, National Oceanic and Atmospheric Administration

Alternate Representative

The Honorable, Thomas Garrett, Deputy U.S. Commissioner, Garrett, Wyoming

Congressional Adviser

The Honorable, Ted Stevens, United States Senate

Congressional Staff Adviser

William Phillips, Legislative Assistant to Senator Stevens

Advisers

Douglas Chapman, Chairman, Marine Mammal Commission
Anne Crichton, Office of the Solicitor, Department of the Interior
Robert Eisenbud, General Counsel, Marine Mammal Commission
Claudia Kendrew, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Joan Mackenzie, Office of the General Counsel, Department of Commerce
Robert J. McManus, General Counsel, National Oceanic and Atmospheric Administration
Barbara Moore, Office of the Administrator, National Oceanic and Atmospheric Administrator
R. Tucker Scully, Director, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Dean Swanson, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration
Michael F. Tillman, National Maritime Mammal Laboratory, National Marine Fisheries Service, National Oceanic and Atmospheric Administration

Private Sector Advisers

Marie Adams, Executive Director, Alaska Eskimo Whaling Commission
Richard Ellis, National Audubon Society
Maxine McCloskey, Executive Director, The Whale Center
Phoebe Wray, Executive Director, Center for Action on Endangered Species

United States Delegation to the Steel Committee, Working Party Organization for Economic Cooperation and Development (OECD) Paris, July 19–20, 1982

Representative

J. D. Darroch, Director, Office of Basic Industries, Department of Commerce

Advisers

Jorge Perez Lopez, Bureau of International Labor Affairs, Department of Labor
Paul H. Tyson, Office of Regional Political-Economic Affairs, Bureau of European Affairs, Department of State

Private Sector Advisers

Frank Fenton, Vice President, American Iron and Steel Institute, Washington, D.C.
David Hawley, Director, Government Relations, Inland Steel Corporation, Chicago, Illinois
Jack Sheehan, Director, Legislative Department, United Steelworkers of America, Washington, D.C.

United States Delegation to the UN Commission on International Trade Law (UNCITRAL) 15th Session, New York, July 26–August 6, 1982

Representative

Peter H. Pfund, Office of the Legal Adviser, Department of State

Alternate Representative

Robert Rosenstock, United States Mission to the United Nations

Advisers

Michael F. Hoellering, General Counsel, American Arbitration Association, New York, New York
Paul Larsen, Office of the General Counsel, Department of Transportation
Joseph Perillo, Professor, Fordham University Law School, New York, New York
Joseph C. Sweeney, Professor, Fordham University Law School, New York, New York

Public Sector Adviser

John A. Spanogle, Jr., State University of New York School of Law, Buffalo, New York

UNITED STATES DELEGATION TO THE UN WORLD ASSEMBLY ON AGING VIENNA, JULY 26–AUGUST 6, 1982

Representative

The Honorable, Richard S. Schweiker, Secretary of Health and Human Services

Alternate Representatives

The Honorable, Dorcas R. Hardy, Assistant Secretary for Human Development Services, Department of Health and Human Services
The Honorable, Virginia Knauer, Special Assistant to the President, The White House
The Honorable, C. Everett Koop, M.D., Surgeon General of the United States, Department of Health and Human Services
The Honorable, John W. McDonald, Jr., Ambassador, Coordinator for World Assembly on Aging, Department of State
The Honorable, Lennie-Marie Tolliver, M.D., U.S. Commissioner on Aging, Department of Health and Human Services

Senior Advisers

The Honorable, Adelaide Attard, Chairman, Federal Council on the Aging, Department of Health and Human Services
The Honorable, Roger Kirk, Ambassador, U.S. Permanent Representative to UNIDO Vienna

Congressional Advisers

The Honorable, Henry J. Heinz, III, United States Senate
The Honorable, David H. Pryor, United States Senate
The Honorable, Mario Biaggi, U.S. House of Representatives
The Honorable, Robert K. Dornan, U.S. House of Representatives
The Honorable, Claude Pepper, U.S. House of Representatives
The Honorable, Jake Pickle, U.S. House of Representatives
The Honorable, Matthew Rinaldo, U.S. House of Representatives

Congressional Staff Advisers

Robert B. Biancato, Select Committee on Aging, U.S. House of Representatives
Charles Edwards, Staff Director, Select Committee on Aging, U.S. House of Representatives
John C. Rother, Staff Director, Special Committee on Aging, U.S. Senate

Advisers

Joan Bergaust, Department of Health and Human Services
Carol J. Fraser, Special Assistant to the Assistant Secretary, for Human Development, Department of Health and Human Services
Brewster R. Hemenway, Alternate U.S. Representative to UNIDO, Vienna
David Hohman, Office of International Affairs, Department of Health and Human Services
Ellen Sehgal, Office of Research and Development, Department of Labor

Private Sector Advisers

Constance Armitage, Chairman, 1981 White House Conference on Aging, Inam, South Carolina
Morrison H. Beach, West Hartford, Connecticut
Cyril F. Brickfield, Executive Director, American Association of Retired Persons, Washington, D.C.
Eleanor Cain, National Association of State Units on Aging, Washington, D.C.
Curt Clinkscales, National Alliance of Senior Citizens, Falls Church, Virginia
George Teliaman, President, National Association of Area Agencies on Aging, Washington, D.C.

United States Delegation to the Group of Experts on Explosives 22nd Session Economic and Social Council (ECOSOC) Geneva, August 2–6, 1982

Representative

Alan I. Roberts, Associate Director for Hazardous Materials Regulation, Research and Special Programs Administration, Department of Transportation

Alternate Representative

Edward A. Altemos, Office of Hazardous Materials Regulation, Research and Special Programs Administration, Department of Transportation

Advisers

Charles W. Schultz, Office of Hazardous Materials Regulation, Research and Special Programs Administration, Department of Transportation
Richard W. Watson, Pittsburgh Explosives Laboratory, Bureau of Mines, Department of the Interior

Private Sector Advisers

Clyde W. Eilo, Institute of Makers of Explosives, New York, New York
Albert B. Opperman, Institute of Makers of Explosives, New York, New York
John W. Loosle, Manager, Safety Divison, Thiokol Corporation/Wasatch Division, Brigham City, Utah

United States Delegation to the Economic and Social Council (ECOSOC) Group of Rapporteurs, Committee of experts on transport of Dangerous Goods 29th Session Geneva, August 9–13, 1982

Representative

Alan I. Roberts, Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, Department of Transportation

Alternate Representative

Edward A. Altemos, International Standards Coordinator, Office of Hazardous Material Regulation, Research and Special Programs Administration, Department of Transportation

Adviser

Charles W. Schultz, Chief, Sciences Branch, Office of Hazardous Materials Regulation, Research and Special Programs Administration, Department of transportation

Private Sector Adviser

Ronald C. Klein, E. I. Du Pont de Nemours, Inc., Wilmington, Delaware

United States Delegation to the Second UN Conference on the Peaceful Uses of Outer Space (UNISPACE), Vienna, August 9–21, 1982

Representative

The Honorable James M. Beggs, Administrator, National Aeronautics and Space Administration

Alternate Representatives

The Honorable John R. Bolton, Assistant Administrator for Program and Policy Coordination, Agency for International Development
The Honorable Anthony J. Calio, Deputy Administrator, National Oceanic and Atmospheric Administration
The Honorable Joseph Charyk, President and Chief Executive Officer Communications Satellite Corporation
Mrs. William P. Clark, Washington, D.C.
The Honorable Gerald B. Helman, Special Coordinator for UNISPACE, Department of State
The Honorable Charles Z. Wick, Director, International Communications Agency

Congressional Advisers

The Honorable George E. Brown, Jr., U.S. House of Representatives
The Honorable William Carney, U.S. House of Representatives
The Honorable Ronnie G. Flippo, U.S. House of Representatives

Congressional Staff Advisers

Radford Byerly, Jr., Committee on Science and Technology, U.S. House of Representatives
J. Jeffrey Irons, Subcommittee on Space Science and Applications, U.S. House of Representatives

Advisers

Burt Edelson, Associate Administrator for Space Science and Applications, National Aeronautics and Space Administration
Anna Fischer, M.D., Astronaut, National Aeronautics and Space Administration
Riccardo Giacconi, Space Telescope Science Institute, Baltimore, Maryland
Henry Hartsfield, Col., USAF., Astronaut, National Aeronautics and Space Administration
S. Neil Hosenball, General Counsel, National Aeronautics and Space Administration
Donald M. Jansky, Associate Administrator, National Telecommunications and Information Administration, Department of Commerce
J. Edward Melanson, Jr., Captain, USN, Assistant Director, Space Policy, Department of Defense
Kenneth S. Pederson, Director, International Affairs Division, National Aeronautics and Space Administration
Gilbert Rye, Colonel, USAF, National Security Council
David Small, Office of the Legal Adviser, Department of State
John H. Storrie, Brig. General, USAF, Headquarters, United States Air Force
Norman Terrell, Assistant Director for Nuclear and Weapons Control, U.S. Arms Control and Disarment Agency

Private Sector Advisers

Robert Anderson, Chairman of the Board and Chief Executive Officer, Rockwell International Corporation, Pittsburgh, Pennsylvania
Roy A. Anderson, Chairman of the Board, Space Systems Division, Lockheed Missiles and Space Company, Burbank, California
James V. Carroll, III, Attorney, Space Services, Inc., Washington, D.C.
Vincent N. Cook, President, Federal Systems Division, International Business Machines
Robert A. Duffy, President, Charles Stark Draper Laboratories, Cambridge, Massachusetts
Robin Fairbairn, Attorney, Paso Robles, California
Edward R. Finch, Jr., Attorney, New York, New York
Joseph G. Gavin, Jr., President and Chief Executive Officer, Grumman Corporation, Bethpage, New York
John M. Geer, Sacramento, California
Henry E. Hockeimer, President, Ford Aerospace and Communications Corporation, Detroit, Michigan
Franklyn C. Nofziger, Communications Consultant, Washington, D.C.
Charles A. Schmidt, Division Vice-President and General Manager, RCA, Astro-Electronics, Princeton, New Jersey

United States Delegation to the Second Session World Tourism Organization (WTO) Acapulco, August 21–27, 1982

Representative

David L. Edgell, Director, Office of Policy and Planning, U.S. Travel and Tourism Administration

Adviser

Theodore S. Wilkenson, Acting Political Counselor, United States Embassy, Mexico City

Private Sector Adviser

Donald Hawkins, Professor of Tourism, Department of Human Kinetics and Leisure Studies, The George Washington University, Washington, D.C.

[FR Doc. 82-26029 Filed 9-29-82; 8:45 am]
BILLING CODE 4710-19-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 82-093]

Coast Guard Academy Advisory Committee; Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the Coast Guard Academy Advisory Committee to be held in Hamilton Hall at the U.S. Coast Guard Academy, New London, CT, on Tuesday and Wednesday, October 26–27, 1982. The open session on Tuesday will be held from 1:00 to 2:45 p.m. An open session will also be held on Wednesday from 8:45 to 10:00 a.m.

The agenda for this meeting is as follows: (a) Faculty, (b) curricula.

The Coast Guard Academy Advisory Committee was established in 1937 by Pub. L. 75-38 to advise on the course of instruction at the Academy, and to make recommendations as necessary.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend or present oral statements at the meeting should notify, not later than the day before the meeting: CAPT Roderick M. White, USCG, Dean of Academics/Executive Secretary of the Academy Advisory Committee, U.S. Coast Guard Academy, New London, CT 06320, phone (203) 444–8275.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on September 17, 1982.

J. S. Gracey,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 82-26066 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Air Traffic Procedures Advisory Committee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee to be held from October 25, at 1 p.m., through October 29, at 1 p.m., at FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C. 20591.

The agenda for this meeting is as follows: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

Attendance is open to the interested public, but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Mr. L. Lane Speck, Executive Director, Air Traffic Procedures Advisory Committee, Air Traffic Service, AAT–301, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 426–3725.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on September 16, 1982.

L. Lane Speck,

Executive Director, ATPAC.

[FR Doc. 82-26061 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-13-M

Traffic Alert and Collision Avoidance System (TCAS) Symposium

Note.—This document originally appeared in the **Federal Register** for Tuesday, September 28, 1982. It is reprinted in this issue to meet requirements for publication on the Monday/Thursday schedule assigned to the Federal Aviation Administration.

The Department of Transportation hereby announces a Traffic Alert and Collision Avoidance System (TCAS) Symposium. This 2-day symposium will commence at 10:30 a.m. on October 12, 1982, in the Federal Aviation Administration auditorium, 800 Independence Avenue, SW, Washington, D.C.

The purpose of this meeting is to present recent results from the FAA engineering development and evaluation program and to discuss these results and program plans with symposium attendees. This information exchange is intended to support current activities to develop Minimum Operational Performance Standards for TCAS.

TCAS is intended to satisfy the operational need for an airborne separation assurance service and to ensure compatibility with all elements of the National Airspace System. Its operation does not depend upon the existence of external equipment other than Air Traffic Control Radar Beacon System (ATCRBS) transponders with altitude encoders or Mode S transponders with altitude encoders in other aircraft.

Although the meeting is open to the public (space permitting) a registration fee of $7.00 will be levied to cover handouts and refreshments for the 2-day symposium. A block of rooms has been reserved at the Holiday Inn, 550 C St., SW, for your convenience. The reservations must be made to the hotel directly on 202–479–4000 no later than October 1 on a first come first serve basis.

Further information concerning the symposium may be obtained from the Federal Aviation Administration, Program Engineering and Maintenance Service, TCAS Branch, ARD–240, 800 Independence Avenue, SW,

Washington, D.C. 20591, telephone 202–426–9382.

Joseph J. Fee,

Symposium Manager.

September 24, 1982.

[FR Doc. 82-26703 Filed 9-27-82; 8:45 am]

BILLING CODE 4910-13-M

Aircraft-Generated Electromagnetic Interference on Future Electronic Systems; Workshop

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces a forthcoming workshop which will pemit selected research experts from the aviation industry to provide Electromagnetic Interference (EMI) effects information and conduct discussions relative to airframe, electrical power systems, flight control and avionic systems, and electronic engine control systems.

DATE: October 19–21, 1982, commencing at 8:30 a.m., at the Boeing Commercial Airplane Company Auditorium, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Nickolus O. Rasch, ACT–340, extension 1144, FAA Technical Center, Atlantic City Airport, New Jersey 08405, 609–641–8200. Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the workshop. Persons wishing to present statements or obtain information should contact Mr. N. Rasch. Any member of the public may present a written statement to the workshop chairman at any time.

SUPPLEMENTARY INFORMATION: The interaction which will occur at this workshop is expected to provide the aviation industry and the FAA with essential and timely information addressing aircraft and systems EMI effects, protection criteria, and guidelines. The agenda for this meeting is as follows: (1) Chairman's Introduction and Workshop Overview; (2) Definition of the Problem: (a) Digital Failure Mechanisms; (b) Coupling Paths; (c) Noise Environment; (d) Aircraft Electrical Power Transients; (e) Wire Braid Termination Effects; (f) Transients Study of the ARINC 429 Data Bus; (3) Proposed Solution: (a) Mission Level; (b) Specifications Development; (c) Design Guidelines; (d) Data Retrieval Requirements; and (4) Open Forum.

Dated: September 17, 1982.

Edmund J. Koenke,

Director, Federal Aviation Administration, Technical Center.

[FR Doc. 82-26631 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Draft Environmental Impact Statement Supplement; County of Los Angeles, Calif.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Draft Environmental Impact Statement Supplement will be prepared for a proposed highway project in Los Angeles, California.

FOR FURTHER INFORMATION CONTACT: Albert J. Gallardo, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809, Telephone: (916) 440–2804.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (Caltrans), will prepare a Draft Environmental Impact Statement Supplement on a proposal to construct Route 7, the Long Beach Freeway on new alignment from Route 10 to Route 210 in the County of Los Angeles and the Cities of Alhambra, Los Angeles, South Pasadena, and Pasadena. The project would be 6.1 to 7.3 miles in length depending upon the corridor.

Alternatives under consideration include: (1) Taking no action; (2) one design option in the Westerly Corridor; and (3) one design option in the Meridian Corridor.

No scoping meetings have been scheduled at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the DEIS Supplement should be directed to the FHWA at the address provided above.

Issued on: September 21, 1982.

Albert J. Gallardo,

District Engineer, Sacramento, California.

[FR Doc. 82-26931 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Henderson County, Tex.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Henderson County, Texas.

FOR FURTHER INFORMATION CONTACT: George H. Nelson, P.E., District Engineer, Federal Highway Administration, 850 Federal Building, Austin, Texas 78701, Telephone: (512) 482–5988.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Texas State Department of Highways and Public Transportation (DHT), intends to prepare an environmental impact statement (EIS) on a proposal to extend Farm to Market Road 317 (FM 317) in Henderson County, Texas, as a four-lane, noncontrolled access facility around the City of Athens. Because of difficulty in predicting the availability of funds, the DHT has not yet decided whether to use State or Federal funds to finance construction of this project.

The proposed facility loops the City of Athens (Inc.) (1980 pop. 10,197). The corridor study begins and ends at State Highway 31 (SH 31) northeast of the city and generally follows the outer limits of the city's developed area. Length of the proposed roadway is approximately 17 miles.

The existing street system in Athens routes nearly all local and highway traffic through the town square. The concentration of traffic at the square and a large volume of heavy trucks results in congested traffic flow, time delays and hazardous driving conditions.

The proposed loop will provide an alternate route for through traffic and some local traffic. As a result, the volume of traffic negotiating the square, especially the large trucks, should be reduced significantly. Overall accessibility in the Athens area will be improved by the proposed project.

A number of alignment alternatives for the loop and the no-build alternative are under consideration for the proposed action.

There are currently no plans to hold a formal scoping meeting for this proposal. A public meeting was held early in the planning process for the proposed project. A public hearing will be held in the first half of 1983 at a convenient time and place for persons in the project area. Notification of the hearing will be made through the local news media.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

George H. Nelson,

District Engineer, Austin, Texas.

[FR Doc. 82-26930 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-22-M

Office of the Secretary

[Notice No. 82-7]

Environmental Procedures

AGENCY: Transportation Department, (DOT).

ACTION: Notice.

SUMMARY: The Department of Transportation (DOT) has revised its internal procedures for processing environmental impact statements. DOT Order 5610.1C, Procedures for Considering Environmental Impacts, has been revised to allow approval of final environmental impact statements (EISs) by the DOT Administration or Secretarial Office originating the action, without prior concurrence by the Assistant Secretary for Policy and International Affairs and the General Counsel. The previous order, dated September 18, 1979, provided that final EISs for certain categories of action could be approved by the originating office or administration only after concurrence by the Assistant Secretary. EISs which required such concurrence and which also included determinations pursuant to section 4(f) of the DOT Act also required concurrence by the General Counsel of the Department.

FOR FURTHER INFORMATION CONTACT: Camille Cleveland, Environmental Program Analyst, Department of Transportation, Environmental Division, 202–426–4366.

EFFECTIVE DATE: The effective date of the revision is July 13, 1982.

ADDRESS: Copies of Change 1 to DOT 5610.1C may be requested from: Environmental Division, P–37, Room 9400a, Office of Assistant Secretary for Policy and International Affairs, Department of Transportation, 400–7th Street, NW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: Change 1 to DOT 5610.1C has been issued to reflect organizational changes within the Office of the Assistant Secretary for Policy and International Affairs, effective in March 1982. The revision places a higher degree of responsibility for environmental processing with the operating administrations of the Department, and is expected to reduce the time required for processing of some final EISs. The authority to approve final EISs without prior concurrence by the Office of the Secretary was delegated to the operating administrations on an interim basis March 4, 1982. The Page Change, approved July 13, 1982, incorporates the interim delegation into the Department's formal directive on environmental processing.

The revised order requires that the operating administrations notify the Office of the Secretary that a highly controversial EIS is under review. In addition, the change permits operating administrations to consult directly with Council on Environmental Quality on project-related matters, rather than requiring that such consultation occur via the Office of the Assistant Secretary.

Issued in Washington, D.C. on September 21, 1982.

Judith T. Connor,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 82-26932 Filed 9-29-82; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Dept. Circular; Public Debt Series—No. 25–82]

Series F–1989; Interest Rates

September 23, 1982.

The Secretary announced on September 22, 1982, that the interest rate on the notes designated Series F–1989, described in Department Circular—Public Debt Series—No. 25–82 dated September 15, 1982, will be 11⅞ percent. Interest on the notes will be payable at the rate of 11⅞ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

FR Doc. 82–26656 Filed 9–29–82; 8:45 am]

BILLING CODE 4810–40–M

[Supplement to Dept. Circular; Public Debt Series No. 26–82]

Bonds of 2002; Interest Rates

September 24, 1982.

The Secretary announced on September 23, 1982, that the interest rate on the bonds designated Bonds of 2002, described in Department Circular—Public Debt Series—No. 26–82, dated September 15, 1982, will be 11-¾ percent. Interest on the bonds will be payable at the rate of 11-¾ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

FR Doc. 82–26657 Filed 9–29–82; 8:45 am]

BILLING CODE 4810–40–M

VETERANS ADMINISTRATION

Privacy Act of 1974; Amendment of Systems Notices; Changes Other Than Routine Use Statements

Notice is hereby given that the Veterans Administration is revising the paragraphs pertaining to: System name, system location, categories of individuals in the system, categories of records in the system, authority for maintenance of the system, safeguards, retention and disposal and record source categories in the system of records entitled: Veteran, Patient, Employee, and Volunteer Research and Development Project Records—VA (34VA11) as set forth on page 677 of the **Federal Register** Publication, Privacy Act Issuances, 1980, Compilation, Volume V. The above named paragraphs of the systems notice are being rewritten in a clearer and more concise manner in order to better identify to the public the types of individuals covered in the system, the types of records being maintained by the VA, and the location and disposal of these records. The authority for maintenance of the system is title 38, United States Code, chapter 73, section 4104(c).

The Privacy Act of 1974, 5 U.S.C. 552a(e), requires agencies to inform the public of any changes to their systems of records. However, since these changes do not alter the uses of the information in the system of records, public comment is not required. The changes are effective September 23, 1982.

Dated: September 23, 1982.

Robert P. Nimmo,

Administrator.

Notice of System of Records

In the system identified as 34VA11, "Veteran, Patient, Employee, and Volunteer Research and Development Project Records—VA," appearing at page 677 of the **Federal Register** Publication, Privacy Act Issuance, 1980 Compilation, Volume V, the system notice is revised as follows:

34VA11

SYSTEM NAME:

Veteran, Patient, Employee, and Volunteer Research and Development Project Records—VA.

SYSTEM LOCATION:

Records are maintained at each VA health care facility where the research project was conducted and at VA Central Office. Address locations for VA facilities are listed in VA Appendix 1 at the end of this document.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The following categories of individuals will covered by this system: (1) Veterans; (2) patients; (3) employees, or, (4) volunteers who have indicated their willingness to be a participant in medical research projects being performed by the VA, by a VA contractor or by another Federal agency in conjunction with the VA; and (5) research and development investigators.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records, or information contained in records, vary according to the specific medical research involved and may include: (1) Research on biomedical, prosthetic and health care services; (2) research stressing spinal cord injuries and diseases and other disabilities that tend to result in paralysis of the lower extremities; and (3) morbidity and mortality studies on former prisoners of war. Central Office records contain (4) a merit review of the project; (5) a review and evaluation of the research and development investigators and of the participants in the program. The review and evaluation information concerning the research and development investigators may include personal and educational background information as well as specific information concerning the type of research conducted.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, chapter 73, section 4104(c).

* * * * *

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETRIEVABILITY:

Records are retrieved by individual identifiers and indexed by a specific project site or location, project number, or under the name of the research or development investigator.

SAFEGUARDS:

Physical Security: Access to VA working space and medical record storage areas is restricted to VA employees on a "need to know" basis. Generally, VA file areas are locked after normal duty hours and are protected from outside access by the Federal Protective Service. Employee file records and file records of public figures or otherwise sensitive medical record files are stored in separate locked files. Strict control measures are enforced to ensure that disclosure is limited to a "need to know" basis. Records on investigators stored on automated storage media are accessible to authorized VACO personnel via terminals which are dedicated to this research and development information system.

RETENTION AND DISPOSAL:

The project records are held five (5) years after completion of the research project and/or publication of a report unless they become part of the patient's individual medical history file in which case the record would remain 15 years after the last activity of care.

* * * * *

RECORD SOURCE CATEGORIES:

(a) Patients and patient records, (b) employees and volunteers, (c) other Federal agencies, (d) National Institutes of Health, (e) Centers for Disease Control (Atlanta); (f) individual veterans, (g) other VA systems of records and; (h) research and development investigators.

[FR Doc. 82–26670 Filed 9–29–82; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 190
Thursday, September 30, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION

September 22, 1982.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wedesday, September 29, 1982, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* Petitions filed by the American Telecommunications Corporation (ATC) and Electronics Industries Association (EIA) for waiver of Section 15.7 of the FCC Rules for cordless telephones. This action considers whether to grant the ATC and EIA requests for waiver of Section 15.7 for cordless phones to allow them to operate under a more practical technical standard.

Common Carrier—1—*Title:* Investigation of ENFIA rate increase CC Docket No. 78–371. *Summary:* AT&T provides other carriers (OCCs) with access to local exchanges, for use with long distance services such as MCI's Execunet, under the ENFIA agreement negotiated by AT&T and the OCCs in 1979. In April the FCC extended the agreement for up to two years. AT&T then filed to increase the rate by more than 100%. The Commission suspended the increase, imposed an interim rate, and instituted an investigation. The specific issues concerned factors used in the agreement: the average OCC billed minutes of use per ENFIA line and the average local exchange cost assigned to AT&T's own long distance services. The Commission will consider what those factors should be under the agreement.

Television—1—*Title:* Request of Broadcast Corporation of Georgia (WVEU(TV), Channel 69 Atlanta, Georgia) to operate with 50% authorized power. *Summary:* Permittee for a new UHF TV station requests that the Commission relax its current power restriction on WVEU in the presence of continuing interference to land mobile services. Commission considers whether grant of request is warranted.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–1392–82 Filed 9–29–82; 11:06 am]

BILLING CODE 6712–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, September 27, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Issac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of a recommendation regarding the liquidation of assets acquired by the Corporation from The Mission State Bank & Trust Company (In Liquidation), Mission, Kansas (Case No. 45,396–L).

By the same majority vote, the Board further determined that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,401–L—Franklin National Bank, New York, New York

Case No. 45,408–L (amended)—Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico

Case No. 45,421–NR—Penn Square Bank, National Association, Oklahoma City, Oklahoma

Memorandum and Resolution re: Delegation of Approval Authority on Merger-Type Applications, and

Memorandum and Resolution re: $200,000 Funding Request from the Neighborhood Reinvestment Corporation

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: September 27, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1393–82 Filed 9–29–82; 11:29 am]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, September 27, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Issac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Liquidation Case No. 45,343–L—Reserves for Losses—108 Open Liquidation Cases, and

Memorandums re: Application of Losses and Accretions from Various Present Value Transactions of Merger Assistance Agreements to the Net Assessment Income Credit Computation (Two Memorandums)

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8),

(c)(9)(B) and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(B), and (c)(10)).

Dated: September 27, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1304–82 Filed 9–28–82; 11:29 am]

BILLING CODE 6714–01–M

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FEDERAL ELECTION COMMISSION

[FR 1364]

PREVIOUSLY ANNOUNCED DATE AND TIME: Tuesday, September 28, 1982 at 10 a.m.

CHANGE IN MEETING: The meeting has been continued to Wednesday, September 29, 1982 at 2:00 p.m. in order to complete the agenda.

* * * * *

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, September 30, 1982 at 10 a.m.

CHANGES IN THE MEETING: The following matters have been added to the agenda:

Advisory Opinion 1982–51—Hayakawa for U.S. Senator (Continued from September 23, 1982)
Contingency Plan for Possible Absence of Appropriation for FY' 83. (Tentative)

The following matter has been dropped from the agenda:

FY' 83 Management Plan

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S–1306–82 Filed 9–28–82; 3:16 pm]

BILLING CODE 6715–01–M

5

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, October 5, 1982 at 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Compliance, Litigation, Audits, Personnel,

* * * * *

DATE AND TIME: Thursday, October 7, 1982 at 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Advisory opinion 1982–49—Charles A. Muessel, Treasurer, Weicker '82 Committee
FY '83 Management Plan (tentative)
Draft advance notice of proposed rulemaking: Party Committee expenditure limitations (11 CFR 110.7)
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S–1309–82 Filed 9–28–82; 3:16 pm]

BILLING CODE 6715–01–M

6

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 42490, Monday, September 27, 1982.

PLACE: Board room, sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

CHANGES IN THE MEETING: The following items have been added to the open portion of the Bank Board meeting scheduled Thursday, September 30, 1982 at 10 a.m.:

Branch Office Approval
Industry Conflict of Interest; Limitations on Loans to One Borrower

[No. 64, September 28, 1982]

J. J. Finn,

Secretariat.

[S–1307–82 Filed 9–28–82; 2:12 pm]

BILLING CODE 6720–01–M

7

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

TIME AND DATE: 9:00 a.m., October 6, 1982.

PLACE: City Council Chambers, W. 808 Spokane Falls Boulevard, Spokane, Washington.

MATTERS TO BE CONSIDERED:

- Election of Chairman and Vice Chairman
- Staff presentation on Agricultural Conservation
- Staff Presentation on Industrial Conservation
- Staff Presentation on Rate Design
- Staff Presentation on Conservation Programs Evaluations
- Council Business

CONTACT PERSON FOR MORE INFORMATION: Ms. Bess Wong (503) 222–5161

Edward Sheets,

Executive Director.

[S–1305–82 Filed 9–28–82; 11:29 am]

BILLING CODE 0000–00–M

8

POSTAL RATE COMMISSION

TIME AND DATE: 9 a.m., Wednesday, September 29, 1982.

PLACE: Conference Room, Room 500, 2000 L Street, NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Third-class bulk mail rates. (Docket R80–1) (Closed pursuant to 5 U.S.C. 552b(c)(10))

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, NW., Washington, D.C. 20268; Telephone (202) 254–5614.

[S–1308–82 Filed 9–28–82; 12:27 pm]

BILLING CODE 7715–01–M

federal register

Thursday
September 30, 1982

Part II

Department of Commerce

Patent and Trademark Office

Small Business Administration

Revision of Patent and Trademark Fees and Definition of Small Business Concern

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Definition of Small Business for Paying Reduced Patent Fees Under Title 35, United States Code

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration in conjunction with the Patent and Trademark Office is establishing a definition of small business for the purpose of paying patent fees under section 41 (a) and (b) of Title 35, United States Code, which are reduced by 50 per centum for small business concerns as required by Pub.L. 97–247. The definition would be implemented by the Patent and Trademark Office, which has recently published its regulations on the fee reduction procedures (47 FR 40134, September 10, 1982).

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: R. Franklin Burnett (703) 557–3054. Harvey Bronstein (202) 653–6373.

SUPPLEMENTARY INFORMATION: Pub. L. 97–247 provides that funds available under the Act to the Patent and Trademark Office "shall be used to reduce by 50 per centum the payment of fees under Section 41 (a) and (b) of Title 35, United States Code, by small business concerns as defined in Section 3 of the Small Business Act and by regulations established by the Small Business Administration."

A notice of proposed rulemaking relating to the definition of a small business was published in the **Federal Register** on August 31, 1982 (47 FR 38331). The regulation being issued is the same as that which was proposed. In order to be a small business, the number of employees of the concern, including those of its affiliates, may not exceed 500 persons. Concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. The number of employees of a business concern is determined by counting the number of persons of the concern and its affiliates employed on a full-time, part-time or temporary basis during the previous fiscal year of the concern and of its affiliates. The number of employees is the average over the fiscal year of the persons employed during each of the pay periods of the fiscal year.

The definition also requires a small business for this purpose to be one "which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey, or license, any rights in the invention to any person who could not be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization under this section."

Discussion of Comments

One comment from the American Patent Law Association, whose membership includes several thousand lawyers involved in the practice of law before the U.S. Patent and Trademark Office, expressed "no comment regarding the definition" and expressed "[t]hanks for all that's been done toward a hopefully workable definition." The remaining comments were from individual patent attorneys rather than comments on behalf of any organization.

Two comments raised questions about the intended scope of the term "license." It was suggested that clarification is needed as to what is included within the scope of the term. One comment suggested that, "[a]t the very least, the record should reflect that the definition is not intended to reach implied licenses to use and resell patented articles purchased from a small business." The comment is correct insofar as it suggests that such "implied licenses" are not intended to be included within the scope of the term. Likewise, an order by the applicant to a firm to build a proto-type machine or product for the applicant's own use is not considered to constitute a license for purposes of the definition.

Another suggestion was that the regulation be reworded to deny small business status where revenue above a certain dollar amount was received from licensing rights under the invention to a concern which could not qualify as a small entity. It was also suggested that the term "exclusive license of any of the rights in the invention" be used instead of the term "license." The latter two suggestions have not been adopted. Adoption of these suggestions would cause the regulation to become more complicated, and does not appear necessary to aid small concerns in accord with the purposes of the legislation. In addition, it could substantially broaden the number of concerns which could qualify with a resulting excessive loss of revenue to the Patent and Trademark Office. It is not seen likely that the restriction on licensing would unduly or adversely affect the ability of the small business concern to participate in the patent system.

Another comment which was made related to a firm which is a subsidiary of a university or other nonprofit organization. The suggestion was made that the number of employees of the university or other nonprofit affiliate be excluded from consideration in determining whether or not the business concern qualifies as a small business concern. The suggestion has not been adopted since the situation raised is already treated under the definition of nonprofit organization established by the Patent and Trademark Office on September 10, 1982, at 47 FR 40134–40140. Under that Patent and Trademark Office regulation, a wholly owned subsidiary of a nonprofit or university is considered a part of the university or nonprofit and thus is already eligible for the fee reduction.

One comment suggested that the regulation contain language specifying that concerns meeting its requirements are also independently owned and operated and not dominant in their field of operation under the Small Business Act. It is not necessary to include this language since this regulation already contains an affiliation test for this purpose; and it is generally unlikely that a small concern would be found to be dominant. The legislative history of the Small Business Act indicates that "The mere fact that a small business makes a particular product or item and is dominant in its field with respect to the particular product or item is not intended to disqualify it from the benefits of this Act * * *" (House Report 494, 83rd Congress, 1st Session 1953). SBA Size Appeals Board precedents have consistently stated that dominance under the Act and the SBA regulations is not viewed in narrow industry subdivisions. It, therefore, does not appear that concerns defined as small business under this provision would be dominant within the meaning of the Small Business Act.

Another comment suggested that foreign concerns should not be eligible as small business under this provision. Since this patent legislation was enacted by the Congress with knowledge of the Paris Convention for the Protection of Industrial Property, there is no indication that Congress intended that foreign small business not be eligible for

the fee reduction. It is the view of the Patent and Trademark Office that excluding foreign small concerns would violate U.S. treaties in the patent area.

This comment also questioned whether the Patent and Trademark Office should make initial size determinations, or whether they could more appropriately be made by SBA. Since the fee reduction procedure is part of the patent application and of other Patent and Trademark Office actions and may involve Patent law questions, it would be administratively infeasible to have initial size determinations made by the SBA. The Patent and Trademark Office recently issued regulations (September 10, 1982, 47 FR 40134) which set forth the fee reduction procedures.

Other Considerations Relating to the Rulemaking

Environmental, energy, and other considerations: The rule will not have a significant impact on the quality of the human environment or the conservation of energy resources.

Small business concerns will be benefited by the rule. The proposed rule will not have a significant economic impact on a substantial number of small entities (Regulatory Flexibility Act, Pub. L. 96–354). Public Law 97–247 has taken into consideration the impact it may have on small entities and has reduced the fees, therefore, by 50 per centum.

The Small Business Administration has determined that this rule is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule will not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, since no significant additional record keeping or reporting requirements are placed upon the public.

List of Subjects in 13 CFR Part 121

Small businesses, Inventions and patents.

PART 121—SMALL BUSINESS SIZE STANDARDS

Accordingly, pursuant to Section 3 of the Small Business Act and Pub. L. 97–247, Part 121 of Title 13 of the Code of Federal Regulations is amended by adding § 121.3–18 to read as follows:

§ 121.3–18 Definition of small business for paying reduced patent fees under Title 35, U.S. Code

(a) Pursuant to Pub. L. 97–247, a small business concern for purposes of paying reduced fees under 35 U.S. Code 41 (a) and (b) to the Patent and Trademark Office means any business concern (1) whose number of employees, including those of its affiliates, does not exceed 500 persons and (2) which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization under this section. For the purpose of this section concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. The number of employees of the business concern is the average over the fiscal year of the persons employed during each of the pay periods of the fiscal year. Employees are those persons employed on a full-time, part-time or temporary basis during the previous fiscal year of the concern.

(b) If the Patent and Trademark Office determines that a concern is not eligible as a small business concern within this section, the concern shall have a right to appeal that determination to the Small Business Administration. The Patent and Trademark Office shall transmit its written decision and the pertinent size determination file to the SBA in the event of such adverse determination and size appeal. Such appeals by concerns should be submitted to the SBA at 1441 L Street, NW., Washington, D.C. 20416 (Attention: SBA Office of General Counsel). The appeal should state the basis upon which it is claimed that the Patent and Trademark Office initial size determination on the concern was in error and the facts and arguments supporting the concern's claimed status as a small business concern under this section.

Dated: September 23, 1982.

Robert B. Webber,

Acting Administrator.

[FR Doc. 82-26040 Filed 9-29-82; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 2909–187]

Revision of Patent and Trademark Fees

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office is amending the rules of practice in patent and trademark cases to establish a definition and procedures for the payment of fees under section 41 (a) and (b) of Title 35, United States Code, by small business concerns as required by Pub. L. 97–247. This action adopts the definition of a "small business concern" for purposes of paying patent fees established by the Small Business Administration and is necessary at this time in order that the procedures for paying reduced fees will be effective on October 1, 1982, the effective date of the changes in the amounts of Patent and Trademark Office fees established by Pub. L. 97–247.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: R. Franklin Burnett by telephone at (703) 557–3054 or by mail addressed to the Commissioner of Patents and Trademarks, Attention: R. Franklin Burnett, Room 3–11A13, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the **Federal Register** on June 28, 1982, at 47 FR 28042–28063 and in the *Official Gazette* on June 29, 1982, at 1019 O.G. 57–120. Oral hearings were held on July 9, 1982. Full consideration has been given to all of the letters, statements, and testimony received at the time. A final rule on "Revision of Patent and Trademark Fees" was published on July 30, 1982 at 47 FR 33086–33112 with corrections in the printing thereof being published on August 4, 1982, at 47 FR 33688 and on August 5, 1982, at 47 FR 33959. The final rule was also published in the *Official Gazette* on August 10, 1982, at 1021 O.G. 19–94. In view of comments received at the hearings, additional time for comment on certain rules, including those covered by this change, was given until August 13, 1982. The notice extending the time for comment was published on July 27, 1982 at 47 FR 32458. A final rule relating to definitions of "independent inventor" and "nonprofit organizations" was published on September 10, 1982 at 47 FR 40134–40140.

Objectives of Rule Changes

These rule changes are designed to implement the Patent and Trademark Office fees and procedures which are provided for by Pub. L. 97–247.

Public Law 97–247

Pub. L. 97–247, signed August 27, 1982, provides that funds available under the act "shall be used to reduce by 50 per centum the payment of fees under section 41 (a) and (b) of title 35, United States Code" by independent inventors, small business concerns, and nonprofit organizations. The Commissioner has established regulations defining independent inventors and nonprofit organizations. Pub. L. 97–247 defines small business concerns by reference to Section 3 of the Small Business Act and regulations established by the Small Business Administration. The Small Business Administration has now established the definition of a small business concern for the purpose of paying reduced fees under Pub. L. 97–247. That definition is hereby incorporated into the patent rules of practice in § 1.9(d). This rulemaking also establishes the procedures which will be followed by small business concerns when paying the reduced fees.

Discussion of Specific Sections

The following sections are changed by this final rule, effective October 1, 1982:

Section 1.9, as amended, adds paragraph (d) which defines small business concern as used in Title 37, Code of Federal Regulations, Chapter I. A small business concern is identified as a "small entity" for purposes of paying fees which are set under section 41(a) and (b) of Title 35, United States Code, as amended by Pub. L. 97–247.

Section 1.9(d) defines a small business concern by reference to and incorporation of § 121.3–18 of Title 13, Code of Federal Regulations. A small business concern is defined therein as any business concern (1) whose number of employees, including those of its affiliates, does not exceed 500 persons and (2) which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey, or license, any rights in the invention to any person who could not be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization under this section. The section further defines affiliates of concerns and defines also the terms "employees" and "number of employees." concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. The number of employees a business concern has is determined by counting the number of persons of the concern and its affiliates employed on a full-time, part-time or temporary basis during the previous fiscal year of the concern and of its affiliates. The number of employees is the average over the fiscal year of the persons employed during each of the pay periods of the fiscal year. Business concerns located in any country which meet the small business definition and which comply with the applicable procedures can qualify as a "small business concern". Under the definition, a small business concern would no longer qualify as a small business concern if any rights were assigned to any individual or concern which could not qualify as a small entity pursuant to § 1.9(f), or if the concern came under an obligation to assign any rights to any individual or concern which could not qualify as a small entity.

Section 1.9(d) also incorporates paragraph (b) of 13 CFR 121.3–18 which provides for appeals to the Small Business Administration from Patent and Trademark Office adverse initial size determinations.

Paragraph 1.27(c) provides for claiming status as a small business concern. Any person seeking to establish status as a small entity, for purpose of paying reduced fees, must file a statement to that effect prior to or with the payment of the first fee paid as a small entity. Under § 1.27, as long as all of the rights remain in small entities, the fees established for a small entity can be paid. This includes circumstances where the rights were divided between an independent inventor, a small business concern and a nonprofit organization or any combination thereof.

A number of changes which have been made to §§ 1.9 and 1.27 as a result of the comments received and further review of the proposed rulemaking are identified below.

Paragraph (d) of § 1.9 has been changed from that proposed so as to incorporate into § 1.9(d), the definition established by the Small Business Administration in § 121.3–18 of Title 13, Code of Federal Regulations. The definition differs from that proposed in specifying the number of employees constituting a small business concern and specifying that the concern must be one which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey or license any rights in the invention to any person or concern which could not be classified as an independent inventor, small business concern, or nonprofit organization.

Paragraph (c) of § 1.27 has been changed from that proposed to clarify who is to file the verified statement. The verified statement for a small business concern is to be signed by "the owner or an official of the small business concern empowered to act on behalf of the concern." The term "official" as used in paragraph (c) is intended to include any officer, employee, or part-owner empowered to act on behalf of a small business concern. For example, an officer or employee of a corporation empowered to act for the corporation by its board of directors would be qualified to sign such a verified statement.

Response to Comments on the Patent Rules

Specific comments were received on a number of the sections. All of the comments, including the oral testimony and the written comments, were considered in adopting the changes set forth herein.

Written comments on the rules affected by this final rule were received from three patent law groups and a number of individuals. The three patent law groups were (1) the American Patent Law Association; (2) the Patent, Trademark, and Copyright Section of the Virginia State Bar; and (3) the Patent, Trademark and Copyright Law Section of the Bar Association of the District of Columbia.

Oral comments were presented at the hearing on behalf of two patent law groups.

The comments appear below along with replies thereto.

Comment

Two comments urged that in view of the "exceedingly complex" definitions of a "small business" in 13 CFR 121.3, the patent system and those associated with it would be best served by setting forth clear guidelines as to whether or not a business qualifies as a small business without reference to the Small Business Act and without incorporation by reference of "the too many pages of SBA regulatory definition."

Reply

Pub. L. 97–247 specifically refers to section 3 of the Small Business Act and regulations established by the Small Business Administration for determining whether or not a business concern qualifies as a small business concern. Pub. L. 97–247 therefore does not permit

the establishment of guidelines without reference to the Small Business Act and regulations established by the Small Business Administration. Section 1.9(d), however, does incorporate the definition as established in § 121.3–18 of Title 13, Code of Federal Regulations. This will enable persons to utilize § 1.9(d) without also referring to a copy of Title 13, CFR.

Comment

One comment argued that § 1.27 should be corrected or clarified to indicate that a small business concern would be entitled to the 50 percent fee reduction even though it may grant a non-exclusive or even an exclusive license to some non-small entity.

Reply

The suggestion has not been adopted. Section 1.27 requires that the concern qualify as a small business concern as defined in § 1.9(d). Section 1.9(d) defines a small business concern by incorporating 13 CFR 121.3–18, which in turn defines a small business concern as one not exceeding a particular size "which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization under this section." The intent of both 13 CFR 121.3–18 and 37 CFR 1.9(d) and 1.27(c) is to limit the payment of reduced fees under section 41 (a) and (b) of Title 35, United States Code, to those situations in which all of the rights in the invention are owned by small entities, i.e., independent inventors, small business concerns, or nonprofit organizations. To do otherwise would be clearly contrary to the intended purpose of the legislation which contains no indication that fees are to be reduced in circumstances where rights are owned by non-small entities. Adopting the suggestion might, for example, permit a non-small entity to transfer patent rights to a small business concern which would pay the reduced fees and grant an exclusive license to the non-small entity.

Comment

One comment suggested that the specific Small Business Administration regulations which are applicable be specified in § 1.9(d).

Reply

The definition of a small business concern as established by the Small Business Administration is now incorporated into § 1.9(d).

Implementation of §§ 1.9 and 1.27

Status as a small entity can be established in any application or patent for which a fee is due on or after October 1, 1982, and in which the individual inventor, small business concern, or nonprofit organization meets the qualifications established for small entity status.

Other Considerations Relating to Patent and Trademark Fee Revisions

Environmental, energy, and other considerations: The rule change will not have a significant impact on the quality of the human environment or the conservation of energy resources.

This rule change is in conformity with the requirements of the Regulatory Flexibility Act (Pub. L. 96–354), Executive Order 12291, and the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

The rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act. Pub. L. 96–354) for several reasons. Pub. L. 97–247 has taken into consideration the impact the increase in fees may have on small entities. Under Pub. L. 97–247 and this rulemaking, small entities will be able to pay reduced fees for filing patent applications and for the issuance and maintenance in force of patents.

The Patent and Trademark Office has determined that this rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule change will not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, since no significant additional record keeping or reporting requirements are placed upon the public.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Inventions and patents, Small businesses.

Amendment of Regulations

For the reasons indicated above and pursuant to the authority given to the Commissioner of Patents and Trademarks by 35 U.S.C. 6, and Pub. L. 97–247, Part 1 of Title 37, Code of Federal Regulations, is amended as set forth below.

PART 1—RULES OF PRACTICE IN PATENT CASES

1. Section 1.9 is amended by adding a new paragraph (d) to read as follows:

§ 1.9 Definitions.

* * * * *

(d) A small business concern as used in this chapter means any business concern as defined by the Small Business Administration in 13 CFR 121.3–18, published on September 30, 1982 at 47 FR 43273. For the convenience of the users of these regulations, that definition states:

§ 121.3–18 Definition of small business for paying reduced patent fees under Title 35, U.S. Code

(a) Pursuant to Pub. L. 97–247, a small business concern for purposes of paying reduced fees under 35 U.S. Code 41 (a) and (b) to the Patent and Trademark Office means any business concern (1) whose number of employees, including those of its affiliates, does not exceed 500 persons and (2) which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization under this section. For the purpose of this section concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. The number of employees of the business concern is the average over the fiscal year of the persons employed during each of the pay periods of the fiscal year. Employees are those persons employed on a full-time, part-time or temporary basis during the previous fiscal year of the concern.

(b) If the Patent and Trademark Office determines that a concern is not eligible as a small business concern within this section, the concern shall have a right to appeal that determination to the Small Business Administration. The Patent and Trademark Office shall transmit its written decision and the pertinent size determination file to the SBA in the event of such adverse determination and size appeal. Such appeals by concerns should be submitted to the SBA at 1441 L Street, NW., Washington, D.C. 20416 (Attention: SBA Office of General Counsel). The appeal should state the basis upon which it is claimed that the Patent and Trademark Office initial size determination on the concern was in error; and the facts and arguments supporting the concern's claimed

status as a small business concern under this section.

2. Section 1.27 is amended by adding a new paragraph (c) to read as follows:

§ 1.27 Statement of status as small entity.

* * * * *

(c) Any verified statement filed pursuant to paragraph (a) of this section on behalf of a small business concern must (1) be signed by the owner or an official of the small business concern empowered to act on behalf of the concern; (2) aver that the concern qualifies as a small business concern as defined in § 1.9(d); and (3) aver that exclusive rights to the invention have been conveyed to and remain with the small business concern, or if the rights are not exclusive, that all other rights belong to small entities as defined in § 1.9. Where the rights of the small business concern as a small entity are not exclusive, a verified statement must also be filed by the other small entities having rights averring to their status as such.

Dated: September 23, 1982.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc. 82-26941 Filed 9-29-82; 8:45 am]

BILLING CODE 3510-16-M

federal register

Thursday
September 30, 1982

Part III

Department of Transportation

Federal Aviation Administration

Special Federal Aviation Regulation No. 44-5; Air Traffic Control System; Interim Operations Plan

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 22050; SFAR No. 44-5]

Special Federal Aviation Regulation No. 44-5; Air Traffic Control System; Interim Operations Plan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment to Special Federal Aviation Regulation (SFAR) No. 44-5, which established procedures to be used in the allocation of additional air traffic system capacity as it becomes available, makes adjustments to the procedures utilized for allocation of slots. It changes the time periods in which carriers must select slots as well as establishing "passing" procedures. The amendment is necessary to respond to problems and questions that arose during the slot selection session.

EFFECTIVE DATE: September 27, 1982.

ADDRESSES: Send comments on the rule in duplicate to:
Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 22050, 800 Independence Avenue, SW., Washington, D.C. 20591.

or deliver them to:

800 Independence Avenue, SW., Room 915G, Washington, D.C.

Comments may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:
Edward P. Faberman, Deputy Chief Counsel, 202-426-3775

or

Thomas P. Messier, Deputy Director, Office of Aviation Policy and Plans, 202-426-0583

Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591

SUPPLEMENTARY INFORMATION:

Comments Invited

Although this is issued as a final rule, comments are invited on the amendment. Comments relating to the environmental, energy, or economic impacts that might result from adoption of the proposals contained in this notice are invited. Communications should identify the regulatory docket and be submitted in duplicate to the address above. All communications received will be considered by the Administrator on a continuing basis. The requirements contained in this amendment may be changed in the light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with the rulemaking will be filed in the docket. Commenters wishing to have the FAA acknowledge receipt of their comments must submit with those coments a self-address, stamped postcard on which the following statement is made: "Comments to Docket Number 22050." The postcard will be dated, time-stamped, and returned to the commenter.

Background and Discussion

On August 9, 1982, the FAA issued SFAR 44-5 (47 FR 35156; August 12, 1982) which established procedures to be used in the allocation of additional air traffic system capacity as it becomes available. The amendment established a slot selection system which allowed carriers to choose slots they desire from those available during a slot selection session.

On August 20, 1982, the FAA conducted a random draw to determine the order of selection for all future allocation periods. On August 25-26, 1982, the agency held a slot selection session. During that session, a number of questions were raised concerning the slot selection procedures. As a result of these questions and other issues that have arisen since issuance of SFAR 44-5, it is necessary to adjust the existing procedures prior to the next scheduled slot selection session.

5-Minute Selection Requirement

Under SFAR 44-5, a carrier is required to make its slot selection within 5 minutes after its turn is called or it will lose its turn. At the August slot selection session, there were a number of carriers which did not make selections. These carriers either did not appear at the session or left the session after an early sequence. Because of the 5-minute requirement, the session was interrupted for 5 minutes for each missing carrier to see if that carrier was, in fact, participating in the session. Since this occurred numerous times, a great deal of time was wasted. To rectify this, the 5-minute requirement is amended. A carrier still has 5 minutes to make its selection. However, if the carrier is not prepared to make its selection within 1 minute after its turn is called, it must answer "present." If the carrier does not answer "present" within 1 minute after its turn is called, the carrier will lose its turn in that round. If the carrier answers "present," it still must make its slot selection within a total of 5 minutes after its turn is called.

New Entrant Definition

SFAR 44-5 defines "new entrant" as a carrier that is not operating at any airport on or before August 1, 1982, has appropriate Civil Aeronautic Board (CAB) authority, and has applied for an FAA certificate. An unanswered question was—"At what point can a 'new entrant' be added to the priority selection list?

In determining when an applicant has applied for an FAA certificate, the agency has stated the following:

A formal application for a certificate is not complete or considered submitted until the applicant has presented to the FAA District Office such items including the following:

1. Compliance statement.
2. Aircraft operating manuals.
3. Company operating manuals.
4. Training programs.
5. Maintenance programs.
6. Schedule of events, such as:

(a) Proving runs;
(b) Aircraft deliveries;
(c) Training complete dates;
(d) Emergency evacuation demonstration; and
(e) First revenue trip.

By submitting this information (if carrier has met other criteria) the carrier would be considered as a new entrant and thus would be able to obtain slots. The FAA recognizes, however, that it is not necessarily equitable to require a new entrant to complete submission of all such material before it can be added to the selection list. Therefore, the agency will allow an applicant to be added to the priority list if it has an appropriate CAB certificate, has not operated at any airport on or before August 1, 1982, and has submitted at least one of the six categories of documentation listed above. Although the applicant will be added to the priority list, it will not be able to select slots until it has submitted all the required information as listed above. Such an applicant cannot trade its selection position.

Use or Lose Provision

SFAR 44-5 states that slots that a carrier does not actually use at least 57 percent of the schedule period will be automatically revoked. This means that slots must be utilized on an average of 4 days per week. The FAA believes that there is one situation in which it is appropriate to provide some relief from this requirement. This area involves

carriers that only operate a seasonal operation a few days a week or for a part of a schedule period. An example of this would be a situation in which a carrier operates Thursday, Friday and Saturday flights into Denver during the winter months. The carrier has a slot which it wishes to dedicate to this operation. The slot is operated every January–March. It will obviously not use the slot 57 percent of the schedule period. This limited number of seasonal carriers should be able to obtain some relief from the use or lose provision. Thus, if a carrier wishes to use a slot for a seasonal operation (carrier has the burden of showing that that operation has been historically seasonal) for less than 57 percent of the schedule period, the carrier can obtain a written waiver from this provision from the Associate Administrator for Policy and International Aviation (API–1). To obtain the waiver, the carrier must submit, in writing, the following information:

1. The slot or slots in question;
2. The operation for which the slot will be utilized;
3. The number of days in which the operation will be conducted; and
4. The basis for which the operation is considered to be historically seasonal.

If this information is acceptable, API–1 will provide the carrier with a written waiver which will allow the carrier to operate the particular slot less than 57 percent of the schedule period. The FAA will submit the remaining days not in use to the Central Flow Control facility to allow the slot to be used for charter and extra sections during the remainder of the unused schedule period.

Carriers are reminded that if they wish to obtain slots for 1 or 2 days a week, they must obtain those slots directly from Central Flow Control as available.

Trade of Slots

SFAR 44–5 reminded carriers that the prohibition against selling slots was continued. To verify that slots involved in a trade were not involved in a sale, the agency believes it appropriate for the carrier obtaining the slot to make an affirmative statement that the transaction did not involve consideration other than slots. Thus, such a statement must be submitted to API–1 in accordance with any request for approval for any trade of slots or position in the slot selection process by a principal of that airline. The FAA's policy on trade of slots has been approved by the Office of Management and Budget through June 30, 1983.

Passing

SFAR 44–5 provides for "passing." An air carrier deciding not to select slots may advise the FAA, prior to that carrier's first opportunity to select slots, that it will "pass." If a carrier passes from one session to the next, it will be placed at the top of the appropriate pass list for the next selection session.

One question that arose during the first slot selection was whether an impacted incumbent could pass. The answer to that question is yes. An impacted incumbent may pass its two "impacted" selections from one selection session to the next. An impacted incumbent who elects to pass will be placed on the "impacted incumbent pass list" for the next session. Impacted incumbents are reminded that they do not have to select slots as an impacted incumbent and, instead, may defer their selection until they come up in the regular selection order.

In this connection, carriers are reminded that during any slot selection sequence after their turn is called, they may defer without passing. This means that they will not select a slot during that sequence but may select a slot in a later sequence. A carrier that defers remains in the same selection position.

One additional clarification is necessary in connection with "passing." The order of sequence carriers held when they passed will determine the order in which they will select slots in the next session. This eliminates any race to pass by hand-delivering a "pass" notice to the FAA. The rule has been changed accordingly.

Seasonal Operations

There are a number of carriers which conduct operations during a limited time period that are considered to be seasonal operations. These operations are often to resort areas during either the winter or summer periods. The FAA acknowledges that there must be some adjustments to the slot base of these carriers to allow them to continue operations which they have historically flown. In some situations a carrier will actually cease the operation after the summer and will operate elsewhere in the winter. If a carrier is not permitted to obtain slots for such seasonal operations, it may not be able to continue in business. Therefore, the FAA will, in certain cases, adjust a carrier's base if that carrier establishes that an adjustment is necessary for it to conduct a seasonal operation which it has historically operated. In accomplishing this, the following factors will be considered: (1) The slots necessary to conduct the seasonal operation; (2) Whether the operation has been flown at least one previous year; (3) The seasonal operation is for a continuous period of six months or less; (4) A carrier no longer has in its base slots used for this seasonal operation; (5) The seasonal operation is a major part of the carrier's overall operation; (6) The carrier has fewer slots in its base at the airport at which the seasonal operation is proposed than it did when the seasonal operation was previously conducted, adjusted to take into account any slots the carrier may have sold or traded.

A carrier which has a significant number of slots will not be given seasonal slots. The intent of this provision is to allow the agency to increase the base of a carrier which is dependent upon a seasonal operation. If a carrier does meet the above criteria every attempt made will accommodate the carrier without lessening the number of slots available at the slot selection session.

SFAR 44–5 requires air carriers to submit charter, extra section, emergency, ferry, pilot training, and mechanical repair checkout flight requests to the FAA Central Flow Control Facility. The number of these types of operations has remained consistent during the past several months. These operations are conducted throughout the day at many airports. The total number of such flights does not place a burden on the system. Therefore, the FAA is removing the need to obtain any slot authority for non-passenger ferry flights, pilot training, and mechanical repair checkout operations. It will still be necessary to obtain Central Flow approval for charter and extra section operations.

This action is consistent with a petition for rulemaking dated September 2, 1982, by the Air Transport Association of America. The other proposals contained in their petition will not be acted upon at this time, but will be considered as part of the agency's continued review of the system.

The agency will closely monitor operations under this amendment. If this authority is not strictly adhered to, the agency will reconsider this change.

Change of Controlled Airports and Centers

Effective September 21, 1982, flights within the Washington Center no longer need slots. However, an operation to an airport within the Washington Center from an airport outside of the Center, e.g., from JFK to BWI still requires a slot at the arrival airport, in this case BWI.

Immediate Adoption of Rule

This rule involves a number of procedural changes to existing allocation procedures which are necessary to clarify those procedures. It is necessary for these changes to be made before the next slot allocation. Therefore, I find that further notice and public procedure thereon are impracticable and contrary to the public interest. I further find that good cause exists for making this regulation effective in less than 30 days after its publication in the Federal Register.

List of Subjects in 14 CFR Part 91

Air traffic control.

Adoption of the Rule

PART 91—GENERAL OPERATING AND FLIGHT RULES

Chapter I of Title 14 of the Code of Federal Regulations is amended as follows effective September 27, 1982.

The Appendix to Special Federal Aviation Regulation 44–5 (14 CFR Part 91) is amended as follows:

1. The following is added at the end of paragraph 2(a):

Upon a showing by the carrier that an operation is historically seasonal, API–1 may grant a waiver from the 57-percent requirement.

2. The following is substituted in lieu of the second sentence of paragraph (2)(e):

A carrier must answer "present" or make its selections within 1 minute or it will lose its turn. If it answers "present," the carrier must make its selection within 5 minutes total after its turn is called or it will lose its turn.

3. The following sentence is added at the end of paragraph 2(e):

A carrier not passing and deciding not to select slots in a particular sequence may "defer" selection in that sequence.

4. The last paragraph of paragraph 2(f) is changed to read as follows:

After the first slot selection session, the order for slot selection will be as follows: (1) impacted incumbents that "passed" their "impacted incumbent" selections in the previous slot selection session in the order in which they were listed as impacted; (2) impacted incumbents; (3) carriers that "passed" in the previous slot selection section in the order in which they were listed in the selection list; and (4) the carrier following the last carrier to make a slot selection in the previous session.

5. The following is inserted in lieu of the first sentence in paragraph 4:

Charter and extra section flight requests shall be made to the FAA Central Flow Facility. Non-passenger ferry flights, pilot training and mechanical repair checkout operations may be conducted notwithstanding the limitations contained in this SFAR.

(Secs. 307 (a) and (c), 313(a), and 601(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348 (a) and (c), 1354(a), and 1421(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. Section 1655(c)))

Note.—The FAA has determined that this rule is only a clarifying amendment in that it adjusts the procedures utilized during the slot selection process. It is consistent with previous interpretations given at the selection sessions. There are no apparent direct or indirect (non-industry) costs associated with the amendment. Therefore, the preparation of a regulatory evaluation is unnecessary.

Based on the above, it has been determined that this is not a major regulation under Executive Order 12291 and I certify that, under the criteria of the Regulatory Flexibility Act, the rule will not have a significant economic impact on a substantial number of small entities. In addition, the FAA has determined that this amendment is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C., on September 27, 1982.

J. Lynn Helms,
Administrator.

[FR Doc. 82-26960 Filed 9-27-82; 3:50 pm]
BILLING CODE 4910-13-M

federal register

Thursday
September 30, 1982

Part IV

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Medicare Hospital Reimbursement Reforms: Limitations on Reimbursable Costs and the Rate of Hospital Cost Increases

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Medicare Hospital Reimbursement Reforms: Limitations on Reimbursable Costs and the Rate of Hospital Cost Increases

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim Final Rule with Comment Period.

SUMMARY: These rules implement section 1886 of the Social Security Act (established by section 101 of the Tax Equity and Fiscal Responsibility Act of 1982). These rules amend current regulations on hospital cost limits, providing for new exemptions and exceptions. These amendments make exceptions available to hospitals consistent with the new cost limits published elsewhere in this issue of the **Federal Register**, and specifically exempt from those cost limits rural hospitals with less than 50 beds in existence as of the enactment of the law. These rules also set forth new regulations establishing a three-year ceiling on the allowable annual rate of increase in operating costs per case for inpatient hospital services. This ceiling takes the form of a target amount of cost per case against which a hospital's incurred cost per case will be compared. Hospitals are provided incentives to keep their cost increases below the target rate. A hospital that has costs per case less than the target amount will be paid a portion of the difference between actual cost and the target amount. A hospital that has costs per case that are greater than the target amount will be paid the target amount plus 25 percent of its costs in excess of the target for the first two years of the ceiling, and none of the excess in the third year. However, payment to a hospital under these new target rate regulations will not be greater than the amount determined under the new schedule of limits on hospital inpatient operating costs published elsewhere in this issue of the **Federal Register.**

DATES: These rules are effective for hospital cost reporting periods beginning on or after October 1, 1982. 42 CFR 405.463, establishing target rates for hospital cost increases, will apply only to cost reporting periods beginning before October 1, 1985.

To assure consideration, comments should be received by November 29, 1982.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235

In commenting, please refer to file code BPP–233–FC.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Comments received may be inspected during regular business hours at Room 309–G, of the Department's offices in the Humphrey Building, at the address mentioned above, beginning about 3 weeks after the date of publication. Arrangements to inspect these comments should be made by calling (202) 245–7890.

FOR FURTHER INFORMATION CONTACT: Marilyn Koch, (301) 594–9235.

SUPPLEMENTARY INFORMATION:

I. Background

A. *Legislative History.* Section 223 of the Social Security Amendments of 1972 (Pub. L. 92–603; enacted October 10, 1972), amended section 1861(v)(i) of the Social Security Act (42 U.S.C. 1395x(v)(1)), to authorize the Secretary to set prospective limits on the costs that are reimbursed under Medicare. These limits (commonly called section 223 cost limits) may be applied to direct or indirect overall costs or to costs incurred for specific items or services furnished by a Medicare provider, and may be based on estimates of the costs necessary in the efficient delivery of needed health services.

Regulations implementing this authority are set forth at 42 CFR 405.460. Under this authority, we have published section 223 limits on hospital inpatient general routine per diem costs annually since 1974. The current schedule of limits on hospital inpatient general routine per diem operating costs was published on September 30, 1981 (46 FR 48010), and applies to hospitals with cost reporting periods ending after September 30, 1981.

On September 3, 1982, the President signed into law the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248). Section 101 of this legislation added a new section 1886 of the Social Security Act, supplementing section 1861(v) of the Act by providing for "further limitations on reasonable cost and determination of payment amounts for operating costs of inpatient hospital services * * *". (Section 101(d) of Pub. L. 97–248.) These regulations implement provisions of sections 1886 (a) and (b) that are intended to restrain growth of hospital costs and to relieve the stress that increases in these costs put on the financial soundness of the Hospital Insurance Trust Fund.

B. *Statutory Provisions.* 1. *Summary.* Section 101(a) of Pub. L. 97–248 enacted a variety of provisions to contain the costs that hospitals incur in providing inpatient services. Section 1886(a) provides for expanding the existing "section 223" limits, which currently apply on a per diem basis only to the inpatient routine operating costs hospitals incur in providing routine services (primarily room, board, and routine nursing services). The expanded limits will apply on a per case basis to the operating costs of ancillary services, such as radiology and laboratory services, and the operating costs of special care, such as intensive or coronary care, as well as operating costs of routine services. Section 1886(a)(1)(B) requires these limits to be adjusted to account for differences between hospitals in the types of cases treated (case-mix).

Section 1886(b) provides for a new three-year control on hospital cost increases that is separate and different from the type of limit established under section 223. This provision requires that we establish a ceiling target level for the allowable rate of increase of hospitals' inpatient operating costs per case, and provides for both incentive payments for hospitals that keep their cost below the target, and penalties for hospitals that incur costs greater than the target.

Section 101(b) of Pub. L. 97–248 makes the new section 1886 effective for cost reporting periods beginning on or after October 1, 1982 and provides that, in order to accomplish this prompt effect of these provisions, regulations needed to implement them may be issued as final regulations without prior notice and comment. Further, section 101(b) exempts, until January 1, 1984, these necessary regulations from Office of Management and Budget (OMB) review of information collection requirements, as required under the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Section 101(b)(3) enacted section 1135(c) of the Social Security Act, which also requires us to develop, by December 31, 1982, proposals for legislation that would enable the Medicare program to reimburse participating providers (such as hospitals and skilled nursing facilities), on a prospective basis. (It is clear from the Conference Committee Report that the three-year rate of increase ceiling established under section 1886(b) is expected to end earlier

if prospective reimbursement for inpatient hospital services is implemented.) (H. R. Rep. No. 97–760, 97th Cong., 2d Sess. 421 (1982).)

Section 101(c) provides for a number of amendments to various sections of Title XVIII of the Social Security Act that are necessary to conform the provisions of those sections to the new requirements established under section 1886.

2. *Section 1886(a)—Total inpatient operating cost limits.* As noted above, section 1886(a) expands the section 223 hospital cost limits, currently applied to inpatient general routine operating costs, to include total inpatient operating costs, applied on an average cost-per-case basis, and adjusted for case mix. The statute specifies that the affected operating costs of inpatient hospital services include all routine operating costs, ancillary service operating costs, and special care unit operating costs. These new case-mix adjusted limits on inpatient operating costs per case are effective for hospital cost reporting periods beginning on or after October 1, 1982. In no case would reimbursement to a hospital on a cost-per-case basis be reduced below the allowable cost-per-case for the hospital's cost reporting period immediately preceding the first cost reporting period subject to the case-mix adjusted limits.

Section 1886(a) requires that rural hospitals (that is, hospitals that are not located in a Standard Metropolitan Statistical Area (SMSA)) in operation and having less than 50 beds at the time of enactment be exempt from the case-mix limits. In addition, section 1886(a)(2) requires that the Secretary provide, as he deems appropriate, exemptions, exceptions, and adjustments to the limits established under section 1886(a)(1)(A) to take into account:

(A) the special needs of sole community hospitals, of new hospitals, of risk basis health maintenance organizations, and of hospitals which provide atypical services or essential community services, and to take into account extraordinary circumstances beyond the hospital's control, medical and paramedical education costs, significantly fluctuating population in the service area of the hospital, and unusual labor costs,

(B) the special needs of psychiatric hospitals and of public or other hospitals that serve a significantly disproportionate number of patients who have low income or are entitled to benefits under part A of this title [title XVIII of the Social Security Act], and

(C) a decrease in the inpatient hospital services that a hospital provides and that are customarily provided directly by similar hospitals which results in a significant distortion in the operating costs of inpatient hospital services.

Section 1886(a) also includes specific provisions on the methodology, for establishing case-mix adjusted limits. However, that methodology is not incorporated in these regulations. Instead, it is explained in detail in a separate notice published elsewhere in this issue of the **Federal Register**. therefore, we are not describing all those provisions here. However, one element of that methodology involves an index of increases in hospital wages and prices that is also used in calculating the rate of increase ceiling established under section 1886(b). See section IV of this preamble, below, for a discussion of that index.

3. *Section 1886(b)—Rate-of-increase ceiling.* The new three-year hospital rate of increase provision includes two elements in common with the case-mix adjusted limits—the rate of increase ceiling is applied to the same inpatient operating costs per case as are subject to the expanded section 223 cost limits, and the rate of increase is determined on the basis of the same index of increases in hospital wages and prices. However, we wish to make clear that this ceiling is separate and different from the section 223 type of limit, and applies in addition to the limits established under 1886(a). Hospitals may *not* receive reimbursement in excess of the amount determined to be allowable under section 1886(a).

Section 1886(b) provides that payment for inpatient hospital services will be determined on the basis of the relation of a hospital's costs to a ceiling determined by a target rate of increase in operating costs per case. (In accordance with the statute, payments made on this basis will be subject to the coinsurance and deductible requirements of section 1813 of the Act, but will be made without regard to the provisions of section 1814(b) which requires payment of charges when they are lower than costs.) This ceiling is expressed as a target amount based on the percentage rate of increase in the hospital wage and price index (market basket index) plus one percentage point. In the first year subject to the ceiling (that is, to cost reporting periods beginning on or after October 1, 1982), a target amount will be established for each hospital equal to the hospital's allowable operating costs per case for the immediately preceding 12-month cost reporting period, increased by the target rate percentage. After the first year, a hospital's inpatient operating cost per case target amount would be computed by increasing the previous year's target amount by the current year's target rate percentage increase.

Section 1886(b)(5) specifies that, in the case of any hospital having a cost reporting period of other than 12-months in length, the Secretary shall determine the 12-month period that will be used for purposes of setting a rate-of-increase ceiling.

A hospital that incurs allowable costs per case below its target amount will be paid its costs plus the lesser of 5 percent of the target amount or 50 percent of the difference between its actual costs and target amount. A hospital that incurs allowable cost per case above its target amount will be allowed the target amount plus 25 percent of its cost in excess of its target amount for the first two years, and none of the excess cost in the third year. In no event could payment under this provision exceed the amount payable under the cost limits established under section 1886(a).

Section 1886(b)(4) provides for exemptions from, and exceptions and adjustments to, the rate of increase ceiling. The Conference Committee specified that adjustments could have the effect of either increasing or decreasing the target payment amount. (H.R. Rep. No. 97–760. 97th Cong., 2d Sess. 420 (1982).) The principal intention in authorizing exemptions, exceptions, and adjustments is to take into account factors that would distort either a hospital's base period or rate of cost increase during the 3-year period to which the rate of increase provisions are applicable. Examples of such factors include significant changes in a hospital's case-mix in a particular year when compared to the base year, extraordinary circumstances beyond the hospital's control, and a reduction in a hospital's costs resulting from cutting back on the kinds of services directly provided to patients—for example, as the result of leasing out its clinical laboratory.

The rate of increase ceiling established by section 1886(b) would not apply to any hospital cost reporting period beginning on or after October 1, 1985. (Further, if prospective reimbursement is established for inpatient hospital services furnished during cost reporting periods beginning before that date, the rate of increase ceiling would be terminated before the full three years elapsed.)

In addition, section 1886(b)(6) provides that, in the case of hospitals that withdraw from participation in Social Security (Old Age, Survivors, Disability, and Health Insurance, or OASDHI program) after August 15, 1982, the Secretary must reduce Medicare payments to reflect cost savings the hospitals achieve through withdrawal.

In computing the reduction, savings are to be offset by expenditures a hospital incurs for substitute pension, health, and insurance benefits comparable to the foregone Social Security benefits.

C. *Purpose of These Interim Final Regulations.* These regulations implement section 1886(a) by making changes to 42 CFR 405.460 that are needed to make the exceptions available to hospitals consistent with the new case-mix adjusted cost limits published elsewhere in this issue of the **Federal Register**. The amended regulations specify that the exception to the hospital cost limits based on intensity of routine care is available only for cost reporting periods in which hospitals are subject to routine per diem cost limits. These regulations also allow a hospital to obtain an exception to the case-mix-adjusted hospital cost limits if it can show that it has taken actions that have substantially altered its mix of patients treated. These changes are effective for cost reporting periods beginning on or after October 1, 1982.

These regulations implement section 1886(b) by establishing a new section 42 CFR 405.463, entitled "Limitations on Rate of Cost Increases". These regulations specify how the statutorily prescribed target rates will be applied, and provide for appropriate exemptions, exceptions, and adjustments. These regulations are effective for cost reporting periods beginning on or after October 1, 1982, and before October 1, 1985.

II. Changes to Regulations on Limitations on Reimbursable Costs (42 CFR 405.460)

A. *Introduction.* As noted above, the current hospital cost limits, effective for cost reporting periods ending after September 30, 1981, apply only to inpatient general routine operating costs, which generally include primarily the operating costs hospitals incur to furnish room, board, and routine nursing services. These limits do not apply to the cost of ancilliary services (for example, radiology or laboratory services), and cost of special care units, such as intensive or coronary care units. The limits also exclude capital-related costs (that is, costs classified in the depreciation accounts on a hospital's Medicare cost report), malpractice insurance costs, and costs a hospital allocates to the interns and residents (in approved programs) or nursing school cost centers on its Medicare cost report. The current limits, like those in previous cost limit schedules, are applied on a per diem basis and do not include an explicit adjustment for differences in inpatient routine care costs that result from variations in the type and mix of cases treated by various hospitals (that is, case mix differences).

However, in accordance with the new section 1886(a) of the Social Security Act, we are now implementing a new system of limits on hospital inpatient operating costs for cost reporting periods beginning on or after October 1, 1982, which are applied on a per discharge rather than per diem basis, and are explicitly adjusted to reflect the case mix of each hospital. These limits are described in detail in a separate document published elsewhere in this issue of the **Federal Register**.

To make our regulations at 42 CFR 405.460 consistent with section 1886(a) of the Social Security Act, and with the methodology and scope of the new hospital cost limits, it is necessary to make certain changes in those regulations. However, we wish to note that most provisions of those regulations are not inconsistent with the new cost limits established under section 1886(a), and will continue to remain in effect under section 1886(a). Thus, provisions at 42 CFR 405.460(e) for exempting sole community hospitals, new providers, and risk-basis health maintenance organizations from the section 223 cost limits will remain in effect. Similarly, provisions at § 405.460(f) for allowing a hospital to have its cost limit adjusted upwards on an exception basis due to allowable costs attributable to atypical services, extraordinary circumstances, fluctuating population, medical and paramedical education, and unusual labor costs will remain in effect. The provision will also remain in effect under which an exception is provided where a hospital providing essential community services would be rendered insolvent through application of the limits.

B. *Exemption for Rural Hospitals with Less than 50 Beds.* As mentioned above, the statute specifically states (section 1886(a)(3)) that these cost limits, effective for cost reporting periods beginning on or after October 1, 1982, shall not apply to any hospital that is located outside an SMSA, has less than 50 beds, and was in operation (with less than 50 beds) on September 3, 1982. (The official SMSA designations are maintained and published periodically by the Executive Office of Management and Budget.) Therefore, we are adding this group of hospitals to those exempted from the cost limits under the regulations at § 405.460(e). A hospital that may meet the criteria for this exemption may request such exemption under the rules at § 405.460(c) by filing a request with its Medicare fiscal intermediary no later than 180 days following the date on the intermediary's notice of program reimbursement. For purposes of this exemption, the definition of "bed" shall be the same as that currently used under the routine hospital cost limits (See § 2510.5, HCFA Pub. 15–1, Provider Reimbursement Manual).

C. *Exception for More Intensive Routine Care.* We have previously restricted hospital cost limits to inpatient general routine operating costs because the types of general routine services furnished by hospitals are comparatively uniform. The general routine cost limits, therefore, have been applied only to the cost of services that are not likely to vary widely, in either scope or intensity, because of factors unrelated to efficiency, such as variations in case mix.

Although inpatient general routine care services are relatively uniform among hospitals generally, we have recognized that some hospitals may provide more intensive routine services than others and that the hospitals may have shorter-than-average lengths of stay with higher per diem costs. The Medicare regulations at 42 CFR 405.460(f)(5) provide an exception to the limits for hospitals that can demonstrate that their excess per diem costs result from the provision of more intensive routine care, and result in shorter average lengths of stay, than other hospitals that have a reasonably similar mix of patients. We believe that under the system of per diem limits on routine costs (in conjunction with a days-of-care adjustment included in the routine cost limits methodology) the greater intensity of care exception has been adequate to account for cost differences in the intensity of routine services.

Since the new limits on total inpatient operating costs will be applied on a per discharge basis and will be directly adjusted to reflect individual hospital differences in case-mix, we do not believe the exception for hospitals with higher per diem costs resulting from more intensive routine care should be available to hospitals covered by those limits. We believe this exception will not be needed by hospitals subject to the new limits because a cost per discharge system of limits will reflect differences in intensity of care. A hospital will not be disadvantaged under the new limits if it produces equivalent services over a shorter average length of stay. Therefore, we are amending the regulations at 42 CFR 405.460(f)(5) to state explicitly that the exception provided by that section is available only for hospital cost reporting

periods that are subject to the routine per diem limits. Since the new limits will be effective for cost reporting periods beginning on or after October 1, 1982, the exception will be available to hospitals only for cost reporting periods that begin before that date (that is, cost reporting periods for which the current limits are effective).

D. *Exception for Changes in Case-Mix Due to Changes in Services.* As explained in the notice setting forth the new cost limits, under the new system each hospital's limit will be adjusted by a case-mix index that is specific to the hospital. This index is derived in part from data contained in bills the hospital submits to its Medicare intermediary. In general, we expect that there will be a time lag between the most recent year for which complete billing data are available, and the year in which a case-mix index based on the data are used to calculate a hospital's limit.

We do not believe this time lag will have a measurable effect on the overall accuracy of the new limits, since the type and mix of patients treated by most hospitals should remain relatively stable from year to year. That is, hospitals as a group tend to repeat the same pattern of case complexity in successive periods. However, some hospitals may experience significant and abrupt changes in their case mix because they have added or discontinued services. For example, if a community hospital were to open a special new facility such as a regional burn center, the added services offered in this unit could radically change the hospital's type and mix of patients. Under these circumstances, the lag in receipt and processing of the data described above could result in inaccuracy in the hospital's case-mix index, and in its limit.

To deal with this problem, we are adding a new exception for hospitals that incur costs that exceed the new limits due to significant and abrupt changes in case mix that result from the addition or discontinuation of services. A hospital that wishes to obtain an exception to the limits on this basis is required to submit to HCFA, in a specified format, a record of all Medicare discharges for the cost reporting period to which the limits are applied. To permit processing of these records, they must be submitted on magnetic tape according to specifications and using ICD–9–CM coding. To have its exception request considered, a provider will have to submit the request and the discharge records needed to evaluate the request within the time limit for exception requests now specified in 42 CFR 405.460(c), i.e., within 180 days of the date on the intermediary's notice of program reimbursement.

Based on these records, HCFA will then recompute the hospital's case-mix index. HCFA will use the recomputed case-mix index, rather than the index published in the schedule of limits then in effect, to calculate the hospital's limit for the subject cost reporting period. Because the recomputed index will be more current than the index in the published schedule, and will be based on data from 100 percent of the hospital's Medicare discharges, rather than from a sample of discharges, we will apply the new index in calculating the hospital's limit, regardless of whether it results in a limit for the particular hospital that is higher or lower than the limit based on the published index.

Since the new exception is available only to hospitals covered by the new limits, we are making this exception effective only for cost reporting periods beginning on or after October 1, 1982.

E. Other exemptions, exceptions, and adjustments. Section 1886(a)(2) directs the establishment of exemptions, exceptions, and adjustments to the limits as deemed necessary. In addition to the items covered above, section 1886(a)(2)(B) mentions the special needs of psychiatric hospitals and of public or other hospitals that serve a disproportionate number of patients who have low income or are entitled to benefits under Medicare.

We have not included specific provisions for those exemptions or exceptions in these regulations. In the case of psychiatric hospitals, we believe that the exclusion of long-term-care hospitals from the system of case-mix adjusted cost limits will cover most psychiatric hospitals. We believe the exception for atypical services contained in current regulations will allow us to appropriately recognize special needs of short-term psychiatric hospitals which participate in Medicare.

We have not now made any special provision for public hospitals or other hospitals that treat a disproportionate number of low income or Medicare patients, because we do not now have data that enable us to determine the extent to which special consideration is warranted, or the type of provision that may be appropriate. We have not, for example, been able to identify generally higher Medicare inpatient operating costs in thee hospitals as a group. A report reviewing the section 223 routine cost limits prepared for HCFA by Applied Management Sciences found that Medicare patients apparently utilize relatively fewer routine care resources per day than do non-Medicare patients. Further, the study found that hospitals with high rates of Medicare utilization tend to have lower routine per diem costs, but a somewhat faster rate of increase in those costs.

We have also made some preliminary analysis of Medicare inpatient operating costs per case adjusted for case mix and have not found a significant association between higher Medicare cost per case and either public ownership or the proportion of low income patients after considering other factors (e.g. area wages) already recognized in the cost limits methodology. For example, including government ownership in a regression analysis along with other variables now present in the cost limits methodology indicated a small negative relationship. We did not consider the results conclusive. Using a ratio of Medicaid utilization as an indicator of low-income patients showed no significant influence on cost per case.

The conference agreement follows the Senate amendment on this provision. The Report of the Senate Committee on Finance (S. Rept. No. 97–494) directed the Secretary to determine the extent to which the limits for public hospitals and other institutions should be adjusted to take into account the extra costs that they necessarily incur in treating low income patients. Since it is unclear at this point what, if any, cost effects occur as a result of public ownership or what changes may be appropriate, we have not included a special provision for public hospitals.

Although we are not now including any specific provision for these hospitals, we do expect to examine this issue further to determine what action would be appropriate with respect to public hospitals or other hospitals that serve a disproportionate number of low income or Medicare patients. To the extent that we find that either some adjustment for these hospitals as a class, or an exception for individual hospitals, is warranted, we will issue a revision to the regulations or notices as appropriate. We wish to invite specific comment, from hospitals, hospital associations, and others knowledgeable on this issue, on differences in the cost of services to Medicare beneficiaries in these hospitals, and on potential methods for recognizing their effects.

As noted above, section 1886(a)(2)(C) provides for an additional adjustment to take into account a decrease in the inpatient services that a hospital provides, which are customarily provided directly by similar hospitals,

and that results in a significant distortion in operating costs. This provision reflects congressional concern that a hospital could create an appearance of reduced costs and compromise the limits by cutting back on services that would otherwise have been provided directly. Such actions may include, but are not limited to, closing a special care unit or changing the arrangements under which such services may be furnished such as by leasing out a department. These changes would result in costs lower than those that would have otherwise been incurred for purposes of comparison to the limit. Our regulations provide that in these cases, an adjustment to the operating costs may be made as necessary to take these factors into account.

F. *Prospective Application of Limits.* We are amending 42 CFR 405.460(a) by adding a paragraph setting forth the scope and authority of these regulations, and by adding a sentence to the section setting forth the general principle of the limits to state that the limits established under section 1861(v) of the Act will be applied on a prospective basis. When we revised the regulations at 42 CFR 405.460 on June 1, 1979 (see 44 FR 31804), reference to the prospectivity of the limits was inadvertently omitted. We are now inserting language in the regulation to make it clear that the limits are to be applied prospectively. These changes are purely technical, and have no effect on the way we develop or apply the limits.

III. Regulations Establishing Rate of Cost Increase Ceilings

A. *Introduction.* Section 1886(b) of the Social Security Act (enacted on September 3, 1982, by section 101(a) of Pub. L. 97-248) authorizes, for a three-year period only, a limitation on allowable rates of increase for hospital inpatient operating costs. This section provides incentives for hospitals to keep increases in their inpatient operating costs per case below an annual ceiling expressed as a target amount. A hospital that keeps its costs per case below its target amount per case may be paid an amount in addition to its allowable cost per case equal to 50 percent of the difference between its actual cost per case and its target amount, up to 5 percent of the target amount. However, a hospital that has actual costs per case that exceed its target amount will be paid its target amount plus 25 percent of its costs above its target amount during the first two cost reporting years under this provision, and will be paid none of those costs in excess of the target amount in the third cost reporting period under this provision.

The rate of increase ceiling is distinct and separate from the section 223 cost limits established under sections 1861(v) and 1886(a) of the Act. Those limits are based on group means and are applied directly to the inpatient operating costs per case that a hospital incurs during a particular cost reporting period. The rate of increase ceiling, on the other hand, limits the amount by which a hospital's inpatient operating costs may increase from one cost reporting period to the next. A hospital's costs will be subject to both types of limitation. For example, a hospital may have a small increase in inpatient operating costs from one cost reporting period to the next and be eligible for an additional payment under section 1886(b). However, the total reimbursement due the hospital, both for inpatient operating costs and the incentive payment, will still be screened against the 223 limits, and the cost limit will determine the maximum reimbursement. Similarly, a hospital with low operating costs per case could have actual operating costs below the 223 limits, but, if its costs exceed the applicable target amount, the excess costs would be disallowed to the extent prescribed by the ceiling.

B. *Cost Reporting Periods Subject to the Ceiling.* 1. *Periods of other than 12 months in length.* The methods in the law are uniformly described in terms of 12-month cost reporting periods for both the base year on which the initial ceiling would be computed and for the three years intended to be subject to the ceiling. Section 1886(b)(5) makes the only statutory reference to cost-reporting periods of other lengths, stating that, when a hospital does have such a reporting period, the Secretary will determine the 12-month period to be used for the ceiling.

There are two points at which the cost reporting period enters the determination of the ceiling. One cost reporting period is used as a base period for establishing the target amount for the first cost reporting period subject to the ceiling. Then, the target amount must be applied in determining the amount payable to a hospital for a particular cost reporting period. In both instances, it is important for both the accuracy and the equity of the ceiling that there be reasonable comparability between two cost reporting periods.

Cost reporting periods of other than 12 months result frequently from hospital mergers or changes of ownership. Usually such periods are shorter than 12 months in length. Very often two such periods happen in sequence, as one period is ended early (or late) due to sale or merger, and the next period is of whatever length is necessary to reconcile subsequent periods with the customary fiscal year of the owning entity. Short cost reporting periods also occur when a hospital enters or leaves the Medicare program.

These changes may result in cost reporting periods that are not comparable. For one thing, utilization, occupancy, case mix, and other factors such as services offered, and arrangements with suppliers, may be altered when hospitals are sold or merged. These changes may cause significant variation between cost reporting periods in measures such as average cost per case. For these reasons, we will not apply the rate of increase ceiling to cost-reporting periods of less than 12-months that occur along with a change in the operations of a hospital resulting from events such as merger, consolidation, or change of ownership. It is important to note that the determination as to whether the ceiling is applicable will be based on the effects that a transaction has on services a hospital furnishes, not on the type of transaction.

Where a reporting period of other than 12 months occurs along with a change in the operations of the hospital, and these events result in cost reporting periods in which services and costs are not comparable, the rate of increase ceiling would not apply. For example, Hospital A and Hospital B merge to form Hospital C. Hospital C offers a different range of services and services a different patient population than either Hospital A or Hospital B. In this case, the rate of increase ceiling would not apply.

However, sometimes hospitals elect, with intermediary approval, to make changes in their accounting cycles that are not related to a change in operations that would affect their inpatient operating costs per case. When a hospital does this, we will adjust the target percentage rate to reflect fewer months in the case of a short reporting period, using a monthly factor corresponding to the annual percentage rate and apply the ceiling. (We will also use such a monthly factor to make adjustments for cost reporting periods longer than 12 months.)

2. *The cost reporting period to be used as a base period.* The ceilings established under section 1886(b) must be initially set for each hospital on the basis of the allowable operating costs per case that a hospital incurs in its 12-month cost reporting period immediately preceding the first cost reporting period

subject to the ceiling. For hospitals that have consecutive 12-month periods, the base period is the 12-month cost reporting period beginning on or after October 1, 1981 (that is, the cost reporting period ending immediately prior to the first period subject to the ceiling).

C. *Procedures for Establishing the Target Amount to be Used as a Ceiling.* 1. *General procedure.* As noted above, the costs subject to the rate of increase ceiling are the same costs that are subject to the new limits on hospital inpatient operating costs per case established under section 1886(a). The target amount may be computed on a per discharge or per admission basis, as determined by HCFA. We will initially determine these costs on a per discharge basis in accordance with the methodology used to establish the new cost limits. (For purposes of applying the new case-mix adjusted limits and the rate of increase ceiling, intermediaries will use the definition of "discharge" is § 304.4 of the Provider Reimbursement Manual, HCFA Pub. 15–II–C.) (Under this definition, the transfer of a patient from one inpatient area to another does not constitute a discharge.)

In accordance with the statute, the operating costs included are:

- Routine operating costs, such as room, board, and routine nursing services;
- Ancillary service operating costs, such as the operating costs of radiology and laboratory department; and
- Special care unit operating costs.

Operating costs are defined in the notice establishing inpatient operating cost limits under section 1886(a) published elsewhere in this issue of the **Federal Register.** These costs exclude capital-related costs, malpractice insurance costs, and costs of approved medical and nursing education programs that are allocated to the intern and resident (in approved programs) and nursing school cost centers in the Medicare cost report. To establish the first year's ceiling, we will determine the allowable inpatient operating cost per case for a hospital's base period. This cost per case will be increased by a target rate percentage (equal to the market basket index, discussed below, plus one percentage point) to yield the hospital's target amount expressed in terms of cost per case. In subsequent years, the hospital's target amount will be determined by increasing the previous year's target amount by the target rate percentage for the applicable cost reporting period.

2. *The market basket index and target rate percentage.* Section 1886(b)(3)(B) requires that, in determining the rate of increase ceiling, the applicable percentage increase for any 12-month cost reporting period shall be equal to 1 percentage point plus the percentage, estimated by the Secretary, by which

> the cost of the mix of goods and services (including personnel costs but excluding non-operating costs) comprising routine, ancillary, and special care unit inpatient hospital services, based on an index of appropriately weighted indicators of changes in wages and prices which are representative of the mix of goods and services included in such inpatient hospital services, for such cost reporting period exceeds the cost of such mix of goods and services for the preceding 12-month cost reporting period.

As noted above, the case-mix adjusted limits established under 1886(a) must also use such an increase percentage. We will use the same data, methodology, and adjustment factors for both purposes.

We will base these wage and price adjustments on the market basket index of hospital wages and prices that we are using for the new hospital case-mix adjusted limits. Since July 1, 1979 the hospital cost limit schedules have incorporated such a market basket index to reflect changes in the prices of goods and services hospitals use in producing general inpatient routine services.

Under the rate-of-increase ceiling and the new case mix adjusted limits, we will use a market basket index to project rates of increase in total inpatient operating costs, rather than only inpatient routine operating costs. We have appropriately revised the market basket categories, and the weights assigned to each category, to reflect this change in the affected costs.

The revised market basket reflects two changes from the inpatient routine cost market basket that was included in the hospital cost limits notice published on September 30, 1981. The notice on the case-mix adjusted limits published elsewhere in this issue of the **Federal Register** gives a detailed discussion of the changes in and the technical background of the market basket index.

The categories of expenses we used to develop the revised market basket are based primarily on those used by the American Hospital Association (AHA) in its analysis of costs, and by the U.S. Department of Commerce in publishing price indexes by industry. The weights are based primarily on surveys by the AHA, and on the Department of Commerce's input-output studies.

Each notice setting forth a schedule of total inpatient operating cost limits will include a table of the rates of increase in the market basket, plus one percentage point, for each calendar year. That is, if the market basket increase for a particular calendar year is 8 percent, the percentage rate of increase for a cost reporting period corresponding to that calendar year would be 9 percent. For purposes of illustrating the determination of an initial rate-of-increase ceiling, let us assume that this 12-month period is the 12-month period immediately following the 12-month base period for a given hospital. We would determine the rate-of-increase ceiling target amount for the hospital by multiplying the inpatient operating cost per case for the base period by 1.09 (one plus the rate of increase).

Since the annual percentage rates will be published in the hospital cost limit notices for cost reporting periods beginning on or after October 1, 1982, we will use those notices instead of making a separate publication. Note that, since the cost limits are set prospectively, the table will include projected market basket indexes for future cost reporting periods. Rate-of-increase ceiling determinations will be made at the time of settlement on the basis of the most recently published market basket percentages.

D. Application of Target Rate Amounts in Determining Reimbursement. 1. *General procedure.* Congress incorporated an incentive feature in the rate-of-increase ceiling by establishing incentive payments as well as penalties, depending on whether a hospital's cost per case for cost reporting periods subject to the ceiling is less than or greater than the applicable target amount per case. Payments made under the rate of increase ceiling will take into account beneficiaries' deductible and coinsurance obligations under section 1813 of the Act, but, as specified in 1886(b)(1), will be determined without regard to section 1814(b) which requires payment to be made on the basis of charges when they are lower than reasonable costs.

After each affected cost reporting period, the Medicare intermediary will compare a hospital's actual allowable inpatient operating cost per case to its target amount. If the target amount is greater than actual cost, we will give the hospital an incentive payment with the hospital's total reimbursement, subject to the case-mix limits. If the target amount is less than actual cost, the hospital will be reimbursed for costs in excess of the target only to the extent allowed by the statute.

2. *Inpatient operating costs are not in excess of the target amount.* Section 1886(b)(1)(A) authorizes us to pay a hospital more than its otherwise allowable cost per case if it succeeds in

keeping its inpatient operating cost per case below the target amount. We will determine this on the basis of a comparison of incurred costs to a target amount derived as described above. If the hospital's actual cost is lower than its target amount, its reimbursement for inpatient operating costs will be whichever of the following is *least:*

- The inpatient operating cost per case plus 50 percent of the difference between that amount and the applicable target amount;
- The inpatient operating cost per case plus 5 percent of the target amount; or
- The hospital's allowable cost per case under the case-mix adjusted limits.

Example I

Hospital A has allowable inpatient operating costs per discharge as follows:

Cost Reporting Period and Cost Per Discharge

10/1/81–9/30/82—$1800
10/1/82–9/30/83—$1953

For the cost reporting period beginning 10/1/82 the applicable total inpatient operating cost (case-mix) limit is $1,975 per discharge, the market basket rate of increase is 8.5 percent, and the target rate of increase is 9.5 percent. (The target rate adjustment factor is therefore 1.095.)

Hospital A's target amount for the cost reporting period beginning 10/1/82 is $1971 ($1800×1.095).

The Medicare reimbursement per discharge for Hospital A would be the lowest of the following three amounts:

1. Actual cost plus 50 percent of the difference between actual and target cost per discharge.

$1971−$1953=$18.
$1953+(0.50×$18)=$1962.00.

2. Actual cost plus 5 percent of the target amount.

$1953+(0.05×$1971)=$2051.55.

3. Total inpatient operating cost (case-mix) limit=$1975.00.

Hospital A's Medicare reimbursement per discharge for the cost reporting period beginning 10/1/82 is $1,962.

Note.—Hospital A's target amount for the period beginning 10/1/83 will be $1971 increased by the target rate percentage for that period.

3. Inpatient operating costs are greater than the target amount. Section 1886(b)(1)(B) specifies that during the first two 12-month cost reporting periods subject to the rate of increase ceiling, a hospital may be paid the target amount plus 25 percent of allowable operating costs per case incurred in excess of its target rate amount per case (subject to the case-mix limits), and that, in the third cost reporting period subject to the ceiling, a hospital may not receive Medicare payment for any costs incurred in excess of its target amount.

For cost reporting periods beginning on or after October 1, 1982 and before October 1, 1984, we will determine reimbursement for a hospital that has actual costs in excess of its target amount on the basis of the lower of:

- The hospital's target amount plus 25 percent of the allowable inpatient operating costs per case in excess of that amount;
- The hospital's allowable cost per case under the case-mix adjusted limits.

For cost reporting periods beginning on or after October 1, 1984 and before October 1, 1985, reimbursement for a hospital that has actual cost in excess of the target amounts will be based on the lower of:

- The hospital's target amount per case; or
- The hospital's allowable cost per case under the case-mix adjusted limits.

Example II

Hospital B has allowable inpatient operating costs per discharge as follows:

Cost Reporting Period and Cost Per Discharge

10/1/81–9/30/82—$1800
10/1/82–9/30/83—$2000

For the cost reporting period beginning 10/1/82 the applicable total inpatient operating cost (case-mix) limit is $1,975 per discharge, the market basket rate of increase is 8.5 percent, and the target rate of increase is 9.5 percent. (The target rate adjustment factor is therefore 1.095.)

Hospital B's target amount for the cost reporting period beginning 10/1/82 is $1971 ($1800×1.095).

The Medicare reimbursement per discharge for Hospital B would be the lower of the following:

1. The target amount plus 25 percent of the excess actual costs.

$1971+0.25 ($2000−$1971)=$1978.25.

2. Total inpatient operating cost (case-mix) limit=$1975.00.

Hospital B's Medicare reimbursement per discharge for the cost reporting period beginning 10/1/82 is $1,975.

Example III

Hospital C has allowable inpatient operating costs per discharge of $2,000 for the cost reporting period beginning 1/1/85.

For this cost reporting period, the applicable total cost limit is $2100 per discharge, the market basket rate of increase is 8.7 percent, and the target rate of increase is 9.7 percent. (The target rate adjustment factor is therefore 1.097.) The applicable target amount per discharge for the previous cost reporting period is $1,732.

Hospital C's target amount for the cost reporting period beginning 1/1/85 is $1,900 ($1732×1.097).

The Medicare reimbursement per discharge for Hospital C would be the lower of the following:

1. The target amount of $1900.
2. The case-mix limit of $2100.

Hospital C's Medicare reimbursement per discharge for the cost reporting period beginning 1/1/85 is $1,900.

E. Exemptions, Exceptions, and Adjustment. 1. General process. As noted above, section 1886(b)(4) provides for exemptions from, or exceptions and adjustments to, the rate of increase ceiling in situations in which there is a distortion in a hospital's operating costs in either its base period or a cost reporting period subject to the ceiling. Such situations include:

- Extraordinary circumstances or events beyond the hospital's control;
- Changes in case-mix; or
- A decrease in inpatient hospital services that a hospital provides and that are customarily provided directly by similar hospitals.

A hospital may request an exemption from or exception to the rate of increase ceiling in a manner similar to that used in regard to hospital cost limits established under section 405.460. An exemption excludes a hospital completely from application of the ceiling for a specified cost reporting period. An exception allows a hospital to have its ceiling adjusted to take costs into account that would otherwise be disallowed by application of the ceiling.

The hospital must make the request for an exemption or exception to its fiscal intermediary no later than 180 days from the date on the intermediary's notice of program reimbursement. The intermediary will review the request and forward it to HCFA with a recommendation as to appropriate action. HCFA will review the request and the intermediary's recommendation and respond to the intermediary within 180 days from the date the package is received by HCFA. The intermediary will notify the hospital of HCFA's decision.

HCFA's decision on a request for an exemption or exception may be appealed by the hospital to the Provider Reimbursement Review Board (PRRB) under the regulations at 42 CFR Part 405, Subpart R. The time limit for applying for PRRB review may be extended in consideration of the time taken by HCFA reviewing and responding to the hospital's request.

2. *Exemptions.* We are only allowing two classes of hospitals to be exempted from the rate-of-increase ceiling—new hospitals and risk-basis health maintenance organizations (HMOs).

New hospitals. We are allowing new hospitals to be exempted from this ceiling because they commonly have unusually high operating costs per case in the first year of operation. This results from a combination of effects,

especially low utilization rates and start-up costs. Therefore, a base period reflecting such distorted per case costs would not provide a good basis for applying the ceiling. Such hospitals' costs per case typically would be expected to decline steadily during the initial phase of operation.

For purposes of this exemption, we will consider a hospital new if it has operated as the type of provider for which it is certified for Medicare participation for less than three full years. We would not use a cost reporting period for a base period unless it began at least two years after the hospital accepted its first patient. This exemption would expire at the end of the first such acceptable base period.

Risk-basis HMOs. We are allowing risk-basis HMOs to be exempted from this ceiling because their established reimbursement method includes incentives and limitations that are incompatible with this system. (See 42 CFR 405.2049 through 405.2054 for regulations governing reimbursement to risk-basis HMOs.)

3. *Exceptions,* We are establishing two types of exceptions under which a hospital may request to have its operating costs per discharge adjusted for purposes of applying the rate-of-increase ceiling. We will make an appropriate adjustment, either upward or downward, to a hospital's inpatient operating costs in the base period or subject period to the extent that those costs are reasonable, attributable to the circumstances specified, separately identified by the hospital, and verified by the intermediary.

Extraordinary circumstances. This criterion covers situations in which a hospital incurs unusual costs per case in a particular cost reporting period due to extraordinary circumstances beyond its control. Such circumstances may include strikes, fires, earthquakes, floods, or other unusual occurrences with substantial cost effects.

Change in case mix. This criterion covers situations in which either addition or discontinuation of services furnished by a hospital results in significant change in costs per case. In requesting an adjustment under this criterion, a hospital is required to submit data on both the nature of the case mix change and the resulting effect on costs.

4. Adjustment. We expect that it may be necessary to make an adjustment to inpatient operating costs in either the base period or a period that is subject to the rate of increase ceiling to take into account factors such as a decrease in inpatient hospital services that would distort the comparison of costs per case between cost reporting periods. A decrease in hospital services, such as closing a special care unit, or changing the arrangements under which a particular service is furnished, such as leasing a department, are examples of situations with such effects. In these and other cases, we will adjust the amount of inpatient operating costs considered in establishing cost per discharge in order to maintain the comparability of cost between periods.

increased hospital admissions. The Conference Committee anticipated that the Secretary "will give consideration to making an adjustment where a hospital manipulates admissions or discharges in order to maximize reimbursement."

To protect against the possibility of abuse, the regulations allow HCFA to adjust the amount of operating costs considered in establishing cost per case to offset any unwarranted increase in or other manipulation of discharges undertaken by hospitals for the purpose of increasing reimbursement.

HCFA currently maintains records of beneficiary admissions and discharges and will use that data base to develop screens by which hospital admission practices will be monitored. If the incentives created by the regulation appear to have contributed to an industrywide increase in admission rate above that included in current projections, HCFA will consider revision of the formula used to establish per admission targets to eliminate this incentive consistent with Congressional intent.

Because the Medicare inpatient routine nursing salary cost differential does not apply in the cost reporting periods that will be subject to rate of increase ceilings, we must adjust base period costs to remove the effect of this differential. The new regulations set forth below specify that we will make this adjustment.

We are not yet making adjustments of payments to hospitals that withdraw from Social Security, as required by section 1886(b)(6). There are several technical difficulties in determining the most appropriate and effective means of making such adjustments. When we have resolved these issues, we will publish an appropriate notice in the **Federal Register** describing the basis on which these adjustments will be made.

IV. Impact Analysis

A. *Executive Order 12291.* Section 1(b) of Executive Order 12291 states that a major rule is one that will:

(1) Have an annual effect on the economy of $100 million or more;

(2) Result in a major increase in costs or prices for consumers, individual industries, or government agencies, or geographic regions; or

(3) Have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

We estimate that as a result of implementation of these new case-mix adjusted hospital cost limits (described in a separate document published

We will also make adjustments where appropriate based on increases in Medicare admissions. Under the reimbursement system established by Pub. L. 97–248, a hospital may have an incentive to increase its number of Medicare patients. For example, a hospital that has costs less than the target amount will receive an increased payment per discharge above its actual costs. We are concerned that some hospitals may promote the increased admission of Medicare patients to take advantage of this aspect of the reimbursement system. Such action would be contrary to the intent of the legislation, which was to reward efficient operation, not to stimulate

elsewhere in this issue of the **Federal Register**) and the rate of increase ceiling implemented by this final rule, net savings over projected expenditures for inpatient hospital services under the current routine cost limits will increase by $480 million in FY 1983, with a three-year savings of more than $5 billion, as follows:

SAVINGS OVER CURRENT ROUTINE COST LIMITS [1]

[In millions]

Fiscal year	Case-mix adjusted limits	Rate of increase ceiling	Combined savings
1983	$75	$405	480
1984	405	1,065	1,470
1985	1,030	2,030	3,060
Total	1,510	3,510	5,020

[1] We estimate that the current routine cost limits would result in savings of $333 million for fiscal year 1983, $376 million for fiscal year 1984, and $426 million for fiscal year 1985.

Although the new rate of increase ceiling will have an annual effect on the economy of $100 million or more, we have determined this impact will be caused by section 101 of Pub. L. 97–248, which requires imposition of the ceiling, rather than by this rule, which merely implements the statutory provisions. We have made this determination because the major features of the rate of increase ceiling are specified in the statute, and we do not have administrative discretion to develop alternatives to them. While the statute does allow the

Secretary administrative discretion with respect to certain features of the ceiling provisions, these discretionary features will not have an impact of $100 million or more, or meet the other threshold criteria of the Order. Therefore, a regulatory impact analysis is not required. (See the cost limit notice published elsewhere in this issue of the **Federal Register** for a discussion of the effects of the new case-mix adjusted cost limits.) However, the preamble to this rule describes the expected impact of the rule and ways to mitigate unnecessary cost, and constitutes a regulatory impact analysis.

B. *Regulatory Flexibility Act.* The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this final rule will not, in itself, result in a significant impact on a substantial number of small entities.

Hospitals of less than 100 beds and all non-profit hospitals, regardless of size, are considered small entities for purposes of the Regulatory Flexibility Act. Although rural hospitals of less than 50 beds are exempted by law from the case-mix limits on total inpatient operating costs, they are not exempt from the rate-of-increase ceiling. Both the cost limits and the ceiling will clearly limit the revenues of a large number of small entities. Overall the $2 billion fiscal year 1985 impact is only about 1 percent of total hospital revenues. The impact on individual hospitals will vary. However, any adverse consequences of this impact can be avoided through the cost containment efforts we expect hospitals will make. Accordingly, we do not believe that a substantial number will actually experience a significant impact. In any event, any such impact will be the result of the statutory provisions (section 101(a) of Pub. L. 97–248), and not of the regulations that implement these provisions. Therefore, a regulatory flexibility analysis is not required.

Although a regulatory flexibility analysis is not required, we are aware that some hospitals may be concerned about the impact of these regulations. For the benefit of these hospitals, and to forestall any unnecessary concern regarding the effect of the regulations, the preamble presents an analysis which, taken as a whole, constitutes a regulatory flexibility analysis.

C. *Paperwork Reduction Act.* Information collection requirements imposed by regulations are normally subject to OMB review under section 3504(h) of Title 44, United States Code, as enacted by Pub. L. 96–511, the Paperwork Reduction Act of 1980. However, section 101(b)(2)(A) of Pub. L. 97–248 specifically states that the information collection requirements imposed by these regulations which implement section 101(a) of Pub. L. 97–248, are not subject to that review until January 1, 1984.

V. Waiver of Proposed Rulemaking and 30-Day Delay in Effective Date

Section 101 of Pub. L. 97–248 has an effective date of October 1, 1982. To have implementing regulations in place as close as possible to the effective date specified in the statute, we must publish these regulations in final form promptly. The Congress itself took note of this in section 101(b)(2)(A) by instructing the Secretary to issue final regulations, whether on an interim or other basis, by the effective date of the law. In our view, the statutory language is sufficiently clear to support implementation of these regulations on October 1, 1982.

We are providing an opportunity for public comment. We will consider comments submitted within 60 days of the publication of these regulations and make any regulatory amendments that are necessary. In view of this, and in consideration of the extent that Federal spending will be reduced by timely implementation of section 101, we believe that the delay necessary to publish proposed rulemaking would be contrary to the public interest.

For these reasons, we find good cause to waive proposed rulemaking procedures, and to issue these regulations in final form. For the same reasons, we find good cause to waive the usual 30-day delay in effective date, and to make these regulations effective for hospital cost reporting periods beginning on or after October 1, 1982.

VI. Other Required Information

A. *Public Comments.* Because of the large numbr of comments we receive, we cannot acknowledge or respond to them individually. However, we will consider any comments on this notice/rule that are received by the date specified in the "DATES" section. If as a result of public comments we conclude that changes in these interim final regulations are needed, we will include these changes in the final regulations described in item B below.

B. *Publication of final regulations.* Section 101(b)(1) of Pub. L. 97–248 specifically requires the Secretary of HHS to first issue such final regulations (whether on an interim or other basis) before October 1, 1982, as may be needed to implement sections 1886(a) and (b) of the Social Security Act on a timely basis. This legislation further requires that if these regulations are promulgated on an interim final basis, the Secretary shall provide an opportunity for public comment and appropriate revision of the regulations, so that they are not on an interim basis later than March 31, 1983.

To comply with these requirements, we are publishing this rule on an interim final basis. As required by the law, we will consider all public comments we receive on the rule, determine whether changes in these interim regulations are needed, and publish final regulations implementing sections 1886(a) and (b) by March 31, 1983.

C. List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-stage renal disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

42 CFR Chapter IV is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

42 CFR Part 405 is amended as set forth below:

1. The table of contents for Part 405 is amended by revising the title of Subpart D, adding a new § 405.463 under Subpart D to read as follows:

* * * * *

Subpart D—Principles of Reimbursement for Providers, Outpatient Dialysis, and Services by Hospital-Based Physicians

* * * * *

Sec.

405.463 Ceiling on rate of hospital cost increases.

* * * * *

2. The authority citation for Subpart D is revised to read as follows:

Authority.—Secs. 1102, 1614(b), 1833(a), 1861(v), 1871, 1881, and 1886 of the Social Security Act; 42 U.S.C. 1302, 1395f, 1395l, 1395x(v), 1395hh, 1395rr, and 1395ww.

3. Section 405.460 is amended by revising paragraphs (a), (b), (e), the uncoded introductory material of paragraph (f), and paragraph (f)(5), and by adding new paragraphs (f)(9) and (h), to read as follows:

§ 405.460 Limitations on reimbursable costs.

(a) *Introduction.* (1) *Scope.* This

section implements section 1861(v)(1)(A) of the Social Security Act, by setting forth the general rules under which HCFA may establish limits on provider costs recognized as reasonable in determining Medicare program payments, and sections 1861(v)(7)(B) and 1886(a) of the Social Security Act, by setting forth the general rules under which HCFA may establish limits on the operating costs of inpatient hospital services that are recognized as reasonable in determining Medicare program payments. This section also sets forth rules governing exemptions, exceptions, and adjustments to limits established under this section that HCFA may make as appropriate in consideration of special needs or situations of particular providers.

(2) *General principle.* Reimbursable provider costs may not exceed the costs estimated by HCFA to be necessary for the efficient delivery of needed health services. HCFA may establish estimated cost limits for direct or indirect overall costs or for costs of specific items or services or groups of items or services. These limits will be imposed prospectively and may be calculated on a per admission, per discharge, per diem, per visit, or other basis.

(b) *Procedure for establishing limits.* (1) In establishing limits under this section, HCFA may classify providers by type of provider (e.g., hospitals, skilled nursing facilities, and home health agencies) and by any other factors HCFA finds appropriate and practical, including:

(i) Type of services furnished;

(ii) Geographical area where services are furnished, allowing for grouping of noncontiguous areas having similar demographic and economic characteristics;

(iii) Size of institution;

(iv) Nature and mix of services furnished; or

(v) Type and mix of patients treated.

(2) Estimates of the costs necessary for efficient delivery of health services may be based on cost reports or other data providing indicators of current costs. Current and past period data will be adjusted to arrive at estimated costs for the prospective periods to which limits are being applied.

(3) Prior to the beginning of a cost period to which revised limits will be applied, HCFA will publish a notice in the **Federal Register**, establishing cost limits and explaining the basis on which they were calculated.

* * * * *

(e) *Exemptions.* Exemptions to the limits imposed under this section may be granted in the following circumstances:

(1) *Sole community hospital.* The hospital, by reason of factors such as isolated location or absence of other hospitals is the sole source of such care reasonably available to beneficiaries.

(2) *New provider.* The provider of inpatient services has operated as the type of provider (or the equivalent) for which it is certified for Medicare, under present and previous ownership, for less than 3 full years. An exemption granted under this paragraph expires at the end of the provider's first cost reporting period beginning at least 2 years after the provider accepts its first patient.

(3) *Risk-basis HMO.* The items or services are furnished to beneficiaries enrolled in an HMO by a provider that is either owned or operated by a risk-basis HMO or related to a risk-basis HMO by common ownership or control (see § 405.2050(c)).

(4) *Rural hospital with less than 50 beds.* The hospital:

(i) Was in operation with less than 50 beds as of September 3, 1982;

(ii) Has less than 50 beds throughout the applicable cost reporting period; and

(iii) Is outside the boundaries of all Standard Metropolitan Statistical Areas as designated by the Executive Office of Management and Budget.

(f) *Exceptions.* Limits established under this section may be adjusted upward for a provider under the circumstances specified in paragraphs (f) (1) through (8) of this section, and may be adjusted upward or downward under the circumstances specified in paragraph (f)(9) of this section. An adjustment will be made only to the extent the costs are reasonable, attributable to the circumstances specified, separately identified by the provider, and verified by the intermediary.

* * * * *

(5) *More intensive routine care for cost reporting periods beginning before October 1, 1982.* The hospital:

(i) Is subject to per diem limits on inpatient general routine operating cost issued under paragraph (b)(3) of this section;

(ii) Furnishes a greater intensity of inpatient general routine care than other hospitals having a reasonably similar mix of patients; and

(iii) Shows that the more intensive care results in a shorter average length of stay and higher per unit costs than in comparable hospitals;

* * * * *

(9) *Changes in case mix.* The hospital:

(i) Is subject to limits issued under paragraph (b)(3) of this section that are calculated by use of a case mix index;

(ii) Has added or discontinued services in a year after the year represented in the discharge data used to establish the limits described in paragraph (f)(9)(i) of this section;

(iii) Has experienced a significant and abrupt change in case mix as a result of the addition or deletion of services; and

(iv) Submits discharge data, in the format required by HCFA, for Medicare discharges in the cost reporting period for which the exception is requested.

* * * * *

(h) *Adjustments.* HCFA may adjust the amount of a hospital's inpatient operating costs to take into account factors which could result in a significant distortion in the operating costs of inpatient hospital services. Such factors could include a decrease in the inpatient services that a hospital provides that are customarily provided directly by similar hospitals, or the manipulation of discharges to increase reimbursement. A decrease in inpatient services could result from changes that include, but are not limited to, such actions as closing a special care unit or changing the arrangements under which such services may be furnished, such as leasing a department.

4. A new § 405.463 is added to read as follows:

§ 405.463 Ceiling on rate of hospital cost increases.

(a) *Introduction.* (1) *Scope.* This section implements section 1886(b) of the Social Security Act, establishing a ceiling on the rate of increase of operating costs per case for inpatient hospital services that will be recognized as reasonable for purposes of determining Medicare reimbursement. This ceiling on allowable rate of cost increases applies to hospital cost reporting periods beginning on or after October 1, 1982 and before October 1, 1985, and is applied in addition to the limitations on reasonable cost established under § 405.460. This section also sets forth rules governing exemptions from, and exceptions and adjustments to the ceiling.

(2) *Applicability.* This section is not applicable to hospitals reimbursed in accordance with section 1814(b)(3) of the Act, or under State reimbursement control systems that have been approved under section 1886(c) of the Act.

(3) *General principles.* (i) The intermediary will determine a target amount of inpatient operating cost per case for any 12-month cost reporting period subject to this provision, based on a rate of cost increase for hospital

inpatient operating costs per case equal to the market basket percentage rate of increase for that period plus one percentage point.

(ii) HCFA will recognize a hospital's operating costs of furnishing inpatient hospital services as reasonable under this paragraph, subject to the cost limits established under §405.460, based on the comparison of the hospital's actual cost per case to the ceiling determined by the hospital's target amount.

(b) *Cost-reporting periods subject to the rate of increase ceiling.* (1) *Base period.* Each hospital's initial ceiling will be based on allowable inpatient operating costs per case incurred in the 12-month cost reporting period immediately preceding the first cost reporting period subject to ceilings established under this section, except that, when the immediately preceding cost reporting period is a short reporting period (fewer than 12 months) the first 12-month period ending after October 1, 1982 will be the base period.

(2) *Periods subject to the ceiling.* Ceilings established under this section will be applied to all full 12-month cost reporting periods that:

(i) Immediately follow either a base period as described in paragraph (b)(1) of this section, or another 12-month cost reporting period subject to the ceiling; and

(ii) Begin on or after October 1, 1982 and before October 1, 1985.

(3) *Periods other than 12 months.* Ceilings established under this section will not apply to cost reporting periods of fewer than 12 months that occur along with a change in operations of the facility as a result of changes in ownership, merger, or consolidation. However, ceilings will apply to cost reporting periods of fewer than 12 months which result solely from the approval of a hospital's request for a change in accounting cycle. In the case of such periods, the applicable percentage rate of increase will be adjusted downward by a monthly factor corresponding to the annual percentage rate to reflect fewer months. Ceilings established under this section will apply to cost reporting periods of greater than 12 months with the percentage rate of increase adjusted upward by a monthly factor corresponding to the annual percentage rate to reflect the additional months.

(c) *Procedure for establishing the ceiling (target amount).* (1) *Costs subject to the ceiling.* The cost per case ceiling established under this section applies to operating costs incurred by a hospital in furnishing inpatient hospital services. These operating costs *include* operating costs of routine services (as described in § 405.158(c)), ancillary service operating costs, and special care unit operating costs. These operating costs *exclude* the costs of malpractice insurance, capital-related costs, and costs a hospital allocates to approved medical education programs (nursing school or approved intern and resident programs) on its Medicare cost report.

(2) *Costs determined on a per case basis.* Costs subject to the ceiling as described in paragraph (c)(1) of this section will be determined on a per admission or per discharge basis as determined by HCFA for the purpose of the notice of cost limits established under § 405.460.

(3) *Target rate percentage.* The target rate percentage will be based on a hospital wage and price index (market basket index) that incorporates appropriately weighted indicators of changes in wages and prices that are representative of the mix of goods and services included in the most common categories of inpatient hospital operating costs subject to the ceiling as described in paragraph (c)(1) of this section. The target rate percentage for a particular 12-month cost reporting period will be identical to the rate of cost increase (market basket plus one percentage point) which is used in determining cost limits under § 405.460 and is contained in notices of hospital cost limits published under § 405.460(b)(3).

(4) *Target amount (ceiling).* The intermediary will establish for each hospital a ceiling on the reimbursable costs per case of that hospital. The ceiling for each 12-month cost reporting period will be set at a target amount determined as follows:

(i) For the first 12-month cost reporting period to which this ceiling applies, the target amount will equal the hospital's allowable operating costs per case for the hospital's base period increased by the target rate percentage for the subject period.

(ii) For subsequent 12-month cost reporting periods, the target amount will equal the hospital's target amount for the previous 12-month cost reporting period increased by the target rate percentage for the subject cost reporting period.

(5) *Notification of applicable target rate percentages.* For purposes of determining the ceiling on allowable rate of cost increases under this section, the intermediary will use the annual percentage increase for appropriate calendar years as published in final notices establishing schedules of hospital cost limits under § 405.460. When a cost reporting period spans portions of two calendar years, the intermediary will prorate the applicable percentages accordingly.

(d) *Application of target amounts in determining reimbursement.* (1) *General process.* At the end of each 12-month cost reporting period subject to this section, the hospital's intermediary will compare a hospital's allowable cost per case with that hospital's target amount for that period. If the hospital's actual allowable costs do not exceed the target amount, reimbursement will be determined (without regard to the lower of cost or charges provisions of § 405.455, but subject to other limitations on reimbursable cost established under § 405.460) under paragraph (d)(2) of this section. If the hospital's actual costs exceed the target amount, reimbursement will be determined (subject to other limitations on reimbursable cost established under 405.460) under paragraph (d)(3) of this section.

(2) *Inpatient operating costs are less than or equal to the target amount.* If a hospital's allowable inpatient operating costs per case do not exceed the hospital's target amount for the applicable cost reporting period, reimbursement to the hospital will be determined on the basis of the lowest of:

(i) The inpatient operating costs per case plus 50 percent of the difference between the inpatient operating cost per case and the target amount;

(ii) The inpatient operating costs per case plus 5 percent of the target amount; or

(iii) The hospital's allowable inpatient operating cost per case under applicable limits established under § 405.460.

(3) *Inpatient operating costs are greater than the target amount.* If a hospital's allowable inpatient operating costs per case exceed the hospital's target amount for the applicable cost reporting period, reimbursement to the hospital will be determined as follows:

(i) For cost reporting periods beginning on or after October 1, 1982 and before October 1, 1984, reimbursement will be based on the lower of:

(A) The hospital's target amount plus 25 percent of the allowable operating costs per case in excess of the target amount; or

(B) The hospital's allowable cost per case under applicable limits established under § 405.460.

(ii) For cost reporting periods beginning on or after October 1, 1984 and before October 1, 1985 reimbursement will be based on the lower of:

(A) The target amount per case; or

(B) The hospital's allowable cost per

case under applicable limits established under § 405.460.

(e) *Hospital requests regarding applicability of the rate of increase ceiling.* A hospital may request an exemption from or exception to the rate of cost increase ceiling imposed under this section. The hospital's request must be made to its fiscal intermediary no later than 180 days from the date on the intermediary's notice of program reimbursement. The intermediary will make a recommendation on the hospital's request to HCFA, which will make the decision. HCFA will respond to the exception request within 180 days from the date HCFA receives the request from the intermediary. The intermediary will notify the hospital of HCFA's decision. The time required for HCFA to review the exception request is considered good cause for the granting of an extension of the time limit to apply for review by the Provider Reimbursement Review Board, as specified in § 405.1841(b). HCFA's decision is subject to review under Subpart R of this part.

(f) *Exemptions.* (1) *New hospitals.* HCFA will exempt new hospitals from the rate of increase ceiling imposed under this section. For purposes of this section, a new hospital is a provider of inpatient hospital services that has operated as the type of provider for which it is certified for Medicare participation, under present and previous ownership, for less than 3 full years. This exemption expires at the end of the first cost reporting period beginning at least 2 years after the hospital accepts its first patient, or the first cost reporting period beginning on or after October 1, 1985, whichever comes first.

(2) *Risk-basis health maintenance organization (HMO).* The items or services are furnished to beneficiaries enrolled in an HMO by a hospital that is either owned or operated by a risk-basis HMO or related to a risk-basis HMO by common ownership or control (see § 405.2050(c)).

(g) *Exceptions.* (1) *General procedure.* HCFA may adjust a hospital's operating costs (as described in paragraph (b)(1) of this section) upward or downward, as appropriate, under circumstances as specified in paragraphs (g) (2) and (3) of this section. HCFA will make an adjustment only to the extent that the hospital's operating costs are reasonable, attributable to the circumstances specified, separately identified by the hospital, and verified by the intermediary.

(2) *Extraordinary circumstances.* The hospital can show that it incurred unusual costs (in either a cost reporting period subject to the ceiling or the hospital's base period) due to extraordinary circumstances beyond its control. These circumstances include, but are not limited to, strikes, fire, earthquakes, floods, or similar unusual occurrences with substantial cost effects.

(3) *Change in case mix.* The hospital:

(i) Has added or discontinued services in a year after its base period described in paragraph (b)(1) of this section;

(ii) Has experienced a change in case mix as a result of the addition or discontinuation of services that results in a distortion in the rate of cost increase; and

(iii) Submits data summarizing the case-mix changes and the resulting changes in costs.

(h) *Adjustments.* (1) *Comparability of cost reporting periods.* HCFA may adjust the amount of the operating costs considered in establishing cost per case for one or more cost reporting period(s), including both periods subject to the ceiling and the hospital's base period, to take into account factors which could result in a significent distortion in the operating costs of inpatient hospital services. Such factors could include a decrease in the inpatient hospital services that a hospital provides, that are customarily provided directly by similar hospitals, or the manipulation of discharges to increase reimbursement. A decrease in the inpatient hospital services provided could result from changes that include, but are not limited to, closing a special care unit or changing the arrangements under which such services may be furnished, such as leasing a department.

(2) *Nursing differential.* Because the Medicare inpatient routine nursing salary cost differential (see § 405.430) does not apply in the cost reporting periods subject to ceilings established under this section, HCFA will adjust base period costs to remove the effect of this differential.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance)

Dated: September 14, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 27, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-27082 Filed 9-29-82; 8:45 am]

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federal register

Thursday
September 30, 1982

Part V

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Schedule of Limits on Hospital Inpatient Operating Costs for Cost Reporting Periods Beginning on or After October 1, 1982

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicare Program; Schedule of Limits on Hospital Inpatient Operating Costs for Cost Reporting Periods Beginning on or After October 1, 1982

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final notice with comment period.

SUMMARY: This notice sets forth a schedule of limits on the hospital inpatient operating costs that may be reimbursed under Medicare for cost reporting periods beginning on or after October 1, 1982. These limits are needed to implement changes in the Medicare law that were made by section 101(a) of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982. The new limits differ from the current per diem limits on inpatient general routine operating costs in several major respects. First, they are not restricted to costs of inpatient general routine care, but cover total inpatient operating costs, including the costs of general routine service, special care, and ancillary services. The new limits will be applied on a cost per discharge rather than cost per diem basis. Finally, they are adjusted to reflect differences in the mix of Medicare cases treated by each hospital. The limits are similar to the current limits in that they do not apply to outpatient service cost, capital-related costs, malpractice insurance costs, or costs a hospital allocates to the interns and residents (in approved programs) or nursing school cost centers on its Medicare cost report. They also do not apply to children's hospitals, long-term care hospitals, or rural hospitals with fewer than 50 beds. The notice explains our methodology for deriving and applying the new limits.

DATES: Effective date: October 1, 1982. Although we are publishing this notice in final form, comments may be submitted as described below.

Comment date: To assure consideration, comments should be received by November 29, 1982.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17013, Baltimore, Maryland 21235.

Please refer to File Code BPP–196–FN.

If you prefer, you may deliver your comments to: Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C.; or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Comments will be available for public inspection, beginning approximately 3 weeks after publication, in Room 309–G of the Department's offices at 200 Independence Avenue, S.W., Washington, D.C. 20201 on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION, CONTACT: Marilyn Koch, (301) 594–9235.

SUPPLEMENTARY INFORMATION:

I. Background

A. General Information Relating to Provider Cost Limits

Section 223 of the Social Security Amendments of 1972 (Pub. L. 92–603, enacted October 10, 1972) amended section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) to authorize the Secretary to set prospective limits on the costs that are reimbursed under Medicare. These limits (commonly called section 223 limits) may be applied to direct or indirect overall costs or to costs incurred for specific items or services furnished by a Medicare provider, and may be based on estimates of the cost necessary in the efficient delivery of needed health services.

Regulations implementing this authority are set forth at 42 CFR 405.460. Under this authority, we have published limits on hospital inpatient general routine per diem costs annually since 1974.

The current schedule of limits on hospital inpatient general routine operating costs was published in the **Federal Register** on September 30, 1981 (46 FR 48010), and applies to cost reporting periods ending after Septembere 30, 1981. The schedule excludes capital-related costs, medical and nursing education costs, and malpractice insurance expenses. It incorporates a "market basket" index to project increases in the prices of goods and services hospitals use in furnishing routine care, an adjustment for cost variations due to area differences in hospital wage levels, and an adjustment to recognize individual hospital differences in costs due to approved teaching activity. The current schedule also includes a formula that permits an increase in the limits for hospitals in States with below average Medicare utilization that may result from the provision of a greater intensity of routine care.

The schedule of limits set forth in this notice reflects major changes from the methodology used for the current limits. Several of these changes are needed to implement specific new provisions that were added to the Medicare law by section 101 of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982. These changes in methodology are described in detail in section II of this preamble. Other features of these limits are similar to those of prior cost limit schedules. These features are also explained in section II.

B. Recent Legislation

1. *Summary.* On September 3, 1982, the President signed into law Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982. Section 101 of that legislation added section 1886 to the Social Security Act. This new section includes a number of provisions that restrict the level of Medicare payment for costs of inpatient hospital services. Section 1886(a) provides for the extension of the section 223 hospital cost limits, which currently apply only to inpatient general routine operating costs, to the operating costs of inpatient hospital services. (These operating costs are defined in the statute as all routine operating costs, ancillary service operating costs, and special care unit operating costs with respect to inpatient hospital services.) Section 1886(a) specifies that the costs to which the expanded limits apply are to be determined on a per discharge or per admission basis, and requires that the limit for each hospital be set based on the mix of types of Medicare cases treated by the hospital. In addition, section 1886(a) specifies the level at which the new limits are to be set for particular cost reporting periods.

Section 1886(b) provides for a new three-year limitation on payment for hospital costs that is separate from the type of limit currently established under section 223. This provision requires that we establish a ceiling level for the allowable rate of increase of hospitals' inpatient operating costs per case, and provides for incentive payments to hospitals that keep their cost below a target amount, as well as penalties for hospitals that incur costs greater than the target amount. Section 1886(c) provides that the Secretary may authorize payment to hospitals under State hospital cost control systems (instead of Medicare reimbursement rules, including limitations in reimbursement under sections 1886(a) and (b) that meet certain criteria.

Section 101(b) of Pub. L. 97–248 makes the new section 1886 effective for cost reporting periods beginning on or after October 1, 1982 and provides that, in order to accomplish the effect of these provisions promptly, regulations needed

to implement them may be issued as final regulations without prior notice and comment. Further, section 101(b) exempts, until January 1, 1984, these necessary regulations from the Office of Management and Budget (OMB) review of information collection requirements that would otherwise be required under the Paperwork Reduction Act of 1980 (Pub. L. 96-511). Section 101(b) also requires us to develop, by December 31, 1982, proposals for legislation that would enable the Medicare program to reimburse participating providers (such as hospitals and skilled nursing facilities), on a prospective basis. (It is clear from the Conference Committee Report that the three-year rate of increase ceiling established under section 1886(b) is expected to end earlier if prospective reimbursement for inpatient hospital services is implemented.) (H.R. Rep. No. 97-760, 97th Cong., 2d Sess. 421 (1982).)

Section 101(c) provides for a number of amendments to various sections of Title XVIII of the Social Security Act that are necessary to conform the provisions of those sections to the new requirements established under section 1886.

2. *Section 1886(a) limits.* As noted above, section 1886(a) requires that the current section 223 hospital cost limits be expanded to cover total operating costs of inpatient hospital services, that they be applied on an average cost per discharge or per admission basis, and that they be adjusted for Medicare case mix. The statute specifies that the operating costs that are subject to the new limits must include all routine operating costs, ancillary service operating costs, and special care unit operating costs. These new cost limits are effective for hospital cost reporting periods beginning on or after October 1, 1982.

Under the current section 223 inpatient routine limits, hospitals are classified by bed size and geographic location, and the limits are set based on a percentage (currently 108 percent) of the mean labor-related and non-labor costs of each classification group. The new legislation requires that the level of the new limits for each group be set as follows:

- At 120 percent of the meafn for cost reporting periods beginning on or after October 1, 1982 and before October 1, 1983;
- At 115 percent of the mean for cost reporting periods beginning on or after October 1, 1983 and before October 1, 1984; and
- At 110 percent of the mean for cost reporting periods beginning on or after October 1, 1984.

To prevent hospitals from being disadvantaged under this new system, the statute requires that a hospital's limitation on reimbursement for allowable operating costs of inpatient services be no lower than the hospital's reimbursement for allowable operating costs of inpatient services for the last cost reporting period prior to the first cost reporting period for which these cost limits are applicable. In accordance with the Conference Committee Report on Pub. L. 97-248, this provision will be implemented by comparing each hospital's cost-per-case limit established for the hospital's first cost reporting period under the new system to the allowable cost-per-case reimbursement in the previous cost reporting period. (See H.R. Rep. No. 97-760, 97th Cong., 2d Sess. 420 (1982).)

The Conference Committee Report also discussed (on page 419) the necessity to use data that are not current in establishing the limits, and provided guidance on the adjustments to be made to the data so they can be used for current cost reporting years. The committee stated its expectation that actual industry average cost increase information will be used to update the data through the cost reporting period preceding each cost reporting period to which the limits apply and that, to account for projected increases during the year subject to limits, the data will be adjusted by the hospital wage and price index (market basket) plus one percentage point.

The statute requires the Secretary to provide for exemptions, exceptions, and adjustments to the limits for certain categories of hospitals, as the Secretary deems appropriate, including psychiatric hospitals and public hospitals or other hospitals incurring additional costs because the facility serves a disproportionate number of patients who have low incomes or are Medicare beneficiaries under Part A. In addition, the special needs of sole community hospitals, new hospitals, risk-basis health maintenance organizations, and hospitals providing atypical services and essential community services, as well as extraordinary circumstances beyond the hospital's control, medical and paramedical education costs, significantly fluctuating population in a hospital's service area, and unusual labor costs are to be accounted for, as deemed appropriate by the Secretary. Rural hospitals with less than 50 beds which were in operation with less than 50 beds on September 3, 1982 are specifically exempted from the limits by the statute.

As noted above, the new legislation authorizes the Secretary to make special provisions for hospitals that serve a disproportionate number of patients who have low incomes, or are Medicare beneficiaries under Part A. For the reasons specified in the preamble to the final rule amending 42 CFR 405.460 (this rule is published elsewhere in this issue of the **Federal Register**) we have not yet developed any provisions of this type. However, we note that other exceptions for which these hospitals may qualify are provided by 42 CFR 405.460.

C. Implementation of Legislation

As explained earlier, the general rules governing section 223 cost limits are set forth in our regulations at 42 CFR 405.460. These regulations explain the procedure we follow in developing section 223 limits, and describe the exceptions and exemptions to the limits that are available to providers. The regulations do not, however, contain specific information on the cost limit schedules applicable for particular cost reporting periods. Since the cost limit schedules must be revised periodically to reflect more recent data or to permit refinements to the methodology for developing limits, we have adopted the practice of publishing cost limit schedules, and the methodology used to develop those schedules, in **Federal Register** notices. These cost limit schedules are generally published at least annually.

We plan to continue to follow this practice in issuing the hospital cost limit schedules required by section 1886(a). Thus, the initial schedule of limits on operating costs of inpatient hospital services is set forth in this notice. However, the changes in the Medicare law that were made by section 101 of Pub. L. 97-248 also require changes in our regulations. The revised regulations needed to implement the provisions of section 1886(a) that deal with exceptions and exemptions to the new limits, as well as new regulations needed to implement the rate-of-increase provisions of section 1886(b), are published as a separate document elsewhere in this issue of the **Federal Register**.

II. Major Features of New Limits

The schedule of limits effective for cost reporting periods beginning on or after October 1, 1982 will provide for the following:

A. Limits on Hospital Inpatient Operating Costs

Although section 1861(v)(1) of the Social Security Act authorizes limits on overall incurred costs or on the costs of specific items or services, we have

applied all previous hospital cost limit schedules only to costs for inpatient general routine services which include primarily room, board, and routine nursing services. These costs exclude cost of ancillary services (e.g. radiology or laboratory services) and costs of special care units such as intensive or coronary care.

Section 1886(a) of the Social Security Act provides for the establishment of limits on the amount of hospital inpatient operating costs per case that may be recognized as reasonable for Medicare reimbursement. Therefore, the new schedule applies to total hospital inpatient operating costs, including inpatient general routine operating costs, operating costs of special care units, and inpatient ancillary service operating costs. Like the current schedule, the new limits do not cover outpatient service costs, capital-related costs (i.e. depreciation, rent, interest and other costs normally classified in the depreciation accounts on a hospital's Medicare cost report), malpractice insurance costs, or costs a hospital allocates to the interns and residents (in approved programs) or nursing school cost centers on its Medicare cost report.

B. Application of Limits on Cost Per Dicharge Basis

Section 1886(a) of the Social Security Act requires that the limits on hospital inpatient operating costs be applied, at the Secretary's discretion, on either a cost per admission or per discharge basis. This provision of the statute requires a significant change in our methodology, since all previous hospital cost limit schedules, including the schedule of limits now in effect, have been applied on a per diem basis. (That is, each hospital's limit represents the maximum amount Medicare will pay for each day of inpatient general routine care the hospital furnishes a Medicare patient.) We have applied our limits on this basis because cost per diem is widely accepted by hospitals and payers (including the Medicare and Medicaid programs) as a valid and relatively uniform measurement of inpatient general routine cost.

Unlike the limits now in effect, the new limits will be applied on a per discharge, rather than per diem, basis. This means that each hospital will be paid no more than a specified amount per Medicare patient stay, and that the limit on the amount of payment to the hospital will be set without regard to the actual number of days of care each patient received or the per diem cost the hospital incurred to furnish this care. Under this system of limits the intermediary will use a hospital's number of Medicare discharges to determine the number of Medicare patient stays the hospital had during each cost reporting period. (For purposes of applying these limits, intermediaries will use the definition of "discharge" in § 304.4 of HCFA Pub. 15–II–C, the Provider Reimbursement Manual. Under this definition, the transfer of a patient from one inpatient area of the hospital to another does not constitute a discharge.) The intermediary will multiply each hospital's per discharge limit by the number of Medicare discharges, and compare the resulting amount with the total inpatient operating cost the hospital incurred to treat Medicare patients. The intermediary will then use the lesser of the two amounts as the basis for determining reimbursement to the hospital. The hospital's reimbursement also will be subject to the rate of increase ceiling required by section 1886(b) and implemented under new regulations described elsewhere in this issue of the **Federal Register**. However, reimbursement to the hospital under the rate of increase ceiling provisions will not be allowed to exceed the amount of reimbursement due under the hospital's inpatient operating cost limit.

C. Elimination of Adjustment for Covered Days of Care

In the past, commenters have objected to the application of routine cost limits on a per diem basis because such limits do not recognize differences in the intensity of routine services. Specifically, many hospitals have stated that they have relatively high per diem costs because they provide more intensive routine services than other hospitals to which they are compared. These hospitals also argue that their high per diem costs often are offset by their shorter-than-average lengths of stay, which result in a lower cost per case when compared to other hospitals with lower per diem costs but longer-than-average lengths of stay.

In response to these comments we have included, in the schedules of limits effective since July 1, 1979, an adjustment (the "covered days of care" adjustment) that automatically increases the per diem limits for hospitals in States with below average Medicare utilization per 1000 HI enrollees. This adjustment is designed to compensate for costs that may result from more intensive routine services. In addition, the Medicare regulations at 42 CFR 405.460(f)(5) provide an exception to the limits for hospitals that can demonstrate that their excess per diem costs are attributable to the provision of more intensive routine care resulting in a shorter average length of stay and higher per unit costs when compared to other hospitals that have a reasonably similar mix of patients. We believe that under the current system of per diem limits, the automatic utilization adjustment and the greater intensity of care exception are adequate to account for cost differences resulting from differences in service intensity.

As explained in sections II. A and II. B above, the new limits cover hospital inpatient operating costs and will apply on a per discharge basis. These limits will permit per diem differences in service intensity in both routine and ancillary services, and any resulting efficiencies in terms of lower cost per stay, to be directly represented in each hospital's reimbursement. Therefore, we believe the current "covered days of care adjustment" is not needed under the new limits, and we have not used that adjustment in developing these limits.

We do not believe the current exception to the limits for hospitals with high per diem costs resulting from more intensive routine care should continue to be available to hospitals covered by the new limits. Therefore, in a final rule published elsewhere in this issue of the **Federal Register**, we are amending 42 CFR 405.460(f)(5) to state explicity that the exception provided by that section is available only for periods during which hospitals are subject to the routine per diem limits. When the current routine limits are fully phased out (i.e., for hospital cost reporting periods beginning on or after October 1, 1983), the exception will no longer be available.

D. Use of a Hospital Specific Case-Mix Index (see Appendix II) to Reflect Differences in Hospital Inpatient Operating Costs Attributable to Institutional Differences in Medicare Patient Mix

Section 1886(a) requires the Secretary to establish case mix indexes for all short-term hospitals, and to set limits for each hospital based on the general mix of types of medical cases with respect to which the hospital provides services covered under Medicare. This means we must recognize hospital specific differences in Medicare case mix in establishing the limits on inpatient operating costs.

This adjustment is needed to implement the statutory requirement, and to recognize that hospital costs for treating particular cases can vary widely depending on the nature of the patient's illness or injury, the age of the patient, whether medical or surgical

treatment is indicated, and many other factors that are beyond a hospital's control and unrelated to the efficiency of its operations. Some hospitals will incur higher costs per discharge than others because they treat a higher proportion of more complex and costly cases. Because these variations in the types of cases treated (i.e., case mix) can result in cost differences that do not reflect differences in operating efficiency, Congress recognized that these limits must include an explicit adjustment for case mix. Under our system, this adjustment would be accomplished by means of a Medicare case-mix index. Section III contains further detail on the development and application of the case-mix index.

E. Application of the Limits to All Hospitals Except Rural Hospitals With Less Than 50 Beds, Children's Hospitals and Long-Term Care Hospitals

(1) *Rural hospitals with less than 50 beds.* The limits authorized under Pub. L. 97–248 specifically exempt less than 50 bed rural hospitals that were in operation and had less than 50 beds before September 3, 1982.

For the purpose of this exemption only, rural hospitals are those facilities that are located outside the boundaries of a Standard Metropolitan Statistical Area (SMSA) as that term is defined by the Office of Management and Budget (OMB), Executive Office of the President. In addition, the definition of "bed" shall be the same as that currently used under the routine hospital cost limits (see section 2510.5, HCFA Pub. 15–1 (Provider Reimbursement Manual)).

In a final rule published elsewhere in this issue of the **Federal Register**, we have added this category of exemption to those already provided at 42 CFR 405.460(e).

(2) *Children's hospitals.* As explained in greater detail in section III below, a key feature of our methodology for developing the limits is the Medicare case-mix index. The case-mix index is used to adjust for differences in hospital costs that result from differences in the type and mix of cases treated by various hospitals. It is a hospital-specific adjustment, unique to each facility, that is derived in part from abstracts of Medicare patient records (i.e., "cases") maintained in HCFA.

To calculate case-mix indexes with a sufficient degree of statistical reliability, a minimum number of cases is required from each hospital. However, children's hospitals as a class (i.e., those hospitals organized and operated for the treatment of patients, the majority of whom are under age 18) generally do not treat a sufficient number of Medicare patients in each cost reporting period to supply the information we need to calculate reliable case-mix indexes.

If the number of Medicare cases treated by a hospital were our only criterion for determining whether to apply the new limits to a hospital, we would be able to apply those limits to certain children's hospitals for some cost reporting periods but not for others. If the limits were applied in this way, however, these hospitals would not know from year to year whether they would be subject to the limits. We believe this uncertainty would be inconsistent with the purpose of prospective limits. Therefore, we are excluding children's hospitals from the new limits. (These hospitals, however, would continue to be subject to the routine cost limits for as long as those limits remain in effect. When the routine limits are fully phased out, no Medicare cost limits, other than the rate of increase ceiling under § 405.463, will apply to children's hospitals.)

We wish to note that the exclusion from the new limits only applies to entire facilities that are organized and operated as children's hospitals. Children's components of a short-term general hospital are subject to the new limits on the same basis as other components of the hospital.

(3) *Long-term care hospitals.* Long-term care hospitals are hospitals organized to provide long-term treatment programs with lengths of stay generally in excess of 30 days. These hospitals are identified by a distinct "type of facility" code in the third digit of the Medicare provider number. Data from long-term care hospitals are not adequate to include them in a system of case-mix adjusted limits based primarily on records from general short-term acute care hospitals.

Under section 1886, the Secretary is required to consider the special needs of psychiatric hospitals in developing exemptions from and exceptions to the cost limits. Since most psychiatric hospitals are long-term care facilities, we believe that the exclusion of long-term care hospitals from the limits will insure that most psychiatric hospitals are not disadvantaged. For those few psychiatric hospitals that are not long-term care providers, we believe the exception provisions of 42 CFR 405.460(f) area sufficient to accommodate most circumstances that may result in a provider legitimately exceeding its cost limit.

F. A Classfication System Based on a Hospital's Bed Size, and Urban or Rural Location

As in prior cost limit schedules, we group hospitals on the basis of their bed size and urban or rural location. We use Standard Metropolitan Statistical Areas (SMSAs) and in New England, New England County Metropolitan Areas (NECMAs) to determine urban location. The SMSA and NECMA definitions we use are the most recent definitions established by the Office of Management and Budget, Executive Office of the President, including areas newly designated as SMSAs and NECMAs based on the 1980 Census of Population.

G. Use of 1980 Medicare Cost Report and Billing Data

We derived the limits from Medicare records fron three sources, as follows: (1) Medicare hospital cost reports available as of May 1, 1981, which primarily consist of cost reports for fiscal years ending in 1980; (2) billing data from a 20 percent sample of Medicare hospital bills submitted for calendar year 1980 (see discussion of the MEDPAR file in section III and (3) a quarterly tabulation of Medicare discharges covering the same periods represented in the cost report. These data were the latest available for the construction of the cost per discharge limits.

We calculated each hospital's cost per Medicare discharge (less capital, medical education, and malpractice costs) from the hospital's cost report, and from a file of Medicare hospital discharges (bills) maintained by HCFA. We projected each hospital's cost per Medicare discharge to account for inflation occurring between the cost reporting periods used to calculate the limits and April 1, 1983, the midpoint of the first cost reporting period to which the limits would apply. We also standardized each hospital's cost per discharge to adjust for variations in costs due to differences in case mix, level of teaching activity, and variation in area wage levels. A detailed explanation of the construction of the basic group limits is contained in section VII.

H. Elimination of the 5 Percent Nursing Differential

Regulations published on October 1, 1981 state that Medicare will recognize a nursing salary differential equal to 5 percent of a hospital's average per diem general routine nursing salary costs for hospital cost reporting periods ending after September 30, 1981. However,

section 103 of Pub. L. 97-248 amended section 1861(v)(1) of the Social Security Act to eliminate payment of an inpatient routine nursing salary cost differential for hospitals and skilled nursing facilities, effective for cost reporting periods ending after September 30, 1982. For those cost reporting periods beginning before October 1, 1982, the reduction in reimbursement can only be applied to the portion of the cost reporting period occurring after September 30, 1982. We are publishing revised regulations to implement this legislation in a separate **Federal Register** document.

Since the law requires that effective October 1, 1982, we no longer recognize a nursing salary cost differential, the cost per discharge limits on hospital inpatient operating costs have been calculated to reflect a zero nursing salary differential.

I. Revised Market Basket Index

Since July 1, 1979 the hospital cost limit schedules have incorporated a market basket index to reflect changes in the prices of goods and services hospitals use in producing general inpatient routine services. We developed the current market basket by identifying the most commonly used categories of hospital routine operating expenses, and weighting each category to reflect the estimated proportion of hospital routine operating expenses attributable to each category. We then obtained historical and projected rates of increase in the resource prices for each category. Based on the rate of increase and the weight for each category, we developed market basket index factors. We used these factors to project the overall rates of increase in hospital inpatient general routine operating costs between the cost reporting periods represented in the data collection (i.e., the fiscal year of each hospital's most recent cost report) and the mid-point of the first cost reporting period to which the limit, based on these data, apply.

Under the revised system of limits, we are continuing to use a market basket index to project rates of increase in hospital costs. Because the limits will apply to total inpatient operating costs rather than only inpatient routine operating costs, we have revised the market basket categories, and the weights assigned to each category, to reflect this change in the scope of the limits (see Appendix I).

The revised market basket reflects two changes from the inpatient routine cost market basket that was included in the hospital cost limits notice published on September 30, 1981. First, we have deleted malpractice insurance premiums from the categories of expenses included in the market basket. We made this change because malpractice insurance premiums, which are apportioned to Medicare on a different basis from other operating costs (see 42 CFR 405.452(b)(i)(ii)), are not included among the hospital costs subject to limitation. Secondly, we have revised the weights assigned to each expense category to reflect the estimated proportion of total inpatient operating cost, rather than inpatient routine operating cost, attributable to each category.

The categories of expenses we used to develop the revised market basket are based primarily on those used by the American Hospital Association (AHA) in its analysis of costs, and by the U.S. Department of Commerce in publishing price indexes by industry. The weights are based primarily on surveys by the AHA, and from the Department of Commerce's input-output studies. The price variables we used to predict price changes for each category of expenses are specified in Appendix I. For further background on the development of the market basket index, the reader is referred to Freeland, Anderson, and Schendler, "National Hospital Input Price Index", *Health Care Financing Review*, Summer 1979, pp. 37-61.

J. Revised Wage Index

Since July 1, 1979, the schedules of hospital cost limits have incorporated a wage index to adjust for differences in the levels of labor-related costs among the areas in which hospitals are located. The hospital wage indexes are based on wage and employment data maintained by the Bureau of Labor Statistics (BLS) of the U.S. Department of Labor. Specifically, the source file has been the ES 202 Employment, Wages, and Contributions File for hospital workers (Standard Industrial Classification code 806).

To develop the current wage index, we first calculated the national average wage for hospital workers in urban areas (Standard Metropolitan Statistical Areas (SMSAs) or New England County Metropolitan Areas (NECMAs)) and a separate national average wage for hospital workers in non-urban (i.e., non-SMSA and non-NECMA) areas. We then divided the average wage for each urban and non-urban area by the appropriate national average (urban or non-urban). This calculation yielded an index value for each urban area that reflected the average wage for that area relative to the national average of all urban areas, and an index value for each non-urban area that reflected the average wage for that area relative to the national average for all non-urban areas. We call this type of index, which relates the average wage for each individual area to separate urban or non-urban national averages, a "split" index.

Because the wage index we used to calculate the current routine limits is a split index, there are instances in which the index value for an urban area is lower than the value for an adjacent non-urban area. This apparent anomaly has caused concern and confusion among hospitals in these areas. To avoid further confusion on this point, we have, in developing the revised total cost limits, used a "combined" wage index based on 1980 BLS wage and employment records. The combined wage index relates the average area wage for urban and non-urban areas to a single national average wage for all areas. Although the change from a split to a combined wage index has no effect on either the accuracy or the dollar amount of any hospital's limit, use of a combined index will permit direct comparison of the index values for urban and rural areas, and thus make it easier for hospitals to understand how the wage indexes for their areas were computed. The following example demonstrates that the final result using a combined wage index, as compared to a split wage index, is identical.

Example

(1) *Split Wage Index* = .7059
Labor share = 1995.58
Labor deflated cost:
1995.58 ÷ .7059 = 2827.00
Mean labor deflated costs = 2127.82
Area labor share limit:
2127.82 × .7059 = $1502.00

(2) *Combined Wage Index* = .7916
Labor share = 1995.58
Labor deflated cost:
$1995.58 ÷ .7916 = 2520.94
Mean labor deflated cost =
Area labor share limit:
1897.53 × .7916 = $1502.00

The following hypothetical sample array is the source of the data used in this example. The split and combined wage indexes used in the hypothetical sample array were derived as shown below.

HYPOTHETICAL SAMPLE

Urban area	Average monthly hospital wage	Split wage index	Combined wage index
1	$900	.7059	.7916
2	1,050	.8235	.9236
3	1,125	.8824	.9894
4	1,500	1.1765	1.3193
5	1,800	1.4118	1.5831
Total	6,375		

Urban Nat'l Avg. Monthly Hospital Wage =

$$\frac{\text{Total Urban Avg. Monthly Hosp. Wage}}{\text{Number of urban areas}} = \frac{6375}{5} = \$1275.00$$

Combined National Avg. Monthly Hosp. Wage =

$$\frac{\text{Total Urban Avg. Monthly Hosp. Wages} + \text{Total Rural Avg. Monthly Hosp. Wages*}}{\text{No. urban areas} + \text{Number rural areas}} = \frac{6375 + 4990^*}{10} = \$1137.00$$

Example

(1) *Computation of Split Wage Index*
Area 1 average monthly hospital wage = $900.00
Urban Natl. Avg. monthly hosp. wage = $1275.00
Area 1 split wage index: 900.00 ÷ 1275.00 = .7059

(2) *Computation of Combined Wage Index*
Area 1 average monthly hosp. wage = $900.00
Combined national average monthly hosp. wage = $1137.00
Area 1 combined wage index: $900.00 ÷ $1137.00 = .7916

HYPOTHETICAL SAMPLE ARRAY

1	2	3		4		5	
Area	Labor share	Wage index		Labor deflated cost [1]		Area limit (Labor share) [2] [3]	
		Split	Combined	Using split wage index	Using combined wage index	Split wage index	Combined wage index
1	$1,995.58	.7059	.7916	$2,827.00	$2,520.94	$1,502.03	$1,502.08
2	2,001.36	.8235	.9235	2,430.30	2,167.14	1,752.26	1,752.37
3	1,996.25	.8824	.9894	2,264.56	2,019.86	1,877.59	1,877.42
4	2,003.41	1.1765	1.3193	1,702.96	1,518.54	2,503.38	2,503.41
5	1,998.85	1.4118	1.5831	1,414.40	1,261.35	3,004.06	3,003.98
Mean labor deflated arrayed costs =				$2,127.52	$1,897.53		

[1] Column 2 divided by corresponding value in column 3.
[2] Column 4 multiplied by appropriate value in column 3.
[3] Numbers are not identical solely due to rounding.

In developing the wage index for the limits, we have continued to use approximate, rather than actual, index values for certain areas. (We also used approximate wage index values for certain areas in developing the current limits.) These approximate values are identified in Tables III A. and III B. We have done this because BLS, which supplies the wage and employment data used to calculate the wage index, has informed us that its confidentiality requirements prohibit it from disclosing either the actual data or indexes for areas that include fewer than 3 reporting units. (A reporting unit need not be a single hospital. Reporting unit is defined by BLS as the smallest unit for which data are recorded on the employer's contribution report. For example, two facilities in the same area owned by one employer could appear as one reporting unit.)

To make it possible to calculate limits for these areas, we have asked the BLS to identify the areas having wage index values numerically closest to, but not less than, the areas for which it cannot supply actual data. In the case of each area for which actual data are unavailable, we have substituted the wage index value identified by BLS as being closest to the actual value. We believe that the use of approximate rather than actual values for these areas will not affect the accuracy of the limits significantly, and will assure that no hospital's limit is reduced because actual data for its area are not disclosable. As was done in developing the current routine limits, we have excluded data from Federal government hospitals in constructing the wage indexes. Because Federal hospitals typically use national pay scales, the amounts they pay their employees do not necessarily reflect area wage levels. Since they also do not normally participate in the Medicare program, we believe exclusion of these data is appropriate.

The latest series of wage indexes reflects two additional changes from previous schedules. Prior schedules of limits that incorporated a wage index adjustment were not applied to hospitals in Puerto Rico, due to the lack of BLS hospital wage and employment records for that area. This notice of total inpatient operating cost limits contains wage indexes for Puerto Rico, and we have extended these limits to Puerto Rican hospitals.

We have also included wage indexes in Table IIIA for those newly designated SMSAs and NECMAs that were classified as such as a result of the 1980 census. (See Appendix III for a listing of the newly designated SMSAs and NECMAs.)

K. Use of Revised Inflation Estimates to Derive the Cost Limits

Since July 1, 1979, we have constructed the published limits using provider costs that have been inflated to the midpoint of the first cost reporting period to which the particular schedule applied. The inflators used were based on historical and projected rates of increase in the hospital market basket. To account for projected inflation for cost reporting periods beginning after the earliest effective date of the cost limits schedule, we applied the forecasted inflation in the market basket to increase the otherwise applicable limit contained in the notice. With respect to the new cost per discharge limits, new section 1886(a)(1)(B) states:

> The Secretary shall set limits for a cost reporting period of a hospital (I) by updating available data for a previous period to the immediate preceding period by the estimated average rate of change of hospital costs industry-wide, and (II) by projecting for the cost reporting period by the "applicable percentage increase" (quotations added) . . .
> "Applicable percentage increase" is defined in the statute as:
> . . . 1 percentage point plus the percentage, estimated by the Secretary, by which the cost of the mix of goods and services . . . based on an index of appropriately weighted indicators of changes in wages and prices . . . representative of the mix of goods and services included in such inpatient hospital services, . . . exceeds the cost of such mix of goods and services for the preceding 12-month cost reporting period.

As in prior limitation schedules, to derive the basic group limits, each hospital's cost per Medicare discharge was inflated to the midpoint of the first cost reporting period to which the limits apply. This cost reporting period is the twelve month period beginning on October 1, 1982; its midpoint is April 1, 1983. In accordance with the statute, two different estimates of inflation were used to accomplish this adjustment. First, using estimates of the actual rate of increase in Medicare inpatient hospital costs furnished by HCFA's Office of the Actuary, we inflated the cost per discharge of each hospital in our data base to the midpoint of the cost reporting period immediately preceding that hospital's first cost reporting period subject to the new limits. From this point, we then further adjusted these actuarily inflated costs per discharge to April 1, 1983 by applying a rate of increase equal to 1 percentage point plus the estimated annual rate of inflation in

*Total Rural Average Monthly Hospital Wages are computed from average monthly hospital wages for five rural areas.

the market basket described in Appendix I.

This process was followed for each hospital in our data base in order to arrive at the mean costs which form the basis of the group limits. For providers whose cost reporting period begin after October 1, 1982, the limit published in the notice is further updated using the market basket rate plus 1 percentage point to reflect cost increases occurring after the period represented in the published limit. (See Section VII.B. for further detail on the computation of each hospital's limit.)

Example.

Hospital A, Cost reporting period ends 12/31

Cost report in data base is: Fiscal Year Ending 12/31/80

First reporting period to which limit applies is: Fiscal Year Ending 12/31/83

Hospital A's cost data from the data base is updated through 6/30/82 (midpoint of Hospital A's cost reporting period preceding the first period to which limits apply) using the average actual increase in Hospital cost. This yields average cost for hospital A during the period 1/1/82—12/31/82 recognizing the actual change in hospital inpatient expenditures. The data are further updated to 4/1/83 midpoint of the first cost reporting period to which limits apply using the market basket rate plus one percentage point, the rate of increase specified in section 1886(b)(3)(B).

This yields Hospital A's cost used in setting the mean costs on which the limits are based (costs incurred during the period ending 9/30/83). The limit applicable to Hospital A is further updated using the market basket rate plus 1 percentage point to reflect cost increases occurring after the period represented in the published limit. This yields a limit for Hospital A reflecting cost increases during the first period subject to the limit.

The annual inflation rates that we used to establish the limits are as follows:

	Estimated actual rate of increase in Medicare inpatient operating costs per discharge	Estimated market basket rate of increase plus one percentage point
1980	12.9	*12.5
1981	15.1	*12.9
1982	14.3	9.9
1983	14.0	7.9
1984	NA	8.0

*For comparison only. These rates were not used to construct the cost per discharge limits.

L. Separate Treatment of the Labor-Related and Non-Labor Cost Per Discharge Used to Derive the Limits (see Tables I and II)

M. A Cost of Living Adjustment to the Non-Labor Component of the Limits for Hospitals in Alaska, Hawaii, and Puerto Rico (see Section VII B and Table II))

N. A Revised Adjustment to the Limits for Increased Costs Due To Approved Internship and Residency Programs

The current schedule of limits on hospital inpatient general routine operatings costs permits each hospital's otherwise applicable limit to be increased by 4.7 percent for each .1 increase (above zero) in the hospital's intern-and-resident to bed ratio. We included this adjustment to account for increased routine operating costs that are generated by approved internship and residency programs, but are not allocated to the interns and residents (in approved programs) or nursing school cost centers on the hospital's Medicare cost report. Such costs might include, for exemple, increased medical records costs that result from the keeping, for teaching purposes, of more detailed medical records than would otherwise be required.

Because our analysis of the data we used to develop the new limits shows that hospital inpatient operating costs per discharge tend to increase in proportion to increases in hospital levels of teaching activity, we have adopted a similar adjustment to the new limits. Specifically, we have increased each hospital's otherwise applicable limit by 6.06 percent for each increase of .1 (above zero) in the hospital's ratio of full-time equivalent (FTE) interns and residents to beds. The increase in the percentage amount of the adjustment (from 4.7 percent to 6.06 percent) results from the fact that total inpatient operating costs, which include special care unit and inpatient ancillary costs, are more heavily influenced than routine costs by changes in the level of teaching activity. In our opinion, this adjustment accounts for the additional inpatient operating cost which a hospital incurs through its operation of an approved intern and resident program.

In previous cost limit schedules, we have required hospitals to report to their intermediaries the number of full time equivalent (FTE) interns and residents in approved programs. The intermediaries used this information to compute the education cost adjustment.

Section 1886(b)(2)(B) provides that chapter 35 of title 5, United States Code shall not apply, until January 1, 1984, to collection of information and information collection requests which the Secretary of HHS determines to be necessary to carry out the amendments made by section 1886.

The Conference Committee Report accompanying Pub. L. 97–248 indicates this provision was included because the conferees recognized that the necessity to establish regulations implementing the statute will not permit the Secretary to follow the normal approval process for forms under the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Under section 1886(b)(2)(B), all revisions to the Medicare cost reporting forms needed to implement these provisions will be exempt from Pub. L. 96–511 until the end of calendar year 1983. Therefore, HCFA will continue to require hospitals that wish to obtain the education cost adjustment to report to their intermediaries the number of FTE interns and residents in approved programs.

Our current regulations, 42 CFR 405.460(f)(4), provide an exception to the limits for a provider that, when compared to other providers in its group, incurs increased costs because it operates an approved professional or paramedical education program, other than an intern and resident program of the type specified in 42 CFR 405.421 (see Provider Reimbursement Manual HCFA Pub. 15–1, Sections 404–404.3). This exception continues to be applicable to the new cost limits. In our view, this exception, properly interpreted, means that a hospital that incurs total inpatient operating costs per discharge in excess of its education-adjusted limit because it operates an approved medical education program can obtain an exception only if, after application of the education cost adjustment, the hospital's actual costs exceed its limit. For such cases, the exception cannot be greater than the amount of the difference between its actual costs and its limit.

O. Limits Set at 120 Percent of the Mean Labor-Related and Mean Non-Labor Costs of Each Hospital Classification Group (see Tables I and II)

Section 1886 of the Social Security Act specifies that the level of limits on hospital inpatient operating costs be set at 120% of the group means effective for cost reporting periods beginning on or after October 1, 1982. Effective with reporting periods beginning on or after October 1, 1983 and October 1, 1984, the levels shall be reduced to 115% and 110%, respectively.

P. A Hold Harmless Provision to Guarantee a Minimum Level of Reimbursement for Hospitals Subject to the Cost Per Discharge Limits

We believe the extension of reimbursement limits to total hospital inpatient operating costs adjusted for case mix will enhance the effectiveness of the limits in preventing payment for costs due to inefficiency. However, Congress recognized that there may be instances in which individual hospitals could have their reimbursement substantially reduced by the immediate application of the new schedule. To prevent hardship to these hospitals, Section 101(a) of Pub. L. 97–248 enacted section 1886(a)(1)(C) of the Social Security Act, which mandates a hold harmless provision for all hospitals subject to the new limits beginning with the first reporting period of application. Under the hold harmless provision, each hospital's total Medicare per discharge reimbursement for allowable inpatient operating costs (excluding costs specifically exempt from the new limits such as capital, medical education, and malpractice insurance costs), cannot be less than a guaranteed minimum level for the cost reporting periods in which the cost per discharge limits apply, regardless of all other provisions in this schedule. This guaranteed minimum level is equal to an amount no less than the provider's allowable reimbursement per discharge for inpatient operating costs (including payment for inpatient general routine operating costs, special care unit operating costs, and inpatient ancillary service costs) based on the hospital's Medicare cost report for the most recent cost reporting period immediately preceding the first period to which limits are applied (i.e., the "base period"). However, in no instance could a provider receive more than its actual allowable costs for the reporting period in which the cost per discharge limits apply. Section VII contains a further explanation on the application of the hold harmless proviaion.

III. The Medicare Case-Mix Index

A. Development of the Case-Mix Index

1. *Statutory Requirement.* Section 101(a) of Pub. L. 97–248, requires the Secretary to establish case-mix indexes for all short-term hospitals. The Conference Committee Report accompanying the legislation states that "* * * initially the Secretary will need to rely on a currently available indicator of case-mix complexity such as the system developed at Yale University." However, the report also indicates that the conferees expected that "* * * the Secretary will continue to evaluate possible methods for adjusting for case mix and will adopt an improved method when it becomes available." (See H. R. Rep. 97–760, 97th Cong. 2d Sess. 418 (1982).)

2. *Overview.* Isolating the effects of differences in case mix from the effects of other factors that affect hospital costs required a statistical measure defining a hospital's inpatient case mix. The development of such a mesure depends on our ability to distinguish among the various kinds or types of inpatient cases, and to identify the relative cost of hospital treatment for each category.

The number of possible combinations of diagnoses, procedures, complications, and admitting status is obviously very large. However, the number of combinations that occur with significant frequency is much smaller. Furthermore, many of these are similar in terms of the quantity of resources required in diagnosis and treatment. These facts should permit the classification of hospital cases into a manageable number of categories that are clinically similar and reasonably homogeneous in terms of resource use and cost.

The first requirement in the process of constructing a valid case-mix measure that differentiates costliness among case categories involves the development of a suitable case classification system.

The second requirement is the creation of a set of "weights" that measure the relative cost of treating cases classified in each classification category. Once these requirements are met, a "case-mix index" for each hospital can be calculated.

If the proportion of a hospital's patients in a given category is multiplied by the cost weight associated with that category, and these products are summed across all categories, we obtain a measure of the hospital's expected cost per case, given its case mix. Dividing a hospital's expected cost per case by the national average expected cost per case over all hospitals produces a specific case mix index value for each hospital. The case mix index, then, is a summary statistic representing the relative costliness of each hospital's mix of cases compared to the national average mix of cases. This index permits us to express a hospital's Medicare patient mix as a single statistic in the context of a total cost limits system.

In the following sections we describe the actual construction of the Medicare case mix index, the methods used to classify Medicare discharges, the data sources used, the construction of the cost weights, and the calculation of the index. (In the explanations that follow, the terms "case" and "discharge" are used interchangeably.)

3. *Case classification.* Over the past several years, a case classification system called Diagnosis Related Groups (DRGs) has been developed at Yale University. The formation of DRGs presupposes that cases can be classified into clinically coherent groups that are reasonably similar in resource consumption, either in terms of cost or length of stay. The latest series of Yale DRGs is based on records of patients discharged during the last half of 1979.

Using a population of over 1.4 million records selected from a nationally representative sample of 332 hospitals participating in the Commission on Professional and Hospital Activities hospital discharge abstract service, the Yale researchers created a stratified sample of 400,000 medical records, classified into 23 Major Diagnostic Categories (MDCs). Each MDC represents a broad clinical category that is differentiated from all others based on body system involvement and disease etiology. The specification of the MDCs was developed by a committee of clinicians using the following guidelines: (1) They must be clinically consistent; (2) They must have a sufficient number of patients; and (3) They must cover the complete range of diagnoses represented in the *International Classification of Diseases, 9th Revision, Clinical Modification* (ICD–9–CM), without overlap.

The patient records in each MDC were then partitioned using a classification algorithm called AUTOGRP and a prespecified set of variables to suggest subgroups of cases that were expected to be distinct in length of stay. The variables used to split the MDCs were intentionally limited to those that are descriptive of the patient's clinical condition, and readily available on most discharge abstracts, such as principal diagnosis, secondary diagnoses, surgical procedures, age, sex, and discharge status. Suggested subgroups of cases within the MDCs were examined by physicians to determine whether the proposed distinctions were clinically sensible and whether the cases in each group were medically similar. These purely statistical subgroups were modified if they were not supported clinically. For example, in MDC 11 (Diseases and Disorders of the Kidney and Urinary Tract), the initial statistical grouping of medical (i.e. nonsurgical) cases suggested 3 subgroups that were different in terms of length of stay. Each of these subgroups, however, contained several different kinds of cases (e.g.

urinary tract infections, signs and symptoms, renal failure, and neoplasms). Clinical judgment suggested that the major clinical subsets of these 3 groups should be revised to form 7 more clinically coherent initial groups: Kidney stone, infection, renal failure, neoplasms, signs and symptoms, urethral stricture, and other. This process ultimately resulted in a set of 467 mutually exclusive and exhaustive case classification categories called Diagnosis Related Groups (DRGs).

The patient classification categories we used to classify Medicare cases are a subset of the 467 Yale DRGs. Of the 467 Yale DRGs, 18 were collapsed into 9 more general categories because specific clinical information essential for the assignment of Medicare cases to these DRGs was not available in HCFA's file of Medicare discharge records (see the discussion of the MEDPAR file in section 4(i)). Of the remaining 458 DRGs, we eliminated 38 because they contained no Medicare cases, and an additional 64 because they contained so few cases that cost weights for them would be statistically unreliable. This process resulted in 356 Medicare DRGs, which we used to construct the Medicare case-mix indexes.

4. *Data.* Hospitals participating in Medicare submit cost and utilization information to the Medicare intermediaries in several forms. In developing the Medicare case mix index, we used the following types of data.

(i) *MEDPAR File.* Although hospitals are not paid accumulated charges for each Medicare discharge, they are required to submit a detailed bill for services furnished to each Medicare inpatient. The billing form is the HCFA–1453, Inpatient Hospital and Skilled Nursing Facility Admission and Billing Form. For each beneficiary whose HI claim number ends in the digits "0" or "5" (i.e., 20 percent of all patients) the hospital also submits a narrative description of the patient's diagnosis at discharge, and surgical procedures performed, if any, along with the charges for ancillary services (e.g., radiology, laboratory, operating room, etc.). The information from these bills is recorded on electromagnetic tape, and transmitted to HCFA's central office in Baltimore.

In HCFA, the narrative diagnoses and procedures are coded using the ICD–9–CM system. The coded clinical information and billed charge data are maintained in a statistical file called MEDPAR (MP). For 1980, this file contains approximately 2 million sample patient cases.

(ii) *Cost Reports.* After the end of each cost reporting period, each hospital must complete and submit to its fiscal intermediary a Medicare cost report. The intermediary uses this report, which contains auditable financial data, to calculate the total amount Medicare will pay for services the hospital furnished Medicare patients during the reporting period. On specific schedules of the report, the hospital reports data on Medicare inpatient general routine service per diem costs, Medicare speciall care per diem costs, and on the ratio of cost to charges for each ancillary service department. Cost reports available as of May 1, 1981 were used to construct the case-mix indexes.

5. *Construction of the cost weights.* a. *Computation of adjusted cost for each case.* Given these data and the existence of 356 Medicare DRGs, a cost weight for each DRG can be calculated. Each weight reflects the average cost, across all hospitals, of treating cases classified in that DRG. In establishing these weights, we used data from the MEDPAR file (MP), and from the Medicare cost reports (MCR). The source of the data items used to construct the weights is given in parentheses for each steps of the calculation.

To derive DRG weights, we first calculated an adjusted cost for each case by: (1) Multiplying the number of days the patient spent in a regular room (MP) by the hospital's routine cost per day (MCR); (2) Multipying the number of days the patient spent in a special care unit (MP) by the hospital's special care unit cost per day (MCR); and (3) Multiplying the ancillary charges (MP) by the relevant departmental ancillary cost to charge ratios (MCR) to eliminate the gross effects of cross subsidization between hospital service departments. All hospital routine and special care per diem costs were standardized to July 1, 1980, to coincide with the mid-point of the period represented in the MEDPAR file (i.e. calendar year 1980 records) Example 1 depicts the calculation of the adjusted cost per case for a patient who spent 10 days in a hospital in New York City. Two of the 10 days were spent in a special care unit. During the stay, the patient incurred charges for radiology, laboratory and pharmacy services.

Example 1.—Calculation of Adjusted Cost Per Case for Cases Classified Within a DRG.

Routine Care Cost Per Diem (MCR)		Routine Care Days (MP)		Routine Care Cost
$150	×	8	=	$1,200

Special Care Cost Per Diem (MCR)		Special Care Days (MP)		Special Care Cost
$200	×	2	=	$400

Ancillary department	Cost-to-charge ratio (MCR)		Ancillary charges (MP)		Ancillary cost
Radiology	.80	×	$55	=	$44
Laboratory	1.20		175		210
Pharmacy	.85		80		68
Total					322

NOTE: Adjusted Cost Per Case $1200+$400+$322=$1922.

b. *Standardization of adjusted cost per case for variation due to teaching activity and hospital wage levels.* The next step was to standardize each adjusted cost per case for the effects of variations in the level of hospital specific teaching activity and area-specific hospital wage levels, so that the cost values would be comparable across hospitals. The method for standardizing adjusted costs per case for differences in teaching activity is as follows. First, for each hospital with an approved internship and residency program, we determine the ratio of full-time equivalent (FTE) Interns and residents per bed. We compute this ratio for each hospital from data contained on Medicare institutional certification surveys where available, and from data submitted directly by the intermediary. We then multiply the FTE intern and resident to bed ratio by 6.06 percent, the education cost adjustment factor, and add the product to 1.0. This results in a teaching activity adjustment factor, which we then use to divide the hospital's adjusted cost per case. The result of this division is a cost value for each case adjusted for hospital differences in teaching activity.

Next, we divided each hospital's adjusted cost per case into labor related and non-labor components. The labor related component was derived from the market basket and represents a fixed share (80.77 percent) of cost per case. This share represents the sum of the

1980 market basket relative importance weights for wages and salaries, employee benefits, professional fees, business services, and miscellaneous expenses (see Appendix I). The labor related component of adjusted cost per case was then divided by the hospital's applicable wage index from Tables III.A and III.B. This result was added to the non-labor proportion of adjusted cost per case to yield a revised cost per case that is standardized for hospital differences in teaching activity and area wage levels. The resulting adjusted cost values for the cases from each hospital represent estimates of the treatment costs that would prevail if the hospital had no teaching programs, and paid the prevailing national average wage rates. The calculation of this standardized cost per case is shown in Example 2.

Examples 2

Calculation of Standardized Cost Per Case

Adjusted cost per case = $1922.

Hospital intern and resident to bed ratio (based on 686 bed facility with 77 FTE interns and residents)

(77 + 686) ~ .1 = 1.1224

Education adjustment factor = .0606

Adjusted cost per case, standardized for differences in teaching activity.

$1922 ÷ [1.0+(1.1224) (.0606)] = $1799.60

Labor-related portion of adjusted cost per case, standardized for differences in teaching activity.

$1799.60 × .8077 = $1453.54

Non-labor portion of adjusted cost per case, standardized for differences in teaching activity.

$1799.60 − $1453.54 = $346.06

Adjusted cost per case, standardized for area wage differences.

$1453.54 + 1.3979 (New York SMSA) + $346.06 = $1385.86

Outliners, i.e., all cases in each DRG for which the standardized cost values were outside three standard deviations from the geometric mean of the values for the DRG, were eliminated. The weight for each of the 356 DRGs was calculated by summing the standardized adjusted costs for all cases in the DRG and dividing that amount by the number of cases classified in the DRG.

6. *Calculation of case-mix index.* To calculate each hospital's individual Medicare case-mix index, we multiplied the proportion of the hospital's Medicare cases in each DRG by the standardized cost weight for the DRG. We then summed these products to obtain an expected cost per case for each hospital. We then summed the expected per case costs for all hospitals, and divided the result by the total number of hospitals included in our data base. This produced an expected average cost per case for all hospitals. Finally, for each hospital, we divided the expected cost per case for that hospital by the average expected cost per case for all hospitals. The result of this division is the individual hospital's Medicare case-mix index. Appendix II lists the case-mix indexes for all hospitals in our data base.

Example 3 illustrates the calculation of the Medicare case-mix index.

EXAMPLE 3.—Calculation of Medicare Case-Mix Index: Proportion of Medicare Discharges by DRG (Percent)[1]

Hospital	DRG 1	DRG 2	DRG 3	DRG 4	DRG 5	Total (percent)	DRG weighted expected cost per case[2]	Case-mix index[3]
A	2.5	27.3	10.5	41.5	18.2	100	$1,660.40	.8900
B	21.0	3	30.1	2.0	46.0	100	2,401.30	1.2872
C	40.8	5.0	2.3	47.2	4.9	100	1,346.30	.7227
D	5.1	18.4	62.5	10.0	4.0	100	2,990.70	1.6031
E	30.4	65.0	1.0	1.6	2.0	100	826.00	.4990
Average proportion for all hospitals	19.92	23.32	21.26	20.46	15.02	100	1,865.54	
DRG cost weight	$1,000	$800	$4,100	$1,500	$2,000			

[1] Adjusted to make these 5 DRGs hypothetically represent all 356 Medicare DRG's
[2] For hospital A, Calculated as follows: .025 (1000)+.273 (800)+.105 (4100)+.415 (1500)+.182 (2000)=$1660.40
[3] For hospital A, calculated as $1660.40 divided by $1865.54=.8900

B. Application of the Case-Mix Index

Using the actuarial and market basket rates of inflation cited in section II J, we adjusted each hospital's average cost per Medicare discharge to April 1, 1983, the midpoint of the first cost reporting period to which the limits apply. We then divided each hospital's cost per Medicare discharge by the Medicare case-mix index for that hospital. The effect of this calculation is to eliminate cost differences due to differences in case mix. We then applied the education cost and wage index adjustments, calculated the mean labor-related component and mean non-labor component of cost per discharge for each hospital classificatioin group, and established limit components set at 120 percent of each mean (see steps 1 through 6 of section VII A, "Development of Published Limits").

In calculating each hospital's individual limit, the intermediary will multiply the hospital's labor-adjusted limit (i.e. the sum of (1) the product of the labor-related component and the wage index and (2) the non-labor component) by the case-mix index for that hospital, in order to calculate the hospital's case-mix adjusted limit. The intemediary will then apply the education cost adjustment, if applicable, and the cost reporting year adjustment, if applicable, to calculate the per-discharge limit for the particular hospital. A step-by-step explanation of the calculation of each individual hospital's limit is contained in section VII B.

C. Further Information Regarding Case-Mix Index

A detailed technical explanation of the development of the Medicare case-mix index is available on request. Requests for a copy of this explanation should be sent to: Marilyn Koch, Health Care Financing Administration, Room 192 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207.

IV. Alternates To Use of Published Case Mix Index

A. Use of Greater of Actual Case-Mix Index or Group Average Case-Mix Index

As explained in section III, we calculated each hospital's case-mix index based on data from three sources. These include Medicare billing data from the MEDPAR file, which represents a 20 percent sample of all Medicare hospital bills submitted for calendar year 1980, our discharge bill file for calendar year 1980, and the most recent Medicare cost reports available as of May 1, 1981. Although the data in these records generally are complete and accurate, the number of sample bills submitted by some hospitals that otherwise would be subject to the limits is insufficient to enable us to calculate statistically reliable Medicare case-mix indexes for them. Therefore, we did not have sufficient information to calculate statistically reliable case-mix indexes for all hospitals subject to the new limits.

We believe the limits can be applied to these hospitals without disadvantage to them by using the higher of the hospital's actual case-mix index

calculated from the available information or the average case-mix index for the hospital's classification group. (See Section VII B.3., Adjustment by Case-Mix Index). Therefore, we have adopted this approach in setting limits for these hospitals. Case mix indexes that do not meet our required statistical precision criteria are asterisked in Appendix II. Table IV contains the average case mix index for each hospital classification group. To determine the cost per discharge limit for those providers with statistically questionable case mix indexes, the fiscal intermediaries will use the higher of the index in Table IV, corresponding to the hospital's classification group, or the hospital's actual index in Appendix II. Where the hospital is not included in Appendix II, the intermediary will use the average index value for the hospital's group, as shown in Table IV.

B. Calculation of Case-Mix Index Based on Total Medicare Discharges

We believe the data from the MEDPAR file provide a reasonably accurate representation of the clinical mix of Medicare discharges for most hospitals.

While we are confident of the accuracy of the case-mix indexes for hospitals as a whole, we realize that inaccuracies could exist in some cases. Because data deficiencies could lead to inaccurate case-mix index values for some hospitals, we believe it is appropriate to offer hospitals, for a limited time, the opportunity to submit corrected discharge data and to have their case-mix index values recalculated based on the corrected data. To obtain a recalculation of its case mix index, a hospital would have to submit to HCFA a record of all its Medicare discharges for the calendar year for which we obtained the MEDPAR sample used to establish the limits. For the limits effective October 1, 1982 the year involved is 1980. These discharge records would have to be coded using ICD–9–CM codes, and would have to be available on magnetic tape in a manner that would facilitate their processing.

When we receive the revised data submitted by the hospital according to HCFA specifications, we will recalculate the hospital's case mix index based on these data. We will then use the recalculated index, rather than the index based on the MEDPAR sample, to calculate the hospital's limit. We wish to note that since the recalculated index will presumably be more accurate than the published index, we plan to use the recalculated index even in those cases in which it will result in a lower limit for the hospital. The national DRG cost weights applicable in the original calculation will, however, be retained in deriving the recalculated case mix index.

We will permit hospitals to request this recalculation only for cost reporting periods beginning within the first 12 months following the effective date of the new limits. To obtain a recalculation, a hospital will be required to file its request within 180 days after the end of the hospital's first cost reporting period for which the new limits are effective. This period should be long enough to permit hospitals to improve the accuracy of their discharge data. We expect that, in later periods, hospitals will be able to assure that their discharge date are accurate before these data are submitted.

Our requirement that data be submitted on magnetic tape using ICD–9–CM coding is needed to enable us to act on recalculation requests in a timely and efficient manner. As a practical matter, we could not deal with these requests efficiently unless the revised discharge information could be processed electronically.

C. Recalculation of Limit to Reflect Changes in Case Mix

The Medicare case-mix index is intended to recognize the relative costliness of a hospital's case-mix compared to a standard reflecting the average case mix for all hospitals. The pattern of distribution of cases among hospitals tends to be similar from year to year. That is, hospitals that have large volumes of complicated cases in one period also tend to have large volumes of complicated cases in other periods. Likewise, hospitals that treat relatively simple cases in one period tend to repeat that experience in other periods. This reflects the evolution of a system in which highly sophisticated services are concentrated in certain facilities to which patients can be referred for specialized treatment.

Since hospitals tend to treat similar types of patients from one period to the next, we believe the case-mix index can be applied prospectively. However, we understand that events can occur that will abruptly and significantly alter the case mix of an individual hosptial. For example, the addition of an entirely new service e.g. a regional trauma center, could quickly change a hospital's case mix. Similarly, the merger of two facilities with different levels of specialization could result in a case mix for the surviving entity that is different from that of either facility. If a significant and abrupt change in case mix is the direct result of an identifiable event occurring between the base year used in developing the case-mix index and the year to which the limit will apply, we believe it is appropriate to recognize the effect of the change. Therefore, we are amending the Medicare regulations at 42 CFR 405.460 to provide an exception that would allow the Medicare case-mix index to be recomputed based on actual case mix in the year of application of the limit, if the hospital can show that the change in case mix is the result of a specific change in organization, range of services, medical specialty, or another particular and identifiable event. The interim final rule that makes this change is published elsewhere in this issue of the **Federal Register.**

V. Impact Analysis

A. Executive Order 12291

Section 1(b) of Executive Order 12291 states that a major rule is one that will:

(1) Have an annual effect on the economy of $100 million or more;

(2) Result in a major increase in costs or prices for consumers, individual industries, or government agencies, or geographic regions; or

(3) Have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

We estimate that for fiscal year 1983, implementation of these new limits will result in additional net savings of $75 million over the estimated savings of $333 million we would realize under the current routine cost limits. For fiscal year 1984, we estimate that the new limits will result in net savings of $405 million in addition to the $376 million savings we would realize under the routine limits. For fiscal year 1985, we are estimating additional net savings of $1.03 billion over the $426 million in savings that would occur under the routine limits. Also, we expect that there will be substantial additional savings as a result of implementation of the rate of increase ceiling required by section 1886(b) of the Social Security Act. These savings are described in the preamble to the interim final rule (published elsewhere in this issue of the **Federal Register**) that implements that provision.

Although we believe these new limits will have an annual effect on the economy that approaches the threshold specified in the Executive Order, we have determined this impact will be caused by section 101(a) of Pub. L. ——, which requires imposition of the limits, rather than by this notice, which merely implements the statutory provisions. We

have made this determination because the major features of the new limits are specified in the statute, and we do not have administrative discretion to develop alternatives to them. While the statute does allow the Secretary administrative discretion with respect to certain features of the new limits (e.g., the exclusion, for reasons related to the availability of discharge data, of children's and long-term care hospitals), these discretionary features will not have an impact of $100 million or more, or meet the other threshold criteria of the Order. Therefore, a regulatory impact analysis is not required.

While Executive Order 12291 does not require us to perform a regulatory impact analysis, the application of total cost limits represents a significant advance over the routine cost limits, and can be expected to have a major effect on hospital operations. Therefore, we are providing the following discussion of the expected effects of the new limits. This discussion, and the preamble as a whole, constitute a regulatory impact analysis.

As noted earlier in this preamble, the hospital cost limits in the past have been restricted to general routine costs for a number of reasons. Chief among these reasons was the fact that routine services (composed mainly of bed, board, and routine nursing services) tend to be similar among institutions, thereby allowing for comparison among institutions of the cost of these services. However, cost of ancillary services tends to vary significantly among institutions depending on the types of patients treated. Until recently, there was no suitable methodology available by which we could explicitly take differences in hospital case mix into account when establishing cost limits.

The development of the Diagnosis Related Group (DRG) case classification system referred to in this notice now permits us to compute an adjustment for each hospital that makes reasonable allowance for the resource implications of the type and mix of cases treated by the institution. Application of the case mix index, wage index, and teaching adjustments to each hospital's cost per discharge permits greater standardization of each hospital's costs, thus permitting the derivation of limits which act as improved measures of hospital efficiency.

We also expect the total cost limits presented in this notice will be an improvement on the current system of per diem reimbursement. Generally, the marginal cost of caring for a patient declines the longer that patient stays in the hospital. This is because patients generally require the closest observation during the first few days of a hospital stay. This means that a hospital can reduce its average per diem costs by increasing the average length of stay of its inpatients, even though in this way it may be increasing its overall costs. By thus reducing its per diem costs, the hospital may appear efficient with respect to the per diem limits, even though it is actually operating in an inefficient manner.

The new cost limits will alleviate this problem because they are computed and applied on a per discharge basis. A hospital's aggregate limit will be computed by multiplying its per case limit by the number of its discharges. Each discharge will have an equal weight in this calculation (differences due to the hospital's case mix having already been accounted for through application of the individual hospital's case-mix index). The incentive under the total cost limits system will be for hospitals to keep patients only so long as is medically necessary. In this sense, the total cost limits will act as a check on hospital utilization.

In addition to methodological advances which now allow the computation of total hospital cost limits, we anticipate that the new limits, by encouraging efficiency in hospital behavior, will help to slow the rapid rise in hospital costs, particularly with regard to ancillary services.

The costs of ancillary services and special care services have been rising at a more rapid rate than the costs of general routine services. In part, this may be attributable to the deterrent effect which the cost limits have had in the general routine area. In addition to actual disallowances under the general routine limits, we believe hospitals may have altered their practices in anticipation of disallowances, so as to avoid those disallowances. Consequently, the rise in the cost of those services subject to the routine limits has been less than the rise in the cost of those services not subject to limitation in the past. We would expect that cost limits which encompass ancillary and special care services, as well as general routine services, would promote efficient behavior on the part of hospitals across the entire spectrum of inpatient services.

We believe that any actions the Federal Government takes with respect to bringing about efficient economic behavior in hospitals should create incentives for such behavior, but should interfere as little as possible in the actual methods used to achieve economic efficiency. We believe the total cost limits set forth in this notice meet these requirements. While we are setting an upper limit on Medicare payment for total hospital inpatient operating costs, we are not prescribing the methods hospitals must emloy to ahieve the necessary economies. Rather, a hospital will be free to experiment with any number of cost saving methods and measures, and to choose the ones most appropriate for its individual situation. This reliance on individual hospital initiative should encourage competition among hospitals and a reduction in the rate of increase in hospital costs, while ensuring that Medicare beneficiaries continue to have access to needed hospital services.

We also realize that there may be cases where hospitals, even though they exceed the limits, are operating efficiently. To equitably provide relief in these situations, thereby insuring that these facilities are reimbursed the reasonable costs of their services in accordance with the law, there are a number of exemptions and exceptions available.

For further information on exceptions and exemptions, see the final regulations implementing section 1886 of the Social Security Act that are published elsewhere in this issue of the Federal Register.

B. Regulatory Flexibility Act

The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this final notice will not in itself result in a significant impact on a substantial number of small entities. Under the Regulatory Flexibility Act, the great majority of hospitals (e.g., all non-profit hospitals, regardless of size) are "small entities." The potential impact of this notice will fall on about 20 percent of the hospitals affected by the limits on inpatient operating costs, with an average potential Medicare reimbursement reduction of about 2 percent. However, any adverse consequences of this impact can be avoided through the cost containment efforts we expect hospitals will make. Accordingly, we do believe that a substantial number will actually experience a significant impact. In any event, any impact will be the result of the statutory provisions (section 101(a) of Pub. L. 97–248), and not of the regulations that implement these provisions. Therefore, a regulatory flexibility analysis is not required.

Although a regulatory flexibility analysis is not required, we are aware that some hospitals may be concerned about the impact of these limits. For the benefit of these hospitals, and to forestall any unnecessary concern

regarding the effect of the limits, we are providing the following analysis which, together with this preamble taken as whole, constitutes the regulatory flexibility analysis.

Under section 1861(v) of the Social Security Act, the Secretary may pay no more than the reasonable cost of covered services furnished to Medicare beneficiaries. This requirement applies to services furnished by all Medicare participating hospitals regardless of size. Both section 1861(v) and section 1886(a) of the Social Security Act require the Secretary to set limits on the costs that will be recognized as reasonable. In computing these limits, we rely on actual costs facilities have incurred. However, we realize that it may be inequitable to compare the costs of facilities for purposes of computing limits without taking into account the size of those facilities. Therefore, since the inception of the cost limits, we have classified hospitals by bed size, that is, by number of beds, (as well as geographic location) and only compared a hospital's costs with the costs of other hospitals in the same bed size groping. The limits contained in this notice are based on the same bed size classifications we have used in previous schedules of limits. In this manner, we have in large measure recognized that small hospitals should be treated similarly as a group and that their costs should not be compared with the costs of large institutions when developing limits.

To the extent that the reasonable cost requirements of the Medicare law apply to all participating hospitals, the considerations discussed above in the Executive Order analysis apply to small hospitals. However, we would particularly like to stress the fact that the limits contained in this notice represent an upper ceiling on the amount the Medicare program will pay for inpatient hospital services. We do not specify or require any particular methods or courses of action which hospitals must employ to avoid exceeding the limits. How to achieve the necessary economies is left up to each indivdual hospital. We recognize that the methods which individual hospitals employ will be dependent upon many factors, and that what works well for a large, teaching hospital may not be appropriate for a small community hospital. Therefore, we believe it is important that each hospital retain the flexibility to structure its own operations in such a way as to achieve the necessary efficiencies consistent with the continued provision of needed health services to Medicare beneficiaries.

We have compared the impact of the proposed limits contained in this notice on small hospitals (defined as those having less than 100 beds) with the impact of the limits on all providers. Our data indicate that the limits on this notice will impact 20.5 percent of all hospitals subject to the limits. Our data further indicate that 25.5 percent of urban hospitals with less than 100 beds will be impacted, and 21.4 percent of rural hospitals with less than 100 beds will be impacted. (This does not include rural hospitals with less than 50 beds on September 3, 1982, the date of enactment of Pub. L. 97-248. These hospitals are specifically exempted by the statute from the new limits.)

The following tables show our estimate of the impact these limits will have by cell grouping as well as by geographic regions.

TABLE A

Group	Percent impacted
Urban:	
Less than 100	25.5
100-404	20.2
404-594	18.1
595 and above	22.0
Rural:	
Less than 100	21.4
100-169	17.0
170 and above	14.7

TABLE B

Region	Percent impacted
New England	26.2
Middle Atlantic	17.1
East North Central	26.2
West North Central	22.2
South Atlantic	14.5
East South Central	11.2
West South Central	14.5
Mountain	22.5
Pacific	31.9

Waiver of Public Comment Period and of 30-Day Delay in Effective Date

As noted earlier in this preamble, the legislation that requires us to issue the new limits specifies the major features of the limits methodology, and allows us very limited administrative discretion in determining how the new limits will be developed and applied. In view of the specificity of this legislation, we believe that publication of the new limits for public comments before their implementation is unnecessary, and would not contribute to the clarification of any issues.

Moreover, section 101 of Pub. L. 97-248 specifies that the new limits are to be effective for hospital cost reporting periods beginning on or after October 1, 1982. To have these limits in place as close as possible to the effective date specified in the law, we must publish this notice as soon as possible. The Congress itself took note of this in section 101(b)(2)(A) by instructing the Secretary to issue final regulations, whether on an interim or other basis, before October 1, 1982, the effective date of the law. In our view, the statutory language is sufficiently clear to support implementation of the new limits effective October 1, 1982. Therefore, in consideration of the need to implement these limits promptly, we believe delaying their implementation by even the minimum amount of time usually allowed for public comment (30 days) would be impractical.

In addition, to the extent that Federal spending will be reduced by timely implementation of the limits on inpatient operating costs, we believe that any delay in implementation due to the publication of proposed rulemaking would be contrary to the public interest.

Therefore, we find good cause to waive a prior public comment period, and to issue this notice in final form. For the same reasons, and in light of the statutory requirement that these limits be effective for hospital cost reporting periods beginning on or after October 1, 1982, we find good cause to waive the usual 30-day delay in effective date. We will, however, consider any comments on this notice that are received by the date specified above in the "DATES" section and make any further changes that may be necessary.

VI. Other Required Information

A. Public Comments

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, we will consider any comments on this notice that are received by the date specified in the "DATES" section. If as a result of public comments we conclude that changes in this interim final notice are needed, we will include these changes in the final notice described in item B below.

B. Publication of Final Notice

Section 101(b)(1) of Pub. L. 97-248 specifically requires the Secretary of HHS to first issue such final regulations (whether on an interim or other basis) before October 1, 1982, as may be needed to implement sections 1886(a) and (b) of the Social Security Act on a timely basis. This legislation further requires that if these regulations are promulgated on an interim final basis, the Secretary shall provide an

opportunity for public comment, and for appropriate revision of these regulations, so that they are not on an interim basis later than March 31, 1983.

To comply with these requirements, we are published this notice on an interim final basis. As required by the law, we will consider all public comments we receive, determine whether changes in this interim final notice are needed, and publish a final notice implementing section 1886(a) by March 31, 1983.

VII. Methodology for Determining Per Discharge Inpatient Operating Cost Limits

A. Development of Published Limits

1. *Data.* We developed the limits by using actual hospital inpatient operating costs per Medicare discharge that we obtained from the latest Medicare cost reports available as of May 1, 1981. In developing the group limits, we excluded data from long-term care hospitals, children's hospitals, and rural hospitals with fewer than 50 beds. From the remaining cost reports, we excluded capital-related costs and the direct costs of the interns and residents (in approved programs) and nursing school cost centers. We then adjusted the per discharge cost data for inflation, using the annual rates cited in section II J, by projecting these data from the cost reporting periods used in the data collection to April 1, 1983, the midpoint of the first cost reporting period to which the limits apply.

2. *Use of Case-Mix Index to Adjust Cost Data.* We divided each hospital's Medicare inpatient operating cost per discharge by the case-mix index for the hospital to obtain a case-mix adjusted inpatient operating cost per Medicare discharge.

Example: After adjustment for inflation, the average cost per discharge of a 686-bed hospital in Queens County, New York, is $2000.00. The hospital's Medicare case-mix index is 1.2150.

$2000.00÷1.2150=$1646.09, which is the hospital's case-mix adjusted inpatient operating cost per discharge.

3. *Adjustment for Education Costs.* After adjusting each hospital's inpatient operating cost per discharge for inflation and case-mix complexity, we divided each cost by 1.0 plus the product of the education adjustment factor (6.06 percent) and the individual hospital's adjusted intern-and-resident to bed ratio. We determined that adjusted ratio by dividing the number of FTE interns and residents for the cost reporting period to which the average cost per discharge applies by the hospital's bed size determined at the beginning of that period to obtain the hospital's intern-and-resident to bed ratio, and dividing that ratio by .1.

Example: After adjustment for inflation and case-mix complexity, the per discharge inpatient operating cost of a 686-bed hospital in Queens County, New York, is $1646.09. The hospital employed 77 FTE interns and residents in approved teaching programs.

The per case cost is adjusted for education costs as follows:

77÷686=.11224, which is the intern-and-resident to bed ratio for this hospital.

.1122÷.1=1.12240—Adjusted Ratio

$16464.09÷[1+(.0606×1.1224)]=$1541.26, Education-adjusted cost per discharge.

This adjusted per discharge cost is divided into labor-related and non-labor components. The labor-related component is adjusted by the wage index and the two components are used to calculate the group means (see steps 4, 5 and 6 below).

4. *Use of Wage Index to Adjust Cost Data.* We divided each hospital's case-mix and education adjusted inpatient operating cost per discharge into labor-related and non-labor portions. To determine the labor-related portion of cost, we multiplied each hospital's adjusted per discharge operating cost by 80.77 percent, which is the labor-related portion of cost from the market basket. We then divided the labor-related portion of each hospital's per discharge cost by the wage index applicable to the hospital's area (see Tables IIIA and IIIB) to arrive at an adjusted labor-related portion of inpatient operating cost per discharge:

$1541.26×.8077=$1244.88, Labor related portion of cost per discharge

$1541.26−$1244.88=$296.38, Non-labor related portion of cost per discharge

$1244.88÷1.3979=$890.54, Adjusted labor-related portion of cost per discharge

5. *Group Means.* We calculated separate means of labor-related and non-labor inpatient operating costs per discharge for each group established in accordance with the hospitals' urban/rural location and bed size.

6. *Components of Limit.* For each group, we multiplied the mean labor-related and mean non-labor costs by 120 percent (see Tables I and II).

B. Calculation of Individual Hospital Limit

1. *Cost-of-Living Adjustment (Alaska, Hawaii and Puerto Rico Hospitals Only).* If a hospital is located in Alaska, Hawaii, or Puerto Rico, the hospital's intermediary will multiply the non-labor component for the hospital's group (see Tables I and II) by the appropriate cost-of-living adjustment factor from the following list. The intermediary will use the adjusted non-labor component in computing the hospital's limit.

Location	Cost-of-living adjustment factor
Alaska:	
Anchorage	1.225
All others	1.250
Hawaii:	
Oahu	1.175
Kauai	1.175
Molokai	1.175
Maui and Lanai	1.175
Hawaii	1.180
Puerto Rico	1.075

Example—Calculation of Cost-of-Living Adjusted Non-Labor Component for a 400-bed Hospital Located in Anchorage, Alaska.

Non-Labor Component $731.05 (Published in Table I.) Adjustment Factor for Anchorage, Alaska = 1.225; $731.05 x 1.225 = $895.54 Cost-of-Living Adjusted Non-Labor Component.

3. *Adjustment of Labor Related Component by Wage Index.* To arrive at a labor-adjusted limit for each hospital, the hospital's Medicare intermediary will multiply the labor-related component for the hospital's group by the wage index developed from the wage levels for hospital workers in the area in which the hospital is located (see Tables IIIA and IIIB). The individual limit for any hospital will be the sum of the non-labor component, plus the wage adjusted labor-related component.

Example—Calculation of labor-adjusted Limit for a 686-bed Hospital Located in Queens County, New York.

Non-Labor Component—$881.65(published in Table I).

Labor-related Component—$3199.78(published in Table I).

New York, NY–NJ SMSA Wage Index—1.3979(published in Table IIIA).

Computation of Adjusted Limit

$3199.78 × 1.3979 (wage index) = $4472.97—Adjusted Labor Component

$4472.97 (Adjusted Labor component) + $881.65 (Non-Labor Component) = $5354.62 Labor-adjusted limit.

3. *Adjustment By Case-Mix Index.* To adjust each hospital's limit for case-mix complexity, the Medicare intermediary will multiply the hospital's labor-adjusted limit from step 2 by the assigned case-mix index for the particular hospital (see Appendix II). For hospitals for which a statistically valid case mix index could not be calculated (identified by an asterisk in the list of case-mix indexes) the intermediary will

use the higher of the calculated index value or the average index value for the hospital's group, shown in Table IV. Where a hospital is not included in Appendix III, the intermediary will use the average index value for the hospital's group shown in Table IV.

Example: A 686-bed hospital in Queens County, New York has a labor-adjusted limit of $5354.62. The case-mix index for the hospital is 1.1500.

Labor-adjusted limit $5354.62 × case-mix index 1.1500 = $6157.81, which is the hospital's case-mix adjusted limit.

4. *Education Cost Adjustment.* If a hospital has a graduate medical education program approved under 42 CFR 405.421, the Medicare intermediary will increase the hospital's limit by 6.06 percent for each .1 increase (above zero) in the hospital's ratio of full-time equivalent (FTE) interns and residents (in approved programs) to its bed size. The number of full-time equivalent interns and residents is the sum of:

1. Interns and residents employed for 35 hours or more per week, and

2. One half of the total number of interns and residents working less than 35 hours per week (regardless of the number of hours worked).

For purposes of this adjustment, a hospital will be allowed to count only interns and residents in teaching programs approved under 42 CFR 405.421 who are employed at the hospital. Interns and residents in unapproved programs and those who are on the hospital's payroll but furnish services at another site will not be taken into account in making this adjustment. In determining the amount of the prospective adjustment, the fiscal intermediary will use the number of interns and residents employed on the September 30 immediately preceding the first cost reporting period subject to the new limits. In those instances where this figure is unavailble, the intermediary will use the number of interns and residents for the September 30 of the latest available cost reporting period. The hospital will report to its intermediary, 45 days before the start of each cost reporting period, the number of FTE interns and residents it employed on September 30, immediately preceding the date on which this report is due. The intermediary will calculate the amount of the education cost adjustment based on that report, and will adjust the hospital's limit retroactively at final settlement if, for a cost reporting year, a hospital actually employed more or fewer FTE interns and residents on September 30 of that period than the number it reported.

Example—A 686-bed hospital in Queens County, New York has an adjusted limit of $6157.81 for the cost reporting period beginning October 1, 1982. The hospital employed 77 FTE interns and residents in approved teaching programs on September 30, 1981, the latest reporting period for which the number of interns and residents is available.

77 ÷ 686 = .11224 Ratio of FTE interns and residents to beds

Ratio .1122 ÷ .1 = 1.1224 Adjusted ratio

The Education Adjustment Factor is .0606.

Case-mix adjusted limit $6157.81 × [1 + .0606 (education adjustment factor) × 1.1224] (adjusted ratio) = $6157.81 × [1.06802] = $6576.66 Education—adjusted limit.

If the number of FTE interns and residents the hospital employs on September 30, 1983, is more or less than 77, the intermediary will adjust the hospital's limit at the time of final settlement of the hospital's cost report.

If a hospital does not have a graduate medical education program approved under 42 CFR 405.421, the education adjustment will not apply.

5. *Adjustment for Cost Reporting Year.* If a hospital has a cost reporting period beginning on or after November 1, 1982, the intermediary will increase the limit that would otherwise apply to the hospital by the factor from Table V that corresponds to the month and year in which the cost reporting period begins. Each factor represents the monthly increase that we derived by dividing the projected annual percentage increase in the market basket index plus one percentage point by twelve. This adjustment is needed to account for price increases that occur after the date on which the limits are effective.

Example—A 686-bed hospital in Queens County, New York has a cost reporting period that begins January 1, 1983.

The otherwise applicable cost per discharge limit for the hospital is $5000.00.

Computation of Revised Hospital Limit

Individual Hospital Adjusted Limit—$5000.00

Adjustment factor from Table V—1.01975

Adjustment Limit $5000.00 × Adjustment factor 1.01975

Revised limit $5098.75

If a hospital uses a cost reporting period that is not 12 months in duration, a special calculation of the adjustment factor must be made. This results from the fact that projections are computed to the end of a cost reporting period and the adjustment factors in Table V are based on an assumed 12 month reporting period. For cost reporting periods other than 12 months, the calculation must be done specifically for the midpoint of the cost reporting period. The hospital's intermediary will obtain this adjustment factor from HCFA.

6. *Implementation of Hold Harmless Provisions.* The proper implementation of the "hold harmless" provision in section 1886(a)(1)(C) of the Social Security Act will require the fiscal intermediaries to calculate the base period inpatient operating cost per discharge for all hospitals subject to the new limits. Base period inpatient operating costs must exclude, to the extent feasible, capital, medical education, and malpractice insurance costs. The following examples illustrate the operation of the hold harmless provision:

Example 1

Hospital A's total Medicare reimbursement for allowable inpatient operating costs (excluding capital medical education, and malpractice insurance costs) for the fiscal year October 1, 1981 through September 30, 1982 was $5,000,000. During this period, Hospital A had 5000 Medicare discharges for an average inpatient operating cost per discharge of $1000. For the reporting period October 1, 1982 through September 30, 1983, Hospital A incurred Medicare inpatient operating costs of $6,000,000 and had 5300 Medicare discharges. A's Medicare reimbursement for inpatient operating costs for the period October 1, 1982 through September 30, 1983 cannot be less than 5300 × $1,000 or $5,300,000.

Example 2

Hospital B's total Medicare reimbursement for inpatient operating costs for the period October 1, 1981 through September 30, 1982 was $4,000,000. During this period, B had 2,000 Medicare discharges for an average cost per discharge of $2,000. Effective January 1, 1983, B changed ownership, but does not qualify for a new hospital exemption. For the short cost reporting period October 1, 1982 through December 31, 1982, B's Medicare inpatient operating costs were $1,200,000. Based on 550 Medicare discharges, B's reimbursement for allowable inpatient operating costs cannot be less than 550 x $2,000 or $1,160,000. Because B does not qualify as a new provider 1/1/83, the hospital is considered to be delivering the same services to the same population both before and after the change of ownership. For the short period 1/1/83

through 9/30/83, B's Medicare inpatient operating costs were $3,190,000 based on 1450 Medicare discharge costs cannot be less than 1450 x $2,000 or $2,900,000.

Example 3

Some as example 2 except that effective 1/1/83, B changed ownership and qualified for a new hospital exemption because of a complete change in service i.e., B limits its practice to orthopedic surgery with no general medical surgical practice. For the short cost reporting period October 1, 1982 through December 31, 1982, B's reimbursement is identical to that in Example 2. For the short period 1/1/83 through 9/30/83, B may be exempt from the limits as a new hospital.

HCFA will issue instructions providing a more detailed explanation of the calculations of base period inpatient operating costs to be used for the hold harmless provision, including the treatment of other than 12 month cost reporting periods. While it will be necessary for the intermediary to reduce interim payments to providers who are expected to exceed the cost limits, it should not be necessary to reduce interim payments below the prior year's amount.

C. Schedule of Limits

Under the authority of sections 1861(v) and 1886(a) of the Social Security Act, the following per discharge limits, will apply to hospital inpatient operating costs for cost reporting periods beginning on or after October 1, 1982. Medicare fiscal intermediaries will compute the adjusted limits using the methodology set forth in this notice and notify each hospital of its applicable limit.

TABLE I.—HOSPITALS LOCATED IN SMSA/NECMA [1]

Bed size	Labor-related component	Nonlabor component
Less than 100	$2,394.70	$616.48
100 to 404	2,778.13	731.05
405 to 684	2,997.76	788.57
685 and above	3,199.78	881.65

[1] Nonlabor components for hospitals located in Alaska, Hawaii, and Puerto Rico will be increased by multiplying them by the following cost-of-living adjustment factors:

Location	Adjustment factor
Alaska:	
Anchorage	1.225
All others	1.250
Hawaii:	
Oahu	1.175
Kauai	1.175
Molokai	1.175
Maui and Lanai	1.175
Hawaii	1.100
Puerto Rico	1.075

TABLE II.—HOSPITALS LOCATED IN NON-SMSA/NON-NECMA AREAS

Bed size	Labor-related component	Nonlabor component [1]
Less than 100	$2,215.88	$459.23
100 to 169	2,429.93	505.61
170 and above	2,490.11	528.42

[1] Nonlabor components for hospitals located in Alaska, Hawaii, and Puerto Rico will be increased by multiplying them by the following cost-of-living adjustment factors:

Location	Adjustment factor
Alaska:	
Anchorage	1.225
All others	1.250
Hawaii:	
Oahu	1.175
Kauai	1.175
Molokai	1.175
Maui and Lanai	1.175
Hawaii	1.100
Puerto Rico	1.075

TABLE IIIA.—WAGE INDEX FOR URBAN AREAS

SMSA area	Wage index
Abilene, TX	.8360
Akron, OH	1.0397
Albany, GA	1.8712
Albany-Schenectady-Troy, NY	.9645
Albuquerque, NM	1.0380
Alexandria, LA	.9619
Allentown-Bethlehem-Easton, PA-NJ	1.0506
Altoona, PA	1.0463
Amarillo, TX	.9449
Anaheim-Santa Ana-Garden Grove, CA	1.2653
Anchorage, AK	1.5992
Anderson, IN	.9650
Anderson, SC	.8712
Ann Arbor, MI	1.2563
Anniston, AL	.8982
Appleton-Oshkosh, WI	.9620
Arecibo, PR	.5481
Asheville, NC	1.0033
Athens, GA	.8011
Atlanta, GA	.9418
Atlantic City, NJ	1.0417
Augusta, GA-SC	.9462
Austin, TX	1.0158
Bakersfield, CA	1.1813
Baltimore, MD	1.1362
Bangor, ME	.9421
Baton Rouge, LA	.9906
Battle Creek, MI	1.0366
Bay City, MI	1.0658
Beaumont-Port Arthur-Orange, TX	.9407
Bellingham, WA	1.0181
Benton Harbor, MI	.8639
Billings, MT	1.0752
Biloxi-Gulfport, MS	.8379
Binghamton, NY-PA	.9463
Birmingham, AL	1.0023
Bismarck, ND	.9430
Bloomington-Normal, IL	.9166
Bloomington, IN	1.0100
Boise City, ID	1.0385
Boston-Lowell-Brockton-Lawrence-Haverhill, MA-NH	1.1387
Bradenton, FL	1.0296
Bremerton, WA	.8983
Bridgeport-Stamford-Norwalk-Danbury, CT	1.1904
Brownsville-Harlingen-San Benito, TX	.8764
Bryan-College Station, TX	.8228
Buffalo, NY	.9939
Burlington, NC	.8785
Burlington, VT	1.0554
Caguas, PR	.5007
Canton, OH	.9637
Casper, WY	1.0632
Cedar Rapids, IA	1.0418
Champaign-Urbana-Rantoul, IL	1.0358
Charleston, SC	1.0303
Charleston, WV	1.0869
Charlotte-Gastonia, NC	.9767
Charlottesville, VA	1.0654
Chattanooga, TN-GA	.9985
Chicago, IL	1.2513
Chico, CA	1.0613
Cincinnati, OH-KY-IN	1.0959
Clarksville-Hopkinsville, TN-KY	.8519
Cleveland, OH	1.2149
Colorado Springs, CO	1.0690
Columbia, MO	1.1561
Columbia, SC	.9674
Columbus, GA-AL	.9195
Columbus, OH	1.0803
Corpus Christi, TX	.9762
Cumberland, MD-WV	.9221
Dallas-Fort Worth, TX	1.0222
Danville, VA	1.8960
Davenport-Rock Island-Moline, IA-IL	.9804
Dayton, OH	1.1240
Daytona Beach, FL	.8804
Decatur, IL	1.0023
Denver-Boulder, CO	1.1952
Des Moines, IA	1.0597
Detroit, MI	1.2518
Dubuque, IA	.9685
Duluth-Superior, MN-WI	.9252
Eau Claire, WI	.9102
El Paso, TX	.8785
Elkhart, IN	1.9190
Elmira, NY	1.0249
Enid, OK	.9247
Erie, PA	.9804
Eugene-Springfield, OR	.9554
Evansville, IN-KY	1.0438
Fargo-Moorhead, ND-MN	1.0057
Fayetteville, NC	1.9018
Fayetteville-Springdale, AR	.8155
Flint, MI	1.1649
Florence, AL	.8223
Florence, SC	.8445
Fort Collins, CO	.9121
Fort Lauderdale-Hollywood, FL	1.0830
Fort Meyers, FL	.9389
Fort Smith, AR-OK	.9018
Fort Walton Beach, FL	1.7921
Fort Wayne, IN	.9222
Fresno, CA	1.2345
Gadsden, AL	.8316
Gainesville, FL	.9496
Galveston-Texas City, TX	1.0940
Gary-Hammond-East Chicago, IN	1.1436
Glens Falls, NY	.9078
Grand Forks, ND-MN	.9120
Grand Rapids, MI	.9905
Great Falls, MT	1.9406
Greeley, CO	1.0158
Green Bay, WI	1.0100
Greensboro-Winston-Salem-High Point, NC	.9463
Greenville-Spartanburg, SC	.9602
Hagerstown, MD	1.0411
Hamilton-Middletown, OH	1.0706
Harrisburg, PA	1.0606
Hartford-New Britain-Bristol, CT	1.1760
Hickory, NC	.8506
Honolulu, HI	1.1867
Houston, TX	1.1222
Huntington-Ashland, WV-KY-OH	.9534
Huntsville, AL	.8827
Indianapolis, IN	1.0551
Iowa City, IA	1.1812
Jackson, MI	1.0561
Jackson, MS	.9192
Jacksonville, FL	.9777
Jacksonville, NC	1.9059
Janesville-Beloit, WI	.9912
Jersey City, NJ	1.1350
Johnson City-Kingsport-Bristol, TN-VA	.8975
Johnstown, PA	1.0642
Joplin, MO	.8965
Kalamazoo-Portage, MI	1.2181
Kankakee, IL	.9784
Kansas City, MO-KS	.9846
Kenosha, WI	1.1136

TABLE IIIA.—WAGE INDEX FOR URBAN AREAS—Continued

SMSA area	Wage index
Killeen-Temple, TX	.9185
Knoxville, TN	.9087
Kokomo, IN	1.0083
LaCrosse, WI	[1].9406
Lafayette, LA	1.0077
Lafayette-West Lafayette, IN	.9257
Lake Charles, LA	.9204
Lakeland-Winter Haven, FL	.8993
Lancaster, PA	1.0782
Lansing-East Lansing, MI	1.0716
Laredo, TX	.8631
Las Cruces, NM	[1]7733
Las Vegas, NV	1.2134
Lawrence, KS	[1]9678
Lawton, OK	[1]9619
Lewiston-Auburn, ME	[1]8879
Lexington-Fayette, KY	.9328
Lima, OH	1.0392
Lincoln, NE	.9347
Little Rock-North Little Rock, AR	1.0469
Long Branch-Asbury Park, NJ	1.0278
Longview, TX	.8757
Lorain-Elyria, OH	1.0438
Los Angeles-Long Beach, CA	1.3174
Louisville, KY–IN	1.0632
Lubbock, TX	.9036
Lynchburg, VA	.8747
Macon, GA	.9431
Madison, WI	1.0454
Manchester-Nashua, NH	[1]9762
Mansfield, OH	.9359
Mayaguez, PR	.5962
McAllen-Pharr-Edinburg, TX	.8269
Medford, OR	.9967
Melbourne-Titusville-Cocoa, FL	.9552
Memphis, TN–AR–MS	1.0594
Miami, FL	1.1623
Midland, TX	[1]1.0057
Milwaukee, WI	1.0581
Minneapolis-St. Paul, MN–WI	1.0099
Mobile, AL	.9490
Modesto, CA	1.0548
Monroe, LA	.9324
Montgomery, AL	.9885
Muncie, IN	[1]9595
Muskegon-Muskegon Heights, MI	.9608
Nashville-Davidson, TN	1.0496
Nassau-Suffolk, NY	1.2866
New Bedford-Fall River, MA	.9922
New Brunswick-Perth Amboy-Sayreville, NJ	1.0618
New Haven-Westhaven-Waterbury-Meridenn, CT	1.0904
New London-Norwich, CT	1.0930
New Orleans, LA	.9642
New York, NY–NJ	1.3979
Newark, NJ	1.2061
Newark, OH	[1]9595
Newburgh-Middletown, NY	1.0483
Newport News-Hampton, VA	.9259
Norfolk-Virginia Beach-Portsmouth, VA–NC	1.0327
Northeast, PA	1.0447
Ocala, FL	[1]9418
Odessa, TX	[1]8296
Oklahoma City, OK	1.0161
Olympia, WA	[1]1.0540
Omaha, NE–IA	.9659
Orlando, FL	.9690
Owensboro, KY	[1]8803
Oxnard-Simi Valley-Ventura, CA	1.4050
Panama City, FL	[1]8856
Parkersburg-Marietta, WV–OH	1.0054
Pascagoula-Moss Point, MS	[1]1.1283
Paterson-Clifton-Passaic, NJ	1.0629
Pensacola, FL	.9238
Peoria, IL	1.1136
Petersburg-Hopewell, VA	.9327
Philadelphia, PA–NJ	1.1941
Phoenix, AZ	1.1383
Pine Bluff, AR	[1]7832
Pittsburgh, PA	1.1484
Pittsfield, MA	1.0336
Ponce, PR	.7832
Portland, ME	1.0113
Portland, OR–WA	1.1208
Portsmouth-Dover-Rochester, NH–ME	.8549
Poughkeepsie, NY	1.1148
Providence-Warwick-Pawtucket, RI	1.0384
Provo-Orem, UT	.9406
Pueblo, CO	1.0659
Racine, WI	.8907

TABLE IIIA.—WAGE INDEX FOR URBAN AREAS—Continued

SMSA area	Wage index
Raleigh-Durham, NC	1.0364
Reading, PA	1.0092
Redding, PA	1.0871
Reno, NV	[1]1.3337
Richland-Kennewick, WA	.9678
Richmond, VA	.9379
Riverside-San Bernardino-Ontario, CA	1.2201
Roanoke, VA	.9946
Rochester, MN	1.0436
Rochester, NY	1.0571
Rockford, IL	1.0550
Rock Hill, SC	9181
Sacramento, CA	1.2130
Saginaw, MI	1.1289
St. Cloud, MN	.8638
St. Joseph, MO	1.0264
St. Louis, MO–IL	1.0367
Salem, OR	1.0634
Salinas-Seaside-Monterey, CA	1.2317
Salisbury-Concord, NC	1.0402
Salt Lake City-Ogden, UT	.9370
San Angelo, TX	.8521
San Antonio, TX	.9595
San Diego, CA	1.2334
San Francisco-Oakland, CA	1.3337
San Jose, CA	1.3264
San Juan, PR	.5606
Santa Barbara-Santa Maria-Lompoc, CA	1.1107
Santa Cruz, CA	1.1223
Santa Rosa, CA	1.4306
Sarasota, FL	1.0096
Savannah, GA	.9740
Seattle-Everett, WA	1.0487
Sharon, PA	1.0046
Sheboygan, WI	.8920
Sherman-Denison, TX	.8879
Shreveport, LA	1.0540
Sioux City, IA–NE	.9976
Sioux Falls, SD	.9242
South Bend, IN	.9157
Spokane, WA	1.1020
Springfield, IL	1.1235
Springfield, MO	.9079
Springfield, OH	1.0412
Springfield-Chicopee-Holyoke, MA	1.0296
State College, PA	[1]1.1383
Steubenville-Weirton, OH–WV	.9905
Stockton, CA	1.3466
Syracuse, NY	1.0183
Tacoma, WA	1.0720
Tallahassee, FL	[1]9462
Tampa-St. Petersburg, FL	1.0066
Terre Haute, IN	.8856
Texarkana-TX-Texarkana, AR	1.1761
Toledo, OH–MI	1.1421
Topeka, KS	1.0783
Trenton, NJ	1.0906
Tucson, AZ	1.0495
Tulsa, OK	1.0220
Tuscaloosa, AL	1.0384
Tyler, TX	.9893
Utica-Rome, NY	.9977
Vallejo-Fairfield Napa, CA	1.6758
Victoria, TX	.9406
Vineland-Millville-Bridgeton, NJ	1.0070
Visalia-Tulare-Porterville, CA	1.4467
Waco, TX	.8347
Washington, DC–MD–VA	1.1906
Waterloo-Cedar Falls, IA	.8684
Wausau, WI	[1]9566
West Palm Beach-Boca Raton, FL	.9821
Wheeling, WV–OH	.9953
Wichita, KS	1.0412
Wichita, Falls, TX	.8575
Williamsport, PA	.9690
Wilmington, DE–NJ–MD	1.1092
Wilmington, NC	.9005
Worcester-Fitchburg-Leominster, MA	.9843
Yakima, WA	.9682
York, PA	1.0110
Youngstown-Warren, OH	1.1351
Yuba City, CA	1.1260

[1] Approximate value for area.

TABLE III B.—WAGE INDEX FOR RURAL AREAS

Non-SMSA area	Wage index
Alabama	.8167
Alaska	1.4136
Arizona	.9100
Arkansas	.7921
California	1.0662
Colorado	.8515
Connecticut	1.0056
Delaware	.9406
Florida	.9059
Georgia	.8586
Hawaii	1.2652
Idaho	.8991
Illinois	.8965
Indiana	.8826
Iowa	.8290
Kansas	.8205
Kentucky	.8506
Louisiana	.8515
Maine	.8960
Maryland	.9928
Massachusetts	1.0670
Michigan	1.0471
Minnesota	.8264
Mississippi	.8116
Missouri	.8479
Montana	.8803
Nebraska	.7245
Nevada	.9741
New Hampshire	1.0452
New Jersey	.9559
New Mexico	.9235
New York	.9070
North Carolina	.8610
North Dakota	.8203
Ohio	.9305
Oklahoma	.8525
Oregon	.9566
Pennsylvania	1.0429
Puerto Rico	.6436
Rhode Island	[1].9626
South Carolina	.8184
South Dakota	.7733
Tennessee	.7987
Texas	.8149
Utah	.8006
Vermont	.8806
Virginia	.8484
Washington	.9453
West Virginia	.9296
Wisconsin	.8291
Wyoming	.8782

[1] Approximate value for area.

TABLE IV.—AVERAGE CASE MIX INDEXES BY HOSPITAL CLASSIFICATION GROUP

Bed size	Mean case mix index
Urban Hospitals:	
Less than 100	.9655
100 to 404	1.0446
405 to 684	1.1048
685 and above	1.1412
Rural Hospitals:	
Less than 100	.9556
100 to 169	.9654
170 and above	1.0247

TABLE V.—COST REPORTING YEAR ADJUSTMENT FACTORS

If the hospital cost reporting period begins—	The adjustment factor is [1]—
November 1, 1982	1.00658
December 1, 1982	1.01317
January 1, 1983	1.01975
February 1, 1983	1.02692
March 1, 1983	1.03408
April 1, 1983	1.04125
May 1, 1983	1.04842
June 1, 1983	1.05558
July 1, 1983	1.06275
August 1, 1983	1.06992

TABLE V.—COST REPORTING YEAR ADJUSTMENT FACTORS—Continued

If the hospital cost reporting period begins—	The adjustment factor is [1]—
September 1, 1983	1.07718

[1] Based on projected 1983 and 1984 inflation rates (equal to the market basket plus one percentage point) of 7.9 percent and 8.6 percent, respectively.

If for any reason, we do not publish a new schedule of limits to be effective on October 1, 1983, or do not announce other changes in the current schedule, the current limits reduced to 115 percent would continue in effect. The adjustment factor would be increased by .00717 (corresponding to .717 percent) per month, until a new schedule of limits or other provision is issued.

APPENDIX I—DERIVATION OF MARKET BASKET INDEX FOR HOSPITAL INPATIENT OPERATING COSTS [1]

Cost category	Relative importance, [2] 1950	Forecaster, [3] percent changes 1981–84	Price variable used
1. Wage and salaries	57.33	DRI–CFS	Percentage change in average hourly earnings of hospital industry workers (SIC 806). Source: U.S. Department of Labor, Bureau of Labor Statistics, Employment and Earnings (monthly), Table C–2.
2. Employee benefits	8.55	DRI–MM	Percentage change in supplements to wages and salaries per worker in nonagricultural establishments. Source: For supplements to wages and salaries—U.S. Department of Commerce, Bureau of Economic Analysis, Survey of Current Business (monthly), Table 1.11. July issue has detailed components. For total employment—U.S. Department of Labor, Bureau of Labor Statistics, Employment and Earnings (monthly), Table B–4.
3. Professional fees, other (legal, auditing, consulting, etc.).	.58	DRI–MM	Percentage change in hourly earnings index for production or nonsupervisory workers on private nonagricultural payrolls, total private. Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 18.
4. Food	3.59	DRI–MM	A. Percentage change in food and beverages component of Consumer Price Index, All Urban (relative importance, 1.81). Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 23.
		DRI–MM	B. Percentage change in processed foods and feeds component of Producer Price Index (relative importance, 1.78). Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 27.
5. Fuel and other utilities	3.41	DRI–MM	A. Percentage change in implicit price deflator—consumption of fuel oil and coal (derived from fuel oil component of Consumer Price Index) (relative importance 1.62). Source: U.S. Department of Commerce, Bureau of Economic Analysis, Survey of Current Business (monthly), Table 7.11.
			B. Percentage change in implicit price deflator—consumption of electricity (derived from electricity component of Consumer Price Index) (relative importance, DRI–MM .79). Source: U.S. Department of Commerce, Bureau of Economic Analysis. Unpublished data provided to Data Resources, Inc. by the Bureau of Economic Analysis. Historical time series data are available from the Health Care Financing Administration or the Bureau of Economic Analysis.
		DRI–MM	C. Percentage change in implicit price deflator for natural gas, derived from utility (piped) gas component of Consumer Price Index (relative importance, .66). Source: Same as electricity above.
		DRI–CFS	D. Percentage change in water and sewerage maintenance component of Consumer Price Index (relative importance, .34). Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 23.
6. Drugs	2.66	DRI–CFS	Percentage change in pharmaceutical preparations, ethical component of Producer Price Index. Source: U.S. Department of Labor, Bureau of Labor Statistics, Producer Prices and Price Indexes (monthly), Table 6.
7. Chemicals and cleaning products	2.23	DRI–MM	Percentage change in chemicals and allied products components of Producer Price Index. Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 27.
8. Surgical and medical instruments and supplies.	2.12	DRI–CFS	Percentage change in special industry machinery and equipment component of Producer Price Index. Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 27.
9. Rubber and miscellaneous plastics	1.84	DRI–MM	Percentage change in rubber and plastic products component of Producer Price Index. Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 27.
10. Business and travel and motor freight	1.87	DRI–CFS	Percentage change in transportation component of Consumer Price Index, All Urban. Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 23.
11. Apparel and textiles	1.51	DRI–MM	Percentage change in textile products and apparel component of Producer Price Index. Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 27.
12. Business services	5.03	DRI–MM	Percentage change in services component of Consumer Price Index, All Urban. Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 23.
13. All other miscellaneous expenses [4]	9.16	DRI–MM	Percentage change in Consumer Price Index for all items, All Urban. Source: U.S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Table 23.
Total	100.00		

[1] Cost not within the scope of the limits (i.e. capital, medical education, malpractice insurance, and medical professional fees) were excluded in deriving the market basket index.

[2] A Laspeyres price index was constructed using 1977 base value weights and the price variables indicated in the table. Base value weights (cost shares) were derived from: special studies by the Health Care Financing Administration using primarily data from the American Hospital Association and the Interindustry Economics Division of the Bureau of Economic Analysis, U.S. Department of Commerce. In 1977 each price variable has an index value of 100.00. The "relative importance" changes over time in accordance with price changes for each price variable. Cost categories with relatively higher price increases get higher relative importance values and vice versa. These relative importance values are subject to marginal change. For an explanation of the methodology used, see Freeland, Mark S., Anderson, Gerald, and Schendler, Carol Ellen, "National Hospital Input Price Index," Health Care Financing Review, Summer 1979, pp. 37–61.

[3] DRI–CFS = Data Resources, Inc., Cost Forecasting Service, 1750 K Street, NW., Washington, DC. 20006 (Forecast 822). DRI–MM = Data Resources, Inc., Macro Model, 29 Hartwell Avenue, Lexington, Massachusetts 02173 (Trendlong 0582).

[4] This is a residual category of costs not included in the 12 specific categories above. It consists primarily of miscellaneous and unallocated items.

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Appendix II

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
01-0001	1.0346
01-0004	.9522
01-0005	1.0141
01-0006	1.0210
01-0007	.9462
01-0009	.9685
01-0009	.9093
01-0010	.9361
01-0011	1.0243
01-0012	.9699
01-0013	.9236
01-0014	1.0025
01-0015	1.0532
01-0016	1.0175
01-0017	.9842
01-0018	.5499
01-0019	.9459
01-0020	.8562
01-0021	.9372
01-0022	.9405
01-0023	1.0314
01-0024	1.0290
01-0025	.9737
01-0026	.9873
01-0027	.9004
01-0028	.9543
01-0029	1.0491
01-0030	.9012
01-0031	.9596
* 01-0032	.8430
01-0033	1.3904
01-0034	.8580
01-0035	.9452
01-0036	.8878
01-0038	.8633
01-0039	1.1107
01-0040	1.0338
* 01-0041	.9851
01-0043	.9181
01-0044	.9219
01-0045	.9578
01-0048	.9749
01-0047	.8668
01-0049	.9286
01-0050	.9248
* 01-0051	.9308
01-0052	.9170
01-0053	1.0054
01-0054	.9698
01-0055	.9486
01-0056	1.0870
* 01-0057	.9298
* 01-0058	.9989
01-0059	.9242
01-0060	.9740
01-0061	.9417
01-0062	.9211
01-0064	1.1458
01-0065	1.0005
01-0066	.8925
01-0067	.9277
01-0068	1.0259
01-0069	.9918
01-0070	.9196
01-0071	.9708
01-0072	1.0301
01-0073	.9655
01-0074	.8080
* 01-0075	1.0139
01-0078	1.0236
01-0079	.9910
01-0080	.8942
01-0081	1.0744
01-0082	.9260
01-0083	.9600
01-0084	1.0412
01-0085	1.0219
01-0086	.9238
01-0087	1.0473
01-0089	.9490
01-0090	1.0407
01-0091	.9703
01-0092	1.0646
01-0094	.8869
01-0095	1.0057
* 01-0096	.9921
01-0097	.9566
01-0098	.9647
01-0099	.9291
01-0100	.9939
01-0101	.9457
* 01-0102	.9197
01-0103	1.1033
01-0104	1.1028
01-0108	.9305
01-0109	1.0493
* 01-0110	.9864
01-0111	.8592
01-0112	.9511
01-0113	1.0677
01-0114	1.0036
01-0115	1.0042
01-0117	.9857
01-0118	.9849
01-0119	1.0380
01-0120	.9325
01-0121	.9433
01-0122	.9212
01-0123	.9617
01-0124	.9507
01-0125	.9360
01-0126	.9267
01-0127	.9825
01-0128	.8697
01-0129	.9270
01-0130	1.0073
01-0131	.8299
01-0133	.8382
01-0134	.9559
* 01-0136	.8252
01-0137	1.1494
01-0138	.9878
01-0139	1.2040
01-0140	1.1453
* 01-0141	1.4744
* 01-0142	.8088
01-0143	.9541
01-0144	.9714
01-0145	.9471
01-0146	.8783
* 01-0147	.9338
01-0148	.9483
01-0149	1.0635
02-0001	1.0596
* 02-0002	1.0677
* 02-0004	.9879
* 02-0005	1.1574
* 02-0006	1.0106
* 02-0007	.9195
02-0008	.9155
* 02-0009	.6116
* 02-0010	.9337
* 02-0011	.9868
02-0012	1.0292
* 02-0013	.9987
* 02-0014	.9533
* 02-0016	.8522
02-0017	.9797
* 02-0024	.7816
* 02-0025	1.0737
* 02-0026	.8396
03-0001	1.0707
03-0002	1.1963
03-0003	.9587
* 03-0004	1.0078
03-0005	1.0294
03-0006	1.1539
03-0007	1.0036
03-0008	1.0372
03-0009	1.1357
03-0010	1.1192
03-0011	.9685
03-0012	1.0005
03-0013	1.0775
03-0014	1.0904
03-0015	.9870
03-0017	1.0012
03-0018	1.0812
03-0019	1.0037
03-0020	1.0054
03-0022	1.1612
03-0023	1.0266
03-0024	1.1894
03-0025	1.0036
* 03-0026	.9278
03-0027	.9936
03-0030	1.0339
03-0033	.9708
03-0034	.9624
03-0035	1.0336
03-0036	.9010
03-0037	1.2264
03-0038	1.0944
* 03-0039	.8674
03-0040	.9889
* 03-0041	.9423
03-0043	1.0477
03-0044	.9793
* 03-0046	.9736
* 03-0047	.9275
03-0048	1.0380
03-0049	.9682
03-0051	.8984
03-0054	.9112
03-0055	1.0231
03-0057	1.0253
03-0059	.8656
03-0060	1.0495
03-0061	1.1273
03-0062	.9490
03-0063	1.0300
03-0064	1.1777
03-0065	1.0979
* 03-0066	1.1014
03-0067	.9547
03-0068	.9376
03-0069	1.0563
* 03-0070	.8310
03-0080	1.0825
04-0001	.9155
04-0002	.9540
04-0003	.9521
04-0004	1.1255
04-0005	1.0219
04-0006	1.0051
04-0007	1.0803
04-0008	.9697
04-0009	.9019
04-0010	1.0091
04-0011	.9129
04-0013	.9524
04-0014	.9027
04-0015	.9342
04-0016	1.1506
04-0017	1.0754
04-0018	.9656
04-0019	.9237
04-0020	1.0134
04-0021	.9503
04-0022	.9949
04-0024	.9565
04-0025	.8794
04-0026	1.0268
04-0027	.9984
04-0028	.9712
04-0029	1.0044
04-0030	.8833
04-0031	.9241
04-0032	.9811
04-0033	.8538
04-0034	1.0014
04-0035	.9354
04-0036	.9895
04-0037	1.0776
04-0039	.9740
04-0040	.9417
04-0041	1.0417
04-0042	1.0471
04-0043	.9247
04-0044	.8993
04-0045	.9177
04-0047	.9448
04-0048	.9465
04-0050	.9574
04-0051	.9992

TABLE HOSPITAL CASE MIX INDEXES

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
04-0053	.9168	* 04-0126	1.3822	05-0060	1.0632	05-0117	1.0379	05-0175	1.0623
04-0054	.8865	* 05-0001	1.0303	05-0061	.9693	05-0118	1.0281	05-0177	1.1082
04-0055	1.0773	05-0002	1.0993	05-0063	1.0653	* 05-0119	.8079	05-0179	1.1081
04-0057	.9274	05-0004	1.0329	05-0065	1.0641	05-0121	1.0591	05-0180	1.0887
04-0058	.9376	05-0005	1.0062	05-0066	1.0253	05-0122	1.1661	05-0181	.9678
04-0060	.9102	05-0006	1.0674	05-0067	1.1003	* 05-0123	1.1938	05-0182	1.0978
04-0062	1.0603	05-0007	1.0983	05-0068	.9791	05-0124	1.0841	05-0183	1.0228
04-0063	1.0247	05-0008	1.1221	05-0069	1.1052	05-0125	1.0672	* 05-0185	.9942
04-0064	.9187	05-0009	1.0936	05-0070	1.0491	05-0126	1.0201	05-0186	1.0888
04-0066	.8856	* 05-0010	1.1899	05-0071	1.0868	05-0127	1.1309	05-0187	.9315
04-0067	.8829	05-0011	.9417	05-0072	1.1121	05-0128	1.0881	05-0188	1.1122
04-0068	.9961	05-0013	1.3489	05-0073	1.0736	05-0129	1.0604	* 05-0189	1.0781
04-0069	.9331	05-0014	1.0040	05-0074	.9698	* 05-0130	2.9394	* 05-0190	1.1129
04-0070	.9207	05-0015	1.0420	05-0075	1.1450	05-0131	1.0529	05-0191	1.1058
04-0071	.9966	05-0016	1.0660	05-0076	1.1194	05-0132	1.0510	05-0192	1.0373
04-0072	.9135	05-0017	1.1221	05-0077	1.1434	05-0133	.9907	05-0193	1.0505
04-0074	.9937	05-0018	.9417	05-0078	1.0870	05-0134	1.0181	05-0194	1.0455
04-0075	1.0068	* 05-0019	.9100	05-0079	1.0818	05-0135	.9567	05-0195	1.0529
04-0076	.9882	* 05-0020	.9896	05-0080	1.0429	05-0136	1.0869	05-0196	1.1696
04-0077	.9449	05-0021	.9968	05-0081	1.1381	05-0137	1.0601	05-0197	1.1567
04-0078	1.0009	05-0022	1.1115	05-0082	1.0831	05-0138	1.1444	05-0199	1.1250
04-0080	.9141	05-0024	1.0492	05-0084	1.1915	05-0139	1.1122	05-0200	1.0583
04-0081	.9006	05-0025	1.2531	05-0085	1.0346	05-0140	1.1171	05-0201	1.0606
04-0082	.9679	05-0026	1.0502	05-0086	1.0020	05-0141	1.0420	05-0202	1.0010
04-0084	.9260	* 05-0027	1.1839	05-0087	1.1757	05-0143	.9417	05-0204	1.1469
04-0085	.9238	05-0028	1.1100	05-0088	1.0077	05-0144	1.1534	05-0205	1.0508
04-0087	.9178	05-0029	1.0686	05-0089	1.0915	05-0145	1.1178	05-0207	1.0901
04-0088	1.0246	05-0030	1.0080	05-0090	1.0842	05-0146	1.1398	05-0208	1.0029
04-0090	.9700	* 05-0031	1.1119	05-0091	.9820	05-0147	.9608	* 05-0209	.7240
04-0091	.9381	05-0032	1.0158	05-0092	1.0106	05-0148	.9923	05-0210	1.0689
04-0093	.8725	05-0033	1.0999	05-0093	1.1654	05-0149	1.0466	05-0211	1.0108
04-0095	.8906	05-0034	1.0343	05-0095	1.0640	05-0150	1.1124	05-0212	1.0102
04-0098	1.0039	05-0036	1.0895	05-0096	.9921	05-0151	1.0114	05-0213	1.1067
04-0100	1.0063	05-0038	1.1409	05-0097	1.0683	05-0152	1.0445	05-0214	1.0585
04-0105	.9866	05-0039	1.2146	05-0098	1.0327	05-0153	1.1293	05-0215	1.0984
04-0106	1.0018	05-0040	1.0864	05-0099	1.1207	05-0154	1.0189	05-0216	.9545
04-0107	.9539	05-0041	1.0082	05-0100	1.2639	05-0155	1.0039	05-0217	1.0049
04-0108	.9011	05-0042	.9762	05-0101	1.0427	05-0156	1.0306	05-0219	1.0504
04-0109	.9335	05-0043	1.1811	05-0102	1.0773	05-0158	1.1568	05-0220	.9536
* 04-0113	.9675	05-0045	1.0963	05-0103	1.1932	05-0159	1.0354	05-0221	1.0872
04-0114	1.1595	05-0046	1.0975	05-0104	1.1061	05-0161	.9552	05-0222	1.0323
04-0115	.9674	05-0047	1.3103	05-0107	1.0416	* 05-0162	1.0056	05-0224	1.1189
04-0116	1.0442	05-0049	1.0085	05-0108	1.0849	05-0164	1.0542	05-0225	1.0356
* 04-0117	1.1311	05-0051	.9448	05-0109	1.3265	05-0166	1.2751	05-0226	1.1054
04-0118	.9791	* 05-0052	.9288	05-0110	.9716	05-0167	1.0898	05-0228	1.0844
04-0119	.9696	05-0053	1.1069	05-0111	1.0206	05-0168	1.1207	05-0229	1.0069
* 04-0121	.9364	05-0054	1.1029	05-0112	1.1131	05-0169	1.0666	05-0230	1.0242
04-0122	.9734	05-0055	1.1206	05-0113	1.0196	05-0170	1.0984	05-0231	1.1042
04-0123	.9169	05-0056	1.0334	05-0114	1.0725	05-0172	1.1134	05-0232	1.1021
04-0124	.9507	05-0057	1.1089	05-0115	1.1499	05-0173	1.0071	05-0233	1.0767
04-0125	.8534	05-0058	1.0150	05-0116	1.1537	05-0174	1.1232	05-0234	1.0281

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
05-0369	1.1126
05-0371	1.0813
05-0372	1.0812
05-0373	.9721
05-0375	1.0313
05-0376	1.1360
05-0377	1.0048
05-0378	1.0130
05-0379	.9332
05-0380	1.3454
05-0381	.8845
05-0382	1.0721
05-0383	1.2176
05-0385	1.0487
05-0387	.8755
05-0388	.9550
05-0390	1.1106
05-0391	.9881
05-0392	1.2100
05-0393	1.1586
05-0394	1.0484
05-0395	.9514
05-0396	1.2059
05-0397	1.0350
05-0398	1.1045
05-0399	.8857
05-0400	1.0556
05-0401	1.0851
05-0403	1.0154
05-0404	1.0112
05-0405	.9514
05-0406	.9480
05-0407	1.0548
05-0410	.9682
05-0411	1.0974
05-0413	1.1307
05-0414	1.1125
05-0415	.8636
05-0416	.9444
05-0417	.9889
05-0418	1.0842
05-0419	1.0072
05-0420	1.0749
05-0421	1.0771
05-0423	.9665
05-0424	1.1409
05-0425	1.0968
05-0426	1.0498
05-0427	.9760
05-0428	.9858
05-0429	.9097
05-0430	.8826
05-0431	.9537
05-0432	1.1060
05-0433	.9911
05-0434	1.0618
05-0435	1.0200
05-0436	1.0036
05-0438	1.1155
05-0440	1.0777
05-0441	1.3993
05-0442	1.0595
05-0443	.9261
05-0444	1.0365
05-0446	.9326
05-0447	1.0949
05-0448	1.0127
05-0449	.9370
05-0450	1.0573
05-0451	1.0101
05-0454	1.3804
05-0455	1.1442
05-0456	1.0671
05-0457	1.1651
05-0458	1.0153
05-0459	1.0865
05-0463	1.0579
05-0464	1.0729
05-0467	1.0901
05-0468	1.0478
05-0469	1.0532
05-0470	1.1120
05-0471	1.0847
05-0473	1.2459
05-0476	.9948
05-0477	.9940
05-0478	1.0485
05-0481	1.0273
05-0482	.9875
05-0483	.9858
05-0485	1.0913
05-0486	1.0504
05-0487	.9403
05-0488	1.1055
05-0489	1.0789
05-0491	1.0579
05-0492	1.0083
05-0494	1.0395
05-0496	1.1950
05-0497	.9367
05-0498	1.0932
05-0500	.9199
05-0502	1.3915
05-0503	1.0708
05-0506	1.0875
05-0510	1.0649
05-0512	1.1111
05-0513	.9664
05-0515	1.1002
05-0516	1.0732
05-0517	1.0420
05-0521	1.1116
05-0522	1.0235
05-0523	.9603
05-0525	1.0766
05-0526	1.0355
05-0527	1.0513
05-0528	1.0920
05-0530	.9640
05-0531	.9041
05-0534	.9184
05-0535	1.0518
05-0537	1.0849
05-0539	1.0013
05-0540	1.0809
05-0541	1.3908
05-0542	.9231
05-0543	1.0315
05-0544	1.0482
05-0549	1.0729
05-0550	1.0344
05-0551	1.0817
05-0552	.9953
05-0554	1.1790
05-0557	1.0698
05-0559	1.0710
05-0560	1.0413
05-0561	1.1213
05-0562	.9637
05-0564	1.0121
05-0565	1.0305
05-0566	1.0317
05-0567	1.0370
05-0568	1.1065
05-0569	1.0741
05-0570	1.1065
05-0571	1.0560
05-0573	1.1066
05-0575	.9224
05-0576	.9640
05-0577	1.0591
05-0578	.9592
05-0579	.9911
05-0299	1.0495
05-0300	1.0497
05-0301	1.0996
05-0302	1.1155
05-0303	1.0663
05-0305	1.1071
05-0307	1.0662
05-0308	1.1407
05-0309	1.0243
05-0310	1.0532
05-0312	1.1577
05-0313	.9583
05-0314	.9110
05-0315	1.0369
05-0317	1.0936
05-0318	.9192
05-0319	1.0532
05-0320	1.0525
05-0322	1.0555
05-0323	1.0296
05-0324	1.1321
05-0325	1.0465
05-0326	1.0376
05-0327	1.1433
05-0328	.5362
05-0329	.9628
05-0331	1.0325
05-0333	1.0519
05-0334	1.0913
05-0335	.9486
05-0336	1.1598
05-0337	1.0398
05-0342	.8806
05-0343	.9323
05-0345	.9918
05-0348	1.1359
05-0349	.9619
05-0350	1.1158
05-0351	1.1353
05-0352	1.0326
05-0353	1.1598
05-0355	.9079
05-0357	1.2248
05-0359	1.1183
05-0360	1.0517
05-0361	1.0395
05-0362	1.0654
05-0363	1.0364
05-0366	1.0481
05-0367	1.0743
05-0368	.5390

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
05-0580	.9896	* 05-0640	1.0892	06-0050	.9255	07-0016	1.1284	10-0012	.9770
05-0581	1.0506	05-0641	1.0138	06-0051	.9283	07-0017	1.0225	10-0013	.9862
05-0583	1.2181	* 05-0642	.8044	* 06-0052	.9333	07-0018	1.0242	10-0014	1.0416
05-0584	1.0801	05-0644	1.0416	* 06-0053	.9738	07-0019	1.0689	10-0015	1.0358
05-0585	1.0888	* 05-0645	1.1279	06-0054	.9907	07-0020	1.1472	10-0016	.9753
05-0586	.9753	05-0646	.8064	* 06-0055	.8626	07-0021	1.0464	10-0017	1.0839
05-0587	.9757	06-0001	.9486	* 06-0056	.9618	07-0022	1.2445	10-0018	1.0602
05-0588	1.0868	06-0003	1.0336	* 06-0057	.7797	07-0023	.9838	10-0019	1.0808
05-0589	1.0767	06-0004	.9989	* 06-0058	1.0251	07-0024	1.0484	10-0020	1.0086
05-0590	1.0868	06-0005	1.0168	06-0059	.9088	07-0025	1.1823	10-0021	.9695
05-0591	1.0125	06-0006	.9911	06-0060	1.0282	07-0026	1.0465	10-0022	1.2158
05-0592	1.0511	06-0007	1.0078	06-0061	1.0600	07-0027	1.0410	10-0023	1.0085
05-0593	.9632	06-0008	.8868	* 06-0062	1.0315	07-0028	1.1679	10-0024	.9385
05-0594	1.1075	06-0009	1.0184	* 06-0063	1.1251	07-0029	.9985	10-0025	1.1551
05-0595	1.0793	06-0010	.9463	06-0064	1.0099	07-0030	1.0636	10-0026	1.0115
05-0597	1.0394	06-0011	.9858	06-0065	.9968	07-0031	1.0970	* 10-0027	.9664
05-0598	.9729	06-0012	.9686	06-0066	.9139	07-0033	1.1020	10-0028	.9793
05-0599	1.2935	06-0013	1.0154	06-0067	.8997	07-0034	1.0354	10-0029	.9804
05-0601	1.0079	06-0014	1.0369	* 06-0068	.9758	07-0035	1.1284	10-0030	.9513
05-0602	1.1496	06-0015	1.0337	* 06-0069	.8450	07-0036	1.1019	* 10-0031	.8560
05-0603	1.0547	06-0016	.9527	* 06-0070	1.0144	* 07-0037	.6499	10-0032	1.1290
05-0604	1.1203	06-0017	.9992	06-0071	1.0304	* 07-0038	1.1421	10-0033	1.0373
* 05-0605	1.0200	06-0018	.8635	* 06-0072	.9190	08-0001	1.1615	10-0034	1.1021
05-0606	1.0900	06-0019	1.0706	* 06-0073	.9781	08-0002	1.0376	10-0035	1.0338
05-0607	.9800	06-0020	.9613	* 06-0074	.8667	08-0003	1.1027	10-0036	.9892
05-0608	1.0778	06-0022	1.0014	06-0075	1.0633	08-0004	1.1287	10-0038	1.0800
05-0609	1.1174	06-0023	.9647	06-0076	.9018	08-0005	1.0851	10-0039	1.0915
* 05-0611	.8966	06-0024	1.3115	* 06-0077	.8362	08-0006	1.0687	10-0040	1.0897
* 05-0613	.9605	06-0025	.9562	* 06-0081	1.2428	08-0007	1.0391	10-0042	.9966
05-0615	1.0997	06-0026	1.0401	* 06-0083	1.0869	09-0001	1.1799	10-0043	1.0739
05-0616	1.0582	06-0027	1.0632	* 06-0085	.9047	09-0002	1.0920	10-0044	1.0761
* 05-0617	.8250	06-0028	1.1101	06-0087	1.0131	09-0003	1.1162	10-0045	1.0173
05-0618	.9684	* 06-0029	.9215	* 06-0088	.9658	09-0004	1.2551	10-0046	1.0564
05-0619	1.1363	06-0030	1.0857	* 06-0090	.9840	09-0005	1.1097	10-0047	1.0309
05-0622	1.0110	06-0031	1.0368	* 06-0092	.8044	09-0006	1.0508	10-0048	.8510
05-0623	.9256	06-0032	.9919	* 06-0093	.7680	09-0007	.9552	10-0049	1.0703
05-0624	1.0245	06-0033	.9405	07-0001	1.1716	09-0008	1.0531	10-0050	.9590
05-0625	1.2079	06-0034	.9662	07-0002	1.1743	09-0009	.9489	10-0051	.9069
05-0626	.8056	06-0035	1.0208	07-0003	1.0857	* 09-0010	1.0326	10-0052	.9956
05-0627	.6112	06-0036	.9925	07-0004	1.1239	09-0011	1.1699	10-0053	1.0136
05-0628	.8029	06-0037	.9577	07-0005	1.1297	* 09-0014	1.8156	10-0054	.9737
* 05-0629	.8568	* 06-0038	.9725	07-0006	1.0879	10-0001	1.1047	10-0055	.9530
05-0630	1.1375	06-0039	.9189	07-0007	1.1239	10-0002	1.0492	10-0056	.9059
* 05-0631	.8044	* 06-0041	.9562	07-0008	1.0011	10-0004	.9044	10-0057	.9928
05-0632	1.0244	* 06-0042	.9777	07-0009	1.1279	10-0005	1.0036	10-0059	1.0920
05-0633	1.1113	* 06-0043	.8456	07-0010	1.1104	10-0006	.9772	10-0060	1.1890
05-0635	1.0942	06-0044	.9304	07-0011	1.0433	10-0007	1.1535	10-0061	1.0229
05-0636	1.0210	06-0045	.9455	07-0012	1.1111	10-0008	1.0891	10-0062	1.1909
05-0637	1.0329	* 06-0046	.9147	07-0013	1.0735	10-0009	1.0607	10-0063	1.0585
* 05-0638	.8866	* 06-0047	.9334	07-0014	.9824	10-0010	1.0908	10-0065	.9663
* 05-0639	.9900	* 06-0049	.8723	07-0015	1.0063	10-0011	.8645	10-0067	1.0919

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
10-0068	1.0194
10-0069	.9774
10-0070	1.1124
10-0071	.9729
10-0072	1.0017
10-0073	1.0496
10-0074	.9607
10-0075	1.0141
10-0076	.9899
10-0077	1.0284
10-0078	.8852
10-0079	.9767
10-0080	1.0332
10-0081	.8676
10-0082	1.0544
10-0083	1.0132
10-0084	.9257
10-0085	.9632
10-0086	1.0474
10-0087	1.1213
10-0088	1.0924
10-0089	1.0245
10-0090	.9882
10-0092	1.0325
10-0093	1.0125
10-0098	.9748
10-0099	1.0144
10-0100	1.0104
10-0102	.9039
10-0103	.8989
10-0105	1.0555
10-0106	.8790
10-0107	.9650
10-0108	.8755
10-0109	.9323
10-0110	.9512
10-0112	.8817
10-0113	1.2977
10-0114	1.0040
10-0115	.9320
10-0117	.9864
10-0118	.9901
10-0120	.8028
10-0121	.8579
10-0122	.9447
10-0124	.8598
10-0125	.9753
10-0126	1.0328
10-0127	1.0595
10-0128	1.4580
10-0129	1.0110
10-0130	1.0001
10-0131	1.0055
10-0132	1.0454
10-0133	.9300
10-0134	.8705
10-0135	1.0648
10-0137	.9518
10-0138	.8359
10-0139	1.0114
10-0140	.8846
10-0142	.9154
10-0143	.9519
10-0144	.9681
10-0145	.9887
10-0146	.9399
10-0147	.9254
10-0149	1.0563
10-0150	.9093
10-0151	1.0727
10-0152	.8621
10-0153	.8601
10-0154	1.0564
10-0156	.8414
10-0157	1.0564
10-0159	.9243
10-0160	.9319
10-0161	1.0465
10-0162	1.0927
10-0164	.9364
10-0165	.9105
10-0166	1.0113
10-0167	.9782
10-0168	1.0642
10-0169	1.0115
10-0170	1.0257
10-0172	1.0061
10-0173	1.0292
10-0174	.9558
10-0175	.9331
10-0176	1.0514
10-0177	.8559
10-0179	1.0960
10-0180	1.1515
10-0181	.8695
10-0182	.9125
10-0183	.9128
10-0184	1.1355
10-0185	.9178
10-0186	1.0584
10-0187	1.0042
10-0189	.9792
10-0191	.9879
10-0193	.8522
10-0194	.9503
10-0195	1.1248
10-0196	1.0076
10-0197	1.0208
10-0199	1.0668
10-0200	1.0819
10-0201	1.0796
10-0203	1.0656
10-0204	1.1849
10-0206	1.0490
10-0207	1.0218
10-0208	1.0036
10-0209	1.0484
10-0210	1.0439
10-0211	.9495
10-0212	.9903
10-0213	1.0488
10-0214	1.0116
10-0217	.9847
10-0218	.9773
10-0219	1.0096
10-0220	1.1056
10-0221	1.1431
10-0222	.9371
10-0223	1.0456
10-0224	.9976
10-0225	1.0160
10-0226	.9975
10-0227	1.0342
10-0228	.9764
10-0229	1.0459
10-0230	.9740
10-0231	1.2444
10-0232	.9504
10-0234	1.0258
10-0235	1.0534
10-0236	.9715
10-0237	1.1720
10-0238	.9783
10-0239	1.0610
10-0240	.5652
10-0241	.8718
10-0242	.9858
10-0243	1.0598
10-0244	1.0611
10-0245	1.1092
10-0246	1.0820
10-0247	.7752
10-0248	1.0358
10-0249	.9889
10-0250	3.6042
10-0251	.8703
10-0252	.9354
10-0253	1.1150
10-0254	.9234
11-0001	.9974
11-0002	.9603
11-0003	1.0356
11-0004	1.0166
11-0005	1.0828
11-0006	.9942
11-0007	1.0728
11-0008	1.0097
11-0009	.9305
11-0010	1.3396
11-0011	.9779
11-0013	.9867
11-0014	.9274
11-0015	.9556
11-0016	1.0322
11-0017	.9245
11-0018	.9741
11-0020	.9787
11-0023	.9112
11-0024	1.0189
11-0025	1.0298
11-0026	.9608
11-0027	.9425
11-0028	1.0789
11-0029	1.0317
11-0030	1.0133
11-0031	1.0443
11-0032	.9653
11-0033	.9734
11-0034	1.1193
11-0035	1.1004
11-0036	1.2330
11-0037	.9279
11-0038	1.0419
11-0039	.9886
11-0040	.9129
11-0041	.9626
11-0042	.9197
11-0043	1.1070
11-0044	1.0077
11-0045	.9523
11-0046	.9768
11-0047	.9776
11-0048	.9674
11-0049	.8667
11-0050	.9495
11-0051	.9488
11-0052	.8921
11-0054	1.0374
11-0055	.9760
11-0056	.9613
11-0059	.9152
11-0061	.9567
11-0062	.9341
11-0063	1.0196
11-0064	1.1128
11-0065	1.0806
11-0066	1.1851
11-0067	.9780
11-0069	.9929
11-0070	.8163
11-0071	.8966
11-0072	.8774
11-0073	.8801
11-0074	1.0783
11-0075	.9760
11-0076	1.1072
11-0077	.8886
11-0078	1.0745
11-0079	1.0780
11-0080	.9646
11-0081	1.0469
11-0082	1.2181
11-0083	1.0803
11-0084	.8953
11-0085	.9776
11-0086	.9841
11-0087	.9420
11-0088	.9015
11-0089	.9504
11-0091	1.0840
11-0092	.9652
11-0093	.9048
11-0094	.8678
11-0095	1.0702
11-0096	.9533
11-0097	.8906
11-0098	.9393
11-0099	.9772
11-0100	1.0052
11-0101	.8561
11-0103	.8847
11-0104	.9867
11-0105	.9115
11-0107	1.1934
11-0108	.8876

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
11-0109	1.0000
11-0110	.9000
11-0111	.9000
11-0112	.9000
11-0113	.9000
11-0114	.9000
11-0115	.9000
11-0116	.9000
11-0117	.9000

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
11-0109	.9201	11-0174	.8951	13-0011	.9601	14-0015	.9921	14-0076	.9264
11-0111	.8982	11-0175	.9961	* 13-0012	.9375	14-0016	.9850	14-0077	.9775
11-0112	.9012	* 11-0176	1.0605	13-0013	1.0449	14-0017	.9717	14-0079	1.0462
11-0113	.9404	11-0177	1.0259	13-0014	1.0006	14-0018	1.0391	14-0080	1.1713
11-0114	.9436	11-0178	.5975	* 13-0015	.8410	14-0019	.9309	14-0081	1.0420
11-0115	1.0927	11-0179	1.0417	13-0016	.9042	14-0023	.9864	14-0082	1.0284
11-0117	.9441	11-0181	.9778	* 13-0017	.9005	14-0024	.9160	14-0083	1.0440
11-0118	.9198	* 11-0182	.8004	13-0018	1.0848	14-0025	.9830	14-0084	1.0572
11-0120	.9108	11-0183	.9853	13-0019	.9251	14-0026	1.0404	14-0085	1.1334
11-0121	.9678	11-0184	1.0018	* 13-0021	.8728	14-0027	1.0635	14-0086	1.0521
11-0122	1.0915	11-0185	.9627	13-0022	.9841	14-0029	1.0945	14-0087	1.0551
11-0123	.9020	11-0186	.9841	13-0024	.9846	14-0030	1.0567	14-0088	1.2194
11-0124	.9081	11-0187	.9616	13-0025	.9254	14-0031	1.0035	14-0089	.9655
11-0125	.9372	11-0188	1.1231	13-0026	1.0923	14-0032	.9980	14-0090	1.0108
11-0127	.8729	11-0189	.9849	13-0027	.9251	14-0033	1.0314	14-0091	1.0918
11-0128	1.0244	11-0190	.8936	13-0028	1.0288	14-0034	.9423	14-0093	.9817
11-0129	1.1285	11-0191	1.0542	13-0029	1.0520	14-0035	1.0228	14-0094	1.0595
11-0130	.9361	11-0192	.9234	* 13-0030	.8889	14-0036	.9847	14-0095	1.0745
* 11-0131	.9615	11-0193	.9105	* 13-0031	1.0213	14-0037	.9679	14-0097	1.0087
11-0132	.9293	* 11-0194	.9558	* 13-0032	.9663	14-0038	1.0595	14-0098	1.0232
* 11-0133	.9836	* 11-0195	.8262	13-0034	.8621	14-0039	.9550	14-0099	.9636
11-0134	.9126	12-0001	1.1367	13-0035	.9429	14-0040	.9878	14-0100	1.0602
11-0135	.9444	12-0002	1.0492	13-0036	1.0112	14-0041	.9606	14-0101	.9781
* 11-0136	.9974	* 12-0003	1.0252	13-0037	.8686	14-0042	.9861	14-0102	.9658
* 11-0138	.9233	12-0004	1.1078	* 13-0038	.9465	14-0043	.9981	14-0103	1.0028
11-0140	.8931	12-0005	1.0425	* 13-0039	1.1068	* 14-0044	.6015	14-0104	.8795
11-0141	.8848	12-0006	1.0608	* 13-0040	.9999	14-0045	1.0422	14-0105	1.0948
11-0142	.8584	12-0007	1.0932	* 13-0041	.8855	14-0046	.9998	14-0107	1.0014
11-0143	1.0037	* 12-0008	.9221	13-0043	.9228	14-0047	1.0144	14-0108	.9931
11-0144	1.0140	* 12-0009	.9019	* 13-0044	.8043	14-0048	1.0023	14-0109	.9006
11-0146	.8794	12-0010	1.2119	13-0045	.9019	14-0049	1.0493	14-0110	1.0153
11-0149	.9230	12-0011	1.1266	* 13-0048	.9579	14-0051	1.0681	14-0111	1.0206
11-0150	.9973	* 12-0012	.8148	13-0049	.9937	14-0052	.9304	14-0112	.9768
11-0151	.9630	12-0014	1.0665	* 13-0050	.8047	14-0053	1.1042	14-0113	1.0611
11-0152	.9457	* 12-0015	1.0633	13-0051	.9067	14-0054	1.0588	14-0114	1.0488
11-0153	.8718	* 12-0016	1.0085	* 13-0052	1.1424	14-0055	.9514	14-0115	.9348
11-0154	.9017	* 12-0018	.8701	* 13-0053	.8322	14-0058	.9914	14-0116	1.0787
11-0155	.9775	12-0019	.9446	* 13-0054	.9204	14-0059	1.0068	14-0117	1.0691
* 11-0156	.9681	12-0020	.9410	14-0001	1.0039	14-0061	.9674	14-0118	1.1404
11-0157	.9934	* 12-0021	1.0250	14-0002	1.0574	14-0062	1.0542	14-0119	1.2914
11-0158	.9242	12-0022	1.1569	14-0003	.9334	14-0063	1.0685	14-0120	1.0104
11-0161	1.1259	13-0001	.9615	14-0004	.9789	14-0064	.9939	14-0121	.9516
11-0163	1.0581	13-0002	1.0522	14-0005	.9378	14-0065	1.0439	14-0122	1.0202
11-0164	1.0273	13-0003	1.0309	14-0007	.9918	14-0066	.9532	14-0123	.9989
11-0165	1.1182	* 13-0004	1.0229	14-0008	1.0473	14-0067	1.0799	14-0124	.8993
11-0166	1.0107	13-0005	.9657	14-0009	.9777	14-0068	.9847	14-0125	.9835
11-0168	1.0050	13-0006	1.2226	14-0010	1.0711	14-0069	.9424	14-0126	1.0672
11-0169	.5467	13-0007	1.1458	14-0011	.9485	14-0070	.9680	14-0127	1.0419
11-0170	.8298	* 13-0008	.9037	14-0012	.9215	14-0072	1.0163	14-0128	1.0305
11-0171	1.0955	* 13-0009	.9540	14-0013	1.0478	14-0074	1.0428	14-0129	.9879
11-0172	1.0562	13-0010	.9487	14-0014	.9424	14-0075	1.1262	14-0130	1.0323

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
14-0131	1.0757	14-0184	1.0009	14-0250	1.1083	15-0032	1.0328	15-0089	1.0891
14-0132	1.1024	14-0187	.9585	14-0251	.9727	15-0033	1.0784	15-0090	1.0402
14-0133	1.0745	14-0188	.9832	14-0252	1.0784	15-0034	1.0002	15-0091	.9713
14-0134	.9843	14-0189	1.0245	14-0253	1.0365	15-0035	1.0292	15-0092	.9613
14-0135	1.0021	14-0190	.9167	* 14-0255	.9337	15-0036	.9461	15-0094	1.0018
14-0136	.9475	14-0191	1.0487	14-0257	.8816	15-0037	1.0041	15-0095	1.0040
14-0137	.9852	14-0192	.9877	14-0258	1.0178	15-0038	.9773	15-0096	.9796
14-0138	.9501	14-0193	.9187	14-0261	1.0674	15-0039	.9895	15-0097	.9888
14-0139	.9717	14-0197	1.0365	14-0271	.9247	15-0042	1.0172	15-0098	.9781
14-0140	1.0045	14-0198	.9588	14-0273	.9015	15-0043	.9707	15-0099	1.0043
14-0141	1.0728	14-0200	1.0674	14-0275	1.0178	15-0044	.9993	15-0100	1.0954
14-0142	1.0845	* 14-0201	.9582	14-0276	1.3649	15-0045	1.0052	15-0101	.9600
14-0143	.9478	14-0202	.9941	14-0280	1.0397	15-0046	1.0729	15-0102	.9647
14-0144	1.0154	14-0203	1.1076	14-0281	1.1799	15-0047	1.0006	15-0103	.9719
14-0145	1.0171	14-0204	1.0558	* 14-0283	2.3495	15-0048	1.0396	15-0104	1.0415
14-0146	.9534	14-0205	.9157	14-0285	.9235	15-0049	.9094	15-0105	1.0010
14-0147	.9941	14-0206	.9846	14-0286	1.0599	15-0050	.9644	15-0106	.9298
14-0148	1.0670	14-0207	1.0110	14-0288	1.0836	15-0051	1.0169	15-0109	1.0217
14-0150	1.1254	14-0209	1.0484	14-0289	1.1009	15-0052	.8781	15-0110	.9448
* 14-0151	.9583	14-0210	1.0945	14-0290	1.0074	15-0053	.9661	15-0111	.9573
14-0152	1.0770	14-0210	1.0060	14-0291	1.0675	15-0054	.9460	15-0112	1.0267
14-0153	.9944	14-0211	1.0427	14-0292	1.0514	15-0056	1.1940	15-0113	.9599
14-0154	1.0394	14-0212	.9817	15-0001	.9787	15-0057	.8652	15-0114	.9761
14-0155	.9943	14-0213	1.0434	15-0002	.9822	15-0058	1.1080	15-0115	.9391
14-0156	1.0544	14-0215	.9742	15-0003	1.0309	15-0059	.9446	15-0122	.9857
14-0157	1.0997	* 14-0216	.9035	15-0004	1.0340	15-0060	1.0174	15-0123	.8553
14-0158	1.0944	14-0217	1.0028	15-0005	1.0277	15-0061	1.0301	15-0124	1.0135
14-0159	.9472	14-0219	.9895	15-0006	1.0284	15-0062	.9578	15-0125	1.0551
14-0160	1.0421	14-0220	.9764	15-0007	1.0149	15-0063	.9717	15-0126	1.2009
14-0161	.9541	14-0222	.9859	15-0008	1.1535	15-0064	.9850	15-0127	.9382
14-0162	1.0956	14-0223	1.1131	15-0009	1.0020	15-0065	1.0158	15-0128	.9452
14-0163	1.0134	14-0224	1.0714	15-0010	1.0072	15-0066	1.0147	15-0129	.9166
14-0164	1.0503	14-0226	.9511	15-0011	1.0521	15-0067	.9263	15-0130	.9525
14-0165	.8795	14-0228	1.0848	15-0012	1.0987	15-0069	.9368	15-0132	1.0524
14-0166	1.0424	14-0229	1.0043	15-0013	.8986	15-0070	.9648	15-0133	1.0403
14-0167	.9691	14-0230	.9467	15-0014	1.0034	15-0071	.9580	15-0134	.9680
14-0168	1.0418	14-0231	1.0698	15-0015	1.0303	15-0072	1.0573	* 15-0135	.9764
14-0170	1.0214	14-0232	1.0107	15-0017	1.2015	15-0073	.9591	16-0001	.9205
14-0171	.9154	14-0233	1.0419	15-0018	1.0592	15-0074	1.1401	16-0002	.9502
14-0172	1.0683	14-0234	.9444	15-0019	.9399	15-0075	1.0520	16-0003	.9897
14-0173	.9496	14-0235	.9552	15-0020	.9974	15-0076	.9954	16-0004	1.0834
14-0174	1.0365	* 14-0236	.8792	15-0021	1.1841	15-0077	1.0376	16-0005	.9499
14-0176	.9849	14-0239	1.0843	15-0022	.9558	15-0078	.9615	* 16-0007	.8623
14-0177	1.0211	14-0240	1.0362	15-0023	1.0127	15-0079	.9625	16-0008	.9767
14-0178	.9128	14-0241	.8810	15-0024	1.0772	15-0081	.9536	16-0009	1.0134
14-0179	1.0810	14-0242	1.0378	15-0025	1.0451	15-0082	1.1280	16-0012	.9807
14-0180	1.1888	14-0243	1.0541	15-0026	.9633	15-0083	.9210	16-0013	1.0353
14-0181	1.0795	14-0245	.9887	15-0027	.9711	15-0084	1.2308	16-0014	.9436
14-0182	1.0406	14-0246	.9498	15-0029	1.1171	15-0085	.8912	16-0016	1.0278
14-0184	.9524	14-0247	.9362	15-0030	.9697	15-0086	.9998	16-0018	.8945
14-0185	1.0246	14-0248	.9415	15-0031	.9029	15-0088	.9699	16-0020	.8993

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
16-0021	.9744	16-0076	.9744	16-0132	.9744	16-0188	.9744	16-0244	.9744
16-0022	.9744	16-0077	.9744	16-0133	.9744	16-0189	.9744	16-0245	.9744
16-0023	.9744	16-0078	.9744	16-0134	.9744	16-0190	.9744	16-0246	.9744
16-0024	.9744	16-0079	.9744	16-0135	.9744	16-0191	.9744	16-0247	.9744
16-0025	.9744	16-0080	.9744	16-0136	.9744	16-0192	.9744	16-0248	.9744
16-0026	.9744	16-0081	.9744	16-0137	.9744	16-0193	.9744	16-0249	.9744
16-0027	.9744	16-0082	.9744	16-0138	.9744	16-0194	.9744	16-0250	.9744
16-0028	.9744	16-0083	.9744	16-0139	.9744	16-0195	.9744	16-0251	.9744
16-0029	.9744	16-0084	.9744	16-0140	.9744	16-0196	.9744	16-0252	.9744
16-0030	.9744	16-0085	.9744	16-0141	.9744	16-0197	.9744	16-0253	.9744
16-0031	.9744	16-0086	.9744	16-0142	.9744	16-0198	.9744	16-0254	.9744
16-0032	.9744	16-0087	.9744	16-0143	.9744	16-0199	.9744	16-0255	.9744
16-0033	.9744	16-0088	.9744	16-0144	.9744	16-0200	.9744	16-0256	.9744
16-0034	.9744	16-0089	.9744	16-0145	.9744	16-0201	.9744	16-0257	.9744
16-0035	.9744	16-0090	.9744	16-0146	.9744	16-0202	.9744	16-0258	.9744
16-0036	.9744	16-0091	.9744	16-0147	.9744	16-0203	.9744	16-0259	.9744
16-0037	.9744	16-0092	.9744	16-0148	.9744	16-0204	.9744	16-0260	.9744
16-0038	.9744	16-0093	.9744	16-0149	.9744	16-0205	.9744	16-0261	.9744
16-0039	.9744	16-0094	.9744	16-0150	.9744	16-0206	.9744	16-0262	.9744
16-0040	.9744	16-0095	.9744	16-0151	.9744	16-0207	.9744	16-0263	.9744
16-0041	.9744	16-0096	.9744	16-0152	.9744	16-0208	.9744	16-0264	.9744
16-0042	.9744	16-0097	.9744	16-0153	.9744	16-0209	.9744	16-0265	.9744
16-0043	.9744	16-0098	.9744	16-0154	.9744	16-0210	.9744	16-0266	.9744
16-0044	.9744	16-0099	.9744	16-0155	.9744	16-0211	.9744	16-0267	.9744
16-0045	.9744	16-0100	.9744	16-0156	.9744	16-0212	.9744	16-0268	.9744
16-0046	.9744	16-0101	.9744	16-0157	.9744	16-0213	.9744	16-0269	.9744
16-0047	.9744	16-0102	.9744	16-0158	.9744	16-0214	.9744	16-0270	.9744
16-0048	.9744	16-0103	.9744	16-0159	.9744	16-0215	.9744	16-0271	.9744
16-0049	.9744	16-0104	.9744	16-0160	.9744	16-0216	.9744	16-0272	.9744
16-0050	.9744	16-0105	.9744	16-0161	.9744	16-0217	.9744	16-0273	.9744
16-0051	.9744	16-0106	.9744	16-0162	.9744	16-0218	.9744	16-0274	.9744
16-0052	.9744	16-0107	.9744	16-0163	.9744	16-0219	.9744	16-0275	.9744
16-0053	.9744	16-0108	.9744	16-0164	.9744	16-0220	.9744	16-0276	.9744
16-0054	.9744	16-0109	.9744	16-0165	.9744	16-0221	.9744	16-0277	.9744
16-0055	.9744	16-0110	.9744	16-0166	.9744	16-0222	.9744	16-0278	.9744
16-0056	.9744	16-0111	.9744	16-0167	.9744	16-0223	.9744	16-0279	.9744
16-0057	.9744	16-0112	.9744	16-0168	.9744	16-0224	.9744	16-0280	.9744
16-0058	.9744	16-0113	.9744	16-0169	.9744	16-0225	.9744	16-0281	.9744
16-0059	.9744	16-0114	.9744	16-0170	.9744	16-0226	.9744	16-0282	.9744
16-0060	.9744	16-0115	.9744	16-0171	.9744	16-0227	.9744	16-0283	.9744
16-0061	.9744	16-0116	.9744	16-0172	.9744	16-0228	.9744	16-0284	.9744
16-0062	.9744	16-0117	.9744	16-0173	.9744	16-0229	.9744	16-0285	.9744
16-0063	.9744	16-0118	.9744	16-0174	.9744	16-0230	.9744	16-0286	.9744
16-0064	.9744	16-0119	.9744	16-0175	.9744	16-0231	.9744	16-0287	.9744
16-0065	.9744	16-0120	.9744	16-0176	.9744	16-0232	.9744	16-0288	.9744
16-0066	.9744	16-0121	.9744	16-0177	.9744	16-0233	.9744	16-0289	.9744
16-0067	.9744	16-0122	.9744	16-0178	.9744	16-0234	.9744	16-0290	.9744
16-0068	.9744	16-0123	.9744	16-0179	.9744	16-0235	.9744	16-0291	.9744
16-0069	.9744	16-0124	.9744	16-0180	.9744	16-0236	.9744	16-0292	.9744
16-0070	.9744	16-0125	.9744	16-0181	.9744	16-0237	.9744	16-0293	.9744
16-0071	.9744	16-0126	.9744	16-0182	.9744	16-0238	.9744	16-0294	.9744
16-0072	.9744	16-0127	.9744	16-0183	.9744	16-0239	.9744	16-0295	.9744
16-0073	.9744	16-0128	.9744	16-0184	.9744	16-0240	.9744	16-0296	.9744
16-0074	.9744	16-0129	.9744	16-0185	.9744	16-0241	.9744	16-0297	.9744
16-0075	.9744	16-0130	.9744	16-0186	.9744	16-0242	.9744	16-0298	.9744
		16-0131	.9744	16-0187	.9744	16-0243	.9744	16-0299	.9744

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16-0021	.9581	16-0074	.9808	16-0134	.8440	17-0039	.8941	17-0098	.9353
16-0023	1.0160	16-0075	.9061	16-0135	.8767	17-0040	1.1699	* 17-0099	1.0272
16-0024	.9611	16-0076	.9179	* 16-0136	.9925	* 17-0041	.9626	* 17-0100	.8490
16-0025	1.1157	16-0077	.9092	16-0138	.9331	17-0043	.9311	17-0101	.9091
16-0026	.9166	16-0079	1.0741	* 16-0139	1.0357	17-0044	.8810	17-0102	.9280
16-0027	1.0455	16-0080	.9781	16-0140	1.0011	17-0045	.8305	17-0103	.9459
16-0028	1.0267	16-0081	1.0225	16-0141	.9115	17-0046	.9044	17-0104	1.0365
16-0029	1.0450	16-0082	1.1818	16-0142	.9403	17-0049	1.0401	17-0105	.9691
16-0030	1.0475	16-0083	1.1449	16-0143	1.0710	* 17-0050	.9425	17-0106	.8446
16-0031	.9544	16-0085	1.1847	16-0145	1.0412	17-0051	.9106	* 17-0108	.8258
16-0032	.9307	16-0086	.9272	16-0146	1.0251	17-0052	.9737	17-0109	.9547
16-0033	1.0855	16-0088	.9139	16-0147	.9815	17-0053	.8806	17-0110	.9756
16-0034	.9578	16-0089	1.0033	* 16-0151	.8897	17-0054	.9530	17-0112	.8927
16-0035	.9030	16-0090	.9390	16-0152	.9414	* 17-0055	.8441	17-0113	1.0255
16-0036	1.0222	16-0091	1.0610	16-0153	1.0469	17-0056	.9074	17-0114	.9989
16-0037	.9784	16-0092	.8927	17-0001	.9804	17-0057	.9101	17-0115	.8819
16-0038	1.0058	16-0093	.9208	17-0002	.9519	17-0058	.9775	17-0116	.9195
16-0039	.9134	16-0094	1.0379	17-0003	1.0500	17-0060	1.0323	* 17-0117	.9174
16-0040	.9569	16-0095	.9385	17-0004	.9334	17-0061	1.0030	* 17-0119	.9149
16-0041	.9550	16-0097	.9333	17-0005	.8790	17-0062	.8635	17-0120	.9478
16-0043	1.0234	* 16-0098	.9197	17-0006	.9879	* 17-0063	.9511	* 17-0121	.9751
16-0044	1.0227	16-0099	.9240	17-0007	.9432	* 17-0064	.8501	17-0122	1.1650
16-0045	1.1427	16-0101	.9995	17-0008	.9114	17-0066	1.0493	17-0123	1.1147
* 16-0046	.9591	16-0102	1.0102	17-0009	.9623	17-0067	.9093	17-0124	.8690
16-0047	1.0347	16-0103	.8508	17-0010	.9665	17-0068	.9580	17-0125	1.0009
16-0048	1.0128	16-0104	.9808	17-0011	1.0141	17-0069	.9182	17-0126	.8696
16-0049	.8639	16-0106	.9571	17-0012	1.1290	17-0070	.9034	17-0128	.8889
16-0050	.9812	16-0107	.9563	17-0013	.9946	17-0072	.8821	17-0130	.9303
* 16-0051	.9901	16-0108	.9884	17-0014	.9344	17-0073	.9041	17-0131	.9607
16-0052	1.0289	* 16-0109	.9328	17-0015	.9967	17-0074	.9848	17-0133	.9858
16-0053	.9819	16-0110	1.1096	17-0016	1.1760	* 17-0075	.9217	* 17-0134	.9263
16-0054	.9678	* 16-0111	1.0084	17-0017	1.0083	17-0076	1.0290	17-0137	1.0516
16-0055	1.0171	16-0112	.9901	17-0018	1.0141	17-0077	.8984	17-0138	.9398
16-0056	.9654	16-0113	.9448	17-0019	1.0148	* 17-0079	.8425	* 17-0139	.8597
16-0057	1.0280	16-0114	.9141	17-0020	1.0225	* 17-0080	.8898	17-0140	.8947
16-0058	1.1637	16-0115	.9372	17-0021	.9227	* 17-0081	1.0354	17-0142	.9509
16-0059	1.0539	16-0116	.9512	17-0022	.9242	* 17-0082	.9320	17-0143	.9998
16-0060	.9281	16-0117	1.1318	17-0023	.9833	17-0084	.9081	17-0144	.9944
16-0061	.8833	16-0118	.9214	17-0024	.9496	17-0085	.9436	17-0145	.9885
16-0062	.9244	* 16-0119	.9106	17-0025	.9231	17-0086	1.1580	17-0146	1.0282
* 16-0063	.9647	16-0120	.8688	17-0026	.9297	17-0087	1.0626	17-0147	1.0502
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16-0065	.9634	16-0122	.9784	17-0030	.8855	* 17-0089	.9062	17-0150	.9141
16-0066	.9308	16-0123	1.0356	17-0031	.8403	* 17-0090	.8742	17-0151	.9467
16-0067	1.0290	16-0124	.9510	17-0032	.9178	17-0091	.9427	17-0152	.8871
16-0068	.8997	16-0126	.9739	17-0033	.9557	17-0092	.9814	* 17-0159	.9814
16-0069	1.1154	16-0129	.9464	* 17-0034	.9445	17-0093	1.0835	17-0160	.9265
16-0070	.9180	16-0130	.9528	17-0035	.9522	17-0094	.9649	17-0164	.8525
* 16-0071	1.0497	16-0131	1.0527	17-0036	.8950	17-0095	.9685	* 17-0166	1.0426
16-0072	1.0114	* 16-0132	.9886	17-0037	1.0380	* 17-0096	.8993	* 17-0168	.9448
16-0073	.9391	16-0133	1.0089	17-0038	.8562	17-0097	.9378	* 17-0170	.9242

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PROVIDER NUMBER	CASE MIX INDEX
17-0171	.9717
17-0172	1.0120
* 17-0173	.9454
* 17-0174	.9558
17-0175	1.0579
17-0176	1.0010
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18-0014	1.0368
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18-0016	.9699
18-0017	1.0037
18-0018	1.0065
18-0019	.9824
18-0020	.8908
18-0021	.9064
18-0023	.9021
18-0024	.9271
18-0025	1.0876
18-0026	.8585
18-0027	.9595
18-0028	.9296
18-0029	.9715
18-0030	.9341
18-0031	.8912
18-0032	.9382
18-0033	.9442
18-0034	.9538
18-0035	1.0912
18-0036	.9036
18-0037	1.0687
18-0038	1.0067
18-0040	1.2414
18-0041	.9252
18-0042	.9290
18-0043	.9450
18-0044	.9571
18-0045	.9607
18-0046	.9980
18-0047	.9742
18-0048	1.0497
18-0049	.9988
18-0050	.9783
18-0051	1.0002
18-0053	.9866
18-0054	.9401
18-0055	.9449
18-0056	.9912
18-0058	.9036
18-0059	.9740
18-0060	.8611
18-0062	.8859
18-0063	.8986
18-0064	.9944
18-0065	.8533
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18-0067	1.2113
18-0069	1.0319
18-0070	.9352
18-0072	1.0095
18-0075	.8439
18-0078	.9465
18-0079	.8907
18-0080	.9940
18-0081	1.0675
18-0085	1.0824
18-0087	1.0137
18-0088	1.1517
18-0092	.9191
18-0093	1.1228
18-0094	.9708
18-0095	.9605
18-0099	.9917
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18-0101	.9256
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18-0106	.9075
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18-0112	.9345
18-0114	.8507
18-0115	.9200
18-0116	.9915
18-0117	.8604
18-0118	.9065
* 18-0119	.8575
18-0120	.9169
18-0121	.8653
18-0122	.9261
18-0123	1.0436
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18-0125	.9063
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18-0127	.9969
18-0128	.9254
18-0129	1.0330
18-0130	1.0750
18-0132	1.0564
18-0133	1.0649
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19-0005	1.0233
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19-0008	1.0207
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19-0010	.8864
19-0011	.9360
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19-0013	.9803
19-0014	.9004
19-0015	.9627
19-0016	.9893
19-0017	.9310
19-0018	.9375
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19-0020	.9669
19-0023	.9003
19-0025	1.0073
19-0026	1.0000
19-0027	.9941
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19-0029	1.0121
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19-0034	1.0032
19-0035	1.0296
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19-0039	1.0040
19-0040	.9453
19-0041	1.0962
19-0043	.9625
19-0044	.9023
19-0045	.9913
19-0046	1.0724
19-0047	.8959
19-0048	.9627
19-0049	.9517
19-0050	.9178
19-0053	.9056
19-0054	1.0439
19-0058	.9682
19-0059	.9419
19-0060	.9864
19-0064	1.0612
19-0065	1.1454
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19-0067	.9409
19-0071	.8918
19-0073	.8840
19-0075	.9672
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19-0079	.9462
19-0081	.8535
19-0083	.8894
19-0086	1.0137
19-0088	.9490
19-0089	1.0009
19-0090	.8424
19-0092	1.0230
19-0095	.8775
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19-0101	.8737
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19-0106	.9563
19-0109	1.0159
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19-0112	.9982
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19-0115	.9846
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19-0117	.8776
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19-0120	.8763
19-0122	.9492
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19-0125	1.0500
19-0127	.9472
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19-0131	.9010
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19-0137	.8498
19-0138	.5773
19-0139	.9243
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* 19-0155	.9410
19-0156	.9267
19-0157	.9267
19-0158	.9844
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19-0160	.9831
19-0161	.9392
19-0162	1.0801
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19-0166	.9333
19-0167	.9420
19-0168	1.1071
* 19-0169	.9063
19-0170	.8880
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19-0173	1.0609
19-0175	.9783
19-0176	1.2539
19-0177	.9513
* 19-0178	.9817
19-0179	.9411
19-0180	.9315
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19-0190	.8928
20-0001	1.1542
20-0002	.9663
20-0003	.9418
20-0005	.8287
20-0006	1.0202
20-0007	1.0408

TABLE HOSPITAL CASE MIX INDEXES

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PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
20-0008	1.0348	21-0007	1.1256	22-0006	1.0690	22-0069	1.0513	22-0129	1.0403
20-0009	1.2570	21-0008	1.0893	22-0008	1.0856	22-0070	1.0531	22-0130	.8948
20-0012	1.0541	21-0009	1.1877	22-0009	1.0391	22-0071	1.3418	22-0131	1.0270
20-0013	1.1206	21-0010	.9586	22-0010	1.0813	22-0072	.9464	* 22-0133	.8903
20-0015	1.0912	21-0011	1.1419	22-0011	1.1047	22-0073	1.0883	22-0135	1.0621
20-0016	1.0160	21-0012	1.0528	22-0012	1.0972	22-0074	1.0257	* 22-0153	.8381
20-0017	1.0195	21-0013	1.0291	22-0015	1.0725	22-0075	.6135	22-0154	.9081
20-0018	.9880	21-0015	1.0890	22-0016	1.0120	22-0076	1.0716	22-0156	1.0532
20-0019	1.0470	21-0016	1.1114	22-0017	1.1343	22-0077	1.0913	* 22-0159	1.1322
20-0020	1.0333	21-0017	1.0328	22-0019	1.0389	22-0079	1.0208	22-0162	1.0539
20-0021	.9798	21-0018	1.1006	22-0020	1.0414	22-0080	1.0895	22-0163	1.2802
* 20-0023	.9221	21-0019	1.1554	22-0021	1.0228	22-0081	.9167	* 22-0167	.5330
20-0024	1.0725	21-0021	1.0111	22-0022	.9233	22-0082	1.0107	* 22-0171	.9701
20-0025	.9990	21-0022	1.1489	22-0023	1.0371	22-0083	1.0490	23-0001	.9001
20-0026	.9751	21-0023	1.0638	22-0024	1.0623	22-0084	1.0752	23-0002	1.0899
20-0027	.9607	21-0024	1.1139	22-0025	1.0631	22-0086	1.1475	23-0003	1.0526
20-0028	.9212	21-0025	.9810	22-0026	1.0501	22-0087	.9053	23-0004	1.1176
* 20-0029	.8761	21-0026	1.0514	22-0028	1.0167	22-0088	1.2643	23-0005	.9903
* 20-0030	1.0667	21-0027	1.0322	22-0029	1.0133	22-0089	1.0742	23-0006	.9663
20-0031	1.0467	21-0028	.9610	22-0030	.9724	22-0090	1.0145	23-0007	.8475
20-0032	1.0921	21-0029	1.2160	22-0031	1.1367	22-0091	1.0125	23-0008	.9735
20-0033	1.2005	21-0030	.9633	22-0033	1.0680	22-0092	1.0452	23-0011	1.0652
20-0034	1.0383	21-0031	1.4180	22-0034	.9636	22-0094	1.0052	23-0012	.9442
20-0037	1.0031	21-0032	1.0238	22-0035	1.0775	22-0095	1.0139	23-0013	1.0779
20-0038	.9609	21-0033	1.0941	22-0036	1.1273	22-0096	.8993	23-0014	.9115
20-0039	1.0693	21-0034	1.0674	22-0038	1.0861	22-0097	.9543	23-0015	1.0057
20-0040	.9744	21-0035	1.1310	22-0040	1.0048	22-0098	1.0137	23-0017	1.1264
20-0041	1.0016	21-0036	1.0745	22-0041	1.1151	22-0099	.9286	23-0019	1.1360
* 20-0043	1.0634	21-0037	1.0281	22-0042	1.0158	22-0100	1.1262	23-0020	1.0384
20-0044	1.0294	21-0038	1.0049	22-0044	1.5153	22-0101	1.0939	23-0021	1.1285
20-0046	1.0923	21-0039	1.0095	22-0045	1.0646	* 22-0102	.9050	23-0022	1.0517
20-0047	.9960	21-0040	1.1698	22-0046	1.0623	22-0104	1.0672	23-0023	1.0135
* 20-0049	.9499	21-0041	1.0280	22-0048	1.0233	22-0105	1.0643	23-0024	1.1266
20-0050	1.0066	21-0042	1.0793	22-0049	.9826	22-0106	1.0525	23-0027	.9902
20-0051	1.0150	21-0043	1.0740	22-0050	.9166	22-0107	.9692	23-0029	1.0781
20-0052	1.0245	21-0044	.9627	22-0051	1.0758	22-0108	1.0716	23-0030	1.0720
* 20-0053	1.0633	21-0045	.9591	22-0052	1.0847	22-0110	1.4161	23-0031	1.0638
* 20-0054	.9639	21-0046	.8778	22-0053	1.0310	22-0111	1.0795	23-0032	1.2909
20-0055	.9502	21-0047	.8542	22-0054	1.0540	* 22-0113	1.0068	23-0034	.9736
* 20-0056	.6518	21-0048	.9861	22-0055	1.0530	22-0114	.9770	23-0035	.9689
20-0062	.9952	21-0049	1.0130	22-0057	1.0286	22-0115	1.0583	23-0036	1.0570
20-0063	1.0699	21-0051	1.1282	22-0058	.9688	22-0116	1.3035	23-0037	1.0990
* 20-0064	.9868	21-0054	1.0135	22-0060	1.0541	22-0117	.9356	23-0038	1.2677
* 20-0065	.9611	21-0055	1.0319	22-0061	1.0307	22-0118	1.2522	23-0039	1.1020
20-0066	1.0967	21-0056	1.1307	22-0062	.8675	22-0119	1.1369	23-0040	1.0149
21-0001	1.0460	21-0057	1.1326	22-0063	1.0012	22-0120	1.0327	23-0041	1.0448
21-0002	1.2424	22-0001	1.0654	22-0064	1.0128	22-0121	.9574	23-0042	.9858
21-0003	1.0945	22-0002	1.2137	22-0065	1.0193	* 22-0122	1.1334	23-0043	.9143
21-0004	1.0691	22-0003	.9432	22-0066	1.0344	22-0123	1.0192	23-0044	.9182
21-0005	1.0886	22-0004	1.0415	22-0067	1.1180	22-0126	1.0500	23-0046	1.1451
21-0006	1.0373	22-0005	1.0650	22-0068	.9745	22-0128	1.0706	23-0047	1.0208

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PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
* 23-0049	.8455	23-0110	.9873	23-0160	1.0750	23-0238	.9554	24-0030	.9867
23-0051	.9821	23-0111	.9960	* 23-0170	.9422	23-0239	.9476	24-0031	.9051
23-0052	1.0386	23-0113	.8063	* 23-0171	.9016	* 23-0240	1.6514	* 24-0033	.9362
23-0053	1.2072	23-0114	.7636	23-0172	.8425	23-0241	1.0065	24-0035	.9908
23-0054	1.1307	23-0115	.8645	23-0173	1.0036	23-0244	1.0368	24-0036	1.0486
23-0055	.9967	23-0116	.9248	23-0174	1.0464	23-0253	1.0061	24-0037	.9816
23-0056	.9656	23-0117	1.2374	* 23-0175	1.0649	23-0254	1.0457	24-0038	1.1182
23-0057	.9486	23-0118	.9849	23-0176	1.0069	* 23-0255	.9682	24-0040	.9863
23-0058	1.0690	23-0119	.9762	23-0177	.8949	23-0256	.9556	24-0041	1.0183
23-0059	1.1489	23-0120	.9417	23-0178	1.0000	23-0257	.9730	24-0043	1.0943
23-0060	.9719	23-0121	1.0000	* 23-0179	.9152	* 23-0258	.8896	24-0044	1.0564
23-0062	.9815	23-0122	1.0053	23-0180	.9485	23-0259	.9931	24-0045	.9748
23-0063	1.0620	* 23-0123	.9099	23-0181	.9621	* 23-0260	.7722	24-0046	1.1192
23-0065	1.0642	23-0124	1.0747	23-0183	.9513	23-0261	1.0595	24-0047	1.0605
23-0066	1.0149	23-0125	1.2363	23-0184	.9435	* 23-0262	1.1735	24-0048	.9796
* 23-0067	.8938	23-0126	1.1601	23-0186	.8739	* 23-0264	.8651	24-0049	1.2427
23-0068	1.0975	23-0128	1.0797	23-0188	1.0262	23-0265	1.0451	24-0050	.9879
23-0069	1.0182	23-0129	1.2708	23-0189	.9714	23-0266	1.0327	24-0051	1.0323
23-0070	1.0451	23-0130	1.1546	* 23-0190	.8755	23-0268	1.0833	24-0052	1.1077
* 23-0071	1.0608	23-0132	1.0852	23-0191	.8970	23-0269	1.0678	24-0053	1.1601
23-0072	1.0472	23-0133	1.0203	23-0193	.9767	23-0270	1.0197	24-0054	.9500
23-0075	1.0511	23-0134	.9545	23-0194	1.0035	23-0271	1.0146	24-0055	1.0660
23-0076	1.1255	23-0135	1.0014	23-0195	1.1300	* 23-0272	.8755	24-0056	1.0424
23-0077	1.1733	23-0137	1.0047	* 23-0196	.8802	23-0273	1.2589	24-0057	1.1249
23-0078	.9466	23-0138	.8870	23-0197	1.0523	24-0001	1.0656	24-0058	1.0069
23-0079	.9881	23-0139	.9357	23-0198	.9859	24-0002	1.1283	24-0059	.8169
23-0080	.9756	23-0140	.9577	23-0201	.8719	24-0003	.9951	24-0061	1.1724
23-0081	1.0196	23-0141	1.1122	* 23-0203	.9321	24-0004	1.2218	24-0062	.9931
23-0082	.9461	23-0142	1.1031	23-0204	1.1156	* 24-0005	.9512	24-0063	1.1076
23-0084	.9237	23-0143	1.0139	23-0205	1.0521	24-0006	.9328	24-0064	.9471
23-0085	.9287	23-0144	.9612	23-0207	1.0266	24-0007	.9512	24-0065	.9365
23-0086	.9242	23-0145	1.0225	23-0208	.9517	24-0008	1.0410	24-0066	.9358
23-0087	1.0576	23-0146	1.1145	* 23-0211	.9315	24-0009	.9708	* 24-0068	1.4289
23-0089	1.0329	23-0147	1.0164	23-0212	1.0032	24-0010	1.3412	24-0069	1.0280
23-0090	1.0040	23-0149	1.9399	23-0213	.9925	24-0011	1.0023	24-0071	.9339
23-0092	1.0503	23-0150	1.1375	23-0216	1.1073	24-0013	.9536	24-0072	.8808
23-0093	1.0873	23-0151	1.1642	23-0217	.9892	24-0014	1.0053	24-0073	.9363
23-0095	.9848	23-0152	1.0088	23-0219	.9320	24-0016	1.0454	24-0074	.9632
23-0096	.9776	23-0153	1.0161	23-0221	1.0071	24-0017	.9514	24-0075	1.0413
23-0097	1.0900	23-0154	.9997	23-0222	1.0553	24-0018	.9845	24-0076	.9624
23-0098	1.0978	23-0155	.9854	23-0223	1.0645	24-0019	.8914	* 24-0077	.8408
23-0099	.9788	23-0156	1.1978	23-0224	.9951	24-0020	.9570	24-0078	1.0444
23-0100	1.0042	23-0157	1.0871	23-0225	.9934	* 24-0021	.9362	24-0079	.9191
23-0101	.9659	23-0158	.8946	23-0227	.9757	24-0022	1.0091	24-0080	1.1855
23-0102	1.0280	23-0159	1.0064	23-0228	1.0492	24-0023	.9175	24-0081	1.0838
23-0103	.9883	* 23-0161	.9430	23-0230	1.1236	24-0024	1.0287	24-0082	.9974
23-0104	1.1505	* 23-0162	.9334	23-0231	.9588	24-0025	.9579	24-0083	.9231
23-0105	1.1475	23-0163	.8883	* 23-0232	.9418	24-0026	1.0604	24-0084	1.0736
23-0106	1.0781	23-0165	1.1926	23-0235	.9122	24-0027	1.0167	24-0085	.9966
23-0107	1.0371	23-0167	1.0476	23-0236	1.0200	24-0028	1.0315	24-0086	.9419
23-0108	.9997	23-0168	.9064	23-0237	.9693	24-0029	.9304	24-0087	.9785

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24-0088	1.0744	24-0143	.9970	25-0010	.8977	25-0071	.9347	25-0126	.9413
24-0089	1.0593	24-0144	.9300	25-0012	.9716	25-0072	.9766	* 25-0127	.9900
24-0090	.9532	* 24-0145	.9778	25-0014	.9426	25-0073	.8612	25-0128	.9674
24-0091	.9686	24-0146	.9125	25-0015	.9001	* 25-0075	1.0124	25-0129	.9951
24-0093	1.1072	* 24-0148	.8705	25-0016	.8613	25-0076	.7980	* 25-0130	.9535
24-0094	.9148	* 24-0150	.8454	25-0017	.9950	25-0077	.9102	* 25-0131	.8804
24-0096	.9291	24-0152	.9457	25-0018	.9781	25-0078	1.0341	25-0132	.9514
24-0097	.9962	24-0153	.9301	25-0019	1.0720	25-0079	.8585	26-0001	1.0564
24-0098	.9310	24-0154	.9208	25-0020	.9391	25-0080	.9410	26-0002	.9843
24-0099	.9721	24-0155	.9000	25-0021	.9230	25-0081	1.0269	26-0003	.9442
24-0100	1.0284	* 24-0156	1.0417	25-0023	.8629	25-0082	1.0596	26-0004	.9881
24-0101	1.0411	24-0157	.9760	25-0024	.9371	25-0083	.9275	26-0005	.9841
* 24-0102	.9412	24-0158	.9710	25-0025	.9864	25-0084	.9955	26-0006	1.0280
24-0103	.9574	24-0160	.9184	25-0026	.9110	25-0085	.8889	26-0007	.9825
24-0104	1.0056	24-0161	.8901	25-0027	.8973	25-0086	.9226	26-0008	1.0947
24-0105	.9379	24-0162	1.1019	25-0029	.9171	* 25-0087	.9478	26-0009	1.0193
24-0106	1.1373	* 24-0163	.8796	25-0030	.9024	25-0088	.9413	26-0010	.9621
24-0107	.9704	* 24-0165	.9542	25-0031	1.0275	25-0089	.9596	26-0011	.9755
24-0108	.9431	24-0166	.9454	25-0032	1.0675	25-0091	.8594	26-0012	.8599
24-0109	.9402	24-0167	1.0083	25-0033	.9033	25-0093	.9371	26-0013	.9647
24-0110	.8871	24-0169	.9083	25-0034	.8902	25-0094	.9984	26-0014	1.0422
24-0111	1.0052	24-0170	1.0075	25-0035	.9199	25-0095	.8666	26-0015	.9721
24-0112	.9712	24-0171	.8859	25-0036	.8792	25-0096	1.0062	26-0016	.9603
* 24-0114	1.0593	24-0172	.9689	25-0037	.9304	25-0097	.9721	26-0017	.9757
24-0115	1.0850	24-0173	.9341	25-0038	.9026	* 25-0098	.9388	26-0018	.9406
24-0116	1.0122	24-0175	1.0378	25-0039	.9035	25-0099	.9761	26-0019	.8982
24-0117	.9631	* 24-0176	1.0006	25-0040	1.0221	25-0100	1.0584	26-0020	1.0186
* 24-0118	.9253	24-0177	.9294	25-0041	.9110	* 25-0101	.8607	26-0021	.9865
* 24-0119	.9689	24-0179	.9993	25-0042	.9682	25-0102	1.1268	26-0022	.9438
24-0120	.9687	24-0180	.9324	25-0043	.8814	25-0103	.9378	26-0023	.9736
24-0121	.9255	24-0183	.9080	25-0044	.8573	25-0104	.9922	26-0024	.9719
24-0122	.8899	24-0184	.9510	25-0045	.9798	25-0105	.8708	26-0025	.9855
24-0123	1.0245	24-0187	.9674	25-0046	.8607	25-0106	.9354	26-0026	1.0119
24-0124	.9491	* 24-0189	.8863	25-0047	.8564	25-0107	.8600	26-0027	1.1319
* 24-0125	.9788	* 24-0192	.9555	25-0048	1.1567	25-0108	1.0037	26-0029	.9487
* 24-0127	1.0380	* 24-0193	.8783	25-0049	.9586	25-0109	.9410	26-0030	.9303
24-0128	.9931	24-0194	.9280	25-0050	1.0422	25-0110	.9594	26-0031	.9934
24-0129	.8705	* 24-0195	1.0795	25-0051	.9975	25-0111	.7991	26-0032	1.0653
24-0130	.9692	24-0196	1.1318	25-0054	.9130	25-0112	.8448	26-0033	1.0780
24-0131	1.0770	* 24-0200	.8962	25-0057	.9624	25-0113	.9554	26-0034	.9198
24-0132	.9724	* 24-0201	.9793	25-0058	1.0094	* 25-0114	.9443	26-0035	.9096
24-0133	.9382	* 24-0204	1.0481	25-0059	.8825	* 25-0116	.9198	26-0036	.9221
* 24-0134	1.0904	25-0001	1.2292	25-0060	.9662	25-0117	.9038	26-0037	.9606
* 24-0135	.9074	25-0002	.8571	25-0061	.9396	25-0118	1.0097	26-0038	.9307
24-0136	.8985	25-0003	.8892	25-0062	1.0146	25-0119	.8970	26-0039	.9935
24-0137	.9704	25-0004	1.0213	25-0063	.9153	25-0120	.9782	26-0040	1.0775
24-0138	.9443	25-0005	.9038	25-0065	.8938	25-0121	.8653	26-0041	.9236
24-0139	1.0242	25-0006	.9723	25-0066	.8969	25-0122	.9573	26-0042	.9369
* 24-0140	.9713	25-0007	1.0142	25-0067	.9158	25-0123	.8880	26-0044	1.0186
24-0141	.9761	25-0008	.9084	25-0068	.9104	25-0124	.8461	26-0045	.9302
24-0142	.9759	25-0009	.9664	25-0069	.9791	25-0125	.9252	26-0047	.9974

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26-0048	1.0377	26-0107	.9861	26-0186	.9628	27-0054	.9181	28-0041	.9562
26-0049	1.0033	26-0108	1.0406	* 26-0187	1.0112	27-0057	1.0890	28-0042	.8626
26-0050	.9449	26-0109	.9948	26-0188	1.0219	27-0058	1.0178	28-0043	.9695
26-0051	.9290	26-0110	.9653	26-0189	.9979	* 27-0059	.9688	28-0045	.9395
26-0052	1.0050	26-0111	.8871	26-0190	1.0558	* 27-0060	.9265	28-0046	.9573
26-0053	.9425	26-0112	1.0379	26-0191	1.0270	27-0061	.8647	28-0047	.9708
26-0054	1.0201	26-0113	.9928	* 26-0192	.7214	* 27-0063	.9742	28-0048	.9326
26-0055	.9247	26-0115	.9940	* 27-0001	.8451	* 27-0064	.6116	28-0049	.9650
26-0056	.8863	26-0116	.9265	27-0002	.9843	27-0065	.9723	* 28-0050	.8639
26-0057	.9431	* 26-0117	.9171	27-0003	1.0713	* 27-0067	.8625	* 28-0051	.9518
26-0058	1.0638	26-0118	1.0239	27-0004	1.2288	* 27-0068	1.0042	28-0052	1.0076
26-0059	.9595	26-0119	.9517	* 27-0006	1.0733	* 27-0070	.9264	28-0054	.9457
26-0061	.9592	26-0120	.9805	27-0007	.8760	* 27-0071	.9451	28-0055	.9558
26-0062	.9822	26-0121	.9155	27-0008	.9223	* 27-0072	.9157	* 28-0056	.9687
26-0063	1.0474	26-0122	.9742	27-0009	.9504	* 27-0073	1.0191	28-0057	.9065
26-0064	.9247	26-0123	.8843	* 27-0010	.8264	* 27-0079	.9487	28-0058	.9856
26-0065	1.1259	26-0127	.9323	27-0011	.9784	27-0080	.9719	28-0060	1.0433
26-0066	.9509	26-0128	.9891	27-0012	1.0371	* 27-0081	1.0302	28-0061	1.0779
26-0067	.9421	26-0129	.9807	27-0013	1.0285	28-0001	.9381	28-0062	.9328
26-0068	1.0899	26-0131	.8544	27-0014	1.1273	28-0003	1.1119	* 28-0063	.9897
26-0070	.9207	26-0133	.9746	* 27-0016	.9098	* 28-0004	.9267	28-0064	.9171
26-0072	.8658	26-0134	.9587	27-0017	1.0693	28-0005	1.0917	28-0065	.9955
26-0073	.9122	26-0136	1.0110	27-0018	.9078	28-0006	.9692	28-0066	.9406
26-0074	.8846	26-0137	.9595	27-0019	1.0073	28-0009	1.0058	28-0068	.8874
26-0077	1.0302	26-0138	1.1887	27-0021	.9339	* 28-0010	.9990	* 28-0070	1.0519
26-0078	.9091	* 26-0140	.9331	27-0023	1.1021	28-0011	.9142	28-0071	.9603
26-0079	.9028	26-0141	1.1019	27-0024	1.0226	28-0012	.9809	28-0073	.9397
26-0080	.8902	26-0142	1.0122	* 27-0026	.8670	28-0013	1.1267	28-0074	1.0150
26-0081	1.0594	26-0143	.9366	* 27-0027	1.0609	28-0014	.9443	28-0075	.9229
26-0082	.9943	26-0146	1.0906	* 27-0028	.9571	28-0015	.8649	28-0076	.9725
26-0083	.9009	26-0147	.9407	27-0029	.9456	28-0017	.9366	28-0077	1.0943
26-0084	.9410	26-0148	.9137	* 27-0030	.9477	28-0018	.8543	* 28-0078	.8988
26-0085	.9829	26-0150	1.0431	27-0031	.8840	28-0020	1.0782	28-0079	.9964
26-0086	1.0779	26-0158	.9800	27-0032	.9698	28-0021	.9673	28-0080	.9302
26-0088	.9443	26-0159	.8744	* 27-0033	.8893	* 28-0022	.9752	28-0081	1.0719
26-0089	.9674	26-0160	.9824	* 27-0035	.9575	28-0023	1.0201	28-0082	.8869
26-0090	1.0786	26-0162	.9983	* 27-0036	1.0143	28-0024	.9386	28-0083	1.0025
26-0091	.9966	26-0163	.9576	27-0039	.9263	28-0025	.8278	28-0084	.9752
26-0092	.9189	26-0164	.9548	27-0040	1.0036	* 28-0026	.9467	28-0085	1.0123
26-0093	.9657	26-0165	.8902	* 27-0041	1.0312	28-0028	.9063	28-0087	1.0480
26-0094	.9475	26-0166	1.0226	* 27-0042	.8321	* 28-0029	.9169	28-0088	1.0729
26-0095	1.0512	26-0172	.9293	27-0043	.8394	28-0030	1.1859	28-0089	.9272
26-0096	1.0617	26-0173	.8997	27-0044	1.0292	28-0031	.9403	* 28-0090	.8921
26-0097	.9418	26-0175	.9983	27-0046	.9637	28-0032	.9749	28-0091	1.0474
26-0100	.9665	26-0176	1.0138	* 27-0047	.9448	28-0033	.9028	28-0092	.9432
* 26-0101	1.4882	26-0177	1.0226	27-0048	.8720	28-0034	1.0782	* 28-0093	.9209
26-0102	.9550	26-0178	1.0478	27-0049	1.1707	28-0035	.8818	28-0094	.8323
26-0103	1.0248	26-0179	1.0538	27-0050	.9225	28-0037	1.0268	28-0097	.9328
26-0104	1.0180	26-0180	1.0708	27-0051	1.0695	28-0038	.9214	* 28-0098	.8663
26-0105	1.3544	26-0182	.9594	* 27-0052	.9697	28-0039	.9760	* 28-0101	.8780
* 26-0106	.8384	26-0183	.9991	* 27-0053	.9432	28-0040	1.1877	28-0102	.9448

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28-0103	1.0067	30-0016	1.0289	31-0044	1.0607	31-0108	1.0690	* 32-0067	.8381
28-0104	.9043	30-0017	.9890	31-0045	1.1604	* 31-0109	1.1564	* 32-0068	.9153
28-0105	1.0910	30-0018	1.0261	31-0046	1.0536	31-0110	.9922	33-0001	1.0839
* 28-0106	.9809	30-0019	.9670	31-0047	1.0947	31-0111	1.0501	33-0002	1.0630
28-0107	.9820	30-0020	.9593	31-0048	1.0281	31-0112	1.0615	33-0003	1.0800
28-0108	.9561	30-0021	.8941	31-0049	1.0408	31-0113	1.0809	33-0004	1.0401
28-0109	1.0018	30-0022	.9701	31-0050	1.0799	31-0114	.9894	33-0005	1.1782
28-0110	1.0363	30-0023	1.1175	31-0051	1.1180	31-0115	1.0038	33-0006	1.1018
28-0111	.9464	30-0024	.9723	31-0052	1.0690	31-0116	1.1095	33-0007	1.0873
* 28-0114	.8427	30-0028	1.0214	31-0053	1.0055	31-0117	1.0598	33-0008	.9910
28-0115	.9839	30-0029	1.0826	31-0054	1.1114	31-0118	.9808	33-0009	.9235
* 28-0116	.8391	30-0033	.9319	31-0056	1.0439	31-0119	.9540	33-0010	1.0152
28-0117	.9423	30-0034	1.0097	31-0057	1.1858	31-0120	.9751	33-0011	1.0335
28-0118	.9345	31-0001	1.0894	31-0058	1.0219	32-0001	1.1245	33-0012	1.0906
* 28-0121	1.1947	31-0002	1.3571	31-0059	.9845	32-0002	1.0249	33-0013	1.1639
29-0001	1.0680	31-0003	1.0207	31-0060	1.0222	32-0003	1.0063	33-0014	1.1011
29-0002	.9076	31-0005	1.0412	31-0061	1.0189	32-0004	.9918	33-0015	.9833
29-0003	1.0514	31-0006	1.0801	31-0062	.9210	32-0005	1.0275	33-0016	1.0021
29-0005	.9118	31-0008	1.1124	31-0063	1.0649	32-0006	.9551	33-0019	1.0207
29-0006	.9338	31-0009	1.0028	31-0064	1.1122	32-0009	1.0666	33-0020	1.0022
29-0007	1.1040	31-0010	1.1202	31-0065	.9777	32-0010	.9464	33-0022	1.0067
29-0008	1.0706	31-0011	1.0869	31-0067	1.0345	32-0011	.9444	33-0023	1.0666
29-0009	.9933	31-0012	1.0886	31-0068	1.0403	32-0012	.9445	33-0024	1.2084
29-0010	.9133	31-0013	.9926	31-0069	.9613	32-0013	1.0636	33-0025	.9377
* 29-0011	.8938	31-0014	1.1295	31-0070	1.0890	32-0014	.9597	33-0027	1.1130
29-0012	.9546	31-0015	1.1186	31-0071	1.0195	32-0016	.9459	33-0028	1.1085
* 29-0013	.9264	31-0016	1.0904	31-0072	.9869	32-0017	1.0463	33-0029	1.0161
29-0014	.9342	31-0017	1.1341	31-0073	1.0630	32-0018	1.0382	33-0030	1.0193
* 29-0015	1.0503	31-0018	.9193	31-0074	1.0718	32-0019	1.0430	33-0032	.9632
* 29-0016	.9864	31-0019	1.0659	31-0075	1.1039	32-0021	1.1565	33-0033	1.0441
* 29-0018	1.1637	31-0020	1.0296	31-0076	1.1096	32-0022	1.0179	33-0034	1.0020
29-0019	1.0251	31-0021	1.0361	31-0077	1.0654	* 32-0023	.8901	33-0036	.9145
* 29-0020	.9313	31-0022	1.0746	31-0078	1.0645	32-0027	.9240	33-0037	1.0547
29-0021	.9586	31-0024	1.0762	31-0080	1.0274	* 32-0028	1.2955	33-0038	.9972
29-0022	1.0531	31-0025	1.0435	31-0081	1.0772	32-0030	1.0122	33-0039	1.0464
29-0024	.8044	31-0026	1.0759	31-0083	1.0632	* 32-0031	.9102	33-0041	1.0442
* 29-0027	1.0450	31-0027	.9997	31-0084	1.0674	32-0032	.8865	33-0043	1.0328
30-0001	1.0706	31-0028	1.0708	31-0085	1.0600	32-0033	.9777	33-0044	1.0977
30-0002	1.0147	31-0029	1.1238	31-0086	1.0885	32-0035	.9564	33-0045	1.1350
30-0003	1.2082	31-0031	1.3830	31-0087	1.0517	32-0036	.9925	33-0046	1.1270
30-0005	.9916	31-0032	1.0405	31-0088	.9607	* 32-0037	.8872	33-0047	.9817
30-0006	.9984	31-0033	1.0555	* 31-0089	1.1298	* 32-0038	.9472	33-0048	1.0162
30-0007	1.0149	31-0034	1.0671	31-0090	.9701	32-0046	.9635	33-0049	.9971
30-0008	1.0593	31-0036	.9961	31-0091	1.0227	* 32-0048	.9308	33-0050	.9750
30-0009	1.0302	31-0037	1.0640	31-0092	1.0905	32-0049	.9694	33-0052	.9422
30-0010	.9305	31-0038	1.0227	31-0093	1.0231	* 32-0051	.9191	33-0053	.9636
30-0011	1.0210	31-0039	1.0249	31-0094	.9903	32-0053	.8848	33-0055	1.1094
30-0012	1.0647	31-0040	1.0313	31-0096	1.1101	* 32-0058	.9302	33-0056	1.0567
30-0013	1.0320	31-0041	1.0449	31-0104	1.0618	32-0063	1.0199	33-0057	1.1662
30-0014	1.0514	31-0042	1.0479	31-0105	.9832	32-0065	1.0712	33-0058	.9755
30-0015	.9508	31-0043	1.0020	31-0106	1.1342	* 32-0066	.9650	33-0059	1.1297

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
33-0061	1.0889	33-0124	1.0937	33-0185	1.0959	33-0247	.5690	33-0321	1.0729
33-0062	.9754	33-0125	1.2954	33-0186	1.0141	33-0249	1.0198	33-0323	.9797
33-0063	1.0377	33-0126	1.0682	33-0187	.9584	33-0250	1.0418	33-0324	1.0029
33-0064	1.0435	33-0127	1.0698	33-0188	1.0345	33-0252	.8739	33-0327	.9449
33-0065	.9951	33-0128	1.1425	33-0189	.7307	* 33-0253	.8805	33-0331	1.0581
33-0066	1.0455	33-0132	1.0446	33-0191	1.0844	33-0254	1.0423	33-0332	1.0324
33-0067	1.0136	33-0133	1.0458	33-0193	1.1007	33-0256	.9342	33-0333	.9145
33-0069	1.0619	33-0134	1.0789	33-0194	1.1098	33-0257	.9375	33-0335	1.0149
33-0072	1.0973	33-0135	.9850	33-0195	1.2568	33-0258	1.0656	33-0336	1.0427
33-0073	.9969	33-0136	1.1027	33-0196	1.1320	33-0259	1.1574	33-0338	1.0358
33-0074	1.0892	33-0138	1.0398	33-0197	.9626	33-0260	1.1017	* 33-0339	1.1701
33-0075	.9778	* 33-0139	.8422	33-0198	1.0983	33-0261	1.0469	33-0340	.9619
33-0076	1.0514	33-0140	1.1470	33-0199	1.0565	33-0263	.9576	33-0342	1.0346
33-0077	.9862	33-0141	1.1366	33-0201	1.0634	33-0264	1.0359	33-0345	.7094
33-0078	1.1620	33-0142	1.0362	33-0202	1.0260	33-0265	1.0749	33-0350	1.3728
33-0079	.9963	33-0143	1.0283	33-0203	1.1357	33-0266	.9176	33-0351	.8800
33-0080	.9728	33-0144	1.0173	33-0204	1.0705	33-0267	1.0128	33-0353	1.0619
33-0082	1.0101	33-0146	.9401	33-0205	.9960	33-0268	1.0786	33-0354	.9874
33-0084	.9411	* 33-0147	.8931	33-0208	1.0828	33-0270	1.5995	33-0355	.9557
33-0085	1.1371	33-0148	.9942	33-0209	1.0339	33-0272	.9676	33-0357	1.0493
33-0086	1.0333	33-0150	.9607	33-0210	.9767	33-0273	.9718	33-0359	.9720
33-0087	1.0252	33-0151	1.0159	33-0211	.9744	33-0275	1.1302	33-0372	1.0408
33-0088	1.0259	33-0152	1.0591	33-0212	.9710	33-0276	.9438	* 33-0377	1.1421
33-0090	1.2043	33-0153	1.0909	33-0213	.9755	33-0277	.9572	33-0379	1.1283
33-0091	1.1041	33-0154	1.1797	33-0214	1.1671	33-0279	1.1320	33-0382	1.0128
33-0092	.9893	33-0155	.9896	33-0215	1.0290	33-0281	.9126	33-0383	1.0143
33-0094	1.0751	33-0157	1.0881	33-0217	.9653	33-0283	1.0398	33-0385	1.0790
33-0095	1.0239	33-0158	1.0560	33-0218	1.0449	33-0285	1.2413	33-0386	.9790
33-0096	.9559	33-0159	1.1446	33-0219	1.1660	33-0286	1.0773	* 33-0387	1.1787
33-0097	1.0668	33-0160	1.1112	33-0221	1.0568	33-0288	1.0083	33-0389	1.2904
33-0098	1.0643	33-0161	.9998	33-0222	1.0097	* 33-0289	.7942	33-0390	1.0139
33-0100	.5620	33-0162	1.1221	33-0223	.9275	33-0290	1.1694	33-0391	1.0655
33-0101	1.1613	33-0163	.9743	33-0224	1.0664	33-0291	1.0009	* 33-0393	.9166
33-0102	1.0971	33-0164	1.2719	33-0225	1.1058	33-0293	1.1364	34-0001	1.0157
33-0103	1.1007	33-0165	.9441	33-0226	.9583	33-0297	1.0521	34-0002	1.1542
33-0104	1.0754	33-0166	.9612	33-0229	1.0338	33-0298	.9068	34-0003	1.0177
33-0106	1.1755	33-0167	1.1494	33-0230	.9882	33-0299	1.0448	34-0004	1.0406
33-0107	1.0037	33-0168	.9796	33-0231	1.0756	33-0300	.8755	34-0005	.9505
33-0108	1.0096	33-0169	1.0554	33-0232	1.0081	33-0304	1.0965	34-0006	.9512
33-0109	.9424	33-0171	1.1071	33-0233	1.0494	33-0305	1.0127	34-0007	.9816
33-0110	.9293	33-0172	.9971	33-0234	1.2893	33-0306	1.1295	34-0008	.9876
33-0111	.9941	33-0174	.9218	33-0235	1.0534	33-0307	1.0197	34-0009	.4854
33-0114	.9394	33-0175	1.0601	33-0236	1.1029	33-0308	1.0857	34-0010	1.0226
33-0115	1.0733	33-0176	.9589	33-0238	.9911	33-0309	1.0635	34-0011	.9759
33-0116	.9463	33-0177	.8957	33-0239	1.0780	* 33-0310	.9845	34-0012	.9536
33-0117	1.0126	33-0179	.9451	33-0240	1.0334	33-0311	1.0260	34-0013	1.0507
33-0118	1.1327	33-0180	1.0246	33-0241	1.3027	33-0314	1.0942	34-0014	1.1021
33-0119	1.1070	33-0181	1.1070	33-0242	1.0804	33-0315	1.0894	34-0015	.9687
33-0120	1.2679	33-0182	1.3603	33-0244	1.0236	33-0316	1.0543	34-0016	.9574
33-0121	.9380	33-0183	1.1246	33-0245	1.0709	33-0318	1.0280	34-0017	1.0139
33-0122	1.0039	33-0184	1.0908	33-0246	1.0443	33-0320	1.0300	34-0018	1.0973

TABLE HOSPITAL CASE MIX INDEXES

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PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
34-0019	.9866	* 34-0078	1.0138	34-0145	.9399	35-0043	1.0020	36-0039	1.0097
34-0020	1.0146	* 34-0079	1.0003	* 34-0146	1.0770	35-0044	.9115	36-0040	1.0596
34-0021	1.0172	34-0080	.9318	34-0147	1.0437	* 35-0045	.8770	36-0041	1.1539
34-0022	.9238	34-0084	1.0008	34-0148	.8603	35-0047	.9978	36-0042	.9993
34-0023	.9764	34-0085	1.0130	* 34-0150	1.2896	35-0048	.8257	36-0044	.9886
34-0024	1.0505	* 34-0086	.8900	34-0151	.9494	35-0049	.8807	36-0045	1.0920
34-0025	.9995	34-0087	.9862	34-0153	1.2472	35-0050	.9192	36-0046	.9491
34-0026	.9099	34-0088	.9868	34-0155	1.0760	35-0051	.9333	36-0047	.9852
34-0027	1.0209	34-0089	.9156	34-0157	.7531	* 35-0053	.9439	36-0048	1.2355
34-0028	1.0232	34-0090	1.0181	34-0158	.9460	35-0055	.8475	36-0049	1.0223
34-0030	1.1117	34-0091	1.1050	34-0159	.9500	35-0056	.9819	36-0050	.9664
34-0031	.9769	34-0092	1.0593	34-0160	.9382	35-0058	.8846	36-0051	1.1585
34-0032	1.0394	34-0093	.9364	* 34-0162	.9011	35-0060	1.0350	36-0052	1.1788
34-0034	.9832	34-0094	.9631	* 35-0001	.8110	35-0061	.9258	36-0053	1.0813
34-0035	.9253	34-0096	.9799	35-0002	1.0055	36-0001	1.0590	36-0054	1.0576
34-0036	.9875	34-0097	1.0266	35-0003	1.0283	36-0002	1.0044	36-0055	1.0685
34-0037	.9374	34-0098	1.0049	35-0004	1.1511	36-0003	1.1468	36-0056	1.0297
34-0038	.9591	34-0099	.9607	35-0005	1.0634	* 36-0005	1.2805	36-0057	.9561
34-0039	.9747	34-0100	.9107	35-0006	1.0072	36-0006	1.1577	36-0058	1.0159
34-0040	1.0896	* 34-0101	1.0052	35-0007	.9168	36-0007	.9710	36-0059	1.1333
34-0041	1.0607	34-0104	.9838	35-0008	.8802	36-0008	.9685	36-0060	.8856
34-0042	1.0102	34-0105	1.0150	35-0009	.9711	36-0009	1.0637	* 36-0061	.6570
34-0044	.9757	34-0106	.8821	35-0010	.9501	36-0010	1.0100	36-0062	1.1103
* 34-0045	.9517	34-0107	1.0450	35-0011	1.2177	36-0011	1.1115	36-0063	.8768
34-0047	1.2294	34-0109	1.0207	35-0012	1.0158	36-0012	1.7516	36-0064	1.1608
* 34-0048	.9074	34-0111	1.0025	35-0013	.9294	36-0013	.9931	36-0065	.9732
34-0049	.5237	34-0112	1.0164	35-0014	.9627	36-0014	.9132	36-0066	1.0404
34-0050	1.0159	34-0113	1.1720	35-0015	1.0703	36-0015	1.1763	36-0067	.9565
34-0051	1.0113	34-0114	1.0254	35-0016	1.0082	36-0016	1.0844	36-0068	1.1059
34-0052	.9545	34-0115	.9990	35-0017	.8967	36-0017	1.0158	36-0069	.9891
34-0053	.9480	34-0116	1.0949	35-0018	1.0006	36-0018	1.0353	36-0070	1.0816
34-0054	.9182	34-0117	.9331	35-0019	1.1040	36-0019	1.0147	36-0071	.9881
34-0055	.9546	34-0119	1.0709	35-0020	.9549	36-0020	1.0559	36-0072	1.0688
* 34-0056	1.0092	34-0120	.9901	* 35-0021	.8789	36-0021	.9718	36-0074	1.0433
* 34-0057	1.0265	34-0121	.9830	35-0023	.9562	36-0022	1.0195	36-0075	1.1005
34-0058	1.0631	* 34-0122	1.0107	* 35-0024	.8914	36-0023	1.0446	36-0076	.9819
34-0060	.9589	34-0123	1.0179	* 35-0025	.8584	36-0024	1.0543	36-0077	1.1223
34-0061	1.1567	34-0124	.9368	* 35-0027	.8458	36-0025	.9822	36-0078	1.0573
34-0063	.9269	34-0125	1.0710	35-0029	.8631	36-0026	1.0299	36-0079	1.2189
34-0064	.9911	34-0126	1.0360	35-0030	.9154	36-0027	1.1634	36-0080	.9500
34-0065	1.0153	34-0127	1.0228	* 35-0031	.8880	36-0028	1.0797	36-0081	1.0332
34-0067	.9005	34-0128	.9495	35-0032	.9583	36-0029	1.0465	36-0082	1.1139
34-0068	.9539	34-0129	.9527	35-0033	.8865	36-0030	1.0442	36-0083	1.0115
34-0069	1.1403	34-0130	1.0000	35-0034	.9534	36-0031	1.0036	36-0084	1.0984
34-0070	1.0150	34-0131	1.0362	* 35-0035	.9469	36-0032	.9574	36-0085	1.2317
34-0071	.9652	34-0132	.9968	* 35-0036	.9344	36-0033	.9932	36-0086	1.0158
34-0072	.9982	34-0133	.9379	* 35-0037	.9021	36-0034	1.0312	36-0087	1.1082
34-0073	.8894	34-0141	1.0461	35-0038	.8833	36-0035	1.1539	36-0088	.9868
34-0075	.9379	34-0142	1.0303	35-0039	.9222	36-0036	.9424	36-0089	1.0454
34-0076	.9127	34-0143	1.0092	* 35-0041	.9399	36-0037	1.1579	36-0090	1.0246
* 34-0077	.9587	34-0144	1.0381	* 35-0042	.8972	36-0038	.9595	36-0091	1.0621

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PROVIDER NUMBER	CASE MIX INDEX
36-0092	1.0001
36-0093	.9323
36-0094	.9922
36-0095	1.0524
36-0096	.9781
36-0097	1.0100
36-0098	1.1063
36-0099	1.0375
36-0100	1.0263
36-0101	1.1545
36-0102	1.0993
36-0103	1.0706
36-0104	.9967
36-0105	1.1383
36-0107	.9200
36-0108	.9920
36-0109	.9878
* 36-0110	.9521
36-0112	1.1521
36-0113	1.0656
36-0114	.9816
36-0115	1.0353
36-0116	.9707
36-0118	1.0694
36-0119	.9855
36-0120	.9629
36-0121	.9747
36-0122	1.0665
36-0123	.9141
36-0124	1.0015
36-0125	.9914
36-0126	.9824
36-0127	1.0078
36-0128	1.0187
36-0129	.9536
* 36-0130	1.0459
36-0131	1.0260
36-0132	.9716
36-0133	1.0496
36-0134	1.1962
36-0135	.9142
36-0136	.9970
36-0137	1.1666
36-0139	1.0351
* 36-0140	.9988
36-0141	1.0878
36-0142	.9616
36-0143	1.0782
36-0144	1.0452
36-0145	1.1181
36-0147	.9563
36-0148	1.0042
36-0149	.9511
36-0150	1.0703
36-0151	1.0154
36-0152	1.0462
36-0153	.9500
36-0154	.9942
36-0155	1.0223
36-0156	.9316
36-0159	1.0320
* 36-0160	.9395
36-0161	1.0330
36-0162	1.0181
36-0163	1.1913
36-0164	.9092
36-0165	1.0405
36-0166	.9584
36-0167	.9471
* 36-0168	1.0336
36-0169	.9357
36-0170	.9537
36-0171	1.0785
36-0172	1.0024
36-0174	.9511
36-0175	.9852
36-0176	.9722
36-0177	1.0325
36-0178	.8976
36-0179	1.0747
36-0180	1.2916
36-0184	1.0128
36-0185	1.0028
36-0186	.9087
36-0187	1.0564
36-0188	1.1044
36-0189	1.0167
36-0190	1.0818
36-0192	1.0555
36-0193	1.0079
36-0194	.9933
36-0195	.9982
36-0197	.9861
36-0200	.9031
36-0203	.9686
36-0204	1.0563
36-0210	.9851
36-0211	.9379
36-0212	1.1060
36-0213	1.0754
36-0218	1.0333
* 36-0220	.8840
* 36-0226	1.8281
36-0230	1.0945
36-0231	.9461
36-0232	1.0845
36-0234	1.0040
36-0236	1.0301
* 36-0237	.8680
* 36-0238	1.0633
36-0239	1.0277
36-0345	1.0216
37-0001	1.1319
37-0002	.9301
* 37-0003	.8735
37-0004	1.0206
37-0005	.9887
37-0006	1.0330
37-0007	1.0923
37-0008	1.0820
37-0011	.9303
37-0012	.8972
37-0013	1.0977
37-0014	.9448
37-0015	.9748
37-0016	1.0308
37-0017	.9617
37-0018	1.0455
37-0019	.9459
37-0020	1.0337
37-0021	.9526
37-0022	.9919
37-0023	1.0245
37-0025	1.0326
37-0026	1.0551
37-0028	1.1636
37-0029	.9588
37-0030	.9760
37-0032	1.0175
37-0033	.9318
37-0034	.9779
37-0035	1.1846
37-0036	.9484
37-0037	1.0767
37-0038	.8719
37-0039	.9658
37-0040	.9333
37-0041	.8585
37-0042	.8287
37-0043	.8529
37-0045	1.0122
37-0046	.8739
37-0047	.9323
37-0048	.8780
37-0049	1.0020
37-0050	.8690
37-0051	.9758
37-0054	1.0510
37-0056	1.0782
37-0057	1.0260
37-0059	.9423
37-0060	.9812
37-0061	.9392
37-0063	.9021
37-0064	.8809
37-0065	.9507
37-0069	.8760
37-0071	.8879
37-0072	.9349
* 37-0073	.7047
37-0076	1.0013
37-0077	1.0827
37-0078	1.0140
37-0079	.9448
37-0080	.9076
* 37-0082	.9551
37-0083	.8897
37-0084	.8795
37-0085	.9021
37-0086	.9529
37-0089	.9493
37-0090	.9806
37-0091	1.1209
37-0092	.9083
37-0093	1.1186
37-0094	1.0154
37-0095	.9213
* 37-0096	.9830
37-0097	1.0053
37-0098	.8649
37-0099	.8546
37-0100	.8987
37-0103	.9423
37-0105	1.3905
37-0106	.8648
37-0107	.9231
37-0108	.9496
* 37-0109	.9200
37-0110	.9591
37-0112	.9326
37-0113	.9505
37-0114	1.1139
37-0116	.8953
37-0117	.9565
37-0121	.9711
37-0122	.8298
37-0123	.9431
37-0125	.9566
37-0126	.9254
37-0130	.9029
* 37-0131	.9682
37-0133	.9434
37-0136	.9253
37-0138	.8882
* 37-0139	.9347
* 37-0140	.8972
37-0141	1.0392
37-0144	.9976
* 37-0146	.9677
37-0148	1.0021
37-0149	1.0565
37-0153	.9371
37-0154	.9104
* 37-0155	.8229
37-0156	.9653
37-0157	.9124
37-0158	.9413
37-0159	1.0359
37-0161	.8500
37-0163	.8545
37-0165	.8952
37-0166	.9061
* 37-0167	1.2308
* 37-0168	.9136
37-0169	.9059
37-0176	.9156
* 37-0177	1.0948
37-0178	.9535
37-0179	.8352
38-0001	1.1221
38-0002	.9787
38-0003	1.0944
38-0004	1.2293
38-0005	.9888
38-0006	1.0451
38-0007	1.1264
38-0008	1.0605
38-0009	1.3144
38-0010	1.0363
38-0011	1.0350
38-0013	1.0769
38-0014	1.0946
* 38-0016	.9528
38-0017	1.1359
38-0018	1.1568

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
38-0019	.9868	38-0079	1.1114	39-0042	1.0240	39-0097	1.0858	39-0154	.9939
38-0020	1.1839	* 38-0081	.9328	39-0043	1.0397	39-0098	1.1580	39-0155	1.0062
38-0021	1.0650	38-0082	1.1136	39-0044	1.1119	39-0099	.9913	39-0156	1.0997
38-0022	1.0937	38-0083	.9788	39-0045	1.1068	39-0100	1.0608	39-0157	1.0365
38-0023	.9157	38-0084	1.0949	39-0046	1.1405	39-0101	1.0671	39-0158	1.0621
38-0024	1.0639	38-0087	.9033	39-0047	1.0928	39-0102	1.1216	39-0159	1.0632
38-0025	1.0607	* 38-0088	1.0018	39-0048	1.0697	39-0103	.9925	39-0160	.9590
38-0026	1.0879	38-0089	1.1308	39-0049	1.0951	39-0104	1.0284	39-0161	1.0732
38-0027	1.0449	38-0090	1.1266	39-0050	1.2507	39-0106	.8933	39-0162	1.0745
38-0029	.9302	38-0091	1.1417	39-0051	1.2185	39-0107	1.1383	39-0163	1.0696
* 38-0030	.9087	38-0093	.8044	39-0052	.9726	39-0108	1.1140	39-0164	1.2770
38-0031	.9144	39-0001	1.1596	39-0054	1.0367	39-0109	.9478	39-0165	1.0299
38-0033	1.1672	39-0002	1.0706	39-0055	1.2044	39-0110	1.0483	39-0166	1.0383
38-0035	1.0396	39-0003	.9722	39-0056	1.0698	39-0111	1.3157	39-0167	1.0913
38-0036	.9531	39-0004	1.0209	39-0057	1.0978	39-0112	1.1224	39-0168	.9974
38-0037	1.0779	39-0005	.9372	39-0058	1.0560	39-0113	.9850	39-0169	1.0585
38-0038	1.0823	39-0006	1.1583	39-0059	1.1523	39-0114	.9575	39-0170	1.1907
38-0039	1.1230	39-0007	1.0401	39-0060	1.0761	39-0115	1.1379	39-0171	1.0114
38-0040	1.0097	39-0008	.9933	39-0061	1.0900	39-0116	1.0026	39-0172	1.0593
38-0041	.9135	39-0009	1.0945	39-0062	.9703	39-0117	.9980	39-0173	1.0142
38-0042	1.0023	39-0010	1.0534	39-0063	1.1051	39-0118	.9262	39-0174	1.1798
38-0043	.9669	39-0011	1.0687	39-0064	1.1118	39-0119	1.0728	39-0176	1.0266
* 38-0044	.9939	39-0012	1.0655	39-0065	1.0541	39-0120	.9745	39-0177	.8956
38-0045	1.0570	39-0013	1.0264	39-0066	1.0202	39-0121	.9932	39-0178	1.1098
38-0047	1.1700	39-0014	.9772	39-0067	1.1272	39-0122	.9732	39-0179	1.0749
38-0048	.9805	39-0015	1.0660	39-0068	1.0157	39-0123	1.1098	39-0180	1.0862
38-0050	1.1182	39-0016	1.0448	39-0069	1.0402	39-0125	1.0355	39-0181	.9786
38-0051	1.1251	39-0017	1.0181	39-0070	1.0236	39-0126	1.1038	39-0183	.9697
38-0052	1.0608	39-0018	1.0312	39-0071	.9950	39-0127	1.0369	39-0184	.9579
* 38-0054	.9572	39-0019	1.0103	39-0072	.9735	39-0128	.9893	39-0185	1.0457
38-0055	1.1162	39-0020	1.0015	39-0073	1.0825	39-0130	.9714	39-0186	1.0795
38-0056	.9960	39-0021	1.0828	39-0074	1.0134	39-0131	1.0863	39-0187	1.0108
* 38-0059	.9415	39-0022	1.0775	39-0075	1.0881	39-0132	.9814	39-0188	1.0610
38-0060	1.1080	39-0023	1.0276	39-0076	1.0311	39-0133	1.1492	39-0189	.9687
38-0061	1.2193	39-0024	.5851	39-0077	1.0573	39-0135	.9974	39-0190	1.0105
* 38-0062	.8488	* 39-0025	.8936	39-0078	.9200	39-0136	1.0413	39-0191	.8974
38-0063	1.1037	39-0026	1.1212	39-0079	1.2657	39-0137	1.0587	39-0192	.9319
38-0064	1.0678	39-0027	1.1807	39-0080	1.0433	39-0138	1.1336	39-0193	.9671
* 38-0065	1.0563	39-0028	1.1836	39-0081	1.0383	39-0139	1.0804	39-0194	1.0062
38-0066	1.1398	39-0029	1.1473	39-0082	1.1113	39-0141	.9978	39-0195	1.2258
* 38-0067	.8818	39-0030	.9771	39-0083	1.0924	39-0142	1.1691	39-0196	1.1883
38-0068	1.0453	39-0031	1.0179	39-0084	.9410	39-0143	.6881	39-0197	.9846
38-0069	.9213	39-0032	1.0607	39-0086	.9983	39-0145	1.0603	39-0198	.9191
38-0070	1.0047	39-0034	.9717	39-0087	.9208	39-0146	.9977	39-0199	1.0033
38-0071	.9584	39-0035	1.1358	39-0088	.9581	39-0147	.9831	39-0200	1.0081
38-0072	.9703	39-0036	1.0053	39-0090	1.1549	39-0148	.9993	39-0201	1.1083
38-0074	1.0036	39-0037	1.0413	39-0091	.9939	39-0149	1.0430	39-0203	1.0798
39-0075	1.0659	39-0038	.9470	39-0092	.9705	39-0150	.9964	39-0204	1.0862
* 38-0076	.9348	39-0039	.9841	39-0093	1.0799	39-0151	1.0661	39-0205	1.0550
38-0077	.9205	39-0040	.9228	39-0095	.9461	39-0152	1.0495	39-0206	1.0212
38-0078	1.1134	39-0041	1.0349	39-0096	1.0819	39-0153	1.1077	39-0209	1.0366

TABLE [illegible] HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
41-0007	1.2142
41-0008	1.0068
41-0009	1.1785
* 41-0010	.6614
41-0011	.9945
41-0012	1.1583
41-0013	1.0126
41-0014	1.0468
41-0016	.8575
42-0002	.9158
42-0003	.9138
42-0004	1.0649
42-0005	.9685
42-0006	1.0164
42-0007	.9920
42-0009	.9419
42-0010	.9686
42-0011	.8508
42-0014	.9529
42-0015	.9670
42-0016	1.0002
42-0017	.9999
42-0018	1.0181
42-0019	1.0147
42-0020	.9061
42-0022	.9479
42-0023	.9592
* 42-0024	.8788
42-0026	.9408
42-0027	.9356
42-0028	.9596
42-0029	1.0635
42-0030	.9090
42-0031	.9154
42-0032	.8831
42-0033	.9243
42-0036	.9431
42-0037	1.0545
42-0038	.9091
42-0039	.9299
42-0040	.9703
42-0042	.9155
42-0043	.9399
42-0044	.9084
42-0048	.9059
42-0049	.9306
42-0050	.9607
42-0051	1.0269
42-0053	.9044
42-0054	1.0492
42-0055	.9535
42-0056	.9410
42-0057	.9215
42-0059	.8892
42-0061	.9241
42-0062	1.0097
42-0064	.9045
42-0065	.9960
42-0066	.8645
42-0067	.9468
42-0068	.9606
42-0069	.9393
42-0070	.9987
42-0071	.9771
42-0072	.9080
42-0073	.9695
42-0074	.9032
42-0075	.9572
42-0076	.7944
* 42-0077	.6332
42-0078	.9115
42-0079	1.1473
42-0080	1.0092
* 42-0081	.9910
42-0082	.9560
42-0083	.9474
* 42-0084	.7331
42-0085	.9623
42-0086	.9817
42-0087	1.0957
43-0001	.9800
43-0004	.9257
43-0005	.9390
43-0007	.9996
43-0008	.9615
43-0009	1.0695
43-0010	.9393
43-0011	1.0106
43-0012	1.0107
43-0013	.9082
43-0014	1.0527
43-0015	.9384
43-0016	1.1050
43-0017	.8661
43-0018	.9323
43-0020	1.0556
43-0022	.9298
43-0023	.9814
43-0024	.9618
43-0025	.9498
* 43-0026	.9043
* 43-0027	1.1922
43-0028	.8993
43-0029	.9732
43-0030	.9457
43-0031	.9059
43-0033	.9822
43-0034	.9168
43-0036	.9300
43-0037	.9262
43-0038	.9596
* 43-0039	1.0393
43-0040	.9803
* 43-0041	.9070
* 43-0042	.9397
43-0043	.9009
43-0044	.9248
43-0047	.9282
43-0048	.8992
* 43-0049	.8828
* 43-0051	.9288
43-0054	.8840
43-0056	.9013
43-0057	.9087
* 43-0060	.8752
43-0062	.7912
43-0064	.9033
* 43-0065	1.0056
43-0066	.8835
43-0072	1.0126
43-0073	.9664
43-0076	.9680
43-0077	1.0947
* 43-0079	.8010
* 43-0080	1.0114
43-0087	.8329
44-0001	.8741
44-0002	1.0590
44-0003	.9389
44-0005	.9387
44-0006	.9812
44-0007	.9167
44-0008	.8970
44-0009	.9250
44-0010	.9178
44-0011	.9937
44-0012	1.0169
44-0014	.8863
44-0015	1.0061
44-0016	.9035
44-0017	1.0608
44-0018	.9705
44-0019	.9963
39-0211	1.0320
39-0213	.9934
39-0215	1.0223
39-0217	1.0201
39-0219	1.0610
39-0220	.9870
39-0222	.9910
39-0223	1.0092
39-0224	.9223
39-0225	1.0067
39-0226	1.1125
39-0228	1.0774
39-0229	1.1366
39-0231	1.1161
39-0232	1.0375
39-0233	1.0529
39-0234	1.0251
39-0235	1.0972
39-0236	.9639
39-0237	1.1249
* 39-0238	.8338
39-0240	.9106
39-0242	1.0558
39-0244	.8692
39-0245	1.0751
39-0246	.9343
39-0247	.9848
* 39-0248	.8318
39-0249	1.0009
* 39-0252	.9297
39-0256	1.2441
39-0258	1.1048
* 39-0259	3.0592
39-0260	1.0450
39-0261	1.3798
39-0262	.8917
39-0263	1.1852
* 39-0264	.9814
39-0265	1.0675
39-0266	1.0372
39-0267	1.0525
39-0268	1.0863
39-0269	1.0970
40-0001	.9419
40-0002	.8940
40-0003	.9534
40-0004	1.0468
40-0005	.9082
40-0006	.9280
40-0007	.9297
40-0008	.9126
40-0009	.8425
40-0010	.9389
40-0011	.8714
40-0012	1.0834
40-0013	.8507
40-0014	.9415
40-0015	1.0942
40-0016	1.0888
40-0017	.9863
40-0018	.9181
40-0019	.9607
40-0021	1.0622
40-0022	1.0560
* 40-0023	.4616
40-0024	.9619
40-0025	.9679
40-0026	.8271
40-0027	.9950
40-0028	1.0896
40-0029	1.0156
* 40-0031	.9994
40-0032	.8903
* 40-0037	.9230
* 40-0038	.9915
40-0044	1.0730
* 40-0048	1.0065
* 40-0060	.9003
40-0061	1.0385
40-0079	1.0546
* 40-0083	.9863
40-0087	1.0721
40-0088	.8295
40-0089	.8628
40-0090	.9994
40-0091	1.1083
40-0092	.7990
40-0094	.8846
40-0098	.9015
40-0102	1.0140
40-0103	1.1572
40-0104	1.1150
40-0105	.9991
40-0106	.9972
40-0108	.8702
40-0109	.9885
40-0110	1.0125
41-0001	1.1385
41-0002	1.0223
41-0004	1.1503
41-0005	1.1239
41-0006	1.0324

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
44-0020	.9462	44-0082	1.2439	44-0162	.9214	45-0028	1.0272	45-0090	.9279
44-0021	.8609	44-0083	.8533	44-0166	1.0682	45-0029	.9891	45-0092	.9482
44-0022	.9219	44-0084	.9016	44-0167	1.1181	45-0031	.9831	* 45-0093	1.0038
44-0023	.8867	* 44-0086	.9052	44-0168	.9542	45-0032	.9920	45-0094	.9172
44-0024	.9629	44-0087	.9081	44-0169	.6485	45-0033	1.0686	45-0095	.9094
44-0025	.9597	44-0090	.8195	44-0170	.6382	45-0034	1.0347	45-0096	.9881
44-0026	1.0477	44-0091	1.0499	44-0171	.9541	45-0035	1.0251	45-0097	1.0097
* 44-0028	.8077	44-0095	.8815	44-0173	.9475	45-0037	.9835	45-0098	.9625
44-0029	.9243	44-0100	.9005	44-0174	.9230	45-0039	1.0920	45-0099	.9035
44-0030	.9405	44-0101	.8967	44-0175	.8973	45-0040	1.0868	45-0101	1.0530
44-0031	.9538	44-0102	.9504	44-0176	.9620	45-0041	.8837	45-0102	.9354
44-0032	.8984	44-0103	.9555	44-0177	.8803	45-0042	1.0338	45-0104	.9902
44-0033	.8926	44-0104	1.0521	44-0178	.9144	45-0043	.9559	45-0107	1.0499
44-0034	1.0107	44-0105	.5475	* 44-0179	.5672	45-0044	1.1219	45-0108	.9183
44-0035	1.0158	44-0109	.9198	44-0180	.9107	* 45-0045	1.0205	45-0109	.8750
44-0037	.8541	44-0110	.9252	44-0181	.9334	45-0046	.9740	45-0110	1.0644
44-0038	.9671	44-0111	1.0584	44-0182	.8824	45-0047	.9940	45-0111	.9830
44-0039	1.3700	44-0113	.8790	44-0183	1.0888	45-0048	.9259	45-0112	.9859
44-0040	.9467	44-0114	.9305	44-0184	1.0174	45-0050	.9646	45-0113	.9296
44-0041	.9319	44-0115	.8988	44-0185	.9818	45-0051	1.0666	45-0115	.9201
* 44-0044	.9063	44-0117	.8531	44-0186	.8918	45-0052	.9748	45-0116	1.0075
44-0046	.9202	44-0120	1.0110	44-0187	.8915	45-0053	1.0110	45-0118	1.0333
44-0047	.9522	44-0121	.9586	44-0189	.9083	45-0054	1.1315	45-0119	.9145
44-0048	1.2070	44-0123	1.0155	44-0191	.9786	45-0055	.9063	45-0121	1.0001
44-0049	1.0812	44-0125	1.0189	44-0192	.9796	45-0056	1.0255	* 45-0122	.8534
44-0050	.9145	44-0130	.9978	44-0193	.8872	45-0057	.9649	45-0123	.9679
44-0051	.8968	44-0131	.9213	44-0194	1.0354	45-0058	1.0094	45-0124	1.1718
44-0052	.9056	44-0132	.8716	44-0196	.8349	45-0059	1.0082	45-0126	.9662
44-0053	.9621	44-0133	1.1479	44-0197	1.1307	45-0060	.9565	45-0127	.9503
44-0054	.9196	44-0134	.9355	* 44-0200	1.0556	* 45-0063	.8784	45-0128	.9182
* 44-0055	.8278	44-0135	.9576	45-0001	1.0425	45-0064	1.0332	* 45-0129	.8816
44-0056	.8897	44-0136	.9949	45-0002	1.0452	45-0065	.9009	45-0130	1.0145
44-0057	.9140	44-0137	.8718	45-0004	.9316	45-0066	.9819	45-0131	.8966
44-0058	.8927	44-0141	.8942	45-0005	.9456	45-0068	1.0379	45-0132	.9919
44-0059	.9707	44-0142	.8702	45-0007	.9501	45-0069	.9931	45-0133	1.0818
44-0060	.9185	44-0143	.9304	45-0008	1.0110	45-0070	.8755	45-0134	.8799
44-0061	.9613	44-0144	.9141	45-0010	.9939	45-0072	.9029	45-0135	1.0697
44-0063	1.0361	44-0145	.8844	45-0011	.9719	45-0073	.9071	45-0136	.9466
44-0064	.9341	* 44-0146	1.1452	45-0013	1.0023	45-0074	.9318	45-0137	1.0378
44-0065	.9330	44-0147	.6098	45-0014	.8750	45-0076	1.2057	* 45-0140	1.0363
44-0067	.9357	44-0148	.9216	45-0015	1.1829	45-0077	.8557	45-0141	.8516
44-0068	.9424	44-0149	.9203	45-0016	1.0321	45-0078	.8625	45-0142	.8894
44-0069	1.0055	44-0150	1.0625	45-0018	1.1279	45-0079	1.0292	45-0143	.9942
44-0070	1.0003	44-0151	.9452	45-0019	.9551	45-0080	.9293	45-0144	.8868
44-0071	.9929	44-0152	1.1294	45-0020	.9476	45-0081	.9440	* 45-0145	.8227
44-0072	.9625	44-0153	.9281	45-0021	1.1245	45-0082	.9443	45-0146	.8707
44-0073	1.0145	44-0156	.9764	45-0022	.9380	45-0083	1.0568	45-0147	1.0274
44-0074	.8589	44-0157	.9661	45-0023	1.0247	45-0084	.9112	45-0148	.9542
44-0078	.9240	44-0159	1.0359	45-0024	.9654	45-0085	.9520	45-0149	.9015
44-0079	.8898	44-0160	.8742	45-0025	1.0808	45-0087	.9752	45-0150	.8820
44-0081	.9739	44-0161	1.0382	45-0027	.8318	* 45-0088	.9607	45-0151	.9328

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
45-0152	1.0637	45-0218	.9147	45-0293	.8973	45-0370	.8041	45-0462	1.0822
45-0153	1.0321	45-0219	.8910	45-0296	.8962	45-0371	.9156	45-0464	1.0341
45-0154	.9473	45-0221	.9742	45-0297	.8477	45-0372	1.0156	45-0465	.9721
45-0155	.9718	45-0222	.9683	45-0299	.9271	45-0373	.9748	45-0467	.9114
45-0157	.9472	45-0224	.9661	* 45-0300	.9434	* 45-0374	.8306	45-0469	.9753
45-0160	.8600	45-0229	.9957	45-0303	.9334	45-0376	1.0107	45-0472	.9041
45-0162	1.0153	* 45-0230	.8358	45-0304	.9243	45-0378	1.0314	45-0473	.9116
45-0163	.9105	45-0231	1.1428	* 45-0305	.8967	45-0379	.9752	45-0475	.9235
45-0164	.9275	45-0233	.8312	45-0306	.8730	45-0381	.9592	45-0476	.9079
45-0165	.9023	45-0234	.8202	* 45-0307	.8642	45-0382	.8349	45-0481	.8972
45-0166	.8960	45-0235	.9096	45-0309	.9782	45-0388	1.0543	* 45-0482	.8452
45-0169	.9093	45-0236	.9068	45-0311	.8631	45-0389	.9706	45-0484	1.0079
* 45-0170	.9689	45-0237	1.0442	45-0312	.9135	45-0391	.9852	45-0486	.9630
45-0173	.9062	45-0239	.9749	* 45-0314	.8950	45-0393	.9804	45-0488	.9717
45-0174	.9481	45-0241	.8900	45-0315	.9135	45-0394	.9485	45-0489	.8668
45-0175	.9133	45-0242	.8763	* 45-0317	.8868	45-0395	.8849	45-0490	.9564
45-0176	.9905	45-0243	.9023	45-0319	.8667	* 45-0398	.8077	45-0492	.8235
45-0177	.9077	45-0244	.8618	45-0320	1.0143	45-0399	.8915	45-0493	.9409
45-0178	.8891	45-0246	.9643	45-0321	.8509	45-0400	.8842	45-0497	.9495
45-0179	1.0641	45-0247	.9294	* 45-0322	.8700	45-0402	1.0000	45-0498	.9490
* 45-0181	.8474	45-0248	.9218	45-0324	.9706	45-0403	.9648	45-0508	.9968
45-0182	.7896	45-0249	.9420	45-0325	.9439	* 45-0405	.9227	45-0513	.8812
45-0183	1.0035	* 45-0250	.8247	45-0327	.8602	* 45-0409	.7163	45-0514	.9679
45-0184	1.0194	45-0253	.8549	45-0328	.8477	* 45-0410	.9665	45-0517	.8619
45-0185	.9719	45-0256	.8744	45-0330	.9500	45-0411	.9239	45-0518	1.0326
* 45-0186	.9120	45-0258	.8405	* 45-0331	.9737	45-0415	.9638	45-0523	1.0086
45-0187	.9670	45-0259	.9989	45-0332	.8919	45-0416	.9666	45-0527	.8746
45-0188	.9222	* 45-0260	.9002	45-0333	.9688	45-0417	.8535	45-0530	.9697
45-0190	.9900	45-0261	.8806	45-0334	.9145	45-0418	1.0025	45-0534	.8794
45-0191	.9775	45-0263	.9049	* 45-0335	.9552	* 45-0419	.8572	45-0535	.9757
45-0192	.9468	* 45-0264	.8534	45-0337	.9426	45-0421	.8568	45-0537	1.1519
45-0193	1.4049	45-0265	.9165	* 45-0338	.9788	45-0422	.6131	45-0538	.9500
45-0194	.9453	* 45-0267	.9073	45-0340	.9539	45-0423	.8456	45-0539	.9941
45-0195	1.0594	45-0268	.9544	45-0341	.8585	45-0424	.8844	45-0544	.9184
45-0196	.9327	* 45-0269	.9062	* 45-0342	.8588	45-0425	.9451	45-0545	.8666
45-0197	.8757	45-0270	.8774	45-0343	.8646	* 45-0426	1.0300	45-0546	.9582
45-0198	.9066	45-0271	.9066	45-0346	.9699	45-0429	.8353	45-0547	.9382
45-0200	1.0617	45-0272	.9689	45-0347	.9320	45-0431	1.0087	45-0550	.8966
45-0201	.8564	45-0274	.9398	45-0348	.9206	* 45-0437	.9482	45-0551	.9276
45-0203	.9872	45-0275	.8875	45-0349	.8702	45-0438	.9790	45-0552	.9456
45-0206	.9256	45-0276	1.0067	45-0351	.9202	* 45-0440	.9451	* 45-0557	1.0101
45-0207	.9615	45-0278	.8569	45-0352	1.0307	* 45-0446	.8622	45-0558	.9523
45-0208	.8994	45-0280	1.0200	45-0353	.9474	45-0447	1.0489	45-0559	.9197
45-0209	1.0455	45-0281	.9863	45-0355	.9254	45-0450	.8263	* 45-0560	1.1975
45-0210	.9176	45-0282	.8619	45-0357	.9917	45-0451	.8930	45-0561	.9802
45-0211	.9791	45-0283	.8626	45-0358	1.2040	45-0454	.8622	45-0563	.9232
45-0213	1.0863	45-0284	.9461	* 45-0359	.8656	45-0455	.8788	45-0565	.9971
45-0214	.9862	45-0286	.9269	45-0362	.8980	45-0457	1.1336	45-0568	.9738
* 45-0215	.8013	45-0288	.9153	45-0365	.8994	* 45-0458	.8621	45-0569	.9164
* 45-0216	1.0524	45-0289	1.0559	45-0366	.9839	45-0459	.8546	45-0570	.8767
45-0217	.8842	45-0292	1.0027	45-0369	.9734	45-0460	.8662	45-0571	1.0770

TABLE HOSPITAL CASE MIX INDEXES

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
45-0573	.8638	45-0638	1.0059	45-0696	.9031	47-0008	.9446	49-0043	1.0793
45-0574	.8967	45-0639	.9979	45-0697	.9747	47-0010	1.0010	49-0044	1.0379
45-0575	.9231	45-0641	1.0007	45-0698	.8878	47-0011	1.0349	49-0045	1.1344
* 45-0576	2.2615	45-0643	.9204	45-0699	.9650	47-0012	1.0460	49-0046	1.1003
45-0577	.8891	45-0644	1.0221	* 45-0700	.9358	47-0013	.9574	49-0047	.9911
45-0578	.9250	45-0646	1.0566	* 45-0701	1.0377	47-0015	.9848	49-0048	1.0286
45-0579	.8487	45-0647	1.1059	45-0702	1.0376	47-0016	.9326	49-0050	1.1112
45-0580	.9073	45-0648	.9014	* 45-0703	.8924	47-0018	.9623	* 49-0051	.8922
45-0581	.9053	45-0649	.9459	46-0001	1.0477	* 47-0020	.9200	49-0052	1.0314
* 45-0582	.8480	* 45-0650	.6828	46-0003	1.0877	47-0023	.9493	49-0053	1.0652
* 45-0583	.8695	45-0651	1.0367	46-0004	1.1328	47-0024	.9328	49-0054	.9961
45-0584	.9420	45-0652	.9612	46-0005	1.0196	48-0001	1.0953	49-0055	.9324
45-0586	.8992	45-0653	.9621	46-0006	1.0186	48-0002	.9755	49-0056	.8771
45-0587	.9406	45-0654	.8595	46-0007	.9542	49-0001	.9231	49-0057	1.0306
45-0588	.8992	45-0655	.9577	46-0008	1.0570	49-0002	.8973	49-0059	1.0507
45-0590	1.0152	45-0656	1.0483	46-0009	1.2126	49-0003	.5567	49-0060	.9253
45-0591	.9196	* 45-0657	.8180	46-0010	1.1682	49-0004	1.0089	49-0063	1.1498
45-0592	.9462	45-0658	.8810	46-0011	.9357	49-0005	1.0639	49-0066	1.0171
45-0595	.9602	45-0659	1.0604	46-0012	1.2103	49-0006	.9294	49-0067	1.0008
45-0596	.9345	45-0660	1.0111	46-0013	1.1239	49-0007	1.2639	49-0069	1.1087
45-0597	.9264	* 45-0661	.9098	* 46-0014	.9544	49-0008	1.0098	49-0071	1.1204
45-0600	.9577	45-0662	.9732	46-0015	.9971	49-0009	1.3047	* 49-0072	.8396
* 45-0601	.9095	45-0665	.9441	* 46-0016	.9439	49-0010	.9679	49-0073	1.0674
* 45-0603	.8288	45-0666	.9646	46-0017	.9866	49-0011	1.0710	49-0074	.9994
45-0604	.9453	45-0667	.9083	* 46-0018	.8346	49-0012	.9889	49-0075	1.0318
45-0605	.9000	45-0668	1.0130	46-0019	.9057	49-0013	.9901	49-0077	.9912
* 45-0607	.7409	45-0669	.9915	* 46-0020	.9592	49-0014	1.2285	49-0078	.9431
45-0609	.9013	45-0670	.9481	46-0021	1.0686	49-0015	1.1158	49-0079	1.0610
45-0610	1.0259	45-0671	.9800	* 46-0022	1.0063	49-0017	1.0962	49-0083	.5485
45-0611	.9002	45-0672	.9901	46-0023	1.0070	49-0018	.9797	49-0084	.9391
45-0613	.8871	45-0673	.8843	* 46-0024	1.0369	49-0019	1.0585	49-0085	.9010
45-0614	.9446	* 45-0674	.8983	* 46-0025	.8721	49-0020	.9516	49-0088	1.0023
45-0615	.8955	45-0675	1.0172	46-0026	.9578	49-0021	1.0426	49-0089	.9996
45-0616	.9294	45-0676	.8768	* 46-0027	.9138	49-0022	.9959	49-0090	.9372
45-0617	1.0601	45-0677	.9465	* 46-0029	.9406	49-0023	1.0371	49-0091	1.0714
* 45-0618	.8493	45-0678	1.0085	46-0030	.9012	49-0024	1.1025	49-0092	.9507
45-0620	.8687	45-0679	.9237	46-0032	.8804	49-0027	.8868	49-0093	1.0269
45-0621	.8946	45-0681	.9830	* 46-0033	.8589	49-0028	1.0640	* 49-0094	1.0313
45-0623	.9053	45-0682	.9220	* 46-0035	.9286	49-0029	1.0098	49-0095	1.0062
45-0624	.8810	45-0683	.9562	* 46-0036	.9098	49-0030	.9952	49-0097	1.0104
45-0626	.9043	45-0684	1.0426	46-0037	.9689	49-0031	1.0179	49-0098	1.0223
45-0627	.9273	45-0685	.9184	* 46-0038	1.0506	49-0032	1.3371	49-0099	.9365
45-0628	.8936	45-0686	1.0183	* 46-0039	.9267	49-0033	.9392	49-0100	1.0683
45-0629	1.0363	* 45-0687	.8834	46-0040	.8146	49-0034	.8948	49-0101	1.0463
45-0630	1.1510	45-0688	.9626	46-0041	1.0630	49-0035	.8820	49-0104	.9828
45-0631	1.1391	* 45-0689	1.2210	46-0042	1.1212	49-0037	1.0459	49-0107	.9559
45-0632	.8981	45-0690	1.0476	47-0001	1.0048	49-0038	.9632	49-0110	1.0309
45-0633	.9929	* 45-0691	1.0062	47-0003	1.1893	49-0039	1.0029	49-0111	.9908
45-0634	1.0382	* 45-0693	.8551	47-0004	.9996	49-0040	1.0990	49-0112	1.0546
45-0635	.9214	45-0694	.9644	47-0005	.9961	49-0041	.8060	49-0113	1.0362
45-0637	.9442	* 45-0695	.8044	47-0006	.9210	49-0042	.9772	49-0114	1.0468

TABLE

HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
* 50-0103	1.0976
50-0104	1.0077
* 50-0106	.7423
50-0107	.9883
50-0108	1.1491
50-0109	.9732
50-0110	1.0135
50-0114	1.1190
50-0118	1.1301
50-0119	.9659
* 50-0121	.9185
50-0122	1.1279
* 50-0123	.9525
* 50-0124	1.1941
* 50-0125	.9458
* 50-0127	.8044
50-0129	1.1794
50-0130	.8399
* 50-0132	.8427
51-0001	1.1505
51-0002	.9840
51-0003	1.0277
51-0004	.9531
51-0005	.9398
51-0006	1.0467
51-0007	1.0669
51-0008	1.0082
51-0009	.9559
* 51-0011	1.0808
51-0012	.9564
51-0013	.9511
51-0014	.9463
51-0015	.9241
51-0016	.9373
51-0018	.9988
* 51-0019	.9940
51-0020	.9813
51-0022	1.1559
51-0023	.9760
51-0024	1.0763
51-0025	.8816
51-0026	.9517
51-0027	1.0033
51-0028	.9802
51-0029	1.0117
51-0030	.9608
51-0031	.9438
51-0033	1.1003
51-0035	.9298
51-0036	.8634
51-0038	.9568
51-0039	1.0845
* 51-0040	1.0249
51-0041	.8684
51-0043	.9203
51-0045	.9715
51-0046	1.0319
51-0047	1.0482
51-0048	.9556
51-0050	1.0377
51-0052	.9295
51-0053	.9512
51-0054	.8481
51-0055	1.0335
51-0058	1.0586
51-0059	.5799
51-0060	.9730
51-0061	.9411
51-0062	1.0059
51-0063	.9141
51-0064	.9678
51-0065	.8740
51-0066	.9660
51-0067	.7925
51-0068	.9490
51-0070	.9849
51-0071	1.0504
51-0072	.9111
51-0074	.9126
* 51-0076	.8691
51-0077	.9191
51-0080	.9263
51-0081	.9166
51-0082	1.0277
* 51-0083	1.0655
52-0001	1.0137
52-0002	1.0337
52-0003	.9958
52-0004	1.0132
52-0006	.9904
52-0007	.9357
52-0008	.9700
52-0009	1.0388
52-0010	1.0363
52-0011	.9437
52-0012	.9509
52-0013	.9672
52-0014	.9508
52-0015	1.0203
52-0016	.9242
52-0017	.9654
52-0018	.9388
PROVIDER NUMBER	CASE MIX INDEX
52-0019	1.0385
52-0020	1.0320
52-0021	.9821
52-0022	.9360
52-0024	.9333
52-0025	.9431
* 52-0026	1.1755
52-0027	.9241
52-0028	1.0320
52-0029	.8999
52-0030	1.1346
52-0031	1.0076
52-0032	.9505
52-0033	1.0134
52-0034	.9529
52-0035	1.0190
52-0037	1.2076
52-0038	.9588
52-0039	.9568
52-0040	1.0694
52-0041	.9422
52-0042	.9630
52-0043	1.0847
52-0044	1.0461
52-0045	1.1138
52-0047	.8949
52-0048	1.0164
52-0049	1.1428
52-0051	1.0850
52-0053	.8767
52-0054	.9694
52-0056	1.0546
52-0057	.9162
52-0058	.9553
52-0059	.9275
52-0060	.9078
52-0062	1.0434
52-0063	1.1147
52-0064	1.1763
52-0066	1.0416
52-0067	1.0813
52-0068	.9399
52-0069	.9563
52-0070	1.1205
52-0071	.9626
52-0074	.9730
52-0075	1.0707
52-0076	1.0088
52-0077	.9257
52-0078	1.0543
52-0080	.8743

TABLE

HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX
* 50-0043	1.1022
50-0044	1.1317
50-0045	1.0441
50-0046	1.0542
50-0048	.8874
50-0049	.9732
50-0050	.9907
50-0051	1.1403
50-0052	.9918
50-0053	1.0289
50-0054	1.1992
50-0055	.9287
50-0057	1.0752
50-0058	1.0748
50-0059	1.0718
50-0060	.9232
* 50-0061	.9733
* 50-0062	1.0057
50-0064	1.1472
* 50-0065	1.0287
* 50-0066	.9093
* 50-0068	.9618
50-0069	.9414
50-0070	1.0822
50-0071	.9771
50-0072	1.0277
* 50-0073	.8818
50-0074	.8608
50-0075	.9274
50-0076	.9538
50-0077	1.0753
50-0078	1.1173
50-0079	1.1297
* 50-0080	.9059
50-0081	.5936
50-0084	1.0905
50-0085	.9236
50-0086	.9723
50-0087	1.0683
50-0088	1.0632
50-0089	1.1026
* 50-0090	.8721
50-0092	.9256
50-0093	1.0138
50-0094	.9005
50-0096	.9687
50-0097	.9253
* 50-0098	.8551
* 50-0100	.9812
* 50-0101	.9393
* 50-0102	.8623

TABLE HOSPITAL CASE MIX INDEXES

PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX	PROVIDER NUMBER	CASE MIX INDEX
52-0081	1.0314	52-0107	.9697	52-0130	.9283	52-0156	1.0008	53-0007	.8614
52-0082	.9542	52-0109	.9609	52-0131	.8872	52-0157	.9933	53-0008	.9417
52-0083	1.1832	52-0110	.9649	52-0132	.9735	52-0159	.9868	53-0009	.8555
52-0084	.9344	52-0111	1.0768	52-0134	.9332	52-0160	1.2387	53-0010	1.0510
52-0087	1.1722	52-0112	.9736	52-0135	.9527	52-0161	.9112	53-0011	.9425
52-0088	1.0491	52-0113	.9708	52-0136	1.0732	* 52-0164	.8421	53-0012	1.0056
52-0089	1.1078	52-0114	.9207	52-0138	1.1964	* 52-0165	1.0478	53-0014	.9982
52-0090	.9559	52-0115	1.0426	52-0139	1.0852	52-0167	1.0179	* 53-0015	.9920
52-0091	1.0867	52-0116	.9677	52-0140	1.0897	52-0170	.9642	53-0016	.9592
52-0092	.9815	52-0117	.9431	52-0141	.9816	52-0171	.9719	* 53-0017	.8195
52-0094	1.0392	52-0118	.8846	* 52-0142	.8889	52-0173	1.0329	53-0018	.8940
52-0095	.9535	52-0119	.9907	52-0143	.8173	52-0174	1.1957	53-0019	.8849
52-0096	1.0459	* 52-0120	1.0013	52-0144	.9879	* 52-0175	.8044	* 53-0021	.9276
52-0097	1.0338	52-0121	.9766	52-0145	.9271	* 52-0176	.8882	53-0022	.8956
52-0098	1.2406	52-0122	1.0064	52-0146	.9672	* 52-0177	.9190	* 53-0023	.9233
52-0100	1.0260	52-0123	.9937	52-0148	1.0324	53-0001	.9537	* 53-0024	.8991
52-0101	.9777	52-0124	.9918	52-0149	.9334	* 53-0002	1.0987	53-0025	.9648
52-0102	1.0039	52-0125	.8745	52-0151	.9543	53-0003	.8773	53-0026	.9940
52-0103	1.0951	52-0126	.9265	52-0152	.9669	53-0004	.9370	* 53-0027	.9885
52-0104	.9224	52-0127	.9373	52-0153	.9913	53-0005	.9318	* 53-0029	.8913
* 52-0105	.9493	52-0129	.9675	52-0154	1.0184	53-0006	.9359	* 53-0031	.8425

BILLING CODE 4120-03-C

Appendix III—SMSA/NECMA Constituent Counties Areas No Longer Qualifying as SMSAS

SMSA Area and Constituent Counties

Rapid City SD:
- Meade
- Pennington

Areas Qualifying for Recognition as New SMSAS

Anderson SC: Anderson
Arecibo, PR:
- Arecibo, Municipio
- Camuy Municipio
- Hatillo Municipio

Athens GA:
- Clarke
- Jackson
- Madison
- Oconee

Bellingham WA: Whatcom
Benton Harbor MI: Berrien
Bremerton WA: Kitsap
Casper WY: Natrona
Charlottesville VA:
- Albemarle
- Fluvanna
- Greene
- Charlottesville City

Chico CA: Butte
Cumberland MD–WV:
- Allegany (MD)
- Mineral (WV)

Danville VA:
- Pittsylvania
- Danville City

Florence SC: Florence
Fort Walton Beach FL: Okaloosa
Glens Falls NY:
- Warren
- Washington

Hagerstown MD: Washington
Hickory NC:
- Alexander
- Catawba

Jacksonville NC: Onslow
Joplin MO:
- Jasper
- Newton

Medford OR: Jackson
Newark OH: Licking
Newburgh-Middletown NY: Orange
Ocala FL: Marion
Olympia WA: Thurston
Redding CA: Shasta
Rock Hill SC: York
Salisbury-Concord NC:
- Cabarrus
- Rowan

Sharon PA: Mercer
Sheboygan WI: Sheboygan
State College PA: Centre
Victoria TX: Victoria
Visalia-Tulare-Porterville CA: Tulare
Wausau WI: Marathon
Yuba City CA:
- Sutter
- Yuba

New NECMAS

Bangor ME: Penobscot
Burlington VT: Chittenden
Portsmouth-Dover-Rochester NH-ME:
- Rockingham (NH)
- Strafford (NH)
- York (ME)

Revised NECMA Definitions

Boston-Lowell-Brockton-Lawrence-Haverhill MA:
- Essex (MA)
- Middlesex (MA)
- Norfolk (MA)
- Suffolk (MA)
- Plymouth (MA)

Hartford-New Britain-Bristol CT:
- Hartford
- Middlesex
- Tolland

Manchester-Nashua NH: Hillsborough
Portland ME:
- Cumberland
- Sagadahoc

Providence-Warwick-Pawtucket RI:
- Bristol
- Kent
- Providence
- Washington

(Secs. 1102, 1814(b), 1861(v)(1), 1866(a), and 1871 of the Social Security Act; 42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a), and 1395hh)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: September 14, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 27, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-27068 Filed 9-29-82; 8:45 am]
BILLING CODE 4120-03-M

federal register

Thursday
September 30, 1982

Part VI

Department of Health and Human Services

Health Care Financing Administration

Medicaid; Reductions in Payments to the States

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 433

Medicaid; Reductions in Payments to the States

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This rule amends the regulations that implemented section 2161 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). Under that provision, reductions in Federal matching payments to the States for Medicaid services were imposed for fiscal years 1982 through 1984. We are amending the regulations as a result of public comments and consultations with various representatives of the States, and to effect changes mandated by the provisions of section 137(b) of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248), which amended section 2161.

DATES: This rule is effective September 30, 1982. For information concerning reporting requirements in these regulations refer to section IV of the preamble below.

FOR FURTHER INFORMATION CONTACT: Charles Schreibeis (301)– 597–1702.

SUPPLEMENTARY INFORMATION:

I. Background

A. *Legislation and regulations.* Under title XIX of the Social Security Act, Medicaid is financed jointly with Federal and State funds. The Federal government shares in the cost of health care services covered under each State's Medicaid program, with the Federal contribution determined under a statutory formula (sections 1903(a) and 1905(b) of the Social Security Act) that is designed to have the Federal government pay a proportionally larger share of the program in States with lower per capita income, as compared to the national per capita income. Under section 1903(a) of the Act, the Federal government also shares in the costs of the administration of each State's Medicaid program. These payments are variously referred to as the Federal share of Medicaid payments, Federal matching funds, or Federal financial participation (FFP). For purposes of the discussion below, we refer to these amounts simply as Federal payments.

On September 30, 1981, we issued interim final regulations (46 FR 47996) to implement section 2161 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), enacted on August 13, 1981. Section 2161 added sections 1903 (s) and (t) to the Social Security Act and mandated progressive reductions in total Federal Medicaid payments to the States for fiscal years 1982 through 1984. The final regulations established a new Subpart E in Part 433 of title 42 of the Code of Federal Regulations (CFR).

Additionally, section 137(b) of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248), enacted on September 3, 1982, amended sections 1093 (s) and (t) of the Social Security Act. Although technical in nature, the amendments are important in several respects and are discussed below.

In summary, sections 1903 (s) and (t) of the Act, as enacted by section 2161 of Pub. L. 97–35 and as amended by section 137(b) of Pub. L. 97–248, provide that the Federal payments to which a State is entitled under Medicaid are to be reduced by three percent of each quarter's payment in fiscal year (FY) 1982, four percent in FY 83, and four and one half percent in FY 84. However, Congress stipulated that a State, under certain conditions, may be entitled to an offset against the reductions. That is, a State may lower the amount of the reduction by one percentage point for each quarter, in each of the three fiscal years, for each of the following conditions the State meets during the quarter:

- The State has in operation a qualified hospital cost review program.
- The State has an unemployment rate equal to or exceeding 150 percent of the national average.
- The State demonstrates anti-fraud and abuse recoveries of Medicaid funds, in the immediately preceding quarter, equal to at least one percent of the Federal payments for that quarter. With respect to FY 82 only, States may qualify for this decrease by combining recoveries from anti-fraud and abuse and third party liability efforts during the applicable quarter.

The legislation further provides that a State will be entitled to a dollar for dollar offset in the reductions if total Federal Medicaid funding of the State's program, for each fiscal year 1982 through 1984, falls below a specified target amount. However, the amount recovered by a State in this manner may not exceed the total amount of the original reduction for the fiscal year. Congress established the target amount for FY 82 as equal to 109 percent of each State's estimate of the amount of Federal funding it would be paid for FY 81, and stipulated that the State estimates to be used would be those that were submitted before April 1, 1981. For FY 83 and FY 84, the target amounts are equal to the FY 82 target amount increased or decreased by the same percentage as the increase or decrease in the index of the medical care expenditure component of the Consumer Price Index for all urban consumers (U.S. city average) published by the Bureau of Labor Statistics.

In additon to the interim final rules issued on September 30, 1981, we issued a notice of proposed rulemaking (46 FR 48006) concerning the offset based on the combination of recoveries from anti-fraud and abuse activities and from liable third parties (42 CFR 433.215). For purposes of the offset during FY 82, we proposed, with certain exceptions, to prohibit the States from including in third party liability recoveries savings realized in Medicaid costs by transferring to Medicare the responsibility for paying the claims of persons dually eligible for Medicare and Medicaid. The proposed exception to this rule was that the States would be permitted to include amounts recovered from Medicare in cases where dual eligibility is not known until after the Medicaid claim is paid.

B. *Implementation of section 2161.* The legislative history of section 2161 indicates that Congress attempted to soften the fiscal effects of the reductions for States that have high unemployment or are undertaking extra efforts to control rising health care expenditures by containing hospital costs or combating fraud and abuse. (For example, see the Report of the House Committee on the Budget, H.R. Rep. No. 97–158, Vol. II, 97th Cong., 1st Sess. 288 (1981).)

Congress reasoned that if a State has taken extra cost containment or anti-fraud and abuse measures beyond those embodied in sound management practices, then the Federal share of that State's Medicaid expenditures already had effectively been reduced. Therefore, Congress concluded, the States that are able to demonstrate savings based on these extra efforts should incur less of a reduction in Federal payments than States that have not taken these initiatives.

In drafting the implementing regulations, we have followed the legislative intent. For the most part, the legislation is specific and permits little discretion in the regulations. However, in those areas of policy where regulatory discretion was allowed, we established policies that encourage and reward initiatives by States that exceed routine requirements or administrative actions. We applied this approach in structuring the definition of recoveries and the fraud and abuse and third party liability sections of the regulations. For

example, aggressive action by a State to identify and discourage fraudulent and abusive practices through methods such as the application of specially designed claims processing screens intended to detect fraud and abuse will enable the State to qualify more easily for the anti-fraud and abuse offset.

II. Changes Required by Pub. L. (97-248)

Several of the amendments contained in section 137(b) of Pub. L. 97-248 have an impact on the reductions in Medicaid payments and require changes in the regulations. The amendments provide a specific legislative basis for—

- The inclusion in diverted funds of imputed savings based on the suspension or termination of providers of services from participation in the Medicaid program.
- An exception from the reductions and the target amount calculations for funds provided to States for health care provided through Indian Health Service facilities and for State Medicaid fraud control units.
- A change from the calendar year as a basis of comparison in determining the effect of a hospital cost review program on inpatient hospital costs to a 12-month period not necessarily coincident with the calendar year.
- The use of the Federal medical assistance percentage (FMAP) that was in effect for FY 81 for the target amount calculations for fiscal years 1982–1984.
- The carry-over from one quarter to the next of the amount by which a State exceeds the required level of anti-fraud and abuse recoveries necessary to qualify for the anti-fraud and abuse offset.

Following is a summary of the subsections of section 137(b) of Pub. L. 97-248 that require changes in the regulations:

Section 137(b)	42 CFR Part 433, Subpart E
15(A)	§ 433.205(c)(1).
(B)	§ 433.205(c).
(C)	§ 433.201.
(D)(ii)	§ 433.209.
(D)(iii)	§ 433.209.
(F)	§ 433.213.
16(A)	§ 433.217(c).
(B)	§ 433.217(b)(2).
(C)	§ 433.217(b)(3).
(D)	§ 433.217(b)(2).
(E)	§ 433.217(b).
27	§ 433.213(c).

III. Public Comments

A comment period was provided for both the proposed and final rules issued on September 30, 1981. We received a total of 34 sets of comments on various aspects of the regulations from State and local governments, two providers of health care services, several health related associations, a union and one individual. The vast majority of the comments were from the States and concerned the proposed rule on the circumstances under which recoveries from Medicare may be counted in third party liability recoveries during FY 82. Commenters also raised questions about the definitions of diverted funds and recoveries, as those terms relate to anti-fraud and abuse activities; the qualifications for hospital cost review programs; the method of computing anti-fraud and abuse recoveries, and the extent to which those recoveries may be carried forward from one quarter to the next for purposes of determining whether a State qualifies for an offset; and technical aspects of the computation of target amounts. A summary of the comments and our responses follows.

A. *Medicare as a liable third party (§§ 433.203, 433.213 and 433.215).* The current practices regarding recoveries from liable third parties are as follows. States reduce their Medicaid costs by predetermining obligations of liable third parties and offsetting the amounts paid on provider invoices (prepayment screens), or by retroactively identifying the obligations and collecting the appropriate amounts from third party payers. In the former case, the amounts involved are called cost avoidance; in the latter, they are commonly referred to as "pay and chase" collections. Both are generally considered recoveries from liable third parties.

If a Medicaid recipient is also eligible for Medicare, a claim from a provider is referred, either on a prepayment or post-payment basis, to the Medicare program. In these circumstances, Medicaid is responsible only for any deductible or coinsurance amount payable on behalf of the recipient. Being the payer of last resort, a Medicaid agency routinely transfers claims for services in these situations to the Medicare program.

In the proposed regulations (§ 433.215), we generally prohibited the inclusion of recoveries from Medicare in third party totals. However, we provided an exception for circumstances in which a State has paid a Medicaid claim, but subsequently discovers that the individual was also eligible for Medicare, and recovers the payment after referring the claim to Medicare. We also required that the recoveries must be auditable and have been reported to HCFA.

Sixteen sets of comments were received in response to the issues addressed in the proposed rule. The commenters objected to the proposal essentially in four areas:

Comment 1—Inconsistency with the statute and regulations. Many commenters maintained that the proposal violates sections 1902(a)(25) and 1903(s)(5)(A) of the Act (as enacted by section 2161 of Pub. L. 97-35), which address third party liability recoveries. They believe that, for purposes of including FY 82 third party liability recoveries in the offset calculation, section 1903(s)(5) defines third party recoveries as the total amount recovered or diverted on the basis of the third party activities that are mandated by section 1902(a)(25) of the Act. The latter section provides that State Medicaid agencies are to take all reasonable measures to ascertain the legal liability of third parties and to seek reimbursement to the extent of the liability. The commenters believe that there is nothing in these provisions or in their legislative history that justifies the exclusion of recoveries from Medicare to any extent in the offset calculation. They further believe that Congress has consistently demonstrated its understanding of the ways in which Medicare and Medicaid interrelate. Therefore, the commenters reason, because Congress did not explicitly exclude or limit Medicare as a source of third party liability recoveries for purposes of the FY 82 offset, the presumption must be in favor of treating Medicare as simply another third party payer.

Similarly, several commenters emphasized their belief that the definitions of third party and third party liability contained in the proposed rule are inconsistent with definitions existing elsewhere in Medicaid regulations. They point to the Medicaid quality control regulations at 42 CFR 431.800(b) that establish State plan requirements for monitoring third party liability activities, and to the definition located at 42 CFR 433.136 that defines third party as "any individual, entity or program that is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant * * *." The commenters argue that HCFA has steadfastly adhered to a policy that not only includes Medicare as a source of third party recoveries, but requires it. Therefore, they believe, the States are faced with incompatible instructions

that, on the one hand, require them to report recoveries from Medicare but, on the other, unjustifiably limit the inclusion of these recoveries for purposes of section 2161.

Response—The primary objective of Congress in enacting section 2161 was to reduce Federal expenditures. An additional objective, as discussed earlier, was to encourage additional efforts by the States in fraud and abuse detection. We believe that the same purpose underlies the provision concerning third party collections during FY 82. We realize that recoveries from Medicare are routinely included in third party totals under existing requirements in the statute and regulations. However, the net effect of including all recoveries from Medicare in the FY 82 third party totals under section 1903(a) of the Act would be to increase the number of States that would qualify for the offset against the section 1903(a) reductions. It would be inconsistent with congressional objectives to permit States to take credit for transferring all claims involving dual eligibility to the totally Federally funded Medicare program, and thereby decrease the intended effect of the reductions in Federal Medicaid payments on overall Federal spending. (See the Report of the House Committee on the Budget, H.R. Rep. No. 97–158, Vol. II, 97th Cong., 1st Sess. 287 (1981); and the Conference Report, H.R. Rep. No. 97–208, Book 2, 97th Cong., 1st Sess. 959 (1981)).

Furthermore, as explained below in our responses to related comments on this issue, information concerning possible dual Medicare-Medicaid eligibility is routinely accessible to the States. Therefore, to the extent that a State knows or should have known of dual eligibility, recoveries from Medicare may not be included in FY 82 third party totals for purposes of determining offsets under section 2161.

Comment 2—Advance knowledge of dual entitlement. In the proposed rule, we stated that we believe it was the intent of Congress, in enacting the third party provision in section 1903(a)(2)(C), to encourage additional efforts by the States against liable third parties. We stated that the States generally know beforehand which recipients are eligible for both Medicare and Medicaid and, that, therefore, we intended to limit recoveries from Medicare to situations in which a State is obligated to make a special effort to determine Medicare entitlement after it has paid a Medicaid claim. Commenters disputed our rationale concerning advance knowledge of dual eligibility and questioned the description of the exception in the regulations.

Commenters argued that State agencies cannot always anticipate which health care items or services will be covered by Medicare (especially Part B, Supplementary Medical Insurance, which covers physicians' and other medical services and supplies) and, in fact, do not know the answer until the Part B billing process is complete. Therefore, even if a State knows that a recipient is dually eligible for both Medicare and Medicaid, additional effort is often necessary to determine the liability of Medicare.

Concerning the exception, the commenters asserted that many situations require State agencies to pay for a recipient's care notwithstanding the fact that an agency knows or suspects the recipient to be eligible for Medicare. Therefore, the commenters maintain, to limit the exception to situations in which the State agency did not know about the dual eligibility ignores the practical reality of the relationship between Medicare and Medicaid.

These commenters urged us to amend the regulations to include *all* recoveries from Medicare in third party totals or, alternatively, to expand the exception to cover *all* cases in which Medicaid pays first and later recovers from Medicare.

Response—We have determined that we must adhere to the position described in the proposed rule. As explained below, dually entitled individuals are routinely identified and claims are routinely referred to Medicare for payment. The additional effort normally required on the part of the State to detect liable third parties and to seek recoveries is not required in these circumstances. We believe that it was the intent of Congress, in providing for the third party liability offset provision, to encourage additional efforts by the States against liable third parties other than the Medicare program.

We note, however, that two categories of collections from Medicare may be included in the third party recovery totals. The first category covers processing activities beyond the control of the State that result in a Medicare covered claim being paid by Medicaid. The second category covers situations in which a State pays a claim under the Medicaid program, and Medicare eligibility is in question but is later determined to be valid. We emphasize that these exceptions distinguish between those cases in which there is a real question of *Medicare eligibility*, and those in which the State must merely determine the extent of Medicare coverage. Hence, the situations mentioned by commenters that involve decisions about the extent of Part B coverage, for example, do not fall within the exception.

Concerning the basic question of whether States generally know beforehand of dual eligibility, we reiterate the following:

- HCFA makes available to all States (with or without buy-in or similar programs under sections 1843, 1902(a)(10) and 1903(a)(1) of the Act in which the States pay Medicare premiums for individuals) certain compilations of information (for example, the Carrier Alphabetic State File (CASF), the Health Insurance Beneficiary State Tape (BEST), and the Beneficiary and Earnings Data Exchange System (BENDEX)) that permit the States to determine whether an individual is eligible for both Medicare and Medicaid.
- If individuals are receiving Supplemental Security Income (SSI) under title XVI of the Social Security Act, they may also be eligible for Medicare. In this case, the Social Security Administration (SSA) makes SSI and Medicare entitlement information available to the States (Supplemental Security Income/State Data Exchange System (SDX)).
- Characteristics of Medicaid applicants such as age, the existence of a long-term disability, or an impairment of a certain nature such as end stage renal disease, help the States to identify individuals eligible for Medicare.

Comment 3—"Pay and chase" collection systems. Some commenters took the view that the exclusion of recoveries from Medicare from third party totals penalizes States that have developed effective processes, called cost avoidance systems, to ensure that third party liabilities, including Medicare, are fully recovered before a final Medicaid payment is made. States that have not undertaken these measures must employ a system in which liable third parties are not approached until after a Medicaid claim is paid. The latter type systems are commonly referred to as "pay and chase" and, the commenters believe, are not as cost effective as cost avoidance systems. The commenters allege, therefore, that "pay and chase" States will, in effect, be rewarded for being less effective because they will be able to include Medicare recoveries as a result of meeting the "additional effort" test implicit in section 2161.

Response—It is not our intent to penalize any State regardless of the types of claims processing systems employed. We believe that our policies are consistent with the intent of Congress to encourage additional efforts on the part of States to pursue liable third parties other than Medicare. In our view, the important aspect of the policy concerning recoveries from Medicare is that the recoveries may not be included if the State should have known of dual eligibility before a Medicaid claim is paid. If the claim of a dually eligible individual is paid because of circumstances beyond a State's control, or if Medicare eligibility is established after a claim is paid, recoveries from Medicare may be included. This is so regardless of whether a State has a mechanized or automated claims processing system or uses a "pay and chase" system.

Comment 4—Proposed definitions of third party and third party liability. Commenters believe that the definitions of third party and third party liability contained in the proposed regulations (§ 433.203) used terms that must be interpreted to include Medicare as a source of third party recoveries for purposes of section 1903(s). If this is so, the commenters continue, the definitions are inconsistent with § 433.215(c), which provides for the exclusion of Medicare. The proposed rule defined third party as "any individual, entity or program * * *" that might be liable. Third party liability was defined as "payment resources available from both private and public health insurance." Commenters assert that the use of the terms "program" and "public health insurance" necessarily include the Medicare program.

Response—We explicitly limited Medicare recoveries in § 433.215(c) of the interim final regulations. Therefore, we disagree that the regulations are unclear on this point. By way of explanation, however, we intend that third party liability recoveries from programs that provide health care to active duty or retired military personnel and their dependents may be included. We distinguish between these programs and Medicare on the basis that knowledge by the States of dual Medicare-Medicaid eligibility is facilitated, as explained above, by the coordinated exchange of data between HCFA and SSA on the one hand and the States on the other. Generally, there is not a comparable source of information available to the States concerning persons eligible for both Medicaid and benefits based on military service.

B. *Definition of diverted funds (§ 433.203).* For purposes of the anti-fraud and abuse offset, the statute (section 1909(s)(2)(C)) defines recoveries as the total amount that the "State demonstrates to the Secretary that it has recovered or diverted * * *."

In the definition of diverted funds in the interim final regulations (§ 433.203), and in the preamble to the regulations, we distinguished between routine monitoring screens in automated or mechanized claims systems and those put in place by the States as a result of surveillance and utilization review program actions or fraud control unit actions. We stated that amounts saved by application of the first category of screening procedures are not considered to be "diverted funds," while amounts saved by application of the second category are.

We stated in the preamble to the regulations that examples of qualified screens are those that relate to one time only procedures (for example, hysterectomies), inappropriate services for provider specialty, and inappropriate places of service. Excluded from the definition were costs diverted as a result of—

- Routine audits or reviews of cost reports;
- Detecting duplicate payments or applying normal utilization claims processing screens;
- Denying claims because of prior authorization or general application of mechanized prepayment screens;
- Correcting occurrences of provider overpayments resulting from State agency or fiscal agent administrative error;
- Convicting or suspending providers from Medicaid because of fraud or abusive practices;
- Restricting recipients to receive services from certain providers (recipient lock-in programs).

Comment 1—Convicted or suspended providers. Many commenters objected to our excluding from the definition of diverted funds those estimated savings to a State's Medicaid program that might be imputed to the exclusion or suspension of a provider from participation in Medicaid because of fraud or abusive practices. The commenters asserted that future savings do result from these activities because they help to remove from participation in the program the minority of providers whose illicit actions account for a major portion of misspent Medicaid funds. The commenters maintained that an acceptable method of calculating the savings could be developed for inclusion in the regulations.

Response—Under the authority of section 137(b)(15)(F) of Pub. L. 97–248, we are revising the definition. As provided by Pub. L. 97–248, we will count these imputed savings for the period of the exclusion, suspension or termination (see sections 1128, 1160, 1862 (d) and (e), 1866(b)(2), 1902(a)(39) or 1903(i)(2) of the Act), or for a period of one year from the effective date of the exclusion, suspension or termination, whichever is shorter. The imputed value to be included in each quarter's fraud and abuse totals will be prorated based on a projected amount of fraudulent or abusive claims, as determined by a reasonable statistical sample of the affected provider's annual Medicaid claims for the most recent year. We will not count the total amount of claims properly submitted by these providers because their patients may seek to receive services from other providers. For example, assume that a State suspends for six months a provider whose annual Medicaid claims total $100,000, as indicated by a sample. The State determines that only $80,000 of the $100,000 in payments to the provider were proper. The $20,000 in improper payments must be prorated over four quarters (one year). In this case, therefore, the State may include $5,000 in its anti-fraud and abuse totals in each of the two quarters during which the provider is suspended. If the period of suspension does not coincide with a fiscal quarter, the improper payments must be prorated accordingly. This means that a suspension period for five months in the above example would result in $5,000 in imputed savings in one quarter (three months) and $3,332 in the next quarter (two months). Adopting the figure in the above example for a provider suspended for a period of more than one year would result in the State having imputed savings of $5,000 in each quarter for one year only (for a total of $20,000).

In order to be included, the imputed savings must be reported quarterly and must be adequately documented so as to have a clearly defined audit trail for review.

Comment 2—Lock-in programs. Strong support was also indicated for inclusion in anti-fraud and abuse totals of savings imputed to recipient lock-in programs. In effect, these programs restrict certain recipients to receive services from certain providers and thereby curtail, for instance, the tendency of those recipients to visit multiple providers seeking advice about the same ailment. Commenters maintained that these programs result in substantial savings and constitute an

important aspect of abuse detection activities.

Response We have decided to accept these comments. Imputed savings from lock-in programs will be calculated in the same manner as savings attributable to the exclusion, suspension or termination of a provider. The savings will be the difference between the total claims for the recipient on an annual basis and the total of those claims determined by the State to be proper. However, the amount derived from this calculation must be—(1) Prorated and reported for the period during which the recipient is restricted to a certain provider, but not to exceed one year (four quarters), beginning with the quarter after the quarter in which the restriction is effective; (2) based on programs that are in compliance with the procedures for lock-in programs that are described in HCFA's regulations at 42 CFR 431.54(e); (3) based on restriction of recipients, on an individual basis, to specific providers; and (4) adequately documented. We will not count imputed savings based on lock-in programs that are directed at classes of recipients.

Comment 3—Prepayment screens. Fifteen commenters expressed the view that the interpretation given to the definition of diverted funds in the preamble of the interim final rule was too narrow concerning the program savings that can be realized by the application of prepayment screens. As indicated above, the interim final regulations defined diverted funds to mean amounts saved as a result of applying, (1) prepayment screens to claims submitted by a provider identified as possibly engaging in fraudulent or abusive practices; or (2) special mechanical or automated prepayment screens that are designed to detect fraud and abuse to claims from all providers or a designated category of providers. The commenters believe that the definition should be expanded to include screens for duplicate claims, frequency and quality of services limitations screens, and suspended provider screens. Furthermore, they insisted that when fraudulent or abusive practices are uncovered as part of a routine audit, any resulting savings should be considered as diverted funds.

Response—After carefully reviewing these comments and the recommendations of a Medicaid Technical Advisory Group, we have determined that the interpretation of the definition should be expanded to include screens designed to detect the following:

- Fragmented claims—Claims for multiple procedures or services that should be billed singly or in combination (for example, split prescriptions or multiple claims resulting from one surgical procedure instead of one comprehensive claim).
- Compatability of services—Inappropriate combinations of medical services or procedures, or of services, procedures or diagnoses with a patient's age, sex or other characteristics.
- Medical necessity of services.
- Overutilization of services and program benefits.
- False billings.

However, savings resulting from the following types of screens may not be included in anti-fraud and abuse diverted funds:

- Screens that review the qualifications of providers or recipients to participate in the program.
- Covered services screens that identify claims for services not covered by the program.
- Reimbursement screens that compare charges to maximum reimbursement levels and make appropriate adjustments.
- Third party liability screens designed to identify parties that are liable to pay for a claim before Medicaid.
- Data completeness and validity screens.

The first category of screens represents an additional effort to detect fraud or abuse while the second category is illustrative of routine monitoring screens that are required by good business practices. Furthermore, under sections 1903 (a) and (r) of the Act, HCFA approves the use of Medicaid Management Information Systems by the States and requires that the second category of screens be part of each State's basic system. Currently, 37 States have approved systems in operation, and nine others soon will have systems in use.

We note, however, that before amounts may be included in the total of costs diverted as a result of the application of screens, claims must actually be denied or partially denied. Costs involved in claims that are simply rejected by the processing system may not be included. This is because many prepayment screens result in rejections of claims because of provider clerical errors, and because savings are not achieved until claims identified for further processing are actually processed and denied.

Duplicate claims and frequency or quality of services limitation screens are part of the routine processing system and are, in fact, coverage determinations. None of these types of screens are considered to be special anti-fraud and abuse screens. Duplicate payment screens particularly are a standard claims processing technique and constitute good business practice. Suspended provider screens are also part of the routine claims processing system.

Regarding routine audits, if fraud or abuse is uncovered as a result of these measures and the State initiates a Medicare/Medicaid Abuse Report (HCFA–51) to track the case as a full scale investigation, actual recoveries may be included by the State in its calculation of total anti-fraud and abuse recoveries. However, we believe it would be inappropriate to allow the States to estimate savings based on routine audits, and then to include the estimated savings in diverted funds totals. This would result in the savings being imputed to fraud and abuse detection activities. Here again we draw a distinction between those extra efforts that are designed to detect or act upon fraudulent or abusive practices and those that are good business practices and, therefore, routine in nature.

C. *Definition of recoveries (§ 433.203).* In the definition of recoveries in the interim final regulations, we stated that the term means Medicaid funds which were paid to a provider in excess of what the provider is entitled to, and which have been collected or diverted by the State. In addition, we stated that amounts of fines, penalties, and unexecuted judgments may not be included in the calculations concerning funds recovered through anti-fraud and abuse activities.

Comment 1—Funds diverted or collected. Several commenters suggested that HCFA should revise the definition of recoveries to clarify the difference between funds diverted and funds that have been paid in error and then recouped through collections.

Response—We agree that the definition was ambiguous and have rewritten it to state that recoveries, for purposes of anti-fraud and abuse totals, may include either diverted funds (also defined in § 433.203) or amounts collected.

Comment 2—Fines and penalties. Two commenters urged that HCFA's position be changed regarding fines and penalties. They believe that all funds recovered by a State in connection with program activities, regardless of the source, should be included because Medicaid program expenditures are thereby reduced.

Response—We disagree with this comment. Fines and penalties are amounts that accrue to the general

revenues of a State rather than to the State's specific programs. Therefore, the amounts thus recovered cannot be construed as helping to reduce Federal expenditures. We note, however, that amounts recovered from executed judgments that represent a recovery of Medicaid funds, and that are reported to HCFA, may be included in anti-fraud and abuse recoveries.

D. *Computation of anti-fraud and abuse recoveries (§ 433.213).* In the interim final regulations (§ 433.213(a)), we stated that, to qualify for the anti-fraud and abuse offset, a State's recoveries for a quarter must equal or exceed one percent of the total Federal payment for that quarter. In addition, we stated in § 433.213(c) of the interim final regulations that amounts of anti-fraud and abuse recoveries in a quarter that exceed one percent of the appropriate Federal payment may be carried forward for one quarter only.

Comment 1—Total recoveries. Eight commenters raised the question of whether the language of §433.213(a) requires a comparison between the total *State and Federal share* of anti-fraud and abuse recoveries and the Federal payment to the State in a quarter, or only between the *Federal share* of recoveries and the Federal payment. The commenters professed belief that the former is the correct interpretation because section 1903(s)(2)(C) of the Act, as enacted by section 2161, states that the *total* amount of the State's recoveries must equal or exceed one-percent of the applicable *Federal* payment, and that clarification is necessary to calculate accurately the anti-fraud and abuse offset. For example, if the quarterly Federal payment to a State is $100,000,000 and total anti-fraud and abuse collections equal $1,200,000 with the Federal share of the collections being $800,000, under the State's interpretation, the State would qualify for the offset (that is, $1,200,000 divided by $100,000,000 equals 1.2 percent). On the other hand, if only the Federal share of the total collections was used in the computation, the State would not qualify (that is, $800,000 divided by $100,000,000 equals .8 percent).

Response—Initially, we interpreted section 1903(s)(2)(C) of the Act to the effect that only the Federal share of recoveries should be compared to the Federal payment. After reviewing the statute and supporting committee reports, we agree that the commenters' interpretation of the statute is correct. Therefore, we amended the regulations to show that the basis for comparison is a State's total Medicaid-related anti-fraud and abuse recoveries including both the Federal and State share.

Comment 2—Recoveries from all State programs. Commenters also maintained that the total amount of a State's third party and anti-fraud and abuse recoveries should include recoveries involving State programs other than Medicaid but related to Medicaid (for example, general assistance medical programs).

Response—Section 1903(s) of the Act, as enacted by section 2161 of Pub. L. 97–35 is an initiative by Congress to contain Medicaid costs and to encourage the States to undertake greater efforts to combat fraud and abuse in that program. Therefore, we believe that Congress intended that only Medicaid recoveries could be used to qualify a State for the anti-fraud and abuse offset.

Comment 3—Carry forward. Disagreement with HCFA's policy that anti-fraud and abuse recoveries may be carried forward for one quarter only was registered by five commenters. They contend that HCFA's interpretation of the statute is incorrect, and that the excess of each quarter's anti-fraud and abuse recoveries may be carried forward cumulatively, for purposes of calculating whether the one percent threshold is met, until the excess is exhausted.

Response—In section 137(b)(27) of Pub. L. 97–248, Congress amended section 1903(s)(5)(B) of the Act (originally enacted by section 2161 of Pub. L. 97–35) to provide that the excess for a State's anti-fraud and abuse recoveries over the amount required to qualify the State for the anti-fraud and abuse offset for that quarter is to be carried forward to the following quarter "or quarters * * *" Therefore, we have amended § 433.213 to that effect.

E. *Hospital cost review programs (§ 433.209).* Section 1903(s)(3) of the Act, as enacted by section 2161 of Pub. L. 97–35, provided specific criteria that hospital cost review programs must meet in order to qualify a State for the offset under that provision. The criteria are as follows:

- The program must have been established by statute, and must have been in effect on July 1, 1981, and at the beginning of the quarter in which offset against the reduction is granted.
- The program must be operated directly by the State.
- The program must apply to substantially all non-Federal acute care hospitals.
- Under the program, the State must review all non-Medicare revenues or expenses for inpatient hospital services, or at least 75 percent of all revenues or expenses for inpatient hospital services, including those under Medicare.
- The State must make satisfactory assurances to the Secretary that the program provides substantially equitable treatment to all payers, hospital employes and hospital patients.
- The State's rate of increase in aggregate inpatient hospital costs per capita or per admission on a calendar year basis must be at least two percentage points lower than the rate of increase in all States without qualifying programs. Based on the language of section 1903(s)(3)(D) of the Act, as originally enacted in section 2161 of Pub. L. 97–35, the interim final regulations provided that the period of comparison would be the most recent calendar year or, at the State's option, the two or three calendar year period ending at least nine months before the quarter covered by the Federal payment. However, as noted above, section 137(b)(15)(D) of Pub. L. 97–248 amended section 1903(s)(3)(D) by deleting the reference to a "calendar year" and replacing it with a reference to "the most recent year which shall consist of a 12-month period to be determined by the Secretary. * * *" This change will allow HCFA to use in this calculation American Hospital Association data on annual hospital inpatient costs that correspond, not to the calendar year, but to a year ending on September 30.

Comment 1—Effective date of the program. One commenter questioned whether a hospital cost review program merely had to be in existence on July 1, 1981 or whether the program had to meet all of the criteria on that date.

Response—We stated in the preamble to the interim final regulations that we will consider a hospital cost review program to have been "in effect" on July 1, 1981 if, on that date, rules or regulations for the conduct of the program had been issued and were enforceable.

We believe that Congress intended to require that a program meet the necessary criteria on July 1, 1981 because, in any practical sense, the alternative would be to permit the State to perfect their programs without any time limitation. If this were the case, it would have been unnecessary for Congress to prescribe an effective date.

Comment 2—Determination of State qualification. Several commenters requested clarification of HCFA's procedures to determine whether a State

meets the qualifications for the hospital cost review program offset.

Response—If a State believes that its hospital cost review program qualifies for the offset, it may submit notification to HCFA specifying how and when the program met the criteria. HCFA will review the information and notify the State of its decision. If the State disagrees with HCFA's assessment, it may appeal the matter to the Department's Grant Appeals Board under 45 CFR Part 16 in conjunction with an appeal of a determination by HCFA of allowable funding on a grant award. If HCFA denies the offset because the rate of increase in hospital inpatient costs in the State is too great, as determined by the application of American Hospital Association (AHA) data, the State may submit other data to HCFA for consideration.

F. *Target amounts (§ 433.217).* As discussed earlier, section 1903(t) of the Act, as enacted by section 2161 of Pub. L. 97–35, contains provisions that entitled the States to an offset against reduced Federal payments if certain targeted levels of Medicaid costs are achieved. Section 1903(t) provides for establishment of target amounts of Federal expenditures in each State's Medicaid program for fiscal years 1982–1984. A State is entitled to a dollar-for-dollar offset against the reductions under section 1903(s) if the total Federal payments required by a State for a fiscal year fall below the projected target amount. However, each year's offset applies only up to the total of the applicable reduction imposed by section 1903(s).

We stipulated in the interim final regulations that the calculation of the target amounts may not take into account: (1) Interest paid by a State under section 1903(d)(5) on disallowances of State claims; (2) reductions in payments under section 1903(s), as enacted by section 2161; (3) supplementary payments received by a State for spending less than the target in the previous year; or (4) adjustments for claims relating to expenditures before October 1, 1980.

Under sections 1101(a)(8) and 1905(b) of the Act, the percentage of the Federal share of each State's Medicaid expenditures (Federal Medical Assistance Percentage (FMAP)) is recalculated every two years according to a specified formula. A recalculation of the FMAP occurred in fiscal year 1982 and another is scheduled for fiscal year 1984. In recognition of this, Congress provided in section 1903(t)(3), as amended by section 137(b)(16)(E) of Pub. L. 97–248, that the FMAP rate that was in effect for fiscal year 1981 is to be used in computing Federal expenditures for fiscal year 1982–84 to determine appropriate supplemental payments under the target amount provisions. The Conference Report for Pub. L. 97–35 (H.R. Rep. No. 97–208, Book 2, 97th Cong., 1st Sess. (1981)) pointed out (p. 960) that section 1903(t)(3) was intended to avoid rewarding a State simply because of a change in the share of its expenditures paid by the Federal government.

At the end of the fiscal year, before the issuance of the initial award for the first quarter of the next year, the State's total expenditures for the fiscal year will be estimated by HCFA, using the applicable fiscal year 1981 FMAP rate, based on the available actual expenditure data and the State's budget estimate. To the extent that the Federal share of the State's total estimated expenditures is under the target amount and section 1903(s) reductions have not been offset, the State is entitled to a supplemental adjustment. For example, if we use $3,600,000 as the State's estimated Federal share for fiscal year 1982, a target amount of $3,650,000 and $36,000 as reductions that have not been offset, we have the following calculation:

Target amount—fiscal year 1982	$3,650,000
Estimated Federal share	3,600,000
Under target amount	50,000
Reductions not offset	36,000
Less amount used as supplemental award adjustment	36,000

Because $36,000 is the lower of the two amounts that are compared (the amount by which the Federal share of the State's expenditures are under its target amount, and the amount of reductions not offset), this would be the supplemental figure awarded to the State in this example. Upon determination of the final expenditure amount for the fiscal year, HCFA will make an adjustment in the appropriate grant award, as described above.

Comment 1—Changes in a State's Federal share. Several commenters pointed out that if a State receives increased Federal payments as a result of a recalculation under the section 1905(b) formula, the ability of the State to meet its target amount would be adversely affected because the target amount would increase in proportion to the increase in Federal payments. The reverse effect would be true for States whose rate of Federal payments has dropped.

Response—Congress specifically provided in section 137(b)(16)(E) of Pub. L. 97–248, which amended section 1903(t)(3) of the Act, that the calculations of the Federal share of expenditures for FY 82–84 are to be made using the FMAP in effect for FY 81. We have amended the regulations accordingly.

Comment 2—Actual versus projected expenditures. Commenters believe that the target amounts should be based on actual expenditures rather than on projected expenditures.

Response—We are unable to act upon this comment because, once again, the statute provides specific direction. Section 1903(t)(1)(A) of the Act clearly calls for target amounts to be based on the last *estimate* of a State's Federal share of Medicaid expenditures received by HCFA before April 1, 1981.

Comment 3—Cash flow. Commenters objected to an annual computation of the target amount offset. They suggested that cash flow problems encountered by the States would be alleviated if the dollar-for-dollar offset was available to the States on a quarterly basis.

Response—In section 1903(t)(2) of the Act, Congress provided that the amount of Federal payments to which a State is entitled for the *first quarter of a fiscal year* is to be supplemented by the amount by which the Federal share of expenditures under the State's plan for the *previous fiscal year* is under the target amount for that fiscal year. Because of the specificity contained in the statute, we are unable to implement a different approach in the regulations.

Comment 4—Indian Health Service Funds. Two commenters requested clarification concerning the effect of section 2161 on Federal payments for Indian Health Service (IHS) facilities under section 1911 of the Act. The commenters wanted to know whether the progressive reductions in Federal payments would be applied to Federal payments for IHS facilities, and whether these payments would be included in calculations of a State's target rates.

Response—Although Congress did not specifically deal with this question in section 2161 of Pub. L. 97–35, it provided in subsections (15)(B) and (16)(A) of section 137(b) of Pub. L. 97–248 that the reductions in Medicaid payments and the target amount provision do not apply to Federal payments for health services provided through IHS facilities. (See also section 118 of Pub. L. 97–92, as extended by Pub. L. 97–161.) Therefore, we are amending §§ 433.205 and 433.217 to that effect.

IV. Summary of Changes in the Regulations

To summarize, as a result of public comments, policy decisions, and changes to the law contained in section

137(b) of Pub. L. 97–248, we are making the following changes in the regulations:

- Definitions of third party and third party liability are being added to § 433.203, and § 433.215 is being added to describe the conditions under which recoveries from Medicare may be included in third party liability totals during FY 82, for purposes of the combined anti-fraud and abuse and third party liability offset.
- The definition of diverted funds in § 433.203 is being changed to include imputed savings based on the exclusion, suspension or termination of providers and based on lock-in programs.
- Sections 433.205 and 433.217 are being revised to state that the reductions in Medicaid payments and the target amount provisions do not apply to Federal payments for health services provided by IHS facilities or to payments to States for State Medicaid fraud control units.
- Section 433.213 is being changed to clarify that calculations of anti-fraud and abuse recoveries include both the Federal and State share of Medicaid related recoveries, and to state that the amount by which a State exceeds the level of anti-fraud and abuse recoveries required to qualify for the anti-fraud and abuse offset may be carried forward to the next quarter until it is exhausted.
- In § 433.209, the reference to the calendar year period of comparison used by HCFA to determine the annual rate of increase in hospital inpatient costs in a State with a hospital cost review program is being removed.

In addition, we are making technical conforming changes made necessary by section 137(b) of Pub. L. 97–248 as follows:

- We are amending § 433.201(b) to clarify that the reductions apply only to the District of Columbia and to the States with Medicaid programs "in operation" as of July 1, 1981. (See section 137(b)(15)(C) of Pub. L. 97–248.)
- Section 433.205(c)(1) is being amended to state that payments to a State for expenditures made before FY 82 are not subject to the reductions in Medicaid payments. As originally enacted, section 1903(a)(1)(A) of the Act provided that expenditures prior to FY 81 were not affected. (See section 137(b)(15)(A) of Pub. L. 97–248.)
- The language of § 433.217(b) is being amended to clarify that adjustments to target amount calculations are to be based on changes, which occur during the Federal fiscal year (October 1–September 30), in the medical care index expenditure category of the Consumer Price Index for all urban consumers (U.S. city average) published by the Bureau of Labor Statistics. (See sec. 137(b)(16)(D) of Pub. L. 97–248.)

V. Reporting Requirements

Sections 433.209, 433.213 and 433.215 contain collection of information requirements. The public is not required to comply with these collection of information requirements until the Office of Management and Budget approves these requirements under section 3507 of the Paperwork Reduction Act of 1980. A notice will be published in the **Federal Register** when approval is obtained.

VI. Impact Analyses

A. *Executive Order 12291.* We have determined, in accordance with section 1(b) of E. O. 12291, that these final regulations do not constitute a major rule. At this time, we are unable to project the cost effect of the decisions to include in diverted funds imputed savings based on lock-in programs and suspension/termination of providers, and to include in the fraud and abuse offset calculation the Federal share of a State's fraud and abuse recoveries. However, we estimate that approximately one quarter of the States will not qualify for the FY 82 offset based on a combination of anti-fraud and abuse and third party liability recoveries because of the decision to limit the extent to which recoveries from Medicare may be included in third party totals. Federal payments that may be saved as a result of this decision amount to an estimated $46 million in FY 82. This estimate is below the threshold figure of $100 million contained in E. O. 12291 for major rules.

B. *Regulatory Flexibility Act.* The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), that these final regulations will not have a significant impact on a substantial number of small entities.

As defined by the Regulatory Flexibility Act, the term "small entities" includes "small governmental jurisdictions." The latter term is defined as local governments (cities, counties, towns, townships, villages, school districts, or other special districts) with a population of less than fifty thousand persons. State governments are not included in this definition.

As a consequence of the reductions in Federal payments mandated by section 2161 of Pub. L. 97–35, as amended by section 137(b) of Pub. L. 97–248, the States may take actions that may have an economic impact on some physicians, hospitals or other providers of services. Any impact that does occur, however, will result from State decisions and will be difficult to assess in any cumulative sense. Moreover, the direct impact of these regulations is on State governments, which do not qualify as small entities. Therefore, a regulatory flexibility analysis is not being prepared.

VII. Waiver of Prospective Effective Date

We customarily provide a prospective effective date, for a substantive rule, of 30 days after publication in the **Federal Register.**

As explained above, this final rule completes the regulations necessary under section 2161 of Pub. L. 97–35, as amended by section 137(b) of Pub. L. 97–248, and finalizes the decision concerning third party liability recoveries that applies during FY 82 only. As a practical matter, if we provided a delayed effective date, we would be unable to implement section 2161 fully before the end of FY 82. Therefore, we find that good cause exists to waive the prospective effective date and to make these regulations effective on publication.

VIII. Waiver of Proposed Rulemaking for Pub. L. 97–248 Provisions

The Administrative Procedure Act also requires that agencies normally follow notice of proposed rulemaking procedures when issuing regulations (5 U.S.C. 553(b)). The provisions of these final regulations are based on requirements set forth explicitly in section 2161 of Pub. L. 97–35, as amended by section 137(b) of Pub. L. 97–248. As discussed in detail above, we issued interim final regulations, supplemented by a proposed regulation, to implement section 2161. A period for public comment was provided for both the interim final and proposed regulations. As to those regulations, therefore, there is no further notice required under the APA.

Moreover, we believe that the APA notice procedure may be waived for the changes in regulations mandated by section 137(b) of Pub. L. 97–248. These changes may be placed in two categories. The first consists of editorial and technical changes for which notice and comment under the APA would be unnecessary. The second category consists of changes that have an important impact on implementation of the reductions in Medicaid payments,

but which are required by clear statutory provisions. These changes are discussed above in section II of this preamble (changes required by Pub. L. 97–248).

Aside from the exceptions provided for IHS and Medicaid fraud control unit funds (both of which are of benefit to the States), the subject matter addressed by section 137(b) was analyzed in the interim final rule which, as noted, was issued subject to a public comment period, and we have considered those comments in developing the amendments now being adopted. In any case, the requirements contained in the amendments enacted by section 137(b) are specific, and HCFA is therefore not required to make significant policy interpretations in regulations. Moreover, Congress provided in section 137(d) of Pub. L. 97–248 that the provisions of section 137(b) are to be effective as if they had originally been included in section 2161 of Pub. L. 97–35 when it was enacted on August 13, 1981. Lastly, it is essential that these regulations be finalized in order to complete actions necessary on the FY 82 reductions. For these reasons, we believe that proposed rulemaking procedures are unnecessary and contrary to the public interest, and that there is good cause to waive them.

IX. List of Subjects in 42 CFR Part 433

Administrative practice and procedure, Assignment of rights, Claims, Contracts (agreements), Cost allocation, Federal financial participation, Federal matching provision, Fraud and abuse, Grant-in-Aid program—health, Hospital cost review program, Mechanized claims processing and information retrieval systems, Medicaid, Reductions in medicaid payments, State fiscal administration, Third party liability, Unemployment levels.

PART 433—STATE FISCAL ADMINISTRATION

42 CFR Part 433 is amended as follows:

A. The authority citation for Part 433 is revised to read as follows:

Authority: Secs. 1102, 1902(a)(4), 1902(a)(25), 1903(d)(2), 1903(o), 1903(p), 1903(s), 1903(t), and 1912 of the Social Security Act (42 U.S.C. 1302, 1396a(a)(4), 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), 1396b(s), 1396b(t), and 1396k), unless otherwise noted.

B. The table of contents for Part 433 is amended as follows:

1. The table of contents for Subpart A is amended by revising the title of § 433.8 to read as follows:

Subpart A—Federal Matching Provisions

433.8 Implementation of progressive reductions in FFP for fiscal years 1982–1984.

2. The table of contents of Subpart E is amended by removing the bracketed word "[Reserved]" from the title of § 433.215.

C. Subpart A is amended by revising § 433.8 to read as follows:

Subpart A—Federal Matching Provisions

§ 433.8 Implementation of progressive reductions in FFP for fiscal years 1982–1984.

Procedures for the implementation of progressive reductions in FFP for fiscal years 1982–1984, authorized under sections 1903 (s) and (t) of the Act, are described in Subpart E of this part.

D. Subpart E is amended as follows:

Subpart E—Reduction in Total Federal Payments to the States for Fiscal Years 1982–1984

1. Section 433.201 is revised to read as follows:

§ 433.201 Statutory basis and scope.

(a) *Basis.* Sections 1903 (s) and (t) of the Act (as enacted by section 2161 of Pub. L. 97–35 and amended by section 137(b) of Pub. L. 97–248) provide for progressive reductions in Federal payments to the States, in fiscal years 1982 through 1984.

(b) *Scope.* The reductions apply only to the 49 States with Medicaid programs in operation under State plans approved by HCFA as of July 1, 1981, and to the District of Columbia. Special funding provisions in § 433.10 apply to Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands and American Samoa.

2. Section 433.203 is amended by revising the definitions of "diverted funds" and "recoveries," and adding definitions of "third party" and "third party liability," in alphabetical order, to read as follows:

§ 433.203 Definitions.

For purposes of this subpart—

* * * * *

"Diverted funds" means program funds not spent because claims were denied or reduced in amount as a result of the following:

(1) Procedures under § 431.54(e) of this chapter that restrict recipients, on an individual basis as distinct from a class or recipients, to obtain Medicaid services or items from designated providers.

(2) Exclusion or suspension from participation in Medicaid, or termination of agreements, of providers engaging in fraudulent or abusive practices.

(3) Use in claims processing systems of prepayment screens that are—

(i) Applied to all or a particular portion of the claims submitted by a provider specifically identified for monitoring with respect to possible fraud or abuse; or

(ii) Specifically designed to detect fraud or abuse and applied to all claims submitted by all providers or by a general category of providers.

* * * * *

"Recoveries" means amounts, incorrectly paid to providers of services under title XIX of the Act, applicable regulations and the State plan, that are actually collected, or amounts diverted by a State agency or Medicaid fraud control unit. The amounts must have been reported to the Federal government and may not include fines, penalties and unexecuted judgements established by Federal, State or local courts or administrative bodies.

"Third party" means any individual, entity or program that is or may be liable to pay all or part of the medical costs of injury, disease or disability of an applicant or recipient.

"Third party liability" means payment resources, available from both private and public health insurance, and other liable third parties, that can be applied toward Medicaid recipients' medical and health benefit expenses.

3. Section 433.205 is amended by revising the introductory language of paragraph (c), revising paragraphs (c)(1) and (c)(2), and adding new paragraphs (c)(3) and (c)(4) to read as follows:

§ 433.205 Reductions in total Federal payments.

* * * * *

(c) *Amounts not affected by reductions.* HCFA will not apply the progressive reductions to—

(1) Payments to a State for expenditures made before fiscal year 1982;

(2) Supplementary payments made to a State resulting from its having incurred fewer expenditures than its target amount, described in § 433.217;

(3) Payments to a State under § 433.10(c)(2) of this Part for services provided through Indian Health Service facilities; or

(4) Payments to a State under Subpart D of Part 455 of this chapter for a State Medicaid fraud control unit.

4. Section 433.207 is amended by reprinting the introductory language and revising paragraph (c) to read as follows:

§ 433.207 Offsets against reductions.

HCFA will decrease the reduction specified in § 433.205 by one percentage point for a quarter for a State, for each of the following three conditions that the State meets:

* * * * *

(c) *Fraud and abuse and third party liability recoveries.* For the quarter before the quarter covered by a Federal payment, recovery through anti-fraud and abuse initiatives, described in § 433.213, of an amount equal to one percent of the Federal payment due to the State in that previous quarter. During fiscal year 1982 only, this total may include recoveries from liable third parties (see § 433.215).

5. Section 433.209 is amended by reprinting the introductory language in paragraph (b), revising paragraph (b)(6), and removing the note concerning the effective date, as follows:

§ 433.209 Qualifications for offset based on hospital cost review programs.

* * * * *

(b) The State must provide HCFA with assurances of equitable treatment, under the State's cost review program, for hospital employees and patients, and for all payers, including Federal and State programs, that pay hospitals for inpatient hospital services. In addition, in order to qualify, a hospital cost review program must—

* * * * *

(6) Result in an annual rate of increase in aggregate hospital inpatient costs per capita, or per admission, in the State that is at least two percentage points less than the rate of increase in all States without qualifying programs. A State may meet this requirement based on performance during the most recent one, two, or three year period ending at least nine months before the quarter covered by the Federal payment.

6. Section 433.213 is amended by revising paragraph (a), reprinting the introductory language of paragraph (b), revising paragraphs (b)(1) and (b)(2)(ii), revising paragraph (c) and redesignating it as paragraph (d), adding a new paragraph (c), and removing the note concerning the effective date, as follows:

§ 433.213 Offset based on fraud and abuse recoveries.

(a) *General policy.* HCFA will decrease the reduction under § 433.205 by one percentage point for each quarter in which the State demonstrates that its total Medicaid-related anti-fraud and abuse recoveries (and third party liability recoveries for fiscal year 1982 only (see § 433.215)), for the quarter before the quarter covered by the Federal payment, are equal to one percent of the Federal payment due to the State in that previous quarter. For purposes of calculating the one percent, HCFA will not include in this total any supplementary payments due to a State resulting from the State's having spent less than its target amount, described in § 433.217.

(b) *Fraud and abuse recoveries.* For purposes of paragraph (a) of this section, fraud and abuse recoveries—

(1) Must be documented by the State to the satisfaction of HCFA; and

(2) May include diverted funds or funds recovered as a result of—

(i) * * *

(ii) Audit activities that are initiated as a result of a suspicion or complaint of fraud or abuse (including any amounts recovered as restitution in civil or criminal litigation resulting from these audit activities, but not including fines, penalties, unexecuted judgments established by Federal, State, or local courts or administrative bodies, or fraud and abuse uncovered through routine audits); and

(iii) * * *

(c) *Time limits applicable to diverted funds.* For purposes of determining the amount of a State's anti-fraud and abuse recoveries for a fiscal year, HCFA will prorate diverted funds as follows:

(1) *Lock-in programs.* The amount of diverted funds from lock-in programs is based on the difference between an annual total of claims for an individual recipient and the total of those claims determined by the State to be proper. HCFA will prorate this amount over the period of the restriction or for a period of four quarters, whichever is shorter, beginning with the quarter after the quarter in which the recipient is restricted to a designated provider.

(2) *Suspension or termination of providers.* The amount of diverted funds based on the exclusion, suspension or termination of providers from participation in the Medicaid program is a projected amount of fraudulent or abusive claims, as determined by a statistical sample of the provider's Medicaid claims for the most recent year. HCFA will prorate this amount over the period of the provider's exclusion, suspension or termination, or for a period of four quarters, whichever is shorter.

(d) *Procedures for carrying forward fraud and abuse recoveries.* For purposes of paragraph (a) of this section, HCFA will carry forward, from one quarter to the next, the amount by which a State demonstrates that its fraud and abuse recoveries exceed one percent of the total Federal Medicaid expenditures for the quarter covered by the Federal payment.

(46 FR 48001, Sept. 30, 1981; 46 FR 54744, Nov. 4, 1981)

7. A new § 433.215 is added to read as follows:

§ 433.215 Third party liability recoveries.

(a) *Applicability in fiscal year 1982 only.* For fiscal year 1982 only, for purposes of determining whether a State is entitled to the offset under § 433.213, HCFA will add to the total Medicaid-related anti-fraud and abuse recoveries, funds saved as a result of recoveries from liable third parties under procedures described in Subpart D of this Part, except as provided in paragraph (c) of this section.

(b) *Conditions for inclusion of third party liability recoveries.* For purposes of paragraph (a) of this section, HCFA will include recoveries for liable third parties if the recoveries—

(1) Can be validated by audit; and

(2) Have been reported to the Federal government.

(c) *Recoveries from the Medicare program.*—(1) *General policy.* For purposes of paragraph (a) of this section, recoveries from liable third parties may not include recoveries from the Medicare program, except those based on claims paid by Medicaid because the State did not know that the individual was entitled to both Medicare and Medicaid.

(2) *Examples of excluded recoveries.* Recoveries from Medicare that are excluded are based on those cases in which the State knows, prior to the payment of a claim, that the individual is entitled to Medicare. Examples include situations in which—

(i) The State is paying Medicare premiums for the individual under State buy-in agreements or otherwise (see Subparts B and I of Part 405 of this chapter);

(ii) The individual is receiving Supplemental Security Income (SSI) benefits under title XVI of the Act; or

(iii) The State has access to or has received information from the Federal government that identifies individuals entitled to Medicare.

8. Section 433.217 is amended by revising paragraphs (b)(2) and (b)(3), redesignating current paragraph (c) as paragraph (d) and adding a new paragraph (c). Newly redesignated paragraph (d) is further amended by revising paragraph (3), redesignating paragraph (4) as paragraph (6), and adding paragraphs (4) and (5) as follows:

§ 433.217 Use of target amounts to decrease reductions.

* * * * *

(b) *Method for determining target amounts.*

(1) * * *

(2) *Fiscal year 1983.* HCFA will derive the target amount for each State for fiscal year 1983 by increasing or decreasing the 1982 target amounts by a percentage equal to the percentage increase of decrease for the 12-month period ending on September 30, 1983, in the index of the medical care expenditure category of the Consumer Price Index for all urban consumers (U.S. city average) published by the Bureau of Labor Statistics.

(3) *Fiscal year 1984.* HCFA will derive the target amount for each State for fiscal year 1984 by the same method used for the 1983 targets, except that the 1982 target amounts will be increased or decreased based on medical care expenditure data for the 24-month period ending on September 30, 1984.

(c) *FMAP to be used for computing Federal Share of expenditures.* For purposes of paragraphs (a) and (b) of this section, HCFA will use the FMAP in effect for fiscal year 1981 as the applicable percentage to compute the actual Federal Share of expenditures.

(d) *Exclusions from target amount determinations.* HCFA will exclude the following from each year's target amount determinations:

(1) * * *

(3) Any offset payments a State receives for spending less than its target amount in the previous year;

(4) Payments to a State under § 433.10(c)(2) of this Part for services provided through Indian Health Service facilities;

(5) Payments to a State under Subpart D of Part 455 of this chapter for a State Medicaid fraud control unit; and

(6) Any reductions in Federal payments under § 433.205.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: September 14, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 23, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-27131 Filed 9-29-82; 8:45am]
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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
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DOT/UMTA			DOT/UMTA	

List of Public Laws

Last Listing September 29, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

S. 923/Pub. L. 97–267 To amend chapter 207 of title 18, United States Code, relating to pretrial services. (Sep. 27, 1982; 96 Stat. 1136) Price: $1.75.

H.R. 3620/Pub. L. 97–268 Transferring certain Federal property to the city of Hoboken, New Jersey. (Sep. 27, 1982; 96 Stat. 1140) Price: $1.75.

H.R. 6068/Pub. L. 97–269 Intelligence Authorization Act for Fiscal Year 1983. (Sep. 27, 1982; 96 Stat. 1142) Price: $2.50.



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PARALLEL TABLE OF
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TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

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An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR Index and Finding Aids to the entire Code of Federal Regulations, is revised as of January 1 each year.

INQUIRIES AND SUGGESTIONS

Dean L. Smith was Chief Editor of the LSA, assisted by Carolyn T. Payne. The LSA was prepared under the direction of Martha B. Girard, assisted by Ruth C. Pontius. INQUIRIES, telephone 202-523-5227.

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2.17 Introductory text, (a)(3)(xxxiii), and (g) corrected; (a)(3)(xxxiv) through (xxxvii) correctly added 18112
(b)(5) revised; (b)(35) added 22936
(a)(3)(xii) revised; (b)(36) added 41725
(b)(1) revised 49009
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(f)(10) added 18111
(d)(21) added 23415
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2.21 (d)(1), (2), and (6) amended; (d)(4), (5), (7), (11), (13), (23), (26), and (28) revised; (d)(30) and (31) added 13115
(c) removed 15560
(d)(30) revised 49009
2.22 (c) removed 15560
2.23 (a)(1) revised; (b)(14) added 5
(h) added 15560
(f) removed 35951
2.24 Revised 15560
2.25 (j) and (k) redesignated as (k) and (l); (b), (c), (d), (f), (h), and (i) revised; new (j) added 24101
2.27 Technical correction 6
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2.60 (a)(22) added 23415
2.62 Heading, (a) introductory text, and (2) revised 7387
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2.65 (a)(28) amended 13116
2.67 Removed 15560
2.68 (a)(1), (5), (6), and (29) amended; (a)(2), (7), (13), (15), (16), (19), (28), and (30) revised; (a)(33) and (34) added 13116

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2.76 Revised 24106
2.77 Added 24107
2.78 (a)(13) revised; (a)(22) through (26) added 24107
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2.80 Revised 24108
2.81 Added 24108
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12 Removed 22071
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Rules and Regulations

Federal Register
Vol. 47, No. 191
Friday, October 1, 1982

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1079

Milk in the Iowa Marketing Area; Temporary Revision of Shipping Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Temporary revision of rules.

SUMMARY: This action temporarily relaxes the shipping requirements for pool supply plants under the Iowa milk marketing order for the months of October and November 1982 to prevent uneconomic shipments of milk to the market and to maintain the pool status of producers who regularly supply the market. The revisions are made in response to the request of a pool supply plant operator who ships milk to distributing plants regulated under the order.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202–447–7311.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Proposed temporary revision of shipping percentages: Issued September 7, 1982; published September 13, 1982 (47 FR 40182).

It has been determined that this action is not a major rule under the criteria set forth in Executive Order 12291.

Also, it has been determined that the need for adjusting certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the procedure in time to give interested parties timely notice that supply plant shipping requirements for October 1982 would be modified. The initial request for the action was received on August 30, 1982. A notice of proposed temporary revision of the shipping requirements was issued September 7, 1982, inviting interested parties to comment on the proposed action by September 20, 1982.

It has been determined that this action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to assure that the market would be adequately supplied with milk for fluid use with a smaller proportion of milk shipments from pool supply plants.

This temporary revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of § 1079.7(b)(1) of the Iowa milk order.

Notice of proposed rulemaking was published in the **Federal Register** (47 FR 40182) concerning a proposed decrease in the shipping requirements for pool supply plants for the months of October and November 1982. The public was afforded the opportunity to comment on the proposal by submitting written data, views and arguments. No comments were received in response to this notice.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice and other available information, it is hereby found and determined that the supply plant shipping percentages should be lowered by 10 percentage points from the present 35 percent to 25 percent for each of the months of October and November 1982.

Pursuant to the provisions of § 1079.7(b)(1) the supply plant shipping percentages set forth in § 1079.7(b) may be increased or decreased by up to 10 percentage points during any month to encourage additional milk shipments to pool distributing plants for Class I use or to remove the need for milk shipments to such plants merely to qualify a supply plant for pooling under the order.

The handler requesting the action said that under the current supply conditions distributing plants in the Iowa market will have more than an adequate supply of milk for Class I use and that there will be no need for supply plants to ship 35 percent of their producer receipts to distributing plants during October and November 1982. The petitioner said that a 25 percent shipping standard would be adequate for such months and would prevent uneconomic shipments of milk merely to assure pool status for supply plants.

Data for the first seven months of 1982 indicate that although producer milk receipts for the market were about 4 percent lower than for the same months last year, the pounds of pooled Class I milk were down nearly 8 percent from a year ago. The decline in Class I milk was due to certain handlers shifting their Class I sales from plants pooled under the Iowa order to plants regulated under other nearby orders. Thus, the quantity of milk that must be shipped from supply plants to distributing plants for Class I use during this October and November will be less than it was one year ago.

The shipping percentage reductions are aimed at facilitating the delivery of milk to the market from supply plants for Class I use without requiring uneconomic shipments merely for pooling purposes. It is concluded that the supply-demand conditions in the market warrant a lowering of the shipping requirements 10 percentage points for each month of October and November 1982.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area for the months of October and November 1982;

(b) This temporary revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of the proposed temporary revision was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this temporary revision. No comments were received.

Therefore, good cause exists for making this temporary revision effective October 1, 1982.

List of Subjects in 7 CFR Part 1079

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions of the order are hereby revised for the months of October and November 1982.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Effective Date: October 1, 1982.

Signed at Washington, D.C., on: September 28, 1982.

Edward T. Coughlin,

Director, Dairy Division.

[FR Doc. 82-27136 Filed 9-30-82; 8:45 am]

BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

14 CFR Part 320

[Docket 40891; Reg. PR-251]

Procedures for Awarding Japanese Charter Authorizations

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is adopting procedures for allocating charter flights for operation by U.S. carriers between the United States and Japan under an interim aviation agreement between the two countries. The rule provides for grandfather allocations to be made to certain carriers, and provides for a one-time lottery to distribute the remaining flights. It is needed to allocate these new charter rights in a fair and orderly manner.

DATES: Effective: October 1, 1982. Adopted: September 28, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia L. DePuy, Assistant Chief, Regulatory Affairs Division, Bureau of International Aviation (202–673–5878), Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the application, reporting, and recordkeeping requirements in §§ 320.12, 320.14, 320.16, 320.17 and 320.18 have been submitted to the Office of Management and Budget for approval. These have been approved by OMB under number 30240055.

In Notice of Proposed Rulemaking PDR–79 (47 FR 33981, August 5, 1982) we proposed an allocation system designed to equitably distribute charter rights contained in a then provisional interim aviation agreement concluded with Japan. The agreement, signed September 7, 1982, provides that both designated and nondesignated U.S. carriers may operate charters in the U.S.-Japan market under country-of-origin rules, but limits the total number of charters that may be operated to 300 one-way flights per year for the duration of the interim agreement.

In PDR–79, we stated our view that U.S. carrier demand to obtain the limited Japan charter authorizations was likely to be far in excess of the 300 flights available, and that a form of allocation was required to prevent undesirable consequences both to the traveling and shipping public and to U.S. carriers.

The allocation system set forth in PDR–79 was to apply only to the first year's allocation of 300 charters, and contained two distinct phases. In the first phase we proposed to grant to incumbent carriers so-called "grandfather" allocations, in recognition of designated scheduled carriers' current levels of charter operations in the market and, in the case of nondesignated charter carriers, the levels of their charter operations before they were largely excluded from the market by Japan beginning in 1976. In the second phase, we proposed to distribute the remaining flights through a lottery open to any certificated air carriers (including those receiving grandfather allocations) with the operational ability to conduct charters to Japan. We tentatively decided to permit aftermarket sales or transfers of the allocations, and proposed to penalize carriers for not using or for selling allocations. We also proposed, in the alternative, a specific variation to the two-phase grandfather/lottery system, and modifications to many elements of our proposal, such as allocating the flights on a multi-year basis, and limiting after-market transfers of authorizations.

Comments and reply comments on the proposed rule were received from ten U.S. carriers and from the Department of Transportation and the Office of Management and Budget.[1]

After review of the comments, we have decided to adopt the primary allocation system proposed in PDR–79, with the modifications described below. In brief, the rule we are adopting provides that:

(1) A one-time allocation will be made of the available charters for a three-year period, the minimum duration of the agreement;

(2) We will review operations conducted under this rule in 18 months and reserve the right, at that time, to refine its procedures, if necessary;

(3) Grandfather allocations will be made to the scheduled designated carriers now serving the Japan market, based on their 1981 operations, and to charter carriers which previously served the market but whose efforts to continue were severely inhibited by Japan after 1975, based on their operations in that year;

(4) A lottery will be held shortly to distribute the remaining charters, and will be open to all U.S. carriers with the operational capability to conduct charters to Japan;

(5) Applications for charter authorizations for the lottery will be accepted in blocks of ten one-way flights and carriers may submit multiple applications of ten so long as the aggregate number of flights sought by a carrier does not exceed the maximum number of flights available in the lottery;

(6) No carrier may receive more than 50 flights (about one-half those available) in the lottery and no carrier may obtain through a combination of grandfather and lottery-obtained allocations more than 100 flights;

(7) Aftermarket sales of both grandfather and lottery charter authorizations will be permitted; however, a "grandfather" carrier will be subject to a penalty if it sells an excessive number of its grandfather authorizations. That penalty will be the loss of one flight in each succeeding year, for each grandfather authorization sold in excess of 10% of those received. There will be no penalty for the sale of authorizations received in the lottery;

(8) Any carrier which allows an authorization to expire unused at the end of a year will be subject to a penalty. A carrier will forfeit, in each ensuing year covered by the interim agreement, two authorizations for each it causes to be wasted; and

(9) Authorizations forfeited by the penalty mechanism will be redistributed annually to eligible carriers.

General Comments

As discussed in detail in PDR–79, the premise for this rule is a recently concluded agreement on charter services between the United States and Japan, first set forth in a June 4, 1982, Record of Consultations and made effective in a September 7, 1982, Memorandum of Understanding (MOU). The MOU provides that the designated and nondesignated airlines of each side

[1] The commenting carriers were Arrow Airways, Inc., Capitol Air, Inc., The Flying Tiger Line Inc., Four Seas Airlines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Transamerica Airlines, Inc., United Air Carriers, Inc., d.b.a. Overseas National Airways, United Air Lines, Inc., and World Airways, Inc.

will, commencing October 1, 1982, be permitted to operate a total of 300 one-way charter flights per year under country-of-origin rules. The MOU will remain in effect for a period of three years or until the conclusion of negotiations which are to be reconvened before the end of 1983, whichever period is longer. A side-letter exchange accompanying the MOU stated the understanding of both the United States and Japan that the U.S. aeronautical authorities retain the sole discretion to allocate among U.S. airlines the 300 one-way charter flights per year to be operated by such airlines.

The rule we are adopting today provides the mechanism by which we will allocate the 300 one-way yearly charters permitted under the MOU.[2] Although most commenters seemed to accept the need for us to allocate these flights, several felt we should leave it solely to the free marketplace and one questioned our legal basis. Furthermore, several carriers expressed concern that the United States would enter into this type of charter accord. We are not persuaded by these comments to depart from our proposal to adopt a Board-administered allocation system.

The commenting carriers, as well as DOT and OMB, were in general agreement that some form of allocation system was necessary. ONA and Four Seas, however, disagreed, stating that we should leave carriers free to plan and market their programs without restriction and let the marketplace sort out exactly who will operate. To the extent the flights are oversold, the carriers argue that they may simply be cancelled or rerouted to other destinations as happens today in Europe. The opponents claimed that our proposal would inhibit competition, play into the hands of the Japanese, restrict tour operators' ability to market large, competitively priced programs, and force tour operators to deal with carriers not of their own choosing. They cited other markets where operational restrictions on charters exist and where we did not impose allocation measures, and stated that no disruptive consequences resulted.

Northwest Airlines, while not addressing the question of a need for an allocation system nor opposing our award of grandfather allocations, did oppose further allocation by lottery on the basis that we lack the legal grounds to do so.

We too would prefer to have U.S.-Japan charter transportation evolve as market forces dictate, without the need for any government intervention. However, the Interim Agreement limits this charter market and assigns to us the responsibility for allotting these limited charter opportunities. We explained in PDR-79 why we foresaw this allocation was necessary, and no commentor has demonstrated that inaction or alternative approaches would better serve the public interest. It is true that we have not previously found it necessary to establish at the outset procedures to allocate charter operations in other markets where numerical restrictions have existed. However, in those cases we determined that the available supply of charters exceeded or roughly coincided with the probable demand, and that there was no need for an allocation system. We were and are prepared to take some action in those markets if circumstances require. And, in fact, we did so in the case of the United Kingdom when one carrier sought to obtain the majority of waivers provided under the Cargo Annex to Bermuda II.[3] In the case of Japan it is obvious to us that the demand for Japan charters far outstrips the supply, and that allocation is necessary.

We disagree with Northwest's assertion that we lack the authority to allocate these charters. Northwest relies primarily on section 401(e)(4) of the Act, which states, "No term, condition, or limitation of a certificate shall restrict the right of a carrier to add to or change schedules, equipment, accommodations, and facilities for performing the authorized transportation and service as the development of the business and the demands of the public shall require."

Section 1102(a) of the Act requires the Board to act consistently with U.S. obligations under international agreements. The U.S.-Japan Memorandum of Understanding, with accompanying side letters, constitutes an agreement within the meaning of section 1102(a). That agreement expressly contemplates a scheme of charter flight allocations, with the U.S. aeronautical authorities, i.e., the Civil Aeronautics Board, denominated the agency to perform the allocation. This is similar to the situation with the U.S.-Japan Memorandum of Consultations of September 20, 1980, under which the Board has allocated scheduled service frequencies.[4] The Board must often reconcile apparently conflicting statutory provisions. In this case our specific obligations under the statute and the Interim Agreement must override the technical limitations of section 401(e).[5]

More broadly, the Board has been given the power in section 204(a) to issue such rules "as it shall deem necessary to carry out the provisions of * * * the Act." The purposes of the Act are set out in section 102, and include several provisons that are relevant to what the Board is doing in this proceeding:

> The availability of a variety of adequate, economic, efficient and low-price services by air carriers and foreign air carriers * * * (102(3))
>
> The placement of maximum reliance on competitive market forces and on actual and potential competition * * * taking account, nevertheless, of material differences, if any, which may exist between interstate and overseas air transportation, on the one hand, and foreign air transportation, on the other hand. (102(4))
>
> The strengthening of the competitive position of United States air carriers to at least assure equality with foreign air carriers, including the attainment of opportunities for United States air carriers to maintain and increase their profitability, in foreign air transportation. (102(12))

As the U.S. Supreme Court stated in *Mourning v. Family Publications Service*, 411 U.S. 356 (1973), quoted recently in Diefenthal v. CAB, 681 F.2d 1039 (5th Cir. 1982) (upholding the CAB smoking rule):

> Where the empowering provision of a statute states simply that the agency may "make * * * such rules and regulations as

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[2] DOT stated that proposed section 320.3(b), which requires that air carriers may operate U.S.-Japan charter flights only if they hold a charter authorization under Part 320, would have the unintended effect of precluding the operation of any charter flights above the 300-flight limit, if the Japanese were later to agree to additional charter frequencies. We disagree and will adopt this provision as proposed (see section 320.4(a)). We believe that a requirement that all U.S. carriers operating Japan charters hold authorizations is necessary for us to effectively monitor the use of the 300 flights provided by the Interim Agreement. Should the United States and Japan agree to increase the number of available charters, we can, of course, use our exemption powers to authorize promptly the operation of these flights.

[3] See letter to Mr. Russell E. Pommer from Daniel M. Kasper, dated September 26, 1980, a copy of which is being placed in this Docket. As it turned out, allocation of the waivers proved unnecessary since U.S. carrier demand for them was far less than their supply.

[4] E.g., Order 82-3-36, March 4, 1982.

[5] We have, for example, notwithstanding section 401(e)(4), regulated a carrier's schedules under section 404(a)(1) after finding that it had not provided adequate service. E.g., Flint-Grand Rapids Adequacy of Service, 30 CAB 1120. See also Colonial Airlines, Inc., Order 78-11-72, November 16, 1978 (Board conditioned air carrier's certificate upon operations solely with low noise aircraft); Transpacific Low-Fare Route Investigation, Order 80-10-44, October 9, 1980, finalized by Order 81-1-30, December 24, 1980 (Board designated incumbent carriers to provide services pursuant to a Memorandum of Understanding providing for limited carrier designation and flight frequency). Technically, there is some doubt whether the restrictions of this rule on the total number of charter flights even fall into the category of a "term, condition, or limitation of a certificate."

may be neccessary to carry out the provisions of the Act," we have held that the validity of a regulation promulgated thereunder will be sustained so long as it is "reasonably related to the purposes of the enabling legislation."

As a final matter, we share the disappointment expressed by several of the commenters that is was necessary to agree to any limitations on the operation of charters to Japan. As DOT explained in its comments, the United States sought to remove all restrictions, but agreed to the 300 charter flight limit only because it provides, on an interim basis, an immediate expansion of charter opportunities available to nondesignated airlines and benefits for the traveling and shipping public. The agreement offers to U.S. carriers an improved operating environment over that which existed before. Moreover, as DOT stated, the United States will seek further liberalization of the charter regime when the bilateral negotiations resume.

Period To Be Covered by Allocation

In PDR-79 we proposed to limit our initial allocation to only the first year's charter authorizations. We stated that we would consider, in the alternative, a multiple-year allocation. We specifically sought comments on the minimum time needed by carriers and/or charterers to realize economies of scale in their operations. Our reasons for proposing to limit the initial allocation to one year were that a multi-year allocation might inhibit new entry in later years, lead to extensive aftermarket sales, and complicate the imposition of penalties. In addition, we felt that given the speed with which we need to conduct this proceeding, it would be beneficial to have a later, more extensive review of the various allocation methods.

DOT, OMB and all but one of the carriers commenting on this aspect supported a single, initial allocation to cover the entire duration of the MOU (*i.e.*, a minimum period of three years). They argued that our concerns were outweighed by the need for carriers to engage in long-range planning, which was essential for successful charter programs, and that annual allocations would introduce inhibiting uncertainties into carrier planning, interfering with the establishment of ongoing efficient programs and tour operator-carrier relationships.

United, on the other hand, supported a one-year allocation. Otherwise, it argued, new entry would be thwarted and the Board would be prevented from amending its rules in a timely fashion should abuses occur.

We are persuaded by the majority commenters that annual reallocation of the charter authorizations would not be the best, most efficient course to take, and that our reservations about a multiple-year lottery are largely overcome by the benefits of such a system. Therefore, we are adopting a final rule that provides for a single allocation of the charter flights to cover a 3-year period, and which would correspond to the minimum duration of the charter MOU.

We are not willing, however, to tie the term of the allocation period to the outside-expiration date of the MOU—that is, the conclusion of reopened negotiations—as we cannot predict what conditions may be in 3 years and how rapidly or slowly the reopened talks might progress. In addition, we, like United, do not believe that we should relinquish total control over this process since the actual operation of the mechanism we are adopting may show that revision to these procedures is necessary. Therefore, the final rule provides for review of this allocation process at mid-term (*i.e.*, in 18 months). We reserve the right at that time to change the allocation process if necessary.

As to the concern that a multi-year allocation may inhibit new entry in later years by carriers not yet operational at the time of the lottery, it is true that the possibility exists. However, we believe that the rule's provisions for sales of charter authorizations and the annual reallocation of authorizations relinquished due to penalty will provide a sufficient pool from which carriers in later years will be able to obtain charter authorizations.

Further, the entire effect of the new rule will be to substantially increase the access of new entrants to the U.S.-Japan market for the first time in many years. The fact that new entry will occur is what is significant; the extent of new entry is less important and here, limited by circumstances largely outside our powers to redress.

Allocation System

We have decided to adopt our primary allocation system proposed in PDR-79, *i.e.*, a first phase wherein certain scheduled and charter carriers are granted grandfather allocations, and a second phase wherein the remaining flights are allocated by lottery to any eligible carriers. Carriers receiving authorizations in either or both phases will have them in each of the three-year periods, except to the extent that carriers' authorizations are reduced due to penalty.

Only one carrier explicitly advocated the alternative allocation proposal, arguing that it is unfair to give Transamerica and World preferential treatment over other charter carriers. We will deal with this and the other comments made on our allocation proposal in the following discussion.

1. *Grandfather Allotments.* Several carriers opposed the grant of any grandfather allotments, and one opposed the awards to the charter carriers. The carriers opposed to awarding grandfather allocations to the designated schedule carriers argued generally that such awards contravene the purpose of the agreement, and that we have failed to adequately explain why it is necessary to award these grandfather rights, particularly since these carriers are free to perform similar operations under their route authority. Those opposed to awarding grandfather allocations to the charter carriers argued that operations in 1975 bear no relation to desire or ability today to perform Japan charters; that Transamerica and World were not alone in expending money and time to open up the Japan charter market, since other charter carriers also paid fees to the National Air Carrier Association (which, as an association of charter carriers, has worked to open up this and other markets) in the 1970's; and that the only reason Transamerica and World played an "historic" role in the market is because they were the only ones licensed.

On the other hand, other commenters, largely the grandfather carriers, supported our proposed grandfather allocation system. They argued that the scheduled, designated carriers were assured by the U.S. Delegation to the Japan talks that they would receive such allocations. The charter carriers say it was only through their long and constant efforts that the charter agreement was reached. DOT took no firm position on the grandfather allocation to the charter carriers, urging us to carefully examine the 1970's charter experience of all carriers.

Pan American and Northwest questioned the base periods we proposed to apply to allocate the grandfather authorizations. They argued that they too conducted substantial charters to Japan in the early 1970's, and were harmed by Japanese restrictions of slots and fuel. They asserted that we should treat the charter and scheduled carriers similarly, either by using the same base year or giving carriers their choice, then proportionally reducing all grandfather allocations, if necessary. One commenter urged us to limit all

grandfather allocations to only the first year.

FTL and DOT asserted that notwithstanding the number of flights operated by FTL in 1981, FTL was assured by the U.S. Delegation that it would receive not fewer than 80 flights for each year of the agreement. They stated that the charter agreement alters the relative freedom that designated scheduled carriers had to perform charters in the U.S.-Japan market; that FTL, which conducted extensive charters in the market, was amenable to the agreement only after receiving assurances that it would be guaranteed a minimum level of operations; and that the understanding that emerged between the U.S. delegation and FTL was that FTL would be allotted 80 flights per year (with an opportunity to participate in the allocation of the "non-grandfather" authorizations). DOT argued that the delegation would be in breach of its understanding with FTL if we adhered to the 68-flight allocation proposed in PDR-79.[6] DOT urged us to grant FTL 80 flights and to include a growth factor for each of the grandfather allotments to the incumbent designated airlines.

We have decided to adopt in full our grandfather allocation proposal set forth in PDR-79,[7] modified only to account for the matters raised by FTL and DOT.

As described in PDR-79 and in the comments of DOT and FTL, the U.S. delegation in agreeing to a numerically limited charter accord provided assurances to the designated scheduled carriers that they would retain charter opportunities, for each year that the accord is in effect, at least as valuable as those they had enjoyed in recent years. The delegation chairman has asked us to honor this commitment, and we will.

United has suggested that these grandfather allotments be limited to only one year. However, it is clear that the commitment was made for each year of the MOU's effectiveness. While we will honor this commitment, the penalty system we are imposing to assure that the authorizations are used efficiently may result, in later years, in grandfather carriers' forfeiting some of their authorizations. Since the accrual of a penalty will be the result of a conscious business decision of the carrier involved (*i.e.*, to sell an excessive number of authorizations or to allow some to expire unused), we do not consider such an occurrence to constitute an abridgement of the delegation chairman's commitment.

The commitment to incumbent carriers was deemed necessary since, prior to the agreement, designated scheduled carriers were permitted relative freedom by Japan to conduct charter operations between the U.S. and Japan; thus, unless special measures were taken, these carriers might have had to relinquish any existing charter-market penetration, as well as forego future market development.

Having accepted the need to allocate grandfather authorizations to the designated scheduled carriers, we conclude that our reasons set forth in PDR-79 for according similar treatment to charter carriers are sound. Two of these carriers—specifically, Transamerica and World—were active participants in the Japan market prior to their being virtually excluded in 1976 by actions of the Japanese Government. Since that time they have persistently worked to have the market reopened to them. We have no reason to believe, as certain commenters suggested, that Transamerica and World will not now continue their development of the Japan charter market with the same amount of effort they have expended in the last decade. Indeed, it is clear from the pleadings filed by Transamerica and World that they intend to continue their development of the market. Further, that Transamerica and World were the only two charter carriers licensed in the early to mid 1970's to offer charter services to Japan does not diminish our reasons for allowing them to resume participation today at roughtly the same level at which they operated before being cut-off by the Japanese in 1976. Nor do we find membership in NACA relevant to our decision; our decision is based on incumbent carrier operations and market development, not fees paid to an association. In short, no commenter has demonstrated to us a sound basis for not recognizing through the allocation of grandfather authorizations the historic level of activity of charter carriers in the Japan market.

We have decided, as proposed, to use CY 1981 as the year upon which we will base the scheduled designated carrier allocations and CY 1975 for the charter carrier allocations. This is in keeping with the purpose of the grandfather allocations to preserve the most recent level of operations actually achieved absent artificial restraint. We disagree with certain commenters that we should use the same base year for both classes of carriers or give carriers a choice. Our selection of the year for each class of carrier was not done arbitrarily, nor does it relate to the time of carriers' greatest activity. Rather, 1975 was chosen for the charter carriers because that was the last year preceding wholesale Japanese curtailment of charters by nondesignated carriers. CY 1981 was selected for scheduled carriers because it reflects the level of charter activity that these carriers have chosen to conduct in recent years and represents the delegation chairman's request to us.

While we realize that both Pan American and Northwest participated much more heavily in the Japan charter market in the early to mid-1970's, they did not sustain that level in recent years. Whether this reflects the absence of charter carrier competition or reassessment of business opportunities, we cannot say. While Japanese-imposed slot and fuel restrictions may have constricted the operation of charters somewhat at mid-decade, these carriers have not asserted—nor do we believe they can—that they were prevented from expanding charter operations in recent years. On the contrary, as is shown by the continuing high level of charters performed by FTL and Japan Air Lines, designated scheduled carriers have been relatively unencumbered in the recent past in their ability to conduct charters in the U.S.-Japan market. Thus, we find no merit in Northwest's and Pan American's arguments that their grandfather allocations should be based on a period other than 1981.

Finally, we have decided to increase somewhat the size of each grandfather allocation from that originally proposed to permit some room for expansion beyond the levels operated in the base years. Absent this accord, the incumbent scheduled carriers would have had the option to conduct an even greater number of charter flights than they did in 1981. Similarly, were the charter carriers not excluded from the market by Japan in 1976, we have every reason to believe that their operations would have continued at or above the 1975 levels, expanding as market conditions dictated. Thus, the

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[6] Based on our and FTL's records, FTL operated in 1981 68 Third and Fourth Freedom one-way charters. DOT explains correctly that the figure 83 was earlier provided to the delegation chairman as the number of flights operated by FTL, and that the letter from the chairman to us, in all likelihood, assumed that number. Later analysis of FTL's operations showed that the 83 figure included some Fifth Freedom activity.

[7] Pursuant to our request in PDR-79, the commenting carriers supplied data on their historic U.S.-Japan charter operations. FTL, Northwest and Transamerica confirmed our preliminary data in PDR-79 that showed them operating, respectively, 68, 1 and 42 one-way flights. Pan American stated that it had operated three one-way flights, not the four we had shown, and World told us that it had operated 48 one-way flights, not 54. No other carrier supplied data showing operations in the relevant base years.

grandfather awards are intended not merely to maintain the *status quo* but to allow the grandfather carriers some semblance of the opportunity for market expansion they previously enjoyed.

DOT and FTL referred in their comments to a commitment made by the U.S. delegation that FTL would be allotted no fewer than 80 flights, and we will honor that commitment. The 80-flight figure represents an increase of 18 percent over FTL's CY 1981 operations of 68 flights. We shall increase the other grandfather carriers' allotments for market development purposes by the same percentage. Based upon our data, as confirmed or modified by carrier comments, the following carriers will receive the indicated number of one-way flights as grandfather allocations:

Carrier	Base year [1]	×	Uniform growth factor	=	Total [2]
The Flying Tiger Line Inc.	[illegible]		(1.18)		80
Northwest Airlines Inc.	1		(1.18)		1
Pan American World Airways, Inc.	3		(1.18)		4
Transamerica Airlines, Inc.	42		(1.18)		50
World Airways, Inc.	48		(1.18)		57
Total					192

[1] One-way flights.
[2] Allocated one-way flights.

2. Lottery System. The primary lottery system we proposed had the following characteristics: Eligibility criteria designed to permit participation by only those carriers having economic authority and the operational ability to conduct charters to Japan; participation open to any eligible carriers, whether or not they received grandfather allocations; minimum application size, with no maximum other than the total number of flights available in the lottery; and a stipulation that related carrier entities or carriers employing trade names to be considered as a single carrier.

The majority of commenters supported our eligibility criteria. Two carriers suggested we further require that qualifying carriers operate some wide-body aircraft, arguing that this is necessary to ensure maximum benefits to the public. One carrier opposed our requirement that carriers must hold FAR 121 authority and possesss aircraft suitable for the route. It argued that this requirement would be unfair as it would preclude participation by new entrants not yet operational but which planned to begin operations in the future.

We have decided to adopt our eligibility criteria as proposed. We disagree that we should require carriers to possess wide-body equipment. We wish to make the Japan charter authorizations available to as many air carriers as are operationally capable of conducting them. The wide-body limitation would defeat this purpose and severely reduce the pool of eligible carriers. The alleged public benefit of maximizing available seats through a wide-body requirement is, in our view, outweighed by the opening up of the lottery to any carrier that believes it can provide the public with an attractive, low-price charter service, regardless of equipment size.

On the other hand, we are not willing to permit nonoperational carriers to participate in the lottery. We believe it essential that recipients of these valuable authorizations have the capability to put them to public use. Many carriers we have authorized have, for a variety of reasons, experienced unpredictable delays in becoming operational. Allowing nonoperational carriers to obtain these allotments introduces an unacceptable risk that they may not be used to their fullest extent. When these new entrants obtain requisite FAA operating certificates and suitable equipment, they will be able to obtain access to the market in two ways—by purchasing authorizations from carriers seeking to sell them, and by participating in the procedures to redistribute authorizations forfeited by carriers incurring penalties.

Several carriers argued that recipients of grandfather allocations should be precluded from participating in the lottery. They claimed that it would be unfair for these carriers after receiving grandfather allocations to be able to obtain even more authorizations, and that there is too great a possibility that one or more of them could wind up with an unacceptably high percentage of total available charter authorizations.

On the other hand, DOT and certain recipient carriers of the grandfather allocations argued that such carriers should be able to participate in the lottery. They claimed generally that such participation is essential for them to be able to mount efficient, low-cost charter programs. FTL further asserted that to exclude it from the lottery would go against the government's commitment that it would have the opportunity to participate in any lottery or other system designed to distribute the nongrandfathered charter allocations.

We have decided to permit those carriers receiving grandfather authorizations to participate in the lottery. As DOT pointed out, the U.S. delegation made a commitment to FTL that it would have the opportunity to participate in the distribution of the nongrandfather allocations. Moreover, the Delegation chairman has specifically requested that we permit all grandfather carriers to so participate.[6] Further, we disagree with the opponents' claims that it would be unfair to permit these carriers to participate in the lottery. On the contrary, we believe the public benefits to be derived from these carriers' participation, particularly considering that they are the only carriers with experience in operating charter programs in the U.S.-Japan market, are substantial. However, to ensure that through the luck of the draw one or more of the carriers receiving grandfather authorizations will not receive an unacceptably high percentage of the total available charter authorizations, we are imposing a ceiling of 100 one-way flights as the maximum number a grandfather recipient may obtain through a combination of the grandfather and lottery phases.

As to the application procedures for the lottery, there was universal agreement among those commenting that applications should be made in blocks of 10 flights. The commenting carriers largely supported our proposal to permit multiple applications so long as the aggregate number of flights did not exceed the maximum number of authorizations available in the lottery. DOT, on the other hand, suggested that we should limit the total number of authorizations that a carrier could pursue in its applications to 50. It argued that this would allow distribution of authorizations to a variety of carriers, enhancing the range of offering to the public and minimizing the likelihood that authorizations would be wasted by carriers. Northwest and Pan American also supported establishing some maximum lottery participation level.

We will adopt the commenters' suggestion and provide that each application be for a block of 10 one-way flights. While in PDR–79 we proposed the slightly different approach that applications only be for a minimum of 10

[6] See letter of July 7, 1982, to Chairman McKinnon from Deputy Secretary of Transportation Darrell M. Trent, a copy of which has been placed in this Docket.

flights, we also offered, as an alternative, the 10-flight block approach. We believe that given the universal preference of commenters for 10-flight blocks it is reasonable to adopt that application process.

We will adopt our proposal to permit carriers to submit multiple applications provided the aggregate number of flights sought does not exceed the total number available in the lottery. However, out of an abundance of caution, and to guard against a freak occurrence, the final rule provides that no one carrier may receive through the lottery process alone more than 50 flights. This imposes the result DOT suggested. This limitation coupled with the 100 one-way flight maximum that recipients of grandfather authorizations may receive through the combination of the grandfather and lottery allocation process should serve to ensure that a variety of carriers will be able to participate in the Japan charter market.

Finally, we have decided to affirm our tentative decision to consider related entities and carriers employing trade names (*e.g.* FTL/Metro) as "one" for purposes of participating in the lottery.

Capitol and Arrow strongly objected to our considering them as one carrier, arguing that their relationships and activities are not of a nature that should lead to that conclusion. They stated that their shareholders are substantially different, that there are only two interlocking relationships, and that their operations and activities are separate from a legal and practical standpoint. They also stated that for purposes of the FAA airport slot allocation, the FAA's Chief Counsel has found them to be separate carriers. Finally, Capitol urged that if we uphold our preliminary finding we permit it and Arrow to participate independently on a contingent basis pending resolution elsewhere of the validity of our determination. Several carriers disputed Arrow's and Capitol's contentions.

Mr. George Batchelor and his family own 100% of the Arrow stock. Through Delair, Inc., the family owns 52% of the Capitol stock. Thus, there is common majority stock ownership of the two entities. Moreover, Batchelor is the Chairman of the Board and President of Arrow, in addition to being the Chairman of the Board of Capitol. As such, he is clearly in a position to influence the decisions of both airlines. In fact, we recently relied on his "management" and "executive" expertise in finding that Arrow was fit, willing and able to engage in scheduled foreign air transportation. [9]

[9] Order 82-4-19, p. 5.

By Order 80-7-73 we exempted from sections 408 and 409 of the Act, the acquisition of Capitol stock by Delair, Inc., and the resulting interlocking relationships between Arrow, Capitol and the other aeronautical enterprises owned by Mr. Batchelor and his family. We also approved, under section 412 of the Act, the stock purchase and related management agreement under which Mr. Batchelor would assist Capitol. In their application in that proceeding, George Batchelor, Delair, Inc., Arrow Airways, Inc. and the other aeronautical enterprises owned by Mr. Batchelor or his family specifically stated that Delair and Arrow were "under his [Mr. Batchelor's] control" [10] and that "Mr. Batchelor will make available to Delair the funds to purchase the shares of stock of Capitol and after the purchase of the shares by Delair, Mr. George Batchelor will become the Chairman of the Board of Directors of Capitol." [11] The applicants relied heavily on Mr. Batchelor's expertise in urging us to approve the stock purchase/management assistance agreements and interlocking relationships involving the Batchelor enterprises and Capitol. Indeed, they alleged that if "there is not an immediate injection at the highest levels of the corporate structure of managerial, administration, technical, and financial expertise, Capitol's downward trend will shortly become irreversible." And that "George E. Batchelor will provide the Company with the necessary leadership, expertise, entrepreneurial attitude, and financial resources to allow the Company to continue to be a viable entity in the airline industry." [12]

Against this background, we are not persuaded by Capitol's and Arrow's arguments that they should be treated as separate and distinct carriers. Our finding in Order 80-7-73 that the Arrow/Capitol relationship would not pose a significant anticompetitive threat was made in recognition of our ability to grant worldwide charter authority to all fit applicants. That finding is not, contrary to the two carriers' assertion, applicable to the specific question of whether Arrow and Capitol should be able to bid separately for Japan charter authorizations. The Interim Agreement obviously limits the number of carriers which will be able to participate, making the U.S.-Japan market a discrete exception to the unlimited-authorization regime in which we found the Capitol-Arrow relationship innocuous. In our opinion, given the limitations here, the relationship that exists between Arrow and Capitol provides a real possibility, within the framework we have established, for coordinated bidding and subsequent business dealings between the two companies that could give them an unfair and inequitable advantage over the other participants in the lottery. Such a result is clearly contrary to our goal of allocating these limited, valuable rights as fairly and equitably as possible among the carriers desiring to operate them.

Further, while the FAA determined that Capitol and Arrow could participate separately in its airport slot allocation procedures, we have learned that this did not result from any affirmative decision that relationships such as theirs should multiply access to scarce operating privileges (See September 22, 1982 memorandum to this docket from the CAB Associate General Counsel for Rules and Legislation). Moreover, we do not find that the FAA's determination is relevant to our decision here. The FAA did not, in adopting ownership standards for its allocation procedures (SFAR 44-5, 47 FR 35156, 35161, August 13, 1982), expressly set forth the rationale behind these standards. However, it seems that the agency's goal was to reflect as far as possible the carriers' circumstances as they existed before the controllers' strike. The situation facing us here is far different. The charter allocations made available by the Interim Agreement represent new rights in a market previously closed to the majority of the carriers qualified to participate in the lottery. In the case of Japan charter allocations, we are dealing with one market (U.S.-Japan) and one type of service (charters)—carriers will necessarily be competing for the same limited, highly valuable commodity. In short, the FAA ownership standards are a specialized set of rules designed to meet a specific, unique set of circumstances, and are not directly applicable to the situation we face here.

[10] Application, Docket 38387, p. 1.

[11] Id. p. 3.

[12] Application Docket 38387, pp. 13 and 14.

Transfer/Redistribution of Authorizations After Initial Allocation; Penalties for Sale or Nonuse

In the proposal, we tentatively decided to permit carriers to transfer charter authorizations among themselves for any consideration including money. Alternatively, we proposed to permit only those authorizations drawn in the lottery to be transferred, and to preclude the transfer of grandfather authorizations. We proposed also to penalize carriers for nonuse or sale of the charter authorizations obtained in either the

grandfather or lottery phases by reducing their future years' allocation of Japan charters. We set forth various methods of effecting this reduction, as well as alternative penalty systems. The proposed, combination transfer/penalty system was intended to allow for prompt redistribution of these limited authorizations while, at the same time, discouraging speculation and waste.

The majority of those commenting on the transfer provisions supported some after-market sales or transfers of the charter authorizations. Two carriers, however, opposed any market sales of authorizations, supporting instead Board reallocation.[13] In addition most of those commenting supported some form of penalty primarily for nonuse of authorizations, although there was no consensus on the best system.

We have decided to adopt in large part the transfer/penalty system proposed in PDR-79, with certain modifications. The system we are adopting has the following characteristics:

- Carriers will be permitted to transfer or sell authorizations obtained in both the grandfather and lottery phases to any other air carrier that at the time of transfer meets our eligibility qualifications.
- No penalty will be assessed for selling authorizations obtained in the lottery.
- Carriers will be permitted to sell without incurring penalty up to 10% of the authorizations obtained in the grandfather phase; carriers will be penalized for selling grandfather authorizations above that amount through a one-flight-for-one-flight reduction in future years' authorizations.
- Carriers which allow authorizations to expire unused at the end of the allocation year (September 30) will be penalized by a two-to-one flight reduction for future year allocations.
- To avoid penalty, carriers receiving grandfather authorizations will be given two days following publication of this rule in the Federal Register to tell us if they wish to receive less than their grandfather allocation.
- Carriers will be required to file "Notices of Transfer," "Notices of Intent To Use Charter Authorizations" and "Reports of Charter Authorizations Used," as set forth in our proposal. Further, to permit us to monitor the use and sale of the authorizations, and, where necessary, penalize the appropriate carriers, each flight authorization will be assigned a number and carriers will be required to identify authorizations by number when submitting the above notices and reports. (First year flight authorizations will be identified as A001, A002 * * * A300; second year as B001, B002 * * * B300, and third year as C001, C002 * * * C300).
- Following receipt of the last monthly report (due on October 15 of each year), we will identify carriers to be penalized, reduce their flight authorizations for future years accordingly, and redistribute those flights through a lottery to be held no later than November 1.
- Eligibility criteria for these future redistribution lotteries will be the same as for the initial lottery except that penalized carriers will not be permitted to participate. We will issue a notice shortly after October 15 each year announcing the number of authorizations available in the lottery, and the manner in which (*e.g.*, blocks of 2, 4, * * * 10 flights, depending on number available) and when applications will be entertained.

Transfer or Sales of Authorizations

Those commenters opposing any sales or transfers of flights among carriers argued that the U.S. government negotiated for these charter authorizations to benefit the public, not for the private benefit of lottery speculators. They claim that the only way to assure that speculators do not take part in the allocation process is to prohibit sales of authorizations.

DOT, while favoring aftermarket sale of authorizations obtained in the lottery, opposed sale of grandfather authorizations. It argued that there is no basis for rewarding with cash past efforts if the carrier does not intend to exploit the market position that the grandfather allotment was intended to preserve. DOT contrasted the sale of grandfather allocations with those from the lottery, arguing that in the lottery all carriers have an equal chance of obtaining authorizations and thus equal opportunity to monetarily profit should they choose to do so. OMB, on the other hand, urged us not to constrain the sale of grandfather authorizations, arguing that since we have decided to reward these carriers' prior efforts, we should not object to their liquidating their reward.

We have decided to permit the aftermarket sale or transfer of both grandfather and lottery authorizations, because it promises the quickest, most efficient transfer of rights to carriers that will redeem the public benefits of them. We are not persuaded by the arguments of the opponents to do otherwise. While we too are concerned that carriers may participate in the allocation process merely for purposes of speculation, we find that the benefits associated with aftermarket sales of authorizations *vis-a-vis* Board reallocation are so substantial as to outweigh our concerns on speculators.

There is no question that these authorizations have value; the fact that one carrier may be willing to pay another to obtain an authorization merely acknowledges that value. However, that a carrier may profit from the sale of authorization is a peripheral consideration. The important thing here is that we find that the sale or transfer of flights in the market without undue government interference appears to us to be the most effective means of assuring that these authorizations are ultimately placed in the hands of carriers having the greatest desire and ability to use them.

Even the best intentioned carriers may find that they are not in a position to market or operate a flight or program to Japan. Intercarrier transfers allow for immediate reallocation of the flights to the carriers in the best position to use them. Government reallocation by any system, on the other hand, necessarily introduces unacceptable delay in the redistribution of the flights, is burdensome to administer and for carriers to participate in, and does not have the qualities of a free market that tend to ensure an effective redistribution. Thus, for example, Transamerica's proposal for a monthly redistrubution system would cause delays in the transfer of authorizations; these delays could be far longer than the one-month period suggested by the proposal since flights programmed for late year months will not be available for reallocation until then. It also would impose heavy paperwork burdens on us and the industry, and, since the "back-up" list is predetermined, would offer little promise that the reallocated flights would go to the most earnest users—an objective that becomes increasingly important as the allotment year progresses. Moreover, to require carriers to establish monthly operating plans and then penalize them for failure to adhere to them, as Transamerica's proposal would have us do, would require avid surveillance on our part and would

[13] Transamerica proposed an alternative redistribution and penalty system of its own that would require carriers receiving authorizations to submit to us a plan of intended usage by month. Authorizations planned but not used would be "recaptured" by us and redistributed through a random lottery mechanism; carriers would not be assessed a penalty in the first year on these returned flights but would be in later years on a one-to-one basis; and flights assigned to the end of the year and allowed to go unused would be penalized on a two-for-one basis.

deprive carriers of needed flexibility to rearrange their flights in accordance with market demands or unexpected occurrences. Further, it may result in inefficient use of the flights as carriers try to operate "according to plan" rather than in accordance with public demands.

In sum, having reviewed a variety of government reallocation systems, we see none that will allow prompt and effective redistribution with minimal government interference in carrier management decisions, and we conclude that only by allowing aftermarket sales and transfers among carriers will these properties be achieved. If abuse or undesirable consequences do result, contrary to our expectations, we will have the power to modify the transfer provisions as necessary.

Transamerica had asked that we include in the rule a mechanism providing for substitute service in certain circumstances. Since we are allowing for intercarrier transfers, such a provision is not necessary.

We are adopting DOT's suggestion and modifying our transfer provisions set forth in § 320.12, to allow any carriers to participate in the aftermarket if they meet our eligibility requirements at the time of the transfer.

Penalties

The majority of commenters opposed our proposal to impose a penalty on inter-carrier transfers or sales of authorizations, including those obtained in the lottery. On review of the comments and upon further consideration, we have decided not to adopt penalties on the transfer of authorizations obtained in the lottery. As explained in the preceding section, we believe that the transfer mechanism encourages the earliest exchange and the most efficient use of these authorizations. Any penalty on the transfer or sale of lottery authorizations, which all eligible carriers have an equal chance of obtaining, would serve to inhibit their best use by deterring transfer. Thus, in the absence of any convincing reasons to the contrary, we see no need to impose penalties on the transfer of authorizations obtained in the lottery.

The situation is somewhat different with respect to the grandfather allotments. Although OMB argues that no constraints should be placed on the transfer of these authorizations, we disagree and believe that a limited penalty provision is appropriate. Under the procedures we are adopting, the grandfather carriers are receiving a special, preferential allotment in order to maintain the level of their past operations in the U.S.-Japan market. While we believe these carriers should, for the sake of efficiency, be permitted to transfer their grandfather authorizations if they so choose, we do not believe that after doing so they should retain a right to receive the same number of these special grandfather entitlements in future years. Rather, we believe that a one-for-one reduction of future-year grandfather authorizations is warranted. While Transamerica argued for a two-for-one reduction as the optimal penalty, and Pan American and FTL suggested that grandfather carriers be guaranteed an irreducible minimum number of authorizations, we find that a one-for-one penalty is preferable since it will result in a reduction of authorizations in future years commensurate with the number of authorizations the carrier has chosen to relinquish. We will, however, permit carriers to transfer up to ten percent of their grandfather authorizations without incurring a penalty, in recognition of the fact that unexpected operational problems beyond the control of these carriers may make some grandfather transfers unavoidable. In addition, to enable the grandfather carriers to avoid otherwise foreseeable penalty, we will allow them two days following actual notice of this rule within which to return to us any grandfather authorizations they do not desire to hold.

The situation we particularly want to prevent is for an authorization, whether grandfather or lottery, to expire unused at the end of a year. We believe this would occur only rarely. Each such occurrence, however, would deprive the public, as well as U.S. carriers, of an incremental but significant portion of the rights negotiated in the interim agreement. We wish to stress in the strongest possible terms that we expect carriers to use, or to transfer to carriers which will use, all the authorizations we confer. To further discourage the waste of authorizations, we will impose a penalty of two authorizations in future years for any authorization a carrier permits to expire unused.

In its comments, FTL argued that under the terms of the delegation's commitment to it, its grandfather authorizations may not be reduced below 80 flights in any year by virtue of any penalty we may impose. FTL is incorrect. There is no support in the record for the carrier's position, and we have no other corroboration that the delegation's commitment to FTL extended to this particular point. As a matter of discretion, we decline to afford this special protection to the grandfather carriers.

Certain commenters suggested that penalties on the first year's authorizations should be less harsh than for later years. Another commenter argued that we should review carriers' performance at the end of each year to determine whether there are special conditions that require some relief in the normal penalty provision. We disagree with both proposals. Given the carrier demand we perceive for these authorizations in the first year, and the freedom we are permitting carriers to transfer authorizations among themselves to avoid or minimize penalties, we see no need to reduce penalties in the first year or make provision to review individual carrier requests for relief of the penalty provision.

Although OMB stated a preference for no penalty system, it set forth an alternative penalty system that it considered to be more effective than that which we proposed. This system provided that carriers should pay cash penalties in some circumstances.

We considered OMB's suggestion of a cash penalty system and have decided not to adopt it. We believe that the penalty system we are adopting, that of flight forfeiture and redistribution, is adequate to discourage carriers from wasting flights, and more closely corresponds to the nature of the offense.

We also find that a cash penalty system would likely cause problems out of proportion to the benefits it would provide. First, a system of monetary fines would result in the transfer of carrier monies from the industry to the government, depriving carriers of capital which would be better utilized in their operations. Second, we believe that a monetary penalty system is unnecessarily harsh in view of the nature of the transgression—that of failing to use a privilege bestowed by the government. Third, we have no experience in this area, doubt the accuracy with which we could calibrate the fines, and find that the concept raises substantial legal and policy questions which cannot be resolved in time to permit prompt completion of this rulemaking proceeding. Unless there proves a compelling need for such a system, and an absence of workable, less Draconian alternatives (a situation which does not exist here), we are not prepared to adopt such an untried approach.

Reallocation of Forfeited Authorizations

We are adding a new section to the rule to govern future year allocations of forfeited authorizations. Reallocations of these flights will be accomplished in

much the same manner as our initial allocation, *i.e.*, we will distribute the flights through lottery, with participation open to any carriers that, at the time the lotteries are held, meet the eligibility criteria of the rule, except for the carriers relinquishing authorizations due to penalties. We expect the number of authorizations available for reallocation to be quite small, and, therefore, it may not be feasible to invite applications in blocks of 10 flights. We will issue an order shortly after the end of each allocation year establishing the number of authorizations available to be reallocated, and the manner in which and when applications will be entertained.

Delegation of Authority

In an accompanying rulemaking, OR–200, we are delegating to the Director, Bureau of International Aviation, authority to take actions necessary to implement this rule.

Regulatory Flexibility Act

In PDR–79, the Board certified that this rule would not, if adopted as proposed, have a significant economic impact on a substantial number of small entities. As noted in the NPRM, none of the direct air carriers effected by the Interim Agreement is a small business. The allocation of direct carrier charter authorizations will indirectly affect charter operators and other charterers, some of which are small businesses, by limiting their choices of direct carriers. This result is primarily attributable to the underlying Interim Agreement, and the marginal economic impact of the proposed allocation procedures on these businesses is not significant. No comments were filed in response to the Board's negative certification of the proposed rule, and the Board knows of no other reason to change the negative certification.

Members' Statements

Vice Chairman Bailey and Member Schaffer concurred in the adoption of this rule. Chairman McKinnon and Member Dalley concurred and dissented. Member Smith dissented. Chairman McKinnon, Member Dalley and Member Smith filed the following separate statements.

McKinnon, Chairman, Concurring and Dissenting

The Japan Charter Rule, which the Board adopts today, will enable U.S. travelers and shippers to realize significant benefits from our Interim Agreement with Japan.

However, I cannot agree to a system that will reward speculators with money profits from selling something the Government gave them free.

Under this system, an airline can get charter authorizations without paying for them or earning them in any other way—just by being lucky in our lottery. There isn't anything wrong with that if the airline then uses its flight authorizations for the good of the people for whom we got them in the first place.

A lottery is an efficient method of allocation but winners in the lottery or grandfather rights recipients should not be allowed to sell their rights and receive unearned profits.

The majority has been persuaded that allowing such sales will make more effecient use of the rights.

That may be true, but it does not overcome my opposition to buying and selling these rights. The American work ethic says to earn money you need to perform some service or work for it. This is a giveaway of something of value by the government to a commercial company for nothing.

This charter agreement was negotiated for the public interest—sale of charters only raises the cost to the consumer.

Why negotiate a deal for the U.S. traveling public then give an airline a chance to make money by selling that right and increase the cost to the traveling public?

It's just plain not fair or right.

I cannot concur in that part of the rule.

Dan McKinnon.

Member Dalley, Concurring and Dissenting

I agree with the majority of my colleagues on all major aspects of this rule allocating charter flights in the U.S.-Japan market except for those provisions which award unwarranted preferential treatment to selected carriers through grandfather access to most of these scarce flights.

From the U.S. Government standpoint, the principal purpose of the charter agreement should be to open the U.S.-Japan market to additional competition for the benefit of the travelling and shipping public. The U.S. Government should not be in the business of negotiating private rights for specific U.S. carriers. The grandfathering of more than half of the limited charter capacity in this market for the full duration of the agreement is inconsistent with our policy objective of maximizing competitive market entry. It will inhibit new carriers from gaining a foothold in this market and will retard the development of new marketing techniques to serve the public. It seems to signal a return to the mercantilist trading practices that prevailed prior to Chairman Kahn's tenure at the Board and against which he argued so eloquently.

Although I agree with the majority that a lottery system is a very satisfactory method of allocating these scarce resources, I am disappointed that we did not come up with a system that would have put more downward pressure on charter, and ultimately on scheduled, prices in this market. Given the limited window the Japanese have opened to us, I expect that the prices charged for these flights will not offer a significant discount from the prevailing scheduled service prices. While this is the result that the free market produces in a limited supply situation, this is not a free market and I would have been more satisfied if we could have traded obvious U.S. carrier interest in securing access to these very valuable rights for significant price concessions on their part to benefit the public.

George A. Dalley.

Smith, Member, Dissenting

I reject the notion that the United States should allow any carrier's interests in international route rights granted to it by this country to set the boundaries within which the U.S. can negotiate increased opportunities for the traveling public and for all carriers interested in that market. Every negotiation is a balancing process. If we allow the carriers the ultimate decision on when the appropriate balance has been struck, we have abdicated our responsibilities in the negotiating arena. The grandfathering aspects of this order tend toward compensating incumbent carriers because of new competition and new opportunities for the public to select from a broader spectrum of fares and services.

Assuming it is true that U.S. carrier demand for U.S.-Japan charters is "likely to be far in excess of the 300 flights available," then a lottery would be one acceptable way of distributing the flights. However, I would not permit the carriers that won in the lottery to turn around and sell those flights. These are rights which the U.S. government has negotiated to benefit the flying public. These rights will also be a benefit to carriers that receive a share of those flights and operate them profitably. We grant carriers these benefits so they may perform for the benefit of the public, not so they can derive financial gain without the concomitant service requirement. It is little consolation that by allowing sales after the lottery, these flights will eventually end up in the hands of a carrier that will actually operate them. Just as with slot sales at capacity controlled domestic airports, third parties who added nothing to the transportation system would be unduly enriched at the expense of the consumer who would be expected to pay the total cost of the travel in the fare level.

If the charter market will really exceed the available charters, then restricting the lottery to carriers that want to serve it, by removing the windfall profit aspect, should ensure that all charter allocations are used. To take care of the infrequent situation where a flight is not used, the carrier could be penalized a part or all of its allocation for the next year. Alternatively, carriers could be required to make a deposit for each block of flights won in the lottery. The deposit would be returned upon the successful completion of the flights. Either method would keep carriers out of the bidding who were not confident of their ability to operate the flights.

James R. Smith.

List of Subjects in 14 CFR Part 320

Charter flights, Reporting requirements, Treaties.

Accordingly, the Civil Aeronautics Board adds a new Part 320 to Chapter II of Title 14, Code of Federal Regulations, to read:

PART 320—PROCEDURES FOR AWARDING JAPANESE CHARTER AUTHORIZATIONS

Subpart A—General Provisions

Sec.
320.1 Purpose.
320.2 Applicability.
320.3 Definitions and terminology.
320.4 Charter authorizations.
320.5 Related carriers counted as one.

Subpart B—Specific Procedures

320.10 Allocation.
320.11 Grandfather allotment.
320.12 Initial lottery.
320.13 Final order.
320.14 Transfer of charter authorizations.
320.15 Unused charter authorizations.
320.16 Secondary lotteries.
320.17 Notice of intent to use charter authorizations.
320.18 Report of charter authorizations used.

Authority: Secs. 204, 401, 407, 1102, Pub. L. 85–726, as amended, 72 Stat. 743, 754, 766, 797; 49 U.S.C. 1324, 1371, 1377, 1502.

Note.—The application, reporting, and recordkeeping requirements contained in § 320.12, 320.14, 320.16, 320.17, and 320.18 have been approved by the Office of Management and Budget under number 30240055.

Subpart A—General Provisions

§ 320.1 Purpose.

This part sets out procedures by which the Board will award air carriers the authority to perform the charter flights authorized by the September 7, 1982, Memorandum of Understanding concerning bilateral aviation relations between the United States and Japan. That memorandum provides that each country's direct air carriers may perform 300 one-way charter flights between the two countries each year in accordance with country-of-origin rules.

§ 320.2 Applicability.

This part applies to United States direct air carriers with respect to charter flights between the U.S. and Japan beginning on October 1, 1982.

§ 320.3 Definitions and terminology.

(a) "Charter flight authorization" means the authority to perform one of the 300 annual one-way charter flights between the United States and Japan authorized in the Memorandum of Understanding described in § 320.1.

(b) A charter authorization is "used" when the flight is performed.

(c) An "allocation year" runs from October 1 through September 30 and is used as a reference for reporting requirements and reallocation of forfeited authorizations.

§ 320.4 Charter authorizations.

(a) No charter flights between the United States and Japan shall be operated except in accordance with a charter authorization awarded or acquired under this part.

(b) A charter flight award obtained through the grandfather allotment or the initial lottery shall entitle the holder to authorizations for each of the three years beginning October 1, 1982, with the following exceptions:

(1) A charter flight authorization for an allocation year that has not been used by September 30 of that year will result in a penalty of a forfeiture of two charter flight authorizations for the remaining allocation years, as provided in § 320.15;

(2) A charter flight authorization obtained in a secondary lottery shall not continue beyond the time period remaining for the original, forfeited award that it supersedes;

(3) The Board will review the procedures provided by this part 18 months after adoption and make changes after notice and opportunity for public comment as necessary.

(c) Each flight authorization shall be assigned an identification number by the Bureau of International Aviation at the beginning of the initial allocation period.

§ 320.5 Related carriers counted as one.

Two or more air carriers that are related will be considered as a single air carrier for the purposes of this part. One carrier is related to another carrier if it controls, is controlled by, or is under common control with the other carrier.

Subpart B—Specific Procedures

§ 320.10 Allocation.

The Board will make a grandfather allotment of charter authorizations as set forth in § 320.11. The rest of the charter flights will be allocated by lottery as set forth in §320.12.

§ 320.11 Grandfather allotment.

(a) An air carrier is eligible for a grandfather allotment if it:

(1) Was designated, as of 1981 to provide schedule air transportation between the United States and Japan, or

(2) Performed any charter flights between the United States and Japan in 1975.

(b) Except as set forth in paragraph (c) of this section, the number of charter authorizations that an eligible air carrier will receive in a grandfather allotment is equal to 1.18 times the number of one-way charter flights that the carrier performed between the United States and Japan in—

(1) 1981, for air carriers that are described in paragraph (a)(1) of this section;

(2) 1975, for other air carriers that are described in paragraph (a)(2).

(c) An eligible air carrier that wishes to receive fewer charter authorizations than the number it would receive under paragraph (b) of this section shall so notify the Board within 2 days after it receives notice of the issuance of this part. The Board will reduce the carrier's grandfather allotment accordingly.

§ 320.12 Initial lottery.

(a) An air carrier is eligible to participate in the lottery, whether or not it is eligible for a grandfather allotment under § 320.11, if, as of the date of the lottery, it—

(1) Holds a charter certificate authorizing transpacific service or a schedule route certificate;

(2) Holds FAR 121 operating authority from the Federal Aviation Administration; and

(3) Is an operating air carrier that possesses aircraft having an over-water range at maximum payload of at least 3000 statute miles.

(b) The Board will issue an order announcing the total number of charter authorizations to be available in the lottery and inviting eligible air carriers to submit applications for them.

(c) Each application shall be for a block of 10 one-way flights. Each eligible air carrier may submit more than one application, but the aggregate number of authorizations sought by any one air carrier shall not exceed the total number available as announced in the Board's order issued under paragraph (b) of this section.

(d) The Board will grant applications for charter authorizations by random drawing, without replacement of drawn applications, from among all timely filed applications. The drawing will continue until all available charter authorizations have been granted. If the last application drawn requests more charter authorizations than there are remaining, only the remaining ones will be awarded pursuant to that application.

(e) Carriers holding charter authorizations under the grandfather provisions will be limited to a maximum award of 100 one-way flights, considering both grandfather and lottery awards. No one carrier may receive through the lottery process alone more than 50 one-way flights.

§ 320.13 Final order.

The Board will issue an order awarding charter authorizations in

accordance with the grandfather allotments and the lottery.

§ 320.14 Transfer of charter authorizations.

(a) Any air carrier holding a charter authorization awarded or acquired by it under this part may transfer it, for any consideration, to any other air carrier that meets the criteria set forth in § 320.12(a) as of the time of transfer.

(b) There shall be no penalty for the transfer of a charter authorization obtained in an initial or secondary lottery.

(c) An air carrier may transfer up to 10 percent of its grandfather authorizations for a given year without penalty. The base number shall not include any grandfather authorizations declined under § 320.11(c). A carrier's charter flight authorization for the remaining allocation years shall be reduced on a one-to-one basis for each flight beyond the 10 percent figure that it transfers, and the carrier may not participate in any following secondary lotteries.

(d) A transfer of a charter authorization shall not become effective until the transferring air carrier files a notice in duplicate with the Director, Bureau of International Aviation. The notice shall be labeled "Notice of Transfer of Japan Charter Authorization," and identify the transferred charter authorization by the flight authorization number(s) assigned under § 320.3(d). It shall be filed within 15 days after the date of the transaction, but in any event before departure of the authorized flight, whether the flight is performed by the transferee or by any subsequent transferee. The notice shall indicate the number of charter authorizations transferred and the date of the transaction, and shall be signed by both the transferor and the transferee.

(e) An air carrier that transfers a charter authorization to another carrier shall retain for at least 1 year after the conclusion of the allotment year for which it was awarded a record of the consideration received for the transfer.

§ 320.15 Unused charter authorizations.

Any carrier that fails to use its charter flight authorization by September 30 of an allocation year shall be penalized in the remaining allocation years at the rate of two charter flight authorizations for each unused authorization. If this penalty results in a negative number, the carrier's allotment will be zero. The flight authorizations forfeited under this section shall be reallocated as provided in § 320.16.

§ 320.16 Secondary lotteries.

(a) Any charter authorization forfeited will be reallocated by the Board in a secondary lottery.

(b) Secondary lotteries will be open to all carriers that meet the eligibility requirements of § 320.12(a), except for carriers that have forfeited one or more flight authorizations under § 320.15, and carriers that have transferred more than 10 percent of their grandfather authorizations under § 320.14(c).

(c) The Board will issue an order shortly after the end of each allocation year establishing the number of authorizations available to be reallocated, and the manner in which and when applications will be entertained. These secondary lotteries will be held not later than November 1 of the following allocation year in which one or more charter flight authorizations were forfeited.

§ 320.17 Notice of intent to use charter authorization.

An air carrier shall file in duplicate with the Director, Bureau of International Aviation, a notice of its intention to use a charter authorization at least 7 days before departure of the flight. The notice shall be labeled "Notice of Intent To Use Japan Charter Authorization," and include the flight authorization number(s).

§ 320.18 Report of charter authorizations used.

Within 15 days after any month in which an air carrier uses a charter authorization, it shall file in duplicate a report with the Director, Bureau of International Aviation. The report shall be labeled "Report of Japan Charter Authorizations Used." It shall include identification numbers of the authorizations, flight itineraries, flight dates, aircraft type, and the number of passengers or cargo tons transported. Passenger and cargo figures may be aggregated for the month.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-27233 Filed 9-30-82; 8:45 am]
BILLING CODE 6320-01-M

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14 CFR Part 385

[Regulation OR-200; Amdt. No. 127]

Delegations and Review of Action Under Delegation; Nonhearing Matters

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB delegates authority to the Director, Bureau of International Aviation to implement the procedures for awarding and overseeing Japan charter authorizations as provided for in the September 7, 1982, Memorandum of Understanding between the United States and Japan and in 14 CFR Part 320.

DATES: Adopted: September 28, 1982. Effective: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia L. DePuy, Assistant Chief, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-5878.

SUPPLEMENTARY INFORMATION: In an accompanying rulemaking, PR-251, the Board issued a new Part 320, *Procedures for awarding Japanese charter authorizations.* This final rule delegates authority to the Director, Bureau of International Aviation to implement those procedures and generally oversee the operation of that allocation and reporting system. The Director is delegated authority to establish procedures for, and hold, lotteries, award charter authorizations, assess penalties as provided for in Part 320 and extend the period for filing the required reports.

Since this is a rule of agency organization and procedure, the Board finds that notice and public procedure are unnecessary and that the rule may take effect in less than 30 days.

List of Subjects in 14 CFR Part 385

Administrative practice and procedure, Authority delegations.

PART 385—[AMENDED]

Accordingly, the Board amends 14 CFR Part 385, *Delegation and Review of Action Under Delegation; Nonhearing Matters,* as follows:

1. The authority for Part 385 is:

Authority: Secs. 102, 204, 401, 402, 403, 407, 416, Pub. L. 85-726, as amended, 72 Stat. 740, 743, 754, 758, 766, 771, 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1377, 1386; Reorganization Plan No. 3 of 1961, 26 FR 5989.

2. A new paragraph (cc) is added to § 385.26 to read as follows:

§ 385.26 Delegation to the Director, Bureau of International Aviation.

The Board delegates to the Director, Bureau of International Aviation the authority to:

* * * * *

(cc) With respect to the procedures for awarding Japan charter authorizations under Part 320 of this chapter:

(1) Establish procedures for, and hold, lotteries;

(2) Award the charter authorizations;

(3) Assess penalties as described in Part 320;

(4) Extend the period for filing the required reports.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-27232 Filed 9-30-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 106

[Docket No. 80N-0025]

Infant Formula Quality Control Procedures

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of the final rule establishing infant formula quality control procedures. FDA has reviewed the comments received in response to the final rule and concludes that no arguments were presented that convince the agency that any changes in the final rule are necessary. Therefore, no changes are made in the final rule at this time.

EFFECTIVE DATE: The provisions of the final rule became effective July 19, 1982.

FOR FURTHER INFORMATION CONTACT: F. Edward Scarbrough, Bureau of Foods (HFF-204), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-3117.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 20, 1982 (47 FR 17016), FDA issued a final rule establishing quality control procedures for infant formulas in accordance with the Infant Formula Act of 1980 (Pub. L. 96-359; 94 Stat. 1190) (section 412 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 350a)). FDA provided a 30-day comment period, during which 20 comments from individuals, consumer groups, and industry were received. Most of the comments from individuals said that there should be a single uniform quality control procedure for infant formula. Other comments said that the regulations were too flexible and allow infant formula manufacturers to set their own controls. Some comments suggested specific changes to the final rule. The American Nurses' Association supported the final rule.

FDA did not require a single uniform quality control system for all manufacturers because of the variances in manufacturing processes, practices, and equipment (see comment 17 of the final rule). The agency believed then, and believes now, that no single type of system would be appropriate for all manufacturers. Consequently, FDA affirms its conclusion that a manufacturer may establish any reasonable quality control system as long as it follows the requirements of 21 CFR Part 106.

The remaining comments, in general, concerned matters that were commented on previously and are answered in the preamble to the final rule.

The agency continues to believe that the provisions of the final rule will provide additional assurances of product safety and nutritional adequacy and will carry out the act's intent. Therefore, the agency concludes that no changes are necessary, and no changes are made in the final rule at this time.

Dated: September 24, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 82-26855 Filed 9-30-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 137

[Docket No. 80P-0022]

Cereal Flours and Related Products; Confirmation of Effective Date and Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date and correction.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date for compliance with all provisions of the amended standards of identity for flour and whole wheat flour to allow the optional ingredient "α-amylase obtained from *Aspergillus oryzae"* to be declared alternatively as "Fungal *alpha*-amylase" (or "Fungal α-amylase), "Enzyme", or "Enzyme added for improved baking". The agency also is making some minor corrections to the final rule.

DATES: Effective July 1, 1983, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance may have begun August 9, 1982.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 8, 1982 (47 FR 24692), FDA published a final rule amending the standards of identity for flour (21 CFR 137.105) and whole wheat flour (21 CFR 137.200) to allow the listing of the optional ingredient "α-amylase obtained from *Aspergillus oryzae"* to be declared alternatively as "Fungal *alpha*-amylase" (or "Fungal α-amylase"), "Enzyme," or "Enzyme added for improved baking". Any person who would be adversely affected by the regulation could have, on or before July 8, 1982, filed written objections to the final regulation and requested a hearing on the specific provisions to which there were objections. No objections or requests for a hearing were received. However, FDA is making some minor corrections.

The summary and preamble to the June 8, 1982 final rule stated that the subject ingredient may be declared alternatively as "Fungal *alpha*-amylase" (or "Fungal α-amylase"), "Enzyme", or "Enzyme added for improved baking". However, in §§ 137.105 and 137.200 the alternative term "Fungal *alpha*-amylase" was not included. Therefore, corrections are now being made to include this term. In addition, to be consistent with §§ 137.105(a) and 137.200(a), the agency is changing the Greek word "*alpha*" to the letter "α" in paragraph (b).

List of Subjects in 21 CFR Part 137

Cereal, Flour, Food standards.

PART 137—CEREAL FLOURS AND RELATED PRODUCTS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that the effective date for compliance with 21 CFR 137.105 and 137.200 as amended in the **Federal Register** of June 8, 1982 (47 FR 24692) is July 1, 1983. Voluntary compliance may have begun August 9, 1982.

Additionally, in FR Doc. 82-15276 appearing at page 24692, in the issue of Tuesday, June 8, 1982, the following corrections are made:

§ 137.105 [Corrected]

1. On page 24693, first column, under § 137.105(b)(2), fourth line, change "*alpha*" to "α"; and in the seventh line, add "Fungal *alpha*-amylase," at the end of the line.

§ 137.200 [Corrected]

2. On page 24693, second column, under § 137.200(b)(2), fourth line, change "*alpha*" to "α"; and in the seventh line, add "Fungal *alpha*-amylase," at the end of the line.

Dated: September 22, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-26700 Filed 9-30-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 146

[Docket No. 78N-0236]

Grapefruit Juice; Standards of Identity; Termination of Stay of Effectiveness, Confirmation of Effective Date, and Further Amendment

AGENCY: Food and Drug Administration.

ACTION: Final rule; termination of stay, confirmation of effective date, and further amendment.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date for compliance with the June 4, 1982 amendments to the standards of identity for grapefruit juice that revised the acidity requirement, provided for grapefruit hybrids, and removed the alternative name "reconstituted grapefruit juice." FDA is further amending the standards of identity for grapefruit juice to set the minimum soluble solids requirement for "grapefruit juice from concentrate" at 10-percent soluble solids. This action is based on a review of recent data and information on the issue submitted in support of an objection that stayed this provision of the identity standards for grapefruit juice. This document also terminates that stay of effectiveness.

DATES: Compliance with the provision being revised herein may begin December 30, 1982. Effective July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date.

Objections to the provision being revised herein by November 1, 1982. The agency is also providing under § 12.20(e) (21 CFR 12.20(e)), for those interested persons objecting to the final regulation on or before November 1, 1982, an opportunity to submit additional information supporting the objection until December 30, 1982.

Compliance with the three provisions amended in the **Federal Register** of June 4, 1982 (47 FR 24286), revising the acidity requirement, providing for grapefruit hybrids, and removing the alternative name "reconstituted grapefruit juice," including any labeling changes, may have begun August 3, 1982, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1983, shall fully comply.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 27, 1981 (46 FR 8462), FDA published a final regulation establishing standards of identity and fill of container (21 CFR 146.132 (a) and (c), respectively) for grapefruit juice. In the **Federal Register** of June 4, 1982 (47 FR 24286), FDA published a final regulation further amending the standard of identity for grapefruit juice by revising the correction for acidity, removing "reconstituted grapefruit juice" as an alternative name for "grapefruit juice from concentrate," and providing for up to 10 percent by volume of the unfermented juice obtained from mature hybrids of grapefruit. The June 4, 1982 final rule also confirmed the effective date of all provisions of the January 27, 1981 final rule, except for the minimum 9-percent grapefruit soluble solids requirement for "grapefruit juice from concentrate," the effective date of which was stayed pending resolution of whether a public hearing was required.

The State of Florida, Department of Citrus, the Florida Citrus Commission, the Florida Citrus Processors Association, and the Florida Citrus Mutual Inc., jointly, objected in writing to § 146.132(a)(1), which set the minimum requirement for grapefruit soluble solids in "grapefruit juice from concentrate" at 9 percent, and asked that the minimum requirement be set at 10 percent. Sunkist Growers, Inc., also supported a 10-percent grapefruit soluble solids requirement. The objectors argued that 9-percent soluble solids does not represent the average soluble solids of grapefruit; that there is no technical difficulty in producing "grapefruit juice from concentrate" containing 10-percent soluble solids rather than 9 percent; and that the effect of a 9-percent minimum soluble solids requirement for "grapefruit juice from concentrate," in most instances, will be to dilute the finished product to a level substantially below that of the juice from the fruit of which the concentrate was made.

FDA now understands, based on the data submitted in response to the June 4, 1982 final rule and other available data and information, that the preponderance of grapefruit produced in the United States contains an average Brix (soluble solids) of 10 percent or greater. Further, the agency understands that no concentrated grapefruit juice is imported for use in this country, thus diminishing any impact of the fact that the Codex standard is 9 percent. Therefore, FDA concludes that it will promote honesty and fair dealing in the interest of consumers to revise § 146.132(a)(1) to establish that "grapefruit juice from concentrate" shall contain not less than 10 percent, by weight, of soluble solids, exclusive of added sweeteners.

List of Subjects in 21 CFR Part 146

Canned fruit juice, Food standards, Fruit juices.

PART 145—CANNED FRUIT JUICES

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371 (e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that the effective date for complying with the June 4, 1982 (47 FR 24286) amendments of the standards of identity for grapefruit juice (§ 146.132(a) (1) and (3)(i)(*b*)) that revised the acidity requirements, provided for grapefruit hybrids, and removed the alternative name "reconstituted grapefruit juice" is July 1, 1983. The stay of effectiveness of the minimum 9-percent soluble solids requirement for "grapefruit juice from concentrate" is terminated. In addition, § 146.132 *Grapefruit juice* is amended in the seventh sentence in paragraph (a)(1) by changing the phrase "not less than 9 percent," to "not less than 10 percent,".

Any person who will be adversely affected by the foregoing amendment to the final regulation as set forth above may at any time on or before November 1, 1982, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection

shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held: failure to include such a description and anlysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. The agency is also providing, under § 12.20(e) (21 CFR 12.20(e)), for those interested persons objecting to the final regulation on or before November 1, 1982, an opportunity to submit additional information supporting the objection until December 30, 1982. The agency is providing the additional 60 days for the submission of information supporting any objections to eliminate any hardship in compiling such information that may be caused by the agency's decision to adopt the 10-percent soluble solids standard at this point in this proceeding.

Effective date. Except as to the amendment that may be stayed by the filing of proper objections, compliance with this amendment to the final regulation may begin December 30, 1982. Except as to the provision being herein revised, the effective date of those amendments to the standards of identity for grapefruit juice in the **Federal Register** of June 4, 1982 that revised the acidity requirements, provided for grapefruit hybrids, and removed the alternative name "reconstituted grapefruit juice" is confirmed as follows: Compliance with this regulation, except for the minimum 10-percent grapefruit soluble solids requirement for "grapefruit juice from concentrate," including any required labeling changes, may have begun August 3, 1982, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1983, shall fully comply. The mandatory compliance date for the minimum 10-percent soluble solids requirement for "grapefruit juice from concentrate" shall be July 1, 1985. Notice of the filing of objections or lack thereof will be published in the **Federal Register.**

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: September 24, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-27064 Filed 9-30-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 176

[Docket No. 81F-0357]

Indirect Food Additives; Paper and Paperboard Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of poly(diallyldimethylammonium chloride) as a flocculant in the clarification of water used to manufacture food-contact paper and paperboard. This action is in response to a petition filed by Calgon Corp.

DATES: Effective October 1, 1982; objections by November 1, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Anthony P. Brunetti, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of December 4, 1981 (46 FR 59309), FDA announced that a petition (FAP 8B3372) has been filed by Calgon Corp., Calgon Center, Box 1346, Pittsburgh, PA 15230, proposing that § 176.170 (21 CFR 176.170) be amended to provide for the safe use of poly (dimethyldiallylammonium chloride) as a coagulant aid in the clarification of water used in the manufacture of food-contact paper and paperboard.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed use is safe, and that § 176.170 should be amended as set forth below, but that the additive is more properly identified as poly(diallyldimethylammonium chloride). This regulation will list the compound under that name.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h)(2), the agency will remove from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the potential environmental effects of this regulation as announced in the notice of filing published in the **Federal Register.** No new information or comments have been received that would alter the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging, Paper and paperboard.

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 176 is amended in § 176.170(a)(5) by alphabetically inserting a new item in the list of substances, to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	Limitations
* * * * *	
Poly(diallyldimethylammonium chloride) (CAS Reg. No. 26062-79-3) produced by the polymerization of diallyldimethylammonium chloride so that the finished resin has a nitrogen content of 8.66±0.4 percent on a dry basis and a minimum viscosity in a 15-weight percent aqueous solution of 10 centipoises at 25° C (77° F), as determined by LVF Model Brookfield viscometer using a No. 1 spindle at 60 r.p.m. (or equivalent method). The level of residual monomer is not to exceed 1 weight percent of the polymer (dry basis).	For use only as a flocculant employed prior to sheet-forming operation in the manufacture of paper and paperboard, and used at a level not to exceed 10 mg/L (10 parts per million) of effluent water.
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before November 1, 1982 submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers

Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective November 1, 1982.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: September 23, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-27058 Filed 9-30-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 182, 184, and 186

[Docket No. 79N-0071]

GRAS Status of Bentonite and Clay (Kaolin)

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that bentonite is generally recognized as safe (GRAS) as a direct human food ingredient, and that clay (kaolin) is GRAS as an indirect human food ingredient. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency.

EFFECTIVE DATE: November 1, 1982.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-8950

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 18, 1980 (45 FR 3598), FDA published a proposal to affirm that bentonite is GRAS for use as a direct human food ingredient, and that clay (kaolin) is GRAS for use as an indirect human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review and the report of the Select Committee on GRAS Substances (the Select Committee) on bentonite and clay (kaolin) are available for public review in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available for public purchase from the National Technical Information Service as announced in the proposal.

In addition to proposing to affirm the GRAS status of bentonite and clay (kaolin), FDA gave public notice that it was unaware of any prior-sanctioned food ingredient uses for these ingredients other than the proposed conditions of use. Persons asserting additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of any prior-sanctioned uses could be determined, that notice was also an opportunity to have prior-sanctioned uses of bentonite and clay (kaolin) recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for bentonite and clay (kaolin) were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for use of bentonite and clay (kaolin) under conditions different from those set forth in this final rule has been waived.

One comment was received in response to the agency's proposal on bentonite and clay (kaolin). The comment requested inclusion of a free swell test among the specifications for bentonite because the test will allow for rapid and simplified identification of bentonite, The method for the free swell test is described in the U.S. Pharmacopoeia XIX. The comment also requested that the impurity limits on arsenic and lead be raised from 3 to 5 and from 10 to 35 parts per million, respectively.

The agency agrees with the comment that a free swell test and increases in the impurity limits on arsenic and lead may be appropriate. The U.S. Pharmacopoeia method for the free swell test appears to be suitable, but the test method for the lead content suggested by the comment has not been validated. The agency therefore concludes that it is not appropriate to establish food-grade specifications for bentonite based on the limited information available to it at this time. Therefore, the agency is withdrawing the proposed specifications from this final rule.

The agency concludes that affirmation of bentonite as GRAS without detailed specifications does not represent a health problem. No bentonite has been found to be retained in processed food, and tests have shown that there is essentially no migration of lead or arsenic to food from bentonite. FDA will work with the Committee on Food Chemicals Codex of the National Academy of Sciences to develop acceptable specifications for this ingredient. If acceptable specifications are developed, the agency will incorporate them into this regulation at a later date. Until specifications are developed, FDA has determined that the public health will be adequately protected if commercial bentonite complies with the description in § 184.1155 and is of food-grade purity (21 CFR 170.30(h)(1) and 182.1(b)(3)).

The format of the final regulations is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of § 184.1155 and paragraph (b) of § 186.1256 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including the technical effects listed. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

The requirement for a regulatory flexibility analysis under the Regulatory Flexibility Act does not apply to this

final rule because the proposed rule was issued prior to January 1, 1981, and is therefore exempt.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this rule, and the agency has determined that the rule is not a major rule as defined by the Order. A copy of the threshold assessment supporting this determination is on file with the Dockets Management Branch (address above).

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

21 CFR Part 186

Food ingredients, Generally recognized as safe (GRAS) food ingredients, Indirect food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182, 184, and 186 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.90 [Amended]

1. In § 182.90 *Substances migrating to food from paper and paperboard products* by removing the entry for "Clay (kaolin)".

§ 182.1155 [Removed]

2. By removing § 182.1155 *Bentonite.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. In Part 184 by adding new § 184.1155 to read as follows:

§ 184.1155 Bentonite.

(a) Bentonite ($Al_2O_3 \cdot 4SiO_2 \cdot nH_2O$, CAS Reg. No. 1302–78–9) is principally a colloidal hydrated aluminum silicate. Bentonite contains varying quantities of iron, alkalies, and alkaline earths in the commercial products. Depending on the cations present, natural deposits of bentonite range in color from white to gray, yellow, green, or blue. Bentonite's fine particles provide large total surface area and, hence, pronounced adsorptive capability.

(b) FDA is developing food-grade specifications for bentonite in cooperation with the National Academy of Sciences. In the interim, the ingredient must be of a suitable purity for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a processing aid as defined in § 170.3(o)(24) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice. Current good manufacturing practice results in no significant residue in foods.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

4. In Part 186 by adding new § 186.1256 to read as follows:

§ 186.1256 Clay (kaolin).

(a) Clay (kaolin) $Al_2O_3 \cdot 2SiO_2 \cdot nH_2O$, Cas Reg. No. 1332–58–7) consists of hydrated aluminum silicate. The commercial products of clay (kaolin) contain varying quantities of alkalies and alkaline earths. Clay (kaolin) is a white to yellowish or grayish fine powder. There are at least three different minerals, kaolinite, dickite, and nacrite, classified as kaolin. Kaolinite or china clay is whiter, less contaminated with extraneous minerals, and less plastic in water.

(b) In accordance with § 186.1(b)(1), the ingredient is used as an indirect human food ingredient with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as an indirect human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used in the manufacture of paper and paperboard that contact food.

(2) The ingredient is used at levels not to exceed current good manufacturing practice.

(c) Prior sanctions for this ingredient different from the uses established in this regulation do not exist or have been waived.

Effective date. This regulation is effective November 1, 1982.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: September 13, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-27056 Filed 9-30-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs not Subject to Certification; Nitrofurazone Soluble Powder

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Medico Industries, Inc., providing for use of nitrofurazone soluble powder as a topical antibacterial on dogs, cats, and horses. The application provides labeling that reflects the conclusions of the National Academy of Sciences/National Research Council (NAS/NRC) review of such products.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Medico Industries, Inc., P.O. Box 338, Elwood, KS 66024, is sponsor of NADA 126–236 providing for use of a water soluble powder containing 0.2 percent nitrofurazone as a topical antibacterial on dogs, cats, and horses. This product is the generic equivalent of one codified for animal use in 21 CFR 524.1580c. That regulation provides that because the conditions of use were NAS/NRC reviewed and deemed effective, applications for these uses need not include certain effectiveness data as specified by 21 CFR 514.111. Bioavailability studies are not required because the product is intended solely for topical administration (21 CFR 320.22(b)(2)). Therefore, NADA 126–236 is approved on the basis of generic equivalence to an approved, NAS/NRC reviewed product. The regulations are amended to reflect this approval.

In accordance with the freedom of information provisions of Part 20 (21

CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 524

Animal drugs, topical.

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 524 is amended by revising § 524.1580c(b), to read as follows:

§ 524.1580c Nitrofurazone soluble powder.

* * * * *

(b) *Sponsor.* See Nos. 000149 and 015562 in § 510.600(c) of this chapter.

* * * * *

Effective date. This amendment is effective October 1, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: September 22, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82–26866 Filed 9–30–82; 8:45 am]
BILLING CODE 4160–01–M

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21 CFR Part 540

Penicillin Antibiotic Drugs for Animal Use; Penicillin G Procaine and Dihydrostreptomycin in Soybean Oil

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Philips Roxane, Inc., providing for intramammary use of penicillin G procaine and dihydrostreptomycin in soybean oil in nonlactating dairy cattle.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Richard A. Carnevale, Bureau of Veterinary Medicine (HFV–125), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1788.

SUPPLEMENTARY INFORMATION: Philips Roxane, Inc., 2621 North Belt Highway, St. Joseph, MO 64502, filed NADA 55–097 providing for intramammary use of penicillin G procaine and dihydrostreptomycin for the treatment of subclinical mastitis caused by *Staphylococcus aureus* and *Streptoccus agalactiae* in dairy cows at the time of drying off.

The firm submitted data from adequate and well-controlled studies demonstrating the product's effectiveness in compliance with FDA's combination policy. Toxicity and residue depletion studies demonstrate animal and human safety when the product is used in accordance with label directions. Accordingly, the NADA is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor and environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 540

Animal drugs, Antibiotics, Penicillin.

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b(i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 540 is amended by adding new § 540.874d to read as follows:

§ 540.874d Penicillin G procaine-dihydrostreptomycin in soybean oil for intramammary infusion (dry cows).

(a) *Requirements for certification.*—(1) *Standards of identity, strength, quality, and purity.* Penicillin G procaine-dihydrostreptomycin in soybean oil is penicillin G procaine and dihydrostreptomycin sulfate suspended in a soybean oil vehicle. Each 10 milliliters of suspension contains penicillin G procaine equivalent to 200,000 units of penicillin G and dihydrostreptomycin sulfate equivalent to 300 milligrams of dihydrostreptomycin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of penicillin G and the number of grams of dihydrostreptomycin it is represented to contain. Its moisture content is not more than 1.4 percent. The penicillin G procaine used conforms to the standards prescribed by § 440.74a(a)(1) of this chapter, except § 440.74a(a)(1) (ii), (iii), and (iv). The dihydrostreptomycin used conforms to the standards prescribed by § 444.10a(a)(1) of this chapter, except the standards for sterility, safety, pyrogens, and histamine content.

(2) *Labeling.* It shall be labeled in accordance with the requirements of paragraph (c) of this section and § 510.55 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 514.50 of this chapter, each such request shall contain:

(i) The results of tests and assays on:

(*a*) The penicillin G procaine used in making the batch for potency, moisture, pH, pencillin G content, and crystallinity.

(*b*) The dihydrostreptomycin sulfate used in making the batch for potency, loss on drying, pH, streptomycin content, and crystallinity, if it is crystalline dihydrostreptomycin.

(*c*) The batch for penicillin G content, dihydrostreptomycin content, and moisture.

(ii) Samples required:

(*a*) The penicillin G procaine used in making the batch: 5 packages, each containing approximately 500 milligrams.

(*b*) The dihydrostreptomycin sulfate used in making the batch: 6 packages, each containing approximately 500 milligrams.

(*c*) The batch: a minimum of 6 immediate containers.

(b) *Tests and methods of assay.*—(1) *Potency*—(i) *Penicillin G content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Expel the syringe contents into a high-speed glass blender jar containing 1 milliliter of polysorbate 80 and sufficient 1-percent potassium phosphate buffer, pH 6.0 (solution 1) to give a final volume of 500 milliliters. Blend for 3 to 5 minutes. Further dilute an aliquot of this stock solution with solution 1 to the reference concentration of 1 unit of penicillin G per milliliter (estimated).

(ii) *Dihydrostreptomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: expel the syringe contents into a high-speed glass blender jar containing 1 milliliter of polysorbate 80 and sufficient 0.1 *M* potassium phosphate buffer, pH 8.0 (solution 3) to give a final volume of 500 milliliters. Blend for 3 to 5 minutes. To an aliquot of this stock solution add sufficient penicillinase to inactivate the penicillin; further dilute with solution 3 to the reference concentration of 1.0 microgram of dihydrostreptomycin per milliliter (estimated). Allow to stand ½ hour at 37° C before filling the cylinders on the plates.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(c) *Conditions of marketing.*—(1) *Specifications.* Each 10-milliliter disposable syringe contains penicillin G procaine equivalent to 200,000 units of penicillin G and 300 milligrams of dihydrostreptomycin base as dihydrostreptomycin sulfate, in a soybean oil vehicle, and conforms to the certification requirements of paragraph (a) of this section.

(2) *Sponsor.* See No. 000010 in § 510.600(c) of this chapter.

(3) *Conditions of use.* (i) For intramammary use for the treatment of subclinical mastitis in dairy cows at the time of drying off. Specifically it should be used against infections caused by *Staphylococcus aureus* and *Streptococcus agalactiae.*

(ii) The drug is administered at the last milking prior to drying off. The drug is infused, 1 syringe into each quarter.

(iii) Not to be used within 6 weeks of calving. For use in dry cows only. Milk taken from cows within 24 hours (2 milkings) after calving must not be used for food. Animals infused with this drug must not be slaughtered for food within 60 days of treatment nor within 24 hours after calving.

Effective date. This regulation is effective October 1, 1982.

(Sec. 512(i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b(i) and (n)))

Dated: September 27, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 82–27057 Filed 9–30–82; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Webel Feeds, Inc., providing for use of 0.33- and 0.67-gram-per-pound tylosin premixes for making complete swine feeds.

EFFECTIVE DATE: November 1, 1982.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Webel Feeds, Inc., R.R. 3, Pittsfield, IL 62363, is sponsor of a supplement to NADA 116–196 to provide for use of 0.33- and 0.67-gram-per-pound tylosin premixes for making complete swine feeds for increased rate of weight gain and improved feed efficiency. The supplemental application was submitted on behalf of Webel Feeds by Elanco Products Co. The firm presently holds an approved NADA for such use utilizing 0.8-, 1-, 2-, and 10-gram-per-pound tylosin premixes.

Approval of this supplemental NADA is based on safety and effectiveness data contained in NADA 12–491. Elanco has authorized use of the data in NADA 12–491 to support approval of this application. This approval does not change the approved use of the drug. Consequently, approval of this supplement poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species.

Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II supplemental approval which does not require reevaluation of the safety and effectiveness data in NADA 12–491 or NADA 116–196.

The supplement is approved and the regulations are amended accordingly.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.625 is amended by revising paragraph (b)(73) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(73) To 035098: 0.33 and 0.67 gram per pound; paragraph (f)(1)(vi)(*a*) of this section; 0.8, 1, 2, and 10 grams per pound; paragraph(f)(1) (i) and (vi) (*a*), (*b*), and (*d*) of this section.

* * * * *

Effective date. November 1, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: September 24, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-27059 Filed 9-30-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Federal Bureau of Investigation

21 CFR Part 1316

28 CFR Part 0

Delegation of Authority to FBI and DEA Officials

AGENCY: Department of Justice, Federal Bureau of Investigation, Drug Enforcement Administration.

ACTION: Final order.

SUMMARY: As a result of the Attorney General expanding the jurisdiction of the Federal Bureau of Investigation over drug offenses, this final order delegates to FBI officials the authority to seize and take custody of property seized in connection with such drug offenses, and amends various regulatory provisions relating to drug enforcement activities.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: William M. Lenck, Associate Chief Counsel, Drug Enforcement Administration, Department of Justice, Washington, D.C. 20537, (202-633-1276), or John A. Mintz, Assistant Director—Legal Counsel, Federal Bureau of Investigation, Department of Justice, Washington, D.C. 20535 (202-324-5018).

SUPPLEMENTARY INFORMATION: On January 18, 1982, the Attorney General by Order No. 968-82 (47 FR 4989 2/3/82) authorized the Director of the Federal Bureau of Investigation to investigate violations of the criminal drug laws, including the authority to seize property subject to forfeiture under Section 511 of the Controlled Substances Act (21 U.S.C. 881). This order amends the regulations applicable to such seizures to facilitate the seizure and taking into custody of such property by FBI officers and implements the procedures for the impound release of property pursuant to 28 CFR 0.101(c) (45 FR 44267, 7/1/80). The order also amends the Delegation of Functions provisions in the Appendix to Subpart R of Title 28 of the Code of Federal Regulations.

It has been determined that this is an internal management matter not requiring consultation with the Office of Management and Budget under E.O. 12291. Moreover, the Acting Administrator hereby certifies that this matter will have no impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

By virtue of the authority vested in us by 28 CFR 0.100, and 0.104 and 21 U.S.C. 871(b), the following amendments are made to Title 21, §§ 1316.71(e), 1316.72, 1316.73, 1316.79(a), and to Title 28, Part 0, Appendix to Subpart R, of the Code of Federal Regulations:

List of Subjects

21 CFR Part 1316

Administrative practice and procedures, Drug traffic control, and research.

28 CFR Part 0

Government employees and organization and functions (government agencies).

PART 1316—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

1. In § 1316.71, paragraph (e) is revised to read as follows:

§ 1316.71 Definitions.

* * * * *

(e) The term "Special Agents-in-Charge" means Drug Enforcement Administration Special Agents-in-Charge and Federal Bureau of Investigation Special Agents-in-Charge.

* * * * *

2. Section 1316.72 is revised to read as follows:

§ 1316.72 Officers who will make seizures.

For the purpose of carrying out the provisions of the Act, all special agents of the Drug Enforcement Administration and the Federal Bureau of Investigation are authorized and designated to seize such property as may be subject to seizure.

3. Section 1316.73 is revised as follows:

§ 1316.73 Custody and other duties.

An officer seizing property under the Act shall store the property in a location designated by the custodian, generally in the judicial district of seizure. The Special Agents-in-Charge are designated as custodians to receive and maintain in storage all property seized pursuant to the Act, are authorized to dispose of any property pursuant to the Act and any other applicable statutes or regulations relative to disposal, and to perform such other duties regarding such seized property as are appropriate, including the impound release of property pursuant to 28 CFR 0.101(c).

§ 1316.79 [Amended]

4. Section 1316.79(a) is amended by removing the words "Regional Administrator" and inserting in its place the words "Special Agent-in-Charge of the DEA."

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

5. The Appendix to Subpart R of Chapter I of Title 28, Part 0 Code of Federal Regulations is revised to read as follows:

Appendix to Subpart R—Redelegation of Functions

Section 1. *Scope of authority.* The authority delegated by this order is applicable to all officers and employees of the Drug Enforcement Administration (DEA) and Federal Bureau of Investigation (FBI).

Sec. 2. *Supervisors.* All Special Agents-in-Charge of the DEA and the FBI are authorized to conduct enforcement hearings under 21 U.S.C. 883, and to take custody of seized property under 21 U.S.C. 881. All Special Agents-in-Charge of the DEA and the FBI are authorized to release information pursuant to 28 CFR 0.103(a) (1) and (2) which is obtained by the DEA and the FBI, and to authorize the testimony of DEA and FBI officials in response to prosecution subpoenas under 28 CFR 0.103(a)(3).

Sec. 3. *Enforcement officers.* (a) All DEA criminal investigators (series 1811 under Office of Personnel Management regulations) and special agents of the FBI are authorized to exercise all of the powers of enforcement personnel granted by 21 U.S.C. 876, 878, and 879; to serve subpoenas, administer oaths, examine witnesses, and receive evidence under 21 U.S.C. 875; to execute administrative inspection warrants under 21 U.S.C. 880; and to seize property under 21 U.S.C. 881 and 21 CFR 1316.71 *et seq.*

(b) All DEA compliance investigators (series 1810 under Office of Personnel Management regulations) are authorized to administer oaths and serve subpoenas under 21 U.S.C. 875 and 876; to execute administrative inspection warrants under 21 U.S.C. 878(2) and 880; and to seize property incident to compliance and registration inspections and investigations under 21 U.S.C. 881.

Sec. 4. *Issuance of subpoenas.* (a) The Assistant Administrator for Planning and Inspection and the Deputy Assistant Administrator of the Office of Professional Responsibility of the DEA, all Special Agents-in-Charge of the DEA and the FBI, DEA Inspectors assigned to the Planning and Inspection Division, DEA Resident Agents-in-Charge, DEA and FBI Assistant Special Agents-in-Charge, and FBI Supervisory Senior Resident Agents are authorized to issue subpoenas with respect to controlled substances under 21 U.S.C. 875 and 876 in regard to matters within their respective jurisdictions.

(b) The Administrative Law Judge of DEA is authorized to sign and issue subpoenas to compel the attendance of witnesses and the

production of documents and materials to the extent necessary to conduct administrative hearings pending before him.

Sec. 5. *Legal functions.* The Chief Counsel of the DEA is authorized to execute under any certification required to authenticate any document pursuant to § 0.146 of Title 28, Code of Federal Regulations; to adjust, determine, compromise, and settle any claims involving the Drug Enforcement Administration under 28 U.S.C. 2672, relating to tort claims where the amount of the proposed adjustment, compromise, settlement or award does not exceed $2,500; to settle any employee claims filed under the Military Personnel and Civilian Employee's Claims Act in an amount not to exceed $15,000; to formulate and coordinate the proceedings relating to the conduct of hearings under 21 U.S.C. 875, including the signing and issuance of subpoenas, examining of witnesses and receiving evidence; and to conduct enforcement hearings under 21 U.S.C. 883. The Forfeiture Counsel of the DEA is authorized to exercise all necessary functions with respect to decisions on petitions under 19 U.S.C. 1618 for remission or mitigation of forfeitures incurred under 21 U.S.C. 881.

Sec. 6. *Import and export permits.* The Deputy Assistant Administrator of the DEA Office of Diversion Control is authorized to perform all and any functions with respect to the issuance of importation and exportation permits for controlled substances under 21 U.S.C. 952 and 953, and all functions in regard to transshipments and intransit shipments of controlled substances under 21 U.S.C. 954.

Sec. 7. *Promulgation of regulations.* The Deputy Assistant Administrator of the DEA Office of Diversion Control is authorized to exercise all necessary functions with respect to the promulgation and implementation of the following regulations published in Chapter II, Title 21, Code of Federal Regulations:

(a) Part 1301, incident to the registration of manufacturers, distributors, and dispensers of controlled substances, except that final orders in connection with suspension, denial or revocation of registration shall be made by the Administrator of DEA.

(b) Part 1302 relating to labelling and packaging requirements for controlled substances.

(c) Part 1304 relating to records and reports of registrants.

(d) Part 1305 relating to order forms.

(e) Part 1306 relating to prescriptions, except provisions relating to dispensing of narcotic drugs for maintenance purposes.

(f) Part 1307, Title 21, Code of Federal Regulations, relating to miscellaneous provisions, except § 1307.31 concerning special exempt persons.

(g) The following sections of Part 1308: §§ 1308.21 and 1308.22 relating to excluded nonnarcotic substances; §§ 1308.23 and 1308.24 relating to exempt chemical preparations; and §§ 1308.31 and 1308.32 relating to excepted stimulant or depressant compounds, except that any final order following a contested proposed rulemaking shall be made by the Administrator of DEA.

(h) Part 1311 relating to registration of importers and exporters of controlled substances, except that final orders in connection with suspension, denial or revocation of registration shall be made by the Administrator of DEA.

(i) Part 1312 relating to importation and exportation of controlled substances, except that all final orders following a contested proposed rulemaking regarding the denial of an application for an import, export or transshipment permit shall be made by the Administrator of DEA.

Dated: September 17, 1982.

William H. Webster,

Director, Federal Bureau of Investigation.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-27101 Filed 9-30-82; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 201

[Docket No. R-82-1044]

Mortgage Insurance Loans; Changes in Interest Rates

AGENCY: Department of Housing and Urban Development, HUD.

ACTION: Final rule.

SUMMARY: This change in the regulations decreases the HUD/FHA maximum allowable finance charge on Title I mobile home loans and combination and mobile home lot loans. This action by HUD is designed to bring the maximum interest rate and financing charges on HUD/FHA-insured loans into line with market rates and help assure an adequate supply of and demand for FHA financing.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: John L. Brady, Director, Office of Title I Insured Loans, Office of Single Family Housing, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202-755-6680).

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to decrease the maximum interest rate which may be charged on loans insured by this Department. Maximum finance charges on mobile home loans lowered from 16.50 percent to 16.00 percent, and the finance charge on combination loans for the purchase of a mobile home and a developed or undeveloped lot has been lowered from 16.00 percent to 15.50 percent.

The Secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709-1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

This is a procedural and administrative determination as set forth in the statutes and as such does not require a determination of environmental applicability.

List of Subjects in 24 CFR Part 201

Health facilities, Historic preservation, Home improvement, Mobile homes, Manufactured homes and lots.

Accordingly, Chapter II is amended as follows:

PART 201—MOBILE HOME LOANS

1. Section 201.540(a) is revised to read as follows:

§ 201.540 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed 16.00 percent simple interest per annum. No points or discounts of any kind may be assessed or collected in connection with the loan transaction, except that a one percent origination fee may be collected from the borrower. If assessed, this fee must be included in the finance charge. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

2. Section 201.1511(a), subparagraph (1) is revised to read as follows:

§ 201.1511 Financing charges.

(a) *Maximum financing charges.*

* * * * *

(1) 15.50 percent per annum.

* * * * *

(Sec. 3(a), 82 Stat. 113; 12 U.S.C. 1709-1; Sec. 7, Department of Housing and Urban Development Act, 42 U.S.C. 3534(d))

Dated: September 23, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 82-27089 Filed 9-30-82; 8:45 am]

BILLING CODE 4210-27-M

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24 CFR Parts 203, 205, 207, 213, 220, 221, 232, 234, 235, 236, 241, 242, and 244

[Docket No. R-82-1043]

Mortgage Insurance Loans; Changes in Interest Rates

AGENCY: Department of Housing and Urban Development, HUD.

ACTION: Final rule.

SUMMARY: This change in the regulations decreases the HUD/FHA interest rates on insured loans. This action by HUD is designed to bring the maximum interest rates into line with other competitive market rates and help assure an adequate supply of and demand for FHA financing.

EFFECTIVE DATE: September 24, 1982.

FOR FURTHER INFORMATION CONTACT: John N. Dickie, Director, Financial Analysis Division, Office of Financial Management, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202–426–4667).

SUPPLEMENTARY INFORMATION: The following amendments have been made to this chapter to decrease the maximum interest rate which may be charged on loans insured by this Department. The maximum interest rate on HUD/FHA insured home mortgage insurance programs has been lowered from 14.00 percent to 13.50 percent for level payment (including operative builder) and graduated payment home loan programs (GPM). For insured multifamily project mortgage loan programs, the maximum interest rate has been lowered from 15.00 percent to 14.50 percent. The maximum interest rate for multifamily construction and Title X land development loans has been lowered from 16.00 percent to 15.50 percent.

The Secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709–1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

This is a procedural and administrative determination as set forth in the statutes and as such does not require a determination of environmental applicability.

List of Subjects in 24 CFR Parts 203, 205, 207, 213, 220, 221, 232, 234, 235, 236, 241, 242, and 244

Mortgage insurance.

Accordingly, Chapter II is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. Section 203.20 paragraph (a) is revised to read as follows:

§ 203.20 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.50 percent per annum, except that where an application for commitment was received by the Secretary before September 24, 1982, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

2. Section 203.45 paragraph (b) is revised to read as follows:

§ 203.45 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.50 percent per annum, except that where an application for commitment was received by the Secretary before September 24, 1982, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

3. Section 203.46 paragraph (c) is revised to read as follows:

§ 203.46 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.50 percent per annum, except that where an application for commitment was received by the Secretary before September 24, 1982, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

PART 205—MORTGAGE INSURANCE FOR LAND DEVELOPMENT

4. Section 205.50 is revised to read as follows:

§ 205.50 Maximum interest rate.

Effective on or before September 24, 1982, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 15.50 percent per annum. Applications for conditional or firm commitments received on or after September 24, 1982 will be processed at the 15.50 percent rate, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

5. Section 207.7 paragraph (a) is revised to read as follows:

§ 207.7 Maximum interest rate.

(a) Effective on or after September 24, 1982, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 14.50 percent per annum with respect to permanent financing;

(2) 15.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after September 24, 1982 will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

6. Section 213.10 paragraph (a) is revised to read as follows:

§ 213.10 Maximum interest rate.

(a) Effective on or after September 24, 1982, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 14.50 percent per annum with respect to permanent financing;

(2) 15.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after September 24, 1982 will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

7. Section 213.511 paragraph (a) is revised to read as follows:

§ 213.511 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.50 percent per annum, except that where an application for commitment was received by the Secretary before September 24, 1982, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

8. Section 220.576 paragraph (a) is revised to read as follows:

§ 220.576 Maximum interest rate.

(a) Effective on or after September 24, 1982, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 14.50 percent per annum with respect to permanent financing;

(2) 15.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after September 24, 1982, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable prevous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

9. Section 221.518 paragraph (a) is revised to read as follows:

§ 221.518 Maximum interest rate.

(a) Effective on or after September 24, 1982, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 14.50 percent per annum with respect to permanent financing;

(2) 15.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after September 24, 1982 will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE

10. Section 232.29 paragraph (a) is revised to read as follows:

§ 232.29 Maximum interest rate.

(a) Effective on or after September 24, 1982, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 14.50 percent per annum with respect to permanent financing;

(2) 15.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after September 24, 1982 will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

11. Section 232.560 paragraph (a) is revised to read as follows:

§ 232.560 Maximum interest rate.

(a) On or after September 24, 1982, the loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 14.50 percent per annum, with the exception of applications submitted pursuant to feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

12. Section 234.29 paragraph (a) is revised to read as follows:

§ 234.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.50 percent per annum, except that where an application for commitment was received by the

Secretary before September 24, 1982, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

13. Section 234.75 paragraph (b) is revised to read as follows:

§ 234.75 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.50 percent per annum, except that where an application for commitment was received by the Secretary before September 24, 1982, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

14. Section 234.76 paragraph (c) is revised to read as follows:

§ 234.76 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.50 percent per annum, except that where an application for commitment was received by the Secretary before September 24, 1982, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

15. Section 235.540 paragraph (a) is revised to read as follows:

§ 235.540 Maximum interest rate.

(a) On or after September 24, 1982, the loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 14.50 percent per annum, with the exception of applications submitted pursuant to feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS FOR RENTAL PROJECTS

16. Section 236.15 paragraph (a) is revised to read as follows:

§ 236.15 Maximum interest rate.

(a) Effective on or after September 24, 1982, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 14.50 percent per annum with respect to permanent financing;

(2) 15.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after September 24, 1982, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT MORTGAGES

17. Section 241.75 is revised to read as follows:

§ 241.75 Maximum interest rate.

Effective on or after September 24, 1982, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(a) 14.50 percent per annum with respect to permanent financing;

(b) 15.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after September 24, 1982, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 242—MORTGAGE INSURANCE FOR HOSPITALS

Section 242.33 paragraph (a) is revised to read as follows:

§ 242.33 Maximum interest rate.

(a) Effective on or after September 24, 1982, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 14.50 percent per annum with respect to permanent financing;

(2) 15.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after September 24, 1982, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 244—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES

19. Section 244.45 paragraph (a) is revised to read as follows:

§ 244.45 Maximum interest rate.

(a) Effective on or after September 24, 1982, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 14.50 percent per annum with respect to permanent financing;

(2) 15.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after September 24, 1982, will be processed at the rates specified above, with the

exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * * *

(Sec. 3(a), 82 Stat. 113; 12 USC 1709–1; sec. 7, Department of Housing and Urban Development Act, 42 USC 3535(d)).

Dated: September 23, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner

[FR Doc. 82-27079 Filed 9-30-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF LABOR

Employment and Training Administration

29 CFR Part 91

Worker Adjustment Assistance: Emergency Extension of Regulations Pertinent to the Trade Act of 1974

AGENCY: Employment and Training Administration, Labor.

ACTION: Extension of regulations.

SUMMARY: The Department of Labor extends 29 CFR Part 91 (Adjustment Assistance for Workers After Certification) established under Title II, Chapter 2, of the Trade Act of 1974 (Pub. L. 93–618), until September 30, 1983. The Worker Adjustment Assistance Program authorized under Section 284 of the Trade Act of 1974 was scheduled to terminate on September 30, 1982. However, the Omnibus Budget Reconciliation Act of 1981 amended and extended the program through September 30, 1983. New regulations promulgating the 1981 amendments of the Worker Adjustment Assistance Program, which reflect a fundamental shift in program emphasis to placement, reemployment services and training, have not been published as of this date.

29 CFR Part 91, (§ 91.68) now contains a specific termination date of September 30, 1982 for the benefits portion of the regulations. The current regulations are being extended to assure a continuation of a common regulatory base for the States to deliver benefits to workers who have been certified as eligible to apply for trade adjustment assistance.

EFFECTIVE DATE: September 28, 1982.

FOR FURTHER INFORMATION CONTACT: Carolyn M. Golding, Director, Unemployment Insurance Service. Telephone: (202) 376–7032.

SUPPLEMENTARY INFORMATION: This notice simply provides for an extension of current regulations governing the delivery of trade adjustment assistance benefits. It does not conflict with any of the provisions of the 1981 amendments which became effective for weeks of unemployment beginning on and after October 1, 1981. The extension applies solely to benefit determinations which would be applicable under the Trade Act of 1974 and which would be made after September 30, 1982.

Subsection (b) of 5 U.S.C. 553 requires that a notice of proposed rulemaking be published in the **Federal Register**, except when the agency for good cause finds that notice and public procedures thereon are impracticable, unnecessary or contrary to the public interest. I have determined that the notice and comment procedures of section 553(b) are unnecessary, since the purpose and effect of this rule is to remove an anomalous situation in which a program has been extended by amending legislation but for which pertinent regulations have not yet been published and an earlier termination date than is applicable under the amended legislation threatens to disrupt the administration of the program after September 30, 1982, unless otherwise extended.

Drafting Information

This document was prepared under the direction and control of the Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street, NW., Washington, D.C. 20213; telephone (202) 376–7032 (this is not a toll-free number).

Classification—Executive Order 12291

The rule in this document is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, and therefore no regulatory impact analysis is required.

Regulatory Flexibility Act

Because notice of proposed rulemaking is not required for this rule under 5 U.S.C. 553(b), the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., pertaining to regulatory flexibility analyses, do not apply to this rule.

§ 91.68 [Removed]

Accordingly, for the reasons set out above, § 91.68 of 29 CFR Part 91 is removed.

Signed at Washington, D.C., on September 28, 1982.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 82-27177 Filed 9-30-82; 4:00 pm]

BILLING CODE 4510-30-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2199-8]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: On February 25, 1980, the State of Ohio submitted to EPA revisions to its State Implementation Plan (SIP). The revisions were to rules 01 through 06, 08 and 09 of Chapter 3745–15 of the Ohio Administrative Code (OAC) which establish general provisions for the control of air pollution. In a May 7, 1982 notice (47 FR 19722), EPA proposed to approve all these rules except for 05 which EPA proposed to delete from the Ohio SIP at the request of the State. Three comments were received on this proposed rulemaking. After review of the comments EPA takes final action today to approve rules 01 through 04, 06, 08 and 09 as revisions to the Ohio SIP and to delete rule 05 from the Ohio SIP.

EFFECTIVE DATE: This final rulemaking becomes effective November 1, 1982.

ADDRESSES: Copies of this SIP revision are available for review at the following addresses:

Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216

Office of the Federal Register, 110 L Street, NW., Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: Delores Sieja, Regulatory Analysis Section, Air Programs Branch, EPA,

Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6038.

SUPPLEMENTARY INFORMATION: On February 25, 1980, the State of Ohio submitted revisions to rules 01 through 06, 08 and 09 of Chapter 15 of the Ohio Administrative Code. These rules establish general provisions for the control of air pollution.

At various times rules 01 through 09 have been recodified. Originally, these rules were codified as AP-2-01 through 09. The AP-2 series were the rules approved by EPA as part of the Ohio SIP on April 15, 1974 (39 FR 13539). Subsequent to that date, these rules were recodified as EP-10-01 through 09 and then 3745-15-01 through 09.

On May 7, 1982 (47 FR 19722) EPA proposed to approve rules 01 through 04, 06, 08 and 09 as revisions to the Ohio SIP and to delete rule 05 from the Ohio SIP. A thirty day public comment period was provided for interested individuals to submit their comments on EPA's proposed rulemaking. EPA received comments from a citizen's group, from a law firm representing a utility, and from the Ohio EPA. The comments relate to rules 01, 04 and 06.

Following is a brief description of the changes to rules 01 through 06, 08 and 09 from the previously approved APC-2 series, and evaluation of the issues raised in the public comments and EPA's response, and EPA's final action on all the rules.

Rule 3745-15-01: Definitions

This rule has been changed to include definitions for three new terms: facility, owner and non-methane hydrocarbon.

Comment: The citizen's group does not feel the definition of facility is consistent with EPA's definition of facility for New Source Review purposes (nonattainment or prevention of significant deterioration (PSD)).

Response: The definition of facility in this rule does not apply to New Source Review. Separate definitions which encompass the concept of facility and which relate to nonattainment areas, are contained in Rule 01 of Chapter 3745-31. EPA has dealt with this rule in a separate rulemaking action dated October 31, 1980 (45 FR 72119). Furthermore, as a result of the delegation of authority to administer the Federal PSD program on May 1, 1980, the State of Ohio is bound to enforce the EPA definitions for such terms as facility in its administration of the PSD program.

For the purposes of Chapter 3745-15, the definition of facility is acceptable.

Action: EPA approves this rule.

Rule 3745-15-02: Purpose; 03: Submission of Emission Information; 06: Circumvention; and 09: Severability

These rules have been changed to replace references to the Ohio Environmental Review Board (Board) with references to the Director of Ohio EPA (Director). EPA finds these rules acceptable and approves them.

Rule 3745-15-04: Measurement of Emissions of Air Contaminants

This rule provides the Director of Ohio EPA with the authority to require, under certain circumstances, that any person who is responsible for pollutant emissions shall conduct tests on the source of those emissions. It has been changed to expand the Director's authority by explicitly stating that the Director may reject the results of any test which is not performed in accordance with approved test procedures or in accordance with the provisions of this rule. Any test method which is different from what is contained in the federally approved SIP must be submitted as a SIP revision.

Comment: A law firm commented that the Director of Ohio EPA should have discretion to adapt and modify test procedures, as appropriate and consistent with valid scientific principles, without having to undergo a formal SIP revision. Further, the commentator believes the SIP revision requirement does not allow for appropriate flexibility in the unusual testing cases.

Response: It is EPA's position that a minor modification to an approved test method need not be submitted as a SIP revision. However, use of a test method which has not been approved by EPA must be submitted as a SIP revision. EPA believes that this approach provides a reasonable amount of flexibility.

It is important that test methods not approved by EPA be submitted as SIP revisions because the use of different test methods can produce different test results. The Ohio EPA in their comment agrees with EPA's position that any substantive change to test procedures which have been previously approved as part of the SIP must be submitted to EPA for approval.

Action: EPA approves this rule.

Rule 3745-15-05: Control Plan Compliance Schedule

This rule has been repealed by the State. Rule 05 states that compliance schedules in other Air Pollution Control Chapters of the OAC are to supersede the requirements of this rule. Since the other Chapters specify compliance dates this rule is no longer necessary and EPA deletes it from the Ohio SIP.

Rule 3745-15-06: Malfunction of Equipment; Scheduled Maintenance; Reporting

This rule establishes procedures to be followed by a source in the case of the malfunction or scheduled maintenance of its air pollution control equipment. The State has revised paragraphs (A), (B) and (C) and has added a new paragraph (D).

The following public comment relates to paragraphs (B) and (D).

- Paragraph (B) requires that if a malfunction has lasted more than 72 hours, the owner of the air pollution source must develop and submit to Ohio EPA a detailed report on corrective programs for malfunctions.
- Paragraph (D) allows the Director to require the submission of a preventive maintenance and malfunction abatement plan to prevent, detect and correct malfunctions or equipment failures.

Comment: The law firm believes that the requirements, of paragraphs (B) and (D), seem too formal and unnecessarily add burdensome reporting requirements.

Response: EPA agrees with Ohio's reporting and preventive maintenance and malfunction plan requirements. Air pollution control equipment malfunctions can result in significant increases in emissions. It is important for a State agency to keep a record of these excess emissions and to require a preventive maintenance program where appropriate.

The following comment pertains to paragraph (C).

- Paragraph (C) allows the Director to take appropriate action if the reporting requirements of this rule have not been met; if the equipment was not properly operated and maintained prior to breakdown; if the shutdowm of the source or operation during the period of maintenance or breakdown has become practicable; if the shutdowm or breakdown was or has become avoidable or was induced or prolonged in bad faith; or if the emissions endanger or tend to endanger the health or safety of the public.

Comment: The citizen's group believes paragraph (C) is not consistent with EPA's malfunction policy because it does not describe the specific action the Director shall take in the event that the malfunction of a source is avoidable or caused by operation in bad faith.

Furthermore, the citizen's group believes that under the provisions of paragraph (C) the Director may or may not take action that is consistent with

the malfunction policy. If the Director fails to act, this would be an automatic exemption for sources from mass/or visible emission limits.

Response: EPA believes this provision is not inconsistent with EPA's malfunction policy. EPA's basic criterion in reviewing malfunction rules is that the rules must not provide for an automatic exemption during a maintenance/malfunction episode. EPA does not interpret paragraph (C) or any paragraph of rule 3745–15–06 as providing a source with an automatic opportunity to violate any mass or visible emission limitation due to a maintenance/malfunction occurrence.

For example, Ohio Rule 3745–17–11 provides allowable emission limitations for industrial process sources. If these limits are exceeded due to a malfunction, the result is still a violation. Rule 3745–15–06 permits the Director to exercise enforcement discretion on a case-by-case basis depending on the circumstances surrounding the malfunction.

The following comment pertains to the rule in general.

Comment: The law firm believes that a source should be entitled to rely on its proper and timely reporting of a malfunction incident. The firm believes there are no provisions within the rule which warrant EPA's interpretation that further action by the Director of the OEPA is required to "perfect" the exemption during malfunctions.

Response: EPA disagrees with the commentator's position that no action is required by the Director of OEPA to perfect a malfunction exemption. EPA believes that 3745–17–06 imposes a duty upon the Director to review a source's claim for a malfunction exemption against the criteria outlined in the rule. EPA believes that a complete review of the circumstances surrounding each claimed malfunction must be undertaken by the Director before he can exercise his enforcement discretion and refrain from initiating any enforcement action against the source. In all cases, the Director must carefully scrutinze the source's claim for an exemption.

Action: EPA approves this rule.

Summary

After review of the public comments EPA takes final action today to approve rule 01 through 04, 06, 08 and 09 as revisions to the Ohio SIP and to delete rule 05 from the Ohio SIP.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Note.— Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the Federal Register on July 1, 1982.

(Section 110 of the Clean Air Act, as amended (42 U.S.C. 7410))

Dated: September 21, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal regulations, Chapter I, Part 52 is amended. Section 52.1870(c) is amended by adding new subparagraph (45) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(45) On Feburary 25, 1980, the State submitted revisions to rules 01 through 06, 08 and 09 of Chapter 15 of the Ohio Administrative Code. These rules establish general provisions for the control of air pollution and were previously codified and approved as AP–2–01 through 06, 08 and 09. Rules 01 through 04, 06, 08 and 09 are approved as revisions to the Ohio SIP and rule 05 is deleted from the Ohio SIP.

[FR Doc. 82-27140 Filed 9-30-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 65

[ORC–5–FRL–1874–1; ORC–5–FRL–1874–1]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Notice of Disapproval of an Administrative Order Issued by the Indiana Air Pollution Control Board to Bethlehem Steel Corp.

AGENCY: Environmental Protection Agency.

ACTION: Final action.

SUMMARY: By this action, the Administrator of the U.S. Environmental Protection Agency (EPA) disapproves a Delayed Compliance Order (DCO) issued by the Indiana Air Pollution Control Board to Bethlehem Steel Corporation (Bethlehem). The DCO requires the company to bring air emissions from its coke oven batteries at Burns Harbor, Indiana, into compliance with regulations APC–3 and APC–5 of the Indiana Air Pollution Control Board (Indiana APC–3 and APC–5). Because this DCO has been disapproved, Bethlehem's compliance with the DCO will not preclude suits under the Federal enforcement provisions of the Clean Air Act (Act) for violations of the State Implementation Plan (SIP) regulations covered in the DCO.

DATES: This action takes effect October 1, 1982.

ADDRESS: Copies of the DCO, public comments on the notice of proposed disapproval and other documents relied upon by EPA are available for inspection in Docket No. 5A–81–1 at: U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Robert M. Andersen, Assistant Regional Counsel, (312) 886–6724.

SUPPLEMENTARY INFORMATION: The decision involves an administrative order submitted by Indiana to EPA for approval as a "delayed compliance order" (DCO) under Section 113(d) of the Clean Air Act. The order relates to Bethlehem Steel's coke oven batteries at its Burns Harbor, Indiana, facility. Under the Clean Air Act, issuance of a DCO extends the time allowed for complying with specified provisions of a State Implementation Plan.

This DCO was disapproved by EPA on September 17, 1979, 44 FR 53746. Bethlehem appealed EPA's disapproval to the United States Court of Appeals for the Seventh Circuit which reversed and remanded EPA's action, *Bethlehem Steel Corp. v. EPA*, 638 F. 2d 994 (7th Cir. 1980). The court found, in part, that EPA had inadequately supported the reasons for its action and ordered EPA to initiate new proceedings.

EPA is again disapproving the DCO. Since the period proposed to be covered by the DCO has passed, the effect of this action is to clarify whether the period of noncompliance involved is or is not covered by a federally-approved DCO.

The passage of time has made irrelevant a number of EPA's original objections dealing with the adequacy of the requirements of the DCO relating to

interim controls to be imposed on the Burns Harbor plant.

One issue upon which EPA based its original disapproval retains its importance, however, and is the basis for EPA's renewed disapproval. The state implementation plan provision involved here is Indiana Air Pollution Control Regulation 3 (APC–3), relating to visible emissions from "combustion" operations. In 1974 Indiana amended this regulation to clarify that it applied to coke batteries. At the same time Indiana granted certain sources, including coke batteries, a fifteen-minute exemption from compliance in each twenty-four hour period. On review, EPA approved the SIP revision, but expressly disapproved the fifteen-minute exemption. 40 FR 50032–33 (October 28, 1975).

Under the Clean Air Act, a DCO must provide for compliance with the applicable, i.e., EPA approved, state implementation plan. The proposed DCO required compliance with the version of APC–3 submitted by Indiana, not the version approved by EPA.

In a proceeding filed in the Seventh Circuit, Bethlehem challenged this basis for disapproval, among others, arguing that EPA had no authority to partially approve proposed SIP revisions. In its decision, the Seventh Circuit reserved decision on the legal question but remanded to EPA for clarification of the record on certain factual issues, *Bethlehem Steel Corp. v. EPA*, 638 F.2d 994 (7th Cir., 1980).

EPA has re-examined this issue on remand. That re-examination affirmed EPA's conclusions that its October 28, 1975 action approving APC–3 did not approve but disapproved the fifteen-minute exemption. See Notice of Proposed Disapproval, 46 *Fed. Reg.* 21790 (April 14, 1981). See also EPA Response to Comment 1 below.

On April 14, 1981, the Regional Administrator of EPA's Region V Office published in the **Federal Register** (46 FR 21790) a notice of proposed disapproval of the DCO. EPA's proposed second disapproval was based again upon the fact that the DCO does not require compliance with the applicable Indiana State Implementation Plan (SIP) as approved by EPA. The DCO instead requires compliance with Indiana APC–3 as promulgated by Indiana on October 7, 1974. The DCO requires compliance with a requirement less stringent than the APC–3 approved by EPA on October 28, 1975, 40 FR 50032. It therefore violates Section 113(d)(1)(D) of the Clean Air Act, 42 U.S.C. 7413(d)(1)(D).

Three letters of comment were received during the public comment period. Two were from Bethlehem, the source affected by the DCO. Bethlehem's comments can be summarized as follows:

1. Bethlehem disputes that EPA ever validly approved, in accordance with the requirements of Section 110(a), the version of APC–3 that it relied upon in the proposed disapproval.

2. Bethlehem claims that the decision of the Seventh Circuit Court of Appeals in *Bethlehem Steel Co.* v. *EPA*, 638 F. 2d 994 (7th Cir. 1980) was dispositive on the issue of whether EPA's actions on October 28, 1975 were adequate to constitute a partial approval of Indiana's APC–3.

3. Bethlehem cites numerous areas where it claims that APC–3 is vague and unenforceable.

4. Bethlehem contends that the disapproval violates Section 113(d)(2) in that EPA has failed to issue a simultaneous compliance order.

5. Bethlehem objects that the Region V, Air Enforcement Branch Chief was permitted to have a role in the proposal prior to publication.

Comments were also received from the Indiana Air Pollution Control Board which generally reiterate Bethlehem's first two concerns.

Response to Comments 1 and 2

EPA's October 28, 1975 action approving APC–3 also partially disapproved the regulation. Its status as partially approved was so understood at the time and since. See documents in EPA files responsive to Bethlehem's request for records under the Freedom of Information Act dated April 23, 1981. These documents, which are generally contemporaneous with EPA's rulemaking on October 28, 1975, and others which have been placed in the docket confirm the nature of EPA's action as an approval of APC–3 with the exception of the fifteen minute exemption. They refer repeatedly, for instance, to EPA's "partial approval" of APC–3. A recent federal circuit court decision also confirmed EPA's view of the applicable SIP regulation APC–3. *Public Service Company of Indiana, Inc. v. U.S.* (7th Cir., No. 81–1241, June 25, 1982) *affirming Public Service Company of Indiana v. U.S. EPA*, No. I.P. 80–332–C (S.D. Ind. Jan. 12, 1981). Contrary to Bethlehem's argument, the Seventh Circuit in the *Bethlehem* case, *supra*, expressly declined to decide the validity of EPA's partial approval of APC–3 on October 28, 1975. To the extent that Bethlehem's comments constitute a challenge to the validity of EPA's partial approval, they are also untimely by more than five years.

Response to Comment 3

Bethlehem cites a number of areas where it alleges that APC–3 is unconstitutionally vague and unenforceable. The enforceability of APC–3 is irrelevant to this proceeding. The criterion under Section 113(d)(1)(D) is whether or not the DCO provides for compliance with the applicable SIP. It is clear from the record that the DCO does not provide for compliance with APC–3 as federally approved.

Response to Comment 4

Bethlehem contends that this disapproval violates Section 113(d)(2) in that there has been no simultaneous issuance of a compliance order under Section 113(a). EPA noted in its proposed disapproval that Section 113(d)(2) requires that where the Administrator objects to the issuance of the State Order, "he shall simultaneously proceed to issue an enforcement order in accordance with subsection (a) or an order under this subsection."

The issuance of an order under Section 113(a) of the Act would be futile under the circumstances. Were it to call for less than immediate compliance it would modify the SIP in contravention of Section 110(i). Section 110(i) prohibits modification of a SIP (including modification of the date of compliance) except in accordance with certain specific subsections of the Act, which do not include Subsection 113(a). Bethlehem itself concedes that it is not capable of immediate compliance. Therefore, if EPA were to issue a Section 113(a) order, EPA would immediately be confronted with the need to institute a proceeding under Section 113(b).

This has already been accomplished by the filing of a civil action against Bethlehem in the Northern District of Indiana. *United States v. Bethlehem Steel Corporation*, Civil No. H76–491 (N.D. Ind.), filed on December 21, 1978.

Response to Comment 5:

EPA believes that the limited advisory function of the Air Enforcement Branch Chief, Mr. David Ullrich, in this action is Consistent with the decision in *Bethlehem Steel v. EPA*, 638 F. 2d 994, 1008–10 (7th Cir. 1980). Mr. Ullrich's limited role was necessary to ensure adequately informed decisionmaking and agency consistency. Mr. Ullrich's participation is fully documented in the rulemaking docket. He was not the attorney primarily responsible for managing the enforcement litigation, nor was he the principal person in charge of

reviewing and recommending a disposition of the DCO.

Conclusion.—The order issued by the Indiana Air Pollution Control Board to Bethlehem therefore conflicts with the applicable SIP and must be disapproved as a DCO pursuant to the authority of Section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2).

The propriety or legality of EPA's 1975 review of APC–3 is not at issue in this proceeding. EPA's actions in approving or disapproving SIPs can be challenged directly in the proper Court of Appeals under Section 307(d) of the Clean Air Act. No such challenge was brought to EPA's actions on the SIP provisions involved here. The SIP approved by EPA is the SIP with which the DCO must assure compliance. Proceedings to review DCO action should not—and in EPA's view, legally cannot—serve as a vehicle for collateral attacks on the status of underlying SIP requirements.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days. Under Section 307(b)(2) of the Clean Air Act, the action which is the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce the SIP.

(42 U.S.C. 7413(d), 7601)

Anne M. Gorsuch,

Administrator.

September 24, 1982.

List of Subjects in 40 CFR Part 65

Air pollution control.

PART 65—DELAYED COMPLIANCE ORDERS

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

1. By adding an entry to the table in § 65.192, to read as follows:

§ 65.192 EPA disapproval of State delayed compliance Orders.

The State Order identified below has been disapproved by the Administrator in accordance with Section 113(d)(2) of the Act and with this part. With regard to this Order, the Administrator has determined that it does not satisfy the applicable requirements of Section 113(d) of the Act.

Source	Location	Number	SIP Regulation(s) involved	Date of Federal Register proposal	Final Comp. Date
Bethlehem Steel Corp.	Burns Harbor, Indiana	None	APC–3, APC–5	Apr. 14, 1981	July 1, 1979

[FR Doc. 82-27112 Filed 9-30-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 228

[OW-FRL 2207-2]

Ocean Dumping; Final Cancellation of Site Designations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today cancels the designation of four ocean dumping sites which are currently designated on an iterim basis. This action is being taken because there is no projected future need for these sites. These sites will be removed from the list of "Approved Interim and Final Ocean Dumping Sites."

DATE: This cancellation shall become effective on November 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH–585), EPA, Washington, D.C. 20460, 202/755–0350.

SUPPLEMENTARY INFORMATION: EPA published revised Ocean Dumping Regulations and Criteria in the **Federal Register** on January 11, 1977 (42 FR 2462 et seq.). Section 2281.2 contains a list of "Approved Interim and Final Ocean Dumping Sites." This list was amended on December 9, 1980 (45 FR 81042 et seq.) to extend the interim designation of some ocean dumping sites and cancel the designation of six industrial sites and one dredged material site. At that time EPA stated its intention to identify additional ocean dumping sites for which there is no projected future need.

Four such sites were identified, and EPA proposed cancellation of the designation of these sites on April 23, 1982 (47 FR 17580). The public comment period expired on June 22, 1982. No comments were received.

The sites with their identifying coordinates are listed below.

1. Withlacoochee River, FL—28d 59′ 54″N., 82d 47′ 14″W.; 29d 00′ 28″N., 82d 46′ 06″W.; 29d 00′ 14″N., 82d 45′ 58″W.; 28d 59′ 40″N., 82d 47′ 06″W.

2. Horseshoe Cove, FL—29d 25′ 23″N., 83d 17′ 53″W.; 29d 25′ 18″N., 83d 17′ 43″W.; 29d 25′ 09″N., 83d 17′ 49″W.; 29d 25′ 14″N., 83d 17′ 59″W.

3. Crescent City, CA, 100 fathom site—41d 43′ 50″N, 124d 28′ 00″W (center coordinates).

4. American Samoa, Pago Pago Harbor—14d 23′ 00″S., 170d 39′ 30″W (center coordinates).

The cancellation of these four sites as EPA Interim Approved Ocean Dumping Sites is being published as final rulemaking.

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis.

EPA has determined that this final rule will not have a significant impact on small entities. No small entities are using or, as far as EPA is aware, are planning to use these sites in the near future. Furthermore, the cancellation of these site designations will have no effect on the economy or cause any of the other effects which would result in its being classified as a "major" action. Consequently, this final rule does not necessitate the preparation of a Regulatory Flexibility Analysis or Regulatory Impact Analysis.

This final rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in Room 2709, Waterside Mall, 401 M Street Southwest, Washington, D.C.

List of Subjects in 40 CFR Part 228

Water pollution control.

(33 U.S.C. 1412 and 1418)

Dated: September 24, 1982.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

PART 228—CRITERIA FOR THE MANAGEMENT OF DISPOSAL SITES FOR OCEAN DUMPING

§ 228.12 [Amended]

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is amended by removing from § 228.12(a) four ocean dumping sites as follows:

1. Withlacoochee River, FL—28d 59′ 54″ N., 82d 47′ 14″ W.; 29d 00′ 28″ N., 82d 46′ 06″ W.; 29d 00′ 14″ N., 82d 45′ 58″ W.; 28d 59′ 40″ N., 82d 47′ 06″ W.

2. Horseshoe Cove, FL—29d 25′ 23″ N., 83d 17′ 53″ W.; 29d 25′ 16″ N., 83d 17′ 43″ W.; 29d 25′ 09″ N., 83d 17′ 49″ W.; 29d 25′ 14″ N., 83d 17′ 59″ W.

3. Crescent City, CA, 100 fathom site—41d 43′ 50″ N., 124d 28′ 00″ W. (center coordinates).

4. American Samoa, Pago Pago Harbor—14d 23′ 00″ S., 170d 39′ 30″ W. (center coordinates).

[FR Doc. 82-27141 Filed 9-30-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 20

Employee Responsibilities and Conduct; Corrections and Amendment

Correction

In FR Doc. 82-26407, appearing at page 42359 in the issue of Monday, September 27, 1982, the following changes should be made:

1. On page 42359, in the last line of column two, the section number now reading "20.735.36" should read "20.735-36".

2. On page 42359, in column three, between the fifth paragraph and the heading "List of Subjects in 43 CFR Part 20," insert the following:

Authority: 5 U.S.C. 301; 5 CFR 735.104; 5 CFR 734.103; E.O. 11222, 30 FR 6469, 3 CFR 1964-65 (Comp.) as amended (18 U.S.C. 201 note).

3. On page 42361, the citation in the fifth line of the first column should read, "(43 U.S.C. 31(a))".

4. On page 42362, the authority cite appearing above the heading "Privacy Act Notice" in column three should be removed.

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 312

[Docket No. FEMA-P-312]

Use of Civil Defense Personnel, Materials and Facilities for Natural Disaster Purposes

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule authorizes the use for natural disaster purposes of civil defense personnel, materials, and facilities supported with contributions under the Federal Civil Defense Act of 1950, as amended, and provides terms and conditions for such use. This regulation is necessary to implement section 803 of the Department of Defense Authorization Act of 1982.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: John E. Bokel, Federal Emergency Management Agency, Washington, D.C., 20472, (202) 287-3843.

SUPPLEMENTARY INFORMATION: On March 16, 1982, FEMA published for comment in the **Federal Register** (Vol. 47, No. 51 pages 11297-8) a proposed rule on Section 207, an amendment to the Federal Civil Defense Act of 1950, as amended. That Section clarified the "dual-use" policy regarding the use of resources funded under the Federal Civil Defense Act for preparedness to cope with natural disasters. The amendment makes explicit authority for States and their political subdivisions to use funds and resources in preparation for and response to both attack-related and natural disaster-related events. However, use of attack-related preparedness resources for natural disaster response purposes is allowed only if such use is consistent with, contributes to, and does not detract from attack-related preparedness. The Act directed the issuance of regulations to implement this policy.

As Federal funding to which these regulations will be applicable is less that $100,000,000 annually, the regulation is not considered to be a major regulation requiring a regulatory analysis under Executive Order 12291. The regulation also is applicable to States to whom the funding is made available, and thus is not subject to the requirements of the Regulatory Flexibility Act which is concerned with small entities. No regulatory flexibility analysis will be prepared.

The amendment and these regulations reflect the interchangeable nature of many aspects of emergency management. Personnel, materials, and facilities designated for one purpose are able to be used with equal effectiveness in other situations. The regulation allows for the fact that there is a primary and secondary use of certain resources provided under the Act and that they may be so used with the important proviso of the statute. Such usage also contributes to the mission of FEMA by encouraging the development of comprehensive emergency management, by assisting in achieving greater coordination of disaster preparation and response programs, and by providing technical assistance for organizing and preparing to meet the effects of disasters.

The regulation provides for a mechanism and process through which the dual-use policy can be managed. The Director, FEMA, will provide information on Agency mission, goals and program emphasis, and political subdivisions. Financial contributions to States and their political subdivisions will be made based on approval by the Regional Director, FEMA, of specific activities described in their individual applications. Activities and projects in preparation for and response to attack-related disasters must be identified, and progress must be shown and reported.

Comments were received from 27 individuals or organizations, primarily State emergency offices. A few supported the rule without any further comment. Several commenters suggested changes to the Definitions Section (§ 312.2). Suggestions included adding terms such as mitigation, terrorism and subversion, hazardous substance, and radiological; others suggested a modification of the definition of natural disaster. At least one comment suggested that there would be some confusion caused by the redefinition of civil defense as inclusive of both attack-related and natural disaster-related events. The confusion results from the normal connotation of civil defense as being limited to attack-related activities, a meaning that will linger in usage despite the redefinition of the Act and that will require much clarification in both oral and written communication. The commenter suggested that the term "emergency management" is the broadest and most useful definition, with attack-related and natural disaster-related activities, among others, retaining their separate and traditional meanings. In all cases, and because the rule uses the language of the statute itself, no changes were in order.

One comment raised the question of prior approval for the usage or commitment of resources for natural disaster-related activities in light of the provision that such usage be consistent with, contribute to, and not detract from attack-related civil defense preparedness. Section 312.4 sets out the basic process through which approval is given. That is, States and their political subdivisions apply for financial assistance and describe their programs and activities which are reviewed and approved on their compatability with FEMA's Annual Program Emphasis and guidance. The most significant criterion in the approval is the inclusion of substantive activities and projects in preparation for and response to attack-related disasters. The process allows for a general permission prior to making contributions to States and their political subdivisions, and does not require permission in individual usage instances.

Another comment, citing § 312.4, stated concern that FEMA may levy requirements that might be difficult to meet, particularly for small political subdivisions of States. The comment addressed certain program areas in attack-related civil defense which can be primarily regarded as national priorities, such as the Nuclear Civil Protection program, which in the judgment of the commenter requires full support from the Federal Government. The statement of Agency mission and goals is not designed to preclude even the smallest political subdivision from participating in FEMA's emergency management programing, though there are practical limits to the resources at hand. The purpose of mission and goals statements is to identify and describe the key elements of FEMA's responsibility. The application of the mission and goals to States and their political subdivisions is largely determined by their respective needs and resources. The approval and monitoring process set out in 312.4 envisions program design and development originating at the State and local level based on FEMA guidance, and the needs of each political subdivision.

One comment suggested amending § 312.4(c) to allow for the occurrence of unavoidable circumstances and the good faith effort of the applicant. That change has been incorporated.

Another comment suggested that the term response operations in § 312.5(c) was too broad, and that the term emergency should be added. That change has been incorporated.

The majority of the respondents with comments addressed subsection § 312.5(c). The comments noted such things as the following: the overall restrictiveness of this subsection; the entire matter of prior authorization of the Regional Director, and that none be required at least for the first time span; the length of time of the first time span and that it be increased; the maximum overall amount of time of an emergency assignment, and that this should be left to the discretion of the respective State officials. The comments indicated strong disagreement with the proposed approach in that it limited the flexibility needed for the management of resources in emergencies and for the achievement of other emergency management goals in a State. Several comments offered specific amendments to the proposed language and they have been incorporated in the final version of § 312.5.

Another comment suggested adding a subsection to § 312.6 specifying other equipment loaned to States. That suggestion has been incorporated as § 312.6(e).

FEMA has determined that an environmental impact statement is not needed for this final rule. A copy of the finding of no significant impact is available for inspection at the above address.

List of Subjects in 44 CFR Part 312

Civil defense, Grant program, National defense.

Accordingly, Title 44, the Code of Federal Regulations, is amended by adding a new Part 312 to Subchapter E, Chapter 1, as follows:

PART 312—USE OF CIVIL DEFENSE PERSONNEL, MATERIALS, AND FACILITIES FOR NATURAL DISASTER PURPOSES

Sec.

312.1 Purpose.
312.2 Definitions.
312.3 Policy.
312.4 General.
312.5 Personnel.
312.6 Materials and Facilities.

Authority.—Sec. 803(a)(3) Pub. L. 97–86; Sec. 401, Federal Civil Defense Act of 1950, as amended, 50 U.S.C. App. 2253; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp. p. 329; and Executive Order 12148 of July 20, 1979, 44 FR 43239.

§ 312.1 Purpose.

The purpose of the regulations in this part is to prescribe the terms and conditions under which civil defense personnel, materials, and facilities, supported in whole or in part through contributions under the Federal Civil Defense Act of 1950, as amended, 50 U.S.C. App. 2251, *et seq.*, hereinafter referred to as "the Act", may be used for natural disasters, to the extent that such usage is consistent with, contributes to, and does not detract from attack-related civil defense preparedness.

§ 312.2 Definitions.

Except as otherwise stated, when used in the regulations in this part, the meaning of the listed terms are as follows:

(a) The term "attack" means any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by use of bombs, shellfire, or atomic-radiological, chemical, bacteriological, or biological means or other weapons or processes;

(b) The term "natural disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, or other catastrophe in any part of the United States which causes, or which may cause, substantial damage or injury to civilian property or persons and, for the purposes of the Act, any explosion, civil disturbance, or any other manmade catastrophe shall be deemed to be a natural disaster;

(c) The term "civil defense" means all those activities and measures designed or undertaken (1) to minimize the effects upon the civilian population caused, or which would be caused, by an attack upon the United States, or by natural disaster, (2) to deal with the immediate emergency conditions which would be created by any such attack, or natural disaster, and (3) to effectuate emergency repairs to, or the emergency restoration of vital utilities and facilities destroyed or damaged by any such attack or natural disaster. Such term shall include, but shall not be limited to, (i) measures to be taken in preparation for anticipated attack or natural disaster (including the establishment of appropriate organizations, operational plans, and supporting agreements; the recruitment and training of personnel; the conduct of research; the procurement and stockpiling of necessary materials and supplies; the provision of suitable warning systems; the construction or preparation of shelter areas, and control centers; and, when appropriate, the non-military evacuation of civil population); (ii) measures to be taken during attack or natural disaster (including the enforcement of passive defense regulations prescribed by duly

established military or civil authorities; the evacuation of personnel to shelter areas; the control of traffic and panic; and the control and use of lighting and civil communications); and (iii) measures to be taken following attack or natural disaster (including activities for firefighting; rescue, emergency medical, health and sanitation services; monitoring for specific hazards of special weapons; unexploded bomb reconnaissance; essential debris clearance; emergency welfare measures; and immediately essential emergency repair or restoration of damaged vital facilities);

(d) The word "materials" shall include raw materials, supplies, medicines, equipment, component parts and technical information and processes necessary for civil defense;

(e) The word "facilities", except as otherwise provided herein, shall include buildings, shelters, utilities, and land;

(f) The term "United States" or "States" shall include the several States, the District of Columbia, the Territories, and the possessions of the United States;

(g) The term "political subdivisions" shall include local governments, including but not limited to cities, towns, incorporated communities, counties, parishes, and townships; and

(h) The term "CPG 1–3" refers to FEMA's "Federal Assistance Handbook" promulgated as Civil Preparedness Guide (CPG) 1–3, as amended, by numbered changes thereto and by Civil Preparedness Circulars (CPC) as provided in 44 CFR 310.20. CPG 1–3 sets forth detailed guidance on procedures which a State and, where applicable, its political subdivisions must follow in order to request financial assistance from FEMA. It also sets forth detailed requirements, terms, and conditions upon which financial assistance is granted.

§ 312.3 Policy.

(a) It is the policy of FEMA to provide a means of assistance to States and their political subdivisions in their carrying out responsibilities to alleviate the suffering and damage from attack-related or natural disasters by:

(1) Providing contributions for personnel, equipment, materials and facilities that may be used in preparing for or responding to disasters, provided that the use of such funds for natural disasters is consistent with, contributes to, and does not detract from attack-related civil defense preparedness.

(2) Encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the State and its political subdivisions.

(3) Assisting in achieving greater coordination of disaster preparation and response programs.

(4) Providing technical advice and guidance to States and their political subdivisions for organizing and preparing to meet the effects of disasters.

(b) These regulations are not to be interpreted as authorizing States and their political subdivisions to request or receive additional assistance relating to particular disaster incidents.

§ 312.4 General.

(a) The Director, FEMA, will provide statements to States and their political subdivisions concerning Agency mission and goals, Annual Program Emphasis, and other directions, instructions, and technical guidance which together specify preparedness and response activities for both attack-related and natural disasters.

(b) States and their political subdivisions may apply to FEMA for financial assistance under the Act in a manner prescribed by Federal Regulations governing grants and cooperative agreements. Such applications must be compatible with FEMA's goals and requirements described in paragraph (a) of this section.

(c) Financial contributions to States and their political subdivisions are made by FEMA based on approval of the activities and projects described in the Annual Program Paper, and/or Comprehensive Cooperative Agreement, and which are in conformance with provisions of CPG 1–3, and applicable FEMA regulations set forth in Chapter 1 of this Title 44, Chapter 1, Subchapter E, of the Code of Federal Regulations. Financial contributions will not be made unless substantive activities and projects in preparation for and response to attack-related disasters are identified, and progress is indicated in the submissions, and recorded in program reporting systems. The presence of unavoidable circumstances, and the good faith effort of the applicant, will be considered if certain objectives are not met.

(d) State and local officials may use personnel, equipment, and facilities for natural disasters outside the physical boundaries of the jurisdiction and under the conditions stated within this regulation.

(e) Specific criteria relating to the preparedness and response activities are given in Sections 5 and 6 of this part.

§ 312.5 Personnel.

FEMA contributes to the development and support of emergency management organizations in the States and their political subdivisions, and to the development, operation, and maintenance of specific programs, through payment of salaries and benefits of State and local civil defense staff, and the payment of administrative expenses and travel, not to exceed 50 percent. FEMA also provides contributions for training and education expenses. The following use of such personnel for natural disaster purposes is allowable provided that such usage is consistent with, contributes to, and does not detract from attack-related civil defense preparedness:

(a) In developing, maintaining, testing and exercising plans, systems, and procedures for the protection of people and property from the effects of attack-related disasters, States and their political subdivisions may include and provide for natural disasters.

(b) Personnel supported in part through contributions under the Act may be assigned responsibilities for preparation for and response to natural disasters in any specific emergency occurring in a State or its political subdivisions as determined by the responsible State or local officials, respectively.

(c) Personnel supported in whole under the Act, may be assigned to emergency response operations for 15 days at the discretion of State officials; approval of the FEMA Regional Director is required for the use of these personnel in excess of 15 days. An assignment to emergency response operations does not preclude the accomplishment of program work and objectives. Failure to accomplish such work may subject the State to the withholding of funds contributed under the Act, or to collection of funds already obligated, not to exceed the estimated cost of the work not performed, as determined by the Regional Director.

(d) In the event of an emergency or major disaster declared under the Disaster Relief Act of 1974, as amended, personnel will not be provided overtime compensation and expenses under the Act.

§ 312.6 Materials and facilities.

FEMA also contributes to the development and support of emergency management in the States and their political subdivisions, and to the development, operation, and maintenance of specific programs, through providing certain materials and facilities. The following may be used for

natural disaster purposes provided that such usage is consistent with, contributes to, and does not detract from attack-related civil defense preparedness:

(a) Materials provided and maintained through contributions under the Act.

(b) Technical information, guidance through which technical assistance is provided, and training courses, may contain examples, illustrations, discussion, suggested applications and uses of material.

(c) Equipment loaned under provisions of the Contributions Project Loan Program.

(d) Facilities, such as Emergency Operating Centers, provided and maintained through contributions under the Act.

(e) Equipment loaned or granted to the States for civil defense purposes (e.g., radiological instruments, shelter supplies).

Dated: September 23, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-27103 Filed 9-30-82; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

45 CFR Parts 205, 206, 232, 233, 234, 235, 238, and 239

Aid to Families With Dependent Children

Correction

In FR Doc. 82-3018 appearing on page 5648 in the issue of Friday, February 5, 1982, make the following changes:

1. On page 5658, first column, last line, "§ 233.30 (a)(3)(ii)(E)" should read "§ 233.20 (a)(3)(ii)(E)".

2. On page 5661, first column, fifth line from the top, "possibile" should read"possible"; second column, seventh line from the bottom, "detrermination" should read "determination"; and in the sixth line from the bottom,"exceptation" should read "exception".

3. On page 5663, second column, third full paragraph, last line, "§ 233.20 (a)(6)(v)(B)" should read "§ 233.20 (a)(6)(v)(*b*)".

4. On page 5664, first column, twelfth line from the bottom, insert "FR" after "44"; second column, second full paragraph, sixth line, "imcome" should read "income"; third column, seventeenth line from the top, "propspective" should read "prospective".

5. On page 5665, third column, first full paragraph, second line, insert "*not*" after "*is*".

6. On page 5673, third column, the amendatory language for § 205.80 should read as follows: "2. A new § 205.80 is added to read as follows:".

7. On page 5674, first column, § 206.10, insert "* * * * *" above subparagraph (4); third column, amendment numbered 8, ninth line, "paragraph" should read "paragraphs".

8. On page 5675, first column, § 233.20 (a)(3)(ii)(D), second line, "(a)(3)(xii)" should read "(a)(3)(xiii)", second column, § 233.20 (a)(3)(ii)(E), sixth line from the top, insert a period after "goods".

9. On page 5677, third column, § 233.20(a)(13)(i), fourth line from the bottom, remove the comma after "income" and in the last line, insert ")" after "month.".

10. On page 5680, first column, § 233.50(b)(2), second line, "Aporil" should read "April"; in § 233.51(a), eighth line, "application" should read "applicable".

11. On page 5682, second column, § 233.100(c)(1)(iv)(*a*), fourth line, insert ")" after "section".

12. On page 5686, second column, § 239.80, fifth line, insert a comma after "children".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 82-312]

Commission Organization; Amendment of the Commission's Rules To Reflect a Reorganization of the Common Carrier Bureau

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This amendment changes the Commission's Rules to incorporate the reorganization of the Common Carrier Bureau. The reorganization was necessary to: (1) Abolish the Consumer Affairs Division and the Pole Attachments Branch; (2) consolidate all complaints functions within the Enforcement Division; and (3) designate a substructure within the Enforcement Division.

EFFECTIVE DATE: October 6, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: A. O'Donoghue, Office of Managing Director, (202) 632-7513.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 0

Organization and functions (Government agencies).

Order

In the matter of Amendment of Part 0 of the Commission's Rules to reflect a reorganization of the Common Carrier Bureau.

Adopted: July 9, 1982.

Released: September 22, 1982.

1. The Commission has before it for consideration proposed changes in the organization of the Common Carrier Bureau. Implementation of the proposed changes would require amendments to § 0.92 of the Commission's Rules and Regulations.

2. To promote operating efficiency, the Commission is hereby approving the consolidation of the Consumer Affairs Division and the Pole Attachments Branch, Tariff Division into the Enforcement Division, plus the establishment of a Computer II Staff within the Enforcement Division. All other Common Carrier Bureau divisions will remain the same. The reorganization will consolidate all complaints functions, formal and informal, within the Enforcement Division. The consolidation of the Consumer Affairs Division into the Enforcement Division will centralize the complaints function within the Bureau, enhancing coordination and speed of service. The pole attachments program, while still legislatively mandated, has not evolved into as large a program as originally envisioned. The reduced functions will be transferred to the Enforcement Division. The Enforcement Division is also responsible for implementation of Computer II, which is one of the Bureau's highest priority projects. Since the Computer II project is unique and requires a full time effort, a Computer II Staff is established within the Enforcement Division, Part 0 of the Rules and Regulations is being amended to reflect these changes.

3. The amendments adopted herein pertain to agency organization. The prior notice procedure and effective date provisions of Section 4 of the Administrative Procedure Act are, therefore, inapplicable. Authority for the amendments adopted herein is contained in Sections 4(i) and 5(b) of the Communications Act of 1934, as amended.

4. In view of the foregoing, it is ordered, effective October 6, 1982 that Part O of the Rules and Regulations is amended as set forth in the Appendix hereto.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 0—COMMISSION ORGANIZATION

Part O of Chapter 1 of Title 47 of the Code of Federal Regulations is hereby amended as indicated below.

1. Section 0.92 is revised in its entirety to read:

§ 0.92 Units of the bureau.

(a) Office of the Bureau Chief.
(b) Deputy Bureau Chief for Operations.
(c) Deputy Bureau Chief for Policy.
(d) Assistant Bureau Chief/ Management.
(e) Assistant Bureau Chief/ International.
(f) International Facilities Planning Division.
(g) International Facilities Authorization and Licensing Division.
(h) Enforcement Division.
(i) Domestic Facilities Division.
(j) Hearing Division.
(k) Mobile Services Division.
(l) Tariff Division.
(m) Accounting and Audits Division.
(n) Economics Division.
(o) Policy and Program Planning Division.

[FR Doc. 82-27072 Filed 9-30-82; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-725; RM-3862]

Radio Broadcast Services; FM Broadcast Station in Atlantic City, New Jersey Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 240A to Atlantic City, New Jersey, as requested by Doctor A. Crants, Jr. The assignment could provide a fourth local FM service.

DATE: Effective November 16, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcast.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Atlantic City, New Jersey); BC Docket No. 81-725, RM-3862; Report and order (Proceeding Terminated).

Adopted: September 7, 1982.
Released: September 17, 1982.

1. The Commission has before it the *Notice of Proposed Rule Making* published in the **Federal Register** on October 26, 1981 (46 FR 52151).

2. The Notice proposed assigning FM Channel 240A to Atlantic City, New Jersey, in response to a petition filed by Doctor R. Crants, Jr. ("petitioner").

3. Atlantic City is located on the New Jersey shore, approximately 85 kilometers (52 miles) southeast of Philadelphia. The community presently receives local service from FM Stations WAYV (Channel 236), WFPG (Channel 245), and WMGM (Channel 279), and from AM Stations WIIN (1450 kHz), WMID (1340 kHz), and WUSS (1490 kHz).

4. Comments in support were filed by petitioner. Pleasant Broadcasters ("WADB"), licensee of Station WADB-FM, Channel 240A, Point Pleasant, New Jersey, filed a late opposition to the proposal. Reply comments were filed by Franklin Broadcasting Company ("WFLN"), licensee of Station WFLN-FM, Channel 239, Philadelphia, Pennsylvania, in opposition to the proposal.

5. In the *Notice*, we denied petitioner's request for a waiver of the short-spacing requirements in favor of the alternative site restricted assignment.[1] Petitioner had proposed a tower site approximately one mile offshore. We found no fault with the idea of an offshore site. We stated, though, that receipt of the requisite clearances from such Federal agencies as the Federal Aviation Administration, Coast Guard, and Army Corps of Engineers and from any relevant state agencies are matters more appropriately considered at the application stage. However, in order to assure ourselves that a transmitter site would be "available" if an assignment were made we requested that petitioner generally indicate in his comments the extent to which he has investigated Federal, State and local requirements, if any, which must be complied with in order to obtain approval for use of such a site, and the factual basis for his belief that his proposed use of the site would fulfill such requirements. Additionally, we stated that a significant question had been raised as to whether the requisite city-grade signal could be placed over all of Atlantic City from the offshore site. We requested that the petitioner submit a technical exhibit responding to this issue.

6. In comments, petitioner submitted a showing that based on its preliminary investigation there is a reasonable expectation of obtaining the offshore site. Petitioner states that three government agencies will be involved in jurisdiction of any proposed offshore antenna structure, the State of New Jersey, the U.S. Army Corps of Engineers and the U.S. Coast Guard.

7. We are told by petitioner that the State of New Jersey will require a Waterfront Development permit prior to construction and an application for Grant in Conveyance to occupy the site. Petitioner states that consultations with the State of New Jersey agencies indicate that no unusual problems will be involved.

8. Petitioner reports that the U.S. Army Corps of Engineers, whose primary concern is with navigational issues, will require a formal application for a construction permit. From his review of the application form, petitioner anticipates no difficulty in meeting the Corps' requirements.

9. Petitioner states that the U.S. Coast Guard, through its Aids to Navigation offices, has jurisdiction over the marking and lighting of the proposed antenna structure for the safety of marine navigation. From its review of the applicable Coast Guard regulations, petitioner concludes that he can satisfy the marking and lighting requirements.

10. Petitioner added that he is aware of the additional requirements of the Federal Aviation Administration for marking and lighting the structure. Petitioner assures that he would apply for, and await, an FAA No Hazard determination before construction.

11. Petitioner adds that no unusual physical difficulties are anticipated in construction of the offshore facility.

12. With respect to the question of whether the requisite city-grade signal could be placed over all of Atlantic City from the offshore site, petitioner submitted an engineering affidavit showing that the required 3.16 mV/m contour would cover the entire developed and inhabited portion of the

[1] The site would be restricted to a location approximately 4.2 miles southwest of Atlantic City.

city and fail only by "a few tenths of a mile" to include the southernmost tip of the area (uninhabited) within the city limits.

13. WFLN filed no comments in this proceeding but filed reply comments. WFLN contends that citizen groups may oppose and use the multiplicity of permit requirements to delay substantially, if not prevent, construction of the offshore tower. WFLN also contends that petitioner has not made the requisite showing of placing a city grade signal over all of Atlantic City.

14. WABD filed a motion to accept its late-filed comments opposing the proposal. Illness of WABD's president and delay in obtaining copies of the *Notice* herein are reasons given in support of the motion. We find that good cause has been shown in support of the motion, and the comments are being considered.

15. WABD states that it has been appointed by the State of New Jersey as the primary alerting station for the Oyster Creek Nuclear Generating Plant. WABD contends that "an essentially over water path to the WABD service area by another station on the same frequency would prevent reliable reception of WABD's signal by the nuclear warning network as well as to a large population in the central and southern part of Ocean County." WABD claims that the FCC rules on spacing are based on signal propagation characteristics over land and do not include characteristics over purely water path, as between the offshore site and the service area of WABD. Thus the Commission should not base interference considerations on its mileage separation standards.

16. As for the practicability of the proposal, WABD further contends that an offshore site would require maintenance and create personnel problems from wet air, power supply, wind, storms and hurricanes. WADB alleges that these obstacles would make the proposal impractical.

17. We conclude from the showing made by petitioner that an offshore tower site is feasible and we are willing to allow petitioner or any other applicant the opportunity to provide another Atlantic City station. There is nothing in the record to establish that petitioner cannot obtain the requisite authorization from those agencies with jurisdiction over the offshore site matter.

18. From the showing made by petitioner and our staff study, we conclude that petitioner could provide the requisite city-grade signal to all of the inhabited part of Atlantic City. The area in which the station cannot be predicted to cover appears to include uninhabited marshlands within the boundaries of Atlantic City. On that basis we believe it is appropriate to waive the city grade signal requirement (Section 73.315(a) of the Commission's Rules) for purposes of the channel assignment.

19. As for WADB's objections about expected interference to its signal in the Oyster Creek area, we find no basis for protecting that station beyond the normal criteria defined by the mileage separation rules. These rules were devised to permit the operation of the greatest number of stations in an area with some acceptable degree of interference between stations. The rules require that Class A stations on the same channel be at least 65 miles apart. The proposed station meets that spacing. Class A Station WADB, located north of Point Pleasant, with 3 kW radiated power and with an antenna elevated only 155 feet above average terrain provides a city grade signal of 3.16 mV/m that just encompasses the southern edge of the city of Point Pleasant. It's 1 mV/m signal would be expected to extend some 4 or 5 miles further south of the city limits. The Oyster Creek area is some 30 or more miles further away. We acknowledge that prior to commencement of operation of the proposed new station in Atlantic City, WADB may provide a marginal but needed emergency warning signal to the Oyster Creek area. Our calculations indicate that even allowing for the unusual (largely water) path from WADB to the area in question, WADB's signal would be expected to be less than 50 μV/m (the far-fringe level) in the Oyster Creek area. Reception of signals this marginal usually require the use of elaborate receiving installations (large antenna or relatively tall poles or masts). The proposed new station in Atlantic City should provide a much better signal to this area and thus more reliable reception than WADB's signal.

20. We believe that the public interest would be served by the assignment of Channel 240A to Atlantic City. An interest has been shown for its use, and such an assignment would provide the community with its fourth FM station.

21. Authority for the adoption of the amendment herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules.

22. Accordingly it is ordered, That effective November 16, 1982, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended with regard to the following community:

City	Channel No.
Atlantic City, New Jersey	236, 240A, 245, 270

23. It is further ordered, That this proceeding is terminated.

24. For further information concerning the above, contact Philip S. Cross, Broadcast Bureau, (202) 632-5414.

Federal Communications Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Roderick K. Porter,

Chief, Policy and Rules Division.

[FR Doc. 82-27071 Filed 9-30-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-193; RM-4043]

Radio Broadcast Services; FM Broadcast Station in Hope, Arkansas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns a second FM channel to Hope, Arkansas, in response to a petition filed by Freddie Riley.

DATE: Effective November 16, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Hope, Arkansas), BC Docket No. 82-193, RM-4043; Report and Order (Proceeding Terminated).

Adopted: September 9, 1982.

Released: September 17, 1982.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 47 FR 16807, published April 20, 1982, which seeks the assignment of Channel 289A to Hope, Arkansas. The *Notice* was issued in response to a petition filed by Freddie Riley ("petitioner"). Supporting comments were submitted by the petitioner and by James Mason,[1]

[1] James Mason's petition requesting the assignment of Channel 289A to Hope, Arkansas, is being treated as comments in the proceeding.

both stating their intent to apply for the channel, if assigned. Comments in opposition to the proposal were submitted by Newport Broadcasting Company ("Newport") to which petitioner responded. Newport also submitted reply comments.[2]

2. Petitioner incorporated by reference the information in the *Notice* which demonstrated a need for the requested assignment. In response to the *Notice* petitioner states that no community with a population greater than 1,000 will be precluded by the proposed assignment. However, pursuant to the action taken in BC Docket No. 80–130, *Revision of FM Policies and Procedures*, 90 F.C.C. 2d 88 (1982), this information is no longer required to justify an assignment.

3. Newport opposes the assignment as being contrary to the original plan governing FM channel allocations, *Revision of FM Broadcast Rules, First Report and Order* 33 F.C.C. 309 (1962). Newport points out that the petitioner failed to provide preclusion information or make an adequate showing of convincing need for an additional assignment to Hope, Arkansas. Based on these issues, Newport urges the Commission to deny the requested assignment. In response, petitioner states that the policy and procedures referred to by the opposition are no longer applicable (pursuant to *Docket 80–130, supra*). Riley reasserts the need for the proposed assignment as indicated in his comments and in those submitted by James Mason.

4. After considering the proposal and comments, the Commission is persuaded that the public interest would be served by granting the requested assignment. Although the *Notice* requested additional information to justify a second assignment to Hope, Arkansas, the action taken in the *Revision of FM Policies and Procedures, supra* (Docket 80–130) eliminates the need to provide the additional material to justify a second channel allocation. Thus, the issues discussed by Newport Broadcasting are no longer a consideration in this type of case.

5. In view of the foregoing and pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, That effective November 16, 1982, the FM Table of Assignments (§ 73.202(b) of the Rules) is amended with respect to the following community:

City	Channel No.
Hope, Arkansas	269A, 296A

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau (202) 632–7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–27073 Filed 9–30–82; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 82–234; RM–4046, RM–4139]

Radio Broadcast Services; FM Broadcast Station in Lahaina, Hawaii; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Class C FM Channels 260 and 266 to Lahaina, Hawaii, in response to requests from Maui Broadcasting Company and from Shoblam Broadcasting, Inc. The assignments could provide Lahaina with the opportunity for a second and third commercial FM station.

DATE: Effective November 19, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Lahaina, Hawaii); BC Docket No. 82–234, RM–4046, RM–4139; Report and Order (Proceeding Terminated).

Adopted: September 9, 1982.

Released: September 20, 1982.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 47 FR 20157, published May 11, 1982, issued in response to a petition filed by Maui Broadcast Company ("petitioner"), seeking the assignment of Class C FM Channel 266 [1] to Lahaina, Hawaii. In response to the *Notice*, comments and a counterproposal [2] were filed by Shoblom Broadcasting, Inc. (Shoblom[3]), to which the petitioner responded.

2. In its comments and counterproposal, Shoblom, one of two applicants [3] for Channel 228A [4] in Lahaina, Hawaii, requests the assignment of a second Class C channel to Lahaina. Shoblom wishes to be able to amend its application to specify the new Class C channel without losing the cutoff status it now has for Channel 228A. [5]

3. In its comments, Shoblom states the reason it wishes a second Class C channel is to eliminate intermixture at Lahaina. However, it recognizes that the Commission recently removed this policy as an obstacle to new assignments. See, *Second Report and Order* in BC Docket No. 80–130, *Revisions of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982).

4. With respect to its application for Channel 228A, Shoblom advises that although the cutoff date had not arrived, those applicants who timely filed for Channel 228A should be able to amend their application to specify the Class C channel without losing their cutoff protection. Citing *Carnelian Bay and South Lake Tahoe, California, et al.*, 50 R.R.2d 1179 (1982); *Lake Havasu City, Arizona*, 46 FR 37896, published July 23, 1981; and *Petoskey, Michigan* (BC Docket No. 81–504, released June 10, 1982).

5. As an alternative, Shoblom requests that a second Class A channel be assigned in lieu of Class C Channel 266.[6] If a second Class A channel is assigned, Shoblom indicates its willingness to retain its application for Channel 228A. However, if a second Class C channel is assigned to Lahaina, it indicates that it will amend its application.

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[2] The Reply Comments submitted by Newport merely point out that the requested assignment would result in a third aural service to Hope, Arkansas, and repeats their request for dismissal of the petition.

[1] Although petitioner originally requested the assignment of Channel 258 to Lahaina, it subsequently amended its request to specify Channel 266 since its initial proposal conflicted with a channel proposed for Honolulu, Hawaii (BC Docket No. 82–124; RM–3782).

[2] *Public Notice* of the counterproposal was given June 21, 1982, Report No. 1358.

[3] The other applicant is Gardiner Broadcasting Company.

[4] Shoblom advises that the *Notice* in this proceeding did not indicate that Channel 228A had been assigned to Lahaina by *Report and Order*, 46 FR 43172, effective October 20, 1981. We have corrected that oversight herein.

[5] The cutoff date for channel 228A was August 15, 1982.

[6] Throughout its comments, Shoblom refers to the possibility of assigning Class C Channel 256 and 260 to Lahaina. We assume the former channel should be 266.

6. In response, petitioner asserts that the Commission can separately treat Shoblom's cutoff rights after the channel assignment decision is made. While it has no objection to any action which the Commission may take in response to Shoblom's request to add a second Class C channel to Lahaina, it does object to the alternative suggestion to assign a second Class A channel in lieu of any Class C channel. This according to petitioner, would contravene the public interest in view of the numerous Class C channels which are available to Lahaina.

7. In view of the interests of Shoblom and petitioner in Class C channels, we believe that the public interest would be served by assigning Channels 260 and 266 to Lahaina. The channels can be assigned in accordance with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

8. Shoblom's alternate proposal to assign a second Class A channel in lieu of any Class C channel would be inconsistent with the Commission's general policy of assigning channels based on the expression of an interest. See, *Mountain Home and Marshall, Arkansas*, adopted July 20, 1981, 46 Fed. Reg. 39142. Here we have no interest in a second Class A channel. As for Channel 228A, we believe that the channel should be retained for use by the other existing applicant.

9. Pursuant to the *Ashbacker* doctrine,[7] the addition of a new Class C channel at Lahaina requires that the assignment be made available for competing applications. See, *Cheyenne, Wyoming*, 62 F.C.C. 2d 63, 38 R.R. 2d 1665 (1976). The cases cited by Shoblom are inapposite to its position. In *Lake Havasu City, Arizona, Carnelian Bay* and *South Lake Tahoe, California*, and *Petosky, Michigan, supra*, the prevalent theme involved the modification of existing station licenses from Class A to Class C channels, in the absence of other expressions of interest, to avoid intermixture. In addition, in *Carnelian Bay*, two applicants for a Class A channel at Incline Village, Nevada, retained their "cutoff" status to permit an amendment of their applications to specify another Class A channel. Here we have an applicant, not a licensee, seeking to obtain cutoff rights to an entirely different class of channel which has not previously been available for application at Lahaina. Thus, we find no precedent for Shoblom's position.

10. As to whether an exception to the policy of opening up new assignments for application should be made here, we find no factual basis for treating Shoblom differently. As in other situations, the fact that an interested person did not apply for a Class A channel does not permit us to assume that it would not be interested in applying to operate a Class C station. We have retained Channel 228A for use at Lahaina because we have no indication that Gardiner, the other applicant, desires a Class C station.

11. In view of the foregoing, and pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, IT IS ORDERED, That effective November 19, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with respect to Lahaina, Hawaii, as follows:

City	Channel No.
Lahaina, Hawaii	228A, 260, 266

12. It is further ORDERED, That this proceeding is terminated.

13. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-27076 Filed 9-30-82; 8:45 am]
BILLING CODE 6712-01-M

[7] *Ashbacker Radio Corp. v. F.C.C.*, 326 U.S. 327 (1945).

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47 CFR Part 73

[BC Docket No. 82-210; RM-4065]

Radio Broadcast Services; FM Broadcast Station in Gibson City, Illinois; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a first FM channel (292A) to Gibson City, Illinois, as requested by John R. Noble.

DATE: Effective November 16, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Gibson City, Illinois) BC Docket No. 82-210, RM-4065; Report and Order (Proceeding Terminated).

Adopted: September 9, 1982.

Released: November 17, 1982.

By the Chief, Policy and Rules Division:

1. The Commission has before it for consideration a notice of proposed rule making, (47 FR 1731), published April 22, 1982, in response to a petition filed by John R. Noble ("petitioner"), proposing the assignment of FM Channel 292A to Gibson City, Illinois, as the community's first FM assignment. Supporting comments were filed by petitioner in which it reaffirmed its intent to file for the channel, if assigned. No oppositions to the proposal were received.

2. In the notice, we stated that a site restriction of 7 miles north of Gibson City would be required in order to maintain a 65 mile separation to Station WSAK (Channel 292A), Sullivan, Illinois, and requested that petitioner furnish the Commission with a technical study demonstrating that a 70 dBu signal could be provided throughout Gibson City from such a distance.

3. Petitioner submitted a technical study showing that from its proposed transmitter site, which meets the site restriction, the 70 dBu signal contour would extend 8.24 miles and cover all of Gibson City.

4. On the basis of the technical showing, we believe that the public interest would be served by the assignment of Channel 292A to Gibson City, Illinois. An interest has been shown for its use, and such an assignment could provide the community with an FM station which could render a first local FM broadcast service.

5. Authority for the adoption of the amendment herein is contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules.

6. Accordingly, it is ordered, That effective November 16, 1982, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended with regard to the following community:

City	Channel No.
Gibson City, Ill.	292A

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning the above, contact Phil Cross, Broadcast Bureau, (202) 632–5414.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-27075 Filed 9-30-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 81-781; 3869]

47 CFR Part 73

Radio Broadcast Services; TV Broadcast Station in Las Vegas, Nevada, Changes Made in Table Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns UHF Television Channel 15 to Las Vegas, Nevada, as its fifth commercial TV channel in response to a request from Doctor R. Crants, Jr.

DATE: Effective November 19, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Phil Cross, Broadcast Bureau (202) 632–5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations, (Las Vegas, Nevada); BC Docket No. 81–781, RM–3869; Report and Order (Proceeding Terminated).

Adopted: September 9, 1982.

Released: September 20, 1982.

1. A notice of proposed rule making in this proceeding was published in the **Federal Register** on December 3, 1981, 46 FR 58721.

2. The proceeding was initiated in response to a petition by Doctor R. Crants, Jr. ("petitioner"), requesting that UHF Television Channel 15 be assigned to Las Vegas, Nevada. It would be the city's fifth commercial television assignment.

3. In response to the notice, comments were filed by petitioner, and by the National Association of Business and Educational Radio, Inc. ("NABER").[1]

4. In its comments, the petitioner supported the proposed assignment and reaffirmed its intent to apply for the channel if it is assigned.

5. NABER's comments opposed the assignment. It alleged that the assignment would result in co-channel interference to Business Radio Services in the 460 MHz band. The practical effect of the interference is said to be a desensitizing of land mobile receivers so that the range of the systems would be decreased. NABER claims that the interference would be intensified by location of petitioner's transmitter in proximity to the primary sites of existing land mobile stations. It is said that between 60 and 100 Business Radio Service licensees and over 300 system users in the Las Vegas area would be affected. NABER suggests the assignment of a channel from 31 through 67, instead of Channel 15, to negate the interference question. Although NABER acknowledged that questions of economic viability of a proposed station, and of avoiding emissions which would cause interference to other services are more appropriately considered at the application stage of the proceeding, it urges that we concern ourselves with the possibility here and assign a higher UHF TV channel instead.

6. In reply comments, petitioner states that NABER's arguments for protection of the Business Services should be rejected since the Commission's Rules do not provide for such protection and a new TV broadcast station should be accorded greater weight than protection of service to 83 businesses in the Las Vegas area.

7. Las Vegas (population 164,674),[2] in Clark County (population 471,816), is located at the southern tip of Nevada, approximately 370 kilometers (230 miles) northeast of Los Angeles, California. It is served by Television Stations KVBC (Channel 3), KLAS–TV (Channel 8), KTNV–TV (Channel 13), Channel 21 (CP issued to Dres Media, Inc.) and KLVX (noncommercial educational Channel *10).

8. Petitioner states that Las Vegas is the sixth fastest growing major city in the United States. The county's projected population for 1990 is approximately 668,800 persons, which, according to petitioner, is due primarily to tourism, new and expanding industry, and the city's attraction as a retirement coummunity and convention center. Petitioner contends that Las Vegas needs, and can readily support, an additional television station.

9. We believe that the assignment of Channel 15 to Las Vegas would serve the public interest by providing a fifth commercial TV service. As for the problem of interference to land mobile stations, Commission Rules prescribe no requirement that a Channel 15 assignment protect operations in the 460–470 MHz band. In a similar situation in *Albuquerque, New Mexico,* (RM–3396) Mimeo No. 33612, released July 16, 1980, we refused to delete Channel 14 from Albuquerque despite claims of interference to land mobile users in the adjacent frequency band (450–470 MHz). Therein we stated that we would not treat Channel 14 as a guard band between Albuquerque's land mobile and UHF stations. Rather less drastic alternatives, including vertical isolation, cross polarization and filtering could minimize interference problems. See also *San Francisco and San Mateo, California,* 68 F.C.C. 2d 860 (1978). Here, we believe that similar corrective measures are preferable to denying the assignment of Channel 15 to Las Vegas. Specific alternative measures can be more appropriately treated at the application stage.

10. As for the request of NABER that we treat the questions of economic viability at this stage, we see no reason to deviate from our policy of treating this issue at the application stage. NABER has not demonstrated how this case is different from the usual case and we believe the issue can be more effectively treated at the application stage. See, *Naples, Florida,* 49 F.C.C. 2d 1266 (1974).

11. Authority for the adoption of the amendment herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended; and §§ 0.281 and 0.204(b) of the Commission's Rules.

[1] Also filed was a letter signed by Bernice Hogan and Christine Staheli opposing the assignment. The letter was not accompanied by a certificate of service as required by § 1.420 (a) and (c) of the Commission's Rules. Accordingly, it was not acceptable as a comment in this proceeding. Nevertheless, as a matter of information, the pleading sets forth that they have filed a low-power TV application for Channel 15 as a noncommercial educational station. They also indicate that Bernice Hogan is a member of the black community. Finally, they assert that a low power grant would provide another local TV service to Las Vegas earlier than a full commercial assignment which would attract many applicants. We believe it is sufficient to state our general policy in this regard which is to treat low power or translator stations as a secondary use of a frequency and unprotected as against a proposed full broadcast use. See § 74.702(b) of the Commission's Rules and *Future Role of Low Power Television-Broadcasting,* 47 FR 96, published May 18, 1982.

[2] Population figures are taken from the 1980 U.S. Census, Advance Report.

12. Accordingly, it is ordered, That effective November 19, 1982, § 73.606(b) of the Commission's Rules, the TV Table of Assignments, is amended with regard to the following community:

City	Channel No.
Las Vegas, Nev	3, 8−, *10+, 13−, 15+, 21+.

13. It is further ordered, That this proceeding is terminated.

14. For further information concerning the above, contact Phil Cross, Broadcast Bureau, (202) 632–5414.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–27074 Filed 9–30–82; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 47, No. 191
Friday, October 1, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1124

Milk in the Oregon-Washington Marketing Area; Notice of Proposed Suspension of Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend certain order provisions of the Oregon-Washington Federal milk order. The provisions relate to how much milk not needed for fluid (bottling) use may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. Suspension of the provisions was requested by three cooperative associations associated with the market to prevent uneconomic movements of milk. The proposed suspension would be for the period of October through December 1982.

DATE: Comments are due not later than October 8, 1982.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7183.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major action."

It has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the required suspension procedures in time to include October 1982 in the requested suspension period if this is found necessary. The initial request for the action was received on September 24, 1982.

It has also been determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Oregon-Washington marketing area is being considered for the months of October 1982 through December 1982:

In the third sentence of paragraph (a) and (b) of § 1124.11, the word "not."

All persons who want to comment on the proposed suspension, should send two copies of their views to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the date of publication of this notice in the **Federal Register**. The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures and include October 1982 in the suspension period.

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed action would remove the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants during the months of October 1982 through December 1982. The order now provides that during any month a cooperative association may divert a total quantity of producer milk not in excess of the total quantity received during the month from all member producers at pool plants. Similarly, the operator of a pool plant may divert a total quantity of producer milk not in excess of the total quantity received from producers (for which the operator of such plant is the handler during the month) at such pool plant.

The suspension was requested by three cooperative associations who represent a substantial number of producers on the market. The basis for the request is that current marketing conditions require the three associations to handle an increasing quantity of reserve milk supplies during the fall months because of increased milk production by member producers. They indicated that this situation will be aggravated by the fact that sales to one of their principal pool plant outlets will decline substantially because this plant will discontinue this fall part of its manufacturing operations. The cooperatives state that the loss of such sales will reduce the basis of their diversion allowances since the order's allowable diversions are based upon the receipts of milk at pool plants.

Consequently, the cooperatives expect their reserve milk supplies during October-December 1982 to exceed the quantity of producer milk that may be diverted to nonpool manufacturing plants under the order's present diversion limitations. In the absence of the suspension, the cooperatives believe that some of the milk of their member producers who have regularly supplied the fluid market would have to be moved, uneconomically, first to pool plants and then to nonpool manufacturing plants, in order to still maintain producer status for such milk during the months of October through December 1982.

List of Subjects in 7 CFR Part 1124

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on September 28, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-27137 Filed 9-30-82; 8:45 am]
BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Proposed Supplement to REA Bulletins 26–1, Budgetary Control and Advance of Electric Loan Funds, and 327–1, Advance of Telephone Loan Funds

AGENCY: Rural Electrification Administration, USDA
ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend Appendix A—REA Bulletins, by issuing a "File With" to REA Bulletins 26–1, Budgetary Control and Advance of Electric Loan Funds, and 327–1, Advance of Telephone Loan Funds, to include documentation requirements when electronic funds transfers are used to disburse loan funds from the borrower's "Trustee, Special Construction Account" (Electric) and "Trustee, REA Construction Fund Account" (Telephone).

DATE: Public comments must be received by REA no later than November 30, 1982.

ADDRESS: Submit written comments to Roland S. Heard, Chief, Technical Accounting and Auditing Staff, Accounting and Auditing Division, Rural Electrification Administration, Room 4305, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Roland S. Heard, Chief, Technical Accounting and Auditing Staff, above address, telephone number (202) 382–8227. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrifiction Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend Appendix A—REA Bulletins by issuing a "File With" to REA Bulletins 26–1, Budgetary Control and Advance of Electric Loan Funds, and 327–1, Advance of Telephone Loan Funds. This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major". This action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A–95 review. These programs are listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees, 10.851—Rural Telephone Loans and Loan Guarantees and 10.852—Rural Telephone Bank Loans.

Copies of the draft "File With" are being sent directly to all REA electric and telephone borrowers. Copies are also available upon request from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours at the above address.

Background

This proposed action is intended to provide guidance to REA borrowers on documentation requirements when electronic funds transfers are used to disburse funds from the borrower's "Trustee, Special Construction Account" (Electric) and "Trustee, REA Construction Fund Account" (Telephone). The revision is detailed below.

Proposed Supplement to REA Bulletins 26–1, Budgetary Control and Advance of Electric Loan Funds and 327–1, Advance of Telephone Loan Funds

Subject: Electronic Funds Transfers Documentation.
To: Borrowers with Loans from REA or RTB or Loan Guarantees from REA.

I. Purpose: The purpose of this memorandum is to outline the documentation required when electronic funds transfers are used to disburse funds from the Borrower's "Trustee, Special Construction Account" (Electric) or "Trustee, REA Construction Fund Account" (Telephone).

II. Required Documentation: The borrower's loan contract with REA and supplemental lenders provides that disbursements from the Special Construction Account/Construction Fund Account by check, draft or order be signed on behalf of the borrower. Many loan contracts also require that disbursements be countersigned by an officer of the corporation.

The use of electronic funds transfers to disburse funds from the Special Construction Account/Construction Fund Account makes the countersigning of disbursements by an officer of the corporation impratical. Therefore, the following alternative documentation should be used:

1. The board of directors should adopt a board resolution stating which persons are authorized to intitiate an electronic funds transfer. The bank should be furnished with a list of persons authorized to make transfers.

2. The corporation should maintain a log of electronic funds transfers. This log should detail:

a. Date of the transfer.

b. Amount of the transfer.

c. Payee and bank account.

d. Name of the person authorizing the transfer. The person authorizing the transfer should review supporting documentation before approving the disbursement.

e. Name of the person contacting the bank if different from the person authorizing the transfer.

3. A follow-up letter signed by the person authorizing the transfer should be sent to the bank confirming the details of the transfer. The letter should include:

a. The date, amount and payee.

b. The bank accounts from which and to which funds were transferred.

4. After comparing the debit/credit memos from the bank to the details on the log and follow-up letter for agreement, file the follow-up letter, supporting documentation and bank memoranda for review by REA field accountants and the corporation's independent auditors.

5. The corporation should provide evidence that disbursements made by electronic funds transfer have been reviewed by (1) an officer of the corporation not having responsibility for initiating transfers, (2) the corporation's audit comittee made up of board members, or (3) the board of directors. The review of electronic funds transfer disbursements should be performed at least monthly. Acceptable evidence that this review has been performed would be:

a. The signature of an officer of the corporation or the audit committee on the bank memo indicating that the disbursements have been reviewed; or

b. A memo signed by an officer of the corporation or the audit committee outlining which electronic funds transfer disbursements have been reviewed; or

c. A board resolution outlining which electronic funds transfer disbursements have been reviewed by the board of directors.

III. Disbursements by Check: The alternative procedures outlined above apply to disbursements made by electronic funds transfers only. Any disbursements made from the Special Construction Account/Construction Fund Account using checks, drafts, or orders must be made in accordance with the loan contracts.

List of Subjects in 7 CFR Part 1701

Administrative practice and procedure, Electric utilities, Telephone.

Dated: September 14, 1982.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82-27132 Filed 9-30-82; 8:45 am]

BILLING CODE 3410-15-M

FEDERAL ELECTION COMMISSION

11 CFR Parts 106 and 9031-9039

[Notice 1982-8]

Presidential Primary Matching Fund

AGENCY: Federal Election Commission.

ACTION: Cancellation of hearing and extension of comments period.

SUMMARY: On August 17, 1982, the Federal Election Commission published a Notice of Proposed Rulemaking on regulations governing the Presidential Primary Matching Fund (47 FR 35892). In that Notice, the Commission offered to hold a hearing on September 29, 1982, for those wishing to testify on the proposed rules. Since no requests to testify were received, the Commission is cancelling this hearing date.

The Commission has, however, received requests to extend the comment period on this rulemaking. The Commission has therefore decided to accept comments through November 15, 1982.

The Commission has also determined to tentatively schedule a new hearing for November 17, 1982. Those wishing to testify should notify the Commission in writing on or before October 29, 1982, and should submit their written comments by November 15,1982.

ADDRESS: Susan E. Propper, Assistant General Counsel, 1325 K Street, N.W., Washington, D.C. 20463.

FOR FURTHER INFORMATION CONTACT: Susan E. Propper, Assistant General Counsel (202) 523-4143 or (800) 424-9530.

Dated: September 28, 1982.

Frank P. Reiche,

Chairman, Federal Election Commission.

[FR Doc. 82-27130 Filed 9-30-82; 8:45 am]

BILLING CODE 6715-01-M

21 CFR Parts 182 and 184

[Docket No. 80N-0298]

Carbon Dioxide, Nitrogen, Helium, Propane, *N*-Butane, Iso-Butane, and Nitrous Oxide; Proposed Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that carbon dioxide, nitrogen, helium, propane, iso-butane, *n*-butane, and nitrous oxide are generally recognized as safe (GRAS) as direct human food ingredients. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency.

DATE: Comments by November 30, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Leonard C. Gosule, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-9463.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of carbon dioxide, nitrogen, helium, propane, *n*-butane, iso-butane, and nitrous oxide has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of these ingredients.

Carbon dioxide occurs in nature as a colorless, odorless gas that neither burns nor supports combustion. Its density is about 1.5 times that of air, and its solubility in water is 88 mL CO_2/100 mL H_2O at 20° C and atmospheric pressure. At temperatures and pressures below its triple point, carbon dioxide may exist as a solid (dry ice) or as a gas. The solid form passes directly to the gas (sublimes), without exhibiting a liquid phase, at atmospheric pressure and a temperature of −78.5° C.

Carbon dioxide is obtained industrially as a byproduct in the manufacture of lime during the "burning" of limestone, from the combustion of coal, coke, or other carbonaceous material, from fermentation processes, and from gases found in certain natural springs and wells.

Helium is a colorless, odorless, flavorless, nonflammable, inert gas. It is lighter than air, very slightly soluble in water, and present at low concentration in the atmosphere. Helium is produced commercially by the liquefaction and purification of natural gas.

Nitrogen is a colorless, odorless, flavorless gas that neither burns nor supports combustion. It is lighter than air and consitutes approximately 78 percent of the atmosphere by volume and approximately 75 percent by weight. It is somewhat more soluble in alcohol than in water but is only slightly soluble in each. Nitrogen is produced commercially by the fractionation of liquid air.

Propane, *n*-butane, and iso-butane are known collectively as the liquid hydrocarbon or liquefied petroleum gases (LP-gases). These gases may be separated from natural gas, crude oil, or petroleum refinery gases. However, all aerosol-grade LP-gases are obtained from natural gas.

Propane and the butanes are colorless, odorless, flammable gases that are heavier than air at normal temperatures and pressures. They are easily liquefied under pressure at room temperature and are stored and shipped in the liquid state. Propane is slightly soluble in water, while the butanes are considered insoluble. All three gases are soluble in alcohol, chloroform, and ether.

Nitrous oxide is a colorless gas, about 50 percent heavier than air, with a slightly sweet flavor and odor. It does not burn but will support combustion. It is soluble in water, alcohol, ether, and oils.

Nitrous oxide is manufactured by the thermal decomposition of ammonium nitrate. Water is also formed as a primary reaction product, and higher oxides of nitrogen, which are highly toxic, are formed in side reactions. After the water is condensed, the higher nitrogen oxides are removed by passing the gas through a series of scrubbing towers. The gas is then compressed and dried further by passage through a bed of desiccant.

Carbon dioxide, nitrogen, helium, propane, and butane were listed as miscellaneous GRAS ingredients in a regulation published in the **Federal Register** of November 20, 1959 (24 FR 9368). Together with nitrous oxide, these gases also were listed as GRAS for use as miscellaneous and general purpose food additives in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 988).

Carbon dioxide currently is listed as a multiple-purpose GRAS food substance in § 182.1240 (21 CFR 182.1240). Carbon dioxide also is required for the production of soda water by the standard of identity for soda water (21 CFR 165.175) and is the subject of U.S. Department of Agriculture (USDA) prior sanction for use as a cooling agent in

chopping and packaging meat products. This prior-sanctioned use is included in the GRAS affirmation proposal.

Helium and nitrogen currently are listed as multiple-purpose GRAS food substances in 21 CFR 182.1355 and 21 CFR 182.1540, respectively. Nitrogen is also the subject of a prior sanction issued by USDA for use in excluding oxygen from sealed products. This prior-sanctioned use is included in the GRAS affirmation proposal.

Butane (isomeric form not specified) and propane currently are listed as multiple-purpose GRAS food ingredients in 21 CFR 182.1165 and 182.1655, respectively. In addition, butane and propane are regulated in 21 CFR 173.350 for use in the manufacture of combustion product gas used for removing and displacing oxygen during the processing and packaging of foods.

Nitrous oxide currently is listed as a multiple-purpose GRAS food ingredient in 21 CFR 182.1545. Nitrous oxide, carbon dioxide, and propane also are regulated in 21 CFR 173.345 for use with chloropentafluoroethane (an aerating agent) and in 21 CFR 173.360 for use with octafluorocyclobutane (a propellant and aerating agent) in foamed or sprayed food products.

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross section of food manufacturers to determine the specific foods in which carbon dioxide, nitrogen, helium, propane, butane (isomeric form not specified), and nitrous oxide were used and the levels of usage. NAS/NRC combined this manufacturing inormation with information on consumer consumption of foods to obtain an estimate of the consumer exposure to these gases. Based on NAS/NRC figures, FDA estimates that during the decade 1960–1970, use of carbon dioxide increased by approximately 85 percent, use of nitrogen increased by approximately a factor of 8, and use of nitrous oxide decreased by approximately 50 percent. FDA estimates from the NAS/NRC survey that in 1970, the use of carbon dioxide in food was 44,500,000 pounds, the use of nitrogen in food was 23,100,000 pounds, and the use of nitrous oxide in food was 196,700 pounds. No information was obtained in the survey on the consumption of helium, *n*-butane, iso-butane, or propane. However, FDA obtained information on specific uses of certain of these gases from articles in the published literature and from communications from commercial food processors. In addition, the Select Committee on GRAS Substances (the Select Committee) received information from the National Soft Drink Association that the use of nitrous oxide in soft drinks, which was reported in the NAS/NRC survey, has been discontinued.[1] Therefore, the Select Committee did not include this use in its evaluation of the safety of nitrous oxide as a food ingredient. Any person possessing additional information on the use of these gases in foods should submit such information as a comment on this proposal.

Butane (*n*-butane and iso-butane), helium, nitrogen, nitrous oxide, and propane have been the subjects of a search of the scientific literature from 1920 to the present. Carbon dioxide has been the subject of a separate search of the scientific literature from 1920 to the present. The criteria used in the searches were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. For carbon dioxide, a total of 2,202 abstracts were reviewed, and 36 particularly pertinent reports have been summarized in a scientific literature review. For the other gases, a total of 1,295 abstracts were reviewed, and 28 particularly pertinent reports have been summarized in a scientific literature review.

Information from the scientific literature reviews and the results of other studies have been summarized in two reports to FDA by the Select Committee, which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have carefully evaluated the available safety information on carbon dioxide,[2] nitrogen, helium, propane, iso-butane, *n*-butane, and nitrous oxide.[3] In the Select Committee's opinion:

Carbon Dioxide

The Select Committee could find no data relating directly to the safety of carbon dioxide as a food ingredient. However, there is substantial evidence that the amount of carbon dioxide ingested with foods is negligible compared with that produced normally by the body. Carbon dioxide also has been administered experimentally without ill effects in amounts orders of magnitude greater than from possible food sources.

Under resting conditions, an average adult will produce in excess of 500 g of carbon dioxide daily, approximately 2,000 times the estimated intake from foods. During moderate or heavy activity, considerably greater amounts of carbon dioxide would be produced. The official occupational standard for the workroom atmosphere is 5,000 ppm, equivalent to the inhalation during an 8-hour work day of about 30 g of carbon dioxide. Human subjects have been exposed to 1.5 percent carbon dioxide (a daily inhalation of over 200 g) continually for 42 days without serious or lasting ill effects.

The amount of bicarbonate that could be produced from the ingested carbon dioxide is far less than the amounts routinely ingested in food or used without ill effects as an antacid.

The Select Committee is not aware of any study on the mutagenicity of carbon dioxide. Carcinogenic actions have been reported only after repeated application of the solid form to the skin. Teratogenic effects were produced after inhalation of carbon dioxide at levels far higher than could be obtained from foods.[2]

Nitrogen

Nitrogen gas is naturally present in all body tissues. It is physiologically inert under the conditions of approved GRAS use. The amount of nitrogen gas commercially added to the food, as consumed, is miniscule compared to the quantity of nitrogen taken in by the human being in the normal process of breathing. There are no food-grade specifications for nitrogen gas. The Select Committee is of the opinion that such standards should be developed.[1]

Helium

The NRC survey did not identify any use of helium gas as a commercially added food ingredient; however, one manufacturer has reported that is was used during food processing to detect leaks from aerosol cannisters. Considering its low solubility in water and fats, its chemical inertness, and its high diffusion coefficient, the amount of helium consumed from foods exposed to it would be minute. Although no feeding tests on foods exposed to helium have been reported, the negative results from any inhalation studies involving high concentrations and pressures of the gas with both man and animals, and other studies on tissue cultures, suggest that no adverse

[1] "Evaluation of the Health Aspects of Nitrogen, Helium, Propane, *n*-Butane, Iso-Butane, and Nitrous Oxide as Gases Used in Foods," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1979, p. 28.

[2] *Ibid.*, pp. 5, 9–10, 15–17, 22–25, 31–37.

[3] "Evaluation of the Health Aspects of Carbon Dioxide as a Food Ingredient," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1979, pp. 8–15. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's reports are available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting the discussion in the preamble to proposals that affirm GRAS status in accordance with current good manufacturing practice.

[2] *Ibid.*, p. 10.

[1] *Ibid.*, p. 6.

physiological effects would result, even from consumption of foods saturated with helium during commercial processing and storage. There are no food-grade specifications for helium gas; it is suggested that such standards should be developed.[1]

Propane, *N*-Butane, and Iso-Butane

It was estimated that a combined total of about 2 million kg of propane, *n*-butane, and iso-butane are used in aerosol food products annually in the United States. This amounts to an exposure of about 26 mg per day per person to these three substances, although only a fraction of this amount would be ingested, most of the gases dispersing into the atmosphere upon dispensing the product. The Select Committee is not aware of GRAS uses of propane, *n*-butane, or iso-butane other than as propellants in aerosol food products.

The absence of any biological observations on animals subsisting on foods treated with propane requires consideration of the chemical properties of the compound itself and other toxicological findings for reasoned inferences as to its safety. The fact that the gas is inert to most reagents suggests the realtive harmlessness of exposing foods to it.

Toxicity has been observed in some cases upon inhalation exposure of animals or humans to high concentrations of propane. However, no adverse effects were noted in a 2-week study using human volunteers receiving propane exposures at least several orders of magnitude greater than might be expected to occur from food use of this compound.

Although there are commercial propellant grade specifications for propane, there are no food-grade specifications listed in the Food Chemicals Codex. Such food-grade specifications should be developed.

The absence of any biological observations on animals subsisting on foods treated with iso-butane and *n*-butane requires consideration of the chemical properties of the compounds themselves and other toxicological findings for reasoned inferences as to their safety. The fact that the gases are inert to most reagents suggests the relative harmlessness of exposing foods to them.

Toxicity has been observed in animals and humans after inhalation of high concentrations of *n*-butane or iso-butane. However, no adverse effects were noted in a 2-week study of human volunteers receiving iso-butane exposures at least several orders of magnitude greater than might be expected to occur from food use of this substance.

Although there are commercial propellant grade specifications for *n*-butane and iso-butane, there are no food-grade specifications listed in the Food Chemicals Codex. Such food-grade specifications should be developed.[1]

Nitrous Oxide

Nitrous oxide is a relatively stable gas. There is little evidence that it is metabolized in mammalian systems. No feeding tests involving foods exposed to nitrous oxide have come to the attention of the Select Committee. The only toxicity studies of which the Select Committee is aware have been carried out by administration of the compound via the inhalation route. Since the exposures used for these purposes were far beyond the estimated human consumption through foods and since the administration is via the respiratory rather than the oral route, a reasonable extrapolation to the exposure from nitrous oxide added to foods is difficult. There have been some observations of toxicity of inhaled nitrous oxide but only at doses much higher than could be expected from consumption of exposed food. Much of the gas probably disperses into the atmosphere during and after dispensing of the food product. Although epidemiological studies of dental practitioners and oral surgeons have indicated adverse effects resulting from anesthetic exposure exceeding 3 hours per week, no specific effects were attributable to the use of nitrous oxide.

Because food-grade specifications have not been established for nitrous oxide, the actual composition of the gaseous mixture being used by food processors is uncertain. Food grade standards for nitrous oxide should be developed.[1]

The Select Committee concludes that:

1. There is no evidence in the available information on carbon dioxide,[2] nitrogen, helium, propane, *n*-butane, and iso-butane [3] that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used at levels that are now current or that might reasonably be expected in the future.

2. There is no evidence in the available information on nitrous oxide that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when it is used as a propellant in dairy and vegetable-fat toppings in pressurized containers at levels that are now current or that might reasonably be expected in the future.[4]

FDA has undertaken its own evaluation of all available information on carbon dioxide, nitrogen, helium, propane, *n*-butane, iso-butane, and nitrous oxide and concurs with the conclusions of the Select Committee. The agency concludes that no change in the current GRAS status of these ingredients is justified. Therefore, the agency proposed that these ingredients be affirmed as GRAS.

Because no food-grade specifications exist for carbon dioxide, nitrogen, helium, propane, iso-butane, *n*-butane, and nitrous oxide at the present time, the agency will work with the Committee on Codex Specifications of the National Academy of Sciences to develop acceptable specifications for these ingredients. If acceptable specifications are developed, the agency will incorporate them into these regulations at a later date. Until any such specifications are developed, FDA has determined that the public health will be adequately protected if carbon dioxide, nitrogen, helium, propane, iso-butane, *n*-butane, and nitrous oxide comply with the description in the proposed regulations and are of food-grade purity (21 CFR 170.30(h)(1) and 182.1(b)(3)).

Additionally, FDA is proposing not to include in these GRAS affirmation regulations the levels of use and, except for nitrous oxide, food categories reported in the NAS/NRC 1971 survey for these ingredients. FDA believes that establishing these levels and food categories is unnecessary because of the rapidity with which these gases escape into the atmosphere. In addition, the level of use of each of these gases in food is limited by the solubility of the gas in the food and by the technical effect it is intended to achieve. Furthermore, both FASEB and FDA have concluded that a large margin of safety exists for the use of these substances and that a reasonably foreseeable increase in the level of use of these substances will not adversely affect human health. Therefore, the agency is proposing to affirm the GRAS status of carbon dioxide, nitrogen, helium, propane, iso-butane, *n*-butane, and nitrous oxide when they are used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of the GRAS status of these substances is based on the evaluation of currently known uses, the proposed regulations set forth the technical effects and, in the case of nitrous oxide, the food categories that FDA evaluated. FDA is including food categories in the nitrous oxide regulation because the Select Committee, in its conclusion, specified the types of food in which it had evaluated the use of this ingredient. The Select Committee did not so qualify its conclusions about the safety of any of the other gases addressed in this proposal. Thus, FDA finds that it is appropriate to specify these categories.

In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for

[1] *Ibid.*, p. 11.
[2] *Ibid.*, pp. 18 and 26.
[1] *Ibid.*, p. 38.
[2] *Ibid.*, p. 16.
[3] *Ibid.*, pp. 6, 11, 16, and 26.
[4] *Ibid.*, p. 38.

substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that is is appropriate to do so.

Copies of the scientific literature review and the report of the Select Committee on carbon dioxide, and copies of the scientific literature review, the scientific literature review update, and the report of the Select Committee on gases used in foods are available for review at the Dockets Management Branch (address above), and may be purchased from the national Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price [1]
Carbon dioxide (scientific literature review).	PB-241-969/AS	A10	$13.00
Carbon dioxide (Select Committee report).	PB-80-104615	A03	6.00
Gases in foods (scientific literature review).	PB-241-963/AS	A07	10.00
A review of the recent literature on the health aspects of gases as food ingredients.	PB-275-750/AS	A03	6.00
Gases used in foods (Select Committee report).	PB-80-112022	A04	7.00

[1] Price subject to change.

This proposed action does not affect the current use of carbon dioxide, nitrogen, helium, propane, *n*-butane, iso-butane, and nitrous oxide in pet food or animal feed.

The format of the proposed regulations is different from that in the previous GRAS affirmation regulations. FDA has modified paragraph (c) of §§ 184.1165, 184.1240, 184.1355, 184.1540, 184.1545, and 184.1655 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including the technical effects (and for nitrous oxide the food categories) listed. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1786 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§§ 182.1165, 182.1240, 182.1355, 182.1540, 182.1545, 182.1655 [Removed]

1. Part 182 is amended by removing § 182.1165 *Butane*, § 182.1240 *Carbon dioxide*, § 182.1355 *Helium*, § 182.1540 *Nitrogen*, § 182.1545 *Nitrous oxide*, and § 182.1655 *Propane*.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended:

a. By adding new §184.1165, to read as follows:

§184.1165 n-Butane and iso-butane.

(a) *n*-Butane and iso-butane (empirical formula C_4H_{10}, CAS Reg. Nos. 106–97–8 and 75–28–5, respectively) are colorless, odorless, flammable gases at normal temperatures and pressures. They are easily liquefied under pressure at room temperature and are stored and shipped in the liquid state. The butanes are obtained from natural gas by fractionation following absorption in oil absorption to surface-active agents, or refrigeration.

(b) The Food and Drug Administration is developing food-grade specifications for *n*-butane and iso-butane in cooperation with the National Academy of Sciences. In the interim, the ingredient must be of a purity suitable for its intended use.

(c) In accordance with §184.1(b)(1), these ingredients are used in food with no limitations other than current good manufacturing practice. The affirmation of these ingredients as generally recognized as safe (GRAS) as direct human food ingredients is based upon the following current good manufacturing conditions of use:

(1) The ingredients are used as propellants, aerating agents, and gases as defined in §170.3(o)(25) of this chapter.

(2) The ingredients are used in food at levels not to exceed current good manufacturing practice.

b. By adding new §184.1240, to read as follows:

§184.1240 Carbon dioxide

(a) Carbon dioxide (empirical formula CO_2, CAS Reg. No. 000124–38–9) occurs as a colorless, odorless, noncombustible gas at normal temperatures and pressures. The solid form, dry ice, sublines under atmospheric pressure at a temperature of −78.5° C. Carbon dioxide is prepared as a byproduct of the manufacture of lime during the "burning" of limestone, from the combustion of carbonaceous material, from fermentation processes, and from gases found in certain natural springs and wells.

(b) The Food and Drug Administration is developing food-grade specifications for carbon dioxide in cooperation with the National Academy of Sciences. in the interim, the ingredient must be of a purity suitable for its inteded use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitations other than current good manufacturing practice. The affirmation of this ingre lient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing conditions of use:

(1) The ingredient is used as a leavening agent as defined in §170.3(o)(17) of this chapter; a processing aid as defined in §170.3(o)(24) of this chapter; and a propellant, aerating agent, and gas as defined in §170.3(o)(25) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

c. By adding new § 184.1355, to read as follows:

§ 184.1355 Helium.

(a) Helium (empirical formula He, CAS Reg. No. 007440–59–7) is a colorless, odorless, flavorless, nonflammable, inert gas. It is lighter than air and is produced by the liquefaction and purification of natural gas.

(b) The Food and Drug Administration is developing food-grade specifications for helium in cooperation with the National Academy of Sciences. In the interim, the ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitations other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing conditions of use:

(1) The ingredient is used as a processing aid as defined in § 170.3(o)(24) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

d. By adding new § 184.1540, to read as follows:

§ 184.1540 Nitrogen.

(a) Nitrogen (empirical formula N_2 CAS Reg. No. 007727–37–9) is a colorless, odorless, flavorless gas that is produced commercially by the fractionation of liquid air.

(b) The Food and Drug Administration is developing food-grade specifications for nitrogen in cooperation with the National Academy of Sciences. In the interim, the ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitations other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing conditions of use:

(1) The ingredient is used as a propellant, aerating agent, and gas as defined in § 170.3 (o) (25) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

e. By adding new § 184.1545, to read as follows.

§ 184.1545 Nitrous oxide.

(a) Nitrous oxide (empirical formula N_2O, CAS Reg. No. 010024–97–2), also called dinitrogen monoxide or laughing gas, is a colorless gas, about 50 percent heavier than air, with a slightly sweet smell. It does not burn but will support combustion. Nitrous oxide is manufactured by the thermal decomposition of ammonium nitrate. Higher oxides of nitrogen are removed by passing the dry gas through a series of scrubbing towers.

(b) The Food and Drug Administration is developing food-grade specifications for nitrous oxide in cooperation with the National Academy of Sciences. In the interim, the ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitations other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current food manufacturing conditions of use:

(1) The ingredient is used as a propellant, aerating agent, and gas as defined in § 170.3 (o) (25) of this chapter.

(2) The ingredient is used in dairy product analogs as defined in § 170.3(n)(10) of this chapter at levels not to exceed current good manufacturing practice.

f. By adding new § 184.1655, to read as follows:

§ 184.1655 Propane.

(a) Propane (empirical formula C_3H_8, CAS Reg. No. 000074–98–6), also called dimethylmethane or propyl hydride, is a colorless, odorless, flammable gas at normal temperatures and pressures. It is easily liquefied under pressure at room temperature and is stored and shipped in the liquid state. Propane is obtained from natural gas by fractionation following absorption in oil, adsorption to surface-active agents, or refrigeration.

(b) The Food and Drug Administration is developing food-grade specifications for propane in cooperation with the National Academy of Sciences. In the interim, the ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitations other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing conditions of use:

(1) The ingredient is used as a propellant, aerating agent, and gas as defined in § 170.3 (o) (25) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

The agency is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before November 30, 1982 submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 15, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–27061 Filed 9–30–82; 8:45 am]

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21CFR Parts 182 and 184

[Docket No. 79N–0162]

Tannic Acid; Proposed Affirmation of Gras Status With Specific Limitation

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that tannic acid is generally recognized as safe (GRAS), with specific limitations, as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

DATE: Comments by November 30, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF–

335), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–472–4750.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of tannic acid has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm, with specific limitations, the GRAS status of this ingredient.

Tannic acid, also called tannin or hydrolyzable gallotannin, is a complex polyphenolic organic compound that yields gallic acid and either glucose or quinic acid as a hydrolysis product. It is obtained by solvent extraction of nutgalls, the excrescences that form on the young twigs of *Quercus infectoria* Oliver and allied species of *Quercus* L. (Fam. *Fagaceae*). Tannic acid is also obtained from the seed pods of Tara (*Caesalpinia spinosa*) from the eastern Mediterranean region and from Chinese nutgalls (*Rhus semialata*). However, the so-called condensed tannins, which are also present in various plants but are not used as food ingredients, are not addressed in this evaluation.

Tannic acid is listed in § 182.20 (21 CFR 182.20) as a GRAS natural flavor extractive under a regulation published in the **Federal Register** of June 10, 1961 (26 FR 5221), which was recodified March 15, 1977 (42 FR 14640). FDA has also issued several opinion letters regarding other GRAS uses of tanic acid in foods. On November 5, 1958, the agency issued a letter for the use of tannic acid as a component of salad dressing at a level not to exceed 5.7 parts per million (ppm). Additionally, FDA issued two opinion letters for use of tannic acid as a clarifying agent in beer and apple juice, at a level not to exceed 100 ppm.

Tanic acid is permitted as an agent for refining animal fats under 9 CFR 318.7 but must be eliminated from the finished fat. Tannin is regulated as a food additive under § 173.310 (21 CFR 173.310) for use as a component of boiler water additives. Tannins are also regulated for use as a clarifying agent in wine under 27 CFR 240.525.

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which tannic acid is used and the levels of usage. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to tannic acid.

FDA estimates from the NAS/NRC survey that the total amount of food-grade tannic acid used in 1970 was 1.7 million pounds. The NAS/NRC survey reported that tannic acid is used as a flavoring agent, flavor enhancer, pH control agent, and processing aid in a variety of foods, including baked goods, alcoholic beverages, nonalcoholic beverages, gelatins, puddings and fillings, frozen dairy desserts, hard candy, soft candy, and meat products. However, the Select Committee on GRAS Substances (the Select Committee) estimates that more than 99 percent of the total poundage reported for tannic acid is uses as a processing aid and is largely removed from food before it is consumed.[1]

Tannic acid has been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology (11) behavioral effects, (12) detection, and (13) processing. A total of 237 abstracts on tannic acid was reviewed, and 42 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

Information from the scientific literature review and other sources has been summarized in a report to FDA by the Select Committee, which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The biological information summarized in the report is as follows:

Tannic acid is considered an hepatotoxic and cirrhotic agent capable of causing severe and even fatal disease at concentrations formerly used in the topical treatment of burns or in certain tannic acid barium enemas. With a few exceptions, data on toxicity resulting from routes of administration other than oral are not relevant to an evaluation of possible hazards from the food uses of tannic acid.

Korpassy *et al.* 1951 tested the absorption of a single dose of tannic acid (U.S.P. Hendon, London) administered by gavage in aqueous solutions to rabbits (0.5 to 2 g per kg) and dogs (0.3 to 2.3 g per kg). The animals were fasted 24 hours prior to the experiment. A dose related increase in plasma phenolic group concentration was noted: however, the test method detected phenolic groups and was not specific for unhydrolyzed tannic acid. Two of 100 dogs dies during the experiment; one died of unknown causes five hours after receiving 415 mg tannic acid per kg, but the second, that received 830 mg per kg, showed extensive acinocentralis (centrolobular) necrosis of the liver. Necropsies were performed on several of the dogs and rabbits but no results were reported.

In 1962, Dollahite *et al.* measured serum levels of tannic acid of 52 to 230 μg per ml by a nonspecific test for phenolic groups after gastric intubation of aqueous tannic acid (reagent grade) solutions at 2 to 8 g per kg to rabbits. At 24 hours after intubation, rabbits receiving more than 4 g per kg had died; "tannic acid" had been eliminated from the serum of the animals receiving up to 4 g per kg. Goats and sheep had "tannic acid" blood levels of 75 to 160 μg per ml within one hour after receiving by the same route a 2 g per kg dose; the blood tested negative at 48 hours.

Most reports of the absorption of tannic acid have relied on nonspecific identification of phenolic substances in blood sera. However, Harris *et al.* in 1966 used thin layer chromatography to identify tannic acid in the blood serum of Long-Evans rats (200 to 250 g) in a study of colonic absorption. Aqueous tannic acid (N.F.) enemas were administered to the animals. Increased amounts of tannic acid were found in hepatic portal vein blood as the concentration and contact time were increased, but no tannic acid was absorbed from a 1 percent solution in the colon from one minute to one hour. There was a trace (approximately 25 μg per ml) of tannic acid in the blood one minute after a 2 percent tannic acid enema was given. Kessler and Blumenberg using paper chromatography have demonstrated the breakdown of tannic acid by the gastrointestinal juices of guinea pigs to gallic acid and glucose. These authors, in another report, were unable to demonstrate intact tannic acid in rabbit blood serum after intubation of tannic acid solutions.

A major metabolite in the urine of rabbits, rats, and chickens ingesting tannic acid or gallic acid was identified as 4-O-methyl gallic acid. The increases in urinary excretion of 3,4-dihydroxyphenolic and phenolic methoxy substances by man after ingestion of 1 g tannic acid (not described) were interpreted as due to metabolic products of tannic acid.

The addition of methionine and choline as a methyl-group source to a diet of high tannin grain sorghum improved feed efficiency and corrected growth depression and body weight loss in chicks and laying hens. Jambunathan and Mertz demonstrated an inverse relationship between rat growth rate and the polyphenolic compound content of sorghum varieties.

[1] "Evaluation of the Health Aspects of Tannic Acid as a Food Ingredient," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1977, p. 6.

Mitjavila *et al.* studied the absorption of glucose, butyric acid and methionine, using *in vivo* perfusion techniques in the presence of gallotannic acid in the mouse intestine. Statistical analysis of the perfusion data showed that 0.005 to 0.25 percent tannic acid produced a marked reduction in the absorption of water, glucose and methionine, and a less significant reduction in butyric acid absorption. Concurrent histological studies showed edema of the intestinal mucosal villi with shrinkage of the layer of epithelial cells when 0.25 percent tannic acid was tested. This was attributed to denaturation of the intestinal epithelial cells and to reduction in the capability of these cells to actively transfer glucose and methionine through the wall.

Korpassy *et al.* in 1950 administered tannic acid solutions (2.5, 5.0, and 10.0 percent) by gavage two or four times daily for three days to rats (0.75 to 3.0 g per kg), and for one or three days to rabbits (0.67 to 2.7 g per kg), and dogs (0.9 to 3.6 g per kg). Autopsies of animals that died as a result of the test doses and of those sacrificed three days after the dose showed varying degrees of hepatic necrosis in a few animals receiving 2.5 percent tannic acid, in most of those receiving 5.0 percent and in all receiving 10.0 percent solutions.

In mice, the oral LD_{50} of tannic acid (Merck, U.S.P., Chinese nutgall) administered by stomach tube as a 10 percent aqueous solution was between 3 and 4 g per kg body weight. Rats were more resistant than mice to tannic acid, and doses three to four times larger were required to produce toxic signs. The authors reported that the toxicity of gallic acid was less than that of tannic acid in mice, and "large doses" of gallic acid did not produce the signs of tannic acid toxicity. Other workers have noted the differences in toxic effects of tannic acid and gallic acid in rats after intraperitoneal administration. Doses of 40 mg tannic acid per kg produced no hepatohistologic damage in five animals; doses of 60 mg per kg produced hepatohistologic damage in each of five other rats. Gallic acid had no hepatotoxic effects; even at a lethal dose of 2000 mg per kg only renal damage was noted.

Boyd *et al.* reported in 1965 on the toxicity of tannic acid (Fisher Certified) [probably mistakenly referred to as 3-galloyl gallic acid by the authors] in young male albino Wistar rats weighing 125 to 200 g. Doses of 2.0 to 8.0 g per kg were administered by intragastric cannula in solutions of 20 ml per kg body weight. The oral LD_{50} was 2.26 (S.E. 0.083) g per kg with a mean interval between dose and death of 38 hours. Doses of 4.5 to 8 g per kg were fatal within six hours. Drowsiness, pallor, cyanosis and diarrhea were the most common signs of intoxication. Anorexia and oligodipsia also were evident. Death was preceded by tremors and convulsions and finally respiratory failure. A temporary fulminating gastroenteritis followed oral administration but was gone at three days. Hepatic necrosis and nephritis were evident in animals surviving two to four days. The spleen showed hyperplasia as did the adrenal cortex. Spermatogenesis was stimulated in animals dying at two or three days, and those surviving for several weeks had significantly heavier testes.

Texl and Konecnỳ performed experiments utilizing oral, subcutaneous and rectal treatments of Wistar rats with various tannic acid (Ac. tannicum-Lachema, PhB-2) concentrations. The sulfobromophthalein dye test was used to observe liver function. Oral doses of 1 g per kg of tannic acid caused no damage to the intestinal tract and no impairment of liver function. The author considered this proof that the undamaged digestive tract is impermeable to tannic acid. Doses of 2 to 3 g per kg produced significant liver function impairment, centrolobular necrosis and loss of glycogen, and inflammatory changes and uceleration of the gastric mucosa. After gallic acid was administered subcutaneously (1 g per kg) or rectally (1.5 g per kg) no impairment of liver function could be detected, liver histology appeared normal, and the rectal mucosa was unaffected.

Mitjavila *et al.* in 1971 studied the effect of tannic acid on the phagocytotic activity of the reticuloendothelial system, of the liver in male Wistar rats. In these experiments tannic acid (Aleppo) was administered intravenously or by gastric intubation. The results of the intravenous and oral experiments were similar. The hepatotoxicity of intravenously administered tannic acid (20 mg per kg) was similar to that seen after intragastric administration of higher doses (2 g per kg). Slightly less bile was excreted during the first hour. Sulfobromophthalein elimination was significantly reduced, and Kuppfer cell activity was normal during the first 24 hours but increased by 82 and 75 percent during 48 and 72 hours after injection, respectively. Parenchymal clearance decreased about 23 percent after 24 hours and the decrease persisted after 48 hours. The level of hepatic triglycerides was significantly increased 72 hours after injection.

Dollahite *et al.* gastrically intubated rabbits with aqueous solutions of tannic acid (unidentified), gallic acid and pyrogallol; the single dose LD_{50}'s for these compounds in rabbits were 5.0, 5.0, and 1.6 g per kg, respectively.

Peaslee and Einhellig found the age and weight of mice affected the animals' response to dietary tannic acid. They fed groups of six to eight young male albino mice a diet containing 5 or 8 percent tannic acid (Turkish nutgall, technical grade) in ground laboratory chow for periods of three to eight weeks. Daily tannic acid intake for the two levels was about 16 and 25 g per kg body weight averaged over the test period. Mice starting the test with body weights less than 12 g and fed an 8 percent tannic acid diet continued in depressed growth to sacrifice, exhibited a significant decrease in pituitary gland weight and had a significant increase in pituitary melanocyte stimulating hormone activity. This was postulated by the authors to be evidence of the toxic effect of prolonged intake of tannic acid by young animals.

Handler and Baker found no evidence of hepatic necrosis in Vanderbilt rats given tannic acid (unidentified) at levels of 1 and 2 percent (about 1 to 3 g per kg) in the diet of pair-fed rats over a period of 90 days. No gross or histological signs of liver damage were observed.

Racela *et al.* studied reagent grade gallotannic acid in 60 female Fisher-344 rats. The rats were sacrificed from one to three weeks after a single subcutaneous injection of 700 or 1200 mg tannic acid per kg body weight. Complete autopsies revealed an early and promptly reversible form of nucleolar macrosegregation or "capping." Iron-ribonucleic acid complexes were presented as intra-nuclear inclusions which disappeared gradually over a two-week period from the centrolobular areas. A transient, marked increase in fat in the liver cells diminished to a slight increase after 72 hours. Cytoplasmic degeneration was reflected in irregular eosinophilic bodies, some periodic acid Schiff positive, that were free of glycogen. Focal cytoplasmic necrosis was most prominent in central and mid-lobular zones. Most affected hepatocytes were within normal limits by one week after tannic acid treatment.

Glick and Joslyn fed 50 g weanling Long-Evans rats *ad libitum* a basal 20 percent casein diet containing 0, 4, and 8 percent tannic acid (analytical reagent grade gallotannic acid, J. T. Baker). At the 8 percent tannic acid level (1.8 g per kg) nine of ten animals died in four to seven days as did eight of ten pair-fed controls receiving a tannic acid-free basal diet. Growth was depressed because of decreased food intake as compared to *ad libitum* fed controls, but no deaths occurred at the 4 percent tannic acid level. Mature rats (200 g) on the 8 percent tannic acid diet (0.9 g per kg) had no mortality but gained less weight than pair-fed controls. The growth of 130 g rats on 5 percent tannic acid in a 40 percent casein diet was improved as compared to the basal 20 percent casein diet and was equal to that of pair-fed controls; protein absorption was increased. Methionine or choline added to the basal diet containing 5 percent tannic acid produced no significant improvement in growth rate. The authors noted high fecal nitrogen losses in rats fed tannic acid. The toxicity of tannic acid appeared to be inversely related to age and weight of the animals.

Squillaci and DiMaggio administered tannic acid (1 g per kg) in water daily for 40 days by stomach tube to male rabbits (2 kg) fasted for 12 hours. The general condition of the animals was good for the first 20 days. Later the body weight decreased and albumin showed in the urine at the end of the experimental period. Histological examination revealed certain toxic effects including degeneration of hepatic cells closest to the centrolobular veins, and areas of scaling of the stomach and small intestine mucosal epithelium.

The Joint FAO/WHO Expert Committee on Food Additives in 1970 reported studies of rats and dogs given various dietary levels of hydrolyzable tannins. The rats received 0, 8, 80, or 800 mg per kg body weight of Aleppo or tara tannin in the diet for 12 weeks without significant changes in body weight or food intake and utilization. No liver or kidney abnormalities attributed to the tannins were seen at necropsy. Similar studies with Chinese, Sicilian sumac and Douglas fir tannins produced comparable results. Dogs were given 0.0, 0.117, 0.125, 0.234, and 0.25 percent tannin in their diet as chewing gum (containing 0.5 percent Peruvian tara tannin) for two years with no ill effects. Behavior, food consumption, hematology, organ function tests, organ weights, gross and microscopic pathology were within normal limits.

A report of the Joint FAO/WHO Expert Committee on Food Additives detailed a long-term study in which 100 rats were fed Peruvian tara tannin as 0.0, 0.117, 0.125, 0.234, or 0.25 percent of their diet. In weanling rats, the highest dosage was about 0.3 g per kg body weight. The tannin was incorporated in a chewing gum at a level of 0.5 percent and then added to the diet. No deleterious effects were seen by the usual criteria of growth, food consumption, and gross and microscopic pathology. In a three-generation study, two litters per generation, groups of 20 male and 20 female rats were fed Peruvian tara tannin at levels of 0.0, 0.058, 0.117, and 0.234 percent. The young at weaning fed the highest level of tannin had lower body weights, a feature not observed at lower levels of tannin ingested. Fertility, gestation, viability and lactation were not affected at any feeding levels.

Korpassy *et al.* administered aqueous solutions of tannic acid (U.S.P.) to rats by oral intubation before meals. The animals were dosed (initially, 0.27 g per kg) four times each week with 4 ml of 1.0 percent tannic acid. The tannic acid concentration was increased by 1.0 percent every other month to a maximum of 5.0 percent (1 g per kg). Of 20 rats in this group, seven survived the 390 days of treatment. A second group of 40 rats was dosed once each week with 4 ml of 3 percent tannic acid for one month (initially 0.8 g per kg) and 5 percent for the remainder of the testing period; twenty-eight survived 300 days and four survived 500 days. Autopsies were performed and tissues examined microscopically. The enlarged livers and spleens showed extensive damage in two animals that died and one that was sacrificed during the experiment. There were numerous dividing myelogenous cells in the bone marrow in all of the animals. The kidneys, adrenals and ovaries showed a slight degree of myelogenous leucocytic infiltration. The histological appearance was suggestive of marked myelogenous hyperplasia. The hematopoietic and reticuloendothelial systems showed an activity indicative of response to stimulation of the active mesenchyme.

Weanling male and female albino CF mice were raised on a diet of ground laboratory chow and 8 percent tannic acid (about 12 to 25 g per kg) of technical grade, Turkish nutgall. In one experiment these animals were maintained on the tannic acid diet through two breeding cycles, and they produced litters of smaller number, slower growth rate, and lower body weight plateau. When female mice were removed from the tannic acid diet prior to breeding by control males, there were no significant differences between test and control litter weights or animals per litter. The authors suggested that the protein binding activity of tannic acid may influence hormonal activity. No data on feed intake were reported.

As defined in the background section of this report, food grade tannic acid is a hydrolyzable gallotannin. Some data on condensed tannins are included in this report for comparative purposes, but the health aspects of condensed tannins are not reviewed.

The work of Korpassy indicated that repeated subcutaneous administration of tannic acid (USP) to rats produced hemorrhagic gastric erosions, skin necrosis and ulcers, and hepatic tumors arising in sites of nodular cirrhosis and irregular bile duct proliferation. Doses of 150 to 200 mg per kg body weight administered every fifth day resulted in 30 to 50 percent survival in rats at 200 days and 5 to 15 percent survival for 300 days. More than half of the animals surviving 100 days developed hepatomas and/or cholangiomas, usually multiple and benign, although some histological patterns suggested low-grade malignancy. No metastases involving liver cancer were produced by tannic acid treatment and local carcinogenic effects were not observed associated with the skin ulcers resulting from subcutaneous injections. In reviewing the work in his laboratory on the oral administration of tannic acid to rats, Korpassy has reported no liver tumors in tannic acid treated animals and no gastric erosions after treatment with 2 to 5 percent aqueous tannic acid solutions, precirrhotic changes were observed in livers of rats after 180 days of treatment per os but only if the dose exceeded the effective parenteral dose by several times.

Kirby studied tumor induction in groups of 10 rats or mice after subcutaneous injection of tannic acid (B.D.H.), extracts containing condensed tannins, or extracts containing hydrolyzable gallotannins from myrobalans (*Terminalia chebula* Retz), chestnut (*Castanea sativa* Mill.) and valonia (*Quercus aegilops* L.). Twelve equal weekly doses delivered a total of 350 mg of tannin extract or tannic acid per kg to rats and 750 mg per kg to mice. Sarcomas appeared at the injection site of condensed tannin extracts in rats after one year but did not develop at the injection sites of tannic acid or myrobalan extract, the only hydrolyzable gallotannins tested in the rat. No liver damage or other observable effects were produced in the rat by these hydrolyzable gallotannins. In mice, tannic acid and extracts of myrobalans, chestnut and valonia produced no tumors at the site of injection but liver tumors were described in each of these groups.

Several reports, in addition to the long-term feeding studies reviewed by the Joint FAO/WHO Expert Committee on Food Additives, are negative with respect to carcinogenic effects after parenteral or oral administration of tannic acid. Bichel and Bach injected intramuscularly a group of 30 male and 30 female C$_3$HA mice with nutgall tannic acid (0.75 mg per kg) every second week for 12 months. The tannic acid was described as equivalent to tanninum (Ph. Nord.), acidum tannicum (Brit. 32) and to tannic acid (USA 47). It was delivered in a mixture of 1 mg cyanocobalamin and 1.5 mg tannic acid in 2 percent aluminum monostearate gel in sesame oil. Equal numbers of mice received the tannic acid preparation without cyanocobalamin and a third group received saline injections. The experiment was terminated six months after the last injection. There were no tumors at the injection sites and histological examination of the liver revealed no differences in the three groups. Perissinotto and Lombardi injected 80 rats subcutaneously with 1 to 2 percent aqueous solution, delivering 100 to 200 mg of tannic acid (not described) per kilogram body weight every five days and reported no evidence of liver tumors after 250 days.

Blumenberg and Kessler administered tannic acid (1000 mg per kg body weight of DAB 6) by gavage daily for 231 days to male Wistar rats and noted no hepatonecrosis. Konstantinov and Ivanov injected subcutaneously 200 mg tannic acid (not described) per kg to chickens weekly for 36 weeks. Intranuclear inclusions in parenchymal cells of the liver and kidney tubules were noted 24 hours after the initial treatment but no hepatomas or cholangiomas developed during the test period. The cellular inclusions indicated repair of the liver cells rather than evidence of carcinogenic changes.

Weinberg *et al.* studied the influence of drug treatments (including tannic acid) given to female rats during gestation on the toxicity of drugs administered to the newborn. There was no influence on the susceptibility of the newborn rats (12 to 24 hr) to lethal doses of tannic acid when the dam was treated before or during gestation. The study showed that younger rats died earlier mainly because of their inability to tolerate the gastrointestinal necrosis that tannic acid induced.

Food grade tannic acid was not mutagenic when tested by *in vitro* microbial assays with and without the addition of mammalian (mice, rats, and monkeys) metabolic activation preparations (liver, lung and testes). The indicator organisms used were *Saccharomyces cerevisiae* D4 and *Salmonella typhimurium* TA–1535, TA–1537 and TA–1538.

Teratologic evaluation of food grade tannic acid was conducted in mice and rats. Administration of up to 135 mg per kg body weight of tannic acid to pregnant mice and up to 180 mg per kg body weight of tannic acid to pregnant rats for 10 consecutive days (day 6 through 15 of gestation) had no clearly discernible effect on nidation or on maternal or fetal survival. The number of abnormalities seen in either soft or skeletal tissues of the test groups did not differ from the number occurring spontaneously in the sham-treated controls. Food grade tannic acid displayed no teratogenicity in the chick embryo test.

Johnston *et al.* reported the case history of one patient who was allergic to both tannic acid and gallic acid.[1]

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[1] *Ibid.*, pp. 7–14.

The members of the Select Committee have evaluated all available safety information on tannic acid. In the Select Committee's opinion:

* * * only hydrolyzable gallotannins are within the definition of tannic acid. Tannic acid yields gallic acid and either glucose or quinic acid as hydrolysis products. These hydrolysis products are consumed as naturally occurring constituents of many foods. The total dietary intake of added tannic acid resulting from its use as a flavoring agent or processing aid can be inferred to be very small. The level of addition of tannic acid to various foods is about 100 ppm or less. Thus, the potential level of consumer exposure is orders of magnitude below the lowest levels for which adverse biological effects are reported to occur after oral administration of tannic acid to experimental animals.

While the evidence seems clear that food grade tannic acid at concentration reportedly added to foods is hydrolyzed prior to absorption from the small intestine, the extent and nature of its absorption have not been established for man. In experimental animals, intact tannic acid is apparently absorbed only after mucosal damage caused by large doses of concentrated aqueous tannic acid solutions intubated into empty stomachs or by artificially prolonged exposure of the mucosa to these solutions. Data available to the Select Committee contain no evidence that tannic acid as currently used in foods can induce mucosal damage. However, toxic effects following parenteral administration to animals suggest that additional studies should be made related to the absorption of tannic acid at dietary levels by individuals with gastrointestinal disorders.

Some investigators have reported that daily oral administration of tannc acid to experimental animals by stomach tube for periods of months may cause damage to the liver and other organs similar to that seen after parenteral administration of hydrolyzable tannins to experimental animals, and to that reported historically in man following topical treatment of burns with tannic acid. None of these effects is reported, however, in experimental animals receiving tannic acid as a component of their ration, even at levels of several percent of the diet. Nevertheless, the reported hepatocarcinogenic effect of parenterally injected hydrolyzable gallotannins is of concern to the Select Committee owing, in part, to the lack of uniformity of composition and sources of the preparations used in the tests available in the literature for evaluation. While the evidence available to the Select Committee does not demonstrate hazard of carcinogenicity inherent in food grade tannic acid, research is needed to answer the question of why there are such extreme differences between the results of parenterally and orally administered hydrolyzable tannins in rodents.

There is no evidence of a clear and present danger to the public health occasioned by the current use of dietary tannic acid as a food ingredient.[1]

[1] *Ibid.*, pp. 14–15.

The Select Committee concludes that no evidence in the available information on tannic acid demonstrates, or presents reasonable grounds to suspect, a hazard to the public when tannic acid is used at levels that are now current and in the manner now practiced. However, the Select Committee also states that it is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard.[2]

FDA has undertaken its own evaluation of all available information on tannic acid and concurs with the conclusion of the Select Committee. Based upon available safety data, the agency concludes that this ingredient should be affirmed as GRAS with specific limitations placed on its use. The levels of use set forth in this proposal for various food categories are the maximum levels reported to the NAS/NRC in their 1971 survey of food manufacturers on the use of GRAS ingredients. The agency encourages the submission, as comments on this proposal, of other food uses for this ingredient that may not have been reported during the survey. Each report of a use should include the residue level of tannic acid remaining in the food when consumed, so that the agency may determine whether a significant increase in consumption of tannic acid will result from the new reported use. FDA will address any change in the regulatory status of tannic acid when it issues the final rule.

As discussed earlier, of the 1.7 million pounds of foodgrade tannic acid used in 1970, the major portion is believed by the Select Committee to be used as a processing aid and as such does not become part of the food supply. The agency therefore concludes that with the use limitations presented in this proposal, available data support GRAS affirmation of tannic acid as currently used in food. After a final rule is published, any use of tannic acid that is not permitted by the regulation will be considered an unsafe use within the meaning of section 409(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(a)), whose use in food is unlawful.

The Select Committee states that, in its opinion, additional data should be obtained to answer questions relating to (1) the absorption of tannic acid at normal dietary levels by individuals with gastrointestinal disorders and (2) the differences between the observed toxic effects of parenterally and orally administered hydrolyzable tannins in rodents, specifically the relation between the route of administration and the reported hepatocarcinogenic effects.[1]

[2] *Ibid.*, p. 15.

In response to the questions raised by the Select Committee's report, FDA directed its Cancer Assessment Committee (CAC) to undertake a review of the safety data supporting the use of tannic acid in food. The CAC shared the Select Committee's concern about the induction of tumors and other toxic effects in animals injected with tannic acid. On the other hand, the CAC noted that there is extensive data which demonstrate orally administered tannic acid is not toxic to animals at doses far exceeding the injected doses. The CAC concluded that there was no evidence that orally administered food-grade tannic acid is a carcinogen. FDA requests that safety information addressing these questions, published or unpublished, be submitted as comments on this proposal during the comment period.

As discussed earlier, the agency has issued opinion letters sanctioning the safe use of tannic acid in salad dressing and apple juice. Available data do no indicate, however, that tannic acid currently is being used in these foods. Therefore, FDA is not proposing to affirm these uses. FDA will reconsider this matter if current use information (levels of addition and intended technical effects) is submitted for these uses as comments on this proposal.

Because the use of tannic acid as a boiler water additive is regulated under § 173.310, it would be redundant to include this use in the proposed action. Accordingly, it is not being included in this proposal. The use of tannic acid in refining rendered fats was not reported in the NAS/NRC survey. However, when it is used in accordance with 9 CFR 318.7, the agency has no reason to believe that tannic acid would pose a hazard to the public. Consequently, this prior-sanctioned use if being included in the proposal.

Copies of the scientific literature review on tannic acid, reports of mutagenic and teratogenic evaluations, and the report of the Select Committee are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, as follows:

[1] *Ibid.*, p. 15.

Title	Order No.	Price code	Price[1]
Tannic acid (scientific literature review).	PB-223-858/AS	A05	$6.00
Tannic acid (mutagenic evaluation).	PB-245-473/AS	A03	4.50
Tannic acid (teratologic evaluation).	PB-245-519/AS	A03	4.50
Tannic acid (Select Committee report).	PB-274-869/AS	A03	4.50

[1]Price subject to change.

This proposed action does not affect the current use of tannic acid in pet food or animal feed.

The format of the proposed regulation is different from that in previous GRAS affirmation regulations. The agency has modified the form in which the specific limitations on the use of the ingredient is presented. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6)(proposed December 11, 1979; 44FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human evironment. therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposed rule, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.20 [Amended]

1. In Part 182, § 182.20 *Essential oils, oleoresins (solvent-free), and natural extractives (including distillates)* is amended by removing the entry "Tannic acid."

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. In Part 184, by adding new § 184.1097 to read as follows:

§ 184.1097 Tannic acid.

(a) Tannic acid (CAS Reg. No. 1401–55–4), or hydrolyzable gallotannin, is a complex polyphenolic organic structure that yeilds gallic acid and either glucose or quinic acid as hydrolysis products. It is a yellowish-white to light brown substance in the form of an amorphous, bulky powder, glistening scales, or spongy masses. It is also odorless or has a faint characteristic odor and an astringent taste. Tannic acid is obtained by solvent extraction of nutgalls or excrescences that form on the young twigs of *Quercus* L. (Fam. *Fagaceae*). Tannic acid is also obtained by solvent extraction of the seed pods of Tara (*Caesalpinia spinosa*) from the eastern Mediterranean region or of Chinese nutgalls (*Rhus semialata*).

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 319, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c)(1) In accordance with § 184.1(b)(2), the ingredient is used in food only within the following specific limitations:

Category of food	Maximum level of use in food (as served) (percent)	Functional use
Baked goods and baking mixes, § 170.3(n)(1) of this chapter	0.01	Flavoring agent and adjuvant, § 170.3(o)(12) of this chapter
Alcoholic beverages, § 170.3(n)(2) of this chapter	0.015	Flavor enhancer, § 170.3(o)(11) of this chapter; flavoring agent and adjuvant, § 170.3(o)(12) of this chapter; processing aid, § 170.3(o)(24) of this chapter.
Nonalcoholic beverages and beverage bases, § 170.3(n)(3) of this chapter and for gelatins, puddings, and fillings, § 170.3(n)(22) of this chapter.	0.005	Flavoring agent and adjuvant, § 170.3(o)(12) of this chapter; pH control agent, § 170.3(o)(23) of this chapter.
Frozen dairy desserts and mixes, § 170.3(n)(20) of this chapter and for soft candy, § 170.3(n)(38) of this chapter.	0.04	Flavoring agent and adjuvant, § 170.3(o)(12) of this chapter.
Hard candy and cough drops, § 170.3(n)(25) of this chapter	0.013	Do.
Meat products, § 170.3(n)(29) of this chapter.	0.001	Do.

(2) Tannic acid may be used in rendered animal fat in accordance with 9 CFR 318.7.

The agency is unaware of any prior sanction for the use of this ingredient in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before November 30, 1982 submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 16, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-27062 Filed 9-30-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 184

[Docket No. 81N-0348]

Benzoyl Peroxide; Proposed Affirmation of Gras Status

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that benzoyl peroxide is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

DATE: Comments by November 30, 1982.

ADDRESS: Comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary C. Custer, Bureau of Foods, (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-9453.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of benzoyl peroxide has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of this ingredient as a direct human food ingredient.

Benzoyl peroxide, $(C_6H_5CO)_2O_2$, is a colorless, odorless, tasteless, rhombic crystalline solid. The technical product melts at 103° to 105° C, and the recrystallized compound melts at 106° to 106° C. It is soluble in nonpolar solvents, slightly soluble in alcohol and vegetable oils, and virtually insoluble in water. Benzoyl peroxide may decompose explosively if subjected to excessive heat, friction, or sudden shock. It may also decompose spontaneously when exposed to temperatures of 75° to 80° C for prolonged periods. It is flammable in a dry state but does not ignite when it contains 5 percent or more water. Most commercial preparations contain 15 to 34 percent water. It is synthesized commercially by the reaction of benzoyl chloride, sodium hydroxide, and hydrogen peroxide. Traces of benzoic acid remain after usual purification procedures.

In an advisory opinion letter issued in 1960, FDA stated that benzoyl peroxide is considered to be GRAS for use in bleaching lecithin, assuming the absence of residual unreacted peroxide. Benzoyl peroxide is listed in the standards of identity for use as an optional bleaching agent for flour (21 CFR 137.105). It is also listed in the standards of identity as an optional bleaching agent for milk used in the preparation of certain cheeses (21 CFR 133.102, 133,103, 133.104, 133.106, 133.111, 133.141, 133.165, 133.181, 133.183, and 133.195). Benzoyl peroxide is regulated in § 172.814 (21 CFR 172.814) as an ingredient used in the preparation of hydroxylated lecithin. In addition, benzoyl peroxide is regulated as a component of adhesives under § 175.105 (21 CFR 175.105), as a preservative in paper and paperboard under §§ 176.170 and 176.180 (21 CFR 176.170 and 176.180), as a catalyst in the formulation of polyester resins under § 177.2420 (21 CFR 177.2420), and as an accelerator in the production of rubber articles under § 177.2600 (21 CFR 177.2600).

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which benzoyl peroxide was used and the levels of usage. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to this ingredient. FDA estimates from a subsequent 1975 NAS/NRC survey that the total amount of benzoyl peroxide used in food by the U.S. food industry was approximately 1,470,000 pounds. This level of use corresponds to an average per capita usage of about 8.5 milligrams per day. However, this poundage figure represents the amount added to food and not the amount ingested.

The major use of benzoyl peroxide in the food industry is as a bleaching agent for flour. The maximum amount used for this purpose is about 50 parts per million. Studies have shown that the greater part of benzoyl peroxide added to flour decomposes into benzoic acid within a few days, although traces of benzoyl peroxide may persist for several weeks. The decomposition of benzoyl peroxide is accelerated by heating. The NAS/NRC survey reported that benzoyl peroxide is also used to bleach fats and oils. However, NAS/NRC believes that this reported use represents its use in the preparation of "double bleached" and "hydroxylated" lecithin.

Benzoyl peroxide has been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 132 abstracts was reviewed, and 31 particularly pertinent reports have been summarized in a scientific literature review.

Information from the scientific literature review and the results of other studies have been summarized in a report to FDA by the Select Committee on GRAS Substances (the Select Committee), which is composed of qualified scientists selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have carefully evaluated all the available information on benzoyl peroxide.[1] In the Select Committee's opinion:

[1] "Evaluation of the Health Aspects of Benzoyl Peroxide as a Food Ingredient," pp. 6-17, 1980. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting the discussion in the preamble to proposals that affirm GRAS status in accordance with current good manufacturing practice.

Benzoyl peroxide is GRAS when used as a bleaching agent in certain foods. It is used extensively for this purpose with flour and to a much lesser extent in the manufacture of some cheeses and with certain forms of lecithin. Data from food processors indicate an average per capita usage of about 8.5 mg/day. Only a small fraction of this amount would be ingested, for benzoyl peroxide is rapidly degraded and little of the intact compound would survive food processing. The amount actually ingested is subjected to further destruction in the gastrointestinal tract and by tissue peroxidases.

Benzoic acid is produced by the degradation of benzoyl peroxide during food processing. The amounts produced are small compared with those normally present or added to foods. There is no evidence of hazard from the ingestion of benzoic acid at these levels.

Oral administration of benzoyl peroxide by animals produced toxic effects only at levels several orders of magnitude greater than the estimated consumption by man from food sources. Various tests for mutagenicity and carcinogenicity of benzoyl peroxide have been negative. No tests of teratogenicity were available to the Select Committee.

Some carotene is destroyed by treatment of milk with benzoyl peroxide in the manufacture of cheese. Governmental regulations require that these losses be compensated for by the addition of supplementary vitamin A. Some vitamin E and vitamin C are probably destroyed during bleaching, but their amounts in flour and milk are small and these losses would have little nutritional significance. There is no evidence that other essential nutrients are destroyed.

Oxidation products of normal food constituents are possible by the action of benzoyl peroxide when it is used as a bleaching agent. These products have not been identified but could conceivably include oxidized forms of pigments, unsaturated fatty acids, and sterols in very small amounts. Possible products thus far tested have not proved hazardous when given by mouth at levels many times greater than any reasonable possible intake from food.

Benzoyl peroxide is used extensively in topical applications for skin disorders. Allergic responses have been reported among patients using these preparations as well as among individuals repeatedly exposed to the compound in the workplace. No reports have come to the attention of the Select Committee of allergic responses to benzoyl peroxide in food.[2]

The Select Committee concludes that no evidence in the available information on benzoyl peroxide demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.[3]

[2] *Ibid.*, p. 18.
[3] *Ibid.*, p. 19.

FDA has undertaken its own evaluation of all available information on food uses of benzoyl peroxide, and concurs with the conclusion of the Select Committee. The agency concludes that no change in the current GRAS status of benzoyl peroxide is justified. Therefore, the agency proposes that benzoyl peroxide be affirmed as GRAS.

Usually, regulations for substances affirmed as GRAS under conditions of current good manufacturing practice (CGMP) list the technical effects, as defined in § 170.3(o) (21 CFR 170.3(o)), for the ingredient in food and the food categories, as defined in § 170.3(n) (21 CFR 170.3(n)), in which the NAS/NRC survey reported that the ingredient is used. However, the uses of benzoyl peroxide in food are not well described by the technical effects and food categories listed in § 170.3. Benzoyl peroxide is used as a bleaching agent in a limited number of food ingredients and basic foods (flour and milk that is used in the preparation of certain cheeses) that may or may not be incorporated into a wide variety of finished products. None of the technical effects listed in § 170.3(o) adequately describe a bleaching agent that is used in several foods, and the food categories listed in § 170.3(n) refer to finished products. Consequently, the technical effects and food categories in § 170.3 do not describe adequately the conditions of use that the agency has evaluated, and the agency has decided not to refer to § 170.3 in the proposed regulation for benzoyl peroxide.

Additionally, FDA is proposing not to include in the GRAS affirmation regulation for benzoyl peroxide the levels of use reported in the NAS/NRC 1971 survey for this ingredient. As noted by the Select Committee, benzoyl peroxide is rapidly degraded, and little of the intact compound would survive food processing. Thus the levels of use reported in the 1971 NAS/NRC survey probably are levels of addition to the basic food during processing and do not represent levels in the finished food product, as served. Furthermore, the use of benzoyl peroxide to bleach flour and to bleach milk that is used in production of certain cheeses is governed by the relevant food standards. Consequently, the agency concludes that it is both inappropriate and unnecessary to include in its proposed GRAS affirmation regulation the levels of use of benzoyl peroxide that were reported in the NAS/NRC survey. To make clear, however, that its affirmation of the GRAS status of benzoyl peroxide is based on the evaluation of its limited use in bleaching flour and bleaching milk that is used in production of certain cheeses, the proposed regulation specifies these CGMP conditions of use.

In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

The use of benzoyl peroxide to bleach lecithin is not included in this proposal. It is covered in the proposal that addresses the GRAS status of the use of lecithin in food (47 FR 34161).

Copies of the scientific literature review on benzoyl peroxide and the report of the Select Committee are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price [1]
Benzoyl peroxide (Select Committee report).	PB 81 127854	A03	$6.50
Benzoyl peroxide (scientific literature review).	PB 294-877/AS	A03	6.50

[1] Price subject to change.

This proposed action does not affect the current use of benzoyl peroxide in pet food or animal feed.

The format of the proposed regulation is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of § 184.1157 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including both the technical effects and food categories listed. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substance covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects in 21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 184 be amended by adding new § 184.1157, to read as follows:

§ 184.1157 Benzoyl peroxide.

(a) Benzoyl peroxide ($(C_6H_5CO)_2O_2$, CAS Reg. No. 94–36–0) is a colorless, rhombic crystalline solid. It is prepared by the reaction of benzoyl chloride, sodium hydroxide, and hydrogen peroxide.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 35, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a bleaching agent in food.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: flour and, for production of certain cheeses in accordance with the appropriate food standard, milk.

The agency is unaware of any prior sanction for the use of this ingredient in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before November 30, 1982 submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 13, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-27080 Filed 9-30-82; 8:45 am]
BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL-001; A-4-FRL 2188-6]

Approval and Promulgation of Implementation Plans, Florida; Testing and Research Programs Rule

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to disapprove the Florida Testing and Research Programs rule. The Florida Department of Environmental Regulation (FDER) designed the rule to allow industry variances from approved emission limits for a period of up to two years, subject to renewal by FDER, without going through the normal State Implementation Plan (SIP) revision procedure.

DATES: To be considered, comments must be submitted on or before November 1, 1982.

ADDRESSES: Written comments should be addressed to Barry Gilbert of EPA Region IV's Air Management Branch (see EPA Region IV address below). Copies of the materials submitted by Florida may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365

Bureau of Air Quality Mgmt., Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301

FOR FURTHER INFORMATION CONTACT: Barry Gilbert, EPA Region IV, Air Management Branch, at the above listed address and phone 404/881–3286 or FTS 257–3286.

SUPPLEMENTAL INFORMATION: Section 403.061(18), Florida Statutes, authorizes the Department of Environmental Regulation to "encourage and conduct studies, investigations, and research relating to pollution and its causes, effects, prevention, abatement, and control." To implement this authority, FDER adopted Section 17–1.585, Florida Administrative Code establishing a procedure by which the Department can authorize air pollution sources to conduct testing and research programs. The rule was submitted by FDER on April 7, 1980, for approval as a plan revision. It would allow industry variances from approved emission limits for two years, subject to renewal by FDER. The State would not submit such variances for EPA's review and approval, as is presently done with other variances from the Florida plan.

It is anticipated that some tests might result in emissions in excess of emission limiting standards established by rule or contained in permit conditions, or might cause violations of other rule or permit requirements. Under the rule, a source must petition FDER for authority to conduct a test or research program and identify any rules or permit conditions that might be violated. A public hearing must be held on each petition and FDER, at its discretion, can issue an order authorizing the proposed test. FDER indicates that any order issued under

this section will contain conditions sufficient to assure that the test will not result in violations of State or Federal ambient air quality standards, Prevention of Significant Deterioration (PSD) increments, Federal Standards of Performance for New Stationary Sources (NSPS), or National Emissions Standards for Hazardous Air Pollutants (NESHAPS). The order can authorize emissions in excess of existing emission limiting standards or other conditions different from those contained in applicable rules and permits for up to two years. The order may be renewed.

In the past, FDER has had no formal procedure for authorizing testing or research programs. The general practice, however, has been to grant such authority informally, either in writing or orally, without any provision for public participation or formal consideration of the proposed program. Such an informal practice may not protect a source from legal action taken by a third party where an emission limiting standard or other requirement was violated because such informal authorization under state law was not duly adopted pursuant to enabling statutes or authorized regulations and said informal authorization had not been approved by EPA as a SIP revision. Under Florida law, this rule resolved this problem by providing FDER with a means to establish formally alternate state regulatory requirements applicable to a source. Variances from the rules have been available under State Section 403.201, FSA, Variances, but the reasons for granting variances are very limited. FDER will use the regulations in Chapter 17–2 to review and issue an order. Sections 17–2.220—Public Notice and Comment, 17–2.260—Air Quality Models, 17–2.300—Ambient Air Quality Standards, 17–2.310—Maximum Allowable Increases (Prevention of Significant Deterioration Increments), 17–2 Part IV—Area Designation and attainment dates, and 17–2 Part V—New and Modified Source Review Requirements, shall be specifically used to issue an order.

Section 110(d) of the Clean Air Act states that the "applicable [state] implementation plan" is that plan or "most recent revision thereof" which has been approved by the EPA Administrator pursuant to Section 110(a) of the Act or promulgated by the EPA Administrator pursuant to Section 110(c) of the Act. 40 CFR 51.8 (1981) underscores the point that revisions of a state implementation plan are not considered part of an "applicable implementation plan" until approved by EPA by authority of Section 110 of the Clean Air Act. Under the proposed rule, if FDER does not submit such research and testing variances to EPA for its approval as a state implementation plan revision, then such variances as a matter of federal law are not part of the "applicable implementation plan" for Florida. This practice would raise the problem of sources having to comply with differing state and federal regulatory requirements and possibly subject such sources to citizen suits aimed at enforcement of the "applicable implementation plan"—those applicable air pollution control regulations previously approved by EPA. Furthermore, Section 110(i) of the Clean Air Act expressly forbids the state or EPA from modifying an applicable implementation plan except by means of specified orders, suspensions, exemptions or EPA action on a plan revision pursuant to Section 110(c) and Section 110(a)(3) of the Clean Air Act. The anticipated orders of FDER adopted by virtue of the proposed rule would conflict, under federal law, with the dictates of Section 110(i) of the Clean Air Act.

Additionally, Rule 17–1.585 would not meet the requirements of EPA's bubble policy since there are no emission trade procedures identified. Therefore, EPA is today proposing to disapprove the State submittal and is soliciting public comment on this proposal.

FDER may meet EPA's objections to rule 17–1.585 by agreeing to submit to EPA as SIP revisions any variances or orders issued under it. New sources must meet all PSD and new source review requirements including best available control technology or lowest achievable emission rate.

Under 5 U.S.C. 605(b), I hereby certify that the proposed disapproval would not have a significant economic impact on a substantial number of small entities since FDER could authorize research testing through revision of the Florida plan as approved by EPA.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any response are available for public inspection at the EPA Region IV office (see address above).

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Section 110 of the Clear Air Act (42 U.S.C. 7410))

Dated: July 30, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82-27142 Filed 9-30-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 123

[OSW-FRL 2220-7]

Hazardous Waste Management Program, Vermont; Application for Interim Authorization, Phase II, Components A, B and C

AGENCY: Environmental Protection Agency, Region I.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA is today announcing the availability for public review of the Vermont application for Phase II, Components A, B and C, Interim Authorization, Hazardous Waste Management Program, inviting public comment, and giving notice that if significant public interest is expressed, EPA will hold a public hearing on the application.

DATES: If significant public interest is expressed in holding a hearing, a public hearing is scheduled for November 9, 1982 at 9:00 a.m. EPA reserves the right to cancel the public hearing if significant public interest in holding a hearing is not communicated to EPA by telephone or in writing by November 2, 1982. EPA will determine by November 3, 1982, whether there is significant interest to hold the public hearing. Regardless of whether a public hearing is held, all written comments on the Vermont Interim Authorization Application must be received by the close of business on November 12, 1982.

ADDRESSES: If significant public interest is expressed, EPA will hold a public hearing on Vermont's Application for Interim Authorization on November 9, 1982, at 9:00 a.m. at the Pavillion Auditorium-Pavillion Building, 109 State Street, Montpelier, Vermont 05602.

Written comments on the application, written or telephone communication of interest in EPA's holding a public hearing on the Vermont Application and requests to speak at the hearing must be sent to: Susan L. Santos, Vermont State Coordinator, State Waste Programs Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Telephone (617) 223–5630.

If you wish to find out whether or not EPA will hold a public hearing on the Vermont Application based upon EPA's decision of whether there was

significant public interest in such a hearing, write or telephone after November 3, 1982, the EPA contact person listed below.

Copies of the Vermont Phase II Interim Authorization Application are available during normal business hours at the following addresses for inspection and copying by the public:

Agency of Environmental Conservation, Division of Water Resources and Environmental Engineering, Air and Solid Waste Program, Heritage II, 79 River Street, Montpelier, Vermont 05602, Telephone (802) 828–3395.

Environmental Protection Agency, Region I Office Library, Room 2100 B, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Telephone (617) 223–5791.

EPA Headquarters Library, Room 2404, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Susan L. Santos, Vermont State Coordinator, State Waste Programs Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Telephone (617) 233–5630.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified state programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect.

The State of Vermont received interim authorization for Phase I on January 8, 1981.

In the January 26, 1981 **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of interim authorization. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting storage and treatment in containers, tanks, surface impoundments and waste piles. Component B, published in the **Federal Register** January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators. Component C, published in the **Federal Register** July 26, 1982 (47 FR 32274), contains standards for permitting surface impoundments, waste piles, land treatment facilities and landfills.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123, Subpart F, as amended by 47 FR 32377.

As noted in the May 19, 1980 **Federal Register**, copies of complete state submittals for Phase II interim authorization are to be made available for public inspection and comment. In addition, if significant public interest exists, a public hearing is to be held on the submittal.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: September 28, 1982.

Leslie A. Carothers,

Deputy Regional Administrator, Region I.

[FR Doc. 82-27129 Filed 9-30-82; 9:44 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 429

Procedure to Process and Recover Value of Rights-of-Way and Administrative Costs

AGENCY: Bureau of Reclamation, Interior.

ACTION: Proposed rules.

SUMMARY: The Bureau of Reclamation (Reclamation) has elected to reissue proposed rules to provide a uniform policy for processing requests and recovering values and costs for the use of lands under Reclamation's control. The reason for the reissuance of the proposed rules is because of the numerous comments received.

DATE: Comments must be received on or before November 15, 1982.

ADDRESS: Comments should be submitted to the Commissioner, Bureau of Reclamation, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, attention code 400.

FOR FURTHER INFORMATION CONTACT: Mr. L. David Williamson, Jr., Senior Staff Assistant for Land Resource Management, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240 (202) 343–5204.

SUPPLEMENTARY INFORMATION: In the September 10, 1979, (**Federal Register** Vol. 44 No. 176 pg. 52699ff) the Bureau of Reclamation published proposed rules to establish "Procedure to Process and Recover; Value of Rights-of-Way and Administrative Costs (43 CFR Part 429).

A wide variety of comments and suggestions were received on the proposed rules. In addition to these comments the Department of the Interior issued instructions "Cost Reimbursement Procedures for Rights-of-Way" (Departmental Manual Part 346, Chapter 1, release number 2218 of December 17, 1979). Other land managing Federal agencies also published procedures for recovering rights-of-way costs. The comments and other documents were analyzed and various suggestions and provisions were adopted for the revised proposed rules. A section by section analysis follows:

Section 429.1 Purpose.

No comments or suggestions were received on this section.

Section 429.2 Definitions.

The definition of "Documentation of Administrative Costs" was added to coincide with the Departmental Manual Part 346, Chapter 1 and the definition of "Secretary" was added at the suggestion of several reviewers.

Section 429.3 Establishment of the Value of Rights-of-Way.

This section was reorganized to clarify under what conditions the applicant for a right-of-way might be assessed for prior unauthorized use of the right-of-way by the applicant.

Section 429.4 Request by Other Governmental Agencies and Non-Profit Organizations for Rights-of-Way.

This section was modified as a result of several comments and suggestions resulting from the proposed rules of September 10, 1979, and as a result of the rules and proposed rules published by other agencies. The earlier draft required other Federal agencies and non-profit organizations to reimburse Reclamation for all administrative costs incurred in granting them a right-of-way. The revised section only requires the reimbursement of administrative costs that may be "* * * excessive to normal costs for granting similar rights-of-way * * *" and further requires all billings for such costs to be well documented.

Section 429.5 Request by Other Governmental Agencies for Assistance.

This section was modified in response to comments received to the 1979 proposed rules and now requires administrative cost reimbursement only for costs deemed to be excessive and also requires any charges for excessive costs to be well documented.

Section 429.6 Request by Non-Governmental Entities for Rights-of-Way.

The first change to this section appears under subsection (a) where a new item (3) was added to the required material for a right-of-way application, this item is "A map or drawing showing the approximate location of the requested right-of-way." In subsection (b) in addition to the initial filing fee required in the first proposed rules, we have added a deposit of $2 per lineal mile of right-of-way across Reclamation's land. This is to make our rules more compatible with the rules of other Federal agencies.

Subsection (c) has been added to give the granting official some leadway to reduce or eliminate the required fees when the applicant or the situation meets certain specified conditions. These conditions are:

(1) When the applicant may soon grant a reciprocal right-of-way to the United States.

(2) When the filing fee and administrative costs would exceed the value of the right granted.

(3) When the judgment of the Regional Director, the required fees, and reimbursements would place an undue financial hardship on the applicant.

(4) When the applicant provides without charge, or at a reduced charge, a valuable service to the public or to the programs of the Department.

Subsection (d) received no comments and was not revised. A new subsection (e) was added which requires the applicant to give proof of adequate financial resources to complete the project for which the right-of-way is requested. Subsections (f) and (g) were added to further clarify precisely what payments would be required before Reclamation may grant the requested right-of-way.

Section 429.7 Terms and Conditions of and for Right-of-Way.

Subsection (d) of this section was revised to clarify under what conditions and by what authority the consent of a Water Users Organization is required for Reclamation to grant a right-of-way.

Subsections (e), (f), and (g) specify certain clauses which will appear in all Reclamation right-of-way documents. Subsection (h) specifies when Secretarial approval is required for a permit to construct a powerline and when wheeling stipulations are required. These sections were added in response to several comments received on our first proposed rules.

Section 429.8 Reclamation Land Use Stipulation.

This stipulation has been modified from the original. The original stipulation required Reclamation to compensate the holder of a right-of-way for any damage to his works resulting from construction of Government facilities or works which were unforeseen at the time the right-of-way was granted. The new stipulation permits the Regional Director to select between compensation, mitigation, and the reconstruction of the grantees facilities to accommodate the Government's construction.

Section 429.9 Hold Harmless Clause.

This section has been modified to more closely reflect similar clauses contained in the rules proposed and published by other Federal agencies. An additional clause was added to cover rights-of-way utilized for high risk use and occupancy.

Section 429.10 Decisions and Appeals

This section remains unchanged.

The primary author of this document is Mr. Terence G. Cooper, Staff Assistant for Land Resources Management, O&M Policy Staff, Bureau of Reclamation, U.S. Department of the Interior, Washington, DC 20240, (202) 343–5204.

An assessment of environmental and economic impacts prepared by and on file with Reclamation has determined that this document does not contain a major proposal requiring the preparation of an environmental impact statement under the National Enviromental Policy Act of 1969, or a regultory impact analysis under Executive Order 12291.

Paperwork Reduction Act. The information collection requirements found in § 429.6 of these proposed rules have been submitted to the Office of Management and Budget for approval, as required by 44 U.S.C. 3501 et seq.

Effects on Small Entities. It has been determined that these proposed rules will have no significant economic effect on a substantial number of small entities under 5 U.S.C. 601 et seq.

List of Subjects in 43 CFR Part 429

Rights-of-way, Land.

It is proposed to amend Title 43 of the CFR by adding a new Part 429 to read as follows:

Dated: August 4, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior, Land and Water Resources.

PART 429—PROCEDURE TO PROCESS AND RECOVER THE VALUE OF RIGHTS-OF-WAY AND ADMINISTRATIVE COSTS

Sec.

429.1 Purpose.
429.2 Definitions.
429.3 Establishment of the value of rights-of-way.
429.4 Request by other government agencies and non-profit organzations for rights-of-way.
429.5 Request by other governmental agencies for assistance.
429.6 Request by non-governmental entities for right-of-way.
429.7 Terms and conditions of and for the right-of-way.
429.8 Reclamation land-use stipulation.
429.9 Hold harmless clause.
429.10 Decisions and appeals.
429.11 Addresses.

Authority.—Title 43 U.S.C. 387, (53 Stat 1196), as amended by 64 Stat. 463, c. 752 (1950); 31 U.S.C. 483a (65 Stat. 290) (1951), Department of the Interior Manual Part 346, Chapter 1.

§ 429.1 Purpose.

The purpose of this part is to set forth procedures for the Bureau of Reclamation (Reclamation) to recover the value of rights-of-way interests granted to applicants, and for the collection of administrative costs for the issuing of rights-of-way over lands administered by Reclamation. This subsection also refers to costs incurred by Reclamation when, at the request of other agencies and parties, Reclamation gives aid and assistance in right-of-way matters.

These regulations apply to lands and interests in land under the jurisdiction of Reclamation granted to others by the Commissioner of the Bureau of Reclamation. Those interests issued or granted for the replacement or relocation of facilities belonging to others under Section 14 of the Reclamation Project Act of August 4, 1939, 43 U.S.C. Subsection 389 are excepted.

§ 429.2 Definitions.

As used in this part:

(a) *"Commissioner"* means the Commissioner of the Bureau of Reclamation or his designated representative.

(b) *"Reclamation"* means the Bureau of Reclamation.

(c) *"Regional Director"* means any one of the seven representatives of the Commissioner designated to act for the Commissioner in specified rights-of-way actions. The Regional Directors may redelegate certain of their authorities for granting rights-of-way to the supervising heads of field offices.

(d) *"Rights-of-way"* means only those easements, or agreements issued or granted by the Regional Director under the authority granted to him for the purpose of lineal crossings of Reclamation Project lands or facilities. The term "rights-of-way" does not include the leasing of land in the custody or under the control of Reclamation for grazing, agriculture, recreation, or any other purpose where a greater return will be realized by the United States through a competitive bidding process.

(e) *"Other agencies"* or *"others"* means all Federal, State, private individuals, partnerships, firms or corporations, and local governmental agencies not connected in any way with Reclamation, that request rights-of-way either directly or indirectly from Reclamation.

(f) *"Rights-of-way assistance"* means any assistance to obtain a right-of-way given upon request to another party. Such assistance includes but is not limited to work in the processing of environmental requirements, and the preparing, checking, and inspecting of engineering data and standards.

(g) *"Value of rights-of-way"* means the value of the rights, privileges, and estates granted by Reclamation for the use of land under its custody and control.

(h) *"Administrative costs"* means all direct or indirect costs incurred by Reclamation in reviewing, issuing, and processing of rights-of-way requests or the assisting of others in their rights-of-way matters, calculated in accordance with the procedures established by DM 346, chapter 1, "Cost Reimbursement Procedures for Rights-of-Way."

(i) *"Grantor"* means the Bureau of Reclamation, Department of the Interior.

(j) *"Grantee"* means the agency, firm, partnership, or individual who requested and to whom is granted the right-of-way.

(k) *"Documentation of Administrative Costs"* this documentation shall mean documentation in accordance with the provision of Part 346, Chapter 1 of the Departmental Manual as prescribed in release number 2218 of December 17, 1979.

(l) *"Secretary"* shall mean the Secretary of the Interior.

§ 429.3 Establishment of the value of rights-of-way.

(a) The value of a right-of-way shall be determined by Reclamation. The appraised value of a right-of-way shall be established by the use of a Reclamation staff or contract appraiser. The appraisal shall be based on the fair market value for the requested right or privilege.

(b) If the applicant has been or is currently using the right-of-way area without authorization and if it can be determined that the unauthorized use of Federal lands was unintentional and not due to carelessness or neglect on the part of the applicant, then the value of a right-of-way shall not include the value of any unauthorized use by the applicant of land under the custody and control of Reclamation prior to the applicant's request for a right-of-way.

(c) If the applicant's unauthorized use is determined to be intentional on his part or to be a result of his carelessness or neglect, then the value of such previous use shall become part of the right-of-way value.

§ 429.4 Request by other governmental agencies and nonprofit organizations for rights-of-way.

Rights-of-way requested by other governmental agencies and nonprofit organizations or corporations may be provided with no charge being made for the value of these rights-of-way when it is determined that the use of these rights-of-way will not interfere with the authorized current or planned use of the land by Reclamation. Other agencies and nonprofit organizations will be required to reimburse Reclamation for all administrative costs which are deemed to be excessive to normal costs for granting similar right-of-way and which are a result of the nature of the particular right-of-way request. All billings for administrative costs will be well documented. (§ 429.2 (k))

§ 429.5 Request by other governmental agencies for assistance.

The agency requesting assistance from Reclamation in acquiring a right-of-way shall be required to reimburse Reclamation for any administrative costs deemed to be in excess of the normal for the specific service or assistance (§ 429.2 (h)). Any billing for these excessive costs shall be well documented. (§ 429.2 (k))

§ 429.6 Request by non-governmental entities for rights-of-way.

The applicant for a right-of-way over land or estate in land, in the custody and control of Reclamation, must make application to the Regional Director of the region in which the land is located or to the affected field office. The addresses for the seven Regional Directors are located in § 429.11

A right-of-way will not be granted when it is determined that the proposed right-of-way will interfere with the functions of Reclamation or its ability to maintain its facilities. Only the minimum information needed to make this determination is to be collected. This information collection has been approved by the Office of Management and Budget.

(a) The application does not have to be in any particular form but must be in writing. The application must contain, but is not limited to the following items:

(1) A detailed description of the proposed use of Reclamation's lands.

(2) A legal or metes and bounds description of Reclamation's lands on which the proposed use is desired.

(3) A map or drawing showing the approximate location of the requested right-of-way.

(b) A filing fees of $100 must accompany the initial application. In addition to the $100 filing fee, a deposit of $2 for each lineal mile of requested right-of-way across Reclamation's lands will accompany the application. If, after a preliminary cursory review of the application reclamation determines the granting of a right-of-way is incompatible with present or future uses of the land and the right-of-way cannot be granted, the $2 per mile deposit will be returned. The filing fee of $100 will be retained by Reclamation regardless of its disposition of the right-of-way request. No refund will be made for any deposits if the applicant refuses to accept the right-of-way after it is prepared and offered. Applicants will be required to pay any administrative costs which are in excess of the $2 per mile deposit for the preparation of rights-of-way as well as the value of the right granted. This shall apply equally to rights-of-way which are offered by Reclamation and are rejected by the applicant, as to those which the applicants accepts. Any billing for administrative costs shall be well documented. (See § 429.2 (k)). At the discretion of the Regional Director, applications made by other Federal agencies need not be accompanied by either of the above fees.

(c) All fees and costs may be waived or reduced at the discretion of the Regional Director, when:

(1) It is determined that the applicant for the right-of-way will soon be, or is in the position of granting a right-of-way to the United States, and an opportunity for a reciprocal agreement exists.

(2) The filing fee and the administrative costs would exceed the value of the interests and rights to be granted.

(3) In the opinion of the Regional Director, to charge administrative fees and fair market value would work an undue hardship on the applicant. This decision should be well documented.

(4) The holder provides without charges, or at a reduced charge, a valuable service to the public or to the programs of the Department of the Interior.

(d) The applicant also must furnish, or agree to furnish, the following before Reclamation grants a right-of-way:

(1) A legal land description and/or a plat of the requested right-of-way. The description and plat should relate to Reclamation's land boundaries.

(2) Detailed construction details, construction specifications, engineering drawings, power flow diagrams, one-line diagram, and any other plans and specification which may be applicable.

(3) Statements, reports, or other documents prepared by the applicant which will be used by Reclamation to satisfy the requirements of the National Environmental Policy Act (42 U.S.C. 4321–4347).

(4) Proof of compliance with cultural resource policies prescribed in Executive Order 11593, and CFR, Title 43, Part 422.

(e) Sufficient evidence will be required to satisfy the Regional Director that the applicant has, or prior to commencing construction will have, sufficient technical and financial resources to construct, operate, maintain, and terminate the project for which the right-of-way is requested.

(f) The applicant shall pay all additional administrative costs which Reclamation incurs in addition to the initial filing fee of $100 and the $2 per mile fee required by § 429.6(a)(2) prior to the issuance of the right-of-way. All billing for administrative costs shall be well documented by Reclamation.

(g) The applicant shall also pay Reclamation a fair market value of the right and privilege granted for the use of Reclamation's lands prior to the issuance of the right-of-way. This value shall be determined by an appraisal made as prescribed in § 429.3 of this regulation. Those applicants meeting the provision of § 429.4 may be excepted from this provision. The decision to grant an exemption under § 429.4 will have the justification well documented.

§ 429.7 Terms and conditions of and for the right-of-way.

(a) The right-of-way granting document shall contain such special conditions or requirements as may be necessary to protect the interest of the United States.

(b) Rights-of-way shall be granted only to individuals who are citizens of the United States, or to firms or corporations licensed to do business in the United States, and to Federal, State, or local governmental, and quasi-governmental entities.

(c) No right-of-way shall be granted any person or corporation while any debt is known to be due the United States.

(d) Any grant of a right-of-way for a term of 25 years or longer must have the consent of any involved water user organization pursuant to the legal requirements of 43 U.S.C. 387. Approval of grants for less than a 25-year period may be requested of the water users organization at the discretion of the responsible Regional Director. As a minimum, the water user's organization should be given the opportunity to review the right-of-way application prior to its being granted.

(e) Reclamation land-use stipulation appearing in § 429.8 shall be included in all permanent rights-of-way granted, excepting grants to other Federal agencies.

(f) Temporary right-of-way grants, shall contain a termination clause in the event the applicant use become, or may become, an interference with the Reclamation's use of the land.

(g) Except for grants of right-of-way to Federal agencies, the grant shall contain a hold harmless clause found in § 429.9.

(h) Permits to construct power transmission lines in excess of 100 kilovolt (kV) must have prior approval of the Secretary and shall be secured by the applicant prior to requesting a rights-of-way for such line. Rights-of-way grants for power transmission lines in excess of 66 kV must also contain a wheeling stipulation as prescribed in 43 CFR 2805.1 (c).

§ 429.8 Reclamation land-use stipulation.

There is reserved from the rights herein granted, the prior rights of the United States acting through the Bureau of Reclamation, Department of the Interior, to construct, operate, and maintain public works now or hereafter authorized by the Congress without liability for severence or other damage to grantee's work; provided, however, that if such reserved rights are not identified in the grant and exercised for works authorized by the Congress within 5 years following the date of this grant, they will not be exercised unless grantee, or grantee's successor in interest is, notified of the need for, and grants an extension. If no extension is granted, the Government will compensate, or institute mitigation measures for any resultant damages to works placed on said lands pursuant to the rights herein granted. Compensation shall be in the amount of the cost of reconstruction of grantee's works to accommodate the exercise of the Government's reserved rights. As alternatives to such compensation the United States at its option and at its own expense may mitigate the damages by reconstructing the grantee's works to accommodate the Government facilities, or may provide other adequate mitigation measures for any damage to the grantee's property or right. The decision to compensate or mitigate is that of the appropriate Regional Director.

§ 429.9 Hold harmless clause.

The following clause shall be a part of every land use document issued by Reclamation:

> The grantee hereby agrees to indemnify and hold harmless the United States, its employees, agents, and assigns from any loss or damage and from any liability on account of personal injury, property damage, or claims for personal injury or death arising out of the grantee's activities under this agreement. In addition to the above clause, the holders of rights-of-way for high risk use and occupancy, such as, but not limited to, powerlines and oil and gas pipelines, shall be held liable for all injury, loss, or damage, including fire suppression costs, caused by the holder's use or occupancy without regard to the holder's negligence, provided that the maximum liability shall be specified in the special use authorization, but shall not exceed $1 million for any one occurrence. Liability for injury, loss, or damage, including fire suppression costs, in excess of the specified maximum shall be determined by the laws governing ordinary negligence of the jurisdiction in which the damage or injury occurred.

§ 429.10 Decisions and appeals.

(a) The Regional Director, acting as designee of the Secretary through the Commissioner, shall make the determinations required under these rules and regulations. A party directly affected by such determinations may appeal in writing to the Commissioner, Bureau of Reclamation, within 30 days of receipt of the Regional Director's determination. The affected party shall have an additional 30 days thereafter within which to submit a supporting brief memorandum to the Commissioner. The Regional Director's determination

will be held in abeyance until the Commissioner has reviewed the matter and rendered a decision.

(b) Any party to a case adversely affected by final decision of the Commissioner of the Bureau of Reclamation under this part shall have a right of appeal to the Director, Office of Hearings and Appeals, Office of the Secretary, in accordance with the procedures in Title 43, CFR, Part 4, Subpart G.

§ 429.11 Addresses.

Regional Director, Pacific Northwest Region, Bureau of Reclamation, Federal Building and U.S. Courthouse, Box 043, 550 West Fort Street, Boise, ID 83724

Regional Director, Mid-Pacific Region, Bureau of Reclamation, Federal Building, 2800 Cottage Way, Sacramento, CA 95825

Regional Director, Lower Colorado Region, Bureau of Reclamation, P.O. Box 427, Administration Building, Boulder City, NV 89005

Regional Director, Upper Colorado Region, Bureau of Reclamation, P.O. Box 11568, 125 South State Street, Salt Lake City, UT 84147

Regional Director, Southwest Region, Bureau of Reclamation, 714 South Tyler, Suite 201, Amarillo, TX 79101

Regional Director, Upper Missouri Region, Bureau of Reclamation, P.O. Box 2553, Federal Building, 316 North 26th Street, Billings, MT 59103

Regional Director, Lower Missouri Region, Bureau of Reclamation, P.O. Box 25247, Building 20, Denver, CO 80225

[FR Doc. 82-27045 Filed 9-30-82; 8:45 am]

BILLING CODE 4310-09-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-640; RM-4148]

FM Broadcast Station in Prineville, Oregon; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to substitute Channel 236 for Channel 237A at Prineville, Oregon, and to modify Station KIJK(FM)'s license to specify operation on Channel 236 in response to a petition filed by High Lakes Broadcasting Company.

DATES: Comments must be filed on or before November 4, 1982, and reply comments must be filed on or before November 19, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR 73 Affected

Radio broadcasting.

Adopted: September 9, 1982.

Released: September 20, 1982.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Prineville, Oregon) BC Docket No. 82-640, RM-4148; Notice of Proposed Rule Making:

1. A petition for rule making was filed on June 28, 1982, by High Lakes Broadcasting Company ("petitioner"), proposing to substitute Class C FM Channel 236 for Channel 237A at Prineville, Oregon, and to modify the license of Station KIJK(FM) at Prineville to specify operation on Channel 236.

2. Prineville, seat of Crook County, is presently served by one daytime-only AM station (KRCO) and one FM station (KIJK), both licensed to petitioner. Petitioner presently operates Station KIJK(FM) on Channel 237A and if Channel 236 is assigned, proposes to expeditiously upgrade its facilities and modify its license to specify operation on Channel 236. Petitioner has also submitted information with respect to the Prineville community and its needs for the proposed Class C operation. However, in view of the action taken in *Revision of FM assignment Policies and Procedures*, BC Docket No. 80-130, 90 F.C.C. 2d 88 (1982), the information is no longer relevant in this type of rule making proceeding.

3. Petitioner has also requested a waiver of § 73.207(a) in order to allow the use of Channel 236 at its present transmitter site. That site would be short-spaced approximately 4 miles to the assignment of Class C FM Channel 289 at Bend, Oregon, for which an application is pending. Petitioner has not set forth any public interest reasons for the waiver. However, the issue need not be resolved here. The channel can be assigned in compliance with the minimum distance separation requirements with a site restriction of 6.6 miles southeast of Prineville due to Station KIOK(FM) in Richland, Washington, and to the proposed site for Channel 289 at Bend. The issue of waiver of the mileage separation requirements to permit a 4-mile short spacing can be determined at the application stage. With this approach in mind, petitioner should indicate whether it is still interested in the assignment of Channel 236 with the site restriction of 6.6 miles.

4. We propose, therefore, to substitute Channel 236 for Channel 237A at Prineville and, in accordance with established policy, we propose to modify the license of Station KIJK(FM) (Channel 237A) to specify operation on Channel 236. However, an opportunity for other parties to state their interest in Channel 236 is given in comments herein. Only in the absence of another interest could the modification take place. *See, Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

5. In view of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, as it pertains to Prineville, Oregon, as follows:

City	Channel No.	
	Present	Proposed
Prineville, Oregon	237A	236

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before November 4, 1982, and reply comments on or before November 19, 1982, and are advised to read the Appendix for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact D. David Weston, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a

message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the notice of proposed rule making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 82-27077 Filed 9-30-82; 8:45 am]
BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 47, No. 191
Friday, October 1, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Governmental Processes; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Government Processes of the Administrative Conference of the United States, to be held at 1:30 P.M. on Tuesday, October 12, 1982, at the Administrative Conference Library, 2120 L Street, NW., Suite 500, Washington, D.C.

The Committee will meet to discuss two projects: Professor Michael Cox's study of regulation of attorneys practicing before federal agencies, and Professor Teresa Schwartz's study of the Consumer Product Safety Commission.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact David M. Pritzker, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037. (Telephone: 202–254–7065.) Minutes of the meeting will be available on request.

Richard K. Berg,
General Counsel.
September 28, 1982.

[FR Doc. 82-27136 Filed 9-30-82; 8:45 am]
BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Lumbee River Electric Membership Corp.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500), and REA Bulletin 20–21:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact with respect to proposed financing assistance to Lumbee River Electric Membership Corporation (Lumbee River EMC), Red Springs, North Carolina, for the construction of 115 kV transmission facilities in Hoke and Robeson Counties, North Carolina.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment and Lumbee River EMC's Borrower's Environmental Report (BER) may be reviewed in the Office of the Director, Distribution Systems Division, Room 3304, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382–8848, or at the office of Lumbee River Electric Membership Corporation (Mr Derl Hinson, Manager), P.O. Box 830, Red Springs, North Carolina 28377, telephone (919) 843–4131, during regular business hours.

SUPPLEMENTARY INFORMATION: REA, in connection with a request for assistance for financing from Lumbee River EMC, has reviewed the BER submitted by Lumbee River EMC and has determined that it represents an accurate assessment of the environmental impact of the proposed project. The proposed project consists of a 26.4 km (16.5 mi) 115 kV transmission line in Hoke County, a 10.4 km (6.5 mi) 115 kV transmission line in Robeson County, a 25–7.2/12.5 kV substation in Robeson County, two 115–7.2/12.5 kV substations in Hoke County, two 115–7.2/12.5 kV substation in Robeson County, a 115 kV switching station in Hoke County, and a 115 kV switching station in Robeson County. Based on the BER, Lumbee River EMC's 1981–1982 Annual Work Plan and maps, REA prepared an Environmental Assessment concerning the proposed project and its impacts. REA concluded that the proposed financing assistance would not be a major Federal action significantly affecting the quality of the human environment.

The BER and EA adequately consider potential impacts of the proposed project on resources, including threatened and endangered species, important farmlands, cultural resources, wetlands and floodplains. The two transmission lines will cross approximately .46 km (.28 mi) of wetland and approximately 8.6 km (5.4 mi) of floodplain. Approximately 8.6 km (5.4 mi) of prime farmland will be crossed by the proposed project, however, there will be no significant effect as less than 0.4 ha (1 ac) will actually be removed from production due to pole placement and much of this land is already dedicated to nonagricultural uses. Collectively, the environmental effects will be minimal.

Several alternatives were evaluated including taking no action, instituting additonal conservation measures, alternate sources of power generation in lieu of building the proposed Surlock to Quewhiffle transmission line including interconnection into the existing Rockfish or Wayside Substations in Hoke County, interconnection into a public utility transmission line near Aberdeen in Hoke County, construction of a new substation near the Bowmore areas in Hoke County, alternate sources of power generation in lieu of building the proposed Pembroke to Union transmission line including a more direct, but environmentally less favorable route between both substations in Robeson County, interconnection into the Laurenburg and Lumberton Substations in Robeson County, and interconnection into the Rowland Substation in Robeson County. Shifting the load on the Fairmont Metering Point to the McDonald or Hog Swamp Substations in Robeson County was considered in lieu of building the proposed Marietta and Rennert Substations. After reviewing these alternatives, REA has determined that the proposed project is the preferred alternative because it meets Lumbee

River EMC's needs with a minimum of adverse impacts.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: September 23, 1982.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82-26909 Filed 9-30-82; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Eastanollee Creek Critical Area Treatment RC&D Measure, Georgia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Eastanollee Creek Critical Area Treatment Measure, Stephens County, Georgia.

FOR FUTHER INFORMATION CONTRACE: Dwight M. Treadway, State Conservationist, Soil Conservation Service, 355 East Hancock Avenue (P.O. Box 832), Athens Georgia 30613 telephone: 404–546–2273.

SUPPLEMENTARY INFORMATION: A Notice of A Finding of No Significant Impact for this measure was published in the **Federal Register**, Vol. 47, No. 108, Friday, June 4, 1982. This notice corrects location of the measure from Camden County, Georgia to Stephens County, Georgia, and more explicitly describes the proposal

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Dwight M. Treadway, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The objective of the sponsors is to stabilize sediment producing areas along Eastanollee Creek. The planned works of improvement consist of streambank stabilization with 9,674 linear feet of rock, and 8,286 linear feet of tire mats and associated vegetation.

The finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Dwight M. Treadway.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: September 21, 1982.

Donald K. Stewart,

Assistant State Conservationist for Water Resources.

[FR Doc. 82-26927 Filed 9-30-82; 8:45 am]

BILLING CODE 3410-16-M

Riverside-Black Bayou Watershed, Mississippi; Intent to Prepare an Environmental Impact Statement

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Riverside-Black Bayou Watershed, Bolivar and Washington Counties, Mississippi.

FOR FURTHER INFORMATION CONTACT: Billy C. Griffin, State Conservationist, Soil Conservation Service, Suite 1321, Federal Building, 100 West Capitol Street, Jackson, Mississippi 39269, telephone (601) 960–5205.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Billy C. Griffin, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The project concerns a plan for watershed protection, flood prevention and drainage. Alternatives under consideration to reach these objectives include systems for conservation land treatment, nonstructural measures, and channel improvement.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. Further information on the proposed action, or the scoping meeting may be obtained from Billy C. Griffin, State Conservationist, at the above address or telephone 601–960–5205.

Dated: September 22, 1982.

Billy C. Griffin,

State Conservationist.

[FR Doc. 82-26926 Filed 9-30-82; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket 40825]

Aeroamerica, Inc., A. Joel Eisenberg, Enforcement Proceeding; Postponement of Prehearing Conference

On September 24, 1982, the Enforcement Division of the Office of General Counsel requested that the prehearing conference scheduled to be held on September 28, 1982 be postponed for two weeks. In support of its request, the Enforcement Division states that settlement negotiations are taking place and a postponement of the prehearing conference could facilitate these negotiations. The Enforcement

Division also stated that Aeroamerica has no objection to the postponment.

Accordingly, Notice is hereby given that the prehearing conference in the above-entitled matter scheduled to be held on September 28, 1982 (47 FR 38709, September 1, 1982) is hereby postponed until October 13, 1982, at 10:00 a.m. (local time), in Room 1012, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, before the undersigned administrative law judge.

Dated at Washington, D.C., September 27, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-27128 Filed 9-30-82; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Permits filed under subpart Q of the Board's Procedural Regulations (see, 14 CFR 302.1701 et seq.) week ended September 24, 1982.

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
September 23, 1982	41004	All Nippon Airways Co., Ltd., c/o Jarrold Scoutt, Jr., Zuckert, Scoutt, Rasenberger & Delaney, 888 17th Street, N.W. Washington, D.C. 20006. Application of All Nippon Airways Co., Ltd., pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests a foreign air carrier permit to engage in charter foreign air transportation of persons, property and mail: Between any point or points in Japan and any point or points in the United States, and between any point or points in the United States and any point or points not in the United States or Japan, including intermediate and beyond points. Answers may be filed by October 21, 1982.
September 24, 1982	41007	Air National Aircraft Sales and Service, Inc., c/o James M. Burger, Shaw, Pittman, Pots & Trowbridge, 1800 M Street, N.W. Washington, D.C. 20036. Application of Air National Aircraft Sales and Service, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's procedural Regulations requests a certificate of public convenience and necessity to provide interstate and overseas scheduled air transportation and for a fitness determination. Conforming Applications, motion to modify scope, and Answers may be filed by October 22, 1982.
September 23, 1982	39477	Jugoslovenski Aerotransport, c/o Bruce L. McDonald, Kirkland & Ellis, 1776 K Street, N.W., Washington, D.C. 20006. Amendment No. 1 to the Application of Jugoslovenski Aerotransport for renewal of foreign air carrier permits authorizing JAT to engage in scheduled and charter foreign air transportation. Answers may be filed by October 21, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 27127 Filed 9-30-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40813]

Firstair Corp. Fitness Investigation; Postponement of Hearing

During the prehearing conference held on this proceeding on September 20, 1982, the applicant was directed to submit certain information by the Bureau of Domestic Aviation (BDA) on September 21, 1982, and other information requested by the undersigned on September 24, 1982. The applicant submitted the information requested by BDA on schedule, but informed the undersigned that it requires approximately 10 additional days to provide the remaining information. The applicant requests that this extension be granted and requests that the hearing, currently scheduled for October 6, 1982, be postponed to allow both BDA and the undersigned time to review the information once it is submitted. The applicant also states that BDA has no objections to this procedure.

Accordingly, notice is hereby given that the hearing in the above-entitled matter scheduled to be held on October 6, 1982, is hereby postponed until further notice.

Dated at Washington, D.C., September 28, 1982.

John M. Virtone,

Administrative Law Judge.

[FR Doc. 82-27129 Filed 9-30-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of Census

Estimates of Cubans and Haitians Who Entered the United States Between April 1, 1980 and October 1, 1980

Executive Order 12256 directs the Bureau of the Census to provide estimates of the number and population characteristics of those Cuban and Haitian immigrants covered by the order. Estimates of the number of such immigrants have been published in the **Federal Register** (June 24, 1981 and May 3, 1982). However, a number of federal programs require the use of characteristics such as per capita income or the number of children 5 to 17 years of age in poor families. Although some demographic infomation was collected from Cuban and Haitian refugees at the time of their arrival, no questions were asked about their income or family relationship.

If we define the income of Cuban and Haitian immigrants to be consistent with the concept used in the 1980 census, then the relevant figure would be their 1979 income. It is impossible to collect such data at this time because of the difficulty of locating everyone covered by the order and because of the long recall period. Given the absence of data, the best estimate of the 1979 income of this group is probably the 1979 per capita income of their countries of origin. Accordingly, we are designating a 1979 per capita income of $1,410 for Cuban refugees and $230 for Haitian refugees.[1] The application of these per capita figures to the population of Cuban and Haitian immigrants, for varying family size categories indicates that all Cuban and Haitian immigrants

[1] World Bank, *World Bank Atlas, Gross National Product, Population, and Growth Rates*, 1980 and 1981.

were living in households with incomes below the 1979 poverty thresholds.

On the other hand, for the purpose of this order, one may want an indication of these refugees' poverty status shortly after they came to the United States. To make this assessment, the Census Bureau procured a special tabulation of these refugees in the Food Stamp program from the State of Florida. About three-fourths of all Cuban and Haitian legal immigrants covered by the executive order reside in Florida. For the months of January and February 1981, the data indicate that virtually all Cuban and Haitian refugee households in Florida were participating in the Food Stamp program and that approximately 98 percent of them were below the 1981 poverty thresholds when adjusted to a monthly accounting period.

Given the above data and analysis, it is reasonable to conclude for the purpose of this executive order that all Cuban and Haitian immigrants covered by the order were in poverty.

Below is a table showing the estimated total number of Cuban and Haitian immigrants covered by the executive order and immigrant children by state and county.

ESTIMATES OF CUBAN AND HAITIAN ENTRANTS AND LEGAL IMMIGRANTS WHO ENTERED THE UNITED STATES BETWEEN APRIL 1, 1980 AND SEPTEMBER 30, 1980, ALL AGES AND CHILDREN, BY STATE AND COUNTY

State and county	Cuban and Haitian immigrants	
	All ages [1]	Children 5–17
United States [2]	132,080	18,154
Alabama	110	3
Arizona	150	8
Maricopa	50	6
Pima	70	2
Arkansas	290	12
Sebastian	160	5
California	4,850	588
Alameda	120	9
Los Angeles	3,270	439
Orange	320	40
Riverside	60	7
Sacramento	70	5
San Bernardino	100	7
San Diego	190	8
San Francisco	220	8
San Mateo	70	9
Santa Clara	160	18
Colorado	100	15
Arapahoe	50	11
Connecticut	330	30
Fairfield	200	14
Hartford	110	12
District of Columbia	330	10
Florida	96,330	14,690
Broward	1,780	118
Collier	190	17
Dade	90,750	13,992
Duval	100	9
Escambia	60	9
Hillsborough	1,580	211
Monroe	540	90
Okaloosa	160	1
Orange	440	25
Palm Beach	2,090	150
Pinellas	90	12
Polk	50	7

ESTIMATES OF CUBAN AND HAITIAN ENTRANTS AND LEGAL IMMIGRANTS WHO ENTERED THE UNITED STATES BETWEEN APRIL 1, 1980 AND SEPTEMBER 30, 1980, ALL AGES AND CHILDREN, BY STATE AND COUNTY—Continued

State and county	Cuban and Haitian immigrants	
	All ages [1]	Children 5–17
Sarasota	70	3
Georgia	390	31
DeKalb	100	12
Fulton	160	15
Illinois	1,730	128
Cook	1,580	116
DuPage	50	4
Indiana	120	12
Iowa	50	1
Kansas	150	23
Sedgwick	60	9
Louisiana	770	89
East Baton Rouge	50	9
Jefferson	220	24
Orleans	400	49
Maryland	310	26
Montgomery	150	13
Prince George's	70	8
Massachusetts	680	60
Essex	60	8
Middlesex	70	7
Suffolk	480	36
Michigan	240	24
Wayne	70	5
Minnesota	330	17
Hennepin	90	2
Ramsey	130	8
Missouri	140	12
Nebraska	90	15
Nevada	370	44
Clark	360	44
New Jersey	9,380	1,223
Bergen	190	25
Essex	920	100
Hudson	6,150	813
Mercer	80	10
Middlesex	270	54
Monmouth	60	8
Morris	50	4
Ocean	90	13
Passaic	340	45
Union	1,230	139
New Mexico	220	53
Bernalillo	150	36
New York	8,170	533
Bronx	990	50
Kings	2,230	62
Monroe	100	15
Nassau	270	41
New York	2,520	212
Queens	1,430	85
Westchester	370	44
North Carolina	60	2
Ohio	160	16
Cuyahoga	50	1
Oklahoma	300	25
Oklahoma	50	5
Tulsa	100	10
Oregon	180	13
Multnomah	140	7
Pennsylvania	990	162
Berks	50	9
Dauphin	220	18
Lancaster	150	46
Lebanon	80	10
Lehigh	80	10
Philadelphia	190	17
Tennessee	120	8
Davidson	60	4
Texas	1,410	81
Bexar	70	8
Dallas	200	10
Harris	400	34
Nueces	50	2
Tarrant	220	7
Utah	80	23
Virginia	220	20
Arlington	70	10
Fairfax	50	6
Washington	70	3
Wisconsin	960	138

ESTIMATES OF CUBAN AND HAITIAN ENTRANTS AND LEGAL IMMIGRANTS WHO ENTERED THE UNITED STATES BETWEEN APRIL 1, 1980 AND SEPTEMBER 30, 1980, ALL AGES AND CHILDREN, BY STATE AND COUNTY—Continued

State and county	Cuban and Haitian immigrants	
	All ages [1]	Children 5–17
Dane	90	10
Grant	90	56
LaCrosse	80	6
Milwaukee	170	35
Monroe	90	3

[1] Rounded to tens.
[2] Includes those states (not shown separately) having less than 50 total Cuban and Haitian immigrants.

Dated: September 24, 1982.

Bruce Chapman,

Director, Bureau of the Census.

[FR Doc. 82-26912 Filed 9-30-82; 8:45 am]

BILLING CODE 3510-07-M

INTERNATIONAL TRADE ADMINISTRATION

Articles of Quota Cheese; Quarterly Determination and Listing of Foreign Government Subsidies

AGENCY: International Trade Administration, Commerce.

ACTION: Quarterly Update of Foreign Government Subsidies on Articles of Quota Cheese.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared a quarterly update to our annual list of foreign government subsidies on articles of quota cheese. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Susan E. Silver or Patricia W. Stroup, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, (202) 377–2786.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 (19 U.S.C. 1202 note) ("the TAA") requires the Department of Commerce ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701(c)(1) of the TAA, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Department of

Agriculture, information on subsidies (as defined in section 702(h)(2) of the TAA) being provided either directly or indirectly by foreign governments on articles of quota cheese.

In the current quarter the Department has determined that the subsidy amounts have changed for each of the countries for which programs were identified in the July 1, 1982, quarterly update to our annual subsidy list. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amount of each subsidy on which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of quota cheese to submit such information in writing to the Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

This determination and notice are in accordance with section 702(a) of the TAA (19 U.S.C. 1202 note).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

September 27, 1982.

APPENDIX—QUOTA CHEESE SUBSIDY PROGRAMS

Country and program(s)	Gross subsidy (cents per pound) [1]	Net subsidy (cents per pound) [2]
Belgium: European Community (EC) restitution payments	5.8	5.8
Canada:		
Export assistance on Swiss cheese	19.8	19.8
Export assistance on cheddar cheese	39.1	39.1
Export assistance on mozzarella NSPF cheese	35.3	35.3
Export assistance on all other NSPF cheeses	15.6	15.6
Denmark: EC restitution payments	4.4	4.4
Finland:		
Export subsidy	115.1	115.1
Indirect subsidies	18.9	18.9
Total, Finland	134.0	134.0
France: EC restitution payments	4.9	4.9
Ireland: EC restitution payments	6.3	6.3
Italy: EC restitution payments	18.5	18.5
Luxembourg: EC restitution payments	5.8	5.8
Netherlands: EC restitution payments	1.8	1.8
Norway:		
Indirect (milk) subsidy	20.1	20.1
Consumer subsidy	44.9	44.9
Total, Norway	65.0	65.0
Portugal: Direct subsidy on all sales of gouda cheese	17.1	17.1
Switzerland: Deficiency payments	78.4	78.4
U.K.: EC restitution payments	4.3	4.3

APPENDIX—QUOTA CHEESE SUBSIDY PROGRAMS—Continued

Country and program(s)	Gross subsidy (cents per pound) [1]	Net subsidy (cents per pound) [2]
W. Germany: EC restitution payments	5.6	5.6

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677a.

[FR Doc. 82-27006 Filed 9-30-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council and its Administrative Subcommittee; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Caribbean Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), has established an Administrative Subcommittee. The Council and its Administrative Subcommittee will hold separate meetings. The Council will hold its 43rd regular public meeting to consider status reports on fishery management plans (FMPs) under development (draft FMP for Coastal Pelagics Resources; draft FMP for the Fishery Resources of the Puerto Rican and St. Croix Geological Platforms), and discuss other Council matters. The Administrative Subcommittee will meet to consider matters related to the Council's budget and to discuss regular administrative operations.

DATES: The Council's public meeting will convene on Wednesday, November 17, 1982, at approximately 1:30 p.m., adjourn at approximately 5 p.m.; reconene on Thursday, November 18, 1982, at approximately 9 a.m.; adjourn at approximately noon. The Council's Administrative Subcommittee public meeting will also convene on Wednesday, November 17, 1982, at approximately 10:30 a.m.; adjourn at approximately noon. All meetings will take place at the Conference Room of the Hotel Pierre, 105 de Diego Avenue, Santurce, Puerto Rico.

FURTHER INFORMATION: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00198, Telephone: (809) 753–4926.

Dated: September 28, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-27130 Filed 9-30-82; 8:45 am]

BILLING CODE 3510-22-M

THE COMMISSION OF FINE ARTS

Vietnam Veterans Memorial; Meeting

The Commission of Fine Arts will next meet in open session on Wednesday, October 13, 1982 at 10:00 a.m. in the Commission's offices at 708 Jackson Place NW., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington, D.C. At noon the Commission will convene in the Cash Room at the Treasury Department Building for the purpose of considering proposed changes to the Vietnam Veterans Memorial.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, The Commission of Fine Arts, at the above address.

Dated in Washington, D.C., September 28, 1982.

Charles H. Atherton,

Secretary.

[FR Doc. 82-27143 Filed 9-30-82; 8:45 am]

BILLING CODE 6330-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records: Amendment

AGENCY: Defense Advanced Research Projects Agency (DARPA), DOD.

ACTION: Notification of amendment to system of records.

SUMMARY: This notice makes a minor administrative amendment to a system of records maintained by the Defense Advanced Research Projects Agency (DARPA). The change to the system is set forth below, followed by the system notice as amended in its entirety.

DATES: This amendment shall become effective on October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Norma Cook, Privacy Act Officer, ODASD(A), Room 5C315, The Pentagon, Washington, D.C. 20301. Telephone: 202/695–0907.

SUPPLEMENTARY INFORMATION: The Defense Advanced Research Projects Agency (DARPA) system notices for system of records subject to the Privacy

Act of 1974, Title 5 United States Code, Section 552a (Pub. L. 93–579; 44 Stat. 1896 *at seq.*) have been published in the **Federal Register** at:

FR Doc. 82–674 (47 FR 2544) January 18, 1982
FR Doc. 82–21537 (47 FR 34441) August 9, 1982
FR Doc. 82–23920 (47 FR 38574) September 1, 1982

The proposed amendment is not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of an altered system report.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

September 28, 1982.

E DARPA 001

System name:

Travel File (47 FR 2544, January 18, 1982)

Changes:

Categories of records in the system:

Delete entry under above heading, and insert:

"Traveler's last name, first name, middle initial, office, division, travel dates, days, ticket cost, other cost, travel order number, destination and status."

E DARPA 001

SYSTEM NAME:

Travel file.

SYSTEM LOCATION:

Administrative Services Office, Defense Advanced Research Projects Agency (DARPA), 1400 Wilson Boulevard, Arlington, Va. 22209.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former DARPA employees, civilian and military. Selected government employees who visit DARPA on official business at DARPA's expense and certain nongovernment personnel traveling on Invitational Travel Orders for DARPA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Traveler's last name, first name, middle initial, office, division, travel dates, days, ticket cost, other cost, travel order number, destination, and status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, United States Code, Section 301; Department of Defense Directive 5105.41, "Defense Advanced Research Projects Agency (DARPA)". June 8, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal management administrative, and budgetary needs. Provides daily, weekly and monthly status reports to top management concerning status of travel funds.

INTERNAL USERS, USES, AND PURPOSES:

Director and Deputy Directors, Assistant Directors, Staff Assistants, Project Officers, and Personnel and Administrative Officers, DARPA.

EXTERNAL USERS, USES, AND PURPOSES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer paper printouts, paper records and correspondence in file folders, also, magnetic disc.

RETRIEVABILITY:

Accessed by last name, by office, or by any of the data files listed in Record Category.

SAFEGUARDS:

Paper copies are maintained in areas accessible only to authorized personnel. Building employs security guards. File access is available to authorized personnel who have been assigned system passwords.

RETENTION AND DISPOSAL:

Paper files will be destroyed by burning or pulping immediately after they have served their purposes or after 2 years, whichever occurs first. There are no plans to retire or destroy ADP files.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, DARPA, 1400 Wilson Boulevard, Arlington, Va. 22209.

NOTIFICATION PROCEDURE:

Information may be obtained from Administrative Officer, DARPA, Room 607, Architect Building, 1400 Wilson Boulevard, Arlington, Va. 22209. Telephone (202) 694–3032.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to Administrative Officer, DARPA, 1400 Wilson Boulevard, Arlington, Va. 22209.

Written requests for information should contain the full name of the individual, the period for which the information is required and specific categories of information required.

For personal visits, the individual should be able to provide DoD Identification Card.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR Part 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

DARPA Special Orders (TDY, Invitational, PCS, etc.); Travel Vouchers as submitted by travelers and as returned by the local finance offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82–27105 Filed 9–30–82; 8:45 am]
BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. QF82–208–001]

American Lignite Products Co., Notice of Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 27, 1982.

On August 18, 1982, American Lignite Products Co., (Applicant), P.O. Box 1066, Ione, California 95640, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The proposed steam turbine small power production facility will be located in Ione, Amador County, California. The net electric power production capacity of the facility will be between 12.8 and 14.3 megawatts. The primary energy source of the facility will be a high ash lignite residue which remains after a wax extraction operation. One third of the fuel requirements of the facility will be supplied by recovering low or non-wax lignites that occur in the Ione geologic formation in conjunction with wax bearing lignite. Applicant maintains that these fuels should be considered "waste" under § 292.202(b) of the Commission rules pursuant to sections 201 and 210 of the Public Utility Regulatory Policies Act. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and

214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-27032 Filed 9-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-208-000]

American Lignite Products Co.; Notice of Application for Commission Certification of Qualifying Status of a Cogeneration Facility

September 27, 1982.

On August 18, 1982, American Lignite Products Co., (Applicant), P.O. Box 1066, Ione, California 95640, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The proposed topping-cycle cogeneration facility employing an extraction steam turbine will be located in Ione, Amador County, California. The primary energy source to the facility will be high ash lignite, a byproduct of wax production. The net electric power production capacity of the facility will be between 12.8 and 14.3 megawatts. Low pressure steam will be provided for process use. Installation of the facility is scheduled to begin in December 1982. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility. (Applicant has also filed an application for certification of the facility as a qualifying small power production facility, under Docket No. QF82-208-001).

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-27033 Filed 9-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-536-000]

Columbia Gas Transmission Corp.; Notice of Application

September 27, 1982.

Take notice that on September 17, 1982, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP82-536-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of 58 interconnecting tap facilities to provide additional points of delivery to existing wholesale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the following new points of delivery for the following wholesale customers:

(1) Columbia Gas of Kentucky, Inc., 5 taps for residential service—Estimated annual usage of 750 Mcf.

(2) Columbia Gas of Maryland, Inc., 1 tap for residential service—Estimated annual usage of 150 Mcf.

(3) Columbia Gas of Ohio, Inc., 29 taps for residential service, 2 taps for commercial service—Estimated annual usage of 4,763 Mcf.

(4) Columbia Gas of Pennsylvania, Inc., 2 taps for residential service—Estimated annual usage of 4,650 Mcf.

(5) Columbia Gas of Virginia, Inc., 2 taps for residential service—Estimated annual usage of 300 Mcf.

(6) Columbia Gas of West Virginia, Inc., 13 taps for residential service, 1 tap for commercial service—Estimated annual usage of 15,844 Mcf.

(7) The Dayton Power and Light Company, 1 tap for residential service—Estimated annual usage of 220 Mcf.

(8) West Ohio Gas Company, 1 tap for residential service—Estimated annual usage of 140 Mcf.

(9) Union Light, Heat & Power Company, 1 tap for residential service—Estimated annual usage of 600 Mcf.

Applicant estimates that the total cost of the interconnections proposed herein is $17,490 to be financed through internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-27034 Filed 9-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-521-000]

El Paso Natural Gas Co.; Notice of Application

September 27, 1982.

Take notice that on September 2, 1982, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP82-521-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a new meter station and the relocation and modification of

an existing meter station, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of Applicant's proposal is to permit the delivery of natural gas for resale and direct sale to Arizona Public Service Company (APS) in Maricopa County, Arizona. Applicant contends that the relocation and modification and the construction and operation of the meter station facilities proposed herein would permit the relocation, for safety reasons, of an existing meter station which is presently situated under high power electrical transmission lines, the modification of its meter station after relocation to allow for increased deliveries of natural gas to APS in order to accommodate projected growth, and the construction and operation of a meter station located immediately adjacent to the proposed relocation site in order to accommodate increased deliveries of natural gas that APS would require upon completion of modifications to three generating units located at its West Phoenix Power Plant.

APS asserts it has advised Applicant of significant increases expected in its residential resale and new power plant direct sale requirements. On a peak hour basis in 1983, the requirements related to the increase in high-priority load are estimated to range from 700 Mcf to 3,400 Mcf. The design capacity of the existing meter station is said to be 3,375 Mcf at current delivery pressure. Furthermore, the power plant peak hour requirements are estimated to range from 5,474 Mcf to 2,400 Mcf by 1983. It is further stated that due to the increase in the number of residential customers, combined with an increase in their natural gas requirements, Applicant would otherwise experience difficulties in satifying its customers.

Applicant projects the aggregate annual deliveries of natural gas to be 9,103,727 Mcf, 10,969,359 Mcf, and 11,252,153 Mcf in 1983, 1984, and 1985, respectively. In order to meet projected demands Applicant seeks to upgrade the existing meter station facility proposed to be relocated and modified and to construct a new meter station facility. Applicant estimates the total cost to be $461,949. Applicant states that the cost of the facilities proposed would be financed through the use of internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-27035 Filed 9-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-818-000]

Florida Power & Light Co.; Notice of Filing

September 27, 1982.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), on September 21, 1982, tendered for filing documents entitled Amendment Number Three to Agreement to Provide Specified Transmission Service Between FPL and Sebring Utilities Commission.

Amendment Number Three updates the rates for transmission service provided by FPL, bringing them in accord with the increased rates filed by the Commission on July 1, 1981, in *Florida Power & Light Company*, Docket No. ER81-566-000.

FPL requests waiver of the Commission's notice requirements and that the proposed Amendment be made effective immediately.

Copies of this filing have been served upon Sebring Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before October 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-2703 Filed 9-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-511-000]

Kansas-Nebraska Natural Gas Company, Inc.; Notice of Application

September 27, 1982.

Take notice that on August 25, 1982, Kansas-Nebraska Natural Gas Company, Inc. (Applicant), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP82-511-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing construction necessary to upgrade certain town border stations and for permission and approval to abandon existing meters at those town border stations located in Balden, St. Edwards, and Trumbull, Nebraska, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of upgrading the town border stations is to enable Applicant to meet the requests from distribution customers served by Applicant in the above mentioned towns for additional gas for use in commercial grain dryers. At Balden, Nebraska, Applicant proposes to replace the existing meter with a meter having a capacity of 40.6 Mcf per hour at a new cost of approximately $2,500. At St. Edwards, Nebraska, Applicant proposes to replace the existing meter with a new meter having a capacity of 55.6 Mcf per hour at a net cost of approximately $2,200. At Trumbull, Nebraska, the upgrading would consist of providing two new meters with a capacity of 88.7

Mcf per hour at a cost of approximately $4,400 to replace two existing meters.

Applicant submits that the combined total annual retail sales represented by the requests for additional service in the above noted towns is expected to be approximately 30,000 Mcf. The total cost of the upgrading would be approximately $9,100. Applicant asserts that it would finance the proposed facilities with cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-27037 Filed 9-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-500-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Notice of Application

September 27, 1982.

Take notice that on August 19, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP82-500-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to realign volumes of firm entitlement at the request of certain of its market area utility customers, construct and operate facilities to accommodate the deliveries of these volumes, and make increased sales to certain of its South End area customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In accordance with Section 17.5 of Applicant's FERC Gas Tariff, Third Revised Volume No. 1, Applicant proposes to realign 9,635 Mcf of natural gas per day of its market area system firm entitlement and provide an increase in entitlements to its South End customers. Applicant asserts that the proposed realignment would result in a 9,635 Mcf per day increase of winter period service, offset by decreases of 4,744 Mcf per day of contract demand, 2,978 Mcf per day of seasonal service and 1,913 Mcf per day of peaking service volumes. In addition to the realignment among market area customers, Applicant also requests authority on behalf of two of its utility customers to make certain realignments within each of their authorized firm entitlements.

In addition, Applicant proposes to increase the peak day entitlements of its South End customers by 5,001 Mcf per day and to increase annual entitlements by 1,503,000 Mcf. More specifically, the South End area customers, High Plains Natural Gas Co., Westar Transmission Co., and Southern Union Gas Co., have requested increases in contract demand of 4,500 Mcf per day, 300 Mcf per day and 201 Mcf per day, respectively. Applicant states that the proposed realignment of volumes would not result in expansion of authorized sales levels to Northern's market area utilities and would aid in achieving maximum utilization of presently authorized service by allowing Applicant to meet the requirements of the utilities requesting such changes.

In order to provide the requested realignments, Applicant proposes to construct and operate 2.14 miles of 4-inch loopline near Perry, Iowa, from Milepost 3.40 extending southeasterly to Milepost 5.54, all in Greene and Boone Counties, Iowa, and 13.13 miles of 6-inch loopline near Brookings, South Dakota from Section 18 to Section 13, all in Kingsbury County, South Dakota. Applicant also proposes to construct a new delivery point to High Plains Natural Gas Co. in Canadian, Texas, and to modify three existing town border stations in Applicant's market area system, namely, Savage, Minnesota No. 1E, St. Michael, Minnesota No. 1, and LeGrand, Iowa No. 1. Applicant estimates the total cost of construction to be $1,985,548 which would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 19, 1982, file with the Federal Energy Regulatory Commmission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-27038 Filed 9-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-816-000]

Pacific Power & Light Co.; Notice of Filing

September 27, 1982.

The filing Company submits the following:

Take notice that Pacific Power & Light Company (PP&L) on September 21, 1982, tendered for filing PP&L's FERC Electric Tariff, Original Volume No. 3, Service Schedule PPL-3.

PP&L requests this rate schedule to become effective 60 days after filing, which it claims is the date of commencement of service.

Copies of this filing have been served upon the Idaho Public Utilities Commission, Public Service Commission of the State of Montana, Oregon Public Utility Commissioner, Washington Utilities and Transportation Commission, and Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before October 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-27039 Filed 9-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-815-000]

Pennsylvania Power & Light Co.; Notice of Filing

September 27, 1982.

The filing Company submits the following:

Take notice that Pennsylvania Power & Light Company (PP&L) on September 20, 1982, tendered for filing as a rate schedule an executed agreement dated as September 1, 1982 between PP&L and The Connecticut Light and Power Company and Western Massachusetts Electric Company (NU Companies). The proposed rate schedule provides for the sale of interruptible power and energy by PP&L to NU Companies.

The rate schedule provides for a maximum energy reservation charge rate of $24.70 per megawatt hour and an energy charge rate based upon the incremental cost of providing the energy.

PP&L requests the effective date of September 20, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon the NU Companies and the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before October 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-27040 Filed 9-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-814-000]

Southern California Edison Co.; Notice of Filing

September 27, 1982.

The filing Companyu submits the following:

Take notice that on September 20, 1982, Southern California Edison Company (Edison) tendered for filing an Integrated Operations Agreement which has been executed by Edison and the City of Vernon, California (Vernon). Under the terms of the Agreement, Vernon will be able to reduce purchases of capacity and energy from Edison by obtaining its own capacity and energy resource from the Palo Verde Nuclear Project or by integrating nonfirm energy resources.

Copies of this filing were served upon the City of Vernon and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before October 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-27041 Filed 9-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-504-000]

Texas Eastern Transmission Corp. Notice of Application

September 27, 1982

Take notice that on August 23, 1982, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP82-504-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline and related facilities offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct and operate 1.74 miles of 8-inch pipeline, and related facilities extending from Chandeleur Area Block 17, A Platform, to Chandeleur Area Block 25, A Platform, Offshore Louisiana, and 11.4 miles of 12-inch pipeline and related facilities, extending from Chandeleur Area Block 25, A Platform, Offshore Louisiana, to an existing 8-inch sub-sea tap on Applicant's existing 16-inch pipeline in Main Pass Area Block 93, Offshore Louisiana. It is further stated that, upon completion, the pipeline will have a maximum capacity of 74,000 Mcf per day.

It is further stated that the proposed facilities would permit Applicant to attach substantial quantities of natural gas produced from said Chandeleur

Area Blocks. Applicant states that it has entered into gas purchase agreements with Getty Oil Company and Cities Service Company for the purchase of each company's 50 percent interest in Block 25 and with Tenneco Oil Company for the purchase of its 100 percent interest in Block 17.

Applicant estimates the total cost of the proposed facilities to be $14,549,000, which would be financed initially through revolving credit arrangements, short-term borrowing arrangements with banks, or from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 19, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-27042 Filed 9-30-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-503-000]

Transcontinental Gas Pipe Line Corp.; Notice of Application

September 27, 1982.

Take notice that on August 20, 1982, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82-503-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to establish the Transco-Niagara Storage Service which would provide up to 40,000,000 Mcf of top storage capacity and up to 600,000 Mcf per day of withdrawal capability for its customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the new storage service is made possible by two separate storage arrangements Applicant has entered into with ANR Storage Company (ANR Storage) in Michigan and Union Gas Limited (Union Gas) in Ontario. Each arrangement would provide Applicant up to 20,000,000 Mcf of top storage capacity and up to 300,000 Mcf per day of withdrawal capability. Applicant indicates that it would purchase the gas to be placed in storage from TransCanada PipeLines Limited (TransCanada) upon Commission approval of Applicant's pending import application in Docket No. CP82-115-000.

The storage service would be implemented by numerous transportation arrangements. During the summer injection season, TransCanada would deliver storage injection gas of up to 300,000 Mcf per day to Great Lakes Gas Transmission Company (Great Lakes) at an existing interconnection between TransCanada and Great Lakes at the United States-Canada border near Emerson, Manitoba. Great Lakes then would transport up to 150,000 Mcf per day to an existing interconnection with the facilities of ANR Storage near Crawford, Michigan. ANR Storage would, in turn, transport such injection quantities to an interconnection between the proposed facilities of ANR Storage and the proposed facilities of Niagaran Gas Storage Company (Niagaran) near Whitewater, Michigan. Niagaran, a partnership to be formed by subsidiaries of American Natural Resources and Michigan Consolidated Gas Company (Mich Con), would own the gas storage fields and appurtenant facilities in Whitewater and Union Townships, Michigan, into which the gas to be stored for Applicant would be injected. Great Lakes would transport the remainder of Applicant's storage injection volumes to the United States-Canada border near St. Clair, Michigan, where Great Lakes' facilities interconnect with facilities of TransCanada. TransCanada would, in turn, transport such gas for Applicant's account to Union Gas's system near Dawn, Ontario, for injection into Union Gas' storage facilities.

Applicant further states that during the winter, based upon nominations by Applicant, Niagaran would make up to 300,000 Mcf per day from its withdrawal capacity available to ANR Storage, which would in turn arrange transportation through two delivery systems in Michigan. ANR Storage would deliver up to 147,675 Mcf per day to Mich Con at a proposed interconnection between ANR Storage and Mich Con in Kalkaska Township, Michigan. Mich Con would transport such quantities to an existing interconnection with Great Lakes at Belle River Mills, Michigan. Great Lakes would transport such quantities to its existing interconnection with TransCanada near St. Clair, Michigan. With respect to the second delivery system, ANR Storage would deliver up to 149,550 Mcf per day of gas withdrawn from the Niagaran storage fields directly to Great Lakes at the Crawford Delivery Point, and Great Lakes would transport such quantities to TransCanada at the aforementioned St. Clair interconnection whereupon TransCanada would deliver such quantities to Union Gas near Dawn, Ontario. Both the Niagaran storage quantities and those quantities withdrawn from Union Gas' facilities near Dawn, Ontario would be transported in an easterly direction by Union Gas to a proposed interconnection between Union Gas and TransCanada at Kirkwall, Ontario and then by TransCanada for ultimate redelivery for Applicant's account near Niagara Falls, New York, where the Trans-Niagara Pipeline, pending authorization in Docket Nos. CP82-125-003 and CP82-125-004, would interconnect with TransCanada's facilities, it is explained. Trans-Niagara would transport Applicant's storage quantities, along with Applicant's Canadian purchase quantities, to Applicant's existing pipeline system at the Leidy Storage Field near Tamarack, Pennsylvania.

Applicant states that customers would contract for their desired annual quantity as well as their desired peak day capability; however, such customers withdrawals would be limited during the winter period to 70 percent of the

customer's storage demand quantity when the customer's storage balance is between 10 percent and 19 percent of full quantites and to 40 percent when the customers' balance drops below 10 percent of full quantities. Based on the maximum withdrawal rates and the total top storage capacity, Applicant estimates that it would be able to provide an average of sixty-seven days of storage service.

Applicant states that the proposed Rate Schedule T–NSS Consists of a monthly demand charge of $14.79 per dt of contract demand, a monthly capacity charge of 4.3 cents per dt of annual capacity, and injection and withdrawal charges of 8.8 cents per dt. Applicant indicates that these rates reflect an accumulation and direct assignment of charges for the storage and transportation services upstream of the Niagara Falls point of importation, an allocation to the new storage service of a portion of Trans-Niagara's transportation charges, and an allocation to the storage service of a portion of Applicant's costs of new facilities needed to transport the additional storage and purchase quantities through Applicant's Leidy Line and in the market area.

Applicant avers that its customers have indicated a need for additional peak period deliveries in order to meet their growing high-priority market requirements. Applicant indicates that the proposed storage service is part of its efforts to meet its customers' requirements.

Any person desiring to be heard or to make any protest with reference to said applicant should on or before October 19, 1982, filed with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the National Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-27043 Filed 9-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-817-000]

United Illuminating Co.; Notice of Filing

September 27, 1982.

The filing company submits the following:

Take notice that the United Illuminating Company (UI) on September 21, 1982, tendered for filing an exchange agreement (the Agreement) between UI and the Connecticut Light and Power Company (CL&P), and Western Massachusetts Electric Company (WMECO), the latter two companies, collectively, the NU Companies.

UI indicates that the Agreement, dated August 1, 1982 provides for an exchange of UI system capacity and related energy for an equivalent amount of capacity and related energy in the NU Companies' gas turbines. The capacity and related energy furnished by UI to the NU Companies would be from one or more of existing operable fossil-fired steam generation units at New Haven Harbor Station and English Station in the City of New Haven and/or Bridgeport Harbor Station or Stell Point Station in the City of Bridgeport. However, in most anticipated instances, the capacity and related energy will be supplied from Bridgeport Harbor Station Units 1 and 2.

UI states that the Agreement provides that the parties will, from time to time, determine the amount and period of the exchange of capacity when it is mutually advantageous to the parties.

UI further states that the NU Companies will pay an energy reservation charge to UI for each hour in an amount equal to the amount of the kilowatt capacity exchange in effect during that hour times $0.003. In addition, the NU Companies will pay the costs of energy taken by the NU Companies from UI based, on a before-the-fact agreed upon heat rate at fuel costs in effect for pool dispatching purposes at the time of the exchange.

UI indicates that it will pay the NU Companies for energy actually produced by the NU Companies' generating units which are part of the exchange capacity at the cost to provide such energy (including variable and additional maintenance costs) from such generating units.

UI requests an effective date of August 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon WMECO and CL&P.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before October 13, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-27044 Filed 9-30-82; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Fort Peck-Havre Proposed 230-KV Transmission Line, Montana; Draft Environmental Impact Statement, Extension of Comment Period

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Extension of Comment Period for Draft Environmental Impact Statement.

SUMMARY: Notice is hereby given that the Western Area Power Administration, Department of Energy (DOE), has extended the comment period by 60 days for the Fort Peck-Havre draft environmental impact statement (DEIS) (DOE/EIS–0090–D). Comments will now be due October 22, 1982. The extension is in response to a request to allow more time for potentially affected individuals to

comment and is to allow time to study new local routing alternatives in response to comments received at the public hearings.

ADDRESS: Use the following address for further information, copies of the DEIS, and to send comments: Mr. James D. Davies, Area Manager, Billings Area Office, Western Area Power Administration, P.O. Box EGY, Billings, MT 59101 (406) 657–6042.

Issued at Golden, Colorado, September 23, 1982.

Don W. Shinkle,

Assistant Administrator for Management Services.

[FR Doc. 82-27123 Filed 9-30-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2220-5]

Availability of Environmental Impact Statements Filed September 20 Through September 24, 1982 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, general information 382–5075 or 382–5076.

Corps of Engineers:

EIS No. 820626, Draft, COE, FL, Okeechobee Waterway, Continued Operation and Maintenance, Due: Nov. 15, 1982

EIS No. 820625, Draft, COE, WA, Centralia Flood Damage Reduction, Skookumchuck Dam, Thurston County, Due: Nov. 15, 1982

Department of Interior:

EIS No. 820627, Draft, BLM, OR, Andrews Livestock Grazing Management Program, Harney County, Due: Dec. 1, 1982

EIS No. 820642, Final, BLM, UT, Pinyon Livestock Grazing Mgmt., Iron/Beaver/Washington/Millard Cos., Due: Nov. 1, 1982

EIS No. 820631, Final, BLM, UT, Ashley Creek Livestock Grazing Mgmt. Plan, Uintah/Duchesne/Carbon Cos., Due: Nov. 1, 1982

EIS No. 820630, Final, BLM, WY, Grass Creek Livestock Grazing Management Plan, Due: Nov. 1, 1982

EIS No. 820632, Draft, OSM, WY, North Rochelle Mining and Reclamation Plan, Approval, Campbell County, Due: Nov. 24, 1982

Department of Transportation:

EIS No. 820637, Draft, FHW, CT, I–284, Construction, I–84 E. Hartford to I–291 W. Windsor, Hartford Co., Due: Nov. 15, 1982

Environmental Protection Agency:

EIS No. 820628, Draft, EPA, TX, Twin Oak Steam Electric Station, NPDES Permit, Robertson County, Due: Nov. 15, 1982

EIS No. 820641, Final, EPA, TX, Pirkey Power Plant/Hallsville Lignite Mine, NPDES Permit, Harrison Co., Due: Nov. 1, 1982

EIS No. 820624, Final, EPA, IA, Des Moines, Sludge Disposal Mgmt. Facilities, Grant, Polk & Warren Cos., Due: Nov. 1, 1982

Department of Housing and Urban Development:

EIS No. 820636, Draft, HUD, HI, Mililani Town Expansion, Mortgage Insurance, Honolulu County, Due: Nov. 15, 1982

EIS No. 820639, Draft, HUD, TX, Brownsville Northeast Growth Areawide Study, Cameron County, Due: Nov. 15, 1982

EIS No. 820633, Draft, CDB, MI, Near East Riverfront Development #2, UDAG, Wayne County, Due: Nov. 15, 1982

EIS No. 820634, Draft, CDB, MI, Chene Street Park/Near East Riverfront Development #3, UDAG, Wayne Co., Due: Nov. 15, 1982

EIS No. 820635, Draft, CDB, MI, American Natural Resources/Near East Riverfront #1, UDAG, Wayne Co., Due: Nov. 15, 1982

Nuclear Regulatory Commission:

EIS No. 820629, Final, NRC, SD, Edgemont Uranium Mill Decommissioning, Licensing Amendment, Due: Nov. 1, 1982

Department of Agriculture:

EIS No. 820596, Final, AFS, ID, Moyie Wild and Scenic River Study, Kaniksu Nat'l Forest, Boundary Co., Due: Nov. 1, 1982

EIS No. 820597, Final, AFS, CO, Conejos Wild and Scenic River Study, Routt Nat'l Forest, Routt County, Due: Nov. 1, 1982

Veterans Administration:

EIS No. 820638, Final, VAD, FL, Florida Veterans National Cemetery Development, Marion & Sumter Cos., Due: Nov. 15, 1982

Amended Notices:

EIS No. 820617, Final, REA, SEV, IL, MO Pike County Generating Facility/Associated Transmission Line, Due: Oct. 18, 1982—Published FR Sept. 24, 1982—Review waived

EIS No. 820608, Final, BLM, OR, Brothers Area Grazing Mgmt. Plan, Crook, Harney, Lake & Deschutes Cos, Due: Oct. 30, 1982—Published FR Sept. 24, 1982—Review extended

EIS No. 820519, Draft, BLM, SEV, ND MT Fort Union Region Coal Development, Leasing, Due: Oct. 19, 1982—Published FR Aug. 13, 1982—Review extended

EIS No. 820460, Draft, FRC, SEV, CT MA NH NJ PA Tennessee/Boundary Looping Project, Certificate, Due: Oct. 22, 1982—Published FR July 16, 1982—Review extended

Dated: September 28, 1982.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82-27133 Filed 9-30-82; 8:45 am]

BILLING CODE 6560-50-M

[A-10-FRL 2219-2]

Standards of Performance for New Stationary Sources; Delegation to the Energy Facility Site Evaluation Council (State of Washington)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing approval of a request dated August 5, 1982 from the Energy Facility Site Evaluation Council of Washington for delegation of authority for source categories under the New Source Performance Standards (NSPS) as adopted in their WAC 463, Washington Administrative Code. The source categories are: fossil fuel-fired steam generators, electric utility steam generating units, stationary gas turbines, petroleum refineries, storage vessels for petroleum liquids and coal preparation plants.

DATE: Effective September 3, 1982.

ADDRESSES: The related material in support of this delegation may be examined during normal business hours at the following locations:

Central Docket Section (10A–82–12), Environmental Protection Agency, West Tower Lobby, Gallery I 401 M Street, SW Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101

Energy Facility Site Evaluation Council, 4224 Sixth Ave., PY–11 Lacey, Washington 98503

FOR FURTHER INFORMATION CONTACT: Mark H. Hooper, Air Programs Branch M/S 532, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone No.: (206) 442–1949, FTS: 399–1949.

SUPPLEMENTARY INFORMATION: The Energy Facility Site Evaluation Council (EFSEC) in a letter dated August 5, 1982 requested delegation of source categories under NSPS. The letter granting this delegation of authority to EFSEC was dated September 3, 1982 and is as follows:

Honorable John Spellman,

Governor of Washington, Olympia, Washington 98504.

Dear Governor Spellman: On August 5, 1982 the Energy Facility Site Evaluation Council (EFSEC) requested that EPA grant delegation of authority to enforce source categories under New Source Performance Standards (NSPS) as they may apply to energy sources. We have reviewed that request and hereby delegate to EFSEC the authority to enforce the source categories listed as follows:

Fossil-fuel Fired Steam Generators

Electricity Utility Steam Generating Units
Stationary Gas Turbines
Petroleum Refineries
Storage Vessels for Petroleum Refineries
Coal Preparation Plants

In addition to the delegation, EFSEC has the authority to enforce revisions to the NSPS source categories which have been promulgated through May 1, 1982.

The DOE and EFSEC have overlapping responsibility for those sources; their jurisdiction depending on the size of the facilities. This delegation pertains only to those sources within the exclusive jurisdiction of EFSEC.

The conditions for delegating NSPS to the Washington State Department of Ecology (DOE) as specified in the February 25, 1975 notice from the Regional Administrator to the Governor of Washington apply as they relate to EFSEC. They are not listed here as DOE will be involved with this program according to terms of a DOE/EFSEC agreement dated May 27, 1980.

A Notice announcing this delegation will be published in the **Federal Register** in the future. The Notice will state, among other things, that effective immediately, all reports required pursuant to the Federal NSPS from energy sources located in the State which were previously sent to EPA will now be sent to the EFSEC.

Since this delegation is effective immediately, there is no requirement that EFSEC notify EPA of its acceptance. Unless EPA receives from the EFSEC written notice of objections within 10 days of the date of receipt of this letter, EFSEC will be deemed to have accepted all the terms of the delegation.

An advance copy of this Register is enclosed for your information.

Sincerely,

John R. Spencer,

Regional Administrator.

(Sec. 111, Clean Air Act)

Dated: September 3, 1982.

John R. Spencer,

Regional Administrator.

[FR Doc. 82-27128 Filed 9-30-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1377]

Petitions for Reconsideration, Clarification and Stay of Actions in Rule Making Proceedings

September 27, 1982.

The following listings of petitions for reconsideration, clarification and stay filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration, clarification and stay must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations. (Docket No. 21136)

Filed by: Daniel W. Toohey, Attorney for KQED, Inc., State of Wisconsin—Educational Communications Board & The Ohio State University on 8-25-82. (Petition for Clarification)

Frank Mankiewicz, President, Bruce Wolpe, Director, National Affairs & Donald Martin, Regulatory Affairs Counsel on 9-16-82. (Petitions for Reconsideration & Stay)

Louis Schwartz, Robert A. Woods & Lawrence M. Miller for Schwartz, Woods & Miller on 9-20-82. (Petition for Reconsideration)

Theodore D. Frank & Marilyn D. Sonn, Attorneys for National Association of Public Television Stations & Public Broadcasting Service on 9-20-82. (Petition for Clarification or Reconsideration)

Subject: Amendment of Section 22.501(a) of the Rules to allow the 35 MHz frequency band to be used for one-way signaling on an exclusive basis in the Domestic Public Land Mobile Radio Service. (CC Docket No. 80-189)

Filed by: Robert S. Snyder, Attorney for Whidbey Telephone Company on 9-9-82.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-27040 Filed 9-30-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 82F-0267]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 4-[[4,6-bis(octylthio)-*s*-triazin-2-yl]amino]-2,6-di-*tert*-butylphenol as a component of adhesives and pressure-sensitive adhesives.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3644) has been filed by the Ciba-Geigy Corp., Hawthorne, NY 10532, proposing that § 175.105 *Adhesives* (21 CFR 175.105), § 175.125 *Pressure-sensitive adhesives* (21 CFR 175.125), and § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of 4-[[4,6-bis(octylthio)-*s*-triazin-2-yl]amino]-2,6-di-*tert*-butylphenol as a component of adhesives and pressure-sensitive adhesives.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's findings of no significant impact and the evidence supporting these findings may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 17, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-26849 Filed 9-30-82; 8:45 am]

BILLING CODE 4160-01-M

[FDA-225-82-6001]

Memorandum of Understanding With the National Library of Medicine

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding with the National Library of Medicine. The purpose of the understanding is to define the respective responsibilities of the National Library of Medicine and FDA to produce a master video disc containing images of approximately 40 radiographs selected from the Radiological Health Sciences Learning File.

EFFECTIVE DATE: The agreement became effective July 27, 1982.

FOR FURTHER INFORMATION CONTACT: Walter J. Kustka, Intergovernmental and Industry Affairs Staff (HFC-50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1583.

SUPPLEMENTARY INFORMATION: In accordance with § 20.108(c) (21 CFR 20.108(c)) stating that all agreements and memoranda of understanding between FDA and others shall be published in the **Federal Register**, the agency is publishing the following memorandum of understanding:

Memorandum of Understanding Between the National Library of Medicine and the Food and Drug Administration

I. Purpose

This agreement defines the respective responsibilities of the National Library of Medicine (NLM) and the Food and Drug Administration (FDA) to produce a master video disc containing images of approximately 40 radiographs selected from the Radiological Health Sciences Learning File.

II. Background

The Radiological Health Sciences Learning Laboratory (referred to as the Learning Laboratory) is a comprehensive approach to teaching the basic skills required in all phases of the radiological process. The Learning Laboratory was developed, with the support of FDA's Bureau of Radiological Health (BRH) at the Radiological Health Sciences Educational Project, University of California, San Francisco, under the direction of Dr. Reynold F. Brown. One component of this system, the Learning File, is perhaps best known. It is a collection of 1,400 individual cases grouped in 6 categories representing the major body organ systems. Each case consists of 3 to 4 radiographs filed in heavy-duty, color coded film jackets. Hence, the entire file consists of approximately 5,000 clinical X-ray films. The user selects those cases of interest from a file index and then physically pulls the cases from the file cabinet and places the radiographs on a viewing box for study. The radiographs must be returned to their jackets and refiled for the convenience of the next user. Each jacket contains a carefully prepared teaching discussion of the case (printed upside down) which a student consults after attempting an independent interpretation.

The National Medical Audio Visual Center's (NMAC) Learning Resources Laboratory of the NLM has produced a video disc containing approximately 20 radiographs taken from the Learning File. A simple computer program has been written to manipulate the stored images. Several radiologists have reviewed the video images of the radiographs and believe they may be satisfactory for instructional purposes. If this proves to be the case, the entire Learning File could be stored on 1 or 2 video discs, reducing purchasing costs and storage requirements.

III. Substance of Agreement

FDA/BRH and NLM/NMAC agree to mutually develop a video disc with sound narration of approximately 10 cases (35 to 40 radiographs) selected from the Learning File. This concept (computer controlled video disc) will be demonstrated at the annual meeting of the Radiological Society of North America in November 1982. A survey will be taken of the radiologists who visit the exhibition to determine if they think the images are useful for instructional purposes and could replace or supplement the present Learning File.

A. FDA/BRH will:

1. Supply a radiologist to serve as a consultant to the project and direct the recording session(s).

2. Supply the radiographs which are to be video taped.

3. Supply 2 single-view boxes with masking devices.

4. Supply an assistant to the radiologist.

5. Supply a 1-inch video tape, Ampex High Energy #196 for recording and editing.

6. Supply 1 2-inch Ampex video tape, if required.

7. Supply script for sound narration.

8. Provide funds for video disc mastering service.

9. Provide NMAC with 5 copies of final video disc.

B. NLM/NMAC will:

1. Provide all video production apparatus (TV cameras, tape recorders, switchers, signal processing equipment, character generators, etc.).

2. Provide a producer/director.

3. Provide camera operator(s).

4. Provide a video engineer.

5. Provide video and audio technician(s).

6. Provide console operator(s).

7. Cooperate in development of the survey instrument.

8. Develop computer coding to manipulate images on video disc player.

c. NLM and FDA will attempt to hold to the following production schedule:

1. FDA submits audio script to producer/director at NMAC by July 1.

2. NLM returns audio script to FDA by July 9.

3. FDA delivers light boxes and selected radiographs to NLM by July 14.

4. NLM and FDA jointly record sound narration and shoot pre-master tape July 20 through 30.

5. NLM and FDA jointly edit pre-master tape August 2 through 6.

6. FDA submits pre-master tape to mastering facility by August 6 (maximum turn-around time is 6 weeks).

7. FDA inspects check disc and returns check disc to mastering facility by September 24.

8. NLM and FDA jointly develop computer coding to manipulate images on video disc player by October 15.

IV. Name and Address of Participating Agencies

A. National Library of Medicine, Lister Hill National Center for Biomedical Communications, 8600 Rockville Pike, Bethesda, MD 20209.

B. Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

V. Liaison Officers

A. Director, Learning Resources Laboratory (currently James W. Woods, Ph. D.), Lister Hill National Center for Biomedical Communications, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20209, 301-496-6280.

B. Director, Division of Training and Medical Applications (currently William S. Properzio, Ph. D.), Bureau of Radiological Health, Food and Drug Administration, 5600 Fishers Lane (HFX-70), Rockville, MD 20857, 301-443-2845.

VI. Period of Agreement

This agreement, when accepted by both parties, will be effective for 6 months thereafter. It may be modified by mutual consent or terminated by either party upon a 30-day advance written notice.

Approved and Accepted for the National Library of Medicine.

By: Kenneth G. Carney,

Title: Executive Officer.

Dated: July 27, 1982.

Approved and Accepted for the Food and Drug Administration.

By: Joseph P. Hile,

Title: Associate Commissioner for Regulatory Affairs.

Dated: July 16, 1982.

Effective date. This Memorandum of Understanding became effective July 27, 1982.

Dated: September 23, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-26850 Filed 9-30-82; 8:45 am]
BILLING CODE 4160-01-M

[Docket No. 82F-0287]

ICI Americas, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces that ICI Americas, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of styrene-maleic anhydride resin, partial 2-butoxyethyl ester, ammonium salt, in coatings for polyethylene phthalate polymers intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Michael R. Kashtock, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3646) has been filed by ICI Americas, Inc., Wilmington, DE 19897, proposing that § 177.1630 *Polyethylene phthalate polymers* (21 CFR 177.1630) be amended to provide for the safe use of styrene-maleic anhydride resin, partial 2-butoxyethyl ester, ammonium salt, in coatings for polyethylene phthalate polymers.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be

published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: September 20, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-26670 Filed 9-30-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0288]

American Cyanamid Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces that the American Cyanamid Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of hexadecyl 3,5-di-*tert*-butyl-4-hydroxybenzoate as a light stabilizer in olefin polymers intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Michael E. Kashtock, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3648) has been filed by the American Cyanamid Co., Wayne, NJ 07470, proposing that § 178.2010 (21 CFR 178.2010) be amended to provide for the safe use of hexadecyl 3,5-di-*tert*-butyl-4-hydroxybenzoate as a light stabilizer at levels not to exceed 0.5 percent by weight of olefin polymers complying with § 177.1520 (21 CFR 177.1520).

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: September 20, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-26671 Filed 9-30-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0302]

Biochem International, Inc.; Premarket Approval of Lifespan™ 100 tcPCO$_2$ Monitor

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Lifespan™ 100 tcPCO$_2$ Monitor sponsored by Biochem International, Inc., Waukesha, WI. After reviewing the recommendation of the Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel (the Section), FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use in neonates as recommended in the submitted labeling.

DATE: Petitions for administrative review by November 1, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910; 301-427-7445.

SUPPLEMENTARY INFORMATION: On March 30, 1982, Biochem International, Inc., Waukesha, WI, submitted to FDA an application for premarket approval of the Lifespan 100™ tcPCO$_2$ Monitor, a trend monitor for carbon dioxide tension at the skin surface of neonates. The application was reviewed by the Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel, an FDA advisory committee, which recommended approval of the application for the use of this device on neonates. On September 9, 1982, FDA approved the application by a letter to the sponsor from the Acting Associate Director for Device Evaluation of the Bureau of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above), and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 1, 1982, file with the Dockets Management Branch (HFA-305), (address above) four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 27, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-27067 Filed 9-30-82; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Detroit District Office, Chaired by Alan L. Hoeting, District Director

DATE: Tuesday, October 12, 1982, 9:30 a.m.

ADDRESS: George Potter Larrick Bldg., Conference Room, 1560 E. Jefferson St., Detroit, MI 48207.

FOR FURTHER INFORMATION CONTACT:

Diane M. Place, Consumer Affairs Officer, Food and Drug Administration, 1560 E. Jefferson St., Detroit, MI 48207; 313–226–6260.

Detroit District Office, Indianapolis Resident Post, Chaired by John R. Dempster, Acting District Director.

DATE: Wednesday, October 13, 1982, 9 a.m. to 11 a.m.

ADDRESS: Indianapolis Convention-Exposition Center, 100 S. Capitol Ave., Indianapolis, IN 46204.

FOR FURTHER INFORMATION CONTACT: Lilyan M. Gossens, Consumer Affairs Officer, Food and Drug Administration, 575 N. Pennsylvania St., Rm. 693, Indianapolis, IN 46204; 317–269–6500.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: September 27, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-27065 Filed 9-30-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0282]

De Danske Sukkerfabrikker; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that De Danske Sukkerfabrikker has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a copolymer of *m*-phenylenediamine and benzene-1, 3, 5-tricarboxylic acid chloride as a component of an ultrafiltration membrane intended for use in food-processing applications.

FOR FURTHER INFORMATION CONTACT: John L. Herrman, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3645) has been filed by De Danske Sukkerfabrikker through its U.S. representative, General Dairy Equipment Co., 660 Taft St. NE., Minneapolis, MN 55413, proposing that the food additive regulations be amended to provide for the safe use of a copolymer of *m*-phenylenediamine and benzene-1, 3, 5-tricarboxylic acid chloride as a component of an ultrafiltration membrane intended for use in food-processing applications.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: September 20, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-26669 Filed 9-30-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0284]

Economics Laboratory, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Economics Laboratory, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of decanoic acid, octanoic acid, sodium 1-octanesulfonate, and isopropyl alcohol as components of sanitizing solutions to be used on food-contact surfaces.

FOR FURTHER INFORMATION CONTACT: James B. Lamb, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3647) has been filed by Economics Laboratory, Inc., St. Paul, MN 55102, proposing that the food additive regulations be amended to provide for the safe use of decanoic acid, octanoic acid, sodium 1-octanesulfonate, and isopropyl alcohol as components of sanitizing solutions to be used on food-contact surfaces.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: September 20, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-26672 Filed 9-30-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0294]

Radionics, Inc.; Premarket Approval of ICP Tele-Sensor® and ICP Tele-Monitor® System

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the ICP Tele-Sensor® and ICP Tele-Monitor® System, sponsored by Radionics, Inc., Burlington, MA. After reviewing the recommendation of the Neurological Device Section of the Respiratory and Nervous System Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by November 1, 1982.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, Bureau of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On March 2, 1982, Radionics, Inc., Burlington, MA 01803, submitted to FDA an application for premarket approval of the ICP Tele-Sensor® and ICP Tele-Monitor® System that is used to aid in diagnosing the functional status of cerebrospinal fluid shunts in patients with hydrocephalus. The application was reviewed by the Neurological

Device Section of the Respiratory and Nervous System Devices Panel, an FDA advisory committee, which recommended approval of the application. On September 2, 1982, by letter to the sponsor from the Acting Associate Director for Device Evaluation of the Bureau of Medical Devices, FDA approved the application for use of the device in patients 2 years of age and older who have implanted CSF shunts. Use of the device in patients under 2 years of age remains investigational.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles H. Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 1, 1982, file with the Dockets Management Branch four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 22, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-26668 Filed 9-30-82; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Privacy Act of 1974; New System of Records

AGENCY: Public Health Service, HHS.

ACTION: Notification of establishment of a new Privacy Act system of records: 09-25-0152, "Biomedical Research: Records of Subjects in National Institute of Dental Research Contracted Epidemiological and Biometric Studies," HHS/NIH/NIDR.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing notice of a proposal to establish a new Privacy Act system of records: 09-25-0152, "Biomedical Research: Records of Subjects in National Institute of Dental Research Contracted Epidemiological and Biometric Studies," HHS/NIH/NIDR. We are also proposing routine uses for this system.

This system will be used to support research on diseases and disorders of the oral cavity (teeth and their supporting structures); their causes and treatment; the incidence and prevalence of these diseases and disorders; familial, demographic and behavioral factors related to their causes and treatment; and to provide data for program review, evaluation, planning, and administrative accountability.

PHS invites interested persons to submit comments on the proposed routine uses on or before November 1, 1982.

DATE: PHS has sent a report of New System to the Congress and to the Office of Management and Budget on September 20, 1982. The system of records will be effective 60 days from the date submitted to OMB unless PHS receives comments on the routine uses which would result in a contrary determination.

ADDRESS: Comments should be addressed to the National Institutes of Health (NIH) Privacy Act Coordinator at the address listed below. Comments received will be available for inspection Monday through Friday, between 9 a.m. and 3 p.m., in Room 3B03, Building 31, at that address.

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth Thibodeau, NIH Privacy Act Coordinator, Building 31, Room 3B07, 9000 Rockville Pike, Bethesda, MD 20205 or call 301-496-4606.

SUPPLEMENTARY INFORMATION: The proposed system of records will comprise records generated in research projects supported by the National Institute of Dental Research (NIDR) in fulfilling its congressionally mandated responsibility for biomedical research on diseases and disorders of the oral cavity; their cause and treatment; the incidence and prevalence of these diseases and disorders; and familial, demographic and behavioral factors related to their causes and treatment. NIDR will use the records maintained in this system exclusively for biomedical research and for planning and administration of such research.

Such research will involve both scientists on the staff of NIDR and other scientists working under contracts awarded competitively by NIDR. NIDR may award research contracts to hospitals and clinics, to educational and research institutions, to Federal, State or local government agencies, or to commercial enterprises.

Records collected under this system will be organized and maintained according to the particular study in which they are collected. Records will not be entered into a general or comprehensive data base, nor will there be any general index identifying all persons who are subjects of records in the separate studies covered by this system. However, NIDR is treating the separate sets of records as a single system under the Privacy Act (1) because all of the sets of records serve the same biomedical research purposes and contain similar types of data, (2) in order to apply consistent policies and practices in the maintenance of such records, and (3) to make it easier for subject individuals to obtain notification of, or access to, their records.

The records in this system will be maintained in a secure manner compatible with their content and use. Contractors will be required to adhere to the provisions of the Privacy Act and the HHS Privacy Act Regulation. The Project Director, the NIDR Project Officer, and/or the System Manager will control access to the data. Only contractor personnel, consultants to the contractor, the NIDR project officer, and NIDR employees whose duties require

the use of such information will have regular access to records in this system. Records will be stored in locked files or secured areas. Computer terminals will be in secured areas. Names and other identifying particulars will be deleted when data from original records is encoded for analysis.

Encoded data will be indexed by code numbers. Tables linking these code numbers with actual identifiers will be maintained separately. Code numbers and identifiers will be linked only if there is a specific need. Data stored in computers will be accessed through the use of keywords known only to the principal investigators or authorized personnel. These keywords will be changed frequently.

The particular safeguards implemented in each project will be developed in accordance with chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary chapter PHS hf. 45–13, and part 6, "ADP Systems Security," of the HHS ADP Systems Manual and the National Bureau of Standards Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

The routine uses proposed for this system are consistent with the stated purposes of the system. The first two of the proposed routine uses are essential to the achievement of the basic research purpose of the system. The first proposed routine use will allow for disclosure to contractors and collaborators working on the research projects, as explained above. The second proposed routine use, which provides for audits of the research activities, will allow the Department to ensure that these research activities are properly conducted.

A routine use for disclosure to independent researchers outside of the Department is proposed to serve the same public good—improving the health of the American people through biomedical research—as motivates the establishment of this system.

A routine use allowing disclosure to contractors for the purpose of processing the records is proposed in order to facilitate encoding of original records for the subsequent analysis.

A routine use permitting disclosure to a congressional office is proposed to allow subject individuals to obtain assistance from their representatives in Congress, should they so desire. Such disclosure would be made only pursuant to a request of the individual.

The possibility of lawsuits in which individuals may claim to have been harmed mentally, physically or financially as a result of the research activities supported by this system motivates the proposal of a routine use to allow the Department of Justice to defend the Federal Government, the Department, or employees of the Department in case of such lawsuits.

Dated: September 23, 1982.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management, PHS.

09–25–0152

SYSTEM NAME:

Biomedical Research: Records of Subject in National Institute of Dental Research Contracted Epidemiological and Biometric Studies, HHS/NIH/NIDR.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records included in this system are collected by contractors and are located in hospitals and clinics, research centers, educational institutions, commercial organizations, local, State and Federal government agencies, and in National Institute of Dental Research (NIDR) facilities. Inactive records may be stored at Federal Records Centers. A list of locations and contracts is available upon request from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Voluntary participants in epidemiological and biometric studies sponsored by NIDR, including adults and minors, both male and female, with known or suspected diseases or disorders of the teeth and supporting structures, as well as normal or nonsuspect individuals in control or study groups for purposes of comparison.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of medical and dental records and information resulting from personal interviews, questionnaires, or direct observation. The system may also include current addresses of study participants, radiographs, records on biological specimens (e.g., teeth, plaque, etc.), study models, computerized epidemiological data and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 301, Research and Investigation, and 422, National Institute of Dental Research, of the Public Health Service Act (42 U.S.C. 241, 286a).

PURPOSE(S):

This system is used to:

1. Support research on diseases and disorders of the oral cavity (teeth and their supporting structures); their causes and treatment; the incidence and prevalence of these diseases and disorders; and familial, demographic and behavioral factors related to their causes and treatment.

2. Provide data for program review, evaluation, planning, and administrative accountability.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff for the purpose of analyzing data and preparing scientific reports and articles in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to such records.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessment, medical audits or utilization review.

3. A record may be disclosed for a research purpose, when the Department:

(A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

(B) Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

(C) Has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law;

(D) Has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

4. The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to maintain Privacy Act safeguards with respect to such record.

5. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

6. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Depatment in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, magnetic tapes or disks, punched cards, or bound notebooks.

RETRIEVABILITY:

Information is retrieved by name and/or a participant identification number.

SAFEGUARDS:

(1) *Authorized Users:* Employees who maintain records in this system are instructed to grant regular access only to contractor personnel; consultants to the contractor; the NIDR project officer; and

NIDR employees whose duties require the use of such information. Access to the data is controlled by the Project Director, the NIDR Project Officer, and/or the System Manager.

(2) *Physical Safeguards:* Records are stored in locked files or secured areas. Computer terminals are in secured areas.

(3) *Procedural Safeguards:* Names and other identifying particulars are deleted when data from original records is encoded for analysis. Encoded data is indexed by code numbers. Tables linking these code numbers with actual identifiers are maintained separately. Code numbers and identifiers are linked only if there is a specific need. Data stored in computers is accessed through the use of keywords known only to the principal investigators or authorized personnel. These keywords are changed frequently.

The particular safeguards implemented in each project will be developed in accordance with chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary chapter PHS hf. 45–13, Part 6, "ADP Systems Security," of the HHS ADP Systems Manual, and the National Bureau of Standards Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records at contractor facilities are retained and disposed of under the authority of the institutional records control schedule. Records at NIDR facilities are retained and disposed of under the authority of the NIH Records Control Schedule (DHHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research.

Disposal methods include burning or shredding hard copy and erasing computer tapes and discs.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Contract Management Section, Extramural Program, National Institute of Dental Research, Westwood Building, Room 537, 5333 Westbard Avenue, Bethesda, MD 20205.

NOTIFICATION PROCEDURE:

Write to: Privacy Act Coordinator, National Institute of Dental Research, Westwood Building Room 535, 5333 Westbard Avenue, Bethesda, MD 20205, and provide the following information in writing:

1. Full name at time of participation in the study.
2. Name or description of the study.
3. Location and approximate dates of participation.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of, or access to, a medical or dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, the medical record of a child or incompetent person shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURES:

Same as notification. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the System Manager at the address above. The contestor must reasonably identify the record, specify in writing the information being contested, and state the corrective action sought, and the reason(s) for the corrective action, with supporting justification.

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants and from medical/dental and clinical research observations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82–27102 Filed 9–30–82; 8:45 am]
BILLING CODE 4140–01–M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on September 24.

Public Health Service

Food and Drug Administration

Subject: Resource Data for State Food and Drug Programs (0910–0020)—REVISION (Appeal of OMB disapproval action of July 7, 1982)
Respondents: State Food and Drug Control Agencies
OMB Desk Officer: Fay S. Iudicello

National Institutes of Health

Subject: Industry Survey of Biotechnology Research Personnel Needs—NEW
Respondents: Biotechnology firms
OMB Desk Officer: Richard Eisinger

Health Care Financing Administration

Subject: Documentation to Justify an Extended Repayment Schedule: Medicare Program (HCFA–9004)—Extension
Respondents: Providers of Medicare services
Subject: Medicare and Medicaid Program Validation Reviews of State Medicaid Agencies and Service Providers (HCFA–9012)—Extension
Respondents: State Medicaid Agencies and Providers of Medicare and Medicaid Services
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: Application for Social Security Retirement Insurance Benefits (SSA–1–F6)—REVISION
Respondents: Individuals or households
Subject: Application for Wife's or Husband's Social Security Insurance Benefits (SSA–2–F6)—REVISION
Respondents: Individuals or households
Subject: Request to be Selected as Representative Payee for a Social Security Beneficiary (SSA–11–BK)—REVISION
Respondents: Individuals or households/businesses or other institutions
Subject: Application for Mother's or Father's Social Security Insurance Benefits (SSA–5–F6)—REVISION
Respondents: Individuals or households
OMB Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524–F, Washington, D.C. 20201

OMB Reports Management Branch, New Executive Building, Room 3208, Washington, D.C. 20503, ATTN: (name of OMB Desk Officer)

Dated: September 24, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82-26836 Filed 9-30-82; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[INT DES 82-60]

Availability of the Draft Environmental Impact Statement for the Proposed Construction of a Railroad on the Navajo Indian Reservation in McKinley and San Juan Counties in Northwestern New Mexico

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Availability of a Draft Environmental Impact Statement (DEIS)

SUMMARY: This Notice advises the public that the Draft Environmental Impact Statement for the proposed construction of the Navajo Railroad on the Navajo Indian Reservation in McKinley and San Juan Counties in northwestern New Mexico is available for public review.

DATES: Written comments shall be received no later than November 30, 1982.

Hearings will be held to receive public comments regarding the environmental impacts portrayed in the Draft Environmental Impact Statement for the Proposed Navajo Railroad Project (CONSOL).

Hearings are scheduled as follows:

October 18, 1982, 7:00 pm to 10:00 pm, Gallup Council Chambers—City Hall, Gallup, New Mexico

October 19, 1982, 6:00 pm to 10:00 pm, Twin Lakes Elementary School Auditorium, Twin Lakes, New Mexico

October 20, 1982, 6:00 pm to 10:00 pm, Newcomb Elementary School Cafeteria, Newcomb, New Mexico

October 21, 1982, 6:00 pm to 10:00 pm, Shiprock High School Gymnasium, Shiprock, New Mexico

Address: Written comments should be addressed to: Area Director, Navajo Area Office, Post Office Box M, Window Rock, Arizona 86515, Attention: Branch of Environmental Quality Services, Mail Code 305.

Note.—See above for public hearing dates and sites.

FOR FURTHER INFORMATION CONTACT: Jim R. Analla, Environmental Protection Specialist, Navajo Area Office, Bureau of Indian Affairs, Post Office Box M, Window Rock, Arizona 86515—Mail Code 305. Telephone (606) 871-5151, Extension 5314.

Individuals wishing copies of the draft environmental impact statement should immediately contact the above individual.

Copies have been sent to all agencies and individuals who participated in the scoping process and all others who have already requested copies. The number of available copies is limited.

Copies of the draft environmental impact statement are available for inspection at the following locations:

Bureau of Indian Affairs, Environmental Quality Services, Room 4518, Department of the Interior, Washington, D.C. 20245, Telephone: (202) 343-4541

Bureau of Indian Affairs, Environmental Quality Services, Window Rock, Arizona 86515, Telephone (602) 871-5151, Extension 5314

U.S. Department of the Interior, Office of the Secretary, Southwest Region, Room 1400, First National Bank Building, 5301 Central Avenue, NE, Albuquerque, New Mexico 87108, Telephone: (505) 766-3565.

SUPPLEMENTARY INFORMATION: The Bureau of Indian Affairs (BIA), Department of the Interior (DOI), has prepared a draft environmental impact statement for a proposed railroad to be constructed from Gallup, New Mexico, approximately 136 miles north to the San Juan River, east of Shiprock, New Mexico.

The proposed action is primarily for transporting coal from the Consolidation Coal Company (CONSOL) coal lease in the Burnham-Bisti area on the Navajo Indian Reservation. A possibility exists that if constructed, the railroad may also operate as a common carrier should sufficient need develop.

Primary impacts of the proposed project would be on the area's economics, land use, Navajo socioculture, archeology, localized visual resources, and noise. The socioeconomic impacts would be largely positive, resulting in new job opportunities and additional tax and royalty revenues for state, local and Navajo governments. Mitigating measures will be taken to minimize adverse impacts. Minor impacts may be expected on geology, water resources, terrestrial ecology, aquatic ecology, climatology, and air quality.

The alternatives considered in the DEIS were: No Action; Connection with the Star Lake Railroad; Coal slurry pipeline; Conveyor belt system; Truck haul system; and Alternative routes.

Other government agencies and members of the public contributed to the planning and evaluation of the proposal and preparation of this EIS.

The Notice of Intent to prepare this DEIS was published in the March 9, 1982 **Federal Register.**

Since the proposed railroad corridor is located almost entirely on Navajo lands, the exception being less than four miles across private land, the primary focus of public involvement meetings has been Navajo chapter meetings. Over 30 public meetings have been held at chapter houses along the project corridor. These meetings consisted of explaining of the project, its alignment, and potential impacts and benefits to the Navajo Nation and local inhabitants. Comments on concerns with the project were also received. The proposed project has been described to the public at meetings in Farmington, New Mexico on December 15, 1981 and in Gallup, New Mexico on January 12, 1982.

The Navajo Tribe, Interstate Commerce Commission, and Federal Railroad Administration have served as cooperating agencies in the development of the EIS.

Dated: September 28, 1982.

John H. Farrell,

Acting Director, Environmental Project Review.

[FR Doc. 82-27124 Filed 9-30-82; 8:45 am]

BILLING CODE 4310-02-M

Fish and Wildlife Service

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the Office of Management and Budget reviewing official, Mr. Jeff Hill, at 202-395-7340.

Title: Master Planning Questionnaire, to gather public input for national wildlife refuge master planning

Bureau Form Number: N/A

Frequency: Nonrecurring

Description of Respondents: Individuals, state or local governments, farms, businesses or other institutions

Annual Responses: 2,000

Annual Burden Hours: 1,000
Service Clearance Officer: Arthur J. Ferguson, 202-653-6770

Robert E. Gilmore,
Acting Associate Director—Wildlife Resources.

[FR Doc. 82-27091 Filed 9-30-82; 8:45 am]
BILLING CODE 4310-55-M

Bureau of Land Management

[F-14887-A]

Alaska Native Claims Selection

On November 12, 1974, Lime Village Company, for the Native village of Lime Village, filed selection application F-14887-A under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), as amended, for the surface estate of certain lands in the vicinity of Lime Village, Alaska.

In application F-14887-A, Lime Village Company, excluded several bodies of water. Because certain of those water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn by Sec. 11(a)(1) of ANCSA and available for selection by the village pursuant to Sec. 12(a) of ANCSA. Section 12(a) of ANCSA and Departmental regulation 43 CFR 2651.4 (b) and (c) provide that a village corporation must, to the extent necessary to obtain its entitlement, select all available lands within the township or townships within which the village is located, and that the selection shall be compact and in whole sections, except as provided for in Pub. L. 96-487. For these reasons, the water bodies which were improperly excluded in application F-14887-A are considered selected by Lime Village Company.

As to the lands described below, selection application F-14887-A, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 63,196 acres, is considered proper for acquisition by Lime Village Company and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA.

Seward Meridian, Alaska (Surveyed)

T. 14 N., R. 33 W.
Secs. 7, 17, and 18;
Secs. 20, 21, 22, and 27;
Secs. 34 and 35.
Containing 5,269.8 acres.

T. 14 N., R. 34 W.
Secs. 1 to 7, inclusive;
Secs. 10, 11, and 12;
Secs. 18, 19, and 30.
Containing 7,821.4 acres.

T. 15 N., R. 34 W.
Secs. 1 to 13, inclusive;
Sec. 14, excluding Native allotment F-17008;
Secs. 15 to 29, inclusive;
Sec. 30, excluding Native allotments F-17866 and F-17872;
Secs. 31 to 36, inclusive.
Containing approximately 22,224 acres.

T. 16 N., R. 34 W.
Secs. 21 and 22;
Secs. 26, 27, and 28;
Secs. 33, 34, and 35.
Containing 5,120 acres.

T. 13 N., R. 35 W.
Secs. 3 to 9, inclusive;
Secs. 17 and 18.
Containing 5,736.24 acres.

T. 14 N., R. 35 W.
Secs. 13, 22, and 23;
Secs. 24, excluding Native allotment F-17864;
Secs. 25, 26, and 27;
Sec 28, excluding Native allotment F-17871;
Secs. 32 to 35, inclusive.
Containing approximately 5,941 acres.

T. 15 N., R. 35 W.
Secs. 5 to 10, inclusive;
Secs. 14, 15, and 16;
Secs. 23, 24, and 25.
Containing approximately 6,784.16 acres.

T. 13 N., R. 36 W.
Sec. 1;
Sec. 11, excluding Native allotment F-16757 Parcel B;
Sec. 12;
Secs. 13 and 14, excluding Native allotment F-17867;
Secs. 22 and 23.
Containing approximately 4,300 acres.
Aggregating approximately 63,196 acres.

Excluded from the above-described lands herein conveyed are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original or which will be found in easement case file F-14887-EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for the following reason: Lands are under applications pending further adjudication. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14887-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, track vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed on a site easement are: vehicle parking (e.g., aircraft, boats, ATV's snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 1 C4, D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 31, T. 15 N., R. 34 W., Seward Meridian, on the left bank of the Stony River. The uses allowed are those listed for a one (1) acre site easement.

b. (EIN 1b C4) An easement twenty-five (25) feet in width for a proposed access trail from site EIN 1 C4, D9 in Sec. 31, T. 15 N., R. 34 W., Seward Meridian, westerly to trail EIN 3 C3, D1, D9, in Sec. 31, T. 15 N., R. 34 W., Seward Meridian. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

c. (EIN 3 C3, D1, D9) An easement twenty-five (25) feet in width for an existing access trail from Lime Village in Sec. 30, T. 15 N., R. 34 W., Seward Meridian, southerly to public land in Sec. 12, T. 14 N., R. 35 W., Seward Meridian. The uses allowed are those

listed for a twenty-five (25) foot wide trail easement.

d. (EIN 3b C5) An easement twenty-five (25) feet in width for a proposed access trail from existing trail EIN 3 C3, D1, D9 in Sec. 30, T. 15 N., R. 34 W., Seward Meridian, northerly to the airport (airport lease AA–12763). The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

e. (EIN 3c C4) An easement twenty-five (25) feet in width for a proposed access trail from site easement EIN 3d C4 in Sec. 32, T. 14 N., R. 35 W., Seward Meridian, northerly to public land. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

f. (EIN 3d C4) A one (1) acre site easement upland of the ordinary high water mark in Sec. 32, T. 14 N., R. 35 W., Seward Meridian, on the southwest shore of Kutokbuna Lake. The uses allowed are those listed for a one (1) acre site easement.

g. (EIN 3e C4) An easement twenty-five (25) feet in width for a proposed access trail from site easement EIN 3f C4 in Sec. 7, T. 14 N., R. 34 W., Seward Meridian, easterly to public land. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

h. (EIN 3f C4) A one (1) acre site easement upland of the ordinary high water mark in Sec. 7, T. 14 N., R. 34 W., Seward Meridian, on the right bank of Hungry Creek. The uses allowed are those listed for a one (1) acre site easement.

i. (EIN 3g C4) A one (1) acre site easement upland of the ordinary high water mark in Sec. 33, T. 14 N., R. 35 W., Seward Meridian, on the southeast shore of Kutokbuna Lake. The uses allowed are those listed for a one (1) acre site easement.

j. (EIN 3h C4) An easement twenty-five (25) feet in width for a proposed access trail from site easement EIN 3g C4, southeasterly to public land. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

k. (EIN 7 C4) A one (1) acre site easement upland of the ordinary high water mark in Sec. 22, T. 14 N., R. 33 W., Seward Meridian, on the left bank of the Stony River. The uses allowed are those listed for a one (1) acre site easement.

l. (EIN 7a C4) An easement twenty-five (25) feet in width for a proposed access trail from site EIN 7 C4 in Sec. 22, T. 14 N., R. 33 W., Seward Meridian, Southwesterly to public land. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

m. (EIN 7b C4) An easement twenty-five (25) feet in width for a proposed access trail from site EIN 7c C4 in Sec. 22, T. 14 N., R. 33 W., Seward Meridian, northeasterly to public land. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

n. (EIN 7c C4) A one (1) acre site easement upland of the ordinary high water mark in Sec. 22, T. 14 N., R. 33 W., Seward Meridian, on the right bank of the Stony River. The uses allowed are those listed for a one (1) acre site easement.

o. (EIN 12 C4, E) A one (1) acre site easement upland of the ordinary high water mark in Sec. 23, T. 15 N., R. 35 W., Seward Meridian, on the left bank of the Stony River. The uses allowed are those listed for a one (1) acre site easement.

p. (EIN 12a C4, E) An easement twenty-five (25) feet in width for a proposed access trail from site EIN 12 C4, E in Sec. 23, T. 15 N., R. 35 W., Seward Meridian, southerly to public land. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Airport lease, AA–12763, located in Sec. 30, T. 15 N., R. 34 W., Seward Meridian issued to the State of Alaska, Department of Transportation and Public Facilities under the provisions of the act of May 24, 1928 (49 U.S.C. 211–214); and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Lime Village is entitled to conveyance of 69,120 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 63,196 acres. The remaining entitlement of approximately 5,924 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Calista Corporation when the surface estate is conveyed to Lime Village Company, and shall be to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native Village shall be subject to the consent of Lime Village Company.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Drums.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR) Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, Office of the Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return

receipt shall have until November 1, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Lime Village Company, Lime Village, Via, Sleetmute, Alaska 99668
Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-27113 Filed 9-30-82; 8:45 am]
BILLING CODE 4310-84-M

[F-1490.9-A]

Alaska Native Claims Selection

On November 15, 1973, Kuugpik Corporation, Inc., for the Native village of Nooiksut, filed selection application F-14909-A under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)), as amended, for the surface estate of certain lands in the vicinity of Nooiksut which were withdrawn by Secs. 11(a)(1) and 11(a)(2) of ANCSA. Section 11(a)(2) specifically withdrew, subject to valid existing rights, all lands within the townships withdrawn by Sec. 11(a)(1) that had been selected by, or tentatively approved to, but not yet patented to the State of Alaska under the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(b)).

Section 12(a)(1) of ANCSA provides that village selections shall be made from lands withdrawn by Sec. 11(a). Section 12(a)(1) further provides that no village corporation may select more than 69,120 acres from lands withdrawn by Sec. 11(a)(2).

As to the lands described below, the application, as amended, is properly filed and meets the requirements of ANCSA and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 49,600 acres, is considered proper for acquisition by Kuugpik Corporation, Inc., and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA.

Part I.—Lands Outside Naval Petroleum Reserve No. 4

Umiat Meridian, Alaska (Surveyed)

T. 10 N., R. 4 E.

Those portions of Tract A more particularly described as (protracted):

Sec. 1, all land lying above the line of the highest high water mark east of the west bank of the Nechelik Channel of the Colville River;
Sec. 12, all land lying above the line of the highest high water mark north and east of the west bank of the Nechelik Channel of the Colville River.

Containing approximately 555 acres.

T. 11 N., R. 4 E.

Those portions of Tract A more particularly described as (protracted):

Sec. 1 and 2, all land lying above the line of highest high water mark north and east of the west bank of the Nechelik Channel of the Colville River;
Sec. 11, 12, and 13, all land lying above the line of the highest high water mark north and east of the west bank of the Nechelik Channel of the Colville River;
Secs. 24 and 36, all land lying above the line of the highest high water mark east of the west bank of the Nechelik Channel of the Colville River.

Containing approximately 2,784 acres.

T. 12 N., R. 4 E.

Those portions of Tract A more particularly described as (protracted):

Sec. 1;
Secs. 2, 3, and 4, all land lying above the line of the highest high water mark north and east of the south and west banks of the Nechelik Channel of the Colville River;
Secs. 10 and 11, all land lying above the line of the highest high water mark east of the west bank of the Nechelik Channel of the Colville River, excluding Native allotment F-11949;
Secs. 12 and 13;
Sec. 14, excluding Native allotments F-11951 and F-11949;
Sec. 15, all land lying above the line of the highest high water mark east of the west bank of the Nechelik Channel of the Colville River, excluding Native allotments F-11949 and F-11951;
Secs. 22 and 23, all land lying above the line of the highest high water mark east of the west bank of the Nechelik Channel of the Colville River;
Secs. 24 and 25;
Secs. 26 and 35, all land lying above the line of the highest high water mark east of the west bank of the Neachelik Channel of the Colville River;
Sec. 36.

Containing approximately 7,363 acres.

T. 10 N., R. 5 E.

Those portions of Tract A more particularly described as (protracted):

Secs. 2 to 6 inclusive;
Sec. 7, all land lying above the line of the highest high water mark east of the west bank of the Nechelik Channel of the Colville River;
Secs. 8 and 9;
Sec. 10, all land lying above the line of the highest high water mark west of the west bank of the Colville River and all land lying above the line of highest high water mark north of the south bank of the Nechelik Channel of the Colville River;
Secs. 15 and 16, all land lying above the line of highest high water mark north of the south bank of the Nechelik Channel of the Colville River.

Containing approximately 5,072 acres.

T. 11 N., R. 5 E.

That portion of the surveyed township more particularly described as (protracted):

Sec. 13;
Secs. 22 to 29, inclusive;
Secs. 31 to 35, inclusive.

Containing approximately 7,484 acres.

T. 11 N., R. 6 E.

That portion of the surveyed township more particularly described as (protracted):

Sec. 3;
Secs. 5, 6, 7, and 18.

Containing approximately 2,441 acres.

T. 12 N., R. 6 E.

That portion of the surveyed township more particularly described as (protracted):

Secs. 1 to 4, inclusive;
Secs. 9 to 16, inclusive;
Secs. 20 to 29, inclusive;
Secs. 32 to 36, inclusive.

Containing approximately 12,354 acres.

Aggregating approximately 38,053 acres.

Part II.—Lands Within or Outside Naval Petroleum Reserve No. 4

Umiat Meridian, Alaska (Surveyed)

T. 10 N., R. 4 E.

That portion of Tract A more particularly described as (protracted):

Sec. 1, all land lying above the line of the highest high water mark west of the west bank of the Nechelik Channel of the Colville River.

Containing approximately 35 acres.

T. 11 N., R. 4 E.

Those portions of Tract A more particularly described as (protracted):

Secs. 11, 13, 24, and 36, all land lying above the line of the highest high water mark west of the west bank of the Nechelik Channel of the Colville River;

That portion of Tract B more particularly described as (protracted):

Sec. 11, all land lying above the line of the highest high water mark west of the west bank of the Nechelik Channel of the Colville River.

Containing approximately 511 acres.

T. 12 N., R. 4 E.

Those portions of Tract A more particulary described as (protracted):

Secs. 3, 4, 10, and 15, all land lying above the line of the highest high water mark south and west of the west bank of the Nechelik Channel of the Colville River;

Those portions of Tract B more particulary described as (protracted):

Sec. 15, all land lying above the line of the highest high water mark west of the west bank of the Nechelik Channel of the Colville River, excluding Native allotments F–11943 and F–11947;

Sec. 22, all land lying above the line of the highest high water mark west of the west bank of the Nechelik Channel of the Colville River, excluding Native allotments F–11943;

Secs. 26, 27, and 35, all land lying above the line of the highest high water mark west of the west bank of the Nechelik Channel of the Colville River.

Containing approximately 1,665 acres.

T. 10 N., R. 5 E.

Those portions of Tract A more particulary described as (protracted):

Sec. 10, all land lying above the line of the highest high water mark east of the west bank of the Colville River and all land lying above the line of the highest high water mark west of the Colville River and southeast of the southeastern bank of the Nechelik Channel of the Colville River;

Secs. 11 and 14;

Sec. 15, all land lying above the line of the highest high water mark southeast of the southeastern bank of the Nechelik Channel of the Colville River.

Sec. 16, all land lying above the line of the highest high water mark south of the southeastern bank of the Nechelik Channel of the Colville River and east of the highest high water mark of the western bank of the Nechelik Channel of the Colville River;

Secs. 21, 22, and 23;

Secs. 27 and 28;

Sec. 32, all land lying above the line of the highest high water mark east of the west bank of the Nechelik Channel of the Colville River, excluding Native allotment F–14607;

Sec. 33, excluding Native allotment F–14607;

That portion of Tract B more particularly described as (protracted):

Sec. 32, all land lying above the line of the highest high water mark west of the west bank of the Nechelik Channel of the Colville River.

Containing approximately 5,190 acres.

Aggregating approximately 7,410 acres.

Part III.—Lands Within Naval Petroleum Reserve No. 4

Umiat Meridian, Alaska (Surveyed)

T. 10 N., R. 4 E.

Those portions of Tract B more particularly described as (protracted):

Sec. 12.

Containing approximately 335 acres.

T. 11 N., R. 4 E.

That portion of Tract B more particularly described as (protracted):

Sec. 5;

Secs. 7 and 8;

Secs. 21, 28, and 33.

Containing approximately 3,796 acres.

T. 10 N., R. 5 E.

Tract C.

Containing 5.53 acres.

Aggregating approximately 4,137 acres.

Total aggregated acreage approximately 49,600 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands in the bed of the Colville River and in the beds of the Nechelik Channel, Kupigruak Channel, Elaktoveach Channels, Tamayayak Channel, and Sakoonang Channel; these lands are reserved in public ownership, pursuant to Sec. 1431(n), Pub. L. 96–487 of December 2, 1980.

Also excluded from the above-described lands herein approved for conveyance are the following water bodies for which a final determination as to tidal influence has been made:

a. The Kachemach River from its confluence with the Colville River to the northeast boundary of Sec. 29, T. 11 N., R. 6 E., Umiat Meridian, and the unnamed slough from its confluence with the Kachemach River to the unnamed lake in Sec. 5, T. 11 N., R. 6 E., Umiat Meridian; and

b. The Miluveach River from its confluence with the Colville River to the north boundary of Sec. 36, T. 12 N., R. 6 E., Umiat Meridian.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded as the lands are under applications pending further adjudication. These exclusions *do not* constitute a rejection of the selection applications, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f));

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14909–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 7a C5) A one (1) acre site easement upland of the ordinary high water mark located in Sec. 24, T. 11 N., R. 5 E., Umiat Meridian, on the right bank of the Colville River. The uses allowed are those listed above for a one (1) acre site.

b. (EIN 8 M) A one (1) acre site easement upland of the ordinary high water mark located in Sec. 11, T. 11 N., R. 4 E., Umiat Meridian, on the left bank of the Nechelik Channel of the Colville River. The uses allowed are those listed above for a one (1) acre site.

3. In addition to the foregoing, the United States incorporates by reference the agreement of May 14, 1974, between the United States Department of the Navy, Arctic Slope Regional Corporation, Kuugpik Corporation Inc., and three other Native village corporations, to reserve those easements necessary to implement said agreement. A copy of the agreement is located in Bureau of Land Management case file F–14909–EE.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plats or supplemental plats of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. The following third-party interests, if valid, created and identified by the

State of Alaska, Department of Natural Resources, Division of Lands, as provided by Sec. 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(g)):

a. Oil and gas lease, ADL 25526, issued February 1, 1965, located in Secs. 10, 11, 12, and 13, T. 12 N., R. 4 E. Umiat Meridian.

b. Oil and gas lease, ADL 25529, issued February 1, 1965, located in Secs. 14, 15, 22, and 23, T. 12 N., R. 4 E., Umiat Meridian.

c. Oil and gas lease, ADL 25530, issued February 1, 1965, located in Secs. 24, 25, 26, 27, and 35, T. 12 N., R. 4 E., Umiat Meridian.

d. Oil and gas lease, ADL 25561, issued February 1, 1965, located in Secs. 5, 6, and 7, T. 11 N., R. 6 E., Umiat Meridian.

e. Oil and gas lease, ADL 25562, issued February 1, 1965, located in Sec. 3, T. 11 N., R. 6 E., Umiat Meridian.

f. Oil and gas lease, ADL 25578, issued February 1, 1965, located in Sec. 18, T. 11 N., R. 6 E., Umiat Meridian.

g. Oil and gas lease, ADL 25535, issued February 1, 1965, located in Secs. 1, 2, 11, and 12, T. 12 N., R. 6 E., Umiat Meridian.

h. Oil and gas lease, ADL 25536, issued February 1, 1965, located in Secs. 3, 4, 9, and 10, T. 12 N., R. 6 E., Umiat Meridian.

i. Oil and gas lease, ADL 25539, issued February 1, 1965, located in Sec. 20, T. 12 N., R. 6 E., Umiat Meridian.

j. Oil and gas lease, ADL 25540, issued February 1, 1965, located in Secs. 15, 16, 21, and 22, T. 12 N., R. 6 E., Umiat Meridian.

k. Oil and gas lease, ADL 25529, issued February 1, 1965, located in Secs. 13, 14, 23, and 24, T. 12 N., R. 6 E., Umiat Meridian.

l. Oil and gas lease, ADL 25554, issued February 1, 1965, located in Secs. 25, 26, 35, and 36, T. 12 N., R. 6 E., Umiat Meridian.

m. Oil and gas lease, ADL 25555, issued February 1, 1965, located in Secs. 27, 28, 33, and 34, T. 12 N., R. 6 E., Umiat Meridian.

n. Oil and gas lease, ADL 25556, issued February 1, 1965, located in Secs. 29 and 32, T. 12 N., R. 6 E., Umiat Meridian.

4. Paragraph IX of the Terms and Conditions for Land Exchanges and Resolution of Conveyancing Issues in Arctic Slope Region between the Department of the Interior and Arctic Slope Regional Corporation, entered into on the 29th day of June, 1979, copy of which will be found in case file F–14909–A; and

5. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Kuugpik Corporation, Inc., is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 92,341 acres. The remaining entitlement of approximately 22,859 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate of Part I of the above-described lands shall be issued to Arctic Slope Regional Corporation when the surface estate is conveyed to Kuugpik Corporation, Inc., and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native Village shall be subject to the consent of Kuugpik Corporation, Inc.

Part II of the above-described lands are involved in the National Petroleum Reserve in Alaska (NPR–A) boundary dispute (*State of Alaska* v. *Warner et al.*, Civil Action No. J75–13, United States District Court for the District of Alaska); conveyance of the subsurface estate of portions of these lands, if any, which actually lie outside of NPR–A will be issued to Arctic Slope Regional Corporation pursuant to Sec. 14(f) of ANCSA, when a final determination of the boundary has been made. No conveyance will be made of the subsurface estate of any lands determined to lie within NPR–A, or in lands described in Part III.

Section 12(a)(1) of ANCSA provides that when a village corporation selects the surface estate of lands within this reserve, the regional corporation may make in-lieu selections of subsurface estate, in an equal acreage, from other lands withdrawn by subsection 11(a) of the act; therefore, Arctic Slope Regional Corporation is entitled to approximately 31,575 acres in-lieu subsurface estate, which equals the cumulative total of the acreage in Part III, and the lands within NPR–A previously conveyed to Kuugpik Corporation, Inc. Additional in-lieu subsurface estate equal in acreage to those in Part II, if any, which are determined to lie within NPR–A will also be conveyed to Arctic Slope Regional Corporation at a later date.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed to refused to sign the return receipt shall have until November 1, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 34, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Kuugpik Corporation, Inc., Nooiksut (Nuiqsut), Alaska 99724

Arctic Slope Regional Corporation, P.O. Box 129, Barrow, Alaska 99723
State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7-005, Anchorage, Alaska 99510

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-27114 Filed 9-30-82; 8:45 am]
BILLING CODE 4310-84-M

[F-14925-A, F-14925-B]

Alaska Native Claims Selection

On August 30, 1974, and December 3, 1974, Dineega, Corporation, for the Native village of Ruby, filed selection applications F-14925-A and F-14925-B, respectively, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), as amended, for the surface estate of certain lands in the vicinity of Ruby.

Dineega, Corporation, in its applications, excluded all of the Melozitna River, Big Creek, and Deer Creek as being navigable.

Because Big Creek, Deer Creek, and a portion of the Melozitna River have been determined to be nonnavigable, they are considered to be public lands withdrawn under Sec. 11(a)(1) and available for selection by the village pursuant to Sec. 12(a) of ANCSA.

Section 12(a) of ANCSA and Departmental regulation 43 CFR 2651.4(b) and (c) provide that the village corporation shall select all available lands within the township or townships within which the village is located. The regulations also provide that the area selected will not be considered to be reasonably compact if it excludes other lands available for selection within its exterior boundaries.

For these reasons, the water bodies which are improperly excluded in the applications of Dineega, Corporation are considered selected.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act, as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, as amended, aggregating approximately 109,212 acres, is considered proper for acquisition by Dineega, Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA.

Tract H of U.S. Survey No. 5088, Alaska, situated on the left bank of the Yukon River at Ruby, Alaska.

Containing 10.61 acres.

Kateel River Meridian, Alaska (Surveyed)

T. 8 S., R. 15 E.
- Secs. 23 and 24;
- Secs. 25 and 26, excluding Native allotment F-14806;
- Secs. 27, 28, and 29;
- Secs. 31 to 36, inclusive.

Containing approximately 6,299 acres.

T. 9 S., R. 15 E.
- Secs. 1 to 18, inclusive.

Containing approximately 8,623 acres.

T. 7 S., R. 16 E.
- Secs. 25 and 26;
- Secs. 34 and 35.

Containing 2,560 acres.

T. 8 S., R. 16 E.
- Sec. 2;
- Sec. 3, excluding Native allotments F-14469 Parcel A and F-14475;
- Secs. 10 to 14, inclusive;
- Sec. 19, excluding Native allotment F-14464 Parcel A;
- Secs. 20 and 21;
- Secs. 24 to 29, inclusive;
- Sec. 30, excluding Native allotment F-14464 Parcel A;
- Secs. 31 and 32;
- Sec. 33, excluding Native allotment F-14804 Parcel A;
- Sec. 34, excluding Native allotments F-14804 Parcel A and F-14768;
- Sec. 35, excluding Native allotments F-14768 and F-17641;
- Sec. 36.

Containing approximately 11,571 acres.

T. 9 S., R. 16 E.
- Sec. 1, excluding Native allotments F-17641 and F-14768;
- Sec. 2, excluding Native allotment F-14768;
- Secs. 3 to 12, inclusive;
- Sec. 17 and 18.

Containing approximately 7,562 acres.

T. 7 S., R. 17 E.
- Secs. 1 and 2;
- Secs. 11 and 12;
- Secs. 14 and 15;
- Secs. 20, 21, and 22;
- Secs. 28, 29, and 30;
- Sec. 32.

Containing 8,304.60 acres.

T. 8 S., R. 17 E.
- Sec. 1;
- Secs. 9, 10, and 11;
- Sec. 12, excluding Native allotment F-14469 Parcel B;
- Sec. 13, excluding Native allotment F-17145 Parcel B;
- Sec. 14;
- Sec. 15, excluding Native allotment F-14804 Parcel B;
- Sec. 16, excluding Native allotments F-14804 Parcel B and F-13753;
- Secs. 17, 18, and 19;
- Sec. 20, excluding Native allotments F-14575 and F-17645;
- Sec. 21, excluding Native allotments F-14575 and F-14670;
- Sec. 22, excluding Native allotment F-17134;
- Sec. 23;
- Sec. 24, excluding Native allotment F-17145 Parcel C;
- Secs. 25 and 26;
- Sec. 27, excluding Native allotments F-17134 and F-14795;
- Sec. 28, excluding Native allotments F-14795, F-14575, and F-17645;
- Sec. 29, excluding Native allotments F-17645 and F-14794;
- Secs. 30 and 31;
- Sec. 32, excluding Native allotment F-14794;
- Sec. 33, excluding U.S. Survey No. 5031;
- Secs. 34, 35, and 36.

Containing approximately 13,087 acres.

T. 9 S., R. 17 E.
- Secs. 1 and 2;
- Sec. 3, including ANS 151;
- Sec. 4, excluding U.S. Survey No. 5088 and U.S. Survey No. 4022 and including ANS 151;
- Sec. 5, excluding U.S. Survey No. 5088 and Native allotment F-14806;
- Secs. 6 and 7;
- Sec. 8, excluding Native allotment F-14806;
- Secs. 9 and 10, including ANS 151;
- Secs. 11 to 18, inclusive;
- Secs. 19 and 20, excluding Native allotment F-14464 Parcel C;
- Secs. 21 to 28, inclusive;
- Sec. 29, excluding Native allotment F-17103;
- Sec. 30;
- Sec. 31, excluding Native allotments F-16423 and F-15559;
- Sec. 32, excluding Native allotments F-17103, F-16423, F-15559, and F-17877;
- Sec. 33, excluding Native allotment F-17877;
- Secs. 34, 35, and 36.

Containing approximately 21,001 acres.

T. 10 S., R. 17 E.
- Sec. 3;
- Sec. 4, excluding Native allotments F-17877 and F-14474;
- Sec. 5, excluding Native allotments F-14474, F-14812, F-15066, F-16446, and F-17877;
- Sec. 6, excluding Native allotment F-15066;
- Secs. 9, 10, and 11;
- Secs. 14, 15, 22, and 23;
- Secs. 26, 27, 34, and 35.

Containing approximately 8,920 acres.

T. 11 S., R. 17 E.
- Secs. 3 and 4;
- Secs. 7, 8, and 9;
- Secs. 17 and 18, excluding Native allotment F-16427 Parcel A;
- Secs. 19 and 20;
- Secs. 29 to 32, inclusive.

Containing approximately 8,194 acres.

T. 7 S., R. 18 E.
- Secs. 13 and 14;
- Secs. 21 and 22;
- Sec. 23, excluding U.S. Survey No. 1479;
- Sec. 24, excluding U.S. Survey No. 1479 and Native allotment F-14576 Parcel A;
- Sec. 25;
- Sec. 26, excluding U.S. Survey No. 1479;
- Sec. 27;
- Sec. 28, excluding Native allotment F-13703;
- Secs. 29, 30, and 31;

Sec. 32, excluding Native allotment F–13715 Parcel A;
Sec. 33, excluding Native allotment F–13703;
Secs. 34, 35, and 36.
Containing approximately 8,660 acres.

T. 8 S., R. 18 E.
Secs. 3 and 4;
Sec. 5, excluding Native allotment F–13715 Parcel A;
Sec. 6;
Secs. 7 and 8, excluding Native allotment F–13714;
Sec. 18, excluding Native allotment F–17145 Parcel B;
Secs. 19 and 30.
Containing approximately 4,199 acres.
Aggregating approximately 109,201 acres.
Total aggregated acreage approximately 109,212 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or coud be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–14925–EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for the following reasons: Lands are no longer under Federal jurisdiction or lands are under applications pending further adjudication. Lands within U.S. surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)), as amended; and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14925–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATV's) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 6 C5) A site easement upland of the ordinary high water mark in Sec. 25, T. 7 S., R. 16 E., Kateel River Meridian, on the right bank of the Melozitna River. This site is one (1) acre in size with an additional twenty-five (25) foot wide easement on the bed of the stream along the entire waterfront of the site. The uses allowed are those listed for a one (1) acre site.

b. (EIN 7 C5) An easement of fifty (50) feet in width for a proposed access trail from site EIN 6 C5 in Sec. 25, T. 7 S., R. 16 E., Kateel River Meridian, northwesterly to public land. The uses allowed are those listed for a fifty (50) foot wide trail easement. Large all-terrain vehicles (greater than 3,000 lbs. gross vehicle weight), track vehicles, and four-wheel drive vehicles will be limited to winter use only.

c. (EIN 11b C5, L) An easement of fifty (50) feet in width for an existing in-part and proposed in-part access trail from Federal Aid Secondary (FAS) Route No. 271 (Ruby-Poorman Road) in Sec. 27, T. 10 S., R. 17 E., Kateel River Meridian, easterly to public land. The uses allowed are those listed for a fifty (50) foot wide trail easement.

d. (EIN 11c C5, L) An easement of sixty (60) feet in width for an existing road from the village airstrip in Sec. 9, T. 9 S., R. 17 E., Kateel River Meridian, southwesterly to Federal Aid Secondary (FAS) Route No. 271 (Ruby-Poorman Road).

e. (EIN 11d E) An easement of twenty-five (25) feet in width for a proposed access trail from the northern end of the Ruby airstrip in Sec. 4, T. 9 S., R. 17 E., Kateel River Meridian, generally easterly, then southerly to public land. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

f. (EIN 12a C5) An easement of fifty (50) feet in width for a proposed access trail from Federal Aid Secondary (FAS) Route No. 271 (Ruby-Poorman Road) in Sec. 29, T. 9 S., R. 17 E., Kateel River Meridian, westerly to public land. The uses allowed are those listed for a fifty (50) foot wide trail easement.

g. (EIN 26 C5) An easement of fifty (50) feet in width for a proposed access trail from Federal Aid Secondary (FAS) Route No. 271 (Ruby-Poorman Road) in Sec. 15, T. 10 S., R. 17 E., Kateel River Meridian, southwesterly to public land. The uses allowed are those listed for a fifty (50) foot wide trail easement.

h. (EIN 31 D1) An easement of fifty (50) feet in width for a proposed access trail from the left bank of the Melozitna River in Sec. 13, T. 8 S., R. 16 E., Kateel River Meridian, northerly to public land. The uses allowed are those listed for a fifty (50) foot wide trail easement. Large all-terrain vehicles (greater than 3,000 lbs. gross vehicle weight), track vehicles, and four-wheel drive vehicles will be limited to winter use only.

i. (EIN 31a D1) A one (1) acre site easement upland of the ordinary high water mark in Sec. 13, T. 8 S., R. 16 E., Kateel River Meridian, on the left bank of the Melozitna River. The uses allowed are those listed for a one (1) acre site.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)((2) of the Alaska Native Claims

Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Any right-of-way interest in the Ruby-Poorman Road (FAS Route No. 271) transferred to the State of Alaska by the Quitclaim Deed dated June 30, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Pub. L. 86–70 (73 Stat. 141) as to: Secs. 4, 5, 8, 9, 16, 17, 20, 29, and 32, T. 9 S., R. 17 E.; Secs. 4, 5, 9, 10, 15, 22, 26, 27, and 34, T. 10 S., R. 17 E.; and Secs. 3, 4, 8, 9, 17, 18, 20, 29, 31, and 32, T. 11 S., R. 17 E., Kateel River Meridian;

4. Any right-of-way interest in the Ruby Airfield Road (FAS Route No. 2711) transferred to the State of Alaska by the Quitclaim Deed dated June 30, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Public Law 86–70 (73 Stat. 141) as to: Sec. 4, T. 9 S., R. 17 E., Kateel River Meridian; and

5. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), as amended, that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

School site lease, F–24224, located in Sec. 4, T. 9 S., R. 17 E., Kateel River Meridian, was granted to the State of Alaska, pursuant to and subject to the terms and conditions of Sec. 302 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2743) and the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. Sec 1622(i)). According to the terms of the lease, it is to terminate upon conveyance of title of said land out of United States ownership.

Dineega, Corporation is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 109,212 acres. The remaining entitlement of approximately 5,988 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Doyon, Limited when the surface estate is conveyed to Dineega, Corporation, and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop, or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village of Ruby shall be subject to the consent of Dineega, Corporation.

In accordance with Departmental regulation 43 CFR 2650.6(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until November 1, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of the requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510

Dineega, Corporation, Ruby, Alaska 99768

Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–27115 Filed 9–30–82; 8:45 am]

BILLING CODE 4310–84–M

[F–14871–A]

Alaska Native Claims Selection

On November 15, 1974, Upper Kalskag Incorporated, for the Native village of Upper Kalskag, filed selection application F–14871–A, as amended, under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1611 (1976)(ANCSA), for the surface estate of certain lands in the vicinity of Upper Kalskag.

On April 25, 1977, in accordance with Title 10, Chapter 05, Secs. 396 and 399 of the Alaska Business Corporation Act, and as authorized by 43 U.S.C. 1627, Georgetown Incorporated, a domestic corporation, merged with Aniak Limited, Chuathbaluk Company, Kipchaughpuk Limited, Lower Kalskag Incorporated, Napamute Limited, Red Devil Incorporated, Sleetmute Limited, Stony River Ltd., and Upper Kalskag Incorporated, all domestic corporations, into Georgetown Incorporated, which consolidated individual village interests into one single constituent corporation whose name was changed to The Kuskokwim Corporation. The surviving corporation, The Kuskokwim Corporation, is entitled to all rights, privileges, and benefits of the Alaska Native Claims Settlement Act.

As to the lands described below, selection application F–14871–A, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 81,292 acres, is considered proper for acquisition by The Kuskokwim Corporation (for the village of Upper Kalskag) and is hereby approved for

conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska (Surveyed)

T. 17 N., R. 60 W.
Secs. 1 to 8, inclusive;
Sec. 9, excluding Native allotments F–15595 and F–15596;
Sec. 10, excluding Native allotments F–15596 and F–17343 Parcel A;
Secs. 11 and 12;
Sec. 13, excluding Native allotment F–16849;
Sec. 14, excluding Native allotment F–029276;
Sec. 15, excluding Native allotments F–029276, F–15596, and F–17343 Parcel A;
Sec. 16, excluding Native allotments F–15595 and F–15596;
Sec. 17, excluding Native allotment F–16206 Parcel A;
Sec. 18, excluding Native allotment F–15590;
Sec. 19, excluding U.S. Survey No. 871 and Native allotment F–15590;
Sec. 20, excluding U.S. Survey No. 871 and U.S. Survey No. 4136 and Native allotments F–029277, F–16206 Parcel A and F–17347 Parcel A;
Sec. 21, excluding Native allotment F–17347 Parcel B;
Sec. 22, excluding Native allotments F–029276 and F–17345 Parcel A;
Sec. 23, excluding U.S. Survey No. 4166 and Native allotments F–029276, F–16020 Parcel B and F–16351 Parcel A;
Sec. 24, excluding Native allotment F–16020 Parcel B;
Sec. 28, excluding Native allotment F–15600;
Sec. 29, excluding U.S. Survey No. 871 and Native allotments F–15600 and F–17347 Parcel A;
Sec. 30, excluding U.S. Survey No. 871.
Containing approximately 13,819 acres.

T. 18 N., R. 60 W.
Secs. 3 to 11, inclusive;
Secs. 14 to 36, inclusive.
Containing approximately 20,384 acres.

T. 19 N., R. 60 W.
Sec. 31, excluding Native allotment F–15653;
Secs. 32, 33 and 34.
Containing approximately 2,378 acres.

T. 17 N., R. 61 W.
Secs. 1, 2 and 3;
Secs. 4 and 5, excluding Native allotment F–17346;
Secs. 6 and 7;
Secs. 8 and 9, excluding Native allotment F–17346;
Secs. 10 to 21, inclusive;
Sec. 22, excluding Native allotment F–029271;
Sec. 23, excluding Native allotment F–13113;
Sec. 24;
Sec. 25, excluding Native allotment F–029261;
Sec. 26, excluding U.S. Survey No. 4165 and Native allotments F–029261, F–029260 and F–13113;
Sec. 27, excluding U.S. Survey No. 3777 and U.S. Survey No. 4413 and Native allotments F–029271, F–17344 and F–17382;
Sec. 28, excluding U.S. Survey No. 3777 and U.S. Survey No. 4413;
Secs. 29 and 30;
Sec. 31, excluding Native allotment F–17376;
Sec. 32, excluding U.S. Survey No. 4409 and U.S. Survey No. 4414;
Sec. 33, excluding U.S. Survey No. 4409, U.S. Survey No. 4413 and U.S. Survey No. 4414 and Native allotments F–029405, F–17378, F–17381 and F–17383;
Sec. 34, excluding Native allotments F–17344, F–17378, F–17381, F–17382 and F–17383;
Secs. 35 and 36.
Containing approximately 18,212 acres.

T. 18 N., R. 61 W.
Sec. 1, excluding Native allotment F–15589;
Sec. 2, excluding Native allotments F–15589 and F–17385 Parcel A;
Sec. 11, excluding Native allotment F–15589;
Sec. 12, excluding Native allotments F–029260, F–029275 Parcel B and F–15589;
Secs. 13 and 24;
Sec. 25, excluding Native allotment F–15599;
Secs. 33 and 34;
Sec. 35, excluding Native allotment F–15599;
Sec. 36.
Containing approximately 4,362 acres.

T. 19 N., R. 61 W.
Sec. 35, excluding Native allotment F–17385 Parcel A;
Sec. 36.
Containing approximately 1,230 acres.

T. 17 N., R. 62 W.
Sec. 1, excluding Native allotment F–17303 Parcel B;
Sec. 2, excluding Native allotments F–17303 Parcel B, F–17379 Parcel B and F–17385 Parcel B;
Secs. 11 to 17, inclusive;
Secs. 20 and 21;
Sec. 22, excluding Native allotment F–17380 Parcel B;
Secs. 23 to 26, inclusive.
Sec. 27, excluding Native allotment F–17380 Parcel B;
Sec. 28;
Secs. 33 to 36, inclusive.
Containing approximately 12,960 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 17 N., R. 58 W.
Secs. 5 and 6;
Sec. 7, excluding Native allotment F–16848;
Sec. 8;
Sec. 9, excluding U.S. Survey No. 6479 and Native allotment F–17377 Parcel A and F–17952 Parcel A;
Sec. 10, excluding U.S. Survey No. 6479 and Native allotment F–17952 Parcel A;
Secs. 11 to 14, inclusive;
Sec. 15, excluding U.S. Survey No. 6479 and Native allotment F–17952 Parcel A;
Sec. 16, excluding U.S. Survey No. 6479 and Native allotments F–029262 Parcel B, F–16851, F–17377 Parcel A and F–17952 Parcel A;
Sec. 17, excluding U.S. Survey No. 4142 and Native allotments F–029262 Parcel A, F–15701 Parcel B and F–16190 Parcel A;
Sec. 18, excluding Native allotments F–16848 and F–16919;
Sec. 19, excluding Native allotment F–16847;
Sec. 20, excluding Native allotment F–029262 Parcel A and F–15701 Parcel A;
Sec. 21, excluding Native allotments F–029262 Parcel B, F–16205 Parcel A and F–16851;
Sec. 22.
Containing approximately 7,547 acres.

T. 18 N., R. 62 W.
Sec. 35.
Containing approximately 400 acres.
Aggregating approximately 61,292 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. The following named water bodies, together with any unnamed water bodies, are identified on the attached navigability maps, the original of which will be found in easement case file F–14871–EE.

Kuskokwim River
Mud Creek
Crooked Creek
Arhymot Lake

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are pending a determination under Sec. 3(e) of ANCSA; or lands were previously rejected by decision. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of

December 18, 1971, 43 U.S.C. 1601, 1613(f); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14871–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of used allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATV's) (less than 3,000 lbs. Gross Vehicles Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.

One Acre Site—The uses allowed on a one (1) acre site easement are: vehicle parking (e.g., aircraft, boats, ATVs, snowmobiles, cars trucks), temporary camping, and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

a. (EIN 2 C3, D1, D9) An easement twenty-five (25) feet in width for an existing access trail from the village of Upper Kalskag northerly to public land. The uses allowed are those listed for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

b. (EIN 4 C5) An easement fifty (50) feet in width for an existing in part, proposed in part access trail from Mud Creek in the SE¼ Sec. 27, T. 17 N., R. 62 W., Seward Meridian, northwesterly to Crooked Creek in the SW¼, Sec. 22, T. 17 N., R. 62 W., Seward Meridian. The uses allowed ar those listed for fifty (50) foot wide trail easement.

c. (EIN 4a C4) A one (1) acre site easement upland of the ordinary high water mark on the right bank of Mud Creek in the SE¼, Sec. 27, T. 17 N., R. 62 W., Seward Meridian. The uses allowed are those listed for a one (1) acre site easement.

d. (EIN 4b C4) A one (1) acre site easement upland of the ordinary high water mark on the left bank of Crooked Creek in the SW¼, Sec. 22, T. 17 N., R. 62 W., Seward Meridian. The uses allowed are those listed for a one (1) acre site easement.

e. (EIN 8 C5) A one (1) acre site easement upland of the ordinary high water mark on the downriver end of the unnamed island in the Kuskokwim River in the S½, Sec. 12, T. 17 N., R. 59 W., Seward Meridian. The uses allowed are those listed for a one (1) acre site easement.

f. (EIN 8b C4, C5) A one (1) acre site easement upland of the ordinary high water mark on the downstream end of a small unnamed island in the Kuskokwim River in the NE¼, Sec. 20, T. 17 N., R. 60 W., Seward Meridian. The uses allowed are those listed for a one (1) acre site easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat, or supplemental plat, of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b)(2) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. The following third-party interest identified by the U.S. Department of the Interior, Fish and Wildlife Service, as provided by Sec. 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(g).

Right-of-way grant, T–130–YD issued to ALASCOM (formerly known as RCA Alaska Communications, Inc.), located in Sec. 22, T. 17 N., R. 61 W., Seward Meridian, for communication facilities, pursuant to the act of March 4, 1911, 43 U.S.C. 961. Formerly Right-of-way F–19246 issued under the provisions of March 4, 1911 (43 U.S.C. 1961) as amended; and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(c), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

The Kuskokwim Corporation (for the village of Upper Kalskag) is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 81,292 acres. The remaining entitlement of approximately 10,868 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to The Kuskokwim Corporation, (for the village of Upper Kalskag) and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native Village shall be subject to the consent of The Kuskokwim Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week for four (4) consecutive weeks, in the Tundra Drums.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return

receipt shall have until November 1, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

The Kuskokwim Corporation, 429 D Street, Suite 307, Anchorage, Alaska 99501

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-27110 Filed 9-30-82; 8:45 am]

BILLING CODE 4310-84-M

[F-14900-A]

Alaska Native Claims Selection

On November 18, 1974, Napamute Limited, for the Native village of Napaimute, filed selection application F-14900-A, as amended, under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1611 (1976) (ANCSA), for the surface estate of certain lands in the vicinity of Napaimute.

On April 25, 1977, in accordance with Title 10, Chapter 05, Secs. 396 and 399 of the Alaska Business Corporation Act, and as authorized by 43 U.S.C. 1627, Georgetown Incorporated, a domestic corporation, merged with Aniak Limited, Chuathbaluk Company, Kipchaughpuk Limited, Lower Kalskag Incorporated, Napamute Limited, Red Devil Incorporated, Sleetmute Limited, Stony River Ltd., and Upper Kalskag Incorporated, all domestic corporations, into Georgtown Incorporated, which consolidated individual village interests into one single constitutent corporation whose name was changed to The Kuskokwim Corporation. The surviving corporation, The Kuskokwim Corporation, is entitled to all rights, privileges, and benefits of the Alaska Native Claims Settlement Act.

As to the lands described below, selection application F-14900-A, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 60,109 acres, is considered proper for acquisition by The Kuskokwim Corporation (for the village of Napaimute) and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska (Unsurveyed)

T. 17 N., R. 50 W.
- Sec. 5, excluding Native allotment F-18212 Parcel B;
- Sec. 6.

Containing approximately 995 acres.

T. 18 N., R. 50 W.
- Secs. 1, 12, 13 and 14;
- Sec. 23, excluding Native allotment F-16986 Parcel A;
- Sec. 24;
- Secs. 26 and 27, excluding Native allotment F-16823;
- Secs. 32 and 33;
- Sec. 34, excluding Native allotments F-16823, F-16982 Parcel A and F-17409 Parcel B;
- Sec. 35, excluding Native allotments F-16823 and F-17409 Parcel B.

Containing approximately 5,570 acres.

T. 17 N., R. 51 W.
- Secs. 1, 10, 11 and 12;
- Secs. 14 and 15;
- Sec. 16, excluding Native allotment F-16757 Parcel C;
- Secs. 21, 28, 29 and 30;
- Sec. 33.

Containing approximately 6,582 acres.

T. 19 N., R. 51 W.
- Secs. 13, 14 and 15;
- Secs. 22 to 30, inclusive;
- Secs. 34, 35 and 36.

Containing approximately 9,576 acres.

T. 15 N., R. 52 W.
- Secs. 5 to 8, inclusive;
- Secs. 17 and 18.

Containing approximately 3,753 acres.

T. 17 N., R. 52 W.
- Secs. 2 to 11, inclusive;
- Sec. 14, excluding Native allotment F-16982 Parcel B;
- Secs. 15, 16 and 17;
- Sec. 18, excluding Native allotment F-16952 Parcel A;
- Secs. 19 and 20;
- Sec. 21, excluding Native allotment F-16123 Parcel B;
- Sec. 22, excluding Native allotments F-15682, F-16123 Parcel B, F-16952 Parcel B and F-16978;
- Sec. 23, excluding Native allotments F-16978 and F-16982 Parcel B;
- Sec. 26, excluding Native allotments F-16979 Parcel A and F-16980;
- Sec. 27, excluding Native allotments F-15682, F-16123 Parcel B, F-16952 Parcel B and F-16980;
- Sec. 28, excluding Native allotments F-16123 Parcels A and B and F-16953;
- Sec. 29, excluding Native allotment F-15683;
- Secs. 30 to 34, inclusive;
- Sec. 35, excluding Native allotment F-16979 Parcel A;
- Sec. 36.

Containing approximately 17,843 acres.

T. 18 N., R. 52 W.
- Secs. 4, 9, 16 and 21;
- Secs. 28 and 33.

Containing approximately 3,840 acres.

T. 19 N., R. 52 W.
- Sec. 25;
- Secs. 33 to 36, inclusive.

Containing approximately 3,200 acres.

T. 15 N., R. 53 W.
- Secs. 1, 12, and 13.

Containing approximately 1,920 acres.

T. 16 N., R. 53 W.
- Secs. 1, 12, 13 and 24;
- Secs. 25 and 36.

Containing approximately 3,840 acres.

T. 17 N., R. 53 W.
- Sec. 10, excluding Native allotments F-16955 Parcel A and F-17409 Parcel A;
- Sec. 13, excluding Native allotments F-15685 Parcel A, F-16951, F-16952 Parcel A and F-18212 Parcel A;
- Sec. 14, excluding Native allotment F-16951;
- Sec. 15, excluding Native allotments F-15685 Parcel B and F-17409 Parcel A;
- Secs. 16, 17 and 24.

Containing approximately 2,990 acres.

Aggregating approximately 60,109 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. The following named water bodies, together with any unnamed water bodies, are identified on the attached navigability maps, the original of which will be found in easement case file F-14900-EE:

Kuskokwim River
Holokuk River
Kolmakof River

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the

following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are pending a determination under Sec. 3(e) of ANCSA; or lands were previously rejected by decision. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, or whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(f); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14900-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (ATV's) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed on a one (1) acre site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

a. (EIN 3 C4, C5) A one (1) acre site easement upland of the ordinary high water mark on an unnamed island at the mouth of the Holokuk River in Sec. 30, T. 17 N., R. 51 W., Seward Meridian. The uses allowed are those listed for a one (1) acre site easement.

b. (EIN 11 C4, C5) A one (1) acre site easement upland of the ordinary high water mark on the southern end of an unnamed island in the Kuskokwim River in Sec. 13, T. 18 N., R. 50 W., Seward Meridian. The uses allowed are those listed for a one (1) acre site easement.

c. (EIN 18, C4, C5) An easement twenty-five (25) feet in width for a proposed access trail from public land in Sec. 27, T. 19 N., R. 52W., Seward Meridian, southerly to public land. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights herein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b)(2) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(c), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

The Kuskokwim Corporation (for the village of Napaimute) is entitled to conveyance of 69,120 acres of land selected pursuant to Sec. 12(a) of ANCSA.Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 60,109 acres. The remaining entitlement of approximately 9,011 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate of the land described above shall be issued to Calista Corporation when the surface estate is conveyed to the Kuskokwim Corporation, and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village shall be subject to the consent of The Kuskokwim Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Drums.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances, (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until November 1, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

The Kuskokwim Corporation, 429 D Street, Suite 307, Anchorage, Alaska 99501

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

State of Alaska, Department of Natural Resources, Division of Research and

Development, Pouch 7-005,
Anchorage, Alaska 99510
Ann Johnson,
Chief, Branch of ANCSA Adjudication.
[FR Doc. 82-27117 Filed 9-30-82; 8:45 am]
BILLING CODE 4310-84-M

[F-14908-A, F-14908-B]

Alaska Native Claims Selection

On June 17 and October 11, 1974, Sitnasuak Native Corporation, for the Native village of Nome, filed selection applications F-14908-A and F-14908-B under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611) (1976) (ANCSA), for the surface estate of certain lands in the vicinity of Nome.

As to the lands described below, the applications submitted by Sitnasuak Native Corporation, as amended, are properly filed, and meet the requirement of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 73,148 acres, is considered proper for acquisition by Sitnasuak Native Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act.

U.S. Survey No. 3642, Alaska, lot 2, situated on the right bank of the Nome River two miles upstream from the confluence of Dexter Creek an Nome River. (Containing 1.31 acres.)

U.S. Survey No. 3648, Alaska, lot 2, situated along the right bank of the Nome River approximately 7,000 feet upstream from the confluence of Dexter Creek and Nome River. (Containing 0.21 acre.)

Mineral Survey No. 335 known as the Yellowstone Association Placer excluding that portion within Mineral Survey No. 1131, in Nome Mining District, District of Alaska. (Containing approximately 40 acres.)

Mineral Survey No. 403 known as the Columbia Mine and Beach Claim No. 1 above Snow Gulch in Cape Nome Mining District, District of Alaska. (Containing 31.799 acres.)

Mineral Survey No. 427 known as the Oakdale Association—Sunrise Bench—Sunset Bench—Gold Beach Fraction—All Gold Fraction—No. 2 Below Discovery on Sunset and Silver Fraction, Placer Claims, in Nome Mining District, District of Alaska. (Containing 229.544 acres.)

Mineral Survey No. 429 known as the Adelaide K Placer on New Year Gulch excluding that portion within Mineral Survey No. 1149 in Nome Mining District, District of Alaska. (Containing approximately 1 acre.)

Mineral Survey No. 432 known as the Katie H Placer Claim in Cape Nome Mining District, District of Alaska. (Containing 9.88 acres.)

Mineral Survey No. 437 known as the No. 1 Right Fork Dexter Creek Placer excluding that portion within Mineral Survey No. 478, Mineral Survey No. 523, Mineral Survey No. 1246, Mineral Survey No. 1293, and Mineral Survey No. 1362, in Cape Nome Mining District, District of Alaska. (Containing approximately 3 acres.)

Mineral Survey No. 466 known as the No. 7 Below Discovery on Anvil Creek in Nome mining District, District of Alaska. (Containing 18.925 acres.)

Mineral Survey No. 703 known as the Anvil Association Placer Claim excluding those portions within Mineral Survey No. 758, Mineral Survey No. 1119, Mineral Survey No. 1284, Mineral Survey No. 1603, and Mineral Survey No. 1678 in Cape Nome Mining District, District of Alaska. (Containing approximately 55 acres.)

Mineral Survey No. 704 known as the Glacier, Fraction, and Mountain Association Placer Claims excluding those portions within Mineral Survey No. 1110 and Mineral Survey No. 1857 in the Cape Nome Mining District, District of Alaska. (Containing approximately 207 acres.)

Mineral Survey No. 721 known as Bench Claim No. 4½ Above Placer in Cape Nome Mining District, District of Alaska. (Containing 2.687 acres.)

Mineral Survey No. 755 known as the Blazing Star Association Placer Mining Claim, in Cape Nome Mining District, District of Alaska. (Containing 30.407 acres.)

Mineral Survey No. 759 known as the Gadfly Placer in Cape Nome Mining District, District of Alaska. (Containing 13.599 acres.)

Mineral Survey No. 775 known as the Anvil, Watershed, Holy Fright, Holy Fright No. 1, Holy Fright No. 2, Maxwell, Dream, Dream No. 1, Dream No. 2, Manhattan, Bernice, Bernice No. 1, Bernice No. 2, Norton, First Avenue, and Mother Lode Claims excluding those portions within Mineral Survey No. 710 and Mineral Survey No. 715 in Cape Nome Mining District, District of Alaska. (Containing approximately 290 acres.)

Mineral Survey No. 1393 known as the Sliver Fraction Placer in Nome Mining District, Territory of Alaska. (Containing 1.326 acres.)

Mineral Survey No. 1609 known as the No. 1 Below Discovery on Banner Creek Placer, excluding Native allotment F-19496, in Nome Mining District, Territory of Alaska. (Containing approximately 3.427 acres.)

Mineral Survey No. 1810 known as the Freezeout, Flora, and Vivian, Placers, excluding that portion within Mineral Survey No. 1819, in Nome Mining District, Territory of Alaska. (Containing approximately 85 acres.)

Mineral Survey No. 1823 known ass the Alpha Group Association Placer, in Nome Mining District, Territory of Alaska. (Containing 25.805 acres.)

Mineral Survey No. 1827 known as the Democrat, Independent, Treves, and Nurpur Association Placers, in Nome Mining District, Territory of Alaska. (Containing 150.391 acres.)

Mineral Survey No. 1828 known as the Summerset, Polk, and Winterset Association Placers, in Nome Mining District, Territory of Alaska. (Containing 477.830 acres.)

Mineral Survey No. 1861 known as the Bowery Claim or No. 2 on Grouse Creek, placer, in Cape Nome Mining District, Alaska. (Containing 11.997 acres.)

Mineral Survey No. 1862 known as the Bertha-Lucky Stone-Myra and Rebecca placers in Cape Nome Recording Prec. Mining District, Territory of Alaska. (Containing 75.917 acres.)

Mineral Survey No. 1863 known as the Grace Association Placer Mining Claim in Cape Nome Mining District, Territory of Alaska. (Containing 40.858 acres.)

Mineral Survey No. 1886 known as the 1 Below Shallits 1 (Placer) in Cape Nome Mining District, Alaska. (Containing 39.630 acres.)

Mineral Survey No. 2270 Alaska known as the Terri Claim situate in T. 10 S., R. 34 W., Kateel River Meridian, Nome Mining District (unsurveyed). (Containing 19.901 acres.)

Mineral Survey No. 2271 Alaska known as Judy Bench and Deb Bench situate in T. 10 S., R. 34 W., Kateel River Meridian, Nome Mining District (unsurveyed). (Containing 39.679 acres.)

Mineral Survey No. 2380 Alaska known as Calkins-White situate in T. 10 S., R. 33 W., Kateel River Meridian Cape Nome Mining District (unsurveyed). (Containing 39.993 acres.)

Aggregating approximately 1,946 acres.

Kateel River Meridian, Alaska (Unsurveyed)

T. 9 S., R. 33 W.
- Sec. 2, excluding Native allotment F-19305 Parcel B;
- Sec. 3;
- Sec. 2, excluding Mineral Survey (M.S.) No. 1128;
- Sec. 8;
- Sec. 2, excluding Native allotment F-13188;
- Sec. 10;
- Sec. 16, excluding Native allotment F-13188;
- Secs. 17, 20, and 21;
- Secs. 28 and 29, excluding M.S. 2264;
- Secs. 32, 33, and 34.

Containing approximately 9,257 acres.

T. 10 S., R. 33 W.
- Sec. 3;
- Sec. 4, excluding M.S. 1140, Native allotments F-18399 and F-19305 Parcel A;
- Sec. 5, excluding M.S. 1809, Native allotments F-18399 and F-19496;
- Sec. 6, excluding Mineral Survey application F-23144, M.S. 1140, and Native allotment F-22422;
- Sec. 9, excluding M.S. 1140 and Native allotment F-19305 Parcel A;
- Secs. 10 and 15;
- Secs. 16 and 17, excluding U.S. Survey No. 3642, U.S. Survey No. 5055, U.S. Survey No. 5364, and M.S. 1140;
- Sec. 19;
- Sec. 20, excluding U.S. Survey No. 3645 and U.S. Survey No. 3646;
- Sec. 21, excluding U.S. Survey No. 3645 and U.S. Survey No. 3646, and M.S. 1140;
- Sec. 22, excluding M.S. 2396;
- Sec. 27, excluding M.S. 1140 and M.S. 2396;

Sec. 28, excluding U.S. Survey No. 5056, M.S. 509, M.S. 1114, M.S. 1140 and M.S. 1394;
Sec. 29, excluding M.S. 673;
Sec. 30, excluding M.S. 491, M.S. 596, M.S. 672, M.S. 673, M.S. 1121, M.S. 1126, M.S. 1181, M.S. 1195, M.S. 1196, M.S. 1221, M.S. 1254, and M.S. 1386;
Sec. 31, excluding M.S. 331, M.S. 346, M.S. 417, M.S. 418, M.S. 437, M.S. 472, M.S. 476, M.S. 478, M.S. 523, M.S. 596, M.S. 719, M.S. 1157, M.S. 1179, M.S. 1181, M.S. 1191, M.S. 1246, M.S. 1254, M.S. 1255, M.S. 1293, M.S. 1341, M.S. 1342, M.S. 1357, M.S. 1362, M.S. 1802, M.S. 1816, M.S. 1851, M.S. 2125, and M.S. 2126;
Sec. 32, excluding M.S. 331, M.S. 476, M.S. 477, M.S. 510, M.S. 511, M.S. 712, M.S. 713, M.S. 1394, and M.S. 1802;
Sec. 33, excluding U.S. Survey No. 5007, M.S. 509, M.S. 510, M.S. 711, M.S. 1140, M.S. 1161, M.S. 1394, and M.S. 2380;
Sec. 34, excluding M.S. 1140, M.S. 1161, and M.S. 2380.

Containing approximately 10,732 acres.

T. 11 S., R. 33 W.
Sec. 1;
Secs. 2 and 3, excluding M.S. 1161 and Native allotment F–13431 Parcel B;
Sec. 4;
Sec. 5, excluding M.S. 1815;
Sec. 6, excluding M.S. 719, M.S. 720, M.S. 1214, M.S. 1222, M.S. 1226, M.S. 1255, M.S. 1815, M.S. 1849, and M.S. 2126;
Sec. 7, excluding M.S. 462, M.S. 464, M.S. 465, M.S. 492, M.S. 720, M.S. 1177, M.S. 1180, M.S. 1210, M.S. 1222, M.S. 1228, M.S. 1240, M.S. 1258, M.S. 1294, M.S. 1310, M.S. 1312, M.S. 1813, M.S. 1876, M.S. 2119, and M.S. 2124;
Sec. 8, excluding M.S. 716, M.S. 1310, and M.S. 1335;
Sec. 9;
Sec. 10, excluding Native allotments F–13431 Parcel B and F–15013 Parcel B;
Sec. 11, excluding U.S. Survey No. 4349, M.S. 1161, Native allotments F–13431 Parcels A and B, F–13432, F–14708 Parcel A, F–15013 Parcels A and C, and F–18282;
Sec. 12, excluding Native allotment F–15013 Parcel C;
Sec. 13, excluding Native allotment F–14708 Parcel B;
Sec. 14, excluding M.S. 1146, M.S. 1161, M.S. 1880, and Native allotment F–14708 Parcel A;
Sec. 15, excluding M.S. 1138, M.S. 1145, M.S. 1146, M.S. 1170, M.S. 1289, M.S. 1346, M.S. 1880, and Native allotment F–15013 Parcel B;
Sec. 16, excluding M.S. 498, M.S. 1113, M.S. 1138, M.S. 1216, and M.S. 1880;
Sec. 17, excluding M.S. 461, M.S. 498, M.S. 716, M.S. 1166, M.S. 1178, M.S. 1182, M.S. 1209, M.S. 1233, M.S. 1296, M.S. 1310, M.S. 1334, M.S. 1335, M.S. 1349, M.S. 1351, and M.S. 1890;
Sec. 18, excluding M.S. 328, M.S. 334, M.S. 411, M.S. 464, M.S. 492, M.S. 670, M.S. 675, M.S. 697, M.S. 746, M.S. 756, M.S. 784, M.S. 1111, M.S. 1160, M.S. 1178, M.S. 1180, M.S. 1197, M.S. 1199, M.S. 1210, M.S. 1241, M.S. 1250, M.S. 1288, M.S. 1294, M.S. 1296, M.S. 1310, M.S. 1312, M.S. 1316, M.S. 1349, M.S. 1350, M.S. 1352, M.S. 1353, M.S. 1393, M.S. 1811, M.S. 1817, M.S. 1821, and M.S. 2119;
Sec. 20, excluding M.S. 498, M.S. 500, M.S. 1113, M.S. 1202, M.S. 1203, M.S. 1208, M.S. 1209, M.S. 1215, M.S. 1219, M.S. 1232, M.S. 1334, M.S. 1337, M.S. 1354, M.S. 1363, and M.S. 2278;
Sec. 21, excluding M.S. 327, M.S. 498, M.S. 500, M.S. 502, M.S. 1113, M.S. 1138, M.S. 1202, M.S. 1206, M.S. 1216, M.S. 1217, M.S. 1354, and M.S. 1819;
Sec. 22, excluding M.S. 499, M.S. 1138, M.S. 1145, M.S. 1146, M.S. 1289, M.S. 1610, M.S. 1819, and M.S. 1880;
Sec. 23, excluding M.S. 1145, M.S. 1146, M.S. 1161, and M.S. 1880;
Secs. 24 and 25;
Sec. 26, excluding M.S. 1161, M.S. 1372, and M.S. 1880;
Sec. 27, excluding M.S. 1372, M.S. 1610, M.S. 1819, and M.S. 1880;
Sec. 28, excluding M.S. 500, M.S. 502, M.S. 1323, and M.S. 1819;
Sec. 29, excluding M.S. 500, M.S. 1208, M.S. 1220, M.S. 1323, M.S. 1337, M.S. 1363, and M.S. 2278;
Sec. 30, excluding M.S. 504, M.S. 506, M.S. 651, M.S. 780, M.S. 1208, M.S. 1220, M.S. 1225, M.S. 1230, M.S. 1297, M.S. 1304, M.S. 1315, M.S. 1356, M.S. 1382, M.S. 1399, M.S. 1800, M.S. 2278, and M.S. 2315;
Sec. 31 (fractional), excluding M.S. 501, M.S. 651, M.S. 1239, M.S. 1299, M.S. 1300, M.S. 1382, M.S. 1399, M.S. 2115, M.S. 2316, and M.S. 2328;
Sec. 32 (fractional), excluding U.S. Survey No. 3791, U.S. Survey No. 5270, M.S. 440, M.S. 1208, M.S. 1239, M.S. 1259, M.S. 1299, M.S. 1300, and the tidal portion of the Nome River;
Sec. 33 (fractional), excluding M.S. 1295, Native allotment F–1267 and the tidal portion of the Nome River;
Sec. 34, excluding U.S. Survey No. 5270, M.S. 1130, and M.S. 1295;
Sec. 35, excluding M.S. 1130 and M.S. 1131;
Sec. 36, excluding M.S. 335 and M.S. 1131.

Containing approximately 13,866 acres.

T. 12 S., R. 33 W.
Sec. 1, excluding M.S. 1131, M.S. 1257, and M.S. 1267;
Sec. 2 (fractional), excluding M.S. 1131, M.S. 1267, and M.S. 1295;
Sec. 3 (fractional), excluding U.S. Survey No. 5270, lot 3 and lot 4, and M.S. 1295;
Sec. 4 (fractional), excluding M.S. 1295, and Native allotments F–029970, F–031351, F–031352, F–031425, F–031450, F–031455, F–031519, F–031615, F–560, F–2680, F–12292 Parcel A, F–13849, F–16926, F–18442, F–18766, and F–19740;
Sec. 5 (fractional), excluding U.S. Survey No. 3791, Native allotments F–029970, F–031352, F–031440, F–13072, and the tidal portion of the Nome River;
Sec. 12 (fractional), excluding M.S. 348, M.S. 1131, and M.S. 1257.

Containing approximately 715 acres.

T. 10 S., R. 34 W.
Sec. 2;
Sec. 3, excluding M.S. 1852;
Secs. 4 and 9, excluding M.S. 1159;
Sec. 10, excluding M.S. 2270 and Native allotment F–16511;
Sec. 14, excluding M.S. 332 and M.S. 721;
Sec. 15, excluding M.S. 1835;
Sec. 16;
Sec. 21, excluding M.S. 704 and M.S. 1110;
Sec. 22, excluding M.S. 447, M.S. 704, M.S. 721, and M.S. 1835;
Sec. 23, excluding M.S. 403, M.S. 447, M.S. 715, M.S. 721, and M.S. 2271;
Sec. 24, excluding M.S. 432, M.S. 715, and M.S. 2271;
Sec. 25, excluding M.S. 385, M.S. 429, M.S. 715, M.S. 775, M.S. 1126, M.S. 1149, M.S. 1221, and M.S. 2115;
Sec. 26, excluding M.S. 403, M.S. 447, M.S. 473, M.S. 710, M.S. 715, and M.S. 775;
Sec. 27, excluding M.S. 447, M.S. 473, M.S. 704, M.S. 781, and M.S. 1110;
Sec. 28, excluding M.S. 704, M.S. 1110, and M.S. 1857;
Sec. 31, excluding M.S. 427 and M.S. 1883;
Sec. 32, excluding M.S. 757, M.S. 1857, and Native allotment F–13850 Parcel A;
Sec. 33, excluding M.S. 704, M.S. 1110, and M.S. 1857;
Sec. 34, excluding M.S. 704, M.S. 781, M.S. 1110, M.S. 1862, and M.S. 1886;
Sec. 35, excluding M.S. 347, M.S. 710, M.S. 714, M.S. 775, M.S. 1184, M.S. 1192, M.S. 1205, M.S. 1247, and M.S. 1287;
Sec. 36, excluding M.S. 347, M.S. 385, M.S. 428, M.S. 459, M.S. 714, M.S. 750, M.S. 775, M.S. 1183, M.S. 1184, M.S. 1223, M.S. 1253, M.S. 1287, M.S. 1321, M.S. 1326, M.S. 1342, M.S. 1376, M.S. 1867, M.S. 2115, M.S. 2117, M.S. 2118, and M.S. 2125.

Containing approximately 10,879 acres.

T. 11 S. R. 34 W.
Sec. 1, excluding U.S. Survey No. 5270 (Public Land Order 1622), M.S. 1184, M.S. 1253, M.S. 1287 and M.S. 2113;
Sec. 2, excluding M.S. 345, M.S. 433, M.S. 434, M.S. 435, M.S. 513, M.S. 621, M.S. 722, M.S. 1118, M.S. 1192, M.S. 1205, M.S. 1247, M.S. 1253, M.S. 1287, M.S. 1368, M.S. 2113, and M.S. 2114;
Sec. 3, excluding M.S. 1118, M.S. 1862, and M.S. 1886;
Sec. 4, excluding M.S. 1857 and M.S. 1886;
Sec. 5, excluding M.S. 1244, M.S. 1314, M.S. 1857, and Native allotment F–13850 Parcel A;
Sec. 6, excluding M.S. 427, M.S. 1107, M.S. 1108, M.S. 1213, M.S. 1314, and M.S. 1320;
Sec. 7, excluding M.S. 1314, M.S. 1320, M.S. 1828, and M.S. 1879;
Sec. 8, excluding M.S. 1244, M.S. 1314, and M.S. 1879;
Sec. 9, excluding M.S. 466, M.S. 1857, and M.S. 1858;
Sec. 10, excluding M.S. 466, M.S. 505, M.S. 1118, M.S. 1286, M.S. 1345, and M.S. 1858;
Sec. 11, excluding M.S. 325, M.S. 329, M.S. 436, M.S. 466, M.S. 485, M.S. 505, M.S. 513, M.S. 607, M.S. 608, M.S. 621, M.S. 707, M.S. 722, M.S. 1115, M.S. 1118, M.S. 1153, M.S. 1163, M.S. 1167, M.S. 1186, M.S. 1211, M.S. 1249, M.S. 1251, M.S. 1285, M.S. 1303, M.S. 1330, M.S. 1366, and M.S. 1371;
Sec. 12,excluding M.S. 325, M.S. 329, M.S. 443, M.S. 445, M.S. 492, M.S. 493, M.S. 695, M.S. 696, M.S. 697, M.S. 698, M.S. 699, M.S. 707, M.S. 747, M.S. 755, M.S. 759, M.S. 1117, M.S. 1175, M.S. 1189, M.S. 1193, M.S. 1196, M.S. 1212, M.S. 1224, M.S. 1228, M.S. 1249, M.S. 1252, M.S. 1264, M.S. 1285, M.S. 1364, M.S. 1371,

M.S. 1813, M.S. 1864, M.S. 1865, M.S. 1887, and M.S. 1889;
Sec. 14, excluding M.S. 326, M.S. 329, M.S. 444, M.S. 505, M.S. 699, M.S. 1105, M.S. 1112, M.S. 1115, M.S. 1123, M.S. 1127, M.S. 1158, M.S. 1163, M.S. 1164, M.S. 1167, M.S. 1248, M.S. 1249, M.S. 1261, M.S. 1333, M.S. 1360, M.S. 1861, and M.S. 1584;
Sec. 15, excluding M.S. 326, M.S. 505, M.S. 1158, M.S. 1285, M.S. 1286, and M.S. 1360;
Sec. 16, excluding M.S. 326, M.S. 740, M.S. 741, M.S. 742, and M.S. 1285;
Sec. 17, excluding M.S. 703, M.S. 1827, M.S. 1878, and M.S. 1879;
Sec. 18, excluding M.S. 1827, M.S. 1828, M.S. 1846, and M.S. 1879;
Sec. 19 (fractional), excluding M.S. 512, M.S. 1318, M.S. 1823, M.S. 1826, M.S. 1827, and M.S. 1846;
Sec. 20, excluding M.S. 344, M.S. 512, M.S. 703, M.S. 758, M.S. 1355, M.S. 1367, M.S. 1387, M.S. 1823, M.S. 1824, M.S. 1825, M.S. 1826, M.S. 1827, M.S. 1860, and M.S. 1871;
Sec. 21, excluding M.S. 326, M.S. 338, M.S. 344, M.S. 703, M.S. 740, M.S. 741, M.S. 742, M.S. 758, M.S. 1119, M.S. 1284, M.S. 1285, M.S. 1344, M.S. 1358, M.S. 1803, and M.S. 2121;
Sec. 22, excluding M.S. 326, M.S. 338, M.S. 494, M.S. 674, M.S. 1119, M.S. 1133, M.S. 1139, M.S. 1142, M.S. 1154, M.S. 1158, M.S. 1284, M.S. 1285, M.S. 1324, M.S. 1338, M.S. 1360, M.S. 1801, M.S. 1863, M.S. 2121, and M.S. 2122;
Sec. 23, excluding M.S. 330, M.S. 444, M.S. 488, M.S. 494, M.S. 717, M.S. 1127, M.S. 1137, M.S. 1142, M.S. 1154, M.S. 1155, M.S. 1156, M.S. 1158, M.S. 1190, M.S. 1288, M.S. 1333, M.S. 1373, M.S. 1801, M.S. 1848, M.S. 1861, M.S. 1863, M.S. 1868, M.S. 1884, M.S. 1885, M.S. 1899, and M.S. 2116;
Sec. 25, excluding U.S. Survey No. 451, M.S. 454, M.S. 455, M.S. 457, M.S. 496, M.S. 504, M.S. 529, M.S. 685, M.S. 686, M.S. 709, M.S. 1103, M.S. 1104, M.S. 1136, M.S. 1173, M.S. 1190, M.S. 1230, M.S. 1263, M.S. 1282, M.S. 1298, M.S. 1311, M.S. 1315, M.S. 1378, M.S. 1379, M.S. 1800, M.S. 1893, Executive Order 1036, Quitclaim Deed F–1283, Quitclaim Deed to the United States dated September 13, 1943, Quitclaim Deed to the United States dated April 10, 1944, and Quitclaim Deed F–74014;
Sec. 26 (fractional), excluding U.S. Survey No. 451, M.S. 410, M.S. 454, M.S. 529, M.S. 685, M.S. 1103, M.S. 1122, M.S. 1136, M.S. 1137, M.S. 1142, M.S. 1154, M.S. 1173, M.S. 1190, M.S. 1194, M.S. 1282, M.S. 1325, M.S. 1339, M.S. 1373, M.S. 1374, M.S. 1806, M.S. 1814, M.S. 1891, M.S. 1892, M.S. 1899, M.S. 2276, ANCSA Section 3(e) applications F–54187, F–54189, F–73070, and the tidal portion of the Snake River;
Sec. 27 (fractional), excluding U.S. Survey No. 451, M.S. 410, M.S. 494, M.S. 506, M.S. 671, M.S. 674, M.S. 739, M.S. 1119, M.S. 1133, M.S. 1139, M.S. 1154, M.S. 1301, M.S. 1324, M.S. 1338, M.S. 1339, M.S. 1344, M.S. 1347, M.S. 1348, M.S. 1358, M.S. 1374, M.S. 1677, and Public Land Order 1439;
Sec. 28 (fractional), excluding M.S. 344, M.S. 506, M.S. 1119, M.S. 1301, M.S. 1344, M.S. 1358, M.S. 1359, and M.S. 1367;
Sec. 29 (fractional), excluding M.S. 512, M.S. 1318, M.S. 1355, M.S. 1367, and M.S. 1387;
Sec. 35 (fractional), excluding U.S. Survey No. 451, M.S. 529, ANCSA Sec. 3(e) applications F–54186, F–54187, F–54188, and Executive Order dated April 16, 1903;
Sec. 36 (fractional), excluding U.S. Survey No. 450, U.S. Survey No. 451, M.S. 496, M.S. 501, M.S. 529, M.S. 1298, M.S. 1311, M.S. 1893, M.S. 2316, Quitclaim Deed to the United States dated September 13, 1943, and Quitclaim Deed to the United States dated April 10, 1944.

Containing approximately 5,968 acres.

T. 10 S., R. 35 W.
Secs. 5 and 6;
Sec. 7, excluding M.S. 1332;
Secs. 8 and 16;
Sec. 17 and 18, excluding M.S. 1332;
Sec. 19;
Secs. 20 and 21, excluding M.S. 1860;
Sec. 27, excluding M.S. 1308 and M.S. 1381;
Sec. 28, excluding M.S. 1308 and M.S. 1866;
Secs. 29, 30, 31, and 32;
Secs. 33 and 34, excluding M.S. 1292 and M.S. 1308;
Sec. 35, excluding M.S. 1320;
Sec. 36, excluding M.S. 427, M.S. 482, M.S. 1291, M.S. 1313, M.S. 1832, and M.S. 1883.

Containing approximately 11,750 acres.

T. 11 S., R. 35 W.
Sec. 1, excluding M.S. 427, M.S. 482, M.S. 1107, M.S. 1108, M.S. 1313, M.S. 1314, M.S. 1320, M.S. 1832, and M.S. 1883;
Sec. 2, excluding M.S. 1320;
Sec. 3, excluding M.S. 1292;
Sec. 4, excluding M.S. 1292 and M.S. 1309;
Secs. 5 and 6;
Sec. 7, excluding M.S. 1102;
Sec. 8;
Sec. 9, excluding M.S. 1309 and M.S. 1319;
Sec. 10, excluding M.S. 1319;
Sec. 11, excluding M.S. 1320;
Sec. 12, excluding M.S. 1320 and M.S. 1828;
Sec. 13, excluding M.S. 1828, M.S. 1845, M.S. 1846, and M.S. 2280;
Sec. 14, excluding M.S. 1319, M.S. 1845, and M.S. 2280;
Sec. 15 (fractional), excluding M.S. 1319 and M.S. 2280;
Sec. 16 (fractional), excluding M.S. 1319;
Secs. 17 and 18 (fractional);
Sec. 22 (fractional), excluding M.S. 1319;
Sec. 23 (fractional), excluding M.S. 1317, M.S. 1319, M.S. 1336, M.S. 1842, M.S. 1846, and M.S. 2280;
Sec. 24 (fractional), excluding M.S. 512, M.S. 1318, M.S. 1336, M.S. 1846, and M.S. 2280.

Containing approximately 8,035 acres.

Aggregating approximately 71,202 acres.

Total aggregated acreage, approximately 73,148 acres.

All named and unnamed water bodies within the above-described lands were reviewed and, based on existing evidence, they were determined to be nonnavigable.

Excluded from the above-described lands herein approved for conveyance are the following water bodies which are pending a determination as to tidal influence:

The Snake River has tidal influence from its mouth to the southern boundary of Mineral Survey 1892 in Sec. 26, T. 11 S., R. 34 W., Kateel River Meridian; and

The Nome River has tidal influence from its mouth to where the river is crossed by the Nome-Council Road in Sec. 33, T. 11 S., R. 33 W., Kateel River Meridian.

Actual limits of tidal influence, for water bodies listed above and for other water bodies within the lands to be conveyed, if any, will be determined at the time of survey.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are pending a determination under Sec. 3(e) of ANCSA; or lands were previously rejected by decision. Lands within U.S. Surveys or Mineral Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14908–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25-Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel

vehicles, and small all-terrain vehicles (less than 3,000 lbs Gross Vehicle Weight (GVW)).

50-Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.

60-Foot Road—The uses allowed on a sity (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

a. (EIN 10 D9) An easement for a proposed access trail fifty (50) feet in width from the Nome-Teller Road in Sec. 28, T. 10 S., R. 35 W., Kateel River Meridian, northeasterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

b. (EIN 14 C3, D1, L) An easement for an existing access trail fifty (50) feet in width from the Nome-Teller Road in Sec. 6, T. 11 S., R. 34 W., Kateel River Meridian, northeasterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

c. (EIN 22 D1, L) An easement for an existing access trail fifty (50) feet in width from the Jensen's Camp Road in Sec. 10, T. 10 S., R. 34 W., Kateel River Meridian, northwesterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

d. (EIN 35 B, D1, K, L) An easement twenty (20) feet in width for an existing road from the Nome-Taylor Road in Sec. 7, T. 11 S., R. 33 W., Kateel River Meridian, northerly to lands withdrawn by PLO 1534 and PLO 1622. The uses allowed are those listed above for a sixty (60) foot wide road easement. Use is limited to the United States Government and its authorized agents and assignees.

e. (EIN 35a B, D1, K) An easement ten (10) feet in width for an existing communications cable from Sec. 7, T. 11 S., R. 33 W., Kateel River Meridian, northerly to lands withdrawn by PLO 1534 and PLO 1622. The uses allowed are those activities associated with the construction, operation, and maintenance of the communications cable. Use is limited to the United States Government and its authorized agents and assignees.

f. (EIN 45 D1, L) An easement for an existing access trail twenty-five (25) feet in width from Nome in Sec. 36, T. 11 S., R. 34 W., Kateel River Meridian, southeasterly to Solomon. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

g. (EIN 48 C1, C5, D1, L) An easement sixty (60) feet in width for an existing road from the Nome-Council Road in Sec. 4, T. 12 S., R. 33 W, Kateel River Meridian, westerly to the community of Fort Davis. The uses allowed are the listed above for a sixty (60) foot wide road easement.

h. (EIN 72 D1, D9, L) An easement for an existing access trail twenty-five (25) feet in width from Nome in Sec. 27, T. 11 S., R. 34 W., Kateel River Meridian, westerly to Teller. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

i. (EIN 125 D1) An easement for a proposed access trail twenty-five (25) feet in width from the mean high-tide line in Sec. 12, T. 12 S., R. 33 W., Kateel River Meridian, northeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

j. (EIN 126 D1, I) An easement twenty-five (25) feet in width for an existing powerline from Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian, southeasterly to the Nome VOR site access road in Sec. 4, T. 12 S., R. 33 W., Kateel River Meridian. The uses allowed are those activities accociated with the operation and maintenance of a powerline facility.

k. (EIN 127 D1, I) An easement one hundred (100) feet in width for an existing road and powerline from the Nome-Council Road in Sec. 4, T. 12 S., R. 33 W., Kateel River Meridian, northeasterly to the Nome VOR site. The uses allowed are those listed above for a sixty (60) foot wide road easement and those activities associated with the operation and maintenance of a powerline facility. Use is limited to the United States Government and its authorized agents and assigns.

l. (EIN 132 D1) An easement for a proposed access trail fifty (50) feet in width from the Nome-Taylor Road in Sec. 5, T. 10 S., R. 33 W., Kateel River Meridian, westerly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

m. (EIN 133 C4, I) An easement twenty-five (25) feet in width for an existing powerline from the Nome townsite in Sec. 36, T. 11 S., R. 34 W., Kateel River Meridian southeasterly to EIN 126 D1, I in Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian. The uses allowed are those activities associated with the construction, operation and maintenance of a powerline facility.

n. (EIN 133a C4, I) An easement twenty-five (25) feet in width for and existing powerline from powerline EIN 133 C4, I in Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian, northeasterly to the FAA site (PLO 2642) in Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian. The uses allowed are those activities associated with the construction, operation and maintenance of a powerline facility.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. A right-of-way, F–160, located within Sec. 31, Sec. 32, and Sec. 33, T. 11 S., R. 33 W., Sec. 4, T. 12 S., R. 33 W., and Sec. 36, T. 11 S., R. 34 W., Kateel River Meridian, 200 feet in width, for a Federal Aid Highway. Act of August 27, 1958, as amended (23 U.S.C. 317);

4. A right-of-way, F–957, containing approximately 17 acres, located within Sec. 32 and Sec. 33, T. 11 S., R. 33 W., Kateel River Meridian, for a communication site. Act of March 4, 1911 (43 U.S.C. 961);

5. A right-of-way, F–7555, containing approximately 8 acres, located within Sec. 32, T. 11 S., R. 33 W., and Sec. 5, T. 12 S., R. 33 W., Kateel River Meridian, for a Federal Aid material site. Act of August 27, 1958, as amended (23 U.S.C. 317);

6. A right-of-way, F–09113, located within Tps. 9 and 10 S., R. 33 W., and T. 10 S., R. 34 W., Kateel River Meridian, 125 feet in width, for canal and ditches, with feeders and laterals, known as the Miocene Ditch System, for mining purposes, issued to United States Smelting, Refining and Mining Company under the provisions of the act of February 15, 1901 (43 U.S.C. 959);

7. A right-of-way, F–09118, located within Tps. 9, 10, and 11 S., R. 33 W., and T. 11 S., R. 34 W., Kateel River Meridian, 120 feet in width, for the construction, operation and maintenance of ditches, issued to United

States Smelting, Refining and Mining Company under the provisions of the act of February 15, 1901 (43 U.S.C. 959);

8. A right-of-way, F–12414, located within Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian, 200 feet in width, for a Federal Aid Highway. Act of August 27, 1958, as amended (23 U.S.C. 317);

9. A right-of-way, F–12416, located within Sec. 29, T. 11 S., R. 33 W., Kateel River Meridian, 200 feet in width, for a Federal Aid Highway. Act of August 27, 1958, as amended (23 U.S.C. 317);

10. A right-of-way, F–12417, located within Sec. 28 and Sec. 29, T. 11 S., R. 33 W., Kateel River Meridian, 200 feet in width, for a Federal Aid Highway. Act of August 27, 1958, as amended (23 U.S.C. 317);

11. A right-of-way, F–12418, located within Sec. 21, T. 11 S., R. 33 W., Kateel River Meridian, 200 feet in width, for a Federal Aid Highway. Act of August 27, 1958, as amended (23 U.S.C. 317);

12. A right-of-way, F–12419, located within Sec. 33, T. 10 S., R. 33 W., and Secs. 2, 3, 4, 10, 11, and 15, T. 11 S., R. 33 W., Kateel River Meridian, 200 feet in width, for a Federal Aid Highway. Act of August 27, 1958, as amended (23 U.S.C. 317);

13. A right-of-way, F–12420, located within Sec. 33, T. 10 S., R. 33 W., Kateel River Meridian, 38.48 to 200 feet in width, for a Federal Aid Highway. Act of August 27, 1958, as amended (23 U.S.C. 317);

14. A right-of-way, F–12421, located within Sec. 33, T. 10 S., R. 33 W., Kateel River Meridian, 200 feet in width, for a Federal Aid Highway. Act of August 27, 1958, as amended (23 U.S.C. 317);

15. A right-of-way, F–12422, located within Sec. 33 and Sec. 34, T. 10 S., R. 33 W., Kateel River Meridian, containing approximately 7 acres, for a Federal Aid material site. Act of August 27, 1958, as amended (23 U.S.C. 317);

16. A right-of-way, F–12424, located within Sec. 33, T. 10 S., R. 33 W., Kateel River Meridian, 100 feet in width, for a Federal Aid Highway. Act of August 27, 1958, as amended (23 U.S.C. 317);

17. A right-of-way, F–12429, located within Sec. 11, T. 11 S., R. 33 W., Kateel River Meridian, 100 feet in width, for a Federal Aid Highway. Act of August 27, 1958, as amended (23 U.S.C. 317);

18. A right-of-way, F–12545, located within Sec. 32, T. 11 S., R. 33 W., Kateel River Meridian, containing approximately 4.196 acres, for a Federal Aid material site. Act of August 27, 1958, as amended (23 U.S.C. 317);

19. A right-of-way, F–14971, located within Sec. 32, T. 10 S., R. 33 W., Kateel River Meridian, containing approximately 6.835 acres, for a Federal Aid material site. Act of August 27, 1958, as amended (23 U.S.C. 317);

20. A right-of-way, F–15019, located within Sec. 4 and Sec. 9, T. 10 S., R. 33 W., Kateel River Meridian, for varying widths, containing approximately 10.240 acres, for a Federal Aid Highway. Act of August 27, 1958, as amended (23 U.S.C. 317);

21. A right-of-way, F–15020, located within Sec. 4, T. 10 S., R. 33 W., Kateel River Meridian, for varying widths, containing approximately 12.365 acres, for a Federal Aid Highway. Act of August 27, 1958, as amended (23 U.S.C. 317);

22. A right-of-way, F–19177, located within Sec. 17 and Sec. 20, T. 10 S., R. 33 W., Kateel River Meridian, containing approximately 2.594 acres, for a Federal Aid Highway. Act of August 27, 1958, as amended (23 U.S.C. 317);

23. A right-of-way, F–026023, located within Sec. 8 and Sec. 17, T. 10 S., R. 35 W., Kateel River Meridian, containing approximately 7.34 acres, for a Federal Aid material site. Act of August 27, 1958, as amended (23 U.S.C. 317);

24. A right-of-way, F–031747, Parcels No. 2, 4, 7, 9, 13, and 17, located within Sec. 31, T. 10 S., R. 34 W., Secs. 3, 4, 5, 6, and 10, T. Secs. 34, 35, and 36, T. 10 S., R. 35 W., and Secs. 1 and 2, T. 11 S., R. 35 W., and 11 S., R. 34 W., Kateel River Meridian, 200 feet in width, for a Federal Aid Highway. Act of August 27, 1958, as amended (23 U.S.C. 317);

25. A right-of-way, F–032075, Parcels No. 1 and 2, located within Sec. 10, T. 11 S., R. 34 W., Kateel River Meridian, containing approximately .407 acre, for a Federal Aid Highway. Act of August 27, 1958, as amended (23 U.S.C. 317);

26. A right-of-way, F–033602, Parcel No. 4, located within Secs. 5, 8, 16, 17, 21, 27, and 28, T. 10 S., R. 35 W., Kateel River Meridian, 200 feet in width, for a Federal Aid Highway. Act of August 27, 1958, as amended (23 U.S.C. 317);

27. Any right-of-way interest in Federal Aid Secondary (FAS) Route No. 130 (Nome-Council Road) from Nome FAA Airfield east through Nome and Solomon to FAS Route 1304 at Council transferred to the State of Alaska by the quitclaim deed dated June 30, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Pub. L. 86–70 (73 Stat. 141) as to Tps. 11 S., Rs. 33 and 34 W., and T. 12 S., R. 33 W., Kateel River Meridian;

28. Any right-of-way interest in Federal Secondary (FAS) Route No. 131 (Nome-Teller Road) from FAS Route 141 near Nome northwest to Teller transferred to the State of Alaska by the quitclaim deed dated June 30, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Pub. L. 86–70 (73 Stat. 141) as to T. 11 S., R. 34 W., and Tps. 10 and 11 S., Rs. 35 W., Kateel River Meridian;

29. Any right-of-way interest in Federal Aid Secondary (FAS) Route No. 141 (Nome-Taylor Road) from FAS Route 130 in Nome, north to FAS Route 1451 at Coffee Creek transferred to the State of Alaska by the quitclaim deed dated June 30, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Pub. L. 86–70 (73 Stat. 141) as to Tps. 9, 10, and 11 S., Rs. 33 W., and T. 11 S., R. 34 W., Kateel River Meridian;

30. Any right-of-way interest in Federal Aid Secondary (FAS) Route No. 1311 (Snake River Road) from FAS Route 131 near Nome, northerly to Jensen's Mining and Recreation area transferred to the State of Alaska by the quitclaim deed dated June 30, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Pub. L. 86–70 (73 Stat. 141) as to Tps. 10 and 11 S., Rs. 34 W., Kateel River Meridian;

31. Any right-of-way interest in Federal Aid Secondary (FAS) Route No. 1312 (Little Creek Road) from FAS Route No. 131 south to FAS Route 1411 transferred to the State of Alaska by the quitclaim deed dated June 30, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Pub. L. 86–70 (73 Stat. 141) as to T. 11 S., R. 34 W., Kateel River Meridian;

32. Any right-of-way interest in Federal Aid Secondary (FAS) Route No. 1321 (Submarine-Pavatreak) from Nome Municipal Airport westerly to Submarine Mining area transferred to the State of Alaska by the quitclaim deed dated June 30, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Pub. L. 86–70 (73 Stat. 141) as to T. 11 S., R. 34 W., Kateel River Meridian;

33. Any right-of-way interest in Federal Aid Secondary (FAS) Route No. 1411 (Center Creek Road and Depot Spur) from Route 130 within Nome looping westerly through the Center Creek mining area and thence northeasterly to Route 141, and a spur westerly to highway maintenance depot transferred to the State of Alaska by the quitclaim deed dated June 30, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Pub. L. 86–70 (73 Stat. 141) as to T. 11 S., R. 34 W., Kateel River Meridian;

34. Any right-of-way interest in Federal Aid Secondary (FAS) Route No. 1412 (Osborne Road) from Route 141 near Nome, northeasterly through

Osborne Recreation area to the Osborne Creek Mining area transferred to the State of Alaska by the quitclaim deed dated June 30, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Pub. L. 86–70 (73 Stat. 141) as to Tps. 11 S., Rs. 33 and 34 W., Kateel River Meridian;

35. Any right-of-way interest in Federal Aid Secondary (FAS) Route No. 1413 (Buster Road) from FAS Route 141 near Nome, northeasterly through Busterville to the Buster Creek mining area transferred to the State of Alaska by the quitclaim deed June 30, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Pub. L. 86–70 (73 Stat. 141) as to Tps. 10 and 11 S., Rs. 33 W., Kateel River Meridian; and

36. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Reindeer Grazing Permit, F–23293, issued to Sitnasuak Native Corporation, on January 1, 1982, located within lands herein approved for conveyance, will terminate upon conveyance of these lands in accordance with Sec. 9, Additional Condition or Stipulation No. 1 of the permit.

Reindeer Grazing Permit, F–035186, issued to Lawrence T. Davis, on January 1, 1982, located within the lands herein approved for conveyance, will terminate upon conveyance of these lands in accordance with Sec. 9, Additional Condition or Stipulation No. 1 of the permit.

Sitnasuak Native Corporation is entitled to conveyance of 161,280 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 152,211 acres. The remaining entitlement of approximately 9,069 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Bering Straits Native Corporation when the surface estate is conveyed to Sitnasuak Native Corporation, and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop, or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village shall be subject to the consent of Sitnasuak Native Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Nome Nugget.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until November 1, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510

Sitnasuak Native Corporation, P.O. Box 905, Nome, Alaska 99762

Bering Straits Native Corporation, P.O. Box 1008, Nome, Alaska 99762

Barbara A. Lange,

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–27118 Filed 9–30–82; 8:45 am]

BILLING CODE 4310–84–M

[F–14936–A]

Alaska Native Claims Selection

On November 18, 1974, Sleetmute Limited, for the Native village of Sleetmute, filed selection application F–14936–A, as amended, under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1611 (1976) (ANCSA), for the surface estate of certain lands in the vicinity of Sleetmute.

On April 25, 1977, in accordance with Title 10, Chapter 05, Secs. 396 and 399 of the Alaska Business Corporation Act, and as authorized by 43 U.S.C. 1627, Georgetown Incorporated, a domestic corporation, merged with Aniak Limited, Chuathbaluk Company, Kipchaughpuk Limited, Lower Kalskag Incorporated, Napamute Limited, Red Devil Incorporated, Sleetmute Limited, Stony River Ltd., and Upper Kalskag Incorporated, all domestic corporations, into Georgetown Incorporated, which consolidated individual village interests into one single constituent corporation whose name was changed to The Kuskokwim Corporation. The surviving corporation, The Kuskokwim Corporation, is entitled to all rights, privileges, and benefits of the Alaska Native Claims Settlement Act.

As to the lands described below, selection application F–14936–A, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 85,487 acres, is considered proper for acquisition by The Kuskokwim Corporation (for the village of Sleetmute) and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

U.S. Survey No. 2048, situated on the right bank of the Kuskokwim River in the village of Sleetmute, Alaska, lots 2, 3, 4 and 6 to 12, inclusive. (Containing 10.17 acres.)

Seward Meridian, Alaska (Surveyed)

T. 18 N., R. 42 W.
Secs. 4, 5 and 6.
Containing approximately 1,865 acres.

T. 19 N., R. 42 W.
Secs. 14 to 18, inclusive;
Sec. 19, excluding Native allotment F–17916;
Sec. 20, excluding Native allotment F–18053 Parcel A;
Secs. 21, 22 and 23;
Sec. 24, excluding Native allotment F–17921 Parcel B;
Secs. 25 to 28, inclusive;
Sec. 29, excluding Native allotment F–17918 Parcel B;
Sec. 30;
Sec. 31, excluding Native allotment F–17921 Parcel A;
Secs. 32, 33 and 34.
Containing approximately 11,072 acres.

T. 17 N., R. 43 W.
Secs. 1, 2 and 3;
Secs. 10, 11 and 12;
Sec. 14, excluding Native allotment F–18052 Parcel C;
Sec. 15;
Secs. 22, 27 and 28;
Sec. 29, excluding Native allotments F–16524 Parcel A, F–16525 Parcel D and F–17175 Parcel C;
Secs. 32, 33 and 34;
Sec. 35, excluding Native allotments F–17920 Parcel C and F–17964 Parcel B;
Sec. 36.
Containing approximately 9,244 acres.

T. 18 N., R. 43 W.
Secs. 1 and 2, excluding Native allotment F–16523 Parcel C;
Sec. 3;
Sec. 4, excluding Native allotment F–17915;
Sec. 5, excluding Native allotment F–17920 Parcel B;
Sec. 6;
Sec. 7, excluding Native allotments F–13972 Parcel B, F–16525 Parcel B, F–17024, F–17029 Parcel B, F–18052 Parcel A and F–18053 Parcel B;
Sec. 8, excluding Native allotment F–17024;
Secs. 9 and 10;
Secs. 11 and 12, excluding Native allotment F–18052 Parcel B;
Sec. 13;
Sec. 14, excluding Native allotment F–16531 Parcel A;
Secs. 15 and 16;
Sec. 17, excluding Native allotment F–13765 Parcel A;
Sec. 18, excluding Native allotments F–16525 Parcel B, F–17175 Parcels A and B, F–17918 Parcel A and F–18052 Parcel A;
Sec. 19, excluding Native allotments F–17965 Parcel B and F–18054 Parcel C;
Sec. 20, excluding Native allotments F–13765 Parcel A and F–17917 Parcel A;
Sec. 21, excluding Native allotments F–13973 Parcel A and F–16524 Parcel B;
Sec. 22, excluding Native allotments F–17029 Parcel C and F–17967 Parcel B;
Sec. 23, excluding Native allotments F–16524 Parcel C, F–16525 Parcel C and F–17917 Parcel B;
Sec. 24, excluding Native allotment F–13786 Parcel A;
Sec. 25, excluding Native allotments F–13785 Parcel B and F–13972 Parcel A;
Secs. 26 and 27;
Sec. 28, excluding Native allotment F–16526 Parcel A;
Sec. 29;
Secs. 33, 34 and 35.
Containing approximately 15,945 acres.

T. 19 N., R. 43 W.
Sec. 19, excluding Native allotments F–16523 Parcel A and F–18056 Parcel A;
Sec. 30;
Sec. 31, excluding Native allotment F–16530 Parcel B;
Secs. 32, 35 and 36.
Containing approximately 3,306 acres.

T. 17 N., R. 44 W.
Secs. 5 to 8, inclusive.
Containing approximately 2,542 acres.

T. 18 N., R. 44 W.
Sec. 1, excluding Native allotments F–029354, F–16525 Parcel A, F–16527, F–17919 Parcel B and F–17964 Parcel C;
Sec. 2, excluding Native allotments F–029354, F–033603 Parcel A, F–16527 and F–17919 Parcel B;
Secs. 3 and 4;
Secs. 9, 10 and 11;
Sec. 12, excluding Native allotments F–11959 and F–16532 Parcel A;
Sec. 13, excluding Native allotment F–17175 Parcel A;
Secs. 14, 15 and 16;
Secs. 19 to 24, inclusive;
Secs. 26 to 35, inclusive.
Containing approximately 17,035 acres.

T. 19 N., R. 44 W.
Secs. 1 to 4, inclusive;
Sec. 9, excluding Native allotment F–17967 Parcel A;
Secs. 10, 11 and 12;
Sec. 13, excluding Native allotments F–16528 Parcel A and F–18051 Parcel B;
Sec. 14, excluding Native allotments F–17963 Parcel C and F–18054 Parcel A;
Sec. 15, excluding Native allotment F–18051 Parcel C and Litigation AA–42450;
Secs. 16 to 22, inclusive;
Sec. 23, excluding Native allotments F–16532 Parcel B, F–17917 Parcel C and F–18055 Parcel A;
Sec. 24, excluding Native allotments F–13786 Parcel B, F–16528 Parcel B, F–16532 Parcel B, F–17917 Parcel C and F–18055 Parcel A;
Sec. 25, excluding U.S. Survey No. 2048 and Native allotments F–13867, F–16529 Parcel B, F–16532 Parcel B, F–18051 Parcel A and F–18201;
Sec. 26, excluding Native allotments F–13867, F–16529 Parcel B, F–16532 Parcel B and F–18201;
Sec. 27, excluding Native allotment F–16528 Parcel C;
Secs. 28 to 34, inclusive;
Secs. 35 and 36, excluding Native allotments F–029365, F–033603 Parcel B and F–16527.
Containing approximately 17,428 acres.

T. 17 N., R. 45 W.
Secs. 1 to 4, inclusive;
Secs. 9 to 12, inclusive.
Containing approximately 5,120 acres.

T. 18 N., R. 45 *W.*
Secs. 25, 35 and 36.
Containing appproximately 1,920 acres.
Aggregating approximately 85,648 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be anvigable because they have been or could be used in connection with travel, trade and commerce. The following named water bodies, together with any unnamed water bodies, are identified on the attached navigability maps, the original of which will be found in easement case file F–14936–EE.

Kuskokwim River
Holitna River
Barge Slough
Johnny Slough
Inowak Creek

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are pending a determination under Sec. 3(e) of ANCSA; or lands were previously rejected by decision. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The convenyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(f); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b), the following public easements, referenced by easement identification number (EIN) on the easement maps

attached to this document, copies of which will be found in case file F–14936–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two-and three-wheel vehicles, and small all-terrain vehicles (ATV's) (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two-and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.

One Acre Site—The uses allowed on a one (1) Acre Site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 1 D9) A one (1) acre site easement upland of the ordinary high water mark located in Sec. 25, T. 19 N., R. 44 W., Seward Meridian, on the right bank of the Kuskokwim river near the north end of the airstrip. The uses allowed are those listed above for a one (1) acre site easement.

b. (EIN 5 C3) An easement fifty (50) feet in width for an existing access trail from Sleetmute in Sec. 25, T. 19 N., R. 44 W., Seward Meridian, northeasterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

c. (EIN 14 C4) A one (1) acre site easement upland of the ordinary high water mark in Sec. 21, T. 19 N., R. 42 W., Seward Meridian, on the right bank of the Kuskokwim River. The uses allowed are those listed above for a one (1) acre site easement.

d. (EIN 14a C4) An easement twenty-five (25) feet in width for a proposed access trail from site EIN 14 C4, in Sec. 21, T. 19 N., R. 42 W., Seward Meridian, northerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 15 C4) A one (1) acre site easement upland of the ordinary high water mark in Sec. 11, T. 18 N., R. 43 W., Seward Meridian, on the left bank of the Kuskokwim River. The uses allowed are those listed above for a one (1) acre site easement.

f. (EIN 15a C4) An easement twenty-five (25) feet in width for a proposed access trail from site EIN 15 C4, in Sec. 11, T. 18 N., R. 43 W., Seward Meridian, southeasterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

g. (EIN 17 C4) A one (1) acre site easement upland of the ordinary high water mark in Sec. 3, T. 17 N., R. 43 W., Seward Meridian, on the left bank of the Holitna River. The uses allowed are those listed above for a one (1) acre site easement.

h. (EIN 17a C4) An easement twenty-five (25) feet in width for a proposed access trail from site EIN 17 C4, Sec. 3, T. 17 N., R. 43 W., Seward Meridian, westerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b)(2) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(c), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

The Kuskokwim Corporation (for the village of Sleetmute) is entitled to conveyance of 92,160 acres of land selected pursuant to Sec . 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 85,487 acres. The remaining entitlement of approximately 6,673 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to The Kuskokwim Corporation (for the village of Sleetmute), and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village shall be subject to the consent of The Kuskokwim Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week for four (4) consecutive weeks, in the Tundra Drums.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expanded to locate, and parties who failed or refused to sign the return receipt shall have until November 1, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such

appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

The Kuskokwim Corporation, 429 D Street, Suite 307, Anchorage, Alaska 99501

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7-005, Anchorage, Alaska 99510

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-27119 Filed 9-30-82; 8:45 am]

BILLING CODE 4310-84-M

[F-19154-2, F-19154-20, F-19154-21]

Alaska Native Claims Selection

On July 11, and November 14, 1974, NANA Regional Corporation, Inc., filed selection applications F-19154-2, F-19154-20, and F-19154-21 under the provisions of Sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611(c) (1976)) (ANCSA), for the surface and subsurface estates of certain lands in the vicinity of Kotzebue.

As to the lands described below, the applications submitted by NANA Regional Corporation, Inc., as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands selected pursuant to Sec. 12(c) of ANCSA, aggregating approximately 53,523 acres, are considered proper for acquisition by NANA Regional Corporation, Inc., and are hereby approved for conveyance pursuant to Sec. 14(e) of ANCSA.

Kateel River Meridian, Alaska

T. 17 N., R. 17 W (Partially Surveyed)
Secs. 1 to 5, inclusive;
Sec. 6, excluding Native allotments F-17673, F-17674 Parcel B, and F-17838;
Sec. 7, lots 1, 2, 3, and 4, NE¼, E½W½, SE¼, and the submerged land beneath the unnamed lake;
Secs. 8 to 17, inclusive;
Sec. 18, lots 1, 2, 3, and 4, NE¼, E½W½, SE¼, and the submerged land beneath the unnamed lake;
Sec. 19, lots 1, 2, 3, and 4, NE¼, E½W½, SE¼, and the submerged land beneath the unnamed lake;
Secs. 20 to 36, inclusive.
Containing approximately 22,876 acres.

T. 19 N., R. 17 W. (Unsurveyed)
Sec. 1, excluding Native allotment F-15998;
Sec. 2, excluding Native allotments F-15985 and F-15998;
Sec. 3, excluding Native allotments F-15982 and F-15985;
Sec. 4, excluding Native allotment F-15982;
Secs. 5 and 6;
Sec. 7, excluding Native allotment F-17593;
Secs. 8 to 16, inclusive;
Sec. 17, excluding Native allotment F-16341 Parcel A;
Sec. 18, excluding U.S. Survey No. 5295 (Native allotment F-18377 Parcel A) and Native allotment F-17588 Parcel B;
Sec. 19, excluding Native allotment F-17588 Parcel B;
Secs. 20 to 30, inclusive;
Sec. 31 (fractional);
Secs. 32 and 33;
Secs. 34 and 35, excluding Native allotment F-18589 Parcel B;
Sec. 36, excluding Native allotments F-13317 Parcel A and F-15971.
Containing approximately 19,705 acres.

T. 19 N., R. 19 W. (Unsurveyed)
Sec. 1, excluding Native allotments F-17596 and F-17602;
Sec. 2, excluding Native allotments F-17556 Parcel B;
Sec. 3, excluding Native allotment F-17583;
Secs. 4 to 11, inclusive;
Secs. 12 to 17 (fractional), inclusive;
Sec. 18 (fractional), excluding Native allotments F-16343 Parcel B and F-17577 Parcel B;
Sec. 19 (fractional), excluding Native allotments F-16456 and F-17577 Parcel B;
Secs. 20, 21, and 22 (fractional);
Secs. 24, 25, and 26 (fractional);
Secs. 28 and 29 (fractional);
Sec. 30 (fractional), excluding Native allotments F-13332 Parcel C, F-13452, F-13453, and F-16456;
Sec. 32 (fractional), excluding Native allotments F-12408, F-13097 Parcel A, F-13306, F-13307 Parcel A, F-13128, F-14656 Parcel A, F-17629 Parcel A, and F-17727;
Sec. 33 (fractional), excluding Native allotments F-12408, F-17438 Parcel B, F-17629 Parcel A, F-17727, F-18377 Parcel B, and F-18494 Parcel B;
Sec. 34 (fractional).
Containing approximately 10,942 acres.
Aggregating approximately 53,523 acres.

Excluded from the above-described lands herein conveyed are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce or are pending a tidal determination at time of survey. Those water bodies are identified on the navigability maps, the originals of which will be found in easement case files F-22361-2, F-22361-20, and F-22361-21.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on a available evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded because lands are under applications pending further adjudication. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The coveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservation to the United States:

Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on easement maps, copies of which will be found in easement case files F-22361-2, F-22361-20, and F-22361-21, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

(EIN 8 D1, D9) An easement twenty-five (25) feet in width for an existing access trail from the edge of State patented submerged lands within Sec. 11, T. 17 N., R. 18 W., Kateel River Meridian, southeasterly to Noorvik. The uses allowed are those listed for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat, or supplemental plat, of survey confirming the boundary description and acreage of the lands hereinabove grantee; and

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-

of-way, or easement, and the right of the lessee, contractee, permittee, or grantee, to the complete enjoyment of all rights, privileges and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

Reindeer grazing permit F–21633, issued to Qungniq, Inc., on January 1, 1982, located within the lands herein approved for conveyance, will terminate upon conveyance of these lands in accordance with Sec. 9, Additional Conditions or Stipulations of the permit.

NANA Regional Corporation, Inc., is entitled to conveyance of a minimum of 731,242 acres of land selected pursuant to Sec. 12(c) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is 194,733 acres. The remaining entitlement of approximately 536,469 acres will be conveyed at a later date.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week; for four (4) consecutive weeks in the Tundra Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until November 1, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510

NANA Regional Corporation, Inc., P.O. Box 49, Kotzebue, Alaska 99752

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–27120 Filed 9–30–82; 8:45 am]

BILLING CODE 4310–84–M

[F–14924–A]

Alaska Native Claims Selection

On November 19, 1974, Red Devil Incorporated, for the Native village of Red Devil, filed selection application F–14924–A, as amended, under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1611 (1976)(ANCSA), for the surface estate of certain lands in the vicinity of Red Devil.

On April 25, 1977, in accordance with Title 10, Chapter 05, Secs. 396 and 399 of the Alaska Business Corporation Act, and as authorized by 43 U.S.C. 1627, Georgetown Incorporated, a domestic corporation, merged with Aniak Limited, Chuathbaluk Company, Kipchaughpuk Limited, Lower Kalskag Incorporated, Napamute Limited, Red Devil Incorporated, Sleetmute Limited, Stony River Ltd., and Upper Kalskag Incorporated, all domestic corporations, into Georgetown Incorporated, which consolidated individual village interests into one single constituent corporation whose name was changed to The Kuskokwim Corporation. The surviving corporation, The Kuskokwim Corporation, is entitled to all rights, privileges, and benefits of the Alaska Native Claims Settlement Act.

As to the lands described below, selection application F–14924–A, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 61,271 acres, is considered proper for acquisition by The Kuskokwim Corporation (for the village of Red Devil) and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska (Surveyed)

T. 21 N., R. 43 W.
Secs. 6, 7 and 8;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
Containing approximately 9,567 acres.

T. 20 N., R. 44 W.
Secs. 1 to 18, inclusive;
Secs. 20 to 29 inclusive;
Sec. 32, excluding Native allotment F–17023 Parcel A;
Secs. 33 to 36, inclusive.
Containing approximately 20,925 acres.

T. 21 N., R. 44 W.
Secs. 1 and 2;
Secs. 11, 12 and 13;
Secs. 24, 25 and 36.
Containing approximately 5,120 acres.

T. 22 N., R. 44 W.
Secs. 35 and 36.
Containing approximately 1,280 acres.

T. 20 N., R. 45 W.
Secs. 1 to 12, inclusive;
Secs. 15 to 22, inclusive;
Sec. 26, excluding U.S. Survey No. 3771;
Sec. 27, excluding Native allotment F–10360;
Secs. 28 to 33, inclusive;
Sec. 34, excluding Native allotment F–10360.
Containing approximately 17,339 acres.

T. 20 N., R. 46 W.
Secs. 22 and 23;
Secs. 25, 26 and 27;
Secs. 34, 35 and 36.
Containing approximately 5,120 acres.

Aggregating approximately 59,351 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. The following named

water bodies, together with any unnamed water bodies, are identified on the attached navigability maps, the original of which will be found in easement case file F–14924–EE.

Kuskokwim River

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are pending a determination under Sec. 3(e) of ANCSA; or lands were previously rejected by decision. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(f); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14924–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two-and three-wheel vehicles, small and large all-terrain vehicles (ATV's), track vehicles, and four-wheel drive vehicles.

One Acre Site—The uses allowed for a one (1) acre site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 5 C3) An easement fifty (50) feet in width for an existing access trail from public lands in Sec. 6, T. 20 N., R. 43 W., Seward Meridian, paralleling the South Fork George River in a northwesterly direction to public land. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

b. (EIN 14 C5) A one (1) acre site easement upland of the ordinary high water mark in Sec. 28, T. 20 N., R. 45 W., Seward Meridian, on the left bank of the Kuskokwim River and adjacent to the northwest boundary of U.S. Survey 3771. The uses allowed are those listed for a one (1) acre site easement.

c. (EIN 14a C5) An easement fifty (50) feet in width for an existing access trail from the southeastern boundary of U.S. Survey 3771, Sec. 31, T. 20 N., R. 44 W., Seward Meridian, and continuing in a southwesterly direction to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits hereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1616(b)(2) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(c), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

The Kuskokwim Corporation (for the village of Red Devil) is entitled to conveyance of 69,120 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 59,351 acres. The remaining entitlement of approximately 9,769 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate of the lands described above shall be issued to Calista Corporation when the surface estate is conveyed to The Kuskokwim Corporation (for the village of Red Devil) and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop, or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village shall be subject to the consent of The Kuskokwim Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week for four (4) consecutive weeks, in the Tundra Drums.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until November 1, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of

Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

The Kuskokwim Corporation, 429 D Street, Suite 307, Anchorage, Alaska 99501

Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501

Ann Johnson,

Chief, Branch of ANCSA, Adjudication.

[FR Doc. 82-27121 Filed 9-30-82; 8:45 am]

BILLING CODE 4310-84-M

[F-52438]

Alaska Native Claims Selection

On June 8, 1979, Cook Inlet Region, Inc., filed selection application F-52438 under the provisions of Secs. 12(b)(6) of the act of Jaanuary 2, 1976 (89 Stat. 1151), and I.C.(2) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified August 31, 1976 (90 Stat. 1935), for the surface and subsurface estates of a portion of Fort Wainwright, located near Fairbanks, Alaska.

Section 12(b)(6) of the act of January 2, 1976, authorizes conveyance of lands to Cook Inlet region, Inc., from a selection pool established by the Secretary of the Interior and the General Services Administrator.

The lands are located outside the boundaries of Cook Inlet Region. With the concurrence of the State of Alaska and Cook Inlet Region, Inc., the lands within selection F-52438 were placed in the pool of properties available for selection by Cook Inlet Region, Inc., subject to valid existing rights, by notice dated December 18, 1978, as amended on January 27, 1982.

The selection application of Cook Inlet Region, Inc., as to the lands described below, is properly filed and meets the requirements of the act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, containing approximately 27.14 acres, are considered proper for conveyance pursuant to Sec. 12(b)(6) of the act of January 2, 1976:

Fairbanks Meridian, Alaska

T. 1 S., R. 1 W.

Portion of NW¼, Sec. 24, further described as:

Beginning at the NW corner of said Section 24, said corner being on the boundary line of that certain easement dated 5 Nov 64 granted by the United States of America to the State of Alaska for a highway right-of-way, Project No. F-062-4(16) SR-2 Fairbanks SE: thence on said line, through a 2,715.00 foot radius curve to the right (whose center point bears S. 00°03'15" E.) having a central angle of 35°, an arc distance of 1,658.38 feet; thence S. 54°56'45" E. a distance of 299.54 feet; thence leaving said boundary line and continuing S. 54°56'45" E. a distance of 200.00 feet, more or less, to the east line of said W½ of the NE¼ of the NW¼; thence south on said line at distance of 300.00 feet, more or less, to the most southerly boundary line of said highway easement; said line being common to the south right-of-way line of the Old Richardson Highway; thence on said common line, N. 81°47'29" W. a distance of 1,700.00 feet, more or less, to a point being the terminus of said common line, said point being S. 81°47'29" E. a distance of 278.37 feet from the west line of said Section 24; thence continuing on the said right-of-way line of the Old Richardson Highway N. 81°47'29" W. a distance of 278.37 feet to said west line of Section 24; thence leaving said right-of-way line and on said west line N. 00°03'15" W. a distance of 795.00 feet, more or less, to said point of beginning, excluding lots 10, 11, 15, and 16.

The lands excluded in the above description are no longer under Federal jurisdiction and are not being approved for conveyance at this time.

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act (ANCSA).

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands so granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. An easement and right-of-way to operate, maintain, repair, and patrol an overhead open wire and underground communication line or lines, and appurtenances thereto, in, on, over, and across a strip of land forty (40) feet in width, lying twenty (20) feet on each side of the centerline of the Alaska Communications Systems open wire or pole line and/or buried communication cable line, conveyed to RCA Alaska Communications, Inc., by Easement Deed dated January 10, 1971, F-13508, pursuant to the Alaska Communications Disposal Act (81 Stat. 441, 40 U.S.C. 771 et seq.) located in NW¼, Sec. 24, T. 1 S., R. 1 W., Fairbanks Meridian, Alaska;

4. a right-of-way, F-14250, for a transmission line forty (40) feet in width, located in NW¼, Sec. 24, T. 1 S., R. 1 W., Fairbanks Meridian, Alaska, granted to Golden Valley Electric Association, Inc., under the act of March 4, 1911 (36 Stat. 1253; 43 U.S.C. 961);

5. An easement for highway purposes, including appurtenant protective, scenic, and service areas, extending 150 feet each side of the centerline of the Richardson Highway, as established by Public Land Order 1613 (23 F.R. 2376), pursuant to the act of August 1, 1956 (70 Stat. 898), and transferred to the State of Alaska pursuant to the Alaska Omnibus Act, P.L. 86-70 (73 Stat. 141), as to NW¼, Sec. 24, T. 1 S., R. 1 W., Fairbanks Meridian, Alaska; and

6. The following third-party interest, if valid, created and identified by the Secretary of the Army, as provided by Sec. 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(g)):

A right-of-way, DA-95-507-eng-2053, for a controlled access highway, granted to the State of Alaska, Department of Highways, located in NW¼, Sec. 24, T. 1 S., R. 1 W., Fairbanks Meridian, Alaska.

Section 12(b)(6) of Pub. L. 94-204 provides that conveyances pursuant to this section shall be made in exchange for lands or rights to select lands outside the boundaries of Cook Inlet Region as described in Sec. 12(b)(5) of this act and on the basis of values determined by appraisal. The lands described above have been appraised at a value of $890,001. Under Sec. I.C.(2)(e) of the Terms and Conditions, this property constitutes 1,780 acre/equivalents. Upon acceptance of title to these lands, Cook Inlet Region, Inc., will relinquish its selection rights to 1,780 acres of its out-of-region entitlement.

Conveyance of the remaining entitlement to Cook Inlet Region, Inc., shall be made at a later date.

There are no inland water bodies considered to be navigable within the above-described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances, (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeals and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 501 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until (30 days from the date of publication) to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–27122 Filed 9–30–82; 8:45 am]

BILLING CODE 4310–84–M

Availability of the Final Environmental Impact Statement, Grazing Management in the Reno Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Final Environmental Impact Statement (FEIS) on the Proposed Grazing Management Program in the Reno EIS Area.

SUMMARY: Pursuant to Section 102(2) of the National Environmental Policy Act of 1969, the BLM Carson City District has prepared an FEIS on a proposed livestock grazing management program for the Reno EIS area. The final document consists of a summary of impacts, public comments received, and Bureau responses to issues raised.

SUPPLEMENTARY INFORMATION: The Reno Grazing EIS analyzes the effects of the proposed grazing management program, which includes the use of vegetation by livestock, big game, and wild horses. Three alternatives also considered were no action, maximizing livestock production, and resource protection.

FOR FURTHER INFORMATION CONTACT: Tom Owen, District Manager, Attention: EIS Team Leader, 1050 E. William St., Suite 335, Carson City, NV 89701, Phone: (702) 882–1631.

Copies of the FEIS are available for review at the following locations:

Bureau of Land Management, Nevada State Office, 300 Booth Street, Reno NV 89520, (702) 784–5448

Bureau of Land Management, Elko District Office, 2002 Idaho Street, Elko, NV 89801, (702) 738–4071

Bureau of Land Management, Winnemucca District Office, 705 E. 4th Street, Winnemucca, NV 89445, (702) 623–3676

Bureau of Land Management, Carson City District Office, 1050 E. William Street, Suite 335, Carson City, NV 89701, (702) 882–1631

Bureau of Land Management, Ely District Office, Star Route 5, Box 1, Ely, NV 89301, (702) 289–4865

Bureau of land Management, Las Vegas District Office, 4765 W. Vegas Drive, Las Vegas, NV 89102, (702) 385–6403

Bureau of Land Management, Battle Mountain District Office, North 2nd & Scott Streets, Battle Mountain, NV 89820 (702) 635–5181

Bureau of Land Management, Susanville District Office, 705 Hall Street, Susanville, CA 96130, (916) 257–5385

Copies are also available for review at the following public libraries:

Churchill Public Library, 553 S. Main Street, Fallon, NV 89406

Hames Dickinson Library, University of Nevada, 4505 Maryland Parkway, Las Vegas, NV 89514

Washoe County Library 301 South Center Street, Reno, Nevada, NV 89501

Nevada State Library, Library Building, Carson City, NV 89710

Douglas County Public Library, Minden, Nevada 89423

Lassen County Public Library, Susanville, CA 96130

Government Publications Dept. University of Nevada Library, Reno, NV 89557

Alpine County Library, Markleeville, California 96120

Washoe County Library, 1125 12th Street, Sparks, Nevada 89431

Lyon County Library, 20 Nevin Way, Yerington, Nevada 89447

Washoe County Library, Mt. Charleston and Avenues, Stead, Nevada 89506

Limited copies of the Draft and Final EIS are available upon request to the District Manager at the above address.

Dated: September 24, 1982.

Roger J. McCormack,

Associate States Director, Nevada.

[FR Doc. 82–27090 Filed 9–30–82; 8:45 am]

BILLING CODE 4310–84–M

[INT FEIS 82–42]

Final Bruneau-Kuna Grazing Environmental Impact Statement; FEIS Availability

AGENCY: Bureau of Land Management, Interior

ACTION: Notice of availability for final Bruneau-Kuna grazing EIS.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental impact statement for a proposed grazing management program for the Bruneau Resource Area and the southern portion of the Owyhee Resource Area of the Boise District, southwestern Idaho. The proposal involves changes in initial stocking rates, implementing improved grazing management and installation of range improvements. Approximately 2.4 million acres of public lands are

involved. Copies of the final environmental impact statement are available for inspection at the following locations:

Boise District Office, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705, Telephone: (208) 334–1582

Idaho State Office, Bureau of Land Management, Federal Building, 550 West Fort Street, Boise, Idaho 83724, Telephone: (208) 334–1770

Copies of the Final EIS have been distributed to individuals and organizations who received and/or commented on the Draft EIS. A limited number of single copies may be obtained from the Idaho State Director or the Boise District Manager, Bureau of Land Management, at the above addresses.

FOR FURTHER INFORMATION CONTACT:
Ted Milesnick, EIS Team Leader, BLM, Boise District Office,
Telephone: (208) 334– 1582.

Guy E. Baier,
Acting Idaho State Director.

[FR Doc. 82-27031 Filed 9-30-82; 8:45 am]
BILLING CODE 4310-84-M

[INT FEIS 82-40]/

Proposed Livestock Grazing Management Program for the Schell Resource Area, Ely District, Nevada; Availability of Final Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Final Environmental Impact Statement (FEIS).

SUMMARY: Pursuant to Section 102(2) of the National Environmental Policy Act of 1969, the BLM Ely District has prepared an FEIS on a proposed livestock grazing management program for the Schell Resource Area.

The FEIS utilizes an abbreviated format pursuant to 40 CFR 1503.4(c) and is to be utilized in conjunction with the Draft EIS. The final document consists of a summary of impacts, errata actions, and an expanded Chapter 5 on public participation which includes public comments received and responses to the issues raised.

SUPPLEMENTARY INFORMATION: The Schell Grazing EIS analyzes the effects of allocating available vegetation to livestock, big game, and wild horses on 4.2 million acres of public lands in White Pine, Lincoln and Nye Counties, Nevada. The proposal includes recommended grazing management levels by allotment, periods-of-use, utilization levels, grazing treatments and range improvements. Four alternatives were considered along with the proposed action. They are: No Action alternative, No Livestock Grazing alternative, Resource Protection alternative, and Graze at Preference alternative.

FOR FURTHER INFORMATION CONTACT:
Merrill L. DeSpain, District Manager, Attention: EIS Team Leader, Ely District Office, Star Route 5, Box 1, Ely, Nevada 89301, (702) 289–4865.

Copies of the FEIS are available for review at the following locations:

Bureau of Land Management, Nevada State Office, 300 Booth Street, Reno, Nevada 89520, (702) 784–5448

Bureau of Land Management, Elko District Office, 2002 Idaho Street, Elko, Nevada 89801, (702) 738–4071

Bureau of Land Management, Winnemucca District Office, 705 E. 4th Street, Winnemucca, Nevada 89445, (702) 623–3676

Bureau of Land Management, Carson City District, Office, Suite 335, 1050 E. William Street, Carson City, Nevada 89701, (702) 882–1631

Bureau of Land Management, Ely District Office, Star Route 5, Box 1, Ely, Nevada 89301, (702) 289–4865

Bureau of Land Management, Las Vegas District Office, 4765 W. Vegas Drive, Las Vegas, Nevada 89102, (702) 385–6403

Bureau of Land Management, Battle Mountain District Office, North 2nd & Scott Streets, Battle Mountain, NV 89820, (702) 635–5181

Bureau of Land Management, Tonopah Resource Area, Building 102 Old Radar Base, Tonapah, NV 89049, (702) 482–6214

Also, copies are available for review at the following public libraries:

Lincoln County Library, Caliente, NV 89008

Lincoln County Library, Pioche, NV 89043

Clark County Library, 1401 E. Flamingo Road, Las Vegas, NV 89109

Nevada State Library, Library Building, Carson City, NV 89710

University of Nevada-Las Vegas, James R. Dickenson Library, 4505 Maryland Parkway, Las Vegas, NV 89154

White Pine County Library, Campton Street, Ely, NV 89301

University of Nevada, Reno, Getchell Library, Reno, NV 89507

Dated: September 24, 1982.

Roger J. McCormack,
Associate State Director, Nevada.

[FR Doc. 82-27029 Filed 9-30-82; 8:45 am]
BILLING CODE 4310-84-M

Shoshone District; Off-Road Vehicle Designation Decisions

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of off-road vehicle designation decision.

SUMMARY: The Shoshone District, Bureau of Land Management, has completed decisions to designate 245,000 acres of public land in Blaine, Camas, Butte, Custer, and Elmore counties, Idaho as open, limited, or closed to off-road vehicle use. Designations are a result of land use planning decisions made in the 1981 Sun Valley Management Framework Plan. During planning, public comment was minimal in regards to off-road vehicle (ORV) use.

The effect of the designations is to eliminate ORV use on some public lands to protect natural values or limit use subject to restrictions on seasons of use or routes of travel in areas of crucial wildlife habitat values, or important scenic, cultural, or recreation values. However, most public lands are open to all vehicle use. Thirteen areas will be affected, resulting in 9,712 acres closed to ORVs, 42,799 acres limited, and 192,489 acres open to ORVs. No private or state lands will be affected by these designations.

DATE: The subject planning decision modifications are effective October 1, 1982.

FOR FURTHER INFORMATION CONTACT:

Dick Kodeski, Outdoor Recreation Planner, Monument Resource Area, P.O. Box 2B, Shoshone, Idaho 83352, (208) 886–2206; Ervin Cowley, Area Manager, Monument Resource Area, P.O. Box 2B, Shoshone, Idaho 83352, (208) 886–2206.

SUPPLEMENTARY INFORMATION: The authority for this decision is derived from Executive Orders 11644 and 11989 and regulations contained in 43 CFR Part 8340.

Specific area designations are as follows:

I. Open Designation

Vehicle travel is permitted in the area (both on and off roads) if the vehicle is operated responsibly in a manner not causing, or unlikely to cause significant, undue damage to, or disturbance of the soil, wildlife, wildlife habitat, improvements, cultural or vegetative resources or other authorized uses. Most of the public lands in the Sun Valley Planning Unit, 192,489 acres, have been designated as open to all forms of ORV use on a year long basis.

II. Limited Designations

Vehicle travel is limited by restrictions placed on seasons of use, types of vehicles allowed, travel areas or combinations of these restrictions as necessary to protect natural resources.

A. Seasonal restrictions—closed to all motor vehicle use December 1–April 30.

1. Big/Little Beaver area located approximately 15 miles west of Bellevue, Idaho (6,520 acres).

2. Elk Mountain area located approximately 18 miles north of Carey, Idaho (8,296 acres).

3. Martin Canyon area located approximately 5 miles east of Bellevue, Idaho (5,834 acres).

4. Triumph area located just north of Triumph, Idaho (2,461 acres).

5. Deer Creek area located approximately 5 miles northwest of Hailey, Idaho (230 acres).

6. Minnie Moore area located approximately 2 miles west of Bellevue, Idaho (3,599 acres).

7. Queen's Crown area located approximately 5 miles west of Carey, Idaho (7,808 acres).

B. Seasonal restrictions (closed to all motor vehicle use December 1–April 30) and motorized travel limited to designated roads the remainder of the year.

1. Jasper Flats area located approximately 3 miles east of Gannett, Idaho (695 acres).

C. All motorized travel limited to designated roads.

1. North Ketchum area located approximately 3 miles north of Ketchum, Idaho (44 acres).

D. Travel limited to designated roads except over snow vehicles.

1. Dry Creek Springs area located approximately 5 miles north of Picabo, Idaho (230 acres).

E. Travel limited to authorized vehicles under permit.

1. Bald Mountain area located approximately 1 mile southwest of Ketchum, Idaho (1,440 acres).

III. Closed Designation

Several areas have been closed to all motor vehicle use. These areas total 9,712 acres.

A. Hemingway School Environmental Education Area located ¼ mile west of Ketchum, Idaho (70 acres).

B. Friedman area located approximately 22 miles east of Hailey, Idaho (9,535 acres).

C. North Ketchum area located approximately 3 miles north of Ketchum, Idaho (107 acres).

An environmental assessment describing the impact of these designations was completed and no significant environmental impacts were found. This document, as well as detailed maps of closed and limited areas are available for inspection at the office listed above.

Charles J. Hassler,

District Manager.

[FR Doc. 82-27100 Filed 9-30-82; 8:45 am]

BILLING CODE 4310-84-M

Arizona; Notice of Classification of Public Lands for State Indemnity Selection

[Serial Number: A 17000–M (Partial)]

1. The Arizona State Land Department has filed a letter of intent to acquire the lands described in paragraph 5 below, under the provisions of the Act of June 20, 1910 (36 Stat. 557), as amended, in lieu of certain school lands that were reacquired by the Federal Government for project purposes. This application has been assigned the serial number A 17000–M (partial).

2. The Bureau of Land Management will examine these lands for evidence of prior valid rights or other statutory constraints that would bar transfer. Those lands found suitable for transfer will be held to be classified 60 days from date of publication of this notice in the **Federal Register**. Classification is pursuant to Title 43 Code of Federal Regulations, Subpart 2400 and Section 7 of the Act of June 28, 1934.

3. Information concerning these lands and the proposed transfer to the State of Arizona may be obtained from the District Manager, Phoenix District Office, Bureau of Land Management, 2929 West Clarendon Avenue, Phoenix, Arizona 85017, (602) 241–2930.

4. For a period of 60 days from the date of publication of this notice in the **Federal Register**, all persons who wish to submit comments on the above classification may present their views in writing for consideration to the Phoenix District Manager, Bureau of Land Management 2929 West Clarendon Avenue, Phoenix, Arizona 85017. Any adverse comments will be evaluated by the Authorized Officer who will issue a notice of determination to proceed with, modify, or cancel the action. In the absence of any action by the Authorized Officer, this classification action will become the final determination of the Department of the Interior. As provided by Title 43 Code of Federal Regulations, Subpart 2462.1, a public hearing will be scheduled by the District Manager if he determines that sufficient public interest exists to warrant the time and expense of a hearing.

5. The lands included in this classification are located in Maricopa County, Arizona and are described as follows:

Application A 17000–M (Partial)

Gila and Salt River Meridian, Arizona

T. 2 N., R. 6 E.,
Sec. 33: NE¼NE¼, E½NW¼NE¼
60.00± acres.

The total acreage described above for this portion of application A 17000–M is approximately 60.00 acres.

6. The following listed agencies, corporations, and individuals are holders of or applicants for withdrawals, leases, permits, and/or rights-of-way on the lands described in paragraph 5 above.

Withdrawal

Bureau of Reclamation, 2200 Valley National Bank, Phoenix, AZ 85073; 0 12/19/1947, Temp. Wdl.—Salt River Project
Salt River Project P.O. Box 1980, Phoenix, AZ 85001

Rights-of-Way

Salt River Project, P.O. Box 1980, Phoenix, AZ 85001; PHX 086756, Un-numbered Southern Canal
Arizona Extension Railroad, Douglas, AZ 85607; PHX 031105
Mountain State Telephone, Right-of-Way Department, 3033 North Third Street, Room 806–A, Phoenix, AZ 85012; AR 035373

Leases

Talley Industries, Inc., %Talley Realty Group, Inc., 3900 East Camelback Road, Phoenix, AZ 85018; No. 14–06–300–1246, No. 14–06–300–1247

7. Rights-of-way granted by BLM will transfer with the land.

Dated: September 24, 1982.

Tom Allen,

Acting State Director.

[FR Doc. 82-27098 Filed 9-30-82; 8:45 am]

BILLING CODE 4310-84-M

[AR-035307]

Arizona; Proposed Continuation of Withdrawal and Opportunity for Public Hearing

As a result of the review made pursuant to Section 201(1) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754; 43 U.S.C. 1714, the Bureau of Land Management, Department of the Interior, proposes to continue the existing withdrawal made by Public Land Order 4906 of January 26, 1971 for a period of 20 years on the following described lands:

Fort Bowie National Historic Site Buffer Zone

Gila and Salt River Meridian, Arizona
T. 15 S., R. 28 E.,

Section 1, SW¼SW¼, NW¼SW¼, NE¼SE¼, N½NW¼SE¼, NE¼SE¼SE¼, W½SW¼SE¼, SE¼SW¼SE¼;
Section 2, N½N½SE¼, SW¼;
Section 3, N½S½SE¼, SE¼SE¼SE¼
Section 10, S½N½NE¼;
Section 11, SW¼NW¼NW¼, SW¼NW¼, S½S½SE¼NW¼, S½S½SW¼NE¼, SW¼SE¼NE¼;
Section 12, N½N½NE¼.

The areas described aggregate 590 acres in Cochise County.

The land is segregated from operation of the public land laws, including the mining laws and the mineral leasing laws. No change in the segregative effect of the withdrawal or use of the land proposed.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned on or before January 6, 1983. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. In lieu of or in addition to attendance at a scheduled public hearing, written comments or objection to the proposed withdrawal continuation may be filed with the undersigned officer on or before January 6, 1983.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. He will review the withdrawal rejustification to ensure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination of the continuation of the withdrawal will be published in the **Federal Register**. The exiting withdrawal will continue until such final determination is made.

All communications in connection with the proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, U.S. Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Dated: September 23, 1982.

Linda Kipp,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc 82-27086 Filed 9-30-82; 8:45 am]

BILLING CODE 4310-84-M

[M 56306]

Montana; Notice of Invitation; Coal Exploration License Application

September 23, 1982.

Members of the public are hereby invited to participate with Tenneco Coal Company in a program for the exploration of coal deposits owned by the United States of America in the following described lands located in Wibaux County, Montana:

T. 13 N., R. 60 E., P.M.M.
Sec. 4: Lots 3, 4, S½NW¼
Sec. 10: NE¼, S½
Sec. 12: W½
Sec. 14: SE¼
Sec. 24: SW¼
T. 14 N., R. 60 E., P.M.M.
Sec. 28: NW¼
Sec. 34: NW¼
T. 12 N., R. 61 E., P.M.M.
Sec. 4: Lots 1, 2, 3, 4, S½NW¼, NW¼SW¼
Sec. 8: W½
Sec. 20: S½NW¼
T. 13 N., R. 61 E., P.M.M.
Sec. 6: Lots 1, 2
Sec. 18: Lots 1, 4
Sec. 30: Lots 1, 2, 3,4

2,598.70 acres.

Any party electing to participate in this exploration program shall notify, in writing, both the State Director, Bureau of Land Management, P. O. Box 30157, Billings, Montana 59107; and Tenneco Coal Company, P. O. Box 2511, Houston, Texas 77001. Such written notice must refer to serial number M 56306 and be received no later than 30 calendar days after publication of this Notice in the **Federal Register** or 10 calendar days after the last publication of this Notice in the Wibaux Pioneer-Gazette, whichever is later. This Notice will be published for two consecutive weeks.

This proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by Minerals Management Service, 2525 4th Avenue North, Billings, Montana, and the Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32nd Street, Billings, Montana. The exploration plan is available for public inspection at either of these offices at the addresses given.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-27094 Filed 9-30-82; 8:45 am]

BILLING CODE 4310-84-M

Montana Off-Road Vehicle Designations

September 24, 1982.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of off-road vehicle designation decision.

DECISION: Notice is hereby given relating to the use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR Part 8340. The following described lands under the administration of the Bureau of Land Management are designated as open, limited, or closed to off-road motorized vehicle use pursuant to the provisions of 43 CFR 8342.1.

The 978,620 acre area affected by the designation is known as the Beaverhead and Madison Planning Units, which include all public lands in Beaverhead, Madison, Deer Lodge and Silver Bow Counties, Montana.

These designations are revisions to the Dillon Off-Road Vehicle Travel Plan, dated June 1981, and published in Vol. 46, No. 165, of the **Federal Register** dated Wednesday, August 26, 1981. These revisions are necessary to more efficiently manage off-road vehicles on public lands and to coordinate off-road vehicle travel management with neighboring Beaverhead National Forest lands. Comments received from eight public open houses and numerous written responses influenced the changes made in the 1981 designations. This designation order supersedes all other off-road vehicle travel designations. These designations are published as final, effective October 1, 1982, and will remain in effect until rescinded or modified by the authorized officer. Under 43 CFR 4.21, an appeal may be filed within 30 days with the Interior Board of Appeals.

A. Open Designation-Areas which are designated open comprise approximately 771,178 acres.

B. Limited Designation-Areas which are designated limited comprise approximately 197,540 acres. Limited designation was determined appropriate to protect the resources of the public lands, promote the safety of all users of the public lands, and to minimize

conflicts among various users of the public lands. The following identifies the type of restriction on motorized vehicle travel, the specific area(s) where the restriction occurs, the affected acreage, and a brief rationale for each affected area.

1. Motorized travel limited to authorized users only:

a. Bad Luck Creek (640 acres)-to protect bighorn sheep, elk, and deer.

b. Hidden Pasture (6,625 acres)-to protect bighorn sheep.

c. Mill Gulch (320 acres)-to protect elk.

d. Culver Spring (40 acres)-to protect bald eagle habitat.

e. Antone-Middle Creeks (435 acres)-to protect user safety.

2. Closed to all motorized vehicles from December 1 to May 15:

a. Davey-Idaho-Jack Creeks (12,285 acres)-to protect wintering elk and deer.

b. Wall Creek (315 acres)-to protect wintering elk and deer.

c. Dyce Creek (11,969 acres)-to protect wintering elk and deer.

d. Dickie Hills-Jimmie New Creek (10,610 acres)-to protect wintering elk and deer.

e. Price-Peet-Bean Creeks (11,137 acres)-to protect wintering elk and deer.

3. Closed to all motorized vehicles from October 15 to May 15:

a. Charcoal Gulch (1,842 acres)—to protect elk security habitat and winter range.

4. Closed to all motorized vehicles from April 1 to December 1:

a. Clark Canyon (2,280 acres)—to protect elk fall habitat and unstable soils.

5. Closed to all motorized vehicles from October 15 to December 1:

a. Maiden Rock (1,130 acres)—to protect bighorn sheep.

6. All motorized vehicles except snowmobiles restricted to designated routes yearlong:

a. Virginia City Municipal Watershed (320 acres)—to protect municipal water supply.

b. Sheridan Municipal Watershed (505 acres)—to protect municipal water supply.

c. Dillon Municipal Watershed (5,944 acres)—to protect municipal water supply.

d. Ruby Mountains (26,611 acres)—to protect wilderness suitability.

e. Bell-Limekiln Canyons (9,650 acres)—to protect wilderness suitability.

f. Henneberry Ridge (9,807 acres)—to protect wilderness suitability.

g. Bumby Mountain (540 acres)—to protect wilderness suitability.

h. Farlin Creek (1,139 acres)—to protect wilderness suitability.

i. Bannack (305 acres)—to preserve the historic townsite of Montana's first territorial capitol.

j. Centennial Mountains Tack-on (1,970 acres)—to provide primitive, nonmotorized recreation opportunities.

7. All motorized vehicles restricted to designated routes from May 15 to December 1. Entire area, including designated routes, closed to all motorized vehicles from December 1 to May 15:

a. East Fork Blacktail (6,730 acres)—to protect elk summer, fall and winter habitats.

b. Dutch Hollow (1,920 acres)—to protect elk summer, fall, and winter habitat.

c. Jake Canyon (7,180 acres)—to protect elk summer, fall, and winter habitats.

d. MacLean-Moose Creeks (4,133 acres)—to protect bighorn sheep, elk, and deer, and to provide primitive, nonmotorized recreation opportunities.

e. Muddy Creek (13,797 acres)—to protect elk summer, fall, and winter habitats and unstable soils.

8. All motorized vehicles restricted to designated routes from October 15 to December 1. Entire area, including designated routes, closed to all motorized vehicles from December 1 to May 15:

a. Soap Gulch (4,881 acres)—to protect bighorn sheep and wintering elk and deer.

9. All motorized vehicles restricted to designated routes from October 15 to December 1:

a. Camp Creek (16,868 acres)—to protect bighorn sheep.

10. Closed to all motorized vehicles except snowmobiles yearlong:

a. Madison Tack-ons (869 acres)—to protect wilderness suitability.

b. Shakey Spring (340 acres)—to protect wilderness suitability.

11. Closed to all motorized vehicles except snowmobiles from April 1 to July 1:

a. Sheep Creek (540 acres)—to protect calving elk.

b. Sheser-Bear Creeks-Bear Gulch (4,960 acres)—to protect calving elk.

c. Gibbs Creek (840 acres)—to protect calving elk.

12. All motorized vehicles restricted to designated routes yearlong, except snowmobiles which are permitted to travel off designated routes from December 1 to May 15:

a. Blacktail Ridge (10,299 acres)—to protect elk summer/fall habitats.

13. All motorized vehicles restricted to designated routes, some of which have seasonal restrictions, except snowmobiles which are permitted to travel off designated routes from December 1 to May 15. Entire area, including designated routes, closed to wheeled vehicles from April 1 to July 1:

a. Axolotl Lakes (7,804 acres)—to protect fragile, unstable soils and to protect the axolotl salamander.

C. Closed Designation—All motorized vehicle use is prohibited in the 2,861 acre Bear Trap Canyon, 7,041 acre Humbug Spires, and 21,774 acre Centennial Mountains areas to provide primitive, nonmotorized recreation opportunities. Only emergency vehicle travel will be authorized in these two areas.

Detailed maps showing the location of the above-described designations are available from the offices listed below.

ADDRESS: For further information about these designations, contact either of the following Bureau of Land Management offices:

District Manager, Butte Distric Office, P.O. Box 3388, Butte, Montana 59701, (406) 494–5059

Area Manager, Dillon Resource Area, P.O. Box 1048, Dillon, Montana 59725, (406) 683–2337

Jack McIntosh,

District Manager, Butte District Office.

[FR Doc. 82-27097 Filed 9-30-82; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Notice of Filing of Plat of Survey and Order Providing for Opening of Lands

September 24, 1982.

1. The Plat of Survey of lands described below will be officially filed at the Nevada State Office, Reno, Nevada, effective at 10:00 a.m., on November 8, 1982.

Mount Diablo Meridian, Nevada

T. 40 N., R. 52 E.

2. The southwest corner of the above township is located about 2 miles east of Tuscarora, Nevada and in the center of Independence Valley. Elevation varies from 5,600 to 7,000 ft. above sea level. The soil varies from sandy clay loam along the river bottom to rocky in the higher elevations. Vegetation consists of sagebrush, shadscale, meadow grass and other sparse native grass.

The township is drained by the South Fork of the Owyhee River, which flows in a northwesterly direction from the south boundary of section 32 to the north boundary of section 6.

Access to the township is provided by State Highway No. 11 and numerous improved and unimproved roads. A ranch is located in section 24 and ranch buildings are located in sections 8 and 29.

Principal users of the area are cattlemen. No mineral formations of any consequence were noted during the survey.

3. Subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law, the lands are hereby opened to such applications and petitions as may be permitted. All such valid applications received at or prior to 10:00 a.m. on November 8, 1982 shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

Inquiries concerning these lands shall be addressed to the Nevada State Office, Bureau of Land Management, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520.

Lacel E. Bland,

Acting Chief, Division of Operations.

[FR Doc. 82-27099 Filed 9-30-82; 8:45 am]

BILLING CODE 4310-84-M

[M 56305 (ND)]

North Dakota; Notice of Invitation, Coal Exploration License Application

September 22, 1982.

Members of the public are hereby invited to participate with Tenneco Coal Company in a program for the exploration of coal deposits owned by the United States of America in the following described lands located in Golden Valley, North Dakota:

T. 138 N., R. 106 W., 5th P.M.
Sec. 2: Lots 3, 4, S½NW¼, SE¼
T. 139 N., R. 106 W., 5th P.M.
Sec. 14: NW¼
Sec. 24: NE¼, S½
Sec. 26: NE¼, SW¼
Sec. 34: Lots 2, 3
T. 140 N., R. 106 W., 5th P.M.
Sec. 22: NE¼

1537.02 acres.

Any party electing to participate in this exploration program shall notify, *in writing*, both the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107; and Tenneco Coal Company, P.O. Box 2511, Houston, Texas 77001. Such written notice must refer to serial number M 56305(ND) and be received no later than 30 calendar days after publication of this Notice in the **Federal Register** or 10 calendar days after the last publication of this Notice in the Golden Valley News, whichever is later. This Notice will be published for two consecutive weeks.

This proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by Minerals Management Service, 2525 4th Avenue North, Billings, Montana, and the Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32nd Street, Billings, Montana. The exploration plan is available for public inspection at either of these offices at the addresses given.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-27005 Filed 9-30-82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Delaware Water Gap National Recreation Area, Bushkill, Pennsylvania; Availability of Final Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service, U.S. Department of the Interior, has prepared a final environmental impact statement for the proposed plan for management of U.S. Highway 209, within the National Recreation Area. The proposal would totally restrict commercial truck traffic. The alternatives considered are: No Action—or minimum NPS management enforcing existing speed limits; reduce speed limits; exclude trucks during daylight hours; and exclude trucks during seasonal periods.

Public reading copies will be available for review at the following locations:

Office of Public Affairs, Department of the Interior, National Park Service, 18th and C Streets, NW., Washington, D.C. 20240; telephone (202) 343-6843

Associate Regional Director, Planning and Resource Preservation, Department of the Interior, National Park Service, Mid-Atlantic Region, 143 South Third Street, Philadelphia, Pennsylvania 19106; telephone (215) 597-7097

Superintendent, Delaware Water Gap National Recreation Area, Bushkill, Pennsylvania 18324; telephone (717) 588-6637

Dated: September 28, 1982.

Don H. Castleberry,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 82-27139 Filed 9-30-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Long- and Short-Haul Application for Relief (Formerly Fourth Section Application)

September 27, 1982.

This application for long- and short-haul relief has been granted by the ICC.

No. 43978, Trans-Continental Freight Bureau (No. 567), reduced rates on brandy, champagne, vermouth or wine, minimum 112,000 pounds, from Modesto Colony, CA to the East, in Supplement 345 to its tariff ICC TCFB 3002-S, effective September 19, 1982. Grounds for relief: Motor and Water Competition.

This application was received by the Commission's Suspension Board on September 10, 1982. This precluded the Board from publishing the requested relief in the **Federal Register** in order to give interested parties an opportunity to protest.

By action of September 15, 1982, the Commission, Suspension Board, Members Fitzgerald, Halvarson, and Hall—Member Fitzgerald not participating, concluded to grant the requested relief in Long-And-Short-Haul Order No. 20696, subject to the proviso that the authority will expire 45 days from September 15, 1982. This notice is to advise that the Commission's Suspension Board will reopen this proceeding on its own motion (if not protested), to consider the expiration date of this authority. Interested parties wishing to object may file their objections with the Suspension Board not later than the 10th day before the expiration date.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-27060 Filed 9-30-82; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 1052(b).

1. Parent corporation and address of principal office: Campbell Taggart, Inc., 6211 Lemmon Avenue, Dallas, Texas 75209

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

Bel-Art Advertising, Inc., 6211 Lemmon Avenue, Dallas, Texas 75209

Rainbo Baking Company of Corpus Christi, P.O. Box 4207, Corpus Christi, Texas 78408
Rainbo Baking Company of El Paso, P.O. Box 9277, El Paso, Texas 79983
Rainbo Baking Company of Fort Smith, P.O. Box 64, Ft. Smith, Arkansas 72902
Rainbo Bakeries of San Joaquin Valley, Inc., P.O. Box 832, Fresno, California 93712
Colonial Baking Company of Huntsville, P.O. Box 5147, Huntsville, Alabama 35805
Rainbo Baking Company of Johnson City, P.O. Box 2387, Johnson City, Tennessee 37601
Rainbo Baking Company of Lexington, P.O. Box 86, Lexington, Kentucky 40501
Rainbo Baking Company of Lubbock, P.O. Box 459, Lubbock, Texas 79408
Rainbo Baking Company of Louisville, P.O. Box 8245, Station E, Louisville, Kentucky 40208
Evansville Colonial Baking Company, P.O. Box 1086, Owensboro, Kentucky 42301
Paducah Colonial Baking Company, P.O. Box 3100, Paducah, Kentucky 42001
Rainbo Baking Company of Sacramento Valley, P.O. Box 5387, Sacramento, California 95817
Rainbo Bread Company of Saginaw, P.O. Box 3266, Saginaw, Michigan 48605
Ramtag, Inc., Inc., 6211 Lemmon Avenue, Dallas, Texas 75209
Kilpatrick's Bakeries, Inc., 2030 Folsom Street, San Francisco, California 94110
El Chico Corporation, 1925 Valley View Lane, Farmers Branch, Texas 75234
Larry's Food Products, Inc./a Subsidiary of El Chico Corporation, 14725 S. Broadway, Gardena, California 90248
Merico, Inc., Corporate Offices, P.O. Box D, Carrollton, Texas 75006
Merico, Inc., Carrollton Division, P.O. Box 457, Carrollton, Texas 75006
Merico, Inc., Forest Park Division, P.O. Box D, Forest Park, Georgia 30050
Merico, Inc., Ft. Payne Division, P.O. Box 560, Ft. Payne, Alabama 35967
Merico, Inc., Indianapolis Division, P.O. Box 19325, Indianapolis, Indiana 46219
Merico, Inc., Little Rock Division, P.O. Box 9009, Little Rock, Arkansas 72219
Merico, Snack Food Division, P.O. Box 719, Paris, Texas 75460
Merico, Inc., Packaging Division, P.O. Box 1155, Paris, Texas 75460
Coosa Baking Company/a Division of Merico, Inc., P.O. Box 5071, Rome, Georgia 30161
Penn Dutch Cookie Co./a Division of Merico, Inc., P.O. Box 107, Fleetwood, Pennsylvania 19522
Rod's Food Products/a Division of Merico, Inc., 17380 Railroad St., City of Industry, California 91749
Royal Foods/a Division of Merico, Inc., 2222 Minnesota, Indianapolis, Indiana 46203
Herby's Food Products, Inc., 901 Santerre, Grand Prairie, Texas 75050

1. Parent corporation and address of principal office: CooSand Corp., an Oregon corporation, 4421 138th Ave., SE., Bellevue, Washington 98006.

2. Wholly-owned subsidiary which will participate in the operations, and State of incorporation: CS Trucking Co., an Oregon corporation.

1. Parent corporation and address of principal office: LADD Furniture, Inc., No. 1 Plaza Center, P.O. Box HP 3, High Point, North Carolina 27261.

2. Wholly-owned subsidiary which will participate in the operation, and address of its respective principal offices: LADD Transportation, Inc., No. 1 Plaza Center, P.O. Box HP 3, High Point, North Carolina 27261.

1. Parent corporation and address of principal office: Roy's Dairy, Inc., a Wisconsin corporation, 307 11th Street, Monroe, WI 53566.

2. Wholly-owned subsidiaries which will participate in the operations, and State(S) of incorporation:

i. Roy's Dairy, Inc., a Wisconsin corporation

ii. Lugano Cheese Co., Inc., a Wisconsin corporation

iii. R.L.D. Trucking, Inc., a Wisconsin corporation

iv. Dairyland Specialties, Inc., a Wisconsin corporation

1. Parent corporation and address of principal office: Skagway Enterprises, Inc., 358 North Pine Street, P.O. Box 1647, Grand Island, NE 68801.

2. Wholly-owned subsidiaries which will participate in the operations, and State(S) of incorporation:

1. Snyder Industries, Inc., 4700 Fremont Street, P.O. Box 4583, Lincoln, NE 68504; Incorporated in Nebraska.

2. Skagway Discount Department Stores, Inc., 620 West State Street, 5 Points, P.O. Box 1647, Grand Island, NE 68801; Incorporated in Nebraska.

1. Parent corporation and address of principal office: Transway International Corporation, 747 Third Avenue, New York, NY 10017.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

A. California Western Freight Association, 3334 San Fernando Road, Los Angeles, CA. 90054
B. Coordinated Caribbean Transport, 1533 Sunset Drive, Coral Gables, FL 33145
C. Custom Cartage Company, 351 Tenth Avenue, New York, N.Y. 10001
D. Custom Equipment Rentals, Inc., 351 Tenth Avenue, New York, N.Y. 10001
E. Freeport Cruise Liner Panama, Inc., 747 Third Avenue, New York, N.Y. 10017
F. Great Dane Trailers, Inc., P.O. Box 67 E. Lathrop Ave., Savannah, GA 31402
F.1 Great Dane Birmingham, P.O. Box 5070 Birmingham, Alabama 35214
F.2 Great Dane Charlotte, P.O. Box 33666, Charlotte, N.C. 28233
F.3 Great Dane Columbus, P.O. Box 9, Hilliard, Ohio 43026
F.4 Great Dane Trailers Indiana, Inc., P.O. Box 350, Brazil, Indiana 47834
F.5 Great Dane Indianapolis, P.O. Box 41316, Indianapolis, Ind. 46241
F.6 Great Dane Jacksonville, P.O. Box 6732, Jacksonville, FL 32205
F.7 Great Dane Knoxville, P.O. Box 22220, Knoxville, TN 37922
F.8 Great Dane Memphis, P.O. Box 94446, Memphis, TN 38109
F.9 Great Dane Miami, P.O. Box 914 Tamiami Sta., Miami, FL 33122
F.10 Great Dane Nashville, P.O. Box 100432, Nashville, TN 37210
F.11 Great Dane Orlando, P.O. Box 31, Orlando, FL 32802
F.12 Great Dane Richmond, P.O. Box 34129, Richmond, VA 23234
F.13 Great Dane Tampa, P.O. Box 11146, Tampa, FL 33680
F.14 Great Dane Springdale, P.O. Box 227, Springdale, ARK 72764
F.15 Great Dane Tennessee, P.O. Box 13066, Memphis, Tennessee 38113
F.16 Trailer Rental Company, 660 University Ave. S.W., Atlanta, GA 30310
G. Lasham Cartage Company, 3636 S. Western Ave., Chicago, IL 60609
H. Merchant Shippers, 1061 S. Western Ave., Chicago, IL 60608
I. Odecca Terminal Company, 747 Third Avenue, New York, N.Y. 10017
J. Pacific Forwarding Company, 1601 S. Western Ave., Chicago, IL 60608
K. Robertson Drayage Co., Inc., 700 16th Street, San Francisco, CA 94107
L. Stor Dor Freight System, Inc., 1601 S. Western Ave., Chicago, IL 60608
M. Transport Cartage & Distributing Co., 1039 Richmond Street, Los Angeles, CA 90005
N. Tropigas International Corp., P.O. Box 341218, Coral Gables, FL 33134
O. Tropigas, SA, P.O. Box 341218, Coral Gables, FL 33134
P. Tropigas Inc. of Florida, P.O. Box 440249, Miami, FL 33144
Q. Tropigas Inc. of North Carolina, P.O. Box 156, Pollocksville, N.C. 28573
R. Universal Carloading & Distributing Co., Inc., 345 Hudson Street, New York, N.Y. 10014

S. Universal Transcontinental Corporation, 325 Spring Street, New York, N.Y. 10013
T. Wescartage Company, Inc., 900 East Third Street, Los Angeles, CA 90013
U. Western Carloading Co., Inc., 900 East Third Street, Los Angeles, CA 90013
V. Western Freight Handlers, Inc., 650 Tenth Avenue, New York, N.Y. 10001
W. Western Terminal Company, 1601 S. Western Avenue, Chicago, IL 60608
X. Westland Freight Lines, Inc., 2727 East Vernon Avenue, Vernon, CA 90058

1. Parent corporation and address of principal office: Wolverine World Wide, Inc., 9341 Courtland Drive, Rockford, Michigan 49351.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

WWW Retail, Inc., 10901 Northland Drive, Rockford, Michigan 49341
Indianapolis Glove Company, Inc., 430 North Park Avenue, Indianapolis, Indiana 46206
Brooks Shoe, Inc., 131 Factory Street, Hanover, Pennsylvania 17331
Lustigs Inc., 125 Federal Plaza West, P.O. Box 49, Youngstown, Ohio 44503
Viner Brothers, Inc., 304 Hancock Street, P.O. Box 1388, Bangor, Maine 04401
Town & Country Shoes, 1177 North Warson Road, St. Louis, Missouri 63132

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-27088 Filed 9-30-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Provisional Exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Douglas Galloway, (202) 275-7278
or
Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract number, and specifics	Review board *	Decided date
281	Burlington Northern Railroad Co., ICC-BN-C-0035, Supplement 3, (Lumber and related articles via the Ports of Birmingham, AL, Chicago, IL, and Houston, TX).	5	9-27-82
283	Richard B. Ogilvie, Trustee for the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Co., ICC-MILW-C-0223, (Scrap iron or steel).	3	9-27-82
286	Union Pacific Railroad Co., ICC-UP-C-0103, (Grain).	3	9-27-82
287	Consolidated Rail Corporation, ICC-CR-C-0158, 0161, 0172, and 0175, (Boxcar commodities with exceptions).	3	9-27-82

* Review Board No. 3, Members Krock, Joyce, and Dowell. (Member Krock not participating).

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-27083 Filed 9-30-82; 8:45 am]

BILLING CODE 7035-01-M

Section 5b Applications 2, 3, and 6; Western Railroads, Eastern Railroads, and Southern Railroads; Agreements

AGENCY: Interstate Commerce Commission.

ACTION: Extension of Filing Deadline to Notice of Final Decision

SUMMARY: On September 15, 1982, the Western Railroad Traffic Association (Western Railroads) and the Traffic Executive Association-Eastern Railroads (Eastern Railroads) requested a two week extension of the October 1, 1982 deadline for filing amended agreements in accordance with the Commission's July 23, 1982 dicision in Section 5b Application No. 2, *Western Railroads-Agreement,* 363 I.C.C. 918 (served August 17, 1982 and noticed at 47 Fed. Reg. 3588 August 17, 1982). The extension is granted. The deadline for filing amended agreements by the Western Railroads, the Eastern Railroads, and the Southern Freight Association (Southern Railroads) is extended until October 15, 1982. Antitrust immunity will continue as provided for in the Commission's July 23, 1982 decision.

DATES: The new deadline for filing new or amended agreements is October 15, 1982. Comments on the amended agreements are due on or before November 4, 1982.

FOR FURTHER INFORMATION CONTACT:

Tom Smerdon, (202) 275-7277.

Decided: September 24, 1982.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-27081 Filed 9-30-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 299]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: September 24, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 F.R. 88747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC-157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Williams, and Higgins.

Agatha L. Mergenovich,
Secretary.

MC 41240 (Sub-23)X, Filed September 2, 1982. Applicant: NELSON TRUCKING SERVICE, INC., Mediapolis, IA 52637. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Lead and Subs 6, 7, 9, 11, 13, 15, 20F, 21F, and 22F: (1) broaden (a) general commodities, with the usual exceptions (lead and Subs 9, and 11), general commodities, with the usual exceptions and except drugs (lead and Sub 15), and general commodities, except those of unusual value, liquids in bulk, and classes A and B explosives (Sub 6) to "general commodities (except classess A and B explosives)"; (b) farm machinery and parts, fence, and fence materials to "machinery, metal products, and lumber and wood products", tankage, feed, fertilizer, and seeds to "food and related products, chemicals and related products, and farm products", household goods and farm machinery and parts therefor to "household goods and machinery", coal to "coal and coal products", livestock to "farm products", farm machinery and parts thereof, farm implements and parts thereof, and binder twine to "machinery and textile mill products", fertilizer to "chemicals and related products", and feed, grain and cheese to "food and related products", farm implements and twine to "machinery and textile mill products", fencing materials to "metal products and lumber and wood products", and monuments, new furniture, shrubbery, trees, and cord wood to "metal products, furniture and fixtures, farm products, and lumber and wood products", (lead); (b) electric light and power line equipment and supplies to "machinery and metal products", (Sub 6); (c) building materials, gypsum, and gypsum products, and materials and supplies to "building materials, and clay, concrete, glass or stone products", (Sub 7); (d) malt beverages to "food and related products", (Sub 13); (e) adhesives, building materials, gypsum, and gypsum products and materials and supplies to "chemicals and related products, clay, concrete, glass or stone products, and materials and supplies", (Sub 20F); and (f) wrought iron pipe (Sub 21F) and iron and steel articles (Sub 22F) to "metal products"; (2) remove the following restrictions: for delivery only (lead); facilities limitations and/or originating at or destined to (Subs 7, 9 and 21F); and except commodities in bulk (Sub 20F); (3) allow service to all intermediate points (lead); (4) change one-way regular routes to two-way authority and one-way irregular routes to radial authority, in named certificates; (5) broaden off-route points (regular routes) to county-wide authority: Hammond and Whiting, IN (Lake County), Harvey, IL (Cook County), Rock Falls, IL (Whiteside County), Walnut, IL (Bureau County), Yorkville, IL (Kendall County), Bartonville, IL (Peoria County), Houghton and Mt. Hamill, IA (Lee County), points in that part of Iowa north and east of a line beginning at the confluence of the Skunk River and the Mississippi River and extending in a northwesterly direction along the Skunk River to junction U.S. Highway 218, thence along U.S. Highway 218 to junction Iowa Highway 78, thence south and east of a line beginning at the junction of U.S. Highway 218 and Iowa Highway 78 and extending along Iowa Highway 78 to junction Iowa Highway 249, thence along Iowa Highway 249 to junction unnumbered highway, thence along unnumbered highway to Columbus Junction, IA, thence south of a line beginning at Columbus Junction, IA, and extending along Iowa Highway 92 via Fredonia, IA, to Grandview, IA, and thence east to the Mississippi River, (Des Moines, Henry, Lee, and Louisa Counties, IA), and points within ten miles of Wilton Junction, IA (Cedar and Muscatine Counties, IA), lead; and Burns Harbor, Porter County, IN (Porter County), Sub 9; and (6) change city-wide (irregular routes) to country-wide authority: Mediapolis, IA, and points within ten miles thereof (Des Moines and Louisa Counties), Muscatine, IA (Muscatine County), Burlington, IA, and points in Iowa within 20 miles thereof (Des Moines, Henry, Lee and Louisa Counties), Wilton Junction, IA, and points in Iowa within 15 miles thereof (Muscatine, Cedar and Scott Counties), Sandwich, IA (De Kalb County), Burlington and Mediapolis, IA (Des Moines County), Rock Falls, IL (Whiteside County), points in Illinois within 20 miles of Burlington, IA (Hancock, Henderson, McDonough, and Warren Counties, IL), Rockford, IL (Winnebago County, De Kalb and Joliet, IL (De Kalb and Will Counties), Wilton Junction, IA (Muscatine County), Freeport, IL (Stephenson County), and points in Iowa and Illinois within 35 miles of Muscatine, IA, including Muscatine (Cedar, Clinton, Des Moines, Henry, Johnson, Louisa, Muscatine, Scott, and Washington Counties, IA, and Henderson, Henry, Mercer, Rock Island, and Warren Counties, IL), lead; Keokuk, IA (Lee County), points in Iowa and Illinois within 15 miles of that part of the Mississippi River extending between Burlington, IA, and Golden Eagle, IL (Clinton, Henderson, Henry, Mercer, Rock Island, Scott, and Warren Counties, IL and Cedar, Des Moines, Henry, Johnson, Louisa, Muscatine, and Washington Counties, IA), Sub 6; Mediapolis, IA (Des Moines County), Sub 7; South Bend, IL (St. Joseph County), Burlington, Coralville, and Muscatine, IA (Des Moines, Johnson and Muscatine Counties), Sub 13; Mediapolis, IA (Des Moines County), Sub 20F; Blue Island, Evanston, and Chicago and Forest Park, IL (Chicago, IL), Peoria and Bartonville, IL (Peoria, IL), and points in Illinois within 50 miles of the Iowa-Illinois State line (Adams, Brown, Bartonville, IL (Peoria, IL), and points in Illinois within 50 miles of the Iowa-Illinois State line (Adams, Brown, Bureau, Carroll, Fulton, Hancock, Henderson, Henry, JoDaviess, Knox, Lee, McDonough, Mercer, Ogle, Pike, Rock Island, Schuyler, Stark, Stephenson, Warren, Whiteside, and Winnebago Counties), lead.

MC 119815 (Sub-24)X, filed September 15, 1982. Applicant: INTERSTATE HIGHWAY EXPRESS, INC., P.O. Box 579, Bedford, IN 47421. Representative: Ronald N. Cobert, Suite 501, 1730 M Street NW., Washington, D.C. 20036. Lead and Subs 7, 8, 11, 12, 14, 15, 17, 19, and 21 permits: (1) broaden territorial descriptions to between points in the U.S. (except AK and HI) under continuing contract(s), with a named shipper; (2) broaden commodity descriptions from (a) gypsum products and reinforced precast concrete forms or shapes, with or without natural or artificial facing to "clay, concrete, glass or stone products" in the lead and Sub 7; and (b) corrugated metal pipe, corrugated metal sheets, metal pipe, metal sheets and fittings therefore and iron and steel articles to "metal products" in Subs 8, 11, 12, 14, 15, 17, and 19; and (3) remove the (a) except

commodities in bulk restrictions in Subs 14, and 21, and (b) size and weight restrictions in Subs 14, 17, and 19.

MC 134460 (Sub-13)X, filed September 20, 1982. Applicant: MARKET EXPRESS, INC., 2774 S. Orange Ave., Fresno, CA 93725. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306. Subs 3, 8, 10 and 12F. Broaden: Sub 3, frozen meats, in vehicles equipped with mechanical refrigeration; Sub 8, food and foodstuffs, in vehicles equipped with mechanical refrigeration, and Sub 10, foodstuffs requiring mechanical refrigeration, to "food and related products"; Sub 3, bananas, and Sub 12F, part (1) bananas, and part (2) agricultural commodities which are otherwise exempt from economic regulation under 49 U.S.C. 10526(a)(6), when moving in mixed loads with bananas, to "farm products"; Sub 3, Oakland, CA, to Alameda County, CA; Los Angeles Harbor, CA, Commercial Zone as defined by the Commission, to Los Angeles County, CA; Sub 8, Las Vegas, NV, to Clark County, NV; Sub 12F, Port Hueneme, CA facilities to Ventura County, CA; broaden to radial authority (Subs 3, 8 and 12F); and remove restriction in Subs 3 and 12F to transportation of traffic having prior movement by water.

[FR Doc. 82-27085 Filed 9-30-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in oppostion.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

For the following please direct status inquiries to Team 2, (202) 275-7030.

Volume No. OP 2-239

Decided: September 24, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Chandler not participating.)

MC 138493 (Sub-15), filed September 20, 1982. Applicant: JAKUM TRUCKING, INC., Rural Route 2, Miley Rd., Sheboygan Falls, WI 53085. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703, (608) 256-7444. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147112 (Sub-5), filed September 20, 1982. Applicant: BRYAN TRUCKING CO., INC., P.O. Box 416, Ruffin, SC 29475. Representative: Bruce E. Mitchell, Suite 520, 3390 Peachtree Rd. NE, Atlanta, GA 30326, (404) 262-7855. Transporting *general commodities* (except commodities in bulk, household goods, and classes A and B explosives), between points in VA, NC, SC, GA, and FL.

MC 147573 (Sub-4), filed September 20, 1982. Applicant: OAK ISLAND EXPRESS, 2 Sixth St., Jersey City, NJ 07302. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505, (717) 342-7595. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S., Under continuing contract(s) with Kansas City Shippers Association, of Kansas City, MO.

MC 147962 (Sub-5), filed September 20, 1982. Applicant: DONDO TRUCKING, INC., 9020 South Ridgeland, Oak Lawn, IL 60453. Representative: Joseph Winter, 29 South La Salle St., Chicago, IL 60603, (312) 263-2306. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL and IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 1 at 202-275-7992.

Volume No. OP1-168

Decided: September 24, 1982.

By the Commission, Review Board No. 1, Members Parker, Fortier, and Chandler. (Member Chandler not participating.)

MC 75471 (Sub-8), filed September 14, 1982. Applicant: ELSTON RICHARDS STORAGE CO., 3739 Patterson SE, Grand Rapids, MI 49508. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503 (616) 459-6121. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Spartan Stores, Inc., and Miller Metal Products Co., both of Grand Rapids, MI.

MC 99261 (Sub-6), filed September 20, 1982. Applicant: ROOT'S EXPRESS, INC., 11 Karlada Drive, Binghamton, NY 13902. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836-1144. Transporting

general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in NY and PA.

MC 99961 (Sub-6), filed September 8, 1982. Applicant: BIG CHIEF TRUCK LINES, INC., PO Box 1039, 1331 Hwy 93, Scott, LA 70583. Representative: Ronald Marchand (same address as applicant), (318) 232–1905. Transporting *oilfield drilling rigs, supplies and waste material,* between points in LA, TX, and MS, on the one hand, and, on the other, points in AL, GA, SC, and NC.

MC 120360 (Sub-2), filed September 10, 1982. Applicant: STEPHENS TRUCKS, INC., P.O. Box 1169, Graham, TX 76046. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767 (512) 472–8080. Transporting (1) *Mercer commodities,* and (2) *those commodities* which because of their size and weight require the use of special handling or equipment, between points in TX. Condition: Issuance of a certificate in his proceeding is conditioned upon the prior or coincidental cancellation, at applicant's written request, of its certificate of registration No. MC–120360 Sub 1.

Note.—The purpose of this application is to convert applicant's certificate of registration in MC–120360 Sub 1 to a certificate of public convenience and necessity.

MC 121811 (Sub-12), filed September 16, 1982. Applicant: MC CLELLAN'S ENTERPRISES, INC., PO Box 1327, Tifton, GA 31794. Representative: J. L. Fant, PO Box 577, Jonesboro, GA 30237, (404) 477–1525. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 123600 (Sub-2), filed September 20, 1982. Applicant: ROBERT N. SMITH, d.b.a. BOB SMITH's WRECKER SERVICE, P.O. Box 10514, Fort Wayne, IN 46852. Representative William B. Elmer, P.O. Box 801, Traverse City, MI 49685–0801, (616) 941–5313. Transporting *transportation equipment,* between points in IN, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 144510 (Sub-9), filed September 17, 1982. Applicant: JERRY J. KOBS, INC., 131 Bridge Court, Sergeant Bluff, IA 51054. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402)–397–8900. Transporting *food and related products,* between points in Buena Vista and Cherokee Counties, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147740, filed September 16, 1982. Applicant: RAY CLARK, d.b.a. RAY CLARK TRUCKING, Box 114, Haines, OR 97833. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201, (503) 226–6491. Transporting *lumber and wood products,* between points in OR, on the one hand, and, on the other, points in AZ, CA, CO, ID, NM, NV, OR, TX, UT and WA.

MC 151471 (Sub-15), filed September 20, 1982. Applicant: STEINBECKER BROS., INC., P.O. Box 852, Greeley, CO 80632. Representative: Charles M. Williams, 1600 Sherman St., #665, Denver, CO 80203, (303)–839–5856. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 153051 (Sub-4), filed September 20, 1982. Applicant: ATS TRANSPORT, INC., 34439 Mills Road, North Ridgeville, OH 44039. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–9900. Transporting *chemicals and related products,* between Cleveland, OH, and points in Lake County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 154401 (Sub-2), filed September 20, 1982. Applicant: TRI-STAR TRANSPORTATION, INC., 2 Stony Hill Rd., Wilbraham, MA 01095. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103, (413) 732–1136. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Hopewell, VA, and points in MA, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV and DC.

MC 163100, filed September 20, 1982. Applicant: ROBERT SCOTT, d.b.a. SCOTT TRUCKING SERVICE, 7643 Shadyoak Drive, Downey, CA 90240. Representative: Milton W. Flack, 8484 Wilshire Blvd., Suite 840, Beverly Hills, CA 90211, (213) 655–3573. Transporting (1) *metal products and* (2) *computer machines and parts, and (b) such commodities as are dealt in by musical and theatrical entertainers,* between points in the U.S. (except AK and HI), under continuing contract(s) with Superior Fireplace Co., Division of Mobex Corporation, of Fullerton, CA, in (1) above, and Logical Distribution Management, of Gardena, CA, in (2) above.

MC 163880, filed September 16, 1982. Applicant: BERNIE EVELO, 800 Speedway Ave., E. Missoula, MT 59801. Representative: Thomas J. Simmons, P.O. Box 480, Sioux Falls, SD 57101. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk) between points in the U.S. (except AK and HI), under continuing contract(s) with MDK Enterprises, Inc. of Portland, OR.

MC 163890, filed September 16, 1982. Applicant: INDIANA LANDMARK, INC., R.R. #2, Box 10, Silver Lake, IN 46982. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with V.P.I. Inc./ Straford Farms, of Goshen, IN. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343 or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 1, Room 2379.

MC 163901, filed September 17, 1982. Applicant: PEGGY BOYLE, 613 Runyon Ave., Piscataway, NJ 08854. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. As a *broker of general commodities* (except household goods) between points in the U.S. (except AK and HI).

MC 163911, filed September 20, 182. Applicant: R & L EXPRESS, INC., 534 Golf Rd., Streator, IL 61364. Representative: Richard Lenhausen (same address as applicant), (815)–672–6536. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IL, IN, IA, KS, KY, MI, MN, MO NE, OH, TN, WV, WI and those points in NY and PA on and west of U.S. Highway 81.

MC 163921, filed September 20, 1982. Applicant: SUNBELT AUTO CARRIERS CORP., INC., P.O. Box 206, DeBary, FL 32713–0206. Representative: Bruce Lee Lawrence (same address as applicant), (305)–668–5377. Transporting *motor vehicles,* between points in FL, GA, AL, MS, TN, NC, VA, KY, SC, IN, OH, MI, DE, NJ, PA, NY, RI, CT, MA and IL.

MC 163930, filed September 20, 1982. Applicant: PREMIER PRODUCE SALES, INC., 1320 South Glenstone—Suite 30, Springfield, MO 65804. Representative: George Spencer, 7 North Block, Fayetteville, AR 72701, (501)–442–0585.

Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Charles McAlpin Brokerage, Inc., of Decatur, AL.

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–345

Decided: September 27, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 13267 (Sub-9), filed September 16, 1982. Applicant: MOUNTAINSIDE TRANSPORT, INC., 4828 Hollins Ferry Rd., Baltimore, MD 20227. Representative: A. David Millner, 7 Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Doane Products Co., Inc. of Joplin, MO.

MC 149406 (Sub-17), filed September 17, 1982. Applicant: E. W. WYLIE CORPORATION, P.O. Box 1188–40th St. Southwest, Fargo, ND 58107. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Minn-Dak Farmers' Cooperative, of Wahpeton, ND.

MC 150136 (Sub-4), filed September 17, 1982. Applicant: JOE SICILIA, INC., North 5523 Julia, Spokane, WA 99207. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009, (206) 453–0312. Transporting *petroleum and petroleum products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Chempro of Oregon, Inc., of Portland, OR, and Idaho Asphalt Supply, Inc., of Idaho Falls, ID.

MC 156317 (Sub-2), filed September 9, 1982. Applicant: FIDELITY TRUCKING CORPORATION, 4556 W. 61st St., Chicago, IL 60629. Representative: Robert J. O'Hearn (same address as applicant), (312) 581–5617. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 161246, filed September 17, 1982. Applicant: KENTON CRATE & PALLET COMPANY, INC., 18 Betty St., Milford, DE 19963. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW., Washington, DC 20005, (202) 296–3555. Transporting (a) *rubber and plastic products,* between points in Sussex County, DE, and Philadelphia, PA, on the one hand, and, on the other, points in DE, MD, CT, NY, NJ, PA, VA, NC, WV, and DC, and (b) *food and related products,* between points in Fairfield County, CT, and points in DE, on the one hand, and, on the other, points in DE, MD, CT, NY, NJ, PA, VA, NC, WV, and DC.

MC 163227, filed September 17, 1982. Applicant: GARY JOHNSON TRUCKING CO., 16824 S Higley Rd., Higley, AZ 85236. Representative: Gary D. Johnson (Same address as applicant), (602) 963–8996. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Phoenix, AZ, and points in Dolores, La Plata and Montezuma Counties, CO, and San Juan and McKinley Counties, NM.

MC 163787, filed September 15, 1982. Applicant: OTTIS E. ADKISSON, d.b.a. ADKISSON'S HOTSHOT SERVICE, Route 8, Box 1585, Odessa, TX 7976e. Representative: Ottis E. Adkisson (same address as applicant), (915) 381–3669. Transporting *Mercer commodities,* (1) between points in TX, NM, OK, and LA, and (2) between points in TX, and those in Eddy and Lea Counties, NM, on the one hand, and, on the other, points in CO and WY.

MC 163876, filed September 16, 1982. Applicant: THOMPSONS' EXPRESS, INC., 5606 Plain view, Fort Wayne, IN 46815. Representative: Michael D. McCormick, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (1) between points in and east of ND, SD, NE, KS, OK and TX, and (2) between points in (1) above, on the one hand, and, on the other, points in CA and CO.

MC 163877, filed September 16, 1982. Applicant: U.S. TRANSPORT, INC., 1570 Iris Dr., Conyers, GA 30207. Representative: Robert E. Born, Suite 508, 1447 Peachtree St., N.E., Atlanta, GA 30309, (404) 892–8020. Transporting *petroleum and petroleum products,* between points in Charleston County, SC and Jefferson and Marshall Counties, AL, on the one hand, and, on the other, points in GA.

MC 163887, filed September 16, 1982. Applicant: SWIFT'S QUALITY COMPUTER MOVERS, 4700 W. Green Tree Rd., Milwaukee, WI 53223. Representative: Herbert L. Harris, 11629 W. Dearbourn Ave., Milwaukee, WI 53226, (414) 358–0659. Transporting *machinery,* between points in the U.S. (excpet HI, under continuing contract(s) with Harris Data Service, Inc., of Milwaukee, WI.

MC 163896, filed September 17, 1982. Applicant: S. D. H. CORPORATION, U.S. Route 40, W. Terre Haute, IN 47885. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., Suite 500, Washington, D.C. 20006, (202) 828–5015. Transporting *metal products and commodities in bulk,* between points in MO, WI, IL, IN, OH, MI, KY and TN.

MC 163897, filed September 17, 1982. Applicant: STALLION TRUCKING, 110 Howe Rd., Laramie, WY 82070. Representative: A. J. Sherlock (same address as applicant), (307) 742–2771. Transporting *building matrerials,* between those points in the U.S. in and west of ND, SD, NE, KS, OK, and TX.

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–200

Decided: September 24, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 114028 (Sub-48), filed September 13, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Boulevard, Dubuque, IA 52001. Representative: Carl L. Steiner, 29 So. LaSalle St., Chicago, IL 60603, (312) 236–9375. Transporting *food and related products* between points in the U.S. (except AK and HI), under continuing contract(s) with FDL Foods, Inc., of Dubuque, IA.

MC 142879 (Sub-3), filed September 17, 1982. Applicant: C & B CONTRACT CARRIERS, INC., 1345 Mayson Turner Rd., N.W., Atlanta, GA 30314. Representative: Guy H. Postell, Suite 675, 3384 Peachtree Rd., N.E., Atlanta, GA 30326, 404–237–8472. Tranporting *petroleum and coal products,* between points in Douglas County, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Young Refining Corporation of Douglasville, GA.

MC 146018 (Sub-10), filed September 13, 1982. Applicant: JAMES S. BATT, d.b.a. BATT TRUCKING, P.O. Box 922, Caldwell, ID 83605. Representative: Kevin M. Clark, 2417 Bank Dr., Suite 6, Boise, ID 83705, (208) 344–7714. Transporting *such commodities* as are dealt in by grocery and food business houses, between points in the U.S. (except AK and HI).

MC 148206 (Sub-12), filed September 7, 1982. Applicant: FUR BREEDERS AGRICULTURAL COOPERATIVE, P.O. Box 295, Midvale, UT 84047.

Representative: Irene Warr, 311 S. State St., Suite 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), on the one hand, and, on the other, points in UT, ID, WY, NV, NM and TX.

MC 154559 (Sub-1), filed September 16, 1982. Applicant: DALMATIAN COACH SERVICE, INC., 3147 N. Pleasantburg Dr., Greenville, SC 29609. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, 414–722–2848. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Abbeville, Anderson, Greenville, Laurens, Newberry, Oconee, Pickins, Richland, Spartanburg, Union and York Counties, SC, and extending to points in the U.S. (except AK and HI).

MC 159089, filed September 17, 1982. Applicant: WYOMING SUB RENTAL, INC., P.O. Box 4711, Casper, WY 82604. Representative: Clifford J. Neilson, 239 West First Street, Casper, WY 82601, (307) 266–1300. Transporting *machinery, materials, equipment and supplies used in replacing, servicing and repairing machinery and equipment used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of commodities resulting from drilling operations*, between points in WY, on the one hand, and, on the other, points in AZ, CA, CO, ID, KS, LA, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY.

MC 161678 (Sub-1), filed September 15, 1982. Applicant: CAPE TRANSIT CORP., 5501 Ocean Ave., Wildwood Crest, NJ 08260. Representative: Andrew J. Carraway, 1600 Wilson Boulevard, Suite 1301, Arlington, VA 22209 (703) 522–0900. Over regular route, transporting *passengers and their baggage*, in the same vehicle with passengers, between Ocean City, MD, and Atlantic City, NJ, serving all intermediate points: from Ocean City over MD Hwy 528 to the MD/DE State line, then over DE Hwy 1 to junction U.S. Hwy 9, then over U.S. Hwy 9 to Lewes, DE, then, by water ferry, from Lewes to North Cape May, NJ, then over U.S. Hwy 9 to junction NJ Garden State Parkway, then over NJ Garden State Parkway to Atlantic City Expressway, then over Atlantic City Expressway to Atlantaic City, and return over the same route.

MC 161828 (Sub-1), filed September 17, 1982. Applicant: KC EXPRESS, P.O. Box 258, Versailles, OH 45380. Representative: Krista D. Subler (same address as applicant), (513) 526–3309. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 162468 (Sub-1), filed September 17, 1982. Applicant: EUGENE O. ABLES, d.b.a. GENE ABLES TRUCKING CO., 1200 Silver Lake Rd., Topeka, KS 66608 Representative: Arthur J. Cerra, 2100 Charter Bank Center, P.O. Box 19251, Kansas City, MO 64141, (816) 842–8600. Transporting *petroleum and related products, rubber and plastic products, metal products, machinery, clay, concrete, glass or stone products, construction materials and equipment, and Mercer commodities, between points in AZ, AR, CO, IA, IL, KS, LA, MO, NE, NM, OK, and TX.*

MC 163708, filed August 26, 1982. Applicant: CARRINGTON TRANSPORTATION, INC., 1504 West Main, P.O. Box 259, Red Wing, MN 55066. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, 612–333–1341. Transporting *rubber and plastic products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Durkee Atwood Company of Minneapolis, MN.

MC 163858, filed September 16, 1982. Applicant: CARDINAL EXPRESS, 7633 63rd Place, Tulsa, OK 74133. Representative: J.L. Fant, P.O. Box 577, Jonesboro, GA 30237, (404) 477–1525. transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in U.S. under continuing contract(s) with International Paper Company, of New York, NY, Armin Plastics Oklahoma, Inc., of Tulsa, OK, Southwest Packaging, Inc., of Tulsa, OK, and Elkem Holloway, Inc., of Tulsa, OK.

MC 163879, filed September 16, 1982. Applicant: MICHAEL CHARLES BROOKS, PATRICIA ANN BROOKS, and ROBERT ARTHUR DOCKERTY, d.b.a. CALIFORNIA LEISURE CHARTER, 2597 Hampshire Rd., Riverside, CA 92506. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667–8107. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter operations, beginning and ending at points in San Bernardino and Riverside Counties, CA, and extending to points in AZ, NV, UT, OR, WA, SD, and WY.

MC 163889, filed September 16, 1982. Applicant: OLIVE HILL MOTOR SALES, INC., P.O. Box G, Olive Hill, KY 41164. Representative: Archie W. Andrews, P.O. Box 1166, Eden, NC 27288, (919) 635–4711. Transporting *wrecked or disabled vehicles and replacement vehicles for wrecked or disabled vehicles*, between points KY, on the one hand, and on the other, points in AR, IL, IN, MD, MI, MO, NC, OH, PA, SC, TN, VA, AND WV.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82–27060 Filed 9–30–82; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 C.F.R. 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 C.F.R. 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to

conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301,11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decison is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: September 27, 1982.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

MC–F–14950 filed September 1, 1982. HAYES TRUCK LINE, INC. (Hayes) (1410 Intercity Trafficway, P.O. Box 4060, Kansas City, MO 64101—Control and Merger—ACTION FREIGHT LINE, INC. (Action) (P.O. Box 141 Humansville, MO 65674) Representatives: Larry D. Knox and Ronald R. Adams, 600 Hubbell Building, Des Moines, IA 50309. Hayes (Certificate No. MC–9644 and subnumbers thereunder) seeks authority to acquire control of Action (Certificate No. MC–147778, Sub-No. 1) and subsequently to merge Action into Hayes. Freightways, Inc., a carrier operating pursuant to certificate No. MC–144484 and subnumbers thereunder, and which controls Hayes through stock ownership, and Claude C. Hayes and Ruth Ann Hayes who control Freightways, Inc. through stock ownership, seek to acquire control of Action's operating rights through the transaction. Claude C. Hayes also does business as Otten Truck Line (Certificate No. MC–70090 and subnumbers threreunder) and controls H&S Motor Freight, Inc. (Certificate No. MC–107838 and subnumbers thereunder). Action's operating rights generally authorize regular and irregular route transportation of general commodities in MO and KS. A more complete description of Action's authority is on file at the Commission's Office in Washington, D.C.

MC–F–14939. Keim Transportation, Inc. P.O. Box 226, Sabetha, KS 66534, seek authority to purchase a portion of the operating rights of Eckley Trucking, Inc., P.O. 156, Mead, NE 68041, and for acquisition by Glen L. Keim, also of P.O. Box 226, Sabetha, KS 66534, of control of such rights through the purchase. Keim operates under No. MC–2085. Operating rights to be purchased: Sub-No. 6: (1) *Agricultural implements, pumps, water systems, component parts for water systems, tanks and towers, and parts for agricultural implements and pumps,* between Beatrice, NE, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Dempster Industries, Inc., at or near Beatrice and against service from Chicago, IL, and Portage, IN, to the facilities of Dempster Industries, Inc., at or near Beatrice; and against service from Chicago, IL and Portage, IN to the facilities of Dempster Industries, Inc., at or near Beatrice (2) *equipment, materials and supplies* used in the manufacture or distribution of the commodities in (1) (except commodities in bulk), from points in the United States (except AK and HI), to Beatrice, NE, restricted to the transportation of traffic destined to the facilities of Dempster Industries, Inc., at or near Beatrice, and against the transportation of iron and steel articles from points in IL, IN, Ambridge and New Kensington, PA; Niles, OH and points in Cabell and Wayne Counties, WV, to the facilities of Dempster Industries, Inc., at or near Beatrice, (3) *experimental and show display agricultural implements, pumps, water systems, component parts for water systems, tanks and towers, and parts for agricultural implements and pumps,* between points in the United States (except AK and HI), restricted to the transportation of traffic for the account of Dempster Industries, Inc. Sub-No. 87: *Machinery and metal products,* between points in Clark County, OH, on the one hand, and on the other, points in IA, LA, IL, MS, MN, WI, GA, AL, TX, KS, NC, OK, MI, PA, AR, MO, TN, and NY. Sub-No. 46: *Irrigation pipe, fittings, and accessories and irrigation system,* from the facilities of Kroy Metals Products, Inc., at or near York, NE, to points in AL, AR, CO, FL, GA, ID, IL, IN, IA, KS, LA, MA, MI, MN, MO, MT, NV, NJ, NY, ND, OH, OK, OR, PA, SD, TN, TX, UT, VA, WA, WI, and WY, and Sub-No. 86 (1)(a): *Metal forming equipment and rolled formed steel articles,* from Moundridge, KS, to points in the United States (except AK, HI, and KS), and (b) *materials and supplies* used in the manufacture of *metal forming equipment and rolled formed steel articles* (except commodities in bulk), from points in the United States (except AK, HI and KS), to Moundridge, KS restricted to the transportation of traffic originating at or destined to the facilities of The Bradbury Co., Inc., at or near Moundridge, KS; (2)(a) *iron and steel articles,* and (b) *grain handling equipment,* from the facilities Grain Spounting and Elevator of Kansas, Inc., at or near Hutchinson, KS, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the above-named origin facilities; and (3) *plastic pipe and plastic pipe fittings* (except commodities in bulk), and Broken Arrow, OK, to points in the United States (except AK and HI), restricted to the transportation of trafic originating at the facilities of Continental Industries, Inc., at or near Broken Arrow, OK. Application for Temporary Lease of authority has been filed. Seller: Eckley Trucking, Inc., P.O. Box 156, Mead, NE 68041. Seller's Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101–1103. Buyer: Keim Transportation, P.O. Box 226, Sabetha, KS 66534. Buyer's Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 1101, Topeka, KS 66612.

MC–E–14942. Filed August 26, 1982. BILLINGS TRUCKING CORPORATION (BILLINGS) (P.O. Box 1106, North Wilkesboro, NC 28659)—W&L MOTOR LINES, INC. (W&L) (P.O. Box 3487, Hickory, NC 28603). Representative: Theodore Polydoroff, 1307 Dolley Madison Blvd., McLean, VA 22101. Billings seeks to purchase a portion of the authority of W&L. Billings is purchasing the interstate operating rights contained in Certificate No. MC–123872 (Sub-No. 129), authorizing the

transportation of such commodities as are dealt in by grocery stores and food business houses and retail, discount, and department stores, between points in FL, on the one hand, and, on the other, points in NC, SC, TN, and VA. Billings is authorized to operate as a common carrier pursuant to certificates issued in No. MC–62110.

Note.—An application for temporary authority has been filed.

Condition.—Richard B. Johnston, Richard B. Johnston, Jr., Joseph A. Johnston, and Keith W. Johnson, who control Billings through stock ownership, must join the application as parties in control.

MC–F–14954, filed September 10, 1982. DANIEL HAMM DRAYAGE COMPANY (Hamm) (Second and Tyler, St. Louis, MO 63102)—purchase (portion)—ACE DORAN HAULING & RIGGING CO. (Ace Doran) (1601 Blue Rock Street, Cincinnati, OH 45223). Representative: A. Charles Tell, 100 E. Broad Street, Columbus, OH. 43215. Hamm seeks authority to purchase a portion of the interstate operating rights of Ace Doran. Hamm is a wholly-owned subsidiary of Ace Doran. Ace Doran also controls Western Lines, Inc., a motor carrier under MC–110814 and MC—119908. Hamm holds authority under MC–42963. The rights to be acquired by Hamm are those contained in Certificate No. MC–112304 Sub-No. 262X, which authorize the transportation of *general commodities* (except classes A and B explosives), between Carlyle, IL, and St. Louis, MO, over U.S. Hwy 50, serving all intermediate points and the off-route points in Beckemeyer, Aviston, Breese, O'Fallon, Trenton, Lebanon, East St. Louis, and St. Rose, IL.

Condition.—Prior to the issuance of the effective notice, Richard E. Doran must submit an affidavit stating that he is majority stockholder of Ace Doran and that he joins in this application as a person in control.

Decision-Notice

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Dated: September 22, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC 123272 (Sub-57), filed July 12, 1982. Applicant: FAST FREIGHT, INC., 9651 St. Ewing Avenue, Chicago, IL 60617. Representative: James C. Hardman, 33 N. LaSalle Street, Suite 2108, Chicago, IL 60602. Applicant seeks authority to operate as a *common carrier* over irregular routes, transporting (1) *lumber and wood products* between points in Gloucester County, NJ and Norfolk County, MA, on the one hand, and, on the other, points in the U.S. (except WA, OR, CA, ID, NE, UT, and AZ); (2) *clay, concrete, glass or stone products,* between points in Fayette and Logan Counties, IL, and Indianapolis, IN, on the one hand, and, on the other, points in CT, DE, MA, NJ, PA, NY, and RI, between points in Gloucester County, NJ, and Norfolk County, MA, on the one hand, and, on the other, points in the U.S. (except WA, OR, CA, ID, NE, UT, and AZ); (3) *rubber and plastic products,* between Louisville, KY, and points in Fayette County, IL, on the one hand, and, on the other, points in CT, DE, MA, NJ, PA, NY and RI; (4) *rubber products,* between points in MA, CT, RI, and NJ, on the one hand, and, on the other, points in the U.S. (except WA, OR, CA, ID, NV, UT, and AZ); between Indianapolis, IN, on the one hand, and, on the other, points in DE, NY, and PA; (5) *metal products,* between points in Cook County, IL, on the one hand, and, on the other, points in the U.S. (except WA, OR, CA, ID, NE, UT, and AZ); between points in Fayette County, IL and Indianapolis, IN, on the one hand, and, on the other, points in CT, DE, MA, NJ, NY, PA, and RI; between Louisville, KY and Milwaukee, WI, on the one hand, and, on the other, points in Gloucester County, NJ and Norfolk County, MA; (6) *textile mill products,* between points in Fayette County, IL, on the one hand, and, on the other, points in CT, DE, MA, NJ, NY, PA, and RI; (7) *machinery,* between Indianapolis, IN, on the one hand, and, on the other, points in CT, DE, MA, NJ, NY, PA, and RI; (8) *Pulp, paper, and related articles,* between Portage County, OH, Gloucester County, NJ, and Norfolk County, MA, on the one hand, and, on the other, points in the U.S.; between Fayette County, IL, on the one hand, and, on the other, point in CT, DE, IL IN, MA, NJ, PA, NY and RI; (9) *petroleum, natural gases and their products,* between Fayette County, IL, on the one hand, and, on the other, points in Lancaster and Delaware Counties, PA, Essex County, NJ, and Hampden County, MA; and (10) *chemicals and related products,* between Fayette County, IL, on the one hand, and, on the other, points in Lancaster and Delaware Countys, PA and Essex County, NJ; between points in Gloucester County, NJ and Norfolk County, MA, on the one

hand, and, on the other, points in Kenton, Campbell, Carroll, McCracken, Henderson and Daviess Counties, NY; Allamahee, Clayton, Dubuque, Jackson, Clinton, Scott, Muscatine, Louisa, Des Moines, and Lee Counties, IA, and points in WI and the Lower Peninsula of MI.

Note:—This notice corrects the notice published in the **Federal Register**, Vol. 47, No. 155, P. 34860–34861, Wednesday August 11, 1982, which contained certain advertent errors. This gateway elimination application directly relates to MC–F–14904, Fast Freight, Inc.-Merger-Cole Freight Company, notice of which was published also in the same **Federal Register**.

[FR Doc. 82–27084 Filed 9–30–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP5–202]

Motor Carriers; Permanent Authority; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register**.

An original and one copy of petition for leave to intervene must be filed with the Commission within 30 days after the date of this **Federal Register** notice addressing specifically the issue(s) indicated as the purpose for republication.

Agatha L. Mergenovich,

Secretary.

MC 150319 (Sub-1) (Republication), filed March 17, 1982, published in the **Federal Register** issue of April 1, 1982, and republished this issue. Applicant: WILMINGTON EXPRESS, INC., P.O. Box 540, Wilmington, NC 28402. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. An Order of the Commission, Review Board 3, decided August 9, 1982, and served August 17, 1982, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *fertilizer*, between points in North Carolina and South Carolina, on the one hand, and, on the other points in Kentucky, Tennessee, and West Virginia; (2) *metal products*, between points in Alabama, Georgia, Maryland, Delaware, Nebraska, North Carolina, New York, Pennsylvania, South Carolina, and Texas, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Maine, Maryland, Mississippi, North Carolina, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia; and (3) *general commodities* (except classes A and B explosives, hosehold goods, and commodities in bulk), between points in New Hanover County, NC, on the one hand, and, on the other, those points in the United States in and east of Wisconsin, Illinois, Kentucky, Tennessee and Mississippi, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the applicant's actual grant of authority.

MC 161329 (Republication), filed April 1, 1982, published in the **Federal Register** issue of April 30, 1982, and republished this issue. Applicant: ROUNDABOUT TOURS, P.O. Box 6463, Tahoe City, CA 95730. Representative: Clive R. Hughes (same address as applicant), (916) 583–4490. An order of the Commission, Review Board 2, decided August 18, 1982, and served August 24, 1982, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a common carrier, by motor vehicle, over irregular routes, transporting *passengers and their baggage, in the same vehicle with passengers, in special operations*, beginning and ending at points in Placer County, CA and extending to points in Sierra, Eldorado, Nevada, and Alpine Counties, CA and to Reno and points in Ormsby and Douglas Counties, NV., that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and reguations. The purpose of this republication is to indicate the applicant's actual grant of authority.

[FR Doc. 82–27087 Filed 9–30–82; 8:45 am]

BILLING CODE 7035–01–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Housing Guaranty Program; Notice of Investment Opportunity

The Agency for International Development (A.I.D.) has authorized guaranties of loans to the Republic of the Seychelles (Borrower) as part of A.I.D.'s overall development assistance program. The proceeds of these loans will be used to finance shelter projects for low income families residing in the Seychelles. The following set forth the address of the Borrower and the loan amount for a new project that will soon be ready to receive financing and for which the Borrower is requesting proposals from U.S. lenders or investment bankers:

Seychelles

Project: 662–HG–001—$2,500,000

Robert Grandcourt, Permanent Secretary, Ministry of Planning and Development, The Republic of the Seychelles; Telex: 2288 MINWP–SZ; Telegram Address: MINPD, Seychelles; telephone No. Victoria 22321

By this notice of investment opportunity, the above Borrower is soliciting expressions of interest from U.S. lenders or investment bankers to counsel on loan timing, structure and features, and to manage the loans or underwritings. Interested investment bankers or lenders should contact the Borrower indicated above. Selection of investment bankers and/or lenders and the terms of the loans are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. The lenders and A.I.D. shall enter into a Contract of Guaranty, covering each of the loans. Disbursements under the loans will be subject to certain conditions required of the Borrower by A.I.D. as set forth in implementation agreements between A.I.D. and the Borrower.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (1) U.S. citizens: (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established from time to time by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from: Director, Office of Housing, Agency for International Development, Room 625, SA/12, Washington, D.C. 20523; telephone: (202) 632-9637.

Dated: September 24, 1982.

Fredrik A. Hansen,

Deputy Director, Office of Housing and Urban Development.

[FR Doc. 82-27083 Filed 9-30-82; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF LABOR

Employment Standards Administration

Advisory Committee on Sheltered Workshops

A meeting of the Advisory Committee on Sheltered Workshops will be held on October 19, 1982, from 9:30 a.m. to 5:00 p.m. and on October 20 from 9:00 a.m. to 5:00 p.m. The meeting will be held in Rm. N5437 A,B, and C, Frances Perkins Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C.

The Committee will consider topics concerning the employment of handicapped workers employed at subminimum wages under section 14(c) of the Fair Labor Standards Act. Major areas for discussion will include: revision of the regulations (29 CFR Part 525) governing the employment of handicapped workers at subminimum wages; the Government Accounting Office's report, released in September 1981, entitled "Stronger Federal Efforts Needed for Providing Employment Opportunities and Enforcing Labor Standards in Sheltered Workshops"; special enforcement problems under the Act and; simplification of certification procedures under the regulations. Other relevant topics may be introduced and discussed at the Committee's discretion.

Members of the public are invited to attend the proceedings Written data, views, or arguments pertaining to the business before the Committee must be received by the Committee's Coordinator prior to the meeting date. Twenty-five copies are needed for distribution to the members and for inclusion in the meeting minutes.

Telephone inquiries and communications concerning this meeting should be directed to: Arthur H. Korn, Coordinator for the Advisory Committee on Sheltered Workshops, Rm. C4316, Frances Perkins Building, 200 Constitution Avenue, N.W. Washington, D.C. 20210, telephone no. 202/523-8727. This is not a toll free telephone number.

Signed in Washington, D.C. this 28th day of September 1982.

Robert B. Collyer,

Deputy Under Secretary.

[FR Doc. 82-27176 Filed 9-30-82; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Hydrology Panel; Changed Meeting Date

The Hydrology Panel of the National Advisory Committee on Oceans and Atmosphere (NACOA) scheduled to meet on Friday, October 1, 1982 and published in the **Federal Register** of September 15, 1982 (Page 47 FR 40733) has been changed. It has been rescheduled for Friday, October 8, 1982 at the same time and same location.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion, or James A. Almazan, the Staff Member for the Hydrology Panel. The mailing address is: NACOA, 3300 Whitehaven Street, NW., (Suite 438, Page Building #1), Washington, DC 20235.

Dated: September 29, 1982.

Steven N. Anastasion,

Executive Director.

[FR Doc. 82-27228 Filed 9-30-82; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Design Arts Advisor, Panel to the National Council on the Arts; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel to the National Council on the Arts will be held on October 12-13, 1982, from 9:00 a.m.-5:30 p.m. in room 1426 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C.

A portion of this meeting will be open to the public on October 12-13, 1982, from 9:00 a.m.-2:00 p.m. to discuss leadership activities and guidelines.

The remaining sessions of this meeting on October 12-13, 1982, from 2:00 p.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants, and for discussion and development of confidential FY 1984 budgetary materials to be submitted to the Office of Management and Budget and the Congress. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

Dated: September 24, 1982.

John H. Clark,

Director, Office of Council and Panel Operations National Endowment for the Arts.

[FR Doc. 82-27082 Filed 9-30-82; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Procedures for Meetings

Background

Procedures to be followed with respect to meetings conducted by the Nuclear Regulatory Commission's Advisory Committee on Reactor Safeguards, which were published September 30, 1981 (46 FR 47903), are renewed by this notice. These procedures are set forth in order that they may be incorporated by reference in future individual meeting notices.

The Advisory Committee on Reactor Safeguards (ACRS) is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements from members of the public to be considered as a part of the Committee's information gathering procedure, they are not adjudicatory hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS reviews do not normally encompass matters pertaining to environmental impacts other than those pertaining to

radiological safety. ACRS full Committee and Subcommittee, meetings are conducted in accordance with sections 29 and 182b, of the Atomic Energy Act (42 U.S.C. 2039, 2232b).

General Rules Regarding ACRS Meetings

An agenda is published in the **Federal Register** for each meeting. Practical considerations may dictate some alterations in the agenda. The Chairman of the Committee or Subcommittee which is meeting is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete session from one day to the next.

With respect to public participation in ACRS meetings, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy at the beginning of the meeting. When meetings are held at locations other than Washington, D.C., reproduction facilities are usually not available. Accordingly, 15 additional copies should be provided for use at such meetings. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy addressed to the Designated Federal Employee specified in the **Federal Register** notice for the individual meeting in care of the ACRS, NRC, Washington, D.C. 20555. Comments postmarked no later than one calendar week prior to a meeting will normally be received in time for reproduction, distribution and consideration at the meeting.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the beginning of the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee or Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether a meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call, on the working day prior to the meeting, to the Office of the Executive Director of the Committee (telephone 202-634-3265, ATTN: the Designated Federal Employee specified in the **Federal Register** Notice for the meeting) between 8:15 a.m. and 5:00 p.m., Washington, D.C. time.

(d) Questions may be asked only by ACRS Members, Consultants and Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc., being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the open portions of the meeting where factual information is presented will be available at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, for inspection within one week following the meeting. A copy of the minutes of the meeting will be available at the same location on or before three months following the meeting. Copies may be obtained upon payment of appropriate charges.

Special Provisions When Proprietary Sessions Are To Be Held

If it is necessary to hold closed sessions for the purpose of discussing matters involving proprietary information, persons with agreements permitting access to such information may attend those portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that it can be confirmed and a determination made regarding the applicability of the agreement to the material that will be discussed during the meeting. The minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Designated Federal Employee prior to the beginning of the meeting.

Dated: September 24, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-27231 Filed 9-30-82; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12690; (812-5264)]

American Shares, Inc.; Filing of an Application

September 27, 1982.

Notice is hereby given that American Shares, Inc. ("Applicant"), 405 Central Avenue, St. Petersburg, FL 33731, registered under the Investment Company Act as an open-end, non-diversified, management investment company, filed an application on August 4, 1982, for an order pursuant to Section 11(a) of the Act approving certain proposed offers of exchange of shares among Applicant's two existing series of shares on a basis other than their relative net asset values and pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 22(d) of the Act in connection with such exchanges. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, Applicant is a Maryland corporation which proposes to offer initially two series of shares of capital stock designated as American Treasury Shares ("Treasury Series") and American Industry Shares ("Industry Series"). Applicant states that its Treasury Series has the investment objective of a conventional "money market" fund investing in a portfolio of the United States Government obligations and is offered to the public at net asset value without a sales charge. Applicant further represents that its Industry Series seeks to provide investment results that corresponds to the movements of the Dow Jones Industrial Average ("Index") by investing assets in portfolio securities identical to those constituting the Index. Applicant further represents that the public offering price of the Industry Series consist of the net asset value of such shares plus a sales charge which varies from 8.5% to 1.5% of the offering price based upon the amount invested.

Applicant states that both of its portfolios are managed by Industry Shares Management Inc. and that its shares are offered through its

underwriter, Securities Fund Investors Inc. ("Principal Underwriter").

Applicant states that in order to enhance the correlation between the net asset value of the Industry Series and the Index, Applicant and its Principal Underwriter have agreed that the brokerage commission costs incurred in acquiring and selling portfolio securities for the Industry Series portfolio will be paid by the Principal Underwriter. According to Applicant, this arrangement is intended to minimize the effect of brokerage commission costs, which is a factor not reflected in the Index, on day-to-day computation of the Industry Series net asset value. Thus, part of the sales charges received by the Principal Underwriter on the issuance of Industry Series is used to defray costs which would otherwise be directly imposed on Applicant.

According to the application, Applicant proposes to offer its investors the opportunity to exchange (i) all or part of their shares in the Industry Series for Treasury Series, shares at relative net asset value and (ii) all or part of their Treasury Series shares for shares of the Industry Series at relative net asset value plus a sales charge as described below. On an initial exchange of shares of the Treasury Series, for which no sales charge had ever been imposed, Applicant intends to impose the full sales charge for purchases of Industry Series shares as described in the Industry Series' then-current prospectus. Applicant represents that on an exchange of shares of the Treasury Series, which had previously been acquired by a shareholder in exchange for Industry Series shares, as sales charge, currently fixed at 1.25% of the offering price, is proposed ("Reduced Sales Charge"). Applicant further represents that the principal purpose of the reduced sales charge on subsequent exchanges is to provide the Principal Underwriter with funds to enable it to meet its obligation to Applicant to pay all brokerage commissions relating to portfolio transactions for the purchase and sale of securities constituting the Industry Series portfolio.

Section 11(a) of the Act provides, in part, that it shall be unlawful for any registered, open-end investment company or any principal underwriter thereof to make or cause to be made an offer to the holder of a security of such company, or any other open-end investment company, to exchange his security for a security in the same or another such company on any basis other than the relative net asset value of the respective securities to be exchanged unless the terms of offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the company's prospectus.

The proposed exchanges of shares of the Treasury Series into the Industry Series at relative net asset value plus a sales charge would violate Section 11(a) of the Act unless an order approving such exchanges is issued. Moreover, imposition of a fixed, reduced sales charge on certain exchanges into the Industry Series might be deemed to violate Section 22(d) of the Act absent an exemptive order under Section 6(c) of the Act.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the relief requested, Applicant states that by offering two interchangable series of shares, it makes available to its shareholders the opportunity of quickly and conveniently shifting between investment objectives. Applicant further represents that if it were unable to impose any sales charge upon an exchange from the Treasury Series to the Industry Series, the Principal Underwriter would not receive the funds necessary for it to carry out its obligation to pay brokerage commission costs (which costs, in turn, arise from the necessity to invest the cash received in the Industry Series portfolio as a result of the exchanges). Applicant further states that its board of directors has determined that the proposed reduced sales charge of 1.25% is appropriate in view of the obligations of the Principal Underwriter both to pay portfolio commission costs for the Industry Series portfolio and to meet distribution expenses related to such exchanges.

Applicant states that its board of directors recognizes that the Industry Series portfolio commission and distribution costs, not being fully within the control of either Applicant or Principal Underwriter, are subject to change. Accordingly, Applicant asserts that it is contemplated that the rate of the reduced sales charge on subsequent exchanges may also be changed. According to the application, any such change would take effect only: (a) After determination by Applicant's board of directors, including a majority of its directors deemed not "interested persons" under the Act, that the change is appropriate in the light of changes in actual or projected costs, and (b) upon effectiveness of a revised prospectus in which such new charge is described.

Applicant submits that it would be fair and equitable to its shareholders to permit subsequent exchanges by former Industry Series shareholders at reduced sales charges. Applicant also asserts that it is fair and equitable to permit its shareholders who have initially borne the full sales charges of their initial purchase to have the benefit of reduced sales charges in shifting their holdings from one investment policy to another. Finally, Applicant asserts that it appears that all of its shareholders would benefit from the proposed relief requested in that it believes that one result of being able to offer convenient and economical exchanges of shares would be an enhanced retention of its ability to maintain its assets despite changes in investment climate. Accordingly, Applicant contends that the approval and exemption it requests are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than October 22, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing

upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-27047 Filed 9-30-82; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-5894]

Beverly Enterprises, Common Stock, $.10 Par Value; Application To Withdraw From Listing and Registration

September 27, 1982.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of Beverly Enterprises ("Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8-A which will become effective on September 23, 1982, the Company also is listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before October 19, 1982, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-27053 Filed 9-30-82; 8:45 am]

BILLING CODE 8010-01-M

Boston Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

September 27, 1982.

The above named national Securities exchange has filed an application with the securities and Exchange Commission pursuant to Section 12(f)(1)(B), of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of :

Western Company of North America
Common Stock, $.30 Par Value (File No. 7-6322)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 19, 1982 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-27052 Filed 9-30-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12669; (812-5277)]

High Yield Securities, Inc., Convertible Yield Securities, Inc., The Edson Gould Fund, Inc., and AIM Management, Inc.; Filing of an Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicants From the Provisions of Section 22(d) of the Act and Rule 22d-1 Thereunder

September 27, 1982.

Notice is hereby given that High Yield Securities, Inc., Convertible Yield Securities, Inc. and the Edson Gould Fund, Inc. (the "Funds"), each registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end, management investment company, together with AIM Management, Inc. ("AIM," collectively with the Funds, "Applicants") Eleven Greenway Plaza, Suite 1919, Houston, TX 77046, filed an application on August 12, 1982, for an order pursuant to Section 6(c) of the Act exempting the Applicants from the provisions of Section 22(d) of the Act and Rule 22d-1 thereunder to permit sales of shares of the Funds at net asset value to the AIM Management Profit Sharing Plan, a qualified employee profit sharing plan under the Internal Revenue Code (the "AIM Plan"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, the Funds are organized as corporations under Maryland law and are currently engaged in continuous public offerings of their shares through AIM Distributors, Inc., a wholly-owned subsidiary of AIM, as principal underwriter, at public offering prices equal to net asset value plus a sales charge. The sales charges vary with the size of the purchases, as set forth in the Funds' prospectuses, and range from 6.5% of the offering price on transactions of less than $12,500 to 1.2% of the offering price on tranactions of $1,000,000 but under $2,000,000. There is a maximum sales charge of $24,000.

AIM a Delaware corporation, is the parent and sole stockholder of AIM Advisors, Inc., which serves as investment advisor to the Funds and of AIM Distributors, Inc., which serves as principal underwriter for the Funds. AIM, AIM Advisors, AIM Distributors, Inc., the Funds, other present subsidiaries of AIM and any AIM subsidiaries (or other similar entities controlled directly or indirectly by AIM) acquired or formed in the future are hereinafter collectively referred to as "AIM Companies." At June 15, 1982, the

full-time employees of AIM Companies totalled 34.

Applicants propose to permit the AIM Plan to purchase shares of the Funds at net asset value. The application states that all persons rendering employment services to any of the AIM Companies are paid by AIM. AIM determined that since most employees provide services to more than one of the AIM Companies that it would be appropriate from an accounting standpoint for all employees to be paid by AIM, with the cost of such payments allocated to each of the AIM Companies in proportion to the time spent by the employee working for each of the AIM Companies.

Applicants submit that the AIM Plan is a qualified employee profit sharing plan under the Internal Revenue Code, covering all full-time employees of AIM (the "AIM Employees"). The AIM Plan is administered by three trustees who are and will continue to be persons who are intimately familiar with the operations of the Funds. The trustees will invest all of the assets of the AIM Plan in shares of the Funds. This investment will be made once each calendar year and will be allocated between the Funds in the trustees' sole discretion. In addition to the annual contribution to the AIM Plan made by AIM, AIM Employees may make voluntary contributions to the AIM Plan through monthly withholdings. No AIM Employees currently make such voluntary contributions; however, if they do so in the future, investments in the Funds will be aggregated into one transaction each month. No share certificates will be issued to the AIM Plan in connection with its investment in shares of the Funds and dividends and capital gain distributions with respect to such shares will be automatically reinvested at net asset value. The AIM Plan will agree not to resell shares of the Funds that it acquires except by repurchase or redemption by or for the account of the Funds. Redemption of Fund shares purchased by the AIM Plan may not occur more often than once a year, except in the event of retirement or change in employment of an AIM Employee.

Applicants represent that no individual sales solicitations or face-to-face group sales solicitations will be made of either the AIM Plan or of the AIM Employees. Annually, the AIM Employees will receive a notice from AIM, furnished at AIM's expense, indicating the amount of each AIM Employee's share of the AIM Plan's investment in shares of the Funds. The notice will not set forth the allocation of the AIM Plan's investments among the Funds but it will indicate that additional information concerning the Funds and investment by the AIM Plan in shares of the Funds can be obtained from AIM and will inform AIM Employees of the availability of prospectuses from AIM.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except either to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except a dealer, a principal underwriter, or the issuer, except at a current public offering price described in the prospectus. Rule 22d–1 provides an exemption from Section 22(d) of the Act to permit sales at reduced charges or without any sales charge in specified circumstances. The sale of shares of the Funds to the AIM Plan at net asset value may conflict with the provisions of Section 22(d) of the Act and Rule 22d–1 thereunder.

According to the application, paragraph (i) of Rule 22d–1 would permit sales of a Fund's shares without any sales charge to directors, officers, employees and sales representatives of the Fund, its investment adviser and its principal underwriter, or to a profit sharing plan for the benefit of such persons, provided that any such person who is not a director, officer or full-time employee of the Fund must spend more than one-half of his or her working time providing investment advice to the Fund, selling its shares or supervising those engaged in such activities. The AIM Plan, however, covers all employees of AIM, even those who do not qualify under Paragraph (i) of rule 22d–1 as they are employed in positions that do not directly provide investment advice to or distribute shares of the Funds.

Paragraph (f) of Rule 22d–1 permits the elimination of sales charges in a sale pursuant to a uniform offer described in a prospectus and made to, employees' trusts, pension, profit-sharing or other employee benefit plans qualified under Section 401 of the Internal Revenue Code, or employee benefit plans not qualified under Seciton 401 of the Code, provided such non-qualified plans satisfy uniform criteria relating to the realization of economies of scale in sales effort and sales related expense.

Section 6(c) of the Act provides that the Commission by order upon application may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities, or transactions, from any provision of the Act or any Rule under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants submit that the sale to the AIM Plan of shares of the Funds at net asset value is supported by strong policy considerations, in that such sales should result in demonstrable economies in sales effort and sales-related expense as compared with other sales and would not be unjustly discriminatory. Applicants further submit that the grant of the exemption requested is appropriate in the public interest and consistent with the protection of investors and the purposes of Section 22(d) of the Act. Applicants further submit that the association of the Funds with AIM is the basis for a unique relationship to the Funds, which can be expected to result in economies in sales effort and sales-related expense that justify elimination of all sales charges on shares of the Funds purchased by the AIM Plan, without discrimination against other employee benefit plans or other purchasers of shares of the Funds. Applicants believe that sales of shares of the Funds to the AIM Plan at net asset value will not adversely affect the interests of investors and that such sales do not involve any of the abuses against which Section 22(d) is directed.

According to the application, sales of shares of the Funds to the AIM Plan are expected to give rise to economies of scale in sales effort and sales related expense for a number of reasons. First, Applicants represent that because the trustees of the AIM Plan are and will continue to be persons who are intimately involved in the operations of the Funds and because the AIM Employees possess a basic understanding of the nature of an investment company as well as a general familiarity with, and loyalty to the Funds, no solicitation of any kind is necessary for such sales of shares of the Funds. Therefore the Funds, AIM Advisors, Inc., AIM Distributor, Inc., their representatives or other broker dealers will not engage in any sales solicitation of either the AIM Plan or of the AIM Employees. Second, all notices that will be sent to the AIM employees concerning the Funds and the AIM Plan's investment in shares of the Funds will be furnished by AIM, at the expense of AIM. Third, the AIM Plan will make

its purchases of shares of the Funds only once each calendar year in a single transaction, except for monthly purchases which may occur in the future if any AIM Employees make voluntary contributions under the AIM Plan. Fourth, dividend and capital gain distributions on shares of the Funds sold to the AIM Plan will be automatically reinvested in additional Fund shares.

According to the application, AIM instituted the AIM Plan as a means of promoting employee incentive, goodwill, and loyalty to all of the AIM Companies, including the Funds. The Applicants strongly support investment by the AIM Plan in shares of the Funds. They believe that such investment reinforces the above-mentioned objectives of promoting employee incentive, goodwill, and loyalty.

Applicants submit that the requested order, permitting sales of shares of the Funds at net asset value to the AIM Plan, is both appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than October 22, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be isued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–27048 Filed 9–30–82; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 22643; 70–6785]

Southwestern Electric Power Co; Proposed Financing of Pollution Control Facilities

September 24, 1982.

Southwestern Electric Power Company ("SWEPCO") P.O. Box 21106, Shreveport, Louisiana 71156, a public-utility subsidiary company of Central and South West Corporation, a registered holding company, has filed an application-declaration with this Commission pursuant to Sections 6(a), 7, 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder.

SWEPCO and Central Louisiana Electric Company, a non-associate company, have begun construction of a 640 megawatt, lignite-fueled electric generating plant (the "Unit") near Dolet Hills, Louisiana. SWEPCO anticipates that it will own 50% of the Unit and will pay 50% of its cost. The estimated total costs of construction of SWEPCO's share of the Unit is $260,768,000. It is stated that it is necessary to acquire and construct certain air, water, and solid waste pollution control facilities (the "Facilities") as a part of the Unit in order to comply with applicable state and federal environmental control standards. SWEPCO proposes to enter into an Installment Sale Agreement (the "Agreement") with the Parish of De Soto (the "Parish"), a Parish within the Commonwealth of Louisiana, pursuant to which the Parish would undertake the financing of SWEPCO's share of the Facilities. The Agreement would provide for the transfer by SWEPCO to the Parish of the company's interest in the Facilities as they exist at the time the Agreement is entered into, and would provide that SWEPCO be reimbursed for its cost of acquiring and constructing the property so transferred. SWEPCO would then cause the construction of the Facilities to be completed for the Parish and would be reimbursed by the Parish for the costs of such construction. Title of the Facilities would be in the Parish during the period of construction. Upon completion of construction, title to the Facilities would automatically vest in SWEPCO.

The Parish will finance the acquistion and construction of the Facilities and related costs through the issuance and sale, concurrently with the execution of the Agreement, of the Parish's Pollution Control Revenue Bonds or Notes (the "Bonds"), in an aggregate amount presently estimated not to exceed $85,000,000. The Bonds will be issued under a trust indenture with a corporate trustee to be selected by SWEPCO.

The Bonds will bear interest semi-annually and will mature at a date or dates not more than 30 years from their nominal date of issue. The interest rate, maturity dates, redemption provisions, and other terms and conditions applicable to the Bonds will be determined by negotiations between SWEPCO and the underwriters. SWEPCO will not be a party to the underwriting agreement, but the underwriting agreement will be subject to approval by SWEPCO. The terms and conditions of the Bonds may include variable interest rates, interest rates redetermined periodically, intermediate term maturities, and/or other terms and conditions deemed necessary or desirable to take maximum advantage of the then current market conditions. It is anticipated that the Bonds will be redeemable at any time in whole at the option of SWEPCO at par plus accrued interest, upon the occurrence of various extraordinary events specified in the Agreement and the indenture relating generally to destruction or condemnation of the Facilities or the Unit, conditions rendering operation of the Facilities or the Unit infeasible, or the imposition on the company or the Parish of unreasonable burdens or excessive liabilities with respect to the Facilities or the Unit; that the Bonds will be subject to voluntary redemption at times and with premiums to be determined by negotiations between SWEPCO and the underwriters; and that the Bonds will be subject to mandatory redemption, in whole or in part, at par plus accrued interest if the Agreement shall, by constitutional amendment or legislative, administrative, or judicial action, become void or unenforceable or impossible of performance on a permanent basis in accordance with the expressed intention of the parties, or upon certain events causing the interest on the Bonds to be taxable. While it is not possible to ascertain in advance precisely the interest rate which may be obtained in connection with the issuance of the Bonds, SWEPCO has been advised that similar tax-exempt bonds currently carry an annual interest rate approximately 2%–4% lower than comparable taxable bonds.

Except as otherwise required under the indenture, the proceeds from the sale of the Bonds will be placed in a

construction fund created and established under the indenture and will be disbursed from time to time to pay or to reimburse SWEPCO for the cost of construction of the Facilities (including the costs of acquisition and construction paid by SWEPCO prior to the acquisition of the Facilities from SWEPCO and interest on the Bonds during construction), the trustee's expenses, the Parish's administrative and overhead expenses, and all other costs and expenses incurred in connection with the issuance and sale of the Bonds. In the event that amounts in the construction fund are insufficient to pay such costs, the Agreement obligates SWEPCO to pay all additional amounts.

The Agreement will contain an unsecured commitment by SWEPCO to pay to the Parish at specified times, in payment of the purchase price for the Facilities, amounts sufficient to enable the Parish to pay debt service on the Bonds, including principal, interest, and redemption premium, if any. Pursuant to the indenture, the Parish will assign to the trustee all such amounts payable under the Agreement. The Bonds will be special obligations of the Parish, payable only out of purchase price payments made by SWEPCO and will not be an obligation of the Parish payable from its general revenues or any tax assessment.

The applicant-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 20, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 82-27080 Filed 9-30-82; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 22845; (70-6760)]

John H. Ware, 3rd; Proposed Acquisition of Securities of a Public-Utility Company

September 24, 1982.

John H. Ware, 3rd ("Ware"), 55 South Third Street, Oxford, Pennsylvania 19363 has filed with this Commission an application and an amendment thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a)(2) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the amended application, which is summarized below, for a complete statement concerning the proposed transaction.

Ware owns or controls, directly or indirectly, approximately 98% of the outstanding common stock of Penn Fuel System, Inc. ("System"), a Pennsylvania corporation. System owns 100% of the common stock of North Penn Gas Company ("North Penn"), a Pennsylvania corporation and a gas utility company, and approximately 85% of the common stock of Penn Fuel Gas, Inc. ("Penn Fuel"), a Pennsylvania corporation which has seven wholly owned gas utility subsidiaries, all of which are also Pennsylvania corporations. An additional 11% of the common stock of Penn Fuel is owned by Ware, persons related to him or trusts for and corporations owned by such persons. By order dated November 20, 1975 (HCAR N. 19254), System and its subsidiary companies were granted an exemption pursuant to Section 3(a)(1) from all provisions of the Act except Section 11(b)(2).

Ware also owns or controls 3.8% of the common stock of Pennsylvania & Southern Gas Company ("P&S"), a Delaware corporation and a gas utility company. Ware has applied for approval under Sections 9(a)(2) and 10 to acquire additional common shares of P&S such that he will thereby become an affiliate of P&S under Section 2(a)(11)(A). The acquisition would be made in open market purchases or in private purchases at negotiated prices. If approval is obtained, Ware anticipates he will make additional purchases from time to time pursuant to Rule 11(d).

North Penn distributes natural gas at retail to approximately 30,174 customers in eight counties in northern Pennsylvania. It also sells natural gas at wholesale to other gas utility companies and sells gas appliances. At December 31, 1981, North Penn had gross utility plant of $33,324,822 and net utility plant of $22,522,461. For the year then ended it reported $74,839,266 of operating revenues and $1,078,674 of net income. Penn Fuel, through its subsidiaries, distributes natural gas at retail to approximately 29,213 customers in 24 counties in central, eastern and southeastern Pennsylvania. A small portion of one subsidiary's operations are conducted in and around Emittsburg, Maryland. Penn Fuel has two non-utility subsidiaries which sell liquified propane gas in containers in Delaware, Maryland and New Jersey. Penn Fuel also sells directly liquified propane gas and appliances. At December 31, 1981, Penn Fuel (consolidated) had gross plant, property and equipment of $38,283,782 and net plant, property and equipment of $26,763,583. For the year then ended it reported consolidated revenues of $74,998,912 ($64,878,105 from distribution of natural gas) and net income applicable to common stock of $1,502,288.

P&S distributes gas at retail to approximately 19,000 customers through five operating divisions: (1) Valley Cities Division, serving the towns of Sayre, Athens, South Waverly, Towanda, Ulster and Wysox, all in Bradford County, Pennsylvania; (2) Waverly Division, serving Waverly, New York; (3) Elkton Division, serving Elkton, Maryland; (4) North Carolina Division, supplying natural and liquified propane gas to Reidsville, Eden, Madison and Mayoden, North Carolina; and (5) Elizabeth and Suburban Division, supplying liquified propane gas to Elizabeth City, North Carolina. At September 30, 1981, P&S has gross utility plant of $13,929,129 and net utility plant of $9,040,232. For its fiscal year then ended it reported $25,530,999 of revenues from natural gas sales, $2,403,435 of revenues from non-utility sales of liquified propane gas and $1,085,185 of net income. P&S has a wholly owned subsidiary, Rockingham Exploration Company, which is a participant in joint ventures engaged in the exploration and development of oil and gas properties. The investment by P&S in this subsidiary is carried on its books at $142,844. At September 30, 1981, P&S had 235,857 shares of common stock outstanding, held by 380 shareholders.

The service area of the Valley Cities Division of P&S is immediately east of the six-county area in Pennsylvania served by North Penn, and the service area of the Waverly Division is immediately north of the Valley Cities service area. Considered as a whole, these two P&S divisions are thus contiguous to the North Penn Service area. The service area of P&S's Elkton Division is 14 miles southeast of the

service area of the Oxford Division of South Penn Gas Company, a subsidiary of Penn Fuel.

Ware agrees that he will undertake, subject to any applicable restrictions, regulations or law, to integrate the Valley Cities, Elkton and Waverly Divisions of P&S into System at such time as this union would be practical and economically viable. It is stated that operating economies would result from such integration. Ware also agrees that he will not seek to integrate the two North Carolina divisions into System unless the Act is modified to permit such a transaction. The utility revenues and net utility plant of System and P&S in the states in which they operate are indicated in the following table (data for the 12 months ended December 31, 1981):

State	Utility revenues	Percent	Net utility plant	Percent
System				
Pennsylvania	$138,507,244	99.1	$50,658,577	99.2
Maryland	1,210,127	0.9	383,125	0.8
Total	139,717,371	100.0	51,041,702	100.0
P&S				
Pennsylvania	10,692,517	39.2	3,502,840	39.0
Maryland	1,933,996	7.1	931,402	10.4
New York	1,364,529	5.0	808,634	9.0
Subtotal	13,991,032	51.3	5,242,876	58.4
North Carolina	13,270,351	48.7	3,740,080	41.6
Total	27,261,383	100.0	8,982,956	100.0

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $7,500. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

The application and amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 25, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date the application, as amended or as it may be further amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-27061 Filed 9-30-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 19077; File No. 4-281]

Receipt of Amendment To CQ Plan

September 24, 1982.

On September 13, 1982, the participants in the Consolidated Quotation system ("CQS") submitted to the Commission, pursuant to Rule 11Aa3-2 under the Securities Exchange Act of 1934, an amendment to the Restated and Amended Plan ("CQ Plan").[1]

I. Description of Amendment

The CQ Plan participants have adopted an amendment to the CQ Plan that reflects the change in address of the Boston and Philadelphia Stock Exchanges, and provides for the more frequent apportionment among the participants of yearly net income or losses resulting from operation of the CQ network. In addition, the amendment removes references from the CQ Plan pertaining to the CQS manual interface because that interface has never been utilized and is no longer a practical alternative.

II. Request for Comment

Pursuant to Rule 11Aa3-2(c)(3) under the Act, the amendment became effective upon filing with the Commission. The Commission, however, summarily may abrogate the amendment within 60 days of filing and require that the amendment be refiled pursuant to Rule 11Aa3-2(b)(1), if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act. Accordingly, in order to assist the Commission in determining whether to abrogate the amendment and to require further review, interested persons are invited to submit their views to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, within 21 days from the date of publication in the **Federal Register**. The amendment to the CQ plan will be available for public inspection in the Commission's public reference room. All communications should refer to File No. 4-281.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-27049 Filed 9-30-82; 8:45 am]

BILLING CODE 8010-01-M

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[1] *See* Securities Exchange Act Release No. 15009 (July 28, 1978), 43 FR 34851.

[2] 17 CFR 200.30-3(a)(29).

DEPARTMENT OF TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

During the period September 17 through September 23, 1982, the Department of Treasury submitted the following public information collection requirements to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the Treasury Reports Management Officer, Information Resources Management Division, Room 309, 1625 I St. NW., Washington, D.C. 20220; *and* to the OMB reviewer listed at the end of each entry.

Date Submitted: September 17, 1982.

Submitting Bureau: Internal Revenue Service.

OMB No.: 1557-0074.

Form No.: 1040 and related schedules.

Type of Submission: Revision.

Title: U.S. Individual Income Tax Return and related schedules.

Purpose: IRC sections 601 and 6012 require individuals to file income tax returns annually. Form 1040 and related schedules are used to report income subject to tax and compute the tax liability. The data is used to verify that items on the forms are correct and for general statistical use.

OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

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Date Submitted: September 17, 1982.

Submitting Bureau: Internal Revenue Service.

OMB No.: 1545-0233.

Form No.: 7004.

Type of Submission: Revision.

Title: Application for Automatic Extension of Time to File Corporation Income Tax Return.

Purpose: Form 7004 is used by a corporation to request an automatic 3-month

extension of time to file its income tax return. The information is needed by IRS to determine whether Form 7004 was timely filed so as not to impose a late filing penalty in error and also to insure that the proper amount of tax was computed and deposited.

OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: September 20, 1982.

Submitting Bureau: Alcohol, Tobacco and Firearms.

OMB No: N/A (New submission).

Form No.: ATF F 5200.18.

Type of Submission: New.

Title: Floor Stock Tax Return—Cigarettes.

Purpose: The Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248) imposes a one-time Floorstocks tax on taxpaid cigarettes held for distribution. This form is the tax return and contains information necessary to verify correct payment.

OMB Reviewer: Suzann Evinger (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: September 21, 1982.

Submitting Bureau: Internal Revenue Service.

OMB No.: 1545–0126.

Form No.: 1120F.

Type of Submission: Revision.

Title: U.S. Income Tax Return of a Foreign Corporation.

Purpose: Form 1120F is filed by foreign corporations that are engaged in a trade or business in the U.S. or have U.S. investment income. The IRS uses Form 1120F to determine whether the foreign corporation has correctly reported its income and computed its tax.

OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

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Date Submitted: September 21, 1982.

Submitting Bureau: Internal Revenue Service.

OMB No.: 1545–0284.

Form No.: 5309.

Type of Submission: Revision.

Title: Application for Determination of Employee Stock Ownership plan.

Purpose: Form 5309 is filed with Form 5301, 5303, or 5307, when applying for a determination letter as to a deferred compensation plan's qualification status under section 401(a) of the Internal Revenue Code. The information is used to determine whether the plan qualifies.

OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

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Date Submitted: September 21, 1982.

Submitting Bureau: Internal Revenue Service.

OMB No.: 1545–0098.

Form No.: 1045.

Type of Submission: Revision.

Title: Application for Tentative Refund.

Purpose: Form 1045 is used by individuals, estates, and trusts to apply for a quick refund of taxes due to carryback of a net operating loss, unused investment, WIN, jobs or research credit, or claim of right adjustment under section 1341(b). The information obtained is used to determine the validity of the application.

OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: September 21, 1982.

Submitting Bureau: Internal Revenue Service.

OMB No.: 1545–0047.

Form No. 990 and Schedule A.

Type of Submission: Revision.

Title: Return of Organization Exempt from Income Tax and Organization Exempt under 501(c)(3).

Purpose: Form 990 is needed to determine that IRC section 501(a) exempt organizations fulfill the operating conditions of their tax exemption. Sch. A (Form 990) is used to elicit special information from section 501(c)(3) organizations. IRS uses the information from these forms to determine if the filers are operating within the rules of their exemption.

OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: September 21, 1982.

Submitting Bureau: Internal Revenue Service.

OMB No.: 1545–0090.

Form No.: 1040SS and 1040–PR.

Type of Submission: Revision.

Title: U.S. Self-Employment Tax Return & Planilla Para La Declaracion DeLa Contribucion Federal Sabre El Traliajo Por Cuenta Propia-Puerto Rico.

Purpose: Forms 1040SS and 1040–PR are used to figure self-employment tax in accordance with IRC chapter 2 of Subtitle A, and provide proper credit to taxpayer's Social Security account. The data is used to determine whether the proper amount of self-employment tax is reported.

OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: September 21, 1982.

Submitting Bureau: Internal Revenue Service.

OMB No.: N/A (New submission).

Form No.: 6157.

Type of Submission: New.

Title: Employment Inquiry Form.

Purpose: The Form 6157 is used by all IRS offices to voucher past employers of prospective IRS employees. Due to the sensitive nature of the IRS function, a high level of integrity is demanded of IRS employees. Forms 6157 are sent out with self-addressed stamped envelopes to three most recent employers regarding applicants for positions in IRS to determine whether they should be hired.

OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

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Date Submitted: September 22, 1982.

Submitting Bureau: Internal Revenue Service.

OMB No.: N/A (New submission).

Form No.: 6694.

Type of Submission: New.

Title: TCE Retest (English).

Purpose: As a part of the Tax Counseling for the Elderly (TCE) program, the volunteers who fail the initial TCE test are permitted to take the retest. If they pass the retest, then they may prepare tax returns for the elderly.

OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

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Date Submitted: September 22, 1982.

Submitting Bureau: Internal Revenue Service.

OMB No.: N/A (New submission).

Form No.: 1668 (P).

Type of Submission: New.

Title: Request for Status of Form 637, Certificate of Registration.

Purpose: This notice was developed to notify taxpayers who have registered, under Section 4222 of the Code, to sell or purchase items tax free, that the Internal Revenue Service is verifying that the conditions of their exemption still exist. This verification is made biennially.

OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

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Date Submitted: September 22, 1982.

Submitting Bureau: Internal Revenue Service.

OMB No.: N/A (New submission).

Form No.: 6693.

Type of Submission: New.

Title: TCE Test (English).

Purpose: As a part of the Tax Counseling for the Elderly (TCE) program, all volunteers are requested to take a test at the end of the training session to insure that students have been adequately trained. This is a fail/pass system.

OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

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Date Submitted: September 22, 1982.

Submitting Bureau: Internal Revenue Service.

OMB No.: 1545–0132.

Form No.: 1120X.

Type of Submission: Revision.

Title: Amended U.S. Corporation Income Tax Return.

Purpose: Domestic corporations use Form 1120X to correct a previously filed Form 1120. The data is used to determine if the correct tax liability has been reported.

OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget.

Room 3208, New Executive Office Building, Washington, D.C. 20503.

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Date Submitted: September 22, 1982.
Submitting Bureau: Internal Revenue Service.
OMB No.: 1545-0373.
Form No.: 5083.
Type of Submission: Revision.
Title: Information Needed to Identify Account or Locate Return.
Purpose: This form is used to request information needed to identify an account or locate a return. The information is needed to respond to a taxpayer for a photocopy of a return.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

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Date Submitted: September 22, 1982.
Submitting Bureau: Internal Revenue Service.
OMB No.: 1545-0128.
Form No.: 1120L.
Type of Submission: Revision.
Title: U.S. Life Insurance Company Income Tax Return.
Purpose: Life insurance companies are required to file an annual return of income and compute and pay any tax due. The data is used to ensure that companies have correctly reported taxable income and paid the correct tax.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: September 22, 1982.
Submitting Bureau: Internal Revenue Service.
OMB No.: 1545-0094.
Form No.: 1041-A.
Type of Submission: Revision.
Title: U.S. Information Return—Trust Accumulation of Charitable Amounts.
Purpose: Form 1041-A is used to report the information required in 26 U.S.C. 6034 concerning accumulation and distribution of charitable amounts. The data is used to verify that amounts for which a charitable deduction was allowed are used for charitable purposes.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

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Date Submitted: September 22, 1982.
Submitting Bureau: Internal Revenue Service.
OMB No.: 1545-0198.
Form No.: 5227.
Type of Submission: Revision.
Title: Split-Interest Trust Information Return.
Purpose: This data is used to verify that the beneficiaries of a charitable remainder trust include the correct amounts in their tax returns, and that the trust owes no income tax or private foundation taxes.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

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Date Submitted: September 22, 1982.
Submitting Bureau: Internal Revenue Service.
OMB No.: 1545-0052.
Form No.: 990-PF and 4720.
Type of Submission: Revision.
Title: Returns for Private Foundations, Non-Exempt Charitable Trusts, and Related Persons.
Purpose: IRC section 6033 requires the filing of an annual information return by all private foundations (taxable or tax exempt) and section 4947(a)(1) trusts treated as private foundations. Section 4940 imposes a tax on net investment income and section 53.4940-1(a) of the Regulations requires reporting it on the return filed under section 6033. Section 6011 requires a return for taxes on prohibited acts.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: September 22, 1982.
Submitting Bureau: Internal Revenue Service.
OMB No.: 1545-0021.
Form No.: NAR Form 3-215.
Type of Submission: Extension.
Title: Affidavit-Estate Tax Liability on Estate Tax.
Purpose: The form is needed in the examination of estate tax returns to document the payment of state death taxes. The data is used to verify that the credit or deduction of estate death taxes is accurately reflected on the estate tax return.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

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Date Submitted: September 23, 1982.
Submitting Bureau: Internal Revenue Service.
OMB No.: 1545-0028.
Form No.: 940 and 940 PR.
Type of Submission: Revision.
Title: Employer's Annual Federal Unemployment Tax Return.
Purpose: Internal Revenue code section 3301 imposes a tax on most employers based on the first $6,000 of annual wages paid to each employee. IRS uses the information to ensure that employers have reported and computed the correct FUTA (Federal Unemployment Tax Act) wages and FUTA tax.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: September 23, 1982.
Submitting Bureau: Internal Revenue Service.
OMB No.: 1545-0562.
Form No.: 1139.
Type of Submission: Revision.
Title: Corporation Application for Tentative Refund.
Purpose: Form 1139 is used by corporations to apply for a quick refund of taxes due to a carryback of a net operating loss, net capital loss, unused investment, WIN, jobs or research credit, or claim of right adjustment under IRC section 1341(b). The information obtained is used to determine the validity of the application.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: September 23, 1982.
Submitting Bureau: Internal Revenue Service.
OMB No.: 1545-0067.
Form No.: Form 2555.
Type of Submission: Revision.
Title: Foreign Earned Income.
Purpose: This form is used by U.S. citizens and resident aliens who qualify for the foreign earned income exclusion and/or the foreign housing exclusion or deduction. This information is used by the Service to determine if a taxpayer qualifies for the exclusion(s) or deduction.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: September 23, 1982.
Submitting Bureau: Internal Revenue Service.
OMB No.: 1545-0155.
Form No.: 3468.
Type of Submission: Revision.
Title: Computation of Investment Credit.
Purpose: Form 3468 is used to compute the credit for investment in certain types of assets, including energy property. The data is used to verify the correct amount of the credit against the income tax.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date submitted: September 23, 1982.
Submitting Bureau: Internal Revenue Service.
OMB No.: 1545-0092.
Form No.: 1041 and Schedules D, J & K-1.
Type of Submission: Revision.
Title: U.S. Fiduciary Income Tax Return and Schs. On Capital Gains and Losses, Trust Alloc. of Accum Dist., Beneficiary Share of Income, etc.
Purpose: IRC section 6012 requires that an annual income tax return be filed for estates and trusts. Section 6041 requires a return be filed reporting payments to recipients. Data used to determine that the estates, trusts, and beneficiaries filed the proper returns and paid the correct tax.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

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Date Submitted: September 23, 1982.
Submitting Bureau: Internal Revenue Service.

OMB No.: N/A (new submission).
Form No.: W–8.
Type of Submission: New.
Title: Individual Certificate of Exemption.
Purpose: Payees of interest and dividends file this form to tell the payer not to withhold income tax on the interest or dividends. This form is also used by a payee who no longer qualifies for exemption to revoke the exemption. The payer will use this form as the authority not to withhold or to revoke the exemption.
OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

September 28, 1982.

Joy Tucker,
Departmental Reports Management Officer.

[FR Doc. 82–27125 Filed 9–30–82; 8:45 am]
BILLING CODE 4810–25–M

VETERANS ADMINISTRATION

Advisory Committee on Structural Safety of Veterans Administration Facilities; Rescheduled Meeting

The meeting of the Advisory Committee on Structural Safety of Veterans Administration Facilities which was originally scheduled for September 24, 1982, as set forth in **Federal Register** of August 4, 1982, (47 FR 33825) and as rescheduled for October 1, 1982, and set forth in **Federal Register** of September 8, 1982, (47 FR 39634) is now rescheduled for October 29, 1982. The meeting will convene in Room 442 of the Lafayette Building, 811 Vermont Avenue, NW, Washington, DC at 10 a.m.

Dated: September 23, 1982.
By direction of the Administrator.

Rosa Maria Fontanez,
Committee Management Officer.

[FR Doc. 82–27069 Filed 9–30–82; 8:45 am]
BILLING CODE 8320–01–M

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists a revision. The entry contains the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(H) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the proposed form and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW, Washington DC, 20420 (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Karen Sagett, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395–6880.

DATE: Comments on form should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: September 27, 1982.
By direction of the Administrator.

Dominick Onorato,
Associate Deputy Administrator for Information Resources Management.

Revision

(1) Department of Medicine and Surgery.
(2) Funeral Arrangements.
(3) VA Form 10–2065.
(4) Once.
(5) Individual who is assuming responsibility for the burial of the VA beneficiary.
(6) Annually 60,000 responses.
(7) Annually 5,000 hours.
(8) Not applicable under 3504(H).

[FR Doc. 82–27070 Filed 9–30–82; 8:45 am]
BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 191
Friday, October 1, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Copyright Royalty Tribunal	1
Federal Home Loan Bank Board	2
Federal Reserve System	3
Federal Maritime Commission	4
Nuclear Regulatory Commission	5, 6

1

COPYRIGHT ROYALTY TRIBUNAL

DATE AND TIME: Tuesday, October 5, 1982, 10 a.m.

PLACE: Postal Rate Commission, 2000 L Street, NW., room 500, Washington, DC.

STATUS: Open.

MATTER TO BE CONSIDERED:

1. 1980 Adjustment of Cable Copyright Royalties.

CONTACT PERSON FOR FURTHER INFORMATION: Thomas C. Brennan, Acting Chairman, Copyright Royalty Tribunal, 1111 20th St., NW., Washington, D.C. 20036 (202) 653–5175.

Thomas C. Brennan,
Acting Chairman.

[S–1401–82 Filed 9–28–82; 4:14 pm]
BILLING CODE 1410–01–M

2

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Wednesday, October 6, 1982.

PLACE: Board room, Sixth floor, 1700 G Street, N.W., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

MATTERS TO BE CONSIDERED:

Application for General Trust Powers—First Federal Savings and Loan Association of Dearborn, Dearborn, Michigan
Trust Department Application—First Federal Savings and Loan Association of Kalamazoo, Kalamazoo, Michigan
[No. 65, September 29, 1982]

[S–1402–82 Filed 9–29–82; 10:20 am]
BILLING CODE 6720–01–M

3

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 3 p.m., Tuesday, September 28, 1982. The business of the Board required that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposal by the American Bankers Association to change proposed amendments to Section 23A of the Federal Reserve Act to exempt from coverage the purchasing of loans on a nonrecourse basis from affiliated banks.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: September 29, 1982.

James McAfee,
Associate Secretary of the Board.

[S–1403–82 Filed 9–29–82; 3:38 pm]
BILLING CODE 6210–01–M

4

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., October 6, 1982.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Agreement No. 9836–11: Modification of the Malaysia-Pacific Rate Agreement To Add Intermodal Rate Making Authority.
2. (1) Draft Final Rule—Docket No. 76–63, Filing of Agreements by Common Carriers and Other Persons Subject to the Shipping Act, 1916; and (2) Draft Commission Order—Internal Procedures Governing the Processing of Agreements.
3. Docket No. 81–50, Per Container Rates—Tariff Filing Regulations Applicable to Carriers and Conferences in the Foreign Commerce of the United States. Petitions for Reconsideration of Final Rule.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Assistant Secretary (202) 523–5725.

[S–1400–82 Filed 9–28–82; 4:09 pm]
BILLING CODE 6730–01–M

5

NUCLEAR REGULATORY COMMISSION:

DATE: Week of October 4, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Wednesday, October 6:*

3:00 p.m.:
Status of Staff Certification on Licensee Compliance with Restart Requirements in TMI–1 (public meeting)

Thursday, October 7:

10:00 a.m.:
Briefing by Regulatory Reform Task Force (Legislative Proposals) (public meeting)
2:00 p.m.:
Discussion of Final Rule—Waste Management Technical Regulations (public meeting)
3:30 p.m.:
Affirmation/Discussion and Vote (public meeting)
a. Hearing Requests Concerning Extension of Construction Completion Dates for Washington Public Power Supply System Nuclear Project Nos. 1 and 2
b. Diablo Canyon Security—Purging of Classified Material in ALAB–653

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the date of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

September 28, 1982.

Walter Magee,
Office of the Secretary.

[S–1404–82 Filed 9–29–82; 3:33 pm]
BILLING CODE 7590–01–M

6

NUCLEAR REGULATORY COMMISSION

DATE: Thursday, September 30, 1982 (Revised).

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED: *Thursday, September 30:*

4:15 p.m.:
Affirmation/Discussion and Vote (public meeting) (items revised)
a. Order in Indian Point Proceeding
b. Delegation of Authority to Secretary (tentative)

ADDITIONAL INFORMATION: Discussion of TMI–1 Restart—Status of Staff Effort on Psychological Stress scheduled for September 28 has been *cancelled.*

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULED UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

September 23, 1982.

Walter Magee,

Office of the Secretary.

[S–1405–82 Filed 9–29–82; 3:33 pm]

BILLING CODE 7590–01–M

federal register

Friday
October 1, 1982

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21136) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21136) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the Federal Register are listed with each State.

California:	
CA82-5120	Aug. 27, 1982.
District of Columbia, Maryland & Virginia:	
DC81-3040	June 5, 1981.
Idaho:	
ID81-5157	Oct. 9, 1981.
Illinois:	
IL81-2037	June 26, 1981.
Iowa:	
IA82-4030	June 18, 1982.
Louisiana:	
LA82-4020	May 7, 1982.
LA82-4022	May 7, 1982.
LA82-4023	May 7, 1982.
Nevada:	
NV82-5113	Aug. 6, 1982.
NV82-5114	Aug. 6, 1982.
NV82-5115	Aug. 6, 1982.
NV82-5116	Aug. 6, 1982.
New York:	
NY81-3030	May 1, 1981.
North Carolina:	
NC82-1027	Apr. 30, 1982.
Oregon:	
OR82-5100	Mar. 12, 1982.
Ohio:	
OH82-2035	May 7, 1982.
OH82-2045	Aug. 13, 1982.
Pennsylvania:	
PA81-3027	July 17, 1981.
PA81-3029	July 10, 1981.
PA81-3091	Dec. 28, 1981.
Rhode Island:	
RI81-3042	Aug. 21, 1981.
South Dakota:	
SD81-5150	Sept. 4, 1981.
Washington:	
WA82-5117	Aug. 13, 1982.
Texas:	
TX81-4008	Jan. 8, 1981.
TX81-4064	Aug. 7, 1981.
TX82-4002	Jan. 15, 1982.
TX82-4024	June 18, 1982.
TX82-4025	June 18, 1982.
TX82-4026	June 18, 1982.
TX82-4027	June 18, 1982.
TX82-4029	June 18, 1982.
TX82-4033	June 18, 1982.
TX82-4045	Sept. 24, 1982.
Virginia:	
VA82-3024	July 23, 1982.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedeas decision numbers are in parentheses

following the numbers of the decisions being superseded.

Hawaii:	
HI82-5105 (HI82-5123)	Mar. 12, 1982.
Iowa:	
IA81-4096 (IA82-4048)	Nov. 27, 1981.
Kentucky:	
KY81-1281 (KY82-1054)	Aug. 28, 1981.
KY81-1282 (KY82-1055)	Aug. 28, 1981.
KY81-1283 (KY82-1053)	Sept. 4, 1981.
KY81-1290 (KY82-1056)	Sept. 11, 1981.
Mississippi:	
MS81-1287 (MS82-1052)	Sept. 4, 1981.
Missouri:	
MO81-4059 (MO82-4047)	July 24, 1981.
Ohio:	
OH81-2023 (OH82-2048)	May 8, 1981.
Texas:	
TX82-4026 (TX82-4046)	June 18, 1982.

Please note that we are changing the format for **Federal Register** wage decisions to coincide with the provisions of All Agency Memorandum No. 132 dated January 29, 1980, which provides that the Department of Labor will discontinue identifying fringe benefits separately. Rather, they will be stated as a composite figure which is the total hourly equivalent value of fringe benefits found to be prevailing. Fringe benefits which cannot be stated in monetary terms will be shown in footnotes. This procedure is being phased in gradually.

Signed at Washington, D.C., this 24th day of September 1982.

Dorothy P. Como,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 1

DECISION NO. CA82-5120 - Mod. #1
(47 FR 38022 - August 27, 1982)
Alameda, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers; Stonemasons:		
Area 2	$19.05	$4.95
Area 3	17.35	3.06
Brick Tenders:		
Area 1	15.48	3.70
Drywall Installers	20.12	6.255
Electricians:		
Area 11:		
Electricians	22.00	3%+5.75
Cable Splicers	24.75	3%+5.75
Ironworkers:		
Fence Erectors	16.41	8.03
Reinforcing; Ornamental; Structural	17.30	8.03
Plasterers:		
Area 1	17.33	4.43
Plumbers; Steamfitters:		
Area 8	15.47	8.65
Roofers:		
Area 8:		
Roofers	15.45	6.34
Enamelers and Pitch	17.45	6.34
Area 9:		
Roofers; Kettleman (1 kettle)	15.01	5.72
Sheet Metal Workers:		
Area 5	26.18	4.74
Area 6	25.06	5.92
Area 7	17.80	3.76
Sprinkler Fitters:		
Area 1	25.12	5.89

DECISION NO. DC81-3040 - MOD. #15
(46 FR 30290 - June 5, 1981)
DISTRICT OF COLUMBIA; MARYLAND-MONTGOMERY AND PRINCE GEORGES; D.C. TRAINING SCHOOL; VIRGINIA-INDEPENDENT CITY OF ALEXANDRIA, ARLINGTON AND FAIRFAX

CHANGE:		
PLUMBERS	15.81	2.99

DECISION NO. ID81-5157 - Mod #13
(46 FR 50223 - Oct. 9, 1981)
Statewide Idaho

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS: Area 2:		
Cable Splicers	$16.56	4%+2.00
PAINTERS: Area 2:		
Painters and Tapers	12.23	1.71
PLUMBERS: Area 2:	15.43	3.62

DECISION NO. IL81-2037 - MOD. #2
(46 FR 33181 - June 26, 1981)
Peoria & Tazewell Counties, Illinois

	Basic Hourly Rates	Fringe Benefits
Change:		
Carpenters:		
Commercial:		
Peoria Co. (Chillicothe & Vic.):		
Carpenters; Piledrivermen; & Soft Floor Layers	$15.03	2.68
Millwrights	15.28	2.68
Tazewell & Peoria (Rem. of Co.) Cos.:		
Carpenters; & Soft Floor Layers	16.38	1.87
Millwrights; & Piledrivermen	16.88	1.87
Residential:		
Peoria Co. (Chillicothe & Vic.)	13.68	1.68
Tazewell & Peoria (Rem. of Co.) Cos.	14.38	2.81

MODIFICATION PAGE 2

DECISION NO. IA82-4030 - MOD. #6
(47 FR 36537 - 6/18/82)
Black Hawk, Cerro Gordo, Clinton, Des Moines, Dubuque, Johnson, Linn & Polk Cos., Iowa

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$16.11	2.835
Carpenters:		
Zone 3 - Millwrights	16.00	3.10
Cement masons - Zone 4	17.65	
Ironworkers - Zone 4	16.25	2.15
Laborers:		
Zone 4 - Group 1	13.50	1.70
Group 2	13.66	1.70
Group 3	13.76	1.70
Group 4	13.87	1.70
Group 5	13.97	1.70
Plasterers - Zone 4	17.28	
Roofers - Zone 3	15.60	2.66
Power equipment ops.:		
Zones 3 & 4 - Group 1	15.35	2.98
Group 2	13.85	2.98
Group 3	12.80	2.98
OMIT:		
Roofers:		
Zone 5;		
City of Dubuque & 30 mile radius from city limits	12.16	.50
Remainder of County	12.00	.50
ADD:		
Roofers - Zone 5	12.16	.50

DECISION NO. LA82-4020 - MOD. #8
(47 FR 19880 - 5/7/82)
Statewide Louisiana

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayer & stonemason:		
Zone 3	$15.45	1.73
Carpenters:		
Zone 2 - Millwrights	16.71	.07
Marble, tile & terrazzo workers & finishers:		
Zone 1 - Marble, tile & terrazzo finishers	9.80	1.00
Zone 2 - Marble & terrazzo workers	15.45	1.73
Zone 6:		
Marble, tile & terrazzo workers	17.25	
Marble, tile & terrazzo finishers	9.80	1.00
Zone 7 - Tile finishers	9.80	1.00
OMIT Concordia Parish from Zone 7 PAINTERS		
ADD Concordia Parish to Zone 2 PAINTERS		

DECISION NO. LA82-4022 - MOD. #5
(47 FR 19877 - 5/7/82)
Calcasieu Par., Louisiana

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayer & stonemason	15.45	1.73
Carpenters - Millwright	16.71	.07
Marble & terrazzo workers	15.45	1.73

DECISION NO. LA82-4023 - MOD. #4
(47 FR 19878 - 5/7/82)
Allen, Beauregard, Bossier, Caddo, Calcasieu, Cameron, Jefferson, Jefferson Davis, Orleans, Plaquemines, St. Bernard & St. Charles Pars., Louisiana

CHANGE:		
Bricklayer & stonemason:		
Zones 3, 4 & 5	15.45	1.73

MODIFICATION PAGE 3

DECISION NO. IA82-4031 - MOD. #6
(47 FR 36538 - 6/18/82)
Benton, Buchanan, Delaware, Iowa, Jones, Linn & Tama Cos., Iowa

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$16.11	2.835
Carpenters:		
Zone 3 - Millwrights	16.00	3.10
Cement masons - Zone 4	17.65	
Ironworkers - Zone 4	16.25	2.15
Laborers:		
Zone 4 - Group 1	13.50	1.70
Group 2	13.66	1.70
Group 3	13.76	1.70
Group 4	13.87	1.70
Group 5	13.97	1.70
Plasterers - Zone 4	17.28	
Roofers - Zone 3	15.60	2.66
Power equipment ops.:		
Zones 3 & 4 - Group 1	15.35	2.98
Group 2	13.85	2.98
Group 3	12.80	2.98
OMIT:		
Roofers:		
Zone 5;		
City of Dubuque & 30 mile radius from city limits	12.16	.50
Remainder of County	12.00	.50
ADD:		
Roofers - Zone 5	12.16	.50

DECISION NO. LA82-4021 - MOD. #7
(47 FR 19879 - 5/7/82)
Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Lafourche, Livingston, Pointe Coupee, St. Charles, St. James, St. John the Baptist, St. Martin, St. Mary, Tangipahoa, Terrebonne, West Baton Rouge & West Feliciana Pars., Louisiana

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayer & stonemason:		
Zones 3, 4 & 5	15.45	1.73

MODIFICATION PAGE 4

DECISION NO. MT82-4001 - MOD. #1
(47 FR 19881 - 5/7/82)
Statewide Montana

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$16.11	2.835
Carpenters:		
Zone 3 - Millwrights	16.00	3.10
Cement masons - Zone 4	17.65	
Ironworkers - Zone 4	16.25	2.15
Laborers:		
Zone 4 - Group 1	13.50	1.70
Group 2	13.66	1.70
Group 3	13.76	1.70
Group 4	13.87	1.70
Group 5	13.97	1.70
Plasterers - Zone 4	17.28	
Roofers - Zone 3	15.60	2.66
Power equipment ops.:		
Zones 3 & 4 - Group 1	15.35	2.98
Group 2	13.85	2.98
Group 3	12.80	2.98
OMIT:		
Roofers:		
Zone 5;		
City of Dubuque & 30 mile radius from city limits	12.16	.50
Remainder of County	12.00	.50
ADD:		
Roofers - Zone 5	12.16	.50

DECISION NO. NV82-5113 - Mod. #1 (47 FR 34300 - August 6, 1982)
Clark County (does not include the Nevada Test Site), Nevada

	Basic Hourly Rates	Fringe Benefits
Change:		
Carpenters:		
Carpenters	$16.76	$4.05
Drywall Installers	16.93	4.05
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	16.91	4.05
Lathers	16.93	4.05
Millwrights	16.76	5.05
Piledrivermen	16.96	4.05
Painters:		
Brush; Roller Paperhangers; Spray; Steel; Swing Stage; Sandblasters; Tapers	18.30	1.86
Power Equipment Operators: (Except Piledriving and Steel Erection):		
Group 1	16.75	4.60
Group 2	17.03	4.60
Group 3	17.32	4.60
Group 4	17.46	4.60
Group 5	17.68	4.60
Group 6	17.79	4.60
Group 7	17.91	4.60
Group 8	18.08	4.60
Group 9	18.21	4.60

DECISION NO. NV82-5114 - Mod. #1 - (47 FR 34312- August 6, 1982) - Nevada Test Site including Tonopah Test Range in Clark, Lincoln and Nye Counties, Nevada

	Basic Hourly Rates	Fringe Benefits
Change:		
Carpenters:		
Carpenters; Saw Filers; Power actuated tools; Pneumatic Nailer	17.66	3.05
Floor Layers; Shinglers	17.685	3.05
Millwrights	18.66	3.05
Piledrivers	17.86	3.05
Power Saw Operator	17.81	3.05

DECISION NO. NV82-5114 (Cont'd)

	Basic Hourly Rates	Fringe Benefits
Painters:		
Brush; Roller Paperhangers; Spray; Steel; Sandblasters; Swing Stage; Tapers	$17.06	$3.56
Buffing steel; Sandblasters, steel	17.41	3.56
Truck Drivers:	17.67	3.56
Group 1	15.46	2.58
Group 2	15.57	2.58
Group 3	15.62	2.58
Group 4	15.78	2.58
Group 5	15.96	2.58

DECISION NO. NV82-5115 - Mod. #1 - (47 FR 34314- August 6, 1982) - Washoe County, Nevada

	Basic Hourly Rates	Fringe Benefits
Change:		
Brick Mod Carriers	13.56	2.60
Bricklayers; Stonemasons	16.65	1.96
Elevator Constructors:		
Mechanics	27.295	2.69+a
Helpers	19.11	2.69+a
Probationary Helpers	13.65	
Plasterers	15.47	3.21
Plumbers; Steamfitters	17.04	5.98

DECISION NO. NV82-5116 - Mod. #1 - (47 FR 34303- August 6, 1982) - Statewide (does not include the Nevada Test Site and Tonopah Test Range, and highway construction in Douglas County), Nevada

	Basic Hourly Rates	Fringe Benefits
Change:		
Brick Mod Carriers:		
Area 1	13.56	2.60
Bricklayers; Stonemasons:		
Area 2	16.65	1.96

DECISION NO. NV82-5116 (Cont'd)

	Basic Hourly Rates	Fringe Benefits
Carpenters:		
Area 1:		
Carpenters	$16.76	$4.05
Drywall Installers	16.93	4.05
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	16.91	4.05
Lathers	16.93	4.05
Millwrights	16.76	5.05
Piledrivermen	16.96	4.05
Elevator Constructors:		
Area 2:		
Mechanics	27.295	2.69+a
Helpers	19.11	2.69+a
Probationary Helpers	13.65	
Painters:		
Area 1:		
Brush; Roller Paperhangers; Spray; Steel; Swing Stage; Sandblasters; Sign; Structural Steel; Taper	18.30	1.86
Buffing Steel; Sandblaster, structrual steel	18.65	1.86
Steeplejack	19.00	1.86
Plasterers:	20.05	1.86
Area 2	15.47	3.21
Plumbers; Steamfitters:		
Area 2	17.04	5.98
Plumbers (Utility):		
Area 1	17.04	5.98

DECISION NO. NV82-5116 (Cont'd)

	Basic Hourly Rates	Fringe Benefits
Power Equipment Operators: Clark, Esmeralda, Lincoln, and Nye Counties:		
Group 1	$16.75	$4.60
Group 2	17.03	4.60
Group 3	17.32	4.60
Group 4	17.46	4.60
Group 5	17.68	4.60
Group 6	17.79	4.60
Group 7	17.91	4.60
Group 8	18.08	4.60
Group 9	18.21	4.60

DECISION NO. NY81-3030 - MOD. #7
(46 FR 24850 - May 1, 1981)
CATTARAUGUS, CHAUTAUQUA & ERIE COUNTIES, NEW YORK

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
FRINGE BENEFITS ONLY		
POWER EQUIPMENT OPERATORS;		
BUILDING CONSTRUCTION		
GROUP I		4.66+a
GROUP II		4.66+a
GROUP III		4.66+a
GROUP IV		4.66+a
GROUP V		4.66+a
GROUP VI		4.66+a
GROUP VII		4.66+a
GROUP VIII		4.26+a
GROUP IX		4.26+a
GROUP X		4.66+a
GROUP XI		4.66+a
GROUP XII		4.66+a
GROUP XIII		4.66+a
GROUP XIV		4.26+a
GROUP XV		4.66+a
GROUP XVI		4.66+a
GROUP XVII		4.66+a
HEAVY AND HIGHWAY CONSTRUCTION		
ZONE I & ZONE II		
CLASS VIII		4.26+a
CLASS IX		4.26+a

MODIFICATION PAGE 5

DECISION NO. HC82-1027 - MOD. # 1 (April 30, 1982 in 47 FR 18752) Highway Construction Statewide North Carolina	Basic Hourly Rates	Fringe Benefits
ADD: POWER EQUIPMENT OPERATORS: Tractor Operator (Utility)	$ 4.34	
DECISION NO. OR82-5100 - Mod. #9 (47 FR 10954 - March 12, 1982) Statewide Oregon		
CHANGE:		
ASBESTOS WORKERS	$21.48	$2.58
GLAZIERS	16.34	2.09
PLASTERERS: Area 2:	16.23	3.31
ROOFERS: Area 2:		
Roofers	14.75	1.72
Spray and/or application of irritating materials in a confined area	15.75	1.72

DECISION NO. OH82-2035 - MOD. #4 (47 FR 19893 - May 7, 1982) Statewide, Ohio	Basic Hourly Rates	Fringe Benefits
Change: Bricklayers & Stone Masons: Trumbull Co. (Except City of Youngstown)	$15.69	2.75

DECISION NO. OH82-2045 - MOD. #1 (47 FR 35431 - August 13, 1982) Mahoning & Trumbull Counties, Ohio		
Change: Bricklayers; Caulkers; Cleaners; Pointers; & Stonemasons: Trumbull (Rem. of Co.) Co.	15.69	2.75

DECISION NO. PA81-3027 MOD. NO. 9 (46 FR 37212 - July 17, 1981) Franklin County, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
POWER EQUIPMENT OPERATORS:		
Bulldozers	$14.925	3.07
Backhoe	15.075	3.07
Cranes	15.075	3.07
Loaders	14.925	3.07
Fork Lift	14.925	3.07

DECISION NO. PA81-3029 MOD. NO. 7 (46 FR 35891 - July 10, 1981) Blair County, PA.		
CHANGE:		
POWER EQUIPMENT OPERATORS:		
Backhoe	15.075	3.07
Cranes	15.325	3.07

DECISION NO. PA 81-3091 MOD. NO. 3 (46 FR 62761 - December 28, 1981) Greene, Somerset & Potter Counties, Pennsylvania		
CHANGE:		
POWER EQUIPMENT OPERATORS: Somerset & Potter Counties		
Class 1	15.075	3.07
Class 1-A	15.325	3.07
Class 1-B	15.575	3.07
Class 1-C	15.825	3.07
Class 2	14.925	3.07
Class 3	12.85	3.07
Class 3-A	13.35	3.07
Class 4	12.20	3.07
Class 5	11.15	3.07
Class 6	11.45	3.07
Class 6-A	11.55	3.07
Class 6-B	11.70	3.07
Class 6-C	12.45	3.07
ADD:		
POWER EQUIPMENT OPERATORS:		
Class 1-D		
Gradall (remote control)	17.075	3.07

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DECISION NO. RI81-3042 - MOD. #8 (46 FR 42615 - August 21, 1981) STATEWIDE RHODE ISLAND	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BUILDING CONSTRUCTION		
ASBESTOS WORKERS	14.88	3.13
BOILERMAKERS	18.25	10%+ 1.465
BRICKLAYERS; STONEMASONS: Cities, Towns or Townships of Charlestown, Hopkinton, Peace Dale, Richmond, South Kingstown, Wakefield & Westerly	14.42	3.35
CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN & SOFT FLOOR LAYERS: Cities of Providence, Pawtucket, East Providence, Central Falls, Cranston, Warwick, Woonsocket; Towns of Barrington, Burrillville, Warren, Bristol, West Warwick, East Greenwich, West Greenwich, North Providence, Johnston, Cumberland, Lincoln, Smithfield, North Smithfield, Foster, Scituate, Gloucester, Conventry, North Kingstown, South Kingstown, Exeter, Narragansett, Westerly, & Charlestown:		
Building	14.00	2.95
Millwrights	14.25	2.95
City of Newport; Towns of Middletown, Portsmouth, Jamestown, Tiverton, Little Compton, New Shoreham (Block Island), & Prudence Island:		
Carpenters; soft Floor Layers	14.00	2.95
Millwrights (Cities of Tiverton & Little Compton)	14.25	2.95

	Basic Hourly Rates	Fringe Benefits
CEMENT MASONS: PLASTERERS:		
Remainder of State: Plasterers	11.25	1.35
ELECTRICIANS:		
Tiverton & Little Compton	14.20	16%+ 1.00
Westerly Township	14.20	16%+ 1.00
Remainder of State	15.00	26%+ 1.12
ELEVATOR CONSTRUCTORS	15.445	2.69+a
ELEVATOR CONSTRUCTORS' HELPERS	10.81	2.69+a
IRONWORKERS: Ornamental; Reinforcing & Structural	14.33	4.45
LABORERS: Labors; Carpenter Tenders; Cement Finisher Tenders; Mason Tenders; Scaffold Erectors & Wrecking Laborers	11.70	2.30
Asphalt Rakers; Adzemen; Pipe-Trench Bracers; Demolition Burners; Chain Saw Ops.; Fence & Guard Rail Erectors; Setters of Metal Forms for Roadways; Pipelayers; Riprap & Dry Stonewall Builders; Highway Stone Spreaders Pneumatic Tool Ops.; Wagon Drill Ops. Tree Trimmers; Barco Type Jumping Tampers; Mechanical Grinder Ops.; Plasterers' Tenders; Scaffold Builders; & Mortar Mixers	12.00	2.30
Pre-cast Floor and Roof Plank Erectors	12.20	2.30
Pumping Machine Operator	12.35	2.30
Air Track Ops.; Block Pavers; Rammers; & Curb Setters	12.45	2.30
Blasters; Powermen	12.70	2.30

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DECISION NO. RI81-3042 - CONT'D

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Remainder of State:		
Brush; Roller; Tapers	13.55	2.05
Structural Steel; Steam-cleaning	13.80	2.05
Air Powder Brush	14.05	2.05
Spray & Sand or Water Blasting	14.55	2.05
PAINTERS, SIGN:		
Bristol, Kent, & Providence Cos.	9.65	1.08+a+b
ROOFERS:		
Composition, Waterproofers	14.80	2.10
Slate, Tile, Precast Concrete	15.00	2.10
STEAMFITTERS	15.83	3.55
HEAVY AND HIGHWAY CONSTRUCTION		
BRICKLAYERS; STONEMASONS; Catch Basins; Manhole Builders	12.95	3.20
CARPENTERS; PILEDRIVERMEN: Bristol, Kent, Providence & Washington (excluding Block Island) Cos.	14.05	2.95
CEMENT MASONS & FINISHERS	10.10	.85
ELECTRICIANS:		
Westerly Township	14.20	16⅓+1.00
Remainder of State	15.00	26⅓+1.12
IRONWORKERS:		
Ornamental; Reinforcing; & Structural	14.33	4.45
LABORERS:		
Laborers; Carpenter & Cement Finisher Tenders & Wrecking Laborers	11.70	2.30
Adzeman; Asphalt Rakers; Barco-type Jumping Tampers; Chain Saw Ops.; Concrete & Power Buggy Ops.; Concrete Saw Ops.; Demolition Burners; Fence & Guard Rail Erectors; Highway Stone Spreaders; Mason Tenders; Mechanical Grinder Ops.; Mortar Mixers; Pipelayers; Pipe-Trench Bracers; Pneumatic Tool Ops.; Riprap & Dry Stonewall Builders; Scaffold Erectors; Setters of Metal Forms for Roadways; Wagon Drill Ops.; Wood Chipper Ops.	11.95	2.30
Air track drill ops.; Brick Pavers; Block Pavers; Rammers; Curb Setters	12.45	2.30
Blasters & Powdermen	12.70	2.30
Open Air Caisson, Underpinning and Boring Crew:		
Bottom man	13.80	2.30
Laborer, Top Men	13.05	2.30
Driller	13.92	2.30
PAINTERS:		
Remainder of State:		
Brush; Roller: Tapers Structural Steel; Steamcleaning	13.55	2.05
Air Power Brush	13.80	2.05
Spray & Sand or Water Blasting	14.05	2.05
PAINTERS, SIGN:		
Bristol, Kent & Providence Cos.	9.65	1.08+a+b
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.		

DECISION NO. RI81-3042 - CONT'D

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:

a. 7 paid holidays: A through F, plus Day after Thanksgiving
b. Employer contributes 8% basic hourly rate for 5 years or more of service; 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit
c. 9 paid holidays: A through F, plus V. J. Day; Columbus Day; & Veterans Day
d. One year's seniority - one week's paid vacation; 2 years' seniority - 2 weeks' paid vacation
e. 7 paid holidays: A through F, plus Columbus Day provided employee has been employed 5 working days prior to the holiday and provided the employee works the scheduled work days immediately preceding and following the holiday.

	Basic Hourly Rates	Fringe Benefits
BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS:		
Digging Machine; Ross Carriers; Cranes; Pile Drivers; Lighters; Locomotives; Derricks; Hoists; Pavers; and Front End Loaders 3 yds. and over	14.765	2.40
Economobile Type Equipment	14.54	2.40
Fork Lift	14.34	2.40
Firemen and Oilers	10.54	2.40
Bulldozers; Graders; Spreaders; Tractors; Scrapers and Rollers	13.34	2.40
Front-end Loaders less than 3 yards	13.84	2.40
Pipping Type Backhoe	13.69	2.40
Well-point Installation	13.415	2.40
Gas or electric Driven Pumps; Heaters; Concrete Mixers; Concrete Pumps; Stone Crushers; Air Compressors; Welding Machines and Generators for Light Plants	11.09	2.40
BRIDGES, CAISSONS, DOCKS, MARINES PIERS, SUB-BASEMENT SUBTERRANEAN, TUNNELS, AND HEAVY CONSTRUCTION		
Digging Machine; Cranes; Pile Drivers; Lighters; Locomotives; Derricks; Hoists; Pavers; & Front End Loaders, 3 Yds. & Over	15.49	2.40
Firemen and Oilers	11.115	2.40
Bulldozers; Graders; Spreaders; Scapers; Rollers	14.04	2.40
Front-end Loaders, less than 3 yds.	14.54	2.40
Well-point Installation Crews	14.215	2.40
POWER EQUIPMENT OPERATORS		
Gas or Electric Driven Pumps; Heaters; Concrete Mixers; Concrete Pumps; Stone Crushers; Air Compressors; Welding Machines; and Generators for Light Plants	11.54	2.40
Boat and Tug Operators	15.115	2.40
WATER AND SEWERLINE PROJECTS, HIGHWAY AND BRIDGE INCIDENTAL TO HIGHWAY CONSTRUCTION PROJECTS		

DECISION NO. RI81-3042 - CONT'D	Basic Hourly Rates	Fringe Benefits
CLASS 1	14.595	2.40
CLASS 2	13.745	2.40
CLASS 3	13.125	2.40
CLASS 4	9.875	2.40
CLASS 5	13.075	2.40
CLASS 6	13.575	2.40
CLASS 7	13.195	2.40
CLASS 8	13.175	2.40
CLASS 9	10.695	2.40
CLASS 10	12.175	2.40
CLASS 11	11.975	2.40
CLASS 12	12.645	2.40
CLASS 13	12.575	2.40
CLASS 14	13.025	2.40

DECISION NO. SD81-5150 Mod. #4
(46 FR 44656 - September 4, 1981)
Minnehaha County, South Dakota

Change:	Basic Hourly Rates	Fringe Benefits
Asbestos Workers	$15.70	$2.15
Electricians:		
Electricians	12.30	2.05+ 10%
Cable Splicers	13.56	2.05+ 10%

DECISION NO. WA82-5117 - Mod #3 (47 FR 35433 - Aug. 13, 1982) Statewide Washington	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS: Area 2	$21.48	$2.58
ELECTRICIANS: Area 6:		
Electricians	20.15	8% + 3.27
Cable Splicers	22.17	8% + 3.2
SPRINKLER FITTERS: Area 1	19.76	5.86
TERRAZZO WORKERS: TILE SETTERS: Area 1	15.40	3.15
TILE, MARBLE, AND TERRAZZO FINISHERS: Area 3	12.70	3.15

DECISION NO. TX81-4008 - MOD. #7 (46 FR 1550 - 1/6/81) Smith County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians:		
Electricians	$12.99	.80+ 7-3/8%
Cable splicers	13.51	"

DECISION NO. TX81-4064 - MOD. #7 (46 FR 40487 - 8/7/81) El Paso County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Ironworkers	12.05	2.95

DECISION NO. TX82-4002 - MOD. #6 (47 FR 2472 - 1/15/82) Wichita County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Plumbers & pipefitters:		
Zone 1	14.50	1.80
Zone 2	15.00	1.80
Power equipment ops.:		
Group 1	12.325	1.425
Group 2	13.225	1.425
Group 3	13.625	1.425

DECISION NO. TX82-4024 - MOD. #5 (47 FR 26548 - 6/18/82) Travis County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayers & stonemason	13.84	2.21
Carpenters - Carpenter	14.51	1.67
Millwright	14.76	1.67
Cement masons	13.94	1.30
Ironworkers	13.60	2.97
Laborers - Group 1	9.18	.75
Group 2	9.33	.75
Group 3	9.505	.75
Group 4	9.58	.75
Power Equipment ops.:		
Group 1	14.75	.95
Group 2	13.50	.95
Group 3	12.15	.95
Group 4	12.05	.95

DECISION NO. TX82-4025 - MOD. #2 (47 FR 26550 - 6/18/82) Brazos County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Asbestos workers	$16.70	2.71
Bricklayer & stonemason	16.45	2.25
Cement masons	15.80	2.13
Electricians	15.81	1.08+ 12%
Line construction:		
Linemen & cable splicers	16.21	.80+3½%
Groundmen	9.40	.80+3½%
Painters - Group 1	15.285	2.375
Group 2	15.66	2.375
Group 3	15.41	2.375
Group 4	15.91	2.375
Pipefitters	16.80	2.28
Plumbers	18.81	1.75
Power equipment ops.:		
Group 1	16.39	2.39
Group 2	14.53	2.39
Group 3	13.90	2.39
Group 4	13.69	2.39
Soft floor layers	14.90	2.06

DECISION NO. TX82-4026 - MOD. #4 (47 FR 26547 - 6/18/82) Lubbock County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Power equipment ops.:		
Group 1	12.325	1.425
Group 2	13.225	1.425
Group 3	13.625	1.425

DECISION NO. TX82-4027 - MOD. #4 (47 FR 26551 - 6/18/82) Bexar County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters:		
Carpenters	12.90	2.33
Millwrights	13.20	2.33
Cement masons	13.22	1.15

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DECISION NO. TX82-4029 -	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians:		
Electricians	$12.99	.80+ 7-3/8%
Cable splicers	13.51	"

DECISION NO. TX82-4045 -	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Asbestos workers	$16.70	2.71
Bricklayer & stonemason	16.45	2.25
Cement masons	15.80	2.13
Electricians	15.81	1.08+ 12%
Line construction:		
Linemen & cable splicers	16.21	.80+3½%
Groundmen	9.40	.80+3½%
Painters - Group 1	15.285	2.375
Group 2	15.66	2.375
Group 3	15.41	2.375
Group 4	15.91	2.375
Pipefitters	16.80	2.28
Plumbers	18.81	1.75
Power equipment ops.:		
Group 1	16.39	2.39
Group 2	14.53	2.39
Group 3	13.90	2.39
Group 4	13.69	2.39
Soft floor layers	14.90	2.06

SUPERSEDEAS DECISION

DECISION NO. TX82-4029 - MOD. #6 (47 FR 26552 - 6/18/82)	Basic Hourly Rates	Fringe Benefits
Bell, Bosque, Coryell, Falls, Hill & McLennan Counties, Texas		
CHANGE:		
Building Construction:		
Cement masons	$13.94	1.30
Power equipment ops.:		
Group 1	14.75	.95
Group 2	13.50	.95
Group 3	12.15	.95
Group 4	12.05	.95

DECISION NO. TX82-4033 - MOD. #5 (47 FR 26549 - 6/18/82)	Basic Hourly Rates	Fringe Benefits
Galveston & Harris Cos., Texas		
CHANGE:		
Asbestos workers	16.70	2.71
Bricklayers & stonemasons	16.45	2.25
Carpenters:		
Carpenters	16.25	2.27
Piledrivermen	16.25	2.27
Millwrights	16.635	2.27
Cement masons:		
Galveston Co.	15.85	2.05
Harris Co.	15.80	2.13
Lathers (Harris Co.only)	16.25	2.27
Painters:		
Galveston Co.-Group 1	14.94	3.05
Group 2	15.24	3.05
Group 3	14.19	3.05
Pipefitters	16.80	2.28
Plumbers	18.81	1.75
Power equipment ops.:		
Group 1	16.39	2.39
Group 2	14.53	2.39
Group 3	13.90	2.39
Group 4	13.69	2.39

DECISION NO. TX82-4045 - MOD. #1 (47 FR - 9/24/82)	Basic Hourly Rates	Fringe Benefits
Taylor County, Texas		
CHANGE:		
Power equipment ops.:		
Cranes	$13.625	1.425
Bulldozers	13.625	1.425
Graders	13.225	1.425
Oilers	12.325	1.425

Decision No. VA82-3024-Mod. #1 (47 FR 32034-July 23,1982)	Basic Hourly Rates	Fringe Benefits
York County, & the Cities of Hampton and Newport News (including Langley AFB, Ft. Eustis & Ft.Monroe), Va.		
CHANGE:		
ELECTRICIANS:		
Zone 1-within a 16 mir mile radius of 7812 Warwick Blvd., Newport News:		
Wiremen	$13.58	80+10%
Cable Splicer	13.77	80+10%
Zone 2-beyond a 16 air mile radius of 7812 Warwick Blvd., Newport News:		
Wiremen	14.58	80+10%
Cable Splicer	14.77	80+10%

SUPERSEDEAS DECISION

STATE: Hawaii — COUNTIES: Statewide
DECISION NUMBER: HI82-5123 — DATE: Date of Publication
Supersedes Decision No. HI82-5105 dated March 12, 1982, in 47 FR 10948
DESCRIPTION OF WORK: Building Projects; Residential Projects (consisting of single family homes and apartments up to and including 4 stories); Heavy and Highway Projects and Dredging

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$14.07	$5.36
BOILERMAKERS	15.10	3.56
BRICKLAYERS; Stonemasons	14.23	5.55
CARPENTERS:		
Carpenters; Hardwood Floorlayers; Patent Scaffold Erectors; Pneumatic Nailer; Shinglers	13.40	5.30
Drywall	13.65	5.24
Lathers	13.40	5.20
Millwrights	13.65	5.30
Power Saw Operator (2 HP and over)	13.55	5.30
CEMENT MASONS:		
Cement Masons	14.18	5.45
Troweling Machine Operators	14.33	5.65
DRAPERY INSTALLERS	6.43	b+.90
ELECTRICIANS:		
Electricians; Linemen	14.45	4.27+ 26.6%
Technicians	14.88	4.27+ 26.6%
Cable Splicers	15.90	4.27+ 26.6%
ELEVATOR CONSTRUCTORS:		
Mechanics	18.685	a+2.465
Helpers	11.68	a+2.465
Probationary Helper	8.34	
FENCE ERECTORS:		
Chain Link	9.39	.65
GLAZIERS	13.01	4.41
IRONWORKERS:		
Bridge; Ornamental; Reinforcing; Structrual	14.98	5.97
LINE CONSTRUCTION:		
Electricians; Linemen	14.45	4.27+ 26.6%
Technicians	14.88	4.27+ 26.6%
Heavy Equipment Operator	13.01	4.27+ 26.6%
Groundmen	10.84	4.27+ 26.6%
Cable Splicers	15.90	4.27+ 26.6%
MARBLE SETTERS	14.23	5.45
PAINTERS:		
Brush	15.05	4.94
Tapers	15.30	4.94
Spray; Sandblaster	15.55	4.94
PLASTERERS	14.72	5.56
PLUMBERS; Steamfitters	15.00	6.12
ROOFERS	13.95	4.48
SHEET METAL WORKERS	13.50	6.63
SOFT FLOOR LAYERS	13.90	4.20
SPRINKLER FITTERS	17.37	2.83
TERRAZZO WORKERS and TILE SETTERS:		
Terrazzo Base Grinder	12.81	5.45
Terrazzo Floor Grinder and Finisher	11.38	5.45
Terrazzo Workers and Tile Setters	14.23	5.45
HELICOPTER WORK:		
Pilot of Helicopter	17.32	5.25
Copilot of Helicopter	17.15	5.25
Airborne Maint Operator for Helicopter	17.01	5.25
DIVER (Aqua Lung)	18.46	5.25
ASPHALT PAVING GROUP:		
Asphalt Raker	14.18	c+4.15
Asphalt Spreader Operator	14.98	c+4.15
Roller Operator:		
over 5 tons	13.06	c+4.15
5 tons and under	13.83	c+4.15
Screed Man	14.41	c+4.15
Hand Roller	13.60	c+4.15

	Basic Hourly Rates	Fringe Benefits
LABORERS:		
Group 1	$11.41	$4.08
Group 1-A	11.46	4.08
Group 1-B	11.81	4.08
Group 1-C	12.01	4.08
Group 1-D	11.86	4.08
Group 1-E	12.11	4.08
Group 1-F	12.16	4.08
Group 1-G	12.36	4.08
Group 2	11.76	4.08
Group 3	11.96	4.08
LANDSCAPE and IRRIGATION LABORERS:		
Group 1	8.52	2.47
Group 2	7.86	2.47
Group 3	6.03	2.47
POWER EQUIPMENT OPERATORS: (Except Piledriving and Steel Erection):		
Group 1	13.55	5.25
Group 2	13.66	5.25
Group 3	13.83	5.25
Group 4	14.10	5.25
Group 5	14.41	5.25
Group 6	15.06	5.25
Group 7	15.38	5.25
Group 8	15.49	5.25
Group 9	15.60	5.25
Group 9-A	15.83	5.25
Group 10	15.89	5.25
Group 10-A	16.04	5.25
Group 11	16.19	5.25
Group 12	16.55	5.25

	Basic Hourly Rates	Fringe Benefits
DREDGING:		
Hydraulic Suction Dredges; Clamshell Dredges; Boat Operators; Derrick:		
Group 1	$16.55	$5.25
Group 2	16.04	5.25
Group 3	15.49	5.25
Group 4	13.83	5.25
Group 5	13.83	5.25
Group 6	13.83	5.25
Group 7	16.30	5.25
Group 8	15.38	5.25
Group 9	16.00	5.25
Group 10	13.83	5.25
TRUCK DRIVERS:		
Group 1	13.43	5.25
Group 2	13.70	5.25
Group 3	14.01	5.25
Group 4	14.66	5.25
Group 5	14.98	5.25
Group 6	15.09	5.25
RIGGERS; WELDERS: Receive rate prescribed for craft performing operation to which rigging or welding is incidental		

FOOTNOTES:

a. Employer contributes 8% of basic hourly rate for 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day

b. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; plus Kamehaha Day. In order to be eligible for a Paid Holiday, employees must work the last working day before the Holiday and the first working day following the Holiday. If the employee did not work either of these two days due to illness or layoff, he shall be entitled to Holiday Pay. In case of illness, the Company may require proof of illness.

c. ASPHALT PAVING GROUP Only: Employee who has completed two to five years' service shall receive a vacation of one week with pay; each additional year an additional one day vacation with pay; ten or more years, a vacation for two weeks each year; for each year of completed service thereafter to and including fifteen or more years of service, a vacation of three weeks each year with pay.

LABORERS

Group 1: All Clean-up work of debris, grounds, buildings; Bridge Laborers; Construction Laborers; Dumpman; General Laborers; Limbers, Brush Loaders and Pilers

Group 1-A: Plaster Laborers

Group 1-B: Plaster Hod Carrier

Group 1-C: Plaster Mortar Mixer

Group 1-D: Mason Tender

Group 1-E: High Scaler

Group 1-F: Gunnite Operator

Group 1-G: Powderman

Group 2: Asphalt Shovelers; Cement Dumpers; Choke-setter and Rigger (clearing work); Concrete Chipping; Driller's Tender, Chuck Tender, Outside Nipper; Guinea Chaser (Stakeman); High Pressure Nozzleman-hydraulic Monitor (over 100# pressure) excluding levee work; Loading and unloading, carrying and handling of all rods and materials for use in reinforcing concrete construction; Sloper; All pneumatic, gas and electric tools not listed in Group 1

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LABORERS (Cont'd)

Group 3: Asphalt Ironers, Rakers and Hand Rollers; Barko and similar type Tampers; Buggymobile; Chainsaw, Faller, Logloader and Bucker; Concrete and Magesnite Mixer under 1/2 yard; Concrete Grinder; Concrete Pan Work; Concrete Saw (walking or hand type); Cribbers; Cut Granite Curb Setters; Form Raisers; Header Board; Mortar Mixers (block-brick-masonry); Jackhammer Operator Jackson and similar type Compactors; Lagging, Sheeting, Whaling, Bracing, Trench-jacking, Hand-guided Lagging Hammer; Magnesite and Mastic Workers (wet or dry); Mechanical Drillers not covered elsewhere; Pavement Breakers; Pipelayers, Caulkers, Bander; Pipewrappers, Kettlemen, Potmen and men applying asphalt, Lay-Kold, Creosote and similar type materials; Post Hole Diggers (hand held-gas, air and electric); Riprap, Stonepaver and Rocksalinger, including placing of sacked concrete (wet or dry); Rotary Scarifier; Roto-tiller; Sandblasters; Tank Cleaners; Tree Climbers; Vibra-screed (Bull Float in connection with Laborers' work); Vibrator; Burning, welding, signaling and rigging in connection with Laborers' work; Concrete Pump Machine; Joy Drill Model TWM-2A, Gardner Denver DH-143 and similar type drills; Track Drillers, Diamond, Core and Wagon Drillers; Davis Trencher T-66 or similar types; Concrete Laborers (wet or dry), including Bucket Tender for concrete

LANDSCAPE and IRRIGATION LABORERS

Group 1: Layout and/or installation of all valves, valve boxes, vacuum breakers, low voltage electrical lines, hydraulic or electrical controllers, drinking fountains and other portable water systems, and metallic pipe (copper, brass, galvanized, or similar), and tie-in to main lines including soldering (torch, soldering iron, etc.); Making of pressure test; Operation of hand-held gas, air, or self-powered construction tools and equipment such as Jackhammers, Busters, Mud Guns, Jumping Jacks, Post Hole Diggers, Roto-tillers, Scarifiers, Jackson and similar type Compactors, Barko and similar type Tampers, Ramsets, etc.; Tree Climbers and Chain Saw Tree Trimmers; Shooting of grade elevations; Checking of all trees, shrubs, and other plantings for proper size, caliber, and condition; Concrete work (wet or dry), including Concrete Bucket Tending, Concrete Shipping, Concrete Grinding and operation of Concrete Vibrator, Concrete Pump Machine, Concrete Saw Cutter (hand held or walking type), and Concrete Mixer, includes setting of rock, stone, or riprap; Choke Setting, Signaling, and Rigging for equipment Operators on job site; Operation of Forklifts, Flat Bed Trucks up to and including 2½ tons, Drillers, Hydro-mulching Machines (Sprayman and Driver), Trenchers (Riding type, Davis T-66 and similar); Operation of Cranes (Bantom, Grove, and similar), Hoptos, Backhoes, Light Loaders, Rollers, and Dozers,(Case, John Deere, and similar), Trucks requiring Hawaii Public Utilities Commission type 7 License, and other self-propelled, sit-down operated machines not listed in Group 2

LANDSCAPE and IRRIGATION LABORERS (Cont'd)

Group 2: Grubbing, excavation (pick and shovel), and hand rolling or tamping; Installation of heads, Risers, and PVC or other plastic pipe; Sprigging, handseeding, and planting of trees, shrubs, ground covers, and other planting (including use of electrically-powered mud guns) and the performance of all other work relating to said planting that is not specifically listed in Group 1 above

Group 3: Landscape and Irrigation Maintenance work performed during the construction phase of work (Preparation/Installation/Planting), also includes the re-planting of trees, shrubs, ground covers, and other plantings that did not "take" or which are damaged (if re-planting requires two or more persons to perform, Group 2 wages shall be paid)

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1: Partsman (heavy duty repair shop parts room when needed); Repairman Tender

Group 2: Compressor, electrically, diesel or gas powered etc.; Hydraulic Monitor; Material Loader and/or Conveyor Operator (handling building material); Mixer Box Operator (concrete plant); Pump Operator; Spreader Boxman (with screeds); Tar Pot Fireman (power agitated)

Group 3: Oiler; Fireman; Switchman; Brakeman; Deckhand; Tar Pot Fireman; Box Operator (bunker); Locomotive (up to and including 30 tons); Roller (5 tons and under); Screedman (except asphalt concrete paving); Self-propelled, automatically applied concrete Curing Machine (on streets, highways, airports and canals); Tugger Hoist, single drum

Group 4: Boom Truck or Dual Purpose "A" Frame Truck; Dinky Operator; Fork Lift or Lumber Stacker (construction job site); Material Hoist (1 drum); Straddle Truck; Rose Carrier and similar (job site)

Group 5: Agri-Cat (mini-cat); Concrete Mixer (up to 2 yards); Concrete Pumps or Pumpcrete Guns; Generators, gasoline or diesel driven (100 K.W.); Lubrication and Service Engineer (mobile and grease rack); Towermobile; Welding Machine (gasoline diesel)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection) (Cont'd)

Group 6: Combination Loader and Backhoe including Hopto (up to and including 1/2 yard); Concrete Batch Plants (wet or dry); Concrete Saws and/or Grinder (self-propelled unit on streets, highways, airports, and canals); Drilling Machinery not to apply to Waterliners, Wagon Drills or Jackhammers); Highline Cableway Signalman; Loader (up to and including 2½ cu. yds.); Lull High Lift; Maginnis Internal Full Slab Vibrator (on airports, highways, canals, and warehouses); Mechanical Finishers (concrete) (large Clary, Johnson Bidwell Bridge Deck or similar types); Mobile Crane Driver; Pavement Breakers; Portable Crushers; Power Jumbo Operator (setting slip forms, etc. in tunnels); Rollers (over 5 tons); Self-propelled Compactor (single engine); Slip Form Pumps (power driven hydraulic, electric, air, gas, etc. lifting device for concrete forms); Small Rubber-tired Tractors; Trenchers (up to and including 6 feet)

Group 7: Crusher Plant; Dual Drum Mixer; Gradesetter (mechanical or otherwise); Hoist (2 drums); Loader (over 2½ cu. yds. up to and including 5 cu. yds.); Mechanical Finishers or Spreader Machine, Asphalt (Barber Greene and similar); Mine or Shaft Hoist; Mixermobile (over 5 tons); Pavement Breaker, truck mounted, with compressor combination; Pavement Breaker with compressor combination (operates 1 or 2); Pipe Cleaning Machine (tractor propelled and supported); Pipe Wrapping Machine (tractor propelled and supported); Pipe Bending Machine (pipe lines only); Self-propelled Elevating Grade Plane; Slusher Operator; Small Tractor (with boom D-6 or similar); Trencher (over 6 ft.); Water Tanker (pulled by Euclids, T-Pulls, DW-10, 20, 21 or similar)

Group 8: Boring Machine; Cast-in-place Pipe Laying Machine; Concrete Batch Plant (multiple units); Combination Loader and Hydraulic Backhoe (over 1/2 yd. up to and including 3/4 yd.); Conveyor (tunnel); Engineer, Locomotive (over 30 tons up to and including 100 tons); Finishing Machine Operator (airports and highways); Hydraulic Backhoe (over 1/2 yd. to and including 3/4 yard); Kolman Loader; Mechanic Trench Shield; Mucking Machine; No-joint Pipe Laying Machine; Portable Crushing and Screening Plants; Saurman type Dragline (under 5 yards); Self-propelled Boom type Lifting Device; Stationary Pipe Wrapping, Cleaning and Bending Machine; Surface Heater and Planer; Tunnel Badger; Tri-batch Paver

Group 9: Boom type Backfilling Machine; Combination Mixer and Compressor (gunite); Do-more Loader and Adams Elegrader; Lull Hi-lift (40' or over); Rubber-tired Earthmoving Equipment (up to 12 cu. yds.); Wheel Trencher (over 6")

Group 9-A: Dozers; Heavy Duty Repairman or Welder; Push Cats; Scrapers; Self-propelled Compactor with Dozer; Sheep Foot; Tractors; Tractors (with boom, larger than D-6 and similar)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection) (Cont'd)

Group 10: Chicago Boom; Hoist (3 drums); Koehring Skooper; Loader (over 5 yards up to and including 12 yards); Locomotive (over 100 tons) (single or multiple units); Power Blade Operator; Rubber-tired Earthmoving Equipment (up to and including 35 cu. yds., Euclid, T-Pulls, DW-10, 20, 21 and similar); Saurman type Dragline (5 yards or over); Soil Stabilizer (P & H equal); Sub-grader (Gurries or other automatic type); Track-laying type earthmoving Machine (single engine with Tandem Scraper); Tractor, Compressor, Drill, Combination; Tractor (tandem Scraper); Tractors (D-9 or equivalent)

Group 10A: Cranes (not over 25 tons); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (up to and including 1 cu. yd.)

Group 11: Automatic Slip Form Paver (concrete or asphalt); Cranes (over 25 tons); DW-10, 20, etc. (Tandem); Earthmoving Machine (multiple propulsion power units and two or more scrapers) (up to and including 35 cu. yds. struck MRC); Highline Cableway; Lift Slab Machine; Loader (over 12 yds.); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (over 1 yd. and up to 7 yds.); Power Blade Operator (16 or over); Prestress Wire Wrapping Machine; Self-propelled Compactor (with multiple propulsion power units); Single Engine Rubber Tired Earth Moving Machine (with tandem scraper); Tandem Cats; Tower Cranes, mobile; Trencher (pulling attached shield); Universal, Liebher, Linden and similar types of tower cranes; Wheel Excavator (up to and including 750 cu. yds. per hour)

Group 12: Band Wagon (in conjunction with wheel excavator); Derricks; Drill Rigs; Multi-propulsion Earth Moving Machines (2 or more scrapers) (over 35 cu. yds. "struck" MRC); Power Shovels and Draglines (7 cu. yds. M.R.C. and over); Rubber-tired Earthmoving Equipment (over 35 cu. yds., Euclids, T-Pulls, DW-10, 20, 21 and similar); Wheel Excavator (over 750 cu. yds.)

DREDGING

Hydraulic Suction Dredges; Clamshell Dredges; Boat Operators; Derrick

Group 1: Clamshell or Dipper Operator; Operators (Derricks, Piledrivers and Cranes)

Group 2: Mechanic or Welder; Assistant Engineer; Assistant Engineer (steam or electric)

Group 3: Deckmate; Barge Mate (Seagoing)

Group 4: Fireman

Group 5: Oiler; Deckhand (can operate Anchor Scow under direction of Deck Mate)

SUPERSEDEAS DECISION

DREDGING (Cont'd)
Hydraulic Suction Dredges; Clamshell Dredges; Boat Operators; Derrick (Cont'd)

Group 6: Bargeman; Leveeman

Group 7: Leverman; Master Boat Operator

Group 8: Winchman (Stern Winch on Dredge)

Group 9: Boat Operator

Group 10: Boat Deckhand

TRUCK DRIVERS

Group 1: Flatbed

Group 2: Dump, 8 yards and under; Water Truck (up to and including 2,000 gallons)

Group 3: Water Truck (over 2,000 gallons)

Group 4: Semi-trailer or Semi-dump

Group 5: Slip-in or Pup

Group 6: End Dumps, unlicensed (Euclid, Mack, Caterpillar or similar); Tractor Trailer (hauling equipment); Trucks (hooked up to trailer hauling equipment)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Woodbury
DECISION NO.: IA82-4048 DATE: Date of Publication
Supersedes Decision No. IA81-4036, dated 11/27/81, in 46 FR 58023.
DESCRIPTION OF WORK: Building Projects (excluding single family homes & apartments up to & including 4 stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.70	2.15
BOILERMAKERS	16.12	2.825
BRICKLAYERS & STONEMASONS	15.58	1.02
CARPENTERS:		
Carpenters & drywall hangers	14.38	1.94
Millwrights & piledrivermen	14.88	1.94
CEMENT MASONS	15.78	
ELECTRICIANS	15.06	1.95+ 3-3/4%
ELEVATOR CONSTRUCTORS:		
Mechanics	13.67	2.465+a
Helpers	70%JR	2.465+a
Helpers (Prob.)	50%JR	
GLAZIERS	15.51	
IRONWORKERS	14.94	1.495
LABORERS:		
GROUP 1 - Common laborers	10.77	2.21
GROUP 2 - Mortar mixers; plasterers' mixers; air tool ops.; mechanical tampers; concrete saw; gunnite nozzle; chain saw; wrecking torch; sandpot & blasting	10.92	2.21
LATHERS	14.38	1.94
LINE CONSTRUCTION:		
GROUP 1 - Lineman; all rigs setting assembled "H" fixtures & steel transmission structures	14.65	.45+7¼% +b
GROUP 2 - Blaster; special equip. operations (hole digging machines, all tractors, transmission line pole hauling & setting equip. other than assembled "H" fixtures	11.72	"
GROUP 3 - Groundman	9.52	"
GROUP 4 - Groundman-truck driver	9.67	"
GROUP 5 - Pole treating truck driver	9.38	"
GROUP 6 - Pole treating specialist	11.28	"
MARBLE & TERRAZZO WORKERS	15.58	1.02

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
GROUP 1 - Brush & drywall finishers	$11.03	2.20
GROUP 2 - Spray, all swing work; all work higher than 40 ft.; scaffolds, jacks, ladders; pressure roller; sandblasting; structural steel over 25 ft.	13.58	2.20
PLUMBERS & PIPEFITTERS	15.57	1.84
ROOFERS:		
Roofers	10.81	1.14
Kettlemen	9.43	1.14
SHEET METAL WORKERS	15.15	1.99
SPRINKLER FITTERS	16.47	2.83
POWER EQUIPMENT OPERATORS:		
GROUP 1	14.395	2.10
GROUP 2	14.15	2.10
GROUP 3	12.88	2.10
GROUP 4	12.10	2.10

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:
a-Employer contributes 8% of basic hourly rate for over 5 yrs. service & 6% of basic hourly rate for 6 mos. to 5 yrs. of service as Vacation Pay Credit. Seven Paid Holidays A - G
b-Seven Paid Holidays A - G

PAID HOLIDAYS
A-New Yrs.' Day;B-Memorial Day;C-Independence Day;D-Labor Day;E-Thanksgiving Day;F-the Friday after Thanksgiving Day; G-Christmas Day

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - Cranes including those being used as backhoe,dragline,clamshell,etc.,tower cranes; truck cranes & cherry pickers 12½ ton & over rated capacity;derrick;piledrivers & extractors; caisson rigs;side boom & winch truck used for erection of structural steel & moving &-setting of heavy machinery;3 drum hoist;welders;mechanics;locomotive;dredge(levermen)
GROUP 2 - 1 & 2 drum hoist;air & electric tugger (on power plants or setting steel or grating); econdmobiles;plant mixer;farm type tractors(with loaders,backhoes,attachments,etc.);scrapers (tournapull,etc.);endloaders;dredge(engineer);side boom & winch truck other than Group 1; Motor patrol;bulldozers;push cat;truck cranes & cherry pickers(under 12½ ton);concrete mixers (1 yd. & over);ditching machine(8" & over);fork lifts(on steel erection & machinery moving or hoisting above 1 complete story);concrete pump;dewatering pump;temporary hoist cage operated;second man on locomotive;vibrating concrete spreader(gomaco,C-450 or equal)
GROUP 3 - Tractors(under 35 HP);with or without attachments;endloaders(under 35 HP) with or without attachments;air compressors(1 or combination of 250 CFM or more);pumps 3" or over; welding machines 600 amps or combination thereof;conveyors;firemen(boiler);generator 75 KW & over);fork lifts (other than above Group 2);gunnite machine;self-propelled rollers;stump chippers;self-propelled tampers;air & electric tuggers(other than above);Ditching machine under 8"
GROUP 4 - Oilers,mechanical heaters;truck crane drivers;permanent elevators

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: KENTUCKY
COUNTIES: ADAIR, BARREN, BELL, BREATHITT, CASEY, CLAY, CLINTON, CUMBERLAND, ESTILL, FLOYD, GARRARD, GREEN, HARLAN, HART, JACKSON, JOHNSON, KNOTT, KNOX, LAWRENCE, LAUREL, LEE, LESLIE, LETCHER, LINCOLN, MCCREARY, MAGOFFIN, MARTIN, MENIFEE, METCALFE, MONROE, MORGAN, OWSLEY, PERRY, PIKE, POWELL, PULASKI, ROCKCASTLE, RUSSELL, TAYLOR, WAYNE, WHITLEY, AND WOLFE.
DECISION NUMBER: KY82-1054 DATE: DATE OF PUBLICATION
Supersedes Decision Number KY81-1281, dated August 28, 1981, in 46 FR 43616.
DESCRIPTION OF WORK: HEAVY & HIGHWAY CONSTRUCTION PROJECTS

	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$11.50	1.75
CEMENT MASONS	11.35	1.75
ELECTRICIANS	15.66	3% + 1.00
IRONWORKERS:		
Structural	11.60	1.75
Reinforcing	11.60	1.75
LABORERS:		
Laborers - general, steam jenny	9.55	1.75
Batch truck dumper	9.80	1.75
Power driven tool operator of the following: Wagon drill, chain saw, jack hammer, concrete saw, sand blaster, concrete chipper, pavement breaker, vibrator, power wheel barrow, power buggy	9.90	1.75
Sewer pipe layer, bottom man, dry cement handler, concrete rubber, mason tender	9.90	1.75
Asphalt lute & raker man, side rail setter	9.95	1.75
Tunnel laborer (free air)	10.10	1.75
Tunnel mucker (free air)	10.15	1.75
Tunnel miner, blaster & driller (free air)	10.50	1.75
Powderman	11.15	1.75
Drill operator of percussion type drills which are both powered & propelled by an independent air supply	12.35	1.75
PAINTERS:		
Guard rail	10.00	1.75
Structural	13.20	1.75
PILEDRIVERMEN	11.15	1.75
PLUMBERS & PIPEFITTERS	15.63	2.00
POWER EQUIPMENT OPERATORS - HEAVY CONSTRUCTION PROJECTS INCLUDING BRIDGES ACROSS COMMERCIALLY NAVIGABLE RIVERS:		
CLASS A	13.92	2.13
CLASS B	11.09	2.13
CLASS C	10.29	2.13
CLASS D	14.42	2.13
POWER EQUIPMENT OPERATORS - HIGHWAY CONSTRUCTION PROJECTS:		
CLASS A	$12.87	2.13
CLASS B	10.45	2.13
CLASS C	10.83	2.13
CLASS D	10.19	2.13
TRUCK DRIVERS:		
Drivers, 3 tons & under	10.13	1.75
Drivers, over 3 tons	10.34	1.75
Driver, truck mounted rotary drill	10.34	1.75
Driver, semi-trailer or pole trailer	10.00	1.75
Driver, dump truck, tandem axle	10.00	1.75
Driver, Euclid & other heavy earth moving equipment & low boy	10.91	1.75
Truck mechanic	10.10	1.75
Tire changer	10.13	1.75
Driver of distributors	10.00	1.75
Driver on pavement breakers	10.15	1.75
Driver on mixer trucks (all types)	10.05	1.75
Greaser on greasing facilities	11.00	1.75
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).		

DECISION NO. KY82-1054 PAGE 2

SUPERSEDEAS DECISION

STATE: KENTUCKY

CLASSIFICATIONS DEFINITIONS - POWER EQUIPMENT OPERATORS, HEAVY CONSTRUCTION PROJECTS:

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. & over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching & trenching machine, dragline, dredge engineer, elevator (used for hoisting building materials), elevating grader & all types of loaders, hoe-type machine, hoisting engine, locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, mechanic welder, Orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-Frame winch truck, concrete paver, gradeall, hoist (two or more drums), hyster, pumperete, Ross carrier, side boom, tail boom, Rotary drill, mucking machine, rock spreader attached to equipment, scoopmobile, hydrocrane, back filler, gurries, subgrader, KeCal loader, tower cranes (French, etc.).

CLASS B - All air compressors (over 900 cu. ft. per min. or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tugger, tractor (50 HP & over), bull float, finish machine, outboard motor boat, well points, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, joint sealing machine, mechanic helper, whirley oiler, tractair & road widening trencher, grout pump, electric vibrator, compactor, self-propelled compactor, throttlevalve, elevator (one drum or buck hoist), power sweeper (riding type), core drill & caisson drill helper (truck mounted).

CLASS C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap & curing machine, hydro-seeder, power form handling equipment, deckhand steerman, hydraulic post driver, core drill & caisson drill helper (track or skid mounted).

CLASS D - Operators on cranes with booms one hundred fifty feet (150') & over (including jib).

CLASSIFICATIONS DEFINITIONS - POWER EQUIPMENT OPERATORS, HIGHWAY CONSTRUCTION PROJECTS:

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressom plant op., clamshell, concrete mixer (21 cu. ft. & over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching & trenching machine, dragline, elevator (used for hoisting building materials), elevating grader & all types of loaders, hoe-type machine, hoisting engine (two or more drums), locomotive, motor scraper, bulldozer, mechanic, Orangepeel bucket, piledriver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-Frame winch truck, concrete paver, grade-all, hoist (two or more drums), hyster, pumperete, Ross carrier, side boom, rotary drill (5" & over), mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German, & other types), hydrocrane, backfiller, gurries, subgrader, tailboom & dredge engineer.

CLASS B - All air compressors (over 900 cu.ft. per min.), bituminous mixer, concrete mixer (under 21 cu. ft.), elevator (one drum or buck hoist), welding machine, form grader, grout pump, roller (rock), tractor (50 HP or over), bull float, finish machine, outboard motor boat, electric vibrator, compactor, self-propelled compactor, boom type tamping machine, truck crane oiler, switchman or brakeman, mechanic helper, whirley oiler, tractair and road widening trencher, joint sealing machine, rotary drill (under 5"), throttle valve man, tugger, well points, flexplane, fireman, and hoist (one drum).

CLASS C - Greaser on grease facilities servicing heavy equipment.

CLASS D - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50HP), vibrator, oiler, concrete saw, burlap and curing machine, hydroseeder, power form handling equipment, deckhand oiler, and hydraulic post driver

SUPERSEDEAS DECISION

STATE: KENTUCKY

COUNTIES: ANDERSON, BATH, BOURBON, BOYD, BOYLE, BRACKEN, BRECKINRIDGE, BULLITT, CARROLL, CARTER, CLARK, ELLIOTT, FAYETTE, FLEMING, FRANKLIN, GALLATIN, GRAYSON, GRANT, GREENUP, HARDIN, HARRISON, HENRY, JEFFERSON, JESSAMINE, LARUE, LEWIS, MADISON, MARION, MASON, MEADE, MERCER, MONTGOMERY, NELSON, NICHOLAS, OLDHAM, OWEN, ROBERTSON, ROWAN, SCOTT, SHELBY, SPENCER, TRIMBLE, WASHINGTON, & WOODFORD.

DECISION NUMBER: KY82-1055 DATE: DATE OF PUBLICATION

Supersedes Decision Number KY81-1282, dated August 28, 1981, in 46 FR 43618.

DESCRIPTION OF WORK: HEAVY & HIGHWAY CONSTRUCTION PROJECTS.

	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$11.91	1.88
CEMENT MASONS	13.14	3.87
CEMENT MASONS ON SUSPENDED SCAFFOLD	13.39	3.27
ELECTRICIANS	16.14	3%+2.61
IRONWORKERS	13.45	4.20
LABORERS:		
GROUP I	9.95	1.70
GROUP II	10.20	1.70
GROUP III	10.25	1.70
GROUP IV	10.85	1.70
PAINTERS:		
Brush	11.07	1.18
Spray	11.52	1.18
Bridges	13.07	1.18
PILEDRIVERMEN	12.16	1.88
PIPEFITTERS	17.40	2.87
PLUMBERS	13.23	2.19
POWER EQUIPMENT OPERATORS - HEAVY CONSTRUCTION PROJECTS INCLUDING BRIDGES ACROSS COMMERCIALLY NAVIGABLE RIVERS:		
CLASS A	13.92	2.13
CLASS B	11.09	2.13
CLASS C	10.29	2.13
CLASS D	14.42	2.13
POWER EQUIPMENT OPERATORS - HIGHWAY CONSTRUCTION PROJECTS:		
CLASS A	12.87	2.13
CLASS B	10.45	2.13
CLASS C	10.83	2.13
CLASS D	10.19	2.13
TRUCK DRIVERS:		
Driver - single axle dump & flat bed trucks	11.51	64.50a
Driver - semi-trailer or pole trailer when used to pull building material & equipment	11.51	64.50a
Driver - dump truck, tandem axle	11.51	64.50a
Driver - Euclid & other heavy earth moving equipment & low boy	$11.61	64.50a
Driver - Winch truck & A-Frame truck when used in transporting materials & Ross Carrier	11.61	64.50a
Driver - fork lift truck when used to transport building materials	11.61	64.50a
Truck mechanic	11.51	64.50a
Greaser, tire changer, & mechanic helper	11.33	64.50a
Mobile batch truck helper & truck helper	11.22	64.50a
Driver of distributors	11.51	64.50a
Driver on pavement breakers	11.61	64.50a
Driver on mixer trucks (all types)	11.54	64.50a

FOOTNOTE 'a': Per week per employee who has been employed a minimum of twenty (20) work days within any ninety (90) consecutive day period for that employer.

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

CLASSIFICATION DEFINITIONS - LABORERS:

GROUP I - General laborers, asphalt plant laborers, concrete laborers, asphalt laborers, storm & sanitary sewer laborers, carpenter tenders, cement mason tenders, mesh handlers & placers, landscaping & seeding, planters & tree-trimmers, sign, guard rail & fence installers, grade checkers, aging & curing of concrete, truck spotters & dumpers, batch truck dumpers, rip-rap & grouters, dredging laborers, right-of-way laborers, wrecking & demolition laborers, drill helpers, & hand digging & hand back filling.

GROUP II - Wagon drills, jack hammers, paving breakers, chain saw, concrete saw, paving joint machine, vibrator operator, power driven Georgia buggy or wheelbarrow, sand blaster & concrete chipper, brickmason tenders & mortar mixers, green concrete cutting, pipe layers, joint makers, batter board man (sanitary & storm sewer), dry cement handlers, concrete rubbers, walk-behind tamper machine, walk-behind trenching machine, operator & deckhand scow man, burner & welder.

GROUP III - Powderman & blasters, side rail setters (including rail paved ditches), tunnel laborers (free air), gunnite operators & mixer man, gunnite nozzleman, asphalt luteman & rakeman, air tract driller (all types), grout pump operator.

GROUP IV - Tunnel blasters, tunnel muckers (free air), miners & drillers (free air), caisson workers (free air).

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS, HEAVY CONSTRUCTION PROJECTS:

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant op., clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching & trenching machine, dragline, dredge engineer, elevator (hoisting building material), elevating grader & all types of loaders, hoe-type machine, hoisting engine, locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, mechanic welder, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-Frame winch truck, concrete paver, grade-all, hoist (two or more drums), hyster, pumperete, Ross carrier, side-boom, tail boom, rotary drill, mucking machine, rock spreader attached to equipment, scoopmobile, hydrocrane, back filler, gurries, subgrader, KeCal loader, tower cranes (French, German, and other types).

CLASS B - All air compressors (over 900 cu. ft. per min or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tugger, tractor (50 HP & over), bull float, finish machine, outboard motor boat, well points, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, joint sealing machine, mechanic helper, whirley oiler, tractair & road widening trencher, grout pump, electric vibrator, compactor, self-propelled compactor, throttlevalve, elevator (one drum or buck hoist), power sweeper (riding type), core drill & caisson drill helper (truck mounted).

CLASS C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap & curing machine, hydro-seeder, power form handling equipment, deckhand steerman, hydraulic post driver, core drill & caisson drill helper (track or skid mounted).

CLASS D - Operators on cranes with booms one hundred fifty feet (150') & over (including jib).

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS, HIGHWAY CONSTRUCTION PROJECTS:

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick boat, ditching and trenching machine, dragline, elevator (when used for hoisting any building material), elevating grader and all types of loaders, hoe-type machine, hoisting engine (two or more drums), locomotive, motor scraper, bulldozer, mechanic, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, grade-all, hoist (two or more drums), hyster, pumperete, Ross carrier, side boom, rotary drill (5" and over), mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydrocranes, backfiller, gurries, subgrader, tailboom and dredge engineer.

CLASS B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, concrete mixer (under 21 cu. ft.), elevator (one drum or buck hoist), welding machine, form grader, grout pump, roller (rock), tractor (50 HP or over), bull float, finish machine, outboard motor boat, electric vibrator compactor/self-propelled compactor, boom type tamping machine, truck crane oiler, switchman or brakeman, mechanic helper, whirley oiler, tractair and road widening trencher, joint sealing machine, rotary drill (under 5"), throttle valve man, tugger, well points, flexplane, fireman, and hoist (one drum).

CLASS C - Greaser on grease facilities servicing heavy equipment.

CLASS D - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap and curing machine, hydro seeder, power form handling equipment, deckhand oiler, and hydraulic post driver.

SUPERSEDEAS DECISION

STATE: KENTUCKY
COUNTIES: ALLEN, BALLARD, BUTLER, CALDWELL, CALLOWAY, CARLISLE, CHRISTIAN, CRITTENDEN, DAVIESS, EDMONSON, FULTON, GRAVES, HANCOCK, HENDERSON, HICKMAN, HOPKINS, LIVINGSTON, LOGAN, LYON, MCCRACKEN, MCLEAN, MARSHALL, MUHLENBERG, OHIO, SIMPSON, TODD, TRIGG, UNION, WARREN, AND WEBSTER.
DECISION NUMBER: KY82-1053 DATE: DATE OF PUBLICATION
Supersedes Decision Number KY81-1283, dated September 4, 1981, in 46 FR 44628.
DESCRIPTION OF WORK: HEAVY & HIGHWAY CONSTRUCTION PROJECTS.

HEAVY & HIGHWAY CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$11.70	1.98
CEMENT MASONS	13.05	1.75
CEMENT MASONS - working on swinging scaffold up to 50'	13.30	1.75
CEMENT MASONS - working on swinging scaffold each additional 50' or portion thereof: + 25¢ more per hour		
ELECTRICIANS	14.35	13%+4.65
IRONWORKERS	15.35	1.90
LABORERS:		
GROUP I	9.95	1.70
GROUP II	10.20	1.70
GROUP III	10.25	1.70
GROUP IV	10.85	1.70
MILLWRIGHTS	12.05	1.35
PAINTERS:		
Brush & Roller	12.30	.70
Sandblast & Power tools	12.85	.70
Bridge	13.30	.70
PILEDRIVERMEN	11.95	1.98
PLUMBERS & PIPEFITTERS	17.01	1.98
POWER EQUIPMENT OPERATORS - HEAVY CONSTRUCTION PROJECTS INCLUDING BRIDGES ACROSS COMMERCIALLY NAVIGABLE RIVERS		
CLASS A	13.92	2.13
CLASS B	11.09	2.13
CLASS C	10.29	2.13
CLASS D	14.42	2.13
POWER EQUIPMENT OPERATORS - HIGHWAY CONSTRUCTION PROJECTS		
CLASS A	12.87	2.13
CLASS B	10.45	2.13
CLASS C	10.83	2.13
CLASS D	10.19	2.13
TRUCK DRIVERS:		
Driver - single axle dump & flat bed trucks	11.83	55.00a
Driver - semi-trailer or pole trailer when used to pull building materials or equipment	11.83	55.00a
Driver - dump truck tandem axle	11.83	55.00a

TRUCK DRIVERS (Cont'd):	Basic Hourly Rates	Fringe Benefits
Driver - Euclid and other heavy earth moving equipment and low boy	$11.84	55.00a
Driver - winch truck and A-Frame truck when used in transporting materials & Ross carrier	11.84	55.00a
Driver - Fork lift truck when used to transport building materials	11.84	55.00a
Truck mechanic	11.76	55.00a
Truck helper	11.48	55.00a
Greaser, tire changer and mechanic helper	11.53	55.00a
Driver of distributors	11.83	55.00a
Driver on mixer trucks (all types)	11.83	55.00a
Driver on pavement breakers	11.84	55.00a
Mobile batch truck helper	11.48	55.00a

FOOTNOTE a: Per week per employee. Pension Fringe Benefit applies to employees who have been employed a minimum of twenty (20) work days within any ninety (90) consecutive day period for that employer.

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

DECISION NO. KY82-1053 PAGE 2

CLASSIFICATION DEFINITIONS - LABORERS:

GROUP I - General laborers, asphalt plant laborers, concrete laborers, asphalt laborers, storm & sanitary sewer laborers, carpenter tenders, cement mason tenders, mesh handlers & placers, landscaping & seeding, planters & tree-trimmers, sign, guard rail & fence installers, grade checkers, aging & curing of concrete, truck spotters & dumpers, batch truck dumpers, rip-rap & grouters, dredging laborers, right-of-way laborers, wrecking & demolition laborers, drill helpers, & hand digging & hand back filling.
GROUP II - Wagon drills, jack hammers, paving breakers, chain saw, concrete saw, paving joint machine, vibrator operator, power driven Georgia buggy or wheelbarrow, sand blaster & concrete chipper, brickmason tenders & mortar mixers, green concrete cutting, pipe layers, joint makers, batter board man (sanitary & storm sewer), dry cement handlers, concrete rubbers, walk-behind tamper machine, walk-behind trenching machine, operator & deckhand scow man, burner & welder.
GROUP III - Powderman & blasters, side rail setters (including rail paved ditches), tunnel laborers (free air), gunnite operators & mixer man, gunnite nozzleman, asphalt luteman & rakeman, air tract driller (all types), grout pump operator.
GROUP IV - Tunnel blasters, tunnel muckers (free air), miners & drillers (free air), caisson workers (free air).

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS, HEAVY CONSTRUCTION PROJECTS:

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant op., clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching & trenching machine, dragline, dredge engineer, elevator (hoisting building material), elevating grader & all types of loaders, hoe-type machine, hoisting engine, locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, mechanic welder, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-Frame winch truck, concrete paver, grade-all, hoist (two or more drums), hyster, pumpcrete, Ross carrier, side-boom, tail boom, rotary drill, mucking machine, rock spreader attached to equipment, scoopmobile, hydrocrane, back filler, gurries, subgrader, KoCal loader, tower cranes (French, German, and other types).
CLASS B - All air compressors (over 900 cu. ft. per min or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tugger, tractor (50 HP & over), bull float, finish machine, outboard motor boat, well points, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, joint sealing machine, mechanic helper, whirley oiler, tractair & road widening trencher, grout pump, electric vibrator, compactor, self-propelled compactor, throttlevalve, elevator (one drum or buck hoist), power sweeper (riding type), core drill & caisson drill helper (truck mounted).
CLASS C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap & curing machine, hydro-seeder, power form handling equipment, deckhand steerman, hydraulic post driver, core drill & caisson drill helper (track or skid mounted).
CLASS D - Operators on cranes with booms one hundred fifty feet (150') & over (including jib).

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS, HIGHWAY CONSTRUCTION PROJECTS:

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick boat, ditching and trenching machine, dragline, elevator (when used for hoisting any building material), elevating grader and all types of loaders, hoe-type machine, hoisting engine (two or more drums), locomotive, motor scraper, bulldozer, mechanic, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, grade-all, hoist (two or more drums), hyster, pumpcrete, Ross carrier, side boom, rotary drill (5" and over), mucking machine, rock spreader attached to equipment, scoopmobile, McCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, subgrader, tailboom and dredge engineer.

CLASS B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, concrete mixer (under 21 cu. ft.), elevator (one drum or buck hoist), welding machine, form grader, grout pump, roller (push), tractor (50 HP or over), bull float, finish machine, outboard motor boat, electric vibrator compactor/self-propelled compactor, boom type tamping machine, truck crane oiler, switchman or brakeman, mechanic helper, whirley oiler, tractair and road widening trencher, joint sealing machine, rotary drill (under 5"), throttle valve man, tigger, well points, flexplane, fireman, and hoist (one drum).

CLASS C - Greaser on grease facilities servicing heavy equipment.

CLASS D - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap and curing machine, hydro seeder, power form handling equipment, deckhand oiler, and hydraulic post driver.

SUPERSEDEAS DECISION

STATE: KENTUCKY COUNTIES: BOONE, CAMPBELL, KENTON, & PENDLETON

DECISION NUMBER: KY82-1056 DATE: DATE OF PUBLICATION

Supersedes Decision Number KY81-1290, dated September 11, 1981, in 46 FR 45518.

DESCRIPTION OF WORK: HEAVY & HIGHWAY CONSTRUCTION PROJECTS.

	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$15.80	2.075
CEMENT MASONS	14.28	1.77
ELECTRICIANS:		
Linemen	17.75	3%+2.55
Groundmen	13.31	3%+2.55
IRONWORKERS:		
Structural	15.03	2.88
Reinforcing	15.83	2.87
LABORERS:		
GROUP 1	11.77	2.10
GROUP 2	11.895	2.10
GROUP 3	11.97	2.10
GROUP 4	12.12	2.10
GROUP 5	12.42	2.10
PAINTERS:		
Brush	15.80	.75
Spray	16.30	.75
Sandblast	17.05	.75
Bridge - when highest point of clearance is 60' or more add $ 1.00 to base rate of work classification.		
PILEDRIVERMEN	15.80	2.075
PIPEFITTERS	16.23	3.375
PLASTERS	15.97	3.42

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
Driver - single axle dump & flat bed trucks, semi-trailer or pole trailer when used to pull building materials and equipment, dump truck tandem axle, & distributors	$11.51	64.50a
Driver - Euclid & other heavy earth moving equipment, low boy, winch truck & A-Frame truck when used in transporting materials, Ross Carrier, fork lift truck when used to transport building materials, & pavement breakers	11.61	64.50a
Driver on mixer trucks (all types)	11.54	64.50a
Truck mechanic	11.51	64.50a
Greaser, tire changer, & mechanic helper	11.33	64.50a
Mobile batch truck helper, & truck helper	11.22	64.50a

FOOTNOTE 'a': Per week per employee who has been employed a minimum of twenty (20) work days within any ninety (90) consecutive day period for that employee.

CLASSIFICATION DEFINITIONS - LABORERS:

GROUP 1 - Laborers (construction), plant laborers or yardmen, right-of-way laborers, landscape laborers, utility man or handyman, joint cutter, carpenter tender, waterproofing laborers, slurry seal, seal coating, surface treatment or road mix laborers, riprap laborers or grouter, asphalt laborers, dump man (batch trucks), guardrail and fence installer, mesh handler and placers, concrete curing applicator, scaffold erector.

GROUP 2 - Asphalt raker, concrete puddler, kettleman (pipeline), all machine driven tools (gas, electric, air), mason tenders, mortar mixer, shooting and shoring man, surface grinder man, power buggy and wheelbarrow (power).

GROUP 3 - Form setter, bottom man, welder tender (pipeline), concrete saw man, cutting with burning torch, pipe layer, hand spiker (railroad), car pusher (without air), underground man (working in sewer and waterline, cleaning and repairing and reconditioning), tunnel laborer (without air), and caisson, cofferdam (below 25 ft. deep), air track and wagon drill.

GROUP 4 - Blaster and powder man, muckers, wrencher (mechanical joint and utility pipeline), yarner, top lander.

GROUP 5 - Curb setter, and cutter, miner (without air), concrete crew in tunnels, utility pipeline tapper, gunnite nozzleman, waterline caulker.

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits
CLASS A	$16.39	3.06
CLASS B	16.27	3.06
CLASS C	15.23	3.06
CLASS D	14.80	3.06
CLASS E	10.94	3.06

WELDERS:	Basic Hourly Rates	Fringe Benefits
Receive rate prescribed for craft performing operation to which welding is incidental.		

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS:

CLASS A - Air compressor on steel erection, boiler operator on compressor or generator when mounted on a rig, cableways, combination concrete mixer & tower, concrete plants (over 4 yds. capacity), concrete pumps, cranes (all types, including A-frame, boom truck, cherry picker), derricks, draglines, dredge (dipper, clam or suction), elevating grader or euclid loader, floating equipment (all types), helicopter crew (operator hoist or winch), hoes (all types), hoisting engines or shaft or tunnel work, hoisting engines, industrial type tractor, jet engine dryer (D8 or D9) diesel tractor, locomotives (standard gauge), maintenance operator class A mixer, paving (single or double drum), mucking machines, multiple scraper, piledriving machines (all types), power shovels, Quad 9 (double pusher), refrigerating machine (freezer operation), Rotary drill on caisson work, slip-form paver, tower derricks, tree shedder, trench machines (over 24" wide), truck mounted concrete pumps tug boat, tunnel machine, wheel excavator.

CLASS B - Asphalt paver, automatic subgrader machine, self-propelled (CMI type), bulldozers, endloader, kolman loader (production type - Dirt), lead greese man, maintenance operators Class B, power grader, power scoops & scrapers, push cat, trench machines (24" wide & under).

CLASS C - Air compressors on tunnel work (low pressure), asphalt plant, locomotive (narrow gauge), mixers, concrete (more than 1 bag capacity), mixers, side loader (1 bag capacity), power boilers over 15 lbs. pressure, pump operator installing and operating well points, pumps (4" and over discharge), rollers (asphalt, utility operator - small equipment), welding machines & generators.

CLASS D - Backfillers, bar, joint & mesh installing machines, batch plant, bull floats, burlap & curing machines, compressors (portable - sewer, heavy & highway), concrete plant (capacity 4 yds. & under), concrete saw (multiple), conveyors (highway), crushers, deckhand, drill (highway with integral power), farm type tractors with attachments (highway), finishing machines, firemen, floating equipment (all types), fork lift (highway), form trenches, hydro seeders, plant mixers, post driver, post hole digger (power auger), power brush burner, power form handling equipment, road widening trencher, rollers (brick, grade, macadam), self-propelled power spreaders, self-propelled subgraders, steam firemen, tractor (pulling sheepfoot) roller or grader), vibratory compactors (with integral power), Boring machine operators (48" or less), hydro hammer, pavement breaker.

CLASS E - Drum fireman, asphalt plant, tenders - inboard-outboard motor boat-launch, oil heaters (asphalt plants), oilers, power driven heaters, pumps (under 4" discharge), signalmen, tire repairmen.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI COUNTIES: HANCOCK, HARRISON, JACKSON, & PEARL RIVER

DECISION NO.: MS82-1052 DATE: DATE OF PUBLICATION

Supersedes Decision No.: MS81-1287 dated September 4, 1981 in 46 FR 44641.

DESCRIPTION OF WORK: BUILDING CONSTRUCTION (excluding single family homes and apartments up to and including 4 (four) stories).

	Basic Hourly Rates	Fringe Benefits
HEAT & FROST INSULATORS & ASBESTOS WORKERS:		
Hancock & Pearl River Cos.	$ 10.70	
Harrison & Jackson Cos.	14.65	2.43+a
BOILERMAKERS	14.50	3.015
BRICKLAYERS:		
Bricklayers	11.45	.61
Blockmasons	11.45	.61
Caulkers & Pointers	11.45	.61
Marble Masons	11.45	.61
Stone Masons	11.45	.61
CEMENT MASONS	10.61	
CARPENTERS:		
Carpenters	10.16	
Millwrights	12.40	
ELECTRICIANS:		
Cable Splicers	14.40	10 1/8 % + .05
Electricians	14.15	10 1/8 % + .05
ELEVATOR CONSTRUCTORS:		
Mechanics	12.08	2.69+b
Helpers	8.46	2.69+b
GLAZIERS	7.09	
IRONWORKERS, Structural, Ornamental & Reinforcing:		
Jackson Co. & eastern 1/3 of Harrison Co. (including Biloxi, Keesler AFB, & towns of Howison & Success)	13.28	1.35
Hancock & Pearl River Cos. & western 2/3 of Harrison Co.	14.02	1.66
LABORERS:		
Pipelayers & Wrappers	6.80	
Unskilled	6.14	
LINE CONSTRUCTION:		
Cable Splicers	14.40	10 1/8 % + .05
Linemen	14.15	10 1/8 % + .05
PAINTERS, Brush, Spray, & Sandblasting	8.10	
PLASTERERS	10.76	
PLUMBERS & PIPEFITTERS	12.28	1.56
ROOFERS:		
Roofers	$ 10.30	
Kettlemen	7.68	
SHEET METAL WORKERS	14.57	2.83
TILE SETTERS	9.00	
TRUCK DRIVERS	9.15	
WELDERS - Rate For Craft		
POWER EQUIPMENT OPERATORS:		
Asphalt Spreader	9.28	
Backhoe	9.08	
Bulldozer	9.93	
Cherry Picker	12.13	.95
Crane	10.04	
Forklift	12.13	.95
Mechanic	12.63	.95
Motor Patrol	7.50	
Oiler	7.00	
Roller	8.18	
Scraper	7.50	
Trackhoe	7.80	

FOOTNOTES:

a. Two Paid Holidays

b. Employer contributes 6% of basic hourly rate for 6 months to 5 years service and 8% for over 5 years service as vacation pay credit; also seven paid holidays.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Missouri COUNTY: Greene
DECISION NO.: MO82-4047 DATE: Date of Publication
Supersedeas Decision No. MO81-4059 dated July 24, 1981 in 46 FR 38268
DESCRIPTION OF WORK: Building projects, (excluding single family, homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
Asbestos Workers	$14.07	1.79
Boilermakers	14.97	2.575
Bricklayers, Stonemasons & Tuck Pointers	13.67	1.15
Carpenters:		
Carpenters	13.13	1.43
Millwrights & Piledrivermen	13.38	1.43
Cement Masons	12.75	
Electricians:		
Electricians	14.55	9% +1.49
Cable Splicers	14.95	9% +1.49
Elevator Constructors:		
Elevator Constructors	16.53	a +2.465
Elevator Constructors, Prob Helpers	70%JR	a +2.465
Glaziers, Outside	13.10	b
Ironworkers	15.015	2.75
Laborers:		
Group 1	10.28	1.65
Group 2	10.53	1.65
Group 3	10.68	1.65
Group 4	10.85	1.65
Marble Masons, Tile Layers & Terrazzo Workers	13.17	1.10
Plasterers	12.70	
Plumbers & Pipefitters	14.42	1.31
Roofers	12.00	.66
Sheet Metal Workers	14.41	1.83
Tile Finishers	10.85	

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Group 1	$11.63	2.10
Group 2	13.15	2.10
Group 3	12.55	2.10
Group 4	11.95	2.10
TRUCK DRIVERS:		
Warehouseman, pickup driver, flatbed, single axle, dump truck-single & double axle, oiler, greaser	10.85	c + .50
Flat bed-double axle, wheel tractor (when used for towing), semi-truck drivers and low boys	10.90	c + .50
Heavy hauling, A-frame and winch trucks, fork trucks, hydro-lift, hydraulically operator aerial lifts	11.00	c + .50
Mechanics	11.00	c + .50

LABORERS CLASSIFICATION DEFINITIONS

Group 1 - Common labor, handling and carrying of reinforcing steel pumps of all types and heaters
Group 2 - Asphalt raker, crusher feederman, cement finisher tender, jackhammer and air tool operator, power tamper operator, pipe layer (concrete or clay), sand blast and gunnite nozzlemen, vibrator operator, wagon drill operator, cat-drill operator, and all work of a semi-skilled nature not listed
Group 3 - Mason tenders: Including plasterers tender, mortar mixer and fork lift operator
Group 4 - Powderman

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group 1 - Crane, dragline, derrick, drum or tower hoist (2 drum), power shovel or back hoe (on tracks), piledriver, power blade, motor patrol, mechanic, hydraulic, self-propelled crane, stinger or cherry picker crane
Group 2 - Bulldozer, dirt scoop or pan, elevating grader, drum or tower hoist (1-drum), loader (track or rubber tire), tractor pusher, roller (asphalt), tractor or backhoe (on rubber tires), tractor (compaction roller or pull blade track)
Group 3 - Fork lift, roller, tractor (compaction roller or pull blade-rubber tire), distributor, (bituminous), finishing machine (concrete paving), concrete saw (self-propelled), air compressor (600 cu. ft. or over)
Group 4 - Oiler, oiler-driver

FOOTNOTE: a - Employer contributes 8% of basic hourly rate for over 5 years' service, and 6% of basic hourly rate for 6 months to 5 years Vacation Pay Credit, also 7 Paid Holidays.

b - 1 Paid Holiday (Labor Day)

c - $51.00 per/week

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)".

SUPERSEDEAS DECISION

STATE: Ohio COUNTIES: Fayette & Ross

SUPERSEDEAS DECISION

SUPERSEDEAS DECISION

STATE: Ohio
DECISION NO. OH82-2048
Supersedes Decision No. OH81-2023 dated May 8, 1981 in 46 FR 25963
DESCRIPTION OF WORK: Residential Construction Consisting of Single family homes and apartments up to and including 4 stories

COUNTIES: Fayette & Ross
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits
Air Conditioning Mechanics	$ 8.42	
Bricklayers; Blocklayers	10.97	
Carpenters	6.74	
Cement Masons	8.14	
Drywall Hangers	8.85	
Drywall Finishers/Tapers	8.35	
Electricians	7.35	
Laborers:		
Common	5.60	
Mason Tenders	6.00	
Plumbers; Pipefitters	8.28	
Roofers	6.23	
Sheet Metal Workers	8.87	
Soft Floor Layers	7.00	
Tile Setters	7.00	
Truck Drivers	7.15	
Power Equipment Operators:		
Backhoe	5.65	
Bulldozers	9.58	
Front End Loaders	6.65	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX82-4046
Supersedes Decision No. TX82-4028, dated 6/18/82, in 47 FR 26553.
DESCRIPTION OF WORK: Building (including Residential) Projects

COUNTIES: Jefferson & Orange
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Jefferson County	$16.70	2.71
Orange County	16.755	2.215
BOILERMAKERS	16.25	2.415
BRICKLAYERS & STONEMASONS	17.28	2.10
CARPENTERS:		
Carpenters - Commercial	18.03	1.765
Carpenters - residential const. of not more than 2 units & condominium townhouses of not more than 10 units excluding all apt. const. & multiple bldgs. for rental purposes	14.69	1.765
Millwrights	16.275	1.75
Piledrivermen	16.16	1.70
CEMENT MASONS	18.37	
ELECTRICIANS	18.63	1.135+ 3%
ELEVATOR CONSTRUCTORS:		
Mechanics	18.34	2.485+a
Helpers	70%JR	2.485+a
Helpers (Prob.)	50%JR	
GLAZIERS:		
Northern 1/2 Jefferson Co	14.45	.87
Southern 1/2 Jefferson Co & all of Orange Co.:		
Commercial	18.66	.87
Residential	11.95	.65
IRONWORKERS	18.15	3.95
LABORERS:		
GROUP 1	9.71	1.25
GROUP 2	9.91	1.25
GROUP 3	10.01	1.25
GROUP 4	10.16	1.25
LATHERS	16.02	1.765
LINE CONSTRUCTION:		
Linemen & cable splicers	19.94	.80+ 3-1/2%
Groundmen	14.56	"
PAINTERS:		
Southern 1/2 of Jefferson Co. & all of Orange Co.:		
COMMERCIAL:		
GROUP 1 - Brush, steel wood & wallpaperhanger	15.66	.87
GROUP 2 - Spray, roller, sandblaster, power cleaning, all time spent rigging; hot paint or creosote brush	$16.11	.87
GROUP 3 - Hot paint or creosote spray or roller	16.46	.87
RESIDENTIAL:		
Brush	11.95	.65
Paperhanger	12.20	.65
Spray	12.47	.65
Sandblaster, power cleaning	12.21	.65
North 1/2 Jefferson Co.:		
Brush	14.45	.87
Drywall	14.45	.87
Spray	14.87	.87
Paper & vinyl	14.70	.87
Sign	14.87	.87
Hand cleaning operation	14.45	.87
Power tool operations	14.87	.87
25¢ per hour above the prevailing wage rate when working on window sills or legde, swing stage, bosun chair, cat walks, spider & skates in all classifications		
PIPEFITTERS	16.52	2.02
PLASTERERS	15.20	1.69
PLUMBERS	17.71	.99
POWER EQUIPMENT OPERATORS		
GROUP 1	16.435	1.40
GROUP 2	13.81	1.40
GROUP 3	12.64	1.40
GROUP 4	12.39	1.40
ROOFERS:		
Composition	13.86	1.58
Slate & tile	14.61	1.58
Kettlemen	12.90	1.58

DECISION NO. TX-82-4046

	Basic Hourly Rates	Fringe Benefits
SHEET METAL WORKERS:		
Commercial	$16.36	2.01+3%
Work on a single family dwelling or multiple family housing unit less than 3 stories in height where each individual family apt. is individually conditioned by a separate & independent unit or system	10.63	2.01+3%
SPRINKLER FITTERS	16.17	2.83
TILE SETTERS	15.77	2.10
TRUCK DRIVERS:		
GROUP 1 - Under 1-1/2 ton	12.85	.79
GROUP 2 - 1-1/2 tons thru 2-1/2 tons	13.64	.79

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS(CONT'D):		
GROUP 3 - Dump truck less than 7 yds.	$13.64	.79
GROUP 4 - Over 2-1/2 tons; euclids (not self-loading)	13.93	.79

WELDERS-receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate; Also seven paid holidays A thru G

LABORERS CLASSIFICATION DEFINITIONS
GROUP 1 - All hand digging & dirt work;backfilling;loading & unloading of material to & from hoist or cages;loading & unloading of tools & equip.; handling of lumber,steel,cement;distribution of materials;wrecking & razing of bldgs. & struc.; storing materials & tools in & out of receiving lots & sheds;dumper;spotter; carpenter tender & all construction work not hereinafter classified
GROUP 2 - Air power tool op.;cutting torch op.;gunnite rebound man;machine ops.; power buggy;sandblaster(potmen);drill tenders;concrete grademen;wagon drill op.; metal pan & steel form men
GROUP 3 - Conc. burner;cement mason tender;hod carrier,mortar mixers,plaster tenders & brick mason tenders;pipelayer,pumpcrete nozzlemen;scaffold builder;water pump op.;tank cleaning;all pipe cleaning & wrapping;mortar & plaster mixing machines,grout machines;pumpcrete machines;gunnite mixing machines,incl. placing & cleaning of all pipe & conduits used in placing of conc.
GROUP 4 - Powdermen & blasters;sandblaster;gunnite workers;terrazzo grinders

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - Heavy duty mechanic;Blade grade,self-propelled;Bullelam;Backfiller; Derrick,power operated,all types;Dragline;Push cat;Bulldozer & all types of cat tractors;Cableway;Backhoe;Shovel;Cranes,power operated,all types;Elevating grader,self-propelled;Hoist-motor driven,two drum or more;Mixmobile;Winch truck; Locomotive crane;Mixer,14 cu. ft. or more;Paving mixer,all sizes;Piledrivers; Scraper-heavy type,over 3 cu. yds.;Trench machine,all sizes;Gradeall;High-lift; Foundation boring machines;Gasoline or diesel driven welding machines-7 to 12 machines;Pumpcrete machine;Drill op.-Water well; DW-10 euclid;Tournapulls;Asphalt plants;crushing machine & Batch plants;Scoopmobiles;Fingerlift op.; Elevator when used to haul men or material on const. work;Well point system & operation of similar dewatering devices
GROUP 2 - Air compressor;Blade grade-towed; Flex plane;Form grader;Mixer,less than 14 cu. ft.;Pump,Pulsometer;Truck crane driver;Gasoline or diesel welding mach., 3 to 6 machs.;Hoist,single drum;Scraper,3 cu. yds. or less;Conveyors,power op.
GROUP 3 - Fireman
GROUP 4 - Oiler

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Friday
October 1, 1982

Part III

Federal Reserve System

Semiannual Regulatory Flexibility Agenda

FEDERAL RESERVE SYSTEM

12 CFR Ch. II

Semiannual Regulatory Flexibility Agenda

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual agenda.

SUMMARY: Pursuant to the Regulatory Flexibility Act, and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures, the Board anticipates having under consideration regulatory matters as indicated below during the period from October 1, 1982 through April 1, 1983. The Board's next Semiannual Agenda will be published in April 1983.

DATE: Comments may be received any time during the next six months.

ADDRESS: comments should be addressed to William W. Wiles, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT: (A staff contact for each item is indicated with the regulatory description below.)

SUPPLEMENTARY INFORMATION: The Board's Semiannual Agenda is divided into three sections: Section A reports on regulatory matters that have been proposed and that are under Board consideration; Section B reports on major regulatory reviews in progress under the Board's Regulatory Improvement Project and other regulatory matters the Board may consider for public comment during the next six months; and Section C reports those regulatory matters from the Board's last Semiannual Agenda (April 1, 1982 through October 1, 1982) on which final action has been taken.

A double asterisk (**) in Sections A and B indicates those matters listed on the Board's previous Semiannual Agenda; a dagger (†) indicates a proposal that is likely to have a significant economic impact on a substantial number of small entities. The latter designation applies to only those matters proposed for public comment *after* the January 1, 1982 effective date of the Regulatory Flexibility act.

A. Regulatory Matters That Have Been Proposed and Will Involve Further Board Consideration

****1. Regulation: B—Equal Credit Opportunity (12 CFR Part 202)**

Action taken: In April 1979, the Board, in response to requests for clarification, solicited public comment on how the specific rules of Regulation B should apply to various credit scoring practices (44 FR 23365, April 23, 1979).

In August 1980, the Board published a revised proposal in the form of two interpretations, the first dealing with consideration of income and the second with the selection and disclosure of reasons for adverse action (45 FR 56818, August 26, 1980). In May, 1982, the Board substantially revised the two interpretations and again published them for comment (47 FR 23738, June 1, 1982) the proposals would primarily affect larger creditors that use credit scoring systems. (Very few small businesses use credit scoring systems.) The economic impact of either interpretation is unlikely to be significant. The Board is expected to take further action during the next six months.

Authority: Section 703(a) of the Equal Credit Opportunity Act, 15 U.S.C. 1691b(a).

Docket number: R–0203.

Staff contact: Lucy H. Griffin, Senior Attorney, Division of Consumer and Community Affairs, (202–452–2412).

****2. Regulation: B—Equal Credit Opportunity (12 CFR Part 202)**

Action taken: In October 1978, the Board proposed for comment several amendments to the regulation. In April 1979, one of the proposals was adopted (44 FR 23813, April 23, 1979). The three remaining proposals would affect creditors that extend credit to small businesses by extending recordkeeping and adverse action notification requirements to business loans of under $100,000. Inquiries as to marital status of applicants would be prohibited in all business credit applications.

In May 1982, the Board proposed to withdraw these remaining amendments and sought comments to learn whether any recent changes in industry practices might affect the Board's consideration (47 FR 23741, June 1, 1982).

The Board is expected to consider these matters during the next six months in conjunction with action on the proposed credit-scoring interpretations that are also outstanding. (See entry A.1.)

The proposed amendments, if adopted by the Board, would impose on commercial lending institutions additional notice and record-keeping requirements for business loans of less than $100,000. These requirements would adversely affect the large number of small lenders that make business loans of such limited size. The benefits of the proposed amendments appear to be limited.

Authority: Equal Credit Opportunity Act, 15 U.S.C. 1691b.

Docket number: R–0185.

Staff contact: Dolores S. Smith, Assistant Director, Division of Consumer and Community Affairs, (202–452–2412).

****3. Regulation: C—Home Mortgage disclosure (12 CFR Part 203)**

Action taken: the Home Mortgage Disclosure Act (HMDA) and Regulation C provide that the Board may exempt state-chartered depository institutions within a state if two conditions are met: (1) state requirements are substantially similar to federal requirements, and (2) there is adequate provision for enforcement.

Five states (California, Connecticut, Massachusetts, New Jersey and New York) applied for exemptions from the Home Mortgage disclosure Act as recently revised. (California subsequently withdrew its application.) In May 1982, the Board published notice of the four applications for comment (47 FR 22370, May 24, 1982).

State exemptions from federal law that are granted by the Board would result in fewer burdens on depository institutions subject to HMDA and located in those states (without significant loss of consumer protection) because duplicative requirements would be eliminated.

The HMDA and Regulation C apply to all depository institutions over $10 million in assets that have offices in SMSAs (Standard Metropolitan Statistical Areas) and that make federally related mortgage loans.

The Board will review the public comments and is expected to take final action in the next six months.

Authority: the Home Mortgage Disclosure Act, 12 U.S.C. 2801 *et seq.*

Docket number: R–0406.

Staff contact: John C. Wood, Senior Attorney, Division of Consumer and Community Affairs, (202–452–2412).

****4. Regulation: D—Reserve Requirements of Depository Institutions (12 CFR Part 204)**

Action taken: The Board will consider further during the next six months a proposal to adopt contemporaneous reserve accounting. In August 1980, the Board stated that it is disposed toward returning to contemporaneous reserve accounting if investigation indicates that such a system is practical. In November 1981, the Board solicited additional public comments on a proposal to adopt contemporaneous reserve accounting (46 FR 58184, November 30, 1981). The proposal would change the reserve maintenance schedule of depository institutions to coincide with reserve

computation periods as a means of improving the System's ability to meet its monetary policy objectives. Such a proposal would affect the reserve management practices of all depository institutions with $15 million or more in total deposits.

Authority: 12 U.S.C. 461 *et seq.*

Docket number: R–0371.

Staff contacts: David Lindsey, Assistant Director, Division of Research and Statistics, (202–452–2601); and Gilbert T. Schwartz, Associate General Counsel, Legal Division, (202–452–3625).

5. Regulation: D—Reserve Requirements of Depository Institutions and Regulation Q—Interest on Deposits (12 CFR Parts 204 and 217)

Action taken: In August 1982, the Board requested public comment on a proposal to amend Regulations D and Q to reduce the minimum maturity of all time deposits to seven days (47 FR 38138, August 30, 1982). At present, time deposits are defined as deposits or accounts with a minimum maturity or required notice period of 14 days. Small banks would likely benefit from this proposal because it will provide an additional tool for them to use in competing with larger institutions for short-term, large-denomination deposits.

The Board will review the public comments and is expected to take further action during the next six months.

Authority: Section 19(a) of the Federal Reserve Act, 12 U.S.C. 461(a).

Docket number: R–0417.

Staff contacts: Gilbert T. Schwartz, Associate General Counsel, (202–452–3625); Paul S. Pilecki, Senior Attorney, (202–452–3281); and Beverly A. Belcamino, Legal Assistant, Legal Division, (202–452–3823).

6. Regulation: E—Electronic Fund Transfers (12 CFR Part 205)

Action taken: In March 1982, the Board approved issuing for public comment amendments to the regulation that would provide (1) an exemption for small institutions limited to their participation in the federal government's direct deposit program; (2) a partial exemption from the periodic statement requirements for certain telephone transfers between a consumer's accounts held at the same institution; (3) modification of certain requirements for institutions that offer electronic services internationally; and (4) an exception to the required disclosure on the terminal receipt of type of account affected, for certain transfers in a regional or nationwide interchange system (47 FR 12997, March 26, 1982).

The proposed amendments, if adopted by the Board would relax existing regulatory burdens for a number of small institutions (under the first two items listed above) and for institutions that are members of debit-credit card networks (under the third and fourth item). It is believed that these proposed changes would not result in the loss of significant protections for consumers. The Board will review the comments and is expected to take final action within the next six months.

Authority: Electronic Fund Transfer Act, 15 U.S.C. 1693b.

Docket number: R–0388

Staff contacts: John C. Wood, Senior Attorney; and Jessie Filkins, Senior Attorney, Division of Consumer and Community Affairs (202–452–2412).

7. Regulation G—Securities Credit by Persons Other Than Banks, Brokers, or Dealers (12 CFR Part 207); T—Credit by Brokers and Dealers (12 CFR Part 220); U—Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks (12 CFR Part 221)

Action taken: In February 1982, the Board issued for public comment a regulatory framework that could be used to establish margin requirements on futures contracts based on stock indexes (47 FR 8788, March 2, 1982). This action was taken in connection with the Board's review of an application by the Kansas City Board of Trade (KCBOT) to trade in stock market index futures contracts.

The Board noted actions taken by the KCBOT to increase its own initial margin requirements on these futures contracts and to narrow the definition of hedging for margin purposes. In view of this, the Board decided not to take immediate action of its own.

However, the Board indicated that formal margin requirements on stock index futures contracts may be appropriate later. The Board plans to monitor the development and operation of this market closely.

The Board therefore asked for comment both on specific issues related to establishment of margin requirements on stock index futures contract and related instruments and on a proposed framework for such regulation. It is not expected that the proposals would have a significant impact on a substantial number of small firms.

The Board will review the comments on the proposals and may take further action during the next six months.

Authority: Securities Exchange Act of 1934, 15 U.S.C. 78c, g and w.

Docket number: R–0385.

Staff contacts: Laura Homer, Securities Credit Officer; and Robert Lord, Attorney, Division of Banking Supervision and Regulation, (202–452–2781).

† **8. Regulation: J—Collection of Checks and Other Items and Wire Tranfer of Funds (12 CFR Part 210)**

Action taken: In April 1982, the Board requested public comment on a proposal that would allow Federal Reserve Banks to charge depository institutions for cash letters that are made available to them on a weekday that is a banking day for the Reserve Bank but not for the paying bank (47 FR 15349, April 9, 1982). The purpose of the admendment is to eliminate the float generated when depository institutions regularly close on weekdays, and to promote equity with other depository institutions that remain open on such days. The proposal will not impose any additional reporting, recordkeeping, or other compliance requirements on any institutuon, or duplicate, overlap, or conflict with any other federal rule. Board staff does expect, however, that affected institutions (approximately 450 of them with deposits of less than $20 million) could experience some reduction of earnings.

The Board will review the public comments and is expected to take further action within the next six months.

Authority: Sections 13, 16 and 11(i) of the Federal Reserve Act, 12 U.S.C. 342, 248(o), 360, and 248(i).

Docket number: R–0392.

Staff contact: Joseph R. Alexander, Attorney, Legal Division (202–452–2489).

9. Regulation: J—Collection of Checks and Other Items and Wire Transfer of Funds (12 CFR Part 210)

Action taken: In May 1981, the Board issued for public comment proposals to amend Subpart A of Regulation J by (1) redefining the terms "sender" and "bank" to include a depository institution as defined in 12 U.S.C. 461 (b), namely, banks and thrift institutions, (2) imposing on a paying bank that returns an item an indemnity for loss or expense resulting form return of the item beyond the deadlines provided in the regulation, (3) incorporating provisions for collecting coupons and other securities similar to provisions regarding the payment and return of cash items, and (4) imposing a warranty and related indemnity regarding wire advice of nonpayent on a paying bank which returns a cash item (46 FR 24576, May 1, 1981). After considering the comments received, the Board adopted the first proposal in substantially the form proposed (46 FR 42069, August 19, 1981). Final action on the other three items is expected during the next six months. In its consideration of these proposals, the Board has taken account of the

requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, and has concluded that none are expected to have a significant economic impact on a substantial number of small entities.

Authority: Sections 13, 16 and 11(i) of the Federal Reserve Act, 12 U.S.C. 342, 248(o), 360, and 248(i).

Docket number: R–0357.

Staff contact: Joseph R. Alexander, Attorney, Legal Division (202–452–2489).

**10. Regulation: L—Management Official Interlocks (12 CFR Part 212)

Action taken: On September 15, 1982, the Board approved issuing for public comment proposed amendments to Regulation L, which generally prohibits certain management official interlocks between depository institutions, depository holding companies, and their affiliates. The proposals would update, clarify and make technical changes in light of the Board's experience with the regulation and recent amendments to the Interlocks Act (12 U.S.C. 3201 *et seq.*). *It is anticipated that the Board will review the public comments and take further action on these proposals within the next six months.*

At the same time, the Board adopted an amendment to Regulation L to conform its provisions to recent statutory amendments.

The final amendment, as well as the proposed amendments, if adopted, will not have a significant economic impact on a substantial number of small entities. Since the amendments would ease the application of the regulation on depository institutions, their effect is expected to be beneficial rather than adverse and small instutitions would share the benefits with larger organizations.

Authority: Depository Institutions Management Interlocks Act, 12 U.S.C. 3207.

Staff contacts: Melanie L. Fein, Attorney, (202–452–3594); and Browen Mason, Senior Counsel, Legal Division, (202–452–3564).

11. Regulation: Q—Interest on Deposits and Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 217 and 204)

Action taken: In August 1982, the Board requested public comment on a proposal to amend Regulations Q and D to increase the maximum size limitation on business savings accounts at member banks to $250,000 (47 FR 38137, August 30, 1982). Currently, member banks are not permitted to accept savings deposits in excess of $150,000 per depositor from organizations operated for profit. The Board is also inviting comment on the possibility of eliminating this limitation completely. Small banks would benefit from either a liberalization or elimination of this limit because the change would allow these institutions to compete more effectively with thrift institutions, which currently are subject to no such limitation. Further, small businesses should be aided by the opportunity to place larger cash balance in interest-bearing accounts.

The Board will review the public comments and is expected to take further action during the next six months.

Authority: Section 19(a) of the Federal Reserve Act, 12 U.S.C. 461(a).

Docket number: R–0420.

Staff contacts: Gilbert T. Schwartz, Associate General Counsel, (202–452–3625); Paul S. Pilecki, Senior Attorney, (202–452–3281); and Beverly A. Belcamino, Legal Assistant, Legal Division, (202–452–3623).

**12. Regulation: T—Credit by Brokers and Dealers (12 CFR Part 220)

Action taken: In March 1982, the Board proposed for public comment a complete revision of Regulation T (47 FR 13376, March 30, 1982). The proposal is part of the Board's Regulatory Improvement Project in which the Board is reviewing and revising all of its regulations to simplify their language and ease the burden of compliance. In its last semiannual agenda the Board indicated that it would consider issuing for public comment an amendment to Regulation T to facilitate the covered writing of options by insitutions and other entities which are prevented by law from using margin accounts. Such a proposed amendment has been included as part of the Board's complete revision of Regulation T (proposed section 220.7, Cash Account).

The **Federal Register** documents published in June and July of 1981 (46 FR 32592 and 46 FR 37516) by the Board contained an Initial Regulatory Flexibility Analysis for the complete revision of Regulation T. Comments received on the proposals appear to agree with the Board's analysis. The two new items in this proposal concerning options clearing firms and option writing in the cash account should not have any substantial impact on small businesses.

The Board will review the comments on the proposals and is expected to take further action during the next six months.

Authority: Securities Exchange Act of 1934, 15 U.S.C. 78 g and w.

Docket number: R–0389.

Staff contacts: Laura Homer, Securities Credit Officer; and Robert Lord, Attorney, Division of Banking Supervision and Regulation, (202–452–2781); Robert Rewald, Division of Research and Statistics, (202–452–3637), Board of Governors of the Federal Reserve System, Washington, D.C.; or Mindy R. Silverman, (212–791–5032), and James M. McNeil, (212–791–5914), Federal Reserve Bank of New York.

**13. Regulation: Z—Truth in Lending (12 CFR Part 226)

Action taken: The Truth in Lending Act and Regulation Z provide that state law requirements determined to be inconsistent with certain federal Truth in Lending requirements are preempted by the federal law and regulation. Upon request by any interested person or on its own motion, the Board is authorized to make determinations regarding inconsistent state law provisions for preemption purposes.

The Board has received four requests for preemption determinations concerning state laws in Arizona, Florida, Missouri, and South Carolina. In April 1982, the Board published for comment a notice concerning its determination as to whether any or all of these laws are preempted (47 FR 16201, April 15, 1982).

Board determinations that state laws are inconsistent and thus preempted, and state exemptions from federal laws that are granted by the Board, would result in fewer burdens on creditors in those states (without significant loss on consumer protection) because in each case duplicative requirements would be eliminated.

The Truth in Lending Act and Regulation Z apply to all sectors of the economy that grant consumer credit including banks, credit agencies, and retail establishments.

The Board will review the comments and is expected to take further action within the next six months.

Authority: The Truth in Lending Act, 15 U.S.C. 1601 *et seq.*

Docket number: R–0395.

Staff contacts: Clarence B. Cain, Attorney, (202–452–2412); Lynn C. Goldfaden, Attorney, (202–452–3867); and Rugenia Silver, Attorney, (202–452–2412), Division of Consumer and Community Affairs.

14. Regulation: Z—Truth in Lending (12 CFR Part 226)

Action taken: In July 1982, the Board proposed for public comment two alternative methods for the treatment of seller's points and reduced rate financing under revised Regulation Z (47 FR 32433, July 27, 1982). One alternative would remove the current exclusion for seller's points from the finance charge disclosed under Truth in Lending. The other alternative would require that a disclosure be given to advise the

consumer that the seller has paid money to obtain the financing and that, if passed on in the form of a higher sales price or other charge, the annual percentage rate and the other disclosures understate the cost of credit. The action was taken in response to the increasing number of below-market rate financing arrangements that have been developed since adoption of the revised Regulation Z and the concerns raised by some that the regulation's exclusion of seller's points from the finance charge may permit an understatement of the annual percentage rate. Adoption of either of the proposed alternatives would affect lenders who both offer below-market rate financing and impose seller's points. It is not expected that either alternative would have a significant economic impact on a substantial number of small creditors or small sellers of new homes. It is unlikely that a substantial number of small creditors are involved in such buy-down transactions, and the incremental cost incurred by any particular small seller in changing its advertising to comply with the new requirements is not likely to be significant.

The original 30-day comment period was extended from August 27, 1982, to September 27, 1982 (47 FR 38548, September 1, 1982).

The Truth in Lending Act and Regulation Z apply to all sectors of the economy that grant consumer credit including banks, credit agencies, and retail establishments.

Authority: Truth in Lending Act, 15 U.S.C. 1601 *et seq.*

Docket number: R-0413.

Staff contacts: Clarence B. Cain, Staff Attorney, and Gerald P. Hurst, Staff Attorney, Division of Consumer and Community Affairs, (202-452-2414).

B. Regulatory Matters the Board May Consider During the Next Six Months

****1. Regulatory Improvement Project**

Anticipated action: The Board's Regulatory Improvement Project involves, among other things, a substantive, zero-based review of all Federal Reserve regulations that affect the public to determine (1) the fundamental objectives of the regulation and the extent to which it is meeting current policy goals, (2) nonregulatory alternatives that would accomplish the objectives, (3) costs and benefits of the regulation, (4) unnecessary burdens imposed by the regulation, and (5) the clarity of the regulation.

During the next six months, the staff should complete its review of Regulation Y (Banking Holding Companies and Change in Bank Control), and public comment on proposed changes is expected to be sought during this period. These proposals are being designed to reduce regulatory burdens, and none is expected to have a significant adverse economic impact on any bank holding company. In addition, the Project will be continuing to develop simplified revisions of the "margin credit" regulations: Regulation G (Securities Credit by Persons Other Than Banks, Brokers, or Dealers), Regulation T (Credit by Brokers and Dealers), Regulation U (Credit by Banks for the Purposes of Purchasing or Carrying Margin Stocks), and Regulation X (Rules Governing Borrowers Who Obtain Securities Credit). Substantive amendments of these regulations were made in January 1982, and a revision of Regulation T was proposed for public comment in March 1982. (See Entry A-12.) During the next six months, revisions of Regulation G, U, and X are expected to be proposed for comment. The Project will also participate in other regulatory actions listed in this agenda to ensure that the objectives of the Project are met.

Authority: Financial Regulation Simplification Act of 1980, 12 U.S.C. 3501.

Staff contact: Barbara R. Lowrey, Associate Secretary, Office of the Secretary, (202-452-3742).

****2. Regulation: K—International Banking Operations (12 CFR Part 211)**

Anticipated action: The Board will consider publishing for comment a revised proposal that would permit Edge Corporations to provide a broader range of banking services than is now permissible to a limited class of customers. While Edge Corporations are in most instances owned by major banks, the proposal would also afford scope for smaller banks to compete more effectively in development and supply of services to support U.S. trade. Pursuant to the International Banking Act, a similar proposal was published for comment in February 1979 to improve the competitive position of Edge Corporations (44 FR 10509, February 21, 1979).

Action on this matter would represent a relaxation of regulatory burden on Edge Corporations and would permit a shift to a more cost-effective method of supervision of Edge Corporations.

Authority: International Banking Act of 1978, 12 U.S.C. 3101; Federal Reserve Act, 12 U.S.C. 601 and 605.

Staff contacts: Nancy P. Jacklin, Assistant General Counsel, Legal Division, (202-452-3582); and Henry S. Terrell, Chief, International Banking Section, Division of International Finance, (202-452-3768).

3. Regulation: T—Credit by Brokers and Dealers (12 CFR Part 220)

Anticipated action: The Board will consider issuing for public comment an amendment to the definition of "OTC margin bond" in Regulation T expressly to permit private mortgage pass-through securities to be used as collateral for margin credit at brokerage firms. At present, any "OTC margin bond" is eligible for credit on a "good faith" basis. It is expected that such a proposal would contribute to greater competitive equality between brokers/dealers and commercial banks.

Staff believes there would be no significant economic impact on a substantial number of small entities if this proposed rule change is adopted.

Authority: Securities Exchange Act of 1934, 15 U.S.C. 78g and w.

Staff contacts: Laura Homer, Securities Credit Officer; Robert Lord, Attorney, Division of Banking Supervision and Regulation, (202-452-2781); or David Seiders, Senior Economist, Division of Research and Statistics, (202-452-2694).

****4. Regulation: Y—Banking Holding Companies and Change in Bank Control (12 CFR Part 225)**

Anticipated action: The Board will consider issuing for public comment a proposal to amend Regulation Y to authorize bank holding companies to act as agents for the sale of renewal insurance.

In rulemaking proceedings to conform to the Board's insurance agency regulation (Section 225.4(a)(9) of Regulation Y) to a court decision, the Board in July 1981, removed the authority for bank holding companies to sell renewal insurance. In connection with that rulemaking proceeding, the Board had received comments from several organizations requesting that the authority for bank holding companies to sell renewal insurance be re-added to Regulation Y. In addition the Board received a request opposing the inclusion of renewal insurance within the final regulation. The proposal was deferred pending final board action on the rulemaking proceedings referred to above that were completed on July 15, 1981. On October 2, 1981, the Board considered the proposal to amend Regulation Y to authorize bank holding companies to act as agent for the sale of

renewal insurance and decided to suspend further consideration in an effort to avoid the expense and delay associated with proceedings that in part might be duplicated by Congress in its examination of related matters.

Accordingly, if the Board Determines to pursue this proposal, it would seek comment from the public on whether the activity is "so closely related to banking * * * as to be a proper incident thereto," including comment on whether performance of the activity by an affiliate of a bank holding company can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. The proposal would impose no additional burden on any bank holding company.

Authority: Bank Holding Company Act, 12 U.S.C. 1843(c)(8).

Docket number: R–0150

Staff contact: Richard Whiting, Senior Attorney, Legal Division, (202–452–3779).

**5. Regulation: AA—Unfair or Deceptive Acts and Practices (12 CFR Part 227)

Anticipated action: The Board is required by the Federal Trade Commission Act to adopt a rule applicable to banks that is substantially similar to a trade regulation rule adopted by the FTC prohibiting certain acts or practices of other creditors as unfair or deceptive, unless the Board finds that such acts or practices of banks are not unfair or deceptive or that implementation of a similar rule with respect to banks would seriously conflict with essential monetary and payments systems policies of the Board.

In response to a proposed FTC rule (governing the preservation of consumers' claims and defenses), in 1976 the Board published a comparable proposal for comment (41 FR 7110). The proposal would require the insertion in certain credit contracts of a notice preserving a consumer's claim and defenses against a seller of goods or services so that they can be raised against any holder of the contract. The FTC published a revised version of its creditor rule for comment in November 1979. When a final FTC rule is adopted, the Board will consider appropriate regulatory action.

Authority: Section 18(f) of the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*

Docket number: R–0006.

Staff contact: Lucy H. Griffin, Senior Attorney, Division of Consumer and Community Affairs, (202–452–2412).

C. Regulatory Matters From the April 1 Through October 1, 1982 Semiannual Agenda on Which Final Action Has Been Taken

1. Regulation: G—Securities Credit by Persons Other Than Banks, Brokers, and Dealers (12 CFR Part 207); T—Credit by Brokers and Dealers (12 CFR Part 220); U—Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks (12 CFR Part 221)

Action taken: In May 1982, following review of public comments, the Board adopted proposed amendments to its criteria for inclusion on the List of OTC Margin Stocks (47 FR 21756, May 20, 1982). These amendments (1) permit inclusion of securities of certain foreign issuers, (2) eliminate the alternative market value criterion and make the price and capital criteria mandatory, (3) reduce the initial listing capital and publicly-held share criteria, and (4) reduce the continued listing price and capital criteria.

The initial regulatory flexibility analysis indicated that because the proposals to amend the criteria involved a mixture of relaxing and tightening changes, it was not easy to judge the overall impact on small domestic entities—primarily those small-sized corporations whose stocks are traded in the over-the-counter market. However, no comments were received which would lead the Board to conclude that the adoption of these amendments would have a significant economic impact on a substantial number of small entities.

Authority: Securities Exchange Act of 1934, 15 U.S.C. 78 g and w.

Docket number: R–0372.

Staff contacts: Jamie Lenoci, Financial Analyst; and Robert Lord, Attorney, Division of Banking Supervision and Regulation, (202–452–2781).

2. Regulation: M—Consumer Leasing (12 CFR Part 213)

Action taken: The Truth in Lending Act and Regulation M provide that classes of lease transactions within a state may be exempt from some of the federal requirements if certain conditions are met. These conditions require an existing state law to be substantially similar to the federal law or to afford greater consumer protection and benefit, and to contain adequate provisions for enforcement. Upon application by a state, the Board is directed to determine whether the conditions for exemption are met, and either grant or deny the application.

The State of Maine applied for an exemption from Regulation M for certain lease transactions under the revised Truth in Lending Act. The application was published for comment in April 1982 (47 FR 16201, April 15, 1982). Following review of public comments, the Board granted the exemption (47 FR 36961, August 24, 1982).

A state exemption from federal law that is granted by the Board would result in fewer burdens on lessors in that state (without significant loss of consumer protection) because duplicative requirements would be eliminated.

The Truth in Lending Act and Regulation M apply to all sectors of the economy that engage in lease transactions including bank and retail establishments.

Authority: The Truth in Lending Act, 15 U.S.C. 1601 *et seq.*

Docket number: R–0394.

Staff contact: Rugenia Silver, Attorney, Division of Consumer and Community Affairs, (202–452–2412).

3. Regulation: T—Credit by Brokers and Dealers (12 CFR Part 220)

Action taken: In May 1982, following review of public comments, the Board adopted proposed amendments to Regulation T to permit, in addition to cash, the use of securities issued or guaranteed by the United States government or its agencies, certain letters of credit, bank CD's and bankers acceptances, as permissible collateral in stock lending and borrowing transactions (47 FR 21238, May 18, 1982). The amendment also permits foreign banks to issue letters of credit in such transactions if they have filed with the Board agreements to comply with the same rules and regulations applicable to member banks in securities credit transactions. These amendments are not expected to have an adverse economic impact on any small institutions.

Authority: Securities Exchange Act of 1934, 15 U.S.C. 78g and w.

Docket number: R–0370.

Staff contacts: Laura Homer, Securities Credit Officer; and Robert Lord, Attorney, Division of Banking Supervision and Regulation, (202–452–2781).

4. Regulation: Y—Bank Holding Companies and Change in Bank Control (12 CFR Part 225)

Action taken: In October 1980, the Board issued for public comment a proposed amendment to Regulation Y to modify the scope of permissible data processing activities for bank holding companies (45 FR 75221, November 5, 1980). In July 1981, the Board clarified this proposal by issuing a more detailed description of the proposed rule (46 FR 37905, July 23, 1981). Following review of the public comments, the Board in

August 1982, adopted a modified version of the proposed amendment (47 FR 37368, August 26, 1982).

The amendment imposed no additional burden on any bank holding company; indeed it should facilitate the application process for any company wishing to engage in the activity because the company would merely have to refer to the regulation without offering specific evidence on the "closely related" test.

Authority: Bank Holding Company Act, 12 U.S.C. 1843(c)(8).

Docket number: R–0363.

Staff contacts: Jennifer Johnson, Senior Attorney, (202–452–3584); and Richard Ashton, Assistant General Counsel, Legal Division, (202–452–3289).

5. Regulation: Y—Bank Holding Companies and Change in Bank Control (12 CFR Part 225)

Action taken: In December 1981, the Board issued for public comment notice of an application by J.P. Morgan & Co., Inc. to act as a futures commission merchant with respect to futures contracts in bullion, foreign exchange, U.S. Government securities, and money market instruments. At the same time, the Board requested comment on the question whether these activities should be added to the list of activities permissible for bank holding companies generally (46 FR 60503, December 10, 1981). The Board approved the application by Order. However, effective July 8, 1982, the Board withdrew the rulemaking proposal (47 FR 30872, July 15, 1982). Applications for this activity in the future will continue to be considered on a case-by-case basis.

Authority: Bank Holding Company Act, 12 U.S.C.1843 (c)(8).

Docket number: R–0375.

Staff contacts: Carl Howard, Senior Attorney, Legal Division, (202–452–3786)

6. Regulation: Y—Bank Holding Companies and Change in Bank Control (12 CFR Part 225)

Action taken: In September 1982, the Board approved by Order a proposal to authorize BankAmerica Corporation to engage, through a mortgage banking subsidiary, in financing commercial real estate development by the placing of equity interests, subject to certain conditions and commitments.

In taking this action, the Board considered public comments received on the proposal, which was published for comment in December 1981 (46 FR 61297, December 16, 1981). In that notice, the Board stated that it was also considering whether to amend Regulation Y to add the activity to the list of those generally permissible for bank holding companies. In approving BankAmerica's application by Order, the Board determined not to add the activity to the list at this time, and will consider future applications to engage in the activity on a case-by-base basis.

Authority: Bank Holding Company Act, 12 U.S.C. 1843(c)(8).

Docket Number: R–0376.

Staff contacts: Browen Mason, Senior Counsel (202–452–3564); and Mary Ann Gadziala, Attorney, Legal Division (202–452–3786).

7. Regulation: Z—Truth in Lending (12 CFR Part 226)

Action taken: The Truth in Lending Act and Regulation Z provide that some classes of transactions within a state may be exempt from some of the federal requirements if certain conditions are met. These conditions require an existing state law to be substantially similar to the federal law (or in certain instances to afford greater protection to consumers) and to contain adequate provisions for enforcement. Upon application by a state, the Board is directed to determine whether the conditions are met, and then either grant or deny the application.

The Board in April 1982, published for comment its proposed determinations on exemption applications from the states of Maine and Connecticut (47 FR 16201, April 15, 1982). Following review of the public comments, the Board granted those exemptions (47 FR 36961, August 24, 1982).

Board exemptions from the Truth in Lending Act and Regulation Z result in fewer burdens on creditors in those states (without significant loss of consumer protection) because duplicate requirements in the federal and state laws are eliminated.

The Truth in Lending Act and Regulation Z apply to all sectors of the economy that grant consumer credit including banks, credit agencies, and retail establishments.

Authority: The Truth in Lending Act, 15 U.S.C. 1601 *et seq.*

Docket Number: R–0394.

Staff contacts: Lynn C. Goldfaden, Attorney (202–452–3867); and Rugenia Silver, Attorney, Division of Consumer and Community Affairs (202–452–2412).

Board of Governors of the Federal Reserve System, September 24, 1982.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 82–26848 Filed 9–30–82; 8:45 am]

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federal register

Friday
October 1, 1982

Part IV

Department of Agriculture

Federal Grain Inspection Service

Grain Standards; Inspection Points

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Renewals of Designation of Los Angeles Grain Inspection Service, Inc. (CA), and Peoria Grain Inspection Service, Inc. (IL)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the renewal of designation of Los Angeles Grain Inspection Service, Inc. (Los Angeles), and Peoria Grain Inspection Service, Inc. (Peoria), as official agencies responsible for providing inspection services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act).

EFFECTIVE DATE: November 1, 1982.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The May 3, 1982, issue of the **Federal Register** (47 FR 18942) contained a notice from the **Federal Grain Inspection Service** (FGIS) announcing that Los Angeles and Peoria's designations would terminate on October 31, 1982, and requesting applications for designation as the agency to provide official inspection services within each specified assigned area. Applications were to be postmarked by June 2, 1982.

FGIS announced the names of the applicants for designation for each agency and requested comments on same in the July 1, 1982, issue of the **Federal Register** (47 FR 28720). Comments were to be postmarked by August 16, 1982. No comments were received regarding the renewals of designation of Los Angeles and Peoria (the only applicants for each respective designation) as official agencies.

After considering all available information in relation to the criteria for designation in Section 7(f)(1)(A) of the Act, and in accordance with Section 7(f)(1)(B), it has been determined that Los Angeles and Peoria are able to provide official services in the geographic area for which their designations are being renewed. Each assigned area is the entire geographic area as described in the May 3 issue of the **Federal Register**.

Effective November 1, 1982, and terminating October 31, 1985, the responsibility for providing official inspection services in each geographic area as specified above will be assigned to Los Angeles and Peoria, respectively.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection and where the agency and one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the agencies will provide official services not requiring a licensed inspector to all locations within their geographic area.

Interested persons may contact the Regulatory Branch, specified in the address section of this notice, to obtain a list of the specified service points. Interested persons may also obtain a list of the specified service points by contacting the agencies at the following addresses:

Los Angeles Grain Inspection Service, Inc., 1625 Bluff Road, Montebello, CA 90640

Peoria Grain Inspection Service, Inc., 330 S.W. Washington Street, 2nd Floor, Peoria, IL 61602

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: September 21, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82–26896 Filed 9–30–82; 8:45 am]

BILLING CODE 3410–EN–M

Request for Comments on Applicants for Designation in the Areas Currently Assigned to the Lima Grain Inspection Service (OH) and Virginia Department of Agriculture and Consumer Services (VA)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for designation as the official agency in the areas currently assigned to the Lima Grain Inspection Service (Lima) and the Virginia Department of Agriculture and Consumer Services (Virginia). The designations terminate January 31, 1983.

DATE: Comments to be postmarked on or before November 15, 1982.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management Staff, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 1642, South Building, 1400 Independence Avenue, SW., Washington, DC 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382–0231.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The July 30, 1982, issue of the **Federal Register** (47 FR 32970) contained a notice from the Federal Grain Inspection Service requesting applications for designation to perform official inspection services for Lima, and official inspection, official weighing, and supervision of weighing services for Virginia, under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act), in the areas currently assigned to the official agencies. Applications were to be postmarked by August 30, 1982.

Lima Grain Inspection Service, the only applicant, requested designation for all of the geographic area currently assigned to Lima. The Virginia Department of Agriculture and Consumer Services, the only applicant, requested designation for all of the geographic area currently assigned to Virginia. Lima and Virginia each applied for a renewal of designation for an additional 3-year period.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present thier views and comments concerning the applicants for designation. All comments must be submitted to the Regulations and Directives Management Staff, specified in the address section of this notice, and postmarked not later than November 15, 1982.

Consideration will be given to comments filed and to other information available before a final decision is made with respect to this matter. Notice of the final decision will be published in the **Federal Register** and the applicants will be informed of the decision in writing.

(Sec. 8, Sec. 9, Pub. L. 94–582, 90 Stat. 2873, 2875 (7 U.S.C. 79, 79a))

Dated: September 21, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82–26897 Filed 9–30–82; 8:45 am]

BILLING CODE 3410–EN–M

Request for Applicants for Designation to Perform Official Services in the Geographic Area Currently Serviced by Evansville Grain Inspection (IN), Quincy Grain Inspection and Weighing Service (IL), and Winchester Grain Inspection (IN)

AGENCY: Federal Grain Inspection service, USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as amended (Act), designations of official agencies shall terminate not later than triennially and may be renewed in accordance with the criteria and procedures provided in the Act. This notice announces that the designations of three agencies will terminate, in accordance with the Act and requests applications from parties, including the agencies currently designated, who are interested in being designated as official agencies to conduct official services in the geographic areas currently serviced by each of the specified agencies. The official agencies are the Evansville Grain Inspection, Quincy Grain Inspection and Weighing Service, and Winchester Grain Inspection..

DATE: Applications to be postmarked on or before November 1, 1982.

ADDRESS: James R. Conrad, Chief, regulatory branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250. All applications submitted pursuant to this notice will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's memorandum do not apply to this action.

Section 7(f)(1) of the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, at 79(f)(1)) (Act), specifies that the Administrator of the Federal Grain Inspection Service is authorized, upon application by any qualified agency or person, to designate such agency or person to perform official inspection services after a determination is made that the applicant is better able than any other applicant to provide official inspection in an assigned geographic area.

Evansville Grain Inspection (Evansville), P.O. Box 2057, Station D, Evansville, Indiana 47714, was designated as an official agency under the Act for the performance of official inspection functions on August 31, 1978. Quincy Grain Inspection and Weighing Service (Quincy), P.O. Box 755, Quincy, Illinois 62301, was designated as an official agency under the Act for the performance of official inspection functions on August 25, 1978. Winchester Grain Inspection (Winchester), 107 N. Main Street, P.O. Box 386, Farmland, Indiana 47340, was designated as an official agency under the Act for the performance of official inspection functions on August 31, 1978. The agencies' designations will terminate on March 31, 1983. this date reflects administrative extensions of official agency designations as discussed in the July 16, 1979, issue of the Federal Register (44 FR 41275). Section 7(g)(1) of the Act states generally that designations of official agencies shall terminate no later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Evansville in Indiana, Kentucky, and Tennessee, pursuant to Section 7(f)(2) of the Act and which is the geographic area that may be assigned to the applicant selected for designation includes the following Counties in the respective States:

In Indiana; Daviess, Dubois, Gibson, Knox (except the area west of U.S. Route 41(150) from Sullivan County south to U.S. Route 50), Pike, Posey, Vanderburgh, and Warrick;

In Kentucky; Caldwell, Christian, Crittenden, Henderson, Hopkins (west of State Route 109 south of the Western Kentucky Parkway), Logan Todd, Union, and Webster (west of Alternate U.S. Route 41 and State Route 814);

And in Tennessee; Cheatham, Davidson, and Robertson Counties.

Exceptions to the described geographic area are the following locations, in Kentucky, situated inside Evansville's area which have been and will continue to be serviced by Cairo Grain Inspection Agency:

Hopkinsville Elevator Company, Inc., Hopkinsville, and the L&N Railroad Siding on Alternate U.S. Route 41 (five miles south of Hopkinsville), Christian County.

The geographic area presently assigned to Quincy in Illinois pursuant to Section 7(f)(2) of the Act and which is the geographic area that may be assigned to the applicant selected for designation includes the following Counties: Adams, Brown, Greene, Macoupin (southwest of a straight line from the junction of State Route 111 and the northern Macoupin County line southeast to the junction of Insterstate 55 and State Route 16), and Pike Counties.

Exceptions to the described geographic area are the following location, in Illinois, situated inside Quincy's area which have been and will continue to be serviced by the following official agencies:

1. Keokuk Grain Inspection Service, Inc., will service Ursa Farmers Coop, Meyer and Ursa, Adams County; and

2. Springfield Grain Inspection Department will service Pillsbury Co., Florence, Pike County.

The geographic area presently assigned to Winchester in Indiana and Ohio, pursuant to Section 7(f)(2) of the Act and which is the geographic area that may be assigned to the applicant selected for designation includes the following Counties in the respective States:

In Indiana; Blackford, Delaware, Fayette, Jay, Henry, Madison (east of State Route 13 and north of State Route 132), Randolph, Rush (north of State Route 244), Union, and Wayne;

In Ohio, Darke County.

Interested parties, including Evansville, Quincy, and Winchester, are hereby given opportunity to apply for designation as the official agency to perform the respective official services in each geographic area, as specified above, under the provisions of Section 7(f) of the Act and § 800.196(b) of the regulations issued thereunder. Designations in each specified geographic area are for the period beginning April 1, 1983, and terminating March 31, 1986. Parties wishing to apply for these designations should contact the Chief, Regulatory Branch, Compliance Division, at the address listed above for appropriate forms and information. Applications must be postmarked not later than November 1, 1982 to be eligible for consideration.

In making a determination as to which applicant will be designated to provide official services in the geographic areas, consideration will be given to all applications submitted and all other information available.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873, (7 U.S.C. 79))

Dated: September 21, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82-26826 Filed 9-30-82; 8:45 am]

BILLING CODE 3410-EN-M

Request for Applicants for Designation in the South Texas Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice requests applications from interested parties for designation as an official agency to provide official inspection services in the South Texas area.

DATE: Applications to be postmarked on or before November 1, 1982.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250. All applications submitted pursuant to this notice will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The Federal Grain Inspection Service (FGIS) Corpus Christi Field Office has provided official inspection service at domestic locations in the South Texas area, since November 1978, under the authority of Section 7(h) of the Act. At that time, there were few requests for official inspections; however, in recent years, the number of official inspection requests has increased. As a result, FGIS is requesting applications for the designation of an official agency for this area.

Section 7(f)(1) of the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, at 79(f)(1)) (Act), specifies that the Administrator of FGIS is authorized, upon application by any qualified agency or person, to designate such agency or person to perform official inspection services after a determination is made that the applicant is better able than any other applicant to provide such services in an assigned geographic area. In making a determination as to which applicant will be designated to provide official services in the geographic area, consideration will be given to all applications submitted and all other information available.

Interested parties are hereby given opportunity to apply for designation as the official agency to perform official services in the geographic area, as specified below, under the provisions of Section 7(f) of the Act and section 800.196(b) of the regulations issued thereunder. Parties wishing to apply for this designation should contact the Regulatory Branch, Compliance Division, at the address listed above for appropriate forms and information. Applications must be postmarked not later than November 1, 1982 to be eligible for consideration.

Pursuant to Section 7(f)(2) of the Act, the geographic area that may be assigned to the applicant selected for designation is the following area in South Texas, including and South of these Counties: Val Verde, Edwards, Kerr, Kendall, Comal, Guadalupe, Gonzales, DeWitt, Victoria, and Calhoun.

This assignment of geographic area is for domestic locations only, and excludes any export port locations. The export port locations will continue to be provided all services by the Corpus Christi Field Office. At this time, the export port locations include the Corpus Christi Public Elevator, Port of Brownsville Public Elevator, and Interstate Grain Port Terminal (Corpus Christi).

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873, (7 U.S.C. 79))

Dated: September 27, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82–26890 Filed 9–30–82; 8:45 am]

BILLING CODE 3410–EN–M

Voluntary Cancellation of the Designation Issued to Alva Grain Inspection Department (OK) and Interim Assignment of a Designation to a New Agency

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the voluntary cancellation of designation of Alva Grain Inspection Department, owned and operated by Mr. Delbert Howell. The new official agency, which will retain the same name, will be owned and operated by Mr. Tom Oller. Mr. Oller's Agency will provide official inspection services in this geographic area on an interim basis until December 31, 1983.

EFFECTIVE DATE: October 1, 1982.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

Alva Grain Inspection Department, Alva, Oklahoma (Alva), currently owned and operated by Mr. Delbert Howell, requested voluntary cancellation of its designation, effective September 30, 1982. Mr. Tom Oller is purchasing the Alva Agency's assets. Mr. Oller's Agency, which will retain the same name, will provide official inspection services to this geographic area, on an interim basis, effective October 1, 1982, until the previously scheduled termination of Alva's designation on December 31, 1983. Mr. Oller's Agency has met the criteria for designation contained in Section 7(f)(1)(A) of the U.S. Grain Standards Act, as amended (7 U.S.C. 79(f)(1)(A)) (Act).

Accordingly, the Administrator of the Federal Grain Inspection Service has determined that interim assignment of geographic area to Mr. Oller's Agency is consistent with the provisions and objectives of the Act and that this action will facilitate providing official inspection services in the specified geographic area.

The geographic area being assigned on an interim basis to Mr. Oller's Agency includes the following Counties in the State of Oklahoma: Alfalfa, Beckham, Caddo, Custer, Dewey, Ellis, Greer, Harper, Kiowa, Major, Roger Mills, Washita, Woods, and Woodward.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection and where the agency and one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the agency will provide official services not requiring a licensed inspector to all locations within its geographic area.

The specified service point which will be maintained by Mr. Oller's Agency is as follows: Alva Grain Inspection Department, 129 College, P.O. Box 501, Alva, OK 73717.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: September 27, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82–26900 Filed 9–30–82; 8:45 am]

BILLING CODE 3410–EN–M

federal register

Friday
October 1, 1982

Part V

Department of Health and Human Services

Food and Drug Administration

Orally Administered Drug Products for Relief of Symptoms Associated With Overindulgence in Alcohol and Food for Over-the-Counter Human Use; Establishment of Monograph; Advance Notice of Proposed Rulemaking

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 357

[Docket No. 82N-0166]

Orally Administered Drug Products for Relief of Symptoms Associated With Overindulgence in Alcohol and Food for Over-the-Counter Human Use; Establishment of a Monograph

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing an advance notice of proposed rulemaking that would establish conditions under which over-the-counter (OTC) orally administered drug products for relief of symptoms associated with overindulgence in alcohol and food (drug products for the relief of symptoms of upset stomach due to overindulgence in the conbination of alcohol and food, drug products for the relief of hangover symptoms, and drug products to minimize inebriation or to minimize hangover symptoms) are generally recognized as safe and effective and not misbranded. This notice is based on the recommendations of the Advisory Review Panel on QTC Miscellaneous Internal Drug Products and is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments by December 30, 1982 and reply comments by January 31, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4900.

SUPPLEMENTARY INFORMATION: In accordance with Part 330 (21 CFR Part 330), FDA received on August 23, 1981, a report on OTC orally administered drug products for relief of symptoms associated with overindulgence in alcohol and food from the Advisory Review Panel on OTC Miscellaneous Internal Drug Products. FDA regulations (21 CFR 330.10(a)(6)) provide that the agency issue in the **Federal Register** a proposed rule containing (1) the monograph recommended by the Panel, which establishes conditions under which OTC orally administered drug products for relief of symptoms associated with overindulgence in alcohol and food are generally recognized as safe and effective and not misbranded; (2) a statement of the conditions excluded from the monograph because the Panel determined that they would result in the drugs' not being generally recognized as safe and effective or would result in misbranding; (3) a statement of the conditions excluded from the monograph because the Panel determined that the available data are insufficient to classify these conditions under either (1) or (2) above; and (4) the conclusions and recommendations of the Panel.

The unaltered conclusions and recommendations of the Panel are issued to stimulate discussion, evaluation, and comment on the full sweep of the Panel's deliberations. The report has been prepared independently of FDA, and the agency has not yet fully evaluated the report. The Panel's findings appear in this document to obtain public comment before the agency reaches any decision on the Panel's recommendations. This document represents that best scientific judgment of the Panel members, but does not necessarily reflect the agency's position on any particular matter contained in it.

After reviewing all comments submitted in response to this document, FDA will issue in the **Federal Register** a tentative final monograph for OTC orally administered drug products for relief of symptoms associated with overindulgence in alcohol and food as a notice of proposed rulemaking. Under the OTC drug review procedures, the agency's position and proposal are first stated in the tentative final monograph, which has the status of a proposed rule. Final agency action occurs in the final monograph, which has the status of a final rule.

The agency's position on OTC orally administered drug products for relief of symptoms associated with overindulgence in alcohol and food will be stated initially when the tentative final monograph is published in the **Federal Register** as a notice of proposed rulemaking. In that notice of proposed rulemaking, the agency also will announce its initial determination whether the monograph is a major rule under Executive Order 12291 and will consider the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The present notice is referred to as an advance notice of proposed rulemaking to reflect its actual status and to clarify that the requirements of the Executive Order and the Regulatory Flexibility Act will be considered when the tentative final monograph is published. At that time FDA also will consider whether the monograph has a significant impact on the human environment under 21 CFR Part 25 (proposed in the **Federal Register** of December 11, 1979; 44 FR 71742).

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC orally administered drug products for relief of symptoms associated with overindulgence in alcohol and food. Types of impact may include, but are not limited to cost associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC orally adminstered drug products for relief of symptoms associated with overindulgence in alcohol and food should be accompanied by appropriate documentation.

In accordance with § 330.10(a)(2), the Panel and FDA have held as confidential all information concerning OTC orally administerd drug products for relief of symptoms associated with overindulgence in alcohol and food submitted for consideration by the Panel. All the submitted information will be put on public display in the Dockets Management Branch, Food and Drug Administration, after November 1, 1982, except to the extent that the persons submitting it demonstrates that it falls within the confidentiality provisions of 18 U.S.C. 1905 or section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)). Requests for confidentiality should be submitted to William E. Gilbertson, Bureaus of Drugs and Biologics (HFD-510) (address above).

FDA published in the **Federal Register** of September 29, 1981 (46 FR 47730) a final rule revising the OTC procedural regulations to conform to the decision in *Culter* v. *Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). The Court in *Cutler* held that the OTC drug review regulations (21 CFR 330.10) were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision is now delegated from the regulations. The regulations now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking

process, before the establishment of a final monograph

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I," "Category II," and "Category III" at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III because that was the framework in which the Panel conducted its evaluation of the data.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the **Federal Register.** On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions which would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce. Further, any OTC drug products subject to this monograph which are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In some advance notices of proposed rulemaking previously published in the OTC drug review, the agency suggested an earlier effective date. However, as explained in the tentative final monograph for OTC topical antimicrobial drug products (published in the **Federal Register** of July 9, 1982 (47 FR 29986)), the agency has concluded that, generally, it is more reasonable to have a final monograph be effective 12 months after the date of its publication in the **Federal Register.** This period of time should enable manufacturers to reformulate, relabel, or take other steps to comply with a new monograph with a minimum disruption of the marketplace thereby reducing economic loss and ensuring that consumers have continued access to safe and effective drug products.

A proposed review of the safety, effectiveness, and labeling of all OTC drugs by independent advisory review panels was announced in the **Federal Register** of January 5, 1972 (37 FR 85). The final regulations providing for this OTC drug review under § 330.10 were published and made effective in the **Federal Register** of May 11, 1972 (37 FR 9464). In accordance with these regulations, a request for data and information on all active ingredients used in OTC miscellaneous internal drug products was issued in the **Federal Register** of November 16, 1973 (38 FR 31696). (In making their categorizations with respect to "active" and "inactive" ingredients, the advisory review panels relied on their expertise and understanding of these terms. FDA has defined "active ingredient" in its current good manufacturing practice regulations (§ 210.3(b)(7), (21 CFR 210.3(b)(7))), as "any component that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body of man or other animals. The term include those components that may undergo chemical change in the manufacture of the drug product and be present in the drug product in a modified form intended to furnish the specified activity or effect." An "inactive ingredient" is defined in § 210.3(b)(8) as "any component other than an 'active ingredient.'") In the **Federal Register** of August 27, 1975 (40 FR 38179) a notice supplemented the initial notice with a detailed, but not necessarily all-inclusive, list of ingredients in miscellaneous internal drug products to be considered in the OTC drug review. This list was provided to give guidance on the kinds of ingredients for which data should be submitted. It included drug products for the relief of hangover symptoms, but did not include drug products for relief of upset stomach symptoms due to overindulgence in the combination of alcohol and food, and drug products to prevent inebriation or to minimize or reduce a hangover. The notices of November 16, 1973 and August 27, 1975 informed OTC drug product manufacturers of their opportunity to submit data to the review at that time and of the applicability of the monographs from the OTC drug review to all OTC drug products.

Under § 330.10(a)(1) and (5), the Commissioner of Food and Drugs appointed the following Panel to review the information submitted and to prepare a report on the safety, effectiveness, and labeling of the active ingredients in these OTC miscellaneous internal drug products:

James L. Tullis, M.D., Chairman (appointed December 1979)
John W. Norcross, M.D., Chairman (resigned March 1979)
Ruth Eleanor Brown, R.Ph. (resigned May 1976)
Elizabeth C. Giblin, M.N., Ed. D.
Richard D. Harshfield, M.D. (deceased June 1, 1981)
Theodore L. Hyde, M.D.
Claus A. Rohweder, D.O. (deceased April 13, 1979)
Samuel O. Thier, M.D. (resigned November 1975)
William R. Arrowsmith, M.D. (appointed March 1976)
Diana F. Rodriquez-Calvert, Pharm D. (appointed July 1976)

Representatives of consumer and industry interests served as nonvoting members of the Panel. Eileen Hoates, nominated by the Consumer Federation of America, served as the consumer liaison until September 1975, followed by Michael Schulman, J.D. Francis J. Hailey, M.D., served as the industry liaison, and in his absence John Parker, Pharm, D., served. Dr. Hailey served until June 1975, followed by James M. Holbert, Sr., Ph. D. All industry liaison members were nominated by the Proprietary Association.

The following FDA employees assisted the Panel: Armond M. Welch, R.Ph., served as the Panel Administrator until July 1979, followed by John R. Short, R.Ph.; Enrique Fefer, Ph. D., served as the Executive Secretary until July 1976, followed by George W. James, Ph. D., until October 1976, followed by Natalia Morgenstern until May 1977, followed by Arthur Auer until October 1978. Roger Gregorio served as the liaison for the Office of New Drug Evaluation beginning November 1978. Joseph Hussion, R.Ph., served as the Drug Information Analyst until July 1976, followed by Anne Eggers, R.Ph., M.S., until October 1977, followed by John R. Short, R.Ph., until July 1979.

To expand its scientific base, the Panel called upon the following consultants for advice in areas which required particular expertise:

Ralph B. D'Agostino, Ph. D. (statistics)
Lynn R. Brady, Ph. D. (pharmacognosy)

The Advisory Review Panel on OTC Miscellaneous Internal Drug Products was charged with the review of many categories of drugs. Due to the large number of ingredients and varied labeling claims, the Panel decided to review and publish its findings separately for several drug categories and individual drug products. The Panel presents its conclusions and recommendations for OTC drug products for relief of symptoms of upset stomach due to overindulgence in the

combination of alcohol and food, drug products for relief of hangover symptoms, and drug products to prevent inebriation or to minimize or reduce a hangover in this document. The Panel's findings on other categories of miscellaneous internal drug products are being published periodically in the Federal Register.

The Panel was first convened on January 13, 1975 in an organizational meeting. Working meetings which dealt with the topics in this document were held on the following dates: June 6 and 7, August 8 and 9, September 28 and 29, November 15 and 16, December 13 and 14, 1980; January 31, and February 1, March 21, July 10 (telephone conference call), and August 21, 22, and 23, 1981.

The minutes of the Panel meetings are on public display in the Dockets Management Branch (HFA–305), Food and Drug Administration (address above).

The following individuals were given an opportunity to appear before the Panel at their own request to express their views on OTC drug products for relief of symptoms of upset stomach due to overindulgence in the combination of alcohol and food, drug products for relief of hangover symptoms, and drug products to prevent inebriation or to minimize or reduce a hangover.

William F. Arndt, Jr., M.D.
Allan R. Cooke, M.D.
Leroy J. Honkomp, Ph. D.
Kenneth Klippel
Stanley H. Lorber, M.D.
Sal L. Mercurio, Esq.
Robert Pinco, Esq.
J. Bryan Smith, Ph. D.
Edward B. Truitt, Jr., Ph. D.
Julian E. Villarreal, Ph. D., M.D.
Ralph O. Wallerstein, M.D.
Joseph M. White, M.D.

No person who so requested was denied an opportunity to appear before the Panel to discuss drug products for relief of symptoms of upset stomach due to overindulgence in the combination of alcohol and food, drug products for relief of hangover symptoms, and drug products to prevent inebriation or to minimize or reduce a hangover.

The Panel has thoroughly reviewed the literature and data submissions, has listened to additional testimony from interested persons, and has considered all pertinent data and information submitted through August 23, 1981, in arriving at its conclusions and recommendations.

In accordance with the OTC drug review regulations in § 330.10, the Panel's findings with respect to OTC drug products for relief of symptoms of upset stomach due to overindulgence in the combination of alcohol and food, drug products for relief of hangover symptoms, and drug products to prevent inebriation or to minimize or reduce a hangover are set out in three categories:

Category I. Conditions under which OTC orally administered drug products for relief of symptoms of upset stomach due to overindulgence in the combination of alcohol and food, drug products for relief of hangover symptoms, and drug products to prevent inebriation or to minimize or reduce a hangover are generally recognized as safe and effective and are not misbranded.

Category II. Conditions under which OTC orally administered drug products for relief of symptoms of upset stomach due to overindulgence in the combination of alcohol and food, drug products for relief of hangover symptoms, and drug products to prevent inebriation or to minimize or reduce a hangover are not generally recognized as safe and effective or are misbranded.

Category III. Conditions for which the available data are insufficient to permit final classification at this time.

The Panel reviewed 16 ingredients for use in treating the symptoms of upset stomach due to overindulgence in the combination of alcohol and food, for the relief of hangover, and to prevent inebriation or to minimize or reduce a hangover. Two ingredients were placed in Category I for use in treating the symptoms of upset stomach due to overindulgence in the combination of alcohol and food. Nine ingredients were placed in Category I and four in Category II for use in the relief of hangovers. Two ingredients were placed in Category III to prevent inebriation or to minimize or reduce a hangover. (The number of ingredients classified does not equal the number of ingredients reviewed because some of the ingredients were reviewed for more than one labeled claim.)

I. Submission of Data and Information

Pursuant to the notices published in the Federal Register of November 16, 1973 (38 FR 31696) August 27, 1975 (40 FR 38179) requesting submission of data and information on "hangover remedies" and pursuant to FDA's deferral to this Panel of the "upset stomach" claims from causes other than hyperacidity (44 FR 41607), the following firms made submissions related to drug products for their respective uses as follows:

A. Submissions by Firms

1. *Drug products for relief of symptoms of upset stomach due to overindulgence in the combination of alcohol and food.*

Firms, and marketed products

Norwich-Eaton Pharmaceuticals, Norwich, NY 13815; Pepto-Bismol liquid and tablets
Miles Laboratories, Inc., Elkhart, IN 46515; Alka-Seltzer tablets
Warner-Lambert Co., Morris Plains, NJ 07950; Bromo-Seltzer granules.

2. *Drug products for relief of hangover symptoms.*

Firms, and marketed products

Miles Laboratories, Inc., Elkhart, IN 46515; Alka-Seltzer tablets
Warner-Lambert Co., Morris Plains, NJ 07950; Bromo-Seltzer granules
Lemmon Pharmacal Co., Sellersville, PA 18960; Quick-Over capsules
Cary Corp., St. Helena, CA 94574; Chaser tablets

3. *Drug products to prevent inebriation or to minimize or reduce a hangover.*

Firms, and marketed products

Requa Manufacturing Co., Inc., Greenwich, CT 06830; Requa's activated charcoal capsules
Julius Schmid, Inc., New York, NY 10019; Fructose tablets

B. Ingredients Reviewed by the Panel

1. *Drug products for relief of symptoms of upset stomach due to overindulgence in the combination of alcohol and food—Labeled ingredients contained in marketed products submitted to the Panel.*

Acetaminophen
Aspirin [1]
Bismuth subsalicylate
Citric acid [1]
Sodium bicarbonate [1]

2. *Drug products for relief or hangover symptoms—a. Labeled ingredients contained in marketed products submitted to the Panel.*

Acetaminophen
Aspirin [2]

[1] These are the active ingredients in a market package. When immersed in water prior to ingestion, a series of chemical reactions occurs which results in the formation of sodium citrate in solution, sodium acetylsalicylate in solution, and free and dissolved carbon dioxide with a slight excess residual of sodium bicarbonate in solution. For the purposes of this document, only sodium citrate in solution will be discussed for relieving the symptoms of upset stomach due to overindulgence in the combination of alcohol and food.

[2] Aspirin is available as plain aspirin in one submitted product; in another it is present for conversion to sodium acetylsalicylate. Citric acid and sodium bicarbonate are also components of this latter preparation. When the latter preparation is immersed in water prior to ingestion, a series of chemical reactions occurs which results in the formation of sodium citrate in solution, sodium acetylsalicylate in solution, and free and dissolved cabon dioxide with a slight excess of residual sodium bicarbonate in solution. For the purpose of

Aluminum hydroxide
Aluminum hydroxide gel
Caffeine
Citric acid [2]
Magnesium carbonate
Magnesium trisilicate
Niacinamide
Oil of Peppermint
Sodium bicarbonate [2]
Thiamine hydrochloride

b. *Other ingredients.* (Ingredients which appeared in the second **Federal Register** notice dated August 27, 1975 (40 FR 38179) for which no submissions were received.)

Dextrose
Disaccharide
Peat
Thiamine mononitrate
Xylem

3. *Drug products to prevent inebriation or to minimize or reduce a hangover—Labeled ingredients contained in marketed products submitted to the Panel.*

Activated charcoal
Fructose

C. Classification of Ingredients

1. *Drug products for relief of symptoms of upset stomach due to the overindulgence in the combination of alcohol and food*—a. *Active ingredients.*

Bismuth subsalicylate
Sodium citrate in solution

b. *Ingredients reviewed by the Advisory Review Panel on OTC Internal Analgesic and Antirheumatic Drug Products as published in the* **Federal Register** of July 8, 1977 (42 FR 35346).

Acetaminophen

2. *Drug products for relief of hangover symptoms*—a. *Active ingredients used only in combination.*

Acetaminophen
Aspirin
Aluminum hydroxide
Aluminum hydroxide gel
Caffeine
Magnesium carbonate
Magnesium trisilicate
Sodium acetylsalicylate in solution
Sodium citrate in solution

b. *Inactive ingredients.*

Oil of peppermint

c. *Ingredients reviewed by the Advisory Review Panel on OTC Vitamin, Mineral, and Hematinic Drug Products as published in the* **Federal Register** *of March 16, 1979 (44 FR 16126).* (The Panel is aware that the FDA intends to withdraw this report; nevertheless, it remains a basic scientific reference.) [3]

Niacinamide
Thiamine hydrochloride
Thiamine mononitrate

d. *Other ingredients.* The Panel was not able to locate, nor was it aware of, data demonstrating the safety and effectiveness of the following OTC ingredients when used to relieve hangover symptoms. The Panel, therefore, classifies these ingredients as Category II for this use, and they will not be reviewed further in this document.

Dextrose
Disaccharide
Peat
Xylem

3. *Drug products to prevent inebriation or to minimize or reduce a hangover—Active ingredients.*

Charcoal, activated
Fructose

D. Referenced OTC Volumes

The "OTC Volumes" cited throughout this document include submissions made by interested persons in response to the call-for-data notices published in the **Federal Register** of November 16, 1973 (38 FR 31696) and August 27, 1975 (40 FR 38179). All of the information included in these volumes, except for those deletions which are made in accordance with the confidentiality provisions set forth in § 330.10(a)(2), will be put on public display after November 1, 1982, in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

II. General Statements and Recommendations

A. General Discussion and Definition of Terms

The subject of "upset stomach" has been under review by FDA for quite some time. This claim has been discussed in two previous rulemaking proceedings (antiemetic and antacid). In the tentative final monograph for antimetic drug products (44 FR 41064), FDA specifically deferred the "upset stomach" claim for bismuth-containing compounds to this Panel.

"Upset stomach" was initially denied inclusion in the antacid final monograph in 21 CFR, Part 331 (see 39 FR 19862). Subsequent petitions to amend the monograph to include "upset stomach" were also denied (see 44 FR 41067). After review of the data submitted in the petitions, FDA acknowledged that consumers frequently use the term "upset stomach" to describe symptoms associated with gastric hyperacidity such as "heartburn," "sour stomach," and "acid indigestion." The agency then proposed an amendment to the antacid monograph in the **Federal Register** of September 21, 1979 (44 FR 54731) to allow for claims such as "For the relief of upset stomach associated with heartburn, sour stomach, and acid indigestion." As part of that proposal (44 FR 54732), the agency made the following statement:

> The agency has referred the review of ingredients for the relief of gastrointestinal distress from causes other than gastric hyperacidity to the OTC Advisory Review Panel on Miscellaneous Internal Drug Products. Among ingredients to be reviewed by that Panel are those that are claimed to relieve the symptoms resulting from overindulgence in food and drink.

Based upon the above referral and upon consideration of the data in the submissions received, this Panel decided to review products with claims relating to "upset stomach," "overindulgence in food and drink," "hangover," "preventing inebriation," and "minimizing or reducing a hangover" in this document.

Overindulgence in the combination of alcohol and food can be manifested, in layman's terms, as an "upset stomach" and is sometimes confused with the overlapping symptom of a "hangover" due to overindulgence in alcohol alone. Symptoms of upset stomach due to overindulgence in the combination of alcohol and food can occur within one hour of overindulgence and persist for periods up to 24 hours. Hangover symptoms, however, are not usually manifested until several hours after overindulgence depending on the degree of inebriation. For the purposes of this document the Panel has agreed on the following definitions:

1. *Upset stomach due to overindulgence in the combination of alcohol and food.* A condition which occurs as a result of overindulgence in the combination of alcohol and food and consists of a group of symptoms which includes heartburn, fullness, and nausea.

2. *Hangover.* A condition consisting of a complex of symptoms involving the gastrointestinal, neurologic, and metabolic systems that follows recent acute excessive alcohol ingestion. These symptons may include nausea, heartburn, thirst, tremor, disturbance of equilibrium, fatigue, generalized aches and pains, headache, dullness, and/or depression or irritability.

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[2] this document and the latter formulation, sodium citrate in solution and sodium acetylsalicylate in solution will be considered as the active ingredients for the relief of hangover symptoms.

[3] The withdrawal notice was published in the **Federal Register** on November 27, 1981 (46 FR 57914).

This document is divided into three parts as follows:

(1) Drug products for relief of symptoms of upset stomach due to overindulgence in the combination of alcohol and food.

(2) Drug products for relief of hangover symptoms.

(3) Drug products to prevent inebriation or to minimize or reduce a hangover.

B. Combination Policy

The panel has reviewed the FDA's general combination policy on OTC drug products (21 CFR 330.10)(a)(4)(iv)) and believes that the policy is rational. This policy is as follows:

An OTC drug may combine two or more safe and effective active ingredients and may be generally recognized as safe and effective when each active ingredient makes a contribution to the claimed effects; when combining of the active ingredients does not decrease the safety or effectiveness of any of the individual active ingredients; and when the combination, when used under adequate directions for use and warnings against unsafe use, provides rational concurrent therapy for a significant proportion of the target population.

The Panel notes that the combination drug products described in this document have been reviewed in accordance with this general combination policy and with FDA's combination guidelines (the availability of which was announced in the Federal Register of November 28, 1978 (43 FR 55466)). In addition, the Panel recommends that if a combination of ingredients is intended to treat separate but concurrent conditions, e.g., "upset stomach due to overindulgence in the combination of alcohol and food" and "headache", the labeling of such a combination should convey to the consumer that the product is intended for use only when the concurrent symptoms are present.

C. Labeling

The Panel has carefully reviewed the submitted labeling claims for products promoted for relief of symptoms of upset stomach due to overindulgence in the combination of alcohol and food, for relief of hangover symptoms, and to prevent inebriation or to minimize or reduce a hangover and has categorized them into either Category I, Category II, or Category III. The Panel realizes that other terms may be developed to express the same Category I indications; however, only those indications and warnings listed under Category I are generally recognized to be acceptable at this time.

In order for any labeling to be acceptable, it must include (1) the indications for use, (2) pertinent warnings and contraindications, and (3) the recommended dosage.

The Panel believes that all labeling should be clear, concise, easily read, and understood by most consumers. It has followed this concept in the development of all Category I labeling. The Panel is also concerned about the size and color of the print used in labeling of these and all drug products, and recommends that the industry make the necessary effort to design labeling which is legible.

One of the primary functions of this Panel is to attempt to eliminate confusing labeling claims. Some of the labeling either presently used or proposed on currently marketed "upset stomach" and "hangover" drug products is unsupported by scientific data and in some cases misleading. Accordingly, such labeling has been placed in Category II.

The indications for use should be simple and clearly stated. The directions should provide the consumer with enough information for safe and effective use of the product.

The Panel believes that if two ingredients are indistinguishable with regard to effectiveness, it is misleading to claim superiority for one of the ingredients unless supported by scientific data. The Panel understands that its function is not to compare various ingredients in order to determine the OTC drug of choice but to determine only safety and effectiveness for active OTC miscellaneous internal ingredients, as well as proper dosage ranges, warnings, and contraindications.

In the labeling, effectiveness shall not be related to the physical characteristics of the product, except as those characteristics may relate to the action of the active ingredients.

The Panel concurs with the recommendations of the Advisory Review Panel on OTC Antacid Drug Products as published in the Federal Register of April 5, 1973 (38 FR 8719) and the agency's regulations in 21 CFR 331.30(b) (4) and (5) that warnings should be included in the labeling of certain drug products containing sodium and magnesium but recommends that the wording be as follows in order to be more meaningful to the consumer:

(1) *For products containing more than 5 mEq of sodium in the maximum recommended daily dosage:* "If you are on a sodium-restricted diet, do not take this product except under the supervision of a physician."

(2) *For products containing more than 50 mEq of magnesium in the maximum recommended daily dosage:* "If you have kidney disease, do not take this product except under the supervision of a physician."

The Panel is aware of the current OTC labeling regulation dealing with warning statements (21 CFR 330.1(g)). The Panel concurs with the warning, "Keep this and all drugs out of the reach of children," and believes that it should be incorporated in the labeling of drug products affected by this document. However, the Panel recommends that the other warning statement required by § 330.1(g) "In case of accidental overdose, seek professional assistance or contact a poison control center immediately" be revised to read as follows: "In case of accidental overdose, contact a poison control center, emergency medical facility, or physician immediately for advice." The Panel believes that this revision will be more useful to the consumer.

Because OTC products can be purchased by anyone, it is the view of the Panel that the public may not regard them as products which can result in injurious or potentially serious consequences if used improperly. The public needs to be continually alerted to the idea that these products, like all medicine, carry some risk and should be used with caution. The consumer also should be informed of signs or symptoms of known toxicity requiring discontinuation of the use of the drug.

In addition, the Panel recommends that the drug product labeling contain instructions for the most effective use of the product. These instructions should be displayed prominently on all package labeling.

The Panel recommends that the label should contain a listing of all ingredients and that it should clearly indicate which are active and which are inactive. Active ingredients should be listed by their established names, and the label should state the quantity of the active ingredient per dose.

III. Drug Products for Relief of Symptoms of Upset Stomach Due To Overindulgence in the Combination of Alcohol and Food

A. General Discussion

The Panel has reviewed in detail the diverse symptoms which may occur after the excessive ingestion of alcohol alone or alcohol and food in combination. Although considerable overlap occurs in the symptoms which follow such excesses, the Panel concludes that overindulgence in a combination of alcohol and food produces a distinctive syndrome of

reproducible complaints which is usually different from those experienced from overindulgence in alcohol alone. This syndrome consists primarily of nausea, heartburn, and fullness, although other symptoms may be present.

The development of this overindulgence syndrome from the combination of excessive alcohol and food ingestion has a corollary in clinical medicine. The life-threatening illness, acute pancreatitis, is more likely to follow the ingestion of excessive amounts of alcohol and foods which produce high blood fats than with the excessive ingestion of either agent alone.

The Panel took note of the fact that nausea, heartburn, and fullness which follow overindulgence in the combination of alcohol and food can be produced by a wide range of etiologic factors. For example, nausea may occur in systemic disorders, such as uremia, hypercalcemia, ketoacidosis, or cerebral edema, and in local lesions of the gastrointestinal tract, such as ulcers or neoplasm. Nausea can also be associated with motion sickness, headache, fright, pregnancy, or stress, yet be indistinguishable to the sufferer from the nausea of a more serious origin. As another example, the single symptom of heartburn may often be due to gastric hyperacidity early in a bout of overindulgence, by may be due to acute hyperemia and gastritis several hours later. Thus, the symptoms which follow overindulgence in the combination of alcohol and food may be of different basis than the same symptoms from another cause. A medication which relieves nausea, heartburn, or fullness resulting from one cause may not necessarily provide relief for these symptoms when they are due to another cause.

Consideration of timing is also important. Symptoms which occur immediatley after overindulgence in the combination of alcohol and food can be different from those occurring the next morning. For example, headache is a rare occurrence immediately following such an episode, but frequently occurs the next morning.

The early symptoms, as well as their potential relief, may be further suppressed or confused by the direct effect of alcohol on the central nervous system. Thus, the Panel deemed it important to draw heavily on data from specific clinical trials rather than basing its decisions for effectiveness solely on physiologic probabilities or on empiricism.

1. *Establishment of upset stomach symptom complex as related to overindulgence in the combination of alcohol and food.* The Panel stated previously that for the purposes of this document upset stomach is defined as "a condition which occurs as a result of overindulgence in the combination of alcohol and food and consists of a group of symptoms which includes heartburn, fullness, and nausea." There are two important components in this definition. First, there is the causal factor which, for the purposes of this document, is limited to overindulgence in the combination of alcohol *and* food. The second component in the definition of upset stomach is the symptom complex associated with it. This symptom complex includes heartburn, fullness, and nausea. The Panel decided upon this symptom complex after reviewing the scientific literature and data submitted and listening to oral presentations. Data submitted in references one through seven summarize consumer/patient perception of upset stomach and the frequency of symptoms.

One submission to the Panel contained the results of a combined patient survey and clinical study (Ref. 1). The consumer survey component is relevant to the problem of determining the symptom complex of an upset stomach. Its objective was "to determine which specific terms patients use to describe the presenting symptom 'upset stomach.' " The sample consisted of 285 subjects whose presenting complaint was upset stomach with no known pre-existing gastrointestinal disease.

Each subject was "asked to verbally list all terms that he thought described his 'upset stomach.' " The 285 patients produced 677 terms. These terms consisted of many of the same or overlapping symptoms and were classified by the sponsor into nine categories of symptoms (including a miscellaneous category) "based on the obvious nature of the terms and/or by medical opinion." The eight symptom categories (miscellaneous category excluded) and the percentage of subjects with these symptoms were as follows:

Symptom category	Percent reporting symptom
Gas	56
Nausea	35
Heartburn	37
Pain	25
Acid indigestion	22
Motility	6
Vomiting	3
Upset stomach	4

Ninety-six percent of the subjects had at least one of the symptoms of gas (fullness), heartburn (or acid indigestion), or nausea.

One study did not relate the symptoms of upset stomach to any particular cause such as overindulgence, and so its major contribution is limited to the general discription of the symptom complex of an upset stomach (Ref. 1).

The Panel reviewed the results of three studies (Refs. 2, 3, and 4), whose objective was the determination of the upset stomach symptom complex associated with the overindulgence in food and alcohol. In the first study, which was conducted in Mexico, one of the objectives was to determine whether there is a distinct cluster of symptoms following overindulgence in alcohol and food whch can be distinguished from those clusters of symptoms associated with other conditions (Ref. 2). In this study "more than 600 statements concisely describing subjective experiences of all kinds but associated with gastrointestinal conditions were obtained from many sources." From these, an inventory of 300 questions was finally constructed. These questions were then put to subjects who were divided into five groups as follows:

(1) 40 untreated volunteers (controls),

(2) 11 normal volunteers before and after a heavy meal,

(3) 10 normal volunteers before and after receiving quipazine, a drug known to produce gastrointestinal discomfort,

(4) 18 hospitalized patients with severe drug-induced gastritis, and

(5) 113 hospitalized patients with miscellaneous gastrointestinal disorders.

The statistical method of cluster analysis was applied to the study subjects, and is consistently separated the subjects who had the heavy meal from the other groups. Further, the statistical method of discriminant analysis was employed, and it correctly classified all subjects who had the heavy meal. Next, factor analysis was used to characterize the pattern of the overindulgence symptons. The symptom categories (or clusters) which increased by at least 25 percent after the meal from those given before the meal were as follows:

Symptom category (cluster)	Post meal percent positive response
Fullness	90
Dry mouth	91
Headache	84
Sluggishness	86
Belching	80

Symptom category (cluster)	Post meal percent positive response
Nausea	36
Stomach ache	36
Feeling of needing air	36
Rumbling sensation	27

Another study was a consumer survey of 143 male subjects, all of whom had experienced upset stomach within the past six months (Ref. 3). Of the respondents, 53 percent listed overindulgence in the combination of food and drink, and another 27 percent listed overeating alone, as the cause of upset stomach. The survey subjects were given a list of 33 symptoms compiled from the symptoms used in the Mexico study. These 33 symptoms were considered to provide the greatest discrimination. The subjects were asked to check those symptoms that they usually experienced when they had an upset stomach and for which they took medication. There were 12 symptom categories in which symptoms sere reported as being experienced by 30 percent or more of the subjects as follows:

Symptom category	Percent reporting symptom
Fullness[1]	72
Heartburn/burning	65
Passing of gas	64
Headache[1]	62
Stomach ache[1]	60
Belching[1]	57
Rumbling sensation[1]	54
Thirsty/dry mouth[1]	51
Sluggishness[1]	50
Taste repeat	46
Nausea[1]	39
Bitter/acid aftertaste	30

[1] These symptom categories also appeared with high frequency in the Mexico study (Ref. 2).

The Panel reviewed a clinical study in which 64 subjects from the group of 143 males of the previous survey were given a heavy meal accompanied by alcoholic beverages to induce an upset stomach (Ref. 4). Of the 12 symptoms listed above, all except headache are clearly related to the gastrointestinal tract, and, during the course of this study, all 11 of those appeared with at least a 50 percent frequency. Specifically, 60 of the 64 subjects (94 percent) had fullness, 33 (52 percent) had nausea, and 33 (52 percent) had heartburn (Ref. 5).

The results of one consumer survey (Refs. 6 and 7) and one clinical trial (Ref. 8) were also reviewed. The objective of the consumer survey was "to determine the specific symptoms that consumers perceive as comprising the condition known and commonly referred to as the 'upset stomach.' " Data were collected by an independent market research firm through personal interviews with adult men and women (18 to 75 years old) who claimed to have suffered from an upset stomach at least once in the 6 months immediately preceding the date of the interview. Respondents were selected by the shopping center intercept survey technique at 10 geographically dispersed high traffic shopping centers throughout the continental United States. There were approximately 40 interviews per center with a total of 432 interviews in all.

Respondents were asked what they perceived to be the cause of their last upset stomach. Multiple causes could be given. Thirty-one percent (133 subjects) stated overeating and/or overdrinking as the cause, and 35 percent (151 subjects) cited "food that was disagreeable" as the cause. In total, 59 percent (257 subjects) stated either overindulgence in alcohol and/or food and/or eating food that was disagreeable as the cause. Each respondent also was asked to indicate all symptoms usually experienced when suffering an upset stomach. This was accomplished using a closed-end questionnaire consisting of 17 comprehensive symptoms. The symptom list was developed utilizing the marketing experience of the sponsor and the consumer research data contained in studies discussed above (Refs. 1, 2, and 3).

The statistical technique of cluster analysis was applied to the results of the survey in order to extract individual symptoms or groups of symptoms which were statistically distinguishable from other symptoms or groups of symptoms (Refs. 9 and 10). These distinguishable individual symptoms or groups of symptoms were called clusters. When the cluster analysis was applied to the subjects with upset stomach caused by overindulgence (133 subjects), or to the subjects with upset stomach caused by eating disagreable food (151 subjects), or to the combination of these two groups (257 subjects), four distinct clusters emerged. In each of these three conditions there were separate clusters for heartburn, fullness, and nausea. The fouth cluster, cosisting of symptoms such as headache, feeling sluggish, diarrhea, and dry mouth, can be called a cluster of associated symptoms. This delineation of the symptoms into four clusters, i.e., heartburn, fullness, nausea, and the associated conditions, was similar to clusters proposed in one of the consumer surveys (Ref. 6) before the application of the satistical procedure of cluster analysis. The analysis (Ref. 7) acted as a confirmation of the proposed structure in one of the consumer surveys (Ref. 6).

At least 30 percent of the respondents in each of the three subject groups given above (i.e., upset stomach caused by overindulgence, or eating disagreeable food, or both) reported having symptoms in the categories of heartburn, fullness, or nausea. Over 80 percent reported symptoms in at least one of these three symptom categories (Ref. 11).

A clinical study by Berkowitz (Ref. 8) consisted of 132 normal, healthy, nonalcoholic, adult volunteers who partook of a large meal which included wine, champagne, and cordials. Ninety-one of the subjects developed symptoms of upset stomach. Seventy-three percent of these had fullness, 55 percent had nausea, and 53 percent had heartburn. A cluster analysis was perfomed on all the symptoms reported (nausea, fullness, heartburn, belching, bitter or acid taste, stomach pain/cramps, passing gas/wind, or other). As was the case in the consumer survey when four clusters were extracted from the data, the symptom categories of heartburn, fullness, and nausea were distinguished clearly from one another and from the remaining symptoms and associated conditions. Ninety-five percent of the subjects had at least one of these three symptoms, i.e., heartburn, fullness, or nausea (Ref. 7).

On the basis of its review of the above clinical studies and consumer surveys, the Panel concluded that there is a significant target population for whom upset stomach due ot overindulgence in the combination of alcohol and food consists predominently of a group of symptoms which includes heartburn, fullness, and nausea.

2. *Clinical study guidelines.* In order to evaluate the date from clinical trials designed to investigate the effectiveness of drugs for relieving the symptoms of upset stomach due to overindulgence in the combination of alcohol and food, the Panel decided upon the following criteria: (1) The study must be placebo-controlled and double-blind, (2) The upset stomach reported by the study subjects must be related to overindulgence in the combination of alcohol and food, and (3) A significant number of subjects (e.g., at least 90 percent) must report symptoms in at least one of the symptom categories of heartburn, fullness, and nausea and the other two symptom categories must be reported by a substantial number (e.g., at least 30 percent) of the subject.

3. *Effectiveness criteria.* The major effectiveness variable should be a

variable measuring "overall" relief from the upset stomach. The data for this variable can be obtained by having the subjects categorize their overall relief (e.g., into one of the four categories of excellent, good, fair, and poor or none), or by having the subjects rate relief separately for each individual symptom and then combine these ratings for an overall rating (e.g., by averaging). A statistically significant difference (p less than or equal to 0.05) between drug and placebo on the overall relief variable is needed to establish the effectiveness of a drug for relieving the symptoms of upset stomach due to overindulgence in the combination of alcohol and food.

In order to justify the claim of relief for any specific symptom (i.e., for relief of heartburn, fullness, or nausea), analysis for the specific symptom must be performed and the difference between the drug and placebo must be statistically significant.

4. *Combination products and concurrent symptoms.* The Panel believes that there exists a significant target population of individuals who, in addition to having an upset stomach due to overindulgence in the combination of alcohol and food, also experience a headache or other minor aches and pains. With the exception of combining two or more salicylate-containing ingredients (due to potential salicylate toxicity), the Panel recommends that any Category I ingredient used to relieve the symptoms of upset stomach due to overindulgence in the combination of alcohol and food may be combined with any Category I internal analgesic used to relieve minor aches and pains for relieving the concurrent symptoms; if the analgesia is aspirin, the preparation should be appropriately buffered so that the final dosage form at least meets the buffering capacity required of an antacid final dosage form.

A combination product should be labeled as follows: "For the relief of upset stomach due to overindulgence in the combination of food and drink, when accompanied by a headache or other minor aches and pains."

References

(1) Comment 31–11370, Docket No. 78N–0263, Dockets Management Branch.

(2) Villarreal, J., et al., "Discrimination and Characterization of the Cluster of Symptoms Resulting from overindulgence in Food and Drink," unpublished study and related materials, OTC Volumes 170123 (Appendix 2), 170132, 170189 (Section III.D.2.), 170204 (Tab 369), and 170212.

(3) Hurley, F. L., and J. M. White, "Consumer Definition of Upset Stomach," unpublished study and related materials, OTC Volumes 170123 (Appendix 4), 170189 (Section III.D.2.), and 170198 (Tab 151).

(4) White, J. M., et al., "Clinical Study of Experimentally Produced Upset Stomach and Its Treatment," unpublished study and related materials, OTC Volumes 170123 (Appendix 5), 170132, 170189 (Section III.D.2.), 170205 (Tab 390), and 170212.

(5) Letter from Miles Laboratories, Inc., dated September 18, 1980 (Exhibit B), Panel Administrator's File (OTC Volume 17LPAII).

(6) Consumer survey conducted by Norwich-Eaton Pharmaceuticals included in OTC Volume 170187 (pp. 4–6).

(7) OTC Volume 170206.

(8) Berkowitz, J. M., "Bismuth Subsalicylate in Excessive Alcohol/Food Intake," unpublished study and related materials, OTC Volumes 170206 (pp. 7–9) and 170206 (pp. 11–15).

(9) "SAS (Statistical Analysis System) User's Guide," 1979 Ed., SAS Institute, Inc., Raleigh, NC, 1979.

(10) Johnson, S. C., "Hierarchal Clustering Schemes," *Psychometrika*, 32:241–254, 1967.

(11) Letter from Norwich-Eaton Pharmaceuticals, dated August 29, 1980, Panel Administrator's File (OTC Volume 17LPAII).

B. Category I Conditions

The following are Category I conditions under which drug products for relief of symptoms of upset stomach due to overindulgence in the combination of alcohol and food are generally recognized as safe and effective and not misbranded.

1. *Category I active ingredients.*
Bismuth subsalicylate
Sodium citrate in solution

a. *Bismuth subsalicylate.* The Panel concludes that bismuth subsalicylate is generally recognized as safe and effective in the dosage noted below for OTC use in relieving symptoms of upset stomach due to overindulgence in the combination of alcohol and food.

(1) *Safety.* The Advisory Review Panel on OTC Laxative, Antidiarrheal, Emetic and Antiemetic Drug Products in its report published in the **Federal Register** of March 21, 1975 (40 FR 12930) found bismuth subsalicylate to be safe for use as an antidiarrheal preparation in a dose of 0.6 to 2.0 grams (g) taken three to four times daily. Based on the data submitted for the claim of relief of symptoms of upset stomach due to overindulgence in the combination of alcohol and food, this Panel finds the manufacturer's recommended dose of 0.525 g of bismuth subsalicylate given up to eight times daily at intervals of at least ½ to 1 hour between doses to be safe because this limits the maximum daily dose to 4.2 g.

This Panel has considered reports of many cases of bismuth encephalopathy occurring in France and Australia (Ref. 1). Those reactions followed chronic administration of various bismuth preparations at very high doses. The bismuth preparations implicated in those reports were all of French origin. There have been no new cases of bismuth encephalopathy reported from Australia since Australia ceased the importation of bismuth from France (Ref. 2). A communication by the manufacturer (Ref. 3) further points out that no cases of bismuth encephalopathy have been reported in the United States and, furthermore, bismuth subsalicylate has never been implicated by any source as having caused a case of bismuth-related encephalopathy. It is also noted from this communication that several studies have failed to show bismuth absorption in humans; no bismuth was detected by the tests employed in the blood or urine of any subjects. Based upon this evidence, the Panel concludes that bismuth subsalicylate does not present a risk of bismuth encephalopathy when administered at the dosage recommended below.

The Panel is aware of a report in *The Medical Letter* on *Drugs and Therapeutics* (Ref. 4) which cites the theoretical possibility that if the maximum dose (240 milliliters (mL)) of a bismuth subsalicylate preparation for the treatment of diarrhea were consumed with large daily doses of a salicylate-containing internal analgesic (e.g., the amount of aspirin for the treatment of arthritis), the plasma salicylate concentrations would be likely to rise to toxic levels. The Panel also shares this concern and has given due consideration to the maximum daily dose of salicylate of 3.04 g (4 g aspirin) recommended by the Advisory Review Panel on OTC Internal Analgesic and Antirheumatic Drug Products (hereafter referred to as the Internal Analgesic Panel). The recommended daily dose of salicylate in the bismuth subsalicylate preparation submitted to this Panel (but not reviewed by the Internal Analgesic Panel) is 2.144 g of salicylate (25 percent of the salicylate content contributed by ingredients other than bismuth subsalicylate). According to the manufacturer's recommended dosage intervals (8 times daily, every ½ to 1 hour), the maximum amount of salicylate can be consumed within 3½ hours. This works out to an hourly dose of 612.6 milligrams (mg) which exceeds the maximum salicylate dose recommended by the Internal Analgesic Panel which is 1,500 mg of aspirin over a 3-hour period (42 FR 35490) or an average of 500 mg/hour (equivalent to 381 mg/hour of salicylate). In a recent study conducted by Pickering et al. (Ref. 5) using the same preparation according to the dosage recommended by the

manufacturer (as cited above), an average peak plasma salicylate level of 137 micrograms per milliliter (μg/mL) (13.7 mg/100 mL) was reported, which is considerably less than the average level (20 mg/100 mL) at which ototoxicity (tinnitus—ringing in the ears) may appear (42 FR 35362 and 35364). In addition, *The Medical Letter on Drugs and Therapeutics* (Ref. 4) reported that the administration of 60 mL of this same bismuth subsalicylate preparation to 6 normal adult volunteers produced peak plasma salicylate concentrations of 40 μg/mL (4 mg/100 mL) which is comparable to the plasma concentration achieved with the usual analgesic doses of aspirin. The Panel, therefore, does not consider salicylate toxicity to be a problem when bismuth subsalicylate is administered alone because of the acute, self-limiting disorder (upset stomach due to overindulgence in the combination of alcohol and food) being treated; but, because of the possibility of concomitant use of bismuth subsalicylate with other salicylates, the warning regarding ringing in the ears is indicated. The Panel, therefore, recommends that the following warning be included in the labeling of any bismuth subsalicylate preparation: "This product contains salicylates. If taken with other salicylate-containing preparations, such as aspirin, and ringing in the ears occurs, discontinue use."

Additionally, *The Medical Letter on Drugs and Therapeutics* (Ref. 4) stated that such high plasma salicylate levels (resulting from the concurrent administration of bismuth subsalicylate and salicylate-containing internal analgesics) could lead to enhanced effects of anticoagulants causing bleeding, could inhibit the activity of uricosuric drugs, and could increase the methotrexate toxicity in patients who are taking such a medication.

A presentation was made to the Panel by Joseph M. White, M.D. (Ref. 6), a consultant for Miles Laboratories, in which he discussed the significance of the possible interaction of salicylates with certain prescription drugs, i.e., anticoagulants and drugs for the treatment of diabetes, gout, and arthritis, as proposed by the Internal Analgesic Panel in the **Federal Register** of July 8, 1977 (42 FR 35493). This Panel concurs with his conclusions that a warning prohibiting the concomitant use of salicylates and anticoagulants is justified. The Panel also concurs that a warning relating to the other three types of drugs, i.e., for diabetes, gout, and arthritis, need not be included in the labeling of preparations marketed only for the acute, self-limiting condition discussed here (upset stomach due to overindulgence in the combination of alcohol and food). The Panel, therefore, recommends that the following warning be included in the labeling of products containing bismuth subsalicylate and intended to relieve upset stomach due to overindulgence in the combination of alcohol and food: "If taking oral medication for anticoagulation (thinning of the blood), consult a physician before taking this product."

The Panel concludes that bismuth subsalicylate is safe for OTC use when administered at a dose of 0.525 g to be repeated no more frequently than every ½ to 1 hour with a maximum daily dose not to exceed 4.2 g (8 doses) and when labeled with the warnings described below.

(2) *Effectiveness.* Three randomized, placebo-controlled, double-blind studies were reviewed (Refs. 7, 8, and 9). Investigators were Jesse M. Berkowitz, M.D. (Ref. 7), John H. Newsom, M.D. (Ref. 8), and Charles S. Davis, M.D., Ph. D (Ref. 9). The latter two studies have design faults, but are supportive of the effectiveness claim.

Berkowitz studied 132 normal, healthy, nonalcoholic adult volunteers, 18 to 63 years of age of both sexes. These subjects participated in a randomized, placebo-controlled, double-blind, parallel clinical trial in which they were instructed to fast for a 6-hour period immediately preceding the study. In the study, subjects were provided unlimited food and drink (champagne, wine, cordials) in a dinner party atmosphere. Of the 132 subjects, 91 developed one or more symptoms of gastrointestinal distress that required medication. Forty-three subjects took one or more doses of the bismuth subsalicylate formulation as cited above (0.525 g per dose) ½ to 1 hour apart up to a maximum of 8 doses, and 46 subjects took 1 or more doses of a placebo formulation.

Subjects were instructed to record the symptoms, degree of discomfort (none, mild, moderate, or severe), and the time of onset for each of the following symptoms: stomach queasiness/nausea, sense of fullness/bloated feeling, heartburn, belching, stomach pain/cramps, passing gas/wind, bitter or acid taste in mouth, and "others."

In addition, for each dose of medication during the study period, the subjects filled in the time taken and relief obtained (none, poor, good, or excellent). At the end of the study (24 hours after subjects arrived at study site), the subjects were asked to give their subjective evaluation of the overall relief obtained (none, poor, good, or excellent) from their treatment.

The subjects who took the bismuth subsalicylate formulation reported significantly better overall relief than did the subjects who took the placebo (p less than 0.01). Ninety-one percent of those who took bismuth subsalicylate and 56 percent of those who took the placebo reported good or excellent overall relief. (Statistical technique employed was the chi square test.)

Statistical analyses (Mantel-Haenszel test and the chi square test) showed that subjects taking the bismuth subsalicylate got significantly greater relief than subjects taking the placebo for the specific symptoms of nausea (p less than 0.01), fullness (p less than 0.01), and heartburn (p less than 0.01). Baseline symptom severity (i.e., before medication) was considered in the analyses. Further, the time to relief analyses (life table techniques) showed that bismuth subsalicylate provided significantly faster relief than the placebo for nausea (p less than 0.01), fullness (p less than 0.01), and heartburn) (p less than 0.01). The number of subjects who experienced these individual symptoms by treatment groups were as follows:

TREATMENT GROUP

	Bismuth subsalicylate	Placebo	Total
Nausea	22	25	80
Fullness	20	37	66
Heartburn	26	22	48

The Newsom study (Ref. 8) was a randomized, placebo-controlled, double-blind, multiple crossover study involving 48 adult subjects suffering from episodes of "indigestion" or "acute gastrointestinal discomfort" which was defined as a symptom complex consisting of two or more of the following symptoms occurring during or after the ingestion of food: nausea, heartburn, upper-abdominal pain, flatulence and eructation (belching), sense of fullness, and a feeling of abdominal distension. There was no record of whether or not alcohol was ingested. Subjects were not in any study or controlled setting during the episodes, but took the medication during their normal daily routine.

Each subject was treated for six episodes, three with a bismuth subsalicylate formulation (as cited above) and three with a placebo formulation. For each episode treated, the subjects recorded the time of onset, identified the specific symptoms present, and rated the overall severity

(mild, moderate, or severe) on the case report form. Further, the severity of each symptom was rated at 15 and 30 minutes following each dose. Up to 8 doses could be taken at 30 minute intervals if needed. Additionally, if relief was obtained, the subject was asked to specify the time it was noted.

For the overall relief of symptoms, independent of the time to relief, there was a uniformly higher proportion of relief for the episodes treated with bismuth subsalicylate than for the episodes treated with placebo. This trend held in all severity categories (mild, moderate, and severe). However, the differences were not statistically significant (p equals more than 0.05, but less than 0.10). Analysis of time to overall relief (by the Bernard and Van Elteran test) did attain a statistically significant difference between the bismuth subsalicylate and the placebo (p less than 0.005).

For individual symptoms, bismuth subsalicylate was statistically superior to the placebo for both the mean severity score over the 4-hour time period (up to 8 doses at half hour intervals) and for the time to relief for the symptoms of nausea, fullness, and heartburn.

The number of episodes in which subjects treated these individual symptoms with placebo and with bismuth subsalicylate is as follows:

TREATMENT

	Bismuth subsalicylate	Placebo	Total
Nausea	53	56	109
Fullness	83	91	174
Heartburn	88	75	163

In order to perform the analysis on the treatment of separate symptoms, episodes were considered the basic units of analysis and not the individual subjects. This ignores the fact that subjects contributed variable total numbers of episodes, that the number of bismuth subsalicylate-treated and placebo-treated episodes contributed by a given subject were not always equal, and that the episodes were not independent of other episodes.

The Davis study (Ref. 9) was a randomized, placebo-controlled, double-blind study which involved 626 families. Each family was given a medication (bismuth subsalicylate formulation (as cited above) or placebo formulation (in a ratio of two bismuth to one placebo) and instructed to use it for minor gastrointestinal upsets (upset stomach) which might occur within the 2-week period following enrollment in the study.

In the 625 families, 141 individuals had upset stomach; of these, 97 were treated with bismuth subsalicylate and 44 with placebo. Statistical analysis of the five ordered relief categories (complete, good, fair, slight, and none) showed a statistically significant advantage for the bismuth subsalicylate treatment (p equals 0.04 for a two-sided test). When the relief categories were divided into "success" (complete or good) and "failure" (fair, slight, or none), the difference between the bismuth subsalicylate and placebo groups still favored the bismuth group, but now was not statistically significant (p equals 0.123 for a two-sided test).

The Panel concludes that the "overall" effectiveness of bismuth subsalicylate has been demonstrated in relieving the symptoms of upset stomach due to overindulgence in the combination of alcohol and food. In addition, it has been demonstrated to be effective in relieving the specific symptoms of nausea, fullness, and heartburn due to overindulgence in the combination of alcohol and food.

(3) *Dosage.* The Panel has determined that a dose of 0.525 g of bismuth subsalicylate to be given at intervals no more frequent than every ½ to 1 hour for a total daily dose of 4.2 g (8 doses) is safe and effective for relief of the symptoms of upset stomach due to overindulgence in the combination of alcohol and food.

(4) *Labeling.* The Panel recommends Category I labeling for ingredients intended to relieve symptoms of upset stomach due to overindulgence in the combination of alcohol and food. (See part III. paragraph B.2. below—*Category I labeling.*) In addition, the Panel recommends the following warnings: "This product contains salicylates. If taken with other salicylate-containing preparations, such as aspirin, and ringing in the ears occurs, discontinue use. If taking oral medication for anticoagulation (thinning of the blood), consult a physician before taking this product."

Data submitted have demonstrated the effectiveness of bismuth subsalicylate in relieving the specific symptoms of nausea, heartburn, and fullness due to overindulgence in the combination of alcohol and food and, therefore, these symptoms may be included in the indication as stated under Category I labeling. (See part III. paragraph B.2. below—*Category I labeling.*)

References

(1) Anonymous, "Mental Illness Due to Bismuth Salts," *Japan Medical Gazette*, pp. 8–9, February 20, 1976.

(2) Buge, A., et al., "Correlations Evolutives: Cliniques Electroencephalographiques, Tomodensitometriques et Toxicologiques, Dan Cinq Cas D'Encephalopathies Bismuthiques," *La Semaine Des Hopitaux De Paris*, 55:1466–1472, 1979.

(3) OTC Volume 170208 (p. 5).

(4) Anonymous, "Salicylate in Pepto-Bismol," *The Medical Letter on Drugs and Therapeutics*, 22:63, 1980.

(5) Pickering, L. K., et al., "Absorption of Salicylate and Bismuth in Children and Adults from a Bismuth Subsalicylate Containing Compound (Pepto-Bismol)," unpublished study (forwarded to FDA by letter dated February 24, 1981), Panel Administrator's File (Volume 17LPAII).

(6) White, J. M., "Drug Interactions," OTC Volumes 170213 and 170214.

(7) Berkowitz, J. M., "Bismuth Subsalicylate in Excessive Alcohol/Food Intake," OTC Volume 170208 (pp. 11–15).

(8) Newsom, J. H., "Evaluation of Bismuth Subsalicylate in Relieving Symptoms of Indigestion," OTC Volume 170208 (pp. 15–17).

(9) Davis, C. S., "The Effectiveness of Pepto-Bismol in Gastrointestinal Upsets," OTC Volume 170208 (pp. 18–19).

b. *Sodium citrate in solution.* The Panel concludes that sodium citrate in solution is generally recognized as safe and effective in the dosage noted below for OTC use in relieving symptoms of upset stomach due to overindulgence in the combination of alcohol and food.

Two of the preparations which the Panel reviewed for this indication are combination drug products which contain, in addition to an analgesic, citric acid and sodium bicarbonate in a dry form. One preparation is formulated as effervescent granules, and the other as an effervescent tablet. When either preparation is immersed in water, a series of chemical reactions occurs which results in the formation of sodium citrate in solution and free and dissolved carbon dioxide, with a slight excess of residual sodium bicarbonate in solution. The slight excess of sodium bicarbonate is included in the formulation to ensure that the above chemical reaction progresses to completion. For treating the symptoms of upset stomach due to overindulgence in the combination of alcohol and food, the Panel considers sodium citrate in solution to be the only active ingredient.

(1) *Safety.* The Advisory Review Panel on OTC Antacid Drug Products concluded that the citrate ion (available as citric acid or salt) is safe in a maximum daily dose limit of 8 g as published in the **Federal Register** of April 5, 1973 (38 FR 8724). This Panel is unaware of any safety problems associated with the ingestion of citrate ion, and believes that the Antacid Panel's daily limits of 100 mEq of

sodium for persons 60 years of age or older and 200 mEq of sodium for persons under 60 years of age is more realistic than using the citrate ion as the upper limit and adopts these limits for calculating the amounts of sodium citrate. The Panel, therefore, concludes that sodium citrate is safe in a daily dose of up to 8.6 g (100 mEq of sodium) for persons 60 years of age or older and up to 17.2 g (200 mEq of sodium) for persons under 60 years of age. If there is another source of sodium in a combination drug product, the dose of sodium citrate must be reduced proportionally.

(2) *Effectiveness.* Sodium citrate was reviewed by the Advisory Review Panel on OTC Antacid Drug Products and was found to be effective for use as an antacid (38 Fr 8724).

This Panel has been presented with another claim for sodium citrate, i.e., upset stomach due to overindulgence in the combination of food and drink. In support of this claim, White et al. (Ref. 1) conducted a study comparing the effectiveness of a sodium acetylsalicylate and sodium citrate combination to aspirin tablets, an antacid, and a placebo. This was a placebo-controlled, parallel sample study on 64 subjects who were randomly assigned to one of the medication groups. The subjects were separated into 4 groups of 16. Each group, on different dates, was encouraged to overeat a variety of rich and spicy foods while consuming alcoholic beverages of their own choosing. A symptom questionnaire, which was completed 5 times during the course of the 14-hour and 15-minute study protocol, included 11 upset stomach symptoms: fullness, heartburn/burning, passing of gas, stomach ache, belching, rumbling sensation, thirsty/dry mouth, sluggishness, taste repeat, nausea, and bitter/acidic aftertaste. Average severity scores for each subject were computed and analysis of variance was applied comparing the four treatments for each time period. Significant differences (p equals 0.004) among treatments were found for the final measurement (45 minutes after medication on the morning after overindulgence), which was the primary point of measurement. Duncan's Multiple Range test showed the combination of sodium acetylsalicylate and sodium citrate significantly better than placebo (p equals 0.05) or aspirin (p equals 0.05) at the final measurement. Also, there was no significant difference between aspirin and placebo.

On the basis of this study, collateral studies (Ref. 2), proven antacid capacity (21 CFR Part 331), and long history of use, the Panel concludes that sodium citrate in solution has demonstrated an "overall" effectiveness in relieving the symptoms of upset stomach due to overindulgence in the combination of alcohol and food.

(3) *Dosage.* The Panel recommends that sodium citrate be given in divided doses and that the daily dose not exceed 8.6 g (100 mEq of sodium) for persons 60 years of age or older and 17.2 g (200 mEq of sodium) for persons under 60 years of age. If there is another source of sodium in a combination drug product, the dose of sodium citrate must be reduced accordingly.

(4) *Labeling.* The Panel recommends Category I labeling for ingredients intended for relief of symptoms of upset stomach due to overindulgence in the combination of alcohol and food. (See part III. paragraph B.2. below—*Category I labeling.*) In addition, the Panel recommends the following statements:

(i) *Warning—For products containing more than 5 mEq of sodium in the maximum recommended daily dose.* "If you are on a sodium-restricted diet, do not take this product except under the supervision of a physician.

(ii) *Directions.* "If you are 60 years of age or older, the maximum daily dose should not exceed —— of this drug." (Space to be filled in with the number of dosage units which will not exceed 100 mEq of sodium in a daily dose as specified under "Dosage.")

References

(1) White, J. M., et al., "Clinical Study of Experimentally Produced Upset Stomach and Its Treatment," unpublished study, OTC Volumes 170123 (Appendix 5), 170132, 170189 (Section III.D.2.), 170205 (Tab 390), and 170212.

(2) OTC Volume 170189.

2. *Category I labeling.* The Panel recommends the following Category I labeling for drug products which contain ingredients that are generally recognized as safe and effective for relief of symptoms of upset stomach due to overindulgence in the combination of alcohol and food, as well as any ingredient-specific labeling statements discussed previously:

Indications. "For the relief of upset stomach due to overindulgence in the combination of food and drink." Throughout this document the Panel has used the phrase "overindulgence in the combination of alcohol and food" to emphasize that alcohol is the more important of the two elements in terms of symptoms generated. The Panel has not followed through with this wording in the indication to be used on product labeling because it believes that the phrase "overindulgence in the combination of food and drink" is more acceptable to the consumer. It is also assumed by the Panel that the consumer will know that "drink" means an alcoholic beverage.

If any or all of the major individual symptoms (i.e., nausea, heartburn, and fullness) are also demonstrated to be relieved by a particular drug product (e.g., bismuth subsalicylate), those symptoms relieved may also be included in the labeling following the term "upset stomach." For example, if all these symptoms are shown to be relieved, the labeling could be as follows: "For the relief of upset stomach associated with nausea, heartburn, and fullness due to overindulgence in the combination of food and drink."

C. Category II Conditions

The following are Category II conditions under which drug products intended to relieve the symptoms of upset stomach due to overindulgence in the combination of alcohol and food are not generally recognized as safe and effective or are misbranded.

1. *Category II active ingredients.* None.

2. *Category II labeling.* The Panel concludes that the following labeling claims are misleading or unsupported by scientific data. Therefore, the following claims and other related terms are classified as Category II labeling:

a. "Upset stomach." (unqualified as to cause)

b. "Fast relief," "quick relief," or any other term which nonspecifically relates to the speed of action.

c. "Upset stomach with headache from overindulgence." (no explanation as to what item in which one overindulged)

D. Category III Conditions

There are no Category III conditions.

IV. Drug Products for Relief of Hangover Symptoms

General Discussion

The word "hangover" is commonly used to describe noxious feelings encountered several hours after the sporadic ingestion of large amounts of alcohol. This syndrome involves a temporary metabolic disturbance affecting many organ systems of the body, most notably the central nervous system, gastrointestinal system, and endocrine system. A hangover is generally differentiated from alcoholism, an entirely different disorder encountered with chronic alcohol ingestion and the resulting pathological organ damage. This Panel has

considered only the treatment of the sporadic episode of overindulging in alcohol. The Panel has reviewed the literature and found approximately 30 symptoms used in describing "hangover" (Refs. 1 through 5).

Collins (Ref. 1), in measuring performance effects on simulated tasks during alcohol intoxication and hangover, used a questionnaire to measure severity of an assortment of hangover symptoms which included the following: "throwing up, stomachache, hungry, headache, loose bowels, tight bowels, muscle aches, shaking, dizzy, feel hot, feel confused, eyes burn, backache, nose runs, nervous, tired, dry mouth, feel sad or depressed, ringing in ears, hurts to move, thirsty, nauseated, heartburn."

In a review article, Anylian, Dorn, and Swerdlow (Ref. 2) reported the results of a series of tests conducted in Finland which attempted to define hangover by using the subjective feelings of "fatigue, headache, dizziness, nausea, thirst, tension, depression, and general malaise," and the objective signs of "paleness, tremor, perspiration, nystagmus (involuntary eye movement), vomiting, and general appearance." This paper cited three other studies in which hangover symptoms were measured. Khan, Jensen, and Krogh (Ref. 3) in comparing pyritinol and placebo in preventing hangover, used the following symptoms: "vomiting, loss of appetite, heartburn, lassitude, continued thirst, palpitation, weakness of joints, respiratory difficulties, sleeplessness, giddiness, headache, fatigue, sweating, disturbed balance and gait, pallor, tremor, nystagmus, general malaise, anxiety and depression." Chapman (Ref. 4), in attempting to predictably induce hangover for experimental studies, used the following symptoms: "thirst, fatigue, drowsiness, trouble in sleeping, general malaise, nausea, loss of appetite, dizziness or feelings of faintness, headache, depression, and anxiety." Damrau and Liddy (Ref. 5), in attempting to demonstrate that congeners play an important role in the production of hangover, used the following symptoms: "headache, bad breath, gastric irritation, fatigue, dizziness and desensitization of the taste sensations."

To the Panel's knowledge no study has been performed delinating the frequency of these symptoms in a large population. Therefore, the Panel developed a list of the most frequently occurring hangover symptoms mentioned in the five studies cited above (Refs. 1 through 5). These symptoms reflect disturbances in the gastrointestinal, neurologic, and endocrine systems and consist of nausea, heartburn, thirst, tremor, disturbance of equilibrium, fatigue, generalized aches and pains, headache, dullness, and/or depression or irritability.

The Panel has reviewed remedies for relief of hangover symptoms in a different manner from those remedies intended for relief of symptoms of upset stomach due to overindulgence in the combination of alcohol and food. For the latter, the Panel required results of clinical studies to demonstrate effectiveness, but for hangover remedies, no studies were deemed necessary. The hangover symptom complex is complicated and reflects multiple body disturbances. Based upon the Panel's background in clinical medicine, it concluded that a hangover can be manifested by a wide variety of signs and symptoms of varying frequency and severity usually appearing several hours after overindulgence in alcohol.

Over the years, people have found it convenient to treat their generalized hangover symptoms with internal analgesics for headache, antacids for gastric distress, and caffeine for the fatigue or dullness. The Panel, therefore, concludes that it would be logical to allow consumers to self-treat hangover symptoms with various combinations of analgesics, antacids, and stimulants. The Panel recommends that preparations intended as hangover remedies contain a combination of ingredients from two or more of these drug categories so that consumers can choose the product which contains the ingredients needed to treat the symptoms they are experiencing. Because these ingredients have been extensively reviewed by other panels for treating the diffferent symptoms that comprise a hangover, the Panel considers it unnecessary to require clinical studies that demonstrate effectiveness. The Panel does require that these combinations conform to FDA's combination policy and combination guidelines. (See part II. paragraph B. above—*Combination Policy.*)

The Panel required clinical studies for remedies intended to relieve the symptoms of upset stomach due to overindulgence in the combination of alcohol and food because it believes that this condition is not as clearly understood by consumers as is the hangover syndrome. Moreover, the symptoms of upset stomach due to overindulgence in the combination of alcohol and food have been difficult to identify, even by experts in the field. This Panel required prolonged discussions and reviews before arriving at a classification of symptoms that appears reproducible and characteristic. Furthermore, the Panel is not aware of any Category I ingredient which would relieve two of the three symptoms established by the Panel, i.e., nausea and fullness. The Panel, therefore, concludes that the effectiveness of any single ingredient intended to relieve symptoms of an upset stomach due to overindulgence in the combination of alcohol and food must be demonstrated by the use of clinical trials. The use of empiricism or reasonable probabilities was not deemed adequate.

1. *Formulation criteria.* The Panel has identified no product or single ingredient which is unique in relieveing the symptoms of a hangover. Based upon this fact and the above discussion, the Panel recommends that a hangover drug product contain a combination which may include analgesics, antacids, and/or stimulants as long as the preparation meets all of the following criteria:

a. The combination must contain Category I ingredients from at least two of the following drug categories: analgesics (a final dosage form containing aspirin would have to at least meet the buffering capacity required of an antacid final dosage form), antacids, and stimulants.

b. Each of the ingredients, and any combination of ingredients (if applicable) must meet the conditions of the appropriate monographs with the exceptions as specified in paragraph 3. below—*"Use of buffered aspirin and an antacid in gastric distress."*

c. The product must conform with FDA's combination policy and combination guidelines.

If these criteria are met and the product does not contain any active ingredients other than Category I analgesics, antacids, or stimulants, the Panel considers such a product to be rational and effective for relieving hangover symptoms.

2. *Combination products for relief of hangovers.* The Panel has reviewed the following four combination products for the relief of hangover symptoms:

a. Aspirin, citric acid, and sodium bicarbonate (when immersed in water and ingested contains sodium acetylsalicylate in solution and sodium citrate in solution as the active ingredients),

b. Acetaminophen, citric acid, and sodium bicarbonate (when immersed in water and ingested contains acetaminophen and sodium citrate in solution as the active ingredients),

c. Aspirin, caffeine, aluminum hydroxide, and magnesium carbonate, and

d. Acetaminophen, aspirin, caffeine, magnesium trisilicate, magnesium carbonate, and aluminum hydroxide gel.

The panel concludes that each combination satisfies the criteria of effectiveness established by the Panel. However, combinations c. and d. require additional acid neutralizing capacity to meet requirements of the antacid monograph.

The Panel emphasizes that although the consumer may desire an antacid for what he describes as heartburn, acid indigestion, or sour stomach, the condition existing in a hangover state usually is not due to hyperacidity. It is more likely due to acute gastritis (inflamed gastric mucosa) and the antacid would be necessary to protect the mucosa from normal gastric acid secretion.

3. *Use of buffered aspirin and an antacid in gastric distress.* the Advisory Review Panel on OTRC Internal Analgesic and Antirheumatic Drug Products, in its report published in the **Federal Register** of July 8, 1977 (42 FR 35386 and 35471), recommended against the combination of aspirin and an antacid for use in gastric distress. This Panel differs with that Panel's recommendation and bases its conclusion in favor of combining aspirin with antacids (as long as the final dosage form at least meets the buffering capacity required of an antacid final dosage form) for use in conditions of gastric distress for the following reasons:

Acetylsalicylic acid (aspirin) has been shown to cause an increase in blood loss from the gastrointestinal tract. Aspirin is a weak acid and is lipid-soluble in its undissociated dorm, which facilitates its absorption into the gastric mucosa. The presence of aspirin in gastric mucosal cells results in an abnormal permeability and subsequent back diffusion of gastric acid which in turn results in an increased potential for mucosal erosions and bleeding. In the presence of strong buffers, aspirin is converted to sodium acetylsalicylate which is water-soluble and lipid-insoluble. In this form it is not absorbed by the cells of the gastric mucosa in amounts significant enough to cause gastric erosion. Studies of an effervescent alkaline solution containing sodium acetysalicylate have demonstrated that there is no increase in fecal blood loss (Ref. 6), no gastric erosions are seen on gastrocamera examination (Ref. 7), and the mucosal barrier of dogs remains intact (Ref. 8). Concommitant administration of alcohol had no affect on the gastric mucosa of dogs, whereas aspirin combined with alcohol showed an increase in blood loss (Ref. 8).

The Advisory Review Panel on OTC Antacid Drug Products in its report published in the **Federal Register** of April 5, 1973 (38 FR 8721) concluded that

> . . . unbuffered aspirin causes greqter visible gastric mucosal damage and more gastrointestinal blood loss than strongly buffered aspirin in solution, which causes little or none of these experimental forms of damage. However, the actual clinical condition of major gastrointestinal hemorrhage associated with aspirin ingestion has been seen with both unbuffered and strongly buffered aspirin in solution. There is inadequate evidence to establish whether the risk of clinically major gastrointestinal hemorrhage is less with strongly buffered aspirin in solution than with unbuffered aspirin.

The internal Analgesic Panel in its report published in the **Federal Register** of july 8, 1977 (42 FR 35471), concluded

> * * * that there is evidence that highly buffered aspirin solutions will reduce, but not eliminate the acute gastric erosions and occult blood loss produced by the local effects of aspirin in experimental animals and individuals with no predisposing gastrointestinal disease. However, there is no valid clinical evidence to support the claim that highly buffered aspirin for solution has significantly less potential to induce major gastrointestinal hemorrhage in patients with preexisting gastrointestinal lesions which the Panel believes includes mechanisms other than the acid-mediated local mechanisms involved in the production of occult bleeding in normal subjects.

That Panel also stated: "Furthermore, based on current knowledge of high risk groups such as individuals who drink alcohol excessively, the benef.t to risk ratio for individuals with symptoms of gastric distress, particularly with concomitant headache, does not warrant the use of aspirin in any dosage form."

This Panel, with its experience in hematology, has reviewed the current literature and considered expert testimony (Ref. 9) and concludes that evidence indicates that sodium acetylsalicylate does not cause gastric erosions or appreciable increased blood loss. The Panel also concludes that evidence implicating sodium acetylsalicylate as a cause of major gastrointestinal hemorrhage has been based on occasional isolated reports in which there is no proven causal relationship.

The effects of aspirin on the mechanisms of hemostasis were reviewed because it has been suggested that mechanisms other than acid reflux might cause gastrointestinal hemorrhage. When a blood vessel is served, a complex series of interactions ensues, i.e., localized vasoconstriction, platelet adhesion at the wound site, platelet aggregation, release of internal platelet materials, formation of a platelet plug, formation of a fibrin network, and, finally, dissolution of the fibrin clot by the action of plasmin and other means. Aspirin has an inhibitory effect on prostaglandin synthesis, which in turn inhibits secretion of adenosine diphosphate from platelets and their aggregation. However, adenosine diphosphate is present in abundance from other sources where tissue or vacular damage occurs, and so the net effect is minimal in healthy persons. O'Laughlin et al. (Ref. 10) studied the effects of acute and chronic aspirin use on gastric bleeding time in humans using endospic punch biopsies and observed the time it took for bleeding to stop. This study demonstrated that aspirin in the dose administered had no measurable effect on the bleeding time of gastric mucosa.

The synergism between the effects of aspirin and alcohol to induce gastrointestinal bleeding was explored by the Panel. At low concentrations, alcohol stimulates acid secretion. Davenport (Ref. 11) observed that severe damage occurred to the gastric mucosa of dogs treated with a mixture of aspirin, hydrochloric acid, and 6 to 10 percent alcohol; however, no back diffusion of acid or bleeding occurred when the solution contained a combination of buffered sodium acetylsalicylate and alcohol. Leonards (Ref. 12) administered large amounts of alcohol to normal subjects and compared fecal blood loss after alcohol alone and after a combination of alcohol and buffered sodium acetylsalicylate. Adding buffered aspirin produced no increase in fecal blood loss. Another study also demonstrated that a combination of alcohol and buffered sodium acetylsalicylate did not cause gastrointestinal bleeding (Ref. 13).

It should be noted that chronic alcoholism is well known to cause gastrointestinal hemorrhage for various reasons and that no claims of effectiveness of sodium acetylsalicylate in relief of symptoms of chronic alcoholism are recognized.

The Panel has reviewed sodium acetylsalicylate as an agent to provide symptomatic relief of a hangover defined by the Panel as overindulgence in alcohol producing symptoms which include nausea, heartburn, thirst, tremor, disturbance of equilibrium, fatigue, generalized aches or pains, headache, dullness, and/or depression or

irritability, and has found this ingredient to be safe and effective in relief of those symptoms subject to relief by an analgesic. In addition, the combination of sodium citrate and sodium acetylsalicylate to treat a hangover is rational and justified because the alkaline buffering ability of sodium citrate enables aspirin to become dissolved and remain dissolved as sodium acetylsalicylate, thus protecting the gastric mucosa from the erosive effects caused by the combination of aspirin, gastric acidity, and alcohol.

4. *Category I labeling for OTC drug products that provide relief from hangover symptoms.* The Panel offers the following discussion and recommendations of Category I labeling claims for drug products which are considered safe and effective for relief of hangover symptoms and are not misbranded. A drug manufacturer shall include all of the hangover symptoms (from the Panel's definition of hangover) which the active ingredients in the formulation would normally be expected to relieve (e.g., if one of the ingredients is an analgesic, the symptoms of "headache" and/or "generalized aches and pains" shall be included).

Any additional labeling information (e.g., warnings, drug interaction precaution) which is specific to the individual ingredients would come from the respective monographs (i.e., analgesic (21 CFR Part 343), antacid (21 CFR Part 331), and stimulant (21 CFR Part 348); only the antacid monograph is final at this time). With regard to warnings, for those products marketed only for the condition "relief of hangover" the following exceptions are recommended to the warning statements as published in the July 8, 1077 **Federal Register** (42 FR 35493–4) for internal analgesics, the June 4, 1974 **Federal Register** (39 FR 19876) for antacids, and the June 13, 1978 **Federal Register** (43 FR 25802) for stimulants:

Any labeling pertaining to children (except the warning to keep the medication out of the reach of children) is not applicable due to the nature of the condition being treated.

a. *For products that include a salicylate.* (1) That portion of § 343.50(c)(1)(i) that reads, "Adults: Do not take this product for more than 10 days," is not applicable and should be deleted because of the acute nature of the condition being treated. The resultant warning would read, "If symptoms persist, or new ones occur, consult your physician."

(2) That portion of § 343.50(c)(3)(ii) that reads, "or other symptoms," (regarding ringing in the ears) should be deleted because it is too vague. The resultant warning would read, "Stop taking this product if ringing in the ears occurs."

(3) The entire warning in § 343.50(c)(3)(iv) that reads, "*Caution.* Do not take this product if you have stomach distress, ulcers, or bleeding problems except under the advice and supervision of a physician," is not applicable and should be deleted because the hangover syndrome involves stomach distress.

(4) Revision of the warning regarding the concurrent use of certain prescription medications (§ 343.50(c)(3)(v)) has been discussed earlier in this document. (See part III. paragraph B.1.a. above—*Bismuth subsalicylate*). This reasoning also applies to hangover remedies and the resultant wording should read, "*Warning:* If taking medication for anticoagulation (thinning of the blood), consult a physician before taking this product."

(5) That portion of § 343.50(c)(6) that reads, "except under the advice and supervision of a physician," (regarding an allergic reaction to the salicylate portion of choline, magnesium, and sodium salicylate) should be deleted because if one is allergic to the ingredient, then one should not take the product. The resultant warning would read, "Do not take this product if you are allergic to salicylates, such as aspirin."

(b) *For products that contain acetaminophen.* (1) The warning in § 343.50(c)(5)(i) that reads, "Do not exceed recommended dosage because severe liver damage may occur," is not applicable and should be deleted because of the temporary nature of the condition being treated.

(2) That portion of § 343.50(c)(1)(i) that reads, "Adults: Do not take this product for more than 10 days," is not applicable and should be deleted because of the temporary nature of the condition being treated. The resultant warning would read, "If symptoms persist, or new ones occur, consult your physician."

c. *For products that contain antiacids.* (1) The portion of § 331.30(b)(1) that reads, "or use the maximum dosage of this product for more than 2 weeks," is not applicable and should be deleted because of the temporary nature of the condition being treated. The resultant warning would read, "Do not take more than (maximum recommended daily dosage, broken down by age groups if appropriate, expressed in units such as tablets or teaspoonsful) in a 24-hour period, except under the advice and supervision of a physician."

(2) The warning in § 331.30(b)(2) that reads, "May cause constipation," for use with products which cause constipation in 5 percent or more of the persons who take the maximum recommended dosage is not applicable and should be deleted because of the temporary nature of the condition being treated.

(3) The warning in § 331.30(b)(3) that reads, "May have a laxative effect," for use with products which cause laxation in 5 percent or more of persons who take the maximum recommended dosage is not applicable and should be deleted because of the temporary nature of the condition being treated.

d. *For products that contain stimulants.* That portion of § 340.50(c)(2) that reads, "If fatigue or drowsiness persist continuously for more than 2 weeks, consult a physician," is not applicable and should be deleted because of the temporary nature of the condition being treated. The resultant warning would read, "For occasional use only."

5. *Category II labeling.* The Panel concludes that the following labeling claims are misleading or unsupported by scientific data. Therefore, the following claims and other related terms are classified as Category II labeling:

a. "For the relief of overindulgence."

b. "Fast relief," "quick relief," or any other term which nonspecifically relates to the speed of action.

6. *Category III labeling.* The Panel could identify no labeling claims for which available data are insufficient to permit final classification at this time.

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V. Drug Products To Prevent Inebriation or To Minimize or Reduce a Hangover

A. General Discussion

In addition to products submitted for relief of "upset stomach due to overindulgence in food and drink" and for relief of "symptoms of hangover," the Panel reviewed preparations which had claims of "minimizing or reducing the symptoms of hangover" and "to prevent alcoholic intoxication." Because the claims for these products were preventive in nature, the Panel decided to review them separately.

Activated charcoal is the only ingredient reviewed with the claim of minimizing or reducing the symptoms of a hangover. The Panel believes that congeners in alcoholic beverages contribute to a hangover and realizes that activated charcoal has been demonstrated in vitro to adsorb congeners but no clinical studies have been submitted. The Panel classified this ingredient in Category III and recommends that clinical studies be performed to demonstrate that activated charcoal minimizes the symptoms of a hangover.

Fructose is the only active ingredient reviewed by the Panel with the claim of preventing alcoholic intoxication. The Panel believes that the term "inebriation" is more familiar to the public and, therefore, has used this term throughout this document. The Panel has classified fructose in Category III.

B. Category I Conditions

The following are Category I conditions under which drug products intended to prevent inebriation or to minimize or reduce the symptoms of a hangover are generally recognized as safe and effective and not misbranded.

1. *Category I active ingredients.* None.

2. *Category I labeling.* Although there are no Category I active ingredients, the Panel recommends the use of Category I labeling for Category III ingredients.

a. *To prevent inebriation:* "To minimize inebriation."

b. *To minimize or reduce a hangover*—(1) "To minimize the symptoms of a hangover caused by alcoholic beverages."

(2) "For minimizing the symptoms of a hangover caused by alcoholic beverages."

(3) "An aid in minimizing the symptoms of a hangover caused by alcoholic beverages."

C. Category II Conditions

The following are Category II conditions under which drug products intended to prevent inebriation or to minimize or reduce a hangover are not generally recognized as safe and effective or are misbranded.

1. *Category II active ingredients.* None.

2. *Category II labeling.* The Panel considers the claims listed below and any related claims to be unsupported by scientific data and, therefore, are classified as Category II.

a. *To prevent inebriation*—(1) "For the inebriation."

(2) "For the prevention of alcholic inebriation."

b. *To minimize or reduce a hangover.*—(1) "For the prevention (or reduction) of the symptoms of a hangover caused by alcoholic beverages."

(2) "An aid in preventing (or reducing) the symptoms of a hangover caused by alcoholic beverages."

D. Category III Conditions

The following are the Category III conditions for which the available data are insufficient to permit final classification at this time.

1. *Category III active ingredients*—a. *To prevent inebriation—Fructose.* The Panel concludes that fructose is safe for OTC use in the dose noted below, but data are insufficient to demonstrate its effectiveness in minimizing inebriation. The Panel has placed an "prevention" claims in Category II because the Panel is unaware of any evidence that any ingredient can entirely prevent inebriation.

(1) *Safety.* Fructose, also known as levulose or fruit sugar, is usually obtained from the inversion of aqueous solutions of sucrose and the subsequent separation from glucose. A component of honey, fructose is sweeter that sucrose and is readily absorbed from the gastrointestinal tract, but not as rapidly as dextrose (Refs. 1, 2, and 3).

One text considers fructose to be safe in oral dose of up to 150 g per day in divided doses of 2 to 25 g (Ref. 2). The author notes that large oral doses may cause abdominal pain and diarrhea and that fructose should not be given to person with a fructose intolerance. Persons with methyl alcohol poisoning should not be given fructose, because it enhances the oxidation of the methyl alcohol to formaldehyde. As fructose is rapidly removed from the blood, it has little effect on blood-sugar concentration, except that diabetics metabolize it to dextrose to a greater extent that do nondiabetics. Furthermore, it does not require insulin for its metabolism (Ref. 2).

Fructose has been used as in intervenous infusion (500 mL of a 40-percent solution) in grossly intoxicated individuals to accelerate the metabolism of the alcohol (Ref. 4).

The Panel, therefore, concludes that the ingestion of up to 4 g of fructose (2 g followed by 2 g in 30 minutes), as recommended by the manufacturer, is generally recognized as safe for OTC use.

(2) *Effectiveness.* All the studies available to the Panel involved the investigation of the effect of fructose on lowering blood-alcohol levels. In a study by Pawan (Ref. 5), 12 normal, healthy male volunteers ingested 30 g doses of fructose along with alcohol (0.5 ethanol per kilogram body weight) and the rates or slopes of the decrease in plasma alcohol concentrations for up to 4.5 hours after the ingestion were compared to the rates obtained when the alcohol was ingested along with a control of pure lemon juice. Fructose was reported to produce a "significant increase of 18–40 percent" in the rate of alcohol metabolism over the control (no level of significance was reported). Eight of the 12 subjects repeated the above experiment, but took the fructose 30 minutes after the ingestion of the alcohol. The fructose "increased the rate of metabolism of alcohol by 15–30 percent." No statement about statistical significance of this result was reported. The above experiments were performed for other sugars (glucose, galactose, and sucrose) on different days. Only sucrose showed any increase in the rate of alcohol metabolism. It was, however, only "very slight."

In a small-scale, controlled, pilot experiment, Feldman (Ref. 6) performed two crossover studies involving four subjects (two males and two females). In the first study, no significant difference was found between the use of

10 g of fructose and 10 g of sucrose in reducing blood-alcohol levels for up to 1 hour after consumption of 1 ounce of 80 proof vodka and a glass of water. In the second study, the subjects were again given 1 ounce of 80 proof vodka and a glass of water. In the study there was a highly significant difference (p less than 0.001) between the use of 2 g of fructose in a lozenge form (dissolved in the mouth) versus the use of no other active ingredient in reducing blood-alcohol levels for up to 1 hour after the drink.

In another small-scale experiment, involving a total of 20 subjects, Molomut (Ref. 7) performed two crossover studies investigating the effects of glucose, a 1-g fructose lozenge swallowed directly, and two 1-g fructose lozenges dissolved in the mouth when taken simultaneously with 80 proof vodka (43 mL) on blood-alcohol levels measured at 30- and 60-minute intervals after ingestion of the alcohol. While the investigator claimed an effect in favor of dissolving the fructose lozenge in the mouth, as compared to swallowing it directly, the data at 30- and 60-minute intervals are inconsistent and no clear interpretation of the data can be made.

In another crossover study, Albanese (Ref. 8) used 9 subjects to compare the effect of a 1-g fructose tablet versus the use of a placebo tablet (both to be dissolved in the mouth) just prior to administration of 80 proof vodka (0.5 mL/kg). While fructose had a better reduction of blood-alcohol levels than did the placebo, the difference in reduction was not statistically significant (p greater than 0.05). Albanese also investigated the effectiveness of one fructose tablet on two doses of vodka. (twice the amount cited above) and the effectiveness of fructose when given 30 minutes after the ingestion of the vodka. The sample sizes and variations displayed in the latter two studies made it impossible to reach any conclusions.

An additional controlled study was performed by Brown et al. (Ref. 9) to test the effectiveness of fructose when administered as an intravenous infusion (500 mL of a 40-percent solution) in treating patients with acute alcoholic intoxication. Nineteen patients were used in the experiment which covered a 15-month period. Normal saline was used as the control. The investigators reported the rate of decrease in the blood-ethanol levels of the patients receiving fructose to be approximately 25 percent greater than that obtained from the normal saline controls. This was statistically significant with a one-sided test (p equals 0.05). They concluded that:

In unconscious patients, where the possibility of drug overdosage, head injury, or other acute medical emergency may coexist, intravenous fructose may help to reveal any underlying pathological condition by shortening the period of alcoholic intoxication. In patients who are simply inebriated, 200 g of intravenous fructose may usefully shorten their stay in a casualty department by a few hours, depending on the initial ethanol level.

This study was later commented on by Hessov (Ref. 10), who stated that such a high dose of fructose (200 g) over such a short period of time (30 minutes) could have at least three unfavorable effects and further complicate the coexisting conditions mentioned above.

The above studies indicate that fructose given with a drink of alcohol may have an effect in lowering blood-alcohol levels, but the data are insufficient for the Panel to determine what practical clinical significance the blood level lowering has in minimizing inebriation. The Panel is unaware of any evidence that any ingredient can entirely prevent inebriation and therefore has placed any "prevention" claims in Category II.

(3) *Proposed dosage.* The Panel recommends the dosage, as recommended by the manufacturer, of 2 g of fructose administered either just prior to drinking or within 30 minutes following such ingestion, followed by an additional 2 g taken 30 minutes after the first dose, if necessary.

(4) *Labeling.* The Panel recommends Category I labeling for ingredients intended to minimize inebriation. (see part V. paragraph B.2.a.—*Category I labeling.*)

(5) *Evaluation.* The Panel concludes that fructose is generally recognized as safe for OTC use in the dosage noted above, but data are insufficient to demonstrate its effectiveness in minimizing inebriation. The Panel recommends that clinical studies be performed to demonstrate what practical clinical significance the lowering of blood-alcohol levels has in minimizing inebriation.

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b. *To minimize or reduce a hangover—Charcoal, activated.* The Panel concludes that activated charcoal is safe for OTC use in the doses noted below, but data are insufficient to demonstrate its effectiveness in minimizing the symptoms of a hangover. The Panel has placed claims for "reduction" in Category II because activated charcoal is only intended to work prior to getting a hangover.

(1) *Safety.* The Panel has previously reviewed this ingredient in its reports on OTC Digestive Aid Drug Products, Deodorants for Internal Use Drug Products, and OTC Drug Products for the Treatment of Acute Toxic Ingestion. In each case, it has found activated charcoal to be safe for OTC use in the dosages recommended. The Panel's recommended dosage in the Acute Toxic Ingestion report is 30 g as a one-time dose, whereas the dosage was limited to 10 g per day in both the Digestive Aid and Deodorants for Internal Use reports. The 7-day limit of use as a digestive aid was because, if symptoms lasted that long, a physician should be consulted to identify the underlying cause, whereas, chronic administration was allowed for use as a deodorant for internal use because of the long-term condition being treated.

(2) *Effectiveness.* Activated charcoal is known to adsorb many gases, organic and inorganic compounds, and toxins. Activated charcoal is claimed to minimize or reduce a hangover by adsorbing the congeners in the alcoholic beverage. In order to show that activated charcoal is effective in minimizing a hangover, it must first be shown that hangovers are caused by the congeners in the alcoholic beverage. Congeners are materials, other than ethanol and water, in alcoholic beverages which give the beverage its unique color, aroma, and taste (Ref. 1).

It has been established that the congener content varies from one

alcoholic beverage to another; bourbon contains the most and vodka contains the least (not much more than synthetic ethanol) (Refs. 1 and 2). The congeners measured in each of these studies are acetaldehyde, ethyl formate, ethyl acetate, methanol, *n*-propanol, isobutanol, and isoamyl alcohol (the latter three being the primary constituents of fusel oil). In most of the beverages tested isoamyl alcohol and ethyl acetate constituted more than 70 percent of the total congeners present (Ref. 2).

Although the Panel was unable to find studies in which activated charcoal was given to subjects to determine what effect it would have in minimizing a hangover, one in vitro study does demonstrate the ability of activated charcoal to adsorb congeners. Damrau and Goldberg (Ref. 3) performed the study in which a mixture of 86 proof whiskey and 0.1 N hydrochloric acid (to simulate stomach contents) was subjected to activated charcoal in a ratio of 1 g per 60 mL of whiskey. Total congener content was determined following 1 hour of agitation. As a control a separate mixture of whisky and hydrochloric acid was agitated and measured for congeners. Results indicated that "significant amounts" of the congeners were removed (36 percent fusel oils, 82.6 percent acetaldehyde, 93.8 percent furfural, and 31.3 percent ethyl acetate). The investigators cited a clinical study conducted by Damrau and Liddy (Ref. 4) in which they conducted a crossover clinical study to test the effects of 80 proof whiskey (high congener content) and prefiltered 80 proof vodka ("virtually no congeners") in a 2-ounce dose with the intention of producing a hangover the day following administration of the beverage. Damrau and Liddy found the whiskey to produce the following "after-effects": halitosis, gastric irritation, headache, dizziness, and fatigue. These effects occurred in 6 to 27 percent of those consuming whiskey, but only headache and gastric irritation occurred in 2 percent of those ingesting vodka. No raw data were given for this study. Damrau and Goldberg (Ref. 3) concluded from the above results (Res. 3 and 4) that "activated charcoal appears to be a useful agent for reducing the congeneric material from whiskey" and that "whiskey with less congeneric material should lessen hangover symptoms."

In order to determine whether the congener content of alcoholic beverages is the primary contributing factor to a hangover, the Panel reviewed a number of additional studies. Chapman (Ref. 5) found in testing 91 subjects that when vodka and bourbon were consumed in amounts equivalent to 1.5 mL of ethanol per kg of body weight, this level was the minimal dose which consistently produced hangover symptoms. An ethanol dose of 1.0 mL/kg (10 subjects) and 1.25 mL/kg (10 subjects) did not consistently produce the symptoms, and a dose of 1.75 mL/kg (11 subjects) did not increase the proportion of hangovers reported, but did increase the incidence of undesirable behavior. Concentrating on the results of the 1.5 mL/kg group (60 subjects), Chapman found that when using a scale of 0 to 7 (0 for no hangover and 7 for the most severe possible) 20 of the 30 subjects who received bourbon reported a definite hangover (rating of 2 or more) as compared with 13 of the 30 who received vodka. He also reported that 10 of the 30 who received bourbon noted a severe hangover (ratings greater than 3), and only 1 of 30 who received vodka noted a severe hangover. Chapman concluded that the dose of the ethanol (1.5 mL/kg) is crucial in consistently producing hangover symptoms (50 percent of the subjects when vodka or bourbon ws administered at a ethanol dose of 1.5 mL/kg). He also concluded that "subjects in our culture, drinking relatively large amounts of bourbon, experienced a greater incidence and severity of hangover than they did after drinking equivalent amounts of alcohol as vodka."

Brusch et al. (Ref. 6) in a crossover study administered bourbon, rum, gin, and vodka in amounts equivalent to 3 ounces of ethyl alcohol mixed with sufficient water to produce a total of 12 ounces to 20 subjects (not described as to heavy, moderate, or non-drinkers). For this test, the authors concluded that, "our results indicate that there are definite differences produced by some spirits and that these differences are probably produced by the congeners they contain." Although the authors report that hangover was based on subjective and objective finding, no data is given for the various beverages consumed. The data are so incomplete that no analysis can be made.

Murphree, Price, and Greenberg (Ref. 7), in reporting on the effect of alcoholic beverage congeners on the incidence of nystagmus (involuntary eye movement) during intoxication, demonstrate a more prolonged nystagmus when a congener-fortified vodka (32 times as much congeners as the bourbon) is administered than when bourbon containing the same amount of ethanol is administered. They also cite published studies in which moderate differences were reported favoring vodka (low congener content) over whiskey (high congener content) (Refs. 4 and 6) but make the following comment regarding these studies: "Limitation of the observations employed in these studies to highly subjective and impressionistic evaluations, and the absence of objective measurements of any kind, render the reported conclusions suggestive but something less then convincing."

An unpublished study by Collins and Chiles (Ref. 8) also references the studies conducted by Damrau and Liddy (ref. 4) and Brusch et al. (Ref. 6) and states that their "experimental approaches make the results less than convincing (e.g., Damrau and Liddy administered only 2 ounces of alcohol to nondrinkers or moderate social drinkers and obtained what they referred to as an 'unexpected' relatively high percentage of hangover effects)." Collins and Chiles (Ref. 8) performed a study to determine the effects of alcohol on the performance of simulated tasks. In a crossover experiment, 11 subjects were exposed to a series of tasks to determine the effect on hangover of consuming bourbon, vodka, and placebo (tests also performed to determine effect while inebriated). During the period from 6:00 p.m. to 12:00 p.m. (midnight) subjects were given four large drinks (each containing one-fourth of the total bourbon and vodka consumed—1.62 mL of ethanol per kg of body weight) with 1 hour to finish each drink. All the subjects consuming bourbon and vodka indicated drunkenness at a midnight testing session and two of the subjects who were given the placebo were rated "slightly drunk" at the same midnight session. The next morning, strong hangover symptoms occurred for both types of alcoholic beverages, with vodka showing a slightly higher rating (increased degree of hangover) over placebo than did bourbon, but performance on the various tasks was not significantly affected. The authors concluded that for the morning after "there were no significant impairments due to alcohol and no congener vs. noncongener differences." While subjects reported significant hangover symptoms, there were no statistical differences between the effects of bourbon and vodka on any of the hangover ratings (in fact, vodka, the noncongener beverage, produced numerically higher overall hangover scores than did bourbon). This study was performed to determine the effects of hangover on pilots' "8-hour rule" (no member may act as a crewmember of a civil aircraft within 8 hours after the consumption of any alcoholic beverage).

The authors concluded that while the results of this study do not contradict the "8-hour rule," they should be interpreted with caution.

A placebo-controlled, crossover study was conducted by Ylikahri et al. (Ref. 9), in which 23 medical students were given either ethanol (1.5 g per kg body weight) or water (placebo) over a 3-hour period in order to produce a hangover the next morning. This study determined various metabolites of ethanol over a 21-hour period in an attempt to relate them to degrees of intoxication (subjective and physical signs) and hangover (subjective and physical signs). Subjective feelings for intoxication and hangover were graded by the subject and objective physical signs for these conditions were graded by the observer. Blood samples were taken at 0, 2, 4, 8, 12, 14, 15, 16, 18, and 21 hours and analyzed for lactate, acetaldehyde, ethanol, ketone bodies, blood glucose, free fatty acids, and triglyceride.

Results indicated that a hangover begins when the blood-alcohol concentration begins to decrease and that the most severe hangover was found 14 hours after the initiation of a 3-hour drinking episode. Ethanol had disappeared from the blood at about 14 hours. No difference was demonstrated in the acetaldehyde level between the groups with severe (group I) and mild hangovers (group II) and the concentration of acetaldehyde showed no correlation with the intensity of hangover at any time. Lactate concentration was found to reach a maximum at 16 hours after the start of drinking, when the hangover was still severe. There were no differences in lactate concentration between groups I and II, and there was no significant correlation between lactate concentration and clinical symptoms and signs of the hangover. The highest levels of free fatty acids occurred at the time of maximal hangover, and the mean concentration of free fatty acids in group I was significantly higher than in group II (p less than 0.05). Ketone bodies were found to be at the highest concentration 16 hours after the start of drinking (when the mean hangover was severe). Ketonemia was somewhat greater in group I than in group II, but the difference was not statistically significant. No correlation could be found between the ketone body concentration and the severity of the hangover. The authors observed that the states of intoxication and hangover are not clearly separated by any subjective symptom or physical sign. They also state that this study clearly indicates that hangover can be induced by pure ethanol in a dose of 1.5 g/kg body weight and that this will result in moderate alcohol intoxication which leads to a feeling of severe hangover in half of the subjects. The authors concluded that, although there seems to be some correlation between the free fatty acid levels and the intensity of hangover, this certainly is not the cause; it is probably secondary to the anxiety state associated with hangover. The following additional comments were made by the authors:

> Thus the present results suggest that hangover is not caused by major metabolic changes induced by ethanol oxidation, but is perhaps more attributable to pharmacological effects on central nervous system and hormonal homeostasis. However, the symptoms of hangover are multiple and variable, which suggests multiple pathogenic mechanisms. Thus, it seems probable that hangover has no single cause, but that the syndrome is due to a combination of neural, hormonal and metabolic effects, the relative importance of which is not known (Ref. 9).

Information was also available to the Panel by means of a convincing presentation by E. B. Truitt, Ph. D. (Ref. 10).

The Panel concludes that, even though the results from various studies described above are conflicting, congeners do contribute to the cause of a hangover. But data are insufficient to demonstrate the effectiveness of activated charcoal in minimizing the symptoms of a hangover.

(3) *Proposed Dosage.* The Panel recommends a dosage, as recommended by the manufacturer, of 1,600 mg taken before, during, or immediately after consumption of alcoholic beverages, with the maximum 24-hour dose not to exceed 10 g.

(4) *Labeling.* The Panel recommends Category I labeling for ingredients intended to minimize the symptoms of a hangover. (See part V. paragraph B.2.b. above—*Category I labeling.*)

(5) *Evaluation.* The Panel concludes that activated charcoal is safe for OTC use in the doses stated above, but data are insufficient to demonstrate its effectiveness in minimizing the symptoms of a hangover. The Panel recommends that clinical studies be performed to demonstrate such effectiveness.

References

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(2) Murphree, H. B., L. A. Greenberg, and R. B. Carroll, "Neuropharmacological Effects of Substances Other Than Ethanol in Alcoholic Beverages," *Federation Proceedings,* 26:1468–1473, 1967.

(3) Damrau, F., and A. H. Goldberg, "Adsorption of Whisky Congeners by Activated Charcoal-Chemical and Clinical Studies Related to Hangover," *Southwestern Medicine,* 52:179–182, 1971.

(4) Damrau, F., and E. Liddy, "Hangovers and Whisky Congeners—Comparison of Whisky and Vodka," *Journal of the National Medical Association,* 52:262–265, 1960.

(5) Chapman, L. F., "Experimental Induction of Hangover," *Quarterly Journal of Studies on Alcohol,* Supplement No. 5, pp. 67–86, May 1970.

(6) Brusch, C. A., et al. "Clinical and Laboratory Evaluation of Alcoholic Beverages," *American Journal of Proctology,* 6:140–144, 1955.

(7) Murphree, H. B., L. M. Price, and L. A. Greenberg, "Effect of Congeners in Alcoholic Beverages on the Incidence of Nystagmus," *Quarterly Journal of Studies on Alcohol,*" 27:201–213, 1966.

(8) Collins, W. E., and W. D. Chiles, "Laboratory Performance During Acute Intoxication and Hangover," Federal Aviation Administration, Office of Aviation Medicine, Report No. FAA–AM–79–7, Oklahoma City, February 1979, unpublished study, Panel Administrator's File (OTC Volume 17LPAII).

(9) Ylikahri, R. H., et al., "Metabolic Studies on the Pathogenesis of Hangover," *European Journal of Clinical Investigations,* 4:93–100, 1974.

(10) Truitt, E. B., presentation made to the OTC Miscellaneous Internal Panel on August 23, 1981, Panel Administrator's File (OTC Volume 17L:PAII).

2. *Category III labeling.* None.

List of Subjects in 21 CFR Part 357

Over the counter drugs.

PART 357—MISCELLANEOUS INTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), the agency advises in this advance notice of proposed rulemaking that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations would be amended by adding in Part 357, a new Subpart J, to read as follows:

* * * * *

Subpart J—Orally Administered Drug Products for Relief of Symptoms Associated with Overindulgence in Alcohol and Food

Sec.

357.901 Scope.
357.903 Definitions.

357.910 Active ingredients for the relief of symptoms of upset stomach due to overindulgence in the combination of alcohol and food.
357.912 Active ingredients for the relief of hangover symptoms.
357.914 Active ingredients to minimize inebriation. [Reserved]
357.916 Active ingredients to minimize hangover symptoms. [Reserved]
357.920 Permitted combinations of active ingredients.
357.950 Labeling of drug products for the relief of symptoms of upset stomach due to overindulgence in the combination of alcohol and food.
357.952 Labeling of drug products for the relief of hangover symptoms.
357.954 Labeling of drug products to minimize inebriation.
357.956 Labeling of drug products to minimize hangover symptoms.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704).

Subpart J—Orally Administered Drug Products for Relief of Symptoms Associated With Overindulgence in Alcohol and Food

§ 357.901 Scope.

(a) An over-the-counter drug product for the relief of symptoms of upset stomach due to overindulgence in the combination of alcohol and food, for the relief of hangover symptoms, to minimize inebriation, or to minimize hangover symptoms, in a form suitable for oral administration is generally recognized as safe and effective and is not misbranded if it meets each condition in this subpart and each general condition established in § 330.1.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to Chapter 1 of Title 21 unless otherwise noted.

(c) References to Part 343 are to the proposed monograph for OTC internal analgesic, antipyretic, and antirheumatic drug products published in the **Federal Register** of July 8, 1977 (42 FR 35346).

(d) References to Part 340 are to the tentative final monograph for OTC stimulant drug products published in the **Federal Register** of June 13, 1978 (43 FR 25544).

§ 357.903 Definitions.

As used in this subpart:

(a) *Upset stomach due to overindulgence in the combination of alcohol and food.* A condition which occurs as a result of overindulgence in the combination of alcohol and food and consists of a group of symptoms which includes heartburn, fullness, and nausea.

(b) *Hangover.* A condition consisting of a complex of symptoms involving the gastrointestinal, neurologic, and metabolic system that follows recent acute excessive alcohol ingestion. The symptoms may includes nausea, heartburn, thirst, tremor, disturbances of equilibrium, fatigue, generalized aches and pains, headache, dullness, and/or depression or irritability.

§ 357.910 Active ingredients for the relief of symptoms of upset stomach due to overindulgence in the combination of alcohol and food.

The active ingredients of the product consist of the following in the dosage limits established for each ingredient in § 357.950(d):

(a) Bismuth subsalicylate.

(b) Sodium citrate in solution.

§ 357.912 Active ingredients for the relief of hangover symptoms.

The active ingredients of the product consist of the following when used only in combination as provided in § 357.920(b) and in the dosage limits established for each ingredient in the respective OTC drug monographs:

(a) Any analgesic active ingredient identified in Part 343.

(b) Any antacid active ingredient identified in Part 331.

(c) Any stimulant active ingredient identified in Part 340.

§ 357.914 Active ingredients to minimize inebriation. [Reserved]

§ 357.916 Active ingredients to minimize hangover symptoms. [Reserved]

§ 357.920 Permitted combinations of active ingredients.

(a) *Combinations of ingredients for the relief of the symptoms of upset stomach due to overindulgence in the combination of alcohol and food.* (1) Bismuth subsalicylate identified in § 357.910(a) may be combined with any nonsalicylate analgesic active ingredient identified in Part 343.

(2) Sodium citrate in solution identified in § 357.910(b) may be combined with any analgesic active ingredient identified in Part 343, provided that if the product contains aspirin identified in Part 343, the finished product meets the acid neutralizing requirements of § 331.10.

(b) *Combinations of ingredients for the relief of hangover symptoms.* The combination contains active ingredients from at least two of the three drug categories identified in § 357.912 provided the product is labeled according to § 357.952. If the product contains aspirin, the finished product must meet the acid neutralizing requirements of § 331.10. The combination of ingredients must also meet the conditions of the respective drug monographs, except as otherwise noted in this subpart.

§ 357.950 Labeling of drug products for the relief of symptoms of upset stomach due to overindulgence in the combination of alcohol and food.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "food and drink overindulgence reliever."

(b) *Indications.* The labeling of the product contains a statement of indications under the heading "Indications" that is limited to following phrases:

(1) *For products containing the ingredients identified in § 357.910.* "For the relief of upset stomach due to overindulgence in the combination of food and drink."

(2) *Alternative indication—For products containing bismuth subsalicylate identified in § 357.910(a).* "For the relief of upset stomach associated with" (select one or more of the following: "nausea," "heartburn," and "fullness") "due to overindulgence in the combination of food and drink."

(3). *For combination products identified in § 357.920(a).* "For the relief of upset stomach due to overindulgence in the combination of food and drink, when accompanied by a headache or other minor aches and pains."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) *For products containing bismuth subsalicylate identified in § 357.910(a).* (i) "This product contains salicylates. If taken with other salicylate-containing preparations, such as aspirin, and ringing in the ears occurs, discontinue use."

(ii) "If taking oral medication for anticoagulation (thinning of the blood), consult a physician before taking this product."

(2) *For products containing more than 5 milliequivalents of sodium in the maximum recommended daily dose.* "If you are on a sodium-restricted diet, do not take this product except under the supervision of a physician."

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions":

(1) *For products containing bismuth subsalicylate identified in § 357.910(a).* Adult oral dosage is 0.525 grams to be given at intervals no more frequently than every ½ to 1 hour for a total daily dose of 4.2 grams (8 doses).

(2) *For products containing sodium citrate in solution identified in § 357.910(b).* For adults under 60 years of age the oral daily dosage should not exceed 17.2 grams sodium citrate (200 milliequivalents of sodium) in divided doses. For adults 60 years of age and over the oral daily dosage should not exceed 8.6 grams sodium citrate (100 milliequivalents of sodium) in divided doses. If there is another source of sodium in the product, the dose of sodium citrate must be reduced accordingly. In addition, the labeling contains the following statement: "If you are 60 years of age or older, the maximum daily dose should not exceed —— of this drug." (Space to be filled in the the number of dosage units which will not exceed 100 milliequivalents of sodium in a daily dose.)

§ 357.952 Labeling of drug products for the relief of hangover symptoms.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "hangover reliever."

(b) *Indications.* The labeling of the product contains a statement of indications under the heading "Indications" that is limited to the following: "For the relief of" (select all symptoms applicable to the product: "heartburn" (antacids), "fatigue" (stimulants), and/or "headache and generalized aches and pains" (analgesics)) "associated with a hangover."

(c) *Warnings.* The labeling of the drug product contains the applicable warnings under Parts 331, 340, and 343 with the following exceptions;

(1) *General exception.* Labeling warnings in Parts 331, 340, and 343 that pertain to children should be excluded.

(2) *Exceptions to Part 331 warnings.* (i) The warning in § 331.30(b)(1) should be revised to state "Do not take more than (maximum recommended daily dosage, broken down by age groups if appropriate, expressed in units such as tablets or teaspoonsful) in a 24-hour period, except under the advice and supervision of a physician."

(ii) The warning in § 331.30(b)(2) should be excluded from the labeling.

(iii) The warning in § 331.30(b)(3) should be excluded from the labeling.

(iv) The warning in § 331.30(b)(4) should be revised to state "If you are on a sodium-restricted diet, do not take this product except under the supervision of a physician."

(v) The warning in § 331.30(b)(5) should be revised to state "If you have kidney disease, do not take this product except under the supervision of a physician."

(3) *Exceptions to Part 340 warnings.* The warning in § 340.50(c)(2) should be revised to state "For occasional use only."

(4) *Exceptions to Part 343 warnings.* (i) The warning in § 343.50(c)(1)(i) should be revised to state "If symptoms persist or new ones occur, consult your physician."

(ii) The warning in § 343.50(c)(3)(ii) should be revised to state "Stop taking this product if ringing in the ears occurs."

(iii) The warning in § 343.50(c)(3)(iv) should be excluded from the labeling.

(iv) The warning in § 343.50(c)(3)(v) should be revised to state "If taking medication for anticoagulation (thinning of blood), consult a physician before taking this product."

(v) The warning in § 343.50(c)(6) should be revised to state "Do not take this product if you are allergic to salicylates, such as aspirin."

(vi) The warning in § 343.50(c)(5)(i) should be excluded from the labeling.

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions":

(1) *For products containing any analgesic ingredient identified in § 357.912(a).* The labeling of the product contains the dosage and any applicable directions identified in Part 343.

(2) *For products containing any antacid ingredient identified in § 357.912(b).* The labeling of the product contains the dosage and any applicable directions identified in Part 331.

(3) *For products containing any stimulant ingredient identified in § 357.912(c).* The labeling of the product contains the dosage and any applicable directions identified in Part 340.

§ 357.954 Labeling of drug products to minimize inebriation.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as an "inebriation minimizer."

(b) *Indications.* The labeling of the product contains a statement of indications under the heading "Indications" that is limited to the following phrase: "To minimize inebriation."

(c) *Warnings.* [Reserved]

(d) *Directions.* [Reserved]

§ 357.956 Labeling of drug products to minimize hangover symptoms.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "hangover minimizer."

(b) *Indications.* The labeling of the products contains a statement of indications under the heading "Indications" that is limited to the following phrases:

(1) "To minimize the symptoms of a hangover caused by alcoholic beverages."

(2) "For minimizing the symptoms of a hangover caused by alcoholic beverages."

(3) "An aid in minimizing the symptoms of a hangover caused by alcoholic beverages."

(c) *Warning.* [Reserved]

(d) *Directions.* [Reserved]

Interested persons may, on or before December 30, 1982, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments on this advance notice of proposed rulemaking. Three copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in the brackets in the heading of this document. Comments replying to comments may also be submitted on or before January 31, 1983. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Dated: September 22, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82–27064 Filed 9–30–82; 8:45 am]

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federal register

Friday
October 1, 1982

Part VI

Department of Health and Human Services

Food and Drug Administration

Quinine for the Treatment of Nocturnal Leg Muscle Cramps for Over-the-Counter Human Use; Establishment of a Monograph; and Reopening of Administrative Record

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 343

[Docket No. 77N-0094]

Quinine for the Treatment of Nocturnal Leg Muscle Cramps for Over-the-Counter Human Use; Establishment of a Monograph; and Reopening of Administrative Record

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking and reopening of administrative record.

SUMMARY: The Food and Drug Administration (FDA) is issuing an advance notice of proposed rulemaking that would establish conditions under which quinine used over-the-counter (OTC) for the treatment of nocturnal leg muscle cramps is generally recognized as safe and effective and not misbranded. This notice relates to the development of a monograph for internal analgesic drug products in general, which is part of the ongoing review of OTC drug products conducted by FDA. This notice also reopens the administrative record for OTC internal analgesic, antipyretic, and antirheumatic drug products to allow for consideration of a statement on quinine used OTC for the treatment of nocturnal leg muscle cramps that has been received from the Advisory Review Panel on OTC Miscellaneous Internal Drug Products.

DATES: Written comments by December 30, 1982 and reply comments by January 31, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Willian E. Gilbertson, National Center for Drugs and Biologics (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In accordance with Part 330 (21 CFR Part 330), FDA received on August 23, 1981, a statement on quinine used OTC for the treatment of nocturnal leg muscle cramps from the Advisory Review Panel on OTC Miscellaneous Internal Drug Products. FDA regulations (21 CFR 330.10(a)(6)) provide that the agency issue in the **Federal Register** a proposed rule containing (1) the monograph recommended by the Panel, which establishes conditions under which this OTC drug product is generally recognized as safe and effective and not misbranded; (2) a statement of the conditions excluded from the monograph because the Panel determined that they would result in the drug not being generally recognized as safe and effective or would result in misbranding; (3) a statement of the conditions excluded from the monograph because the Panel determined that the available data are insufficient to classify these conditions under either (1) or (2) above; and (4) the conclusions and recommendations of the Panel.

Because a review of quinine was previously included in the advance notice of proposed rulemaking for internal analgesic, antipyretic, and antirheumatic drug products at 42 FR 35434, FDA has determined that the Miscellaneous Internal Panel's recommendations regarding the OTC use of quinine for the treatment of nocturnal leg muscle cramps should be included as part of the proposed rulemaking for OTC internal analgesic, antipyretic, and antirheumatic drug products, which has been ongoing for some time.

In the **Federal Register** of July 8, 1977 (42 FR 35346), FDA issued an advance notice of proposed rulemaking to establish a monograph for OTC internal analgesic, antipyretic, and antirheumatic drug products. FDA advises that it is reopening the administrative record for OTC internal analgesic, antipyretic, and antirheumatic drug products in order to allow for the consideration of the Miscellaneous Internal Panel's statement on quinine used OTC for the treatment of nocturnal leg muscle cramps. Comments received on this advance notice of proposed rulemaking will be addressed in a future issue of the **Federal Register**. Because the Panel did not recommend any Category I conditions for quinine used OTC for the treatment of nocturnal leg muscle cramps, no new sections to amend Part 343 are being included in this advance notice of Proposed rulemaking.

The unaltered statement of the Panel is issued to stimulate discussion, evaluation, and comment on the full sweep of the Panel's deliberations. The statement has been prepared independently of FDA, and the agency has not yet fully evaluated the Panel's recommendations. The Panel's findings appear in this document to obtain public comment before the agency reaches any decision on the Panel's statement. this statement represents the best scientific judgment of the Panel members, but does not necessarily reflect the agency's position on any particular matter contained in it.

After reviewing all comments submitted in response to this document, FDA will amend the rulemaking for OTC internal analgesic, antipyretic, and antirheumatic drug products to include quinine used OTC for the treatment of nocturnal leg muscle cramps. Under the OTC drug review procedures, the agency's position and proposal are first stated in the tentative final monograph, which has the status of a proposed rule. Final agency action occurs in the final monograph, which has the status of a final rule.

The agency's position on quinine used OTC for treatment of nocturnal leg muscle cramps will be stated initially when the tentative final monograph is published in the **Federal Register** as a notice of proposed rulemaking. In that notice of proposed rulemaking, the agency also will announce its initial determination whether the proposed rule is a major rule under Executive Order 12291 and will consider the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The present notice is referred to as an advance notice of proposed rulemaking to reflect its actual status and to clarify that the requirements of the Executive Order and the regulatory Flexibility Act will be considered in the notice of proposed rulemaking. At that time FDA also will consider whether the proposed rule has a significant impact on the human environment under 21 CFR Part 25 (proposed in the **Federal Register** of December 11, 1979; 44 FR 71742).

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC quinine products used for the treatment of nocturnal leg muscle cramps. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC quinine products used for the treatment of nocturnal leg muscle cramps should be accompanied by appropriate documentation. Comments will not be accepted at this time on any portion of the OTC internal analgesic, antipyretic, and antirheumatic rulemaking other than that relating to OTC quinine products used for the treatment of nocturnal leg muscle cramps.

In accordance with § 330.10(a)(2), the Panel and FDA have held as confidential all information considered by the Panel concerning OTC quinine products used for the treatment of nocturnal leg muscle cramps. All this information will be put on public display in the Dockets Management Branch,

Food and Drug Administration, after November 1, 1982, except to the extent that the person submitting it demonstrates that it falls within the confidentiality provisions of 18 U.S.C. 1905 or section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)). Requests for confidentiality should be submitted to William E. Gilbertson, Bureaus of Drugs and Biologics (HFD–510) (address above).

FDA published in the Federal Register of September 29, 1981 (46 FR 47730) a final rule revising the OTC procedural regulations to conform to the decision in *Cutler v. Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). The Court in *Cutler* held that the OTC drug review regulations (21 CFR 330.10) were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision is now deleted from the regulations. The regulations now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph.

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I," "Category II," and "Category III" at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III because that was the framework in which the Panel conducted its evaluation of the data.

A proposed review of the safety, effectiveness, and labeling of all OTC drugs by independent advisory review panels was announced in the Federal Register of January 5, 1972 (37 FR 85). The final regulations providing for this OTC drug review under § 330.10 were published and made effective in the Federal Register of May 11, 1972 (37 FR 9464). In accordance with these regulations, a request for data and information on all active ingredients used in OTC miscellaneous internal drug products was issued in the Federal Register of November 16, 1973 (38 FR 31696). (In making their categorizations with respect to "active" and "inactive" ingredients, the advisory review panel relied on their expertise and understanding of these terms. FDA has defined "active ingredient" in its current good manufacturing practice regulations (§ 210.3(b)(7), (21 CFR 210.3(b)(7))), as "any component that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body of man or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug product and be present in the drug product in a modified form intended to furnish the specified activity or effect." An "inactive ingredient" is defined in § 210.3(b)(8) as "any component other than an 'active ingredient.' ") In the Federal Register of August 27, 1975 (40 FR 38179) a notice supplemented the initial notice with a detailed, but not necessarily all-inclusive, list of ingredients in miscellaneous internal drug products to be considered in the OTC drug review. This list, which did not include quinine used OTC for the treatment of nocturnal leg muscle cramps, was provided to give guidance on the kinds of active ingredients for which data should be submitted. The notices of November 16, 1973 and August 27, 1975 informed OTC drug product manufacturers of their opportunity to submit data to review at that time and of the applicability of the monographs from the OTC drug review to all OTC drug products.

Under § 330.10(a)(1) and (5), the Commissioner of Food and Drugs appointed the following Panel to review the information submitted and to prepare a report on the safety, effectiveness, and labeling of the active ingredients in these OTC miscellaneous internal drug products:

James L. Tullis, M.D., Chairman (appointed December 1979)
John W. Norcross, M.D., Chairman (resigned March 1979)
Diana F. Rodriquez-Calvert, Pharm. D. (appointed July 1976)
Ruth Eleanor Brown, R.Ph. (resigned May 1976)
Elizabeth C. Giblin, M.N., Ed. D.
Richard D. Harshfield, M.D. (deceased June 1, 1981)
Theodore L. Hyde, M.D.
Claus A. Rohweder, D.O. (deceased April 13, 1979)
Samuel O. Thier, M.D. (resigned November 1975)
William R. Arrowsmith, M.D. (appointed March 1976)

Representatives of consumer and industry interests served as nonvoting members of the Panel. Eileen Hoates, nominated by the Consumer Federation of America, served as the consumer liaison until September 1975, followed by Michael Schulman, J.D. Francis J. Hailey, M.D., served as the industry liaison, and in his absence John Parker, Pharm. D., served. Dr. Hailey served until June 1975, followed by James M. Holbert, Sr., Ph. D. All industry liaison members were nominated by the Proprietary Association.

The following FDA employees assisted the Panel: Armond M. Welch, R.Ph., served as the Panel Administrator until July 1979, followed by John R. Short, R.Ph. Enrique Fefer, Ph.D., served as the Executive Secretary until July 1976, followed by George W. James, Ph. D., until October 1976, followed by Natalia Morgenstern until May 1977, followed by Arthur Auer until October 1978. Roger Gregorio served as the liaison for the Office of New Drug Evaluation beginning November 1978. Joseph Hussion, R.Ph., served as the Drug Information Analyst until July 1976, followed by Anne Eggers, R.Ph., M.S., until October 1977, followed by John R. Short, R.Ph., until July 1979.

The Advisory Review Panel on OTC Miscellaneous Internal Drug Products was charged with the review of many categories of drugs. Due to the large number of ingredients and varied labeling claims, the Panel decided to review and publish its findings separately for several drug categories and individual drug products. The Panel presents in this statement its conclusions and recommendations for quinine used OTC for the treatment of nocturnal leg muscle cramps. The Panel's findings on other categories of miscellaneous internal drug products are being published periodically in the Federal Register.

The Panel was first convened on January 13, 1975 in an organizational meeting. The only meeting at which quinine used OTC for the treatment of nocturnal leg muscle cramps was discussed was held on August 23, 1981.

The minutes of that Panel meeting are on public display in the Dockets Management Branch (HFA–305), Food and Drug Administration (address above.)

No individuals requested to appear before the Panel to discuss quinine used OTC for the treatment of nocturnal leg muscle cramps, nor was any individual requested to appear by the Panel.

The Panel has thoroughly reviewed the one submission received and the material prepared by FDA in arriving at its conclusions and recommendations for quinine used OTC for the treatment of nocturnal leg muscle cramps.

In accorance with the OTC drug review regulations in § 330.10, the Panel reviewed quinine for the OTC treatment of nocturnal leg muscle cramps with respect to the following three categories:

Category I. Conditions under which quinine used OTC for the treatment of nocturnal leg muscle cramps is generally recognized as safe and effective and is not misbranded.

Category II. Conditions under which quinine used OTC for the treatment of nocturnal leg muscle cramps is not generally recognized as safe and effective or is misbranded.

Category III. Conditions for which the available data are insufficient to permit final classification at this time.

The Panel considered quinine only for OTC use for the treatment of nocturnal leg muscle cramps and classified it in Category III.

Pursuant to the notices published in the **Federal Register** of November 16, 1973 (38 FR 31696) and August 27, 1975 (40 FR 38179) requesting submission of data and information on OTC miscellaneous internal drug products, the Purex Corporation, Carson, CA 90745, was the only firm to make a submission for quinine (quinine sulfate) for OTC use for the treatment of nocturnal leg muscle cramps.

The "OTC Volumes" cited in this document include the one submission made by the Purex Corporation in response to the call-for-data notices published in the **Federal Register** of November 16, 1973 (39 FR 31696) and August 27, 1975 (40 FR 38179) and the material prepared by the agency. All of the information included in these volumes, except for those deletions which are made in accordance with the confidentiality provisions set forth in § 330.10(a)(2), will be put on display after November 1, 1982, in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

Statement by the Advisory Review Panel on OTC Miscellaneous Internal Drug Products on Quinine Used OTC for the Treatment of Nocturnal Leg Muscle Cramps

The Panel reviewed quinine used OTC for the treatment of nocturnal leg muscle cramps and offers the following general information:

Nocturnal leg muscle cramps occur in middle life and beyond. They are of unknown etiology but have been variously attributed to (1) arterial insufficiency with resulting anoxic muscle spasm, (2) excessive venous dilation secondary to sudden emptying of small venules into larger vessels during recumbency, and (3) accumulation of products of muscle metabolism with local pH change due to lactic acid accumulation. The attacks do not have a regular pattern with respect to time or severity. They appear to be more common after a day of exercise or heavy physical activity. However, they sometimes occur during sedentary periods. The attacks tend to occur regularly for a few nights or weeks and then may clear spontaneously. Analgesics (including quinine), antihistamines, and mechanical means of obtaining relief, such as elevating the foot of the bed, have been used for this condition for many years with variable results.

Extracts of the bark of the cinchona tree have been used successfully for the treatment of malaria since the early 1700's. The principal extract component, quinine, also has been found to be an effective antipyretic and analgesic, and it has been used for arthralgia and neuralgia in oral doses of 300 to 600 milligrams (mg). Its side effects include severe tinnitus and partial damage to the eighth cranial nerve if prolonged toxic doses are employed. It sometimes leads to gastrointestinal symptoms. Among its more serious side effects are the induction of abortion and occasional cases of autoimmune thrombocytopenic purpura and hemolytic anemia. In the latter instances the drug appears to act as a hapten, linking a specific blood cell to an autoantibody.

Quinine was reviewed as an analgesic by the Advisory Review Panel on OTC Internal Analgesic and Antirheumatic Drug Products and the Panel concluded that it has demonstrable analgesic, antipyretic, and muscle relaxant actions, but its numerous toxic side effects represent an unfavorable benefit-to-risk ratio (42 FR 35434). This Panel received a single industry submission containing 10 literature references regarding the use of quinine for the relief of nocturnal leg cramps and other muscular disorders (Ref. 1). The Panel also reviewed additional material prepared by FDA on this subject (Ref. 2).

The industry submission proposed a 3-grain (200 mg) OTC tablet of quinine sulfate with directions for use as an antispasmodic for the prevention and symptomatic relief of nocturnal leg muscle cramps. The proposed directions specify one or two tablets at bedtime and advise the consumer to consult a physician if the symptoms persist more than 1 week. The proposed labeling also includes a warning to discontinue use if tinnitus, deafness, diarrhea, skin rash, nausea, or visual disturbance occur, and warnings against use during pregnancy, by individuals sensitive to quinine, or by children under 12 years of age. No clinical trials were included in the submission.

Despite these occasional side effects, quinine appears to be reasonably safe over prolonged periods of time in generally recommended doses of 200 to 325 mg daily. However, no controlled trials have demonstrated whether this dose range will effectively control nocturnal leg muscle cramps.

Despite frequent prescribing of quinine by physicians for treatment of nocturnal leg muscle cramps, no controlled trials are available to establish its effectiveness beyond a reasonable doubt. The Panel, therefore, concludes that quinine should be placed in category III because of insufficient data to show that it is safe and effective for treatment of nocturnal leg muscle cramps.

References

(1) OTC Volume 170050.

(2) OTC Volume 170234.

List of Subjects in 21 CFR Part 343

Internal antipyretic and antirheumatic drug products.

Interested persons may, on or before December 30, 1982, submit to the dockets Management branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments on this advance notice of proposed rulemaking. three copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments replying to comments may also be submitted on or before January 31, 1983. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Arthur Hull Hayes, Jr.,

Commissioner of food and Drugs.

Dated: September 22, 1982.

Richard S. Schweiker,

Secretary of Health and Human services.

[FR Doc. 82–27093 Filed 9–30–82; 8:45 am]

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federal register

Friday
October 1, 1982

Part VII

Department of Health and Human Services

Food and Drug Administration

Drug Products To Treat the Symptoms of Benign Prostatic Hypertrophy for Over-the-Counter Human Use; Advance Notice of Proposed Rulemaking

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. 82N-0168]

Drug Products To Treat the Symptoms of Benign Prostatic Hypertrophy for Over-the-Counter Human Use

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing an advance notice of proposed rulemaking that would classify over-the-counter (OTC) drug products to treat the symptoms of benign prostatic hypertrophy (enlarged prostate gland) as not generally recognized as safe and effective and as being misbranded. This notice is based on the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products and is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments by December 30, 1982 and reply comments by January 31, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In accordance with Part 330 (21 CFR Part 330), FDA received on August 23, 1981 a statement on OTC drug products to treat the symptoms of benign prostatic hypertrophy from the Advisory Review Panel on OTC Miscellaneous Internal Drug Products. FDA regulations (21 CFR 330.10(a)(6)) provide that the agency issue in the **Federal Register** a proposed rule containing (1) the monograph recommended by the Panel, which establishes conditions under which OTC drug products to treat the symptoms of benign prostatic hypertrophy are generally recognized as safe and effective and not misbranded; (2) a statement of the conditions excluded from the monograph because the Panel determined that they would result in the drugs' not being generally recognized as safe and effective or would result in misbranding; (3) a statement of the conditions excluded from the monograph because the Panel determined that the available data are insufficient to classify these conditions under (1) or (2) above; and (4) the conclusions and recommendations of the Panel.

The Panel's recommendations on OTC drug products to treat the symptoms of benign prostatic hypertrophy contain no Category I or Category III conditions, and FDA is issuing the Panel's recommendations proposing Category II classification of OTC drug products to treat the symptoms of benign prostatic hypertrophy.

The unaltered conclusions and recommendations of the Panel are issued to stimulate discussion, evaluation, and comment on the full sweep of the Panel's deliberations. The statement has been prepared independently of FDA, and the agency has not yet fully evaluated the statement. This document represents the best scientific judgment of the Panel members, but does not necessarily reflect the agency's position on any particular matter contained in it. The Panel's findings appear in this document to obtain public comment before the agency reaches any decision on the Panel's recommendation that OTC drug products to treat the symptoms of benign prostatic hypertrophy be classified as Category II. If the agency proposes to adopt the Panel's recommendations, a regulation declaring these products to be new drugs within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)) will be proposed for inclusion in Part 310, Subpart E (21 CFR Part 310, Subpart E). The agency is including, in this advance notice of proposed rulemaking, a regulation based upon the Panel's recommendations in order to obtain full public comment at this time.

After reviewing all comments submitted in response to this document, FDA will issue in the **Federal Register** a proposed rulemaking on OTC drug products to treat the symptoms of benign prostatic hypertrophy. The agency's position on OTC drug products to treat the symptoms of benign prostatic hypertrophy will be stated initially when that notice of proposed rulemaking is published in the **Federal Register**. In the notice of proposed rulemaking, the agency will announce its initial determination whether the proposed rule is a major rule under Executive Order 12291 and will consider the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The present notice is referred to as an advance notice of proposed rulemaking to reflect its actual status and to clarify that the requirements of the Executive Order and the Regulatory Flexibility Act will be considered when the notice of proposed rulemaking is published. At that time FDA also will consider whether the proposed rule has a significant impact on the human environment under 21 CFR Part 25 (proposed in the **Federal Register** of December 11, 1979; 44 Fr 71742).

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC drug products to treat the symptoms of benign prostatic hypertrophy. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC drug products to treat the symptoms of benign prostatic hypertrophy should be accompanied by appropriate documentation.

If FDA proposes to adopt the Panel's recommendations, the agency will propose that the final rule for OTC drug products to treat the symptoms of benign prostatic hypertrophy be effective 6 months after its date of publication in the **Federal Register**. Because benign prostatic hypertrophy is not a self-diagnosable disorder, and OTC treatment might unnecessarily delay diagnosis and treatment of a prostatic malignancy, the agency believes 6 months to be a reasonable effective date for the final rule. On or after the effective date of the final rule, no OTC drug products that are subject to the rule may be initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the rule at the earliest possible date.

In accordance with § 330.10(a)(2), the Panel and FDA have held as confidential all information generated by the agency and considered by the Panel concerning OTC drug products to treat the symptoms of benign prostatic hypertrophy. This information will be put on public display in the Dockets Management Branch, Food and Drug Administration, after November 1, 1982, except to the extent that its content falls within the confidentiality provisions of 18 U.S.C. 1905 or section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)).

A proposed review of the safety, effectiveness, and labeling of all OTC drugs by independent advisory review panels was announced in the **Federal Register** of January 5, 1972 (37 FR 85). The final regulations providing for this OTC drug review under § 330.10 were published and made effective in the **Federal Register** of May 11, 1972 (37 FR

9464). In accordance with these regulations, a request for data and information on all active ingredients used in OTC miscellaneous internal drug products was issued in the **Federal Register** of November 16, 1973 (38 FR 31696). (In making their categorizations with respect to "active" and "inactive" ingredients, the advisory review panels relied on their expertise and understanding of these terms. FDA has defined "active ingredient" in its current good manufacturing practice regulations (§ 210.3(b)(7), (21 CFR 210.3(b)(7))), as "any component that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body of man or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug product and be present in the drug product in a modified form intended to furnish the specified activity or effect." An "inactive ingredient" is defined in § 210.3(b)(8) as "any component other than an 'active ingredient'.") In the **Federal Register** of August 27, 1975 (40 FR 38179) a notice supplemented the initial notice with a detailed, but not necessarily all-inclusive, list of ingredients in miscellaneous internal drug products to be considered in the OTC drug review. The list, which did not include ingredients for the treatment of the symptoms of benign prostatic hypertrophy, was provided to give guidance on the kinds of active ingredients for which data should be submitted. The notices of November 16, 1973 and August 27, 1975 informed OTC drug product manufacturers of the opportunity to submit data to the review at that time and of the applicability of the monographs from the OTC drug review to all OTC drug products.

Under § 330.10(a)(1) and (5), the Commissioner of Food and Drugs appointed the following Panel to review the information submitted and to prepare a report on the safety, effectiveness, and labeling of the active ingredients in these OTC miscellaneous internal drug products:

James L. Tullis, M.D., Chairman (appointed December 1979)
John W. Norcross, M.D., Chairman (resigned March 1979)
Diana F. Rodriquez-Calvert, Pharm. D. (appointed July 1976)
Ruth Eleanor Brown, R.Ph. (resigned May 1976)
Elizabeth C. Giblin, M.N., Ed. D.
Richard D. Harshfield, M.D. (deceased June 1, 1981)
Theodore L. Hyde, M.D.
Claus A. Rohweder, D.O. (deceased April 13, 1979)
Samuel O. Thier, M.D. (resigned November 1975)
William R. Arrowsmith, M.D. (appointed March 1976)

Representatives of consumer and industry interests served as nonvoting members of the Panel. Eileen Hoates, nominated by the Consumer Federation of America, served as the consumer liaison until September 1975, followed by Michael Schulman, J.D., Francis J. Hailey, M.D., served as the industry liaison, and in his absence John Parker, Pharm. D., served. Dr. Hailey served until June 1975, followed by James M. Holbert, Sr., Ph. D. All industry liaison members were nominated by the Proprietary Association.

The following FDA employees assisted the Panel: Armond M. Welch, R. Ph., served as the Panel Administrator until July 1979, followed by John R. Short, R.Ph. Enrique Fefer, Ph. D., served as the Executive Secretary until July 1976, followed by George W. James, Ph. D., until October 1976, followed by Natalia Morgenstern until May 1977, followed by Arthur Auer until October 1978. Roger Gregorio served as the liaison for the Office of New Drug Evaluation beginning November 1978. Joseph Hussion, R.Ph., served as the Drug Information Analyst until July 1976, followed by Anne Eggers, R.Ph., M.S., until October 1977, followed by John R. Short, R.Ph., until July 1979.

The Advisory Review Panel on OTC Miscellaneous Internal Drug Products was charged with the review of many categories of drugs. Due to the large number of ingredients and varied labeling claims, the Panel decided to review and publish its findings separately for several drug categories and individual drug products. The Panel presents its conclusions and recommendations for OTC drug products to treat the symptoms of benign prostatic hypertrophy in this document. The Panel's findings on other categories of miscellaneous internal drug products are being published periodically in the **Federal Register**.

The Panel was first convened on January 13, 1975 in an organizational meeting. The only meeting at which drug products to treat the symptoms of benign prostatic hypertrophy were discussed was held on August 23, 1981.

The minutes of that Panel meeting are on public display in the Docket Management Branch (HFA–305), Food and Drug Administration (address above).

No individuals requested to appear before the Panel to discuss OTC drug products to treat the symptoms of benign prostatic hypertrophy, nor was any individual requested to appear by the Panel.

Although no submissions were received, the Panel thoroughly reviewed information prepared by FDA in arriving at its conclusions and recommendations for OTC drug products to treat the symptoms of benign prostatic hypertrophy.

In accordance with the OTC drug review regulations in § 330.10, the Panel reviewed OTC drug products to treat the symptoms of benign prostatic hypertrophy with respect to the following three categories:

Category I. Conditions under which OTC drug products to treat the symptoms of benign prostatic hypertrophy are generally recognized as safe and effective and are not misbranded.

Category II. Conditions under which OTC drug products to treat the symptoms of benign prostatic hypertrophy are not generally recognized as safe and effective or are misbranded.

Category III. Conditions for which the available data are insufficient to permit final classification at this time.

The Panel considered three active ingredients (glycine, alanine, and glutamic acid) in OTC drug products to treat the symptoms of benign prostatic hypertrophy and classified these ingredients in Category II.

The "OTC Volume" cited in this document contains material prepared by the agency. All of the information included in this volume, except for those deletions which are made in accordance with the confidentiality provisions set forth in § 330.10(a)(2), will be put on display following publication of this statement in the **Federal Register**, in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

Statement by the Advisory Review Panel on OTC Miscellaneous Internal Drug Products on OTC Drug Products to Treat the Symptoms of Benign Prostatic Hypertrophy

The Panel completed a review of ingredients to treat the symptoms of benign prostatic hypertrophy and offers the following general information.

A benign overgrowth of the prostate is a relatively common accompaniment to aging in males. The cause is unknown, but evidence suggests it is secondary to hormonal imbalance. About 50 percent of all men over the age of 50 develop some clinical evidence of the disease, and, of these, approximately 10 percent

require sugical intervention. The growth is characterized principally by an abnormal increase in the number of cells leading to a benign swelling with some normal glandular prostatic tissue still being present. The size of the growth may amount to from 1 to 10 times the normal prostatic weight. The resulting symptoms include urinary frequency, nocturia, difficulty in initiating voiding, and, in rare instances, complete bladder outlet obstruction. Although there is no direct relationship between benign prostatic hypertrophy and adenocarcinoma of the prostate, there are similarities between the two conditions. Adenocarcinoma of the prostate also occurs primarily in men over the age of 50 and produces the same obstructive symptoms. This malignant disease occurs in approximately 15 percent of men in their fifties and as many as 60 percent of men in their eighties. It is a major cause of death from malignancies in males, accounting for some 10 percent.

It is possible for prostatic carcinoma to be present concurrently with benign prostatic hypertrophy or to be confused with it. Blood tests, such as the serum acid phosphatase, help to diagnose prostatic carcinoma if the growth is beyond the capsule of the prostate, but in the early stages a hard nodule that indicates its presence may be detected only by rectal palpation. Thus, any treatment of prostatic enlargement by OTC drugs might unnecessarily delay diagnosis and treatment of a malignancy.

The agency is aware of three products marketed OTC for the treatment of symptoms of benign prostatic hypertrophy. Each of these products contains a mixture of three amino acids, glycine, alanine, and glutamic acid and has been marketed for many years. Initial marketing of these products for this use presumably was based on the observation of improvement in a patient in Boston who originally took the mixture for another reason and noted improvement in his urinary difficulty. There is no evidence to show any potential harm from ingestion of these three naturally occurring amino acids, but, as mentioned above, there is a danger that the symptoms being treated are the result of prostatic cancer rather than benign hypertrophy.

A package insert accompanying one of these OTC drug products describes four studies purporting to show the effectiveness of the product (Ref. 1). The first study, involving 50 men in the Boston area, showed that the product provided relief in 80 percent of the cases. About 3 years after this study, a separate follow-up field study questionnaire on 100 men revealed that ". . . a large majority had received relief ranging from fair to excellent within a very few weeks." Two more studies, conducted in New York City during the 1950's, found that 80 percent of one group of 40 men ". . . secured substantial relief from their symptoms of Benign Prostatic Hypertrophy" and another 40 had ". . . very good results." Because of the subjective nature of the described results, the Panel concludes that these studies do not provide valid support of effectiveness.

In 1962 the U.S. District Court in Massachusetts granted a permanent injunction against the manufacturer of the products mentioned above on the basis of misbranding (Ref. 1). This prohibited the interstate distribution of these products at that time, but the manufacturer revised the labeling and the products once again were marketed over-the-counter. In granting the injunction, the Court stated that "a fair interpretation of their literature, of which 15 samples are attached to the complaint, would indicate to the lay mind that the use of [trade name] can be a substitute for surgery in the treatment of prostatic disorders."

The Panel Chairman solicited information about one of these products from two prominent urologists in the Boston area (Ref. 1). Both believed there was no rational reason why amino acids would alter the obstructive or inflammatory signs and symptoms of benign prostatic hypertrophy. A review of the *Journal of Urology* Index from 1948 included no mention of the product.

The Panel is not aware of any definitive clinical trials with appropriate controls, nor is there any a priori basis for assuming the effectiveness of these ingredients. The Panel, therefore, recommends that the mixture of amino acids the products contain be placed in Category II for safety and effectiveness. Because benign prostatic hypertrophy cannot be self-diagnosed and because OTC treatment might unnecessarily delay diagnosis and treatment of a prostatic malignancy, the Panel concludes that no ingredient or mixture of ingredients should be available OTC to treat the symptoms of this condition.

Reference

(1) OTC Volume 170233.

List of Subjects in 21 CFR Part 310

New drugs.

PART 310—NEW DRUGS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), the agency advises in this advance notice of proposed rulemaking that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations would be amended in Part 310 by adding to Subpart E new § 310.532, to read as follows:

§ 310.532 Drug products containing active ingredients offered over-the-counter (OTC) to treat the symptoms of benign prostatic hypertrophy.

(a) Glycine, alanine, and glutamic acid (in combination) have been marketed to treat the symptoms of benign prostatic hypertrophy. There is a lack of adequate data to establish the safety and effectiveness of these, or any other, ingredients for treating the symptoms of this disorder. In addition, benign prostatic hypertrophy is not a self-diagnosable disorder, and OTC treatment might unnecessarily delay diagnosis and treatment of a prostatic malignancy. Therefore, any OTC drug product containing ingredients offered to treat the symptoms of benign prostatic hypertrophy cannot be considered generally recognized as safe and effective.

(b) Any OTC drug product that is labeled, represented, or promoted to treat the symptoms of benign prostatic hypertrophy is misbranded under section 502 of the Federal Food, Drug, and Cosmetic Act and is regarded as a new drug within the meaning of section 201(p) of the act for which an approved new drug application under section 505 of the act and Part 314 of this chapter is required for marketing.

(c) A completed and signed "Notice of Claimed Investigational Exemption for a New Drug" (Form FD–1571), as set forth in § 312.1 of this chapter, is required to cover clinical investigations designed to obtain evidence that any drug product labeled, represented, or promoted OTC to treat the symptoms of benign prostatic hypertrophy is safe and effective for the purpose intended.

(d) After the effective date of the final regulation, any such drug product initially introduced or initially delivered for introduction into interstate commerce that is not in compliance with this section is subject to regulatory action.

Interested persons may, on or before December 30, 1982, submit to the Dockets Management Branch (HFA–

305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments on this advance notice of proposed rulemaking. Three copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments replying to comments may also be submitted on or before January 31, 1983. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Dated: September 22, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-27066 Filed 9-30-82; 8:45 am]

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federal register

Friday
October 1, 1982

Part VIII

Department of Health and Human Services

Food and Drug Administration

Aphrodisiac Drug Products for Over-the-Counter Human Use

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. 80N-0419]

Aphrodisiac Drug Products for Over-the-Counter Human Use.

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing an advance notice of proposed rulemaking that would classify aphrodisiac drug products for over-the-counter (OTC) human use as not generally recognized as safe and effective and as being misbranded. This notice is based on the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products and is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments by December 30, 1982 and reply comments by January 31, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFD-510, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In accordance with Part 330 (21 CFR Part 330), FDA received on July 21, 1979 a report on OTC aphrodisiac drug products for oral use from the Advisory Review Panel on OTC Miscellaneous Internal Drug Products. FDA regulations (21 CFR 330.10(a)(6)) provide that the agency issue in the **Federal Register** a proposed rule containing (1) the monograph recommended by the Panel, which establishes conditions under which OTC aphrodisiac drug products are generally recognized as safe and effective and not misbranded; (2) a statement of the conditions excluded from the monograph because the Panel determined that they would result in the drugs' not being generally recognized as safe and effective or would result in misbranding; (3) a statement of the conditions excluded from the monograph because the Panel determined that the available data are insufficient to classify such conditions under either (1) or (2) above; and (4) the conclusions and recommendations of the Panel.

The Panel's recommendations on OTC aphrodisiac drug products for oral use contain no Category I or Category III conditions, and FDA is issuing the Panel's recommendations proposing Category II classification of OTC aphrodisiac drug products for oral use.

The unaltered conclusions and recommendations of the Panel are issued to stimulate discussion, evaluation, and comment on the full sweep of the Panel's deliberations. The report has been prepared independently of FDA, and the agency has not yet fully evaluated the report. This document represents the best scientific judgment of the Panel members, but does not necessarily reflect the agency's position on any particular matter contained in it. The Panel's findings appear in this document to obtain public comment before the agency reaches any decision on the Panel's recommendations that the ingredients in OTC aphrodisiac drug products for oral use be classified as Category II. If the agency proposes to adopt the Panel's recommendations, a regulation declaring these products to be new drugs within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)) will be proposed for inclusion in Part 310, Subpart E (21 CFR Part 310, Subpart E). The agency is including, in this advance notice of proposed rulemaking, a regulation based upon the Panel's recommendations in order to obtain full public comment at this time.

After reviewing all comments submitted in response to this document, FDA will issue in the **Federal Register** a proposed rulemaking on OTC aphrodisiac drug products for oral use. The agency's position on OTC aphrodisiac drug products for oral use will be stated initially when that notice of proposed rulemaking is published in the **Federal Register**. In the notice of proposed rulemaking, the agency also will announce its initial determination whether the proposed rule is a major rule under Executive Order 12291 and will consider the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The present notice is referred to as an advance notice of proposed rulemaking to reflect its actual status and to clarify that the requirements of the Executive Order and the Regulatory Flexibility Act will be considered when the notice of proposed rulemaking is published. At that time FDA also will consider whether the proposed rule has a significant impact on the human environment under 21 CFR Part 25 (proposed in the **Federal Register** of December 11, 1979; 44 FR 71742).

The agency invites public comment regarding any substantial or significant impact that this rulemaking would have on OTC aphrodisiac drug products for oral use. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC aphrodisiac drug products for oral use should be accompanied by appropriate documentation.

If FDA proposes to adopt the Panel's recommendations, the agency will propose that the final rule for OTC aphrodisiac drug products for oral use be effective 6 months after its date of publication in the **Federal Register**. Because the OTC aphrodisiacs have been found to be either ineffective or unsafe for OTC use and the Panel recommended that individuals with decreased libido or impaired sexual performance not self-medicate with these products, the agency believes 6 months to be a reasonable effective date for the final rule. On or after the effective date of the final rule, no OTC drug products that are subject to the rule may be initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the rule at the earliest possible date.

A proposed review of the safety, effectiveness, and labeling of all OTC drugs by independent advisory review panels was announced in the **Federal Register** of January 5, 1972 (37 FR 85). The final regulations providing for this OTC drug review under § 330.10 were published and made effective in the **Federal Register** of May 11, 1972 (37 FR 9464). In accordance with these regulations, a request for data and information on all active ingredients used in OTC miscellaneous internal drug products was issued in the **Federal Register** of November 16, 1973 (38 FR 31696). (In making their categorizations with respect to "active" and "inactive" ingredients, the advisory review panels relied on their expertise and understanding of these terms. FDA has defined "active ingredient" in its current good manufacturing practice regulations (§ 210.3(b)(7), (21 CFR 210.3(b)(7))), as "any component that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body of man or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug product and be present in the drug product in a modified form intended to furnish the specified activity or effect."

An "inactive ingredient" is defined in § 210.3(b)(8) as "any component other than an 'active ingredient.' ") In the **Federal Register** of August 27, 1975 (40 FR 38179), a notice supplemented the initial notice with a detailed but not necessarily all-inclusive, list of active ingredients in miscellaneous internal drug products to be considered in the OTC drug review. The list, which included aphrodisiac ingredients, was provided to give guidance on the kinds of active ingredients for which data should be submitted. The notices of November 16, 1973, and August 27, 1975, informed OTC drug product manufacturers of their opportunity to submit data to the review at that time and of the applicability of the monographs from the OTC drug review to all OTC drug products.

Under § 330.10(a)(1) and (5), the Commissioner of Food and Drugs appointed the following Panel to review the information submitted and to prepare a report on the safety, effectiveness, and labeling of the active ingredients in these miscellaneous internal drug products:

Diana F. Rodriguez-Calvert, Pharm. D. (appointed July 1976), Acting Chairman
John W. Norcross, M.D., Chairman (resigned March 1979)
Ruth Eleanor Brown, R. Ph. (resigned May 1976)
Elizabeth C. Giblin, Ed. D.
Richard D. Harshfield, M.D.
Theodore L. Hyde, M.D.
Claus A. Rohweder, D.O. (deceased April 1979)
Samuel O. Thier, M.D. (resigned November 1975)
William R. Arrowsmith, M.D. (appointed March 1975)

Representatives of consumer and industry interests served as nonvoting members of the Panel. Eileen Hoates, nominated by the Consumer Federation of America, served as the consumer liaison until September 1975, followed by Michael Schulman, J.D., Francis J. Hailey, M.D., served as the industry liaison, and in his absence John Parker, Pharm. D., served. Dr. Hailey served until June 1975, followed by James M. Holbert, Sr., Ph. D. All industry liaison members were nominated by the Proprietary Association.

The following FDA employees assisted the Panel: Armond M. Welch, R. Ph., served as the Panel Administrator. Enrique Fefer, Ph. D., served as the Executive Secretary until July 1976, followed by George W. James, Ph. D., until October 1976, followed by Natalia Morgenstern until May 1977, followed by Arthur Auer until October 1978. Roger Gregorio served as the liaison for the Office of New Drug Evaluation beginning November 1978. Joseph Hussion, R. Ph., served as the Drug Information Analyst until July 1976, followed by Anne Eggers, R. Ph., M.S., until October 1977, followed by John R. Short, R. Ph.

In order to expand its scientific base, the Panel called upon the following consultants for advice in areas which required particular expertise:

Lynn R. Brady, Ph. D. (pharmacognosy)
Arthur E. Schwarting, Ph. D. (pharmacognosy)
Ralph B. D'Agostino, Ph. D. (statistics)

The Advisory Review Panel on OTC Miscellaneous Internal Drug Products was charged with the review of many categories of drugs. Due to the large number of ingredients and varied labeling claims, the Panel decided to review and publish its findings separately for several drug categories and individual drug products. The Panel presents its conclusions and recommendations on aphrodisiac drug products for oral use in this document. The Panel's findings on other categories of miscellaneous internal drug products are being published periodically in the **Federal Register.**

The Panel was first convened on January 13, 1975 in an organizational meeting. Working meetings at which aphrodisiac drug products were discussed were held on March 2 and 3, April 17 and 18, June 2 and 3, and July 21 and 22, 1979.

The minutes of the Panel meetings are on public display in the Dockets Management Branch (HFA–305), Food and Drug Administration (address above).

No individuals requested to appear before the Panel to discuss OTC aphrodisiac drug products for oral use, nor was any individual requested to appear by the Panel.

The Panel has thoroughly reviewed the literature and has considered all pertinent information available through July 21, 1979 in arriving at its conclusions and recommendations.

In accordance with the OTC drug review regulations in § 330.10, the Panel reviewed OTC aphrodisiac drug products for oral use with respect to the following three categories:

Category I. Conditions under which OTC aphrodisiac drug products for oral use are generally recognized as safe and effective and are not misbranded.

Category II. Conditions under which OTC aphrodisiac drug products for oral use are not generally recognized as safe and effective or are misbranded.

Category III. Conditions for which the available data are insufficient to permit final classification at this time.

The Panel reviewed 15 active ingredients as OTC aphrodisiac drug products for oral use and classified all of the ingredients in Category II.

A. Ingredients Reviewed by the Panel

Although data were requested in the initial **Federal Register** notice of November 16, 1973 (38 FR 31696) and specific aphrodisiac ingredients were listed in the supplemental notice of August 27, 1975 (40 FR 38179), no submissions were received on aphrodisiac drug products. The Panel considered the six ingredients contained in the supplemental list as well as other ingredients with a history of aphrodisiac usage.

The following ingredients were listed in the **Federal Register** of August 27, 1975 (40 FR 38179):

Don qual
Golden seal
Gotu kola
Korean ginseng
Licorice
Sarsaparilla

Other ingredients reviewed by the Panel on its own initiative were as follows:

Cantharides
Estrogens
Ginseng
Methyltestosterone
Nux vomica
Pega Palo
Strychnine
Testosterone
Yohimbine

B. Definition of Terms

For the purpose of this document the Panel agreed on the following definitions:

1. *Androgenic.* Producing masculine characteristics.

2. *Androgens.* Any substance that possesses masculinizing activities, e.g., testosterone.

3. *Aphrodisiac.* Any drug which is claimed to arouse or increase sexual desire or improve sexual performance.

4. *Estrogens.* The female sex hormones.

5. *Libido.* Sexual desire.

6. *Virilism. The development of masculine physical and mental traits in the female.*

7. *Virility.* Possession of the normal primary sex characteristics in one of the male sex.

C. Evaluation of Aphrodisiacs

The literature is replete with a large number of substances which, at one

time or another, have been claimed to have aphrodisiac action (Refs. 1, 2, and 3). By contrast the list of aphrodisiac ingredients in the **Federal Register** of August 27, 1975 (40 FR 38179) is relatively limited. This discrepancy may be explained by the fact that the vast majority of so-called "aphrodisiacs" exist or existed as part of folkloric tradition. Very few of such substances are commercially marketed with claims of aphrodisiac action. Aphrodisiacs reviewed in this document are defined as drugs taken internally which are claimed to arouse or increase sexual desire (libido) or improve sexual performance. Occasionally, the term "tonic" is used somewhat synonymously with "aphrodisiac," in that a product may be claimed to restore enfeebled function and to promote vigor.

In humans with good general health who are not taking any drugs including alcohol, sexual drive (libido) and sexual performance are governed by multiple factors, the most common of which are physchological. Impotence and frigidity have often been successfully treated by psychotherapy. The Panel further concludes that the conditions of decreased libido and impaired sexual performance are not amenable to self-treatment with internal drugs.

Hormonal factors also affect libido. The androgens have been shown to change the sexual drive in both sexes. For example, testosterone, when given to women in repeated large doses (100 to 200 milligrams (mg) of testosterone propionate given three times per week) in the treatment of breast cancer, often causes intensified libido along with genital sensitivity and signs of virilism (Ref. 4). In men who have a testosterone deficiency, specific therapy (Ref. 5); whereas, in men who are physically normal and who have normal testicular function, the administration of androgens has not been documented convincingly to show either a change in libido or an improvement in sexual performance (Ref. 4). Also, the Panel is not aware of any data demonstrating that estrogens increase sexual responsiveness in the normal human female, but the Panel is aware that in the male high doses of estrogens, as used in the treatment of prostatic cancer and in attempts to reduce blood cholesterol, are powerful inhibitors of libido (Ref. 4).

Although the androgens and estrogens have been shown to have both positive and negative effects on libido, they are powerful hormones and are not safe for use except under the supervision of a physician.

After a search of the available medical literature, the Panel was able to find only two studies which were designed to demonstrate a specific aphrodisiac action. In one double-blind crossover study, a combination prescription product containing methyltestosterone, yohimbine hydrochloride, and nux vomica (5 mg of each) was claimed to produce an "excellant or good response" in 31 out of 41 impotent male patients. Placebo produced only one "good" result (Ref. 6).

This study, as reported, has at least three major deficiencies. First, the "drugs" were coded "A" and "B" ("A" was the test medication and "B" the placebo); and, while each subject did not know the content of the "drug" he was receiving, he did know if it was "A" or "B." Such a code for the "drugs" could especially have been deciphered, thus destroying the blindness of the study. Second, since no details are given with regard to the outcome effectiveness measures ("excellent," "good," "fair," and "poor"), it is impossible to evaluate the appropriateness of these measures. Third, the study did not demonstrate a placebo effect because only 1 out of 41 individuals was classified as having a "good" response while on the placebo. In dealing with a phenomenon where psychological factors are so important, this low placebo success rate is highly unusual and suspect.

In the other study examined by the Panel (Ref. 7), an alcoholic extract of the Pega Palo plant (leaves and stems of *Rhynchosia pyramidalis)* was used in "50 cases of sexual impotence with partial or complete loss of libido and erections." The investigators reported that libido was increased in 41 individuals of whom 16 were restored to normal sexual activity during the test period. The study was not double-blind in that the investigators knew the drug the subjects were receiving. Further, while a placebo was said to be given "in many cases," no results were presented for the placebo. The study, as reported, does not meet the requirements of a well-controlled clinical study and cannot be considered as evidence toward the claims of effectiveness for Pega Palo.

Apart from these two studies which the Panel found to be highly inadequately, there was no substantive evidence whatever to support the claims of aphrodisiac action attributed to the various ingredients reviewd by the Panel. Such claims have been transmitted largely through folklore and exploited by manufactures who prey on the qullibility of people who most likely are in need of counsel or therapy.

Claims for cantharides and yohimbine have never been adequately supported. Cantharides (Spanish Fly) or cantharidin, the active constituent from the dried insect, causes irritation of the genitourinary tract, sometimes causing congestion of the tissue of the clitoris or penis. There is no evidence available to the Panel that this effect is accompanied by increased sexual desire or improved performance. Serious damage to the genitourinary tract has been reported, and there have been fatalities from shock associated with severe gastroenteritis. Yohimbine (from the bark of *Corynanthe yohimbe*), an alkaloid resembling reserpine, has been employed for centuries as an aphrodisiac, but there is not clinical evidence that it has any effect on either sexual desire or performance.

Ginseng (root of *Panax* species) has a long and popular folkoric use as an aphrodisiac. There are, however, no clinical studies or reports to support the often-repeated claim for effectiveness.

Nux vomica (seeds of *Strychnos nux-vomica*) and its active constituent, strychnine, have been used as sexual stimulants with claims of effectiveness based entirely on testimonials. There are no reports in the literature on clinical effectiveness. This plant-drug or its alkaloid is usually combined with other chemicals or products.

Of the six ingredients listed in the **Federal Register** of August 25, 1975 (40 FR 38179), gotu kola from *Centella asiatica,* licorice from glycyrrhiza species, sarsaparilla from smilax species, and Korean ginseng from *Panax* species, contain triterpenes. The panaxosides of ginseng, the asiatic acid-related compounds of gotu kola, and glycyrrhizic acid in licorice typify a group of constituents which may have a low level of androgenic action. The Panel is unaware of any proof that these compounds posses significant androgenic or aphrodisiac activity. The Panel could find no data in the literature of the last 20 years for the other two ingredients listed in the **Federal Register.** The Panel is not aware of the existence of the ingredient don qual and has not found it to be recorded in the indices of any major abstract service. Also, the Panel could find no information reporting the use of golden seal (Hydrastis canadensis) as an aphrodisiac.

Conclusion. Testosterone and methyltestosterone have a recognized influence on libido and sexual performance, but these drugs are powerful hormones with potentially serious untoward effects and must be used only under the supervision of a physician. Serious health risks are associated with alleged aphrodisiacs such as cantharides. There is no

conclusive scientific evidence demonstrating the safety or effectiveness of the large number of plant materials which have been used historically for aphrodisiac purposes. Individuals suffering from decreased libido and impaired sexual performance should not self-medicate, but should seek treatment under professional guidance. For these reasons, all OTC internal drug products with aphrodisiac claims are placed in Category II.

References

(1) Lewis, W. H., and M. P. F. Elvin-Lewis, "Medical Botany: Plants Affecting Man's Health," John Wiley and Sons, New York, pp. 326–332, 1977.

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(3) Wedeck, H. E., editor, "Dictionary of Aphrodisiacs," Peter Owen Ltd., London, 1961.

(4) Aaron, H., et al., "The Medical Letter on Drugs and Therapeutics," Drug and Therapeutic Information, Inc., New York, 5:45–46, June 7, 1963.

(5) Labhart, A., "Clinical Endrocrinology—Theory and Practice," Springer-Verlag, New York, pp. 468–469, 1976.

(6) Bruhl, D. E., and C. H. Leslie, "Afrodex: Double-Blind Test in Impotence," *Medical Record and Annals*, 56:22, 1963.

(7) Soba, J. G., E. E. Sanchez Molano, and F. Damrau, "Androgenic Action of Pega Palo. A Preliminary Report," *Journal of the National Medical Association*, 52:25–28, 1960.

Category II Labeling

The Panel concludes that all labeling claims for OTC aphrodisiacs or "placebo" aphrodisiacs are either false, misleading, or unsupported by scientific data. Claims such as those listed below and other similar terms which state or imply an aphrodisiac action are classified as Category II labeling when applied to OTC drug products:

a. "Acts as an aphrodisiac."

b. "Arouses or increases sexual desire and improves sexual performance."

c. "Helps restore sexual vigor, potency, and performance."

d. "Improves performance, staying power, and sexual potency."

e. "Builds virility and sexual potency."

f. "Creates an uncontrollable desire for immediate sexual gratification."

g. "Expands nature's gift of love."

List of Subjects in 21 CFR Part 310

New drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11 as revised (see 47 FR 16010, April 14, 1982), the agency advises in this advance notice of proposed rulemaking that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations would be amended in Part 310 by adding to Subpart E new § 310.528, to read as follows:

PART 310—NEW DRUGS

§ 310.528 Drug products containing active ingredients offered over-the-counter (OTC) for oral use as an aphrodisiac.

(a) Gotu kola, ginseng, licorice, sarsaparilla, cantharides, estrogens, methyltestosterone, nux vomica, Pega Palo, strychnine, testosterone, and yohimbine hydrochloride have been present as ingredients in drug products for internal use as an aphrodisiac. Androgens (e.g., testosterone and methyltestosterone) and estrogens are powerful hormones when administered internally and are not safe for use except under the supervision of a physician. There is a lack of adequate data to establish the safety and effectiveness of any of these ingredients for OTC use as an aphrodisiac. Labeling claims for OTC aphrodisiacs (any drug which is claimed to arouse or increase sexual desire or improve sexual performance) are either false, misleading, or unsupported by scientific data. The following claims are examples of some that have been made for OTC aphrodisiac drug products: "acts as an aphrodisiac"; "arouses or increases sexual desire and improves sexual performance"; "helps restore sexual vigor, potency, and performance"; "improves performance, staying power, and sexual potency"; "builds virility and sexual potency"; "creates an uncontrollable desire for immediate sexual gratification"; and "expands nature's gift of love." Based on evidence presently available, there are no ingredients that can be generally recognized as safe and effective OTC for internal use as an aphrodisiac.

(b) Any OTC drug product labeled, represented, or promoted for internal use as an aphrodisiac is misbranded under section 502 of the Federal Food, Drug, and Cosmetic Act and is regarded as a new drug within the meaning of section 201(p) of the act for which an approved new drug application under section 505 of the aot and Part 314 of this chapter is required for marketing.

(c) A completed and signed "Notice of Claimed Investigational Exemption for a New Drug" (Form FD–1571), as set forth in § 312.1 of this chapter, is required to cover clinical investigations designed to obtain evidence that any drug product labeled, represented, or promoted OTC as an aphrodisiac for internal use is safe and effective for the purpose intended.

(d) After the effective date of the final regulation, any such drug product initially introduced or initially delivered for introduction into interstate commerce that is not in compliance with this section is subject to regulatory action.

Interested persons may, on or before December 30, 1982, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments on this advance notice of proposed rulemaking. Three copies of any comments are to be submitted, except that individuals may submit one compy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments replying to comments may also be submitted on or before January 31, 1983. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Dated: September 22, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82–27055 Filed 9–30–82; 8:45 am]

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federal register

Friday
October 1, 1982

Part IX

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Payment for Physician Services Furnished in Institutional Providers of Services

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Payment for Physician Services Furnished in Institutional Providers of Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: These proposed rules would, in part, implement section 1887 of the Social Security Act, which was established by section 108 of the Tax Equity and Fiscal Responsibility Act of 1982. We are proposing to revise the regulations that govern Medicare coverage and reimbursement for services of physicians who practice in institutional providers (hospitals and skilled nursing facilities). The proposed regulations would set forth basic criteria for reasonable charge payment for those services, and would clarify how reasonable charges would be determined for physician services furnished by physicians in a provider setting. The regulations also would specify the conditions under which Medicare will pay on a reasonable cost basis for physician services to providers, and would provide improved tests of reasonableness for Medicare carriers and intermediaries to follow in determining payment. In addition, the proposed regulations would establish more specific conditions for payment for the services of anesthesiologists, radiologists, and pathologists.

DATE: In order to assure consideration, comments should be received on or before November 1, 1982.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235.

In commenting, please refer to BPP–192–P.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection, beginning approximately three weeks after publication, in Room 309–G of the Department's office at 200 Independence Ave., S.W., Washington, D.C., 20201 on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Leonard Peshkin, (301) 594–1115.

SUPPLEMENTARY INFORMATION:

I. General Background

The Medicare law (Title XVIII of the Social Security Act) generally provides separate coverage and payment rules for provider services (including hospital and skilled nursing facility (SNF) services), and for physician services. Under Medicare, inpatient hospital services and SNF services are covered under Hospital Insurance (Part A) and are paid for from the Part A Trust Fund. Outpatient hospital services are covered under Supplementary Medical Insurance (Part B), and are paid for from the Part B Trust Fund. Provider services are paid for through fiscal intermediaries (generally Blue Cross plans or commercial insurance companies), on a reasonable cost basis.

Part B services (other than outpatient hospital services, and certain services of interns, residents, and teaching physicians), such as physician services and other "medical and other health services" as defined in section 1861(s) of the Act, generally are paid for through the carriers (generally Blue Shield plans or commercial insurance companies) on a reasonable charge basis from the Part B Trust Fund.

To administer the Medicare program in accordance with the statute, we must be able to distinguish clearly between physician services and provider services, and to pay for each on the proper basis (costs or charges) from the correct trust fund (Part A or Part B). We also must develop billing and payment procedures that permit us to meet these requirements, that are administratively sound, simple, and efficient, that ensure that Medicare payments are reasonable in amount, and that avoid duplicate payment.

Since the beginning of the Medicare program, we have had difficulty in ensuring that these goals are met and the statute is implemented properly in the case of payment for services furnished by physicians in provider settings. These problems were highlighted in a report issued in December 1980, by the Department's Office of Inspector General (OIG) Audit Agency entitled "Report on Need for More Restrictive Policy and Procedures Covering Medicare Reimbursement for Medical Services Provided by Hospital-Based Physicians." (Audit No. 06–02001) This study found that Medicare frequently pays "hospital-based" or "provider-based" physicians (that is, physicians who practice in a provider, usually a hospital setting, and who are compensated by or through the provider), particularly in the medical specialties of radiology, anesthesiology, and pathology, at levels that bear little relationship to the reasonable cost or reasonable charge standards applicable to other providers and practitioners. OIG recommended in that report that Medicare procedures be revised to ensure that, in the future, program payments for the services of these physicians are made according to the reasonableness standards required by the Medicare law for all physicians.

One reason why reasonableness standards for determining payment for the services of these physicians have not been effective has been the relative lack of specificity in the procedures for distinguishing between the services of physicians in providers that qualify for charge payment, and those that are to be paid for only on a cost basis. The Medicare law originally did not differentiate explicitly between services of physicians in provider settings and services of physicians furnished in nonprovider settings. However, our regulations, at 42 CFR 405.483(a), have stated that payment will be made on a reasonable charge basis for services of physicians to provider patients only if the services require performance by a physician in person and contribute to the diagnosis or treatment of individual patients.

In the current regulations at § 405.483(a), we have distinguished between physician services to individual patients and physician services to the provider. There was some risk of confusion in this approach, since section 1861(q) of the Social Security Act defines "physicians' services" broadly as "professional services performed by physicians, including surgery, consultation, and home, office, and institutional calls (but not including services * * * [of interns and residents])." Although the statute did not explicitly refer to such services as being furnished by a physician in person to an individual patient, we believed it was intended to be interpreted in this way, and framed our regulations accordingly.

This intent was affirmed when Congress provided in section 108 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248; enacted September 3, 1982) for the addition of a new section 1887 of Title XVIII of the Social Security Act, dealing explicitly with distinguishing between services to patients and services to providers in reimbursing provider-based physicians. (Generally, physicians are considered "based" in a hospital or other provider if they receive compensation from the

provider or another entity for services furnished in the provider.) Section 1887(a)(1) authorizes the Secretary to issue regulations setting forth criteria for services furnished by physicians in institutional providers that distinguish services:

(A) which constitute professional medical services which are personally rendered for an individual patient by a physician and which contribute to the diagnosis or treatment of an individual patient and which may be reimbursed as physicians' services under part B, and

(B) which, constitute professional services which are rendered for the general benefit to patients in a hospital or skilled nursing facility and which may be reimbursed only on a reasonable cost basis.

The statutory language differs from our current regulations, which define, at 42 CFR 405.483(a), a physician's professional service to a patient as "an identifiable service requiring performance by a physician in person, which contributes to the diagnosis of the condition of the patient * * *, or contributes to the treatment of such patient." Senator Robert Dole, chairman of the Senate Finance Committee, explained the intent of this provision when he presented the bill's final version for Senate approval:

While this provision has been slightly modified in conference, the intent in making this change remains the same. Under the amendment, the Secretary is required to differentiate those services that require a physician to personally perform in the diagnosis or treatment of a patient's illness from those activities that are of a general administrative nature. General administrative services—such as supervision of personnel who perform clinical laboratory tests—and those services that do not require a physician to perform in person are to be reimbursed as a hospital service on a cost basis. These distinctions will assure the appropriate source of payment, while continuing to reimburse physicians a reasonable amount for the services they perform. Our intention was not to penalize but rather to create some equity between the way we pay physicians generally and the way we pay those who are hospital based. (Congressional Record, vol. 128, No. 15, August 19, 1982. S10902.)

Therefore, the intent underlying section 1887(a)(1) is closely related to that expressed in our current regulations.

This new statutory provision expresses the long-standing intent to treat physician services to individual patients differently from physician services to providers. By so amending the statute, Congress has recognized the need for clarifying this distinction to administer properly the part A and Part B trust funds.

Physicians services to providers, that is, services of physicians that do not meet the conditions for charge payment but benefit a provider or its patients generally, are considered provider services under our current regulations at 42 CFR 405.482(a). The costs of these services are allowable as provider costs, and are reimbursable only on a reasonable cost basis. However, these regulations have not been implemented uniformly enough in all parts of the country or in all settings in the same part of the country. In addition, physicians in some specialties consider this to be inconsistent with their established practices, in that they consider all professional activities of physicians to be physicians' services reimbursable under Part B. We believe this problem has led to improper payments for some services because carriers and intermediaries have difficulty making the comparisons needed to ensure that cost and charge payments are reasonable and do not duplicate each other.

The new section 1887 of the Act, in addition to requiring improved distinctions between physicians' services to individual patients and to providers, includes provisions requiring that, in determining reasonable cost reimbursement for physician services to providers, only those costs be recognized as reasonable that:

- Are related to the amount of time actually spent by a compensated physician in furnishing such services (section 1887(a)(2)(A)); and
- Do not exceed the reasonable compensation equivalent for such services, as established in regulations (section 1887(a)(2)(B)).

Section 1887(a)(2)(C) provides authority to grant exceptions to providers that cannot recruit or maintain an adequate number of physicians on account of these reimbursement limits (that is, the reasonable compensation equivalents). Such an exception would allow the provider to provide a compensation level higher than the limit in order to ensure adequate physician services.

Another factor affecting the application of reasonableness standards to payments for physician services is the variety and complexity of the billing procedures that are used for these services. Bills for some types of physician services may be submitted either to the intermediary or to the carrier, and in some instances payment may be made on either a cost or charge basis. Some billing methods, as discussed in more detail in section IV of this preamble, do not permit carriers to determine whether the services for which charges are billed may already have been paid for in part or in full on a reasonable cost basis, making it difficult to ensure that the statutory requirements are met. A specific example of this problem involves the use of the HCFA–1554 billing form, which is used by some providers to bill for physician services. Since the services billed for on this form are frequently not separately itemized, use of the form has severly restricted carriers' ability to compare actual charges billed to customary and prevailing charges for similar services. (Making these comparisons is an essential part of our methodology for determining reasonable charges—see 42 CFR 405.502.) The use of various billing procedures has resulted in payment of inconsistent amounts for similar services, and has proved to be complex and costly to administer.

A third factor limiting the effectiveness of the current reasonableness standards for payment for physician services is the differences in practices, reimbursement, and coverage between the various medical specialties (e.g., anesthesiology, radiology, and pathology) practiced in provider settings. Our current regulations on payment for services of hospital-based physicians (see 42 CFR 405.480–405.488) treat all physicians who practice primarily or entirely in hospitals and SNF's as a single, homogeneous group. However, as explained later in this preamble, different payment issues arise with respect to certain specialized services of physicians, and we believe refined tests of reasonableness are needed to determine payment appropriately for these services.

II. Developments Relating to Payment for Services of Physicians in Providers

A. *Payment Practices Before Enactment of Medicare Law.* Although most physicians furnish some services in hospitals or other providers, the largest volume of services provided in these facilities are radiology and pathology services. Before the Medicare law was enacted, services of radiologists and pathologists furnished to hospital patients were more frequently treated by hospitals and health insurance companies as hospital services. Hospitals often included the costs of these physicians' services with other costs (e.g., capital, overhead, and nurses' and other employees' salaries) and billed patients (or their insurance companies) aggregate charges for all services of each type. In these instances, radiologists and pathologists did not bill charges for their services to hospital patients, and payors generally did not recognize charges of this type.

Unlike radiologists and pathologists, anesthesiologists historically have billed charges for their services directly to patients. These services generally have been considered physician services rather than hospital services. As explained below, however, many types of anesthesia procedures are often performed by certified registered nurse anesthetists (CRNAs) under the direction of an anesthesiologist or other physician performing anesthesiology services.

B. *Statutory Background.* The Medicare law, Title XVIII of the Social Security Act, provides separate definitions of hospital services and physician services, and separate payment rules for each type of service.

Section 1861(b) of the Act defines inpatient hospital services, and explicitly excludes physician services to hospital inpatients from that definition. Physician services are also excluded from the Part B coverage provision applicable to outpatient hospital services in section 1832(a)(2) of the Act.

Section 1861(q) of the Social Security Act sets forth the basic definition of physician services. The basic rules on payment of reasonable charges for physician services are set forth in section 1842(b)(3) of the Act. Although the definition of "physicians' services" given in 1861(q) of the Act does not clearly exclude services which a physician furnishes to a provider from Part B reimbursement, we have always held, as explained above, that those physicians' services that are reimbursable on that basis are services that a physician personally furnishes for individual patients. This has been reaffirmed by section 1887(a)(1) of the Act.

Section 1887(a)(1) requires the Secretary to establish, by regulations, criteria for distinguishing between services that are professional medical services (which are personally furnished to an individual patient by a physician, and which contribute to the diagnosis or treatment of that patient) and professional services that are furnished for the general benefit of patients, such as quality control activities, are furnished to the provider, and, as provider services, must be paid for on the basis of provider costs.

The basic rules on payment of reasonable costs for services of hospitals and other providers are set forth in section 1861(v)(1)(A) of the Act. However, section 1887(a)(2) of the Act establishes new requirements, in addition to section 1861(v)(1), for determining reasonable cost related to physician services to the provider. Section 1887(a)(2)(A) requires that such costs be apportioned on the basis of the amount of time actually spent by a physician in furnishing services to the provider. Section 1887(a)(2)(B) specifies that the costs attributable to physician services to the provider (that is, the cost of compensating physicians to furnish such services) may not exceed the reasonable compensation equivalent for such services, and authorizes the Secretary to determine the applicable reasonable compensation equivalents by regulation. Section 1887(a)(2)(C) authorizes an exception to the reasonable compensation equivalent limits set under section 1887(a)(2)(B) for a provider that shows it cannot recruit or maintain an adequate number of physicians under those limits.

C. *Current Medicare Regulations.* Our current regulations on payment for services of physicians in providers are set forth at 42 CFR 405.480–405.488. These regulations were first issued in 1966, and have never been revised. The regulations set forth basic principles regarding payment for services of physicians in providers, as follows:

- *Conditions for payment of charges.* The carrier will pay on a reasonable charge basis for services of a physician to an individual patient of the provider only if those services require performance by a physician in person, and contribute to the diagnosis or treatment of the patient. Other services of physicians that do not meet these conditions but benefit a provider, or its patients generally, are allowable as provider costs, and the provider is paid for them on a reasonable cost basis by the intermediary. (42 CFR 405.482(a) and 405.483(a).)
- *Allocation of physician compensation.* The salary or other compensation a physician receives from a provider is usually for both services to individual patients and services to the provider. To determine Medicare reimbursement accurately, this compensation must be allocated between the two types of services. The part of the physician's compensation that relates to services to individual patients is used in determining Part B payments on a reasonable charge basis for those services. (42 CFR 405.484)
- *Determination of compensation-related charges.* Under the Medicare statute and the general rules on determination of reasonable charges (at 42 CFR 405.501 through 405.508), a carrier determines whether a physician's charge for a Part B service furnished to a beneficiary is reasonable by taking into consideration both the physician's customary charge for such a service and the prevailing charges of other physicians in the locality for similar services. When a physician is compensated by a provider for Part B services furnished in the provider, and neither the physician nor the provider charges any patients (or patients' insurers) separately for the physician's services, there are no identifiable customary charges for the physician's services. In order to establish and apply the required standards of reasonableness to Part B services furnished by compensated physicians, the current regulations at 42 CFR 405.480 through 405.488 require that compensation-related (customary) charges be computed based on the assumption that the part of a physician's compensation allocated to patient care services represents, to the extent that it is reasonable, the aggregation of the physician's customary charges for patient care services. Under these regulations, various methods of computing compensation-related customary charges are allowed (e.g., per diem, uniform percentage, and item-by-item methods), provided that the method used by a provider systematically and rasonably relates the physician's compensation to the range of physician services furnished under that compensation. (42 CFR 405.485)
- *Charges for services furnished in leased hospital departments.* If a physician assumes some or all of the costs of operating a hospital department, the charges billed by the physician should reflect those costs. However, costs which the hospital bears (and for which it should be reimbursed by the intermediary) are not to be reflected in the charges billed by the physician. (42 CFR 405.488.)

D. *Changes in Physician Practice Patterns Since 1966.* After the publication of the current regulations in 1966, several developments in physician practice patterns occurred that greatly affected the manner in which services of physicians in provider settings were reimbursed. First, many radiologists and pathologists who previously had been paid by providers for their services to provider patients began to bill charges to the Medicare carrier or the patient for their services. Second, physicians' financial agreements with providers became more complex. Finally, it became a common practice for anesthesiologists to involve CRNAs more extensively in the delivery of anesthesia services, and to bill the carrier or the patient for the CRNAs' services as physician services. We believe these developments in many cases have resulted in increases in the level of Medicare payment for services of physicians in provider settings

beyond appropriate levels of "reasonableness".

E. *Need for Revised Regulations and Payment Procedures.* We believe our current regulations set forth valid general principles for implementing the statutory requirements regarding payment for services of physicians in providers. However, the payment rules contained in those regulations are not sufficiently detailed and explicit to fully implement the Medicare law, and, of course, do not take into account all of the provisions of new section 1887 of the Act. In order to implement section 1887, it is necessary to more clearly distinguish between the services of physicians in providers that are to be paid for on a charge basis, and those that are to be paid for on a cost basis as provider services. Also, the current regulations do not deal with the differences in the ways certain specialists (such as anesthesiologists, radiologists, and pathologists) practice medicine in provider settings. For these reasons it has been difficult, under current regulations, to develop and apply effective tests of reasonableness that can be used in determining payment for services of physicians in providers.

Therefore, we are proposing to issue revised regulations that set forth general conditions for reasonable charge payments for services of all physicians in providers and provide additional conditions and tests of reasonableness for determining Part B payments for anesthesiology, radiology, and laboratory services. In addition, we plan to reform our current billing procedures by eliminating billing by a provider on behalf of a physician of compensation-related charges for physician services on the HCFA–1554 billing forms, and by required additional information to be submitted with certain other billings.

III. Major Features of Proposed Regulations

A. *Scope of Regulations.* These proposed regulations would apply to all services a physician furnishes in a hospital or SNF. (After proper **Federal Register** notice, they may also be applied, as appropriate, in other provider settings, such as comprehensive outpatient rehabilitative facilities.) Additional rules may apply when teaching physicians, interns or residents are involved in the delivery of the physician's services. In these cases, payment for the services also must be consistent with the regulations set forth at 42 CFR 405.520 through 405.525. In addition, if the provider is a teaching hospital, it may elect reasonable cost reimbursement for all physician services to its Medicare patients, under the regulation at 42 CFR 405.465.

Because of problems related to the administration of the regulations relating specifically to teaching hospitals, and to implement section 1861(b)(7) of the Social Security Act (as amended by section 948 of Pub. L. 96–499), we also plan to publish, in a separate document, proposed regulations which would establish special new rules on charge payment for services of physicians in teaching hospitals. Those new rules would supersede 42 CFR 405.520 and 405.521 when they become effective.

B. *Payment for Physician Services to Providers.* (1) *General rules.* The proposed regulations specify that services of physicians that are furnished in providers but do not meet the proposed conditions for reasonable charge reimbursement would be paid for as provider services on a reasonable cost basis. Generally, a physician's services to the provider represent activities that benefit the provider or the patient population as a whole, or that do not require performance by a physician. These services include, but are not limited to, teaching or supervision of professional or technical personnel, administration or management of a hospital department, quality control activities, and work schedule planning. The costs of these services would be considered allowable if—

- The services do not meet the conditions for reasonable charge reimbursement;
- The services do not include physician availability and standby services (except for reasonable standby services furnished for emergency rooms); [1]
- The provider has incurred a cost for the services; and
- The costs of the services meet the requirements in our regulations at 42 CFR 405.451 regarding costs related to patient care.

(2) *Allocation agreements.* To determine payment properly under the Medicare law, it is necessary to allocate the costs for allowable physician compensation to physician services to the provider, physician services to patients, and activities of the physician that are not reimbursable under Medicare. Section 1887(a)(2)(A) requires that only the part of the total physician compensation cost that is allocated to services of the physician to the provider be considered an allowable provider cost and taken into account in determining reimbursement to the provider.

We realize that many, if not all, compensated physicians have some administrative and supervisory responsibilities related to services they furnish in a provider. However, in many cases physician services to the provider do not constitute a significant or easily measurable portion of a physician's activities. In these cases, the physician's compensation is almost entirely related to services he or she furnishes to individual patients, rather than services to the provider.

We believe that many compensated physicians furnish few services to the provider (that is, professional services of general benefit to patients that are reimbursable only on a reasonable cost basis). Many physicians only spend 2 to 5 percent of their time on such services to the provider. The difficulty of identifying those services and documenting the time devoted to them may be excessive considering the relatively small amount of compensation cost that would be allocated to those services.

Therefore, to achieve an accurate allocation of physician compensation cost without imposing burdensome paperwork requirements on physicians and providers, we are proposing to presume that 100 percent of the services of compensated physicians in providers are services to individual patients that are reimbursable on a reasonable charge basis under Part B. Under our proposal, payment for the services of the physician in the provider would be made based on this presumptive allocation unless an allocation agreement is submitted to show that a different allocation would be more accurate because a significant and measurable portion of the physician's time is devoted to services to the provider, as described below.

To deal with situations in which our presumptive allocation would not lead to accurate payment, we are proposing to permit a provider to obtain payment for physician compensation cost if it can demonstrate to the satisfaction of its Medicare intermediary that a significant and measurable proportion of the physician's time is devoted to services to the provider. To be paid on this basis, the provider would have to submit a written allocation agreement between the provider and the physician showing the respective amounts of time the physician spends in furnishing physician services to the provider, physician services to patients, and services that are not reimbursable under Medicare.

[1] We plan to study the issues involved in determining allowable provider costs for physician standby services. This may result in either revised program operating instructions or proposed regulations in the **Federal Register**.

Time records, or other documentation that supports the allocation, would have to be available for verification by the intermediary upon request.

We are proposing to generally recognize only those allocations that are agreed to by both the provider and the physician (rather than an allocation from solely the physician or provider) because we believe doing otherwise could involve the intermediary inappropriately in disagreements between providers and physicians, and could call into question the accuracy of whatever allocation the intermediary accepted. Effort reports would nto be acceptable as documentation, since effort cannot be quantified.

Providers that obtained payment based on an allocation agreement and supporting documentation would be required to maintain the time records, or other information they used to prepare the allocation, in a form that permits it to be validated by the intermediary or the carrier. In addition, the provider would be required to report the time allocation data to the intermediary or carrier on an annual basis on a form developed by HCFA, and to retain each allocation, and the information on which it is based, for at least five years after the end of the cost reporting period to which it applies.

We believe these requirements are needed to ensure the proper implementation of the Medicare law. By requiring hospitals and other providers that obtain payment for physician compensation costs to calculate and report those costs accurately, the regulations would ensure that payments for these costs are in the appropriate amount and do not duplicate reasonable charge payments.

Example: A diagnostic radiologist entered into an agreement with a hospital. Under this agreement, the radiologist would receive an annual compensation package worth $100,000. For this compensation, the radiologist would:

- Interpret diagnostic X-rays;
- Supervise the hospital's radiologic technicians; and
- Administer and direct the daily activities of the hospital's radiology department.

The hospital and the radiologist agree, and submitted an allocation agreement to show that 60 percent of the radiologist's time was devoted to interpreting diagnostic X-rays (services contributing to the diagnosis or treatment of individual patients) and 20 percent was devoted to supervising the technicians and managing the department. Under this set of facts, 20 percent of the compensation package ($20,000) would be allowable provider costs. Amounts reimbursable on a reasonable cost basis would be based on Medicare's share of these allowable costs. (Note that in the absence of this allocation agreement, we would presume that 100 percent of the compensation was related to services for individual patients reimbursable on a reasonable charge basis.)

C. *Reasonable Charge Payment for Physician Services to Patients.* (1) *General Conditions.* The proposed regulations would establish three basic criteria for reasonable charge payments for all services of physicians in providers, as follows:

- The services must be personally furnished for an individual patient by a physician;
- The services ordinarily require performance by a physician, and are not frequently and consistently furnished by nonphysicians; and
- The services must contribute directly to the diagnosis or treatment of an individual patient.

The first and third of these criteria echo the phrasing of section 1887(a)(1)(A), quoted above. We are proposing to add the second criterion, in accordance with section 1887(a)(1), which authorizes the Secretary to establish such criteria as needed to implement the section. Our regulations at 42 CFR 405.483(a) have always clearly stated that physician services must require performance by a physician in person in order to be reimbursable on a reasonable charge basis. It has been a key point of our policies since the beginning of the Medicare program that services commonly performed by nonphysicians should not be paid for as physicians' services. We believe this requirement is necessary to distinguish between services reimbursable on a reasonable charge basis and those that must be paid on a reasonable cost basis in accordance with section 1887(a)(1).

This second criterion clarifies and expands on the current regulation by adding qualifying language to the physician performance requirement, stating that such services must not be frequently and consistently furnished by nonphysicians, for two reasons. First, we wish to avoid the appearance of precluding coverage as physicians' professional medical services of any services that are sometimes performed by nonphysicians. Second, we wish to avoid paying for services at a level appropriate for physicians if those services are frequently and consistently (and more economically) furnished by nonphysicians.

Although phrased differently, these basic charge payment rules are similar in effect to those now set forth at 42 CFR 405.483, and are needed to ensure that payments for specific types of services are made from the appropriate Medicare trust fund (Part A or Part B) and are determined on the correct basis (costs or charges). We believe these criteria accurately reflect current medical practice in the United States, and we intend to apply these principles consistently in determining payment for all services furnished in providers by physicians, including anesthesiologists, radiologists, pathologists, cardiologists, and other specialists.

(2) *Customary and prevailing charges.* Carriers must determine whether physicians' charges for Part B services are reasonable, taking into consideration each physician's customary charge for specific services, and the prevailing charges of other physicians billing for services furnished to beneficiaries in the locality. The current regulations for determining customary charges in general are at 42 CFR 405.503, and the regulations on prevailing charges are at 42 CFR 405.504. Under these regulations, carriers have flexibility in determining customary and prevailing charges, since they have substantial discretion in seeking sources of data, establishing comparison groupings, and using relative value scales. (A relative value scale is the result of an analysis of the comparative values of the various physician services in relation to some base service.)

When a physician's service is furnished in a provider, the operating costs going into the delivery of the service are not all borne by the physician, as they are when a similar service is furnished in the physician's office. In order to take this into account, we are proposing to require the carriers to establish separate customary and prevailing charges for services for which there are two separate payment levels, such as is the generally accepted practice in billing for electrocardiograms (EKGs) and other services.

We would require carriers to accummulate the charge data for these physician services separately based on setting. If a particular physician had both an office-based practice and a provider-based practice, the carrier would keep the charge data for such services furnished in each practice separately. Based on data for these services, the carrier would establish separate customary charge profiles and would calculate separate customary and prevailing charges (in accordance with the general rules on reasonable charge payment at 42 CFR 405.501 through 405.508), based on setting.

(3) *Compensation-related charges.* When a physician is compensated by a provider or other entity (such as a medical school or other organization related to the provider) for physician services furnished to patients in the provider, on a salary, percentage of charges, or other basis, the physician (or the provider or other entity) may bill charges to the carrier on the HCFA–1500. (Alternatively, if it is feasible, the provider may include charges for physicians' services to patients on its standard Medicare billing form, as discussed below.) As under current rules, the carrier would develop customary charges for those services on a basis related to the compensation the physician receives for the services. (The carrier would also include compensation-related customary charges billed on the HCFA–1500 in determining prevailing charges for the services of physicians.) This compensation would be allocated between services to the provider and services to patients, as discussed above. Subject to the compensation limits described in section III. D. of this preamble, the carrier would develop charges, based on the portion of the compensation allocated to patient services, on an item-by-item basis considering the frequency with which the various services are furnished, and the relative values assigned to each service. (An example of how the limits affect the calculation of compensation-related charges is given in section III.C.3.)

4. *Combined billing.* As explained in greater detail in section IV. A of this preamble, combined billing is a special type of billing arrangement that was developed to avoid the need to prepare and process separate bills for physician services furnished in hospital departments, such as radiology departments, in which patients receive large numbers of services, relative to other departments. Under combined billing, the charges for both the physician services and the hospital services furnished in a hospital department are aggregated (i.e., "combined") and billed for by the hospital on its inpatient or outpatient billing forms (the HCFA–1453 and the HCFA–1483, respectively). Payment for both types of services is made by the Medicare intermediary and, at settlement of the hospital's cost report, an adjustment is made to assure that payment for physician services is made from the part B trust fund, as required by the Medicare law.

We have permitted combined billing only for hospital inpatient or outpatient services (excluding psychiatric services) furnished by departments in which all physicians are compensated by the hospital on a salary or uniform percentage of charges basis. With respect to inpatient services, combined billing has been available only for radiology and pathology services.

We are proposing to extend inpatient combined billing to physician specialties other than radiology or pathology (e.g. cardiology) provided the physicians in such departments are compensated on a salary or uniform percentage of departmental charge basis and this represents the only method of billing for physicians' services in such departments. Since the Medicare program pays only 80 percent of the reasonable charges for these physicians' services, it will be necessary for the hospital to identify on the hospital claim form the aggregate charges for physician services. The hospital will be allowed to use the per diem or uniform percentage methods to compute these physician charges.

(5) *Change of agreement.* A physician who has been compensated by or through a provider (or other entity, such as a medical school or other organization related to the provider) for physician services to patients may choose to end his or her compensation agreement applicable to services furnished to all patients and bill all patients, or their insurers, directly for his or her services. (If all the patients are not billed on the same basis, or if some patients or their insurors do not pay the charges, Medicare reimbursement would be determined on a compensation-related basis, as under current rules.) In this case, we propose to require the carrier to continue to determine the physician's customary charges on the basis of the former compensation agreement until sufficient charge data have been accumulated to enable the carrier to establish a customary charge profile. The proposed regulations specify that the carrier must have charge data from at least 3 months of the calendar year preceding the annual resonable charge update (which is required by law to occur on July 1 of each year) before establishing a customary charge profile on the basis of the physician's actual charges to his or her patients.

(6) *Effect of physician's assumption of operating costs.* Some physicians (or entities to which physicians are related or by which they are employed) enter into an agreement (such as a lease or concession) with the provider, under which the physician furnishes physician services in the provider and assumes some or all of the operating costs of the department in which the services are furnished. In the past, we have permitted physicians who have entered into agreements of this type to claim Medicare Part B reasonable charge payment for all services furnished in the provider department.

We are now proposing to change this policy, since we believe it results in Part B charge payment for some services (i.e., services that are not physician services to individual patients) that should, under the Medicare law, be classified as provider services and paid on a reasonable cost basis.

We now propose to require the carrier to pay the physician (or entity) *only* for the physician's own services to an individual patient as discussed in section III. C. above.

We believe our proposed approach is preferable to current policy because it will better implement the Medicare law. In addition, because leased departments are part of the provider and operate under its licensure, we believe it is appropriate to pay for services of these departments on the same reasonable cost basis that is used to pay for the services of the other hospital departments.

The basis for payment for operating costs incurred in furnishing the services would be the reasonable cost incurred by the leasing entity; that is, the costs of the other inputs involved in the delivery of the service (space, equipment, nonphysician personnel, etc.) would be reimbursed by the intermediary to the provider, *not* the physician or entity assuming these operating costs, on a reasonable cost basis. As is the case with other costs generally, we would recognize these costs only if the provider actually incurred them, that is, had a legal obligation to reimburse the lessee for them. Our proposed regulations would also require the physician or entity to make books and records available to both the provider and the intermediary, to permit verification of these costs.

(7) *Effect of billing charges for physican services to a provider.* When services are covered under Part A, we make payments only to the provider. We wish to ensure that when we make such payments for services that do not meet the conditions for Part B reasonable charge payments, neither the physician nor the provider seeks further payment from either the program or beneficiaries. This particularly applies to physician services that are determined to be services to the provider rather than services to individual patients. Therefore, we propose to treat

inappropriate billing of the carrier or the beneficiary, by the physician, the provider, or another entity, as a violation of the provider agreement of the provider in which the services were furnished. In this event, the provider agreement could be terminated in accordance with the regulations at 42 CFR Part 489. (A provider participating in the Medicare program must have entered into a provider agreement under section 1866 of the Act. Under the provider agreement, the hospital agrees not to charge any individual for services for which the individual is entitled to have payment made under Medicare, except for appropriate deductible and coinsurance amounts.)

(8) *Elimination of separately identified independent charges by hospitals for physician services.* Under current regulations at 42 CFR 405.480(c), a hospital may bill for physician services furnished by its compensated physicians. These provisions have not been included in our proposed revision of these regulations.

Our reasons for proposing this change are as follows. Some hospitals bill amounts for services of compensated physicians that exceed the compensation the physicians receive for the services. The inclusion in charges of amounts that exceed the physicians' compensation for the services enables the hospital to realize a profit from the use of compensated physicians. While we believe that charges that include this element of profit cannot be considered inherently reasonable under the Medicare law and regulations, our usual reasonable charge rules (under which carriers generally consider only the customary, prevailing, and actual charges for services) have not been effective in preventing payment of unreasonably high charges. Further, it is not reasonable to pay more for a service than the physician receives for furnishing it. Therefore, we believe it is necessary to prohibit the billings that result in these charges.

In making this proposal, we are relying on the broad discretion granted the Secretary of HHS by the Medicare law to determine the level of charges that will be considered reasonable. This authority is implemented in part by our current regulations at 42 CFR 405.502(a)(7), which specifically authorize consideration of unspecified factors that may be found necessary and appropriate in judging whether charges for specific items or services are inherently reasonable. In our opinion, the inclusion of a profit factor for hospitals in charges for compensated physicians' services is one factor that, in the absence of specific statutory direction (as exists for such services furnished in teaching hospitals) regarding the treatment of those charges, requires that the charges not be considered reasonable.

As noted above, we are planning separate proposed regulations revising our regulations for reimbursement for the services of teaching physicians, interns and residents. These regulations would implement the provisions of section 948 of the Omnibus Reconciliation Act of 1980, and make other needed changes. We expect these proposed rules to make adequate provision for the great majority of hospitals currently charging independently for these physician services. We do not believe there is a need for any such additional methods of paying for physician services furnished in non-teaching hospitals.

(9) *Costs of Certain Provider Services to Physicians.* Some physicians and providers have entered into agreements under which the providers furnish office space for private practice or perform billing and furnish collection services for the physician. In these cases, the physician is not being compensated by the provider for furnishing services to provider patients. Rather, we assume the physician's established customary charges for the medical and surgical services furnished include these overhead expenses.

Although these services (office space, billing, collection) are furnished by the provider to the physician, they are related to the physician's services to individual patients, not provider services to patients. The services are reimbursed as physician, not provider, services. Therefore, the costs incurred by the provider in performing these functions are not allowable costs for provider reimbursement. However, we believe that some providers are including these costs in their cost reports as if they were allowable costs.

We wish to make clear that this practice has not been acceptable. We intend to ensure that the costs for these services to physicians are excluded from a provider's allowable costs.

D. *Limits on Medicare Reimbursement for Compensation for Physician Services in Providers.* 1. *General rules.* We propose to require that allowable compensation for services performed by physicians in providers be subject to limits for Medicare reimbursement purposes. Under these limits, Medicare program reimbursement would be determined based on the lower of the actual cost of the services to the provider (that is, the compensation to the physician, whatever the form) or a reasonable compensation equivalent (RCE).

We plan to limit both reasonable cost and reasonable charge reimbursement for physician services to providers and individuals if the physicians receive any compensation from the provider for those services. If a physician is compensated only for services to the provider, the RCE limit would be applied only to reimbursement to the provider on a reasonable cost basis for the cost of compensating the physicians for those services. We wish to make it clear that the RCE limit would be applied to reimbursement for services furnished to individual patients *only* if the physician agrees to accept compensation (e.g., from a hospital) for those services. The RCE limit would not be applied to reimbursement for services to individual patients for which the physician is not compensated and bills either the patient or carrier directly. Section 1887(a)(2)(B) of the Act explicitly requires the use of such reasonable compensation equivalent limits to determine reimbursement on a reasonable cost basis for physician services to providers as described in section 1887(a)(1)(B). We believe that such limits can be most effectively implemented if they are extended to all reimbursable services furnished under the affected compensation, including services reimbursed on a reasonable charge basis.

Although the law does not require reasonable compensation equivalent limits to be applied to reimbursement for physician compensation for services to individual patients, the Secretary has the authority to apply these limits to that reimbursement. The Act requires that all payment on the basis of charges be reasonable. The reasonableness of charges currently is determined, under regulations at 42 CFR 405.502 in light of: (1) The physician's actual charge; (2) the physician's customary charge for the service; (3) the prevailing charge for similar services [furnished by other physicians] in the locality; and (4) other factors that may be found necessary and appropriate, with respect to a specific item or service, to use in judging whether the charge is inherently reasonable. The statutory amendment neither creates new authority, nor repeals existing authority. Rather, it explicitly directs the Secretary to apply these reasonable compensation limits to reimbursement for physician compensation for services to providers.

Therefore, in addition to so limiting reasonable cost reimbursement for physician services to providers, we

propose to apply RCE limits in determining Medicare reimbursement for physicians' services to individual patients where the physicians are compensated by hospitals and skilled nursing facilities. Customary charges are not usually established for such physicians' services and we have not been able to adequately evaluate the compensation of such physicians for reasonableness. We propose to derive Medicare's reasonable charge payments from the lower of the physician's actual compensation or the appropriate reasonable compensation limits. This avoids the anomalous result of Medicare disallowing under part A a portion of compensation that is unreasonable under RCE standards, while funding under part B another portion of the same unreasonable compensation. For these reasons, we propose to apply the RCE limits in the aggregate to the reimbursement for physicians' services to both individuals and the provider.

While we are proposing to establish limits on allowable compensation for purposes of determining Medicare reimbursement, based on reasonable compensation equivalents, we wish to emphasize that these limits are in no way intended to force physicians or providers to adopt any particular type of compensation agreement. Physicians and providers would continue to be free to negotiate the kind of financial agreement that best suits their circumstances, such as salary, fees, or compensation based on a percentage of either gross or net charges.

The policy we are proposing would deal only with how Medicare reimbursement should be computed. It would be neutral both as to financial agreements and as to the manner in which medicine is practiced. We believe this policy implements both the noninterference provisions in section 1801 of the Act, in that the regulations would not interfere with physician and provider decisions to utilize their resources in any manner they choose, and the statutory requirement that Medicare reimbursement be reasonable. The regulations would more clearly provide for how Medicare reimbursement would be computed, and what types and levels of costs and charges would be recognized for that purpose. In order to apply the limits, we would need to limit Medicare billing methods, and sometimes use additional information (which should already exist in the provider's records), so that we can accurately determine costs and charges and clearly separate Part A and Part B services.

The limits would apply equally to all physician services in providers that are reimbursable under Medicare and for which physicians are compensated by the provider, not just to services of radiologists, anesthesiologists, and pathologists.

For purposes of applying these limits, "physician compensation" would include monetary payments, fringe benefits, deferred compensation, and other items of value (but excluding free office space related to treatment of private patients, or billing and collection services), a provider or other entity furnishes a physician in return for the physician's services to it. Other provider costs related to the services, including the capital and operating costs for the space (including office space), equipment, personnel, and other resource inputs necessary to produce the services, would not be covered by these compensation equivalence limits.

In situations in which the physician's compensation is for a full range of services, including patient care, the physician's customary charges for patient care shall be related to the portion of the actual compensation or of the RCE, whichever is less, that is attributable to such services.

Our proposed regulations would establish a general authority to develop and apply these limits, but would not include a specific methodology as a part of the regulation text itself. Instead, the proposed regulations state that we would establish these limits on the best data available. The methodology we plan to use for setting the limits is described in the following section of the preamble. We will consider all comments we receive on this methodology, and will respond to them in the preamble to the final rule. That preamble will include a description of the methodology for the limits we will implement, and an explanation of their application and effective date.

(2) *Proposed Methodology.* We are proposing to set RCE limits based on our estimates of reasonable annual compensation levels for full-time equivalent practices of certain categories of physician specialities. The methodology and estimates discussed in this proposal are based on an internal working paper developed by HCFA's Office of Research and Demonstrations, "A Methodology for Determination of Reasonable FTE Compensation for Hospital-Based Physicians", by James R. Cantwell and Williams J. Sobaski (Working Paper #OR-32, January 1982). Copies of this paper are available on request from: ORD Publications, Office of Research and Demonstrations, Health Care Financing Administration, Oak Meadows Building, 1-E-9, 6340 Security Boulevard, Baltimore, MD 21207, (301) 597-2422.

Our proposed methodology for establishing reasonable levels of compensation includes five steps, as follows:

a. We estimated the national average (mean) income for all physicians using 1979 physician net incomes from the American Medical Association (AMA) Periodic Survey of Physicians (PSP), published by the AMA in its *Profile of Medical Practice, 1981.* We also review other data sources and found these to be generally consistent with the PSP data. However, considering the type of compensation limits we propose to establish, we found the PSP data to be the best available for our purposes.

b. We then projected physicians' 1979 base net income levels to an appropriate future year (that is, to 1982) to account for changes in net income levels occurring after the period for which we have data. To make this calculation, we needed to determine an appropriate inflation factor to project 1982 estimated net income levels on the basis of the 1979 data. We considered several methods, including using the compound growth rate found in the PSP averages for the period 1970 to 1979, or using the medical component of the Consumer Price Index (CPI). However, we believe we can achieve more accurate projections by using the historical relationship (1970–1979) between physician incomes and the CPI, and projecting this using forecasts of the CPI for future years.

c. We then determined the relationship between average net income for all physicians (estimated in step 1) and net incomes of certain categories of specialist physicians that are commonly compensated by providers for services furnished to Medicare beneficiaries.

We did this by calculating adjustment factors based on the 1979 PSP average net income by specialty. This resulted in separate specially adjustors for the following specialty categories:

- General and family practice;
- Internal medicine;
- Surgery;
- Pediatrics;
- Obstetrics/Gynecology;
- Radiology;
- Psychiatry; and
- Anesthesiology.

In order to develop an adjustment factor for pathologists, who are not separately reported in the PSP data, we used compensation relationships between the income of radiologists and

pathologists as reported in a HCFA sponsored study. (Bruce Steinwald, "Hospital Based Physicians: Current Issues and Descriptive Evidence". *Health Care Financing Review*, Volume 2, Issue 1, Summer 1980. Pages 63–75.) Based on this study, we set the pathologist adjustment factor at 93 percent of the radiology adjustment factor.

d. Using the specialty-specific adjustors, we also adjusted for differences in costs between types of geographic locations. Again, we used the PSP data on income differences according to location in three types of areas:

- Metropolitan Greater than One Million (includes all counties in Standard Metropolitan Statistical Areas (SMSAs) with 1,000,000 or more inhabitants),
- Metropolitan Less than One Million (includes all counties in SMSAs with 50,000 to 999,999 inhabitants, and all counties considered potential SMSAs in AMA's master data file), and
- Non-Metropolitan (includes all counties not in either of the above groups).

This step yielded a set of three specialty-location adjustors for each specialty category.

e. Finally, we modified the specialty-location adjustors for variations among specialities in hours worked per year. Because of significant variations in the number of hours worked per year by specialty, this step is necessary to make accurate estimations of FTE specialty average incomes by location based on the average income of all physicians. We made this calculation using PSP data on hours practiced per week and year, by specialty and location.

This allowed us to calculate the average hours practiced per year by specialty and location, which we then related to a standard full-time-equivalent work year of 2080 hours. We used these ratios to weight the specialty-location adjustors from step 4.

By proceeding through these five steps we were able to produce an array of estimated 1982 average annual FTE compensation levels for 9 specialty categories by type of location. This array is given in Table I. We considered several different levels of reasonable compensation limits, using some percentage of these FTE levels. We are proposing to set RCE limits, adjusted by the proportion of a FTE year actually worked, at these average annual incomes, because we believe they represent reasonable levels of net annual income by specialty and location.

TABLE I.—ESTIMATES OF 1982 FTE AVERAGE ANNUAL NET COMPENSATION LEVELS[1]

Specialty	Nonmetropolitan area	Metropolitan areas less than 1 million	Metropolitan areas greater than 1 million
Total	$87,400	$93,700	$96,900
GP/FP	77,900	74,800	75,800
Int Med	82,100	84,200	90,800
Surgery	100,000	111,600	113,700
Pediatrics	71,600	83,200	78,900
Ob/Gyn	103,500	106,400	107,400
Radiology	119,000	126,400	123,200
Psychiatry	75,800	77,900	84,200
Anesthesiology	91,600	106,500	109,500
Pathology	110,800	117,900	114,800

[1] Rounded to the nearest $100.

(3) *Updating the limits.* We propose to update the RCE limits annually on the basis of updated economic index data. If we did this without revising the methodology for computing the limits, we would ordinarily publish a single general notice in the **Federal Register**, setting forth the new limits and their effective date. We would not necessarily publish a notice proposing revised limits for public comment.

If we propose to change the methodology by which limits are calculated, we would publish the proposed changes in methodology in a **Federal Register** notice in accordance with the Department's established rulemaking procedures.

This proposed update procedure is dependent on accurate, timely, and reliable economic index data, and a good method of updating the base year limits. We considered several different options for annually updating the limits, taking into account two major aspects of forecasting physician compensation levels: (1) Base year data on physicians' incomes, and (2) expected changes from a selected base level.

In the months since we first developed our proposed RCE limits, the AMA has begun publication of socioeconomic data on physicians, collected through a quarterly telephone survey and called the *Socioeconomic Monitoring System*. This quarterly survey replaces AMA's annual Periodic Survey of Physicians. We cannot use this data to update the limits for two reasons. First, only quarterly data have been published, with annualized estimates obtained by multiplying by four. Obtaining annualized estimates in this way may introduce potentially serious error because of seasonal variation in physician's incomes. Second, the survey is new and still in a transitional phase.

We believe that retaining the PSP data for calendar 1979, as discussed in the previous section, as the base year is appropriate for the next few years. We will continue to monitor available data on this subjects. As the specialty and location-specific supply and demand for physicians change over time, it may become necessary to move to a more current base, but until monitoring demonstrates the need, we believe the 1979 base should be used.

Our research (see ORD Working Paper #32 cited above) indicates that physician net income deflated by the Consumer Price Index (CPI) is nearly constant over time. Consequently, it was suggested that near term physician net income could be estimated from forecasts of the CPI. We used a Data Resources, Inc. (DRI) forecast to project the PSP 1979 data to 1982, providing the base for the proposed limits. We propose to use a method similar to that in the RCE methodology (see pages 5 and 6 of the above-cited working paper). Thus we would apply Data Resources, Inc. CPI forecasts for 1983 and subsequent years from *Data Resources Cost Forecasting Review* to the 1980 Periodic Survey of Physicians (1979 income data) in the same manner that the 1982 estimates were generated.

In developing Table I, we used a forecast made during the fourth quarter of 1981 of All Urban Consumer Price Index (CPI-U) for the second quarter of 1982. DRI publishes forecasts of the CPI-U ever three months. Their current CPI-U estimates for the second quarter of 1982 and 1983 are 287.3 and 306.7, respectively.

We propose to use these DRI forecasts and the methodology set out in the working paper to forecast physician net income for each forthcoming year. (Alternative forecasts, such as those of the Council of Economic Advisors, could be used for this purpose. However, the Council's forecasts (which are a part of the economic assumptions underlying the President's budget) are available only in January and July of each year, and the January forecasts would not be available for use until the President's budget was released. Because the DRI forecasts are released more frequently than those of the Council, we are proposing to use the DRI forecasts.) For example, physician net income for 1983 would be estimated as follows:

Total physician net income for all physicians for calendar year 1983 would equal

$$\frac{1}{.9966} \times \frac{306.7}{217.4} \times \$78,400 \text{ which yields } \$110,961$$

FTE (2080 hours per year) specialty-location adjustors would then be applied to the 1983 forecast of physician net income to calculate specialty-location specific net incomes for 1983,

yielding the incomes given in Table II. (Note that all the following examples and discussion of application of the proposed RCE limits use figures from Table I, not Table II.)

TABLE II.—ESTIMATES OF 1983 FTE AVERAGE ANNUAL NET COMPENSATION LEVELS [1]

Specialty	Non-metropolitan Areas	Metropolitan areas less than 1 million	Metropolitan areas greater than 1 million
Total	$91,00	$96,800	$102,100
GP/FP	82,100	75,80	79,900
Int Med	90,600	88,800	95,400
Surgery	105,400	117,600	119,900
Pediatrics	75,500	67,700	81,000
OB/Gyn	115,400	112,100	113,200
Radiology	125,400	135,200	129,800
Psychiatry	79,900	82,100	88,800
Anesthesiology	96,500	115,400	115,400
Pathology	116,500	124,200	121,000

[1] Rounded to the nearest $100.

(4) *Application of Limits.* We propose to use the RCE levels as discussed above to compute the Medicare program's reimbursement when the physician is compensated by the provider or other entity (such as a medical school or other organization related to the provider) for medical/surgical services or administrative/supervisory services that are reimbursable under Medicare. In applying the RCE limits, the intermediary will assign each compensated physician to the most appropriate specialty category. If no specialty category is appropriate, for example, in determining reasonable compensation for a full-time emergency room physician, the intermediary will use the RCE level for the "Total" category, which is based on income data for all physicians. The intermediary will determine the appropriate geographic area classification using Table III, given in an appendix to this document.

If the physician's contractual compensation covers all duties, activities, and services furnished to the provider or to its patients and the physician is employed full-time, the appropriate specialty compensation limit will be used and adjusted by the physician's allocation agreement to arrive at the program's allowable Part A and Part B amounts for physician compensation. (In the absence of an allocation agreement, we would presume that 100 percent of the compensation was related to Part B services, as explained in section III. B. above.)

When a physician's compensation represents payment only for administrative/supervisory services (that is, the physician bills fees for all medical/surgical services), then the appropriate specialty compensation limit will be used and adjusted by the percentage of the physician's time spent in furnishing administrative/supervisory services.

If a physician is employed by a provider to furnish the full range of services on other than a full-time-equivalent basis, then the reasonable compensation limit will be adjusted to reflect the percentage of time his or her actual hours related to a full-time-equivalent work year of 2080 hours.

Further, when a provider (or a department of a provider) has more than one compensated physician, the RCE limits may be aggregated and applied to the compensation of all the physicians as a group, taking into consideration the reduction of each physician's workload to a FTE standard. When this is done, and some of the compensation under consideration is allocated to part A services, the Part A/Part B allocation may be aggregated in either of two ways. First, the group's aggregate allocation may be computed as the mean of allocations for all the individual physicians in the group, presuming that any physician that has no allocation agreement devotes 100 percent of his or her time to Part B services. Alternatively, the provider and group may establish a single allocation for the group as a whole, in which case the provider must have supporting documentation, including time records, for each physician in the group. (The following examples presume that the physician(s) furnish only inpatient services in a hospital.)

Example A: A Single Physician Compensated Only for Services to Patients.

- Under a contract with a hospital in a non-metropolitan area, a cardiologist receives $80,000 annually to interpret electrocardiograms (EKGs) on a full-time basis.
- The cardiologist and the hospital agree to accept the presumptive allocation, allocating 100 percent of the cardiologist's services to Part B.
- The hospital estimates that the cardiologist will interpret 5,000 EKGs during the hospital's fiscal year.
- The hospital bills its intermediary for the cardiologist's services using the hospital billing form.
- The intermediary would reimburse the hospital Medicare's proportionate share of the lesser of the cardiologist's actual compensation ($90,000) or the appropriate RCE level ($52,100).
- The hospital would collect from the Medicare beneficiaries the part B coinsurance amounts attributed to EKG services.

Example B: A Single Physician Compensated Only for Services to the Provider.

- An anesthesiologist is employed by a non-metropolitan hospital to furnish only administrative/supervisory services.
- He or she bills the carrier or the patient on a fee-for-fee service basis for all physicians' services to individual patients.
- The physician spends 20 percent of a full-time work year in the hospital providing administrative/supervisory services.
- In this case, the adjusted reasonable compensation would equal 20 percent of the RCE derived from the $91,600 FTE amount shown in Table I. That is, the adjusted reasonable compensation would be $18,520.

Example C: A Group of Physicians Compensated for Services to Both the Provider and Patients.

- A group of five radiologists contracts with a hospital in a large metropolitan area to interpret all x-rays for provider patients, and to administer and supervise the hospital's radiology department.
- In the group, the physicians agree that one physician will devote 50 percent of his or her time to performing all of the administrative/supervisory services. The remaining 50 percent of that physician's time and 100 percent of the other physicians' time will be devoted to diagnostic radiologic services on a full-time basis.
- The head of the department, who devotes 50 percent FTE to administrative/supervisory services, receives $200,000 per year. Each of the other radiologists receives $100,000 per year. The total compensation is $600,000 per year.
- The RCE for a single FTE radiologist is $123,200 per year. The total RCE limit for the department is $616,000.
- The mean allocation to Part A services for the group is 10 percent. Therefore, the allowable cost for provider services is $60,000 for the year.
- The mean allocation to Part B services for the group is 90 percent. Therefore, the allowable compensation-related charges for physician services for the year will be based on 90 percent of the lesser of the RCE limit ($616,000) or the actual compensation cost ($600,000). In this example, the basis for physician charges is 90 percent of $600,000, or $540,000.
- In this case, the resulting compensation-related charges for an x-ray interpretation would be derived from this.

(5) *Exceptions for Special Situations, Including Small and Rural Hospitals.* Some hospitals, particularly but not exclusively small or rural hospitals, may be unable to recruit or maintain an adequate number of physicians at a compensation level within the prescribed limits. In accordance with section 1887(a)(2)(C) of the Act, if a hospital is able to demonstrate to the intermediary its inability to recruit or maintain physicians at a compensation level allowable under the RCE limits (as documented, for example, by unsuccessful advertising through national medical or health care publications), then the intermediary may grant an exception to the reasonable

compensation limits established under these proposed rules.

E. *Determining Reasonable Charges for Anesthesiology Services.* 1. *Concurrent anesthesia procedures.* Because of the predominant practice pattern, we use the term "anesthesiologist" in this preamble to denote any physician functioning in the capacity of an anesthesiologist. However, these proposed rules would apply to any physician who furnishes, directs, or supervises anesthesia services regardless of that physician's practice specialization or board-certification. This could include not only a doctor of medicine or osteopathy but also a doctor of dental or oral surgery, or a doctor of podiatry, provided that the physician directing or supervising the anesthesia is legally authorized to perform such a function in the particular State.

In many hospitals, actual administration of anesthesia to patients is done by certified registered nurse anesthetists, (CRNAs), who work under the direction of an anesthesiologist or, as noted above, by physicians who do not specialize in anesthesiology. Frequently, the directing physician is the surgeon or oral surgeon who is performing the surgical procedure for which anesthesia is required.

By using the services of more than one CRNA, an anesthesiologist may direct or supervise anesthesia administration to two or more patients at the same time. We consider "medical direction" to include substantial direct involvement of the anesthesiologist in each anesthesia procedure, as explained below. "Supervision" is a more general activity, primarily concerned with monitoring performance of the anesthetists, with significantly diminished direct involvement of the anesthesiologist in delivery of services to the patient. Under these circumstances, the level of the anesthesiologist's involvement in each procedure necessarily is reduced because of the time he or she must spend on other procedures that are being conducted concurrently. As the number of concurrent procedures increases, a question arises as to whether the level of the physician's involvement in each procedure is sufficient to justify classifying the services as physician services to individual patients and paying for them on a reasonable charge basis. If an anesthesiologist is performing essentially supervisory duties, rather than furnishing physician services to an individual patient, the services should be paid for on a reasonable cost basis.

Our current regulations do not limit the number of concurrent anesthesia procedures for which an anesthesiologist may bill the carrier or the beneficiary. Further, the claims form does not require the anesthesiologist to specify whether a service involved a CRNA, or whether it was performed concurrently with other services. Thus, our current payment rules and procedures may provide an unintended financial incentive for some anesthesiologists to supervise and bill for several concurrent procedures as physician services. We believe this situation has unnecessarily and inappropriately increased overall levels of Medicare payment for anesthesiology services and that, in some cases where large numbers of services are furnished concurrently, it may have resulted in diminished personal physician involvement in patient care.

To deal with these problems, we are proposing to establish specific conditions that we believe will ensure that the physician's involvement in each service is adequate to justify treating the services as physician services to individual patients and thus warrant payment on a reasonable charge basis to the beneficiary, the physician, or an appropriate reassignee (see our regulations at 42 CFR 405.1680 for limitations or reassignment). The anesthesiologist's services would meet our definition of "medical direction" and qualify for charge reimbursement if the anesthesiologist:

- Performs a pre-anesthetic examination and evaluation;
- Prescribes the anesthesia plan;
- Personally participates in the most demanding procedures in the anesthesia plan, including induction and emergence;
- Ensures that any procedures in the anesthesia plan that he or she does not perform are performed by a qualified individual;
- Monitors the course of anesthesia administration at frequent intervals;
- Remains physically present and available for immediate diagnosis and treatment of emergencies;
- Provides indicated postanesthesia care;
- Directs no more than two anesthesia procedures concurrently; and
- Does not perform any other services personally while he or she is directing those procedures.

(Although our proposed regulations would explicitly require these criteria to be met only in regard to concurrent anesthesia services, we wish to make clear that these reflect basic standards of medical practice. Because of the problems discussed above, we are making these explicit conditions for a physician to meet in order to be paid on a reasonable charge basis for concurrent anesthesia services. However, a physician furnishing anesthesia services without a CRNA should be performing these same functions.)

Our proposed regulations further specify that if an anesthesiologist meets the other conditions for charge payment but supervises more than two anesthesia procedures concurrently, the anesthesiologist's services are considered supervisory (as opposed to medical direction) services furnished to the provider in which the procedures are performed. The provider would be paid for the allowable costs of those services on a reasonable cost basis by the intermediary.

We believe our proposed requirements are consistent with the way anesthesia services are furnished in most providers, and that the level of physician involvement required in services to each patient is consistent with high quality care. They also would remove the financial incentive that now may exist for some anesthesiologists to furnish many concurrent services. At the same time, however, our approach would permit Medicare to pay on a cost basis for services furnished in providers where an anesthesiologist chooses to supervise more than two procedures concurrently. We also believe these requirements would better implement the intended statutory distinctions between provider and physicians' services, and Part A and Part B costs.

2. *Use of CRNAs employed by providers.* A second problem connected with determining payment for anesthesiology services concerns the employment status of the CRNA who is involved in the delivery of anesthesiology services. Our current policy is that an anesthesiologist may include a charge for the services of a CRNA if the CRNA is employed by the anesthesiologist and the anesthesiologist personally directed the CRNA when the services were furnished. Hospitals and other providers who employ CRNAs may claim reasonable cost reimbursement for the salary and other compensation costs they incur for the CRNAs' services. However, we believe some anesthesiologists have been billing charges under Medicare Part B for services of CRNAs they supervise but who are not their employees.

Our current billing procedures do not require anesthesiologists to specify on their claim forms or their bills whether or not the services involved the use of a

CRNA, or whether a CRNA is employed by the physician. Two problems may result from this. First, because Medicare is simultaneously paying the provider for the costs of employing the CRNAs, physicians who use the services of provider-employed CRNAs may be receiving excessive payments. Second, some physicians who use the services of provider-employed CRNAs may inadvertantly be receiving excessive payments by setting their charges at the same level as for services involving physician-employed CRNAs.

To better implement the statutory distinction between provider and physicians' services, we propose to adjust the amount of charge payment for physician services that involve the use of CRNAs not employed by the physician. This adjustment is needed to take into account the costs of compensating the CRNAs that are borne by the hospital. We would continue to pay the physician on the basis of reasonable charges for the professional services furnished to an individual patient, including the concurrent direction of not more than two CRNAs.

Currently, most anesthesiologists base their charges for patient services on a combination of procedure-specific unit values plus units for factors such as time, risk, and age of patient. These units are generally drawn from studies of the relative values of medical and surgical services, by groups such as the Blue Shield Association, the American Society of Anesthesiologists, or the California Medical Association. Where anesthesiologists base their charges on this method, the Medicare carriers use the same method to determine reasonable charges for anesthesiology services.

Under this method, a physician's charge for a particular service is constructed by:

- Determining the base value units for the specific procedure performed;
- Adding units representing related specific considerations such as patient condition; and
- Adding time units representing the period from the time beginning when the anesthesiologist prepares the patient for induction, and ending when the anesthesiologist is no longer in personal attendance on the patient.

The sum is then multiplied by a conversion factor representing the physician's customary charge for a unit of professional service. The resulting dollar figure is the physician's actual charge for the service. Each time unit generally represents a 15 minute interval per patient. For example, if a physician devotes 90 minutes to a normal patient undergoing a procedure with a base value of 3, the physician's charge would be nine (3 base units +6 time units) times that physician's conversion factor.

We propose to allow reasonable charge payment for physician-directed anesthesia services furnished by no more than two provider-employed CRNAs by calculating the procedure unit values plus no more than one time unit for each half hour, or fraction thereof, devoted to a given procedure. We considered other possible time unit adjustments, particularly allowing only one time unit per hour. However, we wished to maintain neutrality as to physicians' decisions. Paying only one time unit per hour would result in the physician being paid less for directing two concurrent procedures than for furnishing one anesthesia service procedure personally. We wished to avoid establishing such incentives.

We would require the anesthesiologist (or other entity legally entitled to bill for the services) to state on the billing form or on the claim for payment whether the CRNA was employed by the physician, and whether no more than two concurrent procedures were furnished by CRNAs under the physician's direction. If the physician (or other billing entity) affirmed that both conditions were met, the carrier would pay Part B charges for the administration of anesthesia at the usual rate. If the physician did not employ the CRNA, the carrier would pay Part B charges determined at the adjusted rate. In both cases, the procedure-specific values of the base units would be the same. Only the time-unit component of the charge would be adjusted if the physician did not employ the CRNA. Neither the "shared servant" nor the "borrowed servant" doctrines would affect the use of adjusted reasonable charge standards in these cases. We wish to make clear that we would pay the physician on the basis of one time unit for each 15 minute interval or fraction thereof, only if the CRNA is the actual employee of the physician. If the CRNA is an independent contractor, then he or she would seek payment through the provider, not the physician or the Medicare patient.

Although we are proposing to use a smaller number of time units to adjust charges where the CRNAs are not employed by the physician, we are aware that other methods could be used to adjust the charges in these circumstancs. We wish to obtain comments on the time unit method we are proposing, and on whether other specific methods might be more appropriate.

If more than two concurrent procedures have been supervised by the physician, the carrier would deny Part B charge payment for administration of anesthesia. In this case, we would pay the provider through the intermediary for the reasonable costs it incurs in compensating the physician for administrative and supervisory services furnished to the provider, and for its costs of compensating the CRNA.

F. *Determining Reasonable Charges for Radiology Services.* 1. *Identifying Physician-Radiology Services.* In the field of radiology, there are particular difficulties in determining which services furnished in a radiology department constitute physician services to individual patients and may be reimbursed on a reasonable charge basis. These difficulties arise in determining whether services "ordinarily require performance by a physician, and are not frequently and consistently furnished by nonphysicians." Many routine radiological services are commonly performed by qualified technical personnel, although they may on some occasions also be performed by a physician.

In the case of radiology services furnished in a physician's private office or another nonprovider setting, this distinction is unimportant for Medicare reimbursement purposes, since all payments are made to the radiologists on a Part B reasonable charge basis, and are calculated in part on the basis of the prevailing charges for similar services of other radiologists in the locality. However, because provider services (in this case, services commonly furnished by nonphysician technical personnel) must be paid for on a reasonable cost basis, identifying physician radiology services is important in the case of radiology services furnished in providers.

In applying statutory principles in determining Medicare payment for those services, only services that meet our conditions would be classified as physician services and paid for on a reasonable charge basis from the Part B Trust Fund. Activities commonly performed by nonphysician personnel, even when performed by a physician, would be classified as provider services and be paid for on a reasonable cost basis.

2. *Level of payment for radiology services.* Radiologists (that is, physicians who function in the capacity of radiologists in furnishing radiology services to Medicare beneficiaries) currently may choose among different methods of billing under the Medicare program. Bills may go to either the intermediary or the carrier. Carriers

have indicated that at times they have difficulty determining if the charges submitted cover only physician services, or both physician and provider services. Where physicians choose combined provider billing for both provider and physician services in radiology departments, our procedures require that a "time allocation rationale" be submitted to the intermediary. However, this procedure precludes subjecting such physicians' charges to the prevailing charge screens generally applied to physician services billed by other methods, and contractors are not able to determine whether the payment is reasonable.

Most radiologists who practice in providers do not seek payment from the provider for their services to the provider, but instead bill charges to the carrier or to the patient that cover all services they furnish in the provider. Generally, these radiologists devote more than 90 percent of their time to furnishing physicians' services to individual patients, and they consider their income from charges for these services to be compensation for all the services they furnish. Their practice in provider settings is similar to practice in nonprovider settings. However, in provider settings the costs of many of the inputs required to produce radiologic services, such as supervision, administration and quality control, supplies, medical equipment, and technical assistants, are not borne by the radiologists but by the provider. Provider costs of this type are reimbursed by the intermediary on a reasonable cost basis. (This is not all of the overhead. We assume that any physician, regardless of practice setting, will experience some practice costs, such as billing, professional memberships, and so forth.) We believe that there should be different levels of payment for radiology services furnished in a physician's office and similar services furnished in a provider. This will ensure that the payment level for radiology services furnished in a provider is reasonable and related to the component of charges for services furnished in an office setting that is attributable to the physician's own services to individual patients, and that Medicare does not pay twice for the same component of a physician's service.

Under these proposed regulations, a carrier would determine payment for radiology services furnished in a provider using, where feasible, prevailing charge screens that reflect charges for similar services furnished in provider settings. In addition, under this proposal, physicians' charges for each radiology service furnished in a provider would be subject to a special test of reasonableness. This test would be a percentage of the prevailing charge for that service used for the office-based setting. Specifically, we are proposing to require that the reasonable charge determined for a physician radiology service furnished in a provider not exceed 40 percent of the prevailing charge established for the same procedure furnished in an office setting. We believe that this will assure that the payment level for radiology serices furnished in the provider is reasonable and related to the component of charges for services furnished in an office setting that is attributable to the physician's own services to individual patients.

This special test of reasonableness would not be applied to any services for which a prevailing charge for office-based services does not exist because the service is performed only in provider settings. Payment for these services would be made under the usual reasonable charge rules.

Our reasons for proposing a special test of reasonableness for radiology services in provider settings are as follows. Radiology, unlike most other specialties, can be practiced in provider or nonprovider settings. In some parts of the country, radiologists whose services in providers previously were reimbursed under combined billing (see section III.C. of this preamble for a discussion of combined billing) have recently begun to bill charges to the Medicare carriers for those services. In these cases, the charges billed for services in providers are equal to or greater than the charges for similar services in office settings.

This change in the manner of billing for radiology services in providers creates an anomaly that cannot be dealt with solely by establishing separate prevailing charge screens for services in providers and for office-based services. This is true because in cases where combined billing arrangements (which do not permit charges to be developed on a service-by-service basis) were used in the past, the carrier would not have any charges for services in providers that could be used to develop customary and prevailing charges for those services. The special test of reasonableness would provide an effective way of dealing with this problem.

In proposing this special test, we are relying on the broad statutory discretion to determine reasonable charges that is granted to the Secretary, and on our regulations at 42 CFR 405.502(a)(7), which authorize Medicare contractors to consider factors other than actual, customary, and prevailing charges in determining that charges are "inherently reasonable." In our opinion, the ineffectiveness of the usual reasonable charge rules in dealing with the special problems of payment for radiology services in providers makes it imperative that a special test of the reasonableness of payment for those services be applied.

We realize that specialists other than radiologists also bear lesser costs for services they furnish in a provider. To the extent that we are able to identify these situations in regard to other specialties, we expect to develop similar tests of reasonableness. At present, however, we have the greatest experience, and the greatest need to control expenditures, in regard to radiology services.

We particularly request comments, including reports of studies or other analyses, from radiologists and other physicians engaged in a similar practice, regarding reasonable charges for radiologists' services in both hospital and office settings, and the relative cost of nonphysician inputs in establishing office practice charges for radiology services.

Some, but not all, carriers have established prevailing charge screens that differentiate between hospital and non-hospital radiology practices. We conducted a survey of Medicare carriers who had established prevailing charges for similar radiology services both in hospital radiology practice and office radiology practice. For 10 commonly performed radiology procedures, we found that the ratio of the prevailing charge for the radiology service of the in-hospital radiology practice to the prevailing charge of the same service of the office radiology practice clustered in the 30 percent–50 percent range. Based on these results, we are proposing that a figure of 40 percent reasonably approximates the difference between the reasonable charges in the two different practice settings, and that this difference reflects the relative amounts of practice costs borne by physicians in each type of setting.

Although, in computing the Medicare economic index, we assume that the expenses of the physician's practice absorb approximately 40 percent of gross receipts of practice, we believe that, in relation to other office-based practices, radiology office practice costs represent a percentage of physician revenue substantially greater than 40 percent. This difference may be partially attributed to the cost of medical equipment for radiology practice. We

are aware, however, that some studies indicate that office-based radiology practice costs may approximate 40 percent, rather that 60 percent, of the office based radiology charges. Therefore, we are obtaining further information from the Medicare carriers regarding existing differences between specific prevailing charges they have developed in radiology services on provider and office settings. We will evaluate this information along with the comments and recommendations we receive on this issue, before a final rule is published.

We considered using a range of differing percentages to relate prevailing office-based charges to reasonable charges for separate categories of radiological procedures furnished in providers. Under that approach, the specific percentage for each procedure category would be based on estimates of the relative proportion of the charge for each procedure category that would represent the component of charges that is attributable to the physician's own services to an individual patient for each procedure. However, we currently do not have data that are adequate to enable us to make reasonable estimates for each category. In addition, an "across-the-board" percentage is significantly simpler for the carriers to implement and administer. Therefore, we are not now planning to use differing percentages.

Although we are not proposing the use of differing percentage of office-based charges for different categories of procedures, we wish to invite comments on whether use of a variable percentage methodology would improve the accuracy and reasonableness of payment for radiology services furnished in a provider, and on how the data needed to develop reasonable charge determination of this type could be obtained. We also wish to obtain comments on how a specific methodology for calculating variable percentage adjustments could be developed.

Under the proposed regulations, payment for services of radiologists that are performed in providers but do not qualify, for charge payment would be made to the provider on a reasonable cost basis. Allowable provider costs would include specific departmental activities of radiologists, such as work schedule planning, and quality control activities. For purposes of determining reimbursement on a reasonable cost basis, the allowable cost of these services would not be permitted to exceed the lower of the actual cost or a reasonable compensation equivalent, within limits we will set as discussed in section III. D.

G. *Special Rules on Payment for Laboratory Services Furnished in a Provider.* (1) *Differentiating Physician and Provider Services: Anatomical Pathology.* The laboratory services received by provider patients can be classified either as anatomical pathology services, or as clinical pathology services. Anatomical pathology generally requires examination of body tissue, fluid or cells by the pathologist (or another physician functioning in the capacity of a pathologist) or other direct participation by the pathologist in the performance of the service. Anatomical pathology services would generally fall in three subcategories:

- Histopathology (gross and microscopic examination of organ tissue or bone);
- Cytopathology (examination of fluid or cells, including cytogenetics, but excluding hematology); and
- Oral pathology.

Since anatomical pathology services are personally furnished for an individual by a physician, ordinarily require performance by a physician, are not frequently and consistently furnished by nonphysicians, and contribute to the diagnosis of an individual patient's condition, these services are classified under Medicare as physician services, and are paid for on a reasonable charge basis under Medicare Part B.

(2) *Differentiating Physician and Provider Services: Clinical Laboratory Services.* Clinical laboratory services include microbiological, serological, chemical, hematological, biophisical, cytological, immunohematological, and pathological examinations performed on material derived from the human body. These services are performed to provide information for the diagnosis, prevention, or treatment of a disease, or for assessment of a medical condition, and may be performed either in an independent laboratory or in a hospital laboratory. Most clinical laboratory services can be performed by nonphysicians, such as medical technologists, laboratory technicians or, in the case of some tests, by automated laboratory equipment, and do not require performance by a physician.

(3) *Implementation of Current Regulations.* To the extent that clinical laboratory services do not require performance by a physician, our current regulations, at 42 CFR 405.483(a), prohibit paying for them on a Part B reasonable charge basis. However, those regulations have not been implemented uniformly, and carriers in some areas have improperly paid Paid B reasonable charges to physicians for clinical pathology services to provider patients.

On March 11, 1980, we published a notice in the **Federal Register** (45 FR 15550) that announced that we would, effective July 1, 1980, resume uniform enforcement of the regulations at 42 CFR 405.483(a) with respect to hospital-based physicians, especially regarding payments to pathologists for clinical laboratory services. The intent of the notice was to preclude Part B reasonable charge payment to pathologists for clinical laboratory services furnished to provider patients, based on our understanding of the intended statutory and regulatory distinctions between physician services and hospital services.The College of American Pathologists, along with other group and individuals, filed a lawsuit in the U.S. District Court for the Eastern District of Arkansas, Western Division, challenging the effect of the March 11, 1980, notice. In June 1980, the court entered a preliminary injunction against the Department preventing implementation of the notice to deny reimbursement under Medicare Part B for a physician's professional component of clinical laboratory procedures until the issues raised in the lawsuit were decided. Following a request by HCFA for clarification of the preliminary injunction, a revised injunction was issued in November 1980. The revised injunction limited the scope of application of the original injunction to instances in which, prior to the court's preliminary injunction, a pathologist was receiving reimbursement under Part B of Medicare for a professional component of clinical pathology procedures, had received such reimbursement, or had applied to receive such reimbursement.

On October 6, 1981, HCFA published a notice in the **Federal Register** (45 FR 41635) withdrawing the March 11, 1980, notice so that the policies governing reimbursement for the services of hospital-based physicians could be reassessed through rulemaking (46 FR 49126). At the same time, HHS filed a motion with the U.S. District Court to dismiss the May 1980 suit. The lawsuit is still pending.

In regard to pathology services, the intent of the March 11, 1980 notice was to preclude Part B charge payment for all services in connection with clinical pathology services furnished to provider patients. We have reconsidered this position and we are now proposing to consider some clinical laboratory

services (that is, consultations and services performed by a pathologist in personal administration of test devices, isotopes, or other materials to an individual patient) to be physician laboratory services reimbursable under Part B. We now believe that these proposed regulations will better implement the basic statutory requirements.

(4) *Proposed Regulation Changes.* To resolve the controversy that now exists with respect to payment for pathology services, and to ensure that our policy on payment for these services is consistent with the Medicare law, we are proposing to revise our current regulations to specify that under certain conditions Medicare will pay Part B reasonable charges for some clinical laboratory services. The proposed rules governing payment for laboratory services would apply to all such services furnished in the provider, including, for example, a pulmonary function department. Under the regulations we are proposing, the carrier would pay for clinical laboratory services on a charge basis only if the services are personally furnished for an individual patient by a physician, ordinarily require performance by a physician, are not frequently and consistently furnished by non-physicians, and directly contribute to the diagnosis or treatment of an individual patient.

The proposed regulations list the following as physician laboratory services:

- Anatomical pathology services;
- Consultations (including those in connection with clinical laboratory services) that are requested by the patient's attending physician, relate to a test result that lies outside the normal range established by the laboratory, result in a written narrative report, and require the exercise of medical judgment by the pathologist; and
- Services performed by a pathologist in personal administration of test devices, isotopes, or other materials to an individual patient.

The last two items on this list include those clinical laboratory services that would meet our tests for payment on the basis of reasonable charges.

We believe that by applying these conditions, we will be able to appropriately identify all those laboratory services, including clinical laboratory services, that meet our definition of physician laboratory services payable on the basis of reasonable charges under Part B. Other clinical laboratory services furnished to provider patients would be covered as provider services, and paid for on a reasonable cost basis. The services of pathologists that benefit the provider, or its patients generally, would be classified as physician services to the provider, and paid for on a reasonable cost basis. Examples of these services include administration, teaching, quality control, and other services of physicians that do not meet the conditions for charge payment. The amount of payment would be subject to the limits discussed in section III. D.

We believe this approach will avoid inappropriate charge payment for services of pathologists, while also providing payment conditions that are consistent with sound fiscal administration and statutory intent. In particular, we believe our payment conditions are reasonable because they recognize that certain clinical laboratory services are personally furnished for an individual patient by a physician, ordinarily require performance by a physician, are not frequently and consistently performed by nonphysicians, and contribute to the diagnosis or treatment of individual patients.

IV. Changes in Billing Procedures

A. *Summary of Current Billing Methods.* The administrative problems attendant to physician reimbursement for services furnished in providers are partly due to the nature of the Medicare billing methods. The program allows for the use of three billing methods for these medical and surgical services. These billing methods are not interchangeable; rather, they are designed to accommodate specific circumstances. Two of these billing methods, the HCFA–1554 and HCFA–1490 (the latter recently replaced by the HCFA–1500) were introduced with the Medicare program's inception the other method, commonly called combined billing, uses the standard hospital inpatient and outpatient billing forms, (the HCFA–1453 and HCFA–1483, respectively) and was introduced subsequent to the 1967 amendments to the Medicare statute (Pub. L. 90–248, enacted January 2, 1968).

The HCFA–1500 is used when it is the practice of the provider or its physicians to identify specific charges for specific physician services. The HCFA–1500 (and its predecessor, the HCFA–1490) has been the most widely used billing method for radiology and anesthesiology service.

The HCFA–1554, "Provider Billing for Medical and Other Health Services", is used by some providers to bill for physician services when it is not the practice of the hospital or the physician to identify a separate charge for each physician service. Using the HCFA–1554, the Medicare compensation-related customary charge for the physician service can generally be computed in one of three ways: the per diem method, the uniform optional percentage method, or the item-by-item method. (See section 8017 of the *Medicare Carriers Manual,* HCFA Pub.-14.) Under the per diem method or the uniform optional percentage method, no specific physician service or its charge is identified; the identification occurs only under the item-by-item method. Upon receipt of the claim, the carrier simply checks the reported billed amounts with the physician compensation data on record and makes appropriate payments. The primary advantage of the HCFA–1554, from the viewpoint of the hospital, is that it accommodates the charges of physicians from various hospital departments. In other works, for a particular patient the hospital can list on the HCFA–1554 the charges of various ancillary service departments, such as radiology, cardiology, and laboratory.

Medicare recognition of billing in which provider and physician charges are combined using the HCFA–1453 and HCFA–1483, was encouraged by Pub. L. 90–248. Although physician and provider services must usually be billed separately, in order to facilitate payment from the correct trust fund and application of deductible and coinsurance requirements, under combined billing, the services and the charges of the provider and the physician are combined. Under section 131 of Pub. L. 90–248, the reimbursement rate for radiological or pathological services furnished to hospital inpatients by a physician in the field of radiology or pathology was set at 100 percent of the reasonable charges, as opposed to 80 percent under the original Medicare statute. Since there is no need in these cases to determine beneficiary liability for deductible and coinsurance amounts, the payments for these services are included on the provider's bill, and there is no identification of separate charges for physician services. Program guidelines permit the use of combined billing only where the departmental physicians are compensated by the hospital on a salary or a single uniform percentage of charges basis. The principal advantages of combined billing are that (1) it frees the hospital from having to compute charges for hospital-based physician services, and (2) billing for departmental services can be carried out through a single billing form.

B. *Elimination of HCFA–1554 Billing.* At the time of the 1967 amendments, it was the program's expectation that the

combined billing method would virtually eliminate the need for the use of HCFA–1554. The HCFA-1554 would be appropriate only where the hospital had a combined charge for the departmental service but combined billing was not possible (e.g., inpatient cardiology services). However, this form has also been inappropriately used to bill fees for services that are not related to compensation.

Under the proposed regulations, we plan to discontinue use of the HCFA-1554. Since the services billed for on this form are frequently not separately itmeized, use of the form severely restricts carriers ability to compare actual charges billed to the customer and prevailing charges for similar services in the locality. This has contributed to the payment problems described above. We believe use of the HCFA–1500 or HCFA–1453 (used for combined billing for inpatient radiology and pathology services) will enable carriers to evaluate more effectively the requests for payment they receive. In the case of all-inclusive-rate hospitals (which generally charge patients a single per diem rate that covers both physician and hospital services, and which, therefore, do not separate these costs on a patient-by-patient basis), we believe that the hospital cost report provides all information needed to determine payment accurately, and that elimination of HCFA–1554 billing will help reduce paperwork for both hospital and carriers.

V. Miscellaneous

A. *Reporting and Recordkeeping Requirements.* Sections 405.481, 405.522, and 405.553 of this proposed regulation contain information collection requirements that are subject to OMB review under section 3504(h) of the Paperwork Reduction Act of 1980 (Pub. L. 96–511). As required by the Act, we have submitted a copy of this proposed rule to OMB for their review of the information collection requirements. The specific information collection requirements contained in this proposed rule are:

1. A provider would be required to retain each allocation agreement, and the time records or other documentation on which the agreement was based, for a period of at least five years following the close of the cost reporting period to which the allocation applies. In addition, the provider would be required to report the physician's time allocation data to the intermediary or carrier on an annual basis.

2. In submitting a claim for payment, an anesthesiologist (or a physician functioning in the capacity of an anesthesiologist) would be required to indicate on the claim form: (i) Whether (and how many) other anesthesia services were furnished at the same time; and (ii) whether the anesthesia service was furnished by a CRNA employed by the physician.

3. Since we would eliminate the HCFA–1554 claim form, the services which would have been claimed on that form would have to be claimed on the HCFA–1500 or under combined billings using either the HCFA–1453 or HCFA–1483. Providers and physicians switching from the HCFA–1554 to combined billing would not experience any greater burden. However, the HCFA–1500 does required significantly greater information than the HCFA–1554, and physicians and providers may find the use of the HCFA–1500 more burdensome.

B. *Other Changes.* The following proposed regulations text includes minor changes not discussed in this preamble. These changes are not substantive. They concern mainly titles, coding, and authority citations, and are needed to conform these proposed rules to other amendments of the Medicare regulations that we plan to propose in separate **Federal Register** documents.

In addition to the substantive changes we are proposing in the following proposed regulations text, we are considering reorganizing these payment rules when we publish them in final. This may result in establishing a new subpart in which we could centralize all the rules for paying for services of physicians in providers and teaching hospitals.

C. *Public Comments.* Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to them in the preamble to that rule.

D. *Impact Analyses.* Appendix I, which is printed immediately following the text of the regulations we are proposing, sets forth our analyses of the projected impact and effect on small businesses of these proposed regulations.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

42 CFR Part 405 is proposed to be amended as set forth below:

1. The title of Subpart D is revised and the table of contents amended by revising §§ 405.480 through 405.482 and removing §§ 405.483 through 405.488, as follows:

Subpart D—Principles of Reimbursement for Providers, Outpatient Dialysis, and Services Furnished by Physicians in Institutional Providers

* * * * *

405.480 Payment for services of physicians to providers: General rules.
405.481 Allocation of physician compensation costs.
405.482 Limits on compensation for services of physicians in providers.

2. The authority citation for Subpart D is revised to read as follows:

Authority: Secs. 1102, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, 1886, and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395g, 1395l(a), 1395x(v), 1395hh, 1395rr, 1395ww, and 1395xx).

3. In Subpart D, §§405.480 through 405.482 are revised, and §§405.483 through 405.488 are removed, as follows:

Subpart D—Principles of Reimbursement for Providers, Outpatient Dialysis, and Services Furnished by Physicians in Institutional Providers

* * * * *

§ 405.480 Payment for services of physicians to providers: General rules.

(a) *Allowable costs.* Except as specified otherwise in §§ 405.426, 405.465, or 405.466, costs a provider incurs for services of physicians are allowable only if the following conditions are met:

(1) The services do not meet the conditions in § 405.550(b) regarding reasonable charge reimbursement for services of physicians to an individual patient of a provider;

(2) The services do not include physician availability and standby services (except for reasonable standby services furnished for emergency rooms);

(3) The provider has incurred a cost for salary or other compensation it furnished the physician for the services; and

(4) The costs incurred by the provider for the services meet the requirements in

§ 405.451 regarding costs related to patient care.

(b) *Allocation of costs.* In determining its costs of services that meet the conditions for payment in paragraph (a) of this section, the provider must follow the rules in § 405.481 regarding allocation of physician compensation costs.

(c) *Limits on allowable costs.* In determining its payments to a provider for the costs of services that meet the conditions for payment in paragraph (a) of this section, the intermediary must apply the limits on compensation set forth in § 405.482.

§ 405.481 Allocation of physician compensation costs.

(a) *Definition.* For purposes of this subpart, "physician compensation costs" means monetary payments, fringe benefits, deferred compensation and any other items of value (excluding office space related to treatment of private patients, or billing and collection services), a provider or other entity (such as a medical school or other organization related to the provider) furnishes a physician in return for the physician's services.

(b) *General rule on allocation of physician compensation costs.* Except as provided in paragraph (d) of this section, each provider that incurs physician compensation costs must allocate those costs, in proportion to the percentage of total time that is spent in furnishing each category of services, between:

(1) Physician services to the provider (as described in § 405.480);

(2) Physician services to patients (as described in § 405.550); and

(3) Activities of the physician, such as funded research, that are not reimbursable under either Part A or Part B or Medicare.

(c) *Allowable physicidn compensation costs.* Only costs allocated to reimbursable physician services to the provider (as described in § 405.480) are allowable costs to the provider under this subpart.

(d) *Attribution of compensation.* Generally, the total physician compensation received by a physician will be attributed to all services furnished by the physician, unless:

(1) The provider certifies that the compensation is attributable solely to the physician's services to the provider; and

(2) The physician bills all of his or her patients for the physician services he or she furnishes to those patients, and retains the payments for those services.

(e) *Presumptive allocation.* If the provider and physician agree to accept the presumptive allocation of all the physician's services to direct services to individual patients as described under § 405.550(b), a written allocation agreement is not required.

(f) *Determination and payment of allowable physician compensation costs.* (1) Except as provided under paragraph (e) of this section, the intermediary will reimburse the provider for these costs only if:

(i) The provider submits to the intermediary a written allocation agreement between the provider and the physician that specifies the respective amounts of time the physician spends in furnishing physician services to the provider, physician services to patients, and services that are not reimbursable under this part; and

(ii) The compensation is reasonable in terms of the time devoted to these services.

(2) In the absence of a written allocation agreement, the intermediary will assume, for purposes of determining reasonable costs of the provider, that 100 percent of the physician's compensation cost is allocated to services to patients as specified in paragraph (b)(2) of this section.

(g) *Recordkeeping requirements.* Except for services furnished in accordance with a presumptive allocation under paragraph (e) of this section, each provider that claims payment for services of physicians under this subpart must:

(1) Maintain the time records or other information it used to allocate physician compensation in a form that permits the information to be validated by the intermediary or the carrier;

(2) Report the information on which the physician compensation allocation is based to the intermediry or the carrier on an annual basis; and

(3) Retain each physician compensation allocation, and the information on which it is based, for at least five years after the end of each cost reporting period to which the allocation applies.

§ 405.482 Limits on compensation for services of physicians in providers.

(a) *Compensation to be limited.* HCFA will establish limits on the amount of compensation, paid to physicians by providers, that will be recognized as reasonable in determining the amount of reimbursement for both physician services to providers, as described in § 405.480(a), and physician services to individual patients, as described in § 405.550(b). Compensation that a physician receives for activities that are not reimbursable under Medicare will not be considered in applying these limits.

(b) *Methodology for establishing limits.* HCFA will establish a methodology for determining reasonable annual compensation equivalents, considering average physician incomes by specialty and type of location, to the extent possible using the best available data.

(c) *Application of limits.* If the level of compensation exceeds the limits established under paragraph (b) of this section, Medicare payment will be based on the level established by the limits.

(d) *Exception to limits.* An intermediary may grant a provider an exception to the limits established under paragraph (b) of this section only if the provider can demonstrate to the intermediary that it is unable to recruit or maintain an adequate number of physicians at a compensation level within those limits.

(e) *Notification of changes in methodologies and payment limits.* (1) Before the start of a cost reporting period to which limits established under this section will be applied, HCFA will publish a notice in the **Federal Register** that sets forth the amout of the limits and explains how the limits were calculated.

(2) If HCFA proposes to revise the methodology by which payment limits under this section are established, HCFA will publish a notice to that effect in the **Federal Register**. The notice will explain the proposed basis for setting limits, specify the limits that would result, and state the date of implementation of the limits.

(3) Changes in limits resulting from application of economic index data without revision of the limit methodology will be published in a notice in the **Federal Register** without prior publication of a proposal or public comment period.

4. The table of contents of Subpart E is amended by adding new §§ 405.550–405.557, and a center heading immediately preceding them, as follows:

Subpart E—Criteria for Determination of Reasonable Charges; Reimbursement for Services of Hospital Interns, Residents, and Supervisory Physicians

* * * * *

Services of Physicians in Providers

405.550 Conditions for payment of charges for physician services to patients in providers: General provisions.
405.551 Reasonable charges for physician services in providers: General provisions.
405.552 Conditions for payment of charges: Concurrent anesthesiology services.

405.553 Reasonable charges for anesthesiology services.
405.554 Conditions for payment of charges: Radiology services.
405.555 Reasonable charges for radiology services.
405.556 Conditions for payment of charges: Physician laboratory services.
405.557 Reasonable charges for physician laboratory services.

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5. The authority citation for subpart E is revised to read as follows:

Authority: Secs. 1102, 1832, 1833(a), 1842(b), 1861(b), 1871, 1881, and 1887 of the Social Security Act, as amended (42 U.S.C. 1302, 1395k, 1395l(a), 1395u(b), 1395x(b), 1395hh, 1395rr and 1395xx).

6. In Subpart E, §§ 405.550 through 405.557, and a center heading immediately preceding them, are added to read as follows:

* * * * *

Services of Physicians in Providers

§ 405.550 Conditions for payment of charges for physician services to patients in providers: General provisions.

(a) *Scope.* This section implements section 1887(a)(1) of the Act by providing general conditions that must be met in order for services furnished by physicians in providers to be paid for on the basis of reasonable charges under this subpart. Section 405.551 sets forth general requirements for determining the amounts of payment for services that meet the conditions of this section. Sections 405.552 through 405.557 set forth additional conditions for payment and rules for determining reasonable charges for physician services in the specialties of anesthesiology, radiology, and pathology (laboratory services).

(b) *Conditions for payment for services of physicians to provider patients.* The carrier will pay for services of physicians to patients of providers on a reasonable charge basis only if the following requirements are met:

(1) The services are personally furnished for an individual patient by a physician;

(2) The services ordinarily require performance by a physician, and are not frequently and consistently furnished by nonphysicians;

(3) The services must contribute directly to the diagnosis or treatment of an individual patient; and

(4) In the case of anesthesiology, radiology, or laboratory services, the additional requirements in §§ 405.552, 405.554, or 405.556 must be met.

(c) *Services of physicians to providers.* If a physician furnishes services in a provider that do not meet the requirements in paragraph (b) of this section but are related to the provision of patient care by the provider, the intermediary will pay for those services under the rules in §§ 405.480 and 405.481 on reasonable cost payment for physician services to providers.

(d) *Effect of billing charges for physician services to a provider.*

(1) If services performed by a physician are paid for under the reasonable cost rules in §§ 405.480 and 405.481, neither the provider nor physician may seek charge payment from the carrier, beneficiary, or another insurer.

(2) The carrier will not pay on a reasonable charge basis for services furnished by a physician to an individual patient, that do not meet the conditions in §§ 405.552, 405.554, and 405.556.

(3) If the physician, the provider, or another entity bills the carrier or the beneficiary for physician services to the provider, as described in section § 405.480(a), the provider in which and to which the services were furnished will be considered to have violated its provider participation agreement, and that agreement may be terminated. See Part 489 of this chapter for rules governing provider agreements.

(e) *Effect of physician's assumption of operating costs.* If a physician or other entity enters into an arrangement (such as a lease or concession) with a provider, under which the physician (or entity) assumes some or all of the operating costs of the provider department in which the physician furnishes physician services in the provider, the following rules will apply:

(1) The carrier will make reasonable charge payments only for a physician's services to an individual patient.

(2) The intermediary will reimburse the provider, to the extent the provider incurs a cost, on a reasonable cost basis for the costs associated with producing these services, including overhead, supply, and equipment costs, and the costs of employing nonphysician personnel.

(3) The physician (or other entity) will make its books and records available to the provider and the intermediary.

§ 405.551 Reasonable charges for physician services in providers: General provisions.

(a) *Scope.* The carrier will determine reasonable charges for physician services to patients in providers in accordance with the general rules governing reasonable charge payment in §§ 405.501 through 405.508, except as provided in the following paragraphs of this section.

(b) *Teaching hospitals.* In determining the amount of payment for physician services to patients in a teaching hospital, the carrier will also apply the rules in § 405.521.

(c) *Customary and prevailing charges for physician services in provider settings.*

(1) The carrier will calculate customary and prevailing charges for physician services furnished to individual patients in providers, in accordance with the general rules in §§ 405.501 through 405.508, separating, when appropriate, charges for physician services furnished in provider-based practices and physician services furnished in office-based practices.

(2) The carrier will apply the appropriate prevailing charge screens in determining reasonable charges for physician services, considering the setting.

(d) *Compensation-related charges.*

(1) In developing customary charges for physician services furnished in providers by physicians compensated by the provider for those services, the carrier will establish a schedule of charges related to that part of the physician's compensation that is allocated to physician services to patients under § 405.481.

(2) In determining the amount of compensation to be considered in computing compensation-related charges, the carrier will apply the limits established under § 405.482.

(3) The carrier will develop compensation-related charges on an item-by-item basis, considering the frequency with which the various services are furnished, and the relative values assigned to each service in a relative value study.

(4) The intermediary may pay the provider, for a physician's services to an individual patient, on the basis of a per diem, per visit, or other time-related rate, subject to the limits established under § 405.482, if the provider, or the particular department in which the services are furnished, has a uniform all-inclusive rate for services to patients.

(5) The intermediary may pay the provider for radiology, laboratory, or outpatient services furnished by a physician to an individual patient on the basis of a single uniform percentage of charges, subject to the limits established under § 405.482, if all physician services furnished in the particular department are paid on the same percentage basis.

(e) *Change of agreements.* If a physician who has been compensated by or through a provider (or other entity)

for physician services to patients ends his or her compensation agreement and instead bills all patients, or their insurers, directly for his or her services, the carrier will determine the physician's customary charges on the basis of the former compensation agreement until the carrier has accumulated charge data from at least 3 months of the calendar year preceding the annual reasonable charge update.

(f) *Rules for certain specialities.* In determining the amount of payment for anesthesiology or radiology services furnished by a physician to an individual patient, the carrier will apply the rules in this section and in §§ 405.553 and 405.555 in addition to the general rules governing reasonable charges at §§ 405.501 through 405.508.

§ 405.552 Conditions for payment of charges: Concurrent anesthesiology services.

(a) *Direction of concurrent procedures.* The carrier will reimburse a Physician for concurrent anesthesiology services furnished to patients in a provider on a reasonable charge basis only if the services meet the conditions for reasonable charge payment in § 405.550(b) and the following additional conditions are met:

(1) For each patient, the physician—

(i) Performs a pre-anesthetic examination and evaluation;

(ii) Prescribes the anesthesia plan;

(iii) Personally participates in the most demanding procedures in the anesthesia plan, including induction and emergence;

(iv) Ensures that any procedures in the anethesia plan that he or she does not perform are performed by a qualified individual;

(v) Monitors the course of anesthesia administration at frequent intervals;

(vi) Remains physically present and available for immediate diagnosis and treatment of emergencies; and

(vii) Provides indicated postanesthesia care.

(2) The physician directs no more than two anesthesia procedures concurrently, and does not perform any other services while he or she is directing the concurrent procedures.

(b) *Supervision of more than two procedures concurrently.* If the conditions in paragraph (a)(1) of this section are met but the physician is involved in furnishing more than two procedures concurrently, the concurrent anesthesia services are physician services to the provider in which the procedures are performed. In these cases, the intermediary will pay for the services under the rules in §§ 405.480 and 405.481 on reasonable cost payment for physician services to providers.

§ 405.553 Reasonable charges for anesthesiology services.

(a) *General rule.*

In determining reasonable charge payment for anesthesiology services that meet the conditions in § 405.552(a), the carrier will follow the rules in paragraph (b) or (c) of this section.

(b) *Anesthetist employed by anesthesiologist.* If the anesthetist who administers anesthesia under the direction of the anesthesiologist is employed by the anesthesiologist, the carrier will determine the amount of payment for the services under the reasonable charge rules for physician services in providers in § 405.551 and the general reasonable charge rules in §§ 405.501 through 405.508. In determining reasonable charges for these anesthesia services, the carrier will allow for no more than one time unit for each 15 minute interval, or fraction thereof, beginning from the time the anesthetist begins to prepare the patient for induction of anesthesia, and ending when the patient may be safely placed under post-operative supervision and the anesthetist is no longer in personal attendance.

(c) Anesthetist not employed by anesthesiologist. If the anethestist who administers anesthesia under the direction of the anesthesiologist is not employed by the anesthesiologist, the carrier will determine reasonable charges for the services by allowing no more than one time unit for each 30 minute interval, or fraction thereof, beginning from the time the anesthetist begins to prepare the patient for induction of anesthesia, and ending when the patient may be safely placed under post-operative supervision and the anesthetist is no longer in personal attendance.

§ 405.554 Conditions for payment of charges: Radiology services.

(a) *Services to patients.* The carrier will reimburse radiology services furnished by a physician to an individual inpatient on a reasonable charge basis only if the services meet the conditions for reasonable charge payment in § 405.550(b) and are identifiable, direct, and discrete diagnostic or therapeutic services to an individual patient, such as interpretation of X-ray plates, angiograms, myelograms, pyelograms, or ultrasound procedures.

(b) *Services to providers.* The carrier will not pay on a reasonable charge basis for physician services to the provider (for example, administrative or supervisory services) or for provider services needed to produce the X-ray plate or other item that is interpreted by the radiologist. However, allowable costs for such services will be paid to the provider by the intermediary. (See § 405.480 for provider costs, and § 405.551(e)(2) for costs borne by a physician, such as under a lease or concession arrangement.)

§ 405.555 Reasonable charges for radiology services.

(a) *General rules.* In determining payment for radiology services that meet the conditions for payment of charges in § 405.554, the carrier will follow the rules in paragraph (b) or (c) of this section.

(b) *Services not furnished in providers.* If the services are furnished in a radiologist's office, a freestanding radiology clinic, or any other setting that is not part of a provider, the carrier must determine the amount of payment for the services under the general reasonable charge rules in §§ 405.501 through 405.508.

(c) *Services furnished in providers.* If the services are furnished in a hospital radiology department or any other setting that is part of a provider, the following rules apply:

(1) The carrier must determine the amount of payment under the reasonable charge rules for physician services in providers in § 405.551 and the general reasonable charge rules in §§ 405.501 through 405.508.

(2) The carrier may not reimburse a physician for a radiology service furnished in a provider an amount that exceeds 40 percent of the prevailing charge for a similar service furnished in a nonprovider setting.

§ 405.556 Conditions for payment of charges: Physician laboratory services.

(a) *Physician laboratory services.* The carrier will reimburse laboratory services furnished to an individual inpatient by a physician on a reasonable charge basis only if the services meet the conditions for reasonable charge payment in § 405.550(b) and are—

(1) Anatomical pathology services;

(2) Consultative pathology services that meet the requirements in paragraph (b) of this section; or

(3) Services performed by a physician in personal administration of test devices, isotopes, or other materials to an individual patient.

(b) *Consultative pathology services.* For purposes of this section, consultative pathology services must—

(1) Be requested by the patient's attending physician;

(2) Relate to a test result that lies outside the normal range established by the laboratory;

(3) Result in a written narrative report for inclusion in the patient's medical record; and

(4) Require the exercise of medical judgment by the consultant physician.

§ 405.557 Reasonable charges for physician laboratory services.

The carrier will reimburse a physician for laboratory services that meet the conditions for reasonable charge payment in § 405.556(a) under the reasonable charge rules for physician services in providers in § 405.551 and the general reasonable charges rules in §§ 405.501 through 405.508.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance Program; No. 13.774, Medicare-Supplementary Medical Insurance Program)

Dated: September 13, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 27, 1982.

Richard S. Schweiker,

Secretary.

Appendix I—Regulatory Impact Analysis and Regulatory Flexibility Analysis

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I. Introduction/Summary

The following analysis examines the expected effect of these proposed rules. It considers the reductions in projected program expenditures, the benefits and costs experienced by affected parties, and the impact on small businesses. In addition, we describe several possible alternative means of accomplishing the objectives of the proposal.

We believe that physicians furnishing radiology, anesthesiology, and pathology services would be the most heavily affected by the implementation of this proposal. However, Medicare institutional providers (that is, hospitals, and skilled nursing facilities) and other physicians who are compensated by or through those providers would also be affected.

The aggregated projected effects of the provisions discussed in this analysis are as follows (Note that the fiscal year 1983 estimates are based on a January 1, 1983 implementation date, and that all estimates are rounded to the nearest $5 million.):

PATHOLOGY, RADIOLOGY, AND ANESTHESIOLOGY SERVICE PROJECTED CHANGE IN EXPENDITURES

(In millions)

Fiscal year	Part A	Part B	Net savings
1983	$165	−$230	−$50
1984	305	−385	−80
1985	375	−475	−100
1986	430	−540	−110
1987	485	−610	−125

These figures do not include the effect of the RCE limits on physicians other than those furnishing pathology, radiology, and anesthesiology services, since we do not have adequate data on their current compensation by hospitals.

In addition to the projected reductions in program expenditures, the proposed regulations would generate an estimated $31 million per year reduction in claims processing costs. Assuming a January 1, 1983 implementation date, this would yield administrative savings in fiscal year 1983 of approximately $23 million, resulting in total fiscal year 1983 savings of $73 million.

Our analysis projects that the benefits of these proposed regulations will exceed their costs. Further, our analysis indicates that the projected effect of these regulations on physicians and institutional providers is not significant, considering the size of revenue reductions relative to their total revenues.

II. Purpose of Analysis

A. Executive Order 12291

Executive order 12291 requires that a regulatory impact analysis be performed on any major rule. A "major rule" is defined as one which would:

- Result in annual effect on the national economy of $100 million or more;
- Result in a major increase in costs or prices for consumers, any industries any governmental agencies, or any geographic regions; or
- Have significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act requires that a regulatory flexibility analysis be prepared unless the proposed regulation would not have a significant impact on a substantial number of small entities. For purposes of the Regulatory Flexibility Act, small entities are:

- Small businesses, defined as small business concerns under the Small Business Act;
- Small organizations, defined as not-for-profit enterprises which are independently owned and operated and not dominate in their field; or,
- Small governmental jurisdictions, which are defined as jurisdictions of less than fifty thousand population.

C. Discussion

We do not believe these proposed regulations would have effects in FY 1983 that would meet the criteria for determining that an impact or regulatory flexibility analysis is required. However, these proposals would affect program expenditures for physicians' services which currently exceed $1.5 billion per year, and our projections do show that implementation of these provisions could produce annual program savings of $100 million by FY 1985. Since it is difficult to estimate the exact effects of these proposed regulations, we have prepared this analysis. We welcome public comments on this issue, as well as on any other aspects of this analysis.

III. Nature of Problem

Studies have shown that some physicians who provide services to hospitals or hospital patients receive very high compensation relative to the value of the services provided or the income received by other physicians.

For example, a September 24, 1980 report by the Office of the Inspector General (Audit Control No. 06-02001) states that:

- Average fiscal year 1978 compensation per full-time equivalent radiologist in one Louisiana hospital reached $306,602.
- Average cost of compensation to pathologists in audited hospitals per patient day in fiscal year 1978 ranged from $2.72 to $13.15.
- At some hospitals, over a two-year period, compensation to pathologists increased by 102 percent, compensation to radiologists 74 percent and compensation to anesthesiologists by 111 percent.

The report concluded that: "There were extreme variations in the amounts of compensation paid hospital-based specialists at hospitals of similar size, type, and location.

While some of these variations may be explained by differences in the scope of services rendered and the intensity of care, our analysis showed that most of the variations are the result of the widely differing compensation agreements."

In a HCFA working paper, "A Methodology for Determination of Reasonable FTE Compensation for Hospital-Based Physicians" (#OR–32; January 1982) Cantwell and Sobaski projected annual compensation in 1982 for physicians in metropolitan areas over 1,000,000 population, based on American Medical Association data. (See Table I in the preamble of these proposed regulations.) The mean projected compensation for all physicians was $96,900. However, anesthesiologists' mean compensation was $109,500; pathologists' mean compensation was $114,800; and radiologists' mean compensation was $123,200. The only other specialties with mean compensation higher than the mean for all physicians were surgery at $113,700 and ob-gyn at $107,400.

We believe that there are several factors which account for the relatively high compensation for physicians who provide services to hospitals and hospital patients:

(1) There are barriers to competition. Hospitals that compensate physicians have little incentive to constrain the costs of this compensation, since retrospective cost reimbursement covers the portions of those costs attributable to services furnished to Medicare beneficiaries.

(2) There is a trend among physicians whose practices are based in hospitals to bill on a fee-for-service basis, instead of seeking compensation through the hospital under salary and percentage compensation arrangements. Regardless of the method of billing or compensation, hospitals often pay much of the overhead and equipment costs associated with the services of physicians providing services in hospitals. Many of these physicians charge fees lower than those of physicians providing services in offices, whose revenue from charges must cover overhead and equipment costs. However, not all of the savings associated with lower overhead are passed along to the consumer.

(3) Physicians providing services in hospitals provide services to hospitals as well as to patients, such as administrative and quality control activities. Other examples of such services would include pathologists who supervise the performance of routine laboratory tests and anesthesiologists who supervise the administration of anesthesia by certified registered nurse anesthetists. This contributes to two problems. First, under Medicare, physicians' services to individual patients must be paid for on the basis of reasonable charges, while physicians' services to hospitals must be paid for on a reasonable cost basis. Therefore, even when a hospital and a physician view the physician's compensation as a whole, for purposes of Medicare reimbursement, we need to have an adequate mechanism for allocating this compensation to different types of services. Second, our experience shows that there have been many instances in which services furnished by hospital personnel have been billed for as physicians' services, as if a supervising physician had furnished the services personally. As a result, we may be paying for these services twice: once to the hospital for the costs of the technical personnel and other inputs involved in producing the services, and a second time to the supervising physician. To prevent such duplicate payments in these cases, all payment should flow through the hospital.

(4) Because physicians compensated by hospitals may use three different billing methods, it is administratively difficult to determine their prevailing charges, and to determine whether charges are reasonable.

IV. Proposed Regulations

The proposed regulations would deal with the problem of excessive and duplicate compensation to physicians providing services in hospitals by making some fundamental changes in reimbursement for their services. (The regulations would also apply to services provided by physicians in skilled nursing facilities. Although this would assure consistency in reimbursement principles for both types of institutions, we are not aware at this time of problems in physician compensation practices in skilled nursing facilities. Therefore, we are limiting our analysis to physicians providing services in hospitals.)

These proposed regulations would:

- Establish prospective reasonable compensation equivalent (RCE) limits, adjusted by specialty and location, on the amount of physician compensation we would consider reasonable in determining Medicare payments for physician services to both providers and individual patients. (We would allow exceptions to the compensation limits for providers unable to recruit physicians at a cost below the established limit levels.)
- Establish specific conditions for services performed by physicians to be considered services to individual patients (as opposed to services to hospitals), which may be paid on a charge basis, as well as rules for determining the amounts of reasonable charge payments for certain specialized medical services, as follows:

—Radiology services—apply a special test of reasonableness to physicians' charges to account for the differences between services furnished in offices, where the physician incurs overhead costs, and services furnished in a provider, where the provider bears much of those costs.

—Anesthesiology services—allow reasonable charge payment for a physician's service only when the physician directs no more than two concurrent anesthesia procedures; adjust reasonable charges when services are furnished by a nurse anesthetist employed by the provider.

—Pathology services—specify those pathology services that are considered to meet the conditions for reasonable charge payment as "physicians' services", excluding clinical laboratory services that do not require performance by a physician in person.

—Other services—provide that when physician services are furnished through a leased department, only "physicians' services" may be paid for on a reasonable charge basis, and that the costs of the nonphysician inputs must be paid through the provider on a reasonable cost basis.

- Eliminate a billing form (HCFA 1554), used by providers to bill for physicians' services, which does not permit carriers to separately identfy those services appropriately paid on a charge basis, in order to make the comparisons necessary in determining reasonable charges.

V. Benefits and Costs of Provisions Affecting Pathology Services

A. Introduction

Some pathologists are now paid a salary or other aggregate compensation by hospitals. This salary or aggregate compensation may include payment for services to individual patients and for services benefiting the hospital. With the physician's authorization, the hospital may use combined billing. Under this billing method, the hospital bills the intermediary a single charge for departmental services which does not differentiate the physician's services to patients from hospital services.

Alternatively, the hospital may submit bills for physician services to patients to the carrier and bills for hospital services to the intermediary. Pathologists not paid a salary or other aggregate compensation for their services to individual patients may bill the carrier or the beneficiary directly for those services if they are physicians' services reimbursable on a charge basis.

Some pathologists have been billing a physician's fee (usually a small amount) for clinical laboratory services that seldom actually require personal performance by a physician. The customary practice has been to charge these relatively small amounts for all such services, instead of charging a single larger amount only in those instances in which physician involvement is actually required. The proposed regulations would make it clear that this practice violates our rules, and would specify when it would be allowable for a physician to charge for clinical laboratory services.

B. Benefits and Costs

1. *Benefits.* a. The proposed regulations would result in most of a hospital's clinical laboratory services being reimbursed as hospital services on a reasonable cost basis from the Part A trust fund. This would reduce the reimbursement to pathologists on the basis of charges, while increasing reimbursement to providers on a cost basis. (However, reimbursement for hospitals' costs of compensating pathologists for furnishing these provider services would be subject to RCE limits.) For purposes of estimating the program savings resulting from these provisions, we have assumed that roughly 50 percent of the reimbursement for pathology services currently billed as charges on a HCFA–1500 or HCFA–1554 would be shifted to cost reimbursement. We also assumed that roughly 50 percent of the amounts reimbursed through combined billing arrangements would be shifted from Part B charge payment to Part A cost reimbursement.

b. The proposed regulations also would limit Federal reimbursement to hospitals for the costs of pathologists' compensation. The Federal savings related to hospitals in which pathologists are now receiving salary or other

aggregate compensation would be the difference, if any, between the total hospital compensation to pathologists and the appropriate RCE limits as set by these regulations, times the proportion of Medicare patients in the hospital. For purposes of estimating savings, we have assumed that these provisions would reduce by ten percent the amounts reimbursed to hospitals for the costs of pathologist compensation.

c. Federal savings described in the two preceding paragraphs would be reduced to the extent that hospital pathologists direct hospital business to independent laboratories (with which they may be associated), thereby decreasing the services performed in hospitals which would be subject to these provisions. We have no data on which to base a quantitiative estimate of these effects.

d. These regulations, by requiring reimbursement to hospitals on a cost basis for many pathologists' services, instead of by separate claims submitted to Medicare, would reduce Federal costs to process these claims.

2. *Costs.* a. We believe the primary effect of these regulations would be to reduce the compensation that some pathologists would otherwise be paid by hospitals. However, to the extent that a hospital chooses to compensate pathologists more than the applicable RCE limits set by these regulations, revenues of the hospital would be reduced instead. The total revenue reduction for pathologists and hospitals combined would be an amount identical to the Federal savings described in paragraphs 1.a. and 1.b. above.

b. Carriers would have a first-year cost of $7–10 per pathologist to develop the necessary new screens to enable them to determine reasonable charges for those clinical laboratory and consultation services reimbursable on a charge basis.

C. Discussion

Of all hospital-based physicians, pathologists are now most likely to be paid a salary or other aggregate compensation. Further, our proposed regulations would classify the majority of pathology services as services to hospitals, rather than services to patients. Therefore, nearly all pathology services would be subject to the limits to be set under these proposed regulations. According to American Medical Association (AMA) data, there are approximately 11,000 hospital-based pathologists. HCFA's actuaries project total Medicare reimbursement to pathologists and radiologists. Using AMA data regarding the relative number of pathologists and radiologists and Cantwell's estimate that pathologists average 93 percent of the income of radiologists, we estimate that Medicare pays approximately $440 million annually for the services of hospital-based pathologists.

We project that these proposed regulations would have the following effects on program expenditures for pathology services furnished in providers (Note that the fiscal year 1983 estimates are based on a January 1, 1983 implementation date, and that all estimates are rounded to the nearest $5 million.):

PATHOLOGY SERVICES, PROJECTED CHANGE IN EXPENDITURES

[In millions]

Fiscal year	Part A	Part B	Net savings
1983	$85	−$100	−$15
1984	135	−160	−25
1985	165	−200	−35
1986	190	−225	−35
1987	215	−250	−35

These program savings will be reflected in a corresponding reduction in physician revenues from pathology services. However, we believe that most physicians will not be significantly affected. We project that the average fiscal year 1984 net income for pathologists will be $135,700. Based on projected program savings, we estimate that these proposed regulations would reduce the average pathologist's income by only 1.7 percent. We expect that the small proportion of very high-earning pathologists may be most strongly affected, and that many physicians of average or lower income will experience no revenue reductions.

We also estimate that HCFA now receives approximately 15 million pathology claims annually and that it costs HCFA approximately $31 million annually to process these claims. Elimination of these claims, and the cost of processing them, is a benefit without any off-setting cost.

We further estimate that it will cost less than $100,000 to develop prevailing charge screens. These screens are necessary to eliminate the possibility that pathologists would seek to recover revenue lost in other areas by charging excessive amounts for clinical laboratory and consultation services that these regulations would establish as reimbursable on a charge basis.

VI. Benefits and Costs of Provisions Affecting Radiology Services

A. Introduction

Some radiologists are now paid a salary or other aggregate compensation by hospitals. This salary or aggregate compensation may include payment for services to patients and for services benefiting the hospital. With the physician's authorization, the hospital may use combined billing. Under this billing method, the hospital bills the intermediary a single charge which does not differentiate physician services to patients from hospital services. Alternatively, the hospital may submit bills for physician services to individual patients to the carrier and bills for hospital services to the intermediary. Radiologists not paid a salary or other aggregate compensation for their services to patients bill the carrier directly for these services.

B. Benefits and Costs

1. *Benefits.* a. These proposed regulations would reduce Federal reimbursement on a charge basis for radiology services furnished to individual patients in a provider setting. For radiologists using fee-for-service billing, the Federal savings with respect to any radiologist's service would be the difference, if any, between the radiologist's actual charge and 40 percent of the prevailing charge for the same procedure in an office setting.

b. The proposed regulations would also limit Federal reimbursement to hospitals for the costs of radiologists' compensation. The Federal savings related to hospitals in which radiologists are now receiving salary or other aggregate compensation would be the difference, if any, between the total hospital compensation to radiologists and the appropriate RCE limits set by these regulations, times the proportion of Medicare patients in the hospital. For purposes of estimating savings, we have assumed that this provision would reduce by ten percent the amounts reimbursed to hospitals for the costs of radiologist compensation.

c. Federal savings described in the previous paragraph would be affected to the extent that radiologists moved to fee-for-service billing for Part B services. We assumed for purposes of estimating savings that 5 percent of radiology services now paid for under combined billing arrangements would shift to a fee-for-service basis, and that the 40 percent screen would reduce reasonable charge payments by 11 percent. This would create an incentive for radiologists to establish compensation arrangements with hospitals.

2. *Costs.* a. The regulation may reduce revenues of radiologists by an amount identical to the Federal savings described in paragraph 1.a. above.

b. We believe that the proposed regulations would reduce the compensation that some radiologists would otherwise be paid by hospitals. However, to the extent that a hospital chooses to compensate anesthesiologists more than the applicable RCE limits set by these regulations, revenues of the hospital would be reduced instead. The total reduction of revenues of hospitals and radiologists would be an amount similar to the Federal savings described in paragraph 1.b. above.

C. Discussion

Radiologists generally use fee-for-service billing rather than be paid a salary or other aggregate compensation. We believe the RCE limits set by these proposed regulations may increase the incentives for some radiologists now receiving a salary or aggregate compensation to change to fee-for-service billing. However, salaried radiologists generally receive less income than radiologists paid on another basis. Further, physician services to hospitals will be subject to the limits set by this regulation regardless of the method of compensation. Therefore, we expect the majority of the Federal savings achieved by this regulation to result from limiting the reasonable charge for radiology services furnished in hospitals to 40 percent of the prevailing charge for similar services furnished in an office setting.

According to AMA data, there are approximately 10,650 hospital-based radiologists. HCFA's actuaries project total reimbursement to pathologists and radiologists for inpatient services. Using AMA data regarding the relative number of pathologists and radiologists and Cantwell's estimate that pathologists average 93 percent

of the income of radiologists, we estimate that Medicare pays approximately $467 million annually for the services of hospital-based radiologists.

We project that these proposed regulations would have the following effects on program expenditures for radiology services furnished in providers. (Note that the fiscal year 1983 estimates are based on a January 1, 1983 implementation date, and that all estimates are rounded to the nearest $5 million):

RADIOLOGY SERVICES PROJECTED CHANGE IN EXPENDITURES

[In millions]

Fiscal year	Part A	Part B	Net savings
1983	$30	−$35	−$5
1984	55	−65	−10
1985	70	−80	−10
1986	80	−95	−15
1987	90	−105	−15

These program savings may be reflected in a corresponding reduction in physician revenues from radiology services. However, we believe that most physicians will not be significantly affected. We project that the average fiscal year 1984 net income for radiologists will be $146,000. Based on projected program savings, we estimate that these proposed regulations would reduce the average radiologist's income by only 0.6 percent. We expect that the small proportion of very high-earning radiologists will be most strongly affected, and that many physicians of average or lower income will experience no revenue reductions.

VII. Benefits and Costs of Provisions Affecting Anesthesiology Services

A. Introduction

Some anesthesiologists are now paid a salary or other aggregate compensation by hospitals. Other anesthesiologists bill patients on a fee-for-service basis.

B. Benefits and Costs

1. *Benefits.* a. The proposed regulations would reduce Federal reimbursement for many anesthesiology services furnished to patients by CRNAs under the direction or supervision of a physician. More than two concurrent services would no longer be reimbursable on a charge basis, shifting payment for these services to a Part A cost basis, subject to applicable RCE limits. The Federal savings would be the difference, if any, between the total amount paid on a fee-for-service basis and the aggregate RCE limits set by this regulation, times the proportion of Medicare patients in the hospital. In estimating savings, we have assumed that this will result in 20 percent of the reimbursement for anesthesia services being shifted to reimbursement through the hospital on a Part A cost basis.

b. For any procedure billed on a fee-for-service basis in which the anesthesiologists supervised a nurse anesthetist employed by a hospital, the Federal savings, if any, would be the difference between the anesthesiologist's fee and the fee which would have been charged if each time unit used to construct the charge represented each half-hour, or fraction thereof, of duration of the procedure. (Each time unit would generally represent 15 minutes without this regulation.) In estimating savings, we have assumed that this provision would reduce total inpatient anesthesiology reimbursement by 5 percent.

c. The proposed regulations would limit Federal reimbursement to hospitals for the costs of anesthesiologists' compensation. The Federal savings related to hospitals in which anesthesiologists are now receiving a salary or other aggregate compensation, would be the difference, if any, between the total hospital compensation to anesthesiologists and the appropriate RCE limits set by these regulations, times the proportion of Medicare patients in the hospital. For purposes of estimating savings, we have assumed that this provision would reduce by ten percent the amounts reimbursed to hospitals for the costs of anesthesiologist compensation.

d. To the extent that anesthesiologists continue to supervise more than two procedures concurrently, beneficiaries will have reduced copayments, since Medicare pays 100 percent of the cost of hospital services but only 80 percent of the charge for physician services.

e. To the extent that anesthesiologists do not continue to supervise more than two procedures concurrently, patient anesthesia risk will be reduced to the more intensive professional supervision of the procedure.

2. *Costs.* a. The proposed regulations may reduce revenues of anesthesiologists by an amount equal to the Federal savings described in paragraphs 1.a. and b. above.

b. We believe that the proposed regulations would reduce the compensation that some anesthesiologists would otherwise be paid by hospitals. However, to the extent that a hospital chooses to compensate anesthesiologists more than the applicable RCE limits set by these regulations, revenues of the hospital would be reduced instead. The total reduction of revenues of hospitals and anesthesiologists would be an amount similar to the Federal savings described above in paragraph 1.c.

c. The regulations would increase Federal costs by an amount equal to the reduction in beneficiary copayment described in paragraph 1.d. above.

d. To the extent that anesthesiologists do not continue to supervise more than two procedures concurrently, this will reduce the capacity of anesthesiologists to perform procedures. This may result in delays in providing medical services requiring anesthesia.

C. Discussion

Compared to radiologists and pathologists, anesthesiologists are more likely to use fee-for-service billing. We believe the Federal savings generated by this regulation will stem primarily from treating the supervision of more than two concurrent procedures as services to hospitals and reducing reimbursement if a nurse anesthetist not employed by the anesthesiologist is used.

According to AMA data, there are approximately 14,400 hospital-based anesthesiologists. HCFA's actuaries project that Medicare reimbursement to anesthesiologists for inpatient services will total $606 million in fiscal year 1983.

We project that these proposed regulations would have the following effects on program expenditures for anesthesiology services furnished in providers. (Note that the fiscal year 1983 estimates are based on the January 1, 1983 implementation date, and that all estimates are rounded to the nearest $5 million):

ANESTHESIOLOGY SERVICES PROJECTED CHANGE IN EXPENDITURES

(In millions)

Fiscal year	Part A	Part B	Net savings
1983	$95	$−95	$−30
1984	115	−160	−45
1985	140	−195	−55
1986	161	−220	−60
1987	182	−255	−75

These program savings may be reflected in a corresponding reduction in physician revenues from anesthesiology services. However, we believe that most physicians will not be significantly affected. We project that the average fiscal year 1984 net income for anesthesiologists will be $136,100. Based on projected program savings, we estimte that these proposed regulations would reduce the average anesthesiologist income by only 2.3 percent. We expect that the small proportion of very high-earning anesthesiologists will be most strongly affected, and that many physicians of average or lower income will experience no revenue reductions.

VIII. Benefits and Costs of Provisions Affecting Other Specialties

A. Introduction

Some physicians other than those in the specialties of pathology, radiology, and anesthesiology are paid a salary or other aggregate compensation by hospitals. These physicians would also be affected by the RCE limits and criteria for reasonable charge payment that would be established under these proposed regulations.

B. Benefits and Costs

1. *Benefits.* The proposed regulations would limit Federal reimbursement to hospitals for the costs of compensation for the services of these physicians. The Federal savings in any hospital would be the difference, if any, between the total hospital compensation to these physicians and the appropriate RCE limits set by these regulations, times the proportion of Medicare patients in the hospital.

2. *Costs.* The proposed regulations would reduce revenues of hospitals by an amount equal to the Federal savings described in the preceding paragraph, and may, as a result, reduce the compensation these hospitals choose to pay to physicians.

C. Discussion

HCFA does not have data on the amounts now paid to hospitals for the compensation of physicians other than those in the specialties of pathology, radiology, and anesthesiology. Therefore, we cannot quantitatively estimate

the costs and benefits of these provisions of the proposed regulations.

IX. Net Benefits

A. Quantifiable Net Benefits

As discussed above, the initial effect of these proposed regulations would result in a variety of reductions in Medicare spending, which, in estimating net benefits, are offset by corresponding reductions in hospital and physician revenues. In the near term, therefore, these changes would have no net effect on the economy as a whole. However, these proposals do include a provision that results in substantial administrative cost reductions in processing claims for payment for pathology services on a charge basis. This benefit is not offset by a corresponding cost. Thus, the quantifiable net benefits of these proposed regulations would equal this $31 million estimated annual cost savings.

B. Non-Quantifiable Net Benefits

Although most of the quantifiable benefits of these proposed regulations would be offset by equivalent costs, several other net benefits can be identified.

1. These proposed regulations would better assure that Medicare reimbursement is limited to the reasonable costs of hospitals and reasonable charges of physicians as required by the Medicare statute.

2. The regulation would provide disincentives for continued high inflation in the cost of services of hospital-based physicians. Hospitals would not be reimbursed for unreasonable costs of salaries or other aggregate compensation of hospital-based physicians. This would increase their motivation to negotiate reasonable compensation arrangements. Further, the regulation would result in a clearer definition in the nature of services to individual patients for which hospital-based physicians may charge. This would facilitate comparison by consumers and increase the degree to which hospital-based physicians are subject to marketplace forces.

3. The proposed regulations, by defining more clearly what are services to hospitals and what are services to patients, would provide for the continued integrity of the Part A and Part B trust funds.

4. A reduction in Medicare expenditures would also improve the integrity of the trust funds.

5. A reduction in Federal Expenditures in the near term would reduce the Federal deficit, with associated benefits to the economy.

X. Effect on Small Entities

A. Magnitude of Medicare Reimbursement Reductions

Although these proposed regulations would affect many hospitals and physicians, the net effect on particular entities will usually be quite small. The expected fiscal year 1983 net savings of $50 million must be considered in comparison to the total reimbursement to pathologists, radiologists, and anesthesiologists, which is near $1.5 *billion* per year. Similarly, the shift of payment from a charge to a cost basis, which is expected to increase Part A expenditures by $180 million in fiscal year 1983, must be seen in relation to total Part A payments, which will exceed $20 billion that year. Thus, though the absolute value of the projected savings ($73 million in combined reductions in program and administrative costs for fiscal year 1983) may seem large, they are not substantial when viewed as a proportion of the total costs of these programs.

B. Effect on Physicians

For purposes of the Regulatory Flexibility Act, we consider all self-employed physicians to be small entities (Physicians compensated by hospitals commonly consider themselves independent contractors, not employees.). We believe that these proposed regulations will have a significant effect on only a small number of self-employed physicians.

First, available data show that mean compensation for hospital-based physicians is considerably higher than median compensation. Because a small number of physicians have dramatically high incomes, skewing the average, the majority of physicians compensated by hospitals earn less than the average. We expect that these proposed regulations will primarily affect the small group of high-earning physicians. For physicians now providing services on a charge basis which these regulations would define as services to hospitals, the effect of these regulations will depend on the compensation they negotiate with the hospitals to which they provide these services.

Second, as discussed above, we have made estimates of fiscal year 1984 income of pathologists, radiologists, and anesthesiologists, and projected the amount by which our expected program savings would reduce the average revenue of certain specialist physicians. (Note again that average income is significantly above median income for these physician groups, so that the majority of physicians would be affected by even lesser amounts.) These estimates and projected effects are as follow:

Speciality	Net income	Distributed program saving as percent of income
Pathology	$135,700	1.7
Radiology	146,000	0.6
Anesthesiology	136,100	2.3

C. Effect on Hospitals

For purposes of the Regulator Flexibility Act, we consider all non-profit hospitals and most for-profit hospitals to be small entities. We estimate that these proposed regulations will have a significant impact on only a small number of these hospitals.

As explained in the preceding section, most physicians earn less than the limits set by this regulation. Further, these proposed regulations would limit reimbursement to a hospital for the costs of physician compensation only if the mean salary or aggregate compensation to physicians in the hospital exceeded the limits. Finally, there is an exception to the limits for hospitals which can show they were unable to obtain the services of needed physicians at compensation levels less than the limits.

XI. Alternative Options Considered

A. Anesthesiology

1. We considered requiring that a physician personally perform all anesthesiology services to be covered as physician's services, instead of allowing physicians to bill for medical direction of up to two CRNAs as physicians' services. We rejected this option because it could be detrimental to those hospitals in which the majority of anesthesia services are furnished by CRNAs. If it were chosen, many anesthesiologists could choose to provide only Part B covered services, thereby providing less supervision and direction to patients who continue to receive anesthesia services from CRNAs.

2. We also considered covering medical direction as a physician's service when an anesthesiologist provides concurrent medical direction to more than two CRNAs, reimbursing each service at a lesser level. This option is similar to the one recommended except for the number of CRNAs to be directed and the reduction in reimbursement. We rejected this option because it would be administratively complex to implement and monitor.

3. We gave consideration to covering concurrent medical direction of up to two CRNAs at the same time. We monitor and prevent fraud and abuse if the physician is receiving payments from Part A and Part B for simultaneously supervising and directing the services of CRNAs. In addition, quality of care could suffer if reimbursement incentives lead the anesthesiologists to favor Part B physicians' services and diminish involvement in supervisory services.

B. Radiology

1. We considered reimbursing radiologists under Part B only for services to patients, not allowing payment for supervisory or administrative services. We rejected this option because it would not recognize legitimate hospital costs when the physician furnishes services to the hospital for which he or she is compensated.

2. We considered allowing the current array of lease arrangements. Most lease arrangements, however, currently allow the radiologist to bill for both services to patients and services to the hospital. We rejected this option because we would still be unable to determine if the component of the charge relating to patients services was reasonable. Further, we would be unable to determine whether our payment for the resource inputs exceeds actual costs.

C. Pathology

1. An option we reviewed was to cover physicians' services under Part B, but to not allow additional reimbursement for supervisory and administrative services on a reasonable cost basis. We rejected this option because it is not consistent with the

current practice of medicine and would result in a decrease in quality of care.

2. Another option included covering clinical consultations and anatomical services as physicians' services payable on a charge basis. In addition, charge payments under Part B would also be made for a limited number of clinical laboratory services. This would involve continually determining whether selected tests may involve new technology or be of such complexity that performance or interpretation by a physician may be required. Under this approach, we would publish or otherwise promulgate lists of these tests for use by carriers and others. Cost payments would be available through the hospital for administration, supervision and quality control. We rejected this option because it would have been extremely difficult and expensive to develop, maintain, revise and monitor the list of tests.

3. We considered proposing that laboratory services obtained for hospital inpatients always be provided under "arrangements," under section 1861(w) of the Social Security Act. The reasonable cost for a laboratory service obtained under "arrangement" would be the lesser of the amount billed by the supplier, the amount paid by the hospital, or 100 percent of the prevailing charge for similar services reimbursed on a charge basis. We rejected this option because it would disadvantage independent laboratories, since they would no longer have billing options for inpatient clinical laboratory services.

Appendix II—Geographic Area Classification for RCE Limits

As discussed in section III. D. of the preamble, we are proposing to adjust the reasonable compensation equivalent (RCE) limits to account for differences in salary levels by location, as well as by specialty. In our proposed methodology for establishing limits, and in the proposed limits as set forth in Table I, we have classified geographic areas into three types: non-metropolitan, metropolitan areas with less than one million population and metropolitan areas with greater than one million population. The following table identifies by type of location the geographic areas affected, enabling providers, physicians, Medicare fiscal intermediaries and carriers, and other members of the public to determine which RCE limit level would apply in specific areas. Table II lists all Standard Metropolitan Statistical Areas (SMSAs) and potential SMSAs [3] and their constituent counties, and identifies whether their population is less than or greater than one million. Potential SMSAs are designated by asterisks in Table II. All counties not listed in Table II, and all other affected U.S. possessions and territories not part of a State, are considered non-metropolitan areas.

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[3] A potential SMSA is one that does not meet all the requirements of the Office of Statistical Policy and Standards of the U.S. Department of Commerce, but which is considered a prime candidate to achieve SMSA status in the near future. The SMSA compositions and potential SMSA designations are based on those used by the American Medical Association (AMA) in its Periodic Survey of Physicians.

TABLE III

SMSA	Counties	Type of Location: Less than one million	Type of Location: Greater than one million
Abilene, Texas	Callahan, Jones, Taylor	X	
Akron, Ohio	Portage, Summit	X	
Albany, Georgia	Doughrty, Lee	X	
Albany, New York	Albany, Montgomery, Rensselaer, Saratoga, Schenectady	X	
Albuquerque, New Mexico	Bernalillo, Sandoval	X	
Alexandria, Louisiana	Grant, Rapides	X	
Allentown, Pennsylvania	Pennsylvania — Carbon, Lehigh, Northampton, New Jersey — Warren	X	
Altoona, Pennsylvania	Blair	X	
Amarillo, Texas	Potter, Randall	X	
Anaheim, California	Orange		X
Anchorage, Alaska	3rd Judicial Division	X	
Anderson, Indiana	Madison	X	
*Anderson, South Carolina	Anderson	X	
Ann Arbor, Michigan	Washtenaw	X	
Anniston, Alabama	Calhoun	X	
Appleton, Wisconsin	Calumet, Outagamie, Winnebago	X	
Asheville, North Carolina	Buncombe, Madison	X	
*Athens, Georgia	Clarke, Madison, Oconee, Oglethorp	X	
Atlanta, Georgia	Butts, Cherokee, Clayton, Cobb, Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, Rockdale, Walton		X
Atlantic City, New Jersey	Atlantic	X	
Augusta, Georgia	Georgia — Columbia, Richmond	X	
	South Carolina — Aiken		
Austin, Texas	Hays, Travis, Williamson	X	
Bakersfield, California	Kern	X	
Baltimore, Maryland	Anne Arundel, Baltimore Baltimore City, Carroll, Harford, Howard		X
*Bangor, Maine	Penobscot	X	
Baton Rouge, Louisiana	Ascension, East Baton Rouge, Livingston, West Baton Rouge	X	

TABLE III

SMSA	Counties	Type of Location: Less than one million	Type of Location: Greater than one million
Battle Creek, Michigan	Barry, Calhoun	X	
Bay City, Michigan	Bay	X	
Beaumont, Texas	Hardin, Jefferson, Orange	X	
*Benton Harbor, Michigan	Barrien, Cass	X	
Billings, Montana	Yellowstone	X	
Biloxi, Mississippi	Hancock, Harrison, Stone	X	
Binghamton, New York	New York — Broome, Tioga	X	
	Pennsylvania — Susquehanna		
Birmingham, Alabama	Jefferson, Shelby, St. Clair, Walker	X	
Bismarck, North Dakota	Burleigh, Morton	X	
Bloomington, Illinois	McLean	X	
Bloomington, Indiana	Monroe	X	
Boise, Idaho	Ada	X	
Boston, Massachusetts	Massachusetts — Essex, Middlesex, Norfolk, Plymouth, Suffolk		X
	New Hampshire — Rockingham		
Bradenton, Florida	Manatee	X	
*Bremerton, Washington	Kitsap	X	
Bridgeport, Connecticut	Fairfield	X	
Brownsville, Texas	Cameron	X	
Bryan, Texas	Brazos	X	
Buffalo, New York	Erie, Niagara		X
Burlington, North Carolina	Alamance	X	
*Burlington, Vermont	Chittenden		
Canton, Ohio	Carroll, Stark	X	
Cedar Rapids, Iowa	Linn	X	
Champaign, Illinois	Champaign	X	
Charleston, South Carolina	Berkeley, Charleston, Dorchester	X	
Charleston, West Virginia	Kanawha, Putnam	X	
Charlotte, North Carolina	Gaston, Mecklenburg, Union	X	

TABLE III

SMSA	Counties	Type of Location: Less than one million	Type of Location: Greater than one million
Chattanooga, Tennessee	Tennessee — Hamilton, Marion, Sequatchie Georgia — Catoosa, Dade, Walker	X	
*Cheyenne, Wyoming	Laramie	X	
Chicago, Illinois	Cook, Du Page, Kane, Lake, McHenry, Will		X
Cincinnati, Ohio	Ohio — Clermont, Hamilton, Warren Indiana — Dearborn Kentucky — Boone, Campbell, Kenton		X
Clarksville, Tennessee	Tennessee — Montgomery Kentucky — Christian	X	
Cleveland, Ohio	Cuyahoga, Geauga, Lake, Medina		X
Colorado Springs, Colorado	El Paso, Teller	X	
Columbia, Missouri	Boone	X	
Columbia, South Carolina	Lexington, Richland	X	
Columbus, Georgia	Georgia — Chattahoochee, Muscogee (or Columbus) Alabama — Russell	X	
Columbus, Ohio	Delaware, Fairfield, Franklin, Madison, Pickaway		X
Corpus Christi, Texas	Nueces, San Patricio	X	
Dallas, Texas	Collin, Dallas, Denton, Ellis, Hood, Johnson, Kaufman, Parker, Rockwall, Tarrant, Wise		X
*Danville, Illinois	Vermilion	X	
*Danville, Virginia	Pittsylvania	X	
Davenport, Iowa	Iowa — Scott Illinois — Henry, Rock Island	X	
Dayton, Ohio	Greene, Miami, Montgomery, Preble	X	
Daytona Beach, Florida	Volusia	X	
Decatur, Illinois	Macon	X	
Denver, Colorado	Adams, Arapahoe, Boulder, Denver, Douglas, Gilpin, Jefferson		X

TABLE III

SMSA	Counties	Type of Location: Less than one million	Type of Location: Greater than one million
Des Moines, Iowa	Polk, Warren	X	
Detroit, Michigan	Lapeer, Livingston, Macomb, Oakland, St. Clair, Wayne		X
Dubuque, Iowa	Dubuque	X	
Duluth, Minnesota	Minnesota — St. Louis Wisconsin — Douglas	X	
Eau Claire, Wisconsin	Chippewa, Eau Claire	X	
Elkhart, Indiana	Elkhart	X	
Elmira, New York	Chemung	X	
El Paso, Texas	El Paso	X	
*Enid, Oklahoma	Garfield	X	
Erie, Pennsylvania	Erie	X	
Eugene, Oregon	Lane	X	
Evansville, Indiana	Indiana — Gibson, Posey, Vanderburgh, Warrick Kentucky — Henderson	X	
Fargo, North Dakota	North Dakota — Cass	X	
Fayetteville, Arkansas	Benton, Washington	X	
Fayetteville, North Carolina	Cumberland	X	
Flint, Michigan	Genesee, Shiawassee	X	
Florence, Alabama	Colbert, Lauderdale	X	
Fort Collins, Colorado	Larimer	X	
Fort Lauderdale, Florida	Broward		X
Fort Myers, Florida	Lee	X	
Fort Smith, Arkansas	Arkansas — Crawford, Sebastian Oklahoma — Le Flore, Sequoyah	X	
Fort Wayne, Indiana	Adams, Allen, Dekalb, Wells	X	
Fresno, California	Fresno	X	
Gadsden, Alabama	Etowah	X	
Gainesville, Florida	Alachua	X	
Galveston, Texas	Galveston	X	
Gary, Indiana	Lake, Porter	X	
Grand Forks, North Dakota	North Dakota — Grand Forks Minnesota — Polk	X	

TABLE III

TABLE III

TABLE III

SMSA	Counties	Type of Location: Less than one million	Type of Location: Greater than one million
Grand Rapids, Michigan	Kent, Ottawa	X	
Great Falls, Montana	Cascade	X	
Greeley, Colorado	Weld	X	
Green Bay, Wisconsin	Brown	X	
Greensboro, North Carolina	Davidson, Forsyth, Guilford, Randolph, Stokes, Yadkin	X	
Greenville, South Carolina	Greenville, Pickens, Spartanburg	X	
*Hagerstown, Maryland	Washington	X	
Hamilton, Ohio	Butler	X	
Harrisburg, Pennsylvania	Cumberland, Dauphin, Perry	X	
Hartford, Connecticut	Hartford, Middlesex, Tolland		X
*Hattiesburg, Mississippi	Forrest, Lamar	X	
Honolulu, Hawaii	Honolulu	X	
Houston, Texas	Brazoria, Fort Bend, Harris, Liberty, Montgomery, Waller		X
Huntington, West Virginia	West Virginia — Cabell, Wayne Kentucky — Boyd, Greenup Ohio — Lawrence	X	
Huntsville, Alabama	Limestone, Madison, Marshall	X	
Indianapolis, Indiana	Boone, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan, Shelby		X
*Iowa City, Iowa	Johnson	X	
Jackson, Michigan	Jackson	X	
Jackson, Mississippi	Hinds, Rankin	X	
*Jackson, Tennessee	Madison	X	
Jacksonville, Florida	Baker, Clay, Duval, Nassau, St. Johns	X	
*Jamestown, New York	Chautauqua	X	
Janesville, Wisconsin	Rock	X	

TABLE III

SMSA	Counties	Type of Location: Less than one million	Type of Location: Greater than one million
Jersey City, New Jersey	Hudson	X	
Johnson City, Tennessee	Tennessee — Carter, Hawkins, Sullivan, Unicoi, Washington Virginia — Bristol, Scott, Washington	X	
Johnstown, Pennsylvania	Cambria, Somerset	X	
*Joplin, Missouri	Jasper, Newton	X	
Kalamazoo, Michigan	Kalamazoo, Van Buren	X	
Kankakee, Illinois	Kankakee	X	
*Kannapolis, North Carolina	Cabarrus, Rowan	X	
Kansas City, Missouri	Missouri — Cass, Clay, Jackson, Platte, Ray Kansas — Johnson, Wyandotte		X
Kenosha, Wisconsin	Kenosha	X	
Killeen, Texas	Bell, Coryell	X	
Knoxville, Tennessee	Anderson, Blount, Knox, Union	X	
Kokomo, Indiana	Howard, Tipton	X	
La Crosse, Wisconsin	La Crosse	X	
Lafayette, Indiana	Tippecanoe	X	
Lafayette, Louisiana	Lafayette	X	
Lake Charles, Louisiana	Calcasieu	X	
Lakeland, Florida	Polk	X	
Lancaster, Pennsylvania	Lancaster	X	
Lansing, Michigan	Clinton, Eaton, Ingham, Ionia	X	
Laredo, Texas	Webb	X	
*Las Cruces, New Mexico	Dona Ana	X	
Las Vegas, Nevada	Clark	X	
Lawrence, Kansas	Douglas	X	
Lawton, Oklahoma	Comanche	X	
Lewiston, Maine	Androscoggin	X	
Lexington, Kentucky	Bourbon, Clark, Fayette, Jessamine, Scott, Woodford	X	

TABLE III

SMSA	Counties	Type of Location: Less than one million	Type of Location: Greater than one million
Lima, Ohio	Allen, Auglaize, Putnam, Van Wert	X	
Lincoln, Nebraska	Lancaster	X	
Little Rock, Arkansas	Pulaski, Saline	X	
Long Branch, New Jersey	Monmouth	X	
Longview, Texas	Gregg, Harrison	X	
Lorain, Ohio	Lorain	X	
Los Angeles, California	Los Angeles		X
Louisville, Kentucky	Kentucky — Bullitt, Jefferson, Oldham Indiana — Clark, Floyd		
Lubbock, Texas	Lubbock	X	
Lynchburg, Virginia	Amherst, Appomattox, Campbell	X	
Macon, Georgia	Bibb, Houston, Jones, Twiggs	X	
Madison, Wisconsin	Dane	X	
Manchester, New Hampshire	Hillsborough	X	
*Manitowoc, Wisconsin	Manitowoc	X	
Mansfield, Ohio	Richland	X	
*Marion, Indiana	Grant	X	
McAllen, Texas	Hidalgo	X	
Melbourne, Florida	Brevard	X	
Memphis, Tennessee	Tennessee — Shelby, Tipton Arkansas — Crittenden Mississippi — Desoto	X	
*Meridian, Mississippi	Lauderdale	X	
Miami, Florida	Dade		X
*Michigan City, Indiana	La Porte	X	
Midland, Texas	Midland	X	
Milwaukee, Wisconsin	Milwaukee, Ozaukee, Washington, Waukesha		X
Minneapolis, Minnesota	Minnesota — Anoka, Carver, Chisago, Dakota, Hennepin, Ramsey, Scott, Washington, Wright Wisconsin — St. Croix		X
*Missoula, Montana	Missoula	X	
Mobile, Alabama	Baldwin, Mobile	X	

TABLE III

SMSA	Counties	Type of Location: Less than one million	Type of Location: Greater than one million
Modesto, California	Stanislaus	X	
Monroe, Louisiana	Quachita	X	
Montgomery, Alabama	Autauga, Elmore, Montgomery	X	
Muncie, Indiana	Delaware	X	
Muskegon, Michigan	Muskegon, Oceana	X	
Nashville, Tennessee	Cheatham, Davidson, Dickson, Robertson, Rutherford, Sumner, Williamson, Wilson	X	
Nassau, New York	Nassau, Suffolk		X
New Bedford, Massachusetts	Bristol	X	
New Brunswick, New Jersey	Middlesex	X	
New Haven, Connecticut	New Haven	X	
New London, Connecticut	New London	X	
New Orleans, Louisiana	Jefferson, Orleans, St. Bernard, St. Tammany		X
New York, New York	Bronx, Kings, New York, Putnam, Queens, Richmond, Rockland, Westchester New Jersey — Bergen		X
Newark, New Jersey	Essex, Morris, Somerset, Union		X
*Newark, Ohio	Licking	X	
*Newburgh, New York	Orange	X	
Newport News, Virginia	Gloucester, Hampton City, James City, Newport News, York	X	
Norfolk, Virginia	Virginia — Chesapeake, Nansemond, Norfolk, Portsmouth, Virginia Beach City North Carolina — Currituck	X	
Northeast Pennsylvania, Pennsylvania	Lackawanna, Luzerne, Monroe	X	
Odessa, Texas	Ector	X	

TABLE III

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SMSA	Counties	Type of Location: Less than one million	Type of Location: Greater than one million
Oklahoma City, Oklahoma	Canadian, Cleveland, McClain, Oklahoma, Pottawatomie	X	
*Olympia, Washington	Thurston	X	
Omaha, Nebraska	Nebraska — Douglas, Sarpy Iowa — Pottawatomie	X	
Orlando, Florida	Orange, Osceola, Seminole	X	
Owensboro, Kentucky	Daviess	X	
Oxnard, California	Ventura	X	
Panama City, Florida	Bay	X	
Parkersburg, West Virginia	West Virginia — Wirt, Wood Ohio — Washington	X	
Pascagoula, Mississippi	Jackson	X	
Paterson, New Jersey	Passaic	X	
Pensacola, Florida	Escambia, Santa Rosa	X	
Peoria, Illinois	Peoria, Tazewell, Woodford	X	
Petersburg, Virginia	Dinwiddie, Prince George	X	
Philadelphia, Pennsylvania	Pennsylvania — Bucks, Chester, Delaware, Montgomery, Philadelphia New Jersey — Burlington, Camden, Gloucester		X
Phoenix, Arizona	Maricopa		X
Pine Bluff, Arkansas	Jefferson	X	
Pittsburgh, Pennsylvania	Allegheny, Beaver, Washington, Westmoreland		X
Pittsfield, Massachusetts	Berkshire	X	
*Pocatello, Idaho	Bannock, Power	X	
Portland, Maine	Cumberland, Sagadahoc	X	
Portland, Oregon	Oregon — Clackamas, Multnomah, Washington Washington — Clark		X
Poughkeepsie, New York	Dutchess	X	
Providence, Rhode Island	Bristol, Kent, Providence, Washington	X	
Provo, Utah	Utah	X	
Pueblo, Colorado	Pueblo	X	

TABLE III

SMSA	Counties	Type of Location: Less than one million	Type of Location: Greater than one million
*Quincy, Illinois	Adams	X	
Racine, Wisconsin	Racine	X	
Raleigh, North Carolina	Durham, Orange, Wake	X	
*Rapid City, South Dakota	Meade, Pennington	X	
Reading, Pennsylvania	Berks	X	
Reno, Nevada	Washoe	X	
Richland, Washington	Benton, Franklin	X	
Richmond, Virginia	Charles City, Chesterfield, Goochland, Hanover, Henrico, Powhatan, Richmond	X	
Riverside, California	Riverside, San Bernardino		X
Roanoke, Virginia	Botetourt, Craig, Roanoke	X	
Rochester, Minnesota	Olmsted	X	
Rochester, New York	Livingston, Monroe, Ontario, Orleans, Wayne	X	
Rockford, Illinois	Boone, Winnebago	X	
Sacramento, California	Placer, Sacramento, Yolo		X
Saginaw, Michigan	Saginaw	X	
St. Cloud, Minnesota	Benton, Sherburne, Stearns	X	
St. Joseph, Missouri	Andrew, Buchanan	X	
St. Louis, Missouri	Missouri — Franklin, Jefferson, St. Charles, St. Louis, St. Louis City Illinois — Clinton, Madison, Monroe, St. Clair		X
Salem, Oregon	Marion, Polk	X	
Salinas, California	Monterey	X	
Salt Lake City, Utah	Davis, Salt Lake, Tooele, Weber	X	
San Angelo, Texas	Tom Green	X	
San Antonio, Texas	Bexar, Comal, Guadalupe		X
San Diego, California	San Diego		X
San Francisco, California	Alameda, Contra Costa, Marin, San Francisco, San Mateo		X
San Jose, California	Santa Clara		X
Santa Barbara, California	Santa Barbara	X	

TABLE III

SMSA	Counties	Type of Location: Less than one million	Type of Location: Greater than one million
Santa Cruz, California	Santa Cruz	X	
*Santa Fe, New Mexico	Santa Fe	X	
Santa Rosa, California	Sonoma	X	
Sarasota, Florida	Sarasota	X	
Savannah, Georgia	Bryan, Chatham, Effingham	X	
Seattle, Washington	King, Snohomish		X
*Sheboygan, Wisconsin	Sheboygan	X	
Sherman, Texas	Grayson	X	
Shreveport, Louisiana	Bossier, Caddo, Webster	X	
Sioux City, Iowa	Iowa — Woodbury Nebraska — Dakota	X	
Sioux Falls, South Dakota	Minnehaha	X	
South Bend, Indiana	Marshall, St. Joseph	X	
Spokane, Washington	Spokane	X	
Springfield, Illinois	Menard, Sangamon	X	
Springfield, Massachusetts	Hampden, Hampshire	X	
Springfield, Missouri	Christian, Greene	X	
Springfield, Ohio	Champaign, Clark	X	
Steubenville, Ohio	Ohio — Jefferson West Virginia — Brooke, Hancock	X X	
Stockton, California	San Joaquin	X	
Syracuse, New York	Madison, Onondaga, Oswego	X	
Tacoma, Washington	Pierce	X	
Tallahassee, Florida	Leon, Wakulla	X	
Tampa, Florida	Hillsborough, Pasco, Pinellas		X
Terre Haute, Indiana	Clay, Sullivan, Vermillion, Vigo	X	
Texarkana, Arkansas	Arkansas — Little River, Miller Texas — Bowie	X	
Toledo, Ohio	Ohio — Fulton, Lucas, Ottawa, Wood Michigan — Monroe	X	
Topeka, Kansas	Jefferson, Osage, Shawnee	X	
Trenton, New Jersey	Mercer	X	
Tucson, Arizona	Pima	X	

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TABLE III

SMSA	Counties	Type of Location: Less than one million	Type of Location: Greater than one million
Tulsa, Oklahoma	Creek, Mayes, Osage, Rogers, Tulsa, Wagoner	X	
Tuscaloosa, Alabama	Tuscaloosa	X	
Tyler, Texas	Smith	X	
Utica, New York	Herkimer, Oneida	X	
Vallejo, California	Napa, Solano	X	
*Victoria, Texas	Victoria	X	
Vineland, New Jersey	Cumberland	X	
Waco, Texas	McLennan	X	
Washington, D.C.	D.C. — District of Columbia Maryland — Charles, Montgomery, Prince Georges Virginia — Alexandria, Arlington, Fairfax, Loudoun, Prince William		X
Waterloo, Iowa	Black Hawk	X	
*Wausau, Wisconsin	Marathon	X	
West Palm Beach, Florida	Palm Beach	X	
Wheeling, West Virginia	West Virginia — Marshall, Ohio Ohio — Belmont	X	
Wichita, Kansas	Butler, Sedgwick	X	
Wichita Falls, Texas	Clay, Wichita	X	
Williamsport, Pennsylvania	Lycoming	X	
Wilmington, Delaware	Delaware — New Castle Maryland — Cecil New Jersey — Salem	X	
Wilmington, North Carolina	Brunswick, New Hanover	X	
Worcester, Massachusetts	Worcester	X	
Yakima, Washington	Yakima	X	
York, Pennsylvania	Adams, York	X	
Youngstown, Ohio	Mahoning, Trumbell	X	

federal register

Friday
October 1, 1982

Part X

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Limitation of Reasonable Charges for Services in Hospital Outpatient Settings

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Limitation of Reasonable Charges for Services in Hospital Outpatient Settings

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: These Regulations limit reasonable charge reimbursement for certain physicians' services furnished in hospital outpatient settings. This will be accomplished by refining the application of Medicare reasonable charge screens to reflect more accurately the reasonable charges for physicians' professional medical services in hospital outpatient settings. The regulations are needed to implement recent legislation that is designed to prevent duplicate payment for overhead expenses associated with the delivery of those services.

DATES: *Effective date:* Effective for services rendered on or after October 1, 1982. Although these regulations are final, comments may be submitted as described below.

Comment date: To assure consideration, comments should be mailed by November 30, 1982.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235.

In commenting, please refer to file code BPP–215–FC.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland, 21207.

Comments will be available for public inspection, beginning approximately three weeks after publication, in Room 309–g of the Department's offices at 200 Independence Ave., SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Leonard Nowacki, 301–594–2871.

SUPPLEMENTARY INFORMATION:

I. Background

A. *General Information.* In the past fifteen years, the number of hospital outpatient department visits has more than doubled. In addition, there has been a significant increase in the number of ambulatory services being provided by clinics. According to American Hospital Association (AHA) data, outpatient gross revenues increased during the 10-year period from 1969 through 1978, from $1.5 billion (8.3 percent of total hospital revenue) to $8.5 billion (12.8 percent of total hospital revenue). This represents almost a six-fold increase in absolute terms.

The increase in the volume and cost of outpatient services has prompted Congress to question the amounts of reimbursement made for services furnished in hospitals and clinics as compared to reimbursement for similar services provided by office-based physicians. Congress has also expressed increasing concern that the limits placed on hospital inpatient expenditures may have encouraged hospitals to shift reimbursable costs to outpatient departments. The congressional concern with these issues led to enactment of legislation (section 2142 of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981 and section 104(a) of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982) described later in this preamble.

B. *Current Rules on Payment for Services in Hospital Outpatient Departments and Emergency Rooms.* Under Medicare payment for medical and other health services provided on an outpatient basis generally is made at 80 percent of the reasonable cost of the services as determined under section 1861 (v)(1) of the Act (42 U.S.C. 1395x(v)(1)). The statutory requirements in section 1861(v) that govern Medicare reasonable cost reimbursement to providers for these services are implemented under the regulations at 42 CFR Part 405, Subpart D.

With respect to a physician's services, including physicians' services in an outpatient setting, section 1833(a)(1) of the Act (42 U.S.C. 1395(a)(1)) requires that payments be made at 80 percent of the reasonable charges for the services, after the Part B deductible is satisfied. Section 1842(b)(3) of the Act (42 U.S.C. 1395u(b)(3)) requires that, in determining the reasonable charges payable for a physician's services, the Secretary consider, among other things, the customary charges for services generally made by the physician for similar services as well as the prevailing charges in the locality for similar services. The prevailing charges are based on the customary charges of physicians in a locality for covered services. In the development of prevailing charges, customary charges are weighted to reflect the frequency with which the physician has rendered the service during the period for which data is collected. An annual economic index is then applied to the unadjusted prevailing charges to limit the increase in prevailing charges from year to year. The regulations governing general Medicare reasonable charge reimbursement policies for physicians' services are set forth at 42 CFR 405.501–405.508.

Under these regulations, the reasonable charge is the lowest of the actual, customary, or prevailing charges. These regulations, at 42 CFR 405.502(a)(7), also require consideration of other factors that may be found necessary and appropriate, with respect to an item or service, in judging whether the charge for the service is inherently reasonable. However, the current regulations, which are based on the law in effect before enactment of section 2142 of Pub. L. 97–35, and section 104(a) of Pub. L. 97–248, do not specifically require the carrier to consider the site in which a service is furnished (i.e., a physician's office, or a hospital outpatient department) in determining whether the charge for the service is inherently reasonable. Thus, Medicare currently makes no distinction between a physician's office and a hospital outpatient setting in determining reasonable charges for physicians' services.

However, the location of service has an important bearing on whether the physician charges only for a professional service, or whether there are additional overhead costs associated with the services for which the physician is financially responsible. If a service is furnished in a physician's office, the physician's charge includes not only the physician's professional service but also the overhead costs, such as office rent and employee salaries, required to produce the service. If a similar service is provided in a hospital outpatient setting, (i.e., an outpatient department, emergency room or clinic) Medicare pays the physician the same amount it would pay for the office-based service, and also reimburses the hospital on a reasonable cost basis for the overhead costs required to produce the service.

Thus, because Medicare does not consider the site of the service in making reasonable charge computations, both hospitals and physicians are being reimbursed for amounts attributable to the overhead costs of physicians' services furnished in hospital outpatient settings.

C. *Recent Legislation.* Section 2142 of Pub. L. 97–35 enacted Section 1861(v)(1)(K) of the Social Security Act

(42 U.S.C. 1395x(v)(1)(K)), and amended section 1842(b)(3) (42 U.S.C. 1395u(b)(3)). The new sections require the Secretary to issue regulations that provide, to the extent feasible, for the establishment of specific limitations on the costs or charges that would be considered reasonable for outpatient services provided by hospitals, and by physicians utilizing these facilities.

In regard to limitations on the charges, the legislation provides that limits are to be developed using charges reasonably related to the charges in the same area for similar services provided in physicians' offices. These specific limitations are not applicable to (i) bona fide emergency hospital services provided in an emergency room, and (ii) outpatient services in rural health clinics. The statute further states that the regulations shall provide for exceptions to the limits in situations when similar services are not available to Medicare beneficiaries in physicians' offices in the area.

The Conference Committee Report that accompanied Pub. L. 97–35 states that, in recommending enactment of section 2142, the conferees intended that reimbursement be the same for similar services provided in differing ambulatory settings to remove any incentive to provide services at any one particular location.

The Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, was enacted on September 3, 1982. Section 104 of this legislation specified that the Secretary may, in establishing the reasonable charge for services subject to limits under section 1842(b)(3), limit the reasonable charge for physicians' services furnished in hospital outpatient departments to a percentage of the amount of the prevailing charge for similar services furnished in a physician's office, taking into account the extent to which overhead costs associated with such outpatient services have been included in the reasonable cost or charge of the facility. Section 104 specifies that this amendment is to be effective with respect to services furnished on or after October 1, 1982.

Section 104 originated in the Senate, and there was no comparable House provision. The Senate Finance Committee Report on H.R. 4961 notes that the Secretary is now required to calculate an overhead factor in order to determine the percentage by which physicians' prevailing charges may increase under the economic index provisions. (These economic index provisions are implemented under the authority in section 1842(b)(3) of the Social Security Act and the regulations at 42 CFR 405.504. The amount of the economic index applicable to each full screen year is published annually in a Federal Register notice.) The Senate Finance Committee Report further notes that currently it is estimated that approximately 40 percent of physicians' fees are for overhead, and states that the committee expects that refined prevailing charge screens for physicians who practice in settings where they are not personally responsible for overhead expenses will be reduced by the same percentage as that used in implementing the economic index.

II. Revised Regulations

A. *Major Provisions.* The revised regulations set forth below provide a methodology for carriers to follow in developing and applying limits on the reasonable charges for physicians' services provided in hospital outpatient settings, including outpatient departments, emergency rooms, and clinics in which overhead costs are reimbursed to the hospital under the provider reimbursement regulations in 42 CFR Part 405, Subpart D. The limits will:

- Apply to those types of services that are routinely provided in a physician's private office;
- Exclude services provided in a rural health clinic;
- Exclude bona fide emergency room services;
- Exclude outpatient anesthesiology and diagnostic and therapeutic radiology services; and
- Be established based on a percentage of Medicare prevailing charges.

B. *Services Included.* As noted above, these limits are designed to prevent duplicate payment, to both hospitals and physicians, for the overhead costs of certain types of services. Therefore, these limits will apply only in those hospital outpatient settings in which the hospital incurs overhead costs that are reimbursed on a cost basis under Medicare. The new limits will not apply to services in settings where duplicate payment could not occur because the physician bears all overhead costs of the services. For example, if a physician rented office space in buildings owned by a hospital and bore all overhead costs of the services furnished in that space, the new limits would not apply to those services.

We are requiring carriers to establish limits only for those services that are routinely provided in a physician's private office. Listed below are examples of these services:

- Examination for acute tonsillitis.
- Review of recent history, determination of blood pressure, auscultation of heart and lungs, and adjustment of medication in essential hypertension.
- Brief history and examination, initiation of diagnostic and treatment programs.
- Treatment of an acute respiratory infection.

These examples are not intended to be all-inclusive because we are aware that the types of physician services that are routinely performed in physicians' offices will vary from area to area, depending on local medical practice. We believe the limits should be applied in a way that is consistent with local medical practice. Since each carrier is familiar with local medical practice, the carrier will be responsible for establishing a list of the services that are considered routine physician office services in its locality, for notifying physicians and hospitals of the services determined to be routine and of the limit established for each service, and for applying the proposed limits only to those services.

In some areas, a shortage of physicians may exist. For this reason, certain physician services that in other areas are usually furnished in an office setting may, in these areas, be available only in a hospital outpatient setting. Under these circumstances, the carrier could determine that these services are not available in physicians' offices in the locality in which the hospital is located. The carrier will not include these services in the list of services that are considered routine office services in the locality, nor will it develop limits for these services.

C. *Services Excluded.* Section 1861(v)(1)(K) gives the Secretary the authority to establish limits on payment for hospital costs of outpatient services as well as physician charges for services in outpatient settings. At this time, we will apply payment limits only to physician charges, rather than to hospital costs. The statute gives us authority to establish limits to the extent feasible. We are still examining the feasibility of establishing limits on outpatient hospital costs. At some future date, we may proceed to establish these limits, and develop a regulation that would set forth the methodology for establishing these limits.

In addition, these regulations will not apply to payment for covered surgical procedures performed in an outpatient setting. We believe this exclusion is needed to avoid inconsistency with the provisions of section 934 of Pub. L. 96–499, which encourages the use of

ambulatory settings for certain surgical procedures that are now frequently furnished on an inpatient hospital basis. In the August 5, 1982 **Federal Register** (47 FR 34082), we published final regulations to implement the provisions of section 934. If a payment limit were imposed for surgical procedures furnished in an outpatient setting, there would be no incentive for physicians to perform surgical procedures in an outpatient setting rather than in the more costly inpatient setting. Therefore, we decided to exclude covered surgical procedures in an outpatient setting from the limits established by this regulation.

These new limits also will not apply to services for which Medicare pays on a compensation-related charge basis. We now pay for these services under the current regulations at 42 CFR 405.480 through 405.488. In general, carriers determine the customary charges for the services of physicians who receive compensation, other than fee-for-service billing, for their services to patients based on the assumption that the part of a physician's compensation allocated to patient care services represents, to the extent that it is reasonable, the aggregation of the physician's customary charges for patient care services. (Customary charges determined in this manner are called compensation related charges.) The regulations at 42 CFR 405.485 currently allow various methods of computing compensation-related customary charges (e.g. per diem, uniform percentage, and item-by-item methods), provided that the method used by a provider systematically and reasonably relates the physician's compensation to the range of physician services furnished under that compensation.

We plan to propose in a separate **Federal Register** document to revise our current reimbursement regulations to provide further, more specific tests of reasonableness that would be used in determining reasonable charge payment for services of physicians in institutional providers of services, including physicians compensated by the provider or a related entity for their services to provider patients. Because our regulations now contain special provisions for determining payment to compensated physicians and because we expect to apply new, more refined tests of reasonableness to payment for their services in the near future, we have decided to exclude services paid for through the use of compensation-related charges from the limits established under the regulations set forth in this document.

We are also excluding anesthesiology services and diagnostic and therapeutic radiology services from the new limits. Anesthesiology services are generally not among the types of services routinely provided in physicians' offices. We are excluding radiology services from the new limits because the proposed new regulations referred to in the preceding paragraph will contain special tests of reasonableness for radiology services in provider settings, including hospital outpatient settings.

Section 1861(v)(1)(K), as added by section 2142 of Pub. L. 97–35, specifically prohibits establishment of limits for bona fide emergency services in a hospital emergency room. For purposes of this regulation, we are defining "bona fide emergency services" as all services performed in a hospital emergency room that are necessary to prevent the death or serious impairment of the health of the individual. Payment limits will not be established for services. However, the limits will apply to services that are performed in an emergency room but are not necessary to prevent the death or serious impairment of the health of the individual, unless the services are otherwise excluded from the limits. We are soliciting comments on the appropriateness of our definition of bona fide emergency room services.

Since services provided in a rural health clinic were also expressly excluded from these limits by the 1981 legislation, the regulations set forth below also will not apply to them.

D. *Methodology for Developing Limits.* Section 1861(v)(1)(K) states that the outpatient "limitations shall be reasonably related to the charges in the same area for similar services in physicians' offices". To determine the percentage of the charge that is related to the professional service and the percentage that is related to overhead expense, we adopted the weights of 60 percent physician income and 40 percent practice (overhead) expense. As noted earlier, the legislative history of section 104(a) explicitly supports use of these weights. These weights, which have been used in updating the Medicare economic index since its implementation in 1970, were initially based upon data published in *Medical Economics* and the American Medical Association's (AMA's) *Profile of Medical Practice.* To validate these ratios, HCFA conducted independent surveys of office-based physician's costs from 1975 through 1978. These surveys support the use of this 60–40 split between income and overhead expense. Additionally, the December 5, 1980 *Journal of the AMA* included a report of physician expense which shows that for the 10-year period 1970 through 1979 physician practice costs have not varied significantly from 40 percent. In this same article, the Center for Health Services Research and Development, AMA, using preliminary data from the most recent Periodic Survey of Physicians, projects 1980 practice expense at 40.3 percent. Thus, all available data indicate that, although the weights of sub-components of office practice costs have shifted slightly, the gross income split of 60 percent net physician compensation to 40 percent practice expense has changed little over the years.

The conference committee report accompanying section 2142 of Pub. L. 97–35 suggested that the limits be based, to the extent feasible, on actual charges, not Medicare-determined reasonable charges. However, section 104(a) of Pub. L. 97–248 further amended section 1842(b)(3) to permit the Secretary to establish limits on physician charges in outpatient settings using a percentage of the prevailing charge for similar services in a physician's office. The limits must account for the overhead costs already included in the reasonable cost or charge of the facility. Our methodology will meet the requirements of section 104(a) by using the current nonspecialist prevailing charge, adjusted by the economic index, as the basis for developing limits for each service. This prevailing charge is based on, and thus reflects,the actual charges submitted for each service furnished to Medicare patients in an office setting within the locality. These prevailing charges, which are used as a charge base, are recalculated each fee screen year (July 1 through June 30).

By adopting these weights and using prevailing charges for office-based services to compute these limits, we believe the methodology set forth in the following regulations fulfills the congressional directive to relate the limits to the charges for similar services in a physician's office, and to use prevailing charges adjusted to establish limits on outpatient services.

Our methodology for developing these limits is as follows:

1. The carrier will determine the types of services that are routinely furnished in physicians' offices in the area, and are not excluded from limitation by the revised regulations.

2. The carrier will determine the prevailing charge, as adjusted by the Medicare economic index, for each service.

3. The carrier will multiply the prevailing charges determined in step 2

by .60 to determine a limit for each service under this provision.

E. *Application of Limits.* In calculating payment for the types of services covered by the proposed limits, the carrier will consider the amount charged for the services, the physician's customary charge, the prevailing charge, and the outpatient physician charge limit. The carrier will determine the reasonable charge for each service to be the lowest of the actual billed charge, the customary charge, the prevailing charge, or the limit determined under these rules. This is necessary to assure that payment levels for physician services in hospital ambulatory settings do not exceed amounts otherwise determined reasonable for similar services in the locality.

F. *Billing Procedures.* Physician services (except for services of compensated physicians who bill on billing form HCFA–1483, Provider Billing for Medical and other Health Services) will be submitted on billing form HCFA–1500, Health Insurance Claim Form. The reasonable charge limit will not apply if the billing form has been annotated to show that a routine service in a hospital emergency room was a bona-fide emergency service as defined in these regulations.

III. Impact Analysis

A. *Executive Order 12291 and Regulatory Flexibility Act Analysis of Proposed Rule. Introduction/Summary.* The following analysis examines the expected effect of these proposed rules. In it, we consider reductions of projected program expenditures, benefits and costs experienced by affected parties, and the impact on small businesses. In addition, we described several possible alternatives considered in accomplishing the objectives of the proposals.

Our actuaries estimate that this regulation could save the Federal government $75 million in program expenditures in FY 83, $135 million in FY 84 and $175 million in FY 85. By establishing a limit on Medicare payment for certain types of physician services furnished in hospital outpatient settings, we can better determine the reasonableness of costs and charges for the outpatient services provided by hospitals, or clinics, and by physicians utilizing these facilities. These limits will generate the estimate savings for FY 83 in two ways. First, they will reduce or eliminate the amount of duplicate payments for overhead expenses for these services. Second, they will remove the current financial incentive for physicians to furnish services in hospital outpatient departments rather than in less costly office settings.

Our analysis shows that the benefits of these regulations exceed their costs. Further, our analysis shows the effect of the regulation on physicians and providers is not significant, considering the size of potential revenue reductions relative to the total revenues of physicians and providers providing these services.

B. *Purpose of Analysis.* 1. *Executive Order 12291.* Executive Order 12291 requires that a regulatory impact analysis be performed on any major rule. A "major rule" is defined as one which would:

- Result in an annual effect on the national economy of $100 million or more;
- Result in a major increase in costs of prices for consumers, any industries, any governmental agencies, or any geographic regions; or
- Have significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

2. *Regulatory Flexibility Act.* The Regulatory Flexibility Act requires that a regulatory flexibility analysis be prepared for a regulation unless the regulation will not have a significant impact on a substantial number of small entities. For purposes of the Regulatory Flexibility Act, small entities are:

- Small businesses, defined as small business concerns under the Small Business Act;
- Small organizations, defined as not-for-profit enterprises which are independently owned and operated and not dominant in their field; or
- Small governmental jurisdictions, which are defined as jurisdictions of less than 50,000 population.

3. *Discussion.* From the information available to us, we believe the regulations meet the threshold criteria of the Executive Order. Our actuaries have estimated FY 83 savings at $75 million. For FY 84 and 85, the savings estimates are $135 million and $175 million, respectively. Because the FY 84 and 85 estimates exceed the $100 million threshold criteria, we are required to perform an impact analysis, which we have included below. However, for the reasons stated elsewhere in this analysis, we do not believe that the threshold criteria of the Regulatory Flexibility Act will be met. Thus, a regulatory flexibility analysis is not required.

We welcome public comment on the issues noted below in this analysis.

C. *Nature of Problem.* When a service is provided in an outpatient department, Medicare reimburses the hospital for the facility costs, which include overhead such as rent, utilities, staff and supplies. As noted earlier in this preamble, Medicare does not now consider the site of physicians' services in determining the reasonable charges for the services. Thus, the Medicare program is paying twice for the overhead costs of certain physician services.

In addition, if a physician is paid the same amount for a service without regard to whether he or she bears overhead costs, this creates an unintended incentive for physicians to furnish services in hospital outpatient departments rather than in less costly office settings.

D. *Purpose of the Regulation.* The revised regulations deal with the problems of payment for duplicate overhead payments and the misplaced economic incentive in the furnishing of medical services. These problems will be alleviated by providing carriers with a methodology for developing and applying the limits to individual physician services.

We believe that by applying the limits to individual physician bills, the amount of duplicate payments should be reduced greatly or eliminated and the economic incentive to furnish services in less costly office settings will be established.

E. *Benefits and Costs.* The primary effect of this regulation will be on physicians who continue to furnish services in hospital outpatient settlings that could be provided in private office settings. We also anticipate that the Medicare program, hospitals, and beneficiaries will realize some costs and benefits from this regulation.

1. *Physicians.* Some physicians could experience a reduction in revenues as a result of the limits. If physicians continue to provide certain types of services in the hospital outpatient settings, the reasonable charge limit will apply, resulting in a revenue reduction for the physician in assigned claims. The carrier has the responsibility to determine the services for which a reasonable limit will be established and to furnish a list to the hospital and to the physician of the services that will be subject to a reasonable charge limit. The actual reduction will depend on whether the carrier determines that the reasonable charge limit will be the lowest of the actual, the customary, the prevailing, or the new charge limit. The specific revenue reductions are now indeterminate, but they will equal the difference between payments received

prior to this revised rule and payments that will be subject to the limits.

2. *Medicare Program.* The Medicare program will realize several benefits from this regulation. HCFA actuaries estimate a $75 million savings in program expenditures for FY 1983. These savings will be generated by the application of the limit to each individual service submitted by physicians for services provided in outpatient departments. The limit will reduce duplicate overhead payments.

We also anticipate that a greater degree of program efficiency will be realized. Through the clarification of this reimbursement policy, payment determination, based on the site of the service, will be more precise.

3. *Hospitals.* Services in outpatient settings may be shifted to the private office setting, since physicians who practice outside the hospital will have an incentive to provide routine services in the private office setting. However, these are services that should have been provided in the less costly office setting. To the extent such shifts may occur, resulting reduction in hospital revenue will be associated with reductions in hospital costs.

In developing these regulations, we took into account the possibility that imposing limits on payment to physicians for services performed in outpatient settings could cause physicians to begin performing some services in inpatient settings, thus defeating the purpose of the new limits and increasing hospital costs. To deal with this potential problem, we have exempted certain types of services that could be shifted in this way (e.g., surgical services) from the limits. We believe this will reduce the incentive for physicians to shift services from outpatient to inpatient settings. Moreover, we believe hospitals and their utilization review committees will question the appropriateness of inpatient admissions that appear to be designed only to avoid the effect of the new limits. Therefore, we do not expect these regulations to result in any significant shifting of services from outpatient to inpatient settings.

4. *Beneficiaries.* In developing the regulations to eliminate duplicate payment of overhead expenses, we have anticipated the possibility that physicians may be less likely to accept Medicare assignment. Physicians may choose to continue to bill for overhead costs even though they do not bear them directly, and may recover these costs from beneficiaries through billing on unassigned claims. If a physician does not accept assignment, and bills patients directly, then beneficiaries are liable for added expenses. However, adequate information is not available to estimate the extent to which this would occur. We do believe that the impact of any additional expenses could be minimized by beneficiaries "shopping" around for physicians who accept assignment, or otherwise are less expensive.

F. *Net Benefits.* This regulation has benefits outweighing corresponding costs. The major benefit of this regulation will be a reduction in Medicare spending of $75 million in FY 83. This is a benefit to society for several reasons:

- This will provide a control on continued high inflation in the health care sector. By providing a clearer definition of reasonable charges for payment of physician's professional services in hospital outpatient settings, inapropriate program expenditures would be reduced, thus helping to slow the rate of inflation.
- These regulations will better assure that Medicare reimbursement is related to the reasonable charges of physicians as required by the Medicare statute.
- A reduction in Medicare expenditures will improve the integrity of the trust funds.
- A reduction in Federal expenditures in the near term will also reduce the Federal deficit, with associated benefits to the economy.

G. *Effect on Small Entities.* 1. *Effect on Physicians.* The secretary certifies under 5 U.S.C., 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that these regulations will not result in a significant impact on a substantial number of small entities. For purposes of the Regulatory Flexibility Act, we consider all self-employed physicians to be small entities. We estimate that there are 230,000 physicians who furnish medical services that are routinely provided in office-based settings, and therefor may be affected by these limits. We are assuming that the impact will fall equally on most of these physicians. While we recognize that the actual impact will vary among these physicians, data are not available to estimate individual impacts. The $75 million Federal savings represents a reduction to these affected physicians, averaging out to only $325 per physician in FY 83. The $135 million savings in FY 84 would result in an average reduction of $590 per physician. This is not a significant impact in FY 83, especially since it represents a reduction of .4 percent from the estimated average net income of $80,000 per physician in 1980. Using this same salary base, the estimated revenue reduction, in FY 1984, would be .7 percent.

2. *Effect on Hospitals.* For purposes of the Regulatory Flexibility Act, we consider all non-profit hospitals and all for-profit hospitals of less than 100 beds to be small entities.

These proposed limits are established for physician services only. These limits will not be applied to Part B hospital costs or to payment for covered surgical procedures in outpatient settings. Hospitals will continue to receive payment for overhead costs associated with the delivery of outpatient services. Therefore, hospitals will not be significantly affected by these proposed regulations.

H. *Alternatives Considered.* 1. *Limits on Hospital Outpatient Costs.* Because the Medicare law authorizes limits, to the extent feasible, on both hospital costs and physician charges for services in hospital outpatient departments, we considered developing both types of limits. This alternative, if adopted, would have enabled us to implement the recent legislation fully. However, as explained earlier in this preamble, we are still studying the feasibility of applying limits to hospital outpatient costs. Until we have made an analysis, we do not believe that establishing hospital outpatient cost limits is warranted.

2. *Services Excluded from Limits.* Because section 2142 specifies that certain types of services are to be excluded from the limits, we considered proposing limits for all services not specifically excluded by the statute. As explained earlier, however, imposing limits on certain types of services could result in inconsistencies with other parts of the Medicare law and regulations, or in unreasonably low payment levels. For example, applying limits to surgical services performed in outpatient settings could undermine the purpose of section 934 of Pub. L. 96–499, which encourages the use of ambulatory settings for certain surgical procedures that are now frequently performed in inpatient hospital settings. Applying these limits to services of physicians who receive compensation by or through the hospital (and for which Medicare pays on a compensation-related charge basis) could create at least the potential for inconsistency between those limits and the special rules on payment for those services that are set forth in 42 CFR 405.480–405.488. Since we are proposing separate revisions to the regulations governing payment to physicians providing outpatient anesthesiology and diagnostic and therapeutic radiology services, these limits will not apply to services provided by these physicians.

To avoid these problems, we will exclude the three types of services described above from these limits.

3. *Use of Prevailing Charges to Develop Limits.* Section 104 gave the Secretary the authority to establish limits on physician charges using prevailing charges as the basis. The legislative history of this amendment indicates that a further adjustment is to be done to the prevailing charges to exclude the overhead factor currently included in the prevailing charges. Therefore, we are using prevailing charges to establish a charge base for the limits. Prevailing charges are based on actual charge data submitted to the carriers by physicians, and their use will minimize the need for additional calculations. The private sector will incur no additional cost because bills are already being submitted to the carriers for these routine physician services. The carriers will experience little administrative expense because no additional data will be collected; instead, another calculation will be performed on data already being collected.

I. *Waiver of Proposed Rulemaking and of 30-Day Delay in Effect.* The Tax Equity and Fiscal Responsibility Act of 1982, including the provisions in section 104 relating to limits on charges for outpatient services, was enacted to provide revenue increases and expenditure reductions necessary to meet the budget objectives for FY 1983 and following years. The law relies on the immediate implementation of section 104 to meet the budget goals by specifying that the section shall be effective with respect to services furnished on or after October 1, 1982, and the savings estimates on which the legislation was predicated assumed that section 104 would be implemented as of that date. Because it would take at least several months to conduct a rulemaking procedure, the use of notice and comment procedures would violate congressional intent and prevent the achievement of the budget savings sought by enactment of section 104. Accordingly, we find that it would be impractical and contrary to the public interest to utilize a notice of proposed rulemaking in this case. Moreover, in light of the directions provided in the Senate Finance Committee report as to the level of the limits to be imposed, we are simply implementing clear congressional instruction by these rules, rather than exercising a significant measure of administrative discretion. In light of these legislative constraints on the principal aspects of the rules, we find good cause to waive the usual 30-day delay in effective date, and to make these revised regulations effective services rendered on or after October 1, 1982. We will, however, consider any comments on this rule that are mailed by the date specified above in the "DATES" section and make any further changes that may be necessary.

IV. Other Required Information

A. *Public Comments.* Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. If we determine a revised final rule is necessary after receiving the comments, we will respond to the comments in the preamble of the revised final rule.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

42 CFR Part 405 is amended as set forth below:

1. The authority citation for Subpart E is revised to read to follows:

Authority: Secs. 1102, 1814(b), 1833(a), 1842(b), 1861(v)(1)(K) and 1871 of the Social Security Act as amended (42 U.S.C. 1302, 1395F(b), 1395l(a), 1395u(b), 1395x(v)(1)(K), 1395hh, unless otherwise noted.

2. In Subpart E, § 405.502 is revised by adding a new paragraph (f) to read as follows:

§ 405.502 Criteria for determining reasonable charges.

* * * * *

(f) *Determining charge payments for certain physicians' services provided in hospital outpatient departments.* (1) *General Rule.* Carriers will determine the reasonable charges for physicians' services of the type routinely furnished in physicians' offices by applying the limits described in paragraph (4) of this section when those services are provided in hospital outpatient settings.

For purposes of this paragraph, "hospital outpatient settings" means hospital clinics, outpatient departments, and emergency rooms in which overhead costs are reimbursed to the hospital under the rules in Subpart D of this Part.

(2) *Services covered by limits.* The carrier will establish a list of services routinely provided in physicians' office in the area. The carrier has the discretion to determine which professional services are routinely provided in physicians' offices, based on current medical practice in the area. Listed below are some examples of routine services provided by office-based physicians.

Examples

Review of recent history, determination of blood pressure, auscultation of heart and lungs, and adjustment of medication is essential hypertension.

Brief history and examination, and initiation of diagnostic and treatment programs.

Treatment of an acute respiratory infection.

(3) *Services excluded from limits.* The limits established under this paragraph will not apply to:

(i) Services furnished in a rural health clinic.

(ii) Surgical services furnished in an ambulatory setting.

(iii) Services provided in a hospital emergency room that are necessary to prevent the death or serious impairment of the health of the individual.

(iv) Services provided by physicians who are compensated by or through the hospital and whose services are reimbursed on a compensation related charge basis as specified in 42 CFR 405.485; or

(v) Anesthesiology services and diagnostic and therapeutic radiology services.

(4) *Methodology for developing limits.* (i) *Development of a charge base.* The carrier will establish a charge base for each service identified as a routine office-based physician service. The charge base will consist of the prevailing charge in the locality for each such service adjusted by the economic index. The carrier will use the prevailing charges that apply to services by nonspecialists in office practices in the locality in which the hospital is located.

(ii) *Calculation of the outpatient limits.* The carrier will calculate the charge limit for each service by multiplying the charge base amount for each service by .60.

(5) *Application of limits.* The reasonable charge for physicians' services of the type described in paragraph (f)(2) of this section that are furnished in a hospital outpatient setting will be the lowest of the actual charges, the customary charges in accordance with § 405.503, the prevailing charges

applicable to these services in accordance with § 405.504, or the charge limits calculated in paragraph (f)(4)(ii) of this section.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance Program; No. 13.774, Medicare Supplementary Medical Insurance Program)

Dated: September 17, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 22, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-27110 Filed 9-30-82; 8:45 am]

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Friday
October 1, 1982

Part XI

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Elimination of Inpatient Routine Nursing Salary Cost Differential

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Elimination of Inpatient Routine Nursing Salary Cost Differential

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: Because patients age 65 and over had been presumed to require more nursing services than the general patient population, the Medicare reimbursement principles have, since 1969, recognized an inpatient routine nursing salary cost differential for hospitals and skilled nursing facilities (SNFs). Legislation enacted in 1981 limits this differential rate for hospitals to no more than 5 percent.

Recent studies have cast serious doubt on the assumption that aged patients require more nursing services than do hospital patients generally. In view of these studies and in the interest of avoiding payments to providers of services that exceed the providers' reasonable costs, Pub. L. 97-248, the Tax Equity and Fiscal Responsibility Act of 1982, was enacted on September 3, 1982. Section 103 of this legislation eliminates the inpatient routine nursing salary cost differential as an element of reimbursable cost under Medicare for hospitals or SNFs.

DATES: Effective date: October 1, 1982. Although this regulation is final, comments may be submitted as described below.

Comment Date: To assure consideration, comments should be mailed by November 30, 1982.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235.

In commenting, please refer to BPP-209-FC.

If you prefer, you may deliver your comments to Room 309-G Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C. or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection, beginning approximately three weeks after publication, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

FOR FURTHER INFORMATION CONTACT: William Goeller, (301) 597-1802.

SUPPLEMENTARY INFORMATION:

I. Background

A. *Overview.* Under Part A of the Medicare program (title XVIII of the Social Security Act), hospitals and skilled nursing facilities (SNFs) are reimbursed based on the reasonable cost of health care items and services furnished to beneficiaries. The current Medicare rules for calculating reimbursable costs of these providers include an inpatient routine nursing salary cost differential (42 CFR 405.430). Medicare adopted this differential on the basis of a study that was conducted in 1966. This study indicated that, on the average, elderly patients in an institutional setting required more general routine nursing services than did other patients. The differential was applied also to pediatric and maternity patients, who also were assumed to require a greater amount of routine nursing services than other patients.

The differential is not an add-on to the total routine nursing salary costs incurred by a provider, but rather it is a reallocation of the actual routine nursing salary costs between aged, pediatric and maternity patients and all other classes of patients.

The effect of the nursing differential is that the Medicare program recognizes a higher than average routine per diem cost for aged, pediatric and maternity patients and a lower than average per diem cost for other classes of patients. (Disabled Medicare beneficiaries are counted in the "all other" category unless they are otherwise pediatric or maternity patients.) The total impact of the differential on a particular provider's Medicare reimbursement will vary, depending on the provider's patient mix. If all of the provider's patients were aged, pediatric and maternity, no differential would be applicable.

We originally published regulations in the **Federal Register** on July 2, 1971 (36 FR 12606) to establish the principle of an inpatient routine nursing salary cost differential as an element of reimbursable cost. The differential was effective for services furnished on or after July 1, 1969. We set the rate of the differential at 8.5 percent.

B. *Legislative History.* During its consideration of Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35), Congress expressed its concerns about whether aged patients actually use more nursing services. The following excerpt from the Senate Finance Committee Report (Senate Report 97-139) reflects their concerns: "Under the present law, medicare reimburses hospitals on the basis of their 'reasonable costs'. Since July 1, 1969, the Secretary has by regulation paid an 8.5 percent plus factor for inpatient routine nursing salary costs on the theory that older patients require more nursing care than the average patient. There was no objective, convincing evidence in 1969, that this plus factor was warranted. Moreover, in the years since 1969, there have been changes in medicare law, changes in the way services are furnished, and changes in the way medicare reimburses for routine services that make the cost differential even less tenable today than when it was adopted. For example, the inclusion in 1972 in medicare of disabled beneficiaries who are below age 65 has made an average routine per diem amount for all beneficiaries (without recognition of any differential) more appropriate. Also, with the growth of special-care beds (intensive care, coronary care, etc.), there has been a shift of the intensely ill from general routine-care areas to these special-care units. It has been noted that since intensive nursing care is now being given in these special-care units, the nursing cost differential for routine services may have become less necessary than in the past. However, despite these considerations, many institutions have stated that a differential is still justified."

In recognition of the industry's position that a nursing differential exists, Congress enacted Section 2141 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35), entitled Limitation on Routine Nursing Differential. Section 2141 amended section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) to require that the Secretary, through regulations, allow an inpatient routine nursing salary cost differential as a reimbursable cost of hospitals, at a rate not to exceed 5 percent and using already established methodology. The amendment applies to services furnished after September 30, 1981.

Section 2141 also required the Comptroller General to conduct a study of the extent, if any, to which the average cost of efficiently providing routine inpatient nursing care to Medicare beneficiaries exceeds the average cost of furnishing that care to other patients. Because of the very short period of time between the passage of the legislation (August 13, 1981) and the effective date of section 2141 (October 1, 1981), we did not have time to fully evaluate the current nursing differential situation. Therefore, in issuing regulations to implement this legislation,

we decided as an interim measure to set the differential at the maximum allowed by law until the results of the Comptroller General's report were available.

On October 1, 1981, we published regulations in the Federal Register to implement this legislation (46 FR 48544). Those regulations establish the routine nursing salary cost differential for hospitals at 5 percent, the maximum rate allowed by the statute, for services furnished after September 30, 1981. In order to apply the reduced rate only to services furnished after that date, the revised regulations specify that for hospital cost reporting periods that began before October 1, 1981, the reduced rate is imposed only in proportion to the part of the cost reporting period that occurs after September 30, 1981. (This means that for the portion of the cost reporting period that occurs before October 1, 1981, the differential rate is 8.5 percent, and for the portion of the cost reporting period that occurs after September 30, 1981, the rate is 5 percent.)

Historically, we have applied the routine nursing salary cost differential uniformly to hospitals and skilled nursing facilities (SNFs). However, the amendment was silent as to treatment of the differential regarding SNFs. Consequently, we did not alter the rate for SNFs when we revised the regulations in October 1981. The rate of SNFs remained at 8.5 percent. Instead, we decided to wait for the General Accounting Office (GAO) report before making any major changes that were not required by the statute.

C. *The Comptroller General's Report.* In response to the congressional direction cited in section 2141, the GAO analyzed existing studies relating to the existence and size of a routine nursing salary cost differential. (GAO Report HRD–82–32, January 20, 1981). The GAO concludes that "Overall, GAO believes that, on balance, evidence tends to be against the existence of an industry-wide nursing cost differential."

The GAO report proposed a methodology to conduct a work-sampling study that would yield statistically reliable data to determine if a nationwide Medicare routine nursing salary cost differential exists and, if so, to determine its size. However, this GAO study would cost approximately $8.3 million.

D. *Elimination of the Nursing Differential.* Congress considered the GAO study's conclusion that, on balance, evidence tended to be against the existence of an industry-wide nursing differential. The Senate Finance Committee (Report 97–494) states, "The Committee does not feel, based on existing information, that there is a compelling reason for the differential. The amendment, therefore, provides for its repeal."

Thus, Section 103 of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982 amended section 1861(v)(1)(J) of the Social Security Act to provide that Medicare is precluded from recognizing any inpatient routine nursing salary cost differential as an element of reimbursable cost for hospitals or SNFs. The amendment specifies that this change is to be effective with respect to cost reporting periods ending after September 30, 1982. As with the 1981 legislation, Section 103 specifies the reductions in reimbursement for cost reporting periods that straddle the effective date will be only in proportion to the part of the period which occurs after September 30, 1982.

II. Regulatory Changes

We are, therefore, amending the regulations in 42 CFR 405.430 as follows:

A. *Section 405.430(a)—Principle.* This paragraph currently states that an inpatient routine nursing salary cost differential is allowable as a cost for hospitals and SNFs, and that the amount of the differential is 8.5 percent for hospital and SNF services furnished before October 1, 1981. The paragraph further states that the applicable rate for services furnished on or after that date will be 8.5 percent for SNFs, and 5 percent for hospitals. We are amending this paragraph to specify that effective for services furnished on or after October 1, 1982, the inpatient routine nursing salary cost-differential is no longer applicable to either hospitals or SNFs.

B. *Section 405.430(c)(2)—Application.* We are revising this paragraph to conform to the specific differential percentages in effect and the time periods to which they apply.

C. *Section 405.430(d)—Effective dates.* We are proposing to revise paragraph (d) by providing a chart showing the appropriate nursing differential rate in effect for each type of facility for each time period. The regulation indicates that hospitals and SNFs with cost reporting periods that straddle the effective date for changing the differential will calculate the differential for each portion of the reporting period at the appropriate rate.

For those cost reporting periods, the individual calculations are simplified by computing a composite nursing differential percentage that is weighted to reflect both the number of months in the cost reporting period for which the 5 percent (hospital) or 8.5 percent (SNF) factor is applicable, and the number of months in the time period for which no differential factor applies. An example of how we are requiring providers to compute the weighted percentage, is as follows:

Example—Calculation of Nursing Differential Percentage for 12-month Hospital Cost Reporting Period Ending March 31, 1983.

$$\frac{(\text{Total months in cost reporting period before October 1, 1982})\ 6\times 1.05 + (\text{Total months in cost reporting period after September 31, 1982})\ 6\times 1.00}{\text{12 calendar months}} =$$

Nursing differential percentage = 1.025

(To calculate the weighted percentage for SNFs, a factor of 1.085 (reflecting an 8.5 percent differential) could be substituted for 1.05 in the above equation.)

The following is a table showing the appropriate composite percentage to be used for each 12-month cost reporting period that ends on the last day of a month and straddles the effective date of this reduction (October 1, 1982).

Composite Nursing Differential Percentage for 12-month Cost Reporting Periods Ending on the Last Day of the Month.

Cost report ending	Percentage differential for hospitals	Percentage differential for SNF's
Oct. 31, 1982	1.046	1.078
Nov. 30, 1982	1.042	1.071
Dec. 31, 1982	1.038	1.064
Jan. 31, 1983	1.033	1.057
Feb. 28, 1983	1.029	1.050
Mar. 31, 1983	1.025	1.043
Apr. 30, 1983	1.021	1.035
May 31, 1983	1.017	1.028
June 30, 1983	1.013	1.021
July 31, 1983	1.008	1.014
Aug. 31, 1983	1.004	1.007
Sept. 30, 1983	1.000	1.000

For cost reporting periods ending on a day other than the last day of the month, the table is not appropriate. Also, the table is not appropriate for short cost reporting periods (periods of less than 12 months). The appropriate composite percentage for either type of period is developed using the above formula, and substituting calendar days for calendar months.

III. Impact Analysis

A. *Executive Order 12291.* Executive Order 12291 requires that a regulatory impact analysis be performed for any "major rule". A major rule is one that:

—Has an annual effect on the national economy of $100 million or more;

—Results in a major increase in costs or prices for consumers, any industries, any governmental agencies, or any geographic regions;

—Has significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

Our actuaries estimate the program savings resulting from this elimination in the hospital inpatient routine nursing salary cost differential during fiscal year 1983 will be approximately $93 million. Fiscal year 1984 savings are estimated to reach $115 million.

Although the annual economic impact is close to the $100 million threshold criterion for FY 1983 and exceeded in FY 1984, we have determined that Section 103 of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982 has occasioned this impact, and not these regulations which merely implement the statutory provision. Therefore, a regulatory impact analysis is not required.

B. *Regulatory Flexibility Analysis.* The Secretary certifies, under 5 U.S.C. Section 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that these regulations will not result in a significant impact on a substantial number of small entities.

A substantial number of hospitals may experience a reduction in Medicare revenue through implementation of this rule. However, the amount of the reduction for any individual provider will not meet the threshold criteria to be considered significant. (In general, we consider a change to be significant only if it results in a difference in Medicare payments to an entity that equals or exceeds 5 percent of the entity's total revenue.)

The elimination of the nursing differential will reduce Medicare reimbursement to hospitals by less than 5 percent. First, the differential applies to general routine nursing salaries only, which constitute approximately 18 percent of total reimbursable costs for inpatient hospital services. Thus, the anticipated reduction in Medicare hospital reimbursement would be less than .9 percent (.18 x .05).

The actual reduction will depend on the proportion of aged, pediatric and maternity patients in an individual facility and among its Medicare patients. This is because the differential is a reallocation of nursing salary costs between aged, pediatric and maternity patients, and all other classes of patients rather than an add on to Medicare reimbursement. The result is that Medicare pays a slightly higher than average per diem routine cost for aged patients and a lower than average per diem routine cost for disabled beneficiaries. Elimination of the inpatient nursing differential results in Medicare payment at the average per diem routine service cost for all beneficiaries. The effect of this rule is to reduce Medicare payment for the nursing salary cost of one class of patients and increase it for another. In any event, the net effect would be less than a .9 percent reduction in Medicare payments to the hospital.

Since patients in SNFs are generally aged, there has been little difference between the average per diem routine costs for all patients and the average per diem routine cost for aged, pediatric and maternity patients. As a result, we estimate few SNFs will be significantly affected by the elimination of the nursing differential.

However, even if there were a significant effect on a substantial number of small entities, we have determined that this effect is the result of the statutory provision, and not these regulations which merely implement these provisions. Therefore, a regulatory flexibility analysis is not required.

IV. Waiver of Proposed Rulemaking

These amendments are technical in nature and merely implement the clear language of Section 103 of Pub. L. 97–248 which requires elimination of the use of the inpatient routine nursing salary cost differential for hospitals and SNFs for services furnished after September 30, 1982. In our view, publishing a notice of proposed rulemaking is unnecessary for the immediate and proper implementation of this provision and would not contribute to the clarification of any issues. The statutory language does not provide any alternatives to the elimination of the nursing differential and is clear in requiring that these changes to the regulations be effective October 1, 1982; consequently, it would be impractical to delay implementation to permit public comment prior to implementing the law. Moreover, this rule will result in budget savings. Therefore, any delay caused by such a notice would not serve the public interest. We, therefore, find good cause to waive proposed rulemaking procedures. We will, however, consider any comments on this rule that are mailed by the date specified above in the "DATES" section and make any further changes that may be necessary. We also find good cause to waive the 30-day delayed effective date for these amendments, based on the statutorily mandated effective date.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

The authority citation for 42 CFR Part 405, Subpart D reads as follows:

Authority: Secs. 1102, 1814(b), 1833(a), 1861(v), and 1871, 49 Stat. 647, as amended, 79 Stat. 296, 79 Stat. 302, 79 Stat. 322, 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq., unless otherwise noted.

42 CFR Part 405, Subpart D is amended as follows:

1. The Table of Contents for Subpart D is amended by revising the title of § 405.430 to read as follows:

* * * * *

Sec.

405.430 Inpatient routine nursing salary cost differential for services furnished before October 1, 1982.

* * * * *

2. 42 CFR 405.430 is amended by revising the section title and paragraphs (a), (c)(2) and (d) to read as follows:

§ 405.430 Inpatient routine nursing salary cost differential for services furnished before October 1, 1982.

(a) *Principle.* An inpatient routine nursing salary cost differential, with regard to care furnished to aged, pediatric and maternity patients, is reimbursable at the rate of 8½ percent for services furnished by hospitals and skilled nursing facilities before October 1, 1981. For services furnished after September 30, 1981 and before October 1, 1982 the applicable rate will be 8½ percent for skilled nursing facilities and 5 percent for hospitals. For inpatient hospital services and skilled nursing facility services furnished on or after October 1, 1982, no inpatient routine

nursing salary cost differential will be recognized. Recognition of the differential by the health insurance program is accomplished through an inpatient routine nursing salary cost differential adjustment factor as specified in paragraph (b)(8) of this section.

* * * * *

(c) *Application.*

* * * * *

(2) Although the inpatient routine nursing salary cost differential under the health insurance program is established at a rate of 8½ percent for skilled nursing facilities and hospitals through September 30, 1981, at 8.5 percent for skilled nursing facilities and 5 percent for hospitals for services furnished after September 30, 1981 and before October 1, 1982, the effect of the differential on reimbursement to a particular provider is also a function of the relationship that total aged, pediatric, and maternity patient days of service bears to total patient days of service (excluding nursery days) rendered by that provider.

(d) *Effective dates*—(1) The appropriate inpatient routine nursing salary cost differential applicable for the reporting period as an element in the computation of a hospital's or skilled nursing facility's reimbursable cost will be determined in accordance with paragraphs (d) (2) and (3) of this section.

(2) Chart of effective dates:

For services furnished—	The amount of the inpatient routine nursing salary cost differential (percent) is—	
	SNFs	Hospitals
Before Oct.1, 1981	8.5	8.5
Oct. 1, 1981 to Sept. 30, 1982	8.5	5.0
On or after Oct. 1, 1982	0.0	0.0

(3) For cost reporting periods that fall entirely within one of the time periods specified in the chart in paragraph (d)(2) of this section, the amount of the inpatient routine nursing salary cost differential for a hospital or SNF will be the amount shown in that chart.

Example: For hospitals with cost reporting periods beginning on October 1, 1981 and ending on September 30, 1982, the amount of the inpatient routine nursing salary cost differential will be 5.0 percent.

(4) (i) For cost reporting periods that straddle one of the time periods specified in the chart in paragraph (d)(2) of this section, the amount of the inpatient routine nursing salary cost differential for a hospital or SNF will be determined, as described in paragraphs (d)(4)(ii) or (d)(4)(iii), by prorating the appropriate amounts shown in that chart for each portion of the cost reporting period.

(ii) For 12-month cost reporting periods ending on the last day of a month, a composite nursing differential percentage will be determined based on the number of months in the reporting period occurring before the effective date of a rate change and the number of months in the reporting period occurring after the effective date of the rate change.

Example: For hospitals with cost reporting periods beginning on December 1, 1981 and ending on November 30, 1982, the amount of the inpatient routing nursing salary cost differential will be 4.2 percent (10 months at 5 percent plus 2 months at no differential).

(iii) For cost reporting periods other than those described in paragraph (d)(3) or (d)(4)(ii), a composite nursing differential percentage will be determined based on the number of calendar days, instead of months, occurring before the effective date of a rate change, and the number of calendar days in the cost reporting period occurring after the effective date of the rate change.

(Catalog of Federal Domestic Assistance Programs; No. 13.773; Medicare, Hospital Insurance)

Dated: September 16, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 17, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-27111 Filed 9-30-82; 8:45 am]

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federal register

Friday
October 1, 1982

Part XII

Department of Agriculture

Office of the Secretary

Plant Biology and Human Nutrition; Competitive Research Grants Program for Basic Research for Fiscal Year 1983; Solicitation of Applications

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Plant Biology and Human Nutrition; Competitive Research Grants Program for Basic Research for Fiscal Year 1983; Solicitation of Applications

Notice is hereby given that under the authority contained in Section 2(b) of the Act of August 4, 1965, as amended (7 U.S.C. 450i(b)), the Cooperative State Research Service (CSRS), through its Competitive Research Grants Office (CRGO) anticipates awarding competitive grants for mission-oriented basic research in four areas of plant sciences (biological nitrogen fixation, biological stress on plants, photosynthesis, genetic mechanisms for crop improvement) and in human nutrition (nutrient requirements) contingent on Congressional appropriation of funds for this purpose in Fiscal Year 1983. Proposals may be submitted through their parent organizations by scientists associated with State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals.

The award of any grants under the provisions of this Notice is subject to the availability of appropriations.

The Guide to Proposal Preparation for these competitive grants consists of three parts:

I. Types of Research To Be Supported in FY 1983;
II. Proposal Submission;
III. Proposal Review and Evaluation.

A Grant Application Kit has been developed which provides the forms, instructions, and other relevant information needed to apply for research grants under the programs described herein. To obtain a copy(ies) of the Grant Application Kit, write or call the Grants Administrative Management Office (Address and telephone number below):

Grants Administrative Management Office, Attention: Proposal Services Unit, Science and Education Management Staff, USDA, Suite 103, Rosslyn Commonwealth Building, 1300 Wilson Boulevard, Arlington, Virginia 22209, telephone: (703) 235–2638

Additional instructions relating to proposal preparation are included in Part II of the Guide to Proposal Preparation.

Proposals will be selected for funding after review of all proposals by a scientist serving as a CRGO Program Manager, by *ad hoc* reviewers, and by an assembled panel of scientists who constitute a spectrum of expertise for the program to which each proposal is assigned (See Part III of the Proposal Preparation Guide). Recommendations of the peer panels on proposals to be considered for funding will be reviewed by the Administrator of Cooperative State Research Service prior to awarding any grants.

This Notice incorporates suggestions from various agencies of the U.S. Department of Agriculture (USDA), from liaison representatives of other Federal agencies and prospective performing organizations, and from *ad hoc* groups on plant sciences and on human nutrition.

According to the requirements for Federal assistance program announcements under Pub. L. 95–220, The Federal Program Information Act, the following information is provided with respect to the areas of research described in this announcement for which project grants will be awarded:

(1) As outlined by OMB Circular No. A–89, the official program number and title for these grants are: 10.206, Grants for Agricultural Research, Competitive Research Grants.

(2) OMB Circular No. A–95, regarding State and local clearinghouse review of Federal and Federally assisted programs, does not apply.

The grants awarded under this Program will be administered in accordance with the USDA Uniform Federal Assistance Regulations (7 CFR Part 3015; 46 FR 55636, November 10, 1981), applicable OMB Circulars and Form S&E–638, General Provisions for Grants and Cooperative Agreements. A copy of Form S&E–638 is included in the Grant Application Kit.

The determination of allowable costs shall be made in accordance with the following applicable Federal Cost Principles in effect on the effective date of the Agreement:

Educational Institutions—OMB Circular A–21;
Nonprofit Organizations—OMB Circular A–122;
Commercial Firms—FPR 1–15.2;
State and Local Governments—OMB Circular A–87.

Most of the grants awarded in Fiscal Year 1983 will be for a duration of one to three years. The total amount awarded for each of these grants will be from Fiscal Year 1983 funds. A number of continuation grants will be made for three to five years where longer term studies are required. The continuation grants will be funded in increments covering a one-year period. The initial increment will be funded from Fiscal Year 1983 appropriations.

When an original grant award includes a provision for more than one budget period within the project period, CSRS presumes that continuation grants for the subsequent budget periods will be awarded subject to availability of funds, if the grantee:

(1) Has demonstrated satisfactory performance during all previous budget periods; and

(2) Submits no later than 90 days prior to the end of the budget period a continuation grant application (Form S&E–661) which includes a detailed progress report; a financial statement for the current budget period, including an estimate of the amount of unspent, uncommitted funds which will be carried over beyond the term of the last funding period; a budget (Form S&E–55) for the new budget period; an updated work plan revised to account for actual progress accomplished during the current budget period; and any other reports as may be required by the grant agreement.

Review of continuation applications will be conducted expeditiously. Generally, no extramural review will be required.

Neither the approval of a project nor the award of any grant shall commit or obligate the United States to award any continuation grant or enter into any grant amendment, including grant increases to cover cost overruns, with respect to any approved project or portion thereof.

Section 2(b) of Pub. L. 89–106, as amended, states that these competitive grants shall be awarded without regard to matching funds by the recipient(s) of such grants.

It has been determined that, because of the need to implement this program so that research relating to plant production can be initiated in the Spring of 1983, compliance with the Notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. Further, this action has been reviewed under Executive Order 12291 and it has been determined that this is not a major rule. Although this Notice establishes the procedures and criteria under which the recipients of competitive grants in Fiscal Year 1983 will be selected, and the terms and conditions under which such grants will be administered, it does not involve a substantial or major impact on the Nation's economy or large numbers of individuals or businesses. There will be no major increase in cost or prices for consumers, individual industries,

Federal, State, or local government agencies, or geographic regions.

Done at Washington, D.C., this 23 day, of September, 1982.

T. B. Kinney, Jr.,

Acting Assistant Secretary for Science and Education.

Guide to Proposal Preparation

I. Types of Research To Be Supported in Fiscal Year 1983

The Cooperative State Research Service will award both standard research grants and a small number of continuation grants for periods not to exceed five years, on a competitive basis, to support basic research underlying the mission of the USDA. Basic research grants will be considered in selected areas of plant science and human nutrition, which have been considered by a number of scientific groups to possess exceptional opportunity for fundamental scientific discovery and for contributing, in the long run, to applied research and development vitally needed on important food and nutrition problems. This grants program results from the recognition that new, innovative approaches and enhanced levels of funding are needed as we seek ways to increase food production and improve human nutrition.

Consideration will be given to research proposals which address fundamental questions in the areas noted below and which are consistent with the long-range missions of USDA. While basic guidelines are provided to assist members of the scientific community in assessing their interest in the program areas and to delineate certain important areas where new information is vitally needed, the guidelines are not meant to provide boundaries or to detract from the creativity of potential investigators. Accordingly, it is hoped that innovative projects in the so-called "high-risk" category as well as those which may have a higher payoff potential will be submitted.

The following guidelines are thus provided as a base from which proposals may be developed:

A. *Plant Science.* 1. *Biological Stress on Plants.* Plants are exposed to many stresses that may adversely affect their productivity and usefulness to man. This grants program will support research on stresses on plants arising from their interactions with other plants or with other biological agents such as weeds, insects, nematodes, fungi, bacteria, viruses, and mycoplasma-like organisms. The ultimate goal of the research supported in this area is to reduce losses in plant productivity from damage caused by biologically generated stresses. The program area will emphasize studies that enhance our understanding of (a) how stressful interactions are established between plants and other biological agents, (b) how such interactions are influenced by environmental and other factors inherent to the interacting organisms, (c) how the interactions reduce plant productivity and usefulness to man, (d) how plants react to stresses generated by such interactions, and (e) how damage from such interactions may be reduced or eliminated. The interactions may be studied at any number of levels: i.e., population, organismal, cellular and molecular; and by various approaches including genetics, molecular biology, and biochemistry. These may include studies on plants separated from stress-causing organisms or on stress-causing organisms separated from their target plants. However, such studies should provide information that will be relevant to the understanding of the causes, consequences, and avoidance of biologically generated stresses on plants. The research supported in this program area will focus on the identification of new approaches that will be both effective and compatible with social and environmental concerns.

2. *Genetic Mechanisms for Crop Improvement.* The major aim of this program area is to encourage innovative or unique genetic approaches directed to the development of genetically superior varieties of agricultural crops. The approaches should be aimed at obtaining novel genetic combinations or gene modifications difficult or impossible to achieve using conventional plant breeding techniques. This research area will emphasize the following: (a) Cell culture studies including the regeneration of plants from single cells, cell/protoplast fusion, mutagenesis, and incorporation of foreign DNA, chromosome, or organelle; (b) development of effective cellular and molecular methods for identification of plant characteristics or genes which are significant targets for genetic manipulation; (c) development of methods for producing, selecting, and transferring desired genetic traits including both qualitative and quantitative traits; (d) acquisition of basic information on nuclear and organelle plant gene expression and diversity at the molecular, cellular, or developmental level to facilitate application to plant improvement; and (e) basic genetic studies on maintenance, alteration, and utilization of unadapted and wild germplasm. Proposals to conduct well-defined basic plant genetic studies in support of plant breeding programs and designed to improve understanding of basic genetic mechanisms of the crop are encouraged. These guidelines are not meant to exclude other new or unusual approaches to crop improvement.

3. *Biological Nitrogen Fixation.* The most common limiting nutrient for plant growth is nitrogen. The presence of soil nitrogen is due to past accretions in nature, biological nitrogen fixation or the application of nitrogenous fertilizer. The latter represents a significant energy input in cropping and ultimately increases food costs. Thus, the enhancement of biological nitrogen fixation capacity in plant-soil microbial associations is of major importance. Research aimed at understanding nitrogen fixing mechanisms and related nitrogen metabolism in both symbiotic and free living organisms as well as the fate of fixed nitrogen is of high priority.

In general, the objectives in this program area include building a foundation of basic information concerning nitrogen fixation as it relates to enhancing the process in currently known systems and in providing a base for developing new nitrogen fixing associations, by genetic transfer or other means, for crop species not now possessing such capability. Moreover, the process of nitrification (the oxidation of ammonia to nitrate), the assimilation and utilization of ammonia and nitrate, and denitrification (the reduction of nitrate to volatile forms of nitrogen which are lost from the soil) all play important roles in plant growth. Soil nitrogen, whether supplied by biological nitrogen fixation or as chemical fertilizer serves to increase food production only when it is present in an available form which is not lost from the plant-soil ecosystem.

Examples of research encompassed in this program area include: (a) Structure and mechanism of action of nitrogenase; the regulation of nitrogenase activity and synthesis; the relationship between nitrogenase and hydrogenase activities in nitrogen fixing organisms; (b) energetics of the nitrogen fixation process including competitive processes within the plant; (c) infection by *Rhizobium* and conditions for effective nodulations; basis of the recognition process between symbiotic organisms; factors controlling symbiont specificity; competition in the soil; (d) study of the nitrogen fixing capabilities of Actinomycetes, *Azospirillum* ssp., Cyanobacteria and other organisms potentially important to supplying nitrogen needs of plants; (e) relation between the fixation process and the

processes of assimilation, nitrification and denitrification; (f) the development of methods for the *in situ* measurement of nitrification and denitrification, and determination of the actual extent of these processes in nature; (g) an analysis of the distribution of denitrifying and nitrifying bacteria and elucidation of control mechanisms operative on nitrogen transformations in the major species; (h) studies of the metabolism of fixed nitrogen including the enzymes involved in the assimilation and dissimilation of fixed nitrogen in bacteria and crop plants and the partitioning of fixed nitrogen into various gene products or plant organs; and (i) the efficiency of nitrogen utilization by crop plants in the production of food proteins.

Emphasis in program priorities will be on innovative approaches which may contribute to a thorough understanding of nitrogen cycling encompassing biochemistry, cellular and developmental biology, genetics and genetic manipulation, and other relevant life science disciplines. An understanding of these processes is essential to the development of strategies which maximize nitrogen fixation, minimize inputs of nitrogenous fertilizers and optimize their utilization in agriculture.

4. *Photosynthesis.* There are many indications that productivity of crop plants may be enhanced by increasing their photosynthetic efficiency. Basic research which provides greater understanding of limiting processes of photosynthesis and associated carbon metabolism will help guide how increased crop productivity might be achieved.

Research is needed in the following major subareas: (a) Aspects of photosynthetic energy conversion including such areas as early events in photon capture by photosynthetic systems and the mechanisms of charge separation, the structure and function of photosynthetic membranes and membrane constituents, and the associated chemical and physical reactions, (b) photosynthetic carbon assimilation including CO_2 fixation, biochemistry of photosynthetic pathways, photorespiration, and aspects of cellular metabolism regulating these reactions, (c) control of photosynthate partitioning and translocation by hormones or other metabolic factors, (d) factors controlling development and senescence of photosynthetic competence, (e) genetic and cellular manipulation to improve photosynthetic efficiency in plants including studies of the chloroplast genome, of nuclear genes regulating photosynthesis, and analysis of regulatory steps controlling both nuclear and cytoplasmic genome expression and their interactions, (f) the photosynthetic process in leaves and whole plants including but not limited to involvement of the stomatal aperture, and water and temperature extremes.

Other research designed to generate new information leading to further understanding of photosynthesis and its accompanying processes may also be considered a part of this area.

B. *Human Nutrition.* Proposals are invited in the area of human requirements for nutrients. Support will not be provided for clinical research nor for demonstration and action projects.

Research in this program area is intended to contribute to the improvement of human nutritional status by increasing our understanding of requirements for nutrients. The objective is to support basic, creative research that will help to fill gaps in the knowledge about nutrient requirements, bioavailability, the interrelationships of nutrients, and the nutritional value of foods that are consumed in the U.S. and of the nutritional status of population groups, as all of these relate to human nutrient requirements. Special attention will be given to applications involving innovative approaches designed to improve methods of research and investigation that will increase the reliability and validity of data concerned with the quantitative evaluation of nutrient requirements and nutritional status.

Proposals dealing with processing techniques in food technology should be clearly oriented towards determination of human nutrient requirements. Proposals which concern utilization or production of a food commodity should emphasize the relationship to specific human nutrient requirements. It is especially important that proposals emphasize innovative (creative) fundamental (basic) research.

II. Proposal Submission

A. *Proposal Purpose.* The purpose of a proposal is to persuade the reviewing peer scientists and the CRGO staff that the proposed project is feasible and sufficiently meritorious to warrant support under the criteria enumerated in Part III B. It should be clear, concise, technically correct, and relevant to the competitive grants program. The qualifications for the investigator, the institution facilities, and the level of funding to be devoted to the proposed project should be clearly delineated.

B. *Who May Submit Proposals.* Proposals for support under the competitive research grants program may be submitted by qualified scientists associated with the State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals. Proposals from scientists at non-United States organizations will not be considered for support. Only in special situations, where it can be demonstrated that a proposed project will contribute directly to breakthroughs in the food and agricultural sciences, will proposals from unaffiliated scientists be given favorable consideration.

Section 1404 of Pub. L. 95–113, as amended (7 U.S.C. 3103) defines "college" and "university" as "an educational institution in any State which (A) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) provides an educational program for which a bachelor's degree or any other higher degree is awarded, (D) is a public or other nonprofit institution, and (E) is accredited by a nationally recognized accrediting agency or association."

C. *Where and When to Submit Research Proposals.* Twenty copies of each research proposal must be submitted by the time limits set below to: Grants Administrative Management Office (GAMO), ATTENTION: Competitive Research Grants Program, Science and Education Management Staff, USDA, Suite 103, Rosslyn Commonwealth Building, 1300 Wilson Boulevard, Arlington, Virginia 22209.

Proposals will be reviewed by peer panels (as described in Part III) which will assemble on specific dates. In order to be considered for funding during Fiscal Year 1983, the proposals must be postmarked by the following dates:

February 26, 1983 for Biological Nitrogen Fixation;
February 11, 1983 for Genetic Mechanisms for Crop Improvement;
February 26, 1983 for Photosynthesis;
December 1, 1982 for Biological Stress on Plants;
January 15, 1983 for Human Nutrient Requirements.

D. *What to Submit.* Your submission should include an original and 19 copies of the proposal and Form S&E–661, Grant Application, which is included in the Grant Application Kit. The Form S&E–661 submitted with the original proposal should have original signatures

of the Principal Investigator(s) and the Authorized Organizational Representative. S&E must have original signatures on file for each application.

The applicable specific area of inquiry (program area) should be indicated in Block 8 of Form S&E-661 provided in the Grant Application Kit. *Select one program area only.* Indicating more than one program area does not mean the proposal will be considered under more than one. It only delays processing of the proposal in GAMO. The final determination of the area and change (if any) will be made by the program staff and/or the appropriate panel. The numbers assigned to the programs are seen below and must be cited in Block 8 of Form S&E–661.

Number and program area

1 Biological Stress on Plants
2 Genetic Mechanisms for Crop Improvement
3 Biological Nitrogen Fixation
4 Photosynthesis
5 Human Requirements for Nutrients

All copies of the proposal should be mailed in one package, if at all possible. Due to the volume of proposals received, proposals submitted in several packages are very difficult to identify. If copies of the proposal are mailed in more than one package, the number of packages should be marked on the outside of each. It is important that *all packages be mailed at the same time.* The acknowledgement of receipt of the proposal will contain a proposal number and the title. Later inquiries, addenda, etc., should include this information. However, every effort should be made to *assure* that the *proposal contains* all *pertinent information when initially submitted.* Prior to mailing, compare your proposal with the Application Requirements checklist contained in the Grant Application Kit and instructions in Part II E, Format for Research Proposal, which follows.

E. *Format for Research Proposal.* the Grant Application Kit (available from GAMO) includes forms, instructions, and other information to be used in applying for research grants which will be awarded in the areas described in Part I, Types of Research to be Supported in Fiscal Year 1983.

Additional information and/or instructions relating to the format and content of the research proposal follow:

1. *Title of Proposal.* The title (80 characters maximum) will be used for the USDA Current Research Information System (CRIS), for information to Congress and for press releases. Therefore, it should not contain highly technical words. Phrases such as "Investigation of" or "Research on" should not be used.

2. *Approval Signatures of Appropriate Officials.* All proposals from a university, college, or institution must be signed by an authorized official.

3. *Research Involving Special Considerations.* A number of situations frequently encountered in the conduct of research require special information and supporting documentation before funding can be approved for the project. If special information or supporting documentation is involved, the proposal should so indicate. Since some types of research targeted for CSRS support have a high probability of involving either recombinant DNA or human subjects, special instructions follow:

Recombinant DNA. Principal investigators and endorsing performing organization officials must comply with the guidelines of the National Institutes of Health (See NIH "Guidelines for Research Involving Recombinant DNA Molecules" (43 FR 50108–50131) and subsequent revisions).

Human Subjects. Safeguarding the rights and welfare of human subjects used in research supported by CSRS grants it the responsibility of the performing organization. The informed consent of the human subject is a vital element in this process. Guidance is contained in Pub. L. 93–348, as implemented by Part 46, Subtitle A of Title 45 of the Code of Federal Regulations, as amended (45 CFR Part 46).

If the project involves human subjects at risk, the grantee must furnish CSRS with a statement that the research plan has been reviewed and approved by the appropriate Institutional Review Board at the grantee organization, and that the grantee is in compliance with Department of Health and Human Services (DHHS) policies, as amended, regarding the use of human subjects. Form S&E–84, Protection of Human Subjects, may be used for this purpose.

4. *Project Summary.* The Research Proposal should include a one-page Project Summary to focus on: Overall objectives and project goals; relevance and significance of the project; and experimental methods and approaches.

The Project Summary is not intended for the general reader so should be couched in language which will be meaningful to others in the field of science.

5. *Project Description* (15-page maximum). a. Introduction—State overall objective(s) and long-term goal(s) of the proposed research. Review the most significant previous work, including your own, and describe the current status of research in this field. Document with references.

b. Rationale and Significance—Present concisely the rationale behind the proposed research and list specific objectives for the total period of requested support. Show how these objectives relate to potential long-range improvements in food production or human nutrition. What is the potential importance of the proposed research? Discuss any novel ideas or contributions which the project offers.

c. Experimental Plan—State clearly your hypotheses or the questions you will ask and give details of the research plan. Include a description of the experiments or other work proposed; the methods and techniques to be employed and their feasibility; the kinds of results expected; and the means by which the data will be analyzed or interpreted. Include, if appropriate, a discussion of pitfalls that might be encountered, and limitations of the procedures proposed. Insofar as possible, describe the principal experiments or observations in the sequence in which it is planned to carry them out, and indicate, if possible, a tentative schedule of the main steps of the investigations within the project period requested.

d. Facilities and Equipment—Describe the facilities available for this project, including laboratories. Point out any procedures, situations, or materials that may be hazardous to personnel and the precautions to be exercised. List major items of instrumentation and those major items of nonexpendable equipment needed to complete the work.

e. Collaborative Arrangements—If the proposed project requires collaboration with other research organizations, describe the collaboration and provide evidence to assure the reviewers that the organizations involved agree. If separate written assurances are to be included, they should be placed after the References to the Project Description. Indicate specifically whether or not such collaborative arrangements might have the potential for any conflict of interest. Projects involving collaboration should indicate which organizaiton is to receive the grant since only one submitting organization can be the recipient of a grant for each proposal. Subcontract arrangements of research work should be indicated under Item I of the Proposal Budget, Form S&E–55.

6. References to Project Description. These references shoudl follow an accepted journal format.

7. Vitae and Publications List(s) of Principal Investigator(s). Vitae of the principal investigator, senior associates, and other professional personnel should

be provided to assist reviewers in evaluating the competence and experience of the project staff. This seciton should include curricula vitae of all key persons who will work on the project, whether or not Federal funds are sought for their support. Provide for each person a chronological list of the most representative publications during the preceding 5 years including those in press. List the authors in the same order as they appear on the paper, the full title, and the complete reference as these usually appear in journals.

8. Additions to Project Descriptions. Each project description is expected by the members of review committees and the staff to be complete in itself. Distribution of additional material, other than for the records, is limited to the principal reviewers. In those instances where additional material is necessary (as for example: Photographs which do not reproduce well, and reprints or other especially pertinent material which are not suitable for inclusion in the proposal), 6 copies or sets or this material, identified by title of the research project and name of the Principal Investigator, should accompany the proposal.

III. Proposal Review and Evaluation

A. *Proposal Review.*—Research proposals recieved by CRGO will be acknowledged and assigned to the appropriate program for scientific evaluation.

All proposals will be carefully review by a scientist serving as CRGO Program Manager and by additional scientists who are experts in the particular field represented by the proposal. Program Managers will also conduct discussions and obtain comments from assembled peer panels of scientists before recommending proposals for funding.

B. *Criteria for Selection of Projects.*—The following criteria or factors are considered in the evaluation of research proposals:

1. The scientific merit of the proposal, including the suitability and feasibility of the approaches and methodology.

2. The probability that the research will contribute to important discoveries or significant breakthroughs in food production or human nutrition in relation to the mission of this program.

3. The qualifications of the Principal Investigator and other senior personnel, such as training, demonstrated awareness of previous and alternative approaches to the problem, and performance record and/or potential for future accomplishment.

4. The probable adequacy of available or obtainable facilities, equipment, instrumentation, and technical support.

C. *Revisions to Proposals During Review Process.*—Prior to recommending whether or not CSRS should support a particular project, the Program Manager may engage in discussions with the proposing Principal Investigator. Should such discussions result in proposed changes which exceed 10 percent of the proposed grant amount or $10,000, whichever is less, a revised proposal budget, signed by both the proposing Principal Investigator and by the Authorized Organizational Representative, must be submitted on Form S&E–55 in an original and two copies to the cognizant CRGO Program Manager for incorporation into the proposal file.

Should such discussions result in changes in the basic objectives or scope of the project as originally proposed, an appropriate proposal modification, signed and endorsed as above, must be submitted to the CRGO Program Manager.

D. *Disposition of Proposals.*—After the grants are awarded, DRGO will retain one copy of unfunded proposals on file for 5 years. The remaining copies will be destroyed. Confidential business information in applications will be protected to the extent allowable by law from disclosure under the Freedom of Information Act, Pub. L. 93–502 (5 U.S.C. 552).

E. *Grant Award.*—The applicants submitting proposals judged most meritorious under the criteria in III B above will be awarded grants for periods not to exceed five years, within the limitations of available funds.

[FR Doc. 82–27134 Filed 9–30–82; 8:45 am]

BILLING CODE 3410–03–M

federal register

Friday
October 1, 1982

Part XIII

Department of Health and Human Services

Office of the Secretary

Medicare Program; Inpatient Hospital Deductible for 1983

Federal Register

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Medicare Program; Inpatient Hospital Deductible for 1983

AGENCY: Health and Human Services Department (HHS).

ACTION: General notice.

SUMMARY: This notice announces the inpatient hospital deductible and coinsurance amounts for calendar year 1983 under Medicare's Hospital Insurance Program. The Medicare statute specifies the formula to be used to determine these amounts. The inpatient hospital deductible will be $304. The daily coinsurance amounts will be: (a) $76 for the 61st through 90th days of hospitalization; (b) $152 for lifetime reserve days; and (c) $38 for the 21st through the 100th days of extended care services in a skilled nursing facility. Each figure represents an increase of approximately 17 percent over the corresponding 1982 figure.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Sol Mussey, Supervisory Actuary Office of Financial & Actuarial Analysis, 1–C–11 Oak Meadows Building, 6325 Security Blvd., Baltimore, Maryland 21207; (301) 594–1024.

SUPPLEMENTARY INFORMATION: Under the authority in section 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e(b)(2)), the Secretary has determined that the Medicare inpatient hospital deductible for 1983 will be $304.

Section 1813 provides for an inpatient hospital deductible and certain coinsurance amounts to be deducted from the amount payable by Medicare for inpatient hospital services and extended care services furnished and individual. Section 1813(b)(2) requires the Secretary of HHS to determine and publish, between July 1 and October 1 of each year, the amount of the inpatient hospital deductible applicable for the following calendar year.

Because the coinsurance amounts in section 1813 are fixed percentages of the inpatient hospital deductible for services furnished in the same calendar year, the increase in the deductible has the effect of also increasing the amount of coinsurance the Medicare beneficiary must pay. Thus, for inpatient hospital services or extended care services furnished in 1983, the daily coinsurance for the 61st through 90th days of hospitalization (¼ of the inpatient hospital deductible) will be $76; the daily coinsurance for lifetime reserve days (½ of the inpatient hospital deductible) will be $152; and the daily coinsurance for the 21st through the 100th days of extended care services in a skilled nursing facility (⅛ of the inpatient hospital deductible) will be $38.

Under the formula in the law, the deductible for calendar year 1983 must be equal to $45 multiplied by the ratio of (1) the current average per diem rate for inpatient hospital services for calendar year 1981 to (2) the average per diem rate for such services in 1966. The amount so determined is rounded to the nearest multiple of $4. The average per diem rates are based on the amounts paid to participating hospitals by Medicare for inpatient services to insured individuals, plus the deductible and coinsurance amounts.

The average per diem rate for a calendar year is computed from the inpatient hospital bills for all beneficiaries. Each bill shows the number of inpatient days of care and the interim cost (the sum of interim reimbursement, deductible, and coinsurance). The data are summarized for each year, and an average interim per diem rate computed that accurately reflects interim costs on an accrual basis.

In order to reflect the change n the average per diem hospital cost under the program properly, the average interim cost must be adjusted to show the effect of final cost settlements made with each participating hospital after the end of its accounting year. The final settlements adjust the interim payment to the hospital to the actual full cost of providing covered services to beneficiaries. To the extent that the ratio of final cost to interim cost for 1981 differs from the ratio of final costs to interim cost for 1966, the increase in average interim per diem costs will not coincide with the increase in actual cost that has occurred.

The current average interim per diem rate for inpatient hospital services for calendar year 1981, based on tabulated interim costs, is $258.79; the corresponding amount for 1966 is $37.92. The averages are based on approximately 103 million days of hospitalization in 1981 and 30 million days in 1966 (last 6 months of the year). The ratio of final cost to interim cost is approximately 1.047 for 1981 and 1.055 for 1966. Thus, the inpatient hospital deductible is $45x(258.79x1.047)/(37.92x1.055)=$304.78, which is rounded to $304.

Impact Analyses

The inpatient hospital deductible and coinsurance amounts for calendar year 1983 will be 17 percent higher than the 1982 amounts. The inpatient hospital deductible increased from $260 to $304; the daily coinsurance for the 61st through 90th days of hospitalization increased from $65 to $76; the daily coinsurance for lifetime reserve days increased from $130 to $152; and the daily coinsurance for the 21st through 100th days of extended care services in a skilled nursing facility increased from $32.50 to $38.

The estimated cost to beneficiaries due to these increases is $450 million. This amount is based on an estimated 7.5 million beneficiaries who will have 8.5 million benefit periods and use 4.9 million coinsurance days and 1.2 million lifetime reserve days in 1983.

HCFA computed the 1983 inpatient hospital deductible and coinsurance amounts in the same manner as in previous years as required by section 1813 of the Act. The costs associated with this notice are the result of legislative requirements implemented by this notice. Since this notice merely announces amounts required by legislation and is not a proposed rule or final rule issued after a proposal, no analysis is required under Executive Order 12291 or the Regulatory Flexibility Act.

(Sec. 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e(b)(2)))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: September 27, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-27149 Filed 9-30-82; 8:45 am]

BILLING CODE 4120-03-M

federal register

Friday
October 1, 1982

Part XIV

Office of Personnel Management

Government Employees; Excepted Service; and Retirement

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Interim rulemaking, with comments requested.

SUMMARY: Positions filled by National Guard Technicians who are eligible for or receiving an annuity based on a disability that disqualifies them from National Guard membership or from holding a military grade required by their technician employment are excepted from the competitive service under Schedule A because it is impracticable to examine for them. Establishment of the exception is necessary to implement a provision of the Omnibus Budget Reconciliation Act of 1982 (Pub. L. 97–253).

DATES: Effective: October 1, 1982. Comments must be received on or before November 30, 1982.

ADDRESS: Written comments may be sent to Richard B. Post, Associate Director, Staffing Group, U.S. Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, or delivered to Room 6F08, 1900 E Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202–632–6000.

SUPPLEMENTARY INFORMATION: Section 302(a) of Public Law 97–253, the Omnibus Budget Reconciliation Act of 1982, which will be codified as 5 U.S.C. 8337(h), provides: (1) That a National Guard Technician who is required as a condition of employment to be a member of the National Guard or to hold a certain military grade may be eligible for disability retirement based on a disability that disqualifies the individual from membership in the National Guard or from holding the required military grade; and (2) that any individual aplying for or receiving an annuity under this provision "shall, in accordance with regulations prescribed by the Office, be considered by any agency of the Government before any vacant position in the agency is filled if—(A) the position is located within the commuting area of the individual's former position; (B) the individual is qualified to serve in such position as determined by the head of the agency; and (C) the position is at the same grade or equivalent level as the position from which the individual was separated." Instructions for referral and consideration of such Technicians for appropriate vacancies will be published in the Federal Personnel Manual. However, because National Guard Technicians are appointed under 32 U.S.C. 709(a), which confers no status or eligibility for movement to other positions, a special appointing authority is needed to permit their placement in other agencies. Schedule A appointing authority, under which agencies determine qualifications for their positions, is appropriate in view of the language of the Reconciliation Act.

The Director finds that good cause exists to waive the general notice of proposed rulemaking and to make this amendment effective in less than 30 days. The regulation is being made effective immediately because it is needed to implement 5 U.S.C. 8337(h), which becomes effective on October 1, 1982.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains solely to conditions for appointment of certain employees by Federal agencies.

Lists of Subjects in 5 CFR Part 213

Government employees.

Office of Personnel Management.

Donald J. Devine,

Director.

PART 213—EXCEPTED SERVICE

Accordingly, the Office of Personnel Management is amending 5 CFR Part 213 by adding § 213.3102(j) to read as follows:

§ 213.3102 Entire executive civil service

* * * * *

(j) Positions filled by appointment of persons previously employed as National Guard Technicians under 32 U.S.C. 709(a) who are eligible and applying for or receiving an annuity under the provisions of 5 U.S.C. 8337(h) by reason of a disability that disqualifies them from membership in the National Guard or from holding the military grade required as a condition of their National Guard employment.

* * * * *

(5 U.S.C. 3301, 3307, 8337(h)))

[FR Doc. 82-27148 Filed 9-30-82; 11:15 am]

BILLING CODE 6325-01-M

5 CFR Part 831

Retirement; Implementation of Public Law 97–253

AGENCY: Office of Personnel Management.

ACTION: Interim rulemaking, with comments requested.

SUMMARY: The Omnibus Budget Reconciliation Act of 1982 (Public Law 97–253 enacted on September 8, 1982) amends the retirement provisions of chapter 83 of title 5, U.S. Code. It will decrease Federal expenditures and increase Federal Revenues by rounding annuities down, delaying commencing dates for most annuities, capping annuities, reducing annuity cost-of-living adjustments (COLA's), restricting eligibility for early retirement annuities, reducing possible abuse of the disability retirement program, requiring deposits for credit for certain civilian and military service, and increasing interest rates payable on voluntary contributions and interest rates charged on deposits and redeposits. The law also provides for lesser reductions to the annuities of certain retirees with post-1956 military service.

Since many of the changes are effective on October 1, 1982, interim regulations are necessary to permit timely implementation of these provisions and achievement of the intended savings to the Federal Government. This interim rule revision contains changes pertaining to discontinued service retirement, interest charged on deposits and redeposits to the Civil Service Retirement Fund, commencing dates of annuities, disability retirement and rules on making deposits for military service.

DATES: Interim rules effective October 1, 1982. Comments must be received on or before November 30, 1982.

ADDRESS: Written comments may be sent to Craig B. Pettibone, Office of Pay and Benefits Policy, Compensation Group, P.O. Box 57, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20044, or delivered to Room 4351.

FOR FURTHER INFORMATION CONTACT:

Interest—Mary Angel, (202) 632–4604

Deposit for military service—Patricia A. Rochester, (202) 632–4634

Discontinued service retirement—Doris Reeves, (202) 632–4634

Commencing date of annuity—Jane Lohr, (202) 632–4634

Disability retirement—Eugene R. Littleford, (202) 632–4634.

SUPPLEMENTARY INFORMATION: The Omnibus Budget Reconciliation Act of 1982 (Public Law 97–253) made extensive changes in the Civil Service Retirement System to decrease costs to the Federal Government and increase the amount of money paid into the Civil Service Retirement Fund. Many of the statutory provisions, such as those concerning cost of living increases, are detailed and require no regulations to implement them. However, new or revised regulations are necessary to implement provisions on interest rates on deposits, redeposits, and voluntary contributions to the Civil Service Retirement Fund, making deposits for military service, discontinued service retirement, and commencing dates of annuities. The Office of Personnel Management is issuing interim regulations to implement these provisions because the statute is effective October 1, 1982, and firm guidelines are required for OPM and agencies to proceed with timely implementation of the changes.

1. *Discontinued service retirement.* Section 308 of Public law 97–253 restricts eligibility for discontinued service retirement. Prior to October 1, 1982, Federal employees who were involuntarily separated from the service other than for misconduct or delinquency were eligible for discontinued service retirement at age 50 with 20 years of service, or any age with 25 years of service, even if they declined offers of positions at the same grade and pay. After October 1, 1982, employees who decline reasonable offers of other positions will no longer be eligible for discontinued service annuities.

The amendment to 5 U.S.C. 8336(d) describes a "reasonable offer" as another position in the employee's agency and commuting area for which the employee is qualified, and which is not more than two grades or pay levels below the employee's current grade or pay level. Since the law makes no exception for occupied positions, whether the offered position is occupied or vacant would have no bearing on whether it constitutes a reasonable offer.

We are adding a new § 831.504 to further clarify the term "reasonable offer." "Employee's agency" is clarified as including the agency to which the employee with his or her function is transferred in a transfer of function. A cross-reference is added to incorporate the existing definition of "commuting area" in 5 CFR 831.502(a) and 5 CFR 351.203(d). (The existing prohibition on eligibility for discontinued service retirement when an employee who is under a geographic mobility requirement declines a position outside the commuting area is continued. See FPM Supplement 831–1, S11–2.e.)

The regulations also provide that the offer must be made in writing and the employee must meet established qualification requirements. Also, the offered position must be of the same tenure. An appointment of the same tenure means the same expectations of continued employment; i.e., same service (competitive, excepted, or Senior Executive Service) and same type (career, permanent, indefinite, etc.). An offer to a member of the Senior Executive Service of a position in the General Schedule would not be an offer of a position of the same tenure. In addition, reasonable offers would have to be of the same work schedule (full-time, part-time, or intermittent). For example, a full-time employee must be offered a full-time position.

Finally, "grade or pay level" for an employee who is not currently under grade retention because of a previous RIF or reclassification action is clarified as being the grade or pay level of the position currently occupied, without consideration of the employee's eligibility to retain the current grade or pay under 5 CFR Part 536 or other authority. In addition, for an employee who is currently under grade retention because of a previous RIF or reclassification action, the retained grade, not the grade of the position actually occupied, will be used to determine whether a position offered is two grades or pay levels lower. In order to determine a grade level equivalent when the position offered is under a different pay schedule or system, we have extended the current rule for reduction-in-force, grade and pay retention, and disability retirement, which uses a comparison of representative rates of the two positions.

2. *Commencing Dates of Annuities.* Section 305 of Public Law 97–253 provides that annuities of employees and Members shall commence on the first day of the month after the month in which the employee retires or meets the age and service requirements for annuity. Affected annuities include regular voluntary annuities; early voluntary retirement under a major reduction-in-force, reorganization or transfer of function; special formula retirements such as those for law enforcement, firefighter, and air traffic personnel; supplemental annuities; and deferred annuities. Under existing law, such annuities generally commence on the day following an employee's separation; deferred annuities commence on an individual's 62nd birthday.

This provision would not apply to survivor annuities, disability annuities, or annuities based on involuntary separation.

The amendment applies to annuities which commence on or after October 1, 1982.

Conforming changes are made in 5 CFR 831.701(a) and 831.802(c).

3. *Interest Rates, Deposits, and Redeposits.* Section 303 amends the Retirement law by increasing the interest rates paid by the Fund on voluntary contributions effective January 1, 1985. It also increases the interest rates charged on deposits for service performed on and after October 1, 1982, in positions not covered by the Retirement law and for redeposits of refunds paid by OPM on and after October 1, 1982. The increased interest rates will be equal to the average rate of earnings on investments purchased by the Retirement Fund in the preceding year, as determined by the Secretary of the Treasury. It is anticipated that higher interest rates will make voluntary contributions a more attractive investment opportunity for Federal employees and encourage employees to make deposits for periods of noncontributory service performed on or after October 1, 1982.

In addition, Section 303 provides that service credit for annuity computation purposes will not be allowed for periods of noncontributory service performed on or after October 1, 1982, unless a deposit is made for that service. The law currently in effect will continue to apply to noncontributory service performed before October 1, 1982, i.e., employees who choose to make deposits for such service will be charged interest at the rate of 4 percent per year through December 31, 1947, and 3 percent per year thereafter compounded annually and credit will be allowed for such service, subject to an annuity reduction of 10 percent of the amount of deposit plus interest unpaid at the time of retirement.

Section 303 also provides that an employee must be separated from covered service for at least 31 days to receive a refund of retirement contributions. This provision gives longstanding OPM policy a statutory basis. The current rates of interest payable for refunds, 4 percent per year through December 31, 1947, and 3 percent per year thereafter, compounded annually, continue to apply.

Conforming changes are made in 5 CFR 831.105 and in 5 CFR Part 831, Subpart C.

4. *Disability Retirement.* Section 302 of the Act amends existing provisions concerning termination of disability annuities based on earnings of the annuitant. In the past, a disability retiree's annuity would be terminated if, for two consecutive years, he or she earned more than 80 percent of the current salary of the position from which retired. The annuity continued for a one-year grace period before actual termination of payments. The two-year earnings test is now reduced to one year, and the grace period is reduced to six months. This change is effective for income earned during calendar year 1983 and beyond. Conforming changes are made in § 831.502(e).

In addition, Section 302 also makes certain former National Guard Technicians eligible for disability retirement if they are disqualified for their military positions because they do not meet military medical standards. This change applies to individuals who were separated after December 1979. Conforming changes are made in § 831.502(f)(6). OPM will issue separate regulations at a later date concerning the special placement provisions for these individuals.

5. *Service Credit for Post-1956 Military Service.* Section 306 amends 5 U.S.C. 8332(c) so that credit for a period of military service (performed before the separation giving title to annuity) is allowed for individuals not receiving military retired pay who first become employees or Members on or after October 1, 1982, only if a deposit is made for such period of military service performed after December 1956. This provision does not apply if the retired pay is awarded because of a service-connected disability either incurred in combat with an enemy of the United States or caused by an instrumentality of war and incurred in line of duty during a period of war as defined by section 301 of title 38, United States Code, or awarded under chapter 67 of title 10, United States Code. Individuals may received such retired pay and still get credit for military service after making the necessary deposit for post-1956 service. The deposit must be in an amount equal to 7 percent of the individual's basic pay under 37 U.S.C. 204. Individuals who were employees or Members before October 1, 1982, will continue to receive credit for such military service after December 31, 1956 without making a deposit; however, they will have an option to make the deposit in order to avoid elimination of credit for military service after December 31, 1956, at age 62.

The provisions for making the deposit for military service are prescribed in a new subsection (j) which has been added to 5 U.S.C. 8334. The amount of the deposit will not include interest if it is completed by October 1, 1984, or 2 years after the date the individual making the deposit first becomes an employee or Member, whichever comes later. If completion of the deposit for service performed after December 31, 1956, but before October 1, 1982, is delayed beyond the prescribed period, interest will be compounded annually at the rate of 3 percent of the unpaid balance from October 1, 1984, and thereafter. For service performed on or after October 1, 1982, interest will be compounded annually at the rate of 3 percent of the unpaid balance from October 1, 1984 to December 31, 1984, and at the variable rate to be determined by the Secretary of the Treasury thereafter.

The amount to be deposited is to be computed by the employing agency, the Secretary of the Senate, or the Clerk of the House of Representatives, as appropriate, based on basic pay information to be certified by the Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate. Based on its computation, the agency is to collect the deposit and remit the payments immediately to OPM for deposit to the Fund. OPM is required to notify the Secretary of the Treasury of the yearly disbursement for annuities attributable to military service, less an amount determined to be the value of deposits made to the Fund under 5 U.S.C. 8332(j).

The Reconciliation Act does not contain a provision which would permit survivors to make a deposit or redeposit for military service. Survivors of employees and Members who die without making the total deposit will not be permitted to make the deposit.

Section 306 has also amended 5 U.S.C. 8332(j), to make an exception to the requirement that military service performed after December 1956 be excluded from the computation of an individual's annuity at age 62, if that individual is entitled or would be entitled upon filing the proper application to benefits under 42 U.S.C. 402 based on his or her wages and self-employment income. Now individuals who complete the deposit for military service performed after December 1956 (as provided in 5 U.S.C. 8334(j)) will not have military service eliminated from the annuity computation.

The amounts deposited for military service are refundable as a part of the employee's or member's "lump sum credit" (i.e., all retirement contributions plus the deposit will be paid; they will not be refunded separately) but only if all the requirements for a refund in 5 U.S.C. 8342(a) are met. The amendments to §§ 831.105 and 831.301 are principally to ensure that the regulations conform to the statutory amendments enacted in Pub. L. 97–253. In addition, the regulations clarify some points in the law.

Section 831.301(b)(3) in the interim regulations clarifies that an individual with military service after December 1956 must deposit 7 percent of basic pay for each period of military service after December 1956 in order to receive credit for that period of military service. Credit will be allowed for service performed prior to January 1957 regardless of whether a deposit is made for post-1956 military service.

New subpart U to Part 831 establishes the procedural requirements for agencies to process deposits for military service after December 1956 to conform to the provisions of Pub. L. 97–253.

Section 831.2107 of the interim regulations allows the agency to use a "tentative" computation to counsel the employee who is potentially interested in making a deposit for military service.

Once the employee or Member has decided to make the deposit, an initial payment of at least one hundred dollars (if the total deposit is less than one hundred dollars, the full estimated deposit should be paid) will be required before the agency has to compute the actual payment due and bill the employee or Member.

The employee or Member is encouraged to make the deposit in one lump-sum payment to the agency; however, agencies may accept installment payments of no less than one hundred dollars each. Such payments may be made by payroll allotments, if desired. (See § 831.2108 of the interim regulations.)

If the employee or Member pays in installments, the payments should be completed within 12 months.

A reconsideration right to OPM and a subsequent appeal right to the Merit Systems Protection Board are provided for individuals who receive an agency decision denying credit for a period of military service. (See § 831.2109 of the interim regulations.)

6. *Proposed Extension of Procedures for Military Deposits to Deposits for Civilian Service.* In a document

published in the Proposed Rule section of todays's issue of the **Federal Register**, we are requesting comments on a proposal to extend procedures in Subpart U of Part 831 for military deposits established by these interim regulations to deposits and redposits for civilian service. Upon evaluation of comments received, we may then extend the final regulations to cover deposits and redeposits for civilian service.

The law requires agencies to perform the same function for military service credit as OPM currently performs for civilian service. Permitting agencies to handle the civilian service credit function would allow a single process for deposits, redeposits, and credit for both military and civilian service. Agencies would report collections and credited service to OPM in a uniform manner, and individuals' claims for service could be more easily resolved in advance of retirement. There would also be a significant side benefit of faster collection of money since applicants would not have to come to OPM before a deposit could be made. Agencies already are required to verify service and provide employees with tentative computations of amounts owed for civilian service, and OPM is exploring ways to minimize their workload in regard to processing military service credit applications which would be equally applicable to civilian service applications.

In addition, utilizing the same procedures for both civilian and military service will permit an agency to handle the entire process for an individual who has a payment to be made for both types of service. Under current procedures, an individual with both types of service would have to make two payments—a payment for military service through his or her employing agency and a payment for civilian service through OPM.

Pursuant to sections 553, 1103, and 1105 of title 5 of the United States Code, the Director finds that good cause exists for waiving the general notice of proposed rulemaking and for making this amendment effective in less than 30 days because many of the provisions of Pub. L. 97–253 become effective on October 1, 1982, and implementing regulations must be in place by that time.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that within the scope of the Regulatory Flexibility Act, this regulation will not have a significant economic impact on a substantial number of small entities because it affects Federal employees and retirees only.

List of Subjects in 5 CFR Part 831

Government employees, Administrative practice and procedure, Claims, Firefighters, Handicapped, Law enforcement officers, Pensions, Retirement.

Office of Personnel Management.
Donald J. Devine
Director.

PART 831—RETIREMENT

For the reasons set out in the Preamble, Part 831 of Chapter I, Title 5 of the Code of Federal Regulations, is amended as shown:

1. Section 831.104 is revised to read as follows:

§ 831.104 Application.

With exception noted below, applications under subchapter III of chapter 83 of title 5, United States Code, shall be filed with OPM and shall be on forms prescribed by OPM. Applications for deposit for military service shall be filed with the appropriate office in the employing agency, or, for Members and Congressional employees, with the Secretary of the Senate, or the Clerk of the House of Representatives, as appropriate.

2. In 5 CFR 831.105, paragraphs (b), (c) and (d) are revised and paragraphs (e), (f) and (g) are added to read as follows:

§ 831.105 Computation of interest.

* * * * *

(b) Interest is allowed on current deductions and deposits at the rate of 4 percent per year to December 31, 1947, and 3 percent per year thereafter, compounded annually, to December 31, 1956. However, if an employee or Member, before completing 5 years' civilian service, becomes separated from sevice or if he or she is transferred to a position in which he or she is not subject to subchapter III of chapter 83 of title 5, United States Code, interest is allowed after December 31, 1956, at the rate of 3 percent per year, compounded annually, to date of final separation or transfer. Interest is not allowed for 1 year or less of covered service and interest is not allowed for any fractional part of a month in the total service.

(c) Interest at the rate of 3 percent per year through December 31, 1984 and, thereafter, at the yearly rate determined by the Secretary of Treasury, compounded annually, is allowed on voluntary contributions during periods of employment and, after the employee or Member has completed at least 5 years' civilian service, during periods of separation until the beginning date of annuity or death, whichever is earlier. For refund purposes, however, interest on voluntary contributions terminates on the date of the employee's or Member's final separation or on the date of the employee's or Member's last transfer to a position in which he or she is not subject to subchapter III of chapter 83 of title 5, United States Code.

(d) For noncontributory service performed before October 1, 1982, and for redeposits of refunds paid before October 1, 1982, interest at the rate of 4 percent per year to December 31, 1947, and at the rate of 3 percent per year thereafter, compounded annually, is charged. Interest is charged on the outstanding balance of a deposit from the midpoint of each service period for which deposit is involved; interest in charged on the outstanding balance of a refund from the date the refund was paid. Interest is charged to the date of deposit or commencing date of annuity, whichever is earlier, except that interest is not charged for any period of separation from the service which began before October 1, 1956.

(e) For noncontributory service performed on or after October 1, 1982, and for redeposits of refunds paid on or after October 1, 1982, interest is charged at the rate of 3 percent per year through December 31, 1984, and, thereafter, at the yearly rate determined by the Secretary of Treasury, compounded annually. Interest is charged on the outstanding balance of a deposit from the midpoint of each service period for which deposit is involved; interest is charged on the outstanding balance of a refund, from the date the refund was paid. Interest is charged to the date of deposit.

(f) No interest is charged on a deposit for military service if that deposit is made before October 1, 1984, or within 2 years of the date that an individual first becomes an employee or Member, whichever is later. When interest is charged on a deposit for military service, for service performed before October 1, 1982, it is charged on the outstanding balance at the rate of 3 percent per year from October 1, 1984 (or 2 years from the date the individual first becomes an employee or Member, whichever is later), and, thereafter, compounded annually, until payment is completed. For service performed on or after October 1, 1982, it is charged on the outstanding balance at the rate of 3 percent per year from October 1, 1984 (or 2 years from the date the individual first becomes an employee or Member,

whichever is later) through December 31, 1984, compounded annually, and, thereafter, at the yearly rate determined by the Secretary of the Treasury, compounded annually.

(g) For calendar year 1985 and for each subsequent calendar year, OPM will publish a notice in the Federal Register to formally notify the public of the interst rate that will be in effect during that calendar year.

3. § 831.301 is revised to read as follows:

§ 831.301 Military Service.

(a) *Service of individuals who are employees or Members before October 1, 1982.* A period of honorable active service in the Army, Navy, Marine Corps, Air Force, or Coast Guard of the United States, or, after June 30, 1960, in the Regular Corps or Reserve Corps of the Public Health Service, or, after June 30, 1961, as a commissioned officer of the National Oceanic and Atmospheric Administration (formerly Coast and Geodetic Survey and Environmental Science Service Administration), performed before the date of separation on which civil service annuity entitlement is based shall be included in the computation of the annuity (subject to the provisions of § 8332(j) of title 5, United States Code) provided—

(1) The employee or Member has completed 5 years' civilian service;

(2) The employee or Member is not receiving military retired pay awarded for reasons other than (i) service-connected disability incurred in combat with an enemy of the United States, (ii) service-connected disability caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is used in chapter 11 of title 38, United State Code), or (iii) under chapter 67 of title 10, United States Code.

(b) *Service of individuals who become employees or Members on or after October 1, 1982.* A period of honorable active service after December 31, 1956, in the Army, Navy, Marine Corps, Air Force, or Coast Guard of the United States, or, after June 30, 1960, in the Regular Corps or Reserve Corps of the Public Health Service, or, after June 30, 1961, as a commissioned officer of the National Oceanic and Atmospheric Administration (formerly Coast and Geodetic Survey and Environmental Science Services Administration), performed before the date of separation on which civil service annuity entitlement is based shall be included in the computation of the annuity provided—

(1) The employee or Member has completed 5 years' civilian service;

(2) The employee or Member is not receiving military retired pay awarded for reasons other than (i) service-connected disability incurred in combat with an enemy of the United States, (ii) service-connected disability caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is used in chapter 11 of title 38, United States Code), or (iii) under chapter 67 of title 10, United States Code; and

(3) The employee or Member has completed a deposit in an amount equal to 7 percent of his or her basic pay under § 204 of title 37, United States Code (plus interest, if any) for each full period of such military service performed after December 1956. No deposit is required to have military service performed prior to January 1957 included in the computation of the annuity.

(c) An applicant for annuity who otherwise meets all conditions for receiving credit for military service, but who is in receipt of retired pay which bars credit for military service, may elect to waive the retired pay and have the military service added to civilian service to obtain a higher annuity payment. An applicant for disability retirement, who is receiving a Veterans' Administration pension or compensation in lieu of military retired pay, may elect to waive the retired pay and renounce the Veterans' Administration pension or compensation and have the military service added to civilian service to obtain a higher annuity payment.

(d) For individuals who are employees or Members before October 1, 1982, periods of military service performed after December 31, 1956 (other than periods of military service covered by military leave with pay from a civilian position), are excluded from credit from and after the first day of the month in which the individual or his or her widow(er) or his or her child becomes entitled, or upon application would be entitled, to monthly old-age or survivors benefits under § 202 of the Social Security Act (42 U.S.C. 402) based on the individual's wages or self-employment income, unless the individual has completed a deposit in accordance with Subpart U of this part, for each full period of such military service performed after December 1956. No deposit is required to have military service performed prior to January 1957 included in the computation of annuity.

4. Section 831.303 is added to read as follows:

§ 831.303 Civilian service.

(a) *Periods of civilian service performed before October 1, 1982, for which retirement deductions have not been taken.* Periods of creditable civilian service performed by an employee or Member after July 31, 1920, but before October 1, 1982, for which retirement deductions have not been taken shall be included in determining length of service to compute annuity under subchapter III of chapter 83 of title 5, United States Code; however, if the employee or Member does not elect either to complete the deposit described by section 8334(c) of title 5, United States Code, or to eliminate the service from the annutiy computation, his or her annuity is reduced by 10 percent of the amount which should have been deposited (plus interest) for the period of noncontributory service.

(b) *Periods of civilian service performed on and after October 1, 1982, for which retirement deductions have not been taken.* Periods of creditable civilian service performed by a Federal employee on or after October 1, 1982, for which retirement deductions have not been taken shall be included in determining length of service to compute annuity under subchapter III of chapter 83 of title 5, United States Code, *only* if—

(1) The employee or Member subsequently occupies a position subject to subchapter III of chapter 83 of title 5, United States Code; and

(2) The employee or Member makes a deposit for the service.

5. § 831.502, paragraph (e) is revised and paragraph (f)(6) is added to read as follows:

§ 831.502 Disability retirement.

* * * * *

(e) *Income limitation.* (1) Each disability annuitant who, on December 31 of any calendar year, is under 60 years of age shall report to OPM, in a format acceptable to OPM, on or before the following February 15, his or her income from wages or self-employment for that calendar year. If the annuitant fails to submit the report, OPM may suspend annuity payments until the report is received and the annuitant's entitlement to continued annuity is determined on the basis of that report.

(2) In regard to income earned prior to January 1, 1983: When, in each of two succeeding calendar years, a disability annuitant under age 60 has received income from wages and/or self-employment, equaling at least 80 percent of the current rate of basic pay of the position from which he or she retired, the annuitant's earning capacity is

deemed restored. If earning capacity is restored, OPM shall discontinue payment of the annuity at the expiration of 1 year from the end of the 2-year period. When the disability annuitant is reemployed by a department or agency within this 1-year period, OPM shall discontinue payment of the annuity from the date of reemployment.

(3) In regard to income earned after December 31, 1982: When, in any calendar year, a disability annuitant under age 60 has received income from wages and/or self-employment, equaling at least 80 percent of the current rate of basic pay of the position from which he or she retired, the annuitant's earning capacity is deemed restored. If earning capacity is restored, OPM shall discontinue payment of the annuity 180 days from the end of the calendar year. One hundred and eighty days shall be computed on the basis that each month has 30 days. When the disability annuitant is reemployed by a department or agency within the 180-day period, OPM shall discontinue the annuity from the date of reemployment.

(f) *Reemployment.* * * *

(6) A disability annuity awarded to a former National Guard Technician under the provisions of 5 U.S.C. 8337(h), in addition to being subject to the provisions of subsections (d) and (e) of this section, shall terminate when:

(i) The annuitant is reemployed by a department or agency, or

(ii) The annuitant declines an offer of employment with a department or agency which is in the same commuting area and of the same grade or equivalent level as the position from which the annuitant retired.

6. Section 831.504 is added to read as follows:

§ 831.504 Retirement based on involuntary separation.

(a) *General.* An employee who would otherwise be eligible for retirement based on involuntary separation from the service is not entitled to an annuity under section 8336(d)(1) of title 5, United States Code, if the employee has declined a reasonable offer of another position.

(b) *Criteria for reasonable offer.* For the purposes of determining entitlement to annuity based on such involuntary separation, the offer of a position must meet all of the following conditions to be considered a reasonable offer:

(1) The offer must be made in writing;

(2) The employee must meet established qualification requirements;

(3) The offered position must be:

(i) In the employee's agency, including an agency to which the employee with his or her function is transferred in a transfer of functions between agencies;

(ii) Within the employee's commuting area as defined in § 831.502(a) of this subpart, unless geographic mobility was a condition of the employee's employment;

(iii) Of the same tenure and work schedule; and

(iv) Not lower than the equivalent of two grades or pay levels below the employee's current grade or pay level, without consideration of the employee's eligibility to retain his or her current grade or pay under Part 536 of this chapter or other authority. In movements between pay schedules or pay systems, the representative rate of the grade or pay level that is two grades below that of the current position shall be compared with the representative rate of the grade or pay level of the offered position. For this purpose, "representative rate" has the meaning given that term in § 536.102 of this chapter.

7. Section 831.701 is revised to read as follows:

§ 831.701 Effective dates of annuities.

(a) An annuity of an employee or Member commences on the first day of the month after—

(1) separation from the service; or

(2) pay ceases and the service and age requirements for title to annuity are met.

(b) An annuity of—

(1) an employee involuntarily separated from service, except by removal for cause on charges of misconduct or delinquency; and

(2) an employee or Member retiring due to a disability—shall commence on the day after separation from the service or the day after pay ceases and the service and age or disability requirements for title to annuity are met.

(c) Any other annuity payable from the Fund commences on the first day of the month after the occurrence of the event on which payment thereof is based.

(d) Except as provided in § 831.502, annuity terminates on the day of death or on the date of any other terminating event in each case when OPM (1) terminates the annuity, or (2) allows survivor annuity commencing the day after the annuitant's death.

(e) Annuity accrues on a daily basis, one-thirtieth of the monthly rate constituting the daily rate. Annuity does not accrue for the thirty-first day of any month, except in the initial month, if the employee's annuity commences on the 31st of a 31-day month. For accrual purposes, the last day of a 28-day month constitutes 3 days and the last day of a 29-day month constitutes 2 days.

8. Paragraph (c) of § 831.802 is revised to read as follows:

§ 831.802 Supplemental annuity and redetermined annuity.

* * * * * *

(c) The supplemental or redetermined annuity commences (1) on the first day of the month after separation from such employment or (2) on the first day of the month after the annuitant is converted to an intermittent status and meets the service requirements.

* * * * * *

9. Subparts S and T are reserved and Subpart U is added to read as follows:

Subpart U—Deposits for Military Service.

Sec.

831.2101 Purpose.
831.2102 Scope.
831.2103 Definitions.
831.2104 Eligibility to make deposits.
831.2105 Required elections.
831.2106 Filing an application to make deposit.
831.2107 Agency processing of employee applications for deposit.
831.2108 Payments on deposits.
831.2109 Reconsideration of an agency decision to deny credit for service.

Authority: 5 U.S.C. 8347.

§ 831.2101 Purpose.

This subpart prescribes the procedures to be followed by agencies when an employee or Member wishes to make a depoit for military service.

§ 831.2102 Scope.

This subpart applies to all agencies with employees occupying positions subject to subchapter III of chapter 83 of title 5, United States Code.

§ 831.2103 Definitions.

"Fund" is the Civil Service Retirement and Disability Fund.

"Office" is the Office of Personnel Management.

"Period of service" is the total years and months from date of enlistment to date of discharge for enlisted military service (less any lost time); and total years and months from date of entry into active duty to date of release from active duty for military officers and reservists.

"Service" is military service performed after December 1956.

§ 831.2104 Eligibility to make deposits.

(a) Employees and Members who occupy positions subject to subchapter III of chapter 83 of title 5, United States Code, may make deposits for periods of military service performed before the separation on which title to civil service annuity is based.

(b) A person who is eligible to make a deposit may do so at any time before separation for retirement.

§ 831.2105 Required elections.

(a) Retiring employees and Members who have performed military service after December 31, 1956 should indicate in writing, before separation for immediate retirement, if they do not wish to make a deposit for all or part of that service.

(b) If an employee or Member indicates that he or she wishes to make a deposit, the procedures in § 831.2106 and § 831.2107 must be followed. OPM will not accept deposits for military service after an individual is separated.

§ 831.2106 Filing an application to make deposit.

An application for deposit shall be filed with the appropriate office in the employing agency, or, for Members and Congressional employees, with the Secretary of the Senate, or the Clerk of the House of Representatives, as appropriate.

§ 831.2107 Agency processing of employee applications for deposits for military service.

(a) Upon receipt of an application for deposit, the employing agency, the Secretary of the Senate, or the Clerk of the House of Representatives, as appropriate, obtains the information necessary to compute an estimate of the amount of the deposit owed from the appropriate Federal agency.

(b) The employing agency, Secretary of the Senate, or Clerk of the House of Repesentatives, as appropriate, must then estimate the amount of the deposit owed and advise the employee or Member of the amount due for deposit.

(c) If, after being advised of the approximate amount of deposit due, the employee or Member elects to make a deposit to the Fund and makes an initial payment of at least one hundred dollars (if the total payment has been estimated as less than $100, the entire amount must be paid in a lump sum), the agency must verify the information used to estimate the deposit and compute the exact amount due.

§ 831.2108 Payments on deposits.

(a) Deposits should be collected in full in one lump sum whenever this is possible. However, if the employee or Member is unable to pay the deposit in one lump sum, payment may be made in installments which will complete the total payment over a 12 month period. In no case should payments for a single deposit period extend over more than a 36-month period.

(b) If payment is not to be made to the agency in a lump sum, the agency may accept installment payments (by allotments or otherwise) of no less than $100 each. However, if the amount of the total deposit is large, minimum installment payments shall be increased, so that payments do not extend beyond the periods specified in paragraph (a) of this section.

(c) Payments received by the employing agency, the Secretary of the Senate, or the Clerk of the House of Representatives shall be remitted immediately to the Office for deposit to the Fund.

(d) Once the deposit has been paid in full, the employing agency shall submit all documentation pertaining to the deposit to OPM.

(e) Deposits must be made for a full period of military service.

§ 831.2109 Reconsideration of an agency decision to deny credit for service.

(a) *Who may file.* An employee or Member may request OPM to reconsider an agency decision that a period of military service is not creditable.

(b) *Agency decision.* An agency decision that a period of service is not creditable shall be in writing, shall provide reasons for the decision, and shall state the employee's or Member's right to request reconsideration by OPM within 30 days from the date of the agency's written decision. OPM may extend the time limit as provided in paragraph (d) of this section.

(c) *Reconsideration.* A request for reconsideration must be made in writing, must include the claimant's name, address, date of birth, claim number, if applicable, and reasons for the request.

(d) *time limit.* A request for reconsideration of an agency decision must be postmarked within 30 calendar days from the date of the agency's written decision. OPM may extent the time limit for filing when the individual shows that he/she was not notified of the time limit or that he/she was prevented by circumstances beyond his/her control from making the request within the time limit.

(e) *Final decision.* After reconsideration, OPM shall issue a decision which shall be in writing, shall fully set forth the findings and conclusions of the reconsideration, and shall contain notice of the right to request an appeal as provided in § 831.110. Copies of the final decision shall be sent to the individual and the employing agency.

[FR Doc. 82-27144 Filed 9-29-82; 11:15 am]
BILLING CODE 3325-01-M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 831

Retirement; Proposed Rulemaking

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is proposing to amend the Civil Service Retirement Fund collection regulations to extend the procedures for processing military deposits to deposits and redeposits for civilian service. This regulation will delegate to the agencies authority to compute and collect deposits and redeposits for civilian service, a function currently performed by OPM. Permitting agencies to handle the civilian service credit function would allow a single process for deposits, redeposits, and credit for both military and civilian service. Agencies would report collections and credited service to OPM in a uniform manner, and individuals' claims for service could be more easily resolved in advance of retirement.

DATES: Comments must be received on or before November 30, 1982.

ADDRESS: Send written comments to Mr. Craig B. Pettibone, Director, Office of Personnel Management, 1900 E. Street, NW., Washington, D.C. 20044, or deliver to Room 4351.

FOR FURTHER INFORMATION CONTACT: Patricia Rochester, (202) 632–4634.

SUPPLEMENTARY INFORMATION: We are requesting comments on a proposal to extend procedures in Subpart U of Part 831 for military deposits established by interim regulations in today's edition of the **Federal Register** to deposits and redeposits for civilian service. The supplementary information section of the interim regulation explains the provisions.

The Omnibus Budget Reconciliation Act of 1982 (Public Law 97–253) requires agencies to perform the same function for military service credit as OPM currently performs for civilian service. Permitting agencies to handle the civilian service credit function would allow a single process for deposits, redeposits, and credit for both military and civilian service. Agencies would report collections and credited service to OPM in a uniform manner, and individuals' claims for service could be more easily resolved in advance of retirement. There would also be a significant side benefit of faster collection of money since applications would not have to come to OPM before a deposit could be made. Agencies already are required to verify service and provide employees with tentative computations of amounts owed for civilian service, and OPM is exploring ways to minimize their workload in regard to processing military service credit applications which would be equally applicable to civilian service applications.

In addition, utilizing the same procedures for both civilian and military service will permit an agency to handle the entire process for an individual who has a payment to be made for both types of service. Under current procedures, an individual with both types of service would have to make two payments—a payment for military service through his or her employing agency and a payment for a civilian service through OPM.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act. I certify that within the scope of the Regulatory Flexibility Act, this regulation will not have a significant economic impact on a substantial number of small entities because it affects Federal employees and retirees only.

List of Subjects in 5 CFR Part 831

Government employees, Administrative practice and procedure, Claims, Firefighters, Handicapped, Law enforcement officers, Pensions, Retirement.

Office of Personnel Management.

Donald J. Devine,

Director.

PART 831—RETIREMENT

For the reasons set out in the Preamble, it is proposed to add Subpart V to Part 831 of Chapter I, Title 5 of the Code of Federal Regulations, as follows:

Subpart V—Deposits and Redeposits

Sec.

831.2201 Purpose.
831.2202 Scope.
831.2203 Definitions.
831.2204 Eligibility to make deposits and redeposits.
831.2205 Required elections.
831.2206 Filing an application to make deposit and/or redeposit.
831.2207 Agency processing of employee applications for deposit and/or redeposit.
831.2208 Payments on deposits and redeposits.
831.2209 Reconsideration of an agency decision to deny credit for service.

Authority.—5 U.S.C. 8347.

§ 831.2201 Purpose.

This subpart prescribes the procedures to be followed by agencies when an employee or Member wishes to make a deposit or redeposit for military or civilian service.

§ 831.2202 Scope.

This subpart applies to all agencies with employees occupying positions subject to subchapter III of chapter 83 of title 5, United States Code.

§ 831.2203 Definitions.

"Covered service" is service as an employee for which civil service retirement contributions were taken from basic pay earned by the employee or Member.

"Fund" is the Civil Service Retirement and Disability Fund.

"Noncontributory service" is service which meets the criteria in § 2105 of title 5, United States Code, including military service after December 1956, for which no retirement contributions were taken from the basic pay earned by the employee or Member.

"Office" is the Office of Personnel Management.

"Period of service" is the total years, months and days from date of appointment to date of separation or termination for civilian service; total years and months from date of enlistment to date of discharge for enlisted military service (less any lost time); and total years and months from date of entry into active duty to date of release from active duty for military officers and reservists.

§ 831.2204 Eligibility to make deposits.

(a) Employees and Members who occupy positions subject to subchapter III of chapter 83 of title 5, United States Code, may make deposits and redeposits for periods of service performed before the separation on which title to civil service annuity is based.

(b) A person who is eligible to make a deposit and/or redeposits may do so at any time before separation for retirement.

§ 831.2205 Required elections.

(a) Retiring employees and Members who have performed noncontributory service after December 31, 1956 should indicate in writing, before separation for immediate retirement, if they do not wish to make a deposit and/or redeposit for all or part of that service.

(b) If an employee or Member indicates that he or she wishes to make a deposit and/or redeposit, the procedures in § 831.2206 and § 831.2207

must be followed. OPM will not accept deposits and/or redeposits for service after an individual is separated.

§ 831.2206 Filing an application to make deposit and/or redeposit.

An application for deposit and/or redeposit shall be filed with the appropriate office in the employing agency, or, for Members and Congressional employees, with the Secretary of the Senate, or the Clerk of the House of Representatives, as appropriate.

§ 831.2207 Agency processing of employee applications for deposits and/or redeposits.

(a) Upon receipt of an application for deposit or redeposit, the employing agency, the Secretary of the Senate, or the Clerk of the House of Representatives, as appropriate, obtains the information necessary to compute an estimate of the amount of the deposit and/or redeposit owed. Information about an employee's noncontributory service must be obtained from the appropriate Federal agency unless it is contained within the Official personnel Folder; information about refunds must be obtained from the Office.

(b) The employing agency, Secretary of the Senate, or Clerk of the House of Representatives, as appropriate, must then estimate the amount of the deposit and/or redeposit owed and advise the employee or Member separately of the amount due for deposit and redeposit.

(c) If, after being advised of the approximate amount of deposit and/or redeposit due, the employee or Member elects to make a deposit or redeposit to the Fund and makes an initial payment of at least one hundred dollars (if the total payment has been estimated as less than $100, the entire amount must be paid in a lump sum), the agency must verify the information used to estimate the deposit or redeposit and compute the exact amount due.

§ 831.2208 Payments on deposits or redeposits.

(a) Deposits and redeposits should be collected in full in one lump sum whenever this is possible. However, if the employee or Member is unable to pay the deposit or redeposit in one lump sum, payment may be made in installments which will complete the total payment over a 12-month period. In no case should payments for a single deposit or redeposit period extend over more than a 36-month period.

(b) If payment is not to be made to the agency in a lump sum, the agency may accept installment payments (by allotments or otherwise) of no less than $100 each. However, if the amount of the total deposit or redeposit is large, minimum installment payments shall be increased, so that payments do not extend beyond the periods specified in paragraph (a) of this section.

(c) Payments received by the employing agency, the Secretary of the Senate, or the Clerk of the House of Representatives shall be remitted immediately to the Office for deposit to the Fund.

(d) Once the deposit or redeposit has been paid in full, the employing agency shall submit all documentation pertaining to the deposit or redeposit to OPM.

(e) Deposits must be made for a full period of noncontributory service and for all periods of service upon which a single refund payment was made.

§ 831.2209 Reconsideration of an agency decision to deny credit for service.

(a) *Who may file.* An employee or Member may request OPM to reconsider an agency decision that a period of military service is not creditable.

(b) *Agency decision.* An agency decision that a period of service is not creditable shall be in writing, shall provide reasons for the decision, and shall state the employee's or Member's right to request reconsideration by OPM within 30 days from the date of the agency's written decision. OPM may exend the time limit as provided in paragraph (d) of this section.

(c) *Reconsideration.* A request for reconsideration must be made in writing, must include the claimant's name, address, date of birth, claim number, if applicable, and reasons for the request.

(d) *Time limit.* A request for reconsideration of an agency decision must be postmarked within 30 calendar days from the date of the agency's written decision. OPM may extend the time limit for filing when the individual shows that he/she was not notified of time limit or that he/she was prevented by circumstances beyond his/her control from making the request within the time limit.

(e) *Final decision.* After reconsideration, OPM shall issue a decision which shall be in writing, shall fully set forth the findings and conclusions of the reconsideration, and shall contain notice of the right to request an appeal as provided in § 831.110. Copies of the final decision shall be sent to the individual and the employing agency.

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October 1, 1982

Part XV

Department of Health and Human Services

Health Care Financing Administration

Medicaid Program; Liens, Adjustments and Recoveries; Final Rule With Comment Period

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 433, 435, and 436

Medicaid Program; Liens, Adjustments, and Recoveries

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: We are revising Medicaid regulations to provide the conditions under which States may impose liens against the real property of certain individuals receiving Medicaid benefits in intermediate care and skilled nursing facilities. These individuals are those who the State determines, after notice to the individual and opportunity for a hearing, are unlikely to be discharged from the facility and return to their homes. These regulations also specify the conditions under which States may recover the amount of Medicaid payments made on behalf of individuals through foreclosure on liens on an individual's property, or adjustments or recoveries from their estate.

These regulations implement Section 132 of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982. The purpose of this provision is to permit States to recover the cost of Medicaid payments from an individual's property, and thereby reduce the public cost of supporting that individual in a long term care facility.

EFFECTIVE DATE: October 1, 1982. Although these regulations are being published as final regulations for reasons described in the Supplementary Information section, comments may be submitted by November 30, 1982.

State agencies have until December 30, 1982 to submit their preprinted plan amendments and required attachments. HCFA will not hold a State to be out of compliance with the requirements of these final regulations if it submits the necessary preprint plan material by that date.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235.

In commenting, please refer to BPP–237–FC.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave. SW., Washington, D.C., or to Room 132 East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Comments will be available for public inspection, as they are received, beginning approximately three weeks after publication, in Room 309–G of the Department's office at 200 Independence Ave., SW., Washington, D.C. 20201 on Monday through Friday of each week from 8:30 to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Marinos Svolos, (301) 594–9050.

SUPPLEMENTARY INFORMATION:

I. Background

The Medicaid program provides medical assistance to the categorically needy, that is, those individuals who are eligible to receive cash payments under one of the existing welfare programs established under the Social Security Act (the Act). In addition, States may provide Medicaid to the medically needy, that is, to those individuals who have sufficient income to meet basic living expenses and are ineligible for a cash assistance program, but who have insufficient income to pay for their medical expenses. In administering its Medicaid program, each State has flexibility in the design of its program, including establishing eligibility requirements and determining the type of services to be offered and the methods of reimbursement.

An applicant's ownership of homestead property does not usually make him or her ineligible for Medicaid. At the same time, even though the property represents a potential resource to the individual which, upon sale or transfer, could be used to defray the costs of medical care, imposition of liens or institution of recovery or adjustment actions have been restricted by section 1902(a)(18) of the Act. Section 1902(a)(18) provided that States were prohibited from imposing liens against any recipient's property prior to his or her death for Medicaid claims paid on the individual's behalf, except when the lien was the direct result of a court judgement for claims incorrectly paid. The law also precluded States from making an adjustment or recovery at any time, even after death, in the case of recipients who were under age 65 when the Medicaid claims were correctly paid. For those recipients aged 65 or older, the law permitted States to make an adjustment or recover Medicaid funds correctly paid only after a recipient's death, with the stipulation that recovery be from the estate, and only after the death of the surviving spouse and when there was no surviving child under the age of 21 or blind or disabled (as defined in the State plan). This latter provision was difficult for States to administer because they could initiate activities to identify and place liens on property only after an individual's death. One result of this provision was that an elderly individual who anticipated the need for nursing home care could transfer his or her home to a family member or friend, and thereby assure that the home would not be part of his or her estate, and, therefore, would not be subject to any recovery action initiated by the State after the individual's death.

New Legislation

Section 132 of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, amended section 1902(a)(18) of the Social Security Act and added a new section 1917 to the Act.

Section 1917 contains two provisions intended to assure that all of the resources available to an institutionalized individual, including equity in a home, which are not needed for the support of a spouse or dependent children, will be used to defray the costs of supporting the individual in the institution. In doing so, it seeks to balance government's legitimate interest in recovering its Medicaid costs against the individual's need to have the home available in the event discharge from the institution becomes feasible.

One provision allows States to deny Medicaid eligibility temporarily to patients in medical institutions who dispose of resources for less than fair market value; even though such disposal would not make them ineligible for the Supplemental Security Income (SSI) program. We intend to publish a separate rule implementing this provision in the near future.

The second provision allows States to impose liens on the real property, including the home, of Medicaid recipients who are permanently institutionalized in nursing homes or other long term care medical institutions. That is, the legislation rescinds the prior statutory prohibition in section 1902(a)(18) and now allows States to impose liens against real property, including the home, prior to the recipient's death when the State determines that a recipient cannot reasonably be expected to be discharged from a medical institution and return home. The provision restricts applicability of liens to situations where the recipient is an inpatient in a skilled nursing facility (SNF), intermediate care facility (ICF) or other medical institution where he or she would be required as a condition of receiving services in such an institution under the State plan, to spend for medical care costs, all but a minimal amount of his or her income required for personal needs. When the State agency chooses to impose a lien under this new provision, the agency is required to notify the recipient of its

intention to make a determination that he or she is not expected to return home, and must offer the recipient an opportunity for a hearing. The burden of proof that the recipient is unlikely to be discharged to his home is on the State, and the determination is to be conducted in accordance with procedures established by the State. The legislation provides that any lien imposed by the State upon a recipient's real property will dissolve when the recipient is discharged from the medical institution to his home.

The legislation also restricts States from placing liens on recipients' homes if the spouse, or a child under age 21, or a disabled child is lawfully living in the home. Further, no lien may be imposed by the State if a sibling with an equity interest in the home who was residing in the individual's home for at least one year immediately before the date the individual was admitted to the medical institution is lawfully living in the home.

Further, the legislation provides that any lien cannot be foreclosed upon, and States cannot recover the cost of Medicaid benefits provided to the recipient unless the recipient sells the property or, after the recipient dies, from his estate. As under current law, no recovery would be permitted while the recipient's spouse or children (under age 21 or blind or disabled as defined in the State plan) are lawfully residing in the home. Prohibiting the State from foreclosing on the lien when there is a surviving spouse or child would reduce the likelihood that the spouse or child will become a public charge. In addition, the State may recover only when: (1) There is no sibling of the individual (who was residing in the individual's home for at least one year immediately before the date of the individual's admission to the medical institution) who is lawfully residing and has been lawfully residing in the home on a continuous basis since the date of the individual's admission to the medical institution; (2) there is no son or daughter of the individual (who was residing in the home for at least two years immediately before the date the individual was admitted to the medical institution, who establishes to the satisfaction of the State that the care that he or she provided during these two years permitted the individual to live at home rather than in an institution) who is lawfully residing and has been lawfully residing in the home on a continuous basis since the date of the individual's admission to the medical institution.

Provisions of the Regulations

A. Liens

Pub. L. 97–248 deletes the current lien, recovery and adjustment provisions on which former regulations were based and substitutes several new provisions. We are, therefore, amending the Medicaid State Fiscal Administration regulations which contain the basic provisions regarding liens and recoveries at 42 CFR Part 433, Subpart B, General Administrative Requirements, by revising § 433.36. We are also revising Medicaid eligibility regulations at 42 CFR Part 435, Subpart B, Mandatory Coverage of the Categorically Needy, by deleting cross references to liens in §§ 435.113 and 435.122 which are no longer appropriate under the new legislation. For the same reason, we are also revising the comparable part of 42 CFR Part 436, Subpart B, § 436.111, which contains a cross reference regarding the former restriction of liens in the eligibility provisions applicable to Guam, Puerto Rico, and the Virgin Islands.

We have not changed the substance of the provision in the current regulations (42 CFR 433.36(d), now § 433.36(g)(1)) under which a State may impose a lien on an individual's property following a court judgment due to incorrect Medicaid payments made on behalf of the individual. This provision was retained in the new legislation and, therefore, requires no change in the regulation (although we have made editorial and coding changes for clarity).

In summary, the new regulations provide that a State may impose a lien against the real property of an individual of any age who is a patient in a medical institution such as an ICF or SNF when the State has made a medical determination that the individual cannot reasonably be expected to be discharged from the facility and return home. The State is required to notify the individual of this determination and must provide an opportunity for a hearing on this determination, according to State established procedures as described in the State plan. The notice to the individual must explain what is meant by the term lien, and that imposing a lien does not mean that the individual will lose ownership of the home. To protect the institutionalized individual from loss of the home during his or her lifetime, any lien imposed on such an institutionalized individual will dissolve upon that individual's discharge from the medical institution and return home, as specified in the State plan. Finally, if the real property is the patient's home a lien may be imposed only when none of the following individuals are lawfully residing in the home: (a) A spouse; (b) a child who is either under age 21 or blind or disabled (as defined in the State plan); and (c) a sibling with an equity interest in the property who was residing in the individual's home for at least one year immediately before the date the individual was admitted to the institution.

B. Recoveries and Adjustments

These regulations further provide that States may recover funds for correctly paid Medicaid claims from the estate of an individual who was 65 years of age or older when he received Medicaid. In addition, States may adjust or recover Medicaid funds by foreclosing on a lien imposed on the real property of an institutionalized individual when an individual of any age dies, sells or transfers his or her property. Recoveries may occur only after the death of the surviving spouse or, when there is no surviving child under age 21, or who is blind or disabled (as defined in the State plan). As further conditions, the State may recover by foreclosing a lien on an individual's home only when: (1) There is no sibling of the individual (who was residing in the individual's home for at least one year immediately before the date of the individual's admission to the medical institution) who is lawfully residing, and has been lawfully residing in the home since the date of the individual's admission to the institution; and (2) there is no son or daughter of the individual (who was residing in the home for at least two years immediately before the date the individual was admitted to the medical institution and establishes, according to criteria included in the State plan, that he or she provided care which permitted the individual to reside at home rather than in an institution) who is lawfully residing, and has been lawfully residing in the home on a continuous basis since the date of the individual's admission to the institution.

C. State Plan Requirements

These regulations also contain revised State plan requirements. In the interest of State flexibility, where there is discretion in the law, we are permitting States to decide how they will implement these lien provisions.

We are considering whether it might be necessary to require that a State base a determination that an institutionalized individual cannot reasonably be expected to return home on medical evidence or other factors that would preclude the individual from being

discharged from the institution. We are also considering whether to require that before a State issues a notice to an individual that he or she is not expected to be discharged from the medical institution and that a lien is being placed on the home, the State must make a reasonable effort to inform the individual that his or her medical condition warrants this decision. Although we are not implementing these two provisions in these regulations, we are particularly interested in receiving comments on whether the regulations should be revised to include these provisions.

The State plan must specify the following:

(1) The process by which the State will determine that an institutionalized individual cannot reasonably be expected to be discharged from the medical institution and return home. The description of the process must include the type of notice to be given the individual (including an explanation of liens and the effect on the individual's ownership of property), the process by which the individual will be given the opportunity for a hearing, the hearing procedures, and by whom and what basis the determination that the individual cannot reasonably be expected to be discharged from the institution will be made.

(2) Define the following terms:

(a) Individual's home.

(b) Equity interest in home.

(c) Residing in the home for at least 1 (2) year(s).

(d) On a continuing basis.

(e) Discharge from the medical institution and return home.

(f) Lawfully residing.

(3) Specify the criteria by which a son or daughter can establish to the agency's satisfaction that he or she has been providing care which permitted the individual to reside at home rather than in an institution.

Impact Analysis

A. Executive Order 12291

We have determined that these regulations will not result in a cost impact of $100 million or more or meet other criteria of a major rule as defined in section 1(b) of Executive Order 12291.

We have made a careful effort to estimate the effects of the statutory provisions implemented by these regulations. Recoveries will be a factor of:

1. The number of unmarried Medicaid patients who die while in an ICF or SNF;

2. The percentage of these patients who own homes;

3. The amount of expenses Medicaid has paid on their behalf;

4. The equity value of homes owned by these patients; and

5. The degree to which States will aggressively seek recoveries.

We estimate that approximately 140,000 Medicaid patients die in ICFs and SNFs each year. Approximately 88 percent of ICF and SNF residents are single or widowed. Therefore, approximately 125,000 unmarried Medicaid patients die in ICFs and SNFs each year.

Nearly half of the elderly own homes, but some proportion of these will be likely to dispose of the home immediately before or immediately after entering an ICF or SNF to pay medical expenses or for other reasons. Of those unmarried individuals that keep their homes, some will have children or siblings who meet conditions that prevent a lien from being placed under these provisions, or will return home before death, which will dissolve the lien. Consequently, we estimate that about 20 percent of unmarried elderly patients in ICFs and SNFs have homes which will ultimately provide repayment for Medicaid expenses.

We computed Medicaid institutional expenses of unmarried patients in ICFs and SNFs for the period from the time they become eligible to their death based on length-of-stay data and estimates of ICF and SNF reimbursement rates for each year in which the stays occurred.

Based on the 1976 Retirement History Survey, we estimated the average equity in the home of an elderly person to be $45,500 in fiscal year 1983, $48,600 in fiscal year 1984, and $51,900 in fiscal year 1985.

We adjusted the resulting estimates based on an assumption that approximately six months will elapse between death and the date of collection of amounts owed.

Finally, we examined the extent to which States would aggressively seek recoveries. Since this is difficult to predict, we used a range, with the midpoint of this range representing our best estimate. The following chart presents these estimates:

EFFECTS OF LIENS PROVISION

[In millions]

Fiscal year	Low estimate		Mid-point estimate		High estimate	
	Total recoveries	Federal share	Total recoveries	Federal share	Total recoveries	Federal share
1983	$55	$30	$82	$45	$109	$60
1984	115	63	173	95	231	127
1985	129	71	193	106	256	141

Although, under some assumptions, we estimate that there will be an effect on the economy of $100 million or more, we have determined that it is Section 132 of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, that has occasioned this impact, and not these regulations which merely implement the statutory provision. Therefore, a regulatory impact analysis is not required.

B. Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this final rule will not result in a significant impact on a substantial number of small entities.

These regulations deal with State imposed liens against property owned by individuals eligible for Medicaid, and claims against their estates. Individuals are not considered small entities under Pub. L. 96-354. In addition, State Medicaid agencies do not fall into the category of small governmental jurisdictions. However, even if there were a significant effect on a substantial number of small entities, we have determined that this effect is the result of the statutory provision, and not these regulations which merely implement these provisions. Therefore, a regulatory flexibility analysis is not required.

Waiver of Proposed Rulemaking and Prospective Effective Date

We are publishing these regulations in final form because the legislative provisions we are implementing contain sufficient detail that minimal Secretarial discretion is permitted. Further, the legislation is effective on enactment, and our adherence to notice and comment procedures would cause unnecessary delays which would prevent States from taking advantage of the potential cost savings. Therefore, we find good cause to waive proposed rulemaking procedures and to issue these regulations in final form.

We also find that the same considerations discussed above provide

good cause to dispense with the usual thirty day delayed effective date. Therefore, this regulation is effective on publication. However, we will accept any comments mailed within the specified period and will make any changes in the regulation we believe necessary as a result of the comments.

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, if we publish changes in the regulations as a result of comments, we will respond to them in the preamble of that document.

Reporting Requirements

In accordance with the Paperwork Reduction Act of 980 (44 U.S.C. 3507), the reporting and/or recordkeeping provisions contained in this final rule with comment period in section 42 CFR 433.36 have been or will be submitted for approval to the Office of Management and Budget (OMB). The reporting and/or recordkeeping requirements are not effective until OMB approval has been obtained.

List of Subjects

42 CFR Part 433

Administrative practice and procedure, Assignment of rights, Claims, Contracts (agreements), Cost allocation, Federal financial participation, Federal matching provision, Grant-in-aid program—health, Mechanized claims processing and information retrieval systems, Medicaid, State fiscal administration, Third party liability.

42 CFR Part 435

Aid to families with dependent children, Aliens, Categorically needy, Contracts (agreements—State plan), Eligibility, Grant-in-aid program—health, Health facilities, Medicaid, Medically needy, Reporting requirements, Spend-down, Supplemental security income (SSI).

42 CFR Part 436

Aid to families with dependent children, Aliens, Contracts (agreements), Eligibility, Grant-in-aid program—health, Guam, Health facilities, Medicaid, Puerto Rico, Supplemental security income (SSI), Virgin Islands.

PART 433—STATE FISCAL ADMINISTRATION

A. 42 CFR Part 433, Subpart B, is amended as set forth below: 1. The authority citation is revised to read as follows:

Authority: Secs. 1102, 1902(a)(4), 1902(a)(18), 1902(a)(25), 1903(d)(2), 1903(o), 1903(p), 1912 and 1917 of the Social Security Act (42 U.S.C. 1302, 1396a(a)(4), 1396a(a)(18) 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), 1396k and 1396p), unless otherwise noted.

2. Section 433.36 is amended by revising paragraphs (a), (c), (d), (e), and (f), by redesignating current paragraph (g) as paragraph (i) and by adding new paragraphs (g) and (h) as follows:

§ 433.36 Liens and recoveries.

(a) *Basis and purpose.* This section implements sections 1902(a)(18) and 1917(a) and (b) of the Act, which describe the conditions under which an agency may impose a lien against a recipient's property, and when an agency may make an adjustment or recover funds in satisfaction of the claim against the individual's estate or real property.

* * * * *

(c) *State plan requirement.* If a State chooses to impose a lien against an individual's real property (or as provided in (g)(1), personal property), the State plan must provide that the provisions of paragraphs (d) through (i) of this section are met.

(d) *Procedures.* The State plan must specify the process by which the State will determine that an institutionalized individual cannot reasonably be expected to be discharged from the medical institution and return home as provided in paragraph (g)(2)(ii). The description of the process must include the type of notice to be given the individual, the process by which the individual will be given the opportunity for a hearing, the hearing procedures, and by whom and on what basis the determination that the individual cannot reasonably be expected to be discharged from the institution will be made. The notice to the individual must explain what is meant by the term lien, and that imposing a lien does not mean that the individual will lose ownership of the home.

(e) *Definitions.* The State plan must define the following terms used in this section:

(1) Individual's home.

(2) Equity interest in home.

(3) Residing in the home for at least 1 (or 2) year(s).

(4) On a continuing basis.

(5) Discharge from the medical institution and return home.

(6) Lawfully residing.

(f) *Exception.* The State plan must specify the criteria by which a son or daughter can establish to the agency's satisfaction that he or she has been providing care which permitted the individual to reside at home rather than in an institution, as provided in paragraph (h)(2)(iii)(B) of this section.

(g) *Lien provisions.* (1) *Incorrect Payments.* The agency may place a lien against an individual's property, both personal and real, before his or her death because of Medicaid claims paid or to be paid on behalf of that individual following a court judgement which determined that benefits were incorrectly paid for that individual.

(2) *Correct payments.* Except as provided in paragraph (g)(3) of this section, the agency may place a lien against the real property of an individual at any age before his or her death because of Medicaid claims paid or to be paid for that individual when—

(i) An individual is an inpatient of a medical institution and must, as a condition of receiving services in the institution under the State plan, apply his or her income to the cost of care as provided in §435.725, §435.832 and §436.832; and

(ii) The agency determines that he or she cannot reasonably be expected to be discharged and return home. The agency must notify the individual of its intention to make that determination and provide an opportunity for a hearing in accordance with State established procedures before the determination is made. The notice to an individual must include an explanation of liens and the effect on an individual's ownership of property.

(3) *Restrictions on placing liens.* The agency may not place a lien on an individual's home under paragraph (g)(2) of this section if any of the following individuals is lawfully residing in the home:

(i) The spouse;

(ii) The individual's child who is under age 21 or blind or disabled as defined in the State plan; or

(iii) The individual's sibling (who has an equity interest in the home, and who was residing in the individual's home for at least one year immediately before the date the individual was admitted to the medical institution).

(4) *Termination of lien.* Any lien imposed on an individual's real property under paragraph (g)(2) of this section will dissolve when that individual is discharged from the medical institution and returns home.

(h) *Adjustments and Recoveries.* (1) The agency may make an adjustment or recover funds for Medicaid claims correctly paid for an individual as follows:

(i) From the estate of any individual who was 65 years of age or older when he or she received Medicaid; and

(ii) From the estate or upon sale of the property subject to a lien when the individual is institutionalized as

described in paragraph (g)(2) of this section.

(2) the agency may make an adjustment or recovery under paragraph (h)(1) of this section only:

(i) After the death of the individual's surviving spouse; and

(ii) When the individual has no surviving child under age 21 or blind or disabled as defined in the State plan; and

(iii) In the case of liens placed on an individual's home under paragraph (g)(2) of this section, when there is no—

(A) Sibling of the individual residing in the home, who has resided there for at least one year immediately before the date of the individual's admission to the institution, and has resided there on a continuous basis since that time; or

(B) Son or daughter of the individual residing in the home, who has resided there for at least two years immediately before the date of the individual's admission to the institution, has resided there on a continuous basis since that time, and can establish to the agency's satisfaction that he or she has been providing care which permitted the individual to reside at home rather than in an institution.

(i) *Prohibition of reduction of money payments.* No money payment under another program may be reduced as a means of recovering Medicaid claims incorrectly paid.

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA AND THE NORTHERN MARIANA ISLANDS

B. 42 CFR Part 435, Subpart B, is amended as set forth below:

1. The authority citation reads as follows:

Authority: Sec. 1102 of the Social Security Act, (42 U.S.C. 1302), unless otherwise noted.

2. Section 435.113 is revised by removing the final parenthetical phrase and reads as follows:

§ 435.113 Individuals who are ineligible for AFDC because of requirements that do not apply under title XIX of the Act.

The agency must provide Medicaid to individuals who would be eligible for AFDC except for an eligibility requirement used in that program that is specifically prohibited under title XIX.

3. Section 435.122 is revised by removing the final parenthetical phrase and reads as follows:

§ 435.122 Individuals who are ineligible for SSI or optional State supplements because of requirements that do not apply under title XIX of the Act.

If an agency provides Medicaid to aged, blind, or disabled individuals receiving SSI or optional State supplements, it must provided Medicaid to individuals who would be eligible for SSI or optional State supplements except for an eligibility requirement used in those programs that is specifically prohibited under title XIX.

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

c. 42 CFR Part 436, Subpart B, is amended as set forth below:

1. The authority citation reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302, unless otherwise noted.

2. Section 436.111 is revised by removing the final parenthetical phrase and reads as follows:

§436.111 Individuals who are not eligible for cash assistance because of a requirement not applicable under Medicaid.

The agency must provide Medicaid to individuals who would be eligible for OAA, AFDC, AB, APTD, or AABD except for an eligibility requirement used in those programs that is specifically prohibited under title XIX.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: September 14, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 27, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-27147 Filed 9-30-82; 8:45 am]

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October 1, 1982

Part XVI

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Assistants at Surgery

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Assistants at Surgery

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: These revised regulations provide that Medicare will pay on a reasonable charge basis for the services of a physician who actively assists the physician in charge of a case in performing a surgical procedure (i.e., an assistant at surgery) in teaching hospitals only under certain specific conditions. They also establish new rules for determining the amount of payment for services furnished by assistants at surgery in all settings. These revisions, which are needed to implement section 113 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248) will ensure that reasonable charge payments for services of assistants at surgery are made in conformity with the Medicare law, and are reasonable in amount.

DATES: Effective date: October 1, 1982. Although these regulations are effective on an interim basis, comments may be submitted as described below.

Comment date: To assure consideration, comments should be mailed by November 1, 1982.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235.

In commenting, please refer to file code BPP–236–FC.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C. or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in Room 309–G of the Department's offices at 200 Independence Ave., S.W., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: William Morse, (301) 594–1160

SUPPLEMENTARY INFORMATION:

I. Background

General Background

The Medicare law (Title XVIII of the Social Security Act) provides separate coverage and payment rules for physician services to patients and for provider services (including inpatient hospital services).

Physicians' services to patients are covered under Supplementary Medical Insurance (Medicare Part B), and are paid for from the Part B Trust Fund. The definition of physicians services in section 1861(q) of the Act excludes the services of residents and interns in approved teaching programs that are described in section 1861(b)(6) of the Act.

Inpatient hospital services are covered under Hospital Insurance (Part A) and are paid for from the Part A Trust Fund. Inpatient hospital services are defined in section 1861(b) of the Act. Generally, physicians' services are excluded from this definition. However, under section 1861(b)(6), the services of interns and residents provided to inpatients are classified under Medicare Part A as inpatient hospital services.

Medicare pays for physicians' services through carriers on a reasonable charge basis, as described in section 1842(b)(3) of the Act. As required by section 1833 of the Act, Medicare pays 80 percent of the reasonable charges for these services after the beneficiary has satisfied the Part B deductible (currently $75.00). The beneficiary is responsible for paying the remaining 20 percent of the reasonable charges and, on unassigned claims, for any difference between the Medicare reasonable charge and the amount the physician actually charges for the service.

Our current regulations at 42 CFR 405.501 to 405.508 describe the general rules carriers use to determine reasonable charges. (Further more specific rules for physician reimbursement are found at § 405.480, et seq. for hospital-based physicians and at § 405.465 and §§ 405.520–405.521 for certain teaching physicians.) These regulations specify that the reasonable charge is the lowest of the customary, prevailing, or actual charges. The customary charge is the amount which the individual physician charges for a specific service or procedure in the majority of cases. The prevailing charge is based on statistical data and covers 75 percent of the customary charges made for similar services in the same locality. Under 42 CFR 405.504(a)(3)(i) increases above fiscal year 1973 levels in prevailing charges for physicians' services can be recognized for Medicare reimbursement purposes only to the extent they are justified by economic index data. The economic index reflects changes in physicians' costs of practice and in general earnings levels, and is published annually in the **Federal Register.** (See 47 FR 28796, July 1, 1982 for a detailed discussion of the latest index). The actual charge is the amount the physician charges the patient.

Medicare generally pays for hospital services, including services of interns and residents on a reasonable cost basis as described in section 1861(v)((1)(A) of the Act. Our current provider reimbursement regulations at 42 CFR, Part 405, Subpart D describe the general rules intermediaries use to determine reasonable costs.

Payment for Assistants at Surgery

Neither the previous Medicare law nor the current regulations or manual instructions have dealt specifically with payment for services of assistants at surgery (i.e., physicians who assist the primary surgeon during an operation). As a result, Medicare carriers have had considerable discretion in determining payment for these services.

Some insurers, including Medicare carriers in their private business, do not generally pay a charge for an assistant at surgery service in a teaching hospital. Where a charge for such services is paid in a teaching hospital or other setting, it is generally a percentage of the principal surgeon's charge or of the fee recognized by the insurer for the surgical service.

II. Recent Legislation

Section 113 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248), addresses the issue of reimbursement for assistants at surgery. The legislation amended section 1842(b)(6) of the Social Security Act by adding a new subparagraph (D)(i) that prohibits payment under Part B of Medicare for the services of assistants at surgery in teaching hospitals, unless one of four exceptions are met.

The new legislation defines "assistant at surgery" as a physician who actively assists the physician in charge of a case in performing a surgical procedure. The major provisions of the legislation are as follows:

First, the amendment generally prohibits reasonable charge payment for assistants at surgery in teaching hospitals that (1) have an approved teaching program as specified in section 1861(b)(6) of the Act; (2) have a training program related to the medical specialty required for the surgical procedure and (3) have a qualified individual on the

staff of the hospital available to serve as an assistant at surgery.

Second, the new legislation specifies that payment under Part B may be made for the services of assistants at surgery in such cases if those services:

(1) Are required due to exceptional medical circumstances;

(2) Are performed by team physicians needed to perform complex medical procedures;

(3) Constitute concurrent medical care relating to a medical condition which requires the presence of, and active care by, a physician of another specialty during surgery; or

(4) Are furnished under such other circumstances as the Secretary determines to be appropriate.

Third, the amendment directs the Secretary to determine appropriate methods of reimbursement of assistants at surgery in all settings in those instances where such services are reimbursable under Part B on a reasonable charge basis.

III. Provisions of the Regulations

We are adding a new § 405.580 to 42 CFR Part 405, Subchapter E. The provisions of the regulation are as follows:

A. Basis, Purpose and Scope

Section 405.580(a) describes the conditions under which Medicare will pay on a reasonable charge basis for the services of an assistant at surgery in a teaching hospital. This section of the regulation is based on section 1842(b)(6)(D) of the Social Security Act.

This provision applies only in hospitals that have an approved teaching program, i.e., a graduate education program approved by the committees or councils specified in section 1861(b)(6) of the Act and in regulations at 42 CFR 405.522(a). Specifically, the regulation provides that unless certain conditions are met, reasonable charge reimbursement is not available for assistants at surgery in such hospitals that also have the following:

1. A training program relating to the medical specialty required for the surgical procedure.

2. A qualified individual on the staff of the hospital (i.e., a resident in a training program relating to the specialty required for the surgery) available to serve as an assistant at surgery.

B. Definitions

Section 405.580(b) of the regulations defines "assistant at surgery" as a physician who actively assists the physician in charge of a case in performing a surgical procedure.

"Teaching hospital" is defined as a hospital with a graduate education program approved as specified in § 405.522(a). The term "team physicians" is defined as a group of physicians, each performing a unique discrete function integral to the performance of a complex medical procedure requiring the special skills of more than one physician.

This section also defines "qualified individual on the staff of the hospital" as a resident in a training program relating to the specialty required for the surgery.

C. Conditions for Payment

Section 405.580(c) of the regulations describes the conditions under which reasonable charge payment may be made for the services of assistants at surgery in such teaching hospitals. Payment may be made for the services of assistants at surgery in those teaching hospitals only if the services:

1. Are required due to exceptional medical circumstances;

2. Are performed by team physicians needed to perform complex medical procedures;

3. Constitute concurrent medical care relating to a medical condition which requires the presence of and active care by a physician of another specialty during surgery; or

4. Are furnished under such other circumstances as the Secretary determines to be appropriate.

The carrier will presume that a resident is available if the hospital has a teaching program relating to the medical specialty required for the surgical procedure, unless satisfactory documentation is furnished to the carrier that a resident was not available. Failure of the hospital to adequately schedule a resident's time does not constitute unavailability. (See 42 CFR 405.522 and 405.523 regarding reimbursement for residents' services.)

These four conditions are explained more fully below:

Exceptional Medical Circumstances

Reasonable charge payment may be made for the services of assistants at surgery in teaching hospitals if the carrier determines that exceptional medical circumstances exist. Examples of such circumstances are life-threatening emergency situations and situations where multiple traumatic injuries must be treated immediately. In these types of situations, a physician working under the primary surgeon is an "assistant at surgery", and his or her services are reimbursed on that basis.

Complex Medical Procedures

These are exceptional procedures, including multi-stage transplant surgery and coronary bypass surgery, that warrant the presence of a team of physicians. In these unusual and infrequent situations, each of the physicians performs a unique, discrete function requiring special skills integral to the total procedure. Each physician is engaged in a different level of activity than simple assistance. Thus, reimbursement for this activity is on the basis of the full reasonable charge rather than under the assistant at surgery rule. (If reimbursement is made on the bais of a single team fee, individual physicians may not submit additional bills for their services.) If there are additional physicians involved in the surgical procedure who are actually furnishing simple assistance and charges for their services can be identified, the appropriate assistant is paid at the surgical assistant rate, as described in section D below.

Concurrent Medical Care

These are infrequent situation where the services of more than one physician are necessary and where each is required to play an active role in the patient's treatment, for example, because of the existence of more than one medical condition requiring diverse specialized medical services. For example, a cardiologist maybe present during the performance of abdominal surgery to monitor the patient's cardiac condition. In these types of situations, the physician performing the concurrent function is also functioning at a different level than that of simple assistance, and reimbursement for his or her service is on the basis of the full reasonable charge without applying the assistant at surgery rules. However, in instances where the physician is not performing a unique, specialized skill, payment is at the surgical assistant rate.

Other Circumstances Determined by the Secretary

At this time, the Secretary has not determined any other circumstances under which services could be furnished by assistants at surgery and reimbursed on the basis of reasonable charges. We are interested in receiving comments on other circumstances that the Secretary might consider.

Although we have generally defined the three specific circumstances discussed above, it may be that the actual circumstances will be sufficiently complex as to leave some doubt as to when they apply. Furthermore, their impact may depend in part on how they

are defined or applied. Therefore, we particularly invite comments on ways to more precisely define these exceptions to give uniform guidance to carriers, intermediaries, hospitals and physicians and to otherwise improve them.

D. Reimbursement for Assistants at Surgery

Although section 113 principally concerns conditions for payment for assistants at surgery in teaching hospitals, the statute at section 1842(b)(6)(D)(iii) requires the Secretary to determine "appropriate methods of reimbursement of assistant at surgery where such services are reimbursable under this part" (emphasis added). Thus, we are required to establish reimbursement rules for the services of assistants at surgery performed in any setting where such services are reimbursable under Part B, whether or not the setting is a teaching hospital. Therefore, we are revising the regulations at 42 CFR 405.502 by adding a new subpargraph (a)(9) to provide that whenever the services of assistants at surgery are reimbursable on a reasonable charge basis in both teaching and non-teaching settings, the amount allowed will be no higher than 20 percent of the prevailing charge (adjusted by the economic index) for the surgical procedure.

In determining the amount payable for physician services furnished by an assistant at surgery, we have considered the payment policies of private insurers, including Medicare carriers in their own business. Many pay a percentage (usually 20%) of the primary surgeon's fee. Some base payment on a percentage of a fee schedule or consider the customary charges of other assistants at surgery in the area. The Committee on Finance, in its report which accompanied this amendment, cited 20 percent of the primary surgeon's fee as the amount that many carriers have historically allowed. The 20 percent factor is also consistant with guidelines developed with input from the physician community.

At the present time, Medicare carriers use different methods to determine the reasonable charge for the services of assistants at surgery. The carriers may continue to use the method they have adopted; however, the resonable charge may not exceed 20 percent of the prevailing charge, limited by the economic index, that is applicable to the surgical procedure. This approach will permit maximum flexibility for carriers, help reduce the costs of implementing this provision, and generally permit continuation of local billing practices.

Nontheless, given the variation in practice described above, we are unsure whether the 20 percent limit may substantially impinge on physician practice in particular hospitals or particular circumstances. Therefore, we particularly invite comments on the impact of, and alternatives to, the 20 percent limit, and will consider modification if appropriate.

We are also adding a new subparagraph (a)(10) to § 405.502 that clarifies that where the assistant at surgery rule does not apply because of complex medical procedures or concurrent medical care, the level of payment will be on the basis of the full reasonable charge for the physician's service.

E. Assistants at Surgery in Settings Other than Teaching Hospitals

Although not specifically mentioned in the regulation, carriers are directed to continue their current procedures for determining the medical necessity of assistant at surgery services furnished in settings other than teaching hospitals.

IV. Effective Date of the Regulations

These regulations are effective for services furnished on or after October 1, 1982.

V. Impact Analysis

Executive Order 12291

We have determined that this interim final rule is not likely to result in an annual economic impact of $100 million or more, or meet other threshold criteria of section 1(b) of the Order.

As noted above, this rule addresses the issue of Medicare payment on the basis of reasonable charges for assistants at surgery furnished by physicians in teaching hospitals when qualified residents are present on the hospital's staff. Hospitals are reimbursed on a reasonable cost basis for the salaries of these hospital staff. Thus, a duplicate payment system has evolved because these types of services have not been specifically dealt with by law, regulation or manual instructions. Medicare has been paying, in some cases, both the reasonable charge for the assistants at surgery and the reasonable cost associated with hospital personnel capable of providing those services.

One provision of these rules eliminates payment on a reasonable charge basis for the services of assistants at surgery in teaching hospitals (unless exceptional circumstances exist). Our actuaries estimate that this provision will save the program $55 million in FY 1983 and $75 million in FY 1984. Another provision limits payment for the services of physicians of assistants at surgery in all settings to 20 percent of the prevailing charge of the primary physician. Because this provision is consistent with current practice, our actuaries estimate that this provision will result in negligible savings. However, these estimates are based on assumptions and on descriptions of current practice and we may modify our estimates based on changes in this rule. We particularly invite comment on these estimates and on the impact of these regulations on physician practice in both teaching and non-teaching settings.

Even though we believe there will not be an impact of $100 million or more, we have determined that section 113 of Pub. L. 97-248, the Tax Equity and Fiscal Responsibility Act of 1982, has occasioned this impact, and not these regulations which merely implement the statutory provision. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Analysis

The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96-354) that this interim final rule will not result in a significant impact on a substantial number of small entities.

The primary impact of this rule will be on physicians who continue to serve as assistants at surgery in teaching hospitals. There will also be some effect on the level of reimbursement for services of assistants at surgery in non-teaching settings. The individual impact will be determined by the extent to which a physician continues to participate as an assistant. Actual Medicare revenue reduction will be the difference between the total Medicare payment physicians received prior to the implementation of this rule, and the Medicare payment physicians will or will not receive as a result of this rule.

We do not believe that a significant monetary impact will be generated. Payment record data indicate that payment for services of assistants at surgery represents only 2.6 percent of total reimbursement for Part B physicians' services to hospital inpatients. Thus, any revenue reduction to physicians resulting from these provisions should not be a significant reduction in total physician revenue. There may be effects on the willingness of physicians to participate as surgical assistants and we are interested in identifying and ameliorating any such effects. Even if there were a significant effect on a substantial number of small

entities, we have determined that this effect is the result of the statutory provisions, and not these regulations, which merely implement these provisions. Therefore, a regulatory flexibility analysis is not required.

To comply with these requirements, we are publishing this rule on an interim final basis. As required by section 113, we will consider all public comments we receive on the rule, determine whether changes in these regulations are needed, and publish final regulations implementing section 113 by January 31, 1983.

C. Waiver of Proposed Rulemaking and 30-Day Delay in Effective Date

We are publishing these regulations as an interim final rule with comment period without notice of proposed rulemaking procedures. In order for us to have implementing regulations in place by the October 1, 1982 effective date specified in the law it would be impracticable to publish a notice of proposed rulemaking. We also believe the rapid implementation of these regulations is desirable in order to eliminate unnecessary Medicare payment for assistants at surgery. Therefore, to delay the effective date of these regulations by following a proposed rulemaking procedure would be contrary to the public interest. Also, Congress expressly addressed the issuance of interim final regulations as an option for the development of these regulations. For the same reasons, we are waiving the usual 30-day delay in effective date, and are making these revised regulations effective on October 1, 1982.

We, therefore, find good cause to waive notice of proposed rulemaking procedures and the 30-day delay in effective date.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Assistants at surgery, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal Diseases (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

42 CFR Chapter IV is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

The authority citation for Part 405, Subpart E reads as follows:

Authority: Secs. 1102, 1814(b), 1833(a), 1842 (b) and (h), and 1871, 49 Stat. 647, as amended, 79 Stat. 296; 79 Stat. 302, 79 Stat. 310, 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq., unless otherwise noted.

1. The table of contents for Part 405 is amended by adding under Subpart E, § 405.580 to read as follows:

Subpart E—Criteria for Determination of Reasonable Charges; Reimbursement of Services of Hospital Interns, Residents, and Supervising Physicians

* * * * *

§ 405.580 Conditions of payment for assistants at surgery in teaching hospitals.

2. In § 405.502, the introductory language for paragraph (a) is reprinted for the convenience of the reader, and new paragraphs (a)(9) and (a)(10) are added to read as follows:

§ 405.502 Criteria for determining reasonable charges.

(a) *Criteria.* The law allows for flexibility in the determination of reasonable charges to accommodate reimbursement to the various ways in which health services are rendered and charged for. The criteria for determining what charges are reasonable include:

* * * * *

(9) Except as provided in paragraph (a)(10) of this section, in the case of services of assistants at surgery as defined in § 405.580 in teaching and non-teaching settings, charges that are not more than 20 percent of the prevailing charge in the locality, adjusted by the economic index, for the surgical procedure performed by the primary surgeon.

(10) In the case of services of assistants at surgery that meet the exception under § 405.580(c) (ii) or (iii) because the physician is performing a unique, necessary, specialized medical service in the total care of a patient during surgery, on the basis of the full reasonable charge for the service.

* * * * *

3. A new section 405.580 is added to read as follows:

§ 405.580 Conditions of payment for assistants at surgery in teaching hospitals.

(a) *Basis, purpose, and scope.* This section describes the conditions under which Medicare will pay on a reasonable charge basis for the services of an assistant at surgery in a teaching hospital. This section is based on section 1842(b)(D)(i) of the Social Security Act and applies only to hospitals with an approved teaching program. Except as specified in paragraph (c) of this section, reasonable charge reimbursement is not available for assistants at surgery in hospitals with—

(1) A training program relating to the medical specialty required for the surgical procedure; and

(2) A qualified individual on the staff of the hospital available to serve as an assistant at surgery.

(b) *Definitions.* "Assistant at surgery" means a physician who actively assists the physician in charge of a case in performing a surgical procedure.

"Teaching hospital" means a hospital with a graduate education program approved as specified in § 405.522(a).

"Team physicians" means a group of physicians, each performing a discrete, unique function integral to the performance of a complex medical procedure that requires the special skills of more than one physician.

"Qualified individual on the staff of the hospital" means a resident in a training program relating to the specialty required for the surgery.

(c) *Conditions for payment for assistants at surgery.* Payment on the basis of reasonable charges may be made for the services of an assistant at surgery in a teaching hospital only if the services—

(1) Are required due to exceptions medical circumstances;

(2) Are performed by team physicians needed to perform complex medical procedures;

(3) Constitute concurrent medical care relating to a medical condition which requires the presence of and active care by a physician of another specialty during surgery; or

(4) Are furnished under such other circumstances as the Secretary determines to be appropriate.

(Catalog of Federal Domestic Assistance Program No. 13,774, Medicare—Supplementary Medical Insurance)

Dated: September 10, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 27, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-27148 Filed 9-30-82; 8:45 am]

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Friday
October 1, 1982

Part XVII

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Treatment of Cost of Uncompensated Services Furnished in Fulfillment of a Hill-Burton Free Care Obligation; Final Rule With Comment Period

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Treatment of Cost of Uncompensated Services Furnished in Fulfillment of a Hill-Burton Free Care Obligation

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: This rule revises the Medicare regulations concerning treatment of charity care costs (42 CFR 405.420) to state explicitly that Medicare will not share in the costs of uncompensated services furnished by a provider in fulfillment of a Hill-Burton free care obligation. This revision implements Section 106 of Pub. L. 97-248, the Tax Equity and Fiscal Responsibility Act of 1982.

DATES: Effective date: The rule is amended as of October 1, 1982. See section III of this preamble for discussion of the effective date.

COMMENT DATE: Although this regulation is final, comments may be submitted. To assure consideration, comments should be received by November 30, 1982.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235. In commenting, please refer to file code BPP-203-FC.

If you prefer, you may deliver your comments to Room 309-G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection, beginning approximately three weeks after publication, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

FOR FURTHER INFORMATION CONTACT: Paul Trimble (301) 594-8640.

SUPPLEMENTARY INFORMATION:

I. General Background

A. Legislative History

The Hospital Survey and Construction Act of 1946 (commonly called the Hill-Burton Act) created Title VI of the Public Health Service Act. This title established a program of Federal financial assistance for the construction and modernization of hospitals and other medical facilities. In 1975, Pub. L. 93-641 created title XVI of the Public Health Service Act, which superseded Title VI. Under both titles, as amended, many facilities have received financial assistance in the form of grants, loans, and loan subsidies.

Under section 603(e) of title VI and section 1621(b)(1)(K) of title XVI, facilities applying for financial assistance are required to make assurances that they will make available "a reasonable volume of uncompensated services to persons unable to pay" for them. The Department's rules establishing standards of compliance with these assurances are found at 42 CFR 124.501 through 124.512. Under these rules, each facility that received Hill-Burton financing is obligated to furnish annually a certain volume of uncompensated services. The level of the facility's obligation is based on a percentage of either its operating costs or the amount of financial assistance it received. This annual Hill-Burton free care obligation must ordinarily be met each year for twenty years.

B. HCFA Policy on Free Care

Many Medicare providers have received Hill-Burton assistance, thereby incurring obligations to furnish a reasonable volume of free care annually. Traditionally, the Medicare program has not allowed the costs of services furnished under a Hill-Burton free care obligation in determining reimbursement to these providers. This position is based on our interpretation of provisions of the Social Security Act, and of Federal regulations that govern Medicare reimbursement and administration of the Hill-Burton program. Moreover, the Hill-Burton regulations provide that a hospital does not fulfill its Hill-Burton obligation to the extent it receives Medicare reimbursement for those costs (42 CFR 124.509).

Section 1861(v)(1)(A)(i) of the Act (42 U.S.C. 1395x(v)(1)(A)(i)) governs the determination of reasonable costs under Medicare. This provision of the Medicare law states that the costs with respect to individuals not covered by the Medicare program will not be borne by the program. This principle is restated in regulations at 42 CFR 405.402(a) and 405.451. We have interpreted this provision of the statute to exclude the costs of charity care, including Hill-Burton free care, because this care is not furnished to patients receiving Medicare benefits.

In deciding to exclude these costs, we reasoned as follows: To fulfill a Hill-Burton obligation, a provider must furnish uncompensated services to indigent patients. Persons receiving Medicare benefits, regardless of other income or resources, cannot be considered indigent for medical purposes by virtue of the fact that they are insured. Therefore, for the uncompensated services to qualify as meeting a Hill-Burton obligation, they must be furnished to patients who are not receiving Medicare benefits. It follows then that because the free care services were furnished to patients who are not receiving Medicare benefits, to allow Medicare reimbursement for the services would be contrary to the statutory provision prohibiting costs associated with non-Medicare patients from being borne by the Medicare program.

The Medicare regulations at 42 CFR 405.420 state the principle that charity allowances are deductions from revenue, and are not to be included in allowable cost. The regulations define charity allowances as reductions in charges made by the provider of services because of the indigence or medical indigence of the patient. Similarly, the Hill-Burton obligation requires that uncompensated services be provided to persons unable to pay. Therefore, the expenditures associated with these services meet the definition of charity allowances.

Moreover, it is impossible for services simultaneously to qualify for Medicare reimbursement, and to meet a Hill-Burton free care obligation. Regulations issued under the Hill-Burton Act, at 42 CFR 124.501 through 124.512, prohibit a facility from including amounts it is entitled to receive from another governmental program in computing its required level of uncompensated services. If Medicare were to allow such costs as reimbursable, the services would no longer be uncompensated and would be ineligible for meeting the Hill-Burton obligation.

C. Program Experience

Some providers and other parties have asserted that the costs of obligatory free care (as distinguished from true voluntary charity care) should be incidental allowable costs under Medicare. They argue that the cost of meeting the obligation incurred as a result of Hill-Burton financing is a long-term liability and, as such, is essentially a form of interest expense. These providers argue that uncompensated services, like interest expense, should be allowed for reimbursement.

We believe both the Medicare statute (as indicated above) and the Medicare regulations concerning interest expense

(see 42 CFR 405.419) prohibit treating the costs of a Hill-Burton obligation as interest. Although 42 CFR 405.419 states that necessary and proper interest on both current and capital indebtedness is an allowable cost, the definition of "proper" in 42 CFR 405.419(b)(3)(ii) excludes the cost of uncompensated services because they are not, as required by the regulation, paid to a lender.

It also is questionable whether uncompensated services furnished in meeting an obligation incurred under a Hill-Burton grant meet additional requirements for interest expense under 42 CFR 405.419. The definitions of "interest" and "necessary" require that costs be incurred for the use of borrowed funds and incurred on a loan, in order to be allowable under Medicare. We do not believe Hill-Burton grants meet these criteria.

Furthermore, under the Department's rules for establishing compliance with Hill-Burton assurances, the payments the Medicare program makes to a Hill-Burton provider may reduce the amount of the provider's obligation to furnish free care. The regulations at 42 CFR 124.503 specify that facilities have an annual free care obligation, the amount of which is the lesser of two alternative compliance levels. The first method for calculating the amount of the uncompensated services obligation specifies that the level be three percent of the operating costs for the most recent year for which an audited financial statement is available (42 CFR 124.508). These "operating costs" are determined by *subtracting* Medicare and Medicaid payments received in that year from the total operating expenses (42 CFR 124.502). Therefore, not only are Medicare payments considered in determining the level of the obligation, but if we did include the costs of free care as an allowable cost, the increased Medicare payments could also reduce the amount of the obligation. This is clearly not intended by either the Medicare or the Hill-Burton programs.

D. Administrative Appeals and Litigation

Many providers have disagreed with Medicare denials of the costs of uncompensated services furnished under a Hill-Burton obligation, and have appealed them to the Provider Reimbursement Review Board (PRRB). These administrative appeals have been denied.

There have also been several recent court decisions on this issue. Two cases tried at the district court level have upheld Medicare's position, while others have been decided in favor of the providers. The only Court of Appeals decision on the issue (*Presbyterian Hospital of Dallas* V. *Harris*, 638 F.2d 1381 (5 Cir. 1981.)) has been in favor of the provider.

E. Prohibition on Medicare Payment

Because of the court decisions against Medicare's position, we sought clarifying legislation to exclude the costs that providers incur in satisfying their free care obligations under the Hill-Burton program from Medicare reimbursement.

On September 3, 1982 the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248) was enacted. Section 106 of this legislation amended Section 1861(v)(1) of the Social Security Act by adding a new paragraph (M). The amendment confirms that the cost of free care furnished under a Hill-Burton obligation shall not be allowable as reasonable costs under Medicare. Section 106 is effective for costs incurred under Medicare except those costs recognized by the Court of Appeals in the Presbyterian Hospital decision mentioned above. The statutory language provides explicit support for disallowances of costs of all other providers (and for Presbyterian Hospital for all cost years other than those involved in the litigation) incurred both before and after enactment of the statute. Thus, the statue resolves outstanding provider disputes, including those district court decisions favorable to providers but currently under appeal by the government.

II. Regulation Revisions

We are revising 42 CFR 405.420(b)(2) and (g) to state explicitly that uncompensated services furnished in fulfillment of a Hill-Burton free care obligation are considered charity allowances and as such cannot be considered allowable costs in computing Medicare reimbursement for providers. This rule is consistent with long-standing Medicare policy in this area, and, as noted in the preceding section of this preamble, is explicitly required by Section 1861(v)(1) of the Act (as amended by Section 106 of Pub. L. 97–248). We believe this change will clarify our regulations and prevent further disputes with providers and others on this issue.

III. Effective Date

Section 106 of Pub. L. 97–248 is effective with respect to all costs incurred under Medicare, both before and after enactment of the amendment, except those specific costs allowed under court order in the Presbyterian Hospital decision. Consequently, this rule is applicable to all past disputes concerning Medicare disallowances of costs of free care furnished under a Hill-Burton obligation except those cost years specifically litigated in the Presbyterian Hospital case, as well as future treatment of these costs. Any Hill-Burton costs paid by Medicare under the principle of the Presbyterian decision, but not specifically litigated therein, are impacted by this statutory amendment. These cost reports will be reopened and the Hill-Burton free care costs will be disallowed.

IV. Impact Analysis

A. Executive Order 12291

We have determined that this final rule does not meet the criteria for a major rule that are set forth in section 1(b) of Executive Order 12291. That is, the rule will not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or

(3) Have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States based enterprises to compete in domestic or export markets.

As mentioned earlier in the preamble, this rule would state explicitly in regulations the interpretation of existing regulations Medicare has been using with regard to uncompensated care furnished in meeting a provider's Hill-Burton obligation. This interpretation has been in effect since the beginning of the Medicare program, and is explicitly supported by section 106 of Pub. L. 97–248. Therefore, this regulation should have no economic effect for the vast majority of providers.

We have been, however, allowing costs of uncompensated care furnished in meeting a Hill-Burton obligation in the Fifth Circuit (Texas, Louisiana, and Mississippi) in accordance with the principle of the *Presbyterian* case. To date we have paid approximately $2.25 million for Hill-Burton charity care allowances in these States. Under this rule, we will disallow these costs in settling future cost reports and reopen all cost reports of providers in the Fifth Circuit other than Presbyterian Hospital (for cost years covered by the litigation only) to recover any payments we have made to them for costs associated with a Hill-Burton free care obligation. (All of these Medicare payments have been made within the time period allowed for reopening.)

The following table shows the estimates of HCFA's actuaries of the costs that would have been incurred under our policy of allowing costs of uncompensated care in the Fifth Circuit.

[Dollars in millions]

Fiscal year	Costs
1983	$15
1984	$15
1985	$15

We do not believe an economic impact analysis is required because the effect of this rule is considerably below the $100 million threshold and does not otherwise meet the criteria for a major rule.

However, even if we were to determine that there was an impact of $100 million or more, we would not classify it as a major rule for purposes of the Executive Order. This is because we have determined that Section 106 of Pub. L. 97-248, the Tax Equity and Fiscal Responsibility Act of 1982, has occasioned this impact, and not these regulations which merely implement the statutory provision. Therefore, a regulatory impact analysis is not required.

B. Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this proposed rule will not have a significant economic impact on a substantial number of small businesses, nonprofit entities or small local governments.

The reason for the Secretary's certification is that, as explained in the Executive Order discussion, this rule will not alter current Medicare reimbursement policy. Although under this rule we will cease allowing payment for the cost of free care furnished under a Hill-Burton obligation to providers in the Fifth Circuit, the number of providers who have actually received such payment is not substantial nor is the amount significant. However, even if there were a significant effect on a substantial number of small entities, we have determined that this effect is the result of the statutory provision, and not these regulations, which merely implement the recent amendment. Therefore, a regulatory flexibility analysis is not required.

V. Waiver of Proposed Rulemaking

As explained earlier in this preamble, this rule implements a statutory mandate that is set forth explicitly in Section 106 of Pub. L. 97-248. The language of the statute clearly precludes the allowance of the cost of free care furnished under a Hill-Burton obligation. There are no policy alternatives implicit in the legislation. Therefore, we believe it is unnecessary to publish a notice of proposed rulemaking. Further, we believe it would be both impractical and contrary to the public interest to delay implementation of Section 106 by the amount of time that would be needed to obtain and analyze public comments. Therefore, we find good cause to waive the requirement for publication of a notice of proposed rulemaking. However, as stated previously, we will consider any comments mailed within the specified period and will make any changes in the regulations we believe necessary as a result of the comments.

Additionally, Section 106(b) specifies that the statute is effective with respect to all costs incurred in meeting Hill-Burton obligations prior to enactment of this amendment, except where those costs have been paid pursuant to the Fifth Circuit court order. Moreover, the Conference Report indicates, with respect to providers other than Presbyterian Hospital, that only costs recognized by the final judgment of a Court of Appeals, and not other costs which may have been paid pursuant to such judgment, are to be paid. In the face of this statutory direction, we believe it is impractical and unnecessary to delay the effective date of this rule for 30 days, as is our usual procedure. Consequently, we find good cause to waive the delayed effective date.

VI. Other Required Information

A. Public Comments

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, we will consider all comments and will respond to them in the preamble to a revised final rule if changes are necessary.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of Compliance, Clinics, Contracts (agreements), End-State renal disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health supplies, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

The authority citation for Part 405, Subpart D reads as follows:

Authority: Secs. 1102, 1814(b), 1833(a), 1861(v) and 1871, 49 Stat. 647, as amended, 79 Stat. 296, 79 Stat. 302, 79 Stat. 322, 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq., unless otherwise noted.

42 CFR 405.420 is amended by revising paragraphs (b)(2) and (g) as set forth below:

§ 405.420 Bad debts, charity, and courtesy allowances.

* * * * *

(b) *Definitions.*—

* * * * *

(2) *Charity allowances.* Charity allowances are reductions in charges made by the provider of services because of the indigence or medical indigence of the patient. Cost of free care (uncompensated services) furnished under a Hill-Burton obligation are considered as charity allowances.

* * * * *

(g) *Charity allowances.* Charity allowances have no relationship to beneficiaries of the health insurance progam and are not allowable costs. These charity allowances include the costs of uncompensated services furnished under a Hill-Burton obligation. (Note: In accordance with Sec. 106(b) of Pub. L. 97-248 (enacted September 3, 1982), this sentence is effective with respect to any costs incurred under title XVIII of the Social Security Act, except that it does not apply to costs which have been allowed prior to September 3, 1982, pursuant to a final court order affirmed by a United States Court of Appeals.) The cost to the provider of employee fringe-benefit programs is an allowable element of reimbursement.

(Catalog of Federal Domestic Assistance Program No. 13.773 Medicare—Hospital Insurance)

Dated: September 7, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 23, 1980.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-27224 Filed 9-30-82; 8:45 am]
BILLING CODE 4120-03-M

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Federal Register
Vol. 47, No. 191
Friday, October 1, 1982

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FEDERAL REGISTER PAGES AND DATES, OCTOBER

43351-43658.....1

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

TABLE OF EFFECTIVE DATES AND TIME PERIODS—OCTOBER 1982

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.

In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or a holiday, the next Federal business day is used. (see 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
October 1	October 18	November 1	November 15	November 30	December 30
October 4	October 19	November 3	November 18	December 3	January 3
October 5	October 20	November 4	November 19	December 6	January 3
October 6	October 21	November 5	November 22	December 6	January 4
October 7	October 22	November 8	November 22	December 6	January 5
October 8	October 25	November 8	November 22	December 7	January 6
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October 14	October 29	November 15	November 29	December 13	January 12
October 15	November 1	November 15	November 29	December 14	January 13
October 18	November 2	November 17	December 2	December 17	January 17
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October 20	November 4	November 19	December 6	December 20	January 18
October 21	November 5	November 22	December 6	December 20	January 19
October 22	November 8	November 22	December 6	December 21	January 20
October 25	November 9	November 24	December 9	December 27	January 24
October 26	November 10	November 26	December 10	December 27	January 24
October 27	November 12	November 26	December 13	December 27	January 25
October 28	November 12	November 29	December 13	December 27	January 26
October 29	November 15	November 29	December 13	December 28	January 27

CFR CHECKLIST; 1981–82 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1981/82. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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CFR ISSUANCES

Complete Listing of 1982 CFR Issuances

This list restates the publication plans for the January, April and July, 1982 quarters and projects the publication plans for the October, 1982 quarter. A projected schedule that will include the January, 1983 quarter will appear in the first **Federal Register** issue of January, 1983, immediately after the CFR checklist.

Pricing information is not available on projected issuances. Individual announcements of the actual release of volumes will continue to be printed in the **Federal Register** and will provide the price and ordering information. The monthly CFR checklist and the Annual Cumulative LSA will continue to provide a cumulative list of CFR volumes actually printed.

Normally, CFR volumes are revised according to the following schedule:

Titles 1–16—January 1
Titles 17–27—April 1
Titles 28–41—July 1
Titles 42–50—October 1

All volumes listed below will adhere to these scheduled revision dates unless a notation in the listing indicates a different revision date for a particular volume.

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1200–end
7 Parts:
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52
53–209
210–299
300–399
400–699
700–899
900–999
1000–1059
1060–1119
1120–1199
1200–1499
1500–1899
1900–1944
1945–end
8
9 Parts:
1–199
200–end
10 Parts:
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200–399
400–499
500–end
11 (cover only)
12 Parts:
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500–end
13
14 Parts:
1–59
60–139
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15 Parts:
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16 Parts:
0–149
150–999
1000–end

Titles revised as of April 1, 1982:

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240–end
18 Parts:
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150–399
400–end
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170–199
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600–799
800–1299
1300–end
1308 Table (Cover only)
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24 Parts:
0–199
200–499
500–799
800–1699
1700–end
25
26 Parts:
1(§§ 1.0–1–1.169)
1(§§ 1.170–1.300)
1(§§ 1.301–1.400)
1(§§ 1.401–1.500)
1(§§ 1.501–1.640)
1(§§ 1.641–1.850)
1(§§ 1.851–1.1200)
1(§§ 1.1201–end)
2–29
30–39
40–299
300–499
500–599 (Cover only)
600–end
27 Parts:
1–199
200–end

Titles revised as of July 1, 1982:

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100-499
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33 Parts:
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200-end
34 Parts:
1-399
400-end
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36 Parts:
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38 Parts:
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Titles revised as of October 1, 1982:

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42 Parts:
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43 Parts:
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1000-3999
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44
45 Parts:
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500-1199
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70-89
90-109
110-139
140-155
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47 Parts:
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49 Parts:
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1000-1199 (Revised as of November 1, 1982)
1200-1299
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50 Parts:
1-199
200-end

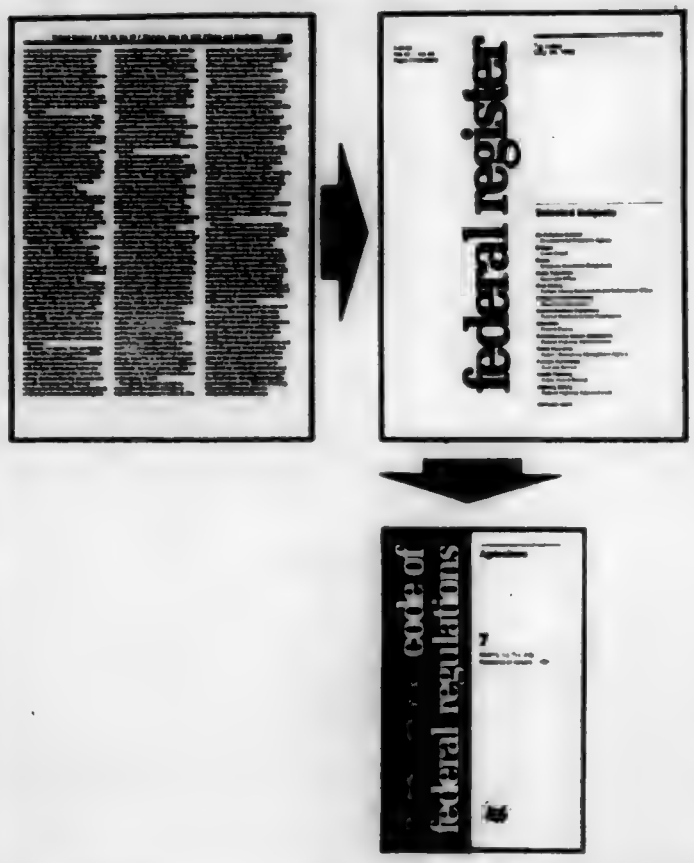
List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing September 30, 1982

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10-4-82
Vol. 47 No. 192
43659-43934

federal register

Monday
October 4, 1982

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Securities and Exchange Commission

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Transportation Department

Aviation Safety
Federal Aviation Administration

Communications Common Carriers
Federal Communications Commission

Community Development Block Grants
Community Planning and Development, Office of Assistant Secretary

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National Oceanic and Atmospheric Administration

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Marine Safety
Coast Guard

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Presidential Documents

Title 3—

The President

Proclamation 4980 of September 30, 1982

Staged Reduction of Rates of Duty on Certain Products To Carry Out a Trade Agreement

By the President of the United States of America

A Proclamation

1. Pursuant to section 124(a) of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2134(a)), I determined that certain existing duties of the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes of the Trade Act would be promoted by entering into the trade agreement identified in the third recital of this Proclamation.

2. Sections 131(a), 132, 133, 134, 135, and 161(b) of the Trade Act (19 U.S.C. 2151(a), 2152, 2153, 2154, 2155, and 2211(b)) have been complied with.

3. On December 31, 1981, pursuant to section 124 of the Trade Act and to section 6(b) of the Taiwan Relations Act (22 U.S.C. 3305(b)), my duly empowered representative entered into a trade agreement with the entity recognized by the President in section 1–204 of Executive Order 12143 of June 22, 1979 (22 U.S.C. 3301 note). The trade agreement provides that the rates of duty on certain products would be modified as hereinafter proclaimed and as provided for in Annex I to this proclamation, in exchange for certain measures which will benefit United States interests.

4. Pursuant to the Trade Act, I determine that the modifications or continuance of existing duties hereinafter proclaimed are required or appropriate to carry out the trade agreement identified in the third recital of this proclamation.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes, including but not limited to sections 124 and 604 of the Trade Act (19 U.S.C. 2134 and 2483), do proclaim that:

(1) The column 1 rates of duty applicable to articles provided for in items 141.78, 725.32, 734.10, 734.15, 734.87, 735.09, 735.20 and 772.35 of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) are modified as provided in Annex I to this proclamation.

(2) Annex III to Presidential Proclamation 4707 of December 11, 1979, and Annex III of Presidential Proclamation 4768 of June 28, 1980, are superseded to the extent inconsistent with this proclamation.

(3) Whenever the column 1 rate of duty in the TSUS for any item specified in Annex I to this proclamation is reduced to the same level as, or to a lower level than, the corresponding rate of duty in the column entitled "LDDC" in the TSUS for such item, the rate of duty in the column entitled "LDDC" for such item shall be deleted from the TSUS.

(4) Each of the modifications made by this proclamation shall be effective as to articles entered, or withdrawn from warehouse for consumption, on and after September 30, 1982.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of Sept. in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

ANNEX I

STAGED RATE MODIFICATIONS OF THE TARIFF SCHEDULES OF THE UNITED STATES

Note:

Each rate in the following table, opposite the number of an item in the Tariff Schedules of the United States (TSUS) identified therein, is inserted in column numbered 1 in such item, effective for articles provided for therein which are entered, or withdrawn from warehouse for consumption, on and after the date at the head of the column in which such rate is set forth and such rate shall be superseded by the rate, if any, for that item in the immediately following column, effective for articles which are entered, or withdrawn from warehouse for consumption, on and after the date at the head of such latter column.

TSUS Item Number	Rates of duty effective with respect to articles entered on and after—					
	September 30, 1982	January 1, 1983	January 1, 1984	January 1, 1985	January 1, 1986	January 1, 1987
141.78	8.7% ad val.	8.4% ad val.	8.1% ad val.	7.8% ad val.	7.5% ad val.	7.2% ad val.
725.32	6.6% ad val.	6.3% ad val.	5.9% ad val.	5.5% ad val.	5.2% ad val.	4.8% ad val.
734.10	4% ad val.	4% ad val.	4% ad val.	4% ad val.	4% ad val.	4% ad val.
734.15	6.72% ad val.	6.32% ad val.	5.92% ad val.	5.52% ad val.	5.04% ad val.	4.64% ad val.
734.87	4.2% ad val.	4.2% ad val.	4.2% ad val.	4.2% ad val.	4.2% ad val.	4.2% ad val.
735.09	7.84% ad val.	7.2% ad val.	6.64% ad val.	6% ad val.	5.44% ad val.	4.8% ad val.
735.20	6.72% ad val.	6.32% ad val.	5.92% ad val.	5.52% ad val.	5.04% ad val.	4.64% ad val.
772.35	4.24% ad val.	4.08% ad val.	3.92% ad val.	3.76% ad val.	3.52% ad val.	3.36% ad val.

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

Increase in Fees and Charges at Destination Markets

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to revise the schedule of fees and charges for inspection of fresh fruits, vegetables and other products at destination markets to reflect increased costs associated with the program.

EFFECTIVE DATE: 12:01 a.m. October 3, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Michael A. Castille, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–5870.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. It will not result in an annual effect on the economy of $100 million or more. If the increased fees for inspection of fresh fruits, vegetables and other special products were passed on by the wholesalers, the increase would represent less than 0.004 cents per package based on a carload of 1,000 packages of fresh produce, and this is not considered to be a major increase in costs or price for consumers or individual industries. Likewise, this rule should have no impact on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The use of grades and inspection and certification services increases the efficiency in the marketing system and facilitates orderly marketing of agricultural products.

Eddie Kimbrell, Deputy Administrator, Agricultural Marketing Service, has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601), because it represents, on a cost-per-unit graded basis, only a small increase in the costs currently borne by those entities untilizing the voluntary inspection and certification services.

It is found that good cause exists for making this final rule effective October 3, 1982, because the present fees are not adequate to recover the costs of providing the different types of services. The need for the increase and the amount thereof are dependent upon factors beyond the control of the Agricultural Marketing Service.

The fees and charges for services at destination markets rendered to the fresh fruit and vegetable industry are amended to reflect the costs associated with the program. Such services are authorized under the Agricultural Marketing Act of 1946, Sec. 203(h), which requires that fees be reasonable and, as nearly as possible, cover the costs of rendering the services. No appropriated funds are provided to the agency to offset the costs of rendering the services. Therefore, such costs must be recovered in full through user fees charged to the applicants requesting the services.

The following table compares current fees and charges for fresh fruit and vegetable inspection with the new schedule.

	Current	New
(1) Quality and condition inspections:		
(i) Over one-half carlot to full carlot of one product	$36.00	$42.00
(ii) One-half carlot or less of one product	32.00	35.00
(iii) Full carlot of more than one product—maximum fee	76.00	84.00
(2) Condition inspection only:		
(i) Over one-half carlot to full carlot one product	32.00	35.00
(ii) One-half carlot or less of one product	30.00	33.00
(iii) Full carlot of more than one product—maximum fee	64.00	70.00
(3) The base fee for (shelled), pecans and other nuts per ton shall be	1.10	1.20
Minimum fee per lot	18.00	20.00
Farmers Stock Peanuts (Unshelled) per ton	2.50	3.50
(4) Hourly rate	19.00	21.00
(5) Small package fee:		
1 to 25 packages inclusive	5.00	5.50
26 to 50 packages inclusive	7.00	7.75
51 to 150 packages inclusive	10.00	11.00
151 to ½ customary carlot	14.00	15.50
(6) Hourly rate for overtime or equivalent work in addition to regular commercial lot or hourly fees specified	9.50	10.50

List of Subjects in 7 CFR Part 51

Fresh fruits, Vegetables and other products, Agricultural commodities, Food grades and standards.

Accordingly, the Regulations Governing Inspection, Certification and Standards for Fresh Fruits, Vegetables, and other products (7 CFR 51.38) are revised to read as follows:

§ 51.38 Basis for charges.[3]

(a) The fee for each lot of products inspected by an inspector acting exclusively for the Department, except for peanuts, pecans, or other nuts, shall be on the following basis.

(1) Quality and condition inspections:

(i) $42 for each over one-half carlot equivalent of an individual product up to a full carlot.

(ii) $35 for each half-carlot equivalent or less of an individual product.

(iii) $84 maximum for inspection of each carlot equivalent when more than one kind of product is involved.

(2) Condition inspection only:

(i) $35 for each over one-half carlot equivalent of an individual product up to a full carlot.

(ii) $33 for each half-carlot equivalent or less of an individual product.

(iii) $70 maximum for inspection of each carlot equivalent when more than one kind of product is involved.

(b) The base fee for peanuts (shelled), pecans, or other nuts shall be $1.20 per ton: *Provided*, That the minimum fee shall be $20 per lot, the different grades and varieties of peanuts shall be considered separate lots, and the fee for Farmers' Stock peanuts (unshelled) shall be $3.50 per ton.

(c) When inspections are made and the products inspected cannot be readily calculated in terms of carlots, or when

[3] Carlot equivalent shall be based on the customary quantity of a product loaded in common rail cars.

the services rendered are such that a charge on the carlot or other unit basis would be inadequate or inequitable, charges for inspections may be based on the time consumed by the inspector in connection with such inspections, computed at the rate of $21.00 per hour.

(d) Notwithstanding the fee rates prescribed in the preceding paragraphs, fee and charges for the inspection of small lots where detailed reports of inspections are not normally required, [4] the following rates may be applied:

1 to 25 packages inclusive	$5.50
26 to 50 packages inclusive	7.75
51 to 150 packages inclusive	11.00
151 to ½ customary carlot equivalent	15.50

(e) Whenever inspections are performed at the request of the applicant during periods which are outside the inspector's regular scheduled work week, a charge for overtime or holiday work shall be made at the rate of $10.60 per hour or portion thereof in addition to the regular commercial lot or hourly fees specified in this subpart. Holidays are those specified in Title 5 U.S.C., Section 6103(a).

Notice of proposed rule making, public procedure thereon, and the postponement of the effective time of this action later than October 3, 1982, (5 U.S.C. 533) are impracticable, unnecessary, and contrary to the public interest in that (1) the Agricultural Marketing Act of 1946 provides that the fees charged shall be reasonable and, as nearly as possible, cover the cost of the service rendered, (2) the increases in fee rates set forth herein are necessary to more nearly cover such cost including, but not limited to, Federal employees salary adjustment; (3) it is imperative that these increases in fee rates become effective in time to cover such increased costs; and (4) additional time is not required by users of the inspection service to comply with this amendment.

(Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624.))

Done at Washington, D.C. on September 30, 1982

William T. Manley,

Deputy Administrator Marketing Program Operations.

[FR Doc. 82-27297 Filed 9-30-82; 12:12 pm]

BILLING CODE 3410-02-M

[4] For example, the inspection of small lots for export to Canada or delivery to private and public institutions.

7 CFR Part 910

[Lemon Regulation 379, Lemon Regulation 378, Amendment 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period October 3–9, 1982, and increases the quantity of lemons that may be shipped during the period Sept. 26–Oct. 2, 1982. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

EFFECTIVE DATES: The regulation becomes effective October 3, 1982, and the amendment is effective for the period September 26—October 2, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on September 28, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is moderate.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

1. Section 910.679 is added as follows:

§ 910.679 Lemon Regulation 379.

The quantity of lemons grown in California and Arizona which may be handled during the period October 3, 1982, through October 9, 1982, is established at 230,535 cartons.

2. Section 910.678 Lemon Regulation 378 (47 FR 42097) is revised to read as follows:

§ 910.678 Lemon Regulation 378.

The quantity of lemons grown in California and Arizona which may be handled during the period September 26, 1982, through October 2, 1982, is established at 240,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 30, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-27298 Filed 9-30-82; 12:13 pm]

BILLING CODE 3410-02-M

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 314

Property Management Regulation—Mortgages

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Interim rule.

SUMMARY: This rule amends EDA's property management regulations concerning mortgages. It provides for the waiver by the Assistant Secretary of the prohibition against placing mortgages on property which has been financed by an EDA grant. These requirements for waiver are consistent with EDA regulations concerning a waiver prior to the award of an EDA grant. As this regulation is now written, a grantee may if certain conditions are met, be allowed, at the beginning of the grant to place a mortgage on grant property. The amendment is needed because a grantee sometimes needs to place a mortgage on EDA funded property after the grant has been made.

DATES: Effective date: October 4, 1982. Comments by: December 3, 1982.

ADDRESS: Send comments to the Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Charles W. Coss, Director, Office of Public Works, Economic Development Administration, 14th and Constitution Ave., NW., Room 7019, Washington, D.C. 20230, (202) 377–5265.

SUPPLEMENTARY INFORMATION: EDA is amending its property management regulation at 13 CFR Part 314 concerning mortgages in order to fulfill a need not contemplated when the regulations were originally drafted.

This amendment allows the Assistant Secretary to waive the prohibition against placing mortgages on property which has been financed by an EDA public work grant, if certain conditions are met. These conditions for waiver are the same as those which must be met by EDA applicants who seek to place a mortgage on the property which is to be financed by an EDA public works grant. The conditions are as follows: (1) The inability of the grantee to otherwise obtain financing; (2) EDA cannot (in the best interest of the government), make a loan; (3) the grantee's strength of ties with the community; (4) requirements of the private lender which call for placing a lien on the project; (5) expectation of repayment of the private loan; and (6) if possible, an agreement between the grantee and the private lender that if foreclosure occurs, the project will continue to be used for public purposes.

Because this rule relates to EDA's public works program, it is exempt from the notice and comment procedures described in Section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, while the rule will become effective upon publication in interim form, the public will be given an opportunity to comment before it is published in final form.

In accordance with Section 3(c)(3) of Executive Order No. 12291, this rulemaking has been submitted to the Director of the Office of Management and Budget. Since this is not a "major rule", a Regulatory Impact Analysis is not required.

In addition, there are no reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

It has been determined by the General Counsel of the Department of Commerce that this rulemaking will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 13 CFR Part 314

Economic Development Administration, Economic development, Grant programs—economic development, Government property management, and Surplus government property.

Accordingly, EDA amends 13 CFR Part 314 as follows:

PART 314—PROPERTY MANAGEMENT

13 CFR 314.5 is amended by adding a new paragraph (b) to read as follows:

§ 314.5 Mortgages.

* * * * *

(b) The Assistant Secretary may, after a grant is in place, waive the provisions of this paragraph when he determines all of the following that:

(1) The grantee because of its nature and makeup, without a loan from a private lender, does not have the funds to further operate this project;

(2) It is in the best interest of the government not to provide a Public Works loan to the grantee;

(3) The project is closely allied with the community in which it is located, making it unlikely that foreclosure by a private lender would be undertaken;

(4) The private lender would not otherwise lend money without the security of a lien on the project property;

(5) There is no reasonable expectation that the loan by the private lender will not be repaid, thereby eliminating any reasonable expectation of foreclosure by the private lender; and

(6) Whenever possible, the grantee has obtained an agreement from the private lender that in the event of foreclosure of the project, that such property would continue to be used for public purposes.

((Section 701, Pub. L. 89–136, 79 Stat. 570) (42 U.S.C. 3211); Sec. 1–105, Executive Order 12185; Department of Commerce Organization Order 10–4, as amended (40 FR 56702, as amended))

Dated: August 26, 1982.

Carlos C. Campbell,

Assistant Secretary for Economic Development.

[FR Doc. 82–27277 Filed 10–1–82; 8:45 am]

BILLING CODE 3510–24–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82–NM–63–AD; Amdt. 39–4470]

Airworthiness Directives: British Aerospace HS–125 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends existing Airworthiness Directive (AD) 82–11–03 which requires reorientation of the elevator pitch trim switch on the control wheel on certain British Aerospace Model HS–125 airplanes. This amendment corrects the applicability of the AD.

EFFECTIVE DATE: October 12, 1982.

ADDRESSES: The service bulletin specified in this Airworthiness Directive may be obtained upon request to British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Huhn, Foreign Aircraft Certification Branch, ANM–150S, Seattle Area Aircraft Certification Office, FAA Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767–2530. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: AD 82–11–03, Amendment 39–4363, issued May 11, 1982 (47 FR 22350; May 24, 1982), requires that the pitch trim switch be

reoriented on certain British Aerospace, Ltd. HS–125 airplanes. The applicability statement was incomplete as it did not include all serial numbers of affected airplanes as listed on British Aerospace Service Bulletin HS–125 27–124(2705). This amendment corrects that deficiency.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending AD 82–11–03, Amendment 39–4383 as published in **Federal Register** Doc. 82–13890, appearing at page 22350 in the issue of May 24, 1982, as follows:

"**British Aerospace:** Applies to Model HS–125 Series 700 and all variants serial numbers 25/7001, 7007, 7010, 7013, 7020, 7022, 7025, 7028, 7031, and 7034, 7037, 7040, 7046; NA 0201–NA 0240 inclusive certificated in all categories."

This amendment becomes effective October 12, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington, on September 22, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 82–27219 Filed 10–1–82; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 82–ASO–48]

Alteration of Transition Area, Gainesville, Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Gainesville, Georgia, Transition Area by revoking an unnecessary extension. This action will raise the base of controlled airspace in an area southwest of the Lee Gilmer Memorial Airport from 700 to 1,200 feet above the surface.

DATES: Effective Date: 0901 G.m.t., December 23, 1982. Comments must be received on or before November 23, 1982.

ADDRESS: Send comments on the rule in triplicate to: Federal Aviation Administration, ATTN: Manager, Airspace and Procedures Branch, ASO–530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344; telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves raising the base of controlled airspace southwest of the Lee Gilmer Memorial Airport from 700 to 1,200 feet above the surface, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Gainesville, Georgia, Transition Area by revoking an extension which is no longer required. The Gainesville radio beacon, which was located on the Lee Gilmer Memorial Airport, has been relocated to a new site southwest of the airport. The instrument approach procedure, which was predicated on the radio beacon and established the need for the extension, has been cancelled, thus negating the need for the extension. New instrument approach procedures, predicated on the relocated radio beacon, will not require arrival extensions. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is a need for a regulation to alter the Gainesville Transition Area by revoking an extension which is no longer required. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary and that good cause exists for making this amendment effective in less than 60 days after its publication in the **Federal Register.**

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 GMT, December 23, 1982, as follows:

Gainesville, GA—Revised

That airspace extending upwards from 700 feet above the surface within an 8.5-mile radius of Lee Gilmer Memorial Airport (lat. 34°16'37"N., long. 83°49'42"W.).

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant

economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on September 20, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-27217 Filed 10-1-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASW-47]

Designation of Transition Area and Alternation of Control Zone: Temple, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will designate a transition area and alter the control zone at Temple, TX. The intended effect of the amendment is to provide adequate controlled airspace for aircraft executing standard instrument approach procedures (SIAP's) to the Draughon-Miller Airport. This amendment is necessary since a review of the designated airspace revealed that it is improperly described and in some cases excessive for the protection of aircraft. In addition, the transition area description is being removed from Waco, TX, and placed under the name Temple, TX.

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On July 29, 1982, a notice of proposed rulemaking was published in the **Federal Register** (47 FR 32727) stating that the Federal Aviation Administration proposed to designate the Temple, TX, transition area and alter the control zone. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181 and Subpart F of Part 71, § 71.171, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3 dated January 29, 1982, is amended, effective 0901 GMT, December 23, 1982, as follows:

Subpart G § 71.181

Temple, TX New

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Draughon-Miller Airport (latitude 31°09'08"N., longitude 97°24'27"W.), and within 3.5 miles west and 4.5 miles east of the north localizer course extending from the 7-mile radius area to 15.5 miles north of the airport.

Subpart F § 71.171

Temple, TX Revised

Within a 5-mile radius of the Draughon-Miller Airport (latitude 31°09'08"N., longitude 97°24'27"W.), and within 2.5 miles west and 3.5 miles east of the north localizer course extending from the 5-mile radius area to 15.5 miles north of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 1103; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. It is certified that the rule will not have a significant economic impact on a substantial number of small entities as the anticipated impact is minimal.

Issued in Forth Worth, TX, on September 23, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-27203 Filed 10-1-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASW-46]

Alteration of Transition Area and Control Zone: Waco, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area and control zone at Waco, TX. The intended effect of the amendment is to provide adequate controlled airspace for aircraft executing standard instrument approach procedures to the Madison-Cooper, T.S.T.I.-Waco, Marlin, and McGregor Airports. This amendment is necessary since a review of the designated controlled airspace revealed that the airspace is not properly designated, needs revision, and in most cases is excessive for that required for the protection of aircraft executing instrument approach procedures to the above airports.

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On July 29, 1982, a notice of proposed rulemaking was published in the **Federal Register** (47 FR 32726) stating that the Federal Aviation Administration proposed to alter the Waco, TX, transition area and control zone. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181 and Subpart F of Part 71, § 71.171, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3 dated January 29, 1982, is amended, effective 0901 GMT, December 23, 1982, as follows:

Subpart G § 71.181:

Waco, TX Revised

That airspace extending upward from 700 feet above the surface with a 20-mile radius of the Madison-Cooper Airport (latitude 31°36'41" N., longitude 97°13'43" W.), and within 5 miles each side of the 357° bearing from the T.S.T.I.-Waco Airport (latitude

31°38'12" N., longitude 97°04'20" W.) extending from the 20-mile radius area to 18 miles north of T.S.T.I.-Waco Airport; and within a 5-mile radius of the Marlin Airport (latitude 31°20'15" N., longitude 96°51'06" W.), and within 4.5 miles each side of 133° radial of the Waco VORTAC extending from the 5-mile radius area to 18 miles northwest of the Marlin Airport.

Subpart F § 71.171:

Waco, TX Revised

Within a 5-mile radius of the Madison-Cooper Airport (latitude 31°36'41" N., longitude 97°13'43" W.), and within 3.5 miles each side of the 148° and 337° radial of the Waco VORTAC extending to 11 miles northwest of the VORTAC; and within 1½ miles west and 4 miles east of the north localizer course extending to 6 miles north; and within 3 miles each side of the 150° radial of the VORTAC extending from the 5-mile radius area to 20 miles southeast of the VORTAC; and within a 5-mile radius of the T.S.T.I.-Waco Airport (latitude 31°38'12" N., longitude 97°04'20" W.), and within 2 miles each side of the 177° bearing extending from the 5-mile radius area to 7 miles south.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 1103; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. It is certified that the rule will not have a significant economic impact on a substantial number of small entities as the anticipated impact is minimal.

Issued in Fort Worth, TX, on September 23, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-27202 Filed 10-1-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASW-40]

Alteration of Transition Area; Oklahoma City, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area at Oklahoma City, OK. The intended effect of the amendment is to provide adequate controlled airspace for aircraft executing instrument approach procedures to the Sundance Airpark (formerly Jack Richards Airport). This amendment is necessary to provide protection for aircraft executing a VOR approach to Runway 17 and an RNAV approach to the Sundance Airpark.

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On July 26, 1982, a notice of proposed rulemaking was published in the Federal Register (47 FR 32157) stating that the Federal Aviation Administration proposed to alter the Oklahoma City, OK, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3 dated January 29, 1982, is amended, effective 0901 G.M.T., December 23, 1982, as follows:

Oklahoma City, OK [Amended]

* * * And within a 6.5-mile radius of the Sundance Airpark (latitude 35°36'06"N., longitude 97°42'21"W.).

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 1103; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. It is certified that the rule will not have a significant economic impact on a substantial number of small entities as the anticipated impact is minimal.

Issued in Fort Worth, TX, on September 23, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-27271 Filed 10-1-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-51]

Alteration of Transition Area; Morristown, Tenn.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Morristown, Tennessee, Transition Area by correcting the description of an arrival extension to coincide with a change to an instrument approach procedure. The alteration will also correct the name and geographical coordinates of the navigational aid upon which the approach procedure is predicated. These actions will result in a reduction in the size of the Transition Area.

DATES: Effective date: 0901 GMT, December 23, 1982. Comments must be received on or before November 23, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, ATTN: Manager, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves correcting the description of an arrival area extension as well as the name and location of a navigational aid, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that

changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of the Morristown, Tennessee, Transition Area by realigning the arrival area extension for the instrument approach procedures which serve the Moore-Murrell Airport. In addition, the name and location of a navigational aid will be corrected. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is a need for a regulation to alter the Transition Area so that the arrival extension is properly aligned with instrument approach procedure final approach courses and to list the correct name and coordinates upon which the extension is predicated. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary and that good cause exists for making this amendment effective in less than 60 days after its publication in the **Federal Register**.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., December 23, 1982, as follows:

Morristown, TN [Amended]

By deleting the words "* * * of the 239° bearing from the Morristown RBN (latitude 36°11'10"N., longitude 83°22'00"W.), * * *" and substituting for them the words "* * * of the 230° bearing from Jefferson RBN (Lat. 36°07'18"N., long. 83°27'33"W.), * * *"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on September 21, 1982.

Seymour Oberlander,

Acting Director, Southern Region.

[FR Doc. 82-27270 Filed 10-1-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 95

[Docket No. 23378; Amdt. No. 95-307]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: October 28, 1982.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

List of Subjects in 21 CFR Part 95

Aircraft, Airspace.

Adoption of the Amendment

PART 95—[AMENDED]

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 G.M.T., October 28, 1982.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a

"significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on September 21, 1982.

John M. Howard,

Manager, Aircraft Programs Division.

BILLING CODE 4910-13-M

§ 95.1001 DIRECT ROUTES—U.S.

Amended to read:

BAHAMA ROUTES

FROM	TO	MEA
4L:		
Rubin, FL NDB	Nimro INT, FL	2000
Nimro INT, FL	Bimini, BH VOR	2000
Bimini, BH NDB	Nassau, BH NDB	2000
Nassau, BH NDB *1400-MOCA	Resin INT, BH	*2000
49V:		
Biscayne Bay, FL VOR	Eeons INT, FL	2000
Eeons INT, FL	INT 120 M rad Biscayne Bay, FL VOR & 278 M rad Nassau, BH VOR	3000
INT 120 M rad Biscayne Bay, FL VOR & 278 M rad Nassau, BH VOR	Rumba INT, BH	3000
Rumba INT, BH *1400-MOCA	Nassau, BH VOR	*2000
3L:		
Bimini, BH NDB *1300-MOCA	Exter INT, BH	*2000
5L:		
Nassau, BH NDB *1400-MOCA	Cosmo INT, BH	*2000
6L:		
Bimini, BH NDB *1400-MOCA	INT M BRG 088 ZBB NDB & M BRG 125 GBN NDB	*2000
INT M BRG 088 ZBB NDB & M BRG 125 GBN NDB	Cosmo INT, BH	2000
Cosmo INT, BH	Rock Sound, BH NDB	2000

§ 95.1001 DIRECT ROUTES—U.S.

Amended to read in part:

BAHAMA ROUTES

FROM	TO	MEA
1L:		
Grand Bahama, BH NDB	Deers INT, BH	16000
Deers INT, BH	Cosmo INT, BH	2000
Cosmo INT, BH	Cobbi INT, BH	8000
Cobbi INT, BH	Burgo INT, BH	14000
Burgo INT, BH	Lassi INT, BH	24000
63V:		
Freeport, BH NDB *1400-MOCA	Burbo INT, BH	*2000
Burbo INT, BH *1200-MOCA	Bayru INT, BH	*3500
Bayru INT, BH *1400-MOCA	Nassau, BH VOR	*3500
55V:		
Palm Beach, FL VOR *1300-MOCA	Basil INT, FL	*2000
Basil INT, FL	Nimro INT, FL	2500
Nimro INT, FL	Bimini, BH VOR	2000

§ 95.1001 DIRECT ROUTES—U.S.

Amended to delete:

FROM	TO	MEA
Vienna, GA VOR *1800-MOCA	Allenhurst, GA RBN	*3500
Hiroc INT, BH	Freeport, BH NDB	2000
Pt. Tuna, PR NDB	Roosevelt Roads, PR NDB	3200
Portland, FL NDB *1600-MOCA	Dicke INT, BH	*4000
Portland, FL NDB *1600-MOCA	King INT, BH	*4000

BAHAMA ROUTES

52V:		
Biscayne Bay, FL VOR *1200-MOCA	INT 112 M rad Biscayne Bay VOR & 230 M rad Bimini VOR	*2000
INT 112 M rad Biscayne Bay VOR & 230 M rad Bimini VOR *1200-MOCA	INT 112 M rad Biscayne Bay VOR & 278 M rad Nassau VOR	*5000
INT 112 M rad Biscayne Bay VOR & 278 M rad Nassau VOR *1200-MOCA	Rumba INT, BH	*3000
Rumba INT, BH *1400-MOCA	Nassau, BH VOR	*2000
69V:		
INT 112 M rad Biscayne Bay, FL VOR & 230 M rad Bimini, BH VOR *1300-MOCA	Bimini, BH VOR	*2000
Bimini BH VOR	Freeport, BH VOR	2000
8L:		
Marsh Harbour, BH NDB *1200-MOCA	Elbow INT, BH	*2000
7L:		
Nassau, BH NDB *1400-MOCA	Hiroc INT, BH	*2000

§ 95.6003 VOR FEDERAL AIRWAY 3

Amended to read in part:

FROM	TO	MEA
Palm Beach, FL VOR	Vero Beach, FL VOR	2000

§ 95.6004 VOR FEDERAL AIRWAY 4

Amended to read in part:

FROM	TO	MEA
Fedra INT, KY	Lexington, KY VOR	2800

§ 95.6006 VOR FEDERAL AIRWAY 6

Amended to read in part:

FROM	TO	MEA
Sacramento, CA VOR Via N alter *2200-MOCA	Rozzy INT, CA Via N alter	*3500
Rozzy INT, CA Via N alter *7500-MCA Hagan INT, N-bound **3000-MOCA	*Hagan INT, CA Via N alter	**4000
Hagan INT, CA Via N alter *9000-MCA Audio INT, NE-bound **2700-MOCA	*Audio INT, CA Via N alter N-bound S-bound	**11000 **7000
Blois INT, CA *9000-MOCA	Signa INT, CA	*11000
Pitts INT, CA *4000-MCA Rejoy INT, S-bound **2300-MOCA	*Rejoy INT, CA S-bound N-bound	**5000 **4000
Sacramento, CA VOR	Folly INT, CA	3000
Folly INT, CA *9500-MCA Colom INT, NE-bound **3900-MOCA	*Colom INT, CA NE-bound SW-bound	**9500 **5000
Battle Mountain, NV VOR *10100-MOCA	Wells, NV VOR	*11000
Reno, NV VOR Via S alter *9200-MOCA	Hazen, NV VOR Via S alter	*10000

§ 95.6012 VOR FEDERAL AIRWAY 12

Amended to read in part:

FROM	TO	MEA
Saugs INT, CA Via S alter	Palmdale, CA VOR Via S alter	7000
Winslow, AZ VOR *8700-MOCA	Zuni, NM VOR	*9000

§ 95.6016 VOR FEDERAL AIRWAY 16

Amended to read in part:

FROM	TO	MEA
Garne INT, CA	Palm Springs, CA VOR W-bound E-bound	 12000 8000

§ 95.6021 VOR FEDERAL AIRWAY 21

Amended to read in part:

FROM	TO	MEA
Milford, UT VOR	Delta, UT VOR	9500

§ 95.6023 VOR FEDERAL AIRWAY 23

Amended to read in part:

FROM	TO	MEA
Fort Jones, CA VOR	Talem DME Fix, OR	11000
Talem DME Fix, OR	Medford, OR VOR NW-bound SE-bound	 8000 11000

§ 95.6049 VOR FEDERAL AIRWAY 49

Amended to read in part:

FROM	TO	MEA
Mystic, KY VOR	Nabb, IN VOR	3000

§ 95.6053 VOR FEDERAL AIRWAY 53

Amended to read in part:

FROM	TO	MEA
Lexington, KY VOR	Fedra INT, KY	2800

§ 95.6106 VOR FEDERAL AIRWAY 106

Amended to read in part:

FROM	TO	MEA
Gardner, MA VOR	Cinky INT, NH	3000

§ 95.6116 VOR FEDERAL AIRWAY 116

Amended to read in part:

FROM	TO	MEA
Peoria, IL VOR	Joliet, IL VOR	2500
Nepts INT, MI	Keeler, MI VOR	2500

§ 95.6121 VOR FEDERAL AIRWAY 121

Amended to read in part:

FROM	TO	MEA
Fort Jones, CA VOR *10000-MRA	*Bayts INT, OR	15000

§ 95.6140 VOR FEDERAL AIRWAY 140
Amended to read in part:

FROM	TO	MEA
Dyersburg, TN VOR	Goshn INT, TN	3500
Goshn INT, TN	Delha INT, TN	7000
Delha INT, TN	Nashville, TN VOR	7000

§ 95.6171 VOR FEDERAL AIRWAY 171
Amended to read in part:

FROM	TO	MEA
Louisville, KY VOR	Maize INT, IN	3000

§ 95.6172 VOR FEDERAL AIRWAY 172
Amended to read in part:

FROM	TO	MEA
Neola, IA VOR *6500-MRA **2800-MOCA	*Menol INT, IA	**4000
Linde INT, IA	Gumbo INT, IA	3500
Gumbo INT, IA	Newton, IA VOR	3300

§ 95.6175 VOR FEDERAL AIRWAY 175
Amended to read in part:

FROM	TO	MEA
Des Moines, IA VOR	Linde INT, IA	3500

§ 95.6295 VOR FEDERAL AIRWAY 295
Amended to read in part:

FROM	TO	MEA
Stoop INT, FL	Vero Beach, FL VOR	2000

§ 95.6298 VOR FEDERAL AIRWAY 298
Amended to read in part:

FROM	TO	MEA
**Rumor INT, WA *7500-MOCA **9000-MRA	Pertt INT, WA	*9000

§ 95.6393 VOR FEDERAL AIRWAY 393
Amended to read in part:

FROM	TO	MEA
U.S. Mexican Border	Nogales, AZ VOR/DME	*13000
*6500-MOCA		
Nogales, AZ VOR/DME	Tucson, AZ VOR	11500

§ 95.6402 HAWAII VOR FEDERAL AIRWAY 2
Amended to read in part:

FROM	TO	MEA
South Kauai, HI VOR	Kamilo, HI VOR	5000
Kamilo, HI VOR	Morey INT, HI	3000
Morey INT, HI	Broms INT, HI	3000

§ 95.6448 VOR FEDERAL AIRWAY 448
Amended by adding:

FROM	TO	MEA
*Yakima, WA VOR *9500-MCA Yakima VOR, SW-bound	Febus INT, WA	10000
Febus INT, WA	Rubel INT, WA	8000
Rubel INT, WA	Moses Lake, WA VOR	4000

§ 95.6448 VOR FEDERAL AIRWAY 448
Amended to read in part:

FROM	TO	MEA
Angoo INT, WA	Simco INT, WA SW-bound NE-bound	*14500 *8500
*7500-MOCA		

§ 95.6465 VOR FEDERAL AIRWAY 465
Amended to read in part:

FROM	TO	MEA
Elko, NV VOR *11800-MCA Wells VOR SW-bound **12700-MOCA	*Wells, NV VOR	**13000

§ 95.6468 VOR FEDERAL AIRWAY 468
Amended to read in part:

FROM	TO	MEA
Swany INT, WA	Hitch INT, WA	8500

§ 95.6494 VOR FEDERAL AIRWAY 494
Amended to read in part:

FROM	TO	MEA
Sacramento, CA VOR *2200-MOCA	Rozzy INT, CA	*3500
Rozzy INT, CA *7500-MCA Hagan INT, N-bound **3000-MOCA	*Hagan INT, CA	**4000
Hagan INT, CA	*Audio INT, CA S-bound N-bound	**7000 **11000
*9000-MCA Auburn INT, NE-bound **2700-MOCA		

§ 95.6495 VOR FEDERAL AIRWAY 495
Amended to read in part:

FROM	TO	MEA
Fort Jones, CA VOR *10000-MRA	*Bayts INT, OR	15000
Bayts, INT, OR *10000-MRA	*Paple INT, OR	10000

§ 95.7180 JET ROUTE NO. 180 is amended to delete:

FROM	TO	MEA	MAA
Junction, TX VORTAC	Humble, TX VORTAC	18000	45000

2. By amending Sub-part D as follows:

§ 95.8003 VOR FEDERAL AIRWAY CHANGEOVER POINTS

Amended by added:

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINT DISTANCE FROM
V-16		
Phoenix, AZ VOR	Totec INT, AZ	38 Phoenix
V-23		
Fort Jones, CA VOR	Medford, OR VOR	25 Fort Jones

§ 95.8003 VOR FEDERAL AIRWAY CHANGEOVER POINTS

Amended to read in part:

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINT DISTANCE FROM
V-4		
Yakima, WA VOR	Suned INT, WA	30 Yakima

§ 95.8005 JET ROUTES CHANGEOVER POINTS

Amended to read in part:

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINT DISTANCE FROM
J-133		
Biorka Island, AK VORTAC	Hinchinbrook, AK NDB	100 Biorka Island

[FR Doc. 82-27221 Filed 10-1-82; 8:45 am]
BILLING CODE 4910-13-C

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB–48]

Staff Accounting Bulletin No. 48

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: This staff accounting bulletin reflects the staff's long-standing position that when a company acquires assets from promoters and shareholders in exchange for stock prior to or at the time of its initial public offering such assets should generally be recorded at the cost to the promoter or shareholder.

DATE: September 27, 1982.

FOR FURTHER INFORMATION CONTACT: Eugene W. Green, Office of the Chief Accountant (202/272–2161); Joseph Cribbin, Office of Small Business Policy, Division of Corporation Finance (202/272–2644); or Howard P. Hodges, Jr., Chief Accountant, Division of Corporation Finance (202/272–2554), Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

List of Subjects in 17 CFR Part 211

Accounting, Reporting requirements, Securities.

George A. Fitzsimmons,

Secretary.

September 27, 1982.

Staff Accounting Bulletin No. 48

The staff herein adds Section G to Topic 5 regarding the valuation of assets acquired from promoters and shareholders. The staff believes that if nonmonetary assets are received by a newly formed or closely held company from promoters or shareholders in exchange for stock, such assets should normally be recorded at the historical cost basis of the promoters or shareholders.

Topic 5: Miscellaneous Accounting

* * * * *

G. Transfers of Nonmonetary Assets by Promoters or Shareholders

Facts: Nonmonetary assets are exchanged by promoters or shareholders for all or part of a company's common stock just prior to or contemporaneously with a first-time public offering.

Question: Since paragraph 4 of Accounting Principles Board Opinion No. 29, "Accounting for Nonmonetary Transactions," states that the Opinion is not applicable to transactions involving the acquisition of nonmonetary assets or services on issuance of the capital stock of an enterprise, what value should be ascribed to the acquired assets by the company?

Interpretive Response: The staff believes that transfers of nonmonetary assets to a company by its promoters or shareholders in exchange for stock prior to or at the time of the company's initial public offering normally should be recorded at the transferor's historical cost basis determined under generally accepted accounting principles.

The staff will not always require that predecessor cost be used to value nonmonetary assets received from an enterprise's promoters or shareholders. However, deviations from this policy have been rare applying generally to situations where the fair value of either the stock issued [1] or assets acquired is objectively measurable and the transferor's stock ownership following the transaction was not so significant that the transferor had retained a substantial indirect interest in the assets as a result of stock ownership in the company.

[FR Doc. 82–27284 Filed 10–1–82; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 410

Federal Old-Age, Survivors, and Disability Insurance; Black Lung Benefits—Correction

AGENCY: Social Security Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects a Social Security Administration regulation published December 20, 1967, 32 FR 19159–19176, which modified Subpart E of Part 20 CFR Part 404 on deductions, reductions, nonpayments, and increases of Federal Old-age, Survivors, and disability insurance benefits. This document also corrects a final regulation, 20 CFR Part 410, Subpart E, which was published on May 4, 1982, 47 FR 19116–19117, to authorize the Social Security Administration to withhold payments of Part B black lung benefits where Part C black lung benefits, administered by the Department of Labor are paid for the same period.

DATES: The correction to § 404.458 is effective December 20, 1967. The correction to § 410.560 is effective September 16, 1981.

FOR FURTHER INFORMATION CONTACT: Cliff Terry, Legal Assistant, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–7519.

SUPPLEMENTARY INFORMATION: On December 20, 1967, we published final regulations modifying Subpart E of 20 CFR, Part 404, on deductions, reductions, nonpayments, and increases of Federal Old-Age, Survivors, and Disability Insurance benefits (32 FR 19159–19176). In § 404.458 of those regulations, six words and a period were inadvertently omitted, resulting in the second and third sentences of the section being run together into one sentence. This notice corrects the misprint.

(1) On May 4, 1982, we published final regulations modifying Subpart E of 20 CFR, Part 410, to authorize the Social Security Administration to withhold payment of Part B Black Lung benefits where Part C Black Lung benefits administered by the Department of Labor are paid for the same period (47 FR 19116–19117). We did this by expanding the definition of "overpayment" in 20 CFR 410.560(a) to include these duplicate payments under Part C. In doing so, the second sentence of paragraph (a), which we had meant to retain, was inadvertently omitted. This notice corrects the final regulation by reinstating that sentence.

Corrections

1. Section 20 CFR 404.458, FR Doc. 67–14735, as published as a final regulation December 20, 1967, on page 32 FR 19174, is corrected to read as follows:

§ 404.458 Limiting deductions where total family benefits payable would not be affected or would be only partly affected.

Notwithstanding the provisions described in § 404.415, § 404.417, § 404.421, § 404.422, § 404.451, and § 404.453 about the amount of the deduction to be imposed for a month, no such deduction is imposed for a month when the benefits payable for that month to all persons entitled to benefits

[1] Estimating the fair value of the common stock issued, however, is not appropriate when the stock is closely held and/or seldom or ever traded.

on the same earnings record and living in the same household remain equal to the maximum benefits payable to them on that earnings record. Where making such deductions and increasing the benefits to others in the household (for the month in which the deduction event occurred) would give members of the household less than the "maximum" (as determined under § 404.404) payable to them, the amount of deduction imposed is reduced to the difference between the maximum amount of benefits payable to them and the total amount which would have been paid if the benefits of members of the household not subject to deductions were increased for that month. The individual subject to the deduction for such month may be paid the difference between the deduction so reduced and his benefit as adjusted under § 404.403 (without application of § 404.402(a)). All other persons in the household are paid, for such month, their benefits as adjusted under § 404.403 without application of § 404.402(a).

2. Paragraph (a) of 20 CFR 410.560, FR Doc. 82–12016, as published as a final regulation May 4, 1982, at 47 FR 19117, is corrected to read as follows:

§ 410.560 Overpayments.

(a) *General.* As used in this subpart the term "overpayment" includes a payment where no amount is payable under Part B of title IV of the Act; a payment in excess of the amount due under Part B or Part C of title IV of the Act; a payment resulting from the failure to reduce benefits under section 412(b) of the Act (see §§ 410.520 and 410.530); a payment to a resident of a State whose residents are not eligible for payment (see § 410.550); a payment of past due benefits to an individual where such payment had not been reduced by the amount of attorney's fees payable directly to an attorney (see § 410.686(d)); and a payment resulting from the failure to terminate benefits of an individual no longer entitled thereto. As used in this section, the term "beneficiary" includes a qualified dependent for augmentation purposes and the term "benefit" includes the amount of augmented benefits attributable to a particular dependent (see § 410.510(c)).

* * * * *

Dated: September 23, 1982.

Robert F. Sarnier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 82–27108 Filed 10–1–82; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 200, 215, 235, 236 and 812

[Docket No. R–82–974]

Restriction on Use of Assisted Housing

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule amends Parts 200, 215, 235, 236 and 812 to implement section 214 of the Housing and Community Development Act of 1980, as amended by section 329 of the Housing and Community Development Amendments of 1981, which prohibits the Secretary from making available financial assistance under the United States Housing Act of 1937, sections 235 and 236 of the National Housing Act or section 101 of the Housing and Urban Development Act of 1965 available for the benefit of any alien who is not a lawful resident of the United States pursuant to certain provisions of the Immigration and Nationality Act.

EFFECTIVE DATE: Upon expiration of first period of 30 calendar days of continuous session of Congress following publication, subject to waiver. Further notice of the effective date of this final rule will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: For Parts 200, 215, and 236: James Tahash, Program Planning Division, Office of Multifamily Housing Management and Occupancy, Department of Housing and Urban Development, Washington, D.C. 20410; telephone (202) 755–5654.

For Part 235: John Coonts, Single Family Development Division, Office of Single Family Housing, Department of Housing and Urban Development, Washington, D.C. 20410; telephone (202) 755–6720.

For Part 812: Edward Whipple, Rental and Occupancy Branch, Office of Public Housing, Department of Housing and Urban Development, Washington, D.C. 20410; telephone (202) 426–0744. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: A proposed rule to amend Parts 200, 215, 235, 236 and 812 with regard to the prohibition on the Secretary from making certain financial assistance available for the benefit of certain categories of aliens was published in the Federal Register for public comment on May 3, 1982 (47 FR 18914). Twenty-four comments were received. Fourteen of these comments were from housing authorities, four from or on behalf of management companies, three from legal services corporations, and one each from a trade association, mortgagee, and HUD employee.

DISCUSSION OF COMMENTS: In general, the comments from the housing authorities and management companies were primarily concerned with a perceived impact of the proposed regulations on workload resources as well as the effect of the requirements on applicants and tenants. The comments of the legal services corporations, including the National Housing Law Project, were directed towards the protection of individuals' interests.

The housing authorities commented that they believe that the requirements of the proposed rule would impose a substantial additional administrative burden on the housing authorities and others managing subsidized housing. Moreover, they asserted that the new procedure would increase paperwork and processing time and therefore, was seen as contrary to the Administration's efforts to streamline paperwork and Federal procedures.

The Department is aware that the new procedure will increase the workload of housing authorities and owners. The rule has been drafted, however, to limit the added work to that which is necessary to carry out the statute's mandate. The responsibility of obtaining the required documentation rests with the applicants, tenants, cooperative members and homebuyers. The housing authorities and owners must only (1) advise the applicants, etc. that they are required to present documentation and (2) complete blocks for three data elements on the applications (place of birth, alien registration number, if any, and a code number for citizenship/alien status). The housing authority or owner is not required to verify the authenticity of the document but merely to note the type of document submitted, the issuing authority and the serial number if any. If the document does not contain a serial number, a photocopy must be retained. Further, the Department does not believe that the new procedures are contrary to the Administration's desire to reduce paperwork. The Paperwork Reduction Act is intended to reduce unnecessary or duplicative requirements, but not to eliminate necessary management controls or

controls needed to assure compliance with specific statutory requirements.

Several comments stated that the proposed regulations would impose a burden on applicants and tenants, especially in the case of elderly persons, because required documentation may not be readily available or obtainable for them. In addition, the commentors suggested that unless adequate notice is given, tenants may not be able to obtain documentation in sufficient time for their recertifications.

The Department previously considered the fact that documentation may not be readily obtainable in all cases. The variety of documents listed in the regulations minimizes the burden of producing an acceptable document. In addition, there is a provision which permits a statement from a third party in those cases in which other acceptable documentation is unavailable. Although a third party statement is intended as documentation of "last resort" and must be accompanied by a reasonable explanation as to why other documentation is unavailable, it is specifically designed to ease the difficulties faced by the elderly and others who either do not have any of the other documents or find it a hardship to obtain them. Further, in light of the comments concerning adequate notice to current tenants, the Department has expanded the procedural provision of the rule to require, generally, that notice of the documentation requirements be given to all current tenants within 30 days after receipt of the Department's instructions regarding the form of such notice, and that the documentation requirements will not be applicable to recertifications effective less then 60 days after such notice of the requirements has been given. The required notice will describe the documentation requirements themselves (including the third-party statement alternative that may be available to establish citizenship), the times when such documentation will be required (including subsequent annual recertifications), and the consequences of failure to satisfy the requirements (i.e., termination of assistance and possible eviction).

A number of comments from housing authorities suggested alternatives to requesting documentation. Several suggested that applicants and tenants be asked orally if they are citizens or are within one of the eligible categories of aliens. If, during the interview, there was any indication of lack of citizenship or eligible alien status, the individual could then be required to produce the prescribed documentation. A trade association, a management company and other housing authorities suggested that each applicant or tenant should be required to sign a certification attesting to his/her citizenship or alien eligibility status. The commentors further suggested that the certification contain a warning that it is a criminal offense to make willful false statements or misrepresentations to any department or agency of the United States. The last alternative suggested by housing authorities was that they be able to make the necessary verifications by checking with other departments or agencies which administer programs requiring evidence of citizenship or eligible alien status. Housing authorities would then make independent determinations only for those applicants or tenants who do not receive benefits under another program.

The Department considered several alternatives before deciding to require documentation. Other agencies have used a system of voluntary disclosure but, as the Department noted at the time of publication of the proposed rule, the Department of Agriculture requires similar documentation by applicants for food stamp benefits, and Section 214 is modeled closely upon the food stamp legislation. A voluntary disclosure process may be ineffective because such disclosures are difficult to verify. The use of certifications affords little protection to the Department's interest because they can be easily falsified. The threat of criminal prosecution may be of little concern to those aliens facing possible deportation if their true situations were known. Finally, use of determinations of other departments or agencies may not be feasible because those determinations are not all based upon the same type of citizenship verification system as that considered necessary by HUD. For example, prior to April 1978, the Social Security Administration did not use a documentary system of establishing citizenship. In addition, this alternative would require housing authorities or owners to determine whether the applicant or tenant is receiving benefits of a program which requires evidence of citizenship or eligible alien status, obtain authorization from the applicant or tenant for the other department or agency to release information, forward that authorization to the other department or agency and then enter the appropriate information on the application when it is received. Under this alternative, housing authorities would still be required to obtain appropriate documentation in those cases in which the applicant or tenant is not a participant in another program. The Department believes that this procedure would be more burdensome than that set out in the regulation. However, the Department plans to continue to explore this aspect of administration of the requirements with other agencies, particularly the Department of Agriculture, which administer similar requirements.

As noted above, the documentation requirements have been patterned after the requirements currently established by the Department of Agriculture for the food stamp program (see 7 CFR Part 273), a fact which, the Department believes, will itself minimize the difficulty of compliance by eligible aliens who, in any event, are required by law to have their alien registrations in their possession at all times (8 U.S.C. 1304(e)). In one important respect, however, the Department has elected to differ from the food stamp requirements. While documentation of eligible alien status by food stamp applicants is mandatory, documentation of citizenship appears to be required only if an applicant's statement of citizenship "is questionable" (7 CFR 273.2(f)(2)(ii)). The Department has elected to require documentation of citizenship in all cases in order to assure, in accordance with the directions of the Conference Report regarding implementation of the legislation, that the rule is "impartially applied without regard to any subjective opinion as to whether a particular individual might or might not be a person not lawfully present in the United States" (House Report No. 97–208 at 697).

However, as provided in the proposed rule, documentation of citizenship status is required only once during continuous occupancy. One housing authority commentor suggested that the same provision be extended to permanent resident aliens. The Department has not adopted this change because of its concern that an alien's status may be subject to change at any time. Moreover, as noted above, the Department does not believe that this requirement will be burdensome upon aliens who are required by law to carry their registrations in their possession at all times.

Several comments argued that the rules should be applied only to new applicants for assisted housing. These comments were made both by or on behalf of project owners and managers concerned over "mass eviction and financial chaos for projects housing a substantial population of aliens (over 60% of the total project population)" and by tenant representatives.

The Department believes that a determination not to apply the prohibitions of Section 214 to current occupants of assisted housing is not an alternative that is available under the language of the statute. Moreover, the legislative history clearly evidences Congressional intent that the statute be applied to current occupants, albeit in a manner that does not permit HUD or other public officials "to invade the privacy of occupants of assisted housing in an effort to identify illegal aliens and to secure their removal." House Report No. 97–208 at 697. The Department believes that this admonition is satisfied by the rule's provisions that documentation by current tenants shall be required only in connection with the periodic recertification process.

The Conference Report further directed the Secretary to

"* * * Take steps to provide for an orderly transition which will satisfy the intent of the proposal to make assisted housing available to lawful residents exclusively. In undertaking this task, the Secretary is specifically directed to ensure that persons administering assisted housing programs deal fairly and humanely with all persons discovered to be occupying housing in violation of this section" (House Report No. 97–208 at 697).

The foregoing passage also clearly indicates an assumption that the statutory prohibition applies to current occupants of assisted housing. Nevertheless, one commentor suggested that the "fair and human approach" would be to apply the rule prospectively to applicants only. As indicated, the Department believes that such an approach would be contrary to the plain meaning of the statute and the clear intent of Congress.

The Department believes that an "orderly transition" is provided adequately by the provisions of the final rule regarding advance notification of the documentation requirements at least 60 days prior to the effective date of the recertification for which such documentation will be required.

The final rule has also been modified to clarify that any eviction resulting from discovery of a violation may be effected only in accordance with applicable procedural requirements under existing regulations. The rule also provides that nothing in such procedural regulations shall be construed to prevent an owner, at its election, from considering ineligible alien status to constitute "good cause" for eviction. In this connection, the final rule contains an important modification from the proposed rule, which provided that, except for public housing tenants, an ineligible alien in occupancy would have the option of vacating the unit or entering into a new lease on an unassisted basis. Upon further consideration, the Department does not believe that it has the authority to restrict the choices of project owners to this extent in favor of occupants who, by definition, are not eligible for the statutory benefits. The final rule makes it clear, therefore, that commencement of a new tenancy on an unassisted basis is at the option of the owner, not the tenant.

At the same time, by promulgating this rule, the Department does not intend to make a determination that ineligible alien status is or is not "good cause" for termination of tenancy under State or local law, but only to confirm that the Department does not consider that to be a Federal question. (In exercising such election, the owner remains obligated to do so on a basis not involving discrimination prohibited by Title VIII of the Civil Rights Act of 1968 or other applicable laws.) The Department is also mindful that in some circumstances, extending an unassisted lease might conflict with the owner's obligation under a housing assistance payments contract to maintain a given number of assisted units.

Two comments stated that one ineligible alien residing in an assisted housing unit should not make everyone in the unit ineligible for assistance. One of the commentors recommended, instead, that assistance should be prorated according to the number of eligible individuals in the unit. As indicated above, the legislation precludes financial assistance "for the benefit of any alien" not within certain categories. The Department believes that the benefit of assistance is realized by every occupant of the unit, not merely by the individual or individuals who may be liable on the lease, and that the statute prohibits any such benefit to any ineligible alien. As noted above, the purpose of the legislation, as stated by the Conference Report, is "to make assisted housing available to lawful residents *exclusively*" (emphasis added).

The alternative of proration of benefits, while appropriate in the case of direct financial assistance to beneficiaries (such as food stamps or welfare assistance), is not feasible in the context of the type of assistance involved in assisted housing which, instead, takes the form of reduced rental to the beneficiary and a subsidy payment to a project owner. The Department does not have authority either to permit the charging of a rent higher than the statutory maximum on the basis of partial eligibility or to reduce the subsidy payment to the owner on that basis. (A reduction of subsidy to the owner, without a higher rent payment by the tenant, would deprive the owner of receipt of the full contract rent.)

There were several comments concerning the use or disclosure of information or documents furnished by applicants or tenants. The commentors indicated that the rule should specify that HUD may only release the information for the purpose of investigating citizenship or alien status to determine eligibility for housing assistance and, further, that the rule should also bar any other agency to whom such information is disclosed for such purposes from utilizing the information for any other purpose. Specifically, if information regarding citizenship or alien status is disclosed, for verification purposes, to the Immigration and Naturalization Service, the commentors would wish that, INS be barred from utilizing the information for its purposes in enforcing the immigration laws.

The Department believes that the rule contains adequate safeguards regarding confidentiality of documents and information submitted by individuals and, more importantly, that the Department is without authority or mandate to restrict other agencies charged with responsibility of enforcing other laws from utilizing information legitimately disclosed to them for such purposes. The rule permits the release of such documents and information by the owner, PHA or mortgagee only in connection with the verification process. (Clarifying changes have been made in the final rule to require that, upon request by the Department, the verification consent form shall be made available to the Department. The proposed rule was susceptible to an interpretation that release of the form and information to the Department was discretionary, which was not the Department's intent.) The Department is authorized, by consent, to release documents or information to other government agencies solely for verification purposes. Individuals submitting such information must be aware, however, that other agencies, including the Social Security Administration and the Immigration and Naturalization Service, may utilize information disclosed by the Department in furtherance of their own administrative and enforcement responsibilities.

The Department also notes that it does not believe that the foregoing possibility of utilization of information

by other agencies for enforcement purposes is in any way inconsistent with the Privacy Act, which authorizes the disclosure of records for "routine uses" (5 U.S.C. 552a(b)(3)). The "routine uses" applicable to all Departmental Systems of Records, as heretofore published, include referral of records indicating violations or potential violation of law, whether civil, criminal or regulatory in nature, to appropriate agencies charged with responsibility for enforcing or implementing such laws (FR 34322 (August 6, 1982)).

One comment suggested that the list of acceptable documents should include a baptism certificate created within one year of birth. The final rule has been modified in Sections 200.182 and 812.5 to include this document as well as other religious documents which provide evidence of birth in the United States. In addition, the following two documents are added: Certificate of Citizenship and Consular Report of Birth.

Sections 200.183 and 812.6 were revised to reflect more clearly the responsibility of the owners, mortgagees or PHAs on the one hand, and applicants, tenants, cooperative members and homebuyers on the other. It is now clear that (1) owners, mortgagees or PHAs must advise applicants, tenant-lessees, cooperative members and homebuyers that they must provide acceptable documentation and (2) it is the applicant's responsibility to provide such documentation.

Numerous clarifying technical amendments have been made throughout the final rule. In the provision relating to Section 235, the events requiring documentation of citizenship or eligible alien status have been modified to refer to "foreclosure relief pursuant to Part 203, Subchapter C, of this chapter" in order to encompass Temporary Mortgage Assistance Payments pursuant to Section 230 of the National Housing Act and the Department's recently published implementing regulations (47 FR 33252 (August 2, 1982)). The final rule also continues in effect the provisions of the Department's interim rule regarding nonimmigrant student aliens which was effective November 17, 1981. The Department does not intend that the provisions of the final rule extending applicability of the documentation requirements to the first recertification occurring 60 days or more after notification of the requirements will operate to suspend application of the prior rule to occupants who have been identified as nonimmigrant student aliens.

On June 15, 1982, subsequent to the close of the public comment period on the proposed rule, the United States Supreme Court rendered its decision in *Plyler v. Doe*, No. 80–1538, 50 U.S.L.W. 4650, holding that a Texas statute which withheld State funds from local school districts for the education of children not "legally admitted" to the United States, and which authorized local school districts to deny enrollment to such children, violates that Equal Protection Clause of the Fourteenth Amendment. The Department has examined this decision and has consulted the Assistant Attorney General, Office of Legal Counsel, of the Department of Justice as to whether the decision indicates any constitutional defect in Section 214 or the Department's proposed implementation thereof. On the basis of such examination and the advice received pursuant to such consultation, the Department has concluded that the decision does not affect the presumed validity of the statute or the Department's proposed implementation thereof.

The Department has also reviewed the provisions of S. 2222, the Immigration Reform and Control Act of 1982, as passed by the Senate on August 17, 1982. The Department believes that, if enacted by Congress in the form passed by the Senate, this statute would not affect Section 214 or its implementation pursuant to the final rule published herewith. Section 301 of the bill would authorize the Attorney General to adjust the status of certain aliens who entered the United States prior to January 1, 1980, to temporary or permanent resident status. However, the bill further provides that no entrant whose status is thus adjusted shall be eligible for "any program for financial assistance under Federal law . . . on the basis of financial need" during such temporary resident status or for a period of three years after the date of adjustment to permanent resident status.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(c) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of General Counsel, Rules Docket Clerk, Room 10278, 451 7th Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because applicants and tenants who are deemed ineligible aliens will be replaced by others who are eligible. Housing authorities and owners will be able to rent units to these eligible individuals.

The Catalog of Federal Domestic Assistance numbers are: 14.103, Interest Reduction Payments-Rental and Cooperative Housing for Lower Income Families; 14.105, Interest Reduction-Homes for Lower Income Families; 14.146, Low Income Housing-Assistance Program (Public Housing); 14.147, Low Income Housing-Homeownership Opportunities for Low-Income Families; 14.149, Rent Supplements-Rental Housing for Lower Income Families; and 14.156, Lower-Income Housing Assistance Program (Section 8).

Information collection requirements contained in Part 200 and Part 812 have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (P.L. 96–511) and have been assigned OMB control number 2502–0204. The revised reporting or recordkeeping provisions included in Part 235 and Section 812.9 will be submitted to OMB for approval and will not be effective until such approval is received.

This rule was not listed in the Department's most recent Semiannual Agenda of regulations published on August 17, 1981 (46 FR 41708) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs—housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and

recordkeeping requirements, Minimum property standards.

24 CFR Part 215

Grant programs—housing and community development, Rent subsidies.

24 CFR Part 235

Condominiums, Cooperatives, Low- and moderate-income housing, Mortgage insurance, Homeownership, Grant programs—housing and community development.

24 CFR Part 236

Low- and moderate-income housing, Mortgage insurance, Rent subsidies, Taxes, Utilities, Projects.

24 CFR Part 812

Low- and moderate-income housing.

Accordingly, 24 CFR Parts 200, 215, 235, 236 and 812 are amended as follows:

PART 200—INTRODUCTION

1. The Title of Subpart G is changed to read "Restrictions on Use of Assisted Housing."

Subpart G—Restrictions on Use of Assisted Housing

2. Sections 200.180–200.184 are added to Subpart G, as follows:

§ 200.180 Restrictions on eligibility for assisted housing.

(a) Financial assistance pursuant to Section 235 of the National Housing Act (12 U.S.C. 1715z), Section 236 of the National Housing Act (12 U.S.C. 1715z–1), or Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) may not be made for the benefit of any alien unless that alien is a resident of the United States and one of the following:

(1) An alien lawfully admitted for permanent residence as an immigrant as defined by Sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) and 1101(a)(20)), excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country;

(2) An alien who entered the United States prior to June 30, 1948, or such subsequent date as enacted by law, has continuously maintained his/her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to Section 249 of the Immigration and Nationality Act (8 U.S.C. 1259);

(3) An alien who is lawfully present in the United States pursuant to an admission under Section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or pursuant to the granting of asylum (which has not been terminated) under Section 208 of such Act (8 U.S.C. 1158);

(4) An alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to Section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity;

(5) An alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)); or

(6) An alien who is lawfully present in the United States as a result of the Attorney General's withholding deportation pursuant to Section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)).

(b) For purposes of this chapter, "financial assistance" is deemed to be made for the benefit of a person if such person:

(1) Is an occupant of a dwelling or cooperative unit covered by a mortgage insured under Section 235 of the National Housing Act and Part 235 of this chapter and with respect to which assistance payments are being made under a contract between the mortgagee and the Secretary pursuant to Section 235(b) of the National Housing Act;

(2) Is an occupant of a dwelling unit in a rental or cooperative project having a mortgage with respect to which interest reduction payments are being made under a contract between the mortgagee and the Secretary pursuant to Section 236 of the National Housing Act and for which dwelling unit the monthly rental charge being paid to the owner is less than the applicable fair market rental;

(3) Is an occupant of a rental or cooperative dwelling unit with respect to which rental assistance payments are being made under a contract between the Secretary and the owner pursuant to Section 236(f)(2) of the National Housing Act and Part 236, Subpart D, of this chapter; or

(4) Is an occupant of a rental or cooperative dwelling unit with respect to which rent supplement payments are being made under a contract between the Secretary and the owner pursuant to Section 101 of the Housing and Urban Development Act of 1965 and Part 215 of this chapter.

§ 200.181 Definitions.

As used in this chapter, the following terms have the meaning indicated.

(a) *Citizen.* A citizen of the United States.

(b) *Eligible alien.* An alien who establishes, in the manner prescribed by § 200.182 of this part that he or she meets the requirements contained in § 200.180 of this part.

(c) *Ineligible alien.* An alien who fails to establish, in the manner prescribed by §200.182 of this part, that he or she meets the requirements contained in § 200.180 of this part.

(d) *Nonimmigrant student-alien.* An alien having a residence in a foreign country which he/she has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who is admitted to the United States as a nonimmigrant alien as defined in Section 101(a)(15) (F)(i) and (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F)(i) and (M)), temporarily and solely for the purpose of pursuing such a full course of study at an established institution of learning or other recognized place of study in the United States. Nonimmigrant student-alien also means the alien spouse and minor children of such student if accompanying him/her or following to join him/her.

(e) *Verification consent form.* A document prescribed by the Department of Housing and Urban Development (Department) which provides that (1) the form itself, (2) copies of citizenship or alien status documents or information contained therein, and (3) other information furnished by or for any person claiming to be a citizen or eligible alien shall, upon request, be made available to the Department, which may release any or all such documents or information to other Federal, State or local government agencies, including the Social Security Administration and the Immigration and Naturalization Service, for verification purposes. Further, the form shall provide that any such government agency may release any information or documents relating to the verification of citizenship or alien status to the Department.

§ 200.182 Evidence of citizenship or eligible alien status.

(a) *Requirement for documentation.* Applicants for the benefits of assistance,

and tenants and cooperative members who are receiving the benefits of assistance, as described in § 200.180(b) of this part, shall furnish documentary evidence of citizenship or eligible alien status and accompanying signed verification consent forms for themselves regardless of their ages, and for all other persons 18 years of age or older who will or do occupy the housing unit, when required pursuant to § 200.184 of this part. Failure to provide documentary evidence and verification consent forms required by this section shall result in denial or termination of the benefits of assistance as further prescribed in Parts 215, 235 and 236 of this chapter. (Approved by the Office of Management and Budget under OMB control number 2502–0204).

(b) *Citizenship status.* (1) Each person claiming to be a citizen shall produce the original or a certified copy of one of the following documents to evidence citizenship:

(i) U.S. Passport;

(ii) Birth Certificate;

(iii) Consular Report of Birth;

(iv) Naturalization Certificate;

(v) Certificate of Citizenship;

(vi) U.S. Citizenship Identification Card (INS Form I–197);

(vii) Commuter Status Card (INS form I–178);

(viii) Military Discharge Form (DD214);

(ix) Selective Service Certificate of Registration (Form SSS 2);

(x) Baptismal or other religious certificate which provides evidence of birth in the United States and which was created within one year of birth;

(xi) Documentation which is issued by the Bureau of Indian Affairs and which indicates membership in a Federally recognized tribe; or

(xii) Voter registration card.

(2) If none of the above documents can be obtained and a person claiming to be a U.S. citizen can provide a reasonable explanation, or can demonstrate a good faith effort to obtain such document(s) the person may submit a signed statement from a third party who can produce one of the above documents to demonstrate that he/she is a citizen. The third party must, under penalty of perjury, attest or affirm that the person for whom documentation is unavailable is a citizen.

(c) *Eligible alien status.* (1) Each person claiming to be an eligible alien shall produce in original form one of the following documents to evidence eligible status:

(i) Form I–151, Alien Registration Receipt Card (for permanent resident aliens);

(ii) Form I–551, Alien Registration Receipt Card (for permanent resident aliens);

(iii) Form I–181B, Processed for I–551, Temporary Evidence of Lawful Admission for Permanent Residence (for permanent resident aliens);

(iv) Form AR–3a, Alien Registration Receipt Card (Issued during 1941–1949 for permanent resident aliens);

(v) Form I–94, Arrival-Departure Record (Annotated either "Section 207" or "Refugee," or "Section 208" or "Asylum");

(vi) Form I–94, Arrival-Departure Record—Parole Edition (Annotated "Section 212(d)(5)," or "Conditional Entry" or "Section 203(a)(7)"); or

(vii) Form I–94, Arrival-Departure Record (Annotated "Section 243(h)").

(2) The following documents are not acceptable evidence of eligible alien status:

(i) Form I–94, Arrival-Departure Record: Annotated with any codes "A" through "L" for Non-Immigrants (for temporary resident aliens);

(ii) Form I–95A, Crewman's Landing Permits (for alien visitors);

(iii) Form I–144, Mexican Border Visitors Permit;

(iv) Form I–185, Nonresident Alien Canadian Border Crossing Card;

(v) Form I–186, Nonresident Alien Mexican Border Crossing Card;

(vi) Unnumbered form, Nonresident Alien Canadian Border Crossing Identification Card; or

(vii) Any Foreign issued Visa.

(d) *Responsibility for documentation.* Applicants, tenants and cooperative members are responsible for the production of documentation for themselves and all others for whom documentation is required pursuant to Paragraph (a) of this section. A photocopy of each document (or original if released by such persons), and a signed verification consent form shall be retained by the owner or mortgagee, as appropriate, except that a photocopy need not be made or retained of any document bearing an identifying serial number if a record of such serial number and other necessary identifying information is made and retained in such manner as shall be prescribed by the Department. (Approved by the Office of Management and Budget under OMB control number 2502–0204).

(e) *Disclosure.* Documents and information evidencing or pertaining to citizenship or alien status, including the verification of such status, furnished to the owner or mortgagee, as appropriate, by or for the benefit of persons described in this section or by Federal, State or local government agencies shall be deemed to have been submitted in confidence. All such documents and information shall be safeguarded appropriately to restrict their use or disclosure by such owner or mortgagee to persons directly connected with the verification of such status or the administration or enforcement of the financial assistance programs set forth in § 200.180 of this part.

§ 200.183 Notice of requirements.

(a) Owners shall furnish notice of the requirements for documentation of citizenship or alien status prescribed in § 200.182 of this part (including the requirements as to verification consent forms) (1) to each applicant for the benefit of assistance (as defined in § 200.180(b) of this part) who makes application therefor, or whose application therefor is pending or approved subject to certification of eligibility or income for initial occupancy, on or after [insert effective date of this rule], and (2) to each tenant or cooperative member receiving the benefit of assistance in occupancy at [insert effective date of this rule], or whose eligibility for the benefit of assistance and income has been certified pending occupancy at [insert effective date of this rule]. Such notice shall describe the documentation required (including the circumstances under which the alternative documentation described in § 200.180(b)(2) of this part may be provided), the times when such documentation shall be required (including applicable requirements regarding production of documentation upon recertification), and the consequences of failure to satisfy such requirements, and shall be given in a form prescribed by, or complying with instructions issued by, the Department.

(b)(1) The notice described in paragraph (a) of this section shall, in the case of tenants or cooperative members in occupancy at (insert effective date of this rule), be given to all such persons within 30 days after receipt by the owner of the Department's instructions regarding the form of such notice.

(2) The notice described in Paragraph (a) of this section shall, in the case of applicants whose applications have, as of (insert effective date of this rule), been pending or approved subject to certification of eligibility or income for initial occupancy at such date, be given to all such persons within 60 days of their anticipated entry into a housing unit.

(c) Notice of the requirements and consequences described in Paragraph (a) of this section shall be given, in a form prescribed by, or complying with

instructions issued by, the Department, by mortgagees to all applicants for the benefits of assistance under Section 235 of the National Housing Act, and, upon the occurrence of any of the events described in § 235.13(a) of this chapter, to homeowners receiving the benefits of such assistance.

§ 200.184 Implementation.

(a) Applications for the benefit of assistance (as defined in § 200.180(b) of this part) shall not be approved, and eligibility or income shall not be certified for initial occupancy, on or after [insert effective date of this rule] without satisfaction of the requirements of § 200.182 of this part.

(b) Owners shall require satisfaction of the requirements of § 200.182 of this part upon each recertification of income by a tenant or cooperative member receiving the benefit of assistance (as defined in § 20.180(b)(2)–(4)) of this part occurring on or after [insert effective date of this rule], except that (1) documentation of citizenship status shall not be required as to any citizen more than once during continuous occupancy by such person, and (2) such documentation shall not be required in connection with any recertification effective less than 60 days after the notice required by § 200.183 of this part shall have been furnished to the tenant or cooperative member pursuant to Paragraph (b) of such section.

PART 215—RENT SUPPLEMENT PAYMENTS

§ 215.1 [Removed]

3. Section 215.1(i) is removed.

4. Section 215.20(b)(2) is revised to read:

§ 215.20 Qualified tenant.

* * * * *

(b)(1) * * *

(2) The benefits of rent supplement payments shall be available on or after [insert effective date of rule] only to an individual or family as to which the requirements of § 200.182 of this chapter have been satisfied, except to the extent that satisfaction of such requirements is extended to a later date under the provisions of § 200.184 of this chapter. If any tenant or cooperative member regardless of age, or any other person 18 years of age or older who is occupying a unit as to which rent supplement payments are being made, is determined, in accordance with Part 200, Subchapter G, of this chapter to be an ineligible alien, rent supplement payments shall be terminated with respect to the unit as follows:

(i) In the case of a rental project:

(A) If the lease by its terms permits termination of assistance during the term of the lease due to failure to submit required documentation, assistance payments shall be terminated as of the effective date of recertification unless the person or persons determined to be ineligible have vacated the unit on or before that date. Subject to compliance by the tenant with all other conditions of continued occupancy, and to the terms of the housing assistance payments contract, the owner, at its election, may offer to enter into a new lease without assistance upon such terms and conditions as shall be agreed between the owner and tenant. In the absence of such new lease (or, if the lease has not been terminated, upon failure of the tenant to pay the full amount due under the lease including the portion of the rent formerly provided through assistance payments), the owner shall take appropriate action to terminate the tenancy in accordance with 24 CFR Part 450. No provision of the lease or of this chapter shall be construed to prevent the owner, at its election, from considering ineligible alien status to constitute "good cause" for termination of the tenancy.

(B) If the lease by its terms does not permit termination of assistance during the term of the lease due to failure to submit required documentation, no such lease contemplating assistance shall be renewed or extended after the first expiration date of the lease occurring on or after the effective date of recertification, unless the person or persons determined to be ineligible have vacated the unit on or before that date. Subject to compliance by the tenant with all other conditions of continued occupancy, and to the terms of the housing assistance payments contract, the owner, at its election, may offer to enter into a new lease without assistance upon such terms and conditions as shall be agreed between the owner and tenant. In the absence of such new lease, the owner shall take appropriate action to terminate the tenancy in accordance with 24 CFR Part 450. No provision of the lease or of this chapter shall be construed to prevent the owner, at its election, from considering ineligible alien status to constitute "good cause" for termination of the tenancy. Rental supplement assistance payments shall terminate with respect to the unit upon commencement of an unassisted lease or upon termination of the tenancy, whichever shall first occur.

(ii) In the case of a cooperative project, the portion of rent supplement assistance allocable to the unit shall terminate as of the effective date of the recertification and the charges of the cooperative member under the occupancy agreement shall be increased by the amount of such terminated assistance as of such date, unless the person or persons determined to be ineligible have vacated the unit on or before that date.

(3) In the case of any occupant of a rental unit who is identified as a nonimmigrant student alien (as defined in § 200.181 of this chapter) at any time after November 17, 1981, but prior to the first date when satisfaction of the requirements of § 200.182 of the part is required under the provisions of § 200.184 of the part, the benefits of rent supplement payments shall continue to be available only until expiration of the current lease term. When the lease of a nonimmigrant student alien terminates after November 17, 1981, but before such time as the provisions of paragraph (b)(2) of this section become applicable to such person or persons by its terms, the alien shall have the option of vacating the unit or (subject to compliance by such alien with all other conditions of continued occupany of the unit) entering into a new lease without the benefit of rent supplement payments. The provisions of paragraph (b)(2) of this section shall be applicable to any nonimmigrant student alien from and after the date when paragraph (b)(2) becomes effective as to such person by its terms.

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

§ 235.5 [Amended]

5. § 235.5(g) is removed.

§ 235.10 [Amended]

6. § 235.10(e) is removed.

7. § 235.13 is added, to read as follows:

§ 235.13 Ineligible alien mortgagors and cooperative members.

(a) On and after [insert effective date of this rule], a mortgagor or cooperative member shall not be eligible to receive the benefit of assistance payments at the time of (1) application for assistance, (2) purchase of a cooperative membership, (3) assumption of a mortgage, (4) commencement of foreclosure relief pursuant to 24 CFR Part 203 Subpart C, §§ 203.640 or 203.645, or (5) request for reinstatement unless the requirements of § 200.182 of this chapter are satisfied as to the mortgagor or cooperative member regardless of age, and any other person

18 years of age or older who will or does occupy the property or cooperative unit.

(b) When any event specified in Paragraph (a) of this section occurs on or after [insert effective date of this rule], the mortgagee shall require all persons described in Paragraph (a) of this section to furnish the documentation required pursuant to §§ 200.182 and 200.183 of this chapter and shall certify to the Secretary that, based upon the mortgagees's review of such documentation, all such persons are eligible. If, at the time of such event, the mortgagee cannot make such a certification because one or more of such persons is an ineligible alien, the mortgagee shall notify the mortgagor or cooperative member of its ineligibility for such financial assistance payments under this part until it has demonstrated to the mortgagee that no ineligible alien will or does occupy the property or cooperative unit.

(c) Commitments to insure mortgages under this part will not be issued or be renewed after [insert effective date of this rule] unless the mortgagee has made the certification required in Paragraph (b) of this section.

§ 235.325 [Amended]

8. Section 235.325(c) is removed.

§ 235.375 [Amended]

9. § 235.375(a)(1) is amended by removing the second sentence.

10. § 235.375(a)(5) is removed.

11. § 235.375(e) is amended by removing the last sentence.

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT FOR RENTAL PROJECTS

§ 236.2 [Amended]

12. § 236.2(l) is removed.

13. § 236.70 (a) and (d) are revised to read:

§ 236.70 Occupancy requirements.

(a) *Initial occupancy.* (1) Initial occupancy in a project by tenants or cooperative members who will be charged less than the fair market rental or fair market carrying charge shall be restricted to individuals and families which the mortgagor determines meet the income requirements established by the Commissioner.

(2) On or after [insert effective date of this rule], initial occupancy under Paragraph (1) of this subsection shall be further restricted to individuals or families as to whom the requirements of § 200.182 of this chapter have been satisfied.

* * * * *

(d) *Ineligible aliens.* (1) The charging of a monthly rental charge of less then the fair market rental shall be permitted on or after [insert effective date of this rule] only to an individual or family as to which the requirements of § 200.182 of this chapter have been satisfied, except to the extent that satisfaction of such requirements is extended to a later date under the provisions of § 200.184 of this chapter. If any tenant or cooperative member regardless of age, or any other person 18 years of age or older who is occupying a unit as to which monthly rental charge of less than the fair market rental is being charged, is determined in accordance with Part 200, Subchapter G, of this chapter to be an ineligible alien, such assistance shall be terminated with respect to the unit as follows:

(i) In the case of a rental project:

(A) If the lease by its terms permits termination of assistance during the term of the lease due to failure to submit required documentation, assistance payments shall be terminated as of the effective date of recertification unless the person or persons determined to be ineligible have vacated the unit on or before that date. Subject to compliance by the tenant with all other conditions of continued occupany, and to the terms of the housing assistance payments contract, the owner, at its election, may offer to enter into a new lease without assistance upon such terms and conditions as shall be agreed between the owner and tenant. In the absence of such new lease (or, if the lease has not been terminated, upon failure of the tenant to pay the full amount due under the lease including the portion of the rent formerly provided through assistance payments), the owner shall take appropriate action to terminate the tenancy in accordance with 24 CFR Part 450. No provision of the lease or of this chapter shall be construed to prevent the owner, at its election, from considering ineligible alien status to constitute "good cause" for termination of the tenancy.

(B) If the lease by its terms does not permit termination of assistance during the term of the lease due to failure to submit required documentation, no such lease contemplating assistance shall be renewed or extended after the first expiration date of the lease occurring on or after the effective date of recertification, unless the person or persons determined to be ineligible have vacated the unit on or before that date. Subject to compliance by the tenant with all other conditions of continued occupancy, and to the terms of housing assistance payments contract, the owner, at its election may offer to enter into a lease without assistance upon such terms and conditions as shall be agreed between the owner and tenant. In the absence of such new lease, the owner shall take appropriate action to terminate the tenancy in accordance with 24 CFR Part 450. No provision of the lease or of this chapter shall be construed to prevent the owner, at its election, from considering ineligible alien status to constitute "good cause" for termination of the tenancy. Rental assistance payments shall terminate with respect to the unit upon commencement of an unassisted lease or upon termination of the tenancy, whichever shall first occur.

(ii) In the case of a cooperative project, no occupancy agreement providing for charges at less than the fair market rental shall be renewed or extended as of the effective date of recertification, unless the person or persons determined to be ineligible have vacated the unit on or before that date.

(2) In the case of any occupant of a rental unit for which the monthly rental charge is less than the fair market rental is identified as a nonimmigrant student alien (as defined in § 200.181 of this chapter) at any time after November 17, 1981, but prior to the first date when satisfaction of the requirements of § 200.182 of this chapter is required under the provisions of § 200.184 of this chapter, the benefits of such reduced rental charge shall continue to be available only until expiration of the curent lease term. When the lease of a nonimmigrant student alien terminates after November 17, 1981, but before such time as the provisions of Paragraph (d)(1) of this section become applicable to such person or persons by its terms, the alien shall have the option of vacating the unit or (subject to compliance by such alien with all other conditions of continued occupancy of the unit) entering into a new lease providing for payment of a monthly rental charge equal to the fair market rental. The provisions of paragraph (d)(1) of this section shall be applicable to any nonimmigrant student alien from and after the date when paragraph (d)(1) becomes effective as to such person by its terms.

14. In § 236.710 the letter (a) is inserted before the introductory paragraph, the present paragraphs (a) and (b) are redesignated (1) and (2) respectively, paragraph (c) is revoked, and a new paragraph (b) is added to read as follows:

§ 236.710 Qualified tenant.

* * * * *

(b)(1) The benefit of rental asistance payments shall be available on or after [insert effective date of rule] only to an individual or family as to which the

requirements of § 200.182 of this chapter have been satisfied, except to the extent that satisfaction of such requirements is extended to a later date under the provisions of § 200.184 of this chapter. If any tenant or cooperative member regardless of age, or any other person 18 years of age or older who is occupying a unit as to which rental assistance payments are being made, is determined in accordance with Part 200, Subchapter G, of this chapter to be an ineligible alien, rental assistance payments shall be terminated with respect to the unit as follows:

(i) In the case of a rental project:

(A) If the lease by its terms permits terminations of assistance during the term of the lease due to failure to submit required documentation, assistance payments shall be terminated as of the effective date of recertification unles the person or persons determined to be ineligible have vacated the unit on or before that date. Subject to compliance by the tenant with all other conditions of continued occupancy, and to the terms of the housing assistance payments contract, the owner, at its election, may offer to enter into a new lease without asistance upon such terms and conditions as shall be agreed between the owner and tenant. In the absence of such new lease (or, if the lease has not been terminated, upon failure of the tenant to pay the full amount due under the lease including the portion of the rent formerly provided through assistance payments), the owner shall take appropriate action to terminate the tenancy in accordance with 24 CFR Part 450. No provision of the lease or of this chapter shall be construed to prevent the owner, at its election, from considering ineligible alien status to constitute "good cause" for termination of the tenancy.

(B) If the lease by its terms does not permit termination of asistance during the term of the lease due to failure to submit required documentation, no such lease contemplating assistance shall be renewed or extended after the first expiration date of the lease occurring on or after the effective date of recertification, unless the person or persons determined to be ineligible have vacated the unit on or before that date. Subject to a compliance by the tenant with all other conditions of continued occupancy, and to the terms of the housing assistance payments contract, the owner, at its election, may offer to enter into a new lease without assistance upon such terms and conditions as shall be agreed between the owner and tenant. In the absence of such new lease, the owner shall take appropriate action to terminate the tenancy in accordance with 24 CFR Part 450. No provision of the lease or of this chapter shall be construed to prevent the owner, at its election, from considering ineligible alien status to constitute "good cause" for termination of the tenancy. Rental assistance payments shall terminate with respect to the unit upon commencement of an unassisted lease or upon termination of the tenancy, whichever shall first occur.

(ii) In the case of a cooperative project, the portion of rental assistance payments allocable to the unit shall terminate as of the effective date of the recertification and the charges of the cooperative member under the occupancy agreement shall be increased by the amount of such terminated assistance as of such date, unless the person or persons determined to be ineligible have vacated the unit on or before that date.

(2) In the case of any occupant of a rental unit who is identified as a nonimmigrant student alien (as defined in § 200.181 of this chapter) at any time after November 17, 1981, but prior to the first date when satisfaction of the requirements of § 200.182 of this chapter is required under the provisions of § 200.184 of this chapter, the benefits of rental assistance payments shall continue to be available only until expiration of the current lease term. When the lease of a nonimmigrant student alien terminates after November 17, 1981, but before such time as the provisions of paragraph (b)(1) of this section become applicable to such person or persons by its terms, the alien shall have the option of vacating the unit or (subject to compliance by such alien with all other conditions of continued occupancy of the unit) entering into a new lease without the benefit of rental assistance payments and providing for a monthly rental charge equal to the fair market rental. The provisions of paragraph (b)(1) of this section shall be applicable to any nonimmigrant student alien from and after the date when paragraph (b)(1) becomes effective as to such person by its terms.

PART 812—DEFINITION OF FAMILY AND OTHER RELATED TERMS: OCCUPANCY BY SINGLE PERSONS

15. Section 812.1 is revised to read as follows:

§ 812.1 Purpose and scope.

The purpose of this part is to establish a definition of the term Family and other related terms applicable to all housing assisted under the United States Housing Act of 1937 (the Act). In addition, this part prescribes criteria and procedures for occupancy in lower-income housing assisted under the Act by Single Persons who are not otherwise eligible by reason of qualification as an Elderly Family or as a Displaced Person or as the remaining member of a tenant family. This part also contains the provisions relating to the prohibition against providing assistance under the Act to ineligible aliens. This part is applicable to all housing assisted under the Act.

16. Section 812.2 is revised by amending paragraphs (d) and (g) and adding paragraphs (h), (i), (j), and (k), to read as follows:

§ 812.2 Definitions.

* * * * *

(d) *Family.* "Family" includes but is not limited to (1) an Elderly Family or Single Person as defined in this Part, (2) the remaining member of a tenant family, and (3) a Displaced Person. On or after (insert effective date of rule), Family members who are tenants, cooperative members or homebuyers regardless of their ages, or any other occupant of the unit who is 18 years of age or older, shall not be ineligible aliens except to the extent that satisfaction of the requirements of § 812.5 of this part is extended to a later date by the provisions of § 812.7 of this part. In accordance with § 812.8 of this part, assistance under the Act shall be denied to ineligible aliens as defined in paragraph (h) of this section.

* * * * *

(g) *Eligible alien.* An eligible alien is an alien who establishes, in the manner provided in § 812.5, that he or she is:

(1) An alien lawfully admitted for permanent residence as an immigrant as defined by Sections 101(a)(15) and (101)(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) and 1101(a)(20)), excluding, among others, alien visitors, tourists, diplomats and students who enter the United States temporarily with no intention of abandoning their residences in a foreign country;

(2) An alien who entered the United States prior to June 30, 1948, or such subsequent date as enacted by law, has continuously maintained his/her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to Section 249 of the Immigration and Nationality Act (8 U.S.C. 1259);

(3) An alien who is lawfully present in the United States pursuant to an admission under Section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or pursuant to the granting of asylum (which has not been terminated), under Section 208 of such Act (8 U.S.C. 1158);

(4) An alien who is lawfully present in the United States as a result of being granted conditioinal entry pursuant to Section 203(a)(7)) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity;

(5) An alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)); or

(6) An alien who is lawfully present in the United States as a result of the Attorney General's withholding deportation pursuant to Section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)).

(h) *Ineligible alien.* An ineligible alien is an alien who fails to establish, in the manner prescribed by § 812.5 of this part, that he or she is an eligible alien.

(i) *Citizen.* A citizen of the United States.

(j) *Nonimmigrant Student-Alien.* Nonimmigrant student-alien means an alien having a residence in a foreign country which he/she has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who is admitted to the United States as a nonimmigrant alien as defined in Section 101(a)(15)(F)(i) and (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)(i) and (M)), temporarily and solely for the purpose of pursuing such a full course of study at an established institution of learning or other recognized place of study in the United States. Nonimmigrant student-alien also means the alien spouse and minor children of such student if accompanying him/her or following to join him/her.

(k) *Verification consent form.* A document prescribed by the Department of Housing and Urban Development (Department) which provides that (1) the form itself, (2) copies of citizenship or alien status documents or information contained therein, and (3) other information furnished by or for any person claiming to be a citizen or eligible alien shall, upon request, be made available to the Department, which may release any or all such documents or information to other Federal, State or local government agencies, including the Social Security Administration and the Immigration and Naturalization Service, for verification purposes. Further, the form shall provide that any such government agency may release any information or documents relating to the verification of citizenship or alien status to the Department.

17. §§ 812.5 through 812.8 are added, as follows:

§ 812.5 Evidence of citizenship or eligible alien status.

(a) *Requirements for documentation.* When required pursuant to § 812.7 of this part, applicants for the benefit of assistance, and tenants receiving the benefit of assistance pursuant to the Act, shall furnish documentary evidence of citizenship or eligible alien status as required by this section and accompanying signed verification consent forms for themselves regardless of their ages, and for all other persons 18 years of age or older who will or do occupy a housing unit assisted under the Act. Failure to provide documentary evidence and verification consent forms required by this section shall result in denial or termination of assistance in accordance with this part. For purposes of this part, assistance is deemed to be made for the benefit of a person if such person (1) is an occupant of a dwelling unit in a public housing project as defined in the Act (including Section 23 Leased Housing); (2) is an occupant of a dwelling unit covered by a housing assistance payments contract under Section 8 of the Act,; (3) is an occupant of a dwelling unit covered by a housing assistance payments contract under Section 23 of the Act and Part 800 of this chapter; or (4) is a homebuyer as defined in Part 804 or Part 805 of this chapter. (Approved by the Office of Management and Budget under OMB control number 2502-0204).

(b) *Citizenship status.* (1) Each person claiming to be a citizen shall produce the original or a certified copy of one of the following documents to evidence citizenship:

(i) U.S. Passport;

(ii) Birth Certificate;

(iii) Consular Report of Birth;

(iv) Naturalization Certificate;

(v) Certificate of Citizenship;

(vi) U.S. Citizenship Identification Card (INS form I-197);

(vii) Commuter Status Card (INS form I-178);

(viii) Military Discharge Form (DD214);

(ix) Selective Service Certificate of Registration (Form SSS2);

(x) Baptismal or other religious certificate which provides evidence of birth in the United States and was created within one year of birth;

(xi) Documentation which is issued by the Bureau of Indian Affairs and which indicates membership in a Federally recognized tribe; or

(xii) Voter registration card.

(2) If none of the above documents can be obtained and a person claiming to be a citizen can provide a reasonable explanation or can demonstrate a good faith effort to obtain such document(s), the person may submit a signed statement from a third party who can produce one of the above documents to demonstrate that he/she is a citizen. The third party must, under penalty of perjury attest or affirm that the person for whom documentation is unavailable is a citizen.

(c) *Eligible alien status.* (1) Each person claiming to be an eligible alien shall produce in original form one of the following documents to evidence eligible status:

(i) Form I-151, Alien Registration Receipt Card (for permanent resident aliens);

(ii) Form I-551, Alien Registration Receipt Card (for permanent resident aliens);

(iii) Form I-181B, Processed for I-551, Temporary Evidence of Lawful Admission for Permanent Residence (for permanent resident aliens);

(iv) Form AR-3a, Alien Registration Receipt Card (Issued during 1941-1949 for permanent resident aliens);

(v) Form I-94, Arrival-Departure Record (Annotated either "Section 207" or "Refugee," or "Section 208" or "Asylum");

(vi) Form I-94, Arrival-Departure Record—Parole Edition (Annotated "Section 212(d)(5)," or "Conditional Entry" or "Section 203(a)(7)"); or

(vii) Form I-94, Arrival-Departure Record (Annotated "Section 243(h)").

(2) The following documents are not acceptable evidence of eligible alien status:

(i) Form I-94, Arrival-Departure Record: Annotated with any codes "A" through "L" for Non-Immigrants (for temporary resident aliens);

(ii) Form I-95A, Crewman's Landing Permits (for alien visitors);

(iii) Form I-144, Mexican Border Visitors Permit;

(iv) Form I-185, Nonresident Alien Canadian Border Crossing Card;

(v) Form I-186, Nonresident Alien Mexican Border Crossing Card;

(vi) Unnumbered form, Nonresident Alien Canadian Border Crossing Identification Card; or

(vii) Any Foreign issued Visa.

(d) *Responsibility for documentation.* Applicants and tenants shall be responsible for providing all documentation required for themselves and all others for whom documentation is required pursuant to paragraph (a) of this section. A photocopy of each document (or the original if released by such person) and a signed verification consent form shall be retained by the owner or PHA, as appropriate except that a photocopy need not be made or retained of any document bearing an identifying serial number if a record of such serial number and other necessary identifying information is made and retained in such manner as shall be prescribed by the Department. [Approved by the Office of Management and Budget under OMB control number 2502–0204].

(e) *Disclosure.* Documents and information evidencing or pertaining to citizenship or alien status, including the verification of such status, furnished to the owner or PHA, as appropriate, by or for the benefit of persons described in this section or by Federal, State or local government agencies shall be deemed to have been submitted in confidence. All such documents and information shall be safeguarded appropriately to restrict their use or disclosure by such owner or PHA only to persons directly connected with the verification of such status or the administration or enforcement of the financial assistance programs set forth in this chapter.

§ 812.6 Notice of Requirements.

(a) Notice of the requirements for documentation of citizenship or alien status prescribed in § 812.5 of this part (including the requirements as to verification consent forms) shall be furnished (1) to each applicant for the benefit of assistance (as defined in 812.5(a) of this part) who makes application therefor, or whose application therefor is pending or approved subject to certification of eligibility or income for initial occupancy, on or after [insert effective date of this rule], and (2) to each tenant receiving the benefit of assistance in occupancy at [insert effective date of this rule], or whose eligibility for the benefit of assistance and income has been certified pending occupancy at [insert effective date of this rule]. Such notice shall describe the documentation required (including the circumstances under which the alternative documentation described in § 812.5(b)(2) of this part may be provided), the times when such documentation shall be required (including applicable requirements regarding production of documentation upon recertification), and the consequences of failure to satisfy such requirements, and shall be given in a form prescribed by, or complying with instructions issued by, the Department. Such notice shall be given by the PHA for Public Housing (including Section 23 Leased Housing and Turnkey III), Section 8 Existing Housing (Part 882), Section 8 Moderate Rahabilitation, and Section 23 Housing Assistance Payments program, and by the owner for all other Section 8 assisted housing.

(b)(1) The notice described in paragraph (a) of this section shall, in the case of tenants in occupancy at [insert effective date of this rule], be given to all such persons within 30 days after receipt by the PHA or owner, as applicable, of the Department's instructions regarding the form of such notice.

(2) The notice described in paragraph (a) of this section shall, in the case of applicants whose applications have, as of (insert effective date of this rule), been pending or approved subject to certification of eligibility or income for initial occupancy at such date, be given to all such persons within 60 days of their anticipated entry into a housing unit.

§ 812.7 Implementation.

(a) Applications for the benefit of assistance shall not be approved, and eligibility or income shall not be certified for initial occupancy, on or after [insert effective date of this rule] without satisfaction of the requirements of § 812.5 of this part.

(b) PHAs and owners, as applicable, shall require satisfacion of the requirements of §812.5 of this part upon each recertification of income by a tenant receiving the benefit of assistance occurring on or after (insert effective date of this rule), except that (1) documentation of citizenship status shall not be required as to any citizen more than once during continuous occupancy by such person, (2) such documentation shall not be required in connection with any recertification effective less than 60 days after the notice required by § 812.6 of this part shall have been furnished to the tenant, (3) this subsection shall not be applicable to homebuyers who entered into Homeownership Opportunity Agreements or Mutual Help and Occupancy Agreements prior to (insert effective date of this rule).

§ 812.8 Termination of Assistance to Ineligible Alien.

(a) The benefit of assistance shall be available on or after (insert effective date of rule) only to a Family as to which the requirements of § 812.5 of this part have been satisfied, except to the extent that satisfaction of such requirements is extended to a later date under the provisions of § 812.7 of this part. If any tenant regardless of age, or any other person 18 years of age or older who is occupying an assisted unit, is determined in accordance with §§ 812.5 and 812.7 of this part to be an ineligible alien, assistance shall be terminated as provided in Paragraph (b) of this section.

(b)(1) With respect to public housing as defined in the Act, no lease shall be renewed or extended after the first expiration date of the lease occurring on or after the effective date of recertification, unless the person or persons determined to be ineligible have vacated the unit on or before that date. The PHA shall take appropriate action to terminate the tenancy in accordance with Part 886 of this chapter. Notwithstanding any other provisions of the lease or of this chapter, ineligible alien status shall be deemed "good cause" for termination of the tenancy.

(2) With respect to Section 8 Existing and Moderate Rehabilitation housing programs developed and operated pursuant to Part 882 of this chapter, the PHA shall terminate the Housing Assistance payments as of the effective date of recertification or as soon thereafter as permitted by the terms of the Housing Assistance Payment Contract unless the person or persons determined to be ineligible have vacated the unit on or before that date. Subject to compliance by the tenant with all other conditions of continued occupancy, the owner, at its election, may offer to enter into a new lease without assistance upon such terms and conditions as shall be agreed between the owner and tenant. In the case of Section 8 Existing Housing, subsequent to the termination of assistance, the occupancy of the tenant shall not be considered to be pursuant to an Assisted Lease to which § 882.215 of this chapter is applicable. In the case of Section 8 Moderate Rehabilitation, in the absence of a new unassisted lease (or, if the Section 8 lease has not been terminated, upon failure of the tenant to pay the full amount due under the lease

including the portion of the rent formerly provided through assistance payments), the owner may take appropriate action to terminate the tenancy in accordance with § 882.511 of this chapter, in which event no provision of such section shall be construed to prevent the owner, at its election, from considering ineligible alien status to constitute "good cause" for termination of the tenancy.

(3) With respect to all other housing assisted under the Act other than public housing as defined in the Act:

(i) If the lease by its terms permits termination of assistance during the term of the lease due to failure to submit required documentation, assistance payments shall be terminated as of the effective date of recertification unless the person or persons determined to be ineligible have vacated the unit on or before that date. Subject to compliance by the tenant with all other conditions of continued occupancy, and to the terms of the housing assistance payments contract, the owner, at its election, may offer to enter into a new lease without assistance upon such terms and conditions as shall be agreed between the owner and tenant. In the absence of such new lease (or, if the lease has not been terminated, upon failure of the tenant to pay the full amount due under the lease including the portion of the rent formerly provided through assistance payments), the owner shall take appropriate action to terminate the tenancy in accordance with applicable provisions of this chapter. No provision of the lease or of this chapter shall be construed to prevent the owner, at its election, from considering ineligible alien status to constitute "good cause" for termination of the tenancy.

(ii) If the lease by its terms does not permit termination of assistance during the term of the lease due to failure to submit required documentation, no such lease contemplating assistance shall be renewed or extended after the first expiration date of the lease occurring on or after the effective date of recertification, unless the person or persons determined to be ineligible have vacated the unit on or before that date. Subject to compliance by the tenant with all other conditions of continued occupancy, and to the terms of the housing assistance payments contract, the owner, at its election, may offer to enter into a new lease without assistance upon such terms and conditions as shall be agreed between the owner and tenant. In the absence of such new lease, the owner shall take appropriate action to terminate the tenancy in accordance with applicable provisions of this chapter. No provision of the lease or of this chapter shall be construed to prevent the owner, at its election, from considering ineligible alien status to constitute "good cause" for termination of the tenancy. Assistance payments shall terminate with respect to the unit upon commencement of an unassisted lease or upon termination of the tenancy. Assistance payments shall terminate with respect to the unit upon commencement of an unassisted lease or upon termination of the tenancy, whichever shall first occur.

(c) In the case of any occupant of a unit who is identified as a nonimmigrant student alien (as defined in § 812.1 of this part) at any time after November 17, 1981, but prior to the first date when satisfaction of the requirements of § 812.5 of this part is required under the provisions of § 812.7 of this part, the benefit of assistance shall continue to be available only until expiration of the current lease term. When the lease of a nonimmigrant student alien (other than one occupying public housing as defined in the Act) terminates after November 17, 1981, but before such time as the provisions of paragraph (b) of this section becomes applicable to such person or persons pursuant to paragraph (a) of this section, the alien shall have the option of vacating the unit or (subject to compliance by such alien with all other conditions of continued occupancy of the unit) entering into a new lease without the benefit of assistance. When the lease of a nonimmigrant student alien residing in public housing terminates after November 17, 1981, the public housing authority shall require the tenant to vacate the unit. The provisions of paragraph (b) of this section shall be applicable to any nonimmigrant student alien from and after the date when paragraph (b) of this section becomes effective as to such person pursuant to paragraph (a) of this section.

(Section 214, Housing and Community Development Act of 1980, as amended by Section 329, Housing and Community Development Amendments of 1981 (42 U.S.C. 1436a); Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Dated: September 23, 1982.

Philip Abrams,

General Deputy, Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 82-27108 Filed 10-1-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 651

Environmental Quality; Environmental Effects of Army Actions

AGENCY: Department of the Army, DOD.

ACTION: Interim rule with request for comments.

SUMMARY: This document amends the Department of the Army's procedures implementing the National Environmental Policy Act. This change is provided to clarify procedures and policies as a result of experience gained since the initial issue of this regulation; to eliminate the requirement for a Record of Environmental Consideration for selected Categorical Exclusions; to eliminate the requirement for ongoing operation environmental documentation; to allow for Major Command (MACOM) processing of selected environmental impact statements; to change and clarify several Categorical Exclusions; and to add one new Categorical Exclusion.

DATE: Effective date: October 4, 1982.

Comment date: Comments must be received on or before November 3, 1982.

ADDRESS: Send comments to Army Environmental Office, Office, Assistant Chief of Engineers, Room 1E 676, Pentagon, Washington, DC 20310, (202-694-3434).

FOR FURTHER INFORMATION CONTACT: Mr. Gary Robinson, Army Environmental Office, Office, Assistant Chief of Engineers, Room 1E 676, Pentagon, Washington, DC 20310, (202-694-3434).

SUPPLEMENTARY INFORMATION:

Classification

The Secretary of the Army has determined that this revision is not a "major" rule within the meaning of Executive Order (E.O.) 12291. This is because the revision will not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State, or local government agencies; or (3) have significant adverse effects on competition, employment, investment productivity, innovation or on the ability of a United States based enterprise to compete with foreign-based enterprises in domestic or export markets.

The purpose and effect of this amendment is to reduce unnecessary regulatory burdens on Army agencies

and officials. No increased paperwork burdens are imposed by the amendment.

This amendment was submitted to the Office of Management and Budget (OMB) for review as required by E.O. 12291.

Because this amendment is not "major," it is effective immediately as an interim final rule. It may be revised before becoming final if substantive comments are received by the Army Environmental Office within thirty (30) calendar days of the effective date.

Regulatory Analysis

Under E.O. 12291, the Department of the Army must determine if a regulation is "major" and therefore subject to a Regulatory Impact Analysis. Because the Department of the Army believes that this amendment is not "major," it is not subject to such an analysis.

List of Subjects in 32 CFR Part 651

Environmental protection, Administrative practice and procedure, Environmental impact statement.

John O. Roach II,

DA Liaison Officer with the Office of the Federal Register.

PART 651—ENVIRONMENTAL CONSIDERATION OF ARMY ACTIONS (AR 200–2)

For the reasons set out in the preamble, 32 CFR Part 651 is amended as set forth below:

§ 651.1 [Amended]

1. Section 651.1 is amended by inserting (EO) after Executive Order.

2. Section 651.3 is amended by revising paragraph (c) and adding paragraph (e) as follows:

§ 651.3 Applicability.

* * * * *

(c) This regulation also applies to proposals and activities of the Army National Guard which involve Federal funding and/or National Guard Bureau approval.

* * * * *

(e) Combat or combat-related activities in a combat zone are not subject to this regulation.

3. Section 651.4 is amended by adding an undesignated paragraph preceding paragraphs (a) and by revising paragraph (a) and (d) to read as follows:

§ 651.4 Policies.

It is the continuing policy of DA to serve as a trustee of the environment. In order to accomplish this policy, DA will:

(a) Carry out its mission of national security in a manner consistent with NEPA and other applicable standards, laws, and policies. All practicable means consistent with other essential consideration of national policy should be employed to minimize or avoid adverse environmental consequences and to attain the goals and objectives in sections 101 and 102 of NEPA. Environmental considerations will be integrated into the decisionmaking process insuring that:

(1) Major decision points are designated for principal programs and proposals likely to have a significant effect on the quality of the human environment, and steps are taken to ensure that the NEPA process coincides with these decision points.

(2) Relevant environmental documents, comments and responses accompany the proposal through existing Army review processes so that officials use them in making decisions. The requirements of NEPA will be integrated with other planning and environmental review procedures required by law or Army practice so that environmental considerations are reviewed concurrently rather than consecutively.

(3) The alternatives considered by the decisionmaker are encompassed by the range of alternatives discussed in relevant environmental documents, and the decisionmaker considers all the alternatives described in the environmental document.

* * * * *

(d) Insure that all appropriate environmental documentation is subjected to reviews which consider operations and security (OPSEC) principles and procedures described in AR 530–1. These reviews will be documented on the cover sheet or signature page.

4. Section 651.5 is amended by revising paragraphs (c)(2), (f) and (j); by adding paragraphs (b)(11) and (c)(10); by removing and reserving (c)(8) and (g); and by amending (b)(7) by adding the phrase "and Records Service, GSA" to the last sentence to read as follows:

§ 651.5 Responsibilities.

* * * * *

(b) * * *

(11) Resolve issues in determining if a public hearing is appropriate for the proposed action and assign, when necessary, the responsibility for the hearing to an appropriate office.

(c) * * *

(2) Assess proposed programs and actions to determine their environmental consequences and initiate the preparation of necessary environmental documentation. Environmental documents such as the DD Form 1391 (Military Construction Project Data), Case Study and Justification Folder, Integrated Program Summary, feasibility, and alternative analysis studies. * * *

(8) [Reserved] * * *

(10) Prepare and maintain Record of Decision documents for action for which they are the staff proponent. * * *

(f) The Surgeon General (TSG) is responsible for coordinating the environmental review related to health and welfare aspects of proposed EISs submitted to HQDA, and for preparing EAs or EISs for proposed actions and programs for which he/she is the proponent. DA agencies are encouraged to draw upon the special expertise which is available within the medical department, including the US Army Environmental Hygiene Agency, to identify and evaluate environmental impacts.

(g) [Reserved] * * *

(j) All Army commands and agencies will: (1) Establish, as necessary, internal procedures for analyzing environmental consequences of continuing and proposed actions and programs which would implement their mission and/or function and for preparing and coordinating within their technical staffs, and processing environmental documentation required for proposed actions and programs.

(2) Establish, as necessary, internal procedures to insure that proposed regulations, directives, instructions, and other major policy publications which implement their function or which implement issuances by higher headquarters, are evaluated for environmental consequences prior to publication.

(3) Maintain the capability (in terms of personnel, training, and other resources) to comply with this regulation (40 CFR 1507.2).

5. Section 651.6 paragraph (a) is revised to read as follows:

§ 651.6 Summary of required records and documents.

* * * * *

(a) Record of Environmental Consideration (REC). See subpart C for application.

* * * * *

5a. Section 651.7 is amended by revising paragraphs (e), (f), (g), introductory text, and by revising the paragraph designated "b" in Table 2–1 to read as follows:

§ 651.7 Definitions.

* * * * *

(e) *HQDA Staff Proponent.* The principle planner, implementer, and/or decision authority for a proposed action.

(f) *Proponent.* Since proponent identification is dependent on the nature and scope of any given action, a proponent may exist at all levels of the Army structure, e.g., the installation facility engineer becomes proponent of installation-wide MCA MCA or O&M activity; HQ TRADOC becomes a proponent of a change in initial entry training. In general, the proponent is the lowest level decisionmaker and has the responsibility to prepare the environmental documentation because the knowledge of all aspects of the action and the ability to modify the planned actions to minimize impacts exists at this and/or approval by higher level authorities including the HQDA staff proponent; therefore, the review/approval of the environmental document follows the same channel of review/approval as that of the proposed action.

(g) *Environmental documents.* Record of Environmental Consideration, Environmental Assessment, Environmental Impact Statement, Finding of No Significant Impact and Notice of Intent. A public record of Decisions required by 40 CFR 1505.2 but is not considered to be an environmental document because other factors are considered in the decision.

Figure 2–1 Format for Record of Environmental Consideration

* * * * *

b. Qualifies for Categorical Exclusion —— appendix A, AR 200–2 and no extraordinary circumstances exist as defined in paragraph 651.16.

6. In § 651.8, paragraph (d), the first sentence is revised as follows:

§ 651.8 General.

* * * * *

(d) These procedures are designed to allow the decisionmaker to select a reasonable course of action by providing the relevant background information and subsequent analyses of positive and negative environmental effects of the proposal. * * *

7. In § 651.9, paragraphs (a)(4) and (b)(3) are revised as follows:

§ 651.9 Applicability.

(a) * * *

(4) Proposed new activities (e.g., individual and unit training, flight operations, etc.)

(b) * * *

(3) Approval to use or store materials, radiation sources or wastes on Army land by non-Army entities. The responsibility to prepare environmental assessments is that of the non-Army requestor. If an EIS is required, the requestor will provide needed information for the Army preparation of the EIS. All environmental documentation will be reviewed and approved by the Army activity before initiating the request.

8. Section 651.10 is amended by revising paragraphs (a)(2)(i), (3); and (4)(ii) as follows:

§ 651.10 Categories of actions and procedures for environmental review.

(a) * * *

(2) * * *

(i) In the event of an emergency, DA may be required to take immediate actions with significant environmental impact. These include actions that must be taken to promote the national defense or security and cannot be delayed, and actions necessary for the protection of life or property. The DA staff proponent shall notify OCE (DAEN–ZCE) who will then notify OASA(IL&FM) and the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics (ASD(MRA&L)) of an emergency action at the earliest possible time.

* * * * *

(3) Categorical Exclusions (CX) (subpart D and App A). These actions normally do not require an EA or an EIS because DA has determined that they do not individually or cumulatively have a significant effect on the human environment. If qualifications are met for a CX, as described in subpart D of this Part, a Record of Environmental Consideration may be required.

(4) * * *

(ii) If the proposed action is within the general scope of an existing EIA, EA, or EIS, but additional information is required, prepare a new assessment, incorporating by reference the existing document, and publish the conclusion (FNSI or NOI).

* * * * *

9. Section 651.11 is amended by revising paragraph (c) as follows:

§ 651.11 Classified actions.

* * * * *

(c) Classification does not relieve a proponent of the necessity to assess the environmental effects of the proposed action. The HQDA staff proponent, in coordination with OCE (DAEN–ZCE) and OACSI, may select a review team from DA agency(ies) or office(s) not connected with the proponent agency, or from outside DA, in order to provide an external review of classified environmental documents.

10. Section 651.12 is amended by adding a new paragraph (a); current paragraphs (a) through (e) are redesignated (b) through (f) respectively; by further revising newly redesignated paragraphs (b)(2) (ii) and (iv), (3), (d)(3), (e)(6) and Figure 3–2. Newly redesignated paragraph (b)(4)(i) is amended by adding the phrase, "is unprecedented", after the word "concern" and preceding the word "or"; newly redesignated paragraph (b)(4)(ii) is amended by revising the last sentence. Newly redesignated paragraph (c) is amended by removing the word "shall" wherever it occurs in paragraph (1) and by removing the words "major" and "development" whenever they occur in paragraph (2). The newly redesignated paragraph (d)(2) is amended by removing the word "importance" and replacing it with the word "interest".

§ 651.12 Integration with Army planning.

(a) It is the Army's goal that environmental considerations be integrated with and take place during other Army planning and decisionmaking actions in order to avoid delays in mission accomplishment. Environmental documents should be completed so that they may be included with any recommendation or report to the decisionmaker. The same documents should be forwarded to the planners, designers, and/or implementors so that recommendations and mitigations on which the decision was based may be carried out.

(b) * * *

(2) * * *

(ii) When variations to these time limits are set, the DA agency should consider the factors in 40 CFR 1501.8(b)(1). * * *

(iv) The entire EIS process could require more than one year. Most of this time is taken by the preparation of the DEIS and the revision and response to comments to prepare the FEIS. There is a minimum public review time of 90 days between the publication of the DEIS and the announcement of the record of decision. Army EISs are not normally processed in so short a time due to the internal staffing required for this type of action. After the availability of the Record of Decision is announced, the action may proceed. Figure 3–2 indicates typical and required time periods for EISs.

(3) *Categorical exclusions.* When a proposed action is categorically excluded from further environmental review (see subpart D and App. A), the proponent may proceed immediately with the action unless a Record of Environmental Consideration (REC) is required. If the REC is required, the

proponent may proceed after receiving the concurrence of the designated environmental officer for the site of the proposed action.

(4) * * *

(ii) * * *

A deadine and point of contact for receipt of comments should be included in the announcement of the FNSI.

* * * * *

(d) * * *

(3) If the proponent desires to incorporate scoping in the public involvement or environmental review processes other than those required for an EIS, significant reduction in the extent of scoping incorporated is left to the proponent's discretion.

(e) * * *

(6) Stationing and installation planning, force development planning, and materiel acquisition planning.

* * * * *

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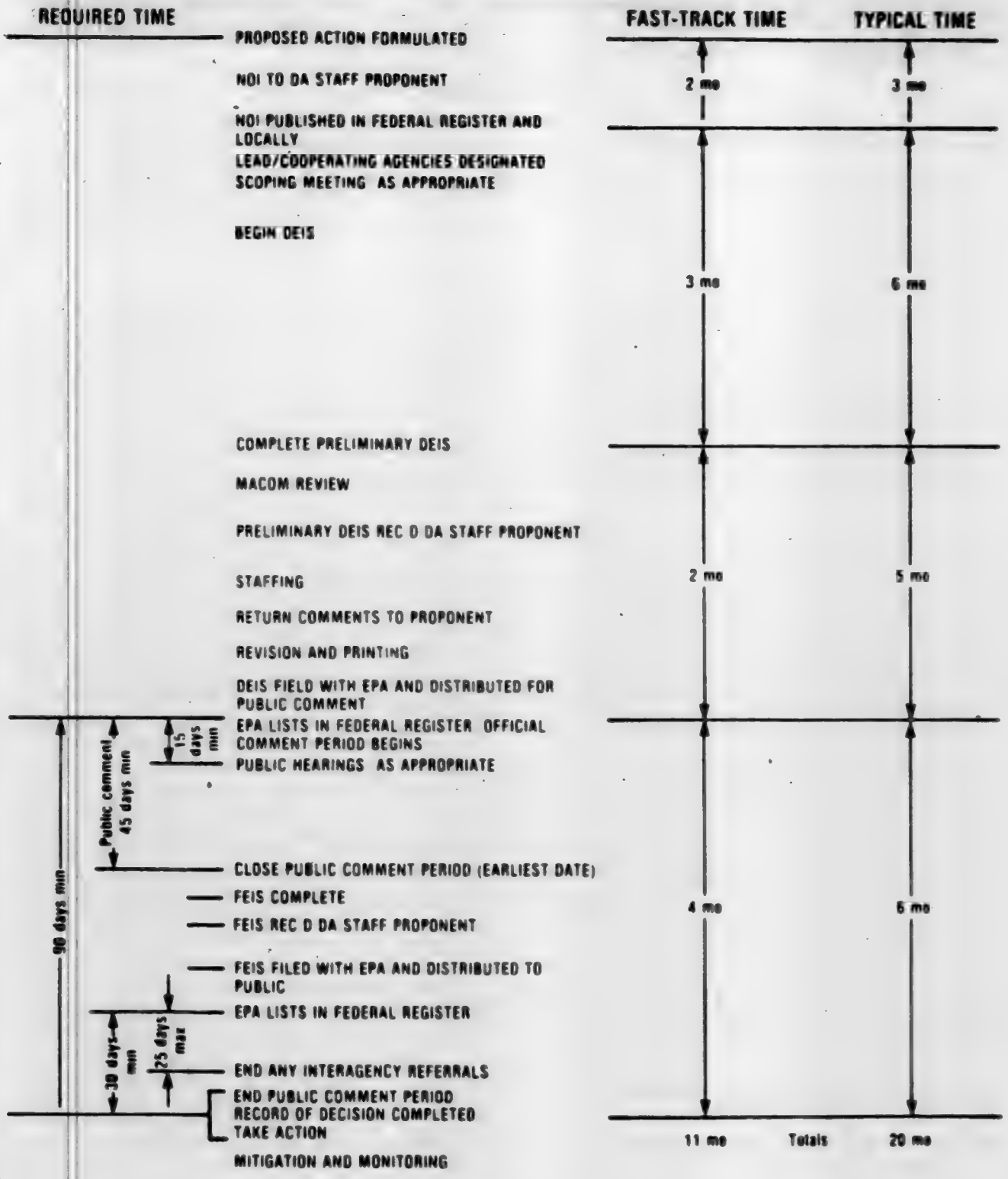


FIGURE 3-2. TIME RELATIONSHIPS FOR PREPARING AND PROCESSING AN EIS[1]

[1] These times are not firm and fixed but rather variable on a case-by-case basis due to e.g., the project or action scale, data collection requirements, other cooperating agencies, public hearings.

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11. Section 651.16 is amended by revising the introductory text of paragraph (b) and adding paragraph (c) to read as follows:

§ 651.16 Procedures.

* * * * *

(b) Determine if there are any extraordinary circumstances that may result in the proposed action having impact on the human environment which would require an EA or EIS. These circumstances might include:

* * *

(c) If the proposed action qualifies for one of the categorical exclusions, nothing further is required unless the exclusion statement is followed by "(REC required)," prepare a Record of Environmental Consideration (Figure 2–1). Coordinate this document with the environmental officer before taking the action.

12. Section 651.19 is amended by revising the second sentence to read as follows:

§ 651.19 Purpose and definition.

* * * * *

The EA is the examination of new proposed activities which do not normally require an EIS, are not categorically excluded from environmental review by law. * * *

13. Section 651.20 is amended by revising paragraph (c) to read as follows:

§ 651.20 Criteria.

* * * * *

(c) Presence of hazardous/toxic chemicals or harmful radiation which could be released into the environment.

* * * * *

14. Section 651.21 is amended by removing and reserving paragraph (c) and revising paragraphs (k), (l), and (r) to read as follows:

§ 651.21 Actions normally requiring an EA.

* * * * *

(c) [Reserved]

* * * * *

(k) Development of significant changes to installation master plans, and land and natural resource management plans.

(l) Proposals which may lead to the excessing of Army property and are also environmentally controversial.

* * * * *

(r) Production of hazardous or toxic materials.

15. Section 651.22 is amended by revising paragraphs (a)(3), (4), and (6) to read as follows:

§ 651.22 Components of the EA.

(a) * * *

(3) Appropriate and reasonable alternatives considered when the proposed action concerns unresolved conflict concerning alternative uses of available resources.

(4) Environmental impact of the proposed action and any alternatives.

* * * * *

(6) The FNSI or the conclusion to prepare an EIS.

* * * * *

16. Section 651.23 is amended by revising paragraph (a)(5) to read as set forth below. Paragraph (c) is amended by inserting the phrase "or the notice of availability of the FNSI" following "FNSI" and preceding the word "will" in the first sentence.

The reference in paragraph (d) to "Appendix D" is changed to "Appendix C."

§ 651.23 Decision process.

* * * * *

(a) * * *

(5) A deadline and point of contact for further information or receipt of public comments.

* * * * *

17. Section 651.27 is amended by revising the introductory text to read as set forth below.

Paragraph (e) is amended by adding the word, "adverse" after the word "significant."

Paragraph (h) is amended by adding the phrase "unless a permit under the Resource Conservation and Recovery Act Regulations has been obtained" at the end of the paragraph before the period.

§ 651.27 Criteria.

An EIS is normally required when the proposed action has the potential to:

* * * * *

18. Section 651.28 is amended by revising paragraph (b) to read as follows:

§ 651.28 Actions normally requiring EISs.

* * * * *

(b) Construction of facilities which have a significant effect on wetlands, coastal zones, and other areas of critical environmental concern.

* * * * *

§ 651.30 [Amended]

19a. Section 651.30(a) is amended by revising the fourth sentence to read as follows:

(a) * * * The NOI will be coordinated with HQDA (DAEN–ZCE and SAPA–PP). * * *

* * * * *

19b. Section 651.30(d)(1) is amended by revising the second sentence to read as follows:

(d) * * *

(1) * * * The preliminary DEIS will be circulated by the proponent office to OASA (IL & FM), OCE (DAEN–ZCE), OTJAG, OTSG and other interested offices for review and comment.* * *

19c. Section 651.30 is further amended by revising paragraphs (d)(2), (g), and (i) to read as follows:

(d) * * *

(2) DEIS. The DA proponent will advise the preparer of the number of DEIS copies to be forwarded for final HQDA staff review, filing with EPA, and distribution to interested Congressional delegations and committees, governors, national environmental organizations, the DOD and Federal agency headquarters, and other selected entities. The DA proponent will prepare the Federal Register Notice of Availability and the EPA filing letter for the signature of the Deputy for Environment, Safety and Occupational Health, OASA (IL & FM). When the DEIS is formally approved by HQDA, the HQDA staff proponent will notify the preparer to distribute the DEIS to the remainder of the distribution list that includes Federal, regional, State and local agencies, private citizens, and local organization.

* * * * *

(g) Prepare FEIS. If the changes in the DEIS are limited to factual corrections, only an errata sheet containing DEIS comments, responses, and changes must be prepared and circulated; however, the entire document with new cover sheet would be filed with EPA (40 CFR 1503.4(c)). If other more extensive modifications are required, the proponent will prepare a preliminary FEIS incorporating these modifications. Processing the FEIS is the same as outlined for the DEIS transmittal except that the public need not be invited to comment during the 30 day post-filing waiting period (40 CFR 1503.1(b)).

* * * * *

(i) Record of Decision. At the time of decision, or, if appropriate, its recommendation to Congress, the HQDA staff proponent will prepare a Record of Decision in accordance with 40 CFR 1505.2, and 1505.3, which will become a part of the environmental documentation presented for the final decision. A copy of the signed Record of Decision will be forwarded to HQDA (DAEN–ZCE) WASH DC 20310.

* * * * *

20. Section 651.31a is added to read as follows:

§ 651.31a MACOM Processing of an EIS.

In certain cases where the scope of the EIS is limited, the DA staff proponent may authorize the MACOM to process an EIS.

(a) *Notice of Intent.* When the NOI is forwarded to the DA Staff proponent in accordance with § 651.30(a), the DA Staff proponent may determine the EIS processing will be accomplished by the MACOM. The NOI will be returned with any comments by a letter authorizing the MACOM to process the EIS in accordance with the guidance in this paragraph. The MACOM is responsible for preparation of the NOI with a transmittal letter to the Office of the Federal Register and will forward both to HQDA, DAAG–AMR–R, Alexandria, VA 22331. After a review to insure the document will be accepted by the **Federal Register**, it will be forwarded by the Office of The Adjutant General.

(b) *Preliminary DEIS.* When the Preliminary DEIS is staffed at the MACOM Headquarters, copies will be provided for concurrent review to the following HQDA elements to insure that HQDA interposes no objection: DAEN–ZCE (3 copies), JALS–RL, DASG–PSP–E, SPA–PP, the DA Staff proponent, and any other office recommended by the DA staff proponent.

(c) *EIS.* The Draft and Final EIS will be filed with the EPA by forwarding five (5) copies with a transmittal letter and additional five cipies will be provided for review to the EPA regional office affected by the proposed action. One (1) copy will be forwarded to OSD. HQDA copies will be the same as for the Preliminary DEIS. Copies for Congressional delegations and committees will be coordinated with HQDA(SALL) so that Congressional notification procedures are met. Remaining distribution will be to interested governors, Federal agency headquarters, national environmental organizations, regional, state and local agencies and organizations, and interested private citizens. The proponent is responsible for developing the distribution list; advice is available from HQDA (DAEN–ZCE).
A Notice of Availability may be published in the **Federal Register** by forwarding the notice with a transmittal letter by the same method used for the NOI.

(d) *Record of Decision.* At the time of decision, a Record of Decision will be prepared in accordance with 40 CFR 1505.2 and 1505.3. A copy of the Record of Decision will be provided to HQDA (DAEN–ZCE).

21. Section 651.33 is amended by revising paragraph (b)(1)(vi)(B) to read as follows set forth below. Paragraph (b)(2)(i) is amended by removing the word "appropriate" in the last sentence.

§ 651.33 Scoping.

* * * * *

(b) * * *
(1) * * *
(vi) * * *
(B) Collection or analyzing environmental data, including studies required of cooperating agencies.

21a. Section 651.40 is amended by revising paragraph (a) and removing paragraph (c) to read as follows:

§ 651.40 Implementation guidance.

(a) Environmental documents prepared under the provisions of this subpart should use the format for such documents as contained in appendix F or as appropriate in light of the applicable statutes and SOFAs.

* * * * *

22. Appendix A to Part 651 is amended as set forth below:

Appendix A—List of Categorical Exclusions

(a) Paragraph 3 is amended by inserting the words, "forestry and" before the phrase, "fish and wildlife management plans,"

(b) Paragraph 6 is amended by removing the word, "local."

(c) Paragraph 7 is revised to read as follows:

7. Construction that does not significantly alter land use, provide the operation of the project when completed would not of itself have a significant environmental impact; includes out-grants to private lessees for similar construction. (REC. required).

(d) Paragraph 9 is revised to read as follows:

9. Training entirely of an administrative or classroom nature.

(e) Paragraph 11 introductory phrase, is revised to read as follows:

11. Operations conducted by established laboratories in enclosed facilities where:
* * *

(f) Paragraph 12 is amended by inserting at the end of the paragraph,"(REC required)."

(g) Paragraph 13 is revised to read as follows:

13. Routine movement of personnel; routine handling and distribution of non-hazardous and hazardous materials in conformance with DA, EPA, Department of Transportation and state regulations.

(h) Paragraph 14 is revised to read as follows:

14. Reduction and realignment of civilian and/or military personnel which fall below the thresholds for reportable actions as prescribed in AR 5–10. Conversion of commercial activities (CA) to contract performance of services from in-house performance under the provisions of DOD Directive 4100.15.

(i) Paragraph 16 is revised to read as follows:

16. Acquisition, installation and operation of utility systems and communication, data processing, cable systems and similar electronic equipment which use existing rights of way, easements, distribution systems, and facilities.

(j) Paragraph 18 is amended by inserting at the end of the paragraph, "(REC required)."

(k) Paragraph 20 is amended by inserting at the end of the paragraph, "(REC required)."

(l) Paragraph 21 is amended by adding the phrase, ". . . ; use of non-Army property for Army activities where the action is consistent with existing land use plans. (REC required)." at the end of the paragraph before the period.

(m) Paragraph 22 is amended by adding the phrase, ". . .; disposal of excess easement areas to the underlying fee owner. (REC required)." at the end of the paragraph before the period.

(n) Paragraph 23 is amended by inserting at the end of the paragraph, "(REC required)."

(o) Paragraph 24 is amended by adding the phrase, ". . . and grants of leases, licenses, permits and easements for use of excess or surplus property without significant change in land use. (REC required)." at the end of the paragraph before the period.

(p) Paragraph 25 is amended by inserting at the end of the paragraph, "(REC required)."

(q) Paragraph 26 is amended by inserting at the end of the paragraph, "(REC required)."

(r) Paragraph 27 is amended by inserting at the end of the paragraph, "(REC required)."

(s) Paragraph 28 is added to read as follows:

A–28. Proposed actions determined to be of such an environmentally insignificant nature as not to meet the threshold for requiring an environmental assessment. (REC required).

23. Appendix B to Part 651 is amended as set forth below:

Appendix B—Content of the EIS

(a) Paragraph 1 is amended by revising paragraph *(d) to read as follows:*

d. The name, address, and telephone number of the person at the agency who can supply further information, and, as appropriate, the name and title of the major approval authority(ies) in the command channel through HQDA Staff proponent.
* * *

(b) Figure B–1—Example Cover Sheet is modified in the paragraph entitled, "Approval" by removing "Director of Training, DA" and insert in lieu thereof "Director of program affected by EIS."

(Authority: National Environmental Policy Act of 1969 (WEPA); 42 U.S.C. 4321 et seq.)

[FR Doc. 82–27174 Filed 10–1–82; 8:45 am]
BILLING CODE 3710–08–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 1–1

[FPR Temp. Reg. 65]

Debarment, Suspension and Ineligibility of Government Contractors

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This FPR Temporary Regulation revises the policies and procedures in Subpart 1–1.6 on the debarment and suspension of Government contractors, and the issuance by GSA of a consolidated Government-wide list of debarred, suspended, and ineligible contractors. The basis for the temporary regulation is Policy Letter 82–1 which was issued by the Office of Federal Procurement Policy, on June 24, 1982, (47 FR 28854, July 1, 1982). The intended effect is to ensure that Government contracts are awarded to responsible contractors.

DATES: Effective date: This temporary regulation is effective September 30, 1982.

Expiration date: This temporary regulation expires September 30, 1984, unless revised or superseded earlier.

FOR FURTHER INFORMATION CONTACT: Mr. Philip G. Read, Director, Office of Federal Procurement Regulations, Office of Acquisition Policy, (202–523–4755).

AGENCY ACTION: Pending the publication of a permanent FPR amendment, agencies shall comply with the policies and procedures in this temporary regulation.

COMMENTS: Time did not permit the solicitation of comments prior to the issuance of this temporary regulation. Accordingly, those who wish to do so may submit comments during the 60 day period following the date of the temporary regulation.

List of Subjects in 41 CFR Part 1–1

Government procurement, Administrative practices and procedures, Environmental protection, Labor surplus area, Minority businesses, Recycled material and Small business.

PART 1–1 [AMENDED]

In 41 CFR Chapter 1, the following temporary regulation is added to the Appendix at the end of the chapter.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Federal Procurement Regulations Temporary Regulation 65

September 24, 1982.

To: Heads of Federal agencies

Subject: Debarment, Suspension, and Ineligibility of Government Contractors

1. *Purpose.* This temporary regulation prescribes policies and procedures applicable to the debarment and suspension of Government contractors, and provides for the listing of debarred, suspended, and ineligible contractors by the General Services Administration.

2. *Effective date.* This regulation is effective September 30, 1982.

3. *Expiration date.* This regulation expires September 30, 1984, unless revised or superseded earlier.

4. *Background.* Policies and procedures applicable to the debarment and suspension of Government contractors currently are prescribed in Subpart 1–1.6. The Office of Federal Procurement Policy issued Policy Letter No. 82–1, on June 24, 1982 (47 FR 28854, July 1, 1982), which prescribed revised policies and procedures, including the requirement that GSA issue a consolidated Government-wide list of those contractors. The temporary regulation implements the policy letter.

5. *Explanation of changes.* Subpart 1–1.6 is superseded by the policies and procedures prescribed in this temporary regulation.

6. *Agency action.* Pending the publication of a permanent FPR amendment, agencies shall comply with the policies and procedures in this temporary regulation.

7. *Comments requested.* Time did not permit the solicitation of comments prior to the issuance of this temporary regulation. Accordingly, those who wish to do so may submit comments during the 60 day period following the date of the regulation.

Attachment A FPR Temp. Reg. 65

September 24, 1982.

Subpart 1–1.6—Debarment, Suspension, and Ineligibility

§ 1–1.600 Scope of subpart.

(a) This subpart:

(1) Prescribes policies and procedures governing the debarment and suspension of contractors, for the causes given in §§ 1–1.605 and 1–1.606 for contracts involving personal property and non personal services, including construction and leases of real property.

(2) Provides for the listing of debarred and suspended contractors, and of contractors declared ineligible (see the definition of "ineligible" in § 1–1.602(j)); and

(3) Sets forth the treatment to be accorded to contractors listed as debarred or suspended, as well as those listed as having been declared ineligible.

§ 1–1.601 Policy.

(a) Agencies shall solicit bids and proposals only from, award contracts to, and approve or consent to subcontracts with, responsible business concerns and individuals. Debarment and suspension are discretionary actions which, taken in accordance with this subpart, are appropriate means to effectuate this policy.

(b) The serious nature of debarment and suspension requires that they be imposed only in the public interest, for the Government's protection and not for purposes of punishment. Debarment and suspension shall be imposed to protect the Government's interest, and only for the causes and in accordance with the procedures set forth in this Subpart 1–1.6.

§ 1–1.602 Definitions.

(a) "Adequate evidence" means information sufficient to support the reasonable belief that a particular act or omission has occurred.

(b) "Affiliates." Business concerns or individuals are affiliates if, directly or indirectly, (1) either one controls or can control the other; or (2) a third controls or can control both.

(c)"Agency" means executive agency (see § 1–1.202).

(d) "Consolidated List of Debarred, Suspended, and Ineligible Contractors" means a list compiled, maintained and distrtibuted by the General Services Administration (GSA), containing the names of contractors that have debarred or suspended by a Federal agency as well as contractors that have been declared ineligible pursuant to other regulatory or statutory authority.

(e) "Contractor" means any individual or other legal entity that: (1) submits bids or proposals for or is awarded, or reasonably may be expected to submit bids or proposals for or be awarded, a Government contract or a subcontract under a Government contract; or (2) conducts business with the Government as an agent or representative of another contractor.

(f) "Conviction" means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or plea, and includes a conviction entered upon a plea of *nolo contendere*.

(g) "Debarment" means action taken by a debarring official under § 1–1.605 to exclude a contractor from Government contracting and Government approved subcontracting for a reasonable, specified period; a contractor so excluded is "debarred."

(h) "Debarring Official" means the head of an agency or an official authorized by the head of the agency to impose debarment.

(i) "Indictment" means indictment for a criminal offense. An information or other filing by competent authority charging a criminal offense shall be given the same effect as an indictment.

(j) "Ineligible" means exluded from Government contracting (and subcontracting, if appropriate) pursuant to statutory, Executive order, or regulatory authority other than this subpart. For example, contractors excluded pursuant to the Davis-Bacon Act and its related statutes and implementing regulations, the Service Contract Act, the Executive orders on Equal Employment Opportunity, the Walsh-Healey Public Contracts Act, the Buy American Act, and the environmental protection acts and Executive orders are "ineligible."

(k) "Legal proceedings" means any civil judicial proceeding to which a State or the Federal Government is a party of any criminal proceeding. The term also includes appeals from such proceedings.

(l) "Preponderance of the evidence" means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

(m) "Suspending Official" means the head of the agency concerned or an official authorized by the head of the agency to impose suspension.

(n) "Suspension" means action taken by a suspending official under § 1–1.606 to disqualify a contractor temporarily from Government contracting; a contractor so disqualified is "suspended."

§ 1–1.603 Establishment and maintenance of a list of debarred, suspended, and ineligible contractors and agency records.

§ 1–1.603–1 Consolidated List of Debarred, Suspended, and Ineligible Contractors.

(a) GSA shall—

(1) Compile and maintain a current, consolidated list of contractors debarred, suspended, or declared ineligible by agencies or by the General Accounting Office;

(2) Revise and distribute the list to agencies and the General Accounting Office; and

(3) Provide with the list the name and telephone number of the official responsible for the maintenance and distribution of the list.

(b) Each agency shall—

(1) Notify GSA, within 5 working days after debarring or suspending a contractor or modifying or rescinding such an action, of the information set forth in § 1–1.603–2.

(2) Notify GSA of the names and addresses of the organizations within the agency that are to receive the consolidated list and the number of copies to be furnished to each; and

(3) Direct inquiries concerning listed contractors to the agency or other authority that took the action.

(4) Establish procedures to provide for the effective use of the list to ensure that the agency does not solicit offers from, award contracts to, or consent to subcontracts with, listed contractors, except as provided in this Subpart 1–1.6.

§ 1–1.603–2 Agency records.

At a minimum, each agency shall maintain records relating to each contractor it has debarred or suspended. Records should contain the following information:

(a) The names and addresses of all debarred or suspended contractors.

(b) The cause for the action (see §§ 1–1.605 and 1–1.606).

(c) Any limitations to or deviations from the normal effect of debarment of suspension.

(d) The effective date of the action and, in the case of debarments, the termination date.

(e) The name and telephone number of the agency's point of contact for the action. Each agency shall provide GSA with a single point of contact for agency actions to be used in the consolidated list.

§ 1–1.604 Treatment to be accorded listed contractors.

§ 1–1.604–1 General.

(a) *Actions after August 30, 1982.* Contractors debarred or suspended by any agency in accordance with this subpart shall be excluded from receiving contracts, and agencies shall not knowingly solicit offers from, award contracts to, renew or otherwise extend the duration of an existing contract with, or consent to subcontracts with these contractors, unless the acquiring agency's head or authorized representative determines, in writing, that there is a compelling reason for such action.

(b) *Actions prior to August 30, 1982.* Contractors debarred or suspended by an agency in accordance with policies and procedures in effect prior to August 30, 1982 shall be excluded from receiving contracts of the agency which effected the action. The acting agency shall not solicit offers from, award contracts to, renew or otherwise extend the duration of an existing contract with, or consent to subcontracts with these contractors unless the agency head or an authorized representative determines, in writing, that there is a compelling reason for such action. Although such debarments and suspensions do not have Government-wide effect, agencies should consider such actions in determining contractor responsibility and may debar or suspend the contractor based on the original action in accordance with §§ 1–1.605–2(d) and 1–1.606–2(c).

(c) *Actions based on statutes or other regulations.* Contractors declared ineligible on the basis of statutory or other regulatory procedures shall be excluded from receiving contracts and, if applicable, subcontracts, under the conditions and for the period set forth in the statute or regulation. Agencies shall not solicit offers from, award contracts to, renew or otherwise extend the duration of an existing contract with, or consent to subcontracts with these contractors under those conditions and for that period. Specific information concerning the treatment to be accorded ineligible contractors will be contained in the consolidated list.

§ 1–1.604–2 Review procedures.

Prior to initiating a pre-award survey or any of the procurement actions set forth in § 1–1.604–1 with respect to a particular bidder, offeror, or proposed subcontractor, the consolidated list shall be reviewed. If the bidder, offeror, or proposed subcontractor is listed, it shall receive such treatment as appropriate according to the basis for its listing.

§ 1–1.604–3 Continuation of current contracts.

(a)(1) Notwithstanding the listing of a contractor for the causes set forth in this subpart, agencies may continue contracts or subcontracts in existence at the time the contractor was debarred or suspended, unless the head of the agency concerned or an authorized representative determines that termination of the contract is in the Government's best interest.

(2) Decisions regarding the termination of contracts, if any, should be made only after review by agency contracting and technical personnel and by legal counsel to assure the propriety of the proposed action.

(b) Agencies shall not renew current contracts or subcontracts of debarred or suspended contractors, or otherwise extend their duration, unless the acquiring agency's head or a designee states in writing the compelling reasons for renewal or extension.

§ 1–1.604–4 Restrictions on subcontracting.

When a debarred or suspended contractor is proposed as a subcontractor for any subcontract subject to Government consent, approval shall not be given unless the head of the agency or an authorized representative determines in writing that there is a compelling reason for such action.

§ 1–1.605 Debarment.

§ 1–1.605–1 General.

(a) The debarring official may, in the public interest, debar a contractor for any of the causes contained in § 1–1.605–2, using the procedures in § 1–1.605–3. The existence of a cause for debarment under § 1–1.605–2, however, does not necessarily require that the contractor be debarred; the seriousness of the contractor's acts or omissions and any mitigating factors should be considered in making any debarment decision.

(b) Debarment of a contractor constitutes debarment of all divisions or other organizational elements of the contractor, unless the debarment decision is limited by its terms to specific divisions, organizational elements, or commodities. The debarring official may extend the debarment decision to include any affiliates of the contractor, if they are (1) specifically named and (2) given written notice of the proposed debarment and an opportunity to respond (see § 1–1.605–3(c)).

(c) A contractor's debarment shall be effective throughout the executive branch of the Government, unless the head of the agency taking the procurement action, or an authorized representative, states in writing the compelling reasons justifying continued business dealings between that agency and the contractor.

(d) When no suspension is in effect under § 1–1.606 at the time debarment is proposed, no contracts shall be awarded to, and no subcontracts shall be consented to or approved for, the contractor by the agency proposing the action, pending a debarment decision by the agency.

§ 1–1.605–2 Causes for debarment.

The debarring official may debar a contractor for any of the causes listed in (a) through (d) following:

(a) Conviction of or civil judgment for—

(1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public contract, or subcontract;

(2) Violation of Federal or State antitrust statutes relating to the submission of bids or proposals; or

(3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or

(4) Commission of any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the present responsibility of a Government contractor or subcontractor.

(b) Violation of the terms of a Government contract or subcontract so serious as to justify debarment, such as—

(1) Willful failure to perform in accordance with the terms of one or more contracts; or

(2) A history of failure to perform, or of unsatisfactory performance of, one or more contracts.

(c) Any other cause of so serious or compelling a nature that it affects the present responsibility of a Government contractor or subcontractor.

(d) Debarment for any of the above causes by another agency where the original debarment did not have Government-wide effect.

§ 1–1.605–3 Procedures.

(a) *Investigation and referral.* Agencies shall prescribe procedures for the prompt reporting, investigation, and referral to debarring officials of matters appropriate for the officials' consideration.

(b) *Decisionmaking process.*

(1) Agencies shall prescribe procedures governing the debarment decisionmaking process, which shall be as informal as practicable, consistent with principles of fundamental fairness. These procedures shall afford contractors (and any specifically named affiliates) with an opportunity to submit, in person, in writing, or through a representative, information and arguments in opposition to proposed debarments.

(2) In actions not based upon a conviction or judgment or on a debarment by another agency, if it is found that the contractor's submission in opposition raises a genuine dispute over facts material to the proposed debarment, fact-finding shall be conducted. The official conducting the fact-finding shall—

(i) Afford the contractor an opportunity to appear with counsel, submit documentary evidence, present witnesses, and confront any person the agency presents; and

(ii) Ensure that a record of the fact-finding is transcribed and made available at cost to the contractor upon request, unless the contractor and the agency, by mutual agreement, waive the requirement for a transcript.

(c) *Notice of proposal to debar.* Debarments shall be initiated by informing contractors and any specifically named affiliates by certified mail return receipt requested, as follows:

(1) A debarment is being considered.

(2) The reasons for the proposed debarment in terms sufficient to put the contractor on notice of the conduct or transaction(s) upon which it is based.

(3) The cause(s) relied upon under § 1–1.605–2 for the proposed debarment.

(4) The contractor, within 30 days after receipt of the notice, may submit, in person, in writing, or through a representative, information and argument in opposition to the proposed debarment, including any additional specific information that raises a genuine dispute over the material facts.

(5) The agency's procedures governing debarment decision-making.

(6) The potential effect of the proposed debarment (see §§ 1–1.604–1(a) and 1–1.605–1(c)); and

(7) Pending a debarment decision if no suspension is in effect under § 1–1.606, no contracts will be awarded to, and no subcontracts will be consented to or approved for the contractor.

(d) *Debarring official's decision.*

(1) In actions based upon a conviction or civil judgment, or a debarment by another agency, or in which there is no dispute over material facts, the debarring official shall make a decision on the basis of all the information in the administrative record, including any submission made by the contractor. If no suspension is in efffect under § 1–1.606, the decision shall be made within 30 working days after receipt of any information and argument submitted by the contractor, unless the debarring official extends this period for good cause.

(2) In actions in which fact-finding is necessary as to disputed material facts, written findings of fact shall be prepared. The debarring official shall

base the decision on the facts as found, together with any information and argument submitted by the contractor and any other information in the administrative record.

(i) The debarring official may refer matters involving disputed material facts to another official for findings of fact. The debarring official may reject any such findings, in whole or in part, only after specifically determining them to be arbitrary and capricious or clearly erroneous.

(ii) The debarring official's decision shall be made after the conclusion of the proceedings with respect to disputed facts.

(3) In any action in which the proposed debarment is not based upon a conviction, civil judgment or debarment by another agency, the cause for debarment must be established by a preponderance of the evidence.

(e) *Notice of debarring official's decision.*

(1) If the debarring official decides to impose debarment, the contractor and any affiliates involved shall be given prompt notice by certified mail return receipt requested, as follows:

(i) The notice of proposed debarment shall be referenced;

(ii) The reasons for debarment shall be specified;

(iii) The period of debarment, including effective dates (see § 1–1.605–4) shall be stated; and

(iv) The notice shall state that debarment is effective throughout the executive branch of the Government, unless the head of the agency or an authorized representative determines that there is a compelling reason to continue business dealings with the contractor (see § 1–1.605–1(c)).

(2) If a debarment is not imposed, the debarring official shall promptly notify the contractor and any affiliates involved of the decision by certified mail, return receipt requested.

§ 1–1.605–4 Period of debarment.

(a) Debarments shall be for a period commensurate with the seriousness of the cause(s). Generally, a debarment should not exceed 3 years. If suspension precedes a debarment, the suspension period shall be considered in determining the debarment period.

(b) The debarring official may extend the debarment for an additional period, if that official determines that an extension is necessary to protect the Government's interest. However, a debarment may not be extended solely on the basis of the facts and circumstances upon which the initial debarment action was based. If debarment for an additional period is determined necessary, the procedures in § 1–1.605–3 shall be followed to extend the debarment.

(c) The debarring official may consider terminating the debarment or reducing the period or extent of debarment, upon the contractor's application, supported by documentation, for reasons deemed appropriate by the debarring official, such as:

(1) Newly discovered material evidence.

(2) Reversal of the conviction or judgment upon which the debarment was based.

(3) Bona fide change in ownership or management.

(4) Elimination of other causes for which the debarment was imposed.

§ 1–1.605–5 Imputed conduct.

(a) The fraudulent, criminal, or other seriously improper conduct of any officer, director, shareholder, partner, employee, or other individual associated with a contractor may be imputed to the contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of the contractor, or with the contractor's knowledge, approval, or acquiescence. The contractor's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

(b) The fraudulent, criminal, or other seriously improper conduct of a contractor may be imputed to any officer, director, shareholder, partner, employee, or other individual associated with the contractor who participated in, knew of, or had reason to know of the contractor's conduct.

(c) The fraudulent, criminal, or other seriously improper conduct of one contractor participating in a joint venture or similar arrangement may be imputed to other participating contractors if the conduct occurred for or on behalf of the joint venture or similar arrangement or with the knowledge, approval, or acquiesence of those contractors. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiscence.

§ 1–1.606 Suspension.

§ 1–1606–1 General.

(a) The suspending official may, in the public interest, suspend a contractor for any of the causes in § 1–1.606–2, using the procedures in § 1–1.606–3.

(b) Suspension is a serious action to be imposed on the basis of adequate evidence of one or more of the causes set out in § 1–1.606–2, pending the completion of investigation or legal proceedings, when it has been determined that immediate action is necessary to protect the Government's interest. In assessing the adequacy of the evidence, consideration should be given to how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result. This assessment should include an examination of basic documents such as contracts, inspection reports, and correspondence, as appropriate.

(c) Suspension constitutes suspension of all divisions or other organizational elements of the contractor, unless the suspension decision is limited by its terms to specific divisions, organizational elements, or commodities. The suspending official may extend the suspension decision to include any affiliates of the contractor if they are (1) specifically named and (2) given written notice of the suspension and an opportunity to respond (see § 1–1.606–3(c)).

(d) A contractor's suspension shall be effective throughout the executive branch of the Government, unless the head of the agency taking the procurement action, or an authorized representative, states in writing the compelling reasons justifying continued business dealings between that agency and the contractor.

§ 1–1.606–2 Causes for suspension.

(a) The suspending official may suspend a contractor suspected, upon adequate evidence, of—

(1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public contract or subcontract;

(2) Violation of Federal or State antitrust statutes relating to the submission of bids or proposals;

(3) Commission of embezzlement, theft, forgery, bribery falsification or destruction of records, making false statements, or receiving stolen property; or

(4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a Government contractor or subcontractor.

(b) Indictment for any of the cause in paragraph (a) above constitutes adequate evidence for suspension.

(c) The suspending official may upon adequate evidence also suspend a contractor for any other cause of so serious or compelling a nature that it affects the present responsibility of a

Government contractor or subcontractor.

(d) A contractor may be suspended for any of the above causes based on a suspension by another agency where the original suspension does not have Government-wide effect.

§ 1–1.606–3 Procedures.

(a) *Investigation and referral.* Each agency shall prescribe procedures for the prompt reporting, investigation, and referral to the the debarring official of matters appropriate for that official's consideration.

(b) *Decision-making process.*

(1) Each agency shall prescribe procedures governing its suspension decision-making process, which shall be as informal as practicable, consistent with principles of fundamental fairness. These procedures shall afford the contractor (and any specifically named affiliates) an opportunity, following the imposition of suspension, to submit, in person, in writing or through a representative, information and argument in opposition to the suspension.

(2) In actions not based on an indictment or a suspension by another agency, if it is found that the contractor's submission in opposition raises a dispute over facts material to the suspension and if no determination has been made, on the basis of advice received from the Department of Justice or a state prosecuting official, that substantial interests of the Government in pending or contemplated legal proceedings based on the same facts as the suspension would be prejudiced, fact-finding shall be conducted. The official conducting fact-finding shall:

(i) Afford the contractor an opportunity to appear with counsel, submit documentary evidence, present witnesses and confront any person the agency presents; and

(ii) Ensure that a record of the fact-finding is transcribed and made available at cost to the contractor upon request, unless the contractor and the agency, by mutual agreement, waive the requirement for a transcript.

(c) *Notice of suspension.* When contractors and any specifically named affiliates are suspended, they shall be informed immediately by certified mail return receipt requested, as follows:

(1) A decision to suspend has been made and that the suspension is based on an indictment or other adequate evidence that the contractor has committed irregularities (i) of a serious nature in business dealings with the Government, or (ii) seriously reflecting on the propriety of further Government dealings with the contractor; any such irregularities shall be described in terms sufficient to place the contractor on notice without disclosing Government evidence.

(2) The suspension is for a temporary period pending the completion of an investigation and such legal proceedings as may ensue.

(3) The cause(s) relied upon under § 1–1.606–2 for imposing suspension.

(4) The effect of the suspension (see §§ 1–1.604–1(a) and 1–1.606–1(d)).

(5) The contractor, within 30 days after receipt of the notice, may submit, in person, in writing or through a representative, information and argument in opposition to the suspension, including any additional specific information that raises a genuine dispute over material facts.

(6) Fact-finding to determine disputed material facts will be conducted unless (i) the action is based on an indictment or another agency's suspension or (ii) a determination is made, on the basis of the advice of a Department of Justice or a state prosecuting official, that the substantial interests of the Government or the state in pending or contemplated legal proceedings based on the same facts as the suspension would be prejudiced.

(d) *Suspending official's decision.*

(1) In actions (i) based on an indictment or a suspension by another agency, (ii) in which the contractor's submission does not raise a dispute over material facts; or (iii) in which fact-finding to determine disputed material facts has been denied on the basis of the advice of the Department of Justice or a state prosecuting official, the suspending official's decision shall be based on all the information in the administrative record, including any submission made by the Contractor.

(2) In actions in which fact-finding is necessary as to disputed material facts, written findings of fact shall be prepared. The suspending official shall base the decision on the facts as found, together with any information and argument submitted by the contractor and any other information in the administrative record.

(i) The suspending official may refer matters involving disputed material facts to another official for findings of fact. The suspending official may reject any such findings, in whole or in part, only after specifically determining them to be arbitrary and capricious or clearly erroneous.

(ii) The suspending official's decision shall be made after the conclusion of the proceedings with respect to disputed facts.

(3) The suspending official may modify or terminate the suspension or leave it in force (see § 1–1.605–4(c)) for the reasons for terminating or reducing the period or extent of debarment). However, a decision to modify or terminate the suspension shall be without prejudice to the subsequent imposition of suspension by any other agency or the imposition of debarment by any agency.

(4) A prompt written notice of the suspending official's decision shall be sent to the contractor by certified mail, return receipt requested.

1–1.606–4 Period of suspension.

(a) Suspension shall be for a temporary period pending the completion of investigation and any ensuing legal proceedings, unless sooner terminated by the suspending official or as provided in § 1–1.606–4.

(b) If legal proceedings are not initiated within 12 months after the date of the suspension notice, the suspension shall be terminated unless an Assistant Attorney General or a state prosecuting official requests its extension, in which case it may be extended for an additional 6 months. In no event may a suspension extend beyond 18 months, unless legal proceedings have been initiated within that period.

(c) The suspending official shall notify the Department of Justice or the state prosecuting official of the proposed termination of the suspension, at least 30 days before the 12-month period expires to give that agency an opportunity to request an extension.

1–1.606–5 Scope of suspension.

The scope of suspension shall be the same as that for debarment (see § 1–1.605–5), except that the procedures in § 1–1.606–3 shall be used in imposing the suspension.

§ 1–1.607 Agency coordination.

When more than one agency has an interest in the debarment or suspension of a contractor, consideration shall be given to designating one agency as the lead agency for making the decision. Agencies are encouraged to establish methods and procedures for coordinating their debarment or suspension actions.

Ray Kline,

Acting Administration of General Services.

[FR Doc. 82-27300 Filed 10-1-82; 8:45 am]

BILLING CODE 6820-61-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-854; RM-3898]

FM Broadcast Station in Sebewaing and Tawas City, Michigan; Changes Made in Table Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 280A to Sebewaing, Michigan, and substitutes Chanel 257A for Channel 280A at Tawas City, Michigan, in response to a petition filed by Gaeth/Hofmeister, Inc. Station WKJC, on Channel 280A at Tawas City, is modified to specify operation on the newly-assigned channel. The assignment at Sebewaing could provide a first local aural service to that community.

DATE: Effective November 29, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: September 17, 1982.

Released: September 27, 1982.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Sebewaing and Tawas City, Michigan), BC Docket No. 81-854 RM-3898.

1. The Commission herein considers the *Notice of Proposed Rule Making and Order to Show Cause*, 46 Fed. Reg. 61677, published December 18, 1981, proposing the assignment of Channel 280A to Sebewaing, Michigan, as its first FM assignment, and the substitution of Channel 257A for Channel 280A at Tawas City, Michigan. Comments were filed by petitioner in which it reaffirmed its intention to apply for the channel, if assigned. Comments and a request for hearing were filed by Carroll Enterprises, Inc. ("Carroll"), licensee of FM Station WKJC, Tawas City, Michigan, to whom the *Order to Show Cause* was directed. Petitioner and Carroll filed reply comments.

2. Sebewaing,[1] in Huron County, is located approximately 150 kilometers (95 miles) north of Detroit. It presently is devoid of local service.

3. As stated in the *Notice*, petitioner's engineering study revealed that the proposed assignment of Channel 280A to Sebewaing would provide a first FM (and a second nighttime aural) service to 943 persons in an area comprised of 30 square kilometers (11.8 square miles), and a second FM service to 3,005 persons in an area of 168 square kilometers (64.8 square miles).

4. Since there is no FM channel available which could be assigned to Sebewaing without changing existing assignments at other communities, petitioner urges the substitution of Channel 257A for 280A at Tawas City, Michigan (occupied by Station WKJC), as a technically feasible means of providing Sebewaing with a first assignment with the least disturbance to existing assignments and stations. Its showing demonstrates that Channel 280A would meet technical requirements for assignment and use at Sebewaing, if deleted at Tawas City, provided a site restriction of 5 miles is imposed. Additionally, it established that Channel 257A would be a technically satisfactory replacement for Channel 280A at Tawas City since it could be utilized from the present WKJC transmitter site.

5. In response to the *Notice and Order to Show Cause*, Carroll requested a hearing, or alternatively suggested that it be reimbursed by the petitioner herein, who could then seek reimbursement by the ultimate Sebewaing licensee (should another party receive the permit) or it suggested that all applicants place reimbursement monies in escrow pending a decision. If the Commission is unwilling to grant this relief, it requests that it not be required to switch until a permit is granted at Sebewaing. In its comments petitioner advises of its willingness to reimburse Carroll for reasonable expenses in accordance with Commission policy, if it is granted a license for Channel 280A at Sebewaing.

6. In reply comments, Carroll asked that the proceeding be dismissed because it could not find a submission of comments from Gaeth/Hofmeister after a search of the records. However, the Commission did receive a statement from petitioner in accordance with the Commission's filing requirements which require us to deny Carroll's motion to dismiss.

7. Based on the provision of a first local and a first and second service to outlying areas, we find that the assignment of Channel 280A to Sebewaing is warranted. We also have substituted channels at Tawas City consistent with our normal practice of making the change effective at its license expiration date of October 1, 1982. In view of our action delaying the modification of license of Station WKJC, a hearing will not be necessary. See, *Transcontinent Television Corporation* v. *F.C.C.*, 308 F. 2d 339 (D.C. Cir. 1962).

8. Established Commission policy provides for reimbursement for reasonable costs of a channel change in a station's frequency from the party benefitting from a new channel assignment. We believe that equitable considerations dictate that Carroll should be reimbursed for such costs from the ultimate Sebewaing permittee. Assisted by guidelines which we have furnished in similar cases, such as *Circleville, Ohio*, 8 F.C.C. 2d 159 (1967), the appropriate costs constituting a "reasonable" reimbursement figure are generally left to the good faith judgment of the parties eventually involved, subject to Commission approval in the event of disagreement. See also, *Mitchell, South Dakota*, 62 F.C.C. 2d 70 (1976).

9. Additionally, as to Carroll's alternate request to be permitted to operate Station WKJC on its present channel until such time as a construction permit is issued for the Sebewaing channel, we shall grant that request. See, *International Falls, Minnesota*, 49 R.R. 2d 1063 (1981); *Knoxville, Tennessee, et al.*, 78 F.C.C. 2d 1208, 47 R.R. 2d 1063 (1980); and *Mayfield and Wickliffe, Kentucky, et al.*, 48 R.R. 2d 1232 (1981). We cannot expect a prospective applicant to expend money for reimbursement before it is assured the permit for the channel. See also, *Muncie, Indiana*, 38 R.R. 2d 1327 (1976). Carroll must specify Channel 257A in its renewal application for Station WKJC although it may continue to operate on the existing channel until such time as a construction permit is issued to the ultimate Sebewaing licensee or until Channel 280A (or an adjacent channel) is needed for assignment and use elsewhere. Once the construction permit is issued, Carroll will be expected to complete the frequency change for Station WKJC expeditiously.

10. As explained in the *Notice*, the instant proposal requires a site restriction of 8 kilometers (5 miles) northeast of Sebewaing to avoid short-spacing on the co-channel to Station WOAP-FM, Owosso, Michigan. Further, the proposed allocation of Channel 280A

[1] In view of the Commission's recent adoption of the *Second Report and Order* in BC Docket No. 80-130, 90 F.C.C. 2d 88 (1982), *In the Matter of Revision of FM Assignment Policies and Procedures*, the inclusion of population figures, as well as demographic data are not required for this proposal.

to Sebewaing, Michigan, will create a short-spacing of 24 kilometers (15 miles) to a Canadian allocation on the co-channel at Sarnia, Ontario. However, the Canadian Government has given its concurrence in the proposal.

11. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, that effective November 29, 1982, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended as follows:

City	Channel No.
Sebewaing, Michigan	280A
Tawas City, Michigan	*257A, 280A

*Effective 3 A.M. local time, October 1, 1982 (concurrently with the expiration of the outstanding license for Station WKJC on Channel 280A at Tawas City, Michigan), or such earlier date as Station WKJC may, upon its request, cease operation on Channel 280A.

12. It is further ordered, pursuant to the authority contained in section 316(a) of the Communications Act of 1934, as amended, that the outstanding license for Station WKJC, held by Carroll Enterprises, Inc. at Tawas City, Michigan is modified effective October 1, 1982, to specify operation on Channel 257A in lieu of Channel 280A, with the condition it will be reimbursed for the the reasonable costs incurred in switching frequencies from the ultimate permittee of Channel 280A at Sebewaing. The renewal application of Station WKJC for the license period commencing October 1, 1982, shall specify operation on Channel 257A. In addition, it shall comply with the following conditions:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301), specifying the new facilities.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with section 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to section 1.1301 of the Commission's rules.

13. It is further ordered, That the Secretary of the Commission shall send a copy of this Order by certified mail, return receipt request, to Carroll Enterprises, Inc., 523 Meadow Road, Tawas City, Michigan 48763, and also a copy thereof, by regular mail to its attorney, Julian P. Freret, Esq. of Booth and Freret, 1302–18th Street, N.W., Washington, D.C. 20036.

14. It is further ordered, That the request of Carroll Enterprises, Inc. for a hearing pursuant to section 1.87 of the Commission's rules, is dismissed.

15. It is further ordered That this proceeding is terminated.

16. For further information concerning the above, contact Nancy V. Joyner, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–27214 Filed 10–1–82; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[BC Docket No. 82–124; RM–3782; RM–4107]

FM Broadcast Station in Honolulu, Hawaii; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns three Class C channels to Honolulu, Hawaii, in response to a petition filed by KHVH, Inc.

DATE: Effective November 22, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: September 17, 1982.

Released: September 23, 1982.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Honolulu, Hawaii), BC Docket No. 82–124, RM–3782, RM–4107.

1. Before the Commission is a *Notice of Proposed Rule Making*, 47 FR 10603, published March 3, 1982, proposing the assignment of Class C Channels 253, 258 and 262 to Honolulu, Hawaii. Comments were filed by KHVH, Inc. ("petitioner") and by O'Day Broadcasting Company (licensee of Station KORL (AM), Honolulu), both stating their interest in a Class C channel at Honolulu.[1] Additionally, O'Day Broadcasting submitted a counterproposal. The petitioner filed reply comments.

2. O'Day's counterproposal favors changing the system of allocating frequencies only for Hawaii to a different system in view of the recent Commission's action making some 50 FM channels available for assignment to Hawaii (General Docket 80–710, 87 F.C.C. 2d 982 (1981)). Their suggested procedure would eliminate the rule making process to first assign a channel and then permit applications specifying the assigned frequency. Rather, O'Day would favor having the Commission accept applications for one of the newly available channels immediately and without an allocation. O'Day alleges that its proposal could quickly and efficiently meet those demands for allocations, whereas, under the existing system, a costly, time-consuming and resource wasting comparative hearing would be required to determine the ultimate permittee for an assigned channel. It feels that the two step allocation process in Hawaii is unnecessary with 50 additional channels available for assignment. As an alternative to the present system, O'Day urges the Commission to issue a Notice of Proposed Rule Making to amend § 1.401(d) with regard to Hawaii. However, should the Commission find it necessary to retain the present allocation procedure for Hawaii, it should issue a Notice of Rule Making and cutoff, advising that it proposes to assign FM channels to the extent that it deems necessary—equal to the number of commenting parties indicating their intent to apply for a channel.

3. Petitioner supports the counterproposal (without prejudice to its petition), either as an alternative to its proposal or as a means of assigning channels throughout the State of Hawaii, if and when the demand arises. Petitioner notes that the *Notice* invited further proposals for additional assignments to Honolulu, and in effect, the Commission would seemingly anticipate suggestions similar to the demand approach, stated in O'Day's counterproposal.

4. The *Notice* indicated that additional assignments could be made to Honolulu, based on demand. The intent of the *Notice* was merely to direct any party

[1] In response to the *Notice* comments were also filed by (1) Richard A. Bowers and Thomas F. Muller, requesting the assignment of Channel 256 to Waimea, Hawaii (BC Docket 82–483) (47 FR 35498, published August 10, 1982); (2) by KDEO Associates (licensee of Station KDEO (AM), Waipahu, Hawaii), requesting that one of the proposed allocations for Honolulu be assigned to Waipahu (RM–4111); and (3) by Mauna Kea Broadcasting Company, requesting the reassignment of Channel 242 from Kailua to Honolulu, Hawaii (see BC Docket 82–542, 47 FR 36247, published August 19, 1982). These requests are being considered in separate rule makings since they involve other communities.

interested in utilizing one (or more) of the newly allocated channels in Hawaii, to express that desire in comments (as a counterproposal). It was not the Commission's intent to suggest a different system of applying for new allocations. That determination is a matter outside the scope of the proceeding. It should have been raised in General Docket 80-710, *supra*.

5. Three parties have expressed an interest in operating a Class C facility in Honolulu (KHVH, Inc., O'Day Broadcasting Company and Windward Broadcasting Company).[2] Based on this interest, the Commission is persuaded that the public interest would be served by granting the three Class C assignments, as proposed in the *Notice*.

6. In view of the foregoing and pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, that effective November 22, 1982, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the following community:

City	Channel No.
Honolulu, Hawaii	226, 230, 234, 238, 246, 253, 258, and 262.

7. It is further ordered, That the counterproposal filed by O'Day Broadcasting Company, is denied.

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning the above, contact Montrose H. Tyree, Broadcast Bureau (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 82-27213 Filed 10-1-82; 8:45am]

BILLING CODE 6712-01-M

[2]Windward Broadcasting Company participated at an earlier stage and did not file comments in response to our *Notice*.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-176]

Rail Reorganization Trustees; Organization and Delegation of Powers and Duties

AGENCY: Transportation (DOT).

ACTION: Final rule.

SUMMARY: Department of Transportation (DOT) delegates to the General Counsel of the Department the authority to recommend nominees for the position of trustee of a railroad in reorganization.

DATE: This amendment becomes effective October 4, 1982.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, (202) 426-4723.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the **Federal Register**.

The 1978 codification of the Bankruptcy Act (Pub. L. 95-598; November 6, 1978; 92 Stat. 2549) changed the procedure for selecting the trustee in a railroad reorganization. When a railroad files a petition for reorganization under Chapter 11, the Secretary of Transportation is required to submit to the court considering the petition a list of five candidates from which the court (or the United States Trustee) selects the trustee. (See 11 U.S.C. 1163, 151163) (Under prior law, the court appointed the trustee subject to confirmation by the Interstate Commerce Commission.) Since this authority relates basically to legal proceedings, it is being delegated to the General Counsel of the Department.

List of Subjects in 49 CFR Part 1

Authority delegations (government agencies), Organization and functions (government agencies).

PART 1—[AMENDED]

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended in § 1.57, by adding a new paragraph (q) at the end thereof to read as follows:

§ 1.57 Delegations to General Counsel.

The General Counsel is delegated authority to—

* * * * *

(q) Submit to the court considering a railroad's petition for reorganization under Chapter 11 of the Bankruptcy Act a list of five candidates to serve as trustee, under 11 U.S.C. 1163; and to submit such list of candidates to the appropriate United States Trustee, under 11 U.S.C. 151163.

(Sec. 9(e), Department of Transportation Act, 49 U.S.C. 1657(e))

Issued in Washington, D.C., on September 20, 1982.

Andrew L. Lewis, Jr.,

Secretary of Transportation.

[FR Doc. 82-27285 Filed 10-1-82; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Listing the Madison Cave Isopod as a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the Madison Cave Isopod (*Antrolana lira*) to be a Threatened species. This action is being taken because this species, which is restricted to a single cave and adjacent fissure in Augusta County, Virginia, is threatened by vandalism and mercury pollution. The rule provides protection to wild populations of this species.

DATE: This rule becomes effective on November 3, 1982.

ADDRESSES: Questions concerning this action may be addressed to: Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: For further information on this final rule, contact Mr. John L. Spinks, Jr., Chief, Office of Endangered Species (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

On October 6, 1980, the Service published a proposed rule in the **Federal Register** (45 FR 66410-66411) advising that sufficient evidence was on file to support a determination that the Madison Cave isopod was a Threatened species pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). That proposal summarized the factors thought to be contributing to the likelihood that the Madison Cave isopod could become Endangered within the foreseeable future. The earliest known collection of the Madison Cave isopod was made on August 23, 1958, by Dr. Thomas Barr of the University of Kentucky. The species was described and named in 1964 (*International Journal of Speleology*, Vol. 1, pp. 229-236 and plates) by Dr. Thomas E. Bowman of the Smithsonian

Institution. This species has been found only in three small pools of water in Augusta County, Virginia (Holsinger, 1979). Two of these pools are in Madison Cave and the other is in a small nearby fissure. This unique species is the only member of the genus *Antrolana*. Madison Cave has considerable historical significance. The continued existence of this species is threatened by human visitation to the cave and mercury pollution in the South River (Bolgiano, 1980). The proposed rule also specified the prohibitions which would be applicable if such a determination were made, and solicited comments, suggestions, objections, and factual information from any interested person. Included in this proposal was a summary of the status of this species.

A recent study of the Madison Cave isopod (Collins, 1982) has added much to our knowledge of the natural history of this species and confirmed the threats outlined in the Service's proposal of Threatened status for the species.

The Madison Cave isopod was proposed as a Threatened species on January 12, 1977, in a publication in the **Federal Register** (42 FR 2507–2515). That proposal was withdrawn on December 10, 1979 (44 FR 70796–70797) as a result of changes in listing procedures directed by the 1978 amendments to the Endangered Species Act. Subsequent to the withdrawal, the Service received oral communications from the owner of Madison Cave on the condition of the cave and from Dr. John Holsinger of Old Dominion University on the results of his then recent field studies. Also subsequent to the withdrawal, the Service received a report on mercury contamination of the South River (Bolgiano, 1980) which has underground connections with the pools that are the habitat of the Madison Cave isopod. This report and these communications provided significant new information on which the Services reproposal of Threatened status for the Madison Cave isopod on October 6, 1980 (45 FR 66410–66411) was based.

A letter was sent to Governor Dalton of the Commonwealth of Virginia on October 8, 1980, notifying him of the proposed rulemaking for the Madison Cave isopod. On October 6–10, 1980, letters were sent to appropriate Federal agencies, local governments and other interested parties notifying them of the proposal and soliciting their comments and suggestions. Official comments were received from the Office of the Secretary of Commerce and Resources of the Commonwealth of Virginia and the Office of the Chief of Engineers of the Department of the Army.

Summary of Comments and Recommendations

In the October 6, 1980, **Federal Register** proposed rule (45 FR 66410–66411) all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rule.

All public comments received during the period October 6, 1980, through January 5, 1981, were to be considered.

A comment from the Office of the Secretary of Commerce and Resources of the Commonwealth of Virginia, on behalf of Governor Dalton, acknowledged the receipt of the proposal and stated that it had been forwarded to the approprate State officials. No further comments were received from the State.

Office of the Chief of Engineers of the Department of the Army commented that they have no current projects in the vicinity of the Madison Cave isopod's habitat. They further state that the effect of a potential project, the Verona Dam and Lake, would be investigated should study of that potential project be reactivated. The Service responds that detrimental effects of this project, should it be reactivated, on the Madison Cave isopod or its habitat would be unlikely. The project site is on a tributary of the South Fork Shenandoah River that has little or no influence on the locality of the Madison Cave isopod.

Comments in support of listing the Madison Cave isopod as Threatened were received from Dr. John R. Holsinger of Old Dominion University and Dr. Thomas E. Bowman of the National Museum of Natural History. Dr. Holsinger agreed with the Service's decision not to designate Critical Habitat for this species. Dr. Bowman described the great scientific value of this species and emphasized the need to protect its habitat.

After a thorough review and consideration of all the available information, the Director has determined that the Madison Cave isopod (*Antrolana lira*) is Threatened throughout all or a significant portion of its range due to one or more of the factors described in Section 4(a) of the Act.

The summary of factors affecting the species, as required by Section 4(a) of the Act and published in the **Federal Register** of October 6, 1980 (45 FR 66410–1), are reprinted below.

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Unauthorized visitation to Madison Cave has resulted in trash accumulation and siltation in the pools of water that are the habitat of the Madison Cave isopod. In addition, persons standing on the steep talus banks of the pools cause the clay talus to creep into the pools (Holsinger, 1979). These factors are reducing the size and quality of the very limited habitat of this species.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable to this species.

3. *Disease or predation.* Not applicable to this species.

4. *The inadequacy of existing regulatory mechanisms.* There are no known local, State, or Federal laws that protect this species.

5. *Other natural or man-made factors affecting its continued existence.* This species is exposed to mercury contamination from the nearby South River (Bolgiano, 1980). Since the water level changes in the pools occupied by the Madison Cave isopod are correlated with those in the South River (Holsinger, 1979), there is apparently a subterranean connection between the pools and river. The original source of the mercury pollution was an E. I. du Pont de Nemours and Company factory at Waynesboro, Virginia, which is no longer active.

Critical Habitat

Designation of Critical Habitat for the Madison Cave isopod would not be prudent. A major threat to this species is visitation of Madison Cave. Designation of Critical Habitat would require publication of a map and a precise description of the locality. Advertising the location of the cave to the general public would likely increase the incidence of unauthorized visitation.

Effect of This Proposal

Regulations published in Title 50 CFR 17.31 set forth a series of general prohibitions and exceptions which apply to all Threatened animal species. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving Threatened species under certain circumstances. Regulations governing permits for animals, fish, and wildlife are found at 50 CFR 17.32.

All of these prohibitions and exceptions apply to the Madison Cave isopod through 50 CFR 17.31, except for a special rule promulgated at 50 CFR 17.46 which would allow taking of the species for scientific purposes without Federal permits.

This rule requires Federal agencies to insure that activities they authorize, fund, or carry out, are not likely to jeopardize the continued existence of the Madison Cave isopod. Provisions for Interagency Cooperation are codified at 50 CFR Part 402.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) Based on a review of information received from local landowners, the Cave Commission and State Water Control Board of the Commonwealth of Virginia, the U.S. Army Corp of Engineers, and the Farmer's Home Administration, no adverse economic effects are expected to result from this action.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

No adverse effects on small entities within the area affected by the rule have been identified and none are expected. No direct costs, enforcement costs, or information collection and recordkeeping requirements are imposed on small entities by the designation.

National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this rule. It is on file at 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours. This assessment forms the basis for a decision that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

Primary Author

The primary author of this rule is Dr. Steven M. Chambers, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

References

Bolgiano, R. W. 1980. Mercury contamination of the South, South Fork Shenandoah, and Shenandoah Rivers. Virginia State Water Control Board Basic Data Bulletin 46.

Bowman, T. E. 1984. *Antrolana lira*, a new genus and species of troglobitic cirolanid isopod from Madison Cave, Virginia. International Journal of Speleology 1:229–236.

Collins, T. L. 1982. An ecological study of the troglobitic cirolanid isopod, *Antrolana lira* Bowman, from Madisons Saltpetre Cave and Stegers Fissure, Augusta Co., Virginia.

Faust, B. 1984. Saltpetre caves and Virginia history. Econo Print, Falls Church, Virginia.

Holsinger, J. R. 1979. Freshwater and terrestrial isopod crustaceans (Order Isopoda). Proceedings of the Endangered and Threatened Plants and Animals of Virginia Conference, 1978.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammal, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subpart B of Title 50 of the Code of Federal Regulations is amended as set forth below:

§ 17.11 [Amended]

1. Section 17.11(h) is amended by adding the following, in alphabetical order under "CRUSTACEANS," to the list of animals.

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Crustaceans:							
Isopod, Madison Cave	*Antrolana lira*	U.S.A. (VA)	N/A	T	122	N/A	17.46

2. § 17.46 is amended by adding a new paragraph (a) as follows:

§ 17.46 Special rules—crustaceans.

(a) Madison Cave isopod (*Antrolana lira*).

(1) All provisions of § 17.31 (a) and (b) apply to this species except that it may be taken for scientific purposes without Federal permits issued pursuant to these regulations: *Provided,* that all other Federal, State, or local laws, regulations, ordinances or other restrictions or limitations have been complied with.

* * * * *

Dated: September 16, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-27223 Filed 10-1-82; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 23

Export of American Ginseng Taken in 1982–84 Seasons

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final findings and rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is a treaty regulating the international trade of certain wildlife and plant species. Exports of wildlife or plants listed in Appendix II of CITES may occur if a Scientific Authority has advised a permit-issuing Management Authority that such exports will not be detrimental to the survival of the speicies, and if a Management Authority is satisfied that the wildife or plants were not obtained in violation of laws for their protection. American ginseng (*Panax quinquefolius*) is listed on CITES Appendix II.

This notice announces final findings by the Scientific and Management Authorities for the United States concerning the export of American ginseng (*Panax quinquefolius*). These are final determinations on the export of specimens taken in the 1982–84 harvest seasons. Such findings are made on a State-by-State basis.

DATE: These findings are effective on October 4, 1982.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Material received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, at the Office of the Scientific Authority, room 536, 1717 H Street, N.W., Washington, D.C., or at the Federal Wildlife Permit Office, room 621, 1000 N. Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT:
Scientific Authority Findings—Mr. Joseph J. Dowhan, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653–5948.
Management Authority Findings—Mr. S. Ronald Singer, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235–2418.
Export Permits—Ms. Susan Lawrence, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C., 20240, telephone (703) 235–1903.

SUPPLEMENTARY INFORMATION: This is the last of three notices concerning the Service's findings on export of American ginseng taken in the 1982–84 seasons. The first notice (47 FR 14664–14666; April 5, 1982) announced the Service's intention to develop findings on export of specimens of ginseng and other species and invited comment on the guidelines that it proposed to use in making such findings. The second notice (47 FR 38369–38373; August 31, 1982) announced the proposed export findings for each species in a State-by-State basis. The present notice establishes final export findings for American ginseng based on current information about its population status, management, harvest, and State controls.

Information Considered

For American ginseng, the Service sought the following information in its August 31, 1982, proposal, regarding each affected State:

1. Historic, present, and potential distribution of ginseng on a county basis, using county outline maps, and indicating the source(s) and accuracy of this information. Include also the distribution of preferred habitat on a regional or Statewide basis, indicating recent trends in loss or protection of habitat.

2. Approximate number or density of ginseng populations per county or region, and the approximate number of all known ginseng localties in the State, including also the source of this information.

3. Average population size (i.e., "stand" or "patch") or local abundance of wild ginseng on a county or regional basis in the State, indicating the source(s), general reliability and accuracy of the information. Include also any changes from previous years or differences from historical population sizes.

4. An assessment of population trends on a county or regional basis indicating whether populations of ginseng are believed to be increasing, decreasing, stable, extirpated or unknown. Include source(s) and general reliability and accuracy of this information.

5. Assessment of harvest intensity on a county or regional basis indicating whether the relative intensity is heavy, moderate, light, none, or unknown, and any changes from previous years. Provide also the known or estimated number of ginseng collectors in the State.

6. A county map showing those counties in which ginseng is reported to be commercially cultivated. Include figures on the amount of cultivated ginseng reported to be harvested annually and certified for export from the State.

7. Average number of roots per pound harvested, preferably on a county or regional basis or, if these are not available, on a Statewide basis. Include also an assessment of any trend in root sizes or number of roots per pound over previous years.

8. Describe the State's current research program on ginseng and its progress, including a summary of results so far obtained.

9. Describe harvest practices, including regulations on length of harvest season, any harvest restrictions such as size and age of collected plants, and any seed planting requirements.

10. Information concerning, or a copy of, State law or regulation on: (a) State registration of dealers (cost of registration, season of operation for dealers), (b) dealer maintenance of records, (c) dealer reporting system of ginseng commerce, (d) State certification of legal ginseng take, (e) samples of 1982 dealer certificates, and (f) samples of diggers license, giving cost of license and dates of harvest season.

11. Describe State official certification system for wild and cultivated ginseng legally harvested within the State, including controls to minimize uncertified ginseng from moving into or from the State.

12. Name, address, and telephone number of the State staff person to contact concerning those information needs.

Scientific Authority Advice

American ginseng *(Panax quinquefolius)* is listed on CITES Appendix II. CITES regulates international trade in species included in Appendix II through a system of permits issued by designated Management Authorities in each party nation. Export permits are to be issued only if a Management Authority receives advice from a Scientific Authority that the export will not be detrimental to the survival of the species.

The Endangered Species Act of 1973, as amended in 1979, designates the Secretary of the Interior as both Management Authority and Scientific Authority of the United States for purposes of CITES. These functions are carried out by the Fish and Wildlife Service. Management Authority responsibilities are delegated to the Associate Director-Federal Assistance. Scientific Authority responsibilities are delegated to the Associate Director-Research.

Criteria for Scientific Authority advice were elaborated in the May 26, 1981, **Federal Register.** Advice on the export of American ginseng and other Appendix II species addressed in these findings is given in a general way, applicable to any specimens harvested in particular States in a given season, rather than on a permit-by-permit basis. The reasons for this practice are that (1) the individual exporters who apply for permits are unable to supply much information about the sources of specimens or the effect of their harvest on the populations of the species, (2) the species in question are subject to commercial exploitation, and it would be burdensome to both the industry and the Service to make separate Scientific Authority decisions on each of the many permits, and (3) the development of general advice on a State-by-State basis enables the Service to conduct a comprehensive review of the status of the species in question and the effect of international trade on its survival.

Advice based on such a review is more meaningful than it would be if it were based only on information supplied in connection with individual permit requests.

General criteria used by the Service in determining if export will not be detrimental to the survival of a species are as follows:

1. Whether similar export has occurred in the past and has not reduced the numbers or distribution of the species, nor caused signs of ecological or behavioral stress within the species, or in other species of the affected ecosystem.

2. Whether life history parameters of the species and the structure and function of its ecosystem indicate that the present frequency of export will not appreciably reduce the numbers or distribution of the species, nor cause signs of ecological or behavioral stress within the species or in other species of the affected ecosystem.

3. Whether such export is expected to increase, decrease, or remain constant in frequency.

The Service is applying these criteria in advising on whether export of ginseng will not be detrimental to the survival of the species by evaluating (1) information from each State on past, present, and potential geographic distribution, relative frequency, local abundance, population trends, and harvest intensities on a county-by-county basis, and (2) State research and management programs for this species, including a limited harvest season.

As described in the April 5, 1982, notice (47 FR 14664–14666), the Service is using information complied beginning in 1977 to justify multi-year findings under CITES. Even though multi-year findings are made, the Service will continue to monitor the status of ginseng each year, and will retain the option of revising the findings at any time if new information shows compelling reason for a change.

The OSA has determined that the export of ginseng harvested in the following States during the 1982–84 seasons will not be detrimental to the survival of the species: Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Minnesota, Missouri, North Carolina, Ohio, Tennessee, Virginia, West Virginia, and Wisconsin.

Management Authority Findings

Exports of Appendix II species are to be allowed under CITES only if a Scientific Authority has advised that they will not be detrimental to the survival of the species, and if a Management Authority is satisfied that the animals or plants were not obtained in contravention of laws for their protection.

Management Authority criteria for approval of American ginseng exports, on a State-by-State basis, are that the State has adopted the following regulatory measures: (1) State registration of dealers purchasing ginseng in the State, (2) Requirements that such dealers maintain records of their commerce in ginseng and report their ginseng commerce to the State at specified intervals, and (3) Certification by State officials of ginseng shipped from the State, to authenticate that the ginseng was lawfully taken from wild or cultivated sources within the State.

In 1980, the Service announced that the Management Authority would approve export of artificially propagated ginseng only from the States approved for export of wild-collected ginseng because they had the programs necessary to document the source of the plants (45 FR 80444; December 4, 1980). The Service is continuing this practice, but it will also approve the export of artificially propagated ginseng from other States if they can provide similar documentation to minimize the risk that wild-collected plants are exported as cultivated.

Furthermore, in the notice of August 31, 1982 (47 FR 38369–38373), the Service explained that it was strengthening the "Certification of Legal Take" requirement for ginseng moved from the State of origin. This is being done because experience has shown the value of a State official personally inspecting and certifying ginseng leaving the State of origin. It is by such an inspection of ginseng roots and records of ginseng commerce that the State official can document that the roots in question were legally taken from the wild or were artificially propagated in that State.

Recognizing that certain States might not be able to implemeant such a certification program this season, the Service will accept, for the 1982 harvest season only, other forms of State certification that were approved for the 1981 harvest season.

Beginning with the 1983 harvest season, all States seeking export approval for their wild or cultivated American ginseng will be required to have a legally mandated ginseng program that includes, among items discussed in "Information Considered", provisions for a State official to examine and certify all ginseng moved from the State of origin. This certification must include verification of the State of origin, legal taking, year of take, weight of shipment, whether wild or artificially propagated, date of certification, shipment number, dealer's State registration number, and signatures of both the dealer and State official certifying the ginseng.

It was decided to grant multi-year export approval (1982–84) only to those States having a current ginseng program that included a State inspection and certification system and otherwise now satisfied the criteria of both the Scientific and Management Authorities. Those States are Georgia, Kentucky, Minnesota, North Carolina, Vermont (artificially propagated only), and Virginia. States satisfying all criteria of both the Scientific and Management Authorities, except for the State inspection and certification system, will be granted export approval only for the 1982 season. States approved only for 1982 export may not be granted further export approval until a legally mandated ginseng program is developed. Those States are Arkansas, Illinois, Indiana, Iowa, Maryland, Ohio, Missouri, Tennessee, West Virginia, and Wisconsin.

Export Approval

The Service approves export of ginseng lawfully taken during the 1982–84 seasons in the following States, on the grounds that both Scientific Authority and Management Authority criteria have been met:

Georgia, Kentucky, Minnesota, North Carolina, Vermont (artificially propagated only) and Virginia.

The Service approves export of ginseng lawfully taken during the 1982 (only) season in the following States:

Arkansas, Illinois, Indiana, Iowa, Maryland, Ohio, Missouri, Tennessee, West Virginia, and Wisconsin.

The Service does not grant general approval for exports of American ginseng taken from any other State during the 1982–84 harvest seasons. For all other States not named above, either the taking of American ginseng is not allowed by the State during 1982–84 seasons, the species does not occur in the State, or the State did not provide the Service with information on which to base Scientific Authority and Management Authority findings. The Service does not grant general approval for international export of American ginseng from such States.

Information from States and records of the Service's evaluation of this information are available for public inspection at the Office of the Scientific Authority (for Scientific Authority advice) or at the Federal Wildlife Permit Office (for Management Authority findings).

The Service holds the view that every attempt should be made to provide the public with the greatest possible opportunity to comment on regulations. On April 5, 1982, the Service published a preliminary notice (47 FR 14664–14666) of its intent to propose findings on American ginseng and other Appendix II species taken during the upcoming harvest season, providing the largest period possible for public comment. On August 31, 1982, the Service published proposed findings (47 FR 38369–38373) for these species, limiting the comment period on ginseng to 20 days in the opinion that a longer period would be impractical and contrary to the public interest. It was also recognized that time would be of the essence to publish final findings at the close of that comment period.

The findings announced in this notice are effective immediately. It is the Service's opinion that a delay in the effective date of these regulations after this final rulemaking is published could

affect the harvest season already begun in several States and adversely impact State conservation programs for this species by, for example, reducing compliance with State certification and documentation requirements. The Service, therefore, finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

Based on a review and evaluation of information contained in the attached Environmental Impact Assessment, I have determined that the final findings on the export of American ginseng taken in the 1982–84 seasons are not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969. Accordingly, the preparation of an Environmental Impact Statement on this proposal is not required.

This rule is issued under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.;* 87 Stat. 884 as amended), and was prepared by Joseph J. Dowhan, Office of the Scientific Authority, telephone (202) 653–5948, and S Ronald Singer, Federal Wildlife Permit Office, telephone (703) 235–2418.

Note.—The Department has determined that this is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601). For ginseng, exporters normally derive their product from the ginseng harvest in a number of States. Therefore, the approval or disapproval of export from any one State would not significantly affect the industry.

List of subjects in 50 CFR 23

Endangered and threatened wildlife, Exports, Fish, Imports, Plants (agriculture), Treaties.

Accordingly, Part 23 of Title 50, Code of Federal Regulations, is amended as set forth below:

PART 23—ENDANGERED SPECIES CONVENTION

Subpart F—Export of Certain of Certain Species

1. In § 23.51, add new paragraph (e) as follows:

§ 23.51 American ginseng (*Panax quinquefolius*)

* * * * *

(e) *1982 through 1984 harvests:* Georgia, Kentucky, Minnesota, North Carolina, Vermont (artificially propagated ginseng only), and Virginia.

1982 harvest only: Arkansas, Illinois, Indiana, Iowa, Maryland, Ohio, Tennessee, Virginia, West Virginia, and Wisconsin.

Conditions on findings: Roots must be documented as to State of origin and season of collecting. Wild and artificially propagated roots must be certified by the State as legally collected and such certification must be presented upon export.

Dated: September 22, 1982.

G. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-27207 Filed 10-1-82; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 260

[Docket No. 2510-94]

Inspection and Certification; Fees and Charges

AGENCY: National Marine Fisheries Service, Commerce.

ACTION: Final Rule.

SUMMARY: This rulemaking revises the fiscal year 1982 rates for voluntary Department of Commerce fishery product grading and certification services. This increase in rates is due to increased program costs.

EFFECTIVE DATE: October 1, 1981.

FOR FURTHER INFORMATION CONTACT: Richard V. Cano, Chief, Inspection Services Branch, Seafood Research, Inspection and Consumer Services Division, National Marine Fisheries Service, Washington, D.C. 20235, Phone: (202) 634–7458.

SUPPLEMENTARY INFORMATION: On October 1, 1981, the President, by Executive Order *12330* (46 FR 50921), increased the rates of basic pay of General Schedule employees by 4.8 percent. Title 50 CFR 260.81(a) requires that the hourly rates for inspection fees automatically be increased on the effective date of the pay adjustment by an amount equal to the increase received by the average General Schedule grade level of fishery product inspectors receiving such pay increases. In addition, during the previous year this Agency has incurred added costs for increased inspector training, equipment replacement, and other administrative expenses.

This rulemaking amends the existing regulations to reflect the added costs of the fiscal year 1982 General Schedule pay increase and the additional administrative costs associated with providing fishery product grading and certification services.

Executive Order 12291

An initial determination has been made that this rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. It is anticipated that these increases will not have a significant economic effect on producers, packers and consumers.

Regulatory Flexibility Act

Since this rulemaking applies exclusively to agency contracts for fishery product inspection services, it is exempt from the notice and comment provisions and therefore, is not subject to the provisions of the Regulatory Flexibility Act.

Paperwork Reduction Act

This rulemaking does not require an additional collection of information from the public under the Paperwork Reduction Act of 1980.

Background

Pursuant to the authority vested in the Secretary of Commerce by Reorganization Plan No. 4 of 1970 (84 Stat. 2090), § 260.70 of Part 260, Inspection and Certification, is hereby amended by adjusting the rates for fees and charges to provide for the recovery of increased costs to the voluntary Fish and Fishery Products Inspection Program.

List of Subjects in 50 CFR Part 260

Food grades and standards, Food labeling, Seafood.

In § 260.70, paragraphs (b)(1), (2), (3), and (d) introductory text and table, and paragraph (d)(2) are revised as follows:

§ 260.70 Schedule of fees.

* * * * *

(b)(1) Type I—Official establishment and product inspection—contract basis:

	Per hour
Regular time	$22.45
Overtime	30.95
Sunday and legal holidays (2 hr. minimum)	38.45

The contracting party shall be charged at an hourly rate of $22.45 per hour for regular time; $30.95 per hour for overtime in excess of 8 hours per shift per day; and $38.45 per hour for Sunday and national legal holidays for service performed by inspectors at official establishment(s) operating under Federal inspection. The contracting party shall be billed monthly for services rendered in accordance with contractual provisions at the rates prescribed in this Section. Products designated in a contract will be inspected during processing at the hourly rate for regular time, plus overtime, when appropriate. Products not designated in the contract will be inspected upon request on a lot inspection basis at lot inspection rates as prescribed in this Section.

(2) Type II—Lot inspection—Official and unofficially drawn samples:

	Per hour
Regular time	$32.60
Overtime	45.60
Sunday and legal holidays (2 hr. minimum)	58.75
Minimum fee	26.70

For lot inspection services performed between the hours of 7:00 a.m. and 5:00 p.m. Monday through Friday, $32.60 per hour. For lot inspection services performed at times Monday through Friday other than 7:00 a.m. to 5:00 p.m. and on Saturdays (2 hr. minimum)—$45.60 per hour. Sunday and national legal holidays (2 hr. minimum)—$58.75 per hour. The minimum service fee to be charged and collected for inspection of any lot or lots of products requiring less than 1 hour shall be $26.70.

(3) Type III—Miscellaneous inspection and consultative services.

When any inspection or related service performed such as but not limited to initial and final establishment surveys, appeal inspections, sanitation evaluation, SIFE inspections, sampling product evaluation, and label and product specification review, requires charges to which the foregoing sections are clearly inapplicable, charges will be based on the rates set forth below:

	Per hour
Regular time	$26.10
Overtime	37.35
Sunday and legal holidays (2 hr. minimum)	48.05
Minimum fee	21.20

(i) For miscellaneous inspection and consultative services performed between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday—$26.10 per hour; for miscellaneous inspection and consultative services performed at times Monday through Friday other than 7:00 a.m to 5:00 p.m. and on Saturdays (2 hr. minimum)—$37.35 per hour.

(ii) For miscellaneous inspection and consultative services performed on Sunday and national legal holidays (2 hr. minimum)—$48.05 per hour. The minimum service fee to be charged and collected for miscellaneous inspection and consultative services requiring less than 1 hour shall be $21.20.

(d) Analytical services: Fees for various laboratory analyses are set forth below.

Type of analyses	Fee per individual analysis
Hydrogen ion concentration	$7.03
Moisture (drying method)	14.05
Fat	14.05
Protein	14.05
Salt	28.10
Mercury	14.05
Ammonia	28.10
Histamine	28.10
Extraneous materials	28.10
Bacteriological plate count	7.03
Bacteriological direct count	7.03
Yeast and mold count	7.03
Staphylococcus	14.05
Salmonella[1]:	
Step 1	14.05
Step 2	14.05
Step 3	14.05
Coliforms, fecal coliforms, *E. coli*:	
Step 1—Coliforms	7.03
Step 2—Fecal coliforms (*E. coli* presumptive)	7.03
Step 3—*E. coli* (confirmed)	7.03
Step 4—*E. coli* (complete)	7.03
Marine vibrios	14.05
Fishery products species determination	56.20

[1] Salmonella test may be in three steps as follows:
Step 1—growth through differential agars;
Step 2—growth and testing through triple-sugar-iron agars;
Step 3—confirmatory test through biochemicals.

* * * * *

(2) Fees to be charged for any analysis performed at a Government laboratory not specifically shown in this paragraph (d) will be based on the time required to perform such analyses as shown under Type III—Miscellaneous Inspection.

* * * * *

(Sec. 6, 70 Stat. 1122, 16 U.S.C. 742e; secs. 203, 205, 60 Stat. 1087, 1090 as amended; 7 U.S.C. 1622, 1624)

Dated: September 9, 1982

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-27366 Filed 10-1-82; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 651

[Docket No. 2728-142]

Atlantic Groundfish (Cod, Haddock, and Yellowtail Flounder)

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to implement the Interim Fishery Management Plan for Atlantic Groundfish (Interim Plan). This rule is essentially similar to the proposed rule and to an emergency interim rule which implemented the Interim Plan shortly after publication of the proposed rule. The Interim Plan is intended to reduce regulatory burdens on the fishery and facilitate development of a more reliable data base for making management decisions.

EFFECTIVE DATE: September 29, 1982.

ADDRESSES: Copies of the Interim Plan, the final Environmental Impact Statement, Regulatory Impact Review, and Regulatory Flexibility Analysis are available from Douglas Marshall, Exeuctive Director, New England Fishery Managment Council, Suntaug Office Park, 5 Broadway, Saugus, Massachusetts 01906.

FOR FURTHER INFORMATION CONTACT: Peter D. Colosi, Jr., Atlantic Groundfish Management Plan Coordinator, 617-281-3600.

SUPPLEMENTARY INFORMATION: The New England Fishery Management Council (Council), in consultation with the Mid-Atlantic Fishery Management Council, prepared the Interim Fishery Management Plan for Atlantic Groundfish (Interim Plan) under the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (Magnuson Act). The Assistant Administrator for Fisheries, NOAA, approved the Interim Plan on January 11, 1982, and published proposed regulations on March 11, 1982 (47 FR 10605). The notice of proposed rulemaking invited public comment on the Interim Plan and proposed regulations for 45 days. An emergency interim rule implemented the Interim Plan on March 31, 1982, (47 FR 13357) for 45 days. That rule was extended for an additional 45 days on May 15, 1982 (47 FR 20781).

The preamble of the proposed rule discussed the management measures of the Interim Plan in detail; the reader is referred to 47 FR 10605. This final rule is essentially similar to the proposed and

emergency interim rules. Minor revisions are made in response to public comments, to clarify terms, and to correct typographical errors. Changes are also made to correct the number of a NOAA form used for reporting under the optional settlement program (OSP), and to clarify the application of the percentage requirements under the OSP. The requirement for a minimum mesh size throughout the body of nets is eliminated in accordance with the Council decision to specify only a minimum mesh size for cod ends. The major substantive change is the elimination of the mandatory recordkeeping requirements for dealers and processors under § 651.5(a), consistent with the voluntary Three-Tier Fishery Information Collection System (Three-Tier System). The comments received and the agency's responses to them are discussed below.

Response to comments

Written comments were submitted by the U.S. Coast Guard, U.S. Representative Barney Frank (Massachusetts), the Government of Canada, the New Bedford Seafood Council, the New England Fishery Management Council, and the State of Maine Department of Marine Resources. Additionally, verbal comments were received from members of the fishing industry and interested citizens. All comments have been considered by the agency in producing this final rule.

Comments and responses

Comment—The New Bedford Seafood Council objected to approval of the Interim Plan, contending that it violates National Standards 1 (plans shall prevent overfishing), 2 (plans shall be based on best scientific information available), and 5 (plans shall promote efficiency in utilization of the resource).

Response—The New England Fishery Management Council has addressed the concern regarding overfishing by limiting the term of the Interim Plan to three years and by making a commitment to consider the issue of providing a "fail-safe" system or "braking" mechanism during the first two years of the Interim Plan which could be incorporated in the management measures during the third year. The National Marine Fisheries Service (NMFS) Northeast Fisheries Center scientists have indicated that they do not believe overfishing, to the extent experienced in the late 1960s and early 1970s as a result of foreign fishing, will occur within this three-year time span. Should the Council fail to develop adequate safeguards within the specified time, the Secretary has the authority to take direct action to prevent overfishing.

The Council worked directly with the Northeast Fisheries Center to obtain the best scientific information available for the development of the Interim Plan. The Council considered a wide range of alternative measures when designing the Interim Plan. The management measures chosen by the Council from among the considered alternatives were not the most stringent conservation measures, but were deemed to provide an acceptable degree of protection, based upon the best available scientific data as to the current condition of the stocks.

The concern that the Interim Plan will not promote efficiency in utilization of the resource is a reasonable one. However, the Council intentionally chose to formulate a management strategy which did not contain explicit economic objectives. The Interim Plan endorses the philosophy that, over the short term, optimal distribution of economic benefits within the fishery, and concomitant efficient utilization of the resources, is best achieved through the operation of a free-market economy. It remains to be demonstrated that this approach will not produce satisfactory economic results. From a consumer standpoint, this approach may produce highly desirable effects by providing a good supply of fish at an attractive price.

Comment—The New Bedford Seafood Council stated that specification of a minimum mesh size, as a primary management tool, is inadequate to control fishing effort, and that allowing multiple meshes on board a vessel makes the mesh size regulation impossible to enforce.

Response—Managing a fishery by relying on a minimum mesh size requirement alone has recognized weaknesses. For this reason, it is combined with minimum fish size requirements. These minimum mesh size and fish size requirements complement each other, and provide significant biological protection to the fish stocks. Although the minimum mesh size regulation alone would be difficult to enforce adequately, the minimum fish size requirement removes most incentive to violate the mesh size regulation. There is no benefit to the fisherman who uses a small-mesh net when all of the undersized fish caught will have to be discarded.

Comment—The New Bedford Seafood Council stated that the Interim Plan creates a safety hazard for fishermen since it will result in the need to increase landings to maintain income. This commenter suggests fishermen will risk longer trips, overload their vessels, and take chances by operating in hazardous weather conditions.

Response—This comment is speculative and assumes that fishing vessel captains will have to take excessive risks to earn a living. The NMFS recognizes that there are certain risks associated with fishing for groundfish; however, the regulations implementing the Interim Plan provide no greater reason for risk-taking than did the regulations implementing the original groundfish fishery management plan, nor do any of the Interim Plan's provisions encourage vessel operators to assume greater risks in the operation of their vessels. It is the position of NMFS that the primary responsibility for the safe operation of a vessel rests with the vessel master.

Comment—The Canadian Government contended that the minimum fish size limits will have an impact on international trade, and it would therefore be appropriate for the regulations to include a waiver of this requirement for imports. The Canadian Government stated that it did not consider the imposition of size limits to be a practical problem, but rather one of principle in the context of U.S. obligations under the United Nations Governing Agreement on Tariffs and Trade (GATT).

Response—The size limit requirement is an essential conservation measure of the Interim Plan. It is, therefore, vital to the integrity of the management system that no exceptions be made to the prohibition on the possession of undersized fish. Any exception could seriously weaken the enforcement of the conservation and management measures of the Interim Plan.

The Council gave serious consideration to the potential impact on international trade of the enforcement of the minimum fish size requirements by possession prohibition. The Council determined that the application of minimum fish size requirements to imported fish would pose no practical problem, primarily because of the product form of most fish when they are marketed in international trade. Since implementation of the minimum size requirement by emergency regulations, the Government of Canada has been unable to identify any practical problems for their products. The NMFS believes this provision to be consistent with U.S. obligations under GATT and further acknowledges the statement of the Government of Canada that application of this measure imposes no practical constraint on international

trade. For these reasons, the regulations have not been changed.

Comment—The wording of the definition of *recreational fishing vessel* could allow commercial vessels to claim recreational status and thereby take cod and haddock below commercial size.

Response—The definition has been changed to correct this. However, because cod and haddock below 17 inches in length could not be sold, there would be little incentive to catch them.

Comment—One commenter recommended a clarification of § 651.23(a), Minimum fish size specification, as it pertains to the sale of undersize cod and haddock (17") by recreational fishermen.

Response—By definition, groundfish which are sold cannot have been caught by "recreational fishing" as final regulations provide that "recreational fishing means fishing for groundfish with hand-held gear for any use except sale." Thus any groundfish which is sold must meet the minimum fish size specified for commercial fish in § 651.23, or its sale or purchase is prohibited under § 651.7. Thus no change in the regulations is necessary.

Comment—One commenter suggested that the words "enrolled and" should be removed from the definition of *vessel of the United States*, to clarify the definition and conform it with definitions in other regulations.

Response—The proposed change has been made. Proposed amendments to the Magnuson Act address this definition. The amendments, if adopted, will apply to all regulations and any other affected regulations will be modified.

Comment—The term "cod end" should be defined and read . . . "the terminal portion of an otter trawl, pair trawl, beam trawl, Scottish seine or mid-water trawl in which the catch is normally retained."

Response—This definition has been added to § 651.2.

Comment—The phrase "for a fee" should be added at the end of the definition of *charter and party boats* to make the meaning clear.

Response—This addition has been made § 651.2.

Comment—The phrase "with hand-held gear" should be added to the definition of *recreational fishing* to avoid confusion.

Response—This change has been made in § 651.2.

Comment—The regulations should state that special provisions of the vessel permits previously in effect which provided for use of small-mesh nets are no longer valid.

Response—Appropriate wording has been included in § 651.4(a), Vessel permits.

Comment—The reporting requirements for dealers in § 651.5, Recordkeeping and reporting requirements, should apply only to groundfish.

Response—The mandatory recordkeeping requirment for fish dealers and processors under § 651.5(a) has been deleted. The Interim Plan adopts the NMFS voluntary Three-Tier Fishery Information Collection System. The Three-Tier System does not contain this mandatory data collection element. Section 651.5 is reserved pending full implementation of the Three-Tier System.

Comment—Under § 651.6, Vessel identification, the clarification should be made that numerals should contrast with the background, not each other.

Response—The appropriate change has been made.

Comment—The Coast Guard suggested that under § 651.8(b), Signals, language should be added to explain alternate communication methods outlined in the International Code of Signals, should normal radio or telephone methods be ineffective. Also §651.8(c), Boarding, should be amended to reflect current practices more accurately and to accomodate fishermen.

Response—Wording suggested by the Coast Guard has been included.

Comment—The change to a 5-½ inch minimum mesh size requirement should be effective March 31, 1983, and not January 1, 1983, because the intent of the Council was to increase the permissible mesh size after one year of plan implementation.

Response—This correction has been made.

Comment—The regulations should not prohibit the use of midwater gear with small-mesh nets in the large-mesh area.

Response—Section 806, page 92, of the Interim Plan specifies that minimum mesh size requirements in effect for the large-mesh area apply to midwater gear. Therefore, this provision in the rules cannot be changed without an amendment to the Interim Plan.

Comment—One commenter stated that allowing smaller mesh in the body of the net than that required in the cod end could cause fishermen to shorten cod ends, so that they would be catching groundfish with less than legal-size mesh. The commenter suggested that a requirement for uniform mesh size throughout the trawl would solve this problem. However, comment received from the Council recommended that the requirement for 4-½ inch mesh size for the body of the trawl net be deleted from the final rule. The Council determined that there are many variations in trawl net designs; some have uniform mesh throughout while others use a graduated mesh size from the mouth to the taper of the net. Many other variations are commonly used. Normally, fishermen determine how small a mesh size to use in the body of the net based on the towing efficiency. Below a certain mesh size, depending upon the vessel, the operating efficiency of the vessel will decrease. The Council concluded that it is unlikely that any fisherman would use a mesh in the body of the net smaller than the 4-½ inch size, and thus it is unnecessary to include this requirement.

Response—The NMFS believes the minimum fish size requirements effectively nullify any advantage to be gained by fishing in an unconventional manner. The intended effect of the management measures is to reduce incentives for fishermen to harvest small fish. The NMFS notes that no unusual practices, such as shortening of cod ends, have been observed since implementation of the Interim Plan by emergency regulation. The added constraint of towing efficiency, noted by the New England Council, leads NMFS to agree that to require 4-½ inch mesh for the body of trawl nets is unnecessary. Therefore, this requirement is not in the final rule.

Comment—The Coast Guard recommended that use of chafing gear or net strengtheners on the cod ends of trawls be prohibited. The Council's intent was to allow chafing gear, but only if it would not obstruct or diminish the effective mesh size of the cod end.

Response—Appropriate wording clarifying the Council's intent on chafing gear limitations has been included in § 651.20(d), Large-mesh area and gear limitations.

Comment—The coordinates for Closed Area 1 in § 651.21, Closed areas, are incorrect.

Response—The coordinates demarcating Closed Area 1 were in error in the Interim Plan as first submitted by the Council, and in the proposed and emergency rules. The NMFS corrected the error in the emergency interim rule with publication of the corrected coordinates in the **Federal Register** on May 4, 1982 (47 FR 19151), a newsletter also publicized the corrected coordinates. The correct coordinates for Closed Area 1 are printed in these final regulations.

Comment—The metric equivalent of the 1.8 inch hook size exception for

Closed Area 1 should appear in the regulations.

Response—This has been inserted in § 651.21(b)(1).

Comment—The New England Council recommended that "landings" rather then "catch" be used as the basis for computing percentages in the optional settlement program. The Coast Guard recommended using "total catch" as the basis for such percentages as a means to prevent discards.

Response—The NMFS believes that to attempt to prevent discarding by basing percentages on "total catch" would be ineffective. Some discarding of undersized fish, or those taken in excess of allowed percentages, is inevitable because of the mixed species nature of the resource, and the nature of groundfish trawling operations. It is unrealistic to expect fishermen to invest valuable fishing time in order to inventory their catch of non-marketable fish. Such a requirement would not be cost-effective, would be unduly burdensome, and would probably encourage false reporting.

An important element of the Interim Plan's management strategy is to minimize discarding. A fisherman who knows that he cannot market undersized fish will be discouraged from setting on undersized fish. A fisherman in the optional settlement program cannot market cod, haddock, or yellowtail flounder in excess of the allowed percentages, and will be discouraged from fishing where cod, haddock, and yellowtail flounder are plentiful; minimization of discarding will result. The incentive to use the optional settlement program only for its intended purpose—to permit an exception to the mesh size requirement for the legitimate pursuit of small-mesh species—is enhanced by the percentage limits. However, the NMFS agrees with the Council that, as monitoring of catches will generally take place at dockside, there is no reason to attempt to distinguish "catch" from "total landings" as the basis for computing percentage limits. Therefore, the term "catch" is changed to "landings" in § 651.22 (e)(1) and (e)(2).

Comment—The Coast Guard requested that vessels operating under the optional settlement program be required to maintain a running "Fishing Vessel Record," available for inspection upon boarding. The New England Council objects to the "resurrection" of the logbook requirement.

Response—When the Director, Northeast Region, NMFS (Regional Director), agreed to establish an optional settlement program to permit pursuit of legitimate small-mesh fisheries in the large-mesh area, it was made clear that a mandatory catch-reporting system would necessarily be a part of that program. Consistent with the overall commitment of the Interim Plan to reduce burdensome recordkeeping—which often provoked non-compliance in the past—a "logbook" system was not included in the Interim Plan's management measures. Moreover, a logbook record would not be of practical value in enforcing the optional settlement program. Weighing fish on board enforcement vessels is virtually impossible. Further, enforcement officers cannot determine at sea what a vessel's total catch of various species will be during an optional settlement program participation period. The NMFS expects that the Coast Guard's primary enforcement efforts will be in monitoring mesh area and size requirements, and spawning area closures. The mandatory reporting requirements were deliberately kept as simple as possible. NOAA Form 88–154 was approved for mandatory collection by the Office of Management and Budget (OMB), and has been printed on the back of the optional settlement agreement form. The NMFS' experience during the period of emergency regulations indicates that this reporting system is not burdensome to the fishermen and no adverse comments were received. No change in this section is made in the final regulations except to correct the number of the NOAA form used for the mandatory reporting and to indicate correctly that the landing limitation on groundfish is no more than 15 percent of the total landings.

Comment—One commenter stated that the use of small-mesh gear under the optional settlement program will lead to excessive discards of small groundfish. The failure to require mandatory reporting of discards will result in an incomplete picture of fishing mortality.

Response—As stated above, the NMFS and the Council believe the most effective way to deal with the problem of discards is to remove the incentive to catch small groundfish. In addition, the NMFS uses several sources of information, other than fishermen's records, to make determinations about fishing mortality and the status of the resource. Moreover, if fishermen were capturing excessive numbers of small groundfish under a mandatory discard-reporting system, it is highly unlikely that they would report such discards willingly or accurately for fear of further regulation.

Comment—One commenter questioned the wisdom of allowing vessels not in the optional settlement program to have small-mesh nets on board; it was thought that such vessels may use small-mesh gear if enforcement efforts are low.

Response—The New England Council voted to allow vessels to keep nets of various mesh sizes on board after considering the diversity of legitimate fishing practices by domestic fishermen. This was an issue specifically considered by the Council and resolved by formal Council vote in the process of adopting the Interim Plan. Consequently, this provision in the regulations remains unchanged.

Comment—One commenter suggested that the minimum participation period for the optional settlement program be reduced from a minimum of 30 days to 2 weeks, as the longer the participation period, the more difficult it is to calculate and remain within allowed landing percentages. With a shorter participation period, discarding of groundfish toward the end of a declared optional settlement period would be minimized. Costal fishermen from Maine and the Maine Department of Marine Resources commented that the minimum 30-day participation period is too inflexible for their fishing operations, and makes it impossible to stay within the 15 percent maximum groundfish limitation or the 50 percent minimum reguirement for listed small-mesh species. The State of Maine suggested that fishermen be released from the optional settlement program requirements by a telephone call declaring their intent to carry only large mesh on board, rather than smaller or multiple mesh sizes. The State of Maine and the Commonwealth of Massachusetts added that, ideally, the latitude to change from small to large mesh daily, or even within a trip, is preferable. The operators of several offshore trawlers from Massachusetts noted the inflexibility of the 30-day minimum. Some offshore vessel fishermen suggested that they be permitted to withdraw from the program by radioing their fishing position and declaring their intent to change to large mesh. The comments of the Council also supported a shorter minimum period, and stated that the Council's intent was to impose a turn-around time for entry to and exit from the program that is as brief as possible.

Response—The NMFS agrees that the 30-day minimium participation period may be burdensome in light of fishing practices and the rapidly changing availablility of the different species. The objective of the NMFS is to allow fishermen as much flexibility as possible to pursue small-mesh species or to

withdraw from the optional settlement program, without eroding the effectiveness and enforceability of the large-mesh area. The NMFS considered all suggestions and a number of alternatives. Suggestions that the participation period be ended by telephone or radio communication of intent to change to large mesh were not adopted, as monitoring of participation and withdrawal would be impossible and the possibilities for abuse of the program would be increased. The NMFS believes that the balance between control and flexibility is best achieved by shortening the 30-day minimum participation period to a 7-day minimum period. With this revision, a vessel could enter the optional settlement program for as few as 7 days. The shorter participation period should facilitate compliance with the 15 percent groundfish landing allowance because fishermen can better estimate their total landings over a 7-day period. Also, if fishing or market conditions should change, making groundfish a highly desirable directed fishery, fishermen would have no longer than 7 days to wait before they could redirect their fishing effort. The six-month maximum participation period still applies.

Two other revisions have been made in the regulations in addition to those made in response to public comments. First, § 651.20(a) is revised to correct improper labeling of the paragraph subdivision. Second, a reference is added in § 651.1, to the consultative role of the Mid-Atlantic Fishery Management Council during development of the Interim Plan.

Classification

The NOAA Administrator determined on March 11, 1982 (47 FR 10605) that these regulations are non-major under Executive Order 12291 but that they will have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. These regulations were reviewed by OMB under proposed rulemaking on March 11, 1982, and subsequently implemented for two consecutive 45-day periods under emergency interim rulemaking (47 FR 13357 and 47 FR 20781). This final rulemaking implements these regulations for the effective period of the Interim Plan, unless otherwise amended.

A final Regulatory Impact Review (RIR) was prepared to describe the economic impacts and reporting requirements of the selected and alternative regulatory options. The RIR also incorporates the final Regulatory Flexibility Analysis (RFA) describing the expected impact of the regulations on small entities. Comments received on the draft RIR were considered in preparing the final RIR. The preamble to the proposed regulations incorrectly stated that the final RFA would be published with the final regulations. Notice is hereby given that copies of the final RIR (containing the final RFA) are available from the New England Fishery Management Council at the address above.

In accordance with the National Environmental Policy Act (NEPA), draft and final environmental impact statements were prepared and filed with the Environmental Protection Agency (EPA). The draft Environmental Impact Statement was filed on November 13, 1982; public comments were received until January 4, 1982. The final Environmental Impact Statement (FEIS) was filed with the EPA on June 11, 1982. The FEIS is also available to the public from the New England Fishery Management Council.

The Assistant Administrator for Fisheries, NOAA, finds that good cause exists to waive the 30-day delayed effectiveness period prescribed by the Administrative Procedure Act. To postpone the effective date of the final regulations until expiration of the delayed effectiveness period would cause an excessive interruption between expiration of the emergency interim rule and the effective date of final regulations. For this reason, the Assistant Administrator has found that it would be contrary to the public interest to delay implementation of these regulations.

Collection of fishery data reported voluntarily under the Three-Tier System will use NOAA form 88–30 which has been approved by the Office of Management and Budget (OMB); the OMB approval number is 0648–0013. There is a minimum amount of mandatory recordkeeping which constitutes "collection of information" under the Paperwork Reduction Act. Fishermen operating in the optional settlement program are required to report landings during their participation in the program. NOAA form 88–154 will be used for this purpose. It has been approved under OMB number 0648–0013.

List of Subjects in 50 CFR 651

Fish, Fisheries, Reporting requirements.

Dated: September 29, 1982.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, Part 651 of Title 50 of the Code of Federal Regulations is revised as set forth below:

PART 651—ATLANTIC GROUNDFISH (COD, HADDOCK, AND YELLOWTAIL FLOUNDER)

Subpart A—General Provisions

Sec.

651.1 Purpose and scope.
651.2 Definitions.
651.3 Relation to other laws.
651.4 Vessel permits.
651.5 Recordkeeping and reporting requirements. (Reserved)
651.6 Vessel identification.
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651.9 Penalties.

Subpart B—Management Measures

651.20 Large-mesh area and gear limitations.
651.21 Closed areas.
651.22 Optional settlement program.
651.23 Minimum fish size.

Authority: 16 U.S.C. 1801 et seq.

Subpart A—General Provisions

§ 651.1 Purpose and scope.

The regulations in this Part govern fishing for groundfish by fishing vessels of the United States within that portion of the Atlantic Ocean over which the United States exercises fishery management authority. These regulations implement the Interim Fishery Management Plan for Atlantic Groundfish prepared and adopted by the New England Fishery Management Council, in consultation with the Mid-Atlantic Fishery Management Council, and approved by the Assistant Administrator.

§ 651.2 Definitions.

Some definitions in the Magnuson Act have been repeated here to aid understanding of the regulations. In addition to the terms defined in the Magnuson Act, the terms used in this Part shall have the following meanings:

Areas of custody means any vessels, buildings, vehicles, piers or dock facilities where goundfish may be found.

Assistant Administrator means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administraton (NOAA), Department of Commerce, 3300 Whitehaven Street, N.W., Washington, D.C., 20235, or a designee.

Authorized Officer means:

(1) Any commissioned, warrant, or petty officer of the United States Coast Guard;

(2) Any Special Agent of the National Marine Fisheries Service;

(3) Any officer deputized by the head of any Federal or State Agency which

has entered into an agreement with the Secretary and the Commandant of the United States Coast Guard to enforce the provisions of the Magnuson Act; or

(4) Any United States Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (1) of this definition.

Catch, take, or harvest includes, but is not limited to, any activity which results in killing any fish, or bringing any live fish on board a vessel.

Charter and party boats means vessels carrying fishing parties on a per capita basis, or by charter for a fee.

Cod end means the terminal portion of an otter trawl, pair trawl, bean trawl, Scottish seine or mid-water trawl in which the catch is normally retained.

Fishery Conservation Zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea is measured.

Fishing means any activity other than scientific research activity conducted by a scientific research vessel, which involves:

(1) The catching, taking, or harvesting of fish;

(2) The attempted catching, taking, or harvesting of fish;

(3) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(4) Any operations at sea in support of, or in preparation for, any activity described above.

Fishing vessel means any vessel, boat, ship or other craft which is used for, equipped to be used for, or of a type which is normaly used for: (a) Fishing; or (b) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Groundfish means any cod (*Gadus morhua*), haddock (*Melanogrammus aeglefinus*), or yellowtail flounder (*Limanda ferruginea*).

Land means to begin offloading fish, to offload fish, or to arrive in port with the intention of offloading fish.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801–1882.

Official number means the documentation number issued by the United States Coast Guard or the certificate number issued by a State or the Coast Guard for undocumented vessels in accordance with the Federal Boating Safety Act of 1971.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(1) Any person who owns that vessel in whole or in part;

(2) Any charterer of the vessel, whether bareboat, time, or voyage;

(3) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel; or

(4) Any agent designated as such by any person in paragraph (1), (2), or (3) of this definition.

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Recreational fishing means fishing for groundfish with handheld gear for any use except sale.

Recreational fishing vessel means any vessel from which no fishing other than recreational fishing is conducted. Party and charter boats are not considered recreational fishing vessels.

Regional Director means the Regional Director, Northeast Region, National Marine Fisheries Service, NOAA, or a designee.

Secretary means the Secretary of Commerce or a designee.

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any fishery regulated under the Magnuson Act.

Vessel of the United States means:

(1) Any vessel officially documented or numbered by the U.S. Coast Guard under U.S. law; or

(2) Any vessel under five net tons, which is registered under the laws of any State.

§ 651.3 Relation to other laws.

Fishing for herring, squid, mackerel and butterfish, which is affected by these regulations, is also governed by other domestic regulations under Chapter VI, Title 50 of the Code of Federal Regulations.

§ 651.4 Vessel permits.

(a) *General.* Any vessel of the United States fishing for groundfish, except recreational fishing vessels, must have a permit required by this Part on board the vessel. The special provisions for the use of small mesh nets contained in some permits issued prior to March 31, 1982, are no longer valid.

(b) *Application.* (1) An application for a fishing vessel permit for the groundfish fishery must be submitted and signed by the vessel owner on an appropriate form which may be obtained from the Regional Director. The application must be submitted to the Regional Director prior to the date on which the applicant desires to have the permit made effective.

(2) Applicants must provide all of the following information:

(i) The name, mailing address, and telephone number of the applicant and the vessel's master;

(ii) The name of the vessel;

(iii) The vessel's official number;

(iv) The home port, gross tonnage, and net tonnage of the vessel;

(v) The engine horsepower of the vessel;

(vi) The approximate fish-hold capacity of the vessel in pounds;

(vii) The type and quantity of fishing gear used by the vessel; and

(viii) The size of the crew, which may be stated in terms of a range.

(c) *Issuance.* (1) Upon receipt of a completed application, the Regional Director will issue a permit within 30 days.

(2) Upon receipt of an incomplete or improperly executed application, the Regional Director will notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within ten days following the date of notification, the application will be considered abandoned.

(d) *Expiration.* A permit expires when the owner or name of the vessel changes.

(e) *Duration.* A permit is valid until it expires or is revoked, suspended, or modified under 50 CFR Part 621.

(f) *Alteration.* Any permit which has been altered, erased, or mutilated is invalid.

(g) *Replacement.* Replacement permits may be issued. An application for a replacement permit will not be considered a new application.

(h) *Transfer.* Permits issued under this Part are not transferable or assignable. A permit is valid only for the vessel for which it is issued.

(i) *Display.* Any permit issued under this Part must be carried on board the fishing vessel at all times. The permit must be prominently displayed for inspection in the pilot house of the vessel, or in another appropriate place.

(j) *Revocation.* Subpart D of 50 CFR Part 621 governs the imposition of

sanctions against a permit issued under this Part. As specified in Subpart D, a permit may be revoked, modified, or suspended if the vessel for which the permit is issued is used in the commission of an offense prohibited by the Magnuson Act or by this Part; or if a civil penalty or criminal penalty imposed under the Magnuson Act is not satisfied.

(k) *Fees.* No fee is required for any permit under this Part.

(l) *Change in application information.* Any change in the information specified in paragraph (b) of this section must be reported to the Regional Director within 15 days of the change.

(m) *Optional settlement program.* Any permit holder may request entry into the optional settlement program (§ 651.22) by telephoning 617–281–4454. The permit holder must give his/her name, permit number, and the starting and ending dates for participation in the program.

§ 651.5 Recordkeeping and reporting requirements. [Reserved]

§ 651.6 Vessel identification.

(a) *Official number.* Each fishing vessel subject to this Part over 25 feet in length must display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from above.

(b) *Numerals.* The official number must be permanently affixed to each vessel subject to this Part. Numbers must contrast to the background and be in block Arabic numerals at least 18 inches in height for vessels over 65 feet, and at least 10 inches in height for all other vessels over 25 feet in length. The length of a vessel, for purposes of this section, shall be that length set forth in U.S. Coast Guard or State records.

(c) *Duties of operator.* The operator of each vessel subject to this Part shall:

(1) Keep the vessel name and official number clearly legible and in good repair; and

(2) Ensure that no part of the vessel, its rigging, its fishing gear, or any other object obstructs the view of the official number from an enforcement vessel or aircraft.

(d) *Nonpermanent markings.* Vessels carrying fishing parties on a per capita basis or by charter must use markings that meet the above requirements, except for the requirement that they be affixed permanently to the vessel. The nonpermanent markings must be displayed in conformity with the above requirements when the vessel is fishing for groundfish.

§ 651.7 Prohibitions.

It is unlawful for any person to:

(a) Fish within the large-mesh area specified in § 651.20(a) with nets smaller than the minimum size specified in § 651.20(b) or (c), unless the vessel is registered in the optional settlement program established under § 651.22;

(b) Fish in either area specified in § 651.21 during a period in which that area is closed, unless allowed by that section;

(c) While fishing in closed areas I or II, employ any modification to any gear that would, in effect, make it possible to fish for groundfish;

(d) Retain on board, land, or possess any groundfish smaller than the minimum sizes specified in § 651.23.

(e) Use any vessel, other than a recreational fishing vessel, for taking, catching, harvesting, or landing any groundfish unless the vessel has a valid permit required under this Part, and the permit is aboard the vessel;

(f) Fail to report to the Regional Director, within 15 days, any change in the information contained in a permit application for a vessel;

(g) Falsify or fail to make, keep, or maintain any record or report required by this Part;

(h) Refuse to permit an Authorized Officer to make inspections, to inspect or copy any record relating to the taking, catching, harvesting, landing, purchase, or sale of any groundfish;

(i) Make any false statement, oral or written, to an Authorized Officer, concerning the taking, catching, harvesting, landing, purchase, sale, or transfer of any fish;

(j) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, or export any groundfish taken in violation of the Magnuson Act, this Part, or any other regulation promulgated under the Magnuson Act;

(k) Fail to affix and maintain permanent or nonpermanent markings as required by § 651.6;

(l) Refuse to permit an Authorized Officer to board a fishing vessel, or to enter areas of custody, subject to such person's control, for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this Part, or any other regulation promulgated under the Magnuson Act;

(m) Forcibly assault, resist, oppose, impede, intimidate, or interfere with any Authorized Officer in the conduct of any inspection or search described in paragraph (l) of this section;

(n) Resist a lawful arrest for any act prohibited by this Part;

(o) Interfere with, delay, or prevent by any means the apprehension or arrest of another person, with the knowledge that such other person has committed any act prohibited by this Part;

(p) Interfere with, obstruct, delay, or prevent by any means the lawful investigation or search in the process of enforcing the Magnuson Act;

(q) Fail to comply with enforcement and boarding procedures specified in § 651.8;

(r) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested fish to any foreign fishing vessel within the FCZ unless the foreign vessel has been issued a permit which authorizes the receipt by such vessel of U.S.-harvested fish of the species concerned;

(s) Violate any provision of the optional settlement program specified in § 651.22; or

(t) Violate any other provision of this Part, the Magnuson Act, or any other regulation promulgated under the Magnuson Act.

§ 651.8 Enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this Part shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, and catch for purposes of enforcing the Magnuson Act and this Part.

(b) *Signals.* Upon being approached by a U.S. Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Magnuson Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The VHF–FM radiotelephone is the normal method of communicating between vessels. However, visual methods or loudhailer may also be used. The following signals extracted from U.S. Hydrographic Office Publication, H.O. 102 International Code of Signals may be communicated by flashing light or signal flags:

(1) "L" means "You should stop your vessel instantly."

(2) "SQ3" means "You should stop or heave to; I am going to board you."

(3) "AA AA AA etc.," means "call to an unknown station or general call." The operator should respond by identifying his vessel by radio, visual signals, or by illuminating his official number.

(4) "RY–CY" means "you should proceed at low speed. A boat is coming to you."

(c) *Boarding.* The operator of a vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way so as to permit

the Authorized Officer and the boarding party to come aboard;

(2) Provide a ladder, illumination, and a safety line when necessary or requested by the Authorized Officer to facilitate boarding and inspection; and

(3) Take such other actions as the Authorized Officer deems necessary to ensure the safety of the Authorized Officer and the boarding party and to facilitate the boarding.

§ 651.9 Penalties.

Any person or fishing vessel found to be in violation of this Part will be subject to the civil and criminal penalty provisions and forfeiture provisions of the Magnuson Act, and to Parts 620 (Citations) and 621 (Civil Procedures) of this title, and other applicable Federal law.

Subpart B—Management Measures

§ 651.20 Large-mesh area and gear limitations.

(a) The mesh sizes stated in paragraphs (b) and (c) of this section will apply to all vessels fishing within an area, which is bounded by straight lines (rhumb lines) connecting the following coordinates in the order stated:

(1) The point at which a line drawn on 69° 20′W longitude intersects the outer boundary of the territorial sea;

(2) 43° 40′N. latitude, 69° 20′W. longitude;

(3) 43° 40′N. latitude, 69° 40′W. longitude;

(4) 41° 50′N. latitude, 69° 40′W. longitude;

(5) 41° 50′N. latitude, 69° 30′W. longitude;

(6) 41° 40′N. latitude, 69° 30′W. longitude;

(7) 41° 40′N. latitude, 69° 20′W. longitude;

(8) 41° 30′N. latitude, 69° 20′W. longitude;

(9) 41° 30′N. latitude, 68° 40′W. longitude;

(10) 41° 40′N. latitude, 68° 40′W. longitude;

(11) 41° 40′N. latitude, 68° 30′W. longitude;

(12) 41° 50′N. latitude, 68° 30′W. longitude;

(13) 41° 50′N. latitude, 68° 10′W. longitude;

(14) 42° 00′N. latitude, 68° 10′W. longitude;

(15) 42° 00′N. latitude, 67° 40′W. longitude;

(16) 42° 10′N. latitude, 67° 40′W. longitude;

(17) 42° 10′N. latitude, 66° 00′W. longitude;

(18) 41° 09′N. latitude, 66° 00′W. longitude;

(19) 41° 00′N. latitude, 67° 00′W. longitude;

(20) 40° 50′N. latitude, 67° 00′W. longitude;

(21) 40° 50′N. latitude, 67° 40′W. longitude;

(22) 40° 30′N. latitude, 67° 40′W. longitude;

(23) 40° 30′N. latitude, 70° 00′W. longitude;

and the point where a line drawn on 70° 00′W. longitude intersects the outer boundary of the territorial sea south of Nantucket Island. The shoreward boundary of the large-mesh area is the outer boundary of the territorial sea.

(b) *Trawl nets.* Except as provided for in § 651.22, the minimum mesh size for any trawl net or scottish seine used by a vessel fishing in the large-mesh area described in paragraph (a) of this section is 5½ inches in the cod end until March 31, 1983. Beginning on March 31, 1983, the minimum cod end mesh size will be 5½ inches.

(c) *Gill nets.* Except as provided for in § 651.22, the minimum mesh size for any gill net used by a vessel fishing in the large-mesh area described in paragraph (a) of this section is 5½ inches.

(d) *Mesh measurements.* (1) Cod end mesh sizes are measured when wet after use by a wedge-shaped gauge having a taper of two centimeters in eight centimeters and a thickness of 2.3 millimeters, inserted into the meshes under pressure or pull of five kilograms. The mesh size will be the average of the measurements of any series of 20 consecutive meshes. The mesh in the cod end will be measured at least 10 meshes from the lacings, beginning at the after-end and running parallel to the long axis.

(2) No fishing vessel may use any means or device, including, but not limited to, chafing gear, liners, or double nets, if it would obstruct the meshes of the cod end or otherwise diminish the size of the meshes of the cod end. However, canvas, netting, or other material may be attached to the underside of the cod end to reduce wear and prevent damage. Net strengtheners may be attached to the cod end of trawl nets, providing such net strengtheners consist of mesh material similar to the material of the cod end and have a mesh size of at least twice the authorized minimum mesh size.

§ 651.21 Closed areas.

(a) *General.* Except as allowed by paragraph (b) of this section, no person may fish within the following areas during the months of March, April, and May:

(1) An area known as Closed Area I, bounded by straight lines (rhumb lines) connecting the following coordinates in the order stated:

(i) 41° 50′N. latitude, 69° 40′W. longitude;

(ii) 40° 53′N. latitude, 68° 58′W. longitude;

(iii) 41° 35′N. latitude, 68° 30′W. longitude;

(iv) 41° 50′N. latitude, 68° 45′W. longitude;

(v) 41° 50′N. latitude, 69° 40′W. longitude;

(2) An area known as Closed Area II bounded by straight lines connecting the following coordinates in the order stated:

(i) 42° 20′N. latitude, 67° 00′W. longitude;

(ii) 41° 15′N. latitude, 67° 00′W. longitude;

(iii) 41° 15′N. latitude, 65° 40′W. longitude;

(iv) 42° 00′N. latitude, 65° 40′W. longitude;

(v) 42° 20′N. latitude, 66° 00′W. longitude;

(vi) 42° 20′N. latitude, 67° 00′W. longitude;

(b) *Exceptions.* Paragraph (a) of this section does not apply to:

(1) Longline vessels that fish in Closed Area I with hooks having a gape of not less than 1.18 inches (30 mm).

(2) Vessels that fish in Closed Area I or II using only the following fishing gear:

(i) Pot gear designed and used to take lobsters; or

(ii) Dredges designed and used to take scallops.

§ 651.22 Optional settlement program.

(a) *General.* The Regional Director will establish and implement an optional settlement program to allow fishing vessels to engage in legitimate small-mesh fisheries within the large-mesh area defined in § 651.20(a). The Regional Director will maintain a list of small-mesh species to which the optional settlement program applies. He may add a species to the list if he finds that fishing for that species requires small-mesh gear and does not result in a significant harvest of groundfish. Notice of addition to the list will be mailed to all permit holders.

(b) *Entry.* (1) Any person holding a valid Federal groundfish permit may apply to fish under the optional settlement program by following the procedures set forth in § 651.4(m).

(2) The period of participation must be for at least 7 days, but not longer than six months. There is no limit on the number of times a vessel can apply to participate in the optional settlement program.

(c) *Certification.* (1) The Regional Director may certify in writing the entry of the applicant into the optional settlement program. Entry may be denied to an applicant based upon previous violations of the Magnuson Act or these regulations. Any applicant denied entry into the optional settlement program may request a hearing. The hearing will be conducted in accordance with the procedures of 50 CFR 621.56. Mail requests to the Assistant Administrator for Fisheries, NMFS, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

(2) Entry of the applicant into the optional settlement program cannot occur until the applicant receives written certification from the Regional Director.

(d) *Commencement of fishing.* Fishing under the optional settlement program may begin after the applicant has received the certification from the Regional Director, provided that a copy of the certification is retained on board the vessel and displayed for inspection in the pilot house of the vessel, or in another appropriate place.

(e) *Limitations.* (1) During the participation period, the total landings of a participating vessel must be at least 50 percent by round weight of the species on the Regional Director's list under § 651.22(a).

(2) During the participation period, a participating vessel may not land groundfish in quantities exceeding 15 percent of its total landings. This means that the combined total landings of cod, haddock, and yellowtail flounder cannot exceed 15 percent of the vessel's total landings, regardless of the area of the Northwest Atlantic in which they were caught.

(3) The Regional Director may increase this allowed percentage of combined cod, haddock, and yellowtail flounder landings by publication in the **Federal Register** if he finds that a different percentage is necessary to conduct the small-mesh fisheries.

(f) *Recordkeeping and reporting.* Within one week from the expiration of the participation period or withdrawal from the program under paragraph (g), or receipt of a notice of revocation under paragraph (h), the participant shall mail or deliver to the Regional Director a NOAA Form 88–153 "Fishing Vessel Record" listing, in pounds, all fish landed during the participation period. The participant shall maintain landing records throughout the participation period, and, if requested, shall present such records to any Authorized Officer within a reasonable time, not to exceed two working days.

(g) *Expiration or withdrawal.* Participation in the program expires at the end of the participation period specified by the participant under § 651.4(m), or when the owner or vessel name changes, or when a participant who has been duly operating in the program for at least 7 days notifies the Regional Director of his/her intent to withdraw from the program. Such withdrawal will be effective when the participant receives notice of the withdrawal from the Regional Director.

(h) *Revocation.* The Regional Director may end the participation of the applicant in the optional settlement program by issuance of a notice of violation and assessment for violating any provisions of the program or the Magnuson Act. Notification will be in writing and take effect upon receipt by the participant. Any applicant whose certification is revoked may request a hearing. The hearing will be conducted in accordance with the procedures of 50 CFR 621.56. Mail requests to the Assistant Administrator for Fisheries, NMFS, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

§ 651.23 Minimum fish size.

(a) The minimum size (total length) for any groundfish is;

(1) *Commercial.*

Cod and haddock: 17 inches
Yellowtail flounder: 11 inches.

(2) *Recreational fishing vessels, charter and party boats.*

Cod and haddock: 15 inches
Yellowtail flounder: 11 inches.

(b) The minimum lengths allowed by paragraph (a) of this section are measured on a straight line from the tip of the snout to the end of the tail.

[FR Doc. 82-27230 Filed 9-29-82; 3:40 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 192
Monday, October 4, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL AVIATION ADMINISTRATION

14 CFR Part 71

[Airspace Docket No. 82-ASO-49]

Proposed Alteration of Transition Area, Tupelo, Mississippi

AGENCY: Federal Aviation Adminstration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to increase the size of the Tupelo, Mississippi, Transition Area to accommodate Instrument Flight Rule (IFR) operations at Industrial Airpark. This action will lower the base of controlled airspace from 700 to 1,200 feet above the surface. An instrument approach procedure, based on the Tupelo VOR, has been developed to serve Industrial Airpark and additional controlled airspace is required to protect IFR operations.

DATES: Comments must be received on or before November 10, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, ASO-530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-ASO-49." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Tupelo, Mississippi, 700-foot Transition Area. This action will provide controlled airspace for aircraft executing a new instrument approach procedure at Industrial Airpark. If the proposed alteration of the Transition Area is found acceptable, the airport operating status will be changed from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Tupelo, MS—Revised

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of C.D. Lemons Municipal Airport (lat. 34°15'32"N., long. 88°45'32"W.); within 3 miles each side of the Tupelo VOR 214° radial, extending from the 6.5-mile radius area to 8.5 miles southwest of the VOR; within 5.5-mile radius of Industrial Airpark (lat. 34°10'36"N., long. 88°41'18"W.).

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the citeria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on September 21, 1982.

S. Oberlander,
Acting Director, Southern Region.

[FR Doc. 82-27218 Filed 10-1-82; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ANM-10]

Proposed Alteration Control Zone and Transition Area—Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of the Astoria, OR, transition area. A Standard Instrument Approach Procedure (SIAP) with Distance Measuring Equipment (DME) is being designated for runway 13 at Astoria Airport. In order to provide controlled airspace for the approach, the current 700-foot transition area would be extended to provide adequate controlled airspace. Also, this alteration would permit considerable reduction to the northwest extension of the control zone.

DATES: Comments must be received on or before November 3, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Northwest Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 82–ANM–10, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, WA 98108.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–ANM–10." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of the Astoria control zone. A new DME has been commissioned at Astoria. A VOR/DME instrument approach procedure is being designated for Runway 13. The new procedure will require extension of the present 700-foot Astoria transition area. This action would permit more efficient use of that airspace, lower the minimum altitudes and aid flight planning. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Transition areas, Control zones.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

§ 71.171 [Amended]

Astoria, OR [REVISED].

"Within a 5-mile radius of the Clatsop County Airport, Astoria, OR, (lat. 46°09'31"N., long. 123°52'42"W.); and within 2 miles each side of the Astoria VOR 266° radial, extending from the 5-mile radius zone to 8 miles west of the VOR."

§ 71.181 [Amended]

Astoria, OR [REVISED].

"That airspace extending from 700 feet above the surface within a 5-mile radius of the Clatsop County Airport, Astoria, OR, (lat. 46°09'31"N., long. 123°52'42"W.) within 4.5

miles north and 9.5 miles south of the Astoria VOR 286° radial, extending from the 5-mile radius area to 18.5 miles west of the VOR, excluding the portion within a 2-mile radius of the Seaside State Airport (lat. 46°01'00"N., long. 123°54'15"W.); within 4.5 miles northeast and 9.5 miles southwest of the Astoria VOR 326° radial, extending from the 5-mile radius area to 24.5 miles northwest of the VOR; and within an 18.5-mile radius arc of the Astoria VOR/DME extending clockwise from the 326° radial to the 039° radial."

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on September 22, 1982.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-27220 Filed 10-1-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Chapter III

[Docket No. 2925-190]

Request for Comments on Effects of Foreign Policy Export Controls

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Proposed rule; solicitation of comments.

SUMMARY: Section 6 of the Export Administration Act of 1979 provides that export controls imposed for foreign policy reasons expire one year after imposition unless extended. In preparation for revision or extension of controls on January 20, 1983, the Department is seeking comments on how controls imposed or extended effective January 1, 1982, and subsequently, have affected exporters and the general public.

DATE: Comments should be received by December 3, 1982 to assure full consideration in formulation of control policies.

ADDRESS: Written comments (six copies when possible) should be sent to: Mr. Richard J. Isadore, Director, Operations Division, Office of Export Administration, P.O. Box 273, U.S. Department of Commerce, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: J. Robert Cutter, Chief, Special Programs Branch, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: (202) 377-4275.

SUPPLEMENTARY INFORMATION: The Export Administration Act of 1979 establishes criteria for the imposition, extension, or expansion of foreign policy export controls. Subsection 6(a)(2) of the Act provides that:

Export controls maintained for foreign policy purposes shall expire * * * one year after imposition, * * * unless extended * * * Any such extension and any subsequent extension shall not be for a period of more than one year.

For administrative reasons, the Department reviews and extends all foreign policy controls on a uniform date, notwithstanding that certain controls imposed during the year otherwise would expire on their anniversary date.

Foreign policy controls were extended or modified on March 1, 1982, to be effective through January 20, 1983. Controls remain in effect at this time covering human rights, South Africa and Namibia, anti-terrorism, regional stability, embargoed communist countries, oil and gas equipment for the Soviet Union and Afghanistan, transactions related to the 1980 Summer Olympics, truck manufacturing equipment for the Soviet Kama River and ZIL truck plants, and suspension of processing of license applications for the Soviet Union. Nuclear nonproliferation controls continue in effect pursuant to section 17(d) of the Act and section 309(c) of the Nuclear Nonproliferation Act of 1978 (See 15 CFR Part 378).

Two changes in the foreign policy controls were made during the year. Effective March 12, 1982, foreign policy controls on exports to Libya were expanded to require a validated license for all commodities and technical data except medicine and medical supplies, food and agricultural commodities, nonstrategic foreign-produced direct products of U.S. origin technical data, and items permitted under certain special purpose general licenses. The objective was to restrict the U.S. contribution to Libyan capacity to engage in activities detrimental to U.S. foreign policy.

Additionally, at the direction of the President, export controls on oil and gas goods and technology to the USSR were amended, effective June 22, 1982, to include exports of non-U.S. origin goods and technical data by U.S.-owned or controlled foreign companies, as well as certain foreign-produced products of U.S. technical data not previously subject to controls. Parties who commented on these controls during 1982 need not repeat their comments; comments the Department has already received on the Libyan and Soviet amendments will be considered during the foreign policy review.

To assure maximum public participation in the review process, comments on the extension or revision of these existing foreign policy controls are solicited.

The Act requires the following criteria to be considered when imposing, expanding, or extending foreign policy export controls:

(1) The probability that such controls will achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such control;

(2) The compatibility of the proposed controls with the foreign policy objectives of the United States, including the effort to counter international terrorism, and with overall United States policy toward the country which is the proposed target of the controls;

(3) The reaction of other countries to the imposition or expansion of such export controls by the United States;

(4) The likely effects of the proposed controls on the export performance of the United States, on the competitive position of the United States in the international economy, on the international reputation of the United States as a supplier of goods and technology, and on individual United States companies and their employees and communities, including the effects of the controls on existing contracts;

(5) The ability of the United States to enforce the proposed controls effectively; and

(6) The foreign policy consequences of not imposing controls.

The Department is particularly interested in the experience of individual exporters in complying with these controls, with emphasis on

economic impact and specific instances of business lost to foreign competitors.

Parties submitting comments are asked to be as specific as possible. However, respondents are reminded that the Department is soliciting only information that may be used publicly. No "confidential business information" will be accepted. Any information so designated will be returned to the commenter.

All comments received before the close of the comment period will be considered by the Department in the development of final regulations.

While comments received after the close of the comment period will be considered if possible, their consideration cannot be assured.

All public comments will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda that will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not routinely be made available for public inspection.

The public record concerning these comments will be maintained in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4001B, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, the International Trade Administration's Freedom of Information Officer, at the above address or by calling (202) 377–3031.

(Sections 6 and 13, Pub. L. 96–72, 93 Stat 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980))

Dated: September 28, 1982.

John K. Boidock,

Director, Office of Export Administration International Trade Administration.

[FR Doc. 82-27282 Filed 10-1-82; 8:45 am]
BILLING CODE 3510-25-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 19, 24, 113, 125, 141, 142, 143, 144, and 146

Proposed Customs Regulations Amendments To Revise Customs Form 7501 and To Replace Other Forms

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend various parts of the Customs Regulations to provide for the use of a revised Customs Form 7501 and the elimination of other forms.

In addition to containing all of the data elements necessary for the assessment of duty and collection of import statistics, the revised Customs Form 7501, the "Entry Summary," would replace the following Customs Forms:

1. Customs Forms 7501, 7501A, 7501B, 7501C, the "Consumption Entry;"

2. Customs Forms 7502, 7502A, 7502B, 7502C, the "Warehouse or Rewarehouse Entry;"

3. Customs Form 5101, the "Entry Record;"

4. Customs Form 5119–A, the "Informal Entry" (Only the non-serially numbered 4-part carbon salable form used by the importer would be replaced. The serially numbered Customs Form 5119–A would be retained; and

5. Customs Form 7500, the "Appraisement Entry."

This document presents a draft of the revised Customs Form 7501 and instructions as well as the proposed regulations changes. Customs request public comments on each aspect.

The purpose of this proposal is to improve the procedures used by Customs for the entry of imported merchandise and the collection of statistics, and to reduce the paperwork burden on the importing community by eliminating forms and assuring that only necessary information will be collected.

DATE: Comments must be received on or before December 3, 1982.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, Attention: Regulations Control Bureau, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Herbert H. Geller, Duty Assessment Division, (202–566–5307); U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Public Law 95–410 (92 Stat. 888), the "Customs Procedural Reform and Simplification Act of 1978," approved October 3, 1978 (the "Act"), made significant changes in the Customs laws relating to the entry of imported merchandise. A document amending the Customs Regulations to establish new procedures needed to reflect these changes was published as T.D. 79–221 in the **Federal Register** on August 9, 1979 (44 FR 46794).

Section 102 of the Act amended section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), by providing that entry shall be made by filing that documentation necessary to enable Customs to determine whether the merchandise may be released from Customs custody. Section 102 also provided that documentation necessary to classify and appraise merchandise and to verify statistical information shall be filed at the time prescribed by regulation, either when entry is made, or at any time within 10 working days thereafter. Furthermore, section 102 provided for the issuance of regulations to ensure the accuracy and timeliness of statistics under the new entry procedures, particularly statistics with regard to the classification and value of imports.

One of the changes made by T.D. 79–221 involved the revised entry concept. The entry of imported merchandise is a 2-part process consisting of (1) filing the documentation necessary to determine whether merchandise may be released from Customs custody, and (2) filing the documentation which contains information for duty assessment and statistical purposes.

Section 141.0a(a), Customs Regulations (19 CFR 141.0a(a)), defines "entry" to mean that documentation required by § 142.3, Customs Regulations (19 CFR 142.3), to be filed with the appropriate Customs officer to secure the release of imported merchandise from Customs custody, or the act of filing that documentation. Section 141.0a(b)), Customs Regulations (19 CFR 141.0a(b), defines "entry summary" to mean any other documentation necessary to enable Customs to assess duties and collect statistics on imported merchandise, and determine whether other requirements of law or regulation are met.

Entry summary documentation is required to be filed within 10 working days after the "time of entry" as defined

in § 141.68, Customs Regulations (19 CFR 141.68).

Section 142.3(a)(1), Customs Regulations (19 CFR 142.3(a)(1)), provides that the entry documentation required to secure the release of merchandise shall consist of Customs Form 3461 (also used currently as an application for special permit for immediate delivery), appropriately modified, or Customs Form 7533, appropriately modified, in place of Customs Form 3461 for merchandise imported from a contiguous country.

Section 142.11(a), Customs Regulations (19 CFR 142.11(a)), states that entry summary shall be on (1) Customs Form 7501 for both merchandise formally entered for consumption, and formally entered under a temporary importation bond; (2) Customs Form 3311 for merchandise which may be entered free of duty; and (3) Customs Form 7502 for warehouse entries.

Section 142.3(b), Customs Regulations (19 CFR 142.3(b)), provides that when the entry summary is filed at the time of entry, Customs Forms 3461 or 7533 shall not be required, and Customs Form 7501, 7502, or 3311 shall serve as both the entry and entry summary documentation.

For merchandise entitled to be entered under an informal entry, Customs Form 5119–A, or Customs Form 7501, appropriately modified, may be used.

Accordingly, under the regulations, various Customs forms may be used for the entry of imported merchandise depending upon the circumstances. However, in light of the changes in the entry procedures necessitated by the Act, Customs believes it would be beneficial to the importing community and the Government if Customs Form 7501 were revised to improve the procedures for entering imported merchandise and at the same time, eliminate other Customs forms. The revised form would be a critical element in achieving national uniformity in entry processing.

Furthermore, revising Customs Form 7501 and eliminating other forms would be consistent with the ojectives of the "Paperwork Reduction Act of 1980" (Pub. L. 96–511, December 11, 1980). In this regard, this project would help assure that Customs collects only necessary information from the public and eliminates those burdens which are found to be unnecessary and wasteful.

Therefore, this document proposes to amend various parts of the Customs Regulations to provide for the use of a revised Customs Form 7501, the "Entry Summary," and the elimination of the following Customs Forms:

1. Customs Forms 7501, 7501A, 7501B, 7501C, the "Consumption Entry;"
2. Customs Forms 7502, 7502A, 7502B, 7502(C), the "Warehouse or Rewarehouse Entry;"
3. Customs Form 5101, the "Entry Record;"
4. Customs Form 5119–A, the "Informal Entry" (Only the non-serially numbered 4-part carbon salable form used by the importer would be replaced. The serially numbered Customs Form 5119–A would be retained. All references in the regulations to Customs Form 5119–A would mean the serially numbered form); and
5. Customs Form 7500, the "Appraisement Entry."

This document also presents a draft of the revised Customs Form 7501 (Attachment A to this document) and instructions explaining the use of this form (Attachment B to this document).

Comments are requested on (1) the proposed amendments to the Customs Regulations to reflect the use of the revised form and elimination of the current forms; (2) the format of revised Customs Form 7501 and instructions explaining the use of this form; and (3) the feasibility of using Optical Character Recognition (OCR) technology for input of entry summary data. An alternate Customs Form 7501 would be designed for the OCR application.

Prior Study

Initially, Customs intended to require the importer to file the revised Customs Form 7501 with specified blocks completed at the time of entry. The importer then would have been required to complete the Customs Form 7501 at the time of filing the entry summary documentation.

In this regard, on May 23, 1979, Customs published a notice in the **Federal Register** requesting comments on a revised Customs Form 7501 (T.D. 79–144, 44 FR 29916). In response, many commenters objected to the use of revised Customs Form 7501 as an entry document. Importers and brokers complained that the use of the revised Customs Form 7501 as an entry document would create problems in computer programming. They claimed this procedure would be impractical because they would be unable "to insert a form back into a printer which would no longer be on a continuous roll." They stated that such action would necessitate completion of the entire form at the time of filing entry summary documentation.

Other commenters objected to the size and positioning of certain blocks on Customs Form 7501, the limitation on the use of Customs Form 3461, and the anticipated implementation date.

Because of the complexity of the issues involved and the need for further study in light of the comments received, a notice delaying the effective date for implementing the use of revised Customs Form 7501 was published in the **Federal Register** on July 9, 1979 (T.D. 79–184, 44 FR 40075).

After continued study, Customs made certain changes in response to the objections raised by the commenters. The format of Customs Form 7501 has been modified, and the importer generally would not be required to file a partially completed Customs Form 7501 at the time of entry. Rather, Customs Form 3461 would continue to be the primary release document. Of course, under the circumstances specified in the regulations, such as (1) where the importer elects to file the entry summary documentation at the time of entry (19 CFR 142.12(a)), or (2) when the entry summary must be filed at the time of entry (19 CFR 142.13), the revised Customs Form 7501 must be completed at the time of entry.

Some automated importers and brokers objected to the initial proposal to revise Customs Form 7501 because they claimed it would be too expensive to reprogram their computers. Customs believes that expenses can be minimized by considering further suggestions of the importing community received both informally and in response to this notice.

One of the major concerns raised by the importers in response to the original notice was that sufficient time be provided to permit importers and brokers to reprogram computers, train personnel to use the revised form, and use existing stock of current Customs Forms 7501, 7502, 5101, 5119–A, and 7500.

Customs believes this consideration has merit. It is anticipated that the final regulations would not become effective until 60 days after publication of the Treasury Decision in the **Federal Register**. There would be a 12-month phase-in period after the effective date of the Treasury Decision during which time both the revised form and old forms may be used.

Discussion of Revised Customs Form 7501 And Use Of Each Related Part Of The Form

Each part of revised Customs Form 7501 (CF 7501) will be on a separate pad of 100 sheets each. The size of each sheet will be 8½" x 11".

1. CF 7501, Entry Summary, white copy—with reverse side for further declarations and authority to make entry for portion of consolidated shipment. The original is the official Customs entry document, with a minimum of two carbon copies—one for broker, one for importer. If all line items can not be contained on one CF 7501, it may be used as a continuation sheet, leaving the header information blank.

2. CF 7501, Entry Summary, Salmon color copy—statistical copy for Census Bureau, one copy, contains identical information as that on the white copy.

3. CF 7501, Entry Summary, Canary color copy—for Internal Revenue Service, one copy, contains identical information as that on the white copy, used to report amount collected for Internal Revenue taxes.

4. CF 7501–A, Entry Summary, Permit—white copy—does not contain block for Census Bureau use, missing documents, nor "Customs Use Only," but does have space for examination order and other action to be taken and for examination, sampling, weighing, etc., information certified by the inspector or other Customs officer. One copy in each entry package, or more if needed to accommodate the total line items.

5. CF 7501–B, Entry Summary, Continuation Sheet—white—(optional). The CF 7501 or the Continuation Sheet may be used if more space is needed to cover all line items. The same number of copies are required as for the CF 7501—minimum of three.

6. CF 7501–B, Entry Summary, Continuation Sheet—Salmon color copy—for statistical reporting. One copy is needed for Census Bureau purposes, if the Continuation Sheet is used in place of the CF 7501 salmon color copy.

7. CF 7501–B, Entry Summary, Continuation Sheet—Canary color copy—for Internal Revenue Service, one copy.

8. CF 7501–C, Entry Summary, Permit—white copy—Continuation Sheet (optional), used when more room is necessary to accommodate the number of line items and the CF 7501 has not been used in its place. One copy.

When the CF 7501 is used as an informal entry, only the following shaded blocks and columns are used: 4, 6, 9, 13, 17, 19, 20, 22, 24, 26, 27, 30a, 30b, 32, 33, 34, 35, 38, 39, 41, 43, 44.

The following two questions appear on the revised Customs Forms 7501:

1. Were there any rebates, drawbacks, fees, commissions or royalties, either paid or allowed, which are not reflected on the invoice?

2. Did the production of the merchandise involve the furnishing, either free of charge or at a reduced cost, of goods or services to the seller or manufacturer?

Similar questions appear on Customs Form 5515. A regulatory project has been initiated to eliminate Customs Form 5515.

Authority

These amendments are proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), sections 484, 624, 46 Stat. 722, as amended, 759 (19 U.S.C. 1484, 1624); section 301, 80 Stat. 379 (5 U.S.C. 301), Pub. L. 95–410 (October 3, 1978); Pub. L. 96–511 (December 11, 1980).

Comments

Before adopting this proposal, consideration will be given to any written comment timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Regulatory Flexibility Act

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (Pub. L. 96–353, 5 U.S.C. 601, *et seq.*), it is hereby certified that the proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Accordingly, this document is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. Although the revision of Customs Form 7501 will undoubtedly result in significant reprogramming costs for many brokers and importers who have automated systems, these costs will be generally incurred by large brokers and importers. Small brokers and importers generally do not have automated systems and those that have such systems tend to subscribe to computer service companies which will absorb or at least spread any increased costs among all users.

Customs requests comments on the economic impact of this proposal on small entities. Comments submitted should include estimates of the dollar impact and employment impact on small entities wherever possible in order to assist in measuring any economic impact.

E.O. 12291

These proposed amendments do not meet the criteria for a "major rule" specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Paperwork Reduction Act

This proposed project is subject to the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Accordingly, this document is subject to clearance by the Office of Management and Budget.

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Federal Register Thesaurus

On January 22, 1981, the Office of the Federal Register published a final rule (47 FR 7162) which requires agencies to identify major topics and categories of persons affected in their regulations by using standard terms established in the Federal Register Thesaurus of Indexing Terms.

Accordingly, the index terms listed below are applicable to this regulatory project:

List of Subjects

19 CFR Part 10

Wildlife

19 CFR Part 19

Warehouse.

19 CFR Part 24

Accounting.

19 CFR Part 113

Surety bonds.

19 CFR Part 125

Freight forwarders.

19 CFR Part 141

Imports.

19 CFR Part 142

Imports.

19 CFR Part 143

Imports.

19 CFR Part 144

Warehouses.

19 CFR Part 146

Foreign-trade zones

Proposed Amendments

It is proposed to amend Parts 10, 19, 24, 113, 125, 141, 142, 143, 144, and 146, Customs Regulations (19 CFR 10, 19, 24, 113, 125, 141, 142, 143, 144, and 146), in the following manner:

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

It is proposed to revise § 10.91 (a) to read as follows:

§ 10.91 Importation under item 306.00; entry or withdrawal under bond.

(a) The entry summary for wool or hair of the camel [as] imported for use in the manufacture of any of the articles enumerated in item 306.00, Tariff Schedules of the United States (TSUS),[as] shall be made on Customs Form 7501 and filed with the entry documentation listed in § 142.3(b) of this chapter before the merchandise shall be released. If the merchandise is to be entered for warehouse, the entry summary also shall be made on Customs Form 7501 and filed with the entry documentation listed in § 142.3(b) of this chapter. In either case, Customs Form 7501 shall serve as both the entry and the entry summary.

* * * * *

PART 19—CUSTOMS WAREHOUSES CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

§ 19.1 [Amended]

It is proposed to amend § 19.11(b) by inserting "7501" in place of "7502".

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. It is proposed to revise the fourth sentence of § 24.5(d) to read as follows:

§ 24.5 Filing identification number.

* * * * *

(d) *Optional additional identification.* * * * Transactions may be associated with a specific branch office or vessel by reporting the appropriate identification number, including the two-digit suffix code, on Customs Form 7501, or the request for services.

* * * * * *

2. It is proposed to amend the first sentence of § 24.5(e) by inserting "7501" in place of "5101".

PART 113—CUSTOMS BONDS

It is proposed to revise § 113.41 to read as follows:

§ 113.41 Entry made prior to production of documents.

When entry is made prior to the production of a required document, the importer shall indicate in the "Missing Documents" block on Customs Form 7501 the missing document, whether the importer gives bond on Customs Form 7551 or 7553, or other appropriate form, or stipulates to produce such document.

PART 125—CARTAGE AND LIGHTERAGE OF MERCHANDISE

1. It is proposed to revise § 125.31(b) to read as follows:

§ 125.31 Documents used.

* * * * *

(b) Customs Form 7501–A—Entry Summary (Permit).

* * * * *

2. It is proposed to revise § 125.32 to read as follows:

§ 125.32 Merchandise delivered to a bonded store or bonded warehouse.

When merchandise is carted or lightered to and received in a bonded store or bonded warehouse, the proprietor or his representive shall check the goods against the accompanying delivery ticket, Customs Form 6043, or copy of the permit, Customs Form 7501–A, and countersign the document acknowledging receipt of the merchandise as listed thereon.

PART 141—ENTRY OF MERCHANDISE

1. It is proposed to revise § 141.61(a)(2) to read as follows:

§ 141.61 Completion of entry and entry summary documentation.

(a) *Preparation.* (1) * * *

(2) An importer may omit from the entry summary, Customs Form 7501, or the warehouse withdrawal for consumption, Customs Form 7505 or 7519, the marks and numbers previously provided for packages released or withdrawn.

* * * * * *

2. It is proposed to revise § 141.61(d) to read as follows:

§ 141.61 Completion of entry and entry summary documentation.

* * * * *

(d) *Importer number.* The importer number shall be reported on Customs Form 7501 as follows:

(1) *Generally.* Except as provided in paragraph (d)(2) of this section, the importer number of the importer of record and of the ultimate consignee shall be reported for each entry summary and for each drawback entry. When the importer of record and the ultimate consignee are the same, the importer number may be entered in both spaces provided on Customs Form 7501, or the importer number may be entered in the space provided for the importer and the word "same" may be entered in the space provided for the ultimate consignee.

(2) *Exception.* In the case of a consolidated entry summary covering the merchandise of more than one eltimate consignee, the importer number shall be reported on Customs Form 7501 and the notation "consolidated" shall be made in the space provided for the importer number of the ultimate consignee.

(3) *When refunds, bills, or notices of liquidation are to be mailed to agent.* If an importer of record desires to have refunds, bills, or notices of liquidation mailed in care of his agent, the agent's importer number shall be reported on Customs Form 7501 in the block designated "Reference No." In this case, the importer of record shall file, or shall have filed previously, a Customs Form 4811 authorizing the mailing of refunds, bills, or notices of liquidation to the agent.

(4) *Broker No.* If a broker is used, the broker's number also shall be reported in the appropriate block on Customs Form 7501. When the agent under paragraph (3) of this section and the broker are the same, the number may be entered in both spaces provided for on Customs Form 7501, or the number may be entered in the space provided for the agent's importer number and the word "same" may be entered in the space provided for the broker's number.

3. It is proposed to revise section 141.61(e)(1)(i)(A) to read as follows:

* * * * * *

(e) *Statistical information.*—(1) *Information required on entry summary or withdrawal form.*—

(i) *Where form provides space*—(A) *Single Invoice.* For each class or kind of merchandise subject to a separate statistical reporting number, the applicable information required by the General Statistical Headnotes, Tariff Schedules of the United States Annotated ("TSUSA"), shall be shown on the entry summary, Customs Form 7501; the transportation entry and manifest of goods, Customs Form 7512, when used to document an incoming vessel shipment proceeding to a third country by means of an entry for transportation and exportation, or immediate exportation; the rewarehouse entry, Customs Form 7519; the manufacturing warehouse entry, Customs Form 7521; the withdrawal form, Customs Form 7505 or 7506, in the space provided. * * *

4. It is proposed to revise § 141.61(e)(1)(ii)(B) to read as follows:

* * * * * *

(e) * * *

(1) * * *

(ii) *Where form does not provide space.* * * *

(B) The notation "R" for "related" or "N" for "not related," as appropriate, shall be placed in the block entitled

"Mfr./Seller/Shipper Rel." on Customs Form 7501, and at the top of columns 3, 4, and 5 of Customs Forms 7505, 7506, and 7521, and in the top right hand portion of Customs Form 7519, to identify the transaction as one between a buyer and a seller who are related in any manner specified in section 402(g)(2), Tariff Act of 1930, as amended (19 U.S.C. 1401a(g)(2)), or as one between a buyer and a seller who are not so related.

5. It is proposed to revise § 141.61(e)(1)(ii)(C)(1) to read as follows:

* * * * *

(e) * * *

(1) * * *

(ii) *Where the form does not provide space.* * * *

(C)(1) The transaction value, charges, and equivalent value shall be listed on Customs Form 7501 in column 31. The amounts shall be identified (in the following order) P (port of exportation transaction value), C (aggregate cost of freight, insurance, and all other charges), and E (Equivalent port of exportation value). The transaction value, charges, and equivalent value shall be listed on Customs Forms 7505, 7506, and 7521 in column 4 immediately below the TSUSA reporting number. These amounts shall be identified by placing (in the following order) PEXT (port of exportation transaction value), CHGS (aggregate cost of freight, insurance and all other charges), and EPEX (equivalent port of exportation value) in column 3 immediately below the entered value and to the left of each statistical value and charge.

* * * * *

6. It is proposed to revise the last sentence of § 141.61(f)(1)(iv) to read as follows:

* * * * *

(f) *Value of each invoice*—(1) *Single invoice.* * * *

(iv) * * * the required information shall be shown on a worksheet attached to the form or placed across columns 30a and 30b on Customs Form 7501 and in the same general location on Customs Forms 7505, 7506, 7519, and 7521.

§141.68 [Amended]

7. It is proposed to amend the first sentence of §141.68(h) by inserting "7501" in place of "7500".

PART 142—ENTRY PROCESS

1. It is proposed to amend section 142.3(b)(2) by removing "7502,".

2. It is proposed to revise § 142.11(a) to read as follows:

§ 142.11 Entry summary form.

(a) *Customs Form 7501.* The entry summary shall be on Customs Form 7501 unless a different form is prescribed elsewhere in this chapter. Customs Form 7501 shall be used for merchandise formally entered for consumption, formally entered for warehouse, or rewarehouse in accordance with § 144.11 of this chapter, and formally entered under a temporary importation bond under § 10.31 of this chapter. The entry summary for merchandise which may be entered free of duty in accordance with § 10.1(g) or (h) of this chapter may be on Customs Form 3311 instead of on Customs Form 7501. For merchandise entitled to be entered under an informal entry, see § 143.23 of this chapter.

* * * * *

3. It is proposed to revise the last sentence of § 142.16(a) to read as follows:

§ 142.16 Entry summary documentation.

(a) *Entry summary not filed at time of entry.*

* * * The entry summary documentation also shall include any other documents required for a particular shipment unless a bond for missing documents is on file, as provided in § 141.66 of this chapter.

* * * * *

4. It is proposed to revise the last sentence of § 142.16(b) to read as follows:

§ 142.16 Entry summary documentation.

* * * * *

(b) *Entry summary filed at time of entry.* * * * The importer also shall file any additional invoice required for a particular shipment.

PART 143—CONSUMPTION, APPRAISEMENT, AND INFORMAL ENTRIES

1. It is proposed to revise § 143.12 to read as follows:

§ 143.12 Form of entry.

Application for an entry by appraisement shall be made in triplicate on the entry summary, Customs Form 7501.

2. It is proposed to revise the heading and text of § 143.24 to read as follows:

§ 143.24 Preparation of Customs Form 7501 and Customs Form 5119–A.

Customs Form 7501 may be prepared by importers or their agents or by Customs officers when it can be presented to a Customs cashier or acting cashier for payment of duties and taxes and for numbering of the entry before the merchandise is examined by a Customs officer. Where there is no Customs cashier or acting cashier, Customs Form 5119–A must be used, and it shall be prepared by a Customs officer unless the form can be prepared under his control by the importers or their agents for immediate use in clearing merchandise under the informal entry procedure. The conditions for the preparation of Customs Form 7501 by importers or their agents, as described in the first sentence of this section, do not apply to the acceptance of these entries for shipments not exceeding $250 in value released under a special permit for immediate delivery in accordance with Part 142 of this chapter.

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

1. It is proposed to revise § 144.11(a), (b), and (c) to read as follows:

§ 144.11 Form of entry.

(a) *Entry.* The documentation required by § 142.3 of this chapter shall be filed at the time of entry. If the entry summary, Customs Form 7501, is filed at the time of entry for merchandise to be entered for warehouse, it shall serve as both the entry and the entry summary, and Customs Form 3461 or 7533 shall not be required. If the entry summary is not filed at the time of entry, it shall be filed within the time limit prescribed by § 142.12 of this chapter. If merchandise is released before the filing of the entry summary, the importer shall have a bond on file, as prescribed by § 142.4 of this chapter.

(b) *Customs Form 7501.* The entry summary for merchandise entered for warehouse shall be executed in triplicate on Customs Form 7501, appropriately modified, and shall include all of the statistical information required by § 141.61(e) of this chapter. The district director may require an extra copy or copies of the Permit, Customs Form 7501–A, for use in connection with delivery of the merchandise to the bonded warehouse.

(c) *Designation of warehouse.* The importer shall designate on the entry summary, Customs Form 7501, the bonded warehouse in which he desires his merchandise deposited and the bonded cartman or lighterman by whom he wishes the goods transferred.

* * * * *

§ 144.12 [Amended]

2. It is proposed to revise § 144.12 by inserting "7501" in place of "7502".

§ 144.14 [Amended]

3. It is proposed to revise the introductory paragraph of § 144.14 inserting "7501" in place of "7502".

§ 144.36 [Amended]

4. It is proposed to revise the first sentence of § 144.36(b) by inserting "7501" in place of "7502".

§ 144.41 [Amended]

5. It is proposed to revise § 144.41(b) and (d) to read as follows:

§ 144.41 Entry for rewarehouse.

* * * * *

(b) *Form of entry.* An entry for rewarehouse shall be made in duplicate on Customs Form 7501 and shall contain all of the statistical information as provided in section 141.61(e) of this chapter. The district director may require an extra copy or copies of Customs Form 7501–A (Permit) for use in connection with the delivery of the merchandise to the warehouse. No declaration is required on the entry.

* * * * *

(d) *Bond.* A bond on Customs Form 7555 or other appropriate form shall be filed before a permit is issued on Customs Form 7501–A for sending the merchandise to the bonded warehouse. However, not entry shall be required if the merchandise is entered by the consignee named in the original warehouse entry bond filed at the original port of entry, or if it is entered by a transferee who has established his right to withdraw the merchandise and has filed a bond in accordance with subpart C of this part.

PART 146—FOREIGN-TRADE ZONES

§ 146.21 [Amended]

It is proposed to amend § 146.21(c) introductory text by inserting "7501" in place of "7502".

Alfred R. De Angelus,
Acting Commissioner of Customs.

Approved: August 31, 1982.

Robert E. Powis,
Acting Assistant Secretary of the Treasury.

BILLING CODE 4820-02-M

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

This space for OMB approval citation.

ENTRY SUMMARY

19 CFR 10.31, 10.91, 10.104, 141.61, 141.68, 142.11, 143.12, 143.24, 144.11

1. CENSUS USE ONLY	2. Broker/Importer Transaction No.	3. Entry Identification
	4. Entry Type and Entry Code	Entry No.
	5. Broker No. / 6. Port Code	Date of Entry
	7. Surety Code / 8. Bond Code	

9. Importer of Record	10. Importer No.
11. Ultimate Consignee	12. Ultimate Consignee No.

13. Location of Goods / G.O. No.	14. Containerized	15. Reference No.	16. Summary Date
17. B/L or AWB No.	18. Foreign Port of Lading		19. I.T. No. and Date
20. Importing Vessel (Name & Flag) or Carrier	21. Trans. Mode		22. I.T. From (Port)
23. Date of Export / 24. Exporting Country	25. U.S. Port of Unlading		26. I.T. Carrier (Delivering)
27. Date of Import / 28. Mfr./Seller/Shipper Rel.	29. Warehouse		

30. Description of Merchandise: 30a. Country of Origin Gross Weight in Pounds / 30b. Net Quantity in T.S.U.S.A. Units	31. (P) PEXT (C) CHGS (E) EPEX	32. Entered Value in U.S. Dollars	33. T.S.U.S.A. Reporting Number	34. Tariff or I.R.C. Rate	35. Duty and I.R. Tax: Dollars / Cents

36. CUSTOMS USE ONLY	37. Missing Documents	38. Duty
		39. Tax
	40. I.S. Team/Liq. Code	41. Other
	43. Authentication	44. Total
	45. Title	
	46. Address	47. Date

42. DECLARATION

I declare that I am the ☐ nominal consignee and that the actual owner for customs purposes is as shown above, or ☐ consignee or agent of the consignee.

I further declare that the merchandise ☐ was or ☐ was not obtained in pursuance of a purchase or agreement to purchase. I also include in my declaration all the statements in the declaration on the back of this entry summary.

PAPERWORK REDUCTION ACT NOTICE: The Paperwork Reduction Act of 1980 says we must tell you why we are collecting this information, how we will use it, and whether you have to furnish it. We ask for the information to carry out the U.S. Customs Service laws. We need the information to ensure that importers/exporters are complying with these laws, to allow us to compute and collect the right amount of money, to enforce other agency requirements, and to collect accurate statistical information on imports. Your response is mandatory.

Customs Form 7501 (Proposal 03–16–82)

DECLARATION OF NOMINAL CONSIGNEE, CONSIGNEE, OR AGENT OF CONSIGNEE

To the best of my knowledge and belief, all statements appearing in this entry and in the invoice or invoices and other documents presented herewith and in accordance with which the entry is made, are true and correct in every respect; the entry and invoices set forth the true prices, values, quantities, and all information as required by the laws and the regulations made in pursuance thereof; the invoices and other documents are in the same state as when received; I have not received and do not know of any other invoice, paper, letter, document, or information showing a different currency price, value, quantity, or description of the said merchandise, and if at any time hereafter I discover any information showing a different state of facts I will immediately make the same known to the district director of customs at the port of entry.

If the merchandise is entered by means of a seller's or shipper's invoice, no customs invoice for any of the merchandise covered by the said seller's or shipper's invoice can be produced due to causes beyond my control. If the merchandise is entered by means of a statement of the value or the price paid in the form of an invoice, it is because neither seller's, shipper's, nor customs invoice can be produced at this time.

Were there any rebates, drawbacks, fees, commissions or royalties, either paid or allowed, which are not reflected on the invoice? ☐YES ☐NO

Did the production of the merchandise involve the furnishing, either free of charge or at a reduced cost, of goods or services to the seller or manufacturer? ☐YES ☐NO

RECORD OF CARTAGE OR LIGHTERAGE

Delivered to Cartman or Lighterman in apparent good condition except as noted below.

CONVEYANCE	QUANTITY	DATE	INSPECTOR	RECEIVED (Cartman or Lighterman) (Date)	RECEIVED (Warehouse Prop.)
TOTAL:		Warehouse Officer			

REPORT OF EXCEPTIONS, OR OF WEIGHT, GAUGE, OR MEASURE; OR OTHER PERTINENT INFORMATION.

(All reports hereon must be dated and signed by the reporting officer.)

.....

.....

.....

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

This space for OMB approval citation.

19 CFR 10.31, 10.91, 10.104, 141.61, 141.68, 142.11, 143.12, 143.24, 144.11

ENTRY SUMMARY

PERMIT

2. Broker/Importer Transaction No.
3. Entry Identification
4. Entry Type and Entry Code
Entry No.
5. Broker No.
6. Port Code
Date of Entry
7. Surety Code
8. Bond Code
9. Importer of Record
10. Importer No.
11. Ultimate Consignee
12. Ultimate Consignee No.
13. Location of Goods
G.O. No.
14. Containerized
15. Reference No.
16. Summary Date
17. B/L or AWB No.
18. Foreign Port of Lading
19. I.T. No. and Date
20. Importing Vessel (Name & Flag) or Carrier
21. Trans. Mode
22. I.T. From (Port)
23. Date of Export
24. Exporting Country
25. U.S. Port of Unlading
26. I.T. Carrier (Delivering)
27. Date of Import
28. Mfr./Seller/Shipper Rel.
29. Warehouse

30. Description of Merchandise		
30a. Country of Origin Gross Weight in Pounds	30b. Net Quantity in T.S.U.S.A. Units	EXAMINATION ORDER AND OTHER ACTION TO BE TAKEN

(Cut carbon on this line)

(Cut carbon on this line)

TO THE INSPECTOR: Articles shall be examined, sampled, weighed, gauged, measured, stamped, and/or disposed of as directed. Release shall be made only to or upon the order of the carrier. Reports shall be endorsed hereon.

Customs Officer

Examined or sampled as directed.	Weighed, gauged, measured, stamped as directed (check one box, if applicable). ☐ Entered ☐ Invoiced } Quantities Accepted ☐ See Reverse ☐ See Attached Form 6001	Landed, released, or disposed of as directed, except as noted on the reverse. (If no exceptions show "None" in the following space.)
Date / Examiner or Sampler	Date / Weigher or Gauger	Date / Inspector

Customs Form 7501A (Proposal 03–16–82)

REPORT OF EXCEPTIONS, OR OF WEIGHT, GAUGE OR MEASURE; OR OTHER PERTINENT INFORMATION.

(All reports hereon must be dated and signed by the reporting officer)

(Date) (Signature and Title)

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

ENTRY SUMMARY CONTINUATION SHEET

OMB Approval Citation

3. Entry Identification

Entry No.

Date of Entry

30. Description of Merchandise		31.	32.	33.	34.	35. Duty and I.R. Tax	
30a. Country of Origin Gross Weight in Pounds	30b. Net Quantity in T.S.U.S.A. Units	(P) PEXT (C) CHGS (E) EPF_X	Entered Value in U.S. Dollars	T.S.U.S.A. Reporting Number	Tariff or I.R.C. Rate	Dollars	Cents

Customs Form 7501B (Proposal 03—16—82)

OMB Approval Citation

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

ENTRY SUMMARY PERMIT CONTINUATION SHEET

3. Entry Identification

Entry No.

Date of Entry

30. Description of Merchandise		EXAMINATION ORDER AND OTHER ACTION TO BE TAKEN
30a. Country of Origin Gross Weight in Pounds	30b. Net Quantity in T.S.U.S.A. Units	

(Cut carbon on this line).

Customs Form 7501C (Proposal 03–16–82)

6 - PORT CODE (M)
4 digit numeric code of the port where the entry summary is filed. Port

Instructions for Preparation
of the Revised Customs Form 7501

Instructions for Preparation
of the Revised Customs Form 7501

ENTRY SUMMARY - DUTIABLE AND FREE
(NOTE: MANDATORY = (M))

1 - CENSUS USE ONLY

This block is reserved for the Bureau of Census for statistical purposes.

2 - This block is reserved for broker's or importer's transaction/reference/file number.

3 - ENTRY NO. AND DATE OF ENTRY (M)

Entry No. - 9 digit numeric code - always begins with last 2 digits of fiscal year, followed by 6 digit entry number and 1 digit check digit. Entry numbers and check digits are preassigned to importers or brokers by Customs or may be obtained individually from a customhouse entry unit. Acceptable formats follow:

80100001 8
80100001-8
80 100001 8
80 100001-8
80-100001 8
80-100001-8
80 100 001 8 (for WANDA)

Date of Entry - 6 digit numeric code; day, month, year.

4 - ENTRY TYPE AND ENTRY CODE (M)

The appropriate entry type followed by the 1 digit code for the type of entry summary being filed:

Entry Type	Entry Code
DUTIABLE CONSUMPTION	1
VESSEL REPAIR	2
APPRAISEMENT (see special instructions for this type entry)	3
WAREHOUSE, or	4
REWAREHOUSE	4
BONDED A/C FUEL	6
FREE CONSUMPTION	7
INFORMAL (No code should be shown; see special instructions for this type of entry)	-

For all merchandise constructively transferred into the Customs territory from a Foreign Trade Zone (or subzone) the initials FTZ should follow the entry name.

5 - BROKER NUMBER (M)

3 digit numeric code assigned to importers and brokers by customhouse entry unit.

6 - PORT CODE (M)

4 digit numeric code of the port where the entry summary is filed. Port codes are found in Annex A of the TSUSA. Examples:

2809
28 09
28-09

7 - SURETY CODE (M)

3 digit numeric code that identifies the surety company on the bond. The code is obtained from an ADP report entitled "Surety Master File," which is updated periodically. For U.S. Government importations and DCASR, the code 999 should appear in this block.

8 - BOND CODE (M)

1 digit numeric code as follows:

0 - For a U.S. Government, DCASR or appraisement entry
1 - Single Entry (any type); or SEB
2 - Consumption Term, CF 7553; or CTB
3 - Temporary Importation, CF 7563-A; or TIB
4 - Vessel Term, CF 7569; or VTB
5 - General Term, CF 7595; or GTB

9 - IMPORTER OF RECORD (NAME AND ADDRESS) (M)

Name and address, including zip code

10 - IMPORT NUMBER (M)

The IRS Number, Social Security Number of Customs assigned number of the Importer of Record. Three formats are acceptable:

12-3456789;
1234-56789; or
123-45-6789.

The importer of record is the individual or firm liable for the payment of all duties and meeting all statutory and regulatory requirements incurred as a result of the importation.

11 - ULTIMATE CONSIGNEE (M, if applicable)

The name and address, including zip code, of the individual or firm for whose account the merchandise is imported. (Not required if same as importer of record.)

12 - ULTIMATE CONSIGNEE NUMBER (M, if applicable)

The IRS, Social Security or Customs assigned number in the same format as for the Importer of Record Number.

13 - LOCATION OF GOODS (M, if entry summary serves as the entry)

The pier or site where goods are available for examination. In the case of general order merchandise, the number assigned by Customs.

14 - CONTAINERIZED - When merchandise is containerized, place "Yes" in the block. If not containerized, place "No" in the block.

15 - REFERENCE NUMBER

The IRS Number, Social Security Number of Customs assigned number of the individual or firm to whom refunds, bills or notices of extension, suspension or liquidation are to be sent.

16 - DATE OF SUBMARY

6 digit numeric code; day, month, year, that the entry summary is filed.

17 - B/L or AWB NUMBER (M)

Number assigned to the shipment by the carrier of the goods and by which it is listed on its manifest.

18 - FOREIGN PORT OF LADING (M)

For merchandise arriving in the United States by vessel, or air, report the name of the foreign port and country at which the merchandise was actually laden on the vessel or aircraft that carried the merchandise to the U.S.

For merchandise arriving in the U.S. by rail, truck, pipeline, mail, or other non-vessel/non-air mode of transportation from either Canada or Mexico, supply the name of the province (Canada) or state (Mexico) where the merchandise was first laden onto the carrier which takes it away from its original factory, mine, farm, etc. for exportation to the U.S.

For imported mail shipments, show the city and country listed under the name and address of the foreign shipper on Customs Form 3509, Notice to Addressee.

For merchandise transshipped abroad in the course of shipment to the U.S., whether or not covered by a through bill of lading, do not enter the foreign port of original lading or any port of lading other than the last foreign port of lading at which the merchandise was laden on the carrier which transported it to the first U.S. port of unlading.

When a single Customs form covers merchandise laden at more than one foreign port, the foreign port of lading shall be indicated separately in the "Description of Merchandise" column above each line item (or group of line items) for the merchandise loaded at each foreign port.

19 - I.T. NO. AND DATE (M, if applicable)

List In Transit Entry (CF 7512) Number and Date. Example: IT Entry No. 776824, August 20, 1978.

20 - IMPORTING VESSEL (Name and Flag) OR CARRIER (M)

For merchandise arriving in the U.S. by vessel, give the name of the vessel and the name (flag) of the country in which the vessel is registered, or the country code as provided in Annex B of the TSUSA, which transported the merchandise from the last foreign port of lading to the first U.S. port of unlading.

For merchandise arriving in the U.S. by air, give the name of the airline which carried the merchandise from the last foreign port of lading to the first U.S. port of unlading and NOT the domestic airline carrying the merchandise after the initial unlading in the U.S.

For merchandise arriving in the U.S. by means of transportation other than vessel or air, leave block 20 blank.

21 - TRANSPORTATION MODE (M)

Specify the method of transportation in terms of how the imported merchandise entered the first U.S. port from the last foreign country, i.e., whether by vessel, air, truck, railroad, pipeline, mail (surface and airmail), ferry or by "other" means.

22 - I.T. FROM (PORT)

List U.S. port from which merchandise is being shipped.

23 - DATE OF EXPORT (M)

For merchandise exported by vessel, note the month, day and year on which the carrier departed the last port of the country of exportation.

For merchandise exported by air, note the month and year in which the aircraft departed the last airport of the country of exportation.

For overland shipments from Canada and Mexico and shipments where the port of lading is located outside the country of exportation (e.g., the goods are exported from Switzerland but laden at Hamburg, West Germany), note the month and year in which the carrier crossed the border of the country of exportation (Switzerland).

For mail shipments, record the date of exportation noted on Customs Form 3509, Notice to Addressee.

28 - MANUFACTURER/SELLER/SHIPPER/RELATIONSHIP

For mail shipments, record the date of exportation noted on Customs Form 3509, Notice to Addressee.

24 - EXPORTING COUNTRY (M)

The exporting country (country of exportation) shall be the country of origin except when the merchandise while located in a third country is the subject of a new purchase, in which event the third country shall be regarded and reported as the country of exportation.

25 - U.S. PORT OF UNLADING (M)

For merchandise imported by vessel, or air, insert the U.S. port, as listed in Annex A of the TSUSA, at which the merchandise was unladen from the importing vessel or aircraft, whether or not such a port is a Customs port of entry. For example, if entry is filed at the Port of Los Angeles for merchandise unladen at Long Beach, California, show Long Beach as the port of unlading. The same principle applies when goods are unladen at a smaller port within a consolidated port of entry (e.g., Galveston and Houston).

When merchandise is transported in bond from the U.S. port of unlading to another U.S. port to be entered for consumption or warehouse, show as the port of unlading the port or point where the merchandise was unladen from the importing carrier before transportation in bond.

For merchandise arriving in the U.S. by means of transportation other than vessel or air, leave block 25 blank.

26 - I.T. CARRIER (DELIVERING)

List U.S. carrier on which shipment is laden for movement from the first port of entry (unlading).

27 - DATE OF IMPORT (M)

For merchandise arriving in the U.S. by vessel, report the month, day, and year on which the importing vessel transporting the merchandise from the foreign country arrived within the limits of the U.S. port where the merchandise was unladen.

For merchandise arriving in the U.S. other than by vessel, report the month and year in which the merchandise arrived within the limits of the U.S.

28 - MANUFACTURER/SELLER/SHIPPER/RELATIONSHIP

For relationship, indicate whether the seller and buyer are "related" or "not related." A related parties transaction is a transaction between persons who are related in any respect specified in section 402(g)(1) of the Tariff Act of 1930, as amended. The relationship should be abbreviated R or N, respectively.

If there are several sellers, both related and not related to the buyer, report the relationships in the PEXT, CHGS, and EPEX column above each line item (or group of line items) for the respective merchandise from each seller. Show "see below" in box 28.

For manufacturer/seller/shipper, this will be a future requirement. Information will be given in detail at a later time.

29 - WAREHOUSE

Name of bonded warehouse where goods will be delivered (Customs assigned number for bonded warehouse will be shown in this block, when available).

HEADING

30 - DESCRIPTION OF MERCHANDISE (M)

Provide a description of the merchandise in sufficient detail to permit the classification thereof under the proper TSUSA statistical reporting number. The description may be in Tariff Schedule terms or a detailed description of the merchandise as shown in the commercial invoice, or other documentation may be used. The description may be reported on either the same line or the line immediately above the line with the entered value.

30a - COUNTRY OF ORIGIN/GROSS WEIGHT IN POUNDS

Report the country of origin in terms of Annex B of the TSUSA (i.e., 4 digit code number without the decimal, name or abbreviated designation of the country or territory). The country of origin is defined as the country in which the product was mined, grown or manufactured. Further labor, work or material added to an article in another country must effect a substantial transformation in order to render such other country the "country of origin."

When the merchandise is invoiced in or exported from a country other than that in which it originated, the actual country of origin shall be specified rather than the country of invoice or exportation.

When a single Customs Form covers merchandise from more than one country of origin, the country of origin shall be indicated separately against each line item (or group of line items).

Report the country of origin on each continuation sheet of the Customs Form.

Report the gross shipping weight in pounds for articles imported in vessels or aircraft (do not report gross weight for merchandise arriving in the U.S. by other modes of transportation). The gross weight may be reported on the same line with the entered value or the line immediately below. Supply separate gross weight information for each TSUSA item number. If the gross weight is not available for each number, approximate shipping weight for each item shall be estimated and reported. The total of these estimated weights should equal the actual gross shipping weight.

In the case of containerized cargo carried in lift vans, cargo vans, or similar substantial outer containers, the weight of such container should not be included in the shipping weight of the merchandise covered by each item number.

30b - NET QUANTITY IN TSUSA UNITS

When a unit of quantity is specified in the TSUSA for the item number, report the net quantity in the specified unit, and show the unit after the net quantity figure.

If two units of quantity are shown for the commodity in the TSUSA, report the net quantity in both units, with the unit indicated in each case. Insert the quantity in terms of the unit marked with a superior "1" on the line with the entered value or the line immediately below. Put the quantity in terms of any other unit below the first quantity and enclose it in parentheses.

Give quantities in whole units unless fractions of units are required for other Customs purposes.

If no unit of quantity is specified in the TSUSA for the item number, net quantity is not required to be reported and an "X" shall be entered in the "net quantity" column.

31 (P) PEXT; (C) CHGS; (E) EPEX (M)
(P) Port of exportation transaction value;
(C) aggregate cost of freight, insurance and all other charges;
(E) equivalent port of exportation value.

(P) In accordance with TSUSA general statistical headnote 1(a)(xiv) report the purchase price (i.e., the actual transaction value), in U.S. dollars, plus, when not included in such price, all charges, costs, and expenses incurred in placing the merchandise alongside the carrier at the port of exportation in the country of exportation (or in the case of merchandise not acquired by purchase, the equivalent of such price, charges, costs and expenses). This value must be shown for each TSUSA item number on the same line with the entered value. The legend "(P)" shall precede the value (e.g., (P) 5673).

Report the value in whole dollars rounded off to the nearest dollar. Dollar signs and commas shall be omitted (e.g., $5,750.64 should be reported as 5751).

If the value is estimated, place either "(estimate)", "(est)", or "(E)" after the amount of each value.

See part 4, Customs Import Statistics Handbook, for more detailed information.

(C) CHGS (TRANSPORTATION CHARGES)

In accordance with TSUSA general statistical headnote 1(a)(xvi) report the aggregate cost (not including U.S. import duty, if any) in U.S. dollars of freight, insurance and all other costs, charges, and expenses incurred

in bringing the merchandise from alongside the carrier at the port of

32 - ENTERED VALUE (M)

in bringing the merchandise from alongside the carrier at the port of exportation in the country of exportation and placing it alongside the carrier at the first U.S. port of entry.

This value shall be shown for each TSUSA item number immediately beneath the PEXT value and identified with a "(C)" before the value (e.g., (C) 550).

Report the value in whole dollars rounded off to the nearest dollar. Dollar signs and commas shall be omitted.

If the charge is estimated place either "(estimate)", "(est)", or "(E)" after the amount of each value. This legend is not required for Canadian rail or truck charges.

In the case of overland shipments (i.e., merchandise transported to the U.S. by means other than vessel or air) originating in Canada or Mexico, both the port of exportation and the first U.S. port of entry will be the border crossing; and the costs to the border shall be included in the PEXT value. Expenses incurred in transporting merchandise beyond the Canada-U.S. or Mexico-U.S. borders, by means other than vessel or air (i.e., overland by automobile, truck, train, pipeline, parcel post, or mail) are not required to be reported. Consequently, an "X" shall be shown for CHGS.

See part 4, Customs Import Statistics Handbook, for more detailed information.

(E) EQUIVALENT PORT OF EXPORTATION VALUE

In accordance with TSUSA general statistical headnote 1(a)(xv) if the merchandise was acquired in a transaction between related parties, report the equivalent of the arms-length value thereof, in U.S. dollars, plus, when not included in such value, all charges, costs, and expenses incurred in placing the merchandise alongside the carrier at the port of exportation in the country of exportation.

This value must be reported if "related" is reported in block 28.

This value shall be shown for each TSUSA item number immediately beneath the CHGS and identified with an "(E)" before the value (e.g., (E) 6545).

Report the value in whole dollars rounded off to the nearest dollar. Dollar signs and commas shall be omitted.

If the value is estimated place either "(estimate)", "(est)", or "(E)" after the amount of each value.

See part 4, Customs Import Statistics Handbook, for more detailed information.

32 - ENTERED VALUE (M)

Report the U.S. dollar value in accordance with the definition in Section 402 of the Tariff Act of 1930, as amended, for all merchandise, including merchandise free of duty or dutiable at specific rates.

This value shall be shown for each TSUSA item number on the same line with the item number.

Report the value in whole dollars rounded off to the nearest dollar. Dollar signs and commas shall be omitted.

33 - TSUSA ITEM NUMBER (M)

Report the appropriate 7 digit duty/statistical reporting number under which the article is classified in the Tariff Schedules of the U.S. Annotated (TSUSA).

If more than one TSUSA item number is required (e.g., for 806.3000 or 807.0000), follow the reporting instructions in the statistical headnotes in the appropriate TSUSA schedule or subpart.

34 - TARIFF OR I.R.C. RATE (M)

Show the rate(s) of duty for the classified item as designated by the TSUSA: Free, ad valorem or specific, or both.

35 - DUTY AND I.R. TAX, DOLLARS AND CENTS (M)

Estimated duty in dollars and cents, and/or I.R. Tax, calculated by applying the rate times dutiable quantity or value.

LOWER PORTION

36 - CUSTOMS USE ONLY

37 - MISSING DOCUMENTS

To be noted by the importer or broker when documents are not available at time of entry summary filing.

38 - DUTY (M)

Total estimated duty paid.

39 - TAX (M - if applicable)

Total estimated tax paid.

40 - I.S. TEAM/LIQ. CODE

FOR I.S. team provide the 2 digit numerical code assigned to the commodity team who is appraising and classifying merchandise. LIQ. code will be completed by Customs.

41 - OTHER (M)

42 - DECLARATION (M)

Self-explanatory.

43 - AUTHENTICATION (M)

Name and signature of declarant.

44 - TOTAL (M)

Total of all estimated duties and taxes paid.

45 - TITLE (M)

Job title of owner, agent, or consignee who signs declaration.

46 - ADDRESS (M)

Official address of individual or firm entering the merchandise.

47 - DATE (M)

Month, day, year when declaration is signed.

APPRAISEMENT ENTRY

When the CF 7501 is used as an appraisement entry, the Import Specialist should so note in the block entitled "Customs Use Only." The same declaration which now appears on the CF 7500, requesting appraisement under Sec. 498(a)(1), Tariff Act or 1930, should be stapled on top of the CF 7501 in the left margin, midway, as follows:

I hereby request appraisement under Sec. 498(a)(1), Tariff Act of 1930, for the reasons given above. I declare, to the best of my knowledge and belief, that this entry and the documents presented therewith set forth all the information in my possession, or in the possession of the owner of the merchandise described herein, as to the cost of such merchandise: that I am unable to obtain any further information as to the value of the said merchandise or to determine its value for the purpose of making formal entry thereof; that the information contained in this entry and in the accompanying documents is true and correct; and that the person(s) named above is the owner of the same merchandise.

Signature _____ Capacity _____

To The District Director: The merchandise described above has been examined and the contents and values are noted above.

Examiner _____ Date _____ Customs Officer _____ Date _____

INFORMAL ENTRY

INFORMAL ENTRY

Informal entries previously made on the unnumbered CF 5119-A unit set will be made on the revised CF 7501. The shaded blocks are to be completed for the informal entry, as described in Parts 143.21, 143.22, 143.23 and 143.24, Customs Regulations. Block 13, G.O. number, will be filled in only if merchandise has been placed in a general order warehouse. Marks and numbers appearing on the shipping packages will be shown in block 30a along with the country of origin. Obtain marks and numbers from packing list or invoice.

NOTE:

When a box is full or required information cannot be contained in the box, a supplemental sheet should be attached to the CF 7501, listing the complete information unless instructed otherwise. The statement, "see attached," should appear in the box on the CF 7501. An additional supplemental sheet should be attached to the statistical copy of the CF 7501.

[FR Doc. 82-26843 Filed 10-1-82; 8:45 am]
BILLING CODE 4820-02-C

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 115

[CGD 81-057]

General Bridge Permit Program Regulations

Corrections

In FR Doc 82-26239 appearing on page 41988 in the issue for Thursday, September 23, 1982, make the following changes:

1. On page 41991, first column, § 115.90(a)(5), insert the following after the fourth line: "Which avoids wetlands. Should there be no feasible and prudent alternative location".

2. On page 41991, third column, § 115.95(a)(3), last line, "producible" should read "reproducible".

3. On page 41992, § 115.100(a), fifth line from the top, "of" should read "or".

BILLING CODE 1505-01-M

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46 CFR Parts 33, 35, 75, 78, 94, 97, 160, 161, 167, 180, 185, 192, and 196

[CGD 80-024]

Lifesaving Equipment for Great Lakes Vessels Emergency Position Indicating Radiobeacons

AGENCY: Coast Guard, DOT.

ACTION: Proposed Rules.

SUMMARY: This proposal would require that small passenger vessels on the Great Lakes, and lifeboats and liferafts on other inspected Great Lakes vessels as well as certain coastwise vessels operating on the Great Lakes, be equipped with Emergency Position Indicating Radio Beacons. The purpose of these beacons is to provide a radio signal that will alert potential rescuers to a casualty and will provide a beacon to assist in locating the casualty. The need for this action arises from several Great Lakes vessel casualties in which such a beacon would probably have prevented some of the loss of life.

DATES: Comments must be received on or before January 3, 1982.

ADDRESSES: Comments should be mailed to the Commandant (G-CMC/24) (CGD 80-024), U.S. Coast Guard, Washington, DC 20593. Between the hours of 7:00 A.M. and 5:00 P.M. Monday through Friday, comments may be delivered to, and are available for inspection and copying at the Marine Safety Council (G-CMC/24), Room 4402, U.S. Coast Guard Headquarters, 2100 Second St., S.W., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Markle, Office of Merchant Marine Safety (G-MVI-3/24) Department of Transportation, U.S. Coast Guard Headquarters, Washington, DC 20593, (202) 426-1444.

SUPPLEMENTARY INFORMATION: On June 7, 1976, the Coast Guard published an Advance Notice of Proposed Rulemaking which listed a number of changes to lifesaving equipment regulations that were under consideration for Great Lakes vessels (41 FR 22810). Among these was a proposal to add a requirement for survival craft to have radio communication equipment that automatically sends a distress signal upon contact of the craft with the water. Of the 24 comments received on the Advance Notice, eight addressed this particular proposal and seven were comments generally supporting it. The eighth comment neither supported or opposed the proposal, but discussed automatic EPIRB activation.

Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Comments should include names and addresses, identify this notice (CGD 80-024) and the specific section of the proposal, and give reasons. The proposal may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one will be held if a written request raises a genuine issue.

Draft Evaluation

A Draft Evaluation has been prepared for these regulations in accordance with the Department of Transportation's Regulatory Policies and Procedures. That order (DOT 2100.5, 5/22/80, 44 FR 11034, 2/26/79 as amended by 44 FR 28126, 5/14/79) requires that the evaluation quantify, to the maximum extent practicable, the estimated cost of the regulations to the private sector, consumers, and federal, state and local governments, as well as the anticipated benefits and impact of the regulations. The Draft Evaluation also includes the Environmental Assessment required by the National Environmental Policy Act of 1969 (Pub. L. 91-190). This proposed rule making has also been evaluated under Executive Order 12291 ("Federal Regulation," 2/17/81, 46 FR 13193, 2/19/81), and has been determined not to be a "major rule" as defined in that order since the annual effect on the economy would be less than $100 million and no major increase in prices will result.

This proposal is expected to result in a total initial cost of about $13,500 for the approximately 90 small passenger vessels operating on the Great Lakes, and about $180,000 for the 150 other vessels, for a total of $193,500. The estimated recurring annual cost for small passenger vessels is $4,050 and $42,750 for other vessels for a total of $46,800. These costs will be imposed directly on the private sector (the operators of affected vessels). The operators are expected to pass the costs through to the ultimate consumers of affected maritime services in the form of price increases. However, because of the low overall cost of the proposal, increases in individual prices will be negligible. There is no effect on federal, state, and local governments except in their capacities as consumers of affected maritime services. Implementation and enforcement of these rules would be accomplished within the scope of current Coast Guard marine safety activities, so that there will not be any need for additional federal budget commitments. The primary benefit identified for the proposal is more timely and effective search and rescue efforts in the event of a casualty.

An initial regulatory flexibility analysis is required by the Regulatory Flexibility Act (Pub. L. 96-354) unless the proposed rule will not have a significant economic impact on a substantial number of small entities. It has been determined that an initial regulatory flexibility analysis is not required and that this proposed rule making would not have a significant impact on any affected entity. The small entities that would be affected by the proposed rule are primarily the owner-operators of tour boat and charter boat businesses (small passenger vessels) on the Great Lakes. The rules proposed in this notice would require only one Class C EPIRB aboard small passenger vessels. The Class C EPIRB is a type which is not approved by the Coast Guard and is intended primarily for use by small boats in coastal waters, including the Great Lakes. Its estimated cost is $150 with an average annual maintenance cost of $45. Other affected vessels would be required to carry an average of 3 Class D and Class E EPIRBs which are special Coast Guard approved adaptations of the Class C EPIRB. These are estimated to cost $400 a substantial number of small entities" at the time this notice of proposed rule making was prepared, an analysis of the

impact on the smaller vessel operations was prepared even though it may be eventually concluded that a regulatory flexibility analysis is not required.

The Draft Evaluation has been included in the public docket for this rule making, and may be examined at the Marine Safety Council (G–CMC/44) at the address listed in the **ADDRESSES** section.

Drafting Information

The principal persons involved in drafting these regulations are: Robert Markle, Office of Merchant Marine Safety, and Michael N. Mervin, Office of the Chief Counsel.

Discussion of the Proposed Regulations

Two Coast Guard Marine Boards of Investigation into Great Lakes casualties recommended that Great Lakes vessels be equipped with emergency radiobeacons. The Board investigating the sinking of the SS Daniel J. Morrell in 1966 recommended a "data marker buoy" that would either be attached to a liferaft or float free from a sinking vessel. The buoy would transmit a distress signal on an emergency frequency. The Board investigating the sinking of the SS Edmund Fitzgerald recommended that each vessel sailing during the severe weather season have an Emergency Position Indicating Radiobeacon (EPIRB). In both cases, other vessels were near at the time of the sinking. Both sinkings occurred at night. In both cases, liferafts floated free of the sinking vessels. The search for the Morrell did not begin until 10 hours after the sinking when the Coast Guard was informed that the vessel was overdue. Of the 23 persons thought to have abandoned ship, only one survived. Confirmed deaths were attributed to exposure and drowning. If the rafts had been equipped with EPIRBs operating on the VHF–FM emergency and calling frequency, vessels and shore stations in the area would have been immediately alerted, and survivors might have been located soon afterward by homing on the distress signal. In the case of the Fitzgerald, there was radio contact with another vessel about 10 miles away on VHF–FM just minutes before the apparent sinking. It was not until four hours later that it was concluded that the Fitzgerald was missing and search efforts began. Again, a VHF–FM EPIRB would have provided an immediate alert and a homing beacon.

On October 11, 1979, the Federal Communications Commission published a final rule providing for the voluntary use of a VHF–FM EPIRB (designated Class C) for vessels operating in coastal waters (44 FR 58712). The equipment is intended primarily for recreational boats operating in coastal waters, including the Great Lakes. The device transmits the distinctive EPIRB tone for a 1.5 second period on Channel 16, the designated emergency and calling frequency. It then shifts to Channel 15 and transmits for a period of 15 seconds before shifting back to Channel 16. Silent periods of varying length are also included in the cycle. This allows a brief alerting function on the emergency and calling frequency without seriously disrupting communications. The longer period on Channel 15 is provided for the use of homing devices.

In the September 13, 1982 edition of the **Federal Register** (47 FR 40189), the Federal Communications Commission proposed the addition of Class D and Class E EPIRBs. Both of these EPIRBs are identical to the Class C in their radio transmission characteristics, but the Class D would be arranged for permanent installation in a lifeboat and the Class E would be arranged to be installed on a liferaft and would be automatically activated if the raft were inflated or floated free of the sinking vessel.

The regulations proposed in this notice would require Great Lakes tank vessels, passenger vessels, cargo and miscellaneous vessels and nautical school vessels to carry a Class D EPIRB on each lifeboat and a Class E EPIRB on each liferaft. The same requirements would also apply to vessels of these types certificated for coastwise service operating on the Great Lakes that are not required to carry a Class A EPIRB (see following paragraph). The only exception would be that vessels carrying more than 4 liferafts would have to have an EPIRB only on the first 4 rafts intended to be launched from the vessel. The purpose of this exception is to avoid any possible problems generated by a large number of simultaneously transmitting units, such as interference with communication on Channel 16 or improper functioning of homing devices. Small passenger vessels on the Great Lakes would be required to carry a Class C EPIRB at or near the principal steering station or else a Class E EPIRB on an inflatable liferaft. These regulations would result in each U.S. registered inspected vessel operating on the Great Lakes being equipped with an EPIRB system.

On March 18, 1974, the Coast Guard published final rules that required a Class A EPIRB on each self propelled vessel in ocean and coastwise service, except for coastwise vessels with a VHF radiotelephone on a route extending not more than 20 miles from a harbor of safe refuge (38 FR 10139). Class A EPIRBs float free of a sinking vessel and automatically send a distress signal on aircraft frequencies. Since these vessels are usually outside of the range of the VHF–FM distress system when underway, the VHF–FM EPIRB would not provide the necessary alerting function. The Class A EPIRB is a separate unit, not attached to any survival craft, so while it may provide the alert of a casualty, it may not be near the survivors when search and rescue forces arrive. The VHF–FM EPIRB on the lifeboats and liferafts could be an effective locating aid, not only for search and rescue aircraft, but for any nearby vessel as well. The VHF–FM EPIRB offers the added advantage of providing a signal when the ship is actually abandoned, which may be some time before the vessel sinks and the Class A EPIRB is activated. However, a requirement for VHF–FM EPIRBs on ocean-going vessels would have to be coordinated with other countries since an EPIRB required on U.S. vessels would also have to be compatible with foreign search and rescue systems. This coordination is now underway. Pending resolution of international implications, carriage on vessels other than Great Lakes vessels can not be considered.

In another Notice of Proposed Rule Making to be published soon under docket number CGD 77–202, the Coast Guard will propose that lifeboats on new and existing Great Lakes vessels be of the totally enclosed type. The effective date of such a rule would be a number of years after the effective date of the regulations proposed in this notice. As written, the rules proposed in this notice would require existing open lifeboats to be equipped with the Class D EPIRB even though the boats might be replaced within a few years. This should not cause any significant additional expense since the EPIRB would be readily removable from the open boat and installed in a new enclosed boat. Comments are specifically invited on this matter.

Inflatable liferafts are packed in rigid plastic containers large enough to contain the raft and its equipment without much extra volume. This prevents raft damage due to shifting inside the container. Addition of an EPIRB may make it necessary to use larger containers for some rafts to provide the needed extra room. Comments are invited on any complications or additional expense that might result.

The proposed rules make no distinction between rigid liferafts and inflatable liferafts. Most of the vessels that would be affected by these rules

that are required to have liferafts, have inflatable liferafts; however, a number of older vessels have rigid liferafts. The Class E EPIRB will be designed primarily for inflatable liferafts where the EPIRB will be inside the raft container, protect from the weather and arranged to be activated during the automatic inflation sequence. An EPIRB on a rigid raft will have to be arranged to activate when the raft is removed or floats free from the place where it is stowed. An EPIRB on a rigid raft will also be more directly exposed to the weather. Comments are invited on any complications that may arise from fitting EPIRBs on rigid rafts.

A number of changes to the regulations are also proposed to make sure that the EPIRBs are properly tested and maintained. For an EPIRB on an inflatable liferaft, inspection and maintenance will be done at its annual servicing. On other EPIRBs, this is done monthly on the vessel. It is also proposed to require that EPIRB-equipped inflatable liferafts have a special marking on the liferaft container stating that it contains an EPIRB and identifying the EPIRB by Coast Guard approval number and manufacturer.

This notice also proposes to revise Subpart 161.011 of Title 46 which is the basis for Coast Guard approval of EPIRBs. The revision includes provisions for the new Class D and Class E EPIRBs and reflects the procedure that has evolved for Coast Guard review of the application for type acceptance that is submitted to the Federal Communications Commission (FCC). Under this procedure, the Coast Guard reviews the design of any EPIRB that is designed to be mounted on an inspected vessel (Class A, D, or E) and provides its findings to the Commission to use in making a decision for the grant of type approval or type acceptance. The Coast Guard automatically approves the device upon receiving notice of type approval or type acceptance. This procedure simplifies the manufacturer's paperwork burden by simply using a copy of the FCC application for Coast Guard review.

The rules proposed in this notice for use of EPIRBs would be made effective 1½ years after publication as a final rule. This period of time should allow EPIRB manufacturers to make the necessary modifications to their equipment, apply for FCC type acceptance, coordinate with survival craft manufacturers on appropriate means of mounting, and produce equipment in sufficient numbers to allow vessel operators to comply with the rule. It is also a sufficient time to make sure that at least one full winter layup period is included between final rule publication and the effective date. The winter layup is the time when most modification work is carried out on Great Lakes vessels.

Requirements for EPIRBs on lifeboats and liferafts for vessels in ocean service are currently under consideration by the International Maritime Organization (IMO). When the IMO work is completed, the Coast Guard will give consideration to requirements for survival craft EPIRBs on these vessels. Rules for these vessels can not be considered at this time since radio equipment on these vessels must meet international requirements, and it can not yet be determined if the Class D and Class E EPIRBs will meet these requirements.

List of Subjects

46 CFR Parts 33 and 35

Marine safety, Tank vessels.

46 CFR Parts 75, 78, 180, and 185

Marine safety, Passenger vessels.

46 CFR Parts 94 and 97

Cargo vessels, Marine safety.

46 CFR Parts 160 and 161

Marine safety.

46 CFR Part 167

Marine safety, Nautical schools.

46 CFR Parts 192 and 196

Marine safety, Oceanographic vessels.

In consideration of the foregoing, the Coast Guard proposes to amend Title 46 of the Code of Federal Regulations as follows.

PART 33—LIFESAVING EQUIPMENT

1. Amending S/33.60–1 by revising the introductory text of (b) and adding a new (c) as follows:

§ 33.60–1 Emergency position indicating radiobeacon (EPIRB)–T/ALL.

* * * * *

(b) Compliance with paragraph (a) of this section is not required for a coastwise vessel—

* * * * *

(c) Each vessel certificated for Great Lakes service, and each other vessel operating on the Great Lakes that does not have a Class A EPIRB meeting paragraph (a) of this section, must have—

(1) in each lifeboat, an operative, approved Class D EPIRB, readily accessible for testing and for use by the operator of the boat;

(2) in each liferaft, if the vessel has four or less liferafts, an operative approved Class E EPIRB automatically activated when the raft is inflated or floats free; and

(3) in each of the first four liferafts intended to be launched from the vessel if the vessel has more than four liferafts, an operative approved Class E EPIRB as described in paragraph (c)(2) of this section.

(46 U.S.C. 391a; 49 CFR 1.46)

PART 35—OPERATIONS

2. By revising § 35.10–25 to read as follows:

§ 35.10–25 Emergency position indicating radiobeacon (EPIRB)–T/ALL.

The master shall ensure that each EPIRB, other than and EPIRB in an inflatable liferaft—

(a) is tested monthly, using the integrated test circuit and output indicator, to determine that it is operative; and

(b) has its battery replaced—

(1) immediately after each time the EPIRB is used, and

(2) before the marked expiration date.

(46 U.S.C. 391a; 49 CFR 1.46)

PART 75—LIFESAVING EQUIPMENT

3. Amending § 75.60–1 by revising the introductory text of (b) and adding a new (c) as follows:

§ 75.60–1 Emergency position indicating radiobeacon (EPIRB).

* * * * *

(b) Compliance with paragraph (a) of this section is not required for a coastwise vessel—

* * * * *

(c) Each vessel certificated for Great Lakes service, and each other vessel operating on the Great Lakes that does not have a Class A EPIRB meeting paragraph (a) of this section, must have—

(1) in each lifeboat, an operative, approved Class D EPIRB, readily accessible for testing and for use by the operator of the boat;

(2) in each liferaft, if the vessel has four or less liferafts, an operative approved Class E EPIRB automatically activated when the raft is inflated or floats free; and

(3) in each of the first four liferafts intended to be launched from the vessel if the vessel has more than four liferafts, an operative approved Class E EPIRB as described in paragraph (c)(2) of this section.

(46 U.S.C. 401, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

PART 78—OPERATIONS

4. By revising § 78.17–85 to read as follows:

§ 78.17–85 Emergency position indicating radiobeacon (EPIRB).

The master shall ensure that each EPIRB, other than an EPIRB in an inflatable liferaft—

(a) is tested monthly, using the integrated test circuit and output indicator, to determine that it is operative; and

(b) has its battery replaced—

(1) immediately after each time the EPIRB is used, and

(2) before the marked expiration date.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

PART 94—LIFESAVING EQUIPMENT

5. Amending § 94.60–1 by revising the introductory text of (b) and adding a new (c) as follows:

§ 94.60–1 Emergency position indicating radiobeacon (EPIRB).

* * * * *

(b) Compliance with paragraph (a) of this section is not required for a coastwise vessel—

* * * * *

(c) Each vessel certificated for Great Lakes service, and each other vessel operating on the Great Lakes that does not have a Class A EPIRB meeting paragraph (a) of this section, must have—

(1) in each lifeboat, an operative, approved Class D EPIRB, readily accessible for testing and for use by the operator of the boat;

(2) in each liferaft, if the vessel has four or less liferafts, an operative approved Class E EPIRB automatically activated when the raft is inflated or floats free; and

(3) in each of the first four liferafts intended to be launched from the vessel if the vessel has more than four liferafts, an operative approved Class E EPIRB as described in paragraph (c)(2) of this section.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

PART 97—OPERATIONS

6. By revising § 97.17–65 to read as follows:

§ 97.17–65 Emergency position indicating radiobeacon (EPIRB).

The master shall ensure that each EPIRB, other than an EPIRB in an inflatable liferaft—

(a) is tested monthly, using the integrated test circuit and output indicator, to determine that it is operative; and

(b) has its battery replaced—

(1) immediately after each time the EPIRB is used, and

(2) before the marked expiration date.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

PART 160—LIFESAVING EQUIPMENT

Subpart 160.051—Inflatable Liferafts

7. Amending § 160.051–6 by adding a new paragraph (e)(3) to read as follows:

§ 160.051–6 Servicing.

* * * * *

(e) * * *

(3) *Servicing of EPIRBs.* Each time an inflatable liferaft equipped with an emergency position indicating radiobeacon (EPIRB) is serviced, the EPIRB must—

(i) be tested using the integrated test circuit and output indicator, to determine that it is operative; and

(ii) have its battery replaced if the EPIRB has been used or if the marked date has expired.

* * * * *

8. Amending § 160.051–8 by adding a new paragraph (c) to read as follows:

§ 160.051–8 Nameplate and marking.

* * * * *

(c) *Special marking for inflatable liferaft containing an EPIRB.* If the inflatable liferaft is equipped with an EPIRB, the container marking required in this section must include a notice that includes the following information about the EPIRB:

(i) The liferaft contains an automatically activated Class (insert appropriate Class designation) EPIRB (Emergency Position Indicating Radiobeacon).

(ii) U.S. Coast Guard approval number (insert number).

(iii) Manufactured by (insert name and address of manufacturer).

Subpart 161.011—Emergency Position Indicating Radiobeacons

9. Amending § 161.011–5 by adding new paragraphs (b) and (c) to read as follows:

§ 161.011–5 Classes.

* * * * *

(b) Class D—an EPIRB that has been type approved or type accepted by the FCC as a Class D EPIRB. These EPIRBs are designed to be mounted in a lifeboat and activated manually in an emergency.

(c) Class E—an EPIRB that has been type approved or type accepted by the FCC as a Class E EPIRB. These EPIRBs are designed to be attached to a liferaft and activated automatically when the liferaft floats free or inflates.

10. By revising § 161.011–10 to read as follows:

§ 161.011–10 EPIRB approval.

(a) The Coast Guard approves the classes of EPIRBs listed in § 161.011–5 of this subpart.

(b) An application for type approval or type acceptance of an EPIRB should be submitted to the FCC in accordance with Title 47 of the Code of Federal Regulations, Part 2. A copy of the application for a Class of EPIRB listed in § 161.011–5 of this subpart must also be submitted to the Commandant (G–MVI–3/24), U.S. Coast Guard Headquarters, Washington, D.C. 20593. The Coast Guard reviews the test results in the application that concern installation and automatic operation (if required) of the EPIRB. The Coast Guard provides the results of the review to the manufacturer, and to the FCC for its use in acting upon the application.

(c) Upon notification of the FCC type acceptance or type approval, the Chief, Survival Systems Branch (G–MVI–3/24) issues a certificate of approval for the EPIRB.

PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

11. Amending § 167.35–72 by revising the introductory text of (b) and adding a new (c) as follows:

§ 167.35–72 Emergency position indicating radiobeacon (EPIRB).

* * * * *

(b) Compliance with paragraph (a) of this section is not required for a coastwise vessel—

* * * * *

(c) Each vessel certificated for Great Lakes service, and each other vessel operating on the Great Lakes that does not have a Class A EPIRB meeting paragraph (a) of this section, must have—

(1) in each lifeboat, an operative, approved Class D EPIRB, readily accessible for testing and for use by the operator of the boat;

(2) in each liferaft, if the vessel has four or less liferafts, an operative approved Class E EPIRB automatically activated when the raft is inflated or floats free; and

(3) in each of the first four liferafts intended to be launched from the vessel if the vessel has more than four liferafts, an operative approved Class E EPIRB as described in paragraph (c)(2) of this section.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

12. Amending § 167.65–1 by revising paragraph (c)(3) to read as follows:

§ 167.65–1 Station bills, drills, and log book entries.

* * * * *

(c) * * *

(3) The master shall ensure that each EPIRB, other than an EPIRB in an inflatable liferaft—

(i) is tested monthly, using the integrated test circuit and output indicator, to determine that it is operative; and

(ii) has its battery replaced—

(A) immediately after each time the EPIRB is used, and

(B) before the marked expiration date.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

PART 180—LIFESAVING EQUIPMENT

13. Amending § 180.40–1 by revising the introductory text of (b) and adding a new (c) as follows:

§ 180.40–1 Emergency position indicating radiobeacon (EPIRB).

* * * * *

(b) Compliance with paragraph (a) of this section is not required for a coastwise vessel—

* * * * *

(c) Each vessel cetificated for Great Lakes service, and each other vessel operating on the Great Lakes that does not have a Class A EPIRB meeting paragraph (a) of this section, must have either—

(1) an operative Class C EPIRB stowed at or near the principal steering station; or

(2) if the vessel has an inflatable liferaft, an operative approved Class E EPIRB, in the raft, automatically activated when the raft is inflated.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

PART 185—OPERATIONS

14. By revising § 185.25–20 to read as follows:

§ 185.25–20 Tests of Emergency position indicating radiobeacon (EPIRB).

The licensed operator of the vessel shall ensure that each EPIRB, other than an EPIRB in an inflatable liferaft—

(a) is tested monthly, using the integrated test circuit and output indicator, to determine that it is operative; and

(b) has its battery replaced after the EPIRB is used and before the marked expiration d te.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

PART 192—LIFESAVING EQUIPMENT

15. Amending § 192.65–1 by revising the introductory test of (b) and adding a new (c) as follows:

§ 192.65–1 Emergency position indicating radiobeacon (EPIRB).

* * * * *

(b) Compliance with paragraph (a) of this section is not required for a coastwise vessel—

* * * * *

(c) Each vessel certificated for Great Lakes service, and each other vessel operating on the Great Lakes that does not have a Class A EPIRB meeting paragraph (a) of this section, must have—

(1) in each lifeboat, an operative, approved Class D EPIRB, readily accessible for testing and for use by the operator of the boat;

(2) in each liferaft, if the vessel has four or less liferafts, an operative approved Class E EPIRB automatically activated when the raft is inflated or floats free; and

(3) in each of the first four liferafts intended to be launched from the vessel if the vessel has more than four liferafts, an operative approved Class E EPIRB as described in paragraph (c)(2) of this section.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

PART 196—OPERATIONS

16. By revising § 196.15–65 to read as follows:

§ 196.15–65 Emergency position indicating radiobeacon (EPIRB).

The master shall ensure that each EPIRB, other than an EPIRB in an inflatable liferaft—

(a) is tested monthly, using the integrated test circuit and output indicator, to determine that it is operative; and

(b) has its battery replaced—

(1) immediately after each time the EPIRB is used, and

(2) before the marked expiration date.

(46 U.S.C. 481, 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

Dated: May 14, 1981.

Clyde T. Lusk, Jr.,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 82-27039 Filed 10-1-82; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82–664; RM 4161]

FM Broadcast Station in Bisbee, Arizona, Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The action proposes the assignment of FM Channel 217A to Bisbee, Arizona, as its first noncommercial FM assignment, in response to a petition filed by Lee M. Spinks.

DATES: Comments must be filed on or before November 12, 1982, reply comments on or before November 29, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: September 16, 1982.

Released: September 27, 1982.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.504(a) Table of Assignments, Noncommercial Educational FM Broadcast Stations (Bisbee, Arizona), RM–4161.

1. The Commission herein considers a petition for rule making filed July 17, 1982, by Lee M. Spinks ("petitioner"), which seeks the assignment of Channel 217A to Bisbee, Arizona [1], as its first noncommercial educational FM assignment. Petitioner failed to state that he would apply for the channel, if assigned. He is requested to do so in comments to this proposal.

2. We have determined that Channel 217A can be assigned to Bisbee, Arizona, in conformity with the minimum distance separation requirements, provided the transmitter

[1] The petition requested Channel 1231A for assignment to Bisbee. That channel, operating with 100 watts at 100 feet would conflict with the proposals in Docket 20735 as it relates to Television Station KUAT (Channel 6) at Tucson, Arizona. Therefore, we have substituted channel 217A for consideration herein, which meets the criteria in Docket 20735.

site is located approximately 4 miles east of the city.[3]

3. Since Bisbee, Arizona, is located within 320 kilometers (199 miles) of the U.S.-Mexican border, the proposed assignment requires concurrence of the Mexican government.

4. In view of the fact that the proposed assignment could provide a first noncommercial educational FM service to Bisbee, the Commission believes it appropriate to propose amending the Noncommercial Educational FM Table of Assignments (§ 73.504(a) of the Commission's Rules) with regard to the following city:

City	Channel No.	
	Present	Proposed
Bisbee, Arizona		217A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before November 12, 1982, and reply comments on or before November 29, 1982, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See: *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed. Reg. 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Montrose Tyree, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

[3]This restriction is necessary to avoid short spacing to unused Channel 217A at Nogales, Arizona.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appedix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

(4) *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-27210 Filed 10-1-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-663; RM-4176]

TV Broadcast Station in High Springs, Florida, Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This action proposes to assign UHF commercial television Channel 53 to High Springs, Florida, as requested by American Satellite and Television, Inc. The channel could provide a first local television service to High Springs.

DATES: Comments must be filed on or before November 8, 1982, and reply comments on or before November 23, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.
FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632–5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcast.

Adopted: September 16, 1982.

Released: September 23, 1982.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (High Springs, Florida), BC Docket No. 82–663 RM–4176.

1. The Commission has under consideration a petition for rule making to assign commercial UHF television Channel 53 to High Springs, Florida. The petition was filed on July 30, 1982, by American Satellite and Television, Inc. ("ASAT").

2. ASAT submitted an engineering statement to show that the proposal would be fully consistent with the Commission's spacing requirements for television stations.

3. High Springs is described as a community of 2,491 [1] in Alachua County (population 151,348), about halfway between Gainesville and Lake City, Florida, "the two major communities in north central Florida." It is located within the Gainesville Standard Metropolitan Statistical Area (SMSA), which, ASAT states, is one of the fastest growing in the nation. The population is said to have increased by 41.4 percent from 1960 to 1970 and by 44.5 percent from 1970 to 1980.

4. ASAT states that the proposal would serve north central Florida, providing primary service to High Springs, Lake City, and the nine-county area from the Florida-Georgia boundary on the north to Ocala on the south.

5. ASAT states that the region is presently served by only one commercial television facility, Station WCBJ, Channel 20, Gainesville, which recently moved its transmitter to a point between Gainesville and Ocala, thus reducing its service to some areas north of Gainesville.

6. ASAT affirms that it will promptly apply for operation on the channel if it is assigned as requested.

7. In view of the fact that the proposed television channel assignment would provide for a first local television service, the Commission believes it appropriate to propose amending the Television Table of Assignments, Section 73.606(b) of the Commission's Rules with regard to High Springs, Florida, as follows:

City	Channel No.	
	Present	Proposed
High Springs, Fla		53+

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. *Note:* A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before November 8, 1982, and reply comments on or before November 23, 1982, and are advised to read the Appendix for the proper procedures.

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the Television Table of Assignments, § 73.606(b) of the Commission's rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules*, 46 Fed. Reg. 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Philip S. Cross, Broadcast Bureau, (202) 632–5414. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions

[1] Population figures are from the 1980 U.S. Census Advance Report.

by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-27209 Filed 10-1-82; 9:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-665; RM-4175]

FM Broadcast Station in Payette and Weiser, Idaho, Proposed Changes in Table of Assignments.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the substitution of Channel 262 for Channel 261A at Payette, Idaho, and modification of the license for Station KWBJ(FM) accordingly, in response to a petition filed by the licensee, Blue Mountain Broadcasting Company. Additionally, the substitution of Channel 257A for unused Channel 265A at Weiser, Idaho, will be necessary.

DATE: Comments must be filed on or before November 8, 1982, and reply comments on or before November 23, 1982.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: September 17, 1982.

Released: September 24, 1982.

By the Chief, Policy and Rules Division:

In the matter of amendment of §73.202(b), Table of Assignments, FM Broadcast Stations. (Payette and Weiser, Idaho), BC Docket No. 82-665 RM-4175.

1. Blue Mountain Broadcasting Company ("petitioner")[1] filed a petition on July 30, 1982, seeking to substitute Class C Channel 262 for Channel 261A at Payette and to modify the license for Station KWBJ(FM) to specify operation on Channel 262. Petitioner also proposed the substitution of Channel 257A for Channel 265A at Weiser, Idaho. This substitution is necessary to meet the minimum separation requirements for the Payette proposal. It will not affect any existing operation, since Channel 265A is not in use.

2. In support of the proposed channel substitution at Payette, petitioner claims that a Class C operation will provide improved signal quality to outlying areas, and provide city grade signal to small towns, instead of the secondary coverage now received. Petitioner also notes that its proposal will eliminate the competitive disparity resulting to its station and the two Class C stations in the Payette/Ontario (Oregon) market.[2] To further support his proposal, petitioner submitted demographic and economic information, and stated that the proposed substitution of channels would cause limited preclusion. However, in view of the action taken in the *Revision of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982), this information is no longer relevant.

3. We believe that the petitioner's proposals warrant consideration. The channels can be substituted in compliance with the Commission's minimum distance separation requirements. In accordance with our established policy, we shall also propose to modify the license of Station KWBJ (Channel 261A) to specify operation on Channel 262. However, should another party indicate an interest in the Class C assignment, then the modification could not be implemented. See, *Cheyenne Wyoming*, 62 F.C.C. 2d 63 (1976). Instead, if the channel is assigned, an opportunity for the filing of a competing application must be provided.

4. In view of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, as it pertains to Payette and Weiser, Idaho, as follows:

City	Channel No.	
	Present	Proposed
Payette, Idaho	261A	262
Weiser, Idaho	265A	257A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before November 8, 1982, and reply comments on or before November 23, 1982, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed. Reg. 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Montrose Tyree, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Sec. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

[1] Blue Mountain Broadcasting Company is the licensee of Station KWBJ(FM), Payette, Idaho.

[2] Petitioner notes that it was granted a waiver to operate its Stations KYET(AM) and KWBJ(FM) outside the corporate city limits of Payette (its city of license). The stations are said to be located in Ontario with transmitters at the edge of Payette's boundary.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regualtions, interested parties may file comments and reply comments on or before the dates set for in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-27211 Filed 10-1-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket NO. 82-666; RM 4176]

FM Broadcast Station in Marlow, Oklahoma, Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This action proposes the assignment of FM Channel 221A to Marlow, Oklahoma, in response to a petition filed by Gary Wafford. The proposal could provide a first FM service to that community.

DATES: Comments must be filed on or before November 8, 1982, and reply comments must be filed on or before November 23, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: September 17, 1982.

Released: September 24, 1982.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Marlow, Oklahoma), BC Docket No. 82-666 RM-4174.

1. A petition for rule making was filed July 26, 1982, by Gary Wafford ("petitioner") proposing the assignment of Channel 221A to Marlow, Oklahoma, as its first FM assignment. Petitioner stated that he will apply for the channel, if assigned.

2. A site restriction of approximately 6.7 Miles northwest of Marlow is required due to Station KELS in Ardmore, Oklahoma.

3. Petitioner also submitted community data in support of his proposal. However, in view of the action taken in BC Docket No. 80-130, *Revision of FM Assignment Policies and Procedures,* 90 F.C.C. 2d 88 (1982), this information is no longer needed.

4. In view of the fact that the proposed channel assignment could provide a first FM broadcast service to Marlow, Oklahoma, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's rules, with respect to the following community.

Channel No.	City	
	Present	Proposed
Marlow, Okla		221A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before November 8, 1982, and reply comments on or before November 23, 1982, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, *Certification that Section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of

Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) conserning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promplty. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments: Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commisson's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-27212 Filed 10-1-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket PS-72; Notice 1]

Transportation of Hazardous Liquids by Pipeline Retention of Radiographic Film

AGENCY: Materials Transportation Bureau (MTB), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to delete the requirement in § 195.234(g) to retain radiographic film for 3 years after a pipeline is placed in service and to map the location of the radiographed welds. The existing rule does not appear to enhance safety, but does impose a significant cost burden.

DATE: Interested persons are invited to submit written comments on this proposal. All comments must be filed by November 18, 1982. Late filed comments will be considered so far as practicable. Interested persons should submit as part of their written comments all the material that is considered relevant to any statement of fact or argument made.

ADDRESS: Communications should be sent to the Dockets Branch, Room 8426, Materials Transportation Bureau, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, and identify the docket and notice numbers.

FOR FURTHER INFORMATION CONTACT: Frank Robinson, 202-426-2392.

SUPPLEMENTARY INFORMATION:

Background

Under the requirements of § 195.234, at least 10 percent of the girth welds made daily on a pipeline must be nondestructively tested to determine the acceptability of the welds. In addition, 100 percent of the girth welds that are located in specified areas (where a defect might occur or a spill could have serious consequences) must be nondestructively tested. To assure compliance with these testing requirements, § 195.234(g) requires that a record by kept for 3 years of welds that have been nondestructively tested, showing, if practicable, the location of the weld, and including the developed film for welds tested by radiography. Besides serving as a check on compliance, MTB believes that the drafters of § 195.234(g) thought that retained radiographs would be advantageous in analyzing any leak that might develop in a radiographed weld.

In addition to the § 195.234(g) requirements, § 195.266(a) requires that a complete record be kept for the life of the facility showing the total number of girth welds and the number nondestructively tested, including the number rejected and the disposition of each rejected weld.

Two persons have petitioned MTB to delete the radiograph retention requirement from § 195.234(g). In a letter dated September 21, 1977 (Pet. 77-11), Consolidated X-Ray Service

Corporation requested that § 195.234(g) be made identical to the comparable recordkeeping requirement for gas pipelines set forth in § 192.243(f), which does not require retention of radiographs, or the exact location of each weld. Consolidated argued that the requirement for gas pipelines should be sufficient for liquid pipelines, since the construction methods (i.e., materials used, welding practices, and inspection techniques) are the same for the two types of pipelines. Consolidated also pointed out that although radiograph retention was initially proposed for inclusion in § 192.243(f) (35 FR 1112), it was deleted in the final rule (35 FR 13248) in favor of the current, more general requirement on grounds that "retention of X-ray film would present a substantial clerical burden, and will not prove too valuable in accident investigation."

Colonial Pipeline Company, by letter dated October 17, 1978, also requested that the requirement to retain weld radiographs be deleted from § 195.234(g). Colonial argued that the objective of radiographic inspection of girth welds is to control the quality of welding, and that this objective is met by immediately bringing any problems that are detected to the attention of the welders. Thus, Colonial concludes, a weld radiograph loses its usefulness after a weld is initially accepted or rejected. In further argument against the need to retain radiographs beyond their initial interpretation, Colonial argued that a record of film interpretation and subsequent disposition of the weld, combined with a metallurgical examination, would be sufficient to explain any weld failure that might occur. Colonial also said the burdens associated with radiograph retention (the clerical tasks of rolling, marking, transporting, and storing film as much as 132 inches in length) are costly, and the time spent by inspectors who perform these tasks reduces their effectiveness in visually inspecting and interpreting film of additional welds.

Objective

Part 192 for gas pipelines and Part 195 for hazardous liquid pipelines both have recordkeeping requirements pertaining to nondestructive testing of girth welds. The requirements are not the same, however, and MTB believes the requirements of Part 192 are adequate for the purposes of providing evidence for enforcement and information to supplement a metallurgical analysis of any future leaks occurring in girth welds that have been nondestructively tested.

The added burdens of keeping radiographic film as well as mapping the location of each weld currently imposed by § 195.234(g) do not appear necessary to achieve the recordkeeping purposes, since for similarly constructed gas pipelines, mere statements attesting to compliance have proved sufficient for enforcement needs, and as one of MTB's predecessor agencies, the Office of Pipeline Safety, concluded in 1970, old radiographs are not particularly helpful in accident analysis. Therefore, MTB is proposing to revoke § 195.234(g) but retain § 195.266(a) for the girth weld recordkeeping requirement, making the requirements of Part 195 similar to Part 192. Under this proposal, in contrast to the present rule, retention of radiographic film would not be required; records would have to be kept for the life of the pipeline, but the records need not show the precise location of each weld tested.

Issue

A further benefit that derives from § 195.234(g) is that retained radiographs enable enforcement personnel to verify the judgments about weld quality made by persons who originally interpreted the film. Welding irregularities involving both misread and falsified radiographs were discovered in this manner on the Trans-Alaska crude oil pipeline, and have been discovered by pipeline operators' own quality control personnel on other pipelines. Some persons might argue, therefore, that radiographs should be retained for this reason. MTB does not agree, however, because deliberate misrepresentation can occur with respect to any type of record, and because the quality of finished girth welds is further assured by Part 195 through requirements other than nondestructive testing. For example, Subpart D requires that welds be visually inspected and that welders and welding procedures be qualified by testing. Also, under Subpart E, each pipeline must be hydrostatically tested. MTB believes that these controls, including the requirement to nondestructively test certain welds, are sufficient to assure weld quality, making the added requirement of retaining radiographs until there is opportunity for examination by MTB enforcement personnel superfluous. Such examination may occur, nevertheless, during the normal course of MTB's compliance investigations of pipeline construction activity.

If § 195.234(g) is deleted as proposed, the question of whether radiographs must be retained beyond the stage of initial interpretation until they are reviewed by an operator's quality control personnel would depend on the procedures the operator establishes under § 195.234(c) for interpretation of radiographs. If those procedures provide for quality control review, then the radiographs would have to be kept until that review is completed and a final decision is made as to weld acceptability. However, since Part 195 does not require a second level review of radiographs, if an operator does not include one in its interpretation procedures under § 195.234(c), then radiographs could be disposed of after the initial interpretation and decision as to weld acceptability.

MTB believes that significant cost savings will result from this proposed rule. Determining the exact location of each weld and identifying, transporting, and storing film is relatively expensive, especially on large pipelines. The MTB estimates that approximately $2.5 million is spent annually by the liquid pipeline industry mapping radiographed welds, and an additional $0.6 million is spent annually on retaining radiographs. The MTB believes these costs can be substantially eliminated without reducing public safety. A Regulatory Evaluation is available in the docket.

Since this proposed rulemaking action will have a positive effect on the economy of less than $100 million a year, will result in a cost savings to consumers, industry, and government agencies, and no adverse effects are anticipated, the action is not "major" under Executive Order 12291 or "significant" under Department of Transportation procedures.

Based on the facts available concerning the impact of this rulemaking action, I certify pursuant to Sec. 605 of the Regulatory Flexibility Act, that the action will not, if adopted as final, have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 195

Ammonia, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

In view of the above, MTB proposes to amend Part 195 of Title 49 of the Code of Federal Regulations by revoking § 195.234(g).

(49 U.S.C. 2002; 49 CFR 1.53, Appendix A to Part 1, and Appendix A to Part 106)

Issued in Washington, D.C., on September 28, 1982.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 82-27229 Filed 10-1-82; 8:45 am]
BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1121

[Ex Parte No. 274 (Sub-5)[1]]

Revision of Abandonment Regulations

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission's regulations set forth at 49 CFR 1121 (1981) govern applications to abandon or to discontinue service over rail lines and offers of financial assistance to continue service over those lines. We propose to modify portions of Subpart D of our regulations which set forth the standards for determining costs, revenues, and return on value in abandonment and offer of financial assistance proceedings. These revisions would reflect policy changes and court decisions made since adoption of the present regulations. Minor changes in carriers' filing requirement are also proposed.

DATES: Comments must be received within 30 days of this publication.

ADDRESS: Send comments (original and 10 copies) to: Interstate Commerce Commission, Room 5417, Washington, D.C. 20423

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245, or Wayne A. Michel, (202) 275–7657.

SUPPLEMENTARY INFORMATION:

Overview

The Commission's regulations set forth at 49 CFR Part 1121 (1981) govern applications to abandon or to discontinue service over rail lines and offers of financial assistance to continue service over those lines. We propose to modify portions of Subpart D of our regulations which set forth the standards for determining costs, revenues, and return on value in abandonment and offer of financial assistance proceedings. Most of the proposed modifications are necessary to conform to the mandate of *Chicago & North Western Transp. Co* v. *United States*, 582 F. 2d 1043 (7th Cir.) *cert. denied*, 439 U.S. 1039 (1978) (*CNW Case*). Other changes reflect recent decisions in which we have found that labor costs and property taxes are costs attributable to a line, and opportunity costs must be considered in weighing the merits of an abandonment.

Finally, we propose other minor revisions to our regulations governing: (1) The filing of system diagram maps; (2) the filing of certain environmental data; (3) the time for filing data supporting offer of financial assistance estimates; and (4) the waiver of our abandonment regulations.

In proposing these changes, we have considered the rail transportation policy set forth in 49 U.S.C. 10101a.

I. The CNW Case

In the *CNW Case*, the Seventh Circuit partially invalidated our abandonment regulations.[2] The court held that the statute requires that for subsidy purposes: (1) The "current cost" of cars, locomotives, and equipment with respect to depreciation expense must be based on replacement value; (2) the cost of equity capital must be reflected in calculating the return on equipment; and (3) the effects of Federal and State income taxes on equity capital must be considered. Even though the court's holding was limited to our subsidy standards, we propose to adopt the court's reasoning on these issues for both abandonment and subsidy calculations. Concerning the court's holdings that we must consider the cost of equity capital for a railroad in reorganization, however, we will limit our consideration to subsidy calculations.

In addition, we will address the effect of rehabilitation of a line paid for by a subsidizer on the return on investment due the carrier.

A. Cost of Equipment

The *CNW Case* raised important policy considerations regarding equipment costing methodology. In selecting an appropriate costing methodology for both abandonment proceedings and subsidy offers, we seek to establish standards which will permit accurate evaluation of the financial burden of continued operations over a line segment.

We propose to revise § 1121.42(g) and (h) and add § 1121.42(o) to reflect our view that equipment costs should now be computed by first determining the current cost of new equipment and then adjusting for accumulated depreciation. See, *Chicago & North Western Transp. Co.—Abandonment*, 366 I.C.C. 373, 375 (1982). This approach should reflect actual costs to the railroad because depreciation expense would be calculated by taking into account the current replacement cost of equipment. Further, return on investment would more accurately reflect the current value of the equipment used on the line proposed to be abandoned.

The depreciated book value (the method prescribed in our present regulations) tends to understate costs because it does not allow for the persistent and substantial inflation experienced over the last several years. On the other hand, use of replacement cost of new equipment, without allowances for accumulated depreciation, would overstate required return on investment for past operations by overvaluing the equipment involved. A third possible methodology, based on replacement cost of equipment in its used condition, would provide accurate costs but only if replacement costs could be determined in a reliable manner.

B. Cost of Capital

We propose significant changes in the cost of capital calculations. Three of the changes affect calculations in both the abandonment and subsidy area: (1) The cost-of-capital will be calculated on a before-tax basis; (2) the calculations related to new equipment purchase will include the use of the statutory tax rate in determining the cost of capital and in developing the investment tax credit for the line segment; and (3) the railroads will be allowed to use the industry wide average debt/equity composition for their capital structure instead of attempting to determine their actual structure. There are also two changes which only affect subsidy calculations: (1) For railroads not in reorganization ("non-bankrupt railroad"), the rate of return applied to the value of the rail properties will be computed on the basis of the railroad's *effective* tax rate; and (2) for railroads in reorganization ("bankrupt railroads"), the reasonable return on rail properties will be calculated using the Commission's latest annual findings in its "Adequacy of Railroad Revenue" determinations under the procedures promulgated in Ex Parte No. 393, *Standards for Railroad Revenue Adequacy*, 364 I.C.C. 803 (1981).

We shall discuss each of these proposed revisions individually.

1. *Before-Tax Basis for Cost-of-Capital.* Any return on investment, whether an operating profit or a subsidy payment, is taxable to the railroad, so it is a pre-tax earning and should be

[1] This proceeding embraces Ex Parte No. 274 (Sub-No. 2), *Abandonment of Railroad Lines and Discontinuance of Service* (not printed), served April 11, 1979, 44 Fed. Reg. 37243 (June 26, 1979). Because that proceeding has not advanced beyond the initial comment stage, it will be embraced in this proceeding for further comment and action.

[2] The Court's decision also invalidated section 1121.38(i)–(2)(ii–iv), which provided for the Commission to postpone an abandonment certificate beyond the statutory 6-month maximum negotiation period if the parties fail to execute a financial assistance agreement. This holding has been legislatively reversed by provisions enacted by the Staggers Rail Act of 1980, Pub. L. No. 96–448.

judged by a pre-tax standard. Accordingly, the adjustment for income taxes proposed earlier in Ex Parte No. 274 (Sub-No. 2) has been changed from an after-tax basis to a before-tax basis. The rate-of-return on equity should be adjusted by increasing it to cover an allowance for either the statutory or effective tax rate, depending on the item to which it is applied. The cost of debt should not be adjusted.

2. *Use of Statutory Tax Rate.* The statutory tax rate will be applied to the cost of equity capital in determining the rate-of-return for equipment in those instances where the regulations assume investment in new equipment. Use of this tax rate affects: (1) The return on investment for locomotives included in the on-segment cost, section 1121.42(h); (2) the return on investment in freight cars that is included in the on-segment cost per car-day calculation, section 1121.42(g)(3); (3) the returns on value for freight cars and locomotives that are included in the application of Rail Form A for developing the off-segment costs, § 1121.42(n)(2).

Because these items are assumed to be associated with new investment by the railroads, use of the statutory tax rate is appropriate. This is in accordance with our policy in proceedings related to coal traffic where additional investments are necessary and are attributable to a single segment of traffic. *See, Coal Rate Gudelines—Nationwide,* 364 I.C.C. 360, 371 (1980).

3. *Use of Industry Wide Capital Structure Compositon.* The revised regulations propose two bases for determining a railroad's capital structure weighted for debt and equity. The preferable method is the actual debt/equity ratio in the capital structure of the railroad filing for abandonment. However, as we acknowledged in Ex Parte 402, *Reasonably Expected Costs,* 365 I.C.C. 819, 829–830 (1982), when railroads are part of a conglomerate or holding company their specific capital structure components may be impossible to determine or they may reflect the capital structure of the parent company instead of the railroad. Therefore, the regulations allow such railroads to use the railroad industry's debt/equity ratio as determined in our most recent adquacy of railroad revenue determination. The regulations further propose that if a railroad uses the debt/equity ratios developed by the Commission, then the railroad must also use the cost for equity and debt most recently developed by the Commission. To do otherwise would result in a mixture of industry wide and individual railroad factors. These same guidelines apply to equipment and property.

4. *Application of the Effective Tax Rate.* The cost of equity capital will be increased to include an allowance for the actual taxes that would be paid by the railroad if the property were sold and the proceeds reinvested.

In comments filed when we originally made this proposal, certain parties favored using the statutory tax rate to calculate the rate-of-return applied against the valuation of rail properties. They argued that the cost of capital for rail abandonment purposes should be calculated consistently with the methodology applied in *San Antonio, Tex.* v. *Burlington Northern, Inc.,* 361 I.C.C. 482 (1979), vacated and remanded on other grounds, *San Antonio, Tex.* v. *United States,* 631 F. 2d 831 (D.C. Cir. 1980) and *Adequacy of Railroad Revenue—1978 Determination,* 362 I.C.C. 198 (1980). These decisions applied the statutory tax rate in recognition of Congressional intent to provide the railroads certain tax benefits by creating an incentive for plant modernization and growth.

However, rail plant for which subsidy is offered is not ordinarily the subject of modernization, but is dedicated to the movement of rail traffic showing little or no promise of growth. In recent decisions prescribing unit coal train rates we have used the statutory tax rate to provide the railroad with the monies that Congress intended to be freed for reinvestment in new rail plant. Unlike plant dedicated to new and growing rail service, capital attraction is not essential for a continuation of rail service if a segment requires no substantial new investment by the carrier in road properties. The focus of the subsidy calculation is short term and the central question is whether service should be continued for a limited period. Thus, it would be inappropriate to use the statutory tax rate to calculate the rate-of-return on road property for subsidy purposes.

5. *Reasonable Return for Railroads in Reorganization.* In Ex Parte No. 274 (Sub-No. 2), we had proposed that a railroad in reorganization ("bankrupt railroad") be allowed to calculate a reasonable rate of return on either of two bases. The first method would calculate the mean cost-of-capital for all railroads not in reorganization ("non-bankrupt railroads"). Alternatively, a bankrupt railroad could calculate its reasonable return from a representative sample of non-bankrupt railroads.

The first method is directly derived from the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act) and will not be changed. However, the second method (the representative sample) will be replaced with the option of using the Commission's composite cost-of-capital findings in its annual railroad revenue adequacy determination proceedings under the procedures promulgated in Ex Parte No. 393, *supra.* For example, in our 1980 revenue adequacy finding, *Railroad Revenue Adequacy—1980 Determination,* 365 I.C.C. 285 (1981), we found the after-tax composite cost-of-capital to be 12.1 percent.

6. *Investment Tax Credit.* In calculating the return on value for equipment, the investment tax credit will be calculated for the locomotives and freight cars that serve the line segment and will be subtracted from the return on investment which has been calculated on a statutory tax rate basis.

If a carrier is required to continue service under a *subsidy* agreement, then the carrier will have to use equipment which otherwise could be sold for its current market value or could be used to offset purchases of similar equipment at market prices. Under the 4R Act and the Staggers Act, the carrier is compensated for the current cost of freight cars, locomotives, and other equipment. We think it is preferrable to calculate the return on investment related to new equipment using the statutory tax rate. We also think it proper to make an offsetting adjustment. A presumed investment generates an investment tax credit which can be used to reduce the carrier's tax liability. Thus the subsidy requirement should be reduced accordingly.

We acknowledge that a carrier might not purchase new equpment specifically for use on a line segment operating under subsidy. Subsidized operations, however, do have an impact on the carrier's overall equipment needs. The continuation of line operations which the carrier had planned to terminate requires the carrier to adjust its equipment purchasing plans. The carrier will need to buy more new equipment sooner than it had planned so that it can provide service over a rail system which is larger than it had planned to operate. Our regulations recognize this added expense and account for it with respect to calculating the cost of equipment. This added expense, however, also generates the advantage of the investment tax credit related to the purchases. To reflect accurately the costs and benefits associated with continued operations under subsidy, the proposed regulations attribute to the line the tax credit that would be generated

by the purchase of equipment similar to that used on the line.

The investment tax credit, as calculated for subsidy purposes, will reduce only that portion of the return on investment for equipment which is allowable under the Tax Reform Act of 1976. Under this statute, an investment tax credit of 10 percent of the asset value is allowable up to an established percentage of that year's tax liability.[3] The tax liability to which these investment tax credit limits apply is calculated by determining the difference between the return on investment if taxes were paid at the statutory rate as opposed to the return-on-investment if no taxes were paid. An example of how the investment tax credit will be computed is set forth in Appendix B to this Notice.

C. Rehabilitation

Subsidization costs include the expenses of rehabilitating the line to FRA Class 1 standards (or to such higher level as the subsidizer may require). These costs must be included in full in calculating the subsidy amount for the year during which they are incurred. Rehabilitation or upgrading of a line under subsidy does not give the subsidizer any ownership interest in the line or a lien on the road properties. The subsidizer has no right to claim any part of the net liquidation value of the line upon termination of subsidized operations.

Nevertheless, a subsidizer should not be required to pay the railroad a return on the increment of the value of the road property solely attributable to improvements paid for entirely by the subsidizer. Therefore, the amount of the subsidized rehabilitation expenses shall be subtracted from the net liquidation value of the road property in calculating return on value for subsidy purposes.

II. Labor Costs

Crew wages and fringe benefits of employees on the line segment are expenses attributable to the line which the carrier will no longer incur following abandonment. In some cases, however, parties have questioned whether wages and fringe benefits costs will really be avoided because of (1) employee protective conditions imposed under 49 U.S.C. 10903(b)(2) or the provisions of specific union agreements, and (2) the use of the crews on other parts of the carrier's rail system.

As we stated in *Illinois Central Gulf R. Co.—Abandonment*, 363 I.C.C. 93, 95 (1980), *rev'd sub. nom. City of Cherokee v. I.C.C.*, 641 F. 2d 1220 (8th Cir.), cert. denied ——— U.S. ——— (1981), "every ongoing out-of-pocket cost of a particular rail operation, that cannot be properly reallocated to any other revenue-producing operation, must be considered as part of the cost of the operation proposed for abandonment." Thus, where the wage costs associated with the line segment are not attributable to any other line, "the only rational way these wage costs can be treated is as costs of the particular line whose abandonment is at issue." *Id.* at 98.[4]

The fact that the employee protective conditions to the abandonment or union agreements require applicant to continue compensating involved employees for a certain time does not negate the long-term avoidability of these labor costs. Employee protective conditions and union agreements merely defer for a limited time some or all of the labor cost savings which the carrier will ultimately be able to realize. These labor costs cannot be ignored when considering the abandonment of a line segment.

Indeed, wage costs are properly attributed to a line even when employees are not exclusively assigned to the line segment designated for abandonment, or where the segment employees will be reassigned to other parts of the carrier's system (rather than being dismissed). When a worker on an abandoned line is transferred to other work on applicant's system, the railroad company will have less need to hire new workers. This is equally true where the employee had been exclusively assigned to the line segment designated for abandonment, as well as where the employee had been assigned to more than one line segment.

Accordingly, we have added section 1121.42(r) which clarifies that labor expenses are attributable, and ultimately avoidable, costs of a segment proposed to be abandoned.

III. Property Taxes

The present abandonment regulations properly include property taxes within the costs of a branch line designated for abandonment (49 CFR 1121.42(j)). We propose to clarify the appropriate treatment of these costs.

In certain past cases, property taxes were not considered as avoidable costs when no firm offers to purchase the property (and thus relieve the carrier of the property tax liability) had been received at the time of the abandonment proceeding. However, we stated in *Illinois Central Gulf R. Co.—Abandonment*, *supra*:

> It would be unreasonable to require an applicant to produce evidence of firm offers to purchase property it proposes to abandon, where the completion of the abandonment proceedings must necessarily result in a long delay in acting on such offers, and where in any event there is little reason to doubt that such property can be sold. The ALJ was apparently concerned that, in the absence of firm offers, it is not completely certain that the applicant will be able to sell the property and thus terminate its liability for taxes on Day One following the abandonment. That is not the test. A cost is avoidable if it can with reasonable certainty be avoided within a reasonable time following abandonment * * * and even if some particular portion were ultimately to prove unsaleable for nonrailroad purposes, ICG could simply cease paying taxes on that portion and allow it to be sold for taxes, thus terminating the out-of-pocket expense. [Emphasis added].

363 I.C.C. at 100, *aff'd on this issue*, 641 F. 2d 1220 (8th Cir. 1981).

Moreover, even in States where a true *ad valorem* tax is not levied, abandonments can reduce a carrier's property tax liability, albeit on a cumulative or long-range basis. In States not levying an *ad valorem* tax, the amount of the property tax attributable to a line and avoidable through abandonment will be deemed to be the *pro rata* amount by which the carrier's ultimate property tax liability will be reduced in the long run by virtue of the abandonment. In determining this amount, applicants may look to the cumulative effect of the carrier's abandonments within the involved State or States.

Accordingly, we propose to revise § 1121.42(j) to reflect this policy position.

IV. Opportunity Costs

We have decided that "opportunity costs" are relevant in determining whether the public convenience and necessity permit abandonment. *Abandonment of Railroad Lines—Use of Opportunity Costs*, 360 I.C.C. 571 (1979). A carrier may present evidence that the assets tied up in a line proposed to be

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[3] The maximum limits for the investment tax credit are as follows: 1980—80 percent; 1981—70 percent; 1982—60 percent; and 1983 and 1984—50 percent.

[4] The subsequent reversal of *Illinois Central Gulf* does not preclude reliance on the principles enunciated in that decision. As noted by the Seventh Circuit Court of Appeals in *International Minerals & Chemical Corp. v. I.C.C.*, 656 F. 2d 251 (7th Cir. 1981), "[t]he general principles underlying the Illinois Central Gulf decision remain intact; it was only the narrow application of those principles to a certain narrow fact situation that caused the controversy in *Cherokee*." 656 F. 2d at 255. We continue to conclude that all labor costs are eventually avoidable. See Docket No. AB-43 (Sub-No. 74), *Illinois Central Gulf Co.—Abandonment—in Henderson, Union, Webster, Crittenden and Caldwell Counties, Ky.* (not printed), served January 11, 1982.

abandoned may be used more profitably in some other capacity.

We considered the methodology to be used in determining opportunity costs in *Texas and Pacific Railway Company Abandonment*, 363 I.C.C. 666 (1980) (*Texas and Pacific*). In that decision we concluded that opportunity costs could be determined by applying the railroad's cost of capital to the net liquidation value of the involved line. Under the *Texas and Pacific* methodology, the railroad's cost of capital is the sum of the weighted cost of debt plus the weighted cost of equity (adjusted to a pre-tax basis), less the projected rate of inflation for the next year. Nevertheless, we remain willing to consider other reasonable, fully explained methodologies.

New § 1121.42(q) reflects our view that opportunity costs are to be considered as a factor in abandonment proceedings.

V. Other Changes

A. System Diagram Maps

Recently we granted a railroad a waiver of certain of our abandonment regulations dealing with the filing of system diagram maps (SDM). See, Finance Docket No. 29891, *The Baltimore and Ohio Railroad Company, The Chesapeake and Ohio Railway Company, and Western Maryland Railroad Company—Petition for Waiver the Black and White System Diagram Map* (not printed), served May 11, 1982. We propose to modify our regulations to make it unnecessary for carriers to seek similar waivers in the future.

Specifically, we waived the requirements that the carriers file (1) a black-and-white version of the SDM (although it is unclear that such a requirement existed) or (2) a black-and-white version of the SDM suitable for **Federal Register** publication. We granted the waiver because there appeared no reason to require petitioners to go through the expense of complying with the regulations in light of our decision not to publish SDMs in the **Federal Register**. Moreover, it did not appear that the public would be adversely affected since the carrier still had to comply with the requirements of newspaper publication, posting and furnishing copies to the public. Accordingly, we propose to revise sections 1121.20, 1121.22 and 1121.23 to reflect these changes.

B. Filing of Environmental Data

Another change in filing requirements deals with the filing by railroads of certain environmental data. Because of the statutory requirements in many of the Federal laws governing the protection of the environment, we propose that the Commission be notified of the existence of and status of historic sites and structures on the line to be abandoned before an application is filed. See, e.g., National Historic Preservation Act, 16 U.S.C. 470. According, at the time a carrier files its notice of intent to abandon a line, we propose to require it to provide the Commission with the data required by section 1108.7(c)(10).[5] A new Section 1121.30(c) will be added to reflect this change.

In addition, the Alabama Historical Commission in a letter sent to our Energy and Environment Branch dated July 29, 1982, proposed that as a condition to abandonment the Commission require carriers to provide a cultural resource assessment report if one is requested by the relevant state historical commission. Although at this time we are not prepared to propose a regulation requiring such a report, we specially invite comments on this proposal from the industry and affected state agencies. If it appears that the proposal has merit our final regulations will include a suitable provision.

C. Filing of Offer of Financial Assistance Data

After an abandonment is granted, offers of financial assistance to acquire the line or subsidize continued operations are permitted. 49 U.S.C. 10905. If the parties are unable to reach agreement the Commission has the authority to set the terms of purchase or subsidy following a request by either party. The commission decision setting the terms must be issued within 60 days of the request.

Currently, there are no time frames for filing information supporting the request. As a result, in one recent case the carrier filed data supporting its estimate of the appropriate purchase price less than two weeks before the deadline for the issuance of our decision. See, Docket No. AB–43 (Sub-No. 85F), *Illinois Central Gulf Railroad Company—Abandonment Between Cisco and Green's Switch, IL* (not printed), served August 24, 1982. Although we considered the carrier's evidence in that case, we are now proposing a change in our regulations to exclude such late-filed materials. Accordingly, we have proposed the addition of § 1121.38(1)(7) which would establish a 30 day time limit. Any evidence filed more than 30 days after the request to set the terms was filed would be subject to rejection.

D. Waiver of Regulations

A new § 1121.34 (e)(5) has been proposed in recognition of the Commission's long-standing practice of allowing applicants in an abandonment proceeding to petition for waiver of certain filing requirements. The new regulation clearly reflects the existing policy that a waiver must be obtained before the filing of the abandonment application. *Cf.* Docket No. AB–43 (Sub-No. 66F), *Illinois Central Gulf Railroad Company—Abandonment—In Christian, Fayette, Marion and Shelby Counties, IL* (not printed), decided October 31, 1980.

VI. General Statement of Modifications

In the final regulations to be issued, we will make editorial modifications and conform the language to improve the clarity of the regulations. For example, any reference in the regulations to provisions of the former Interstate Commerce Act will be changed to reflect the Revised Interstate Commerce Act. These modifications will not be substantive.

Public Comment

We invite public comment on our proposed revisions to the abandonment regulations. After considering all the comments, we shall issue final revised rules governing abandonment proceedings.

Regulatory Flexibility Analysis

The proposed revisions will not increase the burdens on regulated carriers or interested members of the public, including small entities. For the foregoing reasons, it is certified that the revised regulations proposed in this proceeding, if adopted, will not have a significant economic impact on a substantial number of small entities.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

List of Subjects in 49 CFR Part 1121

Administrative practice and procedure, Railroads.

This rulemaking notice is issued under the authority of 49 U.S.C. 10321, 10362, and 10903–06.

Decided: September 28, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

[5] The current regulations governing the contents of abandonment applications indicate that the regulations governing environmental impact can be found at § 1108.12 (b) and (c). That is incorrect. These regulations are in section 1108.7. Accordingly, § 1121.32(f) will be changed to reflect this fact.

Commissioner Andre dissented with a separate expression.

Agatha L. Mergenovich,
Secretary.

Commissioner Andre, dissenting:

I would have revised the notice so as to request comments on whether we should propose a change in the *Texas & Pacific* methodology for determining opportunity costs (described in part IV of the notice). The change that I proposed would have eliminated the deduction of the projected rate of inflation for the following year from the rate of return to be multiplied by the net liquidation value of the line. Those who participate in this proceeding would do well to comment on this change, for I submit that the deduction of the projected rate of inflation does not have a sound economic basis.

I note that this agency recently eliminated a similar deduction of the projected rate of inflation in Ex Parte No. 402, *Reasonably Expected Cost*, 365 I.C.C. 819, 830 (served August 4, 1982). We should have requested comments on whether the use of an inflation deduction is any more appropriate in the abandonment situation than in the determination of reasonably expected costs.

In abandonment proceedings, there are two possibilities: (1) allow the railroad to abandon the property when it wants to do so, and (2) force the railroad to keep the property into the indefinite future for the benefit of shippers. These two possibilities determine a meaningful definition of opportunity cost in this context—what the railroad would have to give up if it were not allowed to sell the property and invest the proceeds elsewhere *at the time that the application is filed.* It is the sum that the railroad would lose *by not being able to sell the property at all.* It is not the sum that the railroad would lose by being forced to retain the property only until some date after the filing of the application.

For example, in year 1, the opportunity cost of capital would be the value of the property during the first year after filing multiplied by the allowed rate of return. In year 2, the opportunity cost would be the (perhaps higher) value of the property *during year 2* multiplied by the allowed rate of return. The process would continue for years 3, 4, * * * into the indefinite future. (If we were interested in the *total* opportunity cost *as of* year 1, we would reduce each of the opportunity costs for years 2, 3, 4 * * * to their values in year 1 by use of a discount factor and take the sum of the reduced values.)

For the purposes of computing opportunity costs, there should not be any give-back or deduction merely because of an inflationary rise in the value of the property during the indefinite future period when the railroad would be forced to keep the property. If anything, the increased value of the property upon sale in a future year would *increase* the opportunity costs for that year, not decrease them:

(1) In the first place, when the railroad is forced to hold on to property that it wants to sell, property which frequently produces an income of zero, it is not receiving any monetary benefit from the property. The fact that a gain would be realized *if* the property were later allowed to be sold does not lessen the opportunity costs which are borne while the property is being held. As an analogy, if a law were passed preventing me from living in my house, my loss would be the rent that I would have to pay to live elsewhere, not the rent *minus* the paper gains from the annual inflationary increase in the value of my property.

(2) Much of the gains from the appreciation of property in later years are purely the result of inflation, leaving the railroad no better off in *real* terms. The gains are merely paper gains. Thus, if there is a deduction of the projected rate of inflation from the allowed rate of return, the railroad will end up in a worse position than if there was no inflation. In fact, if the projected inflation rate were to exceed market interest rates, the *Texas & Pacific* methodology could result in an opportunity cost of zero, a result which would be absurd because all transferable resources have at least some value in an alternate use.

I would also point out that, if we were to accept the view that opportunity costs must reflect a give-back or deduction due to inflationary increases in the value of property, consistency would also require us to do things like limit rate increases on the grounds that railroads should be sharing the paper gains from property appreciation with the ratepayers. This is not standard regulatory practice.

The private sector does not make a similar adjustment when firms determine whether they want to sell property:

(1) If a railroad were free to sell its property, it would not make an inflation adjustment to the price of the property in determining whether its value could be put to better use in an alternate investment. By *not* being allowed to abandon the property, a railroad is giving up (or bearing the opportunity cost of) a market rate of return on the *actual* (non-inflation adjusted) proceeds from a current sale of the property.

(2) *The Texas & Pacific* decision was incorrect to state (363 ICC at 675) that the inflation adjustment is necessary in order to avoid "double counting" the effect of inflation on rate of return. In inflationary times, real assets (such as land) will tend to appreciate in value as investors adjust expected (inflation-influenced) rates of return to present values and thereby capitalize them into their offering prices for the assets. The resulting capital gain is not viewed as a "double compensation" for inflation. It merely allows investors to be able to receive a purchase price for their assets which reflects inflation-influenced return expectations *when* the property is sold.

If the market does not view this type of capital gain as double compensation for inflation, we should not do so here.

Appendix A

49 CFR Part 1121, is proposed to be amended as follows:

PART 1121—ABANDONMENT OF RAILROAD LINES AND DISCONTINUANCE OF SERVICE

§ 1121.20 [Amended]

1. Paragraph (d) of § 1121.20 would be removed.

2. Paragraph (c) of § 1121.22 would be revised to read as follows:

§ 1121.22 Filing and publication.

* * * * *

(c) The carrier shall (1) publish in a newspaper of general circulation in each county containing category 1–3 lines or lines being amended, a notice containing: (i) a black-and-white copy of the system diagram map (or a portion of map clearly depicting its lines in that county); and (ii) a description of each line; (2) post a copy of the newspaper notice: (i) in each agency station or terminal on each line in categories 1–3 and on each line which has been amended; or (ii) if there is no agency station on the line, at any station through which business for the line is received or forwarded; (3) furnish, at reasonable cost, upon request of any interested person, a copy of its system diagram map (either color-coded or black-and-white); and (4) notify interested persons of this availability through its publication in the appropriate county newspaper.

* * * * *

3. Paragraph (a) of § 1121.23 would be revised to read as follows:

§ 1121.23 Amendment of the system diagram map.

(a) Each carrier shall be responsible for maintaining the continuing accuracy of its system diagram map and the accompanying line descriptions. Amendments may be filed at any time and will be subject to all carrier filing and publication requirements of § 1121.22 as they apply to the amendment and each individual line which has been amended.

* * * * *

4. Paragraph (c)(1) of § 1121.23 would be revised to read as follows:

§ 1121.23 Amendment of the system diagram map.

* * * * *

(c) * * *

(1) An amended and updated color-coded system diagram map and descriptions which shall be subject to the filing and publication requirements of § 1121.22 as they apply to the amendment and each individual line which has been amended; or

* * * * *

5. A new paragraph (c) would be added to § 1121.30 to read as follows:

§ 1121.30 Notice of intent to abandon line or discontinue service.

* * * * *

(c) The carrier shall file with the Commission at the time it files its Notice of Intent to abandon a line a copy of all material relating to historic cites and structures which must be filed pursuant to § 1108.7(c)(10).

6. Paragraph (f) of § 1121.32 would be revised to read as follows:

§ 1121.32 Contents of application.

* * * * *

(f) *Environment impact.* The applicant shall submit as part of its abandonment or discontinuance application full and complete information with regard to the environmental impact of the proposed abandonment or discontinuance in compliance with § 1108.7. If certain information required by the environmental regulations duplicates wholly or in part information required elsewhere in an abandonment or discontinuance application, the environmental information requirements may be met by a direct and specific reference to the location of the required information elsewhere in the abandonment or discontinuance application.

* * * * *

7. A new paragraph (e)(5) would be added to § 1121.34 to read as follows:

§ 1121.34 Filing and service of application.

* * * * *

(e) * * *

(5) Carriers filing applications which do not comply with the regulations in Subpart C, must first receive a waiver of the appropriate regulations from the Commission.

8. A new paragraph (l)(7) would be added to § 1121.38 to read as follows:

§ 1121.38 Finance assistance procedures.

* * * * *

(l) * * *

(7) Any evidence or information supporting the request to set the terms and any evidence or information contesting the suggested terms must be submitted within 30 days of the request to set the terms. Any evidence or information submitted after that date will be subject to rejection.

9. Paragraphs (g), (h), (j), (m) and (n)(2) of § 1121.42 would be revised and paragraphs (o), (p), (q), and (r) would be added to read as follows:

§ 1121.42 Calculation of avoidable costs.

* * * * *

(g) *Freightcar costs.* For all classes of railroads, the on-segment costs for time-mileage freight cars shall be calculated on the basis of the carrier's average costs per day and per mile. Those freight cars that are rented on a straight mileage basis are to be costed on the carrier's average cost per mile for each type of car rented on this basis. No costs are to be included in the calculation for private line (shipper owned) or other cars for which the railroad does not make payments. The costs per day and per mile shall be calculated separately for each type of car specified in Ex Parte No. 334, *Car Service Compensation—Basic Per Diem Charges*, 362 I.C.C. 884 (1980). The costs assigned to a line under this subsection are to be derived from the accounts listed below plus the return on investment in freight cars.

Operating expense group	Account No.
Repair and maintenance:	
Salaries and wages	11-22-42
Materials	21-22-42
Repairs by others—DR	39-22-43
Repairs for others—CR	40-22-42
Purchased services	41-22-42
Other expenses	61-22-42
Lease rentals—DR	31-22-00
Lease rentals—CR	32-22-00
Depreciation	
Other rents—DR	35-22-00
Other rents—CR	36-22-00

The system total of the repair and maintenance accounts, all accounts designated XX–XX–42, and depreciation shall be divided into time-related costs and mileage-related costs on the basis of the present "Rail Form A" apportionment factors (i.e., 50 percent time and 50 percent mileage for repairs, and 60 percent time and 40 percent mileage for depreciation). Freight car costs shall not include depreciation as determined in Account No. 62–22–00. Freight car depreciation shall be calculated in the manner set forth in subparagraph (3)(i). The system total receipts and payments for the hire of time-mileage cars, and the basic data used in the development of the car-day and car-mile factors, shall be taken from the surcharging carrier's latest Form R-1 and company records. The specific steps to complete the calculation are as follows:

(1) The total system car days by car type shall be calculated by: (i) averaging the surcharging carrier's freight car ownership at the beginning and end of the year (Form R–1, schedule 710, columns (b) and (k)); (ii) multiplying the average by the standard active number of car days (346) as developed in ICC Docket No. 31358; (iii) subtracting car days on foreign lines (source: company records); and (iv) adding the foreign car days on home line (source: company records). This procedure shall be followed for each car type specified in Ex Part No. 334, supra.

(2) The total railroad car miles shall be calculated by adding the loaded car miles for the surcharging carrier's owned and leased cars (Form OSA, column (d), items 5–010 through 5–027) to the empty car miles for the surcharging carrier's owned or leased cars (Form OSA, column (d), item 5–110 through 5–127). The total car miles loaded and empty, shall be calculated for each car type specified in Ex Parte No. 334, *supra.*

(3) The cost per car day shall be calculated for each type of time-mileage car by adding 50 percent of total freight car repair costs for each type (Form R–1, schedule 415, column (b)), and 60 percent of the depreciation shall be developed as follows:

(i) The current value for each type of car shall be calculated by first arriving at the current cost per car using the most recent purchase of this type by the railroad indexed to the midpoint of the year or a price quote from the manufacturer. This unit price shall be applied to the average number of this type of car owned by the carrier during the year. The current value developed for each car type is then multiplied by the composite depreciation rate for that type of car as shown in the latest annual report filed with the Commission or company records.

(ii) Add 100 percent of the return on investment. The return on investment shall be determined by multiplying the current value of each type of car, developed in subparagraph (i) above, by one minus the ratio of accumulated depreciation to the total original cost investment. The total original cost investment is determined by multiplying the net current value by the rate of return calculated in § 1121.42(h)(2) of this title.

(iii) To the amounts for repairs, depreciation, and return on investment add the time portion of the railroad's payment for hire of time-mileage freight cars (Form R–1, schedule 414, column (g)); and subtract the time portion of the railroad's receipts for hire of time mileage freight cars (Form R–1, schedule 414, column (d)). The total of these costs is divided by the total car days for each type developed in subparagraph A of this note.

(4) The cost per mile shall be calculated for each type of time-mileage car as follows. First, add: (i) 50 percent of the total freight train car repair cost for each car type (Form R–1, schedule 415, column (b)); (ii) 40 percent of the

total depreciation costs for each car type developed in subparagraph (C)(i); and (iii) the mileage portion of the carrier's payments for the hire of time-mileage freight cars (Form R–1, schedule 414, column (f)). Then, subtract the mileage portion of the carrier's receipts for hire of time-mileage freight cars (Form R–1, schedule 414, column (c)). Finally, divide the result by the total car-miles for each car-type developed in subsection (2), above.

(5) The costs per car day and per car mile developed in paragraphs (g) (3) and (4) of this section shall be applied to the total car days and total car miles for each car type accumulated on the line segment for all traffic originated and/or terminated on the segment plus those freight cars that bridge the line segment which are attributed to time-mileage freight train cars.

The on-segment costs for freight cars rented on a straight mileage basis shall be the surcharging railroad's total payments for mileage cars (Form R–1, schedule 414, column (e)), for each car type divided by the total miles on which the charges were based.

(h) *Return on investment—locomotive (Line).* The return on investment shall be calculated for each type or classification of locomotive that is actually used to provide service to the line segment. The return for the locomotive(s) used shall be calculated in accordance with the following procedure:

(1) The current replacement cost for each type of locomotive used to serve the line segment shall be based on the most recent purchase of that particular type and size locomotive by the carrier indexed to the midpoint of the subsidy year or an amount quoted by the manufacturer. The amount must be substantiated. This unit cost shall be multiplied by 1 minus the ratio of total accumulated depreciation to original total cost of that type of equipment owned by applicant-carrier, as shown by company records.

(2) The current cost of capital used in the calculation of return on investment for locomotives shall be the current before-tax cost of capital, weighted to the capital structure, and adjusted for the effects of the combined statutory Federal and State income tax rates. The current cost of capital, expressed as a percent, shall be calculated as follows:

(i) The railroad shall determine its permanent capital structure ratio of debt and equity capital such that the two numbers total 100 percent. This capital structure will be the actual capital structure of the railroad. If this calculation is not possible or also not representative because the railroad is part of a conglomerate, the debt-equity ratio from the Commission's latest Determination of Adequate Railroad Revenues (currently Ex Parte No. 415) will be used. However, if the debt-equity ratio for the railroad industry is used, then the industry average equity rate and debt rate from the Commission's latest revenue adequacy finding must also be used in paragraphs (h)(2)(ii) and (iii) of this section.

(ii) The current cost of debt shall be the current rate quoted to the railroad for debt instruments normally used by the railroad in the financing of new equipment purchases such as bonds, equipment purchase trust certificates, etc. Because this is a before-tax rate there is no adjustment for income taxes.

(iii) The current cost of equity (the return that shareholders expect to earn on their investment) shall be determined from market data or comparable earnings of railroads or other organizations with similar operating risk characteristics. This current cost of equity capital is divided by one minus the combined statutory Federal and State income tax rate. This will result in the before-tax current cost of equity capital.

(iv) The current before-tax cost of debt is multipied by the capital structure ratio number for debt to obtain a weighted before-tax cost of current debt.

(v) The current before-tax cost of equity is multiplied by the capital structure ratio number for equity to obtain a weighted before-tax cost of current equity.

(vi) The results of paragraphs (iv) and (v) above are added together to determine the current cost of capital used in the calculation of return-on-investment for equipment.

(3) The annual return on investment for each category or type of locomotive shall be calculated by multiplying the replacement cost developed in paragraph (1) above by the current cost of capital determined in paragraph (2) above.

(4) The return on investment for each type of locomotive shall be assigned to the line segment on a ratio of the locomotive unit hours on the segment to average locomotive unit hours per unit for each type of locomotive in the system. This ratio will be developed as follows:

(i) The carrier shall keep and maintain records of the number of hours that each type of locomotive incurred in serving the segment during the subsidy period.

(ii) The railroad shall develop the system average locomotive unit hours per unit for each of the following types of locomotives: yard-diesel; yard-other; road-diesel; and road-other.

(iii) The ratio applied to the return on investment is calculated by dividing the hours that each type or class of locomotive is used serve the segment, as developed in paragraph (i) above, by the system average locomotive unit hours per unit for the applicable type developed in paragraph (ii) above.

(5) The cost assigned to the segment for each type of locomotive shall be calculated by multiplying the annual return on investment developed in paragraph (h)(3) by the ratio(s) developed in paragraph (h)(4) of this section.

* * * * *

(j) *Property taxes (Line).* (1) Property taxes, in the amount allowed below, shall be deemed attributable costs of the rail properties to be abandoned if applicant-carrier intends to sell or otherwise dispose of those properties after abandonment. Unless otherwise shown, it will be presumed that the properties will ultimately be sold or otherwise disposed of after abandonment. The attributable property taxes shall be computed as follows:

(2) In States where a true *ad valorem* tax is levied, the amount of property taxes shall be the amount levied against the property on the line segment, based on the value of certain kinds of railroad property, such as track, land, buildings, and other facilities.

(3) In States where a true *ad valorem* tax is not levied, a *pro rata* share of the applicant's tax liability may be deemed attributable to the line and avoidable through abandonment. Although the tax reduction might not be immediate and may occur only as the cumulative result of several abandonments, applicant may submit evidence of the allocated share of taxes attributable to the line proposed to be abandoned. Evidence of the *pro rata* share of taxes attributable to the line will be considered, provided that applicant explains fully its method of allocation of a share of its taxes to the line segment.

(4) In States where property taxes are assessed on the basis of a formula of a State-wide valuation of property and the line segment to be abandoned is included in the valuation of the railroad operating the service, the tax on each segment shall be based on the distribution of the assessment by the State to that segment and the application of the appropriate tax rate or rates.

(5) In States where the real property taxes are assessed and levied against the owner of the property but the rolling stock is assessed to the railroad operating the service on the basis of a formula of a State-wide valuation of

property, the tax on rolling stock attributable to each line segment shall be determined as follows:

(i) Using ratio of the cost of equipment (as used in the formula) to the total of all property costs (as used in the formula);

(ii) Apply that ratio to the total State assessment to determine the portion of the assessment attributable to rolling stock;

(iii) Allocate the rolling stock assessment thus determined to each line segment on the basis of car and locomotive unit miles on the segment to total car and locomotive unit miles in the State; and

(iv) Apply appropriate tax rate or rates to the allocated assessment thus determined.

* * * * *

(m) *Rehabilition.* (1) For abandonment purposes the applicant carrier shall project the amounts necessary to permit efficient operations over the line segment. Carrier shall indicate the level of FRA Class safety standard to be attained with the amount of expenditure. *See* 49 CFR Part 213. Applicant-carrier, in making its projection of rehabilitation costs, shall give consideration to (i) the cost to attain the lowest operationally feasible track level, (ii) the cost to attain the rehabilitation level resulting in the lowest operating and rehabilitation expenditure, or (iii) the cost to attain the rehabilitation level resulting in the lowest loss, or highest profit, from operations.

(2) For subsidy purposes rehabilitation costs shall not be included unless:

(i) The track does not meet minimum Federal Railroad Administrative Class 1 Safety Standards (49 CFR Part 213), in which case the railroad will furnish, with the abandonment application, a detailed estimate of the costs to rehabilitate the track to the minimum level; or

(ii) The potential subsidizer requests a level of service which requires expenditures for rehabilitation.

(n) * * *

(2) The procedure for determining the off-branch costs will use the existing Rail Form A cost formula. This formula will be applied to the latest Annual Report Form R–1 filed by the railroad, with two exceptions. The amount used in the formula for freight car depreciation will be calculated using the procedure discussed in § 1121.42(g)(3) above, applied to the average total car fleet of the railroad. The return on investment in freight cars shall be computed by developing the repalacement cost of the carrier's average car fleet owned during the year for which the latest Annual Report Form R–1 is filed. The replacement cost of the average car fleet multipled by the current cost of capital developed in § 1121.42(g)(3) above shall be used in the determination of off-branch costs.

* * * * *

(o) *Locomotive Depreciation.* The depreciation cost for locomotives used on the line shall be calculated using the following procedure:

(1) The current replacement cost for each type of locomotive used to serve the line will be based on the most recent purchase of that particular type and size locomotive by the carrier indexed to the midpoint of the year or an amount quoted by the manufacturer.

(2) The depreciation rate that will be applied to the replacement cost shall be the carrier's component rate for each type of locomotive as reported in the latest Annual Report Form R–1 submitted to the Commission or from company records.

(3) The annual depreciation cost for each type of locomotive shall be calculated by multiplying the replacement cost(s) developed in paragraph (o)(1) by the rate from paragraph (o)(2).

(4) The depreciation expense for each type of locomotive shall be assigned to the line on the ratio of the hours incurred serving the line to the average system locomotive unit hours in service by each of the following categories of locomotives: yard-diesel; yard-other; road-diesel; and road-other. The ratio for each type of locomotive used to serve the line shall be the same as that developed in § 1121.42(h)(4) of these regulations.

(5) The depreciation shall be calculated by multiplying the annual depreciation expense for each type of locomotive developed in paragraph (o)(3) by the ratio(s) developed in paragraph (o)(4).

(p) *Investment tax credit calculation.* The investment tax credit calculation shall apply to all railroads that used the statutory tax rate consideration in calculating the return on investment for locomotives in section 1121.42(h) and for freight cars in sections 1121.42(g) and 1121.42(n) of these regulations. The investment tax credit shall be calculated in accordance with the following procedure:

(1) Determine the amount included in the return on investment for locomotives and freight cars in sections 1121.42(h), 1121.42(g) and 1121.42(n) that resulted from the cost of equity capital being increased for an allowance of the statutory tax rate and assigned to the line segment.

(2) The maximum investment tax credit is determined by multiplying the percent of the tax liablity to which the tax credit may apply, from the Tax Reform Act of 1976, to the amount developed in step (1) above.

(3) The total investment tax credit for the newly purchased equipment is determined by multiplying the purchase price of the equipment by the amount of investment tax credit currently prescribed by law (which is 10 percent at this time). This calculation shall be made sparately for each of the return-on-investment procedures in these regulations.

(4) The investment tax credit on the equipment that is assignable to the line segment shall be determined, for each of the three categories of return on investment, by assigning the amount determined in step (3) above to the line segment in the same proportion as the return on investment was assigned to the line segment.

(5) The investment tax credit that is attributable to the line segment shall be the lesser of the amounts determined in paragraphs (p) (2) and (4).

(q) *Opportunity costs.* Applicant-carrier may, at its discretion, present evidence of its opportunity costs, if the assets engaged in the line proposed to be abandoned could be used more profitably in some other capacity. Opportunity costs may be calculated in accordance with the methodology approved by the Commission in abandonment adjudications, or by using any other reasonable, fully explained method.

(r) *Labor costs.* (1) The salaries, wages and fringe benefits of train and engine crews exclusively assigned to the line segment shall be deemed attributable costs of the segment. The salaries, wages, and fringe benefits of train and engine crews not exclusively assigned to the line segment shall be deemed attributable costs of the segment to the extent they are shown to be apportionable to the segment to be abandoned.

(2) These costs shall be deemed attributable notwithstanding any obligation of applicant to provide employee protection for such employees after the abandonment, inasmuch as these employees may be used by applicant in lieu of new employees or to replace retiring employees, and since any employee protection benefits will cease after a limited period.

10. Paragraph (b)(2) of § 1121.43 would be revised to read as follows:

§ 1121.43 Apportionment rules for the assignment of expenses to on-branch costs.

* * * * *

(b) * * *

(2) *Locomotive Depreciation.* Locomotive depreciation shall be calculated and assigned in accordance with the procedures set forth in § 1121.42(o).

* * * * *

11. Section 1121.45 would be revised to read as follows:

§ 1121.45 Reasonable return.

(a) A rail carrier not in reorganization ("non-bankruptcy carrier") shall furnish to the Commission, and to any potential subsidy offeror, a substantiated statement showing its current cost of capital. The railroad's cost of capital shall be the current before-tax cost of capital, weighted to the actual capital structure adjusted for the effects of the combined effective Federal and State income tax rate. This rate of return, expressed as a percent, shall be calculated as follows:

(1) The railroad shall determine its permanent capital structure ratio for debt and equity capital such that the two numbers total 100 percent. This capital structure will be the actual capital structure of the railroad. If this calculation is not possible or also not representative because the railroad is part of a conglomerate, the debt-equity ratio from the Commission's latest Determination of Adequate Railroad Revenues (currently Ex Parte No. 415) will be used. However, if the debt-equity ratio for the railroad industry is used then the industry average equity rate and debt rate from the Commission's latest revenue adequacy finding must also be used in paragraphs (a) (2) and (3) of this section.

(2) The current cost of debt shall be the current rate quoted to the railroad for debt instruments normally used by the railroad in the financing of new equipment purchases such as bonds, equipment purchase trust certificates, etc. Because this is a before-tax rate there is no adjustment for income taxes.

(3) The current cost of equity shall be determined from market data or comparable earnings of railroads or other organizations with similar risk characteristics, to find the return that shareholders expect to earn on their investment. This current cost of equity capital is divided by one minus the combined effective Federal and State income tax rate. This will develop the cost of equity capital on a before-tax basis.

(4) The current before-tax cost of debt is multiplied by the capital structure ratio number for debt to obtain a weighted before-tax cost of current debt.

(5) The current before-tax cost of equity is multiplied by the capital structure ratio number for equity to obtain a weighted before-tax cost of current equity.

(6) The results of paragraphs (a) (4) and (5) are added together to determine the current cost of capital for railroads not in reorganization.

(b) A rail carrier in reorganization ("bankrupt carrier") shall furnish to the Commission, and to any potential subsidy offeror, a substantiated statement showing the mean cost of capital for all non-bankrupt rail carriers. As an alternative to developing the mean cost of capital for non-bankrupt railroads, the carrier may use the cost of capital as determined by the Commission in its latest findings related to the "Adequacy of Railroad Revenue" determination. The cost of capital determined by either method shall have the weighted cost of equity capital calculated on a before-tax basis by dividing that amount by one minus the railroad's combined effective Federal and State income tax rate. This amount, added to the weighted cost of debt determined by the procedure used, shall be the cost of capital for a bankrupt rail carrier.

(c) The "rate of return" element of the subsidy payment shall be computed by applying the current cost of capital as determined above to the investment base determined pursuant to § 1121.44 of this part. The cost of equity capital shall be adjusted annually to reflect the carrier's actual current effective Federal and State income tax rate. In the event the carrier and the subsidizers cannot agree on the amount of the return element, this amount will be determined by the Commission, and the Commission's determination shall be final.

Appendix B

Investment Tax Credit Calculation

An example of how the determination of the investment tax credit will be computed is shown below. The example is based on the following assumptions: the statutory tax rate is 46 percent; the railroad's cost of debt is 10 percent; the cost of equity is 14 percent; the net current investment of the equipment is $250,000; and the year is 1980.

Cost of Capital Without Tax Provision

Item	Rate (percent)		Before tax ratio		Before tax rate (percent)		Debt/equity ratio (percent)		Cost of capital (percent)
Debt	10	(÷)	1.0	(=)	10	(×)	40	(=)	4.0
Equity	14	(÷)	1.0	(=)	14	(×)	60	(=)	8.4
Total									12.4

Cost of Capital With Statutory Tax Provision

Item	Rate (percent)		Before tax ratio		Before tax rate (percent)		Debt/equity ratio (percent)		Cost of capital (percent)
Debt	10	(÷)	1.0	(=)	10	(×)	40	(=)	4.0
Equity	14	(÷)	.54	(=)	25.9	(×)	60	(=)	15.5
Total									19.5

Net Current Investment, $250,000
Return on Value with tax provision, ($250,000×12.4%), $31,000
Return on Value with tax provision, ($250,000×19.5%), $48,750
Provision for tax liability, ($48,750−31,000), $17,750
Maximum Investment Tax Credit offset, (1980−80%), $14,200
Investment Tax Credit, ($250,000×10%), $25,000
Actual Tax Liability Reduction is the Lesser of 80% of liability or 10% of investment

In this example the difference between the $48,750 and the $31,000 is the provision for the payment of taxes at the statutory rate in order for the equity capital to return 14 percent after taxes. This difference, $17,750, is the base tax liability which may be partially offset by the investment tax credit. The example is for the year 1980, in which the maximum offset is 80 percent of the tax liability, or $14,200 ($17,750×.80). The current investment tax credit rate is 10 percent, which would yield $25,000 on the $250,000 net current investment value of this asset. The amount

allowable is 10 percent of the tax liability. Since 80 percent of the liability is less than the 10 percent investment tax credit ($14,200 versus $25,000), the investment tax credit would reduce the tax liability by $14,200, thus reducing the return on investment to $34,550 ($48,750 −14,200), with the railroad still receiving 14 percent after taxes on its equity capital. This amount would then be assigned to the line segment on the service unit basis identified in the applicable sections of these regulations.

[FR Doc. 82-27216 Filed 10-1-82; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 47, No. 192
Monday, October 4, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Stanislaus National Forest Grazing Advisory Board; Meeting

The Stanislaus National Forest Grazing Advisory Board will meet at 9:00 a.m., on November 12, 1982, in Conference Room–A, of the Forest Superivisor's Office, 19777 Greenley Road, Sonora, California. The purpose of this meeting is to consider (1) priorities for use of range betterment funds, (2) allotment management plans, and (3) establishment of any necessary bylaws. This is the Board's first annual meeting.

The meeting will be open to the public. Persons who wish to attend should notify me at 19777 Greenley Road, Sonora, California 95370 (209) 532–3671. Written statements may be filed with the committee before or after the meeting.

The committee has not established rules for public participation. Public members will be given an opportunity to speak on each subject.

Dated: September 23, 1982.

Blaine L. Cornell,

Forest Supervisor.

[FR Doc. 82–27215 Filed 10–1–82; 8:45 am]

BILLING CODE 3410–11–M

CIVIL AERONAUTICS BOARD

[Docket 40888]

Assignment of Proceeding; IASCO Fitness Investigation

This proceeding has been assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to him.

Dated at Washington, D.C., September 28, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82–27285 Filed 10–1–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Massachusetts Institute of Technology; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 82–00168. Applicant: Massachusetts Institute of Technology, Department of Ocean Engineering, Room 1–207, Cambridge, MA 02139. Instrument: Elements of a Cavitation Susceptibility Meter. Manufacturer: Delft Hydraulics Laboratory, The Netherlands. Intended use of instrument: See Notice on page 21905 in the **Federal Register** of May 20, 1982.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides measurement of bubble concentration, bubble size distribution and cavitation susceptibility. The National Bureau of Standards advised on the telephone on August 27, 1982 that (1) the capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82–27282 Filed 10–1–82; 8:45 am]

BILLING CODE 3510–25–M

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR 301 as amended by 47 FR 32517).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 82–00250. Applicant: Medical College of Pennsylvania, Department of Anatomy, EP Building, 3200 Henry Avenue, Philadelphia, PA 19129. Instrument: JEM 100S Electron Microscope, and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: See Notice on page 36684 in the **Federal Register** of August 23, 1982. Instrument ordered: March 24, 1982.

Docket No.: 82–00255. Applicant: Cornell University Medical College, 1300 York Avenue, New York, NY 10021. Instrument: Electron Microscope, Model JEM–100CX SEG with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: See Notice on page 32181 in the **Federal Register** of July 26, 1982. Instrument ordered: February 10, 1982.

Docket No.: 82–00258. Applicant: Albion College, 611 East Porter, Albion, MI 49224. Instrument: Electron Microscope, Model JEM–100CX with

Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: See Notice on page 30539 in the **Federal Register** of July 14, 1982. Instrument ordered: September 14, 1981.

Docket No.: 82–00259. Applicant: The Medical College of Wisconsin, Inc., 8701 Watertown Plank Road, Milwaukee, Wisconsin 53226. Instrument: Electron Microscope, Model JEM–100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of instrument: See Notice on page 32181 in the **Federal Register** of July 26, 1982. Instrument ordered: April 8, 1982.

Docket No.: 82–00265. Applicant: St. Joseph Hospital, 2900 N. Lake Shore Drive, Chicago, Ill. 60657. Instrument: Electron Microscope, EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: See Notice on page 33528 in the **Federal Register** of August 3, 1982. Instrument ordered: July 16, 1980.

Docket No.: 82–00272. Applicant: University of South Alabama, Purchasing Department, Administration Building 285, Mobile, AL 36688. Instrument: EM 109 Electron Microscope with Trans Fiberoptic Photograph System. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: See Notice on page 36685 in the **Federal Register** of August 23, 1982. Instrument ordered: May 26, 1982.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. Reasons: Each foreign instrument to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each instrument establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each instrument described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign instruments to which the foregoing applications relate, for such purposes as these instruments are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82–27281 Filed 10–1–82; 8:45 am]

BILLING CODE 3510–25–M

Geophysical Institute; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No.: 82–00182. Applicant: Geophysical Institute, University of Alaska, Fairbanks, Alaska 99701. Instrument: Temperature Bridge Unit, GTB-1. Manufacturer: Richard Brancker Research Ltd., Canada. Intended use of instrument: See Notice on page 24166 in the **Federal Register** of June 3, 1982.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides extreme sensitivity and an accuracy of one ohm in 20,000 ohms or 0.0001°C under field conditions. The National Bureau of Standards advises in its memorandum dated August 5, 1982 that (1) the capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82–27279 Filed 10–1–82; 8:45 am]

BILLING CODE 3510–25–M

Yale University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 82–00136. Applicant: Yale University, Department of Chemistry, 225 Prospect Street, New Haven, Ct 06511. Instrument: Excimer Laser-Pumped Dye Laser System. Manufacturer: Lambda Physik GmBH & Co., KG, West Germany. Intended use of instrument: See Notice on page 15820 in the **Federal Register** of April 13, 1982.

Comments: No comments have been received with respect to this application. However, Molectron Corporation has provided additions to record dated August 23, 1982. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (March 13, 1981). Reasons: The foreign instrument provided a stability better or equal to the pump, high average power of 0.5 to 1.5 watt, and a high peak power of equal to or better than 1–5 watts with EMG 200/201 pump. The Department of Health and Human Services advises in its memorandum dated June 10, 1982 that (1) the capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scieintific value to the foreign instrument for the applicant's intended use which was available at the time of order.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this

instrument is intended to be used, which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 82-27280 Filed 10-1-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

[Permit No. 226(P171)]

Modification of Permit

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), and 222.26 of the regulations governing endangered species permits (50 CFR Part 222), Scientific Research Permit No. 226 issued to Deborah A. Golockner-Ferrari, on April 7, 1978 (43 FR 17024) is hereby modified as follows:

Section B-9 is deleted and replaced by the following:

"9. This Permit is valid with respect to the taking authorized herein until December 31, 1985."

This modification becomes effective upon publication in the **Federal Register.**

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: September 27, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-27283 Filed 10-1-82; 8:45 am]

BILLING CODE 3510-22-M

Surf Clam and Ocean Quahog Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established a Surf Clam and Ocean Quahog Subpanel which will meet to discuss the Surf Clam and Ocean Quahog Fishery Management Plan.

DATES: The public meeting will convene on Friday, October 29, 1982, at approximately 10 a.m., and will adjourn at approximately 4 p.m., and will take place at the Sheraton Inn, Route 13, Dover, Delaware.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901; telephone: (302) 674-2331.

Dated: September 29, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-27284 Filed 10-1-82; 8:45 am]

BILLING CODE 3510-22-M

New Jersey Coastal Management Program

Notice is hereby given by the Office of Coastal Zone Management (OCZM) to approve an amendment to the New Jersey Coastal Management Program by the addition of the newly established New Jersey Coastal Resource and Development Policy entitled "Wetlands Buffer" (N.J.A.C. Section 7:7E-3.27).

It is the finding of the Office of Coastal Zone Management that this amendment does not have a significant effect on the human environment and therefore the preparation of an EIS is not required.

This is a new policy which would prohibit development within 300 feet of wetlands as defined in N.J.A.C. Section 7:7E-3.26 and within the drainage area of those wetlands, unless the development uses mitigating measures so that it would not have a significant adverse impact and would cause minimum feasible adverse impact on the wetlands or on the natural ecotone between the wetlands and the surrounding upland.

Interested parties have 30 days from the issuance of this notice to submit comments. If no serious disagreements to the proposed action are raised during this comment period, the Assistant Administrator for Coastal Zone Management intends to give formal approval to this amendment. Comments should be addressed to: Kathryn Cousins, North Atlantic Regional Manager, Office of Coastal Zone Management, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

Copies of the proposed amendment to the New Jersey Program have been distributed to all relevant Federal agencies. Interested parties wishing to obtain a copy of the amendment may request it from OCZM at the above address.

(Federal Domestic Assistance Catalog No. 11.419, Coastal Zone Management Program Administration)

Dated: September 28, 1982.

William Matuszeski,

Acting Assistant Administrator for Coastal Zone Management.

[FR Doc. 82-27230 Filed 10-1-82; 8:45 am]

BILLING CODE 3510-08-M

COMMODITY FUTURES TRADING COMMISSION

Privacy Act of 1974; Systems of Records, Annual Publication

AGENCY: Commodity Futures Trading Commission.

ACTION: Publication of annual notice of the existence and character of each system of records that the Commodity Futures Trading Commission ("Commission") maintains which contains information about individuals.

SUMMARY: The purpose of this notice is to announce the existence and character of the systems of records of the Commodity Futures Trading Commission as required by the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 552a.

Pursuant to 5 U.S.C. 552a(f), the Commission, on September 4, 1975, promulgated rules relating to records maintained by the Commission concerning individuals (40 FR 41056). The rules, as amended (17 CFR Part 146), deal with an individual's right to know what information the Commission has in its files concerning that individual, and that individual's rights to have access to those records, to petition the Commission to have inaccurate or incomplete records amended or corrected, and to not have personal information disseminated to unauthorized persons.[1]

Under 5 U.S.C. 552a(e)(4), the Commission is required to publish annually a notice of the existence and character of each system of records it maintains which contains information about individuals. This notice implements this requirement and, when read together with the Commission's rules, will provide individuals with the information they need to exercise fully their rights under the Privacy Act.

EFFECTIVE DATE: October 4, 1982.

FOR FURTHER INFORMATION CONTACT: Lynn K. Gilbert, Assistant Secretary to

[1] The full text of the Commission's rules implementing the Privacy Act should be consulted for a detailed description of the procedures to be followed.

the Commission for FOI, Privacy and Sunshine Acts Matters, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254–3382.

Content of System Notices

Each system notice contains the following information:

1. The name of the system;
2. The location of the system;
3. The categories of individuals on whom records are maintained in the system;
4. The categories of records maintained in the system;
5. The authority for maintaining the system;
6. Each routine use of the records contained in the system, including the categories of users and the purpose of each use;
7. The policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;
8. The title and business address of the agency official who is responsible for the system of records;
9. The agency procedures by which an individual can find out whether the system of records contains a record pertaining to that individual; and how to gain access to any record contained in the system of records pertaining to that individual, as well as how to contest the content of the records; and
10. The categories of sources of records in the system.[2]

The Location of Systems of Records

The eighth item described above calls for the address of the Commission office involved. The Commission maintains offices in the following locations:

2033 K Street, NW., Washington, D.C. 20581; telephone (202) 254–3382
2000 L Street, NW., Washington, D.C.; telephone (202) 254–5006
233 South Wacker Drive, 46th Floor, Chicago, Illinois 60606; telephone (312) 353–9499
4901 Main Street, Room 208, Kansas City, Missouri 64112; telephone (816) 374–2994
One World Trade Center, Suite 4747, New York, New York 10004; telephone (212) 466–2071
10850 Wilshire Boulevard, Suite 510, Los Angeles, California 90024; telephone (213) 824–7456
510 Grain Exchange Building, Minneapolis, Minnesota 55415; telephone (612) 725–2025

Where multiple locations are involved in a system notice, the notice merely identifies the offices and refers to this introductory section for each address. In the system notice, the Washington office is referred to as the "principal office," the Chicago, Kansas City, New York and Los Angeles offices as the "regional offices."

Records within a system will not always be available at each of the offices listed in the system notice. For example, case files are basically maintained in the office where the investigation is being conducted, but certain information may be maintained in other offices as well. Similarly, many but not necessarily all employee records are maintained in the particular office where the employee works. In addition, the Commission's computers are physically located in Chicago, North Carolina, and in the Washington, D.C., headquarters office, although information in computer printout form may be available in any office.

The Commission has undertaken the responsibility, unless otherwise specified in the system notice, to determine where the particular records being sought are located. However, if the individual seeking the records in fact knows the location, it would be helpful to the Commission if he would indicate that location.

Scope and Content of Systems of Records

The Privacy Act applies to personal information about individuals. Personal information subject to the provisions of the Privacy Act may sometimes be found in a system of records that might appear to relate solely to commercial matters. For example, the system of records entitled "registration of futures commission merchants" [3] contains essentially business information. However, the application for registration contains a few items of personal information concerning key personnel of the registrant firm. Since the capability exists through the Commission's computer to retrieve information from this system of records not only by use of the name of the futures commission merchant but also by the use of the name of these individuals this information is within the purview of the Privacy Act.[4]

Such a capability would generally not exist, however, in a Commission staff investigation of the activities of the futures commission merchant. Thus, if the investigation were opened under the name of the futures commission merchant, information would be retrievable only under that name. Accordingly, information about principals of a firm under investigation would generally not be retrievable by the name of the individual, and the provisions of the Privacy Act would not apply.

General Statement of Routine Uses

A principal purpose of the Privacy Act is to restrict the unauthorized dissemination of personal information concerning an individual. In this connection, the Privacy Act and the Commission's rules prohibit all dissemination except for specific purposes.[5]

The Privacy Act and the rules specifically provide that disclosure may be made with the written consent of the individual to whom the record pertains. Disclosure may also be made to those officers and employees of the Commission who need the record in the performance of their duties. In addition, disclosures are authorized if they are made pursuant to the terms of the Freedom of Information Act, 5 U.S.C. 552.

In addition, the Privacy Act and the Commission's rules permit disclosure of individual records if it is for a "routine use," which is defined as a use of a record which is compatible with the purpose for which it was collected. The system notice for each system of records is required to list each of these routine uses.

Many of the routine uses of Commission records are applicable to a number of systems. These include the following:

1. The information in the system may be used by the Commission in any administrative proceeding before the Commission, in any injunctive action authorized under the Commodity Exchange Act or in any other action or proceeding in which the Commission or any member of the Commission or its staff participates as a party or the Commission participates as

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[2] Two systems of records, one relating to investigatory material compiled for law enforcement purposes and the other relating to confidential information obtained during employee background investigations, have been exempted in the Commission's rules from certain requirements of the Privacy Act, as authorized under the Privacy Act, 5 U.S.C. 552a(k). Among the requirements from which these systems have been exempted is the requirement that the information listed under items (9) and (10) above be furnished.

[3] A futures commission merchant is someone engaged in soliciting or accepting orders for the purchase or sale of commodity futures in the manner defined in Section 2(a)(1) of the Commodity Exchange Act, 7 U.S.C. 2.

[4] See the definition of system of records in the Privacy Act, 5 U.S.C. 552a(a)(5), and § 146.2(g) of the Commission's Privacy Act rules, 17 CFR 146.2(g).

[5] Individuals should refer to the full text of the Privacy Act, 5 U.S.C. 552a(b), and to the Commission's rules for a complete list of authorized disclosures. Only those arising most frequently have been mentioned herein.

amicus curiae, and may be disclosed in response to a subpoena issued in the course of a proceeding to which the Commission is not a party.

2. The information may be given to the Justice Department, the Securities and Exchange Commission, the United States Postal Service, the Internal Revenue Service, the Department of Agriculture, the Office of Personnel Management, and to other federal, state or local law enforcement or regulatory agencies for use in meeting responsibilities assigned to them under the law, or made available to any member of Congress who is acting in his capacity as a member of Congress.

3. The information may be given to any board of trade designated as a contract market by the Commission if the Commission has reason to believe this will assist the contract market in carrying out its responsibilities under the Commodity Exchange Act, 7 U.S.C. 1, et seq., and may be given to any national securities exchange or national securities association registered with the Securities and Exchange Commission, to assist those organizations in carrying out their self-regulatory responsibilities under the Securities Exchange Act of 1934, 15 U.S.C. 78a, et seq.[6]

4. At the discretion of the Commission staff, the information may be given or shown to anyone during the course of a Commission investigation if the staff has reason to believe that the person to whom it is disclosed may have further information about the matters discussed therein, and those matters appear relevant to the subject of the investigation.

5. The information may be included in a public report issued by the Commission following an investigation, to the extent that this is authorized under Section 8 of the Commodity Exchange Act, 7 U.S.C. 12; Section 8 authorizes publication of such reports but contains restrictions on the publication of certain types of sensitive business information developed during an investigation. In certain contexts some of this information might be considered personal in nature.

6. The information may be disclosed to a federal agency in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, a grant or other benefit by the requesting agency, to the extent that the information may be relevant to the requesting agency's decision on the matter.

7. The information may be disclosed to a prospective employer in response to its request in connection with the hiring or retention of an employee, to the extent that the information is believed to be relevant to the propective employer's decision in the matter.

8. The information may be disclosed to any person, pursuant to Section 12(a) of the Commodity Exchange Act, 7 U.S.C. 16(a), when disclosure will further the policies of that Act or of other provisions of law. Section 12(a) authorizes the Commission to cooperate with various other government authorities or with "any person."

To avoid unnecessary repetition of these routine uses, where they are generally applicable the system notice refers the reader to the above description. Unless otherwise indicated, where the system notice contains a reference to the foregoing routine uses, all of the eight routine uses listed above apply to that system.

System Notices

The Commission's systems of records are set forth below.[7] This notice includes, of course, particular changes which have occurred during this reporting period.

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CFTC–1

SYSTEM NAME:

Matter register and Matter Indices.

SYSTEM LOCATION:

Commission's principal and regional offices. See introduction, "The Location of Systems of Records."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Persons found or alleged to have, or suspected of having violated the Commodity Exchange Act or the rules and regulations or orders of the Commission adopted thereunder.

b. Persons lodging complaints with the Commission.

c. Agency referrals.

CATEGORIES OF RECORDS IN THE SYSTEM:

An index system to CFTC–14 Matter Files and CFTC–16 Case Files, including:

a. The matter register. A file number is assigned to each case and the record is filed according to that number. The register also indicates the date opened, the disposition and status, the date closed, and the staff member assigned.

b. The matter register also includes reports recommending opening and closing of investigations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 8 of the Commodity Exchange Act, 7 U.S.C. 12.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See introduction, "General Statement of Routine Uses."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, in looseleaf binders, or on index cards.

RETRIEVABILITY:

By name of investigation.

SAFEGUARDS:

Secured rooms or secured premises with access limited to those whose official duties require access. In appropriate cases the records are maintained in lockable file cabinets.

RETENTION AND DISPOSAL:

Destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Enforcement in the Commission's principal office and

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[6] A proposal to amend this routine use is now pending before the Commission. The proposal would provide that information contained in any of the Commission's systems of records may be given to a futures association registered with the Commission pursuant to Section 17 of the Commodity Exchange Act (7 U.S.C. 21) if the Commission has reason to believe that such disclosure will assist the association in carrying out its responsibility under the Act. See 47 FR 33530 (Aug. 3, 1982).

[7] The Commission's previous system of records notice contained only that information necessary to update its previous notices. See 46 FR 45981 (Sept. 16, 1981). For convenience this notice sets forth complete information about each of the Commission's systems of records.

Regional Counsel of each regional office. See introduction, "The Location of Systems of Records."

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves, or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone (202) 254–3382.

RECORD SOURCE CATEGORIES:

Persons submitting complaints to the Commission, and miscellaneous sources including customers, law enforcement and regulatory agencies, commodity exchanges, trade sources, and Commission staff generated items.

CFTC–2

SYSTEM NAME:

Corresondence Files.

SYSTEM LOCATION:

Commission's principal offices at 2033 K Street, N.W., Washington, D.C. 20581.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons corresponding with the Commission, directly or through their representatives. Persons discussed in correspondence to or from the Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Incoming and outgoing correspondence and indices of correspondence, and certain internal reports and memoranda related to the correspondence.

This system includes only those records which are part of a general correspondence file maintained by the office involved. It includes correspondence indexed by subject matter, date or assigned number unless there is a corresponding index capability by individual name.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See introduction, "General Statement of Routine Uses."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, in looseleaf binders, or on index cards.

RETRIEVABILITY:

By name, subject and case. This may be either the name of the person who sent or received the letter, or the person on whose behalf the letter was sent or received. It may also be another person who was the principal subject of the letter, where circumstances appear to justify this treatment. See previous discussion concerning the category of records maintained in this system.

SAFEGUARDS:

Secured rooms or on secured premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Maintained indefinitely depending on the policies and practices of the offices involved.

SYSTEM MANAGER(S) AND ADDRESS:

The General Counsel; Director, Office of Public Information; Director, Division of Enforcement; and the Office of the Secretariat. All are located at 2033 K Street, N.W., Washington, D.C. 20581.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves, or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone (202) 254–3382. Specify the system manager, if known.

RECORD SOURCE CATEGORIES:

Persons corresponding with the Commission and correspondence and memoranda prepared by the Commission.

CFTC–3

SYSTEM NAME:

Docket Files.

SYSTEM LOCATION:

Hearing Clerk's office, 2000 L Street, N.W., Suite 620, Washington, D.C. 20036.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons involved in any CFTC proceeding.

CATEGORIES OF RECORDS IN THE SYSTEM:

All pleadings, motions, applications, stipulations, affidavits, transcripts and documents introduced as evidence, briefs, orders, findings, opinions, and other matters which are part of the record of an administrative proceeding. They also include related correspondence and indices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Commission is authorized or required to conduct hearings under several provisions of the Commodity Exchange Act. These files are a necessary concomitant for the conduct of orderly hearings. See also 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Public records unless the Commission or assigned presiding officer determines for good cause to treat as non-public consistent with the provisions of the Freedom of Information Act. Non-public portions may be used for any purpose specifically authorized by the presiding officer who ordered non-public treatment or by the Commission.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By the docket number and cross-indexed by complainant and respondent names.

SAFEGUARDS:

Only items which the Commission or the presiding officer has directed be kept non-public are segregated and precautions are taken as to these items to assure that access is restricted to authorized personnel only.

RETENTION AND DISPOSAL:

Maintained in the Hearings Section until disposition by the presiding officer, and then forwarded to the Hearings Clerk's office for filing.

SYSTEM MANAGER(S) AND ADDRESS:

Hearing Clerk, Hearing Clerk's office, 2033 K Street, N.W., Washington, D.C. 20581.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves, or seeking access to records about themselves in this system of records, or

contesting the content of records about themselves contained in this system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone (202) 254–3382.

RECORD SOURCE CATEGORIES:

Commission staff members; opposing parties and their attorneys; proceeding witnesses; and miscellaneous sources.

CFTC–4

SYSTEM NAME:

Employee Leave, Time and Attendance.

SYSTEM LOCATION:

Commission's principal office, 2033 K Street, N.W., Washington, D.C. 20581.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All CFTC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Various records reflecting CFTC employees time and attendance and leave status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 6301–6323; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. In response to legitimate requests, this information may be provided to other federal agencies for the purpose of hiring or retaining employees, and may be provided to other prospective employers, to the extent that the information is relevant to the prospective employer's decision in the matter.

b. The information may be provided to the Justice Department or other federal agencies or used by the Commission in connection with any investigation, or administrative or legal proceeding involving any violation of any federal law or regulation thereunder.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders or on index cards.

RETRIEVABILITY:

By the name of the employee or by the employee number, cross-indexed by name.

SAFEGUARDS:

Locked cabinets.

RETENTION AND DISPOSAL:

Three years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Budget and Accounting Officer, 2033 K Street, N.W., Washington, D.C. 20581.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves, or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C., 20581. Telephone (202) 254–3382.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained.

CFTC–5

SYSTEM NAME:

Employee Personnel Records.

SYSTEM LOCATION:

Personnel Section at 2033 K Street, N.W., Washington, D.C. 20581.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All CFTC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records maintained in the principal office for all employees include: a. Forms required and records maintained under the Commission's rules of conduct and the Ethics in Government Act; b. Pre-employment inquiries not included with "exempted employee background investigation materials"; c. Various summary materials received in computer printout form; d. Card indices reflecting various information contained in other personnel records.

The official personnel records maintained by the Commission are described in the system notices published by the Office of Personnel Management, and are not included within this system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101, 5 U.S.C. APP. (Personnel Financial Disclosure Requirements).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. In response to legitimate requests, this information may be provided to other federal agencies for the purpose of hiring or retaining employees, and may be provided to other prospective employers, to the extent that the information is relevant to the prospective employer's decision in the matter.

b. The information may be provided to the Justice Department, the Office of Personnel Management or other federal agencies or used by the Commission in connection with any investigation, or administrative or legal proceeding involving any violation of federal law or regulation thereunder.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and on index cards.

RETRIEVABILITY:

By the name of the employee.

SAFEGUARDS:

Lockable cabinets.

RETENTION AND DISPOSAL:

Maintained in the current file until the employee is terminated or separated, retained for 2 years thereafter, and then destroyed, except for those maintained under the Commission's rules of conduct and the Ethics in Government Act which are maintained until no longer needed or required under applicable law and regulation.

SYSTEM MANAGER(S) AND ADDRESS:

Personnel Officer of the Commission, except for records maintained under the Commission's rules of conduct and the Ethics in Government Act, for which the General Counsel is the system manager. See introduction, "The Location of Systems of Records."

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves, or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the FOE, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C., 20581. Telephone (202) 254–3382.

RECORD SOURCE CATEGORITS:

Individual on whom the record is maintained; personnel office records; and miscellaneous sources.

CFTC-6

SYSTEM NAME:

Employee Travel Records.

SYSTEM LOCATION:

Commission's principal office, 2033 K Street, N.W., Washington, D.C. 20581.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any Commission member, employee, witness, expert or any member of an Advisory Committee who travels on official business for the Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the name, address, destination, itinerary, mode and purpose of travel, dates, expenses, amounts advanced, amounts claimed, and amounts reimbursed. Includes travel authorizations, travel vouchers, copies of government transportation requests, receipts and other records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 1 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information may be provided to the Justice Department or other federal agencies or used by the Commission in connection with any investigation, or administrative or legal proceeding involving any violation of federal law or regulation thereunder.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By the name of the member, employee, witness, expert and member of the Advisory Committee.

SAFEGUARDS:

Lockable cabinets.

RETENTION AND DISPOSAL:

Three years and then destroyed.

SYSTEM MANAGER(S) ADDRESS:

Budget and Accounting Officer, 2033 K Street, N.W., Washington, D.C. 20581.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves, or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone (202) 254–3382.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained.

CFTC-7

SYSTEM NAME:

Employee records maintained by the office of ADP Services.

SYSTEM LOCATION:

Commission's principal office, 2033 K Street, N.W., Washington, D.C. 20581.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All CFTC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

a. General records relating to the employee including information from the notification of personnel action (SF–50) and other related sources, employee name, social security or other employee number, birth date, veteran's preference, tenure, leave group, insurance coverage, retirement coverage, type of employment, date service commenced and ended, grade and step, base salary, duty station, various computation dates, leave codes and status, employing office and other miscellaneous information.

b. Payroll related information for CFTC employees, including payroll and leave data for each employee relating to rate and amount of pay, leave, and hours worked, and leave balances, tax and retirement deductions, life insurance and health insurance deductions, savings allotments, savings bond and charity deductions, mailing addresses and home addresses, including copies of the CFTC time and attendance reports as well as authorizations relatin to deductions.

c. Travel vouchers and related material.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from these records is transmitted to the U.S. Treasury to effect reimbursement of travel expenses and issuance of paychecks, as well as distribution of pay to other sources according to employee instructions. Appropriate information from these records is also forwarded to taxing authorities and others receiving proceeds from the employee's pay.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OR RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; magnetic disc.

RETRIEVABILITY:

By social security number or equivalent employee number and by name of employee.

SAFEGUARDS:

Access limited to the offices where the records are maintained. Certain records are kept in lockable file cabinets and safes.

RETENTION AND DISPOSAL:

Three years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Operations and Budget Section, 2033 K street, N.W., Washington, D.C. 20581.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves, or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone (202) 254–3382.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained.

CFTC-8

SYSTEM NAME:

Employment Applications.

SYSTEM LOCATION:

Personnel Section at 2033 K Street, N.W., Washington, D.C. 20581.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for positions with the CFTC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the application from (SF–171) and/or the resume of the applicant.

AUTHORITY FOR MAINTENANCE OR THE SYSTEM:

44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information about these records is used in making inquiries concerning the qualifications of the applicant.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By occupational interest.

SAFEGUARDS:

Lockable cabinets.

RETENTION AND DISPOSAL:

Two years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Personnel Officer of the Commission, 2033 K Street, N.W., Washington, D.C. 20581.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves, or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C., 20581. Telephone (202) 254–3382.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained.

CFTC–9

SYSTEM NAME:

Exempted Employee Background Investigation Material.

SYSTEM LOCATION:

Personnel Section at 2033 K Street, N.W., Washington, D.C. 20581.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and prospective employees of CFTC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigatory material compiled for the purpose of determining suitability, eligibility, or qualifications for CFTC employment obtained under an express promise that the identity of the source would be held in confidence, or which were obtained prior to September 28, 1975, under an implied promise of confidentiality.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101; 5 U.S.C. 552a(k)(5).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See introduction, "General Statement of Routine Uses" except the general routine use number (3) is not applicable. Disclosure pursuant to the other routine uses may be subject to the consent of the person furnishing the information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By employee name.

SAFEGUARDS:

Lockable cabinets in secured offices or buildings.

RETENTION AND DISPOSAL:

Three years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Personnel Officer, 2033 K Street, N.W., Washington, D.C. 20581.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The records in this system have been exempted by the Commission from certain provisions of the Privacy Act, 5 U.S.C. 552a(k)(5), and the Commission's rules promulgated thereunder, 17 CFR 146.12. These records are exempt from the notification procedures, record access procedures, and record contest procedures set forth in the system notices of other record systems, and from the requirement that the sources of records in the system be described.

CFTC–10

SYSTEM NAME:

Exempted Investigation Records.

SYSTEM LOCATION:

Commission's principal and regional offices. See introduction, "The Location of Systems of Records."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Individuals whom the staff has reason to believe have violated, are violating, or are about to violate the Commodity Exchange Act and the rules, regulations and orders promulgated thereunder.

b. Individuals whom the staff has reason to believe may have information concerning violations of the Commodity Exchange Act and the rules, regulations and orders promulgated thereunder.

c. Individuals involved in investigations authorized by the Commission concerning the activities of members of the Commission or its employees based upon formal complaint or otherwise.

d. Individuals filing applications with the Commission for their own registration or registration of a firm.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigatory materials compiled for law enforcement purposes whose disclosure the Commission staff has determined could impair the effectiveness and orderly conduct of the Commission's regulatory and enforcement program, or compromise Commission investigations; may include all or any part of the records developed during the investigation or inquiry.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 8 of the Commodity Exchange Act, 7 U.S.C. 12; 44 U.S.C. 3101; 5 U.S.C. 552a(k)(2).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See introduction, "General Statement of Routine Uses" except that general routine use number (5) is not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By assigned case number or case title. Cases filed by number are cross-indexed by case title.

SAFEGUARDS:

In addition to normal office and building security, certain of these records are maintained in locked file cabinets. All employees are aware of the sensitive nature of the information gathered during investigations.

RETENTION AND DISPOSAL:

Maintained until exemption is no longer necessary, then returned to the appropriate non-exempt system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Enforcement, except for those records maintained under the Commission's rules of conduct and the ethics in Government Act, for which the General Counsel is the system manager. See introduction "The Location of Systems of Records."

SYSTEM EXEMPTED FROM CERTAIN PROVISION OF THE ACT:

The records in this system have been exempted by the Commission from certain provisions of the Privacy Act of 1974 pursuant to the terms of the Privacy Act, 5 U.S.C. 552a(k)(2) and the Commission's rules promulgated thereunder, 17 CFR 146.12. These records are exempt from the notification procedures, records access procedures, and record contest procedures set forth in the system notices of other record systems, and from the requirement that the sources of records in the system be described.

CFTC–11

Incorporated into CFTC–20.

CFTC–12

SYSTEM NAME:

Fitness Investigations.

SYSTEM LOCATION:

Division of Trading and Markets at 2033 K Street, N.W., Washington, D.C. 20581. Limited records are located in the Chicago regional office, 233 South Wacker Drive, 46th floor, Chicago, Illinois 60606.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied or who may apply to the Commission for registration as an associated person or as a floor broker, principals (as defined in 17 CFR 3.1) of futures commission merchants, commodity trading advisors and commodity pool operators.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information pertaining to the fitness of the above-described individuals to engage in business subject to the Commission's jurisdiction. The system includes copies of applications for registration, (Form 7–R) and biographical supplements (Form 8–R), fingerprint cards, and correspondence, reports and memoranda reflecting information developed from sources outside the agency. In addition, the system contains records of each CFTC fitness investigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 4n(6) and 8a(2)(B) of the Commodity Exchange Act, 7 U.S.C. 6n(6) and 12a(2)(B).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See introduction, "General Statement of Routine Uses." Information in this system of records may also be disclosed in connection with the certification by a futures commission merchant of an application for registration of an associated person.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and computer tapes.

RETRIEVABILITY:

Firm or individual name.

SAFEGUARDS:

Locked cabinets.

RETENTION AND DISPOSAL:

Applications for registration (Forms 7–R and 8–R) and biographical supplements (Form 8–R), and related documents and correspondence are maintained on the premises for three years after the individual's registration, or that of the firm with which the individual is affiliated as a principal, becomes inactive. Records are then held in the Federal Records Center for seven years before being destroyed. Computer records are maintained permanently on the premises and updated periodically as long as the individual remains registered or affiliated with a registrant as a principal. Computer records on persons who may apply may be maintained indefinitely. Computer printouts are maintained on the premises for six months and then destroyed. Microfiche records are maintained permanenty on the premises.

SYSTEM MANAGER(S) AND ADDRESS:

The Assistant Director, Registration Unit, in the Commission's principal office and the Chief, Registration Branch, in the Commission's Chicago regional office. See introduction, "The Location of Systems of Records."

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves, or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone (202) 254–3382.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained, his employer, federal, state, and local regulatory and law enforcement agencies, commodity and securities exchanges, National Futures Association, National Association of Securities Dealers, and miscellaneous sources.

CFTC–13

SYSTEM NAME:

Interpretation Files

SYSTEM LOCATION:

Office of the General Counsel and Office of Public Information, 2033 K Street, N.W., Washington, D.C. 20581.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have requested the Office of the General Counsel to provide them with its interpretation of provisions of the Commodity Exchange Act or various rules and regulations adopted by the Commission. The requests may have been made directly by the individual, or through the individual's attorney or other representative.

CATEGORIES OF RECORDS IN THE SYSTEM:

Interpretation letters furnished, the request for an interpretation, and any related internal memoranda and supporting documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 2(a)(4) of the Commodity Exchange Act, 7 U.S.C. 4a(c); 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Interpretation letters and the related requests for interpretation which discuss matters of general applicability may be made public and may be published by the Commission, or the Commission may otherwise make information public concerning matters raised therein. However, portions of such letters or information will be deleted or omitted to the extent necessary to prevent a clearly unwarranted invasion of personal privacy or to the extent they otherwise contain material considered nonpublic under the Freedom of Information Act and the Commission's rules implementing that Act.

b. Information in these files may be used as a reference in responding to later inquiries from the same party or in following up on earlier correspondence involving the same person.

c. Also see introduction, "General Statement of Routine Uses."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By futures commission merchant, floor broker, commodity pool operator, commodity trading advisor or associated person name if the request is made by them or on their behalf. If it is made on behalf or another individual it will be filed by the name of the individual. If the identity of these persons is not known, the record will be maintained in the name of the attorney or other representative filing the request.

SAFEGUARDS:

Access limited to the offices where the records are maintained.

RETENTION AND DISPOSAL:

Maintain permanently (on premises for 5 years, then transferred to the Federal Records Center). After 20 years, offered to the National Archives and Records Service.

SYSTEM MANAGER(S) AND ADDRESS:

The General Counsel, and the Director, Office of Public Information in the Commission's principal office. See introduction, "The Location of Systems of Records."

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves, or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C., 20581. Telephone (202) 254–3382.

RECORD SOURCE CATEGORIES:

Persons corresponding with the Commission and correspondence and memoranda prepared by the Commission.

CFTC–14

SYSTEM NAME:

Matter Files.

SYSTEM LOCATION:

Commission's principal and regional offices. Pending investigations files may be located in whatever office is conducting the investigation. See introduction, "The Location of Systems of Records."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Individuals whom the staff has reason to believe have violated, are violating, or are about to violate the Commodity Exchange Act and the rules, regulations, and orders promulgated thereunder, or the rules and regulations of any board of trade designated as a contract market.

b. Individuals whom the staff has reason to believe may have information concerning violations of the Commodity Exchange Act and the rules, regulations, and orders promulagated thereunder, or the rules and regulations of any board of trade designated as a contract market.

c. Individuals involved in investigations authorized by the Commission concerning the activities of members of the Commission or its employees based upon formal complaint or otherwise.

d. Individuals filing an application for registration as associated person or floor broker Form 8–R (biographical information questionnaire) in connection with an application for registration with the Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Anything obtained during the course of an investigation including data from Commission reporting forms, account statements, and other trading records, exchange records, bank records, and credit information, business records, reports of interviews, transcripts of testimony, exhibits to transcripts, affidavits, statements by witnesses, contracts and agreements. Also contains internal memorada, reports of investigation, subpoenas, warning letters, stipulations of compliance, correspondence and other miscellaneous matters. The nature of the personal information contained in these files varies according to what is considered relevant by the attorney assigned based on the circumstances of the particular case under investigation, and may include personal background information about the individual involved, his education and employment history, information on prior violations, and a wide variety of financial information, as well as a detailed examination of the individual's activities during the period in question.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 8 of the Commodity Exchange Act, 7 U.S.C. 12; 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See introduction, "General Statement of Routine Uses." Information concerning traders and their activities may be disclosed and made public by the Commission to the extent permitted by law when deemed appropriate to further the practices and policies of the Commodity Exchange Act. Information collected during an investigation may be included in a public report issued by the Commission following an investigation, to the extent that this is authorized under Section 8 of the Commodity Exchange Act, 7 U.S.C. 12.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By assigned case number or case title. Matter cases are filed by number and cross-indexed by matter title.

SAFEGUARDS:

In addition to normal office and building security, certain of these records are maintained in locked file cabinets. All employees are aware of the sensitive nature of the information gathered during investigations.

RETENTION AND DISPOSAL:

Regional office records are maintained on the premises for 5 years, then sent to the Federal Records Center for 5 years, before being destroyed. The records in the Office of the General Counsel are generally maintained until the investigation is closed and any action arising therefrom has been completed, including all review at the appellate level. Thereafter, certain basic information may be retained and sent to the Federal Records Center, while the remaining information is either returned to the person from whom it was obtained or destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Enforcement in the Commission's principal office. Regional Counsel of the region where the investigation is being conducted. See introduction, "The Location of Systems of Records."

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves, or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street,

N.W., Washington, D.C., 20581. Telephone (202) 254–3382.

RECORD SOURCE CATEGORIES:

a. Reporting forms and other information filed with the Commission; b. boards of trade; c. futures commission merchants, commodity trading advisors, commodity pool operators, floor brokers; d. federal, state and local regulatory and law enforcement agencies; e. banks, credit organizations and other institutions; f. corporations; g. individuals having knowledge of the facts; h. attorneys; i. publications; j. courts; and k. miscellaneous sources.

CFTC–15

SYSTEM NAME:

Large Trader Report Files.

SYSTEM LOCATION:

Copies of original reports and related correspondence in CFTC office where filed. See further description below. Ancillary records and information (computer printout) may be located in any CFTC office. See introduction, "The Location of Systems of Records."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals holding reportable positions.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Reports filed by the individual holding the reportable position:

a. Statements of Reporting Trader (CFTC Form 40). Contains information described in Part 18 of the Commission's rules and regulations, including the name, address, number, and principal occupation of the reporting trader, financial interest in and control of commodity futures accounts, and information about the traders business associations;

b. Large trader reporting form (Series 03 Form). Contains information described in Part 18 of the Commission's rules and regulations, including the traders identifying number, previous open contracts, trades and deliveries that day, open contracts at the end of the day, and classification as to speculation or hedging;

c. Large trader reporting form (Series 04 Form). Contains information described in Part 19 of the Commission's rules and regulations, to be filed by merchants, processors and dealers in commodities which have federally imposed speculative position limits. Includes trader's identifying number, stocks owned, fixed price sale and purchase commitments. These reports are filed in the CFTC office in the city where the reporting trader is located. If there is no CFTC office in that city, the reports are filed according to specific instructions of the CFTC.

2. Reports to be filed by futures commission merchants, members of contract markets, foreign brokers and for large option traders by contract markets.

a. Identification of "Special Accounts" (CFTC Form 102). Contains material described in Part 17 of the Commission's rules and regulations. Includes the name, address, and occupation of a customer whose accounts have reached the reporting level.

Also includes the account number which the futures commission merchants uses to identify this customer on the firm's 01 report (see next paragraph), and whether the customer has control of or financial interest in accounts of other traders.

b. Large trader reporting form (Series 01 Form). Contains material described in Part 17 of the Commission's rules and regulations, for each "special account." Shows customer account number, reportable position held in each commodity future and information concerning deliveries and exchanges of futures for physicals by persons with reportable positions. These reports are filed in the CFTC office in the city where the contract market involved is located. If there is no CFTC office in that city, they are filed in the office where the CFTC instructs that they be filed.

3. Computer records prepared from information on the forms described in items (1) and (2) above. The computer system is located in Chicago and North Carolina. Printouts may be located in some or all of the Commission's offices.

4. Correspondence and memoranda of telephone conversations between the Commission and the individual or between the Commission and other agencies dealing with matters of official business concerning the individual.

5. Other miscellaneous information, including intra-agency correspondence and memoranda concerning the individual and documents relating to official actions taken by the Commission against the individual.

6. Reports from contract markets concerning futures and options:

(a) Positions and Transactions of Clearing Member Firms. Information is provided in machine readable form and contains the data prescribed in Section 16, of the Commission's regulations. The information includes an identification number for each clearing member, open contracts at the firm for proprietary and customer accounts and transactions such as trades, exchanges of futures for cash, delivery notices issued and received, and transfers and option exercises. The information filed in the city where the exchange is located or as instructed by the Commission. Data is transmitted to the CFTC computer system and printouts are available at all CFTC offices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(b) Large Option Trader Data. Information is provided in machine readable form and contains the data prescribed in Commission Rule 16.02. Shows customer account number and reportable options positions as specified in Rule 16.02. Machine readable media is delivered to the Commission office in which the contract market is located or as instructed by the Commission. The data is transmitted to the CFTC computer system and printouts of the data are available in each Commission office.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 4g, 4i, and 8 of the Commodity Exchange Act, 7 U.S.C. 6g, 6i, and 12.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information concerning traders and their activities may be disclosed and made public by the Commission to the extent permitted by law when deemed appropriate to further the practices and policies of the Commodity Exchange Act. Also see introduction, "General Statement of Routine Uses."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, computer memory, and computer printout.

RETRIEVABILITY:

Form 40, Form 102, correspondence and other miscellaneous information are maintained directly under the name of the reporting trader. The Series 01, 03, and 04 forms are maintained by identifying code number. However, information from these forms is included in the computer and retrievable by individual name from the computer.

SAFEGUARDS:

General office security measures, with recent trading reports stored in lockable file cabinets. Access is limited to those whose official duties require access.

RETENTION AND DISPOSAL:

CFIC Form 40, CFTC Form 102, correspondence, memoranda, etc. are

retained on the premises until the account has been inactive for 10 years and then destroyed. Form 01, 03 and 04 reports are maintained for 2 years on the premises and then held at the Federal Records Center for 3 years before being destroyed. The computer file is maintained for 10 years for Form 01, 03, 04 reports and large trader options data reported by contract markets. Clearing member positions and transactions are maintained for five years. Trader code numbers and related information are maintained for ten years after a trader becomes nonreportable. Account numbers assigned by an FCM are maintained on the system for five years after the account is no longer reported.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Surveillance Branch, in the region where the records are located. See introduction, "The Location of Systems of Records."

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves, or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C., 20581. Telephone (202) 254–3382. Include code number assigned by the Commission for filing reports, the name of the futures commission merchant through whom traded, and the time period for which information is sought.

RECORD SOURCE CATEGORIES:

The individual on whom the record is maintained and futures commission merchants through whom the individual trades. Correspondence and memoranda prepared by the Commission or its staff. Correspondence from firms, agencies, or individuals requested to provide information on the individual.

CFTC–16

SYSTEM NAME:

Case Files.

SYSTEM LOCATION:

Commission's principal and regional offices. Pending litigation files may be located in other participating offices. See introduction, "The Location of Systems of Records."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons or firms against whom the Commission has taken enforcement action based on violations of the Commodity Exchange Act or the rules and regulations promulgated thereunder.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of various papers filed by or with the Commission or the courts in connection with administrative proceedings or injunctive actions brought by the Commission. It includes, as a minimum, a copy of the complaint and the final decision and order, and may contain other documents as well.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These files are necessary for the orderly and effective conduct of litigation authorized under the Commodity Exchange Act and other federal statutes. See e.g., Section 6c of the Commodity Exchange Act, 7 U.S.C. 13a–1, authorizing injunctive actions, and various provisions in that Act authorizing administrative actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information in these files is generally a matter of public record and may be disclosed without restriction. Also see introduction, "General Statement of Routine Uses."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders or binders.

RETRIEVABILITY:

By case title.

SAFEGUARDS:

General office security measures including secured rooms or premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Maintained indefinitely, although after action is complete usually reduced to only the complaint, final decision, and order.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Enforcement at the Commission's principal office and Regional Counsel for the region where the records are located. See introduction, "The Location of Systems of Records."

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves, or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone (202) 254–3382.

RECORD SOURCE CATEGORIES:

The parties, their attorneys, the Commission's Hearings Section, the relevant court, and miscellaneous sources.

CFTC–17

SYSTEM NAME:

Litigation Files—OGC.

SYSTEM LOCATION:

Office of the General Counsel at 2033 K Street, N.W., Washington, D.C. 20581.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Parties involved in litigation with the Commission or litigation in which the Commission has an interest including, but not limited to:

a. Administrative proceedings before the Commission;

b. Injunctive actions brought by the Commission;

c. Other federal court cases to which the Commission is a party;

d. Litigation in which the Commission is participating as amicus curiae;

e. Other cases involving issues of concern to the Commission, including those brought by other law enforcement and regulatory agencies and those brought by private parties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Papers comprising or included in the record of the case, and briefs and correspondence related to that action. May also include internal memoranda and other documents pertaining to the matter being litigated.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Commodity Exchange Act, 7 U.S.C. 1 et seq., entrusts the Commission with broad regulatory responsibilities over commodity futures transactions. In this connection, the Commission is authorized to bring both administrative proceedings and injunctive actions where there appear to have been violations of the Act. Furthermore, to

effectuate the purposes of the Act, it is necessary that the Commission staff be familiar with developments in others actions brought by other which have implications in the commodity law areas.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information in these files is generally a matter of public record and may be disclosed without restriction. Also see introduction, "General Statement of Routine Uses."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Alphabetically by caption of the case.

SAFEGUARDS:

General office security measures including secured rooms or premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Maintained in the active files until the action is completed, including final review at the appellate level. Thereafter, transferred to the inactive case files, where a skeletal record of pleadings, briefs, findings and opinions and other particularly relevant papers may be maintained. These records are maintained on premises for five years, then transferred to the Federal Records Center. Other materials are generally destroyed except insofar as a copy of some of the documents may be kept in precedent files for use in later legal research or preparation of filings in other matters.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, 2033 K Street, N.W., Washington, D.C. 29581.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves, or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street, N. W., Washington, D.C. 20581. Telephone (202) 254–3382.

RECORD SOURCE CATEGORIES:

The court or regulatory authority before whom the action is pending, the attorneys for one of the named parties, and miscellaneous sources.

CFTC–18

SYSTEM NAME:

Logbook on Speculative Limit Violations.

SYSTEM LOCATION:

Commission's Chicago and New York regional offices. See introduction, "The Location of Systems of Records."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have exceeded speculative limits in a particular fiscal year.

CATEGORIES OF RECORDS IN THE SYSTEM:

A listing, by year, of the violations of speculative limits imposed by the Commission and the exchanges. It includes the trader's assigned code number, the commodity involved, the name of the trader, the type of violation, the date of violation, the date the violation ceased, and the action taken. Copies of warning letters and replies pertaining to the violations listed are maintained with the logbook.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 4i and 8 of the Commodity Exchange Act, 7 U.S.C. 6i and 12.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See introduction, "General Statement of Routine Uses."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By fiscal year, and within each year by the name of the violator.

SAFEGUARDS:

General office security measures including secured rooms or premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Maintained on the premises for 5 years, then held in Federal Records Center for 15 years before being destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Surveillance Branch, 233 South Wacker Drive, 46th Floor, Chicago, Illinois 60606; Chief, Surveillance Branch, One World Trade Center, Suite 4747, New York 10048.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves, or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C., 20581. Telephone (202) 254–3382.

RECORD SOURCE CATEGORIES:

Series 03 reports filed by traders. Correspondence prepared by the Commission or by the individual or individual's representative.

CFTC–19

SYSTEM NAME:

Petitions and Rulings.

SYSTEM LOCATION:

Complaints Section, Hearing Clerk's office, at 2000 L Street, N.W., Washington, D.C. 20036.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons named in an Application for Institution of a Proceeding before the CFTC or its predecessors.

CATEGORIES OF RECORDS IN THE SYSTEM:

The application and supporting documentation of the person submitting the application.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These records are ancillary to the Commission's authority to institute administrative proceedings. See also 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See introduction, "Gerneral Statement of Routine Uses."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By number and application caption. Generally, the caption will be the name of complainant and name of a firm, organization, or person against whom the applicant complains.

SAFEGUARDS:

Access limited to the office where the record is maintained.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Hearing Clerk, Hearing Clerk's office, 2033 K Street, N.W., Washington, D.C. 20581.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves, or seeking access to records about themselves, or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone (202) 254–3382.

RECORD SOURCE CATEGORIES:

Persons submitting an Application for Institution of a proceeding.

SYSTEM NAME:

Registration of Futures Commission Merchants, Floor Brokers, Associated Persons, Commodity Trading Avisors and Commodity Pool Operators.

CFTC–20

SYSTEM LOCATION:

Chicago office (primary files). All CFTC offices have summary information (microfiche records). See introduction, "The Location of Systems of Records."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied to the Commission for registration as an associated person or as a floor broker and principals (as defined in 17 CFR 3.1) of futures commission merchants, commodity trading advisors and commodity pool operators.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information pertaining to the fitness of the above-described individuals to engage in business subject to the Commission's jurisdiction. The system includes applications for registration (Forms 7–R, 8–R and 8–S) and biographical supplements (Form 8–R), schedules and supplementary attachments to those Forms, fingerprint cards, Notices of Termination (Form 8–T), correspondence relating to registration between the Commission and the applicant, registrant or principal, and reports reflecting information developed from sources outside the agency. A computerized system, consisting primarily of information taken from the registration forms is maintained by the Chicago office. The computer records include the name, date and place of birth, social security number (optional), exchange membership (floor brokers only), firm affiliation, and the residence or business address, or both, of each associated person, floor broker, and principal. The computer records also include information relating to name, trade name, principal office address, records address, names of principals, branch office managers and agents of futures commission merchants, and names of advisory services forcommodity trading advisors and pools for commodity pool operators.

Monthly microfiche records list the name, business address, and exchange membership affiliation of all registered floor brokers and the name and firm affiliation of all associated persons and principals. These microfiche records as well as non-confidential portions of applications for registration and biographical supplements are considered to be public records and are available to any person for inspection and copying. Auxiliary records, such as card indices, are maintained which summarize information contained in the system regarding each associated person, floor broker and principal.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 4f(1), 4k(2), 4n(1), 8a(1) and 8a(2) of the Commodity Exchange Act, 7 U.S.C. 6f(1), 6k(2), 6n(1), 12a(1) and 12a(2).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See introduction, "General Statement of Routine Uses." Information contained in this system of records also may be disclosed in connection with the certification by a futures commission merchant of an application for registration of an associated person.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, computer printouts, index cards, computer memory, and microfiche.

RETRIEVABILITY:

By the name of the individual or firm. Where applicable, the computer cross-indexes the individual's primary registration file to the name of the futures commission merchant, commodity trading advisor or commodity pool operator with whom the individual is associated or affiliated.

SAFEGUARDS:

General office security measures including secured rooms or premises and in appropriate cases, lockable file cabinets, with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Applications (Forms 7–R, 8–, and 8–S) and biographical supplements (Form 8–R), related documents and correspondence are maintained on the premises for three years after the individual's registration, or that of the firm with which the individual is affiliated as a principal, becomes inactive. Records are then held in the Federal Records Center for seven years before being destroyed. The computer records are maintained permanently on the premises and updated periodically as long as the individual remains registered or affiliated with a registrant as a principal. Computer printouts are maintained on the premises for six months and then destroyed. Microfiche records are maintained permanently on the premises.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Registration Branch, 233 South Wacker Drive, 46th Floor, Chicago, Illinois 60606.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves, or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington D.C. 20581. Telephone (202) 254–3382.

RECORD SOURCE CATEGORIES:

The individual on whom the file is maintained, individual's employer, the commodity and securities exchanges, other government agencies, self-regulatory organizations and persons with relevant knowledge about the individual. The computer record is prepared from the application or biographical supplement and from information developed during the fitness inquiry.

CFTC-21

Removed—Incorporated into CFTC-20.

CFTC-22

Removed—Incorporated into CFTC-20.

CFTC-23

Removed—Incorporated into CFTC-20.

CFTC-24

Removed—Incorporated into CFTC-20.

CFTC-25

Removed.

CFTC-26

Removed—Incorporated into CFTC-14.

CFTC-27

Removed.

CFTC-28

SYSTEMS NAME:

Exchange Disciplinary Action File.

SYSTEM LOCATION:

Records in this system are maintained at the Commission's principal and regional offices. See introduction, "The Location of Systems of Records."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have been suspended, expelled, or disciplined, or denied access to or by an exchange.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters of notification of disciplinary or other adverse action taken by an exchange which include the name of the person against whom such action was taken, the action taken and the reasons therefor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 8c(1)(B) of the Commodity Exchange Act, 7 U.S.C. 12c(1)(B).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See introduction, "General Statement of Routine Uses."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Looseleaf binders.

RETRIEVABILITY:

By chronological order according to the exchange which took the disciplinary or other adverse action which is the subject of the notice.

SAFEGUARDS:

General office security measures.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Contract Markets Section, at 2033 K Street, N.W., Washington, D.C. 20581.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves, or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street N.W., Washington, D.C. 20581. Telephone (202) 254-3382.

RECORD SOURCE CATEGORIES:

Exchanges notifying the Commission of disciplinary or other adverse actions taken.

CFTC-29

SYSTEM NAME:

Reparations Complaints.

SYSTEM LOCATION:

Complaints Section, 2000 L Street, N.W., Washington, D.C. 20036.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals filing customer reparations complaints, as well as the firms and individuals named in the complaints.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reparation complaints, answers and correspondence filed with the Complaints Section.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 14 of the Commodity Exchange Act, 7 U.S.C. 18.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are used in the conduct of the Commission's reparations program. Also see introduction, "General Statement of Routine Uses."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By number and cross-indexed by the name of the complainant and respondent.

SAFEGUARDS:

General office security including secured rooms or premises, and in appropriate cases lockable file cabinets, with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Maintained indefinitely, but when a case is forwarded to the Hearings Section these records are included in the Commission's docket files.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Complaints Section, 2033 K Street, N.W., Washington, D.C. 20581.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves, or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to the FOI, Privacy and Sunshine Acts Compliance Staff, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone: (202) 254-3382.

RECORD SOURCE CATEGORIES:

Persons filing reparation complaints or answers.

Issued by the Commission in Washington, D.C. on September 29, 1982.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 82-27289 Filed 10-1-82; 8:45 am]
BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board will meet in general session in the IDA Conference Room, 400 Army Navy Drive, Arlington, VA on October 27–28, 1982. The purpose of the meeting is to receive background briefings from National, DOD and Air Force leaders on policy, plans and programs for Air Force activities in Space and to review results of SAB studies on Airlift and Advanced Electronics. The meetings will convene at 8:00 a.m. on both days and adjourn at 5:00 p.m. on October 27, 1982 and at 4:30 p.m. on October 28, 1982.

The meeting concerns matters listed in Section 522b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and that accordingly, the meetings will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4811.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

September 16, 1982.

[FR Doc. 82–27194 Filed 10–1–82; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board Electronic Security Command (ESC) Advisory Group will meet at HQ ESC, Kelly AFB, TX on October 20–21, 1982 from 8:00 a.m. to 5:00 p.m. both days. The group will receive briefings on Command and Control Technology Applications to Military Offensive and Defensive Operations.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–8404.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

September 16, 1982.

[FR Doc. 82–27195 Filed 10–1–82; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board Ad Hoc Committee on Air Force Technical Applications Center (AFTAC) Technologies meeting published in the Federal Register, Volume 47, No. 150, Wednesday, August 4, 1982 has been postponed until 16–17 November 1982. All other information remains the same.

For further information contact the Scientific Advisory Board Secretariat at 202–697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82–27198 Filed 10–1–82; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board Ad Hoc Committee on Air-Air Missile Requirements will meet at Kirtland AFB, NM on October 22, 1982. The purpose of the meeting will be to review final report drafts and construct recommendations. The meeting will convene at 8:30 a.m. and adjourn at 1:00 p.m. that day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

September 21, 1982.

[FR Doc. 82–27197 Filed 10–1–82; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Subcommittee meeting:

Name of committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Vision and Laser Bioeffects.

Date of meeting: 8 and 9 November 1982.

Time and place: 0630 hrs, US Army Aeromedical Research Laboratory, Ft. Rucker, Alabama.

Proposed Agenda: This meeting will be open to the public from 0830 to 1600 hrs on 8 November for the administrative review and discussion of the scientific research program of the Vision and Laser Bioeffects Group. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), US Code, Title 5 and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 1615 to 1730 hrs on 8 November and from 0830 to 1630 on 9 November for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Ryan Neville, Assistant Director, Research Contract Management, Letterman Army Institute of Research, Presidio of San Francisco, CA 94129 (415/561–4367), will furnish summary minutes, roster of Subcommittee members and substantive program information.

Dated: September 20, 1982.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 82–27160 Filed 10–1–82; 8:45 am]

BILLING CODE 3710–08–M

Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Subcommittee meeting:

Name of committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Trauma.

Date of meeting: 11 and 12 November 1982.

Time and place: 0830 hrs, Conference Room AS3102, Letterman Army Institute of Research, Presidio of San Francisco, CA.

Proposed agenda: This meeting will be open to the public from 0830 to 1300 hrs on 11 November for the administrative review and discussion of the scientific research program of the Trauma Group. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), U.S. Code, Title 5 and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 1315 to 1700 hrs on 11 November and from 0830 to 1700 on 12 November for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items. The disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Ryan Neville, Assistant Director Research Contract Management, Letterman Army Institute of Research, Presidio of San Francisco, CA 94129 (415/561–4367), will furnish summary minutes, roster of Subcommittee members and substantive program information.

Dated: September 20, 1982.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 82-27161 Filed 10-1-82; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Defense Science Board Task Force on Anti-Tactical Missiles (ATM), Phase II; Notice of Advisory Committee Meeting

The Defense Science Board Task Force on Anti-Tactical Missiles (ATM), will meet in closed session on 22 October 1982 in Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 22 October 1982 the Defense Science Board Task Force on ATM will review the status of Soviet ATM systems and technology and will outline a final report.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, (1976)). It has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

Dated: September 29, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 82-27264 Filed 10-1-82; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Electronic Warfare (Future Systems Subgroup); Notice of Advisory Committee Meeting

The future Systems Subgroup of the Defense Science Board Task Force on Electronic Warfare will meet in closed session on 17–18 November 1982 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 17–18 November 1982 the Task Force will discuss the application of technology to future systems designed to improve U.S. Electronic Warfare capabilities.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, (1976)). It has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

Dated: September 28, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 82-27200 Filed 10-1-82; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Transition of Weapon Systems From Development to Production; Notice of Advisory Committee Meeting

The Defense Science Board Task Force on Transition of Weapon Systems from Development to Production will meet in closed session on 26 October 1982, at Defense Systems Management College, Building 202, Ft. Belvoir, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 26 October 1982 the Task Force will review, evaluate, and make recommendations concerning ways to improve and accelerate the transition of weapon systems into production. They will also consider training emphasis and possibilities for improvement in the internal management process.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, (1976)) it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

Dated: September 28, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 82-27201 Filed 10-1-82; 8:45 am]

BILLING CODE 3810-01-M

Medical Reimbursement Rates for Fiscal Year 1983

Notice is hereby given that the Assistant Secretary of Defense (Comptroller) on September 20, 1982, issued the following memorandum to the Assistant Secretaries of the Army (IL&FM) and Air Force (FM), the Comptroller of the Navy, and the Director, OCHAMPUS:

Reimbursement rates for inpatient and outpatient medical care are established for Fiscal Year 1983 as follows:

	IMET [1]	Inter-agency [2]	Others
Per inpatient day:			
Burn Center, Brooke Army Hospital	$958	$1,188	$1,393
All other general medical and dental care	200	288	430
Per outpatient visit	19	35	40
Per FAA traffic controller examination	.....	70	.....

[1] International Military Education and Training Students.
[2] Other Federal Agency-sponsored patients and Government civilian employees and their dependents outside the United States.

The charge for inpatient medical and dental care given to dependents of military personnel shall be $6.55 per day effective October 1, 1982.

Dated: September 28, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 82-27199 Filed 10-1-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-FC-81-005; FC Case Nos. 55119-9193-01, 02, 03-12]

General Motors; Fuel Mixture Exemptions

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice and proposed modification of an order granting permanent fuels mixture exemptions to General Motors Corporation, Shreveport Plant, Shreveport, Louisiana.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has commenced a

proceeding under 10 CFR Part 501, Subpart G to modify the permanent fuels mixture exemptions granted by Order to three major fuel burning installations (MFBI's), identified as boiler Nos. 1, 2 and 3, owned and operated by General Motors Corporation (GM) at its Shreveport, Louisiana Assembly Division Plant under the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act).

Based upon its review of GM's August 4, 1982, modification request, ERA is proposing to modify the Order on the Basis of its determination that significantly changed circumstances as defined in 10 CFR § 501.102(b) exist with respect to the applicability of the original exemptions. Accordingly, ERA is hereby giving notice to all parties to the original proceeding of their right, pursuant to 10 CFR § 501.101(d), to file a written response to ERA's proposal within 30 days of the publication of this Notice in the **Federal Register** (see **DATES** section, below). If no responses are received within the established period, the Order modification, as proposed, for each boiler shall become final upon the expiration of that period, without further action by ERA.

A detailed discussion of the Orders and GM's request for modification thereof is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Written responses to ERA's proposed modificaton of the GM Order must be received no later than November 4, 1982.

ADDRESS: Written responses are to be addressed to Department of Energy, Economic Regulatory Administration, Office of Fuels Programs, Case Control Unit, GA–093, 1000 Independence Avenue, SW., Washington, D.C. 20585. FC–55119–9193–01, 02, and 03–12 should be printed on the outside of the envelope and the documents contained therein.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Jr., Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–073, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone (202) 252–8162

Allan Stein, Esq. or Marya Rowan, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6B–178, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone (202) 252–2967

SUPPLEMENTARY INFORMATION: On June 15, 1981, ERA exempted, by Order, GM's Shreveport, Louisiana boiler Nos. 1, 2, and 3 from the prohibitions of section 202 of FUA, which prohibits the use of natural gas or petroleum as a primary energy source by certain MFBIs (46 FR 32329, June 22, 1981). Subject to the terms and conditions set forth in the Order, the permanent exemptions permitted the use of a fuels mixture of coal and natural gas, the latter in an amount not to exceed 25 percent of the total annual BTU heat input of the primary energy sources of the MFBIs. GM's exemption request was filed under the then effective 10 CFR 503.38 and was granted pursuant to section 212(d) of FUA.

By letter of August 4, 1982, GM requested that ERA modify the Order to delete the reporting requirement that GM must, pursuant to 10 CFR 503.38(g), annually file with ERA a certification that the amount of natural gas used in each boiler during the preceding year did not exceed 25 percent of the total annual BTU heat input of the primary energy sources of that MFBI.

GM based its request on the fact that since the issuance of the Order with its annual reporting requirement, DOE has eliminated from its requlations currently in effect, 10 CFR 503.38 (46 FR 59872, December 7, 1981) any reporting requirements for boilers granted a fuels mixture exemption.

As requested, ERA has, pursuant to 10 CFR 501.101(a), commenced a proceeding to modify the above-described exemption Order. The procedures and criteria governing this proceeding are found in 10 CFR Part 501, Subpart G, (46 FR 59872, December 7, 1981). Based upon the information contained in GM's modification request and upon the record as a whole, ERA proposes:

(1) To find that the subsequent revision in the final rules published December 7, 1981, of 10 CFR 503.38, eliminating any reporting requirement from an order granting a permanent exemption for certain fuel mixtures containing natural gas or petroleum, constitutes significantly changed circumstances that warrant a modification of the Order, as provided by 10 CFR 501.102(b); and

(2) To modify the Order to delete therefrom the required annual filing of a certification that the amount of natural gas used in each boiler during the preceding year did not exceed 25 percent of the total annual Btu heat input of the primary enegy source of that MFBI.

Parties to the original Order proceeding are hereby notified of ERA's proposed modification of the Order exempting GM Boiler Nos. 1, 2 and 3 from the prohibitions in section 202 of FUA and of their right pursuant to 10 CFR 501.101(d) to file a response thereto within 30 days of the publication of this Notice in the **Federal Register**. If ERA receives no responses within the allotted period, the Order modification shall become final as proposed, without further ERA action, upon expiration of that period.

Issued in Washington, D.C. September 27, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82–27157 Filed 10–1–82; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 82–11–NG]

Natural Gas Imports; Northern Natural Gas Co., Division of InterNorth, Inc., Application to Amend Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application to amend authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of the receipt on August 9, 1982 of the application of Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), to amend an import authorization to extend the term of such authorization by two years from October 31, 1987 to October 31, 1989 and to increase the import volumes above presently authorized levels. The natural gas would continue to be purchased from Consolidated Natural Gas Limited of Calgary, Alberta (Consolidated), Northern's supplier under its existing authorization.

The application is filed with ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–54. Protests or petitions to intervene are invited.

DATES: Protests or petitions to intervene are to be filed no later than 4:30 p.m. on November 4, 1982.

FOR FURTHER INFORMATION CONTACT:

Leonard B. Levine (Natural Gas Branch, Oil and Gas Imports Division), Economic Regulatory Administration, 12th & Pennsylvania Avenue, N.W., Room 6144, RG–631 Washington, D.C. 20461 (202) 633–9296

Sue D. Sheridan (Office of General Counsel, Natural Gas and Mineral Leasing), 1000 Independence Avenue, S.W., Forrestal Building, Room 6E–042 Washington, D.C. 20485 (202) 252–6667

SUPPLEMENTARY INFORMATION: On August 29, 1980, ERA issued DOE/ERA Opinion and Order No. 19 (ERA Docket No. 79–24–NG) authorizing Northern to import natural gas purchased from Consolidated. Northern was authorized to import, at a point near Emerson, Manitoba, up to 200,000 Mcf of natural gas per day and 73,000,000 Mcf per year from November 1, 1980 through October 31, 1981. The order further authorized Northern, for the term November 1, 1981 through October 31, 1987, to import up to 200,000 Mcf per day and up to 73,000,000 per year at Emerson, minus whatever volumes Northern might elect to import at a point near Monchy, Saskatchewan. Imports at Monchy were the subject of a separate authorization granted to Northern by the Federal Energy Regulatory Commission (FERC) pursuant to its jurisdiction over the Alaska Natural Gas Transportation System (ANGTS), in an order issued July 27, 1980 in FERC Docket No. CP80–22.

On May 13, 1982, Northern and Consolidated amended their gas sales agreement to extend the term of the original contract for a two-year period through October 31, 1989. The amendment also provides for an increase in the Daily Contract Quantity (DCQ) Consolidated will sell and deliver to Northern over the final five years of the Contract. According to the terms of the May 13, 1982 agreement, Consolidated will deliver a Daily Contract Quantity for Northern's account at the authorized export/import points as detailed in the following table:

	Contract year	Original authorized volumes (MMcf/d)	Additional volumes auth'd/Req'd (MMcf/d)	Total DCQ (MMcf/d)
At Emerson:				
From Nov. 1, 1980 to Oct. 31, 1981	1st	60	0	60
From Nov. 1, 1981 to Aug. 31, 1982	2d Pt. 1	200	0	200
From Sept. 1, 1981 to Oct. 31, 1982	2d Pt. 2	100	0	100
From Nov. 1, 1982 to Oct. 31, 1983	3d	100	0	100
From Nov. 1, 1983 to Oct. 31, 1984	4th	100	0	100
From Nov. 1, 1984 to Nov. 31, 1985	5th	75	25	100
From Nov. 1, 1985 to Oct. 31, 1986	6th	50	30	80
From Nov. 1, 1986 to Oct. 31, 1987	7th	25	42.5	67.5
From Nov. 1, 1987 to Oct. 31, 1988	8th	0	67.5	67.5
From Nov. 1, 1988 to Oct. 31, 1989	9th	0	67.5	67.5
At Monchy:				
From Nov. 1, 1980 to Oct. 31, 1981	1st	0	0	0
From Nov. 1, 1981 to Aug. 31, 1982	2d Pt. 1	0	0	0
From Sept. 1, 1981 to Oct. 31, 1982	2d Pt. 2	100	0	100
From Nov. 1, 1982 to Oct. 31, 1983	3d	100	0	100
From Nov. 1, 1983 to Oct. 31, 1984	4th	100	0	100
From Nov. 1, 1984 to Oct. 31, 1985	5th	75	25	100
From Nov. 1, 1985 to Oct. 31, 1986	6th	50	30	80
From Nov. 1, 1986 to Oct. 31, 1987	7th	25	42.5	67.5
From Nov. 1, 1987 to Oct. 31, 1988	8th	0	67.5	67.5
From Nov. 1, 1988 to Oct. 31, 1989	9th	0	67.5	67.5

The total additional volume which Northern is requesting authorization to import is 98.55 Bcf of natural gas. The price will be the international border price as set from time to time by the National Energy Board (NEB) of Canada, subject to approval by ERA. The border price currently is $4.94 (U.S.) per MMBtu.

To facilitate its arrangement with Consolidated, as reflected in the May 13, 1982 amending agreement, Northern requests authority to import additional volumes of natural gas from Canada from November 1, 1987 through October 31, 1989. Specifically, Northern is requesting the FERC to authorize Northern to import near Monchy up to 67,500 Mcf per day for an additional two-year term ending October 31, 1989 and is asking ERA for authority to import near Emerson up to 135,000 Mcf per day and up to 49,275,000 Mcf per year, minus whatever volumes Northern elects to import via pipeline facilities related to ANGTS at Monchy, for an additional two-year term ending October 31, 1989.

In support of its application, Northern states that, by 1984, production from presently connected sources of gas will be insufficient to meet its system demands. Thus, Northern states, new reserve additions will be needed to enable it to meet its customers' needs. Northern further states that authorization of its proposed amendment will enhance its diversity of supply. For these reasons, Northern asserts the application is not inconsistent with the public interest.

Other information

Any person wishing to become a party to the proceeding, and thus to participate as a party in any conference or hearing which might be convened, must file a petition to intervene. Any person may file a protest with respect to Northern's application. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the application.

All protests and petitions to intervene must meet the requirements that are specified by the regulations that were in effect on October 1, 1977 in 18 CFR 1.8 and 1.10. They should be filed with the Natural Gas Branch, Economic Regulatory Administration, Room 6144, RG–631, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461. All protests and petitions to intervene must be filed no later than 4:30 p.m. November 4, 1982.

A hearing will not be held unless a motion is made by a party or person seeking intervention and granted by the ERA, or if the ERA on its own motion believes that a hearing is necessary or required. A person filing a motion must demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, the ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of Northern's application is available for inspection and copying in the Natural Gas Branch Docket room, located in Room 6144, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal Holidays.

Issued in Washington, D.C., on September 28, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82–27159 Filed 10–1–82; 8:45 am]

BILLING CODE 6450–01–M

Hearings and Appeals Office

Cases Filed; Week of August 20 Through August 27, 1982

During the week of August 20 through August 27, 1982, the appeals and applications for relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the

procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comment shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: September 27, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Aug. 20 through Aug. 27, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Aug. 20, 1982	Eastern of New Jersey, Springfield, N. J.	RR7-2	Request for modification/rescission in the Tenneco refund proceeding. If granted: The August 3, 1982 Decision and Order (Case No. RF7-89) issued to Eastern of New Jersey would be modified regarding the firm's application for refund submitted in the Tenneco refund preoceedig.
Do	Kern Oil and Refining Co., Springfield, N. J.	RR7-1	Request for modification/rescission in the Tenneco refund proceeding. If granted: The August 3, 1982 Decision and Order (Case No. RF7-59) issued to Kern Oil and Refining Company would be modified regarding the firm's application for refund submitted in the Tenneco refund proceeding.
Do	Superior Oil Service Springfield, New Jersey	RR7-3	Request for modifiction/rescission in the Tenneco refund proceeding. If granted: The August 3, 1982 Decision and Order (Case No. RF7-94) issued to Superior Oil Service would be modified regarding the firm's application for refund submitted in the Tenneco refund proceeding.
Aug. 23, 1982	Atlantic Richfield Co., Washington, D.C.	HER-0036	Request for modification/rescission. If granted: The August 18, 1982 Decision and Order (Case No. BEE-0373) issued to Ashland Oil Inc. by the Office of Hearings and Appeals would be modified regarding the amount of restitution granted to Atlantic Richfield Co. based upon its profits from the sale of upper tier domestic crude oil to Ashland Oil, Inc.
Do	County Fuel Company, Inc., Towson, Md.	HRH-0010	Request for evidentiary hearing. If granted: An evidentiary hearing would be convened in connection with the Statement of objections submitted by County Fuel Company in response to the Proposed Remedial Order issued to that firm (Case No. HRO-0058).
Do	True Oil Co., Casper, Wyo.	HRZ-0087	Interlocutory order. If granted: The Proposed Remedial Order issued to True Oil Company (Case No. BRO-1464) would be dismissed.
Aug. 25, 1982	Tipperary Corp., Washington, D.C.	HRD-0078, HRH-0078	Motions for discovery and evidentiary hearing. If granted: An evidentiary hearing would be convened and discovery would be granted to Tipperary Corporation in connection with its Statement of Objections to the June 16, 1982 Proposed Remedial Order issued to that firm (Case No. HRO-0078).
Do	Broadway Shell, Oakland, Calif.	HRR-0039	Request for modification/rescission. If granted: The June 30, 1982 Decision and Order (Case No. BRO-1542) issued to Broadway Shell would be modified with respect to Table I of the Proposed Remedial Order issued to the firm on March 31, 1981.
Aug. 26, 1982	Gulf Oil Corp., Houston, Tex.	HER.0038	Request for Modification/rescission. If granted: The July 19, 1982 Decision and Order (Case No. BEE-0373) issued to Ashland Oil, Inc., would be modified regarding the amount of restitution granted to Gulf Oil Corp. and other suppliers.
Do	The W.N. Gates Company, Inc, Savannah, Ga.	HFA-0079	Appeal of an information request Denial. If granted: The August 19, 1982 Decision and Order issued by the DOE Division of Materials & Procurement would be rescinded, and W.N. Gates Company would receive access to certain DOE information.
Aug. 27, 1982	California Energy Resources Conservation & Development Commission, Washington, D.C..	HFA-0080	Appeal of informatiaon request denial. If granted: The August 4, 1982 Information Request Denial issued by the DOE Office of Buildings Energy Research and Development would be rescinded and the California Energy Resources Conservation and Development Commission would receive access to certain DOE information.

REFUND APPLICATIONS RECEIVED

[Week of Aug. 20 to Aug. 27, 1982]

Date	Name of refund proceeding/ name of refund applicant	Case No.
5-11-82	DKC Corp/Pester Refining Co	RF13-26.
5-20-82	DKC Corp/Consumers, Inc	RF13-27.
5-27-82	DKC Corp/Standard Oil Co. of Ind.	RF13-28.
8-23-82	Triton/Tenneco Oil Co	RF18-2.
8-26-82	Panhandle/Missouri Self Service Gas Co.	RF15-2.
8-26-82	Panhandle/Western Petroleum Co..	RF15-3.
3-30-82	Penrzoil/Zimmerman Fuel Distributors.	RF10-56.

[FR Doc. 82-27158 Filed 10-1-82; 8:45 am]

BILLING CODE 6450-01-M

Office of the Secretary

Conduct of Employees; Waiver

Section 207(f), title 18, United States Code, and section 605(a)(3) of the Department of Energy Organization Act (Pub. L. 95-91) authorize the Secretary of Energy to waive the post-employment restrictions of subsections (a), (b), and (c) of section 207, title 18, United States Code, and of subsection (a)(1) of section 605 of the Department of Energy Organization Act, respectively, to permit a former employee with outstanding scientific or technological qualifications to make appearances before or communications to the Department in connection with a particular matter which requires such qualifications (in the case of section 207), or which lies ina scientific or technological field (in the cae of section 605), where it has been demonstrated that such a waiver would serve the national interest.

It has been established to my satisfaction that Harold D. Bengelsdorf, former Director of the Department's Office of Nuclear Affairs, has an outstanding and unique combination of technological qulaifications with respect to the nuclear fuel cycle and international nuclear affairs. I am further satisfied that it will serve the national interest to permit him to contact officials of the Department of Energy in connection with his participation in a study of the role of penalties and other sanctions in the implementation of United States international nuclear nonproliferation policy. Mr. Bengelsdorf's participation will be pursuant to a contract between the Department of Energy and International Energy Associates Ltd., his current employer. I am satisfied that these activities are in a technological field and require the qualifications stated.

I have, therefore, waived the post-employment prohibitions of subsections (a), (b) and (c) of section 207, title 18, United States Code (in consultation with the Director of the Office of Government Ethics), and of subsection (a)(1) of

section 605 of the Department of Energy Organization Act, with respect to contact by Mr. Bengelsdorf with oficials of the Department of Energy to permit him to undertake the stated activities on behalf of his current employer, International Energy Associates Ltd.

Dated: September 24, 1982.

James B. Edwards,

Secretary of Energy.

[FR Doc. 82-27156 Filed 10-1-82; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee on Preparations for the ITU 1983 Region 2 Broadcasting Satellite Service Planning Conference

September 28, 1982.

Meeting

Thursday, October 21, 1982, 9:30 A.M.–12 Noon,[1] Satellite Television Corporation, 1301 Pennsylvania Avenue, NW., 5th Floor Conference Room, Washington, D.C.

Agenda

(1) Approval of agenda; (2) presentation of addendum to final report; (3) approval of addendum to final report; (4) other business.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-27163 Filed 10-1-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Note that the meeting will be extended until 4:00 P.M., if necessary to complete business.

[BC Docket No. 82-661, File No. BP-810612AA; and BC Docket No. 82-662, File No. BP-811015AP]

Bold Production, Inc. and Plateau Communications, Inc.; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Bold Production, Inc., St. Johns, Arizona, Req: 1590 kHz, 5 kW, D, BC Docket No. 82-661, File No. BP-810612AA; Plateau Communications, Inc., St. Johns, Arizona, Req: 1590 kHz, 5 kW, DA-N, U, BC Docket No. 82-662, File No. BP-811015AP; for construction permit.

Adopted: September 20, 1982.

Released: September 24, 1982.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications for new AM broadcast stations.

2. *Bold Production, Inc.* The material submitted in the Bold Production application does not demonstrate the applicant's financial qualifications. Specifically, the balance sheet submitted by the principal stockholder, Edgar E. Mullin, shows no current liquid assets available to meet the proposed costs of $62,032. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicant will be given 30 days from the date of mailing of this order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an apporpriate issue, *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82-378, released July 15, 1982.

3. In addition, Bold Production failed to submit a programming narrative statement showing how it intends to meet the needs of the proposed service area. An amendment is required.

4. *Environmental Questions.* The environmental statements required by § 1.1311(a) of the Rules are deficient as follows: Bold Production did not state the zoning classification (if any) of the site; and Plateau Communications did not describe the land uses surrounding the site, or state the zoning classification (if any) of the site. An amendment is required.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed.[1] However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

6. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

7. It is further ordered, That Bold Production, Inc., shall submit financial certification, in the form required by Section III, FCC Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

8. It is further ordered, That Bold Production, Inc., and Plateau Communications, Inc., shall amend their applications as specified in paragraphs 3 and 4 above, within 30 days after this order is published in the Federal Register.

9. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

10. It is further ordered, That pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing as prescribed in the rules, and shall advise the Commission of publication of the notice as required by § 73.3593(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division Broadcast Bureau.

[FR Doc. 82-27167 Filed 10-1-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Operation with the facilities specified herein is subject to modification, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

Eastern Associated Services, Inc. and Parkersburg Family Television, Inc.; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Eastern Associated Services, Inc., Parkersburg, West Virginia, BC Docket No. 82-669, File No. BPCT-810424KG; Parkersburg Family Television, Inc., Parkersburg, West Virginia, BC Docket No. 82-670, File No. BPCT-810720KH; for construction permit for a new television station.

Adopted: September 20, 1982.

Released: September 24, 1982.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned applications of Eastern Associated Services, Inc. (EASI) and Parkersburg Family Television, Inc. (PET), for a new commercial television station to operate on Channel 39 in Parkersburg, West Virginia; and a petition to deny filed by Benedek Broadcasting Corporation, licensee of WTAP-TV (WTAP) Channel 15, Parkersburg, West Virginia, and related pleadings.

2. WTAP claims standing as a party in interest under Section 309(d) of the Communications Act of 1934, as amended, on the grounds that because the above applicants would be in the same community, the two stations would compete for audience and revenues and that operation as proposed would cause economic injury to Benedek. We find that WTAP has standing. *Federal Communications Commission* v. *Sanders Brothers Radio Station*, 309 U.S. 470, 60 S. Ct. 693, 9 RR 2008 (1940).

EASI

3. *Legal Qualifications.* WTAP contends that EASI has not shown that it is legally qualified to construct and operate its proposed station. Specifically, WTAP claims that EASI's articles of incorporation do not authorize EASI to establish a television station. In addition, WTAP argues that the ownership information is incomplete, since EASI has authorized 5,000 shares of stock and there is no indication in Section II that any shares have already been subscribed by Robert J. McClay, the only incorporator of EASI.

4. In its "Opposition," EASI contends that its articles of incorporation are sufficient for Commission purposes. *E.H. "Pepper" Schultz*, 46 RR 2d 23, 26 (1979). EASI states that its articles allow it to engage "in any lawful act or activity." Regarding EASI's stock ownership, EASI contends that its application accurately reflects the correct ownership of the corporation as required by FCC Form 301. EASI concedes that its application reflects ten directors while the by-laws authorize only nine. EASI states, however, that an amendment to the by-laws is forthcoming.

5. WTAP alleges that EASI has not established its legal qualifications, or provided sufficient ownership information. However, the above issues are now moot and will not be considered herein since EASI has adequately provided information responsive to petitioner's arguments.

6. *Network Affiliation.* In response to Question 13, Section IV–A, and Question 12, Section IV–B, EASI lists 64 hour per week of network programming and what appears to be 6 hours of network news, respectively. Although EASI now states that its application is not dependent upon network affiliation, neither of the above sections has been amended to reflect the change. However, inasmuch as the descrepancy appears to be inadvertant, EASI will be expected to amend its application accordingly to reflect the changes.

7. WTAP argues that the material submitted in EASI's application does not demonstrate the applicant's financial qualifications.[1] Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicant will be given 30 days from the date of mailing of this order to review its financial proposal in light of Commission requirements and to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge, who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82–378, released July 15, 1982.

8. *Cross Interest.* WTAP contends that a cross-interest question exists with respect to EASI's application. *Golden West Broadcasters*, 16 FCC 2d 918 (1969). Specifically, WTAP notes that in Section II, Table II of the application, EASI reports that A. Tim Archer, a 10% stockholder, officer and director, is also a vice president, director, general manager and 49% stockholder of Aud Archer, Inc. (AA), an advertising agency in Parkersburg, West Virginia. WTAP contends that, since AA has placed advertising for local businesses on WTAP in the past, Archer's potential dual interests raise a question as to whether Archer will favor EASI in placing advertising on its proposed station rather than the local competing station. *Eastern Broadcasing Corp.*, 30 FCC 2d 745 (Rev. Bd. 1971).

9. EASI asserts that AA has no broadcast-related business and does not place advertising on local broadcast stations. EASI further asserts that its business is print-related and it does not solicit broadcast rates of area stations nor is it privy to their internal operations. They play no role in program selection or placement of advertising on these stations. Consequently EASI argues that WTAP's reliance on *Eastern Broadcasting Corp., supra*, and *Golden West Broadcasters, supra*, is misplaced.

10. The objective of the Commission's cross-interest policy is the promotion and maintenance of full competition between two or more broadcast stations in the same area, *Golden West Broadcasters, supra*, and to that end, the so-called cross-interest policy has been applied in situations involving other than actual proprietary ownership interests. *Golden West Broadcasters*, at 921; *Eastern Broadcasting Corp, supra*. However in *Golden West Policy*, 87 FCC 2d 918 (1981), the Commission overruled its decision in *Golden West Broadcasters*. Briefly, the *Golden West* policy applied to sales representatives, who are agents acting on behalf of broadcast licensees. An advertising agency, in contrast, is an agent for the advertiser, not the broadcaster. The advertising agent comes to the broadcaster as a supplicant, does not have access to internal sales policies of the licensee, and lacks the daily ongoing relationship often characteristic of the sales representative-broadcaster relationship. Thus, if the Commission is no longer concerned with the relationships between broadcasters and their sales representatives, it is reasonable to assume that it is no longer concerned with the lesser degree of involvement characteristic of the advertising agency-broadcaster relationship. Furthermore, in light of the applicant's statement, supported by affidavit, that the advertising agency is print related and that it does not deal with broadcasters, and Mr. Archer's minority stock interests in each of the two business activities, we believe no issue is warranted. Accordingly, no cross-interest issue will be specified.

Parkersburg Family Television, Inc.

11. *Legal Qualifications.* WTAP notes that PFT intends to locate its studio in West Virginia, and its antenna-transmitter in Ohio. Thus, WTAP contends that PFT is not legally qualified since it has received no authority from West Virginia or Ohio to construct a station. WTAP further contends that although PFT's by-laws provide that the corporation's board of directors will consist of at least three persons, PFT has only provided the name of one director. Consequently, WTAP argues that without further

[1] EASI's bank letter does not provide reasonable assurance of funding nor does EASI show current liquid assets to meet proposed expenditures.

information. PFT has failed to demonstrates its legal competency.

12. PFT notes that a copy of its articles of incorporation has been submitted. PFT argues that it is not necessary for it to receive authorization from West Virginia and Ohio to build a station. *Merrimack Valley Broadcasting, Inc.*, FCC 80–50, 45 FR 12484, released Feb. 13, 1980. In response, WTAP argues that *Merrimack Valley Broadcasting, supra*, is distinguishable from this case since no showing has been made that the states in question will not routinely grant authority to foreign corporations.

13. We disagree that PFT's reliance on *Merrimack* is misplaced. In *Merrimack*, the Commission recognized the unnecessary burden of requiring an otherwise legally qualified applicant to establish its authority to do business outside its state during the preliminary stages of the proceeding. PFT has demonstrated its authority to act under Tennessee law. Therefore, since no showing has been made by the petitioner that the applicant cannot ultimately receive authorization from West Virginia and Ohio, we see no reason to require the applicant to make such a showing.

14. PFT indicates that $96,132 will be required to construct the proposed station and to operate it for the first three months, itemized as follows:

Equipment lease payments	$24,632
Land/Building (lease)	1,500
Legal (other costs included in equipment installation quotation)	9,000
Operating costs (three months)	61,000
Total proposed expenditures	$96,132

15. WTAP contends that, by its estimation, PFT's proposed expenditures "appear" to be understated. WTAP alleges that: (a) PFT cannot obtain used broadcast equipment at the price indicated; (b) PFT's preparation, construction and initial operating expenses are projected at an unreasonably low level; and (c) there is no specific figure with regard to the leasing expense for the antenna-transmitter site, nor has a leasing agreement been submitted. WTAP further argues that PFT is unable to rely on its proposed bank loan as a source of funds because PFT has not met the terms of the bank letter regarding collateral requirements and loan guarantees by the applicant and its principals.

16. PFT argues that WTAP's contentions are speculative and unsubstantiated. PFT, consequently, submits an affidavit from the president of the equipment manufacturer confirming the existence and availability of the equipment. PFTcontends that its estimated legal costs and leasing expenses are reasonable. PFT notes that its leasing expenses are listed in its first quarter operating budget. WTAP responds that PFT's affidavit is insufficient since no information is provided as to the equipment's condition or cost of acquiring and placing the equipment into use in Parkersburg.

17. The fact that cost estimates submitted by the applicant are lower than those incurred by other stations in the market, or lower than the national average, does not raise a substantial question as to whether the estimates are reasonable. *Eastern Broadcasting Corp.*, 28 FCC 2d 28, 21 RR 2d 417 (Rev. Bd. 1971). In the instant case, petitioner's allegations are speculative and unsupported. WTAP has not shown that the figures are unreasonable on their face, *Eastern Broadcasting Corp., supra*, while in most instances the applicant has provided documentation and price information as well as an affidavit from the equipment supplier. Furthermore, although WTAP alleges that applicant's allowance of $9,000 in legal fees is far below the costs to be incurred, WTAP has not detailed what costs are involved, nor has it shown that the applicant is unable to acquire legal representation at the price indicated. Furthermore, contrary to WTAP's contention, the application has listed the cost estimate for leasing land and studio in its three month operating budget. Accordingly, no issue will be specified.

18. On December 4, 1981, PFT amended its application to show estimated construction and operating expenses of $188,464. To meet these costs, PFT further shows the availability of a $100,000 bank loan and additional funds in excess of $88,500 from Cora Price, the applicant's only shareholder. Accordingly, we find the applicant financially qualified.

Conclusion and Order

19. Except with respect to the issues specified below, we find that the applicants are qualified to construct and operate as proposed. We are, however, unable to make the statutory finding that a grant of the applications would serve the public interest, convenience and necessity and the applications must be designated for hearing.

20. Accordingly, it is ordered, That the petition to deny filed by Benedek Broadcasting Corporation is denied.

21. It is further ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications of Eastern Associated Services, Inc., and Parkersburg Family Television, Inc. are designated for hearing in a consolidated proceeding before an Administrative Law Judge at a time and place to be specified in a subsequent Order upon the following issues:

1. To determine, on a comparative basis, which of the applications would better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

22. It is further ordered, That EASI shall submit a financial certification in the form required by Section III, FCC Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

23. It is further ordered, That EASI shall amend Sections IV–A and IV–B to correct the inadvertant discrepancy noted i Paragraph 6, above.

24. It is further orderd, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within (20) days of the mailing of this Order, shall file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

25. It is further orderd, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(d) of the Rules.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82–27168 Filed 10–1–82; 8:45 am]

BILLING CODE 6712–01–M

[BC Docket No. 82–655; File No. BPCT–820216KG, et al.]

Elcom, Inc. et al.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: September 20, 1982.

Released: September 24, 1982.

In re applications of Elcom, Inc., Greenville, North Carolina, BC Docket No. 82–655, File No. BPCT–820216KG; Telecommunications Partners, Ltd., Greenville, North Carolina, BC Docket No. 82–656, File No. BPCT–820415KI; Behrvision of North Carolina, Ayden, North Carolina, BC Docket No. 82–657,

File No. BPCT–820415KM; for construction permit.

By the Chief, Broadcast Bureau:

1. The Commission by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it: (a) The above-captioned mutually exclusive applications of Elcom, Inc. (Elcom), Telecommunications Partners, Ltd. (Telecommunications) and Behrvision of North Carolina (Behrvision) for a new new commercial television station to operate on Channel 14, Greenville, North Carolina,[1] and (b) an informal objections filed by the Association of Maximum Service Telecasters, Inc. (AMST) against all three applicants.[2]

2. Behrvision specifies Ayden as its community of license, while the others propose Greenville. Consequently, it will be necessary to determine, pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of broadcast service. Since these proposals do serve substantial common areas, however, in addition to the Section 307(b) issue, a contingent comparative issue will also be specified.

3. Due to the proximity of frequencies utilized by Channel 14 and land mobile services, a Channel 14 permittee that inadequately suppresses its secondary emissions could cause interference to land mobile services. *See* § 73.687(i)(1) of the Commission's Rules. Accordingly, the grant of a construction permit to any of the applicants will be conditioned on requiring the permittee to take adequate measures prior to program test authority to prevent interference to land mobile stations in the 460–470 MHz band.

4. Lawrence Behr, the 50% partner in Behrvision, has a small interest in Gray Hardy Broadcasting, Inc. (Gray Hardy), licensee of stations WGHB(AM) and WRQR(FM), Farmville, North Carolina. Section 73.636(a)(1) of the Commission's Rules sets forth a policy against granting a television construction permit to an applicant who directly or indirectly owns, operates, or controls a radio station licensed to a community, such as Farmville, which is encompassed by the predicted Grade A contour of the proposed television station. Behr states that he will terminate all of his interest in WGHB(AM) and WRQR(FM) prior to Behrvision's filing of an application for license. Behr must demonstate such termination before Behrvision commences operation. Similarly, Charles Franklin, a director and 56.6% stockholder of Elcom, proposes to terminate his 80% interest in Francon, Inc., licensee of station WJIK(AM), Camp Lejeune, North Carolina. Camp Lejeune, however, is outside of Elcom's predicted Grade A contour, and WJIK(AM)'s predicted 2 mV/m contour does not encompass Greenville. Consequently, Franklin's proposed divestiture is not required by the rules.

5. Behrvision has certified as to its financial qualifications. However, Behrvision does not certify that sufficient net liquid assets are on hand or are available from committed sources to construct and operate for three months without revenue, which is required in Question 1 of Section III of FCC Form 301. Accordingly, Behrvision will be given the opportunity to submit to the Administrative Law Judge the certification required by the Form or to advise that it cannot make the required certification. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue.

6. Since we have not received a determination from the Federal Aviation Administration that Elcom's proposed tower height and location would not constitute a hazard to air navigation; an issue regarding this matter will be specified.

7. After the applications were filed, the Commission issued a notice of proposed rulemaking to delete Channel 29 and add Channel 26 in Wilmington, North Carolina. *Notice of Proposed Rule Making in BC Docket No. 82–352*, Mimeo No. 31637 (released July 1, 1982). Telecommunications and Behrvision would meet all spacing requirements with respect to the proposed Channel 26; however, their proposed sites are one mile short-spaced (out of a required 75 miles) to the reference point for Channel 29. In addition Telecommunications' proposed site is one mile short-spaced (out of a required 20 miles) to that of WUNM–TV, Jacksonville, North Carolina, and Behrvision's proposed site is two miles short-spaced to the same site. The applicants, however, have requested waiver of § 73.610 only with respect to Wilmington.

8. Applicants proposing short-spaced sites must make a threshold waiver showing of the unavailability of non-short-spaced sites. Neither Telecommunications nor Behrvision have done so, and since Elcom has proposed a site that meets all spacing requirements, we cannot determine that fully spaces sites are unavailable to Telecommunications and Behrvision. Accordingly , AMST's informal objection with respect to Telecommunications and Behrvision will be granted, and AMST will be made a party to the hearing. Spacing issues will be specified against Telecommunications and Behrvision.

9. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

10. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Elcom, Inc., whether there is a reasonable possibility that the tower height and location proposed by the applicant would constitute a hazard to air navigation;

2. To determine with respect to Telecommunications Partners, Ltd. and Behrvision of North Carolina:

(a) Whether the proposals of the applicants are consistent with the minimum mileage separation requirements of § 73.610 of the Commission's Rules and, if not, whether circumstances warrant a waiver of that Section;

(b) Whether, in light of the evidence adduced pursuant to (a), above, the applicants are qualified;

3. To determine the areas and population which would receive television service (Grade B or better) from the proposals and the availability of other Grade B Service to such areas and population;

4. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of broadcast service;

5. In the event it is concluded from Issue 4, above, that a choice among applications should not be based solely on considerations relating to Section 307(b), to determine which of the

[1] Behrvision has specified Ayden, North Carolina, as its community of license, pursuant to § 73.607(b) of the Commission's Rules (the "15-mile rule").

[2] AMST argues that each of the applicants has proposed tower sites that do not meet the Commission's mileage separation requirements; however, Elcom subsequently amended its application to specify a non-short-spaced site. Accordingly, AMST's objection with regard to Elcom will be dismissed as moot.

proposals would, on a comparative basis, best serve the public interest;

6. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

11. It is further ordered, That, in the event of a grant of any of the applications, the construction permit shall contain the following condition:

During equipment tests, authorized by § 73.1610 of the Commission's Rules, the permittee shall take adequate measures to identify and substantially eliminate objectionable interference which may be caused to existing land mobile facilities in the 460–470 MHz band. Documentation that objectionable interference will not be caused to existing land mobile facilities shall be submitted along with the application for license and the appropriate request for program test authority.

12. It is further ordered, That, in the event of a grant of Behrvision's application, the construction permit shall contain the additional condition:

Prior to the commencement of operation, Lawrence Behr shall certify to the Commission that he has severed all interest in and connection with WRQR(FM) and WGHB(AM).

13. It is further ordered, That Behrvision of North Carolina shall submit a financial certification required by Section III, F.C.C. Form 301, or advise the Administrative Law Judge that the required certification cannot be made.

14. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with regard to Issue 1.

15. It is further ordered, That the informal objections filed by the Association of Maximum Service Telecasters, Inc. against Telecommunications and Behrvision are granted, and its informal objection filed against Elcom is dismissed as moot.

16. It is further ordered, That the Association of Maximum Service Telecasters, Inc. is made a party respondent to this proceeding with regard to Issue 2.

17. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and parties respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

18. It is further ordered, That the applicants herein shall, pursuant to Section 311(a) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-27170 Filed 10-1-82; 8:45 am]

BILLING CODE 6712-01-M

Gatlinburg Broadcast Communications, Inc. and Vacation Radio Co.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: September 20, 1982.

Released: September 24, 1982.

In re applications of Gatlinburg Broadcast Communications, Inc., Gatlinburg, Tennessee, Req: 1230 kHz, 250 W, 1 kW–LS,U; BC Docket No. 82–667, File No. BP–810108AE; Vacation Media, Inc. and Hazel Lee Saunooke, d/b/a Vacation Radio Co., Gatlinburg, Tennessee, Req: 1230 kHz, 250 W, 1 kW–LS,U, BC Docket No. 82–668, File No. BP–810410AT,

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration: (a) the above-captioned mutually exclusive applications of Gatlinburg Broadcast Communications, Inc. (GBC) and Vacation Media, Inc. and Hazel Lee Saunooke. d/b/a Vacation Radio Company (Vacation) for a construction permit for a new AM broadcast station; (b) petitions to deny both applications filed by Stoner Broadcasting System, Inc. (Stoner), licensee of AM station WHEL, Knoxville, Tennessee; and (c) a motion to dismiss the Vacation application, filed by GBC.[1]

2. Using the ground conductivity indicated by FCC Figure M3, the proposed 0.5 mV/m contours would overlap the 0.5 mV/m contour of class IV, first-adjacent-channel station WHEL, in violation of Sections 73.37(a) and (c) of the Commission's Rules. To demonstrate that there would be no prohibited overlap, GBC has submitted measurements it made on WHEL and on a test transmitter at its proposed site.[2] Stoner, however, faults the test-transmitter measurements as inadequate to establish the efficiency of the antenna system used and conductivities along the measured radials, and criticizes GBC's locations of its proposed contour as involving an excessive swing of the conductivities it determined. Since these objections raise a substantial question as to whether the proposals would cause objectionable interference to WHEL, an appropriate issue will be specified.

3. In its motion to dismiss, GBC alleges that Vacation's application as initially filed was not substantially complete and therefore should have been returned on these grounds pursuant to Section 73.3564(a) of our Rules. Thus, GBC states, instead of including an original engineering proposal, Vacation simply specified a transmitter site next to GBC's site and adopted GBC's engineering data. While the Commission does not condone the practice of copying and using another's work product, our position is that recourse lies properly in a civil court action. *Roanoke Christian Broadcasting, Inc.*, BC–32660, 47 R.R. 2d 1067 (B/C Bur. 1980); *aff'd*, FCC 80–541, released October 2, 1980. Further, we note that Vacation stated that the engineering data it was submitting was GBC's and submitted, at a later date, a showing prepared by its own engineer. Therefore, we fund that Vacation's application was substantially complete when filed.[3]

4. Section 73.24(j) of our Rules requires applicants for new AM stations to show that the proposed 25 mV/m contour will encompass the business district of the community of license and that the proposed 5 mV/m contour (or at night the interference-free contour, if of a higher value) will encompass all residential areas. The information before us does not establish either applicant's compliance with this provision, and neither has requested a waiver, if appropriate. Hence, an issue must be specified.

5. Section 73.3580 of the Rules requires applicants for new broadcast stations to give local notice of the filing of their applications and to file with the Commission a statement of publication. We have no evidence that either

[1] Judith G. Hayes, whose application for a new FM station at Pigeon Forge, Tennessee, was mutually exclusive with the application of Vacation Media, Inc. for a new FM facility at Gatlinburg, had requested that we consolidate this proceeding with the FM proceeding. Her request is moot, however, since the FM proceeding has been terminated with the dismissal of her application and grant of Vacation Media's. *Memorandum Opinion and Order*, FCC 81M–3917, Mimeo No. 005739 (released December 11, 1981).

[2] Vacation relies on GBC's measurements to support its proposal for essentially identical facilities.

[3] Vacation properly incorporated by reference Sections II (Legal Qualifications) and VI (Equal Employment Opportunity) of its FM application for Gatlinburg, file number BPH–10639, as permitted by Instruction E of the application form.

applicant has published the required notice. To remedy this deficiency, each must demonstrate compliance by filing statements of publication with the presiding Administrative Law Judge.

6. Except as indicated above, both applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

7. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether the applications of Gatlinburg Broadcast Communications, Inc. and Vacation Media, Inc. and Hazel Lee Saunooke d/b/a Vacation Radio Company would involve 0.5 mV/m contour overlap with AM station WHEL prohibited by § 73.37(a) and (c) of the Commission's Rules.

2. To determine whether the proposals of Gatlinburg Broadcast Communications, Inc. and Vacation Media, Inc. and Hazel Lee Saunooke d/b/a/ Vacation Radio Company would provide coverage of Gatlinburg as required by § 73.24(j) of the Commission's Rules, and if not whether circumstances exist which warrant waiver of the provision.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications, if either, should be granted.

8. It is further ordered, That the petitions to deny filed by Stoner Broadcasting System, Inc., are granted to the extent indicated above, and are denied in all other respects, and that Stoner Broadcasting System, Inc. is made a party to this proceeding.

9. It is further ordered, That the motion to dismiss the application of Vacation Media, Inc. and Hazel Lee Saunooke d/b/a/ Vacation Radio Company, filed by Gatlinburg Broadcast Communications, Inc., is denied.

10. It is further ordered, That the motion to consolidate filed by Judith G. Hayes is dismissed as moot.

11. It is further ordered, That Gatlinburg Broadcast Communications, Inc. and Vacation Media, Inc. and Hazel Lee Saunooke, d/b/a Vacation Radio Company shall publish local notice of the filing of their applications (if they have not already done so) and shall file statements of publication with the presiding Administrative Law Judge within 40 days after this order is published in the **Federal Register.**

12. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) and (e) of the Commission's Rules, the parties shall within 20 days of the mailing of this Order, in person or by attorney, file with the Commission in triplicate written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

13. It is further ordered, That pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing as prescribed in the rule, and shall advise the Commission of the publication as required by §73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-27164- Filed 10-1-82; 8:45 am]

BILLING CODE 6712-01-M

Craig Broadcasting Co. et. al.; Designating Applications For Consolidated Hearing on Stated Issues

Adopted: September 20, 1982.

Released: September 24, 1982.

In re applications of Craig Broadcasting Co., Defiance, Ohio, BC Docket No. 82-652, File No. BPCT-820304KE; Community Television Associates, Defiance, Ohio, BC Docket No. 82-653, File No. BPCT-820510KV; Harlan and Donna Kriete, Defiance, Ohio, BC Docket No. 82-654, File No. BPCT-820510KW; for construction Permit.

By the chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above mutually exclusive applications of Craig Broadcasting Co. (Craig), Community Television Associates (CTA), and Harlan and Donna Kriete (Krietes) for a new commercial television station to operate on Channel 65 in Defiance, Ohio.

2. Since we have not received a determination from the Federal Aviation Administration that CTA's and the Krietes' proposed tower height and location would not constitute a hazard to air navigation, an issue regarding this matter will be specified.

Harlan and Donna Kriete

3. The Krietes' proposed tower is to be located 0.48 miles from the directional array of AM station WONW, Definance, Ohio. Because of the proximity of the applicants' proposed tower to WONW, any grant of a construction permit to the applicant will be conditioned to ensure that WONW's radiation pattern is not adversely affected by the construction of the proposed station.

4. The Krietes failed to submit the contour maps which are required in Question 10 of Section V-C of Form FCC 301. Consequently, the Krietes will be required to submit appropriate maps within 30 days of the mailing of this Order.

Conclusion and Order

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to CIA and the Krietes, whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That the Federal Aviation Administration is made a party respondent with respect to Issue 1.

8. It is further ordered, That any grant of the construction permit to Harlan and Donna Kriete will be subject to the following condition:

Prior to the construction of the TV tower authorized herein, permittee shall notify AM station *WONW* so that the AM station may determine operating power by the indirect method and, if necessary, request temporary authority from the Commisssion in Washington to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits.

Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to construction of the TV tower and subsequent to the installation of all appurtenances thereon, a partial proof of performance, as defined by § 73.154(a) of the Commission's Rules, shall be conducted to establish that the array of the AM station has not been adversely affected. The results shall be submitted to the Commission and the AM station. Thereafter, the TV station may commence Limited Program Tests.

9. It is further ordered, That within 30 days of the mailing of this Order, Harlan and Donna Kriete shall submit the required contour maps.

10. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-27171 Filed 10-1-82; 8:45 am]

BILLING CODE 6712-01-M

MFP, Inc. et al.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: September 20, 1982.

Released: September 24, 1982.

In re applications of MFP, Inc., Lawrence, Massachusetts, BC Docket No. 82-658, File No. BPCT-811030KE; Metrovision, Inc., Middleton, Massachusetts; BC Docket No. 82-659, File No. BPCT-811030KK; Seacoast Broadcasting, Inc., Salem, Massachusetts, BC Docket No. 82-660, File No. BPCT-811030KL; for construction permit.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of MFP, Inc. (MFP), Metrovision, Inc. (Metro) and Seacoast Broadcasting, Inc. (Seacoast) for authority to construct a new commercial television station on Channel 62, Middleton, Massachusetts.[1]

2. Metro specifies Middleton as its city of license, however, MFP specifies Lawrence and Seacoast specifies Salem. Consequently, it will be necessary to determine, pursuant to Section 307(b) of the Communications Act of 1934, as amended, whether a new station in Middleton, Lawrence or Salem would best provide a fair, efficient and equitable distribution of television service. If the Section 307(b) issue is not determinative (the applicants would serve substantial areas in common), all applicants can be considered under the comparative issue.

3. All applicants propose to operate from sites located within 250 miles of the Canadian border with maximum visual effective radiated power (ERP) of more than 1000 kilowatts. The proposals pose no interference threat to United States television stations; however, they contravene an agreement between the United States and Canada which limits the maximum visual ERP of United States television stations located within 250 miles of Canada to 1000 kilowatts. *Agreement Effectuated by Exchange of Notice*, T.I.A.S. 2594 (1952). In the event of a grant of any application, the construction permit shall contain a condition precluding station operation with maximum visual ERP in excess of 1000 kilowatts, absent Canadian consent. *South Bend Tribune*, 8 R.R. 2d 416 (1966).

4. The material submitted in Metro's application does not demonstrate the applicant's financial qualifications. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicant will be given 30 days from the date of mailing of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82-378 (released July 15, 1982.)[2]

5. MFP proposes a transmitter site which is six miles short-spaced to vacant assignment Channel 48, Worchester, Massachusetts. MFP has not requested a waiver of § 73.610(d) of the Rules. The other applicants have proposed transmitter sites that are consistent with the minimum separation requirements. Accordingly, an issue with respect to the short-spacing of MFP's proposed transmitter site will be specified.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before the Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations that would receive Grade B or better service from the proposals and the availability of other Grade B services to such areas and populations.

2. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would provide a fair, efficient and equitable distribution of television service.

3. To determine with respect to MFP, Inc. whether the transmitter site proposed is consistent with the minimum mileage separation requirements of § 73.610 of the Rules and if not, whether circumstances exist which would warrant a waiver of the rule.

4. In the event it is concluded from Issue 1, above, that a choice among applicants should not be based solely on considerations relating to Section 307(b), to determine which proposal would, on a comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, That, in the event of a grant of MFP, Inc.'s

[1] Channel 62 is assigned to Middleton, Massachusetts. Lawrence and Salem are located within 15 miles of Middleton. Accordingly, under § 73.607 of the Commission's Rules, Channel 62 is available for use in Lawrence and Salem.

[2] Metro has not documented its new capital and an S.B.A. loan.

application, the construction permit shall contain the following condition:

Operation with effective radiated power in excess of 1000 kW after May 1, 1984 is subject to a further extension of consent by Canada.

9. It is further ordered, That, in the event of a grant of Metrovision, Inc.'s application, the construction permit shall contain the following condition:

Operation with effective radiated power in excess of 1000 kW after January 1, 1984 is subject to a further extension of consent by Canada.

10. It is further ordered, That, in the event of a grant of Seacoast Broadcasting, Inc.'s application, the construction permit shall contain the following condition:

Operation with effective radiated power in excess of 1000 kW after May 1, 1984 is subject to a further extension of consent by Canada.

11. It is further ordered, That, Metrovision, Inc. shall submit a financial certification in the form required by Section III, F.C.C. Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

12. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

13. It is further ordered, That, the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-27166 Filed 10-1-82; 8:45 am]

BILLING CODE 6712-01-M

Ramon Rodriguez Nieves and Carlos Ortiz; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: September 20, 1982.

Released: September 24, 1982.

In re applications of Ramon Rodriguez Nieves, Mayaguez, Puerto Rico, BC Docket No. 82-650, File No. BPCT-820331KF; Carlos Ortiz, Mayaguez, Puerto Rico, BC Docket No. 82-651, File No. BPCT-820415KF; for construction permit.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above mutually exclusive applications of Ramon Rodriguez Nieves and Carlos Ortiz for a new commercial television station to operate on Channel 16, Mayaguez, Puerto Rico.

2. The effective radiated visual power, antenna heights above average terrain and other technical data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would be served by each of the proposals. Consequently, for the purpose of comparison, the areas and populations which would be within the predicted 64 dBu (Grade B) contours, together with the availability of other television service of 64 dBu (Grade B) or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether comparative preferences should accrue to one or more of the applicants.

Carlos Ortiz

3. The material submitted in the application does not demonstrate the applicant's financial qualifications.[1] Although the financial standards are unchanged, the Commission has changed the application form to require only certfication as to financial qualifications. Accordingly, the applicant will be given 30 days from the date of mailing of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certficiation to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No., 82-378 (released July 15, 1982).

Conclusion and Order

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

6. It is further ordered, that Carlos Ortiz shall submit a financial certification in the form required by Section III, F.C.C. Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

7. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

8. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-27169 Filed 10-1-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Omitted studio and tower site rentals, salary, utility, programming and other three months operating costs.

[BC Docket No. 82-671, File No. BP-810403AH]

Tri-Star Communications, Inc.; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: September 20, 1982.

Released: September 24, 1982.

In re applications of Tri-Star Communications, Inc., Houston, Texas, Req: 1180 kHz, 5 kW, 10 kW–LS, DA–2, U, BC Docket No. 82–671, File No. BP–810403AH; Vel Communications Corp., Houston, Texas, Req: 1180 kHz, 5 kW, 50 kW–LS, DA–2, U, BC Docket No. 82–672, File No. BP–810410AD; Humble Audiocomm Corp., Humble, Texas, Req: 1180 kHz, 1 kW, 10 kW–LS, DA–N, U, BC Docket No. 82–673, File No. BP–810410AS; Tierra Alta Broadcasting, Inc., Houston, Texas, Req: 1180 kHz, 5 kW, 50 kW–LS, DA–2, U, BC Docket No. 82–674, File No. BP–810410AV; KCOH, Inc., KCOH, Houston, Texas, Has: 1430 kHz, 1 kW, Day, Req: 1180 kHz, 50 kW, 2.5 kW–LS, DA–2, U, BC Docket No. 82–675, File No. BP–810410BA; E. W. Wilcots, d.b.a. Bible Days Broadcasting Co., Galena Park, Texas, Req: 1180 kHz, 1 kW, 10 kW–LS, DA–2, U, BC Docket No. 82–676, File No. BP–810724AJ; for construction permit.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications for new and modified AM broadcast stations.

2. *Common technical matters.* The 0.5 mV/m daytime contours of the Vel, Tierra Alta, and KCOH proposals would overlap the 0.5 mV/m contour of first-adjacent-channel station XERT, Reynosa, Tamaulipas, Mexico, in violation of § 73.37(a) of the Commission's Rules. However, these proposals are all located more than 300 miles from XERT, the overlap occurs only because of the high-conductivity salt-water path to XERT, and the overlap area is minimal and entirely within the United States. Under these circumstances, waiver of § 73.37(a) is clearly warranted. See *Teche Broadcasting Corp.*, FCC 74–468, 30 RR 2d 201 (1974).

3. Two of the applicants, Audiocomm and Bible Days, propose service to relatively small suburbs of Houston, Texas (1980 population 1,594,086). Both Audiocomm's proposal for Humble (1980 population 6,729) and Bible Days' proposal for Galena Park (1980 population 9,879) would apparently provide 5 mV/m daytime service to all of Houston. Under a policy announced in *Policy Statement on Section 307(b)*, 2 FCC 2d 190 (1965), and affirmed in *AM Station Assignment Standards*, 54 FCC 2d 1, 21–22 (1975), a presumption therefore arises that these applicants realistically propose to serve Houston rather than Humble and Galena Park. Appropriate issues will be specified.

4. The four Houston applicants request waiver of § 73.21(a)(ii)(c) of the Rules which establishes a one-kilowatt nighttime power ceiling for Class II–B stations on 1–A clear channels in already well served areas such as Houston. They have requested a waiver of the rule but their showings fall far short of establishing that waiver is warranted. The applicants have a heavy burden to show that the power they propose is necessary to provide principal-city service and will not impede the Commission's allocation objectives; they may meet the latter by showing either that the higher power would not preclude other possible co-channel unlimited-time Class II assignments or that the improved principal city service entailed by the higher power clearly outweighs any potential service that might be precluded. Since it cannot be determined from the record if waiver of § 73.21 is warranted, issues will be specified.

5. Despite the power they propose, the Tri-Star, Vel, Tierra Alta, and KCOH proposals would not provide 10 mV/m nighttime service to all of Houston's residential areas, as required by § 73.24(j) of the Commission's Rules.[1] Because Tri-Star's proposal would serve 96 percent of Houston and KCOH's 92.8 percent, these two proposals would substantially comply with § 73.24(j) with the facilities proposed. *AM Station Assignment Standards*, 39 FCC 2d 645, 670 (1973). We cannot determine the degree of Vel's and Tierra Alta's coverage deficiencies, though,[2] and consequently must specify appropriate issues. In addition, because Audiocomm depicted neither its proposed 10 mV/m nighttime contour nor Humble's business and residential areas, we cannot determine whether its proposal satisfies § 73.24(j).

6. *Tri-Star Communications, Inc.* Section 73.35(a) of the Commission's Rules prohibits common ownership of AM stations and television stations in the same community. J. Livingston Kosberg, 10.4% stockholder, director and treasurer of Tri-Star is vice president, director and 14% stockholder of Channel 20, Inc., licensee of station KTXH(TV), Houston, Texas. Robert A. Caplan, 2.6% stockholder of Tri-Star is secretary-treasurer, director and 5% stockholder of Channel 20, Inc. Note 8 to § 73.35 provides that applications that show common ownership between UHF television stations and AM broadcast stations will be handled on a case-by-case basis in order to determine whether common ownership, operation or control of the stations would be in the public interest. We cannot determine from the record if common ownership of both stations would be in the public interest; therefore, and appropriate issue will be specified.

7. The material submitted in the Tri-Star application does not demonstrate the applicant's financial qualifications: Specifically, the bank letter is not a commitment and the corporate balance sheet shows only $27,511 in net liquid assets. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicant will be given 30 days from the date of mailing of this order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82–378, released July 15, 1982.

8. *Tierra Alta Broadcasting, Inc.* This applicant's corporate by-laws state that its officers will include a vice-president and a treasurer, but Tierra Alta has not identified who holds these offices. An amendment is required. The local notice of the filing of Tierra Alta's application was apparently published only once. The applicant must publish the notice three additional times to comply with § 73.3580 of the Rules.

9. KCOH, Inc. KCOH estimates that the population within its daytime 1 V/m blanket contour would be 17,766, or 1.09 percent of the 1,627,959 within its 25 mV/m contour. Applicant recognizes that this exceeds the one-percent limit set out in § 73.24(g) of the Rules. However, it maintains that the excess blanket population is modest, and undertakes to satisfy all legitimate complaints that might arise. Under these circumstances, waiver is warranted; but should KCOH's application be granted, the permit must contain an appropriate condition. See *e.g. Mariner Communications, Inc.*, FCC 80–308, 47 RR 2d 1056 (1980).

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[1] Section 73.24(j) speaks of residential service within the 5 mV/m or nighttime interference-free contour, whichever is greater. Most class II–B stations will have a normally protected contour of 10 mV/m, and thus may well receive interference to that contour from later-authorized stations. For them, we disregard service beyond the 10 mV/m contour in determining compliance with § 73.24(j).

[2] Tierra Alta failed to submit a map of its proposed 10 mV/m nighttime contour, and must do so by amendment. Neither Vel nor Tierra Alta stated the magnitude of its coverage deficiency.

10. The material submitted in the Bible Days application does not demonstrate the applicant's financial qualifications. Specifically, it has not shown that is has a valid bank loan or documented pledges, and the balance sheet of Rev. Wilcots does not show sufficient net liquid assets to meet his commitment, all needed to meet a requirement of $274,500. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicant will be given 30 days from the date of mailing of this order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82-378, released July 15, 1982.

11. We have no evidence that Bible Days published local notice of its application as required by § 73.3580 of the Rules. It must demonstrate that it has done so.

12. *Environmental Questions.* The environmental statements required by § 1.1311(a) of the Rules which were submitted by five of the applicants are deficient as follows: *Tri-Star* did not describe the land uses surrounding the site or state whether the proposal is a source of controversy on environmental grounds in the local community; *Vel* did not state whether the proposal is a source of controversy on environmentsl grounds in the local community; *TRierra Alta* did not describe the land uses surrounding the site of state whether the proposal is a source of controversy on environmental grounds in the local community; *KCOH* did not state zoning classification (if any) of the site; Bible Days did not describe the land uses surrounding the site or state the zoning classification (if any) of the site. An amendment is required.

13. *Other matters.* Except as indicated by the issues specified below, all of the applicants are qualified to construct and operate as proposed.[3] However, the proposals are mutually exclusive, so they must be set for hearing in a consolidated proceeding. Because the proposals are for three different communities, an issue must be specified to determine pursuant to section 307(b) of the Communications Act of 1934, as amended, which of them would best provide a fair, efficient, and equitable distribution of radio service. In addition, because four of the proposals are for Houston, the other two may be considered proposals for Houston, and all of the proposal would serve substantial areas in common, a contingent comparative issue will also be specified.

14. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine with respect to the nighttime proposals of Tri-Star, Vel, Tierra Alta, and KCOH, whether circumstances exist which warrant waiver of § 73.21(a)(2)(ii)(c) for each.

2. To determine:

a. Whether the nighttime proposals of Vel and Tierra Alta would provide 10 mV/m service to all of Houston's residential areas, as required by § 73.24(j) of the Commission's Rules;

b. Whether the nighttime proposal of Audiocomm would provide 10 and 25 mV/m service to Humble's residential areas and business district, respectively, as required by § 73.24(j) of the Commission's Rules; and

c. If not, whether circumstances exist which warrant waiver of § 73.24(j) for each.

3. To determine with respect to Tri-Star whether common ownership, operation or control of UHF television station KTXH and its proposed AM station would be in the public interest.

4. To determine with respect to Audiocomm:

a. Whether its proposal would realistically provide a local transmission service for Humble, Texas, or for Houston, Texas; and

b. Whether, in the event it be concluded pursuant to (a) above that the proposal would not provide a local transmission service for Humble, Texas, whether the proposal meets the technical provisions of the Rules for AM broadcast stations assigned to Houston, Texas.

5. To determine with respect to Bible Days:

a. Whether its proposal would realistically provide a local transmission service for Galena Park, Texas, or for Houston, Texas; and

b. Whether, in the event it be concluded pursuant to (a) above that the proposal would not provide a local transmission service for Galena Park, Texas, whether the proposal meets the technical provisions of the Rules for AM broadcast stations assigned to Houston, Texas.

6. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural service to such areas and populations.

7. To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service.

8. To determine, in the event it be concluded that a choice among the applicants should not be based solely on considerations relating to section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

9. To determine, in light of the evidence adduced pursuant to the foregoing issues, which application, if any, should be granted.

15. It is further ordered, That Tri-Star, Vel, Audiocomm, Tierra Alta, KCOH, and Bible Days shall amend their applications as specified in paragraphs 5, 8 and 12 above, within 30 days after this order is published in the **Federal Register**.

16. It is further ordered, That Tri-Star and Bible Days shall submit financial certification, in the form required by Section III, F.C.C. Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

17. It is further ordered, That Tierra Alta and Bible Days shall publish local notice of the filing of their applications, as specified in paragraphs 8 and 11 above (if they have already done so), and shall certify their publication to the presiding Administrative Law Judge within 40 days after this order is published in the **Federal Register**.

18. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

[3] Operation with the facilities specified herein is subject to modification, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

19. It is further ordered, That pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing as prescribed in the rule, and shall advise the Commission of the publication of the notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-27165 Filed 10-1-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-188]

Brady Savings and Loan Association, Brady, Texas; Final Action, Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

September 17, 1982.

Notice is hereby given that on September 17, 1982, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 2 to the mutual-to-stock conversion application of Brady Savings and Loan Association, Brady, Texas ("Association"). The application had been approved by the Board by Resolution No. 80-799-B, dated December 12, 1980. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Topeka, No. 3 Townsite Plaza, 120 East 6th Street, Topeka, Kansas 66603.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-27289 Filed 10-1-82; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-186]

First Federal Savings and Loan Association of Catawba County, Conover, North Carolina; Final Action, Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

August 30, 1982.

Notice is hereby given that on September 1, 1982, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 2 to the mutual-to-stock conversion application of First Federal Savings and Loan Association of Catawba County, Conover, North Carolina ("Association"). The application had been approved by the Board by Resolution No. 82-1, January 6, 1982. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Atlanta, Coastal States Building, 260 Peachtree Street, N.W., Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-27267 Filed 10-1-82; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-187]

United Federal Savings and Loan Association, Rocky Mount, North Carolina; Final Action, Approval of Post-Approval Amendment to Mutual-to-Stock Conversion Application

August 31, 1982.

Notice is hereby given that on September 2, 1982, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved a post-approval amendment to Section 14(a) of the Plan of Conversion of United Federal Savings and Loan Association, Rocky Mount, North Carolina. The Application for Conversion had been approved by the Board by Resolution No. 80-99, dated February 14, 1980. Copies of the Application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Atlanta, Coastal States Building, 260 Peachtree Street, N.W., Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-27266 Filed 10-1-82; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Inactive Tariffs—Bureau of Tariffs; Cancellation

By Notice published in the **Federal Register** on July 14, 1982, the Commission notified the carriers named therein of its intent to cancel their foreign tariffs 30 days thereafter, in the absence of a showing of good cause why such tariffs should not be cancelled or the carriers failure to respond to this Notice.

Accordingly, by authority delegated by section 9.04 of Commission Order No. 1 (Revised) dated November 12, 1981, the tariffs of the carriers listed are hereby cancelled.

AAA Foreign Freight Forwarders	FMC-1
A. Bottacchi, S.A. de navegacion	FMC-6
ACP Midwest Inc	FMC-1
Admiral Shipping Agency	FMC-1
A. J. Cunningham Packing Corp	FMC-1
Allied Despatchers Ltd	FMC-1
Allpac International	FMC-1
American Pacific Container Line Inc	FMC-2, 3
Ancha Shipping Company Inc	FMC-1
Anchor Freight Consolidators	FMC-1, 2, 3
The Atcheson, Topeka & Santa Fe Railway Company	FMC-1
Atlantic Biscay Container Line	FMC-1, 2, 3
Balken Consolidators Inc	FMC-1
Barb Shipping Company Inc	FMC-1
Barton Export Boxing Corp	FMC-1
Batavier Container Line	FMC-1
Bocimar N.V.	FMC-2
Canada-United Kingdom Freight Conference	Tariff No. 9
Canadian Continental Eastbound Freight Conference	FMC-5
Caribbean-American Transportation Co., Inc.	FMC-1
Caribbean Freightcon Inc	FMC-1
Caribbean Shipping (Brazil Svc) Lt	FMC-1, 2, 3
Caribbean Shipping Lt	FMC-6
Certage Marine	FMC-1
Comptoir Commercial Et Maritime S.A. (COMA)	FMC-1
Computerized Freight Management Corp.	FMC-1
Confreight Marine Line Inc	FMC-7, 8, 9, 10, 11, 12
Consolidadora Del Caribe S.A.	FMC-2
Consolidated Cargo Corp	FMC-1
Consolidadora Maritima Comarca C.A	FMC-2
Container Express Inc	FMC-1
Container-Lloyd Intermodal Lines	FMC-23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43
Continental Canadian Westbound Freight Conference	Tariff "L"
Crescent Line Inc	FMC-1
Cylanco S.A	FMC-2
Distribution Services International	FMC-1
Double Eagle Shipping Company Inc	FMC-2
Exporters Forwarding Co., Ltd	FMC-2
Far East Container	FMC-3
Five Continent Shipping Company	FMC-1
G. A. Lopez	FMC-1
Gayner Shipping	FMC-1, 2
General Transportation Service Inc	FMC-1
Genesis Shipping Corporation Inc	FMC-1
C. S. Greene & Company Inc	FMC-31
Greene Container Transport Inc	FMC-1
Gulf Ocean Lines	FMC-1, 2, 3
Gulf United Line Ltd	FMC-1
Hands Across the Sea Inc	FMC-1
Hansa Line	FMC-19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32
Held-Tite Inc	FMC-1
J. F. Hillebrand Corp. of America	FMC-1
Hong Kong Globe Ltd	FMC-1
Hop Kee Line	FMC-1
Houston Line	FMC-1
IDC	FMC-1
Imperca Express Line	FMC-1, 2, 3, 4
Independent Cargo Express Inc	FMC-7, 10, 12, 13, 15
Indian President Lines Ltd	FMC-1
Integrated Container Services Inc. (ICS)	FMC-2
Intercontainer Transport Corp	FMC-2
Interflow (Tank Container System) Limited	FMC-1
Interford Corp.	FMC-1
Intermodal Container Inc	FMC-1

International Moving Consultants	FMC-1
International Traffic & Terminal Service Inc	FMC-1
Iveran Lines	FMC-8
Jasman Inc	FMC-4, 5, 6
Jugoocesanija Line	FMC-12
Kamerope Shipping Lines Inc	FMC-1
Karlander Line	FMC-8
King Pak Inc	FMC-1
Kirk Dale Shipping Company Ltd	FMC-1
Kopak Inc	FMC-1
Korea Shipping Corp	FMC-7, 13, 18
Kyokuyo Company Ltd	FMC-1
Lago Line S.A	FMC-1
Linea Maritima Centauro C.A	FMC-2
Lineas Agromar Ltda	FMC-3
Logistical Services Inc	FMC-1
Logistics Inc	FMC-1
Maritimas Del Caribe Co., S. de R.L	FMC-1
Max Grunhut GMBH & Company	FMC-2
Mexican Line	FMC-8
Mini Line	FMC-3
Naviera Caprilles	FMC-1, 2
Naviera Colombiana Ltda	FMC-1
Naviera Nicaraguense S.A. (NANICA)	FMC-4
Naviera Peninsular	FMC-1
Servicios Navieros Ecuatorianos S.A	FMC-1
Omega Lines	FMC-1
Orient Overseas Line	FMC-75, 84, 86, 87, 88, 89, 91, 94, 95, 96, 110
Orion International Inc	FMC-1
Overland Marine Pvansport Inc	FMC-8
Overocean Transport Corp	FMC-2
Pacific European Container Service	FMC-2
Pacific Far East Line	FMC-91, 92
Paper Transport Company	FMC-1
Pescadora Mavel, S.A	FMC-1
Pony Sea Lines S.A	FMC-2
Port Service Inc	FMC-1, 2
prudential Lines Inc	FMC-39, 44, 45, 49, 51
Puritan International Corp	FMC-1, 2
Quast & Company Inc	FMC-1
RHW	FMC-1
Road & Sea Transportation Services Inc	FMC-1
Roco World Wide Inc	FMC-1
Santo Domingo Express Inc	FMC-1
Saudi-American World Logistics	FMC-1
Sea Corn Charter Carrier	FMC-3, 4
Sea Rail	FMC-2
Sea-Van Freight Services Inc	FMC-1
Seaway Express Lines	FMC-6, 7
Shipping Time Inc	FMC-1
Skinner Container Service	FMC-1
Skylift International Inc	FMC-1
Spanish North America Line (Lineas Maritimas Valencianas)	FMC-1
Suh Jin Shipping Company Ltd	FMC-1
Target Lines	FMC-1
Taylor Corporation Ltd	FMC-1
Trans Cargo Transport	FMC-1, 2, 3, 4
Trans-Freight Inc	FMC-1
Traffic Specialists International Inc	FMC-2
Trans-Globe Shipping (Japan) Ltd	FMC-2
Transmodal Container Service	FMC-1
Transocean Marine, Inc	FMC-1
Trans Sea Container Cargo Inc	FMC-1
Tropicargo S.A	FMC-1
Van-Cargo International	FMC-1
Vanleigh Transport Corp	FMC-1
Vemsa Line	FMC-1
Waterside Ocean Navigation Company Inc	FMC-1
World Freight Ltd	FMC-1
World Shipping Agency & Brokerage Inc	FMC-1
World Trade Transport Inc	FMC-1
Yamashita-Shinnihon Steamship Company Ltd	FMC-36

Ro-Lo Pacific Line has eight tariffs on file with the Commission. Although the Notice of this proceeding only mentioned one publication, all eight should have been listed. The Commission has reason to believe that Ro-Lo has ceased common carrier operations by evidence of their failure to amend any of their tariffs, the return by the postal service of the Notice in this proceeding and Ro-Lo's failure to file its annually required Anti-Rebate Certificate. All Ro-Lo tariffs, FMC-1, 2, 3, 4, 5, 6, 7, 8 are considered abandoned and are hereby cancelled.

Similarly, AECL Corporation, The Daiwa Navigation Co., Ltd., Eurofreight Ltd., Flo Trin Lines Inc., TC Container Corp., and T E C Lines Ltd., have additional tariffs to those listed in the Notice commencing this proceeding. Like Ro-Lo, these carriers did not respond to the Notice and are presumed to be no longer offering services under all of their respectively filed tariff publications. All of the tariffs of these carriers are hereby cancelled.

AECL Corporation	FMC-1, 2
The Daiwa Navigation Co., Ltd	FMC-13, 14, 15, 16, 17, 18, 19, 20, 21, 22
Eurofreight Ltd	FMC-1, 2
Flo Trin Lines Inc	FMC-1, 2, 3
TC Container Corp	FMC-2, 3
T E C Lines Ltd	FMC-7, 8

Daniel J. Conners,

Director, Bureau of Tariffs.

[FR Doc. 82-27242 Filed 10-1-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2115]

Alpha International Shipping (Jan-Peter Jueterbock, d.b.a.); Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Alpha International Shipping (Jan-Peter Jueterbock, dba), 366 W. 131st Street, Los Angeles, CA 90061 was cancelled effective September 17, 1982.

By letter dated August 27, 1982, Alpha International Shipping (Jan-Peter Jueterbock, dba) was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2115 would be automatically revoked unless a valid surety bond was filed with the Commission.

Alpha International Shipping (Jan-Peter Jueterbock, dba) has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2115 be and is hereby revoked effective September 17, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 2115 issued to Alpha International Shipping (Jan-Peter Jueterbock, dba) be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Alpha International Shipping (Jan-Peter Jueterbock, dba).

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-27243 Filed 10-1-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1424]

Atlantic Export Company (Paul F. Durkin, d.b.a.); Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Atlantic Export Company (Paul F. Durkin, dba), 15 Broad Street, Boston, MA 02109 was cancelled effective September 17, 1982.

By letter dated August 17, 1982, Atlantic Export Company (Paul F. Durkin, dba) was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1424 would be automatically revoked unless a valid surety bond was filed with the Commission.

Atlantic Export Company (Paul F. Durkin, dba) has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1424 be and is hereby revoked effective September 17, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 1424 issued to Atlantic Export Company (Paul F. Durkin, dba) be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal**

Register and served upon Atlantic Export Company (Paul F. Durkin, dba).

Albert J. Klingel, Jr.

Director, Bureau of Certification and Licensing.

[FR Doc. 82-27244 Filed 10-1-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1951]

Dahill Moving and Storage Company, Inc.; Order of Revocation

On September 3, 1982, Dahill Moving and Storage Company, Inc., 602 Coney Island Avenue, Brooklyn, NY 11218 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1951.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 1951 issued to Dahill Moving and Storage Company, Inc., be revoked effective September 3, 1982 without prejudice to reapplication for a license in the future.

It is further ordered, that Independent Ocean Freight Forwarder License No. 1951 issued to Dahill Moving and Storage Company, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Dahill Moving and Storage Company, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-27245 Filed 10-1-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1911]

GSC Charter and Shipping Agency, Inc.; Order of Revocation

On September 7, 1982, GSC Charter and Shipping Agency, Inc., 15 Exchange Place, Suite 715, Jersey City, NJ 07302 surrendered its Independent Ocean Freight Forwarder License No. 1911 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 1911 issued to GSC Charter and Shipping Agency, Inc. be revoked effective September 7, 1982, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon GSC Charter and Shipping Agency, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-27246 Filed 10-1-82; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916(75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

McHue Freight Forwarding, Inc., 1624 Cohasset, Cincinnati, OH 45230; 513/381-4752.
Officers: James M. Huegel, President; Edwin J. Broschart, Secretary/Treasurer; Joan M. Broschart, Vice President.

Macargo, Inc., 9090 N.W. South River Dirve, Miami, FL 33166.
Officer: Estrella Gonzalez, President/Sole Stockholder.

Tropical Customs Brokers, Inc., 2537 N.W. 72nd Avenue, Miami, FL 33122.
Officers: Jose M. Meyer, President/Director; Fernando Mieres, Miriam D. Pollard, and B. Durwoor McGahee, Stockholders.

CIC International Forwarding, Inc., 8000 N.W. 56th Street, Miami, FL 33166.
Officer: Carlos E. Infante, President/Sole Stockholder.

Bostrum-Warren, Inc. (California), 110 West Ocean Blvd., Long Beach, CA 90802.
Officers: Robert A. Warren, President; Wayne Burham, Executive Vice President; Oscar Zaldivar, Vice President/General Manager; Mark Williams, Vice President; Douglas B. Bostrum, Secretary/Treasurer.

Jose Regil-Martinez 3130 Charing Cross Road Glendale, CA

Andrew Buchanan Rogers, 32 Vendue Range, Suite 200, Charleston, SC 29401.

Universal Express North America, Inc., 16515 Hedgecroft, Suite 306, Houston, TX 77060.
Officers: James Michael Terry, President/Director; Joseph Ruggle, Director/Stockholder; William Toedtli, Stockholder.

Locher Evers International, Inc., 600 1st Avenue, Suite 552, Seattle, WA 98104.
Officers: Jeffrey J. Greenwood, Vice President; Manfred H. Rodenkirchen, President; Bruno R. Locher, Chairman/Secretary/Treasurer.

Morrison Express Corporation, 5240 West 111 Street, Los Angeles, CA 90045.
Officers: Nelson Y. Shao, Chairman/Stockholder; C. S. Chen, and Jackson C. Chi, President/Stockholders.

Chem Group, Inc., 30 Lincoln Plaza, Suite 25M, New York, NY 10023.
Officers: Carl N. Hellman, President/Director/Treasurer; Martin Schneider, Vice President/Secretary; Debra Hellman, Director/Stockholder; Ellen Hellman, Stockholder.

Dated: September 29, 1982.

By the Federal Maritime Commission.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 82-27247 Filed 10-1-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Alpine Bancorp, Inc.*, Glenwood Springs, Colorado; to acquire direct control of the voting shares or assets of Alpine Bank, Glenwood Springs; Valley Bank & Trust, Eagle; Basalt Bancorp, Inc., Basalt; and Snowmass Bancorp, Inc., Snowmass Village, all of Colorado. Comments on this application must be received not later than October 27, 1982.

B. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Texas Commerce Bancshares, Inc.*, Houston, Texas; to acquire 100 percent

of the voting shares or assets of Texas Commerce Bank-West Oaks, N.A., Houston, Texas, a proposed new bank. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Comments on this application must be received not later than October 27, 1982.

Board of Governors of the Federal Reserve System, September 27, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-27150 Filed 10-1-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reseve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Summit Bancorporation,* Summit, New Jersey; to acquire 100 percent of the voting shares of Ocean County National Bank, Point Pleasant, New Jersey. Comments on this application must be received not later than October 27, 1982.

B. **Board of Governors of the Federal Reserve System,** (William W. Wiles, Secretary), Washington, D.C. 20551:

1. *Texas American Bancshares Inc.,* Fort Worth, Texas; to acquire 100 percent of the voting shares or assets of Citizens National Bank of Temple, Temple, Texas. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Comments on this application must be received not later than October 28, 1982.

Board of Governors of the Federal Reserve System, September 28, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-27155 Filed 10-1-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Peoples Bancorp, Inc.,* Richwood, West Virginia; to become a bank holding company by acquiring 80 percent or more of the voting shares of Peoples Bank of Richwood Inc., Richwood, West Virginia. Comments on this application must be received not later than October 27, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Community Bancshares of Canton, Inc.,* Canton, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank & Trust Company, Canton, Illinois. Comments on this application mut be received not later than October 27, 1982.

c. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Hub Financial Corporation,* Helena, Montana; to become a bank holding company by acquiring 80 percent of the voting shares of Valley Bank of Helena, Helena, Montana. Comments on this application must be received not later than October 27, 1982.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Associated Bank Shares Corporation,* Colorado Springs, Colorado, to become a bank holding company by acquiring 25 percent of the voting shares of Citizens National Bank, Colorado Springs, Colorado. Comments on this application must be received not later than October 27, 1982.

2. *Commercial Bankstock, Inc.,* Oklahoma City, Oklahoma, to become a bank holding company by acquiring 87.14 percent of the voting shares of Commercial Bank, N.A., Oklahoma City, Oklahoma. Comments on this application must be received not later than October 27, 1982.

3. *First State Bancorp, Inc.,* Pittsburg, Kansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of First State Bank and Trust Company, Pittsburg, Kansas. Comments on this application must be received not later than October 27, 1982.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *PNB Financial Group,* Newport Beach, California; to become a bank holding company by acquiring 100 percent of the voting shares of Pacific National Bank, Newport Beach, California. Comments on this application must be received not later than October 27, 1982.

2. *SDNB Financial Corp.,* San Diego, California; to become a bank holding company by acquiring 100 percent of the voting shares of San Diego National Bank, San Diego, California. Comments on this application must be received not later than October 27, 1982.

F. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Hanil Bank,* Seoul, Korea; to become a bank holding company by acquiring 82.69 percent of the voting shares of First State Bank of Southern California, Lynwood, California. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Comments on this application must be received not later than October 27, 1982.

Board of Governors of the Federal Reserve System, September 27, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-27151 Filed 10-1-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Maynard Savings Bancshares,* Maynard, Iowa; to become a bank holding company by acquiring 83.6 percent or more of the voting shares of Maynard Savings Bank, Maynard, Iowa. Comments on this application must be received not later than October 28, 1982.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Freeburg Bancorp, Inc.,* Freeburg, Illinois; to become a bank holding company by acquiring at least 80 percent of the voting shares of The First National Bank of Freeburg, Freeburg, Illinois. Comments on this application must be received not later than October 28, 1982.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Timpson Financial Corporation,* Timpson, Texas; to become a bank holding company by acquiring 80 percent or more of the voting shares of First State Bank, Timpson, Texas. Comments on this application must be received not later than October 28, 1982.

Board of Governors of the Federal Reserve System, September 28, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-27153 Filed 10-1-82; 8:45 am]

BILLING CODE 6210-01-M

Proposed Acquisition of Exchange Bancorporation, Inc.; NCNB Corporation

NCNB Corporation, Charlotte, North Carolina, has applied for the Board's approval under sections 3(a)(5) and 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5) and 12 U.S.C. 1843(c)(8) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), to acquire, through a subsidiary, 100 percent of the voting shares of Exhange Bancorporation, Inc., Tampa, Florida, and thereby indirectly acquire, under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)), 100 percent of the voting shares of Exchange Bank and Trust Company of Florida, Tampa, Florida; Exchange Bank of Charlotte County, N.A., Englewood, Florida; Exchange Bank of Collier County, Naples, Florida; The Exchange National Bank of Lake County, Clermont, Florida; Exchange Bank of Lee County, Fort Myers, Florida; Exchange National Bank of Manatee County, bradenton, Florida; The Exchange Bank of Osceola, Kissimmee, Florida; Exchange Bank of Polk County, Winter Haven, Florida; and Exchange Bank of Sarasota County, Sarasota, Florida, and thereby also indirectly acquire, under section 4(c)(8) of the Act and section 225.4(b)(2) of the Board's Regulation Y, Exchange Financial Services, Inc., Tampa, Florida; Exchange Leasing, Inc., Tampa, Florida; Exchange Travel Service, Inc. (inactive); and Exchange Operating Services Corporation (inactive).

In addition to the factors considered under § 3 of the Act (banking factors), the Board will consider the proposal in light of the company's nonbanking activities and the provisions and prohibitions in § 4 of the Act (12 U.S.C. 1843).

Applicant states that following its indirect acquisition of Exchange Financial Services, Inc. and Exchange Leasing, Inc., those subsidiaries would continue to engage in the activities of acting as an agent for the sale of credit life and credit accident and health insurance relating to extensions of credit made by their affiliates, and in leasing activities. These activities would be performed from the offices of Exchange Financial Services, Inc. and Exchange Leasing, Inc., both in Tampa, Florida, and the geographic areas to be served are, in the case of the insurance agency activities, Hillsborough, Pinellas, Pasco, Charlotte, Collier, Lake, Lee, Manatee, Osceola, Polk, and Sarasota Counties in Florida, and in the case of the leasing activities, the State of Florida. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 28, 1982.

Board of Governors of the Federal Reserve System, September 28, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-27154 Filed 10-1-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

Advisory Board on Child Abuse and Neglect; Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, of the meeting of the Advisory Board on Child Abuse and Neglect on October 21, 1982, from 9:00 a.m. to 4:30 p.m., Hubert H. Humphrey Building, Room 703A, 200 Independence Avenue, SW., Washington, D.C.

The Advisory Board on Child Abuse and Neglect was established by the Department of Health and Human Services to assist the Secretary in coordinating programs and activities related to child abuse and neglect planned, administered, or assisted by the Federal agencies whose representatives are members of the Advisory Board. The Advisory Board shall also assist the Secretary in the development of Federal standards for child abuse and neglect prevention and treatment programs and projects.

At this meeting, the Advisory Board will discuss the FY 1983 Child Abuse and Neglect Program Plans; a Coordination Plan; the Annual Report to the Secretary; the Sixth National Conference on Child Abuse and Neglect; Federal Standards for Child Abuse and Neglect Prevention and Treatment Programs; and Guidelines for State Child Abuse and Neglect Reporting Legislation.

Further information on the Advisory Board meeting may be obtained from Ms. Arlene Taylor, National Center on Child Abuse and Neglect, Room 2008E, Donohoe Building, P.O. Box 1182, Washington, D.C. 20013. Telephone number is (202) 245–2840.

Advisory Board meetings are open for public observation.

Dated: September 29, 1982.

Mamie J. Welborne,

Human Development Services, Committee Management Officer.

[FR Doc. 82-27271 Filed 10-1-82; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-82-1171]

Notice of Administrative Proceedings

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, Office of Interstate Land Sales Registration, HUD.

ACTION: Notice of proceedings and opportunity for hearing.

SUMMARY: The Office of Interstate Land Sales Registration gives public notice of its attempt to serve upon certain persons (defined by statute [15 U.S.C. 1701] as individuals, unincorporated organizations, partnerships, associations corporations, trustee or estates) at their last know addresses, a notice requiring revisions to their Statement of Record. Service of this notice was attempted by certified mail and was found to be undeliverable. Therefore, in accordance with 44 U.S.C. 1508, the Department is publishing this Notice of Proceedings and Opportunity for Hearing in order to effect constructive notice upon the person listed in the attached Appendix.

DATE: Requests for hearings should be filed on or before October 19, 1982.

ADDRESSES: Requests shall be filed with the Docket Clerk for Administrative Proceeding, Room 10251. HUD Building, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTRACT: Christopher Peterson, Director, Land Sale Enforcement Division, Department of HUD, Room 4116, Washington, D.C. 20410 Telephone: (202) 755–5989. (This is not a toll-free number.)

SUPPLEMENTAL INFORMATION: The Notice of Proceedings and Opportunity for Hearing is issued pursuant to the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1706(d) and related regulations at 24 CFR 1710.45(b)(1) and 24 CFR 1720.220). The Department hereby serves the following Notice of Proceedings and Opportunity for Hearing to the persons listed in the attached Appendix:

Notice of Proceedings and Opportunity for Hearing

I

Docket No.
In the matter of (subdivision) ————————

(Developer) ————————

————————, Representative or Respondent.

OILSR No.————. ————————

The Secretary in administering the Interstate Land Sales Full Disclosure Act of 1968, 15 U.S.C. 1701 et seq., and its Regulations finds his public files disclose that:

A. Respondent is a corporation organized under the laws of the State of ———— and has its principal office in ————.

B. The mailing address of Respondent's last know principal office or place of business is ————.

C. The Respondent filed a Statement of Record and Property Report for the above subdivision, located in ———— County, , which Statement of Record and Property Report, as amended, if any amendments have been filed, became effective on ———— and is still effective.

D. ———— is Representative of Respondent.

(Information for completing the above format follows. The captioned matters in the Appendix are lasted alphabetically by subdivision in each State. Paragraph I of the Notice of Proceedings and Opportunity for Hearing includes the captions of the separate matters. Information for the completion of the captions of each of the matters is set out in columns 1 and 2 of the aforementioned Appendix. Information for Lines A, B and C above is set out in columns 3, 4 and 5 respectively of the Appendix. Information for Line D of paragraph I is contained in the caption of the matter, and the same information is supplied in the last line of column 1 of the Appendix. The entire Notice is completed by inserting the applicable information from the Appendix in the appropriate blanks of paragraph I. In this form it is constructively notice that the Notice of Proceedings and Opportunity for Hearing is served upon the persons listed in column 1 of the Appendix.)

II

The Office of Interstate Land Sales Registration (OILSR) from its records or from other sources has obtained information which tends to show, and it so alleges, that the Statement of Record and Property Report of the subdivision captioned above include untrue statements of material fact, or omit to state material facts required to be stated therein or necessary to make statments therein not misleading, to wit:

The developer has failed to file amendments to comply with revised regulations of the Office of Interstate Land Sales Registration or, alternatively, to file documentation establishing that no such amendments are necessary by the time required in 24 CFR 1730.100(b)(3), (4) and (5).

III

In view of the allegations contained in Part II above, the Secretary will provide an opportunity for a public hearing to determine:

A. Whether the allegations set forth in Part II are true and in connection therewith to afford Respondent an opportunity to establish any defenses to such allegations; and

B. What, if any, remedial action is appropriate in the public interest and for the protection of purchasers pursuant to the Interstate Land Sales Full Disclosure Act.

IV

If the Respondent desires a hearing, he shall file a request for hearing accompanied by an answer within 15 days after service of this Notice of Proceedings. Respondent is hereby notified that if he fails to file a response pursuant to 24 CFR 1720.240 and 1720.245 within 15 days after service of

this Notice of Proceedings, Respondent shall be deemed in default, and the proceedings shall be determined against him, the allegations of which shall be determined to be true, and an order suspending the Statement of Record will be issued. The said order shall remain in effect until the Statement of Record and Property Report have been amended in accordance therewith, and thereupon the order shall cease to be effective.

V

Any request for hearing, answer, motion, amendment to pleadings, offer of settlement or correspondence forwarded during the pendency of this proceeding shall be filed with the Docket Clerk for Administrative Proceedings, Room 10251, HUD Building, 451 Seventh Street, S.W., Washington, D.C. 20410. All such papers shall clearly identify the type of matter and the docket number as set forth in this Notice of Proceedings.

VI

It is hereby ordered that upon request of the Respondent a public hearing for the purpose of taking evidence on the questions set forth in Part III hereof be held before an Administrative Law Judge, HUD Building, 451 Seventh Street, S.W., Washington, D.C. 20410, at 10:00 a.m. on the 30th day after receipt of the answer or at such other time as the Secretary or a designee may fix by further order.

This Notice of Proceeding shall be served upon the Respondent pursuant to 24 CFR 1720.170 and/or 44 U.S.C. 1508.

Dated: September 27, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

APPENDIX

1	2	3	4	5
In the matter of (subdivision) developer, representative and title; respondent	OILSR Number and land sales enforcement division docket No.	State of organization and location of principal office	Last known mailing address	Location of subdivision (county, State) and effective date
Arkansas				
Beaver Shores, Beaver Shores, Inc., W. C. Case, President.	0-00164-03-6, 80-36-IS	Arkansas; Rogers, AR	Route 5, P.O. Box 715, Rogers, AR 72756.	Benton Co., AR, Feb. 8, 1972.
Hidden Valley Estates, Great American Development Corp., Wilbur Ramsey, President.	0-00260-03-8, 81-149-IS	Arkansas; Hardy, AR	P.O. Box 221, Hardy, AR 72542	Sharp Co., AR, June 9, 1972.
California				
Rancho Santo Rosa, C. A. Brown, President	0-02691-04-39, 81-114-IS	California; Alhambra, CA	1000 South Freemont Avenue, Alhambra, CA 91802.	Ventura Co., CA, July 13, 1978.
Florida				
Brevard Properties, Brevard Investment Properties, Frederick T. Hyman, President.	0-00149-09-43, 81-258-IS	Florida; Miami Beach, FL	1674 Meridian Avenue, Miami Beach, FL 33139.	Brevard Co., FL, May 11, 1972.
Central Lake Estates, Atgar Development Corporation, Guy B. Bailey, President.	0-01420-09-403, 82-38-IS	Florida; Miami, FL	1000 Brickelly Avenue, Miami, FL 33161.	Polk Co., FL, Dec. 30, 1970.
South Lake Wales, Atgar Development Corporation, Jack Kleer, President.	0-01824-09-539, 81-241-IS	Florida; Miami Beach, FL	350 Lincoln Road, Miami Beach, FL 33139.	Polk Co., FL, May 21, 1975.
Georgia				
Montego Point, Montego Point Inc., Daniel P. Matheny, President.	0-04167-10-96, 82-227-IS	Georgia; Augusta, GA	610 1st National Bank Bldg., Augusta, GA 30902.	Lincoln Co., GA, Apr. 2, 1976.
Indiana				
Normandy Farms, Normandy Farms Development Company, John Kleinops, General Partner.	0-04797-15-12, 81-280-IS	Indiana; Indianapolis, IN	8078 Conarroe Road, Indianapolis, IN 46278.	Marion Co., IN, June 15, 1977.
Massachusetts				
Greenwood, Greenwood Development Corporation, Anthony P. Gargiulo, President.	0-03702-25-41, 81-287-IS	Massachusetts; Cambridge, MA.	678 Massachusetts Avenue, Cambridge, MA 02139.	Barnstable Co., MA, May 11, 1978.
Mississippi				
Hidden Valley Lakes, Hidden Valley Lakes, Inc., Jack Lacy, President.	0-01787-28-34(A), 81-252-IS.	Mississippi; Coldwater, MS	315 Main St., Senatobia, MS 38668	Tate Co., MS, Apr. 8, 1975.
Marsh Island Parts 1-4, et Lois, Marsh Land, Inc., Templeton Fowikes, President.	0-05462-28-64-101, 81-170-IS.	Mississippi; Gulfport, MS	2nd Floor Hewes Bldg., Gulfport, MS 39501.	Jackson Co., MS, Feb. 14, 1978.
Retreat Village Subdivision, Biloxi River Retreat Village, Inc., James C. Smith, Nicholas Elliot, and Robert Zang, Directors.	0-04092-28-79, 81-54-IS	Mississippi; Gulfport, MS	P.O. Box 2361, Gulfport, MS 39501	Harrison Co., MS, Mar. 24, 1975.
North Carolina				
Caroline Forest, Russwood, Inc., Silas H. Russell, President.	0-01941-36-65, 82-54-IS	North Carolina; Montgomery, NC.	P.O. Box 25428, Charlotte, NC 28212	Montgomery Co., NC, Nov. 29, 1971.
Woodrun, Russwood, Inc., Silas H. Russell, President	0-01940-36-64&(A), 82-17-IS.	North Carolina; Montgomery, NC.	P.O. Box 25428, Charlotte, NC 28212	Montgomery Co., NC, Mar. 21, 1971.
Oklahoma				
Kirkwood Forest Island, Phase I, Greater Grand Lake Development Company, Inc., Frank M. Kirk, President.	0-04000-42-70, 81-232-IS	Oklahoma; Joy, OK	Box 391, Joy, OK 74346	Delaware Co., OK, May 29, 1975.
Texas				
Point Aquarius, The Bonanza Corporation, Jerry Thames, President.	0-02311-49-143(A), 81-205-IS.	Texas; Conroe, TX	1012 Cable Street, Conroe, TX 77301	Montgomery Co., TX, Apr. 25, 1974.
Tanglewood, Regency Financial Corporation, David Wylie, President.	0-05495-49-873, 81-221-IS	Texas; Houston, TX	1433 W. Loop South, Suite 140, Houston, TX 77027.	Brazoria Co., TX, Apr. 10, 1978.
Goose Island Lake Estates, South Coast Development Corporation, Joseph J. Gonlin, Jr., President.	0-04590-49-738, 81-275-IS	Texas; Rockport, TX	Box 459, Rockport, TX 78382	Aransas Co., TX, June 19, 1978.
Holiday Forest, River Road Enterprises, Inc., Billy R. Hicks, President.	0-03236-49-408, 81-319-IS	Texas; Huffman, TX	24025 Sunny Glen, Huffman, TX 77336.	Sabine Co., TX, Sept. 5, 1973.

APPENDIX—Continued

1	2	3	4	5
In the matter of (subdivision) developer, representative and title; respondent	OILSR Number and land sales enforcement division docket No.	State of organization and location of principal office	Last known mailing address	Location of subdivision (county, State) and effective date
Virginia				
Bull Run Mountain, Bull Run Development Corporation, Coleman C. Gore, Secretary-Treasurer.	0-00231-54-10, 81-305-IS	Virginia	1600 Ridge Road, Haymarket, VA 22069.	Prince William Co., VA, Dec. 30, 1968.
Royal View Estates, Loma Sales Company, Inc., Joseph S. Magrone, President.	0-01203-54-46, 81-314-IS	Virginia	750 South Dickerson St., Arlington, VA 22204.	Warren Co., VA Apr. 24, 1972.
Washington				
Lake Trask Timber Trails, Timber Trails, Inc., Raymond [redacted], President.	0-04586-58-154, 81-282-IS	Washington; Brush Prairie, WA.	15619 N.E. Caples Rd., Brush Prairie, WA [redacted]	Mason Co., WA June 2, 1978.
British Honduras				
Puerto Maya, Metroplex Properties, Inc., John Love, President and Director.	0-03618-80-122, 82-49-IS	Texas; Dallas, TX	4205 Buena Vista, Dallas, TX 75205	Corozal District, British Honduras, June 20, 1974.
Canada				
Parish of St. Hubert, City and District Development, Nick Brindalos, President.	0-02708-80-93, 81-285-IS	Quebec; Montreal, Quebec, Canada.	4521 Park Avenue, Suite 21, Montreal, Quebec, Canada.	St. Hubert Co., Canada, Dec. 26, 1972.
Mexico				
Sabalo Country Club, Sabalo Country Club, S. A., Juan Morquecho Cazares, President.	0-03932-80-133, 82-51-IS	Mexico; Mazatlan, Sinaloa, Mexico.	P.O. Box 536, Mazatlan, Guadalajara, Mexico.	Mazatlan, Sinaloa, Mexico, Dec. 17, 1974.
West Indies				
Saline Point Golf Hill Ridge Becune, St. Lucia Limited—Cap Estates, Harry E. Nichols, Attorney.	0-03419-80-110, 81-177-IS	State of St. Lucia; St. Lucia, West Indies.	Cap Estates, St. Lucia, West Indies 20019.	Cap Estate Co., West Indies, Feb. 26, 1979.
Philippines				
B. F. Homes, B. F. Homes, Inc., Tomas B. Aguirre, Chairman of the Board.	0-05190-80-150, 82-33-IS	Republic of the Philippines; Manila, Philippines.	First B. F. Condominium Building, Intramuros, Manila, Philippines.	Municipalities of Paranaque, Las Pinas, Muntinlupa, Metro Manila, Province of Rizal, July 10, 1978.

[FR Doc. 82-27107 Filed 10-1-82; 8:45 am]
BILLING CODE 4210-27-M

New Community Development Corporation

[Docket No. D-82-683]

Regional Administrator and Deputy Regional Administrator; Redelegation of Authority

AGENCY: New Community Development Corporation, HUD.

ACTION: Redelegation of authority.

SUMMARY: This Redelegation of Authority authorizes the Regional Administrator and Deputy Regional Administrator, Region IX (San Franscisco) and the Area Manager and Deputy Area Manager, San Francisco Area Office, to exercise the authority of the General Manager, New Community Development Corporation, to transfer a parcel of federally-owned surplus land, together with any improvements and related personal property, to the Marin County Redevelopment Agency, Marin County, California.

EFFECTIVE DATE: September 27, 1982.

FOR FURTHER INFORMATION CONTACT: Angelo M. Scioscia, Director, Office of Surplus Land, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 5182, Washington D.C. 20410; telephone 202/755-1862.

SUPPLEMENTARY INFORMATION: On September 24, 1980, at 45 FR 63360, the Secretary of the Department of Housing and Urban Development delegated the responsibility for management and disposition of surplus Federal property to the General Manager, New Community Development Corporation. The General Manager is redelegating this Authority in turn to the Regional Administrator, Deputy Regional Administrator, Region IX (San Francisco) and the Area Manager and Deputy Area Manager, San Francisco Area Office to expedite the transfer of the below listed parcel of Federally-owned surplus land to the Marin County Redevelopment Agency, Marin County, California.

Accordingly, the General Manager, New Community Development Corporation, redelegates to the Regional Administrator, Deputy Regional Administrator, Region IX (San Francisco) and the Area Manager and Deputy Area Manager, San Francisco Area Office, the authority to transfer the real property listed below, together with any improvements and related personal property, to the Marin County Redevelopment Agency, Marin County, California.

Lanham Act Housing.

Hamilton AFB, California (9D-CA-1046A)

(Sec. 414 of the Housing and Urban Development Act of 1969, 40 U.S.C. 484b; Delegation of Authority, September 24, 1980, 45 FR 63360)

Dated: September 27, 1982.

Warren T. Lindquist,

General Manager, New Community Development Corporation, Department of Housing and Urban Development.

[FR Doc. 82-27287 Filed 10-1-82; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-19329-A, F-19329-B]

Alaska Native Claims Selection

The Native village of Healy Lake was not listed in Sec. 11(b)(1) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616) (1976) (ANCSA), as amended. However, on August 2, 1972, PLO 5242 withdrew lands including T. 13 S., R. 16 E., Fairbanks Meridian and T. 26 N., R. 5 E., Copper River Meridian, for Mendas Chā-Āg Native Corporation pursuant to Sec. 11(b)(3) of ANCSA, as amended, pending determination of eligibility.

On August 17, 1973, the village filed an application for determination of

eligibility as an unlisted village. This filing constituted a withdrawal of the remaining lands in the vicinity of Healy Lake pursuant to Departmental regulation 43 CFR 2651.2(a) (6) and (7).

On June 17, 1974, a Certificate of Eligibility was issued certifying the Native village of Healy Lake eligible for land benefits pursuant to Sec. 11(b)(3) of ANCSA.

On November 6, 1974, and December 3, 1974, Mendas Chā-Āg Native Corporation filed selection applications F-19329-A and F-19329-B, both as amended, under the provision of Sec. 12 of ANCSA, as amended, for the surface estate of certain lands in the vicinity of Healy Lake.

Mendas Chā-Āg Native Corporation, in its applications, excluded the following water bodies as being navigable:

Healy River (that portion upstream of Healy Lake);
Twelvemile Lake;
Black Lake; and
Moose Lake.

Because these water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn under Sec. 11(b)(3) and PLO 5242 and available for selection by the village pursuant to Sec. 12(a) of ANCSA, as amended.

Section 12(a) of ANCSA and Departmental regulation 43 CFR 2651.4 (b) and (c) provide that the village corporation shall select all available lands within the township or townships within which the village is located. The regulations also provide that the area selected will not be considered to be reasonably compact if it excludes other lands available for selection within its exterior boundaries.

For these reasons, the water boundaries which were improperly excluded in the applications of Mendas Chā-Āg Native Corporation are considered selected.

As to the lands described below, the village selection applications, as amended, are properly filed and meet the requirements of ANCSA, as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 62,493 acres, is considered proper for acquisition by Mendas Chā-Āg Native Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

U.S. Survey No. 4298, Lot 2, Alaska, situated on the east shore of Healy Lake.
Containing 59.49 acres.
U.S. Survey No. 3455, Lot 2, Alaska, situated on the southeasterly shore of Lake Healy adjoining U.S. Survey No. 3457.
Containing 0.96 acres.
U.S. Survey No. 4297, Alaska, situated on the right bank of Healy River approximately 7 miles east of Healy Lake, excluding Native allotment F-8123 Parcel C.
Containing approximately 30 acres.
Aggregating approximately 90 acres.

Fairbanks Meridian, Alaska (Surveyed)

T. 10 S., R. 15 E.,
Tract A, excluding:
U.S. Survey No. 3225;
U.S. Survey No. 4106A;
Native allotment F-8122;
Lot 1 of U.S. Survey No. 5402 and Native allotment F-8121;
Lot 2 of U.S. Survey No. 5402 and Native allotment F-8120;
U.S. Survey No. 3038;
U.S. Survey No. 5403 and Native allotment F-12000;
Lot 1 of U.S. Survey No. 5404 and Native allotment F-13080;
Lot 2 of U.S. Survey No. 5404 and Native allotment F-8123 Parcel B;
Lot 3 of U.S. Survey No. 5404 and Native allotment F-12213 Parcel A;
U.S. Survey No. 4298; and
Native allotment F-10301 Parcel B.
Containing approximately 20,950 acres.

T. 11 S., R. 15 E.,
Tract A, excluding:
Lot 3 of U.S. Survey No. 5404 and Native allotment F-12213 Parcel A;
Lot 2 of U.S. Survey No. 5404 and Native allotment F-8123 Parcel B;
U.S. Survey No. 4267;
U.S. Survey No. 3120;
U.S. Survey No. 5409 and Native allotment F-10301 Parcel A;
U.S. Survey No. 3456;
U.S. Survey No. 4256;
U.S. Survey No. 4276;
U.S. Survey No. 3454;
Tracts A and B of U.S. Survey No. 3459;
U.S. Survey No. 3455;
U.S. Survey No. 3457;
Lot 1 of U.S. Survey No. 5410 and Native allotment F-12213 Parcel C;
Lot 2 of U.S. Survey No. 5410 and Native allotment F-8123 Parcel A;
Native allotment F-9633 Parcel C;
Lot 3 of U.S. Survey No. 5410 and Native allotment F-10301 Parcel C;
Lot 4 of U.S. Survey No. 5410 and Native allotment F-9633 Parcel A;
State ADL's 58628, 53750, 58629, and 58582 (described as Tract B of ASLS 76-35);
Alaska State Land Survey No. 76-34, according to the survey plat recorded in the Fairbanks recording office on January 6, 1978 as plat No. 78-4 (patent No. 3717, ADL 58561);
Alaska State Land Survey No. 71-23, according to the survey plat recorded in the Fairbanks recording office on October 8, 1971, as plat No. 71-00758 (patent No. 2635, ADL 52415);
Alaska State Land Survey No. 72-55, according to the survey plat filed in the Fairbanks recording office on January 19, 1979 as plat No. 79-7 (patent No. 4792, ADL 43354);
Tract A of Alaska State Land Survey No. 76-35, according to the survey plat recorded in the Fairbanks recording office on July 27, 1978 as plat No. 78-119 (patent No. 4149, ADL 58184);
Tract C of Alaska State Land Survey No. 76-35, according to the survey plat recorded in the Fairbanks recording office on July 27, 1978 as plat No. 78-119 (patent No. 4129, ADL 44565).
Containing approximately 18,598 acres.

T. 12 S., R. 15 E.,
Those portions of the township more particularly described as (portracted):
Secs. 1 and 12.
Containing approximately 1,280 acres.

T. 10 S., R. 16 E.,
That portion of Tract A more particularly described as (protracted):
Sec. 36, excluding U.S. Survey No. 4297 and Native allotment F-8123 Parcel C.
Containing approximately 605 acres.

T. 11 S., R. 16 E.,
Those portions of the township more particularly described as (protracted):
Secs. 1 to 5, inclusive;
Sec. 6, excluding lot 3 of U.S. Survey No. 5404 and Native allotment F-12213 Parcel A;
Sec. 7, excluding Alaska State Land Survey No. 73-94, according to the survey plat recorded in the Fairbanks recording office on March 14, 1974, as plat Serial No. 74-18 (patent No. 2295, ADL 50679);
Secs. 8 to 11, inclusive;
Sec. 17, excluding Native allotment F-15284 Parcel A;
Sec. 18;
Sec. 19, excluding U.S. Survey No. 5710, Native allotment F-033659 Parcel C, and Alaska Land Survey No. 72-37, according to the survey plat recorded in the Fairbanks recording office on April 18, 1974, as plat No. 74-26 (patent No. 2270, ADL-46652);
Sec. 20, excluding U.S. Survey No. 5718 and Native allotments F-033659 Parcel C, F-15284 Parcel A, and F-15283 Parcel C, F-15284 Parcel A, and F-15283 Parcel B;
Sec. 31.
Containing approximately 9,280 acres.

T. 12 S., R. 16 E.
Those portions of the township more particularly described as (protracted):
Secs. 6, 7, and 17;
Sec. 18, excluding U.S. Survey No. 5415 and Native allotments F-9633 Parcel B and F-8123 Parcel 4;
Sec. 19, excluding U.S. Survey No. 5415 and Native allotment F-8123 Parcel 4 and State ADL 58867;
Sec. 20;
Secs. 29 to 32, inclusive.
Containing approximately 6,270 acres.

T. 13 S., R. 16 E.
Those portions of Tract A more particularly described as (portracted):
Secs. 4 and 5;
Secs. 8 to 11, inclusive;
Sec. 14;

Sec. 15, excluding Native allotment F–9106 and F–010095;

Sec. 22, excluding U.S. Survey No. 3095B, U.S. Survey No. 4106, U.S. Survey No. 4106C, and Native allotments F–9106 and F–010195.

Containing approximately 5,004 acres.

Copper River Meridian, Alaska (Unsurveyed)

T. 26 N., R. 5 E.,

Sec. 30, excluding U.S. Survey No. 4297 and Native allotment F–8123 Parcel C;

Sec. 31.

Containing approximately 407 acres.

Aggregating approximately 62,403 acres.

Total aggregated acreage, approximately 62,493 acres.

Excluded from the above-described lands herein approved for conveyance are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–19329–EE.

All other water bodies not depicted as navigable on the attached maps, within the lands to be conveyed, were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for the following reasons: Lands are no longer under Federal jurisdiction; or lands are under applications pending further adjudication. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)), as amended; and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–19329–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: Travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed for a site easement are: Vehicle parking (e.g., aircraft, boats, ATV's snowmobiles, cars, trucks), temporary camping, loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

a. (EIN 5a D9, L) An easement for an existing access trail twenty-five (25) feet in width from Sec. 11, T. 11 S., R. 15 E., Fairbanks Meridian, on the west shore of Healy Lake southwesterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

b. (EIN 6 D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 12, T. 11 S., R. 15 E., Fairbanks Meridian, on Eagle Island in Healy Lake. The uses allowed are those listed above for a one (1) acre site.

c. (EIN 15 D1, L) An easement for an existing access trail twenty-five (25) feet in width from the Alaska Highway in Sec. 29, T. 13 S., R. 16 E., Fairbanks Meridian, northerly to Lake George. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

d. (EIN 23 C4) An easement for a proposed access trail twenty-five (25) feet in width from Healy Lake in Sec. 35, T. 10 S., R. 15 E., Fairbanks Meridian, northeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 23a C4) A one (1) acre site easement upland of the ordinary high water mark in Sec. 35, T. 10 S., R. 15 E., Fairbanks Meridian, on the east shore of Healy Lake. The uses allowed are those listed above for a one (1) acre site.

f. (EIN 24 C4) A one (1) acre site easement upland of the ordinary high water mark in Sec. 20, T. 11 S., R. 16 E., Fairbanks Meridian, on the south shore of Hidden Lake. The uses allowed are those listed above for a one (1) acre site.

g. (EIN 24a C5) An easement for a proposed access trail twenty-five (25) feet in width from site easement EIN 24 C4 on the south shore of Hidden Lake in Sec. 20, T. 11 S., R. 16 E., Fairbanks Meridian, southerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat, or supplemental plat, of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), as amended, that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Mendas Chā-Āg Native Corporation is entitled to conveyance of 69,120 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 62,493 acres. The remaining entitlement of approximately 6,627 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Doyon, Limited, when the surface estate is conveyed to Mendas Chā-Āg Native Corporation, and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village of Healy Lake shall be subject to the consent of Mendas Chā-Āg Native Corporation.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week.

for four (4) consecutive weeks in the Fairbanks Daily News-Miner.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Pub. L. 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until November 3, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are.

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7-005, Anchorage, Alaska 99510

Mendas Cha-Āg Native Corporation, P.O. Box 667, Delta Junction, Alaska 99737

Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701.

Barbara A. Lange,

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-27241 Filed 10-1-82; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material maybe obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202-395-7340.

Title: 43 CFR 4130.1, Grazing Application—Grazing Schedule
Bureau Form No.: 4130-1
Frequency: Annually
Description of Repondents: Permittees or lessees authorized to graze livestock on the public lands
Annual Response: 8,000
Annual Burden Hours: 2,000

Bureau clearance officer (alternate): Linda Gibbs 202-653-8853

James M. Parker,

Acting Director.

September 24, 1982.

[FR Doc. 82-27193 Filed 10-1-82; 8:45 am]

BILLING CODE 4310-84-M

[INT DEIS 82-61]

Upper Sonoran Draft Wilderness Environmental Impact Statement

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of draft Environmental Impact Statement (draft EIS).

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, BLM has prepared a draft EIS on the Proposed Wilderness Program for the Upper Sonoran EIS Area, Maricopa, Mohave, Yavapai, and Yuma Counties, Arizona.

The Proposed Action (Preferred Alternative) recommends as suitable for inclusion in the National Wilderness Preservation System all or portions of 11 wilderness study areas (WSAs). The total public land in the 11 areas is 259,245 acres. Seven total WSAs plus 173,962 acres of the above 11 are recommended as nonsuitable for wilderness designation for a total of 384,297 acres. The following table lists the WSAs and the total suitable and nonsuitable WSA acres.

There are four additional alternatives analyzed in the draft statement. They are: All Wilderness (18 WSAs, 643,092 acres), Enhanced Wilderness (12 WSAs, 373,905 acres), Limited Wilderness (4 WSAs, 135,900 acres), and No Wilderness (No Action).

PROPOSED ACTION

[BLM's preferred alternative]

Wilderness study area		Public land acres		
Number	Name	WSA	Suitable	Nonsuitable
2-37/43	Wabayuma Peak	36,730	11,145	25,585
2-53	Planet	12,765	[1]	12,765
2-54	Aubrey Peak	15,240	[1] 15,470	0
2-56	Black Mesa	17,010	0	17,010
2-58	Rawhide Mountains	62,300	17,600	44,700
2-59	Arrastra Mountain	113,650	111,650	2,000
2-60	Lower Burro Creek	22,300	[2] 22,520	0
2-62	Upper Burro Creek	27,390	0	27,390
2-68	Peoples Canyon	3,480	3,480	0
2-71	Buckskin Mountains	47,582	0	47,582
2-75	Harcuvar Mountains	74,778	0	74,778
2-83	Hassayampa River Canyon	21,900	0	21,900
2-95	Harquahala Mountains	73,875	26,780	47,095
2-99	Big Horn Mountains	22,237	21,600	637
2-100	Hummingbird Springs	57,080	19,300	37,780
2-135	Saddle Mountain	5,500	5,500	0
2-204	Black Mountains/Ives Peak	9,665	7,700	1,965
2-205	Tres Alamos	8,910	0	8,910
	Totals	643,092	259,245	384,297

[1] Public land (230 acres) outside the WSA are recommended suitable.
[2] Public land (220 acres) outside the WSA are recommended suitable.

SUPPLEMENTARY INFORMATION: BLM invites written comments on the draft EIS to be submitted within 60 days of its filing with the Environmental Protection Agency. Comments should be sent to the District Manager, Bureau of Land Management, EIS Projects Office, 2933 West Indian School Road, Phoenix, Arizona 85017.

A limited number of draft EIS copies may be obtained upon request to the District Manager at the above address.

Public reading copies may be reviewed at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th & C Streets, NW., Washington, D.C. 20240; telephone (202) 343–5717

Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073; telephone (602) 261–3706

Phoenix District Office, Bureau of Land Management, 2929 W. Clarendon Avenue, Phoenix, Arizona 85017; telephone (602) 241–2501

BLM will receive oral and written comments at the formal public hearings to be held on November 3, 1982 in Kingman, Arizona and on November 4, 1982 in Phoenix, Arizona. The Kingman hearing will be held at 7:30 p.m. at the Mohave County Fairgrounds. The Phoenix hearing will be held at 7:30 p.m. at the County Board of Supervisors Auditorium, 205 West Jefferson.

A solicitor from the Department of the Interior will preside over the hearings. Witnesses presenting oral comments should limit their testimony to 10 minutes. Those wanting to testify should sent a written request to the District Manager, Bureau of Land Management, EIS Projects Office, 2933 West Indian School Road, Phoenix, Arizona 85107.

BLM will give written and oral comments on the draft EIS equal consideration during preparation of the final EIS.

Dated: September 27, 1982.

D. Dean Bibles,

State Director.

[FR Doc. 82-27172 Filed 10-1-82; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

Handling of Insurance Filings

AGENCY: Interstate Commerce Commission.

ACTION: Notice.

SUMMARY: Effective October 1, 1982, all insurance filings made in accordance with 49 U.S.C 10927 and 49 CFR 1043 will be handled by the Commission's Office of the Secretary until further notice. Public inquiries concerning specific insurance filings should be directed to that office at (202) 275–1816 or 1817.

ADDRESS: Interstate Commerce Commission, Office of the Secretary, Room B–207, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Edward C. Fernandez or Gloris Stewart (202) 275–0783 or 0927.

DATED: September 28, 1982.

Agatha L. Mergenovich,

Secretary.

[FR Doc 82-27180 Filed 10-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387]

Motor Carriers; Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278 or Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract number, and specifics	Review bd [1]	Decided date
252	Consolidated Rail Corp., ICC-CR-C-0158, (Cement).	2	Sept. 28, 1982.
255	Louisville and Nashville Railroad Co., et al., ICC-L&N-C-0039, (Newsprnt).	2	Do.
260	The Kansas City Southern Railway Co., ICC-KCS-C-0025, (Mill feed).	2	Do.

[1] Review Board No. 2, Members Carleton, Williams, and Ewing.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-27181 Filed 10-1-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations: any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 C.F.R. 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79937. By decision of August 2, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132 Review Board Number 3 approved the transfer to Schuster Grain Company of Certificate No. MC–126489 (Sub-Nos. 25 and 31) issued July 8, 1976 and July 21, 1977, respectively, issued to Gaston Feed Transports, Inc. generally authorizing the transportation of (1) dry feed ingredients from named facilities in Hutchinson, KS, to CO, IL, IA, MN, MO, MT, NE, NM, ND, OK, SD, TX, WI and WY and (2) dog food (except in bulk) from Hutchinson, KS to AL, AR, CO, FL, GA, IL, IN, IA, LA, MS, MN, MO, NE, NM, ND, OH, OK, SD, TN, TX and WI. Representative is: Bradford E. Kistler, Attorney at Law, P.O. Box 82028, Lincoln, NE 68501.

MC–FC–79951. By decision of 8–4–82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Add American Freight Service, Ltd., of Spring Valley, IL of Certificate No. MC–14277 (Sub-No. 3) issued to Chicago—Aurora Motor Service, Inc. of Aurora, IL, authorizing: general commodities (except classes A and B explosives), between points in MN, IA, MO, MI, WI, IL, IN, OH, and KY. Representative: Paul Maton, 27 E. Monroe St., Suite 1000, Chicago, IL 60603. TA lease is not sought. Transferee is not a carrier.

MC–FC–79962. By decision of August 5, 1982, issued under 49 CFR 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to SJW Enterprises, Inc., of Putnam Valley, NY, of Certificate No. MC–112718 issued August 18, 1977, to Westfair Transport Corp., of Stamford, CT, authorizing *general commodities* (with exceptions) between Norwalk, CT and New York, NY, serving all intermediate points and the off-route points of Riverside, Old Greenwich, Glenbrook, Springdale, Rowayton, South Norwalk, and New Canaan, CT: from Norwalk over U.S. Highway 1 to New York and return over the same route. *Motors* (except those which because of size and weight require the use of special equipment), and *vegetable oil*, between Stamford, CT and Boston, MA, serving the intermediate and off-route points of Worcester, Farmingham, Canton and North Easton, MA, for vegetable oil traffic only, as follows: from Stamford, CT over U.S. Highway 1 to New Haven, CT, then over U.S. Highway 5 to Springfield, MA (also from New Haven over Alternate U.S. Highway 5 and U.S. Highway 5 to Springfield), then over U.S. Highway 20 to junction MA Highway 9, and then over MA Highway 9 to Boston, MA and return over the same routes. From Stamford, CT over U.S. Highway 1 to New London, CT, then over CT Highway 95 to the CT–RI State line, then over RI Highway 95 to Hopkinton, RI, then over RI Highway 3 to Providence, RI, and then over U.S. Highway 1 to Boston, MA and return over the same route. Irregular routes: *General commodities* (with exceptions) between points in CT. Between New York, NY, on the one hand, and, on the other, points in Hudson, Essex, Passaic, Bergen, Morris, Union, Somerset and Middlesex Counties, NJ. *Electrical equipment*, (except those which because of size or weight require the use of special equipment), *telephone materials and patterns, and empty steel drums*. Between Stamford, CT, on the one hand, and, on the other, points in that part of New Jersey bounded by a line beginning at the Hudson River and extending along NJ Highway 4 to Patterson, NJ, then along unnumbered highway via Haledon, NJ to junction U.S. Highway 202 near Pequannock, NJ, then along U.S. Highway 202 to junction NJ Highway 28, then along NJ Highway 28 to Plainfield, NJ, then along a straight line drawn from Plainfield, NJ to Perth Amboy, NJ, then in a northerly direction along the eastern boundary line of NJ to point of beginning, including those on the indicated portions of the highways specified. Representative: Piken & Piken, 95–25 Queens Boulevard, Rego Park, NY 11374. Phone: (212) 275–1000. TA lease not sought. Transferee is not a carrier.

MC–FC–80017. By decision of September 2, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 3 approved the transfer to J.H. TRANSPORT, INC. of Stanton, MI, Certificate No. MC–57778 (Sub-No. 36F) issued to MICHIGAN REFRIGERATED TRUCKING SERVICE, INC., of Southfield, MI, authorizing the transportation of foodstuffs, between points in MI, on the one hand, and, on the other, those points in IL on the north of U.S. Hwy 136 and those points in IN on and north of U.S. 40. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49684. TA lease is not sought. Transferee is not a carrier

MC–FC–80027. By decision of September 14, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Robert I. Putnam, d.b.a. OCEANSIDE MOVING & STORAGE, of Oceanside, CA, of Certificate No. MC 152170 issued December 11, 1981, to PUTNAM MOVING & STORAGE, INC., of Oceanside, CA, authorizing the transportation of used household goods, for the United States Government, incidental to the performance of a pack-and-crate service on behalf of the Department of Defense, between pints in the United States. Representative: Robert I. Putnam, 302 Via Del Norte, Oceanside, CA 92054.

MC–FC–80035. By decision of September 1, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Collings Freight Service, Inc., of Certificate No. MC–147900 (Sub-Nos. 1F, 2, 3F, 4, 5, 6 and 7X) issued December 17, 1980, June 10, January 27, April 22, August 12, August 26, and September 21, 1981, respectively, to COLLINS WHOLESALE SUPPLY, INC., doing business as COLLINS FREIGHT SERVICE, generally authorizing the transportation of (1) *cement, masonry, abrasive grit building materials, calcium carbonate, talc, wallboard, joint compound and materials, equipment and supplies* used in the manufacture and distribution of those commodities in CA, OR, WA, ID, NV and UT; and (2) *general commodities* with exceptions for the United States Government in the United States. Representative: Carl Collins, President, Collins Wholesale Supply, Inc., 4073 Hooker Rd., Roseburg, OR 97470.

MC–FC–80038. By decision of September 20, 1982, issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to BAYSIDE EXPRESS, INC., of Santa Clara, CA, of Certificate of Registration No. MC–121839, issued to BAY-SAC EXPRESS, INC., of San Jose, CA, evidencing a right to engage in transportation in interstate commerce corresponding in scope to Certificate of Public Convenience and Necessity granted by Decision No. 92195 dated September 3, 1980, issued by the Public Utilities Commission of the State of

California, transporting *general commodities* (with exceptions), between the following points, serving all intermediate points or within 20 miles of the highway: (1) points in San Francisco Territory; (2) San Francisco Territory and Santa Rosa via U.S. Hwy 101; (3) Santa Rosa and Napa via State Hwy 12; (4) Santa Rosa and Calistoga via various unnumbered county roads; (5) Calistoga and Vallejo via State Hwy 29; (6) San Francisco and Auburn via Interstate Hwy 80; (7) Yuba City and Fresno via State Hwy 99; (8) San Francisco Territory and Stockton via Interstate Hwys 580, 205, and 5; (9) San Francisco Territory and Paso Robles via U.S. Hwy 101; (10) Monterey and Salinas via State Hwy 68; (11) San Francisco Territory and Santa Cruz via State Hwy 17; (12) Richmond and Stockton via State Hwy 4; (13) Sunol and Martinez via Interstate Hwy 680; (14) Sacramento and Placerville via U.S. Hwy 50; (15) Nevada City and Jackson via State Hwy 49; and (16) Gilroy and junction with State Hwy 99 near Califa, via State Hwy 152, subject to the condition that prior to or concurrently with consummation of the transaction, applicants shall furnish to the Commission a certified copy of the California certificate as reissued to it, or if the California Public Utilities Commission does not reissue the certificate, a certified copy of the order which approved the transfer of the California intrastate certificate, together with a statement in writing confirming the date of consummation of the intrastate transaction. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111.

Note.—TA has been filed. Transferee is not a carrier but is affiliated with Al Cal Delivery, Inc., a carrier under MC–121781.

MC–FC–80039. By decision of September 16, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to Q P Transportation, Inc., of Kalamazoo, MI, of Permit No. MC–148269 (Sub-No. 1) issued August 13, 1980, to William F. Hicks, an individual, d/b/a/ HICKS TRANSPORT, of Eaton Rapids, MI, authorizing: (1) steel and steel products from points in MI, IL, IN, OH, TN, NY, WI, PA, MO, SC, NE, ID, and MN, to the facilities of Jacklin Steel Supply Company and Purvis Bros., Inc., at or near Lansing, Kalamazoo, Traverse City and Iron Mountain, MI, and (2) commercial and industrial stationary waste compactors and equipment for the foregoing, from the facilities of Quality Steel Fabricators, Inc., at or near Hopkins, MI, to points in the US (except AK and HI), under continuing contracts with Jacklin Steel Supply Company, Purvis, Bros., Inc., and Quality Steel Fabricators, Inc. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933, (517) 482-2400. TA lease is sought. Transferee is not a carrier.

MC–FC–80046. By decision of September 15, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to J. F. MORAN TRUCKING CO., INC., of Warwick, RI, of Certificate No. MC–158397 issued February 3, 1982 to J. F. MORAN COMPANY, INC., of Warwick, RI, authorizing the transportation of general commodities (except classes A and B explosives), between points in Rhode Island, on the one hand, and, on the other, Boston, MA. Representative: Robert A. Mega, 25 Esten Avenue, Pawtucket, RI 02860.

MC–FC–80049. By decision of September 22, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132 Review Board Number 3 approved the transfer to PONY LINES, INC. of Certificate No. MC–119864 (Sub-No. 79) issued July 19, 1982 to CRAIG TRANSPORTATION CO., authorizing the transportation of such commodities as are dealt in or used by grocery and food business houses, drug stores and department stores, between those points in the United States east of ND, SD, CO and NM. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167.

MC–FC–80065. By decision of September 22, 1982, issued under U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the tranfer to McGillion Transport, Inc., of Bolton, Ontario, Canada, of Certificate No. MC–151088 (Sub-No. 1)X, issued to McGillion & Company, Limited, of Bolton, Ontario, Canada, authorizing the transportation to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, of *iron* and *steel articles*, between ports of entry on the International Boundary Line, between the United States and Canada, located in Michigan and New York, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Representative: Allan C. Zuckerman, 221 North LaSalle Street, Suite 826, Chicago, IL 60601.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-27190 Filed 10-1-82; 8:45 am]

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[Volume No. OP2-241]

Motor Carriers; Permanent Authority Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating right authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously notice in the **Federal Register.**

An original and one copy of an appropriate petition for leave to intervene, setting forth in detail the precise manner in which petitioner has been prejudiced, must be filed with the Commission within 30 days after the date of this **Federal Register** notice.

By the Commission.

Agatha L. Mergenovich,

Secretary.

MC 97642 (Sub-2) (republication), filed January 18, 1982, published in the **Federal Register** issue of February 19, 1982, and republished, this issue. Applicant: YOUNG TRUCKING, INC., P.O. Box 9197, Corpus Christi, TX 78408. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (718) 437–1768. A decision of the Commission, *Review Board 1*, decided April 28, 1982, and served May 12, 1982, finds that the present and future public convenience and necessity require operations by applicant in interstate of foreign commerce, over irregular routes, as a *common carrier*, by motor vehicle, transporting (1) *mercer commodities*, between points in Arkansas, California, Louisiana, Mississippi, New Mexico, Oklahoma, and Texas, on the one hand, and, on the other, points in the United States (except Hawaii), (2) *machinery and earth drilling commodities*, between points in Alabama, Arkansas, California, Georgia, Florida, Louisiana, Texas, Oklahoma, and New Mexico, on the one hand, and, on the other, points in the United States, and (3) *iron and steel articles*, between points in Texas, Missouri, New Mexico, Oklahoma, and Louisiana; that applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to modify the commodities and territorial descriptions.

MC 148103 (Sub-1) (republication), filed January 18, 1982, published in the **Federal Register** issue of February 5, 1982, and republished, this issue. Applicant: BIG JOHN TRANSPORTATION COMPANY, 5805 Greenash, Houston, TX 77081. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437–1768. A decision of the Commission,

Division 1, Acting as an Appellate Division, Commissioners Sterrett, Simmons, and Gradison, decided July 16, 1982, and served July 28, 1982, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *Common carrier*, by motor vehicle, over irregular routes, transporting (2) *machinery and earth drilling commodities*, between points in Alabama, Arkansas, California, Georgia, Florida, Louisiana, Texas, Oklahoma, and New Mexico, on the one hand, and, on the other, points in the United States . . .; that applicant is fit, willing, and able properly to perform the service authorized and to conform to statutory and administrative requirements. The purpose of this republication is to clarify part (2) only.

MC 155733 (republication) filed December 29, 1981, published in the **Federal Register** issue of January 14, 1982, and republished this issue. Applicant: TRAIL BLASERS, INC., 7990 Overland Rd., Boise, ID 83709. Representative: Timothy R. Stivers, P.O. B. 1576. Boise, ID 83071, (208) 343–3071. A Decision of the Commission, *Division 1*, Acting as an Appellate Division, Commissioners Sterrett, Simmons, and Gradison, decided August 23, 1982, and served August 30, 1982, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of (1) *such commodities* as are dealt in by wholesale and retail grocery stores, between points in Arizona, California, Oregon, Utah, and Washington, on the one hand, and, on the other, points in Idaho, and (2) *food and related products*, between points in California, Idaho, Montana, Nevada, New Mexico, Texas, Utah, Washington, and Wyoming; that applicant is fit, willing, and able properly to perform the service authorized and to conform to statutory and administrative requirements. The purpose of this republication is to broaden the commodity and territorial descriptions.

MC 159673 (republication), filed March 22, 1982, published in the **Federal Register** issue of April 20, 1982, and republished this issue. Applicant: INLAND PUMPING AND DREDGING CORPORATION, P.O. Box 140, Downingtown, PA 19335. Representative: Dale R. Yeager, 388 Devon Dr., Exton, PA 19341, (215) 269–3900. A decision of the Commission, *Review Board No. 1*, decided June 21, 1982, and served July 6, 1982, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier*, by motor vehicle, transporting *hazardous waste materials*, between points in Burlington County, NJ, and Bucks County, PA, on the one hand, and, on the other, points in New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Tennessee, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut. Condition: This certificate shall expire 5 years from its date of issuance; that applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to add "Burlington County, NJ" to the territorial description.

MC 160143 (republication), filed January 18, 1982, published in the **Federal Register** issue of February 19, 1982, and republished this issue. Applicant: BURL RATHMANN, d.b.a. 3-STAR TRANSPORTATION CO., 7403 Burleson Rd., Austin, TX 78744. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437–1768. A Decision of the Commission, *Division 1*, Acting as an Appellate Division, Commissioners Sterrett, Simmons, and Gradison, decided July 16, 1982, and served July 28, 1982, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting (2) *machinery, and earth drilling commodities*, between points in Alabama, Arkansas, California, Georgia, Florida, Louisiana, Texas, Oklahoma, and New Mexico, on the one hand, and, on the other, points in the United States; that applicant is fit, willing, and able properly to perform the service authorized and to conform to statutory and administrative requirements. The purpose of this republication is to clarify part (2) only.

[FR Doc. 82–27188 Filed 10–1–82; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are no allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be

construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

For the following, please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1–167

Decided: September 24, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Chandler not participating.)

MC 161421 (Sub-1), filed September 21, 1982. Applicant: DAVID'S ECONOMOVE, INC., 210 Hillsboro St., Fayetteville, NC. Representative: Robert D. Koch, P.O. Box 614, Fayetteville, NC 28302, (919) 323–4513. Transporting for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 163680, filed September 2, 1982. Applicant: TRANSPORT AMERICA, INC., 808 S. Joliet St., Joliet, IL 60436. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602, (312) 236–5944. Transporting *general commodities*, between Covel and Stanford, IL, on the one hand, and, on the other, points in the U.S. Condition: The certificate to be issued to the extent it authorizes the transportation of explosives, will be conditioned to expire 5 years from its date of issuance. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343 or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to team 1, Room 2379.

Note.—The purpose of this application is to substitute motor carrier service for abandoned rail service.

MC 163941, filed September 21, 1982. Applicant: TROY TIGNER, d.b.a. T & L TRUCKING, N. 703 West Street, Chewelah, WA 99109. Representative: Jim Pitzer, 15 South Grady Way, Suite 321, Renton, WA 98055–3273, (206) 235–1111. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and othe soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 163950, filed September 21, 1982. Applicant: B. F. LEWIS, d.b.a. B L MOTOR EXPRESS, 20403 County Rd. 15, Elk River, MN 55330. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237–4223. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 2 (202) 275–7030.

Volume No. OP2–237

Decided: September 23, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier (Member Chandler not participating).

MC 72423 (Sub-15), filed September 20, 1982. Applicant: PLATTE VALLEY FREIGHTWAYS, INC., 111 East Chestnut St., Sterling, CO 80751. Representative: Jack B. Wolfe, 601 East 18th Ave., Suite 107, Denver, CO 80203, 303–861–8046. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), and (3) as a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163902, filed September 17, 1982. Applicant: TALMADGE DAVIS, 19906 E. 6th, Greenacres, WA 99016. Representative: Talamadge Davis (same address as applicant), 509–926–3279. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, betwen points in the U.S. (except AK and HI).

Volume No. OP2–240

Decided: September 24, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Chandler not participating.)

MC 163933, filed September 20, 1982. Applicant: B. L. ROMICK AND M. J. CAUKIN, d.b.a. R–C TRUCKING, 15232 Jefferson, Omaha, NE 68137. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501–2028, (402) 475–6761. Transporting *Food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the vehicle in such vehicle, between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 3 at 202–275–5223.

Volume No. OP3–150

Decided: September 27, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 88414 (sub-6), filed September 16, 1982. Applicant: RICHMOND TRANSFER & STORAGE COMPANY, d.b.a. RICHMOND EXPORT SERVICES, 10154 Market Ave., Richmond, CA 94806. Representative: Thomas M. Loughran, 100 Bush St., 21st Floor, San Francisco, CA 94104, (415) 986–5778. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 146285, (Sub-8), filed September 14, 1982. Applicant: JIM CONNER ENTERPRISES, INC., Route 37 South, Benton, IL 62812. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting (1) for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 163165 (Sub-1), filed September 16, 1982. Applicant: STEPHEN FORD FREY, 1560 Adelia Pl., Atlanta, GA 30329. Representative: Stephen Ford Frey (same address as applicant) (404) 634–9684. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 163765, filed September 9, 1982. Applicant: SIG M. GLUKSTAD, INC., d.b.a. MIAMI INTERNATIONAL FORWARDERS, 3050 Biscayne Blvd., Suite 703, Miami, FL 33137. Representative: Leonard C. Roberts (same address as applicant) (305) 573–6026. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 166834, filed September 13, 1982. Applicant: RICHARD C. HAZZARD, 904 West Monroe Street, Plant City, FL 33566. Representative: Frank L. Willard, Suite 1001, First & Merchants National Bank Building, Norfolk, VA 23510 (804) 627–0070. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *Agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 163835, filed September 14, 1982. Applicant: GORDON SANDS, INC., RD Box 150, Westerlo, NY 12193. Representative: Gordon Sands (same address as applicant) (518) 732–7223. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 163874, filed September 16, 1982. Applicant: BENTON MOVERS, LTD., 313 Stiles Ave., Savannah, GA 31401. Representative: Edward J. Benton, III (same address as applicant) (912) 233–4971. Transporting *used household goods* for the account of the United States Government incidental to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–347

Decided: September 28, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 163726, filed September 7, 1982. Applicant: C.L.P., INC., 1800 N. 30th Ave., Melrose Park, IL 60160. Representative: Irwin D. Rozner, 134 North La Salle St., Chicago, IL 60602 (312) 782–6937. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 163857, filed September 15, 1982. Applicant: MAUI MOVING & STORAGE, INC., 609 Kaimalino Pl., Kailua, HI 96734. Representative: Alan F. Wholstetter, 1700 K St., NW Washington, DC 20006 (202) 833–8884. Transporting *used household goods* for the account of the United States Government incidental to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK).

MC 163926, filed September 20, 1982. Applicant: R & S TRANSPORTATION, INC. 3857 Miller Park Rd. Garland, TX 75040. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062 (214) 255–6279. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–201

Decided: September 24, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 163829, filed September 13, 1982. Applicant: CUSTOM TRUCK BROKERS, INC. P.O. Box 10, Greensburg, PA 15601 Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219 (412) 471–1800. To operate as a *broker* in arranging for the transportation of *general commodities* (except household goods) between points in the U.S. (except HI).

MC 163838, filed September 14, 1982. Applicant: RONALD L. PETERS TRUCKING d.b.a. PETERS TRUCK LEASING, 704 Douglas St., Lakefield, MN 56150. Representative: Kenneth H. Price, Box 547, Lakefield, MN 56150, (507) 662–6686. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in MN, SD, IA, IL, CO, NE, WY, IN, and OH.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–27182 Filed 10–1–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and, the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.— All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Notice No. F–205

The following applications were filed in Region I: Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 134806 (Sub-1–41TA), filed: September 20, 1982. Applicant: B-D-R TRANSPORT, INC., Vernon Drive, P.O. Box 1277, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East-West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* irregular routes: *Floor mats* between Los Angeles, CA, on the one hand, and, on the other, Baltimore, MD, New York, Albany, and Pawling, NY, Philadelphia, PA, Dexter, ME, Boston, MA, and Hartford, CT, under continuing contract(s) with Eldo, INc., Los Angeles, Ca. Supporting shipper: Eldo, Inc., 2816 E. 11th Street, Los Angeles, CA 90023.

MC 163812 (Sub-1–TA), filed: September 20, 1982. Applicant: R. S. COUGHLAN, LTD., 103 MacFarlane Street, Fredericton, New Brunswick, CD E3A 1V5. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *Contract carrier:* irregular routes: *Lumber and fencing* between points in the U.S. on the US/CD border east of the Mississippi River, on the one hand, and, on the other, points in the U.S. east of the Mississippi River under continuing contract(s) with Devon Lumber Company, Ltd. of Fredericton, New Brunswick, CD. Supporting shipper: Devon Lumber Company, Ltd., 200 Gibson Street, Fredericton, New Brunswick, CD E3A 4E3.

MC 128798 (Sub-5–TA), filed: September 20, 1982. Applicant: GALASSO TRUCKING, INC., 8 Kilmer Road, Larchmont, NY 10438.

Representative: Larsh B. Mewhinney, Esq., Moore, Berson, Lifflander & Mewhinney, 555 Madison Avenue, New York, NY 10022. *Contract carrier:* irregular routes: *General commodities (except Class A and B explosives, commodities in bulk, and household goods as defined by the Commission)* between points in the U.S . (except AK and HI) under continuing contract(s) with Purex Corporation, Lakewood, CA. Supporting shipper: Purex Corp., 5101 Clark Avenue, Lakewood, CA 90712.

MC 150909 (Sub-1–2TA), filed: September 20, 1982. Applicant: ROBERT B. AND REGINALD L. HEBERT d.b.a., HEBERT BROS. Route 1, Madawaska, ME 04756. Representative: John C. Lightbody, Esq. Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *Contract carrier:* irregular routes: *Automotive parts and supplies* between Wilmington, MA, on the one hand, and, on the other, Fort Kent and Madawaska, ME, under continuing contract(s) with NAPA New England of Wilmington, MA. Supporting shipper: NAPA New England, 840 Woburn Street, Wilmington, MA 01887.

MC 163899 (Sub-1–1TA), filed: September 17, 1982. Applicant: L & M TRANSPORTATION, INC., 2 Inverness Circle Fairport, NY 14450. Representative: Norman A. Cooper, 145 W. Wisconsin Avenue, Neenah, WI 54956. *Furniture or fixtures and equipment, materials and supplies,* between Wayland, NY, on the one hand, and, on the other, Dallas, TX, and Whittier, CA. Supporting shipper: The Gunlocke Co., Inc., 11385 S. Lackawanna Street, Wayland, NY, 14572.

MC 150220 (Sub-1–2TA), filed: September 20, 1982. Applicant: REFRIGERATED INTERNATIONAL CARGO HAULERS, INC., 1170 Niagara Street, Buffalo, NY 14240. Representative: Charles H. White, Jr., 1019 19th Street, N.W., Suite 800, Washington, D.C. 20036. *Contract carrier:* irregular routes: *General commodities (except Classes A and B explosives, commodities in bulk, and household goods)* between points in the U.S., under continuing contract(s) with S. M. Flickinger Co., Inc. of West Seneca, NY. Supporting shipper: S. M. Fickinger Co., Inc., 45 Azalea Drive, P.O. Box 68, Buffalo, NY 14240.

MC 163936 (Sub-1–1TA), filed: September 21, 1982. Applicant: JAMES ALLAN d.b.a. ROYAL GUARDSMAN LIMOUSINE SERVICE, INC., 15 Elizabeth Street, West Millington, NJ 07946. Representative: James Allan, (same as applicant). *Passengers and their baggage* between points in NJ, New York City, NY, CT, and PA. Supporting shipper: Tec Instruments, Inc., 21 Elizabeth Street, West Millington, NJ 07946; Rahn Studio, Route 202, Far Hills, NJ 07931.

MC 163953 (Sub-1-1TA) filed: September 22, 1982. Applicant: 248356 LEASING INC., 108 Annabelle Street, Hamilton, Ontario, CD L9C 3T6. Representative: William J. Hirsch P.C., 64 Niagara Street, Buffalo, NY 14020. *Lumber and lumber products and materials, equipment and supplies used in the manufacture and distribution thereof,* from ports of entry on the International Boundary Line between the U.S. and CD, located in NY and MI, to points in CT, DE, IL, IN, KY, MA, MD, ME, MI, NJ, NY, OH, PA, RI, TN, VA, VT, WV and WI. Supporting shipper: Champion International Corporation Ltd., 1 Champion Plaza, Stamford, CT 06921.

MC 152320 (Sub-1–5TA), filed September 17, 1982. Applicant: VERSPEETEN CARTAGE LIMITED, 67 Dalton Road, Delhi, Ontario, CD N4B 1B4. Representative: Neill T. Riddell, 900 Guardian Building, Detroit, MI 48226. *Contract carrier:* irregular routes: *Machinery, metal products and transportation equipment* between all points in the U.S. under continuing contract(s) with DeCloet Limited, Hover Ball and Bearing Company (Canada) Limited, Manchester Tank Canada Limited and Mastico Industries Limited, all of Tillsonburg, Ontario, Canada. Supporting shipper(s): Hover Universal of Canada, 100 Town Line Road, Tillsonburg, Ontario, CD N4G 2R7; Mastico Industries Limited, 73 Goshen Street, Tillsonburg, Ontario, CD; Manchester Tank Canada Limited, 105 Spruce Street, Tillsonburg, Ontario, CD N4G 4J1; DeCloet Limited, Highway 3 East, P.O. Box 145, Tillsonburg, Ontario, CD N46 4H3.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, NE., Atlanta, GA 30309.

MC 151407 (Sub-3–6TA), filed September 22, 1982. Applicant: T & T TRUCKING, INC., 274 N.W. 37th Street, Miami, Florida, 33127. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, Texas 75245. *Marine Accessories* between Dade and Pinellas Counties, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: K G S Marine, Inc., 16110 N.W. 13th Avenue, Miami, Florida 33169.

MC 163853 (Sub-3–1TA), filed September 22, 1982. Applicant: SILVERMAN COMPANY, 48 Swannanoa River Road, Asheville, NC 28805. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *Coal* between points in AL, FL, GA, IN, KY, MI, NC, OH, SC, TN and VA. Supporting shipper(s): Concoal Corporation, P.O. Box 767, Knoxville, TN 37901.

MC 119917 (Sub-3–16TA), filed September 22, 1982. Applicant: DUDLEY TRUCKING COMPANY, INC., 724 Memorial Drive S.E., Atlanta, GA 30316. Representative: David A. Modlinski, (same address as above). *Tires and Tubes,* between AL, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VA, WV. Supporting shipper: Kumho U.S.A., Inc., One Penn Plaza, New York, New York 10119.

MC 163734 (Sub-3–1TA), filed September 22, 1982. Applicant: VER–HU, INC., Main St. P.O. Box 38, Ducktown, TN 37326. Representative: Keith J. Verner (same address as applicant). *General commodities* between points in Polk County, TN, and Fannin County, GA, on the one hand, and, on the other, points in the U.S. except AK and HI. Supporting shipper: Mineral Bluff Stone Company, Route No. 1, Box 292, Mineral Bluff, GA 30552. Apache Blast Company, P.O. Box 428, Copperhill, TN 37325.

MC 162894 (Sub-3–2TA), filed September 22, 1982. Applicant: U.S. CARPET CARRIERS, INC., P.O. Box 904, Calhoun, GA 30701. Representative: Edward A. Gowens (same address as applicant). *Carpet,* from points in GA to points in WI, IN, IL, OH, MI, PA, there are five (5) statements of support which may be examined at the commissions Atlanta office.

MC 155079 (Sub-3–3TA), filed September 22, 1982. Applicant: CURTIS L. DODGINS, INC., Route 1, Box 393, Franklin, NC 28734. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. *New furniture,* from Toccoa, GA, to points in CA, OR, WA, NV, AZ, NM, TX, OK and AR. Supporting shippers: Robertson Furniture Company, Inc., P.O. Box 847, Elberton Street, Toccoa, GA 30577, and Trogdon Furniture Company, P.O. Box 727, Toccoa, GA 30577.

MC 163932 (Sub-3–1TA), filed September 21, 1982. Applicant: C. & J. TRUCKING COMPANY, 38 Killarney Dr., Union, KY 41091. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017. *General commodities, except household goods, classes A & B explosives and bulk commodities,* between Cincinnati, OH, on the one hand, and, on the other, points in the U.S. except AK and HI. Supporting shipper: Nationwide

Shippers Cooperative Association, Inc., 2735 Spring Grove Ave., Cincinnati, OH 45225.

MC 119917 (Sub-3–15TA), filed September 21, 1982. Applicant: DUDLEY TRUCKING COMPANY, INC., 725 Memorial Drive, SE., Atlanta, GA 30316. Representative: David A. Modlinski (same as above). *Light guage galvanized pipe and related fittings,* between AL, GA, FL, SC. Supporting shipper: Crown Products Company, Inc., 6390 Phillips Hwy., Jacksonville, FL 32216.

MC 156778 (Sub-3–6TA), filed September 20, 1982. Applicant: 7 HILLS TRANSPORT, INC., P.O. Box 6205, Rome, GA. 30161 Representative: Don Moore, P.O. Box 6205, Rome GA. 30161. *Contract* Carrier, irregular routes: *Textile Products,* from the facilities of Pharr Yarns in Rome, GA. and McAdenville, N.C., to points in the U.S., (except AK & HI), under continuing contract(s) with Pharr Yarns. Supporting Shipper: Pharr Yarns of Georgia, Inc., P.O. Box 2827, Huffaker Rd., Rome, GA. 30161.

MC 104149 (Sub-3–4TA), filed September 20, 1982. Applicant: OSBORNE TRUCK LINE, INC., 516 North 31st Street, Birmingham, AL 35202. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Contract;* irregular routes, *chemicals and related products, and such other commodities as are manufactured or distributed by a manufacturer of chemicals and related products,* between the facilities of Gulf Oil Corporation at or near Parrish, AL, on the one hand, and, on the other, points in the US in and east of MS, TN, KY, IN and MI. Restriction: Restricted to transportation provided under continuing contract or contracts with Gulf Oil Corporation. Supporting shipper: Gulf Oil Corporation, Post Office Box 3776, Houston, TX 77253.

MC 158219 (Sub-3–1TA), filed September 20, 1982. Applicant: B & G TRUCKING, Route 3, Box 99, Blue Springs Rd., New Market, TN 37820. Representative: Gail Petty (same address as applicant). *Contract* Irregular: *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses.* Between points in TN on the one hand, and on the other points in AL, AR, DE, FL, GA, IL, IN, IA, KY, LA, MD, MI, MN, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TX, VA, WV, AND WI. Supporting shippers: White Lily Foods, PO Box 871, Knoxville, TN 37901; White Stores, PO Box 320, Knoxville, TN 37901.

MC 160767 (Sub-3–2TA), filed September 20, 1982. Applicant: LADD TRANSPORTATION, INC., No. 1 Plaza Center, Box HP 3, High Point, NC 27261. Representative: Beverly C. Davis (same as above). *Contract carrier,* irregular routes: *Furniture and fixtures,* from Atlanta, GA to points in the States of NC, SC, TN, VA, and KY, under continuing contracts with Simmons USA. Supporting shipper: Simmons USA, 6 Executive Park Dr., N.E., Atlanta, GA 30329.

MC 140484 (Sub-3–33TA), filed September 20, 1982. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th Street NW., Washington, DC 20005. *Such merchandise as is dealt in and distributed by wholesale, retail and chain grocery stores, and food business houses, and materials and supplies used in the manufacture of the aforementioned commodities,* between Westmoreland County, PA, on the one hand, and, on the other, NY, NJ, DE, MD, CT, and FL. Supporting shipper: Fox Grocery Company, Inc., Box 29, Rehoboth Valley, Belle Vernon, PA 15012.

MC 145559 (Sub-3–7TA), filed September 20, 1982. Applicant: NORTH ALABAMA TRANSPORTATION, INC., Post Office Box 38, Ider, AL 35981. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Chemicals and related products (except in bulk),* from facilities of Alco Chemical Corporation, at or near Chattanooga, TN, to San Francisco and Los Angeles, CA, Dallas, TX, Chicago, IL, Philadelphia, PA, Boston, MA, and Jay, ME, and their commercial zones. Supporting shipper: Alco Chemical Corporation, 909 Mueller Drive, Chattanooga, TN 37406.

MC 163895 (Sub-3–1TA), filed September 20, 1982. Applicant: THOMPSON TRUCK LINES, INC., 2411 Gunbarrel, Chattanooga, TN 37421. Representative: J. Greg Hardeman, 618 United Southern Bank Building, Nashville, TN 37219. *Contract:* Irregular: *Paper and paper products, materials, supplies and machinery used in the manufacture of paper and paper products* between points in the states of AL, AR, CO, DE, FL, GA, IA, IL, IN, KS, KY, LA, MD, MO, MI, MS, NE, NJ, NC, OH, OK, PA, TN, TX, VA, WV, and WI under a continuing contract with Inland Container Corporation, Indianapolis, IN. Supporting shipper: Inland Container Corporation, Market Square Center, 151 N. Delaware St., Indianapolis, IN 46206.

MC 163704 (Sub-3–1TA), filed September 20, 1982. Applicant: MIKE BAILEY, INC., Rt. 6, Box 202, Alexander City, AL 35010. Representative: Terry P. Wilson, 428 South Lawrence St., Montgomery, AL 36104. *Pet food,* from the facilities used by Ralston Purina Co., at or near Union City, GA to the facilities used by Ralston Purina Co., at Montgomery, AL and Nashville, TN. Supporting Shipper: Ralston Purina Co., P.O. Box 4190, Montgomery, AL 36195.

MC 163898 (Sub-3–1TA), filed September 20, 1982. Applicant: KING CARTAGE CORP., 732 N. E. Second Avenue, Miami, FL 33132. Representative: Bernard C. Pestcoe, 201 Alhambra Circle, Suite 511, Coral Gables, FL 33134. *General Commodities, except hazardous materials,* between points in Dade, Broward and Palm Beach Counties, FL restricted to transportation having a prior or subsequent movement by water. There are five (5) supporting shippers' statements, which can be examined at the ICC's Regional Office in Altlanta, GA.

MC 162582 (Sub-3–1TA), filed September 22, 1982. Applicant: JOHN'S AUTO REPAIR INC., 1310 Franklin St., Roanoke Rapids, NC 27870. Representative: Archie W. Andrews, P.O. Box 1166, Eden, NC 27288. *Contract Irregular: Paper products,* between Halifax County, NC, on the one hand, and, on the other, points in CT, DE, DC, GA, MD, MA, NJ, NY, PA, RI, SC, and VA under continuing contract(s) with Halifax Paper Board Company, Inc., P.O. Box 368, Roanoke Rapids, NC 27870. Supporting shipper: Halifax Paper Board Company, Inc., P.O. Box 368, Roanoke Rapids, NC 27870.

MC 150492 (Sub-3–1TA), filed September 23, 1982. Applicant: DRI-FRI COMPANY, INC., 410 Inskip Road, Knoxville, TN 37912. Representative: Jess D. Campbell, Attorney, 205 Clinch Avenue SW., Knoxille, TN 37902. *Contract,* Irregular: *Frozen foodstuffs and materials, equipment, and supplies used in the manufacture and distribution thereof* from Othello, WA., Park Rapids, MN., and Clark, S.D. to Knoxville, TN. and from Othello, WA. to Johnson City, TN. under continuing contract with Weaver Foodservice Specialists, Knoxvile, TN.

MC 156100 (Sub-3–4TA), filed September 23, 1982. Applicant: CHARLES RAYMOND POWELL, d.b.a GOLDEN TRIAD CARRIERS, P.O. Box 4145, Archdale, NC 27263. Representative: Charles Raymond Powell (same address as applicant). (1) *Hosiery and perfumery* from Marietta, GA; Magnolia, AR; Dayton, Harriman, and Rockwood, TN; Asheboro, Burlington, Concord, Creedmoor, Goldston, Greenboro, Graham, Hickory, and Lumberton, NC to points in the U.S.,

except AK and HI. (2) *Supplies and equipment* used in the manufacturing and selling of hosiery and perfumery from points in the U.S., except AK and HI to Marietta, GA; Magnolia, AR; Dayton, Harriman, and Rockwood, TN; Asheboro, Burlington, Concord, Creedmoor, Goldston, Greensboro, Graham, Hickory, and Lumberton, NC. Supporting Shipper: Kayser-Roth, 2303 West Meadowview Road, Greensboro, NC 27407.

MC 145956 (Sub-3–7 TA), filed September 23, 1982. Applicant: TRANSMEDIC CARRIERS, INC., 1340 Indian Rock Road, Belleair, FL 33516. Representative: Paul Meilleur (same address as above). *Animal Blood Serum* from Denver, CO and Dubuque, IA to Lenexa, KS; Walkersville, MD; Miami, FL; Denver, CO; Carson, CA and Augusta, GA. Supporting Shipper: Riggs Bio Chemical, Inc., Rt. 3, Dubuque, IA 52001.

MC 163965 (Sub-3–1TA), filed September 23, 1982. Applicant: BONNEY VAN LINE, INC., 222 US Highway 1, Tequesta, FL 33458. Representative: Charles Moran, Suite 320, 2501 M Street NW, Washington, DC 20037. *Household Goods, as defined by the Commission,* between all points in the US (including AK and HI but excluding OR), restricted to the transportation of traffic handled for or on behalf of the United States Government. Support for this application is provided in two traffic exhibits, as authorized by Commission Order of September 13, 1982.

MC 111397 (Sub-3–2TA), filed September 23, 1982. Applicant: DAVIS TRANSPORT, INC., 1345 South 4th Street, Paducah, KY 42001. Representative: H.S. Melton, Jr., P.O. Box 7406, Paducah, KY 42001. *Uranium Oxide* from McCracken County, KY, to Sequoya County, OK. Supporting shipper: Eldorado Nuclear Limited, 215 John Street, Port Hope, Ontario, Canada.

The following applications were filed in region 4: send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 123194 (Sub-4–7TA), filed September 20, 1982. Applicant: ENTERPRISE TRUCK LINE, INC., 7336 West 15th Avenue, Gary, IN 46406. Representative: Bernard J. Kompare, 180 N. Michigan Avenue, Suite 1700, Chicago, IL 60601. *Such commodities as are dealt in or used by manufacturers or distributors of metal and metal products* between points in IA, IL, IN, KY, MI, MN, MO, OH, TN and WI. Supporting shipper: Metal Shippers, One Concourse Plaza, Suite 706, 4711 Golf Road, Skokie, IL, and Wabash Alloys, Inc., U.S. 24 West, Wabash, IN.

MC 128837 (Sub-432), filed September 21, 1982. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Contract,* irregular: *Food and related products,* between Bensenville, IL on the one hand, and on the other, Valley View, OH, Dallas, TX, Minneapolis, MN, Englewood, NJ and Kansas City, MO. Restricted to traffic moving under continuing contract(s) with Superior Coffee Company, a subsidiary of Consolidated Foods. Supporting shipper: Superior Coffee Company, a subsidiary of Consolidated Foods, 990 Supreme Dr., Bensenville, IL 60106.

MC 144120 (Sub-4–1TA), filed September 21, 1982. Applicant: K W TRANSIT, INC., 10706 Tesch Lane, Mosinee, WI 54455. Representative: Nancy J. Johnson, Attorney, 103 East Washington St., Box 218, Crandon, WI 54520. *Such commodities as are dealt in wholesale and retail florists* between Marathon County, WI on the one hand, and on the other hand, points in MI, IN, IL, WI, IA, MN, MO, ND, SD, and KS. Supporting shipper: Krueger Wholesale Florist, Inc., 10706 Tesch Lane, Mosinee, WI 54455.

MC 151738 (Sub-4–2TA), filed September 20, 1982. Applicant: CONCEPT, INC., Cooperstown, ND 58425. Representative: Charles E. Johnson, P.O. Box 2056, Bismark, ND 58502–2056. *Commodities as are dealt in, or used by, agricultural equipment, industrial equipment, and lawn and leisure products manufacturers and dealers* (except commodities in bulk) from Fargo, ND to points in MN. Underlying ETA seeks 120 days authority. Supporting shipper: International Harvester Company and John Deere Company.

MC 152392 (Sub-4–1TA), filed September 20, 1982. Applicant: TDS TRUCKING, INC., Fertile, MN 56540. Representative: Todd W. Fpss, 15 Broadway, Suite 502, Fargo, ND 58102. *Anhydrous ammonia, in bulk, in tank vehicles,* between East Grand Forks, Moorhead, Stephen and Thief River Falls, MN and Grafton, Langdon, Walhalla and Hoople, ND, on the one hand, and, on the other, ports of entry, on the international boundary line between the U.S. and Canada located at or near Noyes, MN and Pembina, Neche, Walhalla, Maida, Hannah and Hansboro, ND. Supporting shippers. J. R. Simplot Company, P.O. Box 27, 99 Main St., Boise, ID 83707.

MC 155411 (Sub-4–3TA), filed September 20, 1982. Applicant: S & C TRANSPORT, INC., 16657 Kennebec, Southgate, MI 48195. Representative: Neill T. Riddell, 900 Guardian Building, Detroit, MI 48226. *Contract* irregular: *Petroleum* and *petroleum products* between all points in the U.S. (except AK and HI) under continuing contracts with Dearborn Refining Company of Dearborn, MI and Omega Oil Company, Inc., of Southgate, MI. Supporting shipper(s) Dearborn Refining Company, Dearborn, MI, 48121; Omega Oil Company, Inc., Southgate, MI 48195.

MC 162914 (Sub-4–2), filed September 17, 1982. Applicant: LANCER TRANSPORTATION SERVICES, INC., 552 South Washington St., Naperville, IL 60540. Representative: Daniel O. Hands, 104 S. Michigan Ave., Suite 410, Chicago, IL 60603. *Bagged salt and salt products* from Chicago, IL and points in its Comercial Zone to points in IL, IN, MI, OH and WI. Supporting shipper: Domtar Industries, Sifto Salt Division, 4815 N. Scott, Suite 419, Schiller Park, IL 60176.

MC 163866 (Sub-4–1TA), filed September 17, 1982. Applicant: KUTZLER EXPRESS, INC., 2109 45th Street, Kenosha, WI 53141. Representative: Paul J. Maton, 27 East Monroe Street, Suite 1000, Chicago, IL 60603, (312) 332–0905. *Contract,* irregular, (1) *food products, in containers, and* (2) *materials and supplies used in the processing, canning, and bottling of food products (except commodities in bulk)* between Kenosha, WI and Eau Claire, MI and points in IL, IN, MI and WI under continuing contract(s) with Ocean Spray Cranberries, Inc., Kenosha, WI. An underlying ETA seeks 120 day authority. Supporting shipper: Ocean Spray Cranberries, Inc., Kenosha, WI.

MC 163896 (Sub-4–1TA), filed September 20, 1982. Applicant: S.D.H. CORPORATION, U.S. Route 40, West Terre Haute, IN 47885. Representative: E. Stephen Heisley, 1919 Pennsylvania Avenue NW., Suite 500, Washington, DC 20006. *Commodities in bulk in dump vehicles,* between points in Delaware County, IN, on the one hand, and, on the other, points in Marion and Seneca Counties, OH. Supporting shipper: Dobrow Industries, Inc., P.O. Box 2188, Muncie, IN 47302.

MC 163908 (Sub-4–1TA), filed September 20, 1982. Applicant: RONALD J. ENGG, d.b.a. R. J. TRUCKING, Box 171, Westhope, ND 58793. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502–2056. *Contract,* irregular, *oil field production chemicals,* (except in bulk) from Rayne, LA, Kilgore, TX, Odessa, TX, and Stanton, CA, to Minot, ND. Supporting

shipper: Di-Chem Dresser, a division of Dresser Industries, Inc., Minot, ND.

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 146817 (Sub-5–3TA), filed September 20, 1982. Applicant: GEORGE CAVES, d.b.a. CAVES TRUCKING, P.O. Box 29357, Lincoln, NE 58529. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506. *Food and related products,* between points in the U.S. (except AK and HI, and Carroll, Crawford, Cherokee, Hardin, Polk, Woodbury, Warren, Webster, Pottawatomie and Cerro Gordo Counties, IA, Carver County, MN, Erie County, NY, and Saline, Douglas, Lancaster and Sarpy Counties, NE). Supporting shipper: Starmill, Inc., Oak Brook, IL 60521.

MC 152775 (Sub-5–7TA), filed September 20, 1982. Applicant: RAM ROD TRUCKING, INC., P.O. Box 1127, Marrero, LA 70073. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. *Building materials, supplies and equipment,* between the facilities of Gold Bond Building Products at or near Mobile, AL, and Westwego, LA, on the one hand, and, on the other, points in AL, AR, FL, GA, MS, TN, and TX. Supporting shipper: Gold Bond Building Products, 2001 Rexford Road, Charlotte, NC 28211.

MC 153788 (Sub-5–4TA), filed September 20, 1982. Applicant: G & G Company, Inc., P.O. Box 5753, Longview, TX 75608. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Rock, Sand and Gravel* from Bossier Parish, Caddo Parish and Webster Parish, LA to points in TX on and east of Interstate Highway 35. Supporting shipper(s): Lee Ray Construction, Winnsboro, TX 75494; A & T Sand Company, Kilgore, TX 75662; Trotti Thomson, Longview, TX 75608; H & L Construction Company, Sherman, TX 75090.

MC 159408 (Sub-5–2TA), filed September 21, 1982. Applicant: H & W DELIVERY, INC., 2009 East Abram St., Arlington, TX 76010. Representative: Clayte Binion, 623 South Henderson, 2nd Floor, Fort Worth, TX 76102. *Medical and hospital supplies, pharmaceutical products, hydraulic pumps, motors, repair parts, sprockets and gears,* between points in the Fort Worth-Dallas commercial zone, on the one hand, and, on the other points in OK, NM, LA, AR and points of entry on the Mexico-Texas boundary line and Texas Gulf Coast ports. Supporting shipper(s): American Hospital Supply Corp., Grand Prairie, TX, Hydra Rig, Inc., Ft. Worth, TX, Martin Sprocket & Gear, Inc., Arlington, TX.

MC 162468 Sub-5–1TA), filed September 21, 1982. Applicant: EUGENE O. ABLES, d.b.a. Gene Ables Trucking Co., 1200 Silverlake Rd., Topeka, KS 66608. Representative: Eugene Ables (same as above). *Plastica, and rubber products, metal products, iron and steel products, building lumber and materials, and mercer commodities* from KS and MO, to pts in IL, TX, OK, CO, MO, KS, AZ, and LA. Supporting shipper(s): AAmoco Oil Co., Shawnee Mission, KS, Minority Contractor's Assoc., Kansas City, MO.

MC 163438 (Sub-5–2TA), filed September 20, 1982. Applicant: RAYFORD ROGERS, d.b.a. ROGERS FARMS, P.O. Box 248, Leola, AR 27084. Representative: James M. Duckett, 221 W. 2nd, Suite 411, Little Rock, AR 72201. *Treated Poles,* from the facilities of Fordyce Wood Treaters, Inc., at Fordyce, AR, to points in IN, FL, SE and NC. Supporting shipper: Fordyce Wood Treaters, Inc., Fordyce, AR 71742.

MC 163716 (Sub-5–1TA), filed September 20, 1982. Applicant: L. GRIFFIN TRUCKING, INC., 3105 Pimpernel Ave., Baton Rouge, LA 70805. Representative: Leroy Griffin (same as above). *FLUORSPAR* from Burnside Terminal, Burnside, LA and Port Allen Terminal, Port Allen, LA to Port Allen, LA, Geismar, LA and Baton Rouge, LA. Supporting shipper: Allied Chemical Co., Morristown, NJ.

MC 163788 (Sub-5–1TA), filed September 20, 1982. Applicant: JOHN R. LADD, d.b.a. Indian Nation Express, 2201 Chandler Road, Muskogee, OK 74401. Representative: Jack R. Anderson, Suite 305, Reunion Center, 9 East Fourth Street, Tulsa, OK 74103. Common Regular: *General commodities (except classes A and B explosives, households goods as defined by the Commission and commodities in bulk)* between the plant site of LaBarge Tubular Division, located in Wagoner, OK and Tulsa, OK over the following routes: From Wagoner to Tulsa over U.S. Hwy. 69 and OK 51, and return over the same route. Supporting shipper: LaBarge Tubular Division, Wagoner, OK 74467.

MC 163910 (Sub-5–1TA), filed September 20, 1982. Applicant: CHIKASKIA VALLEY TRUCKING, INC., P.O. Box. 294, Argonia, KS 67004. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. *Chemicals and chemical products used in water treatment, except in bulk,* between Houston, TX and points in OK and KS. Supporting shipper: Treat-Rite Water Labs, Inc., Nowata, OK 74048.

MC 163920 (Sub-5–1TA), filed September 20, 1982, Applicant: D. RYAN TRUCKING, 212 Lakewood Drive, Monroe, LA 71203. Representative: DAN BLAKENEY (same as applicant). *Plastic articles and metal components used in connection with the set up of plastic tanks* between points in the U.S. Supporting shipper: Poly Processing Co. Inc., Monroe, LA.

MC 125535 (Sub-5–26TA), filed September 22, 1982. Applicant: NATIONAL SERVICE LINES, INC. OF NEW JERSEY, 2275 Schuetz Road, St. Louis MO 63141. Representative: Donald S. Helm (same as applicant). Contract: Irregular, *(1) Copper, copper products, wire and cable, cord sets, flexible steel conduit, wrought steel pipe, strip steel and (2) commodities used in the manufacture and distribution of commodities in (1) above (except commodities in bulk in tank vehicles).* Between Glen Dale, WV, Jewitt City CT, Sikeston MO, Bennington VT, on the one hand, and on the other, all points in the U.S. (except AK and HI). Supporting shipper: Triangle PVC Inc., New Brunswick NJ 08903.

MC 152277 (Sub-5–10TA), filed September 24, 1982. Applicant: LONG MILE RUBBER COMPANY, 155 South Court, Exchange Park, Dallas, TX 75245. Representative: D. Paul Stafford, P.O. Box 45538, Dallas TX 75245. *Paper, printed* from Coppell, TX to Lafayette, LA; Jackson, MS; Oklahoma City, OK; Little Rock, AR; Birmingham, AL; Chattanooga and Memphis, TN, Duluth, GA; Pensacola, FL; Denver, CO; Los Angeles, Sacramento and San Francisco, CA; Abuquerque and Los Alamos, NM; and Richland, WA. Supporting shipper(s): Texas Stock Tab, Inc., Coppell, TX 75019.

MC 154586 (Sub-5–4TA), filed September 23, 1982. Applicant: MOO TRUCK LINES, INC., 4625 N. Lindberg, St. Louis, MO 63044. Representative: Roger R. Morris, 1175 St. Patrice, Florissant, MO 63031. *Commodities as are dealt in and used by Wholesale and Retail Food and Drug House, and Containers used in the manufacture of such Commodities. (Excempt Commodities in bulk in tank vehicles)* Between. points in the US. Supporting shipper: Custom Packaging Corporation, Maryland Heights, MO, Lever Brothers Company, New York, NY, Midland Glass Company, Inc., Cliffwood, NJ, Sunshine Mills, Inc., Red Bay, AL, Purex Corporation, St. Louis, MO.

MC 154883 (Sub-5–11TA), filed September 23, 1982. Applicant: LOGGINS TRUCKING COMPANY, P.O. Box 6676, Tyler, TX 75711.

Representative: Larry Loggins (same as applicant). Contract: Irregular. *Ice Cream and Related Products,* from Montgomery, New York to points in TX. Supporting shipper: Goldshield Foods, Montgomery, NY 12549.

MC 156488 (Sub-5–2TA), filed September 23, 1982. Applicant: CONTRANS, INC., 6716 Berger, Kansas City, KS 66111. Representative: Donald J. Quinn, Commerce Bank Building, 8901 State Line, Suite 232, Kansas City, MO 64114. Contract, Irregular; *Toys and related items* between points in the US under a continuing contract with Children's Palace, Kansas City, MO 64116.

MC 157823 (Sub-5–3TA), filed September 22, 1982. Applicant: NOTO MAGIC CITY EXPRESS, LTD., P.O. Box 364, Moberly, MO 65270. Representative: Tom B. Kretsinger, P.O. Box 258, Liberty, MO 64068. Contract, irregular *hides* from Macon MO, to St. Paul, MN. Supporting shipper: Twin City Hide, Inc., South St. Paul, MN 55075.

MC 161600 (Sub-5–2TA), filed September 22, 1982. Applicant: DOUBLE C ENTERPRIZE, INC., 950 Crestwood Cr., Lewisville, TX 75028. Representative: Carl Colman (same as above). Contract: Irregular; *Rubber and related products* from points in LA, MS, AL and AR to Dallas, TX. Supporting shipper(s): Long Mile Rubber Company, Dallas, TX 75245.

MC 163372 (Sub-5–4TA), filed September 24, 1982. Applicant: TRANS-CARRIERS, INC., 1013 Camelot Cove, West Memphis, AR 72301. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. (1) *Juices for human consumption* from Melrose Park, IL, to points in ND, SD, NE, KS, OK, TX, MN, WI, IA, MO, AR, LA, MI, OH, IN, KY, GA, AL, and MS; and (2) *Concentrate* from Avon Park, FL and Atlanta, GA to Melrose Park, IL. Supporting shipper: Home Juice Co., Inc., Melrose Park, IL.

MC 163662 (Sub-5–1TA), filed September 23, 1982. Applicant: M & A CARTAGE, P.O. Box 1445, Sweetwater, TX 79556. Representative: Clyde Walker (same as above). Contract: Irregular. *General commodities, usual exceptions. with prior or subsequent movement by rail* from Sweetwater, Texas and its commercial zone and all points within 150-mile radius. Supporting shipper: A.T. & S.F. Railway Company, Santa Fe Road, North of City, Sweetwater, TX 79556.

MC 163969 (Sub-5–1TA), filed September 23, 1982. Applicant: MANHATTAN TRANSIT, INC., 217 McCall Road, Manhattan, KS 66502. Representative: S. Thomas Abbott (same as above). Contract: Irregular. *Persons and baggage in charter party service* from Manhattan, KS, on the one hand, and, on the other, points and places in the states of CO, NE, and MO, and their commercial zones. Supporting shippers: Terry Ray Enterprises, Inc., Manhattan, KS; Renyard's West, Manhattan, KS; Manhattan Chamber of Commerce, Manhattan, KS.

The following applications were filed in region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St., suite 501, San Francisco, CA 94105.

MC 163790 (Sub-6–1TA), filed September 17, 1982. Applicant: CLYDE M. ANDERSON, P.O.B. 427, Cleveland, UT 84518. Representative: Clyde M. Anderson (same as applicant). *Contract carrier,* irregular routes, *alcoholic beverages and related products,* between points in AZ, CA, NV, and UT, for 270 days, under continuing contract(s) with Archer's Distributing, Inc., Wellington, Utah. An underlying ETA seeks 120 days authority. Supporting shipper: Archer's Dist., Inc., POB 596, Price, UT 84501.

MC 163900 (Sub-6–1TA), filed September 17, 1982. Applicant: DOMINGO BARRAGAN IBARGUEN, d.b.a. AUTOTRANSPORTES BARRAGAN Y HERMANOS., S.A., POB 5137, Calexico, CA 92231. Representative: Domingo Barragan Ibarguen (same address as applicant). *Contract Carrier,* Irregular routes: *Wood Products, Nails, Paper and Oil Products,* between points in CA and the International Boundary at Calexico, CA for 270 days. Supporting shippers: Rocklin De Mexico, S.A., Carretera A San Luis KM. 9.5 Mexicali, B.C., Mexico; Central De Envases y Empaques, S.A., Blvd. Lopez Mateos Km. 5.5 and Dagal, S.A., Km 6.5 Carrt. Sn. Luis.

MC 52793 (Sub-6–27TA), filed September 17, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside IL 60162. Representative: David A. Gallagher (same as applicant). *Contract* irregular: *Used household goods,* between points in the U.S., except AK and HI. Restricted to traffic moving under continuing contract with Texaco, Inc., for 270 days. Supporting shipper: Texaco, Inc., P.O.B. 52332, Houston, TX 77052.

MC 163880 (Sub-6–1TA), filed September 17, 1982. Applicant: BERNIE EVELO, 800 Speedway Ave., E. Missoula, MT 59801. Representative: Thomas J. Simmons, P.O.B. 480, Sioux Falls, SD 57101. *Contract,* irregular, *Agricultural storage and feeding systems,* from Webster City, IA Grand Island, NE and Bluffton, IN to the facilities of MDK Enterprises, Inc. located in ID, OR, and WA under contract with MDK Enterprises, Inc. of Portland, OR, for 270 days. An underlying ETA seeks 120 days. Supporting shipper: MDK Enterprises, Inc., 829 S.E. 181 Street, Portland, OR 97233.

MC 163957 (Sub-6–1TA), filed September 22, 1982. Applicant: FLOYD J. KNIGHT, d.b.a. KNIGHTS TRUCKING, Box 262, Thayne, WY 83127. Representative: Floyd J. Knight (same as applicant). *Contract Carrier,* Irregular routes: *Cheese and materials in making cheese,* between Thayne, WY and points in AZ, CA, CO, NJ, NV, OR, UT, KS, NE, WI, IL, PA, NY, TX, WA, MO, MN, OH for the account of Star Valley Cheese Corp., for 270 days. Supporting shipper: Star Valley Cheese Corp. Hiway 89, Thayne, WY 83127.

MC 163883 (Sub-6–1TA), filed September 16, 1982. Applicant: LENGNER & SONS PRODUCE EXPRESS, 3438 Mendocino Ave., Santa Rosa, CA 95404. Representative: Terry J. Coniglio, 3325 Wilshire Blvd., Suite 1214, Los Angeles, CA 90010. (1) *General Commodities* (excluding household goods as defined by the I.C.C., Class A and B explosives, commodities carried in bulk in tank truck and hazardous waste materials), between Arcata, Calpella, Cloverdale, Eureka, Fort Bragg, Fortuna, Hay Fork, Oroville, Marysville, Red Bluff, Scotia, Ukiah and Willits, CA on the one hand and Roseville, Stockton, Oakland, Richmond, Terra Bella, Fresno and Bakersfield, CA on the other hand, having a prior or subsequent movement by Rail or Ocean Carrier in Interstate or Foreign Commerce, for 270 days. Supporting shippers: Motor Activities Inc., 12672 Dunas Santa Ana, CA 92705; Rail Services, 3710 W. 47th St., Chicago, IL 60632; Western Intermodal Services, Ltd., 15224 Dixie Hwy., Harvey, IL 60426; ITCO, 2211 Wood St., Oakland, CA 94607.

MC 144676 (Sub-6–2TA), filed September 16, 1982. Applicant: McELROY TRUCKING, INC., 1905 Gordon Road, Yakima, WA 98909. Representative: Jack R. Davis, 1200 IBM Building, Seattle, WA 98101. *Contract carriage,* irregular routes, *Chemicals and Related Products,* between points in Chenango County, NY and Montgomery County, PA on the one hand, to points in Dallas County, TX and Los Angeles County, CA on the other hand, for the account of Borden, Inc.—Consumer Products Division, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Borden,

Inc.—Consumer Products Division, 180 East Broad Street, Columbus, OH 42215.

MC 157487 (Sub-6–3TA), filed September 16, 1982. Applicant: NORM'S HAULING, LTD., POB 2378, Prince Albert, Saskatchewan S6V 6Z1. Representative: Robert N. Maxwell, POB 2471, Fargo, ND 58108. *Dry fertilizer,* from Conda, ID to the ports of entry on the International Boundary Line between the U.S. and CD at points in MT for 270 days. Supporting shipper: Nash Fertilizers, POB 577, Laurel, MT 59044.

MC 142935 (Sub-6–6TA), filed September 22, 1982. Applicant: PLASTIC EXPRESS, 2301 E. Francis St., Ontario, CA 91761. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633. *Fruit Juices and Apple Products,* except liquids in bulk, from the facilities of Tree Top, Inc. at or near Selah WA to points in TX, for 270 days. Supporting shipper: Tree Top, Incorporated, P.O.B. 248, Selah, WA 98942.

MC 153641 (Sub-6–1TA), filed September 17, 1982. Applicant: JOHN WALKER, d.b.a. RED LABEL EXPRESS, W. 910 Lacey Ave., Hayden, ID 83835. Representative: Kevin M. Clark, 2417 Bank Dr., Ste. 8, Boise, ID 83705. *General Commodities* (except Classes A and B explosives, commodities in bulk and household goods), between points in Shoshone, Kootenai, Benewah, Latah, Bonner, Boundary, Clearwater and Nez Perce Counties, ID and Missoula, Sanders, Lincoln, Lake, Flathead, Yellowstone, Gallatin, Lewis and Clark, and Jefferson Counties, MT, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 10 shippers. Their statements may be examined in the Regional Office listed.

MC 163885 (Sub-6–1–TA), filed September 16, 1982. Applicant: JACK WEBER TRUCKING, 6960 S. 841 W., Unit 3, Salt Lake City, UT 84047. Representative: Franklin L. Slaugh, 8522 S. 1300 E., Ste. D–203, Sandy, UT 84070. *Contract carrier,* irregular routes: *food and related products,* from Salt Lake City, UT to CA, OR and WA, under continuous contract(s) with Aspen Distribution, Inc., of Salt Lake City, UT., for 270 days. Supporting shipper: Aspen Distribution, Inc., 1765 S. 4250 W., Salt Lake City, UT 84104.

MC 142660 (Sub-6–1TA), filed September 17, 1982. Applicant: WESTERN CARGO, INC., P.O.B. 20469, Reno, NV 89515. Representative: Royal F. Miller (same as applicant). *Contract,* irregular; *General commodities* (except classes A and B explosives, household goods as defined by the Commission, Commodities in bulk, and hazardous waste), between points in NV on the one hand, and, on the other, points in AZ, CA, ID, MT, NV, OR, UT, and WA for 270 days. Supporting shipper: K-Mart Corp., 3100 West Big Beaver, Troy MI, 48084.

MC 163960 (Sub-6–1TA), filed September 22, 1982. Applicant: SIE DUKES d.b.a. ALL 'N' ALL CHARTER TOURS, 16602 S Harris Ave., Compton, CA 90221. Representative: Sie Dukes (same address as applicant). *Passengers and their baggage, in the same vehicle with passengers* in charter and special operations between Los Angeles County, CA and points in AZ and NV or 180 days. Supporting Shipper(s): Sophisticated Hearts, 3600 5th Ave., Los Angeles, CA 90018; B & B Productions, 20113 S Nestor, Carson, CA; Tropicana Tournament Club, 829 E Tannerberg Court, Carson, CA 90746 and Safeway #9 Store, 1133 Artesia Blvd., Manhattan Beach, CA 90262.

MC 163977 (Sub-6–1TA), filed September 24, 1982. Applicant: CLEAR SPRINGS TROUT COMPANY, P.O.B. 712, Buhl, ID 83316. Representative: Timothy R. Stivers, P.O.B. 1576, Boise, ID 83701. *Contract Carrier,* Irregular routes: *Beer, wine and related advertising materials,* from points in CA, OR and WA to Burley, Hailey and Twin Falls, ID, for the account of Southern Idaho Distributors, for 270 days. Supporting shipper(s): Southern Idaho Distributors, P.O.B. 423, Twin Falls, ID 83301.

MC 163962 (Sub-6–1TA), filed September 22, 1982. Applicant: DELLEN WOOD PRODUCTS (d.b.a.), DWP TRUCKING, Building 18, Spokane Industrial Park, Spokane, WA 99216. Represenatative: James E. Wallingford, POB 2047, Spokane, WA 99220. *Contract carrier,* irregular routes: *Lumber, Veneer, Shakes, Plywood, Wallboard, Wood and Forest Products* between points in ID, MT, OR and WA; for a period of 270 days: supporting shippers: there are seven shippers; their statements may be examined at the regional office stated above.

MC 41099 (Sub-6–9TA), filed September 22, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., N.W. Suite 301, Washington, DC 20006. *Contract carrier,* irregular routes, *general commodities* (except commodities in bulk, household goods and classes A and B explosives) between points in the U.S. under continuing contracts with Singer Career Systems of Rochester, NY for 270 days. Supporting shipper: Singer Career Systems, 80 Commerce Dr., Rochester, NY 14623

MC 163978 (Sub-6–1TA), filed September 24, 1982. Applicant: DANIEL M. BISHOP & LINDA B. BISHOP, d.b.a. GONALOT TRUCKING, 1679 Suite A, Sage Rd., Medford, OR 97502. Representative: Mike Pavlakis, P.O. Box 646, Carson City, NV 89702. *Lumber, building materials, machinery and equipment, packaged chemicals, minerals and paint,* between AZ, CA, CO, ID, NV, NM, MT, OR, TX, UT, WA and WY, for 270 days. Supporting shippers: There are 10 supporting shippers. Their statements may be examined at the regional office listed.

MC 144893 (Sub-6–3 TA), filed September 24, 1982. Applicant: NORMAN HOWARD, d.b.a. HOWARD TRUCKING OF UTAH, 1755 East 800 North, St. George, UT 84770. Representative: J. Ralph Atkin, P.O. Box 339, St. George, UT 84770. (1) *Petroleum* and *petroleum products in packages,* and (2) *Vehicle body sealer* and *Sound deadening compounds* and related products from Alameda Country & Los Angeles County, CA to all points in CA, NV, AZ, UT, CO, NM, and TX for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Pennzoil, 1630 West Olympic Blvd., Los Angeles, CA 90019.

MC 129420 (Sub-6–1TA), filed September 24, 1982. Applicant: LILE INTERNATIONAL COMPANIES, 15605 S.W. 72nd Ave., Tigard, OR 97223. Representative: Wendell B. Lile (same as applicant). *Household goods, unaccompanied baggage and used automobiles.* Between points in the U.S., excluding VT, for 270 days. Government traffic.

MC 158073 (Sub-6–2TA), filed September 24, 1982. Applicant: MEMOREX DISTRIBUTION AND SERVICES COMPANY, San Tomas at Central Expressway, Santa Clara, CA 95052. Representative: Ellis Ross Anderson, 100 Bush St., Suite 410, San Francisco, CA 94104. *Contract carrier;* irregular route, *General commodities (except Classes A and B explosives, used household goods, and commodities transported in bulk),* between Santa Clara, CA, Fort Worth, TX, Northbrook, IL, and Kennebunk, ME, on the one hand, and, on the other, points in the U.S. (except AK and HI) for 270 days. Supporting shipper: Tandy Corp., 1600 Memorex Drive, Santa Clara, CA 95052.

MC 159815 (Sub-6–2TA), filed September 22, 1982. Applicant: LAUREL PHILLIPS, 11570 Ponderosa Dr., Fontana, CA 92335. Representative: Richard C. Celio, 2300 Camino,

Fullerton, CA 92633. *Paper, printing other than newsprint,* from the plantsite and warehouse facilities of Simpson Paper Company located in Pomona, CA to points in OR, WA, NV, ID, UT, CO, MT, and NM, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Simpson Paper Company, 100 Erie St., Pomona, CA.

MC 148874 (Sub-6-8TA), filed September 24, 1982. Applicant: PROFICINET FOOD CO., 17872 Cartwright Rd., Irvine, CA 92705. Representative: Floyd L. Farano, 2555 E. Chapman Ave., Suite 415, Fullerton, CA 92631. *Contract Carrier*—Irregular route: *Food and related products* between points in the U.S. (except AK and HI) for the account of Heinz, USA, Division of H. J. Heinz CO., for 270 days. Supporting shipper: Heinz, USA, a Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15203.

MC 163964 (Sub-6-1TA), filed September 22, 1982. Applicant: RICHARD LEONARD STERKA, d.b.a. WHEELS UNLIMITED, 16011 Commerce Wy., Cerritos, CA 90701. Representative: Donald R. Hedrick, POB 4334, Santa Ana, CA 92702. *Contract Carrier,* Irregular routes: (1) *Motorcycles, golf-carts, snow mobiles, go-carts (racing), portable electric generators, and, related engines, parts and accessories;* (2) *equipment, materials and supplies used in the assembly, display and demonstration of the commodities named in (1) above;* and, (3) *clothing and related items,* between points in the U.S. (except AK and HI) for the account of Yamaha Motor Corporation, U.S.A., for 270 days. Supporting shipper: Yamaha Motor Corporation, U.S.A. 6555 Ketella Ave., Cypress, CA 90630.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-27183 Filed 10-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30031]

Rail Carrier; Carolina and Northwestern Railway Co.—Exemption—Abandonment—Lenoir, NC

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10505 the Interstate Commerce Commission exempts the abandonment by Carolina and Northwestern Railway Company of 0.51 miles of track at or near Lenoir, NC, from the requirements of 49 U.S.C. 10903 *et seq.*

DATES: This exemption will be effective November 3, 1982, and petitions for reconsideration must be filed by October 25, 1982, and petitions for stay must be filed by October 14, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's Representative, Nancy S. Fleischman, P.O. Box 1808, Washington, DC 20013, (202) 383-4000

Pleadings should refer to Finance Docket No. 30031.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289-4357—DC metropolitan area, (800) 424-5403—Toll-free for outside the DC area.

Decided: September 27, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-27189 Filed 10-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-154N)

Rail Carrier; Conrail Abandonment of the Clinton and Vulcan Secondary Tracks, MI; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its (1) Clinton Secondary Track between mileposts 0.25 and 13.7 and (2) Vulcan Secondary Track between mileposts 312.1 and 315.5 in the Counties of Lenawee, Monroe and Washtenaw, MI, a total distance of 16.85 miles effective on March 1, 1982.

The net liquidation value of the line between (1) mileposts 0.25 and 13.7 is $538,738 and (2) mileposts 312.1 and 315.5 is $163,415. If, within 120 days from the date of this publication, Conrail receives bona fide offers for the sale, for 75 percent of the net liquidation value, of these lines it shall sell such lines and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-27187 Filed 10-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-451N)

Rail Carriers; Conrail Abandonment Between Catasauqua and Leighton, PA; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate and decision authorizing the Consolidated Rail Corporation to abandon its rail line between Catasauqua, milepost 98.0 and Leighton, milepost 119.3 in the Counties of Lehigh and Carbon, PA, a total distance of 21.3 miles effective on March 11, 1982.

The net liquidation value of this line is $1,647,927. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-27186 Filed 10-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-116N)]

Rail Carriers; Conrail Abandonment in Kankakee County, IL; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate and decision authorizing the Consolidated Rail Corporation to abandon its rail line between (1) milepost 0.0 and milepost 0.047 and (2) milepost 0.33 and milepost 1.1 in the County of Kankakee, IL, a total distance of .817 miles effective on February 25, 1982.

The net liquidation value of the line between (1) milepost 0.0 and milepost 0.047 and (2) milepost 0.33 and milepost 1.1 is $12,842. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an

equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-27785 Filed 10-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 285N]

Rail Carrier; Conrail Abandonment Between Pana and Paris, IL; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate and decision authorizing the Consolidated Rail Corporation to abandon its rail line between Charleston, milepost 116.5 and Mattoon, milepost 129.5 in the County of Coles, IL, a total distance of 13.0 miles effective on March 11, 1982.

The net liquidation value of this line is $1,522,912. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-27184 Filed 10-1-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-191-194 (Preliminary)]

Steel Rails From the Federal Republic of Germany, France, the United Kingdom, and Luxembourg; Countervailing Duty Investigations

AGENCY: U.S. International Trade Commission.

ACTION: Institution of the above-captioned preliminary countervailing duty investigations and termination of investigation No. 701-TA-189 (Preliminary), Steel Rails from the European Community.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of investigation Nos. 701-TA-191 through 194 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671(b)(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of imports from the Federal Republic of Germany, France, the United Kingdom, and Luxembourg of steel rails upon which bounties or grants are allegedly being paid.

EFFECTIVE DATE: September 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence Rausch, Office of Investigations, U.S. International Trade Commission; telephone 202-523-0286.

SUPPLEMENTARY INFORMATION: The purpose of the institution of the above-captioned investigations and the termination of investigation No. 701-TA-189 (Preliminary) is to conform the scope of the Commission's preliminary countervailing duty investigations with those of the Commerce Department. These actions are being taken pursuant to the authority under § 207.13 of the Commission's Rules of Practice and Procedure (19 CFR 207.13).

By order of the Commission.

Issued: September 29, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-27278 Filed 10-1-82; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

[Order No. 989-82]

Designating Ralph W. Tarr as the Representative From the Department of Justice on the Administrative Committee of the Federal Register

By virtue of the authority vested in me by 44 U.S.C. § 1506, I hereby designate Ralph W. Tarr, Deputy Assistant Attorney General, Office of Legal Counsel, as the representative of the Department of Justice on the Administrative Committee of the Federal Register.

Order No. 926-81 of January 13, 1981 is revoked.

This order is effective on September 23, 1982.

Dated: September 23, 1982.

William French Smith,

Attorney General.

[FR Doc. 82-27186 Filed 10-1-82; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 82-19]

Michael A. Rush, D.P.M., Hollywood, Florida; Hearing

Notice is hereby given that on July 12, 1982, the Drug Enforcement Administration, Department of Justice, issued to Michael A. Rush, D.P.M., an Order To Show Cause as to why his pending application for registration with the Drug Enforcement Administration as a practitioner should not be denied.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Friday, October 15, 1982, in Courtroom No. 3, Room 309, U.S. Court of Claims, 717 Madison Place, N.W., Washington, D.C.

Dated: September 28, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-27198 Filed 10-1-82; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82-59)]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on Rotorcraft Technology.

DATE AND TIME: October 26, 1982, 8:30 a.m. to 5 p.m.; October 27, 1982, 8 a.m. to 5 p.m.; October 28, 1982, 8 a.m. to 4 p.m.

ADDRESS: National Aeronautics and Space Administration, Ames Research Center, Committee Room, Bldg. N-200, Moffett Field, CA.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Ward, National Aeronautics and Space Administration, Code RJL-2, Washington, DC 20546 (202/755-2375).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Rotorcraft Technology was established

to assist the NASA in assessing the current adequacy of rotorcraft technology and recommend actions to reduce deficiencies through modification of the planned NASA research and technology program in rotorcraft aerodynamics, acoustics, structures, dynamics, propulsion system components, flight control, and avionics. The subcommittee, chaired by Mr. Edward S. Carter, Jr., is comprised of eight members. The meeting will be open to the public up to the seating capacity of the room (approximately 46 persons including the subcommittee members and participants).

Type of meeting: open.

Agenda

October 26, 1982

8:30 a.m.—Report of Chairperson and Executive Secretary.
9 a.m.—Summary of NASA Rotorcraft Programs; FY 1982 Accomplishments, FY 1983/1984 Plans—NASA Ames Research Center/NASA Langley Research Center.
5 p.m.—Adjourn.

October 27, 1982

8 a.m.—Summary of NASA Rotorcraft Programs; FY 1982 Accomplishments, FY 1983/1984 Plans—NASA Lewis Research Center.
9 a.m.—Discussion of Special Topics from July, 1982 Rotorcraft Subcommittee Meeting.
5 p.m.—Adjourn.

October 28, 1982

8 a.m.—Subcommittee Working Session.
1 p.m.—Issues and Questions—Subcommittee.
2 p.m.—Subcommittee Draft Summary Presentation and Report.
4 p.m.—Adjourn.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

September 24, 1982.

[FR Doc. 82-27175 Filed 10-1-82; 8:45 am]

BILLING CODE 7510-01-M

[Notice (82-58)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces the forthcoming meeting of the NASA Advisory Concil, Informal Ad Hoc Solar System Exploration Committee.

DATE AND TIME: October 22-25, 1982, 8:30 a.m. to 5:30 p.m.

ADDRESS: National Center for Atmospheric Research, Damon Room, 1850 Table Mesa Drive, Boulder, Colorado 80303.

FOR FURTHER INFORMATION CONTACT: Mrs. Diane M. Mangel, National Aeronautics and Space Administration, Code EL-4, Washington, DC 20546 (202/755-6038).

SUPPLEMENTARY INFORMATION: The Informal Ad Hoc Solar System Exploraton Committee was established under the NASA Advisory Council to translate the scientific strategy developed by the Committee on Planetary Exploration (COMPLEX) into a realistic, technically sound sequence of missions consistent with that strategy and with resources expected to be available for solar system exploration. The committee will report its findings to the Council and to NASA. The committee is chaired by Dr. Noel W. Hinners and is composed of six other members of the Council and its standing committees; who will meet with about 9 other invited participants and certain NASA personnel.

The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons, including committee members and invited meeting participants). Visitors will be requested to sign a visitor's register.

Type of meeting.—Open.

Agenda

October 22, 1982

8:30 a.m.—Review Study Reports
1 p.m.—Industry Comment on Report

October 23, 1982

8:30 a.m.—Subcommittee Reports

October 24, 1982

8:30 a.m.—Discussion of Recommendations
1 p.m.—Comments and Plans for Final Report

October 25, 1982

8:30 a.m.—Plans for Next Year's Activity

Richard L. Daniels,

Director, Management Support Office, Office of Management.

September 24, 1982.

[FR Doc. 82-27176 Filed 10-1-82; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Subpanel for Neurobiology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel for Neurobiology Program of the Advisory Panel for Behavioral and Neural Sciences
Date: 9:00 a.m. to 5:00 p.m. each day
Place: Room 1224, National Science Foundation, 1800 G. St., NW., Washington, DC.
Type of Meeting: Part Open: 10/21 9 a.m.-5 p.m.; Closed 10/22 9 a.m.—2 p.m.; Open: 10/22 2 p.m.-5 p.m.
Contract Person: Steven E. Kornguth, Program Director for Neurobiology, National Science Foundation, Room 320, 1800 G. St., NW., Washington, DC. 20550. Telephone (202) 357-7471
Purpose of Panel: To provide advice and recommendations concerning support for research in Neurobiology.
Agenda:
Open: October 22, 2 p.m. to 5 p.m. General Discussion of the current status and future trends in Neuroscience.
Closed: October 21, 9:00 a.m. to 5 p.m. and October 22 9 a.m. to 2 p.m. To review and evaluate research proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of the proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act
Authority To Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

September 29, 1982.

[FR Doc. 82-27225 Filed 10-1-82; 8:45 am]

BILLING CODE 7555-01-M

Subpanel for Psychobiology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Behavioral and Neural Sciences, Subpanel on Psychobiology
Date and Time: October 21-22, 1982, 8:30 a.m.—5:00 p.m. each day
Place: National Science Foundation, 1800 G Street, N.W., Room 642, Washington, DC
Type of Meeting: Closed
Contact Person: Dr. Fred Stollnitz, Program Director, Psychobiology Program, Room 320, National Science Foundation, Washington, D.C., (202) 357-7949
Purpose of Panel: To provide advice and recommendations concerning support for research in psychobiology
Agenda: To review and evaluate research proposals as part of the selection process for awards

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act

Authority To Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979

M. Rebecca Winkler,

Committee Management Coordinator.

September 29, 1982.

[FR Doc. 82-27226 Filed 10-1-82; 8:45 am]

BILLING CODE 7555-01-M

Subpanel for Sensory Physiology and Perception; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Behavioral and Neural Sciences, Subpanel for Sensory Physiology and Perception

Date and Time: October 21–22, 1982, 9:00 a.m. to 5:00 p.m.

Place: Room 628, at The National Science Foundation, 1800 G Street, N.W., Washington, DC 20550

Type of Meeting: Closed 9:00 a.m. to 5:00 p.m., Oct. 21 and 22

Contact Person: Dr. William A. Yost, Program Director, Sensory Physiology and Perception, Room 320, National Science Foundation, Washington, D.C. 20550; (202) 357–7428

Summary Minutes: May be obtained from the Contact Person, Dr. William A. Yost at the address listed above

Purpose of Panel: To provide advice and recommendations concerning support for research in sensory physiology and perception

Agenda: To review and evaluate research proposals as part of the selection process for awards

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(C), Government in the Sunshine Act

Authority To Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979

M. Rebecca Winkler,

Committee Management Coordinator.

September 29, 1982.

[FR Doc. 82-27227 Filed 10-1-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Extreme External Phenomena; Meeting

The ACRS Subcommittee on Extreme External Phenomena will hold a meeting on October 21 and 22, 1982, at the Miramar-Sheraton Hotel, 1133 Ocean Avenue, Santa Monica, CA. The Subcommittee will review the issues associated with the flooding and seismic hazards at Systematic Evaluation Program (SEP) plants, the NRC Staff's proposed solutions for plants which do not meet the requirements of the Standard Review Plant (SRP), the site-specific development of design basis tornado windspeeds, and the recent ACRS recommendations on the evaluation of seismic design margins.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Thursday, October 21, 1982—8:00 a.m. until the conclusion of business

Friday, October 22, 1982—8:00 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: September 27, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-27262 Filed 10-4-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN 50–454 OL and STN 50–455 OL]

Commonwealth Edison Co. (Byron Station, Units 1 and 2); Notice of Prehearing Conference

September 28, 1982.

Please take notice that pursuant to the order in this proceeding of August 30, 1982, a prehearing conference to monitor the progress of discovery will be held on October 14, 1982, at 9:30 a.m. local time in the Federal Building, Room 260, 211 South Court Street, Rockford, Illinois 61101.

It is so ordered.

Dated at Bethesda, Maryland, this 28th day of September 1982.

For the Atomic Safety and Licensing Board.

Morton B. Margulies,

Chairman, Administrative Judge.

[FR Doc. 82-27263 Filed 10-5-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–348 and 50–364]

Alabama Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 27 to Facility Operating License No. NPF–2 and Amendment No. 16 to Facility Operating License No. NPF–8 issued to Alabama Power Company (the licensee), which revised Technical Specifications for operation of the Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in Houston County, Alabama. The amendments are effective as of the date of issuance but will expire on September 1, 1983.

The amendments change the Technical Specifications relating to diesel generator load testing for a one-time period expiring on September 1, 1983. The change allows the diesel

generators to be tested for two hours at the 2000-hour rating and 22 hours at the continuous rating instead of at the 2000-hour rating pending future changes to the loadings of river water onto the diesels automatically.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since these amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated August 3, 1982, as supplemented August 20, 1982, (2) Amendment Nos. 27 and 18 to License Nos. NPF–2 and NPF–8, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 20th day of September 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-27248 Filed 10-1-82; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Import Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application" please take notice that the Nuclear Regulatory Commission has received the following applications for import licenses. A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

The table below lists the new major import applications.

Dated this 24th day of September at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

FEDERAL REGISTER (IMPORT)

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Transnuclear, Inc., Sept. 13, 1982, Sept. 14, 1982, ISNM82017.	3.2 pct. enriched uranium	27,080.00	872.96	U.S. supplied material being returned to U.S. DOE or Westinghouse for storage.	From W. Germany.
Transnuclear, Inc., Sept. 20, 1982, Sept. 20, 1982, ISNM82018.	1.0 pct. enriched uranium	21,000	210	Enriched uranium from reprocessing of Wuergassen fuel—to be used as feed for UES–4104–DUE.	Do.
Transnuclear, Inc., Sept. 20, 1982, Sept. 20, 1982, ISNM82019.	1.20 pct. enriched uranium	27,000	324	Enriched uranium from reprocessing Gundremmingen fuel—to be used as feed for UES–4104–DUE.	Do.
Edlow International Co., Sept. 17, 1982, Sept. 20, 1982, ISNM82020.	5.0 pct. enriched uranium	5,000,000	250,000	For ultimate use as fuel in nuclear reactors	From various countries.

[FR Doc. 82-27261 Filed 10-1-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–295]

Commonwealth Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 76 to Facility Operating License No. DPR–39, issued to the Commonwealth Edison Company (the licensee), which revised Technical Specifications for operation of the Zion Station, Unit 1 (the facility) located in Zion, Illinois. The amendment is effective as of the date of issuance.

The amendment will permit the 1B Charging pump to be inoperable for an additional three days (until 1440 hours on September 29, 1982) while repairs are completed to the pump. This amendment is being issued on an expedited basis to maintain the plant at steady-state operation and avoid a shutdown transient which would be required by our Technical Specifications but shown by our evaluation to be unnecessary.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated September 23, 1982, (2) Amendment No. 76 to License No. DPR–39, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Zion-Benton Public Library District, 2000 Emmaus Avenue, Zion, Illinois 60099. A copy of items (2) and (3) may be obtained upon request

addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 24th day of September, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-27249 Filed 10-1-82; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget Review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension; Extension and adjustment to burden.

2. The title of the information collection: 10 CFR Part 19, "Notices, Instructions, and Reports to workers; Inspections.

3. The form number if applicable: Not applicable.

4. How often the collection is required: Annually and on occasion.

5. Who will be required or asked to report: NRC licensees.

6. An estimate of the number of responses: 467,000.

7. An estimate of the total number of hours needed to complete the requirement or request: 77,800.

8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: 10 CFR Part 19, Section 19.13, "Notifications and Reports to Individuals," requires NRC licensees to provide radiation workers with reports of their exposure to radiation. The information in such reports is used by both individual workers and NRC licensees to assure that radiation doses to individuals are maintained within established limits.

Copies of the submittal may be inspected or obtained for a fee from NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Gwendolyn W. Pla, (202) 395-6880.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland, this 28th day of September 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 82-27257 Filed 10-1-82; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Revision.

2. The title of the information collection: Certificate of Disposition of Materials.

3. The form number if applicable: NRC 314.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: Firms and individuals holding NRC licenses to possess and use radioactive materials who do not wish to renew those licenses.

6. An estimate of the number of responses: 200.

7. An estimate of the total number of hours needed to complete the requirement or request: 100.

8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: Provides detailed information regarding disposition and/or procurement of radioactive material upon termination of the license.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer Gwendolyn W. Pla, (202) 395-7313.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland this 28th day of September 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 82-27258 Filed 10-1-82; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Revision.

2. The title of the information collection: 10 CFR 35.27, Records of Teletherapy Inspections and Servicing, Amendment.

3. The form number if applicable: Not applicable.

4. How often the collection is required: Once every five years.

5. Who will be required or asked to report: NRC teletherapy licensees.

6. An estimate of the number of responses: 84.

7. An estimate of the total number of hours needed annually to complete the requirement or request: 42.

8. An indication of whether Section 3504 (h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: Proposed amendment to 10 CFR 35.27 requires all teletherapy licensees to establish a program for the periodic inspection and servicing of teletherapy machines and the keeping of records to verify compliance.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street N.W., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer Gwendolyn W. Pla, (202) 395-6880.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland this 24th day of September 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 82-27259 Filed 10-1-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-335]

Florida Power and Light Co., Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 53 to Facility Operating License No. DPR-67, issued to Florida Power and Light Company, which revised Technical Specifications for operation of the St. Lucie Plant, Unit No. 1 (the facility), located in St. Lucie County, Florida. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to delete the current requirements to periodically test the insulation of certain Class 1E electrical underground cables for environmental damage.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CRF Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 28, 1982, (2) Amendment No. 53 to License No. DRP-67 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 21st day of September, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3 Division of Licensing.

[FR Doc. 82-27250 Filed 10-1-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-458/459-OL and ASLBP No. 82-468-01 OL]

Gulf States Utilities Co., Cajun Electric Power Coop. (River Bend Station, Units 1 and 2); Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for Gulf States Utilities Co. and Cajun Electric Power Coop. (River Bend Station, Units 1&2), Docket No. 458/459-OL, is hereby reconstituted by appointing the following Administrative Judge to the Board: Mr. Gustave A. Linenberger. Dr. Forrest J. Remick, former member of this Board, has resigned from the Panel.

As reconstituted, the Board is comprised of the following Administrative Judges:

B. Paul Cotter, Jr. Chairman
Dr. Richard Cole
Mr. Gustave A. Linenberger

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is: Administrative Judge Gustave A. Linenberger, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issued at Bethesda, Maryland this 24th day of September 1982.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 82-27260 Filed 10-1-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

GPU Nuclear Corp. and Jersey Central Power and Light Co.; Consideration of Issuance of Amendment to Provisional Operating License

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-16 issued to GPU Nuclear Corporation and Jersey Central Power and Light Company (the licensees), for operation of the Oyster Creek Nuclear Generating Station located in Ocean County, New Jersey.

The amendment would approve expansion of the spent fuel storage capacity from 1800 to 2600 spent fuel assemblies. Such approval would allow the pool to be sequentially reracked with free-standing, high-density poisoned racks.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By September 28, 1982, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject provisional operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

No later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of

the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000. The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Dennis M. Crutchfield: (petitioner's name and telephone number), (date petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to G. F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 20, 1982, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at 101 Washington Street, Toms River, New Jersey 08753. The licensees intend to submit a final report in June 1983, which will address the areas of reactivity considerations, the pool's structural adequacy and the heat load in the pool in more detail.

Dated at Bethesda, Maryland this 28th day of September 1982.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 82-27251 Filed 10-1-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-315]

Indiana and Michigan Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 62 to Facility Operating License No. DPR-58, issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit No. 1 (the facility) located in Berrien County, Michigan. The amendment is effective as of the date of issuance.

The amendment extends until October 9, 1982 the permissible operation in modes 2 and 3 with one Safety Injection pump inoperable.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated September 17, 1982, (2) Amendment No. 62 to License No. DPR-58, and (3) the Commission's letter dated September 17, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 17th day of September 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-27252 Filed 10-1-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275, 50-276; and DD-82-10]

Pacific Gas & Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2); Director's Decision Under 10 CFR 2.206

In a letter dated May 12, 1982, the Joint Intervenors [1] to the Diablo Canyon Nuclear Power Plant licensing proceeding directed a request for action pursuant to 10 CFR 2.206 to the Director of the Office of Nuclear Reactor Regulation. Specifically, Joint Intervenors requested:

(1) The issuance of an order to show cause why Pacific Gas and Electric Company (PG&E) should not be directed to file forthwith the requisite amendments to the pending operating license applications for Diablo Canyon Units in light of the extensive and conceded restructuring by PG&E of the Diablo Canyon Project organization and management; and (2) subsequent to the filing of such amendments, a hearing to determine the consistency of the restructured organization and management with all applicable provisions of the Atomic Energy Act, 42 U.S.C. 2011 *et seq. and the Commission's regulations.*

They assert that given the breakdown of PG&E's quality assurance program in the past, the extensive restructuring of PG&E and its impact on quality assurance activities must be closely examined to assure that past failures are not repeated. Petition at 5–6.

Their request was supplemented by an additional letter, dated May 25, 1982, which asserted that a license amendment application submitted by PG&E on May 10, 1982, requesting certain changes to its technical specifications for Diablo Canyon Unit 1, did not satisfy the Joint Intervenors' concerns. Notice of receipt of the Joint

[1] The San Luis Obispo Mothers for Peace, Scenic Shoreline Preservation Conference, Inc., Ecology Action Club, Sandra Silver, Gordon Silver, Elizabeth Apfelberg, and John J. Forster.

Intervenors' petition was published in the **Federal Register** on June 22, 1982 (47 FR 26954).

Discussion

On September 22, 1981, following the Licensing Board's low power decision and Commission review under the immediate effectiveness rule [2] a license was issued to PG&E for fuel loading and low-power testing up to 5% of rated power for the Diablo Canyon Plant Unit 1. Subsequently, on November 19, 1981, the Commission suspended the low-power license pursuant to 10 CFR 2.202, because new information had been developed which raised doubts about the adequacy of PG&E's quality assurance program.[3] The Commission further ordered the licensee to conduct an independent design verification program on all safety-related activities performed prior to June 1978 under all seismic service-related contracts. Verification of quality assurance program effectiveness was identified as a major element of the remedial program. That program is now underway.

On March 22, 1982, PG&E announced that the Diablo Canyon Project Organization was being restructured in order to integrate Bechtel Power Corporation as the project manager, with responsibility for completion of the work necessary to:

(1) Restore the low power license for Unit 1,

(2) Obtain a full power license for the plant,

(3) Complete construction of Unit 2, and

(4) Provide start-up engineering and construction support needed to bring both units into commercial operation.

The role of Bechtel Power Corporation was further clarified in a meeting with NRC personnel on March 25, 1982 and in a letter to the Director of Nuclear Reactor Regulation on April 22, 1982.

For Diablo Canyon Unit 1, Bechtel Power Corporation personnel, as part of the single totally integrated Diablo Canyon Project Organization, will act in support of PG&E personnel to help establish objectives, schedules, programs and to monitor those items. The above activities will be conducted in accordance with the Project Quality Assurance Program. The Project Quality Assurance Program was developed using the previously NRC approved Bechtel Power Corporation Topical Report on Quality Assurance, BQ–TOP–1, modified to conform to the Diablo Canyon Project Organization. The NRC Staff has reviewed the Project Quality Assurance Program and found it acceptable following receipt of certain additional information contained in the Licensee's letter of August 13, 1982. Bechtel does not plan to do any actual construction work at either Unit 1 or Unit 2, although some design activities involving additional personnel may be performed for Unit 2.

PG&E continues to be in control of the general design and construction of both Units. Consequently, the introduction of Bechtel Power Corporation into the overall Diablo Canyon Project Organization and its related quality assurance program does not represent a significant change to the information supplied by the licensee and reviewed by the NRC concerning the requirements of 10 CFR 50.34(a)(7). Thus, no amendment to the construction permits for the Diablo Canyon facilities is required.[4]

The information required by 10 CFR 50.34(b)(6) (i) and (ii) to be submitted in the Final Safety Analysis Report of the operating license application describes the organizational structure and managerial and administrative controls for the plant during operation. None of the changes described so far by PG&E with respect to Bechtel's participation in the Diablo Canyon project alter previously supplied information concerning how the facilities would function as operational plants.[5]

However, even if the NRC Staff believed at this time that more information is needed with respect to the operating license applications, an order to show cause pursuant to 10 CFR 2.202 would be inappropriate. In the course of the review of operating license applications, amendments to the application to supplement or update information previously submitted or to demonstrate compliance with regulatory requirements may be required. A licensee must either provide the amendments voluntarily or in response to Commission requests if consideration of the license application is to continue. As a means of obtaining information for a licensing review, an order pursuant to 10 CFR 2.202 to modify, suspend or revoke a license is unnecessary where no license has issued.

There is an additional reason why I decline to initiate a proceeding with respect to the quality assurance program at the Diablo Canyon project at this time. On June 8, 1982, the Joint Intervenors filed a motion before the Atomic Safety and Licensing Appeal Board requesting that the Board revoke the Diablo Canyon low power operating license, vacate the Licensing Board's conclusions in its July 17, 1981 Partial Initial Decision as to quality assurance, and reopen the record to consider the quality assurance and quality control issues. In response to that motion, the Appeal Board on July 16, 1982, certified to the Commission questions concerning the extent of its jurisdiction to consider QA/QC issues at Diablo Canyon.[6]

Thus, the question of the necessity and scope of any further proceedings on the issue of quality assurance at the Diablo Canyon project is before both the Commission and the Appeal Board. In view of the pendency of these matters before the Commission and the Appeal Board, initiation of further proceedings by me would be inappropriate. *See Pacific Gas & Electric Co.* (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI–81–8, 13 NRC 443 (1981).

For the reasons set forth above, the Joint Intervenors' request is *denied.*

A copy of this decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulation. As provided in 10 CFR 2.206(c), this decision will constitute the final action of the Commission twenty-five (25) days after the date of issuance, unless the Commission on its own motion institutes the review of this decision within that time.

Dated at Bethesda, Maryland this 22 day of September 1982.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82–27253 Filed 10–1–82; 8:45 am]

BILLING CODE 7590–01–M

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[2] *Pacific Gas & Electric Co.* (Diablo Canyon Nuclear Plant, Units 1 and 2), LBP–81–21, 14 NRC 107 (1981); *Pacific Gas & Electric* (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI–81–22, 14 NFC 598 (1981).

[3] *Pacific Gas & Electric Company,* (Diablo Canyon Nuclear Power Plant, Unit 1), CLI–81–30, 14 NRC 950 (1981).

[4] An amendment to a construction permit is only required if there are changes of significance affecting the principal architectural and engineering design criteria and other bases on which the facility was licensed. *See Northern Indiana Public Service Co.* (Bailly Generating Station, Nuclear–1), CLI–79–11, 10 NRC 733, 737 (1979), *remanded on other grounds, State of Illinois v. NRC,* D.C. Cir. No. 81–1131, decided July 1, 1981.

[5] The proposed amendments to technical specifications submitted by PG&E on May 10, 1982 address Technical Specifications which govern the operation of the facility. Thus, Joint Intervenors' concern that these proposed changes are insufficient to address their concerns is misplaced because the technical specifications to be amended do not describe activities at the Unit 1 facility with which Bechtel Power Corporation is involved.

[6] *Pacific Gas & Electric Co.* (Diablo Canyon Nuclear Power Plant, Units 1 & 2), ALAB–681, —— NRC —— (July 16, 1982).

[Docket Nos. 50-275 and 323]

Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2); Issuance of Director's Decision Under 10 CFR 2.206

Mr. Joel Reynolds on behalf of the Intervenors to the Diablo Canyon Nuclear Power Plant licensing proceedings by letters dated May 12 and 25, 1982, requested the issuance of an order to Pacific Gas & Electric Company to show cause why it should not be required to submit an amendment to its operating license applications to reflect recent changes in the organization and management of the Diablo Canyon project.

Mr. Reynolds' letters have been treated as a request for action under 10 CFR 2.206. Upon review of this matter, the Director of the Office of Nuclear Reactor Regulation has determined that the request does not provide an adequate basis for issuance of a show cause order. Accordingly, the request has been denied.

Copies of the Director's decision are available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the local public document room for the Diablo Canyon plant at the San Luis Obispo Free Library, 888 Marro Street, San Luis Obispo, California 93406. A copy of the decision will also be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations.

As provided in 10 CFR 2.206(c), the decision will constitute the final action of the Commission twenty-five (25) days after the date of issuance, unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Bethesda, Md., this 22nd day of September 1982.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-27254 Filed 10-1-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-272 and 50-311]

Public Service Electric and Gas Co. (Salem Nuclear Generating Station, Units Nos. 1 and 2); Exemption

I

Public Service Electric and Gas Company (the licensee) and three other co-owners are the holders of Facility Operating Licenses Nos. DPR-70 and DPR-75 which authorize operation of the Salem Nuclear Generating Station Units 1 and 2 (Salem or the facilities). These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facilities are pressurized water reactors located at the licensee's site in Salem County, New Jersey.

II

Section IV.F.1 of Appendix E to 10 CFR Part 50 requires that for each site, at which one or more power reactors are located and licensed for operation, a full-scale emergency preparedness exercise shall be conducted at least annually and shall include participation by appropriate State and local government agencies.

By letter dated July 9, 1982, Public Service Electric and Gas Company (PSE&G) requested an exemption from certain annual exercise requirements of Section IV.F.1. Specifically, PSE&G requested that the next full-scale emergency preparedness exercise for Salem be conducted on or about September 29, 1982 and that the anniversary date for performance of future full-scale exercises be similarly changed.

The last full-scale emergency exercise at Salem was conducted on April 9, 1981, and the next exercise had been scheduled for May 19, 1982. In preparation for the formal exercise a full-scale "practice" exercise was conducted on April 14, 1982. This "practice" exercise activated the PSE&G Emergency Response Facilities, the New Jersey and Delaware Emergency Centers, and field operations. PSE&G indicates that on May 1, 1982, on contract expiration a strike against PSE&G commenced. Consequently, PSE&G, NRC-Region I, FEMA-Regions II and III, and the States of New Jersey and Delaware agreed to postpone the formal exercise until September 29, 1982.

We have reviewed the events that form the basis of the PSE&G request for exemption from the scheduled "annual" date. Based on the fact that the "practice" exercise was determined to be satisfactory and all deficiencies have been addressed and based on the agreement of the participating agencies to delay the formal exercise to September 29, 1982 we find that this delay will not adversely affect the overall state of emergency preparedness at Salem.

For the above reasons, we conclude that the licensee's request for exemption should be granted.

III

Accordingly, the Commission has determined that an exemption in accordance with 10 CFR 50.12 is authorized by law, will not endanger life or property or the common defense and security and is otherwise in the public interest.

The requested exemption from the exercise requirements of 10 CFR (Part 50, Appendix E, Section IV.F.1.a to allow the next full-scale emergency preparedness exercise to be conducted on or about September 29, 1982 is hereby granted. Future full-scale exercises shall be scheduled to be consistent with the date of this exercise.

The Commission has determined that this exemption does not authorize a change in effluent types or total amounts nor an increase in power level and will not result in any significant environmental impact. Having made this determination, we have further concluded that the exemption involves an action which is insignificant from the standpoint of environmental impact and, pursuant to 10 CFR 51.5(d)(4), that an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 23rd day of September 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82-27255 Filed 10-1-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN 50-522 and STN 50-523]

Puget Sound Power and Light, et al. (Amended Application for Construction Permits and Facility Licenses, Skagit/Hanford Nuclear Project); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this construction permit proceeding:

Stephen F. Eilperin, Chairman
Christine N. Kohl
Dr. Reginald L. Gotchy

Dated: September 28, 1982.

Barbara A. Tompkins,

Secretary to the Appeal Board.

[FR Doc. 82-27256 Filed 10-1-82; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19085; File No. SR–Philadep–82–7]

Filing and Immediate Effectiveness of Proposed Rule Change by Philadelphia Depository Trust Company ("Philadep")

September 28, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 17 U.S.C. 78s(b)(1), notice is hereby given that on August 30, 1982, the Philadelphia Depository Trust Company ("Philadep") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would allow Philadep to adjust the fees it charges its members who participate in Philadep's Institutional Delivery System ("PIDS"). Since PIDS is linked to the Institutional Delivery System ("IDS") operated by the Depository Trust Company ("DTC"), Philadep merely passes through to its PIDS participants the fees assessed it by DTC. The proposed rule change would enable Philadep to pass through the IDS service fees DTC recently adopted or increased. (*See* Securities Exchange Act Release No. 19012 (August 25, 1982), File No. SR–DTC–82–4.) These fees included: (1) Increased charges to brokers and institutions for all Confirms and Affirms; (2) a new charge for investment manager Affirms to be collected by DTC in equal parts from the broker and the clearing bank or, in the absence of a clearing bank, entirely from the broker; (3) a new fee to banks, for each Confirm the banks request; (4) a new fee to brokers for each unaffirmed and Eligible Trade Report line item, (5) a new fee to brokers and banks for Deliver and Receive Tickets; and (6) a reduced fee to deliverers and receivers for Deliver Orders. In its filing, Philadep stated its belief that the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act in providing for the equitable allocation of reasonable dues, fees and other charges among participants.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–Philadep–82–7.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–27237 Filed 10–1–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 22647; (70–8779)]

Mississippi Power Co.; Proposed Issuance and Sale of Preferred Stock

September 27, 1982.

Mississippi Power Company ("Mississippi"), 2992 West Beach, Gulfport, Mississippi 39501, a subsidiary of The Southern Company, a registered holding company has filed a declaration pursuant to Sections 6(a), 7 and 12(c) of the Public Utility Holding Company Act of 1935 and Rules 42 and 50 thereunder.

Mississippi proposes to issue and sell up to $10,000,000 aggregate par value of its preferred stock, with a par value of $100 per share ("New Preferred Stock"), in one or more series from time to time not later than September 30, 1983, at competitive bidding for a price to Mississippi of not less than 100% nor more than 102¾% of the par value per share, which shall also be the public offering price per share. Mississippi proposes publicly to invite from time to time sealed, written proposals from prospective bidders for the purchase of the New Preferred Stock. An initial public invitation may be published requesting that those interested in bidding so advise Mississippi. Thereafter, Mississippi will designate the date and time for each presentation and opening of proposals in accordance with the competitive bidding requirements of Rule 50. In addition, Mississippi proposes to pay to the purchasers of the New Preferred Stock compensation for their services in purchasing and making a public offering of such shares, which compensation shall be included as part of the competitive bidding of the New Preferred Stock.

The authorized number of shares of preferred stock of Mississippi will be increased by amendment to the Articles of Incorporation of Mississippi and the New Preferred Stock will be created, and its terms established, by resolution of the board of directors of Mississippi. Mississippi may also make provision for a cumulative sinking fund for the benefit of a particular series of the New Preferred Stock which would retire not more than 5% annually of the number of shares of such series initially issued, commencing five years or later after the sale, with the non-cumulative option on any sinking fund date, commencing five years or later after the sale, of redeeming up to an additional like number of shares of such series.

Mississippi may provide that no share of a particular series of the New Preferred Stock will be redeemed for a five-year period commencing with the first day of the month of issuance, if such redemption is for the purpose or in anticipation of refunding such share directly or indirectly through the incurring of debt, or through the issuance of stock ranking equally with or prior to such series as to dividends or assets, if such debt has an effective interest cost to Mississippi (computed in accordance with generally accepted financial practice) or such stock as an effective dividend cost to Mississippi of less than the effective dividend cost to Mississippi of the New Preferred Stock.

Mississippi may request by amendment hereto that such proposed sale of the New Preferred Stock, or any part thereof, be excepted from the competitive bidding requirements of Rule 50 should circumstances develop which, in the opinion of Mississippi's management, make such exception in the best interests of Mississippi and its investors and consumers.

Mississippi proposes to use the proceeds from the sale of the New Preferred Stock, along with other funds,

to pay a part of its cash requirements to carry on its electric utility business.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of the Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 21, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certifcate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-27239 Filed 10-1-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22648; (70-4537)]

Northeast Utilities and the Rocky River Realty Co., the Connecticut Light & Power Co.; Proposed Extension of Time for the Issuance and Sale of Long-Term Notes to Holding Company

September 27, 1982.

Northeast Utilities ("Northeast"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, a registered holding company, The Rocky River Realty Company ("Rocky River"), its nonutility subsidiary, and The Connecticut Light and Power Company ("CL&P"), P.O. Box 270, Hartford, Connecticut 06101, an electric utility subsidiary company of Northeast, have filed with this Commission a fifth post-effective amendment to the application-declaration in this proceeding pursuant to Sections 6(a), 7, 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act").

By order in this proceeding dated October 24, 1967 (HCAR No. 15884), Rocky River was authorized to engage in the business of acquiring, maintaining, and disposing of real property in connection with the utility operations of the operating companies of the Northeast holding-company system. Said order of October 24, 1967, as amended by supplemental orders of the Commission dated December 21, 1970, October 27, 1972, and October 21, 1977 (HCAR Nos. 16941, 17740, and 20219), authorized Rocky River to issue and sell to Northeast until October 24, 1982, and Northeast was authorized to acquire, up to $10,000,000 aggregate principal amount of Rocky River's long-term unsecured notes ("Notes") to finance such real estate activities. It was provided that, since Rocky River's capital requirements vary from time to time, Rocky River could in its discretion pay out of capital Notes theretofore issued and thereafter issue and sell to Northeast, and Northeast could acquire, additional Notes in adjusting the amount of notes outstanding to Rocky River's capital requirements.

By further post-effective amendment, it is now proposed that the authorization regarding said Notes be extended for a five-year period expiring October 24, 1987.

The post-effective amendment to the application-declaration and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 21, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-27238 Filed 10-1-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19082; (SR-Phlx-82-7)]

Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

September 27, 1982.

The Philadelphia Stock Exchange, Inc. ("Phlx"), 1900 Market Street, Philadelphia, PA 19103, submitted on August 5, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securties Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend Phlx Rule 60, which currently permits summary proceedings and fines not to exceed $500 for minor breaches of order and decorum on the Phlx trading floors. Rule 60 as it is proposed to be amended would permit summary proceedings and fines not to exceed $500 for breaches of Phlx adiministrative regulations as well as for minor breaches of order and decorum presently covered by the rule. The administrative regulations would relate to the operation of the trading floor of the exchange and the management of business of the exchange.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18986, August 19, 1982) and by publication in the **Federal Register** (47 FR 37730, August 30, 1982). No written comments were received.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations there-under applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and the regulations there-under.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc.82-27240 Filed 10-1-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Application No. 02/02-5451]

Monsey Capital Corp.; Application for License To Operate as a Small Business Investment Company

An Application for a License to Operate as a Small Business Investment Company under the provisions of the Small Business Investment Act of 1958.

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[1] Rule 60 as it pertains to administrative regulations is not self-implementing, and the Phlx will file a proposed rule change pursuant to Section 19(b) of the Act for each administrative regulation it proposes to implement.

as amended, (15 U.S.C. 661 *et seq.*) has been filed by Monsey Capital Corporation (Monsey), 4 Blauvelt Road, Monsey, New York 10952, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1982).

The officers, directors and sole shareholder are as follows:

President, Director:
Samuel A. Myski, 4 Blauvelt Road, Monsey, New York 10952
Secretary/Treasurer Director:
Chaim Zev Weiss, 10 Elyon Road, Monsey, New York 10952
Advisor:
Stanley Friedman, CPA, 619 W. 46th Street, New York, New York 10036
100% Shareholder:
Keren Hachesed of Monsey, Monsey, Inc., 4 Blauvelt Road, Monsey, New York 10952

The Applicant, a New York corporation will begin operations with $500,000 paid-in capital and paid-in surplus. Monsey will conduct its activities primarily in the State of New York.

The Applicant intends to provide assistance to qualified socially or economically disadvantaged small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owner and management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Monsey, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 28, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-27273 Filed 10-1-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2060 Amdt. No. 1]

Pennsylvania; Declaration of Disaster Loan Area

The above numbered declaration (see 47 FR 37733; August 26, 1982) is amended by adding the adjacent county of Northampton as a result of damage caused by heavy rains and flooding which occurred on August 8–9, 1982. All other information remains the same, i.e., the termination dates for filing applications for physical damage is the close of business on October 15, 1982, and for economic injury until the close of business on May 16, 1983.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 23, 1982.

Robert B. Webber,

Acting Administration.

[FR Doc. 82-27272 Filed 10-1-82; 8:45 am]

BILLING CODE 8025-01-M

Region I—Advisory Council; Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Concord, will hold a public meeting on Tuesday, October 26, 1982, at 10:00 a.m., in the Federal Building, 55 Pleasant Street, Concord, New Hampshire, Room 304, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Bert Teague, District Director, U.S. Small Business Administration, 55 Pleasant Street, Concord, New Hampshire 03301, (603) 224–5588.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

September 29, 1982.

[FR Doc. 82-27275 Filed 10-1-82; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 04/04-5218]

West Tennessee Venture Capital Corp.; Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. et seq.), has been filed by West Tennessee Venture Capital Corporation (Applicant) with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1982).

The officers, directors, and stockholders of the Applicant are as follows:

Chairman of the Board, President:
Percy H. Harvey, 3625 White Birch Drive, Memphis, Tennessee 38116
Vice Chairman of the Board, Vice President:
Richard S. Moody, 5939 Spruce Hollow Cove, Bartlett, Tennessee 38134
Secretary:
Peter R. Pettit, 111 Cherry Road, Memphis, Tennessee 38117
Treasurer:
Patricia W. Shaw, 1674 South Parkway, East, Memphis, Tennessee 38106
Directors:
Frank J. Banks, 1789 Parkway Terrace, Memphis, Tennessee 38114
Howard Boutte, Jr., 1006 Surrey Street, Lafayette, Louisiana 70501
David C. Anderson, 1609 Cordova Road, Germantown, Tennessee 38138
Dan K. Green, 5670 Los Gatos Drive #4, Memphis Tennessee 38118
Milwood L. Hobbs, 2879 Cordie Lee Cove, Germantown, Tennessee 38138
Ernest M. Owens, 1557 Joanne Street, Memphis, Tennessee 38114
Jesse H. Turner, Sr., 1278 Gill Avenue, Memphis, Tennessee 38106
100 Percent Common Stockholder:
Tennessee Valley Center, 8 North Third Street, Memphis, Tennessee 38103
15.4 Percent Class "B" Preferred Stockholder:
First Tennessee Bank N.A. Memphis, P.O. Box 84, Memphis, Tennessee 38101
15.4 Percent Class "B" Preferred Stockholder:
Federal Express Corporation, Box 727, Dept. 371–099, Memphis, Tennessee 38194
15.4 Percent Class "B" Preferred Stockholder:
Holiday Inns, Inc., 3742 Lamar Avenue, Memphis, Tennessee 38195
15.4 Percent Class "B" Preferred Stockholder:
Malone & Hyde, Inc., 1991 Corporate Avenue, Memphis, Tennessee 38132
22.2 Percent Class "B" Preferred Stockholder:
State of Tennessee, State Capitol Building, Nashville, Tennessee 37219
5.4 Percent Class "B" Preferred Stockholder:
National Bank of Commerce, One Commerce Square, Memphis, Tennessee 38150
6.1 Percent Class "B" Preferred Stockholder:
Commercial and Industrial Bank, 200 Madison Avenue, Memphis, Tennessee 38103
4.7 Percent Class "B" Preferred Stockholder:
Tri State Bank of Memphis, 180 South Main Street, Memphis, Tennessee 38103
100 Percent Class "C" Preferred Stockholder:
Southern Cooperative Development Fund, Inc., 1006 Surrey Street, Lafayette, Louisiana 70501
Manager:
Valley Management Systems, Inc., 8 North Third Street, Memphis, Tennessee 38103

The Applicant, a Tennesse corporation with its principal place of business at 8 North Third Street, Memphis, Tennessee 38103, will begin operations with $1,250,000 of paid-in capital and paid-in surplus derived from

the sale of 5,000 shares of common stock, 6,500 shares of Class "B" preferred stock, and 1,000 shares of Class "C" preferred stock.

The Applicant will conduct its activities primarily in the State of Tennessee.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under this management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Memphis, Tennessee.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 28, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-27274 Filed 10-1-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD (82-094)]

Towing Safety Advisory Committee; Appointment of Members

AGENCY: Coast Guard, DOT.

ACTION: Notice of appointment of members.

SUMMARY: The Secretary of Transportation has announced the appointment of nine members to the Towing Safety Advisory Committee (TSAC), to fill vacancies which will occur after October 6, 1982. TSAC advises the Secretary on rulemaking matters related to shallow-draft inland and coastal waterway navigation and towing safety. The notice soliciting applications for the vacancies was published on May 10, 1982 (47 FR 29061).

SUPPLEMENTARY INFORMATION: Persons receiving appointment to the committee are: William A. Creelman, National Marine Service Inc.; David S. Field, Lake Providence Marine Terminal Co.; Paul Giordano, P.+F. Giordano Market; Captain John G. Graham, Gulfcoast Transit Co.; Charles F. Lehman, American Commercial Barge Line Co.; Austin P. Olney, LeBoeuf, Lamb Leiby and MacRae; Robert W. Sanders, Turecamo Coastal & Harbor Towing Corp.; Steven Scalzo, Foss Launch and Tug Co.; Captain William F. Tuttle, Local 333, United Marine Division.

FOR FURTHER INFORMATION CONTACT: Captain Christopher M. Holland, Executive Secretary, Towing Safety Advisory Committee (G-CMC/44), Room 4402, U.S. Coast Guard Headquarters, Washington, D.C. 20593 (202) 426-1477.

Dated: September 28, 1982.

Bruce P. Novak,

Deputy Executive Secretary, Marine Safety Council.

[FR Doc. 82-27173 Filed 10-1-82; 8:45 am]

BILLING CODE 4910-14-M

National Highway Traffic Safety Administration

[Docket No. IP82-19; Notice 1]

Dunlop Tire & Rubber Corp.; Receipt of Petition for Determination of Inconsequential Noncompliance

Dunlop Tire and Rubber Corp. of Buffalo, New York, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.119, *New Pneumatic Tires for Vehicles Other Than Passenger Cars.* The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition for a determination of inconsequentiality is published in accordance with section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraph S6.5 of Standard No. 119 requires tires to be marked with certain information on each sidewall. Dunlop has produced 14,869 tires with an incorrect letter designating the tire load range. The tires are marked "6PR, Load Range C" but are in fact 4 PR, Load Range B. The tires involved are all 31x11.50R15LT, with trade names of Dunlop RV Radial Rover, Remington Wide Brute RV, and Centennial Canyon Climber RV.

Dunlop argues that the noncompliance is inconsequential as the correct maximum load and inflation appears on both sidewalls. The tread labels correctly identify the tires as Load Range B.

Interested persons are invited to submit written data, views and arguments on the petition of Dunlop Tire and Rubber Corp. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

The engineer and attorney primarily responsible for this notice are Art Neill and Taylor Vinson, respectively.

Comment closing date: November 3, 1982.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on September 27, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-27286 Filed 10-1-82; 8:45 am]

BILLING CODE 4910-59-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 192
Monday, October 4, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, October 5, 1982.

PLACE: Commission Conference Room No. 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Ratification of Notation Vote/s.
2. Freedom of Information Act Appeal No. 82–4–FOIA–22–NO, concerning a request for information from a client's Title VII files.
3. A Report on Commission Operations by the Acting Executive Director.

Closed

1. Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

(In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Executive Officer, Executive Secretariat at (202) 634–6748.

This Notice Issued September 28, 1982.

[S–1406–82 Filed 9–30–82; 10:30 pm]

BILLING CODE 6570–06–M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11:30 a.m., Thursday, October 7, 1982, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: September 30, 1982.

James McAfee,

Associate Secretary of the Board.

[S–1408–82 Filed 9–30–82; 12:54 pm]

BILLING CODE 6210–01–M

3

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Thursday, October 7, 1982.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: Summary Agenda: Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion agenda:

1. Proposals regarding Regulation B (Equal Credit Opportunity) (Proposed earlier for public comment: Docket Nos. 0203 and 0185):
   A. Interpretations of credit scoring systems and selection of reasons for adverse action; and
   B. Withdrawal of proposed amendments on business credit exemptions.
2. Proposed response to recommendations by the General Accounting Office concerning bank merger application procedures.
3. Proposal to extend, with revisions, the Quarterly Survey of Number of Selected Transaction Accounts (FR 2071a), and eliminate the Quarterly Survey of Sources of Funds for New NOW and ATS Accounts (FR 2071b).
4. Proposal to discontinue the Daily Deposits Report from Selected Large Edge Act Corporations in New York City (FR 2008).
5. Proposal to extend the Monthly Survey of Industrial Electricity Use (FR 2009A, B).

Discussion Agenda:

6. Consideration of proposed Statement of Policy on Banking Market Extension Mergers and Acquisitions. (Proposed earlier for public comment: Docket No. R–0386).

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: September 30, 1982.

James McAfee,

Associate Secretary of the Board.

[S. 1407–82 Filed 9–30–82; 12:49 pm]

BILLING CODE 6210–01–M

4

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 4 p.m., Wednesday, October 13, 1982.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigations 701–TA–189 and 731–TA–104/106 (Steel Rails from the European Community, the Federal Republic of Germany, France, and the United Kingdom)—briefing and vote.
6. Investigation 337–TA–108 (Certain Vacuum Bottles and Components Thereof)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–1410–82 Filed 9–30–82; 3:27 pm]

BILLING CODE 7020–02–M

5

LEGAL SERVICES CORPORATION

Committee on Operations and Regulations

TIME AND DATE: 11 a.m.–1 p.m., Saturday, October 2, 1982.

PLACE: Indian Pueblo Cultural Center, Inc., 2401 12th Street, Northwest, Albuquerque, New Mexico 87102.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.
2. Approval of Minutes.
3. Congressional Update.
4. Amendments to Part 1612.4 of the LSC Regulations regarding Legislative and Administrative Representation.

CONTACT PERSON FOR MORE INFORMATION: Anne Tracy, Office of the President, (202) 272–4040.

Dated: September 24, 1982.

Clint Lyons,

Acting Vice President.

[S–1411–82 Filed 9–30–82; 3:27 pm]

BILLING CODE 6820–35–M

6

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–82–23]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 42865, September 29, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, October 5, 1982.

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Railroad Accident Report:* Collision of a Southeastern Pennsylvania Transportation Authority Commuter Train with a Gasoline Truck, Southhampton, Pennsylvania, January 2, 1982, and proposed recommendation letters.
2. *Highway Accident Report:* Collision of Long Island Commuter Train No. 4602A and a Ford Van, Herricks Road Crossing, Mineola, N.Y., March 14, 1982, and proposed recommendation letters.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382–6525.

September 30, 1982.

[S–1409–82 Filed 9–30–82; 12:54 pm]

BILLING CODE 4910–58–M

7

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on October 21, 1982.

PLACE: Suite 316, 1825 K Street, N.W., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634–4015.

Dated: September 30, 1982.

[S–1413–82 Filed 9–30–82; 3:53 pm]

BILLING CODE 7600–01–M

8

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on October 14, 1982.

PLACE: Suite 316, 1825 K Street, N.W., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634–4015.

Dated: September 30, 1982.

[S–1412–82 Filed 9–30–82; 3:53 pm]

BILLING CODE 7600–01–M

federal register

Monday
October 4, 1982

Part II

Federal Communications Commission

Public Mobile Service; Revision and Update

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 80-57; FCC 82-349]

Public Mobile Services; Revision and Update

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to revise and update Part 22 of its rules ("Public Mobile Service"). These proposed revisions will serve the public interest by simplifying the rules, placing them in plain language, bringing the rules up to date with current technology, reducing costs to applicants and staff, and expediting the administrative processes related to the public mobile service.

DATES: Comments are due by November 8, 1982 and replies by December 8, 1982.

ADDRESS: Federal Communications Commission, 1919 M St., N.W., Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Michael A. Menius, Mobile Seryices Division, Common Carrier Bureau (202) 632-6450.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 22

Communications common carriers, Miscellaneous common carriers, Mobile radio service, Offshore radio telecommunications service, Radio common carriers, Rural radio service.

Adopted: July 29, 1982.

Released: September 8, 1982.

By the Commission:

1. In this notice we propose to revise Part 22 of the rules ("Public Mobile Radio Services"). These revisions, which are set forth in the attached Appendix, are proposed in order to rewrite the rules in plain language, to bring the text of the rules up to date with existing technology, and to add or revise definitions to explain more fully the meaning of certain rules.

2. The Commission requested general comments and suggestions for rules revisions in a notice of inquiry released February 21, 1980.[1] The Mobile Services Advisory Committee met on November 9, 1981, and suggested many specific rule changes. Some committee members also submitted written comments on how certain rules should be amended.

3. As originally conceived in the NOI, this proceeding would have been a "revision and update project," not "a catchall rulemaking that encompasses every revision of Part 22 that might conceivably be desirable." While we still do not cover certain issues which arise under this section, such as changing frequency allocations, we propose far more extensive changes than contemplated in the NOI. There are several reasons for this decision.

4. First, in 1980 Congress enacted two laws which bear directly on regulation of Public Mobile Radio Services under Part 22: the Paperwork Reduction Act, Pub. L. 96-611, and the Regulatory Flexibility Act, Pub. L. 96-354. The former directs us to review all recordkeeping requirements and to reduce or eliminate those requirements where possible; the latter admonishes up to adjust the impact of our regulations to minimize their burden on small entities. [2] Because most of the more than 700 PMRS licensees are small entities, and because Part 22 imposes a number of recordkeeping requirements, a comprehensive reassessment of the Regulations is consistent with both the letter and the spirit of the two laws.

5. Second, PMRS is a dynamic, growing industry. We have found in administering Part 22 that the regulatory process frequently impedes the deployment of new services and facilities to the detriment of carriers and consumers alike. We believe, therefore, that we should revise the regulations now in anticipation of ever-accelerating growth and change in the RMRS industry.

6. Third, the PMRS industry is highly competitive. There are as many as five to ten carriers in the largest communities, and there are few cities in which one carrier is dominant. Recent Commission decisions have made available more spectrum than ever before, [3] and there is no evidence that potential entrants are barred by lack of spectrum or high entry costs. Given the competitive state of the industry, it is incumbent upon us to determine whether we can reduce or eliminate government regulation in favor of the self-regulation characteristic of a competitive marketplace.[4]

7. Finally, a comprehensive review enables us to rewrite in plain language where required and to blend all the amendments separately promulgated in recent years into the document. Part 22 will now be easier to understand and to use. Toward this end, we propose to incorporate in the Rules specific policies for PMRS which have been adopted in various proceedings by which have not resulted in Rule amendments. In other words we propose formal codification of relevant decisions which have not heretofore been easy to locate. If Part 22 is properly drawn, no one should ordinarily have to look beyond the Rules and the application form to find all the policies and requirements applicable to PMRS licensees.

8. In addition to the specific rules, we propose to add a topical index, as an aid to locating pertinent rules sections. In this notice, we propose the index list without (in most cases) supplying references specific to rules sections. We seek comment on any additional terms which should be added to the list. When we release a Report and Order publishing revised rules, the topical index will include a complete listing or references to rules sectioins.

9. As a result of the rules revisions, there will also be revisions to application Forms 401 (for construction permit) and 403 (for license). In this notice, we do not discuss each revision to these applications; however, we do attach revised application forms for public comment. We may well implement the new forms in advance of a final decision on the rest of the rules because the need for these form revisions is particularly pressing. Parties may comment separately and informally on the proposed forms if they wish to do so.

10. The proposed rule changes fall into two categories: revisions which clarify the language in the rules without reflecting policy change, and revisions which propose some policy change (e.g., elimination of reporting requrements). The explanation which precedes each proposed rule will discuss the nature of the propsed revision.

11. The attached appendix discusses the proposed revisions in detail. We present here a brief discussion of some of the more significant revisions, with references to the appropriate portion of the appendix.

12. *Elimination of the double filing process to obtain license.* Applicants will file an application Form 401, obtain a construction permit from the Commission, and then simply notify the Commission when construction is completed. The postcard notification

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[1] "Notice of Inquiry" CC Docket No. 80-57, 45 FR 14074, March 4, 1980.

[2] Under the policy embodied in the Regulatory Flexibility Act, we have proposed to reduce or eliminate the Form L Report required of PMRS licensees. CC Docket No. 82-85, FCC 82-77, released February 22, 1982.

[3] *See* Cellular proceeding, CC Docket No. 79-318, 86 FCC 2d 469; 35 MHz proceeding, CC Docket No. 80-189, *Report and Order*, Mimeo 29578, released July 15, 1981; and 900 MHz proceeding, CC Docket No. 80-183, *First Report and Order*, Mimeo 31365, released May 14, 1982.

[4] *See* Competitive Carrier rulemaking, CC Docket No. 79-252.

form, combined with the construction permit, will constitute the license, which becomes effective immediately. *See* "Proposed revision of Form 401," as explained in the appendix.

13. *Elimination of trafficking rules* and streamlining of the procedures related to assignments and transfers of control. These revisions will ensure that, when a marketplace decision is made to buy or sell a communications system, the transaction can be accomplished promptly without regulatory delays. We will at the same time review any such tranaction for basic public interest considerations. *See* "§ 22.39 Transfer of control or assignment."

14. *Deletion of operator log requirements.* These rules specify procedures which radiotelephone operators must follow in keeping logs and performing other duties. These requirements have been outdated by advances in technology, whereby many facilities are now automated and are not run by operators. We therefore propose to remove such requirements from the rules. *See* "§§ 22.118(d), 22.205(h)(3), and 22.208(g) Operator log requirements."

15. *Adoption of a general standard of licensee responsibility* for operation and maintenance of authorized facilities. We propose to delete operator license requirements and to delete the existing detailed requirements sepcifying what procedures the licensee must follow to keep its facilities in working order. *See* "§ 22.205 Operator and maintenance requirements (licensee responsibility)."

16. *Adoption of a rule permitting incidental services* to be provided by Part 22 licensees so long as public mobile service is not degraded. In recent years the Mobile Services Division has received more and more requests from licensees for permission to provide indicental communications services which are clearly helpful to the public (*e.g.*, whether information) and which will not interfere with the licensees' duties to their subscribers. We propose to add a rule which adopts a uniform policy for such incidental services. *See* "§ 22.308 Incidental communication services."

17. *Elimination of the "secondary basis" limitation* on two-way frequencies allocated in § 22.501. We propose to revise this rule so as to maintain the present allocation of frequencies for two-way service but also to permit carriers to use these frequencies for one-way service where the public requests it. *See* "§ 22.501 Secondary basis paging service."

18. *Elimination of the priority of service rules.* The present rule requires carriers to maintain waiting lists which are based on priorities which may no longer be appropriate. Recent allocations should relieve any frequency shortage in these radio services. We therefore propose to eliminate the seven categories of service priorities. *See* "§ 22.512 Order of service."

19. *Deregulation of rural radio licensing* in cases involving little potential for interference. Most subscribers to rural radio service operate on low power systems which pose little if any interference potential. We propose to eliminate the licensing requirement for such systems. We will still require that all such subscribers operate without causing interference and in compliance with all Commission rules and policies. *See* "§ 22.600 Deregulation of rural radio service."

20. *Adoption of waiver policy concerning the wireline-nonwireline "fence" allocation.* Under this proposal, a licensee would be permitted, where it is technically feasible, to request an additional frequency on the other side of the "fence" allocation if such a frequency is unassigned. This proposal is an attempt to permit greater flexibility in making unused frequencies available. We do not at this point propose to eliminate the separate allocation structure but will examine this issue in a later proceeding. *See* "§ 22.501(n) Waiver of frequency allocation."

21. *Streamlining of procedures related to major amendments and the cut-off rule.* We propose that "later-filed" applications no longer be considered as major amendments to earlier applications, thereby invoking the cut-off rule and resulting in dismissal of earlier applications. Instead, the later-filed application will be judged on its own merits and the earlier application will proceed toward comparative hearing. *See* "§ 22.23 Major amendments and the cut-off rule."

22. We have attempted to eliminate unnecessary duplications within the rules, but we have not systematically eliminated duplication in each place where it occurs in the rules. In fact, in some cases, we have proposed to include a similar sentence or paragraph in two different areas of the rules. We have done this because we believe the rules should first of all be helpful. If a subject occurs in two different contexts, we have proposed to include that subject in two parts of the rules rather than force a member of the public to second-guess the Commission as to where its rules are located. This approach also avoids excessive cross-referencing within the rules.

Regulatory Flexibility Act Initial Analysis

23. *Reason for Action and Objective.* The Commission is seeking to eliminate unnecessary forms, information gathering, and regulatory burdens wherever possible in the public mobile radio service. The policy options under consideration will greatly streamline the administrative process affecting these licensees and permit self-regulation wherever possible. The objectives are to eliminate unnecessary regulations and policies and to provide service to the public in the most efficient, expeditious manner possible.

24. *Legal Basis.* The authority for this proposed rulemaking is contained in §§ 1, 4(i), 4(j), 303(g), and 303(r) of the Communications Act of 1934, as amended.

25. *Small Entities Affected and Potential Impact.* The impact of the proposed rules revisions will be on all PMRS applicants and licensees and on members of the public receiving mobile service. Existing and potential applicants for this service range in size from single individuals and small partnerships to large multi-million dollar corporations. The proposed alternative will simplify the language of the rules and will simplify and reduce both the paperwork and the administrative procedures for obtaining licenses and serving the public.

26. *Relevant Federal Rules which Overlap, Duplicate or Conflict with this Action.* None.

27. *Reporting, Record-Keeping and Compliance Requirements.* This action will reduce or eliminate reporting and record-keeping requirements. Applicants will no longer report on their maintenance procedures or file copies of settlement agreements for approval. Licensees will no longer be required to maintain separate business records for these services. Licensees will no longer be required to comply with specific testing and maintenance procedures; instead, they may make their own decisions on these matters without reporting to the Commission. This action also eliminates many reports which must currently be made to the Commission's local engineer-in-charge.

28. *Alternatives that would lessen impact:* None.

29. All interested persons are invited to file written comments on or before November 8, 1982. Reply comments should be filed on or before December 8, 1982. All relevant and timely comments and reply comments will be considered by the Commission. In reaching its decision, the Commission may take into

account information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

30. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally,* Section 1.1231 of the Commission's rules, 47 CFR 1.1231.

31. In accordance with the provisions of 47 CFR 1.419(b) an original and six copies of all comments, replies, pleadings, briefs and other documents filed in this proceeding shall be furnished to the Commission. Members of the public who wish to express their views by participating informally may do so by submitting one or more copies of their comments, without regard to form (as long as the docket number is clearly stated in the heading). Copies of all filings will be available for public inspection during regular business hours in the Commission's Docket Reference Room (Room 239) at its headquarters in Washington, D.C. 1919 M Street, N.W.)

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Rules Discussion

Proposed revision of Form 401 (Brief Explanation)

Members of the Mobile Services Advisory Committee have suggested the elimination of the present two-stage procedure whereby applicants initially file Form 401 for a construction permit and, after construction and service tests, file another form (403) to obtain a station license. Committee members suggested that this process involves duplicative paperwork and can be streamlined so that only one application is filed and processed. This suggestion has merit, and we propose the following: Applicants will file Form 401 and, upon receipt of a construction permit, will construct and perform tests on the facilities. Upon completion of tests, the permit holder will notify the Mobile Services Division that tests are completed and that the facilities are constructed and operating in conformance with the specifications in the Form 401. If the constructed facilities differ in any way from the specifications in the Form 401, the permit holder will indicate (as part of the notification) what the changes are. We propose a shortened form 408 (attached) to be used for this purpose. The permit holder will retain a copy of the notification form 408 which, along with the permit, will at that point constitute the license. The staff will not issue an additional piece of paper, and no additional filing or processing will be required. We seek comment on the feasibility of this change in licensing procedure. The rules which implement this proposal are included in our discussion of § 22.9(b) below.

This proposal is related to other proposals throughout this Notice which simplify or reduce the amount of information currently required on either Form 401 or Form 403.

The staff is concerned with the possibility of uncompleted construction and proposes the following: Construction permits will be issued on the express condition that construction be completed within the period authorized or as extended by the Commission (Our proposals on extensions are discussed elsewhere in this notice.). The data base will be reviewed monthly for expired permits, and the related frequencies will be listed on public notice as again unassigned and available. No hearing rights will attach to holders of expired construction permits, since they were accepted subject to the condition stated above. We believe that this procedure will guard against any possible warehousing of frequencies without triggering unnecessary hearings.

Engineer's telephone number. Form 401 presently requires that the person responsible for preparing the engineering information provide his or her name and address. This requirement enables the staff to communicate directly with the engineering personnel. This is an effective method of expediting the processing of an application in cases where some engineering matter can quickly be cleared up and the application can then be granted. With these considerations in mind, we propose an additional requirement, that the person responsible for preparing the engineering information also furnish a telephone number as part of the Form 401. We believe this requirement will in many cases enable the staff to expedite processing by substituting a telephone call for a letter and that service to the public will begin sooner as a result.

We also propose to revise question 52, which refers to need showings, surveys, loading studies and public interest showings. The Commission has recently revised certain of these requirements in Dockets 80–183 (*Memorandum Opinion and Order,* released May 14, 1982, FCC 82–202) and 20870 (*Second Report and Order,* released May 5, 1982, FCC 82–207). We propose to revise this question to conform to the current need requirements.

PART 22—PUBLIC MOBILE SERVICE

Title of Part 22

We propose to retitle Part 22 as Public Mobile Service. The term "radio" is unnecessary and does not add to the clarity of the term.

The new title conforms to the terminology used in the definitions (§ 22.2) and throughout Part 22.

47 CFR is amended by titling Part 22 as "Public Mobile Service".

47 CFR, Part 22 is amended by retitling the following subparts to the terms proposed in § 22.2:

Subpart G—Public Land Mobile Service

Subpart L—Offshore Radio Service

1. 47 CFR is further amended as set forth below.

§ 22.0 Authority and scope of Part 22.

Explanation

This section explains the Commission's authority to promulgate

Part 22 of the Rules and sets forth the scope of these rules. We have simplified some of the language, placed some sections in a more logical order, and added a new sub-section (c) which makes it clear that Part 22 applies only to stations authorized under this part. Also, a new sub-section (d) informs the public that the Mobile Services Division is the Commission staff link with the rules and may be contacted if questions arise.

2. § 22.0 is revised:

§ 22.0 Authority and scope.

(a) The rules in this part are issued pursuant to Titles I through III of the Communications Act of 1934, as amended, which vest authority in the Federal Communications Commission to regulate common carriers of interstate and foreign communications and to regulate radio transmission and issue licenses for radio stations.

(b) The purpose of the rules in this part is to prescribe the conditions under which portions of the spectrum are made available for domestic common carrier radio communications which utilize transmitters on land or in specified offshore coastal areas within the continental shelf, and certain other situations as authorized under this part.

(c) The rules in this part apply only to stations authorized under this part. Rules in a subpart apply only to stations authorized under that subpart.

(d) Correspondence relating to this part or authorizations issued under this part may be sent to the Mobile Services Division, Federal Communications Commission, Washington, D.C. 20554.

(e) Unless otherwise specified, the section numbers referenced in this part are contained in Chapter I, Title 47, of the Code of Federal Regulations.

§ 22.1 Other applicable rule parts (new).

Explanation

We propose to add a rule which briefly explains where to find certain categories of information outside Part 22.

3. § 22.1, a new rule, is added, to read as follows:

§ 22.1 Other applicable rule parts.

Other Commission rule parts of importance that may be referred to with respect to licensing and operations in radio services governed under this part include the following:

(a) Part 0 of the Commission's Rules describes the Commission's organization and delegations of authority. This part also lists available Commission publications and standards and procedures for access to Commission records, and location of Commission Field Offices.

(b) Part 1 includes rules of practice and procedure for adjudicatory proceedings including hearing proceedings, rule making proceedings, procedures for reconsideration and review of the Commission's actions; provisions concerning violation notices and forfeiture proceedings; and the requirements for environmental impact statements.

(c) Part 2 contains the table of frequency allocations and special requirements in international regulations, agreements, and treaties. This part also contains standards and procedures for marketing of radio frequency devices, and for obtaining equipment type acceptance and type approval.

(d) Part 5 contains standards and procedures for obtaining experimental authorizations.

(e) Conditions under which the operations of incidental and restricted radio devices are permitted are in Part 15.

(f) Part 17 contains detailed requirements for construction, marking, and lighting of antenna towers.

§ 22.2 Definitions.

Explanation

The definitions for Part 22 need to be updated. There are many obsolete terms and terms that are not used. There are a number of definitions not used in Part 22. Most are left over from when Parts 21 and 22 were combined. We propose to delete these terms.

More importantly there are ambiguous or undefined terms. These will be corrected. Many terms are not the commonly used terms.

4. § 22.2 is amended by adding, revising, and removing certain definitions, as follows:

§ 22.2 Definitions.

Airborne station. A mobile station licensed for use only on an aircraft.

Air-ground radiotelephone service. A public radio service between a base station and airborne mobile stations.

Antenna gain. Removed.

(This term has a well understood engineering meaning and does not need to be defined.)

Antenna structure. The antenna, its supporting structure, and anything attached to it.

(The only changes are to translate "surmounting appurtenances" and "radiating systems" into plain English.)

Assigned frequency. Removed.

(This term has a plain language meaning and does not need to be formally defined in Part 22.)

Assignment. The transfer, by any means, of an authorization from the present holder to another person as defined in § 3(i) of the Communications Act.

(Assignment of authorization and transfer of control have never been explicitly defined. We do so here. We recognize that these terms are difficult to define, especially transfer of control, since they turn on the facts of the particular case.)

Authorized power. The maximum power a station is permitted to use. This power is specified in the station's authorization.

(This definition restates the present definition. We have not included the last sentence of the present definition because the proposed definition is precise without it.)

Auxiliary test station. A fixed station used for test transmissions.

(We have rewritten the definition and moved the substantive requirements to a new section, § 22.524, Auxiliary Test Station.)

Bandwidth occupied by an emission. Deleted, see *Authorized bandwidth.*

Base station. A land station in the public mobile service communicating with authorized mobile and fixed stations.

Bit rate. Removed.

(This term is not used in Part 22.)

Carrier. Removed.

(This term is only used to define carrier frequency. Therefore the terms have been combined.)

Carrier frequency. The output of a transmitter when the modulating wave is made zero.

(The present definition uses 3 different definitions—one is enough. Also, the first two definitions are redundant and the third says essentially the same thing. The proposed definition is sufficient.)

Channel occupancy time. The time a channel is utilized for the transmission of communications. It does not include time waiting for a channel to become available.

(This term replaces "holding time" which has not been adequately defined in these rules. There have been questions about what is included in "holding time," especially whether it includes time actually used for a conversation or other transmissions, or the total time between a request for a conversation or a page and when the request is filled. We have clarified this.)

Construction permit. An authorization granting permission to construct and test a radio station according to these rules and the terms of the construction permit.

(This term is used throughout these rules but has not been defined.)

Control point. The location at which the base station is controlled and supervised by the licensee.

(The only change is to remove the requirement of an operator to allow for automated systems. This is necessary to respond to technological development.)

Control station. A fixed point-to-point station used to control a remote base station transmitter, and/or to transmit information about the base station to a control point or other location where the base station is controlled.

Coordination distance. Removed.

(This term is not used in Part 22.)

Dispatch point. See *dispatch station.*

Dispatch station. A fixed station operating on a base station frequency and operated by the subscriber to communicate with the subscriber's own mobile station or stations.

(*Dispatch station* is the term used in the rules, so, under the term *dispatch point*, we refer the reader to *dispatch station.* We also propose a simplified definition of *dispatch station.* It is unnecessary to say that the station is under the control and supervision of the licensee. This is a substantive rule, and it is in § 22.515.)

Domestic public land mobile radio service. Removed.

(See *public land mobile service).*

Domestic fixed public service. Removed.

Domestic public mobile radio services. Removed.

(See *public mobile services.)*

Drop point. Removed.

(This term is not used in Part 22.)

Earth station. Removed.

(This term is not used in Part 22.)

Facsimile. Removed.

(This term needs no definition. It is not used in the proposed rules. Instead, this type of communications is referred to by its emissions designator, A4 or F4.)

Fixed earth station. Removed.

(This term is not used in Part 22.)

Fixed station. A station at a fixed location.

(There are two definitions for fixed station, neither of which is accurate. "Fixed station" means a station operating from a fixed location, regardless of the type of station it communicates with.)

Frequency deviation. The maximum deviation from the center of the frequencies emitted due to modulation.

(This term is used but not defined in Part 22. We propose the above definition.)

Frequency tolerance. The maximum permissible variation of the carrier frequency expressed as a percentage or in hertz.

(This definition is rewritten in plain English.)

General communication. Removed.

(This definition can be replaced by using *two-way voice communications* whenever *general communications* is now used. The present language is unnecessarily long and the term is never used, whereas *two-way voice communications* is.)

Interoffice station. A fixed station in the rural radio service used for the interconnection of telephone central offices.

(The proposed definition is written in plain language. No substantive changes have been made.)

License. An authorization granting permission to operate a radio station according to these rules and the terms of the license.

(This term is used in Part 22 but has not been defined.)

Local television transmission service. Removed.

(This term is not used in Part 22.)

Message center. Removed.

(We deregulated the message center requirement by deleting § 22.513. This definition is no longer needed and is deleted.)

Miscellaneous common carriers. See *radio common carrier.*

(This term is outdated. Such carriers today are referred to as radio common carriers. We propose to eliminate the definition and cross-reference to "radio common carrier.")

Mobile earth station. Removed.

(This term is not used in Part 22.)

Mobile microwave auxiliary station. Removed.

(This term is not used in Part 22.)

Mobile service. See *public mobile service.*

(This term is not a precise one but is commonly used to refer informally to the various services governed by Part 22. We propose to delete the present definition for "mobile service" and simply cross-reference to "public mobile service.")

Mobile station. A station intended to be used while in motion or during halts at unspecified points.

(This definition is unchanged except for removing the words "in a mobile service." These words are unnecessary, since all radio services included under Part 22 are mobile services. The proposed definition is sufficiently general to include "portable" units.)

Multipoint distribution service. Removed.

(This term is not used in Part 22.)

Offshore central station. A fixed station in the offshore radio service for interconnecting offshore subscriber stations with each other and by means other than offshore radio with the land telephone system.

(This term has been rewritten to give a better picture of how an offshore central station operates.)

Offshore mobile station. A station in the offshore radio service intended to be used while in motion, or during halts at unspecified points, or on offshore subscriber stations which are fixed or temporarily fixed.

(This term is presently defined in terms of boats which go from oil rig to central office to oil rig on various errands related to the offshore oil industry. In practice, the majority of offshore radio service does not involve boats (although a central office does occasionally contact a company boat). Instead, these frequencies are usually used for communication between the central office and the various oil rigs, which are mobile only in the sense that they are from time to time relocated within the Gulf of Mexico. We propose to broaden the definition of "offshore mobile station" so that it is more in keeping with actual operations within this radio service.)

Offshore radio service. A public mobile radio service for communication with mobile stations in the offshore coastal waters of the United States or its possessions.

(This term replaces the longer and less descriptive term *Offshore radio telecommunications service.* (ORTS))

Offshore radiotelecommunications service. Removed.

(Replaced by *offshore radio service.)*

Offshore repeater station. Removed.

(This definition is rarely if ever used in these rules. We propose to delete it.)

Offshore private line service. Removed.

(This definition is duplicative of another definition in the rules, "private line services." We believe the latter term adequately defines the concept and propose to delete "offshore private line service." We also propose to add a new rule, § 22.1008, "Priority of service." which will specify that private line service is permissible, under certain conditions, in the offshore radio service.)

Offshore subscriber station. A fixed or mobile station in the offshore radio service normally used for communication with an offshore central station.

(This definition has been translated to plain English, incorporating the same ideas discussed in our proposed revision of the definition of "offshore mobile station.")

Pager. A mobile receiver for paging communications, also known as a "beeper."

(This definition adopts the word commonly used. There is no equivalent in the present rules.)

Permit. See *construction permit.*

Point-to-point microwave radio service. Removed.

(This term is not used in Part 22.)

Public correspondence, public message service.

(These terms are not used in part 22. In any case they have well understood meanings.)

Public land mobile service. A public communication service for hire between land mobile stations wherever located and their associated base stations which are located within the United States or its possessions, or between land mobile stations in the United States and base stations in Canada.

(This term is proposed to replace *Domestic public land mobile radio service* (DPLMRS). DPLMRS is an unnecessarily long term as evidenced by the need to make an acronym of it. "Radio" can be assumed. "Domestic" is not entirely correct as trans-border communications are permitted and in any case, it does not distinguish this service from others; that is, there is no international land mobile service. The language of the definition has not been changed.)

Public Mobile Service. The radio services licensed under this part. These services include the Public Land Mobile, Rural Radio, and Offshore Radio Services.

(We propose to retitle Part 22 as Public Mobile Services. Presently the title is "Public Mobile Radio Service." The term "radio" is unnecessary and does not add to the clarity of the term. This revised title conforms to the terminology we propose for all the services.)

Radiocommunications. Removed.

(We propose to delete this term from the definitions section of Part 22. "Radiocommunications" is a general term with no specialized meaning unique to Part 22. Nor is the term used frequently in connection with the public mobile services.)

Radio station. Removed.

(If we were to retain this term we would use the term "station." "Station" is used in the rules while "radio station" is not.

We believe this term need not be defined in Part 22. It has a well-known meaning. Most of its uses are defined, *e.g.*, base station, control station, mobile station.

The meaning of "station" is a practical one based on administrative convenience. Sometimes all facilities for one location are a "station" and at times they are not. Likewise, the same call letters are applied to more than one location, and at times not. It is difficult to find a definition with sufficient flexibility that is not so broad as to be meaningless.

Since "station" has no technical meaning we do not need to define it.)

Rated power output. Normal radio frequency power output capability (Peak or Average Power) of a transmitter, under optimum adjustment and operation as specified by its manufacturer.

(We propose to simplify this definition without making substantive changes.)

Record communications. Removed.

(This term is not used in Part 22.)

Reliable service area. The area defined by the field strength contour within which the reliability of communication service is 90 percent, i.e., the area within which nine out of every ten calls initiated by the base station can be satisfactorily received by the mobile unit.

(This term is the one used in the rules but not in the definitions. It replaces *service area of base station.*)

Service area of base station. Removed.

(We propose to replace this definition with the term "reliable service area," which is more typically used.)

Special temporary authority (STA). An authorization granting permission to operate a station for up to 90 days when circumstances require immediate or temporary operation of a station.

(We proposed this definition because this term is used but not defined. The definition is drawn from § 22.25.)

State certification. Officiel authorization by a State or its public utilities commission for a common carrier to provide service within that State. Certification requirements vary from State to State, and some States require no certification.

(State certification is used throughout Part 22 but not defined. We propose this definition.)

Symbol rate. (This term is not used in Part 22.) Removed.

Telegraphy, telephony. Removed.

These terms need no definition. Whenever the rules limit the type of transmissions, the terms "voice" and "tone" or "A3, F3" and "A1, F1" are used instead of these terms. Additionally, we have proposed to delete the sections pertaining to telegraphy.

Telemetering. Removed.

(This term is not used in Part 22.)

Television. Removed.

(This term is not used in Part 22.)

Television non-broadcasting pickup station. Removed.

(This term is not used in Part 22.)

Television pickup station. Removed.

(This term is not used in Part 22.)

Television STL (studio transmitter link). Removed.

(This term is not used in Part 22.)

Temporary fixed station. A fixed station which is to remain at a single location for less than six months.

(This term appears in Part 22 but is not presently defined. We propose the above definition.)

Transfer of control. A transfer of a controlling interest in a corporation or partnership which is not an assignment.

A change from less than or 50% ownership to 50% or more ownership shall always be considered a transfer of control.

In other situations a controlling interest shall be determined on a case-by-case basis considering the distribution of ownership, and the relationships of the owners, including family relationships.

(See discussion of definition for assignment of authorization. We explicitly provide that a change from 50% to 51%, and from 49% to 50% or more is a transfer of control. We consider exactly 50% to be a controlling interest even if it is a negative control. In widely held corporations a percentage of stock much less than 50% can be a controlling interest. Stock owned by a family will usually be considered to be a single block. We recognize that the application of these standards may vary according to the facts of a particular case. We request comment on what standards are appropriate.)

Wireline common carrier. Common carriers which are in the business of providing local exchange telephone service.

(We propose to conform our terminology to that commonly used in the industry. This term has not been defined in § 22.2. In the frequency allocation § 22.501 (b), (c), (i), (j) this term is used. The language in the proposed definition is related to our discussion of § 22.501, "nonwireline and miscellaneous common carriers.")

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Explanation

We propose to add a topical index, as discussed in the preamble.

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Tests, see "equipment tests", "maintenance tests", and "service tests
Topographic data
Topographic maps
Transfer of control
Transmitter power
Two-way mobile service, § 22.501
Type acceptance

U

Usage showing for additional channels, § 22.516

V

W

Waivers, frequency allocation, § 22.501(m)
Waivers, in general
Wireline common carrier

§ 22.3 Station Authorization Required.

Explanation

We propose to restate this section in plain English.

Paragraph 22.3(a) is retained as proposed § 22.3.

Paragraphs 22.3(b) and (c) state that licenses shall generally be granted only to stations holding construction permits. This is redundant of § 22.9(a)(3) and 22.9(b) so we do not include § 22.3(b), (c), in our proposed rule.

Paragraph 22.3(d), dealing with transfer of control, is moved to § 22.39, where it more logically belongs.

5. § 22.3 is revised:

§ 22.3 Authorization required.

No person shall use or operate any device for the transmission of energy or communications by radio in the services authorized by this part except as provided in this part.

§§ 22.4, 22.13(a)(2), 22.400, 22.500, 22.600, 22.1000 Qualifications.

Explanation

We propose to rewrite §§ 22.4, 22.13(a)(2), 22.400, 22.500, 22.600 and 22.1000. Instead of stating that the licensee must be "legally, technically, financially and otherwise qualified," we propose to say that the applicant must be qualified under the Communications Act and the Commission's rules.

We propose to include in § 22.4 one general statement about qualifications and to delete similar language presently found in §§ 22.400, 22.500, 22.600 and 22.1000. We also propose to delete language concerning financial qualifications, because this requirement was eliminated in a prior rulemaking. *See* 80 FCC2d 152 (1980). However, see our discussion of developmental authorizations (§ 22.405).

Proposed paragraph 22.4(b) restates present § 22.4, which lists the prohibitions on alien ownership, as set forth in § 310(a), (b) of the Communications Act of 1934. There is no substantive change in this rule.

6. § 22.4 is revised:

§ 22.4 Eligibility.

(a) *General.* Authorizations will be granted upon proper application if:

(1) the applicant is qualified under the applicable laws and the regulations, policies and decisions issued under those laws;

(2) there are frequencies available to provide satisfactory service; and

(3) the public interest, convenience or necessity would be served by a grant.

(b) *Alien ownership.* An authorization may not be granted to or held by:

(1) Any alien or the representative of any alien.

(2) Any foreign government or the representative thereof.

(3) Any corporation organized under the laws of any foreign government.

(4) Any corporation of which any officer or director is an alien.

(5) Any corporation of which more than one-fifth of the capital stock is owned of record or voted by: aliens or their representatives; a foreign government or representatives thereof; or any corporation organized under the laws of a foreign country.

(6) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

(7) Any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens or their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign government, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

7. § 22.13(a)(2) is revised:

(2) Demonstrate the applicant's qualifications to hold an authorization;

8. § 22.400 is revised:

§ 22.400 Eligibility.

Developmental authorizations may be issued to communications common carriers for experimentation leading to the development of a service regulated by this part.

9. § 22.500 is revised:

§ 22.500 Eligibility.

(a) Base stations and auxiliary test stations may be licensed to communications common carriers.

(b) Airborne mobile stations (or "air/ground stations") may be licensed to the individual user.

(c) Other mobile stations are licensed as part of base stations authorizations.

10. § 22.600 is revised:

§ 22.600 Eligibility.

Central office and interoffice stations may be licensed to communications common carriers. Rural subscriber stations may be licensed to common carriers or to the individual user of the service.

11. § 22.1000 is revised:

§ 22.1000 Eligibility.

Offshore central station licenses may be licensed to communications common carriers. Offshore subscriber stations may be licensed to common carriers or users of the service.

§ 22.9(b) License to cover construction permit.

Explanation

We propose to revise this rule to conform with the proposed revision of procedures concerning from 403. In discussing § 22.9(b), parties commented that, under the present rule, when an application for extension of construction permit (FCC form 701) has been filed, undue delay has been caused by waiting for the extension requested to be acted upon prior to filing a form 403 for a license to cover the construction permit. In some cases where only a few weeks extension was needed, permittees have had to wait months before their form 701 was approved and the form 403 (for a station license) could then be filed. We agree that this is an unnecessary delay. We propose to add language which will eliminate such delays. The proposed language will refer to the proposed form 408.

12. § 22.9(b) is revised:

§ 22.9 Standard application forms.

* * * * *

(b) License to cover construction permit. When construction has been completed, in accordance with the construction permit, the permittee shall so notify the Commission, using from 408. The permittee shall retain one copy of the notification form 408 which, along with the construction permit, will constitute the station license. When a construction permit has expired and a timely application for extension (FCC Form 701) has been filed, the notification form 408 may be filed regardless of whether FCC Form 701 has been acted upon.

* * * * *

§ 22.9(c)(1) Number of land mobile units served.

Explanation

This rule presently requires an applicant to include an estimate on the Form 401 as to how many land mobile units will be served during the license term. The staff, in issuing the license, authorizes the licensee to serve the number of land mobile units indicated on the application. If, during the license term, the carrier finds that the number of mobile units is coming close to surpassing the number authorized, the rule provides that the licensee must file another Form 403 requesting authorization to serve additional mobil units. We propose to eliminate this procedure, which is burdensome on licensees and requests information which is available from other sources. The Annual Report Form L provides periodic reports to the Commission as to the number of land mobile units in operation, so this information is sufficiently available through means which do not burden the "401–403" processing channel. We therefore propose to revise § 22.9(c)(1) and to eliminate the requirements that applicants specify on Form 401 the number of land mobile units to be served. We also propose to eliminate the requirement that licensees file Form 403 for authorization to serve additional mobile units. Under this revision, licenses will no longer specify the number of mobile units which may be served.

Individual land mobile units served by a carrier will be considered to be associated with that carrier's blanket

authorization. This approach is consistent with the individual license deregulation announced in CC Docket No. 79–259 and with the various statutory and treaty requirements discussed in that Docket. *Cf. Report and Order,* CC Docket No. 79–259, 77 FCC 2d 84 (1980).

This proposed revision is also related to our proposal to deregulate rural radio licensing. *See* discussion of § 22.600.

13. § 22.9(c) is revised:

(c) *License for mobile station.*

(1) *Land mobile stations.* These stations are considered to be associated with and covered by the authorization issued to the carrier serving the land mobile station. No additional authorization is required.

(2) *Airborne mobile stations.* Applications for a license for airborne mobile stations submitted by persons who propose to become subscribers to a common carrier service for public correspondence shall be filed on FCC Form 409. This form will also be used for the modification and renewal of such licenses. Such applications shall also be accompaned by the supplemental showing set forth in §§ 22.15(i)(2) and 22.15(i)(3).

§ 22.9(d) Modification of station license not requiring a construction permit.

Explanation

As suggested in the comments filed by Schwartz, Woods and Miller, we have clarified the applicability of this section to construction permits as well as licenses. We also propose to delete subsections (1) through (6) because of equivalent deletions proposed in various dicussions elsewhere in this notice.

We also propose to modify this rule so that it refers to the proposed notification form 408. *See* our discussion of § 22.9(c).

14. § 22.9(d) is revised:

(d) *Modification of authorization not requiring a construction permit.* Prior to the expiration of an authorization, an FCC Form 408 may be filed to make only those categories of changes to an existing station as listed below:

(1) Change in or additional emission;

(2) Request to delete or change antenna obstruction markings;

(3) Change in points of communications (Rural Radio Service);

(4) Correction of coordinates;

(5) Change of an authorized frequency; or

(6) Addition of frequencies for mobile transmitters.

§ 22.13(a)(6).

Explanation

This rule includes a list of cross-references to requirements found elsewhere in the rules. This list is not complete and thus is misleading. We believe the organizational improvements to Part 22, proposed in this notice, will be more helpful than the list presently found in this rule. We therefore propose to eliminate this list and substitute a general standard that applicants comply with the various requirements found throughout Part 22.

15. § 22.13(a)(6) is revised:

§ 22.13 [Amended]

(a) * * *

(6) Show compliance with the special requirements applicable to each radio service and make all special showings that may be applicable.

§ 22.13(f) State certification.

Explanation

We propose to make additions to this rule which will codify policy statements in several recent orders which discussed state certification issues. These order are: *Mobilfone Service, Inc.,* Mimeo 07273 (released February 23, 1981), *modified,* Mimeo 0011344 (Com. Car. Bur., released May 26, 1981); *Hazle-Tone Communications, Inc.,* FCC Mimeo 06845 (Com. Car. Bur., released February 10, 1981), *recon. pending; Alfred C. Cordon, Jr.,* 80 FCC 2d 328 (1980), *recon. denied,* FCC 82–218, released May 19, 1982, *appeal pending sub nom. Radio and Communication Consultants, Inc. v. FCC,* No. 82–1672 (D.C. Cir., filed June 16, 1982); and *Public Notice,* Mimeo 38626, Sept. 30, 1980. *See also* our discussion of §§ 22.43 and 22.44 for other state certification issues.

We also propose to simplify this rule by adopting one uniform standard to apply to all radio services in Part 22. As the rule now reads, there is a prior certification requirement for all services other than the public land mobile service. This language is out of date. The Commission's order implementing cellular service exempted this new service from the prior state certification requirement. 86 FCC 2d 469, p. 505, para. 83 (1981). The only other radio services covered by part 22 are the rural radio service and the offshore radio service, neither of which is involved in state certification procedures. We therefore propose to adopt a single standard which will govern all applicable cases.

16. § 22.13(f) is revised:

§ 22.13 [Amended]

* * * * *

(f) State certification.

(1) *General rule.* Permittees and licensees are required to comply with all applicable state certification requirements. Applicants may, but are not required to, include evidence of state certification when filing FCC Forms 401 or 408. The holder of a construction permit under this part must complete construction in accordance with § 22.43 of the rules. A licensee under this part must have all requisite state authority, and be in operation within 240 days of the date of the license grant, or the license will automatically expire and must be submitted for cancellation.

(2) *Denial of state certification.* A pending application will be returned as unacceptable for filing where the applicant is denied state certification necessary to construct and/or operate the proposed facilities, and the state appeal process has been exhausted. Such applications will not be retained on file while the applicant pursues subsequent state applications. Where an applicant has been denied the necessary state certification and has exhausted the state appeal process, the applicant shall not resubmit its application to the Commission until after obtaining state certification.

(3) *Applicant's duty to inform.*

(i) The applicant shall include in Form 401 information regarding any adverse action which has been taken regarding the state certification application.

(ii) The applicant shall promptly and fully advise the Commission if any adverse action regarding state certification is taken while the application is pending.

§ 22.13(g) Part-time management.

Explanation

This section requires a special showing when an applicant, partner or full time manager will not actively participate in the daily operation of the proposed station. We believe that requirement imposes an unnecessary burden on applicants, because our primary concerns are prevention of interference and provision of service to the public, rather than the specific details as to how licensees meet these responsibilities.

In this Notice of Proposed Rulemaking we propose to deregulate station operation and only require that the station be operated in accordance with the license and the rules. *See, e.g.,* discussion to § 22.15 (e), (f).

We therefore propose to delete § 22.13(g).

17. § 22.13(g) is removed.

§ 22.15(a) Site availability.

See discussion of § 22.20(b)(5), below.

§ 22.15(b)

Interference studies.

Explanation

This section requires applicants to file interference studies to demonstrate that the proposed facilities will not cause co-channel interference. We propose to add language requiring that the interference study be conducted within 60 days before the application filing date. This revision will prevent the submission of outdated interference studies which, because of the time which has elapsed since they were conducted, can no longer be reasonably construed as demonstrating the absence of co-channel interfernce.

We also propose to relax certain filing requirements in § 22.15(b)(2). This section requires applicants to file their supporting data and calculations as part of the applicant's interference studies. We propose that applicants no longer file these calculations but simply retain them and furnish them upon request to the Commission. We believe this proposal will reduce the size of the application and duplicating cost.

We also propose to add a list stating preceisely what information the applicant is expected to furnish as part of an interference study: This list was published in Public Notice No. 1110, on December 14, 1981. The list has proven to be a helpful guideline to applicants but does not appear in the present rules. We therefore propose to codify the list so that all applicants will have it readily available.

We also propose to reword § 22.15(b) in a more readable format, adding headings and uniform structure.

18. § 22.15(b) is revised:

§ 22.15 [Amended]

* * * * *

(b) Each public land mobile service application for a construction permit for a new base station or a major modification to an existing base station shall make the following showings:

(1) *co-channel facilities.* The application must explicitly state whether there are any co-channel facilities (whether existing or proposed by applications pending for more than 60 days from their public notice dates) within the following mileage separation standards:

(i) *two-way communication facilities:* the minimum mileage separation established by §§ 22.502 and 22.503.

(ii) *one-way communication facilities:* the lesser of 75 miles or the minimum mileage separation determined by applying the provisions of § 22.502 and the table shown in § 22.503(a).

(iii) 125 miles along any radial direction where the combination of effective radiated power in that direction and antenna height above average terrain in that direction exceeds the limit that is computed by applying the provisions of § 22.505 to that direction.

(2) *Interferences studies:*

(i) The application shall contain interference studies demonstrating that the proposed facilities will not cause harmful electrical interference to those co-channel facilities (existing or proposed) identified in response to paragraph (b)(1) of this section. The interference studies must use procedures consistent with § 22.504 and FCC Report No. R-6406, "Technical Factors Affecting the Assignment of Facilities in the Domestic Public Land Mobile Radio Service," by Roger B. Carey.

(ii) For each pair of base stations studied, the following data shall be provided:

(A) The name of the applicant or licensee.

(B) The geographic name of the location of the transmitter.

(C) The geographic coordinates.

(D) The call sign (if granted previously).

(E) The file number, if pending.

(F) The distance between the proposed station and the co-channel station.

(G) The radial bearing from the proposed station to the co-channel station.

(H) The radial bearing from the co-channel station to the proposed station.

(iii) The following figures shall be given relative to the interstation radial:

(A) The distance from the proposed station to its reliable service area contour (RSAC).

(B) The distance from the co-channel station to its RSAC.

(C) The distance from the proposed station to the RSAC of the proposed station.

(D) The distance from the co-channel station to the RSAC of the proposed station.

(E) For the point of intersection of the interstation radial and each RSAC:

(*1*) "R" (equation 8, Carey Report).

(*2*) Field strength of the undesired signal, in dBu.

(*3*) Ratio of (*2*) and the field strength of the protected contour in § 22.504 of the Rules.

(F) Any additional data that the applicant feels is necessary or desirable may be included.

(iv) All supporting data and calculations shall be retained by the applicant and furnished to the Commission upon request. The interference studies shall be conducted within 60 days of the filing of the application.

§ 22.15(c) Antenna structures.

Explanation

This proposed paragraph combines present §§ 22.15 (c) and (d), which both deal with antenna structures.

As proposed in the comments we have eliminated the requirement that the sketch show all antennas on a structure. The reasons for these requirements are no longer valid. The requirement of showing all antennas is burdensome when there are many antennas owned by various parties. Therefore, we eliminate this requirement.

We have deleted reference to types of antennas not used in Part 22.

Paragraph 22.15(c) does not now explicity apply to offshore radio stations. We propose to revise the language so it is clear that § 22.15(c) applies to all services under Part 22.

Paragraph 22.15(d) has been restated as § 22.15(c)(2) and entitled "FAA notification." This paragraph has been restated in plain language.

All of proposed § 22.15(c) has been conformed to proposed § 22.121, Replacement of Equipment, so that the filing requirements apply only to increases in antenna height and to new antennas not already on file with the Commission.

19. § 22.15(c) is revised:

§ 22.15 [Amended]

* * * * *

(c) Antenna height.

(1) *Sketch.* (i) Every application for a new antenna, an antenna increased in height, a new antenna structure, or an antenna structure increased in height shall include a vertical profile sketch.

(ii) The sketch shall include overall height, height of antenna, and height of the ground or the top of the supporting building. Heights shall be elevation above mean sea level (AMSL), and above ground level (AGL).

(2) *FAA Notification.* Every application for a new antenna structure or for an increase in antenna structure height shall state whether FAA notification is required. If notification is required, a copy of the FAA study shall be included; if it is not available, the applicant shall state the name filed under, the date of filing and the location of the FAA office.

20. § 22.15(d) is removed and reserved.

22.15 (e), (f) maintenance contracts, filing requirements.

Explanation

These sections refer to maintenance procedures and related filing requirements. These rules provide detailed listings of what maintenance procedures applicants must follow and require applicants to file copies of their maintenance contracts.

We believe these requirements are unnecessary and unduly burdensome. Applicants are fully capable of establishing adequate maintenance procedures without detailed guidance from the Commission. Similary, the requirement in § 22.15(f) to file copies of contracts is unnecessary. Questions concerning such contractual matters rarely if ever arise. If such a problem should occur in the future, the staff can contact the individual applicant or licensee rather than burden all applicants with such a filing requirement. The responsibilities concerning maintenance contracts are fully discussed in other rule sections (§§ 22.110 and 22.205). We therefore propose to delete §§ 22.15 (e) and (f).

21. § 22.15(e) is removed and reserved.

22. § 22.15(f) is removed and reserved.

§ 22.15(g) Developmental authorizations.

Explanation

We propose to delete this subsection, which does nothing other than cross-reference § 22.405, the rule which discusses developmental authorizations. The latter rule is already highlighted in the Table of Contents and in the proposed Topical Index. We therefore propose to delete § 22.15(g).

23. § 22.15(g) is removed and reserved.

§ 22.15(h) Rural Radio, maps.

Explanation

This paragraph requires that rural radio applications include topographic maps. Elsewhere in this notice, we propose to eliminate this requirement for all other mobile services. *See* § 22.15(j)(8). Similarly, we propose to delete § 22.15(h).

24. § 22.15(h) is removed and reserved.

§ 22.15(i)(1) transmitter information.

Explanation

The transmitter information requirements specified in this paragraph have been modified by our revisions of §§ 22.108, 22.109, and 22.110. It is unnecessary to state these requirements twice in Part 22, so we propose to delete § 22.15(i)(1).

25. § 22.15(i)(1) is removed and reserved.

Section 22.15(i)(2) Other pending applications.

Explanation

This subsection requires that certain information be furnished so that the staff, in processing an application, will be fully aware of other pending applications by the same (or any related) applicant. The rule section as presently worded requires an applicant to state only whether it has other applications currently pending in the same general area. In practice, we have found that this information gives an incomplete picture of the situation in an applicant's proposed service area. The staff also needs to know what other facilities in the same area are presently licensed to the applicant as well as any other applications in that area that the applicant may have filed *concurrently* with the application under consideration. We propose to add language to require that this information be provided. We also propose to substitute, in place of the "same general area" standard, a 25-mile standard. We believe the former standard is too indefinite. The 25-mile standard will make it clear which pending applications must be identified. The 25-mile standard corresponds to the average service area around a base station transmitter. We also believe it is important that the applicant indicate other applications pending in the same market and propose to include this requirement in the rule.

26. § 22.15(i)(2) is revised:

§ 22.15 [Amended]

* * * * *

(i) * * *

(2) All applications for new or additional facilities will identify any other pending or concurrently filed applications in this service for new or additional facilities within the same market or within 25 miles of the proposed station that applicant, or any principal thereof, may be a party to or have an interest in, either directly or indirectly. All applications shall also identify all existing facilities in the 25-mile area licenses to the applicant or in which the applicant has an ownership interest, regardless of call sign or licensee name.

§ 22.15(i)(3)(iii) Maintenance, airborne mobile units.

Explanation

This section requires that applicants for airborne mobile stations submit a showing that they have made arrangements for maintenance by first or second-class radio operators.

Elsewhere in this Notice of Proposed Rulemaking we have proposed to deregulate maintenance. *See* § 22.205. We have also proposed to delete detailed showings of proposed maintenance procedures, *see* § 22.15(e). We believe similar deregulation is in order for airborne mobile units. We therfore proposed to delete § 22.15(i)(3)(iii).

27. 47 CFR is amended by removing § 22.15(i)(3)(iii) and removing the presently reserved § 22.15(i)(3)(iv).

§ 22.15(j)(6) Antenna height.

Explanation

We propose to revise this section to provide for the correct cross-references.

28. § 22.15(i)(6) is revised:

§ 22.15 [Amended]

* * * * *

(i) * * *

(6) Antenna height above average terrain for each of the eight radials specified in § 22.115.

§ 22.15(j)(8) Topographic maps.

Explanation

We propose to eliminate the requirement that applicants submit topographic maps as part of the application. Instead, applicants will prepare and retain these maps as part of their business records. Applicants will be required to make these maps available to the staff upon request and also to make them available to members of the public at reasonable reproduction cost. We believe this proposal will substantially reduce the volume of paperwork currently processed and still permit the staff to examine topographic maps in those unusual situations where it is necessary. This rule revision is also reflected in our discussion of § 22.15.

We propose to clarify the rule by specifying that topographic maps should include lines of latitude and longitude, as well as a scale. On occasion, applicants have submitted maps which have been cropped in such a manner as to delete this information. The proposed rule revision (proposed paragraph 8(iii)) will avoid this problem.

29. § 22.15(j)(8) is revised:

§ 22.15(j)

* * * * *

(8) Topographic maps showing:

(i) Exact station location; and

(ii) Location of radials used in determining elevation of average terrain, and

(iii) Lines of latitude and longitude, and a scale.

Note.—These maps will *not* be filed with the application but instead shall be retained

as part of the applicant's records and shall be made available to the Commission's staff upon request. These maps shall also be promptly furnished to members of the public at reasonable reproduction costs.

§ 22.19 (Proposed) Waivers.

Explanation

We propose to add a new rule discussing waivers and related procedures. Section 22.20(c) of the existing rules discusses waivers briefly. We propose to expand this discussion to clarify what standards are employed in reviewing waiver requests.

In the past the Commission's policy on waivers has been influenced by the fact that portions of the rules were outdated or inapplicable. Consequently, waiver requests were common, and many were routinely granted. This "regulating-by-waiver" approach has proven to be inefficient, time-consuming, and an administrative burden on the public and the staff. The present rulemaking updates or eliminates the bulk of those rule sections which have been the subject of so many waiver requests. Examples are the various logging and operator requirements in Part 22. Elsewhere in this notice, we propose that applicants no longer be required to submit radial profile graphs and topographic maps as part of applications. Additionally, we make our filing procedures more flexible by eliminating certain filing requirements which have been unnecessarily burdensome. We request comment on additional rule sections which should be modified so as to eliminate the "waiver request-waiver grant" cycle.

As a result of the revisions proposed in this notice, the staff will apply a more restrictive approach to waivers. We propose the following general policy: All waiver requests must be fully supported, and applications which request a waiver must be accompanied by an alternate showing which complies with the rules. Where grants of requests for waiver of a specific rule become commonplace, the need for the rule is called into question and will be examined to the extent our resources allow.

All waiver requests must be fully supported, either by cross-reference or by a statement of supporting factors. An application with an unsupported waiver request will be dismissed as defective.[1]

If the request is based on information already on file, the information may be cross-referenced. A conclusory statement that the applicant requests a waiver or "needs" a waiver will not be considered as a supporting showing. On the other hand, a good faith effort to support a waiver request, even if insufficient to justify a waiver, will not render an application defective. Instead, the waiver request will be reviewed when the application is reached for processing. If at that time the staff determines that a waiver is not warranted, the alternate showing (which complies with the rules) will be reviewed with an eye toward granting the application without waiver.

We shall now examine some typical waiver requests in order to explain more fully the proposed policy. Waiver requests fall in two general categories: (1) those related to information required in applications and (2) those related to post-licensing operation. A typical example of an information-related waiver request is one concerning a need showing; that is, an applicant requests that it be granted a frequency without demonstrating need or without submitting a § 22.516 traffic loading study. Under the proposed policy, an unsupported waiver request would result in dismissal of the application as defective. A waiver request which is supported will be fully considered. If the staff determines that a waiver of the rules is not warranted, the request will be denied and the alternate showing will then be reviewed for disposition of the application in accordance with the rules. If the information required by the rules has not been submitted and the waiver is not granted, the application will be returned as defective.

It may be argued that it makes no sense to require an applicant to submit a traffic loading study along with a waiver request to omit such a study. We reject this position, however. If an applicant can demonstrate unique circumstances why the Commission should not *consider* loading on existing facilities, this explanation should be submitted to justify the waiver request. This does not mean, however, that a loading study should not be prepared or submitted. In the event the staff determines that a waiver is not warranted, the staff should be able to promptly determine whether the application should be granted in accordance with the rules. In our view, it is very inefficient to permit applicants at this latter stage to begin assembling information which the rules require as part of the initial filing. Furthermore, this latter procedure leaves the door open for abuse of the application process by permitting applicants to block competition through hastily filing competing applications minus the preparatory studies which demonstrate need. Our goal in implementing the waiver policy is to expedite application processing, not to facilitate dilatory tactics. We therefore propose to require alternate showings with waiver requests.

A typical example of a waiver for post-licensing operation is a height-power waiver; that is, an applicant requests authority to operate at a height or power greater than the limits set forth in the rules. As we have stated elsewhere (*see* § 22.117), we generally do not grant height-power waivers because of the potential for interference created by such waivers. Instead, applicants are expected to design more efficient systems by means of directionalized antennas or additional transmitters. If a height-power waiver request is submitted, it must be supported by an exhibit showing the proposed service contours if the waiver is granted, as well as a full explanation of the technical and economic reasons why the height-power limits in the rules are not feasible. Additionally, the applicant must attach an alternate exhibit showing the service contours if a grant were to be made in accordance with the height-power limits in the rules. Otherwise, in cases where the staff determines that a waiver is not in the public interest and no alternate showing is attached, the application will be returned as defective.

The proposed rules discussed above are obviously designed so that in the future the public mobile services will be regulated by rules rather than by waiver. We attempt in this notice to eliminate outdated rules which have in the past necessitated many waiver requests. As a result of the proposed rules revisions, we anticipate taking a more restrictive approach toward waivers. We shall expect applicants to file in accordance with the rules (which will be more flexible and updated) and only in extraordinary circumstances to request waivers.

30. § 22.20 is amended:

§ 22.20 [Amended]

31. § 22.20(c) is removed and reserved.

32. A new rule § 22.19 is added to read as follows:

§ 22.19 Waiver of rules (new rule)

(a) *Grant of waiver.* Waivers of these rules may be granted upon application or by the Commission on its own motion. Requests for waivers shall contain a statement of reasons sufficient

[1] An applicant's right to comparative consideration where a waiver request is submitted is discussed in *Lehigh Valley Mobile Telephone Co.*, "Order Designating Applications for Hearing," CC Docket Nos. 83-151, 85-152, released March 24, 1982; and *Allen C. Moore*, 86 FCC 2d 787 (1981). The proposals in the instant notice do not alter the policies set forth in these two orders.

to justify a waiver, including the unique circumstances involved and the lack of a reasonable alternative. If the information necessary to support a waiver request is already on file, the applicant may cross-reference to the specific filing where it may be found.

(b) *Denial of waiver, alternate showing required.* If a waiver is not granted, the application will be dismissed as defective unless the applicant provides an alternative proposal which complies with the Commission's rules (including any required showings).

§ 22.20(b)(2) Filing of fees.

Explanation

This section provides that an application will be considered defective if the submitted filing fee is insufficient. GTE has suggested that the reference to filing fees be deleted.

At the present time, the Commission has suspended the collection of filing fees. Applications in the Public Mobile Radio Service are not presently returned for defects related to filing fees. This practice does not, however, preclude Congress or the Commission from establishing a filing fee schedule in the future. In such an event, § 22.20(b)(2) would again be invoked. Since the Commission has not announced the permanent discontinuance of filing fee schedules, the best course to follow is to recognize in this notice that § 22.20(b)(2) is not presently enforced but may be returned to use in the future and therefore should not be deleted.

§ 22.20(b)(5) Site availability.

Explanation

We propose to eliminate the requirement set forth in §§ 22.20(b)(5), 22.15(a) that applicants demonstrate the availability of the proposed site of a new facility. In the past this requirement has resulted in significant administrative burdens which have produced few benefits to the public. The processing staff has issued numerous deficiency letters to applicants who have failed to include a demonstration of site availability. Processing of the application is delayed pending a response to the deficiency letter.

In the great majority of cases, the omission of the required showing was due only to an oversight on the part of the applicant and did not involve unavailability of the site or misrepresentation concerning this issue. Thus, the delays and administrative burdens described above do not, except in rare cases, serve to identify substantive defects related to site availability. It is rare that some acceptable site is not available because PMS antennas can be mounted virtually anywhere.

We do not imply that applicants are no longer required to have an available site for their proposed facilities. In specifying the proposed site's location on the application, the applicant implicity represents that he has obtained at least reasonable assurances that the site is available for the proposed use. (See proposed § 22.15(a)). If a party demonstrates that, contrary to the representations made by the applicant, a substantial question exists as to whether the specified site is in fact available, we shall carefully examine the facts before issuing a construction permit.

33. § 22.15(a) is revised:

§ 22.15 [Amended]

(a) Applications for fixed stations shall list the proposed antenna site. The applicant shall have obtained reasonable assurances that it can use the site.

34. § 22.20(b)(5) is revised:

§ 22.20 [Amended]

35. § 22.20(b)(5) is removed and reserved.

§ 22.20(b)(7) Site availability.

Explanation

This paragraph should be deleted for the reasons stated in the discussion of § 22.20(b)(5). Both paragraphs require a showing of site availability. We propose to delete both.

36. § 22.20(b)(7) is revised:

§ 22.20 [Amended]

37. § 22.20(b)(7) is removed and reserved.

Major amendments and the cut-off rule (§§ 22.23, 22.27, and 22.31).

Explanation

These rules have been the subject of extensive litigation, many pleadings, and great administrative burdens to applicants and to the staff. Without question, the lengthy deliberations precipitated by these rules have delayed rather than expedited processing of applications and service to the public. We question whether these delays are justified by any countervailing public benefit or procedural safeguard.

The cut-off rule (§ 22.31) provides that an application for a particular frequency will be entitled to comparative consideration with an earlier-filed application for the same frequency only if the later application is filed within sixty days of public notice that the first appplication was filed. This rule was adopted to avoid an endless series of mutually exclusive ("MX") applications, wherein the staff processes all MX applications currently on file but is obligated to re-process all such applications because, just before staff action on the applications, one more applicant requests the same frequency. A cut-off rule was necessary in the interests of finality and of expeditiously providing service to the public.

The major amendment rule (§ 22.23) has two purposes. The first is to require that amendments which are considered "major" in scope (as listed in the rule) will apear on public notice. This policy enables members of the public to protest the proposed amendment or bring public interest considerations to the Commission's attention. Public notice is not required for minor amendments, since, even with the proposed modifications, the proposed facilities remain substantially unchanged from those described in the applicant's earlier proposal, which was already placed on public notice.

The second purpose of the major amendment rule relates to the cutoff rule: when an applicant files a major amendment, the proposed change is by definition so major that the earlier application is no longer considered to be "before" the staff for consideration. Instead, the Mobile Services Division processes and takes action on the modified proposal. Accordingly, the filing date for the application is deemed to be the date on which the major amendment was filed. This date is crucial because of the cut-off rule, as discussed above.

The complicated cases, which involve delays, are those where the applicant files a second application. The applicant's previously filed application is MX with a competitor. Although the second application is not formally characterized as an amendment to the previously filed application, both applications propose service in the same market (*e.g.*, the second application requests an additional frequency.). Although the rule (§ 22.23) refers only to "amendments," the staff has in the past considered certain later-filed applications to also qualify as major amendments, thereby invoking the cut-off rule. The difficulty has been in deciding where to draw the line on the cut-off issue, and the debate has revolved around whether the later-filed application should be construed as a major amendment or as a later-filed application which is unrelated to the earlier application.

Section 22.23(c) defines major amendments, but also states that amendments will be classified "on a

case by case basis." It thus confers some discretion in this area. "Later-filed applications" are not explicitly referred to in this rule; instead the only term used is "amendments." The staff, however, has in the past viewed certain types of later-filed applications as major amendments to an earlier application. The discussion has turned on such factors as whether the earlier and later applications were filed years apart, whether the proposed transmitting facilities are co-located on the same rooftop, whether the proposed service areas are similar in magnitude, whether the later-filed application was filed to contest a competitor's renewal application for the same frequency and whether an applicant might otherwise be deterred from filing any application to significantly improve its existing facilities. *CF., Radio Dispatch Corp. et. al.*, 52 FCC 2d 750 (Rev. Bd., 1975); *Baker Protective Services, Inc.*, 78 FCC 2d 373 (1980), consolidation granted, 84 F.C.C. 2d 432 (1981).

In many cases, the decision as to whether to dismiss an earlier-filed application pursuant to the cut-off rule has been based not upon an objective analysis of the cut-off rule's purposes, but instead upon abstract discussions of the definition of a major amendment and upon efforts to avoid inequitable results no matter what the term "major amendment" actually means. After careful consideration, we believe that applications will be processed more expeditiously and the public better served by focusing instead on two factors: (a) the cut-off rule and (b) how to expedite the processing of MX applications. Under this approach, an earlier-filed application would not be dismissed. Instead, the application would proceed toward an "MX" hearing. The later-filed application would be judged on its own merits. Since it is not related to the mutual exclusivity of the two competing applications, no reprocessing of the "MX" package is triggered, and hence there is no reason to dismiss the applicant's earlier application. Nor would the staff consolidate the applicant's two proposals, since the more expeditious approach is to process each separately, thus insulating each application from delays related to processing the other. We belive this approach will avoid delays which have traditionally been associated with the concept of major amendments without undermining the rationale of the cut-off rule.

We do not propose to apply this procedure to applications filed for the stated purpose of amending the earlier application. An obvious example is an amendment filed to change frequencies and thereby avoid an MX situation. Of course, an applicant may also request dismissal of its MX application.

We further propose, in the interest of expediting MX situations, that no major amendments of an MX application be permitted except to withdraw from an MX situation; *i.e.*, we propose to permit only amendments which resolve frequency conflicts and will eliminate an MX situation. This policy would apply regardless of whether the 60-day cut-off period had passed. We believe that parties will still have sufficient flexibility to improve their current service to the public, since as stated above they may still file other applications which will be judged separately from the MX application.

We also propose, as a means of avoiding delays where MX situations arise, that MX applicants be required to file separately for other non-MX frequencies, *i.e.*, we propose to require that, if applicant "A" files a Form 401 requesting a frequency already requested by applicant "B", then "A" may not also request, as part of the same application, other frequencies which are not MX with applicant "B's" proposal. Instead, "A" may request the other frequencies on a separate Form 401, which will be processed separately from the MX package.

38. § 22.23 is revised by adding a new paragraph (d):

§ 22.23 Amendment of applications.

* * * * *

(d) *Mutually exclusive applications.*

No major amendment may be filed to an application which is electrically mutually exclusive with another application except to resolve the frequency conflict. This policy applies regardless of whether the 60-day cutoff period has passed.

* * * * *

39. § 22.3(e) is revised by adding a new paragraph (e):

§ 22.31 [Amended]

* * * * *

(e) *Additional frequencies.* An applicant requesting a frequency which is mutually exclusive with another application shall not in the same application request additional frequencies which are not mutually exclusive with the first application. Instead, additional frequencies may be applied for in a separate application.

§ 22.23(a) Amendment of application as a matter of right.

Explanation

This rule currently provides that applicants may amend an application as a matter of right at any point prior to designation. This policy has created uncertainty and inefficiencies in the processing of applications. In many cases, staff members have expended time processing applications only to have them amended in such a manner that processing must be repeated from the beginning. We therefore propose to permit amendments only within 90 days from the application filing date. Beyond that point an applicant must withdraw the pending application and file and the "amended" application anew. We further propose, in the interest of expediting the processing of applications, that once a petition to deny has been filed against an application, no amendment to that application will be permitted unless the amendment is filed to meet all the objections of the petitioner(s), such that any petition(s) may be dismissed. We believe that this policy will have several effects: (a) It will decrease the number of amendments filed and thereby expedite processing; (b) it will encourage settlements between parties; and (c) in cases where settlement is not possible, applications will proceed more promptly to disposition.

40. § 22.23(a) is revised:

§ 22.23 Amendment of applications.

(a) *Amendments as of right.*

A pending application may be amended as a matter of right within 90 days from the original filing date of the application, provided that:

(1) Amendments shall comply with § 22.29, as applicable; and

(2) No amendment to an application will be permitted after a petition to deny has been filed unless the amendment responds to all objections raised in all petitions such that any petitions may be dismissed.

§ 22.23(c) Major amendments.

Explanation

We propose to take a more restrictive approach in classifying amendments to applications. This rule currently provides that amendments will be classified on a case-by-case basis and then lists categories of major amendments. We propose to delete some of these categories and to re-word this section so that all amendments will be considered minor (and thus not subject to public notice requirements) except for the few categories listed. We

believe these revisions will give greater clarity to the rule and will streamline processing of applications by reducing the number of applications which unnecessarily appear on public notice. For these applications, the revisions will also eliminate delays (a minimum of 30 days) associated with public notice procedures.

We also propose that changes in the type of emission no longer be considered major. *See* present § 22.23(c)(iii). This revision is consistent with other proposed revisions (*See* § 22.106) in this notice to make the rules more flexible concerning emissions.

We propose a simpler and more flexible standard for the amendments presently listed in subsection (c)(3)(iv). This rule lists various types of base station amendments which will be considered major. The rule discusses various criteria: 10% increase along each radial, change in coordinates of more than five seconds of latitude or longitude, enlargement of service area. We propose to adopt a single standard and to eliminate other language currently found in the rule. The proposed standard is increases in reliable service area of more than ten (10) percent or 1 mile in any direction (as measured along eight radials).

We propose to delete present § 22.23(c)(5), which states that "substantial and material alterations in the proposed service" will be considered major amendments. This language is vague and overlaps the categories which are already described in detail in proposed paragraph (c)(2).

We propose to revise § 22.23(c)(6), concerning changes in ownership, so that it is more readable. The present rule makes complicated references to § 310(d) of the Communications Act. We propose to revise this rule so that the reader can, without referring elsewhere, determine whether an amendment is major or minor. We will also indicate, as stated in § 309(c)(2)(B) of the Communications Act, that amendments concerning involuntary assignments and transfers are minor amendments. *See* proposed paragraph (c)(4).

We propose to add language (in the first paragraph of proposed § 22.23(c)) requiring that amendments to applications be accompanied by an exhibit showing both the original service contour and the proposed service contour. Such an exhibit is necessary to enable the staff to classify the modification as major or minor.

We also propose to add a subsection (c)(3), concerning amendments to cellular applications.

We propose to delete subsection (c)(7), which is unnecessary. It simply cross-references § 309 of the Communications Act, which establishes general public notice requirements for applications and amendments. Section 309 does not create more categories or provide additional information not already provided in § 22.23(c), so we propose to delete subsection (7).

41. § 22.23(c) is revised:

§ 22.23 [Amended]

* * * * *

(c) * * *

(1) The Commission will classify all amendments as minor except in the cases listed below. Amendments to applications shall be accompanied by an exhibit showing both the original service contour and the proposed service contour.

(2) An amendment shall be deemed to be a major amendment subject to § 22.27 and § 22.31 under any of the following circumstances:

(i) *Change in technical proposal.* If the amendment results in a substantial change in the engineering proposal such as (but not necessarily limited to):

(A) A change in, or an addition of, a radio frequency; or

(B) A change in the class of Station (*e.g.*, from control to base).

(ii) *Amendments to proposed base station facilities.* If the amendment enlarges the reliable service area of the proposed base station facilities by more than ten (10) percent or by more than one (1) mile along any of eight radials spaced every forty-five (45) degrees from zero degree True North; or

(iii) If in the Domestic Public Cellular Radio Telecommunications Service, the amendment results in any change in the Cellular Geographic Service Area.

(iv) *Changes in ownership or control.* It the amendment specifies a substantial change in beneficial ownership or control (*de jure* or *de facto*) of an applicant. *Provided, however,* such a change would not be considered major if it is involuntary or if the amendment merely reflects a change in ownership or control that has previously been approved by the Commission.

§22.27(a)(3) Informational public notices.

Explanation

We propose to revise § 22.27(a)(3), concerning informational public notices. On occasion the staff issues notices not required by either § 22.27(a) of the Rules or § 309(b) of the Communications Act. Instead, these notices are issued solely for informational purposes. In the past, confusion has arisen in certain cases where members of the public have erroneously believed that, because such an informational public notice was released, the Commission was required to wait 30 days before acting on the published matter and parties were entitled to file protests concerning the informational notice. We propose to revise § 22.27(a)(3) by adding language stating that public notices which are released for informational purposes only do not create protest rights by appearing on public notice.

42. 47 CFR 22.27 is amended by revising § 22.27(a)(3) to read as follows:

§ 22.27 Public notice period.

(a) * * *

(3) Information which the Commission in its discretion believes of public significance. Such notices are solely for the purpose of informing the public and do not create any rights in an applicant or any other person.

§ 22.29 Ownership changes and agreements to amend or to dismiss applications or pleadings.

Explanation

This rule establishes standards by which the Commission reviews settlement agreements among parties where one or more applications are contested. In requiring prior approval of such agreements, the Commission's concerns have been the following:

(1) to discourage financial incentives for strike applications;

(2) to discourage unreasonable buy-outs of competitors; and

(3) to discourage attempts to delay grants or unreasonably profit from the administrative process. *See* Domestic Public Land Mobile Radio Service, *Report and Order*, 60 FCC 2d 549, 558–59 (1976).

We question the continuing relevance of these regulatory concerns. With the availability of 35 MHz and 900 MHz frequencies as well as cellular communication, the shortage of mobile service frequencies which underlay the prior approval policy is not now the critical consideration it has been in the past. Additionally, the mobile services market has demonstrated itself to be extremely competitive and thus unlikely to create incentives for the type of behavior mentioned above. Finally, we have adequate tools to deal with abuse of the regulatory process, should it occur.

We therefore propose to eliminate the prior approval requirement. Instead, we shall simply require that licensees and applicants notify the Commission of any relevant settlement agreements at the time that they make ownership changes, dismiss pleadings, or amend or dismiss applications.

43. § 22.29 is revised:

§ 22.29 Ownership changes and agreements to amend or to dismiss applications or pleadings.

(a) *Applicability.* This section applies to applicants and all other parties interested in pending applications who wish to resolve contested matters among themselves with a formal or an informal agreeement or understanding. This section applies only when the agreement or understanding will result in (1) a major change in the ownership of an applicant to which §§22.23 and 22.31(e) apply, or (2) the individual or mutual withdrawal, amendment or dismissal of any pending application, amendment, petition or other pleading. It does not apply to any engineering agreement or understanding which resolves frequency conflicts without creating new or increased frequency conflicts. Nor does it apply to agreements which do not involve any consideration promised or received.

(b) *Policy.* Parties to contested proceedings are encouraged to settle their disputes among themselves. Parties which, under a settlement agreement, apply to the Commission for ownership changes or for the amendment or dismissal of either pleadings or applications, shall at the time of filing notify the Commission that such filing is the result of an agrement or understanding.

§§ 22.30 (b) and (c) Informal objections.

Explanation

Part 22 currently has rules which explain how informal objections are to be filed, when they must be filed in order to be considered, and the manner in which they will be disposed of by the Commission. After careful consideration, we believe these rules provisions do not serve a useful function, and we propose to eliminate them. The rules for filing petitions to deny and other formal objections will remain in effect.[3]

As the rules are currently worded, many applications which would otherwise be granted routinely and quickly are delayed by informal objections. Parties are encouraged to file informal objections simply because it is easy and inexpensive to do so. The staff spends approximately the same amount of time resolving informal objections as they spend on formal objections. The consideration given to these objections is often not materially different from the consideration given to formal objections. Consequently, a different filing requirement seems to us unwarranted. We believe that if there is an objection or comment worth making, it is not an unreasonable burden to require that the objection be presented with the formality required by Part 1 of the Rules. The proposed revision will conform Part 22 with the approach taken in Part 1 and will promote more efficient disposition of applications. We therefore propose to delete § 22.30 (b) and (c).

§ 22.30 [Amended]

44. §§22.30 (b) and (c) are removed and reserved.

§ 22.30 Petition to deny major amendment.

Explanation

The rules currently permit petitions to deny to be filed against a major amendment to a previously filed application. Since the amendment is major, it appears on public notice and may be protested within the 30-day public notice period. As the rules presently read, the petition may raise any public interest considerations, even if they are unrelated to the nature of the amendment and even if the petitioner did not raise these matters when the original application was filed. In the interest of expediting the processing of applications, we propose to add language to this rule stating that petitions to deny a major amendment may only raise matters directly related to the amendment and not to the underlying application, which has already appeared on public notice. Since an interested party had an adequate opportunity to comment on the information contained in the underlying application, due process will be preserved in this change to our rules.

45. § 22.30(d) is revised:

§ 22.30 [Amended]

* * * * *

(d) Petition to deny major amendment. A petition to deny a major amendment to a previously filed application may only raise matters directly related to the amendment and which could not have been raised in connection with the underlying, previously filed application.

§ 22.31(c) Mutually exclusive applications.

Explanation

Paragraph 22.31(c) now provides that when applications A, B, and C are filed, in that order, C must be filed within the "cutoff" period begun with A. This is so even if C is not mutually exclusive with A but only with B.

It was generally agreed that this rule could result in unfairness to C since he would have to file an application within a short period of time between the date B files and the end of the cutoff period from A, which could be as little as one day.

The Mobile Services Advisory Committee discussed § 22.31(c). The committee did not recommend that we delete this paragraph since it prevents a never-ending chain of applications, which delays the administrative process.

The Commission does not propose to amend the rule since there was no specific suggestion which would eliminate the unfairness and also preventing the never-ending chain. We point out, however, that if applicants A and B were to file their applications for the purpose of "cutting off" applicant C, this matter should be brought to the attention of the Commission as an abuse of process or misrepresentation.

We therefore propose no change in § 22.31(c), but request suggestions which might rectify the problem described above.

§ 22.31(e) Exceptions to major amendment classification.

Explanation

We propose to relocate this subsection. It presently appears as part of the rule pretaining to mutually exclusive applications, though it discusses major amendments rather than mutually exclusive applications. We therefore propose to place this subsection under § 22.23 ("Amendment of applications") where it logically belongs.

We also propose to revise this rule to delete the language "authorized stations" from present § 22.31(e)(2). This language is in error. If an application were filed which created a frequency conflict with an existing station, the application would be dismissed as defective. If, prior to dismissal by the staff, such an applicant determines that a frequency conflict exists and files an amendment to resolve the conflict, the amendment will be classified, not by existing § 22.31(e)(2), but rather under the standards set forth in § 22.23.

Present paragraph § 22.31(e)(6)(iii), dealing with the change of equipment has not been retained in the proposed rule since we propose to permit licensees to replace equipment without specific authorization from the Commission. (See § 22.121, Replacement of Equipment).

[3] Rule section 1.41 ("Informal requests for Commission action.") is unaffected by this proposal, which eliminates only the discussion of informal pleadings under Part 22.

We also propose to add a subsection stating that an application will not be considered as newly filed where an amendment proposes only to change a control or repeater frequency. We do not believe an applicant should lose its cut-off status simply because the applicant proposes to change a control or repeater frequency. Changes in control and repeater frequencies are not so substantial a change in the original application that the application should be considered as newly filed.

46§ 22.31(e) is redesignated § 22.23(h), and revised to read as follows:

§ 22.23 [Amended]

* * * * *

(h) *Exceptions to major amendment classifications.* An application will be considered to be a newly filed application if it is amended by a major amendment (as defined in this rule section), except in the following circumstances:

(1) The application has been designated for comparative hearing, or for comparative evaluation (pursuant to § 22.35), and the Commission or the presiding officer accepts the amendment pursuant to § 22.23(b);

(2) The amendment resolves frequency conflicts with other pending applications but does not create new or increased frequency conflicts;

(3) The amendment reflects only a change in ownership or control found by the Commission to be in the public interest, and for which a requested exemption from the "cut-off" requirements of this section is granted;

(4) The amendment reflects only a change in ownership or control which results from an agreement under § 22.29 whereby two or more applicants entitled to comparative consideration of their applications join in one (or more) of the existing applications and request dismissal of their other application (or applications) to avoid the delay and cost of comparative consideration;

(5) The amendment corrects typographical, transcription, or similar clerical errors which are clearly demonstrated to be mistakes by reference to other parts of the application, and whose discovery does not create new or increased frequency conflicts;

(6) The amendment does not create new or increased frequency conflicts, and is demonstrably necessitated by events which the applicant could not have reasonably foreseen at the time of filing, such as, for example:

(i) The loss of a transmitter or receiver site by condemnation, natural causes, or loss of lease or option;

(ii) Obstruction of a proposed transmission path caused by the erection of a new building or other structure; or

(7) The amendment proposes only a change in a control or repeater frequency.

§ 22.39 Transfer of control or assignment of station authorizations.

Explanation

We propose to revise this section so that it is in a more readable format and so that relevant language is not scattered throughout several sections in Part 22. Additionally, we propose to insert a discussion of forms involved in assignments and transfers. These "forms" sections currently appear in Sections 22.11(d), (e), and (f), which we propose to delete. We believe this format will be more functional and more helpful to members of the public who seek information about assignments, transfers, and the associated forms.

Section 22.3(d) of the existing rules sets forth the basic requirement that assignments and transfers may be carried out only after obtaining Commission approval. We believe this requirement should more logically be included as part of § 22.39 and propose to make this revision.

Present § 22.39(d) requires double reporting in the case of death or legal disability of a licensee. First, the Commission must be notified promptly of the death, and second, an application for assignment or transfer must be filed within 30 days. We propose to eliminate the requirement of prompt notification and retain only the 30 day application filing rule.

This double reporting is unnecessary. The death of the licensee does not ordinarily affect the operation of the station. Even if it does, a separate rule concerning discontinuance of service applies. It may well require most of the thirty days before the interested parties finish more pressing transitional matters, including keeping the business in operation. We therefore feel that our repeal of the immediate notification requirement removes an unnecessary government burden on licensees without sacrificing any necessary information from the same parties.

We also propose to delete the trafficking rule presently found in Part 22. The purpose of the trafficking rule was to prevent "professional applicants" from getting licenses after a comparative hearing and then selling the construction permits or licenses to minimally qualified persons who would not have been granted the construction permits in a comparative hearing. Such a situation would subvert the public interest findings of the comparative hearing.

We recognize that there are many cases when it is financially advantageous to sell a station even though the station, or part of its facilities has been owned or operated for less than 2 years. It is a reality of the marketplace that the value of a station appreciates rapidly and substantially in many cases. Owners and prospective owners of stations are well aware of this reality. We propose to recognize this reality and to eliminate the prohibition against taking advantage of these economic opportunities. It is simply not realistic for the Commission to take the position that the only valid reason for resale of a station in less than two years is for some factor such as ill health of the station owner or plans of imminent retirement. Such an unrealistic policy may force station owners into distorting their true reasons for selling. We believe that in the majority of cases, a station owner sells the station because it is in the owner's economic interest to do so. If the proposed buyer is qualified to be a licensee, the proposed sale is in the public interest and should be approved by the Commission. The present trafficking rule appears to take a jaundiced view of such considerations, and we therefore propose to eliminate this rule.

We do not imply, in eliminating the trafficking rule, that the Commission is unconcerned with whether the public receives service. The Communications Act implicitly requires that authorization may not be granted *solely* for private gain but for the "public interest, convenience, and necessity." (§ 309(a), 47 U.S.C. § 309(a)). We believe that every applicant who requests a frequency implicitly represents that his primary purpose is to become a carrier and to promptly construct and operate the station. If such is not the case, the applicant has made misrepresentations to this Commission. We believe that the proper regulatory response is to examine the misrepresentation issue, which is covered in proposed new section 22.309, rather than to perpetuate the artificial constraint against trafficking. Our proposal here applies only to common carrier authorizations in the mobile services; it should not be taken as a general expression of our view of trafficking rules governing other common carrier and broadcast licenses.

Finally, we propose to consolidate Forms 702 (assignments) and 704 (transfers) into one simplified form. We attach a proposed consolidated form and request comments on text, format,

and procedural aspects related to the combined form.

§ 22.11 [Amended]

47. §§ 22.11 (d), (e) and (f) are removed and reserved.

§ 22.3 [Amended]

48. § 22.3(d) is removed.

§ 22.40 [Removed and Reserved]

49. § 22.40 is removed and reserved.

50. § 22.39 is revised:

§ 22.39 Transfer of control or assignment of station authorization.

(a) *Approval required.* Authorizations shall be transferred, assigned, or disposed of in any manner, voluntarily (for example, by contract) or involuntarily (for example, by death, bankruptcy, or legal disability), directly or indirectly or by transfer of control of any corporation holding such authorization, only upon application and approval by the Commission.

(b) *Forms required.*

(1) *Assignment.*

(i) FCC Form 705 shall be filed to voluntarily or involuntarily assign a license or permit.

(ii) In the case of involuntary assignment, FCC Form 705 shall be filed within 30 days of the event causing the assignment.

2. *Transfer of Control.*

(i) FCC Form 705 shall be submitted in order to voluntarily or involuntarily transfer control of a corporation holding a license or permit.

(ii) In the case of involuntary transfer of control, FCC Form 705 shall be filed within 30 days of the event causing the transfer.

(3) *Form 430.* Whenever an application must be filed under paragraphs (b) (1) or (2) of this section, the assignee or transferee shall file FCC Form 430 ("Common Carrier Radio Licensee Qualification Report") unless an accurate report is on file with the Commission.

(4) *Notification of completion.* The Commission shall be notified by letter of the date of completion of the assignment or transfer of control.

(5) *Partial assignment.* Request for authorization for partial assignment of a permit or a license shall be made:

(i) by the assignee: on FCC Form 408 if the assigned facilities are to be incorporated into an existing licensed station; on FCC Forms 401 and 406 if a new station is to be established; and

(ii) by the assignor: on FCC Form 408. The partial assignment must be completed within 60 days. If the assignment is not timely completed, FCC Form 408 must be filed to return the license to its original specifications.

(c) In acting upon applications for transfer of control or assignment, the Commission will not consider whether the public interest, convenience, and necessity might be served by the transfer or assignment of the authorization to a person other than the proposed transferee or assignee.

§ 22.43 Term of construction permit.

Explanation

This section has been retitled. The proposed rule cites to the required form. The proposed rule also makes it clear that a request for extension of time to construct will be granted only when the failure to complete construction is due to causes beyond the applicant's control. This is the current policy of the Commission. Public Notice, "Applications for Extension of Time to Complete Construction." FCC Mimeo 895 (Mobile Services Division, May 12, 1981); *see also* present § 22.44(a).

The present rule provides that a radio station must commence operation within 8 months of the grant of the construction permit. We received comments stating that this period is not realistic and should be extended to 12 months. We proposed to follow this suggestion.

We propose to add language stating our policy not to grant extensions based on lack of financing. This has been our policy since the Commission eliminated the requirement that applicants demonstrate their financial qualifications to construct and operate the proposed facilities (but *see* our discussion of § 22.405, concerning cellular and developmental authorizations). The substance of this section was explained to the Mobile Services Advisory Committee. The members thought that a Commission rule denying extensions for lack of financing to be a reasonable exchange for the deleting of the financial qualification requirement. This proposed revision will update the rule accordingly.

We propose a rule that states we shall not extend construction permits for lack of site availability. We believe that only in unusual cases will lack of a site be beyond the permittee's control. As we have stated elsewhere in this notice, we proposed to deregulate by eliminating the site availability requirement. We believe that in the great majority of cases, applicants can and do manage this portion of their business operations without regulatory intervention. We have therefore proposed to permit applicants to assume this responsibility without reporting to the Commission. At the same time, permittees should be able to make arrangements for obtaining a site without prolonging the construction period. In our view this is the logical extension of eliminating the site availability requirement.

The proposed rule states the Commission's policy concerning extensions necessitated by delays in obtaining state certification. Various aspects of this policy have been stated in *Mobilfone Service, Inc.*, Mimeo 07273 (released February 23, 1981), *modified*, Mimeo 001134 (Com. Car. Bur., released May 26, 1981); and *Hazle-Tone Communications, Inc., supra.* The proposed rule codifies the principles set forth in these orders by stating that either one or two 8-month extensions will be granted, depending upon applicable state law, but no extensions will be granted in cases where state certification has been denied and all state appeals have been exhausted.

The Committee concluded that the extension for state certification policy should be codified in the rules. The Committee did not necessarily agree with the policy, but believed it was inappropriate to change the policy in this proceeding.

51. § 22.43 is revised:

§ 22.43 Term of Construction Permit.

(a) *General Rule.* (1). A construction permit shall specify the date of grant as the earliest date for commencement of construction.

(2) The station must be completed and ready for operation, as shown by commencement of service tests (§ 22.212), within 12 months after the grant of the construction permit. In the case of offshore telephone stations, the period shall be 18 months.

(b) *Extension of Construction Permit.*

(1) *General rule.* (i) Application for extension of construction permit may be made on FCC Form 701 ("Application for Additional Time To Construct Radio Station").

(ii) Extensions will be granted only if the applicant shows that the failure to complete is due to causes beyond his control. No extensions will be granted for delays caused by lack of financing, lack of site availability, or for the transfer of an authorization.

(2) *State certification.* No extension will be granted when state certification has been denied and all state appeals have been exhausted. If an applicant requests an extension due to lack of state certification, one 8–month extension may be granted when state law permits construction before certification is obtained. No more than two 8–month extensions may be granted when state laws prohibit construction before certification is obtained. Lack of

state certification must be due to a cause beyond applicant's control, and extensions will not be granted if there is lack of diligence in pursuing state certification.

(c) *Cellular base stations.* Cellular base stations, which will provide coverage over 75% of the cellular geographic area, as defined in § 22.905 of these rules, shall be completed and the station ready for operation within 36 months from the original date of the construction permit.

§ 22.44 Forfeiture and termination of station authorization.

Explanation

We propose to revise this section to make it more readable, more logically organized, and more accurate.

We propose to change the heading to "Termination of authorization," which describes the rule more accurately.

We will also add language to codify the policy set forth in *Hazle-Tone Communications, Inc.* (FCC Mimeo 6645 (Com. Car. Bur., released February 10 1981), *recon. pending.*)), that a construction permit will be forfeited where the permittee is denied state certification and the state appeal process has been exhausted.

Sections (a) and (b) of the present rule discuss construction permits (CPs) and licenses separately, but the two sections are for the most part the same, and they are wordy. We propose to combine and condense them into a new subsection (a). We propose to relocate the discussion of FCC Form 701 (for an extension of CP) to § 22.43 ("Term of construction permit"), where it more logically belongs.

We propose to add a new subsection (b) by relocating the present § 22.45(c) concerning termination of CP upon termination of a related license. We believe this section more logically belongs in § 22.44. We shall also rewrite this paragraph in plain language.

We propose to re-write subsection (c) in plain language. It provides that a special temporary authorization will terminate automatically if the carrier fails to comply with the terms of the STA.

51. § 22.44 is revised:

§ 22.44 Termination of authorization.

(a)(1) All licenses, construction permits, and other authorizations shall terminate on the date specified on the authorization or on the date specified by these rules unless an application for renewal or reinstatement is timely filed.

(2) If no application for renewal or reinstatement has been made before the authorization's expiration date, a late application for renewal or reinstatement will be considered only if it is filed within 30 days of the expiration date and shows that the failure to file a timely application was due to causes beyond the applicant's control Service to subscribers need not be suspended while a late filed renewal application is pending, but such service shall be without prejudice to the Commission action on the renewal application and any related sanctions.

(b) When any station license expires or terminates, any related construction permit which is then in effect shall automatically terminate at the same time unless the Commission has specified otherwise.

(c) *Special Temporary Authority.* A special temporary authorization shall automatically terminate upon failure to comply with the conditions in the authorization,

(d) *State certification.* Where the holder of a construction permit is denied state certification and the state appeal process is exhausted before the permit has expired, the permit will not be extended and will be forfeited as of its expiration date. If such a permittee regains state certification before the permit has expired, an extension request may be considered.

§ 22.45 License period.

Explanation

This section has been rewritten, and definitions have been revised to conform with the new definitions proposed in § 22.2.

We propose to redesignate Paragraph (c) to § 22.44 since it discusses expiration and termination and more logically belongs with § 22.44.

The *Provided* clause of old paragraph (a) will be deleted, because land mobile units are not licensed.

53. § 22.45 is revised:

§ 22.45 License period.

(a) (1) Licenses will be granted for 5 years. When a date is specified in paragraph (b) of this section, the license will be valid until that date in the fifth year of the license. Developmental licenses shall be granted for one year.

(2) When the Commission determines the public interest, convenience or necessity would be served by a shorter license period, the license will be granted for such period.

(b) *License Termination.* Station licenses will expire on the dates listed below, on the last year of the license:

(1) Public Land Mobile (radio common carriers) April 1.

(2) Public Land Mobile (wireline common carriers) July 1.

(3) Offshore Telephone August 1.

(4) Public Land Mobile (air-ground base stations) September 1.

(5) Rural Radio November 1.

§ 22.100 Frequencies, Interference (new).

Explanation

This rule is presently entitled "Frequencies," although it also discusses related interference questions. We propose to include both topics in the title of § 22.100 and to add a new subsection (b) which more clearly states the existing policy concerning interference matters. We also propose to codify several interference policies as discussed below. Finally, we propose other revisions about frequencies as indicated below.

It has been our policy not to act on complaints of interference except when our rules so provide. The proposed "general rule" sets forth this policy. It also states that we do not act on interference complaints unless they address serious interference problems. This policy is in fact the definition of "harmful" interference.

The third paragraph of proposed § 22.100(b) restates part of present § 22.100(a) and states that the Commission will take whatever action it deems necessary to prevent harmful interference. In some cases this could be no action; in others it could mean changes in frequency, power or emissions or a time-sharing arrangement.

Proposed paragraph (b)(2) is entitled "Operation in accordance with authorization or rules." This section encompasses the substance of existing § 22.211, "Suspension of transmission." We therefore propose to delete § 22.211.

Proposed paragraph (b)(3) explains "secondary use," in the context of harmful interference.

Proposed paragraph (b)(4) codifies Commission policy with respect to base-to-base interference. Existing station operators must raise interference issues in the application process. If the application is granted, then the station operators must work out interference problems between themselves.

Proposed paragraph (b)(5) codifies our policy with respect to mobile-to-base and mobile-to-mobile interference. The Mobile Services Advisory Committee requested that the Commission take action to prevent mobile stations from causing interference to other base stations. Our policy, however, has been not to act upon this type of interference complaint. This interference is a result of "shoe-horning-in" stations; that is, authorizing base stations to operate

with as little mileage separation as is technically feasible. This policy has been followed in response to heavy demand within the industry for additional authorizations. Mobile-to-base station interference has in some cases resulted. There are, however, technical measures which licensees can employ to eliminate such interference. They may, for example, reduce the base station receiver sensitivity or equip the system for tone-coded signals. We therefore propose no protection for this type of interference, since such protection would reduce the availability of frequencies.

Paragraphs (b)(6) and (b)(7) restate the portions of §§ 22.518 and 22.519, respectively, which deal with interference.

Proposed paragraph (c) restates present § 22.100(b) and refers to the additional rules enacted to protect against interference. See § 22.501(a), Common Carrier Docket 80–189, released July 15, 1981, 46 FR 36509 (July 26, 1981), corrected, 46 FR 44758 (Sept. 8, 1981).

Section 22.100(d) is unchanged and remains in the rule section as presently worded, with two exceptions. In the first paragraph, the second sentence (concerning the fixed-satellite service) is deleted. This sentence does not apply to Part 22. We also propose to cross-reference § 22.501(e), which states certain interference conditions applicable to these frequencies.

Paragraph (e) covers the 72–76 MHz band and merely directs the reader to the various interference matters which are discussed in § 22.103. We do not consider it necessary or helpful to repeat the same matters in § 22.100.

Paragraph (f) relocates present §§ 22.501 (i) and (j). These rule sections discuss interference conditions related to control and repeater stations.

Paragraph (g) consolidates present § 22.501(g)(1) and § 22.601(b)(1). The second sentence restates §§ 22.501(g)(2) and 22.601(b)(2). The last sentence consists of present § 22.601(f)(4).

Paragraph (h) serves merely to alert the reader that quiet zones do exist, that there are interference considerations in such zones, and that § 22.113 is the specific reference.

54. § 22.100 is revised:

§ 22.100 Frequencies, interference.

(a) The frequencies available for use in the services covered by this part of the rules are listed in the applicable subparts of this part. Assignment of frequencies will be made only in such a manner as to facilitate the rendition of communication service on an interference-free basis in each service area. Unless otherwise indicated, each frequency available for use by stations in these services will be assigned exclusively to a single applicant in any service area. All applicants for, and licensees of, stations in these services shall cooperate in the selection and use of the frequencies assigned in order to minimize interference and thereby obtain the most efficient use of the authorized facilities.

(b) *Interference.*

(1) *General rule.* (i) The Commission will take no action upon complaints of interference against any station which is operating within the Commission's Rules and its authorization, except as provided in this section.

(ii) The Commission will only consider complaints of interference which significantly interrupt or degrade a radio service.

(iii) In cases where this section protects against interference, the Commission will take whatever action it deems necessary in response to interference complaints.

(2) *Operation in accordance with authorization or rules.* A station causing interference by failing to operate in accordance with its authorization or these rules shall discontinue radiation until it can comply with the authorization or rule regardless of the amount of interference caused, except for transmission concerning the immediate safety of life or property, in which case transmission shall be suspended immediately after the emergency is terminated.

(3) *Secondary uses of frequencies.* All uses of frequencies specified in these rules as secondary to the primary uses shall be discontinued if harmful interference to the primary use cannot be eliminated.

(4) *Base-to-base station interference.* When an authorization has been properly granted, interference between base stations in the public mobile radio service shall be resolved by the licensees. If the licensees cannot resolve the interference, the Commission may order time sharing, or, after notice and opportunity for hearing, may order whatever changes in equipment or operation it deems necessary.

(5) *Mobile-to-base, mobile-to-mobile.* No protection will be provided against mobile-to-base or mobile-to-mobile interference.

(6) *Control stations.* Control stations shall not cause harmful interference to other stations.

(7) *Dispatch stations.* Dispatch stations shall not cause harmful interference to other stations.

(c) *35 MHz band.* No protection against tropospheric and ionospheric propagation of signals will be given except as provided in § 22.501(a).

(d) *2100 MHz bands.* All applicants for regular authorization for use of the bands 2110–2130 MHz and 2160–2180 MHz shall, before filing an application or major amendment to a pending application, coordinate proposed frequency usage with existing users in the area and other applicants with previously filed applications, in this radio service and in the point-to-point Microwave and Local Television Radio Services, whose facilities could affect or be affected by the new proposal in terms of frequency interference or restricted ultimate system capacity. Use of frequencies in these bands is subject to the interference conditions in § 22.501(e). In engineering a system or modification thereto, the applicant shall by appropriate studies and analyses select sites, transmitters, antennas and frequencies that will avoid harmful interference to other users. All applicants, permittees and licensees shall cooperate fully and make reasonable efforts to resolve technical problems and conflicts that may inhibit the most effective and efficient use of the radio spectrum; however, the party being coordinated with is not obligated to suggest changes or re-engineer a proposal in cases involving conflicts. Applicants should make every reasonable effort to avoid blocking the growth of systems that are likely to need additional capacity in the foreseeable future. The applicant shall identify in the application all entities with which the technical proposal was coordinated in the event that technical problems are not resolved or if the existing licensee, permittee or applicant does not respond to coordination efforts within 30 days after notification, an explanation shall be submitted with the application. Where technical problems are resolved by an agreement or operating arrangement between the parties that would require special procedures be taken to reduce the likelihood of harmful interference (such as the use of artificial site shielding) or would result in a reduction of quality or capacity of either system, the details thereof shall be contained in the application. The following guidelines are applicable to the coordination procedure:

(1) Coordination involves two separate elements: Notification and response. Both or either may be oral or in written form. To be acceptable for filing, all applications and major technical amendments must certify that coordination, including response, has been completed. The name of the

carriers with which coordination was accomplished must be specified.

(2) Notification must include relevant technical details of the proposal. At minimum, this should include, as applicable, the following:

Transmitting station name.
Transmitting station coordinates.
Frequencies and polarizations to be added or changed.
Transmitting equipment type, its stability, actual output power, and emission designator.
Transmitting antenna type and model and, if required, a typical pattern and maximum gain.
Transmitting antenna height above ground level and ground elevation above mean sea level.
Receiving station name.
Receiving station coordinates.
Receiving antenna type and model and, if required, a typical pattern and maximum gain.
Receiving antenna height above ground level and ground elevation above mean sea level.
Path azimuth and distance.

(3) For transmitters employing digital modulation techniques at frequencies below 15 GHz, the notification should clearly identify the type of modulation. Upon request, additional details of the operating characteristics of the equipment shall also be furnished.

(4) Response to notification should be made as quickly as possible, even if no technical problems are anticipated. Every reasonable effort should be made by all carriers to eliminate all problems and conflicts. If no response to notification is received within 30 days, the applicant will be deemed to have made reasonable efforts to coordinate and may file his application without a response.

(5) The 30-day notification period is calculated from the date of receipt by the carrier being notified. If notification is by mail, this date may be ascertained by: (i) The return receipt on certified mail, (ii) the enclosure of a card to be dated and returned by the recipient, or (iii) a conservative estimate of the time required for the mail to reach its destination. In the latter case, the estimated date when the 30-day period would expire should be stated in the notification.

(6) All technical problems that come to light during coordination must be resolved unless a statement is included with the application to the effect that the applicant is unable or unwilling to resolve the conflict and briefly the reason therefor.

(7) Where a number of technical changes become necessary for a system during the course of coordination, an attempt should be made to minimize the number of separate notifications for these changes. Where the changes are incorporated into a completely revised notice, the items that were changed from the previous notice should be identified.

(8) Where subsequent changes are not numerous or complex, the carrier receiving the changed notification should make an effort to respond in less than 30 days. Where the notifying carrier believes a shorter response time is reasonable and appropriate, it may be helpful for him to so indicate in the notice and perhaps suggest a response date.

(9) If it is determined that a subsequent change could have no impact on some carriers receiving the original notification, it is not necessary to coordinate the change with such carrier. However, these carriers should be advised of the change and of the opinion that coordination is not required for said change.

(10) Carriers should supply to all other carriers, or known carrier applicants, within their areas of operations, the name, address and telephone number of their coordination representatives. Upon request from coordinating carriers or applicants, data and information concerning existing or proposed facilities and future growth plans in the area of interest should be furnished unless such request is unreasonable or would impose a significant burden in compilation.

(11) Carriers should keep other carriers with which they are coordinating advised of deletions or changes in plans for facilities previously coordinated. If applications have not been filed 6 months after coordination was completed, carriers may assume, unless notified otherwise, that such frequency use is no longer desired.

(e) *72–76 MHz band.* Stations operating in the 72–76 MHz band shall comply with the interference conditions set forth in §22.103.

(f) *Control and repeater stations (450 MHz band).* Control or repeater stations using the frequencies 454.025–454.650 MHz and 459.650 MHz shall not cause harmful interference to any other type of station authorized to use those frequencies and shall be secondary to rural radio and mobile service by other classes of stations.

(g) *890–952 MHz band.* (1) Stations in the 890–940 MHz band will not be protected against interference from industrial, scientific and medical equipment operating on 915 MHz or radiolocation stations in the 890–942 MHz band.

(2) Stations in the 890–940 MHz band shall not cause harmful interference to radiolocation stations in the 890–942 MHz band.

(3) New control and repeater stations will not be authorized in the 890–940 MHz band.

(4) Proposed stations in the 942–952 MHz band shall not cause harmful interference to existing stations (such proposed stations must also comply with the other conditions set forth in § 22.601(f).

(h) *Quiet zones.* Stations operating in the vicinity of Green Bank, West Virginia, Sugar Grove, West Virginia, and Boulder, Colorado, shall comply with the "quiet zone" provisions of §22.113.

§ 22.211 [Removed and reserved]

55. §22.211 is removed and reserved.

§ 22.101, 22.102, 22.207 Frequency tolerance, transmitter measurements.

Explanation

Both § 22.101 and 22.207 ("Transmitter measurements") deal with frequency tolerance. We propose to delete the transmitter measurement requirements set forth in § 22.207 and to relocate in § 22.101 the language which discusses frequency tolerance.

Present § 22.101(b) will be deleted since it does not pertain to services in Part 22. Likewise the reference to paragraph (b) in § 22.101(a) and note 2 and the last two lines of the table in (a) will be deleted. Paragraph 22.101(c) will be deleted since it only refers to § 22.106.

The phrase "unless otherwise specified in the instrument of station authorization" will not be retained since this is merely a way of saying that when the rules are waived, the licensee is not required to follow the rule waived. *See* our discussion of waivers.

We propose to delete § 22.207, which gives detailed requirements as to transmitter measurements, and adopt a simpler standard as a new section 22.101(b). Our concern is not with when or how often transmitter measurements are made. Instead, we are concerned with whether the licensee keeps its transmitter functioning properly. We feel that station licensees can, without guidance from the Commission, make their own determination as to the best procedure and timetable for maintaining the transmitter in proper operation. We therefore propose simply to specify frequency tolerance limits and leave it to the licensee's judgment as to how it conforms to these standards. We also propose to delete § 22.208(e), which

refers to the requirements established in § 22.207.

Likewise, § 22.102, which discusses frequency measuring devices, will be deleted. We feel licensees can assume the responsibility for measuring the transmitter output without detailed rules as to which measuring devices should be used.

§§ 22.102 and 22.207 [Removed and reserved]

56. §§ 22.102 and 22.207 are removed and reserved.

§ 22.208 [Amended]

57. § 22.208(e) is removed and reserved.

58. § 22.101 is as revised follows:

§ 22.101 Frequency Tolerance

(a) *Tolerance.* The carrier frequency of each transmitter shall be maintained within the following tolerances from the assigned frequencies:

Frequency range (MHz)	Frequency tolerance (percent)		
	All fixed and base stations	Mobile stations over 3 watts	Mobile stations 3 watts or less
25 to 50	0.002	0.002	0.005
50 to 450	.0005	.0005	.005
450 to 512	.00025	.00025	.0005
821 to 896	.0015	.0025	.00025
928 to 929	.0005		
929 to 932	.00015		
959 to 960	.00015		
2110 to 2220	.001		

(1) Below 512 MHz, power is transmitter phase power input to final frequency stage; above 512 MHz, power is transmitter power output, as specified in the Commission's Radio Equipment list.

(2) Equipment authorized on frequencies between 890 and 940 MHz on October 15, 1956, may have a frequency tolerance of 0.03 percent provided no harmful interference is caused.

(b) *Transmitter measurements.* The licensee of each station shall employ a suitable method to make sure the transmitter operates within the tolerances prescribed by these rules and on the assigned frequency.

§ 22.103 and § 22.501(f)(2) Standards governing use of 72–76 MHz Band.

Explanation

This frequency band is presently discussed in two different sections of Part 22, 22.103 and 22.501(f)(2). We propose to place all language under a single new rule § 22.103 which will be clearly titled and easier to locate within the rules. We also propose to eliminate language in § 22.103 which duplicates language in § 22.501.

We propose to revise certain language in the present § 22.103(a) so as to conform with the Commission's current waiver policy on co-located transmitters. As presently worded, the rule provides that 72 MHz applications for use of frequencies involving less than 10 miles separation from Channel 4 or 5 television station will be returned without action. This policy was adopted in order to avoid harmful interference to television signals. If, however, the transmitter is co-located with the television transmitter, harmful interference is actually minimized. The Commission regularly grants waivers of § 22.103(a) in such cases. We propose to update the language in this paragraph to take into account the co-location situation. The updated language will be inserted as part of the proposed § 22.103.

We propose to delete paragraphs 22.103 (a), (b), (c), and (d) since they are duplicated in § 22.501(f)(2) (i), (ii), and (iii).

It is unnecessary to prohibit assignments in the 74.6–75.4 MHz band since there are no stations authorized in the band. (There is one in the 75.4–76.0 MHz band on 75.4 MHz). These frequences are not listed in § 22.501(f).

Paragraph (f) restates note 1 to § 22.501(f)(1).

Beehive Telephone Company suggests we permit stations on the 72–76 MHz band within 10 miles of Channel 4 or 5 TV stations. We do not accept this suggestion. We have had problems with interference here before. This rule is necessary to prevent or correct such interference. We will entertain requests for waviers in cases where waivers can be justified.

§ 22.501 [Amended]

59. § 22.501(f)(2) is removed and reserved.

60. § 22.103 is revised to read as follows:

§ 22.103 Standards governing use of 72–76 MHz band.

(a) Applicants requesting authority to operate on frequencies in the 72–76 MHz band must agree to eliminate any harmful interference which such operations may cause to television reception on either Channel 4 or 5. If the interference cannot be eliminated within 90 days of the time the matter is first brought to a licensee's attention by the Commission, operation of the interfering fixed station shall be immediately discontinued.

(b) *Less than 10 miles.* Applications for use of 72–76 MHz band frequencies less than 10 miles from Channel 4 or 5 television stations will be returned without action, except where the proposed transmitter is co-located with the television transmitter. In the latter case, the application will be processed according to the 10–80 mile standard.

(c) *Between 10 and 80 miles.* Where an applicant proposes to locate a 72–76 MHz band fixed station between 10 and 80 miles for a Channel 4 or 5 television station, the applicant shall consult the charts included in this section and then submit a showing of the number of family dwelling units within the relevant area surrounding the proposed station. The applicant need not count family dwelling units 70 or more miles from the television station. In communities where television channels are assigned but not in operation, the applicant shall consider the community post office as the television station site.

(1) In cases where more than 100 family dwelling units are contained within the circle (determined according to this section), the number of dwelling units shall be stated and a factual showing made that:

(i) The proposed site is the only suitable location.

(ii) It is not feasible, technically or otherwise, to use other available frequencies.

(iii) The applicant has a definite plan, which must be disclosed, to control any interference that might develop to television reception from its operations.

(iv) The applicant is financially able and agrees to make such adjustments in the television receivers affected as may be necessary to eliminate interference caused by its operations.

(2) No station assignments shall be made in the frequency range 72.65–72.85 MHz within 80 miles from the site of a television transmitter operating on Channel 5 (or from the post office of a community to which such television channel is allocated, in cases where a television station has not been authorized).

(3) Stations authorized on December 1, 1961, in the 73.00 to 74.60 MHz band are not required to protect the radio astronomy service.

§ 22.104 Emission types.

Explanation

Paragraph (a) of the proposed rule restates the last sentence of § 22.603(a), § 22.603(d), and § 22.1003(b).

We have not retained the cross reference to "§§ 22.103 to 22.105" since we plan to rearrange these sections in a logical order by making them adjacent. The fact that cross-references are

needed indicates that these sections should be combined.

The present § 22.507(e) states that unmodulated emissions may only be used for temporary or short periods necessary for testing of equipment. This restricting language would prohibit the use of "Improved Mobile Telephone System" (IMTS) to prevent the indication of false channel occupation by spurious signals. Therefore we propose to amend our rules to permit such systems to operate. We have done so in § 22.104(b).

Paragraph 22.104(c) restates § 22.507(a).

Paragraph 22.104(d) restates § 22.603(a), (b).

Paragraph 22.104(e) restates § 22.1003 (a), (b). We propose to revise this rule slightly to permit A1–A4 and F1 to F4 emissions. This is not substantially different from our present rules, since only the emission types authorized on the license can be used, and any type can be authorized under § 22.1003(b).

61. § 22.104 is revised:

§ 22.104 Emission types.

(a) *General.* (1) Types of emissions not permitted by this section may be authorized upon a satisfactory showing of the need for them.

(2) Applications for unauthorized types of emissions shall describe the type of emission, the bandwidth necessary for satisfactory communications and the reason why it is requested. Application 401 shall be submitted.

(b) *Unmodulated emissions.* (1) Authorization to employ types of modulated emissions shall include authority to employ unmodulated emissions for temporary or short periods for equipment testing.

(2) Continuous unmodulated emissions may be utilized at a maximum of 1 watt output power to prevent the indication of false channel occupation.

(c) *Public land mobile.* Stations in the public land mobile service may be authorized to use type A1, A2, A3, F1, F2, F3 emissions.

(d) *Rural radio.* (1) Stations in the rural radio service may be authorized type A1, A2, A3, F1, F2, and F3 emissions.

(2) Stations in the rural radio service outside the continental United States may use A4 and F4 emissions.

(e) *Offshore radio.* Stations in the offshore radio service may be authorized type A1, A2, A3, A4, F1, F2, F3, and F4 emissions.

§ 22.106 Emission limitations.

Explanation

In Part 90 (Private Radio Services), the Commission has adopted new attenuation schedules, which are directly applicable to systems employing digital modulation techniques. We proposed to enact similar standards in Part 22 as an alternative to the existing emission limitations specified in present § 22.106(a). The alternative standards will be added as § 22.106(b). In addition, we proposed to delete and reserve present § 22.106(a)(2), which is primarily directed toward microwave systems licensed under Part 21.

We also request comment on whether additional rules (whether technical or otherwise) should be adopted in Part 22 to discuss digital transmissions. The commission has taken a number of recent actions to provide greater flexibility concerning digital (or non-voice) transmissions in the Private Radio Services. *See* PR Docket 80–416 (FCC 82–134); PR Docket 81–703 (FCC 81–460). Although the present rules in Part 22 place no restrictions on digital operations, we question whether rules should be added which would specify the circumstances under which digital systems may operate in the public mobile services.

We also request comment on whether rules should be added to Part 22 providing licensees with greater flexibility for in-band use of their assigned frequencies. The Commission discussed this matter in the 900 MHz proceeding in connection with that particular frequency allocation. *See* 89 FCC 2d 1337, paras. 67–68. Such flexibility would permit licensees to establish more than one channel within their authorized 25 kHz bandwidth. Although we do not propose specific technical standards in this notice, we solicit general comment on the desirability of adding this type of flexibility to Part 22.

62. § 22.106 is revised to read as follows:

§ 22.106 Emission limitations

(a) For transmitters other than those employing digital modulation techniques, the mean power of emissions shall be attenuated below the mean output of the transmitter in accordance with the following schedule:

(1) On any frequency removed from the assigned frequency by more than 50 percent up to and including 100 percent of the authorized bandwidth: At least 25 decibles;

(2) On any frequency removed from the assigned frequency by more than 100 percent up to and including 250 percent of the authorized bandwidth: At least 35 decibels;

(3) On any frequency removed from the assigned frequency by more than 250 percent of the authorized bandwidth: At least 43 plus 10 Log 10 (mean output power in watts) decibels, or 80 decibels, whichever is the lesser attentuation.

(b) For transmitters not equipped with an audio low pass filter required by the provisions of paragraphs (f) and (g) of § 22.508, and for those employing digital modulation techniques, the power of any emission shall be attenuated below the unmodulated carrier power (P) in accordance with the following schedule:

(1) For those transmitters that operate in the frequency bands of 35.0 to 44.0 MHz, 72.0 to 73.0 MHz, 75.4 to 76.0 MHz or 152.0 to 159.0 MHz,

(i) On any frequency removed from the center of the authorized bandwidth by a displacement frequency (fd in kHz) of more than 5 kHz up to and including 10 kHz: At least 83 Log 10 (fd/5) decibels;

(ii) On any frequency removed from the center of the authorized bandwidth by a displacement frequency (fd in kHz) of more than 10 kHz up to and including 250 percent of the authorized bandwidth: At least 29 Log 10 (fd2/11) decibels or 50 decibels, whichever is the lesser attenuation;

(iii) On any frequency removed from the center of the authorized bandwidth by more than 250 percent of the authorized bandwidth: At least 43 plus 10 Log 10 (output power in watts) decibels or 80 decibels, whichever is the lesser attenuation.

Note.—The measurements of emission power can be expressed in peak or average values provided they are expressed in the same parameters as the unmodulated transmitter carrier power.

(2) For those transmitters that operate in the frequency bands 450.0 to 512.0 MHz, or 929.0 to 932.0 MHz,

(i) On any frequency removed from the center of the authorized bandwidth by a displacement frequency (fd in kHz) of more than 5 kHz up to and including 10 kHz: At least 83 Log 10 (fd/5) decibels:

(ii) On any frequency removed from the center of the authorized bandwidth by a displacement frequency (fd in kHz) of more than 10 kHz up to and including 250 percent of the authorized bandwidth: At least 116 Log 10 (fd/6.1) decibels or 50 plus 10 Log 10 (P) or 70 decibels, whichever is the lesser attenuation;

(iii) On any frequency removed from the center of the authorized bandwidth by more than 250 percent of the

authorized bandwidth: At least 43 plus 10 Log 10 (output power in watts) decibels or 80 decibels, whichever is the lesser attenuation.

Note.—The measurements of emission power can be expressed in peak or average values provided they are expressed in the same parameters as the unmodulated transmitter carrier power.

§ 22.107 Transmitter power.

Explanation

We propose to delete portions of this rule which have become obsolete through developments in technology.

The Mobile Services Advisory Committee suggested we delete all rated power output limitations. The only concerns of the Commission here are interference and coverage, which is a function of effective radiated power (ERP). ERP is a function of power output, losses between the transmitter output terminals and antenna input terminals, and antenna gain. Rule Sections §§ 22.505 and 22.506 specify the standards for ERP.

Since we do not specify either system loss or antenna gain, it is unnecessary for us to specify power output, which is the third factor used in computing ERP. Therefore, we propose to delete maximum power output. Of course, transmitters must still be type-accepted and cannot exceed the output power for which the transmitter in question has been type-accepted.

We will continue to ask for rated power output as a means of computing ERP.

63. § 22.107 is revised:

§ 22.107 Transmitter power.

The power which a station will be permitted to use in these services will be the minimum required for satisfactory technical operation commensurate with the size of the area to be served and local conditions which affect radio transmission and reception.

§ 22.108 Directional antennas.

Explanation

We propose to re-state this rule in positive terms as to when the rule applies, rather than when it does not apply. We also propose to delete sections (c), (d), and (e), which do not apply to Part 22.

Proposed paragraph (c) restates § 22.114.

Sections 22.112, 22.117(d), 22.206, 22.206(f) are deleted since they simply require compliance with Part 17. Compliance with Part 17 is now covered by § 22.109(a).

64. § 22.108 is revised:

§ 22.108 Directional antennas.

(a) *Directional antennas required.* Rural radio stations, control stations, repeater stations, and dispatch stations shall use a directional antenna with the major lobe of radiation in the horizontal plane directed toward the receiving station or the passive reflector with which the station communicates. A multi- or omni-directional antenna may be authorized if necessary where a station communicates with more than one point.

(b) *Beam width required.* Stations required to use directional antennas shall meet the standards indicated below. Maximum beam width is for the major lobe of radiation at the half power points. Suppression is the minimum attenuation required for any secondary lobe signal and is referenced to the maximum signal in the main lobe.

Frequency range	Maximum beam width (degrees)	Suppression (dB)
Below 512 MHz	80	10
512 to 1000 MHz	20	13
1500 to 2500 MHz	12	13

(c) *Temporary fixed station requirement.* Temporary fixed stations may use antenna structures not exceeding the height criteria in Part 17 of this chapter. Greater height requires FAA or FCC approval.

§§ 22.111, 22.112, 22.114, and 22.206 [Removed and Reserved]

65. §§ 22.111, 22.112, 22.114, and 22.206 are removed and reserved.

§ 22.208 [Amended]

66. §§ 22.208 is amended by removing and reserving paragraph (f).

§ 22.117 [Amended]

67. § 22.117 is amended by removing and reserving paragraph (d).

§ 22.109 Antenna structures.

Explanation

We propose to add several references to antenna structures which are currently found elsewhere in the rules. Specifically, sections 22.111, 22.112, 22.117(d), and 22.206 contain various provisions stating that Part 17 must be complied with. We propose to relocate these provisions to § 22.109(a).

We have received comments suggesting that when licensees share antenna structures, only one licensee need be responsible for antenna maintenance. We believe that each licensee must remain responsible for the proper maintenance of the antenna structure. The effort can be shared or subcontracted. Therefore, we propose to add language permitting licensees to delegate this maintenance function, without abdicating responsibility for such maintenance.

We propose to delete the language presently appearing in § 22.109(a). This paragraph states that the Commission has authority to order a change in antenna structure to prevent harmful interference. This subject is fully covered in our discussion of proposed § 22.100 ("Interferece") and is not necessary in § 22.109.

We also propose to delete the language currently appearing in § 22.109(b), relating to antenna changes. This paragraph duplicates what is already covered in proposed § 22.121, "Replacement of equipment."

Paragraph (c) does not apply to the Public Mobile Radio Service and will be deleted.

Paragraph (d) does little more than repeat other portions of § 22.109. We propose to remove § 22.109(d).

68. § 22.109 is revised:

§ 22.109 Antenna structure.

(a) *General provisions.* (1) Permittees and licensees shall not allow antenna structures to become a hazard to air navigation.

(2) Antenna structures shall be marked and maintained in accordance with § 303(q) of the Communications Act of 1934, as amended (47 U.S.C. § 303(q)) and Part 17 of this chapter and all applicable rules and requirements of the Federal Aviation Administration. Specific lighting and marking requirements are described in FCC Form 715 or FCC Form 715A.

(b) *Maintenance contracts.* Permittees and licensees may by contract delegate the marking and maintenance requirements specified for these radio services. All licensees or permittees who make such contractual arrangements, including situations in which a common antenna is used, shall be responsible for the contractor's performance. The general requirements of § 22.205 apply.

§ 22.110 Antenna polarization.

Explanation

We propose to clarify this section by adding headings for the types of polarization discussed and by revising the language in a simpler, more readable format.

69. § 22.110 is revised:

§ 22.110 Antenna polarization.

(a) *Vertical.* The following types of stations shall employ an antenna which radiates a vertically polarized signal:

(1) base, mobile, dispatch, and auxiliary test stations operating in the Domestic Public Land Mobile Radio Service;

(2) Offshore Telephone stations;

(3) Stations operating in the 72–76 MHz band;

(4) Stations operating in the Cellular Radio Telecommunications Service.

(b) *Horizontal.* (1) Stations not required by paragraph (a) of this section to use vertical polarization shall employ horizontal polarization.

(2) Rural subscriber stations communicating with base stations may employ vertical polarization.

(c) *Circular.* Upon satisfactory showing that transmission will be improved and harmful interference will be reduced, the Commission may authorize a station, other than those listed in paragraph (a)(1) of this section, to radiate a circularly polarized signal.

(d) *Above 890 MHz.* Domestic Public Land Mobile stations operating above 890 MHz are not limited as to the type of polarization, except that such stations are subject to the rules concerning harmful interference.

§22.115, 22.116 Typographic data.

Explanation

Section 22.115 ("Method of determining average terrain elevation") has been rewritten in plain English and is more concise. We propose to delete unnecessary specificity.

The profile graphs required for stations in the 470–512 MHz band belong here rather than in § 22.501(1), Tables B, C, D, note 1. This eliminates a large amount of unnecessary duplication. The milage separations in (a)(3) are taken from the tables to § 22.501(1).

The Mobile Services Advisory Committee suggested a clarification as to what is included in average elevation when the radial extends over water or foreign territory but crosses U.S. land between 10 miles and 75 miles of the proposed station. Paragraph (a)(4) clarifies what is included. We propose to delete the last sentence of present § 22.115 which lists various ways of computing average elevation. This requirement is permissive in the present rule, and today this figure can be determined by computer or other methods. The last sentence of § 22.115 is unnecessary.

Proposed paragraph (c) is in response to a suggestion by the Mobile Services Advisory Committee concerning assumed average elevation in certain areas. At present we propose to assume an average elevation of 10 feet for Miami alone. We expect, however, that there are large areas south of some specified latitude, such as Florida, in which an average elevation can be assumed, and we request comments which address this point.

We propose to rewrite § 22.116 in plainer language as a new § 22.115(d). The present § 22.116 is one very long paragraph. This interferes with readability.

We propose to delete the language which specifies one location where U.S. Geological Survey maps can be obtained. In fact, these maps are readily available at a number of locations. There even are listings in the teleophone book for USGS map sales. We therefore consider it unnecessary to list sources of topographic data.

We propose to eliminate the filing requirement for topographic maps, since they are no longer used by the Commission except in rare situations. In those unusual cases we can request the maps. This change was proposed by the Mobile Services Advisory Committee. It has been suggested that this change will save about $30 per application.

The filing change proposed here will be reflected in § 22.15(j)(8). We will retain the discussion of topographic maps in § 22.115, since it explains how to draw the radials and does not refer to filing. The radials must still be drawn. Only the filing will be eliminated.

70. §22.115 is revised:

§ 22.115 Topographic data.

(a) *Radials.*

(1) *General case.* Average terrain elevation shall be determined from the elevation betweeen 2 and 10 miles from the antenna site. Radials shall be drawn from the antenna site extending for 10 miles. Eight radials shall be drawn for each 45 degrees of azimuth starting from True North.

(2) *Principal Community.* The radial to the principal community to be served shall be extended beyond 10 miles if necessary, or an additional radial shall be drawn.

(3) *Co-Channel or adjacent stations.* (i) Additional radials shall be drawn to co-channel stations within 75 miles.

(ii) In the case of Public Land Mobile stations in the 470–512 MHz band, additional radials shall be drawn to co-channel TV stations within 162 miles and to adjacent channel TV stations within 67 miles.

(4) *Foreign territory or water.* When a portion of a radial extends over foreign territory or water, such portion shall not be included on the profile graphs or in the computation of average elevation unless the radial passes over United States land within 83 miles of the station.

(b) *Profile graphs.* (1) The profile graph for each radial should be plotted by contour intervals of 40 to 100 feet so that, where the data permits, at least 50 points of elevation are generally evenly spaced on each radial. If the terrain is very rugged so that the use of 100- foot intervals would result in several points in a short distance, 200- or 400-foot contour intervals may be used. If the terrain is uniform or gently sloping, the smallest contour on the topographic map should be used, even though only relatively few points may be available.

(2) The profile graphs must:

(i) indicate the topography accurately;

(ii) be plotted with distance in miles on the horizontal axis and elevation in feet above main sea level on the vertical axis;

(iii) show the elevation of the center of the antenna's radiating system;

(iv) be plotted on rectangular coordinate paper or curvature of earth paper (although it is not necessary to consider the curvature of the earth); and

(v) indicate the source of the data.

(c) *Computation of average terrain elevation.* (1) The average elevation of the 2 to 10 mile portion of each radial shall be determined from the profile graphs. Profile graphs shall not be submitted.

(2) In Miami, Florida, average terrain elevation is assumed to be 10 feet.

(d) *Maps.* The exact transmitter site shall be identified on a U.S. Geological Survey topographic map or a copy. A portion of a map may be used if the identifying information is retained.

§ 22.117 Transmitters.

Explanation

We propose to combine § 22.117, and § 22.118 into one rule. Each of these rules has some paragraphs which deal with transmitters. We propose to group all such paragraphs under one rule, § 22.117.

Proposed paragraph (a) condenses old § 22.117 without the existing discussion of engineering considerations to be used in selecting transmitter sites. While these engineering considerations may be practical factors, they are not requirements of the Commission. We therefore consider it unnecessary to include such a discussion in the rules. We propose to eliminate this portion of the rule.

The preference of the Commission for nondirectional antennas and low power transmitters (old § 22.117(a), (b)) has been retained but phrased in terms of efficient and effective antenna systems.

Old § 22.117(c) has been restated as the last sentence of new § 22.117(a). It is

unnecessary to detail the contents of a report about developmental authorization. These requirements are already specified in the rules pertaining to developmental authorizations.

We propose to add a new subsection (d) which provides that additional transmitters may be constructed without Commission authorization so long as the Commission is so notified, and the authorized service area is not increased in any direction.This change will permit licensees to promptly install fill-in transmitters and will keep the Commission's records accurate as to where all transmitters are located. We will also add language to sate that, prior to construction, licensees must have received FAA approval of the antenna structure. Even though FAA requires such prior approval, this requirement in our rules will ensure that potential aviaiton hazards are not overlooked. We will also add language to comply with § 1.1305, concerning "major actions" and environmental statements. Essentially, this rule requires prior Commission approval (and an environmental statement) for antennas which exceed 300 feet in height.

This proposal complies with the requirements of § 301 of the Communications Act. Licenses issued in the public mobile service will be issued as blanket authorizations to include additional "fill-in" transmitters which do not enlarge the service area.

§ 22.118 [Removed]

71. § 22.118 is removed.

72. § 22.117 is revised:

§ 22.117 Transmitters

(a) *Location.* (1) The transmitter of a base station should be located so that the area of interference-free service includes the urban population of the area to be served.

(2) Efficient and effective antenna systems are preferable to high-power antenna systems.

(3) Where the transmitter location may not comply fully with the Commission's rules and policies, the Commission may require site survey tests to be made under a developmental authorization.

(b) *Installation.* (1)(i) The transmitter shall be installed so that unauthorized persons will not have access to the transmitter or its control point(s).

(ii) Transmitters in the public mobile service shall be installed so that controls which may cause the transmitter to exceed its authorized parameters are accessible only by properly licensed personnel.

(2) Transmitter control circuits shall be installed so that grounding or shorting any line in the control circuit shall not cause the transmitter to radiate.

(3) Each transmitter (other than hand carried or pack-carried) and each control point shall be equipped with some means of indicating when the transmitter's control circuits have been placed in a condition to activate the transmitter. Each transmitter shall be equipped so that the transmitter can be turned on and off independently of any remote control circuits.

(c) *Modulation filters.* In any case where the maximum modulating frequency of a transmitter is prescribed by the Commission, the transmitter shall be equipped with a low-pass or band-pass modulation filter of suitable performance characteristics. In those cases where a modulation filter is employed, the modulation filter shall be installed between the transmitter stage in which limiting is effected and the modulated stage of the transmitter.

(d) *Additional transmitters.* Licensees may construct and operate additional transmitters without obtaining prior Commission approval, provided:

(1) the currently authorized service area is not enlarged in any direction;

(2) the Commission is notified of the new transmitter(s), through the filing of a form 408;

(3) full FAA approval has been obtained. The notification shall state that such clearance has been granted: and

(4) the application is not a "major action" as defined by rule § 1.1305. If it is a major action, then prior approval is required, and the requirements of § 1.1311 apply.

§ 22.118 Transmitters.

Explanation

We propose to restate §§ 22.118(a) and 22.118(f) in new § 22.117(b). The provision in § 22.118(f), concerning the grounding rule, appears to constitute good engineering practice in any station. We invite comments on whether this requirement needs to be retained at all.

We propose to relocate § 22.118(b), pertaining to modulation filters, to a new § 22.117(c).

We propose to combine §§ 22.118 (c) and (e) into § 22.117(b)(3). These sections are presently written in terms of pilot lamps and meters. We propose to eliminate the facilities-oriented language and to rewrite the rule in simple terms of the licensee's responsibility. We invite comment on whether even this simplified requirement is outdated by present technology.

We propose to delete existing §§ 22.118(d). Elsewhere in this order, we have propose to relocate (d)(1) to § 22.515 (control points). Paragraph (d)(2) is related to operator log requirements, which we propose to delete (*See* our discussion of operator log requirements).

§ 22.118(d), 22.205(h)(3), and 22.208(g) Operator log requirements.

Explanation

These sections require that licensees maintain an operation log book in which the person operating the station enters such information as time and duration of each transmission, the operator's class, serial number, and expiration date of license number, etc. These sections have become increasingly out of date. Today, the only licensees who can comply with these requirements are those with manual facilities, since it is not physically possible to maintain such logs where the facilities are automated. The staff routinely grants requests for waiver of these requirements to the increasing number of licensees utilizing automated facilities. Even in the limited number of cases where such logs are maintained (*i.e.*, where the facilities are manual) the information is rarely, if ever, used. When the commission's enforcement staff conducts a field investigation, it typically focuses on other matters and examines different records. The submission and processing of these waiver requests creates substantial administrative burdens on both the public and the staff with little if any accompanying benefit. We question whether it is in the public interest to continue to impose the logging requirement on only one group of licensees where the records maintained are rarely, if ever, used. We therefore propose to delete all operator log requirements and also thereby eliminate the massive "logging waiver" procedure which currently burdens the mobile services licensing process.[3]

Section 22.118(d), (e) are discussed in connection with 22.515, control points, and 22.117, transmitters.

73.

§ 22.205 [Amended]

§ 22.205(h) is removed and reserved.

§ 22.208 [Amended]

74. § 22.208(g) and (h) are removed and reserved.

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[3] We do not propose to eliminate § 22.208(f), which discusses logging entries related to illumination of antenna structures. These requirements are set forth specifically in Part 17 and apply across the board to all radio services, including those in Part 22.

§ 22.120 Type Acceptance of Transmitters.

Explanation

We propose to revise this section in a more logical and more readable format. Subsections (a) and (d) are combined into § 22.120(a), with a heading added. Subsections (b) and (c) are reorganized into two subjects, procedures and lists, with headings added to each subsection. We shall also include language concerning type-acceptance of cellular equipment.

75. § 22.120 is revised:

§ 22.120 Type-acceptance of transmitters.

(a) *Type-Acceptance required.* All transmitters shall be type-accepted for use under this part of the Rules, except:

(1) developmental station transmitters; and

(2) any transmitter shown on an instrument of authorization which operates on a frequency in the 890–940 MHz band and which has not been type accepted, may continue to be used by the licensee, provided the transmitter otherwise complies with the rules of the Commission.

(b) *Procedure for type-acceptance.* (i) Transmitters shall be type-accepted by the Commission pursuant to Subpart J of Part 2 of this chapter (§ 2.901 *et seq.*).

(ii) Manufacturers of transmitters shall apply to the Commission for type-acceptance.

(iii) An applicant for a station authorization may apply for individual transmitter type-acceptance.

(c) *Lists of type-accepted transmitters.* Type-accepted transmitters are listed in the Commission's "Radio Equipment List," which is available for inspection at the Commission in Washington, D.C., and its field offices. Type-accepted individual transmitters normally will not be included in this list, but only specified on the station authorization.

(d) *Cellular equipment.* In addition to the normal type-acceptance procedures contained in Part 2 of this Chapter and to the technical standards contained in this Part, transmitters designed for operation under Subpart K of this Part shall comply with requirements contained in the Commission's cellular system compatibility specification (See § 22.915).

§ 22.121 Replacement of equipment.

Explanation

Presently § 22.121 provides that a licensee may replace the station's transmitter if the replacement equipment is type accepted and the Commission is notified. This notification requirement serves the useful purpose of permitting the Commission's staff to conform the details of the station license when equipment changes are made. The notification requirement is, however, an administrative burden on both the public and the staff. We therefore propose a less burdensome alternative concerning minor changes which will still keep the Commission's records accurate. Instead of notifying the Commission at the time that minor equipment changes (changing type-accepted transmitters, for example) are made, we propose that the licensee include such changes as a part of the next application filed (*e.g.*, a renewal application, a modification application). We will retain the present requirement that only type-accepted equipment be used.

In the case of major changes, such as exceeding the station's specifications in the license, a construction permit will still be required. *See* new § 22.121(b).

At the Mobile Services Advisory Committee meeting it was suggested that decreases in effective radiated power should be permitted since a licensee is likely to decrease his overall coverage area. We agree and have proposed such a rule.

Proposed § 22.121(a)(2) is taken from present § 22.109.

Since present paragraph (c) details the notification, it is deleted.

We propose to delete paragraph (d), which discusses replacement of specific types of equipment. Proposed paragraph (a) is written in general terms which include the situation described in present paragraph (d).

GTE in its comments suggested we permit 1.5 dB increases or decreases in effective radiated power. Our proposed rule is more liberal on decreases. We do not propose to permit increases. Many licensees are now transmitting to the limits of their interference contours for co-channel stations. A flexible rule for increases would require additional regulatory oversight and could well increase the number of interference complaints filed with the Commission. Therefore, we do not propose to allow blanket increases.

We also propose to eliminate the requirement of notification of the Engineer in Charge. This is an administrative burden which serves little practical function. We also propose similar revisions for §§ 22.520(a) (dispatch stations), 22.611(a) (rural radio), and 22.1007(a) (offshore radio).

76. § 22.121 is revised:

§ 22.121 Replacement of equipment.

(a) A licensee may replace any equipment in its station without authorization if:

(1) the equipment is currently type-accepted for use in this Part of the rules;

(2) antenna height or antenna structure height, whichever is greater, is not increased above the authorized height; and

(3) the equipment does not cause the station to increase its effective radiated power in any direction, or otherwise violate the rules of this part.

(b) Except as provided in paragraph (a) of this section, a licensee must obtain a construction permit prior to making changes to or replacements of station equipment.

(c) When equipment is replaced under paragraph (a) of this section, the licensee shall notify the Commission of such changes upon the next application for renewal or modification of the license.

§ 22.122 Microwave digital modulation.

Explanation

This section discusses facilities which are not included in the Public Mobile Radio Services. It refers to radio service covered by Rules Part 21. Accordingly, we propose to delete the language and place § 22.122 in reserve. Sections 22.100(d)(3) and 22.106(a)(2), which also discuss digital modulation, will at the same time be deleted and reserved.

§ 22.122 [Removed and reserved]

77. § 22.122 is removed and reserved.

§ 22.100 [Amended]

78. § 22.100(d)(3) is removed and reserved.

§ 22.106 [Amended]

79. § 22.106(a)(2) is removed and reserved.

§ 22.201 Posting station licenses.

Explanation

We propose to make this rule more flexible. AT&T suggested we eliminate the requirement that a certified copy of the station license be posted with the station or control point. AT&T suggested a copy is sufficient and the requirement of a certified copy is burdensome.

This suggestion has merit, and we will revise the rule so that licensees retain the original authorization as part of the station records and simply post a photocopy of the authorization at each control point.

80. § 22.201 is revised:

§ 22.201 Posting station licenses.

(a) The current original authorization for each station shall be retained as a permanent part of the station records but need not be posted.

(b) A clearly legible photocopy of the authorization for each base or fixed station shall be posted at every control point of the station.

§ 22.204 FCC publications required for reference.

Explanation

This section lists a number of publications required or suggested to be available at the control point or elsewhere.

We feel that it is unnecessary to require that a copy of the rules be at any particular place, or that a licensee have the whole of Part 22. While it may be advisable, the Commission need only be concerned with whether the rules are complied with. We therefore propose to eliminate this requirement and to delete § 22.204. Licensees will still be expected to comply with the Commission's rules, and we propose to specify this as part of the rule discussing licensees' general responsibilities (*see* proposed § 22.205).

§ 22.204 [Removed and reserved]

81. § 22.204 is removed and reserved.

§ 22.205 Operator and maintenance requirements (licensee responsibility).

Explanation

We propose to simplify and relax our operator and maintenance requirements. We also propose to add a new subsection establishing the general standard that licensees will be responsible for the proper operation and maintenance of their facilities. We propose this general standard as a substitute for the various detailed requirements currently in § 22.205 concerning operator licenses and maintenance personnel licenses. Our concern is that licensees keep their facilities in proper working order. Furthermore, competition is quite vigorous among carriers. These factors are strong economic incentives for ensuring that all equipment is in proper working order. We believe these forces of the marketplace are at least as effective as government requirements concerning what class license should be held by operators and maintenance personnel. We therefore propose to eliminate various operator and maintenance licensing requirements in this rule. This proposal is consistent with the requirements of the Communications Act. Section 318(4) provides that, for frequencies allocated in Part 22, the Commission may waive the operator licensing requirements. We therefore call for comment on whether such a waiver would serve the public interest, convenience, or necessity.

We propose to add a paragraph permitting licensees and permittees to make contracts with other parties for the performance of maintenance. The proposed language stresses that the licensee will remain fully responsible for the operation and maintenance of the station.

We also propose to delete §§ 22.102, 22.207, and 22.208(e). These rules discuss transmitter and frequency measurement requirements. Our concern is not with when or how often such measurements are made but rather with whether the licensee keeps its transmitter functioning properly. We therefore propose to delete these requirements. We propose simply to specify frequency tolerance limits in § 22.101 and leave to the licensee's judgment the best procedure for conforming to these standards.

We shall also delete § 22.203, "Posting of operator licenses," since we propose to eliminate the operator licensing requirements themselves.

§§ 22.102, 22.203, and 22.207 [Removed and reserved]

82. §§ 22.102, 22.203, and 22.207 are removed and reserved.

§ 22.208 [Amended]

83. § 22.208(e) is removed and reserved.

84. § 22.205 is revised:

§ 22.205 Operator and maintenance requirements (licensee's general responsibility).

(a) *General.* The station licensee shall be responsible for the proper operation and maintenance of the station. No operator's license is required for a person to operate or perform maintenance on facilities authorized in these radio services. The station licensee shall at all times comply with the Commission's rules, regulations, and policies.

(b) *Maintenance by contract.* (1) When maintenance for a radio station or antenna structure is provided for by agreement with an entity unrelated to the licensee (or permittee), the agreement shall be in writing.

(2) The licensee shall retain effective operational control over the radio facilities and their operation.

(3) The licensee shall remain fully responsible for the quality of maintenance, for compliance with all the Commission's rules, and for the general instructions given to the contractor.

§ 22.206 Inspection and maintenance of antenna structure.

Explanation

This section states that the licensee must inspect and maintain its antenna structure. AT&T has suggested that where two or more licensees share an antenna tower, they should be permitted to designate one licensee to perform maintenance functions for all licensees.

We believe this suggestion has merit. Licensees should be permitted to make such arrangements if they choose. Rule § 22.111, "Simultaneous use of common antenna structure", presently permits shared use of antenna structures. In our discussion of § 22.109 we have proposed to deregulate even further than suggested by AT&T. Rather than specifying that only licensees may maintain antenna structures, we believe licensees should have full discretion in deciding how they meet this responsibility; *i.e.*, whether by contract with other licensees or by independent maintenance personnel. This proposal is consistent with the general approach discussed in proposed § 22.205, "Operator and maintenance requirements". Since this matter is covered by revised § 22.109 and 22.205, we proposed to delete § 22.206.

§ 22.206 [Removed and reserved]

85. § 22.206 is removed and reserved.

§ 22.209 Communications concerning safety of life and property.

Explanation

This section requires that licensees, as they handle and transmit messages, give priority to messages concerning the safety of life or property. This rule also prohibits fraudulent messages concerning emergency situations. While this rule has the laudable purpose of encouraging prompt response to emergency situations, it has become increasingly outdated by advancing technology. Licensees with automated facilities have no way of knowing which messages concern emergency situations, since no operators are used to handle and transmit messages. It is not always possible to assign priorities to messages received on automated facilities. We therefore propose to delete this rule, not because of lack of concern for emergency situations but because this rule is directed at facilities which in many cases are no longer used.

We also propose to delete subsection (b) concerning fraudulent messages. This paragraph repeats what is already stated in § 325(a) of the Communications Act concerning false

distress signals. We therefore propose to eliminate this duplication.

§ 22.209 [Removed and reserved]

86. § 22.209 is removed and reserved.

§ 22.212 Equipment, service and maintenance tests.

Explanation

This section has been the subject of much comment to which this proposed rule responds.

GTE suggested that present § 22.212(a)(4) be revised. This paragraph appears to require that service on an existing station be discontinued until authorized modifications are completed. It is necessary to clarify that the prohibition on service to the public applies only during the initial construction of the station.

We propose to eliminate the notification of commencement of tests to the Engineer-in-Charge (EIC). These notifications are unnecessary given the increasing availability of the automated data base.

We propose to eliminate the two-day notification requirements set forth in paragraphs (a)(1) and (b)(1) as being unnecessary and disruptive. These rules require notification to the Commission two days before operating proposed facilities. In the case of modification of existing facilities, for example, these paragraphs would require a carrier to discontinue service to the public for 4 days in order to comply with the notification requirements of these rules. This requirement is burdensome and unnecessary, and we propose to delete paragraphs (a)(1) and (b)(1).

Paragraphs (a) and (b) of the present rule are ambiguous as to whether tests are required. The rule says the "permittee is authorized." However paragraph (c) is an exception to when tests are required.

We believe this section should reflect the changes proposed elsewhere—the licensee shall be responsible for the proper operation and maintenance of this station. Therefore, the testing rule has been phrased in permissive terms.

Likewise, we have considered AT&T's suggestion that the period of testing be left to the licensee and not set at a rigid 10-day period. We believe this is a good suggestion for deregulation, and we propose to eliminate the 10-day period.

The redundancies in paragraphs (a) and (b) have been eliminated in the proposed rule.

The proposed rule states that equipment tests are only permitted before the construction permit expires. This rule will emphasize that operation of constructed facilities is unauthorized beyond the expiration date of the construction period.

We also propose to eliminate the service tests category. Since we propose to revise form 403 as a notification form, permittees may commence service to the public without performing service tests.

87. § 22.212 is revised:

§ 22.212 Tests.

(a) *Equipment tests.* When construction or modification of a station has been completed in accordance with the construction permit, the permittee may conduct equipment tests until the expiration of the permit. No service may be furnished to the public during equipment tests unless the construction permit is for an existing station.

(b) *Maintenance tests.* Licensees are permitted to make such tests as are necessary for the proper maintenance of their stations.

(c) *Tests in general.* All tests shall be conducted so as not to cause interference to other communication systems. The Commission reserves the right to cancel or modify the permittee's testing authority when the public interest so requires.

§ 22.213(d) Station identification.

Explanation

This paragraph restates the present rule and eases the burden of station identification. Our rules presently require 3 repetitions of the call sign every half hour. We believe this requirement is unnecessarily burdensome and propose to modify the identification requirement to once every half hour, which is adequate for local cooperative interference resolution and FCC enforcement activities.

We also propose to delete the reference in § 22.213(d)(2) to radio-photo and facsimile transmission, which are rarely if ever used in the public mobile services.

We propose to eliminate the speed of transmission requirement in § 22.213(d)(2). If the speed is too rapid, an interested observer, such as the Field Operations Bureau, can slow down a tape recording of the transmissions. We also propose to eliminate the "QRA de" requirement for tone signaling. Since this code word is not necessary for telephony (*see* present § 22.213(d)(1)), we do not consider it necessary for other transmissions. Instead we will provide simply that station identification, regardless of the type of transmission, may be made either by aural transmission or automatic tone signaling.

88. § 22.213(d) is revised:

§ 22.213 Station identification.

* * * * *

(d) Where transmission of station identification is required, such transmission shall be capable of being received and understood at an appropriate receiver, without the use of special channeling or transmission unscrambling devices.

The identification shall be made once every half-hour by means of Morse code or aural transmission.

§ 22.214, 22.610, 22.611, 22.1006, 22.1007 Temporary fixed stations.

Explanation

Beehive Telephone Company suggests that we delete § 22.610 (a) and (b). These paragraphs require an authorization for temporary fixed stations. Beehive suggests that the requirement of prior authorization be eliminated, citing the delay and expense involved in preparing applications and obtaining licenses. This proposal would expedite the Commission's current licensing procedures. However, the Commission also has the critical duty of preventing interference, not only between rural radio stations, but also between rural radio and public land mobile stations. Beehive's proposal would mean that every applicant could go on the air even though experience has shown that unanticipated serious interference problems frequently occur. We therefore conclude that this proposal is not a desirable means to expedite the licensing process, because it is outweighed by potential public harm.

We propose to simplify and reorganize the rules sections which discuss temporary fixed stations. Sections § 22.610 and § 22.611 concern Rural Radio; §§ 22.1006 and 22.1007 concern Offshore Radio. Section 22.214 discusses temporary fixed stations which are close to the Canadian or Mexican border. We propose to relocate this section so that it is part of the other rules listed above. *See* proposed §§ 22.610(c) and 22.1006(c).

We propose to update the language in current § 22.610(a)(1). That paragraph prohibits services which are initially known to be longer than six months from being authorized as temporary fixed stations. This prohibition is not fully consistent with current policy or procedures in that rural subscriber stations are often authorized initially as temporary fixed stations and later become fixed after the subscriber is satisfied with the service.

We propose to delete the requirement that the Commission and the Engineer-

in-Charge (EIC) be notified when operation is commenced. In § 22.212 we propose to permit stations to start service and equipment tests without notifying the FCC or the EIC. We propose to do the same here by deleting §§ 22.611 and 22.1007.

89. § 22.610 is revised:

§ 22.610 Temporary fixed stations (Rural subscriber, interoffice, and central office stations).

(a) *General.* Upon proper application (FCC Forms 401, 408) for the frequencies listed in § 22.601, an authorization may be issued to operate a temporary fixed station. The station shall be used for rural subscriber, interoffice, or central office service only when regular facilities are not available or when such service is disrupted by storms or emergencies.

(b) *Six month limitation.* When a temporary fixed station is to, or does, remain at a single location for more than six months, an application for authorization as a permanent fixed station (FCC Forms 401, 408) must be made at least 30 days before the end of the six month period.

(c) *International Communications.* Temporary fixed stations shall not transmit between the United States and Canada or Mexico without prior authorization from the Commission. Application for authorization shall be made at the earliest possible time to permit coordination with Canada or Mexico.

90. § 22.1006 is revised:

§ 22.1006 Temporary fixed stations (Offshore Radio).

(a) *General.* Upon proper application (FCC Forms 401, 403) for the frequencies listed in § 22.1001(a), an authorization may be issued to operate a temporary fixed station. The station shall be used for Offshore Radio service only when regular facilities are not available or when such service is disrupted by storms or emergencies.

(b) *Six-month limitation.* When a temporary fixed station is to, or does, remain at a single location for more than six months, an application for authorization as a permanent fixed station (FCC Forms 401, 403) must be made at least 30 days before the end of the six month period.

(c) *International Communications.* Temporary fixed stations shall not transmit between the United States and Canada or Mexico without prior authorization from the Commission. Application for authorization shall be made at the earliest possible time to permit coordination with Canada or Mexico.

§§ 22.214, 22.611 and 22.1007 [Removed and Reserved]

91. §§ 22.214, 22.611 and 22.1007 are removed and reserved.

§ 22.300 Business records.

Explanation

Section 22.300 requires licensees to separate the records, and presumably the accounting system, of the licensed facilities from other activities of the licensee.

We believe this requirement should be deleted. The carriers covered are not rate base regulated by the Commission, and the services are provided in a competitive environment. Furthermore, since we do not review the tariffs of common carriers licensed under this part, except in rare cases, for example, in cases involving interstate services or anticompetitive practices. Finally, the requirement imposes a significant record-keeping burden on small business which is not justified by any public interest consideration.

We therefore propose to delete this rule and eliminate the separate records requirement.

§ 22.300 [Removed and reserved]

92. § 22.300 is removed and reserved.

§ 22.301 National defense.

Explanation

This section is the same as 47 C.F.R. § 2.406 which applies to this part.

Therefore we propose to delete § 22.301.

§ 22.301 [Removed and reserved]

93. § 22.301 is removed and reserved.

§§ 22.302 and 22.306 Notices of violation and other official communications.

Explanation

Section 22.302 discusses the requirement that a prompt and full response be made to a notice of violation issued by the Commission. Section 22.306 requires a response from any other type of official communication from the Commission (an inquiry letter, for example). Since these two sections relate to similar topics, we propose to combine them into one section and to revise the discussion into a more readable format.

94. § 22.302 is revised:

§ 22.302 Duty of permittees and licensees to respond to official communications.

(a) Permittees and licensees are required to respond to official communications with reasonable dispatch and according to the tenor of the communication. Failure to do so will be considered by the Commission to (1) reflect adversely on a person's qualifications to hold licenses, or (2) create liabilities for other appropriate sanctions.

(b) Any person receiving official notice of an apparent or an actual violation of a federal statute, international agreement, Executive Order, or regulation pertaining to communications shall respond in writing within 10 days to the office of the Commission originating the notices. If an answer cannot be sent within 10 days, an acknowledgement and answer shall be sent as soon as possible with a satisfactory explanation of the delay.

(c) All answers to official communications shall be complete and self-contained without reference to other communications unless copies are attached.

§ 22.306 [Removed and Reserved]

95. § 22.306 is removed and reserved.

§ 22.303 Discontinuance of station operation.

Explanation

We proposed to revise this rule to be more concise and practical. We have followed the revision already made in § 90.157, pertaining to the private radio services. Specifically, we propose to eliminate the burdensome notification requirements presently associated with temporary discontinuances but we still intend to cancel any license if a permanent discontinuance occurs.

We believe the notification requirement for temporary discontinuance is unnecessary. Such discontinuances have not proven in the past to be either frequent or long-lasting. Obviously, licensees have a strong economic incentive to remain in service, and to avoid outages if at all possible. The notification requirement imposes a burden on them with no concomitant public benefit (excepting, of course, notification of permanent discontinuance). We therefore propose to eliminate the notification requirement but to add the presumption that a station be considered to have been permanently discontinued if operation ceases for 90 days. We invite comment on our choice of a 90-day discontinuance period for these radio services.

The notification to the Engineer in Charge has been eliminated as suggested by the Mobile Services Advisory Committee. This requirement appears to be an unnecessary duplication of filing for the license.

96. § 22.303 is revised:

§ 22.303 Discontinuance of station operation.

If a station licensed under this part discontinues operation on a permanent basis, the licensee shall forward the station license to the Commission for cancellation. For the purposes of this section, any station which has not operated for 90 continuous days is considered to have been permanently discontinued.

§ 22.304 Tariffs, other reports.

Explanation

This section restates present § 22.304.

For the first time in Part 22 we have explicitly required radio common carriers to file Form L, the "Annual Report of Licensee in Public Mobile Radio Service." It should be noted that "radio common carriers" has been defined to be all non-wireline common carriers. *See* § 22.2 ("Definitions").

97. § 22.304 is revised:

§ 22.304 Tariffs, other reports

(a) All common carriers shall file the reports required by the rules of this chapter. (See §§ 1.771–1.815).

(b) All radio common carriers shall file the Annual Report on Form L within 90 days of the end of the calendar year.

§ 22.305 Reports concerning amendments to charters.

Explanation

This section requires that all amendments to corporate charters and partnership agreements be filed with the Commission. However, we do not review these charters for compliance with any laws or make any regulatory use of them. We prefer to leave such regulation to other state or federal agencies with more direct interest in them.

This section has been a burden on licensees without a corresponding regulatory benefit. We propose to eliminate all requirements of filing corporate charters or partnership agreements.

§ 22.305 [Removed and Reserved]

98. § 22.305 is removed and reserved.

§ 22.308 (proposed) Incidental communication services.

Explanation

In certain cases in the past, the Commission has approved licensees' requests to use their assigned frequencies and licensed facilities to provide various communication service in addition to public mobile radio service. Examples are weather information and stock market quotes. In these situations, the Commission has carefully reviewed the details of each licensee's proposal and has specified conditions to ensure that any such service is not at the financial expense of subcribers to mobile service, would not cause deterioration to the quality of service, and would not discourage the growth or availability of mobile service. The Commission's action in granting such requests has been based on the premise that such incidental services meet a public demand and can be fashioned so as to make more efficient use of spectrum without interfering with the growth or availability of public mobile radio service. We propose to add a rule stating the general conditions under which incidental (non-mobile) communications services may be provided.

Rule § 22.509(e)(2) already provides for one alternative to mobile service, namely a service to distribute information to multiple fixed locations rather than to mobile units. The rule specifies that the service must be provided by subaudible means and must not interfere with normal communications. Sections 22.509 (b) and (c) also provide for service to stations on board vessels (under certain conditions). The proposed rule § 22.308 is more general in scope than § 22.509(b) and § 22.509(e)(2). We therefore propose to delete §§ 22.509(b), (c), and 22.509(e)(2), which are duplicative of what is covered in proposed § 22.308.

We seek comment on the criteria which should apply to permit incidental services to develop while protecting the public mobile services from interference. We seek further comment on whether prior approval should be required or whether notification is sufficient or necessary.

99. § 22.308 is added:

§ 22.308 Incidental communication services.

Licensees authorized to operate in these radio services may also use their facilities to provide other communications services incidental to those specified in the authorization, provided that:

(a) the incidental service does not interfere with the public mobile radio service specified in the authorization;

(b) The costs or charges of subscribers who do not wish to use the other communication service are not increased;

(c) the quality of service does not deteriorate, and neither growth nor availability of the licensee's authorized service is diminished;

(d) the provision of the incidental service does not violate and is not otherwise inconsistent with other Commission rules, regulations, and policies; and

(e) the Commission is notified prior to the provision of any incidental communication service.

§ 22.509 [Amended]

100. § 22.509(b), (c) and (e)(2) are removed and reserved.

§ 22.309 Representations [New].

Explanation

This proposed new section has two purposes. Paragraph (a) restates the duty (expressed in Rule § 1.65) of all parties to fully disclose all relevant information to the Commission, not to mislead the Commission, and to continuously update the information supplied to the Commission when there are changes in the facts.

The requirements of this rule are the logical counterpart to other deregulatory proposals to eliminate various reporting and operating requirements. In other words, we propose to eliminate various requirements as to the details of station operation, but we shall expect licensees to oversee such matters on their own, and we shall require that licensees fully inform the Commission as to changes in their facilities.

Paragraph (b) is a result of the proposed deletion of the rule concerning trafficking. As discussed in the explanation of proposed § 22.39, we propose to eliminate all trafficking rules. However, the Commission has a valid interest in ensuring that applications are bona fide and not *solely* for purposes of speculation. We therefore propose to add a rule which specifically states that applicants must intend to provide service to the public.

101. § 22.309 is added:

§ 22.309 Representations.

(a) *Duty of disclosure.* All parties shall make full and continuing disclosure as required by § 1.65 of this chapter. No party shall make misrepresentations of any kind.

(b) *Service to the public.* The filing of an application shall be a representation by the applicant that the motivation for the application is the applicant's intention to provide service to the public.

§ 22.405 Additional application content and § 22.407 [New] Renewal.

Explanation

Present § 22.405 deals with the showings necessary in an application for a developmental authorization and for the renewal of an authorization. We believe short concise sections with descriptive titles are the best; therefore

we propose to create two sections from § 22.405. We propose to relocate § 22.405(b), which discusses renewal of developmental authorizations, to a new § 22.407 "Renewal."

Section 22.405(a) has been restated as § 22.405, "Additional application content." We believe it unnecessary to require that results be achieved within the term of the authorization—normally one year. (*See* § 22.404(a)). We believe present § 22.405(b) (proposed § 22.407) deals adequately with this subject and requires licensees to make good developmental use of the station.

The Commission deleted financial qualifications in § 22.405 (45 FR 63491, Sept. 26, 1980). Our experience has shown that in the case of developmental authorizations, financial qualifications *may* be an important consideration. For example, cellular communications systems, initially authorized on a developmental basis, involve significant initial investment. In CC Docket 79–318, the Commission has adopted a requirement that cellular applicants demonstrate their financial qualifications. We conclude that the financial qualifications of developmental applicants are not always irrelevant.

We do believe that in most instances, the Commission will not need to inquire into financial qualifications. However, financial qualifications may in unusual cases be necessary. We propose to state that the Commission may require a showing of financial qualification for developmental authorizations.

102. § 22.405 is revised:

§ 22.405 Additional application content.

Authorizations for development of a proposed radio service in the public mobile service will be issued only upon a showing that the applicant has a definite program of research and development, which has reasonable promise of substantial contribution to the services authorized by this part. The applicant must make a specific showing as to the factors which the applicant believes qualify him technically to conduct the research and development program, including a description of the nature and extent of engineering facilities which applicant has available for such purpose. The Commission may, in its discretion, require a showing of financial qualification.

103. § 22.407 is added:

§ 22.407 Renewal.

Expiring developmental authorizations may be renewed upon (a) the applicant's compliance with the applicable requirements of § 22.406(a) and (b) relative to the authorization sought to be renewed, and (b) a showing that further progress in the program of research and development requires further radio transmission.

§ 22.501 Nonwireline and miscellaneous common carriers, terminology.

Explanation

This rule uses a "fence" allocation, making frequencies available on an exclusive basis to two separate classes of carriers. The terminology used to describe these carriers is inconsistent and ambiguous. We propose to revise this language in order to clarify the Commission's allocation policy.

Section 22.501 uses differing terminology to refer to (and to allocate frequencies to) carriers other than wireline common carriers (WCCs). Sections 22.501(i) and (k), for example, make frequencies available for use by "miscellaneous common carriers." Other sections of this rule, however, allocate frequencies to those carriers ". . . not also engaged in the business of providing a public landline message telephone service . . ." Although the terminology differs, the rules were intended to refer to the same group.

The question has in the past arisen as to what services are included in the term "public landline message telephone service." Businesses other than the traditional telephone company now provide long distance telephone service. The Commission has taken the position that such entities are not engaged in providing public landline message telephone service. In its *Notice of Inquiry and Proposed Rulemaking in C.C. Docket No. 79–252* (Competitive Carrier Rulemaking), 77 FCC 2d 308 (1979), the Commission distinguished a conventional telephone company from other categories such as specialized common carriers (SCCs). *See also* First Report and Order in the Competitive Carrier Rulemaking, 85 FCC 2d 1 (1980).

The history of the frequency allocations in § 22.501 indicates that the Commission associated the term "wireline common carrier" with local exchange telephone service. In *General Mobile Radio Services*, 13 FCC 1242 (1949), the Commission divided frequencies between two categories of carriers described as "conventional telephone companies" and "miscellaneous common carriers." 13 FCC at 1128. It referred to "enterprises other than existing telephone companies." *Id.* at 1218. The Commission meant that the telephone companies (AT&T and the independent companies) provided "landline public message telephone service." In the 1968 "Guardband" proceeding, the Commission reiterated the distinction between telephone companies and ". . . those entities other than telephone companies." *Report and Order in Docket No. 16778*, 12 FCC 2d 841 (1968); *stay granted* 13 FCC 2d 331 (1968), *recon. denied* 14 FCC 2d 269 (1968), *aff'd. sub nom. Radio Relay Corporation v. F.C.C.*, 409 F. 2d 322 (2d Cir. 1969).

We therefore propose to modify § 22.501 to clarify that the "fence" allocation makes frequencies available to the following two categories: (1) common carriers which provide local exchange telephone service and (2) common carriers which do not provide local exchange telephone service.[4]

We also propose to revise the definition of "miscellaneous common carrier" to eliminate the reference to telegraph service. This definition was drafted when communications consisted of a few clearly defined services, and it was possible to draw a line between telephone and telegraph service on the one hand and general and dispatch mobile service on the other. As stated above, we consider the only meaningful basis for the "fence" allocation is local telephone exchange service. The proposed revision to the definition is consistent with the revisions proposed for § 22.501.

Proposed Rules

[For the text of these proposed revisions, *see* the proposed rules under "§ 22.501, Secondary basis," discussed below.]

§ 22.501 "Secondary basis" paging service.

Explanation

A member of the Mobile Services Advisory Committee suggested that the term "on a secondary basis" be deleted from § 22.501(c).[5] This rule lists frequency pairs in the 152 MHz and 454 MHz bands which are available for assignment to RCCs providing "general dispatch communications," with "signaling communications" permitted on a secondary basis. This term was not

[4] We recognize that the proposed AT&T settlement may raise additional questions as to how AT&T would be classified for purposes of the frequencies allocated under § 22.501. The proposed revisions to this rule are not an attempt to resolve such questions, which cannot be completely disposed of prior to an approved settlement.

[5] This suggestion was elaborated upon in comments submitted by Empire Paging and supporting comments on Zip-Call, Inc. The "secondary basis" language also appears in §§ 22.501 (a) and (b). These sections, however, have not generated the problems discussed above, because they allocate different frequencies to different carriers.

defined in the rule, and no standard was ever established to quantify "secondary basis" service. The proposed amendment would permit paging on an equal basis with two-way communications on these frequencies.

Section 22.501(c) as originally written did not include the "secondary basis" language. Instead, it provided that facilities which provide general or dispatch service over these frequencies may also furnish signaling service. *See Second Report and Order,* Docket No. 11995, 23 Fed. Reg. 1074 (1958). The "secondary basis" language was proposed without discussion in 1969 as part of a general update of the mobile services rules. See *Memorandum Opinion and Order,* (Notice of Proposed Rulemaking), Docket No. 18556, 34 Fed. Reg. 9126 (1969). This proposal was opposed by those members of the industry filing comments, but the Commission adopted the language because "* * * it would be inefficient to permit the use of these frequencies on a co-equal basis. See *Report and Order.* Docket No. 18556, 23 FCC 2d 670 (1970).

Since that time there have been many developments within the industry which could not have been predicted. We now see there has been an enormous demand for paging, and carriers holding licenses for two-way channels have in many cases used the "Secondary basis" language as a basis to meeting this paging demand on the two-way channels. At the same time, however, there is a significant demand for two-way service. The staff receives complaints and inquiries on a frequent basis concerning long waiting lists, typically involving a waiting period of two to three years for radiotelephone service. While it is a reality of the marketplace that paging has grown dramatically, it is also true that the marketplace demonstrates a heavy demand for two-way service (this latter demand is in fact the basis for the cellular proceeding). Today the frequencies allocated in §§ 22.501(c) are heavily used for paging in certain parts of the country. *See* Empire Paging comments. In other regions (notably the oil-producing states such as Texas, New Mexico, Utah, and Wyoming) these frequencies are extensively used for two-way mobile communications. *See* Zip-Call, Inc. comments, p. 5. When the Commission added the "secondary basis" language, it permitted the marketplace to determine what type of mobile service would be provided on these frequencies. This marketplace determination has not been uniform throughout the country but instead has varied according to the needs in various locales. The comments suggest that, although two-way service has far from disappeared on these frequencies, paging has earned the right to co-equal treatment and the rule should be amended to reflect these developments.

These rule sections have been the subject of extensive litigation. Numerous petitions to deny have been filed alleging that carriers providing paging on these frequencies have not done so on a secondary basis but instead have virtually converted these two-way frequencies for one-way use in violation of the "secondary basis" language in the rule. In disposing of such petitions, the Commission has liberally interpreted the rule to permit almost minimal two-way service as compliance with the rule. *See, e.g., Radio Contact Corp.,* 48 RR 2d 1489 (Com. Car. Bur., 1981); *Empire Paging Corp.,* 48 RR 2d 1637 (Com. Car. Bur., 1981); *Beep Communications Systems, Inc., Memorandum Opinion and Order,* Mimeo No. 16536 (released April 19, 1979); *American Communications Systems, Inc., Memorandum Opinion and Order,* Mimeo No. 13003 (released March 5, 1979); *Phone Depots, Inc.,* 28 FCC 2d 405, 21 RR 2d 771 (1971). In spite of the Commission's position on this matter, this language has been a source of continuing litigation. We believe this demonstrates that the language in the rule is not realistic and needs to be revised.

We believe there is merit to the comments submitted on these rules. The "secondary basis" language was an attempt to give some relief to paging customers in the context of a severe frequency shortage. It was not a total solution, and the Commission has taken the longer term approach of making additional frequencies available. In our view, this is the only long term solution to the increasing demand for mobile service except for technological advances such as frequency reuse as in cellular systems. In the meantime we are faced with the particular problems described by the commenters. Paging on these frequencies can hardly be characterized as secondary in many instances. The Commission, in adding this language, intended to preserve spectrum efficiency while at the same time giving carriers additional flexibility.

It was not the Commission's intention to stimulate litigation on the fine points of where to draw the line between primary and secondary service. We do not believe it makes sense to try to preserve a regulatory structure which is not realistic. We therefore propose to revise the rules to state that the frequency pairs listed in § 22.501(c) are allocated for one-way mobile service but may also be used to provide two-way service if there is a public demand for such service.

In so doing, we do not propose to open all mobile service frequencies for both one-way and two-way service. Our proposal here is confined to the unique circumstances related to the situation which has developed in response to the "secondary basis" language in § 22.501(c). We propose simply to recognize the type of use which has evolved on these frequencies and to remove the language which has created artificial and unnecessary problems. We also propose the same modification to §§ 22.501 (a) and (b), which make similar allocations and include the "secondary basis" language.

Zip-Call, Inc. in its comments discusses another problem which is related to the problems discussed above. Although §§ 22.501 (a), (b), and (c) permit paging only on a secondary basis, § 22.501(d)(2) provides that an applicant for a one-way frequency must demonstrate why the proposed one-way service could not be provided on its present two-way frequencies. Zip-Call observes that § 22.501(d)(2) gives equal status treatment to one-way and two-way service while § 22.501 (a), (b), and (c) do not. The applicant is effectively caught between these conflicting standards. We recently addressed this point in Docket No. 80-183 and decided to delete § 22.501(d)(2). Accordingly, the relief sought by Zip-Call has already been granted. *See Report and Order,* FCC 82-202, released May 14, 1982, at paragraph 42.

104. § 22.501 is amended by revising the introductory text preceding paragraph (a) and by revising the introductory test of paragraphs (b) and (c):

§ 22.501 Frequencies.

The following frequencies are available to the Public Land Mobile Service for the use set forth in this section.

* * * * *

(b) For assignment to common carriers which provide local exchange telephone service. These frequencies are available for two-way public land mobile service. One-way public land mobile service may also be furnished, provided that two-way service is offered:

* * * * *

(c) For assignment to common carriers which do not provide local exchange telephone service. These frequencies are available for two-way public land mobile service. One-way public land mobile service may also be furnished,

provided that two-way service is offered:

* * * * *

§ 22.501(e) Bandwidth limitations.

Explanation

This rule section makes available frequencies in the 2 GHz band to common carriers for control of public land mobile stations. The section contains the significant limitation that bandwidth authorized will be "limited to the minimum necessary to serve the purpose required." Pursuant to this limitation, the Mobile Services staff presently limits a 2 GHz microwave authorization to exactly the bandwidth required to handle the current communications needs of the carrier. Through informal comments, Gencan Incorporated (Gencan) has criticized this requirement as imposing substantial administrative burdens on the public and on the Commission's staff without conferring any regulatory benefit. Specifically, Gencan states that, since the 2 GHz authorization is so limited, there is no room for future expansion. As a result, every time a carrier adds another operating channel, the corresponding microwave control authorization must simultaneously be modified to reflect the increase in bandwidth needed to control the new facilities. Gencan observes that in many cases the added channel is at the end of a multi-hop microwave circuit, and several microwave station licenses must be amended.

We believe there is merit to the Gencom comments and propose to eliminate this limitation. When the Commission announced its policy of strictly applying the 2 GHz limitation, it did so in the interest of spectrum conservation. RM–2364, *Memorandum Opinion and Order*, Mimeo 15766, released April 10, 1980. Prior to this announcement, public mobile services licensees were typically authorized 800 kHz for microwave control facilities. We propose to revise the rule so that spectrum conservation is still encouraged but the administrative burdens described above are eliminated. We propose to retain the limiting language in the rule but add language permitting bandwidth authorizations to be made on the basis of the applicant's future growth plans as well as the needs of the instant application. This language will give the staff the flexibility to authorize a bandwidth which is spectrally efficient and which does not necessitate the filing of amendments in the future.

105. § 22.501(e) is revised:

(e) On a shared basis with fixed stations in the Point-to-Point Microwave Radio Service, frequencies in the bands 2110–2130 MHz and 2160–2180 MHz may be authorized for use by control and repeater stations functioning in conjunction with the Public Land Mobile Service. The emission bandwidth shall be limited to the minimum necessary to serve the purpose required, including the applicant's future growth plans. No new assignments will be made in the 2160–2162 MHz for stations located within 50 miles of the coordinates of the sites listed in § 22.901(c), except upon a showing that no alternative frequencies are available. Channel bandwidths in excess of 800 kHz will not be authorized. In each of these bands, the highest frequency which would not cause harmful interference to any other stations shall be assigned.

§ 22.501(f)(1) 72–76 MHz band

Explanation

We propose to rewrite this section in plain language, add a heading, and reorganize the format.

Corrections in terminology have been made to paragraph f(1) which is renamed (f) since (f)(2) has been moved to § 22.103. *See* § 22.103.

The requirement that the repeater station be under the land mobile system's operating personnel is outdated since automated systems need not have any operating personnel. All stations are subject to the requirement that the licensee maintain proper control over the station. We therefore propose to delete the "operational surveillance" language.

106. § 22.501 is amended by revising paragraph (f), introductory text, (f) (1) and (2), and by removing the footnotes from the table:

(f) *72–76 MHz band.* The following frequencies are available for assignment to public land mobile control and repeater stations on a shared basis with certain other radio services. A repeater station normally will not be authorized unless the public land mobile system with which it is associated is continuously open for public correspondence.

* * * * *

(1) Stations existing on December 1, 1961, in the 73.0–74.6 MHz band are not required to protect the radio astronomy service.

(2) Stations operating in this band shall cause no harmful interference to operational fixed stations or reception of television channels 4 or 5 (See § 22.103). Existing stations authorized in the 73 to 74.6 MHz band as of December 1, 1961, may continue to operate, are not required to afford protection to the radio astronomy service and must comply with the following technical specifications:

Frequency Tolerance: .005 percent
Frequency Deviation: ±15 kHz
Authorized Bandwidth: 40 kHz
Modulation Limiter: Required
Audio Low Pass Filter: Not required

§ 22.501(h) Frequencies

Explanation

There is no change of substance. We have updated the language and titled this paragraph.

107. § 22.501(h) is revised:

(h) *150 MHz band (Paging).* The following frequencies may be assigned for use exclusively in providing paging:

(1) Common carriers which do not provide local exchange telephone service: 154.24 MHz, 158.70 MHz.

(2) Common carriers which provide local exchange telephone service: 152.84 MHz, 158.10 MHz.

§ 22.501(i) Frequencies

Explanation

This paragraph has been retitled.

Since present paragraphs (i) and (j) are exactly the same except for the list of frequencies, we propose to combine them.

Proposed paragraph (i) (main part) restates (i), (j) (main parts) and (i)(5), (j)(5). It is unnecessary to explain what a control or repeater station is here, since this is defined in § 22.2 Definitions.

Paragraph (i)(1) restates the frequencies in § 22.501(i), and (i)(2) restates the frequencies in § 22.501(j).

Proposed (i)(3) restates (i) (1), (2) and (j) (1), (2).

Proposed (i)(4) restates the Note to present § 22.501 (i) and (j).

Proposed (i)(5) restates (i)(3) and (j)(3).

Proposed (i)(6) restates (i)(4) and (j)(4).

Paragraph (j) is deleted since it is combined into proposed paragraph (i).

108. § 22.501(i) is revised:

(i) *450 MHz band (control, repeater).* The frequencies in this paragraph may be assigned for use for control stations or repeater stations. Series operation of more than one control or repeater station is not permitted.

(1) These frequencies may be assigned to common carriers which do not provide local exchange telephone service:

* * * * *

(2) These frequencies may be assigned to common carriers which provide local exchange telephone service:

* * * * *

(3) *Location.* The control station and the base station controlled, or the repeater station and the point transmitted to, shall be located 50 miles from the nearest boundary of any urbanized area with a population of 300,000 or more, according to the most recent report of the U.S. Bureau of the Census.

(4) *Waiver of location.* (i) Paragraph (i)(3) of this section may be waived upon a showing that there are frequently pairs in the 152–162 MHz band not assigned or applied for which can provide service to the urbanized area.

(ii) If a waiver is granted, such facilities shall be secondary to the uses permitted by paragraph (c) of this section. Operation shall be terminated within 60 days after notice from the Commission is received that the frequencies are needed for such use.

(5) *Power.* Effective radiated power shall not exceed 150 watts.

(6) *Interference, secondary basis.* The use of the frequencies by a control or repeater station shall not cause harmful interference to any other station authorized to use such frequencies and shall be on a secondary basis to the provision of mobile and rural radio service by other classes of stations.

109. § 22.501(j) is removed and reserved.

§ 22.501(k) Frequencies

Explanation

We propose to title this paragraph and to use the new definitions proposed in § 22.2. There is no change of substance.

110. § 22.501(k), introductory text, is revised:

(k) *470–512 MHz band (Two-Way).* The following frequencies may be assigned to radio common carriers within the listed urban areas:

* * * * *

22.501(n) Waiver of frequency allocation.

Explanation

We are proposing a rule to establish standards for granting waivers to the separate allocations of frequencies to radio common carriers (RCC) and wireline common carriers (WCC). *See.* present § 22.501 (b), (c), (i), (j), § 22.601(a). This proposed rule establishes criteria for waiver of the separate allocations and the assignment of a WCC frequency to an RCC, or the assignment of an RCC frequency to a WCC. It significantly liberalizes the Commission's rules by permitting waivers of the separate allocations, since there has been no policy of granting waivers. This waiver policy will not apply to cellular systems as its separate allocation is embodied in the cellular rules, § 22.901.

The proposed rule requires the party requesting the waiver to show there are no available frequencies within the frequency band allocated to WCCs or RCCs, as the case may be. If there are none, then an RCC or WCC frequency may be requested from among any such unassigned frequencies.

Under this proposal, an RCC operating in the 150 MHz band, for example, could apply for an unassigned 150 MHz band wireline frequency, even though there were RCC frequencies unassigned in another band. In other words, a licensee, if it so desired, would have the option of expanding its system in the same frequency band by requesting a waiver of the separate allocation scheme. We emphasize that the channel loading standards found elsewhere in the rules would still apply. The Commission's normal considerations of efficient usage of the spectrum are unaffected by the proposed waiver policy.

The proposed waiver policy applies equally to new entrants to a market as well as to existing carriers. A new RCC entrant, for example, requesting an unassigned wireline frequency in band "A" must show that no RCC frequencies are available in band "A."

We seek additional comment on whether the waiver policy should apply during the 60-day cut-off period after an application is filed; for example, if a wireline carrier requests a particular wireline frequency, should the waiver policy permit an RCC applicant to request the same frequency (within the 60-day cut-off period)?

We are not proposing to eliminate the separate allocation structure. Abolition of the separate allocations involves major policy assessment which is beyond the scope of this proceeding. The proposed rule only permits waivers as to the assignment of presently unused frequencies and would not otherwise change the current distinctions in the rules for RCCs and WCCs. We do, however, intend to undertake a review of the "fence" in a separate proceeding in the near future.

We discuss here several restrictions on the scope of the proposed policy and briefly explain the rationale for these limitations.

The waiver policy would not apply to control and repeater frequencies. A carrier requesting a waiver in order to add another frequency may employ control or repeater frequencies already assigned.

The waiver policy also would not apply to the frequencies allocated in Docket No. 21039. *See* § 22.501(k). All of these frequencies are already applied for, so no unused frequencies are available.

For technical reasons, the waiver policy would not apply in the 150 MHz band. *See* §§ 22.501 (b) and (c). The WCC frequencies allocated in this band have different base and mobile channel separations than those allocated to the RCCs. Because of these differences, a wireline 150 MHz system is in a sense incompatible with a 150 MHz band wireline frequency to its existing facilities. Instead, new facilities would have to be constructed which operate within the separation standards established for those frequencies. The practical effect would not be to provide frequency relief to an existing system but rather to reallocate a frequency for the construction of a new system. This is not the purpose of the proposed waiver policy. As stated above, we will examine the allocation issue in a separate proceeding. Here, we merely propose to add flexibility for spectrum relief in cases where it is technically feasible without eliminating the present allocation structure. We therefore propose to entertain waiver requests only for the guardband frequencies in § 22.501(h), and for the 450 MHz band frequencies listed in §§ 22.501 (b) and (c). We request comment, however, on methods which will add greater flexibility to the waiver policy and which are technically feasible at the same time.

The practical effect of the proposed rule is not very great. It will not affect the larger markets where all frequencies have been assigned, nor will it affect any presently assigned frequencies. The only effect will be in markets where carriers have had nearly fifteen years since the *Guardband* decision [6] to apply for frequencies but have failed to do so. In those cases, we propose to permit waiver requests and thereby make use of unused frequencies.

111. § 22.501(n) is added as follows:

(n) *Waiver of frequency allocation.* (1) Under the conditions stated below, the Commission may grant waivers of the separate allocation in this section and assign to a radio common carrier a frequency allocated to a wireline common carrier, or vice versa.

(2) A request for such a waiver shall show that there are no available frequencies in the same band allocated to the category of common carrier of which the applicant is a member.

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[6] *Report and Order in Docket No. 16778,* 12 FCC 2d 841 (1968); stay granted 13 FCC2d 331 (1968), *recon. denied* 14 FCC 2d 289 (1968), *aff'd. sub nom. Radio Relay Corporation v. F.C.C.,* 409 F. 2d 322 (2d Cir. 1969).

(3) The frequency specified in the waiver request shall be selected from among the following categories: the 450 MHz band frequencies listed in §§ 22.501 (b) and (c), and the frequencies listed in § 22.501(h).

§ 22.502 Classification of base stations.

Explanation

This rule classifies base stations according to antenna height. The classification table goes up to 500 feet. The classifications are used as the basis for geographical separation of co-channel stations.

We have rewritten this section in response to GTE's comments which requested clarification of the class of station using antennas higher than 500 feet. We propose to make all such stations Class A, since this is the classification presently used at the upper end of the table. Even though some stations might be Class B, the proposed classification will establish a uniform standard which will be workable in most cases. If an applicant believes a different classification applies, it may request it pursuant to § 22.503(b).

112. § 22.502, except for the table, is revised:

§ 22.502 Classification of base stations

(a) Base stations in the public land mobile service shall be classified according to antenna height above average terrain and effective radiated power in the relevant direction. This classification is not applicable to base stations in the frequency bands 454.6625–455.000 MHz, 459.6625–460.000 MHz, and 470–512 MHz.

* * * * *

(b) Any station with antenna height more than 500 feet above average terrain, shall be considered to be a Class A station.

§ 22.504 Service area of base station.

Explanation

We propose to revise the heading of this rule to conform with changed definitions. The proposed new heading is "reliable service area." We also propose to correct the final sentence in subsection (a) by substituting the term "reliability" in place of "reliably."

Proposed Rule

[See discussion above.]

§ 22.505 Antenna height-power limit

Explanation

This section has been rewritten in plain English. As GTE suggested, we have excluded air-to-ground radio stations from this section because they are limited to 100 watts. Interference and coverage considerations are embodied in the table of allocations, and the path of communications is above the horizon.

113. § 22.505, except for the tables, is revised:

§ 22.505 Antenna height-power limit

(a)(1) Base stations, other than those in the air-to-ground radio service or in the 470–512 MHz band, with antennas more than 500 feet above average terrain shall reduce effective radiated power below 500 watts as provided in the chart below.

(2) More efficient and effective antennas are preferable to high power.

* * * * *

(b) The maximum effective radiated power and antenna height, respectively, for base stations providing one-way signaling service in the frequency band 929–932 MHz shall be no greater than 1 kilowatt (30 dBw) and 305 meters (1000 feet) above average terrain (AAT), or the equivalent thereof determined from the following table:

* * * * *

§ 22.506 Power.

Explanation

We propose to amend this section to conform with our proposals elsewhere. In the discussion to § 22.107 we explained how we are no longer concerned with rated power output but only with effective radiated power. Therefore we have eliminated all references in our proposed rule to rated power output unless there is no effective radiated power specified in the rules.

114. § 22.506 is revised:

§ 22.506 Power

(a) *Base stations.* Base stations shall not exceed 500 watts effective radiated power except for base stations in the 470–512 MHz and 929–932 MHz bands. Base stations in the 470–512 MHz bands shall not exceed the power limits in § 22.501(l).

(b) *Dispatch, auxiliary test stations.* Dispatch and auxiliary test stations shall not exceed 100 watts effective radiated power.

(c) *Mobile stations.* Mobile stations shall not exceed 60 watts transmitter power output.

(d) *Air-ground stations.* Base stations operating on frequencies specified in § 22.521 shall not exceed 100 watts. Airborne mobile stations shall have between 4 and 25 watts rated power output. During idle traffic periods a base station shall continuously radiate on its working channel(s) a modulated carrier reduced in power between 10 and 20 dB below normal power.

(e) *929–932 MHz band.* Base stations operating on frequencies in the band 929–932 MHz shall not exceed the values of effective radiated power listed in § 22.505(b) to a maximum of 1000 watts, and shall not use transmitters having a maximum output power in excess of the limits shown in § 22.107(b).

§ 22.508 Modulation requirements.

Explanation

Section 22.508 is modified to add paragraph (i), which provides additional information for transmitters employing digital emissions.

115. § 22.508 (i) is revised:

§ 22.508 Modulation requirements.

* * * * *

(i) Transmitters complying with the emission limitations of paragraph (b) of § 22.106 shall be exempt from the audio low-pass filter requirements of paragraphs (f) and (g) of this section provided that transmitters used for digital emissions must be type accepted with the specific equipment that provides the digital modulating signal. The type acceptance application shall contain such information as may be necessary to demonstrate that the transmitter complies with the emission limitations specified in paragraph (b) of § 22.106.

* * * * *

§ 22.509 Permissible Communications.

Explanation

We propose to rewrite this section in plain language and reorganize the sections with headings added. Present paragraph (a) has been retained as paragraph (a). Paragraphs (b), (c), and (e)(2), which discuss several types of incidental services, are deleted. Proposed § 22.308 states the general rule concerning incidental services. These paragraphs are the special case. *See* discussion of § 22.308 [proposed]. Present paragraphs (d) and (e)(1) are combined in proposed (b)(2).

Proposed paragraph (b)(4) is derived from paragraph (f). Present paragraph (f) states that base stations may communicate with rural subscriber stations provided this does not "degrade" the public mobile service. Instead of relying on the imprecise term, we propose to refer to the standards set forth in § 22.308 for incidental services. We have also eliminated the reference to § 22.609, since that section is now applicable to all rural radio stations.

Present paragraph (g) (taxi cab operations) has been moved to proposed

(f); present (j) (auxiliary test stations) to (d); present (k) dispatch stations) to (c). These proposed revisions merely reorganize and simplify the present rulles language. We request comment, however, on whether the policy on taxi cab operations and disptach service should be modified. Specifically, should the prohibition on taxi cab service be eliminated and this matter be left to the business judgment of the carrier? Similarly, should the Commission eliminate the policy that a dispatch station operator may communicate only with its own associated mobile units? We question whether these policies are justified for today's mobile services.

Proposed paragraphs (e)(1) and (e)(2) restate present paragraph (h) on Canada-related licensing matters without change of substance. Proposed (e)(1) references § 22.9(e) which states that FCC Form 410 is to be used. Proposed (e)(2) references § 22.9(f), which tells which form is to be used for mobile stations operating in Canada.

Proposed paragraph (e)(3) restates §22.509(i) on trans-border service.

116. §22.509 is revised:

§ 22.509 Permissible Communications.

(a) *Mobile Stations.* Mobile stations shall communicate with and through base stations only. Such communication between base and mobile stations shall be upon frequencies which are paired according to this part.

(b) *Base stations.* Base stations shall communicate only with

(1) land mobile stations;

(2) airborne mobile stations (if 2-way communications, then only as provided in § 22.521);

(3) mobile stations on vessels subject to the requirements for incidental communications services in § 22.308; and

(4) rural subscriber stations subject to the requirements for incidental communications services in § 22.308.

Base stations may broadcast to pagers.

(c) *Dispatch stations.* A dispatch subscriber station may communicate only with that subscriber's mobile stations and only through the associated base station. Where subscribers jointly operate a dispatch station, each subscriber shall communicate only with his own mobile station.

(d) *Auxiliary test stations.* (1) Auxiliary test stations shall be operated on mobile station frequencies for testing fixed receivers remotely located from the control point.

(2) An auxilitary test station may be used as a standby transmitter on the base station's assigned frequency.

(e) *International. (1) Canadian mobile stations.* Canadian licensed mobile stations which are in the United States may communicate with base stations in the public land mobile service after authorization has been granted by the Commission. *See* § 22.9(e).

(2) *United States mobile stations.* United States licensed mobile stations which are in Canada may communicate with base stations in the public land mobile service of either nation upon authorization by Canada.

(3) *Other international.* Unless prohibited by a foreign country, base stations are permitted to provide transborder communication service to mobile stations in that country which are properly licensed for public mobile service in either country.

(f) *Taxi dispatch.* Taxi dispatching is not permitted under this part.

§ 22.510 Base stations part of integrated system.

Explanation

We propose to delete this section. Land mobile stations are no longer licensed, so portions of this section are outdated. The substance of this rule has been placed in § 22.514.

§ 22.510 [Removed and Reserved]

117. § 22.510 is removed and reserved.

§ 22.511 Communication service to own mobile units.

Explanation

This rule establishes reporting requirements which apply to all renewal applicants, concerning use of the base station by the carrier's own mobile units. The purpose of this rule is to ensure that private mobile systems are not licensed as public mobile systems.

We question whether the reporting requirements of this rule are necessary. Carriers licensed to use these frequencies have a strong economic incentive not to limit themselves to "in-house" use. The common practice within the industry has been to maximize service to the public. We believe the administrative burden of this reporting requirement on all renewal applicants is not jusitiable. The Commission has adequate regulatory tools to investigate any such abuses which may occur in the future. Such matters can be brought before the Commission in a petition to deny. We therefore propose to eliminate this rule.

§ 22.511 [Removed and reserved]

118. § 22.511 is removed and reserved.

§ 22.512 Order of service.

Explanation

We propose to delete the elaborate rules presently in § 22.512 regarding priorities of service to customers.

The priority of service rule has not been reviewed or revised since 1949 when § 6.603, the predecessor of § 22.512, was promulgated. When § 22.512's precedessor was enacted, there were good reasons for these priorities. The charges over the last 30 years have made these reasons obsolete. The present rule sets forth a complicated scheme of providing service. Priorities are given to public safety, public service, industrial and related classes. We believe that it is not necesssary for the Commission to burden the regulated industry with the job of classifying subscribers by categories and keeping seven separate lists of prospective customers. The present § 22.512 has been outdated by changes in technology, the allocation of more spectrum and a change in the philosophy of regulation.

In 1949 mobile services were relatively expensive, equipment was bulky, and there were only a handful of available frequencies. Additionally, private land mobile services were not widely available, and many organizations relied upon public land mobile service to meet their mobile communications needs. Today there are frequencies allocated in the Private Radio Services (Part 90) to meet the special needs of the groups which had previously been given priority for service under § 22.512.

Another reason for eliminating the priority listing is that additionally frequencies are becoming available under Part 22. We anticipate that the new cellular technology will greatly reduce or eliminate the waiting lists in the metropolitan areas.

Organizations which are licensed by the Private Radio Bureau also receive service, in many cases, from public land mobile service carriers. We do not propose to change this practice. However, the essential functions of these categories of users can be served by systems licensed under Part 90. We therefore propose to eliminate this rule.

§ 22.512 [Removed and reserved]

119. § 22.512 is removed and reserved.

§ 22.513 Location of message center.

Explanation

The present section requires the placement of the message center within a certain coverage area or the use of a foreign exchange line to a point within

that area. We have received comments suggesting that we permit means other than a foreign exchange line to be used. An example is WATS lines.

We considered proposing a rule that makes no reference to message centers or any other facilities but simply requires that any excess toll charges not be passed on to the customers. We were unable, however, to write a rule to define what the excess charges are. Long distance charges can be defined. However, the advent of local distance charges, or zone unit measure charges, poses a problem. In several metropolitan areas it would be necessary to establish many message centers.

The members of the Mobile Services Advisory Committee expressed the view that the Commission need not adopt a regulatory stance about licensees locating message centers in order to drive up charges. Committee members believed that any carrier who did so would go out of business due to competition.

We agree with the Advisory Committee. While a licensee owned by a wireline company might have an incentive to create excess charges, its nonwireline company competitors would not. In our view, the forces of the market place are adequate to respond to any such problem if it should occur. We therefore propose to eliminate this section as an unnecessary area for federal regulation.

§ 22.513 [Removed and Reserved]

120. § 22.513 is removed and reserved.

§ 22.515 Control points.

Explanation

Many parties suggested revisions to the sections dealing with control points, § 22.515, and § 22.118(d), (e). Section 22.118(d)(2) of the present rules provides that a control point may not be moved beyond the city boundary without prior approval. This rule has been burdensome and has limited licensee flexibility. Several persons filing comments and the Mobile Services Advisory Committee proposed deleting this section. The proposed rule does so. We consider it important that the Commission retain the notification requirement for control points. In cases where the Commission's field staff inspects a station, the staff is interested in the control point, not the business address.

It is not sufficient for the Commission to be informed only of the transmitter location, because in many cases the transmitter is on a mountain top or in another inaccessible location. We therefore believe that notification of control points by letter is the least burdensome means of effecting the Commission's purpose. No application would be required prior to the construction or relocation of a control point.

The Mobile Services Advisory Committee pointed out that many systems now have a computer terminal which monitors the status of transmitters. The requirement in § 22.118(e)(1) that requires a pilot lamp to provide an indication of the transmitter status has been outdated by technology. It requires stations to have a bank of lamps when they are not needed. We propose to adopt this suggestion.

The Committee also suggested that we not require a control point until the station is ready for service since there may be significant delays between filing of the application and the commencement of service. The present rule theoretically requires the applicant to rent an empty room for several years. We have included this suggestion.

We also propose to modify portions of §§ 22.118(d), (e), and 22.515(c), which discuss technical requirements related to control points and dispatch stations. These sections contain facilities-oriented language (on-off control switches, aural monitoring facilities, etc.). We have proposed elsewhere in this notice the general standard that licensees assume the responsibility for proper operation of their station facilities. We therefore consider it unnecessary to specify what control point and dispatch station equipment should be used. Instead, we propose simply to require that every station have at least one control point and that licensees maintain operational control over dispatch stations. We propose to delete the other technical portions of these rules.

Paragraphs (a) and (b) of § 22.515 will be moved to §§ 22.519, 22.520 dealing with dispatch stations.

121. § 22.515 is revised:

§ 22.515 Control points.

(a) *General rule.* (1) Every station in this service shall have at least one control point. Additional control points may be installed upon notification to the Commission.

(2) The Commission shall be notified by letter whenever any control point is moved. Such notification shall contain a street address or its geographic coordinates.

(3) No control point is necessary until the station starts transmitting.

(b) *Dispatch stations.* The licensee shall at all times maintain operational control over each dispatch station.

§ 22.516 Additional showing requirement

Explanation

Section 22.516 has been retitled.

The term "holding time" has been replaced by "channel occupancy time". Holding time is ambiguous. It has been interpreted as the time a message waits before it is completely transmitted, and as the time a station is transmitting messages. The definition used by the Commission is the latter; therefore, we are renaming and defining the term. See § 22.2, "Definitions."

In order to do the blocking studies necessary to determine whether additional channels are justified, we need the channel occupancy time, the number of mobile stations per channel, the number of channels and whether they are trunked. All other requirements in the present rule are unnecessary and will be deleted.

As suggested by the comments of Dean George Hill and the Mobile Services Advisory Committee, we shall require traffic load studies for only the busiest one hour, not for each hour of the busiest 12-hour period. In processing applications, the staff examines only the busiest hour to determine need for additional channels. Since the loading study for the 11 extra hours is not used, it is an unnecessary burden for applicants and should be eliminated.

Finally, we propose that the survey be completed within 60 days prior to the application filing date in order to avoid applictions based on stale factual information.

122. § 22.516 is revised:

§ 22.516 Usage showing for additional channels.

Traffic load studies shall be required in the following cases:

(a) applications which request an additional frequency for an existing one-way signaling station;

(b) applications which request one or more additional frequencies for an existing two-way station;

(c) other applications as the Commission may prescribe.

(1) The study shall survey traffic over the station for the busiest one hour period of the day for three days in a seven day period having normal usage.

(2) The survey shall state (i) the channel occupancy reported separately for each hour; (ii) the number of mobile stations and pagers which are subscribers; (iii) the number of channels and whether they are trunked; and (iv) the date and time of the survey.

(3) The survey shall be performed within 60 days prior to the date on which the application is filed.

§ 22.517 Repeater stations.

Explanation

We propose to rewrite this section in plain English.

It is unnecessary to state that the base station may use only its assigned frequency. It is never permitted to use any other except as provided by these rules or the Commission.

123. § 22.517 is revised:

§ 22.517 Repeater stations.

(a) A base station may be used as a repeater station.

(b) The licensee must be able to turn the base station on or off from the control point regardless of whether a mobile station is transmitting.

22.519 Dispatch stations.

Explanation

We have received comments concerning dispatch stations and related rules. One comment suggested we delete § 22.9(d)(4) which requires prior approval of dispatching agreements. We believe this suggestion has merit. We have no need to review dispatching arrangements if the technical aspects of these rules are complied with. We therefore propose to delete § 22.9(d)(4) as outdated.

We propose to combine § 22.515(a), § 22.519 and § 22.520, since they deal with dispatch stations.

We have not included in the proposed rule cross-references to other sections as found in present § 22.519(a). These references are not informative. They only require that licensees comply with the rules.

Proposed § 22.519(a)(1) restates portions of present § 22.519(a) and § 22.515(a). Proposed § 22.519(a)(2) restates present § 22.520. We propose to delete the following paragraphs: § 22.520(a)(3) (transmitter type—we propose not to require this information for any station); § 22.520(a)(4) (information about antennas—same reason); § 22.520(a)(6) (location of control—we have deregulated this area (see proposed § 22.515)); and § 22.520(a)(9) (commencement of operation—the notification will be filed concurrently with operation or before). We propose to eliminate the requirement of notification of the Engineer-in-Charge, for the reasons given in our discussion of § 22.121.

Since we have a section on discontinuance of operation, § 22.520(c) is redundant and will be deleted.

Posting of authorizations is dealt with in § 22.201 (proposed), so § 22.520(b) is redundant and will be deleted.

Proposed paragraphs (a)(3) and (b) restate the last sentence of § 22.519(a), and § 22.519(b), respectively.

For the reasons given in the discussion of § 22.501(1)(10), we propose to discontinue the practice of specifying a maximum number of dispatch stations on a license.

§ 22.520 [Removed and Reserved]

124. § 22.520 is removed and reserved.

§ 22.9 [Amended]

125. § 22.9(d)(4) is removed and reserved.

126. § 22.519 is revised as follows:

§ 22.519 Dispatch stations.

(a) *Dispatch stations without specific authorization.* A base station licensee may install a dispatch station for mobile station subscriber(s) without specific authorization.

(1) *Technical.* (i) The dispatch station shall use a mobile station frequency paired with the associated base station frequency.

(ii) The antenna height shall not exceed the criteria in § 17.7 of this chapter. The rated power of the transmitter shall not exceed 10 watts.

(iii) No dispatch station shall be capable of overriding the functioning of a control station on the same frequency.

(iv) Every dispatch station shall be under continous supervision of at least one base station control point.

(2) *Notification.* The Commission shall be notified whenever a dispatch station is installed pursuant to this paragraph. The notification shall include the name and address of the subscriber(s) for which the station was installed, the location of the dispatch station, height of antenna structure above ground and above mean sea level, the frequencies used, the call sign of the base station communicated with, and its location.

(3) *Limitation.* The operation of a dispatch station pursuant to notification without specific authorization shall be subject to termination by the Commission without a hearing upon notice to the licensee.

(b) *Dispatch stations requiring authorization.* A dispatch station which does not comply with paragraph (a) of this section shall be installed only after application (on FCC Form 401) and approval.

§ 22.521 Air-ground radiotelephone service.

Explanation

We propose to revise the title of this section to a plain descriptive title. We are combining all sections dealing with this service into this section.

Paragraph (a) restates present § 22.521(a). We have clarified present note 2 to the Table to § 22.521(a) by stating that we are referring to the public land mobile service. Instead of the vague "adversely affect the availability or adequacy of service to airborne subscribers" standard, we have substituted the more definitive standards of proposed new § 22.308 dealing with incidential communications.

Proposed paragraph (b) restates present § 22.521(b). The error in alphabetical order is corrected by placing San Diego ahead of San Francisco in the listing of California cities.

Paragraph (c) restates the parts of § 22.506 dealing with power. Where an effective radiated power is given, no rated power output limitation is needed. *See* § 22.506.

Proposed paragraph (d) restates present § 22.508(h), which discusses ambient noise. We propose to eliminate the reference to a noise cancelling microphone. Our concern is with reduction of ambient noise, not with what type of equipment is used. We therefore propose to delete all language in the rule other than the sentence which sets forth the 95 dB standard.

127. §22.521 (a), (b) introductory text and the entries for California in the table, (c) and (d) are revised:

§ 22.521 Air-ground radiotelephone service.

(a) *Frequencies.* (1) The following frequency pairs, or channels, are allocated for the provision of radiotelephone service between airborne stations and interconnected land mobile radio systems:

Base station frequencies (MHz)	Working channel designations	Mobile and auxiliary test station frequencies (MHz)
454.675		
454.700	6	459.700
454.725	7	459.725
454.750	5	459.750
454.775	8	459.775
454.800	4	459.800
454.825	9	459.825
454.850	3	459.850
454.875	10	459.875
454.900	2	459.900
454.925	11	459.925
454.950	1	459.950
454.975	12	459.975

These frequencies may be used for public land mobil service subject to the provisions of § 22.308.

(2) Frequency 454.675 MHz is to be associated with each of the base station channels listed above and is to be used exclusively as a signaling channel for calling airborne stations.

(b) *Locations.* Base stations may be assigned the following channels and shall be located with in 25 miles of the coordinates specified, or if none, the main post office:

* * * * *

California	
East of Fresno (36°44' N. lat) (119°17' W. long.)	3,11
Northwest of Los Angeles (34°20' N. lat.) (116°36' W. long.)	4, 7, 10
North of Redding (40°55' N. lat.) (122°27' W. long.)	6
Northwest of Santa Barbara (34°32'. lat.) (119°58' W. long.)	5
East of San Diego (32°53' N. lat.) (116°25' W. long.)	9
Northeast of San Francisco (37°51' N. lat.) (122°11' W. long.)	1, 8

* * * * *

(c) *Power.* (1) Base stations shall not exceed 100 watts effective radiated power, Airborne mobile stations shall have between 4 and 25 watts rated power output.

(2) During idle traffic periods a base station shall continuously radiate on its working channel a modulated tone reduced in power between 10 and 20 dB.

(d) *Ambient noise.* Ambient noise shall be reduced to 95 dB Reference Acoustical Pressure (flat weighting) or less.

§ 22.524 (new) Auxiliary test stations.

Explanation

The definition for auxiliary test statin (*see* § 22.2) contains substantive rules as to how these stations may be used. We propose to put these substantive regulations into this new section.

It is unnecessary to state, as the present difinition says, that the purpose of the station is to test receivers remote from the base station or receivers not remote from the base station but remote from the control point. It is sufficient to state remote from the control point.

128. § 22.524 is added:

§ 22.524 Auxiliary test stations.

(a) Auxiliary test stations shall be used for testing the performance of fixed receiving equipment remotely located from the control point.

(b) The licensee or permittee of a base station may operate an auxiliary test station.

(c) The auxiliary test station must operate on the mobile station frequency associated with the base station and shall comply with the maximum power specified for mobile stations.

§ 22.600 Deregulation of rural radio service.

Explanation

We propose to eliminate the licensing of certain subscriber stations in an effort to reduce administrative burdens where possible in the rural radio service. This deregulation proposal will apply only to subscriber stations which have an effective radiated power (erp) of no more than 60 watts.[7] Central office stations, interoffice stations, and high-power subscriber stations will be required to obtain licenses. Central office station licenses will include a blanket authorization to serve these unlicensed subscriber stations.

Today rural radio service licensing is administered with a minimum of technical defects in the applications submitted. We believe that licensing of low-power subscriber stations can be treated similarly to the way mobile units are treated and licensing can be eliminated without risk of creating interference problems. We therefore propose to retain the licensing process in the rural radio service only for the other categories of stations listed above. The same technical rules of operation of operation will still apply throughout the rural radio service. All station operators will be required to comply with these rules.

129. § 22.600 is revised:

§ 22.600 Eligibility.

Rural central office and interoffice stations may be licensed to common carriers. Rural subscriber stations may be licensed to common carriers or to the individual user of the service. Subscriber stations which do not exceed sixty (60) watts effective radiated power are not required to obtain a Commission license to operate. Instead, these stations will be associated with the blanket authorization issued to the central office station or base station which serves them. All rural radio stations are required to operate in compliance with Commission regulations and may be required to cease operation for failure to so comply.

[7] Sixty watts is the power limit for land mobile units in other public mobile services covered in Part 22. The Commission has already eliminated the individual licensing requirement for these mobile units. They are considered to be associated with the blanket authorization of the base station which serves them. A similar approach will be used for low-power subscriber stations.

§ 22.601 Frequencies (rural radio).

Explanation

Proposed paragraph § 22.601(a) states the general rule.

Proposed paragraph (b) retates present § 22.601(a). We have broken it down into subparagraphs (1) and (2) for the radio common carriers and wireline common carriers respectively. Paragrapph (b)(3) restates present § 22.601(d).

Present paragraph (c) was deleted in another rulemaking (Docket No. 80-710). We shall relocate presenty paragraph (b) to (c) and add a heading, "890-940 MHz band."

Present paragraph (e) has been retained as (e).

Proposed paragraph (d) is present section (f), concerning the 942-952 MHz band. We propose to add a heading and revise this section in plain language.

130. § 22.601, except for the tables in (b) (1) and (2), is revised:

§ 22.601 Frequencies

(a) *General.* The following frequencies are available on a secondary basis in the rural radio service, provided no harmful interference is caused to stations in the Public Land Mobile Service.

(b) *150, 450 MHz bands.* (1) *Radio common carriers.* The following frequencies will be assigned to radio common carriers for rural subscriber and interoffice stations:

* * * * *

(2) *Wireline common carriers.* The following frequencies will be assigned to wireline common carriers:

* * * * *

(3) *Repeater stations.* The frequencies in paragraphs (1), (2), above, may be assigned for repeater stations upon a showing why it is impracticable to achieve the required communications without repeater stations.

(c) *890-940 MHz band.* New stations will not be authorized in the 890-940 MHz band. However, stations which were authorized to operate on April 16, 1958, may be granted renewed liceses subject to the following conditions:

(1) Operations shall not be protected against any intererence received from the emission of industrial, scientific, and medical equipment operating on 915 MHz or from the emission of radiolocation stations in the 890-942 MHz band.

(2) No harmful interference shall be caused to stations operating in the radiolocation service in the 890-942 MHz band.

(d) *942-952 MHz band.* Existing stations in the 890-942 MHz band may

be authorized to operate in the 942–952 MHz band under the following conditions:

(1) The stations must show that harmful interference is being caused by Government radiopositioning stations in the 890–942 MHz band or by industrial, scientific or medical equipment operating on 915 MHz.

(2) The application must have an engineering study showing that the interference will be eliminated by the change in frequency.

(3) The bandwidth of emission shall not exceed 1100 kHz.

(4) The proposed frequency assignment shall not cause interference to existing operations in the 942–952 MHz band.

(e) *Puerto Rico, Virgin Islands.* In Puerto Rico and the Virgin Islands the 154.04 to 154.46 MHz and 161.40–161.85 MHz bands may be assigned for rural telephone service on a shared basis with International Fixed Public and Aeronautical Fixed Radio services.

§ 22.1008 Priority of service (new).

Explanation

We propose to add a new rule for the offshore radio service, similar to § 22.607 "Priority of service," which applies to the rural radio service. The proposed rule would permit licensees in the offshore radio service to provide private leased line service so long as normal service so long as normal service to the public is not impaired.

131. § 22.1008 is added:

§ 22.1008 Priority of service

Within the Offshore Radio Service, the frequencies set forth in this part are intended primarily for use in rendition of public message service between Offishore subscriber and central office stations. However, the frequencies may also be used for the rendition of private leased line communication service provided that such usage will not reduce or impair the extent or quality of communication service which would be available, in the absence of private leased line service, to the general public receiving or subsequently requesting public message service from a central office.

Miscellaneous Corrections

We propose to correct, without extensive discussion, various errors in Part 22 which have come to the staff's attention. Some of these errors are typographical, some cite the wrong rule section or part, and some errors relate to outdated language. We invite additional comment on any other such errors which are not corrected in this notice. We have also made additions or revisions to the rules based on recent rules revisions in the cellular proceeding (CC Docket N. 79–318), the 900 MHz proceeding (CC Docket 80–189), and Docket 20870.

§ 22.5 [Amended]

132. § 22.5(a) is amended by revising the first sentence to read as follows:

(a) Except for an authorization under any of the conditions stated in Section 308(a) of the Communications Act of 1934 [47 U.S.C. § 308(a)], the Commission may grant only upon written application received by it, the following authorization: construction permits; station licenses; modifications of construction permits or licenses; renewals of licenses; transfers and assignments of construction permits or station licenses, or any right thereunder.

* * *

133. The heading of § 22.9 is revised as set forth below:

§ 22.9 Standard application forms for Public Land Mobile, Rural Radio, Domestic Public Cellular Radio Telecommunications, and Offshore Radio Services.

134. § 22.13(c)(1) is revised as follows:

§ 22.13 General application requirements.

(a) * * *

(1) As may be required by these rules; and

* * * * *

§ 22.11 [Amended]

135. § 22.11(b) is amended by deleting ". . . or 435" from the last sentence.

§ 22.15 Technical content of applications.

136. § 22.15(k) is revised and (m) is added to read as follows:

* * * * *

(k) The location of the transmitting antenna shall be considered to be the station location. Applications for stations at specified fixed locations shall describe the transmitting antenna site by its geographical coordinates and also by conventional reference to street number, landmark, or the equivalent. All such coordinates shall be specified in terms of degrees, minutes, and seconds to the nearest second of latitude and longitude.

(m) In the Domestic Public Cellular Radio Telecommunications Service each application shall contain information described in § 22.919.

137. § 22.20(b)(1), (4), (8) and (10) are revised to read as follows:

* * * * *

(b) * * *

(1) the application is not filled out and signed;

* * * * *

(4) the application does not demonstrate compliance with the special requirements applicable to the radio service involved;

* * * * *

(8) the application is filed after the cutoff date prescribed in § 22.31 of this part;

* * * * *

(10) In the Public Land Mobile Service failure to provide specific answers as required to Items 1, 5, 7, 8, 10, 17, 18, 19, 20, or 28 of FCC Form 401 (answers by cross reference are not acceptable) or failure to propose type accepted equipment (except for developmental applications).

138. § 22.27(c)(5) is removed and reserved. This section does not apply to Part 22.

139. § 22.30(a)(3) is revised to read as follows:

(a) Contain specific allegations of fact which, except for facts of which official notice may be taken, shall be supported by affidavit of a person or persons with personal knowledge thereof, and which shall be sufficient to demonstrate that the petitioner (or respondent) is a party in interest and that a grant of, or other Commission action regarding, the application would be prima facie inconsistent with the public interest;

§ 22.32 [Amended]

140. § 22.32(b)(5) *applicant's qualification is revised.* This section states that an applicant must be "legally, technically, financial and otherwise qualified." This language is outdated and redundant. We propose to replace it with the simpler standard that applicants must be qualified under current FCC regulations and policies:

* * * * *

(5) the applicant is qualified under current FCC regulations and policies.

141. § 22.32(e) *consideration of applications is amended by adding.* A new subsection (5) referring to cellular applications:

(5) In the Domestic Public Cellular Radio Telecommunications Service the application is entitled to comparative consideration (under § 22.31) with another application (or applications); in such cases the hearing shall conform to the comparative evaluation procedure described in § 22.916.

§ 22.401 [Amended]

142. § 22.401 is amended by redesignating § 22.401(c) as § 22.401(b) and removing paragraph (c).

§§ 22.507, 22.604, 22.508 and 22.521 [Amended]

143. Note 1 to §§ 22.507(b) and 22.604(a) is removed. By the language in the note, it became obsolete in 1971. For

the same reason, the *provided* clause of § 22.508(g) is removed and reserved.

144. § 22.507(c) is removed and reserved. This section discusses bandwidths for frequencies above 512 MHz. The only frequencies above 512 MHz are those in the 2 GHz band, which already have a specified bandwidth limitation of 800 MHz.

145. § 22.521(b). The footnote to Glendive, Montana, should be "3" instead of "8."

Sample Forms

We attach sample forms which incorporate many of the revisions discussed in this notice. We request comment on these draft forms and seek suggestions as to how they may be further simplified, shortened, or consolidated.

BILLING CODE 6712-01-M

D R A F T

FCC FORM 401

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

APPLICATION FOR NEW OR MODIFIED COMMON CARRIER RADIO STATION CONSTRUCTION PERMIT UNDER PART 21

ALL ENTRIES THAT ARE ASTERISKED (*) ARE FOR FCC USE ONLY.

FILE NO.* | | | | | | | | | | | | | | | | | | | | |
PENDING NO.* | | | CP NO.* | | |

1. INDICATE THE NAME, MAILING ADDRESS, AND TELEPHONE NUMBER
LEGAL NAME OF APPLICANT (IF PERSON, LIST LAST NAME FIRST.)
CONTINUE NAME HERE IF NEEDED
ASSUMED NAME USED FOR DOING BUSINESS (IF ANY)
CONTINUE ASSUMED NAME HERE IF NEEDED
MAILING STREET ADDRESS OR P. O. BOX
TELEPHONE: AREA CODE - LOCAL NUMBER
CITY OR TOWN
STATE
ZIP CODE

2. INDICATE THE NAME, MAILING ADDRESS, AND TELEPHONE NUMBER TO CONTACT, IF OTHER THAN APPLICANT.
NAME (LAST NAME FIRST)
CONTINUE NAME HERE IF NEEDED
FIRM OR COMPANY NAME
CONTINUE FIRM OR COMPANY NAME HERE IF NEEDED
MAILING STREET ADDRESS OR P. O. BOX
CITY OR TOWN
STATE
ZIP CODE

3. APPLICATION FOR (CHECK ONLY ONE BOX):
[ ]CONSTRUCTION PERMIT (CP) [ ]MODIFICATION OF CP
[ ]CP AND LICENSE [ ]TEMPORARY AUTHORIZATION
[ ]AMENDMENT OF APPLICATION,
FILE NO. | | | | | | | | | | | | | | | | | | | | |
[ ]MINOR MODIFICATION [ ]FILL-IN
[ ]ASSIGNMENT OF AUTHORIZATION [ ]MODIFICATION OF LICENSE
[ ]LICENSE RENEWAL [ ]TRANSFER OF CONTROL [ ]REINSTATEMENT

2. DOES THIS APPLICATION REFER TO AN EXISTING STATION?
[ ]YES [ ]NO. IF "YES," GIVE CALL SIGN: | | | | | | | | | |

5. IS THIS A "DEVELOPMENTAL" AUTHORIZATION? [ ]YES [ ]NO
IF "YES," ATTACH NARRATIVE STATEMENT IN SUPPORT OF THE REQUEST.

6. DOES THE APPLICANT REQUEST WAIVER OF ANY STANDARD LICENSE CONDITION OF THE FCC RULES? [ ]YES [ ]NO. IF YES, COMPLETE SCHEDULE M-1.

7. HOW MANY SEPARATE LOCATIONS ARE REQUESTED IN THIS APPLICATION? | | |

8. ARE THERE ANY OTHER APPLICATIONS PENDING WHICH ARE BELIEVED TO BE MUTUALLY EXCLUSIVE WITH THIS APPLICATION? [ ]YES [ ]NO. IF "YES," GIVE CALL SIGNS (CS) (IF AVAILABLE), AND FILE NUMBERS (FN).
CS: | | | | | | | | FN: | | | | | | | | | | | | | | | | | | | |
CS: | | | | | | | | FN: | | | | | | | | | | | | | | | | | | | |

9. IF THIS APPLICATION IS FOR A MODIFICATION OF CP, MODIFICATION OF LICENSE, OR A CP FOR A LICENSED STATION, CHECK THE APPLICABLE BOXES.
[ ]CHANGE FREQUENCY [ ]ADD FREQUENCY [ ]DELETE FREQUENCY
[ ]INCREASE POWER [ ]INCREASE ANTENNA HEIGHT
[ ]CHANGE ANTENNA/TRANSMITTER LOCATION
[ ]CHANGE CONTROL POINT LOCATION
[ ]EXTENSION OF TIME TO COMPLETE CONSTRUCTION

10. CARRIER TYPE: [ ]WIRELINE [ ]RADIO COMMON CARRIER

11. CLASS OF STATION.
[ ]BASE [ ]CONTROL [ ]REPEATER [ ]STANDBY [ ]SIGNALLING
[ ]DISPATCH [ ]AUXILIARY TEST

12. TYPE OF SERVICE.
[ ]ONE-WAY SIGNALLING (PAGING) [ ]TWO-WAY TELEPHONE
[ ]CELLULAR MOBILE [ ]OFFSHORE RADIO

13. ANTENNA LOCATION RECORD.
LOCATION NO.* | | | LATITUDE N. (DEG-MIN-SEC): | | | | | | | | | | | | | | | | | | |

13. ANTENNA LOCATION RECORD.

LOCATION NO.* | | | LATITUDE N. (DEG-MIN-SEC): | | | |-| | |-| | |
LONGITUDE W. (DEG-MIN-SEC): | | | |-| | | |-| | | |
STRUCTURE; LOCATION OF STREET: | | | | | | | | | | | | | | | | | | | |
(LOC. CONT.) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
(LOC. CONT.) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
CITY | | | | | | | | | | | | | | | | | | | | |
COUNTY | | | | | | | | | | | | | | | | | | | | |
STATE | | | | | | | | | | | | | | | | | | | | |
ZIP | | | | | | | | | | |

14. CONTROL POINTS, INITIAL (I), ADDITIONAL (A), OR DELETED (D)

CONTROL POINT NO.* | | |. I, A, OR D? | |
STREET ADDRESS | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
(ADD. CONT.) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
CITY OR TOWN | | | | | | | | | | | | | | | | | | | | |
STATE | | | | | | | | | | | | | | | | | | | | |
CONTROL POINT NO.* | | |. I, A, OR D? | |
STREET ADDRESS | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
(ADD. CONT.) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
CITY OR TOWN | | | | | | | | | | | | | | | | | | | | |
STATE | | | | | | | | | | | | | | | | | | | | |

15. CONTROL POINTS RELOCATED.

PRESENT. LOC. NO.* | | |
STREET ADDRESS | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
(ADD. CONT.) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
CITY OR TOWN | | | | | | | | | | | | | | | | | | | | |
STATE | | | | | | | | | | | | | | | | | | | | |

PROPOSED. LOC. NO.* | | |
STREET ADDRESS | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
(ADD. CONT.) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
CITY OR TOWN | | | | | | | | | | | | | | | | | | | | |
STATE | | | | | | | | | | | | | | | | | | | | |

PRESENT. LOC. NO.* | | |
STREET ADDRESS | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
(ADD. CONT.) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
CITY OR TOWN | | | | | | | | | | | | | | | | | | | | |
STATE | | | | | | | | | | | | | | | | | | | | |

PROPOSED. LOC. NO.* | | |
STREET ADDRESS | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
(ADD. CONT.) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
CITY OR TOWN | | | | | | | | | | | | | | | | | | | | |
STATE | | | | | | | | | | | | | | | | | | | | |

16. IN FOLLOWING TABLE MOB-1, MEANING OF SYMBOL HEADINGS IS :

AA - FREQUENCY, IN MHZ.
BB - TRANSMITTER NO.*.
CC - ANTENNA. ALL FREQUENCIES ASSOCIATED WITH EACH ANTENNA ARE TO BE GROUPED TOGETHER. LIST EACH ANTENNA ONCE.
DD - ANTENNA NO.*. EE - EXISTING (E) OR ADDITIONAL (A).
FF - MAKE OF ANTENNA. GG - TYPE NO. OF ANTENNA.
HH - RADIATION PATTERN (DEGREES FROM TRUE NORTH. SPECIFY BEARING(S) IN THE DIRECTION(S) OF MAXIMUM GAIN. MAXIMUM NO. OF BEARINGS TO BE SPECIFIED IS TWO. IF OMNIDIRECTIONAL, SPECIFY 'OMNI.'
II - HEIGHT OF ANTENNA ABOVE GROUND LEVEL, IN FEET.
JJ - MAXIMUM ANTENNA POWER GAIN OVER REFERENCE HALF-WAVE DIPOLE ANTENNA, IN DECIBELS.
KK - MAXIMUM EFFECTIVE RADIATED POWER, IN WATTS.
LL - APPLIES TO BASE STATIONS ONLY. SPECIFY IN ONE OF THE FOLLOWING FOUR CATEGORIES: INITIAL (I). FILL-IN (F). MINOR-MODIFIED (M). OTHER (O).

TABLE MOB-1

		CC								
AA	BB	DD	EE	FF	GG	HH	II	JJ	KK	LL

(FCC USE ONLY)
PUBLIC NOTICE RECORD. PN NARR NO._____. PN CODES: CATEGORY ____

PN NARR._____

17. ANTENNA STRUCTURE STATEMENT AND DESCRIPTION.
IS FAA NOTICIATION REQUIRED? [ ]YES [ ]NO
IF "YES," GIVE DATE OF NOTIFICATION _____,
AND FAA REGIONAL OFFICE WHERE FILED _____.
OVERALL HEIGHTS. HEIGHTS, IN FEET, SHOULD INCLUDE OBSTRUCTION LIGHT, IF REQUIRED, AND ANY OTHER SURMOUNTING APPURTENANCE.
ABOVE GROUND | | | | | ABOVE MEAN SEA LEVEL | | | | | |
WILL PROPOSED TRANSMITTING ANTENNA BE SUPPORTED BY THE ANTENNA STRUCTURE OF ANY OTHER RADIO STATION? [ ]YES [ ]NO
DISTANCE, IN FEET, FROM TRANSMITTING ANTENNA STRUCTURE TO NEAREST RUNWAY OF NEAREST AIRCRAFT LANDING AREA | | | | | |
LIST ANY NATURAL FORMATION OR EXISTING MAN MADE STRUCTURE (HILLS, TREES, WATER TANKS, TOWER, ETC.) WHICH APPLICANT BELIEVES WOULD TEND TO SHIELD THE ANTENNA STRUCTURE FROM AIRCRAFT AND THEREBY MINIMIZE THE AERONAUTICAL HAZARD OF THE ANTENNA STRUCTURE.

IS THE ANTENNA MOUNTED ON AN EXISTING STRUCTURE OR BUILDING WHICH CURRENTLY BEARS LIGHTING AND MARKINGS PRESCRIBED BY FCC RULES PART 17? [ ]YES [ ]NO.
IF "NO," OR IF "YES" BUT THE ANTENNA WILL INCREASE THE HEIGHT OF THE EXISTING STRUCTURE OR BUILDING, DRAW A VERTICAL PROFILE SKETCH OF THE COMPLETE ANTENNA SUPPORT STRUCTURE IN THE SPACE BELOW.

18. HEIGHT AND POWER PARAMETERS ON RADIAL BEARINGS.
IN FOLLOWING TABLE MOB-2, MEANING OF SYMBOL HEADINGS IS:

CERTIFICATION OF PERSON RESPONSIBLE FOR PREPARING ENGINEERING INFORMATION SUBMITTED IN THIS APPLICATION

18. HEIGHT AND POWER PARAMETERS ON RADIAL BEARINGS.
IN FOLLOWING TABLE MOB-2, MEANING OF SYMBOL HEADINGS IS:
AA - RADIAL BEARING (DEGREES TRUE)
BB - AVERAGE ELEVATION OF RADIAL (2-10 MI.) IN FEET ABOVE MEAN SEA LEVEL
CC - HEIGHT OF ANTENNA RADIATION CENTER IN FEET ABOVE AVERAGE ELEVATION OF RADIAL (2-10 MILES)
DD - EFFECTIVE RADIATED POWER IN RADIAL DIRECTION, IN WATTS

TABLE MOB-2

AA	BB	CC	DD
0			
45			
90			
135			
180			
225			
270			
315			
[1]			
[1]			
[1]			
[1]			

AVERAGE TERRAIN ELEVATION, IN FEET _____
ANTENNA RADIATION CENTER HEIGHT IN FEET ABOVE AVERAGE TERRAIN _____
[1] RADIALS IN DIRECTION OF EACH CO-CHANNEL STATION WITHIN 75 MILES. DO NOT INCLUDE IN DETERMINATION OF AVERAGE TERRAIN ELEVATION.
FOR ANY ANTENNA ASSOCIATED WITH A COMMUNICATION SATELLITE EARTH STATION, SHOWN THE MINIMUM ELEVATION PROPOSED TO BE USED: _____DEGREES.

19. LOCATION OF FIXED ANTENNAS RECEIVING SIGNALS OF THE STATION.
CITY OR TOWN _____
COUNTY _____ STATE _____
GEOGRAPHIC COORDINATES (TO BE DETERMINED TO NEAREST SECOND)
DEG/MIN/SEC.
LAT. N. ____-____-____ LONGITUDE W. _____-____-____
LIST FREQUENCIES, CALL LETTERS, AND LOCATION OF STATIONS TO BE RECEIVED REGULARLY BY PROPOSED STATION.

CERTIFICATION OF PERSON RESPONSIBLE FOR PREPARING ENGINEERING INFORMATION SUBMITTED IN THIS APPLICATION

I HEREBY CERTIFY THAT I AM THE TECHNICALLY QUALIFIED PERSON RESPONSIBLE FOR PREPARATION OF THE ENGINEERING INFORMATION CONTAINED IN THIS APPLICATION; THAT I AM FAMILIAR WITH PART 22 OF THE COMMISSION'S RULES; THAT I HAVE EITHER PREPARED OR REVIEWED THE ENGINEERING INFORMATION SUBMITTED IN THIS APPLICATION; AND, THAT IT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

BY_____ _____
(SIGNED) (PRINTED)

ADDRESS:_____
(NUMBER) (STREET)

_____ _____
(CITY) (STATE)

20. APPLICANT IS: (CHECK ONE) [ ]INDIVIDUAL [ ]PARTNERSHIP [ ]UNINCORPORATED ASSOCIATION [ ]CORPORATION

21. IF APPLICANT IS A CORPORATION (INCLUDING JOINT STOCK COMPANIES) OR ASSOCIATION, UNDER LAWS OF WHAT STATE OR COUNTRY IS IT ORGANIZED? _____

22. IS ANY DIRECTOR OR OFFICER AN ALIEN? [ ]YES [ ]NO
IS MORE THAN ONE-FIFTH OF THE CAPITAL STOCK OR MEMBERSHIP INTEREST VOTED BY ALIENS OR THEIR REPRESENTATIVES, OR BY A FOREIGN GOVERNMENT OR REPRESENTATIVE THEREOF, OR BY ANY CORPORATION ORGANIZED UNDER THE LAWS OF A FOREIGN COUNTRY? [ ]YES [ ]NO

23. IS APPLICANT DIRECTLY OR INDIRECTLY CONTROLLED BY ANY OTHER CORPORATION? [ ]YES [ ]NO
(IF "YES," GIVE NAMES AND ADDRESSES OF ALL SUCH CONTROLLING CORPORATIONS INCLUDING ORGANIZATION HAVING FINAL CONTROL.)

24. IS THE APPLICANT DIRECTLY OR INDIRECTLY CONTROLLED BY ANY OTHER CORPORATION OF WHICH ANY OFFICER OR MORE THAN ONE-FOURTH OF THE DIRECTORS ARE ALIENS? [ ]YES [ ]NO
(IF "YES," ATTACH AS EXHIBIT ____ A STATEMENT RELATING THE FACTS)

25. IS MORE THE ONE-FOURTH OF THE CAPITAL STOCK OF ANY CONTROLLING CORPORATION OWNED OF RECORD, OR MAY IT BE VOTED BY ALIENS OR THEIR REPRESENTATIVES, OR BY A FOREIGN GOVERNMENT OR REPRESENTATIVE THEREOF, OR BY ANY CORPORATION ORGANIZED UNDER THE LAWS OF A FOREIGN GOVERNMENT? [ ]YES [ ]NO. (IF "YES," ATTACH AS EXHIBIT _____ A STATMENT RELATING THE FACTS)

26. UNDER THE LAWS OF WHAT STATE OR COUNTRY IS EACH SUCH CONTROLLING CORPORATION ORGANIZED? _____

27. HAS APPLICANT OR ANY PARTY TO THIS APPLICATION HAD ANY FCC STATION LICENSE OR PERMIT REVOKED OR HAD ANY APPLICATION FOR PERMIT, LICENSE OR RENEWAL DENIED BY THIS COMMISSION? [ ]YES [ ]NO. (IF "YES," ATTACH AS EXHIBIT _____ A GIVING CALL SIGN OF LICENSE OR PERMIT REVOKED AND RELATE CIRCUMSTANCES)

28. HAS ANY COURT FINALLY ADJUDGED THE APPLICANT, OR ANY PERSON DIRECTLY OR INDIRECTLY CONTROLLING THE APPLICANT, GUILTY OF UNLAWFULLY MONOPOLIZING OR ATTEMPTING UNLAWFULLY TO MONOPOLIZE RADIO COMMUNICATION, DIRECTLY OR INDIRECTLY, THROUGH CONTROL OF MANUFACTURE OF SALE OF RADIO APPARATUS, EXCLUSIVE TRAFFIC ARRANGEMENT, OR ANY OTHER MEANS OF UNFAIR METHODS OF COMPERITION? [ ]YES [ ]NO
(IF "YES," ATTACH AS EXHIBIT _____ A STATEMENT RELATING THE FACTS)

29. HAS THE APPLICANT, OR ANY PARTY TO THIS APPLICATION, OR ANY PERSON DIRECTLY OR INDIRECTLY CONTROLLING THE APPLICANT EVER BEEN CONVICTED OF A FELONY BY ANY STATE OR FEDERAL COURT? YES [ ]. NO [ ]. IF YES, ATTACH AS EXHIBIT _____ A STATEMENT RELATING THE FACTS.

30. IS APPLICANT, OR ANY PERSON DIRECTLY OR INDIRECTLY CONTROLLING THE APPLICANT, PRESENTLY A PARTY IN ANY MATTER REFERRED TO IT ITEMS , AND ?
(IF "YES," ATTACH AS EXHIBIT ___ A STATEMENT RELATING THE FACTS)

31. IS APPLICANT DIRECTLY OR INDIRECTLY, THROUGH STOCK OWNERSHIP, CONTRACT, OR OTHERWISE CURRENTLY INTERESTED IN THE OWNERSHIP OF CONTROL OF ANY OTHER RADIO STATIONS LICENSED BY THIS COMMISSION? IF "YES," GIVE:

2. CALL SIGN & SERVICE _____
LOCATION _____
NAME OF LICENSEE _____

33. HAS APPLICANT EVER BEEN DIRECTLY OR INDIRECTLY INTERESTED IN THE OWNERSHIP OR CONTROL OF ANY RADIO STATIONS OTHER THAN THOSE STATED IN ABOVE? IF "YES," GIVE:

CALL SIGN & SERVICE _____
LOCATION _____
NAME OF LICENSEE _____

34. HAS APPLICANT BEEN DENIED STATE CERTIFICATION FOR THE FACILITIES PROPOSED IN THIS APPLICATION.
YES [ ]. NO [ ]. IF YES, ATTACH AS EXHIBIT . A STATEMENT DESCRIBING THE STATE AUTHORITY'S ACTION AND ANY PENDING APPEALS, OR WHETHER OR STATE AI FOR PROCESS HAS BEEN EXHAUSTED. ATTACH COPIE. OF ANY STATE AUTHORITY DECISIONS.

35. ATTACH AS EXHIBIT _____ ANY LOADING STUDY OR NEED SHOWING WHICH IS REQUIRED BY SECTION 22.514 OR OTHER RULES IN PART 22. INCLUDE ALSO ANY OTHER MATERIALS WHICH DEMONSTRATE THAT THE PUBLIC INTEREST WOULD BE SERVED BY A GRANT OF THIS APPLICATION.

36. EXHIBITS AND APPLICABLE SECTIONS AND/OR ITEM NUMBERS OF RULE OR FORM (SEE INSTRUCTION 7)

CERTIFICATION

36. EXHIBITS AND APPLICABLE SECTIONS AND/OR ITEM NUMBERS OF RULE OR FORM (SEE INSTRUCTION 7)

IN THE FOLLOWING TABLE MOB-3, MEANING OF SYMBOLS IS:
AA - EXHIBIT NO.
BB - SECTION AND/OR ITEM NO. OF RULE OR FORM

TABLE MOB-3

AA	BB	AA	BB	AA	BB

CERTIFICATION

THE APPLICANT WAIVES ANY CLAIM TO THE USE OF ANY PARTICULAR FREQUENCY OR OF THE ETHER AS AGAINST THE REGULATORY POWER OF THE UNITED STATES BECAUSE OF THE PREVIOUS USE OF THE SAME, WHETHER BY LICENSE OR OTHERWISE, AND REQUESTS A CONSTRUCTION PERMIT IN ACCORDANCE WITH THIS APPLICATION. ALL STATEMENTS MADE IN THE ATTACHED EXHIBITS ARE A MATERIAL PART HEREOF AND ARE INCORPORATED HEREIN AS IF SET OUT IN FULL IN THIS APPLICATION.

THE UNDERSIGNED, INDIVIDUALLY AND FOR THE APPLICANT, HEREBY CERTIFIES THAT THE STATEMENTS MADE IN THIS APPLICATION ARE TRUE, COMPLETE AND CORRECT TO THE BEST OF HIS (HER) KNOWLEDGE AND BELIEF, AND ARE MADE IN GOOD FAITH.

DATED THIS_____DAY OF_____,19___.

APPLICANT_____
(MUST CORRESPOND WITH THAT SHOWN ON PAGE 1)

BY_____
(PRINTED)

_____
(SIGNED)

TITLE_____
(POSITION HELD BY PERSON SIGNING FOR APPLICANT)

D R A F T FORM 408

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C. 20554

NOTIFICATION OF STATUS OF CONSTRUCTION OF FACILITIES
UNDER PART 22 OF F.C.C. RULES

SUBMIT TWO COPIES OF THIS NOTIFICATION DIRECT TO THE FEDERAL COMMUNICATIONS COMMISSION, WASHINGTON, D. C., 20554, ATTENTION: MOBILE SERVICES DIVISION.

1. NOTE: THIS NOTIFICATION IS TO BE SUBMITTED:
(a) TO NOTIFY THE COMMISSION THAT FACILITIES HAVE BEEN CONSTRUCTED IN ACCORDANCE WITH THE CONSTRUCTION PERMIT'S SPECIFICATIONS. IF THERE ARE MINOR MODIFICATIONS TO THESE SPECIFICATIONS, THEY ARE TO BE INDICATED ON THIS FORM. THE APPLICANT FILES ONE COPY OF THIS FORM WITH THE FCC AND RETAINS ONE COPY WHICH, ALONG WITH THE CONSTRUCTION PERMIT, CONSTITUTES THE LICENSE;
(b) TO MAKE MINOR MODIFICATIONS TO EXISTING FACILITIES (MAJOR MODIFICATIONS REQUIRE THE FILING OF FORM 401); AND
(c) TO REQUEST AN EXTENSION OF CONSTRUCTION PERMIT. IF SO, CHECK HERE [ ].

2. INDICATE THE NAME, MAILING ADDRESS, AND TELEPHONE NUMBER.
LEGAL NAME OF APPLICANT (IF PERSON, LIST LAST NAME FIRST.)
CONTINUE NAME HERE IF NEEDED
ASSUMED NAME USED FOR DOING BUSINESS (IF ANY)
CONTINUE ASSUMED NAME HERE IF NEEDED
MAILING STREET ADDRESS OR P. O. BOX
TELEPHONE : AREA CODE - LOCAL NUMBER
CITY OR TOWN
STATE ZIP CODE

3. INDICATE THE NAME, MAILING ADDRESS, AND TELEPHONE NUMBER TO CONTACT, IF OTHER THAN APPLICANT.
NAME (LAST NAME FIRST)
CONTINUE NAME HERE IF NEEDED
FIRM OR COMPANY NAME
CONTINUE FIRM OR COMPANY NAME HERE IF NEEDED
MAILING STREET ADDRESS OR P. O. BOX
CITY OR TOWN
STATE ZIP CODE

4. CLASS OF STATION _____
CALL SIGN
NATURE OF SERVICE _____

5. FILE NO. OF CONSTRUCTION PERMIT OF LICENSE WITH MOST RECENT DATE OF GRANT:

6. IF THIS APPLICATION IS SUBMITTED PER ITEMS 1(a), COMPLETE ITEMS 7 TO 10 AS APPLICABLE.

7. (a) HAS EQUIPMENT BEEN DELIVERED?
YES [ ]. NO [ ]. IF NO, ANSWER THE FOLLOWING:
(b) FROM WHOM ORDERED? (IF NO ORDER HAS BEEN PLACED, SO INDICATE.)
DATE ORDERED _____
DATE DELIVERY PROMISED _____
(c) HAS INSTALLATION COMMENCED?
YES [ ]. NO [ ]. IF YES, SUBMIT AS EXHIBIT _____ A DESCRIPTION OF THE EXTENT OF INSTALLATION AND THE DATE INSTALLATION COMMENCED.
(d) ESTIMATED DATE BY WHICH CONSTRUCTION CAN BE COMPLETED _____

8. IF APPLICATION IS PER ITEM 1(a), SUBMIT AS EXHIBIT _____ REASON(S) WHY CONSTRUCTION HAS NOT BEEN COMPLETED.

9. ARE THE REPRESENTATIONS CONTAINED IN THE APPLICATION FOR CONSTRUCTION PERMIT STILL TRUE AND CORRECT?
YES [ ]. NO [ ]. IF NO, GIVE PARTICULARS IN EXHIBIT _____.

10. IF THE APPLICATION IS SUBMITTED PER ITEM 1(a), COMPLETE ITEMS 11 TO 21 BELOW.

12. SPECIFY IN THE TABLE ALL PARTICULARS OF OPERATION EXACTLY AS REQUESTED IN THE LICENSE OR MODIFICATION THEREOF.

10. IF THE APPLICATION IS SUBMITTED PER ITEM 1(a), COMPLETE ITEMS 11 TO 21 BELOW.

11. ARE ALL COMPONENTS OF THE FACILITY IN THE THE CONSTRUCTION PERMIT AUTHORIZED BY THE ABOVE FILE NO. CONSTRUCTED AS INDICATED ON THE CONSTRUCTION PERMIT? YES [ ]. NOT].

12. IF FOR MODIFICATION OF LICENSE INDICATE PROPOSED CHANGE:
CHANGE IN FREQUENCIES [ ]
CHANGE IN AUTHORIZED POWER [ ]
CHANGE(S) OF CONTROL POINT(S) [ ]
CHANGE IN POINTS OF COMMUNICATION [ ]
CHANGE IN OTHER PARTICULARS [ ]
CHANGES ARE DESCRIBED IN EXHIBIT _____

13. LIST THE OUTSTANDING CONSTRUCTION PERMIT(S), IF ANY, WHICH THIS APPLICATION COVERS:

FILE NO. :
DATE OF GRANT: MO : : : : DATE : : : YR : : : : :
CALL SIGN : : : : : : : :

FILE NO. :
DATE OF GRANT: MO : : : : DATE : : : YR : : : : :
CALL SIGN : : : : : : : :

FILE NO. :
DATE OF GRANT: MO : : : : DATE : : : YR : : : : :
CALL SIGN : : : : : : : :

14. IF LICENSED TRANSMITTERS ARE BEING DELETED, SHOW THE FOLLOWING WITH RESPECT TO SUCH TRANSMITTERS:

LOCATION NO.	TRANSMITTER NO.

15. WHEN WAS THE CONSTRUCTION SPECIFIED IN ITEM 14 COMPLETED?
MO : : : : DATE : : : YR : : : : :

16. IS THE STATION NOW READY FOR OPERATION? YES [ ]. NO [ ].

17. HAVE ALL THE TERMS OF THE CONSTRUCTION PERMIT(S) LISTED IN ITEM 14 BEEN MET? YES [ ]. NO [ ].

18. IF THE ANSWER TO EITHER OR BOTH ITEM 11 AND 12 ABOVE IS "NO," THE DISCREPANCIES MUST BE SHOWN IN APPROPRIATE PLACES IN THIS FORM OR LISTED SEPARATELY IN EXHIBITS AND SUBMITTED AS A PART OF THIS FORM. INDICATE THE METHOD OF SUBMISSION BELOW.
NUMBERS OF ITEMS CONTAINING CORRECTED DATA:

IDENTIFICATION OF EXHIBITS CONTAINING CORRECTED DATA:

19. SPECIFY IN THE TABLE ALL PARTICULARS OF OPERATION EXACTLY AS REQUESTED IN THE LICENSE OR MODIFICATION THEREOF.

FREQUENCY IN MHZ	EMISSIONS	DIRECTION (DEGREES FROM TRUE NORTH) OF MAXIMUM RADIATION	EFFECTIVE RADIATED POWER IN WATTS

20. LOCATION OF TRANSMITTER:
STREET ADDRESS
: :
CITY OR TOWN
: :
STATE
: :
LOCATION NO. : : : N. LATITUDE (DEG-MIN-SEC): : : :-: : :-: : :
W. LONGITUDE (DEG-MIN-SEC): : : : :-: : :-: : :

21. NOTE ANY ALTERATION IN TRANSMITTER(S) OR ANTENNA SYSTEMS NOT PREVIOUSLY REPORTED TO COMMISSION.

22. (a) HAVE THERE BEEN ANY CHANGES IN THE DATA FURNISHED IN THE APPLICATION FOR CONSTRUCTION PERMIT COVERING OWNERSHIP, CITIZENSHIP, STATION CONTROL, BUSINESS CONNECTIONS, AND MONOPOLISTIC PRACTICES? YES [ ]. NO [ ].
(b) HAVE SUCH CHANGES BEEN REPORTED TO THE COMMISSION? YES [ ]. NO [ ]. IF NOT, IDENTIFY EXHIBITS ATTACHED HERETO REPORTING CHANGES.

23. IF THIS APPLICATION IS FOR MODIFICATION OF LICENSE, STATE WHY THE PROPOSED CHANGE(S) IS (ARE) DEEMED NECESSARY AND THE PURPOSES IT WILL SERVE.

24. THE APPLICANT HEREBY WAIVES ANY CLAIM TO THE USE OF ANY PARTICULAR FREQUENCY OR OF THE ETHER AS AGAINST THE REGULATORY POWER OF THE UNITED STATES BECAUSE OF THE PREVIOUS USE OF THE SAME, WHETHER BY LICENSE OR OTHERWISE, AND REQUESTS A STATION LICENSE IN ACCORDANCE WITH THIS APPLICATION. ALL ATTACHED EXHIBITS ARE A MATERIAL PART HEREOF AND ARE INCORPORATED HEREIN AS IF SET OUT IN FULL IN THE APPLICATION. ALL THE ANSWERS ON THIS APPLICATION ARE A MATERIAL PART OF THE APPLICATION.

THE APPLICANT REPRESENTS THAT THIS APPLICATION IS NOT FILED FOR THE PURPOSE OF IMPEDING, OBSTRUCTING OR DELAYING DETERMINATION ON ANY OTHER APPLICATION WITH WHICH IT MAY BE IN CONFLICT.

C E R T I F I C A T I O N

I CERTIFY THAT THE STATEMENTS IN THIS APPLICATION ARE TRUE, COMPLETE, AND CORRECT OT THE BEST OF MY KNOWLEDGE AND BELIEF, AND ARE MADE IN GOOD FAITH.

SIGNED AND DATED THIS _____ DAY OF _____, 19_____.

NAME OF APPLICANT (MUST CORREGPOND WITH ITEM 1):

BY (SIGNATURE. DESIGNATE BY CHECKMARK BELOW APPROPRIATE CLASSIFICATION.)

[ ] INDIVIDUAL APPLICANT
[ ] MEMBER OF APPLICANT PARTNERSHIP
[ ] OFFICER OF APPLICANT CORPORATION OF OFFICER AND MEMBER OF APPLICANT ASSOCIATION.

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT. U. S. CODE, TITLE 18 SECTION 1001.

NOTIFICATION TO INDIVIDUALS UNDER PRIVACY ACT OF 1974

THE INFORMATION REQUESTED BY THIS FORM WILL BE USED BY FEDERAL COMMUNICATIONS COMMISSION STAFF TO DETERMINE ELIGIBILITY FOR ISSUING AUTHORIZATIONS IN THE USE OF FREQUENCY SPECTRUM AND TO EFFECT THE PROVISIONS OF REGULATORY RESPONSIBILITIES RENDERED BY COMMISSION BY THE COMMUNICATIONS ACT OF 1934, AS AMENDED. INFORMATION REQUESTED BY THIS FORM WILL BE AVAILABLE TO THE PUBLIC.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P. L. 93-579, DECEMBER 31, 1974.

D R A F T FORM 705 P A R T 1

D R A F T FORM 705

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C. 20554

APPLICATION FOR ASSIGNMENT OR TRANSFER OF CONTROL

FILE NO. (FCC USE ONLY) _____

NUMBER OF PERMIT OR LICENSE _____
CALL LETTERS _____
CLASS OF SERVICE _____

APPLICABLE PARTS OF THIS APPLICATION MUST BE FULLY EXECUTED ON TYPEWRITER OR INK AND SUBMITTED IN DUPLICATE DIRECT TO THE FEDERAL COMMUNICATIONS COMMISSION, WASHINGTON, WASHINGTON, D. C. 20554. ATTENTION: MOBILE SERVICES DIVISION, IN AMPLE TIME TO BE ACTED UPON BY THE COMMISSION PRIOR TO DATE OF REQUIRED COMPLETION OF CONSTRUCTION PERMIT OR EXPIRATION OF LICENSE.

IF ANY INFORMATION OR DOCUMENTS WHICH ARE ALREADY ON FILE WITH THE COMMISSION ARE REQUIRED TO BE FILED WITH THE APPLICATION, SPECIFIC REFERENCE THERETO (USUALLY BY FILE NO.) MAY BE MADE HEREIN IN LIEU OF REFILING, TOGETHER WITH A STATEMENT THAT THERE HAS BEEN NO CHANGE THEREIN SINCE DATE OF FILING THEREOF.

EACH DOCUMENT OR STATEMENT REQUIRED TO BE FILED AS AN EXHIBIT SHOULD BE NUMBERED CONSECUTIVELY. THE NUMBERS SHOULD BE ENTERED IN THE BLANK SPACES PROVIDED FOR THIS PURPOSE IN THE INDIVIDUAL ITEMS ON THE FORM. WHEN AN EXHIBIT IS NOT REQUIRED, ENTER "X" IN THE BLANK SPACE.

THIS APPLICATION IS IN TWO PARTS. PARTS ARE TO BE COMPLETED BY PARTIES AS FOLLOWS:

PART	TO BE COMPLETED BY
1	ASSIGNOR/TRANSFEROR
2	ASSIGNEE OR TRANSFEREE (AS APPLICABLE)

IN ADDITION TO THE INFORMATION CALLED FOR BY THIS FORM THE COMMISSION WILL REQUIRE THE FURNISHING OF SUCH ADDITIONAL INFORMATION AS IN ITS JUDGMENT MAY BE NECESSARY FOR ITS CONSIDERATION OF THIS APPLICATION. THE APPLICANT MAY CONSIDER THE APPLICATION TO BE GRANTED 45 DAYS FROM THE PUBLIC NOTICE DATE UNLESS THE COMMISSION OTHERWISE NOTIFIES THE APPLICANT OR A PETITION TO DENY THE APPLICATION IS FILED.

P A R T 1

(TO BE COMPLETED BY ASSIGNOR OR TRANSFEROR (THE PRESENT PERMITTEE OR LICENSEE). WHEREVER THE LEGAL RIGHT TO CONSTRUCT OR TO CONTROL THE USE AND OPERATION OF STATION IS TO BE ASSIGNED OR TRANSFERRED BY VOLUNTARY ACT, AS BY CONTRACT OR OTHER AGREEMENT) OR BY INVOLUNTARY ACT SUCH AS DEATH, LEGAL DISABILITY, BANKRUPTCY, OR OTHER LEGAL PROCEEDINGS.

_____
(DATE)

1. _____
(NAME OR CORPORATE PERMITTEE OR LICENSEE)

_____
ADDRESS (NO. & STREET)

_____ _____ _____
CITY STATE ZIP CODE

2. I HEREBY ASSIGN TO OR TRANSFER CONTROL TO

_____
NAME OF ASSIGNEE OR TRANSFEREE

3. _____
NAME OF TRANSFEROR

_____
ADDRESS (NO. & STREET)

_____ _____ _____
CITY STATE ZIP CODE

SUBJECT TO THE APPROVAL OF THE COMMISSION, THE ASSETS OF OR THE CONTROL OF THE CORPORATION THAT IS LICENSEE OR PERMITTEE OF:

4. _____
(CONSTRUCTION PERMIT NO. OR LICENSE NO.)(CROSS OUT ONE)

DATED _____, GRANTED TO ME TO CONSTRUCT/OPERATE (CROSS OUT ONE) THE TRANSMITTING APPARATUS LOCATED AT

_____
(STREET ADDRESS EXACTLY AS SHOWN ON PERMIT OR LICENSE)

_____ _____
CITY STATE

OR ANY SIMILAR PERMIT/LICENSE SUBSEQUENTLY GRANTED. ASSIGNOR/TRANSFEROR REPRESENTS THAT SAID PERMIT REQUIRED COMPLETION OF CONSTRUCTION OR LICENSE EXPIRES (CROSS OUT ONE) ON

_____
(INSERT THE DATE REQUIRED, OR THE LAST EXTENSION THEREOF GRANTED)

5. TRANSFER OF CONTROL WILL BE ACCOMPLISHED BY:
(CHECK AND FILL OUT ONE ITEM BELOW)

☐SALE OR OTHER TRANSFER OR ASSIGNMENT OF STOCK

	NO. OF SHARES	CLASSIFICATION (COMMON, PREFERRED, ETC.)
SHARES TO BE TRANSFERRED	_____	_____
SHARES ISSUED AND OUTSTANDING	_____	_____
SHARES AUTHORIZED	_____	_____

☐OTHER (e.g., VOTING TRUST AGREEMENT, MANAGEMENT CONTRACT, COURT ORDER, ETC.)

ATTACH AS EXHIBIT _____ A STATEMENT ON HOW CONTROL IS TO BE TRANSFERRED, AND COPIES OF ANY PERTINENT CONTRACTS, AGREEMENTS, INSTRUMENTS, COPIES OF COURT ORDERS, ETC.

CERTIFICATION

THE UNDERSIGNED REPRESENTS THAT STOCK WILL NOT BE DELIVERED, OR THAT THE LICENSE WILL NOT BE ASSIGNED, OR THAT CONTROL WILL NOT BE TRANSFERRED UNTIL THE COMMISSION'S CONSENT HAS BEEN RECEIVED; THAT ALL THE ATTACHED EXHIBITS ARE A MATERIAL PART HEREOF AND ARE INCORPORATED HEREIN AS IF SET OUT IN FULL IN THIS APPLICATION; AND THAT ALL THE STATEMENTS MADE IN PART 1 OF THIS APPLICATION ARE TRUE, COMPLETE AND CORRECT TO THE BEST OF HIS (HER) KNOWLEDGE AND BELIEF.

WILLFUL FALSE STATEMENTS MADE ON THIS APPLICATION ARE PUNISHABLE BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(A)(1))

I REQUEST THAT THE COMMISSION GRANT ITS WRITTEN CONSENT TO THE FOREGOING ASSIGNMENT OR TRANSFER OF CONTROL

_____
(NAME OF ASSIGNOR OR TRANSFEROR)

_____
ADDRESS (NO. & STREET)

_____
CITY STATE ZIP CODE

BY _____
(AUTHORIZED OFFICER OR AGENT (NOTE 1))

_____
(POST OFFICE ADDRESS)

_____

NOTE 1. IF SIGNED BY AN AGENT OTHER THAN THE AUTHORIZED OFFICER OR ASSIGNOR, POWER OF ATTORNEY OR OTHER AUTHORITY OF AGENT OT SIGN MUST BE ATTACHED.

PART 2

3. WHAT IS APPLICANT'S PRINCIPAL BUSINESS?

PART 2

(TO BE COMPLETED BY ASSIGNEE, IF THIS APPLICATION IS FOR AN ASSIGNMENT, OR BY TRANSFEREE, IF THIS APPLICATION IS FOR A TRANSFER OF CONTROL.)

IS THIS APPLICATION MADE FOR CONSENT TO VOLUNTARY OR INVOLUNTARY ASSIGNMENT OF PERMIT OR LICENSE? VOLUNTARY [ ]. INVOLUNTARY [ ]. IF INVOLUNTARY, STATE NAME OF PRESENT LICENSEE

CALL LETTERS _____

IF ASSIGNEE HAS OBTAINED THE LEGAL RIGHT TO CONSTRUCT, OR TO CONTROL THE USE AND OPERATION OF STATION AS A RESULT OF INVOLUNTARY ACT OF ASSIGNOR, ASSIGNEE REPRESENTS THAT THERE IS ATTACHED A COPY OF COURT ORDER OR OTHER LEGAL INSTRUMENT BY WHICH ASSIGNEE HAS OBTAINED SUCH RIGHT.

PART 2 IS TO BE COMPLETED BY ASSIGNEE WHO IS TO OBTAIN THE LEGAL RIGHT TO CONSTRUCT OR TO CONTROL THE USE AND OPERATION OF STATION, AS A RESULT OF VOLUNTARY ACT (CONTRACT OR OTHER AGREEMENT), OR INVOLUNTARY ACT (DEATH OR LEGAL DISABILITY) OF GRANTEE OF PERMIT OR LICENSE, OR BY INVOLUNTARY ASSIGNMENT OF THE PHYSICAL PROPERTY CONSTITUTING THE STATION UNDER DECREE OF A COURT IN BANKRUPTCY PROCEEDINGS, OR OTHER COURT ORDER, OR BY OPERATION OF LAW IN ANY OTHER MANNER.

1. NAME OF APPLICANT (NOTE 2) _____

NOTE 2. IF A CORPORATION, STATE CORPORATE NAME; IF A PARTNERSHIP, STATE NAMES OF ALL PARTNERS AND THE NAME UNDER WHICH THE PARTNERSHIP DOES BUSINESS; IF AN UNINCORPORATED ASSOCIATION, STATE THE NAME OF AN EXECUTIVE OFFICER, THE OFFICE HELD BY HIM, AND THE NAME OF THE ASSOCIATION. THE SAME NAME OR NAMES SHOULD BE SIGNED IN THE PLACE PROVIDED AT THE END OF APPLICATION, EXCEPT THAT IN THE CASE OF A PARTNERSHIP THE APPLICATION MAY BE SIGNED IN THE NAME OF THE PARTNERSHIP BY ONE OF THE PARTNERS.

2. POST OFFICE ADDRESS:
STREET AND NUMBER _____
CITY _____ STATE _____
ZIP CODE _____

3. WHAT IS APPLICANT'S PRINCIPAL BUSINESS?

(a) IN WHAT OTHER COMMUNICATIONS BUSINESS OR BUSINESSES IS APPLICANT DIRECTLY OR INDIRECTLY ENGAGED? EXPLAIN FULLY.

(b) IF APPLICANT IS A CORPORATION, IN WHAT OTHER COMMUNICATIONS BUSINESS OR BUSINESSES ARE THE OFFICERS, DIRECTORS, OR PRINCIPAL STOCKHOLDERS DIRECTLY OR INDIRECTLY ENGAGED? EXPLAIN FULLY. (ATTACH ADDITIONAL SHEETS, IF NECESSARY.)

4. IS APPLICANT A CITIZEN OF THE UNITED STATES? YES [ ]. NO [ ].

5. IS APPLICANT A REPRESENTATIVE OF AN ALIEN OR OF A FOREIGN GOVERNMENT? YES [ ]. NO [ ].

6. IF APPLICANT IS A CORPORATION --
(a) UNDER LAWS OF WHAT STATE OR COUNTRY IS IT ORGANIZED?

(b) IS MORE THAN ONE-FIFTH OF CAPITAL STOCK OWNED OF RECORD OR MAY IT BE VOTED BY ALIENS OR THEIR REPRESENTATIVES OR BY A FOREIGN GOVERNMENT OR REPRESENTATIVE THEREOF, OR BY ANY CORPORATION ORGANIZED UNDER THE LAWS OF A FOREIGN COUNTRY? YES [ ]. NO [ ].

(c) IS ANY DIRECTOR OR OFFICER AN ALIEN? YES [ ]. NO [ ]. IF YES, STATE NAME AND POSITION OF EACH _____

(d) GIVE NAMES AND ADDRESSES OF ALL STOCKHOLDERS OWNING AND/OR VOTING 10 PERCENT OR MORE OF ASSIGNEE'S STOCK AND PERCENTAGE OF STOCK HELD BY EACH _____

7. IF APPLICANT IS A CORPORATION, IS APPLICANT DIRECTLY OR INDIRECTLY CONTROLLED BY ANY OTHER CORPORATION? YES [ ]. NO [ ].
(a) IF YES, GIVE NAME AND ADDRESS OF SUCH CONTROLLING CORPORATION? _____
_____
(b) UNDER LAWS OF WHAT STATE OR COUNTRY IS SUCH CORPORATION ORGANIZED? _____
(c) IS MORE THAN ONE-FOURTH OF CAPITAL STOCK OF SUCH CORPORATION OWNED OF RECORD OR MAY IT BE VOTED BY ALIENS, THEIR REPRESENTATIVES, OR BY A FOREIGN GOVERNMENT OR REPRESENATIVE THEREOF, OR BY ANY CORPORATION ORGANIZED UNDER THE LAWS OF A FOREIGN COUNTRY? YES [ ]. NO [ ].
(d) IS ANY DIRECTOR OR OFFICER OF SUCH CORPORATION AN ALIEN? YES [ ]. NO [ ].
IF YES, STATE NAME AND POSITION OF EACH
_____
(e) IS THE ABOVE-DESCRIBED CONTROLLING CORPORATION IN TURN A SUBSIDIARY? YES [ ]. NO [ ].
IF YES, ATTACH AS EXHIBIT _____ RESPONSE TO QUESTION 8(a) TO 8(d), INCLUSIVE, FOR EACH COMPANY UP TO AND INCLUDING THE ORGANIZATION

8. IF APPLICATION IS MADE IN BEHALF OF AN UNINCORPORATED ASSOCIATION, STATE --
(a) PURPOSE OF THE ASSOCIATION _____
_____
(b) THE NUMBER OF MEMBERS _____
(c) WHETHER ANY MEMBERS ARE ALIENS.
YES [ ]. NO [ ]. IF YES, STATE NAME AND POSITION OF EACH _____
_____

9. IN THE CASE OF ASSIGNEES:
STATE APPLICANT'S RELATION TO STATION (WHETHER APPLICANT IS TO BE OWNER OR LESSEE, AND, IF NEITHER OWNER OR LESSEE, STATE NATURE OF APPLICANT'S INTEREST IN USE AND CONTROL OF STATION [NOTE 3]) _____
_____
NOTE 3. IF NOT OWNER, A COPY OF AGREEMENT SHOWING ASSIGNEE'S INTEREST IN STATION MUST BE ATTACHED IF NOT HERETOFORE FILED WITH COMMISSION.
(b) IF ASSIGNEE IS NOT TO BE OWNER OF STATION, WHO IS? _____
_____

10. (a) HAS THE APPLICANT BEEN FINALLY ADJUDGED GUILTY BY ANY FEDERAL COURT OF UNLAWFULLY MONOPOLIZING, OR ATTEMPTING UNLAWFULLY TO MONOPOLIZE, RADIO COMMUNICATION DIRECTLY OR INDIRECTLY THROUGH CONTROL OF MANUFACTURE OR SALE OF RADIO APPARATUS, EXCLUSIVE TRAFFIC ARRANGEMENTS, OR ANY OTHER MEANS, OR OF UNFAIR METHODS OF COMPETITION? YES [ ]. NO [ ].
(b) IS APPLICANT DIRECTLY OR INDIRECTLY CONTROLLED BY ANY PARTY FINALLY ADJUDGED GUILTY AS ABOVE STATED? YES [ ]. NO [ ].

11. IS THE APPLICANT DIRECTLY OR INDIRECTLY INTERESTED IN OR AFFILIATED WITH ANY ENTITY OR PERSON ENGAGED IN THE BUSINESS OF PROVIDING A PUBLIC LAND LINE MESSAGE TELEPHONE SERVICE? YES [ ]. NO [ ]. IF YES AND THE APPLICANT IS NOT A LAND LINE TELEPHONE CARRIER, ATTACH AS EXHIBIT _____ A STATEMENT RELATING THE FACTS.

12. HAS THE APPLICANT OR ANY PARTY TO THIS APPLICATION HAD ANY STATION LICENSE OR PERMIT REVOKED OR HAD ANY APPLICATION FOR CONSTRUCTION PERMIT, LICENSE, OR RENEWAL DENIED BY THIS COMMISSION? YES[ ]. NO [ ]. IF YES, ATTACH AS EXHIBIT _____ A STATEMENT RELATING THE FACTS.

13. HAS THE APPLICANT, OR ANY PARTY TO THIS APPLICATION, OR ANY PERSON DIRECTLY OR INDIRECTLY CONTROLLING THE APPLICANT EVER BEEN CONVICTED OF A FELONY BY ANY STATE OR FEDERAL COURT? YES [ ]. NO [ ]. IF YES, ATTACH AS EXHIBIT _____ A STATEMENT RELATING THE FACTS.

14. IS THE APPLICANT, OR ANY PERSON DIRECTLY OR INDIRECTLY CONTROLLING THE APPLICANT, PRESENTLY A PARTY IN ANY MATTER REFERRED TO IN ITEMS 11, 12, 13? YES [ ]. NO [ ]. IF YES ATTACH AS EXHIBIT _____ A STATEMENT RELATING THE FACTS.

15. DOES TRANSFEREE NOW HOLD ANY OBLIGATIONS OF LICENSEE CORPORATION? YES [ ]. NO [ ].
IF YES, IN EXHIBIT _____ DESCRIBE THE OBLIGATIONS, METHODS BY WHICH ACQUIRED, AND THE DATES ON WHICH THEY WERE OBTAINED.

16. DOES LOCAL OR STATE LAW REQUIRE ANY AUTHORIZATION TO TRANSFER THE CONTROL OF THE FACILITIES AND/OR OPERATIONS INVOLVED HEREIN? YES[ ]. NO [ ].

17. THE APPLICANT WAIVES ANY CLAIM TO THE USE OF ANY PARTICULAR FREQUENCY OR OF THE ETHER AS AGAINST THE REGULATORY POWER OF THE UNITED STATES BECAUSE OF THE PREVIOUS USE OF THE SAME, WHETHER BY LICENSE OR OTHERWISE, AND REQUESTS THAT WRITTEN CONSENT BE GRANTED TO ASSIGN THE CONSTRUCTION PERMIT OR LICENSE HEREIN MENTIONED TO HIM.

18. THE ASSIGNEE ASSUMES ALL THE OBLIGATIONS AND AGREES TO ABIDE BY ALL THE CONDITIONS IMPOSED UPON THE ASSIGNOR UNDER THE SUBJECT CONSTRUCTION PERMIT OR LICENSE EXCEPT THAT HE SHALL NOT BE LIABLE FOR ANY ACT DONE BY, OR ANY RIGHT ACCRUED OR ANY SUIT OR PROCEEDING HAD OR COMMENCED AGAINST, THE ASSIGNOR PRIOR TO SAID ASSIGNMENT.

CERTIFICATION

I CERTIFY THAT THE STATEMENTS IN PART 2 ARE TRUE, COMPLETE, AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT. U. S. CODE, TITLE 18, SECTION 1001

SIGNED AND DATED THIS _____ DATE OF _____, 19___

_____
NAME OF APPLICANT (MUST CORRESPOND WITH ITEM 1, PART 2)

BY _____
SIGNATURE (DESIGNATE APPROPRIATE CLASSIFICATION BELOW)
[ ] INDIVIDUAL APPLICANT
[ ] MEMBER OF APPLICANT PARTNERSHIP
[ ] OFFICER OF APPLICANT CORPORATION OR ASSOCIATION

NOTICE TO INDIVIDUALS REQUIRED BY PRIVACY ACT OF 1974

SECTIONS 301, 303, AND 308 OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED (LICENSING POWERS) AUTHORIZED THE FCC TO REQUEST THE INFORMATION ON THIS APPLICATION. THE PURPOSE OF THE INFORMATION IS TO DETERMINE YOUR ELIGIBILITY FOR A LICENSE. THE INFORMATION WILL BE USED BY FCC STAFF TO EVALUATE THE APPLICATION, TO DETERMINE STATION LOCATION, TO PROVIDE INFORMATION FOR ENFORCEMENT AND RULEMAKING PROCEEDINGS AND TO MAINTAIN A CURRENT INVENTORY OF LICENSEES. NO AUTHORIZATION CAN BE GRANTED UNLESS ALL INFORMATION REQUESTED IS PROVIDED.

[FR Doc. 82-27027 Filed 10-1-82; 8:45 am]
BILLING CODE 6712-01-C

federal register

Monday
October 4, 1982

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Community Development Block Grants

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-82-1005]

Community Development Block Grants

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Interim rule.

SUMMARY: This rule amends regulations governing the Community Development Block Grant (CDBG) program to reflect changes made in the Housing and Community Development Act of 1974 by the Housing and Community Development Act of 1980 (Pub. L. 96-399) and the Housing and Community Development Amendments of 1981 (Pub. L. 97-35). These legislative amendments and this interim rule provide grantees greater flexibility in administering this CDBG program. In the Entitlement Program the application requirement is being replaced by a requirement that the grantee prepare a statement of community development objectives and projected use of funds, together with a series of certifications. The overall thrust of these regulations is to eliminate unnecessary requirements that exceed statutory intent while ensuring that the public interest is protected through the establishment of generally acceptable standards of accountability for grantee performance.

DATES: Effective Date: Upon expiration of the first period of 30 calender days of continuous session of Congress after publication, subject to waiver, and subject to OMB approval of the information collection requirement contained in § 570.306 which is currently under review. Further notice of the effective date of § 570.306 and the rest of this rule will be published in the **Federal Register.**

Comment Due Date: December 3, 1982.

ADDRESS: Comments should be sent to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: James R. Broughman, Office of Block Grant Assistance, Department of HUD, 451 Seventh Street, S.W. Washington, D.C. 20410, (202) 755-9287. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The Housing and Community Development (HCD) Amendments of 1981, comprising Title III, Subtitle A, of the Omnibus Reconciliation Act of 1981, effected major changes in the Community Development Block Grant programs authorized by Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et seq.*) (the Act). A principal objective of the amendments, which were derived in major part from Administration proposals, was "to 'deregulate' programs * * * where Federal regulatory intrusion has unnecessarily encumbered the process of receiving Federal funds without a concomitant contribution to program quality * * * Our intent is to greatly reduce burgeoning administrative hurdles forced in the path of local governments seeking 'entitlement' community development grants. In so doing, it is our purpose to lessen significantly this improper Federal intervention in the local decision making process." Senate Report No. 97-87 at 2.

One major change made was in the structure of the CDBG program for smaller communities. Since its inception in 1974, the program had provided for formula grants on an entitlement basis for metropolitan cities and urban counties, and for discretionary grants to units of general local government outside such areas (i.e., "nonentitlement areas"). In a fundamental change to transfer power and decisionmaking to States, the 1981 amendments granted to States the option to administer the block grant funds for nonentitlement areas within their borders.

A further central change was the deletion of the application process for entitlement grantees (metropolitan cities and urban counties) and States administering nonentitlement grants as a means of reducing Federal administrative intrusion. A key element in deletion of the front-end application process was reliance upon the back-end review process already provided for in the statute. As emphasized in the Senate report:

> We are * * * convinced that the integrity of the program will be protected by the present and proposed requirements for performance review as opposed to application review. In recent years, the Department of Housing and Urban Development's interpretation of the Act has placed too much emphasis on application review. The HUD regional and area office staff has used the application process far too frequently as a means for imposing HUD's view of acceptable program activity on local entities. The Committee's proposal reemphasizes the post grant review and audit process as the proper point in time to determine consistency and appropriateness of local CD programs. Senate Report No. 97-87 at 3.

Simplification and deregulation of the Community Development Block Grant program has also been an administrative priority of the Administration. The Presidential Task Force on Regulatory Relief, chaired by Vice President Bush, designated the Department's CDBG regulations for review pursuant to Executive Order 12291. In its announcement concerning this review, the Task Force commented:

> These rules establish eligibility, application, administrative requirements, and performance standards for small cities that compete for Federal financial assistance, and for larger "entitlement" cities that receive financial assistance on the basis of statutory formulae. These requirements may unnecessarily diminish local flexibility and impose excessive administrative and compliance costs. For example, one community was denied funding for projects to promote the safety and welfare of its neighborhoods; instead, the funding had to go to water and sewer projects.

This publication represents a further stage in the Department's implementation of statutory changes to CDBG programs effected by the 1981 amendments as welll as the HCD Act of 1980 and simplification of administrative requirements. Previously the Department published, as final rules, a revision of 24 CFR Part 570, Subpart G, covering the Urban Development Action Grants made under section 119 of the Act (47 FR 7962) (February 23, 1982) and a new Subpart I, covering the State's Program for nonentitlement areas in State's (47 FR 15290) (April 8, 1982). On August 16, 1982 the Department published, as an interim rule, a revision of Subpart F, covering the HUD-Administered Small Cities Program for nonentitlement areas in States which do not elect to administer grants for such areas (47 FR 35674). On April 12, 1982, the Department published, as an interim rule, a revision of 24 CFR Part 58, containing environmental review procedures for all CDBG programs.

This publication contains a revision of several interrelated subparts of 24 CFR Part 570, including Subpart D, covering the Entitlement Program. Additional subparts revised by this interim rule are Subparts A—General Provisions; C—Eligible Activities; K—Other Program Requirements; and M—Loan Guarantees, A new provision is added to Subpart O; further revisions of Subpart O are expected to be published in the near future.

Several structural changes in the regulations flow from basic program changes, particularly elimination of the application process. Provisions for determination of whether a grantee's program complies with the primary objectives of the Act through each

activity addressing one of the broad national objectives cited in section 104(b)(3) of the Act, currently contained in Subpart D, are set forth as performance review standards in Subpart O. The extensive list of certifications by the grantee formerly contained in the application is being reduced substantially to those required by the statute. The resulting elimination of specific reference to "other applicable law" in the regulatory provisions describing the certifications has required a fuller treatment of such cross-cutting requirements in Subpart K.

Subpart A—General Provisions

Subpart A is being substantially revised to reflect the 1980 and 1981 amendments to the HCD Act of 1974; to delete obsolete and redundant provisions; to clarify other provisions; and to add information concerning the allocation of funds which is currently included in Subpart B.

The following changes are being made to Subpart A.

Purpose

This section is being retitled and revised to specify the programs covered by the policies and procedures described in Part 570, and to delete the listing of programs consolidated by the Act in 1974. Clarification of the relationship of various Subparts to the State's program is being added.

Primary Objective

This section is being retitled to reflect the fact that the detailed program objectives are being deleted. They were eliminated because they were simply a verbatim repetition of sections 101(c) and (d) of the Act. The primary objective is being retained because of its primacy and since it is referenced in other Subparts.

Definitions

The following changes are being made in the definitions:

"Basic grant amount" is being replaced by a revised definition of "Entitlement amount (§ 570.2(g)) for purposes of clarity.

"Community Development Program", "Hold-Harmless amount" and "Hold-Harmless grant" are now obsolete and are being deleted.

"Nonentitlement amount" (§ 570.2(r)) and "Nonentitlement area" (§ 570.2(s)) are being added to reflect the new allocation procedures in the 1981 legislative amendments which now allocate Title I funds between entitlement and nonentitlement areas.

"Discretionary grant" (§ 570.2(f)) is being changed so that it now refers exclusively to grants made from the Secretary's Fund, and clearly distinguishes them from grants made under the Small Cities program.

"Age of housing" (§ 570.2(b)) and "Extent of housing overcrowding" (§ 570.2(i)) are being modified to indicate that 1980 census data will not be used until Federal Fiscal Year (FFY) 1984, as provided by the 1980 legislative amendments.

"Low and moderate income" (also called "lower income") is being modified somewhat. The current definition is based principally on the 80 percent of median income standard established for housing programs in Title II of the Act. The definition in this rule is being modified to more closely follow the language as set forth in Title II. Beginning with grants made from FFY 1983 appropriations and until further notice, the Department will use the income limits established for Section 8 rental subsidy eligibility purposes in determining whether a household is considered to be of low and moderate income for the CDBG Entitlement and HUD-run Small Cities programs. For direct benefit activities, the determination will be made based on the size of family or household being served. Where income levels are known for households in general for a particular geographical area, but not for individual households, the Section 8 limit for a four-person household shall be used as the limit applicable to all households in that area, except that the income limit for a one-person household shall be used for unrelated individuals.

While CDBG definition currently relies on Section 8 limits with respect to persons receiving a *direct* benefit from a CDBG assisted activity, for some communities CDBG uses 80 percent of median income based on a *different area* than used for Section 8 eligibility when measuring benefit for CDBG activities covering a neighborhood or other area. The difference is especially great for nonmetropolitan communities. The following shows a comparison of the areas for which median income is used for Section 8 eligibility and that which is currently used for CDBG area benefit activities:

Community	Area used for section 8 eligibility	Area currently used for CDBG areawide determinations
Located in a metropolitan area	The median of the metropolitan area or of the applicable multi-State census region, whichever is greater.	The metropolitan area.
Nonmetropolitan	The median of the Nonmetropolitan county or of the applicable multi-State census region, whichever is greater.	Nonmetropolitan area of the State.

The net effect of strictly using the Section 8 limits will be that there will be closer conformance between the number of households qualifying for Section 8 assistance and those considered as low and moderate income for purposes of measuring compliance with the CDBG primary objective.

In connection with its recent publication of regulations at Part 570, Subpart I, governing the State's Program for nonentitlement areas (47 FR 15290) (April 8, 1982), the Department recounted the history of its regulatory equation of the statutory term "low and moderate income families" appearing in the Act with the income threshold for "lower income families" appearing in the Act with the income threshold for "lower income families" established for the section 8 program. The Department established a somewhat more flexible standard for State definition of "low and moderate income families" for purposes of the State's Program, but indicated at that time that "for purposes of its administration of the entitlement and HUD-administered nonentitlement programs [the Department] does not plan at this time to depart from its historic practice of utilizing the 80 percent of median standard." Adherence to this historic standard is reflected in the interim rule published herewith. However, the Department also repeats its concern earlier expressed that "an equation of 'low and moderate income' with an income level specifically established as 'lower income' can unduly restrict the availability of program benefits to persons properly regarded as moderate income" (47 FR 15293). The Department specifically invites comment as to whether the experience of Entitlement grantees and others has indicated a need for reexamination or revision of this standard.

"Metropolitan city" (§ 570.2(p)) is being modified to provide that an area which is being classified as a metropolitan area based on criteria in effect as of December 31, 1979 will continue to be so classified through Federal Fiscal Year 1983 if it continues to meet such criteria. This revision reflects a provision in the 1980 legislative amendments.

"Metropolitan city" (§ 570.2(q)) is being modified to provide that any city currently in a metropolitan area which was classified as a central city as of December 31, 1979 will continue to be so classified through Federal Fiscal Year 1983, and to provide that any city which is being classified as a metropolitan city because it has a population of at least fifty thousand (50,000) will continue to be so classified through Federal Fiscal Year 1982. This provision is based on 1980 and 1981 legislative amendments.

"Urban county" (§ 570.2(x)) is being revised to reflect the new three year urban county qualification process authorized by the 1980 legislative amendments.

"Urban Development Action Grant" (§ 570.3(y)) is being modified to conform with new language in the 1981 legislative amendments.

Allocation and distribution of funds

This section replaces the material currently included in Subpart B. It is much shorter than the superseded Subpart B, however, because it references, rather than repeats, the information in sections 106 and 107 of the Act. That information is not repeated in the regulations because the allocation and distribution of funds are processes performed by HUD which require no actions by grantees. Only supplemental information on the allocation and distribution of funds is included in this section, dealing primarily with the sources of data which HUD will use in making the required calculations.

Waivers

The section on waivers is being moved from § 570.4 to § 570.5 and revised to allow the Secretary to waive any requirement in Part 570 not required by law whenever it is determined that either undue hardship will result from applying the requirement or where application of the requirement would adversely affect the purposes of the Act. Currently, a waiver can be made only where both conditions existed.

Subpart B [Reserved]

The information currently contained in Subpart B will be covered in Subpart A at § 570.4, Allocation and distribution of funds. Subpart B is therefore being reserved at this time.

Subpart C—Eligible Activities

General

Revisions to Subpart C are being made to conform the regulations to the changes included in the HCD Act of 1980 and the HCD Amendments of 1981 included in the Omnibus Budget Reconciliation Act of 1981. In addition, the entire subpart is being edited to achieve the Department's deregulation objectives and to improve clarity.

As part of the deregulation effort, all current requirements for prior HUD approval of specific activities are being deleted (except for the use of CDBG funds for the demolition of HUD assisted housing). In place of the prior approval process, the new paragraph § 570.200(e) establishes a simplified procedure which only requires a written determination by the recipient. The statute requires a determination be made to make the following activities eligible: special economic development activities, special activities by subrecipients, and relocation costs other than those mandated by the Uniform Relocation Act. To aid in the prevention of waste and misuse of CDBG funds, this paragraph also requires a written determination prior to using CDBG funds for interim assistance, loans for refinancing existing indebtedness secured by a property being rehabilitated, and preparation of applications for Federal programs (other than CDBG or UDAG). Under these rules, HUD will accept a recipient's determination for this purpose. Documentation of such determination must be maintained in the recipient's records and be available for review by HUD or other authorized auditors.

To shorten the regulation, a number of examples are being deleted. Since the examples merely illustrated the practical implications of eligibility provisions, these deletions do not reduce the scope of eligible activities. Other general changes include the use of the term "recipient" instead of "applicant" because the statute has deleted the requirement for an application. The addition of "community development" to the term "block grant" now seems necessary since there are a number of block grant programs.

General policies

A provision is being added to make clear that for grants made under the Entitlement or HUD-administered Small Cities program, each assisted activity must address one of the broad national objectives in order to be in accordance with the primary objectives of the Act.

The regulation governing special assessments is being completely revised to eliminate overly restrictive provisions. When CDBG funds are used to pay a portion of the capital cost of an eligible public improvement, special assessments may now be levied to recover any portion of the cost of the improvement funded from sources other than CDBG funds. However, the special exception permitting the locality to levy an assessment to recover costs initially paid with CDBG funds is being deleted since the practical effect was to use CDBG funds for interim financing rather than to leverage private investment. Private investment can be stimulated by limiting CDBG funds to a portion of the total cost with funds from the property owners paying all or part of the remainder through assessments. CDBG funds may also be used to pay special assessments levied against properties owned and occupied by low and moderate income households in connection with eligible public improvements, thus facilitating the provision of CDBG assistance to lower income households not residing in predominantly lower income areas of the community.

The provisions concerning public facilities on school property are being deleted. Schools and other educational facilities are considered public facilities under the HCD Amendments of 1981. The provisions for eligible public facilities occupying portions of multiple use buildings remain the same, however.

Paragraph § 570.200(f) describes the various ways the recipient may carry out eligible activities. This incorporates provisions currently included in § 570.201(e) and § 570.204(b).

Paragraph (h) describes allowable reimbursement for costs incurred by the recipient prior to the effective date of the grant agreement. This incorporates essentially the same information currently included in § 570.301(e).

The provision concerning the authority to use Urban Development Action Grant (UDAG) funds for activities not otherwise eligible is being retained. It is being edited and moved from § 570.200(b) to § 570.200(i). Further information on eligible uses of UDAG funds is provided in 24 CFR 570.455 and 570.456 as recently revised (47 FR 7986) (February 23, 1982).

Paragraph (d) describes special provisions concerning consultant activities. It is essentially the same as current paragraph (g). The limitation on the compensation of consultants in an employer-employee type of relationship is required by section 408 of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1982 (Pub. L. 97–101).

Current paragraph (e), Activities outside an applicant's boundaries, is also being deleted. It is considered unnecessary inasmuch as HUD will no longer determine whether such activities are, or are not, plainly inappropriate to meet the identified needs of the recipient.

Paragraph (g) describes the 20 percent limitation on planning and general administrative costs which is being imposed by each of the appropriation acts since Fiscal Year 1979. This provision is currently included in paragraph (i). This paragraph is being revised to indicate how the limitation applies in the absence of a detailed application and budget. Under this procedure, recipients will account for planning and administrative costs by appropriate allocation to a specific annual grant (which includes any surplus urban renewal funds awarded under the same grant number). Unlike the current provision, only the grant amount, rather than "total program resources" is considered. This is because there is no longer a budget to provide a basis for computing total resources and because various approaches to program revisions and reprogramming created the potential for abuses and confusion on how the limit is calculated. This somewhat more restrictive approach is not expected to create a problem for recipients since experience has shown that 20 percent is a rather generous allowance for planning and general administration and since a detailed application is no longer required and citizen participation requirements are being reduced under the 1981 statutory amendments.

Current paragraphs (h), Model Cities activities, and (h), Transition policy for fiscal year 1978, are being deleted because they are obsolete. The remaining paragraphs are being redesignated accordingly. In addition, the section is being edited for clarity and brevity.

Basic eligible activities

The most significant change concerns the eligibility of public services. The HCD Amendments of 1981 amended the provision at section 105(a)(8) of the Act to remove restrictions on where such activities may be undertaken and to eliminate the requirements that such activities must be necessary or appropriate to support physical development activities and that recipients must first seek other Federal funds for such activities. The requirement that such services must be a new or quantifiable increase in the level of service currently provided from State or local funds is being retained. In addition, energy conservation is being included in the list of eligible public services. It should be noted that to the extent that energy conservation activities are eligible as rehabilitation, they should be classified as such and, therefore, not be included in the percentage limitation on public services discussed below.

The revised statutory provision now limits public service activities to 10 percent of grant funds received. Localities which have obligated funds to carry out public service activities prior to the beginning of their program funded by Federal Fiscal Year 1982 appropriations may continue such activities to completion under the provisions in effect at that time. Any public service activity where the local obligation occurs after that start of the recipients's program funded from Federal Fiscal Year 1982 appropriations will be subject to the new rule.

Compliance with the 10 percent limitation will be based on obligations (not expenditures) incurred in each program year. Thus the date on which public service funds are locally obligated will determine the program year against which such funds will be counted. For example, all CDBG funds for public service activities (regardless of the source of such funds, such as program income) obligated during the recipient's FY 1982 program year will be counted in determining whether more than 10 percent of the FY 1982 grant amount is being used for public service activities (even though some of the obligated funds may not be expended until future program years). Using this principle, public service funds obligated prior to the beginning of the recipient's FY 1982 program year are not subject to the 10 percent limitation, but must comply with all current requirements.

The revised regulation also implements the new statutory provision which permits the Department to allow recipients to exceed the 10 percent limit for Fiscal Years 1982–1984, if they allocated more than 10 percent of their Fiscal Year 1981 grant for public services. A recipient that allocated more than 10 percent of its grant for public service activities in Fiscal Year 1981 may, under these rules, continue to obligate funds during each of Fiscal Years 1982, 1983, and 1984 in amounts up to but not in excess of the Fiscal Year 1981 allocation. In Fiscal Year 1985, all recipients must comply with the 10 percent limitation. The specific dollar limit for a grantee will be computed each year as 10 percent of the new grant funds received for that program year.

Another significant change in this section concerns public facilities and improvements. The HCD Amendments of 1981 revise section 105(a)(14) of the Act to make eligible all public facilities and improvements carried out by public or private nonprofit entities. However, section 105(a)(2) of the Act, which was not amended, includes a specific list of those public facilities and improvements which are eligible and places restrictions on the eligibility of some of the listed activities. It was decided, nevertheless, that the listing of public facilities and improvements in section 105(a)(2) of the Act should no longer be considered all-inclusive.

Accordingly, paragraph (c) of § 570.201 of the regulations is being revised to make eligible the acquisition, construction, reconstruction, rehabilitation or installation of any public facility or improvement, with one exception: assistance to buildings and facilities for the general conduct of government is ineligible as provided in § 570.207(a) and OMB Circular A–87.

Paragraph (c) of § 570.201 also contains the specific statutory restrictions of section 105(a)(2) of the Act on recreational facilities established as a result of reclamation and other construction activities carried out in connection with a river and adjacent land, flood and drainage facilities, parking facilities, fire protection facilities and equipment, and solid waste disposal, recycling or conversion facilities.

The procedure for complying with the requirement that other Federal Funds must be sought as a condition of eligibility is currently included at § 570.607. It will be incorporated directly into § 570.201(c)(1). In addition, as part of our deregulation efforts to simplify administrative requirements, this revised provision will no longer require that the recipient submit a special certification to HUD concerning the unavailability of other Federal Funds, and obtain written HUD authorization to incur costs. The revised provision will require that the recipient cannot obligate or expend funds for activities subject to this restriction until the required procedures have been complete.

In addition, this paragraph contains specific reference to the eligibility of energy efficient design and improvements in public facilities. These newly eligible energy activities were added by the HCD Act of 1980.

Reference to the authority of any public or private nonprofit entity to acquire title to public facilities is also included here. This is implied, but not explicitly stated in current § 570.204(b).

The paragraphs on acquisition and interim assistance activities are being revised to eliminate repetition of activities eligible under other provisions.

Eligible rehabilitation and preservation activities

This first three paragraphs of this section are being entirely reorganized and combined into two paragraphs for purposes of clarity. Paragraph (a) now specifies the types of buildings and improvements which can be rehabilitated with CDBG funds. All types of privately owned buildings and improvements may be assisted. This includes manufactured (mobile) homes that are classified as real property under State or local law. The separate paragraph on public housing modernization is being deleted because in practice it has been found to restrict unduly the scope of rehabilitation acitivities for low income public housing. Low income public housing and other publicly owned residential buildings and improvements are included as eligible for any type of rehabilitation. Other types of public buildings may be rehabilitated if they are generally eligible for assistance.

Paragraph (b) describes the types of rehabilitation activities that are eligible. It includes all activities currently listed in § 570.202(c), and in addition, includes specific references to security devices (such as smoke detectors and deadbolt locks, water conservation improvements (such as water saving faucets and shower heads), and certain types of rehabilitation services. Energy conservation improvements, currently listed as eligible only for rehabilitation of private property, are now permitted for all types of eligible buildings and improvements as provided in recent statutory amendments. The provision on rehabilitation services is being amended to make clear that the cost of determining appropriate energy conservation improvements (e.g., an energy audit) is an eligible CDBG expenditure. The requirement that properties acquired for the purpose of rehabilitation must be rehabilitated to meet the Section 8 Existing Housing Quality Standards and the Cost-Effective Energy Conservation Standards is being deleted. Localities that believe that these standards are appropriate may of course apply them in administering their programs.

A new paragraph is being added on the renovation of closed school buildings as an eligible rehabilitation activity. Such buildings may be rehabilitated for use as housing or for use as an eligible facility.

The paragraph on historic preservation is being redesignated as paragraph (d) and rewritten for clarity. Any historic property may be preserved or restored, including public buildings not eligible for other types of assistance. Historic preservation does not include, however, the expansion of properties for ineligible uses, such as buildings for the general conduct of government.

Special economic development activities

This section is being substantially revised and incorporates new provisions added by the HCD Amendments of 1981. Recipients may now provide direct assistance to private, for profit entities when necessary or appropriate to carry out an economic development project. Such entities may use CDBG funds for any activity related to an economic development project, including working capital, operating funds, technical or management assistance, as well as for land acquisition and the acquisition, construction, reconstruction, rehabilitation, or installation of commercial or industrial buildings or improvements.

Specific references to land acquisition and public facilities currently included in this section are being deleted, since such activities are eligible under §§ 570.201(a) and 570.201(c), respectively, and need not be repeated here.

All activities authorized by this section are eligible only if the recipient determines that they are necessary or appropriate to carry out an economic development project. As in other cases where such determinations are required, the recipient must document its project files prior to initiating such activities.

Activities by subrecipients

This section is being revised significantly. It includes clarifications in the definitions of the three types of subrecipients authorized to receive funds to carry out neighborhood revitalization, economic development, and energy conservation activities that are otherwise ineligible. The reference to Small Business Investment Companies (SBIC's) is being modified to add the term "section 301(d)" to make clear that only one type of SBIC is included in this section and therefore, authorized to undertake otherwise ineligible activities. The definition of Local Development Corporations (LDCs) is being revised to include entities organized under section 503 as well as section 502 of the Small Business Investment Act of 1958 in order to reflect SBA's current emphasis on section 503 LDC's. The meaning of the term "other similar entities" is being clarified to indicate that they must be similar to SBA 502 or 503 entities or entities organized under Title VII of the Headstart, Economic Opportunity, and Community Partnership Act of 1974. Statewide entities, other than section 501 corporations, are not included in this definition.

When subrecipients are designated to carry out public services or planning and administrative activities, such costs are included in the percentage limitations which apply to these activities.

When activities not otherwise listed as eligible are carried out under the authority of this section the locality must determine that such activities are necessary or appropriate to achieve its community development objectives and maintain documentation for such determination.

Eligible planning and policy-planning-management-capacity building activities

This section is being simplified and reorganized to generally list broad categories of planning activities which can be undertaken, and to delete lengthy explanatory text. Included in this general listing of planning activities are: community development plans (recipients are no longer required to prepare a Community Development and Housing Plan or an Annual Community Development Program), comprehensive plans (the 1981 statutory amendments authorize comprehensive planning activities without special qualifications), functional plans, and other plans and studies. Energy use and conservation plans listed in this section as a functional planning activity, are authorize under the 1980 statutory amendments. Energy audits unrelated to specific rehabilitation activities (see § 570.202(b)(4)) are eligible under this section. Energy audits may also be eligible as a public service activity under § 570.201(e).

In the category "other plans and studies," the reference to the exclusion of engineering and design costs for individual projects is being clarified to indicate that such costs are eligible as a cost of the activity itself under §§ 570.201–570.204. Environmental studies, currently included as an eligible administrative cost at § 570.206(h), will now be included in this section at § 570.205(a)(4)(iv). Support of clearinghouse functions may be carried out with CDBG funds, even though clearinghouse reviews are no longer required to receive CDBG funds. Such activities are now authorized by the statute in recognition that some receipts may choose to use their CDBG funds to support the activities of the clearinghouse currently assiated through the 701 Planning Assistance program, which has now been repealed.

All costs eligible under this section are subject to the 20 percent limitation on planning and administrative costs.

Eligible administrative costs.

A new paragraph, § 570.206(g)(5), is being added to this section to clarify eligible housing pre-construction costs. This new paragraph specifies that the cost of issuance of mortgage revenue bonds used to finance the construction of new housing for lower income persons is an eligible administrative cost. However, the costs associated with the payment or guarantee of the principal or interest on such bonds are not eligible.

This section contains no other substantive changes, but is being edited for clarity, and some of the examples are being deleted. Recipients are reminded that only general management, oversight, and coordination costs and other specifically included administrative costs are covered by this section. The cost of staff directly involved in carrying out specific activities is eligible as a cost of that activity under the applicable eligibility provision. Such project-specific staff costs are therefore not included in the 20 percent limitation which applies to the total of costs under this section and § 570.205.

Ineligible activities

This section is being revised to reflect the removal of restrictions on public facilities by the provisions of section 105(a)(14) of the Act as revised by the HCD Amendments of 1981, and to clarify other provisions. The introduction to this section provides general guidance on determining ineligible activities. Paragraph (a) provides for those activities which may not, under any circumstances, be carried out with CDBG funds, and jails are being specifically identified as a type of general governmental building not eligible. The prohibition on the use of funds for political activities is being revised to clarify the fact that facilities originally assisted with CDBG funds may be used on an incidental basis for political meetings, provided that all parties and organizations are treated equally. Paragraph (b) describes activities which may not be carried out with CDBG funds unless authorized under special provision noted in this Subpart.

Subpart D—Entitlement Grants

Subpart D, which contains requirements for Entitlement grantees, is being substantially revised as a result of the 1981 amendments. The major impact of the amendments is to re-define the process by which Entitlement grantees obtain their CDBG funds and the Department's role in making those grants.

Under the amendments, a simplified statement replaces the currently required application. Accordingly, current § 570.301 Planning considerations, § 570.304 Community Development and Housing Plan and § 570.305 Annual Community Development Program are being eliminated. In addition, the legislative changes have eliminated the clearinghouse review requirements and thus § 570.310, A–95 clearinghouse review and comment, is also being deleted.

The statute no longer authorizes formal front-end review by HUD. Accordingly, provisions currently in paragraphs (a), (b), (c) and (d), of § 570.311 HUD review and approval of application, are being eliminated. Also, the portions of § 570.312 (a), (e), (f), (g) and (h), Amendments, dealing with the amendment of the community development portion of the application are being eliminated. As of the effective date of these regulations, Entitlement grantees will no longer be required to amend the community development portion of current applications. The portions of this section which relate to the amendment of a Housing Assistance Plan (HAP) are being rewritten and included in § 570.306 Housing Assistance Plans.

In eliminating the application requirements, the legislative amendments also redefine citizen participation requirements. Accordingly, current § 570.303, Citizen Participation, is being eliminated as a separate section. Citizen participation requirements will now be included under § 570.301(b), Presubmission requirements.

The standards for determining compliance with the primary objectives, currently contained in § 570.302, are being deleted from this Subpart. The requirement for compliance will instead be covered under Subpart C for two reasons. First, past experience under the entitlement program has shown the importance of considering how activities comply with the national objectives at the same time that the basic eligibility of the activity is judged. Secondly, the Department has decided to use the same general approach for both the Entitlement and HUD-administered Small Cities programs. The standards HUD will consider in reviewing grantees' performance against the primary objectives are described in a new provision (§ 570.901) contained in Subpart O.

The Housing Assistance Plan (HAP) requirements in § 570.306 are being reduced and simplified by substituting many of the provisions currently included in the Small Cities HAP regulations, § 570.437, as revised on February 23, 1981 (46 FR 13678). Grantees are also given more flexibility in developing their HAPs. Commensurate with the deletion of an application, of which the HAP was a part, the time frame for submission of the HAP is being changed so that each entitlement grantee will submit its HAP between September 1 and October 31 of each year, except in 1982 when grantees will have until December 31 to submit their HAPs.

Special rules governing the qualification of counties as urban counties, and joint submissions by urban counties and metropolitan cities are set forth in §§ 570.307 and 570.308, respectively, primarily reflecting the 1980 amendments.

General

Section 570.300 briefly establishes the applicability of this Subpart for Entitlement grantees.

Presubmission requirements

Section 570.301 sets forth the requirements a grantee must meet prior to making a submission to HUD. These requirements simply re-state the statutory minimum actions. Grantees may determine the sequence they will follow in carrying these out:

1. The preparation of a proposed statement of community development objectives and projected use of funds;
2. The provision of information to citizens on the amount of CDBG funds available and the range of community development and housing activities that may be undertaken;
3. The provision of at least one public hearing to obtain the views of citizens on the grantee's community development and housing needs;
4. The publication of the grantee's proposed statement so as to afford affected citizens an opportunity to comment;
5. Consideration of citizen comments on the proposed statement prior to the preparation of the final statement; and
6. The preparation of the final statement of community development objectives and projected use of funds and making the final statement available to the public.

Submission requirements

Section 570.302 establishes the timing requirements for submission by an Entitlement grantee in order to receive

its annual grant. A grantee must submit its final statement to HUD between December 1 and September 30 of the Federal Fiscal Year (FFY) for which the funds were appropriated. December 1 was selected as the earliest date because HUD will not normally have all of the information needed to determine Entitlement amounts to be allocated until then. Any submission not received by September 30 of each FFY (which is the latest date allowed under the Act) will be subject to the reallocation provisions of this Part. This section also defines a program year which is currently defined in § 570.308(b). A program year shall normally run for a twelve month period. However, a grantee may lengthen or shorten its program year at its discretion, provided HUD receives written notice of a lengthened program year at least two months prior to the date the program year would have normally ended. HUD needs advance notification so that it may properly schedule an overall review of the grantee's performance shortly before making a new grant. A grantee must submit certifications, satisfactory to the Secretary, as described in § 570.303 and a copy of its final statement of community development objectives and projected use of funds before HUD can make a grant.

Certifications

Section 570.303 contains the certifications the grantee is required to submit with the final statement. These certifications were currently contained in § 570.307 of the regulations. The certifications enumerated in this section are generally limited to those specifically mentioned in Title I of the Act. Rather than continuing the current practice of including an extensive list of cross-cutting statutory and other requirements in the certifications, this rule requires a general certification in the form prescribed in the statute that the recipient will comply with such "other applicable laws." Laws which the Secretary will treat as applicable for purposes of the determinations of compliance required to be made by the Secretary upon performance review are specified in Subpart K.

Making the grant

Section 570.304. If a grantee makes a complete submission, including satisfactory certifications, within the established deadlines, the Department will make a grant for the full Entitlement amount unless the Secretary has made a determination that the grantee's performance is unsatisfactory and warrants a grant reduction. In the case of unsatisfactory performance, the Department may also make a conditional grant. Failure of the grantee to make a complete submission and acceptable certifications within the established deadline will result in its forfeiting the entire Entitlement amount.

Housing assistance plans

Current requirements governing the Housing Assistance Plan (HAP), are contained in § 570.306, adopted on August 27, 1979 (44 FR 50248) and amended on September 9, 1980 (45 FR 59308). The modifications adopted in this interim rule contains many of the same provisions adopted for the HUD-Administered Small Cities program on February 23, 1981 (46 FR 13678), contained in § 570.437. In addition, this rule incorporates the provisions of the recently enacted 1981 legislation.

Under the Act, each Entitlement grantee must submit a HAP. In its HAP, the grantee surveys housing conditions, assesses the housing assistance needs of lower income households, establishes goals to meet its housing needs, and indicates the general locations of proposed new and substantially rehabilitated assisted housing. A city or county uses the HAP to link community development activities with provision of assisted housing and to influence the development and location of assisted housing. HUD uses the HAP's in the allocation of assisted housing and as the basis to approve assisted housing in the grantee's jurisdiction. HUD also compares the grantee's performance report with the HAP to monitor and evaluate the grantee's provision of assisted housing.

Changes to § 570.306 of the regulations are discussed below.

The provisions of § 570.306(a), Purpose; § 570.306(b), Use; and § 570.306(c), Responsibility of the grantee, are not being changed substantively and are self-explanatory.

Paragraph § 570.306(d), General, reflects the recently enacted legislation which deletes the requirement for the CDBG application, of which the HAP has been a part. It does, however, provide that Entitlement grants shall only be made under the condition that the unit of general local government has certified that it is following a current housing assistance plan which has been approved by the Secretary.

Under the new statute, the Secretary has the authority to establish the dates and manner for the submission of housing assistance plans. The Department has decided to require that all housing assistance plans cover the same time period—the Federal Fiscal Year (FFY)—and that they be submitted for HUD review and approval between September 1 and October 31 each year. The current regulations involve two overlapping HAP cycles for each grantee. The Section 8/Low Income Public Housing (LIPH) portion of a grantee's goals and performance evaluation has been on a delayed FFY cycle, while all other goals and performance evaluations are on a program year cycle. For example, a HAP which was approved early in the year has not gone into effect (for Section 8/LIPH) until the following October 1. This has been necessary in order for the HAP to be used by HUD in the Section 8/LIPH allocation process during the next allocation. These dual cycles have caused considerable administrative complexities for both grantee and HUD staff.

In order to provide consistency and eliminate the dual cycles, these regulations establish September 1–October 31 as the submission period for all Entitlement grantees' Housing Assistance Plans, with the period covered by the HAP corresponding to the applicable FFY. By establishing this submission period for all HAPs, the Department will be able to both allocate units and uniformly measure HAP performance.

An exception to the above submission requirement is provided for a new entitlement grantee which is not notified by HUD of the requirement in time to submit a Housing Assistance Plan during October. In such cases, the grantee must submit an interim HAP. The interim HAP shall meet *all of the statutory requirements* applicable to HAPs. The annual goal will only include such numerical goals as may be required to enable the grantee to "phase-in" to the new HAP process. The interim HAP will cover the period from the beginning of the grantee's program year through the next September 30, but will be amended when the grantee submits the three year HAP with the required tables during the September 1–October 31 submission period during which the interim HAP expires. The period of coverage of the interim HAP will be considered part of and will be added to a grantee's three year coverage of its new HAP. Because of the requirement that a grantee have an approved HAP at the time of its submission of its final statement and certifications, an interim HAP must be submitted to HUD no later than 45 days prior to the submission to HUD of such final statement.

For 1982 only

Grantees will be allowed to submit HAPs until December 31, 1982. This

extended date (rather than October 31) is permitted in order that grantees may have sufficient time after the effective date of these regulations to prepare the HAP and because of delays in the expected availability of 1980 Census data which HUD is purchasing for the grantees' use. Grantees which have a three year goal extending beyond the end of FFY 1982 are required to submit a completely new HAP according to these regulations this year.

Paragraph (e), Housing conditions, needs, goals, and locations, describes the five components of a HAP — a survey of housing conditions, an assessment of housing assistance needs, a three year goal, an annual goal, and identification of general locations for newly constructed and for substantially rehabilitated assisted housing.

Paragraph (e)(1), which explains the requirements for the survey of housing conditions, currently required estimates of units which are suitable for rehabilitation only in cases where the grantee proposed goals for rehabilitation. The exception is being deleted and all grantees will be required to develop such estimates. HUD believes that only by developing such estimates can a proper determination be made by the grantee whether goals for rehabilitation should be established.

Paragraph (e)(2) details which groups are to be included in the assessment of housing assistance needs and, again is similar to existing requirements, with an important exception: the current detailed description of how to estimate the number of households expected to reside in the community is deleted. Grantees may use the methodology described in the HAP instructions but will not be required to do so. A grantee must, however, submit its best estimate of the number of lower income households which reasonably can be expected to reside in its jurisdiction, based on data generally available from Federal, State, areawide, or local sources. Such households are those that can be expected to reside (ETR) as a result of existing and projected employment, or as estimated in a community accepted State or regional housing opportunity plan approved by the Secretary; and, as provided in the recently enacted legislation, the estimate must take into account population changes known to have occurred since the publication of the last Census data. When considering such changes, the grantee shall use published estimates such as those which are provided by the Bureau of the Census, the Department of Labor, and/or comparable State or local agencies. For elderly households, the estimate must be based on the number seeking assisted housing in the community or using the community's health services. The Conference Report of the recently enacted legislation makes reference to consideration of vacant housing units which might be available in surrounding areas in the development of ETR estimates. No specific formula is prescribed in these regulations, and general guidance will be provided in the HAP instructions. Currently, HUD did not permit, in practice, the ETR estimate to be less than zero, as the law provides only for estimates of those expected to move into the community. The regulations now specifically state that ETR may not be less than zero.

Paragraph (e)(2) also explains how handicapped persons are to be included in the three household types.

Paragraph (e)(3) requires all grantees to prepare a three year goal for assisted housing. Although the three year goal is not a statutory requirement, it is being retained because the Department has determined that it is essential to the effective use of HAPs. At the start of the CDBG program, the three year goal was made optional. However, it was subsequently made mandatory when, under actual operating conditions, it became apparent that the uncertainties and restriction inherent in the provision of housing assistance make the establishment of annual goals unrealistic and unworkable unless they are taken in a longer term context.

The three year goal significantly increase a community's ability to provide housing assistance in proportion to its needs by household type. Additionally, the three year goal enables HUD to approve a project which was not provided for in the community's annual goal, because the project was not expected to be developed so soon, but was included in its three year goal.

Given the expectation of continued reduced levels of Federal resources for housing assistance, and the increased difficulty local governments will have in predicting the amount and type of such assistance that may be available for use in meeting their needs, the Department believes it is important to retain the three year goal for future HAPs.

The three year goal has two kinds of closely related subgoals, numerical and proportional. The numerical goals identify the number of households expected to be served over the three year term of the HAP by tenure (renter, owner), and by household type (elderly, small family, and large family). In response to comments from many grantees, provision is also being made for establishing goals for programs designed to improve the condition of the housing stock. The numerical goal must be realistic in terms of the number of assisted units the grantee can reasonably expect over the three year term of the HAP and, where applicable, must include only projects of feasible size.

The proportional goal identifies the percentage of the total number of assisted units to be provided to each household type. HUD requires grantees, when establishing goals, to accommodate the needs of each household type within each tenure group in proportion to their need within the tenure group. Because the number of assisted housing units some grantees can reasonably expect is small, it is impracticable to require that the numerical goals always be precisely proportional to need. Exceptions to the proportionality requirement may be made on this and other bases listed in the regulation.

The way in which housing type (for example, new, rehabilitation, existing) is treated in the three year goal is also changed in paragraph (e)(3) in order to clarify HUD policy with regard to its approval of assisted housing projects. Currently, grantees were required to specify housing type by household type in the three year goal. Thus, a community had to establish, before the beginning of the HAP's term, which housing type it would accept in each household type. If, during the HAP's term, an assisted housing application was submitted for a housing type not specified in a community's HAP for the applicable household type, HUD frequently was not able to approve the application for assisted housing unless the community amended its HAP. This resulted in many HAP amendments, or the loss of the assisted housing when the amendment process took too long.

Paragraph (e)(3), therefore, requires only that the grantee specify the maximum number of assisted housing units it will accept in any of the housing types. A grantee can indicate that it will accept more than one housing type to meet its HAP goals for HUD assisted housing, and will not need to match housing type with household type in the three year goal. Amendments by the grantee thus will be required less frequently. Both HUD and the grantee will have more flexibility—the grantee in choosing acceptable housing types and HUD in approving applications for assisted housing in housing types acceptable to the community.

Paragraph (e)(4) explains the contents of the annual goal. The goal must allow

for development of feasibly sized projects, and identify any projects expected to be undertaken during the year by tenure, household type, and housing type. The grantee must also identify specific actions it will take during the year to achieve its annual goals and, if appropriate, its three year goals.

HUD will review HAP goals based on a realistic estimate of the assisted housing resources expected to be available to the grantee. The requirement for realistic goals is given additional emphasis and the 15 percent minimum goal currently in effect is deleted. This change is being made because the total national resources for Section 8/LIPH have been significantly reduced since the 15 percent provision was instituted, and there is no indication that resources will return to former levels. A specific percent of need will no longer be used as the principal basis for establishing the minimum size of goals. Instead, a realistic estimate of resources expected to be available to the grantee over the term of the HAP will be the primary measure. The grantee's goals must reflect a reasonable effort to meet housing needs in the community and must incorporate all resources reasonably expected to be available. HUD will continue to disapprove HAPs which contain goals which are plainly inappropriate to meeting the grantee's needs.

HUD will also review the grantee's HAP goals against the requirements for proportionality as discussed above. Furthermore, HUD will review the narrative to determine that the grantee recognizes and acknowledges the problems it will likely encounter in addressing its needs and has identified actions it will take to ensure the timely achievement of its goals.

Paragraph (e)(5) reflects the existing requirement that a grantee having goals for new construction and/or substantial rehabilitation identify the general locations of proposed assisted housing. Because of much confusion in the past for grantees, housing authorities, developers, and for HUD, a grantee now has the option to designate one or more of the general locations it identifies in its HAP as High Priority areas. This will enable the grantee to clearly state its preferences with respect to locations in its jurisdiction and will enable housing authorities, developers, and HUD to clearly understand such preferences. Designation of such High Priority general locations is compatible with provisions of HUD-assisted housing program ranking criteria providing higher ratings in connection with responsiveness to preferences and priorities of applicable HAPs. Changes to 24 CFR 891 provide that projects proposed in areas not designated as a general location in the HAP would not be approved without a HAP amendment. This change would also help to eliminate the confusion that has existed regarding the general locations portion of the HAP.

Paragraph (e)(6) explains the requirements of the interim HAP which will apply to grantees which were not notified by HUD in time to submit a HAP during the regular October submission period.

Paragraph (f) explains that HUD's review of the HAP will assure that the requirements of this section are being met, and that HUD will approve the HAP unless the grantee's stated conditions and needs are plainly inconsistent with generally available facts or data or that the grantee's proposed goals and activities are plainly inappropriate to meeting those needs.

Paragraph (g) replaces § 570.312(b) and details the requirements for HAP amendments.

Urban counties

Section 570.307. Interim regulations implementing a three year urban county qualification process, published in the **Federal Register** on September 14, 1981 (46 FR 45603), are being relocated from § 570.105 to this section, and are reworded somewhat for clarity.

Only one substantive change is being made in relocating this regulation. Unincorporated areas included in an urban county at the time of qualification, but which become incorporated during the three year urban county qualification period, will remain a part of the urban county for the remainder of that three year period and will not be eligible for separate grants under subparts D, F, or I.

Joint requests

Section 570.308. The provisions concerning inclusion of a metropolitan city as a part of an urban county currently located at § 570.105(h) are being separated into § 570.308 of this interim rule.

Subpart K—Other Program Requirements

Subpart K currently contains provisions regarding requirements of certain cross-cutting status and Executive Orders, or administrative policies, not specifically covered elsewhere in Part 570. Because of the deletion of references to specific cross-cutting requirements in the extensive certifications currently included in the grantee's application (see current § 570.307), Supart K is being substantially expanded. Certain of the specific provisions currently contained either in the certifications or Subpart K are being modified. In addition, conflict of interest provisions currently contained in the grant agreement are being added to the regulations.

General

Section 570.600 describes the general scope of Subpart K, relating it to certain provisions of the statute prescribing certifications of compliance with specific statutes or "other applicable laws" and describing determinations regarding such compliance required to be made by the Secretary upon performance review. The regulation rules that certain other statutes are expressly made applicable to activities assisted under the Act by specific provisions of the Act itself, while others not referred to in the Act may be applicable by their own terms. Generally, the cross-cutting requirements described in Subpart K are those specifically referred to in the Act or for which the Secretary otherwise has specific enforcement responsibility (e.g., the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and Lead-Based Paint Poisoning Prevention Act).

Certain statutes or Executive Orders not referred to in the Act and for which other departments or agencies have specific enforcement authority, but to which reference was currently included in the certification requirements or Subpart K, or both, are omitted. Included in this category are Executive Order 11246, which imposes equal employment opportunity obligations upon applicants for Federal assistance which may involve a construction contract, and the Hatch Act. Executive Order 11246 is administered by the Secretary of Labor, whose implementing regulations are contained in 41 CFR Chapter 60. The Department has recently sought the advice of the Department of Labor regarding the requirements of Executive Order 11246 in the context of the CDBG programs. Responsibility for investigating and prosecuting alleged violations of the Hatch Act, and for issuing advisory opinions concerning the Hatch Act, are vested in the Special Counsel of the Merit Systems Protection Board (see 5 U.S.C. 1206 (e), (g), and (l)). The Department expresses no view as to circumstances in which the Hatch Act may be applicable to State or local officials or employees by reason of CDBG assistance.

Reference to one specific cross-cutting requirement is being omitted on the ground that it is not required statutorily. Current § 570.606 requires that "every building or facility (other than a privately owned residential structure) designed, constructed, or altered with funds made available under this part" shall comply with accessibility standards issued pursuant to the Architectural Barriers Act of 1968 (42 U.S.C. 4151). However, the Architectural Barriers Act is not applicable to construction or rehabilitation assisted with CDBG funds because the CDBG statute does not provide authority for "standards for design, construction, or alteration" applicable to facilities constructed or rehabilitated with such assistance (see 42 U.S.C. 4151(3)). The Department heretofore has imposed the accessibility standards issued pursuant to the Architectural Barriers Act upon structures constructed or altered with CDBG as an administratively adopted requirement notwithstanding that such requirements are not imposed by the Architectural Barriers Act itself. Those requirements are deleted in this regulation. The Department notes, however, that accessibility requirements may be applicable to some facilities constructed or altered with CDBG assistance by reason of the applicability of section 504 of the Rehabilitation Act of 1973. This subject, therefore, will be addressed directly in the Department's regulations implementing section 504, when promulgated.

Section 570.600 provides that the absence of mention in the regulation of any statute for which the Secretary does not have direct enforcement responsibility is not intended to be taken as an indication that, in the Secretary's opinion, such statute or Executive Order is not applicable to activities assisted under the Act. Generally speaking, however, the absence of such mention in the regulation does indicate that compliance with any such statute or order will not be a subject of the Secretary's performance review.

Certain administrative requirements are being deleted or transferred. The provision concerning local option activities and contingency accounts contained in current § 570.600 is being made obsolete by statutory amendments. The provisions describing procedures to be followed where other Federal funds must be sought, contained in current § 570.607, are being incorporated in a revised form, in § 570.201(c)(1).

Civil Rights Statutes

The Act contains specific references to Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968. The requirements of these statutes are included in § 570.601, together with the requirements of Executive Order 11063, regarding equal opportunity in housing.

Nondiscrimination

Section 109 of the Act requires that no person in the United States shall on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with community development funds made available pursuant to the Act. Section 570.602 describes more fully the requirements of section 109 as prescribed by the Secretary. These provisions are continued without change from those currently contained in § 570.601, which in turn are modeled in major part upon HUD's Title VI implementing regulation (see 24 CFR 1.4). However, a paragraph (c) is being added to reflect the statutory addition to section 109 of specific references to the Age Discrimination Act of 1975 and section 504 of the Rehabilitation Act of 1973.

Labor Standards

Section 110 of the Act makes Davis-Bacon Act wage standards applicable to construction financed in whole or in part with assistance received under the Act. Section 570.603 of the interim regulation describes these and related requirements in a manner substantially similar to current § 570.605, except that the statutory language "financed in whole or in part with assistance received under the Act" is being substituted for the phrase "assisted under the Act." The Department did not intend the term "assisted" to extend coverage of the wage standards requirements beyond that imposed by the Act. Under some circumstances, however, such as the use of program authority for loan guarantees or default reserves, "assistance" may be provided which does not bear a sufficiently direct relationship to the construction to constitute "financing" thereof. The Department currently has granted waivers of the requirements imposed by current § 560.605 in such circumstances. Under the revised regulation, its requirements would not apply in those circumstances.

Environment Standards

Section 570.604 describes the substantive and procedural requirements prescribed by or pursuant to section 104(f) of the Act. No substantive change is effected from current requirements.

Certain statutes and executive orders currently specified in the certifications or in Subpart K are made applicable by their designation in 24 CFR § 58.5 as "other provisions of law which further the purpose of the National Environmental Policy Act of 1969" (section 104(f) of the Act). Accordingly, specific reference thereto in Subpart K is being deleted. These laws and executive orders include: the National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*); the Clean Air Act (42 U.S.C. 7401 *et seq.*); the Archeological and Historic Preservation Act (as it amends the Resource Salvage Act of 1960 (16 U.S.C. 469 *et seq.*)); Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 *et seq.*); and Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951 *et seq.*). Reference to the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*), currently at § 570.610, has been deleted because this statute is applicable without regard to the receipt or use of Federal funds.

National Flood Insurance Program

The provisions of current § 560.609 describing requirements flowing from the Flood Disaster Protection Act of 1973 are continued in § 560.605 without substantial change except for reference to the Director of the Federal Emergency Management Agency, to whom the Secretary's functions under that statute were transferred by Reorganization Plan No. 3 of 1978. Reference to these requirements is also contained in 24 CFR 58.5. However, specific reference is also being continued in Subpart K in order to avoid any question that might arise as to whether the insurance requirements can be regarded as elements of "environmental review, decisionmaking, and action" within the meaning of section 104(f) of the Act.

Relocation and Acquisition

Section 210 of the Uniform Act places certain obligations on the head of any Federal agency entering into a grant relationship with a State agency (which includes political subdivisions and agencies thereof) "under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any persons."

Although the Uniform Act is not referred to in the Act, it had been assumed by the Department since 1974 that the Uniform Act applies to displacements resulting from acquisitions by State agencies for community development activities assisted by block grant funds under the Act (see current § 570.602).

In 1979, the Fifth Circuit Court of Appeals, in an *en banc* decision, held that the Uniform Act did not apply to acquisitions financed by general revenue-sharing funds. One principal ground of the decision was that the Uniform Act "contemplates discretionary Federal approval and specific requests to fund specific projects" while the revenue-sharing statute provided no such opportunity for Federal project approval. The Court declared itself "at a loss to understand how these two Acts can work in consort if one Act provides for automatic distribution and the other Act contemplates prior Federal approval for specifically proposed projects. The distinguishing feature between the two Acts in that URA envisions Federal control over a funded project while revenue sharing does not." *Goolsby v. Blumenthal,* 590 F.2d 1360, 1371–72 (5th Cir. 1979), cert. denied, 444 U.S. 970 (1979).

The Community Development Block grant program is not a general revenue-sharing program. Instead of the almost unlimited purposes for which general revenue-sharing funds may be utilized, the use of CDBG funds is limited by the primary objectives of the block grant legislation. However, in the particular respects cited by the Fifth Circuit as inconsistent with the thrust of the Uniform Act, the CDBG program, particularly as a result of the 1981 amendments eliminating the application process, bears a close resemblance to the revenue-sharing mechanism. The Department, therefore, has solicited the opinion of the Department of Justice as to whether the Uniform Act must continue to be considered applicable to activities assisted under the Act.

In its implementation of the State's Program for nonentitlement areas, the Department elected not to mandate compliance with the Uniform Act pending receipt of the requested advice from the Department of Justice (see 47 FR 15295 (April 8, 1982)). In the case of the Entitlement and other programs now covered by current § 570.602, however, the Department has elected not to disrupt existing practice unless and until nonapplicability of the statutory requirements is confirmed. Accordingly, the requirements of the existing regulation are continued without substantial change in § 570.606. In addition, specific reference to the requirements of Title III of the Uniform Act is being added. (These requirements were referred to in the certifications required by current § 570.307(n) but had not been referred to specifically in Subpart K.)

Section 570.606 also continues the reference, currently contained in § 570.602(c), to the grantee's discretionary authority to provide relocation payments and assistance for displacements not covered by the Uniform Act, or at levels above those established by the Uniform Act. The requirement that such assistance not required by the Uniform Act be determined by the grantee to be appropriate has been retained, although the basis for such a determination no longer includes reference to "its community development program" to reflect the 1981 amendments.

Employment and Contracting Opportunities

Section 570.607 describes the requirements of section 3 of the Housing and Urban Development Act of 1968, currently referred to in the certifications (see current § 570.307(m)). To comply with these requirements, grantees must adopt appropriate procedures and requirements to assure good faith efforts to provide that to the greatest extent feasible opportunities for training and employment will be given to lower income residents of the unit of local government or metropolitan area (or nonmetropolitan county) in which an assisted project is located and to award contractors to business concerns located in, or owned in substantial part by persons residing in the same metropolitan area (or nonmetropolitan county) as the project. While it is noted that recipients may refer to HUD regulations at 24 CFR Part 135 for guidance, these regulations are not directly applicable to activities assisted under the Act. Part 135 was promulgated prior to adoption of the Act and has not been revised subsequently to detail its application in the context of CDBG programs.

Lead-Based Paint Poisoning

Section 570.608 continues, without substantive change, the prohibitions and requirements contained in current § 570.611. Section 570.608(a) refers to the prohibition on use of lead-based paint in residential structures constructed or rehabilitated with Federal assistance in any form, as provided by Section 402(b) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831) and implemented in 24 CFR Part 35, Subpart B.

Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822) requires the Secretary to establish procedures to "eliminate as far as practicable the hazards of lead-based paint poisoning with respect to any existing housing which may present such hazards and which is covered by an application for mortgage insurance and housing assistance payments under a program administered by the Secretary." Section 302 further provides that such procedures shall apply to all housing constructed prior to 1950 and "shall as a minimum provide for" appropriate measures to eliminate as far as practicable immediate hazards due to the presence of lead-based paint to which children may be exposed, and certain notifications to purchasers and tenants of such housing. The procedures and requirements adopted by the Secretary pursuant to such directions appear at 24 CFR Part 35, Subparts A and C.

Notwithstanding the limitation of the statutory coverage to "mortgage insurance or housing assistance payments," the Department historically has extended its lead-based paint hazard elimination and notification requirements to all HUD programs by defining the coverage of its implementing regulations in terms of "HUD-associated housing," which includes "any residential structure . . . financially assisted under any programs administered by the Secretary, when such structures are being constructed, sold, leased, rehabilitated (including routine maintenance work), modernized or improved with any form of HUD financial assistance whether by grant, loan, advance, housing assistance payments, the proceeds of a HUD-guaranteed loan or a HUD-insured mortgage" (24 CFR 35.1(e)). Application of the hazard elimination and notification requirements to the block grant program is confirmed by § 570.611 of the current regulations.

The Department's General Counsel believes that block grants are not "housing assistance payments" within the meaning of Section 302. Nevertheless, the Department does not propose to effect a change in its long-standing administrative practice through this interim rule, which is proposed to become effective prior to consideration of public comments. Accordingly, § 570.608(b) of the interim rule continues the application of the hazard elimination and notification requirements to the block grant programs covered by Subpart K. However, the Department specifically solicits comment on the

appropriateness of this requirement. Comments on this subject should take account of the fact that elimination or modification of the regulatory requirement would not diminish or otherwise affect the obligation of recipients or owners of residential structures being rehabilitated or modernized with block grant assistance to comply with State or local laws, ordinances, codes, or regulations requiring lead-based paint hazard abatement.

Use of Debarred, Suspended, or Ineligible Contractors or Subrecipients

Section 570.609 continues, without substantive change, the prohibitions contained in current § 570.614.

Uniform Administrative Requirements and Cost Principles

Section 570.610 specifies the applicability of grant management circulars issued by the Office of Management and Budget (OMB). The cited circulars set forth financial and administrative policies and guidelines related to administering Federal funds. A reference to Circular A–102 was currently included in the certifications (see current § 570.307(g)), and several references to specific requirements of these circulars are also included in Subpart J, Grant Administration (see, e.g., §§ 570.502(a)(2), 570.505–.508).

Conflict of Interest

Section 570.611, establishes, in regulatory form, conflict of interest provisions currently included in the certifications (see current § 570.307(p)) and the grant agreement. The establishment of conflict of interest provisions is designed to ensure adherence to appropriate standards of ethical conduct and—prevent fraud.

The general rule prohibits persons who exercise or exercised any functions or responsibilities with respect to the Community Development Block Grant or Urban Development Action Grants programs or who are in a position to participate in the decisionmaking process or gain inside information with regard to a CDBG or UDAG activity from obtaining a personal of financial interest or other benefit from assisted activities.

In order to provide necessary flexibility, exceptions to the general rule may be granted in accordance with specified requirements and standards. Such exceptions can be granted by the responsible HUD field official.

This subsection is not applicable to circumstances governed by Attachment O of OMB Circulars A–102 and A–110, which cover procurement of supplies, equipment, construction, and services by grant recipients and by subrecipients covered by § 570.204.

Subpart M—Loan Guarantees

Eligible applicants

Section 570.700(a) is being revised to delete the reference to § 570.102 with respect to recipients of basic grant amounts. This provision now references section 106 of the Act. The provision has also been modified to remove unnecessary language.

Section 570.700(b) is being revised to clarify that an applicant which designates a public agency to receive a loan guarantee must pledge its current and future grants under Title I. The provision had indicated that only entitlement grants were required to be pledged.

Eligible activities

Section 570.701, governing eligible activities, is being substantially revised. Paragraph (a) of this section is expanded to specify that acquisition for economic development purposes may include agreements for the purchase of real property to be improved by the seller prior to the acquisition. Commencement of work on the improvements would not be required, however, until HUD approves the applicant's loan guarantee request. The agreements also may provide that the purchase is contingent on the procurement of interim financing by the seller and that the improved property may be leased back to the seller, including leaseback with an option to purchase upon full repayment of the HUD guaranteed loan. Acquisition and/or improvements undertaken by the seller in whole or in part with interim financing shall be subject to the requirements otherwise applicable to such activities under the block grant program.

Section 570.701(b) is being modified to permit rehabilitation of real property owned by a public agency designated by the applicant to receive loan guarantee assistance. Under the current status of the regulations a public agency may be designated to receive a loan guarantee in lieu of the applicant, but is unable to undertake all activities authorized for the applicant. The purpose of this change is to correct that inconsistency.

The other provisions of this section are being changed for greater clarity and to more accurately reflect the statutory restrictions on eligible activities.

Application requirements

Section 570.702 is being revised as a result of the elimination of application requirements for entitlement grant assistance under this Part. Applications for loan guarantee assistance are being submitted either as part of applications for grant assistance or as amendments thereto.

Separate applications for loan guarantee assistance will now be necessary. However, the presubmission and submission requirements for grants under Subpart D also apply to applications for loan guarantee assistance.

The applicant must comply with the presubmission requirements outlined in § 570.301. With respect to the statement of community development objectives and projected use of funds specified in § 570.301, an applicant may utilize the statement prepared for the annual grant in lieu of submitting a separate statement when the loan guarantee application is simultaneous with the grant submission. The activities to be undertaken with guaranteed loan funds must be clearly identified.

With respect to submission requirements, a certification concerning the adequacy of the applicant's existing land inventory is no longer required, since this document is not necessary to meet any statutory requirement. A provision pertaining to the Community Development Program, which is no longer required to be submitted in connection with grants, also is being eliminated.

Submission requirements include: a copy of the final statement of community development objectives and projected use of funds, a loan repayment schedule which identifies the sources of repayment, a certification as to the applicant's legal authority to make the pledge of grants required as security for the loan guarantee and the certifications specified in § 570.303.

Section 570.702(d), governing HUD review and approval of applications, is being substantially revised. The provisions setting forth criteria for disapproval and reasons for reducing the requested amount are being replaced by a single provision—§ 570.702(d)(3). This provision specifies that HUD may disapprove an application, or reduce the amount requested, if the loan guarantee constitutes an unacceptable financial risk, the amount requested exceeds the maximum amount permitted under § 570.703(a), funds are not available, the applicant's performance does not meet the standards prescribed in § 570.909, or activities are not listed as eligible under § 570.201 through § 570.203 and § 570.701(a) through (f).

Compliance with the primary objectives of the CDBG program will not

be a funding criterion for loan guarantee applications. Rather, compliance with the standards for the broad national objectives, set forth in § 570.901, will be reviewed in the context of the annual performance report. In this regard, the applicant will be subject to the full range of administrative actions specified in § 570.910 and to the statutory sanctions described in § 570.911 and § 570.913 if activities undertaken with guaranteed loan funds do not address one of the broad national objectives.

Section 570.702(e), which pertains to environmental review, is being modified to eliminate unnecessary provisions governing environmental assessments of multiyear projects. Such assessments are adequately covered under 24 CFR Part 58.

Loan requirements

Section 570.703(a), pertaining to the maximum loan amount, is being modified to eliminate requirements not statutorily required. Changes are also being made to reflect the elimination of entitlement grant application requirements.

Section 570.703(b)(2), requiring the applicant to pledge its grants as security for the loan guarantee, is being modified pursuant to a technical amendment to the statute. The term "approved" is being replaced by the term "made" to reflect the elimination of entitlement application requirements.

Subpart O—Program Management

The 1981 Amendments to the Act stated HUD's performance review responsibilities more specifically, reflecting deletion of an application for Entitlement grantees and the absence of a Housing Assistance Plan (HAP) for nonentitled grant recipients and, consequently, HUD review at those stages. The Department intends to modify its performance review requirements and standards accordingly and expects to issue substantial revisions to Subpart O during the early part of Fiscal Year 1983.

In these rules, a single provision is added to Subpart O stating the review standards for determining whether an activity is in accordance with the primary objectives because it addresses one of the broad national objectives. As a result of the transferral of these standards from Subpart D to Subpart O, they are made applicable to both the Entitlement and HUD-administered Small Cities programs for purposes of post-grant review. In the HUD-administered Small Cities program, these standards have been included at § 570.420(k)(2) for purposes of reviews at the application stage. The standards are being modified primarily to reflect the fact that, for entitlement grantees, there will no longer be a substantive front-end review and approval process. Some of the standards in the current regulations were dependent upon prior approval by HUD, which is no longer pertinent. For the sake of uniformity and ease of understanding, the standards are being redefined so they may more rapidly be applied on a post-expenditure basis. A provision is being included to state that, where the Department determines that an assisted activity does not meet one of these review standards, the grantee will be given reasonable opportunity to demonstrate to the satisfaction of the Secretary that the activity addresses one of the broad national objectives.

In general, the new standards as they will now appear in Subpart O are designed to be more clearly understandable. The following describes the new standards and discusses the major differences between them and those currently in Subpart D at § 570.302.

Overall Program Benefit

Under these interim rules, as under current regulations for the CDBG program, each activity must meet one of the broad national objectives of benefiting low and moderate income persons or aiding in the prevention or elimination of slums or blight. An activity may also be carried out where the grantee certifies that it is designed to meet other community development needs having a particular urgency. In the past, HUD reviewed each entitlement community's application to determine whether the extent to which the program as a whole would benefit low and moderate income persons would be plainly inappropriate in a three year context. (A more complete discussion of this history is contained in the Preamble to the Department's promulgation of the rule for the State Community Development Block Grant Program (47 FR 15291–2, April 8, 1982.) Furthermore, the Congress has stressed that the choice of eligible activities on which block grant funds are to be expended represents the recipient's determination as to which approach or approaches will best serve the primary objectives of the program. Therefore, in restructuring the approach used to determine compliance with the primary objectives, HUD will no longer conduct any review of the grantee's overall program with respect to benefit to low and moderate income persons.

Benefiting Low and Moderate Income Persons

The general standard for activities to qualify under the objective of benefiting low and moderate income persons remains the same as under the current rules. Activities which were limited to, or where the majority of the beneficiaries upon completion of the activity were expected to be, low and moderate income persons will be considered to have met the broad national objective of benefiting low and moderate income persons. However, the deletion of an application approval process necessitates certain changes in specific categories:

Exception Criteria

Currently, an exception is provided to the general rule that activities under this objective must principally benefit lower income persons for entitlement communities which contain few or no areas with concentrations of low and moderate income persons. Such entitlement communities were required to receive prior approval from HUD to qualify for such an exception. While significant variations in the application of this provison developed, such exceptions, under current § 570.302(d)(5), had been considered necessary because of the Department's emphasis on overall program benefit to low and moderate income persons. With the deletion of the application process, the granting of such exceptions is no longer considered to be feasible, and the elimination of a review for the extent of benefit of the overall program removes the major need for the exceptions. For these reasons and because this rule broadens the scope of activities which HUD will consider to meet the objective of elimination or prevention of slums and blight and expands the range of economic development activities able to be carried out in compliance with the national objectives, the Department expects that all CDBG recipients will be able to carry out programs meeting the primary objectives without needing such exceptions. Thus, the review standards in this interim rule do not contain that current exception provision.

Economically Distressed Entitlement Communities

The standards include a new provision that provides additional flexibility to economically distressed Entitlement communities enabling any economic development activity funded for the primary purpose of job creation or retention to be considered as addressing the objective of benefiting low and moderate income persons.

without requiring a demonstration that the majority of the jobs will be available to low and moderate income persons. To be eligible for this added flexibility, a metropolitan city or urban county must meet the minimum distress standards for UDAG and must qualify under at least three of the following four UDAG distress criteria:

—Unemployment
—Job Lag
—Poverty
—Per Capita Income

The Department believes that such communities face especially severe difficulties in providing jobs for their lower income residents, thus justifying the additional flexibility this provision will give them. The Department considered a similar provision for non-entitled communities, but rejected it because it might provide only a small segment of the total potential applicant pool an advantage in the competitive process. Significantly, by statute, non-entitled counties cannot qualify for UDAG. Thus, the extension of this standard to non-entitlement grantees would deny an entire class of Small Cities applicants comparable treatment.

Support of Assisted Housing

A new standard has also been added concerning eligible activities to reduce the development cost of certain multi-family housing projects which are considered to benefit low and moderate income persons. Currently, such activities are considered to address the low and moderate income benefit objective only if a majority of the units were available to such persons.

Experience has shown that for many grantees, the construction of new multi-family, non-elderly housing consisting of more than 50 percent assisted units has not been feasible for reasons involving both economic pressures and neighborhood concerns. Additionally, for the past several years, most such projects have required public subsidies to make them financially feasible regardless of the proportion of units assisted.

For these reasons and because both assisted housing program policies and the objectives of the Act encourage spatial deconcentration of housing opportunities for lower income persons, the Department has decided to consider the use of CDBG funds to reduce the development cost of non-elderly housing, where 20 percent or more of the units will be occupied by lower income persons, to address the objective of benefiting low and moderate income persons.

Other Changes

The provision currently included at § 570.302(d)(2)(ii) specifically authorizing activities designed to attract or retain neighborhood commercial facilities serving low and moderate income areas is being deleted as unnecessary. Such activities will be considered to benefit low and moderate income persons under the standard concerning an activity "which is so designed or so located that a majority of the beneficiaries are low and moderate income persons."

Elimination or Prevention of Slums or Blight

The standards used to qualify an activity as aiding in the prevention or elimination of slums or blight are being revised. Specifically, all provisions regarding Neighborhood Strategy Areas (NSAs) are being removed. Also, the Department recognizes that in some instances definitions of slums or blighted areas under State or local law are strictly written to meet the requirements of the earlier Urban Renewal Program, and might have the effect of unduly limiting the areas in which grant recipients would need to carry out slum or blight elimination and prevention activities. Accordingly, these standards allow other areas where there are objectively determinable signs of physical deterioration throughout the area to qualify as slums or blighted, even though the area may not meet a slum or blight definition under State or local law. Furthermore, the Standards continue to provide for activities necessary to complete Federally assisted urban renewal projects. For clarity, the provision is being revised to more clearly identify the activities covered by the provision.

Urgent Needs

The standards for determining whether activities qualify under the urgent needs objective are being modified in two ways. The new standard reflects the amendment to the Act which removed the requirement for a specific Secretarial determination, leaving only the need for a local certification. Also, the current standard contains a presumption that conditions that either developed or became critical within 18 months preceding application submittal were of recent origin. This presumption is considered to be unnecessary since the Secretary will no longer be required to make a prior determination in this matter, and thus the presumption is being removed.

Residential Rehabilitation Activities Under the Revised Standards

The deletion of the application approval process necessitates that these standards include special provisions for determining whether rehabilitation of residential structures qualifies under the national objectives. These special provisions are described below.

Under these review standards, residential rehabilitation carried out in three ways will be considered to meet the primary objectives:

Residential rehabilitation of any kind for low and moderate income households, carried out anywhere in the recipient's jurisdiction, will be considered to benefit low and moderate income persons if such assistance is limited to single-family structures occupied by low and moderate income households, or to multifamily structures where a majority of the units will be affordable to low and moderate income households after rehabilitation. The definition of affordability, for this purpose, is left to the recipient and may take into consideration the availability of rental assistance.

Residential rehabilitation carried out on any other structure which is located in a slum or blighted area and which is considered substandard by local definition, will be considered to prevent or eliminate slums or blight. At a minimum, the local definition must recognize any structure as substandard which does not meet Section 8 Existing housing quality standards. Under this standard, such substandard housing units can also receive CDBG assistance for general improvements provided that all deficiencies making the unit substandard are also corrected.

Finally, as before, residential rehabilitation benefiting higher income households carried out in non-blighted areas of the community, where such assistance is limited to correction of specific deficiencies detrimental to public health and safety, will also be considered to prevent or eliminate slums or blight.

In combination, these standards generally include residential rehabilitation assistance under almost the same circumstances as was authorized under current regulations. The principal exceptions are that units not qualifying as lower income, but located in an area to be upgraded, are now included only if the units are located in an area determined to be slum or blighted and if they are substandard pursuant to a local definition. Also, general improvements to such units would be included only if

all deficiencies rendering the units as substandard are also being corrected. These restrictions are considered necessary to minimize the possibility that block grant expenditures made under this objective will not actually be addressing the national objective of slums and blight prevention or elimination.

Area Benefit Activities

A new provision concerning area benefit activities specifies that activities of the same type serving different areas will be considered separately for purposes of determining compliance with the primary objectives. For example, funds might be used to make improvements to three neighborhood parks, each serving a different area. In determining whether such activities meet one of the national objectives, the area served by each park will be considered separately. Thus, improvements to an individual park which does not meet any one of the national objectives would not be in accordance with the primary objectives, even though a majority of park improvement activities in all locations met one or more of the national objectives.

Transition Provision

It is expected that, at the time the standards in this section become effective, some activities approved by HUD prior to 1982 will not yet be completed. Some of those activities may not be covered under the standards in this section. Furthermore, most entitlement grantees will already have begun obligation or expenditure of funds from their 1982 grants prior to the effective date of this section. A provision has therefore been included in this section to clarify how the provisions of current § 570.302(d), (e) and (f) will be used in reviewing such activities so as to mitigate potential adverse effects of the abrupt deletion of these subsections and the implementation of the standards in this section.

Other Information

This rule implements those changes in the CDBG program authorized by the HCD Act of 1980 and the HCD Amendments of 1981 and also includes revised provisions which provide greater flexibility to grantees. Fiscal Year 1982 funds are being provided to grantees in accordance with the HCD Act as amended. However, many Entitlement grantees will soon need to begin working on their new HAPs which must be approved by HUD in order for the grantees to receive Fiscal Year 1983 funds. Since these regulations include important changes in the HAP requirements, as well as in the provisions concerning the program's broad national objectives and eligible activities, the Secretary has determined that notice and prior public comment are impracticable and contrary to the public interest and that good cause exists for making this rule effective as soon after publication as possible. However, public comments are invited and will be considered in the adoption of a final rule.

The Secretary also has determined that, for the reasons stated above, good cause exists for exempting this interim rule from the 30-day delay in effectiveness provided by the Administrative Procedure Act (5 U.S.C. 553(d)). However, section 7(o)(3) of the Department of HUD Act (42 U.S.C. 3535(o)(3)) provides for a delay in effectiveness for a period of 30 calendar days of continuous session of Congress after publication, unless waived by the Chairmen and Ranking Minority Members of the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs. The Secretary has requested such waivers by the Chairmen and Ranking Minority Members but, at the time of publication of this interim rule, it is not known whether or when such waivers will be granted. Under section 7(o)(5) of the Department of HUD Act, "Congressional inaction on any rule or regulation shall not be deemed an expression of approval of the rule or regulation involved." The foregoing provision refers to inaction on a joint resolution of disapproval or other legislation which is intended to modify or invalidate the rule or regulation or any portion thereof, and the principle that such inaction does not imply Congressional approval applies, *a fortiori*, to a waiver of the nature requested by the Secretary.

Under any circumstances, further notice of the effective date of this interim rule will be published in the **Federal Register**.

A Finding of No Significant Impact with respect to the environment is being made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10278, 451 Seventh Street, S.W., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulations. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule is being developed in a manner that deregulates many provisions in prior regulations which established administrative requirements that exceed statutory requirements. The program provides ample funds to cover expenditures connected with the administrative costs of the program. These Subparts are applicable primarily to Entitlement communities that, by definition, are not small entities. Portions of this regulation, particularly Subpart C—Eligible Activities, are applicable to those small cities located in those few States that have not yet chosen to operate their own small cities program. There are only a few minor provisions in Subpart C which establish special administrative requirements. Therefore, pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on August 17, 1981 (46 FR 41708), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The programs affected by this rule and their program numbers in the Catalog of Federal Domestic Assistance are as follows:

Community Development Block Grant Entitlement—14.218;
Community Development Block Grant Small Cities—14.219;
Urban Development Action Grant—14.221;
Secretary's Discretionary Fund/Territories Program—14.225;
Secretary's Discretionary Fund/Community Development Technical Assistance Grants—14.227; and
Community Development Block Grants/State's Program—14.228 (only as specified).

OMB Control Number

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511),

the reporting or recordkeeping provisions that are included in this regulation have been or will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained and the public notified to that effect through a technical amendment to this regulation.

List of Subjects in 24 CFR Part 570

Community development block grants, Grant programs: housing and community development, Loan programs: housing and community development, Low and moderate income housing, New communities, Pockets of poverty, Small cities.

Accordingly, the Department amends 24 CFR Part 570 as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The Authority for Part 570 is revised to read as follows:

Authority: Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et seq.)* and Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d).

1a. The Table of Contents to Subparts A, B, C, D, K, M and O of 24 CFR Part 570 is amended as follows:

Subpart A—General Provisions

Sec.
570.1 Purpose.
570.2 Primary objective.
570.3 Definitions.
570.4 Allocation and distribution of funds.
570.5 Waivers.

Subpart B—[Reserved]

Subpart C—Eligible Activities

570.200 General policies.
570.201 Basic eligible activities.
570.202 Eligible rehabilitation and preservation activities.
570.203 Special economic development activities.
570.204 Special activities by subrecipients.
570.205 Eligible planning and policy—planning—management—capacity building activities.
570.206 Eligible administrative costs.
570.207 Ineligible activities.

Subpart D—Entitlement Grants.

570.300 General.
570.301 Presubmission requirements.
570.302 Submission requirements.
570.303 Certifications.
570.304 Making of grants.
570.305 [Reserved.]
570.306 Housing assistance plan.
570.307 Urban counties.
570.308 Joint requests.
* * * * *

Subpart K—Other Program Requirements

570.600 General.
570.601 Public Law 88–352 and Public Law 90–284; and Executive Order 11063.
570.602 Section 109 of the Act.
570.603 Labor standards.
570.604 Environmental standards.
570.605 National Flood Insurance Program.
570.606 Relocation and acquisition.
570.607 Employment and contracting opportunities.
570.608 Lead-based paint.
570.609 Use of debarred, suspended, or ineligible contractors or subrecipients.
570.610 Uniform administrative requirements and cost principles.
570.611 Conflict of interest.
* * * * *

Subpart M—Loan Guarantees

570.700 Eligible applicants.
570.701 Eligible activities.
570.702 Application requirements.
570.703 Loan requirements.
570.704 Federal guarantee.
570.705 Applicability of rules and regulations.
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Subpart O—Program Management

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570.901 Review for compliance with primary objectives.
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2. Subpart A of Part 570 is revised to read as follows:

Subpart A—General Provisions

§ 570.1 Purpose.

(a) This Part describes policies and procedures applicable to the following programs authorized under Title I of the Housing and Community Development Act of 1974, as amended:

(1) Entitlement grants program (Subpart D);

(2) Small Cities program: HUD-administered CDBG nonentitlement funds (Subpart F);

(3) State's program: State-administered CDBG nonentitlement funds (Subpart I);

(4) Secretary's Fund program (Subpart E);

(5) Urban Development Action Grant program (Subpart G); and

(6) Loan Guarantees (Subpart M).

(b) Subparts A, C, J, K and O apply to all of the above programs administered by HUD but do not apply to the State's Program (Subpart I) except to the extent expressly referred to (as, for example, in § 570.4). (Until Subparts J, K and O are amended to more completely reflect the Housing and Community Development Amendments of 1981, they should be read as applying to the Entitlement grants program in a manner which recognizes the deletion of the application requirements for grants made in Federal Fiscal Year 1982 and thereafter.)

§ 570.2 Primary objective.

The primary objective of Title I of the Housing and Community Development Act of 1974, as amended, is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income.

§ 570.3 Definitions.

(a) "Act" means Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et seq.*).

(b) "Age of housing" means the number of existing year-around housing units constructed in 1939 or earlier, based on data compiled by the United States Bureau of the Census referable to the same point or period of time, available from the latest decennial census except that the 1980 census data will not be used until Fiscal Year 1984.

(c) "Applicant" means a State, unit of general local government, or Indian tribe which makes application pursuant to the provisions of Subpart E, F, G or M.

(d) "Chief Executive Officer" of a State or unit of local government means the elected official, or the legally designated official, who has the primary responsibility for the conduct of that entity's governmental affairs. Examples of the "chief executive officer" of a unit of local government are: the elected mayor of a municipality; the elected county executive of a county; the chairman of a county commission or board in a county that has no elected county executive; the official designated pursuant to law by the governing body of the unit of general local government;

(e) "City" means, for purposes of Entitlement grant and Urban Development Action Grant eligibility, (1) any, unit of general local government which is classified as a municipality by the United States Bureau of the Census or (2) any other unit of general local government which is a town or township and which, in the determination of the Secretary (i) possesses powers and performs functions comparable to those associated with municipalities; (ii) is closely settled (except that the Secretary may reduce or waive this requirement on a case by case basis for the purposes of the Action Grant program); and (iii) contains within its boundaries no incorporated places as defined by the United States Bureau of the Census, which have not entered into cooperation agreements with such town or township for a period covering at least 3 year to undertake or to assist in the undertaking of essential community development

and housing assistance activities. The determination of eligibility of a town or township to qualify as a city will be based on information available from the U.S. Bureau of the Census and information provided by the town or township and its included units of general local government. For purposes of urban development action grant eligibility only, "city" includes Guam, the Virgin Islands, and Indian tribes which are eligible recipients under the State and Local Government Fiscal Assistance Act of 1972 and located on reservations or in Alaskan Native Villages.

(f) "Discretionary grant" means a grant made from the Secretary's Fund in accordance with Subpart E.

(g) "Entitlement amount" means the amount of funds which a metropolitan city or urban county is entitled to receive under the Entitlement grant program, as determined by formula set forth in section 106 of the Act.

(h) "Extent of growth lag" means the number of persons who would have been residents in a metropolitan city or urban county, in excess of the current population of such metropolitan city or urban county, if such metropolitan city or urban county had a population growth rate, between 1960 and the date of the most recent population count available from the United States Bureau of the Census referable to the same point or period in time, equal to the population growth rate for such period of all metropolitan cities.

(i) "Extent of housing overcrowding" means the number of housing units with 1.01 or more persons per room as based on data compiled and published by the United States Bureau of the Census available from the latest census referable to the same point or period in time, except that 1980 census data will not be used until Fiscal Year 1984.

(j) "Extent of poverty" means the number of persons whose incomes are below the poverty level based on data compiled and published by the United States Bureau of the Census available from the latest census referable to the same point or period in time and the latest reports from the Office of Management and Budget. For purposes of this Part, the Secretary has determined that it is neither feasible nor appropriate to make adjustments at this time in the computations of "extent of poverty" for regional or area variations in income and cost of living.

(k) "HUD" means the Department of Housing and Urban Development.

(l) "Identifiable segment of the total group of lower income persons in the community" means female-headed households, and members of a minority group which includes Black, American Indian/Alaskan Native, Hispanic, Asian/Pacific Islander, and other groups normally identified by race, color, or national origin.

(m) "Indian tribe" means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaska Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638) or under the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92–512).

(n) "Low and moderate income families" or "lower income families" means families whose income do not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(o) "Low and moderate income person" or "lower income person" means members of a family or unrelated individuals whose incomes are within the income limits as defined in § 570.3(n).

(p) "Metropolitan area" means a metropolitan statistical area, as established by the Office of Management and Budget. An area which was classified as a metropolitan area under criteria in effect as of December 31, 1979 shall continue to be so classified through Fiscal Year 1983 if it continues to meet such criteria.

(q) "Metropolitan city" means (1) a city, within a metropolitan area, which is a central city of such area, as defined and used by the Office of Management and Budget (any such city which was classified as a central city as of December 31, 1979, shall continue to be so classified through Fiscal Year 1983), or (2) any other city, within a metropolitan area, which has a population of fifty thousand or more. Any city which had been classified as a metropolitan city because it has a population of a least fifty thousand will continue to be so classified through Fiscal Year 1982.

(r) "Nonentitlement amount" means the amount of funds which is allocated for use in a State's nonentitlement area as determined by formula set forth in section 106 of the Act.

(s) "Nonentitlement area" means an area which is not a metropolitan city or not included as part of an urban county.

(t) "Population" means the total resident population based on data compiled and published by the United States Bureau of the Census available from the latest census, or which has been upgraded by the Bureau to reflect the changes resulting from the Boundary and Annexation Survey, new incorporations, and consolidations of governments pursuant to § 570.4, and which reflects, where applicable, changes resulting from the Bureau's latest population determination through its estimating technique using natural changes (birth and death) and net migration, and is referable to the same point or period in time.

(u) "Secretary" means the Secretary of Housing and Urban Development.

(v) "State" means any State of the United States, or any instrumentality thereof approved by the Governor; and the Commonwealth of Puerto Rico.

(w) "Unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions recognized by the Secretary; the District of Columbia; and the Trust Territory of the Pacific Islands. Such term also includes a State or a local public body or agency (as defined in section 711 of the Housing and Community Development Act of 1970), a community association, or other entity, which is approved by the Secretary for the purpose of providing public facilities or services to a new community as part of a program meeting the eligibility standards of section 712 of the Housing and Community Development Act of 1970 or Title IV of the Housing and Urban Development Act of 1968.

(x) "Urban county" means any county within a metropolitan area which has qualified for a three year period, pursuant to § 570.307, and which, at the time of qualification, is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, if any, which are not units of general local government, and (1) has a combined population of two hundred thousand or more (excluding the population of metropolitan cities and Indian tribes therein) in such unincorporated areas and in its included units of general local government, (i) in which it has authority to undertake essential community development and housing assistance activities and which do not elect to have their population excluded or (ii) with which it has entered into cooperation

agreements to undertake or to assist in the undertaking of essential community development and housing activities, or (2) has population in excess of one hundred thousand, a population density of five thousand persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of the Census. Any urban county (i) which qualified as an urban county in Fiscal Year 1981, (ii) the population of which includes all of the population of the county (other than the population of metropolitan cities therein), and (iii) the population of which for Fiscal Year 1982 falls below the amount required by paragraph (x)(2)(ii) of this section by reason of the 1980 decennial census shall be considered as meeting the population requirements of such clause for Fiscal Year 1982 and shall not be subject to the provisions of § 570.307 in that fiscal year.

(y) "Urban Development Action Grant" (UDAG) means a grant made by the Secretary pursuant to section 119 of the Act and Subpart G of this Part.

§ 570.4 Allocation and distribution of funds.

(a) The determination of eligibility of units of general local government to receive entitlement grants, the entitlement amounts, the allocation of appropriated funds to States for use in nonentitlement areas, and the allocation of appropriated funds for discretionary grants under the Secretary's Fund shall be governed by the policies and procedures described in sections 106 and 107 of the Act, as supplemented in this section.

(b) The definitions in § 570.3 shall govern in applying the policies and procedures described in sections 106 and 107 of the Act.

(c) In determining eligibility for entitlement and in allocating funds under sections 106 of the Act for any Federal Fiscal Year, the Department will recognize corporate status and geographical boundaries and the status of metropolitan areas and central cities effective as of July 1 preceding such Federal Fiscal Year, subject to the following limitations:

(1) With respect to corporate status, as certified by the applicable State and available for processing by the Census Bureau as of such date;

(2) With respect to boundary changes or annexations, as accepted for use by the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date, except that any such boundary changes or annexations which result in the population of a unit of general local government reaching or exceeding 50,000 shall be recognized for this purpose whether or not such changes are accepted for use by the ORS; and,

(3) With respect to the status of Metropolitan Statistical Areas and central cities, as officially designated by the Office of Management and Budget as of such date.

(d) In determining whether a county qualifies as an urban county, and in computing Entitlement amounts for urban counties, the demographic values of population, proverty, housing overcrowding, and age of housing of any Indian tribes located within the county shall be excluded. In allocating amounts to States for use in nonentitlement areas, the demographic values of population, poverty, housing overcrowding, and age of housing of all Indian tribes located in nonentitled areas shall be excluded. It is recognized that all such data on Indian tribes is not generally available from the United States Bureau of the Census and that missing portions of data will have to be estimated. In accomplishing any such estimates the Secretary may use such other related information available from reputable sources as may seem appropriate, regardless of the data's point or period of time and shall use the best judgement possible in adjusting such data to reflect the same point or period of time as the overall data from which the Indian tribes are being deducted, so that such deductions shall not create an imbalances with that overall data.

(e) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.512, Grant closeouts, shall be considered as funds available for reallocation.

§ 570.5 Waivers.

The Secretary may waive any requirement of this Part not required by law whenever it is determined that undue hardship will result from applying the requirement or where application of the requirement would adversely affect the purposes of the Act.

3. Subpart B of Part 570 is removed and is being reserved for future use.

Subpart B—[Reserved]

4. Subpart C of Part 570 is revised to read as follows:

Subpart C—Eligible Activities

§ 570.200 General policies.

(a) *Determination of eligibility.* An activity may be financed in whole or in part with Community Development Block Grant (CDBG) funds only if all of the following requirements are met:

(1) *Compliance with section 105 of the Act.* Each activity must meet the eligibility requirements of section 105 of the Act as further defined in this Subpart.

(2) *Compliance with primary objectives.* The Act establishes as its primary objective the development of viable urban communities, including decent housing and a suitable living environment, and expanding economic opportunity, principally for persons of low and moderate income. For grant recipients under the Entitlement and HUD-administered Small Cities programs, this overall objective is achieved through a program where the projected use of funds has been developed so as to give maximum feasible priority to activities which will carry out one of the three broad national objectives of benefit to low and moderate income families or aid in the prevention or elimination of slums or blight; the projected use of funds may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs. The choice of eligible activities on which block grant funds are to be expended represents the recipient's determination as to which approach or approaches will best serve these primary objectives. Consistent with the foregoing, each recipient under the Entitlement and HUD-administered Small Cities programs must ensure, and maintain evidence, that each of its CDBG funded activities meets one of the broad national objectives as contained in its certification.

(3) *Compliance with environmental review procedures.* The environmental review and clearance procedures set forth at 24 CFR Part 58 must be completed for each activity (or project), as applicable.

(4) *Other requirements.* Each activity must comply with all requirements of this Part as they may apply under Subparts D, E, F, and G.

(b) *Special policies governing facilities.* The following special policies apply to:

(1) *Facilities containing both eligible and ineligible uses.* A public facility otherwise eligible for assistance under the CDBG program may be provided with program funds even if it is part of a

multiple-use building containing ineligible uses, if:

(i) The facility which is otherwise eligible and proposed for assistance will occupy a designated and discrete area within the larger facility; and

(ii) The recipient can determine the cost attributable to the facility proposed for assistance as separate and distinct from the overall costs of the multiple-use building and/or facility.

Allowable cost are limited to those attributable to the eligible portion of the building or facility.

(2) *Fees for use of facilities.* Reasonable fees may be charged for the use of the facilities assisted with CDBG funds, but charges, such as excessive membership fees, which will have the effect of precluding low and moderate income persons from using the facilities are not permitted.

(c) *Special assessments under the CDBG program.* The following policies relate to the use of special assessments under the CDBG program:

(1) *Definition of special assessment.* The term "special assessment" means a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of public facility improvement, such as streets, curbs, and gutters. The amount of the fee represents the pro rata share of the capital costs of the public improvement levied against the benefiting properties. This term does not relate to taxes, or the establishment of the value of real estate for the purpose of levying real estate, property, or ad valorem taxes.

(2) *Special assessments to recover capital costs.* There can be no special assessment to recover that portion of a capital expenditure funded with CDBG funds. Recipients may, however, levy assessments to recover the portion of a capital expenditure funded from other sources. Funds collected through such special assessments are not program income.

(3) *Other uses of CDBG funds for special assessments.* Program funds may be used to pay all or part of special assessments levied against properties owned and occupied by low and moderate income persons when such assessments are used to recover that portion of the capital cost of public improvements financed from sources other than community development block grants, provided that:

(i) the assessment represent that property's share of the capital cost of the eligible facility or improvement; and

(ii) the installation of the public facilities and improvements was carried out in compliance with requirements applicable to activities assisted under this Part.

(d) *Consultant activities.* Consulting services are eligible for assistance under this Part for professional assistance in program planning, development of community development objectives, and other general professional guidance relating to program execution. The use of consultants is governed by the following:

(1) *Employer-employee type of relationship.* No person providing consultant services in an employer-employee type of relationship shall receive more than a reasonable rate of compensation for personal services paid with CDBG funds. In no event, however, shall such compensation exceed the minimum daily rate of compensation for a GS–18 as established by Federal law. Such services shall be evidenced by written agreements between the parties which detail the responsibilities, standards, and compensation.

(2) *Independent contractor relationship.* Consultant services provided under an independent contractor relationship are governed by the Procurement Standards of Attachment O of OMB Circular No. A–102 and are not subject to the GS–18 limitation.

(e) *Recipient determinations required as a condition of eligibility.* In several instances under this Subpart, the eligibility of an activity depends on a special local determination. Recipients shall maintain documentation of all such determinations. A written determination is required for any activity carried out under the authority of §§ 570.201(c)(1), 570.201(f), 570.202(b)(3), 570.203, 570.204, and 570.206(f). A written determination is also required for certain relocation costs under § 570.201(i).

(f) *Means of carrying out eligible activities.* Activities eligible under this Subpart may be undertaken, subject to local law, either:

(1) directly by the recipient's employees;

(2) by public agencies, including local public agencies and public housing authorities, designated pursuant to § 570.500;

(3) through procurement contracts with any public or private entity, whether profit or nonprofit, in accordance with the provisions of Attachment O of OMB Circular A–102; or

(4) through grant agreements between the recipient and subrecipients, including, but not limited to, the subrecipients described in § 570.204(c).

(g) *Limitation on planning and administrative costs.* The amount of funds that may be expended for planning and administrative costs, as defined in § 570.205 and § 570.206, which are allocable to each annual grant, shall not exceed 20 percent of the amount of such grant.

(h) *Reimbursement for pre-agreement costs.* Prior to the effective date of the grant agreement, a recipient may obligate and spend local funds for the purpose of environmental assessments required by 24 CFR Part 58, for the planning and capacity building purposes authorized by § 570.205(b), for engineering and design costs associated with an activity eligible under § 570.201 through § 570.204, for the provision of information and other resources to residents pursuant to § 570.206(b), and for relocation and/or acquisition activities carried out pursuant to § 570.606. After the effective date of the grant agreement, the recipient may be reimbursed with funds from its grant to cover those costs, provided such locally funded activities were undertaken in compliance with the requirements of this Part and 24 CFR Part 58.

(i) *Urban Development Action Grant.* Grant assistance may be provided with Urban Development Action Grant funds, subject to the provisions of Subpart G, for:

(1) Activities eligible for assistance under this Subpart; and

(2) Notwithstanding the provisions of § 570.207, such other activities as the Secretary may determine to be consistent with the purposes of the Urban Development Action Grant program.

§ 570.201 Basic eligible activities.

Grant assistance may be used for the following activities:

(a) *Acquisition.* Acquisition in whole or in part by a public agency or private nonprofit entity, by purchase, lease, donation, or otherwise, of real property (including air rights, water rights, rights-of-way, easements, and other interests therein) for any public purpose, subject to the limitations of § 570.207(a).

(b) *Disposition.* Disposition, through sale, lease, donation, or otherwise, of any real property acquired with CDBG funds or its retention for public purposes, including reasonable costs of temporarily managing such property or property acquired under urban renewal, provided that the proceeds from any such disposition shall be program income subject to the requirements set forth in § 570.506.

(c) *Public facilities and improvements.* Acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, except as

provided in § 570.207(a), carried out by the recipient of other public or private nonprofit entities. In undertaking such activities, design features and improvements which promote energy efficiency may be included. Such activities may also include the execution of architectural design features, and similar treatments intended to enhance the aesthetic quality of facilities and improvements receiving CDBG assistance, such as decorative pavements, railings, sculptures, pools of water and fountains, and other works of art. Nonprofit entities and subrecipients as specified in § 570.204 may acquire title to public facilities such as senior centers, centers for the handicapped, or neighborhood facilities. When such facilities are owned by nonprofit entities or subrecipients, they shall be operated so as to be open for use by the general public during all normal hours of operation. Public facilities and improvements eligible for assistance under this paragraph are subject to the policies of § 570.200(c) and the restrictions specified below.

(1) Parks, playgrounds, and recreational facilities established as a result of reclamation and other construction activities carried out in connection with a river and adjacent land, and flood and drainage facilities are eligible only where assistance has been determined to be unavailable under other Federal laws or programs. No CDBG funds may be obligated or expended for activities specified in this subparagraph until the recipient has complied with the following requirements:

(i) An application or written request has been made to the Federal agency that customarily funds the proposed activity within the recipient's jurisdiction; and

(ii) The application or request has been rejected, or the recipient has been advised that funds will not be made available for at least 90 days after the date of application or request, or there has been no response from the Federal agency after 45 days from the date of the application or request.

(2) The following facilities are eligible only when located in or serving areas where other community development activities have been or are being carried out:

(i) Parking facilities,

(ii) Fire protection facilities and equipment, and

(iii) Solid waste disposal, recycling or conversion facilities.

(d) *Clearance activities.* Clearance, demolition, and removal of buildings and improvements, including movement of structures to other sites. Demolition of HUD assisted housing units may be undertaken only with the prior approval of HUD.

(e) *Public services.* (Effective date: This paragraph is effective as of the beginning of the recipient's program funded from Federal Fiscal Year 1982 and subsequent appropriations.) Provision of public services (including labor, supplies, and materials) which are directed toward improving the community's public services and facilities, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare, or recreational needs. In order to be eligible for CDBG assistance, public services must meet each of the following criteria:

(1) A public service must be either (i) a new service, or (ii) a quantifiable increase in the level of a service above that which has been provided by or in behalf of the unit of general local government (through funds raised by such unit, or received by such unit from the State in which it is located) in the twelve calendar months prior to the submission of the statement. (An exception to this requirement may be made if HUD determines that the decrease in the level of a service was the result of events not within the control of the unit of general local government.)

(2) In each program year, the amount of funds obligated for public services, including services provided by subrecipients under § 570.204, shall not exceed 10 percent of the grant made to the recipient for that program year, except as provided in paragraph (e)(3) of this section.

(3) A recipient which allocated more than 10 percent of its grant for public services in its program funded from Federal Fiscal Year 1981 appropriations, may obligate more than 10 percent of its grant for public services in each of its program years funded from Federal Fiscal Years 1982, 1983, or 1984 appropriations so long as the amount obligated in any such program year does not exceed the amount allocated in Fiscal Year 1981. For the purposes of this provision, the Fiscal Year 1981 allocation is the amount specified for public service activities in the Cost Summary applicable to the program funded from Fiscal Year 1981 appropriations, as of October 1, 1981.

(f) *Interim assistance.* (1) The following activities may be undertaken on an interim basis in areas exhibiting objectively determinable signs of physical deterioration where the recipient has determined that immediate action is necessary to arrest the deterioration and that permanent improvements will be carried out as soon as practicable:

(i) The repairing of streets, sidewalks, parks, playgrounds, publicly owned utilities, and public buildings; and

(ii) The execution of special garbage, trash, and debris removal, including neighborhood cleanup campaigns, but not the regular curbside collection of garbage or trash in an area.

(2) In order to alleviate emergency conditions threatening the public health and safety in areas where the chief executive officer of the recipient determines that such an emergency condition exists and requires immediate resolution, CDBG funds may be used for:

(i) the activities specified in subparagraph (1) above, except for the repair of parks and playgrounds;

(ii) for the clearance of streets, including snow removal and similar activities, and

(iii) the improvement of private properties.

All activities authorized under this subparagraph are limited to the extent necessary to alleviate emergency conditions.

(g) *Payment of the non-Federal share* required in connection with a Federal grant-in-aid program undertaken as part of CDBG activities, provided, that such payment shall be limited to activities otherwise eligible under this Subpart.

(h) *Urban renewal completion.* Payment of the cost of completing an urban renewal project funded under Title I of the Housing Act of 1949 as amended. Further information regarding the eligibility of such costs is set forth in § 570.801.

(i) *Relocation.* Relocation payments and assistance for permanently or temporarily displaced individuals, families, businesses, nonprofit organizations, and farm operations where: (1) Required under the provisions of § 570.606(a); and(2) relocation payments and assistance are determined by the recipient to be appropriate as provided in § 570.60d(b).

(j) *Loss of rental income.* Payments to housing owners for losses of rental income incurred in holding, for temporary periods, housing units to be utilized for the relocation of individuals, and families displaced by program activities assisted under this Part.

(k) *Removal of architectural barriers.* Special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly or handicapped persons to publicly owned and privately owned buildings, facilities, and improvements. Further information

regarding the removal of architectural barriers is available in the current publication of the American National Standards Institute, Inc., ANSI A117.1.

(l) *Privately owned utilities.* CDBG funds may be used to acquire, construct, reconstruct, rehabilitate, or install the distribution lines and facilities of privately owned utilities, including the placing underground of new or existing distribution facilities and lines.

§ 570.202 Eligible rehabilitation and preservation activities.

(a) *Types of buildings and improvements eligible for rehabilitation assistance.* CDBG funds may be used to finance the rehabilitation of:

(1) Privately owned buildings and improvements;

(2) Low income public housing and other publicly owned residential buildings and improvements; and

(3) Publicly owned nonresidential buildings and improvements otherwise eligible for assistance.

Specific information on historic properties is included in paragraph (d) of this section.

(b) *Types of assistance.* CDBG funds may be used to finance the following types of rehabilitation activities, and related costs, either singly, or in combination, through the use of grants, loans, loan guarantees, interest supplements, or other means for buildings and improvements described in paragraph (a) of this section:

(1) Assistance to private individuals and entities, including profit making and nonprofit organizations, to acquire for the purpose of rehabilitation, and to rehabilitate properties for use or resale for residential purposes;

(2) Labor, materials, and other costs of rehabilitation of properties, including repair directed toward an accumulation of deferred maintenance, replacement of principal fixtures and components of existing structures, installation of security devices, and renovation through alterations, additions to, or enhancement of existing structures, which may be undertaken singly, or in combination;

(3) Loans for refinancing existing indebtedness secured by a property being rehabilitated if such financing is necessary or appropriate to achieve the recipient's community development objectives;

(4) Improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, siding, wall and attic insulation, and conversion, modification, or replacement of heating and cooling equipment, including the use of solar energy equipment;

(5) Improvements to increase the efficient use of water through such means as water saving faucets and shower heads and repair of water leaks;

(6) Financing of costs associated with the connection of residential structures to water distribution lines or local sewer collection lines;

(7) Costs of initial homeowner warranty premiums for rehabilitation carried out with CDBG funds;

(8) Costs of tools to be lent to owners, tenants, and others who will use such tools to carry out rehabilitation; and

(9) Rehabilitation services, such as rehabilitation counseling, energy auditing, preparation of work specifications, loan processing, inspections, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in rehabilitation activities authorized under this section and under section 312 of the Housing Act of 1964, as amended.

(c) *Code enforcement.* Code enforcement in deteriorating or deteriorated areas where such enforcement together with public improvements, rehabilitation, and services to be provided, may be expected to arrest the decline of the area.

(d) *Historic preservation.* CDBG funds may be used for the rehabilitation, preservation, and restoration of historic properties, whether publicly or privately owned. Historic properties are those sites or structures that are either listed in or eligible to be listed in the National Register of Historic Places, listed in a State or local Inventory of Historic Places, or designated as a State or local landmark or historic district by appropriate law or ordinance.

(e) *Renovation of closed school buildings.* CDGB funds may be used to renovate closed school buildings for use as an eligible facility or to rehabilitate such buildings for housing.

§ 570.203 Special economic development activities.

A recipient may use CDGB funds for special economic development activities authorized under this section if it determines that such activities are necessary or appropriate to carry out an economic development project. Special economic development activities are permitted in addition to other activities authorized in this Subpart which may be carried out as part of an economic development project. Special activities authorized under this section do not include assistance for the construction of new housing, except where new housing is part of a predominantly commercial or industrial project. Special economic development activities include:

(a) The acquisition, construction, reconstruction, or installation of commercial or industrial buildings, structures, and other real property equipment and improvements, including railroad spurs or similar extensions. Such activities may be carried out by the recipient, private nonprofit entities, or private for profit businesses.

(b) The provision of assistance to private for profit businesses, including, but not limited to, grants, loans, loan guarantees, interest supplements, technical assistance, and other forms of support, for any other activity necessary or appropriate to carry out an economic development project, excluding those described as ineligible in § 570.207(a).

§ 570.204 Special activities by subrecipients.

(a) *Eligible activities.* The recipient may grant CDGB funds to any of the three types of subrecipients specified in paragraph (c) below, to carry out a neighborhood revitalization, community economic development, or energy conservation project. Such a project may include:

(1) activities listed as eligible under this Subpart; and

(2) activities not otherwise listed as eligible under this Subpart, except those described as ineligible in § 570.207(a), when the recipient determines that such activities are necessary or appropriate to achieve its community development objectives.

(b) *Recipient responsibilities.* Recipients under Subparts D, F, or G are responsible for ensuring that CDGB funds are utilized by subrecipients in a manner consistent with the requirements of this Part and other applicable Federal, State, or local law. Grantees are also responsible for carrying out the environmental review and clearance responsibilities.

(c) *Eligible subrecipients.* The following are subrecipients authorized to receive grants under this section.

(1) *Neighborhood-based nonprofit organizations.* A neighborhood-based nonprofit organization is an association or corporation, duly organized to promote and undertake community development activities on a not-for-profit basis within a neighborhood. An organization is considered to be neighborhood-based if the majority of either its membership, clientele, or governing body are residents of the neighborhood where activities assisted with CDGB funds are to be carried out. A neighborhood is defined as:

(i) A geographic location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation.

(ii) an entire unit of general local government which is under 25,000 population; or

(iii) A new community as defined in § 570.403(a).

(2) *Section 301(d) Small Business Investment Companies.* A section 301(d) Small Business Investment Company is an entity organized pursuant to section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)), including those which are profit making.

(3) *Local Development Corporations.* A local development corporation is:

(i) an entity organized pursuant to Title VII of the Headstart, Economic Opportunity, and Community Partnership Act of 1974 (42 U.S.C. 2981);

(ii) an entity eligible for assistance under section 502 or 503 of the Small Business Investment Act of 1958 (15 U.S.C. 696);

(iii) other entities incorporated under State or local law similar in purpose, function, and scope to those specified in (i) or (ii) above; or

(iv) a State development entity eligible for assistance under Section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695).

§ 570.205 Eligible planning and policy—planning—management—capacity building activities.

(a) Planning activities which consist of all costs of data gathering, studies, analysis, and preparation of plans and implementing actions, including, but not limited to:

(1) Comprehensive plans;

(2) Community development plans;

(3) Functional plans, in areas such as;

(i) Housing, including the development of a Housing Assistance Plan;

(ii) Land use;

(iii) Economic development;

(iv) Open space and recreation;

(v) Energy use and conservation;

(vi) Floodplain management in accordance with the requirements of Executive Orders 11988 and 11990;

(vii) Transportation;

(viii) Utilities; and

(ix) Historic preservation.

(4) Other plans and studies such as:

(i) Small area and neighborhood plans;

(ii) Capital improvements programs;

(iii) Individual project plans (but excluding engineering and design costs related to a specific activity which are eligible as part of the cost of such activity under §§ 570.201–570.204);

(iv) The reasonable costs of environmental studies, including historic preservation clearances, necessary to comply with 24 CFR Part 58, including project specific environmental assessments and clearances for activities eligible for assistance under this Part.

(v) Strategies and action programs to implement plans, including development of codes, ordinances and regulations necessary to implement such plans; and

(vi) Support of clearinghouse functions.

(b) *Policy—planning—management—capacity building activities* which will enable the recipient to:

(1) determine its needs;

(2) set long-term goals and short-term objectives, including those related to environmental design;

(3) devise programs and activities to meet these goals and objectives;

(4) evaluate the progress of such programs and activities in accomplishing these goals and objectives;

(5) carry out management, coordination and monitoring of activities necessary for effective planning implementation.

§ 570.206 Eligible administrative costs.

Payment of reasonable administrative costs and carrying charges related to the planning and execution of community development activities financed in whole or in part with funds provided under this Part and housing activities covered in the recipient's Housing Assistance Plan (HAP). Costs incurred in carrying out the program, whether charged to the program on a direct or an indirect basis, must be in conformance with the requirements of OMB Circular A–87, "Cost Principles Applicable to Grants and Contracts with State and Local Governments." All items of cost listed in Attachment B, Section C of that Circular, are allowable without prior approval to the extent they constitute reasonable costs and are otherwise eligible under this Subpart. However, preagreement costs (item 6 of Section C) are limited to those costs described at § 570.200(h).

(a) *General management, oversight, and coordination.* Reasonable costs of overall program management, coordination, monitoring, and evaluation, and similar costs associated with management of multi-activity projects, but excluding activity delivery costs which are eligible as part of the cost of carrying out the activity under § 570.201 through § 570.204. Such costs include, but are not limited to, necessary expenditures for the following:

(1) Salaries, wages, and related costs of the recipient's staff, the staff of local public agencies, or other staff engaged in general management, coordination, monitoring, and evaluation;

(2) Travel costs incurred for official business in carrying out the program;

(3) Administrative services performed under third party contracts or agreements, including such services as general legal services, accounting services, and audit services; and

(4) Other costs for goods and services required for administration of the program, including such goods and services as rental and maintenance of office space, insurance, utilities, office supplies, and rental or purchase of office equipment.

(b) *The provision of information and other resources to residents* and citizen organizations participating in the planning, implementation, or assessment of activities being carried out with CDBG funds.

(c) *Provision of fair housing counseling services* and other activities designed to further the fair housing objectives of Title VIII of the Civil Rights Act of 1968 and the housing objective of promoting greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of lower income persons.

(d) *Provision of assistance to facilitate performance and payment bonding* necessary for contractors carrying out activities assisted with CDBG funds including payment of bond premiums on behalf of contractors.

(e) *Administrative costs of urban homesteading program.* Reasonable costs relating to the administration of an urban homesteading program carried out under section 810 of the Housing and Community Development Act of 1974, as amended.

(f) *Submissions or applications for Federal programs.* Preparation of documents required for submission to HUD or States to receive funds under the CDBG and UDAG programs. In addition, CDBG funds may be used to prepare applications for other Federal programs where the recipient determines that such activities are necessary or appropriate to achieve its community development objectives.

(g) *Housing pre-construction costs.* Generally, the construction of new housing or direct financing of new housing is not an eligible use of CDBG funds, except as described in § 570.207(b)(3). However, CDBG funds may be used to pay necessary expenses,

prior to construction, in planning and obtaining financing for the new construction of housing for lower income persons. Activities may include:

(1) The cost of conducting preliminary surveys and analysis of market needs;

(2) Site and utility plans, narrative descriptions of the proposed construction, preliminary cost estimates, urban design documentation, and "sketch drawings," but excluding architectural, engineering, and other details ordinarily required for construction pruposes, such as structural, electrical, plumbing, and mechanical details;

(3) Reasonable cost associated with development of applications for mortgage and insured loan commitments, including commitment fees, and of applications and proposals under the Section 8 Housing Assistance Payments Program pursuant to 24 CFR Part 880–883; and

(4) Fees associated with processing of applications for mortgage or insured loan commitments under programs including those administered by HUD, Farmers Home Administration (FmHA), Federal National Mortgage Association (FNMA), and the Government National Mortgage Association (GNMA).

(5) The cost of issuance of mortgage revenue bonds used to finance the construction of new housing for lower income persons, but excluding cost associated with the payment or gurantee of the principal or interest on such bonds.

§ 570.207 Ineligible activities.

The general rule is that any activity that is not authorized under the provisions of §§ 570.201–570.206 of this Subpart is ineligible to be carried out with CDBG funds. This section identifies two specific activities that are ineligible and provides guidance thought to be necessary in determining the eligibility of several other activities frequently associated with housing and comunity development.

(a) The following activities may not be carried out using CDBG funds:

(1) Buildings, or portions thereof used predominantly for the general conduct of government cannot be assisted with CDBG funds. Such buildings include, but are not limited to, city halls and other headquarters of government where the governing body of the recipient meets regularly, courthouses, jails, police stations, and other State or local government office buildings. This does not exclude, however, the removal of architectural barriers under § 570.201(k) and historic preservation under § 570.202(d) involving any such building. Also, where acquisition of real property includes an existing improvement which is to be utilized in the provision of a building or facility for the general conduct of government the portion of the acquisition cost attributable to the land is eligible.

(2) *General government expenses.* Except as otherwise specifically authorized in this Subpart or under OMB Circular A–87, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this Part.

(3) *Political activities.* CDBG funds shall not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registraion. However, a facility originally financed in whole or in part with CDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis, and are assessed equal rent or use charges, if any.

(b) The following activities may not be carried out with CDBG funds unless authorized under provisions of § 570.203 or as otherwise specifically noted herein, or when carried out by a subrecipient under the provisions of § 570.204.

(1) *Purchase of equipment.* The purchase of equipment with CDGB funds is generally ineligible.

(i) *Construction equipment.* The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation, or use allowances pursuant to Attachment B of OMB Circular A–87 for an otherwise eligible activity is an eligible use of CDGB funds. However, the purchase of construction equipment for use as part of a solid waste disposal facility is eligible under § 570.201(c)(2).

(ii) *Furnishings and personal property.* The purchase of equipment, fixtures, motor vehicles, furnishings, or other personalty not an integral structural fixture is ineligible, except when necessary for use by a recipient or its subrecipients in the administration of activities assisted with CDBG funds, or when eligible as fire fighting equipment, or as part of a public service pursuant to § 570.201(e).

(2) *Operating and maintenance expenses.* The general rule is that any expense associated with repairing, operating or maintaining public facilities and services is ineligible. Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG program. For example, where a public service is being assisted with CDBG funds, the cost of operating and maintaining that portion of the facility in which the service is located is eligible as part of the public service. Examples of ineligible operating and maintenance expenses are:

(i) Maintenance and repair of streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for the handicapped, parking and similar public facilities. Examples of maintenance and repair activities for which CDBG funds may not be used include the filling of pot holes in streets, repairing of cracks in sidewalks, the mowing of recreational areas, and the replacement of expended street light bulbs.

(ii) Payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities.

(3) *New housing construction.* Assistance may not be used for the construction of new permanent residential structures or for any program to subsidize or finance such new construction, except:

(i) As provided under the last resort housing provisions set forth in 24 CFR Part 42; or,

(ii) When carried out by a subrecipient pursuant to § 570.204(a)(2).

For the purpose of this paragraph, activities in support of the development of low or moderate income housing including clearance, site assemblage, provision of site improvements and provision of public improvements and certain housing preconstruction costs set forth in § 570.206(g), are not considered as activities to subsidize or finance new residential construction.

(4) *Income payments.* The general rule is that assistance shall not be used for income payments for housing or any other purpose. Examples of ineligible income payments include the following: payments for income maintenance, housing allowances, down payments, and mortgage subsidies.

5. Subpart D of Part 570 is revised to read as follows:

Subpart D—Entitlement Grants

§ 570.300 General.

This Subpart describes the policies and procedures governing the making of Community Development Block grants to Entitlement communities. The policies and procedures set forth in Subparts A,

C, J, K, and O of this Part also apply to Entitlement grantees.

§ 570.301 Presubmission requirements.

Prior to the submission to HUD for its annual grant, the grantee must:

(a) Develop a proposed statement of community development objectives and projected use of funds, including the following items:

(1) The community development objectives the grantee proposes to pursue; and

(2) The community development activities the grantee proposes to carry out with anticipated CDBG funds, including all funds identified in paragraph (b)(1) of this section, to address its identified community development objectives. Each such activity must address at least one of the three broad national objectives and be eligible pursuant to the provisions of Subpart C.

(b) Meet the following citizen participation requirements:

(1) Furnish citizens with information concerning the amount of CDBG funds expected to be available (including the annual grant, program income, surplus from urban renewal settlement, and proceeds from HUD guaranteed loans) for community development and housing activities, and the range of activities that may be undertaken with those funds;

(2) Hold at least one public hearing to obtain the views of citizens on the grantee's housing and community development needs; and

(3) Publish its proposed statement of community development objectives and projected use of funds so as to afford affected citizens an opportunity to examine the statement's contents, and to provide comments on the proposed statement and on the grantee's community development performance.

(c) Prepare its final statement of community development objectives and projected use of funds. Once the grantee has completed the citizen participation requirements in paragraph (b) of this section, the grantee must consider any such comments and views received and if the grantee deems appropriate modify the proposed statement. The grantee shall make the final statement available to the public. The final statement may include activities which do not either benefit low and moderate income persons or prevent or eliminate slums and blight only if the grantee identifies such activities in the final statement and certifies that such activities are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available.

§ 570.302 Submission requirements.

(a) *Content.* In order to receive its annual CDBG Entitlement grant, a grantee must submit the following:

(1) Standard Form 424;

(2) A copy of the grantee's final statement of community development objectives and projected use of funds, covering the same items as listed in § 570.301(a); and

(3) Certifications satisfactory to the Secretary covering all of the items listed in § 570.303.

(b) *Timing of submissions.* (1) In order to facilitate continuity in its program, the grantee should submit its final statement to HUD at least 30 days prior to the start of its community development program year, but in no event will HUD accept a submission for a grant earlier than December 1 or later than September 30 of the Federal Fiscal Year for which the grant funds are appropriated.

(2) A program year shall run for a twelve month period. A grantee may, however, either shorten or lengthen its program year, provided HUD receives written notice of a lengthened program year at least two months prior to the date the program year would have ended if it had not been lengthened.

§ 570.303 Certifications.

The grantee shall submit certifications that:

(a) It possesses legal authority to make a grant submission and to execute a community development and housing program;

(b) Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the grantee to submit the final statement and all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the grantee to act in connection with the submission of the final statement and to provide such additional information as may be required.

(c) Prior to submission of its final statement to HUD, the grantee has:

(1) Met the citizen participation requirements of § 570.301(b);

(2) Prepared its final statement of community development activities and projected use of funds in accordance with § 570.301(c) and made the final statement available to the public;

(d) The grant will be conducted and administered in compliance with:

(1) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d *et seq.*); and,

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284; 42 U.S.C. 3601 *et seq.*).

(e) It has developed its final statement of projected use of funds so as to give maximum feasible priority to activities which benefit low and moderate income families or aid in the prevention or elimination of slums or blight; the final statement of projected use of funds may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available;

(f) It is following a current housing assistance plan which has been approved by HUD pursuant to § 570.306.

(g) It will comply with the other provisions of the Act and with other applicable laws.

§ 570.304 Making of grants.

(a) *Acceptance of final statement and certifications.* The final statement and certifications will be accepted by the responsible HUD Field Office unless it is determined that one or more of the following requirements have not been met.

(1) *Completeness.* The submission shall include all of the components required in § 570.302(a).

(2) *Timeliness.* The submission must be received within the time period established in § 570.302(b)(1).

(3) *Certifications.* In the absence of independent evidence (which may, but need not, be derived from performance reviews and audits performed by the Secretary pursuant to section 104(d) of the Act) which tends to challenge in a substantial manner the certifications made by the grantee, such certifications will be deemed satisfactory to the Secretary if made in compliance with the requirements of § 570.303. If such independent evidence is available to the Secretary, however, the Secretary may require such further information of assurances to be submitted by the grantee as the Secretary may consider warranted or necessary in order to find the grantees certifications satisfactory.

(b) *Grant agreement.* The grant will be made by means of a grant agreement executed by both HUD and the grantee.

(c) *Grant amount.* The Secretary will make a grant in the full Entitlement amount, generally within the last 30 days of the grantees' current program year unless:

(1) The final statement or certifications are not received by September 30 or are not acceptable under paragraph (a)(1) and (3) of this section, in which case the grantee will forfeit the entire entitlement amount; or

(2) The grantee's performance does not meet the standards prescribed in Subpart O and the grant amount is reduced.

(d) *Conditional grant.* The Secretary may make a conditional grant in which case the obligation and utilization of grant funds for activities will be restricted. Conditional grants may be made where there is substantial evidence that there has been, or there will be, a failure to meet the performance standards described in Subpart O. In such case, the reason for the conditional grant, the actions necessary to remove the condition and the deadline for taking those actions shall be specified. Failure to satisfy the condition may result in a reduction in the Entitlement amount pursuant to Subpart O.

§ 570.305 [Reserved]

§ 570.306 Housing assistance plan.

(a) *Purpose.* In its housing assistance plan (HAP), each metropolitan city and urban county surveys its housing conditions, assesses the housing assistance needs of its low and moderate income (lower income) households, specifies goals for the number of dwelling units and lower income households to be assisted, and indicates the general locations of proposed assisted housing for lower income persons.

(b) *Use.* A grantee's HAP is a basis upon which HUD approves or disapproves assisted housing in the grantee's jurisdiction and against which HUD monitors a grantee's provision of assisted housing.

(c) *Grantee's responsibility.* Each grantee is responsible for implementing its HAP expeditiously. This includes the timely achievement of goals for assisted housing. Each grantee is expected to use all available resources and, when needed, to take all actions within its control to implement the approved HAP. Performance under the HAP is one of the factors considered in grantee performance reviews conducted as provided in Subpart O of this Part. Subpart O also provides further requirements relating to the responsibility of the grantee in implementing its HAP.

(d) *General.* (1) The HAP consists of the five components described in paragraph (e). The HAP shall be submittee to HUD by an authorized representative of the grantee.

(2) Each city or county which expects to receive an Entitlement grant shall submit a HAP between September 1 and October 31 prior to its submission of the final statement required by § 570.302 of this Part. A grantee which has a three year goal which will be in effect for the fiscal year in which the final statement is to be submitted need only submit an annual goal and may incorporate by reference (to the extent that there have been on significant changes) the other required portions of the HAP.

(3) Any newly entitled community which was not made aware of its entitlement status by August 31 shall be considered unable to apply with the October 31 deadline and may submit an interim HAP in accordance with the requirements of paragraph (e)(6) of this section in lieu of the requirements of paragraphs (e)(1) through (e)(5).

(4) *For 1982 Only:* Each Entitlement grantee must submit a new HAP not later than December 31, 1982, or within 60 days of the effective date of these regulations, whichever is later.

(e) *Housing conditions, needs goals, and locations.—(1) Conditions.* The grantee shall describe the condition of the current housing stock in the community by providing a statistical profile by tenure type (renter and owner), which describes housing conditions by the number of occupied and vacant units in standard and substandard condition. The grantee shall develop its own definition of substandard housing which, at a minimum, shall include units which do not meet the Section 8 Existing Housing Quality Standards (24 CFR 882.109) and shall include such definition in its submission. In addition, the grantee shall identify the number of its occupied and vacant substandard housing units which it considers to be suitable for rehabilitation, and include its definition of suitable for rehabilitation in the HAP submission.

(2) *Needs.* (i) The grantee shall assess the housing assistance needs of lower income households currently residing in the community by tenure and by household type (elderly, small family and non-elderly individuals, and large family), including households expected to be involuntarily displaced by public and private action over the three year period of the HAP. The grantee shall also assess the housing assistance needs of lower income households that could reasonably be expected to reside in the community. Such households are those that could be expected to reside in the community as a result of existing and projected employment opportunities or as estimated in a community accepted State or regional housing opportunity plan approved by the Secretary, and the estimate shall consider changes in population known to have occurred since the last Census. For elderly households, the estimate of those that are expected to reside in the community must be based on the number known to be seeking assisted housing in the community or using the community's health services. In no case shall the estimate of all households expected to reside be less than zero.

(ii) A narrative statement accompanying the needs shall indicate the composition of the needs of lower income persons including separate numerical estimates, by tenure and household type, for households to be involuntarily displaced, households expected to reside, and total minority households. In addition, the narrative shall include a description which summarizes any special housing conditions and/or any special housing needs of particular groups of lower income households in the community. Such description shall include but need not be limited to, discussion of the special housing needs and/or conditions of:

(A) Individual minority groups;

(B) Impact of conversion of rental housing to condominium or cooperative ownership;

(C) Handicapped persons; and

(D) Single heads of household.

All handicapped single person households (elderly and nonelderly) must be included in the elderly category, but separately identified in the narrative. All other nonelderly handicapped persons must be included with small or large family households, according to the size of their households.

(3) *Three year goal.* (i) The grantee shall specify a realistic three year goal by tenure type for goals which are designed to improve the condition of the housing stock, and also by household type for the number of households to be assisted. The three year goal must be realistic in terms of estimating all assisted housing resources which can be expected to be available to the grantee. In addition, the grantee shall identify the maximum number of HUD assisted rental units it will accept during that three year period of each housing type (for example, new, rehabilitation, existing) in an amount at least equal to the total number of HUD assisted rental goals by household type.

(ii) Goals relating to improving the condition of the housing stock should be based on an evaluation of the data presented in the housing conditions

portion of the HAP as well as other current data available to the grantee.

(iii) The goals relating to households to be assisted must be proportional to need by household type within each tenure type, except that HUD may approve or require a different proportion in cases of:

(A) Disproportionate provision of assisted housing under a previous HAP;

(B) Significant displacement of a particular household type;

(C) Adjustments for projects of feasible size;

(D) Natural disaster; or

(E) Meeting the requirements of 105 (f) and (h) of the Housing Act of 1949, as amended (42 U.S.C. 1450 *et seq.).*

(iv) The majority of goals for the rehabilitation of dwelling units must assist lower income households. For this purpose, publicly assisted rehabilitation of a dwelling unit shall be deemed to assist a lower income household when the dwelling unit, after rehabilitation, is *owned and occupied by,* or if rented is *affordable to,* a lower income household.

(v) Each grantee shall include a narrative describing those *specific* actions which the grantee will take to address any special housing conditions or needs identified in § 570.306(e)(2)(ii) above as well as any actions determined necessary to ensure the timely achievement of its three year goals (including a discussion of any expected or known impediments and planned remedies).

(4) *Annual goal.* (i) The grantee shall specify an annual goal which must be realistic in terms of all assisted housing resources which can be expected to be available to the grantee; be established considering feasible project size; and constitute reasonable progress towards meeting the three year goal. In addition, the grantee shall indicate its preference for the distribution of HUD's assisted rental housing by housing type (for example, new, rehabilitation, existing).

(ii) In its annual goal, the grantee shall also describe the *specific* actions (including any new problems encountered and planned remedies) it will take during the year to meet its annual goal and, as appropriate, its three year goal. The grantee must also include a description of the provisions that it will make to assure that a majority of dwelling units to receive rehabilitation subsidy will assist lower income households.

(5) *General locations.* (i) A grantee having goals for new construction or substantial rehabilitation shall identify general locations of proposed projects with the objective of furthering community revitalization, promoting housing opportunity, enabling persons that are to be involuntarily displaced to remain in their neighborhoods, avoiding undue concentrations of assisted housing in areas containing high proportions of lower income persons, and assuring the availability of public facilities and services.

(ii) The grantee may, at its option, designate any of the general locations identified pursuant to (e)(5)(i) of this section as *High Priority* areas. (Under provisions of HUD's assisted housing ranking procedures, a higher rating can be obtained under the ranking criteria with respect to responsiveness of proposed projects to preferences and priorities of applicable HAPs.)

(iii) Each general location identified under paragraph (e)(5)(i) of this section must contain at least one site which conforms to the Departmental regulations and policies relating to the site and neighborhood standards established for the appropriate HUD assisted housing program.

(iv) Identification of the general locations must be accomplished by attaching a map to the HAP except that the HUD Field Office may accept a listing where it determines that the development of a map would present a hardship for the grantee.

(6) *Interim HAP.* A newly entitled grantee which has not been notified by HUD in sufficient time to meet the October 31 HAP submittal deadline shall submit an interim HAP at least 45 days prior to the submission of its final statement. Such submission shall include a narrative description of the condition of the housing stock; a narrative assessment of the housing assistance needs of lower income persons; a realistic annual goal indicating the number of dwelling units by housing type or lower income persons to be assisted during the balance of the fiscal year by housing type; and a listing of general locations of new construction and substantially rehabilitated housing for lower income persons. This HAP submission will be effective through September 30 of the year in which it is submitted.

(f) *Amendments to the HAP.* The grantee shall notify HUD within 45 days of any changes it makes to its HAP.

(g) *HUD review of HAPs, Interim HAPs, and Amendments.* HUD will review these HAP submissions to assure that the requirements of this regulation have been met, and will approve them unless the grantee's stated conditions and needs are plainly inconsistent with significant facts or data generally available; the grantee's proposed goals and activities are plainly inappropriate to meeting those conditions or needs; or the HAP fails to comply with other provisions of these regulations. Within 30 days of the date that the submission is received, HUD will notify the grantee in writing that the submission has been approved, disapproved, or that a final decision is still pending (in which case HUD may take no more than 30 additional days to decide whether to approve or disapprove the submission). In the event that HUD has not notified the grantee in writing within 30 days of receipt, the submission shall be considered fully approved.

§ 570.307 Urban counties.

(a) *Determination of qualification.* The Secretary will determine the qualifications of counties to receive entitlements as urban counties upon receipt of qualification documentation from counties at such time, and in such manner and form as prescribed by HUD. The Secretary shall determine eligibility and applicable portions of each eligible county for purposes of fund allocation under section 106 of the Act on the basis of information available from the U.S. Bureau of the Census with respect to population and other pertinent demographic characteristics, and based on information provided by the county and its included units of general local government.

(b) *Qualification as an urban county.* A county will qualify as an urban county if such county meets the definition at § 570.2(x). As necessitated by this definition, the Secretary shall determine which counties have authority to carry out essential community development and housing assistance activities in their included units of general local government without the consent of the local governing body and which counties must execute cooperation agreements with such units to include them in the urban county for qualification and grant calculation purposes.

(c) *Essential activities.* For purposes of this section, the term "essential community development and housing assistance activities" means community renewal and lower income housing activities, specifically urban renewal and publicly assisted housing. In determining whether a county has the required powers, the Secretary will consider both its authority and, where applicable, the authority of its designated agency or agencies.

(d) *Period of qualification.* (1) The qualification by HUD of an urban county shall remain effective for three successive federal fiscal years regardless of changes in its population

during that period, except as provided under paragraph (f) of this section.

(2) During the period of qualification, no included unit of general local government may withdraw from nor be removed from the urban county for HUD's grant computation purposes, and no unit of general local government covering additional area may be added to the urban county.

(3) If some portion of an urban county's unincorporated area becomes incorporated during the urban county qualification period, the newly incorporated area of the county shall remain a part of the urban county for the purpose of calculating the urban county grant amount, and shall be ineligible to apply for a separate grant under Subparts D or F, or to be a recipient of assistance under Subpart I of this Part.

(e) *Grant ineligibility of included units of general local government.* (1) An included unit of general local government cannot become eligible for an Entitlement grant as a metropolitan city during the period of qualification of the urban county (even if it becomes a central city of a metropolitan area or its population surpasses 50,000 during that period). Rather, such a unit of general local government shall continue to be included as an integral part of the urban county for the remainder of the urban county's qualification period, and no separate grant amount shall be calculated for the included unit.

(2) An included unit of general local government which is part of an urban county shall be ineligible to apply for grants under Subpart F, or to be a recipient of assistance under Subpart I, during the entire period of urban county qualification.

(f) *Failure of an urban county to receive a grant.* Failure of an urban county to receive a grant during any year shall terminate the existing qualification of that urban county, and that county shall requalify as an urban county before receiving an Entitlement grant in any successive Federal fiscal year. Such termination shall release units of general local government included in the urban county, in subsequent years, from the prohibition to receive grants under paragraphs (d)(3), (e)(1) and (e)(2) of this section. For this purpose an urban county shall be deemed to have received a grant upon having satisfied the requirements of sections 104 (a), (b) and (c) of the Act, without regard to adjustments which may be made to this grant amount under sections 104(d) or 111 of the Act.

(g) *Notifications of the opportunity to be excluded.* Any county seeking to qualify for an Entitlement grant as an urban county for any Federal fiscal year shall notify each unit of general local government which is located, in whole or in part, within the county and which would otherwise be included in the urban county, but which is eligible to elect to have its population excluded from that of the urban county, that it has the opportunity to make such an election, and that such an election, or the failure to make such an election, shall be effective for the three year period for which the county qualifies as an urban county. These notifications shall be made at least 60 days prior to the urban county's submission of documentation to HUD for qualification as an urban county. A unit of general local government which elects to be excluded from participation as a part of the urban county shall notify the county and HUD in writing no more than 45 days following receipt of such notification.

§ 570.308 Joint requests.

(a) *Joint requests and cooperation agreements.* (1) Any urban county and any metropolitan city located, in whole or in part, within that county may submit a joint request to HUD to approve the inclusion of the metropolitan city as a part of the urban county for purposes of planning and implementing a joint community development and housing program. Such a joint request shall only be considered if submitted at the time the county is seeking its three year qualification or requalification as an urban county. Such a joint request shall, upon approval by HUD, remain effective for the period for which the county is qualified as an urban county. An urban county may be joined by more than one metropolitan city, but a metropolitan city located in more than one urban county may only be included in one urban county for any program year. A joint request shall be deemed approved by HUD unless HUD notifies the city and the county of its disapproval and the reasons therefore within 30 days of receipt of the request by HUD.

(2) Each metropolitan city and urban county submitting a joint request shall submit an executed cooperation agreement to undertake or to assist in the undertaking of essential community development and housing assistance activities, as defined in § 570.307(c).

(b) *Joint grant amount.* The grant amount for a joint recipient shall be the sum of the amounts authorized for the individual Entitlement grantees, as described in section 106 of the Act. The urban county shall be the grant recipient.

(c) *Effect of inclusion.* Upon urban county qualification and HUD approval of the joint request and cooperation agreement, the metropolitan city shall be considered a part of the urban county for purposes of program planning and implementation for the period of the urban county qualification, and shall be treated the same as any other unit of general local government which is a part of the urban county.

(d) *Submission requirements.* In requesting a grant under this Part the urban county shall make a single submission which meets the submission requirements of this Subpart D and covering all members of the joint recipient.

6. Subpart K of Part 570 is revised to read as follows:

Subpart K—Other Program Requirements

§ 570.600 General.

(a) Section 104(b) of the Act provides that any grant under section 106 of the Act shall be made only if the grantee certifies to the satisfaction of the Secretary, among other things, that the grant "will be conducted and administered in conformity with Pub. L. 88–352 and Pub. L. 90–284," and, further, that the grantee "will comply with the other provisions of this title and with other applicable laws." Section 104(d)(1) of the Act requires that the Secretary determine with respect to grants made pursuant to section 106(b) (Entitlement Grants) and 106(d)(2)(B) (HUD-Administered Small Cities Grants), at least on an annual basis, among other things, "whether the grantee has carried out [its] certifications in compliance with the requirements and the primary objectives of this title and with other applicable laws * * *" Certain other statutes are expressly made applicable to activities assisted under the Act by the Act itself, while other laws not referred to in the Act may be applicable to such activities by their own terms. Certain statutes or Executive Orders which may be applicable to activities assisted under the Act by their own terms are administered or enforced by governmental departments or agencies other than the Secretary or the Department. This Subpart K enumerates laws which the Secretary will treat as applicable to grants made under section 106 of the Act, other than grants to States made pursuant to section 106(d) of the Act, for purposes of the determinations described above to be made by the Secretary under section 104(d)(1) of the Act, including statutes expressly made applicable by the Act and certain other statutes and Executive Orders for which the Secretary has

enforcement responsibility. The absence of mention herein of any other statute for which the Secretary does not have direct enforcement responsibility is not intended to be taken as an indication that, in the Secretary's opinion, such statute or Executive Order is not applicable to activities assisted under the Act. For laws which the Secretary will treat as applicable to grants made to States under section 106(d) of the Act for purposes of the determination required to be made by the Secretary pursuant to section 104(d)(2) of the Act, see § 570.496.

(b) This Subpart also sets forth certain additional program requirements which the Secretary has determined to be applicable to grants provided under the Act as a matter of administrative discretion.

(c) In addition to grants made pursuant to section 106(b) and 106(d)(2)(B) of the Act (Subparts D and F of this Part, respectively), the requirements of this Subpart K are applicable to grants made pursuant to section 107 and 119 of the Act (Subparts E and G, respectively).

§ 570.601 Public Law 88–352 and Public Law 90–284, Executive Order 11063.

Section 104(b) of the Act provides that any grant under section 106 of the Act shall be made only if the grantee certifies to the satisfaction of the Secretary that the grant "will be conducted and administered in conformity with Pub. L. 88–352 and Pub. L. 90–284." Similarly, section 107 provides that no grant may be made under that section (Secretary's Discretionary Fund) or section 119 (UDAG) without satisfactory assurances to the same effect.

(a) "Public Law 88–352" refers to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), which provides that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Section 602 of the Civil Rights Act of 1964 directs each Federal department and agency empowered to extend Federal financial assistance to any program or activity by way of grant to effectuate the foregoing prohibition by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the statute authorizing the financial assistance. HUD regulations implementing the requirements of Title VI with respect to HUD programs are contained in 24 CRF Part 1.

(b) "Public Law 90–284" refers to Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), popularly known as the Fair Housing Act, which provides that it is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing, or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person, because of race, color, religion, sex, or national origin. Title VIII further requires the Secretary to administer the programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of Title VIII. Pursuant to this statutory direction, the Secretary requires that grantees administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing.

(c) Executive Order 11063, as amended by Executive Order 12259, directs the Department to take all action necessary and appropriate to prevent discrimination because of race, color, religion (creed), sex, or national origin, in the sale, leasing, rental, or other disposition of residential property and related facilities (including land to be developed for residential use), or in the use or occupancy thereof, if such property and related facilities are, among other things, provided in whole or in part with the aid of loans, advances, grants, or contributions agreed to be made by the Federal Government. HUD regulations implementing Executive Order 11063 are contained in 24 CFR Part 107

§ 570.602 Section 109 of the Act.

(a) Section 109 of the Act requires that no person in the United States shall on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with community development funds made available pursuant to the Act. For purposes of this section "program or activity" is defined as any function conducted by an identifiable administrative unit of the recipient, or by any unit of government or private contractor receiving community development funds or loans from the recipient. "Funded in whole or in part with community development funds" means that community development funds in any amount in the form of grants or proceeds from HUD guaranteed loans have been transferred by the recipient to an identifiable administrative unit and disbursed in a program or activity.

(b) *Specific discriminatory actions prohibited and corrective actions.* (1) A recipient may not, under any program or activity to which the regulations of this Part may apply directly or through contractual or other arrangements, on the ground of race, color, national origin, or sex:

(i) Deny any facilities, services, financial aid or other benefits provided under the program or activity.

(ii) Provide any facilities, services, financial aid or other benefits which are different, or are provided in a different form from that provided to others under the program or activity.

(iii) Subject to segregated or separate treatment in any facility in, or in any matter of process related to receipt of any service or benefit under the program or activity.

(iv) Restrict in any way access to, or in the enjoyment of any advantage or privilege enjoyed by others in connection with facilities, services, financial aid or other benefits under the program or activity.

(v) Treat an individual differently from others in determining whether the individual satisfies any admission, enrollment, eligibility, membership, or other requirement or condition which individual must meet in order to be provided any facilities, services or other benefit provided under the program or activity.

(vi) Deny an opportunity to participate in a program or activity as an employee.

(2) A recipient may not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination on the basis of race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular race, color, national origin, or sex.

(3) A recipient, in determining the site or location of housing or facilities provided in whole or in part with funds under this part, may not make selections of such site or location which have the effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination on the ground of race, color, national origin, or sex; or which have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act and of this section.

(4)(i) In administering a program or activity funded in whole or in part with CDBG funds regarding which the

recipient has previously discriminated against persons on the ground of race, color, national origin or sex, the recipient must take affirmative action to overcome the effects of prior discrimination.

(ii) Even in the absence of such prior discrimination, a recipient in administering a program or activity funded in whole or in part with CDBG funds should take affirmative action to overcome the effects of conditions which would otherwise result in limiting participation by persons of a particular race, color, national origin or sex. Where previous discriminatory practice or usage tends, on the ground of race, color, national origin or sex, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this part applies, the recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purpose of the Act.

(iii) A recipient shall not be prohibited by this part from taking any action eligible under Subpart C to ameliorate an imbalance in services or facilities provided to any geographic area or specific group of persons within its jurisdiction, where the purpose of such action is to overcome prior discriminatory practice or usage.

(5) Notwithstanding anything to the contrary in this section, nothing contained herein shall be construed to prohibit any recipient from maintaining or constructing separate living facilities or rest room facilities for the different sexes. Furthermore, selectivity on the basis of sex is not prohibited when institutional or custodial services can properly be performed only by a member of the same sex as the recipients of the services.

(c) Section 109 of the Act further provides that any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*) or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply to any program or activity funded in whole or in part with funds made available pursuant to the Act.

§ 570.603 Labor standards.

Section 110 of the Act requires that all laborers and mechanics employed by contractors on construction work financed in whole or in part with assistance received under the Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5). By reason of the foregoing requirement, the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*) also applies. However, these requirements apply to the rehabilitation of residential property only if such property is designed for residential use of eight or more families. With respect to the labor standards specified in this section, the Secretary of Labor has the authority and functions set forth in Reorganization Plan Number 14 of 1950 (5 U.S.C. 1332–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

§ 570.604 Environmental standards.

Section 104(f) expresses the intent that "the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) . . . [be] most effectively implemented in connection with the expenditure of funds under" the Act. Such other provisions of law which further the purposes of the National Environmental Policy Act of 1969 are specified in regulations issued pursuant to section 104(f) of the Act and contained in 24 CFR Part 58. Section 104(f) also provides that, in lieu of the environmental protection procedures otherwise applicable, the Secretary may under regulations provide for the release of funds for particular projects to grantees who assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969, and the other provisions of law specified by the Secretary as described above, that would apply to the Secretary were he/she to undertake such projects as Federal projects. Grantees assume such environmental review, decisionmaking, and action responsibilities by execution of grant agreements with the Secretary. The procedures for carrying out such environmental responsibilities are also contained in 24 CFR Part 58.

§ 570.605 National Flood Insurance Program.

Section 202(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106) provides that no Federal officer or agency shall approve any financial assistance for acquisition or construction purposes (as defined under section 3(a)) of said Act (42 U.S.C. 4003(a)), on and after July 1, 1975 (or one year after a community has been formally notified of its identification as a community containing an area of special flood hazard, whichever is later) for use in any area that has been identified by the Director of the Federal Emergency Management Agency (see Section 202 of Reorganization Plan No. 3 of 1978, 43 FR 41943) as an area having special flood hazards unless the community in which such area is situated is then participating in the National Flood Insurance Program. Notwithstanding the date of HUD approval of the recipients' application (or, in the case of grants made under Subpart D, the date of submission of the grantees' final statement pursuant to § 570.302), funds provided under this Part shall not be expended on or after July 1, 1975, or one year after a community has been formally notified, whichever is later, for acquisition or construction purposes in an area so identified as having special flood hazards which is located in a community not in compliance with the requirements of the National Flood Insurance Program pursuant to section 201(d) of said Act (42 U.S.C. 4105(d)). The use of any funds provided under this part for acquisition or construction purposes in identified special flood hazard areas shall be subject to the mandatory purchase of flood insurance requirements of section 102(a) of said Act (42 U.S.C. 4012a).

§ 570.606 Relocation and acquisition.

(a) Section 210 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4630) (the "Uniform Act") provides that the head of a Federal agency shall not approve any grant to, or contract or agreement with, a "State agency" (as defined in Section 101 of the Uniform Act, 42 U.S.C. 4601, and 24 CFR 42.65) (which includes any department, agency or instrumentality of a State or of a political subdivision of a State) under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any persons, unless he/she receives satisfactory assurance from such State agency that certain requirements of the Uniform Act with respect to relocation payments and assistance will be met. Such assurances will be provided in the grant agreement executed by the grantee (see § 570.304(b)). The requirements of the Uniform Act and HUD implementing regulations (24 CFR Part 42) apply to any acquisition of real property by a "State agency" that is carried out with the intention that such acquisition be for a community development activity

assisted under this Part and to the displacement of any family, individual, business, nonprofit organization, or farm that results from such acquisition.

(1) Any acquisition of real property by a "State agency" and any displacement resulting from such acquisition of real property shall be considered to be for an activity assisted under the CDBG program and to be subject to the regulations at 24 CFR Part 42 if the acquisition of displacement occurs on or after the date of the submission of the application requesting Federal financial assistance which is granted for an activity for which the acquisition has been or will be undertaken (or, in the case of a grant made pursuant to Subpart D, the date of submission of the grantee's final statement pursuant to § 570.302). However, if the recipient determines that any acquisition or displacement was not carried out for an assisted activity, and the HUD Area Office serving the locality concurs in that determination, such acquisition or displacement shall not be subject to these regulations. The recipient's request for HUD concurrence shall include its certification that at the time of the acquisition it did not intend to use the property for an assisted activity and appropriate documentation to establish that fact.

(2) The recipient or HUD, which shall monitor compliance with the Uniform Act, may determine that an acquisition prior to submission of an application for financial assistance (or final statement) and any resulting displacement were carried out for an assisted activity and are subject to these regulations. In the absence of such a determination by the recipient or HUD, any such acquisition or displacement occurring prior to submission of an application (or final statement) shall not be subject to these regulations. The recipient may at any time request a HUD determination as to whether or not such an acquisition and any resulting displacement are considered to be for an assisted activity and to be subject to these regulations. The request shall be submitted to the HUD Area Office and shall include appropriate background documentation.

(3) If the owner or occupant of a property disagrees with the recipient's determination that the Uniform Act and the regulations at 24 CFR Part 42 do not apply to the acquisition of the property or to a displacement resulting from the acquisition, he/she may file an appeal under 24 CFR Part 42 Subpart J (Appeals), whether or not the acquisition or displacement occurs before or after submission of the application for financial assistance (or final statement). The specific payments and other assistance for which an appeal may be filed are set forth in 24 CFR 42.703(a).

(4) The costs of relocation payments and assistance under Title II of the Uniform Act shall be paid from funds provided by this Part and/or such other funds as may be available by the locality from any source.

(b) Pursuant to section 105(a)(11) of the Act, the grantee may also provide relocation payments and assistance for individuals, families, businesses, nonprofit organizations and farm operations displaced by an activity that is not subject to the Uniform Act, and also may provide relocation payments and other assistance at levels above those established under the Uniform Act. Unless such payments and assistance are made pursuant to State or local law, the recipient shall make such payments only upon the basis of a written determination that such payments are appropriate (see § 570.201(i)) and shall adopt a written policy available to the public setting forth the relocation payments and assistance it elects to provide and providing for equal payments and assistance within each class of displacees.

(c) Section 305 of the Uniform Act (42 U.S.C. 4655) provides that the head of a Federal agency shall not approve any grant to, or contract or agreement with, a State agency under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the acquisition of real property unless he receives satisfactory assurances from such State agency that (1) in acquiring real property it will be guided, to the greatest extent practicable under State law, by the land acquisition policies in section 301 of the Uniform Act (42 U.S.C. 4651) and the provisions of section 302 thereof (42 U.S.C. 4651) and (2) property owners will be paid or reimbursed for necessary expenses as specified in sections 303 and 304 of the Uniform Act (42 U.S.C. 4653, 4654). Appropriate assurances to such effect will be provided in the grant agreement executed by the grantee.

§ 570.607 Employment and contracting opportunities.

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) requires, in connection with the planning and carrying out of any project assisted under the Act, that to the greatest extent feasible opportunities for training and employment be given to lower income persons residing within the unit of local government or the metropolitan area (or nonmetropolitan county) in which the project is located, and that contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by persons residing in the same metropolitan area (or nonmetropolitan county) as the project. Grantees shall adopt appropriate procedures and requirements to assure good faith efforts toward compliance with the statutory directive. HUD regulations at 24 CFR Part 135 are not directly applicable to activities assisted under this Part but may be referred to as guidance indicative of the Secretary's view of the statutory objectives in other contexts.

§ 570.608 Lead-based paint.

(a) Section 401(b) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831(b)) directs the Secretary to prohibit the use of lead-based paint in residential structures constructed or rehabilitated with Federal assistance in any form. Such prohibitions are contained in 24 CFR Part 35, Subpart B, and are applicable to residential structures constructed or rehabilitated with assistance provided under this Part.

(b) Section 302 of the Lead-Based Poisoning Prevention Act (42 U.S.C. 4822) directs the Secretary to establish procedures to eliminate as far as practicable the hazards of lead-based paint poisoning with respect to any existing housing which may present hazards and which is covered by an application for mortgage insurance or housing assistance payments under a program administered by the Secretary. Pursuant to such authority and the Secretary's general rulemaking authority, the Secretary has promulgated requirements regarding the elimination of lead-based paint hazards in HUD-associated housing at 24 CFR Part 35, Subpart C, and requirements regarding notification to purchasers and tenants of HUD-associated housing constructed prior to 1950 at 24 CFR Part 35, Subpart A. The requirements of 24 CFR Part 35, Subpart A, are applicable to purchasers and tenants of residential structures constructed prior to 1950 and assisted under this Part, and the requirements of 24 CFR Part 35, Subpart C, are applicable to existing residential structures which are rehabilitated with assistance provided under this Part.

§ 570.609 Use of debarred, suspended, or ineligible contractors or subrecipients.

CDBG funds shall not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of,

or fund any contractor or subrecipient during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR Part 24. "Subrecipients" are either eligible entities under § 570.204(c) or private entities assisted under § 570.202(b)(1).

§ 570.610 Uniform administrative requirements and cost principles.

The recipient shall comply with the policies, guidelines, and requirements of OMB Circular Nos. A–102, Revised, A–110, A–87, and A–122 as they relate to the acceptance and use of Federal funds under this Part.

§ 570.611 Conflict of interest.

(a) *Applicability.* (1) In the procurement of supplies, equipment, construction, and services by recipients, and by subrecipients (including those specified at § 570.204(c)), the conflict of interest provisions in Attachment O of OMB Circulars A–102, and A–110, respectively, shall apply.

(2) In all cases not governed by Attachment O of the OMB Circulars, the provisions of this section shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the recipient, its designated public agencies, or subrecipients under § 570.204, to individuals, businesses and other private entities under eligible activities which authorize such assistance (e.g., rehabilitation, preservation, construction and other improvements of private properties or facilities pursuant to § 570.203, or grants, loans and other assistance to businesses, individuals and other private entities pursuant to §§ 570.204 or 570.455.

(b) *Conflicts prohibited.* Except for approved eligible administrative or personnel costs, the general rule is that no persons described in paragraph (c) below who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this Part or who are in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. For the UDAG program, the above restrictions shall apply to all activities that are a part of the UDAG project, and shall cover any such interest or benefit during, or at any time after, such person's tenure.

(c) *Persons covered.* The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or subrecipients under § 570.204, which are receiving funds under this Part.

(d) *Exceptions: threshold requirements.* Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it determines that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project. An exception may be considered only after the recipient has provided the following:

(1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(2) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(e) *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (d) of this section, HUD shall consider the cumulative effect of the following factors, where applicable:

(1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;

(2) Whether an opportunity was provided for open competitive bidding or negotiation;

(3) Whether the person affected is a member of a group or class of low or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(4) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted activity in question;

(5) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;

(6) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(7) Any other relevant considerations.

7. Subpart M of Part 570 is revised to read as follows:

Subpart M—Loan Guarantees

§ 570.700 Eligible applicants.

(a) Units of general local government entitled to receive basic grant amounts under section 106 of the Act (metropolitan cities and urban counties) may apply for loan guarantee assistance under this Subpart.

(b) Public agencies may be designated by eligible units of general local government to receive a loan guarantee on notes or other obligations issued by the public agency in accordance with this Subpart. In such case the applicant unit of general local government shall be required to pledge its current and future grants under Title I as security for the notes or other obligations issued by the public agency.

§ 570.701 Eligible activities.

Loan guarantee assistance under this Subpart may be utilized for the following activities undertaken by the unit of general local government or its designated public agency, provided such activities are otherwise eligible under the provisions of § 570.201 through § 570.203.

(a) Acquisition of improved or unimproved real property, including acquisition for economic development purposes.

(1) Acquisition for economic development purposes may include agreements for the purchase of real property to be improved by the seller prior to the acquisition. Obligations to purchase under such agreements may be contingent on the procurement of interim financing by the seller, and may provide for a leaseback of the improved property to the seller, including an option to purchase after full repayment of the loan guaranteed under this Subpart.

(2) In the purchase of real property pursuant to paragraph (a)(1) of this section, the assisted activity includes the acquisition and/or improvements undertaken by the seller in whole or in part with interim financing obtained in reliance on the obligation to purchase the improved property with guaranteed loan funds. The Agreement described in paragraph (a)(1) of this section shall specify that the obligation to purchase is contingent on compliance in the undertaking of interim financed activities with the requirements applicable to activities assisted under this Subpart.

(b) Rehabilitation of real property owned or acquired by the unit of general local government or its designated public agency.

(c) Payment of interest on obligations guaranteed under this Subpart.

(d) Relocation payments and assistance for individuals, families, businesses, nonprofit organizations and farm operations displaced as a result of activities financed with loan guarantee assistance.

(e) Clearance, demolition and removal, including movement of structures to other sites, of buildings and improvements on real property acquired or rehabilitated pursuant to paragraphs (a) and (b) of this section.

(f) Site preparation, including construction, reconstruction, or installation of public improvements, utilities, or facilities (other than buildings) related to the redevelopment or use of the real property acquired or rehabilitated pursuant to paragraphs (a) and (b) of this section.

§ 570.702 Application requirements.

(a) *Presubmission requirements.* (1) Prior to submission of an application for loan guarantee assistance to HUD, the applicant must comply with the presubmission requirements specified in § 570.301 with respect to the activities proposed for loan guarantee assistance.

(2) If an application for loan guarantee assistance is simultaneous with the applicant's submission for its entitlement grant, the applicant may utilize the statement of community development objectives and projected use of funds prepared for its annual grant pursuant to § 570.301 by including and identifying the activities to be undertaken with the guaranteed loan funds.

(b) *Submission requirements.* An application for loan guarantee assistance shall be submitted to the appropriate HUD Area Office and shall consist of the following:

(1) A copy of the applicant's final statement of community development objectives and projected use of guaranteed loan funds.

(2) A schedule for repayment of the loan which identifies the sources of repayment.

(3) A certification providing assurance that the applicant possesses legal authority to make the pledge of grants required under § 570.703(b)(2).

(4) Certifications required pursuant to § 570.303. For the purposes of this requirement, the terms "grant" and "CDBG" in such certifications shall also mean loan guarantee.

(c) *Economic feasibility and financial risk.* The Secretary will make no determination with respect to the economic feasibility of projects proposed to be funded with the proceeds of guaranteed loans; such determination is the responsibility of the applicant. In determining whether a loan guarantee constitutes an acceptable financial risk, the Secretary will consider the applicant's current and future entitlement block grants as the primary source of loan repayment. Approval of a loan guarantee under this Subpart is not to be construed, in any way, as indicating that HUD has agreed to the feasibility of a project beyond recognition that block grant funds should be sufficient to retire the debt.

(d) *HUD review and approval of applications.* (1) HUD will normally accept the grantee's certifications. The Secretary reserves the right, however, to consider relevant information which challenges the certifications and to require additional information or assurances from the grantee as warranted by such information.

(2) The Area Office shall review the application for compliance with requirements specified in this Subpart and forward the application together with its recommendation for approval or disapproval of the requested loan guarantee to HUD Headquarters.

(3) The Secretary may disapprove an application, or may approve loan guarantee assistance for an amount less than requested, for any of the following reasons:

(i) The Secretary determines that the guarantee constitutes an unacceptable financial risk. Factors that will be considered in assessing financial risk shall include, but not be limited to, the following:

(A) The length of the proposed repayment period;

(B) The ratio of expected annual debt service requirements to expected annual grant amount;

(C) The applicant's status as a metropolitan city or urban county during the proposed repayment period; and

(D) The applicant's ability to furnish adequate security pursuant to § 570.703(b).

(ii) The guarantee requested exceeds the maximum loan amount specified under § 570.703(a).

(iii) Funds are not available in the amount requested.

(iv) The applicant's performance does not meet the standards prescribed in § 570.909.

(v) Activities to be undertaken with the guaranteed loan funds are not listed as eligible under § 570.201 through § 570.203 and § 570.701 (a) through (f).

(4) The Secretary will notify the applicant in writing that the loan guarantee request has either been approved, reduced or disapproved. If the request is reduced or disapproved, the applicant shall be informed of the specific reasons for reduction or disapproval. If the request is approved, the Secretary shall issue an offer of commitment to guarantee obligations of the applicant or the designated public agency subject to such conditions as the Secretary may prescribe, including the conditions for release of funds described in paragraph (e).

(e) *Environmental review.* The applicant shall comply with HUD environmental review procedures (24 CFR Part 58) leading to certification for the release of funds for each project carried out with loan guarantee assistance. These procedures set forth the regulations, policies, responsibilities and procedures governing the carrying out of environmental review responsibilities of applicants.

For the purposes of this paragraph, the "release of funds" shall be deemed to occur at the time of guarantee of notes or other obligations by the Secretary.

§ 570.703 Loan requirements.

(a) *Maximum loan amount.* No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the total outstanding notes or obligations guaranteed under this Subpart on behalf of the applicant and each public agency duly designated by the applicant would thereby exceed an amount equal to three times the amount of the entitlement grant made pursuant to § 570.304 to the applicant.

(b) *Security requirements.* To assure the repayment of notes or other obligations and charges incurred under this Subpart and as a condition for receiving loan guarantee assistance, the applicant (or the applicant and designated public agency, where appropriate) shall:

(1) Enter into a contract with HUD, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed hereunder;

(2) Pledge any grant made or for which the applicant may become eligible under this Part; and

(3) Furnish, at the discretion of the Secretary, such other security as may be deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this Part or disposition proceeds from the sale of land or rehabilitated property.

(c) *Use of grants for loan repayment.* Notwithstanding any other provision of this Part:

(1) Grants allocated to an applicant under this Part (including program income derived therefrom) are authorized for use in the payment of principal and interest due (including such servicing, underwriting, or other costs as may be authorized by the Secretary) on the notes or other obligations guaranteed pursuant to this Subpart.

(2) The Secretary may apply grants pledged pursuant to paragraph (b)(2) of this section to any amounts due under the note or other obligation guaranteed pursuant to this Subpart, or to the purchase of such obligation, in accordance with the terms of the contract required by paragraph (b)(1) of this section.

(d) *Debt obligations.* Notes or other obligations guaranteed pursuant to this Subpart shall be in the form and denominations prescribed by the Secretary. Such notes or other obligations shall be issued and sold only to the Federal Financing Bank under such terms as may be prescribed by the Secretary and the Federal Financing Bank.

(e) *Taxable obligations.* Interest earned on obligations guaranteed under this Subpart shall be subject to Federal taxation as provided in section 108(j) of the Act.

All applicants or designated public agencies issuing guaranteed obligations must bear the full cost of interest.

(f) *Loan repayment period.* As a general rule, the repayment period for a loan guaranteed under this Subpart shall be limited to six years. However, a longer repayment period may be permitted in special cases where it is deemed necessary to achieve the purposes of this Part.

§ 570.704 Federal guarantee.

The full faith and credit of the United States is pledged to the payment of all guarantees made under this Subpart. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

§ 570.705 Applicability of rules and regulations.

The provisions of Subparts A, C, D, J, K and O shall apply to this Subpart, except to the extent they are specifically modified or augmented by the provisions of this Subpart.

8. Subpart O of Part 570 is amended by adding § 570.901 to read as follows:

Subpart O—Program Management

§ 570.901 Review for compliance with primary objectives.

(a) *General.* The Secretary will review each applicable grantee's performance to determine whether the grantee has complied with the requirements under § 570.200(a)(2).

(b) *Standards.* In determining whether each of the grantee's funded activities meets one of the broad national objectives contained in its certification, the Secretary will consider whether the activity falls within one of the following standards:

(1) *Activities benefiting low and moderate income persons.* The following activities, in the absence of substantial evidence to the contrary, will be considered to benefit low and moderate income persons:

(i) Any activity, other than residential rehabilitation, which is so designed or so located that at least a majority of the beneficiaries are low and moderate income persons. The following are examples of activities which meet this standard:

(A) An activity, other than residential rehabilitation, which serves an area, delineated by the recipient, where a majority of the residents are low and moderate income persons. Such an area need not be coterminous with census tract boundaries.

(B) Economic development activities designed to create or retain permanent jobs, the majority of which are available or will be available to low and moderate income persons. Jobs are considered to be available to low and moderate income persons based on the nature and extent of the skills, education, and experience required to qualify for the jobs, training opportunities which would make such jobs available to low and moderate income persons who would not otherwise qualify, advertising and recruiting efforts directed toward low and moderate income persons, and the accessibility of the jobs to areas where substantial numbers of low and moderate income persons reside.

(C) A facility, such as a senior center, which is used principally by low and moderate income persons.

(D) An activity which has income eligibility requirements that limit the benefits of the activity to low and moderate income persons.

(ii) A special project directed to removal of material and architectural barriers which restrict the mobility and accessibility of elderly or handicapped persons to publicly owned and privately owned buildings, facilities, and improvements.

(iii) An activity which must be carried out prior to or as an integral part of an activity which will principally benefit low and moderate income persons, where the cost of the assisted activity is not unreasonable in relation to the low and moderate income benefit to be provided. An example is the extension of water and sewer lines to permit construction of lower income housing.

(iv) Rehabilitation of: (A) single-family residential structures occupied by low and moderate income households; or

(B) multi-family residential structures where more than half of the rehabilitated units in each structure are occupied by low and moderate income households.

Since rental units might not be occupied by the same households after rehabilitation as before rehabilitation, rental units affordable to low and moderate income households after rehabilitation will be considered occupied by such households for the purpose of meeting this standard. For purposes of this provision, rental units affordable to low and moderate income households shall be as determined by the grantee. The grantee shall maintain in its records the criteria used in making its determination.

(v) For metropolitan cities and urban counties, economic development activities funded for the primary purpose of creating or retaining jobs, where the city or county:

(A) meets the minimum standards of physical and economic distress of the Urban Development Action Grant program, described at § 570.452(b); and

(B) meets or exceeds at least three of the following UDAG minimum distress criteria: Unemployment; Per Capita Income; Poverty; and Job Lag.

An activity will qualify under this standard if the recipient met the provisions of subparagraphs (A) and (B) as of the date CDBG funds were contractually obligated or no more than six months prior to such date of obligation.

(vi) An eligible activity to reduce the development cost of the new construction of a multifamily non-elderly housing project where at least 20 percent of the units will be occupied by low and moderate income persons.

(2) *Activities which aid in the prevention or elimination of slums or blight.* The following activities, in the absence of substantial evidence to the contrary, will be considered to aid in the prevention or elimination of slums or blight:

(i) Any activity which is carried out in and designed to upgrade an area:

(A) meeting a definition of slum, blighted, deteriorated, or deteriorating area under State or local law; or

(B) where there are objectively determinable signs of physical deterioration throughout the area;

except that residential rehabilitation will be considered to meet this standard only where each structure rehabilitated is considered substandard under local definition before rehabilitation. At a minimum this definition must include units which do not meet the Section 8 Existing Housing Quality Standards (24 CFR 882.109). Also, in cases where all deficiencies making a structure substandard have been eliminated, this standard includes assistance for less critical work on that structure. (Note: Despite this restriction, any rehabilitation activity which benefits low and moderate income households, as described in paragraph (b)(1)(iv) of this section, can be undertaken without regard to the area in which it may be located.)

Formal designation of a slum or blighted area is not required for this purpose, but evidence supporting the local determination that an area meets the criteria shall be maintained by the recipient.

(ii) Acquisition, demolition, rehabilitation, relocation, and historic preservation activities designed to eliminate specific conditions of blight or physical decay on a spot basis anywhere in the recipient's jurisdiction. Under this standard, rehabilitation for other than lower income households is limited to the extent necessary to eliminate specific conditions detrimental to public health and safety.

(iii) Activities included in the urban renewal plan most recently approved by HUD under Title I of the Housing Act of 1949, as amended (42 U.S.C. 1450 *et seq.*) which are necessary to complete an urban renewal project.

(3) *Activities designed to meet community development needs having a particular urgency.* In the absence of substantial evidence to the contrary, an activity will be considered to address this standard if the recipient certifies that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the recipient is unable to finance the activity on its own, and that other sources of funding are not available.

(c) *Area benefit activities.* For purposes of determining compliance with the primary objectives, activities of the same type that serve different areas will be considered separately on the basis of their individual service area.

(d) *Planning and administrative costs.* Program funds expended for planning and administrative costs under § 570.205 and § 570.206 will be considered to address the primary objectives.

(e) *Transition provision*—(1) *Continuation of projects fundable under past rules.* Activities carried out with CDBG funds from any year (including those carried out with funds awarded in Federal Fiscal Year 1982 and thereafter) which are integral components of projects approved by HUD in program years 1979, 1980 and 1981 will be considered to address the primary objectives if such projects meet the criteria set forth at 24 CFR 570.302 (d), (e) or (f) under regulations published on August 27, 1979 (44 FR 50261).

(2) *Activities funded from Fiscal Year 1982 Appropriations.* Those activities for which CDBG funds are expended or contractually obligated during the recipient's FY 1982 program year will be considered to address the primary objectives if such activities meet the criteria set forth at 24 CFR 570.302 (d), (e), or (f), under regulations published on August 27, 1979 (44 FR 50261). Activities for which funds are expended or contractually obligated on or after the effective date of this section will also be considered to address the primary objectives if such activities meet the standards of this section.

(f) *Determination of failure to address primary objectives.* If HUD determines that an activity does not meet any of the standards outlined above, the recipient will be notified and provided a reasonable opportunity to demonstrate to the satisfaction of the Secretary that the activity addresses one of the broad national objectives. Failure to so demonstrate will be cause for HUD to find that the recipient has failed to carry out such activities in accordance with the primary objectives of the Act.

Dated: September 14, 1982.

Stephen J. Bollinger,

Assistant Secretary for Community Planning and Development.

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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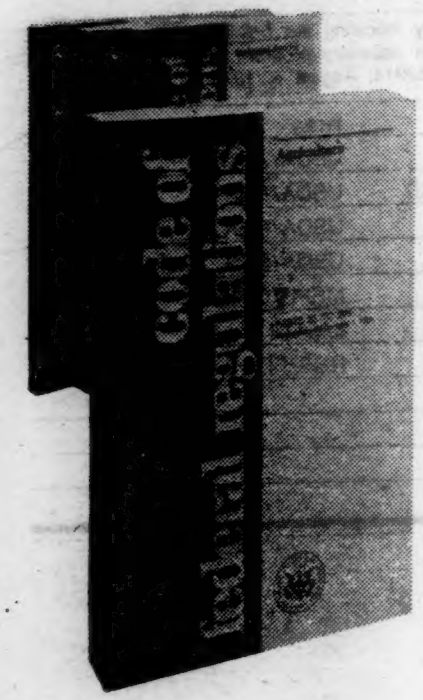
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Last Listing September 30, 1982

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H.J. Res. 520/Pub. L. 97–270 To provide for a temporary increase in the public debt limit. (September 30, 1982; 96 Stat. 1156) Price: $1.75

H.R. 3517/Pub. L. 97–271 Virgin Islands Nonimmigrant Alien Adjustment Act of 1981. (September 30, 1982; 96 Stat. 1157) Price: $1.75



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